CURRENT PERIODICAL SERIES

PUBLICATION NO: 2575

TITLE: FEDERAL REGISTER

VOLUME: 44

ISSUES: 200 - 208
Pages: 59195 - 61558

DATE: October 15 - 25, 1979
Reel 11 of 18

NOTICE: This periodical may be copyrighted, in which case the contents remain the property of the copyright owner. The microfilm edition is reproduced by agreement with the publisher. Duplication or resale without permission is prohibited.

University Microfilms International, Ann Arbor, Mich.

MICROFILMED – 1980

10-15-79
Vol. 44 No. 200
Pages 59195-59488

federal register

Monday
October 15, 1979

Highlights

59297 **Juvenile Justice and Delinquency Prevention** Justice/LEAA gives notice of the establishment of draft guidelines on alternative education, comments by 12-14-79

59269 **Motor Gasoline Allocation** DOE/ERA gives notice of the evaluation of applications for new bulk purchasers

59240 **Domestic Crude Oil** DOE/ERA proposes alternative amendments to the supplier/purchaser rule to implement the President's decision to deregulate oil; effective 1-1-80

59198 **Farm Labor Housing** USDA/FmHA revises and redesignates its regulations pertaining to loans and grants; effective 10-10-79

59408 **Housing** HUD/FHC provides regulations revising the Section 8 Housing Assistance Payments Program for New Construction; effective 11-5-79 (Part III of this issue)

59231 **Pesticide Programs** EPA establishes a food additive regulation related to the experimental use of the herbicide oxyfluorfen; effective 10-15-79

59287 **Pesticide Programs** EPA provides notice of establishment of temporary tolerance for herbicide oxyfluorfen

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202–523–5240

Highlights

59474 **Electronic Fund Transfers** FRS publishes a proposed rule on a revised economic impact analysis under the Act; comments by 11–15–79

59246 **Improving Government Regulations** Treasury/FS publishes semiannual agenda of regulations

59303 **Privacy Act** OMB issues report of agency systems of records

59306 **National Environmental Policy** DOT/CG gives notice of proposed revision of agency procedures; comments by 11–5–79

59312 **Antidumping** Treasury/Secy prints notice of tentative revocation of water circulating pumps from the United Kingdom

59227 **Export Control Status** Commerce/ITA introduces interim rule amending the Export Administration Regulations to reflect the revised status of the Canal Zone; effective 10–1–79; comments by 12–14–79

59262 **Imports from Taiwan** Textile Agreements Implementation Committee issues a notice increasing the level for certain man-made fiber headwear exported to the United States

59392 **Trade Agreements** ITC proposes to amend procedures for the conduct of Commission antidumping and countervailing duty investigations; comments by 11–29–79 (Part II of this issue)

59438, 59455 **Environmental Impact** DOT/FHWA provides notice of proposed supplementary guidance and procedures; comments by 11–14–79 (2 documents) (Part V of this issue)

59430 **Congressional Budget and Impoundment Control** OMB publishes notice of cumulative report on rescissions and deferrals (Part IV of this issue)

59336 **Sunshine Act Meetings**

Separate Parts of This Issue

59392 **Part II, ITC**
59408 **Part III, HUD**
59430 **Part IV, OMB**
59438 **Part V, DOT, FHWA**
59464 **Part VI, FRS**

Contents

Federal Register
Vol. 44, No. 200
Monday, October 15, 1979

Administrative Conference of United States
NOTICES
Meetings:
59260 Agency Organization and Personnel Committee

Agricultural Marketing Service
RULES
59195 Oranges, grapefruit, tangerines, and tangelos grown in Fla., and imported grapefruit; minimum grade and size requirements
59197 Tomatoes grown in Fla.

Agriculture Department
See Farmers Home Administration; Transportation Office, Agriculture Department.

Arts and Humanities National Foundation
NOTICES
Meetings:
59301 Humanities Panel; date changes (2 documents)

Bonneville Power Administration
NOTICES
Environmental statements; availability, etc.:
59263 Power rates, wholesale; proposed 1979 increase

Civil Aeronautics Board
PROPOSED RULES
59242 Eligible points (communities); designation criteria
59242 Mail transportation and mail rates establishment; interstate, overseas, and foreign; extension of time
NOTICES
59261 Certificates of public convenience and necessity and foreign air carrier permits
Hearings, etc.:
59260 Miami/New Orleans-San Jose, C.R. case
59260 Supplemental carrier fill-up case

Coast Guard
RULES
Dangerous cargoes:
59234 Vessels, self propelled; carrying liquefied gases; standards; correction
Drawbridge operations:
59233 New Jersey
NOTICES
Bridges, highway; proposed construction:
59310 Trenton, N.J. and Morrisville, Pa.; hearing
59306 National Environmental Policy Act; implementation

Commerce Department
See Industry and Trade Administration; National Oceanic and Atmospheric Administration.

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
59240 Deregulation of upper tier crude oil; supplier/purchaser rule
NOTICES
Consent orders:
59266 Beacon Oil Co.
59267 Partlow and Cochonour
59268 Schultz, Carl M.
Industrial plants burning natural gas or petroleum products, prohibition orders, etc.:
59264 Baltimore Gas and Electric Co. (2 documents)
59269 Motor gasoline allocations base period; guidelines for new bulk purchasers
Powerplant and industrial fuel use; existing powerplant or installation; classification requests:
59263 Baltimore Gas and Electric Co.
59267 Missouri Public Service Co.
Remedial orders:
59266 Okmar Oil Co.

Education Office
NOTICES
Meetings:
59291 Vocational Education National Advisory Council

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.
NOTICES
Meetings:
59284 Environmental Advisory Committee; agenda change

Environmental Protection Agency
RULES
Pesticides; tolerances in food:
59231 Oxyfluorfen
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
59247 Ohio
NOTICES
Air pollution control:
59287 Clean Air Act; local or regional economic disruption and unemployment prevention in Ohio; reproposed determination; rescheduled hearing and extension of time
Pesticides; temporary tolerances:
59287 Oxyfluorfen
Water pollution control; safe drinking water; public water systems designations:
59288 Maryland

Equal Employment Opportunity Commission
NOTICES
59336 Meetings; Sunshine Act (2 documents)

Farmers Home Administration
RULES
59198 Farm labor housing loan and grant policies, procedures and authorizations; consolidation and revision

Federal Aviation Administation
PROPOSED RULES
59242 Aircraft products and parts, standards; technical standard orders (TSO's) revision program; meeting

V 44 0 C 15 7 9 UMI

Federal Communications Commission
RULES
Radio services, special:
59234 Land mobile services; co-channel mileage separation and frequency loading standards; denial of petitions
NOTICES
Committees; establishment, renewals, terminations, etc.:
59288 Marine Services Radio Technical Commission
59336 Meetings; Sunshine Act (2 documents)

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
59230 Natural gas production; maximum lawful price determinations by jurisdictional agencies; petition denial and clarification
NOTICES
Hearings, etc.:
59270 Alabama-Tennessee Natural Gas Co.
59270, 59271 Algonquin Gas Transmission Co. (2 documents)
59271, 59272 Arkansas Louisiana Gas Co. (2 documents)
59272 Colorado Interstate Gas Co.
59272 Columbia Gas Transmission Corp.
59273 El Paso Natural Gas Co.
59274 Florida Gas Transmission Co. et al.
59275 Great Lakes Gas Transmission Co.
59276 Lo-Vaca Gathering Co.
59276-59278 Michigan Wisconsin Pipe Line Co. (3 documents)
59278 Midwestern Gas Transmission Co.
59279 Mississippi River Transmission Corp.
59279, 59280 Northwest Pipeline Corp. (2 documents)
59280 Public Service Co. of Indiana
59281 South Georgia Natural Gas Co.
59281 Stallworth Oil & Gas Co., Inc.
59282 Tennessee Gas Pipeline Co. (2 documents)
59282 Tennessee Natural Gas Lines, Inc.
59283 Transwestern Pipeline Co.
59283 Virginia Electric & Power Co.
59336 Meetings; Sunshine Act

Federal Highway Administration
RULES
Organization and authority delegations:
59239 Regional administrators; motor carrier safety program
Payment procedures:
59232 Reimbursement; administration settlement costs; eligibility criteria
PROPOSED RULES
Right-of-way and environment:
59438 National Environmental Policy Act; implementation
NOTICES
59455 National Environmental Policy Act; implementation

Federal Home Loan Bank Board
NOTICES
59337, 59338 Meetings; Sunshine Act (2 documents)

Federal Maritime Commission
NOTICES
59288 Agreements filed, etc.
Rate increases, etc.; investigations and hearings, etc.:
59289 Pan Ocean bulk Carriers, Ltd.

Federal Reserve System
RULES
Authority delegations:
59227 Bank holding company formations, acquisitions, mergers, etc.; correction
Electronic fund transfers (Regulation E):
59464 Definitions, exemptions, liability, etc.
PROPOSED RULES
Electronic fund transfers (Regulation E):
59474 Special requirements, transfers documentation, preauthorized transfers, etc.
NOTICES
Applications, etc.:
59290 Aspen Bancorp, Inc.
59290 Carroll County Financial Corp.
59290 First National Lincoln Corp.
59290 Security Pacific International Bank
59338 Meetings; Sunshine Act

General Services Administration
PROPOSED RULES
Property management:
59247 Transportation and traffic management procedures

Health, Education, and Welfare Department
See Education Office; Health Resources Administration.

Health Resources Administration
NOTICES
59291 Hill-Burton and health professions educational facilities programs; refinancing of guaranteed loans

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
59285 Cases filed
59284 Decisions and orders

Housing and Urban Development Department
RULES
Low income housing:
59408 Housing assistance payments (Section 8); new construction
PROPOSED RULES
Low income housing:
59246 Housing assistance payments (Section 8); existing housing; substantial rehabilitation; transmittal to Congress

Industry and Trade Administration
RULES
Export licensing:
59227 Panama Canal zone; export control status change; interim rule and inquiry

Interior Department
See also Land Management Bureau; National Park Service.
NOTICES
Meetings:
59296 Outer Continental Shelf Advisory Board

Internal Revenue Service
NOTICES
Excise taxes:
59312 Defense Department; exemption from taxes on production of trucks and production or purchase of tread rubber

International Trade Commission
PROPOSED RULES
59392 Import investigation procedures

Interstate Commerce Commission
NOTICES
Motor carriers:
59313 Temporary authority applications
59313 Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications; correction
59338 Meetings; Sunshine Act

Justice Department
See Law Enforcement Assistance Administration.

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
59291 Nondalton Native Corp.
Applications, etc.:
59296 New Mexico
Environmental statements; availability, etc.:
59294 Paradise-Denio resource area, Nev.; grazing management
Meetings:
59296 Outer Continental Shelf Advisory Board
Sale of public lands:
59295 Nevada
Wilderness areas; characteristics, inventories, etc.:
59295 Nevada

Law Enforcement Assistance Administration
NOTICES
Discretionary grant programs guide, 1980 FY:
59297 Alternative education; prevention of juvenile delinquency; inquiry

Management and Budget Office
NOTICES
59301 Agency forms under review
59430 Budget rescissions and deferrals
59303 Privacy Act; reports of agency systems of records

Materials Transportation Bureau
See Research and Special Programs Administration, Transportation Department.

National Credit Union Administration
NOTICES
59338 Meetings; Sunshine Act

National Highway Traffic Safety Administration
NOTICES
59312 1971–1974 and 1976–78 Capris imported by Ford Motor Co.; public proceeding cancelled

National Oceanic and Atmospheric Administration
PROPOSED RULES
59257 Foreign fishing; fee schedule for calendar year 1980, vessels
NOTICES
Marine mammal permit applications, etc.:
59262 Winn, Dr. Howard
Meetings:
59261 Gulf of Mexico Fishery Management Council (2 documents)

National Park Service
NOTICES
Meetings:
59296 Delta Region Preservation Commission
Mining plans of operation; availability, etc.:
59297 Denali National Monument, Alaska

National Transportation Safety Board
NOTICES
59338 Meetings; Sunshine Act

Nuclear Regulatory Commission
NOTICES
Meetings:
59301 Reactor Safeguards Advisory Committee

Occupational Safety and Health Review Commission
NOTICES
59338, 59339 Meetings; Sunshine Act (2 documents)

Public Debt Bureau
PROPOSED RULES
Improving Government regulations:
59246 Regulatory agenda

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
59310, 59311 Applications; exemptions, renewals, etc. (2 documents)

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
59304 Midwest Securities Trust Co.
59305 Options Clearing Corp.
59306 Stock Clearing Corp. of Philadelphia

Textile Agreements Implementation Committee
NOTICES
Man-made textiles:
59262 Taiwan

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department; Urban Mass Transportation Administration.

V 44 0 C 1 5 7 9 UMI

Transportation Office, Agriculture Department
NOTICES
Meetings:
59260 Rural Transportation Advisory Task Force

Treasury Department
See also Internal Revenue Service; Public Debt Bureau.
NOTICES
Antidumping:
59312 Water circulating pumps from United Kingdom

Urban Mass Transportation Administration
PROPOSED RULES
59438 National Environmental Policy Act; implementation

MEETINGS ANNOUNCED IN THIS ISSUE

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
59260 Agency Organization and Personnel Committee, 11–2–79

AGRICULTURE DEPARTMENT
Transportation Office—
59260 Rural Transportation Advisory Task Force, 10–15 through 10–17–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION
59301 Humanities Panel Advisory Committee, 10–23–79

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
59261 Gulf of Mexico Fishery Management Council, 11–7 through 11–9–79
59261 Scientific and Statistical Committee, 11–1 and 11–2–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
59291 Vocational Education National Advisory Council, 11–8 and 11–9–79 and 11–27 and 11–28–79

INTERIOR DEPARTMENT
Land Management Bureau—
59296 North Atlantic Technical Working Group Committee, 11–8–79
National Park Service—
59296 Delta Region Preservation Commission, 11–19–79
Office of the Secretary—
59296 North Atlantic Regional OCS Policy Committee, 11–7–79

NUCLEAR REGULATORY COMMISSION
59301 Reactor Safeguards Subcommittee on the Three Mile Island Nuclear Power Plant Advisory Committee, 10–30–79

TRANSPORTATION DEPARTMENT
Coast Guard—
59310 Proposed replacement of the Calhoun Street Bridge across the Delaware River between Trenton, New Jersey and Morrisville, Pennsylvania, 11–15–79
Federal Aviation Administration—
59242 Radio Technical Commission for Aeronautics Executive Committee, 11–2–79

CANCELLED MEETING

TRANSPORTATION DEPARTMENT
59312 National Highway Traffic Safety Administration—1971–74 and 1976–78 Capris imported by Ford Motor Co., 10–18–79

RESCHEDULED MEETING

ENERGY DEPARTMENT
59284 Environmental Advisory Committee, 10–22 and 10–23–79

RESCHEDULED HEARING

ENVIRONMENTAL PROTECTION AGENCY
59287 Ohio utilities proceed with plans to switch from high sulfur coal to low sulfur coal, comments by 12–20–79; hearing 11–20–79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
905 59195
944 59195
966 59197
1822 59198
1901 59198
1944 59198

10 CFR
Proposed Rules:
211 59240

12 CFR
205 59474
265 59227
Proposed Rules:
205 59464

14 CFR
Proposed Rules:
11 59242
21 59242
37 59242
233 59242
270 59242
302 59242

15 CFR
370 59227
371 59227
374 59227
377 59227

18 CFR
273 59230
274 59230

19 CFR
Proposed Rules:
201 59392
207 59392

21 CFR
193 59231

23 CFR
140 59232
Proposed Rules:
771 59438

24 CFR
880 59408
Proposed Rules:
881 59246

31 CFR
Proposed Rules:
Ch. II 59246

33 CFR
117 59233

40 CFR
Proposed Rules:
52 59247

41 CFR
Proposed Rules:
101–40 59247

46 CFR
154 59234
154a 59234

47 CFR
90 59234

49 CFR
301 59239
Proposed Rules:
622 59438

50 CFR
Proposed Rules:
611 59257

V 44 OCT 15 79 UMI

V
4
4
0
C
1
5
7
9
UMI

Rules and Regulations

Federal Register
Vol. 44, No. 200
Monday, October 15, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 905 and 944

[Orange, Grapefruit, Tangerine, and Tangelo Regulation 3]

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Fruits: Import Regulations, Grade and Size Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes minimum grade and size requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit. The action is necessary to assure shipment of ample supplies of fruit of acceptable grade and size in the interests of growers and consumers.

EFFECTIVE DATES: Orange, Grapefruit, Tangerine, and Tangelo Regulation 3 to be effective October 15, 1979–October 12, 1980. Grapefruit Regulation 3 to be effective October 22, 1979–October 12, 1980.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha (202) 447–5975.

SUPPLEMENTARY INFORMATION: Notice was published in the September 21, 1979, issue of the **Federal Register** (44 FR 54717), that the Department was considering establishment of minimum grade and size regulations, to be effective under the marketing agreement, and Order No. 905, both as amended (7 CFR Part 905). This marketing agreement and order regulates the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). A conforming regulation for imported grapefruit, effective under section 8e of the act, was also being considered. The notice provided that all written comments be submitted by October 9, 1979. None were received.

The minimum grade and size requirements, herein specified, for domestic and export shipments reflect the Department's appraisal of the need for regulation of the designated varieties of Florida oranges, grapefruit, tangerines, and tangelos during the specified period based on the available supply and current and prospective market demand conditions. Such requirements are necessary to establish and maintain orderly marketing, and such action is consistent with the objectives of the act and the interests of producers and consumers.

The regulations are based upon recommendations of the Citrus Administrative Committee established under the marketing order. The committee estimates the 1979–80 season's crop of Florida round oranges at about 180 million boxes, 10 percent over last season's production. It estimates grapefruit production at about 48 million boxes, slightly lower than the 1978-79 season production, and that the Temple orange, tangelo, and tangerine crops are comparable in size to those harvested last season. The committee reports that there was a heavy prolonged bloom which peaked about the last week of March. Groves are generally in good condition and the new crop should be of good quality as a result of adequate to excessive moisture during the summer. The shape of the fruit is considered to be fair to good and the absence of late bloom should enhance the overall quality of the citrus crop. The committee's appraisal indicates fresh market demand at 19,000 carlots of round oranges, 3,750 carlots of Temple oranges, 50 carlots of seeded grapefruit, 35,000 carlots of seedless grapefruit, 4,500 carlots of tangelos, and 5,700 carlots of tangerines. Hence, considering the available supply and the reported size and quality of the fruit, more than ample quantities of each of the specified fruits meeting the minimum grade and size requirements will be available to supply such demands.

The minimum grade and size requirements for imported grapefruit would be consistent with section 8e of the act. This section requires that whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity.

After consideration of all matters presented, including the proposals in the aforesaid notice and other available information, it is found that the regulation, as set forth herein, is in accordance with said marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of these regulations until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) notice of proposed rulemaking concerning the regulations, with an effective date of October 15, 1979, was published in the **Federal Register**, and no objection to the regulations or such effective date was received; (2) the recommendation for regulation was developed at an open meeting at which interested persons were afforded an opportunity to submit their views; and (3) the regulations will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time.

Accordingly, it is found that the provisions of the proposed regulations contained in the Notice of Proposed Rulemaking published in the **Federal Register** on September 21, 1979 (44 FR 54717), shall be and are the terms and provisions of these regulations, and are set forth in full herein.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An impact analysis is available from Malvin E. McGaha (202) 447–5975.

Accordingly, it is found that requirements for Florida oranges, grapefruit, tangerines, and tangelos and imported grapefruit are as follows:

§ 905.303 Orange, Grapefruit, Tangerine, and Tangelo Regulation 3.

Order. (a) During the period specified in Column (2) of Table I no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the

applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in Columns (3) and (4) of such table.

Table I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Oranges			
Early and Midseason	10/15/79–10/12/80	U.S. No. 1	2 5/16
Naval	10/15/79–10/12/80	U.S. No. 1 Golden	2 5/16
Valencia and Other Late Type	10/15/79–10/12/80	U.S. No. 1	2 5/16
Temple	10/15/79–10/12/80	U.S. No. 1	2 6/16
Grapefruit			
Seeded, except pink	10/15/79–10/12/80	U.S. No. 1	3 13/16
Seeded, pink	10/15/79–10/12/80	U.S. No. 1	3 13/16
Seedless, except pink	10/15/79–10/12/80	Improved No. 2	3 9/16
Seedless, pink	10/15/79–10/12/80	Improved No. 2	3 9/16
Tangerines			
Robinson	10/15/79–10/12/80	U.S. No. 1	2 4/16
Dancy	10/15/79–10/12/80	U.S. No. 1	2 6/16
Honey	10/15/79–10/12/80	Florida No. 1	2 13/16
Tangelos Tangelos	10/15/79–10/12/80	U.S. No. 1	2 6/16

(b) During the period specified in Column (2) of Table II no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) of this section) specified for such variety in Columns (3) and (4) of such table.

Table II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Oranges			
Early and Midseason	10/15/79–10/12/80	U.S. No. 1	2 5/16
Naval	10/15/79–10/12/80	U.S. No. 1 Golden	2 5/16
Valencia and Other Late Type	10/15/79–10/12/80	U.S. No. 1	2 5/16
Temple	10/15/79–10/12/80	U.S. No. 1	2 5/16
Grapefruit			
Seeded, except pink	10/15/79–10/12/80	U.S. No. 1	3 5/16
Seeded, pink	10/15/79–10/12/80	U.S. No. 1	3 5/16
Seedless, except pink	10/15/79–10/12/80	Improved No. 2	3 5/16
Seedless, pink	10/15/79–10/12/80	Improved No. 2	3 5/16
Tangerines			
Robinson	10/15/79–10/12/80	U.S. No. 1	2 5/16
Dancy	10/15/79–10/12/80	U.S. No. 1	2 5/16
Honey	10/15/79–10/12/80	Florida No. 1	2 5/16
Tangelos Tangelos	10/15/79–10/12/80	U.S. No. 1	2 5/16

(c) Size Tolerances: In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for *oranges*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel and Temple Oranges shall be based only on the oranges in the lot measuring 2 1/16 inches or smaller in diameter, and the tolerance for Honey tangerines shall be as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for *grapefruit*, as specified in § 2851.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for *tangerines*, as specified in § 2851.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for *tangelos*, as set forth in § 2851.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for Honey tangerines means the same as provided in Rule No. 20–35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 2851.1140–2851.1180), the U.S. Standards for Florida Tangerines (7 CFR 2851.1810–2851.1835), or the U.S. Standards for Grades of Florida Grapefruit (7 CFR 2851.750–2851.784).

§ 944.103 Grapefruit Regulation 3.

(a) *Applicability to imports.* Pursuant to Section 8e of the act and Part 944—Fruits; Import Regulations, during the period October 22, 1979, through October 12, 1980, the importation into the United States of any variety of grapefruit listed in Column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in Columns (3) and (4) of said table. In the determination of minimum size as prescribed in Table I, a tolerance is permitted as specified in paragraph (c) of § 905.303.

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of grapefruit that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of grapefruit, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 2851) and in accordance with the Procedure for Requesting Inspection and Designating the Agencies to Perform Required Inspection and Certification (7 CFR Part 944.400).

(c) Notwithstanding any other provisions of this regulation, any importation of grapefruit which, in the aggregate, does not exceed ten standard packed cartons, equivalent to four-fifths (⅘) of a United States bushel of grapefruit, each, or equivalent quantity, may be imported without regard to the requirements specified herein.

(d) It is determined that imports of grapefruit, during the effective time of this regulation, are in most direct competition with grapefruit grown in the State of Florida. The requirements of this section are the same as those being made effective for grapefruit grown in Florida.

Dated: October 11, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-31930 Filed 10-12-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 966

Tomatoes Grown in Florida; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container and marking requirements. This will promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT:
Peter G. Chapogas (202) 447–5432.

SUPPLEMENTARY INFORMATION:
Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

During the period October 15 through November 30, 1979, this regulation, designed to provide orderly marketing of Florida tomatoes, imposes a minimum grade of U.S. No. 3, a minimum size of 2 3/32 inches in diameter and requires inspection of fresh shipments. The establishment of such requirements under Marketing Order No. 966 is necessary to keep undesirable tomatoes from being shipped to consumers.

Findings: (1) Pursuant to Order No. 966, as amended (7 CFR Part 966), regulating the handling of tomatoes grown in Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon other available information, it is hereby found that the handling regulations, hereinafter set forth, will tend to effectuate the declared policy of the act.

(2) The regulation imposes minimum grade, size, pack, container and marking requirements on the handling of tomatoes. The regulation is based upon an appraisal of the crop and prospective market conditions as required in § 966.50 of the order. This regulation is necessary to prevent the handling of any tomatoes of lower grades or smaller sizes than those specified in the regulation, and to provide the trade and consumers with tomatoes of acceptable quality pursuant to the declared policy of the act.

(3) It is hereby further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the **Federal Register** (5 U.S.C. 553) because shipments of tomatoes from the production area are expected to begin on or about the effective date hereof. The recommendation and supporting information for regulation were submitted to the Department after an open meeting of the Florida Tomato Committee; said meeting was held to consider recommendations for regulation, after giving due notice of the meeting, and interested persons were afforded an opportunity to submit their views at this meeting; and handlers registered under the order as required in § 966.113 have been informed of the proposal. It is necessary, in order to effectuate the declared policy of the act, to make this regulation effective during the period hereinafter set forth so as to provide for the regulation of the handling of such tomatoes, and compliance with this regulation will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective date of the regulation.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Peter G. Chapogas (202) 447–5432.

7 CFR Part 966 is amended by adding a new § 966.318 as follows:

§ 966.318 Handling regulation.

During the period October 15, 1979, through November 30, 1979, no person shall handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.*

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2 3/32 inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in Paragraph 2851.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size classification	Inches	
	Minimum diameter	Maximum diameter
7x7	2 3/32	2 6/32
6x7	2 5/32	2 11/32
6x6	2 11/32	2 21/32
5x6 and larger	2 18/32	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2 15/32 inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6x6 & Lgr. or 5x6 & Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

V 44 0C 15 79 UMI

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receive's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1), (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter and (iii) the container weight requirements of paragraph (a)(3).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855–2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and Section 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{3}/_{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.)

Dated: October 11, 1979 to become effective October 15, 1979.

Charles R. Brader,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-31929 Filed 10-12-79; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1822, 1901, and 1944

Amendment, Consolidation and Redesignation

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises and redesignates its regulations pertaining to Farm Labor Housing Loans and Grants. The intended effect of this action is to combine the loan and the grant regulations into one Subpart, expand the eligibility requirements for labor housing loans to family partnerships and corporations, provide nationwide program clarity and consistency, incorporate provisions of the Housing and Community Development Act of 1978, and simplify program regulations. This action is being taken in response to user needs and the Presidential Executive Order regarding simplification of regulations.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Thomas Gerlitz (202) 447–7207.

SUPPLEMENTARY INFORMATION: FmHA amends, consolidates, and redesignates Subparts C and E of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations into a new Subpart D of Part 1944, Chapter XVIII, Title 7, Code of Federal Regulations. Subparts C and E of Part 1822 are deleted. Various sections of Part 1901 are amended to change cross references.

On May 9, 1979 FmHA published a notice of proposed rulemaking in the **Federal Register** (44 FR 27130) regarding revising, consolidating, and redesignating the Farm Labor Housing Loan and Grant Program regulations.

FmHA received 5 responses to the May 9, 1979 publication as of July 9, 1979. These responses were serious considered and those which suggested changes to provide greater clarity and to remove conflicting statements and/or definitions have been incorporated into the final regulations.

The responses raised the following basic concerns:

1. Housing for seasonal farmworkers needs to be more accurately defined and adequate provisions for its inclusion need to be made.

FmHA has included provisions to provide for seasonal farmworker housing and expects this type of housing to play an increasing role in the Labor Housing programs.

2. Additional clarification and support of equal opportunity for minorities and women within the Labor Housing program is needed. FmHA has included additional requirements and notifications of recipients responsibility to comply with provisions of the civil rights act as amended.

3. The location requirements for Farm Labor housing need to be clarified.

FmHA has consolidated and clarified the location requirements for Labor Housing Projects.

Accordingly various sections of Parts 1822 and 1901 are amended and Subpart D of Part 1944 is added as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subparts C and E are Deleted.

PART 1901—PROGRAM-RELATED INSTRUCTIONS

Subpart D—Davis-Bacon Act "C"

§ 1901.152 [Amended]

1. In § 1901.152 (a)(1) change "Subpart E of Part 1822 of this Chapter (FmHA Instruction 444.6)" to "Subpart D of Part 1944 of this Chapter".

Subpart O—Jointly Funded Grant Assistance to State and Local Governments and Nonprofit Organizations

§ 1901.702 [Amended]

2. In § 1901.702 change "Subpart E of Part 1822 of this Chapter (FmHA Instructions 442.12, 442.13 or 444.6)" To "Subpart D of Part 1944 of this Chapter (FmHA Instructions 442.12, 442.13 or 1944–D)".

§ 1901.707 [Amended]

3. § 1901.707 (c) change "Part 1822 Subpart E of this Chapter (FmHA Instruction 444.6)" to "Subpart D of Part 1944 of this Chapter".

§ 1901.708 [Amended]

4. In § 1901.708 (c) change "Part 1822 Subpart E (FmHA Instruction 444.6)" to "Subpart D of Part 1944 of this Chapter".

§ 1901.719 [Amended]

5. In § 1901.719 (c) change "Part 1822 Subpart E (FmHA Instruction 442.12, 442.13 or 444.6)" to "Subpart D of Part 1944 of this Chapter (FmHA Instructions 442.12, 442.13 or 1944–D)".

Exhibit B [Amended].

6. In Exhibit B, paragraph 2, change "Part 1822 Subpart E (FmHA Instructions 442.12, 442.13 or 444.6)" to "Subpart D of Part 1944 of this Chapter (FmHA Instructions 442.12, 442.13, or 1944–D)".

7. Subpart D of Part 1944 is added and reads as follows:

PART 1944—HOUSING

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

Sec.

1944.151 Purpose.
1944.152 Objective.
1944.153 Definitions.
1944.154–1944.156 [Reserved]
1944.157 Eligibility requirements.
1944.158 Loan and grant purposes.
1944.159 Rates and terms.
1944.160–1944.162 [Reserved]
1944.163 Conditions under which an LH grant may be made.
1944.164 Limitations and conditions.
1944.165–1944.167 [Reserved]
1944.168 Security requirements.
1944.169 Technical, legal, and other services.
1944.170 Processing preapplications.
1944.171 Preparation of completed loan and/or grant docket.
1944.172 [Reserved]
1944.173 Loan and grant approval—delegation of authority.
1944.174 Distribution of loan and/or grant approval documents.
1944.175 Actions subsequent to loan and/or grant approval.
1944.176 Loan and/or grant closing.
1944.177 Coding loans and grants as to initial or subsequent.
1944.178 Complaints regarding discrimination in use and occupancy of LH.
179–1944.180 [Reserved]
1944.181 Loan servicing.
1944.182 Rental assistance.
1944.183–1944.200 [Reserved]
Exhibit A—Labor Housing Loan and Grant Application Handbook
Exhibit A–1—Information to be Submitted with Preapplication for Labor Housing Loan or Grant
Exhibit A–2—Information to be Submitted with "Application for Federal Assistance (Short Form)"
Exhibit A–3—Labor Housing Construction Guidelines
Exhibit A–4—Survey of Existing Labor Housing
Exhibit A–5—Statement of Budget, Income, and Expense
Exhibit B—Management Plans
Exhibit C—Loan Resolution
Exhibit D—Loan Agreement
Exhibit E—Loan and Grant Resolution
Exhibit F—Labor Housing Grant Agreement
Exhibit G—Legal Service Agreement
Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants
Exhibit I—Guide Letter for Use in Informing Interim of FmHA's Commitment

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures and Authorizations

§ 1944.151 Purpose.

This Subpart sets forth the policies and procedures and delegates authority for making initial and subsequent insured loans under Section 514 and grants under Section 516 of the Housing Act of 1949, to provide housing and related facilities for domestic farm labor.

§ 1944.152 Objective.

The basic objective of the Farmers Home Administration (FmHA) in making domestic Farm Labor Housing (LH) loans is to provide decent, safe, and sanitary housing and related facilities for domestic farm labor to be located in areas where a need exists and in making LH grants when there is a pressing need for such facilities in the area and there is reasonable doubt that the housing can be provided without the grant assistance.

§ 1944.153 Definitions.

As used in this Subpart:

(a) *Domestic farm laborer.* Persons who receive a substantial portion of their income as laborers on farms in the United States, Puerto Rico, or the Virgin Islands and either are citizens of the United States, or reside in the United States, Puerto Rico, or the Virgin Islands after being legally admitted for permanent residence, and may include the immediate families of such persons. Domestic Farm laborers may include those laborers engaged in:

(1) the primary production of agricultural commodities on a farm, or

(2) the handling of agricultural commodities in the unprocessed stage on or near the farm as long as the employer of the laborer is the farmer who produced the commodity being handled.

Domestic Farm labor also includes persons working in aquaculture operations as defined in Subpart B of Part 1945 of this Chapter. Retired or disabled domestic farm laborers who are eligible tenants at the time of their retirement or becoming disabled may continue to occupy a project that they initially occupied as an eligible domestic farm laborer.

(b) *Housing.* New or existing structures which are or will be suitable for decent, safe, and sanitary dwelling use by domestic farm labor. "Housing" may include household furnishings and related facilities where appropriate.

(c) *Household furnishings.* Such basic durable items as stoves, refrigerators, tables, chairs, dressers, and beds. Items

such as bedding, linens, dishes, silverware, and cooking utensils are not included in this definition.

(d) *Related facilities.* Includes community rooms or buildings, cafeterias, dining halls, infirmaries, child care facilities, assembly halls, and other essential service facilities such as central heating, sewerage, lighting systems, clothes washing facilities, and safe domestic water supply. All related facilities must be reasonably necessary for proper use of the housing as dwellings for domestic farm labor occupants.

(e) *Farmowner.* A natural person or persons who are the "owners" of a "farm" as these two terms are further defined in Subpart A of Part 1822 (FmHA Instruction 444.1).

(f) *Family farm corporation or partnership.* A private corporation or partnership in which at least 90% of the stock or interest is owned and controlled by members of the same family. These family members must be related by blood or law. If more than three separate households are supported by the farming operation, the family farm corporation or partnership shall not be eligible for assistance. The family farm corporation or partnership must be (1) legally organized and authorized to own and operate a farm business within the State, (2) legally able to carry out the purposes of the loan, and (3) prohibited from the sale or transfer of 90% of the stock or interest to other than family members by either the articles of incorporation, bylaws or by agreement between the stockholders or partners and the corporation or partnership.

(g) *Organization.* An association of farmers, a broad-based nonprofit organization, a nonprofit organization of farmworkers, federally recognized Indian Tribe, or an agency or political subdivision of State or local government.

(h) *Association of farmers.* Two or more farmers (farmowners or leaseholders) acting as a single legal entity whose members are individuals devoting a substantial part of their time to personal participation in the conduct of farming operations, and the majority of whose members reside in the area where the housing will be located. Members may include the individual members of farming partnerships or corporations provided such individuals are actually involved in the day-to-day onsite farming operations.

(i) *Broad-based nonprofit organization.* An organization, public or private, which (1) is incorporated within the State, Puerto, Rico, Virgin Islands, or a Federally recognized Indian Tribe, (2) is organized and operated on a nonprofit basis, and (3) is legally precluded from distributing any profits or dividends to its members, (4) is not grower oriented (majority of board must be nonfarmers) (5) pledges to administer the housing as a community service in the interest of the whole community, and (6) has at least 25 members for projects with a total development cost of up to $100,000 and additional members for projects costing more than $100,000. The membership must reflect a variety of interests of the area where the housing will be located. Organizations operating in more than one local area will have local representation within its membership from each area where it's housing projects are located.

(j) *Nonprofit organization of farmworkers.* A nonprofit organization which is incorporated within the State, Puerto Rico, or the Virgin Islands, has local representation in the membership, and whose membership is composed of at least 51% farmworkers.

(k) *Construct or repair.* To construct new structures or facilities or to acquire, relocate, or repair or improve existing structures or facilities.

(l) *Members and membership.* Includes stockholders and stock when appropriate.

(m) *Board and directors.* Includes the governing body and members of the governing body of an organization.

(n) *Promissory note.* May include a bond or other evidence of indebtedness.

(o) *Mortgage.* May include any appropriate form of security instrument.

(p) *Development cost.* Includes the cost of constructing, purchasing, improving, altering, or repairing new or existing housing and related facilities, buying household furnishings, and purchasing or improving the necessary land. It includes necessary architectural, engineering, legal fees and charges and other appropriate technical and professional fees and charges. It does not include fees, charges, or commissions such as payments to brokers, negotiators, or other persons for the referral of prospective applicants or solicitations of loans. For all types of LH applicants, other than the individual farmowners, family farm corporation and partnerships, and an association of farmers, the development cost may include initial operating expenses of up to 2 percent of the permitted costs.

(q) *Individual.* A natural person. It may include the spouse.

(r) *Applicant.* The applicant for or the recipient of an LH loan or grant.

(s) *LH fund(s).* May include either loan or grant monies or both in this Subpart.

(t) *Subsequent LH loan or grant.* A loan or grant to an applicant or borrower to complete the units planned with the initial loan or grant.

(u) *Migrant.* A domestic farmworker who works in any given local area on a seasonal basis and relocates his or her place of residence as farmwork is obtained during the year.

§§ 1944.154—1944.156 [Reserved]

§1944.157 Eligibility requirements.

(a) *Eligibility of applicant for an LH loan.* To be eligible for an LH loan the applicant must:

(1) Be an individual farmowner, family farm corporation or family farm partnership whose farming operations demonstrate a need for farm labor housing, or an organization, as these terms are defined in § 1944.153, which will own the housing and operate it on a nonprofit basis.

(2) Except for a State and local public agencies, or a political subdivision thereof be unable to provide the necessary housing from their own resources and be unable to obtain the necessary credit from any other source upon terms and conditions they could reasonably be expected to fulfill. If an association of farmers or family farm corporation or partnership, the individual members, individually and jointly, must be unable to provide the necessary housing by utilizing their own resources and be unable, by pledging their personal liability, to obtain other credit, that would enable them to provide housing for farm workers at rental rates they can afford to pay.

The State Director may make an exception to the requirement that an individual farm owner, family farm corporation, family farm partnership or an association be unable to obtain the necessary credit elsewhere when *all* of the following conditions exist:

(i) There is a need in the area for housing for domestic farmworkers *who are migrants* and the applicant will provide such housing.

(ii) There are no qualified State or political subdivisions, public or private nonprofit organizations currently available or likely to become available within a reasonable period of time that are willing and able to provide the housing.

(iii) The interest rate for such loans will be in accordance with § 1810.1 of Subpart A Part 1810 (FmHA Instruction 440.1).

(3) Have sufficient initial operating capital to pay costs such as property and liability insurance premiums, fidelity bond premiums if required, utility hookup deposits, maintenance equipment, moveable furnishings and equipment, printing lease forms, and other initial expenses. LH loans made to nonprofit organizations and to State or local public agencies or political subdivisions thereof, may include up to 2 percent of the development cost for initial operating expenses.

(4) After the loan is made, have income sufficient to pay operating expenses, make necessary capital replacements, make the payments on the loan and other authorized debts, and accumulate reasonable reserves as required.

(5) Possess the legal and actual capacity, character, ability, and experience to carry out the undertakings and obligations required for the loan, including the obligation to maintain and operate the housing and related facilities for the purpose for which the loan is made. Organizations operating in more than one local area will be required to indicate their ability to provide local management and supervision of the day-to-day operation of the housing project.

(6) An individual farmowner, family farm corporation or partnership, or an association of farmers, must intend to use the housing for labor to be used in the farming operations of the applicant, or farming operations of its members.

(7) Own the housing and related land or become the owner when the loan is closed. An owner may include, in addition to the owner of full marketable title, a lessee of a tract of land owned by a State, political subdivision, public body or public agency, or Indian tribal lands which are not available for purchase. It may also include a lessee of land when the State Director determines that long-term leasing of sites by nonpublic bodies is a well established practice and such leaseholds are fully marketable in the area, provided:

(i) The applicant is unable to obtain fee title to the property.

(ii) A recorded mortgage constituting a valid and enforceable lien on the applicant's leasehold will be given as security.

(iii) The amount of the LH loan against the property will not exceed the maximum security value determined in accordance with Subparts A and B of Part 1809 of this Chapter (FmHA Instructions 422.2 or 422.3) as appropriate.

(iv) The unexpired term of the lease on the date of loan approval is at least 25 percent longer than the repayment period of the loan and rental charged for the lease should not exceed the rate charged for similar leases in the area.

(v) The borrower's interest may not be subject to summary foreclosure or cancellation.

(vi) The lease must:

(A) Not restrict the right to foreclose the LH mortgage or to transfer the lease.

(B) Permit FmHA to bid at foreclosure sale or to accept voluntary conveyance of the security in lieu of foreclosure.

(C) Permit FmHA after acquiring the leasehold through foreclosure, or voluntary conveyance in lieu of foreclosure, or in event of abandonment by the borrower, to occupy the property, or to sublet the property and to sell the leasehold for cash or credit.

(D) Permit the borrower, in the event of default or inability to continue with the lease and the LH loan, to transfer the leasehold, subject to the LH mortgage, to a transferee with assumption of the LH debt and grant obligation.

(vii) The advice of OGC will be obtained as to legal sufficiency of the lease. When the State Director is uncertain as to whether a loan can be made on a leasehold, the request should be submitted to the National Office for evaluation and instructions.

(8) If it is a private broad-based nonprofit organization or a nonprofit organization of farmworkers, meet the following additional requirements:

(i) Be legally precluded from distributing any dividends or net earnings to its members or any private individual during its corporate lifetime.

(ii) In the event of its dissolution, be legally bound to transfer its net assets to a nonprofit organization of a similar type or a public body for use for domestic farm labor housing or other public purposes if the need for farm labor housing no longer exists.

(iii) Responsibility for management of the housing must be vested in the applicant's board of directors.

(A) A broad-based nonprofit organization must be governed by a board of directors of not less than five members who are experienced in such fields as real estate management, finance, or related businesses and who will not be users of the farmworkers housed in the project.

(B) A nonprofit organization of farmworkers must have representation on the board from the area where the housing is located. Directors may be elected who are not members of the organization but are experienced in such fields as real estate management, finance, or related businesses provided member directors represent a majority of the board.

(iv) Be prohibited from requiring or preventing employment on any particular farm or farms as a condition of occupancy.

(v) Except for an organization of farmworkers, be certified as exempt from Federal income taxation.

(9) Individual farmowner applicants who are citizens of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, the territories and possessions of the United States, or the trust territory of the Pacific Islands or residents in one of the foregoing areas after being legally admitted for permanent residence or on indefinite parole. If the applicant is an organization, other than a State or political subdivision, the majority of the members and controlling interests must be individuals who meet the citizenship requirements for individual farmowners as stated above.

(b) *Eligibility of applicant for an LH grant.* To be eligible for an LH grant the applicant must meet the applicable requirements in § 1944.157 (a) and:

(1) Be an organization, as defined in § 1944.153 (g) other than an association of farmers, with an assured life over a period of years sufficient to carry out the purpose of providing low-rent housing for domestic farm labor. This should not be less than the anticipated useful life of the project as suitable housing for domestic farm labor, assuming proper maintenance and repair of the property. Ordinarily, this should not be less than 50 years.

(2) When the grant is closed, be the owner (as defined in this Subpart) of the housing and related facilities, including the site.

(3) Be unable to provide the necessary housing from its own resources, including any power to levy taxes, assessments, or charges, and be unable to obtain the necessary credit through an LH loan or from other sources upon terms and conditions the applicant could reasonably be expected to fulfill.

(4) Possess the legal and actual capacity, ability, and experience to incur and carry out the undertakings and obligations required, including the obligations to maintain and operate the housing and related facilities for the purpose for which the grant is made.

(5) Legally obligate itself not to divert income from the housing to any other business, enterprise, or purpose.

(c) *Authorized representotive of applicant.* FmHA will deal only with the applicant or its bona fide representative and technical advisers. The authorized representative of the applicant must be a person who has no pecuniary interest in the award of the architectural or construction contracts, management contracts, the purchase of equipment, or the purchase of land for the housing site.

§ 1944.158 Loan and grant purposes.

LH loans and grants may be made to qualified applicants to:

V 44 0C 15 79 9 UMI

(a) Build, buy, improve or repair housing as defined in § 1944.153(b).

(b) Purchase and improve the necessary land on which the housing will be located.

(1) The cost of land purchased with loan or grant funds may not exceed its present market value in its present condition. Present market value will be determined by a current appraisal in accordance with applicable FmHA regulations.

(2) Loan or grant funds will not be used to buy land from a member of an applicant-organization, or from another organization in which any member of the applicant-organization has an interest, without prior approval of the State Director. In granting this approval the State Director should be sure that the purchase price does not exceed the present market value.

(3) Loan or grant funds may not be used to acquire land in excess of that needed for the housing, including related facilities, except when the applicant cannot acquire only the needed land at a fair price, can justify the acquisition, agrees to sell the excess land as soon as practicable and apply proceeds on the loan, and has legal authority to acquire and administer the land.

(c) Develop and install water supply, sewage disposal, streets, heat and light systems necessary in connection with the housing. If the facilities are located offsite, the following requirements must be met:

(1) The applicant will hold the title to the facility or have a legally assured adequate right to use of the facility for at least the life of the loan or grant and such title or right can be transferred to any subsequent owner of the site.

(2) The facilities are provided for the exclusive use of the LH project or funds are limited to the prorated part of the total cost of the facility according to the use and benefit to the project. The applicant will agree in writing to the application as extra payments on the LH loan of any subsequent collection by the borrower from other users or beneficiaries of the facility.

(3) Adequate security can be obtained with or without a mortgage based on the offsite facilities.

(d) Construct other related facilities in connection with the housing such as:

(1) Maintenance workshop and storage facilities.

(2) Recreation center including lounge if the project is large enough to justify such a facility.

(3) Central cooking and dining facilities when the project is large enough to justify such services.

(4) Small infirmary for emergency care only when justified.

(5) Laundry room and equipment if not provided in the individual units.

(6) Appropriate recreational facilities and other facilities to meet essential needs.

(7) Child day care facilities when needed and feasible.

(e) Construct office and living quarters for the resident manager and other operating personnel if needed and advantageous to the project and the Government.

(f) Construct maintenance equipment or similar structures.

(g) Purchase and install ranges, refrigerators, clothes washers, and clothes dryers. If individual washer and dryer hookups are provided, clothes washers and clothes dryers may be installed in individual rental units only if the inclusion of such items in individual units is needed and is customary in the area for the type of housing involved and consistent with the requirement that the construction be undertaken in an economical manner and not constitute elaborate or extravagant items. Otherwise, the clothes washers and clothes dryers must be installed in a central laundry room. The number of washers and dryers must be adequate to serve the tenant needs. Whenever practical, this equipment should be attached to the real property in a manner to prevent easy removal.

(h) Purchase and install essential equipment which upon installation becomes a part of the real estate.

(i) Provide landscaping, foundation planting, seeding or sodding of lawns, and other necessary facilities related to buildings such as walks, yards, fences, parking areas, and driveways.

(j) Pay related costs such as fees and charges for legal, architectural, engineering, and other appropriate technical and required services. Ordinarily, FmHA will furnish the needed guidance for the development of an LH loan docket and project. However, the State Director may authorize the use of loan funds to enable a nonprofit corporation to pay a qualified consulting organization or foundation, operating on a nonprofit basis, charges for necessary services, provided the State Director determines that:

(1) Either (i) the applicant, with available FmHA assistance, cannot meet all requirements for a sound loan or grant without the services, or (ii) the services would permit significant financial savings to the Government, either directly or by lightening the workload involved in processing applications, and

(2) The charges are reasonable in amount, considering (i) the amount and the purpose of the loan or grant, (ii) the payment ability of the borrower, and (iii) the cost of similar services in the same or similar rural areas.

(k) Pay interest which will accrue during the estimated construction period.

(l) Pay normal charges necessary to obtain interim financing.

(m) Pay initial operating expenses up to 2 percent of the development cost for any type applicant except an individual farmowner, family farm corporation, or partnership, or an association of farmers.

§ 1944.159 Rates and terms.

(a) *Amortization period.* Each loan will be scheduled for payment in installments within a period, not to exceed 33 years, as may be necessary to assure that the loan will be adequately secured, taking into account the probable depreciation of the security.

(b) *Interest rate.* LH loans will be made at interest rates specified in FmHA Instruction 440.1, Exhibit B which is available to any FmHA office.

§§ 1944.160–1944.162 [Reserved]

§ 1944.163 Conditions under which an LH grant may be made.

A grant may be made to an eligible applicant only when all of the following requirements can be met:

(a) The applicant will contribute at least one-tenth of the total development cost, obtained from its own resources, including any power to levy taxes, assessments, or charges, with funds from other sources, or with an LH loan. The applicant's contribution must be available at the time of grant closing. If an LH loan is needed, the applicant will file an application for a combination loan and grant at the same time.

(b) The housing and related facilities will fulfill a pressing need in the area in which the housing is or will be located and there is reasonable doubt that such housing can be provided without the grant.

(1) The applicant will furnish FmHA factual evidence of fulfilling a pressing need. This need will be documented in accordance with Exhibit A–1 of this Subpart.

(2) When appropriate, the District Director may check with sources such as the State Department of Labor, Bureau of Employment Security, and other reliable sources to verify the information submitted.

(3) If, after evaluating the information furnished by the applicant and additional information that may be provided, the District Director determines that the housing will fulfill a pressing need and that a reasonable doubt exists that the housing can be provided without the grant, the District Director will prepare a narrative statement to support these conclusions.

(c) The housing will be constructed in accordance with Exhibit A–3 of this Subpart.

(d) The housing will be constructed in an economical manner and will not be of elaborate or extravagant design or material.

(e) The housing must be durable and suitable for year-round use unless the need for such housing is seasonal and year-round occupancy is not practical and will not be needed.

§ 1944.164 Limitations and conditions.

(a) *Limitations on use of loan and grant funds.* Among the purposes for which loan and grant funds will *not* be used are the following:

(1) Providing housing for the members of the immediate family of the applicant when the applicant is an individual farmowner, family farm corporation, partnership or an association of farmers.

(2) Housing, related facilities or household furnishings which are elaborate or extravagant in design or material.

(3) Refinancing debts of the applicant.

(4) Moveable-type furnishings or equipment except household furnishings as defined in § 1944.153(c).

(5) Payment of any fees, charges, or commissions to any broker, negotiator, or other person for the referral of a prospective applicant or solicitation of the loan.

(6) Payment of any fee, salary, commission, profit, or compensation to an applicant, or any officer, director, trustee, stockholder, member, or agent of the applicant, except as provided in § 1944.158(j).

(b) *Priority in use of grant funds and maximum amount of grant.*

(1) *Priority in use of grant funds.* Projects will be authorized for funding by the National and State Offices based on priority to:

(i) Locations where a long range and pressing need exists for farm labor housing because of labor intensive agricultural crop production and a lack of suitable housing.

(ii) Projects where occupants will derive the highest portion of their income from on farm agricultural work.

(2) *Maximum amount of grant.* The amount of any grant may not exceed the lessor of:

(i) Ninety percent of the total development cost, or

(ii) That portion of the total cash development cost which exceeds the sum of any amount the applicant can provide from its own resources plus the amount of a loan which the applicant will probably be able to repay, with interest, from income from rentals within the financial reach of low-income farmworker families. The availability of rental assistance and HUD section 8 subsidies will be considered in determining the rentals that farm workers will pay.

(c) *Advance of grant funds.* The times for requesting Treasury Checks representing LH grant funds and depositing such checks in the applicant's supervised bank account will be determined in accordance with § 1944.175. When other funds to help finance the labor housing are being supplied by the applicant from its own resources or from a loan, such other funds will be used before a grant check is requested from the Treasury or deposited in or disbursed from the supervised bank account, as appropriate to comply with § 1944.175.

(d) *Obligations incurred before loan or grant closing.* When the applicant files an application for a loan or grant, the District Director will advise the applicant that construction must not be started and obligations for work materials, or land must not be incurred or made before the loan or grant is closed, and that it is the policy of the FmHA not to permit loan or grant funds to be used to pay such obligations or reimburse the applicant for such payments. If, nevertheless, the applicant incurs expenses or makes payments for such purposes before the loan or grant is closed, the State Director may authorize the use of loan or grant funds to pay such expenses or reimburse the applicant only when the State Director finds that all the following conditions exist:

(1) The expenses were incurred: (i) after the applicant filed a written application for a loan with FmHA; or (ii) before the date of application as part of a predevelopment loan specifically intended as interim financing from a public agency or non-profit organization and prior concurrence of the National Office is obtained; or (iii) before the date of application as part of a development loan made to a State or local public agency specifically intended as temporary financing and prior concurrence of the National Office is obtained.

(2) The applicant is unable to pay such expenses from his own resources or from credit from other sources, and failure to authorize the use of loan or grant funds to pay such expenses or reimburse the applicant would impair the applicant's financial position.

(3) The expenses were incurred or payments were made for authorized loan and grant purposes.

(4) Contracts, materials, construction and any land purchase meet FmHA standards.

(5) Payment of the expenses will remove any liens which have attached and any basis for liens that may attach to the property on account of such expenses.

(e) *Grant resolution.* A resolution will be adopted by the applicant's Board of Directors and a certified copy included in the grant docket before a grant is approved.

(1) For a grant accompanied by an LH loan, the form of resolution attached as Exhibit E to this Subpart will be used with any necessary changes required or approved by the Office of the General Counsel (OGC). For a grant not accompanied by an LH loan, the form of resolution will be provided or approved by the National Office, following Exhibit E as closely as feasible.

(2) The form of resolution to be adopted by the applicant will contain policy and procedural requirements which should be read and be fully understood by the applicant's Board of Directors and officers. Included in the resolution will be provisions authorizing FmHA to prescribe requirements regarding the operation of the housing and related facilities and other provisions including the following:

(i) The rentals charged domestic farm labor will not exceed such amounts as are approved by FmHA after considering the income of the occupants and the necessary costs of operation, debt service, and adequate maintenance of the housing.

(ii) The housing will be maintained at all times in a safe and sanitary condition in accordance with standards prescribed by State and local law, and as required by FmHA.

(iii) In granting occupancy of the housing an absolute priority will be given at all times to domestic farm labor.

(3) The resolution will also authorize the appropriate officers of the applicant to execute a "Labor Housing Grant Agreement," in the format of Exhibit F of this subpart. If changes are required in Exhibit F they must be approved by OGC.

(f) *Conditional obligations to repay grants.* The obligations incurred by the applicant as a condition of the grant will be in accordance with Exhibit F of this Subpart.

(g) *Loan resolution or loan agreement.* An applicant-organization will have its Board of Directors adopt a loan resolution and furnish a certified copy

V 4 4 O C T 1 5 7 9 UMI

for the loan docket before loan approval. The resolution will be substantially in the format of Exhibit C of this Subpart. Any necessary changes must be approved by the OGC. An individual farmowner applicant, will execute a loan agreement in substantially the same format as Exhibit D of this Subpart. Any necessary changes must be approved by OGC. The provisions of the resolution or agreement should be read and fully understood by the applicant. They will be binding on the applicant as part of the loan contract.

(h) *Restrictions on conditions of occupancy.* No organization borrower other than an association of farmers, or family farm corporation or partnership will be permitted to require that an occupant work on any particular farm or for any particular owner or interest as a condition of occupancy of the housing. Tenant selection should be in accordance with Exhibit B of this Subpart. No borrower or grantee will discriminate, or permit discrimination by any agent, lessee, or other operator in the use of occupancy of the housing or related facilities because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract). Each borrower or grantee will comply with Subpart E of Part 1901 of this Chapter (FmHA Instruction 1901–E).

(i) *Supervisory assistance.* Supervision will be provided borrowers to the extent necessary to achieve the objectives of the loan and to protect the interests of the Government. The provision of Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2) will be followed.

(j) *Location of housing.*

(1) Project requested by organizations for multi-family type housing, as explained in Exhibit A–3 of this Subpart, must be located:

(i) In or near an established community that will provide essential facilities such as shopping, schools, medical services, and public water and/or sewer.

(ii) On a public all-weather road.

(iii) In an area where existing adequate LH will not be adversely affected. Exhibit A–4 of this Subpart may be used to identify possible projects that will be affected.

(iv) In an area that would be suitable for other types of rental housing and that would permit the property to be readily saleable.

(2) Single-family type housing, as explained in Exhibit A–3 of this Subpart, will be located:

(i) In or near an established community where essential facilities are available.

(ii) On contiguous plotted lots within the same subdivision which has been properly accepted by the proper local bodies and duly recorded for projects consisting of two or more houses.

(iii) On a publicly maintained paved road.

(iv) Where the sites are served by a central water and/or sewer system unless not economically feasible.

(3) When a mortgage is being taken on an entire farm, in the case of an individual farmowner or a family farm corporation or partnership, the single-family or multi-family units may be located on the farm as long as they are not located near farm service buildings and will be situated to allow for possible conversion to rental units should the need for farmworkers in the area change.

(k) *Implementation of OMB Circular A–95 concerning formulation, evaluation, and review of Federal programs and projects having significant impact on area and community development.* Except for Indian tribes, when projects exceed 10 individual detached units or 25 or more multiple units, the provisions of Subpart H of Part 1901 of this Chapter apply.

(l) *Guidelines for preparing environmental assessment and environmental impact statements.* All projects shall comply with Subpart G of Part 1901 of this Chapter.

(m) *National flood insurance.* The provisions of the National Flood Insurance Act of 1968 as amended by the Flood Disaster Protection Act of 1973 apply to FmHA authorities permitting financing of LH now located in or to be located in special flood or mudslide prone areas as designated by the Federal Insurance Administration (FIA) of HUD. Subpart B of Part 1806 of this Chapter (FmHA Instruction 426.2) applies.

(n) *LH loans to Indians secured by trust or restricted land.* Loans to individuals will be secured by a mortgage on the leasehold interest held by the applicant. The leasehold interest must meet the conditions of § 1822.7 (j) of Subpart A of Part 1822 of this Chapter (FmHA Instruction 444.1, paragraph VII J). Loans to tribes or tribal corporations will be secured in accordance with §§ 1823.409 and 1823.414 of Subpart N of Part 1823 of this Chapter (FmHA Instruction 442.11, paragraphs IX and XIV A).

(o) *Refinancing LH Loans.* Each borrower, except public bodies, will be required to agree to refinance the unpaid balance of the borrower's LH loan at the request of FmHA, whenever it appears to FmHA that the borrower is able to obtain a loan from responsible cooperative or private credit sources at reasonable rates and terms.

§§ 1944.165–1944.167 [Reserved].

§ 1944.168 Security requirements.

(a) *General.* Each loan will be secured to adequately protect the financial interest of the Government in the loan during its repayment period. The amount of the loan may not exceed the value of the security for the loan as determined by an appraisal, less the unpaid principal balance, plus past due interest of any prior or junior liens that will or will likely to exist against the security after the loan is closed. If the State Director determines it necessary or advisable to encumber household furnishings purchased with loan funds, the State Director will, with the advice of OGC, issue appropriate instructions setting forth the manner in which household furnishings will be secured.

(b) *Loan to an individual farmowner or family farm corporation or partnership.* For every loan to an individual farmowner or family farm corporation or partnership, a real estate mortgage will be taken on the farm in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1). If requested by the applicant, a mortgage may be taken on a part of the *farm* to be improved with the LH loan which contains at least enough land to clearly provide adequate security for the loan as determined by an appraisal. In such cases, the loan must meet the following conditions:

(1) If the tract to be mortgaged is covered by a prior lien which also applies to other land, the tract to be given as security must either:

(i) Be released from the prior lien or subordinated to permit a first lien for the LH loan, or

(ii) Provide adequate security for the entire prior lien debt and the LH loan and comply with Section 1822.10 (b)(2) of Subpart A of Part 1822 of this Chapter (paragraph XB 2 of FmHA Instruction 444.1).

(2) Personal liability will be required of the stockholders or partners of a family farm corporation or partnership.

(3) The tract must have access to a public all weather road.

(c) *Loan to an organization.*

(1) A loan to an organization which can give a real estate mortgage will be secured by a mortgage on good and marketable title to the real estate including the housing, the related facilities, and the site, subject to any exceptions that may be waived as

provided in Section 1807.2 (d) of Part 1807 of this Chapter (paragraph II D of FmHA Instruction 427.1).

(2) If a first mortgage cannot be obtained, a junior mortgage may be taken provided:

(i) The prior mortgage as affected by the State law does not contain such provisions for future advances, payment schedules, forfeiture or cancellation, foreclosure without adequate notice to junior lienholders, or other matters which may jeopardize FmHA's security position or the borrower's ability to pay the loan; or

(ii) Such provisions are satisfactorily limited, modified, waived, or subordinated.

(3) If it is impossible for an applicant which is a public or quasi-public organization to give a real estate mortgage, the security to be taken will be determined by the National Office upon the recommendation of the State Director. The State Director should consult OGC as to whether the proposed security is legally permissible.

(4) In individual cases, additional security may be advisable to ensure that the loan objectives will be carried out. For example, to provide for more effective management and operation, one or more of the following types of security may be required.

(i) A mortgage on other real estate owned by the applicant.

(ii) A pledge, assignment, mortgage or other security interest in income from the housing.

(iii) A cosigner on the promissory note, letter of credit, endorsements, assessments, user agreements, personal liability agreements, or membership subscription agreements.

(5) As a general policy, personal liability will be required of the members of an association of farmers.

§ 1944.169 Technical, legal, and other services.

(a) *Appraisals.*

(1) When real estate is taken as security, the property will be appraised by an FmHA employee authorized to make real estate appraisals. Form FmHA 426–1, "Valuation of Buildings," will be completed to show the depreciated replacement value of all the buildings existing or to be constructed on the property to be taken as security. When the security being offered is:

(i) *A farm* and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.1).

(ii) *Other than a farm,* and involves not more than two rental units, the appraisal will be made in accordance with Subpart A of Part 1809 of this Chapter (FmHA Instruction 422.3 which is available in any FmHA office.

(iii) Farm or nonfarm, and involves more than two rental units or dormitory-type housing, the appraisal will be made in accordance with Subpart B of Part 1809 of this Chapter (FmHA Instruction 422.2).

(2) If the loan includes funds for purchasing household furnishings or equipment which will not become part of the real estate, a narrative type appraisal, identifying the items, will be prepared by the employee preparing the real estate appraisal. The value placed on such furnishings will be based on comparable selling prices in the area.

(b) *Architectural and engineering services.* Housing and related facilities will be planned and designed to meet the needs of the type of occupants who will likely occupy it. A written contract for architectural or engineering services will be required as outlined in Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

(c) *Construction and development policies.*

(1) *Planning and construction.* Housing will be planned in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) and Exhibit A–3 of this subpart. Construction and development will be performed in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

(2) *Davis-Bacon Act.* Construction financed with the assistance of an LH grant will be subject to Subpart D of Part 1901 of this Chapter regarding the Davis-Bacon Act and related requirements.

(3) *Compliance with local codes and regulations.* Planning construction, and operation of housing financed with the LH loan or grant will conform with all applicable Federal, State and local laws, ordinances, codes, and regulations governing such matters as zoning, construction, heating, plumbing, electrical installation, fire prevention, health and safety and sanitation. If there are no local or State codes and regulations governing these matters, the State Director will issue appropriate guidelines to insure that the facilities meet all FmHA requirements.

(4) *Land use objectives.* Location of projects shall, to the extent practicable, result in the preservation of Important Farmlands and Forestlands, Prime Rangeland and Wetlands. State Directors will assure that FmHA actions, investments, and programs on non-Federal lands are consistent with State and local land use plans and programs to the extent practicable. In carrying this out, State Directors will:

(i) Attempt to integrate departmental and State and local land use policies and programs.

(ii) Identify and minimize to the extent practicable adverse environmental, economic, and social effects of FmHA projects and programs.

(iii) Provide landholders and other concerned people information about the alternatives to, and the associated environmental, social, and economic Implications of proposed actions.

(iv) Refrain from enabling others to irreversibly convert these lands or encroaching or enabling other encroachments on flood plains unless there are no practicable alternatives.

(v) In unusual circumstances when the State Director is unable to make a determination regarding land classification, the State Director will request assistance from the Administrator of the Soil Conservation Service in Washington, D.C.

(d) *Optioning of land.* If a loan or grant includes funds to purchase real estate, an acceptable option to purchase or purchase agreement will be included in the application. After the loan is approved, the District Director will have Form FmHA 440–35, "Acceptance of Option," or other appropriate form of acceptance, completed, signed, and mailed to the seller.

(e) *Insurance.* The State Director will determine the minimum amounts and types of insurance the applicant will carry.

(1) Fire and extended coverage will be required on all buildings included in the security for the loan in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

(2) Suitable Workman's Compensation Insurance will be carried by the applicant for all its employees.

(3) The applicant will be advised of the possibility of incurring liability and encouraged, or may be required when appropriate, to obtain liability insurance.

(f) *Title clearance and legal services.* When the applicant is an organization, or has special title or loan closing problems, title clearance and legal services will be obtained in accordance with instructions from the OGC. In other cases, the provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) regarding title clearance and legal services will apply.

(g) *Use of and accountability for loan and grant funds.* Loan and grant funds and any funds furnished by the borrower for authorized purposes will be deposited and handled in accordance

V 4 4 0 C
1 5 7 9
UMI

with Subpart A of Part 1902 of this Chapter.

(1) Funds furnished by the borrower for the purchase of special equipment and furnishings to be used in connection with the project, for which loan or grant funds could not be used, should not be deposited in the supervised bank account with loan or grant funds.

(2) For all organizations collateral will be pledged by the depository bank for any loan or grant funds or borrower contribution in accordance with Section 1803.4 of Part 1803 of this Chapter (paragraph IV of FmHA Instruction 402.1).

(3) Funds may be disbursed from the supervised bank account only for authorized loan or grant purposes.

(h) *Bond counsel.* All public bodies offering bonds as security for the LH loan are required to obtain the services of recognized bond counsel in the preparation of evidence of indebtedness in accordance with § 1942.19 of Subpart A of Part 1942 of this Chapter except as provided in paragraph 1 of Exhibit H of this Subpart.

(i) *Bonding.*

(1) The provisions of Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1) pertaining to surety bonds are applicable to LH loans and grants.

(2) If the applicant is an organization, it will provide fidelity bond coverage for the official(s) entrusted with the receipt, custody, and disbursement of its funds and the custody of any other negotiable or readily saleable personal property. The amount of the bond will be at least equal to the maximum amount of money that the applicant will have on hand at any one time exclusive of loan or grant funds deposited in a supervised bank account. The United States will be named co-obligee in the bond if not prohibited by State law. Form FmHA 440–24, "Position Fidelity Schedule Bond," may be used if permitted by State law.

(j) *Contracts for legal services.* On projects requiring extensive legal services, the applicant will be required to have a written contract for these services. All such contracts will be subject to review and approval by the FmHA and, therefore, should be submitted to the FmHA before execution by the applicant. Contracts will provide for the types of service to be performed and the amount of the fees to be paid, either in lump-sum on the completion of all services or in installments as services are performed. Legal Service Agreement, Exhibit G, may be used.

§ 1944.170 Processing preapplications.

(a) *Preapplication.* Form AD–621, "Preapplication for Federal Assistance," with the additional information outlined in Exhibit A–1 will be submitted to the District Director. This information is used to determine the applicant's eligibility and eliminate any proposals which have little or no chance for funding. The applicant should be instructed not to prepare an application until notified to proceed.

(b) *Actions by District Director.* The preapplication, with attachments, will be reviewed by the District Director. The District Director will inspect the site and consider its desirability if it appears that the applicant is eligible. The preapplication, including the comments and recommendations of the District Director and any additional material considered necessary, will be forwarded to the State Director.

(c) *Actions by State Director.*

(1) If the applicant is an organization adopting without change the "Articles and Bylaws" prescribed by State supplements, the preapplication need not be submitted to OGC.

(2) In all other cases involving loans or grants to organizations, the docket, with any questions or comments of the State Director will be submitted to the OGC for a preliminary opinion as to whether the applicant and the proposed loan meet or can meet the requirements of State law and this subpart.

(3) Determining amount of grant.

(i) *General.* The State Director will determine the amount the applicant can obtain from other sources, including an LH loan, and the amount of the grant to be made, within the limits set forth in § 1944.164(b)(2). The State Director will make this determination after thoroughly analyzing the information in the docket and receiving authorization from the National Office.

(ii) *Method of determining amount of grant.*

(A) The State Director will examine the income of the project based on the estimated rental charges and operating costs of the housing when in full operation to determine the soundness of the operations. When there is any doubt as to the probable soundness due to unrealistic planning of income or operating expenses, or for other reasons, the housing project and its operation will be discussed with the applicant to determine changes which can be made to correct the deficiencies.

(B) When a sound plan of operation has been agreed upon, the State Director will determine the amount of funds that can be expected to be available from other sources, including an LH loan. The State Director will also determine the amount of income available for loan repayments after allowing for reasonable and necessary maintenance costs, payments on debts of the applicant, and the orderly accumulation of an adequate reserve.

(C) The amount of the grant will be the difference between the amount of funds to be provided in accordance with paragraph (c)(3)(ii)(B) of this section, plus any funds available from the applicant's own resources and the total development cost of the project. In no case, however, may the amount of the grant exceed 90 percent of the total development cost.

(4) When the State Director considers it necessary, any preapplication may be sent to the National Office for evaluation and instructions.

(5) The State Director, after completing review of the preapplication material and determining the amount of grant, will notify the District Director of the State Director's determination and authorize the District Director to prepare and execute Form AD–622, "Notice of Preapplication Review Action." The District Director will forward the original to the applicant, a copy to the State Director, and a copy to the case file.

§ 1944.171 Preparation of completed loan and/or grant docket.

(a) *Information needed.* If the applicant has been requested to file an application, Form AD–625, "Application for Federal Assistance (Short Form)," the additional information as outlined in Exhibit A–2 will be submitted to the District Director.

(b) *District Director's responsibility.* As the information for the loan docket is being developed, the District Director will work closely with the applicant. The District Director will review and verify the information furnished for correctness, adequacy, and completeness. The District Director will determine that the market survey is adequate and that the market survey report is accurate. The District Director will evaluate the manner in which the applicant plans to conduct its business and financial affairs and comment on the adequacy of the management.

(c) *County Committee certification.* County Committees will not be used to review LH loan and/or grant applications.

(d) *Assembly, review, and distribution of complete loan and/or grant docket items.* When all items required for the complete loan and/or grant docket have been furnished, they will be examined thoroughly by the FmHA official who will approve the loan and/or grant to make sure they are properly and accurately prepared and are complete in all aspects, including dates and signatures. The loan and/or grant docket items will be assembled in the following order for distribution after approval:

[15] 0017

Form No.	Name of form or document	Total number of copies	Signed by borrower	Number for docket	Copy for borrower
AD–621	Preapplication for Federal Assistance	3	1	2–O&1C	1–C
Exhibit A–1	Information to be Submitted with Preapplication for Labor Housing (LH) Loan or Grant.	2	0	1–0	1–C
	Memorandum from the National Office authorizing development of loan docket and loan or grant approval if required by § 1944.170(a).	1		1–0	
AD–622	Notice of Preapplication Review Action	3		2–C	1–0
AD–625	Application for Federal Assistance (Short Form)	3	1	2–O&1C	1–C
Exhibit A–2	Information to be Submitted with Application for Federal Assistance (Short Form).	2	0	1–0	1–C
FmHA 444–5	Multiple Family Housing Fund Analysis	4		4–O&3C	
FmHA 440–1	Request for Obligation of Funds	4	2–O&1C	3–O&2C	1
FmHA 400–1	Equal Opportunity Agreement	2		1–0	1–C
**FmHA 400–3	Notice to Contractors and Applicants	3		2–O&1C	1–0
FmHA 400–4	Nondiscrimination Agreement	2	1	1	1
**FmHA 400–6	Compliance Statement (when applicable)	3		2–O&1C	1–C
	**Evidence of Legal Authority (copies or citation of specific provisions of State constitution and statutory authority).	2	1	1–0	1–C
	Appraisal report with attachments	1		1–0	1–C
FmHA 426–1	Valuation of Buildings	1		1–0	
FmHA 440–9	Supplementary Payment Agreement	2	1	1–0	1–C
Other Loan Docket Items. Preliminary Title Opinion and a Final Title Opinion or a title insurance binder, a mortgage title insurance policy and a copy of deed, purchase contract, or other instrument of ownership.					
	*Proof of Organization (certified copy of charter or articles of incorporation)	2	1	1–0	1–C
	*Certified copies of bylaws or regulations	2	1	1–0	1–C
	*List of names and addresses of officers, directors, and members, and membership interest held by each.	2	1	1–0	1–C
	*Certified copy of Loan Resolution	1	1	1–0	
	Loan Agreement, if applicable	2	1	1–0	1–C
	**Survey of land given as security, plans, specifications, cost estimates, and proposed manner of construction.	3	1	1–0	1–C
Exhibit A–5	Statement of Budget, Income, and Expense	2	1	1–0	1–C

*When applicant is an organization.
**One copy for contractor

When applicable, include copy of lease or occupancy agreement to be used, report of lien search, option or foreclosure notice agreement, and items of information concerning prior mortgage(s).

(e) *Submission of docket to State Office.* The loan and/or grant docket, including comments and recommendations by the District Director, will be submitted to the State Office. The State Director will prepare, with the advice of OGC and include in the docket a memorandum to the District Director which will either require additional information if the material submitted is inadequate, or will set forth the conditions of loan approval. If the State Director determines that the loan and/or grant should be approved, the State Director will approve the loan and sign the memorandum to the District Director.

(f) *Submission of docket to National Office.* The final loan and/or grant docket need not be submitted to the National Office unless required by an authorizing memorandum resulting from compliance with § 1944.170.

(g) *Press release.* When it is determined that a loan and/or grant can be approved, a press release will be prepared in accordance with FmHA Instruction 2015–C which is available in the FmHA State and National Offices.

§ 1944.172 [Reserved]

§ 1944.173 Loan and grant approval—delegation of authority.

The State Director is authorized to approve loans and/or grants in accordance with this Subpart and Subpart A of Part 1901 of this Chapter. The State Director may delegate loan or grant approval in writing to State Office employees other than District Directors. No LH grant may be approved by the State Director without the prior consent of the National Office.

(a) *Action before to loan or grant approval.* The loan or grant approval official is responsible for reviewing the docket to determine that the proposed loan and/or grant complies with all pertinent regulations, instructions, and directives. In making this review, the approval official will determine that:

(1) The applicant is eligible.

(2) The funds are requested for authorized purposes.

(3) The proposed loan or grant is sound.

(4) The security is adequate for the loan.

(5) All preapproval requirements have been met.

(6) Compliance with Title VI of the Civil Rights Act will be met.

(7) All other requirements will be met.

(b) *Approval of a loan or grant.* When a loan and/or grant is approved:

(1) The approval official will prepare and sign Form FmHA 440–1 in an original and two copies. The State Director or a designee will telephone the Finance Office Check Request Station and request that loan and/or grant funds for a particular project be obligated.

(2) Immediately after contacting the Finance Office, the requesting official will furnish the requesting office's security identification code. Failure to furnish the security code will result in the rejection of the request for obligation. After the security code is furnished, all information contained on Form FmHA 440–1 will be furnished the Finance Office. Upon receipt of the telephone request for obligation of funds, the Finance Office will record all information necessary to process the request for obligation in addition to the date and time of the request.

(3) The individual making the request will record the date and time of the request and sign Form FmHA 440–1 in section 37.

(4) The Finance Office will terminally process telephone obligation requests. Those requests for obligation received before 2:30 p.m. Central Time will be processed on the date of the request. Requests received after 2:30 p.m. Central Time, to the extent possible, will be processed on the date received; however, there may be instances in which a request will be processed on the next working day.

(5) Each working day the Finance Office will notify the State Office by telephone of all projects for which funds were reserved during the previous night's processing cycle and the date of obligation. If funds cannot be reserved for a project, the Finance Office will notify the State Office that funds are not available within the State allocation. The obligation date will be 6 working days from the date the request for obligation is processed in the Finance

V 4 4 O C 1 5 7 9 UMI

Office. The Finance Office will mail to the State Offices Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request," confirming the reservation of funds with the obligation date inserted as required by item No. 9 on the Forms Manual Insert (FMI) for Form FmHA 440–57. Form FmHA 440–57 will be prepared and distributed in accordance with the FMI.

(6) After notification by the Finance Office that the funds have been reserved, the original only of Form FmHA 444–5 accompanied by a copy of any National Office memorandum authorizing approval, will be mailed to the Finance Office and a copy to the National Office. Forms FmHA 440–1 for those obligations requested by telephone *will not* be mailed to the Finance Office. Immediately after notification by telephone of the reservation of funds for not-for-profit organizations and public bodies, the State Director will call the Information Division in the National Office as required by FmHA Instruction 2015–C. Notice of approval to the applicant will be accomplished by mailing the applicant's signed copy of Form FmHA 440–1 on the obligation date. The State Director or a designee will record the actual date of applicant notification on the original of Form FmHA 440–1 and include the original of the form as a permanent part of the District Office project file with a copy in the State Office file.

(7) Determine the maximum rental rates to be charged domestic farm labor for occupancy of the housing, and advise the applicant, by memorandum, of these maximum rates. In determining the maximum rental rates due consideration must be given to the income and earning capacity of the prospective occupants of the housing and the cost of operating and maintaining such housing. As a general guide, the rental charges should not exceed 25 percent of the occupant families' estimated adjusted annual income.

(c) *Disapproval of a loon or grant.* When a loan and/or grant is disapproved after the docket has been developed, the reasons for such action will be shown on the original form FmHA 440–1. Form FmHA 440–1 will be initialed and dated. The District Director will notify the applicant in writing of the disapproval of the loan and the reasons therefore and advise them of their right to appeal in accordance with Subpart B of Part 1900 of this Chapter. The disapproved docket will then be handled in accordance with Subpart A Part 2033 of this Chapter (FmHA Instruction 2033–A). Any appeals as a result of disapproval will be handled in accordance with Subpart B of Part 1900 of this Chapter.

§ 1944.174 Distribution of loan and/or grant approval documents.

(a) *OGC.* For a loan to an organization, or in special cases, the approved loan or grant docket, including any title evidence, will be sent to OGC for preparation of closing instructions and any special legal documents required for closing. A certified copy of the required loan and grant resolution, grant agreement or the original executed, witnessed loan and grant agreement must be supplied by the applicant in time to be included in the loan or grant docket. No docket will be considered which fails to include such a required resolution or agreement. OGC will route the docket, including closing instructions and any such legal documents, to the District Office through the State Office for review and for inclusion of any futher instructions needed in closing the loan.

(b) *State Central Information Reception Agency (SCIRA).* Standard Form 424, "Federal Assistance," will be prepared by the State Director within 7 days after approval of an initial or subsequent grant or after a change in the amount or purpose of a grant in accordance with Subpart J of Part 1901 of this Chapter.

§ 1944.175 Actions subsequent to loan and/or grant approval.

(a) *Interim financing from commercial sources.* Interim financing should be used only when a loan or combination loan and grant exceeds $50,000 provided funds can be borrowed at reasonable interest rates from commercial sources for the construction period. When interim commercial financing is used:

(1) The docket will be processed to the stage where the FmHA loan or combination loan and grant would normally be closed. FmHA loan or combination loan and grant funds will be obligated before the applicant proceeds with the final arrangements for interim commercial financing.

(2) The State Director or District Director may deliver a copy of Form FmHA 440–57 as evidence of the FmHA commitment, if necessary, or a letter stating that funds in specified amounts have been obligated and will be available to retire the interim financing if the applicant complies with the approval conditions. See Exhibit I for a sample letter that may be used.

(3) FmHA will undertake similar functions as if FmHA funds had been advanced from the standpoint of approving construction contracts and the monitoring of construction.

(4) The supervised bank account will normally not be used for funds obtained through interim commercial financing. However, the District Director will approve Form FmHA 424–18, "Partial Payment Estimate," to insure that funds are used for authorized purposes.

(5) When the interim financing funds have been expended, the FmHA loan or combination loan and grant will be closed and permanent instruments will be issued to evidence the FmHA indebtedness. The FmHA loan or combination loan and grant proceeds will be used to retire the interim commercial indebtedness.

(6) Before the FmHA loan or combination loan and grant is closed, the applicant will be required to provide the District Director with statements from the contractor(s), engineer, and attorney that they have been paid in full in accordance with their contracts or other agreements and that there are no unpaid obligations outstanding in connection with the construction of the project.

(b) *Multiple advances of LH loan and/or grant funds.* In the event FmHA provides grant only assistance, or if interim commercial financing is not available for a loan or combination loan and grant in excess of $50,000, multiple advances will be used subject to the following:

(1) When relatively large amounts of funds are to be expended for purchases of real estate or for other reasons at the time of closing, separate checks for such purposes may be ordered and endorsed by the borrower to the seller or other appropriate party. This will preclude the necessity for depositing such funds in the supervised bank account and reduce the amount of required collateral.

(2) Except as indicated in paragraph (b)(1) of this Section, advances will be made only as needed to cover disbursements required by the borrower for a 30-day period. Normally, the advances should not exceed 24 in number or extend longer than 2 years beyond loan closing. The retained percentage withheld from the contract or to assure that construction will be completed in accordance with the contract documents will ordinarily be included in the last advance. Advances will be requested in sufficient amounts to insure that ample funds will be on hand to pay costs of construction, land purchase, legal, engineering, or architectural costs, interest, and other expenses, as needed. The borrower will prepare Form FmHA 440–11, "Estimate of Funds Needed for 30-day Period Commencing ————," modified as needed, to show the amount of funds required during the 30-day period. This form will be approved by the District Director. After the District Director determines that the estimate prepared by the borrower is adequate, the District Director will request the advance by indicating the amount on Form FmHA 440–57 in accordance with the FMI and forwarding it to the Finance Office, St. Louis, Missouri. As an example, for a loan and/or grant of $100,000, the advances may be made as follows: Assuming that the loan and/or grant will be closed on July 1, the borrower will complete Form FmHA 440–11 in sufficient time so that the funds will be available on the day of loan closing. The estimates should be broken down for the first advance in a manner similar to the following:

Construction	$30,000
Land acquisition	5,000
Architectural	4,000
Legal	1,000
Total	$40,000

An advance in the amount of $40,000 would then be available on July 1, the date of loan closing. The second advance will also be based on the borrower's estimate prepared on Form FmHA 440–11, and will be prepared in sufficient time so that the estimated amount of funds will be available on August 1. This estimate of funds might be broken down as follows:

Construction	$20,000
Architectural	1,000
Total	$21,000

A copy of Form FmHA 440–57 specifying the amount then will be forwarded to the Finance Office. The same routine will be followed for each advance until the project is completed.

(3) Any deviation from the multiple advance procedure must have the prior approval of the National Office.

(c) *Requesting check.* When loan approval conditions can be met, including any real estate lien required, and a date for loan closing has been agreed upon, the District Director will determine the amount of funds needed in accordance with either paragraph (a) or (b) of this section. The District Director or the District Director's delegate will then order the loan and/or grant check so that it will be available on or just before the date set for loan closing.

(d) *Increase or decrease in the amount of the loan.* If it becomes necessary for the amount of the loan and/or grant to be increased or decreased before loan closing, the loan approval official or District Director will request that all distributed docket forms be returned to the District Office. The loan docket will be revised accordingly and reprocessed.

(e) *Cancellation of loan.* Loans and/or grants may be canceled after approval and before loan closing as follows:

(1) The District Director will prepare Form FmHA 440–10, "Cancellation of Loan or Grant Check and/or Obligation," in an original and two copies (3 copies if the check is received in the District Office from the Regional Disbursing Office). The original and copies will be sent to the State Director with the reasons for requesting cancellation. If the State Director approves the request for cancellation, the State Director will forward the original request to the Finance Office after making appropriate adjustments in the records to control loan allocations. A copy of Form FmHA 440–10 will be sent to the National Office and the District Office.

(2) If the loan or grant check is received in the District Office, the District Director will return it to the Disbursing Center, U.S. Treasury Department, Post Office Box 3329, Kansas City, Kansas 66103, with a copy of Form FmHA 440–10.

(3) All interested parties will be notified of the cancellation as provided in Part 1807 of this Chapter (FmHA Instruction 427.1).

(f) *Handling the loan or grant check.* The loan or grant check will be handled in accordance with paragraph IV of FmHA Instruction 102.1 which is available in any FmHA Office and Subpart A of Part 1902 of this Chapter.

(g) *Property insurance.* Buildings will be insured in accordance with Subpart A of Part 1806 of this Chapter (FmHA Instruction 426.1).

§ 1944.176 Loan and/or grant closing.

(a) *Applicable instructions.* LH loans and/or grants will be closed in accordance with applicable provisions of Part 1807 of this Chapter (FmHA Instruction 427.1) and State supplements. Loan dockets for an organization and loan dockets for an individual in special cases will be sent to OGC for additional closing instructions. A family farm corporation, partnership, or an association of farmers applicant may use its attorney to close the loan in accordance with applicable loan closing instructions provided the attorney is not a member, officer, director, trustee, stockholder or partner of the applicant entity. Nonprofit organizations may use an attorney who is a member of their organization. The cost incurred by the organization for legal services must be reasonable and competitive for the area.

(b) *LH grant agreement.* A LH grant agreement, prepared and authorized as provided in § 1944.164(g) of this Subpart, will be dated and executed by the applicant on the date of grant closing. The executed agreement will be filed with the mortgage or other security instrument in the County Office case file.

(c) *Mortgage.* Unless the OGC determines the form to be inappropriate, real estate mortgage Form FmHA 427–1 (State), "Real Estate Mortgage for ————," will be used. For loans and/or grants to organizations, Form FmHA 427–1 will be modified as prescribed by or with the advice of the OGC with respect to the name, address, and other identification of the borrower, style of execution, acknowledgment, and any other provisions.

(1) The mortgage or other instrument will contain the following covenant:

> The property described herein was obtained or improved through Federal financial assistance. This property is subject to the provisions of Title VI of the Civil Rights Act of 1964 and the regulations issued pursuant thereto for so long as the property continues to be used for the same or similar purpose for which financial assistance was extended or for so long as the purchaser owns it, whichever is longer.

(2) When a loan resolution or loan agreement is used, an additional paragraph will be included in the mortgage to read as follows:

> This instrument also secures the obligations and covenants of Borrower set forth in Borrower's Loan Resolution (Loan Agreement) of (Date), which is hereby incorporated herein by reference.

(3) When the borrower is not an individual farmowner, or an association of farmers, the mortgage will include the following provision:

> Borrower will not require any occupant of the housing or related facilities, as a condition of occupancy, to work or be employed on any particular farm or other place, or work for or be employed by any particular person, firm, or interest.

(4) For a grant made at the same time as an LH loan, the mortgage securing the loan will contain a provision making it also secure the applicant's obligations under the LH grant agreement. For a grant not made at the same time as an LH loan, the type of security instrument will be determined by the National Office based upon the State Director's recommendation and the advice of OGC.

(d) *Promissory Note.* (1) The total amount to be shown on the note will be shown on Form FmHA 440–1. The note will be dated the date of loan closing as authorized in Part 1807 of this Chapter

V 44 0 C 1 5 7 9 UMI

(paragraph II F 8 of FmHA Instruction 427.1).

(2) Form FmHA 440–16, "Promissory Note" will be used for all LH loans. Payments on LH loans will be scheduled on an annual basis and in accordance with the FMI. Form FmHA 440–9 will be used to schedule payments on a monthly, quarterly, or semi-annual basis in accordance with the expected schedule of income from the project.

(3) Deferred principal payments may be permitted up to 2 years when determined to be necessary and advisable. Accrued interest must be paid annually; however, smaller than regular payments of principal or no payments of principal may be provided for the first and second installments after loan closing.

(4) The note(s) will be signed in accordance with Part 1807 of this Chapter (FmHA Instruction 427.1) and any supplemental instructions from OGC.

(5) Immediately after loan closing the original notes and copies will be distributed in accordance with the FMI.

(6) For a loan to a public body the forms of obligation will be determined in accordance with § 1942.19 of Subpart A of Part 1942 of this Chapter.

(e) *Recorded mortgage.* When the real estate mortgage is returned by the recording official, the District Director will retain the original in the borrower's case folder. If the original is retained by the recording official for the county records, a conformed copy including the recording data showing the date and place of recordation and book and page number will be prepared and filed in the borrower's case folder. A copy of the mortgage, conformed as to all matters except the recording date, will be delivered to the borrower.

(f) *Date of closing—establishment of account.*

(1) An LH loan and/or grant is considered closed when the security instrument is filed of record, or, if no security instrument is filed of record, when the loan or grant funds are deposited in the supervised bank account or otherwise made available to the borrower after the borrower executes and delivers the note and any other required instruments.

(2) After the loan and/or grant is closed, the account and case folder will be established in accordance with applicable FmHA regulations (FmHA instructions 405.1 which is available in any FmHA Office and FmHA Instruction 2033–B which is available in the FmHA State and National Office.

§ 1944.177 Coding loans and grants as to initial or subsequent.

A borrower may obtain financing for more than one project. Each project will be coded as an initial loan or grant when the total number of units are built or purchased at one place at one time. A subsequent loan or grant will be so coded when an additional loan or grant is necessary to complete the units planned with the initial loan or grant. As an example, the borrower may obtain initial loans or grant for more than one project in the same district, in different counties under the same District Office jurisdiction, or in more than one District Office jurisdiction. Codes to be used will be in accordance with the FMI for Forms FmHA 440–1, FmHA 440–57, and FmHA 444–5.

§ 1944.178 Complaints regarding discrimination in use and occupancy of LH.

Any occupant or applicant for occupancy or use of such LH housing or related facilities who believe they have been discriminated against because of race, color, religion, sex, national origin, age, marital status, physical or mental handicap (must possess capacity to enter into legal contract) may file a complaint with the District Director or State Director. Any complaint will be referred through the State Director to the National Office.

(a) the complaint should be in writing and signed by the complaintant. However, the complaint may be phoned to a FmHA office. In any case, the complaint should contain the following information (the FmHA employees will provide assistance as needed in preparing the complaint).

(1) The name and address (including telephone number) of the complaintant.

(2) The name and address of the person committing the alleged discrimination.

(3) Date and place of the alleged discrimination.

(4) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(b) The District Director or State Director will acknowledge receipt of the complaint and promptly forward it to the National Office.

(c) Attached to the complaint should be a statement from the District Director or State Director as to whether the security instrument or other document executed by the borrower contains a nondiscrimination agreement. The statement also should include any other information which the State Director or District Director has pertaining to the complaint. The District Director or State Director should delay a comprehensive investigation of any complaint until requested to conduct the investigation by the National Office.

(d) The National Office will determine whether discrimination did in fact occur. If necessary, appropriate steps will be taken to ascertain the essential facts.

(e) If it is found that the borrower's nondiscrimination agreement in the security instrument or elsewhere was violated, FmHA will inform the parties of such finding and advise the violator to take the action necessary to correct the violation and to give appropriate assurance of future compliance.

(f) If it is found that the complaint is without substance, the parties concerned will be so notified.

(g) If the borrower fails to take such corrective action and assure future compliance, the Administrator may take further appropriate action.

§§ 1944.179–1944.180 [Reserved].

§ 1944.181 Loan servicing.

LH loans and grants will be serviced in accordance with Subpart B of Part 1924 of this Chapter and Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2). Requests for rent increases will be processed in accordance with Exhibit F of Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2, Exhibit F).

§ 1944.182 Rental Assistance.

Rental assistance may be provided to eligible tenants in LH projects in accordance with Exhibit R of Subpart D of Part 1822 of this Chapter (Exhibit R of FmHA Instruction 444.5). Income will be verified for LH tenants requesting rental assistance from all easily identifiable sources by using form FmHA 410–5, "Request for Verification of Employment", income or portions of income from sources that are not known or not easily contacted will be verified from the best information obtainable. This may include copies of payroll records, tenant's own records, contacts with individuals who may be knowledgeable of the tenant's income, or, if no other verifiable data is available, a notarized affidavit from the tenant attesting to his/her previous year's income. The borrower and tenant will execute Form FmHA 444–8, "Tenant Certification". The borrower will be expected to certify only that the income is correctly stated based on the best information available. The borrower will be expected to have the tenants that occupy the project year round and do not have easily verifiable income report monthly income to enable accurate income certification at the end of one year of occupancy.

§§ 1944.183–1944.200 [Reserved].

Labor Housing Loan and Grant Application Handbook

Introduction

Development of a proposal for Labor Housing (LH) loan and grant can be an expensive proposition and the Farmers Home Administration (FmHA), therefore, encourages applicants to develop applications in two phases which are termed preapplication phase and application phase. In development of the items required for the preapplication phase, applicants should understand that the Government is in no way obligated to commit loan or grant funds to the proposed project and therefore, they should not, at this stage, incur expenses for the optioning of land, architectural services, engineering services, or other purposes unless they will be able to use their own funds to pay these expenses. In addition, before the development of a preapplication, applicants should meet with the local FmHA District Director to gain a basic understanding of the eligibility and other requirements of the LH loan and grant program.

Information To Be Submitted With Preapplication for Labor Housing Loan or Grant

The following information should be submitted with Form AD–621, "Preapplication for Federal Assistance":

1. *Eligibility:* a. Financial Statement—A current, dated, and signed financial statement showing assets and liabilities with information on the repayment schedule and status of all debts. If the applicant is an association of farmers, a current financial statement will also be required from each member. The applicant, must have or be able to obtain initial operating capital of at least 2 percent of the total development cost of the project. A statement should, therefore, be included explaining how such funds will be provided. Loan or grant funds may be used to provide the required initial operating capital for nonprofit and State or local public agencies.

b. All applicants, except State and local public agencies, must provide evidence that they are unable to obtain credit from other sources. Letters from credit institutions who normally provide real estate loans in the area should be obtained and these letters should indicate the rates and terms upon which a loan might be provided.

c. If a Labor Housing (LH) grant is requested, a statement explaining why the housing cannot be provided without a grant. This statement should provide preliminary estimates of the rents required without a grant, and the rents required with the proposed grant.

d. A statement of the applicant's experience in operating LH or other rental housing. If the applicant's experience is limited, additional information should be provided to indicate how the applicant plans to compensate for this limited experience. (i.e., obtaining assistance and advice of a management firm, non-profit group, public agency, or other organization which is experienced in rental management and will be available on a continuous basis).

e. A brief statement explaining the applicant's proposed method of operation and management. This does not have to be a full-fledged management plan, as outlined by Exhibit B, however, it should generally explain how the applicant proposes to operate the facility. (i.e., on-site manager, contracting for management services, etc.).

f. Organization-type applicants must provide a copy of or an accurate citation to the special provisions of State law under which the applicant is or is to be organized, a copy of the applicant's charter, Articles of Incorporation, bylaws, and other basic authorizing documents; names occupations, and addresses of the applicant's members, directors, and officers; and, if a member or subsidiary of another organization, its name, address, and principal business.

2. *Need and demand.* A preliminary survey should be conducted to identify the supply and demand for LH in the area. This survey should address or include the following items:

a. The annual income level of farmworker families in the area and the probable income of those farm workers who are most apt to occupy the proposed unit.

b. A realistic estimate of the number of farmworkers who are home-based in the area and the number of farmworkers who normally migrate into the area. Information on migratory workers should indicate the average number of months the migrants reside in the area and an indication of what type of family groups are represented by the migrants (i.e., single individuals as opposed to families). Much of this information may be available from the local office of the Rural Manpower Services section of the Department of Employment Services.

c. General information concerning the type of labor intensive crops grown in the area and prospects for continued demand for farm laborers (i.e., prospects for mechanization etc.). Information may be available from the local U.S. Department of Agriculture (USDA) Extension Service office or from the Agricultural Stabilization and Conservation Service.

d. The overall occupancy rate for comparable rental units in the area and rents charged and customary rental practices for these units (i.e., will they rent to large families, do they require annual leases, etc.). This information may be available from census data, local planning organizations, or local housing authorities.

e. The number, condition, adequacy, ownership, and rental rates for units currently used or available to farmworkers. This information may be available from local farmworker advocacy groups, Rural Manpower Services, or social service agencies.

f. A general description of the units proposed, including number, type, and size and an estimate of the total development cost and amount of contribution by the applicant. This should also include an estimated projection of the rental rates to be charged.

Note.—The market survey is one of the most important determinates of the overall feasibility of the proposed project. Therefore, the applicant may wish to do a more detailed study of the market in accordance with item 9 of Exhibit A–2. Endorsement of the proposal by community leaders will not be required.

3. *Additional information.* The following items should be provided only if they are readily available:

a. A map of the proposed site showing the location of the site and supporting information on the neighborhood and available facilities, such as distance to shopping, churches, schools, available transportation, drainage, sanitation facilities, water supply, and access to other services such as doctors, dentists, and hospitals.

b. Any available sketches or schematics of the proposed housing including plot plans, building layouts, and construction types.

The information required by the preapplication will be carefully reviewed for eligibility and feasibility by appropriate Farmers Home Administration (FmHA) officials. As soon as a decision is reached, the applicant will be advised of the availability of funds for the project, via Form AD–622, "Notice of Preapplication Review Action."

Upon receipt of Form AD–622 indicating favorable action by FmHA, the applicant, if proposing more than 10 single detached units, or 25 multi-family type units, should submit Form AD–621, "Preapplication for Federal Assistance," with required information to the appropriate State and/or area-wide clearinghouses so that required A–95 reviews can be conducted and comments received from appropriate State agencies before the final application is submitted. Local FmHA District or State Offices can provide names and addresses of appropriate clearinghouses and details on the information which must be submitted.

Information To Be Submitted With "Application for Federal Assistance (Short Form)"

After the applicant has received the signed Form AD–622, "Notice of Preapplication Review Action," authorizing the applicant to proceed to develop a final application, the applicant and the applicant's architect should meet with the Farmers Home Administration (FmHA) architect/engineer and other officials responsible for loan processing. During this preprocessing meeting, FmHA will discuss the services which the applicant's architect will be expected to provide and will also explain the items needed to complete the final application.

If after the preprocessing meeting the applicant believes that the Labor Housing (LH) project can be developed within the guidelines required by FmHA, the following information should be submitted with Form AD–625, "Application for Federal Assistance (Short Form)":

1. If applicable, evidence that Form AD–621, "Preapplication for Federal Assistance," has been filed with the appropriate State or local clearinghouses for A–95 review along with any comments received from the clearinghouses.

2. Proposed contracts for architectural, engineering, and legal services as applicable. FmHA approval of these contracts should be obtained prior to execution of the contract.

3. A plot plan and detailed preliminary drawings and specifications prepared in

V 4 4 0 C 1 5 7 9 UMI

accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1). Exhibit A–3 provides FmHA's general philosophy and standards concerning the construction of LH facilities.

4. A detailed cost breakdown of the project for items such as land purchase, right-of-ways, building construction, equipment, utility connections, on-site improvements, architectural and/or engineering services, and legal services. The cost breakdown should itemize labor and material unit costs. If a LH grant is proposed, construction will be subject to the provisions of the Davis-Bacon Act. LH grant applications should, therefore, obtain a copy of Subpart D of Part 1901 of this Chapter which explains the Davis-Bacon requirements.

5. Satisfactory evidence of review and approval of the proposed housing, including compliance with zoning requirements by State and local officials, as required by applicable State or local laws, ordinances, or regulations.

6. If not already provided in the preapplication submittal, a map of the proposed site showing the location of the site in relation to available facilities such as schools, shopping, churches, hospitals, etc. In addition, supporting information should be provided indicating that essential utilities such as sewer, water, electricity, etc., will be available to the project. (See Exhibit A–3 for FmHA's general requirements for location of LH facilities.)

7. Form FmHA 440–46, "Environmental Impact Assessment," for all projects involving more than 25 individual detached or 50 multi-family units. This is not a request for an Environmental Impact statement. Parts I, II and III should be completed by the applicant. The remainder will be completed by FmHA.

8. A description of and justification for any related facilities such as community or multi-purpose type buildings, cafeterias, dining halls, infirmaries, child care facilities, etc. To be included for funding by FmHA, the facilities should not be of extravagant design and their size must be commensurate with the needs of the farm workers who will occupy the housing facility. Any long-term agreements which are contemplated with other agencies for services such as manpower training, migrant health services, child care, and education programs should be explained and included as justification for the related facilities.

9. A detailed market analysis addressing in detail the items required under item 2 of the preapplication submittal should be conducted in accordance with the following:

a. The market area (i.e., the area from which tenants can reasonably be drawn for the project) should be clearly identified.

b. Adequate existing units which are currently available or which could become available should be surveyed and information obtained and recorded in a Format similar to Exhibit A–4.

c. Individual farmworkers and farmworker groups should be contacted and their ideas obtained concerning the type of housing which would gain the greatest acceptance. (This information may not seem important at the outset of the loan if there is a pressing need for LH, however, to assure a long-term demand for the project consideration should be given to the views of the prospective tenants.)

d. The above items should then be correlated to arrive at a realistic estimate of the total need for units, type of units, estimated occupancy, and maximum rental rates which can be charged for the units, and the type of amenities or related facilities which should be provided.

10. Proposed, detailed operating budgets for: (a) the first year of operation, and (b) a typical year's operation. The overall percentage of occupancy should be based upon the data collected in the market analysis. Operating costs should be realistic and should reflect somewhat higher than normal maintenance costs and an allowance for the establishment of a reserve as required by the loan agreement. The budget should be prepared in a format similar to Exhibit A–5.

11. A management plan which includes the applicable items of Exhibit B.

12. When the loan is to be secured by a junior real estate lien, certain agreements will be required from prior lien holders. The local or State FmHA official will provide the applicable agreements.

13. An option to purchase or other evidence of ability to purchase or evidence of ownership for the proposed site.

When the final application is assembled it should be submitted to the local FmHA District Office for review and submission to the State Office. As soon as a final decision to approve the loan is reached, the applicant will be notified and advised to proceed with the preparation of final plans and specifications, contract documents, and other items needed to close the loan. *The applicant should not proceed with bid advertisement or contract awards until advised to proceed by FmHA.*

Labor Housing Construction Guidelines

I. *Introduction:* This Exhibit provides the Farmers Home Administration's (FmHA's) general guidelines and policies concerning the planning, location, and construction of housing for farmworkers. The type of housing should be in accordance with the needs of the prospective tenants. Multi-family type units are encouraged whenever possible; however, when planning units for farmworker families, lower density building design and layout is normally desirable. Housing should be designed in such a manner that it will be decent, safe, sanitary, and modest in size and cost. Actual plans, specifications, and contract documents should be prepared in accordance with Subpart A of Part 1804 of this Chapter (FmHA Instruction 424.1).

II. *Types of housing and appropriate standards:*

a. Single-family type housing is defined as an individual or a group of individual single family detached dwelling units. These type units should meet the following standards:

1. All sites shall be planned and constructed in accordance with Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

2. All planning and construction shall be in conformance with the Minimum Property Standards (MPS) and applicable State and local codes.

b. Multi-family type housing is defined as a project or a number of projects encompassing a building or buildings containing more than one dwelling unit and may include mixtures of detached and multi-unit structures in a project. These type units should meet the following standards:

1. All housing designed for year round occupancy will be planned in compliance with the MPS and will be compatible with conventional rental type housing.

2. Housing for seasonal occupancy (less than six months) shall be so designed and constructed that conversion to MPS housing will be possible without any major alterations to the work in place. Therefore, exterior structural elements and dimensions (foundations, exterior and load-bearing walls, and roofing) and all permanent systems constructed must meet MPS requirements.

(i) The interior design may be altered to allow additional living quarters per building, minimum interior finishings, reductions in room sizes and storage spaces, and the omission of heating facilities and insulation depending on the climate and proposed season of occupancy. However, bedrooms, bathroom, and living/cooking area must be adequate for the occupancy proposed for the unit and meet all local health and safety requirements.

(ii) The on-site distribution systems for utilities, water supply, and sewage disposal should meet MPS requirements for interior design (so that they would not have to be replaced in the event of project conversion).

(iii) Siting should allow for properly planned access, parking, and open space requirements for standard MPS projects, but access need only be developed to the extent of providing all weather surfaces.

(iv) In all cases, housing for seasonal occupancy constructed or repaired with LH funds will satisfy the health and safety standards set by the Department of Labor (DOL) Occupational Safety and Health Administration (OSHA).

4. All planning and construction should be in conformance with applicable State and local codes.

BILLING CODE 3410–07–M

Exhibit A–4

SURVEY OF EXISTING LABOR HOUSING

Name of Town _____ Date of Survey _____

Name and Address of Rental Units	Number, Size and Monthly Rent of Units in each Project										Project Type **	Age	Condition of Bldg.	Area
	*0 or 1 BR			2 BR			3 BR			4 or 5 Br				
	No.	Size	Rent	No.	Size	Rent	No.	Size	Rent	No.	Size			

** i.e. Number of stories; number of units per building in project. Identify architectural style

*Circle Applicable Type Units
If both 0 and 1 Br or 4 and 5 Br units in same project use two lines

V 44 0C 15 79 UMI

Exhibit A-5

STATEMENT OF BUDGET, INCOME, AND EXPENSE (Excluding Depreciation)

Name of Borrower _____
Address _____
Project Location _____
Kind of Loan _____ Term of Loan _____ Interest Rate _____ Amount $ _____

	1st Year	Typical Year	Typical Yr w/ Grant	Typical Yr w/o Grant
1. Total Operation and Maintanence Expense (From Reverse)				
2. Transfer to Reserve				
3. FmHA Payment				
4. Return to Ownership@-%				
5. Other Authorized Payments				
6. Authorized Capital Improvements				
7. Total Income Needed (Add lines 1-6)				
Other Income				
8. Laundry				
9. Interest				
10. Other (Specify)				
11. Total Other Income				
12. Rental Income Needed				
Rental Income				
13. ___ Units@ ___ month,week				
14. ___ Units@ ___ month,week				
15. ___ Units@ ___ month,week				
16. ___ Units@ ___ month,week				
17. Vacancy Allowance	( )	( )	( )	( )
18. Rental Income (Add lines 13-16 less 17)				
19. Excess or (Deficit) (lines 18 less 12)				

Certified Correct

_____ by _____
date — Applicant's or Borrower's signature

OPERATION AND MAINTENANCE EXPENSES:

	(1)	(2)	(3)	(4)
1. Salaries and Wages	$	$	$	$
Caretaker	$	$	$	$
Manager	$	$	$	$
2. Utilities	$	$	$	$
Water	$	$	$	$
Sewer	$	$	$	$
Gas	$	$	$	$
Electricity	$	$	$	$
Heating	$	$	$	$
Garbage and Trash Removal	$	$	$	$
Telephone	$	$	$	$
Other	$	$	$	$
3. Maintenance	$	$	$	$
Janitor's Supplies	$	$	$	$
Repairs	$	$	$	$
Building Equipment Repairs	$	$	$	$
Exterminating	$	$	$	$
Decorating	$	$	$	$
Grounds Maintenance	$	$	$	$
Furniture & Furnishing Replacements	$	$	$	$
Other	$	$	$	$
4. Insurance	$	$	$	$
Fire and Extended Coverage	$	$	$	$
Liability	$	$	$	$
Compensation	$	$	$	$
Other	$	$	$	$
5. Taxes	$	$	$	$
Real Estate	$	$	$	$
Social Security	$	$	$	$
Special Assessments	$	$	$	$
Income	$	$	$	$
Other	$	$	$	$
6. Other Expenses	$	$	$	$
Accounting	$	$	$	$
Legal	$	$	$	$
Advertising	$	$	$	$
Interest (FmHA)	$	$	$	$
Other Interest	$	$	$	$
7. Total Operation and Maintenance Expenses (Add Section 1 thru 6) (Total to Line 12 Front Side)	$	$	$	$

BILLING CODE 3410-07-C

V 44 0 C 15 7 9 UMI

Exhibit B—Management Plans

The management of a rental project, regardless of the type of tenants, is one of the most, if not the most, important determinants of the success or failure of a proposed project.

The management plan, therefore, as the primary management charter should constitute a comprehensive description of the detailed policies and procedures to be followed in managing the project and should as a minimum address the following items:

1. *Staffing.* The number, qualifications required, and duties of all personnel who will be hired to operate the project. Equal employment opportunity should be provided and special consideration should be given to hiring Spanish-speaking persons if warranted by the expected occupancy. Roles and responsibility's of owner and of manager should be specified.

2. *Marketing.* The marketing efforts or techniques which will be used to obtain initial rent up and occupancy of future vacancies (i.e. advertisement, contacts with social service agencies, local farmers, etc.). Definite dates for opening and closing of the project will be spelled out for projects constructed for seasonal purposes.

3. *Tenant selection.* Domestic farm workers must be given absolute priority in renting available units. Other selection criteria should be specifically outlined in the management plan. Arbitrary restrictions as to family size, age of children, or other similar items are prohibited, however, the size of unit assigned to a family should be commensurate with its needs. Rejected tenant applications should be maintained for a minimum of 1 year and applicants must be advised in writing of the reasons for rejection.

4. *Ineligible tenants.* Units can be rented to other than farm workers when they are not needed by farm workers (i.e., during the off season), however, the leases must be on a short-term basis, normally not exceeding 30 days, and ineligible tenants must be advised that they will have to vacate the units if an eligible farm worker becomes available. To avoid future problems, occupancy by ineligibles should be avoided if at all possible. Written permission to rent to ineligibles must be obtained from the District Director before allowing the ineligible tenant to occupy LH projects.

5. *Lease or occupancy agreement.* A copy of any proposed lease or occupancy agreement should be submitted with the plan. The lease or occupancy agreement should clearly outline the responsibilities of the tenant and landlord.

6. *Counseling services.* Pre- and post-occupancy counseling services, which will be provided to tenants by borrowers to acquaint them with the project or otherwise assist them should be thoroughly explained.

7. *Collection of rent.* The system which will be used in the collection of rent must be outlined including proper provisions for the internal control and security of cash collections, followup on overdue accounts, persons responsible for collections, recordkeeping, and conditions for the return of security deposits, if required.

8. *Evictions.* The plan should spell out the specific reasons which warrant eviction and the steps which will be taken to resolve problems before eviction, including provisions for appeal. Voluntary compliance with the lease or occupancy agreement should be emphasized and every effort should be made to utilize the benefits available through local social service agencies and other community organizations.

9. *Maintenance and repairs.* A schedule for preventive maintenance and the procedure for handling service requests from individual tenants, including procedures for the handling of emergency repairs on a 24-hour basis should be outlined.

10. *Records and reports.* The type of recordkeeping system which will be established and the person or persons who will be responsible for keeping records and submitting required reports to FmHA. Subpart G of Part 1802 of this Chapter (FmHA Instruction 430.2) outlines the reports required and the formats for these reports. This Instruction is available from the local District Office.

11. *Fidelity bonds.* Bonding should be provided for all persons entrusted with the receipt, custody, and disbursement of funds and custody of other negotiable or readily salable personal property. The amount of the bond should be at least equal to the maximum amount of money or property which the individual will have control of at any one time.

12. *Tenant councils.* Tenant councils should be encouraged and should be given an input into proposed changes in lease agreements, staff selection, eviction, and in some cases tenant selection and other management decisions which have a bearing on the tenant's overall situation. Provisions should also be outlined for the democratic election of tenant councils.

13. *Rent increases.* Requested or proposed rent increases should be handled in accordance with Exhibit F of Subpart G of Part 1802 of this Chapter. (FmHA Instruction 430.2, Exhibit F).

14. *Non-discrimination.* The plan should address the policy of non-discrimination in tenant selection and employee hiring in accordance with Form FmHA 400–4, "Non-Discrimination Agreement," and the affirmative action planned in the recruitment of employees and tenants.

15. *Other items.* Any other items which have a bearing on the operation and management of the project.

16. The management plan must be signed and dated by the borrower or the borrower's authorized representative.

Exhibit C

(LH Insured Loan to Nonprofit Corporation)

LOAN RESOLUTION OF

———————— ——, 19——

RESOLUTION OF THE BOARD OF DIRECTORS OF ————————
PROVIDING FOR BORROWING $———— TO FINANCE HOUSING AND RELATED FACILITIES FOR DOMESTIC FARM LABOR, THE COLLECTION, HANDLING, AND DISPOSITION OF INCOME, THE ISSUANCE OF INSTALLMENT PROMISSORY NOTE AND REAL ESTATE SECURITY INSTRUMENT, AND RELATED MATTERS

Whereas ————————
(herein referred to as "Corporation") is a nonprofit corporation duly organized and operating under (authorizing State statute) ————————;

The Board of Directors of the Corporation (herein referred to as the "board") has decided to provide certain housing and related facilities for domestic farm labor; The board has determined that the Corporation is unable to provide such housing and facilities with its own resources or to obtain from other sources for such purpose sufficient credit upon terms and conditions which the Corporation could reasonably be expected to fulfill;

Be it resolved:

1 *Application for Loan.* The Corporation shall apply for and obtain a domestic farm labor housing loan (herein called "the loan") of $—— through the facilities of the United States of America acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") pursuant to title V of the Housing Act of 1949. The loan shall be used solely for the specific eligible purposes for which it is approved by the Government, in order to provide housing and related facilities for domestic farm labor. Such housing and facilities and the land constituting the site are herein called "the housing."

2 *Execution of Loan Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of ———— years, bearing interest at the rate of 1 percent per annum, and containing other terms and conditions prescribed by the Government. To secure the note or any indemnity or other agreement required by the Government, the President and Secretary are hereby authorized to execute a real estate security instrument giving a lien upon the housing and upon such other real property of the Corporation as the Government shall require, including an assignment or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation, and containing other terms and conditions prescribed by the Government. The President and Secretary are further authorized to execute any other security instruments and other instruments and documents required by the Government in connection with the making or insuring of the loan. The indebtedness and other obligations of the Corporation under the note, the related security instruments, and any related agreements are herein called the "loan obligations."

3 *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing; (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause," to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

4 *Supervised Bank Account.* The proceeds of the note and the amount of $———— to be contributed by the Corporation from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with the U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the ———— of the Corporation and countersigned by the County Supervisor of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

5 *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by Section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6 *General Fund Account.* By the time the loan is closed the Corporation shall from its own funds deposit in the General Fund Account the amount of $————. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan obligations.

7 *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance, normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

8 *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by the Corporation in trust for the Government as security therefor.

9 *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan obligations. Transfers at a rate not less than $————[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $————[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corportion—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan purposes without jeapordizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection 9(b) shall be applied promptly on the loan obligations.

10 *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, the Corporation shall—

(a) Impose and collect such fees, assessments, rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

[1] Only loan funds, and borrower's funds to be used for an eligible loan purpose, may be deposited in the supervised bank account.

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence and indicated by footnote 3.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

V 44 0C 15 79 UMI

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as housing and related facilities for domestic farm labor.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor cause or permit any transfer or encumberance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not cause or permit the issuance or transfer of any stock, borrow any money, nor incur any liability aside from current expenses as defined in section 7.

(e) Submit the following to the Government for prior review and approval not less than —— days before the effective dates, unless approval is waived by the Government:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under the note, security instrument, and any related agreement executed by the Corporation in connection with the loan.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan obligations, or the security.

11 *Refinancing of Loan.* If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12 *General Provisions.*

(a) It is expressly understood and agreed that any loan made will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

(b) The provisions of this resolution are representations to the Government to induce the Government to make a loan to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any provision of this resolution or any requirement made by the Government pursuant to this resolution, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable, and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the Corporation will permit representatives of the Government to inspect and make copies of any of the records of the Corporation pertaining to this loan. Such inspection and copying may be made during regular office hours of the Corporation, or any other time the Corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and any other instruments or agreements as the "Loan Resolution of (date of this resolution) ———— 19——."

———————————————

———————————————

———————————————

Certificate

The undersigned, ————————, the Secretary of the Corporation identified in the foregoing Loan Resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on ———— 19——, which has not been altered, amended, or repealed.

————————

(Date)

————————

(Secretary)

Exhibit D—Loan Agreement

(LH Insured Loan to Individual)

1. *Parties and Terms Defined.* This agreement dated ———— of the Undersigned

————————,

herein called "Borrower" whether one or more, whose post office address is

————————,

with the United States of America acting through the Farmers Home Administration, United States Department of Agriculture, herein called "the Government," is made in consideration of a loan, herein called "the loan," to Borrower in the amount of $———— made or insured, or to be made or insured by the Government pursuant to title V of the Housing Act of 1949 to provide housing and related facilities for domestic farm laborers. Such housing and related facilities, together with the site, may be referred to herein as "the housing." The indebtedness and other obligations of Borrower under the note evidencing the loan, the related security instrument, and any related agreement are herein called the "loan obligations."

2. *Equal Opportunity and Nondiscrimination Provisions.* The borrower will comply with (a) any undertakings and agreements required by the Government pursuant to Executive Order 11063 regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1 entitled "Equal Opportunity Agreement," including an "Equal Opportunity Clause" to be incorporated in or attached as a rider to each construction contract the amount of which exceeds $10,000 and any part of which is paid for with funds from the loan, (c) Farmers Home Administration Form FmHA 400–4, entitled "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof, and any other undertakings and agreements required by the Government pursuant to lawful authority.

3. *Supervised Bank Account.* The proceeds of the note and the amount of $———— to be contributed by the borrower from its own funds and used for eligible loan purposes shall be deposited in a "supervised bank account" as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depository bank in advance in accordance with U.S. Treasury Department Circular No. 178. As provided therein shall, until duly expended, collaterally secure the loan obligations. Withdrawals from the supervised bank account by the borrower shall be made only on checks signed by the ———— of the borrower and countersigned by a representative of the Farmers Home Administration, and only for the specific loan purposes approved in writing by the Government. The borrower's share of any liquidated damages or other monies paid by defaulting contractors or their sureties shall be deposited in the supervised bank account to assure completion of the

[1] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as indicated by footnote 2.

project. When all approved items eligible for payment with loan funds are paid in full, any balance remaining in the supervised bank account shall be applied on the note as an "extra payment" as defined in the regulations of the Farmers Home Administration, and the supervised bank account shall be closed.

4. *Accounts for Housing Operations and Loan Servicing.* Borrower shall establish on his books the following accounts, which shall be maintained so long as the loan obligations remain unsatisfied: A General Fund Account, an operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 8(a).

5. *General Fund Account.* By the time the loan is closed Borrower shall from his own funds deposit in the General Fund Account the amount of $————. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. Borrower may also in his discretion at any time deposit therein other funds, not otherwise provided for by this agreement, to be used for any of the purposes authorized in section 6, 7, or 8. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by Borrower in trust for the Government as security for the loan obligations.

6. *Operation and Maintenance Account.* Not later than the 15th of each month out of the General Fund Account shall be transferred to the Operation and Maintenance Account sufficient amounts to enable Borrower to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes, insurance, and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan or income or revenue from the housing.

7. *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 6, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations and, until so used, shall be held by Borrower in trust for the Government as security therefor.

8. *Reserve Account.*

(a) Immediately after each transfer to the Debt Service Account as provided in section 7, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this agreement and until so used shall be held by the Borrower in trust as security for the loan obligations. Transfers at a rate not less than $————[1] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $————[2] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of Borrower, consist of an amount, referred to as the "prepayment reserve," by which Borrower is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by Borrower—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 6.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by Borrower which in the judgment of the Government likely will promote the loan purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(5) For any purpose desired by Borrower, provided Borrower determines that after such disbursement (a) the amount in the Reserve Account will be not less than that required by subsection 8(a) to be accumulated by that time, and (b) during the next 12 months the amount in the Reserve Account will likely not fall below that required to be accumulated by the end of such period.

(c) Any amount in the Reserve Account which exceeds the aggregate sum specified in subsection 8(a) and is not agreed between the borrower and the Government to be used for purposes authorized in subsection 8(a) shall be applied promptly on the loan obligations.

9. *Regulatory Covenants.* So long as the loan obligations remain unsatisfied, Borrower shall—

(a) Impose and collect such fees, assessments, rents, and charges that his income will be sufficient at all times for operation and maintenance of the housing, payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to his financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required by the Government, revise the accounts herein provided for, or establish new accounts, to cover handling and disposition of income from and payment of expenses attributable to the housing or to any other property securing the loan obligations, and submit regular and special reports concerning the housing or Borrower's financial affairs.

(d) Unless the Government gives prior consent—

(1) Not use the housing for any purpose other than as labor housing and related facilities for domestic farm laborers.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan obligations.

(3) Not cause or permit the transfer or encumbrance of title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or otherwise.

(e) Submit the following to the Government for prior review and approval not less than ————days before the effective dates.

(1) Annual budgets and operating plans, including proposed rents and charges and other terms of rental agreements for occupancy and compensation to employees chargeable as operating expenses of the housing.

(2) Statements of management policy and practice, including eligibility criteria and implementing rules for occupancy of the housing.

(f) If required by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Do other things as may be required by the Government in connection with the operation of the housing or with any of Borrower's operations or affairs which may affect the housing, the loan obligations, or the security.

10. *Refinancing of Loan.* If at any time it appears to the Government that Borrower is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, Borrower will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

11. *General Provisions.*

(a) It is understood and agreed by Borrower that any loan made or insured will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan, enforce such limitations, and protect the Government's financial interest in the loan and the security.

[2] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan.

V 44 0C 15 79 UMI

(b) Borrower shall also comply with all covenants and agreements set forth in the note, security instrument, and any related agreements executed by Borrower in connection with the loan.

(c) The provisions of this agreement are representations to the Government to induce the Government to make or insure a loan to Borrower as aforesaid. If Borrower should fail to comply with or perform any provision of this agreement or any requirement made by the Government pursuant hereto, such failure shall constitute default as fully as default in payment of amounts due on the loan. In the event of such failure, the Government at its option may declare the entire amount of the loan obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(d) Upon request by the Government the Borrower will permit representatives of the Government to inspect and make copies of any of the records of the Borrower pertaining to this loan. Such inspection and copying may be made during regular office hours of the Borrower, or any other time the Borrower and the Government finds convenient.

(e) Any provisions of this agreement may be waived by the Government, or changed by agreement between the Government and Borrower to any extent such provisions could legally have been foregone, or agreed to in any amended form, by the Government initially. Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This agreement may be cited in the security instrument and other instruments or agreements as the "Loan Agreement of (date of this agreement)————19————."

Witness/————————————
Borrower ————————————
Witness ————————————
Borrower ————————————

Exhibit E

(Labor Housing Loan and Grant to a Nonprofit Corporation)

Loan and Grant Resolution of ————, 19—— Resolution of the Board of Directors of ————providing for obtaining financial assistance in the amount $————to aid in financing federally defined low-rent housing and related facilities for low-income domestic farm labor, and related matters. Whereas

————————————

(herein referred to as the "Corporation") is organized and operating under and the board of (authorizing State statute)

————————————

directors of the Corporation has determined that—

(a) The Corporation should provide low-rent housing and related facilities for low-income domestic farm labor, as defined in title V of the Housing Act of 1949.

(b) The estimated total cash development cost of such housing and facilities amounts to $————.

(c) For such purpose the Corporation is able to furnish from its own resources $————.

(d) The Corporation will need financial assistance in the amount of $———— which the Corporation is unable to obtain from other sources for such purpose upon terms and conditions which the Corporation could reasonably be expected to fulfill.

(e) Of such amount of needed financial assistance the Corporation will be able to repay, with interest at 1% per annum, the amount of $————over a repayment period of————years, if the balance of $————is made available to the Corporation as a grant.

(f) The housing and related facilities will fulfill a pressing need in the area in which they are or will be located.

(g) The housing and facilities cannot be provided without the aid of a grant in the amount stated above:

Therefore Be It Resolved:

1 *Application for Loan and Grant.* The Corporation shall apply to the United States of America, acting through the Farmers Home Administration, United States Department of Agriculture (herein called "the Government") for a loan of $————and a grant of $————, pursuant to Title V of the Housing Act of 1949. Such loan may be insured by the Government. The loan and the grant shall be used only for the specific eligible purposes approved by the Government, in order to provide low-rent housing and related facilities for low-income domestic farm labor. Such housing and facilities and the land constituting the site may be referred to herein as the "housing."

2 *Execution of Loan and Grant Instruments.* To evidence the loan the Corporation shall issue a promissory note (herein referred to as "the Note"), signed by its President and attested by its Secretary, with its corporate seal affixed thereto, for the amount of the loan, payable in installments over a period of————years, bearing interest at a rate not to exceed——percent per annum, and containing other terms and conditions prescribed by the Government. To evidence the obligations of the grant, the Corporation shall execute an instrument in the form attached hereto entitled "Labor Housing Grant Agreement" and referred to herein as the "Grant Agreement," evidencing terms and conditions upon which the grant is made by the Government and the obligations of the Corporation with respect thereto. To secure the note and/or all other obligations and agreements of the Corporation with respect to the loan and the grant, as required by the Government, the President and the Secretary are hereby authorized to execute a security instrument giving a lien upon or security interest in the housing and such other property as the Government shall require, including an assignment of or security interest in the rents and profits as collateral security to be enforceable in the event of any default by the Corporation. The President and the Secretary are further authorized to execute any other security and other instruments, agreements, and documents required by the Government for the loan or grant. The indebtedness and other obligations of the Corporation under the note, Grant Agreement, this resolution, the security instrument, and any other instruments and agreements related to the loan or grant are herein called the "loan and grant obligations."

3 *Equal Employment Opportunity under Construction Contracts and Nondiscrimination in the Use of Occupancy and Housing and in Any Other Benefits of the Loan or Grant.* The President and the Secretary are hereby authorized and directed to execute on behalf of the Corporation (a) any undertakings and agreements required by the Government regarding nondiscrimination in the use and occupancy of housing, (b) Farmers Home Administration Form FmHA 400–1, "Equal Opportunity Agreement," involving an Equal Opportunity Clause to be incorporated in or attached as a rider to each construction contract which exceeds $10,000 in amount and is paid for in whole or in part with loan or grant funds, and (c) Farmers Home Administration Form FmHA 400–4, "Nondiscrimination Agreement (Under Title VI, Civil Rights Act of 1964)," a copy of which is attached hereto and made a part hereof.

4 *Supervised Bank Account.* The proceeds of the loan and grant and the amount of $———— to be contributed by the Corporation from its own funds and used for approved eligible purposes shall be deposited in a "supervised bank account" as required by the Government.[1] Amounts in the supervised bank account exceeding $40,000 shall be secured by the depositary bank in advance in accordance with U.S. Treasury Department Circular No. 176. As provided by the terms of the agreement creating the supervised bank account, all funds therein shall, until duly expended, collaterally secure the loan and grant obligations. Withdrawals from the supervised bank account by the Corporation shall be made only on checks signed by the ———————— of the Corporation and countersigned by the County Supervisor or other authorized official of the Farmers Home Administration, and only for the specific eligible purposes approved in writing by the Government. The Corporation's share of any liquidated damages or other monies paid by defaulting contractors of their sureties shall be deposited in the supervised bank account to assure completion of the project. When all approved items eligible for payment with loan or grant funds are paid in full, any balance remaining in the supervised bank account shall be treated as a refund of loan and grant funds in the same ratio as that between the amounts of the loan and grant, and the supervised bank account shall be closed.

5 *Accounts for Housing Operations and Loan Servicing.* The Corporation shall establish on its books the following accounts, which shall be maintained so long as the loan or grant obligations continue: A General Fund Account, an Operation and Maintenance Account, a Debt Service Account, and a Reserve Account. Funds in said accounts shall be deposited in a bank or banks insured by the Federal Deposit Insurance Corporation, except for any portion invested in readily marketable obligations of the United States as authorized by section 9. The Treasurer of the Corporation shall execute a fidelity bond, with a surety company

[1] Only loan or grant funds, and borrower's funds to be used for an eligible loan or grant purpose, may be deposited in the supervised bank account.

approved by the Government, in an amount not less than the estimated maximum amount of such funds to be held in said accounts at any one time. The United States of America shall be named as co-obligee, and the amount of the bond shall not be reduced without the prior written consent of the Government. The Corporation in its discretion may at any time establish and utilize additional accounts to handle any funds not covered by the provisions of this resolution.

6 *General Fund Account.* By the time the loan and grant are closed the Corporation shall from its own funds deposit in the General Fund Account the amount of $————. All income and revenue from the housing shall upon receipt be immediately deposited in the General Fund Account. The Corporation may also in its discretion at any time deposit therein other funds, not otherwise provided for by this resolution, to be used for any of the purposes authorized in section 7, 8, or 9. Funds in the General Fund Account shall be used only as authorized in said sections and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

7 *Operation and Maintenance Account.* Not later than the 15th of each month, out of the General Fund Account shall be transferred to the Operation and Maintenance Account, sufficient amounts to enable the Corporation to pay from the Operation and Maintenance Account the actual, reasonable, and necessary current expenses, for the current month and the ensuing month, of operating and maintaining the housing not otherwise provided for. Current expenses may include, in addition to expenses occurring or becoming due monthly, monthly accumulations of proportionate amounts for the payment of items which may become due either annually or at irregular intervals, such as taxes and insurance and normal repair and replacement of furnishings and equipment reasonably necessary for operation of the housing. Current expenses may also include initial purchase and installation of such furnishings and equipment with any funds deposited in and transferred from the General Fund Account which are not proceeds of the loan and, unless the Government gives prior written consent, are not income or revenue from the housing.

8 *Debt Service Account.* Each month, immediately after the transfer to the Operation and Maintenance Account provided for in section 7, or after it is determined that no such transfer is called for, any balance remaining in the General Fund Account, or so much thereof as may be necessary, shall be transferred to the Debt Service Account until the amount in the Debt Service Account equals the amount of the next installment due on the loan. Funds in the Debt Service Account shall be used only for payments on the loan obligations while they continue and, until so used, shall be held by the Corporation in trust for the Government as security for the loan and grant obligations.

9 *Reserve Account.* (a) Immediately after each transfer to the Debt Service Account as provided in section 8, any balance in the General Fund Account shall be transferred to the Reserve Account. Funds in the Reserve Account may be used only as authorized in this resolution and until so used shall be held by the Corporation in trust as security for the loan and grant obligations. Transfers at a rate not less than $————[2] annually shall be made to the Reserve Account until the amount in the Reserve Account reaches the sum of $————[3] and shall be resumed at any time when necessary, because of disbursements from the Reserve Account, to restore it to said sum. Of such sum, at least 50 percent shall be maintained on a cash basis, referred to herein as the "cash reserve." After the cash reserve reaches the required 50 percent of said sum, all or any portion of the balance of said sum may, at the option of the Corporation, consist of an amount, referred to herein as the "prepayment reserve," by which the Corporation is "ahead of schedule" as defined in the regulations of the Farmers Home Administration. Funds in the cash reserve shall be deposited in a separate bank account or accounts insured by the Federal Deposit Insurance Corporation or invested in readily marketable obligations of the United States, the earnings on which shall accrue to the Reserve Account.

(b) With the prior consent of the Government, funds in the Reserve Account may be used by the Corporation—

(1) To meet payments due on the loan obligations in the event the amount in the Debt Service Account is not sufficient for the purpose.

(2) To pay costs of repairs or replacements to the housing caused by catastrophe or long-range depreciation which are not current expenses under section 7.

(3) To make improvements or extensions to the housing.

(4) For other purposes desired by the Corporation which in the judgment of the Government likely will promote the loan or grant purposes without jeopardizing collectibility of the loan or impairing the adequacy of the security, or will strengthen the security, or will facilitate, improve, or maintain the orderly collectibility of the loan.

(c) Any amount in the Reserve Account which exceeds the sum specified in subsection (a), and is not agreed between the Corporation and the Government to be used for purposes authorized in subsection (b) shall be applied promptly on the loan obligations.

10 *Regulatory Covenants.* So long as the loan or grant obligations continue, the Corporation shall—

(a) Impose and collect such fees, assessments rents, and charges that the income of the Corporation will be sufficient at all times for operation and maintenance of the housing payments on the loan obligations, and maintenance of the accounts herein provided for.

(b) Maintain complete books and records relating to the Corporation's financial affairs, cause such books and records to be audited at the end of each fiscal year, promptly furnish the Government without request a copy of each audit report, and permit the Government to inspect such books and records at all reasonable times.

(c) If required or permitted by the Government, revise the accounts herein provided for, or establish new accounts to cover handling and disposition of income from the payment of exenses attributable to the housing or to any other property securing the loan or grant obligations, and submit to the Government regular and special reports concerning the housing or the Corporation's financial affairs, including any information required by the Government regarding income of the occupants of the housing.

(d) Unless the Government gives prior consent—

(1) Not use or permit use of the housing for any purpose other than as low-rent housing and related facilities for low-income domestic farm labor, as those terms are defined by the Government.

(2) Not enter into any contract or agreement for improvements or extensions to the housing or other property securing the loan or grant obligations.

(3) Not cause or permit voluntary dissolution of the Corporation, nor merge or consolidate with any other organization, nor transfer or encumber title to the housing or any part thereof or interest therein, by sale, mortgage, lease, or other conveyance or encumbrance, nor engage in any other new business, enterprise, or venture than operation of the housing.

(4) Not borrow any money, nor incur any liability aside from current expenses as defined in Section 7.

(e) Submit the following to the Government for prior review not less then ———— days before the effective dates:

(1) Annual budgets and operating plans.

(2) Statements of management policy and practice including eligibility criteria and implementing rules for occupancy of the housing.

(3) Proposed rents and charges and other terms of rental agreements for occupancy of the housing.

(4) Rates of compensation to officers and employees of the Corporation payable from or chargeable to any account provided for in this resolution.

(f) If require. by the Government, modify and adjust any matters covered by clause (e) of this section.

(g) Comply with all its agreements and obligations in or under this resolution, the note, Grant Agreement, security instrument, and any related agreement executed by the Corporation in connection with the loan or grant.

(h) Not alter, amend, or repeal without the Government's consent this resolution or the bylaws or articles of incorporation of the Corporation, which shall constitute parts of the total contract between the Corporation and the Government relating to the loan and grant obligations.

(i) Do other things as may be required by the Government in connection with the operation of the housing, or with any of the Corporation's operations or affairs which may affect the housing, the loan or grant obligations, or the security.

[2] In most cases this figure should be one-tenth of the aggregate sum specified later in the sentence as the total amount of the Reserve Account.

[3] The amount to be inserted will usually be about 10 percent of the value of the buildings and related facilities financed wholly or partially with the loan and grant.

V 44 0C 15 79 UMI

11 *Refinancing of Loan.* If at any time it appears to the Government that the Corporation is able to obtain a loan upon reasonable terms and conditions to refinance the loan obligations then outstanding, upon request from the Government, the Corporation will apply for, take all necessary actions to obtain, and accept such refinancing loan and will use the proceeds for said purpose.

12 *General Provisions.* (a) It is understood and agreed by the Corporation that any loan or grant will be administered subject to the limitations of the authorizing act of Congress and related regulations, and that any rights granted to the Government herein or elsewhere may be exercised by it in its sole discretion to carry out the purposes of the loan and grant, enforce such limitations, and protect the Government's financial interest in the loan and grant and the security.

(b) The provisions of this resolution are representations of the Corporation to induce the Government to make or insure a loan or make a grant to the Corporation as aforesaid. If the Corporation should fail to comply with or perform any of its loan or grant obligations, such failure shall constitute default as fully as default in payment of amounts due on the loan obligations. In the event of default, the Government at its option may declare the entire amount of the loan and grant obligations immediately due and payable and, if such entire amount is not paid forthwith, may take possession of and operate the housing and proceed to foreclose its security and enforce all other available remedies.

(c) Upon request by the Government the corporation will permit representatives of the Government to inspect and make copies of any of the records of the corporation pertaining to the financial assistance. Such inspection and copying may be made during regular office hours of the corporation, or any other time the corporation and the Government finds convenient.

(d) Any provisions of this resolution may be waived by the Government in its sole discretion, or changed by agreement between the Government and the Corporation, after this resolution becomes contractually binding, to any extent such provisions could legally have been foregone, or agreed to in amended form, by the Government initially.

(e) Any notice, consent, approval, waiver, or agreement must be in writing.

(f) This resolution may be cited in the security instrument and elsewhere as the "Loan and Grant Resolution of (date of this resolution) ———— 19——."

Certificate

The undersigned, ————, the Secretary of the corporation identified in the foregoing resolution, hereby certifies that the foregoing is a true copy of a resolution duly adopted by the board of directors on ———— 19——, which has not been altered, amended, or repealed.

Date ————

Secretary ————

[SEAL]

Exhibit F—Labor Housing Grant Agreement

THIS AGREEMENT dated ————, 19——, between ————

————

which is organized and operating under

————

———— (Authorizing statute) herein called "Grantee," and the United States of America acting through the Farmers Home Administration, Department of Agriculture, herein called "Grantor," WITNESSETH:

Whereas Grantee has determined to undertake a project of acquisition, construction, enlargement and/or capital improvement of a Labor Housing Project to serve domestic farm laborers at an estimated cost of $———— and has duly authorized the undertaking of such project.

Grantee is able to finance not more than $———— of the development costs through revenues, charges, taxes or assessments, or funds otherwise available to Grantee resulting in a reasonable rental rate.

Said sum of $———— has been committed to and by Grantee for such project development costs.

Grantor has agreed to grant the Grantee a sum not to exceed $———— subject to the terms and conditions established by the Grantor. Provided, however, that the proportionate share of any grant funds actually advanced and not needed for grant purposes shall be returned immediately to the Grantor. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of the grant.

Now therefore, in consideration of said grant by Grantor to Grantee, to be made pursuant to Section 516 of the Housing Act of 1949 for the purpose only of defraying a part not to exceed —— percent of the development costs, as defined by applicable Farmers Home Administration instructions.

Grantee agrees that Grantee will:

A. Cause said project to be constructed within the total sums available to it, including said grant, in accordance with the project plans and specifications and any modifications thereof prepared by Grantee and approved by Grantor.

B. Permit periodic inspection of the construction by a representative of Grantor during construction.

C. Manage, operate and maintain the project, including these units if less than the whole of said project, continuously in an efficient and economic manner.

D. Make the services of said project available within its capacity to all domestic farm laborers in Grantee's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, or physical or mental handicap (possess capacity to enter into legal contract for services) at reasonable rental rates, whether for one or more types of units, adopted by resolution date ———— 19——, as may be modified from time to time by Grantee. The initial rental rates must be approved by Grantor. Thereafter, Grantee may not make modifications to the rental rate structure without prior authorization from the Grantor.

E. Adjusts its operating costs and service charges from time to time to provide for adequate operation and maintenance, emergency repair reserves, obsolescence reserves, debt service and debt service reserves.

F. Provide Grantor with such periodic reports as it may require and permit periodic inspection of its operations by a representative of the Grantor.

G. To execute Form FmHA 400–1, "Equal Opportunity Agreement," and to execute Form FmHA 400–4, "Nondiscrimination Agreement," and to execute any other agreements required by Grantor which Grantee is legally authorized to execute. If any such form has been executed by Grantee as a result of a loan being made to Grantee by Grantor contemporaneously with the making of this grant, another form of the same type need not be executed in connection with this grant.

H. Upon any default under its representations or agreements set forth in this instrument, Grantee, at the option and demand of Grantor, will repay to Grantor forthwith the original principal amount of the grant stated hereinabove, with interest at the rate of 5 percentum per annum from the date of the default. Default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The Provisions of this Grant agreement may be enforced by Grantor, at its option and without regard to prior waivers by it of previous defaults of Grantee, by judicial proceedings to require specific performance of the terms of this Grantee Agreements or by such other proceedings in law or equity, in either Federal or State courts, as may be deemed necessary by Grantor to assure compliance with the provisions of this Grant Agreement and the laws and regulations under which this grant is made.

I. Return immediately to Grantor, as required by the regulations of Grantor, any grant funds actually advanced and not needed by Grantee for approved purposes.

J. Use the real property including land, land improvements, structures, and appurtenances thereto, for authorized purposes of the grant as long as needed.

1. Title to real property shall vest in the recipient subject to the condition that the Grantee shall use the real property for the authorized purpose of the original grant as long as needed.

2. The Grantee shall obtain approval by the Grantor agency for the use of the real property in other projects when the Grantee determines that the property is no longer needed for the original grant purposes. Use in other projects shall be limited to those under other Federal grant programs or programs that have purposes consistent with those authorized for support by the Grantor.

3. When the real property is no longer needed as provided in 1 and 2 above, the Grantee shall request disposition instructions from the Grantor agency or its sucessor Federal agency. The Grantor agency shall observe the following rules in the disposition instructions.

(a) The Grantee may be permitted to retain title after it compensates the Federal Government in an amount computed by applying the Federal percentage of participation in the cost of the original project to the fair market value of the property.

(b) The Grantee may be directed to sell the property under guidelines provided by the Grantor agency and pay the Federal Government an amount computed by applying the Federal percentage of participation in the cost of the original project to the proceeds from sale (after deducting actual and reasonable selling and fix-up expenses, if any, from the sales proceeds). When the Grantee is authorized or required to sell the property, proper sales procedures shall be established that provide for competition to the extent practicable and result in the highest possible return.

(c) The Grantee may be directed to transfer title to the property to the Federal Government provided that in such cases the Grantee shall be entitled to compensation computed by applying the Grantee's percentage of participation in the cost of the program or project to the current fair market value of the property.

This Grant Agreement covers the following described real property (use continuation sheets as necessary).

K. Abide by the following conditions pertaining to nonexpendable personal property which is furnished by the Grantor or acquired wholly or in part with grant funds. Nonexpendable personal property means tangible personal property having a useful life of more than one year and an acquisition cost of $300 or more per unit. A Grantee may use its own definition of nonexpendable personal property provided that such definition would at least include all tangible personal property as defined above.

1. Use of nonexpendable property.

(a) The Grantee shall use the property in the project for which it was acquired as long as needed. When no longer needed for the original project, the Grantee shall use the property in connection with its other Federally sponsored activities, if any, in the following order of priority:

(1) Activities sponsored by the FmHA.

(2) Activities sponsored by other Federal agencies.

(b) During the time that nonexpendable personal property is held for use on the project for which it was acquired, the Grantee shall make it available for use on other projects if such other use will not interfere with the work on the project for which the property was originally acquired. First preference for such other use shall be given to FmHA sponsored projects. Second preference will be given to other Federally sponsored projects.

2. Disposition of nonexpendable property. When the Grantee no longer needs the property as provided in paragraph (a) above, the property may be used for other activities in accordance with the following standards:

(a) Nonexpendable property with a unit acquisition cost of less than $1000. The Grantee may use the property for other activities without reimbursement to the Federal Government or sell the property and retain the proceeds.

(b) Nonexpendable personal property with a unit acquisition cost of $1000 or more. The Grantee may retain the property for other uses provided that compensation is made to the original Grantor agency or its successor. The amount of compensation shall be computed by applying the percentage of Federal participation in the cost of the original project or program to the current fair market value of the property. If the Grantee has no need for the property and the property has further use value, the Grantee shall request disposition instructions from the original Grantor agency.

The Grantor agency shall determine whether the property can be used to meet the agency's requirements. If no requirement exists within the agency, the availability of the property shall be reported, in accordance with the guidelines of the Federal Property Management Regulations (FPMR), to the General Services Administration by the Grantor agency to determine whether a requirement for the property exists in other Federal agencies. The Grantor agency shall issue instructions to the Grantee no later than 120 days after the Grantee request and the following procedures shall govern:

(1) If so instructed or if disposition instructions are not issued within 120 calendar days after the Grantee's request, the Grantee shall sell the property and reimburse the Grantor agency an amount computed by applying to the sales proceeds the percentage of Federal participation in the cost of the original project or program. However, the Grantee shall be permitted to deduct and retain from the Federal share $100 or ten percent of the proceeds, whichever is greater, for the Grantee's selling and handling expenses.

(2) If the Grantee is instructed to ship the property elsewhere the Grantee shall be reimbursed by the benefitting Federal agency with an amount which is computed by applying the percentage of the Grantee participation in the cost of the original grant project or program to the current fair market value of the property, plus any reasonable shipping or interim storage costs incurred.

(3) If the Grantee is instructed to otherwise dispose of the property, the Grantee shall be reimbursed by the Grantor agency for such costs incurred in its disposition.

3. The Grantee's property management standards for nonexpendable personal property shall also include:

(a) Property records which accurately provide for: a description of the property; manufacturer's serial number or other identification number; acquisition date and cost; source of the property; percentage (at the end of budget year) of Federal participation in the cost of the project for which the property was acquired; location, use and condition of the property and the date the information was reported; and ultimate disposition data including sales price or the method used to determine current fair market value if the Grantee reimburses the Grantor for its share.

(b) A physical inventory of property shall be taken and the results reconciled with the property records at least once every two years to verify the existence, current utilization, and continued need for the property.

(c) A control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented.

(d) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(e) Proper sales procedures shall be established for unneeded property which would provide for competition to the extent practicable and result in the highest possible return.

This Grant Agreement covers the following described nonexpendable property (use continuation sheets as necessary).

L. Provide Financial Management Systems which will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis.

2. Records which identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income.

3. Effective control over and accountability for all funds, property and other assets. Grantees shall adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

4. Accounting records supported by source documentation.

M. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm copies may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's government which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts and transcripts.

N. Provide information as requested by the Grantor to determine the need for and complete any necessary Environmental Impact Statements.

O. Provide an audit report prepared in sufficient detail to allow the Grantor to determine that funds have been used in compliance with the proposal, any applicable laws and regulations and this Agreement.

P. Agree to account for and to return to Grantor interest earned on grant funds pending their disbursement for program purposes when the Grantee is a unit of local government. States and agencies or instrumentalities of states shall not be held accountable for interest earned on grant funds pending their disbursement.

Q. Not encumber, transfer or dispose of the property or any part thereof, furnished by the Grantor or acquired wholly or in part with Grantor funds without the written consent of the Grantor except as provided in item J above.

R. To include in all contracts for construction or repair a provision for compliance with the Copeland "Anti-Kick

V 44 0 C 1 5 7 9 UMI

Back" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR, Part 3). The Grantee shall report all suspected or reported violations to the Grantor.

S. Pay all laborers and mechanics employed by contractors and subcontractors wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5).

T. In construction contracts in excess of $2,000 and in other contracts in excess of $2,500 which involve the employment of mechanics or laborers, to include a provision for compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–330) as supplemented by Department of Labor regulations (29 CFR, Part 5).

U. To include in all contracts in excess of $100,000 a provision that the contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act (42 U.S.C. § 1875C–9) and Section 308 of the Water Pollution Control Act specified in Section 114 of the Clean Air Act and Section 308 of the Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. Such regulations and guidelines can be found in 40 CFR 15.4 and 40 FR 17126 dated April 16, 1975. In so doing the Contractor further agrees:

1. As condition for the award of contract to notify the Owner of the receipt of any communication from the Environmental Protection Agency (EPA) indicating that a facility to be utilized in the performance of the contract is under consideration to be listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

2. To certify that any facility to be utilized in the performance of any nonexempt contractor subcontract is not listed on the EPA list of Violating Facilities. Prompt notification is required prior to contract award.

3. To include or cause to be included the above criteria and the requirements in every nonexempt subcontract and that the Contractor will take such action as the Government may direct as a means of enforcing such provisions.

As used in these paragraphs the term "facility" means any building, plan, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a Grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operation contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

Grantor agrees that it: A. Will make available to Grantee for the purpose of this Agreement not to exceed $———— which it will advance to Grantee to meet not to exceed —— percent of the development costs of the project in accordance with the actual needs of Grantee as determined by Grantor.

B. Will assist Grantee, within available appropriations, with such technical assistance as Grantor deems appropriate in planning the project and coordinating the plan with local official comprehensive plans and with any State or area plans for the area in which the project is located.

C. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without available consideration, upon such terms and conditions as Grantor may determine to be (1) advisable to further the purpose of the grant or to protect Grantor's financial interest therein and (2) consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Termination of this agreement

This agreement may be terminated for cause in the event of default on the part of the Grantee as provided in paragraph I above or for convenience of the Grantor and Grantee prior to the date of completion of the grant purpose. Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the project will not produce beneficial results commensurate with the further expenditure of funds.

In witness whereof Grantee on the date first above written has caused these presence to be executed by its duly authorized

———————————

and attested and its corporated seal affixed by its duly authorized

———————————

ATTEST:

By ———————————
(Title)

By ———————————
(Title)

United States of America, Farmers Home Administration

By ———————————
(Title)

Exhibit G—Legal Service Agreement

Agreement made this ———— day of ————, 19——, between the ————, hereinafter called the owners, and ————, hereinafter called the attorney, witnesseth:

Whereas the owners intent to form a corporation, hereinafter called the corporation, to construct and operate a labor housing project in

Town ————
County ————
State ————

and to obtain a loan from the Farmers Home Administration to finance the construction, and the attorney agrees to perform all legal services necessary to incorporate the Corporation, and to perform all other customary legal services necessary to the organization, financing, construction, and initial operation of the proposed rural rental housing project, such services to include but not to be restricted to the following:

1 Prepare and file necessary incorporating papers and supervise and assist in taking other necessary or incidental actions to create the Corporation and authorize it to finance, construct, and operate the proposed housing project.

2 Prepare for, and furnish advice and assistance to the owners, and to the Board of Directors and officers of the Corporation, in connection with (a) notices and conduct of meetings; (b) preparation of minutes of meetings; (c) preparation and adoption of necessary resolutions in connection with the authorization, financing, construction, and initial operation of a rural rental housing project; (d) necessary construction contracts; (e) preparation of adoption of bylaws and related documents; (f) any other action necessary for organizing the Corporation or financing, constructing, and initially operating the proposed housing project.

3 Review of construction contract, bid-letting procedure, and surety and performance bonds.

4 Examination of real estate titles and preparation, review, and recording of deeds and any other instruments.

5 Cooperation with the architect employed by the owners or the Corporation in connection with preparation of survey sheets, easements, and any other necessary title documents, construction contracts, and other instruments.

6 Rendering of legal opinions as required by the owners or the Corporation or the Farmers Home Administration, United States Department of Agriculture.

7 Owners agree to pay to the attorney for professional services in accordance with this agreement, as follows:

———————————

———————————

The fees to be payable in the following manner and at the following times:

———————————

———————————

The attorney states and agrees that of the above total fees, ———— represents fees for services in connection with the organization and incorporation of the Corporation.

The owners and the attorney further covenant and agree that, if upon organization and incorporation the Corporation fails or refuses to adopt and ratify this Agreement by appropriate resolution within —— days, this Agreement shall terminate and owners shall be liable only for payment for legal services rendered in connection with such organization and incorporation.

Signed this ———— day of ————, 19——.

Attorney: ————
Owners: ————
————
————
————

Exhibit H—Information Pertaining to Preparation of Notes or Bonds and Bond Transcript Documents for Public Body Applicants

This Exhibit includes information for use by public body applicants in the preparation and issuance of evidences of debt ("bonds" or "debt instruments"). This information is made available to applicants as appropriate for application processing and loan docket preparation.

(1) *Policies.* (i) This Exhibit outlines the policies of the Farmers Home Administration (FmHA) with respect to preparation and issuance of evidences of debt (hereinafter sometimes referred to as "bonds" or "debt instruments").

(ii) Preparation of the bonds and the bond transcript documents will be the responsibility of the applicant. Public body applicants will obtain the services and opinion of recognized Bond Counsel with respect to the validity of a bond issue. The applicant normally will be represented by a local attorney who will obtain the assistance of a recognized Bond Counsel firm which has had experience in municipal financing with such investors as investment dealers, banks, and insurance companies.

(iii) At the option of the applicant for issues of $250,000 or less, Bond Counsel may be used for the issuance of a final opinion only and not for the preparation of the other documents and of the bond docket when the applicant, FmHA, and Bond Counsel have agreed in advance as to the method of preparation of the bond transcript documents. Under such circumstances the applicant will be responsible for the preparation of the bond transcript documents.

(iv) At the option of the applicant and with the prior approval from the National Office of FmHA, for issues of $50,000 or less, the applicant need not use Bond Counsel if:

(A) The amount of the issue does not exceed $50,000 and the applicant recognizes and accepts the fact that processing the application may require additional legal and administrative time.

(B) There is a significant cost saving to the applicant particularly with reference to total legal fees after determining what Bond Counsel would charge as compared with what the local attorney will charge without Bond Counsel.

(C) The local attorney is able and experienced in handling this type of legal work.

(D) The applicant understands that, if it is required by FmHA to refinance its loan pursuant to the statutory refinancing requirements, it will probably have to obtain at its expense a Bond Counsel's opinion at that time.

(E) All bonds will be prepared in accordance with this regulation and will conform as nearly as possible to accepted methods of preparation of similar bonds in the area.

(F) Many matters necessary to comply with FmHA requirements such as land rights, easements, and organizational documents will be handled by the applicant's local attorney. Specific closing instructions in addition to any requirements of Bond Counsel will be issued by the Office of the General Counsel of the U.S. Department of Agriculture for the guidance of FmHA.

(2) *Bond transcript documents.* Any questions with respect to FmHA requirements should be discussed with local FmHA representatives. Bond Counsel is required to furnish at least two complete sets of the following to the applicant, who will furnish one complete set to FmHA:

(i) Copies of all organizational documents.

(ii) Copies of general incumbency certificate.

(iii) Certified copies of minutes or excerpts therefrom of all meetings of the applicant's governing body at which action was taken in connection with the authorization and issuance of the bonds.

(iv) Certified copies of documents evidencing that the applicant has complied fully with all statutory requirements incident to calling and holding of a favorable bond election, if such an election is necessary in connection with bond issuance.

(v) Certified copies of the resolutions or ordinances or other documents, such as the bond authorizing resolution or ordinance and any resolution establishing rates and regulating the use of the improvement, if such documents are not included in the minutes furnished.

(vi) Copies of official Notice of Sale and affidavit of publication of Notice of Sale where a public sale is required by State statute.

(vii) Specimen bond, with any attached coupons.

(viii) Attorney's no-litigation certificate.

(ix) Certified copies of resolutions or other documents pertaining to the bond award.

(x) Any additional or supporting documents required by Bond Counsel.

(xi) For loans involving multiple advances of FmHA loan funds, a preliminary approving opinion of Bond Counsel if a final unqualified opinion cannot be obtained until all funds are advanced. The preliminary opinion for the entire issue shall be delivered on or before the first advance of loan funds and state that the applicant has the legal authority to issue the bonds, construct, operate and maintain the facility, and repay the loan subject only to changes during the advance of funds such as litigation resulting from the failure to advance loan funds, and receipt of closing certificates.

(xii) Preliminary approving opinion, if any, and final unqualified approving opinion of recognized Bond Counsel including opinion regarding interest on bonds being exempt from Federal and any State income taxes. On approval of the Administrator, a final opinion may be qualified to the extent that litigation is pending relating to Indian claims that may affect title to land or validity of the obligation.

(3) *Interim financing from commercial sources during construction period for loans of $50,000 or more.* In all cases where it is possible for funds to be borrowed at reasonable interest rates on an interim basis from commercial sources, such interim financing will be obtained so as to preclude the necessity for multiple advances of FmHA funds.

(4) *Permonent instruments for FmHA loans to repay interim commercial financing.* Such loans will be evidenced by one of the types of instruments in the order of preference shown in paragraph (a)(5) of this Exhibit.

(5) *Multiple advances of FmHA funds using permanent instruments.* Where interim financing from commercial sources is not available, FmHA loan proceeds will be disbursed on an "as needed by borrower" basis in amounts not to exceed the amount needed during 30-day periods. FmHA loans will be evidenced by the following types of instruments chosen in accordance with the following order of preference:

(i) *First preference—Form FmHA 440–22.* If legally permissible, use Form FmHA 440–22, "Promissory Note Association or Organization," for insured loans.

(ii) *Second preference—single instruments with amortized installments.* If Form FmHA 440–22 is not legally permissible, use a single instrument showing on the face the full amount of the loan and providing for amortized installments with provision for entering the date and amount of each FmHA advance on the reverse thereof or on an attachment to the instrument. Form FmHA 440–22 should be followed to the extent possible. Where interest-only payments are scheduled for the first installment due dates, no attempt should be made to compute in dollar terms the amount of interest due on such dates. Rather the instrument should provide that "interest only" is due on these dates. Thereafter, regular amortized installments of a specified dollar amount will be due on each installment date.

(iii) *Third preference—single instrument with installments of principal plus interest.* If a single amortized installment instrument is not legally permissible, use a single instrument providing for specified installments of principal plus accrued interest. The principal should be in an amount best adapted to making principal retirement and interest payments which closely approximate equal installments of combined interest and principal as required by the first two preferences.

(A) The repayment terms described in paragraph (a)(5)(ii) of this Exhibit "Second preference" apply.

(B) The instruments shall contain in substance the following provisions:

(*1*) A statement of principal maturities and due dates.

(*2*) Payments made on indebtedness evidenced by this instrument, regardless of when made, shall be applied first to interest due through the date of payment and next to principal except that payments made from security depleting sources shall, after payment of interest to the payment date, be applied to the principal last to become due under the instrument and shall not affect the obligation of the borrower to pay the remaining installments as scheduled.

(iv) *Fourth preference.* If instruments described under the first, second, and third preferences are not legally permissible, use serial bonds with a bond or bonds delivered in the amount of each advance. Bonds will be delivered in the order of their numbers. Such bonds will conform with the minimum requirements of paragraph (7) of this Exhibit. Rules for application of payments on serial bonds will be the same as those for principal installment single bonds as set out in the preceding paragraph (5)(iii) of this Exhibit.

(6) *Multiple advances of FmHA funds using temporary debt instrument.* When none of the instruments described in paragraph (5) of this exhibit are legally permissable or practical, a bond anticipation note or similar temporary debt instrument may be used. The debt instrument will provide for multiple advance

V 44 0C 15 79 UMI

of FmHA loan funds and will be for the full amount of the FmHA loan. The instrument will be prepared by Bond Counsel and approved by the State Director and OGC. At the same time FmHA delivers the last advance, the borrower will deliver the permanent bond instrument to FmHA to replace the temporary debt instrument and the canceled temporary instrument will be delivered to the borrower. The approved debt instrument will show at least the following:

(i) The date from which each advance will bear interest.

(ii) The interest rate.

(iii) A payment schedule providing for interest on outstanding principal at least annually.

(iv) A maturity date which shall be no earlier than the anticipated issuance date of the permanent instrument(s).

(7) *Minimum bond specifications.* The provisions of paragraph (7) are of this Exhibit minimum specifications only, and must be followed to the extent legally permissible.

(i) *Type and denominations.* Bond resolutions or ordinances will provide that the instrument(s) be either a bond representing the total amount of the indebtedness or Serial bonds in denominations customarily accepted in municipal financing (ordinarily in multiples of not less than $1,000). Single bonds may provide for either repayment of principal plus interest or amortized installments; amortized installments are preferable from the standpoint of FmHA. Coupon bonds will not be used unless required by statute.

(ii) *Bond registration.* Bonds will contain provisions permitting registration as to both principal and interest. Bonds purchased by FmHA will be registered in the name of "United States of America, Farmers Home Administration," and will remain so registered at all times while the bonds are held or insured by the United States. The address of FmHA for registration purposes will be that of the FmHA Finance office.

(iii) *Size and quality.* Size of bonds and coupons should conform to standard practice. Paper must be of sufficient quality to prevent deterioration through ordinary handling over the life of the loan.

(iv) *Date of bonds.* Bonds will be dated as of the day of delivery.

(v) *Payment date.* Insofar as loan payments are consistent with income availability, applicable State statutes, and commercial customs in the preparation of bonds or other evidence of indebtedness, they should be scheduled on a monthly basis either in the bond or other evidence of indebtedness or through the use of a supplemental agreement. Such requirements will be accomplished not later than the time of loan closing. When monthly payments are required, such payments will be scheduled beginning one full month following the date of loan closing or the end of any approved deferment period. Subsequent monthly payments will be scheduled each full month thereafter. In those cases where evidence of indebtedness calls for annual or semiannual payments, they will be scheduled beginning six or twelve full months, respectively following the date of loan closing or the end of any approved deferment period. Subsequent payments will be scheduled each sixty or twelfth full month respectively, thereafter. When the evidence of indebtedness is dated the 29th, 30th, or 31st day of a month, the payment date will be scheduled the 28th day of the month. Borrowers scheduled to make monthly payments will be given a monthly payment card jacket at the time of loan closing. These borrowers will submit payment directly to the Finance Office.

(vi) *Place of payment.* Payments on bonds purchased by FmHA should be submitted to the FmHA Finance Office by the borrower.

(vii) *Redemptions.* Bonds should contain customary redemption provisions, subject, however, to unlimited right of redemption without premium of any bonds held by FmHA except to the extent limited by the provisions under the "Third Preference" and "Fourth Preference" in paragraph (5) of this Exhibit.

(viii) *Additional revenue bonds.* Parity bonds may be issued to complete the project. Otherwise, parity bonds may not be issued unless the net revenues (that is, unless otherwise defined by the State statute, gross revenues less essential operation and maintenance expense) for the fiscal year preceding the year in which such parity bonds are to be issued were 120 percent of the average annual debt service requirements on all bonds then outstanding and those to be issued; provided, that this limitation may be waived or modified by the written consent of bondholders representing 75 percent of the then outstanding principal indebtedness. Junior and subordinate bonds may be issued without restriction.

(ix) *Scheduling of FmHA payments when joint financing is involved.* In all cases in which FmHA is participating with another lender in the joint financing of the project to supply funds required by one applicant, the FmHA payments of principal and interest should approximate amortized installments.

(x) *Precautions.* The following types of provisions in debt instruments should be avoided.

(A) Provisions for the holder to manually post each payment to the instrument.

(B) Provisions for returning the permanent or temporary debt instrument to the borrower in order that it, rather than FmHA, may post the date and amount of each advance or repayment on the instrument.

(8) *Bidding by FmHA.* Where a public bond sale is required by State statutes, FmHA will not normally submit a bid at the advertised sale unless State statutes require a bid to be submitted. Preferably FmHA will negotiate the purchase with the applicant subsequent to the advertised sale if no acceptable bid is received. In those cases where FmHA is required to bid, the bid will be made at the applicable FmHA interest rate.

Exhibit I—Guide Letter for Use in Informing Interim Lender of FmHA's Commitment

Name and Address of Private Lender———

———

———

Dear———:

(For Organizations)

Reference is made to a request from the (Smith Housing Assoc.) through (John Smith) its President, for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

(For Individuals)

Reference is made to a request from (John Jones) for interim financing from your firm to construct a rental housing facility at the interest rate and terms and conditions agreed upon as reflected in the attached letter.

This letter is to confirm certain understandings on behalf of the Farmers Home Administration (FmHA).

Final drawings, specifications, and all other contracts documents have been prepared and approved, and the applicant is prepared to commence construction. It has been determined by the applicant and the Farmers Home Administration that the conditions of loan closing can be met. Funds have been obligated for the project, as evidenced by the attached copy of Form FmHA 440–57, "Acknowledgment of Obligated Funds/Check Request."

The applicant has been required by FmHA to deposit $———with your firm to be utilized prior to any interim loan funds. The applicant has proposed and FmHA has agreed that you may first advance any applicant funds on deposit, and then advance the proceeds of the interim loan in accordance with the terms and conditions stated in your attached letter, as needed to pay for construction and other authorized and legally eligible expenses incurred by the applicant. It is understood, however, that advances of both the applicant's funds and the interim loan funds will be made only upon presentation of proper statements and partial payment estimates prepared by the builder, and approved for payment by the consulting architect, the applicant, and the FmHA District Director.

We have scheduled the Farmers Home Administration loan to be closed when construction to be financed with loan funds is substantially complete in accordance with the FmHA approved contract documents, drawings and specifications (except for minor punch list items), and the applicant provides evidence indicating that there are no unpaid obligations outstanding in connection with the project. At that time, funds not exceeding the FmHA loan amount will be available to pay off the amount of loan advances your lending institution has made for authorized approved purposes, including accrued interest to the date of closing.

FmHA cannot provide you with an unconditional letter of commitment guaranteeing FmHA loan closing. Factors such as noncompletion, default, unacceptable workmanship, and marked deviation from approved drawings and specifications could prevent the FmHA loan from being closed.

These problems can be minimized by making a thorough review of the [contract documents,]* drawings and specifications, evaluating the qualifications and past performance of the builder, and obtaining an adequate corporate surety bond guaranteeing both payment and performance.

The following are additional safeguards to help assure FmHA loan closing:

1. We invite you or your representatives to accompany FmHA personnel during construction inspections so that at least 3 or 4 joint inspections at critical points during construction (including the final inspection), can be made to help assure that construction is proceeding in accordance with the FmHA approved drawings and specifications.

2. FmHA will maintain its commitment in the amount of the obligated loan funds for a reasonable period of time after the expiration of any specified completion dates, provided work on the project is progressing satisfactorily and any identified problems have been resolved.

3. FmHA will not arbitrarily abandon your lending institution in the event of default. Should the contractor default, FmHA will attempt to provide financial assistance to the applicant in accordance with our administrative procedures and lending requirements, provided a new contractor can complete the project for a total cost within the security value of the project. If this is not possible, or should the FmHA loan applicant become unable or unwilling to continue with the project, FmHA also will attempt to provide financial assistance to any eligible applicant (subject to the availability of funds, our administrative procedures, and our lending requirements), to purchase the completed project from your lending institution.

4. FmHA is aware that circumstances, such as subsurface ground conditions and change orders necessitated by required changes in the work to be performed, may cause cost increases after FmHA loan approval and the obligation of FmHA loan funds. It is a general practice for FmHA to make subsequent loans when necessary to help cover these eligible costs, provided additional loan funds are available, the change orders were approved by FmHA, the increased costs are legitimate and are for authorized loan purposes, and the total cost of the project is within its security value.

Your assistance to the applicant is appreciated.

Sincerely,

———,

State Director.

This regulation has been submitted to OMB for review of any recordkeeping and reporting requirements. This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A final Impact Statement has been prepared and is available from the office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, Washington, D.C. 20250. This document has been reviewed in accordance with FmHA Instruction 1901–G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy of 1969, Pub. L. 91–190, and Environmental Impact Statement is not required.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

Dated: September 19, 1979.

James E. Thornton,

Associate Administrator, Farmers Home Administration.

[FR Doc. 79–31579 Filed 10–12–79; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL RESERVE SYSTEM

12 CFR Part 265

Rules Regarding Delegation of Authority; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule: Correction.

SUMMARY: This notice corrects a previous Federal Register document (FR Doc. 79–30335) beginning at page 56313 of the issue for Monday, October 1, 1979.

EFFECTIVE DATE: September 21, 1979.

FOR FURTHER INFORMATION CONTACT: Michael E. Bleier, Senior Counsel (202/452–3721), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In the center column of page 56314, the 9th line from the bottom of paragraph "(2)" should read "approve under subparagraph (22) of ". In paragraph "2." the deletions and renumberings under § 265.2(f) are corrected, and the numbering of amended subparagraph 265.2(f) is corrected to read "265.2(f)(22)". The corrected deletions and renumberings are set forth below.

2. In order to accomplish this delegation, § 265.2(c) is amended by deleting subparagraph 16 and renumbering subparagraphs (17), (18), (19), (20), (21), (22), (23), (24), and (25) as subparagraphs (16), (17), (18), (19), (20), (21), (22), (23), and (24). Section 265.2(f) is amended by deleting subparagraphs (23), (24), (28), (29), (30), (31), (32), (33), and (52), and footnotes (2), (3), (4), (5), (6), (7), (8), (9), (10), (11) and (12) and renumbering subparagraphs (25), (26), (27), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46), (47), (48), (49), (50), (51), (53), (54), (55) and (56) as subparagraphs (23), (24), (25), (26), (27), (28), (29), (30), (31), (32), (33), (34), (35), (36), (37), (38), (39), (40), (41), (42), (43), (44), (45), (46) and (47), respectively, and amending subparagraph (22) to read as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(f) Each Federal Reserve Bank is authorized as to member banks or other indicated organizations headquartered in its district:

* * * * *

(22) Under the provisions of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), sections 3(a) and 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1842(a) and 1843(c)(8)) and §§ 225.3 (b) and (c), and §§ 225.4 (a) and (b) of Regulation Y (12 CFR 225.3 (b) and (c), and 225.4 (a) and (b)), to approve applications requiring prior approval of the Board, and under the provisions of section 18(c)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)(4)), to furnish to the Comptroller of the Currency and the Federal Deposit Insurance Corporation reports on competitive factors involved in a bank merger required to be approved by one of those agencies, unless one or more of the following conditions is present:

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79–31718 Filed 10–12–79; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Parts 370, 371, 374, 377

Change in Export Control Status of the Panama Canal Zone; Interim Rule

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Interim Rule and request for comments.

SUMMARY: On October 1, 1979, the United States Government relinquished jurisdiction of the Panama Canal Zone to the Republic of Panama. This rule amends the Export Administration Regulations to reflect the revised status of the Canal Zone. In addition, this rule establishes a procedure whereby shippers of certain refined petroleum products to the former Canal Zone may qualify to continue making such shipments to the Republic of Panama, and it establishes a new general license

V 44 O C 15 7 9 UMI

to facilitate petroleum exports to the Panama Canal Commission.

DATES: Effective date: October 1, 1979; comments by December 14, 1979.

ADDRESS: Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Post Office Box 7138, Ben Franklin Station, Washington D.C. 20044.

FOR FURTHER INFORMATION CONTACT:
For general information: Mr. Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. (202) 377–4738)

For information on petroleum shipments: Mr. Robert F. Kan, Short Supply Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. (202) 377–3795)

SUPPLEMENTARY INFORMATION: Under the Panama Canal Treaty of 1977, the territory of the former Panama Canal Zone became subject to the jurisdiction of the Republic of Panama on October 1, 1979. The Canal Zone Government accordingly ceased operations as of that date. As of October 1, the Panama Canal Commission, an agency of the U.S. Government, has responsibility for operating the Canal. Prior to October 1, the Canal Zone was considered a part of the United States for export control purposes. As a result of the area's change in status, the *Export Administration Regulations* are amended to delete the Panama Canal Zone from the definition of the term "United States." Effective October 1, 1979, shipments from the United States to the former Panama Canal Zone, including reexports of commodities and technical data in, or enroute to, the Canal Zone on October 1, 1979, will be subject to the rules and regulations applying to exports to and reexports from the Republic of Panama. Most non-petroleum shipments for the use of the Panama Canal Commission may be made under the provisions of General License *GUS* (Shipments to personnel and agencies of the U.S. Government). A new General License *GPCC* is established to permit exports of refined petroleum energy products to the Panama Canal Commission. Other shipments of refined petroleum products to the former Canal Zone are made subject to validated licensing restrictions, unless they qualify for export under General License *G–NNR, GLV, SHIP STORES, PLANE STORES, RCS* or *G–FTZ.*

Exports of Petroleum

Part 377 of the Export Administration Regulations sets forth the restrictions applicable to the export of crude petroleum and certain refined petroleum products. Because of the change in the status of the former Canal Zone, shipments to that part of the Republic of Panama comprising the former Canal Zone are now considered exports to Panama and are subject to all applicable provisions of Part 377 of these Regulations.

In brief, these provisions are as follows: With certain limited exceptions, exports of crude oil are prohibited. Exports of the petroleum products listed in Supplement No. 2 to Part 377 are subject to validated licensing controls and, in most instances, to quota restrictions. Certain categories of petroleum product shipments are permitted to be made under general license (*G–NNR, GLV, SHIP STORES, PLANE STORES, RCS* or *G–FTZ*). All these provisions now apply to shipments to the former Canal Zone. However, because of the transfer of the Canal Zone to the Republic of Panama and the Panama Canal Commission's responsibility to operate the Canal, two new provisions are being adopted in these Regulations:

(1) In order to insure that the Panama Canal Commission can obtain, without restriction, petroleum products which it needs for the conduct of canal operations, a new general license (General License *GPCC*), is established, and

(2) A procedure is established to permit historical exporters of petroleum products to the former Canal Zone to apply for participation in the allocation of export quotas for the Republic of Panama.

The quota system which is applicable to Panama as well as other destinations was established in early 1974 based on historical exports to various destinations during a representative base period. In order that the quotas established for the Republic of Panama at that time may now be revised to reflect shipments heretofore made to the Canal Zone, these Regulations are amended to permit exporters to apply for new or revised quota allocations to Panama based on their historical trade with the Canal Zone during a recent base period as set forth below.

Exporters who wish to participate in quota allocations for the Republic of Panama based on their shipments to the former Canal Zone should file Past Participation Statements as provided in § 377.2(c). Shipments made during the applicable base period to the Panama Canal Company should be shown on a Past Participation Statement clearly marked "Shipments to the Panama Canal Company." Shipments made to other entities in the former Canal Zone should be shown on a separate Past Participation Statement. In establishing and allocating quotas based on such Past Participation Statements, the Office of Export Administration will seek to exclude from consideration those quantities of refined petroleum products used by the former Panama Canal Company in the performance of functions which will continue to be performed by the Panama Canal Commission. Since the Panama Canal Commission will henceforth be receiving such quantities of refined petroleum products as it needs outside the quota system via General License *GPCC*, it would be inappropriate to include for quota establishment or allocation purposes those shipments to the former Panama Canal Company which were used by the latter in the performance of functions which the Panama Canal Commission will continue to perform. In determining the quantities of such shipments to be excluded from an exporter's historical base, the Office of Export Administration will consult with the Panama Canal Commission. For the fourth quarter of 1979 only, the deadline established in Supplement No. 2 to Part 377 for the receipt of Past Participation Statements and applications for licenses to export petroleum products to the Republic of Panama is extended to close of business on December 21, 1979.

Applicants for licenses to export petroleum products subject to export quotas to Panama before they have been allocated quotas should submit Past Participation Statements at the same time that they file their first license applications. Such applications will be considered in the light of the exporters' Past Participation Statements and; if approved, will be charged against such quotas as may subsequently be allocated to the exporter. Exporters filing Past Participation Statements should possess documentation such as bills of lading and/or waybills, commercial invoices, letters of credit, dock receipts, loading tickets, etc., substantiating the exports they claim and identifying the consignees. After reviewing individual Past Participation Statements, the Office of Export Administration will determine on a case-by-case basis whether to request submission of such documentation for audit.

Saving Clause

Shipments of commodities, excluding shipments of crude oil, to the former Panama Canal Zone that require a validated export license as a result of these changes, but which were on dock for lading, on lighter, laden aboard an exporting carrier, or in transit to a port of export pursuant to actual orders for export prior to 12:01 a.m., October 1, 1979, may be exported under General License *G–DEST* and, for petroleum products, General Licenses *G–NNR, GLV, SHIP STORES, PLANE STORES, RCS* or *GPCC* up to and including October 21, 1979. Any such shipment not laden aboard the exporting carrier on or before October 21, 1979, requires a validated license for export.

Invitation for Public Comment

These regulations are effective as of October 1, 1979. Although the regulations are exempt from the public participation in rulemaking procedures of the Administrative Procedure Act, they are being issued in interim form to permit interested persons the opportunity to submit comments before these rules are adopted in final form. Interested persons are invited to submit written comments to Richard J. Isadore, Acting Director, Operations Division, Office of Export Administration, U.S. Department of Commerce, Post Office Box 7138, Ben Franklin Station, Washington, D.C. 20044. All comments received by the Department prior to noon, December 14, 1979, will be considered in issuing these regulations in final form.

It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

Accordingly, the *Export Administration Regulations* (15 CFR Part 368 *et seq.*) are amended to read as follows:

PART 370—EXPORT LICENSING GENERAL POLICY AND RELATED INFORMATION

1. Section 370.2 is amended to read as follows:

§ 370.2 Definitions of terms.

The following are definitions of terms as used in the *Export Administration Regulations:*

* * * * *

United States. Unless otherwise stated, the 50 States, including offshore areas within their jurisdiction pursuant to Section 3 of the Submerged Lands Act (43 U.S.C. 1311), the District of Columbia, Puerto Rico, and all territories, dependencies, and possessions of the United States, including foreign trade zones established pursuant to 19 U.S.C. 81A–81U, and also including the outer continental shelf, as defined in Section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)).

* * * * *

2. Section 370.4 is amended to read as follows:

§ 370.4 Shipments to territories, dependencies, and possessions of the United States, and to Trust Territories.

No license is required for shipments from the United States to Puerto Rico, or any territory, dependency, or possession of the United States as listed in *Schedule C–E, Classification of Country and Territory Designations for U.S. Export Statistics,* issued by the Bureau of the Census. Nor is a license required for shipments to the Trust Territory of the Pacific Islands; *i.e.,* the Caroline Islands, the Marshall Islands, and the Northern Mariana Islands (except Guam, which is an island possession of the United States).

PART 371—GENERAL LICENSES

3. A new § 371.8 is established to read as follows:

§ 371.8 General License GPCC: Export of Petroleum Products to the Panama Canal Commission.

(a) *Scope.* A general license designated *GPCC* is established subject to the provisions of this § 371.8 authorizing the export to the Panama Canal Commission of refined petroleum products listed in Supplement No. 2 to Part 377 of this chapter.

(b) *Restrictions on Exports.* Crude petroleum may not be exported under this general license; and no export of any petroleum product listed in Supplement No. 3 to Part 377 hereof of this chapter may be made under this general license unless the exporter, prior to the export of such commodity, has assembled documentary evidence establishing that the commodity was not produced or derived from a Naval Petroleum Reserve. Such documentary evidence may take the form of the affidavit prescribed in § 377.6(e)(1)(iv) of this chapter, or it may consist of other documentation establishing the factual data to be covered in such affidavit. The exporter shall retain such documentary evidence in his files for the period prescribed in § 387.11(e) of this chapter, and is put on notice that the Office of Export Administration will, in appropriate cases, conduct audits of exporters' files to determine that such documentary evidence is available covering each export of a commodity listed in Supplement No. 3 to Part 377 that was made under a Shipper's Export Declaration showing General License *GPCC* as the authority for the export. Crude petroleum may only be exported under a validated license issued pursuant to § 377.6(d)(1) of this chapter; any other petroleum commodity listed in Supplement No. 3 to Part 377 of this chapter which does not meet the conditions for export under General License *GPCC* may be exported only under a validated license issued pursuant to § 377.6(d)(6) of this chapter.

(c) *Quarterly Reports.* As a condition for the use of General Licence *GPCC*, an exporter shall file a report with the Office of Export Administration within 21 days following the end of each calendar quarter during which an export is made under General License *GPCC*. This report shall be in affidavit format, be signed by an authorized representative of the exporter, and shall list separately by each petroleum commodity group listed in Supplement No. 2 to Part 377 of this chapter each shipment made to the Panama Canal Commission during the preceding calendar quarter, the date of such shipment and the totals by individual commodity and for petroleum commodities as a whole. In addition, if the exporter has reason to believe or subsequently learns that any commodities exported under General License *GPCC* have been or are likely to be used for any purpose other then consumption by the Panama Canal Commission the exporter shall immediately advise the Office of Export Administration of the particular circumstances.

PART 374—REEXPORTS

§§ 374.1 and 374.2 [Amended]

4. Footnotes 1, 2, 3, and 4 to § 374.2 are renumbered 2, 3, 4, and 5 respectively, and a new footnote 1 is added to the introductory paragraph of § 374.1, following the phrase "commodity previously exported from the United States", to read as follows:

[1] The term "previously exported" encompasses not only commodities physically transported from U.S. territory, but also commodities removed from U.S. jurisdiction through legal transfer of authority over an area, e.g., the transfer of the Panama Canal Zone from the United States to the Republic of Panama on October 1, 1979.

V 44 0C 15 79 UMI

PART 377—SHORT SUPPLY CONTROLS AND MONITORING

5. The table entitled Base Periods in Supplement No. 2 to Part 377 is revised to read as follows:

Base Periods

1. For that part of the Republic of Panama which, prior to October 1, 1979, was the Panama Canal Zone:

Commodity Groups B, C, D, E, F, G, and N–1: January 1, 1977 through June 30, 1979.

Commodity Groups K, L, and M: The Corresponding calendar quarter during the period April 1, 1978 through March 31, 1979.

2. For all other areas including other parts of the Republic of Panama: Commodity Groups B, C, D, E, F, and G: January 1, 1971 though June 30, 1973.

Commodity Groups K, L, and M: The corresponding calendar quarter during the period April 1, 1972, through March 31, 1973.

Commodity Group N–1: January 1, 1974 through June 30, 1978.

(Sec. 21, Pub. L. (96–72); sec. 4, Pub. L. 91–184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E.O. 12002, 42 FR 35623 (1977); sec. 103, Pub. L. 94–163, 89 Stat. 877 (42 U.S.C. 6212); E.O. 11912, 41 FR 15825, 3 CFR 1969 Comp.; 10 U.S.C. 7430; Department Organization Order 10–3, dated December 4, 1977, 42 FR 64721 (1977), as amended; and Industry and Trade Administration Organization and Function Order 45–1, dated December 4, 1977, 42 FR 64718 (1977), as amended).

Robin B. Schwartzman,

Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79–31726 Filed 10–10–79; 2:53 pm]

BILLING CODE 3510–25–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 273, 274

[Docket No. RM79–62]

Collection Authority; Refunds; Determinations by Jurisdictional Agencies; Denial of Rehearing and Clarification of Regulations

Issued September 28, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Denial of rehearing and clarification of regulations.

SUMMARY: The Commission has issued an order denying a Petition for Rehearing of Order No. 41, which issued Final Regulations for Subparts A, C, D, and E of Part 274 and amended § 275.202 of the Commission's regulations under the Natural Gas Policy Act of 1978. The order addresses the three issues raised in the Petition and makes certain clarifications with respect to these issues.

EFFECTIVE DATE: September 28, 1979.

FOR FURTHER INFORMATION CONTACT: Carol Lane, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4001, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 275–5928.

SUPPLEMENTARY INFORMATION: Clarification of Final Regulations Under the Natural Gas Policy Act of 1978. Order No. 41, Order Denying Rehearing and Clarifying Order, Docket No. RM79–62.

I. Background

On August 1, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 41 in Docket No. RM79–62. An application for rehearing of that order was filed on August 31, 1979, by Tenneco Oil Company, Pennzoil Company, Texas Gulf Inc., and General American Oil Company of Texas (Applicants), pursuant to 18 CFR § 286.102.

Order No. 41 issued Final Regulations for Subparts A, C, D, and E of Part 274 and amended § 275.202 of the Commission's regulations under the Natural Gas Policy Act of 1978 (NGPA). Part 274 concerns initial determinations by jurisdictional agencies that a well is eligible for a particular maximum lawful price established by the NGPA. Section 275.202 concerns Commission review of jurisdictional agency determinations.

Applicants specify three errors arising out of Order No. 41. None of these specifications present the Commission with sufficient cause to modify the regulations promulgated in Order No. 41, but we will address each of these issues for purposes of clarification.

II. Specifications of Error

A. Section 275.202(b). Under section 503(b) of the NGPA, the Commission is granted authority to review and reverse jurisdictional agency determinations. Section 275.202(b) of the regulations provides that the 45-day review period established in section 503(b) shall be tolled in the case of an incomplete notice, i.e., a notice which "does not contain all the material information required in § 274.104(a) (4), (5), (6)." Applicants assert that the Commission does not have authority to toll the 45-day review period and that this regulation constitutes a violation of section 503(b) of the NGPA. They argue that if a notice of determination contains information insufficient to constitute substantial evidence, the Commission should reverse the determination rather than toll the review period.

This issue was raised and discussed by the Commission in Order No. 34 (Final Part 275 Regulations under the Natural Gas Policy Act of 1978, Docket No. RM79–3, issued June 14, 1979) and in the Order on Rehearing of Order No. 34 (issued August 13, 1979). In the latter order the Commission stated its basis for concluding that the tolling provision is within the scope of the Commission's authority to prescribe regulations under the NGPA. Section 503(a)(2) authorizes the Commission to require, by rule, that notices of determination "include such substantiation and be in such manner as the Commission may, by rule, require." Section 501(a) permits the Commission to "prescribe such rules and orders as may be necessary or appropriate to carry out its functions under this Act." Under section 501, the Commission could treat a jurisdictional agency notice of determination that did not comply with these substantiation requirements as a nullity. Instead, however, the Commission has adopted a less drastic remedy: it has provided for tolling of the 45-day review period to permit a jurisdictional agency to perfect an incomplete notice.

The Commission stresses that when a notice of determination is found to be incomplete, and the review period is tolled, the applicant's right to make interim collections under § 273.203(b) is not affected. Interim collections may continue throughout the period during which the jurisdictional agency is supplementing or correcting the notice. If the agency fails to supplement or correct the notice within a reasonable time, the Commission may find it appropriate to issue a Preliminary Finding on the determination, based on the incomplete filing.

The Commission believes that once jurisdictional agencies have become familiar with the determination process, we will seldom find it necessary to utilize the tolling provision for incomplete notices. In the interim, however, we believe that jurisdictional agencies should be given an opportunity to correct deficiencies in their notices.

B. Section 274.104(a)(6). Section 274.104(a)(6) provides that a notice of determination shall include "an explanatory statement, including appropriate factual findings and references, which is sufficient to enable a person examining the notice to ascertain the basis for the determination without reference to information or data not contained in the notice." Applicants request that this section be clarified to assure jurisdictional agencies that no more than a short, succinct statement is required under this regulation.

The Commission notes that a brief, one-paragraph statement from the jurisdictional agency will generally be sufficient to satisfy the requirement of § 274.104(a)(6). Such statement should provide any factual finding or findings upon which the determination is based. For example, if the notice states that a well qualifies as a stripper well, under section 108 of the NGPA, the explanatory statement should state that the well produced nonassociated natural gas at an average rate of 60 Mcf or less per production day during the 90-day production period, and should stipulate the basis for this finding, e.g., production records, tax records, etc. The statement should also state that the well produced at its maximum efficient rate of flow (MER) and should stipulate the basis upon which MER was determined, e.g., flow test, 12-month records, etc. It is envisioned that such a statement can be made briefly, in most cases in one paragraph.

If the determination is based on information not included with the notice of determination, the agency should provide an explanatory statement which references those records or other data containing their relevant information. Again, it is expected that such an explanation would be quite brief.

The Commission wishes to clarify that § 274.104(a)(6) does not require the submission of a written opinion justifying the determination. The regulation is designed only to enable the Commission to determine the factual basis underlying the agency's decision. A brief explanation of this factual basis should be sufficient to enable the Commission to determine whether the jurisdictional agency's determination is supported by substantial evidence.

C. Section 274.401(b). Section 274.401(b) was promulgated pursuant to section 501(c) of the NGPA. It permits delegation of the Commission's authority to receive certain reports filed by intrastate pipelines to a state agency with jurisdiction over the rates and charges of the reporting intrastate pipelines.

Applicants suggest that the authority to receive these reports, if delegated, should be delegated to the jurisdictional agency, not to the state agency which regulates intrastate pipelines. Applicants express concern over the fact that in some states such delegation will result in two separate agencies having administrative responsibilities under the NGPA.

The Commission notes that this issue was specifically addressed in Order No. 41. The application for rehearing offers no additional argument which would lead us to alter the regulation. As stated previously, we believe that intrastate pipeline filings made under Part 276 of the regulations should be directed to the state agency which regulates intrastate pipelines in order that it may exercise its expertise in this area. We note, however, that if such state agency is not also the jurisdictional agency for purposes of making NGPA determinations, the two agencies may wish to coordinate their efforts to ensure that each agency needing information will have access to it. This is a matter which is best resolved within any state in which two separate agencies regulate natural gas production and natural gas pipelines.

The Commission orders: The application for rehearing of Order No. 41 is denied, and Order No. 41 is clarified as set forth above.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–31715 Filed 10–12–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 193

[FRL 1337–7; FAP 9H5199/T46]

Experimental Use of Herbicide Oxyfluorfen in Cottonseed Oil

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation related to the experimental use of the herbicide oxyfluorfen in cottonseed oil. The regulation was requested by Rohm and Haas Co. This rule will permit the marketing of cottonseed oil while further data is collected on the subject pesticide.

EFFECTIVE DATE: Effective on October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Richard F. Mountfort, Acting Product Manager (PM) 25, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755–2196).

SUPPLEMENTARY INFORMATION: On November 15, 1978, the EPA announced (43 FR 53057) that Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, had filed a food additive petition (FAP 9H5199). This petition proposed that 21 CFR 193 be amended by the establishment of a regulation permitting residues of the herbicide oxyfluorfen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene) and its metabolites containing the diphenyl ether linkage in cottonseed oil resulting from application of the herbicide to growing cotton in a proposed experimental program with a tolerance limitation of 0.2 part per million (ppm) in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). No comments were received by the Agency in response to this notice of filing.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in cottonseed oil from the agricultural uses provided for in the experimental use permit, the food additive regulation should be established and should include a tolerance limitation.

The toxicological data considered in support of the proposed tolerance included a rat oral lethal dose (LD_{50}) study, a rabbit LD_{50} study, a rat inhalation LD_{50} study, a rabbit skin irritation study, mutagenicity testing (negative), a 20-month mouse feeding study with a no-observed-effect level (NOEL) of 2 ppm or 0.3 milligram (mg)/kilogram (kg) of body weight (bw)/day, and a three-generation rat reproduction study. The acceptable daily intake (ADI) is 0.003 mg/kg bw/day. The existing and proposed temporary tolerances will contribute 2.2 percent of the ADI, which was determined from the 20-month mouse feeding study using a 100-fold safety factor.

The metabolism of oxyfluorfen is adequately understood for the purpose of the proposed regulation, and an adequate analytical method (gas liquid chromatography using electron capture detection) is available for enforcement purposes. No regulatory actions are pending against registration of oxyfluorfen, nor are any other considerations involved in establishing the proposed regulation. (A related document establishing temporary tolerances for residues of oxyfluorfen in cottonseed; eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep appears elsewhere in today's **Federal Register**.) The temporary tolerances established in eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep will be adequate to

cover secondary residues as delineated in 40 CFR 180.6(a)(2).

The pesticide is considered useful for the purpose for which a tolerance is sought. Therefore, the regulation establishing a tolerance of 0.2 ppm in cottonseed oil by amending 21 CFR Part 193 is being promulgated as proposed. Accordingly, a food additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before November 14, 1979, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on October 15, 1979, 21 CFR Part 193 is amended as set forth below.

Dated: September 20, 1979.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)))

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

Part 193, Subpart A, is amended by establishing the new § 193.325 to read as follows:

§ 193.325 Oxyfluorfen.

(a) A tolerance of 0.2 part per million is established for combined residues of the herbicide oxyfluorfen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl) benzene) and its metabolites containing the diphenyl ether linkage in cottonseed oil resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires October 1, 1981.

(b) Residues in cottonseed oil not in excess of 0.2 part per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental program will not be considered to be actionable if the herbicide is legally applied during the term of and in accordance with provisions of the experimental use permit and food additive tolerance.

(c) Rohm and Haas Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 79-31723 Filed 10-12-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 140

Administrative Settlement Costs—Contract Claims; State Highway Agency Audit Expense—Third Party Contract Costs

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Amendments to final rules.

SUMMARY: The Federal Highway Administration is issuing this document in order to clarify and condense existing regulations. This is in accordance with the recommendations of FHWA's Regulations Reduction Task Force (43 FR 10578). These subparts establish the criteria for eligibility of administrative settlement costs relating to contract claims and State highway agency audit expenses relating to third party contracts, respectively.

DATES: These amendments are effective November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Howard Bander, Finance Division, Office of Fiscal Services, 202-426-0575; Virginia Cherwek, Attorney, Office of the Chief Counsel, 202-426-0786, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA) is revising Chapter I of Title 23, CFR, Part 140, Subparts E and H.

The existing regulations under Subpart E were originally published at 39 FR 26411 on July 19, 1974, and codified material contained in Volume 1, Chapter 4, Section 2, Subsection 4 of the Federal-Aid Highway Program Manual.[1] This revision changes the title of the regulation from "Federal-Aid Projects; State Legal Expenses—Contract Claims" to read "Administrative Settement costs—Contract Claims" and eliminates excess language in the rule.

The changes are not substantive and no change in the existing practice and procedure is intended. The certified statement previously specified in § 140.504(a) has not in practice been required by FHWA, and the submission of vouchers (§ 140.504(d)) is now covered in Subpart A. Accordingly, the revisions now simply provide for proper support.

Subpart H was originally published at 39 FR 28876 on August 12, 1974, and amended at 41 FR 10430 on March 11, 1976. It codified material contained in Volume 1, Chapter 4, Section 2, Subsection 3 of the Federal-Aid Highway Program Manual. Subpart H establishes the State highway agency's responsibility for the audit of third party contract costs and the reimbursement criteria for Federal participation in project-related third party contract audit expenses. This revision changes the title from "State Audit Expenses—Contract Costs" to read "State Highway Agency Audit Expense—Third Party Contract Costs." Also, the regulation revision condenses and clarifies existing policy and procedures.

Due to the editorial nature of the revisions being made and the fact that existing procedures are not affected by these revisions, the FHWA has determined that publication of these amendments for notice and comment could not reasonably be anticipated to result in the receipt of useful information. Accordingly, these amendments will be effective November 14, 1979.

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. A regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Howard Bander of the program office at the address specified above.

In consideration of the foregoing and under the authority of 23 U.S.C. sections 121, 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), Chapter I of Title 23, CFR, Part 140, Subparts E and H are revised to read as follows:

[1] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

PART 140—REIMBURSEMENT

* * * * *

Subpart E—Administrative Settlement Costs—Contract Claims

Sec.

140.501 Purpose.
140.503 Definition.
140.505 Reimbursable costs.

* * * * *

Subpart H—State Highway Agency Audit Expense—Third Party Contract Costs

Sec.

140.801 Purpose.
140.803 Policy.
140.805 Definitions.
140.807 Reimbursable costs.

Authority: 23 U.S.C. sections 121.315; 49 CFR 1.48(b); and OMB Circular A-102, Attachment G, Standard 2 (h) and (i).

Subpart E—Administrative Settlement Costs—Contract Claims

§ 140.501 Purpose.

This regulation establishes the criteria for eligibility for reimbursement of administrative settlement costs in defense of contract claims on projects performed by a State under Federal-aid procedures.

§ 140.503 Definition.

Administrative settlement costs are costs related to the defense and settlement of contract claims including, but not limited to, salaries of a contracting officer or his/her authorized representative, attorneys, and/or members of State boards of arbitration, appeals boards, or similar tribunals, which are allocable to the findings and determinations of contract claims, but not including administrative or overhead costs.

§ 140.505 Reimbursable costs.

(a) Federal funds may participate in administrative settlement costs which are:

(1) Incurred after notice of claim,

(2) Properly supported,

(3) Directly allocable to a specific Federal-aid or Federal project,

(4) For employment of special counsel for review and defense of contract claims, when

(i) Recommended by the State Attorney General or State Highway Agency (SHA) legal counsel and

(ii) Approved in advance by the FHWA Division Administrator, with advice of FHWA Regional Counsel, and

(5) For travel and transportation expenses, if in accord with established policy and practices.

(b) No reimbursement shall be made if it is determined by FHWA that there was negligence or wrongdoing of any kind by SHA officials with respect to the claim.

Subpart H—State Highway Agency Audit Expense—Third Party Contract Costs

§ 140.801 Purpose.

This regulation establishes (a) the State Highway Agency's (SHA) responsibility for the audit of third party contract costs as defined in § 140.805(b) and (b) the reimbursement criteria for Federal participation in project-related audit expenses.

§ 140.803 Policy.

Audits are to be performed in accordance with generally accepted auditing standards (as modified by the Comptroller General of the United States) and applicable Federal laws and regulations. The SHA may use other State, local public agency, and Federal audit organizations as well as licensed or certified public accounting firms to augment their audit force.

§ 140.805 Definitions.

(a) *Audit.* The review and analysis of cost data, accounting systems, estimating methods, supporting documentation, and other related matters by professional auditors. The depth and extent of audit will vary with the particular circumstances; however, sufficient, competent, and relevant evidence must be obtained to afford a reasonable basis for the auditor's opinions, judgment, conclusions, and recommendations.

(b) *Contract costs.* Project-related costs incurred by railroads; utilities; consultants; governmental instrumentalities; universities; non-profit organizations; construction contractors (force account work); and organizations engaged in right-of-way studies, planning, research or related activities where the terms of a proposal or contract (including lump sum) necessitate an audit. Construction contracts (except force account work) are not included in this group.

§ 140.807 Reimbursable costs.

(a) Federal funds may be used to reimburse an SHA for the following types of project-related third party contract audit costs:

(1) Salaries and wages paid to an SHA's personnel,

(2) Fringe benefits directly applicable to such reimbursable salaries and wages, and

(3) Travel and transportation expenses.

(b) Audit charges by licensed or certified public accounting firms are reimbursable provided that the audit contract has been approved by the Federal Highway Administration (FHWA) Division Administrator.

(c) Expenses incurred under interagency audit service arrangements with other Federal agencies are reimbursable.

Issued on: October 4, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-31602 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-22-M

Coast Guard

33 CFR Part 117

[CGD 78-140]

Drawbridge Operation Regulations; Hackensack River, N.J.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of Bergen County, N.J., and the New York, Susquehanna, and Western Railroad Co., the Coast Guard is changing the regulations governing the Court Street bridge, mile 16.2, and the railroad bridge, mile 16.3, Hackensack River, to provide that the swing span of the Court Street bridge need not open unless advance notice is given from midnight to 8 a.m., and the swing span of the railroad bridge need not open for the passage of vessels. This change is being made because there have been an average of less than one opening per day of the Court Street bridge and the railroad bridge has not opened for the past 10 years. This action will, for the Court Street bridge, relieve the bridge owner of the burden of having a person constantly available to open the draw from midnight to 8 a.m., and for the railroad bridge, relieve the bridge owner of the burden of maintaining the machinery and of having a person available to open the draw.

EFFECTIVE DATE: This amendment is effective on November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (202-426-0942).

SUPPLEMENTARY INFORMATION: On November 24, 1978, the Coast Guard published a proposed rule (43 FR 54957) concerning this amendment. The Commander, Third Coast Guard District, also published these proposals as a Public Notice dated January 16, 1979. Interested persons were given until

December 27, 1978 and February 16, 1979, respectively, to submit comments.

Drafting Information

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr. Project Manager, Office of the Marine Environment and Systems, and Coleman Sachs, Project Attorney, Office of the Chief Counsel.

Discussion of Comments

Seven comments were received. Two had no objection to the proposal. Two objected to the proposed two-hour notice requirement from 8 a.m. to 12 midnight for the Court Street bridge. The bridge owner has stated that the draw would open on signal from 8 a.m. to 12 midnight and the two-hour notice provision, as proposed, is not contained in the final rule. Advance notice will only be required from midnight to 8 a.m. Two comments objected to any restriction on the Court Street bridge. In view of the fact that the Court Street bridge has been opened on an average of less than once a day from 1976 to the present the Coast Guard feels that the change adopted will adequately provide for the reasonable needs of navigation.

No objections were received to the proposal to close the railroad bridge at mile 16.3.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding new paragraphs (1–d) and (1–e) immediately after subparagraph (1–c) of § 117.225(f) to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.225 Navigable waters in the State of New Jersey; bridges where constant attendance of draw tenders is not required.

* * * * *

(f) * * *

(1–d) *Hackensack River.* The swing span of the Court Street bridge, mile 16.2, shall open on signal from 8 a.m. to midnight. From midnight to 8 a.m. the swing span shall open on signal if at least eight hours notice is given.

(1–e) *Hackensack River.* The swing span of the New York, Susquehanna, and Western railroad bridge, mile 16.3, need not open for the passage of vessels, and paragraphs (b) through (e) of this section shall not apply to this bridge.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5)).

Dated: October 5, 1979.

J. B. Hayes, Jr.,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79–31758 Filed 10–12–79; 8:45 am]

BILLING CODE 4910–14–M

46 CFR Parts 154, 154a

[CGD 74–289]

Safety Standards for Self-Propelled Vessels Carrying Bulk Liquefied Gases; Special Interim Regulations for Issuance of Letters of Compliance to Barges and Existing Liquefied Gas Vessels; Correction

AGENCY: Coast Guard, DOT.

ACTION: Correction to final rule.

SUMMARY: In FR Doc. 79–13367 appearing at page 25986 in the Federal Register of May 3, 1979, make the following corrections:

1. On page 26012 first column in the paragraph beginning " 'Liquefied gas' means . . . ," the word "gauge" is deleted.

2. On page 26013 first column, in § 154.5(c) sub-paragraph designations "(i)" and "(ii)" are corrected to read "(1)" and "(2)."

3. On page 26016 second column, in § 154.230(h) the word "damaged" is corrected to read "damage."

4. On page 26030 third column, in § 154.801(c)(3) the word "relieving" is deleted.

5. On page 26031 second column, in § 154.804(a)(3)(ii) the word "designed" is corrected to read "design."

6. On page 26033 first column, in § 154.1110(h) the dimension "(7.9 ft)" is corrected to read "(8 ft)."

7. On page 26039 first column, § 154.1735(b)(2)(iii) is corrected to read "A safety relief valve set to relieve at 1.77 MPa gauge (256 psig) or less."

8. On page 26044 in the column entitled "Special Requirements", in the list for the cargo Ethylene Oxide, the special requirement "154.1870(a)" is corrected to read "154.1870(a),(b)."

FOR FURTHER INFORMATION CONTACT:
Dr. Anthony L. Rowek, Office of Merchant Marine Safety (G–MHM–1/TP14), Rm 1405, Department of Transportation, Transpoint Building, 2100 Second Street, SW., Washington, D.C., 20593 (202–426–1217).

(92 Stat. 1480 (Port and Tanker Safety Act of 1978 (46 U.S.C. 291a); 49 CFR 1.46(n)(4))

Dated: October 5, 1979.

W. D. Markle, Jr.,

Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 79–31759 Filed 10–12–79; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[PR Docket No. 79–106; FCC 79–584]

Changing the Co-Channel Mileage Separation and Frequency Loading Standards for Conventional Land Mobile Radio Systems in the Bands 806–821 and 851–866 MHz

AGENCY: Federal Communications Commission.

ACTION: Denial of Petitions seeking release from a reserve allocation of additional frequencies for conventional land mobile radio systems in the bands 806–821 and 851–866 MHz.

SUMMARY: The Commission has denied: (1) a Petition filed by Motorola, Inc. for Partial Reconsideration of action taken by the Commission in its Notice of Proposed Rulemaking in Docket No. 79–106 (FCC 79–282, released May 23, 1979) which declined to release from a reserve allocation additional frequencies for use by conventional land mobile radio systems in the bands 806–821 and 851–866 MHz; and (2) a Petition filed by National Association of Business and Educational Radio, Inc. (RM–3403) seeking an Order releasing from a reserve allocation additional frequencies for use by conventional land mobile radio systems in the bands 806–821 and 851–866 MHz.

DATE: Non-Applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:
Lewis H. Goldman, Private Radio Bureau (202) 632–6497.

In the Matter of Amendment of Sections 90.365 and 90.377 of the Commission's rules to change the co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the bands 806–821 and 851–866 MHz.

In the Matter of Petition for an Order for releasing additional channel pairs from the reserve pool in 800 MHz band.

Memorandum Opinion and Order

Adopted: September 25, 1979.

Released: October 10, 1979.

By the Commission: Commissioner Quello absent; Commissioner Washburn dissenting and issuing a statement.

1. The Commission has before it petitions filed by Motorola, Inc., (Motorola) and by the National Association of Business and Educational Radio, Inc. (NABER). Both petitions essentially ask the Commission to release from a pool of radio frequencies in reserve in the 806–821 and 851–866 MHz bands a number of channels for assignment to "conventional" land mobile radio systems[1] in the private land mobile radio services. Motorola's, petition is for partial reconsideration in PR Docket No. 79–106.[2] NABER's petition is for rulemaking (RM–3403). Motorola seeks the release of 100 additional channels for conventional systems; NABER asks for 50.[3] The General Electric Company (GE) has filed an opposition to Motorola's petition. Some of the comments filed in PR Docket No. 79–106 also addressed this matter and have been considered.

2. Both petitions are directed to our May 3, 1979 action announced in the Notice of Proposed Rule Making in Docket No. 79–106,[4] where we declined to release additional frequencies for conventional 800-MHz systems,[5] and where we adopted a course of action designed to accommodate present applications for conventional systems on frequencies already allocated for that purpose, and on existing radio systems.[6] The petitioners have not directed their attention to the proposed revision of the co-channel mileage separation and frequency loading standards, which is the subject of the Docket, although in separate comments filed in the proceeding they addressed the proposed changes.[7]

3. Briefly, the petitioners argue that the Commission's decision not to release additional frequencies for conventional systems use is ". . . a major departure from the policies adopted in Docket 18262," *Motorola Petition* at p. 3, and ". . . contrary to the mandate established in Docket 18262 . . .", *NABER Petition* at p. 3; that such "departure" is not justified; that the program adopted by the Commission at its May 3, 1979 meeting for accommodating the requirements of applicants for conventional systems is not adequate; that the "failure" to release additional channels ". . . has . . . removed one of the options or choices of systems which were intended to be made available to users in the 800–MHz band . . .," *NABER Petition* at p. 4; and that the needs and requirements of the users for land mobile radio communications can only be fully satisfied by the release of the additional channel pairs they have requested.

4. We have considered carefully the petitions and GE's opposition, as well as the comments on this issue filed in PR Docket No. 79–106. In discussing the arguments advanced, we believe it would be appropriate and useful to review the relevant background leading to the Commission's May 3, 1979 decision, particularly those aspects of the Commission's decisions in Docket No. 18262 to which the petitioners refer and on which they have relied heavily for support of their positions.

5. In Docket No. 18262,[8] the Commission reallocated a total of 115 MHz of radio spectrum from the frequency bands between 806 and 947 MHz, primarily to accommodate the requirements for land mobile communications, both private and public. In its *Second Report and Order*, the Commission designated 40 MHz of that spectrum for the development and operation of a nationwide, broadband mobile radiotelephone system employing cellular technology.[9] In addition, the Commission allocated 30 MHz of spectrum for conventional and trunked systems in the private radio services. This 30 MHz of spectrum was divided into 600 two-frequency channels. Of these, 200 channels were designated for trunked systems, 100 channels for conventional systems, and the remaining 300 channels were placed in reserve. In the private radio services, the Commission continued to provide the various options previously available for obtaining radio service (such as individual radio systems for the licensee's exclusive use, sharing the use of a radio system under the various arrangements then available, etc.) and also offered further choices not previously available. The Commission, for example, adopted rules which provide for the authorization of entrepreneurs to establish base station facilities and make their use available to persons eligible in the Public Safety, Industrial, and Land Transportation Radio Services but without imposing

[1] A conventional radio system is defined in our rules as a method of radio " . . . operation in which one or more radio frequency channels are assigned to mobile and base stations but are not employed as a trunked group." *See Section 90.7 of the Commission's Rules.* These are the kind of radio systems the Commission has been authorizing in the lower land mobile frequency bands. In the 800-MHz bands, one to five (5) frequency pairs may be assigned to a licensee for conventional system use. *Section 90.367.* Radio systems requiring more than 5 channels must be trunked.

[2] *Amendment of Sections 90.365 and 90.377, Notice of Proposed Rule Making,* PR Docket No. 79–106, FCC 79–282, 44 Fed. Reg. 31675 (June 1, 1979).

[3] While one of the petitions is for reconsideration and the other requests rule making, both seek essentially the same substantive relief and both have advanced substantially the same arguments in support of their request. Therefore, we have decided to consider them together.

[4] The Notice proposed the revision of the present co-channel mileage separation and frequency loading standards for conventional land mobile radio systems in the 806–821 and 851–866 MHz bands.

[5] Specifically, with regard to the petitioners' concerns, we stated: " . . . we reviewed very carefully the option of releasing additional channel pairs from the reserve pool, but have concluded that it would be unwise to do so now because the frequencies in reserve would better be used for the more efficient trunked systems." *Notice of Proposed Rulemaking in Docket No. 79–106,* 44 Fed. Reg. at 31676.

[6] The Commission in its Notice of Proposed Rulemaking said that: "[a] number of the 150 conventional channels already assigned, particularly those licensed to operators of Specialized Mobile Radio Systems (SMRS), have additional capacity, even under present frequency assignment standards. In addition, trunked systems which have been authorized and are or will shortly become operational in those areas may be able to accommodate some of the present applicants. Further, some applicants may be able to use channels below 800–MHz, especially if present eligibility restrictions are waived. Finally, in situations where none of the foregoing solutions would be possible or appropriate, the Commission has instructed the staff to consider and grant, upon a proper showing, waiver of the present minimum channel loading standards and other rule restrictions (in accordance with the proposals in this proceeding and subject to its outcome) so as to assign additional users on the present 800–MHz conventional frequencies. These alternatives will be brought to the attention of each of the present applicants by letter. In addition, operators of 800–MHz private radio systems with capacity available in each of the three urban areas will be sent a list of pending applications in the urban area where they operate. This notification procedure will bring the applicants for 800–MHz facilities and the entrepreneurs to each other's attention. With this program we expect to meet the immediate land mobile communications requirements in the three urban areas. However, we plan to watch the progress of this program closely and evaluate its result carefully." *Notice,* 44 Fed. Reg. at 31676.

[7] Motorola has requested partial reconsideration of the Notice of Proposed Rule Making only insofar as it fails to release frequencies from the reserve pool. GE argues that Motorola's petition is procedurally defective because, according to GE, in rule making proceedings reconsideration petitions may be filed only as to "final actions." Section 1.429 of the Rules. Although GE's challenge raises an arguable question, we think that the public interest would be served by considering the petition for reconsideration on the merits, and therefore, to the extent it is necessary, the relevant provisions of Section 1.429 are waived. This is especially appropriate where, as here, the Commission's action announced in its Notice of Proposed Rulemaking was a final action, not subject to further comment in the rulemaking proceeding.

[8] The relevant decisions of the Commission are discussed in the following documents: *First Report and Order and Second Notice of Inquiry in Docket No. 18262,* 35 Fed. Reg. 8644 (June 4, 1970); *Land Mobile Radio Service, Second Report and Order in Docket 18262,* 46 F.C.C. 2d 752 (1974); *Land Mobile Service, Memorandum Opinion and Order in Docket No. 18262,* 51 F.C.C. 2d 945 (1975).

[9] For a description of a cellular system, See *Second Report and Order,* 46 F.C.C. 2d at 753–754 and *Memorandum Opinion and Order,* 51 F.C.C. 2d at 950–956.

common carrier type of regulation on such licensees.[10] The trunked system was the other important system option not previously available. Thus the range of options to eligibles in the private services was significantly enlarged.

6. Further, the regulatory structure followed by the Commission in the allocation of frequencies in the private radio service constituted a drastic departure from earlier approaches in other bands. Prior to Docket No. 18262, the Commission treated land mobile spectrum requirements from a service perspective, allocating spectrum blocks to each of the several radio service categories. In Docket No. 18262, we instead allocated by type of radio "system," and opened all of the available 30 MHz frequencies to all groups of users.

7. The "system" approach, followed not only in the private radio services but also in the common carrier service, was a new and fundamental policy change. It was intended to foster improved spectrum efficiency and high quality service. The cellular system, a sophisticated, high capacity land mobile system, was adopted for the common carrier radio service. It has the potential for serving a large number of users with quality service, and, through its potential for frequency re-use, improving spectrum efficiency.

The multi-channel trunked system provided for the private land mobile radio services is also a sophisticated facility which offers the user a high grade of service because it reduces the waiting time for a free channel as well as the incidence of a "busy" condition.[11]

[10] The radio systems authorized under this option are known as specialized mobile radio systems or SMRS. *Memorandum Opinion and Order*, 51 F.C.C. 2d at 947, Note 9.

[11] The Commission described trunked systems as follows: "The second class of system under consideration is the multi-channel trunked system. This system is similar in concept to so-called community repeaters widely employed in the private dispatch service today except that the users would have access to a number of channels instead of just one. Actual channel access is controlled by a central computer, which gives a user the first available channel or places the user in a waiting line (queue) to be served in turn. This technique provides the user a higher grade of service than is possible in comparably loaded non-trunked systems by reducing the amount of time he must wait for a channel and/or reducing the probability that his call will be blocked. Small scale trunked land mobile systems are presently being used to a limited degree by common carriers providing mobile telephone services in the 450 MHz band. The innovation lies in its intended application to vehicular fleet dispatching and the potential of using many more channels per system than is now possible. As proposed by both General Electric and Motorola, trunked dispatch systems would be suitable either for large single users, cooperative groups of users on a cost-shared basis or commercial operators providing service for hire. The nature of trunked systems makes them particularly suitable for serving different types of users of the same group of channels without interference. With today's single-channel systems it is generally desirable to put similar types of users on the same channels in order to control interference. That approach, however, requires separate allocations of channels for the various classes of users which often leads to spectrum inefficiencies. In the trunked system, different types of users can be intermixed more readily as they operate essentially independently of each other, the computer assigning channels on demand. Once a user is assigned a channel, it is his exclusively for the duration of this call and no one else on the system can listen or interrupt during normal operation." *Second Report and Order*, 46 F.C.C. 2d 752 at 754.

The final category of system provided for in the 800-MHz band is the basic conventional land mobile system. The conventional system is simpler and cheaper, but results in some loss of traffic efficiency as compared to the trunked and cellular systems. However, the Commission concluded that the conventional system can also be efficient in specific applications and has a definite place in the 800-MHz band along with the other two more sophisticated types of systems.[12] Finally, the Commission decided not to impose common carrier regulation in the private radio services. It determine that the limited entry concept inherent in common carrier regulation was inappropriate for the private radio services, and thus provided for free entry, with a reliance on competitive forces for the regulation of the private land mobile market.

8. There has been no departure from those basic policies. The same choices and options are still available to users of private radio communications. The competitive environment which—as the petitioners point out—the Commission sought to foster, continues to exist, and it has become even more vigorous than originally expected. Radio facilities in the private radio services are being made available free of common carrier type of regulations; this was one of the Commission's major goals in Docket No. 18262. The conventional system option is still available throughout the country, and even in the three largest urban areas (New York City, Chicago, and Los Angeles) where the conventional channels have all been assigned but not totally loaded, substantial additional requirements for conventional systems can be accommodated, particularly under the revised standards adopted in Docket No. 79-106.

9. We view our action not as a departure from the basis policies of Docket No. 18262, but as a necessary pause for the purpose of reviewing our licensing policies to determine whether the radio spectrum allocated in the private services is being used efficiently. Spectrum efficiency was one of the Commission's fundamental goals in Docket 18262 and it remains our goal. Our May 3, 1979 action must be viewed in the context of experience with licensing private radio systems since the conclusion of the proceedings in Docket No. 18262. By the end of 1978, before a single trunked system of the type envisaged by the Commission had become operational, or indeed even authorized, all of the 150 frequency pairs set aside for conventional systems [one quarter of the total of channels available in the private services at 800 MHz] had been assigned in the Los Angeles urbanized area. By mid-1979, these frequencies were also all assigned in the New York and Chicago areas. By May 3, 1979, we had issued 11,353 licenses for conventional systems and 18 licenses for trunked systems. It appears to us that if we had continued to release frequencies for conventional systems simply on demand, we might have ". . . allow[ed] one system [e.g., the conventional] to dominate the market, where the other [the trunked] might better serve the needs and requirements of [the] users . . ." a consequence the Commission had stated in Docket No. 18262 it wanted to avoid.[13]

10. The requirements for conventional systems have not been neglected. The original 100-channel allocation has been

[12] The Commission's decription of these systems was: The final category of system proposed for the 900 MHz band is the basic conventional land mobile system in use today in the lower frequency bands. While these systems may also employ one or more channels, their distinguishing feature is manually controlled channel access as opposed to the computer control used in trunked systems. This makes the conventional system simpler and cheaper, but causes some loss of traffic efficiency resulting in either fewer mobiles per channel or lower service quality. The degree of such inefficiency depends largely upon the traffic characteristics of the users. Our analysis would indicate that for a significant segment of the land mobile requirement, particularly where short range, short message communications are involved, the conventional system can be as or more efficient than the trunked system. Therefore, considering its lower cost and greater operational simplicity, the conventional system, we feel, has a definite place in the 900 MHz band alongside the more sophisticated systems described above. *Second Report and Order*, 46 F.C.C. 2d at 754-755.

[13] In Docket No. 18262, the Commission stated: "But, initially, as a matter of policy, we have decided not to authorize, in any one area or region, more than 100 25-kHz channel pairs for conventional use and 200 25-kHz channel pairs for trunked systems. The remaining 300 25-kHz frequency pairs will be temporarily reserved to give us an opportunity to study system development trends in the available spectrum. Further, we do not want to allow one type of system to dominate the market, where the other might better serve the needs and requirements of eligible users. Accordingly, as an interim safeguard, we will impose the restriction mentioned." *Second Report and Order*, 46 F.C.C. 2d at 754-755.

increased by 50%.[14] The Commission, when it allocated the additional channels for conventional use, stated that no more channels would be released for this purpose until the development and practicality of trunked systems for use in the land mobile services were studied and analyzed. The action we have taken in PR Docket No. 79-106 will make the conventional frequencies available to more users, particularly in the more congested urban center where the need for radio communications is greater and where we must see that the limited radio spectrum is used as efficiently as possible through spectrally efficient systems. Because of spectrum scarcity, some of the options for communications service in large urban areas may not always be as available as in lesser populated areas. It is here where we believe we must place more emphasis on spectrally efficient systems in order to accommodate present and future requirements.

11. Accordingly, we reject the petitioners' arguments that our determination not to release more frequencies for conventional systems at this time is a "departure" from or contrary to the "mandate" of the policies the Commission adopted in Docket No. 18262. On the contrary, we believe our decision to pause and to review is consistent with those policies and is dictated by our statutory obligation to assure that the radio spectrum is used efficiently and effectively in the public interest.

12. The petitioners also argue that the Commission was not justified in concluding that trunked systems are "more efficient," that this conclusion was based on erroneous information provided to the Commission by its staff, and that it is a supposition which cannot be supported by either the facts or prior Commission policy. It is true that we have had little experience with trunked radio systems, and therefore do not yet have empirical evidence with respect to their efficiency and effectiveness in the private services. Accordingly, definitive conclusions should not and will not be reached until we have had experience and have gathered empirical information. Our views with respect to the efficiency of trunked systems are based on the conclusions reached by the Commission in Docket No. 18262, where it decided to place ". . . reliance . . ." on trunked systems for accommodating private land mobile communication requirements,[15] and are supported by long experience in other communication fields. Neither evidence nor analysis has been offered questioning the Commission's conclusions in Docket No. 18262.[16] We therefore hold to our view with respect to the spectrum efficiency of trunked systems. It is emphasized that this is a tentative view which we will modify if our experience with trunked systems indicates the necessity. For the moment, however, we have no basis for changing the conclusion reached in Docket No. 18262 and we adhere to it.

13. It has also been argued that trunked systems are more expensive than conventional systems and are not suitable for all of the land mobile requirements. We recognize that trunking is a complex, sophisticated method of radio operation which may not be appropriate for all land mobile users. It is our view, however, that trunked systems are well suited for the bulk of communication requirements now accommodated by conventional systems. Those requirements are for voice communications covering relatively well defined areas of operation and involving users operating a small number (less than 10) mobile units. Larger users operating fleets of vehicles (such as police departments) can also benefit from trunked systems in terms of efficiency of operation, flexibility, and high quality service.

14. As for costs, we realize that the sophisticated and complex trunked systems are more expensive than conventional systems. Our information indicates that multi-channel mobile units for trunked systems now cost about 10% to 24% more (depending on the manufacturer) than comparable quality conventional mobile units from the same manufacturer. The cost differential should be reduced as the manufacture of trunked equipment progresses from the present stage, as technological developments are incorporated into the design and production of the radio equipment, and as competition increases.

15. Moreover, it is generally recognized that trunked systems offer a higher quality of service, less channel congestion, faster access to the system, simplified radio operation, significant privacy of communications and better reliability, among other benefits.[17] Accordingly, we expect that the additional costs of trunked systems will be outweighed by their significant advantages, and therefore, that higher costs will not substantially inhibit the development and use of these systems.

16. The petitioners argue that the release of additional channel pairs is needed to accommodate the current requirements of users as evinced by pending applications. They also contend that our interim program for accommodating pending applications on existing radio facilities or frequencies already allocated for conventional systems is inadequate.

17. We were certainly aware that not all of the applications pending at the time of our decision (May 3, 1979) would be accommodated on existing frequencies and facilities. We had hoped to at least meet the more urgent requirements of particular users and have met with significant success. For example, 40 of 97 of the applications from Los Angeles applicants then pending have been accommodated,[18] and 25 have been dismissed either at the request of the applicants or for other reasons. Fourteen of the 41 applications from Chicago have been granted and 14 others have been returned, dismissed, or withdrawn by the applicant. In the New York area, we have not been able to accommodate the seven applications submitted as of May 3, 1979. Since then, 38 new applications have been filed from applicants in the Los Angeles area. Of those 6 have been granted and 11 have been dismissed or withdrawn. Three additional applications have been

[14] This was done by *Order*, FCC 78-584, adopted June 21, 1978.

[15] *Memorandum Opinion and Order*, 51 F.C.C. 2d at 969. Indeed, one of the benefits the Commission expected from the competitive environment it sought to establish was to: "Stimulate the development and production of the spectrally efficient communication systems, particularly "trunked" systems, on which we have placed great reliance for improved efficiency in the use of the new spectrum. In "trunked" systems, for example, a "communication channel" can accommodate more users than in systems authorized in the past. Our loading standards are geared to this. While, for now, we have adopted conservative channel occupancy standards for "trunked" systems, we expect that, in the future, a greater number of users can be accommodated. This is significent, because radio spectrum is limited; and we have an obligation to see to it that it is used as fully and effectively as possible."

[16] It has been claimed, however, that trunking could result in longer conversation and reduced circuit discipline. This claim is purely conjectural as there is no evidence to support it. Even assuming that conversations do tend to become longer in trunked systems, the matter can be dealt with by the use of timers, audio tones, and other simple technical means and, where appropriate, by rate differentials.

[17] For a description of the benefits of trunked systems for the private services, see S. Thro, "Trunking—A New System Configuration for Fleet Dispatch Communications," *Conference Record of the Twenty Ninth Annual Conference of the IEEE Vehicular Society* (March 1978).

[18] Among those granted is the application of Medivac, Inc., mentioned by Petioner NABER.

V 44 O C 15 79 UMI

added from Chicago, and two from New York, all of which are still pending.[19]

18. Since our May 3, 1979 action, we have authorized 16 5-channel, 6 10-channel and 3 20-channel trunked system in the Los Angeles area with combined capacity of nearly 20,000 mobile units. In Chicago, we have authorized 14 5-channel, 3 10-channel, and 3 20-channel trunked systems which can accommodate over 15,000 such mobile units. In New York, 9 5-channel, 5 10-channel and 1 20-channel systems have been authorized with combined capacity for accommodating over 10,000 mobile units.

19. Further, in PR Docket No. 79–106, we have adopted revised co-channel mileage separation and frequency loading standards for conventional 800-MHz channels which will increase the capacity of those frequencies by 30% to 40%.[20] As a further measure, in PR Docket No. 79–191, we have proposed to allocate a total of 50 channels from the reserve pool (10 for conventional systems and 40 for trunked) for use exclusively by large, slow growth systems in the Public Safety services, and by some utilities.

20. We have considered the petitioners' requests for the release of additional frequencies in the light of the arguments presented and the information summarized in the proceeding paragraphs. We conclude that it is neither necessary nor desirable to do so at this time. First, there is no need for additional 800-MHz frequencies for conventional radio systems in most parts of the country. The 150 conventional 800-MHz channels have all been assigned only in and near the New York, Chicago, and Los Angeles areas. These areas contain about 26 million people, which is about 12% of the total U.S. population (about 220 million people). Even in those areas there is considerable capacity for additional use, particularly under the revised frequency assignments standards. Furthermore, to the extent that there will be needs which cannot be accommodated on the existing conventional channels in these three large cities, trunked systems with capacity to accommodate from 10,000 to almost 20,000 mobile units have now been authorized. We are regularly licensing new users of those trunked systems already authorized and in operation. Therefore, we see no need to allocate additional channels at this time.

21. Moreover, releasing additional channels for use in Los Angeles would make it difficult for us to provide frequency resources for the land mobile communication requirements in Southern California near the Mexican border, including the City of San Diego. No 800-MHz frequencies are available in San Diego and other locations near the border because the necessary coordination with the Mexican government has not been completed. We have assigned 350 800-MHz channels to users in Los Angeles, but unusual radio propagation conditions there raise serious questions as to whether these channels can be reused in the San Diego area. In effect, there are only 200 channels available for use in the San Diego area,[21] some of which may have to be shared with Mexican licensees. We therefore concluded that it is not desirable to release additional channels in the Los Angeles area before the conclusion of negotiations with the Mexican government, and before we determine how the needs for land mobile communications near the border can best be accommodated.

22. While we are not faced with the border problem in the New York and Chicago urbanized areas, we nevertheless believe that release of additional channels there would also be undesirable at this time, particularly since the existing frequencies and the facilities we have already authorized are adequate to accommodate current and near future requirements. A pause here also will give us the opportunity we need to determine how well trunked systems will meet the communications requirements in the private radio services and will allow us to make more informed judgments as to the spectrum efficiency of these systems. We should not lose the opportunity we now have to provide for the use of the remaining frequencies in a manner in which the communication requirements of a larger segment of the public can be met with improved quality of land mobile communications services.

23. It should be pointed out that we are faced with spectrum scarcity. Nearly 400 of the 600 channels allocated in the private radio service at 800-MHz have already been assigned, and requests are being filed for the unallocated reserve bands between 821 and 947 MHz. It is therefore important that we consider spectrum conservation measures before all of the spectrum is exhausted.

24. For the foregoing reasons, we conclude that the above-described petitions filed by Motorola, Inc., and by the National Association of Business and Educational Radio, Inc., should be denied, and IT IS ORDERED, Pursuant to Sections 303 and 405 of the Communications Act of 1934, as amended, that those petitions are denied.

Federal Communications Commission.*

William J. Tricarico,

Secretary.

Dissenting Statement of Commissioner Abbott Washburn

Re: Freeze of Conventional Land Mobile Radio Systems.

Last May I expressed my preference to take care of the backlog of applications by releasing 50 additional channels for conventional use. Today, some four and a half months later, that backlog still exists. Even with the revised loading standards adopted today, companies and government agencies in New York, Chicago and Los Angeles will still not be able to obtain conventional service. By the staff's admission:

"It is true that we have had little experience with trunked radio systems, and therefore do not yet have empirical evidence with respect to their efficiency and effectiveness in the private services. Accordingly, definitive conclusions should not and will not be reached until we have had experience and have gathered empirical information . . ."**

In that regard I am glad that the Commissioners will continue to receive monthly reports from the Chief of the Private Radio Bureau and that in six months we will receive a comprehensive update on this entire question. In the meantime users must continue to wait for service.

National priorities for the 1980's place great emphasis on the conservation of gasoline and on increasing productivity in order to fight inflation. Mobile communications are ideally suited to contribute to both these objectives. It is my firm belief that there will be a continuing need for both conventional and trunked private systems as well as for common-carrier-provided mobile telephone service. It is only the individual customer, who is intimately familiar with the myriad of details in his own business and who is responsible for its success, who can make intelligent choices among the mobile communications offerings.

This philosophy permeated our Docket 18262 where, for the first time, we had available sufficient spectrum to make all these opportunities reality and to allow such a broad range of options to customers. It is time to stop wetnursing trunked systems at the expense of user choice. Today we should be utilizing some of these frequencies which are still held in reserve, in order to promote competition between the services. It is not a time to pause and prohibit. Therefore, I must dissent.

[FR Doc. 79-31740 Filed 10-12-79; 8:45 am]

BILLING CODE 6712-01-M

[19] The Los Angeles applications (those that were pending as of May 3, 1979, and those filed since then) involved a total of 2,266 mobile units. Of these, the granted applications account for 436, and the pending for 1,284 mobile units. The Chicago applications involved 1,445 mobiles. Of those, 350 have been granted, 316 dismissed and applications for a total 779 mobile units are pending. In New York, the pending applications involve a total of 289 mobile units. This information is from the Commission's files as of September 14, 1979.

[20] This will result as the loading standards will be raised, for example, from 70 to 90 mobile units in the business radio service, and by comparable increases in other services. The 30% to 40% figures were derived from actual computations of the capacity of existing channels under the proposed revised loading standards.

[21] Only 200 channels will be available if we assume that the 350 channels now assigned in Los Angeles cannot be reused in San Diego, and if we exclude the 50 additional channels we have proposed to set aside for slow growth systems in PR Docket No. 79–191.

*See attached dissenting statement of Commissioner Abbott Wsshburn.

**Today's Memorandum Opinion and Order in PR Docket 79–106, paragraph 12.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 301

Organization and Delegation of Powers and Duties of the Federal Highway Administration

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies the Part 301.60 by removing certain limitations on the delegation of authority in the Motor Carrier Safety Program provided to Regional Administrators. It is an internal organizational matter within the Federal Highway Administration (FHWA) and has no substantive or procedural effect on any party outside the FHWA.

EFFECTIVE DATE: November 14, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Warren J. Vibbard, Administrative Program Coordinator, Office of Safety, 202–426–0748, or Mr. Gerald Tierney, Attorney, Office of the Chief Counsel, 202–426–0346, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Federal Motor Carrier Safety Regulations (49 CFR Parts 386, 390–399) provide that enforcement actions may be taken to compel observance of the safety practices set forth, and that criminal prosecutions and civil penalties may be imposed on those violating the regulations. Title 49 CFR, Part 301, provides delegations of authority to various officials in FHWA to take certain enforcement actions. Previously Regional Administrators had authority to initiate, take action, and terminate civil forfeiture proceedings in cases in which claims for under $25,000 in penalties were to be assessed. For claims above that amount, authority was vested in the Associate Administrator for Safety and delegable to the Director, Bureau of Motor Carrier Safety. This amendment removes the $25,000 limitation, and gives the Associate Administrator and Regional Administrator equal authority to proceed in civil forfeiture actions. It is expected this action will result in increased program effectiveness. Since this action effects only the internal authorities and organizations of the FHWA and contains no substantive changes, the notice and comment stages of rulemaking are unnecessary.

Accordingly, 49 CFR Part 301 is amended by revising § 301.60(d)(1)(iv), (d)(1)(v), (d)(2)(i) and (e)(5) as follows:

§ 301.60 Delegations of authority relating to motor carrier safety.

* * * * *

(d) * * *

(1) * * *

(iv) Initiate, compromise, suspend, and terminate proceedings commenced by notice of investigation pursuant to 49 CFR 386.11.

(v) Initiate, collect, compromise, suspend, and terminate civil forfeiture claims under 49 U.S.C. 11901(g) and issue consent orders with any settlement agreements.

* * * * *

(2) * * *

(i) Initiate, collect, compromise, suspend, and terminate civil forfeiture claims under 49 U.S.C. 11901(g) and issue consent orders with any settlement agreements.

* * * * *

(e) * * *

(5) Initiate, collect, compromise, suspend, and terminate civil forfeiture claims under 49 U.S.C. 11901(g) and issue consent orders with any settlement agreements.

* * * * *

Note.—The Federal Highway Administration has determined that this document does not contain a significant regulation according to the criteria established by the Department of Transportation pursuant to Executive Order 12044. The impact of this rule is so minimal that it does not warrant the preparation of a regulatory evaluation.

(49 U.S.C. sections 304, 1655; 49 CFR 1.48)

Issued on: October 2, 1979.

L. P. Lamm,

Executive Director.

[FR Doc. 79-31580 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-22-M

V 44 0C 15 79 UMI

Proposed Rules

Federal Register
Vol. 44, No. 200
Monday, October 15, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-41]

Mandatory Petroleum Allocation Regulations; Phased Deregulation of Upper Tier Crude Oil

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Further Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing alternative amendments to the supplier/purchaser rule to implement the President's decision gradually to deregulate domestic crude oil. Today's proposals complement and are part of the previously announced phased deregulation rulemaking proceeding to permit market prices to be charged for first sales of a steadily increasing percentage of crude oil that would otherwise be subject to the upper tier ceiling price. Under one of today's alternative proposals any crude oil for which market price might be charged as a result of phased deregulation would be exempted from the provisions of the supplier/purchaser rule. The other proposal would permit a supplier to sell such crude oil to any purchaser which made a bona fide offer in writing for such oil if the existing purchaser was not willing to meet that offer. These proposed revisions to the supplier/purchaser rule are intended to ease the transition to a free market.

DATES: Proposed effective date: January 1, 1980. All requests to speak at Washington hearing by October 18, 1979, 4:30 p.m. Albuquerque hearing date: October 16, 1979, 9:30 a.m. (unless cancelled). Washington hearing date: October 24, 1979, 9:30 a.m. Written comments on today's proposal only by December 10, 1979, 4:30 p.m. Written comments on the proposed pricing regulation amendments in this docket due October 31, 1979, 4:30 p.m.

ADDRESSES: All written comments and requests to speak at the Washington hearing to: Economic Regulatory Administration, Office of Public Hearings Management, Docket No. ERA-R-79-41, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2222-A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634-2170.
William Carson (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-7477.
Ben McRae (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6739.

SUPPLEMENTAL INFORMATION:

I. Background and Proposals
II. Comment Procedures
III. Procedural Requirements

I. Background and Proposals

On April 5, 1979, the President announced his intention to deregulate all domestic crude oil. We have already taken several steps to implement the President's decision, including our proposing, in a previous notice issued in this docket, to provide for the gradual reduction, between January 1, 1980 and October 1, 1981, of the percentage of crude oil subject to the upper tier price ceiling (44 FR 50605, August 29, 1979). Under this proposal, beginning January 1, 1980, market prices would be permitted for first sales of a specified percentage of the crude oil produced from a property that would otherwise be subject to the upper tier ceiling price. This percentage would increase at a rate such that by October 1, 1981 market prices would be permitted for all crude oil production subject to the upper tier ceiling price. For January 1980 the specified percentage would be 4.6 percent (approximately one twenty-second), and in each succeeding month the specified percentage would be increased by an additional 4.6 percent. The crude oil which could be sold pursuant to this proposal would be known as market level new crude oil.

In addition to establishing ceiling prices for domestic crude oil, the regulations promulgated under the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 751 *et seq.*, Pub. L. 93-159, as amended) have frozen, in most instances, the supplier/purchaser relationships that existed in 1973. We believe it would be appropriate to free crude oil from the supplier/purchaser rule as that crude oil is released from price controls. Accordingly, we are expanding the phased deregulation rulemaking proceeding to consider two alternative proposals that would grant suppliers greater flexibility in selling market level new crude oil. Specifically, we are proposing to amend 10 CFR 211.63(a) to eliminate the obligations imposed upon suppliers under the supplier/purchaser rule with respect to any crude oil the first sale of which is made pursuant to the pricing provisions of § 212.74(a) for market level new crude oil. This proposal is intended to subject a steadily increasingly percentage of crude oil dealings to the rigors of an unregulated market and, thus, ease the complete transition to such a market that will occur on October 1, 1981.

We also are considering adopting an alternative approach in the form of a technical amendment to ease this transition. Under this approach, market level new crude oil would be treated like stripper well lease crude oil under the supplier/purchaser rule. This approach would permit a supplier to seek the most advantageous commercial relationship by terminating a supplier/purchaser relationship if an existing purchaser was not willing to meet any bona fide written offer made by another purchaser to buy market level new crude oil. Specifically, we would amend § 211.63(d)(1)(iii) to apply to market level new crude oil as well as old, new and stripper well lease crude oil.

II. Written Comment and Public Hearing Procedures

In order to allow an opportunity for full public discussion of those aspects of phased deregulation concerning the supplier/purchaser rule, we are extending the dates by which requests must be made to speak at the public hearings concerning phased deregulation. Requests for the Washington hearing will be accepted through October 18. In addition, we are providing the period through December 10, 1979 for written comments on the amendments proposed in this notice. Written comments on the pricing issues previously proposed in this docket will continue to be due by October 31, 1979 (see 44 FR 50605, August 29, 1979).

A. Written Comments

You are invited to participate in this proceeding by submitting data, views or arguments with respect to any matters relevant to this notice. Comments should be submitted by 4:30 p.m., November 20, 1979 to the address indicated in the "Addresses" section of this notice and should be identified on the outside envelope and on the document with the docket number and the designation: "Crude Oil Deregulation." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

B. Public Hearings

1. *Procedure for Requests to Make Oral Presentation.* If you have any interest in the matters discussed in this notice, or represent a group or class of persons that has an interest, you may make an oral request by October 18, 1979, for an opportunity to make an oral presentation at the Washington hearing. You should provide a phone number where you may be contacted through the day before the hearing

If you are selected to be heard at a hearing, you will be so notified before 4:30 p.m., October 12, 1979, for the Albuquerque hearing and before 4:30 p.m., October 19, 1979 for the Washington hearing and will be required to submit one hundred copies of your statement to the hearing location before 9:30 a.m. on the day of the hearing.

2. *Conduct of the Hearings.* We reserve the right to select the persons to be heard at the hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at each of the hearings. These will not be judicial-type hearings. Questions may be asked only by those conduct the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

If you wish to ask a question at the hearing, you may submit the question, in writing, to the presiding officer. The ERA or, if the question is submitted at a hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

Any further procedural rules needed for the proper conduct of a hearing will be announced by the presiding officer.

Transcripts of the hearings will be made and the entire records of the hearings, including the transcripts, will be retained by the ERA and made available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase a copy of the transcript of either hearing from the reporter.

III. Procedural Requirements

We are preparing a regulatory analysis which carefully examine today's proposals as well as our previous proposal concerning phased deregulation of crude oil subject to upper tier price ceilings. Upon completion of a draft of this analysis, we will publish a notice announcing its availability.

We currently are reviewing the effects of these proposals on the quality of the human environment and will perform any environmental analysis required by the National Environmental Policy Act (NEPA, 32 U.S.C. 4321 *et seq.*) and the applicable DOE regulations for compliance with NEPA.

In accordance with Section 7(a)(1) of the Federal Energy Administration Act of 1974 (15 U.S.C. 787 *et seq.*), a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The EPA Administrator has responded that EPA does not foresee this Rule having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of EPA.

Pursuant to the requirements of section 404(a) of the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*) we have referred this proposal, concurrently with the issuance hereof, to the Federal Energy Regulatory Commission for a determination as to whether it would significantly affect any matter within the Commission's jurisdiction.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93-275, as amended, Pub. L. 94-332, Pub. L. 94-385, Pub. L. 95-70, and Pub. L. 95-91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94-163, as amended, Pub. L. 94-385, and Pub. L. 95-70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95-91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., October 9, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

1. Alternative Proposal One

Section 211.63(a) is revised to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

(a) *Scope.* This section provides for the allocation of crude oil produced in the United States other than crude oil which is the subject of (1) purchases and sales made to comply with § 211.65 of this subpart; (2) sales of crude oil made pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations; (3) the first sale of crude oil under 10 U.S.C. 7430(b), as amended by § 201 of the Naval Petroleum Reserves Production Act of 1976; (4) the first sales of any domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1, 1976; and (5) sales of any domestic crude oil for which § 212.74(a) provides that the first sale will not be subject to the ceiling price limitations of Subpart C of Part 212.

* * * * *

2. Alternative Proposal Two

Section 211.63(d)(1)(iii) is revised to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

* * * * *

(d) *Termination of supplier/purchaser relationships.* (1) * * *

(iii) by a producer (as defined in Part 212 of this chapter), if the present

purchaser as to any old, new, market level new crude oil (as defined in § 212.72 of Part 212 of this chapter) or stripper well lease crude oil (as defined in §§ 212.72 and 212.74 of Part 212 of this chapter) refuses, within a fifteen day period after receipt of written notice as to that offer from the producer, to meet any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser.

[FR Doc. 79-31749 Filed 10-12-79; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 11, 21, and 37

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee.

DATES: Meeting date: November 2, 1979 at 9:30 a.m.

ADDRESSES: Meeting location: Fort Myer Officer's Club, room #1, Fort Myer, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Karl F. Bierach, (202) 426-8828.

SUPPLEMENTARY INFORMATION: The Agenda for this meeting is as follows: (1) Approval of Minutes of the Meeting held September 21, 1979; (2) Special Committee Activities Report for September-October, 1979; (3) Chairman's Report on RTCA Administration and Activities; (4) Consideration of Establishing New Special Committees; (5) Discussion of FAA NPRM on TSO De-regulation; (6) Discussion of Federal Trade Commission Hearings on Standards and Certification, Proposed Trade Regulation Rules; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 1, 1979.

Karl F. Bierach,
Designated Officer.

[FR Doc. 79-31741 Filed 10-12-79; 8:45 am]
BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Parts 233, 302

[EDR-387A/PDR-68A; Economic Regulations, Procedural Regulations, Docket 36497, dated: October 9, 1979]

Transportation of Mail and Establishment of Mail Rates and Rules Applicable to Mail Rate Proceedings; Establishing Mail Rate Zones for Interstate, Overseas, and Foreign Air Transportation; Extension of Comment Period

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The CAB is extending until November 5, 1979, the filing date for initial comments, and until November 20, 1979, the filing date for reply comments, in a rulemaking proceeding that proposes modification in the procedures by which air mail rates are set.

DATES: Comments by: November 5, 1979. Reply comments by: November 20, 1979.

Comments and other relevant information received after these dates will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 36497, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Lawrence Myers, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428; 202-673-5791.

SUPPLEMENTARY INFORMATION: By Notice of Proposed Rulemaking EDR-387/PDR-68, 44 FR 52246, September 7, 1979, the Board proposed to establish new procedures for setting interstate, overseas, and foreign air mail rates under section 406 of the Federal Aviation Act.

Counsel for the local service carriers, with the exception of Frontier Airlines, has asked for an extension of the comment period by approximately 2 weeks. The basis for the request was that the persons responsible for preparation of the carriers' comments had prior commitments that prevented the comments from being prepared.

Upon consideration of the above, the undersigned finds good cause to grant the requested extension of time. The Board would like to have the fullest possible data and arguments on this change in its mail rate procedures.

Accordingly, under authority delegated in 14 CFR § 385.20(d), the time for filing of comments and reply comments is extended as requested.

(Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324)

Mark Schwimmer,
Acting Associate General Counsel, Rules & Legislation.

[FR Doc. 79-31756 Filed 10-12-79; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 270

[EDR-390, Docket: 36816, dated: October 9, 1979]

Criteria for Designating Eligible Points

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Civil Aeronautics Board proposes criteria that it will use to decide which communities should be eligible points. These criteria will be applied to communities that were deleted from an air carrier's certificate between 1968 and 1978, and to other communities in Alaska and Hawaii. the rule is required by the section of the Federal Aviation Act that guarantees essential air service to small communities that are eligible points.

DATES: Comments by: November 14, 1979.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

Requests to be put on Service List by: October 25, 1979.

The Docket Section prepares the Service List and sends it to the persons listed on it, who then serve their comments on others on the list.

ADDRESSES: Twenty copies of comments should be sent to Docket 36816, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Copies may be examined in Room 711, Civil aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. as soon as they are received.

FOR FURTHER INFORMATION CONTACT: Patrick V. Murphy, Jr., Chief, Essential Air Services Division, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5406.

SUPPLEMENTARY INFORMATION:

Background

Section 419 of the Federal Aviation Act of 1958 [49 U.S.C. 1389) requires the Civil Aeronautics Board to guarantee essential air service at all "eligible points." There are three groups of communities that may be eligible points under the Act. For these eligible communities the Board is to establish a level of service as the essential level and ensure that that level of service is provided even if it requires Federal financial assistance.

The first group of eligible points are those that were listed on an air carrier's section 401 certificate on October 24, 1978. Section 419(a) of the Act defines them as eligible and no further action concerning their eligibility is required of the Board. They are therefore not involved in this rulemaking.

The second group of communities are those that were deleted from an air carrier's section 401 certificate between July 1, 1968 and October 24, 1978. The deleted communities will be eligible points if they meet the criteria that the Board is proposing in this rulemaking.

This group also includes communities that lost all certificated air service at their airport as a result of being hyphenated on a carrier's section 401 certificate between July 1, 1968 and October 24, 1978. As explained in PSDR-59 (44 FR 27438, May 10, 1979), a community that lost all service as a result of being hyphenated has, for all practical pruposes, been deleted and may be entitled to consideration under the essential air service program. The service needs of such a community that was hyphenated with a point receiving service from only one or no certificated air carriers will be considered with that single-carrier point. the board will determine the essential air service of both communities of the hyphenated point as one eligible point under section 419(a). This may result in requiring service to both communities' airports.

If the community is hyphenated with a multi-carrier point, however, it will not have its essential air service determined under section 419(a). Section 419(a) does not require an essential air service determination for multi-carrier points. A community in this situation may apply to the Board for consideration under section 419(b) as a deleted point and it may be designated an eligible point if it meets the criteria that the Board is proposing in this rulemaking.

The Act makes special provision for communities in Alaska and Hawaii. In addition to the communities in those two States that fall within one of the two groups described above, the Board can decide that any other community in Alaska or Hawaii should be an eligible point. To be designated an eligible point, the community must apply, and must meet the criteria proposed here. These communities are also subject to an additional limitation that their designation as eligible must not increase the total number of points receiving Federal subsidy above the number that were receiving such subsidy on July 1, 1968.

Criteria for Communities in the 48 States

General. The purpose of this rulemaking is to establish objective criteria for determining which deleted communities and other communities in Alaska and Hawaii should be eligible points. These criteria are required by section 419(b) of the Act. By January 1, 1982, the Board, applying these criteria, must decide which of the deleted communities should be eligible points. After January 1, 1982, the criteria will be used to designate additional eligible points from the group of points in Alaska and Hawaii that apply for such designations. If a community is designated an eligible point under these criteria, it will be guaranteed essential air transportation to the same extent as communities that are certificated for air service. (See PS-87, 44 FR 52646, September 7, 1979, for the guidelines that the Board will follow in determining essential air service levels for eligible points.)

Section 419(b)(2) sets forth five factors that the Board should consider in establishing or modifying its criteria. They are the level of traffic generated by the community, its future traffic-generating potential, the cost to the Federal Government of providing essential air transportation to the community, the alternative means of transportation available to the residents of the community for access to the national transportation system and its principal communities of interest, and the degree of isolation of the community from the national air transportation system. These factors can be combined into two basic criteria—isolation and traffic.

Isolation. Communities that are close to hubs or to eligible points have reasonably convenient access to air service by ground transportation. Residents of those communities need to travel only a short distance to obtain air transportation and guaranteeing them their own air service, at government expense, cannot therefore be justified. Residents of more distant communities, however, require air service so that they will have reasonably convenient access to the national transportation system and to their principal destinations. The Board will designate the more distant communities as eligible points and guarantee them air service if there is sufficient traffic there.

The exact distance at which access to the national air transportation system is no longer reasonably convenient cannot be determined precisely. An objective criterion must be provided, however, and so we propose that communities that are less than 30 road miles from a hub airport not be eligible points, and not be guaranteed air service by the Board.

We also propose that a community should not be designated an eligible point under section 419(b) if it is less than 20 road miles from the airport at a section 419(a) eligible point. The distance proposed between communities and non-hub eligible points is shorter than that for communities and hubs because the travel opportunities at a hub are likely to be better than at a non-hub. Yet, when air service is available at a nearby eligible point, there is no need to guarantee air service at the candidate community. Residents of that community need to travel only a short distance by ground transportation to obtain air service at the eligible point. Under our essential air service guidelines in 14 CFR 398.2, the air service at an eligible point must include service to at least one hub. The access of the candidate community therefore would not be appreciably improved by guaranteeing them their own air service and doing so could undermine the existing service at the non-hub eligible point by diverting its passengers to government-supported air service at the candidate community.

For the purpose of this criterion, non-hubs are only those points that were certificated for air service on October 24, 1978. These are eligible points under section 419(a) of the Act and the Board is required to maintain essential air service there. Air service at other non-hubs that are not eligible points is subject to termination and a community's eligibility should not depend on its proximity to such a non-eligible point. Although guaranteeing air service at a community may divert traffic from a neighboring non-eligible

V 4 4 0 C 1 5 7 9 UMI

point, we doubt that the situation will often arise. We tentatively conclude that air service at a nearby non-eligible point should not be a criterion in determining the eligibility of a community.

Traffic. Although isolated, a community will not be designated as an eligible point unless it generates or has the potential for generating some minimum level of traffic. The cost to the Federal Government of providing essential air transportation cannot be justified if few people at the community will use it. Also, low traffic levels may indicate that the residents already have relatively easy access to alternative transportation and to hub airports.

In determining traffic levels, the Board will initially examine the level of traffic that has historically been available at the community. Communities, however, may show that their historic traffic does not accurately reflect demand at their community because of the poor service they received in the past. Communities could also submit data on population and commercial growth or other evidence of travel growth to prove that their demand for air service has increased. This information will also be considered by the Board to determine whether communities, excluded from the essential air service program on the basis of their historic traffic, have sufficient potential traffic to meet the criteria for eligibility. If it becomes clear over time, however, that the community is not meeting the Board's traffic criteria, section 419(b)(3) of the Act gives us the power to withdraw its designation as an eligible point.

Interaction of the criteria. Communities that are more 30 road miles from a hub airport and more than 20 road miles from the airport of an eligible non-hub may be designated eligible points depending on their traffic levels. The more isolated the community, the greater its need for air service and the lower the level of demand that it will have to demonstrate in order to be guaranteed air service by the Board.

We propose two groups. These groupings are consistent with the factors enumerated in section 419(b) of the Act and with a March 1976 study by the Department of Transportation on "Air Service To Small Communities." That study found that communities enplaning more than 10 passengers a day have better than a 50 percent chance of retaining air service without government subsidy. The cost to the Federal Government of providing essential air service is one factor that Congress directed us to consider in developing our criteria. Communities farther than 60 road miles from a hub airport would therefore be designated eligible points if they enplane at least 10 passengers each day during 5 days of the week. In the shorter-haul markets, where competition from alternative transportation is more acute, higher traffic levels are required if commuter service is to have a reasonable opportunity to become self-supporting. We propose therefore that communities between 30 and 60 road miles from a hub airport would need to show that they would enplane 20 passengers each day to be designated an eligible point.

We have considered, although tentatively rejected, a separate criterion for the most isolated communities, those that are 100 or 150 road miles from a hub, whereby they would have to demonstrate sufficient demand to enplane only five passengers each day in order to receive eligible point status. It appears that there are few deleted communities that would be affected by this criterion. Comments are specifically requested on whether there is a need for a separate standard for the most isolated group of communities.

Criteria for Communities in Alaska and Hawaii

We propose a separate subpart for communities in Alaska and Hawaii. Although, at least in the case of Hawaii, the traffic and isolation criteria will be the same as in the 48 contiguous states, a separate subpart is necessitated by the special statutory provision governing the designation of additional eligible points in these two states. Also, the unique circumstances of air service in Alaska requires completely different criteria for that state's communities.

A community's actual or potential traffic level is the only relevant criterion in Alaska. There is no reason to consider isolation there, because all Alaskan communities are isolated under the criteria we are using. We propose that a community in Alaska, deleted from a carrier's certificate, should be designated an eligible point if it enplanes or has the potential for enplaning five passengers each week or an equivalent combination of cargo, mail and passengers. We will consult with the Alaska Transportation Commission to ensure that the points designated as eligible have adequate airport facilities and warrant Federal support. There are no deleted communities in Hawaii.

In addition to the deleted communities, section 419(b)(2) permits the Board to designate other communities in Alaska or Hawaii as eligible if doing so will not increase the number of points receiving Federal subsidy above the 1968 level of subsidized points. It has not yet been determined how many points were subsidized in 1968. We do not expect this to be a significant limitation on designating additional eligible points, however, because the USAir (formerly Allegeheny) and Texas International systems, which were subsidized in 1968, are no longer receiving subsidy under section 406. This sharply reduces the number of points now being subsidized by the Board and leaves room for many to be added under section 419(b)(2). Subject to this limitation, communities in Alaska that apply may be designated eligible points if they meet the five-passenger-per-week criterion described above. Also subject to this limitation, Hawaiian communities that apply may be designated eligible if they meet the same isolation and traffic criteria applicable to the 48 contiguous States.

Many of the communities in Alaska that will be eligible points are very small and their demand for air service is sporadic and unpredictable. They can be most efficiently served by on-demand rather than by scheduled service. The Board's essential air service guidelines in 14 CFR Part 398 provide the flexiblility to rely on on-demand service where that will meet the essential needs of these points.

Procedures

We are not proposing a separate procedural rule at this time. It may not be necessary to have one at all, because the designation of eligible points is a one-time task, at least in the 48 contiguous States. After the criteria proposed here become final, we intend to request information from the affected communities concerning their isolation and traffic levels. On the basis of this information and its own analysis, the Board will designate as eligible points the communities that meet the isolation and traffic criteria. After the Board's order is issued, a community could petition for reconsideration under 14 CFR 302.37. If a factual issue is raised, such as the community's potential traffic, an oral evidentiary hearing might be held.

The Proposal

The Board requests comments on the criteria proposed here. Commenters should not focus on the traffic levels or air service needs of their community at this time. These matters will be evaluated after the final criteria are adopted. Because the Act requires that a final rule be adopted by January 1, 1980, only 30 days can be allowed for comments.

Accordingly, the Civil Aeronautics Board proposes to amend Chapter II of

14 CFR by adding a new Part 270, *Criteria for Designating Eligible Points,* to read:

PART 270—CRITERIA FOR DESIGNATING ELIGIBLE POINTS

Subpart A—General Provisions

Sec.

270.1 Purpose.
270.2 Applicability.
270.3 Definitions.
270.4 Computation of distance.
270.5 Computation of traffic.

Subpart B—Criteria for Communities in the 48 Contiguous States

270.10 Communities close to hubs.
270.11 Communities not close to hubs.
270.12 Communities close to non-hub eligible points.

Subpart C—Criteria for Communities in Alaska and Hawaii

270.20 Deleted communities.
270.21 Other communities.

Authority: Secs. 204 and 419 of the Federal Aviation Act, 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.

Subpart A—General Provisions

§ 270.1 Purpose.

This rule establishes objective criteria for designating small communities as eligible points under section 419(b) of the Act.

§ 270.2 Applicability.

This part applies to the following communities:

(a) Communities that were deleted from an air carrier's section 401 certificate between July 1, 1968, and October 24, 1978;

(b) Communities that lost all service at their airport as a result of being hyphenated with another community on a section 401 certificate between July 1, 1968, and October 24, 1978; and

(c) Any other communities in Alaska or Hawaii that apply for designation as an eligible point.

§ 270.3 Definitions.

As used in this part:

"Eligible point" means a community for which the Board will guarantee essential air service.

"Hub" means a point enplaning more than 0.05 percent of the total enplanements in the United States.

§ 270.4 Computation of distance.

Distance between a community and a hub, or between a community and another point, shall be measured by computing the driving distance from the community's center to the hub's airport or to the point's airport.

§ 270.5 Computation of traffic.

In computing traffic at a community the Board shall consider the following information:

(a) Historic traffic levels at the community; and

(b) Information submitted by the affected community that indicates that data on its historic traffic do not accurately reflect its potential demand for air service.

Subpart B—Criteria for Communities in the 48 Contiguous States

§ 270.10 Communities close to hubs.

A community that is less than 30 road miles from a hub airport will not be designated as an eligible point by the Board.

§ 270.11 Communities not close to hubs.

Except as provided in § 270.12—

(a) A community that is at least 30, but less than 60, road miles from a hub airport will be designated as an eligible point by the Board if that community enplanes or has the potential for enplaning 20 passengers each day during 5 days of the week; and

(b) A community that is 60 or more road miles from a hub airport will be designated an eligible point by the Board if that community enplanes or has the potential for enplaning 10 passengers each day during 5 days of the week.

§ 270.12 Communities close to non-hub eligible points.

A community will not be designated as an eligible point under this part if it is less than 20 road miles from the airport of a section 419(a) eligible point.

Subpart C—Criteria for Communities in Alaska and Hawaii

§ 270.20 Deleted communities.

A community in Alaska that was deleted from an air carrier's section 401 certificate between July 1, 1968, and October 24, 1978, or lost all service at its airport as a result of being hyphenated with a multi-carrier point on a section 401 certificate between those dates, will be designated an eligible point by the Board if it enplanes or has the potential for enplaning at least 5 passengers each week.

§ 270.21 Other communities.

(a) Any community in Alaska not covered by § 270.20 may be designated an eligible point if, upon the application of that community, the Board finds that—

(1) The community enplanes or has the potential for enplaning at least 5 passengers each week; and

(2) Designating that community as an eligible point will not result in more than — points* receiving a subsidy under section 419 and section 406 of the Act.

(b) Any community in Hawaii may be designated an eligible point if, upon the application of that community, the Board finds that—

(1) The community meets the criteria set forth in Subpart B of this part; and

(2) Designating that community as an eligible point will not result in more than — points* receiving a subsidy under section 419 and section 406 of the Act.

(Secs. 204 and 419 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 92 Stat. 1732, 49 U.S.C. 1324, 1389.)

By the Civil Aeronautics Board:

Phyllis T. Kaylor,

Secretary.

DELETED POINTS ELIGIBLE FOR CONSIDERATION (POINTS DELETED FROM CARRIER CERTIFICATES*)

[July 1, 1968, through Oct. 24, 1978]

State and point	Carrier	Date of deletion
Alaska:		
Atognak	Kodiak	10/14/75
Bettles Village	Wien	1/8/76
Chatham Straits	Alaska	10/8/76
Chenega	Alaska	10/8/76
Chichagof	Alaska	10/8/76
Cobol	Alaska	10/8/76
Cripple Landing	Wien	10/8/76
Edna Bay	Alaska	10/8/76
Eliamar	Alaska	10/8/76
Folger	Wien	10/8/76
Games Creek	Wien	10/8/76
Glacier Creek	Alaska	10/8/76
Granite Mine	Alaska	10/8/76
Hamilton	Wien	10/8/76
Hirst	Alaska	10/8/76
Holikachuk	Wien	10/8/76
Kaguyak	Kodiak	10/14/75
Katalla	Alaska	10/8/76
Kenny Cove	Alaska	19/8/76
Koknines	Wien	10/8/76
Latouche	Alaska	10/8/76
Livengood	Wien	10/8/76
Meade River	Wien	10/8/76
Moses Point	Wien	10/8/76
Napamute	Alaska	10/8/76
Nellie Juan	Alaska	10/8/76
Nenana	Alaska	10/8/76
Northway	Alaska	10/8/76
Oceanic (Thumb Bay)	Alaska	10/8/76
Ophir	Wien	10/8/76
Paimut	Wien	10/8/76
Peek Island	Alaska	10/8/76
Perry Island	Alaska	10/8/76
Pillar Bay	Alaska	10/8/76
Point Baker	Alaska	10/8/76
Poorman	Wien	10/8/76
Port Althorp	Alaska	10/8/76
Port Armstrong	Alaska	10/8/76
Port Alexander	Alaska	10/8/76
Port Ashton	Alaska	10/8/76
Port Conclusion	Alaska	10/8/76
Port Wakefield/Port Vita/Iron Creek.	Kodiak	10/14/75
Port Walter	Alaska	10/8/76
Seward	Alaska	10/8/76
Shearwater	Kodiak	10/14/75
Summit	Alaska	10/8/76
Talkeetna	Alaska	10/8/76
Tokovana	Wien	10/8/76
Todd	Alaska	10/8/76
Tyee	Alaska	10/8/76
Uyak	Kodiak	10/14/75

*The number of subsidized points on July 1, 1968 will be supplied at a later date.

V 44 0 C 15 7 9 UMI

DELETED POINTS ELIGIBLE FOR CONSIDERATION (POINTS DELETED FROM CARRIER CERTIFICATES*)—Continued

[July 1, 1968, through Oct. 24, 1976]

State and point	Carrier	Date of deletion
Warm Springs	Alaska	10/8/78
Washington Bay	Alaska	10/8/76
Woodchopper	Wien	10/8/76
Arizone:		
Douglas	American	12/5/74
Arkansas:		
Pine Bluff	Texas Int'l	10/17/75
California:		
Alhambra	Los Angeles	9/2/75
Anaheim/Disneyland	Los Angeles	9/2/75
Apple Valley	Airwest	12/10/73
Azusa	Los Angeles	9/2/75
Berkeley	SFO	12/22/76
Corte Madera-San Rafael (Marin County).	SFO	12/22/76
Glendale	Los Angeles	9/2/75
Inyokern	Airwest	10/28/73
Lake Tahoe	Airwest	6/15/74
Marysville-Yuba City	Airwest	12/27/70
Maywood	Los Angeles	9/2/75
Monrovia	Los Angeles	9/2/75
North Hollywood	Los Angeles	9/2/75
Orinda-Lafayette-Walnut Creek (Contra Costa County).	SFO	12/22/76
Palo Alto	SFO	12/22/75
Pomona	Los Angeles	9/2/75
San Bernardino	Los Angeles	9/2/75
San Fernando	Los Angeles	9/2/75
San Luis Obispo/Paso Robles.	Airwest	10/11/73
Sunnyvale	SFO	12/22/76
Thousand Oaks	Los Angeles	9/2/75
Van Nuys	Los Angeles	9/2/75
West Covina	Los Angeles	9/2/75
West San Fernando Valley.		9/2/75
Whittier	Los Angeles	9/2/75
Florida:		
Kennedy Space Center.	Eastern	9/9/74
Ocala	Eastern	1/21/72
Vera Beach	Eastern	1/13/73
Georgia:		
Rome	Eastern	3/3/72
Waycross	Eastern	6/12/72
Idaho:		
Burley/Rupert	Airwest	12/2/74
Payette (see Ontario, Ore.).		
Illinois:		
Lawrenceville (see Ind.).		
Indiana:		
Lawrenceville, Ill./Vincennes.	Allegheny	5/7/73
Marion	Allegheny	11/27/72
Kentucky:		
Bowling Green	Eastern	9/11/72
Maine:		
Brunswick	Delta	1/1/75
Missouri:		
Moberly	Ozark	4/21/69
Saint Joseph	Frontier	9/1/76
Sedalia	Ozark	8/3/70
Nevada:		
Boulder City	TWA	12/5/74
New Hampshire:		
Berlin	Delta	1/1/78
Laconia	Delta	1/1/75
Portsmouth	Delta	1/1/75
Whitefield	Delta	1/1/75
New York:		
Olean	Allegheny	8/26/74
Poughkeepsie	Allegheny	11/9/73
North Carolina:		
Elizabeth City	Piedmont	6/20/72
Southern Pines/Pinehurst/Aberdeen.	Piedmont	6/20/72
Ohio:		
Lima	Allegheny	10/10/74
Portsmouth	Allegheny	8/9/71
Sandusky	Allegheny	4/4/75
Oklahoma:		
Bartlesville	Frontier	6/3/74
Duncan	Frontier	8/7/72
Muskogee	Frontier	1/8/75

DELETED POINTS ELIGIBLE FOR CONSIDERATION (POINTS DELETED FROM CARRIER CERTIFICATES*)—Continued

[July 1, 1968, through Oct. 24, 1978]

State and point	Carrier	Date of deletion
Oregon:		
Baker	Airwest	4/30/73
Ontario/Payette, Id.	Airwest	4/30/73
Roseburg	Airwest	4/30/73
South Carolina:		
Anderson	Southern	10/4/74
Greenwood	Southern	10/4/74
Tennessee:		
Crossville	Southern	7/11/74
Shelbyville/Tullahoma.	Southern	9/20/74
Texas:		
Big Spring	Texas Int'l	2/14/75
Borger	Texas Int'l	4/1/76
College Station/Bryan.	Texas Int'l	5/20/73
Galveston	Texas Int'l	12/15/72
Lufkin	Texas Int'l	5/27/75
Utan:		
Moab	Frontier	11/20/76
Vermont:		
Newport	Delta	1/1/75
Virginia:		
Blacksburg/Radford/Pulaski.	Piedmont	4/13/72
Washington:		
Aberdeen/Hoquiam	Airwest	7/16/74
Olympia	Airwest	10/11/73
Wisconsin:		
Marshfield	North Central	2/5/75
Sheboygan	North Central	2/5/75
Wisconsin Rapids	North Central	2/5/75

*This list does not include communities that lost all air service at their airport as a result of being hyphenated on an air carrier's section 401 certificate.

[FR Doc. 79-31757 Filed 10-12-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 881

[Docket No. R-79-724]

Section 8 Housing Assistance Payments Program—Substantial Rehabilitation

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street SW., Washington, D.C. 20410 (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housings and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR Part 881—Section 8 Housing Assistance Payments Program—Substantial Rehabilitation.

This interim rule would completely revise 24 CFR Part 881, governing the Section 8 Substantial Rehabilitation program.

The major changes from the present rules are as follows:

1. The revised regulations would provide new limits on rent, costs and amenities and require cost justification for rents in certain cases.

2. Changes would be made in processing to coordinate Section 8 submissions with the submissions required under the HUD mortgage insurance programs.

3. New relocation requirements would provide more equitable treatment for tenants displaced by rehabilitation activities.

In addition, the language of the revised part has been simplified and the format made more readable.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C., October 5, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-31672 Filed 10-12-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

31 CFR Ch. II

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Bureau of the Public Debt, Department of the Treasury.

ACTION: Semiannual agenda.

SUMMARY: Pursuant to Executive Order 12044, "Improving Government Regulations," and the Department of the Treasury directive implementing that Executive Order, the Bureau of the Public Debt will continue its review of the General Regulations Governing U.S. Securities, Department of the Treasury Circular No. 300, Fourth Rev., 31 CFR, Part 306. (Legal authority: 31 U.S.C. 738a, 739, 752, 752a, 753, 754, 754a, and 754b).

This review was undertaken to implement proposals to offer at some future date marketable Treasury bonds and notes in book-entry form and to make other changes to improve the regulations.

FOR FURTHER INFORMATION CONTACT: Charles A. Guerin, Assistant Chief Counsel, Bureau of the Public Debt, Room 309, Washington Building, Washington, D.C. 20226, Telephone: 202-376-0243.

Dated: October 9, 1979.

By Direction of the Secretary of the Treasury.

H. J. Hintgen,

Commissioner of the Public Debt.

[FR Doc. 79-31472 Filed 10-12-79; 8:45 am]

BILLING CODE 4810-40-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1338-3]

Ohio: Proposed Revision To Implementation Plan

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. Environmental Protection Agency (USEPA) is proposing a temporary suspension of the October 19, 1979 compliance date established by the federally promulgated implementation plan for sulfur dioxide pending final rulemaking on the proposed revision to that implementation plan for the Cleveland Electric Illuminating Company's Eastlake and Avon Lake Power Plants in Ohio. In no case will the compliance date be later than June 17, 1980. It is the opinion of Region V that this revision to the Ohio State Implementation Plan should be approved. The purpose of this notice is to invite public comment on EPA's proposed revision to that Plan.

DATE: Comments must be received on or before October 30, 1979.

ADDRESSES: Comments should be submitted to Steve Rothblatt, Chief, Air Programs Branch, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. The docket (5A-79-1) for this revision is on file at the above address and at Public Information Reference Unit, Room 2922, USEPA, 401 M Street, S.W., Washington, D.C. 20640. The docket may be inspected and copied during normal business hours.

FOR FURTHER INFORMATION CONTACT: Susanne Karacki, Air Programs Branch, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6030.

SUPPLEMENTARY INFORMATION:

On August 27, 1976 United States Environmental Protection Agency (USEPA) promulgated regulations establishing the state implementation plan (SIP) for the control of sulfur dioxide for the State of Ohio, with emission limitations of 1.43 pounds of sulfur dioxide per million BTU at Cleveland Electric Illuminating Company's (CEI) Eastlake Plant in Lake County, Ohio and 1.15 pounds of sulfur dioxide per million BTU at CEI's Avon Lake Plant in Lorain County. USEPA based the emission limitation on the Urban RAM model (such a model assumes an urban land use pattern). The regulations for both counties contain an October 19, 1979 compliance date and an attainment date of June 17, 1980. (The attainment date is the latest date by which National Ambient Air Quality Standards are to be attained and maintained.) The final compliance date is that date determined by USEPA by which a source will have achieved the emission limitation as expeditiously as practicable. The date of compliance must be attained as expeditiously as practicable but in no case later than the attainment date. In 1978 CEI submitted a SIP revision for the Avon Lake and Eastlake Plants requesting a higher emission limitation with extensive dispersion modeling analysis and monitoring data in support thereof.

On June 12, 1979 USEPA proposed a revision to permit CEI to maintain its current (i.e., status quo) emissions of 6.58 lbs. of SO_2 per million BTU for the Eastlake Plant and 6.09 lbs. of SO_2 per million BTU for the Avon Lake Plant. USEPA found that due to the lake breeze and fumigation effects neither urban nor rural RAM were appropriate models. The proposed revision does not contain a change in the attainment date from that specified in the regulation. (See 40 CFR 52.1881, 44 FR 33712 (June 12, 1979).)

On August 16, 1979, at the request of several individuals and organizations commenting on the June 12 proposal, USEPA announced an extension of the comment period until October 12, 1979. 44 FR 47959 (August 16, 1979). The extension of the comment period means that USEPA will not be able to complete final rulemaking on the proposed revision before the October 19, 1979 compliance date. As of that date, CEI would have to meet the existing final emission limitation of 1.43 and 1.15 lbs. of SO_2 per million BTU for Eastlake and Avon Lake respectively, which USEPA believes would be inequitable. The Agency believes that CEI should not be required to meet the existing emission limitation by the October compliance date and is proposing a temporary suspension of the compliance requirements.

Requiring compliance could cause possible economic disruption due to fuel switching by CEI from high sulfur to low sulfur coal. Fuel switching could affect the employment of miners and could disrupt Ohio coal production. The resulting economic dislocation in the mining areas of Ohio would be unwarranted in light of the fact that compliance with existing limitations would have no benefits if the limitations are revised as proposed. Thus for the above reasons USEPA is proposing a temporary suspension of the Oct. 19 compliance date. Final promulgation of this revision will follow analysis of the comments. Comments are being solicited during this 15 day comment period.

Note.—The USEPA has determined that this document is not a significant regulation and does not require preparation of regulatory analysis under Executive order 12044.

(42 U.S.C. 7410)

John McGuire,

Regional Administrator, Region V.

October 4, 1979.

[FR Doc. 79-31857 Filed 10-11-79; 3:46 pm]

BILLING CODE 6560-01-M

GENERAL SERVICES ADMINISTRATION

Transportation and Public Utilities Service

41 CFR Part 101-40

Proposed Changes to Part 101-40, Transportation and Traffic Management

AGENCY: Transportation and Public Utilities Service, General Services Administration.

ACTION: Proposed rule.

SUMMARY: GSA proposes certain changes in existing policies and procedures in the area of transportation and traffic management. This proposed regulation also contains new procedures whereby commercial transportation companies (carriers) that do not provide adequate service to GSA or other civilian executive agencies, after sufficient notice and an opportunity to correct service deficiencies, may be disqualified from participation in that

agency's shipments. The names of the GSA offices are identified where assistance and guidance may be obtained concerning employee travel and relocation allowances and other transportation related problems. These actions are taken to enable GSA to more effectively carry out its responsibilities as the traffic manager for civilian executive agencies.

DATE: Comments must be received by: November 14, 1979.

ADDRESSES: Comments should be addressed to: General Services Administration (TT), Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: John B. Millington, Traffic Programs Branch, Transportation and Public Utilities Service, General Services Administration, Washington, DC 20406 (703-557-1865).

SUPPLEMENTARY INFORMATION: Background on this proposed rule is as follows:

a. The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471), established the General Services Administration (GSA). Section 201 of the act details GSA's transportation and traffic management responsibilities, which include: (1) Prescribing policies and methods of procurement and supply of personal property and nonpersonal services, including related functions such as transportation and traffic management, (2) representing executive agencies in negotiations with carriers and other public utilities and in proceedings invloving carriers or other public utilities before Federal and State regulatory bodies, and (3) providing traffic management services to any Federal agency upon its request.

b. The Transportation and Public Utilities Service (formerly part of the Federal Supply Service, GSA), is responsible for, among other things, providing traffic management guidance to civilian executive agencies including their various components such as GSA, Federal Supply Service. In this connection, Subpart 101-40.1, General Provisions, and Subpart 101-40.3, Freight Rates, Routes, and Services, are revised to clarify, update, or change GSA's transportation and traffic management policies and procedures.

c. A new Subpart 101-40.4, Disqualification and Suspension of Carriers, is added to establish GSA policy and procedures governing the disqualification and suspension of commercial carriers from participation in the movement of freight, household goods, and passengers routed by GSA. Inadequate performance of transportation services by commercial carriers is a continuing problem confronting GSA and other Federal agencies for which GSA routes freight and passenger traffic. Carrier overbooking, improper routing, poor transit times, and excessive damage result in unnecessary inconvenience, program delays, and administrative expense to the Government. Furthermore, in instances involving the movement of household goods, circumstances, such as last-minute cancellations by van carriers and/or late and incomplete deliveries cause undue hardship for transferred Federal employees and their families. This subpart (1) establishes policies and procedures for the disqualification by GSA of carriers that, among other things, repeatedly fail to satisfactorily perform under tariffs, tenders of service, bills of lading, and similar arrangements, (2) contains provisions that ensure that carriers suspended from participation in GSA or agency traffic have the opportunity to present evidence or information opposing the proposed disqualifications as well as the right to appeal adverse determinations; (3) prescribes policies and procedures for the temporary suspension of carriers suspected, on the basis of adequate evidence, of engaging in criminal, fraudulent, or improper conduct; and (4) contains procedures that permit other civilian executive agencies including GSA, Federal Supply Service to temporarily suspend carriers from participating in shipments from that agency for service-related discrepancies.

Explanations of changes are as follows:

a. Section 101-40.000 is revised to more accurately reflect the scope of Part 101-40.

b. Subpart 101-40.1 is amended as follows:

(1) Section 101-40.101-1 is added to specify the GSA offices that will furnish freight and passenger transportation and traffic management assistance to executive agencies.

(2) Section 101—40.101-2 is added to announce a continuing GSA transportation and traffic management liaison program with executive agencies.

(3) Section 101-40.102 is revised to more clearly define the information needed by GSA when representation concerning transportation-related matters is requested in behalf of executive agencies.

(4) Section 101-40.103-1 is revised for clarity.

(5) Section 101-40.103-2 is revised to change the section title and to specify that a U.S.-flag certificated air carriers generally must be used, if available, for international air transportation of freight or passengers.

(6) Section 101-40.105 is amended to delete the phrase "and when their use will result in substantial economies." Since "substantial economies" is subject to an indefinite interpretation.

(7) Section 101-40.106 is revised to indicate the GSA office that shall receive agency transportation reports.

(8) Section 101-40.108 is revised to change the section title and to make minor editorial changes.

(9) Section 101-40.109-1 is amended to specify that the Transportation and Public Utilities Service, GSA, will enter into and establish transportation-related term contracts.

(10) Section 101-40.109-2 is revised to require each agency to contact GSA when they anticipate an office relocation, regardless of dollar amount. GSA will enter into a specific moving contract or other appropriate method for the office relocation.

(11) Section 101-40.109-3 is revised to clarify the mandatory use of GSA contracts for transportation-related services, including office relocations.

(12) Section 101-40.110 is revised to change the section title and to add minority business enterprises as a category of business that shall be considered in Government transportation programs.

(13) Section 101-40.111 is revised to specify the GSA offices that maintain freight and passenger tariffs.

(14) Section 101-40.112 is revised for clarity.

(15) Section 101-40.113 is added to specify GSA's responsibility for prescribing and promulgating employee travel and relocation allowances and to identify the offices that will respond to agency suggestions or questions.

c. Subpart 101-40.3 is revised as follows:

(1) Section 101-40.301 is revised (a) to require agencies to obtain rate or route information from the Transportation and Public Utilities Office, GSA, for (i) surface shipments in excess of 10,000 pounds, including shipments that occupy the full visible capacity of rail cars and intercity motor vehicles, (ii) air shipments in excess of 1,000 pounds, and (iii) all household goods shipments; and (b) to indicate the correct title of GSA Form 420, Freight Rate and Route Request/Response.

(2) Section 101-40.302 is revised for clarity.

(3) Section 101-40.303 is revised to add the "most fuel efficient carrier" as a factor in the standard routing principle. This provision recognizes the impact of the fuel shortage and its relation to the routing of shipments.

(4) Section 101-40.303-1 is revised for clarity.

(5) Section 101-40.303-3 is retitled and new text added to include the most fuel efficient carrier or mode as a criteria for carrier selection.

(6) Section 101-40.303-4 is added to include the most fuel efficient carrier as a consideration for equitable distribution of freight among carriers.

(7) Section 101-40.304 is revised to indicate the Department of Transportation Hazardous Materials Regulations that shall be followed when shipments involve hazardous materials and to specify the GSA office that will provide freight descriptions.

(8) Section 101-40.305.1 is revised for clarity.

(9) Section 101-40.305-2 is amended to change the title of the section and to indicate the detailed information required by GSA to make cost analyses.

(10) Section 101-40.305-3 is amended to prescribe the conditions under which civilian executive agencies may negotiate with commercial carriers for transportation services.

(11) Sections 101-40.305-4 and 101-40.305-5 are reserved.

(12) Section 101-40.306 is amended to include relevant background information concerning rate tenders.

(13) Section 101-40.306-1 is revised to change the section heading and to make other editorial changes.

(14) Section 101-40.306-2 is revised by certain editorial changes.

(15) Section 101-40.306-3 is revised to reduce the number of rate tender copies required by GSA and to correct the designation of the GSA office that receives copies.

(16) Section 101-40.306-4 is reserved.

(17) Section 101-40.307, 101-40.307-1, and 101-40.307-2 are reserved.

d. Subpart 101-40.4 is added. (See the background paragraph for details).

e. Subpart 101-40.49 is amended as follows:

Section 101-40.4906-1 is revised to correct the title of and to illustrate GSA Form 420, Freight Rate and Route Request/Response, September 1977 edition.

Effects on other regulations are as follows:

a. *Centralized Household Goods Traffic Management.* The provisions of FPMR Temporary Regulation A-12 (43 FR 5436, February 8, 1978) will be incorporated into this proposed rule when it becomes final. Agencies were given the opportunity to comment on this temporary regulation. Their comments, as well as other changes in GSA policies and operating procedures, will be included as necessary.

b. *Rate Tenders to the Government.* In 43 FR 51817, November 7, 1978, GSA published a proposed rule entitled, "Rate Tenders to the Government," to amend FPMR 101-40.4906-2 with a revised format, "Uniform Tender of Rates and/or Charges for Transportation Services." Agency and commercial carrier comments on this proposed rule were requested and received. Changes to the rate tender format will be made as necessary. The new rate tender format will also be included when this proposed rule become final.

The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and therefore, is not significant for the purpose of Executive Order 12044. Accordingly, it is proposed to amend 41 CFR Part 101-40 as follows:

PART 101-40—TRANSPORTATION AND TRAFFIC MANAGEMENT

1. Section 101-40.000 is revised as follows:

§ 101-40.000 Scope of part.

This part prescribes regulations that apply to the freight and passenger transportation and traffic management activities of the civilian executive agencies. It also covers arrangements for transportation and related services by bill of lading type commitments. These regulations are designed to ensure that all transportation and traffic management activities will be carried out on the basis most advantageous to the Government in terms of economy, efficiency, and service.

Subpart 101-40.1—General Provisions

2. The table of contents for Subpart 101-40.1 is amended as follows:

Sec.

101-40.101-1 Freight and passenger transportation management assistance.
101-40.101-2 GSA transportation and traffic management liaison.
101-40.103-2 International transportation.
101-40.105 Use of Government-owned transportation equipment.
101-40.108 Transportation seminars and workshops.
101-40.109 Availability of transportation-related contracts and agreements.
101-40.109-1 Miscellaneous transportation-related contracts and agreements.
101-40.109-3 Mandatory use of transportation-related contracts and agreements.
101-40.110 Assistance to economically disadvantaged transportation business.
101-40.110-1 Small business assistance.
101-40.110-2 Minority business enterprises.
101-40.113 Employee travel and relocation allowances.

3. Sections 101-40.101-1 and 101-40.101-2 are added to read as follows:

§ 101-40.101 Transportation assistance.

§ 101-40.101-1 Freight and passenger transportation management assistance.

Executive agencies in the Metropolitan Washington, DC area without transportation officers or those in need of assistance concerning freight and passenger transportation management matters shall request assistance from the Transportation and Public Utilities Service (WTT), General Services Administration, Washington, DC 20407. Agencies located outside the Metropolitan Washington, D.C., area shall request assistance from the Transportation and Public Utilities Service, Transportation and Travel Management Division, located at the GSA regional office that normally provides supply support to the requesting agency.

101-40.101-2 GSA transportation and traffic management liaison.

GSA will maintain a continuing transportation and traffic management liaison program with the executive agencies to assist in the establishment, improvement, and maintenance of effective freight and passenger transportation and traffic management policies, practices, and procedures to meet executive agency program requirements.

4. Section 101-40.102 is revised as follows:

§ 101-40.102 Representation before regulatory bodies.

GSA, in behalf of executive agencies, will as it considers appropriate, institute formal or informal actions before Federal or State regulatory bodies with respect to carriers' tariffs, rates, or service matters. (See also § 101-40.305-1). Executive agencies shall submit their requests and recommendations for such actions to the appropriate GSA office specified in § 101-40.101-1. Agency requests for GSA representation shall be accompanied by all available supporting data that includes, but is not limited to such items as the following:

(a) The nature of the articles involved, including the exact commodity description, national stock number (NSN); if assigned, and estimated value of the articles, if known;

(b) The manner in which the commodity will be prepared for shipment; for example, boxes, crates, bundles, loose, set up or knocked down, or containerized or palletized unit loads;

(c) The points between which, or the geographic area within which, the material is expected to move; the type of

V 44 0 C 1 5 7 9 UMI

transportation sevice needed; and the expected duration of the proposed shipments;

(d) The approximate volume or average monthly tonnage of traffic. (Data submitted should show the total number, total weight, and average weight of carload, truckload, less-than-carload, and less-than-truckload, shipments to and from each point where service is required);

(e) Any characteristics of the proposed shipments that require special carrier equipment or services; for example, outsized items, refrigerated cargo, high value material, or hazardous materials, exclusive use, expedited service, extra labor, and inside pickup and/or delivery services;

(f) Any local conditions at the actual or tentative origins or destinations which would affect transportation; for example, if the Government installation or activity is not served directly by rail carriers, show the distance to the motor carrier's terminal or the railroad public team track loading or unloading facilities;

(g) Names of carriers presently serving each origin and/or destination;

(h) Any cost or service difficulties experienced with existing carriers and a statement explaining efforts made to correct the deficiencies or to resolve problems. (Copies of correspondence or other documents indicating failure to provide economic relief an/or satisfactory service should be attached);

(i) A list of existing carriers' rates or charges for the services involved, including references to the applicable tariffs or Government rate tenders. (Quotations under section 10721, 49 U.S.C. 10721, formerly section 22, of the Interstate Commerce Act;

(j) A statement indicating whether the desired carrier services require permanent, temporary, or limited operating authority;

(k) The tentative starting and ending dates of the proposed shipment(s).

(l) Details of any special request from a carrier for support of an application including any docket number, place and time of hearing(s), and a copy of the carrier application, if available; and

(m) The names of any individuals qualified to testify as to the foregoing information and as to other factual matters relating thereto.

5. Sections 101–40.103–1 and 101–40.103–2 are revised to read as follows:

§ 101-40.103 Selection of carriers.

§ 101-40.103-1 Domestic transportation.

Preferential treatment, normally, shall not be accorded to any mode of transportation (motor, rail, air, water) or to any particular carrier when arranging for domestic transportation service. However, where, for valid reasons, a particular mode of transportation or a particular carrier within that mode must be used to meet specific program requirements and/or limitations, only that mode or carrier shall be considered. Examples of valid reasons for considering only a particular mode or carrier are (a) where only a certain mode of transportation or individual carrier is able to provide the needed service or is able to meet the required delivery date; and (b) where the consignee's installation and related facilities preclude or are not conducive to service by all modes of transportation. (See also § 101–40.303–1)

§ 101-40.103-2 International transportation.

(See § 1–1.323 of this title and 4 CFR 52.2 for a certificate required in nonuse of U.S. flag vessels or U.S. flag certificated air carriers.)

(a) *U.S.-flag ocean carriers.* Arrangements for international ocean transportation services shall be made in accordance with the provisions of section 901(b) of the Merchant Marine Act of 1936, as amended (46 U.S.C. 1241(b)), concerning the use of privately owned U.S.-flag vessels. (See also § 5A–19.108 of this title for implementing policies and procedures followed by the General Services Administration.)

(b) *U.S.-flag certificated air carriers.* Arrangements for international air transportation services shall be made in accordance with the provisions of section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, dated January 3, 1975 (49 U.S.C.1517), which requires the use of U.S.-flag certificated air carriers for international travel of persons or property to the extent that service by these carriers is available.

4. Section 101–40.104 is republished without change.

§ 101-40.104 Insurance against transportation hazards.

The policy of the Govenment with respect to insurance of its property while in the possession of commercial carriers is set forth in § 1–19.107 of this title.

6. Section 101–40.105 is revised as follows:

§ 101-40.105 Use of Government owned transportation equipment.

Generally, the preferred method of transporting property for the Government is though use of the facilities and services of commercial carriers. However, Government vehicles may be used when they are available and are not being fully utilized. They may be used for such purposes as local transfer of property, pickup or delivery services which are not performed by the commercial carriers in connection with the line-haul transportation, transportation of property to meet emergencies, and accomplishment of program objectives which cannot be attained through use of commercial carriers.

7. Section 101–40.106 is revised as follows:

§ 101-40.106 Reports.

Each civilian executive agency shall submit reports concerning its transportation procedures, practices, and operations to the Transportation and Public Utilities Service (TT), General Services Administration, Washington, DC 20406, whenever so requested or as prescribed by this Part 101–40. The format of these reports shall be as prescribed in the individual sections of this subpart or as provided in each specific request.

8. Section 101–40.108 is revised as follows:

§ 101-40.108 Transportation seminars and workshops.

GSA will, from time to time, conduct transportation seminars and workshops for the benefit of executive agency personnel assigned functions relating to the movement of persons or materials. The objective of this training is to broaden traffic management knowledge and experience within the agency and to assist its personnel in making improvements leading to greater efficiency and economy of operations.

9. Section 101–40.109 is retitled and sections 101–40.109–1, 101–40.109–2 and 101–40.109–3 are revised as follows:

§ 101-40.109 Availability of transportation-related contracts and agreements.

§ 101-40.109-1 Miscellaneous transportation-related contracts and agreements.

(a) The Transportation and Public Utilities Service, General Services Adminstration, will, as considered necessary, enter into agreements or contracts for transportation and related servcies, including but not limited to stevedoring, passenger charters, storage, drayage, packing, marking, ocean freight forwarding, accessorial services, demurrage and weighing. (See 101–41.304–2 for the use of commercial forms and procedures in lieu of Government bills of lading.) These contracts and agreements will be made for an in behalf of all civilian executive agencies.

(b) The availability of these contracts and agreements will be announced through GSA bulletins which will outline the specific contractural services and the terms of the agreements. After distribution of these bulletins, GSA will furnish copies of the contracts and agreements to agencies upon request.

§ 101-40.109-2 Office relocation contracts.

(a) In accordance with the provisions of Part 101–17, Assignment and Utilization of Space, prior approval is required from the Public Buildings Service, GSA, for agencies desiring to relocate office space which has been assigned to GSA.

(b) The Transportation and Public Utilities Service, GSA, offices specified in § 101–40.301(b) will enter into term contracts for office relocations, estimated to cost $5,000 or less, in cities where it is determined that such contracts are warranted. On single office moves exceeding $5,000, GSA will arrange to contract for the required moving services under competitive bidding procedures. The availability of term contracts for office relocations will be announced through GSA bulletins as indicated in § 101–40.109–1(b).

(c) In cities where term contracts are not available and where a civilian executive agency anticipates an office relocation estimated to cost $500 or more, GSA shall enter into, in behalf of the agency, a specific relocation contract or other appropriate relocation arrangement. As soon as possible prior to the move, preferably 90 calendar days, the appropriate GSA office specified in § 101–40.301(b) shall be contacted and furnished with pertinent information concerning the proposed relocation such as, the origin, destination, moving date, property to be moved, and the agency relocation coordinator.

Note.—Arrangements for office relocations expected to cost less than $500 will be handled by the moving agency.

(d) Whether an office relocation is made under a GSA term moving contract or under a specific contract entered into by GSA in behalf of an individual agency, the agency being relocated shall make operational arrangements direct with the moving contractor. These arrangements shall include: (1) Issuing the purchase order or placing the work order; (2) arranging for direct billing; (3) making all operational arrangements; (4) supervising the actual moving; (5) processing loss and damage claims, if any; (6) providing certification on the contractor's invoices; and (7) processing the involice for direct payment to the contractor. The GSA contracting office shall be notified upon completion of the relocation.

§ 101-40.109-3 Mandatory use of transportation-related contracts and agreements.

(a) When a contract or agreement for transportation-related services, including office relocations, is awarded in response to an agency's specific request, the use of the contract or agreement is mandatory only upon that requesting agency.

(b) When term contracts or agreements for transportation-related services, including office relocations, are entered into and awarded by GSA for use "as required," the term contract or agreement is mandatory upon all executive agencies; however, exceptions to the mandatory use of term contracts or agreements may be granted by the appropriate GSA office cited in § 101–40.301(b).

10. Section 101–40.110 is retitled and revised as follows:

§ 101-40.110 Assistance to economically disadvantaged transportation businesses.

§ 101-40.110-1 Small business assistance.

Consistent with the policies of the Government with respect to small businesses as set forth in Subpart 1–1.7 of this title, executive agencies shall place with small business concerns a fair proportion of the total purchases and contracts for transportation and related services, such as packing and crating, loading and unloading, and local drayage.

§ 101-40.110-2 Minority business enterprises.

Consistent with the policies of the Government stated in Subpart 1–1.13 of this title, minority business enterprises shall have the maximum practicable opportunity to participate in the performance of Government contracts. Agencies shall identify transportation-related minority enterprises and encourage them to provide services that will support the agencies transportation requirements. The GSA offices cited in § 101–40.301(b) may be contacted for assistance, if needed.

11. Section 101–40.111 is revised as follows:

§ 101-40.111 Maintenance of tariff files.

(a) The Transportation and Public Utilities Services, National Capital Region (WTT), General Services Administration, Washington, DC 20407, shall maintain a master file of carrier tariffs covering all modes and methods of transportation commonly used by executive agencies located in the Metropolitan Washington, D.C., area. Each of the 11 other Transportation and Public Utilities Service, GSA regional offices will maintain a tariff file sufficient to meet the normal transportation requirement of the executive agencies located within the area of responsibility of the respective GSA regional office.

(b) Executive agencies may maintain only those tariffs necessary to meet their routine operational requirements. Agencies may use GSA tariff files to meet unsual or abnormal transportation needs; or, alternatively, may request GSA to furnish rates, freight or passenger routings, or other tariff information (See § 101–40.301 for use of GSA-furnished rates and routes.)

12. Section 101–40.112 is revised as follows:

§ 101-40.112 Transportation factors in the location of Government facilities.

(a) Transportation rate, charges, and commercial carrier transportation services shall be considered and evaluated prior to the selection of new site locations and during the planning and construction phases in the establishment of leased or relocated Government installations or facilities.

(b) If changes in the location, relocation or deactivation of Government installations or facilities are contemplated and will result in significant changes in the movement of property, executive agencies shall use the traffic management services of GSA to ensure that consideration is given to the various transportation factors that may be involved in this relocation or deactivation.

13. Section 101–40.113 is added as follows:

§ 101-40.113 Employee travel and relocation allowances.

The General Services Administration has the responsibility to prescribe and promulgate regulations governing employee travel and relocation allowances. These allowances are published in the Federal Travel Regulations and the Commuted Rate Schedule for Transportation of Household Goods. These regulations are incorporated by reference into Part 101–7. Amendments are made to these regulations from time to time as conditions warrant. Suggestions or questions concerning employee travel and relocation allowances may be addressed to the General Services Administration offices specified in § 101–40.301(b).

V 44 OC 15 79 UMI

Subpart 101-40.3—Freight Rates, Routes, and Services

14. The table of contents for Subpart 101-40.3 is amended as follows:

Sec.
101-40.303 Implementation of the standard routing principle.
101-40.303-3 Most fuel efficient carrier/mode.
101-40.303-4 Equitable distribution of traffic among carriers.
101-40.305 Transportation negotiations.
101-40.305-2 Cost analysis required on substantial movements.
101-40.305-3 Negotiations by other executive agencies.
101-40.305-4 Reserved.
101-40.305-5 Reserved.
101-40.306-1 Recommended rate tender format.
101-40.306-2 Required shipping documents and annotations.
101-40.307 Reserved.
101-40.307-1 Reserved.
101-40.307-2 Reserved.

15. Section 101-40.301 is revised as follows:

§ 101-40.301 GSA Rate and routing services.

(a) Executive agencies shall obtain rate and/or routing information from the appropriate GSA transportation office specified in § 101-40.301(b) when they have freight shipments that fall within the following categories:

Shipment Category and Shipment Weight
(1) Surface shipments (rail, motor, water) (See 101-40.305-3(a) for exemption)—10,000 pounds and over (including bulky shipments that occupy the full visible capacity of a railcar or intercity motor vehicle)
(2) Air shipments—1,000 pounds and over (3) Household goods shipments—All shipments, regardless of weight.

On shipments that are rated or routed by GSA, agencies shall furnish the necessary details concerning the shipment as far in advance of the proposed shipping date as possible. GSA Form 420,[1] Freight Rate and Route Request/Response (see § 101-40.4906-1) may be used for this purpose.

(b) Agencies within the Metropolitan Washington, DC area shall submit requests to the Transportation and Public Utilities Service (WTT), General Services Administration, Washington, DC 20407. Agencies outside the Washington, DC Metropolitan area shall request rate and route information form the Transportation and Public Utilities Service office located at the GSA region that normally provides supply support to the requesting agency. Agencies may telephone urgent requests to GSA. Replies will be made by telephone and confirmed upon request, by the use of GSA Form 420.

(c) Agencies are encouraged, but not required to request GSA-furnished rate or route information for their freight shipments that are less than the shipment weights specified in § 101-40.301(a).

16. Section 101-40.302 is revised as follows:

§ 101-40.302 Standard routing principle.

Shipments shall be routed using the mode of transportation, or individual carrier or carriers within the mode, that can provide the required service at the lowest overall delivered cost to the Government.

17. Section 101-40.303 is retitled and revised as follows:

§ 101-40.303 Application of the standard routing principle.

In the application of the standard routing principle, the major factors to be considered are, in the order of their importance, satisfactory carrier service, overall cost considerations, most fuel efficient carrier/mode, and equitable distribution of traffic among carriers.

18. Section 101-40.303-1 is revised as follows:

§ 101-40.303-1 Service requirements.

The following factors shall be considered in determining whether a carrier or mode of transportation can meet an agency's transportation service requirements for each individual shipment:

(a) Availability and suitability of carrier equipment;

(b) Carrier terminal facilities at origin and destination;

(c) Pickup and delivery service, if required;

(d) Availability of required or accessorial and special services, if needed;

(e) Estimated time in transit;

(f) Record of past performance of the carrier; and

(g) Availability and suitability of transit privileges.

19. Section 101-40.303-3 is retitled and new text added as follows:

§ 101-40.303-3 Most fuel efficient carrier/mode.

When more than one mode, or more than one carrier within a mode, can satisfy the service requirements of a specific shipment at the same lowest aggregate delivered cost, the carrier/mode determined to be the most fuel efficient will be selected. In determining the most fuel efficient carrier/mode, consideration will be given to such factors as use of the carrier's equipment in "turn around" service, proximity of carrier equipment to the shipping activity, and ability of carriers to provide the most direct service to the destination points.

20. Section 101-40.303-4 is added as follows:

§ 101-40.303-4 Equitable distribution of traffic among carriers.

When more than one mode of transportation, or more than one carrier within a mode, can provide equally satisfactory service at the same overall cost and all modes are equally the most fuel efficient, the traffic shall be distributed as equally as practicable among the modes and among the carriers within the modes.

21. Section 101-40.304 is revised as follows:

§ 101-40.304 Description of property for shipment.

(a) Each shipment shall be described on the bill of lading or other shipping document as specified by the governing freight classification, carrier's tariff, or rate tender. Shipments shall be described as specifically as possible. Trade names such as "Foamite" or "Formica" or general terms such as "vehicles," "furniture," or "Government supplies," shall not be used as bill of lading descriptions.

(b) A shipment containing hazardous materials, such as explosives, flammable liquids, flammable solids, oxidizers, or poison A or poison B, shall be prepared for shipment and described on bills of lading or other shipping documents in accordance with the Department of Transportation Hazardous Materials Regulations, 49 CFR Parts 170 through 177.

(c) Agency requests for specific freight descriptions shall be submitted to the appropriate Transportation and Public Services Utilities Service office as listed in § 101-40.301(b).

22. Section 101-40.305 is retitled as follows:

§ 101-40.305 Transportation negotiations.

* * * * *

23. Sections 101-40.305-1, 101-40.305-2, and 101-40.305-3 are revised as follows:

§ 101-40.305-1 Negotiations by GSA.

Except as provided in § 101-40.305-3, GSA will conduct all transportation negotiations for civilian executive agencies to establish or modify rates, fares, charges, ratings, and services and rules or regulations pertaining thereto.

§ 101-40.305-2 Cost analysis required on substantial movements.

Except as provided in § 101-40.305-3, civilian executive agencies shall submit to the appropriate GSA regional Transportation and Public Utilities Service office as listed in § 101-40.301(b), complete information concerning planned transportation so that a cost analysis may be made to determine whether negotiation is appropriate. This information should be submitted as far in advance of the planned transportation as possible. The information supplied shall be detailed and include but not be limited to the number of individuals traveling, property characteristics (i.e., those requiring shipment in bags, boxes or bulk; hazardous properties; weight; dimension; density; value; and susceptibility to damage), origin, destination, number of shipments, weight per shipment, and the planned shipping schedule. The provisions of this subsection shall apply to all transportation payable by the Government.

§ 101-40.305-3 Negotiations by other executive agencies.

Except for the transportation of an employee's personal household goods and the relocation of offices, the civilian executive agencies are authorized to initiate and conduct negotiations on their own behalf under the following conditions:

(a) When the total planned quantity of property to be shipped does not exceed 100,000 pounds.

Note.—Agencies making surface shipments under agency-negotiated rates are exempt from obtaining GSA rate and routing information as required in § 101-40.301(a)(1).

(b) When planned group travel, under Standard Form 1169, U.S. Government Transportation Request, consists of fewer than 25 individuals traveling at one time.

(c) When the planned shipment is less than that which would require the assessment of carload or truckload rates.

(d) When approval to negotiate is granted by General Services Administration (TT), Washington, D.C. 20406, or the appropriate GSA regional Transportation and Public Utilities Office.

Note.—Nothing in this § 101-40.305-3 prohibits civilian executive agencies from seeking GSA assistance in negotiations.

§§ 101-40.305-4 and 101-40.305-5 [Reserved].

24. Sections 101-40.305-4 and 101-40.305-5 are reserved.

25. Section 101-40.306 is revised as follows:

§ 101-40.306 Rate tenders to the Government.

Under the provisions of section 10721 (formerly section 22) of the Interstate Commerce Act (49 U.S.C. 10721), common carriers are permitted to submit to the Government tenders which contain rates lower than published tariff rates available to the general public. In addition, rate tenders may be applied to shipments other than those made by the Government provided the total benefits accrue to the Government; that is, provided the Government pays the charges or directly and completely reimburses the party that initially bears the freight charges (323 ICC 347 and 332 ICC 161).

26. Sections 101-40.306-1, 101-40.306-2, 101-40.306-3 are revised as follows:

§ 101-40.306-1 Recommended rate tender format.

Only those rate tenders which have been submitted by the carriers in writing and which apply to shipments of the U.S. Government shall be considered for use by executive agencies. Carriers should be encouraged to use the format "Uniform Tender of Rates and/or Charges for Transportation Services" illustrated in § 101-40.4906-2 when preparing and submitting rate tenders to the Government. Rate tenders that are ambiguous in meaning shall be resolved in favor of the Government; therefore, explicit terms and conditions are necessary to preclude misunderstandings by the parties to the rate tender.

§ 101-40.306-2 Required shipping documents and annotations.

(a) To qualify for transportation under section 10721 rates, property must be shipped by or for the Government on:

(1) Government bills of lading;

(2) Commercial bills of lading endorsed to show that these bills of lading are to be converted to Government bills of lading after delivery to the consignee;

(3) Commercial bills of lading showing that the Government is either the consignor or the consignee and endorsed with the following statement:

"Transportation hereunder is for the (name the specific agency, such as the General Services Administration) and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are assignable to, and are to be reimbursed by, the Government."

(b) When a rate tender is used for transportation furnished under a cost-reimburseable contract, the following endorsement shall be used on covering commercial bills of lading:

"Transportation hereunder is for the (name the specific agency, such as the General Services Administration) and the actual total transportation charges paid to the carrier(s) by the consignor or consignee are to be reimbursed by the Government, pursuant to cost-reimbursable contract number ( ). This may be confirmed by contacting the agency representative at (name and telephone number)." (See 332 ICC 161.)

(c) To ensure proper application of a Government rate tender on all shipments qualifying for their use, the issuing officer shall show on the bills of lading covering such shipments the applicable rate tender number and carrier identification; such as, "Section 10721 tender, ABC Transportation Company, ICC No. 374." In addition, if commercial bills of lading are used, they shall be endorsed as specified in §§ 101-40.306-2(a) or 101-40.306-2(b), as necessary.

§ 101-40.306-3 Distribution.

Each agency receiving rate tenders shall promptly submit one signed copy to the Transportation and Public Utilities Service (WTT), General Services Administration, Washington, DC 20407. Also, two copies (including at least one signed copy) shall be promptly submitted to the General Services Administration (TA), Chester A. Arthur Building, Washington, DC 20406.

§§ 101-40.307, 101-40.307-1, and 101-40.307-2 [Reserved].

27. Sections 101-40.307, 101-40.307-1, and 101-40.307-2 are reserved.

Subpart 101-40.4—Disqualification and Suspension of Carriers

28. The table of contents for Subpart 101-40.4 and §§ 101-40.400 thru 101-40.404-2 are added as follows:

101-40.400 Scope of subpart.
101-40.401 General.
101-40.402 Administrative disqualification of a carrier.
101-40.402-1 Causes and conditions for disqualification.
101-40.402-2 Disqualification procedures.
101-40.403 Suspension of a carrier.
101-40.403-1 Causes and conditions for suspension.
101-40.403-2 Period of suspension.
101-40.403-3 Restrictions during period of suspension.
101-40.403-4 Notice of suspension.
101-40.403-5 Review of suspension.
101-40.404 Temporary non-use of carriers.
101-40.404-1 Agency responsibility.
101-40.404-2 General Services Administration review.

§ 101-40.400 Scope of subpart.

This subpart prescribes policies and procedures governing the disqualification and suspension of carriers transporting freight, household goods, or passengers routed by GSA.

[1] Form filed as part of original document.

V 44 0 15 7 9 UMI

§ 101-40.401 General.

Disqualification and suspension are measures which GSA may take to exclude carriers from participation, for temporary periods of time, in the movement of GSA shipments under tariffs, tenders of service, commercial or Government bills of lading, and similar arrangements. To ensure that the Government derives the benefits of full and free competition of interested carriers, disqualification and suspension shall not apply for any period of time longer than necessary to protect the interests of the Government.

§ 101-40.402 Administrative disqualification of a carrier.

(a) GSA may, in the public interest, disqualify a carrier from participation in traffic routed by GSA for any of the causes and under any of the conditions set forth in § 101-40.402-1.

(b) GSA, TPUS regional offices and other civilian executive agency may place a carrier in a temporary nonuse status for a maximum period of 30 calendar days as provided in § 101-40.404 if its experience with a particular carrier indicates a need for this action.

§ 101-40.402-1 Causes and conditions for disqualification.

The causes and conditions for which a carrier may be disqualified by GSA are set forth in paragraphs (a) through (g) of this § 101-40.402-1.

(a) Willful violations of the terms of the tariffs, tenders of service, commercial or Government bills of lading, or similar arrangements determining the relationship of the parties.

(b) A record of failure to perform or of unsatisfactory performance in accordance with the terms of tariffs, tenders of service, commercial or Government bills of lading, or similar arrangements determining the relationship of the parties. Failure to perform or unsatisfactory performance includes but is not limited to the following:

(1) Failure to meet requested packing/pickup dates;

(2) Deliveries exceeding time-in-transit standards when established by the Government; e.g., the General Services Administration household goods tender of service and transit times established for shipments from Federal Supply Service supply distribution facilities;

(3) Failure to meet required delivery dates on Government or commercial bills of lading;

(4) Failure to furnish adequate equipment;

(5) Use of inadequate or unsafe equipment;

(6) Violation of Department of Transportation (DOT) Hazardous Materials regulations;

(7) Mishandling of freight; e.g., damaged or missing transportation seals or improper loading, blocking, packing, or bracing;

(8) Excessive loss or damage;

(9) Improper routing;

(10) Failure to pay just debts so as to subject Government shipments to possible frustration, unlawful seizure, or detention;

(11) Failure to maintain insurance coverage;

(12) Expiration of carrier exemption, permit, or authority;

(13) Failure to promptly settle claims; and

(14) Repeated failure to comply with the regulations of DOT, the Interstate Commerce Commission, or State and local governments; or repeated failure to comply with any other applicable Government regulations.

(c) A conviction for commission of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract, or subcontract thereunder, or as an incident to performing such contract or subcontract;

(d) A conviction under the Organized Crime Control Act of 1970 or a conviction of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a carrier of Government property.

(e) A conviction under the Federal antitrust statutes arising out of the submission of bids or proposals.

(f) Inclusion in a list issued by the Comptroller General (as provided in Part 5, section 56(b) of the regulations issued by the Secretary of Labor under the authority of Reorganization Plan 14 of 1950) as found by the Secretary of Labor to be in aggravated or willful violation of the prevailing wage or overtime pay provisions of applicable regulations or statutes;

(g) A finding by the Director, Office of Federal Contract Compliance, Department of Labor, of noncompliance with the provisions of the Equal Employment Opportunity Clause; and

(h) Any other cause or condition of a serious or compelling nature affecting the present responsibility as a carrier of Government property.

§ 101-40.402-2 Disqualification procedures.

(a) *Disqualification for periods of 90 calendar days or less.*

(1) *Determining official.* A determination to disqualify a carrier for 90 calendar days or less will be made by the following GSA official: Director, Transportation Management Division, Office of Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TTM), Washington, DC 20406.

(2) *Notice of proposed disqualification.* GSA will, by certified mail, with return receipt requested, forward to the carrier and, if appropriate, to the carrier's known affiliates, a notice of proposed disqualification which will state:

(i) That disqualification is being considered;

(ii) The reasons that disqualification is being considered;

(iii) The proposed period of disqualification;

(iv) The period of time afforded to the carrier to present information refuting the proposed disqualification (This period of time will be limited to 10 calendar days from the date the carrier receives the notice. The carrier may, within that 10 calendar day period request the Director, Transportation Management Division, to grant additional time for presenting refuted information.); and

(v) That the carrier will not be used for GSA shipments pending a disqualification determination.

(3) *Carrier presentation of information.* The carrier may present information refuting the proposed disqualification in writing, in person, or through representation, to the Director, Transportation Management Division.

(4) *Disqualification determination.*

(i) If, in accordance with the provisions of this § 101-40.402-2(a), the carrier presents data refuting the proposed disqualification, the determination whether to disqualify the carrier will be made within 20 calendar days after receipt of that data.

(ii) If, within the time period specified in the initial notice of proposed disqualification, the carrier neither refutes the information nor requests additional time to present this information, the determination whether to disqualify the carrier will be made within 20 calendar days from the date the carrier receives the initial notice of proposed disqualification.

(5) *Carrier notification of disqualification determination.* GSA will notify the carrier by certified mail, with return receipt requested, whether or not the disqualification will apply. If the disqualification applies, the notice will specify the reasons for the disqualification as well as the period of disqualification.

(6) *Period of disqualification.* A period of disqualification for 90 calendar days or less shall begin on the first day following the date on which the carrier receives the notice of proposed disqualification.

(7) *Request for review of determination.* A carrier may request that a review of a determination to disqualify for 90 calendar days or less be made by the Assistant Commissioner, Office of Transportation and Travel Management, Transportation and Public Utilities Service, GSA. The request for review shall be forwarded to the General Services Administration (TT), Washington, DC 20406, within 10 calendar days after receipt of the disqualification notice. The Assistant Commissioner, Office of Transportation and Travel Management shall issue a determination within 20 calendar days after receipt of the carrier's request. The carrier will be notified of this determination by certified mail with return receipt requested. The determination of the Assistant Commissioner, Office of Transportation and Travel Management shall be administratively final.

(b) *Disqualification for periods of more than 90 calendar days.*

(1) *Determining official.* A determination to disqualify a carrier, for more than 90 calendar days will be made by the following GSA official: Assistant Commissioner, Office of Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TT), Washington, DC 20406.

(2) *Notice of proposed disqualification.* GSA will, by certified mail, with return receipt requested, forward to the carrier and, if appropriate, to the carrier's known affiliates, a notice of proposed disqualification which will state:

(i) That disqualification is being considered;

(ii) The reasons that disqualification is being considered;

(iii) The proposed period of disqualification;

(iv) The period of time afforded to the carrier to present information refuting the proposed disqualification (This period of time will be limited to 20 calendar days from the date the carrier receives the notice. The carrier may, within that 20 calendar day period request the Assistant Commissioner, Office of Transportation and Travel Management to grant additional time for presenting refuted information.); and

(v) That the carrier will not be used for GSA shipments pending disqualification determination.

(3) *Carrier presentation of information.* The carrier may present information refuting the proposed disqualification in writing, in person, or through representation, to the Assistant Commissioner, Office of Transportation and Travel Management.

(4) *Disqualification determination.*

(i) If, in accordance with the provisions of this § 101-40.402-2(b), the carrier presents data refuting the proposed disqualification, the determination whether to disqualify the carrier will be made within 30 calendar days after receipt of that data.

(ii) If, within the time period specified in the notice of proposed disqualification, the carrier neither refutes the information nor requests additional time to present this information, the determination whether to disqualify the carrier will be made within 30 calendar days from the date the carrier receives the notice of proposed disqualification.

(5) *Carrier notification of disqualification determination.* GSA will notify the carrier by certified mail, with return receipt requested, whether or not the disqualification will apply. If the disqualification applies, the notice will specify the reasons for the disqualification as well as the period of disqualification.

(6) *Period of disqualification.*

(i) A period of disqualification for more than 90 calendar days shall begin on the first day following the date on which the carrier receives the notice of proposed disqualification.

(ii) A disqualification under this § 101-40.402-2(b) for causes other than failure to comply with the provisions of the Equal Employment Opportunity clause will be for a reasonable, specified period of time commensurate with the seriousness of the offense or the failure or inadequacy of performance. As a general rule, a period of disqualification will not exceed 3 years. If determined necessary to extend a period of disqualification, GSA will forward a new notice of proposed disqualification in accordance with § 101-40.402-2(b)(2) on or about the expiration date of the disqualification period. Notifications of extended periods of disqualifications will be handled in the same manner as initial periods of disqualifications.

(iii) A disqualification under this § 101-40.402-2(b) for failure to comply with the provisions of the Equal Employment Opportunity clause will generally continue until removed by the Director, Office of Federal Contract Compliance, Department of Labor.

(7) *Request for review of determination.* A carrier may request that a review of a determination to disqualify for more than 90 calendar days be made by the Commissioner, Transportation and Public Utilities Service (TPUS), GSA. The request for review shall be forwarded to the General Services Administration (T), Washington, DC 20406, within 10 calendar days after receipt of the disqualification notice. The Commissioner, TPUS, shall issue a determination within 30 calendar days after receipt of the carrier's request. The carrier will be notified of this determination by certified mail. The determination of the Commissioner, TPUS, shall be administratively final.

(8) *Application for relief from disqualification.* Except as precluded by statute, GSA may terminate or reduce the period of time of a disqualification on the basis of appropriate evidence that the causes and conditions for which the disqualification was imposed have been eliminated or corrected. A carrier may apply to the Assistant Commissioner, Office of Transportation and Travel Management, for the granting of relief from a disqualification at any time after receipt of the notice of disqualification. The application shall fully document the reasons for the requested relief, which may include but are not limited to the discovery of new material evidence, the reversal of a conviction, or the bona fide change of ownership or management. The Assistant Commissioner, Office of Transportation and Travel Management shall review the application and supporting documentation and notify the carrier of a determination by certified mail with return receipt requested.

§ 101-40.403 Suspension of a carrier.

Suspension is an action that GSA may take against a carrier which is suspected, on the basis of adequate evidence, of engaging in criminal, fraudulent, or seriously improper conduct. In determining whether the evidence merits invoking a suspension, GSA will consider the creditability of the evidence available, the existence or absence of corroboration as to important allegations, and the inferences which may be drawn from the existence or absence of affirmative facts. This assessment will include an examination of basic documents, such as contracts, inspection reports, and correspondence. A suspension may be modified whenever GSA determines that it is in the best interest of the Government to do so.

V 4 4 0 C 1 5 7 9 UMI

§ 101-40.403-1 Causes and conditions for suspension.

GSA may, in the interest of the Government, suspend a carrier from participation in traffic routed by GSA for the causes and under the conditions set forth in this § 101-40.403-1:

(a) Suspicion, based upon adequate evidence, of the following:

(1) Commission of fraud or a criminal offense either as an incident to obtaining or attempting to obtain a public contract or in the performance of a public contract;

(2) Violation of the Federal antitrust statutes arising out of the submission of bids or proposals; or

(3) Commission of an act in violation of the Organized Crime Control Act of 1970 or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty which seriously and directly affects the question of present responsibility as a carrier of Government property.

(b) Any cause of a serious and compelling nature affecting the responsibility or reliability of a carrier which, in the determination of GSA, warrants suspension. However, suspensions relating to matters involving the Equal Employment Opportunity clause shall be handled in accordance with regulations prescribed by the Secretary of Labor.

§ 101-40.403-2 Period of suspension.

Suspension is for a temporary period pending the completion of an investigation and any subsequent legal proceedings. If prosecution has not been initiated by the Department of Justice (DOJ) within 12 months from the issue date of a notice of suspension (see § 101-40.403-4), GSA will terminate the suspension unless DOJ requests continuance of the suspension. (GSA will notify DOJ of a proposed suspension termination 30 calendar days before expiration of the 12-month period.) If a continuation is requested, the suspension may remain in effect for an additional 6 months. However, no suspension shall continue beyond 18 months unless prosecution has been initiated within that period. If prosecution has been initiated, a suspension may continue until the legal proceedings are completed.

§ 101-40.403-3 Restrictions during period of suspension.

A suspended carrier will not be permitted to transport freight or passengers during the period of suspension, unless otherwise determined by GSA to be in the best interest of the Government.

§ 101-40.403-4 Notice of suspension.

A carrier that has been suspended by GSA will, by certified mail, with return receipt requested, be furnished with a notice of suspension issued by the following GSA official: Assistant Commissioner, Office of Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TT), Washington, DC 20406. The notice of suspension shall state that:

(a) The suspension is based on (1) an outstanding indictment or (2) adequate evidence that the carrier has committed irregularities which seriously reflect on the propriety of further dealings of the carrier with the Goverment (The notice will identify the indictment or describe the nature of the irregularities in general terms, without disclosing the Government's evidence.);

(b) The suspension is for a temporary period pending the completion of an investigation and any subsequent legal proceedings; and

(c) The carrier will be excluded from participating in the movement of GSA freight and passengers, unless otherwise determined by the Assistant Commissioner, Office of Transportation and Travel Management, to be in the best interest of the Government.

§ 101-40.403-5 Review of suspension.

(a) *Carrier request for review.* A carrier suspended by GSA may request that a review of the suspension action by made by the Commissioner, Transportation and Public Utilities Service, (TPUS), GSA, and that the carrier be provided an opportunity to present information refuting the suspension to the Commissioner, in person, in writing, or through representation. The request for review shall be forwarded to the General Services Administration (T), Washington, D.C. 20406.

(b) *Coordination with other Federal agencies.* Upon receipt of a request for a review, GSA will seek the advice of other interested Federal agencies as set forth below.

(1) *Coordination with Department of Justice (DOJ).* In all instances, GSA will solicit the formal advice of DOJ concerning the possible impact that the release of evidence could have on possible civil or criminal action against the carrier.

(2) *Coordination with the Department of Labor (DOL).* If the suspension is based upon violations of labor standards subject to legal proceedings before administrative law judges of DOL, GSA will solicit the formal advice of DOL concerning the possible impact that the release of evidence could have on possible DOL proceedings against the carrier.

(c) *Response to carrier request for review.* GSA's decision on whether to grant the requested review will be based on the advice received from DOJ or DOL as to the possible effects of the release or disclosure of Government evidence. The Commissioner, TPUS, GSA, shall notify the carrier of this decision by certified mail with return receipt requested. If a review is granted, GSA will, as necessary, determine the extent of the review and the conditions under which the review will be conducted and the carrier will be so notified. If a review is denied, the carrier will be notified that the release or disclosure of evidence which would occur as the result of a review would be prejudicial to the interests of the Government but that the carrier may, nevertheless, present any information refuting the suspension action to the Commissioner, TPUS, GSA.

(d) *GSA determination and carrier notification.* GSA will determine whether to continue or terminate the suspension following a review of the suspension action and/or consideration of information presented by the carrier to refute the suspension. The Commissioner, TPUS, GSA, shall notify the carrier of this determination by certified mail with return receipt requested.

§ 101-40.404 Temporary nonuse of carriers.

Civilian executive agencies, including GSA, TPUS offices, may place carriers that serve the agency in a temporary nonuse status for a maximum period of 30 calendar days when they do not show a willingness or ability to meet the transportation service requirements of the agency. (Consecutive 30 calendar day nonuse periods shall require advance approval by GSA and shall not be used to avoid the procedures and requirements of § 101-40.402.) An agency shall not apply temporary nonuse actions against a carrier for a violation made by that same carrier in serving another agency. Compliance with applicable laws and regulations which preclude arbitrary and capricious actions, among other things, rests upon the agency placing a carrier in this status.

§ 101-40.404-1 Agency responsibility.

(a) Agencies placing a particular carrier in a temporary nonuse status shall fully document that action with specific instances of carrier nonperformance which may include but are not limited to the causes and conditions set forth in § 101-40.402-1. The documentation shall also include information showing that the carrier was provided with prior notices of service deficiencies and was afforded a reasonable opportunity to correct or explain these deficiencies.

(b) The carrier shall, by certified mail, with return receipt requested, be notified by the agency concerning the 30 calendar day temporary nonuse status. This notice shall include:

(i) The starting and ending dates of the nonuse period;

(ii) The reasons for placing the carrier in a temporary nonuse status;

(iii) The corrective actions that may be taken by the carrier for reinstatement;

(iv) The time period of 10 calendar days during which the carrier may present information refuting the temporary nonuse status; and

(v) A notice that the carrier shall not be used by the agency pending a temporary nonuse determination. (An agency determination whether to place a carrier in a nonuse status shall be made within 20 calendar days from the date the carrier receives the initial notice; however, if the carrier presents information refuting the agency's action, the date of the latter action would apply.)

(c) The agency shall review the carrier's reply if any, and shall prepare a response according to the facts presented. Except for the GSA review as provided in § 101-40.404-2, the agency's decision is administratively final.

(d) Copies of the carrier notification of temporary nonuse status and supporting documentation shall be forwarded immediately to GSA. The agency shall also furnish a recommendation for further disqualification, if considered necessary. The notice shall be addressed to: Director, Transportation Management Division, Office of Transportation and Travel Management, Transportation and Public Utilities Service, General Services Administration (TTM), Washington, DC 20406.

§ 101-40.404-2 General Services Administration review.

Upon receipt of the agency's recommendations and supporting documentation, GSA will determine if the data is adequate and sufficient to support the agency's temporary nonuse or diqualification of the carrier. GSA will advise the agency, based on the review of the data received, whether:

(a) The temporary nonuse status for the particular carrier is justified; if not, GSA will instruct the agency to reinstate the carrier; or

(b) Further action toward disqualification is warranted. GSA will initiate appropriate actions in accordance with the provisions of this Subpart 101-40.4.

Subpart 101-40.49—Forms, Formats, and Agreements

29. Section 101-40.4906-1 is revised as follows:

§ 101-40.4906-1 GSA Form 420, Freight Rate and Route Request/Response.

Note.—The form illustrated in § 101-40.4906-1 is filed as part of the original document.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

Dated: October 5, 1979.

Allan W. Beres,

Commissioner, Transportation and Public Utilities Service.

[FR Doc. 79-31664 Filed 10-12-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Foreign Fishing Vessels; Fee Schedule for Calendar Year 1980

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Publication of proposed amendments to foreign fishing regulations.

SUMMARY: This document sets forth proposed revisions to the fee schedule for the calendar year 1980 for fishing by foreign vessels in fisheries under the exclusive fishery management authority of the United States. This amendment also proposes that vessel fees which must be paid by the owner or operator of any foreign fishing vessel be paid when permit applications are made. In addition, a 90-day time limit for requesting poundage fee refunds is proposed. Foreign nations also would be required to submit an Effort Plan, which would estimate their projected effort in vessel days for harvesting each allocation.

DATE: Written comments may be submitted until November 16, 1979. Comments should be sent to: Mr. Denton R. Moore, Acting Chief, Permits and Regulations Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone: (202) 634-7432.

FOR FURTHER INFORMATION CONTACT: Mr. Denton R. Moore (see above).

SUPPLEMENTARY INFORMATION: Section 201(d) of the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 *et seq.*, as amended, (the Act), provides that foreign fishermen may be allowed to fish for "* * * that portion of the optimum yield of a fishery which will not be harvested by vessels of the United States * * *." Section 204(b)(10) of the Act further provides that reasonable fees shall be paid by the owner or operator of any foreign fishing vessel for which a permit is issued. Fishing vessels are defined by section 3(11) of the Act to include several types of vessels in addition to those actually engaged in harvesting fish. These include any vessel "* * * aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing." Section 204(b)(10) of the Act further provides, in part: "In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement." The schedule of fees was codified as 50 CFR 611.22 on May 4, 1978 (43 FR 19232). This amendment would amend, among other things, the 1979 fee schedule which was published in the **Federal Register** on December 19, 1978 (43 FR 59292).

Proposed Amendments

Fee Schedule

The 1977-1979 fee schedules included fee charges for foreign fishing permits and for the poundage of each allocated species. This proposed 1980 fee schedule does not change the method for determining poundage fees although the poundage fee system is under review. Ex-vessel values on which the 1980 poundate fees are based have been updated to reflect the most current data available to NMFS. Ex-vessel values used in prior years often were derived from data which were 18 months old when those schedules became effective.

A change in the permit fee procedure is being proposed. In the past, the number of vessel applications submitted, and processed by NMFS and the Councils has been nearly double the number of permits actually paid for. This practice is wasteful of administrative costs and Council time. Consequently, under this proposal, permit applications received after January 15, 1980, would not be accepted unless accompanied by the appropriate

V 44 0 C 1 5 7 9 UMI

permit fees. Applications in the system, whether approved or not, will be cancelled on January 15, 1980, unless the appropriate permit fees have been paid. NOAA expects that this requirement of advance payment of permit fees will urge foreign nations to be more judicious in the number of permit applications submitted. Fees would be refunded only if the applications were not approved, or were withdrawn before January 15, 1980. The amount of the fees would be the same as in 1979.

Effort Plan

It is also proposed that foreign nations submit a 1980 Effort Plan for each directed fishery in which allocations are received. The purpose of the Effort Plan, which will estimate catch per vessel per day, is to give NOAA and the Regional Fishery Management Councils an estimate of the number of foreign fishing vessels that will fish at different areas and times of the year. The Effort Plans also will assist NOAA In developing options for a new fee schedule, which might be based on fishing days instead of poundage allocations. Foreign nations will not be required to adhere to their Effort Plans.

Other Proposed Changes

It is proposed to delete the table of Total Allowable Level of Foreign Fishing (TALFF's) in section 611.20(c), and all references to it. This change is proposed because subsequent changes in TALFF's throughout the year invalidate the initial TALFF table. The frequency of the reserve releases and other operating shifts resulting in reallocations is almost a continuous process in some fisheries. Consequently, any published Table is obsolete almost as soon as it appears. Information on current TALFF's may be obtained from the appropriate NMFS Regional Director, or from the Chief, Permits and Regulations Division, NMFS.

It is proposed to amend 50 CFR Part 611 to honor requests for poundage fee refunds for fisheries which have been completed in each calendar year only for 90 days after the end of the calendar year in which the fishery was completed.

Note.—The implementation of these amendments by the Assistant Administrator for Fisheries does not constitute a major Federal action significantly affecting the quality of the human environment. The Assistant Administrator has determined that this action does not require the preparation of a regulatory analysis, nor does it meet the criteria of significance, under E.O. 12044.

Authority.—16 U.S.C. 1801 *et seq.*

Signed at Washington, D.C., this 11th day of October 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

It is proposed to amend 50 CFR 611 in the following manner:

§ 611.20 [Amended]

1. Delete subsection 611.20(c) and Table 1.

§ 611.21 [Amended]

2. Amend 611.21 by renumbering it as paragraph (a) and adding the following paragraph (b).

"(a) * * *

(b) *Effort Plan.* (1) After the Secretary of State notifies each foreign nation of its allocation or reallocation of target species, each such nation shall prepare and submit an Effort Plan to the Assistant Administrator for Fisheries, NOAA, Washington, D.C. 20235. *Provided,* however, that no Effort Plan need be prepared or submitted in those cases when the allocation or reallocation is less than 100 m.t. Such plans may be submitted as soon as possible after the commencement of fishing if adequate time to prepare the plan does not exist between the allocations or reallocations and the start of fishing. Effort plans must be submitted before 30 days after a corresponding allocation or reallocation however. The Effort Plan should define, for each vessel class, the range of vessel sizes, gear types, and catch rate per day fishing, and should specify the following information:

i. The number of vessels in each vessel class expected to be used in each directed fishery.

ii. The approximate time schedule for each fishery, including the number of fishing days and days on ground required to harvest the allocation or reallocation, based on catch rates in the U.S. fishery conservation zone to date.

iii. Factors which may cause a deviation from this plan.

(2) Nations will not be required to submit revised plans if, during actual fishing, it is necessary to deviate from the plan other than as the result of reallocations."

3. Amend 50 CFR 611.22 by deleting subsection (a)(1) and inserting the following:

§ 611.22 [Amended]

(a) * * *

(1) *Permit fees.* (i) The owner or operator of each foreign vessel applying for a permit under section 611.3 is required to pay a permit fee. Each vessel permit application submitted to the Department of State pursuant to section 611.3 shall be accompanied by the appropriate permit fee amount as specified in Table I of this section, unless otherwise provided in paragraph (1)(ii) of this section. In the case of vessels described in more than one category, the highest applicable fee will be charged. Permit fees will be refunded if the application is not approved or if the application is withdrawn prior to approval and permit issuance. On a case-by-case basis, the Assistant Administrator for Fisheries may allow the substitution of like vessels when the original vessel has become disabled or otherwise cannot participate in the fishery.

Table I

Vessel activity	Permit fee
Catching (activities described in § 611.2(r) (1) or (2)) with an applicable national allocation (per gross registered ton)	$1.00
Catching (activities described in § 611.2(r) (1) or (2)) without an applicable national allocation, i.e., a nonretention fishery (per vessel)	200.00
Processing (activities described in § 611.2(r)(3)(i) (per gross registered ton) (up to $2,500)	.50
Other support (activities described in § 611.2(r)(3) (ii) or (iii) (per vessel)	200.00

(ii) A nation may submit applications before January 15, 1980, without paying permit fees at the time of application. Permit fees must be paid on January 15, 1980, for all applications on file on that date. In addition, if a nation wishes to have a permit issued prior to January 15, 1980, the permit fee must be paid before issuance. For applications submitted on or after January 15, 1980, permit fees must be paid at the time of application.

§ 611.22 [Amended]

4. Amend section 611.22 (a)(2) by deleting the words "where U.S. landing data are available in 1977," and substituting the word "for" therefor.

5. Amend section 611.22(a)(3)(iii) by inserting after the word "application" the words "received by NMFS Washington, D.C. office not more than 90 days after the end of the calendar year".

6. Amend section 611.22 by striking paragraph (b) and substituting the following:

(a) * * *

(b) The following exvessel prices to be used for computing fees are based on U.S. commercial landings prices for the most recent available representative period, as noted:

Average Exvessel Values Per Metric Ton

[Values in dollars]

Species	Proposed 1980 values
Atlantic:	
Butterfish	[1] $927
Hake, red	[1] 315
Hake, silver	[1] 369
Herring, river	[1] 113
Mackerel, Atlantic	[1] 530
Other finfish	[1] 930
Sharks (except dogish)	[1] 1,091
Squid—*Illex*	[2] 176
Squid—*Loligo*	[2] 993
Pacific and North Pacific:	
Atka mackerel	[3] 394
Cod, Pacific	[4] 419
Crabs, Snow (tanner) *Opilio*	[4] 882
Flounders	[3] 397
Hake (Pacific whiting)	[5] 176
Herring, Sea-roeless	[4] 165
Herring, sea-w/roe	[4] 1,750
Jack mackerel	[5] 154
Ocean perch	[3] 397
Other groundfish	[4] 56
Pollock	[4] 176
Rockfishes	[3] 397
Sablefish-longline	[4] 1,543
Sablefish-trawl	[3] 576
Snails (meats)	[3] 1,657
Squid	[7] 1,814
Western Pacific:	
Dolphin	[7] 4,354
Other billfish	[7] 1,111
Seamount groundfish	[3] 397
Sharks (except dogfish)	[7] 825
Striped marlin	[7] 2,816
Swordfish	[7] 3,036
Wahoo	[7] 2968

[1] Maine, Massachusetts, Rhode Island, New York, New Jersey, and Virginia, U.S. landings—January–June 1979.
[2] U.S. landings, New York, January–June 1979.
[3] Prices in Japan, 1978.
[4] U.S. landings, Alaska, September 1979.
[5] U.S. landings, Washington, Oregon and California—September 1979.
[6] Based on price for U.S. landings of northern anchovy—September 12979.
[7] Hawaii landings, 1978.

Note.— No fees will be charged for rattails (grenadiers). This species is taken incidentally in the sablefish fishery. The species is of no commercial value, and is routinely discarded by U.S. and foreign fishermen.

§§ 611.22, 611.50, 611.60, 611.70, 611.80, 611,91, 611.92, 611.93, 611.94 [Amended]

It is proposed to amend section 611.22(d), 611.50(b)(3), 611.60(b)(2), 611.70(b)(1), 611.80(b)(2), 611.91(b)(2), 611.92(b)(1), 611.93(b)(2), and 611.94(b)(2) by deleting and reserving them.

[FR Doc. 79-31926 Filed 10-12-79; 8:45 am]
BILLING CODE 3510-22-M

V 44 0 C 15 7 9 UMI

Notices

Federal Register
Vol. 44, No. 200
Monday, October 15, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Agency Organization and Personnel; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Agency Organization and Personnel of the Administrative Conference of the United States, to be held at 10:00 a.m., Friday, November 2, 1979, in the library of the Administrative Conference, Suite 500, 2120 L Street, N.W., Washington, D.C.

The Committee will meet for further consideration of proposed recommendations from Professor Thomas Morgan on post-employment restrictions on former Federal employees and of Professor Michael Cardozo's report and proposed recommendations on experience under the Federal Advisory Committee Act.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least two days in advance of the meeting. The Committee Chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information, contact Richard K. Berg (202–254–7020). Minutes of the meeting will be available on request.

Richard K. Berg,
Executive Secretary.
October 9, 1979.
[FR Doc. 79–31724 Filed 10–12–79; 8:45 am]
BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of Transportation

Rural Transportation Advisory Task Force; Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advisory Task Force.

DATES: October 15, 1979, 1:30 p.m.; October 16, 1979, 9:00 a.m.; October 17, 1979, 9:00 a.m.

ADDRESS: October 15–17, 1979, O'Hare Airport Hilton, Chicago, Illinois.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway; and air transportation problems of agriculture. The Task Force has published its interim report including the identification of critical agricultural transportation issues. The Task Force has also held 12 regional public hearings. The Task Force has reviewed public comment received during regional hearings.

The purpose of this meeting is to continue discussion on final recommendations.

The public is invited to attend.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250. Phone: (202) 447–7690.

Dated: September 28, 1979.

Ron Schrader,
Director, Office of Transportation.
[FR Doc. 79–31760 Filed 10–12–79; 8:45 am]
BILLING CODE 3410–02–M

CIVIL AERONAUTICS BOARD

[Docket No. 36767]

Miami/New Orleans-San Jose, C.R. Case; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., October 9, 1979.

Joseph J. Saunders,
Chief Administrative Law Judge.
[FR Doc. 79–31761 Filed 10–12–79; 8:45 am]
BILLING CODE 6320–01–M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

Notice is hereby given that, during the week ended October 5, 1979 CAB has received the applications listed below, which request the issuance, amendment, or renewal of certificates of public convenience and necessity or foreign air carrier permits under Subpart Q of 14 CFR Part 302.

Answers to foreign permit applications are due 28 days after the application is filed. Answers to certificate applications requesting restriction removal are due within 14 days of the filing of the application. Answers to conforming applications in a restriction removal proceeding are due 28 days after the filing of the original application. Answers to certificate applications (other than restriction removals) are due 28 days after the filing of the application. Answers to conforming applications or those filed in conjunction with a motion to modify scope are due within 42 days after the original application was filed. If you are in doubt as to the type of application which has been filed, contact the applicant, the Bureau of Pricing and Domestic Aviation (in interstate and overseas cases) or the Bureau of International Aviation (in foreign air transportation cases).

Subpart Q Applications

Dated filed	Docket No.	Description
Oct. 5, 1979	36805	Texas International Airlines, Inc., P.O. Box 12788, Houston, Texas 77017. Application of Texas International Airlines, Inc. pursuant to Section 401(e)(7)(B) of the Act and Rule 1701(b) of Subpart Q of the Board's Rules of Practice for amendment of its Certificate of Public Convenience and Necessity for Route 82 to remove its one-stop restriction in the Houston-Tulsa market. Answers are due October 19, 1979.
See 44 FR 55618, September 27, 1979. Application should read:		
Sept. 18, 1979	36620	National Airlines, Inc. P.O. Box 592055, Airport Mail Facility, Miami, Florida 33159. Application of National Airlines, Inc. pursuant to Section 401 of the Act requesting a certificate of public convenience and necessity authorizing it to engage in nonstop scheduled air transportation of persons, property, and mail on a permissive basis in the following markets: "Between the terminal point Denver, Co., and the terminal point Sacramento, Ca. "Between the terminal point Denver, Co., and the terminal point Fresno, Ca. "Between the terminal point Sacramento, Ca., and the terminal point Fresno, Ca." Conforming applications and answers due October 15, 1979.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79–31762 Filed 10–12–79; 8:45 am]
BILLING CODE 6320–01–M

[Docket Nos. 32398 and 32682]

Supplemental Carrier Fill-Up Case; Application of American Airlines, Inc. for Certificate of Public Convenience and Necessity; Order Terminating Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of October, 1979.

By Order 78–4–50, dated April 11, 1978, the Board began an investigation to examine whether supplemental (now charter) air carriers should be given partial scheduled carrier authority to fill up empty seats on charter flights by selling "individually ticketed" seats to the public. The Board, by this investigation, was considering removing the regulatory restraints on charter carriers to allow them a better opportunity to compete with carriers that offer tours on their scheduled service.

On August 23, 1979, the Board adopted SPR–166 (44 FR 50824, August 30, 1979), permitting airlines to sell charter seats directly to the public. Prior to passage of the Airline Deregulation Act (P.L. 95–504) in 1978, direct air carriers, including charter carriers, were not allowed to make direct sales of charter seats. Charters had to be sold by tour operators, indirect air carriers unconnected with the direct air carrier.

Under the new direct sales regulations (14 CFR §§ 207.71, 208.501, 212.71, 214.61) a minimum contract size for the charter group is not required, but the charter participant contract must be signed by the charter passenger not later than 7 days before departure of the outbound flight. All of the charter consumer protection rules do apply to such charter sales (14 CFR Part 380). These are the only restrictions, however, on sales of charter seats directly by the airlines, including charter carriers.

Although SPR–166 does not literally give charter carriers authority to sell "individually ticketed" seats on charter flights, it does give them in effect the same ability to fill empty seats as was being examined in the Supplemental Fill-Up Case, since there is no minimum contract size for direct sales charters. The direct sales rules thus give all carriers the ability and flexibility to compete equally for charter business, and will further stimulate air transportation as a whole. The increased load factors available by use of direct sales should also exert some downward pressure on charter prices.

Since these results are the same as those considered in the Supplemental Fill-Up Case, we are terminating that proceeding.

In Docket 32682, American Airlines filed an application to carry fill-up individually ticketed traffic on its charter flights. On May 16, 1978, American filed a motion to consolidate its application with the Supplemental Fill-Up Case. The motion is granted. Docket 32682 is consolidated with Docket 32398 and included in its termination.

Accordingly, it is ordered that:

1. American's motion to consolidate its application in Docket 32682 with Docket 32398 is granted;

2. The investigation began by Order 78–4–50 in Docket 32398 is terminated.

The order shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.
[FR Doc. 79–31763 Filed 10–12–79; 8:45 am]
BILLING CODE 6320–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Gulf of Mexico Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to review status reports on development of fishery management plans; consider foreign fishing applications, if any; and conduct other fishery management business.

DATES: The meeting will convene on Wednesday, November 7, 1979, at 1:30 p.m.; reconvene on Thursday and Friday, November 8 & 9, 1979, at 8:30 a.m.; adjourning at 5 p.m. on all three days. The meeting is open to the public.

ADDRESSES: The meeting will take place in the Shag Daye Room of the Miami Springs Villas and King Inn Hotel, 500 Deer Run, Miami Springs, Florida.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: October 10, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.
[FR Doc. 79–31719 Filed 10–12–79; 8:45 am]
BILLING CODE 3510–22–M

Gulf of Mexico Fishery Management Council's; Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Gulf of Mexico Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Scientific and Statistical Committee (SSC) which will meet to review a draft Fishery Management Plan (FMP) on Reef Fish.

DATES: The meeting will convene Thursday, November 1, 1979, at 10 a.m.; reconvene on Friday, November 2, 1979, at 8 a.m.; adjourning at 5 p.m. on both days. The meeting is open to the public.

V 44 O C 15 7 9 UMI

ADDRESS: The meeting will take place in the Rex Room of the Quality Inn, 2610 Williams Boulevard, Kenner, Louisiana.

FOR FURTHER INFORMATION CONTACT: Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, Telephone: (813) 228–2815.

Dated: October 10, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-31718 Filed 10-12-79; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby give that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Dr. Howard Winn (P12D)
b. Address: Graduate School of Oceanography, University of Rhode Island, Kingston, Rhode Island 02881

2. Type of Permit: Scientific Research and Scientific Purposes

3. Name and Number of Animals:

humpback whales *(Megaptera novaeangliae)*: 75.
bowhead whale *(Balaena mysticetus)*; blue whale *(Balaenoptera musculus)*; gray whale *(Eschrichtius robustus)*; humpback whale *(Megaptera novaeangliae)*; right whale *(Balaena glacialis)*; southern right whale *(Balaena australis)*; sei whale *(Balaenoptera borealis)*; sperm whale *(Physeter catodon)*; fin whale *(Balaenoptera physalus)*; a total of 60.

4. Type of Take: 50 humpback whales may be subject to biopsy dart sampling. Specimen materials may be imported from 25 humpback whales found dead or taken in the aboriginal hunt in Bequia, British West Indies. 60 marine mammals including some endangered cetaceans may be potentially harassed during acoustical and underwater observations.

5. Location of Activity: Atlantic and Pacific Oceans, primarily in the West Indies.

6. Period of Activity: years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or request for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before November 14, 1979. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930;

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33720;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731;

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 01930; and

Regional Director, National Marine Fisheries Service, Alaska Region, Post Office Box 1668, Juneau, Alaska 99802.

Dated: October 10, 1979.

Richard B. Roe,

Deputy Director, National Marine Fisheries Service.

[FR Doc. 79-31766 Filed 10-12-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Level for Certain Man-Made Fiber Headwear From Taiwan

October 10, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Including man-made fiber headwear, wholly or in part of braid, in T.S.U.S.A. No. 703.0500 within the existing ceiling established for man-made fiber textile products in Category 659pt., produced or manufactured in Taiwan, and increasing that ceiling to 2,725,000 pounds for the twelve-month period which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1979 (FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843).)

SUMMARY: Under the terms of the bilateral textile agreement of June 8, 1978, as amended, concerning cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, agreement has been reached to include certain man-made fiber headwear in T.S.U.S.A. No. 703.0500 within the existing ceiling for Category 659(pt.) and increase that ceiling to 2,725,000 pounds during the agreement year which began on January 1, 1979 and extends through December 31, 1979.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: Shirley Hargrove, Trade and Industry Assistant, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On December 28, 1978, there was published in the **Federal Register** (43 FR 60633) a letter dated December 22, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established the levels of restraint applicable to certain specific categories of cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan and exported to the United States during the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the level of restraint established for Category 659pt. (only T.S.U.S.A. numbers 703.0500 and 703.1000) to 2,725,000 pounds. Imports in T.S.U.S.A. number 703.0500 during the January-August 1979 period have amounted to 1,341,896 pounds and will be charged.

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreement.

October 10, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: On December 22, 1978, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in certain specific categories, produced or manufactured in Taiwan and exported to the United States during the agreement year which began on January 1, 1978, in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973 as extended on December 15, 1977, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, concerning textile products, produced or manufactured in Taiwan; and in accordance with the provisions of Executive Order 11651 of March 3, 1971, as amended by Executive Order 11951 of January 6, 1977, you are directed to increase, effective on October 16, 1979, the level of restraint established in the directive of December 22, 1978 for Category 659pt., as follows:

Category	Adjusted 12-mo level of restraint[2]
659 (only T.S.U.S.A. Nos. 703.0500 & 703.1000.	2,725,000 pounds

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1978. Imports in T.S.U.S.A. number 703.0500 have amounted to 1,341,896 pounds during the period January-August 1979.

The action taken with respect to Taiwan and with respect to imports of man-made fiber textile products from Taiwan has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such action, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31739 Filed 10-12-79; 8:45 am]

BILLING CODE 3510-25-M

[2] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 8, 1978, as amended, which provide, in part, that: (1) within the aggregate and group limits, specific ceilings may be exceeded by designated percentages; (2) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

DEPARTMENT OF ENERGY

Bonneville Power Administration

Availability of Final EIS—Proposed 1979 Wholesale Rate Increase

Notice is hereby given that a Final Environmental Impact Statement, DOE/EIS–0031–F, Bonneville Power Administration (BPA), Proposed 1979 Wholesale Rate Increase has been issued pursuant to the Department of Energy's (DOE) implementation of the National Environmental Policy Act of 1979. The statement was prepared to assess the anticipated environmental impacts that may be associated with the adoption of BPA's proposed wholesale power rate increase on December 20, 1979. The draft of this statement was issued in August 1978.

Copies of the final Environmental Impact Statement are available for public inspection at designated Federal depositories (for locations, contact the Environmental Manager, BPA, P.O. Box 3621, Portland, Oregon 97208) and at DOE public document rooms located at:

Library, FOI—Public Reading Room GA152, Forrestal Building, 1000 Independence Ave. SW., Washington, D.C.
BPA, Washington, D.C. Office, Federal Building, Room 3352, 12th & Pennsylvania Ave. NW., Washington, D.C.
Library, BPA Headquarters, 1002 NE. Holladay Street, Portland, Oregon

And in the following BPA Area and District Offices:

Eugene District Office, U.S. Federal Building, 211 East 7th St., Room 206, Eugene, Oregon
Idaho Falls District Office, 531 Lomax Street, Idaho Falls, Idaho
Kalispell District Office, Highway 2 (East of Kalispell), Kalispell, Mont.
Portland Area Office, 919 NE. 19th Avenue, Room 210, Portland, Oregon
Seattle Area Office, 415 First Avenue North, Room 250, Seattle, Wash.
Spokane Area Office, U.S. Court House, Room 561, W. 920 Riverside Avenue, Spokane, Wash.
Walla Walla Area Office, West 101 Poplar, Walla Walla, Wash.
Wenatchee District Office, U.S. Federal Building, Room 314, 301 Yakima Street, Wenatchee, Wash.

Copies of this document have also been furnished to those who commented on the draft statement.

Single copies are available for distribution by contacting the Environmental Manager, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208, or one of the BPA Area or District Offices mentioned above.

Dated at Portland, Oregon, this 24th day of September 1979.

Ray Foleen,

Acting Administrator.

[FR Doc. 79-31751 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Case Nos. 50154-6010-01-77 and 50154-6010-02-77]

Brandon Shores Units 1 and 2 Baltimore Gas & Electric Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Determination to Classify the Baltimore Gas and Electric Company Brandon Shores Units 1 and 2 as Existing Facilities.

SUMMARY: On June 15, 1979, Baltimore Gas and Electric Company (BG&E) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Brandon Shores Units 1 and 2 as existing facilities pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA). ERA has completed its analysis of BG&E's request and has determined that BG&E has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25 percent of the total projected project cost as of Novermber 9, 1978, for each of the Brandon Shores units within the meaning of Section 515.6 of the Revised Interim Rule.

ERA has determined that BG&E's Brandon Shores Units 1 and 2 are "existing" facilities and are now subject to the provisions of Title III of FUA.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, S.W., Room B–110, Washington, D.C. 20461, Phone: (202) 634–2170.
James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, S.W., Room 3128, Washington, D.C. 20461, Phone: (202) 254–7442.
G. Randolph Comstock, Deputy Assistant General Counsel for Coal Regulations, Office of the General Counsel, Department of Energy, 1000 Independence Ave., S.W., Rm. 6G–087, Washington, D.C. 20461, Phone: (202) 252–2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128L, Washington, D.C. 20461, Phone: (202) 254-7442.

SUMMARY INFORMATION: (1) On June 15, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, BG&E requested that ERA classify BG&E's Brandon Shores Units 1 and 2 as "existing" facilities. On July 19, 1979, ERA published a summary of BG&E's request for classification in the Federal Register and requested comments by interested persons on or before August 9, 1979. ERA has not received any comments in response to the notice published by ERA in the Federal Register on July 19, 1979.

(2) ERA has analyzed the material submitted by BG&E applicable to the Brandon Shores Units 1 and 2 and on the basis of such analysis has determined that BG&E has satisfactorily demonstrated that it would suffer a substantial financial penalty in excess of 25% of the total projected project cost as of November 9, 1978, for each of the Brandon Shores Units within the meaning in Section 515.6 of the Revised Interim Rule. A copy of ERA's Summary of Analysis dated September 17, 1979, is available for examination in the Office of Public Information, at the above address.

Issued in Washington, D.C., October 9, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion Economic Regulatory Administration.

[FR Doc. 79-31742 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case Nos. 50154-6010-01-82 and 50154-6010-02-82]

Baltimore Gas & Electric Co. Proceeding; Reduction of Public Comment Period No's. 50154-6010-01-82 and 50154-6010-02-82

Pursuant to Section 501.51(b)(8) of the regulations (10 CFR Part 501) promulgated under the Powerplant and Industrial Fuel Use Act of 1978, Baltimore Gas and Electric Company has requested that the initial three-month public comment period, provided for under Comment and Public Hearing Procedures in the notice and issuance of proposed prohibition order pursuant to sections 301 and 701 of the powerplant and industrial fuel use act of 1978 (Proposed Order) issued by the Economic Regulatory Administration of the Department of Energy on October 9, 1979, be reduced to a period of 45 days. The Economic Regulatory Administration hereby grants the request of Baltimore Gas and Electric Company. As a result, the initial three-month public comment period is reduced to a period of 45 days after publication of this Notice of Amendment to the Proposed Order in the Federal Register.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-31748 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 50154-6010-01-82 and 50154-6010-02-82]

Baltimore Gas & Electric Co.; Notice and Issuance of Proposed Prohibition Order Pursuant to Sections 301 and 701 of the Powerplant and Industrial Fuel Use Act of 1978

The Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice pursuant to Section 701(b) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), 42 U.S.C. 8301 *et seq.*, of the issuance of the following proposed prohibition order which would prohibit the powerplants named below from burning natural gas or petroleum as their primary energy source.

Proposed Prohibition Order

Pursuant to the authorities granted it by Section 301(b) of FUA, ERA issues this proposed prohibition order to the following powerplants owned by the Baltimore Gas and Electric Company (BG&E).

ERA No.	Generating station	Powerplant No.	MW	Location
50154-6010-01-82	Brandon Shores	1	610	Anne Arundel County, Md.
50154-6010-02-82	Brandon Shores	2	610	Anne Arundel County, Md.

Statement of Basis and Rationale for Proposed Prohibition Order

ERA has issued regulations applicable to existing facilities 10 CFR Part 504 (Regulations), to implement the prohibitions contained in Section 301(b) of Title III of FUA. Section 504.5 of the Regulations sets forth the basis upon which ERA will propose to prohibit by order the use of natural gas or petroleum as a primary energy source by a powerplant where ERA finds that the powerplant has or previously had the technical capability to use an alternate fuel as a primary energy source.

BG&E has reported to ERA that the potential oil displacement in converting the Brandon Shores Units to an alternate fuel (coal) is approximately 25,000 barrels of oil per day or 9 million barrels annually. By unit, the potential oil savings are approximately 11,000 and 14,000 barrels of oil per day or 4 million and 5 million barrels annually for Units 1 and 2, respectively.

Finding of Technical Capability

In accordance with Section 301(b) of Title III of FUA, this proposed order is based on a finding by ERA that BG&E's Brandon Shores powerplant Units 1 and 2 have or previously had the technical capability to use an alternate fuel (coal) as a primary energy source. This finding is based upon information requested by ERA of BG&E pursuant to a letter of BG&E's dated September 17, 1979. In its submission to ERA, BG&E stated the following:

Units 1 and 2 of the Brandon Shores Powerplant will have, as of the date when each commences commercial operation, the technical capability to burn coal as their primary energy source, notwithstanding the fact that, in the case of Unit 1, which will commence commercial operation as an oil-fired unit in mid-1981, minor adjustments must be made before coal may be burned as that Unit's primary energy source. Accordingly, the finding of technical capability to use coal as a primary energy source in both Units may be made by ERA pursuant to 10 CFR Section 504.5(a)(1).

The technical capability finding is made in accordance with the requirements of Section 504.5(d) of the Regulations, taking into consideration the ability of the units, from the point of fuel intake, to physically sustain combustion of coal and maintain heat transfer as evidenced by the statement submitted by BG&E to ERA, in which BG&E stated that:

Units 1 and 2 of the Brandon Shores Powerplant will have the ability, at the point of fuel intake, to physically sustain

the combustion of coal and to maintain heat transfer without substantial physical modification to either unit as contemplated by 10 CFR Sections 504.5(a)(2)(i), 504.5 (d)(1) and (d)(3). With respect to Unit 1, while its initial commercial operation will be as an oil-fired unit, no substantial reduction in the rated capacity of the unit would occur upon its subsequent conversion to burn coal as its primary energy source (10 CFR Sections 504.5 (a)(2)(ii) and (f)(1)).

This finding also recognizes, in accordance with Section 504.5(d), that the Brandon Shores Units are capable of burning coal, notwithstanding any required refurbishment of plant equipment in order to burn coal as a primary energy source in the units, or any required installation of air pollution control equipment to meet air quality standards.

Other Required Findings

Section 301(b) of FUA states that prior to the issuance of a final prohibition order ERA must also find that (1) the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial modification of the powerplant or (B) substantial reduction in the rated capacity of the powerplant; and (2) it is financially feasible for the powerplant to use coal or another alternate fuel as its primary energy source in such powerplant.

Proposed Prohibition Under Title III of FUA

Subject to the other required findings that ERA must make, ERA hereby proposes to prohibit BG&E's Brandon Shores Units 1 and 2 from burning petroleum or natural gas as their primary energy source.

Description of Prohibition Order Proceedings

Pursuant to Section 301 of FUA, ERA has promulgated Regulations applicable to the issuance of prohibition orders to existing facilities, a summary of which follows:

(1) ERA has performed its initial information gathering with respect to the question of technical capability to burn alternate fuels (coal) and has informed BG&E that it is considering issuance of a proposed prohibition order. ERA has also had informal discussions with BG&E concerning the issuance of a proposed prohibition order.

(2) ERA has made a finding that the Brandon Shores Units have or previously had the technical capability of using coal as their primary energy source. ERA is publishing this finding and proposed prohibition order in the Federal Register as required by Section 701(b) of FUA. In accordance with Section 301(b) of FUA, the proposed prohibition order is not required to contain, at this point in the proceeding, the other pertinent findings that ERA must make before a final prohibition order can be issued. These are (1) that the powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without (A) substantial physical modification of the powerplant, or (B) substantial reduction in the rated capacity of the powerplant; and (2) that it is financially feasible for BG&E to use coal or another alternate fuel as a primary energy source in such powerplant.

(3) In accordance with Section 501.51(b)(3) of the Regulations, a three-month public comment period is to commence, during which period BG&E will be given an opportunity to challenge ERA's initial finding of technical capability contained in this proposed prohibition order.

During this 90 day comment period, under Section 501.51(b)(3) of the Regulations, BG&E is required to furnish ERA with such additional evidence as is necessary to enable ERA to make the other statutory findings set forth above, which are required to be made by ERA prior to issuance of a final prohibition order. BG&E will also be required, during this period, to identify, but not to demonstrate its entitlement to, any exemptions for which either of the Brandon Shores Units may qualify.

(4) Subsequent to the end of the 90 day comment period, ERA will issue a notice of whether ERA intends to proceed with the prohibition order proceeding. Within three months of the issuance of the notice of intention to proceed with the prohibition order, an owner or operator of a powerplant that may be subject to an order may demonstrate prior to issuance of a final prohibition order that the powerplant would qualify for an exemption if the prohibition had been established by rule.

(5) Subsequent to the end of the second comment period, ERA will, if it intends to issue a final prohibition order, prepare and publish notice of availability of a tentative staff decision.

(6) Under the provisions of Section 701(d) of FUA, any interested person may request a public hearing on the proposed prohibition order and tentative staff decision. Interested persons wishing a hearing must request a hearing within 45 days after publication of the notice of availability of the tentative staff decision. If a hearing has been requested, ERA shall provide interested persons with an opportunity to present oral data, views and arguments at a public hearing held in accordance with Subpart C of 10 CFR Part 501.

(7) At the hearing, if any, interested persons will have the opportunity to question the parties about ERA's proposed order and tentative staff decision, BG&E's showing on exemptions and rebuttal of ERA's proposed order, and ERA's rebuttal to any showing of potential qualification for exemption.

(8) After the hearing, if any, and second comment period, ERA shall determine whether a final prohibition order will be issued based upon a review of the entire administrative record. A final prohibition order, if issued, will be published in the Federal Register. Final orders become effective sixty days after publication.

Comment and Public Hearing ProcedureS

ERA hereby also gives notice of the opportunity to submit written comments, views, and arguments by interested persons regarding this proposed prohibition order. Comments need not be limited to ERA's technical capability finding, but may include a discussion of all three statutory findings.

The initial comment period shall remain open for a period of 90 days after publication of this proposed order in the Federal Register, unless reduced at the request of the recipient of the proposed prohibition order pursuant to Section 501.51(b)(8). Notice of any such change during the time for public comment will be published in the Federal Register.[1] Comments should make reference to the docket numbers set forth in this notice and proposed order. Comments should address the adequacy and validity of the findings and any other aspects or impacts of the proposed prohibition order believed to be relevant. Written comments on the proposed prohibition order should be directed to Public Hearing Management (Case Nos. 50154-6010-01-82 and 50154-6010-02-82), U.S. Department of Energy, Box 4629, Room 3214, 2000 M Street, N.W., Washington, D.C. 20461, and should be received before 4:30 p.m. on the forty-fifth day following publication in the Federal Register of the notice of amendment to

[1] Note.—Subsequent to the date of this order, ERA has received a request from BG&E to reduce the initial comment period to 45 days. This request has been granted by ERA pursuant to an amendment to this order which is published after this order in the Federal Register. (See FR Doc. 79-31748.)

V 44 OC 15 79 UMI

this notice and proposed prohibition order.

In accordance with 10 CFR 501.34, any interested person may request a public hearing on the proposed order. The request must include a description of the person's interest in the proposed prohibition order, an outline of the anticipated content of the presentation to be made at the public hearing, and an address and telephone where the person requesting the public hearing may be reached.

Comments and other documents submitted to DOE Public Hearing Management should be identified on the outside of the envelope in which they are transmitted and on the document itself with the designation "Proposed Prohibition Order for the Brandon Shores Units." Fifteen copies should be submitted. All written comments, all oral presentations, and all other relevant information submitted to or available to ERA will be considered by ERA. Any information or data considered to be confidential by the person furnishing it must be so identified in writing in accordance with 10 CFR 303.9(f). ERA reserves the right to determine the confidential status of the information or data and to treat it in accordance with that determination.

For further information contact: William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C., 20461, (202) 634-2170.

Robert L. Davies (Fuels Conversion-Program Office), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128L, Washington, D.C., 20461, (202) 254-7442.

G. Randolph Comstock (Office of General Counsel), Department of Energy, 1000 Independence Avenue, N.W., Room 6G-087, Washington, D.C., 20585, (202) 252-2967.

Issued in Washington, D.C., October 9, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-31750 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Beacon Oil Co.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: August 20, 1979.

COMMENTS BY: November 14, 1979.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816-374-5932.

SUPPLEMENTARY INFORMATION: On August 20, 1979, the Office of Enforcement of the ERA executed a Consent Order with Beacon Oil Company of Adrian, Michigan. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Beacon Oil Company (Beacon), with its home office located in Adrian, Michigan, is a firm engaged in the marketing of motor gasoline and middle distillates to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Beacon, the Office of Enforcement, ERA, and Beacon Oil Company entered into a Consent Order.

The Consent Order encompasses Beacon's sale of covered products during the period November 1, 1973 through April 30, 1974.

II. Disposition of Refunded Overcharges

In this Consent Order, Beacon agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of twenty-nine thousand six hundred sixty dollar and fourteen cents ($29,660.14). Refunded overcharges will be in the form of a direct refund.

Issued in Kansas City on the 20th day of August, 1979.

WILLIAM D. MILLER,

District Manager of Enforcement.

[FR Doc. 79-31746 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to Adolph Beren, Harry Beren and Israel Beren d.b.a. Okmar Oil Co.

Notice is hereby given that on September 28, 1979, the Proposed Remedial Order (PRO) summarized below was issued by the Central Enforcement District of the Economic Regulatory Administration (ERA) of the Department of Energy to Okmar Oil Company, P.O. Box 548, Marietta, Ohio 45750.

The PRO includes findings that Okmar, a crude oil producer, overcharged $164,736.25 in sales of crude oil during the period November 1973 through December 1975. The overcharges occurred with respect to the Huey Ranch property located in Morgan County in the State of Colorado. The reason for the overcharges was Okmar's erroneous characterization of said property as a stripper well lease, as defined at 6 CFR 150.54(s) during the period November 16, 1973, through January 14, 1974; at 10 CFR 210.32 during the period January 15, 1974 through December 31, 1975.

The Office of Enforcement of the ERA has proposed in the PRO that Okmar be required to refund the full amount of overcharges (plus interest) found with respect to the property as the Department of Energy shall direct. Refunds shall be made over a period of time which is equal to the number of months during which overcharges have been found with respect to the property.

A copy of the PRO, with any confidential information deleted, may be obtained from the ERA at the following address:

Chief, Crude Products Management Branch, Central Enforcement District, Economic Regulatory Administration, Department of Energy, 324 East 11th Street, Kansas City, Missouri 64106.

Any aggrieved person may, on or before October 30, 1979, file a Notice of Objection with the Office of Hearings and Appeals in accordance with 10 CFR 205.193. Pursuant to 10 CFR 205.193, a Notice of Objection must be filed in duplicate, shall briefly describe how the person would be aggrieved by issuance of the PRO as a final Remedial Order, and shall state the person's intention to file a Statement of Objections pursuant to 10 CFR 205.196. No confidential information shall be included in a Notice of Objection. A Notice of Objection must be filed at the following address:

Office of Hearings of Appeals, Department of Energy, 2000 M Street, NW., Washington, D.C. 20461.

In addition, a copy of each filing must be submitted to the ERA Central Enforcement District Office at the address set forth herein, and to:

Assistant General Counsel for Administrative Litigation, Office of General Counsel, Department of Energy, Room 7149, 12th & Pennsylvania Avenue, NW., Washington, D.C. 20461.

Issued this 28th day of September, 1979, in Kansas City, Missouri.

William D. Miller,

Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79-31743 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51892-6074-04-77]

Classification of Greenwood No. 4, Missouri Public Service Co.; Request for Comments

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On June 5, 1979, Missouri Public Service Company (Mo Pub) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Greenwood Energy Center Unit No. 4 (Greenwood No. 4) as an existing facility pursuant to Section 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 FR 17464), and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA). FUA, which became effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new and existing electric powerplants. ERA's decision in this matter will determine whether Greenwood No. 4 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants.

The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.26 of the Revised Interim Rule, no public hearings will be held.

DATE: Written comments are due on or before November 5, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128I, Washington, D.C. 20461, Phone (202) 254-7450.

G. Randolph Comstock, (Office of the General Counsel), Department of Energy, 1000 Independence Ave., S.W., Washington, D.C. 20585, Phone (202) 252-2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128I, Washington, D.C. 20461, Phone (202) 254-7442.

SUPPLEMENTARY INFORMATION: Missouri Public Service Company (Mo Pub) is a corporation organized under the laws of the State of Missouri. Mo Pub supplies electric service in portions of western Missouri.

Mo Pub stated that it executed a contract in December 1974, revised in October 1976, for the construction of a 50 MW, oil-fired combustion turbine, to be known as Greenwood Energy Center Unit No. 4 (Greenwood No. 4) in Jackson County, Missouri, and that commercial operation was scheduled for June 1979.

On June 5, 1979, pursuant to ERA's Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979, Mo Pub requested that ERA classify Greenwood No. 4 as an "existing" facility.

In accordance with Section 515.6 of ERA's Revised Interim Rule, a powerplant will be classified as existing if the cancellation, rescheduling or modification of the construction or acquisition of apowerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. Mo Pub supported its request for classifcation by providing evidence in support of their claim that it would suffer a substantial financial penalty if Greenwood No. 4 were not permitted to proceed as an oil-burning facility. A summary of the evidence requirements and Mo Pub's response to those requirements follows:

Substantial financial penalty—Pursuant to Section 515.6(a) of the Revised Interim Rule, ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost of November 9, 1978, was expended in nonrecoverable outlays as of November 9, 1978.

In response to the evidence requirements of Section 515.6(b)(1) of the Revised Interim Rule, Mo Pub provided the following information:

—Total projected project cost as of November 9, 1978, $7,391,180.

—Total project expenditures as of November 9, 1978, $5,126,496.

—Total recoverable expenditures $2,700,000.

—Total nonrecoveable outlays including penalty charges for obligations and cancellations $4,120,088.

—Nonrecoverable outlays percent of total projected project expenditures as of November 9, 1978, 55.7%.

ERA hereby invites all interested persons to submit written comments on this matter.

The public file, containing Mo Pub's request for classification and supporting materials, is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on October 5, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-31745 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Partlow and Cochonour; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Comments by: November 14, 1979.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch; 324 East 11th Street; Kansas City, Missouri 64106.

V 44 0 C 15 7 9 UMI

V 4 4 0 C 1 5 7 9 UMI

FOR FURTHER INFORMATION CONTACT:
Alan L. Wehmeyer; Chief, Crude Products Management Branch; 324 East 11th Street; Kansas City, Missouri 64106. Phone 816–374–5932.

SUPPLEMENTARY INFORMATION: On September 27, 1979, the Office of Enforcement of the ERA executed a Consent Order with Partlow and Cochonour of Casey, Illinois. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Partlow and Cochonour, with its home office located in Casey, Illinois, is a firm engaged in the production and sale of domestic crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Partlow and Cochonour the Office of Enforcement, ERA, and Partlow and Cochonour entered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of domestic crude oil by Partlow and Cochonour during the period September 1, 1973 through May 31, 1977, from the Henderson No. 1 lease and the Shelton lease, such sales being made to Union Oil Company and Ashland Oil Company.

2. The reason for the overcharges was Partlow and Cochonour's erroneous characterization of each of said properties as a stripper well lease, as defined at 6 CFR 150.54(s) and at 10 CFR 210.32.

3. It is understood that Partlow and Cochonour does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Partlow and Cochonour agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $122,001.88, as specified in Paragraphs 1 and 5 of the Consent Order. The refunds shall be made in a one-time installment, with the refund completed within thirty (30) days of the effective date of the Consent Order. Such refunds will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer; Chief, Crude Products Program Management Branch; Central Enforcement District; 324 East 11th Street; Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Partlow and Cochonour Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 14, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Dated: September 27, 1979.

William D. Miller,

Acting District Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79-31747 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Carl M. Schultz; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order.

DATES: Effective date: (August 17, 1979). Comments by: November 14, 1979.

ADDRESS: Send comments to William D. Miller, Central District Manager of Enforcement Department of Energy, 324 East 11th Street; Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:
Jeannine C. Fox, Chief, Refined Products Programs Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. (phone) 816–374–5932.

SUPPLEMENTARY INFORMATION: On August 17, 1979, the Office of Enforcement of the ERA executed a Consent Order with Carl M. Schultz of Lapeer, Michigan. Under 10 CFR § 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Carl M. Schultz (Schultz), with its home office located in Lapeer, Michigan, is a firm engaged in the marketing of motor gasoline and middle distillates to resellers and end-users, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Schultz, the Office of Enforcement, ERA, and Schultz entered into a Consent Order.

The Consent Order encompasses Schultz's sale of covered products during the period November 1, 1973 through April 30, 1974.

II. Disposition of Refunded Overcharges

In this Consent Order, Schultz agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I. above, the sum of eighty four thousand nine hundred twenty seven dollars and eighteen cents ($84,927.18). Refunded overcharges will be in the form of a price reduction for each grade of gasoline and fuel oils pursuant to an agreement between DOE and Schultz dated November 30, 1976, until all overcharges plus interest have been refunded.

Issued in Kansas City on the 17th day of August, 1979.

William D. Miller,

District Manager of Enforcement.

[FR Doc. 79-31744 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Motor Gasoline Allocation; Guidelines for Allocation to Bulk Purchasers

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Issuance of Guidelines.

SUMMARY: The Office of Petroleum Operations (OPO) of the Economic Regulatory Administration of the Department of Energy has issued guidelines to OPO Regional Offices for the evaluation of applications for new bulk purchasers for assignment of base-period use and suppliers of motor gasoline. A copy of these guidelines is included as an appendix.

FOR FURTHER INFORMATION CONTACT:

Joel M. Yudson (Office of General Counsel), Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585 (202) 252–6744.

Alan T. Lockard (Office of Petroleum Operations), Department of Energy, 2000 M Street NW., Washington, D.C. 20461, (202) 254–7422.

Issued in Washington, D.C., October 9, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Evaluation of Applications for New Bulk Purchasers for Assignment Pursuant to 10 CFR § 211.12(e)(3)

The gasoline shortages that have existed over the past five months and the tight supply situation which continues to exist have resulted in many areas experiencing long waiting lines at retail outlets, reduced hours of operations, minimum purchase requirements, and imposition of "odd/even" gasoline sales.

The inconvenience being experienced when purchasing motor gasoline at retail outlets has precipitated the filing of applications for assignment of base period use and supplier as a new bulk purchaser by a large number of individuals, consumer cooperative groups, firms or others who would not use the assigned fuel to serve the general public and whose historical "normal business practice" has been to purchase supplies of motor gasoline as end-users at the retail level. Applicants that are wholesale purchaser-consumers have requested the assignment of a supplier and assignment of a base-period volume pursuant to 10 CFR § 211.12(e)(3). End-users that are unable to locate a supplier have requested such assignments under 10 CFR § 211.12(f).

At present, based on prime supplier's current and projected motor gasoline supply availability, it appears that there is not sufficient motor gasoline available to allow the Economic Regulatory Administration to grant applications from all firms who are currently end-users and who desire, for reasons of convenience, to become bulk purchasers.[1] The granting of a large number of such applications would result in the reduction of the allocation fractions for ultimate suppliers, and, consequently, in reduced supplies to all of the ultimate suppliers' base-period purchasers. This situation would have the effect of frustrating or impairing the objectives, purposes and intent of the Emergency Petroleum Allocation Act (EPAA) of 1973 (Pub. L. 93–159), as amended, by further reducing available supplies of motor gasoline to all end-users who have historically purchased at the retail level and who are not desirous of, or eligible for, bulk purchaser treatment. To grant applications to all such persons seeking bulk purchaser status would specifically frustrate the objective in Section 4(b)(i) of the EPAA and 10 CFR § 205.35(b)(1)(vi) relating to the equitable distribution of refined petroleum products among all users.

The ERA recognizes, however, that first priority allocation levels, as set forth in § 211.103(b), were established to achieve the objectives of the EPAA by providing essential supplies of motor gasoline, to the maximum extent practicable, for the protection of public health, safety and welfare, and national defense, as well as maintenance of agricultural operations and certain essential public services. The ERA believes that the essential functions of these priority users, which, in many instances, have historically purchased at the retail level, may be seriously impaired as a result of the delays, early station closings, and other adverse conditions which exist for end-users purchasing at retail outlets. Therefore, to comply with the objectives of the EPAA and 10 CFR § 205.35(b)(1), the protection of these vital services should be accomplished by granting allocations to firms requesting bulk purchaser treatment who are entitled to a first priority allocation. Consequently, until further notice, allocations to bulk purchasers should be granted only to firms who are entitled to a first priority allocation level, unless compelling reasons dictate otherwise or, as set forth below, such a firm can demonstrate an historical normal business practice under which it would qualify as a bulk purchaser.

If the ERA determines that a firm is one which qualifies as first priority level, an application is to be evaluated pursuant to § 211.12(e)(3) in accordance with procedures set forth in Section 205, Subpart C.

In addition, if a firm which is an ultimate consumer, for a use in the second priority, as set forth in 10 CFR § 211.103(c), purchased or obtained motor gasoline and received delivery of that product into a storage tank substantially under the control of that firm at a fixed location, *prior to March 1, 1979,* an assignment of a base-period use may also be granted. Such treatment may also be granted to a firm which is an ultimate consumer that entered into a written contract *prior to March 1, 1979,* to purchase and/or install a storage tank for the purpose of receiving deliveries of motor gasoline. These actions, if taken prior to March 1, 1979, may be considered to be normal business practices for purposes of determining whether the firm qualifies as a bulk purchaser.

[1] Under 10 CFR § 211.103(d), end-users that are not bulk purchasers may not receive an allocation.

Any application where the ERA determines that the applicant does not qualify under the above guidelines should be dismissed in accordance with ERA's above stated policy. The dismissal order should contain a statement that DOE has determined that, in this period of tight supply, purchasers that during the base period purchased product on the retail level should not be given allocations as bulk purchasers or other preferred treatment at the expense of the general gasoline-buying public because to do so would be inconsistent with the objectives of the EPAA and 10 CFR § 205.35(b)(1)(vi).

In processing applications, you should be aware of the following:

1. Bulk purchasers are defined in § 211.102 and "means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains motor gasoline from a supplier and either: (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location; (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm; or (3) receives delivery of that product for use in cargo, freight and mail hauling by truck."

2. A "firm" is defined in § 211.11(b)(1) as follows:

"For purpose of defining an end-user or wholesale purchaser-consumer . . . a firm shall mean all parts of the parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls which act as ultimate consumers including all sites, storage tanks and other facilities or entities of the end-user or wholesale purchaser-consumer that utilize or store an allocated product."

3. First priority levels are set forth in § 211.103(a) and are defined in § 211.51.

[FR Doc. 79-31685 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP79-473]

Alabama-Tennessee Natural Gas Co.; Application

October 5, 1979.

Take notice that on September 5, 1979, Alabama-Tennessee Natural Gas Company (Applicant), P.O. Box 918, Florence, Alabama 35630, filed in Docket No. CP79-473 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 10.7 miles of 12¾ inch O.D. pipeline necessary to render additional gas service to existing customers and initial gas service to a new customer, North Mississippi Natural Gas Corporation (North Mississippi), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it is presently constructing pipeline and other facilities in southern Mississippi pursuant to authorization granted by the Commission in Docket No. CP78-352. It is stated that such facilities are designed to enable Applicant to purchase and make available to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), for transportation to Applicant's existing pipeline system, approximately 20,000 Mcf per day of supplemental gas. Applicant states that it has an agreement with Tennessee for the transportation of up to 25,000 Mcf per day of such gas and has agreed with Tennessee to supersede its existing general service contract for a maximum of 129,144 Mcf per day with a contract demand agreement for 129,144 Mcf per day upon the commencement of delivery of such supplemental gas.

Applicant seeks authorization to construct and operate pipe line transmission facilities designed to provide an additional 18,300 Mcf of daily system delivery capacity. It is stated that the proposed facilities would increase Applicant's overall system daily delivery capability from 129,145 Mcf to 147,445 Mcf. It is indicated that the facilities that Applicant seeks authorization to construct and operate in this application consist of 10.7 miles of 12¾ inch O.D. pipeline extending from its Barton Purchase Station adjacent to Tennessee's Delta-Portland line to Applicant's Tuscumbia-Russellville valve and tap in Colbert County, Alabama, and metering facilities to serve North Mississippi Natural Gas Corporation (North Mississippi). Applicant states that a concurrent application for a certificate of public convenience and necessity is being filed by North Mississippi with the Mississippi Public Service Commission for authorization to distribute the gas proposed herein to be sold to North Mississippi to serve the Town of Burnsville, Mississippi, and environs and for sale to a new plant being built by Kimberly-Clark Corporation.

Applicant estimates the cost of the proposed facilities to be $1,750,000, which Applicant proposes to finance from cash on hand or to be obtained from liquidation of temporary cash investments.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31686 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-32]

Algonquin Gas Transmission Co.; Application for Adjustment

October 9, 1979.

Take notice that on September 28, 1979, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts, 02135, filed in Docket No. SA79-32 an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) wherein Algonquin seeks exemption from the tariff filing requirements of § 281.204 of the Commission's Regulations under the NGPA, all as more fully set forth in the application for adjustment.

Section 281.204 of the Commission's Regulations requires the filing of tariff sheet regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users, the attribution of natural gas, and the establishment of a Data Verification Committee.

Algonquin requests that, pursuant to Section 1.41 of the Rules, an adjustment be granted with the effect of waiving the further compliance with the Rules promulgated by Order No. 29, as amended, pending commission action on the proposed Stipulation and Agreement discussed below. To that end, Algonquin moves for interim relief pursuant to Section 1.41(m) of the Rules. Moreover, Algonquin requests that the adjustment be made expressly applicable for an indefinite term, consistent with the provisions of said Stipulation and Agreement, in the event that the Commission approves such proposed Stipulation and Agreement.

Algonquin and its customers allege that their prospect for future gas supplies is excellent and that they have agreed to a Stipulation and Agreement, concurrently filed with the Commission, which proposes to delete the current termination date of November 30, 1979, for its temporary tariff provisions. Said deletion would permit its temporary tariff provisions to remain in effect for the indefinite future. It is further stated that such relief is necessary to encourage the settlement of the issues surrounding the protection of high priority uses and essential agricultural uses.

The proposed Stipulation and Agreement is said to permit re-examination of possible changes in situation, in compliance with Order No. 29.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before October 30, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31682 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-147]

Algonquin Gas Transmission Co.; Filing of Proposed Stipulation and Agreement

October 9, 1979

Take notice that on September 28, 1979, Algonquin Gas Transmission Company (Algonquin) filed in Docket No. TC79-147 a proposed Stipulation and Agreement, which was concurrent to the filing of an application pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 and Section 1.41 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure (18 CFR 1.41), requesting a waiver of strict compliance with Order No. 29 and its requirements to the extent necessary to effect the instant proposed settlement.

The Regulations promulgated in Order No. 29 require the filing of revised tariff sheets and a new index of entitlements providing protection for high-priority and essential agricultural users. The proposed Stipulation and Agreement contains the assertion that protection of high-priority and essential agricultural uses can be assured under Algonquin's current gas supply conditions by continuation of existing curtailment procedures as reflected in Section 14.7(b) of the General Terms and Conditions of Algonquin's tariff beyond October 31, 1979. Under the proposed Stipulation and Agreement, Algonquin would not be required to file the draft tariff sheets and index of entitlements contemplated by Order No. 29, and would be permitted to remove the time limitation currently incorporated in Section 14.7(b) of its General Terms and Conditions.

The proposed Stipulation and Agreement further provides that in the event that the projections of its gas supply should change materially in the future or if any other significant fact should change or arise warranting a reexamination of Algonquin's problem of meeting the longer-term requirements of Order No. 29, then Algonquin shall be obligated to communicate such information to its customers promptly and to convene a conference or adopt other mutually satisfactory procedures looking toward resolving such problem in light of then-current information.

Algonquin further asserts that, given the existing prospects for improved gas supplies for perhaps several years in the future, any further procedures or studies at this time, including those contemplated by Order No. 29, or any further tariff changes at this time would probably be out of date and, thus, largely useless at such time as the curtailment picture worsens.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene on protest in accordance with the provisions of Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before October 30, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31683 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-474]

Arkansas Louisiana Gas Co.; Application

October 5, 1979.

Take notice that on September 5, 1979, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP79-474 an application pursuant to section 7 of the Natural Gas Act and § 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and for permission and approval to abandon for a twelve-month period commencing December 22, 1979, and the operation of various field compression and related metering and appurtenant facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, acquisition, relocation, operation, and abandonment of facilities which would not result in changing Applicant's system saleable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment under § 157.7(g) would not exceed $3,000,000 and no single project would exceed $1,000,000. Applicant states that since the amount of the single project is in excess of the amount as set forth in subparagraph (1)(ii) of § 157.7(b) of the Commission's Regulations, it requests a waiver of the provisions of such subparagraph. Increased installation and equipment expenses are cited as the need for waiver. Applicant states that these costs would be financed from funds on hand and from short-term bank loans utilized in the

V 4 4 0 C 1 5 7 9 UMI

normal operation of the Applicant's total business.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.70). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31687 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-475]

Arkansas Louisiana Gas Co.; Application

October 5, 1979.

Take notice that on September 5, 1979, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP79-475 and application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1980, and operation of facilities to enable it to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $12,000,000 and that no single offshore project would exceed a cost of $2,500,000. Applicant states, that the cost of any single onshore project would not exceed $2,000,000. Since this amount is in excess of the amount as set forth in subparagraph (1)(ii) of Section 157.7(b) of the Commission's Regulations, Applicant requests a waiver of the provisions of such subparagraphs. Applicant states that inflation and general cost increases relating to installation of gathering lines justify the excess in the single onshore cost limitation. Applicant also states that these costs would be made from cash on hand and from short-term bank loans and other borrowings utilized in the normal operation of the Company's total business.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31688 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-59]

Colorado Interstate Gas Co.; Informal Settlement Conference

October 5, 1979.

Take notice that on Friday, October 19, 1979, at 10:00 A.M. an informal conference of all interested persons will be held to resolve remaining issues in this proceeding. The conference will be held in a room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene, attendance will not be deemed to authorize intervention as a party in these proceedings.

All parties will be expected to come fully prepared to discuss the merits the issues in this proceedings and to make commitments with respect to such issues and any offers of settlement or stipulations discussed at the conference.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31689 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-496]

Columbia Gas Transmission Corp.; Application

October 5, 1979.

Take notice that on September 21, 1979, Columbia Gas Transmission Corporation (Applicant), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP79-496 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Washington Gas Light Company (Washington), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authorization to transport natural gas for Washington's account from Transcontinental Gas Pipe Line Corporation's (Transco) existing point of delivery to Applicant at Spring Vale near Dranesville, Virginia, to a point of redelivery to Washington near Rockville, Maryland. It is indicated that the quantity to be transported by Applicant would consist of gas which Washington is presently entitled to purchase from Transco at a point near Herndon, Virginia, and which Washington would arrange to have delivered at Spring Vale for its account. Applicant states that the maximum volumes to be transported would not exceed 40,000 dekatherms equivalent of gas per day; however, all transportation by Applicant would be on a best efforts basis.

Applicant states that it presently sells and delivers gas to Washington for use by Washington in its metropolitan distribution system at two major points, one of which is near Dranesville, Virginia, and the other is near Rockville, Maryland. Applicant also states that the gas delivered to Washington by Applicant and Transco has been at essentially the same heating value, but that with the introduction of high-Btu revaporized liquefied natural gas (LNG) into Applicant's pipeline system in Loudoun County, Virginia, a heating value imbalance has resulted on Washington's distribution system.

It is stated that Applicant has changed its operations whereby the gas purchased by it from Transco at Spring Vale can be transported to Rockville for mixing with the gas sold by Applicant to Washington at that point in order to alleviate this thermal imbalance problem. This mixing has the effect of reducing the heat content of the gas delivered at Rockville, thus counteracting the heating value imbalance on Washington's system, it is asserted.

To assist Washington further, Applicant would accept from Transco at Spring Vale, for Washington's account, a portion of Washington's gas entitlement from Transco and to transport that gas to Rockville, Maryland, for redelivery to Washington. Applicant states that the maximum quantity that it can receive from Transco at the Spring Vale delivery point is approximately 40,000 dekatherms equivalent of gas per day, which capacity can vary depending upon the pressures that exist in the lines of Applicant and Transco from day to day. It is stated that Applicant's purchases from Transco would be the first gas through the meter at Spring Vale, and any receipts of gas from Transco for Washington's account would be on a best efforts basis.

Applicant indicates that Transco is currently authorized to sell up to 55,000 dekatherms equivalent of gas per day to Washington at its existing delivery point near Herndon, Virginia. It is Applicant's understanding that Washington would seek an amendment to its gas purchase agreement with Transco to provide for the delivery of a portion of its gas entitlement at Spring Vale, and that Transco would seek the necessary certificate authorization.

It is stated that Washington's thermal imbalance problem, as well as other utilization problems resulting from the introduction of revaporized LNG, has been the subject of proceedings in *Columbia Gas Transmission Corp., et al.*, Docket Nos. RP78-20, *et al.* However, in order to facilitate matters in that pending proceeding, Applicant states that the parties thereto have indicated that they would not oppose an application by Applicant to render, at no charge to Washington, the herein described transportation service. Accordingly, Applicant proposes to render the subject transportation service at a rate of one dollar per year.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on it own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31690 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-142]

El Paso Natural Gas Co.; Petition for the Institution of a Proceeding and for a Declaratory Order

October 5, 1979.

Take notice that on September 25, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. TC79-142 a petition pursuant to § 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7) for the institution of a proceeding and for a declaratory order, all as more fully set forth in petition which is on file with the Commission and open to public inspection.

El Paso requests the Commission to institute a proceeding to inquire into:

(i) The effect of the provisions of El Paso's FERC Gas Tariff, including provisions of certain service agreements incorporated by reference therein; on El Paso's obligation to deliver gas under service agreements and certificates of public convenience and necessity issued or approved by the Commission;

(ii) The effect of Commission orders, rules and regulations and El Paso's FERC Gas Tariff on El Paso's obligatio... to inform its customers and the Commission of future gas curtailments; and

(iii) The effect of an award of damages against El Paso arising from its curtailment of gas service on El Paso's service obligations under Section 4 of the Natural Gas Act, and on the Commission's responsibilities under Sections 4, 5, and 7 of such Act.

El Paso states that since 1971 it has been involved in proceedings before the Commission and before the United States Court of Appeals in which the

V 44 0C 15 79 UMI

issues of how best to protect the high priority requirements of El Paso's east-of-California (EOC) customers, and how best to allocate El Paso's gas supplies among all of its customers during a now-prolonged period of gas shortages have been, and are presently being litigated. El Paso further states that in 1978, the City of Willcox, Arizona, and Arizona Electric Power Cooperative, Inc. (AEPCO) filed an action against El Paso in the United States District Court for the District of Arizona in which AEPCO claimed damages amounting to nearly $189,000,000. El Paso asserts that these claims arise out of:

(i) certain of El Paso's actions prior to and during the natural gas shortage, which Willcox and AEPCO allege resulted in El Paso's failure to procure and maintain an adequate interstate gas supply;

(ii) the manner in which El Paso has allocated and sold its available interstate gas supply after the development of the gas shortage, and El Paso's utilization of storage and other arrangements to maintain high priority service to its EOC customers during the pendency of the shortage; and

(iii) El Paso's actions in estimating the future availability of gas for its interstate system during the pendency of the gas shortage.

El Paso avers that the damage action filed by AEPCO contains certain claims and issues which are identical to or substantially overlap with claims and issues that have been or are now being litigated at the Commission or at the United States Court of Appeals, and that certain other claims and issues involve the interpretation and application of the Commisison's rules, regulations and orders and of El Paso's FERC Gas Tariff, El Paso's service agreements, and certificates of public convenience and necessity issue to El Paso by the Commission. El Paso accordingly requests that the Commission assert its jurisdiction over these claims and issues pursuant to its unique responsibilities under the Natural Gas Act and in accordance with the doctrine of primary jurisdiction.

El Paso further requests that, on the basis of an evidentiary record developed in the proceedings requested by the instant Petition, the Commission make findings and issue a declaratory order or orders stating that:

(1) The Commission has primary jurisdiction over the issues and matters described in the instant petition and in the memorandum brief in support of said petition;

(2) The literal terms of El Paso's FERC Gas Tariff, El Paso's certificates of public convenience and necessity authorizing El Paso to provide natural gas service to interstate customers, El Paso service agreement with such customers, and the Commission's rules, regulations and orders combine in effect to excuse El Paso's from the payment of damages resulting from El Paso's failure to deliver the volumes of gas specified in such service agreements, provided that El Paso has exercised reasonable diligence to acquire a gas supply sufficient to satisfy the terms of such service agreements;

(3) Within the meaning of its certificates, service agreements, and tariff, El Paso has exercised reasonable diligence to acquire and maintain a gas supply sufficient to satisfy the terms of its jurisdictional service agreements;

(4) The provisions of El Paso's FERC Gas Tariff and the Commission's rules, regulations and orders combine in effect to impose a continuing obligation upon El Paso to make reasonable estimates and projections of future gas supplies, future market requirements, and future anticipated level of gas service;

(5) The projections and estimates of future gas supplies, future market requirements, and future anticipated level of gas service made by El Paso and reported to its customers and to the Commission during the period 1972 through 1977 were reasonable at the time they were made; and

(6) Any award of damages against El Paso for curtailment of gas service would constitute an undue preference and discrimination under the Natural Gas Act and would unduly and adversely affect El Paso's ability to provide nondiscriminatory gas service and the Commission's ability to allocate fairly El Paso's available gas supplies.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31691 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-489]

Florida Gas Transmission Co. and Southern Natural Gas Co.; Application

October 5, 1979

Take notice that on September 12, 1979, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, and Southern Natural Gas Company (SNG), P.O. Box 2563, Birmingham, Alabama 35202 (Applicants), filed in Docket No. CP79-489 an application pursuant to Section 7(c) of Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities in the Matagorda Island Area, Federal Domain, offshore Texas, and authorizing FGT to transport certain quantities of natural gas for SNG, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicants indicate that they have executed a gas purchase contract with Koch Industries, Inc., General American Oil Company of Texas and TransOcean Oil Company (Producers) for the purchase of 100 percent of the production from Matagorda Island Blocks 664 and 665, Matagorda Island Area. In order to transport the volumes of gas that Applicants would purchase from Blocks 664 and 665, and gas that may become available to Applicants from blocks adjacent to the subject blocks, Applicants propose jointly to construct, own (50 percent apiece), and operate the following:

(1) approximately 40.0 miles of 24-inch pipeline from Block 665 Matagorda Island Area to a point of interconnection with FGT's existing mainline facilities in Refugio County, Texas, and approximately 1.3 miles of 2-inch pipeline from a caisson in Matagorda Island Block 665 to the production platform in Block 665;

(2) a meter station on the production platform in Matagorda Island Block 665; and

(3) two 1875 horsepower compressors at a point onshore.[1]

The total estimated cost of construction of the proposed facilities is $24,659,000, which cost Applicants would finance initially from internally generated funds, and to the extent, if any, permanent financing is required, it would be done as part of Applicants' long-term financing programs.

Proven and probable reserves in Matagorda Island Blocks 664 and 665 are estimated to total 87,800,000 Mcf, with initial deliverability currently estimated at 64,000 Mcf per day, it is asserted. It is indicated that the proposed facilities are capable of transporting all the gas produced from Blocks 664 and 665 and can be expanded to accommodate additional volumes which may become available in areas contiguous or adjacent to the subject blocks.

FGT requests authorization to transport SNG's 50-percent share of gas transported through the proposed facilities, from the point of inteconnection of the facilities proposed herein with its mainline in Refugio County, Texas, to the existing authorized interconnection between FGT's and SNG's facilities near Franklinton, Washington Parish, Louisiana.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to particpate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31692 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[1] Applicants state that they would install dehydration facilities pursuant to Section 2.55(a) of the Commission's General Policy and Interpretations (18 CFR 2.55(a)) at an estimated cost of $602,000; and may be required to install liquid removal equipment pursuant to the terms of the gas purchase contracts with the Producers at Applicants' expense (estimated at $1,404,000) if the Producers elect to inject liquid hydrocarbons into the proposed pipeline facilities downstream of Buyer's measuring facilities on Block 665.

[Docket Nos. CP79-462, CP66-110, *et al.*]

Great Lakes Gas Transmission Co.; Application and Petition To Amend

October 5, 1979.

Take notice that on August 30, 1979, Great Lakes Gas Transmission Company (Great Lakes), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP79-462 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing it to render a natural gas transportation service for Michigan Wisconsin Pipe Line Company (Mich Wisc), Natural Gas Pipeline Company of America, and Texas Eastern Transmission Corporation (Shippers) and the construction and operation of minor metering facilities in furtherance of such transportation service. Great lakes filed in Docket No. CP66-110, *et al.*, a petition to amend the order of October 24, 1975, issued in said docket pursuant to Section 7(c) of the Natural Gas Act so as to authorize an amendment to Great Lakes' gas transportation contract with TransCanada Pipelines Limited (TransCanada). The proposals are more fully set forth in the application and petition to amend on file with the Commission and open to public inspection.

Great Lakes states that ProGas Limited, a Canadian company, would sell to Shippers and Tennessee Gas Pipeline Company, a division of Tenneco, Inc. (Tennessee), a total of up to 300,000 Mcf per day of natural gas which would be delivered to Great Lakes by TransCanada at the United States—Canadian international boundary near Emerson, Manitoba (Emerson). Great Lakes would transport these volumes from Emerson to a point of interconnection between the facilities of Great Lakes and Mich Wisc near Farwell, Michigan, or such other points as the parties may mutually agree upon. It is indicated that deliveries of the purchased volumes of gas would commence on or about November 1, 1980 and would extend for a period of up to twenty years, during which time volumes of gas may be decreased subsequent to the fifth year, in accordance with the terms of the gas purchase contracts between Shippers and ProGas.

The transportation service would be performed by Great Lakes without the addition of new facilities except minor metering facilities at the Farwell delivery point. The cost of these facilities is estimated at $1,882,900 which would be financed from internally generated funds together with borrowings from banks under short-term lines of credit, if required.

In order to perform the transportation service, Great Lakes seeks authorization to reduce the contract demand under the TransCanada transportation contract by volumes equivalent to those to be transported by Great Lakes for the account of Shippers. It is stated that with such reduction in the contract demand, Great Lakes would reduce the charges otherwise payable by TransCanada relative to such reductions in volumes. Great Lakes would charge the Shippers for the transportation service the same rate as applicable to TransCanada from time to time under Great Lakes' T-4 Rate Schedule in order that Great Lakes may be kept whole on the revenues that it would lose as a result of reduction of charges payable by TransCanada. Additionally, it is indicated that a fee of 1.0 cent per Mcf would be paid by the Shippers to Great Lakes. This fee is intended to recover Great Lakes' cost of operating and maintaining minor metering facilities to be constructed by Great Lakes and the administrative expenses associated with the transportation services, it is stated.

Any person desiring to be heard or to make may protest with reference to said application and petition to amend should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice

V 44 0C 15 79 UMI

and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31693 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-30]

Lo-Vaca Gathering Co.; Application for Adjustment

October 5, 1979.

On July 31, 1979, Lo-Vaca Gathering Company filed with the Federal Energy Regulatory Commission an Application for Adjustment under § 284.143, *et seq.* and Section 311(b) of the Natural Gas Policy Act wherein Lo-Vaca Gathering Company sought permission to sell gas under Section 311(b) of the NGPA on an Mcf basis rather than a Btu basis and to use an alternate billing procedure than that specified in § 284.143 *et seq.* Lo-Vaca also sought an order approving or providing that the prices for such gas conform to the provisions of Section 311(b) of the NGPA and the applicable regulations thereunder.

The procedures applicable to the conduct of this adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before October 30, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31694 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-467]

Michigan Wisconsin Pipe Line Co.; Application

October 5, 1979.

Take notice that on September 4, 1979, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-467 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide transportation services for Natural Gas Pipeline Company of America (Natural), Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee), and Texas Eastern Transmission Corporation (Texas Eastern) and to construct and operate related pipeline and measurement facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant requests authorization to provide natural gas transportation services for Natural, Tennessee, and Texas Eastern resulting in redeliveries of Natural's and Texas Eastern's gas supplies directly to such parties and redeliveries of Tennessee's gas supplies to Midwestern Gas Transmission Company (Midwestern) for the account of Tennessee. It is indicated that ProGas Limited (ProGas) has contracted to purchase from producers in Alberta, Canada, 2,190,000,000 Mcf of natural gas during the period, November 1, 1980, to October 31, 2000, at a rate of up to 335,000 Mcf per day. Commencing on November 1, 1980, ProGas proposes to export and sell, pursuant to gas sales agreements, gas to Applicant, Natural, Tennessee, and Texas Eastern (Purchasers). Applicant states that the gas to be exported would be purchased from ProGas by the Purchasers at the rate prescribed by the Canadian government from time to time as permitted by the Economic Regulatory Administration (ERA) and the Commission. It is indicated that the current border price is $2.80 (U.S.) per million Btu's.

Applicant states that in accordance with a transportation agreement dated July 6, 1979 between Applicant and Natural it has agreed to take receipt of up to 75,000 Mcf of natural gas per day which Natural would cause Great Lakes Gas Transmission Company (Great Lakes) to deliver at the existing Farwell, Michigan, receipt point for Natural's account, provide transportation for such supplies, and make redeliveries of thermally equivalent volumes to Natural at a point of interconnection between the pipeline systems of Applicant and Natural located in Troy Township, Will County, Illinois. The agreement also provides that Applicant would retain one and one-half percent of the quantities transported to compensate Applicant for its compressor fuel usage, it is stated. It is indicated that Applicant would charge Natural a monthly rate of $2.93 per Mcf for each Mcf of contract demand.

Pursuant to a transportation agreement dated July 6, 1979, between Applicant and Texas Eastern, Applicant has agreed to take receipt of up to 75,000 Mcf of gas per day from Great Lakes at the Farwell receipt point for Texas Eastern's account, provide transportation for such supplies, and make redeliveries of thermally equivalent volumes to Texas Eastern at a proposed point of interconnection between the pipeline systems of Applicant and Texas Eastern located near French Lick, Dubois County, Indiana. Applicant states that the agreement provides that Applicant would retain one and one-half percent of the volumes of gas transported as compensation for its compressor fuel usage in providing the service. As consideration for providing the service, Applicant states that it would charge Texas Eastern a monthly rate of $2.39 per Mcf for each Mcf of contract demand.

Applicant asserts that the arrangement between Applicant and Tennessee covering the receipt, transportation, and redelivery of Tennessee's gas supplies purchased from ProGas utilizes the transportation arrangement between Applicant and Great Lakes to effectuate receipt, transportation, and redelivery of such gas to Applicant at Farwell, Michigan. Applicant states that in accordance with a transportation agreement dated August 16, 1979, between Applicant and Tennessee, it has agreed to take receipt of up to 75,000 Mcf of gas per day which Tennessee would cause TransCanada to deliver to Great Lakes at the Emerson, Manitoba, receipt point. Applicant indicates that it would provide transportation for such supplies via Great Lakes and its own pipeline transmission system and make redeliveries of thermally equivalent volumes to Midwestern for the account of Tennessee at a point of interconnection between the pipeline systems of Applicant and Midwestern for the account of Tennessee located in Channahon Township, Will County, Illinois. It is stated that during the first two yers of service under the agreement, Applicant would redeliver monthly volumes equivalent to those received for the account of Tennessee. After the first two years, Applicant states the transportation service would be on a daily firm basis which would require the installation of new pipeline and related facilities. The transportation agreement provides that Applicant would retain one and one-half percent of all volumes of gas transported as compensation for its compressor fuel usage, it is stated. Applicant asserts it would charge Tennessee a rate of 5.5 cents for each Mcf redelivered for its account during the first two years of the agreement and thereafter, a monthly demand charge predicated on the cost of service of the new facilities required to provide the service on a daily firm basis. The agreement also provides that Tennessee would reimburse Applicant for its *pro rata* share of the charges imposed by Great Lakes.

The application indicates that the interconnection between the pipeline systems of Applicant and Midwestern in Will County, Illinois, comprises a single 8-inch meter run having a capacity of approximately 50,000 Mcf of gas per day. Pursuant to the transportation agreement between Applicant and Tennessee, the parties contemplate that up to 75,000 Mcf of gas per day to be available for redelivery. In order to provide the required metering capacity at the redelivery point, Applicant states that it is requesting authorization to construct and operate an additional 8-inch meter run. Applicant estimates the cost of the additional metering would be $91,910 which would be financed from funds on hand. As further provided in the transportation agreement between it and Tennessee, Tennessee has agreed to pay a monthly metering charge of $9,708, it is stated. Applicant also requests authorization to construct and operate a new measurement station to be located near French Lick, Indiana, in order to effectuate redelivery of the gas supplies which Texas Eastern would purchase form ProGas. It is indicated that the station would comprise two 10-inch meter runs and associated appurtenances which Applicant estimates to cost $475,130.

In order to provide firm service for Natural and Texas Eastern, Applicant states that it proposes to construct and operate an aggregate of 12.1 miles of 42-inch diameter pipeline loop in Michigan and Indiana. The pipeline loop would comprise a 9.5-mile segment to be located in Michigan between Applicant's Hamilton and Bridgman compressor station, and a 2.6-mile segment to be located in Indiana between Applicant's Bridgman and St. John compressor stations. Applicant estimates that the aggregate cost of pipeline loop would be $14,137,200. Applicant states that the total cost of the facilities which also includes additional metering facilities at Applicant's interconnection with Great Lakes at Farwell, Michigan, to be $15,917,080, which would be financed initially with treasury funds and other funds generated internally, together with borrowings from banks under short-term lines of credit as required.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31695 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-495]

Michigan Wisconsin Pipe Line Co.; Application

October 5, 1979.

Take notice that on September 20, 1979, Michigan Wisconsin Pipe Line Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP79-495 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide a natural gas transportation service for Columbia Gas Transmission Corporation (Columbia) and Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that Columbia and Transco have acquired the preferential right to purchase 22 percent and 20 percent, respectively, of the gas reserves underlying South Marsh Island Area Block 146, offshore Louisiana. Applicant states it is advised that Columbia has entered into a gas purchase contract with OXY Petroleum, Inc. (OXY) dated March 22, 1979, covering the purchase of gas attributable to OXY's 14 percent interest in the block, and has entered into a gas purchase and sales agreement with Mono Power Company (Mono) dated June 1, 1979 covering the purchase of gas attributable to Mono's percent interest.

Applicant states that pursuant to a transportation agreement dated July 27, 1979, between Applicant and Columbia, Applicant has agreed to take receipt, in South Marsh Island Area Block 146, offshore Louisiana, for the account of Columbia, of up to 3,300 Mcf per day of gas, provide transportation onshore for such supplies, and make redeliveries of equivalent volumes to Columbia Gulf Transmission Company (Columbia Gulf) for the account of Columbia at an interconnection of the facilities of Applicant and Columbia Gulf located at Applicant's Patterson Compressor Station in St. Mary Parish, Louisiana. Applicant states that the quantities of gas redelivered by it to Columbia Gulf would be reduced by one percent as compensation for compressor fuel usage. As consideration for providing the transportation service, Applicant states that Columbia has agreed to pay it a monthly transportation charge equal to the contract demand multiplied by a demand charge of $9.52 per Mcf.

The application indicates that pursuant to a transportation agreement dated July 23, 1979, between Applicant and Transco, Applicant has agreed to

take receipt in Block 146 for the account of Transco, of up to 5,400 Mcf of gas per day, provide transportation onshore for such supplies, and make redeliveries of equivalent volumes to Transco at either the tailgate of Mobile Oil Corporation's Cameron Meadows Processing Plant located in Cameron Parish, Louisiana, and/or at an existing interconnection of the facilities of Applicant and Transco located near Applicant's North Tepetate Compressor Station located near Euncie, Louisiana. Applicant states that the quantities of gas redelivered by it to Transco would be reduced by one and four-tenths percent as compensation for compressor fuel usage. Applicant further states that consideration for providing the transportation service would be $11.06 per Mcf paid by Transco on a monthly basis.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31696 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-7]

Michigan Wisconsin Pipe Line Co.; Proposed Changes in FERC Gas Tariff

October 5, 1979.

Take notice that Michigan-Wisconsin Pipe Line Company ("Michigan Wisconsin"), on October 1, 1979, tendered for filing with the Federal Energy Regulatory Commission, Second Revised Sheet Nos. 31, 32, 33, 34, 35, 36 and Original Sheet Nos. 37-A and 68 proposing changes in its FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1979.

Michigan Wisconsin states that pursuant to Order No. 29, issued May 2, 1979, at Docket No. RM79-15, Final Regulation for the Implementation of Section 401 of the Natural Gas Policy Act, Michigan Wisconsin has filed proposed tariff revisions designed to alter the priority-of-service categories under Section 9.4 of its tariff to: (1) expand Priority 1 to include new high priority uses; (2) establish a new Priority 2 for essential agricultural uses; and (3) renumber existing Priorities 2 through 6 as Priorities 3 through 7.

Copies of the filing were served upon Michigan Wisconsin's jurisdictional customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31697 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. TC80-3, TC80-4]

Midwestern Gas Transmission Co.; Tariff Filing

October 5, 1979.

Take notice that on October 1, 1979, Midwestern Gas Transmission Company (Midwestern), tendered for filing in Docket Nos. TC80-3 and TC80-4 proposed changes in its FERC Gas Tariff, pursuant to Section 401 of the Natural Gas Policy Act of 1978 (NGPA) and Section 281.204 of the Federal Energy Regulatory Commission's (Commission) Regulations in order to comply with the requirement prescribed by the Commission's Permanent Curtailment Rule, Order No. 29 issued May 2, 1979 (18 CFR Part 281).

Section 281.204 of the Commission's regulations requires interstate pipelines to file no later than October 1, 1979, tariff sheets containing a curtailment plan and incorporating therein an index of the high-priority and essential agricultural use entitlements of each of their customers, and the establishment of a Data Verification Committee. Midwestern requests that it be permitted to revise its FERC Gas Tariff, Third Revised Volume No. 1 for its Northern and Southern Systems,[1] to provide for the protection of high-priority and essential agricultural uses in the manner contemplated by the NGPA and the Commission's Regulations. The revised tariff sheets for Midwestern's Northern System, contained in Section 3 of Article XX of the General Terms and Conditions of Third Revised Volume No. 1, and for Midwestern's Southern System, contained in Section 3 of Article XIX of the General Terms and Conditions of Third Revised Volume No. 1, provide for: (1) the expansion of existing priority 1 to include all high-priority uses; (2) the establishment of a new priority 2 for essential agricultural uses; and (3) the renumbering of existing priorities 2 through 9 as priorities 3 through 10.

Midwestern states that Original Sheet Nos. 118 through 134 for the Northern System, and Original Sheet Nos. 109 through 117 for the Southern System, reflect an Index of End-Use Volumes pursuant to Section 281.204(a) and 281.204(b) of the Commission's Regulations.

Midwestern further states that this filing includes the final report of its Northern and Southern System Data Varification Committee and that copies of the filing have been mailed to all of

[1] Midwestern has filed its revised tariff sheets for its Northern System in Docket No. TC80-4, and for its Southern System in Docket No. TC80-3.

its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve ot make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31698 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-14]

Mississippi River Transmission Corp.; Tariff Filing Pursuant to Order No. 29

October 5, 1979.

Take notice that on September 28, 1979, Mississippi River Transmission Corporation (Mississippi) tendered for filing pursuant to Order No. 29 and § 281.204 of the Commission's Regulations the following sheets of its FERC Gas Tariff, First Revised Volume No. 1:

Sixth Revised Sheet No. 23
Second Revised Sheet No. 23A
Second Revised Sheet No. 23B
Second Revised Sheet No. 23C
Second Revised Sheet No. 23D
Second Revised Sheet No. 23E
Second Revised Sheet No. 23F
Second Revised Sheet No. 23G
Original Sheet No. 35
Original Sheet No. 36
Original Sheet No. 37
Original Sheet No. 38
Original Sheet No. 39

The sheets are proposed to be effective November 1, 1979.

Mississippi states that the filing is being made in accordance with the FERC's permanent curtailment rule adopted by Order No. 29 issued May 2, 1979 establishing a system of priorities for high-priority and essential agricultural use requirements pursuant to the provisions of Section 401 of the Natural Gas Policy Act of 1978. Mississippi further states that the tariff sheets reflect the integration of these priorities into Mississippi's curtailment plan and include indexes of entitlements with respect thereto that are based upon data submitted by Mississippi's customers in accordance with the provisions of the FERC's regulations and which have been reviewed by Mississippi's Data Verification Committee.

Mississippi notes that the proposed tariff sheets also remove from Mississippi's tariff the interim provision for the protection of high-priority and essential agricultural use requirements now in Mississippi's curtailment plan.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31699 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-480]

Northwest Pipeline Corp.; Application

October 5, 1979.

Take notice that on September 10, 1979, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah, 84111, filed in Docket No. CP79-480 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1980, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers or other similar sellers thereof, or to connect with the facilities of an intrastate pipeline authorized to make a sale or assignment under Section 311(b) or 312 of the Natural Gas Policy Act of 1978 (NGPA), or to connect Applicant's transmission system with the system of another company in order to effectuate the transportation of volumes sold or assigned under Section 311 or 312 of the NGPA, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplied of natural gas which may become available from various producing areas generally coextensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant and in effectuating the sale or assignment of volumes, or transporation of such volumes, under Sections 311(b) and 312 of the NGPA.

Applicant states that the total cost of the facilities proposed to be constructed will not exceed $12,000,000, with the total cost of any single project not to exceed $12,400,00 which cost Applicant would finance through working funds, supplemented, as necessary, by short-term borrowings.

Applicant realized that the requested single project cost exceeds the single project cost limitation prescribed under Section 157.7(b)(ii) of the Commission's Regulations. Therefore, Applicant requests waiver of said section in order to increase its single project limit from $1,500,000 to $2,400,000. Applicant states that the request to increase its single project cost is based on the fact that inflation and the increased real cost of constructing pipelines has seriously eroded the scope of work that may be completed with a single project cost limit of $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdication conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the

V 44 0 C 15 7 9 UMI

Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31700 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-481]

Northwest Pipeline Corp.; Application

October 5, 1979.

Take notice that on September 10, 1979, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP79-481 an application pursuant to Section 7 of the Natural Gas Act and Section 157.7(g) of the Regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction, removal, and relocation and for permission for and approval of the abandonment, during the calendar year 1980, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

The purpose of this budget-type authorization is to enable Applicant to act with reasonable dispatch in the construction and abandonment of facilities which will not result in changing Applicant's system salable capacity from that authorized prior to the filing of the instant application.

The total cost of the proposed construction, relocation, removal or abandonment of field compression facilities would not exceed $3,000,000, with no single project to exceed $1,000,000. Applicant realizes that the requested single project limit exceeds the amounts prescribed under Section 157.7(g)(iii) of the Commission Regulations. Therefore, Applicant requests waiver of said section in order to increase its single project limit from $500,000 to $1,000,000. Applicant states that its request for the increase in the single project cost is based on the following: (a) inflation and the increased real cost of construction has seriously eroded Applicant's ability to keep its single project costs within the specified $500,000 limit; (b) Applicant must install and operate large horsepower compressor units because of the low pressure and low permeability of the producing formations that are unique to the Rocky Mountain area; (c) Applicant's widespread and remote compressor locations tend to increase the installation costs; (d) because of the time necessary for the field operating personnel to reach the site, additional safeguards, such as fire detection and automatic shut-down features must be included in the basic compressor packages; and (e) the compression facilities must be designed to compensate for the harsh environment of the gas fields in the areas where Applicant conducts most of its gas gathering operations. Applicant asserts that while many of these considerations are site specific, they contribute to an increased cost per installed horsepower and limit Applicant's flexibility to adjust timely its budget-type facilities under the present $500,000 limit.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 29, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31674 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. ER76-149 and E-9537]

Public Service Company of Indiana; Compliance Filing

October 5, 1979.

The filing company submits the following:

Take notice that on September 18, 1979, Public Service Company of Indiana (PSI) filed revised tariffs pursuant to Ordering Paragraph (C) of the Commission's "Opinion No. 44, Opinion and Order on Rate Increase," dated June 28, 1979, and pursuant to Ordering Paragraph (A) of the Commission's "Order Denying Application for Rehearing and Order on Remand," dated August 27, 1979.

As support of the required rate level, PSI also filed revised cost of service data in the form of revised Statement M and revised Statement N, and rate comparisons for all jurisdictional customers showing the effect of the application of the revised tariffs to the customers' billing determinates for Period II.

PSI's proposed revised tariffs include all stipulations and mandated adjustments per PSI's Compliance Filing dated September 30, 1977, Initial Decision of the Administrative Law Judge in FERC Docket No. ER-76-149, dated June 20, 1978, and Opinion and Order on Rate Increase, FERC Opinion No. 44, dated June 28, 1979.

PSI further submits that the revised tariffs filed herewith have been designed on the same cost allocation methodology as PSI employed in the revised tariffs accepted for filing by the Commission in its "Order Accepting in Part, Rejecting in Part Compliance Filing," dated November 9, 1978. PSI's customers are the City of Crawfordsville, City of Peru, City of Washington, City of Logansport, City of Frankfort, and the Hoosier Energy Division.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before October 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Persons wishing to become parties to a proceeding must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31675 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-12]

South Georgia Natural Gas Co.; Settlement Offer

October 5, 1979

On October 1, 1979, South Georgia Natural Gas Company (South Georgia) filed pursuant to Section 1.18(e)(1), of the Commission Rules of Practice and Procedure a settlement offer, which it believes to be supported by the majority of its customers and which it recommends be approved and adopted by the Commission as being in conformity with the provisions of Section 401 of the Natural Gas Policy Act of 1978 (NGPA) and for purposes of implementing the Commission's Order No. 29.

South Georgia also elects to exercise its option pursuant to § 281.204(a)(2) to make its tariff sheets effective December 1, 1979, and it is for this purpose filing herewith First Revised Sheet No. 34A to its FERC Gas Tariff which continues the Interim Curtailment Rule issued in Docket No. RM79-13 through November 30, 1979. South Georgia does request, however, that the Commission approve the settlement plan for implementing Order No. 29 as soon as possible and that upon such approval that South Georgia be authorized to cancel First Revised Sheet No. 34A effective as of the date the tariff sheets implementing the settlement plan are made effective.

The modifications to South Georgia's existing curtailment plan are set out in the following pro-forma tariff sheets and Index of Requirements to South Georgia's FPC Gas Tariff First Revised Volume No. 1 that were attached to its offer of settlement:

First Revised Sheet No. 24, Superseding Original Sheet No. 24
First Revised Sheet No. 26, Superseding Original Sheet No. 26
Original Sheet No. 26A
First Revised Sheet No. 27, Superseding Original Sheet No. 27
First Revised Sheet No. 28, Superseding Original Sheet No. 28
First Revised Sheet No. 44, Superseding Original Sheet No. 44
First Revised Sheet No. 45, Superseding Original Sheet No. 45
Original Sheet No. 46
Original Sheet No. 47

All of the above sheets have an effective date of December 1, 1979. First Revised Sheet No. 34A also included with the filing has an effective date of November 1, 1979.

The basic modifications proposed by South Georgia for implementing Order No. 29 are reflected in First Revised Sheet No. 24, Superseding Original Sheet No. 24, which sets forth all of the priority-of-service categories in the proposed plan attached to its offer of settlement which it evidently believes to be in conformity with Section 401 of the NGPA. These priority-of-service categories as set forth in that sheet are as follows:

8.2 Curtailment Priorities:

Should Seller have a deficiency in gas supplies needed to fulfill the total gas requirements of its system, Seller shall curtail deliveries of gas to its customers in accordance with the priority-of-service categories, with category (9) being the lowest priority:

(1) High Priority Requirements.

(2.1) Summer Season (April 1–October 31) Essential Agricultural Use Requirements.

(2.2) Large Commercial requirements (50 Mcf or more on a peak day), firm industrial requirements for plant protection, feedstock and process needs, and pipeline customer storage injection requirements.

(3) All industrial requirements not specified in (2.1), (2.2), (4), (5), (6.1), (6.2), (7), (8), or (9).

(4) Firm industrial requirements for boiler fuel use at less than 3,000 per day, but more than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(5) Firm industrial requirements for large volume (3,000 Mcf or more per day) boiler fuel use where alternate fuel capabilities can meet such requirements.

(6.1) Winter Season (November 1–March 31), Essential Agricultural Use Requirements.

(6.2) Interruptible requirements of more than 300 Mcf per day, but less than 1,500 Mcf per day, where alternate fuel capabilities can meet such requirements.

(7) Interruptible requirements of intermediate volumes (from 1,500 Mcf per day through 3,000 Mcf per day), where alternate fuel capabilities can meet such requirements.

(8) Interruptible requirements of more than 3,000 Mcf per day, but less than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

(9) Interruptible requirements of more than 10,000 Mcf per day, where alternate fuel capabilities can meet such requirements.

It should be noted that Essential Agricultural Uses in the plan proposed in South Georgia's offer of settlement are either in service Priority 2.1 or 6.1 depending upon the season of the year.

Copies of South Georgia's proposed offer of settlement were served upon all its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 19, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31676 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-25]

Stallworth Oil & Gas Co., Inc.; Application for Adjustment

October 10, 1979.

On September 4, 1979, Stallworth Oil & Gas Company, Inc. (Applicant) filed with the Federal Energy Regulatory Commission an Application for an Adjustment under Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), wherein the Applicant seeks relief from the maximum lawful pricing provisions of the NGPA.

Applicant proposes to re-enter, redrill and deepen a well which was plugged and abandoned on February 22, 1960, when no oil or gas was encountered. Applicant requests that it be granted an adjustment under section 502(c) to the extent that the previous drilling, i.e., prior to February 19, 1977, might prevent the well from being qualified as a new onshore production well under section

103 of the NGPA. Applicant alleges that it cannot economically perform such re-entry, redrilling and deepening operations unless it receives the maximum lawful price for a new onshore production well.

The procedures applicable to the conduct of the adjustment proceeding are found in § 1.41 of the Commission's Rules of Practice and Procedure, Order No. 24 issued March 22, 1979.

Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with the provisions of § 1.41. All petitions to intervene must be filed on or before October 30, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31684 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-11]

Tennessee Natural Gas Lines, Inc.; Tariff Filing Pursuant To Order No. 29

October 5, 1979.

Take notice that on October 1, 1979, Tennessee Natural Gas Lines, Inc. (Tennessee Natural), 2008 Parkway Towers, Nashville, Tennessee 37219, tendered tariff sheets for filing pursuant to Sections 281.201 through 281.215 of the Commission's Rules and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15 as modified and amended. The filed tariff sheets are:

First Revised Sheet Nos. 24B-24F
Original Sheet Nos. 32-34

and are intended to be effective November 1, 1979, to provide for revisions in the pipeline's curtailment plan regarding deliveries of natural gas for high-priority and essential agricultural users. Tennessee Natural states that said tariff sheets (1) expand existing priority 1 to include all high-priority uses; (2) establish a new priority 2 for essential agricultural uses; and (3) renumber existing priorities 2 through 9 as priorities 3 through 10, all as more fully explained in the filing with the Commission and available for public inspection. Said filing also includes the final report of the Data Varification Committee.

Any person desiring to be heard or to protest said filing should, on or before October 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31677 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-476]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

October 5, 1979.

Take notice that on September 6, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP79-476 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 6.4 miles of 8⅝-inch pipeline and related metering facilities in the South Marsh Island, South Addition Area (SMI), offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the proposed 8⅝-inch pipeline is to originate at a platform owned by Tenneco Oil Company (Tenneco) and Texaco Inc. (Texaco) located in SMI 116 offshore Louisiana and would extend to an 8-inch subsea side valve on Michigan Wisconsin Pipeline Company's (Mich Wisc) 24-inch pipeline in SMI 108 where the gas would be deliverable for the account of Tennessee to Mich Wisc.

Tennessee states that the proposed facilities would permit the receipt of volumes of gas to be purchased by Tennessee in SMI 116 from Tenneco and Texaco. Tennessee estimates that approximately 23,061,000 Mcf of recoverable gas reserves, as of January 1, 1979, would be available to Tennessee from SMI 116 and that the total maximum daily deliverability would be 20,000 Mcf of gas per day.

Tennessee indicates that the cost of the proposed facilities is estimated to be $3,256,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31678 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-2]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Filing Pursuant To Order No. 29

October 5, 1979.

Take notice that on October 1, 1979, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P. O. Box 2511, Houston, Texas 77001, tendered tariff sheets for filing pursuant to sections 281.201 through 281.215 of the Commission's Rules and Commission Order No. 29, issued May 2, 1979, in Docket No. RM79-15, as modified and amended. The filed tariff sheets are:

Ninth Revised Volume No. 1

Second Revised Sheet No. 213F and 213K1
Third Revised Sheet No. 2131
Fourth Revised Sheet No. 213J
Fifth Revised Sheet No. 213K
First Revised Sheet No. 213K6

Original Volume No. 1A

Original Sheet Nos. 1 through 138

and are intended to be effective November 1, 1979, to provide for revisions in the pipeline's curtailment plan regarding deliveries of natural gas for high-priority and essential agricultural uses. Tennessee states that said tariff sheets (1) expand existing priority 1 to include all high-priority uses; (2) establish a new priority 2 for essential agricultural uses; and (3) renumber existing priorities 2 through 9 as 3 through 10, all as more fully set out in the filing with the Commission and available for public inspection. Said filing also includes an Index of End-Use Volumes for all direct and resale customers except Columbia Gas Transmission Corporation, Consolidated Gas Supply Corporation, Inland Gas Company, Midwestern Gas Transmission Company, and Texas Gas Transmission Corporation. It is said that these companies did not provide their final data in time for inclusion in this filing but Tennessee intends to supplement the Index as soon as practicable but in no event later than November 1, 1979. Said data, it is stated, was reviewed by the Data Verification Committee.

Any person desiring to be heard or to protest said filing should, on or before October 19, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D. C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31679 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. SAD80-2, TC80-13]

Transwestern Pipeline Co.; Motion for Approval of Settlement, Waiver of Filing Requirements and Interim Adjustment

October 5, 1979.

Take notice that on October 1, 1979, Transwestern Pipeline Company (Transwestern), P.O. Box 2521, Houston, Texas 77001, filed in Docket Nos. SA80-2 and TC80-13 a motion for approval of a proposed settlement allowing an adjustment, under Section 502(c) of the Natural Gas Policy Act (NGPA) wherein Transwestern seeks exemption from the tariff filing requirements of Section 281.204 of the Commission's Regulations, all as more fully set forth in the motion for approval of settlement, waiver of filing requirements and interim adjustment. [1]

Section 281.204 of the Commission's Regulations requires the filing of tariff sheets regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users, the attribution of natural gas, and the establishment of a data verification committee. Under the proposed Stipulation and Agreement, Transwestern would not be required to file the draft tariff sheets and index of entitlement contemplated by Section 281.204. The tariffs and end-use currently utilized by Transwestern to administer curtailments would not be modified except to remove the time limitation currently incorporated in Section 11.6 of the General Terms and Conditions of Volume No. 1 of Transwestern's FERC Gas Tariff.

The proposed Stipulation and Agreement further provides that if in the future any party to the agreement feels that changes in Transwestern's curtailment program are required in order to comply with Section 401(a) of the NGPA, Transwestern will promptly notify the Commission and its customers, and any party may request the convening of a settlement conference to determine whether changes in Transwestern's curtailment procedures are required in order to comply with Section 401(a) of the NGPA. Transwestern states that no purpose would be served by requiring modification of an end-use data base that has been utilized by Transwestern for approximately six years.

Transwestern further requests that the Commission, pursuant to Section 1.41(m) of its Regulations, grant interim relief relieving Transwestern of its current obligation to file revised tariff sheets on November 1, 1979, pending a ruling on the proposed settlement and request for adjustment.

Any person desiring to participate in this proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.14). All petitions to intervene in Docket No. SA80-2 must be filed on or before October 30, 1979. Pursuant to Section 1.18(e) of the Commission's Rules of Practice and Procedure, comments on the settlement, Docket No. TC80-13, will become due by October 22, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31680 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

[1] The settlement has been docketed as TC80-13 and the request for interim adjustment has been docketed as SA80-2.

[Docket No. ER76-672]

Virginia Electric & Power Co.; Contract Supplement

October 5, 1979.

The filing company submits the following:

Take notice that on September 26, 1979, Virginia Electric and Power Company (VEPCO) tendered for filing a Contract Supplement, dated August 20, 1979, to the Rate Contract between VEPCO and the Prince George Electric Cooperative.

Said Supplement requests the Commission's authorization for connection of the new delivery point, designated as Rowanta Delivery Point, located in Prince George County, Virginia.

VEPCO requests an effective date for the new delivery point as that of the date of connection of the new facilities, which is expected to occur sometime during October, 1979. VEPCO agrees to notify the Commission of the effective date to be placed in each copy of the Supplement.

VEPCO requests that the Commission waive the timely filing requirements as it was unable to make a timely filing due to the amount of time required for the preparation and execution of the Supplement.

VEPCO further requests waiver of the required billing data as there will be no significant increase in the unit cost of electricity to the Prince George Electric Cooperative as a result of the planned connection of facilities.

Any person desiring to be heard or to protest said application should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before October 22, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make

protestants parties to the proceeding. Persons wishing to become parties to a proceeding must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31681 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Environment

Environmental Advisory Committee; Change in Notice of Meeting

The tentative agenda for the Environmental Advisory Committee meeting announced for October 22 and 23, 1979, (44 FR 57154, 10/4/79) is revised as follows:

Monday, October 22, 1979

9:00 a.m. to 12:00

Welcome and Introductions
Report of the Subcommittee on Demand Projections
Discussion
Public Comment and Questions

1:00 p.m. to 4:30 p.m.

Committee Business Report
Report of the Subcommittee on Synthetic Fuels
Public Comment and Questions

Tuesday, October 23, 1979

9:00 a.m. to 12:00

Presentation by Amory Lovins
Public Comment and Questions

1:00 p.m. to 4:30 p.m.

New Business
Public Comment and Questions

Issued at Washington, D.C., October 9, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-31671 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; July 2 through July 6, 1979

Notice is hereby given that during the period July 2 through July 6, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.d.t., except federal holidays.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

October 5, 1979.

Proposed Decisions and Orders

Kenneth L. Tipps, Denver, Colo., DXE-5532, crude oil

Kenneth L. Tipps filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Marick 1-A Property for the benefit of the working interest owners at upper tier ceiling prices. On July 3, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Marick 1-A Property.

Perfection Products, Waynesboro, Ga., DEE-2128
Preway, Inc., Wisconsin Rapids, Wis., DEE-2316
Louisville Tin & Stove, Louisville, Ky., DEE-2399
Williams Furnace Co., La Mirada, Calif., DEE-2228
Peerless Mfg. Corp., Louisville, Ky., DEE-2798
United States Stove, Chattanooga, Tenn., DEE-3140
Martin Industries, Florence, Ala., DEE-3440
Locke Stove Co., Kansas City, Mo., DEE-3441
Readybuilt Products, Baltimore, Md., DEE-2400

Suburban Mfg. Co., Dayton, Tenn., DEE-2322 testing requirements

Perfection Products Company and nine other firms filed Applications for Exception from the provisions of 10 CFR, Part 430, Appendix O. The exception request, if granted, would permit the firms to market vented gas space heaters with step-opening control values, vented gas space heaters with modulating and/or manual control values, and vented oil heaters with vaporizing-type burners without regard to the testing provisions of Part 430, Appendix O. On July 3, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied with respect to vented gas space heaters with step-opening control values, and granted with respect to the other types of space heaters.

Wally's Oil Co., Wilton, Minn., DEE-1291, Nos. 1 and 2 heating oil

Wally's Oil Co. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Wally's to retain a portion of the revenues which the firm has agreed to refund under the terms of a Consent Order which it entered into with the DOE Region V Office on May 2, 1978. On July 3, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 2 through July 6, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Carol Davis' Mini Market, DEE-3555, Whittier, Calif.
Cogan's Gulf & Pac 6-12, DEE-3475, Kentwood, La.
Hooten's Exxon, DEE-5190, Emory, Tex.
Langley Park Amoco, DEE-4709, Hyattsville, Md.
Vic's Arco Service, DEE-4838, Santa Cruz, Calif.
Benson General Store, DEE-5851, Benson, Vt.
Sinclair Oil Corp., DEE-5522, Washington, D.C.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 2 through July 6, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Nancy Starr Mobil, DEE-4137, Martinez, Calif.
Enterprise Shell Service Station, DEE-4341, Oxnard, Calif.
K & K, Inc., DEE-4946, Plattsville, Ala.

[FR Doc. 79-31669 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of Aug. 17 Through Aug. 24, 1979

Notice is hereby given that during the week of August 17, 1979 through August 24, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 5, 1979.

List of Cases Received by the Office of Hearings and Appeals

(Week of Aug. 17 through Aug. 24, 1979)

Date	Name and location of applicant	Case No.	Type of submission
Aug. 17, 1979	Cotten, Day, and Doyle, Washington, D.C.	DFA-0596	Appeal of Freedom of Information Request Denial. If granted: The July 17, 1979, Information Request Denial issued by the DOE Freedom of Information Officer, Region X, would be rescinded and Cotten, Day, and Doyle would receive access to certain DOE documents.
Aug. 17, 1979	Marathon Oil Company, Washington, D.C.	DEA-0595, OES-0595, DST-0595.	Appeal of a Redirection Order, Request for Stay, and Request for Temporary Stay. If granted: The July 31, 1979, Redirection Order issued to Marathon Oil Company by the Economic Regulatory Administration, Region IV, regarding Marathon Oil Company's supply obligations to Southland Corporation would be rescinded. Marathon Oil Company would be granted a Stay and Temporary Stay pending a final determination on its appeal.
Aug. 17, 1979	The Farley Company, Hartford, Connecticut	DEE-7899	Exception to Emergency Building Temperature Restrictions. If granted: The Farley Company would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Aug. 20, 1979	Apollo Oil Company, Mountain View, California	DEE-7911, DST-7911.	Price Exception, Request for Temporary Stay. If granted: Apollo Oil Company would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline. Apollo Oil company would be granted a Temporary Stay pending a final determination on its Application for Exception.
Aug. 20, 1979	C. Lee Waugh d.b.a. Shamrock Exxon, West Columbia, South Carolina.	DEE-7752	Price Exception. If granted: C. Lee Waugh d.b.a. Shamrock Exxon would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.
Aug. 20, 1979	Champlin Petroleum Company, Tulsa, Oklahoma	DEA-0598, DES-0598.	Appeal of Assignment Order, Request for Stay. If granted: The July 10, 1979, Assignment Order issued by the Economic Regulatory Administration, Region VII, regarding Champlin Petroleum Company's supply obligations to Town and Country Food Markets, Inc. would be rescinded. Champlin Petroleum Company would be granted a Stay pending a final determination of its Appeal.
Aug. 20, 1979	Commonwealth Oil Refining Co., Inc., San Antonio, Texas.	DXE-7928	Extension of relief granted in *Commonwealth Oil Refining Co., Inc.*, 2 DOE Par. 81,021 (October 17, 1978). If granted: The benefits received by Corco under the Naphtha Entitlements Program would be increased to exactly offset the disparity between the cost of the imported naptha feedstocks utilized by the firm and the weighted average cost of all imported naptha feedstocks utilized in Puerto Rico.
Aug. 20, 1979	E. I. du Pont de Nemours & Co. (Sabine River Works), Orange, Texas.	DEE-7909	Exception to Emergency Building Temperature Restrictions. If granted: E. I. du Pont de Nemours & Company (Sabine River works) would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Aug. 20, 1979	Fairview Esso Servicenter, Elmsford, New York	DEE-7926	Price Exception. If granted: Fairview Esso Servicenter would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.
Aug. 20, 1979	Gasohol, Inc., Santa Barbara, California	DEE-7912	Allocation Exception. If granted: Gasohol, Inc., would receive an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Aug. 20, 1979	Inexco Oil Company, Washington, D.C.	DRD-0264, DRH-0264.	Motion for Discovery and Motion for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to Inexco's Oil Company's Statement of Objections to a Proposed Remedial Order issued to the firm (Case No. DRO-0264).
Aug. 20, 1979	Maria Reichmanis, Syracuse, New York	DFA-0604	Appeal of Information Request Denial. If granted: The August 16, 1979, Information Request Denial issued by the Office of Electrical Energy Systems would be rescinded and Maria Reichmanis would receive access to the "Minutes of the Eight Meeting of the Interagency Committee".
Aug. 20, 1979	Motherhood Maternity Shops, Santa Monica, California.	DEE-7917	Exception to the Emergency Building Restrictions. If granted: Motherhood Maternity Shops would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Aug. 20, 1979	Naph-Sol Refining Company, Inc., Muskegon, Michigan.	DEE-7924	Allocation Exception. If granted: Naph-Sol Refining Co., Inc., would receive an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Aug. 20, 1979	Russ DeVore Texaco Service Station, Big Spring, Texas.	DEE-7908	Price Exception. If granted: Russ DeVore Texaco Service Station would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.
Aug. 20, 1979	Seddon-Tremont Service Station Corp., Bronx, New York.	DEE-7925	Price Exception. If granted: Seddon-Tremont Service Station Corp. would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Aug. 17 through Aug. 24, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Aug 20, 1979	Texaco, Inc., White Plains, New York	DEE-7209, DEL-7209.	Price Exception, Application for Temporary Exception. If granted: Texaco, Inc., would receive an exception from the provisions of 10 CFR 212 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol. The firm would be granted a Temporary Exception pending a final determination on its Application for Exception.
Aug 20, 1979	Trends Publishing, Inc., Washington, D.C	DFA-0585	Appeal of Information Request Denial. If granted: Trends Publishing, Inc., would receive access to certain DOE documents.
Aug 20, 1979	Trends Publishing, Inc., Washington, D.C	DFA-0597	Appeal of information Request Denial. If granted: The August 8, 1979, Information Request Denial issued by the Research and Development Coordination Counsel would be rescinded and Trends Publishing, Inc. would receive access to the "Report of *ad hoc* Experts Group".
Aug 20, 1979	Chevron U.S.A. Inc., Kern County, California	DEE-7939	Price Exception (Section 212.73). If granted: Chevron U.S.A. Inc., would be permitted to sell the crude oil produced from the KCL 63 Stevens Property located in Greenly Field, Kern County, California, at market prices.
Aug 21, 1979	Gulf Oil Corporation, Houston, Texas	DEE-7936	Price Exception (Section 212.73). If granted: Gulf Oil Corporation would be permitted to sell the crude oil produced from the Ruth Fleming A Lease located in St. Martin Parish, Louisiana, at upper tier ceiling prices.
Aug 21, 1979	H & H Oil Company, Inc., Dickson, Tennessee	DEE-7998	Allocation Exception. If granted: H & H Oil company would receive an exception from the provisions of 10 CFR 211 permitting the firm to receive an additional allocation of unleaded motor gasoline for the purposes of blending gasohol.
Aug 21, 1979	Henry Petroleum Corporation, Midland, Texas	DRS-0276	Request for Stay. If granted: Henry Petroleum Corporation would be granted a Stay of the proceedings connected with the May 29, 1979, Proposed Remedial Order issued to the firm by the Economic Regulatory Administration, pending a final determination on the firm's Application for Exception (Case No. DEE-1400).
Aug 21, 1979	Marathon Oil Company, Findlay, Ohio	DEA-0601	Appeal of an Assignment Order. If granted: The July 17, 1979, Assignment Order issued to Marathon Oil Company by the Economic Regulatory Administration, Region IV, regarding Marathon Oil Company's supply obligations to Lucky Stores, Inc., would be rescinded.
Aug 21, 1979	P & M Petroleum Management, Denver, Colorado	DXE-7953	Extension of relief granted in *P & M Petroleum Management* 3 DOE Par. (June 20, 1979). If granted: P & M Petroleum Management would be permitted to continue to sell the crude oil produced from the Track #1 well, located in Roosevelt County, Montana, at upper tier ceiling prices.
Aug 21, 1979	Tom Smith, Houston, Texas	DFA-0600	Appeal of Information Request Denial. If granted: The July 18, 1979, Information Request Denial issued to Tom Smith by the Economic Regulatory Administration, Region VI, Acting District Manager would be rescinded and Tom Smith would receive access to certain DOE documents.
Aug 21, 1979	Union Oil Company of California, Washington, D.C	DED-7777	Motion for Discovery. If granted: Discovery would be granted to Union Oil Company of California with respect to an Application for Exception filed on behalf of Barnosky Oils, Inc.
Aug 21, 1979	Wind Energy Report, Rockville Centre, New York	DMR-0066	Request for Modification/Rescission. If granted: The DOE's July 13, 1979, Decision and Order (Case No. DFA-0449) issued to Wind Energy Report would be modified and Wind Energy Report would receive a waiver of fees incurred with respect to documents released in response to a Freedom of Information Request.
Aug 22, 1979	Chevron U.S.A. Inc., San Francisco, California	DEH-5462	Motion for Evidentiary Hearing. If granted: Chevron U.S.A. Inc., would be granted an evidentiary hearing with respect to its objection to an Application for Exception filed by Publix Oil Company.
Aug 22, 1979	Macmillan Ring-Free Oil Company, Inc., Washington, D.C.	DRD-0024	Motion for Discovery. If granted: Discovery would be granted to macmillan Ring-Free Oil Company with respect to its Statement of Objections concerning an Interim Remedial Order for Immediate Compliance issued to Tenneco Oil Company.
Aug 22, 1979	McGraw-Hill Publications Co., Washington, D.C	DFA-0599	Appeal of an Information Request Denial. If granted: The July 20, 1979, Information Request Denial issued by the Energy Information Administration would be rescinded and McGraw-Hill Publications Co. would receive access to certain DOE documents.
Aug 22, 1979	Tenneco Oil Company, Houston, Texas	DEH-0068	Motion for Evidentiary Hearing. If granted: An Evidentiary Hearing would be convened with respect to the DOE's June 14, 1979, Interim Decision and Order issued to Publix Oil Company regarding Tenneco Oil Company's supply obligations to Publix Oil Company.
Aug 22 1979	Tenneco Oil Company, Houston, Texas	DES-0275	Request for Stay. If granted: Tenneco Oil Company (Tenneco) would be granted a Stay of the DOE's June 14, 1979, Interim Decision and Order issued to Publix Oil Company (Publix) with respect to Tenneco's supply obligations to Publix.
Aug 22 1979	Tenneco Oil Company, Houston, Texas	DMR-0068	Motion for Modification/Rescission. If granted: The DOE's June 14, 1979, Interim Decision and Order issued to Publix Oil Company with respect to Tenneco Oil Company's supply obligations to Publix Oil Company would be modified.
Aug 23 1979	Convenient Equipment Inc., Louisville, Kentucky	DEE-7950	Exception to the Emergency Building Temperature Restrictions. If granted: Convenient Equipment, Inc., would receive an exception to the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Aug 23 1979	Fuel Oil Supply and Terminaling, Inc., Washington, D.C.	DFA-0592	Appeal of Freedom of Information Request Denial. If granted: The July 25, 1979, Information Request Denial issued by the Acting District Manager, Southwest District of Enforcement, Economic Regulatory Administration, would be rescinded and Fuel Oil Supply and Terminaling, Inc., would receive access to certain DOE documents.
Aug 23, 1979	Gulf Oil Corporation, Houston, Texas	DFA-0592	Appeal of Information Request Denial. If granted: The August 3, 1979, Information Request Denial issued to Gull Oil Corporation by the Office of Special Counsel for Compliance would be rescinded and Gulf Oil Corporation would receive access to certain DOE documents.
Aug 23, 1979	James L. Miller, Tampa, Florida	DFA-0602	Appeal of an Information Request Denial. If granted: The June 26, 1979, Information Request Denial issued by the Acting Administrator of the Energy Information Administration would be rescinded and James L. Miller would receive access to certain DOE data.
Aug 23, 1979	Vinny's Service Station, Staten Island, New York	DEE-7947	Price Exception. If granted: Vinny's Service Station would receive an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.
Aug 23, 1979	Richmond-Kill, Staten Island, New York	DEE-7946	Price Exception. If granted: Richmond-Kill would be granted an exception from the provisions of 10 CFR 212 with respect to the pricing of motor gasoline.
Aug 23, 1979	Shell Oil Company, Houston, Texas	DEA-0603, DES-0603, DST-0603	Appeal of Assignment Order, Request for Stay, and Request for Temporary Stay. If granted: The August 6, 1979, Temporary Assignment Order issued by the Economic Regulatory Administration, Region VI, regarding the Shell Oil Company's supply obligations to West Texas Utilities would be rescinded.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for motor gasoline

Week of August 17 through August 24, 1979

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

August 17, 1979

C.F. Spiegal Oil Company, DXE-7896, Missouri.
CH Leasing Corporation, DEE-7726, Massachusetts.
Dennis K. Burke, Inc., DEE-7672, Massachusetts.
Ed's Citgo Station, DEE-7902, Massachusetts.
Fantoni Company, Inc. DEE-7901, Massachusetts.
Lenawee Fuels, Inc. DEE-7897, Michigan.
North Bellmore Exxon, DXE-7973, New York.
Snyders Gateway, Inc., DEE-7894, Pennsylvania.
Triangle Oil Company, DEE-7893, Maryland.
Vickers Petroleum Corp., DEE-7898, Kansas.
Weekly's Exxon Service Station, DXE-7903, California.
Whetstone's Amoco, DEE-7900, Pennsylvania.

August 18, 1979

Link, Lloyd, DEE-7969, Tennessee.

August 20, 1979

ABC Bus Company, Inc., DEE-7916, Massachusetts.
BRD. School Commiss. (Indianapo, DEE-7918, Indiana.
Brilad Oil Co., DEE-8064, Georgia.
Carter's Grocery, DEE-7923, Virginia.
Ell-Bern Service Corporation, DEE-7913, Massachusetts.
Fasgo, Inc., DEE-7922, District of Columbia.
George's Service Station, DEE-7904, California.
Harry's Exxon, DEE-7921, California.
Joe Clark Oil Company, Inc., DEE-7910, Colorado.
Legacy & Savage, DEE-7914, Maine.
North Side Center, DEE-7919, Montana.
P.J. Casey & Son, Inc. DEE-7915, Massachusetts.
Richardson Oil Company, DEE-7907, South Dakota.
Schultz, Tony, DEE-7905, Montana.
Strickland, Mildred, DEE-7906, Mississippi.
Veazey, Z.M., Jr., DEE-7139, Mississippi.
Windermere Chevron, DEE-6380, Florida.

August 21, 1979

Antonio Vricella, DEE-7841, Massachusetts.
Bill's Bourne Bridge Mobil, DEE-7957, Massachusetts.
Cities Service Co (Lake Charles), DEE-7937, Louisiana.
Douthit Standard Service, DEE-7929, Mississippi.
Evergreen Store, DEE-7855, Wisconsin.
F S Services, Inc., DEE-7938, Illinois.
General Aviation Company, DEE-7930, California.
Johnson, Eugene, DEE-7677, Texas.
Lugar's Skelly, DEE-7941, Minnesota.
Rawji's Texaco Service, DEE-8007, California.
Simon's Mini-Mart, DEE-7935, Ohio.
Spring Road Exxon, DEE-7927, North Carolina.
Valley Plaza Std., DEE-7934, Michigan.

August 22, 1979

Adamo, Peter P., DEE-5628, Connecticut.
Best Petroleum Co., Inc., DEE-7942, Massachusetts.
Bolte Oil & Supply, DEE-7972, Nebraska.
Calotex Delaware, Inc., DXE-7943, Delaware.
Hinesley, J. H., DEE-7963, Georgia.
Pic-N-Pay, DEE-7940, Missouri.
The Jerry Cox Company, DEE-7944, South Carolina.

August 23, 1979

Amarada Hess, DEE-7974, District of Columbia.
Farmer's Depot, DEE-7952, Texas.
Forest Hill Chevron, DEE-7951, California.
Happy Valley Exxon Service, DEE-7945, West Virginia.
Kue Bel Enterprised, DEE-7948, Pennsylvania.
Perkin-Elmer Corp., DEE-7976, Connecticut.
Phillips Oil Corp., DEE-7975, Louisiana.

August 24, 1979

Amerada Hess Corp., DEE-7999, District of Columbia.
Seymour Volunteer Fire Depart., DEE-7959, Tennessee.
Skee's Exxon, DEE-7960, North Carolina.

Items retrived 60

[FR Doc. 79-31670 Filed 10-12-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1337-6; PP 8G2028/T198]

Establishment of Temporary Tolerances; Oxyfluorfen

Rohm and Haas Co., Independence Mall West, Philadelphia, PA 19105, has submitted a pesticide petition (PP 8G2028) to the Environmental Protection Agency (EPA). The petition requests that a temporary tolerance be established for combined residues of the herbicide oxyfluorfen (2-chloro-1-(3-ethoxy-4-nitrophenoxy)-4-(trifluoromethyl)benzene) and its metabolites containing the diphenyl ether linkage in or on the raw agricultural commodities cottonseed; eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.05 part per million (ppm). (A related document concerning the establishment of a food additive regulation for residues of oxyfluorfen in cottonseed oil appears elsewhere in today's **Federal Register**.)

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit (707-EUP-91) that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Rohm and Haas Co. must immediately notify the EPA of any findings from the experimental use that have a bearing of safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire October 1, 1981. Residues not in excess of 0.05 ppm remaining in or on cottonseed; eggs; milk; and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this perticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Mr. Richard F. Mountfort, Acting Product Manager 25, Registration Division (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/755-2196).

Dated: September 28, 1979.

(Sec. 408(j), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j))

Douglas D. Campt,

Acting Director, Registration Division.

[FR Doc. 79-31722 Filed 10-12-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1337-4]

Notice Under Section 125 of the Clean Air Act of Rescheduled Public Hearing; Extension of Comment Period

AGENCY: United States Environmental Protection Agency (EPA).

ACTION: Notice of rescheduled public hearing and comment period extension

for public participation in EPA's reproposed determination under subsection 125(a) of the Clean Air Act (Act).

SUMMARY: On September 6, 1979 (44 FR 52031) EPA proposed to determine under subsection 125(a), 42 USC 7425(a), that projected local and regional economic and unemployment impacts that would occur if certain Ohio utilities proceed with plans to switch from high sulfur coal to low sulfur coal to comply with sulfur dioxide emission limitations are not sufficiently significant to necessitate action under subsections 125(b) and (c) of the Act. A public comment period was established and scheduled to close December 5, 1979. In addition, a public hearing was scheduled for October 10, 1979 in Cleveland, Ohio.

Many interested persons requested EPA to conduct public hearings in the coal producing southeastern area of Ohio. In order to permit the fullest possible range of public participation from the communities most directly affected by any action under this section of the Act, EPA has cancelled the public hearing scheduled for October 10, 1979 in Cleveland, Ohio. The public hearing will be held instead on November 20, 1979 in St. Clairsville, Ohio. Additionally, the public comment period is extended to December 20, 1979.

DATES: The public comment period for the reproposed determination will remain open until December 20, 1979.

The public hearing on the reproposed determination will be held from 9 a.m. to 4 p.m. on Tuesday November 20, 1979 at the St. Clairsville, Ohio, Sheraton Inn, I-70 Exit 219, St. Clairsville, Ohio 43950.

ADDRESS: Comments or requests for further information should be directed to F.J. Biros, Chief, Technical Support Branch, Division of Stationary Source Enforcement, EN-341, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone 202-755-2560.

(Section 125 of the Clean Air Act as amended August 7, 1979, 42 U.S.C. 7425.)

Issued in Washington, D.C. on October 9, 1979.

Barbara Blum,

Acting Administrator

[FR Doc. 79-31720 Filed 10-12-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1337-8]

Region III: Ground Water System of a Piedmont Aquifer in Maryland; Request for EPA Determination Regarding Aquifers; Public Hearing Notification

Two petitions have been submitted, one by the Tenmile Creek Conservation Committee and the other by the Clarksburg Community Association, pursuant to Section 1424(e) of the Safe Drinking Water Act, Public Law 93-523, requesting the Regional Administrator of the Environmental Protection Agency to make the determination that a portion of an aquifer underlying Montgomery, Howard, and Frederick Counties, Maryland be designated as the sole or principal drinking water source for the area which, if contaminated, would create a significant hazard to public health. The area, if designated, would encompass the following drainage basins:

(1) *Little Seneca Creek Basin* including Tenmile Creek and Bucklodge Creek as well as Little Seneca Creek to the confluence with Great Seneca Creek.

(2) *Little Monocacy River Basin.*

(3) *Little Bennett Creek Basin* to the confluence with Bennett Creek.

(4) *Bennett Creek Basin* from headwaters only to the confluence with Little Bennett Creek.

(5) *Fahrney Branch Creek Basin* to the confluence with Bennett Creek.

(6) *Patuxent River Basin* from headwaters only to the confluence with Cabin Branch Creek.

(7) *South Branch Patapsco* River Basin from headwaters only to the confluence with Gillis Falls.

The petitions referred to above were printed in the June 8, 1976 edition of the Federal Register on pages 22976-22979.

EPA intends to decide whether to make the requested designation after a complete review of all relevant data and information, and a full opportunity for public participation. In this regard the Agency is developing a full factual record and solicits comments, data, and references to additional sources of information relevant to the determination required by Section 1424(e).

Comments, data, and references in response to this Notice should be submitted in writing to Mr. Benjamin A. Lacy, Chief, Ground Water Protection Section, Region III, Environmental Protection Agency, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-9000, Attention: Tenmile Creek Determination, within 60 days of this notice. Information concerning this request for determination will be made available for inspection at the above address and upon request from interested parties.

In addition to considering public comments sent to EPA, the Agency will hold the following public hearing at the date, times, and location shown below:

November 15, 1979, 3:00-5:00 p.m. and 7:00-9:00 p.m., Clarksburg Community Center, 22501 Weems Road, Clarksburg, Maryland.

Persons who wish to present prepared statements at the public hearing are urged to give notice to Mr. Benjamin A. Lacy, at the address previously indicated, prior to the hearing. If possible, written copies of these statements should be submitted at the hearing for inclusion in the record.

Dated: October 5, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79-31725 Filed 10-12-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

Radio Techincal Commission for Marine Services; Renewal of Advisory Committee Charter

The Federal Communications Commission has determined that it is necessary to renew the Radio Technical Commission for Marine Services as a Federal advisory committee for an additional one-year period. The purpose of the RTCM is to advise the FCC and other Federal agencies on maritime communication practices, needs, and present and projected systems looking toward improvements in telecommunication facilities and procedures. The new charter of the RTCM will extend until September 30, 1980.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-31713 Filed 10-12-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10423; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 25, 1979. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Agreement No. 6010-23.

Filing Party: Charles F. Warren, Esquire, Warren & Associates, P. C., 1100 Connecticut Avenue NW., Washington, D.C. 20036.

Summary: Agreement No. 6010-23, entered into among the member lines of the Straits/New York Conference, amends Article 8 of the approved agreement to provide for the appointment of a Chairman and a temporary Chairman, and that the Chairman may appoint committees; and deletes the word "Secretary(ies)" wherever it appears in the agreement and substitutes the word "Chairman."

By Order of the Federal Maritime Commission.

Dated: October 10, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-31731 Filed 10-12-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-91]

Pan Ocean Bulk Carriers, Ltd.—Investigation of Rates on Neo-Bulk Commodities in the Trade Between the United States and South Korea; Order of Investigation

On August 22, 1979, Judge Harry Pregerson of the United States District Court for the Central District of California filed a memorandum and order, received by the Federal Maritime Commission (FMC or Commission) on September 10, 1979, in *Retla Steamship Company v. Pan Ocean Bulk Carriers, Ltd., and Pan Ocean U.S.A., Inc.*, Civil Action No. 79-1437 HP, an action for treble damages and injunctive relief brought under various sections of the Sherman Act and Clayton Act, staying that proceeding, in part, and referring action, in part, to the Commission. Retla Steamship Company (Retla), a common carrier by water in the United States/South Korea trade, had alleged that Pan Ocean Bulk Carriers, Ltd., another common carrier by water in that trade, had, together with its wholly owned subsidiary, Pan Ocean, U.S.A., Inc., which is not a carrier but acts as agent for Pan Ocean Bulk Carriers in the United States (hereinafter collectively referred to as Pan Ocean), unlawfully attempted to monopolize, conspired to monopolize, and monopolized the carriage of neo-bulk commodities (including wood and steel products) between the United States and South Korea and that Pan Ocean had conspired with shippers and with small Korean carriers to unreasonably restrain trade in that market. Included in Retla's allegations of Pan Ocean's wrongdoing were the maintenance of noncompensatory shipping rates, predatory pricing practices, threats and intimidation of shippers, stealing Retla's employees, questionable chartering arrangements, and unlawful arrangements with Korean government officials.

Judge Pregerson, adopting the position advanced by the Commission in an *amicus curiae* brief filed in the district court action, referred to the Commission the question of whether the rates charged since April, 1978 and currently charged by Pan Ocean for the carriage of neo-bulk commodities (including wood and steel products) between South Korea and the United States are so unreasonably low as to be detrimental to the commerce of the United States, within the meaning of secton 18(b)(5) of the Shipping Act, 1916 (46 U.S.C. 817(b)(5)). The Court requested that the Commission undertake an investigation of this matter on its own motion rather than require Retla to institute a complaint proceeding before the Commission with respect to Pan Ocean's rates. The Court was concerned lest the prosecution of a complaint be viewed as an election by Retla to receive reparation rather than treble damages for any conduct which is shown to be unlawful. Since the Commission may award reparation only in a complaint proceeding and not in an investigation instituted on its own motion (see e.g., *Ross Products and Taub, Hummel & Schnall, Inc.*, 16 F.M.C. 333, 338-339 (1973)), the order entered as a result of this investigation will, as requested by the Court, be declaratory in nature. Lastly, the Court requested that the FMC conclude this proceeding and submit its decision to the Court not later than nine (9) months after the date the order was received by the Commission and stayed the action before it, to the extent it dealt with the rate questions referred to the agency, pending our decision here.

THEREFORE, IT IS ORDERED, That pursuant to the authority of sections 22 and 18(b)(5) of the Shipping Act, 1916 (46 U.S.C. 821 and 817(b)(5)), an investigation is hereby instituted to determine whether the rates charged by Pan Ocean Bulk Carriers, Ltd., from April, 1978 to the present time for the carriage of neo-bulk commodities (including wood and steel products) between South Korea and the United States are so unreasonably low as to be detrimental to the commerce of the United States within the meaning of section 18(b)(5) of the Shipping Act, 1916;

IT IS FURTHER ORDERED, That Pan Ocean Bulk Carriers, Ltd. is hereby made Respondent to this proceeding;

IT IS FURTHER ORDERED, That in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 C.F.R. 502.42), Hearing Counsel shall be a party to this proceeding;

IT IS FURTHER ORDERED, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

IT IS FURTHER ORDERED, That in light of the time frame requested by the Court for the conduct of this proceeding, an Initial Decision shall be issued by the Presiding Administrative Law Judge no later than February 29, 1980;

IT IS FURTHER ORDERED, That the hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examinaiton are necessary for the development of an adequate record;

IT IS FURTHER ORDERED, That during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tarriff changes affecting the material under investigation at the same time such changes are filed with the Commission;

IT IS FURTHER ORDERED, That notice of this Order be published in the

V 44 0C 15 79 UMI

Federal Register, and a copy be served upon all parties of record;

IT IS FURTHER ORDERED, That any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

IT IS FURTHER ORDERED, That all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

IT IS FURTHER ORDERED, That except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-31730 Filed 10-12-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Aspen Bancorp, Inc.; Formation of Bank Holding Company

Aspen Bancorp, Inc., Aspen, Colorado, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.57 per cent or more of the voting shares of The Bank of Aspen, Aspen, Colorado. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31710 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

First National Lincoln Corp.; Retention of Bank Shares

First National Lincoln Corp., Lincoln, Nebraska, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to retain 6.66 percent of the voting shares, acquired in a fiduciary capacity, of McCook National Bank, McCook, Nebraska. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31712 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

Carroll County Financial Corp.; Formation of Bank Holding Company

Carroll County financial Corporation, Temple, Georgia, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares of Bank of Carroll County, Temple, Georgia. The factors that are considered in acting on the application set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31711 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific International Bank; Establishment of U.S. Branch of a Corporation Organized Under Section 25(a) of the Federal Reserve Act

Security Pacific International Bank, New York, New York, a corporation organized under section 25(a) of the Federal Reserve Act, has applied for the Board's approval under § 211.4(c)(1) of the Board's Regulation K (12 CFR 211.4(c)(1)), to establish branches in Miami, Florida; Chicago, Illinois; and Houston, Texas. Security Pacific International Bank operates as a subsidiary of Security Pacific National Bank, Los Angeles, California.

The factors that are to be considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute, and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 3, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31709 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

National Advisory Council on Vocational Education; Hearings

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Hearings.

SUMMARY: This notice sets forth the schedule and purpose of the forthcoming hearings of the National Advisory Council on Vocational Education, and describes the functions of the Council. Notice of these hearings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATES: November 8 & 9, 1979; November 27 & 28, 1979.

ADDRESSES: National Center for Research in Vocational Education, Room IC, Ohio State University, 1960 Kenny Road, Columbus, Ohio 43210; Georgia State University, 201 Urban Life Center, Decatur Street, Atlanta, Georgia 30303.

The National Advisory Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, P.L. 90-576. The Council is directed to:

(A) advise the President, Congress, Secretary, and Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On Thursday, November 8, 1979 from 9:00 a.m. to 4:00 p.m. and on Friday, November 9, 1979, from 9:00 a.m. to 12:30 p.m., the National Advisory Council on Vocational Education will hold the first of four regional hearings on the status of vocational education in correctional institutions. This hearing will be held in Room 1C of the National Center for Research in Vocational Education, Ohio State University, 1960 Kenny Road, Columbus, Ohio 43210. The second hearing will be held in Atlanta, Georgia on Tuesday, November 27, 1979, from 9:00 a.m. to 4:00 p.m. and on Wednesday, November 28, 1979, from 9:30 a.m. to 12:30 p.m. at Georgia State University, 201 Urban Life Center, Decatur Street, Atlanta, Georgia 30303.

The purpose of these hearings is to examine the adequacy of vocational education programs for youth and adult offenders, and to explore ways to improve the programs and access to them. Specifically, the hearings will address the issues of: 1) federal policy as it relates to vocational education in corrections; 2) the use of federal funds for programs and operations; 3) legislative provisions for corrections in the Vocational Education Amendments of 1976; 4) the legal, attitudinal, and procedural barriers to providing access to quality vocational programs; 5) programs and activities which have found solutions to the barriers; and, 6) recommendations for change.

Records shall be kept of all the Council hearings and shall be developed into a final report and made available to the public through the office of the National Advisory Council on Vocational Education, located at 425 13th Street, N.W., Suite 412, Washington, D.C. 20004.

Anyone interested in testifying at the hearings, and anyone seeking more information should call Ralph Bregman or Sarah Bennett at the National Council office (202) 276-8873.

Signed in Washington, D.C. on October 9, 1979.

Raymond C. Parrott,

Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 79-31634 Filed 10-12-79; 8:45 am]

BILLING CODE 4110-02-M

Public Health Service

Hill-Burton and Health Professions Educational Facilities Programs; "Refinancing" of Guaranteed Loans

AGENCY: Health Resources Administration, PHS.

ACTION: Notice of moratorium on approving "refinancings" of certain Federally guaranteed loans.

SUMMARY: The Health Resources Administration announces a moratorium on approving "refinancings" of loans guaranteed under Titles VI and VII of the Public Health Service Act, when those "refinancings" involve the issuance of tax-exempt bonds.

FOR FURTHER INFORMATION CONTACT: Florence B. Fiori, Ph.D., Director, Bureau of Health Facilities, Compliance, and Conversion, Health Resources Administration, Center Building, Room 6-41, 3700 East-West Highway, Hyattsville, Maryland 20782.

SUPPLEMENTARY INFORMATION: The Department of the Treasury has requested the Department of Health, Education, and Welfare to halt approval of modifications in the terms of loans guaranteed under Titles VI (Hill-Burton) and VII (Health Professions Educational Facilities) of the Public Health Service Act, when those modifications are requested as part of transactions in which those loans are sold to public bonding authorities and used as collateral for the issuance of tax-exempt bonds. The Treasury Department has raised objections to these transactions based on national tax and fiscal policy. Accordingly, HEW is now examining its policy in regard to this use of these guaranteed loans. A number of tax-exempt "refinancings" under these authorities have already been approved by HEW's Health Resources Administration (HRA), which administers Titles VI and VII, and others are pending. The Administrator, HRA, hereby gives notice that in order to permit consideration of the above policy matters, until further notice the Department will issue no further approvals of requests for tax-exempt "refinancing" of any HEW guaranteed Title VI and VII loans which have not been accepted in the Regional Office for processing as of the date of publication of this Notice. No new applications will be accepted in the Regional Offices or in the Central Office for processing until further notice.

Dated: October 9, 1979.

Henry A. Foley, Ph. D.

Administrator.

[FR Doc. 79-31660 Filed 10-12-79; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-6686-A through AA-6686-N]

Alaska Native Claims Selections

On January 3 and November 7, 1974, Nondalton Native Corporation, for the Native village of Nondalton, filed selection applications AA-6686-A through AA-6686-N, as amended, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for

the surface estate of certain lands in the Nondalton area.

On November 14, 1978, the State filed general purposes grant selection applications pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)) for certain lands in the Nondalton area. Applications AA–21444, AA–21445, AA–21446, AA–21447, AA–21579, AA–21580, AA–21581, AA–21582, AA–21583, AA–21599, AA–21600, AA–21618 and AA–21619, all as amended, selected lands in Tps. 1 N., Rs. 30, 31, 32 and 33 W.; Tps. 1 S., Rs. 30, 31, 32, 33 and 34 W.; Tps. 2 S., Rs. 31 and 33 W.; and Tps. 3 S., Rs. 32 and 33 W., Seward Meridian, respectively. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved* public lands in Alaska. Since these lands were withdrawn and selected by Native village corporations, the aformentioned State Selection applications are hereby rejected in their entirety and will be closed of record when this decision becomes final. The State selected lands rejected above were not valid selections and will not be charged against the village corporation as State selected lands.

As to the lands described below, the applications are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a) aggregating approximately 108,435 acres, is considered proper for acquisition pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

Seward Meridian Alaska (Unsurveyed)

T. 1 N., R. 30 W.,
Sec. 2, excluding Lake Clark;
Sec. 3, excluding Native allotments AA–991, AA–6522 Parcel B and Lake Clark;
Sec. 4, excluding Native allotments AA–6066 Parcels A and B, AA–6511 Parcel C, AA–6522 Parcel B, AA–6538 Parcel B and Lake Clark;
Sec. 5, excluding Native allotments AA–6066 Parcel B, AA–6538 Parcel B and Lake Clark;
Sec. 6, excluding Lake Clark;
Sec. 7, excluding U.S. Survey 3435, Native allotments AA–6521 Parcel B, AA–6534 Parcel B, A–052574 and Lake Clark;
Sec. 8, excluding Native allotments AA–6502 Parcel B, A–052574 and Lake Clark;
Secs. 9, 10 and 11, excluding Lake Clark;
Secs. 13 and 14, excluding Lake Clark;
Sec. 15, excluding Native allotment AA–6481;
Sec. 16, all;
Sec. 17, excluding Native allotment A–052574;
Sec. 18, exluding Native allotment AA–6534 Parcel B and Lake Clark;
Secs. 19 and 20, all;
Secs. 21 to 24, inclusive, excluding Lake Clark;
Sec. 25, all;
Secs. 26 to 30, inclusive, excluding Lake Clark;
Secs. 32 and 33, excluding Native allotment AA–6541 Parcel A and Lake Clark;
Sec. 34, excluding Native allotments AA–6484, AA–6517 Parcel B and Lake Clark;
Secs. 35 and 36, all.
Containing approximately 11,335 acres.
T. 1 S., R. 30 W.,
Sec. 5, excluding Native allotment AA–6484;
Sec. 6, excluding Native allotment AA–6525;
Sec. 7, all.
Containing approximately 1,629 acres.
T. 1 N., R. 31 W.,
Secs. 1 and 2, all;
Secs. 3 to 6, inclusive, excluding Chulitna River;
Secs. 7 and 8, all;
Sec. 9, excluding Chulitna River;
Sec. 10, excluding Lake Clark and Chulitna River;
Sec. 11, excluding Lake Clark;
Sec. 12, excluding Native allotments AA–6504, AA–6505 Parcel A, AA–6534 Parcel B and Lake Clark;
Sec. 13, excluding Native allotments AA–6505 Parcel A, AA–6534 Parcel B and Lake Clark;
Sec. 14, excluding Native allotments AA–6535 Parcel A, AA–7435 Parcel B and Lake Clark;
Sec. 15, excluding Native allotment AA–7435 Parcel B and Lake Clark;
Secs. 16, 17, and 18, all;
Sec. 22, all;
Sec. 23, excluding Native allotment AA–6535 Parcel A and Portage Bay;
Sec. 24, excluding Portage Bay;
Sec. 25, excluding Native allotment AA–6524, Portage Bay and Lake Clark;
Sec. 26, excluding Native allotments AA–814 Parcel B, AA–6524, and Portage Bay;
Secs. 27 and 32, all;
Sec. 33, excluding Native allotment AA–6511 Parcel D and Portage Bay;
Sec. 34, excluding Native allotments AA–6511 Parcel D, AA–7435 Parcel C and Portage Bay;
Sec. 35, excluding Portage Bay;
Sec. 36, excluding Lake Clark.
Containing approximately 15,473 acres.
T. 1 S., R. 31 W.,
Sec. 1, excluding Lake Clark;
Sec. 2, excluding Native allotment AA–6537 Parcel B and Lake Clark;
Sec. 3, excluding Lake Clark;
Secs. 4 and 5, excluding Portage Bay and Lake Clark;
Sec. 6, excluding Native allotments AA–6468 Parcel B, AA–6535 Parcel B and Portage Bay;
Sec. 7, excluding Portage Bay;
Sec. 8, excluding Portage Bay and Lake Clark;
Secs. 9 and 10, excluding Lake Clark;
Sec. 11, excluding Native allotment AA–814 Parcel A and Lake Clark;
Sec. 12, excluding Native allotments AA–6535 Parcel C and A–055997 Parcel B;
Sec. 13, excluding Native allotment AA–6535 Parcel C;
Sec. 14, all;
Sec. 15, excluding Lake Clark;
Sec. 16, excluding Native allotment AA–6523 Parcel B and Lake Clark;
Sec. 17, excluding Lake Clark;
Sec. 18, excluding Portage Bay and Lake Clark;
Sec. 21, excluding Native allotments AA–6505 Parcel B, AA–6523 Parcel B, AA–8271 Parcel B and Lake Clark;
Secs. 22, 23, and 27, all;
Sec. 28, excluding Native allotments AA–6505 Parcel B, AA–6536 and Lake Clark;
Sec. 29, excluding Native allotments AA–6505 Parcel B, AA–6514 Parcel B, AA–6536 and Lake Clark;
Sec. 31, excluding Native allotment AA–6523 Parcel A and Lake Clark;
Sec. 32, excluding Native allotments AA–6514 Parcel B, AA–6523 Parcel A and Lake Clark;
Secs. 33 and 34, all.
Containing approximately 9,925 acres.
T. 2 S., R. 31 W.,
Secs. 4 to 8, inclusive, all.
Containing approximately 3,144 acres.
T. 1 N., R. 32 W.,
Sec. 1, excluding Native allotments AA–6517 Parcel A, AA–7435 Parcel A and Chulitna River;
Sec. 2, all;
Sec. 3, excluding Chulitna River;
Secs. 4, 5 and 6, all;
Secs. 7 to 10, inclusive, excluding Chulitna River;
Sec. 11, all;
Sec. 12, excluding Native allotment AA–7435 Parcel A;
Secs. 13 to 17, inclusive, all;
Sec. 18, excluding Native allotment AA–6522 Parcel A;
Secs. 19 and 20, all.
Containing approximately 12,493 acres.
T. 1 S., R. 32 W.,
Sec. 1, excluding Native allotments AA–6535 Parcel B;
Secs. 2 to 5, inclusive, all;
Secs. 9 and 10, all;
Sec. 11, excluding Native allotment A–052565;
Secs. 12, 13 and 14, excluding Native allotment A–052565 and Portage Bay;
Secs. 15 and 16, all;
Sec. 21, excluding Native allotment AA–6520;
Sec. 22, excluding Native allotment AA–6520 and Lake Clark;
Sec. 27, excluding Native allotment AA–6512 Parcel B and Lake Clark;
Sec. 28, excluding Native allotments AA–6512 Parcel B, AA–6516 and Lake Clark;
Secs. 29 and 32, all;
Sec. 33, excluding Native allotment AA–6516 and Lake Clark;
Secs. 34 and 36, excluding Lake Clark.
Containing approximately 10,025 acres.
T. 2 S., R. 32 W.,
Secs. 1, 2 and 3, excluding Lake Clark;
Secs. 4 to 8, inclusive, all;
Sec. 9, excluding U.S. Survey 4876 and Sixmile Lake;
Sec. 10, excluding Native allotments AA–6510, AA–6512 Parcel A and Sixmile Lake;
Sec. 11, excluding Native allotment AA–6510;
Secs. 12, 13 and 14, all;
Sec. 15, excluding Sixmile Lake;
Sec. 16, excluding U.S. Survey 3420, U.S. Survey 3422, U.S. Survey 3876, U.S. Survey 4822, U.S. Survey 4876 and Sixmile Lake;

Sec. 17, excluding U.S. Survey 3863, U.S. Survey 3876, U.S. Survey 4876 and Sixmile Lake;
Sec. 18, all;
Sec. 19, excluding U.S. Survey 4876, Native allotment A–052569 and Sixmile Lake;
Sec. 20, excluding U.S. Survey 4876 and Sixmile Lake;
Sec. 21, excluding Sixmile Lake;
Sec. 22, all;
Secs. 23, 24, 25 and 26, excluding Native allotment AA–6513 Parcel B;
Sec. 27, all;
Secs. 28, 29 and 30, excluding Sixmile Lake;
Sec. 31, excluding Native allotment AA–8271 Parcel C, Sixmile Lake and Tazimina River;
Secs. 32 to 36, inclusive, all.
Containing approximately 18,134 acres.
T. 3 S., R. 32 W.,
Secs. 6, 7 and 18, all;
Sec. 19, excluding Newhalen River.
Containing approximately 2,484 acres.
T. 1 N., R. 33 W.,
Secs. 11 to 14, inclusive, excluding Chulitna River;
Secs. 15, 20 and 21, excluding Long Lake;
Sec. 22, excluding Native allotment A–052563 and Long Lake;
Secs. 23 to 26, inclusive, excluding Chulitna River;
Sec. 27, excluding Native allotment A–052563 and Chulitna River;
Sec. 28, excluding Native allotment A–052563 and Long Lake;
Secs. 29, 30 and 31, excluding Long Lake;
Sec. 32, all;
Secs. 33, 34 and 35, excluding Chulitna River.
Containing approximately 11,383 acres.
T. 1 S., R. 33 W.,
Secs. 5, 6 and 7, all.
Containing approximately 1,844 acres.
T. 2 S., R. 33 W.,
Sec. 36, excluding Sixmile Lake.
Containing approximately 550 acres.
T. 3 S., R. 33 W.,
Sec. 1, excluding Newhalen River;
Sec. 12, excluding Native allotment AA–7435 Parcel D and Newhalen River;
Sec. 13, excluding Newhalen River;
Sec. 14, excluding Native allotment AA–6537 Parcel D and Newhalen River;
Sec. 24, excluding Native allotment AA–6539 Parcel D and Newhalen River.
Containing approximately 2,412 acres.
T. 1 S., R. 34 W.,
Secs. 1 to 6, inclusive, excluding Chulitna River;
Secs. 7, 8 and 9, all;
Secs. 10, 11 and 12, excluding Chulitna River.
Containing approximately 7,604 acres.
Aggregating approximately 108,435 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6686–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two- and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a one (1) acre site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

Site Easement (Airstrip)—The uses allowed for a site easement are: aircraft landing, vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

a. (EIN 4a D1) An easement for an existing access trail twenty-five (25) feet in width from Nondalton in Sec. 30, T. 2 S., R. 32 W., Seward Meridian, northwesterly across selected lands to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

b. (EIN 6 D9) An easement for an existing access trail twenty-five (25) feet in width from Nondalton in Sec. 30, T. 2 S., R. 32 W., Seward Meridian, around the south end of Sixmile Lake, thence northeasterly to the Pickerel Lakes and continuing easterly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

c. (EIN 10b D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 14, T. 1 S., R. 31 W., Seward Meridian, near Flat Island on the southeast shore of Lake Clark. The uses allowed are those listed above for a one (1) acre site.

d. (EIN 10 d D9) a one (1) acre site easement upland of the ordinary high water mark in Sec. 5, T. 1 S., R. 31 W., Seward Meridian, Near Portage Bay on the northwest shore of Lake Clark. The uses allowed are those listed above for a one (1) acre site.

e. (EIN 10j E) an easement for a proposed access trail twenty-five (25) feet in width from site EIN 10b D9 in Sec. 14, T. 1 S., R. 31 W., Seward Meridian, southeasterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

f. (EIN 10k E) An easement for a proposed access trail twenty-five (25) feet in width from site EIN 10d D9 in Sec. 5, T. 1 S., R. 31W., Seward Meridian, northwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

g. (EIN 12b D9) a one (1) acre site easement upland of the ordinary high water mark in Sec. 11, T. 1 S., R. 34 W., Seward Meridian, on the left bank of the Chulitna River by trail EIN 4a D1. The uses allowed are those listed above for a one (1) acre site.

h. (EIN 12d D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 6, T. 1 N., R. 31 W., Seward Meridian, on the left bank of Chulitna River. The uses allowed are those listed above for a one (1) acre site.

i. (EIN 12e C5) An easement for a proposed access trail twenty-five (25) feet in width from the Chulitna River in Sec. 16, T. 1 N., R. 32 W., Seward Meridian, southerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

j. (EIN 12g C5) an easement for a proposed access trail twenty-five (25) feet in width from site EIN 12d D9 on the Chulitna River in Sec. 6, T. 1 N., R. 31 W., Seward Meridian, northerly to public land. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

k. (EIN 12h E) An easement for a proposed access trail twenty-five (25) feet in width from the Chulitna Rive in the southwesterly quarter in Sec. 15, T. 1 N., R. 31 W., Seward meridian southwesterly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

l. (EIN 13a D9) A one (1) acre site easement upland of the ordinary high water mark in Sec. 16, T. 1 N., R. 32 W., Seward Meridian, on the right bank of Chulitna River. The uses allowed are those listed above for a one (1) acre site.

m. (EIN 16 L) A site easement for a bush airstrip two hundred and fifty (250) feet in width and one thousand five hundred (1,500) feet in length located in Sec. 18, T. 1 N., R. 30 W., and Sec. 13, T. 1 N., R. 31 W., Seward Meridian. The uses allowed are those listed above for an airstrip site.

V 44 0 C 15 7 9 UMI

n. (EIN 16a L) an easement for an existing access trail fifty (50) feet in width from the airstrip EIN 16 L to the mouth of the Chulitna River. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

o. (EIN 16b L) A one (1) acre site easement upland of the ordinary high water mark in Sec. 18, T. 1 N., R. 30 W., Seward Meridian, at the mouth of the Chulitna River. Ths uses allowed are those listed above for a one (1) acre site.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, and valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. A right-of-way, AA–8791, located in Secs. 30 and 31, T. 2S., R. 32 W.; Sec. 6, 7, 18 and 19, T. 3 S., R. 32 W.; Sec. 36, T. 2 S., R. 33 W.; and Sec. 1, T. 3 S., R. 33 W., Seward Meridian, varying in width from thirty (30) feet to one hundred fifty (150) feet each side of the centerline, for a Federal Aid Secondary Highway, issued to the State of Alaska, Department of Highways (now the Department of Transportation and Public Facilities) under the provisions of the act of August 27, 1958, as amended (72 Stat. 885; 23 U.S.C. 317 (1976)); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Nondalton Native Corportation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, approximately 108, 435 acres of this entitlement have been approved for conveyance; the remaining entiltement of approximately 6,765 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, Conveyance to the subsurface estate of the lands described above shall be granted to Bristol Bay Native Corporation when conveyance is granted to Nondalton Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

Only the following inland water bodies, within the described lands, are considered to be navigable:

Newhalen River;	Sixmile Lake;
Lake Clark;	Chulitna River;
Portage Bay;	Tazimina River;
Long Lake.	

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks in the Anchorage Times. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until 11–14–79 to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the adverse parties to be served are:

Nondalton Native Corporation, Nondalton, Alaska 99640.

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576.

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorge, Alaska 99501.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79–31721 Filed 10–12–79; 8:45 am]

BILLING CODE 4310–84–M

Intent To Prepare a Grazing Environmental Impact Statement for the Paradise-Denio Resource Area, Nev.

The Bureau of Land Management, Winnemucca District Office, will be preparing a Grazing Environmental Impact statement for the Paradise-Denio Resource Area, located in north-western Nevada. The Bureau's proposed action to be analyzed in the statement is to implement a program of allocating vegegation to cattle, sheep, domestic horses, wild horses and burros, mule deer, antelope and bighorn sheep. The action will also identify kinds of livestock, livestock numbers, periods of use, and range improvement projects (e.g., fencing, water development). This allocation program will be accomplished through the Bureau of Land Management's Planning System on approximately 3.8 million acres of BLM administered lands.

Alternative to the proposed action that will be analyzed included: (1) No Action—This is defined as the existing range management program in the Paradise-Denio Resource Area; (2) No Livestock Grazing—This is the exclusion of all domestic livestock grazing from BLM administered public lands in the Paradise-Denio Resource Area; (3) Maximizing Livestock Use Through Management and Development—This is the maximum development of range improvements wherever they are technically feasible; (4) Maximizing Wild Horses and Burros in Herd Use Areas on Public Lands—This is the allocation of vegetation for the maximum numbers of wild horses and burros in each herd use area; (5) Reduction of Livestock Grazing to a Level That is 40–50% Below the Proposed Action—This is an arbitrary reduction in use unit-wide to the range of 40–50% below that of the proposed action; (6) Elimination or Adjustment of Allotment Boundaries and Equal Grazing Reductions for All Users—This alternative is defined as one in which all allotment boundaries would be eliminated or adjusted and new areas of use assigned.

The Bureau of Land Management's scoping process for the Paradise-Denio Environmental Impact Statement will include: (1) An identification of issues to be addressed; (2) Contact of interested individuals, groups and agencies for additional information concerning these issues; and (3) An identification of persons within the agency who can answer questions about the proposed action and alternatives.

The following steps will be utilized to accomplish the scoping process:

1. A formal meeting will be held between the Bureau of Land Management and the Nevada State Clearinghouse. The meeting will be held between August 6–10, 1979, at the BLM Carson City District Office, 1050 East Williams Street, Suite 335 in Carson City, Nevada, at 0900 a.m. This meeting will be a briefing of State Agencies concerning their input on the issues of the EIS.

A formal meeting will also be held with the Humboldt County Commission on November 15th at the Commission's office in the Humboldt County Courthouse. This meeting will brief the Commissioners concerning the proposed action and alternatives, and get their input on the issues of the EIS.

2. Letters of invitation will be mailed to all affected Federal, State and local agencies, any affected Indian tribes and other interested persons concerning the issues of the Environmental Impact statement. Briefing meetings will be held if requested.

The following individuals will be available by appointment between November 19 and November 23, 1979 to answer questions about the proposed action or to receive information concerning the Environmental Impact Statement: (1) Chester Conard, District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; (2) William Harkenrider, Paradise-Denio Resource Area Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; (3) Robert Neary, Planning and Environmental Coordination Staff, 705 East Fourth Street, Winnemucca, Nevada 89445, Phone 623–3676; (4) Mike Walker, Environmental Coordinator, Room 3008 Federal Building, 300 Booth Street, Reno, Nevada 89509, Phone 784–5602.

A news release regarding the start of the environmental statement process will be issued by the Winnemucca District following the publication of this notice.

Written comments will be accepted until December 5, 1979. They should be sent to Chester Conard, District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445.

Dated: September 13, 1979.

Chester E. Conard,

Acting State Director, Nevada.

[FR Doc. 79–29123 Filed 10–12–79; 8:45 am]

BILLING CODE 4310–84–M

BLM To Release 420,000 Public Land Acres From Wilderness Inventory

The Bureau of Land Management in Nevada has decided to release about 420,000 acres of public lands in Eureka, Nevada and White Pine Counties, Nevada from further wilderness consideration because the areas lack wilderness characteristics.

The decision, which will be implemented Nov. 3 unless a public protest is received, follows a 90–day public comment period on a special, accelerated inventory announced Aug. 3, 1979. The following comments were received and analyzed: Ruby Valley Unit (NV–40–023), two comments noting roads and other intrusions, two stating the area deserves further study; Big Bald (NV–040–024), nine comments noting roads, intrusions, or other resource values and two stating the area deserves further study; Buck Pass (NV–040–035), three comments noting roads, intrusions, or other resource values and two stating the area deserves further study; Alligator Ridge (NV–040–036), two comments noting roads and other resource values, two stating the area deserves further study; Yelland Acres (NV–040–037) four comments noting roads and man-made intrusions, two stating the area deserves further study; Black Point (NV–040–141), seven comments noting roads or intrusions, two stating the area deserves further study; and Bull Creek (NV–040–147), four comments noting roads and intrusions and two stating the area deserves further study.

After field-checking comments where possible and carefully considering all aspects of the public comments received, the Bureau has decided that the seven units involved all lack wilderness characteristics, primarily naturalness and opportunities for solitude and primitive and unconfined types of recreation.

The special inventory was requested by two mining operators who desire to begin open pit mining operations within the units to extract gold and barite.

Further information on the special inventory or the Bureau's decision is available from the Nevada State Office, BLM, 300 Booth Street, Room 3008, Federal Building, Reno, NV 89509; or the Ely District Office, Star Route 5, Box 1, Ely, NV 89301.

Dated: October 3, 1979.

Roger J. McCormack,

Acting State Director, Nevada.

[FR Doc. 79–31654 Filed 10–12–79; 8:45 am]

BILLING CODE 4310–84–M

[N–20616; N–20620 A&B]

Nevada; Realty Action—Non-Competitive Sale Public Lands in Nye County, Nev.

October 2, 1979.

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Mount Diablo Meridian

T. 2 N., R 42 E.,
Sec. 1, NE¼SW¼, NE¼SE¼, N½NW¼SE¼, SW¼NW¼SE¼;
Sec. 2, Lots 20 and 23; containing 124.89 acres.

The land in Section 1 and Lot 20 of Section 2, comprising 110.13 acres, is being offered as a direct sale to Nye County, Nevada, at the appraised fair market value.

The sale of this land to Nye County will allow for orderly growth of the town of Tonopah. The county will make a portion of the land in Section 1 located near U.S. Highway 95 available for residences and businesses and will devote the balance of the land to recreational facilities. A city street occupies all of Lot 20. Sale of this lot to Nye County will resolve a long-standing management problem.

Lot 23 in Section 2, comprising 14.76 acres, is being offered as a direct sale to the Nye County School District at the appraised fair market value. The sale of Lot 23, which adjoins and surrounds the Tonopah Public School site on three sides, will allow for future school expansion and accommodate development which already has encroached on this lot.

This sale is consistent with the Bureau's planning system and has been discussed with the Nye County Commissioners and with representatives of the Nye County School District. The public interest would be served by offering these lands for direct sale to Nye County and to the Nye County School District. The land will not be offered for sale until 60 days after the date of this notice.

The following conditions will be applicable to the sale:

1. The mineral rights will be reserved to the United States.

2. An easement will be reserved for right-of-way, 60 feet in width, along the

V 44 O C 15 79 UMI

north boundary of the NE¼SE¼, the N½NW¼SE¼ and the NE¼SW¼ in Section 1 to assure public access to adjacent land.

3. An easement, 45 feet in width, for the existing road which crosses Lot 23 of Section 2 will be reserved to Nye County for public use.

4. An easement will be reserved for the water pipeline which crosses Lot 23 of Section 2.

Detailed information concerning the sale, including the planning documents, environmental assessment, and the record of the public discussions, is available for review at the Bureau of Land Management Office, Tonopah Resource Area, Bldg. 102, Military Circle, Tonopah, Nevada 89049.

For a period of 30 days from the date of this notice, interested parties may submit comments to the Secretary of the Interior, Bureau of Land Management 320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary of the Interior who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary of the Interior, this Notice of Realty Action will become the final determination of the Department of the Interior.

Wm. J. Malencik,

Chief, Division of Technical Services.

[FR Doc. 79-31656 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-84-M

[NM 38403 and 38404]

New Mexico; Applications

October 3, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Natural Gas Pipeline Company of America has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 21 S., R. 28 E.,
Sec. 23, SW¼NE¼ and W½SE¼;
Sec. 26, W½NE¼, SE¼NW¼ and NE¼SW¼.
T. 21 S., R. 29 E.,
Sec. 8, S½N½.

These pipelines will convey natural gas across 1.988 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Bill J. Warner,

Acting Chief, Division of Technical Services.

[FR Doc. 79-31655 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board, North Atlantic Technical Working Group Committee; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463).

Name: North Atlantic Technical Working Group Committee.
Date: November 8, 1979.
Place: The Garden Room at the Biltmore Plaza Hotel, Providence, Rhode Island.
Time: 9:00 a.m. to 5:00 p.m.

Committee membership consists of representatives from federal agencies, the coastal States from Maine through New Jersey, the petroleum industry, and other private interests.

Agenda: Committee organization and responsibilities, meeting procedures, members' involvement in OCS oil and gas activities, and the Regional Studies Plan for the North and Mid-Atlantic Regions.

The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee should contact Dick Wildermann of the New York OCS Office (212-264-2960) by November 1. Written statements should be submitted by November 15 to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32-120, New York, New York 10007.

Minutes of the meeting will be available for public inspection and copying by January 4, 1980 at the above address.

Frank Basile,

Manager, New York OCS Office.

October 9, 1979.

[FR Doc. 79-31658 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Outer Continental Shelf Advisory Board Policy Committee, North Atlantic Region; Notice and Agenda for Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Public Law No. 92-463, 5 U.S.C. App. I and the Office of Management and Budget's Circular No. A-63, Revised. (See other OCS Advisory Board meeting in this issue under Land Management, Bureau.)

The North Atlantic Regional OCS Policy Committee will meet on November 7, 1979, from 10:00 a.m. to 3:30 p.m. in the Governor's Energy Office Conference Room, 80 Dean Street, Providence, Rhode Island.

The meeting will cover the following principal subjects:

(1) Lease Sale #42
(a) Summary
(b) Interagency agreement
(2) Atlantic OCS Geologic Structures
(3) Coastal Management Programs and Consistency
(4) Canadian OCS Leasing, Drilling and Regulatory Policies and Procedures

The meeting is open to the public. Interested persons may make oral or written presentations to the Committee. Such requests should be made by October 29, 1979, to the Chairman: Charles Colgan, State Planning Office, 184 State Street, Agusta, Maine 04333, (207/289-3261).

The States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut and New York serve on the Regional Committee.

Minutes of the meeting will be available for public inspection and copying 8 weeks after the meeting at the Office of OCS Program Coordination, Room 5150, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240.

Dated: October 9, 1979.

Alan D. Powers,

Director, Office of OCS Program Coordination.

[FR Doc. 79-31659 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-10-M

National Park Service

Delta Region Preservation Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Delta Region Preservation Commission will be held at 9:30 a.m. CST on November 19, 1979, in the Holiday Inn, 100 West Bank Expressway, Gretna, Louisiana.

The Delta Region Preservation Commission was established pursuant to Public Law 95-265, Section 907(a) to advise the Secretary of the Interior in the selection of sites for inclusion in Jean Lafitte National Historical Park, in the development and implementation of a general management plan, and in the development and implementation of a comprehensive interpretive program of

the natural, historic, and cultural resources of the Region.

The members of the Delta Region Preservation Commission are:

Mr. Charles J. Eagen, Jr., New Orleans, Louisiana
Mr. Robert B. Evans, Jr., Gretna, Louisiana
Mrs. William R. (Linda) Adams, New Orleans, Louisiana
Mr. Frederick W. Wagner, New Orleans, Louisiana
Mr. Barry Kohl, New Orleans, Louisiana
Mrs. Diane Ribando, Marerro, Louisiana
Mr. Sidney Rosenthal, Jr., Jefferson, Louisiana
Mr. LeRoy E. Demarest, Harahan, Louisiana
Mr. D. David Duplantis, Marerro, Louisiana

The matters to be discussed at this meeting include:

1. Management objectives for the National Park.

2. Commission purpose and organization.

The meeting will be open to the public. However, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come, first-served basis. Any member of the public may file a written statement concerning the matters to be discussed with the Superintendent, Jean Lafitte National Historical Park.

Persons wishing further information concerning this meeting, or who wish to submit written statements may contact James Isenogle, Superintendent, Jean Lafitte National Historical Park, 400 Royal Street, Room 200, New Orleans, Louisiana, 70130, telephone Area Code 504 589-3882. Minutes of the meeting will be available for public inspection four weeks after the meeting at the office of Jean Lafitte National Historical Park.

Date: October 4, 1979.

Robert I. Kerr,

Acting Regional Director, Southwest Region, National Park Service.

[FR Doc. 79-31735 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Denali National Monument; Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9, Milton C. Jauhola has filed plans of operations in support of proposed mining activities on lands embracing his Mining Claims within the Denali National Monument. These plans are available for public inspection during normal business hours at the Alaska Area Office, National Park Service, 540 West 5th Avenue, Anchorage, Alaska.

Dated: September 6, 1979.

Robert L. Peterson,

Acting Director, Alaska Area Office.

[FR Doc. 79-31736 Filed 10-12-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Request for Comments on the LEAA Draft Guideline: Alternative Education

AGENCY: Law Enforcement Assistance Administration (LEAA).

ACTION: Request for Public Comment.

SUMMARY: This draft guideline is a proposed addition to M 4500.1G, Guide for Discretionary Grant Programs, and as such will be subject to the same regulations which govern that manual. It will not in any way impact upon the programs or regulations presently set out in M 4500.1G, nor will it affect the eligibility of those individuals applying for previously announced programs.

SUPPLEMENTARY INFORMATION: The Office of Juvenile Justice and Delinquency Prevention (OJJDP), Law Enforcement Assistance Administration (LEAA), pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, is inviting interested comments on the proposed guideline, Alternative Education: Prevention of Juvenile Delinquency, and will consider such comments before the final publication of this guideline. The period for public comment on this draft guideline is 60 days. All comments must be received on or before December 14, 1979.

After publication of the final guideline, which is expected to be published in the **Federal Register** in early Winter 1980, it is anticipated that applicants will have 60-90 days to develop applications. This will permit award of funds in early Summer 1980.

FOR FURTHER INFORMATION CONTACT: Ms. Monserrate Diaz at 202-724-7755, Office of Juvenile Justice and Delinquency Prevention Law Enforcement Assistance Administration, 633 Indiana Avenue NW., Washington, DC 20531.

Henry S. Dogin,

Administrator Law Enforcement Assistance Administration.

Chapter 6. Juvenile Justice and Delinquency Prevention

62. Alternative Education

a. *Program Objectives.* Pursuant to Section 224 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is sponsoring a major program to prevent juvenile delinquency through the development and implementation of programs designed to keep students in schools, to prevent unwarranted and arbitrary suspensions and expulsions, dropouts, pushouts and truancy. The specific objectives are:

(1) To stimulate and modify educational policies, practices and procedures which negatively impact opportunities for students to achieve academic and social success through alternative education options in schools and school districts.

(2) to upgrade the quality of existing alternative education programs by improving curriculum development, staff training, youth and parent participation, and administrative policies and practices of schools and school districts.

(3) To reduce the number of student dropouts, suspensions and expulsions in schools and school districts where these programs operate.

b. *Program Description.* (1) *Background.* The Office of Juvenile Justice and Delinquency Prevention, in carrying out its overall mandate to prevent delinquency, has the responsibility for facilitating and stimulating changes in those institutions which have the greatest impact upon the maturation and socialization of youth. Following the family, the school is the major socializing institution in the experience of young people, and positive and supportive experiences in schools are critical to the development of constructive social behavior patterns. Conversely, a significant number of youth involved in delinquency reflect a history of negative school experiences.

(2) *Problem Addressed.* (a) Educators and non-educators alike continue to be critical of present day education programs which fail to meet the social, emotional, academic and vocational needs of all students. The failure to provide adequate support in these areas leads to high rates of suspensions, truancy, dropouts, disruptive classroom behaviors, violence, vandalism, alienation and general student disinterest in learning. A study by the National Parent Teachers Association for the 1974-75 school year indicated that each day some 2½ million students were not present in school. Some school systems report absenteeism rates of 30% or higher.

(b) Recent statistics reveal that over 26% of the nation's fourteen-year-old boys and 18% of the fourteen-year-old girls were in grades lower than the national modal level of first year in high

school. Further, according to the U.S. Commissioner of Education, 25% of the high school students in the U.S. leave school before they graduate.

(c) In its 1977 report the National Institute of Education (NIE) estimated the cost of school vandalism to be more than $200M per year. The NIE reports that although only 25% of a student's waking hours are spent in school, 40% of the robberies and 36% of the assaults on urban students occurred in schools. The risks are especially high for youths aged 12 to 15—a remarkable 68% of the robberies and 50% of the assaults against youngsters of this age occurred at school.

(3) *Program Target.* The program targets are school and school districts with youth in grades 6 through 12 serving communities characterized by high rates of crime, delinquency suspensions, expulsions, dropouts and absenteeism.

(4) *Results Sought.* (a) A reduction in the number of delinquent acts committed in and around schools.

(b) A reduction in student dropouts, suspension, expulsions and truancy.

(c) An increase in the daily attendance rate of schools and school districts impacted by this program.

(d) An increase in the number of students experiencing academic success and graduating from school.

(e) Adoption and implementation of school policies, procedures and practices which:

1. Limit referrals by schools to the juvenile justice system;

2. Provide for due process, fairness and consistency in disciplinary actions;

3. Reduce student alienation and the sense of powerlessness through increased youth, parent and community agency participation in school decision-making processes; and

4. Prevent grouping (according to non-academic criteria) and racial segregation of students while enhancing the overall learning environment.

(f) Development and implementation of alternative educational options which increase the opportunity for cognitive and practical learning and the integration of these options into the regular school curriculum and program.

(5) *Working Assumptions.* (a) Delinquent behavior evolves from social environments which limit positive youth development in the areas of social competence, a sense of belonging and usefulness.

(b) School experiences can be altered to minimize the school's contribution to delinquency by changing the structure and the educational process of schools.

(c) The availability of alternative educational opportunities is a viable means of enabling students to experience academic success, improve the quality of interaction between adults and youths, and strengthen student commitment to schools.

(d) Students who have little stake in achievement in school and conformity to the rules of conventional schools often become alienated and are more likely to engage in delinquent activities.

c. *Program Strategy.* Applications are invited for action projects which impact the school climate, organizational structure and educational process. It is expected that the development and demonstration of more effective alternative educational options will ultimately be adopted by existing school systems. Projects are to reflect the following characteristics:

(1) Schools must provide youths the opportunity to receive an educational experience which is relevant to their interests and meets the need for cognitive and affective learning skills which contribute to positive growth and development. The options must be open to students on a volunteer basis from grades 6 through 12 and allow continuous contact between the problem student and the regular student. This will assist in the prevention of labeling, stigmatization, tracking and racial segregation of students and enhance the overall learning environment.

(2) Specific goals and objectives must have primary impact upon policies, procedures and practices of schools and school districts.

(3) Project models must incorporate the following key elements:

(a) Individualized instruction in which curricula are tailored to student's cognitive and affective learning needs and interests.

(b) The establishment of a clear system of support and rewards for individual improvement. Both differential reenforcement for different amounts of personal progress and range of reward options beyond traditional grades are important.

(c) The formation of coalitions between school leadership, policy bodies (such as school boards), community organizations, business, labor, parents and youth to improve the educational environment.

(d) A comprehensive approach for the improvement of schools and school districts in coordination with community groups, organizations, juvenile justice system, parents, youth and concerned citizens.

(e) Utilization of peer group experience in every aspect of the learning situation.

(f) Training of existing school personnel aimed at changing how they perceive and relate to troubled and "nonconforming" youth in the daily routine of the regular school environment.

(g) Small program size with a low student/adult ratio.

(h) A strong, consistent and supportive administrator committed to ensuring that each student realizes his/her potential while establishing and maintaining a climate of respect for students with fair and consistent discipline.

d. *Application Requirements.* These requirements are to be used in lieu of Part IV—Program Narrative Instructions in the standard Federal Assistance Form 424. In order to be considered for funding, applications must include the following information in the order outlined in this guideline:

(1) *Project Goals and Objectives.* Outline project goals and objectives in measurable terms with respect to improvement of the policies, practices, procedures, leadership, structure and school climate. This should include the projected reduction of dropouts, truancy, suspensions and expulsions, and increase in academic performance levels relating them to results sought. (Paragraph b(4)(a)–(f).) These projections are to be based upon the most recent data available.

(2) *Problem Definition and Data Needs.* (a) A socio-economic profile of the community served by the school or school district with such demographic data as are necessary to document crime rates, racial/ethnic population, school enrollment and the actual level of truancy, dropouts, suspensions and expulsions for 1977, 1978 and 1979 school years.

(b) A description of the applicant school and the local school system, inclusive of school policies and procedures regarding suspensions, expulsions, absenteeism and discipline for disruptive behavior.

(c) The number and kind of agencies, schools, or institutions providing alternative education to youth in the target community, including a description of the available programs.

(d) A description of the relationship of community agencies, schools and institutions to the proposed project.

(e) A description of the manner in which present school policies, practices and procedures impede or facilitate the ability of school personnel to provide a healthy educational environment.

(f) A description of how the project will impact these problems which impede the ability of students to succeed and indicate how the administration expects to achieve the goals of the project.

(3) *Program Methodology.* Based on the information provided in program strategy, Paragraph c(1)–(3) of this guideline, develop a project design which provides a clear description of the following:

(a) Describe the strategies to be employed and the activities to be used to effect change or to ameliorate the problems in the school system.

(b) Describe the Alternative Education model that will be used and indicate why it is best suited to meet the needs of youth in the target community. Indicate how it is expected to create situations that expand access to desirable opportunities. (For additional information regarding different models, refer to Appendix 1 in the guideline.)

(c) A sample of the curriculum which would be representative of the total school community.

(d) The methods of maximizing the participation of youth, parents and citizens of the community in the planning, implementation and evaluation of the project and in school decision-making procedures.

(e) The techniques to be used to build staff capacities consistent with the characteristics defined for the target of this program. Include descriptions of the types and amounts of training and technical assistance that will be available. Develop criteria and procedures for selecting the staff.

(f) The required organizational structure and personnel to support the proposed program. This should be presented in detail, specifying the tasks for each key position.

(g) The educational and public relations activities that are required to gain and maintain public understanding and support for the program.

(h) Criteria and procedures for selecting those youth who will participate in the program, and methods which assure that an appropriate mix of students will participate in the program.

(i) The methods of protecting the legal rights of youth served and confidentiality of records, and the methods that will be used to avoid negative labeling.

(4) *Workplan.* Prepare a detailed work schedule which outlines specific program objectives in relation to milestones, activities and time frames for accomplishing the objectives. The workplan and budget should be prepared to allow for a two-month start-up period.

(5) *Budget.* Prepare a budget of the total costs to be incurred in carrying out the proposed project over three years with a detailed breakdown and narrative for the first two budget years. Include in the budget funds for travel for three (3) staff persons (at least one must be a youth participating in the program) to attend four (4) technical assistance and training sessions for the first grant period (two years) for an average of three (3) days per trip. For the purpose of budget preparation, assume that these sessions will be held in Midwest, USA. Budget up to 15 percent of the total projected outlays to cover the costs of a management information system. No match will be required for these grants. Travel budgeted for coordination with other alternative education projects must be confined to not more than two (2) trips over the two (2) year project period.

(6) *Management Information System.* Each application must include a proposed management information system. This system will address the following objectives:

(a) To provide consistent and complete information on the numbers and types of youth served in the program.

(b) To provide consistent and complete information on youth responses to the types of services/activities provided.

(c) To determine the impact of the project on school achievement, and development of social and academic skills.

(d) To determine what types of services appear to be most effective for what types of youth and under what conditions

e. *Dollar Range and Duration of Grants.* The grant period for this program is three years, with awards made in increments of 24 months and 12 months. Third-year continuation awards are contingent upon satisfactory grantee performance in achieving stated objecives in the two previous years, availability of funds and compliance with the terms and conditions of the grants. Grants will range up to $250,000 for each project year with the size of each grant based upon the extent of the problems to be addressed and the realistic improvement expected to result in schools, number of juveniles served, the cost-effectiveness of the project design, and the jurisdiction's capacity to absorb the program after this funding terminates. Funds for this program are allocated under the Juvenile Justice and Delinquency Prevention Act of 1974, as amended in 1977, and require no match. Grants may be terminated at any point for failure to meet program process objectives and grant requirements.

f. *Eligibility to Receive Grants.* (1) *Applicant Eligibility.* Applications are invited from public and private not-for-profit schools, agencies or organizations who propose to serve disadvantaged youth from rural and urban areas with high levels of serious school related problems. private not-for-profit school, agencies or organizations who apply must operate in coordination or have linkages with the local public school system in order to promote utilization of effective program models and future funding support. Public school systems who apply must demonstrate the involvement and coordination with the private not-for-profit organizations, community groups, juvenile justice system, parents and youth.

(2) *Applicant Capability.* The applicant must:

(a) Demonstrate knowledge of and experience in the field of innovative and experimental education.

(b) Have the demonstrated capability and experience to develop and manage fiscal systems necessary for the administration of Federal funds.

(c) Have available experienced administrative and professional staff who demonstrate a commitment to effective alternative educational opportunities.

(d) Provide letters of support from public and private sector agencies and organizations regarding opportunities offered to youth.

g. *Submission Requirements.* (1) *Submission Procedures.* The Alternative Education initiative has been determined to be of national impact and awards will be made directly to the successful applicants. Applications must be submitted to the Office of Juvenile Justice and Delinquency Prevention, LEAA, in accordance with the form outlined in Appendix 2, Guide for Discretionary Grant Programs, 4500.1G, September 30, 1978. Refer to Appendix 5, Parts II and IV, for instructions on how to prepare the budget, budget narrative and program narrative. Applicants must consult and coordinate the applications with the relevant state planning agencies as provided by M 4500.1G, Appendix 2, Section 2. Prior to submission of applications to the Office of Juvenile Justice and Delinquency Prevention, applicants must also submit applications to appropriate A–95 Clearinghouses in accordance with A–95 requirements. Letters of verification indicating appropriate contacts with state planning agencies and A–95 Clearinghouses must be included in the applications. Addresses are included in Appendices 1 and 2.

(2) *Deadline for Submission of Applications.* One (1) original and two (2) copies of the application must be mailed or hand delivered to the Office of Juvenile Justice and Delinquency Prevention, LEAA, Room 442, 633

V 44 OC 15 79 UMI

Indiana Avenue, N.W., Washington, DC, 20531, on or before . Applications sent by mail will be considered to be received on time if sent by registered or certified mail no later than , as evidenced by the U.S. Postal Service postmark on the original receipt of the U.S. Postal Service.

h. *Evaluation Requirements.* The projects funded under this program will be evaluated by an independent evaluator selected by the Office of Juvenile Justice and Delinquency Prevention. In addition to the requirements set forth in paragraph d(6), applicants must identify information unique to their particular proposed approach to enable the national evaluator to develop a national management information system which would provide uniform information on projects of similar scope and design. The national evaluator will provide training and technical assistance in implementing the management information system. The major goals of the evaluation are to:

(1) Determine the impact of the program on dropouts, suspensions, expulsions, truancy and delinquency;

(2) Determine the extent to which policies, practices and procedures of schools and school districts are modified;

(3) Determine the impact of the program on youth and parent participation and vice versa; and

(4) Document the planning and implementation processes of different program approaches to alternative education.

All applicants must include assurances in their application agreeing to fully cooperate with the national evaluators in terms of the management information system and the requirement of the overall evaluation component.

i. *Technical Assistance.* Ongoing technical assistance in program implementation will be provided by OJJDP to the funded projects.

j. *Criteria for Selection of Projects.* Applications will be rated and selected using the following criteria. Only those applications meeting the criteria at the highest level will be considered for grant award. Other factors being equal, in making final selections, OJJDP will give consideration to geographic distribution of projects and cost-effectiveness.

(1) The extent to which the applicants meet the eligibility and capability requirements outlined in Paragraph f(1)–(2). (15 points)

(2) The extent to which the proposed project addresses the characteristics of the target schools and neighborhoods as described in b(3). (5 points)

(3) The extent to which the activities, opportunities and methods build upon the cultural background, language experience and neighborhood of the school population shows that:

(a) Student participants represent an appropriate population mix; (5 points)

(b) Selection criteria to choose participants are well defined; and (5 points)

(c) Participation is on a voluntary basis. (3 points) (Total: 13 points)

(4) The extent to which the applicant shows that the project has an adequate budget and is cost effective by:

(a) An effective plan of financial management; (3 points)

(b) Number of youth served and project design; and (3 points)

(c) An itemized statement of cost that justifies each line item in the proposed budget and indicates that costs are reasonable in relation to the objectives of the project. (4 points) (Total: 10 points)

(5) The extent to which the project design provides:

(a) A model in accordance with the program goals, objectives and strategies as outlined in the guideline, and the applicant's capability and commitment to achieve them; (10 points)

(b) High quality in the overall design for the project as outlined in c(3); (10 points)

(c) An effective plan of management for the project; (3 points)

(d) An effective plan for training of staff members in needed skills areas; and (5 points)

(e) The way the applicant plans to use its resources and staff to achieve each objective. (4 points) (Total: 32 points)

(6) The extent to which the applicant demonstrates:

(a) Strategies to institute change in the educational system; (7 points)

(b) An understanding of the problems associated with effective change; and (6 points)

(c) The capability to coordinate with or to coordinate other resources in order to implement a comprehensive plan to institute change. Evidence of capability must include letters of commitment from other agencies, documentation that planning the proposed project actively has involved other agencies, parents and youth, and evidence of sharing staff and facilities. (12 points) (Total: 25 points)

k. *Definitions.* (1) *Alternative Education*—provides increased opportunities for students, and utilizes a range of educational options which should include individualized instruction (emphasizing the development of cognitive skills), a system of rewards for individual performance, a goal-oriented work and learning emphasis in the classroom, and a combination of structural/human characteristics which facilitates academic success because of their more intensive involvement of the student than is normally demonstrated in conventional school settings.

(2) *Dropout*—a student who quits school. Usually a student dropout is beyond the compulsory school attendance age of 16.

(3) *Expulsion*—the termination of a student's right to attend school. Such a decision usually requires school board action.

(4) *High Risk Communities*—communities where youth live that are characterized by high rates of crime and delinquency, high infant mortality rates, high unemployment and underemployment, sub-standard housing, physical deterioration of neighborhoods and low incomes.

(5) *Program*—refers to the National Alternative Education Initiative to establish programs supported by OJJDP and the overall activities related to implementing the Alternative Education Program.

(6) *Project*—refers to the specific set of Alternative Education activities at a given site(s) designed to achieve the overall goal of reducing student dropouts, pushouts, suspensions, expulsions and truancy.

(7) *Pushout*—is when a student decides to leave school because of frustration from not achieving success or of pressure exerted by the school through various disciplinary actions.

(8) *Structured*—refers to a classroom setting that is well-organized, has explicit directions, well defined goals and objectives, specific standards for student behavior, flexibility in terms of individual differences, and provides the opportunity for students to experience success.

(9) *Suspension*—the exclusion of a student from school for a specified period of time, usually from one to ten days.

(10) *Unstructured*—refers to a classroom setting that allows students excessive freedom and permissiveness and is loosely run. Directions are usually unclear and in most instances students are not goal oriented.

(11) *Small Program Size*—for the purposes of this Guideline is defined as a class with no more than 15 students.

(12) *School Systems*—includes public school systems, private not-for-profit school systems or a combination of both; also includes variations of the above as part of public or private school systems or institutions (e.g., vocational schools, special education schools, including educational programs in juvenile correctional facilities, and alternative education programs).

(13) *Delinquency*—is the behavior of a juvenile in violation of a statute or ordinance in a jurisdiction which would constitute a crime if committed by an adult.

(14) *Truancy*—is when the student is absent from school without permission.

[FR Doc. 79-31728 Filed 10-12-79; 8:45 am]

BILLING CODE 4410-18-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Humanities Panel; Changed Meeting

October 9, 1979.

This is to announce a change in the date of the Humanities Panel announced in the **Federal Register** on September 6, 1979, Vol. 44, No. 174, Page 52057, Item #1. The meeting to review NEH Practitioners Seminar applications will be held on October 23, 1979 instead of September 20, 1979.

Stephen J. McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-31752 Filed 10-12-79; 8:45 am]

BILLING CODE 7536-01-M

Humanities Panel Changed Meeting

October 9, 1979.

This is to announce a change in the date of the Humanities Panel announced in the **Federal Register** on October 4, 1979, vol. 44, page 57243, #194. The meeting to review applications in State and Local History will be held on November 2, 1979 only instead of on November 1 and 2, 1979.

Stephen McCleary,

Advisory Committee Management Officer.

[FR Doc. 79-31753 Filed 10-12-79; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on the Three Mile Island Nuclear Powerplant; Meeting

The ACRS Subcommittee on the Three Mile Island Nuclear Power Plant will hold a meeting on October 30, 1979 in Room 1046, 1717 H St. NW, Washington, DC 20555 to review the NRC Inspection and Enforcement Report, "Investigation into the March 28, 1979, Three Mile Island Accident by Office of Inspection and Enforcement," Investigative Report No. 50-320/79-10 (NUREG-0600). Notice of this meeting was published September 20, 1979 (44 FR 54559).

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Tuesday, October 30, 1979
8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the Metropolitan Edison Company, and their consultants, and other interested persons, regarding this review.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Ragnwald Muller (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m., EDT.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: October 5, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-31508 Filed 10-12-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

October 10, 1979.

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirments that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk (*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and

V 44 O C 15 79 UMI

questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-6201

Extensions

Agricultural Stabilization and Conservation Service
CMS Purchase Order—Rural Environmental Conservation
RE-250
On Occasion
Vendors and Farmers, 500,000 responses; 125,000 hours
Charles A. Ellett, 395-5080

Reinstatements

Agricultural Marketing Service
Regulations Under the Packers and Stockyards Act
On Occasion
Meat Packers, Market Agencies & Dealers (Livestock) 32,091 responses; 18,913 hours
Charles A. Ellett, 395-5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377-3627

New Forms

Bureau of the Census
Census Forms-1980 Census of Puerto Rico
D-IPR, 2PR, & 13PR
Single time
All Households in Puerto Rico 1,000,000 responses; 500,000 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Revisions

Bureau of the Census
*Production of Industrial Gases
M-28C
Monthly
Manufacturers of Industrial Gases 8,400 responses; 2,800 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Bureau of the Census
*Animal and Vegetable Fats and Oils (Warehouse Stocks)
M-20H
Monthly
Warehouses 1,800 responses; 900 hours
Off. Of Federal Statistical Policy & Standard, 673-7974
Bureau of the Census
Industrial Gases (Shipments and Production)
MA-28C
Annually
Manufacturers of Industrial Gases 700 responses; 700 hours
Off. of Federal Statistical Policy & Standard, 673-7974
Industry and Trade Administration
Application for License to Enter Watches and Watch
Move—into the Customs Territory of the U.S.
(P.L. 89-805)
ITA-334P
Annually
Firms Interested in Duty-Free Watch Quota 16 responses; 48 hours
Richard Sheppard, 395-3211
Maritime Administration
Application for Capital Construction Fund and Exhibits
Other (See SF-83)
Shipowners/Operators 315 responses; 4,820 hours
Richard Sheppard, 395-3211

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

New Forms

Departmental and Other
Justification Statement for Commitants of Attrition
Study
Single time
NPS Reservists in Selected Companies 500 responses; 200 hours
Richard Sheppard, 395-3211

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

New Forms

Grant Management Activities Report
CS-199
Quarterly
State Energy Offices 220 responses; 1,760 hours
Budget Review Division, 395-4775
Distillate Fuel Oil Supply Emergency Telephone Survey
EIA-428
Single time
Distributors of Fuel Oil to Farmers 274 responses; 69 hours
Jefferson B. Hill, 395-5867

Revisions

Survey of Fuel Oil Dealers—Retail/Wholesale
EIA-1156, 1157, 1158, & 1159
Monthly
Retail/Wholesale Fuel Oil Dealers 60,000 responses; 26,640 hours
Off. of Federal Statistical Policy & Standard, 673-7974
*Survey of Fuel Oil Dealers/Bulk Operators
EIA-E-M1160, 1161
Monthly
Fuel Oil Dealers/Bulk Operators 24,000 responses; 10,656 hours
Off. of Federal Statistical Policy & Standard, 673-7974

Reinstatements

Typical Net Monthly Bills for Electric Service
EIA-213
Annually
Utilities (Elec.) 1,250 responses; 10,875 hours
Jefferson B. Hill, 395-5867

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Alcohol, Drug Abuse and Mental Health Administration
Implications of Psychiatric Diagnosis for Narcotic Treatment; Psychotherapy of Opiate Dependent Individuals
Other (See SF-83)
Heroin Abusers in and Out of Treatment 1,347 responses; 3,703 hours
Richard Eisinger, 395-3214
Office of Human Development
Zoning Survey Questionnaire
Single time
Zoning Officials in Approx. 100 Cities 100 responses; 100 hours
Barbara F. Young, 395-6132
Office of Human Development
Project Head Start Program Information Report
Semi-annually
Head Start Grantees & Delegate Agencies 3,900 responses; 5,850 hours
Barbara F. Young, 395-6132
Office of Human Development
*Intake and Service Summary Form; Youth Served on a One-Time Basis by the Rya-Funded Projects; YDB[1]

[1] Conditional approval granted for the intake and service summary report for the runaway youth program has expired. The law (44 U.S.C. 3509) prohibits continued use of this report pending OMB action on the reinstatement request.

Footnotes continued on next page

Summary sheet
Other (see SF-83)
Staff of Runaway Youth Projects; Client Files 33,980 responses; 8,745 hours
Barbara F. Young, 395-6132

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184

Extensions

Community Planning and Development
Application for Federal Assistance, Community
Development Program, and Assurances
Hud 6757, 7015.12
On occasion
Federally Assisted New Communities 50 responses; 250 hours
Arnold Strasser, 395-5080
Housing Management
Application for Tenant Eligibility Under the Section
236 Program
HUD-93131
On occasion
Low and Moderate Income Households 100,000 responses; 50,000 hours
Arnold Strasser, 395-5080

Reinstatements

Housing Production and Mortgage Credit
Contractor's and/or Mortgagor's Cost Breakdown
FHA-2205, 2328, and 2330A
On occasion
Description not Furnished by Agency 4,380 responses; 43,230 hours
Arnold Strasser, 395-5080

DEPARTMENT OF JUSTICE

Agency Clearance Officer—Donald E. Larue—633-3526

New Forms

Law Enforcement Assistance Administration
National Criminal Justice Reference Service User
Registration for Services
LEAA 1431/2
Single time
Users of NCJRS 43,000 responses; 4,300 hours
Laverne V. Collins, 395-3214
Offices, Boards, Division
Civil Litigation Project: Screener, Individual
Disputant, and Attorney Questionnaires
Single time
Disputants and Their Attorneys 150 responses; 108 hours
Off. of Federal Statistical Policy & Standard, 673-7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341

New Forms

Employment and Training Administration
*Semimonthly Weatherization Effort[2]
ETA-RC27
Monthly
State and Local Agencies 2,360 responses; 590 hours
Arnold Strasser, 395-5080

Reinstatements

Employment and Training Administration
*Semi-monthly Enrollment Levels of On-Board PSE CETA
Participants
ETA-17
Monthly
State and Local Agencies 5,664 responses; 1,416 hours
Arnold Strasser, 395-5080
Employment and Training Administration
Payment Activities Under the Disaster Relief Act of 1974
ETA-5-32 & TWX
Monthly
SESA's Where Major Disasters Occur 600 responses; 600 hours
Arnold Strasser, 395-5080

DEPARTMENT OF STATE (EXC. AID)

Agency Clearance Officer—Gail J. Cook—632-3538

New Forms

"Evans Amendment Questionnaire" (Short Title)
On occasion
So. African Purchasers of EX-IM-Backed U.S. Exports 80 responses; 1,600 hours
C. Louis Kincannon, 395-3772

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

Reinstatements

Coast Guard
*Defect Notification Report
Campaign Progress Report
CG-4917 & 4918
On occasion
Boat Manufacturers 1,125 responses; 563 hours
Susan B. Geiger, 395-5867

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore, 566-1164

Revisions

Agency Information Program Data
SF-311
Single time
Federal Agencies 1 response; 1 hour
Off. of Federal Statistical Policy & Standard, 673-7974

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-31754 Filed 10-12-79; 8:45 am]

BILLING CODE 3110-01-M

Footnotes continued from last page

[2] The information request covered by this item was issued as a reporting requirement by the Department's Employment and Training Administration in Field Memorandum No. 463-79 dated September 26, 1979. This requirement, issued in violation of the Federal Report Act of 1942, has subsequently been approved by OMB as required by that Act.

Privacy Act; New Systems

The purpose of this notice is to give members of the public an opportunity to comment on Federal agency proposals to establish or alter personal data systems subject to the Privacy Act of 1974.

The Act states that "each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect on such proposal on the privacy and other personal or property rights of individuals . . ."

OMB policies implementing this provision require agencies to submit reports on proposed new or altered systems to Congress and OMB 60 days prior to the issuance of any data collection forms or instructions, 60 days before entering any personal information into the new or altered systems, or 60 days prior to the issuance of any requests for proposals for computer and communications systems or services to support such systems—whichever is earlier.

The following reports on new or altered systems were received by OMB between September 17, 1979 and September 28, 1979. Inquiries or comments on the proposed new systems or changes to existing systems should be directed to the designated agency point-of-contact and a copy of any written comments provided to OMB. The 60 day advance notice period begins on the report date indicated.

NATIONAL LABOR RELATIONS BOARD

System Name

Applicant Files for Attorney and Field Examiner Positions: Employment and Performance Records, Attorneys and

V 44 O C 15 79 UMI

Field Examiners; Employment and Performance Records, Nonprofessionals and Nonlegal Professional; and Payroll-Finance Records.

Report Date

September 21, 1979.

Point-of-Contact

Mr. William A. Lubbers, Executive Director, National Labor Relations Board, Washington, DC 20570.

Summary

These systems of records were reported as part of a general review and revision of NLRB system notices; changes to other notices were nonsubstantive. The "Applicant Files for Attorney and Field Examiner Positions" have been expanded to include all applicants for such positions, rather than applicants to the General Counsel's staff alone. The records in the system include employment applications, transcripts, resumes, interview reports, and other relevant information. The system identified as "Employment and Performance Records, Attorneys and Field Examiners" constitutes the merger of two previously reported systems which included appraisals for attorneys in the General Counsel's, Board Members', and Solicitor's Offices. The third system, "Employment and Performance Records, Nonprofessionals and Nonlegal Professionals," also is the result of the merger of two other systems of records, which had separated the evaluations of clerical in the field and in the Washington offices of NLRB. Finally, "Payroll-Finance Records" results from the consolidation of existing finance records and NLRB's data processing file.

DEPARTMENT OF JUSTICE

System Name

U.S. National Central Bureau of the International Criminal Police Organization (INTERPOL) Criminal Investigative Records System.

Report Date

September 27, 1979.

Point-of-Contact

Administrative Counsel, Management Systems Policy Staff, Department of Justice, Washington, DC 20530.

Summary

The system has been transferred from the Treasury Department, which had previously reported it, to the Justice Department, pursuant to an order of the Attorney General. In implementing the system, the Justice Department will also automate it. The system consists of information obtained during the investigation of international criminal offendors, to be used by Interpol agents, as well as local, State, and Federal law enforcement agencies. The automation of the system will, according to the Justice Department report, provide additional security for the records, and facilitate the production of statistical, workload, and performance reports.

DEPARTMENT OF AGRICULTURE

System Name

Nonviolation Case File System on Individuals Subject to the U.S. Grain Standards Act or Agricultural Market Act of 1946.

Report Date

September 28, 1979.

Point-of-Contact

Mr. Burt C. Hawkins, Room 1090 South Building, Agriculture Market Service, U.S. Department of Agriculture, Washington, DC 20250.

Summary

This system of records will be maintained by the Federal Grain Inspection Service of USDA on individuals who are subject to the named statutes and activities which may lead to violations of those statutes. The records will be used only within the Federal Grain Inspection Service.

David Leuthold,

Budget and Management Officer.

[FR Doc. 79-31717 Filed 10-12-79; 8:45 am]

BILLING CODE 3110-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-16249; File No. SR-MSTC-79-2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 21, 1979, the above-mentioned self regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms and Substance of the Proposed Rule Change

Additions Italicized—[Deletions Bracketed]

Article III, Section 2 of the Midwest Securities Trust Company Bylaws are hereby amended as follows:

Article III—Directors

Number, Tenure, and Election

Section 2. The board of directors of the Corporation shall be composed of [six] *seven* Class A Directors and [five] *six* Class B Directors. Except as expressly provided otherwise in this Article III, the powers, rights, duties and obligations of Class A Directors and Class B Directors shall be identical. Each director shall hold office until the next annual meeting of shareholders or until his successor shall have been elected and qualified. The Class A Directors shall be appointed by the sole shareholder of the Corporation, the Midwest Stock Exchange and shall be selected with a view towards providing fair representation for the interests of said Exchange and of those members of said Exchange which are participants of the Corporation. Class B Directors shall be selected and appointed as follows:

1. Not less than sixty days before each annual meeting of shareholders, the sole shareholder shall nominate (by delivering to the Secretary of the Corporation a list of nominations) [five] *six* individuals for election as Class B Directors. Within five days thereafter, the Secretary shall mail copies of the list of nominations to each participant of the Corporation which is not a member of the Midwest Stock Exchange ("Non-Member Participant"). Non-member Participants shall have the right to nominate additional persons by filing with the Secretary, not less than thirty days prior to the annual meeting, a petition signed by not less than three Non-Member Participants. No petition shall nominate more than [five] *six* individuals, and no participant shall sign petitions nominating, in the aggregate more than [five] *six* individuals.

2. In the event that no nominating petition is filed within the time prescribed above, the sole shareholder shall, at the annual meeting, appoint as Class B Directors the individuals named in the list of nominations mailed to Non-Member Participants; provided that if any such individual shall at that time be unable or unwilling to serve, that individual's position shall be left vacant until the first meeting of directors following the annual meeting of shareholders, and the sole shareholder shall thereafter appoint, to fill the vacancy, such individual as a majority of the other Class B Directors shall approve.

3. In the event that one or more nominating petitions are filed within the prescribed time, the Class B Directors shall be selected by an election, to be conducted as follows:

(a) Not less than twenty days prior to the annual meeting, the Secretary shall transmit to each Non-Member Participant a ballot setting forth the names of all nominees, including those nominated by petition, and the number of votes to which the Non-Member Participant is entitled, determined as hereinafter set forth.

(b) The number of votes to which each Non-Member Participant shall be entitled shall be determined as follows:

(1) There shall be determined, for each Non-Member Participant, (A) the ratio (expressed as a percentage) between the aggregate fees paid to the Corporation by the Non-Member Participant during the

Corporation's most recent fiscal year and the total fees paid by all participants during such fiscal year; and (B) the ratio (expressed as a percentage) between the average value of the securities held by the Non-Member Participant in depository free or pledged positions with the Corporation during such fiscal year (determined by taking the average of the values of the securities so held as of the close of each month during such fiscal year) and the average value of the securities so held by all participants during such fiscal year (determined in the same manner).

(ii) The percentages determined in accordance with clauses (b)(i)(A) and (b)(i)(B), above, shall be added together, and each Non-Member Participant shall be entitled to that number of votes which bears the same proportion to 1,000 as the sum of such percentages bears to 100%. The total number of votes to which Non-Member Participants in the aggregate shall be entitled in any election of Class B Directors shall be the number (not exceeding 2,000) determined pursuant to the preceding sentence.

(iii) If the aggregate number of votes to which all Non-Member Participants are entitled shall be less than 1,000, the sole shareholder shall be entitled to as many votes as the difference between 1,000 and the number of votes to which all Non-Member Participants are entitled, and the Secretary shall provide to the sole shareholder an appropriate ballot.

(c) Each Non-Member Participant (and the sole shareholder, if the sole shareholder shall be entitled to vote) shall have the right to cast the number of votes to which it shall be entitled for as many nominees as there are positions to be filled, or to cumulate said votes, and to give one nominee as many votes as the number of positions multiplied by the number of said votes, or to distribute its votes on the same principle among as many nominees as it shall desire.

(d) At the annual meeting, the sole shareholder shall appoint as Class B Directors the [five] *six* individuals receiving the highest number of votes in ballots returned to the Secretary prior to the time of the annual meeting.

Statement of Basis and Purpose

The purpose of the rule change is to increase the level of participation on the Board of Directors of MSTC by Participant Banks and Brokers. By increasing the number of Class A Directors and Class B Directors by one for each class, the MSTC Board will become more representative of its shareholders and participants (both MSE members and Non-MSE members).

Section 17A(b)(3) of the Act mandates that the rules of a registered clearing agency will assure a fair representation of its shareholders and participants in the selection of its directors and administration of its affairs.

The Midwest Securities Trust Company has neither solicited nor received any comments.

The Midwest Securities Trust Company believes that no burden has been placed on completion.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 5, 1979.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 5, 1979.

[FR Doc. 79-31662 Filed 10-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16251; File No. SR-OCC-79-6]

Self-Regulatory Organization; Proposed Rule Change by the Options Clearing Corp.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 25, 1979, the above-mentioned self-regulatory organization fied with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would establish a "third-party pledge" system for puts, under which treasury bills deposited by put writers in lieu of customer margin could be used by Clearing Members in lieu of margin at OCC.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change is as follows:

OCC's rules currently provide for a procedure known as a "third-party pledge." Under that procedure, the writer of a call option deposits the underlying securities with a securities depository (either directly, if the writer is a depository participant, or indirectly, through a bank or other custodian). The securities are then transferred or pledged on the books of the depository to OCC for the account of the Clearing Member that carries the customer's short position, thus relieving the Clearing Member of the need to deposit margin with OCC in respect of that position.

The purpose of the proposed rule change is to provide a third-party pledge system for writers of put options. Under OCC's present rules, a Clearing Member that carries short positions in puts must deposit margin for those positions with OCC. By contrast, under the rules of the Exchanges and under Regulation T, a broker that carries a short position in puts for a customer need not obtain margin from the customer if the customer delivers to the broker a "letter of guarantee" from a bank, in which the bank represents that the customer has deposited cash in an amount equal to the aggregate exercise price of the short position, and the bank agrees to deliver that cash to the broker upon assignment of an exercise notice to the customer's short position, against delivery of the underlying securities. The staff of the Board of Governors of the Federal Reserve System has expressed the view that cash so deposited may properly be invested by the bank in treasury bills.*

Under the proposed rule change, a put writer who deposits cash with a bank, which then invests it in treasury bills, could instruct the bank, in lieu of issuing a letter of guarantee, to deposit the treasury bills with a securities depository, with instructions to transfer or pledge them to OCC for the account of the Clearing Member carrying the writer's short position. Upon receiving notice of such a deposit, OCC would reduce the Clearing Member's margin requirement accordingly.

The proposed procedure would operate in substantially the same manner as the third-party pledge system presently in effect for writers of calls, except that it would involve one additional step in the event that OCC found it necessary to take possession of the deposited securities to satisfy an exercise. In the case of a call, the deposited securities are the underlying securities themselves. If an exercise notice were to be assigned to the writer at a time when the writer's Clearing Member was suspended, so that it became necessary for OCC to effect settlement with the exercising Clearing Member, OCC would do so by taking possession of the deposited securities and delivering them to the exercising Clearing Member against payment of the exercise price. In the case of a put, OCC would also take possession of the deposited securities, but it would then take the additional step of selling them out in order to obtain the cash required for settlement with the exercising Clearing Member. Any excess proceeds would then be paid over to the suspended Clearing Member or its representative.

The specific rule changes proposed in this filing are as follows:

Rules 601 and 602 would be revised to exempt from OCC's margin requirements all short positions in puts for which treasury bills are deposited in accordance with proposed Rule 612.

Proposed Rule 612 would establish a procedure for depositing treasury bills in

*Letter dated June 6, 1978 from Laura Homer, Chief Attorney, Securities Regulation, to A. James Huff, Director, Department of Compliance, CBOE.

V 4 4 0 C 1 5 7 9 UMI

respect of short positions in puts, similar to the third-party pledge procedure for calls provided in Rule 610.

Rule 1104 would be revised to give treasury bills deposited by a Clearing Member's customers in respect of short positions in puts the same treatment as underlying securities deposited by customers in respect of calls, in the event of the Clearing Member's suspension.

Rule 1106 would be revised to provide for the continued maintenance, after a Clearing Member's suspension, of short positions in puts for which treasury bills have been deposited by the Clearing Member's customers, and for the disposition of such treasury bills when the short positions are transferred, assigned, closed out, or expire.

Rule 1107, dealing with the disposition of exercised option contracts to which a suspended Clearing Member was a party at the time of its suspension, would be revised to cover put option contracts for which treasury bill were deposited as well as call option contracts for which underlying securities were deposited.

The proposed rule change would promote the public interest by establishing more efficient procedures for satisfying OCC's margin requirements in respect of short positions in puts, and by eliminating the need for Clearing Members to deposit margin at the OCC level in respect of short positions in puts that are fully covered at the customer level.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change would impose any burden on competition.

On or before November 19, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule change; or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C., 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 5, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31661 Filed 10-12-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16250 File No. SR-SCCP 79-13]

Self-Regulatory Organizations; Proposed Rule Change by Stock Clearing Corp. of Philadelphia

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 21, 1979, the above-mentioned self regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of Terms of Substance of the Proposed Rule Change

Stock Clearing Corporation of Philadelphia proposes an amendment to Rule 21, Statements, which will bring the language of the rule into conformity with the current practice and administration. The text of the proposed rule change is attached as Exhibit 1.

Statement of Basis and Purpose of Proposed Rule Change

The purpose of the proposed rule change is to promote efficiency in statements issued to members and to facilitate month-end verification of positions by members.

The proposed rule change will enable SCCP to facilitate the promote and accurate clearance and settlement of securities transactions for which it is responsible in accordance with the purposes set forth in Section 17A(b)(3)(f) of the Act.

Comments were neither solicited nor received from members, participants, or others on the proposed rule change.

No burden on competition will be imposed by the proposed rule change. The proposed rule change does not discriminate between marketplaces nor does it inhibit clearing interfaces.

On or before November 19, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed Rule change; or

(B) Institute proceedings to determine whether the proposed Rule Change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof, with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 "L" Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 5, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 5, 1979.

Exhibit 1.—Stock Clearing Corporation of Philadelphia; Text of Proposed Rule Change

Rule 21. Stock Clearing Corporation will render to clearing members a daily Bookkeeping Form, a daily pending transfer, and a monthly fail statement (for trade-for-trade accounts). These statements must be verified upon receipt, and any exceptions or corrections promptly reported to Stock Clearing Corporation.

As of the last Friday of each month except December, which will be as of the last business day, Stock Clearing Corporation will issue to clearing members a month-end exception letter indicating whether the statements received on that day are accurate for each type of account (CNS, margin, trade-for-trade, depository, or transfer). If a statement is incorrect, any differences should be reported on research requests to be enclosed with the exception letter. The verification letter must be signed by the member and returned to Stock Clearing Corporation by the 15th day of the month following the date of the statement.

[FR Doc. 79-31663 Filed 10-12-79; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 79-097]

National Environmental Policy Act (NEPA) Implementing Procedures

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed revision of agency procedures.

SUMMARY: The U.S. Coast Guard proposes to revise its procedures for considering environmental impacts. This is in accordance with the regulations for implementing the National Environmental Policy Act issued by the Council on Environmental Quality on November 29, 1978. Public comments are invited on the proposed USCG Instruction.

DATES: Comments must be received by November 5, 1979.

ADDRESS: Written comments should reference this notice and be addressed to: Commandant (G-WEP-7), U.S Coast Guard Headquarters, 2100 Second St. S.W. Washington, D.C. 20590. Comments received will be available for public inspection during normal working hours in Room 1203 at the above address.

FOR FURTHER INFORMATION CONTACT:
Don C. W. Dumlao, Chief, Environmental Impact Branch, U.S. Coast Guard (G-WEP-7), 2100 Second St. S.W., Washington, D.C. 20590 (202) 426-3300.

SUPPLEMENTARY INFORMATION:

Background

In 1970 the Council on Environmental Quality (CEQ) issued Guidelines for preparation of environmental impact statements (EIS) under Executive Order 11514. The Guidelines were issued to implement Section 102(2)(C) of the National Environmental Policy Act (NEPA). In 1973 CEQ provided guidance to agencies for preparation of environmental impact statements. As a result the Coast Guard developed Commandant Instruction 16475.1 entitled Procedures for Considering Environmental Impacts. On November 29, 1978 CEQ published final regulations in response to Executive Order 11991 to establish uniform procedures to implement all procedural provisions of NEPA (43 FR 55978). Federal agencies were directed to adopt implementing procedures to supplement the regulations published by CEQ (40 CFR 1507.3). Using as a basis the Department of Transportation (DOT) Order 5610.1C, which implements the CEQ regulations for DOT, the proposed Coast Guard instruction would set forth specific policies, responsibilities, and procedures for Coast Guard implementation of the CEQ regulations. The proposed procedures are in the form of an internal directive, Commandant Manual Instruction M16475.1A series, National Environmental Policy Act Implementing Procedures, and will replace Commandant Instruction 16475.1 CEQ regulations require that the proposed Coast Guard procedures be effective July 30, 1979. Until the proposed Coast Guard procedures are finalized, the CEQ regulations and DOT Order 5610.1C are being followed as stated in a previous Coast Guard internal directive (COMDTNOTE 16476 of June 29, 1979).

Comments

The Coast Guard is interested in receiving comments on these procedures from all interested parties. The Coast Guard will consider all comments received on or before the closing date, and will consider any comments received after that date to the maximum extent practicable. The following is the full text of the proposed Coast Guard instruction described above less enclosure (1) which was previously published in the Federal Register (Oct. 1, 1979, 44 FR 56420):

Commandant Instruction M16475.1A

Subj: National Environmental Policy Act (NEPA) Implementing Procedures.

Ref: (a) P.L. 91-190 National Environmental Policy Act (NEPA).

(b) 40 CFR Parts 1500-1508, Council on Environmental Quality Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act.

(c) Coast Guard Planning and Programming Manual M16010.1.

(d) Procedures Guide for the Coast Guard Regulatory System.

1. *Purpose.* This Manual Instruction establishes policy and prescribes responsibilities and procedures for Coast Guard implementation of references (a) and (b).

2. *Directives Affected.* COMDTINST 16475.1 dated 1 July 1975 is hereby cancelled.

3. *Action.* District commanders, unit commanding officers, and chiefs of responsible program offices shall ensure that the provisions of this instruction are followed in the consideration of environmental impacts of Coast Guard actions. Program guidance in implementing this instruction shall be submitted by program managers to Commandant via (G-WEP-7) for review and concurrence with this instruction prior to issuance.

4. *Changes.* Recommendations for improvement of Coast Guard procedures for considering environmental impacts shall be submitted to the Commandant (G-WEP-7).

Table of Contents

Chapter 1. Introduction.
A. Background.
B. Responsibility.
C. Use and Organization of this Instruction.
Chapter 2. Coast Guard Supplementary Implementing Instructions to DOT Order 5610.1C (Enclosure (1)).
A. Planning and Early Coordination.
B. Environmental Processing Choice.
C. Finding of No Significant Impact (FONSI).
D. Lead Agencies and Cooperating Agencies.
E. Preparation and Processing of Draft Environmental Impact Statements.
F. Review of Environmental Statements Prepared by Other Agencies.
G. Predecision Referrals to the Council on Environmental Quality.
H. Final Environmental Impact Statement.
I. Determinations Under Section 4(f) of the DOT Act.
J. Citizen Involvement Procedures.
K. Proposals for Legislation.
L. Timing of Agency Action.
M. Mitigating Measures.
Enclosure: (1) DOT Order 5610.1C, Procedures for Considering Environmental Impacts (Published Oct. 1, 1979, 44 FR 56420)

Chapter 1. Introduction

A. Background

1. National Environmental Policy Act (NEPA). NEPA, reference (a), sets the national charter for the protection of the environment. NEPA procedures ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The NEPA process is intended to help public officials make decisions that are based on an understanding of environmental consequences, and take actions that protect, restore and/or enhance the environment.

2. Council on Environmental Quality (CEQ) Regulations. The CEQ regulations, reference (b), establish and mandate policy requirements, binding on all Federal Agencies, for implementing NEPA and related statutory requirements.

3. Department of Transportation (DOT) Order 5610.1C, Procedures for Considering Environmental Impacts. DOT Order 5610.1C, enclosure (1), sets forth policy and procedures that supplement the CEQ regulations and applies them to DOT programs. The Coast Guard shall comply with the CEQ regulations and the provisions of the DOT Order.

4. Purpose. This Manual Instruction prescribes policies, responsibilities, and procedures for Coast Guard implementation of references (a) and (b), and supplements the DOT Order.

5. Applicability. All Coast Guard actions, as defined in this Manual Instruction, shall be subject to and consistent with the procedures and intent of references (a) and (b), the DOT Order (Enclosure (1)), and the requirements of this Instruction.

B. Responsibility

1. Chief, Office of Marine Environment and Systems (G-W). The Chief, Office of Marine Environment and Systems (G-W), has the primary responsibility to establish and maintain a coordinated Coast Guard environmental program.

2. Chief, Marine Environmental Protection Division (G-WEP). The Chief, Marine Environmental Protection Division (G-WEP), has the responsibility to insure compliance with reference (a) and other related environmental legislation.

3. Chief, Environmental Impact Branch (G-WEP-7). The Chief, Environmental Impact Branch (G-WEP-7), has the responsibility to develop and promulgate procedures to implement and direct compliance with references (a), (b), and related legislation. G-

WEP–7 shall serve as the point of contact for coordination and review of Coast Guard and non-Coast Guard environmental documents.

4. Chief, Bridge Division (G–WBR). Shall be responsible for environmental documentation and review for the Bridge Administration Program, except as provided in paragraph 2–H–2 and 2–I–3, and obtaining concurrence from the DOT Office of Environment and Safety (P) as required to process bridge permit applications.

5. Chiefs of Responsible Headquarters Program Offices. Have the responsibility to implement the procedures in this instruction for Headquarters originated actions and those district actions so designated by the responsible Headquarters program office. This responsibility shall include: coordinating, directing, and assisting in the preparation of environmental documentation and guidance for their respective program.

6. District Commanders. Have the responsibility to implement the procedures in this instruction for all district originated actions, except those specifically designated by a responsible Headquarters program office.

C. Use and Organization of this Instruction

1. Use. This instruction should be used in conjunction with references (b), (c), and (d), and as a supplement to DOT Order 5610.1C (Enclosure (1)) for consideration of environmental impacts of Coast Guard actions.

2. Organization. The material in Chapter 2 of this instruction supplements specific paragraphs in DOT Order 5610.1C (enclosure (1)) and is cross-referenced by including paragraph numbers of the DOT Order (in parentheses) to which it applies. Additional chapters providing guidance in meeting new or changed requirements will be added to this Manual Instruction as necessary.

Chapter 2. Coast Guard Supplementary Implementing Instructions to DOT Order 5610.1C (Enclosure (1))

A. Planning and Early Coordination

1. (3.c.) Scoping. All interested or affected parties (Federal, state, local, private) shall be notified and invited to participate in the early consultation process for all Coast Guard actions not categorically excluded in paragraph 2–B–3. below. Written notification shall be given to all state clearinghouses and parties having statutory or regulatory involvement. All other interested parties may be informally contacted; however, in all cases the responsible official shall maintain a written record of contacts made and responses received. For actions requiring preparation of an EIS, the scoping process shall be followed as described in Section 1501.7. of reference (b).

B. Environmental Processing Choice

1. (4.a.) Actions Covered. In addition to those types of actions listed in the DOT Order, this instruction applies to these Coast Guard actions: The decision to relocate, sell, dismantle, decommission, or close Coast Guard facilities; and research activities that have techniques or programs with potentially significant environmental effects during testing or implementation.

2. (4.b.) Environmental Impact Statement. Coast Guard actions which normally require an EIS include:

a. Actions assessed and found to have potentially significant environmental effects;

b. Actions having significant environmental effects on the global commons as described in section 2.3 of Executive Order 12114 dated 5 January 1979;

c. Actions which generate significant controversy because of effects on the human environment;

d. Actions having a significant effect on:

(1) Property protected under section 4(f) of the DOT Act;

(2) Wetlands;

(3) Endangered species; and

(4) significant cultural resources.

3. (4.c.5) Categorical Exclusions. In addition to those actions listed in paragraph 4.c. of Enclosure (1) and subject to paragraph 2–B–4 of this instruction, the following actions are not normally major Federal actions that require an environmental impact statement (categorical exclusions):

a. Actions involving repair and maintenance of existing Coast Guard facilities and which do not result in substantial change in functional use (e.g. replacement of existing materials or equipment, exterior maintenance and repair, interior maintenance, repair and alteration, maintenance dredging, maintenance of floating and fixed aids to navigation, etc.);

b. Actions to lease, acquire or construct facilities for Coast Guard personnel in areas currently zoned for that purpose and where such facilities are consistent with or approved by the local land use authority (e.g. lease or purchase of existing buildings without changing functional use, purchase or construction of housing in an approved residential subdivision etc.);

c. Actions performed as part of the Coast Guard's statutory authority to conduct investigations, inspections, or to issue permits and licenses which do not directly affect the environment (e.g. commercial vessel documentation and inspection, facility inspections, merchant seaman documentation, Marine Boards of Inquiry, Boating Safety Detachment Team inspection of recreational boats, ets);

d. Review entailing studies, reports, analyses, etc. of legislative proposals not originating in DOT and relating to matters not the primary responsibility of the Coast Guard;

e. Excessing of Coast Guard property to the General Services Administration;

f. Bridge permit actions which can accurately be described as one of the following:

(1) Reconstruction or modification of an existing bridge on essentially the same alignment or locations by widening less than a single travel lane, adding shoulders or safety lanes, walkways, bikeways, pipelines or fender works, except bridges with historic significance;

(2) Reconstruction or modification of an existing one lane bridge presently serviced by a two lane road and used for two way traffic, to a two way bridge on essentially the same alignment or locations, except bridges with historic significance;

(3) Construction of pipeline bridges for transporting potable water;

(4) Construction of pedestrian, bicycle and/or equestrian bridges;

(5) Temporary replacement of a bridge which commences immediately after the occurrence of a natural disaster or catastrophic failure where such bridge project is related to public safety, health and welfare;

(6) Approval of extension of time to commence or complete construction or to remove an existing or temporary bridge;

(7) Approval of deviations from approved plans prior to completion of construction which do not significantly alter the approved locations, plans, or environmental impacts;

(8) Promulgation of operating regulations for drawbridges.

g. Actions performed as a part of Coast Guard operations to carry out statutory authority in the areas of maritime safety, protection of the environment, or military readiness (e.g. establishment of security zones, search and rescue, law and treaty enforcement, removal of oil or hazardous substances, military operations to maintain proficiency, actions to protect public safety, establishment of floating and minor fixed aids to navigation except electronic sound signals, etc.).

h. Administrative or procedural regulations which clearly do not have any environmental impacts.

4. Restrictions on Categorical Exclusions. Environmental assessments or EISs, as appropriate, shall be prepared for actions which would otherwise be classified as categorically excluded, but which are likely to involve: (1) significant impacts on the environment; (2) substantial controversy because of effects on the human environment; (3) impacts which are more than minimal on properties protected under section 4(f) of the DOT Act and section 106 of the Historic Preservation Act; or (4) inconsistencies with any Federal, State, or local law or administrative determination relating to the environment.

C. Finding of No Significant Impact (FONSI)

1. (5.a.) Format. For Coast Guard purposes a FONSI shall be a separate document which incorporates by reference or attachment an environmental assessment.

2. (5.b.) Coodination. To ensure copies of the FONSI and it's environmental assessment are available to the public upon request, the originator shall forward copies to Commandant (G–WEP–7) and the responsible Headquarters program office as well as retain a copy in the originator's file.

3. (5.c.) Provisions of FONSI's to DOT. A FONSI required to be provided to the DOT Office of Environment and Safety (P) shall be forwarded via Commandant (G–WEP–7) by the responsible Headquarters program office.

D. Lead Agencies and Cooperating Agencies

1. (6.a.) Responsibility. For district-originated actions the district commander or his designee will assume responsibility for maintaining Coast Guard lead agency status. The Chief of the responsible Headquarters program office or his designee will assume this responsibility for Headquarters-originated actions. In extraordinary circumstatnces (e.g. an action transcends more than one district, etc.) the responsible Headquarters program office via Commandant (G–WEP–7) shall designate the individual responsible for maintaining Coast Guard lead agency status.

2. (6.b.) Resolution of Lead Agency Designation. Notification of P shall be made via Commandant (G–WEP–7) by the responsible Headquarters program office.

3. (6.c.) Joint Lead Agency Designation and CEQ referrals. Notification and referrals to P shall be made via Commandant (G–WEP–7). Commandant (G–WEP–7) shall be notified in all cases where the Coast Guard receives a request for Coast Guard participation as a joint lead or cooperating agency.

E. Preparation and Processing of Draft Environmental Impact Statements

1. (7.b.) Timing of Preparation of Draft Statements. For other than rulemaking actions Appendix P of reference (c) provides correlations of the NEPA process with the Coast Guard's Planning, Programming and Budgeting System. For rulemaking actions the Environmental Assessment of Regulatory Actions Section contained in reference (d) provides similar guidance.

2. (7.f.) Circulation of Draft Environmental Impact Statements. The originator or the responsible Headquarters program office shall forward twelve (12) copies of all draft EIS's to Commandant (G–WEP–7) for transmittal to Environmental Protection Agency's Office of Environmental Review, other headquarters offices and DOT as appropriate.

F. Review of Environmental Statements Prepared by Other Agencies

1. (9.f.) Comments on Non-Coast Guard EIS's. One copy of all Coast Guard comments shall be sent to Commandant (G–WEP–7)

G. Predecision Referrals to the Council on Environmental Quality

1. (10.a.1) DOT Lead Agency Proposals. District commanders and Headquarters program offices receiving a notice of intended referral from another agency shall provide P with a copy of the notice via Commandant (G–WEP–7).

H. Final environmental Impact Statement

1. (11.c.) Legal Review. District legal officers shall review EIS's for bridge permit actions that originate within their district. The Office of Chief Counsel shall provide final review of those EIS's requiring concurrence of P.

2. (11.d.) Internal processing. The Chief, Office of Marine Environment and Systems (G–W) shall have the authority to approve all Coast Guard EIS's G–W delegates to district commanders the authority to approve Coast Guard EIS's for actions that originate within and having effects confined to their respective district except those requiring P concurrence. P concurrence will be obtained by the responsible Headquarters program office via Commandant (G–WEP–7).

3. (11.h.) Availability of Statements to Environmental Protection Agency and the Public. Transmittal of the final statements to Environmental Protection Agency shall follow the method stated for draft statements in Paragraph 2–E–2 of this instruction.

I. Determinations Under Section 4(f) of the DOT Act

1. (12.a.) Integration of 4(f) Statement with EIS's. Originators of EIS's for Coast Guard actions requiring determinations under section 4(f) of the DOT Act shall incorporate the required 4(f) determination in the EIS.

2. (12.b.) Legal Review. District legal officers shall review Coast Guard section 4(f) determinations for projects that originate within their district that do not require the concurrence of P. The Office of Chief Counsel (G–L) shall provide final legal sufficiency review of all other Coast Guard Section 4(f) determinations.

3. Approval of 4(f) Statements. Approval of 4(f) statements for actions not requiring an EIS shall be made by Commandant (G–W) when P concurrence is required. When P concurrence is not required district commanders are delegated the authority for approving 4(f) statements for district originated actions, and chiefs of responsible Headquarters program offices, with Commandant (G–W) concurrence, shall have this authority for Headquarters actions not requiring P concurrence.

J. Citizen Involvement Procedures

1. (14.b.) Notice of Intent. As soon as the decision to prepare an EIS has been made the required Federal Register Notice of Intent shall be published via Commandant (G–WEP–7) by the responsible Headquarters program office.

2. (14.d.) A–95 Clearinghouse Review. Originators of EIS's shall solicit comments from A–95 clearinghouses of affected states on the environmental consequences of the proposed action. The EIS shall evidence this solicitation and consideration of comments received.

3. (14.f.) Coast Guard Public Contact Point. Interested persons can obtain copies and the status of Coast Guard environmental assessments/FONSI's or EIS's and obtain information on other elements of the NEPA process by contacting the appropriate address below:

COMMANDANT (G–WEP–7), U.S. Coast Guard, 2100 Second St., S.W. Washington, D.C. 20590, (202) 426–3300.

COMMANDER (dp1), First Coast Guard District, 150 Causeway St., Boston, MA 02114, (617) 223–6915.

COMMANDER (dp1), Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103, (314) 279–5012.

COMMANDER (dp1), Third Coast Guard District, Governors Island, New York, NY 10004, (212) 664–7001.

COMMANDER (dp1), Ninth Coast Guard District, 1240 East 9th St., Cleveland, OH 44199, (216) 293–3919.

COMMANDER (dp1), Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822, (213) 984–9287.

COMMANDER (dp1), Twelfth Coast Guard District, 630 Sansome St., San Francisco, CA 94126, (415) 556–6074.

COMMANDER (dp1), Thirteenth Coast Guard District, Federal Bldg., 914 Second Ave., Seattle, WA 98174, (206) 399–7523.

COMMANDER (dpl), Fifth Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705, (804) 924–9277.

COMMANDER (dpl), Seventh Coast Guard District, Federal Bldg., 51 S.W. 1st Ave., Miami, FL 33130, (813) 350–5503.

COMMANDER (dpl), Eighth Coast Guard District, Hale Boggs, Federal Bldg., 500 Camp St., New Orleans, LA 70130, (504) 682–2964.

COMMANDER (dpl), Fourteenth Coast Guard District, Prince Kalanianaole Bldg., 300 Ala Moana Blvd., Honolulu, HI 96850, (808) 556–0220/546–2861.

COMMANDER (dpl), Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802, (907) 399–0150/586–7384.

4. (14.f.) Coast Guard Public Contact Point for Bridge Permits. Interested persons and applicants for Coast Guard bridge permits can obtain full information on the Coast Guard Bridge Administration Program by contacting the appropriate addressee listed below:

COMMANDANT (G–WBR), U.S. Coast Guard, 2100 Second St. S.W., Washington, D.C. 20590, (202) 426–0942.

COMMANDER (obr), First Coast Guard District, 150 Causeway St., Boston, MA 02114, (617) 223–0645.

COMMANDER (obr), Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103, (314) 279–4607.

COMMANDER (oan), Third Coast Guard District, Governors Island, New York, NY 10004, (212) 664–7165.

COMMANDER (obr), Ninth Coast Guard District, 1240 East 9th St., Cleveland, OH 44199, (216) 293–3993.

COMMANDER (oan), Eleventh Coast Guard District, Union Bank Bldg., 400 Oceangate Blvd., Long Beach, CA 90822, (213) 984–9222.

COMMANDER (oan), Twelfth Coast Guard District, 630 Sansome St., San Francisco, CA 94126, (415) 556–8668.

COMMANDER (oan), Thirteenth Coast Guard District, Federal Bldg., 914 Second Ave., Seattle, WA 98174, (206) 399–5876.

COMMANDER (oan), Fifth Coast Guard District, Federal Bldg., 431 Crawford St., Portsmouth, VA 23705, (804) 924–9226.

COMMANDER (oan), Seventh Coast Guard District, Federal Bldg., 51 S.W. 1st. Ave., Miami, FL 33130, (613) 305–4103.

COMMANDER (obr), Eighth Coast Guard District, Hale Boggs, Federal Bldg., 500 Camp St., New Orleans, LA 70130, (504) 682–2965.

COMMANDER (oan), Fourteenth Coast Guard District, Prince Kalanianaole Bldg., 300 Ala Moana Blvd., Honolulu, HI 96850, (808) 556–0220/556–7130.

COMMANDER (oan), Seventeenth Coast Guard District, P.O. Box 3–5000, Juneau, AK 99802, (907) 399–0150/586–7367.

K. Proposals for Legislation

1. (15.a.) Preparation. The responsible Coast Guard Headquarters program office shall prepare the environmental documentation for legislative proposals or favorable reports on proposed legislation for which the Coast Guard is primarily responsible.

2. (15.b.) Processing. The EIS shall be processed as required in paragraph 15.b. of

V 44 OC 15 79 UMI

the DOT Order via commandant (G-WEP—7).

L. Timing of Agency Action

1. (17.b.) Reduction of Prescribed Time Periods. Request to reduce prescribed time periods for EIS processing shall be made via Commandant (G-WEP-7) to EPA.

2. (17.c.) Emergency Circumstances. In emergency circumstances CEQ will be consulted through P via Commandant (G-WEP-7).

M. Mitigating Measures. The responsible program manager, district commander, or Commanding Officer of Headquarters unit as appropriate, shall assure the executive of all mitigating measures stated in the final EIS and record of decision for all Coast Guard actions for which an EIS has been prepared.

Dated: October 3, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard Chief, Office of Marine Environment and Systems.

[FR Doc. 79-31470 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-14-M

[CGD 79-139]

Proposed Replacement of the Calhoun Street Bridge Across the Delaware River Between Trenton, NJ and Morrisville, Pa.; Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Third Coast Guard District on 15 November 1979 from 10:00 a.m. to 1:00 p.m. at the Trenton City Hall, Council Chambers, 319 East State Street, Trenton, New Jersey and from 7:00 p.m. to 10:00 p.m. at the Morrisville Junior-Senior High School, West Palmer Street, Morrisville, Pennsylvania.

Under consideration is the application by the Delaware River Joint Toll Bridge Commission for the replacement of the existing tax-supported two-lane Calhoun Street Bridge with a new, four-lane toll revenue supported bridge structure. The proposed replacement structure would be constructed across the Delaware River and the Pennsylvania Canal immediately adjacent to and downstream of the existing bridge. The existing Calhoun Street Bridge built in 1884, and on the National Register of Historic Places, is in a deteriorated condition and presently has a load restriction on it for vehicular traffic. The existing structure will remain in place and serve as a pedestrian/bicycle bridge. The proposed four-lane structure would connect Route 32 and Trenton Avenue in Morrisville, Pennsylvania with Calhoun Street and Route 29 in Trenton, New Jersey.

The proposed structure will provide a minimum vertical clearance (measured at the Pennsylvania side) of 24.8′ ± above normal pool elevation, measured to the underside of the bridge. The bridge rises progressively toward New Jersey and provides a minimum vertical clearance of 26.4′ ± above normal pool elevation, through the channel closest to New Jersey. A vertical clearance of 15′ ± will be provided in the Pennsylvania Canal above normal pool elevation. A horizontal clearance of 174′ ± between face-of-piers measured normal to the axis of the channel will be provided through those spans exhibiting 182′—0″ ± clear span lengths.

A Draft Environmental/Section 4(f) Statement (DEIS) on the project was filed with the Environmental Protection Agency (EPA) on 1 October 1979 in compliance with the National Environmental Policy Act of 1969 (Pub. L. 91-190).

The Draft Environmental/Section 4(f) Statement for the subject project is available for review at the U.S. Coast Guard, Third Coast Guard District Office, Building 135A, Governors Island, New York, NY 10004, Monday through Friday during working hours. The DEIS is available from and may be reviewed at the Delaware River Joint Toll Bridge Commission, Administration Building, Post Office Box 88, Morrisville, Pennsylvania. 19067.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge project, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan-br), Third Coast Guard District by 13 November 1979. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing.

Speakers are encouraged to provide written copies of their oral statement to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan-br), Third Coast Guard District through 7 December 1979. A transcript of the hearing, as well as written comments received outside the hearing will be available for public review in the Coast Guard District Office approximately 45 days after the hearing.

All comments, oral and written, will be considered before a final determination is made on the subject bridge permit application by the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10))

Dated: October 3, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79-31469 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-14-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applications for Renewal or Modification of Exemptions or Application to Become a Party to an Exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulation of the Materials Transportation Bureau has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes October 30, 1979.

ADDRESSED TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, S.W., Washington, D.C.

Application No.	Applicant	Renewal of exemption
3569-X	N. L. McCullough, Houston, Tex	3569
5022-X	United Technologies, Sunnyvale, Calif	5022
5022-X	The Boeing Co., Seattle, Wash	5022
5248-X	Lawrence Livermore Laboratory, Livermore, Calif	5248
5456-X	Fisher Scientific Co., Fair Lawn, N.J	5456
6232-X	McDonnell Douglas Corp., St. Louis, Mo	6232
6267-X	Georgia-Pacific Corp., Newport Beach, Calif	6267
6629-X	The Boeing Co., Seattle, Wash	6629
6691-X	Union Carbide Corp., Tarrytown, N.Y	6691
6802-X	Fitch Industrial & Welding Supply, Lawton, Okla	6802
6806-X	Analytical Instrument Development, Inc., Avondale, Pa	6806
6820-X	Georgia-Pacific Corp., Newport Beach, Calif	6820
7005-X	Bignier Schmid-Laurent, Paris, France [1]	7005
7060-X	Atlantic Air, Inc., Baltimore, Md	7060
7087-X	Unitek Corp., Monrovia, Calif	7087
7205-X	Department of the Army, Washington, D.C	7205
7462-X	Monsanto Co., St. Louis, Mo	7482
7536-X	Department of the Army, Washington, D.C	7536
7605-X	General Dynamics, Fort Worth, Tex	7605
7769-X	Brunswick Corp., Lincoln, NE [3]	7769
7938-X	Bignier Schmid-Laurent, Paris, France [4]	7938
7954-X	Air Products and Chemical, Inc., Allentown, Pa	7954
8012-X	Bignier Schmid-Laurent, Paris, France [5]	8012
8099-X	Union Carbide Corp., Bound Brook, N.J [6]	8099
8125-X	Fauvet Girel, Paris, France [7]	8125
8126-X	Fauvel Girel, Paris, France [8]	8126
8203-X	Pennwalt Corp., Philadelphia, Pa [9]	8203

[1] To authorize trailer-on-flat-car service for rail shipments.
[2] To renew and authorize shipment of explosive power devices, Class C explosives.
[3] To request deletion of the requirements for cylinders to "remain in one piece" following burst testing.
[4] To authorize trailer-op-flat-car service for rail shipment.
[5] To authorize trailer-on-flat-car service for rail shipments.
[6] To authorize an additional beg/box combination packaging for the shipment of poison B solids.
[7] To authorize rail as an additional mode of transportation.
[8] To authorize rail as an additional mode of transportation.
[9] To authorize rail as an additional mode of transportation.

Application No.	Applicant	Parties of exemption
6536-P	UGI Corp., Readiong, Pa	6536
6898-P	Mallinckrodt, Inc., St. Louis, Mo	6898
6902-P	Great Lakes Chemical Corp., West Lafayette, Ind	6902
6984-P	Ireco Chemicals, Salt Lake City, Utah	6984
8012-P	Degussa Corp., Frankfurt, Germany	8012
8144-P	Atlas Powder Co., Dallas, Tex	8144
8189-P	Zoecon Industries, Dallas, Tex	8189
8222-P	Prochimie International, Inc., New York, N.Y	8222
8229-P	Lilly Ice & Bottling Works, Inc., Pamberton, W. Va	8229
8229-P	Dama Inc., Roanoke, Va	8229
8229-P	Apache Powder Co., Benson, Ariz	8229
8229-P	Stoneyhurst Quarries, Bethesda, Md	8229
8229-P	Coos Bay Supply Co., Coos Bay, Oreg	8229
8229-P	Pacific Powder, Pipe & Supply, Inc., Tenino, Wash	8229
8229-P	Southeastern Energy, Inc., Maryville, Tenn	8229
8229-P	Econex, Inc., Wheaton, Ill	8229
8229-P	Ireco Chemicals, Salt Lake City, Utah	8229
8229-P	Strawn Explosives, Inc., Dallas, Tex	8229
8229-P	Seco, Inc., Fort Smith, Ark	8229

This notice of receipt of applications for renewal of exemptions and for party to an exemption if published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8282-N	Chevron Chemical Co., San Francisco, Calif	49 CFR 173.359	To authorize shipment of an organic phosphate compound mixture, liquid, Class B poison in a DOT Spec. 37P 5-gallon steel drum. (Modes 1, 2.)
8283-N	Allied Chemical Corp., Morristown, N.J	49 CFR 173.273(a)(4), 179.202-13.	To authorize shipment of sulfur trioxide, stabilized, in DOT Specification 111A60W2 tank cars equipped with standpipe electrical heaters. (Mode 2.)
8284-N	Allied Chemical Corp., Morristown, N.J	49 CFR 179.202-12(b)	To authorize shipment of oleum in DOT Specification 103AW or 111A100W2 tank cars equipped with safety valves instead of safety vents. (Mode 2.)
8285-N	Radian Corporation, Austin, Tex	49 CFR 100-199 with exception	To authorize shipment of limited quantities of flammable liquids and ORM-D materials essentially non-regulated when packaged in special type packaging. (Modes 1, 2, 3, 4, 5.)
8286-N	Union Carbide Corp., Tarrytown, N.Y	49 CFR 172.101, 173.31S, 176.76(b).	To authorize shipment of liquid oxygen, nitrogen, and argon in specially designed cargo tanks. (Modes 1, 3.)
8287-N	Rohm & Haas Company, Philadelphia, Pa	49 CFR 173.245(a)(16), 173.245(a)(26), 178.35a(b), 178.19-4(c).	To authorize shipment of a corrosive liquid, in DOT Specification 6D/2SL or DOT Specification 34 equipped with a bung vent. (Modes 1, 2, 3.)
8288-N	Alaska Explosives Limited, Anchorage, Alaska	49 CFR 176.115(2)	To authorize stowage of Class A explosives in portable magazines aboard ship at less than the 25 foot separation distance required for explosives to crew quarters. (Mode 3.)

Issued in Washington, D.C., on October 9, 1979.

H. J. Sonnenberg,

Acting Chief, Exemptions Branch, Office of Hazardous Materials, Regulation Materials Transportation Bureau.

[FR Doc. 79-31707 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-60-M

Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT

ACTION: List of Applicants for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Regulations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comment period closes November 14, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the application are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 Seventh Street, S.W., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

New Exemptions—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8289-N	Olin Corporation, East Alton, Ill	49 CFR 173.93	To authorize shipment of propellant explosives, solid, Class B, contained in metal cans, overpacked in a fiberboard box (ba-2321). (Mode 1.)
8290-N	Mobil Chemical Co., Richmond, Va	49 CFR 173.271	To authorize shipment of phosphorus trichloride in DOT Specification 51, phenolic lined, portable tanks. (Modes 1, 3.)
8291-N	Orion Research Inc., Cambridge, Mass	49 CFR 178.24a-5, 178.24a-6	To authorize shipment of monoethylamine, aqueous solution in 32 ounce linear polyethylene bottles complying with DOT Specification 2E except for testing and embossing. (Modes 1, 2, 3, 5.)
8292-N	Radian Corporation, Austin, Tex	49 CFR 100-199	To authorize shipment of limited quantities of various hazardous materials as non-regulation materials when packed in special type packaging. (Modes 1, 4.)

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act (49 CFR U.S.C. 1806; 49 CFR 1.53(e)).

Issued at Washington, D.C., on October 9, 1979.

H. J. Sonnenberg,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-31708 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

1971-1974 and 1976-1978 Capris Imported by Ford Motor Co.; Public Proceeding Cancelled

The National Highway Traffic Safety Administration has cancelled the public proceeding announced in the **Federal Register** of September 13, 1979 (44 FR 53342) regarding its initial determination of safety-related defects in the reclining front seat backs in 1971–1974 Capri automobiles and the floor-mounted manual transmission gearshift levers on 1971–1974 and 1976–1978 Capris. The meeting was to be held at 10:00 a.m. on October 18, 1979, in Room 2230 of the Department of Transportation Building, 400 Seventh Street, SW., Washington, D.C. 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegation of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on October 12, 1979.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 79-31964 Filed 10-12-79; 11:47 am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Manufacturers and Retailers Excise Taxes; Exemption From Tax on Production of Trucks and Production or Purchase of Tread Rubber

By virtue of the authority vested in me by section 4293 of the Internal Revenue Code of 1954, exemption is hereby authorized from the taxes imposed by sections 4061(a), 4071(a)(4), and 4218 of such Code with respect to the manufacture or production by the Department of Defense, for its own use, of taxable truck, bus, etc., bodies and chassis incorporating used components, and the purchase or production of tread rubber by such Department for recapping or retreading tires from shoulder to shoulder for its own use. The exemption applies only to the manufacture or production of such bodies and chassis and tread rubber in Department of Defense facilities, or purchases of tread rubber for the exclusive use of the Department in such facilities.

This exemption does not cover new taxable parts, to the extent of the tax imposed on such parts by section 4061(b) of the Code, purchased for incorporation in these vehicles. Therefore, such parts may not be purchased free of tax, or be eligible for credit or refund of tax, unless such parts are to be used in the manufacture or production of bodies or chassis that, without this authorization, are otherwise tax exempt or not taxable under section 4061(a).

Any existing assessments against the Department of Defense for the above taxes are hereby removed, but no refund or credit of taxes already paid will be allowed.

Dated: October 4, 1979.

Robert Carswell,

Acting Secretary of the Treasury.

[FR Doc. 79-31732 Filed 10-12-79; 8:45 am]

BILLING CODE 4810-25-M

Office of the Secretary

Water Circulating Pumps From the United Kingdom; Antidumping: Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: U.S. Treasury Department.

ACTION: Tentative Revocation of Finding of Dumping.

SUMMARY: This notice is to advise the public that it appears that water circulating pumps of the wet motor type, suitable for residential and commercial hydronic heating systems, from the United Kingdom are no longer sold in the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of the merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. The sole manufacturer has also given assurances that it is not now selling and does not intend to sell water circulating pumps from the United Kingdom to the United States at less than fair value. If this action is made final, the finding of dumping covering the subject merchandise from the United Kingdom will be revoked. Interested persons are invited to comment on this action.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Edward Haley, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, (202-566-5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to water circulating pumps, wet motor type, suitable for use in residential and commercial hydronic heating systems, from the United Kingdom, was published as Treasury Decision 76-190 in the Federal Register of July 7, 1976 (41 FR 27843).

After due investigation, it has been determined tentatively that water circulating pumps from the United Kingdom are no longer being, nor are likely to be, sold to the United States at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*).

Statement of Reasons on Which This Tentative Determination Is Based

The investigation indicated that, with the exception of certain sales for which dumping duties in a *de minimis* amount were assessed, all sales by the manufacturer since the date of the finding of dumping have been made at not less than fair value. A written assurance has also been received from the sole exporter stating that future sales of water circulating pumps to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to revoke the findings of dumping with regard to water circulating pumps, wet motor type, from the United Kingdom.

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request, in writing, that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue, N.W., Washington, D.C. 20229, in time to be received by his office no later than October 25, 1979. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office no later than November 14, 1979. All persons submitting views or arguments are reminded of the requirement to include nonconfidential summaries or approximated presentations of all confidential material.

This notice is published pursuant to section 153.44(c) of the Customs Regulations (19 C.F.R. 153.44(c)).

October 5, 1979.

Robert H. Mundheim,

General Counsel of the Treasury.

[FR Doc. 79-31729 Filed 10-12-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Volume No. 31]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Correction

In FR Doc. 79-28165, appearing at page 52936 in the issue of Tuesday, September 11, 1979, make the following change:

On page 52939, third column, last paragraph, the fourteenth line of the entry for MC-110988 (Sub-396F) should read "VA, and WV to points in IL, IN, IA, KY".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the **Federal Register** publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the **Federal Register**. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 175

MC 16903 (Sub-73TA), filed May 23, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN 47401. Represenative: Donald W. Smith, Suite 945-9000 Keystone Crossing, Indianapolis, IN 46240. *Road and street signs, posts, and brackets, and materials used in the manufacture of road and street signs,* between the facilities of Hall's Sign's, Inc., at or near Bloomington, IN on the one hand, and on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Hall Sign's, Inc. 3000 W. 3rd Street, Bloomington, IN 47401. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 61403 (Sub-270TA), filed July 19, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11W, Kingsport, TN 37662. Represenative: Charles E. Cox (same address as applicant). *Chemicals, in bulk, in tank vehicles,* from Doe Run, KY, to points in NC, SC, and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Olin Corporation, 120 Long Ridge Rd., Stamford, CT 06904. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 82063 (Sub-110TA), filed August 3, 1979. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, MO 63127. Representative: W. E. Klipsch (same address as above). *Liquid chemicals,* in bulk, in tank vehicles, from the plant sites of PPG Industries, Inc., at or near Lake Charles, LA, Beaumont and LaPorte, TX, to all points in the U.S. (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 95293 (Sub-1TA), filed July 12, 1979. Applicant: O'BOYLE TRANSFER COMPANY, INC., 1800 N. Western Ave., Chicago, IL 60647. Representative: Carl O. Minnberg (same address as applicant). *Household goods, antiques, artwork, pianos, organs, baggage, store and office fixtures,* from Chicago, IL and 50 miles to points in the following states: IL, IN, IA, MN, WI, NE, OH, AL, AZ, CA, CO, CT, DE, DC, FL, GA, ID, KS, KY, LA, MD, MA, MI, MO, NV, NJ, NM, NY, ND, OK, PA, RI, SC, SD, TN, TX, UT, VA, MS, WV, WY and between points in the above states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hanzel Galleries, Inc., 1120 S. MI Ave., Chicago, IL 60605. Send protests to: Annie Booker, TA, Rm.

V 44 0C 15 79 UMI

1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 106603 (Sub-206TA), filed July 17, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW, P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Asbestos Cement, pipe, couplings, fittings, and accessories* from the facilities of Certain-Teed Corporation at St. Louis, MO to all points in low peninsula of MI and to Ambler, PA. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Certain-Teed Corporation, P.O. Box 1100, Blue Bell, PA 19422. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 106603 (Sub-207TA), filed July 12, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW, P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *Refractories and refractory products* from the facilities of North American Refractory Company, located at or near Vanport, PA to points in MI, IN, and IL. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): North American Refractory Company, 600 Hanna Building, East 14th and Euclid Ave., Cleveland, OH 44115. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107002 (Sub-558TA), filed July 27, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth (same address as applicant), *Jet fuel*, in bulk, in tank vehicles, from Montgomery, AL to Columbus AFB at or near Columbus, MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Army Legal Services Agency, Department of the Army (JALS–RL), Room 422, Nassif Building, 5611 Columbia Pike, Falls Church, VA 22041. Send protests to: Alan Tarrant, D/S, ICC, Federal Building, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 107323 (Sub-57TA), filed July 27, 1979. Applicant: GILLILAND TRANSFER CO., 7180 West 48th Street, Fremont, MI 49412. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. *Glass containers, and equipment, supplies and accessories* used in the manufacture or distribution of glass containers; between Marion, IN and Burlington, WI on the one hand, and, on the other points in MI & IN. For 180 days. Supporting shipper(s): National Can Corporation, 8101 West Higgins Road, Chicago, IL 60631. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107403 (Sub-1257), filed July 19, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Paint and paint products, in bulk, in tank vehicles* from Toledo, OH to Flint and Pontiac, MI; Louisville, KY for 180 days. Supporting shipper(s): E. I. DuPont De Nemours & Co., Inc., 1007 Market St., Wilm., DE 19898. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107403 (Sub-1258TA), filed July 25, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Muriatic acid*, in bulk, in tank vehicles from Fort Worth, TX to points in LA & OK for 180 days. An underlying ETA seeks 90 days authority.Supporting shipper(s): Stauffer Chemical Co., Nyala Farms Rd., Westport, CT 06880. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107403 (Sub-1259TA), filed July 2, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Poultry fats, in bulk, in tank vehicles*, from Natchitoches, LA to all pts. in the US, (except AK & HI), for 180 days. Supporting shipper(s): Country Pride Foods, L & D, 100 Mc Donald Rd, Many, LA 71449. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107403 (Sub-1260TA), filed July 29, 1979. Applicant: MATLACK, INC., Ten W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same as applicant). *Fly ash, in bulk, in tank vehicles* (1) from: Trenton, NJ; Holtwood, PA & Montour County, PA to pts. in NJ, MD, VA, DE, NY, MA, RI, CT, WV, PA and (2) from: Montour County, PA to pts. in OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Admixtures Corp., 1835 Pennsylvania Ave., Hagerstown, MD 21740. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107912 (Sub-27TA), filed August 6, 1979. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood, Memphis, TN 38118. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Paper products* from the facilities of Georgia-Pacific Corporation at Crossett, AR to McCarty-Holman at Jackson, MS. Supporting shipper(s): McCarty-Holman Inc., 453 N. Mill St., P.O. Box 3409, Jackson, MS 39207. Send protests to: Floyd A. Johnson, 100 North Main, Suite 2006, Memphis, TN 38103.

MC 108393 (Sub-144TA), filed July 19, 1979. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Hinsdale, IL 60521. Representative: Thomas B. Hill (same address as applicant). *Contract carrier:* irregular routes: *Electrical and gas appliances, parts of electrical and gas applionces, and equipment, materials and supplies used in the manufacture, distribution, and repair of electrical and gas applicances (except commodities in bulk)*, between Cullman, AL, on the one hand, and on the other, points in St. Joseph, MI; Clyde, Marion, Findley, OH; Danville, KY; and LaPorte, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Whirlpool Corporation, 2000 U.S. 33, North, Benton Harbor, MI 49022. Send protests to: Annie Booker, TA, Room 1386, 219 South Dearborn Street, Chicago, IL 60604.

MC 114273 (Sub-645TA), filed July 27, 1979. Applicant: CRST, INC., 3930 16th Ave. S.W., Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same as applicant). *Welding rods and equipment, supplies and accessories used therewith* from Hanover, PA to Gering, NE; Kansas City and St. Louis, MO; Denver, CO and points in IA and MN for 180 days. The purpose of this application is to substitute single-line service for existing joint-line service. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alloy Rods Division, Karen & Wilson Ave., Hanover, PA 17331. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 116763 (Sub-588TA), filed July 16, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, OH 45380. Representative: Gary J. Jira, North West St., Versailles, OH 45380. *(1) Frozen and canned foodstuffs, and (2) materials, supplies and equipment, used in the manufacture and distribution of foodstuffs* (except commodities in bulk, in tank vehicles), between the plantsite of Douglas Foods, Inc., Douglas, GA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Douglas Foods, Inc., P.O. Box 1208, Douglas, GA 31533. Send protests to: D/S ICC, 101 N. 7 St., Philadelphia, PA 19106.

MC 119583 (Sub-7TA), filed June 29, 1979. Applicant: L. E. BOLING, INC., 718 Commercial Street, Kewanee, IL 61443. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. *Carbonated mineral water in bottles*, from Milwaukee, WI to Kewanee, IL for 180 days. Supporting shipper(s): Boswell Distributing Co., 217 West Third Street, Kewanee, IL 61443. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 121453 (Sub-2TA), filed July 24, 1979. Applicant: J. L. ROTHROCK, INC., P.O. Box 1230, High Point, NC 27261. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave. NW, Washington, DC 20036. *General commodities (except those of unusual value, Classes A & B explosives commodities in bulk those requiring the use of special equipment, and household goods as defined by the Commission)* between Appomattox, VA, on the one hand, and, on the other, High Point and Greensboro, NC, restricted to traffice having a prior or subsequent movement by rail, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Thomasville Furniture Industries, Inc., P.O. Box 339, Thomasville, NC 27360. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 123383 (Sub-90TA), filed July 11, 1979. Applicant: BOYLE BROTHERS, INC., RD 2, Box 3290, Medford, NJ 08055. Representative: Morton E. Kiel, Suite 1832—2 World Trade Center, New York, NY 10048. (1) *gypsum, gypsum products and building materials, and* (2) *materials, equipment and supplies* used in or incidental to the manufacture, installation and distribution of the commodities in (1) above, between Buchanan, NY and Wilmington, DE on the one hand, and on the other, points in MI, OH and PA, for 180 days. Supporting shipper(s): Georgia-Pacific Corporation, 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 123993 (Sub-55TA), filed July 9, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX 78701. *Dry pet food*, from the facilities of Sunshine Feed Mills, Inc. at Red Bay, AL and Tupelo, MS to points in AR, FL, GA, IL, LA, MS, MO, OK, SC, TN, TX, and VA. for 180 days. Supporting shipper(s): Sunshine Feed Mills, Inc., P.O. Drawer S., Red Bay, AL 35582. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave. New Orleans, LA 70113.

MC 124263 (Sub-3TA), filed July 18, 1979. Applicant: SUN MOTOR LINE, INC., P.O. Box 32546, Oklahoma, City, OK 73123. Representative: Jack H. Blanshan, Attorney at law; Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. *Frozen foodstuffs*, except in bulk, in vehicles equipped with mechanical refrigeration, from Atwater, Castroville, Modesto, Oxnard, Patterson, Salinas, San Jose, Santa Maria, and Watsonville, CA, to points in IL, IN, IA, KS, LA, MI, MO, NE, OH, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): VIP Sales, 4673 S. 83rd East Avenue, Tulsa, OK 73123. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W., 3rd, Oklahoma City, OK 73102.

MC 124813 (Sub-214TA), filed July 11, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson Street, Eagle Grove, IA 50533. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. *Interlocking paving stone* from St. Joseph, MN to points in IA and IL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Borgert Concrete Products, Inc., P.O. Box 39, St. Joseph, MN 56374. Send protests to: Herbert W. Allen, ICC 518 Federal Bldg., Des Moines, IA 50309.

MC 124813 (Sub-215TA), filed July 11, 1979. Applicant: UMTHUN TRUCKING CO., 910 S. Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Lumber* from Prairie du Chien, WI to points in Iowa for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quality Wood Treating, Inc., Box 367, Prairie du Chien, WI. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg. Des Moines, IA.

MC 125433 (Sub-307TA), filed June 15, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Floor covering, floor tile and such commodities as are dealt in and used by manufacturers and wholesalers of household furnishings* (except commodities in bulk), between points in AZ, AR, CA, CO, IL, ID, IA, KS, LA, MS, MO, MT, NE, NV, NM, ND, OK, OR, PA, SD, TN, TX, UT, WA and WY, for 180 days. Supporting shipper(s): William Volker & Company, 945 California Drive, Burlingame, CA 94010. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-308TA), filed August 6, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Such commodities as are dealt in by drug stores, discount houses, wholesale and retail grocery and food business houses*, and (2) *material and supplies used in the manufacture of commodities in* (1) above, from the facilities of Forest City Products, Inc., located at or near Clearfield, UT to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Forest City Products, Inc., Bldg., C–12 Section 3, Clearfield, UT 84106. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-309TA), filed July 10, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). (1) *Garage door operators and parts, attachments and accessories therefor*, from Nogales, AZ to Alsip, Il and (2) *Material, equipment and supplies used in the manufacture of (1) above*, from Alsip, IL to Nogales, AZ. *Restriction:* Restricted to traffic originating at or destined to the facilities utilized by Chamberlain Manufacturing Corporation and further restricted against the transportation of commodities in bulk. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chamberlain Manufacturing Corporation, 845 Larch Avenue, Elmhurst, IL 60126. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-310TA), filed June 15, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). *Charcoal, charcoal briquets, hickory chips, charcoal lighter fluid, fireplace logs, compressed sawdust, activated carbon and related barbecue supplies*, except in bulk, from the facilities of Husky Industries located at or near Branson, MO; Pachuta, MS; Isanti, MN; Stamford, and Scotia, NY; Romeo and Ocala, FL; Gary, IN; Waubaca, WI and White City, OR to points in the United States (except AK and HI), for 180 days. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 125433 (Sub-311TA), filed July 2, 1979. Applicant: F–B TRUCK LINE COMPANY, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same

V 44 0 C 15 7 9 UMI

address as applicant). *Such commodities as are dealt in or used by agricultural equipment, industrial equipment and lawn and leisure products, manufacturers and dealers* (except commodities in bulk), between the facilities of International Harvester Company at Moline, East Moline and Rock Island, IL, on the one hand, and, on the other, points in NC, SC, GA, FL, AL, MS, LA, AR, VA, OK, TX, NM, AZ, CO, TN, WA, OR, CA, UT, WY, NV, MT and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Harvester, 401 North Michigan Avenue, 17th Floor, Chicago, IL 60611. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126243 (Sub-30TA), filed July 27, 1979. Applicant: ROBERTS TRUCKING CO., INC., P.O. Drawer G, Poteau, OK 74953. Representative: Vernon Roberts (same as applicant). *Plastic articles* and *such equipment, materials and supplies* as are used in the manufacture and distribution of the commodities (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Fort Howard Paper Co. at or near Muskogee, OK on the one hand, and on the other points in AL, AR, CO, FL, GA, KS, KY, LA, MS, MO, NE, NM, NC, SC, TN, TX and VA, for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Fort Howard Paper Company, P.O. Box 130, Green Bay, WI 54305. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 126473 (Sub-40TA), filed July 20, 1979. Applicant: HAROLD DICKEY TRANSPORT, INC., Packwood, IA 52580. Representative: Kenneth F. Dudley, 1501 E. Main, Ottumwa, IA 52501. *Edible and inedible fats, animal oils, and products and blends of animal fats and oils transported in bulk* from the facilities of Geo. A. Hormel & Co. at Davenport, IA, to points in IL, MN, MO, NE, SD, and WI for 180 days. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 133233 (Sub-65TA), filed July 9, 1979. Applicant: CLARENCE L. WERNER d.b.a. WERNER ENTERPRISES, P.O. Box 37308, I–80 & Hwy. 50, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, I–80 & Hwy. 50, Omaha, NE 68137. *Aluminum cable and accessories necessary for installation of aluminum cable* from the plantsite of Aluminum Company of America at or near Scottsville, TX to points in CA, IL, KS, MN, MO, NE, ND and SD under a continuing contract with the Aluminum Company of America for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aluminum Company of America, 1501 Alcoa Building, Pittsburgh, PA 15219. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135283 (Sub-57TA), filed July 27, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Spencer Foods, Inc. at or near Spencer, IA to points in KS for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68611. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 135283 (Sub-58TA), filed July 11, 1979. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., 432 S. Stuhr Road, P.O. Box 2122, Grand Island, NE 68801. Representative: Lavern R. Holdeman, 521 S. 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Spencer Foods, Inc. at or near Schuyler, NE to points in IL and IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Spencer Foods, Inc., P.O. Box 544, Schuyler, NE 68611. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 136343 (Sub-180TA), filed May 21, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Foodstuffs*, from Quakertown, PA to West Haven and Grande, CT; Wilmington and Newark, DE; Cranston, RI; Boston, MA; Edison and East Hanover, NJ; Albany and Saratoga Springs, NY; Atlanta and Union City, GA; Chicago, IL; Detroit, MI; Cleveland and Cincinnati, OH; Hickory and Charlotte, NC; and Nashville, TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Crouthamel Potato Chip Co., Inc., P.O. Box 818, Quakertown, PA 18951. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 136343 (Sub-181TA), filed June 28, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Mitlon, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. *Lighting Fixtures and lamps, and materials, equipment, and supplies used in the manufacture and sale of Lighting Fixtures and lamps (except commodities in bulk),* between East Brunswich and Finderne, NJ on the one hand, and on the other, Alexandria and Roanoke, VA; Charlotte, NC; Greenville, SC; Atlanta, GA; Bedford Heights and Columbus, OH; Grand Rapids, MI; Indianapolis, IN; Memphis and Nashville, TN; and Boston, MA, and points in the commercial zones of the aforementioned cities for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Action Tungsram, Inc., 11 Elkins Rd., East Brunswich, NJ 08816. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 136553 (Sub-83TA), filed July 12, 1979. Applicant: ART PAPE TRANSFER, 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. *Lime and limestone products, in bulk*, from the facilities of Linwood Stone Products Company, Inc., at or near Davenport, IA to points in Minnesota and Wisconsin for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Martrex, Inc., 7701 Arboretum Blvd., Chanhassen, MN 55317. Send protests to: Herbert W. Allen, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 136553 (Sub-84TA), filed July 2, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th St., Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center Des Moines, IA 50309. *Brass and aluminum castings* from Dubuque, IA, to Broadview, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Morrison Bros. Company, 24th and Elm, Dubuque, IA 52001. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Building, Des Moines, IA 50309.

MC 136803 (Sub-11TA), filed July 24, 1979. Applicant: SIOUX CITY BULK FEED SERVICE, INC., 3324 Highway 75 North, Sioux City, IA 51105.

Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. *Meat scraps* from the facilities of Iowa Beef Processors, Inc. at or near Luverne, MN to points in SD for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 140193 (Sub-7TA), filed July 31, 1979. Applicant: RICH GRANT, INC., 910 West 24th Street, Ogden, UT 84401. Representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. CONTRACT CARRIER: IRREGULAR ROUTE: *Meats, meat products, meat by-products and articles distributed by meat packing houses* as described in Sections A and C of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides, inedible tallow, and commodities in bulk) from MN and IA to UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Country Pride Foods, 501 North 2200 West, Salt Lake City, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84128.

MC 140563 (Sub-41TA), filed July 17, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Mineral wool (fiberglass), insulation products, except in bulk*, from the facilities of CertainTeed Corp. at or near Athens, Atlanta and Chamblee, GA to points in AL, FL, KY, LA, MS, NC, SC and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm 300, Atlanta, GA 30309.

MC 140563 (Sub-42TA), filed July 19, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. (1) *Malt beverages and related advertising materials (except in bulk)* from the facilities of Miller Brewing Company at or near Albany, GA to points in the U.S. in and east of WI, IL, MO, OK and TX (except points in CT, ME, MA, NH, RI and VT) and (2) *Materials, equipment and supplies used in the manufacture, sale or distribution of malt beverages (except commodities in bulk)* from points in the U.S. in and east of WI, IL, MO, OK and TX (except points in CT, ME, MA, NH, RI and VT) to the facilities of Miller Brewing Company at or near Albany, GA for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 W. Highland Blvd., Milwaukee, WI 53208. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, RM 300, Atlanta, GA 30309.

MC 140563 (Sub-43TA), filed July 29, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Paper and paper products* from the facilities of Union Camp Corp. at or near Savannah, GA to points in LA, TX, OK and AR for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 140643 (Sub-3TA), filed July 20, 1979. Applicant: HOWARD N. CHILD, dba EIGHT BALL LINE TRUCKING, 2717 Goodrick Avenue, Richmond, CA 94804. Representative: Armand Karp, 743 San Simeon Drive, Concord, CA 94518. *Contract carrier*, irregular routes: *Mineral wool; fibrous glass products and materials; mineral wool products and materials; insulated air ducts; insulating products and materials; glass fibre rovings, yarn and strands; glass fibre mats and mattings; flexible air duct and materials, equipment and supplies used in the manufacture of commodities named*, except in bulk, from Chowchilla, CA to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, PA 19482. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 141443 (Sub-36TA), filed July 17, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: William Cruikshank (same address as applicant). *Furniture parts and materials and supplies used in the manufacture and distribution thereof*, (except commodities in bulk), (1) from or near Hominy, OK, to Denver, CO; (2) from or near Carthage, MO, to Denver, CO, Portland, OR, Los Angeles, CA, and Glendale, AZ; (3) from or near Little Rock, AR, to Dallas and Ennis, TX; (4) from or near Dallas and Ennis, TX, to Los Angeles, CA; (5) from or near Los Angeles, CA, to Portland, OR and Seattle, WA; and (6) from or near Magnolia, AR, to Glendale, AZ, and Los Angeles, CA, restricted to traffic originating at or destined to the facilities of Legget & Platt, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Leggett & Platt Incorporated, P.O. Box 757, Carthage, MO 64836. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 141773 (Sub-12TA), filed May 8, 1979. Applicant: THERMO TRANSPORT, INC., 156 E. Market Street, Indianapolis, IN 46204. Representative: Donald W. Smith, Suite 945—9000 Keystone Crossing, Indianapolis, IN 46240. *Contract carrier: irregular routes: Iron and steel and iron and steel articles*, from Indianapolis, IN; Youngstown, OH; Aliquippa, PA and Franklin Park, IL to the plantsite and facilities of Carlton Company, Inc. at Portland, OR, for 180 days. Under contract with Carlton Company, Inc. at Portland, OR. Restricted to movement in mechanical temperature controlled equipment. Supporting shipper(s): Carlton Company, Inc., 3901 Southeast Naef Road, Portland, OR 97222. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 142062 (Sub-32TA), filed April 10, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Box P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. *Contract carrier: Irregular routes: Furniture parts, and materials, equipment and supplies used in the manufacture and distribution of furniture parts*, (except commodities in bulk), from the facilities of Leggett and Platt Incorporated at or near Carthage and Springfield, MO, to the facilities of Leggett and Platt Incorporated at Winchester, KY; and Mason, OH, for 180 days. Under contract with Leggett and Platt Incorporated at Carthage, MO. Supporting shipper: Leggett and Platt Incorporated, 18th Road, Carthage, MO 64836. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 142513 (Sub-8TA), filed July 11, 1979. Applicant: BIRK TRANSFER, INC., 360 Wheatland Avenue, Conemaugh, PA 15909. Representative: William A. Gray, Esquire, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Lumber, from points in NC and SC to points in PA, for 180 days. An underlying ETA for 90 days has been sought. Supporting shipper(s): East Coast Lumber Co., P.O. Box 1811,

V 44 O C 15 79 UMI

Asheboro, NC 27203. Send protests to: J. J. England, D/S, I.C.C., 2111 Federal Building, Pittsburgh, PA 15222.

MC 144303 (Sub-10TA), filed July 5, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., U.S. Highway 25S, Fletcher, NC 28732. Representative: H. Charles Ephraim, 1250 Connecticut Ave. NW., Washington, DC 20036. *Contract* carrier-irregular routes: *(1) Electrical equipment and parts, and (2) materials and supplies used in the manufacture and distribution of electrical equipment and parts, (except commodities in bulk, those requiring special equipment, and aerospace craft parts,)* between the facilities of General Electric Company at or near East Flat Rock and Fletcher, NC on the one hand, and, on the other, points in the US (except AK and HI, and those points on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the MN-IA State line, then along the MN-IA State line to its junction with the MN-SD State line, then north along the MN-SD State line to the International Boundary line between the US and Canada), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Co., P.O. Box 865, Hendersonville, NC 28739. Send protests to: Terrell Price, 800 Briar Creek, Rd., Rm. CC516, Charlotte, NC 28205.

MC 144503 (Sub-20TA), filed July 2, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Meats, meat products and meat by-products* from the facilities of Swift & Company at Marshalltown, Sioux City and Glenwood, IA to AL, FL, GA, LA, MS, NC, SC and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St., NW, Rm. 300, Atlanta, GA 30309.

MC 144513 (Sub-13TA), filed June 25, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster St., Lodi, OH 44254. Representative: Bradford E, Kistler, P.O. Box 82028, Lincoln, NE 68501. *Hardwood flooring, and accessories and installation materials therefor,* from Center, TX and Nashville, TN and points in their commercial zones, to the facilities of Butler-Johnson Corp. at or near San Jose, Sacramento and Fresno, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Butler-Johnson Corp., 1480 Nicora Ave., San Jose, CA 95133. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 144713 (Sub-8TA), filed June 25, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glen M. Heagerty (same address as applicant). Contract carrier, irregular routes, *such merchandise as is dealt in by a magazine publisher and distributor* (except in bulk), from Detroit, MI to points in the States on and East of the Mississippi River and KS and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Look Magazine, Inc., 150 E. 58th St., New York, NY 10022. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadephia, PA 19106.

MC 144883 (Sub-5TA), filed July 13, 1979. Applicant: EARL MOORE, d.b.a. S & M MARKETING, P.O. Box 4020, Foster City, CA 94404. Representative: J. T. Proctor, P.O. Box 668, Mountain View, CA 94042. *Bananas in Refrigerated Trailers,* from Wilmington and Long Beach, CA to all points in AZ, CA, CO, ID, MO, NV, NM, OR, TX, UT, WA, and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chiquita Brands, Inc., Berth 147, Neptune Ave., Wilmington, CA 90744; Castle & Cooke Foods, 25401 Cabot Rd. #212, Laguna Hills, CA. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94104.

MC 145152 (Sub-102TA), filed July 31, 1979. Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Dry animal food* (in bags on pallets), from Red Bay, AL and Tupelo, MS to points in the U.S. (except AK, AL, CA, CO, HI, ID, MN, MS, MT, ND, NE, NM, NV, OR, SD, TN, UT, WA and WY) restricted to the transportation of traffic originating at the facilities of Sunshine Mills, Inc. at or near Red Bay, AL and Tupelo, MS, for 180 days. Supporting shipper(s): Sunshine Mills, Inc., P.O. Drawer S, Red Bay, AL 35582. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 145513 (Sub-8TA), filed July 25, 1979. Applicant: SERVICE TRANSPORTATION, INC., 125 North 6th St. (P.O. Box 732), Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. (1) *Canned and bottled foodstuffs,* from the facilities of Keller-Lorenz, Inc., d/b/a/ Payette Vinegar & Cider at or near Fruitland, ID to points in ID, OR, WA, MT, UT, CO, NV and AZ, under a continuing contract or contracts with Keller-Lorenz, Inc., d/b/a/ Payette Vinegar & Cider; (2) *Materials and supplies used in the manufacture and distribution of canned and bottled foodstuffs,* from points in CA, ID, OR, WA, MT, UT, CO, NV, and AZ to the facilities of Keller-Lorenz, Inc., d/b/a Payette Vinegar & Cider at or near Fruitland, ID, under a continuing contract or contracts with Keller-Lorenz, Inc., d/b/a Payette Vinegar & Cider, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keller-Lorenz, Inc., d/b/a Payette Vinegar & Cider, P.O. Box 528, Fruitland, ID 83619. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146293 (Sub-30TA), filed June 25, 1979. Applicant: REGAL TRUCKING COMPANY, INC., 95 Lawrenceville Industrial Park Circle NE., Lawrenceville, GA 30245. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Blvd., Atlanta, GA 30349. *Paper and paper products and materials, equipment and supplies utilized in the manufacture thereof (except commodities in bulk)* from the plantsite of International Paper Co. at or near Jay, ME to points in the states of NC, VA, GA, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, 220 E. 42nd St., New York, NY 10017. Send protests to: Sara K. Davis, T/A, ICC, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, GA 30309.

MC 147013 (Sub-3TA), filed July 30, 1979. Applicant: RDL, INC., P.O. Box 286, Gambrills, MD 21054. Representative: Chester A. Zyblut, 1030—15th St. NW., Washington, D.C. 20005. *Candy or confectionery* from the facilities of M&M Mars Co., Hackettstown, NJ, Chicago, IL, Elizabethtown, PA, Cockeysville, MD and Waco, TX to points in NJ, IL, PA, MD and TX, for 90 days. An underlying ETA seeks 90 days. Supporting shipper(s): Ken Dunbar, Traffic Manager, M&M Mars Co., Div. of Mars Co., High Street, Hackettstown, NJ 07840. Send protests to: ICC, 101 N. 7th St., Philadelphia, PA 19106.

MC 147033 (Sub-2TA), filed July 30, 1979. Applicant: STORY, INC., Route #1, Box 122, Henager, AL 35978. Representative: George M. Boles, Attorney-at-Law, Carlton, Boles, Clark, Stichweh & Caddis, 727 Frank Nelson Building, Birmingham, AL 35203. *Contract, irregular: Such commodities as are dealt in or used by wholesale and retail grocery houses, drugstores and variety stores,* between the facilities of Peyton's Southeastern, Inc., at or near Cleveland, TN, on the one hand, and, on the other, points in MI, for 180 days. Supporting shipper(s): Peyton's Southeastern, Inc., 1500 Sanita Avenue, Louisville, KY 40232. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Bldg., Birmingham, AL 35203.

Note.—The application involves dual operations inasmuch as applicant holds temporary authority as a common carrier in MC 144190 Sub-1TA to transport carpet from northwest GA to the far West.

MC 147122 (Sub-1TA), filed May 8, 1979. Applicant: SCOTHOLM TRANSPORTATION CORP., P.O. Box 487, 5950 Fisher Rd., East Syracuse, NY 13057. Representative: Martin Werner, 888 Seventh Ave., New York, NY 10019. *Frozen foodstuffs and commodities exempt from regulation under 49 U.S.C. 10526(a)(6) (formerly Section 203(b) of the Interstate Commerce Act) in mixed loads with frozen foodstuffs,* between the facilities of Empire Freezers of Syracuse, Inc., in Syracuse, NY, on the one hand, and, on the other, points in MA, CT, RI, ME, NH, VT, PA, NJ, NY, OH, MI, DE, MD, VA, WV and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Empire Freezers of Syracuse, Inc., P.O. Box 4892 (Farrell Rd.), Syracuse, NY 13221. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 147423 (Sub-2TA), filed July 5, 1979. Applicant: BOND TRANSFER, INC., 1831 Mills Ave., El Paso, TX 79997. Representative: Kenneth R. Hoffman, 807 Brazos, Suite 801, Austin, TX 78701. (1) *Electronic equipment and devices and parts and sub-assemblies for electronic equipment and devices;* and (2) *materials, equipment and supplies used in the manufacture, sale or distribution of the commodities in (1) above,* between Colorado Springs, CO, and points in its commercial zone, on the one hand, and, on the other, points in El Paso, TX, and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Electro-Mech Co., 707 Hathaway Drive, Colorado Springs, CO 80915. Ampex Corporation, 600 Wooten Rd., Colorado Springs, CO 80915. Send protests to: Martha A. Powell, T/A, I.C.C., Room 9A27, Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 147553 (Sub-1TA), filed July 18, 1979. Applicant: DENNIS MOSS AND GARY MOSS, d.b.a. MOTOR WEST, P.O. Box 1405, Caldwell, ID 83605. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Packaged oil,* from Ponca City, OK to Caldwell, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Franklin Oil Co., 1515 Chicago, Caldwell, ID 83605. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 147703 (Sub-1TA), filed July 30, 1979. Applicant: J. A. AUGER, INC., P.O. Box 343, Farmerville, LA 71241. Representative: J. A. Auger (same as applicant). *Wood residuals, chips, shavings, sawdust, wood waste* from Farmerville, LA to Crossett, AR for 180 days. Underlying ETA sought corresponding authority for 90 days. Supporting shipper(s): Georgia-Pacific Corporation, P.O. Box 520, Crossett, AR 71635. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 147843 (Sub-1TA), filed July 27, 1979. Applicant: ROY L. JOHNSON, d.b.a. Little Egypt Trucking Co., Box 13, RR #5, Marion, IL 62959. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Contract carrier;* irregular routes: Fiber automotive assembly materials and products, resinated cotton products, and materials, equipment and supplies used in the manufacture of the foregoing commodities between points in IL, IN and MO for 180 days, for the account of Allen Industries, Inc., a Subsidiary of Dayco Corporation. Applicant has filed an underlying ETA seeking 90 days authority. Supporting shipper(s): Allen Industries, Inc., a Subsidiary of Dayco Corporation, 333 West First Street, Dayton, OH 45401. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

Notice No. 178

MC 21866 (Sub-130TA), filed August 2, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Cleaning compounds, disinfectants, drain cleaner, air freshner, paint, varnish, wax, animal food supplements, insecticides, paper towels, toilet tissues, paper towel dispensers and materials and supplies used in the manufacture and distribution of the above named commodities* (except commodities in bulk), from Kansas City, MO and Tenafly, NJ to Phila., PA, Cleveland, OH, Atlanta, GA, Chicago, IL, and Dallas, TX; and from Chicago, IL to Phila., PA, Atlanta, GA and Cleveland, OH, for 180 days. Restriction: The service authorized herein is restricted to traffic originating at or destined to the facilities of West Chemical Products, Inc., or its subsidiaries. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Chemical Products, Inc., 42–16 West St., Long Island City, NY 11101. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 26396 (Sub-284TA), filed August 27, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59101. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Panels or boards, wall or roof, combined with insulation, urethane foom between gypsum board and foil or felt,* from Salt Lake City, UT to the ports of entry on the International Boundary line between the U.S. and Canada located in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Panelera Corporation, 1857 South 3850 West, Salt Lake City, UT 84104. Send protests to: Paul J. Labane, DS, ICC., 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-285TA), filed August 27, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Agricultural chemicals* from Lafayette, IN and Brownsville, TX to the International Boundary line between the U.S. and Canada located in MT, for 180 days. Supporting shipper(s): Eli Lilly Inter-America, Inc., P.O. Box 32, Indianapolis, IN 46296. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 26396 (Sub-286TA), filed August 15, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Drywall tape* from Kansas City, KS to ports of entry on the U.S.-Canada International Boundary line located in MT, for 180 days. Supporting Shipper(s): Marvelite Industries, Ltd., 3304–58th Avenue SE, Calgary, AB, Canada T2C OB3. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 29886 (Sub-368TA), filed August 8, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Ave., Kenosha, WI 53142. Representative: Albert Barber (same address as applicant). *Trucks,* in initial movements, in driveaway service, from Allentown, PA to all points in the U.S., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mack Trucks, Inc., 2100 Mack Blvd., Allentown, PA 18105. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

V 44 OC 15 79 UMI

MC 30067 (Sub-14TA), filed August 20, 1979. Applicant: SOUTH BRANCH MOTOR FREIGHT, INC., P.O.B. 576, Petersburg, WV 26847. Representative: J. G. Dail, Jr., P.O.B. LL, McLean, VA 22101. *Poles, posts, piling, lumber, cross ties, and mine ties*, from facilities of Koppers Co., Inc. at or near Green Spring, WV to points in NJ, NY, OH, PA, for 180 days. Supporting Shipper(s): Koppers Co., Inc., 850 Koppers Bldg., Pittsburgh, PA 15219. Send protests to: I.C.C. Fed. res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 30837 (Sub-489TA), filed August 20, 1979. Applicant: KENOSHA AUTO TRANSPORT CORP. 4314 39th Ave., Kenosha, WI 53142. Representative: Paul Sullivan 711 Washington Bldg., NW, Washington, DC 20005. *New motor vehicles*, in initial and secondary movements, in truckaway service, from Cortland, NY to all points in the U.S., except AK & HI, restricted to traffic originating from the facilities of Solargen Electronics, Ltd., Cortland, NY and its subsidiary, Solargen electric Motor Car Corp., Cortland, NY, for 180 days. Supporting Shipper(s): Solargen Electric Motor Car Corp., 174 Central Ave., Cortland, NY 13045. Send protests to: Gail Daugherty, TA, ICC 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 32166 (Sub-15TA), filed Aug. 20, 1979. Applicant: BRONAUGH MOTOR EXPRESS, INC., 1025 Nandino Blvd., Lexington, Ky. 40511. Representative: John W. Bronaugh, President (same as above). Artificial trees, wreaths, garlands, and shrubbery, between Lexington, KY. and its commerical zone, and Knoxville, TN, and its commercial zone, serving no intermediate points, from Lexington, KY, over Interstate Hwy. 75 to Knoxville, TN, and return over same route. Applicant intends to interline with other carriers at Knoxville, TN, Nashville, TN, Louisville, KY and Cincinnati, OH. Supporting Shipper(s): James L. Sullivan, Jr., American Tree & Wreath, Inc., 1454 Jingle Bell Lane, Lexington, Ky. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, Ky. 40202.

MC 36556 (Sub-43TA), filed August 16, 1979. Applicant: BLACKMON TRUCKING, INC., P.O. Box 186, Somers, WI 53171. Representative: Howard E. Blackmon (same as applicant). *Canned or prepared foodstuffs, except in bulk, in tank vehicles* from the facilities of California Canners and Growers, at Brownsville, WI to points in IL (except Boone, Cook, DuPage, Kane, Lake, McHenry & Winnebago Counties), IL, MI, OH, Louisville, KY & St. Louis, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): California Canners & Growers P.O. Box 1237 Fond du Lac, WI 54935. Send protests to: John E. Ryden, DS, ICC 517 E. Wisconsin Ave., Rm 619 Milwaukee, WI 53202.

MC 37896 (Sub-33TA), filed August 1, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., U.S. Hwy 258, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW, Washington, DC 20036. *(1) empty cans and can ends, and (2) pallets, materials and supplies used in the manufacture or distribution of the commodities in (1) above*, between Arden and Flectcher, NC, on the one hand, and, on the other, points in NY, VA, WV, SC, GA, AL, MS, LA, and MI, restricted to traffic orginating at or destined to the facilities of and warehouses used by Gerber Containers, Division of Gerber Products Company for 180 days. An underlying ETA seeks 90 days of authority. Supporting Shipper(s): Gerber Containers, Division of Gerber Products Co., P.O. Box 367, Arden, NC 28704.Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 42146 (Sub-24TA), filed August 21, 1979. Applicant: A. G. BOONE COMPANY, P.O. Box 668126, Charlotte, NC 28266. Representative: Floyd C. Hartsell (same as applicant). *Contract* carrier-Irregular routes; *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business for the account of The Kroger Company, over irregular routes* between points and places within the boundary lines of the states of NC, SC, GA, VA, TN, KY, WV, IN, MO, IL, MI, MS, AR, LA, AL, FL, PA, MD, DE, NJ, NY, OH, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Company, 1014 Vine St., Cincinnati, OH 45201. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 42487 (Sub-937TA), filed July 23, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes: *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, between Fort Smith, AR and Joplin, MO, serving the intermediate points of Fayetteville, Springdale, Rogers, Bentonville, and the off-route point of Siloam Springs; from Fort Smith over U.S. Hwy 71 to Joplin and return over the same route; between Memphis, TN and Fort Smith, AR, serving the intermediate points of Forrest City, Brinkley, Lonoke, Little Rock, North Little Rock, Conway, Russellville and Clarksville, AR; from Memphis over U.S. Hwy 70 to junction Interstate Hwy 30, then over Interstate Hwy 30 to junction Interstate Hwy 40, then over Interstate Hwy 40 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Fort Smith, and return over the same route; between Houston, TX and St. Louis, MO, serving the intermediate points of Malvern, Benton, Little Rock, North Little Rock, Jacksonville, Cabot and Bald Knob, Walnut Ridge and the off-route points of Lake Catherine, Magnet, Hot Springs, Jonesville, Beauxite, Bryant, Beebe, Searcy, Heber Springs, and Piggot, AR; also serving Jones Mills plant site in connection with carrier's regular route operations; from Houston over U.S. Hwy 59 to junction U.S. Hwy 67 at Texarkana, AR, then over U.S. Hwy 67 to St. Louis, MO and return over the same route; between Memphis, TN and Bald Knob, AR, serving the intermediate points of Earle, Wynne, McCrory and Augusta, AR; From Memphis over Interstate Hwy 55 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Bald Knob and return over the same route. Between Little Rock, AR and Springfield, MO, serving the intermediate points of Harrison and Conway, AR; From Little Rock over U.S. Hwy 65 to Springfield and return over the same route. Between Memphis, and Springfield, MO serving the intermediate points of Marked Tree, Jonesboro, Walnut Ridge, Trumann and the off-route point of Paragould, AR; From Memphis over Interstate Hwy 55 to junction U.S. Hwy 63 near Gillmore, AR, then over U.S. Hwy 63 to junction U.S. Hwy 60 near Willowsprings, MO then over U.S. Hwy 60 to junction U.S. Hwy 160 at Springfield, MO, then over U.S. Hwy 160 to junction U.S. Hwy 13 at Springfield, MO, and return over the same route. Between Memphis, TN and Springdale, AR, serving the intermediate points of Mountain Home, Cassville, Flippin and Yellville, and Harrison, AR and serving Gateway and Hardy, AR and the junction U.S. Hwy 167 and U.S. Hwy 62 at Ash Flat, AR for purpose of joinder only; From Memphis over Interstate Hwy 55 to junction U.S. Hwy 63 near Fillmore, AR, then over U.S. Hwy 63 to junction U.S. Hwy 62 near Hardy, AR, then over U.S. Hwy 62 to Springdale, AR, and return over the same route. Applicant seeks authority to serve Osceola, AR and Blytheville, AR as intermediate points in connection with carrier's presently authorized regular route. Applicant seeks to serve all points in the Commercial Zone of points of authority authorized herein, for 180 days. Applicant intends to tack the proposed authority with present service authority found in Docket MC 42487 Sub 708 at Fort Smith, AR, Memphis, TN, Springfield, MO and Joplin, MO. Tacking will also take place at New Orleans, LA with authority in Docket No. MC 42487 Sub 885. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the Interstate Commerce Commission. Supporting shipper(s): There are in excess of 100 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack to its existing authority and any authority it may obtain in the future.

MC 42487 (Sub-940TA). Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208. Common carrier; regular routes: *General commodities* (except commodities in bulk and household goods as defined by the Commission), serving Olympia, WA as an intermediate point in connection with carrier's presently authorized regular route operations between Seattle, WA and Medford, OR. Applicant seeks to serve all points in the Olympia, WA commercial zone, for 180 days. Applicant intends to tack with present authorities as outlined on page 2 of application; applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the U.S. as provided in Tariffs on file with the Commission. Supporting shipper(s): There are 15 statements in support attached to this application which may be examined at the I.C.C. in Washington, DC or copies of which may be examined in the field office named below. Send protests to: D/S Neil C. Foster, Suite 500, 211 Main, San Francisco, CA 94105.

MC 42487 (Sub-941TA), filed September 5, 1979. Applicant: CONSOLIDATED FREIGHTWAY, a corporation of Delaware, 175 Linfield, Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 306, Portland, OR 97208. Common carrier; regular route. *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment. Between Baton Rouge, LA and Iowa, LA, serving the intermediate points of Lafayette, Rayne and Crowley, LA; From Baton Rouge over Interstate Hwy 10 to Lafayette, LA, then over U.S. Hwy 90 to Iowa, and return over the same route; Between Lafayette, LA and New Iberia, LA serving all intermediate points: From Lafayette over U.S. Hwy 90 to New Iberia, and return over the same route; From Lafayette over LA Hwy 182 to New Iberia, and return over the same route; Between New Iberia, LA and Kaplan, LA, serving the intermediate point of Abbeville, LA and serving the junction LA Hwy 14 and LA Hwy 89 for purpose of joinder only; From New Iberia over LA Hwy 14 to Kaplan, and return over the same route; Between Crowley, LA and Kaplan, LA, serving no intermediate points; From Crowley over LA Hwy 13 to junction LA Hwy 14, then over LA Hwy 14 to Kaplan, and return over the same route; Between Lafayette, LA and Abbeville, LA, serving all intermediate points; From Lafayette over U.S. Hwy 167 to Abbeville, and return over the same route; Between Maurice, LA and the junction U.S. Hwy 90 and LA Hwy 92, serving the intermediate points of Milton and Youngsville, LA; From Maurice over LA Hwy 92 to junction U.S. Hwy 90 and LA Hwy 92 and return over the same route; Between the junction LA Hwy 182 and LA Hwy 89 and the junction LA Hwy 14 and LA Hwy 89, serving the intermediate point of Youngsville, LA; From the junction LA Hwy 182 and LA Hwy 89 over LA Hwy 89 to the junction LA Hwy 14 and LA Hwy 89, and return over the same route; Serving St. Martinville, LA and Breaux Bridge, LA as off-route points in connection with routes described above, for 180 days. Applicant seeks to serve all points in the Commercial Zones of points of service authorized above. Applicant intends to tack the proposed authority at common points. Applicant also intends to tack the proposed authority with present authority at Baton Rouge, LA and Iowa, LA. Authority to serve Baton Rouge, LA and Iowa, LA is found in Docket No. MC 42487 Sub 885. Applicant proposes to interline traffic with its present connecting carriers at authorized interline points throughout the United States as provided in tariffs on file with the ICC. Supporting shipper(s): There are 84 statements in support attached to this application which may be examined at the I.C.C. in Washington, DC, or copies of which may be examined at the ICC in the field office named below. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

Note.—Applicant intends to tack the authorities described above. Applicant also intends to tack to its existing authority and any other authority it may obtain in the future.

MC 43706 (Sub-9TA), filed August 9, 1979. Applicant: ATKINSON FREIGHT LINES, INC., P.O.B 520—Blanche Rd., Cornwells Heights, PA 19020. Representative: James C. Hardman, 33 N. LaSalle St., Chicago, IL 60602. *Containers and container closures*, from the facilities of The Continental Group, Inc. at or near Perry and Atlanta, GA to St. Louis, MO; Quincy, IL; Columbus and Worthington, OH; Indianapolis, IN; St. Joseph, Benton Harbor, Shoreham and Holland, MI, for 180 days. Supporting shipper(s): The Continental Group, Inc., 5401 W. 65th St., Chicago, IL 60638. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 49567 (Sub-12TA), filed August 14, 1979. Applicant: GOLDEN BROS., INC., 234 East McClure Street, Kewanee, IL 61443. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60018. *Contract carrier, irregular routes: Earth Moving Machines*, from the facilities of Kress Corp. at or near Brimfield, IL to points in AL, AZ, AR, CA, CO, DE, IN, IA, KY, LA, MD, MI, MN, MO, NE, NV, NJ, NM, NY, ND, OH, OK, PA, TN, TX, UT, VA, WV, WI & WY for 180 days for the account of Kress Corp., Brimfield, IL. Supporting shipper(s): Kress Corp., Brimfield, IL. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Chicago, IL 60604.

MC 51146 (Sub-740TA), filed August 20, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin, (same address as applicant). *Plastic tubes* from facilities of American Can Co. at Shelbyville, TN to Iowa City, IA and Chicago, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Can Co., 915 Harger, Oak Brook, IL 60521. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-741TA), filed August 22, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin, (same address as

V 44 0 C 15 7 9 UMI

applicant). *Such commodities as are manufactured and/or distributed by the Eastman Kodak Co.* between the facilities of the Eastman Kodak Co. at Rochester, NY and the facilities of the Eastman Kodak Co. at Oak Brook, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastman Kodak Co., 2400 Mount Read Blvd., Rochester, NY 14650. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-742TA), filed August 22, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin, (same address as applicant). *Appliances* from facilities of Frigidaire Corp. at Columbus, OH to facilities of Morley Murphy Co. at Milwaukee & Green Bay, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morley Murphy Co., 700 Morley Rd., Green Bay, WI 54303. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-743TA), filed August 27, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin (same address as applicant). *Such commodities as are dealt in or used by manufacturers of porcelain products* from Robbins, NC; Gleason, TN; Monticello, GA; Wedron, IL; Zanesville, OH; Custer, SD & Edgar, FL to Sun Prairie, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wisconsin Porcelain Co., 120 Lincoln St., Sun Prairie, WI 53590. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 51146 (Sub-744TA), filed August 28, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil DuJardin (same address as applicant). *Confectionery* from Hackettstown, NJ & Elizabethtown, PA to points in IL, MI, MN & OH, restricted to traffic originating at facilities of M&M/Mars, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M&M/Mars, Div. of Mars, Inc., High St., Hackettstown, NJ 07840. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 52437 (Sub-7TA), filed August 20, 1979. Applicant: SHIPPERS SERVICE EXPRESS, INC., 7200 Fly Road, PO Box 207, E. Syracuse, NY 13057. Representative: Herbert M. Canter & Benjamin D. Levine, 305 Montgomery St., Syracuse, NY 13202. *Such merchandise as is dealt in by retail, wholesale and chain grocery and food business houses (except commodities in bulk),* from the facilities of Port Terminals Co., Inc. at or near So. Boston, MA, Foxboro Terminals Co., Inc. at or near Foxboro, MA and Bowker Storage & Distributing Co., Inc. at or near Everett, MA (all being located within the commercial zone for Boston, MA) to that part of NY which is north and west of Sullivan, Dutchess and Ulster counties, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Port Terminals Co., Inc., 666 Summer St., South Boston MA 02127. Bowker Storage & Distributing Co., Inc., 156 Rover St., Everett, MA 02149. Foxboro Terminals Co., Inc., 208 North St., Foxboro, MA 02035. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 52437 (Sub-8TA), filed August 20, 1979. Applicant: SHIPPERS SERVICE EXPRESS, INC., 7200 Fly Road, PO Box 207, E. Syracuse, NY 13057. Representative: Herbert M. Canter and Benjamin D. Levine, 305 Montgomery St., Syracuse, NY 13202. *Such merchandise as is dealt in by retail, wholesale and chain grocery and food business houses (except commodities in bulk),* from Syracuse, NY to that part of NY which is north and west of Sullivan, Dutchess and Ulster counties, NY. Restricted to traffic originating on-line at Boston, MA and to be joined with applicant's present operating authority at Syracuse, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Port Terminals Co., Inc., 666 Summer St., South Boston MA 02127. Bowker Storage & Distributing Co., Inc., 156 Rover St., Everett, MA 02149. Foxboro Terminals Co., Inc., 208 North St., Foxboro, MA 02035. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 59396 (Sub-31TA), filed August 15, 1979. Applicant: BUILDERS EXPRESS, INC., R.D. Limecrest Road, Lafayette, NJ 07848. Representative: Morton E. Kiel, Suite 1832—2 World Trade Center, New York, NY 10048. Common, irregular. *Manganese dioxide.* From Philadelphia, PA and Wilmington, DE to Clifton, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Givaudan Corporation, 100 Delawanna Avenue, Clifton, NJ 07014. Send protests to: Joel Morrows, D/S, ICC, 744 Broad St., Room 522, Newark, NJ 07102.

MC 63417 (Sub-236TA), filed July 16, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *Solar panels or collectors,* from Kanakakee, IL to points in AL, DC, DE, FL, GA, KY, LA, MD, NC, NY, OH, PA, SC, TN, VA, WV, for 180 days. Supporting shipper(s): A. O. Smith Corp., P.O. Box 28, Kankakee, IL 60901. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 63417 (Sub-239TA), filed July 17, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). (1) *Malt beverages* from Albany, GA to pts. in AL, AR, DE, DC, FL, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, VA, and WV. (2) *Materials, supplies; and equipment used in the manufacture, sale, and distribution of malt beverages* (except commodities in bulk) from points in destination states named in (1) above to pts. in AL, FL, GA, for 180 days. Restriction: Authority in (2) above is restricted to traffic destined to the facilities of Miller Brewing Company and its suppliers. Supporting shipper(s): Miller Brewing Company, 3939 Highland Blvd., Milwaukee, WI 53208. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 63417 (Sub-240TA), filed August 9, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *Electric lamps and related articles* between Charleroi, PA and Monroe, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Westinghouse Electric Corp., 290 Leger Rd., North Huntingdon, PA 15642. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 63417 (Sub-241TA), filed August 9, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *Such commodities as are dealt in or used by manufacturers and distributors of containers and related articles (except commodities in bulk)* from Quakertown, PA to New Orleans, LA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cleveland Steel Container Corp., 350 Mill St., Quakertown, PA 18951. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 63417 (Sub-242TA), filed August 10, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *Such commodities as are dealt in or used by automobile supply, household appliance, and general merchandise stores* between points and places in the US in and east of MN, KS, OK, NE, and TX (except CT, ME, MA, NH, RI, and VT) restricted to traffic originating at or destined to the facilities of Western Auto Supply Co. for 180 days. Supporting shipper(s): Western Auto Supply Co., 2107 Grand Ave., Kansas City, MO 64108. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 63417 (Sub-243TA), filed July 25, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same as applicant). *New furniture and furniture parts,* from Roanoke, VA, Chocowinity, NC, and Sanford, NC, to points in MO, for 180 days. Supporting shipper(s): Singer Furniture Company, P.O. Box 5337, Roanoke, VA 24012. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 66746 (Sub-25TA), filed August 13, 1979. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Drive, P.O. Box 8308, Jackson, MS 39204. Representative: H. D. Miller, Jr., Deposit Guaranty Plaza, Box 22567, Jackson, MS 39205. See attached caption summary. Supporting shipper(s): Cooper Tire & Rubber Co., Box 550, Findlay, OH 45840. Send protests to: Alan C. Tarrant, D/S, ICC, Suite 1441, Federal Building, 100 West Capitol St., Jackson, MS 39201.

MC 67646 (Sub-86TA), filed August 13, 1979. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *Common carrier:* regular routes: *General commodities,* except those of unusual value, and except livestock, dangerous explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority presently held under docket number MC 67646 and MC 8600. Supporting shipper(s): Fisher Price Toys, 636 Girard Ave., East Aurora, NY 14052. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 74416 (Sub-22TA), filed August 13, 1979. Applicant: LESTER M. PRANGE, INC., Box 1, Kirkwood, PA 17536. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St. NW., Washington, DC 20005. *Dairy products,* in vehicles equipped with mechanical refrigeration, from New Holland, PA to points in NJ and NY, for 180 days. Supporting shipper(s): Zausner Food Corp., Jackson & Custer Sts., New Holland, PA 17557. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 78687 (Sub-75TA), filed August 20, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street (P.O. Box 751), Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. *Iron and steel articles,* from Bethlehem, PA to Winchester, VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cives Steel Company, Mid-Atlantic Div., P.O. Box 2778, Winchester, VA 22601. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 78687 (Sub-76TA), filed August 27, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga Street, (PO Box 751), Moravia, NY 13118. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, DC 20001. *Lime, limestone, and lime products,* from King of Prussia, Kutztown and Plymouth Meeting, PA and from Canaan, CT to points in Broome, Cayuga, Cortland, Chemung, Chenango, Delaware, Herkimer, Jefferson, Lewis, Livingston, Madison, Monroe, Oneida, Onondaga, Ontario, Oswego, Otsego, Schuyler, Seneca, Steuben, Tioga, Tompkins, Wayne and Yates counties, NY, for 180 days. Supporting shipper(s): Agway Inc., Fertilizer Division, PO Box 4933, Syracuse, NY 13221. Send protests to: Anne C. Siler, TA, ICC, 910 Federal, 111 W. Huron St., Buffalo, NY 1420.

MC 86427 (Sub-22TA), filed August 15, 1979. Applicant: I.C.L. INTERNATIONAL CARRIERS LIMITED, 1333 College Ave., Windsor, Ontario Canada N9C 3Y9. Representative: Joseph P. Allen, 7701 W. Jefferson P.O. Box 09259, Detroit, MI 48209. Steel bars and billets, in dump vehicles, and refractory brick for reclamation, in dump vehicles from the Chicago, IL Commercial Zone, and Gary, IN, and its Commercial Zone, to the international boundary of the U.S. and Canada, at Detroit and Port Huron, MI, restricted to foreign traffic, destined to points in Canada for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Courtice Specialty Steel, Ltd., 173 Base Line Rd. East Bowmanville, Ontario, Canada. Send protests to: Dave Hunt, T/A, 219 S. Dearborn St., Room 1386, Chicago, IL 60604.

MC 89377 (Sub-3TA), filed August 28, 1979. Applicant: TIMM TRUCKING CORP., 70–70, 80th St., Glendale, NY 11227. Representative: Arthur J. Piken, Esq., Piken & Piken, Esqs., 95–25 Queens Blvd., Rego Park, NY 11374. *New furniture,* between New York, NY, and points in its commercial zone, on the one hand, and, on the other, points in the states of NY, NJ and CT; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Macy's N.Y., Inc., 66–26 Metropolitan Avenue, Middle Village, NY 11379. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 93147 (Sub-8TA), filed August 6, 1979. Applicant: DELTA TRANSPORT CORPORATION, 840 Union Street, West Springfield, MA 01089. Representative: Paul Sheley, 72 Irene Street, Springfield, MA 01108. *A. Batteries, flashlights, lamps, store display racks, electrical equipment and parts and B. materials, equipment and supplies used in the manufacturing, sale and distribution of commodities in (n) preceeding,* between A. St. Albans, VT, Cleveland, OH, and Edison, NJ, restricted to shipments originating at or destined to the facilities owned or utilized by Union Carbide Corporation at or near the points shown in A. above, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Carbide Corporation, 270 Park Avenue, New York, NY 10017. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA 01103.

MC 94876 (Sub-15TA), filed September 1, 1979. Applicant: RICHARD ACERRA, INC., 38–09 Vernon Blvd., Long Island City, NY 11101. Representative: J. Aiden Connors, 325 East 201 St., New York, NY 10458. *Contract carrier,* irregular routes: *Pavement marking material and paint and paint material, except commodities in bulk,* between Westwood, MA. and Washington, DC, Jackson and Memphis, TN, New York, NY, Indianapolis, IN; for 180 days. Supporting shipper(s): Safety Lines Marking, Inc., 35 Harvard St., Westwood, MA 02090. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

MC 95336 (Sub-13TA), filed August 31, 1979. Applicant: J. B. WILLIAMS EXPRESS, INC., POB V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Arthur J. Piken, Esq., Piken & Piken, Esqs., 95–25 Queens Blvd., Rego Park, NY 11374. *General commodities, with the usual exceptions,*

V 44 0 C 1 5 7 9 UMI

between points in CT, on the one hand, and, on the other, points in MA and RI; requests authority to tack; for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Nickson Industries, Inc., West and West Main Sts., Plantsville, CT 06479. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10008.

MC 95876 (Sub-304TA), filed August 28, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: William L. Libby (same address as applicant). *Iron and steel articles* from Detroit, MI to points in IA, MN and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Great Lakes Steel, Division of National Steel Corporation, Ecorse, Detroit, MI 48229. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 96877 (Sub-4TA), filed August 31, 1979. Applicant: YUMA COUNTY TRANSPORTATION CO., 310 E. Second Avenue, Yuma, Colorado 80759. Representative: Jack B. Wolfe, 350 Capitol Life Center, 16090 Sherman Street, Denver, CO 80203. Regular routes—*General commodities*, (1) between points on the pipeline of Natural Gas Pipeline Co. of America in Morgan and Washington Counties, CO, on the one hand, and on the other, Denver, Akron, and Yuma, CO and their commercial zones; (a) from Denver over U.S. Hwy 6 to its junction with U.S. Hwy 34, then over U.S. Hwy 34 to junctions of county roads on U.S. Hwy 34 near Fort Morgan and Otis, CO, then over said county roads to points on the pipeline, and return over same routes; (b) from Akron, CO over U.S. Hwy 34 to county roads serving said pipeline, then over county roads to points on the pipeline, and return over same routes; (c) from Akron, CO over CO Hwy 71, to county roads serving said pipeline then over county roads to points on the pipeline, and return over same routes; (d) from Yuma, CO over U.S. Hwy 34, to county roads serving said pipeline, then over said county roads to points on the pipeline, and return over same routes. Irregular routes—*General commodities*, (1) between points along the pipeline of Natural Gas Pipeline Co. of America, in Morgan and Washington Counties, CO, on the one hand, and, on the other, Akron, Yuma, and Denver, CO and their commercial zones, for 180 days. There is an underlying ETA seeking 90 days authority. Supporting Shipper(s): Natural Gas Pipeline Company of America, Box 536, Akron, Colorado 80720. Send protests to: District Supervisor R.L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 100666 (Sub-48TA), filed August 14, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Glass and glass products*, from the facilities of Libbey-Owens-Ford Co., at or near Toledo, OH to points in LA and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting Shipper(s): Libbey-Owens-Ford Co., 811 Madison Ave., Toledo, OH 43695. Send protests to: Robert J Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-487TA), filed August 17, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Lumber*, from the facilities of Paneling Industries, Inc., at or near Fort Valley, GA to IL, IN, IA, KY, MI, MO, OH, TN, and WI, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Paneling Industries, Inc., P.O. Box 1288, Fort Valley, GA 31030. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 100666 (Sub-488TA), filed August 22, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *roofing and insulation materials* from the facilities of the Celotex Corporation at Lockland and Wayne, OH to points in AR, KS, LA, MS, OK, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days.

MC 102567 (Sub-3237TA), filed August 17, 1979. Applicant: McNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 N.W. Freeway #130, Houston, TX 77040. *Petroleum Products, in bulk, in tank vehicles*, from Helena, and El Dorado, AR to all points in LA, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Southern Farmers Association, P.O. Box 5489, North Little Rock, AR 72119. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102616 (Sub-1006TA), filed August 1, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: W. M. Kiefaber (same as applicant). *Chemicals, in bulk, in tank vehicles* between Ludington, MI, on the one hand, and, on the other, all points in U.S., except AK and HI for 180 days. Supporting shipper(s): Dow Chemical USA—Central Div., S. Madison St., Ludington, MI 49431. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 102616 (Sub-1009TA), filed August 10, 1979. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant). *Liquid chemicals*, in bulk, in tank vehicles, from Beaumont and LaPorte, TX and Lake Charles, LA to points in, AL, AR, CO, GA, IN, IA, IL, KS, KY, LA, MI, MN, MO, MS, NE, ND, OH, OK, PA, SD, TN, TX, WI, for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Philadelphia, PA 19106.

MC 105566 (Sub-204TA), filed August 21, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. *Glassware* and *glass containers* from Muskogee, OK to all points in AZ, CA, CO, ID, MT, NV, NM, ND, OR, SD, UT, WA and WY, for 180 days. Supporting shipper(s): Corning Glass Works, P.O. Box 158, Corning, NY 14830. Send protests to: P. E. Binder, TS, ICC, Room 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 107376 (Sub-14TA), filed August 10, 1979. Applicant: UNITED STATES EXPRESS, INC., 1209 Triplett Blvd., Akron, OH 44306. Represenative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Wrought steel pipe and pipe coupling* from Aliquippa, PA to pts in IL, IN, OH, KY and MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pine Pipe & Supply Co., P.O. Box 480, 640 W. Ohio Rd., Frankfort, IL 60423. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19105.

MC 107376 (Sub-15TA), filed August 13, 1979. Applicant: UNITED STATES EXPRESS, INC., 1209 Triplett Blvd., Akron, OH 44306. Represenative: Robert W. Gardier, Jr., 100 East Broad St., Columbus, OH 43215. *Iron and steel articles*, btn the facilities of LaBarge Tubular Division located at or near Bellevue, OH, on the one hand, and, on the other, pts. in the states of IA, MN, MO, PA, and KY, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): LaBarge Incorp., Tubular Division, No. 20 S. Fourth St., St. Louis, MO 63102. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107496 (Sub-1235TA), filed August 17, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, 666 Grand Ave., Des Moines, IA 50309. *Liquified petroleum gases, in bulk, in tank vehicles*, from Whiting, IN to points in IL, IN, IA, MI, MN, MO, WI, and OH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BTU Contracts, Inc., 6432 North Ridgeway Ave., Lincolnwood, IL 60645. Send protests to: Herbert W. Allen D/S, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 107496 (Sub-1236TA), filed August 17, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, 666 Grand Ave., Des Moines, IA 50309. *Liquid Sugar, in bulk, in tank vehicles*, from Reserve, LA to GA, AL, MS, FL, TN, KY, OH, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Godchaux-Henderson Sugar Co., Inc., P.O. Drawer A M, Reserve, LA 70084. Send protests to: Herbert W. Allen D/S, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 109537 (Sub-5TA), filed August 3, 1979. Applicant: HERRON TRANSFER CO., 1026 Franklin St., Salem, OH 44460. Representative: Paul F. Beery, 275 E. State St., Columbus, OH 43215. *Machinery, earthenware, chinaware, plumbing fixtures and fittings, and equipment, materials, and supplies used in the manufacture and distribution of machinery, earthenware, chinaware, plumbing fixtures and fittings*, (1) between Columbiana County, OH, on the one hand, and, on the other, points in OH, KY, VA, and the DC, (2) between Ford City, PA, on the one hand, and, on the other, points in IL, IN, MI, WV, VA, KY, MD, DE, NJ, NY, ME, NJ, CT, VT, RI, MA, and the DC, and (3) between Newburgh, NY, on the one hand, and, on the other, points in PA, NJ, OH, WV, KY, IN, IL, MI, DE, MD, VA, CT, MA, VT, NH, ME, RI, and the DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eljer Plumbing Ware, Wallace-Murray Corp., No. 3 Gateway Center, Pittsburgh, PA 15222. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadephia, PA 19106.

MC 108207 (Sub-525TA), filed August 16, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Such commodities as are dealt in by wholesale, retail, chain grocery, and food business houses (except in bulk) in vehicles equipped with mechanical refrigeration* from Dallas, TX and points in its commercial zone to points in Denver and Grand Junction, CO and points in their commercial zones, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 108207 (Sub-526TA), filed August 16, 1979. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz St., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Meats, meat products, and meat by-products (except hides and commodities in bulk) as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* from the facilities utilized by Swift and Company at or near Clovis, NM and points in its commercial zone to points in ND, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 108207 (Sub-527TA), filed August 17, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Foodstuffs (except commodities in bulk)* from Memphis, TN and points in its commercial zone to points in IL, IA, NE, KS, TX, MO, OK, NM, AR, MN, and LA, for 180 days. Underlying ETA filed for 90 days. Supporting shipper(s): J. M. Smucker Co., 4740 Burbank, Memphis, TN 38118. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft Worth, TX 76102.

MC 108207 (Sub-528TA), filed August 17, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same as above). *Meats, meat products, meat by-products, and articles distributed by meat packinghouses (except hides and commodities in bulk) as defined in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 and 766, and foodstuffs (except commodities in bulk)* from points in Chicago, IL and points in its commercial zone to points in CO, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): There are twelve (12) supporting shippers. Send protests to: Opal M. Jones, TCS, ICC, 819 Taylor St., 9A27 Federal Bldg., Ft. Worth, TX 76102.

MC 108247 (Sub-7TA), filed August 22, 1979. Applicant: WESTCHESTER MOTOR LINES, INC., 35 Edgemere Road, New Haven, CT 06512. Representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, DC 20005. Common carrier, irregular routes *Furniture*, between points in OH, CT and MA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): G. F. Business Equipment, Inc., P.O. Box 1105, Youngstown, Ohio 44501. Neptune International, 240 Mt. Vernon Street, Dorchester, MA 02125. Temple-Stuart Company, Holman Street, Baldwinville, MA 01436. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 135 High Street, Hartford, CT 06103.

MC 109376 (Sub-16TA), filed August 28, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Richard Westley, 4506 Regent St., Suite 100, Madison, WI 53705. *Plastic articles* from facilities of Flambeau Products Corp. at or near Baraboo, WI to Windom, MN & Galesburg, IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Flambeau Products Corp., 801 Lunn Ave., Baraboo, WI 53913. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 109397 (Sub-475), filed July 5, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., P.O. Box 113, Joplin, MO 64801. Representative: Max G. Morgan, P.O. Box 1540, Edmond, OK 73034. *Spent fuel elements and radioactive material handling container*, between the Florida Power and Light Company's Turkey Point Nuclear Power Plant, Dade County, FL, and Battelle's Columbus Labratories, West Jefferson, OH, for 180 days. Supporting shipper(s): U.S. Department of Energy, Property Management Division, P.O. Box 14100, Las Vegas, Nevada 89114. Send protests to: John V. Barry, D/S, ICC, Room 600, Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 110686 (Sub-61TA), filed August 10, 1979. Applicant: McCORMICK DRAY LINE, INC., Avis, PA 17721. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. *Iron and steel, and iron and steel articles* between Williamsport, PA, on the one hand, and on the other, points in CT, DE, KY, MD, MA, NJ, NY, OH, RI, TN, VA, WV, and

V 44 OC 15 79 UMI

the DC for 180 days. Supporting shipper(s): PBI Industries, Inc., P.O. Box 1086, Williamsport, PA 17701. Pullman Power Products, Reach Rd., Williamsport, PA 17701. E. Keller Co., 238 W. Street, Williamsport, PA 17701. Palmer Industrial Coatings, Inc., P.O. Box 56, Newberry Station, Williamsport, PA 17701. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 111687 (Sub-37TA), filed August 15, 1979. Applicant: BEN RUEGSEGGER TRUCKING SERVICE, INC., R #1, Kawkawlin, MI 48631. Representative: Benjamin Ruegesegger (same address as applicant). *Malt beverage with return of empty containers and pallets plus advertising materials,* from Newport, KY and Evansville, IN to various points in MI for 180 days. Supporting shipper(s): G. Heilman Brewing Co., Inc., 925 S. 3rd St., P.O. Box 459, LaCrosse, WI 54601. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 112617 (Sub-449TA), filed August 22, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same as above). Chemicals, in bulk, in tank vehicles, from the plantsite and facilities of Rohm and Haas Company at Deer Park, TX, to points in and east of LA, OK, MO, IA, and MN. Supporting shipper(s): Georgia Tursi, Asst. T/M, Rohm & Haas Co., Independence Mall West, Philadelphia, PA 19105. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 114457 (Sub-544TA), filed August 14, 1979. Applicant: DART TRANSIT COMPANY, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same as applicant). *Plastic, vinyl, nylon, and foam products with accessories, clothing, candles, and accessories, greeting and note cards, and cleaning compounds, cloth, and other novelty items (except commodities in bulk)* between Anniston, AL, Springfield, TN, and Greensburg, KY, on the one hand, and, on the other, Chicago, IL, Columbus and Cincinnati, OH, Newark and North Bergen, NJ, Philadelphia, PA, Springfield and Boston, MA, Atlanta, GA, Orlando, FL, Indianapolis and Fort Wayne, IN, St. Louis, MO, Louisville, KY, and Dallas, TX, and their commercial zones for 180 days. Supporting shipper(s): NASCO, INC., Traffic Manager, 27 North Main Street, Springfield, TN 37172. Send protests to: Judith L. Olson, TA, Interstate Commerce Commission, 110 South 4th Street, 414 Federal Building and U.S. Courthouse, Minneapolis, MN 55401.

MC 114896 (Sub-81TA), filed August 23, 1979. Applicant: PUROLATOR SECURITY, INC., 255 Old New Brunswick Road, Piscataway, NJ 08854. Representative: Carl T. Kessler, 255 Old New Brunswick Road, Piscataway, NJ 08854. Contract carrier, irregular routes for 180 days. Jewelry and articles of unusual value between Newark, NJ and points in Gloucester, Camden, Mercer, Middlesex, Essex, Monmouth, Morris, Ocean, Bergen, Union, Passaic, Counties, NJ; Lehigh, Montgomery, Bucks, Delaware Counties in PA; Rockland County, in NY; and New Castle County in DE. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bamberger's, Division of R. H. Macy Corporation, Inc., 131 Market Street, Newark, NJ 07101. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 115716 (Sub-25TA), filed July 13, 1979. Applicant: DENVER-LIMON-BURLINGTON TRANSFER COMPANY, 3650 Chestnut Place, Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Frozen berries, vegetables, and fruit,* from Santa Maria, Modesto, Salinas, Watsonville, Santa Cruz, Sunnyvale, Gilroy and Turlock, CA to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): John Inglis Frozen Foods Company, P.O. Box 3111, Modesto, CA 95353. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 116077 (Sub-421TA). Applicant: DSI TRANSPORTS, INC., 4550 One Post Oak Place, Suite 300, Houston, TX 77027. Representative: J. C. Browder (same as applicant). Chemicals, in bulk, in tank vehicles from DuPont's plantsite at or near Gregory, TX, to points in AL, AR, CO, FL, GA, IL, LA, KS, KY, MS, MO, ND, NM, OK and TN, for 180 days. Supporting shipper(s): E. I. duPont de Nemours & Co., Inc., 1007 Market St., Wilmington, DE 19898. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 116077 (Sub-422TA). Applicant: DSI TRANSPORT, INC., 4550 One Post Oak Place/Suite 300, Houston, TX 77027. Representative: J. C. Browder (same as applicant). Liquid sulphur, in bulk, in tank vehicles, from Corsicana, TX to Gales, LA for 180 days. Supporting shipper(s): AC Products Company, Inc., SK-10/Route 4, Henderson, TX 75652. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave., #8610, Houston, TX 77002.

MC 116377 (Sub-9TA), filed August 27, 1979. Applicant: RICHARD R. JOHNCOX, Route 104, Williamson, NY 14589. Representative: Morton E. Kiel, Suite 1832, 2 world Trade Center, New York, NY 10048. *Frozen Foods,* from the facilities used by J. H. Verbridge and Sons, Inc. in Wayne County, NY to points in ME, NH, VT, RI, MA, CT, NY, NJ, PA, DE, MD, VA, OH, WV, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Verbridge and Sons, Inc., 6688 Lake Avenue, Williamson, NY 14589. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 118776 (Sub-39TA), filed August 22, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Ln., Quincy, IL 62301. Representative: Frank Taylor, Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Beer and related advertising material,* from Detroit, MI, Ft. Wayne, IN, Memphis, TN, Milwaukee, WI, Omaha, NE, Peoria, IL to Union, MO for 180 days. An underlying ETA was granted for 90 days. Supporting shipper(s): Jim's Distributing Co., 201 Franklin, Union, MO 63084. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 118776 (Sub-40TA), filed August 29, 1979. Applicant: GULLY TRANSPORTATION, INC., 3820 Wisman Lane, Quincy, IL 62301. Representative: Herman Huber, 101 E. High St., Jefferson City, MO 65101. *Rubber, rubber products and such commodities as are manufactured, processed, or dealt in by manufacturers of rubber and rubber products, and equipment, materials and supplies used in the manufacture and distribution thereof (except in bulk),* between the facilities of The Goodyear Tire & Rubber Co. at Hannibal, MO and points in CA, GA, IL, IN, IA, MI, NE, NJ, OH, TX, WI for 180 days. Supporting shipper: The Goodyear Tire & Rubber Company, 1144 E. Market St., Akron, OH 44316. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 119767 (Sub-364TA), filed August 10, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. *Foodstuffs,* except in bulk, in tank vehicles, from facilities of Aunt Jane's Foods, Inc. at or near Croswell, MI to points in IL, IN, OH and Louisville, KY, for 180 days. An underlying ETA seeks 90 days. Supporting shipper: Aunt Jane's Foods, Inc., 55 E. Sanborn, Croswell, MI 48422.

Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202

MC 119777 (Sub-406TA), filed May 7, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer "L", Madisonville, KY 42431. Representative: Carl U. Hurst, Attorney (same as above). *Paper products,* from the facilities of Western Kraft, Inc., at or near Campi, LA, to Memphis, TN; St. Louis, MO; Bridgeview, Streator, Montgomery, Elk Grove, Mt. Olive, and Alton, IL; Indianapolis and Crawsfordsville, IN; Bowling Green and Louisville, KY; Milan, MI; Circleville, Delaware, and Middletown, OH; Pittsburgh, PA; Riegelsville and Bellmawr, NJ, and Huntington, WV. Supporting shipper: R. M. Sheffer, Western Kraft Paper Group, Willamette Industries, Inc., 3700 First National Bank Tower, Portland, OR 97201. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 120866 (Sub-7TA), filed August 8, 1979. Applicant: THE TIMLAPH CORP. OF VIRGINIA, P.O. Box 34159, Richmond, VA 23234. Representative: Stanley E. McCormick, Suite 1301, 1600 Wilson Boulevard, Arlington, VA 22209. *Corn products, liquid, in bulk, in tank vehicles,* from Petersburg, VA to points in DE, MD, NC, PA, SC and WV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Archer Daniels Midland Co., Suite 100, Fox Hill Office Bldg., 4550 West 109th Street, Shawnee Mission, KS 66211. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA. 19106.

MC 121517 (Sub-12TA), filed August 22, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15672, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Fuel oil,* in bulk, in tank vehicles, from El Dorado, KS to Muskogee, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Apex Oil Company, 11 South Meramec, St. Louis, MO 63105. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123337 (Sub-24TA), filed August 14, 1979. Applicant: E. E. HENRY, 1128 So. Military Highway, Chesapeake, VA 23320. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. *Bananas* from Philadelphia, PA; Wilmington, DE; Baltimore, MD; New York, NY and its commercial zone, Charleston, SC, Miami and Tampa, FL; and Mobile, AL, to Norfolk, VA for 180 days. Supporting shipper(s): Norfolk Banana Distributors, Inc., 3616 E. Virginia Beach Blvd., Norfolk, VA 23502. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 123407 (Sub-608TA), filed August 15, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (address same as applicant). *Flooring and flooring systems,* from the facilities of AGA, Inc. at Amasa, MI to points in AL, CA, CO, FL, IN, LA, MS, NE, OH, TX, UT, Chicago, IL and points within 50 miles thereof, Clinton and Davenport, IA and Louisville, KY for 180 days. An underlying ETA seeking 90 days authority was submitted. Supporting shipper(s): AGA, Inc., P.O. Box 25, Amasa, MI 49903. Send protests to: Annie Booker, TA, ICC—219 S. Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-609TA), filed August 15, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr., (address same as applicant). *Iron and steel articles,* from the facilities of National Wire Products Corporation (1) located at Atlanta, GA to points in AL, MS, LA and KY; (2) located at Savannah, GA to points in NC, SC, GA and AL; (3) located at Baltimore, MD to points in WV, PA, NY, CT, and MA; and (4) located at Toledo, OH (Oregon, OH) to points in MI, WI and IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Wire Products Corp., Fischer Road & Pennsylvania Railroad, Baltimore, MD 21222. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 123407 (Sub-610), filed August 31, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller (same address as applicant). *Iron and steel articles,* from the facilities of Atlantic Steel Co. at Atlanta and Cartersville, GA, to points in IL, IN, KY, KS, MI, MN, MO, OH, PA, TX, and WI for 180 days. An underlying ETA has been granted for 90 days authority. Supporting shipper(s): Atlantic Steel Company, P.O. Box 1714, Atlanta, GA 30301. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 123987 (Sub-28TA), filed July 11, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott Jr. (same address as applicant). *Plastic Pipe and related articles,* from the facilities of Carlon at Oklahoma City, OK, to points in AZ, CO, KS, MO, NE, ND, NM, SD, TX, UT, & WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carlon (an Indian Head Company), 6500 South Interpace P.O. Box 15219, Oklahoma City, OK 73155. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 123987 (Sub-29TA), filed August 9, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Jewett Scott, Jr. (same address as applicant). *Knocked down log structures and appropriate hardware (windows, doors, sealants, nails and lumber)* from Englewood, CO, to points in OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Colorado Log Homes, Inc., 1925 West Dartmouth, Englewood, CO 80110. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 124117 (Sub-41TA), filed August 16, 1979. Applicant: EARL FREEMAN AND MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. (1) *Malt beverages and related advertising matter* from Albany, GA and its commercial zones to points in AL, FL, GA, KY, LA, MS and TN, and (2) *Materials, equipment, and supplies used in the manufacture, sale, and distribution of malt beverages, (except commodities in bulk)* from the states named above to Albany, GA and its commercial zone, for 180 days. Supporting shipper(s): Miller Brewing Company, 3939 West Highland Blvd., Milwaukee, WI 53208. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 124236 (Sub-98TA), filed August 16, 1979. Applicant: CHEMICAL EXPRESS CARRIERS, INC 4645 North Central Expressway, Dallas, TX 75205. Representative: Joe A. Morgan (address same as above). *Cement, in bulk* from Hays County, TX to all points within the State of New Mexico for 180 days. ETA for 90 days filed. Supporting shipper(s): Texas Cement Company, P.O. Box 610, Buda, TX 78610. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St. Ft. Worth TX 76102.

MC 124306 (Sub-66TA), filed August 17, 1979. Applicant: KENAN TRANSPORT COMPANY, INC. P.O. Bo

V 44 0 C 15 79 UMI

2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Petroleum products, in bulk, in tank vehicles* from Friendship and Selma, NC to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Therre are approximately 5 supporting shippers. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte , NC 28205.

MC 124306 (Sub-67TA), filed August 21, 1979. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Antifreeze and liquid dust suppressant, in bulk, in tank vehicles*, from Roanoke, VA to points in KY, PA, UT, and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wen-Don Corporation, P.O. Box 13905, Roanoke, VA 24034. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd., Rm. CC516, Mart Office Building, Charlotte, NC 28205.

MC 124887 (Sub-94TA), filed August 23, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230 Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Building and construction materials restricted to shipments for the account of Best Steel Products, restricted against commodities in bulk* between points in AL, FL, GA, LA, MS, NC, SC, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Steel Products, 5505 Gray Street, Tampa, FL 33609. Send protests to: Jean King, T/A, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124887 (Sub-95TA), filed August 14, 1979. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, FL 32421. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Terpene chemicals, not in bulk*, from plant site of SCM—Organic Chemicals Division in Jacksonville, FL, to East Coast Terminal, Ocean Terminal, and Garden City Terminals at or near Savannah, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): SCM—Organic Chemicals Division, P.O. Box 389, Jacksonville, FL 32201. Send protests to: G. H. Fauss, Jr., DS, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 124896 (Sub-96TA), filed August 21, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 900 17th St. NW., Washington, DC 20006. *Tires and tubes* (1) from points in TN, OH, NJ, PA, AL and MS to points in NC, SC and VA and (2) between points in NC, SC and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ITCO Corporation T/A, Interstate Tire Company, P.O. Box 641, Wilson, NC 27893. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 125996 (Sub-87TA), filed August 22, 1979. Applicant: GOLDEN TRANSPORTATION, INC., 2200 South 400 West, Salt Lake City, UT 84115. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. *Meat, meat products and meat by-products* (except hides and commodities in bulk) from Huron, SD to Las Vegas, NV, Reno, NV, Salt Lake City, UT, and OR, and WA, for 180 days. Supporting shipper(s): Armour & Co., 111 W. Clarendon, Greyhound Tower, Phoenix, AZ 85077. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 126537 (Sub-35TA), filed August 22, 1979. Applicant: TURNER EXPEDITING SERVICE, P.O. Box 21333, Louisville, KY 40221. Representative: Wm. P. Whitney, Jr., Atty., Suite 708 McClure Bldg., Frankfort, KY 40601. *General commodities* (with the usual exceptions), between Lexington, KY, and Memphis, TN, restricted to the transportation of traffic having an immediate prior or subsequent movement by air. Supporting shipper(s): E. Logan Brown, Jr., Manager, Emery Air Freight Corp., Blue Grass Field, Lexington, KY 40511. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 128007 (Sub-146TA), filed August 29, 1979. Applicant: HOFER, INC., P.O. Box 583, Pittsburg, KS 66762. Representative: Larry E. Gregg, 641 Harrison, Topeka, KS 66603. *Wheat middlings*, in bulk, from facilities owned or used by ConAgra, Inc., at or near Parsons, KS to points in AR, MO, OK and TX; 180 days, common, irregular; Supporting shipper: ConAgra, Inc., 3801 Harney, Omaha, NE 68131; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 128087 (Sub-8TA), filed August 21, 1979. Applicant: JOHN N. JOHN, III, INC., 1000 West Second Street, Crowley, LA 70526. Representative: John N. John III (same address as applicant). Applicant is seeking authority to operate as a common carrier over irregular routes transporting *liquid amorphous polypropylene* from Crowley, LA to points in AR, DE, GA, IL, IN, KS, KY, MN, MO, MA, NE, NY, NC, OH, PA, SC, TX, VA, and WI, for 180 days. Supporting shipper(s): Hercules Incorporated, 3169 Holcomb Bridge Road, Suite 700, Norcross, GA 30071. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 128616 (Sub-28TA), filed August 13, 1979. Applicant: GELCO COURIER SERVICES, INC., P.O. Box 1975, St. Paul, MN 55111. Representative: Sally G. Galway (same as applicant). *Contract carrier:* irregular routes: *Commercial papers, documents and written instruments (except currency and negotiable securities), as are used in the business of banks and banking institutions*, between North Platte, NE, on the one hand, and, on the other, Holyoke, CO, for 180 days. Supporting shipper(s): NBC Computer Services Corporation, President, Chief Executive Officer, 13th & O Streets, Lincoln, NB 68508. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 134286 (Sub-127TA), filed August 14, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *(1) Class and glass products and (2) materials, equipment and supplies used in (1) above (except in bulk)* (1) From the facilities of PPG Industries, Inc. at or near Evansville, IN to points in MO, WI, MI, OH, IL, PA, TX, GA, OK, KS and MD and (2) From Points in MO, WI, MI, OH, IL, PA, TX, GA, OK, KS and MD to the facilities of PPG Industries, Inc. at or near Evansville, IN for 180 days. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134287 (Sub-75TA), Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, California 90280. Representative: Patricia M. Schnegg, KNAPP, GROSSMAN & MARSH, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Containers and paper products*, from Portland, Oregon to all points in California. Supporting shipper(s): Chase Bag Company, General Traffic Manager, 814 Commerce Drive, Oak Brook, IL 60521. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 134467 (Sub-49TA), filed August 17, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Materials, equipment and supplies* used in the processing and distribution of poultry and poultry products, from points in GA, IA, IL, MS, NC, NJ, OH, TN, TX and WV to Benton, Carroll, Howard, Pulaski, and Washington Counties, AR; Webster Parish, LA; Barry and Lawrence Counties, MO; and Grundy County, TN, restricted to transportation of products destined to facilities of Tyson Foods, Inc., for 180 days. Supporting Shipper(s): Tyson Foods, Inc., 2210 Oaklawn, Springdale, AR 72764. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 134467 (Sub-60TA), filed August 21, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Frozen foods* from facilities of Foodways National, Inc., at or near Hartford and Wethersfield, CT, to points in OH, MI, IL, MN, MO, TX, CA, ID, WA, OR and AR, for 180 days. Supporting shipper(s): Foodways National, Inc., 1000 Silas Dean Highway, Wethersfield, CT 06109. Send protests to: William H. Land, DS, 3108 Federal Bldg. Little Rock, AR 72201.

MC 135197 (Sub-24TA), filed August 14, 1979. Applicant: LEESER TRANSPORTATION, INC., Route 3, Palmyra, MO 63461. Representative: Robert Leeser (same as applicant). *Liquid Agricultural insecticides in drums*, FROM THE FACILITY OF Underground Warehouse, Inc., at or near Quincy, IL to St. Joseph, MO, Fremont, NE, and Albert Lea, MN, for 180 days. An underlying ETA seeks authority for 90 days. Supporting shipper(s): American Cyanamid Company, P.O. Box 817, Hannibal, MO 63401. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Federal Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 135797 (Sub-256TA), filed August 15, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Paper bags, plastic bags, and bags made of paper and plastic*, from facilities of Great Plains Bag Corporation, at (1) New Philadelphia, OH to points in AL, AZ, CA, CO, CT, ID, IL, IN, KS, KY, ME, MA, MI, MN, MS, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WI and WY, (b) Des Moines, IA to points in AL, AZ, CA, CT, DE, FL, GA, ID, IN, IA, KY, ME, MD, MA, MI, NV, NH, NJ, NM, NY, NC, OR, PA, RI, SC, TN, UT, VT, VA, WA, WV and D.C., (c) Hodge, LA to points in AZ, AR, CA, CO, CT, ID, KS, KY, LA, ME, MA, MI, MN, MO, MT, NE, NV, NH, NJ, NM, NY, ND, OK, OR, PA, RI, SD, TN, TX, UT, VT, WA, WV, WI and WY, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Great Plains Bag Corporation, 2201 Bell Ave., Des Moines, IA 50321. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 136786 (Sub-166TA), filed August 22, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4475 N.E. 3rd Street, Des Moines, IA 50313. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. *Foodstuffs, in vehicles equipped with mechanical refrigeration (except commodities in bulk)*, from the facilities of United States Cold Storage, a division of American Consumer Industries, Inc., at or near Chicago, IL to points in CT, DE, DC, GA, IA, KS, MD, MA, MO, NE, NJ, NY, NC, PA, RI, SC, TX, and VA for 180 days. Supporting shipper(s): U.S. Cold Storage, 8424 W. 47th St., Lyons (Chicago), IL 60534. Send protests to: Herbert W. Allen DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 138028 (Sub-25TA), filed August 23, 1979. Applicant: LOGISTICS EXPRESS, INC., d.b.a. LOGEX, Etiwanda and Slover Avenues, Fontana, California 92335. Representative: David P. Christianson of Knapp, Grossman & Marsh, 707 Wilshire Boulevard, Suite 1800, Los Angeles, California 90017. *Acetylene, in bulk*, from Geismar and Taft, LA and Texas City, TX to Alabama, Florida, Kansas, Louisiana, Mississippi, Oklahoma, Tennessee and Texas, for 180 days. Supporting shipper(s): Union Carbide Corporation, Manager of Traffic Services, 270 Park Avenue, New York, New York 10017. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 138076 (Sub-17TA), filed August 10, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612 . *Fabricated iron and steel articles* from facilities of Geo. C. Christopher & Son, Inc., Wichita, KS to points in the Continental U.S., for 180 days, common, irregular. Supporting shipper: Geo. C. Christopher & Son, Inc., Wichita, KS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 138206 (Sub-9TA), filed August 29, 1979. Applicant: TRULINE CORPORATION, 4455 South Cameron Avenue, Las Vegas, Nevada 89103. Representative: Robert G. Harrison, 4299 James Drive, Carson City, Nevada 89701. (1) *Lumber, Wood Products and Building Materials*, from points in Los Angeles and Orange Counties, CA, and Clark County, NV to points in AZ, CO and NM; and (2) *gypsum and gypsum products* from points in Lincoln and Bernalillo Counties, NM to points in Clark County, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lumber Sales, Inc., 3500 W. Flamingo Road, Las Vegas, NV 89103. Lone Star Building Centers, 2041 E. Rosecrans, El Segundo, CA. Tolko Forest Products, Suite 204, 1571 Bellevue Avenue, West Vancouver, B.C. Send protests to: DS, W. J. Heutig, ICC, 203 Federal Building, 705 North Plaza Street, Carson City, NV 89701.

MC 139207 (Sub-TA), filed August 22, 1979. Applicant: MCNABB-WADSWORTH TRUCKING CO., INC., 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 13th Street, N.W., Washington, DC 20004. *Bags and commodities used in the manufacture of bags* between the facility of Southern Bay Corporation at Yazoo City, MS on the one hand, and on the other, points in FL, GA, SC, NC, TN, KY, WV, OH, IN, MO, AR, LA, TX, AL, IL and OK, for 180 days. Supporting shipper(s): Southern Bag Corporation, P.O. Box 389, Yazoo City, MS. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139207 (Sub-139207–11TA), filed August 22, 1979. Applicant: MCNABB-WADSWORTH TRUCKING, INC., 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, DC 20004. *Canned goods* from Moorhead, MS to Birmingham and Gadsden, AL; Atlanta and Savannah, GA; Nashville and Knoxville, TN; Louisville and Lexington, KY; Charlotte and Raleigh, NC; Greenville and Columbus, SC; Salen and Richmond, VA; Charleston and Elkins, WV, for 180 days. Supporting shipper(s): Allen Canning Company, P.O. Box 250 305 E. Main St., Siloam Springs, AR 72761. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 139244 (Sub-10TA), filed August 10, 1979. Applicant: TRUCKING SERVICE, INC., P.O. Box 229, Carlinville, IL 62626. Representative: Michael W. O'Hara, Attorney, 300 Reisch Building, Springfield, IL 62701. *Clay sewer pipe, drain tile, flue liners, chimney tops and wall coping*, from the

V 44 0C 15 79 UMI

facilities of the Logan Clay Products Co. at Logan, OH and Brazil, IN to points in IL, IN, KY and IA (restricted to movements origination at the facilities of Logan Clay Products Co. at Logan, OH and Brazil, IN) for 180 days. Supporting shipper(s): The Logan Clay Products Co., P.O. Box 698, Logan, OH 43138. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 139276 (Sub-9TA), filed August 24, 1979. Applicant: ALOHA FREIGHTWAYS, INC., 1069 Bryn Mawr Ave., Bensenville, IL 60106. Representative: Grace Kasallis (same address as applicant). *Iron and steel products*, between the facilities of Joseph T. Ryerson & Son, Inc. at Elk Grove Village and Chicago, IL and points in MI on and south of US 96, Muskegon to Lansing, US 69 to Flint, Lansing, Flint, Kalamazoo, and Detroit and points in IN i.e. Angola, Indianapolis, Terre Haute, South Bend, Logansport, Ft. Wayne, Berne, Elkhart, Andrews, New Albany, Seymour, Evansville, Bedford and Bloomington for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph T. Ryerson & Son, Inc., 2621 W. 15th Place, Chicago, IL 60608. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 140247 Sub-3TA), filed August 22, 1979. Applicant: ALLSTATE CHARTER LINES, INC., P.O. Box 9022, Fresno, CA 93790. Representative: M. J. Stecher, 256 Montgomery St., 5th Fl., San Francisco, CA 94104. *Passengers and their baggage* in the same vehicle with passengers, in charter and special operations, between points in Imperial and San Diego Counties, CA on the one hand, and, on the other, all points in NV for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ABC Tours of San Diego/A Tour Centre, 3825 Coronado Ave., San Diego, CA. Send protests to: D/S N. C. Foster, 211 Main—Suite 500, San Francisco, CA 94105.

MC 140681 (Sub-1TA), filed April 5, in Washington, D.C. office. Applicant: PEBBLE HAULERS, INC., 2630 Delta Avenue, Colorado Springs, CO 80910. Representative: Thompson and Kelley, 450 Capitol Life Center, Denver, CO 80203. *Iron or steel grinding balls*, from facilities of CF&I Steel Corporation, Pueblo, CO to Aneconda Carr Fork Project near Tooele, UT and facilities of Kennecott Copper Corp., Magna, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kenecott Copper Corporation, P.O. Box 16600, Salt Lake City, UT 84116. Send protests to: Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 141097 (Sub-23TA), filed August 20, 1979. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mesa, CA 92626. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washington, DC 20005. *Synthetic staple fiber, synthetic fiber yarn, and synthetic plastics* from Rossville and Milledgeville, Georgia; Landrum, Columbia, and Irmo, SC; Moncure, NC; and Bermuda Hundred, VA to points in CA, under a continuing contract(s) with Allied Chemical Corporation of NY, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Allied Chemical Corp., 1411 Broadway, New York, NY 10018. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 141867 (Sub-10TA), filed June 19, 1979. Applicant: SPECIALIZED TRUCKING SERVICE, INC., 2301 Milwaukee Way, Tacoma, WA 98421. Representative: Ronald R. Brader, (same as above). *Commodities as are dealt in or used by manufacturers of plastic containers*, from Garden Grove, CA to points in UT, WY, MT and ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Container Supply Company, 12571 Western Ave., Garden Grove, CA 92641. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 142096 (Sub-16TA), filed August 15, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 W. Mitchell St., Milwaukee, WI 53215. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. *Empty containers*, from Ligonier, IN to Milwaukee, WI. Restricted to transportation originating at the facilities of Monsanto, Inc., Ligonier, IN and terminating at the facilities of W. B. Bottle Supply Co., Inc., Milwaukee, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. B. Bottle Supply Co., Inc., 836 E. Bay St., Milwaukee, WI 53207. Send protests to: John R. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 142106 (Sub-1TA), filed August 8, 1979. Applicant: VIP COMMUTER CORPORATION, 14810 Danville Rd., Dale City, VA 22193. Representative: Mr. Sylvanus G. Bent (same as applicant). *Passengers and their baggage*, in the same vehicle with passengers, in round-trip, special and charter operations: (1) from Prince William and Fairfax Counties, VA, to points in Washington, DC, MD, DE, PA, NJ, NH, VT, CT, MA, ME, WV, OH, NC, SC, GA, FL, and return to point of origin. (2) From Washington, DC to points in MD, VA, DE, PA, NJ, NY, NH, VT, MA, ME, WV, OH, NC, SC, GA, FL, and return to point of origin, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 15 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C. Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142367 (Sub-684TA), filed August 8, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, 4586 State Route 82, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th St., NW., Washington, DC 20005. *Metal buildings, prefabricated building parts and items used in the installation thereof* from the facilities of National Steel Products Co. (1) at or near Terre Haute, IN to points in the U.S. in and east of WI, IL, MO, AR, LA and (2) at or near La Grange, GA to points in the U.S. in and east of MI, IN, KY, TN, AR, OK, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Steel Products, Co., P.O. Box 40490, Houston, TX 77040. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142977 (Sub-4TA), filed August 13, 1979. Applicant: HOOSIER FREIGHT LINES, INC., P.O. Box 16006, Louisville, KY 40216. Representative: James K. Slayton, Atty., Suite 216, Atkinson Square, Louisville, KY 40218. Paper and paper products, (1) from the plantsite of Kieffer Paper Company, Brownstown, IN; to Louisville, KY, and its commerical zone; Cincinnati, OH, and its commerical zone; Indianapolis, IN, and its commercial zone; Bloomington, IN; Bedford, IN; Tell City, IN; Cannelton, IN; St. Meinrad, IN; Salem, IN; North Vernon, IN; Seymour, IN; and Lewisport, KY, and (2) from Cincinnati, OH and its commerical zone; Louisville, KY and its commerical zone; Indianapolis, IN, and its commercial zone, to the plantsite of Kieffer Paper Company, Brownstown, IN. Supporting shipper(s): Eugene Scott, Kieffer Paper Mills, Brownstown, IN. Send protests to: (Ms.) Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 143127 (Sub-52TA), filed August 27, 1979. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, Traffic Mgr., (same address as above). *Carbon, charcoal, charcoal briquettes, hickory chips, carbon wood products, lighter fluid and materials and supplies used in the distribution or manufacture of charcoal and charcoal briquettes, (except commodities in bulk)*, between points in NY on the one hand, and, on the other, all points in AR, CT, DE, DC, FL, GA, KY, LA, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA and WV. Restricted to traffic originating at or destined to the facilities utilized by Husky Industries, Inc., for 180 days. Supporting shipper(s): Husky Industries, Inc., 62 Perimeter Center East, Atlanta, GA 30346. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 143516 (Sub-2TA), filed August 6, 1979. Applicant: RAIL HIGHWAY TRANSPORTATION, 11 Heid Ave., Dayton, OH 45404. Representative: Thomas F. Kilroy, Suite 406 Executive Bldg., 6901 Old Keene Mill Rd., Springfield, VA 22150. *Reinforce concrete pipe and concrete products; and materials and supplies that are used or useful in the manufacture, production, and installation of reinforced concrete pipe and concrete products (except commodities in bulk)*, between Dayton, OH, on the one hand, and, on the other, all points in IN, IL, IA, KY, MI, MN, MO, NY, PA, TN, WV, WI, VA, NC, SC, GA, AL, MS, MD, NJ, AR, OH and DC for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Price Brothers Co., 367 W. Second St., Dayton, OH 45401. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 144687 (Sub-2TA), filed August 31, 1979. Applicant: CURTIS R. McPEAK, d.b.a. McPEAK TRUCKING, Box 35, Dalton City, IL 61925. Representative: Robert Lawley, 300 Reisch Bldg., Springfield, IL 62701. *Parts, machinery, supplies and materials used in the manufacture of grain storage, grain handling and drying equipment*, for the account of Grain Systems, Inc., from points in IN, IA, KS, MO, MI, NJ, and OH to Assumption, IL for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Grain Systems, Inc., Rt. 51, Assumption, IL 62510. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 145026 (Sub-6TA), filed August 23, 1979. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Ave., Federalsburg, MD 21632. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th St. NW., Washington, DC 20001. *Foodstuffs*, from Millsboro, DE to points in CT, RI, MA, VT, NH, ME, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Vlasic Foods, Inc., 33200 W. 14th Mile Rd., West Bloomfield, MI 48033. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145337 (Sub-4TA), filed August 24, 1979. Applicant: P.M.E., LTD., Box 181, Group 261, R.R. 2, Winnipeg, Manitoba, Canada R3C 2E6. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Sections "A" and "C" of Appendix I to the report in *Descriptions, etc.*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the ports of entry along the International Boundary Line between the U.S. and Canada at points in MT and ND to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Forest Randolph & Co., P.O. Box 4184, San Rafael, CA 94903. Burns Meats, Ltd., P.O. Box 70, Winnipeg, Man., Can., R3C 2G5. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 145506 (Sub-3TA), filed June 20, 1979. Applicant: ODOM TRUCKING CO., INC., Route 4 Box 165, Eufaula, AL 36027. Representative: W. K. Martin, P.O. Box 2069, Montgomery, AL 36103. *Meat, meat products, meat by-products and articles distributed by meat packing houses as described in Sections A and C of Appendix 1 to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk)*, from the facilities utilized by John Morrell & Co., at or near Shreveport, LA, to Montgomery, AL, and all places in FL, for 180 days. Supporting Shipper(s): John Morrell & Co., 208 S. LaSalle St., Chicago, IL 60604. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 145606 (Sub-2TA), filed August 13, 1979. Applicant: JUNIUS ELMORE, JR., 815 East 2nd Street, Cheyenne, WY 82001. Representative: Junius Elmore, Jr. (same address as applicant). *Automotive parts and accessories; automotive equipment, and supplies, equipment and materials*, from Denver, CO Commercial Zone to Cheyenne, WY Commercial Zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Watson's Sidles Co. of Wyoming, 400 West 17th St. Cheyenne, WY 82001, Genuine Parts, Co., 907 East 16th St., Cheyenne, WY 82001. Send protests to: Paul A. Naughton, District Supervisor, Interstate Commerce Commission, Rm 105 Federal Bldg & Crt House, 111 South Wolcott, Casper, WY 82601.

MC 145636 (Sub-9TA), filed August 17, 1979. Applicant: BOB BRINK, INC., 165 Steuben Street, Winona, MN 55987. Representative: Michael A. Thill, P.O. Box 676, 128½ East Third Street, Winona, MN 55987. *Photographic materials, reproduction equipment and supplies requiring temperature controlled equipment* between Lewiston, MN and Redwood City, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Camera Art, Inc., Lewiston, MN 55952. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145636 (Sub-10TA), filed July 24, 1979. Applicant: BOB BRINK INCORPORATED, 165 Stueben Street, Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403 *Plastic articles, other than expanded*, from Winona, MN to points in CA, WA, TX, UT, and AZ, and Jefferson City, MO, Tulsa, OK, Carson City and Reno, NV, for 180 days. Supporting shipper(s): Fiberite Corporation, 501 West Third Street, Winona, MN 55987. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401

MC 145926 (Sub-4TA), filed July 20, 1979. Applicant: HALL BROS. TRANSPORTATION CO., INC., State Road 37 North, Orleans, IN 47452. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Contract Carrier: Irregular Routes: (1) *Automobile parts*, (a) from the facilities of Ford Aerospace & Communications Corp., Div. of Ford Motor Co. at Bedford, IN to Indianapolis, IN; Lorain, OH and St. Louis, MO. (b) from Indianapolis, IN, to Chicago, IL; Detroit, MI; Lorain, OH and St. Louis, MO. (2) *Materials, equipment and supplies*, from points in MI and OH to the facilities of Ford Aerospace & Communications Corp., Div. of Ford Motor Co., at Bedford, IN for 180 days. Restricted to a contract or continuing contracts with Ford Aerospace & Communications Corp., Div. of Ford Motor Company. Supporting shipper: Ford Aerospace & Communications Corp., Div. of Ford Motor Co., 3120 West 16th Street, Bedford, IN 46421. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Rm. 429, Indianapolis, IN 46204.

MC 146176 (Sub-7TA), filed August 10, 1979. Applicant: J & L TRANSPORT, INC., Rt. 1, Box 306, Almond, WI 54909. Representative: Michael Wyngaard, 150 E. Gilman St., Madison, WI 53703. *Such commodities as are manufactured, processed, sold, used, distributed or dealt in by manufacturers, converters*

V 44 OC 15 79 UMI

and printers of paper and paper products (except commodities in bulk) from facilities of Hoffmaster Co., Inc. at or near Oshkosh, WI to points in AZ, CA, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Hoffmaster Co., Inc., 2920 N. Main St., Oshkosh, WI 54903. Send protests to: Gail Daugherty, TA. ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146327 (Sub-8TA), filed August 29, 1979. Applicant: UNITED TRUCKING COMPANY, P.O. Box 1158, Miles City, MT 59301. Representative: Joe Gerbase, Anderson, Brown, Gerbase, Cebull & Jones, 100 Transwestern Bldg., Billings, MT 59101. *Wine and champagne* from Louisville, KY to all points in MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jos. Garneau Company, P.O. Box 1080, Louisville, KY 40201. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 146336 (Sub-8TA), filed August 2, 1979. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 902 Avenue N, Grand Prairie, TX 75050. Representative: E. Larry Wells, Winkle and Wells, P.O. Box 45538, Dallas, TX 75245. *Contract carrier*, irregular routes, *Disposable surgical supplies, and pieced or finished paper or non-woven fabric used in the manufacture of disposable surgical supplies*, (1) between Nashville, TN and Gainesville, GA; (2) from Sherman, TX to Los Angeles, CA and Charlotte, NC; (3) between El Paso, TX and Waco, TX; (4) from El Paso, TX to Sherman, TX (all shipments to or from El Paso, TX will be in intrastate or foreign commerce over the Mexican border) for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Surgikos, 501 George Street, New Brunswick, NJ. Send protests to: Opal M. Jones, TCS, Interstate Commerce Commission, 9A27 Federal Bldg., 819 Taylor St. Ft. Worth, TX 76102.

MC 146397 (Sub-3TA), filed June 21, 1979. Applicant: M.T.I. TRUCKING, INC., 9000 Keystone Crossing, Indianapolis, IN 46240. Representative: Donald W. Smith (same Address as Applicant). *Contract Carrier:* Irregular Routes: *Glass containers and accessories* from the facilities of Anchor Hocking Corporation at Gurnee, IL to Tipton and Frankfort, IN and Leipsic, OH for 180 days. SUPPORTING SHIPPER: Anchor Hocking Corporation, 109 N. Broad Street, Lancaster, OH. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 146817 (Sub-2TA), filed July 25, 1979. Applicant: GEORGE CAVES, P.O. Box 144, Benedict, NE 68316. Representative: Max H. Johnston, 4905 Cresthaven, Lincoln, NE 68516. *Meats, meat products, meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* FROM THE FACILITIES USED BY Farmland Foods, Inc. at or near Carroll, Cherokee, Denison, Fort Dodge, Des Moines, Iowa Falls and Sioux City, IA; Crete, Lincoln and Omaha, NE to points in AL, AR, KS, LA, MS, MO, OK, TN and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 146976 (Sub-No. 1TA), filed May 3, 1979. Applicant: FOREWAY TRANSPORTATION, INC., 6633 Lake Michigan Dr., Allendale, MI 49401. Representative: BLACK & HALL 7610 COTTONWOOD DR. Jenison, MI 49428. *Paper, o/t newsprint, pulpboard and materials* used in the manufacture and distribution thereof, From the plantsite of S.D. Warren Paper Co., a Div. of Scott Paper Co., at Muskegon, MI to points in DC. IL, IN, KY, MD, NM, NJ, NY, OH, PA, TN, and WI. for 180 days. Supporting shipper: S.D. Warren Co., a Div. of Scott Paper Co., 2400 Lakeshore Dr. Muskegon, MI 49443. Send protests to: ICC, 225 Federal Bldg., 325 West Allegan St., Lansing MI 48933.

MC 147096 (Sub-3TA), filed August 13, 1979. Applicant: MADISON BROTHERS DELIVERY SERVICE, INC., 101 Indiana Ave., Toledo, OH 43602. Representative: Brian S. Stern, 2425 Wilson Blvd., Suite 327, Arlington, VA 22201. (1) *Automobile parts, and (2) materials, equipment, and supplies* used in the manufacture, production, and assembly of motor vehicles btn Toledo, OH, on the one hand, and, on the other, pts. in IL, located on and north and east of a line formed by Interstate Hwy 74, beginning at its junction with the IL–IN state line, then west along Interstate Hwy 74, to its junction with IL Hwy 47, then north along Interstate Hwy 47, to its junction with the IL–WI state line; pts. in IN, located on and north of US Hwy 150, beginning at its junction with the Ohio River, then northwest along US Hwy 150 to its junction with US Hwy 50, at or near Shoals, IN, then west along combined US Hwy 50/150, to its combined junction with US Hwy 41, and US Hwy 50, then west along US Hwy 150, to its junction with the Wabash River; and pts. in the lower peninsula of MI, restricted against the transportation of any single shipment weighing more than 10,000 lbs, and further restricted to the performance of same day pickup and delivery, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corp., Toledo Plant, P.O. Box 909, Toledo, OH 43692. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147107 (Sub-4TA), filed June 18, 1979. Applicant: ROBERT L. BUELL AND LAWRENCE W. DERRY, d.b.a., Spokane-St. Maries Auto Freight Service, 3810 Boone Avenue E., Spokane, WA 99202. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. *Lumber, lumber products and wood products*, from points in Lincoln, Flathead, Sanders, Lake and Mineral Counties, MT to points in ID, WA, OR and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intermountain-Orient, Inc., P.O. Box 4297, Boise, ID 83704. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Bldg., Seattle, WA 98174.

MC 147227 (Sub-3TA), filed August 21, 1979. Applicant: ATLANTIC MARKETING CARRIERS, INC., 3940 Clarkson Dr., Kingsburg, CA 93631. Representative: E. Meierhoefer, Suite 423, 1511 K St., N.W., Washington, D.C. 20005. *Empty glass bottles* (one gallon or less), (1) from Coventry, RI, and points in its commercial zone to points in MI, IL, MO, KY, and IN; (2) from Joliet, IL and points in its commercial zone to points in CA, NM and AZ; (3) from Parkersburg, WV and points in its commercial zone to points in CA, NM, AZ, IL, MO, and IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): National Bottle Co., 1 Bala-Cnywyd Plaza, Bala-Cynwyd, PA 19004. Sent protests to: D/S, N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 147227 (Sub-4TA), filed August 23, 1979. Applicant: ATLANTIC MARKETING CARRIERS, INC., 39400 Clarkson, Dr., Kingsburg, CA 93631. Representative: E. Meierhoefer, Suite 423, 1511 K St., N.W, Washington, D.C. 20005. *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment) which are at the time moving on shippers' association bills of lading, from Willsboro, NY and points in MA and VT to points in IN, OH, MI, MO, IL, WI and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): New England Shipping Association Co-operative, 1029 Pearl St., Brockton, MA 02403. Send protests to: N. C. Foster, D/S, Suite 500, 211 Main St., San Francisco, CA 94105.

MC 147297 (Sub-3TA), filed August 17, 1979. Applicant: DA-RON CORPORATION, 3305 North Broadway, Muncie, IN 47303. Representative: David O. Foreman, (address same as applicant). *Contract carrier:* Irregular routes; *Mechanic creepers*, from the facilities of P & B Manufacturing at Westville, NJ, to Chicago, IL; Indianapolis, IN; Greenwood, MS; Memphis, TN; West Jorda, UT and Green Bay, WI for 180 days. SUPPORTING SHIPPER: P & B Manufacturing, Frontage Row, Bellsea Drive, Westville, NJ 08093. SEND PROTESTS TO: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. Supporting shipper(s):

MC 147397 (Sub-1TA), filed August 14, 1979. Applicant: 5 STAR TRUCKING, INC., 5100 South Archer, Chicago, IL 60632. Representative: Stephen H. Loeb, Suite, 33 N. LaSalle Street, Chicago, IL 60602. *General commodities* (except those of unusual value. Classes A and B explosives, household goods as defined by the Commission and commodities in bulk), between points in Chicago, IL and its commercial zone, on the one hand, and, on the other, points in IL, KY, MN, WI, IN, IA, MO and MI, restricted to the transportation of traffic having a prior or subsequent movement by rail or water, for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): QUAST, INC., 327 S. LaSalle Street, Chicago, IL 60604. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147457 (Sub-TA), filed June 4, 1979. Applicant: KENNETH BASS, 916 Lakewood Drive, Milton, FL 35270. Representative: Ronald L. Stichweh, 727 Frank Nelson Building, Birmingham, AL 35203. *Feed*, Montgomery, AL to Milton and Pensacola, FL, for 180 days. Supporting shipper(s): Chavers Feed & Seed, P.O. Box 710, Milton, FL 32570. Escarosa Feed Company, Inc., 8449 Pensacola Blvd., Pensacola, FL 35204. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 147496 (Sub-3TA), filed August 22, 1979. Applicant: FINGER LAKES TRUCK BROKERAGE OF CANANDAIGUA, INC., P.O. Box 166, Route 21, Canandaigua, NY 14424. Representative: S. Michael Richards/ Raymond A. Richards, 44 North Ave., P.O. Box 225, Webster, NY 14580. Contract carrier-irregular routes. *(1) Foodstuffs (except frozen and except in bulk)*, from Rochester, NY to all points in AR, KS, LA, OK, MO, TX, and all points east of the Mississippi River, and *(2) Materials, supplies and equipment used in the manufacture, sale and distribution of foodstuffs (except in bulk)*, from all points in AR, KS, LA, OK, MO, TX, and all points east of the Mississippi River to Rochester, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bravo Macaroni Co., 66 Canal St., Rochester, NY 14601. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 147536 (Sub-12TA), filed August 9, 1979. Applicant: D. L. SITTON MOTOR LINES, INC., 3305 Range Line, P.O. Box 1567, Joplin, MO 64801. Representative: David L. Sitton (same as applicants). *Prepared animal feed, materials and supplies used in the manufacturing and distribution of prepared animal feed*, between Rolla, MO and points in AL, AZ, AR, CA, FL, GA, IL, IN, IA, KS, KY, MI, MN, NE, NM, OH, OK, TN, TX, and WI (restricted to shipments originating at or destined to the facilities of ConAgra, Inc.) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): ConAgra, Inc. Pet Foods Division, P.O. Box 938, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut, Kansas City, MO 64106.

MC 147666 (Sub-2TA), filed July 9, 1979. Applicant: RIDGEWAY MOTOR COACH, INC., 7618 Windsor Mill Rd., Baltimore, MD 21207. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., Atlanta, GA 30326. *Passengers and their baggage in the same vehicle with passengers in charter operations* from Baltimore, MD and points in Baltimore County, MD to points in the United States (except Hawaii) and return for 180 days. Supporting shipper(s): Johnny Jones Tavern, 3301 Foster Ave., Baltimore, MD 21224. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147707 (Sub-2TA), filed August 13, 1979. Applicant: TRANS-COPPER EXPRESS, CO., 512–514 State Fair Blvd., Syracuse, NY 13204. Representative: Kevin R. Clifford (same address as above). Contract carrier-irregular routes. *Candles and candles in glass, decorative candle items, raw materials, stearic acid and glass containers*, between Syracuse NY and points in OH, IL, MI, IN, KY, WI, MO and KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Muench Kreuzer Candle Co., 4575 Buckley Rd., Liverpool NY 13088. Send protest to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron St., Buffalo, NY 14202.

MC 147726 (Sub-TA), filed July 3, 1979. Applicant: O' CONNELL ENTERPRISES, INC., 1361 Pearl Street, Eugene, OR 97201. Representative: Larry J. Anderson, 1355 Oak, P.O. Box 848, Eugene, OR 97440. *Passengers and baggage for special and charter tours* from points in OR to points in the Continental U.S. and return for 180 days. A corresponding permanent will be filed upon grant of this TA. Supporting shippers: Associated: New York Life, 743 Armstrong, Eugene, OR 97404. Marist High School Foundation, 1900 Kingsley Road, Eugene, OR 97401. Tivoli Travel, 404 Ivy Street, Junction City, OR. Bridges Construction, 28245 Gimple Hill Rd., Eugene, OR 97402. Tax & Insurance Planning Services, 1840 Willamette, Suite 102, Eugene, OR 97401. Shadow Hills Country Club, P.O. Box 2529, Eugene, OR 97402. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 147727 (Sub-TA), filed July 2, 1979. Applicant: SCOTT DAVIS TRANSPORT, INC., 611 N. Front St., Yakima, WA 98901. Representative: Hochelle & Clausen, 534 S. W. 3rd Ave., Suite 301, Willamette Building, Portland, Oregon 97204. *Edible Oil, in bulk, in tank vehicles* from Portland, OR to Othello, Bellevue, Wheeler, Prosser, Spokane and Moses Lake, WA. 180 days. A corresponding permanent will be filed. Supporting Shipper(s): Palmco, Inc., 12005 N. Burgard Road, Portland, OR 97203. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 147796 (Sub-1TA), filed August 13, 1979. Applicant: ROBERT M. LOHAY d.b.a. Truck Central, 27681 Stanabury, Farmington Hills, MI 48018. Representative: Curtis L. Welty, 5215 Jolly Cedar Ct. Lansing, MI 48910. *Automotive parts, racks and iron and steel castings;* between Detroit, South Haven and Traverse City, MI, and their commercial zones, on the one hand and on the other Cleveland and Lima, OH and Louisville, KY and their commercial zones. For 180 days. Supporting shipper(s): Ford Motor Company, One Parklane Blvd., Parklane Towers-E, Suite 200, Dearborn, MI 48126. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, MI 48933.

V 44 0C 15 79 UMI

MC 147827 (Sub-1TA), filed August 13, 1979. Applicant: JAMES McKEE, d.b.a. McKEE EXPRESS, 701 Melton, Jonesboro, AR 72401. Representative: Dennis Zolper, 216 E. Washington, Jonesboro, AR 72401. Contract carrier over irregular routes. *Newsprint* in bulk, between facilities of Newsweek, Inc. at Jonesboro, AR on the one hand, and on the other, Memphis International Airport at Memphis, TN, restricted to shipments having a prior or subsequent movement by air, for 180 days. Underlying ETA seeks 90 day authority. Supporting shipper(s): Newsweek, Inc., 4708 Krueger Dr., Jonesboro, AR 72401. Send protests to: William H. Land, DS., 3108 Federal Bldg., Little Rock, AR 72201.

MC 147837 (Sub-1TA), filed August 10, 1979. Applicant: LIMA, INC., Route 4, Marion, IL 26959. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Lumber, plywood and paneling*, from points in LA on the north of U.S. Interstate 20 and points in AR on and south of U.S. Interstate 40 to Marion, IL and Harrisburg, IL for 180 days. Supporting shipper(s): Marion Metal & Roofing Company, 703 South Court Street, Marion, IL 62959. Send protests to: Annie Booker, TA, Interstate Commerce Commission, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 147867 (Sub-TA), filed June 14, 1979. Applicant: MIDSTATES REFRIGERATED EXPRESS, INC., P.O. Box 420, East Chicago, IN 46312. Representative: Stephen H. Loeb, Suite 200, 205 W. Touhy Avenue, Park Pidge, IL 60068. *Foodstuffs*, except in bulk, in vehicles equipped with mechanical refrigeration between the facilities of U.S. Cold Storage Co. at Lyons, IL on the one hand, and on the other, points in PA on and West of Interstate Highway 79, IN, MI, OH, KY, and St. Louis, MO, and points in its commercial zone for 180 days. An underlying ETA was granted 90 days authority. Supporting shipper(s): U.S. Cold Storage, 8424 West 47th, Lyons IL 60534. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, Illinois 60604.

MC 147937 (Sub-1TA), filed August 22, 1979. Applicant: LUXOR TOURS INC., 14 Hayes Street, Elmsford, N.Y. 10523. Representative: John Catterson, Esq., Bonoy & Schloss, 6 East 43rd Street, New York, New York 10017. Common: Irregular routes. Passenger and disabled passengers in special and charter operations in vans and wheel chair vehicles, limited to the number of 14 or less, not including the driver. Supporting shipper(s): Twenty-five supporting statements. Send protests to: Maria B. Kejss, ICC, 26 Federal Plaza, New York, New York 10007, Room 1807.

MC 147996 (Sub-1TA), filed August 15, 1979. Applicant: BRUCE WARD d.b.a. BRUCE WARD TRUCKING COMPANY, P.O. Box 105, Fort Calhoun, NE 68023. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Meats, meat products, meot by-products and articles distributed by meat packinghouses as described in Section A & C of Appendix I to the Report in Descriptions in Motor Certificates 61 M.C.C. 209 and 766 (except hides and commodities in bulk)* from the facilities of Dugdale Packing Company at Norfolk, NE to points in IL, IA, KS, MN, MO, SD, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Dugdale Packing Company, P.O. Box 169, Norfolk, NE 68701. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 147997 (Sub-1TA), filed August 21, 1979. Applicant: W.T.S. OF MICHIGAN, INC., 902 Avenue N., Grand Prairie, TX 75050. Representative: E. Larry Wells, Winkle, Wells & Stafford, P.O. Box 45538, Dallas, TX 75245. Contract carrier, irregular routes, *Uncrated Xerox copying, duplicating and word processing machines and parts, materials, and supplies as used in the manufacture, installation or sale of such commodities* from the facilities of the Xerox Corporation at or near Livonia, MI to the counties of Defiance, Erie, Fulton, Hancock, Henry, Huron, Lucas, Ottawa, Paulding, Putnam, Sandusky, Seneca, Williams, and Wood, OH for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Xerox Corporation, 3000 Des Plaines Avenue, Des Plaines, IL 60018. Send protests to: Opal M. Jones, TCS, ICC, 9A27 Federal Bldg., 819 Taylor St., Ft. Worth, TX 76102.

MC 148006 (Sub-1TA), filed August 29, 1979. Applicant: DON AND SANDRA HARSHBARGER, d.b.a. Sandon Trucking, P.O. Box 1347, Winnemucca, NV 89445. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. Common carrier, regular routes, *general commodities, except household goods, commodites in bulk, commodities in bulk in tank vehicles*, between Reno, NV and Wells, NV via Interstate 80, serving all intermediate points, and serving off-route points within 15 miles of Interstate 80, for 180 days. Interlining requested at Reno, Wells and Elko, NV. Supporting shipper(s): There are approximately 36 shippers. Their statements may be examined at the office below or at Headquarters. Send protests to: DS W. J. Huetig, ICC, 203 Federal Bldg., Carson City, NV 89701.

MC 148027 (Sub-1TA), filed August 23, 1979. Applicant: MARVIN KLEVBERG, Northwood, ND 58267. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. *Prestressed concrete products*, from the facilities of Concrete, Inc., at Grand Forks, ND, to points in MN and SD, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Concrete, Inc., P.O. Box 908, Grand Forks, ND 58201. Send protests to: H. E. Farsdale, DS, ICC, Room 268, Fed. Bldg., 657 2nd Avenue North, Fargo, ND 58102.

MC 148096 (Sub-TA), filed July 6, 1979. Applicant: RON SMITH TRUCKING, INC., Rural Route 3, Arcola, IL 61910. Representative: Douglas Brown, The INB Center, Suite 555, Springfield, IL 62701. *Contract carrier:* irregular routes; *Lime*, from St. Genevieve, MO to Vermilion County, IL for 180 days. An underlying ETA seeks 90 days authority for the account of Illinois Power Co. Supporting shipper(s): Illinois Power Co., 500 S. 27th Street, Decatur, IL 62525. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 148126 (Sub-TA), filed August 14, 1979. Applicant: E. W. L. TRUCKING, INC., 2055 Railroad Avenue, Glenview, IL 60025. Representative: Donald S. Mullins, 1033 Graceland Avenue, Des Plaines, IL 60016. *Contract carrier:* irregular routes: *wrought iron pipe;* from the facilities of Unarco-Leavitt located in Hammond, IN; Chicago, Blue Island and Evanston, IL to points in MN and WI for 180 days, for the account of Unarco-Leavitt, Divison of Unarco Ind., Inc. Supporting shipper(s): Unarco-Leavitt, Divison of Unarco Ind., Inc., 1717 West 115th Street, Chicago, IL 60643. Send protests to: Annie Booker, TA, ICC, 219 South Dearborn Street, Chicago, IL 60604.

MC 148127 (Sub-TA), filed August 20, 1979. Applicant: LINEHAUL EXPRESS CORPORATION, P.O. Box 5078, Manchester, NH 03108. Representative: Gregg M. Lewis, 23½ Monroe St., Concord, NH 03301. *Self-propelled vehicles over 14,000 lbs. GVW and their parts and acessories*, between points in NH and NY, on the one hand, and, on the other, points in the United States, for 180 days. Supporting shipper(s): H.P. Enterprises, Inc., California St., W. Swanzey, NH 03469. H.P. Rental and Leasing, Inc., Rt. 21, Troy Rd., Keene, NH 03431 Peterbilt of New Hampshire, Inc., 143 Frontage Rd., Manchester, NH 03103. Send protests to: Ross J. Seymour, DS, ICC, Rm. 3, 6 Loudon Rd., Concord, NH 03301.

MC 148386 (Sub-4TA), filed August 22, 1979. Applicant: NATIONAL RETAIL TRANSPORTATION, INC., Building A, 10 E. Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 133 N. 4th St., Philadelphia, PA 19106. *Such Commodities as are dealt in or used by retail department stores (except in bulk)* between the facilities of Walsh Trucking and Consolidating Co., Inc., at North Bergen, NJ, and the New York, NY Commercial Zone, on the one hand, and on the other, Philadelphia and Pittsburgh, PA, Richmond, VA, Charlotte, NC, Memphis, TN, Atlanta, GA, Jacksonville and Miami, FL, New Orleans, LA, Dallas and Houston, TX, Cincinnati, Cleveland and Columbus, OH, Indianapolis, IN, Detroit, MI, Chicago, IL, Milwaukee, WI, Minneapolis, MN, St. Louis, MO, Omaha, NE, Denver, CO, San Francisco and Los Angeles, CA, Portland, OR, and Seattle, WA and their respective commercial zones for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Walsh Trucking & Consolidating Co., Inc., 2820 16th St., North Bergen, NJ 07047. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 145437 (Sub-3TA), filed June 13, 1979. Applicant: JWI TRUCKING, INC., 8100 No. Teutonia Ave., Milwaukee, WI 53209. Representative: Michael Wyngaard, 150 E. Gilman St., Milwaukee, WI 53209. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: wearing apparel, from Kenosha, WI, to points in California, and materials, equipment and supplies used in the manufacture, sale and distribution of wearing apparel, from Charlotte and Maiden, NC and Jefferson, SC, to Kenosha, WI, under a contract with Jockey International, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Jockey International, Inc., 2300 60th St., Kenosha, WI 53140. The above described request for authority was published in the **Federal Register** July 27, 1979, but the origins of Charlotte and Maiden were inadvertently shown as being located in South Carolina instead of North Carolina. The entire authority, as corrected, was granted by the Commission, Motor Carrier Board, by decision entered September 24, 1979. Any interested party may file a petition for reconsideration with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested party may file and serve a reply thereto.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31673 Filed 10-12-79, 8:45 am]

BILLING CODE 7035-01-M

V 44 0 C 1 5 7 9 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 200
Monday, October 15, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1, 2
Federal Communications Commission	3, 4
Federal Energy Regulatory Commission	5
Federal Home Loan Bank Board	6, 7
Federal Reserve System (Board of Directors)	8
Interstate Commerce Commission	9
National Credit Union Administration	10
National Transportation Safety Board	11
Occupational Safety and Health Review Commission	12, 13

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1947-79

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (Eastern Time), Tuesday, October 9, 1979.

CHANGE IN THE MEETING: The following matters were added to the agenda for the open portion of the meeting:

Report to the Commission on the Combined Federal Campaign for 1980. Sole Source Contract for computer analysis in connection with a court case.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no early announcement was possible.

In favor of Change: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; and J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 9, 1979.

[S-6570 Filed 10-10-79; 4:05 pm]

BILLING CODE 6570-06-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 16, 1979.

PLACE: Commission Conference Room, 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

1. Proposed revision of OMB interim guidelines regarding the collection of information on race, ethnic background, age and sex in applications made by individuals for benefits under Federal programs.

2. Interpretive guidelines on employment discrimination and hazardous substances.

3. Freedom of Information Act Appeal No. 79-8-FOIA-242, concerning a request by a university for copies of several age discrimination complaints which were filed against the.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 9, 1979.

[S-2004-79 Filed 10-10-79; 4:05 pm]

BILLING CODE 6570-06-M

3

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Wednesday, October 10, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, Item No., and Subject

General—2—Title: Lincoln Telephone and Telegraph Company's Application for Review of NCCC's Section 214 Supplemental Facilities Application to lease additional channels between Lincoln and Omaha, Nebraska. Summary: In March, 1978 NCCC filed a Section 214 Application requesting authority to supplement existing facilities. On July 10, 1978 LT&T filed a Petition to Deny the grant. The Common Carrier Bureau declared the Petition moot. On August 30, 1978 LT&T filed its Application for Review. The Commission is considering the following: 1) when the application was effective; 2) whether the Petition to Deny was properly dismissed; 3) whether the application was difficult; and 4) whether economic harm would result to LT&T if the grant is allowed.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: October 9, 1979.

[S-2007-79 Filed 10-11-79; 12:00 pm]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 16, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Special Open Commission Meeting.

MATTER TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Title: Network Inquiry Special Staff Preliminary Report. Summary: Preliminary reports are released covering the following topics: 1. Network-affiliate relationship in television. 2. FCC jurisdiction over the networks. 3. FCC rules regulating networking. 4. History of the proceedings leading to the adoption of the Prime Time Access Rule. 5. Structure and business activities of the parent corporations of the major television networks. 6. History of the origin of the television networks. Deadlines for comments and reply comments concerning these reports, and for comments on the next phase of Inquiry activities are established. *See* Further Notice of Inquiry, Docket 21049, 69 F.C.C. 2d 1524 (1978).

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: October 10, 1979.

[S-2008-79 Filed 10-11-79; 12:00 pm]

BILLING CODE 6712-01-M

5

October 10, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 17, 1979, 10 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8500.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Office of Public Information.

Power Agenda—343rd Meeting, October 17, 1979, Regular Meeting (10 a.m.)

CAP-1. Docket Nos. ER79-612, ER79-613, ER79-614 and ER79-651, Iowa Power & Light Co.
CAP-2. Docket Nos. ER76-149 and E-9537, Public Service Co. of Indiana, Inc.
CAP-3. Docket No. ER78-517, The Connecticut Light & Power Co.
CAP-4. Docket No. ER76-205, Southern California Edison Co.
CAP-5. Docket Nos. ER78-70 and ER-71, Pennsylvania Power & Light Co.
CAP-6. Docket No. ER77-578, Kansas Gas & Electric Co.
CAP-7. Docket No. ER79-62, Gulf States Utilities Co.

Gas Agenda—343rd Meeting, October 17, 1979, Regular Meeting

CAG-1. Docket No. RP75-8 (PGA 79-4), Commercial Pipeline Co., Inc.
CAG-2. Docket No. RP73-8 (PGA No. 79-4a), North Penn Gas Co.
CAG-3. Docket No. RP72-156 (PGA 79-2, DCA79-2), Texas Gas Transmission Corp.
CAG-4. Docket Nos. RP76-136 and RP77-26, Transcontinental Gas Pipe Line Corp.
CAG-5. Docket Nos. RP72-142 and RP76-135 (PGA 78-4 and AB78-1), Cities Service Gas Co.
CAG-6. Docket No. RI78-16, Natural Gas Pipeline Co. of America.
CAG-7. Docket No. RI76-8, Pennzoil Producing Co., Docket No. RI76-10, Shell Oil Co.
CAG-8. Docket No. RI66-273, Southwestern Refining Co., Inc. (Operator), et al.
CAG-9. Rate Schedule No. 45, The Superior Oil Co.
CAG-10. Docket No. G-7241, Southland Royalty Co., et al. Docket No. CI78-384, Cities Service Co. Docket No. CI78-990, Marathon Oil Co. Docket No. CI78-996, Pennzoil Producing Co., et al. Docket Nos. CI79-558 and CI79-561, Pogo Producing Co., et al. Docket No. CI79-564, Pennzoil Louisiana and Texas Offshore, Inc. Docket Nos. CI79-567 and CI79-568, Pennzoil Oil & Gas, Inc. Docket No. CI79-577, Aminoil U.S.A., Inc. Docket No. CI79-573, Quintana Oil & Gas Corp. Docket No. CI79-614, CNG Producing Co. Docket No. CI78-559, Phillips Petroleum Co. Docket No. CI78-988, Southland Royalty Co. Docket No. CI78-1000, Cities Service Co. Docket No. CI79-172, et al., General American Oil Co. of Texas, et al. Docket No. CI79-194, Sabine Production Co. Docket No. CI79-574, Quintana Offshore, Inc. Docket No. CI61-636, Continental Oil Co. (Operator), et al. Docket No. CI79-429, Pennzoil Oil & Gas, Inc. Docket No. CI79-430, Pogo Producing Co. Docket No. CI79-609, Tenneco Oil Co. Docket No. CI78-1124, Terra Resources, Inc.
CAG-11. Docket No. CP79-300, Southern Natural Gas Co.
CAG-12. Docket No. CP78-283, The Inland Gas Co., Inc.
CAG-13. Docket No. CP79-487, Columbia Gas Transmission Corp.
CAG-14. Docket No. CP77-399, Mid Louisiana Gas Co. Docket No. CP77-430, Texas Eastern Transmission Corp. Docket No. CP77-469, Transcontinental Gas Pipe Line Corp.
CAG-15. Docket No. CP79-335, El Paso Natural Gas Co.
CAG-16. Docket No. CP79-437, Northern Natural Gas Co.
CAG-17. Docket No. CP79-420, Peoples Natural Gas, Divison of Northern Natural Gas Co., Applicant and Cities Service Gas Co., Respondent.
CAG-18. Docket No. CP76-256, Algonquin LNG, Inc. Docket Nos. CP73-139 and CP73-197, Algonquin Gas Transmission Co.

Power Agenda, 343rd Meeting, October 17, 1979, Regular Meeting

I. Licensed project matters

P-1. Project No. 176, Escondido Mutual Water Co.; city of Escondido, Calif.; and Vista Irrigation District Docket No. E-7562, Secretary of the Interior acting in his capacity for the Rincon, La Jola, and San Pasqual Lands of Mission Indians v. Escondido Mutual Water Company and city of Escondido, Calif., Docket No. E-7655, Vista Irrigation District, Project No. 559, San Diego Gas & Electric Co.

II. Electric rate matters

ER-1. Docket No. ER79-616, Northern States Power Co.
ER-2. Docket No. ER76-342, Florida Power & Light Co.
ER-3. Docket No. EL79-13, Iowa Power & Light Co.
ER-4. Docket No. ID-1758, Charles T. Fisher, III

Miscellaneous Agenda—343rd Meeting October 17, 1979, Regular Meeting

M-1. Reserved.
M-2. Reserved.
M-3(A). Docket No. RM79-54, Small Power Production & Congeneration Facilities—Qualified States.
M-3(B). Docket No. RM79-55, Small Power Production & Cogeneration Rates and Exemptions.
M-4. Docket No. RM79-52, Continuance of Service.
M-5. Docket No. RM79-80, Price Discrimination and Anti-Competitive Effect—Substantive Rule.
M-6. Docket No. RM79-79, Price Squeeze—Procedural Rules.
M-7. Docket No. RM79-38, Discontinuation of the Use of Certain FERC Forms.
M-8. Docket No. RM-80-, Discontinuation of Collection of additional FERC Forms.
M-9. Docket No. RM80-, Statement on Distributor Access to Outer Continental Shelf Gas.
M-10. Docket No. RM79-72, Final Rule Amending Regulations on Natural Gas From New, Onshore Production Wells and Amendments in Secton 274.204 of the Interim Regulations.
M-11. Docket No. RM79-73, Final Rule Amending Subpart B of Part 273 on Stripper Well natural Gas and Amendments to Section 274.206 of the Interim Regulations.
M-12. Docket No. OP79-69, Grace Petroleum Corp. State Docket Nos. 4-6-792E PD and 3-2-7912 PM FERC 3079-9658 and 79-9659.
M-13. Docket No. RM79-19, Treatment of Certain Production-Related Costs for Natural Gas to be Sold and Transported through the Alaska Natural Gas Transportation System.

Gas Agenda—343rd Meeting October 17, 1979, Regular Meeting

I. Pipeling rate matters

RP-1. Docket No. RP78-10 and RP77-13 (PGA77-2A), Kansas Nebraska-Natural Gas Co., Inc.
RP-2. Docket Nos. RP73-107, RP74-90, RP73-91, RP77-7, RP77-140, RP78-52, and RP79-22. Consolidated Gas Supply Corp., Docket No. CP71-290, Consolidated System Lng Co.
RP-3. Docket No. OR78-1, Trans-Alaska Pipeline System.

II Producer matters

CI-1. Docket No. AR64-2, et al., Area Rate Proceding, et al., (Texas Gulf Coast Area).
CI-2. Docket No. RI65, Texas International Petroleum Corp.

III. Pipeline certificate matters

CP-1. Docket No. TC79-137, Northeast Alaska Pipeline Corp.
CP-2. Docket No. TC79-136, Nucor Steel-Nebraska, a Division of Nucor Corp.
CP-3. Docket Nos. CP76-313, et al., National Fuel Gas Supply Corp., et al.
CP-4. Docket No. CP79-289, Michigan Wisconsin Pipe Line Co.
CP-5. Docket No. CP78-123, (Phase 3), Northern Alaska Natural Gas Co.

Kenneth F. Plumb,

Secretary.

[S-2005-79 Filed 10-11-79; 10:43 am]

BILLING CODE 6450-01-M

6

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 44, FR Page 57295, October 4, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9 a.m., October 11, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Loan Register,

No. 279, October 11, 1979.

[S-2006-79 Filed 10-11-79; 12:00 pm]

BILLING CODE 6720-01-M

7

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 18, 1979.

PLACE: 1700 G Street NW., Sixth Floor, Washington, D.C.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

MATTERS TO BE CONSIDERED:

Preliminary Application for Conversion to Federal Mutual Charter—Durant Savings and Loan Association, Durant, Oklahoma.

Preliminary Application for Conversion to Federal Mutual Charter—The American Savings and Loan Association, Anadarko, Oklahoma

Preliminary Application for Conversion to Federal Mutual Charter—Northwest Savings and Loan Association of Woodward, Woodward, Oklahoma

Request for Commitment to Insure Accounts—First Summit Savings and Loan Association, Breckenridge, Colorado

Application for Insurance of Accounts—Village Savings Association, West University Place, Texas

Calculation of Earnings on Savings Accounts

Application for Permission to Organize a Federal Savings and Loan Association—Thomas Sung, et al., New York, New York

Applications for Permission to Organize a Federal Savings and Loan Association—Considered Concurrently—Jack Sutherlin, et al., Covington, Louisiana AND Harold J. Hanson, et al., Covington, Louisiana

Application for Waiver of Liquidity Deficiency Penalty—Hopkins Savings and Loan Association, Milwaukee, Wisconsin

Request for Waiver of Insurance Regulation 563.9—Equitable Savings and Loan Association, Portland, Oregon

Proposed Amendment to Section 5 of Charter S—Skokie Federal Savings and Loan Association, Skokie, Illinois

No. 280, October 11, 1979.

[S–2010–79 Filed 10–11–79; 3:24 pm]

BILLING CODE 6720–01–M

8

FEDERAL RESERVE SYSTEM: (Board of Governors)

TIME AND DATE: 11 a.m., Friday, October 19, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed installation of an automatic fire suppressant system by the Federal Reserve Bank of New York. The contract, if authorized, would be effected through a competitive bidding process.

2. Proposed renovation of offices by the Federal Reserve Bank of Kansas City. The contract, if authorized, would be effected through a competitive bidding process.

3. Proposed currency transportation contract, to be handled under competitive bidding.

4. Federal Reserve Bank officer salary administration.

5. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

6. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated October 11, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–2013–79 Filed 10–11–79; 3:48 pm]

BILLING CODE 6210–01–M

9

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 17, 1979.

PLACE: Hearing Room "A", Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C. 20423.

STATUS: Open Special Conference on Short Notice.

MATTER TO BE DISCUSSED: Report of bus industry study group.

CONTACT PERSON FOR MORE INFORMATION: Douglas Baldwin, Director; Office of Communications, Telephone: (202) 275–7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

October 11, 1979.

[S–2009–79 Filed 10–11–79; 12:56 pm]

BILLING CODE 7035–01–M

10

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 2 p.m., Thursday, October 18, 1979.

PLACE: 2025 M Steeet, NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Amendments to Part 708, NCUA Rules and Regulations dealing with mergers.

2. Precedure for handling unsolicited proposals.

3. Revisions to Part 742 NCUA Rules and Regulations dealing with Liquidity Reserves.

4. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

5. Review of Central Liquidity Facility lending rates.

RECESS: 2:45 p.m.

TIME AND DATE: 3 p.m., Thursday, October 18, 1979.

PLACE: 2025 M Steeet, NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemptions (8) and (9)(A)(ii).

2. Administrative Actions. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 254–9800.

[S–2011–79 Filed 10–11–79; 3:24 pm]

BILLING CODE 7535–01–M

11

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Monday, October 15, 1979. [NM–79–37]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED:

A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Request for approval of en banc public hearing on commuter aviation safety.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming 202–472–6022.

October 11, 1979.

[S–2012–79 Filed 10–11–79; 3:48 pm]

BILLING CODE 4910–58–M

12

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m. on October 17, 1979.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell (202) 634–4015.

Dated: October 9, 1979.

[S–2014–79 Filed 10–11–79; 3:59 pm]

BILLING CODE 7600–01–M

13

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: October 25, 1979 at 10 a.m.

PLACE: Room 1101, 1825 K Street, NW., Washington, D.C.

STATUS: Because of the subject matter, it is likely that this meeting will be closed.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudicative process.

CONTACT PERSON FOR MORE INFORMATION: Ms. Patricia Bausell, (202) 634–4015.

Dated: October 9, 1979.

[S–2015–79 Filed 10–11–79; 3:59 pm]

BILLING CODE 7600–01–M

V 44 O C 15 7 9 UMI

V 44 OC 15 79 UMI

federal register

Monday
October 15, 1979

Part II

International Trade Commission

Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States

V 4 4 0 C 1 5 7 9 UMI

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207

Procedures for the Conduct of Investigations of Whether Injury to Domestic Industries Results From Imports Sold at Less Than Fair Value or From Subsidized Exports to the United States

AGENCY: United States International Trade Commission.

ACTION: Proposed rules.

SUMMARY: These proposed rules set forth procedures for the conduct of Commission investigations under section 303 and Title VII of the Tariff Act of 1930 (19 U.S.C. 1303 and 2501 et seq.), Title V of the Tariff Act of 1930 (19 U.S.C. 1516A), and sections 102 through 107 of the Trade Agreements Act of 1979 (Pub. Law 96–39, 93 Stat. 144).

DATE: Comments on the proposed rules should be submitted on or before November 29, 1979.

ADDRESS: Send Comments to the Secretary, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Lang, Esq. or Edward M. Lebow, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, N.W., Washington, D.C., telephone (202) 523–0143 or 523–0486, respectively.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979 (Pub. Law 96–39, 93 Stat. 144) approves and implements trade agreements negotiated by the United States in the Tokyo Round of Multilateral Trade Negotiations. Contingent upon United States acceptance by January 1, 1980, of the negotiated agreements relating to subsidies and contervailing measures and to antidumping measures, the Trade Agreements Act will bring about extensive changes in the U.S. countervailing duty and antidumping duty laws, primarily through amendment of the Tariff Act of 1930.

These proposed rules would amend Part 201, repeal existing Part 207 and establish a new Part 207 of the Commission rules to provide procedures for the conduct of Commission antidumping and countervailing duty investigations under the changes required by the Trade Agreements Act of 1979, cited above.

A section-by-section analysis of the proposed rules follows.

Section 207.1 *Applicability of part.*

This introductory Rule makes the procedures set forth in Part 207 applicable to all investigations conducted by the Commission under section 303 or Title VII of the Tariff Act of 1930 (the Act). The inclusion of section 303 investigations is required by section 103 of the Trade Agreements Act of 1979, which makes the procedures and findings with respect to countervailing duty investigations set forth in Title VII of the Act applicable to merchandise imported from any nation which is not a "country under the Agreement" (defined in section 701(b) of the Act) and which is free of duty.

Subpart A—General Provisions

Subpart A contains rules applicable to all Commission investigations under section 303 and title VII of the Act and sections 102 through 107 and Title X of the Trade Agreements Act.

Section 207.2 *Definitions applicable in Part 207.*

This Rule defines certain terms used repeatedly in Part 207.

(a) The term "the Act" is defined to mean the Tariff Act of 1930 (19 U.S.C. 1202 et. seq.).

(b) The definition of "administering authority" is taken directly from section 777(1) of the Act. Section 103 of the Trade Agreements Act, amending Section 303(b) of the Act, provides that the duty imposed by section 303 is to be administered in accordance with Title VII (sec. 771(1)).

(c) The definition of "country under the Agreement" is taken directly from section 701(b) of the Act.

(d) The term "Director" is defined to mean the Commission's Director of Operations or someone appointed to act in that capacity, or, if there is neither, a person designated by the Chairman to fulfill the responsibilities of the Director with respect to investigations under this part.

(e) The definition of "effective date" reflects the provisions of section 107 of the Trade Agreements Act of 1979.

(f) The definition of "ex parte meeting" is derived from section 777(a)(3) of the Act. The Commission intends that only the Director of Operations will make a "final recommendation" to the Commission within the meaning of section 777(a)(3)(B) of the Act.

(g) The term "injury" is defined to mean material injury or threat of material injury to an industry in the United States, or material retardation of the establishment of an industry in the United States. The definition is intended to allow shorthand reference throughout Part 207 to the three types of harm at which section 303 and Title VII of the Act are directed.

(h) The definition of "interested party" is taken directly from section 771(9) of the Act.

(i) The term "Party" is defined to include two classes of persons: (1) interested parties who have filed an appearance with the Commission under Rule 201.13, and (2) any other person who, after manifesting a proper interest in the subject matter of the Commission investigation, has filed such an appearance. A person who is not an interested party and who chooses to become a party to an investigation will receive copies of all documents served pursuant to Rule 207.3. However, such a person will also be required to comply with the obligations of a party, including service of documents under Rule 207.3 and submission of a prehearing statement under Rule 207.22.

(j) The definition of "record" reflects the definition of the record for purposes of judicial review contained in section 516A(b)(2)(A) of the Act. The Commission is of the view that the term "information" in section 516A(b)(2)(A)(i) includes only information that goes to the facts under investigation, and not to staff documents relating to administrative deadlines, travel arrangements, guidelines for conducting investigations and similar matters. The Commission intends, therefore, that such documents not be made a part of the record.

(k) The term "Rule" is defined to mean a section of the Commission's Rules of Practice and Procedure.

Section 207.3 *Service of documents.*

This Rule establishes requirements for the service of documents on parties to an investigation. Any party submitting a document for inclusion in the record is required to serve a copy of each such document on all other parties to the investigation. This Rule also provides that all documents, except transcripts, placed on the record by the Commission staff must be served on each party to the investigation. The Director of Operations will be authorized to serve many such documents directly.

Section 207.4 *The record.*

This Rule establishes requirements for the maintenance of the record of Commission proceedings. The record will be divided into a public portion and a nonpublic portion consisting of documents which contain business confidential or privileged information.

The Director is authorized by this Rule to conduct such audits as he deems necessary. The absence of an audit will be presumed to indicate that the Director decided that no audit was necessary or desirable.

Materials received from the administering authority will be placed on the record and designated public or nonpublic in conformity with the designation assigned to them by the administering authority. Requests for access to or release of materials originating with the administering authority will be referred to that agency for its advice; however, the Secretary will make the final decision as to whether the material in question will be released.

Section 207.5 *Ex parte meetings.*

This Rule establishes requirements for the maintenance and content of ex parte meeting records as required by section 777(a)(3) of the Act. The Rule provides that a record of each such meeting shall be placed in the record, and that each meeting record shall include the identity of the persons present, the date, time and place of the meeting, and a summary of the matters discussed or submitted.

Section 207.6 *Reports of progress of investigation.*

This Rule establishes requirements for the Commission Secretary to inform the parties to an investigation of the progress of that investigation. Such reports are required "from time to time upon request" by section 777(a)(2) of the Act. To prevent an undue burden on the Commission staff, the section provides that no progress report will be furnished (1) less than 30 days after notice of an investigation appears in the **Federal Register**, or (2) less than 30 days after issuance of the previous report on the progress of the same investigation. Reports will be limited to a statement of the official actions, if any, taken by the Commission since the last such report. It is contemplated that the Secretary on his own initiative will issue monthly reports updating the progress of all investigations over 30 days old.

Section 207.7 *Limited disclosure of certain confidential information under a protective order.*

(a) *In general.* This subsection establishes procedes for the disclosure of domestic price and cost information under protective order to representatives of interested parties who are parties to the investigation. Disclosure of any business information under protective order is authorized by section 777(c)(1) of the Act, but disclosure of cost of production and domestic price information may be required under court order pursuant to section 777(c)(2) of the Act. In fact, the Commission rarely, if ever, collects domestice cost of production information, and it only collects price information relevant to the products in question. The term "domestice price" as used in this Rule does not mean the price of an imported product in the United States. The Secretary will release domestice price and cost information under the protective order. Decisions of the Secretary denying requests for release of such information would be directly appealable to the Customs Court.

(b) *Protective order.* This subsection establishes the conditions under which domestic price and cost of production may be released.

(c) *Final disposition of material released under protective order.* This subsection establishes procedures and requirements for the final disposition of material released under protective order. At the completion of an investigation (or at such earlier date as the Secretary deems appropriate), all copies of the released material must be returned to the Secretary. Returned materials must be accompanied by a certificate from the person to whom the release was made attesting to his good faith effort to ascertain that no additional copies have been made available to any person to whom disclosure was not specifically authorized.

(d) *Sanctions.* This subsection establishes sanctions for breach of a Commission protective order. Section 777(c)(1)(B) of the Act authorizes the Commission to establish such sanctions for breach of protective order as it determines to be appropriate. The sanctions contained in this subsection include being barred from practice before the Commission, referral of any breach to the U.S. Attorney and to the ethics panel of the appropriate professional association, and striking from the record any information or briefs submitted by the offender. This subsection accords with current Commission practice under Rule 201.15.

(e) *Sanction procedures.* This subsection establishes the right of any person accused of breaching a protective order to be heard by the Commission before a determination regarding sanctions is made.

Section 207.8 *Questionnaires to have the force of subpoenas; subpoena enforcement.*

This Rule provides that Commission questionnaires have the force of a subpoena, provided they are labeled as subpoenas and signed by a Commissioner. In the event any person refuses or is unable to produce the information requested in such a questionnaire in a timely fashion, the Commission may (1) in accordance with section 776(b) of the Act use the best information otherwise available in making its determination, (2) seek judicial enforcement of its subpoena under 19 U.S.C. 1333, or (3) take any other actions it deems necessary and appropriate, including waiver of any time limits set forth in Part 207 (*see Usery* v. *Whitten Machine Works, Inc.*, 554 F.2d 498 (5th Cir. 1977)).

Section 207.9 *Affirmative determinations by divided Commission.*

This rule establishes a voting rule for investigations under Part 207 to apply in instances where the Commissioners voting are evenly divided regarding whether a determination should be affirmative or negative. The Rule is intended to implement and clarify section 771(11) of the Act.

The Rule provides that, if the Commissions voting on a determination required under section 303 or Title VII of the Act are evenly divided regarding whether the determination should be affirmative or negative, the Commission will be deemed to have made an affirmative determination. In order to conform to what the Commission believes to have been the intent of Congress, this section has been drafted to cover all Commission determinations under Part 207 wherein a Commissioner may vote affirmatively in more than one way. Thus, when the issue before the Commission is to determine whether there is (sections 705 and 735 of the Act,) whether there would be (section 104(b) of the Trade Agreements Act), or whether there is a reasonable indication of (sections 702 and 732 of the Act) either (1) material injury, (2) threat of material injury, or (3) material retardation, an affirmative vote on any of the issues will be treated as a vote that the Commission's determination should be affirmative.

Subpart B—Investigations of Reasonable Indication of Material Injury, Threat of Material Injury, or Material Retardation

Subpart B provides a procedural framework for preliminary investigations under section 303 and Title VII of the Tariff Act of 1930, as amended, viz., the filing of petitions, the amendment of petitions, the conduct of preliminary investigations by the Commission's Director of Operations, the submission of written comments by persons interested in the subject matter of investigations, the conduct of

conferences among interested parties and the staff of the Director of Operations, the submission of the recommendation of the Director to the Commission, the determination by the Commission as to whether there is a reasonable indication of injury, and the issuance of appropriate notification to interested parties and to the public through the Federal Register of Commission actions.

Section 207.10 *Filing of petition with Commission.*

Rule 207.10 implements the requirement in sections 702(b) and 732(b) of the Act for simultaneous filings of countervailing duty and antidumping investigation petitions with the administering authority and the Commission.

Section Rule 207.11 *Contents of petition.*

This Rule restates the requirements for a petition set forth in sections 702(b) and 732(b) of the Act. Reference is made to the factors relating to injury which will be considered by the Commission pursuant to section 771(7) of the Act and Rule 207.26 with the expectation that the petitioner will include information relevant to these issues. The Rule also requires a petitioner alleging critical circumstances to provide reasonably available information relevant to the additional findings which the Commission must make pursuant to sections 705(b)(4)(A) and 735(b)(4)(A) of the Act in the event critical circumstances are found by the administering authority.

Section 207.12 *Cooperation with administering authority; informal inquiry.*

This Rule provides that the authority to conduct investigations of reasonable indication of material injury is delegated from the Commssion to the Director of Operations. The delegation includes the exercise of the Director's discretion as to how best to conduct each such investigation.

The decision to delegate the conduct of such investigations from the Commission to the Director is based upon the Commission's administrative experience. Currently, the Commission administers 30-day investigations in a limited number of investigations under section 201(c)(2) of the Antidumping Act, 1921. The use of questionnaires and public hearings presided over by the full Commission in these investigations has been extremely taxing on the resources of the agency. The agency's resources are not great enough to conduct such proceedings in both preliminary and final investigations, especially in view of the anticipated caseload of new and transitional investigations. This Rule provides that information adduced during the preliminary investigations be placed on the administrative record of the investigation.

This Rule also authorizes the Director to cooperate with the administering authority after a petition is filed to assist the administering authority with its determination under section 702(c) or 732(c) of the Act regarding whether a petition alleges the elements necessary for the imposition of a duty under section 701(a) or 731(a) of the Act. The Director will also cooperate with the administering authority with respect to proposed amendments to petitions. It is the intention of the Commission that this Rule satisfy its statutory obligation under sections 702(b) and 732(b) of the Act concerning amendments to petitions. Notwithstanding any assistance provided by the Director to the administering authority under this Rule, all determinations under sections 702(c) and 732(c) are ultimately to be made by the administering authority.

Section 207.13 *Negative petition determination.*

This Rule implements sections 702(c) and 732(c) of the Act, which provide that in those cases in which the administering authority determines that the petition does not allege the elements necessary for the imposition of a countervailing or antidumping duty, as the case may be, and accordingly, the petitioned-for investigation is dismissed, the Commission shall cease its simultaneous investigation and provide notice of the cessation.

Section 207.14 *Notice of investigation of reasonable indication of injury.*

This Rule is derived from sections 702(d) and 732(d) of the Act. It provides that, upon receipt of notice from the administering authority that the authority has determined that a petition does allege the elements necessary for the imposition of a countervailing or an antidumping duty, as the case may be, or that the administering authority has initiated an investigation based on information available to it, the Commission shall institute a formal investigation to determine whether there is reasonable indication of injury under section 703(a) or 733(a) of the Act and publish a notice to that effect in the Federal Register.

Section 207.15 *Written statements, conference, and further investigation.*

This 207.15 provides that within four days of publication in the Federal Register of the Commission's notice instituting an investigation, any person may submit to the Commission a written statement of information pertinent to the subject matter of the investigation. The Rule also contemplates that the Director of Operations will conduct such investigative activities as are necessary to obtain information within the time available. Although it does not appear to be feasible to schedule formal hearings before the Commission within the available time, joint conferences may be scheduled for parties if the Director deems them appropriate. Conferences will be held after public notice. The transcripts of such conferences as well as other information adduced through the investigative activities of the Director will be placed on the administrative record of the investigation.

Section 207.16 *Recommendation of Director.*

This Rule requires the Director of Operations to prepare a recommendation to the Commission based upon the record of the investigation of reasonable indication of injury. The recommendation must be submitted to the Commission within ten days of the date of publication in the Federal Register of commencement of an investigation but not more than thirty-five (35) days after the date the petition was filed under Rule 207.10.

Section 207.17 *Determination by Commission of reasonable indication of injury.*

This Rule provides that, in all cases other than those in which the administering authority dismisses the petition, the Commission shall make a determination, based upon the best information before it at the time, of whether there is reasonable indication of injury by reason of imports of merchandise which is the subject of the investigation. It is anticipated that the large number of investigations and the short time available in which to conduct them will necessitate preliminary determinations frequently to be made by internal Commission consecutive voting procedures rather than at scheduled public meetings.

Section 207.18 *Notice of preliminary determination.*

This Rule provides that the Commission shall notify all parties to its preliminary investigation of its determination and publish a notice of its determination in the Federal Register. In cases where the Commission's preliminary determination is affirmative, the Director of Operations may continue such investigative activities as he deems appropriate pending notice of a affirmative preliminary determination or a final determination from the administering authority.

Subpart C—Final Determinations

Subpart C contains the procedures specifically applicable to final determinations.

Section 207.20 *Notice of investigation.*

Although it is not required by the statute, by this Rule the Commission intends to give to the public notice of its commencement of an investigation to reach a final determination under Section 705(b) or 735(b) of the Act.

Section 207.21 *Staff report.*

This Rule requires the Commission to place on the record a staff report containing recommended findings of fact of the Director of Operations. It is intended that portions of the staff report containing confidential or privileged information be placed on the nonpublic record and the remainder of the staff report, including a nonconfidential summary of the confidential or privilege portions, be placed on the public record. Rule 207.4 provides for the maintenance of the record in two portions, the public portion containing nonconfidential material and the nonpublic portion containing privileged and confidential material. This Rule then requires the Director to place his staff report on the record at specified times. In 75-day investigations he must do this on or before the 40th day after the date of the corresponding notice of investigation. In 120-day investigations the staff report will be placed on the record by the Director on or before the 75th day after the date of the corresponding notice of investigation. In 180-day investigations he shall place the staff report on the record on or before the 120th day.

The purpose of this procedure is to provide to the parties a preliminary indication of the Commission staff's view of the affected industry. Parties will be able to prepare their prehearing statements in such a way as to address one common body of information describing the allegedly injured United States industry. The intention of this is to make for a more cogent and pointed briefing of the issues.

Section 207.22 *Prehearing statement.*

This Rule requires each party to submit to the Commission a prehearing statement within 15 days after the date of service by the Commission to the parties of the public portion of the staff report discussed in the preceding Rule. The preparation of prehearing statements following receipt of the staff report will allow the parties to address the disputed issues directly and will enable the Commission to conduct a concise and penetrating hearing. It should be noted that the prehearing statements called for by this Rule should not be confused with the submission of copies of witnesses' prepared testimony required by Rule 201.12(d).

Section 207.23 *Hearing.*

Section 774 of the Act requires the Commission to hold a hearing at least once prior to making a final determination under section 705(b) or 735(b) of the Act, if any party to the investigation so requests. Rule 207.23 sets forth the procedures for conducting such a hearing. The Rule requires a person desiring to appear at a hearing to notify the Secretary of the Commission no later than 5 days prior to the date of the hearing. Each party appearing at the hearing must limit its arguments to a nonconfidential summary of the information and arguments contained in its prehearing statement and to a nonconfidential rebuttal of the information and arguments contained in the prehearing statements of other parties. Each other person, i.e., not a party, shall limit its presentation at the hearing to a brief statement of its position with respect to the subject matter of the investigation.

The purpose of this Rule is to focus and direct the hearing to the issues briefed in the prehearing statements. By limiting the arguments presented at the hearing to issues raised in the prehearing statements, the Rule also forces parties to raise all of their arguments in their prehearing statements. In this way, other parties will be advised of all adversary positions. Persons appearing at the hearing who are not parties, namely, consumer or other groups with no direct economic interest in the outcome of the proceeding, are limited to the presentation at the hearing of a brief position statement.

It is anticipated that parties will make copies of witnesses' formal testimony available before the beginning of the hearing in accordance with Rule 201.12(d), and that hearing presentations will be brief, to the point, and will, to the greatest extent possible, summarize the arguments set forth in the prehearing statement and in the witnesses' prepared written testimony.

A verbatim transcript will be made of the hearing and will be subject to nonsubstantive revision in accordance with subsection (c)(2) of this Rule. The transcript will be placed on the public record.

Section 207.24 *Postheoring statement.*

This Rule supersedes Rule 201.12(g). The Commission may order interested parties to submit within a specified time posthearing statements responsive to questions or requests of Commissioners made at the hearing. Without such a Commission order, the Commission will not accept a posthearing statement. The short time between the hearing and the promulgation of the Commission's opinion in these investigations will make it impossible for the Commission to give careful analysis to posthearing statements, which would appear on the record. Since the Commission intends to take the entire record into consideration when making its determination, late submissions will have the effect of filling the record with extraneous arguments not subject to Commission consideration and review; hence, they have been forbidden.

Section 207.25 *Final Determination by the Commission.*

This Rule restates sections 705(A)(1) and 735(A)(1) of the Act, which require the Commission to make a final determination of injury. Subsection (b) of this Rule restates the provisions of the Act which allow the Commission 120 days from the time the administering authority makes its affirmative preliminary determinations to make a final determination under section 705 or 735 of the Act. However, if the administering authority takes more than 75 days to make its final determination, then the Commission is guaranteed by the Act and by this Rule at least 45 days after the final determination of the administering authority to make its final determination. Thus, if the administering authority takes more than 75 days to make its final determination, the total elapsed time from the administering authority's preliminary determination to the Commission's final determination will be more 120 days.

Subsection (c) of this Rule, again tracking the Act, provides that, if the administering authority makes an affirmative final determination following a negative preliminary determination, then the Commission will have 75 days after the date of that affirmative final determination to make its final determination.

Subsection (d) of this rule sets forth the additional findings required by the Act in special situations. If the finding of the administering authority as to critical circumstances under section 705(a)(2) of the Act is affirmative, then the Commission must make a finding that there is material injury which will be difficult to repair and that the material

V 4 4 O C 1 5 7 9 UMI

injury is by reason of massive imports of the subsidized merchandise over a relatively short period of time. The corresponding provision in the antidumping area found in section 735(a)(3) of the Act requires the Commission to make a determination as to whether the material injury in critical circumstances is by reason of massive imports to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty provided for in section 731 of the Act retroactively on those imports.

The final subsection of this Rule is based on sections 705(b)(4)(B) and 735(b)(4)(B) of the Act, which require the Commission, when it makes a final determination that there is no material injury, but that there is a threat of material injury, to determine whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under section 705(a) and 735(a) of the Act would have been found but for any suspension of liquidation of entries of the merchandise.

Section 207.26 *Factors considered in determination of material injury.*

This rule incorporates the factors set forth in section 771(7) of the Act to be considered by the Commission in making its determinations of injury under the Act. The factors listed in this Rule are not exclusive. Commission determinations of injury are governed ultimately by the standards in the following Rule and by the judgment and discretion of the Commission.

Section 207.27 *Standard for determination.*

This Rule reiterates that the presence or absence of any factor which the Commission is required to consider under the preceeding Rule shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury. The term "material injury" means harm which is not inconsequential, immaterial, or unimportant.

Section 207.28 *Publication of notice of determination.*

This Rule incorporates the standards of section 705(d) and 735(d) of the Act, which require the Commission to notify the petitioner, other parties to the investigation, and the administering authority of the Commission's determination and of the facts and conclusions of law upon which the determination is based. Notice of such determination shall be published by the Commission in the Federal Register.

Subpart D—Transition

This subpart sets forth rules implementing for the Commission sections 102, 103 and 104 of the Trade Agreements Act of 1979 with respect to investigations under section 303 of the Tariff Act of 1930 and the Antidumping Act, 1921 that are pending as of the effective date of Title VII of the Tariff Act of 1930, which the Commission now expects to be January 1, 1980. These rules also prescribe the priorities the Commission will use in scheduling investigation and consideration of certain classes of cases arising under this subpart.

Section 207.30 *Pending investigations and preexisting countervailing duty orders.*

This Rule implements sections 102 and 103 of the Trade Agreements Act by setting forth the principles for instituting, and the procedures applicable to, investigations under Title VII of the Tariff Act as amended by the Trade Agreements Act which were the subject of pending investigations under law existing before the effective date. Under section 103 of the Trade Agreements Act, investigation pursuant to section 303 of the Tariff Act of 1930 are subject to the procedural rules of Title VII of the new law except to the extent that those rules would not be applicable to such proceedings. These rules may not be applicable because the product concerned is not a product of a country under the agreement, is not a duty free article, or is a duty-free article from a country as to which the international obligations of the United States do not require an injury determination. As to section 303 cases that are subject to Title VII, and cases which concern products that were the subject of pending investigations under the Antidumping Act, 1921, section 102 generally provides that the investigation of the same matter would continue after the effective date of the new law so as to begin the proceeding under the new law as if the determination under the new law that is most closely analogous to the latest determination actually made under the old law had been made on the effective date. Finally, Rule 207.30 implements section 104 of the Trade Agreements Act, concerning countervailing duty orders in effect pursuant to the provisions of existing law which require some further action by the Commission. As to these various classes of cases, the following rules apply:

Under subsection (a)(1), if the Secretary has not made a preliminary determination, including either a preliminary determination under section 303(a)(4) of the Tariff Act of 1930 or section 201(b)(1) of the Antidumping Act, 1921, then the Commission will institute an investigation to determine whether there is a reasonable indication of injury in accordance with Title VII of the Tariff Act of 1930 as enacted by the new law. Since the new law clearly intends that the Commission have the full 45 days that would normally be allocated to it for such a preliminary determination, this Rule interprets section 102(a)(1) and section 102(b)(1) as providing the Commission with the full 45 days normally available for a reasonable indication determination under the new law, even though with respect to petition-initiated investigations, section 102 provides that these investigations are to begin "as if" an affirmative decision on institution had been made on the effective date. This interpretation is based upon the fact that under the new law, no time periods are calculated from the institution decision under Title VII, and therefore the statute can only be read to allow a full 45-day period.

Under subsection (a)(2), if the administering authority has made a preliminary but not a final determination as of the effective date, then the Commission proceeds with respect to the same subject matter under rules applicable to Commission investigations following a preliminary determination of the administering authority under the new law. These rules, which are contained in Subpart C of these rules, provide that if the administering authority's preliminary determination is affirmative, then the Commission institutes an investigation leading to a final determination subject to certain counting rules provided for in the law; and if the administering authority's preliminary determination is negative, then the Commission does not institute a formal investigation unless and until the administering authority makes a final affirmative determination. Consistent with Rule 207.18 concerning negative preliminary determinations by the administering authority, Rule 207.30(a)(2) provides that the Director will continue his investigative activities as appropriate pending the administering authority's final determination.

Under subsection (b) of this Rule, if the Commission is conducting an injury investigation under existing law as of the effective date of the new law, then on the effective date, it shall institute a 75-day injury investigation subject to certain rules for the treatment of preexisting determinations of the

Secretary of Treasury provided for in section 102 of the Act.

Subsection (c) of this Rule implements section 104(a)(2) of the Trade Agreements Act, which requires the Commission to make 180-day injury investigations with respect to certain countervailing duty orders of which the administering authority is required to notify the Commission by January 7, 1980. When this notice, together with the most current information the administering authority has with respect to the net subsidy benefiting the merchandise subject to the countervailing duty order is received by the Commission, this Rule would provide that these investigations begin. The investigations which are subject to this provision of the Trade Agreements Act concern countervailing duty orders issued under section 303(d) of the Tariff Act of 1930 by the Secretary of the Treasury with respect to products of a country under the Agreement that were either waived or that, waived or not, were issued after July 26, 1979 and before the effective date, or fell in certain other categories set forth in the regulation.

Under subsection (d) of this Rule, other countervailing duty orders are made subject to the petition process provided for in section 104(b) of the Trade Agreements Act. These requests may be made in a simple manner, but provision is also made for the Director to require requesters to make their request by filing a form he prescribes that would require information he considers necessary to conduct the investigation.

Section 207.31 *Scheduling the institution of investigation of certain unwaived investigations.*

This Rule sets forth the principles upon which the Commission may delay institution of investigations arising under section 104(b) of the Trade Agreements Act, relating to unwaived, preexisting countervailing duty orders issued before the date of enactment of Trade Agreements Act, which are provided for in Rule 207.30(d). The Commission at present expects, based upon the official record of outstanding countervailing duty orders set forth at 19 CFR 159.47(f) and upon other information available to it at the time of this notice, to have before it at least 20 investigations upon which action is required earlier than action would be required in cases arising under section 104(b). The Commission has therefore tentatively determined to assign to these other cases a higher priority than it would assign to cases arising under section 104(b). This higher priority will result in a conservation of administrative resources and, ultimately, public funds. The delay in investigation of cases arising under section 104(b) is justified by the Congressional determination to permit these cases to be decided in a much longer period of time than any other class of case arising under the new law. The classes of cases which, because of the shorter time limits that are applicable to them, have higher priority than cases arising under section 104(b) are (1) new petitions filed under Title VII of the Tariff Act of 1930 (requiring preliminary Commission determinations in 45 days); (2) pending investigations requiring Commission preliminary or final determinations (45-day to 120-day determinations); and (3) cases requiring—rather than requiring only on request—Commission investigations of certain countervailing duty orders under section 104(a) of the Trade Agreements Act (180 days).

The priorities the Commission has established would allow commencement of section 104(b) investigations at any time after they are filed, so long as within 10 days after the filing of a request for such an investigation, the Commission Secretary would inform the administering authority of the filing of the request. This notice has the effect of requiring the administering authority to suspend liquidation of entries as to the affected merchandise. This effect does not, however, depend on commencement of an active Commission investigation. Subsequently, the rule would permit the Commission to commence a section 104(b) investigation at any time so long as it completes the investigation within 3 years after the request is filed in accordance with the law. If a number of such petitions is filed, as is presently expected, then priorities among various investigations may be set pursuant to the Rule. One of the bases of these priorities would be consolidating cases relating to like products, which would be done pursuant to the Commission's authority under section 603 of the Trade Act of 1974 to consolidate its investigations.

Section 207.32 *Procedures for pending investigations.*

The purpose of this subsection is to make clear that the procedural rules applicable to investigations conducted under Subparts B and C would apply to investigations arising under Subpart D. Thus, the time limitations applicable under those subparts to the filing of staff reports, and the definitions and rules concerning hearings, the record, ex parte contacts, and so on, would all apply with full force with respect to Commission investigations in pending investigations and investigations of outstanding countervailing duty orders.

Subpart E—Investigations to Review Negotiated Agreements, and Investigations to Review Outstanding Determinations

This Subpart describes procedures that implement portions of Title VII of the Tariff Act of 1930 as amended by the Trade Agreements Act which provide for special determinations in antidumping and countervailing duty investigations by the Commission. These determinations are principally found in sections 704, 734 and 751 of Title VII. Subpart E concerns the termination of Commission investigations, completion and reinstitution of suspended investigations, and investigations to review both the suspension agreements of the administering authority and the determinations of the Commission when circumstances appear to have changed from those prevailing at the time of the determination.

Section 207.40 *Termination and suspension of investigation.*

Rule 207.40 concerns the termination and suspension of Commission investigations. Subsection (a) implements section 704(a) and 734(a) of the Act which permit the Commission to terminate an investigation after the administering authority has made a preliminary determination only upon the withdrawal of the petition by the petitioner and after notice to all parties to the investigation. The Act does not require the Commission to terminate an investigation where it has a reason for not terminating notwithstanding the withdrawal of the petition.

Subsection (b) provides that, upon receipt of a notice that the administering authority has suspended an investigation under section 704(b) or 734(b) of the Act, the Secretary shall issue a notice suspending the Commission's investigation. This provision is set forth in sections 704(f)(1)(B) and 734(f)(1)(B) of the Act. The notice shall not prevent the Director from conducting such investigative activities as he deems necessary, since investigative activity is authorized by section 603 of the Trade Act of 1974.

Subsection (c) provides for the resumption of suspended investigations upon notification from the administering authority that the agreements between the negotiating authority and foreign governments or foreign exporters which led to the suspension of an investigation no longer meet the requirements of the

Act. Procedures and the time limits for the Commission's investigation and final determination are established.

Section 207.41 *Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.*

This Rule concerns the Commission's review of agreements negotiated by the administering authority to eliminate the injurious effect of subsidized imports or imports sold at less than fair value. The rule implements the provisions of sections 704(h) and 734(h) of the Act, which provide standing requirements for petitions for such review and a 75-day time limit for the Commission's final determination.

Section 207.42 *Investigation continued upon request.*

This Rule concerns the provision in sections 704(g) and 734(g) of the Act for the Commission, upon the request, to continue an investigation after the publication of the notice of suspension of the investigation by the administering authority.

Section 207.43 *Commission determination in investigations to review agreements and in continued investigations.*

This Rule provides that, in investigations to review agreements and in continued investigations, described in Rule 207.41 and Rule 207.42, the Commission shall consider all of the merchandise subject to the investigation, not merely the merchandise covered by the agreements negotiated by the administering authority.

Section 207.44 *Consolidation of investigations.*

This Rule provides that the Commission shall consolidate investigations under section 704(g) of the Act with investigations under section 704(h) of the Act whenever such consolidation is appropriate. This Rule is authorized by section 335 of the Act and by section 603 of the Trade Act of 1974.

Section 207.45 *Investigation to review outstanding determinations.*

This Rule implements section 751 of the Act which provides for the Commission to review a determination concerning an agreement to suspend an investigation or a determination concerning injury to a domestic industry upon the receipt of information showing changed circumstances. In the absence of good cause, an investigation to review a determination or suspension agreement will not be instituted until at least 24 months after the date of publication of the notice of the determination or suspension. Subsection (b) provides that the procedures set forth in Subpart C of these Rules shall apply to review investigations and that such investigations shall be completed within 120 days. This provision implements section 751 of the Act.

Section 207.46 *Modification, clarification, or correction of a determination.*

Rule 207.46 provides that the Commission will issue any modification, clarification, or correction of a determination as may be necessary. This authority has been previously exercised (*see* Clarification of Determination in Investigation of Steel Wire Rope from Japan, 38 FR 27,560 (October 4, 1973)).

Subpart F—Judicial Review

Subpart F deals with judicial review of Commission determinations under section 303 and Title VII of the Act.

Section 207.50 *Judicial review.*

This Rule establishes procedures to facilitate judicial review of Commission determination in the U.S. Customs Court under section 516A of the Act. The Rule provides that a copy of the record (as defined in Rule 207.4) in the Commission proceeding will be transmitted to the Court by the Commission's Secretary at such time and in such form as the Court may by rule or order require. The Commission's General Counsel is appointed the Commission's agent for service of process in cases arising under section 516A.

Section 207.51 *Judicial review of denial of applications for disclosure of certain confidential information under protective order.*

This Rule establishes procedures to facilitate judicial review in the U.S. Customs Court under section 777(c) of the Act of Commission determinations not to disclose under protective order confidential information concerning domestic price or cost of production.

Subsection (a) of the Rule deals with transmittal of the record and reflects section 2633(c) of Senate bill S. 1654, the proposed Customs Courts Act of 1979. Subsection (a) provides that, when a court order is sought under section 777(c), the Secretary shall within 10 days transmit to the Court under seal the confidential information involved along with "pertinent parts of the record." Pertinent parts of the record is defined in subsection (c) to consist of (1) the application for Commission disclosure, together with any documents filed in support thereof or in opposition thereto, (2) any governmental memoranda relating to the Commission's denial, and (3) the Commission's denial of the application. Subsection (d) provides that the Commission's General Counsel is appointed the Commission's agent for service of process in cases arising under section 777(c).

Conforming Amendments

The Trade Agreements Act of 1979 requires several changes in existing Commission rules for conducting subsidy and antidumping investigations. These necessary conforming amendments are primarily technical in nature, and are confined to Part 201 of Title 19 of the Code of Federal Regulations (19 CFR 201.00 et seq.). The amendments are as follows.

Section 201.1 *Applicability of part.*

There presently exists a grammatical error in the second sentence of this section. By substituting "through" for "and" in the phrase "Parts 202 and 207, inclusive," it is intended to make clear that rules of special application may appear in all of Parts 202, 204, 205, and 207 which in case of conflict will take precedence over the rules of general application set forth in Part 201.

Section 201.2 *Definitions.*

The conforming amendments propose three additional definitions for terms used extensively in Part 207, but which are found in other parts as well. The new definitions—"Trade Agreements Act," "Rule," and "Secretary"—are self-explanatory.

Section 201.7 *Investigative authority and initiation of investigations.*

Present Rule 201.7 provides the means by which investigations may be initiated by the Commission. The methods outlined in the rule remain applicable under the new law, and are retained in a new subsection (b). Subsection (a) is added to make clear the Commission's prerogative to take those steps necessary for the expeditious and economical conduct of its proceedings. For example, separate investigations conducted under Part 207 relating to like products may be combined if the circumstances warrant. Similarly, adjudicative investigations conducted under Part 210 involving complaints and countercomplaints of unfair trade practices may be consolidated into a single proceeding.

Sections 201.9 *Methods employed in obtaining information;* 201.11 *Public hearings;* and 201.12 *Conduct of nonadjudicative hearings.*

In several sentences in these rules the word "evidence" is used in describing the information gathered in the course of Commission nonadjudicative proceedings. To make clear that the information upon which the Commission rests its determination in these proceedings is not evidence in the sense that it has been tested in an adjudicative forum, the word "information" is substituted for "evidence" where it now appears—in Rule 201.9, lines 11 and 12; Rule 201.11(c), line 5; Rule 201.12(e), line 2; and Rule 201.12(g), line 1. The lines are counted from the line in which the first word of text appears in the official version of the rules, found in volume 19 of the Code of Federal Regulations.

Section 201.12 *Conduct of nonadjudicative hearings.*

Besides the changes of the word "evidence" to "information" described above, the following amendments are proposed for section 201.12:

(d) *Submission of prepared statements.*

Section 201.12(d) is amended to require that witnesses' prepared statements shall be submitted not less than three business days prior to a hearing. Distribution of such statements for the first time at the hearing will no longer be allowed. The strict time requirement is necessary in view of the expedited conduct of investigations set forth in new Part 207.

(f) *Hearing transcripts.*

"(f)" is a typographical error denoting this subsection. The amendment will correctly number the subsection as 201.12(h).

(i) *Requests.*

New subsection (i) will allow parties to request the Commission (or its delegate) to take specific action thought to be necessary by the requester to facilitate the proceeding in which he is involved. It is contemplated that such requests will involve the timing or conduct of specific proceedings and similar matters. By requiring service of such requests on all parties, the rule provides an opportunity for comment or objection; however, it is not intended that a motions practice will evolve in Commission nonadjudicative investigations. The Commission will make an appropriate response to a request, but that may include taking no action.

Section 201.13(a). *Who may enter an appearance.*

Subsection 201.13(a) is amended to delete the requirement that an appearance be entered "for the purpose of appearing at a public hearing." Because parties may enter an appearance without participating in any hearing, the requirement is unnecessarily restrictive.

Proposed Rules

Part 207 of the Commission's Rules of Practice and Procedure (19 CFR 207) is hereby repealed. A new Part 207 is established as follows:

PART 207—INVESTIGATIONS OF WHETHER INJURY TO DOMESTIC INDUSTRIES RESULTS FROM IMPORTS SOLD AT LESS THAN FAIR VALUE OF FROM SUBSIDIZED EXPORTS TO THE UNITED STATES

Sec.

207.1 Applicability of part.

Subpart A—General Provisions

207.2 Definitions applicable in Part 207.
207.3 Service of documents.
207.4 The record.
207.5 Ex parte meetings.
207.6 Reports of progress of investigation.
207.7 Limited disclosure of certain confidential information under a protective order.
207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.
207.9 Affirmative determinations by divided Commission.

Subpart B—Investigations of Reasonable Indication of Material Injury, Threat of Material Injury, or Material Retardation

207.10 Filing of petition with Commission.
207.11 Contents of petition.
207.12 Cooperation with administering authority; normal inquiry.
207.13 Negative petition determination.
207.14 Notice of investigation of reasonable indication of injury.
207.15 Written statements, conference, and further investigation.
207.16 Recommendation of Director.
207.17 Determination by Commission of reasonable indication of injury.
207.18 Notice of preliminary determination.

Subpart C—Final Determinations

207.20 Notice of investigation.
207.21 Staff report.
207.22 Prehearing statement.
207.23 Hearing.
207.24 Posthearing statement.
207.25 Final determination by Commission.
207.26 Factors considered in determination of material injury.
207.27 Standard for determination.
207.28 Publication of notice of determination.

Subpart D—Transition

207.30 Pending investigations and existing countervailing duty orders.
207.31 Scheduling the institution of investigation of certain unwaived investigations.
207.32 Procedures for pending investigations.

Subpart E—Terminated, Suspended and Continued Investigations, Investigations to Review Negotiated Agreements and Investigations to Review Outstanding Determinations

207.40 Termination and suspension of investigation.
207.41 Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.
207.42 Investigation continued upon request.
207.43 Commission determination in investigations to review agreements and in continued investigations.
207.44 Consolidation of investigations.
207.45 Investigation to review outstanding determinations.
207.46 Modification, clarification or correction of a determination.

Subpart F—Judicial Review

207.50 Judicial review.
207.51 Judicial review of denial of application for disclosure of certain confidential information under protective order.

Authority: Sections 303, 332, 335, and 701–778 of the Tariff Act of 1930 (19 U.S.C. 1303, 1332, 1335, 1671 et seq.); sec. 603 of the Trade Act of 1974 (19 U.S.C. 2582); sections 102 through 107 and 1001 and 1002 of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note and 19 U.S.C. 1516A).

§ 207.1 Applicability of part.

Part 207 applies to proceedings of the Commission under section 303, Section 516A and Title VII of the Tariff Act of 1930 (19 U.S.C. 1303, 1516A and 2501 et seq.) and sections 102 through 107 of the Trade Agreements Act of 1979 (Pub. L. 96–39, 93 Stat. 144). Subpart A sets forth rules of general applicability. Subpart B sets forth rules dealing with preliminary investigations under section 303 and Title VII of the Act. Subpart C sets forth rules dealing with investigations requiring final determinations under section 303 and Title VII of the Act. Subpart D is concerned with transitional cases, i.e., pending cases and countervailing duty orders under existing law. Subpart E addresses termination of an investigation, suspension and continuation of an investigation, and investigations to review negotiated agreements and determination in effect. Subpart F deals with judicial review of determinations made by the Commission under section 303 and Title VII of the Tariff Act of 1930.

V 44 0 15 7 9 UMI

V 4 4 0 C 1 5 7 9 UMI

Subpart A—General Provisions

§ 207.2 Definitions applicable in Part 207.

For the purposes of this Part, the following terms have the meanings hereby assigned to them:

(a) The term *the Act* means:

The Tariff Act of 1930 (19 U.S.C. 1202 et seq.).

(b) The term *administering authority* means:

The Secretary of the Treasury, or any other officer of the United States to whom the responsibility for carrying out the duties of the administering authority under section 303 or Title VII of the Act is transferred by law.[1]

(c) The term *country under the Agreement*[2] means:

A country—

(1) Between the United States and which the Agreement of Subsidies and Countervailing Measures applies, as determined under section 2(b) of the Trade Agreements Act of 1979,

(2) Which has assumed obligations with respect to the United States which are substantially equivalent to obligations under the Agreement, as determined by the President, or

(3) With respect to which the President determines that—

(i) There is an agreement in effect between the United States and that country which—

(A) Was in force on June 19, 1979, and

(B) Requires unconditional most-favored-nation treatment with respect to articles imported into the United States,

(ii) The General Agreement on Tariffs and Trade does not apply between the United States and that country, and

(iii) The agreement described in paragraph (c)(3)(i) of this section does not expressly permit—

(A) Actions required or permitted by the General Agreement on Tariffs and Trade, or required by the Congress, or

(B) Nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

(d) The term *Director* means: The incumbent Commission Director or Acting Director, Office of Operations, or, in the absence of either, a person designated by the Chairman.

(e) The term *effective date* means: January 1, 1980, or such other date as is required by section 107 of the Trade Agreements Act as the effective date of Title I of that act.

(f) The term *ex parte meeting*[3] means: Any communication between

(1) Any party providing factual information in connection with an investigation, and

(2) Any Commissioner or Commissioners, or members of Commissioner's staffs, or the Director of Operations,

in which less than all parties participate, and which is not a hearing for which an opportunity to participate is given to the parties.

(g) The term *injury*[1] means: Material injury or threat of material injury to an industry in the United States, or material retardation of the establishment of an industry in the United States, by reason of a class or kind of merchandise imported into the United States found to be subsidized or sold, or likely to be sold, at less than the fair value by the administering authority.

(h) The term *interested party*[2] means:

(1) A foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under Title VII of the Act, or a trade or business association a majority of the members of which are importers of such merchandise;

(2) The government of a country in which such merchandise is produced or manufactured;

(3) A manufacturer, producer, or wholesaler in the United States of a like product;

(4) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or wholesale in the United States of a like product; and

(5) A trade or business association a majority of whose members manufacture, produce, or wholesale a like product in the United States.

(i) The term *party* means: Any interested party who has entered an appearance with the Commission under Rule 201.13 or any other person who, after showing to the satisfaction of the Commission a proper interest in the subject matter of an investigation, has filed such an appearance.

(j) The term *record* means: (1) all information presented to or obtained by the Commission during the course of a proceeding, including completed questionnaires, information obtained from the administering authority pursuant to sections 702(d)(2), 732(d)(2), 703(d)(3), 733(d)(3), 705(c), and 735(c) of the Act, written communications from any party, recommended findings of fact by the Director of Operations, all governmental memoranda pertaining to the case, and the record of ex parte meetings required to be kept pursuant to section 777(a)(3) of the Act; and

(2) a copy of all Commission orders and determinations, all transcripts or records of conferences or hearings, and all notices published in the **Federal Register.**

§ 207.3 Service of documents.

Any party submitting a document for inclusion in the record of the investigation shall, in addition to complying with Rule 201.8, serve a copy of each such document on all other parties to the investigation in the manner prescribed in Rule 201.16. The Commission shall serve on all parties to the investigation a copy of each document, except transcripts of conferences and hearings, placed in the record of the investigation by the Commission.

§ 207.4 The record.

(a) *Maintenance of the record.* The Secretary shall maintain the record of each proceeding conducted by the Commission pursuant to section 303 or Title VII of the Act. The record shall be maintained contemporaneously with each actual filing in the record. It shall be divided into public and nonpublic sections. The Secretary shall also maintain a contemporaneous index of all documents, including exhibits thereto, and all other materials incorporated in the record. All material filed with the Secretary shall be placed in the public record with the exception of material which is privileged, or which is business confidential information submitted in accordance with Rule 201.6. Privileged and business confidential material shall be maintained in the nonpublic record.

(b) *Audits by the Director.* The Director may in his discretion audit completed questionnaires or otherwise verify information received in the course of a proceeding. To the extent an audit or verification results in new or different information, the Director shall place such information on the record.

(c) *Materials provided by the administering authority.* Materials received by the Commission from the administering authority shall be placed on the Commission's record and shall be designated by the Commission as public or nonpublic in conformity with the applicable designation of the administering authority. Any requests to the Commission either to permit access to such materials or to release such materials shall be referred to the administering authority for its advice.

[1] *See* sections 303 and 771(1) of the Act.
[2] *See* section 701(b) of the Act.
[3] Derived from sec. 777(a)(3) of the Act.

[1] Derived from secs. 701(a) and 731 of the Act.
[2] Derived from sec. 771(9) of the Act.

§ 207.5 Ex parte meetings.

There shall be included in the record of each proceeding a record of ex parte meetings. The record of each ex parte meeting shall include the identity of the persons present at the meeting, the date, time, and place of the meeting, and a summary of the matters discussed or submitted.

§ 207.6 Reports of progress of investigation.

The Secretary shall upon the request of a party inform the parties to an investigation of the progress of that investigation. No such progress report, however, shall be issued by the Secretary less than thirty (30) days after the date of publication of commencement of an investigation by notice in the **Federal Register**, nor will the Secretary be required to issue a report on the progress of any investigation less than thirty (30) days after the date of issuance of the previous such report with respect to the same investigation. A report shall be limited to a statement of what official actions the Commission has taken since the previous such report, if any.

§ 207.7 Limited disclosure of certain confidential information under a protective order.

(a) *In general.* Upon request of an attorney or other representative of a party to the investigation which describes with particularity the information requested and sets forth the reasons for the request, the Secretary will make available confidential information concerning the domestic price and cost of production of the like product submitted by the petitioner or an interested party in support of the petition to the representative under a protective order described in paragraph (b). The Secretary may adopt, from time to time, forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this Rule. The Secretary's determination shall be final for purposes of review by the Customs Court under section 777(c)(2) of the Act.

(b) *Protective order.* The protective order under which information is made available to the representative of a party shall require that representative to submit to the Secretary in a form prescribed by the Secretary a personal sworn statement that he will:

(1) Not divulge any of the information so obtained and not otherwise available to him, to any person other than

(i) Personnel of the Commission concerned with the proceeding;

(ii) The person or agency from whom the information was obtained;

(iii) An attorney or other representative employed on behalf of the party requesting the disclosure, and who has furnished a similar statement; or

(iv) Those persons independently contracted by, or employed or supervised by, the attorney or other representative having a need thereof in connection with the proceeding and who have furnished a similar statement.

(2) Use such information solely for the purposes of the Commission proceeding then in progress or for judicial or Commission review thereof;

(3) Not consult with any person not described in paragraphs (b)(1) (iii) or (iv) concerning such confidential information without first notifying and conferring with the Secretary and the attorney or other representative of the party from whom such confidential information was obtained;

(4) Not copy or otherwise reproduce any confidential material obtained under protective order except in accordance with procedures to be established by the Secretary; and

(5) Report promptly to the Secretary any breach of the protective order.

(c) *Final disposition of material released under protective order.* Upon completion of a proceeding, or at such earlier date as the Secretary may determine appropriate for particular data, the security of confidential information shall be protected by the return of all copies of materials released to representatives of parties pursuant to this section accompanied by a certificate from the attorney or representative to whom the material was disclosed attesting to his personal, good faith belief that no other copies of such material have been made available to the party he represents or any other person to whom disclosure was not specifically authorized.

(d) *Sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) shall include an acknowledgment by the person providing it that breach thereof may, for up to seven years following publication of a determination that the order has been breached, subject to being barred from practice in any capacity before the Commission:

(1) The person submitting the statement, and

(2) Such person's partners, associates, employer, and employees.

Any breach of a protective order may be referred to the United States Attorney. In the case of an attorney, accountant, or other professional, such breach also shall be referred to the ethics panel of the appropriate professional association, and the offender and the party he represents shall be subject to such other administrative sanctions as the Commission determines to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender.

(e) *Sanction procedures.* The Commission shall determine whether any person has violated a protective order, and may impose sanctions in accordance with paragraph (d). Any person against whom a sanction is proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 207.8 Questionnaires to have the force of subpoenas; subpoena enforcement.

Any questionnaire issued by the Commission in connection with any proceeding under section 303 or Title VII of the Act, may be issued as a subpoena and subscribed by a Commissioner, after which it shall have the force and effect of a subpoena authorized by the Commission. Whenever any party or any other person fails to respond adequately to such a subpoena or whenever a party or any other person refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation the Commission may (1) use the best information otherwise available in making its determination; (2) seek judicial enforcement of the subpoena pursuant to 19 U.S.C. 1333; (3) take such other actions as are necessary and appropriate, including waiver of any time limitation set forth in this part, as necessary to obtain needed information; or (4) any combination of the above.

§ 207.9 Affirmative determinations by divided Commission.

If the Commissioners voting on a determination by the Commission under section 303 or Title VII of the Act are evenly divided as to whether the determination should be affirmative or negative, the Commission shall be deemed to have made an affirmative determination. For the purpose of applying this paragraph, when the issue before the Commission is to determine whether there is, whether there would be, or whether there is a reasonable indication of:

(a) Material injury to an industry in the United States,

(b) Threat of material injury to such an industry, or

(c) Material retardation of the establishment of an industry in the United States, by reason of imports of the merchandise, an affirmative vote by any Commissioner on any of the issues

shall be treated as a vote that the determination should be affirmative.

Subpart B—Investigations of Reasonable Indication of Material Injury, Threat of Material Injury, or Material Retardation.

§ 207.10 Filing of petition with Commission.

Any interested party who files a petition with the administering authority pursuant to section 702(b) or 732(b) of the Act shall file a copy of the petition with the Commission on the same day as the petition is filed with the administering authority.

§ 207.11 Contents of petition.

The petition shall allege the elements necessary for the imposition of a duty under section 701(a) or 731 of the Act and contain information reasonably available to the petitioner supporting the allegations. *See* Rule 207.26 for a list of factors relating to injury considered by the Commission. If the petition alleges critical circumstances, it shall also contain information reasonably available to the petitioner in support of the findings required to be made by the Commission pursuant to sections 705(b)(4)(A) and 735(b)(4)(A) of the Act.

§ 207.12 Cooperation with administering authority; informal inquiry.

Subsequent to receiving a copy of a petition pursuant to Rule 207.10, the Director shall conduct such informal inquiry as he deems appropriate. Information adduced by the inquiry shall be placed on the record. The Director shall cooperate with the administering authority in its determination of the sufficiency of a petition and in its decision whether to permit any proposed amendment to a petition.

§ 207.13 Negative petition determination.

Upon receipt by the Commission of notice from the administering authority under section 702(d) or 732(d) of the Act that the administering authority has made a negative petition determination under section 702(c)(3) or 732(c)(3) of the Act, the Director shall cease any informal inquiry he may have begun pursuant to Rule 207.12 and shall so notify all persons who have received requests for information from him.

§ 207.14 Notice of investigation of reasonable indication of injury

Upon receipt by the Commission of notice from the administering authority under section 702(d) or 732(d) of the Act that the administering authority has commenced an investigation under section 702(a) or 702(c)(2), or 732(c)(2) of the Act, the Director shall institute an investigation whether there is reasonable indication of injury under section 703(a) or 733(a) of the Act and shall publish a notice to that effect in the Federal Register.

§ 207.15 Written statements, conference, and further investigation.

Within four (4) days after the date of publication in the **Federal Register** of the Commission's notice instituting an investigation as provided in Rule 207.14, any person may submit to the Commission a written statement of information pertinent to the subject matter of the investigation. If he deems it appropriate, the Director shall hold a conference and conduct such other investigative activities as he deems necessary to obtain the best available information within the time limitations set forth in the regulations. The conference, if any, shall be held after notice thereof is served on the parties and published in the **Federal Register** and shall be transcribed. All other information adduced through such investigative activities will be placed on the record.

§ 207.16 Recommendation of Director.

The Director shall submit to the Commission his recommendation based on the record concerning the existence of a reasonable indication of injury under section 703(a) or 733(a) of the Act within ten (10) days of the date of the publication in the **Federal Register** of an investigation, but not more than thirty-five (35) days after the date the petition was filed under Rule 207.10.

§ 207.17 Determination by Commission of reasonable indication of injury.

Except in the case of a petition dimissed by the administering authority under section 702(c)(3) or 732(c)(3) of the Act, the Commission within 45 days after the date on which a petition is filed under section 702(b) or 732(b) of the Act or on which it receives notice containing the available information on which institution was based from the administering authority of an investigation commenced under section 702(a) or 732(a) of the Act, as the case may be, shall make a determination based upon the best information available to it at the time of the determination of whether there is reasonable indication of injury by reason of imports of the merchandise which is the subject of the investigation by the administering authority.

§ 207.18 Notice of preliminary determination.

The Commission shall notify the petitioner, other parties to the investigation, and the administering authority of its preliminary determination under section 703(a) or 733(a) of the Act and of the facts and conclusions of law upon which the determination is based, and it shall publish a notice of its determination in the **Federal Register**. If the Commission's preliminary determination is negative, the investigation shall be terminated. If the Commission's preliminary determination is affirmative, the Director may continue investigative activities pending notice by the administering authority of its preliminary determination under section 703(b) or 733(b) of the Act. If the administering authority's preliminary determination is affirmative, the Commission shall institute an investigation in accordance with Subpart C. If the administering authority's preliminary determination is negative, the Director shall continue such investigative activities as he deems appropriate pending a final determination by the administering authority under section 705(a) or 735(a) of the Act.

Subpart C—Final Determinations

§ 207.20 Notice of investigation.

Upon receipt of notice from the administering authority of an affirmative preliminary determination under section 703(b) or 733(b) of the Act or, if the administering authority's preliminary determination is negative, of an affirmative final determination under section 705(a) or 735(a) of the Act, the Commission shall publish in the **Federal Register** a notice of its investigation to reach a final determination under section 705(b) or 735(b) of the Act.

§ 207.21 Staff report.

(a) The Director will prepare and place in the record a staff report containing his recommended findings of fact concerning all the issues in the final investigation. Portions of the staff report containing confidential or privileged information will be placed in the nonpublic record, and the remainder of the staff report, including a nonconfidential summary of the confidential or privileged portions, will be placed in the public record.

(b) (1) *75-day investigations.*—In injury investigations that are to be completed in 75 days, namely,

(i) injury investigations following a negative preliminary determination by the administering authority (Rule 207.25(c)),

(ii) investigations to review agreements to eliminate injurious effect (Rule 207.41), or

(iii) other investigations provided for in these rules incorporating by reference timing rules of this subpart (continuing investigations provided for in Rule 207.42 and investigations in transition under Subpart D),

the staff report shall be placed on the record by the Director not later than the 40th day after the date of the corresponding notice of investigation.

(2) *120-day investigations.*—In injury investigations that are to be completed within 120 days, namely, injury investigations following an affirmative preliminary determination by the administering authority under Rule 207.25(b) and other investigations provided for in these rules that incorporate by reference timing rules of this subpart (continued investigations provided for in Rule 207.42 and investigations in transition provided for in Subpart D of this Part), the staff report shall be placed on the record by the Director not later than the 75th day after the date of the corresponding notice of investigation.

(3) *180-day investigations.*—In injury investigations concerning waived and certain other countervailing duty orders under Rule 207.30(c) of these Rules, that are to be completed within 180 days, the staff report shall be placed on the record by the Director not later than the 120th day after the date of the corresponding notice of investigation.

§ 207.22 Prehearing statement.

Within fifteen (15) days after the date of service by the Commission to the parties of the public portion of the staff report, each party shall submit to the Commission a prehearing statement. A prehearing statement shall include:

(a) Exceptions, if any, to the recommended findings of fact contained in the staff report;

(b) Any additional or proposed alternative findings of fact;

(c) Proposed conclusions of law;

(d) Any other information and arguments which the party believes relevant to the subject matter of the Commission's determination under section 705(b) or 735(b) of the Act; and

(e) A proposed determination for adoption by the Commission.

§ 207.23 Hearing.

(a) *In general.* The Commission shall hold a hearing in the course of an investigation upon the request of any party to the investigation, or at its own instance, before making a final determination under section 705(b) or 735(b) of the Act.

(b) *Procedures.* Any such hearing shall be conducted after notice published in the **Federal Register**. The hearing shall not be subject to the provisions of subchapter II of the chapter 5 of title 5, United States Code, or to section 702 of that title. Any person desiring to appear at a hearing shall notify the Secretary not later than five (5) days prior to the date of the hearing. Each party shall limit its presentation at the hearing to a nonconfidential summary of the information and arguments contained in its prehearing statement and to a nonconfidential analysis of the information and arguments contained in the prehearing statements required by Rule 207.22. Each other person appearing shall limit its presentation at the hearing to a brief statement of its position with respect to the subject matter of the investigation. Hearings shall be subject to Rule 201.12, with the exception of subsection (g) thereof.

(c) *Hearing Transcripts.* (1) *In general.* A verbatim transcript shall be made of all hearings or conferences held in connection with Commission investigations conducted under this part.

(2) *Revision of transcripts.* Within ten (10) days of the completion of a hearing, any person who testified at the hearing may submit proposed revisions to the transcript of his testimony to the Secretary. No substantive revisions will be permitted. If in the judgment of the Secretary a proposed revision does not alter the substance of the testimony in question, he will incorporate the revision into a revised transcript.

§ 207.24 Posthearing statement.

The Commission may permit persons to submit within a specified time posthearing statements responsive to questions or requests of Commissioners made at the hearing. Posthearing statements not submitted in accordance with Commission direction will not be accepted for filing.

§ 207.25 Final determination by the Commission.

(a) *In General.* At the times specified below, the Commission shall make a final determination of whether—

(1) An industry in the United States—

(i) Is materially injured, or

(ii) Is threatened with material injury, or

(2) The establishment of an industry in the United States is materially retarded,

by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under section 705(a)(1) or 735(a)(1) of the Act.

(b) *Period for injury determination following affirmative preliminary determination by administering authority.* If the preliminary determination by the administering authority under section 703(b) or 733(b) of the Act is affirmative, then the Commission shall make the determination required by paragraph (a) of this Rule before the later of—

(1) The 120th day after the day on which the administering authority makes its affirmative preliminary determination under section 703(b) or 733(b) of the Act, or

(2) The 45th day after the day on which the administering authority makes its affirmative final determination under section 705(a)(1) or 735(a)(1) of the Act.

(c) *Period for injury determination following negative preliminary determination by administering authority.* If the preliminary determination by the administering authority under section 703(b) or 733(b) of the Act is negative, and its final determination under section 705(a)(1) or 735(a)(1) of the Act is affirmative, then the final determination by the Commission under this section shall be made within 75 days after the date of the administering authority's affirmative final determination.

(d) *Certain additional findings.* (1) If the finding of the administering authority as to critical circumstances under section 705(a)(2) of the Act is affirmative, then the final determination of the Commission shall include findings as to whether—

(i) There is material injury which will be difficult to repair, and

(ii) The material injury was by reason of such massive imports of the subsidized merchandise over a relatively short period.

(2) If the finding of the administering authority under section 735(a)(3) of the Act concerning critical circumstances is affirmative, then the final determination of the Commission shall include a finding as to whether the material injury is by reason of massive imports described in section 735(a)(3) of the Act to an extent that, in order to prevent such material injury from recurring, it is necessary to impose the duty imposed by section 731 of the Act retroactively on those imports.

(3) If the final determination of the Commission is that there is no material injury but that there is threat of material injury, then its determination shall also include a finding as to whether material injury by reason of imports of the merchandise with respect to which the administering authority has made an affirmative determination under sections 705(a) or 735(a) of the Act would have been found but for any

V 44 OC 15 79 UMI

suspension of liquidation of entries of the merchandise.

§ 207.26 Factors considered in determination of material injury.

(a) In making its determinations under sections 703(a), 705(b), 733(a), and 735(b) of the Act, the Commission shall consider, among other factors—

(1) The volume of imports of the merchandise which is the subject of the investigation,

(2) The effect of imports of that merchandise on prices in the United States for like products, and

(3) The impact of imports of such merchandise on domestic producers of like products.

(b) For purposes of paragraph (a) of this section—

(1) In evaluating the volume of imports of merchandise, the Commission shall consider whether the volume of imports of the merchandise, or any increase in that volume, either in absolute terms or relative to production or consumption in the United States, is significant.

(2) In evaluating the effect of imports of such merchandise on prices, the Commission shall consider whether—

(i) There has been significant price undercutting by the imported merchandise as compared with the price of like products of the United States, and

(ii) The effect of imports of such merchandise otherwise depresses prices to a significant degree or prevents price increases, which otherwise would have occurred, to a significant degree.

(3) In examining the impact on the affected industry, the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry, including, but not limited to—

(i) Actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

(ii) Factors affecting domestic prices, and

(iii) Actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment.

(c) Special rules for agricultural products.

(1) The Commission shall not determine that there is no material injury or threat of material injury to United States producers of an agricultural commodity merely because the prevailing market price is at or above the minimum support price.

(2) In the case of agricultural products, the Commission shall consider any increased burden on government income or price support programs.

(d) For purposes of this Rule—In determining whether there is a threat of material injury, the Commission shall consider such information as may be presented to it by the administering authority as to the nature of the subsidy (particularly as to whether the subsidy is an export subsidy inconsistent with the Agreement) provided by a foreign country and the effects likely to be caused by the subsidy.

§ 207.27 Standard for determination.

The presence or absence of any factor which the Commission is required to consider under Rule 207.26 shall not necessarily give decisive guidance with respect to the determination by the Commission of material injury. The term "material injury" means harm which is not inconsequential, immaterial, or unimportant.

§ 207.28 Publication of notice of determination.

Whenever the Commission makes a final determination under Section 303 or Title VII of the Act, it shall notify the petitioner, other parties to the investigation, and the administering authority of its determination and of the facts and conclusions of law upon which the determination is based, and it shall publish notice of its determination in the Federal Register.

Subpart D—Transition

§ 207.30 Pending investigations and existing countervailing duty orders.

(a) *Investigations in progress at the administering authority as of the effective date.* If, as of the effective date, there is an investigation in progress (i) under section 303 of the Act as to whether a bounty or grant is being paid or bestowed on either duty-free imports subject to a Commission injury investigation or imports from a country under the agreement; or, (ii) under the Antidumping Act, 1921, as to whether imports from a country are being or are likely to be sold in the United States or elsewhere at less than fair value, then the following rules apply:

If the administering authority as of the effective date—

(1) Has not made a preliminary countervailing duty or a tentative antidumping determination, as the case may be, then the Commission shall issue a Notice of Investigation and commence an investigation with respect to the same matter in accordance with Rule 207.14 to determine whether there is a reasonable indication of injury, as provided for in sections 703(a) or 733(a) of the Act, which shall be completed within 45 days after the effective date;

(2) Has made a preliminary countervailing duty or a tentative antidumping determination, but not a final determination, then the Commission shall proceed in accordance with Subpart C of these Rules to investigate the same matter, except that in the event of a negative preliminary or negative tentative determination by the administering authority, the Director shall continue such investigative activities as he deems appropriate pending a final determination by the adminstering authority.

(b) *Investigations in progress at the Commission as of the effective date.* If, as of the effective date, the Commission is conducting an investigation under section 303 of the Act or section 201(a) of the Antidumping Act, 1921, as to whether an industry in the United States is being, or is likely to be injured, or is prevented from being established, it shall terminate any such investigation and initiate an investigation concerning the same matter under Title VII of the Act, which shall be completed within 75 days after the effective date, and it shall—

(1) Treat any final determination of the administering authority under section 303 as a final determination under section 705(a) of the Act and consider the net amount of the bounty or grant estimated or determined under section 303 as the net subsidy amount under subtitle A of Title VII of the Act; and

(2) Treat any final determination of the administering authority under the Antidumping Act, 1921, as a final determination under section 735(a) of the Act.

(c) *Commission investigations of injury in cases in which countervailing duties were waived or a countervailing duty order was published after July 26, 1979.* Upon receipt by the Commission of the administering authority's most current net subsidy information pertaining to any countervailing duty order in effect on the effective date which the administering authority waived under section 303(d) of the Act or which was published after July 26, 1979, with respect to products of a country under the agreement, or the subject of which concerns frozen, boneless beef from the European Communities under Treasury Decision 76–109, the Commission shall commence an investigation to determine whether there is injury within the meaning of section 104(a)(2) of the Trade Agreements Act of 1979, which investigation shall be completed within 180 days after such receipt. The Secretary will transmit the Commission's determination to the administering authority and publish it in the Federal Register.

(d) *Commission investigation of injury in cases in which countervailing duty orders were published before July 26, 1979, and were not waived.* Within three (3) years of the effective date, a request in writing may be filed on behalf of the government of a country under the Agreement or on behalf of exporters of such country accounting for a significant portion of the exports to the United States of the merchandise subject to a countervailing duty order in effect on the effective date or issued pursuant to a court order in an action brought under section 516(d) of the Tariff Act of 1930, and not subject to section (c) of this Rule, then the Commission shall commence an investigation to determine whether there would be injury by reason of imports of the merchandise covered by the countervailing duty order if the order were to be revoked. The request shall set forth the person, persons, or government making the request, the order as to which the request is made, the relief sought, the factual basis therefor, and otherwise be generally in compliance with Part 201 of these Rules. In addition, the Director may prescribe a form for making such requests, which shall be completed if available, and which may require information that the Director considers necessary to conduct the investigation. The Commission determination in such investigations shall be made within three (3) years of the date of the receipt of the request that caused the Commission to investigate. Within ten (10) days after the filing of a request under this subsection, the Secretary shall notify the administering authority of the order or orders that are the subjects of the request. The Secretary will also transmit to the administering authority the Commission's determination in investigations under this subsection, and publish notice thereof in the Federal Register.

§ 207.31 Scheduling the institution of investigation of certain unwaived investigations.

The Commission shall use the following standards for establishing priorities of institution among requests under Rule 207.30(d) when the work before the Commission is such as to make immediate investigation in such cases impractical:

(a) The Commission shall first initiate investigations in cases where countervailing duty orders have longest been in effect, and

(b) The Commission, when appropriate, shall consolidate investigations relating to like products.

§ 207.32 Procedures for pending investigations.

The procedures set forth in Subpart B of this Part, including applicable time limitations, shall apply to all investigations requiring a preliminary determination within 45 days. All other investigations described in this Subpart D shall comply with the procedures, including applicable time limitations, set forth in Subpart C of this Part.

Subpart E—Terminated, Suspended, and Continued Investigations, Investigations to Review Negotiated Agreements, and Investigations to Review Outstanding Determinations

§ 207.40 Termination and suspension of investigation

(a) An investigation under Title VII may be terminated by the Commission by giving notice in the Federal Register to all parties to the investigation, upon withdrawal of the petition by the petitioner. The Commission may not terminate an investigation, however, before a preliminary determination is made by the administering authority under section 703(b) or section 733(b) of the Act.

(b) Upon receipt of a notice of suspension of an investigation by the administering authority under section 704(b) or 734(b), the Secretary shall issue a notice of suspension of the Commission investigation. Such suspension shall not prevent the Director from conducting such other investigative activities as he deems appropriate with respect to the same matter.

(c) *Resumption of suspended investigation.* (1) *Purpose.* If the administering authority determines that an agreement described in subsection 704 (b) or (c) or subsections 734(b) or (c) of the Act is being, or has been violated, or no longer meets the requirements of section 704 or 734 of the Act (other than the requirement under subsection 704(c)(1) and 734(c)(1), of complete elimination of injury) and so notifies the Commission of its determination and, in the event that the investigation suspended by the agreement was not terminated, the Commission shall resume the investigation as if this determination of the administering authority were an affirmative preliminary determination under subsection 703(b) or 733(b) of the Act.

(2) *Period for injury determination.* The Commission shall make its final determination in conformity with the schedule established in Rule 207.25(b).

(3) *Procedures.* The procedures set forth in Subpart C applicable to investigations requiring completion within 120 days shall apply to all investigations instituted under this Rule 207.40.

§ 207.41 Commission review of agreements to eliminate the injurious effect of subsidized imports or imports sold at less than fair value.

If the administering authority determines to suspend an investigation upon acceptance of an agreement to eliminate the injurious effect of subsidized imports or imports sold at less than fair value, the Commission shall, upon petition, initiate an investigation to determine whether the injurious effect of imports of the merchandise which was the subject of the suspended investigation is eliminated completely by the agreement. Petitions may be filed by a party to the investigation which is an interested party described in subparagraph (3), (4), or (5) of Rule 207.2(h). Investigations under this Rule 207.41 shall be completed within 75 days of their initiation.

§ 207.42 Investigation continued upon request.

Upon receipt of advice from the administering authority that it has received a request for the continuation of a suspended investigation pursuant to section 704(g) or 734(g) of the Act, the Commission shall continue the investigation. The procedures set forth in Subparts B and C of this Part, including applicable time limitations, shall apply to all continued investigations within this rule.

§ 207.43 Commission determination in investigations to review agreements and in continued investigations.

In making a final determination in investigations to review agreements described in Rule 207.41 or in continued investigations described in Rule 207.42, the Commission shall consider all of the merchandise which is the subject of the investigation without regard to the effect of the agreement.

§ 207.44 Consolidation of investigations.

The Commission may, when appropriate, consolidate continued investigations under section 704(g) or section 734(g) of the Act with investigations to review agreements for the elimination of injury under section 704(h) or section 734(h) of the Act.

V 44 0 C 15 79 UMI

§ 207.45 Investigation to review outstanding determination.

(a) *Purpose.* Upon the receipt of information concerning, or upon a request for the review of, a determination concerning a suspension agreement accepted under section 704 or 734 of the Act or an affirmative determination made under section 704(h)(2), 705(b), 734(h)(2), or 735(b) of the Act, which shows changed circumstances sufficient to warrant a review of such determination, the Commission shall institute an investigation to determine, as the case may be, (1) whether, in light of the alleged changed circumstances, the agreement continues to eliminate completely the injurious effect of imports of the merchandise; or (2) whether changed circumstances exist which indicate that, if the countervailing duty order or antidumping order were modified or revoked, an industry in the United States would be threatened with material injury, or the establishment of such an industry would be materially retarded. In the absence of good cause shown, no investigation under this Rule 207.45 shall be instituted within twenty-four (24) months of the date of publication of the notice of the suspension or determination.

(b) *Procedures.* The procedures set forth in Subpart C applicable to investigations requiring completion within 120 days shall apply to all investigations instituted under this Rule 207.45.

§ 207.46 Modification, clarification, or correction of a determination.

Nothing in Rule 207.45 shall limit the inherent authority of the Commission to issue an appropriate modification, clarification or correction of a determination within a reasonable time of its issuance.

Subpart F—Judicial Review

§ 207.50 Judicial Review.

(a) *In general.* Persons entitled to judicial review under section 516A of the Act may seek review in the U.S. Customs Court.

(b) *Transmittal of record.* In the event a Commission determination is appealed to the U.S. Customs Court under section 516A, a copy of the record in the proceeding before the Commission, as such record is defined in Rule 207.2(j), will be transmitted to the Court by the Commission's Secretary at such time and in such form as the Court may require by rule or by order.

(c) *Service of process.* The Commission's General Counsel shall be the Commission's agent for service of process in cases arising under section 516A of the Act.

§ 207.51 Judicial review of denial of application for disclosure of certain confidential information under protective order.

(a) *In general.* Persons entitled to judicial review under section 777(c) of a Commission determination not to disclose confidential information concerning domestic price or cost of production may apply to the U.S. Customs Court for an order directing the Commission to make the information involved available.

(b) *Transmittal of record.* In the event a court order is sought under section 777(c) requiring the Commission to disclose confidential information concerning domestic price or cost of production, the Secretary shall within ten (10) days transmit to the Court under seal the confidential information involved along with pertinent parts of the record.

(c) *Pertinent parts of the record.* The pertinent parts of the record shall consist of (1) the application for Commission disclosure together with any documents filed in support thereof or in opposition thereto, (2) any Government memoranda relating to the Commission's determination, and (3) the Commission's action on the application.

(d) *Service of process.* The Commission's General Counsel shall be the Commission's agent for service of process in cases arising under section 777(c) of the Act.

Conforming Amendments

PART 201—RULES OF GENERAL APPLICATION

It is proposed that the following changes be made in Part 201 of Title 19 of the Code of Federal Regulations:

§ 201.1 [Amended]

1. Substitute the words "202 through 207" for the words "202 and 207" where they appear in Rule 201.1, line 6;

§ 201.2 [Amended]

2. Add new paragraphs (f), (g), and (h) to Rule 201.2 as follows—

(f) "Trade Agreements Act" means the Trade Agreements Act of 1979 (Pub. L. No. 96–39).

(g) "Rule" means a section of the Commission Rules of Practice and Procedure (19 CFR Chapter II).

(h) "Secretary" means the Secretary of the Commission.

3. Revise Rule 201.7 to read as follows:

§ 201.7 Investigative authority and initiation of investigations.

(a) *Investigative authority.* In order to expedite the performance of its functions, the Commission may engage in investigative activities preliminary to and in aid of any authorized investigation, consolidate proceedings before it, and determine the scope and manner of its proceedings;

(b) *Initiation of investigations.* Investigations may be initiated by the Commission on the Commission's own motion, upon request of the President or the Special Representative for Trade Negotiations, upon resolution of the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate, upon resolution of either branch of Congress, or upon application, petition, complaint, or request of private parties, as required or provided for in the pertinent statute, Presidential proclamation, Executive order, or in this chapter.

§§ 201.9, 201.11, and 201.12 [Amended]

4. Substitute the word "information" for the word "evidence" where it appears in Rule 201.9, lines 11 and 12, Rule 201.11(c), line 5, Rule 201.12(e), line 2, and Rule 201.12(g), line 1;

5. Substitute in Rule 201.12(d) the words "not less than three (3) business days prior to the hearing" for the words "three business days prior to the hearing or as close to actual presentation at the hearing as possible."

6. Substitute "(h) *Hearing transcripts.*" for "(f) *Hearing transcripts.*" in Rule 201.12.

7. Add a new paragraph (i) to Rule 201.12 as follows—

§ 201.12 Conduct of nonadjudicative hearings.

* * * * *

(i) *Requests.* Any party to a nonjudicatory investigation may request the Commission to take particular action with respect to any aspect of an investigation. Such requests shall be by letter addressed to the Secretary, shall be placed by him in the record, and served on all other parties. The Commission shall take such action or make such response as it deems appropriate.

§ 201.13 [Amended]

8. Delete from Rule 201.13(a), lines 6 and 7, the language "for the purpose of appearing at a public hearing."

By order of the Commission.
Issued: October 5, 1979.

Kenneth R. Mason,
Secretary.

[FR Doc. 79–31649 Filed 10–12–79; 8:45 am]
BILLING CODE 7020–02–M

V 44 0C 15 79 UMI

federal register

Monday
October 15, 1979

Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

Section 8 Housing Assistance Payments Program for New Construction; Final Rule

V 4 4 O C 1 5 7 9 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 880

[Docket Number R-79-663]

Section 8 Housing Assistance Payments Program for New Construction

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Final rule.

SUMMARY: The regulation governing the Section 8 new construction program has been revised to accomplish three major objectives. First, the language of the regulation has been simplified and the format altered to make the regulation easier to read and use. Second, rent, cost and amenities limitations, and requirements for cost justification of rents in certain cases have been added in order to control and reduce the costs of the program. Third, processing changes have been made to assure coordination of Section 8 and HUD mortgage insurance programs with fewer developer submissions and to reduce and level out field office workload in order to improve the efficiency and quality of processing.

This regulation does not apply to projects developed under other Section 8 regulations, including Parts 881, 882, 883, and 885, except as provided in those parts.

EFFECTIVE DATE: November 5, 1979.

FOR FURTHER INFORMATION CONTACT: George O. Hipps, Office of Multifamily Housing Development, Room 6128, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410, 202–755–5720. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: On June 12, 1979, a proposed revision to the Section 8 new construction program regulation (24 CFR Part 880) in its entirety was published in the **Federal Register** at 44 FR 33804 for public comment. Interested parties were given until August 13, 1979 to submit comments on this amended regulation.

The Section 8 new construction program is a rental assistance program. Under this program, the government provides the difference between the approved rent for an appropriate housing unit and the amount paid by an eligible lower-income family, including the elderly and handicapped. Proposals from private owners or public housing agencies are generally submitted in response to a public advertisement. They are competitively evaluated and the best one(s) selected for further processing, construction and eventual occupancy. The program does not provide construction or mortgage financing. An owner may use any method of financing available to him, including HUD mortgage insurance.

More than 230 individuals and organizations submitted written comments. Due to the importance of this revision and the volume of comments, all comments received prior to August 27 were considered. Numerous changes are being made in the proposed regulation in response these comments. A discussion of the principal changes and of the more recurrent and significant comments is set forth below.

1. Limitation on Contract Rents

A large majority of comments objected to the 10 percent maximum by which contract rents may exceed those determined through market comparison if justified by cost. Most stated that greater flexibility is necessary in making adjustments to rents to ensure feasible projects especially in areas where few unassisted comparable projects exist. Further, many stated that the requirements for cost justification and cost certification now contained in this regulation provide a more stringent standard in determining the reasonableness of rents than market comparison rents in many cases. A significant number of commenters favored a straight cost approach in determining rents.

After careful consideration, the Department has determined that retention of the use of rent comparability is most consistent with the desire to control program costs. The use of market comparison of rents, even with a cost-justified adjustment factor, tends to moderate costs and rents because what a market tenant will actually pay tends to encourage moderately designed projects as compared to use of rents determined by actual cost plus a return on the owner's investment. Further, the continued use of rent comparability is essential to the Department's goal of reducing and leveling out of field office workload to improve the efficiency and quality of processing. However, it was determined that the regulation should retain a maximum adjustment of up to 20 percent (as currently provided in the program Handbook) rather than the 10 percent contained in the proposed regulation in cases where cost and expense data show this is necessary for a feasible project.

2. Limitation on Replacement Costs

Several comments stated that actual dollar limitations should not be included in the regulation, as this would require an additional rulemaking when these limits are raised. In keeping with the Department's stated intention in the supplementary information accompanying the proposed rule, § 880.204(c)(4) has been added to provide that subsequent changes to the limitations will be published by Notice in the **Federal Register.**

3. Limitation on Amenities

In response to several comments, § 880.204(c) has been revised to clarify that the use of more durable materials to reduce long-term costs will not be considered an excess amenity and to provide that each field office will prepare a list(s) of acceptable amenities for use in its jurisdiction.

Several comments objected to field office review of all final architectural drawings and specifications for compliance with the amenities limitation. Some suggested use of a design architect's certification with regard to excessive amenities. However, the Department has retained the provision for field office review for compliance with amenity standards to assure that projects are of "modest design."

4. Limitation on Distributions

A majority of comments objected to a limitation on distributions. Several comments pointed out that the proposed difference between the limits for syndicated and non-syndicated owners was slight and would, therefore encourage syndication and discourage long-term ownership and management. Still others indicated that syndicated and non-syndicated projects provide the same tax benefits.

In response to the many comments received relative to the proposed limitation on distributions, this section has been revised as follows:

(a) The differentiation between syndicated and non-syndicated owners has been deleted.

(b) Distribution for elderly projects is limited to 6 percent on equity and for non-elderly projects to 10 percent on equity. The higher rate of return for family projects is intended to provide additional incentive to develop these projects. The Assistant Secretary for Housing may provide for an increase in later years' distributions.

(c) The definition of "equity" has been revised to recognize an equity contribution higher than 10 percent of replacement cost when justified by cost certification in accordance with HUD mortgage insurance procedures.

(d) Shortfalls in return in one year may be paid from excess funds accummulated in future years.

5. Pipeline Processing

Comments on establishment of a pipeline were almost equally divided for and against. Many supported the concept in the interest of processing efficiency. There was concern expressed regarding the approval of marginal proposals when significantly better proposals might be obtained in response to a Notification of Fund Availability. The Department feels that establishment of a pipeline is essential in the interest of leveling out field office workload. However, in response to the concerns raised, § 880.302 has been revised to provide that only "high quality" proposals will be retained in the pipeline and to provide that a proposal may be carried in the pipeline for only one fiscal year following the fiscal year in which it was submitted.

6. Small Projects for Non-elderly Families

In response to several comments stating that development of new construction projects under 50 units is infeasible in many areas, the definition of a "small project" has been changed to one containing a total of 50 units (assisted or unassisted) or fewer.

7. Site and Neighborhood Standards Unchanged

As stated in the supplementary information to the proposed rule, this regulation does not alter the current site and neighborhood standards. Revisions to these standards have been published for comment and comments are currently under study. When new standards are published, they will replace the standards contained in this regulation. It is noted that 24 CFR Part 200, Subpart N, Project Selection Criteria, does not apply to projects approved under Part 880.

8. Contract Provisions

Many objections to these provisions were received, primarily due to concerns over the effects of possible future retroactive rule changes when obligated to a single fixed term contract. Others stated that a single fixed term should not be required if the contract is not pledged as security or if the mortgage is prepaid. On the other hand, several commenters stated that the change is overdue to assure the long term use of Section 8 projects for lower-income families. Consistent with the Department's policy that units built under the Section 8 program, which often involve favorable financing at public expense, remain available as assisted housing for lower-income families for the total contract term, the provisions of §§ 880.502 and 880.504 relative to a single contract term and a 10 percent limitation on the leasing of assisted units to ineligible families without prior HUD approval have been retained without retroactive effect.

9. Increased Housing Opportunities for Non-elderly Families Residing in Impacted Jurisdictions & Residency Requirements and Preferences

Due to substantial opposition and many comments from individuals, local officials, developers, legislators and others, the provisions relative to early marketing to impacted areas and the prohibition of residency requirements and preferences have been substantially altered. This final rule contains the following provisions:

(a) Local residency requirements are prohibited.

(b) Local residency preferences may be applied only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan.

(c) Applicants who are expected to reside in the community because of current or planned employment will be treated as residents.

With respect to marketing of Section 8 units, the owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide real opportunities to reside in the project to persons from impacted jurisdictions, persons who are least likely to apply as determined in the affirmative marketing plan, and persons expected to reside in the community by reason of current or planned employment. When the Agreement is executed authorizing the start of construction, field offices are to notify PHA's, Community Development Agencies, metropolitan-wide clearinghouses or fair housing organizations where there is no metropolitan-wide clearinghouse as to the number and size of units in the project and when initial marketing and occupancy is expected, so that the owner may contact these agencies for referrals when advanced marketing commences.

HUD will monitor compliance with the requirements for advanced marketing and for affirmative fair housing marketing. This will include reviews of activities undertaken and data on tenant characteristics.

10. Project Reserves

In light of the many comments received stating that an operating deficit escrow is an individual underwriting matter and, as such, more appropriately left to the discretion of the lender, the provision for an operating deficit escrow has been deleted. In the interest of continuing and proper long-term maintenance of assisted units, however, the provision for a replacment reserve has been retained in § 880.602. The level of contributions to this reserve has been revised to bring it more into line with HUD mortgage insurance provisions.

11. Termination of Tenancy and Modification of Leases

Section 880.607 has been rewritten for increased clarity and to make the language and format consistent with the recently published regulation for the Section 8 moderate rehabilitation program. The comments received relative to this section were generally favorable. The Department has determined that assisted families may not be evicted except for good cause as defined in § 880.607. Moreover, the addition of provisions of this section relative to termination of tenancy makes the requirements of the Section 8 new construction program similar to those of other HUD-subsidized insured, HUD-owned and direct loan projects pursuant to 24 CFR Part 450.

12. Relocation and Land Acquisition Requirements

Several comments were received stating that the relocation requirements contained in the proposed rule did not offer adequate protection to displaced tenants. The commenters recognized that greater protection was perhaps more important to the development of Section 8 substantial rehabilitation projects pursuant to 24 CFR Part 881, which are often occupied at the time of application to HUD for assistance. They felt, nevertheless, that the new construction regulation should be strengthened to assure that any displacement occurring as a result of the program was subject to adequate relocation requirements.

Therefore, a new § 880.209, Relocation and Land Acquisition Requirements, has been established. The major features added are as follows:

(a) The Uniform Relocation Assistance and Real Property Acquistion Policies Act of 1970 continues to apply to displacement resulting from the acquisition of real

property by a public housing agency or other State agency.

(b) For other tenants permanently or temporarily relocated as a direct result of the project, the owner must provide adequate notice and assistance in relocating to a suitable unit, reasonable moving and related expenses (or, in some circumstances, a fixed payment for moving), temporary relocation expenses, and other related relocation provisions.

(c) If affordable replacement housing cannot otherwise be identified and government assistance cannot be secured, the owner may satisfy the requirements of § 880.209 by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household.

(d) Lower-income single persons, who are not elderly or handicapped but who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR Part 812.

13. Other Changes

(a) The requirement for annual submission of an audited financial and operating statement has been retained in the interest of improved management and for monitoring of distributions of project funds.

(b) The current policy of biennial review of the income of elderly families has been restored in response to numerous comments.

14. Applicability of the Regulation

In the proposed regulation, the Department specifically invited comments regarding the extent to which Subparts E and F should be made applicable to all projects, consistent with the rights of owners under existing Contracts. A few comments were submitted on this issue opposing such a provision. The Department has determined not to make the whole of Subparts E and F applicable to all projects in this final rule. As proposed, Subparts E and F will apply to all projects for which an Agreement has not been executed before the effective date of this revision and may apply to projects for which an Agreement has been executed if the owner and HUD agree to do so. Section 880.607, Termination of Tenancy and Modification of Leases, will apply to existing families under lease when the lease is renewed on or after the 60th day following the effective date of this revision. It will also apply to new families who commence occupancy or execute a lease on or after 30 days after the effective date of this revision. This is being done to implement the Department's determination that families assisted under the Section 8 program, as recipients of Federal assistance, may not be evicted except for good cause.

Since this final rule is to apply to the Fiscal Year 1980 Section 8 new construction program, it is necessary that the rule become effective as soon as possible so that applications submitted early in the fiscal year can be reviewed and approved in conformance with this regulation. For that reason, the Department has determined that there is good cause for not requiring a 30-day delay in the effective date after publication of this final rule (as provided in 5 U.S.C. 553(d)). Accordingly, this rule becomes effective on the date set forth above.

Inapplicability of NEPA

HUD has made a Finding of Inapplicability regarding requirements under the National Environmental Policy Act of 1969 in accordance with HUD procedures. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the Office off the Rules Docket Clerk, Office of General Counsel, room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Accordingly, Part 880 is amended in its entirety as follows:

PART 880—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM FOR NEW CONSTRUCTION

Subpart A—Summary and Applicability

Sec.

880.101 General.
880.102 Processing.
880.103 Construction and management.
880.104 Applicability of revised regulation.
880.105 Applicability to proposals and projects under 24 CFR, Part 811.

Subpart B—Definitions, Project Eligibility and Other Requirements

880.201 Definitions.
880.202 Project eligibility.
880.203 Fair market rents.
880.204 Limitations on contract rents, replacement costs and amenities.
880.205 Limitation on distributions.
880.206 Site and neighborhood standards.
880.207 Property standards.
880.208 Financing.
880.209 Relocation and land acquisition requirements.
880.210 Other Federal requirements.

Subpart C—Proposal Submission to Start of Construction

880.301 Allocation of contract authority to field offices.
880.302 Procedures for resumption of processing of proposals and preapproved site requests.
880.303 Special procedures for certain categories of proposals.
880.304 Publication of NOFA and receipt of proposals.
880.305 Contents of preliminary proposal.
880.306 Preliminary evaluation and technical processing.
880.307 Selection of proposals and use of remaining or additional contract authority.
880.308 Contents of final proposal.
880.309 Review of final proposals.
880.310 Submission and review of working drawings, architect's certification and requested changes.
880.311 Execution of agreement (and ACC if applicable).

Subpart D—Construction Period and Cost Certification

880.401 Timely performance of work.
880.402 Inspections during construction.
880.403 Increases in contract rents or utility allowances before contract execution.
880.404 Project completion.
880.405 Cost certification and adjustment of contract rents.

Subpart E—Housing Assistance Payments Contract

880.501 The contract.
880.502 Term of contract.
880.503 Maximum annual commitment and project account.
880.504 Reduction of number of units covered by contract.
880.505 Contract administration and conversions.
880.506 Default by owner (private-owner/HUD and PHA-owner/HUD projects).
880.507 Default by PHA and/or Owner (Private-Owner/PHA Projects).

Subpart F—Management

880.601 Responsibilities of owner.
880.602 Replacement reserve.
880.603 Selection and admission of assisted tenants.
880.604 Tenant rent.
880.605 Overcrowded and underoccupied units.
880.606 Lease requirements.
880.607 Termination of tenancy and modification of leases.
880.608 Security deposits.
880.609 Adjustment of contract rents.
880.610 Adjustment of utility allowances.
880.611 Conditions for receipt of vacancy payments.
880.612 Reviews during management period.

Authority: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 5(b), U.S. Housing Act of 1937; 42 U.S.C. 1437c(b); sec. 7(o), of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(o), sec. 324 of the Housing and Community Development Amendments of 1978.

Subpart A—Summary and Applicability

§ 880.101 General.

(a) *Purpose.* (1) The purpose of the Section 8 program is to provide lower-income families with decent, safe and sanitary rental housing through the use of a system of housing assistance payments. This part contains the policies and procedures applicable to the Section 8 new construction program. The assistance may be provided to public housing agency owners or to private owners either directly from HUD or through public housing agencies.

(2) In addition to this regulation, Section 8 new construction assistance may also be made available through state housing finance and development agencies (24 CFR Part 883), in connection with financing by the Farmers' Home Administration (24 CFR Part 883) or in connection with direct HUD loans for housing for the elderly or handicapped (24 CFR Part 885). Section 8 may also provide assistance in substantially rehabilitated housing (24 CFR Part 881) or in existing housing in acceptable condition or needing only moderate rehabilitation (24 CFR Part 882).

(3) This part does not apply to projects developed under other Section 8 program regulations, including Parts 881, 882, 883, and 885, except to the extent specifically stated in those parts.

(b) *Housing Assistance.* Under the Section 8 new construction program, monthly payments are made directly by the contract administrator (HUD or a public housing agency) to the project owner to assist an eligible family leasing an assisted unit or for vacancies in certain cases. These payments, known as "housing assistance payments," are made pursuant to a Housing Assistance Payments Contract, which is executed upon satisfactory completion and HUD acceptance of a project and which has a maximum term of from 20 to 40 years depending on how the project is financed. This Contract is discussed in Subpart E.

(c) *Tenant Rents and Eligible Families.* In addition to the housing assistance payment, the project owner receives a tenant rent directly from the eligible family occupying an assisted unit. The total amount received by the owner for rent is called the contract rent and is set forth in the Contract. "Eligible families," including elderly and handicapped individuals, must have incomes within the HUD specified limits (based on 80% of median income for the area), and pay between 15% and 25% of their income for rent (including utilities), adjusted in accordance with HUD regulations in 24 CFR, Part 889.

(d) *Rent, Cost and Amenities Limitations.* In the Section 8 new construction program, rents, replacement costs and amenities must comply with limitations contained in Subpart B. These limitations serve to establish the modest nature of housing assisted under the program and to assure that the rents in Section 8 housing are reasonable in relation to comparable unassisted housing in the area. After occupancy, rents will be adjusted to reflect changes in the costs of owning and operating rental housing.

(e) *Financing.* The Section 8 program provides only rental assistance. It does not provide construction or permanent financing. Section 8 may be used with any type of construction or permanent financing, such as FHA mortgage insurance programs, tax-exempt financing (see 24 CFR Parts 811 and 883) and loans from conventional lending institutions. The owner can pledge the commitment to make housing assistance payments contained in the contract to support financing.

(f) *Eligible Owners.* All types of private developers and sponsors, including profit-motivated and non-profit, and public housing agency developers and sponsors are eligible to develop and own housing assisted under this program. In all cases, the owner is responsible for the determination of eligibility and selection of tenants and for all management and maintenance functions. The provisions governing project management are contained in Subpart F.

(g) *Allocation of Contract Authority.* HUD commits funding for new projects under the Section 8 program and increases the funding commitment for previously approved projects pursuant to contract authority provided by Congress. The contract authority for new projects is allocated to HUD field offices on the basis of a "fair share" formula reflecting population, poverty, overcrowding, housing condition and similar indices of housing need. Each field office, in turn, suballocates its contract authority among the various allocation areas within its jurisdiction on essentially the same "fair share" basis. Not every area receives an allocation of contract authority for new construction. A further description of this process is contained in 24 CFR Part 891, Subpart D.

§ 880.102 Processing.

Proposals for housing to be assisted under this part are submitted to HUD field offices and processed differently depending on several criteria.

(a) Previously submitted "pipeline" proposals which are of high quality and were found approvable but not funded in the prior fiscal year are reviewed first when any new contract authority becomes available. If additional authority remains, HUD may consider preapproved sites, and, in certain areas, permit selection of developers by local governments. Where there are set-asides for projects to be owned by local public housing agencies or to be located in HUD-approved New Communities or for other purposes, proposals may be received, processed and approved without the need to await specified acceptance periods or to undergo formal competition. Sections 880.302 and 880.303 of Subpart C set forth these procedures.

(b) HUD receives other proposals under this part from owners (developers) in response to public invitations, called notifications of fund availability (NOFAs), which request the submission of preliminary proposals containing a maximum number and type of units in a particular area. Interested owners obtain copies of the detailed developer's packet from the HUD field office which published the NOFA.

(c) HUD reviews all proposals received in response to a NOFA for deficiencies in documentation and content in order to determine eligibility for further processing. If there are more acceptable proposals that can be approved under available Section 8 contract authority, HUD evaluates the proposals, ranks them and selects the highest ranking proposals. Those not selected which are of high quality are placed in the pipeline for possible later funding. Proposals for projects for non-elderly families are accepted as long as contract authority remains available and are reviewed on a monthly cycle. Proposals for projects for elderly families must be submitted by the specified deadline date and are reviewed at the end of the submission period. Details of this process are contained in Subpart C, §§ 880.304 through 880.307.

(d) After HUD selects a preliminary proposal, the owner of the selected proposal submits a final proposal for the project. This proposal contains a more detailed description of the project, including cost and expense estimates where required, and more detailed plans for design, construction, financing and management. After HUD review and approval of the final proposal, the working drawings are completed by the owner's architect and reviewed by HUD for compliance with project amenities limitations. When HUD finds these drawings to be acceptable, an Agreement is executed by the owner and the contract administrator (either HUD or a public housing agency) and construction begins. Details of this process are contained in Subpart C, §§ 880.308 through 880.311. The

V 4 4 0 C 1 5 7 9 UMI

Agreement provides that a Contract will be executed upon proper construction, completion and acceptance by HUD of the project.

§ 880.103 Construction and Management.

(a) *Construction.* Construction of the project is carried out in conformance with the Agreement. Increases in contract rents or utility allowances are permitted with HUD approval during construction only if they are necessary to cover cost increases as specified in § 880.403. The project will be accepted by HUD and a Contract executed upon completion in accordance with the Agreement. These provisions are contained in Subpart D, §§ 880.401 through 880.404.

(b) *Cost Certification.* As soon as possible after completion of a project, the owner, except in the case of exempted projects, will provide HUD with cost certifications. HUD will review the contract rents based on the owner's certified cost and reduce them where not justified by actual cost. Section 880.405 details this process.

(c) *Contract.* The owner and the contract administrator will execute the Contract on satisfactory completion of the project. The Contract provides that the owner will receive housing assistance payments for units being leased by eligible families and, under certain circumstances, payments for vacant units. The owner may not reduce the number of units in a project available for lower-income families by more than 10 percent without the prior approval of HUD. The term of the Contract varies depending on the type of financing used by the owner. Administration of the Contract is done either by HUD or by a public housing agency under an Annual Contributions Contract with HUD to assure that the owner meets his/her obligations under the Contract. Subpart E contains provisions concerning the Contract.

(d) *Management.* The owner is responsible for all management functions, including marketing, selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy and collection of rents. The owner must also provide for a replacement reserve. Contract rents will be adjusted annually in accordance with 24 CFR Part 888. Subpart F contains management provisions.

§ 880.104 Applicability of revised regulation.

(a) The revised Part 860 applies to all proposals for which a notification of selection was not issued before the effective date of this revision. Where a notification of selection was issued for a proposal before the effective date, the revised Part will apply if the owner notifies HUD within 60 calendar days that he/she wishes the revision to apply and promptly brings the proposal into conformance.

(b) Subparts E (Housing Assistance Payments Contract) and F (Management) apply to all projects for which an Agreement was not executed before the effective date of the revision. Where an Agreement was so executed:

(1) The owner and HUD may agree to make the revised Subpart E applicable and to execute appropriate amendments to the Agreement and/or Contract.

(2) The owner and HUD may agree to make the revised Subpart F applicable (with or without the limitation on distributions) and to execute appropriate amendments to the Agreement and/or Contract.

(c) Section 880.607, Termination of Tenancy and Modification of Leases, applies to new families who begin occupancy or execute a lease on or after 30 days after the effective date of this revision. This section also applies to families not covered by the preceding sentence, including existing families under lease, with respect to all leases in which a renewal becomes effective on or after the 60th day following the effective date of this revision. A lease is considered to be renewed where both the landlord and the family fail to terminate a tenancy under a lease permitting either party to terminate.

§ 880.105 Applicability to proposals and projects under 24 CFR Part 811.

Where proposals and projects are financed with tax-exempt obligations under 24 CFR Part 811, the provisions of Part 811 will be complied with in addition to all requirements of this part. In the event of any conflict between this part and Part 811, Part 811 will control.

Subpart B—Definitions, Project Eligibility and Other Requirements

§ 880.201 Definitions.

ACC. (Annual Contributions Contract) For a private-owner/PHA project, for which the Contract is administered by a PHA, the ACC is the contract between the PHA (as contract administrator) and HUD. Under the ACC, HUD commits to provide the PHA with the funds needed to make housing assistance payments to the owner and to pay the PHA for HUD-approved administrative fees, and the PHA agrees to perform the duties of a contract administrator.

Agreement. (Agreement to Enter into Housing Assistance Payments Contract) The Agreement between the owner and the contract administrator which provides that, upon satisfactory completion of the project in accordance with the HUD-approved final proposal, the administrator will enter into the Contract with the owner.

Allocation Area. A municipality, county, one or more Indian areas, or group of contiguous municipalities or counties identified by HUD or in an approved Areawide Housing Opportunity Plan for the purpose of allocating housing assistance to support economically feasible housing projects.

Assisted Unit. A dwelling unit eligible for assistance under a Contract.

Contract. (Housing Assistance Payments Contract) The Contract entered into by the owner and the contract administrator upon satisfactory completion of the project, which sets forth the rights and duties of the parties with respect to the project and the payments under the Contract.

Contract Administrator. The entity which enters into the Contract with the owner and is responsible for monitoring performance by the owner. The contract administrator is a PHA in the case of private-owner/PHA projects, and HUD in private-owner/HUD and PHA-owner/HUD projects.

Contract Rent. The total amount of rent specified in the Contract as payable by HUD and the tenant to the owner for an assisted unit.

Decent, Safe and Sanitary. Housing is decent, safe and sanitary at project completion if the dwelling units and related facilities are accepted by HUD as meeting the requirements of the Agreement. Housing continues to be decent, safe and sanitary if it is maintained in a condition substantially the same as at the time of acceptance.

Elderly Family. An elderly family as defined in 24 CFR Part 812, including an elderly, disabled or handicapped individual.

Fair Market Rent. HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain in a particular market area privately developed and owned, newly constructed rental housing of modest design with suitable amenities.

Family. (Eligible Family) A family which qualifies as a lower-income family, as defined in this section. For purposes of this definition, "family" will have the meaning of "family" contained in 24 CFR Part 812 (including single elderly, handicapped, disabled and displaced persons and the remaining member of a tenant family).

Final Proposal. The detailed description of a proposed project to be assisted under this part, which an owner submits after selection of the preliminary proposal, except where a preliminary proposal is not required under § 880.303(c). (The final proposal becomes an exhibit to the Agreement and is the standard by which HUD judges acceptable construction of the project.)

Household Type. The three household types are (1) elderly and handicapped, (2) family, and (3) large family.

Housing Assistance Payment. The payment made by the contract administrator to the owner of an assisted unit as provided in the Contract. Where the unit is leased to an eligible family, the payment is the difference between the total housing expense and the total family contribution. A housing assistance payment, known as a "vacancy payment," is made to the owner when an assisted unit is vacant. A payment is made to the family if the utility allowance is greater than the total family contribution.

Housing Assistance Plan. A housing plan which is submitted by a unit of general local government and approved by HUD as being acceptable under the standards of 24 CFR, Part 570.

Housing Type. The three housing types are new construction, rehabilitation, and existing housing.

HUD. The Department of Housing and Urban Development.

Impacted Jurisdiction. A jurisdiction in a Standard Metropolitan Statistical Area (SMSA) where the ratio of lower-income families to total families is materially higher than the ratio of lower-income families to total families for the entire SMSA.

Independent Public Accountant. A Certified Public Accountant or a licensed or registered public accountant, having no business relationship with the owner except for the performance of audit, systems work and tax preparation. If not certified, the Independent Public Accountant must have been licensed or registered by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. In States that do not regulate the use of the title "public accountant," only Certified Public Accountants may be used.

Lower-Income Family. A family whose income does not exceed 80 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family. HUD may establish income limits higher or lower if necessary in certain cases. For purposes of this definition, "income" shall have the meaning of "income for eligibility" contained in 24 CFR, Part 889.

New Communities. New community developments approved under Title IV of the Housing and Urban Development Act of 1968 and Title VII of the Housing and Urban Development Act of 1970.

NOFA. (Notification of Fund Availability) The notice published by HUD announcing the availability of contract authority for housing assistance and inviting the submission of proposals.

Owner. Any private person or entity (including a cooperative) or a public entity which qualifies as a PHA, having the legal right to lease or sublease newly constructed dwelling units assisted under this part. The term owner also includes the person or entity submitting a proposal under this part.

Partially-Assisted Project. A project for non-elderly families under this part which includes more than 50 units of which 20 percent or fewer are assisted.

PHA. (Public Housing Agency) Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) which is authorized to engage in or assist in the development or operation of housing for lower-income families.

PHA-Owner/HUD Project. A project under this part which is owned by a PHA. For this type of project, the Agreement and the Contract are entered into by the PHA, as owner, and HUD, as contract administrator.

Preliminary Proposal. The application describing a proposed project under this part which an owner submits in response to a NOFA in order to be selected for housing assistance.

Private-Owner/HUD Project. A project under this part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and HUD, as contract administrator.

Private-Owner/PHA Project. A project under this part which is owned by a private owner. For this type of project, the Agreement and Contract are entered into by the private owner, as owner, and the PHA, as contract administrator, pursuant to an ACC between the PHA and HUD. The term also covers the situation where the ACC is with one PHA and the owner is another PHA.

Project Account. A specifically identified and segregated account for each project which is established in accordance with § 880.503(b) out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC, as applicable, each year.

Rent. In the case of an assisted unit in a cooperative project, rent means the carrying charges payable to the cooperative with respect to occupancy of the unit.

Replacement Cost. The estimated construction cost of the project when the proposed improvements are completed. The replacement cost may include the land, the physical improvements, utilities within the boundaries of the land, architect's fees, and miscellaneous charges incident to construction as approved by the Assistant Secretary for Housing.

Secretary. The Secretary of Housing and Urban Development (or designee).

Small Project. A project for non-elderly families under this part which includes a total of 50 or fewer (assisted and unassisted) units.

Tenant Rent. The portion of the contract rent payable directly to the owner by an eligible family occupying an assisted unit. Tenant rent equals the total family contribution less any utility allowance.

Total Family Contribution. The portion of an eligible family's income payable toward the family's total housing expense, as determined in accordance with 24 CFR, Part 889.

Total Housing Expense. The total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family.

Utility Allowance. An estimate, made or approved by HUD, of the cost of utilities (except telephone) and other essential housing services for an assisted unit which are not included in the contract rent paid directly to the owner but which are the responsibility of the eligible family leasing the unit.

Vacancy Payment. The housing assistance payment made to the owner by the contract administrator for a vacant assisted unit if certain conditions are fulfilled as provided in the Contract. The amount of the vacancy payment varies with the length of the vacancy period and is less after the first 60 days of any vacancy.

Very Low-Income Family. An eligible family whose income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for the size of the family.

§ 880.202 Project eligibility.

(a) For purposes of this part, "new construction" refers to (1) housing for which construction starts after execution of the Agreement, or (2) housing which is already under

V 44 0 C 1 5 7 9 UMI

V 44 OC 15 79 UMI

construction when the Agreement is executed provided that:

(i) At the date of application to HUD, a substantial amount of construction (generally at least 25 percent) remains to be completed;

(ii) At the date of application to HUD, the project cannot be completed and occupied by eligible families without assistance under this part; and

(iii) At the time construction was initiated, all parties reasonably expected that the project would be completed and occupied without assistance under this part.

(b) The Section 8 new construction program is for rental housing only; no assistance will be provided for any unit occupied by an owner. Cooperatives are considered rental housing rather than owner-occupied housing for purposes of this part.

(c) The types of new construction rental housing which can be assisted under this part include: (1) Single-family houses, mobile homes, where appropriate, and multifamily structures; (2) housing designed for the elderly, disabled or handicapped, and (3) single-room occupant housing planned specifically as a relocation resource for eligible single persons.

(d) High-rise elevator projects for families with children are prohibited unless HUD determines that there is no practical alternative.

(e) High-rise elevator projects for the elderly may be approved only if HUD determines that high-rise construction is appropriate after taking into account land costs, safety and security factors.

(f) Projects for non-elderly families are required, where practicable, to have at least 5 percent of the housing units designed and accessible to the physically handicapped.

(g) Housing assisted under other provisions of the U.S. Housing Act of 1937, such as public housing assisted with annual contributions under Sections 5 and 9 of the Act, is not eligible for assistance under this part. Tax exemption under Section 11(b) of the Act is not considered assistance for this purpose.

(h) Conversions of new construction projects under the Section 23 Leased Housing Program to the Section 8 program will be permitted, where appropriate, provided that the Section 23 project qualifies as new construction under paragraph (a) of this section and that all parties, including HUD, agree.

(i) No proposal for housing under this part may be approved unless the requirements of 24 CFR Part 891, implementing Sections 213 (a), (b) and (c) of the Housing and Community Development Act of 1974, as amended, concerning review and comment by units of general local government, have been satisfied. (See § 880.306(c)(1).)

§ 880.203 Fair market rents.

(a) Fair Market Rents are HUD's determinations of the rents, including utilities (except telephone), ranges and refrigerators, parking, and all maintenance, management and other essential housing services, which would be required to obtain in a particular market area privately developed and owned, newly constructed rental housing of modest design with suitable amenities.

(b) Separate Fair Market Rents are established by unit size (number of bedrooms), basic structure type (detached, semi-detached/row, walk-up and elevator apartments) and occupant group (non-elderly family and elderly family, including handicapped) for individual market areas.

(c) The Fair Market Rents for (1) dwelling units designed for the elderly or handicapped are those for the appropriate size units, not to exceed 2-bedrooms for the elderly, multiplied by 1.05, rounded to the nearest whole dollar, (2) congregate housing dwelling units are the same as for non-congregate units, and (3) single room occupancy dwelling units are those for 0-bedroom units of the same type.

(d) Fair Market Rents for mobile homes may be established for an area upon application to HUD. The application must show that there is a need and demand for mobile homes in the area for which they are proposed, and that mobile homes are acceptable under local requirements in that area.

(e) Fair Market Rents are published in the Federal Register at least annually in accordance with 24 CFR, Part 888. Interim revisions for one or more market areas may be initiated by HUD at any time and may be published as market conditions dictate.

§ 880.204. Limitations on contract rents, replacement costs and amenities.

(a) *Purpose and Applicability of Limitations.* The purpose of the Section 8 program is to assist lower-income families in renting decent, safe and sanitary housing of modest design with suitable amenities. This section sets limitations on the contract rents, replacement costs and amenities of projects constructed under this part. These limitations are intended to permit production of suitable housing without excessive costs, design features or amenities.

(b) *Limitation on Contract Rents.* The contract rents for a project from proposal submission through cost certification, must be within both of the following limitations:

(1) *Fair Market Rent.* The contract rent plus any utility allowance for the unit must not exceed the Fair Market Rent in effect at the time of processing. The published Fair Market Rents will reflect a trended rent in order to allow for the period of construction as stated in the publication. If the scheduled construction time for a project is less, an appropriate reduction will be made in determining the approvable contract rent. The contract rent plus utility allowance may exceed the applicable Fair Market Rent under special circumstances or if needed to implement a local Housing Assistance Plan or Areawide Housing Opportunity Plan:

(i) By up to 10 percent with the approval of the HUD field office manager, or

(ii) By up to 20 percent with the approval of the HUD Assistant Secretary for Housing; and

(2) *Rent Reasonableness.* The contract rent must be reasonable. Contract rents will be considered reasonable only under the following conditions:

(i) When HUD determines that the rents compare reasonably to or are below the rents of unassisted units of similar age, design and location which provide comparable amenities and services; or

(ii) Rents may exceed those determined by market comparison by no more than 20 percent only in cases where warranted by cost and expense estimates provided by the owner at final proposal and cost certification at completion, as specified in §§ 880.308 and 880.405; or

(iii) For small projects and partially-assisted projects, the rents may exceed the comparable rents by up to 10 percent without the cost justification set forth in paragraph (b)(2)(ii) of this section.

(c) *Limitation on Replacement Costs.* (1) No proposal for a project to be assisted under this Part will be selected or approved by HUD, and no Agreement may be executed for a project, with an estimated replacement cost greater than the following limits plus any additional cost not attributable to dwelling use to the extend approved by HUD. The limits applicable to the part of the project attributable to dwelling use, as determined by HUD, are as follows:

(i) The basic limits are: (A) $23,720 per dwelling unit without a bedroom; (B) $27,129 per dwelling unit with one bedroom; (C) $32,983 per dwelling unit with two bedrooms; (D) $42,217 per dwelling unit with three bedrooms; and (E) $47,032 per dwelling unit with four or more bedrooms.

(ii) Where necessary to compensate for the higher costs incident to construction of elevator type structures of sound standards of construction and design, HUD may increase the limits provided in paragraph (c)(1)(i) of this section, not to exceed: (A) $24,962 per dwelling unit without a bedroom; (B) $28,614 per dwelling unit with one bedroom; (C) $34,795 per dwelling unit with two bedrooms; (D) $45,011 per dwelling unit with three bedrooms; and (E) $49,409 per dwelling unit with four or more bedrooms.

(iii) For any market area where cost levels so require, the Assistant Secretary for Housing may increase, at the request of the field office, the dollar amount limits set forth in paragraphs (c)(1) (i) and (ii) of this section by up to 50 percent.

(iv) If the Assistant Secretary finds that, because of high costs, it is not feasible to construct dwellings in Alaska, Guam, or Hawaii without the sacrifice of sound standards of construction, design, and livability within the limits in paragraphs (c)(1) (i) and (ii), of this section, the principal amount of the replacement cost limits may be increased by amounts as are necessary to compensate for additional costs, but not to exceed the maximum, including high cost area increases under paragraph (c)(1)(iii) of this section, if any, otherwise applicable by more than 50 percent.

(2) Except for the exemption contained in paragraph (c)(3) of this section, the limitation on replacement costs applies to all projects in their entirety.

(3) Partially-assisted project are exempt from the replacement cost limitation of this paragraph.

(4) The mortgage amount of a HUD-insured proposal will be determined in accordance with the limitations and requirements of the applicable mortgage insurance program.

(5) Subsequent changes to the limitations on replacement costs under paragraphs (c)(1) of this section, will be made by Notice published in the Federal Register and will be available on request.

(d) *Excess Costs.* The limitation of paragraph (c) of this section will not prohibit the total actual cost of a project from exceeding the limit referred to in that paragraph. However, in determining or adjusting contract rents, HUD will not take into account or give credit for any cost which exceeds the applicable replacement cost limit.

(e) *Limitation on Amenities.* (1) Amenities in projects assisted under this Part will be limited to those amenities which are generally provided in unassisted housing of modest design in the market area, as determined by HUD. Generally, the amenities included in the determination of Fair Market Rents for the area may be included in a project. [The use of more durable, high quality materials to control or reduce maintenance and repair and replacement costs will not be considered an excess amenity.]

(2) The field office will prepare a list(s) of acceptable amenities for use within its jurisdiction. Other amenities will not be permitted unless the owner provides justification for each additional amenity to HUD, and its inclusion is approved by HUD.

(3) Except for the exemption contained in paragraph (e)(4) of this section, the limitation on amenities applies to all projects in their entirety.

(4) Partially-assisted projects are exempt from the limitation of this paragraph.

§ 880.205 Limitation on distributions.

(a) Non-profit owners are not entitled to distributions of project funds.

(6) For the life of the Contract, project funds may only be distributed to profit-motivated owners at the end of each fiscal year of project operation following the effective date of the Contract after all project expenses have been paid, or funds have been set aside for payment, and all reserve requirements have been met. The first year's distribution may not be made until cost certification, where applicable, is completed. Distributions may not exceed the following maximum returns:

(1) For projects for elderly families, the first year's distribution will be limited to 6 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 6 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the Federal Register.

(2) For projects for non-elderly families, the first year's distribution will be limited to 10 percent on equity. The Assistant Secretary for Housing may provide for increases in subsequent years' distributions on an annual or other basis so that the permitted return reflects a 10 percent return on the value in subsequent years, as determined by HUD, of the approved initial equity. Any such adjustment will be made by Notice in the Federal Register.

(c) For the purpose of determining the allowable distribution, an owner's equity investment in a project is deemed to be 10 percent of the replacement cost of the part of the project attributable to dwelling use accepted by HUD at cost certification (see § 880.405) unless the owner justifies a higher equity contribution by cost certification documentation in accordance with HUD mortgage insurance procedures.

(d) Any short-fall in return may be made up from surplus project funds in future years.

(e) If HUD determines at any time that project funds are more than the amount needed for project operations, reserve requirements and permitted distribution, HUD may require the excess to be placed in an account to be used to reduce housing assistance payments or for other project purposes. Upon termination of the Contract, any excess funds must be remitted to HUD.

(f) Owners of small projects or partially-assisted projects are exempt from the limitation on distributions contained in paragraphs (b) through (c) of this section.

(g) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance program provisions.

§ 880.206 Site and neighborhood standards.

Proposed sites for new construction projects must be approved by HUD as meeting the following standards:

(a) The site must be adequate in size, exposure and contour to accommodate the number and type of units proposed; and adequate utilities (water, sewer, gas and electricity) and streets must be available to service the site.

(b) The site and neighborhood must be suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto.

(c) The site must not be located in:

(1) An area of minority concentration unless (i) sufficient, comparable opportunities exist for housing for minority families, in the income range to be served by the proposed project, outside areas of minority concentration, or (ii) the project is necessary to meet overriding housing needs which cannot otherwise feasibly be met in that housing market area. An "overriding need" may not serve as the basis for determining that a site is acceptable if the only reason the need cannot otherwise feasibly be met is that discrimination on the basis of race, color, religion, creed, sex, or national

origin renders sites outside areas of minority concentration unavailable; or

(2) A racially mixed area if the project will cause a significant increase in the proportion of minority to non-minority residents in the area.

(d) The site must promote greater choice of housing opportunities and avoid undue concentration of assisted persons in areas containing a high proportion of low-income persons.

(e) The site must be free from adverse environmental conditions, natural or manmade, such as instability, flooding, septic tank back-ups, sewage hazards, or mudslides; harmful air pollution, smoke or dust; excessive noise vibration, or vehicular traffic; rodent or vermin infestation; or fire hazards. The neighborhood must not be one which is seriously detrimental to family life or in which substandard dwellings or other undesirable elements predominate, unless there is actively in progress a concerted program to remedy the undesirable conditions.

(f) The site must comply with any applicable conditions in the local Housing Assistance Plan approved by HUD.

(g) The housing must be accessible to social, recreational, educational, commercial, and health facilities and services, and other municipal facilities and services that are at least equivalent to those typically found in neighborhoods consisting largely of unassisted, standard housing of similar market rents.

(h) Travel time and cost via public transportation or private automobile, from the neighborhood to places of employment providing a range of jobs for lower-income workers, must not be excessive. (While it is important that elderly housing not be totally isolated from employment opportunities, this requirement need not be adhered to rigidly for such projects.)

(i) The project may not be built on a site that has occupants unless the relocation requirements referred to in § 880.209 are met.

(j) The project may not be built in an area that has been identified by HUD as having special flood hazards and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, unless the project is covered by flood insurance as required by the Flood Disaster Protection Act of 1973, and it meets any relevant HUD standards and local requirements.

§ 880.207 Property standards.

Projects must comply with:

(a) HUD Minimum Property Standards;

(b) In the case of mobile homes, the Federal Mobile Home Construction and Safety Standards, pursuant to Title VI of the Housing and Community Development Act of 1974, and 24 CFR Part 3280;

(c) In the case of congregate or single room occupant housing, the appropriate HUD guidelines and standards;

(d) HUD requirements pursuant to Section 209 of the Housing and Community Development Act of 1974 for projects for the elderly or handicapped;

(e) HUD requirements pertaining to noise abatement and control; and

(f) Applicable State and local laws, codes, ordinances and regulations.

§ 880.208 Financing.

(a) *Types of Financing.* Any type of construction financing and long-term financing may be used, including: (1) conventional loans from commercial banks, savings banks, savings and loan associations, pension funds, insurance companies or other financial institutions; (2) mortgage insurance programs under the National Housing Act; (3) mortgage and loan programs of the Farmers' Home Administration of the Department of Agriculture compatible with the Section 8 program; and (4) financing by tax-exempt bonds or other obligations.

(b) *HUD Approval.* HUD must approve the terms and conditions of the financing to determine consistency with these regulations and to assure they do not purport to pledge or give greater rights or funds to any party than are provided under the Agreement, Contract, and/or ACC. Where the project is financed with tax-exempt obligations, the terms and conditions will be approved in accordance with the following:

(1) Issuers of tax-exempt obligations pursuant to Section 11(b) of the U.S. Housing Act of 1937 will be subject to 24 CFR, Part 811.

(2) Issuers of tax-exempt obligations exempt from Federal taxation under any provisions of law or governmental regulation other than Part 811 (except for State Agencies qualified under Part 883) must submit all documents required by 24 CFR 811.107, 811.108, 811.109, and 811.110 to the field office for review and approval. The terms and use of these obligations and the operation of the project will comply with the requirements of Part 811. (See also 24 CFR 811.117.)

(3) Issuers of tax-exempt obligations which are State Agencies qualified under Part 883 and which are not subject to Part 811 will comply with the requirements of Part 883 with regard to approval of tax-exempt financing.

(c) *Pledge of Contracts.* An owner may pledge, or offer as security for any loan or obligation, an Agreement, Contract or ACC entered into pursuant to this Part: *Provided, however,* That such financing is in connection with a project constructed pursuant to this Part and approved by HUD. Any pledge of the Agreement, Contract, or ACC, or payments thereunder, will be limited to the amounts payable under the Contract or ACC in accordance with its terms. If the pledge or other document provides that all payments will be paid directly to the mortgagee or the trustee for bondholders, the mortgagee or trustee will make all payments or deposits required under the mortgage or trust indenture or HUD regulations and remit any excess to the owner.

(d) *Foreclosure and Other Transfers.* In the event of foreclosure, assignment or sale approved by HUD in lieu of foreclosure, or other assignment or sale approved by HUD:

(1) The Agreement, the Contract and the ACC, if applicable, will continue in effect, and

(2) Housing assistance payments will continue in accordance with the terms of the Contract.

§ 880.209 Relocation and land acquisition requirements.

(a) *Application of the Uniform Act.* The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Uniform Act) and HUD implementing regulations at 24 CFR Part 42 (Uniform Relocation Assistance and Real Property Acquisition) apply to the acquisition of real property by a PHA or other State Agency (as defined at 24 CFR 42.65) for a project assisted under this Part and to any displacement that results from such acquisition.

(b) *Displacement not Subject to the Uniform Act.* With respect to any residential tenants (not owner-occupants) who will be permanently or temporarily relocated as a direct result of a project that is assisted under this part, but who are not assisted under the Uniform Act, the following policies will apply:

(1) Such tenants are eligible for the relocation assistance and benefits described below if they are relocated following the submission to HUD of the preliminary proposal for the project (or first proposal if the proposal is submitted in accordance with § 880.303(c), Special Categories) except where (i) their tenancy is terminated on the grounds set forth in § 880.607(b)(1), or (ii) they take occupancy after HUD's preliminary approval of the proposal with notice from the owner of the pending proposal and potential displacement.

(2) Within a reasonable period of time prior to displacement, each tenant to be permanently relocated will be provided a reasonable choice of opportunities to move to a suitable replacement dwelling unit from among available units so located as to promote choice outside areas of low income and minority concentration.

(3) For purposes of this section, a suitable replacement dwelling is:

(i) Decent, safe and sanitary as defined in 24 CFR 42.47.

(ii) Available within the tenant's ability to pay (i.e., the monthly rent and average estimated cost of utilities does not exceed 25 percent of the combined monthly gross income of all adult members of the tenant's household);

(iii) In an area not subject to unreasonable adverse environmental conditions, either natural or man-made;

(iv) In a location that is not generally less desirable than the location of the displaced tenant's dwelling with respect to public utilities, commercial and public facilities, and the tenant's place of employment (or to sources of employment, if the tenant is unemployed but seeking work).

(4) Each tenant will be reimbursed by the owner for reasonable moving and related expenses at the levels described at 24 CFR 42.303 or may receive, at the discretion of the owner, a fixed payment for moving expenses in accordance with 24 CFR 42.353.

(5) A tenant may be required to relocate for a temporary period only if this is necessary to carry out the project and he/she is permitted to occupy a dwelling in the completed project. If required, the temporary relocation will not exceed 12 months in duration; a decent, safe, and sanitary dwelling in an area not subject to unreasonably adverse environmental conditions will be available to the tenant for the period of the temporary relocation; and the tenant will be reimbursed actual, reasonable out-of-pocket expenses, including moving costs to and from the temporarily occupied dwelling and any increase in monthly housing cost (rent and reasonable utility costs) incurred in connection with the temporary relocation. If the new dwelling unit is not ready for occupancy within the 12-month period, the tenant will be notified of the earliest date by which it will be ready, and the tenant in that case will have the right to agree to wait until the extended date or to request that he/she be treated as permanently displaced.

(6) All tenants occupying property on which new construction units will be developed will be provided with advance information in writing and by personal explanation that is sufficient to enable them to understand fully the reason for their displacement and the relocation opportunities and assistance which is available to them.

(7) All tenants will be provided appropriate advisory services necessary to minimize hardships in adjusting to required permanent or temporary relocation.

(8) No lawful occupant will be required to move from his/her dwelling or to move his/her business without at least 90 days advance written notice of the earliest date by which he/she may be required to move.

(i) If the tenant is provided but refuses a reasonable choice of opportunities to move to a suitable replacement dwelling, the owner will not be obligated to make further efforts to provide replacement housing.

(ii) If replacement housing within the tenant's ability to pay cannot be identified and government assistance that would satisfy this requirement cannot be secured, the owner's obligation under this section may be satisfied by providing the tenant with a lump sum payment equal to 48 times the amount, if any, necessary to reduce the monthly housing cost (rent and utilities) of a suitable replacement dwelling to 25 percent of the combined monthly gross income of all adult members of the tenant's household.

(iii) A tenant who believes he/she has not received the proper relocation payments or opportunities to relocate to a decent, safe and sanitary dwelling to which the tenant is entitled under this Section may appeal to the HUD field office.

(iv) Owners are responsible for assuring that payments and services required by this section are provided. Costs incurred by the owner in providing these services and payments may be included in project replacement cost (see §§ 880.403(a)(6) and 880.405(a)) except that payments to tenants permanently relocated in accordance with paragraph (b)(8)(ii) of this section may not be so included.

(c) *Eligibility of Lower-Income Single Persons.* Lower-income single persons, who are not elderly or handicapped but who are displaced as a result of the project, may return to occupy assisted units in accordance with 24 CFR Part 812.

§ 880.210 Other Federal Requirements

(a) *Equal Opportunity Requirements.* Participation in this program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Orders 11063 and 11246, and Section 3 of the Housing and Urban Development Act of 1968, and all related rules, regulations and requirements.

(b) *National Environmental Policy Act.* Participation in this program requires compliance with the National Environmental Policy Act and all related rules, regulations and requirements.

(c) *Clean Air Act and Federal Water Pollution Control Act.* Participation in this program requires compliance with the Clean Air Act and the Federal Water Pollution Control Act and all related rules, regulations and requirements.

(d) *Davis-Bacon and Related Acts.* Participation in this program requires that payment of not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (49 Stat. 1011), be paid to all laborers and mechanics employed in the development of any project within nine or more assisted units and compliance with all other related rules, regulations and requirements.

(e) *Rehabilitation Act.* Participation in this program requires compliance with the Rehabilitation Act of 1973 and Executive Order 11914 and all related rules, regulations and requirements.

(f) *Other Federal Statutes and Regulations.* Participation in this program requires compliance with the National Historic Preservation Act (Pub. L. 89–665), the Archeological and Historic Preservation Act of 1974 (Pub. L. 93–291), and Executive Order 11593 on Protection and Enhancement of the Cultural Environment, including the procedures prescribed by the Advisory Council on Historic Preservation in 36 CFR Part 800.

Subpart C—Proposal Submission To Start of Construction

§ 880.301 Allocation of contract authority to field offices.

(a) Funding authorization for the Section 8 program is assigned to HUD field offices annually in the form of contract authority, which is the maximum amount authorized for annual commitments under Contracts. Assignments are made pursuant to 24 CFR, Part 891, Subpart D. Each field office suballocates this authority to the areas within its jurisdiction, also in accordance with Part 891, Subpart D.

(b) In the allocation process, the field office determines the amount of contract authority and the approximate number of units of Section 8 new construction specifically designed for elderly families, for non-elderly families and for large non-elderly families (5 or more

persons) which will be made available in each allocation area.

(c) For the contract authority made available in each allocation area, the HUD field office will process proposals as provided for in §§ 880.302, 880.303 and 880.304.

§ 880.302 Procedures for resumption of processing of proposals and preapproved site requests.

(a) *Review of Pipeline.* Prior to the publishing of a NOFA or the consideration of requests for preapproved sites, the pipeline of approvable proposals which are of high quality relative to the standards and requirements of this part submitted in the same or the prior fiscal year and preapproved site requests will be reviewed to determine whether to resume processing for any or all of them. In making the decision as to whether to resume processing, the following will be considered:

(1) Whether the proposal or preapproved site request is consistent with the final or tentative allocation plan for the area in which the project is proposed to be located;

(2) Whether the proposal or preapproved site request conforms to the housing type and household type requirements of any applicable Housing Assistance Plan;

(3) Whether the proposal or preapproved site request is consistent with priorities for targeting of contract authority to localities which have previously been underfunded relative to their needs and the funding of the needs of other localities in that allocation area.

(b) *Notice to Owners or Local Governments.* Owners of proposals or local governments with preapproved site requests which are eligible in accordance with paragraph (a) of this section to resume processing will be sent a letter requesting them to advise HUD within a specified time, generally 5 days, as to whether or not they wish processing to be resumed on their proposals or requests and, if their decision is in the affirmative, to submit to HUD the following within a specified time, generally 10 days (for a total of 15 days):

(1) For proposals, updated proposed rents;

(2) For proposals, the replacement cost estimate required by § 880.305;

(3) Up-to-date evidence of site control; and

(4) Any information on other factors which might affect the current approvability of their proposals or requests.

Owners or local governments may submit any other information they wish, but the field office is not required to consider this additional information.

(c) *Section 213 and A-95 Clearance.* Upon receipt of notification from an owner that he/she wishes processing of a proposal to be resumed, the unit of general local government and A-95 clearinghouse, where applicable, will be notified under Part 891 of the resumption of processing and asked for comments (1) if the proposal is more than 6 months old or (2) if there has been a substantive change in the local Housing Assistance Plan.

(d) *Resumption of Processing.* Upon receipt of the updated information, the field office will resume processing of the proposal or request in accordance with § 880.306(c) or § 880.303(a).

(e) *Notice Where Processing Not Resumed.* Owners of proposals and local governments with preapproved site requests for which processing is not resumed because of failure to meet the requirements of paragraphs (a) and (b) of this section, or for which owners or local governments do not request resumption of processing will be notified in writing that their proposals or requests will not be processed further. One file copy of each such notice will be retained by the field office.

§ 880.303 Special procedures for certain categories of proposals.

(a) *Preapproved Sites.* (1) Units of general local government may submit written requests to the field office for preapproval of sites. To the extent feasible, such requests should be submitted early in the fiscal year. Requests for preapproval must indicate the anticipated number of units, structure type, household type, bedroom distribution and the price at which the site will be made available. Further, the local government must indicate if it wishes to select the proposal as allowed under paragraph (a)(5) of this section.

(2) If the field office determines that use of a site for which preapproval has been requested may be appropriate, it will review the request to determine compliance with site and neighborhood standards (§ 860.206) and environmental standards, and to determine the acceptability, as to both reasonableness and feasibility, of the proposed price at which the site will be made available. The request will also be reviewed for consistency with the allocation plan for the area, any applicable Housing Assistance Plan and targeting priorities described in § 880.302(a)(3).

(3) If the site meets all of these requirements, the field office will advise the unit of general local government:

(i) That the site is approvable for Section 8 use;

(ii) Of the approximate number of units, by structure type, household type and bedroom distribution that may be assisted;

(iii) Of the contract authority required;

(iv) Whether HUD has reserved such contract authority, will do so as soon as sufficient contract authority becomes available or will retain the request in the pipeline for consideration in accordance with § 880.302; and

(v) How processing will proceed, including how selection of the proposal will be accomplished.

(4) Reservations of contract authority for preapproved sites may be made only after the amount of authority necessary for pipeline proposals has been determined.

(5) For approvable sites in Federally-assisted urban renewal areas (including unsold land in closed-out urban renewal areas), selection of the proposal may be under applicable urban renewal procedures, subject to the field office approval. For sites acquired or to be acquired with Community Development Block Grant funds or located in non-Federally-assisted urban renewal areas, the local government may select the proposal in accordance with a competitive method approved by the field office and consistent with State law.

(6) For approvable sites outside those areas set forth in paragraph (a)(5) of this section, selection of the proposal will be accomplished by the field office by publishing a NOFA requesting proposals for that site pursuant to § 880.304.

(b) *Other Categories.* Where set-asides are made for projects to be owned by PHAs, for projects to be located in New Communities or for other purposes, proposals may be obtained by invitation or other appropriate means, as determined by the field office, or the New Communities Development Corporation where appropriate. Selection procedures may be modified, as approved by the Assistant Secretary for Housing, to meet the objectives of the set-asides. Prior to submission of proposals, prospective owners will be advised of the modified procedures.

(c) *Proposal Submissions for Special Categories of Projects.* Preliminary proposals are not required for projects submitted pursuant to paragraphs (a) or (b) of this section, except in the case of proposals under paragraph (a)(6) of this section. The first proposal submitted for such projects may be a final proposal in accordance with § 880.308.

(d) *Special Local Government Option.* Local governments may be authorized by the Assistant Secretary for Housing to select proposals on sites located in their jurisdictions. Procedures for local government selection of proposals under this paragraph will be published by Notice in the **Federal Register.**

§ 880.304 Publication of NOFA and receipt of proposals.

(a) After determination of the amount of contract authority necessary for pipeline proposals as provided in § 880.302, and any commitments of contract authority for preapproved sites or other categories as provided in § 880.303, the field office will publicize the availability of the remaining contract authority, if any, in accordance with paragraph (b) of this section.

(b) A summary notification of fund availability (NOFA) for all allocation areas within the jurisdiction of the field office will be published at least once a week for two consecutive weeks in a newspaper(s) of general circulation in the allocation areas. The summary NOFA will identify the estimated contract authority and approximate number of units by housing and household type for each allocation area. Specific information for each allocation area will be contained in a detailed NOFA which will be provided upon request. The detailed NOFA will identify the geographic area of each allocation area for which contract authority is available and include the following information for each area:

(1) The contract authority available for new construction and the approximate number of units for elderly, non-elderly and large non-elderly families that the contract authority is expected to support;

(2) The first and last dates for acceptance of preliminary proposals for projects for elderly families and the first date for acceptance of proposals for projects for non-elderly families;

(3) The fact that proposals for projects for non-elderly families will be accepted at any time after the initial acceptance date so long as contract authority remains available, and that all such proposals received during one 30-day period will be processed and, if necessary, ranked against each other;

(4) The fact that the NOFA will be cancelled for an allocation area when all available contract authority has been or is expected to be used or when a decision by HUD pursuant to § 891.405 to reallocate any unused contract authority has been made;

(5) The fact that developer's packets for each allocation area and type of proposal will be available prior to the opening date for submission of proposals and that information and assistance are available from the field office.

(c) Copies of the detailed NOFA will be provided to minority and fair housing organizations, media and the chief executive officer of each jurisdiction with a Housing Assistance Plan in the allocation area.

(d) Field offices may issue Conditional NOFAs subject to the sufficiency of a future allocation of contract authority. Proposals received in response to a Conditional NOFA will be processed in accordance with the provisions of § 880.306, but notifications of selection will not be sent until contract authority becomes available and is reserved.

(e) Proposals will be accepted by the field office beginning on the published opening date for submission and may be opened for review immediately. The contents will remain confidential until sent by the field office to the A-95 clearinghouses or local government for review or, in the case of projects for elderly families, until the deadline date has passed, whichever is earlier.

§ 880.305 Contents of preliminary proposal.

Each preliminary proposal must contain:

(a) A description of the proposed housing, including sketches of the proposed building, unit plans, listing of amenities, esitmated date of completion and whether it will be completed in stages, and other information requested in the developer's packet.

(b) Identification and description of the proposed site, site plan and neighborhood, and evidence of site control as requested in the developer's packet;

(c) Evidence that the proposed construction is permitted by current zoning ordinances or regulations or evidence to indicate that needed rezoning is likely and will not delay the project;

(d) The proposed contract rent per unit, including an indication of which utilities, services and equipment are included in the rent and which are not. For those utilities and services which are not included, an estimate of the average monthly cost for each unit type for the first year of occupancy.

(e) The estimated replacement cost per unit and the estimated total replacement cost, including any cost not attributable to dwelling use.

(f) A statement describing how the proposal is consistent with any applicable Housing Assistance Plan, and/or Areawide Housing Opportunity Plan;

(g) Information concerning displacement of site occupants. If any displacement will occur: the number of households affected, by size and race, and the business concerns affected, by race, and whether they own or rent; the number to be temporarily or permanently displaced; the steps, if any, to be taken to minimize displacement; a demonstration that relocation is feasible; and a statement as to how necessary relocation payments will be funded (see § 880.209 for relocation requirements);

(h) A signed certification on the prescribed form of the owner's intention to comply with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, Executive Order 11246, and Section 3 of the Housing and Urban Development Act of 1968, and that the owner will undertake marketing activities to provide real opportunities to reside in the project to persons from impacted jurisdictions and persons expected to reside in the community as a result of current or planned employment, as indicated in the Housing Assistance Plan, if any.

(i) The identity of the owner, developer, builder, architect, management agent (and other participants) and the names of officers and principal members, shareholders, investors, and other parties having a substantial interest; the previous participation of each in HUD programs on the prescribed HUD form; and a disclosure of any possible conflict of interest by any of these parties which would be a violation of the Agreement, the Contract, or the ACC, if any; and information on the qualifications and experience of the principal participants;

(j) The proposed financing method and proposed terms of financing. For proposals not requesting mortgage insurance, written evidence of review and interest by a lender which may include a state housing finance agency or financing agency under Part 811, or bond underwriter, indicating that the financing is likely to be available for the proposed project;

(k) The proposed term of the contract, and justification for the term, in accordance with § 880.502; and

(l) The identity of the contract administrator entity (PHA or HUD).

§ 880.306 Preliminary Evaluation and Technical Processing.

(a) *Preliminary Evaluation.* (1) After receipt of a preliminary proposal for a project for elderly families received prior to the deadline date in the NOFA, the field office will make a preliminary evaluation of the proposal in accordance with paragraph (a)(3) of this section. Proposals received after the deadline date will be returned unopened.

V 44 O C 15 7 9 UMI

(2) After receipt of a preliminary proposal for a project for nonelderly families, the field office will, so long as contract authority remains available, make a preliminary evaluation of each such proposal in accordance with paragraph (a)(3) of this section.

(3) In performing the preliminary evaluation, the field office will determine whether it appears, without field review, that:

(i) The proposal contains all of the required documentation in the proper form; and

(ii) The proposal is responsive to and in compliance with the requirements of the NOFA, developer's packet, and program policies and regulations, including Fair Market Rent, replacement cost, and amenities limitations.

(4) If a proposal is found deficient in accordance with paragraph (a)(3) of this section, it may be rejected. If a deficiency is minor, or if there are not sufficient proposals to use the available contract authority, the field office may request correction of the deficiency within a specified time period.

(5) If the proposal is not deficient, or if necessary corrections are made within the time limit established by the field office, the proposal will be considered in accordance with paragraph (b) or (c) of this section as appropriate.

(b) *Selection for Technical Processing.* (1) In the event the number of proposals found eligible for technical processing exceeds the number that the field office can process expeditiously, the field office may limit the proposals placed into technical processing to those which comprise a total number of units approximately equal to two to four times the number of units which can be approved. In order to determine which proposals to place into technical processing, the field office will, in order to eliminate the excess, rank the proposals by household type (elderly and non-elderly) considering the following factors and such other factors as may have been recommended by the field office and approved by the Assistant Secretary:

(i) The previous experience and qualifications of the owner, developer, builder, architect, management agent, and other participants in development, marketing and management (particularly of non-elderly housing);

(ii) Responsiveness to the preferences and priorities contained in any applicable Housing Assistance Plan;

(iii) The current availability of the site for development and the availability of utilities and services;

(iv) The permissiveness of current zoning;

(v) The likelihood of financing and the relative speed with which a firm financing commitment can be obtained; and

(vi) the relative need for and prior housing assistance to the jurisdiction in which the housing would be located.

(2) Preference points in selection of proposals for technical processing will be given to small projects and partially-assisted project.

(3) The owners of proposals not selected for technical processing will be notified that their proposals will not be processed further and will not be considered for selection under the provisions of § 880.302.

(4) One copy of each proposal will be retained by the field office.

(c) *Technical Processing.*

(1) In accordance with the procedures in 24 CFR, Part 891, a description of each proposal placed in technical processing will be sent to the unit of general local government for review and comment. In accordance with OMB Circular A-95, and 24 CFR Part 891, a copy of each proposal will also be sent to the A-95 state and areawide clearinghouses.

(2) Technical processing in the field office will include a review of the rents (see paragraph (c)(3) of this section), site, design, experience of the owner and other participants, local government and A-95 clearinghouse comments, extent of displacement and feasibility of relocation, feasibility of the project as a whole (including financing and marketability) and compliance with all applicable standards and requirements, including a HUD review for consistency with the Housing Assistance Plan, or for determination of need in areas without a Housing Assistance Plan, pursuant to 24 CFR Part 891. Any deficiencies found will be treated in the same manner as deficiencies found during preliminary evaluation (see paragraph (a)(4) of this section).

(3) The field office will evaluate proposed rents in accordance with § 880.204(b)(2).

(i) If the proposed rents are no more than the rents determined to be comparable, or are within 110 percent of comparable rents for small and partially-assisted proposals, the rents will be accepted.

(ii) If the proposed rents exceed the comparable rents by not more than 20 percent, they can be tentatively accepted subject to cost estimation at final proposal (see §§ 880.308(a) and 880.309(a)(2)) and cost certification after completion (see § 880.405).

(iii) If the proposed rents exceed the comparable rents by more than 20 percent, the field office may either reject the proposal or tentatively accept rents up to 120 percent of the comparable rents subject to cost estimation at final proposal and cost certification after completion.

(4) Amenities and design features will be reviewed to assure that they do not exceed this normally provided in housing of modest design in the general area of the proposed project.

(d) *Proposals Requiring Mortgage Insurance.* Proposals requiring mortgage insurance need not contain more information than is required for a preliminary proposal not requiring mortgage insurance. Technical processing of such proposals will include a preliminary determination of eligibility under the applicable mortgage insurance program. If such proposals are selected, subsequent processing will be in accordance with § 880.308(b), and applicable mortgage insurance requirements. If the proposal is ineligible for mortgage insurance, it may be rejected, or the field office may request the owner to submit documentation showing availability of an alternative method of financing.

§ 880.307 Selection of proposals and use of remaining or additional contract authority.

(a) All of the proposals found approvable in technical processing may be selected if sufficient contract authority is available. In no case will proposals be selected prior to completion of and without compliance with the allocation plan.

(b) If the available contract authority is insufficient to select all proposals found approvable in technical processing, all approvable proposals will be ranked by household type (elderly and non-elderly). The ranking factors are: Rents; site (including minority concentration considerations); design; previous experience of the owner and other participants in development, marketing and management (particularly of non-elderly family housing); comments from the A-95 clearinghouse and local government and responsiveness to preferences and priorities of any applicable Housing Assistance Plan and/or Areawide Housing Opportunities Plan; extent of displacement; and feasibility of relocation; and feasibility of the project as a whole (including likelihood of financing and marketability). Within the ranking for non-elderly family proposals, preference points will be given to small projects and partially-assisted projects. Any deviation in the ranking procedures as set forth in this paragraph and the program handbook must be approved by the Assistant Secretary for Housing and included in the developer's packet.

(c) Owners who submit proposals will be notified in writing as to whether their proposals have been found not approvable, found approvable but not selected, or selected. Selection notifications will include any special conditions or requirements applicable to the proposal. Owners who are notified of the selection of their proposals must notify the field office of their acceptance of the notification within the time period specified in the notification and must submit a final proposal by the deadline stated in the notification unless an extension of the deadline is approved by the field office. Owners of proposals found not approvable will be notified of the reason for the finding. One file copy of each proposal will be retained by the field office. Proposals found approvable and determined to be of high quality but not selected will be retained by the field office for reconsideration when additional contract authority becomes available in the same or subsequent fiscal year (see § 880.302).

(d) Units of general local government and A-95 clearinghouses notified under § 880.306(c) will be notified of the field office's decision regarding the proposals within their jurisdiction.

(e) When contract authority remains available after selection of proposals for housing for elderly families, or after a decision is made to reallocate unused contract authority for housing for non-elderly families, or additional contract authority becomes available due to cancellation or recapture of contract authority for a selected proposal, or due to the assignment of additional contract authority within the same fiscal year, the field office will determine the allocation areas and types of housing for which the contract authority will be used in accordance with 24 CFR, Part 891 and proceed in accordance with §§ 880.302, 880.303, and 880.304.

§ 880.308 Contents of final proposal.

(a) *Proposals for Uninsured Projects.* Final proposals for all projects except those requesting mortgage insurance will contain:

(1) Preliminary architectural drawings, including site plans, landscape plans, unit plans, general floor plans, elevations at the prescribed scale, outline specifications on the prescribed form and a listing of amenities.

(2) A statement that the documentation submitted with the preliminary proposal as required by § 880.305 (b) through (g) and (i) through (l) has not changed or a statement of the changes. In the case of special categories of projects submitted in accordance with § 880.303(c), the original documentation required by § 880.305 (b) through (l) must be submitted.

(3) Description of the terms and conditions of construction and permanent financing, including copies of the financing documents and the commitments for such financing from a lender or bond underwriter, or satisfactory evidence that commitments will be forthcoming before execution of the Agreement.

(4) For proposals for projects of five units or more, an Affirmative Fair Housing Marketing Plan.

(5) A statement of the marketing activities the owner intends to take to provide real opportunities to reside in the project to persons from impacted jurisdictions and persons expected to reside in the community by reason of current or planned employment. Such efforts might include: Participation in regional or sub-regional application pools and clearinghouses; establishment of a referral system with PHAs, other public agencies and Section 8 owners/managers in the surrounding area; contact with and provision of information about the project to employers and their employees, labor unions and interested community groups.

(6) Evidence of management capability, a proposed management plan and certification in the prescribed form, a copy of any proposed contracts for management services, and the proposed form of lease (see § 880.606).

(7) An indication of the estimated time for completion of the project after the Agreement is signed and, if the project is to be completed in stages, identification of the units and the scheduled completion of each stage.

(8) Cost estimates in the HUD prescribed form of the replacement cost, operating expenses, income, and debt service, sufficient to enable the field office to determine the cost justified rent, where required under § 880.204(b)(2). The replacement cost may include the cost to the owner of relocation (except for payments to tenants permanently relocated pursuant to § 880.209(b)(8)(ii). The cost estimate must indicate and reflect any anticipated benefits from land write-down, tax abatement, favorable financing terms and similar savings.

(b) *Proposals for Insured Projects.*

(1) For projects requiring mortgage insurance, except special categories of proposals which are discussed in paragraph (b)(3) of this section, the complete final proposal will consist of the application for firm commitment, plus submissions in accordance with paragraphs (a)(2), (a)(5), (a)(6) and (a)(8) of this section.

(2) Although it is preferable for projects requiring mortgage insurance to proceed directly from preliminary proposal to the application for firm commitment/final proposal stage, an owner may elect to submit an application for SAMA or conditional commitment first. In these cases, no additional documentation other than that normally submitted for the mortgage insurance processing stage is required. SAMA letters or conditional commitments issued for mortgage-insured projects which are infeasible without Section 8 assistance will be conditioned upon the subsequent review and approval of the application for firm commitment/final proposal.

(3) In the case of special categories of proposals submitted in accordance with § 880.303 which are requesting mortgage insurance, the first proposal may be an application for conditional or firm commitment plus the proposed form of lease, applicable information on staging, if any, and the documentation required by § 880.305 (f), (g), (h), (i) (with respect to possible conflicts of interest), (k) and (l).

§ 880.309 Review of final proposals

(a) All final proposals will be reviewed for compliance with program policies and standards. Material deviations from the preliminary proposal will be reviewed and may cause rejection of the proposal.

(1) Preliminary architectural drawings will be reviewed for compliance with amenity standards. In addition, HUD reserves the right to review for conformance with the HUD Minimum Property Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(2) The field office will review the projected replacement cost to assure compliance with the limitations of § 880.204(c) in effect at the time. The field office will also review the proposed rents to assure that the rents are within the Fair Market Rent limitations of § 880.204(b)(1) and are cost justified, where required under § 880.204(b)(2) concerning reasonable rents. Cost justification at this stage will consist of a review by the field office of the cost and expense estimates to determine whether the estimates justify the need for rents above comparable rents based on a debt service calculation.

(3) Where the final proposal requests rents higher than were approved with

V 44 0 C 15 7 9 UMI

the preliminary proposal, such rents may be approved only after the review required in paragraph (a)(2) of this section. In addition, the field office may approve the request for an increase only if it determines, based on documentation by the owner, that the need for increased rents is due to:

(i) Factors beyond the owner's control which could not reasonably have been foreseen;

(ii) Design changes approved by the field office which are necessary because of additional requirements imposed by governmental agencies or HUD; or

(iii) HUD-approved changes in the method or terms and conditions of financing.

(b) Each owner will be notified as to whether the final proposal has been approved, rejected, or could be approved with the submission of additional information or after correction of specified deficiencies. Notifications of approval will indicate a deadline for acceptance of the notification and, for projects not requiring mortgage insurance, a deadline for submission of working drawings and architect's certifications.

§ 880.310 Submission and review of working drawings, architect's certification and requested changes.

(a) For projects which do not involve mortgage insurance, the owner must submit working drawings and specifications to the field office for review after approval of the final proposal. The owner must also submit an architect's certification in the prescribed form that the drawings and specifications and proposed construction comply with the HUD Minimum Property Standards, local codes and ordinances, and zoning requirements. The working drawings and specifications will be reviewed for compliance with amenity standards. Any project may, at HUD's option, be reviewed for conformance with the HUD Minimum Property Standards, adequacy of design for tenant security and efficiency in construction and design; however, HUD has no obligation to do so and any such review or non-review will not constitute approval as to these standards.

(b) Any requests for rent increases or any material deviations from preliminary or final proposal which are submitted with the working drawings will be reviewed in the same manner as required in § 880.309(a).

(c) For projects involving mortgage insurance, working drawings are reviewed as part of the review of the application for firm commitment/final proposal.

§ 880.311 Execution of agreement (and ACC, if applicable).

(a) After review of the working drawings for compliance with amenity standards and acceptance of the architect's certification for projects not involving mortgage insurance, or at the time of initial endorsement in the case of projects involving mortgage insurance:

(1) In the case of private-owner/HUD and PHA-owner/HUD projects, HUD and the owner will execute the Agreement in the form prescribed by HUD; or

(2) In the case of private-owner/PHA projects, HUD and the PHA will execute the ACC in the form prescribed by HUD, and thereafter the PHA and the owner will execute the Agreement in the form prescribed by HUD, and HUD will approve it.

(b) No Agreement will be executed unless HUD has approved the financing for the project, including a commitment from a lender for construction and permanent financing at rates, terms and conditions acceptable to HUD, and the final proposal is in all other respects unconditionally approved.

(c) In the case of a non-elderly family project located in a Standard Metropolitan Statistical Area (SMSA), the field office will promptly notify PHAs and Community Development Agencies in the SMSA as well as any metropolitan-wide clearinghouse, or fair housing organizations where there is no metropolitan-wide clearinghouse, of the execution of the Agreement; the size and bedroom distribution of the project; and the expected time of initial marketing and occupancy. The notification will indicate that agencies should inform the owner if they wish to be contacted by the owner for referrals.

Subpart D—Construction Period and Cost Certification

§ 880.401 Timely performance of work.

(a) After execution of the Agreement, the owner must proceed promptly with construction as provided in the Agreement and complete the project within the time stated in the Agreement. If the owner fails to start promptly, or diligently continue or complete construction, the contract administrator will have the right to rescind the Agreement or take other appropriate action.

(b) Extensions of the time may be granted for the reasons stated in the Agreement. However, contract rents will be increased only for the reasons stated in § 880.403.

§ 880.402 Inspections during construction.

(a) All project records will be inspected by HUD periodically to determine compliance with Davis-Bacon Act requirements.

(b) Projects which involve HUD mortgage insurance, or another type of financing which requires HUD construction inspection, will be subject to the applicable inspection requirements.

(c) A review to determine contractor compliance with equal opportunity requirements may be conducted at any time during the construction period.

§ 880.403 Increases in contract rents or utility allowances before contract execution.

(a) Increases in contract rents or utility allowances after execution of the Agreement and prior to execution of the Contract are permitted with HUD approval only:

(1) To correct substantial errors by HUD in the original processing which would otherwise result in serious inequities;

(2) To reflect substantial and necessary changes in the plans and specifications which have been approved by HUD (no optional betterments may result in rent increases);

(3) To reflect additional costs for interest, taxes, hazard insurance, mortgage insurance premiums, and commitment fees, due to construction delays excusable under the Agreement;

(4) To reflect additional costs which result from new requirements imposed by local governments, HUD or other Federal agencies, which are beyond the control of the owner, which have been approved by HUD and which could not have been anticipated at the time the Agreement was executed; or

(5) To reflect increased costs which result from a change in contractors which is necessary because the original contractor became bankrupt, was terminated by the owner due to inadequate performance or abandoned the job.

(6) To reflect additional costs incurred by the owner in providing the relocation assistance and payments required by § 880.209 (except for payments made to tenants permanently relocated pursuant to § 880.209(b)(8)(ii)), or as a result of altering construction work schedules in order to minimize displacement, or as a result of other activities which minimize displacement or related hardships.

(b) Such increases will be:

(1) Limited to the amount necessary to cover the specific cost increase associated with the applicable item cited in paragraph (a) of this section; and

(2) Reviewed and approved only in accordance with the Fair Market Rent and rent reasonableness limitations of § 880.204(b) and the replacement cost limitations of § 880.204(c) which are in effect at the time of the review of the request.

(c) All requests for increases must be submitted promptly to the field office for review as soon as the need for the increases becomes apparent.

§ 880.404 Project completion.

(a) *Notification and Evidence of Completion.* The owner must notify HUD and the PHA, where the PHA is the contract administrator, when work is completed and provide HUD with:

(1) A set of as-built drawings;

(2) A certificate of occupancy and any other official approvals necessary for occupancy;

(3) A certification in the prescribed form that the project has been completed and is ready for occupancy in accordance with the requirements of the Agreement; and

(4) For projects where a HUD construction inspection is not required during construction, a certification from the inspecting architect in the prescribed form which states that the project has been constructed in accordance with the certified working drawings and specifications, HUD Minimum Property Standards, local codes and ordinances, and zoning requirements.

(b) *Review and Inspection.* Within 10 working days of the receipt of the notification and evidence of completion, HUD will review the evidence of completion for adequacy and will inspect the project to determine whether it appears that the project has been completed in accordance with the Agreement.

(c) *Acceptance of the Project.* (1) If HUD determines from review and inspection that the project (or a stage of the project) has been completed in accordance with the Agreement, the project (or stage) will be accepted.

(2) If there are any items of delayed completion which are minor items or which are incomplete because of weather conditions, and in any case which do not preclude or affect occupancy, and all other requirements of the Agreement have been met, the project (or stage) will be accepted. An escrow fund determined by HUD to be sufficient to assure completion for items of delayed completion will be required, as well as a written agreement between the contract administrator and the owner, to be included as an exhibit to the Contract, specifying the schedule for completion. If the items are not completed within the agreed time period, the contract administrator may terminate the Contract or exercise other rights under the Contract.

(3) If other deficiencies exist, HUD will determine whether and to what extent the deficiencies are correctable, and whether the contract rents should be reduced. The owner will be notified of HUD's decision. If the parties agree, HUD, the owner and the PHA, where applicable, will enter into an agreement for the correction of the deficiencies. If the deficiencies are corrected within the period of time allowed, HUD will accept the project.

(4) Otherwise, the project will not be accepted, and the owner and the PHA, where applicable, will be notified with a statement of the reasons for nonacceptance. (However, see § 880.501(a) for action where evidence of completion is acceptable only with respect to physical completion of the project.)

(d) *Pending Davis-Bacon Act Claims.* If there are pending claims under the provisions in the Agreement relating to the payment of prevailing wage rates, the owner will be required to place a sufficient amount, as required by HUD, in escrow as approved by HUD to assure such payments. The amount withheld may be disbursed with HUD approval for and on account of the owner or any subcontractor to the employees to whom it is due.

§ 880.405 Cost certification and adjustment of contract rents.

(a) *Submission by owner.* As soon as possible after acceptance of the project by HUD, the owner will certify the actual costs estimated under § 880.308(a)(8), and submit a cost certification including the certificate of an Independent Public Accountant to HUD in the manner and form prescribed by HUD, based on the following guidelines:

(1) Projects which involve HUD mortgage insurance will be subject to the cost certification requirements of the applicable insurance program;

(2) For projects not insured by HUD, a simplified form of cost certification will be completed and submitted;

(3) There will be no cost certification submission required for projects with rents that are equal to or less than comparable rents or for partially-assisted projects or small projects except as required by § 880.204(b)(2); and

(4) The provisions of paragraphs (a)(2) and (3) of this section do not preclude the imposition of different cost certification requirements appropriate as part of project financing requirements (such as tax-exempt financing under 24 CFR, Part 811).

(b) *HUD Review.* Cost certifications required by this regulation will be subject to review by HUD. As part of this review, the owner and/or contractor may be required to submit additional documentation.

(c) *Reduction of Contract Rents.* If the owner's certified costs provided in accordance with paragraph (a) of this section, as approved by HUD, are less than the cost estimate provided for in § 880.308(a)(8), the contract rents will be reduced accordingly.

(d) *Reduction of Maximum Annual Commitment.* If the contract rents are reduced pursuant to paragraph (c) of this section, the maximum annual Contract commitment (and the maximum ACC commitment, in the case of private-owner/PHA projects) will be reduced. If contract rents are reduced based on certification after Contract execution, any overpayment since the effective date of the Contract will be recovered from the owner by HUD.

Subpart E—Housing Assistance Payments Contract

§ 880.501. The contract.

(a) *Contract.* The Housing Assistance Payments Contract sets forth rights and duties of the owner and the contract administrator with respect to the project and the housing assistance payments. The owner and contract administrator execute the Contract in the form prescribed by HUD upon satisfactory completion of the project. If the field office finds that the evidence of completion is acceptable with respect to the physical completion of the project, including the certificate of occupancy and/or other official approvals required for occupancy, but the evidence of completion as required in § 880.404 in other respects is not acceptable, the field office will, upon request by the owner, execute or approve the execution of the Contract. In such case, however, until the remaining evidence of completion is submitted to and found acceptable by the field office:

(1) The contract rent for the purpose of computing housing assistance payments with respect to any unit will be the monthly amount of the debt service on the permanent obligations attributable to the unit; and

(2) Rent-up and occupancy will be subject to such conditions as the field office may require.

(b) *Effective Date of Contract.* The effective date of the Contract may be earlier than the date of execution, but no earlier than the date HUD inspects and

V 44 O C 15 7 9 UMI

accepts the project, except as provided in paragraph (a) of this section.

(c) *Housing Assistance Payments to Owners under the Contract.* The housing assistance payments made under the Contract are:

(1) Payments to the owner to assist eligible families leasing assisted units, and

(2) Payments to the owner for vacant assisted units ("vacancy payments") if the conditions specified in § 880.610 are satisfied.

The housing assistance payments are made monthly by the contract administrator upon proper requisition by the owner, except payments for vacancies of more than 60 days, which are made semi-annually by the contract administrator upon requisition by the owner.

(d) *Amount of Housing Assistance Payments to Owner.* (1) The amount of the housing assistance payment made to the owner of a unit being leased by an eligible family is the difference between the contract rent for the unit and the tenant rent payable by the family.

(2) A housing assistance payment will be made to the owner for a vacant assisted unit in an amount equal to 80 percent of the contract rent for the first 60 days of vacancy, subject to the conditions in § 880.611. If the owner collects any tenant rent or other amount for this period which, when added to this vacancy payment, exceeds the contract rent, the excess must be repaid as HUD directs.

(3) For a vacancy that exceeds 60 days, a housing assistance payment for the vacant unit will be made, subject to the conditions in § 880.611, in an amount equal to the principal and interest payments required to amortize that portion of the debt attributable to the vacant unit for up to 12 additional months.

(e) *Additional Housing Assistance Payments to Families.* In those cases where the total family contribution of a family leasing an assisted unit is less than the utility allowance for the unit, the difference will be paid to the family as an additional housing assistance payment. The Contract will provide that the owner will make this payment on behalf of the contract administrator. Funds for this purpose will be paid to the owner in trust solely for the purpose of making the additional payment.

§ 880.502 Term of contract.

(a) *Term (Except for Mobile Homes).* The term of the Contract will be as follows:

(1) For assisted units in a project financed with the aid of a loan insured or co-insured by the Federal government or a loan made, guaranteed or intended for purchase by the Federal government, the term will be 20 years.

(2) For assisted units in a project financed other than as described in paragraph (a)(1) of this section, the term will be the lesser of (i) the term of the project's financing (but not less than 20 years), or (ii) 30 years, or (iii) 40 years if (A) the project is owned or financed by a loan or loan guarantee from a state or local agency, (B) the project is intended for occupancy by non-elderly families and (C) the project is located in an area designated by HUD as one requiring special financing assistance.

(b) *Maximum Term for Mobile Homes.* For mobile home projects, the maximum initial term of the Contract is 5 years, subject to renewal by the contract administrator (and HUD if the contract administrator is a PHA), for additional terms of not more than 5 years up to a maximum total term of 20 years. In this paragraph, the term "mobile home" means the original mobile home and any replacement(s) combined.

(c) *Staged Projects.* If the project is completed in stages, the term of the Contract must relate separately to the units in each stage. The total Contract term for the units in all stages, beginning with the effective date of the Contract for the first stage, may not exceed the overall maximum term allowable for any one unit under this section, plus two years.

§ 880.503 Maximum Annual Commitment and Project Account.

(a) *Maximum Annual Commitment.* Where HUD is the contract administrator, the maximum annual amount that may be committed under the Contract is the total of the contract rents and utility allowances for all assisted units in the project. Where the PHA is the contract administrator, the maximum annual contribution that may be contracted for in the ACC is the total of the contract rents and utility allowances for all assisted units plus an administrative fee for the PHA as approved by HUD.

(b) *Project Account.*

(1) A project account will be established and maintained by HUD as a specifically identified and segregated account for each project. The account will be established out of the amounts by which the maximum annual commitment exceeds the amount actually paid out under the Contract or ACC each year. Payments will be made from this account for housing assistance payments (and fees for PHA administration, if appropriate) when needed to cover increases in contract rents or decreases in tenant rents and for other cost specifically approved by the Secretary.

(2) Whenever a HUD-approved estimate of required annual payments under the Contract or ACC for a fiscal year exceeds the maximum annual commitment and would cause the amount in the project account to be less than 40 percent of the maximum, HUD will, within a reasonable period of time, take such additional steps authorized by Section 8(c)(6) of the U.S. Housing Act of 1937, as may be necessary, to assure that payments under the Contract or ACC will be adequate to cover increases in Contract rents and decreases in tenant rents.

§ 880.504 Reduction of number of units covered by contract.

(a) *Limitation on Leasing to Ineligible Families.* Owners may not lease more than 10 percent of the assisted units in a project to ineligible families without the prior approval of HUD. Failure on the part of the owner to comply with this prohibition is a violation of the Contract and grounds for all available legal remedies, including specific performance of the Contract, suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section.

(b) *Reduction for Failure to Lease to Eligible Families.* If, at any time beginning six months after the effective date of the Contract, the owner fails for a continuous period of six months to have at least 90 percent of the assisted units leased or available for leasing by eligible families, HUD (or the PHA at the direction of HUD, as appropriate) may, on at least 30 days' notice, reduce the number of units covered by the Contract. HUD may reduce the number of units to the number of units actually leased or available for leasing plus 10 percent (rounded up). This reduction, however, will not be made if the failure to lease units to eligible families is permitted in writing by HUD under paragraph (a) of this section.

(c) *Restoration.* HUD will agree to an amendment of the ACC or the Contract, as appropriate, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) of this section if:

(1) HUD determines that the restoration is justified by demand,

(2) The owner otherwise has a record of compliance with his obligations under the Contract, and

(3) Contract authority is available.

§ 880.505 Contract administration and conversions.

(a) *Contract Administration.* For private-owner/PHA projects, the PHA is primarily responsible for administration of the Contract, subject to review and audit by HUD. For private-owner/HUD and PHA-owner/HUD projects, HUD is responsible for administration of the Contract.The PHA or HUD may contract with another entity for the performance of some or all of its contract administration functions.

(b) *PHA Fee for Contract Administration.* A PHA will be entitled to a reasonable fee, determined by HUD, for administering a Contract except under certain circumstances (see 24 CFR Part 883) where a state housing finance agency is the PHA and finances the project.

(c) *Conversion of Projects from One Ownership/Contractual Arrangement to Another.* Any project may be converted from one ownership/contractual arrangement to another (for example, from a private-owner/HUD to a private-owner/PHA project) if:

(1) The owner, the PHA and HUD agree,

(2) HUD determines that conversion would be in the best interest of the project, and

(3) In the case of conversion from a private-owner/HUD to a private-owner/PHA project, contract authority is available to cover the PHA fee for administering the Contract.

§ 880.506 Default by owner—private-owner/HUD and PHA owner/HUD projects.

The Contract will provide:

(a) That if HUD determines that the owner is in default under the Contract, HUD will notify the owner and the lender of the actions required to be taken to cure the default and of the remedies to be applied by HUD including specific performance under the Contract, reduction or suspension of housing assistance payments and recovery of overpayments, where appropriate; and

(b) That if the owner fails to cure the default, HUD has the right to terminate the Contract or to take other corrective action.

§ 880.507 Default by PHA and/or owner—private owner/PHA projects.

(a) *Rights of Owner if PHA Defaults under Agreement or Contract.* The ACC, the Agreement and the Contract will provide that, in the event of failure of the PHA to comply with the Agreement or Contract with the owner, the owner will have the right, if he is not in default, to demand that HUD investigate. HUD will first give the PHA a reasonable opportunity to take corrective action. If HUD determines that a substantial default exists, HUD will assume the PHA's rights and obligations under the Agreement or Contract and meet the obligations of the PHA under the Agreement or Contract including the obligations to enter into the Contract.

(b) *Rights of HUD if PHA Defaults under ACC.* The ACC will provide that, if the PHA fails to comply with any of its obligations, HUD may determine that there is a substantial default and require the PHA to assign to HUD all of its rights and interests under the Contract; however, HUD will continue to pay annual contributions in accordance with the terms of the ACC and the Contract. Before determining that a PHA is in substantial default, HUD will give the PHA a reasonable opportunity to take corrective action.

(c) *Rights of PHA and HUD if Owner Defaults under Contract.* (1) The Contract will provide that if the PHA determines that the owner is in default under the Contract, the PHA will notify the owner and lender, with a copy to HUD, (i) of the actions required to be taken to cure the default, (ii) of the remedies to be applied by the PHA including specific performance under the Contract, abatement of housing assistance payments and recovery of overpayments, where appropriate, and (iii) that if he fails to cure the default, the PHA has the right to terminate the Contract or to take other corrective action, in its discretion or as directed by HUD.

(2) If the PHA is the lender, the Contract will also provide that HUD has an independent right to determine whether the owner is in default and to take corrective action and apply appropriate remedies, except that HUD will not have the right to terminate the Contract without proceeding in accordance with paragraph (b) of this section.

Subpart F—Management

§ 880.601 Responsibilities of owner.

(a) *Marketing.* (1) The owner must commence diligent marketing activities in accordance with the Agreement not later than 90 days prior to the anticipated date of availability for occupancy of the first unit of the project.

(2) Marketing must be done in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan and all Fair Housing and Equal Opportunity requirements. The purpose of the Plan and requirements is to assure that eligible families of similar income in the same housing market area have an equal opportunity to apply and be selected for a unit in projects assisted under this part regardless of their race, color, creed, religion, sex or national origin.

(3) The owner must undertake marketing activities in advance of marketing to other prospective tenants in order to provide real opportunities to reside in the project to persons from impacted jurisdictions, persons who are least likely to apply as determined in the affirmative marketing plan, and persons expected to reside in the community by reason of current or planned employment.

(4) At the time of Contract execution, the owner must submit a list of leased and unleased units, with justification for the unleased units, in order to qualify for vacancy payments for the unleased units. (See §§ 880.501 (c) and (d) and § 880.611.)

(b) *Management and Maintenance.* The owner is responsible for all management functions (including selection of tenants, reexamination of family incomes, evictions and other terminations of tenancy, and collection of rents) and all repair and maintenance functions (including ordinary and extraordinary maintenance and replacement of capital items). All these functions must be performed in compliance with applicable Equal Opportunity requirements.

(c) *Contracting for Services.* With HUD approval, the owner may contract with a private or public entity (except the contract administrator) for performance of the services or duties required in paragraphs (a) and (b) of this section. However, such an arrangement does not relieve the owner of responsibility for these services and duties.

(d) *Submission of Financial and Operating Statements.* After execution of the Contract, the owner must submit to the contract adminstrator:

(1) Within 60 days after the end of each fiscal year of the project, financial statements for the project audited by an Independent Public Accountant in the form required by HUD, and

(2) Other statements as to project operation, financial conditions and occupancy as HUD may require pertinent to administration of the Contract and monitoring of project operations.

(e) *Use of Project Funds.* (1) Project funds must be used for the benefit of the project, to make required deposits to the replacement reserve in accordance with § 880.602 and to provide distributions to the owner as provided in § 880.205. Any remaining project funds must be deposited with the mortgagee or other HUD-approved depository in an

V 44 OC 15 79 UMI

interest-bearing residual receipts account. Withdrawals from this account will be made only for project purposes and with the approval of HUD.

(2) Partially-assisted projects are exempt from the provisions of this section.

(3) In the case of HUD-insured projects, the provisions of this paragraph will apply instead of the otherwise applicable mortgage insurance provisions.

§ 880.602 Replacement Reserve.

(a) A replacement reserve must be established and maintained in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items.

(1) An amount equivalent to .006 of the cost of total structures, including main buildings, accessory buildings, garages and other buildings, or any higher rate as required by HUD from time to time, will be deposited in the replacement reserve annually. This amount will be adjusted each year by the amount of the automatic annual adjustment factor.

(2) The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. Should the reserve achieve that level, the rate of deposit to the reserve may be reduced with the approval of HUD.

(3) All earnings including interest on the reserve must be added to the reserve.

(4) Funds will be held by the mortgagee or trustee for bondholders, and may be drawn from the reserve and used only in accordance with HUD guidelines and with the approval of, or as directed by, HUD.

(b) Partially-assisted projects are exempt from the provisions of this section.

(c) In the case of HUD-insured projects, the provisions of this section will apply instead of the otherwise applicable mortgage insurance provisions, except in the case of partially-assisted insured projects which are subject to the applicable mortgage insurance provisions.

§ 880.603 Selection and admission of assisted tenants.

(a) *Application.* The owner must accept applications for admission to the project in the form prescribed by HUD. Both the owner (or designee) and the applicant must complete and sign the application. On request, the owner must furnish copies of all applications to HUD and the PHA, if applicable.

(b) *Determination of Eligibility and Selection of Tenants.* The owner is responsible for determining whether the applicant is eligible, in accordance with 24 CFR Parts 812 and 889, and for the selection of families:

(1) Local residency requirements are prohibited. Local residency preferences may be applied in selecting tenants only to the extent that they are not inconsistent with affirmative fair housing marketing objectives and the owner's HUD-approved Affirmative Fair Housing Marketing Plan. With respect to any residency preference, persons expected to reside in the community as a result of current or planned employment will be treated as residents.

(2) If the owner determines that the family is eligible and is otherwise acceptable and units are available, the owner will assign the family a unit of the appropriate size in accordance with HUD standards. If no suitable unit is available, the owner will place the family on a waiting list for the project and notify the family of when a suitable unit may become available. If the waiting list is so long that the applicant would not be likely to be admitted for the next 12 months, the owner may advise the applicant that no additional applications are being accepted for that reason.

(3) If the owner determines that an applicant is ineligible on the basis of income or family composition, or that the owner is not selecting the applicant for other reasons, the owner will promptly notify the applicant in writing of the determination, the reasons for the determination, and that the applicant has the right to meet the owner or managing agent in eccordance with HUD requirements. Where the owner is a PHA, the applicant may request an informal hearing. If the PHA determines that the applicant is not eligible, the PHA will notify the applicant and inform the applicant that he has the right to request a review by HUD of the PHA's determination. The applicant may also exercise other rights if he believes he is being discriminated against on the basis of race, color, creed, religion, sex, or national origin.

(4) Records on applicants and approved eligible families, which provide racial, ethnic, gender and place of previous residency data required by HUD, must be maintained and retained for three years.

(c) *Income Mix.* In the initial renting of assisted units, the owner must lease at least 30 percent of the assisted units to very low-income families. After initial renting, the owner must use his best efforts to maintain at least 30 percent occupancy by very low-income families. In addition, at all times, the owner will use his best efforts to achieve leasing to families with a range of incomes so that the average of incomes of all families in occupancy is at or above 40 percent of the median income in the area.

(d) *Reexamination of Family Income and Composition.* (1) The owner is responsible for reexamining the income and composition of all families at least once each year (except that reviews may be made at intervals no longer than two years in the case of elderly families) and, upon verification of the information provided by the family, making appropriate adjustments in the total family contribution in accordance with the provisions of 24 CFR Part 889. The owner will adjust tenant rent and the housing assistance payment in accordance with any change in total family contribution. The owner may schedule reexaminations at intervals of less than one year when it is not possible to make a reasonable estimate of the family's income for a full year.

(2) If the family reports a change in income or other circumstances that would result in a decrease of total family contribution between regularly scheduled reexaminations, the owner, upon receipt of verification of the decrease in income, must promptly make appropriate adjustments in the total family contribution. The owner may require families to report increases in income between scheduled reexaminations.

(3) A family's eligibility for housing assistance payments continues until its total family contribution equals the total housing expense for the unit it occupies. The termination of eligibility at this point will not affect the family's other rights under the lease nor will such termination preclude resumption of payments as a result of subsequent changes in income or other circumstances during the term of the contract.

§ 880.604 Tenant rent.

The tenant rent is paid directly to the owner by the eligible family to whom an assisted unit is leased in partial payment of the contract rent. It is equal to the family's total family contribution minus any utility allowance for the unit. If the family's total family contribution is less than the utility allowance for the unit which it occupies, the tenant rent payable by the family to the owner is zero.

§ 880.605 Overcrowded and underoccupied units.

If the contract administrator determines that because of change in family size an assisted unit is smaller than appropriate for the eligible family to which it is leased, or that the unit is larger than appropriate, housing assistance payments with respect to the unit will not be reduced or terminated until the eligible family has been relocated to an appropriate alternative unit. If possible, the owner will, as promptly as possible, offer the family an appropriate unit. The owner may receive vacancy payments for the vacated unit if he complies with the requirements of § 880.611.

§ 880.606 Lease requirements.

(a) *Term of Lease.* The term of the lease will be for not less than one year. The lease may, or in the case of a lease for a term of more than one year must, contain a provision permitting termination on 30 days advance written notice by the family.

(b) *Form.* The form of lease must contain all required provisions, and none of the prohibited provisions specified in the developer's packet, and must conform to the form of lease included in the approved final proposal.

§ 880.607 Termination of tenancy and modification of lease.

(a) *Applicability.* The provisions of this section apply to all decisions by an owner to terminate the tenancy of a family residing in a unit under Contract during or at the end of the family's lease term.

(b) *Entitlement of Families to Occupancy.*—(1) *Grounds.* The owner may not terminate any tenancy except upon the following grounds: (i) Material noncompliance with the lease; (ii) Material failure to carry out obligations under any State landlord and tenant act; or (iii) Other good cause, which may include the refusal of a family to accept an approved modified lease form (see paragraph (d) of this section). No termination by an owner will be valid to the extent it is based upon a lease or a provisions of State law permitting termination of a tenancy solely because of expiration of an initial or subsequent renewal term. All terminations must also be in accordance with the provisions of any State and local landlord tenant law and paragraph (c) of this section.

(2) *Notice of Good Cause.* The conduct of a tenant cannot be deemed "other good cause" under paragraph (b)(1)(iii) of this section unless the owner has given the family prior notice that the grounds constitute a basis for termination of tenancy. The notice must be served on the family in the same manner as that provided for termination notices under paragraph (c) of this section and State and local law.

(3) *Material Noncompliance.* The term material noncompliance with the lease includes (i) one or more substantial violations of the lease, or (ii) repeated minor violations of the lease which disrupt the livability of the building adversely, affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related facilities, interfere with the management of the building or have an adverse financial effect on the building. Nonpayment of rent or any other financial obligation due under the lease (including any portion thereof) beyond any grace period permitted under State law will constitute a material noncompliance with the lease. The payment of rent or any other financial obligation due under the lease after the due date but within the grace period permitted under State law will constitute a minor violation.

(c) *Termination Notice.* (1) The owner must give the family a written notice of any proposed termination of tenancy, stating the grounds and that the tenancy is terminated on a specified date and advising the family that it has an opportunity to respond to the owner.

(2) When a termination notice is issued for other good cause (paragraph (b)(1)(iii) of this section), the notice will be effective, and it will so state, at the end of a term and in accordance with the termination provisions of the lease, but in no case earlier than 30 days after receipt by the family of the notice. Where the termination notice is based on material noncompliance with the lease or material failure to carry out obligations under a State landlord and tenant act pursuant to paragraph (b)(1)(i) or (ii) of this section, the time of service must be in accord with the lease and State law.

(3) In any judicial action instituted to evict the family, the owner may not rely on any grounds which are different from the reasons set forth in the notice.

(d) *Modification of Lease Form.* The owner may, with the prior approval of HUD, modify the terms and conditions of the lease form effective at the end of the initial term or a successive term, by serving an appropriate notice on the family, together with the offer of a revised lease or an addendum revising the existing lease. This notice and offer must be received by the family at least 30 days prior to the last date on which the family has the right to terminate the tenancy without being bound by the modified terms and conditions. The family may accept the modified terms and conditions by executing the offered revised lease or addendum, or may reject the modified terms and conditions by giving the owner written notice in accordance with the lease that the family intends to terminate the tenancy. Any increase in rent must in all cases be governed by § 880.609 and other applicable HUD regulations.

§ 880.608 Security deposits.

(a) At the time of the initial execution of the lease, the owner will require each family to pay a security deposit in an amount equal to one month's total family contribution or $50, whichever is greater. The family is expected to pay the security deposit from its own resources and/or other public sources. The owner may collect the security deposit on an installment basis.

(b) The owner must place the security deposits in a segregated, interest-bearing account. The balance of this account must at all times be equal to the total amount collected from the families then in occupancy, plus any accrued interest. The owner must comply with any applicable State and local laws concerning interest payments on security deposits.

(c) In order to be considered for the return of the security deposit, a family which vacates its unit will provide the owner with its forwarding address or arrange to pick up the refund.

(d) The owner, subject to State and local law and the requirements of this paragraph, may use the security deposit, plus any accrued interest, as reimbursement for any unpaid family contribution or other amount which the family owes under the lease. Within 30 days (or shorter time if required by State, or local law) after receiving notification of the family's forwarding address, the owner must:

(1) Refund to a family owing no rent or other amount under the lease the full amount of the security deposit, plus accrued interest;

(2) Provide to a family owing rent or other amount under the lease a list itemizing any unpaid rent, damages to the unit, and estimated costs for repair, along with a statement of the family's rights under State and local law. If the amount which the owner claims is owed by the family is less than the amount of the security deposit, plus accrued interest, the owner must refund the unused balance to the family. If the owner fails to provide the list, the family will be entitled to the refund of the full amount of the security deposit plus accrued interest.

(e) In the event a disagreement arises concerning reimbursement of the security deposit, the family will have the right to present objections to the owner in an informal meeting. The owner must keep a record of any disagreements and meetings in a tenant file for inspection by the contract administrator. The procedures of this paragraph do not

V 4 4 0 C 1 5 7 9 UMI

preclude the family from exercising its rights under State and local law.

(f) If the security deposit, including any accrued interest, is insufficient to reimburse the owner for any unpaid tenant rent or other amount which the family owes under the lease, and the owner has provided the family with the list required by paragraph (d)(2) of this section, the owner may claim reimbursement from HUD or the PHA, as appropriate, for an amount not to exceed the lesser of:

(1) The amount owed the owner, or

(2) One month's contract rent, minus the amount of the security deposit plus accrued interest.

Any reimbursement under this section will be applied first toward any unpaid tenant rent due under the lease. No reimbursement may be claimed for unpaid rent for the period after termination of the tenancy.

§ 880.609 Adjustment of contract rents.

(a) *Automatic Annual Adjustment of Contract Rents.* Upon request from the owner to the contract administrator, contract rents will be adjusted on the anniversary date of the contract in accordance with 24 CFR Part 888.

(b) *Special Additional Adjustments.* For all projects, special additional adjustments will be granted, to the extent determined necessary by HUD, to reflect increases in the actual and necessary expenses of owning and maintaining the assisted units which have resulted from substantial general increases in real property taxes, assessments, utility rates, and utilities not covered by regulated rates, and which are not adequately compensated for by annual adjustments under paragraph (a) of this section. The owner must submit to the contract administrator required supporting data, financial statements and certifications.

(c) *Overall Limitation.* Any adjustments of contract rents for a unit after Contract execution or cost certification, where applicable, must not result in material differences between the rents charged for assisted units and comparable unassisted units except to the extent that the differences existed with respect to the contract rents set at Contract execution or cost certification, where applicable.

§ 880.610 Adjustment of utility allowances.

The owner must recommend to the contract administrator, in connection with annual and special adjustments of contract rents, and at other times if appropriate, whether and to what extent the utility allowance for any assisted unit should be adjusted. Whenever a utility allowance for a unit is adjusted, the owner will promptly notify the families occupying assisted units and make a corresponding adjustment of the tenant rent and the amount of the housing assistance payment for the unit.

§ 880.611 Conditions for receipt of vacancy payments.

(a) *General.* Vacancy payments under the Contract will not be made unless the conditions for receipt of these housing assistance payments set forth in this section are fulfilled.

(b) *Vacancies During Rent-up.* For each assisted unit that is not leased as of the effective date of the Contract, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Conducted marketing in accordance with § 880.601(a) and otherwise complied with § 880.601;

(2) Has taken and continues to take all feasible actions to fill the vacancy; and

(3) Has not rejected any eligible applicant except for good cause acceptable to the contract administrator.

(c) *Vacancies after Rent-Up.* If an eligible family vacates a unit, the owner is entitled to vacancy payments in the amount of 80 percent of the contract rent for the first 60 days of vacancy if the owner:

(1) Certifies that he did not cause the vacancy by violating the lease, the Contract or any applicable law;

(2) Notified the contract administrator of the vacancy or prospective vacancy and the reasons for the vacancy immediately upon learning of the vacancy or prospective vacancy;

(3) Has fulfilled and continues to fulfill the requirements specified in § 880.601(a) (2) and (3) and § 880.611(b) (2) and (3); and

(4) For any vacancy resulting from the owner's eviction of an eligible family, certifies that he has complied with § 880.607.

(d) *Vacancies for Longer than 60 Days.* If an assisted unit continues to be vacant after the 60-day period specified in paragraph (b) or (c) of this section, the owner may apply to receive additional vacancy payments in an amount equal to the principal and interest payments required to amortize that portion of the debt service attributable to the vacant unit for up to 12 additional months for the unit if:

(1) The unit was in decent, safe and sanitary condition during the vacancy period for which payments are claimed;

(2) The owner has fulfilled and continues to fulfill the requirements specified in paragraph (b) or (c) of this section, as appropriate; and

(3) The owner has demonstrated to the satisfaction of HUD that:

(i) For the period of vacancy, the project is not providing the owner with revenues at least equal to project expenses (exclusive of depreciation), and the amount of payments requested is not more than the portion of the deficiency attributable to the vacant unit, and

(ii) The project can achieve financial soundness within a reasonable time.

(e) *Prohibition of Double Compensation for Vacancies.* The owner is not entitled to vacancy payments for vacant units to the extent he can collect for the vacancy from other sources (such as security deposits, payments under § 880.608(f), and governmental payments under other programs).

§ 880.612 Reviews during management period.

(a) After the effective date of the Contract, the contract administrator will inspect the project and review its operation at least annually to determine whether the owner is in compliance with the Contract and the assisted units are in decent, safe and sanitary condition.

(b) In addition, for private-owner/PHA projects, HUD:

(1) Will review the PHA's administration of the Contract at least annually to determine whether the PHA is in compliance with the ACC, and

(2) May independently inspect project operations and units at any time.

(c) Equal Opportunity reviews may be conducted by HUD at any time.

(Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Issued at Washington, D.C., October 5, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-31714 Filed 10-12-79; 8:45 am]

BILLING CODE 4210-01-M

V 44 0C 15 7 9 UMI

federal register

Monday
October 15, 1979

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; October, 1979

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals; October, 1979

This report is submitted in fulfillment of the requirements of Section 1014(e) of the Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year with respect to which, as of the first day of the month, a special message has been transmitted to the Congress.

This month's report gives the status as of October 1, 1979 of one rescission and 31 deferrals contained in the first special message for FY 1980. This message was transmitted to the Congress on October 1, 1979.

Rescissions (Attachment A)

Attachment A reflects the rescission proposal of $114 thousand contained in the first special message for FY 1980 transmitted to the Congress on October 1, 1979.

Deferrals (Attachment B)

On October 1, 1979, $1,000.4 million in 1980 budget authority was being deferred from obligation and another $2.7 million in 1980 obligations was being deferred from expenditure. Attachment B shows the status of the deferrals reported by the President in the first special message for FY 1980 transmitted to the Congress on October 1, 1979.

James T. McIntyre, Jr.,
Director.

BILLING CODE 3110-01-M

PAGE 1 ATTACHMENT A - STATUS OF RESCISSIONS - FISCAL YEAR 1980 AS OF 09/26/79 13:46

AS OF OCT. 1, 1979
AMOUNTS IN THOUSANDS OF DOLLARS

AGENCY/BUREAU/ACCOUNT	RESCISSION NUMBER	AMOUNT RESCINDED	DATE OF MESSAGE MO DA YR	AMOUNT PREVIOUSLY CONSIDERED BY CONGRESS	AMOUNT MADE AVAILABLE	DATE MADE AVAILABLE MO DA YR
OTHER INDEPENDENT AGENCIES						
International Communication Agency						
Special international exhibitions						
BA	R80- 1	114	10 1 79			
TOTAL BA		114				

PAGE 1 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 09/26/79 13:48

AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 10-01-79
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund	BA	D80- 1	100,000		10 1 79				100,000
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales	BA	D80- 2	9,298		10 1 79				9,298
Expenses, brush disposal	BA	D80- 3	32,060		10 1 79				32,060
Restoration of forest lands	BA	D80- 4	38		10 1 79				38
DEPARTMENT OF AGRICULTURE TOTAL	BA		41,396						41,396
DEPARTMENT OF COMMERCE									
National Oceanic and Atmospheric Administration									
Construction	BA	D80- 5	7,000		10 1 79				7,000
Coastal zone management	BA	D80- 6	20,000		10 1 79				20,000
Promote and develop fishery products and research	BA	D80- 7	2,400		10 1 79				2,400
Fisheries loan fund	BA	D80- 8	5,300		10 1 79				5,300

PAGE 2 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 09/26/79 13:48

AMOUNTS IN THOUSANDS OF DOLLARS / AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 10-01-79
DEPARTMENT OF COMMERCE TOTAL	BA		34,700						34,700
DEPARTMENT OF DEFENSE-MILITARY									
Military Construction									
Military construction, all services	BA	D80- 9	31,386		10 1 79				31,386
DEPARTMENT OF DEFENSE-CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation, all services	BA	D80-10	595		10 1 79				595
DEPARTMENT OF ENERGY									
Energy Programs									
Fossil energy construction	BA	D80-11	50,000		10 1 79				50,000
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE									
Alcohol, Drug Abuse & Mental Health Administration									
Construction & renovation, St. Elizabeths Hospital	BA	D80-12	23,314		10 1 79				23,314
Human Development Services									
White House Conferences on Aging and Families	BA	D80-13	4,649		10 1 79				4,649
DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE TOTAL	BA		27,963						27,963

UMI 7 9 5 1 0 0 4 4 V

PAGE 3 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 09/26/79 13:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 10-01-79
DEPARTMENT OF THE INTERIOR								
Heritage Conservation and Recreation Service								
Land and water conservation fund								
BA	D80-14	30,000		10 1 79				30,000
Geological Survey								
Payments from proceeds, sale of water								
BA	D80-15	39		10 1 79				39
Bureau of Mines								
Drainage of anthracite mines								
BA	D80-16	1,137		10 1 79				1,137
DEPARTMENT OF THE INTERIOR TOTAL BA		31,176						31,176
DEPARTMENT OF JUSTICE								
Federal Prison System								
Buildings and facilities								
BA	D80-17	22,853		10 1 79				22,853
DEPARTMENT OF STATE								
Other								
Emergency refugee and migration assistance fund								
BA	D80-18	5,650		10 1 79				5,650
DEPARTMENT OF TRANSPORTATION								
Federal Aviation Administration								
Civil supersonic aircraft development termination								
BA	D80-19	5,004		10 1 79				5,004
Facilities & equip. (Airport & airway trust fund)								
BA	D80-20	138,211		10 1 79				138,211

PAGE 4 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 09/26/79 13:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT	DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 10-01-79
Urban Mass Transportation Administration								
Urban mass transportation fund								
BA	D80-21	393,076		10 1 79				393,076
DEPARTMENT OF TRANSPORTATION TOTAL BA		536,291						536,291
DEPARTMENT OF THE TREASURY								
Office of Revenue Sharing								
State and local government fiscal assistance fund								
BA	D80-22	79,543		10 1 79				79,548
O	D80-23	2,735		10 1 79				2,735
Bureau of the Mint								
Construction of mint facilities								
BA	D80-24	3,230		10 1 79				3,230
DEPARTMENT OF THE TREASURY TOTAL BA		82,778						82,778
TOTAL O		2,735						2,735
OTHER INDEPENDENT AGENCIES								
Federal Emergency Management Agency								
Emergency planning, preparedness, and mobilization								
BA	D80-25	80		10 1 79				80
Foreign Claims Settlement Commission								
Payment of Vietnam prisoner of war claims								
BA	D80-26	1,800		10 1 79				1,800
International Communication Agency								
Acquisition & construction of radio facilities								
BA	D80-27	10,973		10 1 79				10,973

UMI 7 9 1 5 C O V 4 4

PAGE 5 ATTACHMENT B - STATUS OF DEFERRALS - FISCAL YEAR 1980 AS OF 09/26/79 13:48

AMOUNTS IN THOUSANDS OF DOLLARS AGENCY/BUREAU/ACCOUNT		DEFERRAL NUMBER	AMOUNT TRANSMITTED ORIGINAL REQUEST	AMOUNT TRANSMITTED SUBSEQUENT CHANGE	DATE OF MESSAGE MO DA YR	CUMULATIVE OMB /AGENCY RELEASES	CONGRESSIONALLY REQUIRED RELEASES	CUMULATIVE ADJUSTMENTS	AMOUNT DEFERRED AS OF 10-01-79
National Alcohol Fuels Commission									
Salaries and expenses	BA	D80-28	250		10 1 79				250
National Commission on Social Security									
Salaries and expenses	BA	D80-29	250		10 1 79				250
Navajo & Hopi Indian Relocation Commission									
Salaries and expenses	BA	D80-30	5,300		10 1 79				5,300
Tennessee Valley Authority									
Tennessee Valley Authority fund	BA	D80-31	17,000		10 1 79				17,000
OTHER INDEPENDENT AGENCIES TOTAL	BA		35,653						35,653
TOTAL	BA		1,000,441						1,000,441
TOTAL	O		2,735						2,735

[FR Doc. 79-31755 Filed 10-12-79; 8:45 am]
BILLING CODE 3110-01-C

federal register

Monday
October 15, 1979

Part V

Department of Transportation

Federal Highway Administration and Urban Mass Transportation Administration

Environmental Impact and Related Procedures; Proposed Rulemaking and Notice of Proposed Supplementary Guidance and Procedures

V 44 0C 15 79 UMI

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Urban Mass Transportation Administration

23 CFR Part 771

49 CFR Part 622

[FHWA Docket No. 79-26]

Environmental Impact and Related Procedures

AGENCIES: Federal Highway Administration [FHWA] and Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: On November 29, 1978, the Council on Environmental Quality (CEQ) issued regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA). The CEQ regulations require each Federal agency to publish implementing procedures that apply the CEQ regulations to programs administered by the agencies. The proposed regulations published here are the coordinated responses of FHWA and UMTA to the CEQ regulations and the implementing procedures issued by the Department of Transportation (DOT). The FHWA/UMTA regulations will establish requirements for applicants for Federal funds under the programs of these two agencies and procedures for UMTA and FHWA to follow.

DATES: Comments must be received on or before November 14, 1979. Comments received after that date will be considered to the extent practicable.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 79-26, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: FHWA: Dale Wilken, Office of Environmental Policy, 202-426-0106, or Irwin Schroeder, Office of the Chief Counsel, 202-426-0791. Office hours for FHWA are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday. UMTA: Peter Benjamin, Office of Transit Assistance, 202-472-2435, or John Collins, Office of the Chief Counsel, 202-426-1906. Office hours for UMTA are from 8:30 a.m. to 5:00 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: After an extensive public comment period the CEQ issued final regulations for implementing the procedural provisions of the National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 et seq.). The CEQ regulations were published on November 29, 1978 (43 FR 55978), and codified as 40 CFR Parts 1500-1508. The original draft of the CEQ regulations was published on June 9, 1978, and over 300 comments were received and considered in the development of the final version.

CEQ said in its regulation that:

> The National Environmental Policy Act (NEPA) is our basic national charter for protection of the environment. It establishes policy, sets goals (section 101), and provides means (section 102) for carrying out the policy. Section 102(2) contains "action-forcing" provisions to make sure that federal agencies act according to the letter and the spirit of the Act. (40 CFR 1500.1(a))

In response to the CEQ regulations, the Department of Transportation (DOT) published DOT Order 5610.1C for comment on May 31, 1979 (44 FR 31341) and in final form on October 1, 1979 (44 FR 56420). The DOT Order establishes general procedures and requirements for the consideration of environmental impacts by agencies within DOT. The CEQ regulations and the DOT Order should be consulted as source materials on environmental procedures. Both encourage operating administration such as FHWA and UMTA to develop implementing procedures consistent with theirs. Because neither the CEQ regulations nor the DOT Order contain specific procedures necessary for the grant programs administered by FHWA and UMTA, both administrations decided to issue their own procedures.

FHWA and UMTA were originally developing separate procedures to implement the CEQ regulations and the DOT Order. However, in an effort to reduce red tape for applicants for funds from FHWA and UMTA and to enhance the consideration of alternatives that are developed as part of the environmental review process, FHWA and UMTA redirected their efforts to develop the coordinated regulations that are published here. As an aid to applicants who deal only with FHWA or only with UMTA, the proposed FHWA regulation will be published separately as 23 CFR Part 771 and the proposed UMTA regulation will be published separately as 49 CFR Part 622. However, for those agencies and individuals that are involved with projects of both FHWA and UMTA, the similarities of the two proposed regulations should be readily apparent.

First, the 23 sections of each proposed regulation have a one-to-one correspondence with each other so that provisions can be easily compared. For example, 23 CFR 771.*211* and 49 CFR 622.*211* contain the requirements for draft environmental impact statements for FHWA and UMTA respectively. Subpart A of each proposed regulation establishes basic ground rules that are identical for the two agencies. The procedures in Subpart B of each are different, but this is due to differences in the statutory programs (most significant FHWA programs are formula based and are funded from a Trust Fund while UMTA manages a large discretionary program that is funded from general revenues), differences in the type of applicants (FHWA deals mainly statewide agencies that enjoy a special status under NEPA while UMTA generally does not deal with statewide agencies), and differences in the degree of Federal decentralization (FHWA has offices in each state while UMTA only has 10 regional offices). Both proposed regulations refer to related sections of the CEQ regulations in parentheses where appropriate.

FHWA and UMTA are also coordinating efforts in the development of major urban transportation projects. On December 7, 1978, FHWA and UMTA issued a notice of proposed rulemaking titled "Major Urban Transportation Investments" (43 FR 57478). The proposed rule would require a cost-effectiveness analysis of alternatives for major highway and mass transportation investments proposed for urbanized areas. Under this proposal, there will be a number of projects jointly administered by UMTA and FHWA for which the cost-effectiveness analysis will be summarized in the environmental documents prepared for the projects.

The CEQ regulations require agencies to publish their implementing procedures by July 30, 1979. FHWA and UMTA have consulted with CEQ in the development of these procedures as requested by CEQ. In April of 1979, FHWA and UMTA jointly requested an extension of time beyond July 30, to permit an opportunity for public comment on their procedures in proposed form. The request was denied by CEQ.

Based on the considerations discussed above, FHWA and UMTA had intended to issue their procedures as "emergency regulations" within the meaning of Executive Order 12044 (43 FR 12661; March 24, 1978) and the DOT regulatory policies and procedures (44 FR 11034; Feb. 26, 1979) which implement that executive order. Public comment would have been invited for a period of 60 days from the date of publication, and final regulations would then have been issued after review of the comments received. This approach was changed in response to a June 13 memorandum from CEQ to all Federal agency NEPA Liaisons emphasizing the importance of receiving public comments before making any new NEPA procedures effective. Thus, the Administrators of FHWA and UMTA have decided to publish these procedures as a notice of proposed rulemaking.

Although, with the notable exception of Federal-aid highway project development, the operations of FHWA and UMTA have been governed directly by the CEQ regulations since July 30, it is still very important to their respective grant programs that final regulations be promulgated as soon as possible. In light of the need to expedite the issuance of final regulations, and in recognition of the public's previous opportunity to comment on both the CEQ regulations and DOT Order 5610.1C, it has been determined to offer a 30-day period for public comment.

Comments are invited on the procedures, format, and substance of these proposed regulations. Comments are also requested on the possibility of further combining, consolidating and simplifying the FHWA and UMTA procedures.

In addition to implementing the procedural provisions of NEPA and the CEQ regulations, the proposed regulations also contain a section on Section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f); also 23 U.S.C. 138). Comments are also requested on these Section 4(f) provisions and, in particular, on § 771.223(c) and § 622.223(c) of the proposed regulations which would alter the manner by which DOT determines the significance of historic sites for the purpose of determining the applicability of Section 4(f) to these sites. Under regulations (36 CFR Parts 63 and 800) developed in response to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA) (16 U.S.C. 470 et seq.), historic sites of national, State, or local significance are identified and receive Section 106 protection based on a determination by the Secretary of the Interior that such sites are eligible for or should be placed on the National Register of Historic Places. State and local officials are given ample opportunity to participate in this process under the Section 106 regulations.

Similarly, Section 4(f) applies to historic sites which are determined to have national, State, or local significance by the Federal, State, or local officials having jurisdiction over the site. The Section 106 procedures assure that all such significant and potentially significant sites are identified. (See 36 CFR Part 63; 36 CFR 800.4(a).) The requirements of Section 4(f) can then be applied when the land from the site in question will be used by an FHWA or UMTA funded project. Therefore, to lessen the administrative overlap between the two statutes, it is proposed that Section 4(f) would apply only to those sites included on or eligible for inclusion on the National Register of Historic Places.

All responses to this publication will be available for examination by any interested person at the above address both before and after the closing date for comments. Final regulations will be issued after review of the comments received from other agencies, the public, and CEQ. The proposed FHWA/UMTA regulations will also be revised, as necessary, to be consistent with the final DOT Order.

The final FHWA regulation will also be issued as Volume 7, Chapter 7 Section 2, of the Federal-Aid Highway Program Manual (FHPM 7-7-2), which is provided directly to the States and is available for inspection and copying under 49 CFR Part 7, Appendix D. Based on past experience, FHWA has found that housekeeping procedures (e.g., distribution instructions) and detailed explanatory guidance (e.g., suggested format and content of environmental documents) are more useful in the form of separate reference documents. FHWA thus plans to issue that material in appendices to FHPM 7-7-2. These proposed appendices are being published for public information and comment in this same special part of today's **Federal Register** under the "Notice" heading. Comments on the proposed appendices should also be submitted to FHWA Docket No. 79-26.

> Note.—The Federal Highway Administration and the Urban Mass Transportation Administration have determined that this document contains a significant proposal according to the criteria established by the Department of Transportation pursuant to E.O. 12044. A draft regulatory evaluation is available for inspection in the public docket and may be obtained by contacting Dale Wilken or Peter Benjamin at the address specified above.

In consideration of the foregoing, and under the authority of 42 U.S.C. 4321 et seq., 23 U.S.C. 315 and 49 U.S.C. 1601 et seq., and the delegations of authority at 49 CFR 1.48(b) and 1.51, it is proposed to amend Chapter I of Title 23 and Chapter VI of Title 49, Code of Federal Regulations, by revising Part 771 and adding Part 622, respectively, as set forth below.

Issued on: October 10, 1979.

Karl S. Bowers,

Federal Highway Administrator.

Lillian C. Liburdi,

Acting Urban Mass Transportation Deputy Administrator.

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER H—RIGHT-OF-WAY AND ENVIRONMENT

PART 771—ENVIRONMENTAL IMPACT STATEMENTS

Subpart A—General Provisions

Sec.

771.101 Purpose.
771.103 Authority and related statutes and orders.
771.105 Policy.
771.107 Definitions.
771.109 Applicability.
771.111 Adoption of regulations.
771.113 Proposals for legislation (40 CFR 1506.8).

Subpart B—Program and Project Procedures

771.201 Highway improvements.
771.203 Early coordination and scoping (40 CFR 1501.7).
771.205 Categorical exclusions (40 CFR 1508.4).
771.207 Enviornmental assessment (EA) (40 CFR 1508.9).
771.209 Finding of no significant impact (FONSI) (40 CFR 1508.13).
771.211 Draft EIS's (40 CFR 1502).
771.213 Final EIS's (40 CFR 1502).
771.215 Predecision referrals to CEQ (40 CFR 1504).
771.217 Supplemental statements.
771.219 Record of decision (40 CFR 1505.2).
771.221 Emergency action procedures.
771.223 Application of 23 U.S.C. 138 [commonly called Section 4(f)].
771.225 Executive Order 11988, Flood Plain Management.
771.227 Executive Order 11990, Protection of Wetlands.
771.229 Air quality conformity statement.
771.231 Other agency statements.
Appendix.—Categorical exclusions.

Authority: 42 U.S.C. 4312 *et seq.*; 23 U.S.C. 315; 49 CFR 1.48(b).

Subpart A—General Provisions

§ 771.101 Purpose.

This regulation prescribes the policies and procedures of the Federal Highway Administration (FHWA) for implementing the National

Environmental Policy Act (NEPA) and related environmental statutes, regulations and orders. It explains how the regulations of the Council on Environmental Quality (CEQ) and the procedures of the U.S. Department of Transportation (DOT) apply to actions of FHWA.

§ 771.103 Authority and related statutes and orders.

(a) 42 U.S.C. 4321 *et seq.*, National Environmental Policy Act of 1969, as amended;
(b) 42 U.S.C. 4371 *et seq.*, Environmental Quality Improvement Act of 1970;
(c) 23 U.S.C. 138 and 49 U.S.C. 1653(f) (Section 4(f) of the Department of Transportation Act of 1966);
(d) 23 U.S.C. 109(j);
(e) 23 U.S.C. 315;
(f) 40 CFR 1500 *et seq.*, CEQ regulations for Implementing the Procedural Provisions of the National Environmental Policy Act;
(g) 49 CFR 1.48(b), DOT Delegations of Authority;
(h) DOT Order* 5610.1C, Procedures for Considering Environmental Impacts;
(i) Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991;
(j) 42 U.S.C. 7401 *et seq.*, Clean Air Act, as amended;
(k) 33 U.S.C. 1251 *et seq.*, Clean Water Act, as amended;
(l) 16 U.S.C. 470f, Section 106 of the National Historic Preservation Act of 1966;
(m) 16 U.S.C. 1452, 1456, Sections 303 and 307 of the Coastal Zone Management Act of 1972;
(n) 16 U.S.C. 662, Section 2 of the Fish and Wildlife Coordination Act;
(o) 16 U.S.C. 1533, Section 7 of the Endangered Species Act, as amended;
(p) Executive Order 11988, Flood Plain Management, as implemented by 23 CFR Part 650, Subpart A;
(q) Executive Order 11990, Protection of Wetlands, as implemented by DOT Order* 5660.1A.

§ 771.105 Policy.

(a) It is the policy of the FHWA that in the development of agency actions:
(1) A systematic interdisciplinary approach be used to assess the beneficial and adverse social, economic, and environmental effects;
(2) Efforts be made to improve the relationship between human-kind and the envrionment and to preserve the urban environment and natural and cultural resources in rural and urban areas;
(3) Significant agency actions be conducted in consultation with local, State, and Federal agencies and with the public;
(4) Decisions be made in the best overall public interest and alternative courses of action be evaluated based upon a balanced consideration of the need for safe and efficient transportation and public services and of national, State and local environmental goals; and
(5) To the fullest extent practicable, all studies, reviews and consultations under NEPA and related statutes be coordinated and accomplished as part of FHWA's compliance with NEPA.
(b) It is also the policy of FHWA that measures necessary to mitigate adverse impacts resulting from FHWA actions are eligible for funding with Federal-aid funds. Appropriate mitigation measures will be incorporated into FHWA actions when it is determined that
(1) The impacts for which mitigation is proposed actually result from the FHWA action, and
(2) The proposed mitigation represent a reasonable public expenditure when weighed against other social, economic, and environmental values.

§ 771.107 Definitions.

(a) The definitions contained in the CEQ Regulations (40 CFR Part 1508) are applicable to this regulation.
(b) "Environmental studies" are technical investigations of specific impacts. These studies provide the background technical data necessary to determine the environmental impacts of a proposed action.
(c) The "highway agency (HA)" is the agency with primary responsibility for initiating and carrying forward the action. For highway improvements financed with Federal-aid funds, the HA will normally be the appropriate State HA or the State HA in cooperation with a county or city HA. For highway improvements financed with other funds, such as forest highways, park roads, etc., the HA will be the appropriate Federal or State agency with the primary responsibility for initiating and carrying forward the action.

§ 771.109 Applicability.

(a) As supplemented by this regulation, the provisions of the CEQ Regulations (40 CFR Parts 1500 *et seq.*) are directly applicable to FHWA actions.
(b) The provisions of this regulation apply to any action over which the FHWA exercises sufficient control and responsibility to alter the development or action being planned, including any action implemented under "Certification Acceptance" procedures (23 U.S.C. 117).
(c) Where FHWA acts as a joint lead agency with other Federal agencies as provided in 40 CFR 1501.5(b), mutually acceptable procedures for the preparation and processing of environmental documents will be established on a case-by-case basis with the other lead agencies, consistent with the purpose and policy of this regulation.
(d) The provisions of this regulation do not apply to or in any way affect or alter decisions, approvals, rulemaking, or authorizations which were given by FHWA pursuant to directives valid and in effect at the time of that decision, approval, rulemaking, or authorization.
(e) Section 771.111 of this regulation applies to adoption of regulations by FHWA and § 771.113 applies to proposals for legislation which are initiated by FHWA. The appropriate FHWA Washington Headquarters office (rather than the HA, Division Administrator, or Regional Administrator) will be responsible for implementing any provisions contained in this regulation which apply to adoption of regulation which apply to adoption of regulations or proposals for legislation (early coordination, draft EIS circulation, etc.).

§ 771.111 Adoption of regulations.

(a) All proposals for regulations will be evaluated by the Director of the initiating office to determine whether the regulatory proposal (1) is classified as a categorical exclusion; or (2) will require the development of an environmental assessment (EA) and a finding of no significant impact (FONSI) or an environmental impact statement (EIS).
(b) If the regulation does not qualify for classification as a categorical exclusion, the Director of the initiating office will be responsible for preparation of the EA and FONSI or EIS (both draft and final) in accordance with §§ 771.207, 771.209, 771.211, and 771.213 of this regulation.

§ 771.113 Proposals for legislation (40 CFR 1506.8).

The FHWA Washington Headquarters office initiating a legislative proposal will be responsible for evaluating the environemental impacts of the proposal and, if significant impacts are involved, preparing a legislative EIS and processing it in accordance with paragraph 15(b) of DOT Order* 5610.1C.

Subpart B—Program and Project Procedures

§ 771.201 Highway improvements.

(a) In order to ensure meaningful evaluation of alternatives to proposed highway improvements and to avoid commitments to additional highway improvements before they are evaluated under this regulation, each evaluation prepared under this regulation shall address an improvement which:
(1) Is useable and a reasonable expenditure even if no additional highway improvements in the area are accomplished; and
(2) Will not restrict significant alternative routes or route locations for other reasonably foreseeable transportation improvements.
(b) The HA will complete all design work required to make those engineering and environmental decisions necessary to complete a FONSI or an EIS or to comply with other related laws and regulations which, to the maximum extent possible, must be accomplished coincident with these processes. However, other design activities, right-of-acquisition (other than hardship cases or protective buying in accordance with current FHWA regulations), or construction shall not proceed until the following actions have been completed:
(1) The Division Administrator has received and accepted the public hearing transcripts and certifications required by 23 U.S.C. 128; and
(2) Either the action has been classified as a categorical exclusion, or a FONSI has been adopted, or a final EIS has been published and available for the prescribed length of time and a record of decision has been prepared and signed (40 CFR 1506.10).

§ 771.203 Early coordination and scoping (40 CFR 1501.7).

(a) The identification and evaluation of the social, economic, and environmental effects of a highway improvement or other Federal action and the identification of all reasonable measures to mitigate adverse impacts shall be initiated early in project planning and shall be considered along with engineering and safety factors throughout the development of the highway improvement or other Federal action. Procedures addressing the development of Federal-aid highway improvements are provided in the State Action Plans required under Part 795 of this chapter, Process Guidelines (For the Development of Environmental Action Plans).
(b) Early coordination with appropriate local, State, and Federal agencies shall be accomplished to assist in the identification of all reasonable alternatives and the evaluation of the social, economic, and environmental impacts of any proposed action and measures to mitigate adverse impacts which result from that action. (See § 795.10(b) of this chapter.)
(c) Early coordination with metropolitan planning organizations shall be accomplished where appropriate to identify regional impacts which have been assessed as part of the planning process required under 23 U.S.C. 134. (See § 795.10(b)(5) of this chapter.)
(d) In most instances, early coordination can be effectively accomplished through correspondence, meetings, etc. Formal scoping meetings may be appropriate for complex projects which involve several Federal agencies.
(e) As part of the early coordination and scoping process, all applicable Federal requirements shall be identified so that appropriate studies, analyses, and consultation can be accomplished concurrently with NEPA requirements.
(f) Any Federal agency, including Executive agencies, having or expected to have permit approval or concurrence authority or commenting responsibility on an FHWA action shall be requested to be a cooperating agency. The views of cooperating agencies shall be solicited and coordination with them continued through all stages of development of the appropriate environmental document. This coordination will be accomplished in order to preclude the necessity for any subsequent and duplicative NEPA reviews by cooperating agencies.
(g) Early notification of and solicitation of views from other States and Federal land management entities shall be accomplished by the FHWA Division Administrator as required by Section 102(2)(D)(iv) of the NEPA. The notification to other States should be mailed to the clearinghouses of those States unless a Governor has designated an agency other than the clearinghouse. The HA, in consultation with the FHWA Division Administrator, shall review any comments received from this early notification and where appropriate identify all reasonable alternatives and evaluate alternative measures to mitigate anticipated adverse impacts. The FHWA Division Administrator shall prepare a written evaluation of any issues identified during the early coordination efforts which indicate a significant disagreement with respect to an impact of the proposed action or any of the alternatives. This evaluation is to be furnished to the HA for incorporation into the EA or draft EIS.

§ 771.205 Categorical exclusions (40 CFR 1508.4).

(a) Actions which will normally be classified as categorical exclusions are those which do not involve substantial planning, time, resources, or expenditures. These actions will not induce significant, foreseeable alterations in land use, planned growth, development patterns, traffic volumes, travel patterns, or natural or cultural resources. Examples of the types of actions which are ordinarily classified as categorical exclusions are listed in the Appendix to this regulation.
(b) The HA, after appropriate environmental studies and consultation with the FHWA Division Administrator, shall identify those proposed actions that meet the criteria for categorical exclusions and shall recommend that classification to the Division Administrator. The FHWA Division Administrator, after review of the recommendations and supporting data, including consideration of environmental effects, may determine that the proposed actions are categorical exclusions or may request additional information for further study.
(c) There will be actions which may ordinarily be classified as categorical exclusions, but for which the FHWA Division Administrator may decide that special consideration is appropriate because of controversy, involvement with other Federal agencies, etc. For such actions, the FHWA Division Administrator may, when deemed appropriate, require preparation of an EA or EIS. Actions ordinarily classified as categorical exclusions which involve significant environmental impacts will require preparation of an EIS.

§ 771.207 Environmental assessment (EA) (40 CFR 1508.9).

(a) An EA shall be prepared by the HA in consultation with FHWA for each Federal action that is not classified as a categorical exclusion and for which the environmental studies and early coordination indicate that the proposed action will not have a significant impact on the quality of the human environment.
(b) The FHWA Division Administrator shall review the EA and, if satisfied that it complies with NEPA requirements, take responsibility for the EA by signing and dating the title sheet before it is made available to the public.
(c) An EA need not be circulated for comment, but its availability for public inspection shall be included in any notice for a public hearing or notice of opportunity for a public hearing.
(d) When a public hearing notice is not required, the HA shall place a notice

V 4 4 0 C 1 5 7 9 UMI

in a local newspaper(s), similar to a public hearing notice and at a similar stage of development, advising the public of the availability of an EA and where information concerning the Federal action may be obtained. Those who believe that the Federal action for which an EA has been prepared does in fact involve a significant impact on the human environment or who believe that the analysis of the social, economic, and environmental impacts presented in the EA is inadequate to assess their significance shall be invited to furnish written comments to the HA or FHWA summarizing the specific basis for their position. Such comments are to be furnished to the HA or FHWA within 30 days of publication of the notice in the newspaper.

(e) The HA shall provide to the FHWA Division Administrator a copy of the EA (revised, if appropriate) as well as a summary of any comments received (written or from a public hearing) and responses thereto.

§ 771.209 Finding of no significant impact (FONSI) (40 CFR 1508.13).

(a) The FHWA Division Administrator, after review of the EA and an examination of the social, economic, and environmental issues, shall, if in agreement, indicate FHWA adoption of the EA as a FONSI by changing the cover sheet designation to "Finding of No Significant Impact" and signing and dating the document.

(b) The FONSI shall be reevaluated by the HA in consultation with FHWA prior to proceeding with major project approvals or authorizations, for the purpose of determining whether there has been a substantial change in the social, economic, or environmental effects of the proposed action. If there are substantial changes in the proposed action that would significantly affect the quality of the human environment, draft and final EIS's shall be prepared and processed in accordance with this regulation. It would not be necessary, in such instance, to hold a public hearing solely for the purpose of presenting the draft EIS.

(c) Projects in the categories described in § 771.213(e) (1) and (2) of this regulation will ordinarily require preparation of an EIS. If a project in these categories is processed with an EA, copies of a draft EA will be provided to appropriate Federal, State and local agencies and made available to the public at least 30 days before the FONSI is made. Copies should also be provided for information to the FHWA Washington Headquarters.

§ 771.211 Draft EIS's (40 CFR 1502).

(a) A decision to prepare an EIS for a proposed Federal action may be made when that action clearly involves significant impacts on the human environment, or when the environmental studies and early coordination indicate significant impacts, or when review of the EA in light of comments received so indicates. When the decision has been made that an EIS shall be prepared, the FHWA Division Administrator shall forward to the FHWA Washington Headquarters the information for the "Notice of Intent" publication in the Federal Register.

(b) The draft EIS shall be prepared by the HA, in consultation with FHWA, for Federal actions which significantly affect the quality of the human environment. The FHWA Division Administrator should document FHWA involvement in the development of the EIS, particularly the consultations with the HA on environmental determinations, conclusions, and decisions.

(c) The FHWA Division Administrator shall review the draft EIS and, if satisfied that it complies with NEPA requirements, take responsibility for the draft EIS by signing and dating the title page before it is circulated for comment.

(d) The draft EIS shall be circulated for comment by the HA on behalf of FHWA and made available to the public no later than the publication date of the first notice for a public hearing or notice of opportunity for a hearing, and at least 30 days before the public hearing. The availability of the draft EIS shall be included in any public hearing notice. When no hearing is held, a notice shall be placed in the newspaper similar to the public hearing notice advising where the draft EIS is available for review, how copies may be obtained, and where comments should be sent.

(e) The draft EIS shall be circulated to:

(1) Public officials, private interest groups, and members of the public having or expressing an interest in the proposed action or the draft EIS; and

(2) Government agencies expected to have jurisdiction, responsibility, interest, or expertise in the proposed action or its impacts. The letter transmitting the draft EIS to cooperating agencies shall identify the areas requiring comments or coordination.

(f) The Federal Register public availability notice (40 CFR 1506.10(a)) will establish a 45-day period for the return of comments on the draft EIS.

(g) Comments which are received after the allotted time, but before the final EIS is forwarded to the Regional Federal Highway Administrator, are to be appended to the final EIS, where practicable, with an explanation that the comments were received late, and with an indication of the extent to which the issues raised were evaluated in the final EIS.

(h) The initial printing of the draft EIS shall be of sufficient quantity to meet requests for copies which can be reasonably expected from agencies, organizations, and individuals. Copies are to be furnished free of charge unless, in unusual circumstances, the FHWA Division Administrator concludes that a fee which is not more than the actual printing cost should be charged. The HA shall inform the FHWA of requests for draft EIS's which it is unable to fill with free copies. In these instances, the FHWA Division Administrator may ask the HA to direct the party to the nearest location where the party may review the statement.

(i) Upon request, the FHWA Division Administrator shall provide interested parties with information or status reports on EIS's and other elements of the NEPA process.

(j) The HA shall furnish copies of the draft EIS to other States and Federal land management entities which may be significantly impacted by the proposed action or any of the alternatives. These copies shall be accompanied by a request that such State or entity advise the FHWA Division Administrator, in writing, of any disagreement with the evaluation of impacts in the statement. Copies of the draft EIS are to be furnished to clearinghouses of other impacted States unless a Governor has designated an agency other than the clearinghouse. The FHWA Division Administrator shall review the comments received and forward them to the HA along with a written assessment of the disagreements for incorporation into the final EIS.

§ 771.213 Final EIS's (40 CFR Part 1502).

(a) A final EIS which identifies the preferred alternative shall be prepared for FHWA actions which significantly affect the quality of the human environment. The final EIS should also document compliance to the extent possible with all applicable environmental laws and executive orders, or else provide reasonable assurance that their requirements can be met. Final EIS's for highway projects shall be prepared by the HA in consultation with FHWA.

(b) The HA and FHWA Division Administrator shall make every effort to resolve interagency disagreements on proposed projects before processing the final EIS.

(c) A pending (not yet adopted) final EIS which is being processed in an

FHWA office shall be made available for review, in that FHWA office, by any individual who requests such an opportunity. Any pending final EIS available for review shall be clearly marked "PENDING, SUBJECT TO REVISION."

(d) The Regional Federal Highway Administrator shall review the final EIS, including the comments received (and the responses thereto) which are attached before processing the statement. The final EIS shall be reviewed for legal sufficiency by the FHWA Chief Counsel or his/her designee. When the Regional Federal Highway Administrator is satisfied that the final EIS complies with NEPA requirements, the final EIS shall be processed in the manner specified by paragraphs (e) through (i) of this section.

(e) The Regional Federal Highway Administrator may adopt and sign the final EIS after the regional office review is completed, except for final EIS's in the following categories:

(1) Highways on a new alignment in a metropolitan area of over 100,000 population (the metropolitan area is defined as the area designated for the purposes of 23 U.S.C. 134 transportation planning);

(2) Any new freeway, including projects which will upgrade existing highways to freeway standards for access control;

(3) Highway improvements to which a Federal, State or local government agency has expressed (i) opposition on environmental grounds (which has not been resolved to the satisfaction of the objecting agency), or (ii) intention to refer the matter to CEQ (40 CFR Part 1504); or

(4) Highway improvements for which the Federal Highway Administrator requests the Regional Federal Highway Administrator to send the final EIS to the FHWA Washington Headquarters for review.

(f) Final EIS's (with the proposed record of decision) prepared for projects in the categories in paragraph (e) of this section shall be submitted to the FHWA Washington Headquarters for prior concurrence. The FHWA Washington Headquarters will notify the Regional Federal Highway Administrator when the final EIS may be released to the public and EPA, at which time the Regional Federal Highway Administrator will adopt and sign the final EIS and ensure that distribution of the final EIS is made in accordance with current procedures.

(g)(1) After review of a draft EIS for a project in the categories in paragraph (e) of this section, the FHWA Washington Headquarters and the Office of the Secretary of Transportation may determine that individual final EIS's in these categories may be processed without prior concurrence. This determination will be based upon the following:

(i) Adequacy of early coordination with other Federal, State, and local government agencies; and

(ii) Adequacy of the draft EIS in identifying the environmental impacts of and the reasonable alternatives to the proposed action.

(2) Any determination made under this paragraph is subject to review and withdrawal at any time prior to the date the final EIS is adopted.

(h) One copy of all adopted final EIS's which are not included in the categories listed in paragraph (e) of this section shall be provided to the FHWA Washington Headquarters for program management and record keeping purposes.

(i) Copies of the final EIS should be furnished free of charge unless, in unusual circumstances, the FHWA Division Administrator concludes that a fee which is not more than the actual printing or reproduction cost should be charged.

(j) The final EIS shall be available for public review at the HA headquarters and appropriate field offices, at the FHWA Washington Headquarters, and at FHWA regional and division offices. A copy should also be made available, as appropriate, to public institutions, such as local governments, public libraries, and schools, to allow them to make it available for public review.

(k) The final EIS shall be reevaluated by the HA in consultation with FHWA prior to proceeding with major project approvals or authorizations for the purpose of determining whether there has been a substantial change in the social, economic, or environmental effects of the proposed action.

§ 771.215 Predecision referrals to CEQ (40 CFR Part 1504).

(a) Any FHWA field office which receives notice of an intended referral from another agency shall provide a copy of the notice to FHWA Washington Headquarters.

(b) The FHWA Washington Headquarters will be responsible for coordinating the response to CEQ which is necessitated by a referral.

§ 771.217 Supplemental statements.

A draft EIS or final EIS may be supplemented at any time. Supplements will be necessary when substantial changes are made in the proposed action that will introduce a new or changed environmental effect of significance to the quality of the human environment or significant new information becomes available concerning the action's environmental impacts. The decision to prepare and process a supplement to the final EIS shall not require withdrawal of previous FHWA approval actions, or void or alter previously authorized development of the highway improvement not directly affected by the changed condition or new information. A supplement is to be processed in the same manner as a new EIS (draft and final, with a record of decision).

§ 771.219 Record of decision (40 CFR 1505.2).

The Regional Federal Highway Administrator shall complete and sign a record of decision no sooner than 30 days after the Federal Register public availability notice for the final EIS or 90 days after such notice for the draft EIS, whichever is later. Any required Section 4(f) determinations shall be incorporated in the record of decision.

§ 771.221 Emergency action procedures.

Requests for deviations from these procedures in emergency situations shall be referred to the FHWA Washington Headquarters for evaluation and decision.

§ 771.223 Application of 23 U.S.C. 138 (commonly called Section 4(f)).

(a)(1) No FHWA project will use land from a significant publicly owned park, recreation area, or wildlife refuge or any significant historic site unless a determination is made that:

(i) There is no feasible and prudent alternative to the use of land from the property; and

(ii) The proposed action includes all possible planning to minimize harm to the property resulting from such use.

(2) Accurate and detailed information is needed to support these determinations. Supporting information must demonstrate that there are unique problems or unusual factors present and that the cost, environmental impacts, or community disruption resulting from alternative routes reaches extraordinary magnitudes.

(b) Consideration under 23 U.S.C. 138 is not required when the Federal, State, or local official having jurisdiction over a park, recreation area or refuge determines that it is not significant. The FHWA Division Administrator shall review the official's nonsignificance determination to assure its reasonableness. In the absence of such a determination, the Section 4(f) land will be considered to be significant.

V 44 0 C 1 5 7 9 UMI

(c) The National Register of Historic Places lists historic properties of national, State and local significance. Therefore, for purposes of 23 U.S.C. 138, a historic site is significant only if it is included on or is eligible for inclusion on the National Register of Historic Places.

(d) The provisions of this section and 23 U.S.C. 138 apply to publicly owned lands that are administered for multiple uses only if the portion of land to be taken is in fact being used for park, recreation, wildlife, waterfowl, or historic purposes, or there is a definite formulated plan for such use, as determined by the official having jurisdiction over such lands. The FHWA Division Administrator shall review the official's land use determination to assure its reasonableness. (For multiple use lands, the significance determination required by paragraph (b) of this section shall be applied only to the lands actually being used for Section 4(f) purposes.)

(e) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made, and significance determinations changed, late in the development of a highway improvement. In such cases, a project may proceed without consideration under 23 U.S.C. 138 if the property interest in the Section 4(f)-type lands was acquired prior to the designation or change in significance.

(f) Any involvement with a Section 4(f) property shall be evaluated early in the planning phase of project development when alternatives for the proposed action are under study. These (draft) evaluations shall be presented in the EA or the draft EIS or, for those projects classified as categorical exclusions, in a separate draft Section 4(f) evaluation.

(g) The EA, draft EIS, or draft Section 4(f) evaluation shall be provided for coordination and comment to the public official having jurisdiction over the Section 4(f) property, and to the designated offices of the Department of the Interior and, where appropriate, the Departments of Agriculture and Housing and Urban Development. A time limit of not less than 45 days shall be established for receipt of these comments.

(h) After receipt and consideration of comments resulting from the coordination required in paragraph (g) of this section, and if the selected alternative requires the use of land from a Section 4(f) property, the HA and the FHWA Division Administrator shall ensure that the final EIS, EA, or final Section 4(f) evaluation includes information sufficient to support a Section 4(f) determination.

(i) The discussion in the final EIS, EA, or separate Section 4(f) evaluation shall specifically address:

(1) The reasons why alternatives to avoid a Section 4(f) property are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the Section 4(f) property.

(j) Where a project classified as a categorical exclusion has a Section 4(f) involvement, the HA shall not proceed with the activities noted in § 771.201(b) of this regulation until notified by FHWA that the Section 4(f) determination has been made.

(k) The FHWA Regional Federal Highway Administrator shall review the Section 4(f) evaluation for completeness and adequacy before making the determination required by 23 U.S.C. 138. Section 4(f) determinations for projects processed with EIS's shall be included in the record of decision. For all other actions, required Section 4(f) determinations will be prepared as a separate document.

(l) Circulation of a separate Section 4(f) evaluation will be required when (1) a modificatin of the alignment or design causes the use of Section 4(f) property after the categorical exclusion, FONSI, or final EIS is processed; (2) a modification of the alignment or design which significantly increases the impact to a Section 4(f) area is made after the Section 4(f) determination has been made; or (3) another agency is the lead agency for the environmental process. In such cases the Section 4(f) evaluation would not need to be accompanied by further NEPA documentation unless, after consultation with the FHWA offices which had review authority for the original NEPA document, a decision is made to provide supplemental NEPA documentation. In any other circumstances, separate circulation of the Section 4(f) evaluation may be authorized by the FHWA Associate Administrator for Right-of-Way and Environment.

§ 771.225 Executive Order (EO) 11988, Flood Plain Management.

The requirements of this EO are implemented in Part 650, Subpart A of this chapter, Hydraulic Design of Highway Encroachments on Flood Plains. The required "only practicable alternative finding" shall be included in the FONSI or final EIS and shall be supported by a summary of the studies and coordination which have been accomplished.

§ 771.227 Executive Order (EO) 11990, Protection of Wetlands.

(a) The provisions of this EO have been implemented by DOT Order* 5660.1A, Preservation of the Nation's Wetlands, dated August 24, 1978. With the exception of the wetlands "finding" requirement (DOT Order 5660.1A, paragraph 7h), the provisions of the DOT Order are applicable to all FHWA actions involving construction in wetlands.

(b) All EA's and draft EIS's for projects involving construction in wetlands shall include sufficient information to describe impacts to the wetlands and to allow evaluation of alternatives which would avoid and/or mitigate these impacts.

(c) For projects classified as categorical exclusions, the FHWA Division Administrator shall ensure that the project files document the evaluation of alternatives and the measures to minimize harm.

(d) The "finding" required by paragraph 7h of DOT Order* 5660.1A shall be included in the final EIS or FONSI and shall be supported by information contained in the final EIS or FONSI. The FHWA signature on the cover sheet of the final EIS or FONSI shall document FHWA adoption of the finding.

§ 771.229 Air quality conformity statement.

Draft and final EIS's shall contain a discussion of the relationship between each alternative under consideration and the transportation control measures in the applicable State air quality implementation plan. This discussion shall address conformity with the transportation control measures in the air quality implementation plan and priority towards implementation.

§ 771.231 Other agency statements.

(a) The FHWA review of statements prepared by other agencies will consider the environmental impact of the proposal on areas within FHWA's functional area of responsibility or special expertise.

(b) In general, agencies wishing comments on highway impacts usually forward the draft EIS to the FHWA Washington Headquarters for comment. The FHWA Washington Headquarters will normally distribute these EIS's to the appropriate region. The transmittal to the region will indicate to whom the region should send comments.

(c) When a regional office has received a draft EIS directly from another agency, it may comment directly to the agency if the proposal does not fall within the types indicated in paragraph (d) of this section. Copies of the region's comments should be distributed as follows:

(1) Requesting agency—original and one copy.

(2) Office of the Secretary of Transportation, Office of Environment and Safety, P-20—one copy.

(3) DOT Secretarial Representative—one copy.

(4) Environmental Protection Agency (EPA)—five copies.

(5) FHWA Washington Headquarters (HEV-10)—one copy.

(d) The following types of actions contained in a draft EIS require FHWA Washington Headquarters review and such EIS's are to be forwarded to the Associate Administrator for Right-of-Way and Environment along with regional comments for processing:

(1) Actions with national implications;

(2) Projects that involve natural, ecological, cultural, scenic, historic, or park or recreation resources of national significance;

(3) Legislation, regulations having national impacts, or national program proposals;

(4) Projects regarding the transportation of hazardous materials and natural gas and liquid-products pipelines; and

(5) Water resource projects.

(e) Any requests by the public for copies of comments should be referred to the agency originating the EIS.

Appendix—Categorical Exclusions

The following are examples of FHWA actions which are ordinarily considered to be categorical exclusions:

(1) Modernization of an existing highway by resurfacing, restoration, rehabilitation, widening less than a single lane width, adding shoulders, adding auxiliary lanes for localized purposes (weaving, climbing, speed change, etc.), and correcting substandard curves and intersections;

(2) Lighting, signing, pavement marking, signalization, freeway surveillance and control systems, and railroad protective devices;

(3) Safety projects such as grooving, glare screen, safety barriers, energy attenuators, etc.;

(4) Reconstruction of existing bridges, unless on or eligible for the National Register of Historic Places;

(5) Highway landscaping and rest area projects;

(6) Construction of bus shelters and bays;

(7) Alterations to existing buildings to provide for noise attenuation, and installation of noise barriers;

(8) Temporary replacement of a highway facility which is commenced immediately after the occurrence of a natural disaster or catastrophic failure to restore the highway for the health, welfare, and safety of the public;

(9) Approval of utility installations along or across a highway;

(10) Approval of the annual Highway Safety Work Programs involving the highway-related safety standards pursuant to 23 U.S.C. 402;

(11) Rulemaking by the Bureau of Motor Carrier Safety;

(12) Promulgation of regulations and directives to implement statutory or Executive Order requirements;

(13) Federal-aid highway system revisions under 23 U.S.C. 103;

(14) Programming activities under 23 U.S.C. 105; and

(15) Federal actions taken to administer the transportation planning process under 23 U.S.C. 134 and 307.

*DOT Orders are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

Title 49—Transportation

CHAPTER VI—URBAN MASS TRANSPORTATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 622—ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Subpart A—General Provisions

Sec.

622.101 Purpose.
622.103 Authority and related statutes and orders.
622.105 Policy.
622.107 Definitions.
622.109 Applicability.
622.111 Adoption of regulations.
622.113 Proposals for legislation (40 CFR 1506.8).

Subpart B—Program and Project Procedures

622.201 Timing of UMTA actions.
622.203 Early coordination.
622.205 Categorical exclusions.
622.207 Environmental assessments.
622.209 Findings of no significant impact.
622.211 Draft environmental impact statements.
622.213 Final environmental impact statements.
622.215 Predecision referrals to CEQ.
622.217 Reevaluation.
622.219 Record of decision.
622.221 Emergency action procedures.
622.223 Application of 49 U.S.C. 1653(f)(4) determinations.
622.225 Executive Order 11988, Flood Plain Management.
622.227 Executive Order 11990, Protection of Wetlands.
622.229 Application of other Federal laws, policies, and requirements.
622.231 Other Agency statements.

Authority: 49 U.S.C. 1601 et seq.; 49 CFR 1.51(f)

Subpart A—General Provisions

§ 622.101 Purpose

This regulation prescribes the policies and procedures of the Urban Mass Transportation Administration (UMTA) for implementing the National Environmental Policy Act (NEPA) and related environmental statutes, regulations and orders. It explains how the regulations of the Council on Environmental Quality (CEQ) and the procedures of the Department of Transportation (DOT) apply to actions of UMTA.

§ 622.103 Authority and related statutes and orders.

(a) 42 U.S.C. 4321 *et seq.*, National Environmental Policy Act of 1969 as amended;

(b) 42 U.S.C. 4371 *et seq.*, Environmental Quality Improvement Act;

(c) 49 U.S.C. 1653(f), Section 4(f) of the Department of Transportation Act of 1966;

(d) Sections 3(d), 5(h), and 5(i) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 *et seq.*);

(e) Section 14 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1610);

(f) 40 CFR 1500 *et seq.*, CEQ regulations for Implementing the Procedural Provisions of the National Environmental Policy Act;

(g) 49 CFR 1.51 DOT Delegations of Authority;

(h) DOT Order* 5610.1C, Procedures for Considering Environmental Impacts (Draft version published 5/31/79, 44 FR No. 166, pp. 31341-31351);

(i) Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991;

(j) 42 U.S.C. 7401 *et seq.*, Clean Air Act, as amended;

(k) 33 U.S.C. 1251 *et seq.*, Clean Water Act, as amended;

(l) 16 U.S.C. 470f, Section 106 of the National Historic Preservation Act of 1966;

(m) 16 U.S.C. 1452, 1456, Sections 303 and 307 of the Coastal Zone Management Act of 1972;

(n) 16 U.S.C. 662, Section 2 of the Fish and Wildlife Coordination Act;

(o) 16 U.S.C. 1533, Section 7 of the Endangered Species Act, as amended;

(p) Executive Order 11988, Flood Plain Management, implemented by DOT Order* 5650.2;

(q) Executive Order 11990, Protection of Wetlands, as implemented by DOT Order* 5660.1A;

V 44 0 C 15 7 9 UMI

(r) UMTA Policy on Major Urban Mass Transportation Investments, (41 FR 41512, September 22, 1976).

§ 622.105 Policy.

(a) It is the policy of the UMTA that in the development of agency actions:

(1) A systematic interdisciplinary approach be used to assess the beneficial and adverse social, economic, and environmental effects;

(2) Efforts be made to improve the relationship between man and the environment and to preserve the urban environment and natural and cultural resources in rural and urban areas;

(3) Significant agency actions be conducted in consultation with local, State, and Federal agencies and with the public;

(4) Decisions be made in the best overall public interest and alternative courses of action be evaluated based upon a balanced consideration of the need for safe and efficient transportation and public services and of national, State and local environmental goals; and

(5) To the fullest extent practicable, all studies, reviews and consultations under NEPA and related statutes will be coordinated and accomplished as part of UMTA's compliance with NEPA.

(b) It is also the policy of the UMTA that measures necessary to mitigate adverse impacts resulting from UMTA actions are eligible for funding with Federal grant funds. Appropriate mitigation measures will be incorporated into UMTA actions when it is determined that

(1) The impacts for which mitigation is proposed actually result from the UMTA action, and

(2) The proposed mitigation measures represent a reasonable public expenditure when weighed against other social, economic, and environmental values.

§ 622.107 Definitions.

(a) The definitions contained in the CEQ Regulations (40 CFR Part 1508) are applicable to this regulation. Terms which are defined by CEQ and used in this regulation include:

Categorical Exclusion.
Cooperating Agency.
Environmental Assessment.
Environmental Document.
Environmental Impact Statement (EIS).
Federal Agency.
Finding of No Significant Impact.
Jurisdiction By Law.
Lead Agency.
Legislation.
Major Federal Action.
Mitigation.
NEPA Process.
Notice of Intent.
Proposal.
Referring Agency.
Scope.
Special Expertise.
Significantly.
Tiering.

(b) UMTA defines the following words for the purpose of this regulation:

"Applicant" means a local public body or other organization that seeks financial assistance directly from UMTA under the authority provided in the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.) (the "UMT Act").

"Approving Official" means an employee of UMTA who has the authority to approve environmental documents (40 CFR 1508.10).

"Environmental studies" means technical investigations of specific impacts. These studies provide the background technical data necessary to assess and to determine the environmental impacts of a proposed action.

"Responsible Official" means an UMTA employee who has overall responsibility to direct, furnish guidance and participate in the preparation of environmental impact statements, to make decisions on the scope and content of statements, and to independently evaluate the statements before approval.

"UMTA in cooperation with the Applicant" means that UMTA has the responsibility to manage the preparation of the draft and final environmental impact statements. The role of the Applicant is determined by UMTA in accordance with the CEQ regulations as described below. If the Applicant qualifies for more than one role, UMTA will determine which role the Applicant will assume. Whichever role the Applicant is permitted to assume, UMTA, acting through the Responsible Official, is responsible for the decisions made on the scope and depth of analysis of the EIS, including the analysis of alternatives.

(1) *Statewide Agency.* If the Applicant is a public agency that has statewide jurisdiction and meets the requirements of Section 102(2)(D) of NEPA, the Applicant may prepare the draft and final environmental impact statements itself with the Responsible Official exercising a periodic review, comment and oversight role. This is authorized by 40 CFR 1506.2(a) of the CEQ regulations.

(2) *Joint Lead Agency.* If the Applicant is a public agency and is subject to state or local requirements comparable to NEPA, then UMTA and the Applicant may prepare the environmental impact statement as joint agencies. The Applicant may be given substantial autonomy in developing substantive portions of the draft and final EIS. This is authorized by 40 CFR 1501.5(b) of the CEQ regulations.

(3) *Cooperating Agency.* If the Applicant is a public agency that has special expertise in the proposed project, the Applicant may be a Cooperating Agency with the responsibilities described in 40 CFR 1501.6(b) of the CEQ regulations. An Applicant for Section 3 and 5 assistance under the UMT Act is presumed to be a cooperating agency. During the environmental process, UMTA discusses the scope and content of the draft and final EIS documents with the Applicant before UMTA makes decisions on the scope and depth of the analysis of the EIS. UMTA may direct the Applicant to carry out these decisions.

(4) *Other.* In all other cases, the role of the Applicant is limited to providing environmental studies and commenting on UMTA's draft and final EIS's. For example, all private institutions or firms are limited to this role.

§ 622.109 Applicability.

(a) As supplemented by this regulation, the provisions of the CEQ regulations (40 CFR 1500 *et seq.*) are directly applicable to UMTA actions.

(b) The provisions of this regulation apply to any action over which UMTA exercises sufficient control and responsibility to alter the development or action being planned.

(c) Where UMTA acts as a joint lead agency with other Federal agencies, as provided in 40 CFR 1501.5(b), mutually acceptable procedures for the preparation and processing of environmental documents will be established on a case-by-case basis with the other lead agencies, consistent with the purpose and policy of this regulation.

(d) The provisions of this regulation do not apply to or in any way affect of alter decisions, approvals, rulemaking, or authorizations which were given by UMTA pursuant to directives valid and in effect at the time of that decision, approval, rulemaking, or authorization.

(e) Section 622.111 of this regulation applies to adoption of regulations by UMTA and Section 622.113 applies to proposals for legislation which are initiated by UMTA. The appropriate UMTA headquarters office will be responsible for implementing any provisions contained in this regulation which apply to adoption of regulations or proposals for legislation (early coordination, draft EIS circulation, etc.).

§ 662.111 Adoption of regulations.

(a) All proposals for regulations will be evaluated by the director of the initiating office to determine whether the regulatory proposal is (1) classified as a categorical exclusion; of (2) will require the development of an environmental assessment (EA) and a finding of no significant impact (FONSI) or an environmental impact statement (EIS).

(b) If the regulation does not qualify for classification as a categorical exclusion, the director of the initiating office will be responsible for preparation of the EA and FONSI or EIS (both draft and final) in accordance with §§ 622.207 through 622.213 of this regulation.

(c) Proposed regulations will be circulated for internal UMTA comment in accordance with UMTA Circular* 1320.1A, "UMTA Directives System."

§ 662.113 Proposals for legislation (40 CFR 1506.8).

The UMTA headquarters office initiating a legislative proposal will be responsible for evaluating the environmental impacts of the proposal and, if significant impacts are involved, preparing a legislative EIS and processing it in accordance with paragraph 15(b) of DOT Order* 5610.1C.

Subpart B—Program and Project Procedures

§ 662.201 Timing of UMTA actions.

(a)(1) *Segmentation of Actions.* The proposed action covered by the environmental document should have independent utility. "Independent utility" means that the action is such that it is useful in itself and not only as part of a subsequent project. Where relevant, there should be logical termini to allow consideration of reasonable alternatives to the proposed action as well as subsequent extensions. If the action is part of a larger project to be implemented in increments, the larger project should be identified in the environmental document.

(2) The environmental document must include other projects proposed for Federal involvement which are currently under consideration and which may combine with the primary project to have significant interrelated environmental effects. If these other projects have not yet received commitments of Federal funds then the environmental document must consider the environmental impact of the primary project both with and without the additional projects.

(b) *Limitation on UMTA Approvals.* UMTA will not authorize project development (other than grants necessary to obtain engineering and environmental data to prepare an environmental document or to comply with other environmental laws and regulations), land acquisition (other than hardship cases or protective buying), or construction until the following actions have been completed:

(1) The action has been classified as a categorical exclusion, or

(2) A finding of no significant impact has been approved, or

(3) At least 30 days have elapsed since the final EIS was filed with EPA (Federal Register publication date) and made available to commenting agencies and the public.

§ 662.203 Early coordination.

(a) *Classes of Action.* (40 CFR 1501.4(a)) There are three classes of action which prescribe the level of documentation required in the NEPA process. Using the early notification procedure described in § 622.203(b), UMTA determines the class of action and, thus, the environmental document required. This involves a determination of whether or not an action significantly affects the quality of the human environment. Judging the significance of an action and its effects requires consideration not only of the severity of the impacts but also of the setting and context of the action. Guidance in determining the significance of an action and its effects is given in 40 CFR 1508.27 of the CEQ regulations. The three classes of action are:

Class 1

Actions that normally have significant impact on the environment and thus require an environmental impact statement. Procedures to be followed are described in §§ 622.211 and 622.213. These actions are—

—New construction or extension of fixed guideway systems (e.g., rapid rail, light rail, commuter rail, automated guideway transit, and exclusive busway). These projects would be expected to cause major shifts in travel patterns and land use.

—Major transit-related development whose construction involves demolition of a large number of existing buildings, displacement of a large number of individuals or businesses, or substantial disruption to local traffic patterns.

Class 2

Actions that normally do not have significant impact on the environment and thus do not require an environmental impact statement or environmental assessment. These actions are termed categorical exclusions. Procedures to be followed are described in § 622.205. These categorical exclusions are:

—Operating assistance to transit authorities to continue existing service or increase service to meet demand.

—Engineering when undertaken to define the elements of a proposal or alternatives sufficiently so that environmental effects can be assessed.

—Purchase of vehicles of the same type (same mode) either as replacements or to increase the size of the fleet where such increase can be accommodated by existing service facilities or new facilities which themselves are within a categorical exclusion.

—Track and railbed maintenance and improvement when carried out within existing exclusive rights-of-way.

—Rehabilitation or reconstruction of existing rail and bus buildings and ancillary facilities where no additional land is required and there is no substantial increase in the use of the facility.

—Purchase and installation of operating or maintenance equipment to be located within the transit facility and with no significant physical impacts off the site.

—Installation of signs, small passenger shelters, and traffic signals where no substantial land acquisition or traffic disruption will occur.

—Construction of new bus storage and maintenance facilities in areas predominantly zoned for industry and located on or near an arterial street with adequate capacity to handle anticipated bus traffic.

—Advance land acquisition in which the property will not be modified, the land use will not be changed, displacements will not occur and which is undertaken for the sole purpose of preserving alternatives under consideration in the environmental process. Advance land acquisition must meet all of these criteria to be classified as a categorical exclusion. See also 622.205(c).

—Minor road improvements, curbing, land widening, and intersection improvements of access to transit facilities or improvement of services.

—Planning and technical studies which do not involve a commitment to a particular course of action.

—Grants for training and research programs that do not involve construction.

—Regulations that implement programs of financial assistance.

Class 3

Actions in which the significance of impact on the environment is not clearly

established. All actions that are not in Class 1 or Class 2 are in Class 3. An environmental assessment is prepared to determine the probable impact of the proposed action. If there is significant impact, an environmental impact statement is required. Procedures to follow for these projects are in §§ 622.211 and 622.213. Otherwise a finding of no significant impact supported by an environmental assessment is required. Procedures to follow for these projects are in § 622.207.

(b) *Early Notification.* UMTA in cooperation with the Applicant "shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values to avoid delays later in the process and to head off potential conflicts." (40 CFR 1501.2) UMTA assures early coordination through the following procedures:

(1)(i) All Federally funded planning studies for proposed transit construction projects are included in the Unified Planning Work Program (UPWP). The planning studies must include a proper level of consideration of environmental factors in the evaluation of transit alternatives to ensure a reasonable balancing of transportation needs and social, economic and environmental concerns.

(ii) Since UMTA has a responsibility for the review of these studies as a part of the annual UPWP approval process, UMTA may, if sufficient information is available and if appropriate, use this opportunity to identify for the Applicant the probable cause of action.

(iii) The identification of the class of action does not require an Applicant to commence formal environmental documentation; it should, however, assist the Applicant in determining the extent of documentation required and provide for early notice to assure the proper level of environmental consideration and involvement with other agencies at the earliest practicable time.

(2) It is recognized that an Applicant may conduct planning studies for proposed transit construction projects without Federal funding assistance. Since UMTA makes a full evaluation of environmental considerations in its decisionmaking process and since previous commitments made by the Applicant will not bias UMTA's environmental evaluation, the Applicant is strongly encouraged to begin coordination with UMTA early in the planning study to avoid unnecessary delays, repetitive analyses and commitments that may not be supportable by UMTA.

(3) All transit projects are required to be included in the Transportation Improvement Plan (TIP) before they can be funded by UMTA. These projects are reviewed as part of the annual TIP review and approval process. To provide for early environmental consideration, UMTA will, if sufficient information is available, identify the probable class of action for all projects included in the annual element of the TIP that are Class 1 or Class 2 actions and will identify all other projects as Class 3 actions.

(4) At the request of the Applicant, UMTA provides, at any time, an identification of the probable class of action of a particular proposal. UMTA will advise the Applicant, insofar as possible, of related environmental laws and regulations which would apply to the proposal and of the need for particular studies and findings which would normally be developed concurrently with the environmental document.

(5) UMTA requires the Applicant to provide information on the proposed action, setting and any other information necessary to verify the class of action. Verification of the class of action is of special concern when UMTA considers proposals that are normally classed as categorical exclusions. UMTA may change its identification of the probable class of action at any time.

(6) It is recognized that an Applicant may not include a transit project in the TIP before a substantial local commitment (e.g., funding, local consensus) has been made to a particular alternative. Since UMTA makes a full evaluation of environmental considerations in its decisionmaking process and since previous commitments made by the Applicant will not bias UMTA's environmental evaluation, the Applicant is strongly encouraged to begin coordination with UMTA early in the project development phase to avoid unnecessary delays, repetitive analyses, and commitments that may not be supportable by UMTA.

(7) UMTA may recommend at any time that an Applicant begin the environmental process to insure that the objectives and procedures of NEPA are achieved.

(c) *Additional Citizen Participation.* Interested persons can get information on the UMTA environmental process and on the status of environmental impact statements issued by UMTA from: Director, Office of Program Analysis, Urban Mass Transportation Administration, Washington, D.C. 20590; Telephone (202) 472–2435. Questions on the status of environmental impact statements combined with alternatives analyses as required by the policy on major urban mass transportation investments (see § 622.229(b)) should be directed to: Director, Office of Planning Assistance, Urban Mass Transportation Administration, Washington, D.C. 20590; Telephone (202) 426–2360.

§ 622.205 Categorical exclusions.

(a) Categorical exclusions, with the specific criteria or conditions which must be met, are listed in § 622.203(a) under Class 2.

(b) Any proposal for UMTA funding that is considered by the Applicant to meet the criteria for a categorical exclusion must be identified as such in the grant application. This classification is reviewed by UMTA. UMTA may require additional information to determine if the proposal meets the criteria for a categorical exclusion.

(c) There may be actions normally classified as categorical exclusions which UMTA determines are likely to involve significant impacts on the environment, substantial controversy, impacts which are more than minimal on properties protected by Section 4(f) of the DOT Act or Section 106 of the Historic Preservation Act, or are inconsistent with any Federal, State, or local law or administrative determination relating to environmental protection. For such actions, UMTA requires the preparation of an environmental assessment or an environmental impact statement.

(d) If a proposed action meets the criteria for a categorical exclusion, this classification is noted in the grant approval memorandum. Proposals meeting the criteria for categorical exclusions do not require a finding of no significant impact.

§ 622.207 Environmental assessments.

(a)(1) *Scoping.* The Applicant in cooperation with UMTA will use a scoping process for projects which require an environmental assessment to achieve the following objectives:

(i) Review segmentation issues in accordance with § 622.201.

(ii) Determine which aspects of the proposed project have the potential for environmental impact.

(iii) Identify measures to mitigate adverse environmental impacts.

(iv) Identify alternatives including those which are environmentally preferable.

(v) Identifies other environmental review and consultation requirements of § 622.103 that should be prepared concurrently with the environmental assessment.

(2) In carrying out scoping for an environmental assessment, the Applicant should consult with agencies and individuals affected by the proposed project or likely to have an interest in it. This early contact may aid the Applicant and UMTA in assessing the significance of impacts and in developing mitigation measures or identifying environmentally preferable alternatives. A summary of the contacts made and issues resolved will be included in the environmental assessment.

(b) *Environmental Assessment.* The Applicant shall prepare the environmental assessment in cooperation with UMTA. Guidance on the form and content of the environmental assessment is available from UMTA. The environmental assessment shall be a concise document which serves to:

"(1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact.

(2) Aid [UMTA's] compliance with NEPA when no environmental impact statement is necessary.

(3) Facilitate preparation of an [environmental impact] statement when one is necessary.

(4) [Give] brief discussions of the need for the proposal, of alternatives * * *, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted." (40 CFR 1508.9)

(c) *UMTA Review.* The Applicant shall submit an environmental assessment to UMTA.

(1) UMTA will make its own evaluation of the environmental issues and take responsibility for the scope and content of the environmental assessment. (40 CFR 1506.5(b))

(2) If necessary, the Applicant may be directed to revise the environmental assessment.

(3) UMTA will notify the Applicant when the environmental assessment is considered acceptable.

(d) *Public Comment.* (1) The environmental assessment shall be submitted by the Applicant to State and areawide clearinghouses for circulation to interested State and local government agencies under the A–95 review process as part of the grant application process.

(2) UMTA may, as a result of the scoping process, direct the Applicant to hold a public hearing on the environmental effects of the proposed action. If a public hearing is required, the environmental assessment will be available to the public at least 30 days in advance of the public hearing. The notice of the hearing will announce the availability of the environmental assessment and where it may be obtained or inspected. This public hearing may be combined with the project application public hearing.

(3) To promote informed public comment on the environmental effects of a proposed action, the Applicant is encouraged to make the environmental assessment available at any public hearing it holds on the project.

(e) *UMTA Responsibility.* (1) After review of any comments received at the public hearing or comments received through other forms of public participation and involvement, UMTA will make its own evaluation of the environmental issues. If UMTA finds that additional information is necessary, the Applicant will be directed to revise the document until it is satisfactory to UMTA, or UMTA will revise or modify the document itself.

(2) UMTA will review the environmental assessment and the results of the consultation process to determine if the proposed action significantly affects the environment. If it does, an EIS will be prepared in accordance with §§ 622.211 and 622.213. If it does not, a finding of no significant impact will be prepared in accordance with § 622.209.

(f) *Significant Impact.* If at any time in the development of an environmental assessment, UMTA determines that the proposed project will significantly affect the environment UMTA in cooperation with the Applicant, will develop an environmental impact statement in accordance with §§ 622.211 and 622.213 rather than completing the procedures of this Section. Procedures of the scoping process described in (a) that have been carried out for an environmental assessment need not be repeated if a decision is made to prepare an environmental impact statement. However, the additional scoping requirements for an environmental impact statement described in § 622.211(a) must be satisfied.

§ 622.209 Findings of no significant impact.

(a) A finding of no significant impact is prepared by UMTA for a proposed action for which UMTA has determined there are no significant impacts on the environment.

(b) UMTA will record its decision with a cover sheet and supporting attachments, where appropriate, to the environmental assessment approving it as a finding of no significant impact, giving the name of the proposed action, the location, the grant applicant, the date and signature of the approving official.

(c) The finding of no significant impact specifies any mitigation measures that are conditions of approval and contains either in the assessment or as attachments, any other environmental or related findings and documents, such as determinations under Section 106 of the National Historic Preservation Act, findings under Executive Order 11988 and Executive Order 11990, Section 4(f) statements, and other applicable requirements listed under § 622.103.

(d) After a finding of no significant impact has been made by the approving official, the document is made available to the public and to participants in the environmental assessment process. The document is sent to anyone requesting it and is available for public review, at a minimum, at the main office of the Applicant and the UMTA Regional and Headquarters Offices.

(e) If the proposed action is similar to one that normally requires an EIS or the nature of the action is without precedent, UMTA makes a proposed finding of no significant impact available for public review for 30 days before making the final decision to approve the finding of no significant impact. This will include at a minimum, a review by the Office of the Secretary and circulation by the Applicant to interested persons and agencies, including State and areawide clearinghouses. Comments on the proposed finding of no significant impact should be sent to the approving official (see § 622.107).

§ 622.211 Draft environmental impact statements.

(a) *Scoping Process.* "There shall be an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This process shall be termed scoping." (40 CFR 1501.7) A scoping meeting will be held for each proposed action that is the subject of an environment impact statement.

UMTA, in cooperation with the Applicant—

(1) "Invites the participation of affected Federal, State and local agencies, the proponent of the action, and other interested persons (including those who might not be in accord with the action on environmental grounds);

(2) Determines the scope (40 CFR 1508.25) and the significant issues to be analyzed in depth in the environmental impact statements;

(3) Identifies and eliminates from detailed study the issues which are not

V 4 4 0 C 1 5 7 9 UMI

V 4 4 0 C 1 5 7 9 UMI

significant or which have been covered by prior environmental review and narrows the discussion of these issues in the statement to a brief presentation of why they will not have a significant effect on the human environment or provides a reference to their coverage elsewhere;

(4) Allocates asignments for preparation of the environmental impact statement among the lead and cooperating agencies with the lead agency retaining responsibility for the statement;

(5) Indicates any public environmental assessments and other environmental impact statements that are being or will be prepared that are related to but are not part of the scope of the impact statement under consideration;

(6) Identifies other environmental review and consultation requirements so the lead and cooperating agencies may prepare other required analyses and studies concurrently with and integrated with the environmental impact statement as provided in 40 CFR 1502.25;

(7) Indicates the relationship between the timing of the preparation of environmental analyses and UMTA's tentative planning and decision making schedule." (40 CFR 1501.7(a)); and

(8) Resolves issues during the scoping process including identification of important impacts of the proposal and appropriate assessment techniques; identification of alternatives within and outside UMTA's jurisdiction; redefinition of the class of the proposed action; setting of page or time limits; and the potential for tiering.

(b) *Notice of Intent.* (1) "As soon as practicable after its decision to prepare an EIS and before the scoping process (UMTA) shall publish a notice of intent in the **Federal Register** * * *." (40 CFR 1501.7)

(2) "The notice briefly—

(i) Describes the proposed action and possible alternatives;

(ii) Describes (UMTA's) proposed scoping for the proposed action including * * * when and where (the) scope meeting will be held; and

(iii) States the name and address of a person within (UMTA) who can answer questions about the proposed action and the environmental impact statement." (40 CFR 1508.22)

(3) UMTA in cooperation with the Application is responsible for insuring further public awareness of the action by making the notice of intent available through—

(i) "Notice of State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised)." (40 CFR 1506.6(b)(3)(i));

(ii) "Publication in local newspapers (in papers of general circulation rather than legal papers)." (40 CFR 1506.6(b)(3)(iv);

(4) The Applicant is encouraged to use other means of public notification (as described in 40 CFR 1506.6(b)(3)) to further insure responsible local involvement in the project development process.

(5) The notice of intent is published at least 15 days in advance of the scoping meeting. In extenuating circumstances, UMTA may permit a shorter notice period.

(c) *Roles and Relationships of Agencies.* (1) "Federal, State, or local agencies, including at least one Federal agency, may act as joint lead agencies to prepare an environmental impact statement." (40 CFR 1501.5(b))

(2) Joint lead agencies are appropriate if more than one Federal agency either:

(i) "Proposes or is involved in the same action; or

(ii) Is involved in a group of actions directly related to each other because of their functional interdependence or geographical proximity." (40 CFR 1501.5)

(3) The Applicant serving as a joint lead agency is appropriate if the Applicant is subject to state or local requirements comparable to NEPA.

(4) If UMTA is a joint lead agency, UMTA establishes with other lead agencies mutually acceptable procedures for the preparation and processing of the environmental impact statement. The agreed upon procedures in no way lessen UMTA's responsibilities under the purpose and policy sections of this regulation.

(5) If there is a question of lead agency responsibility, the procedures in 40 CFR 1501.5(c) and 1501.5(e) of the CEQ regulations apply.

(6) "Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issue, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency." (40 CFR 1501.6)

(d) *Interdisciplinary Approach.* After identifying the significant issues related to a proposed action, UMTA in cooperation with the Applicant involves the necessary staff or, if appropriate, professional services available in other Federal, State, or local agencies, universities, or consulting firms so that "environmental impact statements (are) prepared using an inter-disciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts (Section 102(2)(A) of NEPA). The disciplines of the preparers shall be appropriate to the scope and issues identified in the scoping process." (40 CFR 1502.6)

(e) *Environmental Studies.* UMTA may request the Applicant to conduct environmental studies needed for the preparation of the draft environmental impact statement. UMTA independently evaluates the information submitted.

(f) *Preparation of Draft EIS.* UMTA in cooperation with the Applicant (see § 622.107(b)) prepares the environmental impact statement in the following manner:

(1) UMTA furnishes guidance and participates in the preparation and "independently evaluates the statement prior to its approval and takes responsibility for its scope and content." (40 CFR 1506.5(c))

(2) If UMTA in cooperation with the Applicant determines that a contractor will assist in the preparation of the draft environmental impact statement, the contractor is chosen by UMTA in cooperation with the Applicant. The contractor is recommended by the Applicant and approved by UMTA. To avoid any conflict of interest, "Contractors shall execute a disclosure statement prepared by (UMTA) and the Applicant and any other lead agency specifying that they have no financial or other interest in the outcome of the project. If the document is prepared by contract (UMTA) furnishes guidance and participates in the preparation and shall independently evaluate the statement prior to its approval and take responsibility for its scope and contents." (40 CFR 1506.5(c))

(3) The format of the draft environmental impact statement is as follows, unless UMTA finds a compelling reason to deviate from this format:

—Cover sheet.
—Summary.
—Table of Contents.
—Purpose of and Need for Action.
—Alternatives Including Proposed Action (Sections 102(2)(C)(iii) and 102(2)(E) of NEPA). (UMTA may choose to identify a preferred alternative at its option.)
—Affected Environment.
—Environmental Consequences (especially Sections 102(2)(C) (i), (ii), (iv), and (v) of NEPA).
—List of Preparers.
—List of Agencies, Organizations, and Persons to Whom Copies of the Statement Are Sent.
—Index.
—Appendices (if any).

Additional guidance is contained in 40 CFR 1502.11 through 40 CFR 1502.18 of the CEQ regulations. Guidance on the content of the draft EIS is available from UMTA.

(g) *Approval of Draft EIS.* The signature of the Approving Official on the title page of the draft environmental impact statement constitutes UMTA authorization to circulate the document to the public.

(h) *Printing.* A lead, joint lead, or cooperating agency may be responsible for printing the EIS. When UMTA has this responsibility, the document is printed by the Government Printing Office and four to six weeks should be allowed for printing. The number of copies to be printed is decided by UMTA in cooperation with the Applicant.

(i) *Circulation of the Draft EIS.* (1) UMTA in cooperation with the Applicant prepares a distribution list for the draft environmental impact statement.

(2) UMTA provides the necessary copies to the Environmental Protection Agency which will in turn publish a notice of availability in the **Federal Register.**

(3) The Applicant is responsible for furnishing the document to—

(i) Any "Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved or which is authorized to develop and enforce environmental standards." (40 CFR 1503.1(a)(1));

(ii) "Appropriate State and local agencies which are authorized to develop and enforce environmental standards." (40 CFR 1503.2(a)(2)(i));

(iii) Any agency that has requested that it receive statements on actions of the kind proposed;

(iv) The public, affirmatively soliciting comments from those persons or organizations who may be interested or affected; and

(v) State and areawide clearinghouses pursuant to OMB Circular A-95 (Revised).

(4) The draft EIS is available for public review through the Applicant and at the UMTA Headquarters office and appropriate UMTA regional office(s). The applicant should make copies available in local government offices, public libraries, schools, and other places accessible for public review as appropriate. The applicant shall publicize the availability of the document in newspapers of general circulation. This notice of availability should be combined with the notice of public hearing (see paragraph (k) of this section).

(j) *Comments.* (1) UMTA establishes a 45-day period (commencing with the notice of availability in the **Federal Register**) to solicit comments on the draft EIS. A limited extension to the circulation period may be granted upon written request if UMTA determines that there is reasonable cause for the extension.

(2) Persons commenting on the draft EIS should be as specific as possible in their comments, particularly with reference to the scope of the EIS, the adequacy of the analysis, or need for additional information. Further guidance on the specificity of comments is given in 40 CFR 1503.3 of the CEQ regulations.

(3) All written comments should be sent directly to UMTA.

(k) *Public Hearing.* (1) A public hearing is required to promote public comment on a draft environmental impact statement. The public hearing is held at least 30 days and usully no more than 45 days after the start of the draft EIS circulation period, defined as the date on which the notice of availability appears in the **Federal Register.**

(2) The public hearing is conducted by the Applicant in cooperation with UMTA. Decisions involving the time, place, and conduct of the hearing will be arrived at jointly.

(3) Notice of the public hearing will be made in newspapers of general circulation at least 30 days prior to the hearing date. Announcement of the public hearing should be combined with the local notice of availability of the draft EIS in newspapers.

(4) Substantive comments made at the public hearing will be addressed in the development of the final EIS. A complete record of the public hearing will be made available at the offices of the Applicant and UMTA.

§ 622.213 Final environmental impact statements.

(a) *Selection of Preferred Alternative.* After the completion of the circulation period, UMTA in cooperation with the Applicant will identify a preferred alternative based on an evaluation of the transportation benefits and the social, economic and environmental consequences of the alternatives studied. This evaluation will take into account the information contained in the environmental impact statement along with appropriate consideration of comments received from the public and governmental agencies.

(b) *Preferred Alternative.* (1) An identification by UMTA of the preferred alternative does not commit UMTA to approval of the final environmental impact statement;

(2) The identification of a preferred alternative does not commit UMTA to the approval of a grant request for any future funding of the preferred alternative.

(c) *Preparation of Final EIS.* (1) UMTA in cooperation with the Applicant prepares the final environmental impact statement.

(2) The primary purpose of the draft environmental impact statement is to obtain public response and comments on the adequacy of the statement or the merits of the alternatives. All substantive comments on the draft EIS received during the circulation period wil be addressed in the final environmental impact statement. The final EIS will reflect significant issues raised during the circulation of the draft EIS, consultation with citizens' groups and interested agencies to resolve these issues, and an explanation of any remaining issues that have not been resolved. The final environmental impact statement will also include the rationale for the selection of the preferred alternative and discuss commitments made to mitigate adverse environmental impacts.

(3) Guidance on the contents of a final environmental impact statement, including the methods and requirements for responding to comments are discussed in § 1503.4 of the CEQ regulations. Additional guidance is available from UMTA.

(d) *Clearance of Final EIS.* (1) Before filing the final environmental impact statement with the Environmental Portection Agency, concurrence is obtained from the UMTA Chief Counsel and the Office of the Secretary as described in paragraph 11(d)(4) of DOT Order* 5610.1C.

(2) The signature of the Approving Official on the title page constitutes UMTA authorization to circulate the final environmental impact statement; compliance with Section 14 of the Urban Mass Transportation Act, as amended; and fulfillment of grant application requirements of Section 3(d)(1) and (2) and Section 5(h) and 5(i) of the UMT Act, as amended.

(e) *Printing.* Options for printing the final EIS are the same as those for printing the draft EIS (see § 622.211(h) of these regulations).

(f) *Circulation of Final EIS.* (1) UMTA and the Applicant are responsible for circulating the final environmental impact statement as follows:

(i) UMTA provides copies to the Environmental Protection Agency, which will in turn publish a notice of availability in the **Federal Register.**

(ii) The Applicant is responsible for simultaneously making the final environmental impact statement available through—

(A) State and areawide clearinghouses pursuant to OMB Circular A–95 (Revised); and

(B) Publication of a notice of availability in local newspapers (in papers of general circulation rather than legal papers) (40 CFR 1506.6(3)(iv)).

(iii) The Applicant is responsible for furnishing the final environmental impact statement to any person, organization, or agency that submitted substantive comments on the draft (40 CFR 1502.19) or requested a copy.

(iv) The final EIS is available for public review through the Applicant and the UMTA Headquarters office and appropriate regional office(s). The Applicant must make copies available in local government offices, public libraries, schools, and other places accessible for public review.

(g) *Circulation Period for Final EIS.* (1) UMTA cannot make any project approval, any funding commitments, any grant action, or other action until the later of the following dates:

(i) Ninety (90) days after publication of the notice of availability for a draft environmental impact statement.

(ii) Thirty (30) days after publication of the notice of availability for a final environmental impact statement.

(2) If the final environmental impact statement is filed within ninety (90) days after a draft environmental impact statement notice is published by the Environmental Protection Agency, the minimum thirty (30) day period and the minimum ninety (90) day period may run concurrently.

(h) *Project Approval.* A record of decision (see § 622.219) is incorporated into the grant approval package for the proposed project. Commitments to mitigation measures that are conditions of the grant approval shall be specified in the record of decision.

§ 622.215 Predecision referrals to CEQ.

When UMTA receives a notice of intended referral to CEQ from another Federal agency, the procedures of paragraph 10 of DOT Order*5610.1C will be followed.

§ 622.217 Reevaluation.

(a) The approval of an environmental document does not end the need for consideration of environmental factors throughout the remaining project development stages. There is a continuing effort by UMTA in cooperation with the Applicant to evaluate the probable environmental consequences of a proposed action. If new or additional information becomes available, or if changes are made in the proposed action that result in significant impacts not previously addressed in the environmental document, a reevaluation is made. This environmental reevaluation may be either a supplemental environmental impact statement, a tiered environmental impact statement, or an environmental assessment.

(b) *Supplemental EIS.* A supplemental EIS is prepared when there are substantial changes in the proposed action or where significant new information is discovered that could affect a major decision made in an earlier EIS. Thus, the supplemental EIS is prepared to allow for *reconsideration of an earlier major decision.* The supplemental EIS is processed in the same manner as the earlier draft and final EIS.

(c) *Tiered EIS.* (1) Every effort is made to complete the NEPA process in the early planning stages to insure that environmental factors are considered early in the decisionmaking process. Depending on the stage of project development, information on site-specific impacts may not be available. The enviornmental document should therefore focus on those impacts that will have the greatest bearing on the early decisions to be made. As more detailed information becomes available during further project development and refinement, site-specific impacts may be more accurately defined. If it is determined that these impacts are significant but would not alter the earlier major decision, a tiered EIS is prepared. The tiered EIS briefly summarized the earlier EIS and the issues already decided and concentrates on new and significant specific impacts.

(2) A tiered EIS is prepared with the focus on the impacts having the greatest bearing on the decision to be made while excluding from consideration issues decided on in an earlier EIS. Thus a tiered EIS assumes that *earlier major decisions are valid* but that additional evaluation is necessary.

(3) The tiered EIS is processed in the same manner as the earlier draft and final EIS .

(d) *Environmental Assessments.* (1) When it is uncertain whether a supplemental or tiered EIS is required, an environmental assessment is prepared. If it is determined that there are no new signficant impacts from the proposed action, a finding of no significant impact is made. If it is determined that there are significant impacts, then an EIS will be prepared in accordance with §§ 622.211 and 622.213.

(2) The environmental assessment is processed in accordance with § 622.207.

§ 622.219 Record of decision.

After the circulation period closes for the final EIS, UMTA may decide to proceed with the preferred alternative. This decision must be supported by a concise public record of decision that:

(a) "States what the decision is." (40 CFR 1502.2(a))

(b) Identifies all alternatives considered by UMTA in reaching its decision and specifies the alternative or alternatives that are considered to be environmentally preferable. UMTA may discuss preference among alternatives based on relevant factors such as economic and technical considerations and agency statutory missions. UMTA identifies and discusses all such factors including any essential considerations of national policy that were balanced by UMTA in making its decision and states how those considerations entered into its decision. (40 CFR 1505.2(b))

(c) "States whether all practicable means to avoid or minimze environmental harm from the alternative selected have been adopted, and if not why they were not. A monitoring and enforcement program [is] adopted and summarized where applicable for any mitigation." (40 CFR 1505.2(c))

§ 622.221 Emergency action procedures.

Deviations from Subpart B in emergency situations may be approved by the UMTA Administrator.

§ 622.223 Application of 49 U.S.C. 1653(f) (4(f) determinations).

(a)(1) Section 4(f) of the DOT Act recognizes the importance of publicly owned parks, recreation areas and wildwife refuges and any historic properties by prohibiting the use of such lands for a project or program except under the following conditions:

(i) There are no feasible and prudent alternatives to the use of such land, and

(ii) The proposed action includes all possible planning to minimize harm to such land.

(2) Any UMTA-assisted project will avoid the use of land from a significant publicly owned park, recreation area, or wildlife refuge or any significant historic site unless UMTA determines that the above conditions are met. Accurate and detailed information is needed to support these determinations. Supporting information must demonstrate that there are unique problems or unusal factors present and that the cost, environmental impacts, or community disruption resulting from alternative routes reaches extraordinary magnitudes.

(b) Consideration under Section 4(f) is not required when the Federal, State, or local government official having jurisdiction over a park, recreation area, or wildlife refuge determines that it is not significant. UMTA reviews the official's nonsignificance determination to ensure the reasonableness of such determination. In the absence of such a determination, the park, recreation area or wildlife refuge is considered to be significant.

(c) The National Register of Historic Places lists historic properties of national, state and local significance. Therefore, for purpose of Section 4(f), a historic site is significant only if it is included in or is eligible for inclusion in the National Register of Historic Places.

(d) The provisions of Section 4(f) apply to publicly owned lands that are administered for multiple uses only if the portion of land to be used is in fact being used for park, recreation, or wildlife purposes, or there is a definite formulated plan for such use as determined by the official having jurisdiction over such lands. UMTA reviews the agency's land use determination to ensure its reasonableness. (For multiple use lands, the significance determination required by paragraph (b) of this section applies only to the lands actually being used for Section 4(f) purposes.)

(e) Designations of park and recreation lands, wildlife and waterfowl refuges, and historic sites are sometimes made and significant determinations changed late in the development of a transit project. In such cases, a project may proceed without consideration under Section 4(f) if the property interest in the Section 4(f)-type lands was acquired prior to the designation or change in significance.

(f) An evaluation of any involvement with a Section 4(f) property is made early in the planning phase of project development when alternatives for the proposed action are under study. These draft evaluations are presented in the environmental assessment or the draft EIS or, for those projects classified as categorical exclusions, in a separate draft Section 4(f) evaluation.

(g) The environmental assessment, draft EIS, or draft Section 4(f) evaluation is provided for coordination and comment to the public official having jurisdiction over the Section 4(f) property, and to the Department of the Interior and, as appropriate, to the Department of Agriculture and the Department of Housing and Urban Development. UMTA will allow at least 30 days for comment.

(h) After receipt and consideration of comments resulting from the coordination required in paragraph (g) of this section, UMTA decides if the use of 4(f) land is required. If the preferred alternative requires the use of 4(f) land, UMTA will ensure that the final EIS, finding of no significant impact, or final Section 4(f) evaluation includes information sufficient to document a Section 4(f) determination. The discussion in the final EIS, finding of no significant impact, or Section 4(f) evaluation specifically addresses:

(1) The reasons why alternatives to avoid Section 4(f) land are not feasible and prudent; and

(2) All measures which will be taken to minimize harm to the Section 4(f) land.

(i) For those Section 4(f) involvements in projects classified as categorical exclusions, UMTA will not approve projects until the necessary Section 4(f) determinations have been made.

(j)(1) UMTA circulates a separate Section 4(f) evaluation when—

(i) A modification in the alignment or design causes the use of Section 4(f) property after the categorical exclusion, finding of no significant impact, or final EIS is processed;

(ii) A modification of the alignment or design that significantly increases the use of Section 4(f) land is made after the Section 4(f) determination has been made; or

(iii) Another agency is the lead agency for the environmental process, unless another DOT element is preparing a 4(f) statement.

(iv) When the procedures under paragraph (k) of this Section do not require an additional document.

(2) In such cases the Section 4(f) evaluation is not accompanied by further NEPA documentation unless a decision is made to provide supplemental NEPA documentation.

(k) The analysis required by Section 4(f) will involve different levels of detail when 4(f) involvement is addressed in tiered EIS's.

(1) When a broad environmental impact statement is prepared, the detailed information necessary to complete the Section 4(f) evaluation may not be available to make the required determinations. Detailed design for the assessment of impacts and the measures to minimize harm may not be available at the time that a decision is made on an alternative mode or general alignment. In these cases, an evaluation is made on the potential impact that a proposed action might have on Section 4(f) lands and whether those impacts could have a bearing on the decision to be made. A preliminary determination is made whether there are feasible and prudent locations or alternatives for the project to avoid the use of the 4(f) land. This preliminary determination is then incorporated in the final EIS.

(2) A Section 4(f) determination is made when additional design details are available to assess whether there are—

(i) Feasible and prudent design alternatives to the use of such land; and whether

(ii) The proposed action includes all possible planning to minimize harm.

(3) The Section 4(f) evaluation should confirm that the earlier decision to select the location is still valid. It will be presumed to be valid unless there are new or changed 4(f) impacts that could have been avoided if another location had been selected.

§ 622.225 Executive Order 11988, Flood Plain Management.

(a) DOT Order 5650.2, Flood plain Management and Protection, implementing this Executive Order, established a Departmental policy to avoid, where practicable, encroachments on flood plains by Departmental action, and to minimize the adverse impacts which such actions may have on flood plains.

(b) Whenever possible, considerations for flood plain protection will be developed concurrently with and included in the environmental documents required by these procedures.

(c) Where a significant encroachment on a flood plain is proposed, a written finding must be made that this is the only practicable alternative.

(d) This finding will be incorporated into, or attached to, the final environmental document. If no environmental document has been prepared, a separate written finding will be made.

(e) The Flood Disaster Protection Act requires that a community participate in the National Flood Insurance Program before Federal assistance is provided for construction or repair of buildings located in areas having special flood hazards as identified by the Federal Insurance Administration. Applicants for UMTA capital grant assistance must fully comply with this requirement.

§ 622.227 Executive Order 11990, Protection of Wetlands.

(a) DOT Order* 5660.1A, Preservation of the Nation's Wetlands, implementing this Executive Order, establishes a Departmental policy that new construction in wetlands be avoided unless there is no practicable alternative to the construction, and that where there is the potential for a proposed action to adversely affect wetlands, the action

*These documents are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix G.

V 44 0 1 5 7 9 UMI

must include all practicable measures to minimize harm to wetlands.

(b) All environmental assessments and draft EIS's for projects involving construction in wetlands shall include sufficient information to describe impacts to the wetlands, and to allow evaluation of alternatives which would avoid and/or mitigate these impacts.

(c) For projects classified as categorical exclusions, documentation on the evaluation of alternatives and the measures to minimize harm will be contained in a written finding.

(d) For any major action which entails new construction in wetlands, a finding must be made that (1) there is no practicable alternative, and (2) that all practicable measures to minimize harm have been included.

§ 622.229 Application of other Federal laws, policies, and requirements.

(a) *Historic Preservation.* UMTA carries out its responsibilities under Section 106 of the National Historic Preservation Act and Executive Order 11593 concurrently with NEPA compliance, where possible. The surveys, reports, and findings required in regulations of the Advisory Council on Historic Preservation are, to the fullest extent possible, prepared concurrently with and integrated in the environmental documents required by NEPA. Consultation with the Advisory Council on Historic Preservation on the protection of historic and cultural properties can begin only after properties are identified and a determination of their eligibility for the National Register of Historic Places has been made by the Department of the Interior. Because of the time required to complete any necessary surveys and determinations, the initial consultations and actions in this process should be undertaken at the earliest practicable time.

(b) *Policy on Major Urban Mass Transportation Investments.* (1) The policy, published in the Federal Register on September 22, 1976, requires an alternatives analysis for any major investment that involves new construction or extension of a fixed guideway system (rapid rail, light rail, commuter rail, automated guideway transit, or busway).

(2) An environmental impact statement is required as a part of all alternatives analyses. The EIS serves as a mechanism for documenting the results of the alternatives analysis.

(3) Authorization to circulate a final EIS for a fixed guideway project constitutes UMTA's approval of the alternatives analysis for that project. This approval does not constitute project approval.

(c) *Environmental Requirements of the Urban Mass Transportation Act, as amended.* (1) Sections 3(d) and 5(i) of the UMT Act require applicants for Section 3 and 5 grants to make several certifications regarding the local decisionmaking process. Applicants will still be required to submit the statutory certification. The procedures of this regulation are designed to aid the Applicant in the environmental process by tailoring the level of detail of environment analysis to the significance of the environmental impact. The report requirement of Section 5(i)1 will be satisfied by an environmental assessment, final EIS, or an identification of the project as meeting the criteria for a categorical exclusion, where appropriate under the provisions of Subpart B.

(2) Section 5(h)2 of the UMT Act requires the Secretary of DOT to consider the environmental effects of any proposed Section 5 project and make decisions based on the public interest. The provisions of Subpart B of this regulation describe the procedures that the Secretary will follow to comply with the statutory provisions of this Section.

(3) Section 14 of the UMT Act restates the applicability of NEPA and Section 4(f) the capital grants funded under Section 3 of the UMT Act. The provisions of Subpart B of this regulation describe the procedures that the Secretary will follow to comply with the statutory requirements of this Section.

(d) *Other Requirements.* There may be other requirements for environmental protection stemming from the related statutes in § 622.103. If possible, these requirements will be identified through early consultation during the NEPA process. The final environmental document should reflect consultation with appropriate agencies and should demonstrate compliance with the requirements or provide reasonable assurance that the requirements can be met.

§ 622.231 Other agency statements.

(a) UMTA review of statements prepared by other agencies considers the environmental impact of the proposal on areas within UMTA's functional area of responsibility or special expertise.

(b) Any requests by the public for copies of UMTA comments on other agency statements will be referred to the agency originating the environmental impact statement.

[FR Doc. 79-31764 Filed 10-12-79; 8:45 am]
BILLING CODE 4910-22-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 79-26]

Environmental Impact and Related Procedures

AGENCY: Federal Highway Administration (FHWA).

ACTION: Notice of Proposed Supplementary Guidance and Procedures for Environmental Impact Statement Processing.

SUMMARY: This notice is being published to provide the public with information and an opportunity to comment on explanatory guidance which the Federal Highway Administration (FHWA) proposes to issue as a supplement to its procedures for processing environmental impact statements and related documents. These procedures are being revised to implement new requirements contained in regulations issued by the Council on Environmental Quality (CEQ).

DATES: Comments must be received on or before November 14, 1979.

ADDRESS: Anyone wishing to submit comments may do so, preferably in triplicate, to FHWA Docket No. 79-26, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Dale Wilken, Office of Environmental Policy, 202-426-0106, or Irwin Schroeder, Office of the Chief Counsel, 202-426-0791. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: In this same special part of today's Federal Register, the FHWA and the Urban Mass Transportation Administration (UMTA) have published a notice of proposed rulemaking (NPRM) which sets forth their coordinated response to the regulations issued by CEQ (40 CFR Part 1500 *et seq.*) to implement the procedural provisions of the National Environmental Policy Act (NEPA), and to the implementing procedures issued by the Department of Transportation (DOT) as DOT Order 5610.1C (44 FR 56420; Oct. 1, 1979). Both the CEQ regulations and the DOT Order encourage operating administrations such as FHWA and UMTA to develop individualized procedures. Both FHWA and UMTA have decided to exercise that option to ensure smoother administration and better compliance within their respective grant programs.

The FHWA's current environmental impact statement (EIS) procedures are codified at 23 CFR Part 771 and have been incorporated into Volume 7, Chapter 7, Section 2, of the Federal-Aid Highway Program Manual (FHPM 7-7-2). The Manual contains the policies, requirements, procedures, and guidelines which apply to the Federal-aid highway program. It is provided directly to all State highway agencies and is available for inspection and copying under 49 CFR Part 7, Appendix D. Both Part 771 and FHPM 7-7-2 will be revised to incorporate the final regulation which results from the NPRM referred to above.

Based on experience under its current regulation, and in view of the direct applicability of the new CEQ regulations to its activities, FHWA has determined that certain requirements can be dropped from its current regulation and issued as explanatory guidance. Specifically, FHWA intends to eliminate the detailed requirements concerning the format and content of environmental impact statements and related documents from its regulation, and instead provide similar discussions of appropriate format and content as explanatory guidance. This guidance is to be issued in appendices to FHPM 7-7-2, and is published in this notice in proposed form for public information and comment. Certain administrative housekeeping procedures, such as detailed distribution instructions for copies of environmental documents, are also included in the proposed FHPM appendices.

Due to the close relationship of the materials in this notice and the NPRM published herewith, a common docket will be maintained. Persons wishing to comment on both need thus only prepare one set of comments. The same 30-day comment period will be provided for this notice as for the NPRM.

All responses to this publication will be available for examination by any interested person at the above address both before and after the closing date for comments. The final version of these appendices will be published after review of comments received. This publication should be concurrent with FHWA's promulgation of final regulations on environmental impact statements.

Environmental Assessment Format and Content

[Proposed Appendix B of FHPM 7-7-2]

If appropriate environmental studies and early coordination indicate that the impacts of proposed FHWA action will not be significant, and the action is not classified as a categorical exclusion, then an environmental assessment (EA) will be prepared. After the EA has been revised to reflect any comments received (from the availability notice or the public hearing), it will be reviewed and, if acceptable, adopted by the FHWA Division Administrator as a finding of no significant impact.

The CEQ regulations (40 CFR Parts 1500 *et seq.*) require that an EA include the information listed in § 1508.9. The following format is recommended for presentation of an EA.

1. *Description of the Proposed Action. Describe the length, termini, proposed improvements, etc.*

2. *Need.* Identify and describe the problem which the proposed action is designed to address. Any of the items discussed under the "Need" section in Apendix D may be appropriate in specific cases.

3. *Alternatives Considered.* Discuss any alternatives to the proposed action which were considered and why they are not proposed for adoption.

4. *Impacts.* Describe the social, economic, and environmental impacts and analyze and discuss their significance.

5. *Comments and Coordination.* Describe all early coordination efforts and all comments received from government agencies and the public.

If a proposed action requires a Section 4(f) evaluation, wetlands finding, or a flood plain finding, the information outlined in Appendix D for EIS's should be included in the EA. The EA containing the draft Section 4(f) evaluation would be circulated to the appropriate agencies for section 4(f) coordination.

Notice of Intent

[Proposed Appendix C of FHPM 7-7-2]

The FHWA Washington Headquarters will publish in the Federal Register a Notice of Intent for any FHWA action which will be the subject of an EIS. The suggested format for submitting information to the FHWA Washington Headquarters about a particular action is as follows:

Notice of Intent

1. *Description of the proposed action and possible alternatives.* This section should contain a brief narrative

V 4 4 0 C 1 5 7 9 UMI

description of the proposed action, e.g., location of the action, type of construction, length of the project, needs which will be fulfilled by the action. In addition, this section should contain a brief description of possible alternatives to accomplish goals of the action, e.g., upgrade existing facility, construction on new alignment, mass transit, do nothing, multi-modal design.

2. *Proposed Scoping Process.* This section should briefly describe the proposed scoping process for the particular action and should include whether, when and where any scoping meeting will be held.

3. *FHWA Contact Person.* This section should state the name and address of a person within the FHWA division office who can answer questions about the proposed action and the EIS as it is being developed.

EIS Format and Content

[Proposed Appendix D of FHPM 7-7-2]

EIS's should be printed on paper 8½ x 11 inches with all graphics folded for insertion to the same size. The wider sheets should open to the right with the title or identification on the right. The use of a standard size will facilitate administrative recordkeeping. Each EIS should have a title page headed as follows:

(EIS NUMBER [1])

(Route, Termini, City or County, and State)

Draft (Final)

Environmental Impact Statement

U.S. Department of Transportation

Federal Highway Administration

and

(State or local highway agency and any other cooperating agencies)

(This action complies with Executive Order 11988, Flood Plain Management and/or Executive Order 11990, Protection of Wetlands) [2]

Date _____

For FHWA _____

[1] The number at the top left-hand corner of the title page on all draft and final EIS's is as follows:

FHWA-AZ-EIS-74-01-D(F)(S)

FHWA—name of Federal Agency

AZ—name of State (cannot exceed four characters)

EIS—environmental impact statement

74—year draft statement was prepared

01—sequential number of draft statement for each calendar year

D—designates the statement as the draft statement

F—designates the statement as the final statement

S—designates supplemental statement

DS02—designates second draft supplemental statement

[2] To be used on the final EIS when applicable

The following persons may be contacted for additional information concerning this document:

(Name, address, and phone number of FHWA division office contact)

(Name, address and phone number of HA contact)

(One paragraph abstract of the statement.)

(Comments on this draft EIS are due by (*Date*) and should be sent to (*name and address*))

Summary Sheet

1. Brief Description of the proposed FHWA action indicating route, termini, type of highway, number of lanes, length, county, city, State, etc., as appropriate. Also list other Federal actions required because of this action, such as permit approvals, etc. Also describe any actions proposed by other government agencies in the same geographic area as the proposed FHWA action.

2. Summary of major alternatives considered.[3]

3. Summary of significant environmental impacts, both beneficial and adverse.

4. Areas of controversy (including issues raised by agencies and the public).

Table of Contents

Summary
Purpose and Need
Alternatives
Affected Environment
Environmental Consequences
List of Agencies, Organizations and Officials To Whom Copies of EIS's Are Sent
Comments and Coordination
List of Preparers
Appendices
Index

Purpose and Need

Identify and describe the problem which the proposed action is designed to address. This section must clearly demonstrate that a need exists and must define the need in terms understandable to the layperson. This discussion will form the basis for the "no action" discussion in the "Alternatives" section.

The following is a list of items which will assist in development of and explanation of the need for the proposed action. It is by no means all-inclusive or applicable in every situation, and is intended only as a guide.

Transportation Demand—Including Urban Transportation Plan.

Federal, State, or local governmental authority (legislation) directing the action.

Social Demands or Economic Development—New employment, schools, land use plans, recreation, etc.

Modal Interrelationships—Information regarding how the proposed facility may interface with airports, rail port facilities, etc., should be included.

System Linkage—Is the proposed project the "connecting link"? Does it connect other highway facilities? How does it fit in the system?

Safety—Is the existing accident rate excessively high? Why? Will the proposed facility improve this? How? How Much?

Capacity—This can add to the transportation demand, social service demand or economic development. What capacity will be needed? Level of service?

Structural Condition of Existing Facility—Are maintenance costs excessive?

Alternatives

The "Alternatives" section of the draft EIS should begin with a concise discussion or summary of how the "resonable alternatives" were selected and why other alternatives were eliminated from detailed study.

The remaining part of this section should then describe accurately and clearly the "reasonable alternatives" including the "no action" alternative.

Generally, this can be best accomplished by a brief written description of each alternative, supplemented with maps and other appropriate visual aids. The material should provide a clear understanding of each alternative's termini, location, and major design features (number of lanes, right-of-way requirements, median width, etc.), which will contribute to a reader's better understanding of each alternative's effects upon its surroundings or the community.

Generally, each alternative should be developed to comparable levels of detail in the draft EIS.

It is preferable that the draft EIS be circulated sufficiently early in the project development process that a preferred alternative has not yet been identified. The draft EIS should state that all alternatives are under consideration and that a decision will be made only after the public hearing transcript and comments on the draft EIS have been evaluated.

When the final EIS is prepared, this section will generally require changes from the draft EIS. The final EIS must identify which alternative for the proposed action is preferred and why. The "why" should be explained in a concise and clear manner.

[3] The final EIS should identify the preferred alternative.

Affected Environment

This section describes the existing environmental (social-economic-environmental) setting for the area affected by all of the alternative proposals. The description should be a single general description for the area rather than a separate one for each alternative. All environmentally sensitive locations or features should be identified.

This discussion should focus on significant issues and values in order to reduce paperwork and eliminate the presentation of extraneous background material.

Prudent use of photographs, illustrations and other graphics within the text can be effective in giving the reviewer an understanding of the area.

Data and analyses in the statement should be in proportion to the significance of the impacts which will be discussed later in the document. Less important material should be summarized, consolidated, or simply referenced.

This section should also describe the scope and status of the planning process for the area. A copy of the proposed land use plan for the area should be included if available.

Environmental Consequences

This section will discuss the probable environmental effects of the alternatives and the means to mitigate adverse environmental impacts.

There are several ways of preparing this section. It is generally preferable to discuss the impacts and any mitigation measures separately for each of the alternatives. However, it may be advantageous in certain cases (where there are few alternatives) to present this section with the impacts as the headings.

Under the preferred method, consideration should be given to including a subsection which would discuss general impacts and mitigation measures which are the same regardless of the alternative selected. This would reduce or eliminate repetition under each of the alternative discussions.

It would also be helpful to have an impact/alternative comparison summary table at the end of this section.

When the final EIS is prepared, the impacts and mitigation measures associated with the selected alternative may need to be discussed in more detail than is contained in the draft EIS. This will generally depend upon the comments received on the draft EIS.

In discussing the impacts, both beneficial and adverse, the following should be included:

A summary of studies undertaken, with enough data or cross referencing to determine the validity of the methodology.

Enough information to establish the reasonableness of the conclusions concerning impacts.

A discussion of mitigation measures. In the final EIS these measures must be investigated in detail so that a commitment can be made.

In addition to normal FHWA program monitoring of design and construction activities, special instances may arise when a formal program for monitoring impacts or mitigation measures will be appropriate. In these instances, the final EIS should describe the monitoring program and reporting which will be performed.

Listed below are some of the impacts which are commonly significant on highway projects. This list is not exhaustive—on individual projects there may be a number of other impacts which may be significant.

Visual Impacts

This discussion should include an assessment of the temporary and permanent visual impacts of the proposed action. Where relevant, the EIS should document the consideration given to design quality, art and architecture in the project planning. These values may be important for facilities located in sensitive urban settings.

Social and Economic Impacts

The impact statement should contain the following:

1. Changes in life style for the neighborhoods or various groups, identified in the affected environment section, as a result of the proposed action. These changes may be beneficial or adverse. These impacts may include splitting neighborhoods, isolating a portion of a *distinct ethnic group*, new development, changed property values, etc.

2. If the proposed action will change travel patterns (e.g., vehicular, commuter, or pedestrian), identify the impact.

3. How will the proposed action affect school districts? Recreation areas? Churches? Business? etc.?

4. Are there any impacts on minority groups?

5. If the proposed action is located in or will affect an urban area, the EIS should discuss the overall impact on the physical, social, and economic urban environment.

6. What secondary impacts will affect areas of social concern mentioned above? Economic impacts can be closely related to the relocation and social impacts. In many cases, beneficial and adverse economic impacts will be integrated with the discussion of relocation and social impacts.

Relocations Impacts

A discussion of relocation impacts should contain the following information:

1. An estimate of the number of households to be displaced and a demographic profile.

2. A description of neighborhoods with available housing for relocation. (What effect would this have on services? Secondary impact?)

3. A description of the available relocation housing and the ability to provide relocation housing for the families displaced. If there is not sufficient housing available, describe action to remedy the situation including, if necessary, housing of last resort.

4. An estimate of the number of businesses to be displaced or impacted and a discussion of any relocation problems. (What would be the effect on the local economy? Secondary impact?)

5. The results of consultation with officials and community groups.

6. If unusual conditions are identified, a description of the necessary special relocation advisory services (elderly and minority groups).

Air Quality Impacts

The EIS should contain the following:

1. An identification of the relevant microscale air quality impacts of the highway section. This should include:

Predicted estimates of total concentrations at receptor sites for various alternatives.

Comparison of the estimated total concentrations for all alternatives with applicable State and national standards.

2. A discussion of the relationship between the transportation plan and program and areawide pollutants (for nonattainment areas or areas where there is an air quality maintenance plan).

3. An identification of the analysis methodology and brief summary of assumptions utilized.

4. A brief summary and documentation of early consultation with and comments from the State/local air pollution control agency or, as applicable, the indirect source review agency.

5. A statement on the relationship between each alternative under consideration and the transportation control measures in the applicable State air quality implementation plan.

V 4 4 0 C 1 5 7 9 UMI

Noise Impacts

If highway-generated noise is a significant factor, this discussion will include the possible noise problems and a summary of the noise analysis information. The summary should include:

1. Information on the numbers and types of activities which may be affected.

2. Extent of the impact (in decibels). This should include a comparison of the predicted noise levels with the FHWA design noise levels and the existing noise levels.

3. Noise abatement measures which would likely be incorporated into the various alternatives.

4. Noise problems for which no apparent solution is reasonably available, and the reasons why.

Water Quality Impacts

This discussion should include summaries of analyses and consultations with the agency responsible for the State Water Quality Standards. Possible impacts include: erosion and subsequent sedimentation, use of deicing and weed control products, spillage of chemicals by trucks, and contamination of ground water supplies. Coordination with the Corps of Engineers under the Federal Clean Water Pollution Control Act will assist in this area.

Stream Modification or Impoundment Impacts

This section will include a summary of information which is necessary to comply with the Fish and Wildlife Coordination Act. This legislation requires consultation with the Fish and Wildlife Service and the appropriate State agency when a Federal action involves impoundment (surface area of ten acres or more), diversion, channel deepening or other modification of a stream or body of water.

Wetlands and Coastal Zone Impacts

Discuss significant impacts on wetlands and coastal zones, including analyses, consultations, and efforts to reduce the impact. Where applicable, the discussion should set forth any inconsistencies with wetlands management programs.

The draft EIS should contain sufficient information to allow evaluation of alternatives to construction in the wetlands and practicable measures to minimize harm to the wetlands.

When there is no practicable alternative to an action which involves new construction located in wetlands, the final EIS should contain the finding required by EO 11990 and by paragraph 7h of DOT Order 5660.1A in a separate subsection titled "Wetlands Finding." The finding should contain, in summary form and with reference to the detailed discussions contained elsewhere in the EIS:

1. Reference to EO 11990.

2. Discussion of the basis for the determination that there are no practicable alternatives to the proposed action.

3. Discussion of the basis for the determination that the proposed action includes all practicable measures to minimize harm to wetlands.

4. Concluding statement as follows: "Based upon the above considerations, it is determined that there is no practicable alternative to the proposed new construction in wetlands and that the proposed action includes all practicable measures to minimize harm to wetlands which may result from such use."

Flood Hazard Evaluation

The draft EIS should contain discussion of the following items for all proposed significant encroachments in a flood plain and for those alternatives which would significantly support flood plain development:

1. The impacts on natural and beneficial flood plain values.

2. The direct and indirect support of incompatible flood-plain development.

3. The measures proposed to minimize flood risks and adverse environmental impacts.

4. Sufficient information to permit evaluation of alternatives to the significant encroachments in the flood plain.

When there is no practicable alternative to an action which includes a significant encroachment, the final EIS should contain the finding required by EO 11988 in a separate subsection titled "Flood Plain Finding" (See 23 CFR Part 650, Subpart A).

Natural Resources Impacts

This section will include a summary of significant impacts on natural, ecological, and scenic resources which have not been previously discussed. Included in this discussion will be impacts on prime and unique farmlands, threatened and endangered species, natural land forms, groundwater resources, etc.

Energy requirements, direct and indirect costs and benefits, and the conservation potential of each of the alternatives should be discussed if significant impacts are involved.

Land Use Planning Impacts

This discussion should include an assessment of the growth-inducing potential of the proposed action. If increased pressure for development is anticipated, the discussion should include an assessment of the kind of development that is expected to occur, and where and when it is expected to occur. Any factors which might be used by local governments to influence development rates (such as zoning, restricting utility service, etc.) should also be discussed.

An important part of this discussion is the relationship between any growth-inducing characteristics of the proposed action and the State and/or local government plans and policies with regard to growth in the area. These plans and policies will be reflected in the metropolitan area land use plan or in other plans for coastal zones, wilderness areas, etc. The distinction between planned growth and unplanned growth is an important one which should be emphasized.

Lastly, a description of the social, economic, and environmental impacts which can be anticipated to result from development induced by the proposed action should be included.

Historic/Cultural Site Impacts

The draft EIS should contain a discussion of the impacts that each of the alternatives will have on those sites or properties of national, State, or local historical, architectural, archaeological, or cultural significance that were identified in the "Affected Environment" section. This section should contain a record of the coordination with the State Historic Preservation Officer concerning the significance of the resource and an evaluation of the effects on the resources.

If the selected alternative has an effect on a property included in or eligible for inclusion in the National Register, the final EIS should contain (a) documentation supporting a finding of no adverse effect and a record of coordination with the Executive Director, Advisory Council on Historic Preservation (ACHP), or (b) an executed Memorandum of Agreement (MOA) (or a description of the provisions of the proposed MOA and assurances that all necessary parties are in agreement with these provisions).

Construction Impacts

The EIS should discuss significant impacts (particularly air, noise, water, detours, safety, etc.) associated with construction of each of the alternatives. Also, where applicable, the impact on

disposal and borrow areas should be discussed along with any practicable measures to minimize these impacts.

Impacts on Section 4(f) Properties

See Appendix G.

List of Agencies, Organizations and Officials To Whom Copies of EIS's Are Sent

List of all commenting entities from which comments are being requested (draft EIS), and identification of those that submitted comments (final EIS).

Comments and Coordination

1. The draft EIS should summarize the early coordination process and any pertinent information received from the public and government agencies.

2. The draft EIS should be revised, as appropriate, to reflect the consideration given to substantive comments received. The final EIS should include a copy of all substantive comments received (or summaries thereof where response has been exceptionally voluminous), along with a response to each substantive comment. When the draft EIS is revised as a result of comments received, the copy of the comments should contain marginal references indicating the page and paragraph where revisions were made, or the discussion of the comments should contain such references.

3. The final EIS should contain a summary and disposition of substantive comments made at the public hearing.

List of Preparers

This section will include lists of:

1. State (or local agency) personnel, including consultants, who were primarily responsible for preparing the EIS or performing environmental studies, and their qualifications, and

2. FHWA personnel primarily responsible for preparation or review of the EIS, and their qualifications.

Appendices

Material prepared as appendices to the EIS should:

1. Consist of material prepared in connection with the EIS (as distinct from material which is not so prepared and which is incorporated by reference).

2. Normally consist of material which substantiates an analysis which is fundamental to the impact statement.

3. Normally be analytic and relevant to the decision to be made, and

4. Be circulated with the EIS or be readily available on request.

Other reports and studies referred to in the EIS should be readily available for review or for copying at a convenient location.

Index

The index should include major subjects and significant impacts so that a reviewer need not read the entire EIS to obtain information on a specific subject or impact.

Alternate Process for Final EIS's

Paragraph 1503.4 of the CEQ regulations (40 CFR Parts 1500 *et seq.*) provides the opportunity for expediting final EIS preparation in those instances when, after receipt of comments resulting from circulation of the draft EIS, it is apparent that:

1. All reasonable alternatives were studied and discussed in the draft EIS, and

2. The analyses in the draft EIS adequately identify and quantify the environmental impacts of all reasonable alternatives.

When these two points can be established, then the final EIS can consist of the draft EIS and an attachment containing the following:

1. Errata sheets making factual corrections to the draft EIS, if applicable.

2. A section identifying the preferred alternative and discussing the reasons why it was selected and why the remaining alternatives were not selected and, if applicable:

a. Final Section 4(f) evaluations containing the information described in Appendix G,

b. Wetlands finding(s),

c. Flood plains finding(s), and

d. A list of commitments for mitigation measures for the preferred alternative.

3. Copies (or summaries) of comments received from circulation of the draft EIS and public hearing and response thereto.

Distribution of EIS'S and Section 4(f) Evaluations

[Proposed Appendix E of FHPM 7-7-2]

Environmental Impact Statements

Copies of all draft EIS's should be circulated for comment to all agencies expected to have responsibility, interest or expertise in the proposed action or its impacts.

Copies of all adopted final EIS's should be distributed to all cooperating agencies and to all Federal, State and local agencies and private organizations who commented substantively on the draft EIS.

Copies of all draft and final EIS's in the categories listed in 23 CFR 771.213(e) should be provided to the Regional Representative of the Secretary of Transportation at the same time as they are forwarded to the FHWA Washington Headquarters.

Multiple copies of all EIS's should be distributed as follows:

1. U.S. Environmental Protection Agency (EPA) Headquarters: Five copies of the draft EIS and five copies of the final EIS (this is the "filing requirement" covered in Section 1506.9 of the CEQ regulations; the correct address is listed therein).

2. U.S. EPA Headquarters or Regional Office responsible for EPA's review pursuant to Section 309 of the Clean Air Act: Five copies of the draft EIS and five copies of the final EIS.

3. U.S. Department of the Interior (DOI) Headquarters:

a. All States in FHWA Regions 1, 3, 4, and 5 plus Hawaii, Guam, Samoa, Arkansas, Iowa, Louisiana, Missouri, and Puerto Rico: 12 copies of the draft EIS and seven copies of the final EIS.

b. Kansas, Nebraska, North Dakota, Oklahoma, South Dakota and Texas: 13 copies of the draft EIS and eight copies of the final EIS.

c. New Mexico and all States in FHWA Regions 8, 9, and 10 *except* Hawaii, North Dakota, and South Dakota—14 copies of the draft EIS and nine copies of the final EIS.

Section 4(f) Evaluations

If the Section 4(f) evaluation is included in an EIS, DOI Headquarters should receive the number of copies listed above for EIS's. If the Section 4(f) evaluation is processed as a separate document or as part of an EA, the DOI should receive seven copies of the draft evaluation for coordination and seven copies of the final evaluation for information.

In addition, draft Section 4(f) evaluations, whether in a draft EIS, an EA or a separate document, are required to be coordinated where appropriate with the appropriate offices of the Department of Housing and Urban Development and the Department of Agriculture.

If the Section 4(f) evaluation is processed with a categorial exclusion or an EA, copies do not have to be forwarded to the FHWA Washington Headquarters.

Record of Decision Format and Content

[Proposed Appendix F of FHPM 7-7-2]

The record of decision must include the information required by § 1505.2 of the CEQ regulations. The following format and discussions are recommended for presentation of that information:

1. *Decision.* Identify the selected alternative. Reference to the final EIs may be used to reduce detail and repetition.

V 4 4 O C 1 5 7 9 UMI

2. *Alternatives Considered.* This information can be most clearly organized by briefly describing each alternative (with reference to the final EIS, as above), then explaining and discussing the balancing of values underlying the decision. In addition, this discussion must include identification of the alternative or alternatives which were considered preferable from a strictly environmental point of view and, if use of Section 4(f) land is involved, the required Section 4(f) determination (see Appendix H).

For each individual decision (final EIS), the values (economic, environmental, safety, traffic service, community planning, etc.) which are significantly implicated will be different and will be given different levels of relative importance. Accordingly, it is essential that this discussion clearly identify each significant value and the reasons why some values were considered more important than others. While any decision represents a judgement on the part of the decisionmaker, that judgment should reflect a balancing of values in the best overall public interest.

It is also essential that legislative and policy requirements in Title 23, U.S.C., be given appropriate weight in this decision making process. The mission of FHWA is implementation of the Federal-aid highway program to provide safe and efficient transportation. While this mission must be accomplished within the context of all other Federal requirements, the beneficial impacts of transportation improvements must be given proper consideration and documentation in this record of decision.

3. *Measures to Minimize Harm.* Describe all measures to minimize environmental harm which have been adopted for the proposed action. Also include a specific statement that all practicable measures to minimize environmental harm have been incorporated into the decision.

4. *Monitoring or Enforcement Program.* Include a description of any monitoring or enforcement program which had been adopted for specific mitgation measures, as outlined in the final EIS.

Section 4(f) Evaluations Format and Content

[Proposed Appendix G of FHPM 7-7-2]

Draft Evaluation

A draft Section 4(f) evaluation must be included in a separate section of the draft EIS, EA, or for projects processed as categorical exclusions, in a separate document. When more than one alternative is under consideration, a draft Section 4(f) evaluation must be prepared and circulated which discusses each alternative requiring the use of Section 4(f) land.

The following information should be included in the draft Section 4(f) evaluation:

1. A brief description of the project and the need for the project (when the draft Section 4(f) evaluation is circulated separately for categorical exclusions and those special cases listed in 23 CFR 771.223(k)).
2. A detailed map or drawing of sufficient scale to discern the essential elements of the highway/Section 4(f) land involvement.
3. Size (acres or square feet) and location (maps or other exhibits such as photographs, slides, sketches, etc.).
4. Type (recreation, historic, etc.).
5. Available recreational activities (fishing, swimming, golf, etc.).
6. Facilities existing and planned (description and location of ball diamonds, tennis courts, etc.).
7. Usage (approximate number of users for each activity).
8. Relationship to other similarly used lands in the vicinity.
9. Access (both pedestrian and vehicular).
10. Ownership (city, county, State, etc.).
11. Applicable clauses affecting title, such as covenants, restrictions, or conditions, including forfeiture.
12. Unusual characteristics of the Section 4(f) land (flooding problems, terrain conditions, or other features that either reduce or enhance the value of portions of the area).
13. The location and amount of land (acres or square feet) to be used by the highway, including permanent and temporary easements.
14. The facilities and access affected.
15. The probable increase or decrease in physical effects on the Section 4(f) land users (noise, air pollution, etc.).
16. A description of all reasonable and practicable measures which are available to minimize the impacts of the proposed action on the Section 4(f) property.
17. Sufficient information to evaluate all alternatives which would avoid the Section 4(f) property. Discussions of alternatives in the draft EIS or EA may be referenced rather than repeated. However, this section should include discussions of design alternatives (to avoid Section 4(f) use) in the immediate area of the Section 4(f) property or discussions of why there are no such (local) alternatives which are considered reasonable. The determination that there are no feasible and prudent alternatives should not be addressed at the draft evaluation stage because the results of the formal coordination are not yet available.
18. The results of preliminary coordination with the public official having jurisdiction over the Section 4(f) property and with regional (or local) offices of DOI and the appropriate offices of DOA and HUD.

Final Evaluation

When the selected alternative involves the use of Section 4(f) land a final Section 4(f) evaluation must be included in the final EIS, EA, or for projects processed as categorical exclusions, in a separate final Section 4(f) evaluation. The final evaluation must contain:

1. All information required above for a draft evaluation.
2. A discussion of the basis for the determination that there are no feasible and prudent alternatives to the use of the Section 4(f) land.
3. A discussion of the basis for the determination that the proposed action includes all possible planning to minimize harm.
4. A summary of the appropriate formal coordination with the headquarters offices of DOI, DOA, and HUD.

Section 4(f) Determination Format and Content

[Proposed Appendix H of FHPM 7-7-21]

A Section 4(f) determination is the written administrative record which documents the determination required by 23 U.S.C. 138 and 23 CFR 771.223(a). The Section 4(f) determination will be incorporated into the record of decision for those actions which are processed with EIS's. For all other actions, any required Section 4(f) determination will be prepared as a separate document. The determination will be made in accordance with the delegation of authority in the FHWA Organizational Manual, FHWA Order 1-1.[1] A Section 4(f) determination should include the following:

1. Summarized discussions of the following with reference to detailed discussions in the final EIS or FONSI, if appropriate:
   a. Project description and need,
   b. Description of the Section 4(f) property, and
   c. Alternatives to the proposed action which are considered.
2. Specific reasons why each alternative was determined not to be feasible and/or prudent.

[1] FHWA Orders are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

3. A list of measures which are proposed to minimize and/or mitigate impacts of the proposed action on the Section 4(f) property.
4. A summary of the results of the Section 4(f) coordination with the responsible official, DOI, DOA, and HUD.
5. Specific summary statements, based upon the above considerations that:
   a. there is no feasible and prudent alternative to the use of the Section 4(f) property, and
   b. all possible planning to minimize harm has been accomplished.

Issued on: October 10, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79-31765 Filed 10-12-79; 8:45 am]

BILLING CODE 4910-22-M

V 4 4 0 C 1 5 7 9 UMI

V
4
4

O
C

1
5

7
9
UMI

Monday
October 15, 1979

Part VI

Federal Reserve System

Electronic Fund Transfers

V 4 4 0 C 1 5 7 9 UMI

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0221]

Electronic Fund Transfers; Definitions, Exemptions, Special Requirements, Issuance of Access Devices, Liability of Consumer for Unauthorized Transfers, Initial Disclosure of Terms and Conditions, Change in Terms; Error Resolution Notice, Preauthorized Transfers, Relation to State Law, Administrative Enforcement, Model Disclosure Clauses

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is adopting in final form (1) additional sections of Regulation E to implement certain provisions of the Electronic Fund Transfer Act that take effect May 10, 1980, and (2) amendments to existing sections of Regulation E. The regulatory proposal was published for comment at 44 FR 25850 (May 3, 1979). The Board is separately republishing today, for further comment, additional sections of the regulation to implement other provisions of the Act effective May 1980. Finally, the Board is issuing an analysis of the economic impact of the portions of the regulation adopted in final form.

EFFECTIVE DATES: Sections 205.3 and 205.6 (originally 205.5): November 15, 1979: §§ 205.2, 205.4 (a), (c), and (d), 205.5 (originally 205.4), 205.7, 205.8, 205.10 (b), (c), and (d), 205.12, 205.13, and Appendix A: May 10, 1980.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Anne Geary, Assistant Director (202–452–2761), or Lynne B. Barr, Senior Attorney (202–452–2412), Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Regarding the economic impact analysis: Frederick J. Schroeder, Economist (202–452–2584), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: (1) *Introduction: General Matters.* The Board is adopting in final form additional sections of Regulation E to implement provisions of the Electronic Fund Transfer Act that become effective May 10, 1980. The sections adopted today are §§ 205.4 (a), (c), and (d), 205.7, 205.8, 205.10 (b), (c), and (d), 205.12 and 205.13. The Board is also issuing additional model disclosure clauses (Appendix A to the regulation). These additional sections and model clauses were published on May 3, 1979, in the Federal Register for public comment (44 FR 25850). Note that the section numbers as adopted differ from those in the proposal.

The Board is also adopting amendments to §§ 205.2 and 205.3. Sections 205.4 and 205.5 in the existing regulation are being redesignated as §§ 205.5 and 205.6, respectively, and technical amendments to these sections are being adopted.

Other sections of the regulation proposed in May are being republished separately today for further public comment. See the proposed rules document affecting Regulation E in this issue.

The Board proposed in May not to implement in the regulation §§ 910 and 912–914 of the Act. Although some commenters suggested that the Board issue regulations on these sections, the Board has decided not to do so. With respect to §§ 912 through 914, the Board continues to feel that they are straightforward and regulatory implementation is not needed. Implementation of § 910 presents a different problem. That section imposes upon a financial institution liability for failure to make or stop electronic fund transfers in accordance with the terms and conditions of an account, except in certain enumerated instances. The Board is authorized to add to the list of instances in which an institution is absolved from liability. The Board is concerned that adding to this "laundry list" might reduce consumer protections and unduly complicate the regulation. Since § 910 explicitly states that a financial institution is liable only when it fails to act in accordance with the terms and conditions of its agreement with its customer, institutions may wish to review their customer agreements.

The Board solicited comment on whether the requirements of the Act and regulation should be modified, as permitted by § 904(c) of the Act, for small financial institutions, as necessary to alleviate undue compliance burdens for such institutions. The Board has determined that such modifications are not necessary at this time.

The Board received 202 written comments on the proposed amendments. Public hearings were also held on the proposal on June 18 and 19, 1979.

Section 904(a)(1) of the Act requires the Board, when prescribing regulations, to consult with the other federal agencies that have enforcement responsibilities under the Act. Members of the Board's staff met with staff members from the enforcement agencies both before and after the proposal was issued.

Federal savings and loan associations should note that they are subject to the provisions of Regulation E and that there may be some inconsistency between this regulation and the Federal Home Loan Bank Board's regulation governing remote service units (12 CFR 545.4–2). The Board of Governors has been advised by the Bank Board that § 545.4–2 will be amended to conform to the Act and Regulation E.

Section 904(a)(2) requires the Board to prepare an analysis of the economic impact of the regulation on the various participants in electronic fund transfer systems, the effects upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. Section 904(a)(3) requires the Board to demonstrate, to the extent practicable, that the consumer protections provided by the proposed regulation outweigh the compliance costs imposed upon consumers and financial institutions. The Board's analysis of the economic impact of the provisions adopted today is published in section (3) below. The final regulatory amendments and the economic impact statement have been transmitted to Congress.

Section 917 of the Act and § 205.13 of the regulation, which assign administrative enforcement to various federal agencies, do not become effective until 1980. The Board intends, however, to enforce the effective requirements of the Act and Regulation E as to state member banks under the general enforcement authority contained in § 1818(b) of the Financial Institutions Supervisory Act (12 U.S.C. 1818(b) (1974)). Other financial institutions should consult the agency with supervisory jurisdiction over them to determine the agency's position as to enforcement.

(2) *Regulatory Provisions. Section 205.2—Definitions.* The definition of "error" has been deleted from § 205.2 and placed in § 205.11 (Procedures for Resolving Errors), thus bringing together in one section the provisions relating to error resolution.

The Board has decided to amend the definition of "unauthorized electronic fund transfer" so that the third exclusion reads: "or (3) that is initiated by the financial institution or its employee." This language is closer than that of the proposal to the statutory language in that it refers specifically to acts of the financial institution. The intent of the proposed amendment was to eliminate

the apparent inconsistency created by the fact that the existing definition of "unauthorized electronic fund transfer" excluded errors, yet "error" includes unauthorized transfers. The amendment as adopted also resolves this problem, by dropping the reference to errors.

The definition of "preauthorized electronic fund transfer" and the amendment to the existing definition of "financial institution" are adopted as proposed.

Section 205.3—Exemptions. The Board proposed to amend §§ 205.3 (c) and (d) which were adopted on March 21, 1979. Section 205.3(c) exempts transfers made primarily for the purchase or sale of securities or commodities. The Board proposed to eliminate the words "through a broker/dealer registered with" in order to broaden the scope of the exemption to include securities transactions made by mutual funds. A significant percentage of mutual fund transactions are accomplished through sources other than registered broker/dealers. The Board has adopted the exemption as proposed because it believes that existing federal laws and the regulations of the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC), although not specifically promulgated for the regulation of payment transfers, provide protection to consumers regarding payment transfers consistent with the requirements of the Act and Regulation E. Under the provision as amended, if payment is the primary purpose of the transfer and a securities purchase or sale only an incidental purpose, the regulation would apply.

The Board also solicited comment on whether pension and profit-sharing plans should be covered by this exemption. No comments were received on this issue. Since pension and profit-sharing plans are not regulated by the SEC or the CFTC, the Board does not believe an exemption is appropriate.

The Board proposed to revise § 205.3(d) in order to exempt:

1. Transfers between a consumer's accounts at a single financial institution, such as transfers from a demand deposit account to a savings account.

2. Transfers from the financial institution to the consumer's account, such as crediting of interest on savings accounts.

3. Transfers from the consumer's account to the financial institution, such as debiting of automatic mortgage payments, other loan payments, and checking account charges.

Comment was solicited as to whether transfers from the consumer's account to the financial institution should receive total or partial exemption.

The Board has decided to adopt § 205.3(d) as proposed with the change discussed below. Public comment supports the Board's belief that intra-institutional transfer services have been provided by financial institutions for many years. The focus of the Act is on new and developing electronic payment systems, not on traditional intra-institutional transfers that have become "electronic fund transfers" by computerization. In addition, these services are beneficial for consumers and institutions. The costs of providing them would increase if they were subject to the Act's requirements, particularly the monthly periodic statement requirement.

The Board has decided against making transfers from the consumer's account to the financial institution subject to the requirement of periodic statements. It believes that the periodic statements which financial institutions provide supply sufficient and timely information to consumers, and that the possibility of unauthorized use is not great for intra-institutional transfers. Comments did not demonstrate that the Act's protections were needed and the Board believes that the cost of these protections would outweigh the potential benefits.

Commenters pointed out, however, that complete exemption of the transfers described in paragraphs (2) and (3) of § 205.3(d) would conflict with § 913 of the Act. That section prohibits conditioning the granting of credit or the receipt of employment or government benefits on participating in a preauthorized electronic fund transfer arrangement. Accordingly, subsection (d)(2), exempting transfers into a consumer's account(s) by a financial institution, has been modified to require compliance with § 913(2) of the Act, and subsection (d)(3), exempting transfers from a consumer's account(s) to the financial institution, has been changed to require compliance with § 913(1) of the Act. Violations of § 913 will be enforced under §§ 915 and 916.

The Board also solicited comment as to whether any other automatic transfers should be exempted from the regulation. Several commenters suggested that additional exemptions should be made but did not provide a rationale for their recommendations. The Board does not believe that additional exemptions are warranted.

Section 205.4—Special Requirements. Section 205.4 corresponds to § 205.13 in the first proposal. The first sentence of § 205.4(a) permits two or more financial institutions that jointly provide electronic fund transfer services to contract among themselves to fulfill the requirements that the regulation imposes on any or all of them. The second sentence is new. It states that when making disclosures under §§ 205.7 and 205.8, a financial institution providing electronic fund transfer services under an agreement with other financial institutions need only make those required disclosures that are within its knowledge and the purview of its relationship with the consumer for whom it holds an account. This provision responds to a problem raised by commenters, namely, that a financial institution that is part of a shared system is unable to disclose the terms and conditions imposed by other participants in the system.

Section 205.4(b) is being proposed for comment. Sections 205.4 (c) and (d) correspond to §§ 205.13 (b) and (c) in the first proposal. Only technical changes have been made in these sections. Commenters asked whether financial institutions may choose to which joint account holder they will send disclosures or statements; § 205.4(c)(2) does not restrict the institution's choice.

Section 205.4(d) permits financial institutions to provide additional information or disclosures required by other laws (Truth in Lending disclosures or state law disclosures) with the disclosures required by Regulation E. Commenters asked that a specific provision permitting inconsistent state laws to be combined with the Regulation E disclosures (similar to § 226.6(b) of Regulation Z) be added to the regulation. The Board does not believe that such a provision is necessary at this time, given the stringent placement requirements in Regulation Z. Other commenters asked that the Board add a provision similar to one contained in Regulation Z requiring that additional information or other disclosures combined with the required disclosures not mislead or confuse the consumer or detract attention from the disclosures required by Regulation E. The Board is reluctant to add such a provision because of difficulty in enforcing it. It could also conflict with the similar provision in Regulation Z, particularly because Truth in Lending disclosures and EFT disclosures will often be combined by the financial institution into a single disclosure statement.

Section 205.5—Issuance of Access Devices. Section 205.4 has been redesignated § 205.5. The existing regulation provides that an access device that is sent unsolicited to the

consumer must be accompanied by a disclosure that complies with § 205.4(d). However, § 205.4(d) is a transitional provision and is effective only until May 10, 1980. For this reason, the Board is amending, effective May 10, 1980, § 205.4(b)(2) to read, ". . . in accordance with § 205.7(a), . . .," and deleting § 205.4(d).

Section 205.6—Liability of Consumer for Unauthorized Transfers. Section 205.5 has been redesignated § 205.6. The Board is adopting a technical amendment to paragraph (a)(3)(i), to make clear that the information required to be disclosed is identical to that required by § 205.7(a)(1).

The Board has decided to adopt the proposed amendment to paragraph (b): the phrase "series of transfers arising from a single loss or theft of the access device" is changed to "series of related unauthorized transfers." This revision recognizes that unauthorized transfers may occur in circumstances other than those involving loss or theft of an access device.

A few commenters found the term "related transfers" to be ambiguous. Whether several unauthorized transfers are related is a question of fact; typically transfers arising from a single loss or theft of the access device will be related.

In addition, the phrases "electronic fund" and "whichever is less," which were inadvertently omitted, have been inserted.

Section 205.7—Initial Disclosure of Terms and Conditions. Section 205.7 corresponds to § 205.6 in the proposal. Comment was solicited on whether disclosure should be permitted "before the first electronic fund transfer is made involving a consumer's account." A large number of responses were received, the majority supporting the proposal. The proposed language was considered particularly important where the consumer contracts with an employer (in the case of direct payroll deposit) or with a utility (in the case of preauthorized debits) for an EFT service rather than directly with the account-holding financial institution. The financial institution would be unable to provide disclosures at the time the consumer contracts for the service. For that reason, and because of the difficulty of determining when a consumer has contracted for an EFT service, the Board is adopting this provision as proposed.

Several commenters were concerned about the difficulty of providing disclosures before the first electronic fund transfer. It was pointed out that, through an oversight or other error, an institution may not receive prenotification of an electronic fund transfer, such as a payroll deposit, or may not receive prenotification far enough in advance to enable it to give the required disclosures before the transfer is made. The Board believes, however, that applicable Treasury Department regulations governing the federal recurring payments program and industry practices, such as the automated clearing house rules, will minimize the likelihood of such occurrences, and that no further extension of the deadline for making disclosures is necessary.

Section 205.7(a)(1) has been amended to make it clear that a complete description of the consumer's potential statutory liability for unauthorized transfers need not be recited on the initial disclosure statement. The Board believes that a summary description, in plain English, will be easier for consumers to understand, and also less cumbersome for financial institutions. Examples showing the amount of information the Board considers appropriate for compliance with §§ 205.7 (a)(6), (a)(7), and (a)(8), as well as this paragraph, are contained in the model disclosure clauses.

No changes have been made in §§ 205.7 (a)(2) and (a)(3).

The requirement of § 205.7(a)(4) that usage limitations on EFT devices be disclosed generated a great many comments. Three points were raised. A number of commenters were concerned that an account-holding institution would be unable to determine, and therefore disclose, limitations imposed by other financial institutions—especially in the context of an interchange network or an automated clearing house system. As provided in § 205.4(a), a financial institution need make only those disclosures that are within its knowledge and the purview of its relationship with the consumer.

The second issue raised in connection with this paragraph is the question of what types of limitations are exempt from the disclosure requirement as "necessary to maintain the security" of an EFT system. The Board believes that such a determination can only be made by financial institutions on a case-by-case basis. Section 205.7(a)(4), however, does not permit institutions to withhold the details of frequency and amount limitations merely because they are related to the security aspects of the system. Unless disclosure of such details would compromise the integrity of the system, consumers must be informed of them. In order to emphasize the narrow scope of this exemption, the Board has amended the second sentence of the paragraph, changing the word "necessary" to "essential." It should be noted, however, that even when disclosure of such limitations would jeopardize a system's security, the financial institution is only relieved of the duty to disclose the details of the limitations; the fact that certain limitations exist must still be disclosed to the consumer.

The third issue raised by the commenters was whether the deletion of the words "and nature" in the regulation from the statutory phrase "type and nature of electronic fund transfers" was intended as a substantive departure from the requirements of the Act. The reason for the deletion is simply that the Board considers the additional words unnecessary.

No change has been made in section 205.7(a)(5). A number of commenters requested clarification as to what types of charges must be disclosed under this paragraph. It is the Board's opinion that only those charges that relate specifically to electronic fund transfers, such as transaction charges, or to the right to make such transfers, such as monthly EFT service charges, should be disclosed. In cases where an institution imposes only a general, undifferentiated account maintenance charge that covers EFT as well as other services, or requires that a minimum balance be maintained, no disclosure need be made under this paragraph.

Sections 205.7(a)(6), (a)(7), and (a)(8) have been amended to require only a summary statement of the consumer's statutory rights, as in the case of section 205.7(a)(1), discussed above. The model clauses that relate to these paragraphs indicate how much information an adequate summary would contain. In connection with section 205.7(a)(8), it should also be noted that the Board has decided not to implement section 910 of the Act in the regulation.

Section 205.7(a)(9) is substantially similar to the proposal. Several commenters expressed concern that the Board's original proposal was drafted too broadly, and would require financial institutions to disclose their reporting practices with respect to every consumer's account, including accounts not accessible to electronic fund transfers. However, this paragraph, and indeed all of section 205.7(a), relate only to accounts that are accessible by electronic fund transfers. Therefore, the institution's practices concerning other accounts need not be disclosed. It should be noted that this paragraph requires the institution to describe the conditions under which *any* information relating to an account will be made available to third parties in the ordinary course of business.

The Board received a large number of comments regarding section 205.7(a)(10), most of which proposed amendments or additions to the error resolution procedure notice. In response to these comments, the notice has been redrafted in the interest of making the error resolution procedure more readily understandable to consumers. No change in substance or basic format was made, however, and the notice remains a summary of the statutory error resolution procedures, in compliance with section 905(a)(7) of the Act.

Section 205.7(b) has been substantially amended, in light of the comments received. The proposal could have been interpreted to require a large number of account holders to be given the disclosures required by paragraph (a) even where no electronic fund transfers were made or contemplated prior to May 10, 1980, and even if the account was closed on that date. The Board does not believe that such a result would be beneficial to consumers, or that it is required by section 905(c) of the Act. Under section 205.7(b), as adopted, institutions must make the disclosures required by section 205.7(a) for all accounts still open on May 10, 1980, from or to which electronic fund transfers were actually made or contracted for prior to that date, or for which an access devise was issued to a consumer (whether or not the device was an "accepted access device," as defined in section 205.2(a)(2)).

A number of commenters were also concerned that financial institutions which do not normally issue monthly statements will be forced to make a special mailing in order to comply with the timing requirement of this paragraph. Accordingly, the regulation now provides that the disclosures may be made at any time "on or before" June 9, 1980. Thus, an institution could choose to make the necessary disclosures in a periodic statement scheduled for a date earlier than May 10, 1980, and still be in compliance.

Section 205.8—Change in Terms; Error Resolution Notice. Section 205.8 corresponds to section 205.7 in the proposed draft, and, with the exception of the deletion of paragraph (b)(2)(ii), it remains substantially the same. Paragraphs (a) (1) and (2) have been merged; similarly, paragraphs (b) (1) and (2) have been combined. Comment was solicited on whether additional types of unfavorable changes in terms or conditions of an account should be added to the list set forth in paragraph (a). Commenters did not generally favor additions to this provision and no change has been made.

Several commenters requested clarification of the relationship of paragraph (a)(2) of section 205.8 (limitations on the obligation to give prior notice of an adverse change in terms) to section 205.7(a)(4) (disclosure of frequency and amount limitations on the use of an access device). Concern was expressed that if a dollar or use limitation that was not previously disclosed for security reasons was made stricter, the institution would have to either explain the change, and thereby jeopardize the security of the system, or merely indicate that some unexplained change had been made to a previously undisclosed limitation. Neither choice would be in the best interest of the consumer or the institution, however, and neither result is contemplated. Section 205.8 does not require subsequent disclosures to be given in any case where a term not required to be disclosed under section 205.7(a) is changed. Where the details of a dollar or frequency limitation are withheld on security grounds under section 205.7(a)(4), a change in that limitation is not required to be disclosed later under section 205.8(a). If no such limitation existed when the section 205.7(a) disclosures were given, but one was subsequently added to a system or an account, the institution could withhold those details "essential to maintain the security of the system," but it would be required to indicate that some limitation had been imposed.

A number of comments were also received regarding the requirement that notice be given within 30 days after a change believed necessary to maintain or restore the security of a system or account. The Board recognizes the fact that the 30-day requirement would force institutions using a quarterly periodic statement schedule, as well as any institution forced to institute such a change immediately before its scheduled statements are to be sent out, to make a special mailing to comply with this paragraph. In order to avoid this result, the Board has amended this provision to permit disclosure of such changes either within 30 days or on the next regularly scheduled periodic statement.

No substantive changes were made in paragraph (b)(1). Paragraph (b)(2) has been amended by eliminating proposed paragraph (b)(2)(ii), which would have required institutions using the "short-form" error resolution notice to send the longer notice to consumers who assert errors. Commenters pointed out that in most cases the investigation and correction of the alleged error will have already been completed by the time the long notice arrives, or will be completed shortly thereafter, and that the notice would then come too late to be of any practical use to the consumer. Such a notice might also be confusing, since a consumer receiving it might feel obliged to notify the institution again.

Section 205.10—Preauthorized Transfers. Section 205.10(a) appears in the proposed rules document on Regulation E in this issue.

Sections 205.10 (b), (c), and (d) were previously designated sections 205.9 (a), (b), and (c) respectively. Under the proposal, the responsibility for providing a copy of an authorization for preauthorized transfers from an account lay with either the financial institution or the designated payee. Many financial institutions explained that frequently they do not participate in, or have knowledge of, the consumer's authorization of preauthorized transfers. Section 205.10(b) has been modified, as suggested by commenters, to specify that the obligation to provide the consumer with a copy of the authorization form rests with the party that actually obtains the authorization.

The Board has added a sentence to section 205.10(c) to explain the consequences of a consumer's failure to provide timely written confirmation of an oral stop-payment order. Such failure results in a lifting of the order and a release of the financial institution from any obligation to continue to refuse to pay an item. The rest of the section is substantially unchanged.

The Board has also changed the first sentence of section 205.10(d) to insure that notice will be provided when a preauthorized transfer varies from the previous transfer under the same authorization. The proposal would have required notice only when a transfer differed from a "preauthorized amount." Commenters pointed out that in many cases a consumer will not specify an amount when authorizing varying transfers.

Financial institutions argued that they are not in the best position to provide notice of varying transfers and asked that the regulation place this responsibility on the designated payee. The Board does not believe it appropriate to vary by regulation express language on this point in section 907(b). The Act does not prohibit financial institutions from contracting with the designated payee for compliance with the notice requirement and obtaining indemnity for non-compliance.

Section 205.12—Relation to State Law. The provisions relating to preemption of State law have been rearranged and rewritten. Proposed sections 205.11 (a) and (b) would have constituted a

V 44 0 C 15 7 9 UMI

V 4 4 0 C 1 5 7 9 UMI

regulatory determination of inconsistency since the provisions of State law described in proposed sections 205.11(b)(1)(i)–(iv) would have been automatically preempted. Comments on the proposal and further analysis of section 919 and its legislative history have led the Board to conclude that the question of preemption should be decided upon application. Consequently, paragraphs (1) through (4) of section 205.12(b) now set forth the standards that the Board will apply in determining inconsistency, rather than final determinations of inconsistency. The regulation provides that any State, financial institution, or other interested party may apply to the Board for a determination whether a State law is preempted.

The provisions relating to exemption of State-regulated transactions have not been changed.

Section 205.13—Administrative Enforcement. The proposal would have required financial institutions to retain records of compliance for two years. Many industry commenters urged the Board to shorten the record retention period to conform to the Act's one-year statute of limitations. Enforcement agencies, however, stressed the importance of records in carrying out their responsibilities under section 917 of the Act. For this reason, and to conform with record retention requirements under the Truth in Lending and Equal Credit Opportunity regulations, the Board has adopted a two-year record retention requirement.

Language has been added to section 205.13(c)(1) specifying acceptable methods for retaining records of compliance, and section 205.13(c)(2) has been changed to indicate that only the records actually involved in an ongoing lawsuit or administrative proceeding must be retained beyond the two-year period. Financial institutions should note that they need not retain multiple copies of identical disclosures.

(3) *Economic Impact Analysis. Introduction.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulation that the Board issues to implement the Act. The following economic analysis accompanies sections of the regulation that are being issued in final form.[1]

The analysis must consider the costs and benefits of the regulation to suppliers and users of electronic fund transfer (EFT) services, the effects of the regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers.

The regulation in part reiterates provisions of the statute and in part amplifies the statute. Therefore, the economic analysis considers impacts of both the regulation and the statute, and throughout the analysis a distinction will be made between costs and benefits of the regulation and those of the statute. *It is also important to note that the following analysis assumes that the regulation and the Act have no relevant economic impact if they are less restrictive than current industry practices or state law. In this case, the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation and the Act is relevant only if their provisions are more constraining than those provisions under which institutions would otherwise operate.*

Analysis of Regulatory and Statutory Provisions. Section 205.3 is amended by the expansion of two exemptions. First, electronic fund transfers primarily for the purchase or sale of regulated securities are to be exempted from coverage by the regulation even if such transfers are not made through a registered broker/dealer, as is the case in many mutual fund transfers. This provision eliminates the costs of duplicating consumer protections already guaranteed by other federal laws.

Second, the regulation exempts preauthorized automatic transfers between a consumer's accounts at a financial institution and between the institution and a consumer's account. Subjecting such intra-institutional transfers to the Act's requirements would disrupt efficiently functioning internal transfer systems and increase their costs. The exemption assures that financial institutions may continue to offer to consumers such cost-saving, convenient services as automatic crediting of interest, automatic debiting of loan payments, and transfer of funds from checking to savings accounts.

Section 205.4 permits financial institutions to contract among themselves to avoid duplicate compliance efforts for jointly-offered services.[2] It also provides that an institution need issue only one set of disclosures per consumer and per joint account, and that disclosures required by other laws may be combined with disclosures required by this regulation.

These measures reduce the amount of disclosures and mailings needed to comply with the Act, while obviating the duplication of some services. Some compliance costs can therefore be avoided through this provision of the regulation. A financial institution is specifically exempted from having to make disclosures that go beyond its knowledge and the purview of its relationship with consumer account holders. This regulatory provision relieves institutions of the need to list such details as business days and telephone numbers for all institutions in a shared EFT system.

Section 205.7 modifies the Act's requirement that initial disclosures must be made at the time a consumer contracts with a financial institution for EFT services. The regulation provides that institutions can comply by giving the initial disclosures before the first electronic transfer occurs. This provision assures that consumers receive timely disclosures while, at the same time, it obviates the need to determine under state law when a contract for such services is created.

The initial disclosures will benefit consumers by providing them with more information than otherwise may have been readily available. With the disclosures consumers will be better able to assess the risks and benefits associated with EFT, to plan their financial transactions, and to compare EFT services offered by different institutions. By fostering greater awareness of the risks of liability associated with EFT use, the disclosures may encourage consumers to exercise greater care in the use of access devices. The required listing of offered services may have some marketing effect, leading to greater use of EFT services and, to the extent that scale economies are possible, may lower average cost of fund transfers. Finally, the disclosures benefit consumers by describing the steps they must take to guarantee the investigation and resolution of errors; proper use of the error resolution procedure will lead to greater recovery of consumer losses from errors.

Financial institutions will benefit from their mandatory disclosures to the extent that consumer understanding of the terms and conditions leads to more widespread and careful use of EFT services. Consumers will know the correct channels through which to notify an institution of loss, theft, or suspected error. The Act and regulation do not preclude financial institutions from

[1] The analysis presented here is to be read in conjunction with the economic impact analysis that accompanies the Board's final rules at 44 FR 18474, (March 28, 1979). The sections of the regulation have been redesignated

[2] Section 205.4(b) has been issued in proposed form for comment and is not considered here.

realizing cost savings by routinizing notification procedures and by establishing shared or centralized reporting channels.

Several costs will be imposed on financial institutions by the initial disclosure requirement. Institutions will incur drafting, legal, printing, distribution, and administrative costs in complying with disclosure requirements of the Act. Although the regulation sets forth a mandatory notice of error resolution procedures and provides model disclosure clauses for several subsections, disclosure documents must be drafted by the institution to reflect its unique terms and conditions. Four institutional commenters estimated initial disclosure costs; their estimates averaged $0.34 per disclosure. Actual aggregate costs will depend on the use of special provisions of section 205.4 and on the degree to which institutions avoid postage costs by sending disclosures in already-scheduled mailings.

It is expected that adoption at this time of the disclosure requirements in final form will allow an adequate period for most institutions to draft and print disclosure statements for distribution by the June 9, 1980, absolute deadline.[3] The many institutions with a quarterly statement period ending June 30, 1980, will be unable to use July 1980 statement mailings for initial disclosures. The Act's deadline will therefore force those institutions to include disclosures in April statement mailings. The additional costs of meeting this operational compliance deadline are not likely to be great, however.

The initial disclosure requirements may place small financial institutions at a competitive disadvantage relative to larger institutions because the latter are able to spread fixed legal, administrative, and other costs over larger account bases. However, third-party vendors of EFT service packages to financial institutions may incur lower average costs by pooling orders, so that small institutions might enjoy some scale economies. The net effect of the initial disclosure requirements by size of institution cannot be assessed in advance.

Initial disclosure requirements are unlikely to have significant effects on the availability of EFT services to low-income consumers. Availability by income class is mainly dependent on the Act's issuance and liability provisions, which are implemented by sections 205.5 and 205.6 of the regulation.

Section 205.8 of the regulation repeats the Act's requirements that financial institutions make (1) subsequent disclosures of the error resolution procedures at least once each year and (2) prompt disclosure of any change in terms or conditions that restricts services or increases costs for consumers. Like the initial disclosures, the subsequent disclosures will benefit both consumers and financial institutions by making relevant payment system information more readily available to consumers. Institutions will incur the costs of disclosure statement drafting, printing, and distribution. Distribution costs can be reduced by sending disclosures with periodic statements.

The Act requires that financial institutions disclose certain changes in the terms or conditions of an EFT account; this requirement is reflected in section 205.8(a) of the regulation. Such changes might be motivated by marketing or security considerations or changes in the costs of maintaining accounts. In particular, an institution must disclose any increase in a fee or charge for electronic transfers. Because cost inflation can be expected to drive up nominal account maintenance charges and trigger additional disclosures, this provision of the Act will place on institutions and consumers a regulatory cost burden associated with increases in the general price level. This disclosure rule thus places a regulatory "tax" on certain market price adjustments.

Regarding the error resolution procedure notice of section 205.8(b), the regulation permits institutions to choose either to send the full error resolution procedure disclosure once every year or to send an abridged disclosure with every periodic statement. Disclosure cost could be minimized by printing the abridged notice on the periodic statement forms. The alternatives allow institutions some flexibility to choose the most economically efficient compliance method for each account. Consumers benefit from adequate disclosure in either case.

Sections 205.10 (b), (c), and (d) establish rules regarding preauthorized transfers from a consumer's account. The regulation, like the Act, requires that preauthorized debits may be made only if the consumer has authorized them in writing and received a copy of the agreement. As a result of this provision, consumers are likely to be better informed about their payment schedules. Institutions face a compliance cost only if they obtain the authorization, and such costs may be passed on to the payee. The regulation reiterates the Act's provision that consumers may stop payment of a preauthorized debit up to 3 business days before it is scheduled to occur. This measure provides benefits by ensuring a degree of protection and flexibility for the consumer, while allowing institutions sufficient time to accomplish stop-payment orders. Finally, the regulation restates the Act's requirement that advance notice must be given to a consumer whenever a preauthorized payment differs in amount from the previous transfer to the same payee. The regulation allows, however, that an institution may, if it informs a consumer of this right to notice, offer the consumer a plan whereby notice is sent only if the transfer goes beyond amount limits that the consumer may set. In this way the regulation allows for the reduction of notice volume and related costs.

Sections 205.12 and 205.13 reflect statutory provisions for administrative enforcement and for the relationship to state laws affecting EFT. The regulation requires that records containing evidence of compliance must be kept by financial institutions for at least two years. One commenter estimated that yearly record retention costs would average $0.89 per file in 1980, implying a nationwide annual cost of $19 million in 1980.[4] Record retention activity is, however, partially motivated by other regulations and business considerations, so that costs due solely to the Act and regulation cannot be determined.

Uncertainty about whether state laws are consistent with provisions of the Act and regulation will lead financial institutions to seek determinations from the Board under section 205.12. Preparation of the required applications will impose costs on applicants and may deter some institutions from applying. Uncertainties about the relationship between state and federal law may result in a temporary restriction of the availability of EFT services to some classes of consumers.

(4) Pursuant to the authority granted in Pub. L. 95–630 (to be codified in 15 U.S.C. 1693b), the Board hereby amends Regulation E, 12 CFR Part 205, as follows:

1. Section 205.2 is amended, effective May 10, 1980, by deleting the last sentence of paragraph (i), by redesignating paragraph (j) as (k), by adding new paragraph (j), by redesignating paragraph (k) as (l), and

[3] For accounts in existence on May 10, 1980. The regulation is expected to reduce compliance costs substantially by exempting closed accounts that otherwise would be subject to the Act's disclosure requirements.

[4] This assumes that files are kept for each of 22 million consumer EFT accounts.

by revising new § 205.2(l)(3) to read as follows:

§ 205.2 Definitions.

* * * * *

(j) "Preauthorized electronic fund transfer" means an electronic fund transfer authorized in advance to recur at substantially regular intervals.

(k) "State" * * *

(l) "Unauthorized electronic fund transfer" * * * (3) that is initiated by the financial institution or its employee.

2. Section 205.3 is amended, effective November 15, 1979, by revising the introductory statement and paragraphs (c) and (d), to read as follows:

§ 205.3 Exemptions.

The Act and this regulation do not apply to the following:

* * * * *

(c) *Certain securities or commodities transfers.* Any transfer the primary purpose of which is the purchase or sale of securities or commodities regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission.

(d) *Certain automatic transfers.* Any transfer under an agreement between a consumer and a financial institution which provides that the institution will initiate individual transfers without a specific request from the consumer.

(1) Between a consumer's accounts within the financial institution, such as a transfer from a checking account to a savings account;

(2) Into a consumer's account by the financial institution, such as the crediting of interest to a savings account (except that the financial institution is subject to §§ 913(2), 915, and 916 of the Act); or

(3) From a consumer's account to an account of the financial institution, such as a loan payment (except that the financial institution is subject to §§ 913(1), 915, and 916 of the Act).

* * * * *

3. Section 205.4 is redesignated as § 205.5, and a new § 205.4 is added, effective May 10, 1980, to read as follows:

§ 205.4 Special Requirements.

(a) *Services offered by two or more financial institutions.* Two or more financial institutions that jointly provide electronic fund transfer services may contract among themselves to comply with the requirements that this regulation imposes on any or all of them. When making disclosures under §§ 205.7 and 205.8, a financial institution that provides electronic fund transfer services under an agreement with other financial institutions need make only those disclosures which are within its knowledge and the purview of its relationship with the consumer for whom it holds an account.

(b) [Reserved] [5]

(c) *Multiple accounts and account holders.* (1) If a consumer holds two or more accounts at a financial institution, the institution may combine the disclosures required by the regulation into one statement (for example, the financial institution may mail or deliver a single periodic statement or annual error resolution notice to a consumer for multiple accounts held by that consumer at that institution).

(2) If two or more consumers hold a joint account from or to which electronic fund transfers can be made, the financial institution need provide only one set of the disclosures required by the regulation for each account.

(d) *Additional information; disclosures required by other laws.* At the financial institution's option, additional information or disclosures required by other laws (for example, Truth in Lending disclosures) may be combined with the disclosures required by this regulation.

4. New § 205.5 is amended, effective May 10, 1980, by revising paragraph (b)(2) and by deleting paragraph (d), to read as follows:

§ 205.5 Issuance of Access Devices.

* * * * *

(b) *Exception.* * * *

(1) * * *

(2) The distribution is accompanied by a complete disclosure, in accordance with § 205.7(a), of the consumer's rights and liabilities that will apply if the access device is validated;

* * * * *

5. Former § 205.5 is redesignated as § 205.6 and is amended, effective November 15, 1979, by revising paragraphs (a)(3)(i) and (b), to read as follows:

§ 205.6 Liability of Consumer for Unauthorized transfers.

(a) *General rule.* * * *

(3) * * *

(i) A summary of the consumer's liability under this section, or under other applicable law or agreement, for unauthorized electronic fund transfers and, at the financial institution's option, notice of the advisability of promptly reporting loss or theft of the access device or unauthorized transfers.

* * * * *

(b) *Limitations on amount of liability.* The amount of a consumer's liability for an unauthorized electronic fund transfer or a series of related unauthorized transfers shall not exceed $50 or the amount of unauthorized transfers that occur before notice to the financial institution under paragraph (c) of this section, whichever is less, unless one or both of the following exceptions apply:

* * * * *

6. Sections 205.7, 205.8, 205.10 (b), (c), and (d), 205.12, and 205.13 are added, effective May 10, 1980, to read as follows:

205.7 Initial disclosure of terms and conditions.
205.8 Change in terms; error resolution notice.
205.9 [Reserved].
205.10 Preauthorized transfers.
205.11 [Reserved].
205.12 Relation to State law.
205.13 Administrative enforcement.

§ 205.7 Initial Disclosure of Terms and Conditions.

(a) *Content of disclosures.* At the time a consumer contracts for an electronic fund transfer service or before the first electronic fund transfer is made involving a consumer's account, a financial institution shall disclose to the consumer, in a readily understandable written statement, the following terms and conditions of the electronic fund transfer service, as applicable:

(1) A summary of the consumer's liability under § 205.6, or other applicable law or agreement, for unauthorized electronic fund transfers and, at the financial institution's option, the advisability of promptly reporting loss or theft of the access device or unauthorized transfers.

(2) The telephone number and address of the person or office to be notified when the consumer believes that an unauthorized electronic fund transfer has been or may be made.

(3) The financial institution's business days, as determined under § 205.2(d).

(4) The type of electronic fund transfers that the consumer may make and any limitations on the frequency and dollar amount of transfers. The details of the limitations need not be disclosed if their confidentiality is essential to maintain the security of the electronic fund transfer system.

(5) Any charges for electronic fund transfers or for the right to make transfers.

(6) A summary of the consumer's right to receive documentation of electronic fund transfers, as provided in §§ 205.9, 205.10(a), and 205.10(d).

(7) A summary of the consumer's right to stop payment of a preauthorized electronic fund transfer and the procedure for initiating a stop-payment order, as provided in § 205.10(c).

(8) A summary of the financial institution's liability to the consumer for its failure to make or to stop certain transfers under § 910 of the Act.

(9) The circumstances under which the financial institution in the ordinary course of business will disclose information to third parties concerning the consumer's account.

(10) A notice that is substantially similar to the following notice concerning error resolution procedures and the consumer's rights under them:

In Case of Errors or Questions About Your Electronic Transfers

Telephone us at [insert phone number]

or

Write us at [insert address]

as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer listed on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the problem or error appeared.

(1) Tell us your name and account number (if any).

(2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days.

We will tell you the results of our investigation within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 days to investigate your complaint or question. If we decide to do this, we will recredit your account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing and we do not receive it within 10 business days, we may not recredit your account.

If we decide that there was no error, we will send you a written explanation within 3 business days after we finish our investigation. You may ask for copies of the documents that we used in our investigation.

(b) *Timing of disclosures for accounts in existence on May 10, 1980.* A financial institution shall mail or deliver to the consumer the information required by paragraph (a) of this section on or before June 9, 1980, or with the first periodic statement required by § 205.9(b) after May 10, 1980, whichever is earlier, for any account that is open on May 10, and

(1) From or to which electronic fund transfers were made prior to May 10, 1980;

(2) With respect to which a contract for such transfers was entered into between a consumer and a financial institution; or

(3) For which an access device was issued to a consumer.

§ 205.8 Change in terms; error resolution notice.

(a) *Change in terms.* A financial institution shall mail or deliver a written notice to the consumer at least 21 days before the effective date of any change in a term or condition required to be disclosed under § 205.7(a) if the change would result in increased fees or charges, increased liability for the consumer, fewer types of available electronic fund transfers, or stricter limitations on the frequency or dollar amounts of transfers. Prior notice need not be given where an immediate change in terms or conditions is necessary to maintain or restore the security of an electronic fund transfer system or account. However, if a change required to be disclosed under this paragraph is to be made permanent, the financial institution shall provide written notice of the change to the consumer on or with the next regularly scheduled periodic statement or within 30 days, unless disclosure would jeopardize the security of the system or account.

(b) *Error resolution notice.* For each account from or to which electronic fund transfers can be made, a financial institution shall mail or deliver to the consumer, at least once each calendar year, the notice set forth in § 205.7(a)(10). Alternatively, a financial institution may mail or deliver a notice that is substantially similar to the following notice on or with each periodic statement required by § 205.9(b):

In Case of Errors or Questions About Your Electronic Transfers

Telephone us at [insert telephone number]

or

Write us at [insert address]

as soon as you can, if you think your statement or receipt is wrong or if you need more information about a transfer on the statement or receipt. We must hear from you no later than 60 days after we sent you the FIRST statement on which the error or problem appeared.

(1) Tell us your name and account number (if any).

(2) Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe there is an error or why you need more information.

(3) Tell us the dollar amount of the suspected error.

We will investigate your complaint and will correct any error promptly. If we take more than 10 business days to do this, we will recredit your account for the amount you think is in error, so that you will have use of the money during the time it takes us to complete our investigation.

§ 205.9 [Reserved] [6]

§ 205.10 Preauthorized transfers.

(a) [Reserved] [7]

(b) *Preauthorized transfers from a consumer's account; written authorization.* Preauthorized electronic fund transfers from a consumer's account may be authorized by the consumer only in writing, and a copy of the authorization shall be provided to the consumer by the party that obtains the authorization from the consumer.

(c) *Consumer's right to stop payment.* A consumer may stop payment of a preauthorized electronic fund transfer from the consumer's account by notifying the financial institution orally or in writing at any time up to 3 business days before the scheduled date of the transfer. The financial institution may require written confirmation of the stop-payment order to be made within 14 days of an oral notification if, when the oral notification is made, the requirement is disclosed to the consumer together with the address to which confirmation should be sent. If written confirmation has been required by the financial institution, the oral stop-payment order shall cease to be binding 14 days after it has been made.

(d) *Notice of transfers varying in amount.* Where a preauthorized electronic fund transfer from the consumer's account varies in amount from the previous transfer relating to the same authorization, or the preauthorized amount, the financial institution or the designated payee shall mail or deliver, at least 10 days before the scheduled transfer date, a written notice of the amount and scheduled date of the transfer. If the financial institution or designated payee informs the consumer of the right to receive notice of all varying transfers, the consumer may elect to receive notice only when a transfer does not fall within a specified range of amounts or, alternatively, only when a transfer differs from the most recent transfer by more than an agreed-upon amount.

§ 205.11 [Reserved] [8]

§ 205.12 Relation to state law.

(a) *Preemption of inconsistent state laws.* The Board shall determine, upon the request of any state, financial institution, or other interested party,

[5] See FR Doc. 79-31770 published elsewhere in this Part for the text of proposed § 205.4(b).

[6] [7] [8] See FR Doc. 79-31770 published elsewhere in this Part for the text of proposed §§ 205.9, 205.10 (a) and 205.11.

V 44 0 C 1 5 7 9 UMI

whether the Act and this regulation preempt state laws relating to electronic fund transfers. Only those state laws that are inconsistent with the Act and this regulation shall be preempted and then only to the extent of the inconsistency. A state law is not inconsistent with the Act and this regulation if it is more protective of a consumer.

(b) *Standards for preemption.* The following are examples of the standards the Board will apply in determining whether a state law, or a provision of that law, is inconsistent with the Act and this regulation. Inconsistency may exist when state law:

(1) Requires or permits a practice or act prohibited by the Act or this regulation;

(2) Provides for consumer liability for unauthorized electronic fund transfers which exceeds that imposed by the Act and this regulation;

(3) Provides for longer time periods than the Act and this regulation for investigation and correction of errors alleged by a consumer, or fails to provide for the recrediting of the consumer's account during the institution's investigation of errors as set forth in § 205.11(c); or

(4) Provides for initial disclosures, periodic statements, or receipts that are different in content from that required by the Act and this regulation except to the extent that the disclosures relate to rights granted to consumers by the state law and not by the Act or this regulation.

(c) *Procedures for preemption.* Any request for a determination shall include the following:

(1) A copy of the full text of the state law in question, including any regulatory implementation or judicial interpretation of that law;

(2) A comparison of the provisions of state law with the corresponding provisions in the Act and this regulation, together with a discussion of reasons why specific provisions of state law are either consistent or inconsistent with corresponding sections of the Act and this regulation; and

(3) A comparison of the civil and criminal liability for violation of state law with the provisions of sections 915 and 916(a) of the Act.

(d) *Exemption for state-regulated transfers.* (1) Any state may apply to the Board for an exemption from the requirements of the Act and the corresponding provisions of this regulation for any class of electronic fund transfers within the state. The Board will grant such an exemption if the Board determines that:

(i) Under the law of the state that class of electronic fund transfers is subject to requirements substantially similar to those imposed by the Act and the corresponding provisions of this regulation, and

(ii) There is adequate provision for state enforcement.

(2) To assure that the federal and state courts will continue to have concurrent jurisdiction, and to aid in implementing the Act:

(i) No exemption shall extend to the civil liability provisions of section 915 of the Act; and

(ii) After an exemption has been granted, for the purposes of section 915 of the Act, the requirements of the applicable state law shall constitute the requirements of the Act and this regulation, except to the extent the state law imposes requirements not imposed by the Act or this regulation.

§ 205.13 Administrative enforcement.

(a) *Enforcement by federal agencies.* (1) Administrative enforcement of the Act and this regulation for certain financial institutions is assigned to the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Board of Directors of the Federal Deposit Insurance Corporation, Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation), National Credit Union Administration Board, Civil Aeronautics Board, and Securities and Exchange Commission.

(2) Except to the extent that administrative enforcement is specifically committed to other authorities, compliance with the requirements imposed under the Act and this regulation is enforced by the Federal Trade Commission.

(b) *Issuance of staff interpretations.* (1) Unofficial staff interpretations are issued at the staff's discretion where the protection of section 915(d) of the Act is neither requested nor required, or where a rapid response is necessary.

(2)(i) Official staff interpretations are issued at the discretion of designated officials. No interpretations will be issued approving financial institutions' forms or statements. Any request for an official staff interpretation of this regulation shall be made in writing and addressed to the Director of the Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The request shall contain a complete statement of all relevant facts concerning the transfer or service, and shall include copies of all pertinent documents.

(ii) Within 5 business days of receipt of a request, an acknowledgment will be sent to the person making the request. If the designated officials deem issuance of an official staff interpretation to be appropriate, the interpretation will be published in the **Federal Register** to become effective 30 days after the publication date. If a request for public comment is received, the effective date will be suspended. The interpretation will then be republished in the **Federal Register** and the public given an opportunity to comment. Any official staff interpretation issued after opportunity for public comment shall become effective upon publication in the **Federal Register.**

(3) Any request for public comment on an official staff interpretation of this regulation shall be made in writing and addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. It must be postmarked or received by the Secretary's office within 30 days of the interpretation's publication in the **Federal Register.** The request shall contain a statement setting forth the reasons why the person making the request believes that public comment would be appropriate.

(4) Pursuant to section 915(d) of the Act, the Board has designated the Director and other officials of the Division of Consumer Affairs as officials "duly authorized" to issue, at their discretion, official staff interpretations of this regulation.

(c) *Record retention.* (1) Evidence of compliance with the requirements imposed by the Act and this regulation shall be preserved by any person subject to the Act and this regulation for a period of not less than 2 years. Records may be stored by use of microfiche, microfilm, magnetic tape, or other methods capable of accurately retaining and reproducing information.

(2) Any person subject to the Act and this regulation that has actual notice that it is being investigated or is subject to an enforcement proceeding by an agency charged with monitoring that person's compliance with the Act and this regulation, or that has been served with notice of an action filed under sections 915 or 916(a) of the Act, shall retain the information required in paragraph (c)(1) of this section that pertains to the action or proceeding until final disposition of the matter, unless an earlier time is allowed by order of the agency or court.

7. Appendix A is amended, effective May 10, 1980, by revising the introductory statement and by adding sections A(8)(a), (c), and (d), (9), and (10), to read as follows:

Appendix A—Model Disclosure Clauses

This appendix contains model disclosure clauses for optional use by financial institutions to facilitate compliance with the disclosure requirements of sections 205.5(a)(3), (b)(2), and (b)(3), 205.6(a)(3), and 205.7. Section 915(d)(2) of the Act provides that use of these clauses in conjunction with other requirements of the regulation will protect financial institutions from liability under sections 915 and 916 of the Act to the extent that the clauses accurately reflect the institutions' electronic fund transfer services.

Financial institutions need not use any of the clauses, but may use clauses of their own design in conjunction with the model clauses. The inapplicable words or portions of phrases in parentheses should be deleted. The underscored catchlines are not part of the clauses and should not be used as such. Financial institutions may make alterations, substitutions, or additions in the clauses in order to reflect the services offered, such as technical changes (e.g., substitution of a trade name for the word "card," deletion of inapplicable services, or substitution of lesser liability limits in section A(2)). Sections A(3) and A(9) include references to a telephone number and address. Where two or more of these clauses are used in a disclosure, the telephone number and address need not be repeated if referenced.

* * * * *

Section A(8)—Disclosure of Right to Receive Documentation of Transfers (Sections 205.5(b)(2), 205.7(a)(6))

(a) *Terminal transfers.* You can get a receipt at the time you make any transfer to or from your account using one of our (automated teller machines) (or) (point-of-sale terminals).

(b) [Reserved][9]

(c) *Periodic statements.* You will get a (monthly) (quarterly) account statement (unless there are no transfers in a particular month. In any case you will get the statement at least quarterly).

(d) *Passbook account where the only possible electronic fund transfers are preauthorized credits.* If you bring your passbook to us, we will record any electronic deposits that were made to your account since the last time you brought in your passbook.

Section A(9)—Disclosure of Right To Stop Payment of Preauthorized Transfers, Procedure for Doing So, Right To Receive Notice of Varying Amounts, and Financial Institution's Liability for Failure To Stop Payment (Sections 205.5(b)(2), 205.7(a)(6), (7), and (8))

(a) *Right to stop payment and procedure for doing so.* If you have told us in advance to make regular payments out of your account, you can stop any of these payments. Here's how:

Call us at (insert telephone number), or write us at (insert address), in time for us to receive your request 3 business days or more before the payment is scheduled to be made. If you call, we may also require you to put your request in writing and get it to us within 14 days after you call. (We will charge you (insert amount) for each stop-payment order you give.)

(b) *Notice of varying amounts.* If these regular payments may vary in amount, (we) (the person you are going to pay) will tell you, 10 days before each payment, when it will be made and how much it will be. (You may choose instead to get this notice only when the payment would differ by more than a certain amount from the previous payment, or when the amount would fall outside certain limits that you set.)

(c) *Liability for failure to stop payment of preauthorized transfer.* If you order us to stop one of these payments 3 business days or more before the transfer is scheduled, and we do not do so, we will be liable for your losses or damages.

Section A(10)—Disclosure of Financial Institution's Liability for Failure To Make Transfers (Sections 205.5(b)(2), 205.7(a)(8))

(a) *Liability for failure to make transfers.* If we do not properly complete a transfer to or from your account according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. We will not be liable, for instance:

- If, through no fault of ours, your account does not contain enough money to make the transfer.
- If the transfer would go over the credit limit on your overdraft line.
- If the automated teller machine where you are making the transfer does not have enough cash.
- If the (terminal) (system) was not working properly and you knew about the breakdown when you started the transfer.
- If circumstances beyond our control (such as fire or flood) prevent the transfer.
- There may be other exceptions.

By order of the Board of Governors, October 5, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-31769 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

[9] See FR Doc. 79-31770, published elsewhere in this Part, for the text of proposed section A(8)(b) of the Appendix A.

V 44 0 C 1 15 7 9 UMI

V 44 0 C 1 5 7 9 UMI

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; Docket No. R-0251]

Electronic Fund Transfers; Special Requirements, Documentation of Transfers, Preauthorized Transfers, Procedures for Resolving Errors, Model Disclosure Clauses

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: The Board is republishing for further comment certain proposed additional sections of Regulation E to implement certain provisions of the Electronic Fund Transfer Act that take effect May 10, 1980. These sections were previously published for comment at 44 FR 25850 (May 3, 1979). The Board is also separately publishing in final form other sections of Regulation E to implement other provisions of the Act becoming effective in May 1980. The Board is publishing for further comment a revised economic impact analysis, as required by section 904 of the Act.

DATE: Comments must be received on or before November 15, 1979.

ADDRESS: Comments may be mailed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B2223, 20th and Constitution Avenue, N.W., Washington, D.C. between 8:45 a.m. and 5:15 p.m. Comments may also be inspected at Room B1122 between 8:45 a.m. and 5:15 p.m. All material submitted should refer to docket number R-0251.

FOR FURTHER INFORMATION CONTACT: Regarding the regulation: Anne Geary, Assistant Director (202-452-2761), or Lynne B. Barr, Senior Attorney (202-452-2412), Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. Regarding the economic impact analysis: Frederick J. Schroeder, Economist, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2584).

SUPPLEMENTARY INFORMATION: (1) *Introduction: General Matters.* The provisions of Regulation E currently in effect (44 FR 18468, March 28, 1979) implement sections 909 and 911 of the Electronic Fund Transfer Act (Title XX, Pub. L. 95-630), which took effect February 8, 1979. The remainder of the Act takes effect May 10, 1980; on May 3, 1979, the Board published for comment (44 FR 25850) additional sections of Regulation E to implement those portions of the Act. The Board also held public hearings on the proposal on June 18 and 19, 1979.

The Board received 202 written comments on the proposed additional sections. Based on the comments, the testimony at the public hearings, and its own analysis, the Board has revised certain of the proposed sections and is republishing them for further comment. Section 205.8 (Documentation of Transfers) and § 205.10 (Error Resolution Procedure) have been redesignated §§ 205.9 and 205.11, respectively. Proposed § 205.4(b) is a new provision. The Board is also republishing § 205.10(a) (preauthorized transfers to a consumer's account) and its corresponding model disclosure clause for comment. This provision was designated § 205.8(c) in the first proposal. These are discussed in detail in section (2) below.

Other sections are being published separately today in final form. See the final rules document affecting Regulation E in this issue.

Section 904(a)(1) of the Act requires the Board, when prescribing regulations, to consult with the other federal agencies that have enforcement responsibilities under the Act. Members of the Board's staff have met with staff members from the enforcement agencies both before and after the proposed additional sections were first issued.

Federal savings and loan associations should note that they are subject to the provisions of Regulation E and that there may be some inconsistency between this regulation and the Federal Home Loan Bank Board's regulation governing remote service units (12 CFR 545.4-2). The Board of Governors has been advised by the Bank Board that § 545.4-2 will be amended to conform to the Act and Regulation E.

Section 904(a)(2) requires the Board to prepare an analysis of the economic impact of the regulation on the various participants in electronic fund transfer systems, the effects upon competition in the provision of electronic fund transfer services among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers. Section 904(a)(3) requires the Board to demonstrate, to the extent practicable, that the consumer protections provided by the proposed regulation outweigh the compliance costs imposed upon consumers and financial institutions. A preliminary economic impact statement was published with the proposed additional sections, and a revised statement (applicable to the sections republished for further comment) appears in section (3) below. The statement and the proposed regulation have been transmitted to Congress, as required by § 904(a)(4).

Section 904(c) permits the Board to modify the requirements of the Act as they affect small financial institutions if the Board determines that modifications are necessary to alleviate any undue compliance burden. Section 904(d) requires the Board to insure that the requirements of the Act are imposed upon all persons that offer electronic fund transfer services to consumers. The Board previously solicited comment on how the proposed regulation would affect small financial institutions and on the extent to which EFT services are offered by non-financial institutions. Any further comments on this issue are welcome.

Because the public has already had an opportunity to comment on the subject matter of this proposal, and because it is desirable to complete Regulation E in final form as much in advance of the May 1980 effective date as possible, the Board believes that an expedited rulemaking procedure is in the public interest. Accordingly, the expanded procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

(2) *Regulatory Provisions. Section 205.4—Special Requirements.* Sections 205.4 (a), (c), and (d) were adopted today in final form. Section 205.4(b) had no counterpart in the first proposal. It addresses an issue which at the present time is probably quite rare, but which may in the future be more common. Specifically, the issue is how to apportion responsibility for compliance with the regulation where (a) one institution holds the consumer's account and a second institution provides an EFT service and (b) there is no agreement between the institutions as to the service.

A description of a program offered by a particular financial institution illustrates the type of program to which this provision would apply.

A financial institution ("Bank A") now issues EFT cards to consumers with whom it does not have an account relationship; the consumer's deposit account is held by another financial institution ("Bank B"). The EFT card issued by Bank A can be used at automated teller machines (ATMs) and point-of-sale (POS) terminals throughout Bank A's EFT system by the consumer to receive cash (or make other electronic transfers) and make purchases at merchant locations. Bank A, through the automated clearing house or by other means, orders the consumer's account at Bank B to be debited or credited, depending on the transaction. The consumer has authorized Bank B to permit the debits or credits to the consumer's account, but there is no agreement between Bank A (the service-providing bank) and Bank B (the account-holding bank). The Act and regulation impose a number of requirements on Bank B, absent a provision in the regulation to the contrary. Bank B may not offer *any* EFT services of its own to its account holders, and does not have control over, or even knowledge of, many aspects of the agreement between the consumer and Bank A.

Commenters asked the Board to clarify the respective duties of the two institutions under such a program. Many of the comments suggested that both banks have some responsibilities. However, since there is no agreement regarding the service between the institutions, assigning some disclosure responsibilities to one bank and some responsibilities to the other does not appear to be feasible and, in addition, would be confusing to consumers using the service. Furthermore, the Board questions the equity of imposing any responsibility under the regulation upon Bank B, which is not offering this service to the consumer. Therefore, the proposal would absolve Bank B from all responsibilities and would require Bank A to undertake all of them.

Bank A would be required to comply with § 205.7, but the disclosures would only relate to the EFT service it provides. For example, under § 205.7(a)(9), Bank A would disclose the circumstances under which it will provide information to third parties about the electronic fund transfers made by the consumer under the agreement. Under § 205.7(b), Bank A would have to make disclosures only to those consumers who had contracted for the EFT service. Under § 205.8(b), it would only have to give the error resolution notices to the consumers for whom it provides electronic fund transfer services. The documentation requirements of § 205.9 would apply, except that the service-providing institution would not have to disclose charges imposed by the account-holding institution and would only have to give the account balance disclosures, required by § 205.9(b)(4), if such disclosures are applicable to the program offered by it to consumers. It would not have to give the account balances in the consumer's account at the account-holding institution.

The service-providing institution, under the proposal, would have to correct any errors in the electronic fund transfers made under its service. If the error was not corrected within 10 business days, the service-providing institution would have to order provisional recrediting of the consumer's account at the account-holding institution by initiating a recrediting and giving notice of the recrediting to the consumer. Finally, the financial institution providing the EFT service need only retain records (under § 205.13(c)) for those transfers made by the consumer pursuant to their agreement.

The Board understands that certain items of information may be unavailable to the service-providing financial institution. In addition, it is possible that the account-holding institution may make an error in posting to the consumer's account transfers made under this service. The account-holding institution would not have to comply with the Act's resolution procedures. The Board believes, however, that the service-providing institution can and should be able to correct errors committed either by itself or by the account-holding institution within the prescribed time periods.

The Board solicits comment on the proposal's approach to allocation of responsibility and on any operational difficulties that may be encountered by the service-providing institution in making disclosures or correcting errors.

Section 205.9—Documentation of Transfers. Section 205.9(a), implementing section 906(a) of the Act, requires institutions to make a receipt available to consumers at the time they initiate an electronic fund transfer from an electronic terminal. The receipt must include 6 items of information, to the extent they are applicable to the transfer. The introductory language in § 205.9(a) remains essentially unchanged from the earlier proposal.

Section 205.9(a)(1) requires institutions to disclose the amount of the transfer. Comments on the first proposal indicate that, particularly in interchange and shared electronic fund transfer systems, the financial institution at whose terminal the transfer is made may add a transfer fee to the amount requested or authorized by the consumer. For example, a customer of Bank A withdraws $50 from an automated teller machine operated by Bank B, which imposes a charge of $0.25 on the transfer. The Board proposes to permit the combined amount ($50.25 in the example) to be disclosed as the amount of the transfer, but requests comment on this issue.

Section 205.9(a)(2) requires disclosure of the date on which the transfer was initiated. Several commenters raised the issue of whether the date disclosed should be the date on which the consumer uses the terminal or the date on which the transaction is posted, if different. The Board believes that the date of initiation is the most meaningful to the consumer and that providing it creates the fewest operational problems. For these reasons, the Board proposes to require disclosure of the initiation date on the terminal receipt.

The first proposal would have required financial institutions to indicate the type of transfer and the consumer's account from or to which funds were transferred. Many comments indicated that requiring the financial institution to generate the account identification, which the Board envisioned would normally consist of the account number, would create operational, privacy, and security problems. For these reasons, the Board has substantially revised §§ 205.9(a) (3) and (4). As now proposed, paragraph (4) would require identification of the access device, such as the card number, rather than a specific identification of the consumer's account. This identification is not intended to include a personal identification number or other security code.

Because nearly all such devices access only one savings account and one checking account, the Board believes that identification of the device, combined with the type of account, would provide full identification of the affected account. Therefore, the Board proposes to require not only the type of transfer, such as a payment or withdrawal, but a generic identification of the account, such as checking or savings. The example in § 205.9(a)(3) illustrates the level of information required. Section 205.9(a)(3) also continues to permit the institution to convey the information by a code, but has been redrafted to make it clear that the code explanation must appear on the receipt itself.

The first proposal would have required a disclosure of the "location" of the terminal, although the statutory language called for "location or identification." The current proposal would permit the financial institution to provide either a location or an identification, such as a terminal number. If a location is shown on the receipt, the format requirement of § 205.9(b)(1)(iv) must be met. If the institution chooses to use an identification, such as a terminal number or code, that identification need

not be explained elsewhere on the receipt. However, on the later statement which reflects that transfer, the location to which the number or code relates must be disclosed.

Section 205.9(a)(6) requires an institution to identify any third party to or from whom funds are transferred by means of an electronic terminal. As in the first proposal, where the consumer provides information on the identity of the third party by means of a handwritten or other non-machine-readable document placed in the terminal, the institution would not be required to capture the identify of that third party on the receipt. The Board wishes to emphasize, however, that the periodic statement reflecting that transaction must include the identity of that third party. Paragraph (6) also permits the use of a code to identify the third party, but the code must be explained elsewhere on the receipt. For example, a financial institution which permits payments to certain utilities to be made through its automated teller machines may wish to preprint, on the back of the documentation, a series of codes and the specific utilities to which they relate. A consumer using this service would key in the code relating to the utility for which payment is being authorized and the receipt would generate that code.

Section 205.9(b), implementing section 906(c) of the Act, requires institutions to provide consumers with periodic statements summarizing the electronic fund transfer activity occurring in the consumer's account during the statement cycle. Institutions subject to § 205.9(b) must provide a written statement to the consumer for each month in which there was electronic activity in the account. Where no activity occurs, the statement must be provided on at least a quarterly basis. Many commenters requested a longer statement cycle, but the Board believes that the language of section 906(c) of the Act is clear.

Set forth below is an example of a periodic statement illustrating the requirements of proposed § 205.9(b). The Board wishes to emphasize that, while information must be provided for each account accessible by electronic fund transfers, a financial institution may furnish a single periodic statement that combines information on more than one account.

A sentence has been added to the introductory language to make it clear that the information required by paragraph (b)(1) may be shown on accompanying documents, rather than on the periodic statement itself. This is in accord with the language of the Act, which specifically authorizes the use of accompanying documents. For example, the institution may furnish copies of terminal documentation to reflect transfers initiated by the consumer through electronic terminals. This would be analogous to the "country club" billing procedures permissible under Regulation Z and the Truth in Lending Act. (The example shown below is more similar to "descriptive" billing statements.)

Section 205.9(b)(1)(i) would require the financial institution to show the amount of the transfer. The Board is aware that, in a shared or interchange system, the account-holding institution may be unable to determine which portion, if any, of the transfer represents a transaction charge imposed by the institution at whose terminal the transfer was initiated. The Board's proposal would permit the account-holding institution to disclose the entire amount as the amount of the transfer. For example, the $100.25 debit shown in the periodic statement represents a $100 withdrawal authorized by the consumer, together with a $0.25 charge imposed by the bank which operates the terminal at LaGuardia Airport.

The date disclosure required by § 205.9(b)(1)(ii) depends on the type of transfer involved. Transfers initiated by a consumer at an electronic terminal require the disclosure of the date of initiation in all cases, as well as the date that the amount is posted to the consumer's account, if different from the initiation date. In proposing this requirement, the Board believes that disclosure of both dates is essential to the consumer for purposes of account reconciliation and recollection of transfers made through a terminal. However, in preauthorized and telephone-initiated transfers, the Board believes that the initiation date may be irrelevant to the consumer and § 205.9(b)(1)(ii)(B) requires disclosure only of the posting date for such transfers. The first two columns in the example below reflect the date disclosures required for the three types of transfers.

Section 205.9(b)(1)(iii) requires the institution to indicate the type of transfer and the type of account affected by the transfer. This requirement would be satisfied by the same type of information as provided under § 205.9(a)(3), such as "withdrawal from checking" or "payment from savings." The Board specifically requests comment on any operational problems which may prevent an institution from describing the type of transfer. For example, several commenters indicated that, in a shared or interchange system, an account-holding institution may be unable to determine the nature of a debit, such as a payment or withdrawal, received from another institution.

The information required by paragraph (1)(iii) may be provided by a code that is explained elsewhere on the periodic statement or in accompanying material. For example, in disclosing a transfer initiated through a terminal, the institution may provide an explanation of the code on a copy of the terminal receipt provided with the periodic statement. In the illustration below, the transfer codes are preprinted on the periodic statement itself. Because the statement reflects only checking account transfers, a generic identification of the account is unnecessary in the list of transfer codes. The sole exception is transfer code 61, which affects the customer's savings account, as well as the checking account for which the statement is issued. In a combined statement, a further identification of the type of account would be necessary.

Section 205.9(b)(1)(iv) sets forth the disclosure requirements for terminal location. The Board proposes to limit this requirement to transfers initiated by the consumer at electronic terminals because it appears to be relevant only in these cases. In the statement below, transfer types 01, 03, 05, 21, and 61 represent terminal transfers which would be subject to this requirement.

In implementing this provision, the Board seeks to provide enough specificity to assure the consumer of a complete description, while at the same time allowing institutions the flexibility to devise a meaningful identification. Therefore, paragraphs (A) through (C) provide three different ways of describing the location of the terminal. The institution may choose any one of these methods in making this disclosure.

Paragraph (A) refers to a street address such as "500 Main St., Anytown, OH" or "Chestnut/Oak Sts., Anytown, OH." Paragraph (B) permits the institution to describe the location with a term, such as "LaGuardia Airport, N.Y., N.Y.," which has public recognition and conveys a particular location to the consumer. Paragraph (C) permits disclosure of the name of a merchant or financial institution on whose premises a terminal is placed. The Board envisions that this alternative would be used primarily to describe point-of-sale terminals at a seller's place of business. In the example below, the descriptions of those transfers designated as type 21 illustrate paragraph (C).

Footnote 2 to this paragraph is intended to prevent the account-holding institution from describing the location of its own terminals simply by the name of the institution, rather than a more specific geographic location. For example, if a customer of XYZ Bank withdraws funds through an automated teller machine located at a branch of that bank, the terminal location may not be described merely as "XYZ Bank, Anytown, OH."

If, on the terminal documentation provided under § 205.9(a), the institution used a terminal number or other identification, rather than a location, the institution must repeat that identification on the periodic statement along with one of the required descriptions of the terminal's location. The institution may describe the location on material accompanying the periodic statement, such as a master list of terminal numbers and the locations to which they relate.

Section 205.9(b)(1)(v) requires the institution to disclose the name of any third party to or from whom funds are transferred. Footnote 3 exempts from that provision the deposit of checks or similar negotiable instruments in an electronic terminal for later manual processing. In such cases, the institution would not be required to capture manually the names of third parties on the instruments for later disclosure on the periodic statements.

The second sentence of § 205.9[b](1)(v) sets forth special requirements regarding disclosure of the name of any third party for transfers initiated by a consumer at an electronic terminal. In such cases, the institution must repeat on or with the periodic statement the name or code used on the terminal documentation to identify the third party. For example, where the terminal documentation in a point-of-sale transaction showed the merchant's "doing business" name, the periodic statement must reflect that name and not the name of any parent corporation. If the institution used a code on the terminal documentation, the periodic statement or accompanying material must also provide the name of the third party to which the code relates.

The Board wishes to emphasize that the proposed location and third-party requirements may in some cases be satisfied by a single disclosure. For example, for the purchases (transfers labeled "21") shown below, the information contained in the column headed "Description of Transfer" represents both the third party merchants to whom funds were transferred and the locations of the point-of-sale terminals involved.

Section 205.9(b)(2) requires the institution to disclose the number of the consumer's account or accounts to which the periodic statement relates. As illustrated in the statement below, the account number need be shown only once on the periodic statement, rather than repeated with each description of a transfer.

Section 205.9(b)(3) requires disclosure of the total amount of any fees or charges assessed for electronic fund transfers or services. Only those charges which are specifically related to electronic fund transfer services must be disclosed. For example, if the institution imposes a fixed fee for use of an account whether or not the consumer utilizes the electronic fund transfer services associated with that account, no disclosure need be made. The amount shown must be an aggregate of all charges imposed. The institution need not itemize the various types of charges it imposes.

The Board is aware that in a shared or interchange electronic fund transfer system, the account-holding institution may have difficulty in segregating the amount of the transfer from any charge imposed by another institution at the point of origination. This proposal would permit institutions to disclose these amounts simply as the amount of the transfer under § 205.9(b)(1)(i), with no portion of that amount allocated to the fees or charges to be disclosed under paragraph (3). Comment is specifically requested on this issue.

Proposed §§ 205.9(b) (4) and (5), which require the statement to show beginning and ending account balances and the address and telephone number to be used for inquiries or error notifications, are essentially unchanged from the first proposal.

Section 205.9(b)(6) applies to institutions which utilize the telephone alternative set forth in proposed § 205.10(a)(1)(iii) for providing notice to consumers regarding preauthorized transfers to consumers' accounts. Under paragraph (6), the institutions must inform consumers, on each periodic statement, of the telephone number to be used for that purpose.

BILLING CODE 6210-01-M

V 4 4 0 C 1 5 7 9 UMI

XYZ BANK

Statement of Account

Direct Inquiries to:

Mary and John Doe
421 Elm Street
Anytown, OH 44000

(216) 111-1111
P. O. Box 1234
Anytown, OH 44000

CHECKING ACCOUNT 44-66-8800

Beginning Balance 794.65

Posting Date	Initiation Date	Credits	Debits	Type of Transfer	Description of Transfer
	08 7		25.00	01	#123 - 500 Main St., Anytown, OH
08 13	08 10	114.13		03	#568 - Chestnut/Oak St., Anytown, OH
08 13	08 12		72.34	21	ABC Dept. Store, Anytown, OH
08 15			278.49	51	Anytown Savings & Loan
08 17		438.73		31	ACME Steel Corp.
08 20			23.86	41	1st Bank of Anytown
08 22			52.50	41	ABC Dept. Store
08 22	08 20		100.25	01	#24A - LaGuardia Airport, NY, NY
	08 21		88.00	21	Metropolis Dept. Store, NY, NY
08 24		704.65		31	Anytown Hospital
08 27	08 25		59.64	05	#456 - E-Z Shopping Mall, Anytown, OH Ohio Electric Power Co.
08 27	08 25	65.00		03	#456 - E-Z Shopping Mall, Anytown, OH
	08 29		43.42	21	A-1 Food Store, Anytown, OH
	08 27		300.00	61	#123 - 500 Main St., Anytown, OH
Ending Balance			1,073.90		

Transfers

01 - Withdrawal
03 - Deposit
05 - Utility payment
21 - Purchase
31 - Direct deposit of payroll
41 - Telephone bill payment service
51 - Preauthorized debit
61 - Transfer from checking to savings

BILLING CODE 6210-01-C

Sections 205.9(c) and (d) provide limited exceptions to the general periodic statement requirements set forth in § 205.9(b). Under § 205.9(c), a financial institution need not provide a periodic statement for passbook accounts which cannot be accessed electronically except by preauthorized electronic credits. Instead, the institution may simply update the passbook information whenever the passbook is presented by the customer. Section 205.9(d) permits institutions to send periodic statements on a quarterly rather than a monthly basis on non-passbook accounts which cannot be accessed electronically except by preauthorized credits. It should be noted that the format and content of the quarterly statement must satisfy § 205.9(b). These provisions have been redesignated, but are otherwise unchanged from the first proposal.

Section 205.10—Preauthorized Transfers. Section 205.10(a)(1), which was designated § 205.8(c) in the first proposal, implements section 906(b) of the Act. The Act requires an institution to provide a consumer whose account is scheduled to be credited with a preauthorized transfer from the same payor at least once every 60 days with either positive or negative notice of whether the transfer occurred, except where the payor provides positive notice of the transfer to the consumer.

The Board had proposed three additional ways in which financial institutions could satisfy the statutory requirement. Proposed § 205.8(c)(1)(iii) provided that notice would be considered given if the institution transmitted a periodic statement within 2 business days after the transfer was scheduled to occur. A number of commenters pointed out, and the Board agrees, that a periodic statement is simply one permissible means of providing positive or negative notice and is therefore implicit in paragraphs (a)(1)(i) and (a)(1)(ii). Section 205.8(c)(1)(v) of the proposal would have required the institution to notify the consumer only where the failure to receive the transfer resulted in an overdraft or a credit extension or an automatic transfer to cover an overdraft. This alternative would have been available only if the institution paid all items presented and imposed no overdraft or related charges. Comments characterized this alternative as extremely burdensome to institutions and unfavorable to consumers. The Board has therefore eliminated this alternative.

The Board has decided to publish for comment a modified version of a provision that appeared in the first proposal. Section 205.8(c)(1)(iv) of the first proposal would have permitted a financial institution to establish a telephone line that the consumer could call to ascertain whether an expected preauthorized credit had arrived. The new proposal would also permit use of a telephone number but the financial institution would have to inform the consumer of the right to receive notice. The consumer would then have a choice as to the form of notice. The proposal would not prohibit an institution from charging for paper notice but the Board expects any charge imposed to be reasonable. If the consumer elects to use the telephone number, the proposal would require the institution to disclose the number at the time of the election and on each periodic statement.

Two other changes have been made in the proposal. The introductory language has been changed to clarify the type of notice the payor must provide in order for the exception to apply. The institution need not provide notice where the payor informs the consumer that the transfer has been "initiated." For example, a pay slip furnished by an employer would constitute sufficient notice by the payor in a direct payroll deposit program. Second, the word "transmitting" has been substituted for the word "providing" to make clear that where the institution provides written notice, it need only be sent by the institution, not received by the consumer, within 2 business days.

The Board has postponed final action on § 205.10(a)(2) until after its consideration of Subpart C of Regulation J. This provision would require institutions that accept preauthorized credits subject to paragraph (a) to credit the transfer as of the business day on which the institution receives value. The proposal has been modified to address an operational problem with the first proposal, namely, that the funds be available to the consumer at the opening of business on the date the transfer is scheduled to be made. In addition, the institution need not take action under this paragraph until it is actually in receipt of the funds.

Section 205.11—Procedures for Resolving Errors. Before discussing the specific provisions of § 205.11, the Board wishes to invite comment on the quesiton of charging for complying with the error resolution procedures. Comments on the first proposal and the Board's experience with the Fair Credit Billing Act indicate that a number of financial institutions contemplate imposing charges when a consumer seeks copies of documents (which is an error under proposed § 205.11(a)(1)(vii)) and possibly for investigating other notices of error as well. A consumer would not know in advance how a notice of error would be resolved. The Board is concerned that, fearing the imposition of charges should an error not be resolved in their favor, consumers will be reluctant to exercise their rights under the statute. On the other hand, a financial institution probably should be permitted to impose a charge when a consumer requests copies of documents for business or tax purposes.

The Board solicits comment on whether any charges for complying with the error resolution procedures should be prohibited. Alternatively, the Board invites comment on (1) permitting reasonable charges for copies of documentation requested under this section but prohibiting all other charges (such as investigation fees) for complying with the error resolution procedures; or (2) permitting the financial institution to impose reasonable charges for error resolution as long as the charges do not violate § 914 by constituting a waiver of the consumer's rights.

This section corresponds to § 205.10 of the first proposal. Section 205.11(a) now contains the definition of "error," which in the first proposal appeared as § 205.2(1). Section 205.11(a)(1)(i), which provides that an unauthorized electronic fund transfer constitutes an error, remains unchanged from § 205.2(1)(l) of the first proposal. The first proposal's commentary, however, stated that a consumer's notifying a financial institution of the loss or theft of an access device would be considered an error. Such an interpretation would have required a financial institution to follow the error resolution procedures where unauthorized use was a possibility rather than an actual occurrence. Numerous commenters argued that, since the consumer's liability for unauthorized use terminates upon the consumer's notifying the financial institution of the loss or theft of the access device, treating such notice as an error would not grant the consumer greater protection. Furthermore, many commenters were concerned that they would be unable to undertake a meaningful investigation since a notification of loss or theft would not necessarily focus on any particular transfer or group of transfers that might be unauthorized. The Board believes that notification to the financial institution of the loss or theft of the access device, absent an allegation of unauthorized use, would not require the

V 44 0C 15 79 UMI

institution to comply with the requirements of § 205.11. An institution must, however, treat allegations of possible unauthorized use as errors.

Sections 205.11(a)(1)(ii), (iii), and (v), which correspond to §§ 205.2(1)(2), (3), and (5) of the first proposal, remain unchanged.

Section 205.11(a)(1)(iv), which corresponds to § 205.2(1)(4) of the first proposal, has been changed in two respects. The first proposal defined as an error "a computational error or similar error of an accounting nature made by the financial institution." The language has been changed in response to several comments to make clear that this paragraph applies only to errors relating to electronic fund transfers. In addition, the word "bookkeeping" has been substituted for "accounting" to avoid any implication that the Board intends to include errors of judgment that may occur in making accounting decisions. The provision, as presently written, would include arithmetical errors, posting errors, errors in printing figures, and figures that were jumbled due to mechanical or electronic malfunction.

Section 205.11(a)(1)(vi) corresponds to § 205.2(1)(8) of the first proposal. The previous draft treated as an error any misidentified or insufficiently identified transfer, or any transfer not in the amount or on the date indicated on or with any required documentation. This proposal specifically indicates that the financial institution must treat as an error an inquiry about a transfer that the consumer does not recognize. In addition, any failure to identify the transfer in accordance with § 205.9 (which would include the correct amount and date) is an error.

Section 205.11(a)(1)(vii) provides that error resolution procedures are activated by a consumer's request for any documentation required by §§ 205.9 and 205.10(a) or for any additional information or clarification concerning an electronic fund transfer. In § 205.2(1)(7) of the previous proposal, the failure to provide required documentation was considered an error, whereas the current proposal regards only consumers' requests for such documentation to be errors. These requests for documentation, however, would be considered errors whether or not the documentation had been previously provided. The current provision specifically indicates that an error includes any request for information or copies of documents that the consumer wants in order to find out whether a mistake exists in the consumer's account regarding an electronic fund transfer. Thus, if a consumer requests documentation or information regarding a particular transfer without alleging a mistake, that documentation or information must be provided to the consumer in accordance with § 205.11.

Section 205.11(a)(2), which is new, provides that certain routine requests for information and copies of documents are not considered errors. Under this paragraph, a financial institution has no error resolution responsibilities when a consumer makes a routine inquiry regarding the balance in the consumer's account. This would include, for example, an inquiry made under proposed § 205.10(a)(1)(iii) to find out whether a preauthorized transfer has occurred. This section also exempts from the error definition any request for information or documentation for tax or business purposes. The Board solicits comment on this provision, and is particularly interested in knowing whether there are other types of inquiries that should not be considered errors under § 205.11.

Section 205.11(b) corresponds to § 205.10(a) of the previous proposal. In response to several comments, clarifying language has been added to indicate that a financial institution has error resolution responsibilities only when *the consumer* notifies the financial institution of an error. The financial institution need not comply with the error resolution procedures if it or its auditor, for example, discovers an error, or if any other party, other than an agent of the consumer, notifies the financial institution concerning an error.

Section 205.11(b)(1) corresponds to § 205.10(a)(2) of the first proposal. That proposal, like the current proposal, provides that the error notification must be received no later than 60 days from transmittal of the periodic statement first reflecting the alleged error.

Some commenters stated that this 60-day period should begin when the consumer receives the terminal receipt. The Board still believes, however, that the 60-day period is more precisely and simply calculated (with two minor exceptions noted below) from transmittal of the periodic statement. Other commenters objected to limiting the consumer's notice period by using the periodic statement that *first* reflects the error, claiming that the consumer may not have the necessary information at that point to assert an error. The Board has responded to this concern by providing the consumer with an additional 60 days to assert an error after the consumer receives the additional documentation or information needed to assert an error.

Additional language has been added to address the application of the 60-day time limit in two specific cases. First, under section 205.9(c) (involving passbook accounts that may not be accessed by any electronic fund transfers other than preauthorized credits), if the financial institution chooses to update the consumer's account with the amount(s) and date(s) of each transfer upon presenting the passbook rather than to provide periodic statements, the 60-day period runs from the updating (in the manner required by section 205.9(c)) that first reflects the alleged error. Second, as noted above, where the consumer requests additional information, clarification, or documentation so that he or she can determine whether to assert an error within the meaning of paragraphs (a)(1)(i) through (vi), a second 60-day time period runs from the financial institution's transmitting to the consumer the additional information, clarification, or documentation requested.

The second sentence of section 205.11(b)(1) corresponds to sections 205.10(a)(1) (i) and (ii) of the first proposal. Section 205.10(a)(1)(i) of the first proposal provided that the notification of an error (referred to in the present proposal as a "notice of an error") should enable the financial institution to identify the consumer's account. A number of the comments received from both consumer groups and financial institutions objected to the omission of the statutory language of section 908(a)(1) that the notice should enable the financial institution to identify the consumer's name as well as the account number. The present proposal reflects the statutory language.

Section 205.10(a)(1)(ii) of the first proposal set forth the information that the consumer should provide in notifying the financial institution of an alleged error. Language has been added to the present section 205.11(b)(1) to indicate clearly that this provision does not apply to errors asserted under paragraph (a)(1)(vii). Section 205.10(a)(1)(ii) of the first proposal also referred to "any documentation required by this regulation." As a result of several comments, the current proposal specifically identifies the documentation intended to be covered in this provision. The Act refers to the documentation required by sections 906(a) (terminal receipts), 906(b) (positive or negative notice of preauthorized credits), 906(c) (periodic statements) and 906(d) (updating of passbook accounts). This proposal specifically refers to sections 205.9 and 205.10(a), the regulatory

counterparts to these sections, and in doing so, includes the documentation required by section 906(e) and section 205.9(d) (quarterly statements for certain non-passbook accounts). This paragraph also reflects a change suggested by some commenters, namely, that the consumer would be required to provide the financial institution with the date of the alleged error, if possible, together with the type and the amount of the alleged error. For example, if the periodic statements shows ten $25 transfers, identification of the date(s) of the transfer(s) questioned would prove helpful and possibly necessary.

Section 205.11(b)(1) of the present proposal also retains the provision that the reasons for the consumer's belief that an error has occurred and a description of the suspected error need only be provided to the extent possible. The commentary to the first proposal suggested that a financial institution would not be relieved of error resolution responsibilities where a consumer is unable to describe the error or articulate the amount of or the reasons for the error. A number of the comments objected to both the language of the provision and the interpretation suggested in the commentary as permitting vague assertions (that may be difficult to investigate) to trigger error resolution procedures. The Board still believes that its position is proper and necessary in order to minimize the possibility that a consumer could be denied the protections of section 205.11 by not being able to understand the cause or nature of the error or articulate the reasons for the error. Consequently, where a consumer's notification is somewhat vague or imprecise, a financial institution is expected to make a good faith effort to identify and resolve the alleged error.

Section 205.11(b)(2), which corresponds to section 205.10(a)(3) of the first proposal, remains unchanged.

The introductory language to the previously designated section 205.10(b) has been combined with section 205.10(b)(1) and the alternate time limit provision of section 205.10(b)(2) and is now reflected with one modification as sections 205.11(c)(1)(i) and (ii) in the current proposal. The concept of relieving a financial institution of its error resolution responsibilities when a consumer subsequently agrees that no error has occurred is reflected in section 205.11(g) of the current proposal. To make clear that the term "report" contemplates oral rather than written communication, the word "orally" has been inserted. This change is also reflected in sections 205.11(e)(2) and (f)(2).

Section 205.11(c)(1)(ii)(A), which corresponds to section 205.10(b)(2)(i), has been changed to reflect explicitly the Board's position regarding the amount that can be withheld by the financial institution when provisionally recrediting a consumer's account. The Board suggested in the commentary to the first proposal that $50 was the maximum that could be withheld. The Board continues to believe that this is the appropriate interpretation of the Act. Under section 909(a), in order to impose liability greater than $50, the financial institution must prove that the consumer failed to report loss or theft of the access device within two business days of learning of it and that the institution could have prevented the loss had timely notice been given. Permitting the institution to withhold up to $500 under error resolution would relieve it of the burden of proof imposed by the statute. The provision has been further classified to indicate that a financial institution may withhold up to $50 only when an unauthorized electronic fund transfer is suspected. The Board believes that to allow the financial institution to withhold more than $50 or to permit the financial institution to withhold any amount without suspecting an unauthorized electronic fund transfer would undermine the purpose of the recrediting provision.

Section 205.11(c)(1)(ii)(B), formerly designated section 205.10(b)(2)(ii), deals with the consumer's having full use of provisionally recredited funds. The first proposal required notification of the consumer 3 business days before debiting a provisionally recredited amount. The current proposal requires notice upon debiting a provisionally recredited amount. Therefore, the Board proposes in section 205.11(c)(1)(ii)(B), in order to ensure the full use of recredited funds, to require that the financial institution honor any items drawn on the provisionally recredited funds prior to the time that the consumer either receives the notice required by section 205.11(f)(2), or can be expected to have received the notice, whichever is earlier.

Section 205.11(c)(1)(ii)(C), which requires that the consumer be provided with a notice of provisional recrediting, corresponds to section 205.10(b)(2)(iii). Since the current proposal no longer requires notification of the consumer 3 business days before debiting a provisionally recredited amount, the notice has been modified accordingly. The current proposal requires that the consumer be notified of the amount and the date of the recrediting and of the fact that the consumer will have the use of the recredited funds while the financial institution investigates the alleged error and determines whether an error occurred. Comment is invited on whether the financial institution should notify the consumer that the financial institution is required to pay checks written against the recredited funds until the consumer receives the notice of debiting.

A number of commenters asked for clarification on whether the recrediting provisions apply where a consumer merely requests additional information or documentation under section 205.11(a)(1)(vii). The Board believes that resolution in these cases consists of providing the requested information or documentation, and that the financial institution should be able to do this within 10 business days. If the institution takes more than 10 business days, however, the recrediting procedures will then apply. The amount recredited would be the amount of the transfer(s) about which the consumer requested information or documentation.

Section 205.11(c)(2), which corresponds to the final sentence of § 205.10(b)(2), remains unchanged except for the deletion of unnecessary explanatory language.

Section 205.11(d) is new. Paragraph (d)(1) makes clear that the regulation does not require an investigation of an alleged error where the financial institution would prefer to make a final correction to the consumer's account in the amount or in the manner alleged by the consumer to be in error. This course of action should not involve more than 10 business days since the decision to correct without investigating would probably be made almost immediately after a financial institution receives a notice of an error. This proposal in no way relieves the financial institution from complying with any other applicable requirements of the section (for example, the correction provisions of sections 205.11(e)(1) and (2)).

Many comments indicated that financial institutions cannot, within the 10-business-day provision of section 205.11(c)(1)(i), investigate alleged errors arising out of transfers that involve third parties with whom financial institutions do not have agreements (for example, payroll deposits from a third party or utility payments to a third party) if the financial institution is required to investigate the alleged error with the third party. The commenters also argued that if they must carry the investigation to a third party, they will be forced to provisionally recredit a consumer's

account in order to take advantage of the alternative 45-day time period.

Consequently, in section 205.11(d)(2) the Board proposes to address this issue by limiting the scope of investigation that must be undertaken by the financial institution where a third party is involved. The proposal provides that a financial institution need only review its own records when investigating an alleged error concerning transfers to or from a third party with whom the financial institution does not have an agreement. The Board expects that limiting the extent of investigation required will alleviate the concerns regarding provisional recrediting. Section 205.11(d)(2) would also apply to a consumer's request for information or documentation that is not in the institution's possession, such as a copy of a utility bill that was paid by means of an electronic transfer. In such a case, resolution would consist of a timely response to the consumer that the institution does not have copies of utility bills.

Numerous commenters asked whether an independent verification of information was required when a financial institution, in investigating an alleged error involving a third party (including a third party with whom the financial institution has an agreement), receives information from that third party. Section 205.11(d)(3) responds to this issue and provides that a financial institution may rely upon information supplied by third parties and is not obliged to verify the accuracy of such information.

Sections 205.11(e) and (f) correspond to section 205.10(c) of the first proposal. Section 205.11(e)(1) is identical to the first proposal except for the addition of clarifying language regarding to the correction of the account in the case of an unauthorized electronic fund transfer. The regulation reflects the fact that the financial institution, at this point in the resolution process, must have satisfied the requirements of section 205.6(a) in order to impose any liability on the consumer for an unauthorized electronic fund transfer. In order to impose liability on the consumer in an amount greater than $50, however, the financial institution must satisfy the additional requirements detailed in section 205.6(b). The Board invites comment on the manner in which financial institutions anticipate satisfying the requirements of section 205.6(b) in those instances in which financial institutions seek to impose liability in excess of $50.

In an effort to ease compliance with the notification of corrections requirement, a provision has been added to paragraph (e)(2) (formerly paragraph (c)(1)(ii)) expressly permitting a financial institution to notify the consumer of a correction by clearly reflecting the correction on a periodic statement as long as the periodic statement is mailed or delivered within the 10-business-day or 45-day time limits of sections 205.11(c)(1)(i) or (ii).

Paragraphs (f) (1) and (3), formerly (c)(2) (i) and (iii), remain the same as the earlier proposal, except that the last sentence of the first proposal's paragraph (c)(2)(iii) is now contained in the current proposal's paragraph (f)(1). Paragraph (f)(2), however, as previously mentioned, no longer requires that a financial institution notify the consumer 3 business days before debiting a provisionally recredited amount. Many commenters objected to the first proposal, claiming that notifying the consumer 3 business days in advance would encourage the withdrawal of recredited funds to which the consumer might not be entitled. In response to the comments, the current proposal requires in § 205.11(f)(2) that, upon debiting a provisionally recredited amount, the financial institution must notify the consumer of the date and amount of any such debiting and of the fact that the financial institution will honor any items that have been drawn on the provisionally recredited funds prior to the time the consumer received or should have received the notice, whichever is earlier. It is hoped that notice at the time of debiting, rather than prior to debiting, will reduce substantially the potential for fraud.

Section 205.11(g) replaces and clarifies the introductory language in § 205.10(b) of the first proposal which would have relieved a financial institution of its duty to comply with the error resolution procedures should the consumer agree, after having properly alleged an error, that no error in fact occurred. Consumer comments objected that the language in the first proposal was too broad and might have the effect of allowing an oral explanation by the financial institution to replace the written explanation required by § 205.11(f)(1). The Board contemplates that this provision would only apply where the consumer discovers that no error occurred (for example, that a questioned transfer was in fact authorized and in the amount and on the date indicated) and voluntarily withdraws the notice.

In § 205.11(h) the Board proposes to make clear that a financial institution has no further reponsibility under § 205.11 after complying with that section's provisions if the consumer continues to make substantially the same allegation with respect to the alleged error. This provision would also preclude a consumer from reasserting the same error that appears in a different form (e.g., if the consumer alleges that a certain $20 transfer was erroneous, the consumer cannot reassert the same error by claiming that a subsequent periodic statement should reflect an account balance of $500 instead of $480).

Section 205.11(i) corresponds to § 205.10(d) of the first proposal which provided that the error resolution procedures of the Electronic Fund Transfer Act and Regulation E, rather than those of the Truth in Lending Act and Regulation Z, govern electronic fund transfers that also involve credit extensions made under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account. Many commenters requested the Board to specify which provisions of Regulation Z were superseded by Regulation E. In response to these requests, the current proposal indicates that, in these combined EFT-credit transactions, the financial institution must comply with the error resolution procedures of § 205.11 and that the billing error definition of § 226.2(j), the error notification requirements contained in § 226.2(cc), and the error resolution procedures of § 226.14(a) do not apply. The Board contemplates that other provisions of Regulation Z, such as § 226.14(e) (which governs credit reports on amounts in dispute) will still apply to the credit extension portion of the combined transaction. The Board, in soliciting comment on this section, is particularly interested in receiving comment on operational problems that financial institutions foresee in satisfying their error resolution responsibilities in combined EFT-credit transactions.

(3) *Economic Impact Analysis. Introduction.* Section 904(a)(2) of the Act requires the Board to prepare an analysis of the economic impact of the regulation that the Board issues to implement the Act. The following economic analysis accompanies sections of the regulation that are being reissued in proposed form for public comment.[1]

The analysis must consider the costs and benefits of the regulation to suppliers and users of electronic fund transfer (EFT) services, the effects of the regulation on competition in the provision of electronic fund transfer services among large and small financial institutions, and the effects of the regulation on the availability of EFT services to different classes of consumers, particularly low-income consumers.

[1] The analysis presented here is to be read in conjunction with the economic impact analyses that accompany the Board's final rules in this issue and at 44 FR 18474, March 28, 1979. The sections of the regulation have been redesignated.

The regulation in part reiterates provisions of the statute and in part amplifies the statute. Therefore, the economic analysis considers impacts of both the regulation and the statute, and throughout the analysis a distinction will be made between costs and benefits of the regulation and those of the statute. *It is also important to note that the following analysis assumes that the regulation and the Act have no relevant economic impact if they are less restrictive than current industry practices or state law. In this case, the regulation will not affect costs, benefits, competition, or availability and will not inhibit the market mechanism. The following analysis of the regulation and the Act is relevant only if their provisions are more constraining than those provisions under which institutions would otherwise operate.*

Analysis of regulatory and statutory provisions. Section 205.4(b) proposes rules for compliance when the service-providing financial institution effects an electronic transfer to a consumer's account at another institution. The service provider must perform all applicable duties imposed by the Act in accordance with its agreement with the consumer. The financial institution receiving the electronic transfer on behalf of a consumer is relieved of the responsibility to issue disclosures, resolve errors, or otherwise comply with the Act. Institutions, especially small institutions, not offering electronic transfer services may have no choice about accepting externally initiated electronic debits and credits to their consumer accounts; these institutions are therefore not burdened with regulatory compliance costs, while consumers are assured of the Act's protection through the service provider.

Under the proposal, however, a consumer may be subjected to certain risks. An error may occur at the transfer-receiving institution that is not reflected in the documentation furnished by the service provider. For example, an electronic transfer of $100 initiated by the consumer through the service provider may, through some error, be reflected as a $1,000 debit to the consumer's account at the receiving institution. Under the proposal, the receiving institution will not be required to furnish periodic statements or follow the statutory error resolution procedures. The Board requests comment on whether consumer protections are likely to be lost as a result of this regulatory provision. The Board also solicits comment on the relative costs and benefits of the following alternatives: requiring full compliance by both institutions; the current proposal requiring no compliance by an institution that merely receives externally initiated electronic debits and credits to consumer accounts; and requiring that the institutions jointly provide full documentation and error resolution for the consumer's account at the transfer-receiving institution.

Section 205.9 sets out the Act's transfer documentation requirements. Comment is invited on costs likely to be associated with this proposed revision of the section.

The Act requires that written documentation be made available to the consumer for every transfer at every terminal. Almost all existing terminals are equipped with printing devices. Commenters pointed out, however, that most devices can print only numerals. Replacements of existing devices with devices capable of printing alphabetic information would require large hardware and software expenditures by institutions. For this reason, the regulatory language was drafted to allow transfers at terminals to be documented by means of numeric codes, with the provision that codes must be explained on the document. This provision is expected to reduce the compliance cost burden.

The Act further requires identification of the type of account from or to which funds are transferred. This would be a problem in a shared system if the institution operating the terminal did not know the type of account being accessed at the institution holding the account, but it is expected that the consumer will be able to enter the required information at the terminal, so that compliance with this statutory provision will be possible. The Board solicits information on whether consumer entry of account type is a problem and on the costs of interchanging information regarding the type of account.

The Act requires that a periodic statement be delivered to the consumer at least monthly for each monthly or shorter cycle in which an EFT has occurred, and at least quarterly if no EFT has occurred.[2] This timing requirement will impose substantial cost burdens on many financial institutions that otherwise would issue periodic statements less frequently than monthly (or, in the case of § 205.9(d) exempted accounts, on institutions that issue statements less frequently than quarterly). The costs of increased statement frequency will be passed on to consumers to some degree in the form of higher EFT prices or reduced availability of EFT services. The costs cannot be avoided because financial institutions must send statements even if consumers do not want them.

Another substantial cost burden will result from the lack of any statutory exception for inactive accounts. One commenter estimated that costs would average $0.25 per quarterly statement to an inactive account, implying a probable yearly nationwide cost from inactive account statements of $2.2 million in 1980.[3] Another commenter estimated that each statement will cost $0.52 to prepare and deliver. The Board solicits comments on the reasonableness of these estimates. This statutory provision may encourage financial institutions to close inactive EFT accounts or assess large inactivitiy fees, thereby restricting the availability, and increasing the costs, of electronic transfers to consumers.

The Act will impose another substantial cost on participants in the payments system by requiring statement documentation of the items of information listed in § 205.9(b) of the regulation. The costs of the Act's periodic statement requirements are likely to result mainly from initial fixed costs for conversion to new statement forms and for new computer hardware and software.

It may be especially costly to document the names of third parties involved in transfers. In many cases, the names of third parties will have to be added to the data stream manually by the consumer's financial institution. This may require the alteration or re-pricing of many well-established payment mechanisms which allow consumers to pay utility and other bills at electronic terminals but do not now result in a listing of the payee's name on the periodic statement. On the other hand, consumers may be able to identify payee names at terminals by the use of codes. Most terminals are not now equipped with alphabetic keyboards. Transfers to third parties may be facilitated if third-party creditors provide machine-readable payment coupons. The Board solicits comment on

[2] Exceptions to the monthly statement requirement are given in §§ 205.9 (c) and (d).

[3] This assumes that 10 percent of an estimated 22 million consumer EFT accounts are inactive in any quarter.

V 44 0 C 15 79 UMI

the feasibility and cost of alternative means of identifying names of payees, including individual consumers who are payees. Would individuals be precluded from receiving electronic payments from other consumers because of the Act's requirement that payee names be documented? The Board also solicits estimates of the cost of interchanging payee and terminal location names among institutions.

The Act requires that the periodic statement document the initiation date of each electronic transfer. The regulation relaxes that requirement for preauthorized and telephone transfers by requiring documentation of the posting or value date; many such transfers are initiated in advance of the dates on which value is to be transferred. This provision of the regulation assures that actual transfer dates are disclosed to consumers and that institutions need not incur costs in documenting initiation dates for these transfers. For transfers initiated by a consumer at a terminal, however, both the initiation date and the transfer date must be disclosed on the periodic statement. The Board requests comment on the costs and benefits associated with this regulatory provision.

The Act's requirement for descriptive periodic statements after May 10, 1980, will probably have a relatively greater adverse cost effect on small institutions than on larger institutions. Timely statement redesign and computer software changes will require fixed costs that larger institutions will be able to spread over their larger account bases. In any case, the Act's descriptive statement requirements will impose substantial adjustment costs on the financial institution industry.

Small-balance account holders, including many low-income consumers, will be adversely affected by the Act's documentation requirements because financial institutions will find more of their accounts too costly to service. Some institutions have recently offered semi-annual or annual statement accounts as a cost-saving alternative to closing many low-balance accounts. Some of these accounts that are eligible to receive electronic credits, such as Social Security payments, may be charged higher fees, or they may be closed rather than converted to quarterly statement accounts.

Section 205.10(a) implements the Act's requirement that a notification system be established for all recurring preauthorized credits to a consumer's account. The regulation provides that institutions furnish positive or negative notice to a consumer unless the consumer, having been informed of the right to receive positive or negative notice, elects to receive confirmation by telephone in accordance with § 205.10(a)(1)(iii), or unless the payor furnishes positive notice to the consumer. Institutions are not prohibited from charging fees for notices of preauthorized credits. The Board requests comment on the costs and current relative extent of each means of notification, and whether institutions presently charge consumers for notification. Under what circumstances would financial institutions find it least costly to arrange for notification by payors?

This subsection would also require a financial institution to credit a preauthorized electronic transfer to a consumer's account on the business day the transfer is received by the institution. The Act makes no comparable provision. The Board proposes this rule to ensure prompt availability of electronically transferred funds to consumers. Comment is solicited on the operational cost burdens and consequent consumer benefits of this proposal.

Section 205.11 of the regulation reiterates the Act's error resolution provisions, adding specific deadlines, increasing the number of procedural options, and clarifying the definition of error for purposes of resolution. The Act and regulation encourage prompt resolution of EFT errors. Prompt resolution benefits both consumers and financial institutions by reducing payment delays, lessening uncertainty, and increasing the effectiveness of the EFT payments mechanism.

Consumers receive a number of specific protections from the error resolution procedure. Consumers are entitled to prompt investigation of their error claims, prompt correction of errors, provisional recrediting of disrupted amounts should the financial institution take longer than 10 days to investigate, documentation of evidence used to resolve errors, and prompt, formal notice from the financial institution of various procedural steps it has taken. It is not possible to predict the magnitude of financial and psychic benefits consumers will enjoy from these protections. In particular, the provisional recrediting rule will benefit low-income consumers relatively more by protecting them from "catastrophic" losses of the use of their funds.

These consumer protections depend critically, however, on the consumer's compliance with a number of the Act and regulation's provisions. The consumer must act in a timely manner to allege that an error has occurred and, if requested by the institution, must provide written confirmation of an oral allegation. Furthermore, the allegation must be complete according to § 205.11(b)(1). Without timely action and an actual allegation of error, the consumer may forfeit certain rights to error resolution.

Financial institutions are likely to incur substantial costs in complying with error resolution provisions of the Act and regulation. Provisional recrediting of disputed amounts may prove to be the biggest cost; the provisional recrediting requirement will give institutions an incentive to resolve error allegations within 10 business days. Institutions that recredit disputed amounts expose themselves to the possible withdrawal and loss of those funds by persons acting fraudulently or in a financially irresponsible manner. In particular, § 205.11(c)(1)(ii)(B) requires that institutions honor certain items (including other electronic debit transfers) that the consumer has drawn on provisionally recredited funds, even if the institution has discovered no error occurred. There is no statutory limit on the amount that may be disputed and, hence, that may have to be provisionally recredited by the institution. The Board solicits suggestions of alternative, less costly means to implement the statutory requirement that consumers have full use of their funds if the error investigation exceeds 10 business days.

An institution is not required to investigate error claims beyond the information available to it directly, except where the institution has an agreement with a third party, as in the case of point-of-sale terminals operated under agreement with a merchant. This provision of the regulation encorages rapid response to error allegations.

Investigating alleged errors and providing the required notices, explanations, and documentation of evidence used will be costly to institutoins. Section 205.11(e)(1) requires institutions to provide written explanations of findings for every error allegation that is discovered to be wholly or partially without merit. Commenters made estimates of average error resolution costs that ranged from $3.50 to $10.00 per error allegation. One financial institution with relatively extensive EFT experience commented that 96 percent of allegations of error were discovered not to be errors; yet written explanations are required for these allegations. Legal, clerical, and administrative costs of furnishing written explanations are likely to be substantial.

Commeners made estimates of the average cost of providing documentation pursuant to § 205.11(e)(3) that ranged from $3 to $12 per request. One commenter, estimating an average cost of $12 per request, predicted a nationwide cost of $26 million in 1980 for providing requested error resolution documentation alone.[4] Substantial costs may result from institutions' uncertainty as to what constitutes an error allegation and institutions' consequent formal investigation of a wide range of consumer inquiries.[5] On the other hand, the regulation will limit costs by specifically excluding certain inquiries from the error resolution procedure, freeing institutions from compliance responsibility if a consumer withdraws an error claim, and freeing institutions from the responsibility to investigate reasserted errors.

The regulation as proposed does not prevent financial institutions from imposing charges for the investigation of consumer error claims. The Board solicits comment on the costs and present levels of charges for error investigations by institutions, on the probable costs to consumers under the proposal, and on the desirability of amending the proposal to permit only reasonable charges for error investigation.

Uncertainties and possible costs associated with the error resolution provisions may give financial institutions an incentive to restrict EFT services to consumers who have demonstrated a high degree of financial responsibility. This may result in higher costs for all EFT users if system costs must be spread over fewer users, and it may lead to reduced availability of EFT services to low-income consumers, to the extent that low-income consumers are less likely to have had accounts at institutions and therefore to have established records of financial responsibility.

Small financial institutions may find the costs of error investigation to be proportionately greater drains on EFT profitability than larger institutions. Small institutions may also find error resolution aids such as terminal surveillance cameras to be relatively too costly. The error resolution provisions thus appear to place small financial institutions at some competitive disadvantage in the provision of EFT services.

[4] This assumes that 2.2 million requests for such documentation are made in 1980, or an average of one request per year for every 10 consumer EFT accounts.

[5] Failure to comply with the prescribed error resolution procedure can result in liability to the institution for actual damages, a penalty of from $100 to $1,000, court costs, and attorney's fees, as provided by Section 915 of the Act.

The Board solicits estimates of the costs and benefits to consumers and financial institutions of the proposed error resolution provisions.

(4) Pursuant to the authority granted in Pub. L. 95-630 (to be codified in 15 U.S.C. 1693b), the Board proposes to amend Regulation E, 12 CFR Part 205, by adding §§ 205.4(b), 205.9, 205.10(a), 205.11, an § A(8)(b) of Appendix A, to read as follows:

§ 205.4 Special requirements.

* * * * *

(b) *Services offered by financial institutions not holding a consumer's account.* Where a financial institution provides an electronic fund transfer service to or from a consumer's account held by another financial institution and the service-providing institution does not have an agreement with the account-holding institution regarding the service, the account-holding institution need not comply with the requirements of this regulation with respect to that service. The service-providing institution must comply with all requirements of this regulation, to the extent that the requirements relate to the service it provides to the consumer or the electronic fund transfers made by the consumer under the service. The service-providing institution shall comply with the requirements of § 205.11(c)(1)(ii)(A) (provisional recrediting) by ordering funds to be recredited to the consumer's account at the account-holding institution and, when complying with § 205.11(c)(1)(ii)(C), shall disclose the date the recrediting was initiated.

* * * * *

§ 205.9 Documentation of transfers.

(a) *Receipts at electronic terminals.* At the time an electronic fund transfer is initiated at an electronic terminal by a consumer, the financial institution shall make available [1] to the consumer a written receipt of the transfer which clearly sets forth the following information, as applicable:

(1) The amount of the transfer.

(2) The date the transfer was initiated.

(3) The type of transfer and the type of the consumer's account(s) from or to which funds are transferred, such as "withdrawal from checking," "transfer from savings to checking," or "payment from savings." A code may be used only if it is explained elsewhere on the receipt.

(4) The number or other identification of the access device used to initiate the transfer.

[1] A financial institution may arrange to have a third party, such as a merchant, provide the receipt.

(5) The identification, such as a terminal number, or location (in a form prescribed by paragraph (b)(1)(iv) of this section) of the terminal at which the transfer was initiated.

(6) The name of any third party from or to whom funds are transferred, unless the name is provided by the consumer in a form that the electronic terminal cannot duplicate on the receipt. A code may be used only if it is explained elsewhere on the receipt.

(b) *Periodic statements.* For each account from or to which electronic fund transfers can be made, the financial institution shall mail or deliver a statement for each monthly cycle in which an electronic fund transfer has occurred, but at least quarterly if no transfer has occurred. The information required by paragraph (b)(1) of this section may be provided on accompanying documents. The statement shall include the following, as applicable:

(1) For each electronic fund transfer occurring during the cycle,

(i) The amount of the transfer.

(ii)(A) For each transfer initiated by a consumer at an electronic terminal, the date the transfer was initiated and the date the transfer was debited or credited to the account, if different; or

(B) For each preauthorized electronic fund transfer or transfer initiated by telephone, the date the transfer was debited or credited to the account.

(iii) The type of transfer and the type of the consumer's account(s) from or to which funds were transferred. A code may be used only if it is explained elsewhere on or with the statement.

(iv) For each transfer initiated by a consumer at an electronic terminal, the location that appeared on the receipt or, if an identification (such as a terminal number) was used, that identification and one of the following descriptions of the terminal's location:

(A) The address, including number and street or intersection, city, and state or foreign country;

(B) A generally accepted name that refers to a specific location, such as a shopping center, airport, or railroad terminal, and the city, and state or foreign country; or

(C) The name of the entity, such as the financial institution [2] or seller of goods or services, at whose place of business the terminal is located, and the city, and state or foreign country.

[2] A financial institution holding the consumer's account must describe the location of electronic terminals located at its place of business by use of paragraphs (b)(1)(iv)(A) or (B) of this section.

V 44 0 C 1 5 7 9 UMI

(v) The name of any third party from or to whom funds are transferred.[3] If the transfer was initiated by a consumer at an electronic terminal, the statement shall include the name by which the third party was identified on the receipt, or the code, if one was used on the receipt, and the name of the third party.

(2) The number (s) of the consumer's account(s) for which the statement is issued.

(3) The total amount of any fees or charges, other than a finance charge under 12 CFR 226.7(b)(1)(iv), assessed against the account for electronic fund transfers or for the right to make such transfers during the statement period.

(4) The balance in the consumer's account at the beginning and at the close of the statement period.

(5) The address and telephone number to be used for inquiries or notice of errors preceded by "Direct Inquiries To:" or similar language. Alternatively, the address and telephone number may be provided on the notice of error resolution procedures set forth in § 205.8(b).

(6) If the financial institution uses the notice procedure set forth in § 205.10(a)(1)(iii), the telephone number the consumer may call to ascertain whether a preauthorized transfer to the consumer's account has occurred.

(c) *Documentation requirements for certain passbook accounts.* In the case of a consumer's passbook account which may not be accessed by any electronic fund transfers other than preauthorized transfers to a consumer's account, the financial institution may, in lieu of complying with paragraph (b) of this section, upon presentation of the consumer's passbook, provide the consumer with documentation by entering in the passbook or providing on a separate document the amount and date of each electronic fund transfer since the passbook was last presented.

(d) *Periodic statements for certain non-passbook accounts.* If a consumer's account, other than a passbook account, may not be accessed by any electronic fund transfers other than preauthorized transfers to a consumer's account, the financial institution need only provide the periodic statement required by paragraph (b) of this section quarterly.

§ 205.10 Preauthorized transfers.

(a) *Preauthorized transfers to a consumer's account.* (1) Where a consumer's account is scheduled to be credited by a preauthorized electronic fund transfer from the same payor at least once evey 60 days, except where the payor provides positive notice to the consumer that the transfer has been initiated, the financial institution shall notify the consumer, by one of the following means:

(i) By transmitting oral or written notice to the consumer, within 2 business days after the transfer, that the transfer occurred;

(ii) By transmitting oral or written notice to the consumer, within 2 business days after the date on which the transfer was scheduled to occur, that the transfer did not occur; or

(iii) By furnishing a telephone number that the consumer may call to ascertain whether or not a transfer has occurred, provided that

(A) the financial institution informs the consumer, before the first preauthorized electronic fund transfer to the consumer's account, of the right to receive positive or negative notice under this section,

(B) the consumer elects to receive notice by means by telephone inquiries, and

(C) the financial institution discloses, at that time and on each periodic statement required by § 205.9(b), the telephone number to be used by the consumer for this purpose.

(2) A financial institution that receives a preauthorized transfer of the type described in paragraph (a)(1) of this section shall credit the amount of the transfer no later than the business day on which the financial institution recieves the funds from the payor.

* * * * *

§ 205.11 Procedures for resolving errors.

(a) *Definition of error.* (1) For purposes of this section, the term "error" means:

(i) An unauthorized electronic fund transfer;

(ii) An incorrect electronic fund transfer from or to the consumer's account;

(iii) The omission from a periodic statement of an electronic fund transfer affecting the consumer's account that should have been included;

(iv) A computational or bookkeeping error made by the financial institution relating to an electronic fund transfer;

(v) The consumer's receipt of an incorrect amount of money from an electronic terminal;

(vi) Any transfer not identified in accordance with the requirements of § 205.9 or not recognized by the consumer as it is identified in any documentation required by §§ 205.9 and 205.10(a); or

(vii) A consumer's request for any documentation required by §§ 205.9 and 205.10(a) or additional information or clarification concerning an electronic fund transfer including any request for information, clarification, or copies of documents in order to assert an error within the meaning of paragraphs (a)(1) through (vi) of this section.

(2) For purposes of this section, the term "error" does not include a routine inquiry about the balance in the consumer's account or a request for copies of documentation or other information for tax or business purposes.

(b) *Notice* (1) A notice of an error is an oral or written notice from the consumer received by the financial institution no later than 60 days from transmittal of a periodic statement, or documentation under § 205.9(c), that first reflects the alleged error, or transmittal of additional information, clarification, or documentation as requested by the consumer under paragraph (a)(1)(vii) of this section. The notice must enable the financial institution to identify the consumer's name and account number and, except for errors asserted under paragraph (a)(1)(vii) of this section, must indicate the consumer's belief, and the reasons for that belief, that an error exists in the consumer's account, or that any documentation required by §§ 205.9 or 205.10(a) reflects an error, including the type, the date, and the amount of the error, to the extent possible.

(2) The financial institution may require that written confirmation be received within 10 business days of an oral notice of error if, when the oral notice is made, the consumer is advised of the requirement and the address to which the confirmation should be sent.

(c) *Investigation of errors.* (1) After the financial institution receives a notice of an error, the institution shall promptly investigate the alleged error, determine whether an error has occurred, and orally report or mail or deliver the results of the investigation and determination to the consumer.

(i) Within 10 business days after receipt of a notice of an error, or

(ii) Within 45 days after receipt of a notice of an error provided that:

(A) The financial institution, pending its investigation and determination of whether an error occurred, and within 10 business days after receiving notice of an error, provisionally recredits the consumer's account for the amount of the alleged error, including interest where applicable, but subject to the $50 liability provision of § 205.6(b) where an unauthorized electronic fund transfer may have occurred;

[3] A financial institution need not identify third parties whose names appear only on checks, drafts, or similar paper instruments deposited to the consumer's account at an electronic terminal.

(B) The financial institution gives the consumer the full use of funds provisionally recredited, including honoring any items drawn on those funds by the consumer prior to the time that the consumer receives the notice under paragraph (f)(2) of this section or, whether or not received, prior to the expiration of the time ordinarily required for transmission of the notice, whichever is earlier; and

(C) The financial institution, promptly but no later than 2 business days after the recrediting, orally reports or mails or delivers notice to the consumer of the amount and the date of the recrediting and of the fact that the consumer will have use of the funds pending the financial institution's determination of whether any error occurred.

(2) A financial institution that requires but does not timely receive written confirmation of an error need not provisionally recredit the consumer's account, but must comply with all other applicable requirements of this section, promptly but no later than 45 days after receipt of the oral notice of an error.

(d) *Speciol rules for investigation.* (1) The financial institution may finally correct the consumer's account in the amount or manner alleged by the consumer to be in error without investigation, but must comply with all other applicable requirements of this section.

(2) With regard to alleged errors concerning transfers to or from a third party with whom the financial institution does not have an agreement, a financial institution's review of its own records regarding the alleged error will satisfy the financial institution's investigation responsibilities under paragraph (c) of this section.

(3) A financial institution, in investigating an alleged error, may rely upon information supplied by third parties without the financial institution conducting its own independent investigation to verify the accuracy of such information.

(e) *Procedures where financiol institution determines that an error occurred.* If the financial institution determines that an error occurred, it shall

(1) Promptly, but in no event more than 1 business day after determining that an error occurred, correct the error (subject to the liability provisions of §§ 205.6 (a) and (b)), including the crediting of interest where applicable, and the refunding of any fees or charges imposed as a result of the error, and

(2) Promptly, but in no event later than the 10-business-day or 45-day time limits, orally report or mail or deliver to the consumer notice of the correction or, if applicable, notice that a provisional credit has been made final. This requirement may be satisfied by a notice on a periodic statement that is mailed or delivered within the 10-business-day or 45-day time limits and that clearly identifies the correction to the consumer's account.

(f) *Procedures where financial institution determines that no error occurred.* If the financial institution determines that no error occurred or that the error occurred in a manner or amount differing from that described by the consumer, it shall

(1) Deliver or mail to the consumer within 3 business days after concluding its investigation, but in no event later than the 10-business-day or 45-day time limits, a written explanation of its findings, which must include notice of the consumer's right to request the documents upon which the institution relied in reaching its conclusion;

(2) If the consumer's account has been provisionally recredited, orally report or mail or deliver to the consumer, upon debiting a provisionally recredited amount, notice of the date and amount of any such debiting and of the fact that the financial institution will honor any items that have been drawn on the provisionally recredited funds prior to the time that the consumer received the notice or prior to the expiration of the time ordinarily required for transmission of the notice, whichever is earlier; and

(3) Upon the consumer's request, promptly mail or deliver to the consumer copies of the documents, if possible, or a report containing the data upon which the financial institution relied in reaching its conclusion.

(g) *Withdrawal of a notice of on error.* The financial institution need not comply with the requirements of paragraphs (c), (d), (e), and (f) of this section if the consumer discovers that no error occurred and voluntarily withdraws the notice of the error.

(h) *Reassertion of an error.* A financial institution need not comply again with the requirements of this section if the consumer reasserts an error previously alleged regardless of the manner in which it is subsequently reasserted.

(i) *Relation to Truth in Lending.* Where an electronic fund transfer also involves an extension of credit under an agreement between a consumer and a financial institution to extend credit when the consumer's account is overdrawn or to maintain a specified minimum balance in the consumer's account, the financial institution must comply with the requirements of this section rather than with those of 12 CFR 226.2(j), 226.2(cc), and 226.14(a) governing error resolution.

Appendix A—Model Disclosure Clauses

* * * * *

Section A(8)—Disclosure of Right to Receive Documentation of Transfers (§§ 205.5(b)(2), 205.7(a)(6))

* * * * *

(b) *Preauthorized credits.* If you have arranged to have direct deposits made to your account,

(we will let you know if the deposit is (not) made as scheduled.)

(the person or company making the payment will tell you every time they send us the money.)

* * * * *

By order of the Board of Governors, October 5, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-31770 Filed 10-12-79; 8:45 am]

BILLING CODE 6210-01-M

V 4 4 0 C 1 5 7 9 UMI

V 44 0 C 15 7 9 UMI

Reader Aids

Federal Register

Vol. 44, No. 200

Monday, October 15, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662.....1
56663-56918.....2
56919-57064.....3
57065-57378.....4
57379-57906.....5
57907-58492.....9
58493-58670.....10
58671-58888.....11
58889-59194.....12
59195-59488.....15

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163).....56673
10900 (Amended by EO 12163).....56673
10973 (Revoked by EO 12163).....56673
11223 (Amended by EO 12163).....56673
11269 (Amended by EO 12164).....56681
11579 (Amended by EO 12163).....56673
11846 (Amended by EO 12163).....56673
11958 (Amended by EO 12163).....56673
12065 (Amended by EO 12163).....56673
12087 (Superseded by EO 12165.....58671
12092 (Amended by EO 12161).....56663
12140 (Amended by EO 12162).....56665
12161.....56663
12162.....56665
12163.....56673
12164.....56681
12165.....58671

Proclamations:
4693.....56669
4694.....56671
4695.....58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163).....56673

Presidential Determination:
No. 79-17 of September 28, 1979.....56667

5 CFR

340.....57379
353.....56683
451.....58889
890.....57379

6 CFR

705.....56900, 58891
706.....56910, 58891

Proposed Rules:
702.....59166
703.....59166
704.....59166

7 CFR

2.....57907, 58495, 58679
6.....58893
15a.....57907
16.....56919
29.....57907
282.....59052
421.....58893
905.....59195
906.....57909
908.....57065, 58680
910.....57383, 58893
929.....56683
932.....58495
944.....59195
966.....58894, 59197
979.....56684
982.....57065
1139.....57066
1421.....56305, 57383
1464.....57909, 58894
1822.....56919, 59198
1861.....56920
1901.....59198
1941.....58895
1942.....56684
1944.....59198
1951.....56306
1980.....56920, 58896

Proposed Rules:
6.....56943
20.....57931
27.....57932
272.....57414
273.....57414, 58915
318.....57415
725.....57932
729.....57416
981.....57417
1065.....57103
2853.....58916
2858.....58916

8 CFR

100.....56311

Proposed Rules:
103.....56368

9 CFR

78.....57384
92.....58896
113.....58897

Proposed Rules:
92.....58918

10 CFR

50.....57911, 57912
51.....56312
211.....56888, 57067
212.....57069
320.....58900
476.....57370
570.....56921

Proposed Rules:
211 ..... 56369, 59240
214 57103
220 56369
375 56953
376 56953

11 CFR

Proposed Rules:
100 59162
110 59162
114 59162

12 CFR

Ch. VII 56691
201 57385
202 57070
205 59474
207 56922
220 56922
221 56922
224 56922
226 56312
263 56685
265 ..... 56313, 59227
346 57385
545 57386
704 58496
742 57071

Proposed Rules:
Ch. II 58744
Ch. V 57419
205 59464
545 58744

13 CFR

121 57914

Proposed Rules:
111 58745

14 CFR

39 ..... 56315-56322, 57072, 57073, 58680-58684
71 ..... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686
73 57080-57082
75 57082-57084
97 57918
207 58499
208 58499
212 ..... 57386, 58500
214 ..... 57387, 58500
221a 57085
241 58500
287 57085
1214 56923

Proposed Rules:
Ch. I 56369
Ch. V 56377
11 ..... 56370, 59242
21 ..... 56370, 59242
37 ..... 56370, 59242
39 57105
71 ..... 56373-56376, 57106, 57934-57938
73 58746
93 56376
233 59242
270 59242
302 59242

15 CFR

30 58686
370 59227
371 59227
374 59227
377 59227

16 CFR

13 ..... 56323, 56923, 57920, 58901-58906
1700 57920

Proposed Rules:
Ch. II 57352
13 ..... 58516, 58518, 58747

17 CFR

210 ..... 57030, 57037
211 57038
231 56924
240 57387
241 56924
249 ..... 57374, 57387
270 ..... 58502, 58907

Proposed Rules:
240 56953
270 58521

18 CFR

2 56926
154 57726
201 57726
204 57726
271 56926
273 59230
274 59230
282 ..... 57726, 57754, 57778
290 58687

Proposed Rules:
282 ..... 57783, 57786, 57788 58749
292 57107

19 CFR

4 ..... 57086, 57087
101 57088

Proposed Rules:
134 58527
155 57044
159 57044
177 56715
201 59392
207 59392

20 CFR

404 56691
675 56866
680 56866

Proposed Rules:
615 56715

21 CFR

10 59174
12 59174
13 59174
14 59174
15 59174
16 59174
109 57389
193 59231
510 57389
558 57389
1316 56324

Proposed Rules:
166 57422
203 58918
310 58919
312 58919
314 58919
890 ..... 57939, 57940, 58919
1020 57423

22 CFR

515 58708

Proposed Rules:
216 56378

23 CFR

140 59232

Proposed Rules:
771 59438

24 CFR

Ch. XIII 58507
42 56324
203 57089
205 57090
207 57090
213 ..... 56927, 57089, 57090
220 57090
221 57090
232 57090
234 57089
235 57090
236 57090
240 58503
241 57090
242 57090
244 57090
250 57090
290 56608
403 58503
510 58506
570 56325
803 59112
841 57922
880 59408
888 ..... 57925, 59112

Proposed Rules:
203 58527
881 59246
888 58528

25 CFR

31a 58096
31b 58101

26 CFR

1 ..... 57390, 57925
7 57390

Proposed Rules:
Ch. I 56502
1 ..... 57423, 57427
31 57940
301 56715

27 CFR

9 56692
201 56326

28 CFR

0 ..... 57926, 58908
2 58507
50 57926

Proposed Rules:
2 58528
16 ..... 58920, 58921

29 CFR

14 57397
2610 58908
1604 58073
2703 57348

30 CFR

Ch. VII 57927
701 58783
741 58783

31 CFR

Proposed Rules:
Ch. II 59246

32 CFR

51 56328
199 58709
231 56328
706 ..... 56929, 57400
901 56930

Proposed Rules:
56 58750

33 CFR

117 59233
127 ..... 57092, 57927
147 57927
165 ..... 57928, 57929

35 CFR

133 56916
253 56693

Proposed Rules:
133 57941

36 CFR

50 56934
1228 58088

Proposed Rules:
Ch. IX 56954, 58528

38 CFR

3 58709

Proposed Rules:
3 58758
36 ..... 56329, 58508

39 CFR

111 58509

40 CFR

52 ..... 56694, 57401
65 56696
81 57929
117 ..... 58711, 58909
231 58076
257 58910
413 56330
600 57358

Proposed Rules:
40 56955
50 56730
51 ..... 56957, 57107
52 ..... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247
55 ..... 56721, 58759
60 ..... 57792, 58602
61 ..... 58642, 58661
62 ..... 57118, 57948
81 ..... 57942, 58758, 58922
120 57428
122 56957
162 57429
250 ..... 56724, 58923
600 57362

707 56856
713 59106

41 CFR

Ch. 101 ..... 56699, 59192
101-29 58910

Proposed Rules:
Ch. 25 56387
9 57119
9-7 57119
101-40 59247
109 57121
109-60 57121

42 CFR

57 56937
71 58911
456 56333

Proposed Rules:
74 58923
405 58923

43 CFR

221 56339
2880 58126
3400 56339
3410 56339
3420 56339
3422 56339
3430 56339
3440 56339
3450 56339
3460 56339
3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:
4 57948
34 59096
1780 56622
2800 58106
3100 58638

44 CFR

64 ..... 56354, 57092, 57093
65 57094
67 ..... 56366, 56701

Proposed Rules:
67 ..... 56957, 57429-57432

45 CFR

Ch. I 56938
20 58912
55 58912
61 58912
80 58509
82 58912
116 59152
116a 59152
304 56939
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:
Ch. VI 56387
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130

46 CFR

154 59234
154a 59234
503 57411

Proposed Rules:
66 57137
283 58928
355 58928

47 CFR

0 57096
2 58712
18 56699
61 57096
73 ..... 57097, 58718-58729, 58912
74 58729
90 ..... 57098, 58737, 59234
97 58742

Proposed Rules:
0 57636
21 58929
73 ..... 57138, 57636, 58762-58764
76 58766

49 CFR

192 57100
213 56342
301 59239
571 57100
801 ..... 56340, 57930
1011 58511
1033 ..... 56343, 56939, 58913, 58914
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:
Ch. X 57139
110-189 58767
172 58767
173 58767
195 57952
575 56389
622 59438

50 CFR

13 59080
17 ..... 56862, 58866, 58868, 59080
32 ..... 56940, 56941
216 57100
611 57101
652 56941
653 ..... 56700, 56701
810 59086

Proposed Rules:
17 56618
285 57140
611 59257

V 44 O C 15 7 9 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

53438 9–13–79 / Criteria for classification of solid waste disposal facilities and practices

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Health Care Financing Administration—

41636 7–17–79 / Medicaid providers; disclosure of information and access to records; requirements and conditions for participation

INTERSTATE COMMERCE COMMISSION

53513 9–14–79 / Property broker entry control

JUSTICE DEPARTMENT

Parole Commisssion—

55002 9–24–79 / Federal prisoners; advance of presumptive release date upon finding of "superior program achievement"

LABOR DEPARTMENT

Occupational Safety and Health Administration—

41427 7–17–79 / Standards; occupational exposure to chlorine; lifting of administrative stay

List of Public Laws

Last Listing October 12, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.R. 3920 / Pub. L. 96–84 To amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes. (Oct. 10, 1979; 93 Stat. 653) Price $.75.

S. 233 / Pub. L. 96–85 To amend the International Travel Act of 1961 to authorize additional appropriations, and for other purposes. (Oct. 10, 1979; 93 Stat. 655) Price $.75

V 44 OC 15 79 UMI

10-16-79
Vol. 44 No. 201
Pages 59489-59894

Federal Register

Tuesday
October 16, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue. **An interpreter for hearing impaired persons will be present for the November 16 briefing.**

59509 **Coal Tar Hair Dyes** HEW/FDA issues warning statement on the labels containing 4-methoxy-m-phenylenediamine; effective 4–16–79

59489 **Special Supplemental Food Program** USDA/FNS issues final funding formula for women, infants and children; effective 10–16–79

59884 **Urban Crime Prevention** ACTION and Justice/LEAA jointly propose developing and administering guidelines for their program; comments by 12–17–79 (Part IV of this issue)

59523 **Income Tax** Treasury/IRS provides final rule relating to tax-exempt mutual or cooperative telephone companies

59524 **Income Tax** Treasury/IRS provides final rule regarding the constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202–523–5240

Highlights

59528 **Offenders** Justice/U.S. Parole Commission clarifies the condition of parole that prohibits parolees from having firearms in their possession; effective 11–1–79

59530 **Radio and TV Reception** FCC adopts technical standards and certification procedures; effective 11–19–79

59570 **TV Interface Device** FCC proposes to amend its rules governing equipments intended to utilize the home television receiver as a video display; comments by 11–19–79

59560 **Fatality and Hospital Accidents** Labor/OSHA proposes to amend its reporting requirements; comments by 11–15–79

59529 **Veterans** VA clarifies rules on the Small Business Act as it applies to the procurement of architect-engineering services; effective 10–10–79

59529 **Requisitioning** GSA changes mandatory requirements to reduce economical unfeasibility, effective 10–16–79; comments by 11–15–79

59504 **Coal Mining—Small Businesses** SBA establishes size standard for set-aside leases of Government owned coal land; effective 10–16–79

59552 **Line of Business Program** FTC proposes certain rules prescribing the confidential handling and use of reports; comments by 12–17–79

59704 **Treasury Bonds of 1994** Treasury/Sec'y announces auction

59548 **Meats** USDA/FSQS announces its proposal to revise certain official U.S. standards for grades and the related grading regulation; comments by 12–17–79

59685 **Privacy Act** NRC publishes documents affecting systems of records

59662 **Improving Government Regulations** HEW/Secy publishes procedures used to implement the Executive Order 12088 and the discussion of and response to public comments received; comments by 12–17–79

59738 **Sunshine Act Meetings**

Separate Parts of This Issue

59742 **Part II, Treasury/Customs**
59764 **Part III, EPA**
59884 **Part IV, ACTION and Justice/LEAA**
59890 **Part V, Labor, ETA**

V 44 0C 16 79 UMI

Contents

Federal Register
Vol. 44, No. 201
Tuesday, October 16, 1979

ACTION
NOTICES
59884 Joint ACTION/LEAA urban crime prevention program for 1980 FY; proposed guideline

Agriculture Department
See Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service.

Animal and Plant Health Inspection Service
RULES
Animal exports:
59498 Ports of embarkation; deletion; St. Petersburg, Fla.

Bonneville Power Administration
NOTICES
59584 Firm electric energy and system reserve energy from Federal Columbia River Power System (FCRPS); policy and allocation formula; inquiry; correction

Civil Aeronautics Board
RULES
Accounts and reports for certificated air carriers; uniform system:
59505 Operating statistical elements; GAO approval
NOTICES
59738 Meetings; Sunshine Act (2 documents)

Commerce Department
See National Oceanic and Atmospheric Administration.

Consumer Product Safety Commission
PROPOSED RULES
59557 Cellulose insulation; labeling requirement

Customs Service
PROPOSED RULES
59762 Antidumping and countervailing duties; revision; conference participation procedures
59742 Antidumping duties; revision

Defense Department
See Navy Department.

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
59551 Crude oil, upper tier; phased deregulation; hearing cancelled
NOTICES
Powerplant and industrial fuel use; existing powerplant or installation; classification request:
59584 Occidental Chemical Co.
Remedial orders:
59585 Imperial Refineries Corp.
59585 Universal Inc.

Education Office
NOTICES
Meetings:
59668 Education of Disadvantaged Children National Advisory Council

Employment and Training Administration
PROPOSED RULES
59890 Adverse effect wage rate methodology; public hearings

Energy Department
See also Bonneville Power Administration; Economic Regulatory Administration; Energy Research Office; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department; Southeastern Power Administration.
NOTICES
Consent orders:
59586 Conoco Inc. (2 documents)
59586 Exxon Co., U.S.A.
Meetings:
59644 International Energy Agency Industry Working Party

Energy Research Office
NOTICES
Meetings:
59642 Energy Research Advisory Board

Environmental Protection Agency
RULES
Air quality implementation plans; delayed compliance orders:
59528 West Virginia
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
59564 Maryland
59561 Nevada
Toxic Substances:
59764 Premanufacture or importation notification requirements and review procedurea; notice forms and reporting provisions; reproposal
Water quality standards, State; adoptions and approvals:
59565 North Carolina
NOTICES
Air quality criteria:
59645 Chlorinated hydrocarbons; inquiry; 1,1,2-trichloro-1,2,2-trifluoroethane; correction
Meetings:
59645 Interagency Toxic Substances Data Committee; date change

Equal Employment Opportunity Commission
NOTICES
59738 Meetings; Sunshine Act

Federal Communications Commission
RULES
Communications equipment:
59530 Radio frequency devices; standards for control of interference to radio and TV reception

Radio services, special:
59546 Aviation services; helicopters, frequency for air-to-air communications

PROPOSED RULES

Common carrier services:
59578 MTS and WATS market structure; extension of time
Communications equipment:
59570 Home television receiver; use as video display; TV interface device
Practice and procedure and radio broadcasting:
59568 Ex parte communications
Radio broadcasting:
59580 Educational FM broadcast stations, noncommercial; minimum operating schedule; extension of time
Radio services, special:
59581 Maritime services; Class III-B public coast stations; exemption from watch requirements; Coast Guard recommendation
Radio stations; table of assignments:
59579, 59580 Texas; extension of time (2 documents)

Federal Election Commission

NOTICES

59738 Meetings; Sunshine Act

Federal Emergency Management Agency

NOTICES

Disaster and emergency areas:
59645 Connecticut
59645 Florida
59646 North Carolina
59646 Texas

Federal Energy Regulatory Commission

NOTICES

Hearings, etc.:
59587 Alabama-Tennessee Natural Gas Co. (2 documents)
59587 Central Illinois Light Co.
59597 Consolidated Edison Co. of New York, Inc.
59598 East Tennessee Natural Gas Co. et al.
59599 Eastern Shore Natural Gas Co.
59599 El Paso Natural Gas Co.
59597 Everman, C. Robert
59600 Great Lakes Gas Transmission Co.
59600 Hampshire Gas Co.
59600 Idaho Power Co.
59600, 59601 Indiana & Michigan Electric Co. (2 documents)
59601 Kentucky West Virginia Gas Co.
59601 Michigan Wisconsin Pipe Line Co.
59602 Monogahela Power Co. et al.
59602 Montana-Dakota Utilities Co.
59630 Southern Natural Gas Co.
59604 Texas Eastern Transmission Corp.
59603 Utah Power & Light Co.
59603 Valley Gas Transmission, Inc.
59603 Western Gas Interstate Co.
59604 York Haven Power Co.
59738 Meetings; Sunshine Act
Natural Gas Policy Act of 1978:
59603 Alternative filing requirements application receipts
59588, 59605-59623, 59631 Jurisdictional agency determinations (5 documents)

Federal Maritime Commission

NOTICES

59738 Meetings; Sunshine Act

Federal Reserve System

NOTICES

Applications, etc.:
59647 Marine Corp.
59646 St. Joseph Bank & Trust Co. et al.
59647 Tri City Bankshares Corp.
59646 United Virginia Bankshares Inc. et al.

Federal Trade Commission

PROPOSED RULES

59552 Line of business reports program and quarterly financial reports program; confidentiality

Food and Drug Administration

RULES

Animal drugs, feeds, and related products:
59507 Jensen-Salsbery Laboratories; sponsor zip code
59507 Levamisole hydrochloride bolus
59507, 59508 Levamisole hydrochloride soluble drench powder (2 documents)
59508 Piperazine adipate powder
Cosmetics:
59509 Hair dyes, coal tar; warning statements
Food additives:
59505 Ethylene/hexene-1 and ethylene/octene-1 copolymers
59506 Octadecyl 3, 5-di-*tert*-butyl-4-hydroxyhydrocinnamate

NOTICES

59649 GRAS or prior-sanctioned ingredients; information availability
Meetings:
59648 Advisory committees, panels, etc.
59650 Consumer participation; information exchange

Food and Nutrition Service

RULES

Child nutrition programs:
59489 Women, infants and children; special supplemental food program; food funding formula

Food Safety and Quality Service

RULES

Meat and poultry inspection, mandatory:
59498 Ante-mortem inspection of meat; diethylstilbestrol certification requirements; revocation

PROPOSED RULES

Meats, prepared meats, and meat products:
59548 Grading, certification, and standards

General Services Administration

RULES

Property management:
59529 Ordering items from GSA supply sources; temporary

NOTICES

Property transfer; wildlife conservation:
59647 Central Valley Project, San Luis Canal right-of-way, Calif.
59648 Norton Reservoir, Kans.

Health, Education, and Welfare Department

See also Education Office; Food and Drug Administration; Health Resources Administration; Health Services Administration; National Institutes of Health; Public Health Service.

NOTICES

59662 Improving Government regulations; final report and inquiry
59653 Information collection and data acquisition activity, description; inquiry

Health Resources Administration

NOTICES

59652 Health systems agency application information; availability; correction
Meetings:
59650 Advisory committees; November

Health Services Administration

NOTICES

Meetings:
59652 Advisory committees; November

Hearings and Appeals Office, Energy Department

NOTICES

Applications for exception:
Cases filed
(Editorial note: This document, appearing at page 57956 in the **Federal Register** for October 9, was mistakenly listed in that issue's table of contents under Hearings and Appeals Office, Interior Department.)

Heritage Conservation and Recreation Service

NOTICES

59674 Historic Places National Register; additions, deletions, etc.

Housing and Urban Development Department

NOTICES

Authority delegations:
59670 Assistant Secretary for Administration; disaster relief activities; temporary housing; procurement and contracting
59670 Director, Procurement and Contracts office; disaster relief activities; temporary housing; purchase and procurement

Indian Affairs Bureau

PROPOSED RULES

59559 Navajo, Hopi, and Zuni reservations; business practices, exemptions

Interior Department

See also Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau.

NOTICES

Environmental statements; availability, etc.:
59676 Emery generating units 3 and 4; Utah

Internal Revenue Service

RULES

Employment taxes:
59524 Social security taxes; constructive filing of waivers of exemption by tax-exempt organizations
Income taxes:
59523 Mutual or cooperative telephone companies; income

NOTICES

Organization and functions:
59704 Senior Executive Service Performance Review Board; change in membership

International Communication Agency

NOTICES

Meetings:
59676 Public Diplomacy Advisory Commission

International Trade Commission

NOTICES

59739 Meetings; Sunshine Act

Interstate Commerce Commission

PROPOSED RULES

Rail carriers:
59581 Boxcars and XF cars; incentive per diem charges

NOTICES

59707 Fourth section applications for relief
Motor carriers:
59706 Fuel costs recovery, expedited procedures
59707 Permanent authority applications
59737 Permanent authority applications; correction

Justice Department

See Law Enforcement Assistance Administration; Parole Commission.

Labor Department

See also Employment and Training Administration; Occupational Safety and Health Administration.

NOTICES

Adjustment assistance:
59677 Al-Mae Co.
59679 Buffalo Brake Beam Co. et al.
59677 Campbell Mining Co.
59678 Congress Textile Printers, Inc.
59678 Donna Coal Corp.
59678 Fall River Knitting Mills
59679, 59680 J & J Coal Co., Inc. (2 documents)
59680 Jodi Scott Dress Co.
59680 John Kiss & Sons Textile Mills, Inc.
59681 L. B. Evans' Son Co.
59681 Lamson & Sessions Co.
59681 Max Kirmayer & Sons, Inc.
59682 Miller Shoe Co.
59682 Newark Textile Printing, Inc.
59682 Olis Knitting Mills, Inc.
59683 R & R Cedar Products
59683 Tami Sportswear, Inc.
59684 Todd Shipyards Corp.
59684 Uniroyal Tire Co.

Land Management Bureau

RULES

Organization and functions:
59530 Office hours; temporary extension

V 44 OCT 16 1979 UMI

NOTICES
Alaska native claims selections; applications, etc.:
59671 Brevig Mission Native Corp.
59671 Cook Inlet Region, Inc.
Outer Continental Shelf:
59671 Oil and gas lease sales; North Atlantic; correction

Law Enforcement Assistance Administration
NOTICES
59884 Joint ACTION/LEAA urban crime prevention program for 1980 FY; proposed guideline

National Institutes of Health
NOTICES
Meetings:
59653 Arthritis National Advisory Board
59652 Cancer Institute, National; advisory committees
59652 Cancer National Advisory Board
59653 Dental Research Institute, National; advisory committees
59653 Diabetes National Advisory Board

National Oceanic and Atmospheric Administration
PROPOSED RULES
Fishery conservation and management:
59582 Foreign fishing; Northwest Atlantic ocean; minimum mesh size for trawl nets

Navajo and Hopi Indian Relocation Commission
PROPOSED RULES
59560 Operations and relocation procedures; hearings; grievance procedures; extension of time

Navy Department
NOTICES
Meetings:
59583 Chief of Naval Operations Executive Panel Advisory Committee
Patent licenses, exclusive:
59583 Duntz, John L., Jr.
59583 Poly-Scientific Litton Systems

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
59686 Niagara Mohawk Power Corp.
59686 Philadelphia Electric Co.
59687 University of California at Berkeley
59687 Virginia Electric & Power Co.
59686 Differing professional opinions, proposed agency policy and procedures; inquiry
Meetings:
59685 Reactor Safeguards Advisory Committee
59685 Privacy Act; systems of records

Occupational Safety and Health Administration
PROPOSED RULES
Health and safety standards:
59561 Guarding of low-pitched-roof perimeters; standards; extension of time
59560 Injuries and illnesses, recording and reporting; fatality or multiple hospitalization accidents
NOTICES
Meetings:
59676 Occupational Safety and Health Administration National Advisory Committee

Parole Commission
RULES
Federal prisoners; paroling, recommitting and supervising:
59528 Firearms; possession by parolees; statute or ordinance prohibitions
59527 Presumptive release date; superior program achievement finding; correction

Public Health Service
NOTICES
Organizations, functions, and authority delegations:
59669 Administrator, Health Services Administration, et al.; authorities for community hospital construction funds
59669 Director, National Institutes of Health; authorities for National Research Institutes

Securities and Exchange Commission
NOTICES
Hearings, etc.:
59689 Nassau Fund
59687 Nel Cash Management Account, Inc.
Self-regulatory organizations; proposed rule changes:
59690 Boston Stock Exchange Clearing Corp.
59692 Philadelphia Stock Exchange, Inc.

Small Business Administration
RULES
Administration:
59499 Authority delegations to conduct program activities in field offices
Small business size standards:
59504 Coal mining firms; Federal coal land set-aside leases
NOTICES
Applications, etc.:
59701 Roger Cox Small Business Investment Co.

Southeastern Power Administration
NOTICES
59642 Georgia-Alabama System of Projects; proposed power marketing policy

State Department
NOTICES
International conferences:
59702 Private sector representatives on U.S. delegations, list
Meetings:
59702 International Radio Consultative Committee
59701 Overseas Schools Advisory Council

Treasury Department
See also Customs Service; Internal Revenue Service.
NOTICES
Bonds, Treasury:
59704 1994 series

Organization and functions:
59705 Legal Division; Senior Executive Service Performance Review Board; appointment of members

Unemployment Compensation, National Commission
NOTICES
59684 Meetings

Veterans Administration
RULES
59529 Procurement; architect-engineering services; burial of unclaimed remains allowance increase
NOTICES
Environmental statements; availability, etc.:
59705 Bronx, N.Y.; VAMC, 120-bed nursing home care unit
59706 Fresno, Calif; VAMC, outpatient care unit
59706 Long Beach, Calif; VAMC, research and education building

Wage and Price Stability Council
NOTICES
Meetings:
59583 Pay Advisory Committee

MEETINGS ANNOUNCED IN THIS ISSUE

COUNCIL ON WAGE AND PRICE STABILITY
59583 Pay Advisory Committee, 10–17, 10–22 and 10–29–79

DEFENSE DEPARTMENT
Navy Department—
59583 Chief of Naval Operations (CNO) Executive Panel Advisory Committee, Command, Control and Communications Sub-Panel, 10–30 and 10–31–79

ENERGY DEPARTMENT
59644 Voluntary Agreement and Plan of Action to implement the International Energy Program, 10–24 and 10–25–79
Office of Energy Research—
59642 Energy Research Advisory Board, 11–1 and 11–2–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Food and Drug Administration—
59650 Consumer Participation, 11–8–79
59648 Miscellaneous External Drug Products Panel Advisory Committee, 10–28 and 10–29–79
Health Resources Administration—
59650 Advisory Council and Subcommittees, 11–8 and 11–9–79
Health Services Administration—
59652 Maternal and Child Health Research Grants Review Committee, 11–14 and 11–15–79
National Institutes of Health—
59653 National Arthritis Advisory Board, 12–6–79
59652 National Cancer Advisory Board's Working Group on Board Activities and Agenda, 10–26–79
59652 National Cancer Institute Advisory Committees, 10–31, 11–5, 11–15, 12–10 and 12–14–79
59653 National Diabetes Advisory Board, 12–4 and 12–5–79
59653 National Institute of Dental Research Programs Advisory Committee, Subcommittee on Periodontal Disease, 12–13 and 12–14–79
Office of Education—
59668 National Advisory Council on the Education of Disadvantaged Children, 11–8 and 11–9–79

INTERNATIONAL COMMUNICATION AGENCY
59676 U.S. Advisory Commission on Public Diplomacy, 11–1 and 11–2–79

LABOR DEPARTMENT
Occupational Safety and Health Administration—
59676 National Advisory Committee on Occupational Safety and Health, 11–1 and 11–2–79

NATIONAL COMMISSION ON UNEMPLOYEMENT COMPENSATION
59684 Meeting, 10–26 and 10–27–79

NUCLEAR REGULATORY COMMISSION
59685 Reactor Safeguards Advisory Committee, Waste Management Subcommittee, 10–31–79

STATE DEPARTMENT
59701 Overseas Schools Advisory Council, 12–13–79
59702 Study Group 5 of the U.S. Organization for the International Radio Consultative Committee, 11–5–79

RESCHEDULED MEETINGS

ENVIRONMENTAL PROTECTION AGENCY
59645 Interagency Toxic Substances Data Committee, rescheduled from 11–6 to 11–13–79

TREASURY DEPARTMENT
Customs Service—
59762 Procedures for Conference to Antidumping and Countervailing Duty Regulations, rescheduled from 10–24 and 10–25–79 to 11–5 and 11–6–79

HEARINGS

LABOR DEPARTMENT
Employment and Training Administration—
59890 Adverse Effect Wage Rate Methodology, November hearings

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION
59560 Revision of rules regarding Commission, 10–4–79

CANCELLED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
59551 Phased Deregulation of Upper Tier Crude Oil, 10–16–79

V 44 0 C 16 7 9 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
246 59489
Proposed Rules:
2853 59548
9 CFR
91 59498
309 59498
10 CFR
Proposed Rules:
211 59551
13 CFR
101 59499
121 59504
14 CFR
241 59505
16 CFR
Proposed Rules:
Ch. I 59552
1404 59557
19 CFR
Proposed Rules:
153 (2 documents) 59741, 59762
155 59762
159 59762
20 CFR
Proposed Rules:
665 59889
21 CFR
177 59505
178 59506
510 59507
520 (4 documents) 59507, 59508
740 59509
25 CFR
Proposed Rules:
252 59559
700 59560
26 CFR
1 59523
31 59524
28 CFR
2 (2 documents) 59527, 59528
29 CFR
Proposed Rules:
1904 59560
1926 59561
40 CFR
65 59528
Proposed Rules:
52 (2 documents) 59561, 59564
120 59565
720 59764
41 CFR
Ch. 101 59529
8-4 59529
43 CFR
1821 59530
47 CFR
2 59530
15 59530
87 59546
Proposed Rules:
1 59568
15 59570
63 59578
73 (4 documents) 59568, 59579, 59580
81 59581
49 CFR
Proposed Rules:
1036 59581
50 CFR
Proposed Rules:
611 59582

Rules and Regulations

Federal Register
Vol. 44, No. 201
Tuesday, October 16, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Special Supplemental Food Programs for Women, Infants, and Children (WIC)

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final Program (Food) Funding Formula for the Special Supplemental Food Program for Women, Infants and Children (7 CFR Part 246).

SUMMARY: The U.S. Department of Agriculture is publishing the final decision on a formula to be used in determining the program (food) funding level for each State agency participating in the Special Supplemental Food Program for Women, Infants and Children (WIC).

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: Director, Supplemental Food Programs Division, Food and Nutrition Service, USDA, Washington, D.C. 20250 (202) 447–8206.

SUPPLEMENTARY INFORMATION: The Secretary of Agriculture issued notices in proposed (October 11, 1978) and final (January 2, 1979) form which described the components and the operation of the formula used to allocate program (food) funds to participating State agencies. Subsequent to issuance of the final notice, it was brought to the Department's attention that the description of the mathematical process used to run the formula was not totally accurate. The Department then issued a clarification notice in 44 FR 18253 (March 27, 1979) which more clearly explained the process followed in the allocation of funds.

As the Department received only 24 comments on the October 11 proposed notice, a number of questions were not addressed in these comments which significantly impact on participating agencies. For this reason, and to assure that interested persons understood and had an additional opportunity to comment on the complete formula process, the Department reissued the formula description on June 19, 1979, at 44 FR 35231 for public comment. The reproposed program funding formula notice included a full discussion of all components and the operation of the formula. The comment period ended August 3, 1979, to allow the Department sufficient time to make a decision on the final program funding formula before the Fiscal Year 1980 first quarter funding allocation. This document discusses the comments received and the final formula chosen subsequent to the reproposal. Upon request, the Department will furnish information concerning the formula, such as data bases, to interested parties.

I. Discussion of the Comments

The Department received a total of 48 comment letters within the official comment period. The commenters included 15 State agencies, 12 local agencies, 3 Congressmen, 3 Regional Offices, 5 special interest groups, 6 public interest groups, 2 medical groups and 2 individuals. Several States apparently organized their comment efforts to emphasize their suggestions for improving the formula as a number of comment letters were very similar to one another.

A review of the comments received revealed that the majority of the commenters agreed with the data base elements previously selected and supported the continued use of the food funding formula in FY '80 as outlined in the June 19, 1979 (44 FR 35231) notice with some minor modifications. There was no general agreement on any alternative formula proposal as a substantially equal number of comments were received in favor and in opposition of all alternatives.

To provide an orderly discussion of the comments received and the decisions made, this notice will address each component of the program funding formula separately and then discuss the final program funding formula process in its entirety. If further background information is needed in regard to this formula and its components, refer to the proposed notice dated June 19, 1979.

II. Description of the Funding Formula Components

A. *Children Under Five Below 200 Percent Poverty.* The proposed program funding notice suggested two possible methods for computing this poverty and population indicator. Both methods use 1975 data provided by the U.S. Bureau of Census Survey of Income and Education (SIE) for all States.

Of the two methods proposed in the June 19 notice (44 FR 35231), the majority of the commenters overwhelmingly favored using the second method, stating it was the most equitable as well as most defensible of the two methods since it does not assume a constant birth rate as is done through the first method.

A third method of computing this number of children under five below 200 percent poverty was proposed by one commenter as a viable alternative to the two previously discussed methods. This method would incorporate the use of projections made by the National Center of Health Statistics (NCHS) of the total number of children under age five in each State as well as SIE alternate method number two. Comparing the two figures, a calculation would be made to determine the percent of children under five below 200 percent poverty in each State. The derived percentage would then be multiplied by the most recent projection of the total number of children under five in that State to get a new figure indicative of the number of children under five below 200 percent poverty. This method would permit the data to be updated annually as NCHS makes these projections each year.

After a thorough review of the comments regarding the computation of the children under age five below 200 percent poverty factor, the Department had adopted the use of alternative number two as this method is subject to fewer assumptions than other alternatives. Using the data provided by SIE on the number of children under 18 years below 200 percent of poverty and the number of children five to 17 years below 200 percent of poverty, the Department will compute the number of children under five below 200 percent of poverty by subtracting the number of children 5 to 17 years from the number

of children under 18. The resulting figure will be incorporated into the funding formula.

Two commenters opposed the method used to compute Puerto Rico's and the Virgin Islands' children under five below 200 percent poverty data. This opposition was partly due to an incorrect computation for Puerto Rico which was acknowledged by the Department and corrected in the third quarter. Therefore, as no other alternative was offered, and the Department believes the method is reasonable, the decision has been made to continue the data for these two jurisdictions described below.

The U.S. Bureau of Census Survey of Income and Education 1975, will be used to obtain a total number of children under five in Puerto Rico. In order to determine the number of these children who fall below 200 percent of poverty, the Department will apply the percentage of children in Puerto Rico eligible to receive free and reduced price school lunches, which represents those children under 200 percent of poverty.

Data on the total number of children under five are not available from the Bureau of Census for the Virgin Islands. Therefore, the Department will contact the National Center for Health Statistics to obtain the number of live births and infant deaths in the Virgin Islnds for the years 1971 through 1976 (no data were available for 1972). The deaths will be subtracted from the births and the numbers for these years will be summed to arrive at the total number of children under five. The percentage of children eligible to receive free and reduced price school lunches in the Virgin Islands will then be applied to this number to obtain the number of these children under 200 percent of poverty.

As for computing Indian data, several commenters suggested that the Department use data provided by the Indian State agencies themselves, which have been certified as being both recent and representative of the Indian State agency's service area. The commenters believed this to be especially important as they claim the data obtained on Indians is often understated. The Department understands the problems associated with obtaining good Indian data and subsequently has decided to collect at the National level required Indian data from Indian Health Services' Office of Program Statistics records. All Indian children are assumed to be under the 200 percent poverty level for the purposes of the formula.

The data collected on Indian State agencies will be provided to the FNS Regional Offices who in turn will be given the opportunity to provide more current and accurate data, if available, from other sources at the Regional or Tribal level. If the Department is to use this other data, the data source must be documented and approved by the Regional Office.

Only one commenter opposed the subtraction of Indian agency data from a State's total. Therefore, the Department will continue subtracting Indian data from States' totals as this prevents double counting of Indian populations in States having Indian State gencies within their boundaries. However, where a particular State agency can offer documentation that it serves a substantial number of Indians, the Department will consider an adjustment to credit that State agency for the Indians served.

B. *Infant Mortality Rate.* A wide range of comments were received on the incorporation and application of this factor in the program funding formula.

Several commenters suggested using a five year average for infant mortality rates since infant mortality rates can vary considerably from year to year within a State and consequently misrepresent a State's statistics.

Other commenters suggested that the Department consider using other indicators of nutritional need in place of infant mortality rate, such as low birth weight rates or possibly a combination of factors, i.e., infant mortality rates, Apgar scores, high and low birth weight rates, fetal deaths, and the percent of teenage pregnancies, as these would be far better indictors of a State's need for the WIC Program.

While agreeing with the use of infant mortality rate as the nutritional need indicator, three commenters felt that too much weight was given and recommended establishing a floor whereby all State agencies would be assured funding on a minimum percent of their potential need and any remaining funds would then be allocated using the current formula.

Although the infant mortality rate by itself may not be the best indicator of need, it appears to be the best for use in this formula because of the lack of uniform data available on other indicators for all State agencies and Indian State agencies.

At this time, the only data available nationwide for Indian populations besides infant mortality rates, is live births, infant deaths and rural births. Of these data alternatives, the Department believes that infant mortality rate remains the best alternative.

Further, the Department compared the statistics of a three year average of infant mortality rates to the most recent year's rates. In most cases, the current year shows a proportionate decrease from the three year average rate for most State agencies. Thus, using an average would have little effect on the results of the formula. Therefore, the Department has decided that an annual update of infant mortality rates is the most equitable choice at this time as this indicator is the most current reflection of each State agency's need status.

Consequently, for all State agencies, excluding Indian State agencies, the infant mortality rate will be the number of deaths of infants under one year of age per 1,000 live births. The National Center for Health Statistics' final data for the most recent year will be used in the formula.

Infant mortality rates for the Indian State agencies will be generated by the Department based on infant deaths and live births data obtained from either the Indian Health Service or other documented source. As the actual number of deaths among infants in Indian populations is often small and erratic, a three year average will be used to compute the infant mortality rate for Indian State agencies. The equation used to generate these numbers for each Indian State agency is as follows:

$$\frac{\text{Infant Deaths for 3 years}}{\text{Infant Births for 3 years}} \times 1{,}000 = \text{Infant Mortality Rate}$$

C. *Cost of Living Index.* Commenters from one urban State apparently organized their efforts and recommended that a cost of living factor be considered and introduced into the funding formula. Specifically, they requested that either a State's actual food package cost be used in the formula or that a State's average food package cost be indexed to the national average food package cost. In their opinion, this would bring the formula closer to reflecting the actual needs of various States. Otherwise, it was felt the current allocation process discriminates against States having a high cost of living.

Although the Department is aware that some States have a higher cost of living, it is believed that inclusion of a food package cost indicator could encourage higher food package costs. As inflation has undoubtably resulted in greater food costs, States should take measures to further encourage prescription of less expensive foods so that more participants can be served. This is especially crucial for those States with a higher cost of living, not only in terms of reducing food package costs, but also in educating the participant in selective buying. Therefore, the Department will not include a food package cost index in the formula.

D. *Hold Harmless Level.* Except for one commenter, there was unanimous support for this concept. A few comments were made which suggested increasing the 10 percent inflation and growth factor to a higher level since the inflation rate alone is currently much higher in some area. It was mentioned that the 10 percent increase added to the hold harmless level is only enough to maintain status quo and allows very little Program expansion.

The hold harmless provision of the formula is included to help assure that all State agencies receive sufficient funds to maintain their fourth quarter funding level, and in turn assures that participants are not removed from the Program. Failure to include this provision would in effect destroy the efforts of the State agencies to expand their operation over the past years. Although the 10 percent increase does not allow some State agencies monies for growth, in most cases it does maintain status quo so that participation levels can be maintained. If the Department used a percentage above 10 percent, it could result in insufficient funds to distribute among all State agencies, thus negating the effect of the formula.

Therefore, due to the number of favorable comments received on the hold harmless concept, the Department has decided to continue computing hold harmless levels with a 10 percent increase for each State agency depending on the availability of funds.

E. *Maximum Grant.* Comments received on this principle focused more on the Department's use of live birth data and using a National average food package cost. The maximum grant concept itself was favored.

An overwhelming number of comments suggested computing the number of pregnant women by taking one-fifth of the number of children under age five below 200 percent poverty as computed by SIE alternative method number two, rather than using a live birth figure which has not been adjusted to reflect those births in families below 200 percent poverty.

The Department decided to accept suggestions that the number of pregnant women be computed by taking one-fifth of the number of children under age five below 200 percent poverty. However, as data on the number of children under age five for Indian State agencies may be less accurate than for States, for Indian State agencies, the Department will use one-fifth of the children under age five or the number of live births for the most recent year, whichever is higher. (As all Indians are assumed to be under 200 percent of the poverty level, this calculation should not distort the number of pregnant women as happens with States which have many live births occuring to women above 200 percent of poverty.)

Some commenters suggested that the Department use the actual food package cost for every State agency versus using the average cost for all those State agencies.

The Department decided that for maximum grant levels for all State agencies (which reflect the total expenditures a State agency would actually incur to serve all potential participants) a State agency's actual average food package cost for the most recent three months would be included in the formula rather than a national average food cost. These food package costs will be adjusted quarterly for all State agencies with a maximum grant as long as food cost increases are reasonable.

Maximum grant levels will be determined quarterly to assure that no State agency receives more money than its potential need indicates. Potential need will be determined by adding the number of children under five below 200 percent poverty increased by one-fifth (to indicate pregnant women) and multiplying the total by the State's quarterly average food package cost and then by three. This results in a food funding level sufficient to serve all of a State agency's potentially eligible participants for one quarter.

F. *Fifty Percent Cap.* A wide range of comments were received regarding the application of a funding cap. Generally, the concept itself received much support; however, commenters questioned why the Department decided to cap only those State agencies which received $5 million or more in food monies in the previous fiscal year and not all State agencies. Others suggested lowering the $5 million figure to possibly $2 million, or instead of using the 50 percent level for a cap, tie the cap to waiting lists to ensure that additional funds are spent.

Other commenters felt that the 50 percent cap was too high and suggested alternatives ranging from: (1) looking at the State's previous growth patterns and setting a cap which is 10 percent higher than the previous growth pattern, (2) limiting each State to a 30 percent increase in the first quarter only and then allowing it to compete for reallocation funds for the remainder of the fiscal year, and (3) examining each State individually to determine a reasonable increase on a State-by-State basis and considering factors peculiarly associated with that State.

A number of comments suggested applying the cap at a different point in the allocation process. The cap should possibly be applied after no more State agencies are held harmless. Those State agencies below the cap would then be put back into the formula and their grants recomputed until no more State agencies are held harmless. Otherwise, by applying it during the first formula run, this might adversely affect the relationship of all States left to participate in the subsequent runs.

Since there was no consensus of opinion on this principle, the Department believes the best alternative is to keep the 50 percent cap and apply it to all State agencies with a fourth quarter annualized grant level of over $500,000. This provision would then allow the cap to be applied to all but very small State agencies.

In addition, the Department agrees with the proposal that the cap be applied at a different point in the funding formula mathematical calculations. The formula will be run and State agencies identified as exceeding the cap will be held to a 50 percent increase and the funds above the 50 percent will be recaptured and redistributed among the remaining State agencies. State agencies at the 50 percent cap and the funds allocated to those agencies will be put back into the formula later so that these State agencies must continue to compete for funds in all subsequent runs.

Several commenters believed that providing a State agency with a substantial increase in the early quarters was counter-productive as a State agency could not always expend a large increase rapidly enough to prevent substantial amounts of monies from being recovered for reallocation. However, State agencies receiving large increases are more likely to spend the increase in later quarters. The current method of distributing funds results in large reallocations occurring later in the fiscal year with some State agencies being unable to spend all funds by the end of the fiscal year.

In order to resolve this situation, one commenter suggested that State agencies receiving large increases be budgeted the increase in incremental portions over the course of the fiscal year if the State agency was spending over 90 percent of its grant in the first two months of the prior quarter. The Department agrees with the concept of this suggestion, but does not wish to tie allocations to prior expenditures. When the formula is run, the expenditure data available is two to three months behind

V 4 4 0 C 1 6 7 9 UMI

and is not an accurate reflection of a State agency's current activity.

Therefore, the Department has decided to accept the budgeting concept but not tie it to previous expenditure levels. Additionally, as in the past, the Department will continue to negotiate the level of funds a State agency will receive if it is mutually agreed that the allocation provided under the formula appears to be too great to expend.

The budgeting process will be calculated as follows. The basic run of the formula will be completed. All not hold harmless State agencies will be identified and the percent increase over their fourth quarter funding level computed. Rather than providing the total increase in all four quarters of the fiscal year, the increase will be budgeted allowing a limit of a 25 percent increase over the fourth quarter for the first quarter, 35 percent for the second quarter, 45 percent for the third quarter and 50 percent for the fourth quarter. However, any State agency with a fourth quarter annualized food grant of $500,000 or less will not be included in the budgeting process. These percent limitations may vary in subsequent fiscal years depending on available funds and historical patterns of growth based on prior fiscal years.

	Basic run—percent increase over 4th quarter	Percent increases over 4th quarter for each quarter			
		1st quarter	2d quarter	3d quarter	4th quarter
Example:					
State X	50	25	35	45	50
State Y	37	25	35	37	37

The funds remaining for each quarter after the limits are applied to affected State agencies are recovered and redistributed in equal quarterly increments through the basic formula to all State agencies which do not have a limit. In this manner, funds which might have been recovered and redistributed during reallocations are instead allocated at the beginning of the fiscal year, and can therefore be more effectively directed to States with greater unmet needs. Further, this process will also be applied in computing reallocation levels.

In short, this budgeting process allows those State agencies getting large increases to grow steadily at a predetermined rate. The State agencies which share in the redistribution of funds also have an opportunity to utilize the extra funds throughout the fiscal year. It is hoped that through this process greater emphasis will fall on the initial allocation of funds, and reallocations will become a more insignificant procedure in the overall funding system.

G. *Migrant Grants.* Some comments were received which indicated that the June 19th proposal did not adequately address the question of funds for serving migrants. The Department did not include a discussion on this issue as migrant grants have been handled through the reallocation process and are not a functional part of the formula. However, to ensure that policy on migrant grants is clear, for FY 1980 the following procedure will be applied.

For those State agencies which received a migrant grant in FY 1979, the Department will calculate the estimated food expenditures based on the migrant participation figures submitted by participating State agencies. Participation will be multiplied by the State agency's average food package cost for the most recent three months and that sum will be increased by 5 percent to cover any inflation and allow a margin of error. One-fourth of that amount will be added to the base fourth quarter grant level and will be protected from recovery in future reallocations so that the funds will always be available for serving migrants when needed. Depending on funds available, additional States will be able to request migrant grants in FY 1980 and States receiving FY 1979 migrant grants will be able to request grants to serve additional migrants.

H. *Formula Alternatives.* Comments were received on all formula alternatives including the present formula. No one alternative choice received as much support as the existing formula used by the Department. Alternative I received the most support with four comments, however, it received an almost equal number of disapproval letters. Alternative III received five disapproval letters while Alternatives II and IV each received seven comment letters against their use as the funding formula.

Some commenters believed that the current formula resulted in an inequitable distribution of funds as several State agencies which received slightly more than their hold harmless level through the first run of the formula, were gradually reduced down to hold harmless in subsequent runs of the formula. This effect was the result of applying the hold harmless provision which involves deducting funds allocated through the formula from all not hold harmless State agencies to provide the funds necessary to bring other State agencies up to their hold harmless level. When this reduction occurs, funds are taken proportionately among State agencies with the State agencies with the greatest index ranking forfeiting the most and State agencies with lower indexes forfeiting the least. For those State agencies on the border between not hold harmless and hold harmless, the reduction of funds may be enough to place them into the hold harmless category. The following example illustrates this process.

	Hold harmless level	First run of formula	Fourth run of formula	
State X	$2,796,819	$1,320,664	$1,320,664	*Hold harmless
State Y	3,262,110	4,027,286	3,656,049	
State Z	2,526,656	2,757,676	2,503,472	*Hold harmless

One alternative presented to minimize this effect was to hold all State agencies which are above 110 percent of their formula amount to that level until all State agencies meeting less than 100 percent catch up. According to this commenter's calculations, the State agencies which would be affected by this procedure and held at 110 percent until other State agencies catch up are: New Hampshire, Missouri, Washington, Virginia, Utah, North Carolina, South Carolina, Rhode Island, Maine, Idaho, North Dakota, Kentucky, Oregon, Nevada, Arizona, Montana, Connecticut, and Vermont. Although this moves State agencies toward their respective positions in terms of the formula, it could result in the State agencies under 100 percent having more funds than they could spend and the State agencies over 110 percent could run into problems later in the fiscal year due to inflation. As this might result in cutting off participants in some States while other States had unspent funds, the Department does not believe this is an acceptable alternative.

One commenter suggested an alternative formula which suggested establishing a floor whereby all State agencies would be granted funds to serve a minimum percentage of their potentially eligible universe with the balance of the funds being allocated according to the formula currently used to distribute program funds. Specifically, the formula would be:

$$\frac{\text{(State Children under 5 Below 200\% Poverty)}}{\text{(Total Children under 5 Below 200\% Poverty)}} \times \text{National Appropriation} \times .5$$

$$= \text{Basic Allocation}$$

$$\frac{\text{(State Children under 5 Below 200\% Poverty)}}{\text{(Total Children under 5 Below 200\% Poverty)}} \times \frac{\text{(State Infant Mortality Rate)}}{\text{(National Infant Mortality Rate)}}$$

$$\times \text{National Appropriation} \times .5 = \text{Supplemental Allocation}$$

$$\text{Basic Allocation} + \text{Supplemental Allocation} = \text{State Grant}$$

Although this formula has merit, the result would shift funds toward the poverty/population factor rather than the health factor. As funds for the Program are limited, it is believed that it is important to direct funds towards those State agencies with the greatest health need.

The Department gave serious consideration to all funding formula alternatives, but has decided to continue using the existing formula process with the alterations discussed earlier in this notice for allocating program funds since this procedure received the most support from commenters.

III. Application of the Formula

The comparison of the two need indicators, children under five below 200 percent poverty and infant mortality rate, will form the basis of the funding formula. The final program funding formula that the Department has selected is as follows:

$$\frac{\text{(State Children Under 5 Below 200\% Poverty)}}{\text{(Total Children Under 5 Below 200\% Poverty)}} \times \frac{\text{(State Infant Mortality Rate)}}{\text{(National Infant Mortality Rate)}}$$

The "Total Children Under 5 Below 200 Percent Poverty" is the sum of all the State agency numbers of children under 5 below 200 percent poverty. Additional provisions of the formula are the hold harmless level, maximum grant level and 50 percent cap which will be handled according to the procedures discussed earlier in this Notice.

The first step of the formula process is to enter all data elements into the computer and carry out the mathematical equation shown above. For each State agency, the number of children under five below 200 percent poverty is divided by the total children under five below 200 percent poverty. The result is multiplied by each State agency's infant mortality rate divided by the national average infant mortality rate. This equation results in a multidigit, decimaled number called the index number.

Second, the index numbers are summed and then each State agency's index number is divided by the total to arrive at a percentage which indicates the State agencies' relationships to each other and to the total. The percentages are applied to the funds available to determine each State agency's funding level.

Third, all State agencies are run through iteration one of the formula initially using the process described above. If a State agency with a fourth quarter annualized food grant or over $500,000 receives over a 50 percent increase from its previous fiscal year's fourth quarter food grant level or receives more than its maximum grant funding level, it is held to that level and the excess funds are put back into the formula for the remaining State agencies.

Fourth, iteration two is run for only those State agencies which were not held to their maximum grant or 50 percent cap level in iteration one. The amount of funds available in this run is the total quarterly program funds available less those funds needed to fund maximum grant and 50 percent cap State agencies in iteration one. If according to this iteration, any State agency would receive less funds than it received for the immediately preceding fiscal year's fourth quarter level plus 10 percent, it is "held harmless" and given its fourth quarter food level plus 10 percent. If a State agency's hold harmless level is more than its maximum grant, it receives its maximum grant. Any State agency which falls into the hold harmless category, or is limited to a maximum grant below its hold harmless level, is then removed from consideration for additional funds.

Iteration three of the formula is then run on all funds not set aside for the State agencies removed from further consideration in iteration two. All State agencies identified in iteration one as at their maximum grant or 50 percent cap (except for State agencies whose maximum grant is below their hold harmless level) participate in this iteration. The same procedure as described above is repeated with State agencies that fall below their hold harmless level being brought up to their hold harmless funding level, until all funds are distributed.

V 4 4 0 C 1 6 7 9 UMI

At this point, those State agencies with whom a lower level of funding has been negotiated than the formula would otherwise provide are placed at their negotiated funding levels. The funds left over for the entire fiscal year, as a result of the negotiation process, are totalled and divided by four (to identify the amount for each of the four quarters). This sum of money is added to the total funds otherwise allocated to all State agencies except those State agencies at negotiated funding level. The resulting total is then run through the basic formula and all the iterations described above are repeated. States determined to be at hold harmless are included. The entire formula process, with all iterations, is repeated until all funds are distributed and no State agencies exceed their maximum grant or exceed a 50 percent increase.

The final step is that percentage increases over the fourth quarter are computed for those State agencies with a fourth quarter annualized food level of $500,000 or more. These State agencies are limited to an increase of 25 percent for the first quarter, 35 percent for the second quarter, 45 percent for the third quarter and 50 percent for the fourth quarter; or the maximum percentage increase allowed by the formula for a given quarter (i.e., a State agency with a 37 percent increase is held to 37 percent in the third and fourth quarters).

The funds left over for the entire fiscal year as a result of this budgeting process are totalled and divided by four. This sum of money is added to the total funds otherwise allocated to all State agencies except those State agencies that are budgeted at these percentage limits, are at maximum grant, or are at a negotiated funding level. The resulting total is then run through the basic formula and all the iterations described above are repeated. States determined to be at hold harmless are included. The entire formula process, with all iterations, is repeated until all funds are distributed, no State agencies exceed their maximum grant, and no State agencies have increases exceeding 25 percent for the first quarter, 35 percent for the second quarter, 45 percent for the third quarter, and 50 percent for the fourth quarter.

Using the formula process described above, the minimum food grant for each State agency in fiscal year 1980 (providing $750 million is appropriated) will be as follows (these figures include funds redistributed as a result of negotiations):

BILLING CODE 3410-30-M

State Agency	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total for FY
NEW ENGLAND					
Connecticut	2,796,818	Same	as 1st	Quarter	11,187,272
Maine	818,400	"	"	"	3,273,600
Massachusetts	2,526,656	"	"	"	10,106,624
New Hampshire	379,507	"	"	"	1,518,028
Rhode Island	599,586	"	"	"	2,398,344
Vermont	1,333,940	"	"	"	5,335,760
Indian Township, ME	2,538	"	"	"	10,150
Pleasant Point, ME	3,222	"	"	"	12,888
Penobscot, ME	1,999	"	"	"	7,997
MID-ATLANTIC					
Delaware	285,117	Same	as 1st	Quarter	1,140,468
Maryland	2,336,945	"	"	"	9,347,780
New Jersey	3,585,754	"	"	"	14,343,018
New York	9,803,352	"	"	"	39,213,408
Pennsylvania	6,323,752	"	"	"	25,295,007
Puerto Rico	3,093,750	3,341,250	3,806,250	3,937,500	14,178,750
Seneca Nat., NY	36,817	Same	as 1st	Quarter	147,268
Virginia	3,465,581	"	"	"	13,862,324
Virgin Islands	174,000	187,200	200,400	207,000	768,600
West Virginia	1,533,591	Same	as 1st	Quarter	6,134,364
SOUTHEAST					
Alabama	3,333,525	Same	as 1st	Quarter	13,334,100
Florida	4,623,514	4,993,397	5,363,276	5,463,057	20,443,244
Georgia	4,251,135	Same	as 1st	Quarter	17,004,540
Kentucky	3,631,317	"	"	"	14,525,268
Mississippi	3,236,719	"	"	"	12,946,876
North Carolina	5,927,314	"	"	"	23,709,256
South Carolina	4,026,701	"	"	"	16,106,804

V 44 O C 16 7 9 UMI

UMI 7 9 1 6 C O 4 4 V

State Agency	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total for FY
SOUTHEAST					
Tennessee	3,761,590	Same as 1st Quarter			15,046,360
Seminoles, FL	24,123	"			96,492
Choctaws, MS	66,580	"			266,321
E. Cherokee, NC	65,717	"			262,868
SOUTHWEST					
Arkansas	2,217,612	Same as 1st Quarter			8,870,448
Louisiana	4,001,157	"			16,004,628
New Mexico	946,595	1,007,101	1,007,101	1,007,101	3,967,899
Oklahoma	1,658,151	Same as 1st Quarter			6,632,604
Texas	10,920,984	"			43,683,938
Acoma, NM	29,971	"			119,884
N. Pueblo, NM	20,625	"			82,499
Isleta Pueblo, NM	19,875	"			79,499
Santa Domingo, NM	24,273	"			97,092
Six Sandoval, NM	59,215	"			236,860
WCD Ent., OK	162,013	"			648,054
Choctaws, OK	105,949	"			423,796
Cherokee, OK	288,712	"			1,154,848
Chickasaw, OK	51,732	"			206,928
Tonkawa, OK	43,560	"			174,240
Potawatami, OK	28,810	"			115,240
Zuni, NM	27,183	"			108,732
MIDWEST					
Illinois	6,397,960	6,442,162	Same as 2nd Quarter		25,724,447
Indiana	2,303,489	2,487,769	2,672,047	2,764,187	10,227,491
Michigan	4,861,235	Same as 1st Quarter			19,444,940
Minnesota	1,878,436	"			7,513,744
Ohio	7,357,723	"			29,430,892
Wisconsin	2,001,523	"			8,006,092

State Agency	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.	Total for FY
MOUNTAIN PLAINS					
Colorado	1,315,564	Same as 1st Quarter			5,262,256
Iowa	1,395,514	"			5,582,056
Kansas	1,085,945	"			4,343,781
Missouri	3,163,991	"			12,655,964
Montana	967,434	"			3,869,736
Nebraska	710,960	725,317	725,317	725,317	2,886,910
North Dakota	542,999	Same as 1st Quarter			2,171,996
South Dakota	458,525	495,207	511,216	511,216	1,976,164
Utah	1,303,467	Same as 1st Quarter			5,213,868
Shos & Ara., WY	55,688	"			222,752
Ute Mtn. Tribe, CO	8,923	"			35,692
Winnebago, Neb.	31,026	"			124,103
Cheyenne Rv., SD	66,806	"			267,223
Rosebud, SD	81,718	"			326,872
Standing Rock, ND	51,731	"			206,923
WESTERN					
Alaska	173,595	Same as 1st Quarter			694,379
Arizona	3,486,098	"			13,944,392
California	9,713,588	"			38,854,354
Hawaii	413,059	"			1,652,237
Idaho	828,643	"			3,314,572
Nevada	604,123	"			2,416,492
Oregon	1,787,028	"			7,148,112
Washington	2,271,350	"			9,085,400
ITCN	50,028	"			200,112
Mauneluk, AK	41,271	"			165,082

BILLING CODE 3410-30-C

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." An approved Final Impact Statement has been prepared and is available from Jane McNeil, Acting Director, 201 14th Street, S.W., Room 4405, Washington, D.C. 20250.

Signed in Washington, D.C. on October 12, 1979.

Carol Tucker Foreman,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 79-31963 Filed 10-15-79; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

9 CFR Part 91

Inspection and Handling of Livestock for Exportation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment deletes St. Petersburg, Florida, from the list of airports designated as ports of embarkation for animals. This action is being taken because the airport no longer has export inspection facilities to handle livestock intended for export. The intended effect of this action is to update the list of ports of embarkation through which animals may be exported.

EFFECTIVE DATE: October 9, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, Hyattsville, MD 20782, 301-436-8383.

SUPPLEMENTARY INFORMATION: Title 9, Code of Federal Regulations, Part 91, provides for the designation of ports with export inspection facilities approved to handle livestock intended for export (9 CFR 91.3).

Veterinary Services (VS) has been advised by the St. Petersburg-Clearwater Airport management that export inspection facilities are no longer available at the airport; therefore, export livestock shipments can no longer be handled through this airport. Consequently, we are removing this airport from the list of ports of embarkation in § 92.3(a)(1).

Accordingly, Part 91, Title 9, Code of Federal Regulations is amended as follows:

Section 91.3(a)(1) is amended to read:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * *

(1) *Airports.* (i) Chicago, Illinois; Harrisburg, Pennsylvania; Helena, Montana; Richmond, Virginia; Miami and Tampa, Florida; New Iberia, Louisiana; Brownsville and Houston, Texas; Los Angeles, California; Moses Lake, Washington; and Newburgh, New York.

* * * * *

(Sec. 10, 26 Stat. 417; secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477; 38 FR 19141)

The deletion of St. Petersburg, Florida, as a port with approved export inspection facilities must be made promptly in order to inform exporters of the current situation so that they can make appropriate plans to export their animals. The continued listing of St. Petersburg, Florida, is misleading to exporters since there are no approved inspection facilities located at this airport and consequently it is impossible to inspect animals at the airport.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. G. V. Peacock, Director, National Program Planning Staffs, VS, APHIS, USDA, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 9th day of October 1979.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-31567 Filed 10-15-79; 8:45 am]

BILLING CODE 3410-34-M

Food Safety and Quality Service

9 CFR Part 309

Revocation of Diethylstilbestrol Certification Requirements

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the Federal meat inspection regulations by deleting the requirement of diethylstilbestrol (DES) certification and eliminating related constraints on the slaughter of uncertified cattle and sheep. This action is necessary to reflect the recent order by the Federal Food and Drug Administration (FDA) prohibiting the manufacture, shipment, and use of animal drugs and feed containing DES.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-2807.

SUPPLEMENTARY INFORMATION:

FDA Actions

On June 29, 1979, the Commissioner of the Federal Food and Drug Administration (FDA) affirmed a prior decision of an Administrative Law Judge of that agency which withdrew FDA's approval of the new animal drug diethylstilbestrol (DES) (FDA Docket No. 76N-0002). In the July 6, 1979, **Federal Register,** FDA published three final rules implementing this decision. These rules provided for the:

1. Revocation of the animal drug regulations providing for the use of DES in cattle and sheep as an additive to animal feed and as a subcutaneous implant (44 FR 39387);

2. Revocation of the animal drug regulations providing for the methods of analysis approved for the detection of DES in the edible tissues of cattle and sheep treated with DES (44 FR 39388); and

3. Revocation of the new animal drug applications for the use of DES in cattle and sheep as an additive to animal feed and as a subcutaneous implant (44 FR 39618).

The actions became effective with respect ot the manufacture and shipment of DES animal drugs on July 13, 1979, and they were originally to become effective with respect to the use of DES animal drugs and the manufacture, shipment, and use of feed containing DES on July 20, 1979. This latter effective date was subsequently extended until November 1, 1979 (44 FR 45618, August 3, 1979).

FSQS Regulations

Section 309.16 of the Federal meat inspection regulations (9 CFR 309.16) currently provides that no cattle or sheep may be slaughtered at an official establishment until they have been held at the establishment for a minimum of 14 days before slaughter and fed a ration free of DES throughout the holding period. In the alternative, the regulations permit the slaughter of cattle or sheep at an official establishment without the holding requirement if the animals are accompanied by a certificate signed by the person who had custody of the animals during a period of 14 days or more immediately prior to delivery to the official establishment. Each certificate must contain information disclosing whether or not the animals received feed containing DES during the 14 days prior to delivery. Cattle or sheep certified in this manner as not having received feed containing DES for 14 days are then eligible for immediate slaughter. The regulations also provide a third alternative providing for the immediate slaughter of cattle or sheep if the carcasses are designated as "U.S. Retained" and samples of their tissues have been subjected to laboratory analyses for DES residues, in accordance with a specified procedure.

Basis for Revocation

The Administrator finds that the aforementioned actions of FDA revoking all approved uses of DES in cattle and sheep eliminate the need, on and after November 21, 1979, for compliance with the present FSQS certification procedures. Essentially, the FSQS regulations are designed to assure the use of DES in accordance with law, but on and after November 1, 1979, DES cannot be used lawfully as a feed additive or subcutaneous implant. The retention of the requirement for 21 days after the effective date of the FDA actions will provide for a full 14-day withdrawal period for animals treated with DES prior to November 1, 1979, along with an additional week to assure protection of the public health during this transition period. The elimination of the DES certification procedure should also serve to reduce costs for both industry and Government by eliminating unnecessary paperwork without affecting consumer safety.

Additionally, FSQS will continue to seek out possible illegal use of DES through its residue monitoring system conducted as part of its post-mortem inspections of cattle and sheep. The results of these tests will be coordinated with FDA to facilitate any necessary followup investigations.

§ 309.16 [Amended]

Therefore, § 309.16 of the Federal meat inspection regulations (9 CFR 309.16) is amended by deleting paragraphs (a), (b), and (c) and the words "in addition to any applicable requirements of paragraph (a) of this section" from the first sentence of paragraph (d), and redesignating paragraphs (d) and (e) as paragraphs (a) and (b) respectively.

(Sec. 21, 34 Stat. 1260, as amended, 21 U.S.C. 603; 42 FR 35625, 35626, 35631)

Pursuant to the authority in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this amendment at this time are not necessary, since neither consumers nor industry is adversely affected, as this change removes an outdated requirement and was necessitated by the actions of FDA.

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A Final Impact Statement has been prepared and is available from Dr. John E. Spaulding, Acting Director, Residue Evaluation and Surveillance Division, Science Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on: September 21, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-31634 Filed 10-15-79; 8:45 am]

BILLING CODE 3410-DM-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2, Amdt. 5]

Delegations of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: SBA delegates to certain field positions the authority necessary to conduct program activities in order to assure efficient operation in the implementation of SBA programs. This authority is published in order to provide informtion to the public as to whom they may make submittals or from whom they may obtain decisions.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Lee Waugh, Paperwork Management Branch, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653-6703.

SUPPLEMENTARY INFORMATION: SBA is revising its delegations of authority to field positions to reflect a reorganization in Regional Offices effective October 1, 1979. Additionally, 8(a) contracting authority is hereby delegated to the District Directors in the Cleveland, Indianapolis, and Salt Lake City District Offices and the District Directors' authority in the Chicago and Columbus Offices is increased from $350,000 to $500,000. In the past, delegations have been printed as notices in the **Federal Register.** They are now being incorporated in the Agency's Rules and Regulations in order to make them more readily available to both the public and Agency personnel. Therefore, Delegation of Authority No. 30, Revision 15, 40 FR 11657, as amended and corrected, 40 FR 14134, 41862, 20691, 26317, 40217, 49159, 51250, 52676, 57407; 41 FR 8240, 16234, 17829, 28049, 36702, 47610, 50883; 42 FR 56990, 59153, 61347, 62243; 43 FR 55, 1577, 6667, 10998, 13651, 22261, 36152, 45662, 46914, 55220; 44 FR 963, 5039, 19572, 21108, 44636, 46553, 48408, is hereby rescinded without prejudice to actions taken prior to October 1, 1979.

Because Part 101 consists of rules relating to the Agency's organization and procedures, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, Chapter I, Title 13 of the code of Federal Regulations is amended by adding a § 101.3-2 as follows:

§ 101.3-2 Delegations of authority to conduct program activities in field offices.

Pursuant to authority vested in me by the Small Business Act, 72 Stat. 384, as amended, and the Small Business Investment Act of 1958, 72 Stat. 689, as amended, the following authority is hereby delegated to field positions as hereinafter set forth:

Preface

The policies, rules, procedures and other requirements, as well as citations to the statutes, governing the programs for which this delegation of authority is issued, are contained in various parts of the Regulations of the Small Business Administration, Chapter I of Title 13 of the Code of Federal Regulations, as amended from time to time in the **Federal Register.**

Part I—Financing Program

Section A—Loan Approval Authority

1. *Business and Handicapped Assistance Loans (Small Business Act) (SBAct).*

a. To approve or decline direct and immediate participation section 7(a) business loans, section 7(l) energy loans, and 7(h) handicapped assistance loans, and guaranty handicapped assistance loans, not exceeding the following amounts (SBA share):

	Approve	Decline
(1) Regional Administrator	$350,000	$350,000
(2) District Director	350,000	350,000
(3) Assistant District Director for Finance and Investment	350,000	350,000
(4) Chief, Financing Division, D/O	350,000	350,000
(5) Supervisory Loan Specialist, Financing Division, D/O	250,000	350,000
(6) Branch Manager, Except Fairbanks B/O	250,000	350,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only	250,000	350,000
(8) Branch Manager, Fairbanks B/O only	150,000	150,000

b. *Guaranty Loans, 7(a) business loans and 7(l) energy loans only*

	Approve	Decline
(1) Regional Administrator	$500,000	$500,000
(2) District Director	500,000	500,000
(3) Assistant District Director for Finance and Investment	350,000	500,000
(4) Chief, Financing Division, D/O	350,000	500,000
(5) Supervisory Loan Specialist, Financing Division, D/O	250,000	500,000
(6) Branch Manager, Except Fairbanks B/O	250,000	500,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's Office only	250,000	500,000
(8) Branch Manager, Fairbanks B/O only	150,000	150,000

2. *Economic Opportunity Loans (EOL) (SBAct).* To approve or decline Section 7(i) economic opportunity direct, immediate participation, and guaranty loans not to exceed $100,000 (SBA Share):

a. Regional Administrator
b. District Director
c. Assistant District Director for F&I
d. Chief, Financing Division, D/O
e. Supervisory Loan Specialist, Financing Division, D/O
f. Branch Manager
g. Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only

3. *Product Disaster and Economic Injury Disaster Loans (SBAct).* To decline section 7(b)(4) product disaster and section 7(b)(2) economic injury disaster loans in connection with "natural disaster" declarations made by the Secretary of Agriculture in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

(1) Regional Administrator	$500,000
(2) District Director	500,000
(3) Assistant District Director for F&I	500,000
(4) Chief, Financing Division, D/O	500,000
(5) Supervisory Loan Specialist, Financing Division, D/O	250,000
(6) Branch Manager, except Fairbanks B/O	300,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only	300,000
(8) Branch Manager, Fairbanks B/O only	150,000

b. *Guaranty Loans:* (In addition to direct and immediate participation authority)

(1) Regional Administrator	$1,000,000
(2) District Director	1,000,000
(3) Assistant District Director for F&I	500,000
(4) Chief, Financing Division, D/O	500,000
(5) Supervisory Loan Specialist, Financing Division, D/O	500,000
(6) Branch Manager, except Fairbanks Branch Office	500,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only	500,000
(8) Branch Manager, Fairbanks B/O only	150,000

4. *Sections 7(b)(3), 7(b)(5), 7(b)(6), 7(b)(7), 7(b)(8) and 7(g) Loans (SBAct).* To decline section 7(b)(3) displaced business loans, 7(b)(5) regulatory disaster loans (including coal mine health and safety, consumer protection—meat, eggs, poultry—, and occupational safety and health, etc.) 7(b)(6) strategic arms limitation economic injury loans, 7(b)(7) base closing economic injury loans, 7(b)(8) emergency energy shortage economic injury loans, and 7(g) water pollution loans in any amount and to approve such loans up to the following amounts (SBA share):

a. *Direct and Immediate Participation Loans:*

	Approve
(1) Regional Administrator	$500,000
(2) District Director	500,000
(3) Assistant District Director for F&I	500,000
(4) Chief, Financing Division, D/O	500,000
(5) Supervisory Loan Specialist, Financing Division, D/O	300,000
(6) Branch Manager, except Fairbanks Branch Office	300,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only	300,000
(8) Branch Manager, Fairbanks B/O only	150,000

b. *Guaranty Loans:* (In addition to direct and immediate participation authority)

	Approve
(1) Regional Administrator	$1,000,000
(2) District Director	1,000,000
(3) Assistant District Director for F&I	500,000
(4) Chief, Financing Division, D/O	500,000
(5) Supervisory Loan Specialist, Financing Division, D/O	500,000
(6) Branch Manager, except Fairbanks Branch Office	500,000
(7) Assistant Branch Manager for F&I, Biloxi, Milwaukee only and Springfield B/O's only	500,000
(8) Branch Manager, Fairbanks B/O only	150,000

5. *Economic Dislocation Loans (SBAct).* To decline economic dislocation direct, immediate participation or guaranty loans in connection with such designations in any amount and to approve such direct, immediate participation or guaranty loans up to the following amounts (total loan, SBA and participant's share combined):

(a) Regional Administrator	$100,000
(b) District Director	100,000
(c) Assistant District Director for Finance and Investment	100,000
(d) Chief, Financing Division, D/O	100,000
(e) Supervisory Loan Specialist, Financing Division D/O	100,000
(f) Branch Manager	100,000
(g) Assistant Branch Manager for Finance and Investment, Biloxi, Milwaukee and Springfield B/O's only	100,000

Section B—Other Financing Authority for all types of loans contained in Section A above:

1. *Loan Participation Agreements.* To enter into individual and blanket loan participation agreements with lenders:

a. Regional Administrator
b. District Director
c. Assistant District Director for F&I
d. Chief, Financing Division, D/O
e. Branch Manager
f. Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only

2. *Loan Authorizations.*

a. To execute written authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O
(5) Supervisory Loan Specialist, Financing Division, D/O
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O (on fully undisbursed loans)
(5) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

3. *Disbursement Period Extension.* To extend disbursement periods:

a. Without limitation:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O (on fully undisbursed loans)
(5) Branch Manager
(6) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

b. For a cumulative total not to exceed six (6) months:
(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)

4. *Service Charges.* To approve service charges by participating lenders not to exceed two (2) percent per annum on the outstanding principal balance of construction loans and loans involving accounts receivable and inventory financing:
(a) Regional Administrator
(b) District Director
(c) Assistant District Director for F&I
(d) Chief, Financing Division, D/O (on fully undisbursed loans)
(e) Supervisory Loan Specialist, D/O (on fully undisbursed loans)
(f) Branch Manager
(g) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

Part II—Disaster Program

Note.—The loan approval authority in Part II refers to the total indebtedness of an applicant for a disaster loan (regardless of the number of structures damaged) for each separate disaster.

Section A—Disaster Loan Authority

1. *Direct and Immediate Participation 7(b)(1) Physical Disaster Loans (SBAct).*

a. To decline direct and immediate participation 7(b)(1) physical disaster loans in any amount and to approve such loans not exceeding the following amounts (SBA share):

(1) *Home Loans:* $50,000 for repair, restoration, or replacement of a home; $10,000 for repair, restoration, or replacement of household contents or personal property; or $55,000 for a single disaster home loan, plus $50,000 for refinancing prior liens:

(a) Regional Administrator
(b) District Director
(c) Assistant District Director for F&I
(d) Disaster Branch Manager
(e) Supervisory Loan Specialist, Financing Division, D/O
(f) Supervisory Loan Specialist, Disaster Office
(g) Branch Manager
(h) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

(2) *Business Loans:* Including repair, restoration, or replacement of all real or personal property and refinancing as follows:

(a) Regional Administrator	500,000
(b) District Director	500,000
(c) Assistant District Director for F&I	500,000
(d) Disaster Branch Manager	500,000
(e) Supervisory Loan Specialist, Financing Division, D/O	300,000
(f) Supervisory Loan Specialist, Disaster Office	300,000
(g) Branch Manager, except Fairbanks Branch Office	500,000
(h) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only	500,000
(i) Branch Manager, Fairbanks B/O only	150,000

2. *Guaranteed Physical Disaster Loans 7(b)(1) (SBAct).* To decline section 7(b)(1) physical disaster guaranteed loans in any amount and to approve such loans in addition to direct and immediate participation authority not exceeding the following amounts (SBA share):

	Home loans	Business loans
(a) Regional Administrator	$200,000	$1,000,000
(b) District Director	200,000	1,000,000
(c) Assistant District Director for F&I	100,000	500,000
(d) Disaster Branch Manager	100,000	500,000
(e) Supervisor Loan Specialist, Financing Division, D/O	100,000	500,000
(f) Supervisory Loan Specialist, Disaster Office	100,000	500,000
(g) Branch Manager, except Fairbanks Branch Office	100,000	500,000
(h) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only	100,000	500,000
(i) Branch Manager, Fairbanks B/O only	100,000	150,000

3. *Direct and Immediate Participation Economic Injury Disaster Loans (SBAct).* To decline direct and immediate participation section 7(b)(2) economic injury disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declaration by the President) in any amount and to approve such loans, not exceeding the following amounts (SBA share):

	Business loans
(a) Regional Administrator	$500,000
(b) District Director	500,000
(c) Assistant District Director for F&I	300,000
(d) Disaster Branch Manager	300,000
(e) Supervisory Loan Specialist, Financing Division, D/O	200,000
(f) Supervisory Loan Specialist, Disaster Office	200,000
(g) Branch Manager, except Fairbanks Branch Office	300,000
(h) Assistant Branch Manager for F&I, Biloxi, Milwaukee and Springfield B/O's only	300,000
(i) Branch Manager, Fairbanks B/O only	150,000

4. *Guaranteed Economic Injury Disaster Loans (SBAct).* To decline Section 7(b)(2) Economic Injury guaranteed disaster loans (in connection with a physical disaster declaration by the Administrator, or a "major disaster" declared by the President) in any amount and to approve such loans, in addition to the direct and immediate participation authority, not exceeding the following amounts (SBA share).

(a) Regional Administrator	$1,000,000
(b) District Director	1,000,000
(c) Assistant District Director for F&I	500,000
(d) Disaster Branch Manager	500,000
(e) Supervisory Loan Specialist, Financing Division, D/O	500,000
(f) Supervisory Loan Specialist, Disaster Office	500,000
(g) Branch Manager, except Fairbanks Branch Office	500,000
(h) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only	500,000
(i) Branch Manager, Fairbanks B/O only	150,000

5. *Processing Representative.* To appoint as a processing representative any bank in the disaster area:

(a) Regional Administrator
(b) District Director
(c) Disaster Branch Manager
(d) Branch Manager
e. Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

6. *Late Filing.* To approve or reject the request of an applicant to file for a disaster loan after the period for acceptance under the original disaster declaration, or extension thereof, has expired:

a. Regional Administrator only

7. *Disaster Loan Authorizations*

a. To execute written authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O
(5) Branch Manager
(6) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only
(7) Disaster Branch Manager

b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O (on fully undisbursed loans)
(5) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)
(6) Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only
(8) Disaster Branch Manager
(9) Supervisory Loan Specialist, Disaster Office

8. *Disbursement Period Extension on Disaster Loans.* To extend disbursement periods:

a. Without limitation:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, Financing Division, D/O (on fully undisbursed loans)
(5) Branch Manager
(6) Disaster Branch Manager
(7) Assistant Branch Manager for F&I Biloxi, Milwaukee and Springfield B/O's only

b. For a cumlative total not to exceed six (6) months:
(1) Supervisory Loan Specialist, Financing Division, D/O (on fully undisbursed loans)

Section B—Administrative Authority

1. *Establishment of Disaster Field Offices.*

a. To establish field offices upon receipt of advice of the designation of a disaster area and to close disaster field offices when justified; and

b. To obligate the Small Business Administration to reimburse the General Services Administration for the rental of temporary office space:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Assistant District Director for F&I
(10) Disaster Branch Manager

2. *Purchase and Contract Authority.*

a. *Rental of Motor Vehicles and Garage Space.* To rent motor vehicles necessary for the use of disaster branch office personnel and garage space for the storage of such vehicles when not furnished by this Administration:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Assistant District Director for F&I
(10) Disaster Branch Manager

b. *Office Supplies and Equipment.* To purchase office supplies and equipment, including office machines, and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that Chapter:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only

V 44 0C 16 79 UMI

(8) District Director
(9) Assistant District Director for F&I
(10) Disaster Branch Manager

c. *Credit Bureau Services.* To contract for local credit bureau services pursuant to Chapter 4 of Title 41, United State Code, as amended, subject to the limitations contained in sections 257 (a) and (b) of that Chapter:
(1) Regional Administrator
(2) Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
(3) Assistant Regional Administrator for Administration, Region I only
(4) Assistant Regional Administrator for Management (Internal), Region IV only
(5) Assistant Regional Administrator for Management (Resources, Administration and Planning), Region VI only
(6) Assistant Regional Administrator for Resources, Planning and Analysis, Region IX only
(7) Regional Personnel Officer, Region V only
(8) District Director
(9) Assistant District Director for F&I
(10) Disaster Branch Manager

Part III—Other Financial and Guarantee Programs

Section A—Sections 501 and 502 Loan Approval Authority (SB Act)

1. *Section 501 State Development Company Loans.* To approve or decline section 501 State development company loans not exceeding the following amounts (SBA share):

a. Regional Administrator	Unlimited
With concurrence in at least one prior recommendation:	
b. District Director	$750,000
c. Assistant District Director for F&I	750,000
d. Chief, CED Division, D/O	750,000
e. Chief, Financing Division, D/O	750,000

2. *Section 502 Local Development Company Loans (SBI Act).* To approve or decline section 502 local development company loans not exceeding the following amounts (SBA share) for each small business concern being assisted, within the project cost limitations shown below:

Note.—Project cost applies to the cumulative CED assistance to a small business concern and its affiliates and not to the additional assistance on which the action is being taken.

a. Unlimited project cost:

(1) Regional Administrator	$500,000

b. Overall project cost not exceeding $1,000,000.

(1) District Director	500,000
(2) Assistant District Director for F&I	500,000

c. Overall project cost not exceeding $700,000.

(1) Chief, CED Division, D/O	500,000
(2) Chief, Financing Division, D/O	500,000

Section B—Other 501 and 502 Authority

1. *Participation Agreements.* To enter into participation agreements with lenders:
a. Regional Administrator
b. District Director
c. Assistant District Director for F&I
d. Chief, CED Division, D/O
e. Chief, Financing Division, D/O
2. *Loan Authorizations.*
a. To execute written loan authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, CED Division, D/O
(5) Chief, Financing Division, D/O
b. To cancel, reinstate, modify, and amend authorizations:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Chief, CED Division, D/O (before initial disbursement)
(5) Chief, Financing Division, D/O (before initial disbursement)
3. *Disbursement Period Extension.* To extend disbursement periods:
a. Regional Administrator
b. District Director
c. Assistant District Director for F&I
d. Chief, CED Division, D/O (on wholly undisbursed loans)
e. Chief, Financing Division, D/O (on wholly undisbursed loans)

Section C—Surety Guarantee

1. To guarantee sureties against portion of losses resulting from the breach of bid, payment, or performance bonds on contracts, not to exceed the following amounts:
a. Regional Administrator, $500,000
b. District Director, Philadelphia, San Francisco, New York, Baltimore and all Region IV District Offices only, $500,000
c. Assistant District Director for F&I, Philadelphia, New York, San Francisco, Baltimore and all Region IV District Offices only, $500,000
d. Surety Bond Coordinator, $250,000
e. Senior Surety Bond Guarantee Specialist, $250,000
f. Chief, Financing Division, Philadelphia D/O only $250,000
g. Chief, CED Division, New York and Philadelphia District Offices only, $250,000

Section D—EDA Loan Authority

1. *EDA Loan Disbursement Authority.* To disburse EDA loans, as directed by EDA:
a. Regional Administrator
b. Regional Counsel
c. District Director
d. Assistant District Director for F&I
e. Chief, CED Division, D/O
f. District Counsel

Part IV—Portfolio Management (PM) Program

Section A—Portfolio Management, Servicing, Collection, and Liquidation Authority

1. To take all necessary action in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation,* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

Except:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the agency for a sum less than the total amount due thereof;
b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;
c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or
d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:
(1) Regional Administrator
(2) District Director
(3) Assistant District Director for F&I
(4) Branch Manager (full service branches only)
(5) Chief, Portfolio Management Division, D/O
(6) Supervisory Loan Specialist, Portfolio Management Divison, D/O
(7) Supervisory Loan Specialist, Liquidation Section, D/O
(8) Assistant Branch Manager for F&I, Biloxi, Milwaukee, and Springfield B/O's only
(9) Chief, PM Division, Biloxi Branch Office
2. To take all necessary actions in connection with the administration, servicing, collection, and liquidation of all SBA loans (and EDA loans in liquidation when and as authorized by EDA) and lease guarantees, *exclusive of matters in litigation;* and to do and perform, and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate these granted powers.

Except:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;
b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement or a lease guarantee;
c. *To initiate suit* for recovery from a participating institution under any alleged violation of a participation or guaranty;
d. *To authorize the liquidation of a loan* (except Disaster Home Loans) or to cancel authority to liquidate; or
e. *To accept a lump sum settlement or to purchase property* under the lease guaranty:
(1) Branch Manager (limited servicing branches)
(2) Chief, Portfolio Management Division, B/O (full servicing branches)
(3) Supervisory Loan Specialist, Portfolio Management Division, B/O, (full servicing branches)
3. *Other Portfolio Management Authority*
a. To take *only* the following actions on loans in a current status:
(1) Approve editorial modifications in loan authorizations;
(2) Extend disbursement periods on loans partially undisbursed;
(3) Release of cash surrender value or dividends to pay premiums due on assigned policy;
(4) Extend initial principal payment dates or adjust interest payment dates;
(5) Release of equipment (or hazard insurance checks) where the total value being released does not exceed $500.
(a) Loan Specialist, Portfolio Management Division, D/O or B/O

(b) Loan Specialist, Liquidation Section, D/O or B/O

Part V—Claims Review Committee

Section A—Authority to Compromise Claims

1. *District Claims Review Committee.* This committee shall consist of three incumbents (or those officially acting in their behalf) in the following order of position classification. The first member available in this order shall serve as chairperson.
Liquidation Chief (or liquidation Supervisor)
PM Chief (or PM supervisor)
District Counsel
FD Chief (or FD supervisor)
However, the District Director may, at his option, establish an alternative committee membership consisting of the Assistant District Director for Finance and Investment, acting as chairperson, District Counsel and the Assistant District Director for Management Assistance or those officially acting in their behalf. Authority is delegated to take final action on:
a. Claims not in excess of $50,000 (excluding interest) upon unanimous vote of the Committee.
b. Claims in excess of $50,000 when the amount offered represents the full principal balance due thereby forgiving only the interest upon unanimous vote of the Committee.
c. Settlement offers on claims of any size may be declined upon majority vote of the committee.
2. *Regional Claims Review Committee.* This committee shall consist of the Assistant Regional Administrator for Regional Programs, the Assistant Regional Administrator for Management, and the Regional Counsel or those officially acting in their behalf. The Regional Administrator shall designate a chairperson. Authority is delegated to take final action on:
a. Claims not in excess of $50,000 (excluding interest) upon majority vote of the Committee.
b. Claims in excess of $50,000 but not exceeding $150,000 (excluding interest) upon unanimous vote of the Committee.
c. Settlement offers on claims of any size may be declined upon majority vote of the Committee.

Part VI—Procurement Assistant Program (PA)

Section A—Certificate of Competency Approval Authority

1. With the exception of re-referred cases, to approve applications for Certificates of Competency up to but not exceeding $500,000 bid value received from small business concerns located within the geographical jurisdiction:
a. Regional Administrator.
b. Assistant Regional Administrator for Regional Programs.
c. District Directors, New York and Newark, D/O's only (not exceeding $100,000).
d. Assistant District Director for Procurement Assistance, New York and Newark, D/O's (not exceeding $100,000).
2. To deny an applicant for a Certificate of Competency when an adverse determination as to capacity or credit is concurred in:
a. Regional Administrator.
b. Assistant Regional Administrator for Regional Programs.
c. District Directors New York and Newark DO's only (not exceeding $100,000).
d. Assistant District Director for Procurement Assistance New York and Newark DO's only (not exceeding $100,000).

Part VII—Minority Small Business and Capital Ownership Development Program (MSB–COD)

Section A—Call Contracts Authority

1. *Administration and Management of Call Contracts.* To take all necessary actions in connection with the administration and management of contracts awarded under the authority granted in Section 7(j) of the Small Business Act, as amended, (formerly under Section 406 of the Economic Opportunity Act of 1964) except changes, amendments, or termination of the contract.
a. Regional Administrator
b. District Director
c. Assistant District Director for Minority Small Business and Capital Ownership Development

Section B—Section 8(a)(1)(A) Contracting Authority (SBAct)

1. To enter into contracts on behalf of the Small Business Administration with the United States Government and any department, agency, or officer thereof having procurement powers, obligating the Small Business Administration to furnish articles, equipment, supplies, services or materials to the Government or to perform construction work for the Government, subject to the following monetary limitations:

a. Regional Administrator	Unlimited
b. Assistant Regional Administrator for MSB/COD	Unlimited
c. Chief, Office of Business Development, Region III, R/O only	$100,000
d. District Director, Washington, Denver, Richmond, Philadelphia and Baltimore D/O's only	Unlimited
e. District Directors, Detroit, Cleveland, Indianapolis, Salt Lake City, New York, Newark and all Region VI D/O's only	$350,000
f. District Directors, all Region IX, all Region X, Chicago and Columbus D/O's only	$500,000
g. Deputy District Director, Washington D/O	Unlimited
h. Assistant District Director for MSB/COD San Francisco and Los Angeles D/O's only	$100,000
i. All Contract Specialists in Region X only	Unlimited
j. Branch Manager, El Paso Branch Office only	$350,000

2. Subcontracting. To arrange for the performance of such procurement contracts as stated in paragraph 1 above by negotiating or otherwise letting subcontracts to socially and economically disadvantaged small business concerns for the construction work, services or the manufacture, supply, or assembly or such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Small Business Administration to perform such contracts subject to the following monetary amounts;

a. Regional Administrator	Unlimited
b. Assistant Regional Administrator for MSB/COD	Unlimited
c. Chief, Office of Business Development, Region III R/O only	$100,000
d. District Director, Washington, Denver, St. Louis, Richmond, Philadelphia and Baltimore D/O's only	Unlimited
e. District Directors, New York, Newark, Detroit, Cleveland, Indianapolis, Salt Lake City, and all Region VI D/O's	350,000
f. District Directors, all Region IX, all Region X, Chicago and Columbus D/O's only	$500,000
g. Deputy District Director, Washington D/O	Unlimited
h. Assistant District Director for MSB/COD, San Francisco and Los Angeles D/O's only	$100,000
i. All Contract Specialists in Region X only	$250,000
j. Business Development Specialist, St. Louis D/O	Unlimited
k. Branch Manager, El Paso Branch Office only	$350,000

3. To certify to any officer of the Government having procurement powers that the Small Business Administration is competent and responsible to perform any specific Government procurement contract to be let by any such officer. Such contracts not to exceed the following amount:

a. Regional Administrator	Unlimited
b. Assistant Regional Administrator for MSB/COD	Unlimited
c. Chief, Office of Business Development, Region III, R/O only	Unlimited
d. District Director, Washington, Denver, Philadelphia, Richmond, St. Louis and Baltimore D/O's only	Unlimited
e. District Directors, New York, Newark, Detroit, Cleveland, Indianapolis, Salt Lake City, and all Region VI D/O's only	$350,000
f. District Directors, all Region IX, all Region X, Chicago and Columbus D/O's only	$500,000
g. Deputy District Director, Washington D/O	Unlimited
h. Assistant District Director for PA, Region IX	$500,000
i. All Contract Specialists in Region X only	$250,000
j. Business Development Specialist, St. Louis D/O	Unlimited
k. Branch Manager, El Paso Branch Office only	$350,000

Part VIII—Legal Services

Section A—Authority To Conduct Litigation Activities

1. To conduct all litigation activities, including SBIC and Economic Development Administration matters, as assigned, and to take all action necessary in connection with matters in litigation; and to do and perform and to assent to the doing and performance of, all and every act and thing requisite and proper to effectuate the granted powers.

Except:

a. *To compromise or sell* any primary obligation or other evidence of indebtedness owed to the Agency for a sum less than the total amount due thereon;
b. *To deny liability* of the Small Business Administration under the terms of a participation or guaranty agreement (including lease guarantees); or
c. *To authorize suit* for recovery from a participating institution under any alleged violation of a participation or guaranty agreement; or
d. *To accept a lump sum settlement or to purchase property* under the lease guarantee:
(1) Regional Administrator
(2) Regional Counsel
(3) Attorney, Regional Office
(4) District Counsel
(5) Attorney, District Office
(6) Branch Counsel
(7) Attorney, Branch Office

Section B—Loan Closing Authority

1. To close and disburse approved SBA loans and to close EDA loans, as authorized:
a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel

V 44 0 C 1 6 7 9 UMI

g. Attorney, Branch Office

2. To approve, when requested, in advance of disbursements, conformed copies of notes and other closing documents; and certify to the participating bank that such documents are in compliance with the participation authorization:

a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Counsel
e. Attorney, District Office
f. Branch Counsel
g. Attorney, Branch Office

3. To approve or disapprove fees charged by borrowers' counsel:

a. Regional Administrator
b. Regional Counsel
c. Attorney, Regional Office
d. District Director
e. District Counsel
f. Attorney, District Office
g. Branch Manager
h. Branch Counsel
i. Attorney, Branch Office

Section C—Authority To Contact IRS

To request and receive address information from IRS records for purpose of collection and compromise of SBA Federal claims. This information will be used only by Agency employees directly engaged in and solely for their use in preparation for any administrative or judicial proceeding pertaining to the collection or compromise of a Federal claim in accordance with the provisions of Section 3 of the Federal Claims Collection Act of 1966.

a. Regional Administrators
b. Regional Counsel
c. District Directors
d. District Counsel

Part IX—Eligibility and Size Determinations

Section A—Eligibility Determinations

1. *Eligibility Determination Authority.* In accordance with Small Business Administration standards and policies, to determine eligibility of applicants for assistance under *any program of* the Agency: *Except the SBIC program.*

a. Regional Administrator
b. All officials having the authority and assigned responsibility to take final action on the assistance requested.

Section B—Size Determinations

2. *Size Determination Authority.* In accordance with Small Business Administration's Small Business Size Standards Regulations, to make initial size determinations of applicants for assistance under *any* program of the agency:

a. Regional Administrator
b. All other officials having authority and assigned responsibility to take final action on the assistance requested, *except* the SBIC program and Government procurement and sales activities:

2. *Size Determinations for Government Procurement and Sales.* In accordance with Small Business Administration's Small Business Size Standards Regulations, to make size determinations for government procurement and sales activities.

a. Regional Administrator
b. Assistant Regional Director for Regional Programs
c. District Director, except Region X.

Part X—Administrative

Section A—Authority To Purchase, Rent, or Contract for Equipment, Services, and Supplies

1. *Purchase Reproductions of Loan Documents.* To purchase reproductions of loan documents chargeable to the revolving fund requested by U.S. Attorneys in foreclosure cases:

a. Regional Administrator
b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII, and X only
c. Assistant Regional Administrator for Administration, Reg I only
d. Assistant Regional Administrator for for Management (Internal), Reg IV only
e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only
f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX only
g. Regional Personnel Officer, Reg V only
h. District Director
i. Branch Manager

2. *Office Supplies and Equipment.* To purchase office supplies and equipment and rent regular office equipment and furnishings; contract for repair and maintenance of equipment and furnishings; contract for printing (Government sources only); contract for services required in setting up and dismantling and moving SBA exhibits; and issue Government bills of lading pursuant to Chapter 4 of Title 41, United States Code, as amended, subject to the limitations contained in section 257(a) and (b) of that Chapter:

a. Regional Director
b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only
c. Assistant Regional Administrator for Administration, Reg I only
d. Assistant Regional Administrator for Management (Internal), Reg IV only
e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only
f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX
g. Regional Personnel Officer, Reg V only
h. District Director
i. Branch Manager

3. *Rental of Motor Vehicles.* To rent motor vehicles when not furnished by this Administration:

a. Regional Administrator
b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only
c. Assistant Regional Administrator for Administration, Reg I only
d. Assistant Regional Administrator for Management (Internal), Reg IV only
e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only
f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX
g. Regional Personnel Officer, Reg V only
h. District Director
i. Branch Manager

4. *Rental of Conference Space.* To rent temporarily SBA conference space located within the respective geographical jurisdiction.

a. Regional Administrator

5. *Use of Seal of the Small Business Administration.* To certify true copies of any books, records, papers, or other documents on file with the Small Business Administration; to certify extracts from such material; to certify the nonexistence of records on files; and to cause the Seal of the Small Business Administration to be affixed to all such certification.

a. Regional Administrator
b. Assistant Regional Administrator for Management, Regions II, III, VII, VIII and X only
c. Assistant Regional Administrator for Administration, Reg I only
d. Assistant Regional Administrator for Management (Internal), Reg IV only
e. Assistant Regional Administrator for Management (Resources, Administration and Planning), Reg VI only
f. Assistant Regional Administrator for Resources, Planning and Analysis, Reg IX
g. Regional Personnel Officer, Reg V only
h. District Director
i. Branch Manager

Part XI—Redelegation authority

Section A—Redelegation

1. The authority delegated herein may not be redelegated.

2. The authority delegated herein may be exercised by any SBA employee designated as acting in a position designated herein.

3. Regional Administrators, District Directors, and Branch Managers may withhold or limit authorities delegated to those positions prescribed in this document for a period not to exceed six months. Information relating to these temporary exceptions will be maintained and available for examination in their respective field offices.

Dated: October 3, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-31864 Filed 10-15-79; 8:45 am]
BILLING CODE 8025-01-M

---

13 CFR Part 121

[Rev. 13, Admt. 31]

Definition of Small Business in Coal Mining for Purposes of Small Business Set-Aside Leases on Federal Coal Land

AGENCY: Small Business Administration.
ACTION: Final rule.

SUMMARY: This rule establishes a size standard of 250 employees as the maximum size firm which may be eligible to bid for small business set-aside leases of Government owned coal land. This rule is necessary so that the Interior Department, which administers the land and leases, can determine which firms qualify to bid for set-asides. The intent of this rule and the Interior Department's program is to give small coal mining firms improved access to Government coal land.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: Harvey D. Bronstein (202) 653-6373, or Roland E. Berg (202) 653-6078.

SUPPLEMENTARY INFORMATION: On December 8, 1978, March 14, 1979 and August 10, 1979, the SBA published in the **Federal Register** (43 FR 57611, 44 FR 15513 and 44 FR 47098), respectively, an advanced notice of proposed rulemaking and two proposed rules to solicit public comment on this definition of small business. The Agency has received seven letters in response to these proposals. All commenters favored the idea of setting aside Government land for small businesses to bid for leases. Five commented directly about the size standard, with three stating that 250 employees was too high a standard, one stating that 250 was too low, and one said that 250 was just right.

Some of the commenters addressed themselves to the question of what is a small mine rather than what is a small company in the coal mining industry. While size of mine and company size can be related, the issue to resolve is company size, not mine size. From these comments and other sources of information, the Agency has been impressed with the vast range of production conditions faced in coal mining. Even in the western part of the United States alone, coal is mined in greatly differing ways and under circumstances in which several times as many employees in one location may produce the same amount of coal as in another. These situations often dictate the number of employees needed for production and thus mine size and company size may be influenced by factors beyond the direct control of the company, such as geology, geography, environmental, and health and safety considerations.

For these reasons and the reasons stated in the previous **Federal Register** announcements, SBA adopts as a final rule a 250-employee size standard. Accordingly, pursuant to authority contained in Section 5(b)(6) of the Small Business Act, as amended, 15 U.S.C. 634 et seq., Section 3 of Part 121, Chapter I of Title 13, Code of Federal Regulations is amended by changing the title of § 121.3-9 and adding a new paragraph (d) as follows:

§ 121.3-9 Definition of small business for sales or lease of Government property.

* * * * *

(d) Any firm bidding to lease Government land for purposes of coal mining is classified as small if:

(1) It is independently owned and operated;

(2) It is not dominant in its field of operation;

(3) Together with its affiliates, its number of employees does not exceed 250 persons;

(4) It maintains management and control of the actual mining operations at the tract; and

(5) Any transfer of the lease from the holder of the original set-aside must be to another small business within the meaning of this paragraph.

Dated: October 5, 1979.

William H. Mauk, Jr.,
Acting Administrator.

[FR Doc. 79-31861 Filed 10-15-79; 8:45 am]
BILLING CODE 8025-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 241

[Regulation ER-1158, Amdt. 38]

Uniform System of Accounts and Reports for Certificated Air Carriers; Notice of Approval by the General Accounting Office

Adopted by the Civil Aeronautics Board at its office in Washington, D.C.

AGENCY: Civil Aeronautics Board.
ACTION: Final rule.

SUMMARY: This final rule gives notice that the General Accounting Office has extended through September 30, 1982, its approval of the reporting requirement for service segment data contained in section 19-3 of Part 241. This approval is required under the Federal Reports Act, and was transmitted to the Civil Aeronautics Board by letter dated September 26, 1979.

DATES: Adopted: October 10, 1979. Effective: October 10, 1979.

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Chief, Data Requirements Division, Office of Economic Analysis, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-6044.

Accordingly, the Civil Aeronautics Board amends Part 241 of its Economic Regulations (14 CFR 241) by revising the note at the end of Part 241 to read:

Note.—The reporting requirement contained in section 241.19-3 has been approved by the U.S. General Accounting Office under B-180226 (RO426).

This amendment is issued by the undersigned pursuant to the delegation of authority from the Board to the Secretary in 14 CFR sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board:

Phyllis T. Kaylor,
Secretary.

[FR Doc. 79-31928 Filed 10-15-79; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 177

[Docket Nos. 77F-0407 and 78F-0055]

Indirect Food Additives: Polymers; Olefin Polymers

AGENCY: Food and Drug Administration.
ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for safe use of ethylene/hexene-1 and ethylene/octene-1 copolymers containing not less than 90 weight-percent ethylene as an olefin polymer in food-contact applications. This action responds to food additive petitions filed by Dow Chemical U.S.A.

DATES: Effective October 16, 1979; objections by November 15, 1979.

ADDRESSES: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Notices published in the **Federal Register** of February 28, 1978 (43 FR 8183) and April 7, 1978 (43 FR 14737) announced that food additive petitions (FAP 7B3341 and FAP 8B3359 respectively) had been filed by Dow Chemical, U.S.A., P.O. Box 1706, Midland, MI 48640, proposing to amend 21 CFR 177.1520 to provided for the use of ethylene/hexene-1 and ethylene/octene-1, respectively, as olefin polymers in food-contact applications.

FDA has evaluated data in the petitions and other relevant material, and concludes that § 177.1520 should be amended as set forth below to include the petitioned additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c)(1),

72 Stat. 1786 (21 U.S.C. 348(c)(1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 177 is amended by revising § 177.1520(a)(3)(i) to read as follows:

§ 177.1520 Olefin polymers.

* * * * *

(a) * * *

(3) * * *

(i) Two or more of the 1-alkenes having 2 to 8 carbon atoms. Such olefin basic copolymers contain not less than 96 weight-percent of polymer units derived from ethylene and/or propylene, except that olefin basic copolymers manufactured by the catalytic copolymerization of ethylene and hexene-1 or ethylene and octene-1 shall contain not less than 90 weight-percent of polymer units derived from ethylene, and except that olefin basic copolymers manufactured by the catalytic copolymerization of two or more of the monomers ethylene, propylene, butene-1,2-methylpropene-1, and 2,4,4-trimethylpentene-1 shall contain not less than 85 weight-percent of polymer units derived from ethylene and/or propylene; or

* * * * *

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 15, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective October 16, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: October 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31668 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 178

[Docket No. 75F-0323]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Antioxidants and/or Stabilizers for Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations by expanding the safe use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate to include it as an antioxidant and/or stabilizer in certain modified rigid and semi-rigid vinyl chloride plastics in contact with food. This action responds to a food additive petition filed by Ciba-Geigy Corp.

DATES: Effective October 16, 1979; objections by November 15, 1979.

ADDRESS: Written objections to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, DC 20204, 202-472-5690

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of November 17, 1975 (40 FR 53293), FDA announced that a food additive petition (FAP 5B3084) had been filed by Ciba-Geigy Corp., Ardsley, NY 10502, proposing to amend § 178.2010 21 CFR 178.2010, formerly 21 CFR 121.2566) to allow the use of octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant and/or stabilizer in rigid and semi-rigid vinyl chloride plastics modified with methacrylate-butadiene-styrene copolymers in accordance with § 178.3790.

FDA has evaluated data in the petitions and other relevant material, and concludes that § 178.2010 should be amended as set forth below to include the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409 (c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 178 is amended in § 178.2010(b) by adding a new limitation for "Octadecyl 3,5-di*tert*-butyl-4-hydroxyhydrocinnamate" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) List of substances:

Substances	Limitations
* * * * *	
Octadecyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate..	For use only: 6. At levels not exceeding 0.05 percent by weight of modified semi-rigid and rigid vinyl chloride plastics modified with methacrylate-butadiene-styrene copolymers in accordance with § 178.3790
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 15, 1979, submit to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation is effective October 16, 1979.

(Sec. 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348 (c)(1)))

Dated: October 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31667 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 510

New Animal Drugs; Sponsor Zip Code

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect the proper zip code for Jensen-Salsbery Labs., Division of Burroughs Wellcome Co., sponsor of several new animal drug applications.

EFFECTIVE DATE: July 27, 1979.

FOR FURTHER INFORMATION CONTACT: Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 27, 1979 (44 FR 44155), the agency amended the sponsor name for Jensen-Salsbery Labs., but failed to correct the zip code. This document provides for the correct zip code.

§ 510.600 [Amended].

Under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 510 is amended in § 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* in paragraph (c)(1) for "Jensen-Salsbery Laboratories" and in paragraph (c)(2) for "017220" by changing the zip code "64141" to read "64108."

Effective date. July 27, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)).)

Dated: October 9, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-31775 Filed 10-5-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form, New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Bolus

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for safe and effective oral use of levamisole hydrochloride bolus as an anthelmintic in sheep.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed an NADA (112-052) providing for safe and effective use of levamisole hydrochloride bolus as an oral anthelmintic in sheep. The product is identical to one approved in NADA 42-837 held by Cyanamid Agricultural de Puerto Rico, Inc., formerly held by American Cyanamid Co. Pursuant to authorization from the sponsor, data and information contained in NADA 42-837 is used herein to support approval of this application.

Approval of this application poses no increased human risk from exposure to residues of levamisole hydrochloride because its use is identical to that of a currently marketed product. Therefore, approval of this application does not require reevaluation of the safety and effectiveness data in the parent application.

Because of an editorial oversight that occurred when the regulations were recodified in the **Federal Register** of March 27, 1975 (40 FR 13802), § 520.1242b *Levamisole hydrochloride tablet or oblet (bolus)* (21 CFR 520.1242b) already provides in paragraph (c)(2) that Pitman-Moore holds an approval for use of the drug in sheep. This document provides for the previously codified approval and editorially amends the sponsor portion of the regulations to reflect the approvals properly.

The regulations are also amended to reflect compliance with the requirement that the approvals reflect the labeling requirement of § 500.25 (21 CFR 500.25) concerning use of anthelmintics that do not require the order of a veterinarian.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii), a summary of the safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1242b is amended by revising paragraph (c) and adding a new paragraph (d) to read as follows:

§ 520.1242b Levamisole hydrochloride tablet or oblet (bolus).

* * * * *

(c) *Sponsor.* See Nos. 011716 and 043781 in § 510.600(c) of this chapter.

(d) *Required labeling.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

* * * * *

Effective date. This regulation is effective October 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79-31734 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hydrochloride Drench

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for safe and effective use of levamisole hydrochloride soluble drench powder as an anthelmintic in sheep.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed an NADA (112-050) providing for safe and effective use of levamisole hydrochloride soluble

powder for preparation of a drench to be used as an oral anthelmintic in sheep. The product is identical to one approved in NADA 42–740 held by Cyanamid Agricultural de Puerto Rico, Inc., formerly held by American Cyanamid Co. Pursuant to authorization from the sponsor, data and information contained in NADA 42–740 is used herein to support approval of this application.

Approval of this application poses no increased human risk from exposure to residues of levamisole hydrochloride because its use is identical to that of a currently marketed product. Therefore, approval of this application does not require reevaluation of the safety and effectiveness data in the parent application.

The current regulation, § 520.1242a *Levamisole hydrochloride drench and drinking water* (21 CFR 520.1242a) erroneously indicates in paragraph (c)(2) that Pitman-Moore currently holds an approval for use of 4.68- and 11.7-gram packets of levamisole hydrochloride soluble drench powder as an anthelmintic in sheep. The approved use of the 4.68-gram packet was inadvertently established in recodifying the animal drug regulations (recodification published in the Federal Register of March 27, 1975 (40 FR 13802)). This document amends the regulations to indicate that the firm has approval for use of this drug in sheep, but only for the 11.7-gram packet as provided in § 520.1242a(f)(2)(ii).

In addition, § 520.1242a(f)(2)(ii)(*a*) should describe the indicated uses of the drug in sheep. Owing to the publication of certain approvals out of sequence, the regulations do not reflect the appropriate indications for use of the drug. This document amends the indications paragraph to designate the proper conditions for which the drug is effective in sheep.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii)), of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1242a is amended by revising paragraphs (c)(2) and (f)(2)(ii)(*a*) to read as follows:

§ 520.1242a Levamisole hydrochloride drench and drinking water.

* * * * *

(c) * * *

(2) See No. 011716 in § 510.600(c) of this chapter for conditions of use provided for in paragraphs (f)(1) and (f)(2)(ii) of this section.

* * * * *

(f) * * *

(2) * * *

(ii) * * *

(*a*) *Indications for use.* See paragraph (f)(2)(i)(*a*) of this section.

* * * * *

Effective date. This regulation is effective October 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–31737 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Levamisole Hyrdochloride Drench

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) filed by Pitman-Moore, Inc., providing for safe and effective use of levamisole hydrochloride soluble drench powder for use as an anthelmintic in cattle.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: William D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3442.

SUPPLEMENTARY INFORMATION: Pitman-Moore, Inc., Washington Crossing, NJ 08560, filed an NADA (112–051) providing for safe and effective use of levamisole hydrochloride soluble powder for preparation of a drench to be used an an oral anthelmintic in cattle. The product is identical to one approved in NADA 39–357 held by Cyanamid Agricultural de Puerto Rico, Inc., formerly held by American Cyanamid Co. Pursuant to authorization from the sponsor, data and information contained in NADA 39–357 is used herein to support approval of this application.

Approval of this application poses no increased human risk from exposure to residues of levamisole hydrochloride because its use is identical to that of a currently marketed product. Therefore, approval of this application does not require reevaluation of the safety and effectiveness data in the parent application.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), § 520.1242a Levamisole hydrochloride drench and drinking water is amended in paragraph (c)(2) by deleting the phrase "paragraph (f)(2)" and inserting in its place the phrase "paragraph (f)(1) and (2)".

Effective date. This regulation is effective October 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–31738 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 520

Oral Dosage Form, New Animal Drugs Not Subject to Certification; Piperazine Adipate Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency amends the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Happy Jack, Inc., providing for safe and effective use of an anthelmintic powder in dogs and puppies for removal of roundworms. This product is identical to one reviewed by the National Academy of Sciences/National Research Council (NAS/NRC) Drug Efficacy Study Group and found to be effective as an anthelmintic. Approval of identical products may require submission of bioequivalence or similar data in lieu of other effectiveness data.

EFFECTIVE DATE: October 16, 1979.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV–112), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Happy Jack, Inc., P.O. Box 475, Snow Hill, NC 28580, filed an NADA (115–580) providing for use of piperazine adipate powder in dogs and puppies for removal of roundworms (*Toxocara canis* and *Toxascaris leonina*).

This product is identical to one which was the subject of an NAS/NRC report published in the Federal Register of February 14, 1969 (34 FR 2213). The NAS/NRC report concluded, and the agency concurred, that piperazine adipate powder is effective for removal of certain roundworms in dogs when administered at 20 to 30 milligrams of piperazine base per pound of body weight. Use of the NAS/NRC reviewed product is codified in the animal drug regulations in 21 CFR 520.1801. The regulations are amended to reflect this approval, editorially to reflect current format, to include the anthelmintic warning required by 21 CFR 500.25 of the regulations, and to specify those conditions of use for which approvals for identical products need not include certain types of effectiveness data as specified by § 514.1(b)(8)(ii) or § 514.111(a)(5) (21 CFR 514.1(b)(8)(ii) or 514.111(a)(5)). In lieu of such data, approval may require bioequivalency or similar data as suggested in the guidelines for submitting NADA's for NAS/NRC-reviewed generic drugs, available in the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

In accordance with the provisions of Part 20 (21 CFR Part 20) promulgated under the Freedom of Information Act (5 U.S.C. 552) and the freedom of information regulations in § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is available for public examination at the office of the Hearing Clerk (HFA–305), address above, from 9 a.m. to 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.83), Part 520 is amended by revising § 520.1801 to read as follows:

§ 520.1801 Piperazine adipate powder.

(a) *Specifications.* The drug contains a minimum of 98.5 percent piperazine adipate (37 percent piperazine base).

(b) *NAS/NRC status.* The conditions of use specified in this section have been reviewed by NAS/NRC and are effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter.

(c) *Special considerations.* Consult your veterinarian for assistance in the diagnosis, treatment, and control of parasitism.

(d)(1) *Sponsor.* See No. 011769 in § 510.600(c) of this chapter.

(2) *Conditions of use*—(i) *Dogs and cats. (a) Amount.* 1 gram per 18 pounds of body weight.

(b) Indications for use. Removal of ascarids (*Toxocara canis* and *Toxascaris leonina*).

(ii) *Horses.* (*a*) *Amount.* ½ oz. (14.3 grams) per 100 pounds of body weight.

(*b*) *Indications for use.* Removal of ascarids (*Parascaris equorum*), strongyles (*Strongylus vulgaris*), small strongyles, and pinworms (*Oxyuris equi*).

(iii) *Limitations.* Administer orally as a drench or in as much drinking water of feed as the animals will consume in one day. May be repeated at intervals of 3 weeks should reinfection occur. Do not use in animals intended for food.

(e)(1) *Sponsor.* See No. 023851 in § 510.600(c) of this chapter.

(2) *Conditions of Use—Dogs.* (i) *Amount.* 1 level ¼ teaspoon scoop (860 milligrams of piperazine adipate) for each 11 pounds of body weight (28.9 milligrams of piperazine base per pound of body weight).

(ii) *Indications for use.* Removal of large roundworms (*Toxocara canis* and *Toxascaris leonina*) from dogs and puppies.

(iii) *Limitations.* Administer by mixing prescribed amount with ½ of the normal ration. A repeat treatment should be given in 10 to 20 days to remove immature roundworms which may have entered the intestine from the lungs after the first dose. Laboratory fecal examinations should always be done to determine the need for treatment.

Effective date: This regulation is effective October 16, 1979.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)))

Dated: October 4, 1979.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 79–31733 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 740

[Docket No. 77P–0353]

Cosmetic Product Warning Statements; Coal Tar Hair Dyes Containing 4-Methoxy-*M*-Phenylenediamine (2,4-Diaminoanisole) or 4-Methoxy-*M*-Phenylenediamine Sulfate (2,4-Diaminoanisole Sulfate)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule will require a warning statement on the labels of coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate). The warning will inform consumers that these ingredients can penetrate the skin and are known to produce cancer in laboratory animals.

EFFECTIVE DATE: All products initially introduced into interstate commerce on or after April 16, 1980, shall comply with this rule.

FOR FURTHER INFORMATION CONTACT: John A. Wenninger, Bureau of Foods (HFF–441), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1061.

SUPPLEMENTARY INFORMATION: In the Federal Register of January 6, 1978 (43 FR 1101), the Food and Drug Administration (FDA) proposed to require warning statements and warning posters concerning the risk of cancer that may result from the use of coal tar hair dyes containing 4-methoxy-*m*-phenylenediamine (also known as 2,4-diaminoanisole) or 4-methoxy-*m*-phenylenediamine sulfate (also known as 2,4-diaminoanisole sulfate). For simplicity, both compounds will be referred to as "4–MMPD" unless it is necessary to distinguish between them. This proposal was based on studies with the sulfate compound that indicated that 4–MMPD is an animal carcinogen capable of penentrating the skin.

After evidence on the toxicity of 4–MMPD had been disclosed, but before publication of FDA's proposal, FDA received several expressions of concern on this subject. Among them were an October 19, 1977 Environmental Defense Fund petition for a proposed regulation, similar to one then being developed by

FDA, requiring products containing 4–MMPD to bear a label warning, and a General Accounting Office report, "Cancer and Coal Tar Hair Dyes," released December 14, 1977, recommending that FDA require warning labels on carcinogenic hair dyes (in the absence of statutory authority to ban them). This regulation also responds to these expressions of concern.

In response to FDA's proposal the following comments were received: 166 from consumers; 5 from hair dye manufacturers; 6 from hairdressers and cosmetologists; 4 from trade associations representing hair dye manufacturers, hairdressers, or cosmetologists; 1 from an industry not related to hair dyes; 1 from a Federal agency; 1 from a city government agency; and 1 from a public interest group.

The government agencies, the public interest group, and the majority of consumers favored the proposed regulation. All hairdressers and cosmetologists, trade associations, and hair dye manufacturers opposed the proposed regulation. A number of comments, mostly from consumers, presented statements that dealt with issues other than the provisions of the proposed regulation. In addition, a number of comments were received late. Late comments may not have been individually responded to but were examined and were not found to alter the analysis and conclusions stated below. A summary of the comments and the agency's responses follow:

1. Some consumers urged FDA to prohibit the sale of all hair dyes containing 4–MMPD.

FDA does not have the statutory authority to prohibit the interstate distribution of hair dyes containing 4–MMPD. Coal tar hair dyes are exempt from the principal adulteration provision and from the color additive provisions in sections 601 and 706 of the Federal Food, Drug, and Cosmetic Act (the FD & C Act) when their label bears a caution statement and "patch test" instructions to determine whether the product causes skin irritation (see section 601(a) and (e) of the FD & C Act (21 U.S.C. 361(a) and (e))).

2. Several comments maintained that FDA has no authority to require the proposed warning due to the statutory exemptions for coal tar hair dyes found in sections 601(a) and (e) and 602(e) of the FD&C Act. According to the comments, coal tar hair dyes bearing the caution and "patch test" statements provided for in section 601(a) of the FD&C Act are "totally exempt" from the statute. One comment stated that, if FDA could require a warning under the misbranding provisions, the effect would be to "read the hair dye exemption completely out of the Act," and be inconsistent with *Toilet Goods Assn* v. *Finch*, 419 F. 2d 27 (2d Cir. 1969). One comment also stated that FDA erred in assuming that the decision in *Cosmetic, Toiletry and Fragrance Association* v. *Schmidt*, 409 F. Supp. 57 (D.D.C. 1976) confirmed FDA's authority to issue the proposed regulation.

FDA disagrees. Congress exempted coal tar hair dyes bearing the patch test caution statement from the provisions of the FD&C Act that prohibit cosmetics from containing any substance that may be injurious to users (section 601(a)) and from containing any unsafe color additive (section 601(e)); but Congress did not exempt the dyes from the misbranding provisions of sections 201(n) and 602(a) of the FD&C Act, which require truthful labeling. The contention of the comments that the warning is equivalent to a repeal of the coal tar hair dye exemption is clearly incorrect; the exemption continues to prevent FDA from invoking section 601(a) or (e) of the FD&C Act to prohibit the marketing of properly labeled coal tar hair dyes, including those containing 4–MMPD, regardless of the nature and magnitude of the hazard presented. Furthermore, if the comments were correct, coal tar hair dyes could bear any type of false and misleading claim, and be exempt from any regulatory action. Coal tar hair dyes could even falsely claim not to have an ingredient tested by the National Cancer Institute (NCI). If Congress had intended to allow false and misleading claims on coal tar hair dyes, Congress would have included an exemption for these dyes in section 602(a) of the FD&C Act.

FDA maintains that it has the authority to require the warning under the misbranding provisions of the law, and that this action is consistent with the approach adopted by Congress with respect to the skin irritation problems presented by coal tar hair dyes: allowing the products to be sold, with disclosure of the risks. The decision in *Toilet Goods* v. *Finch* concerned the scope of the exemption for coal tar hair dyes from the adulteration and color additive provisions, and did not deal with FDA's authority under the misbranding provisions to require warnings.

FDA agrees that the decision in *CTFA* v. *Schmidt* did not resolve the issue of whether coal tar hair dyes are subject to section 602(a) of the FD&C Act. That decision did not concern coal tar hair dyes. The court did, however, review FDA's general authority under sections 201(n) and 602(a) to require warnings about material hazards. The court determined that the record supporting the warning in that case was adequate to support the general application of the requirement, and that any exceptions would have to be justified by those seeking the exception. Thus, the decision is consistent with FDA's position that warnings of material risks from cosmetics can be required under the misbranding provisions of the act.

3. One comment argued that in this proceeding FDA must follow the procedures set forth in section 701(e) of the FD&C Act (21 U.S.C. 371(e)) for issuing orders, and not the more simple notice and comment procedures that govern rules issued under 701(a) of the FD&C Act (21 U.S.C. 371(a)) because the proposed rule "resembles" rules issued under those sections of the act governed by section 701(e) and this proceeding to establish the rule is an adjudication under the Administrative Procedure Act (the APA) (5 U.S.C. 554). The comment asserted that FDA is promulgating the regulation under section 701(a) of the FD&C Act because the proposed regulation could not be sustained under a "substantial evidence" test. The comment stated that the rule must be supported by a rulemaking record. In addition, the comment maintained that due process of law requires that a formal evidentiary hearing be held because the proposed rule is "highly complex" and involves "disputed facts" and "exceptional circumstances." Alternatively, the comment requested FDA to grant a formal evidentiary hearing as a matter of discretion.

FDA advises that under section 701(e) of the FD&C Act the statutory requirement to provide a formal evidentiary hearing in issuing rules applies only to those sections of the law specifically listed in section 701(e). Section 602(a) of the FD&C Act, under which the warning statement is being required, is not one of the sections governed by the provisions of section 701(e); and there is no merit to the contention that section 701(e) applies to all regulations that "resemble" those that Congress has specifically made subject to a formal hearing requirement, even assuming that there is some resemblance between this regulation and the food standards and other matters specified in the statutory provisions listed in section 701(e).

The regulations FDA issues under section 701(a) of the FD&C Act are subject to the procedures of the APA (5 U.S.C. 553) governing rulemaking, which require public notice and comment but not a formal hearing before a rule is issued. Rulemaking proceedings are not considered to be adjudications under the APA, and a formal hearing is required in issuing a rule only when a hearing is required by statute (5 U.S.C. 551, 553). FDA's authority to issue substantive rules under section 701(a), following the notice and comment procedures of the APA, has been recognized in the following judicial decisions and congressional reports, among others: *Weinberger* v. *Hynson, Westcott & Dunning*, 412 U.S. 609 (1973); *Abbott Laboratories* v. *Gardner*, 387 U.S. 136 (1967); *National Nutritional Foods Ass'n* v. *Schmidt*, 512 F. 2d 688 (2d Cir. 1975); H. Rep. No. 94–1005, 94th Cong., 2d Sess., p. 27–28 (1976) (Conference Report on HR 7988).

The comment made conclusory statements about the existence of disputed factual issues, but did not identify any specific factual issues on which cross-examination is sought, or explain why the factual issues cannot be resolved through a less elaborate procedure. Even in those proceedings in which formal hearings are required, these hearings are afforded only if there is a genuine and substantial issue of fact for resolution, not merely issues of policy or law (21 CFR 12.24). FDA agrees that the issues involved in this proceeding are complex and highly disputed; but they are primarily general policy and legal issues. The notice and comment procedures followed in this proceeding have made it necessary for the agency to consider all the issues, respond to the factual and scientific points, and articulate and justify its policies. Thus, these procedures have provided an adequate and fair opportunity to examine the factual basis for the rule and other issues.

FDA agrees with the comment that the rule must be supported by a rulemaking record. A record has been established in this proceeding and it adequately the rule. FDA's procedural regulations (21 CFR 10.40) require the agency to establish an identifiable record and to respond to the contentions raised in the comments. FDA concludes that the essential elements of fairness and due process have been met by the procedures followed in this rulemaking, and that it is neither necessary nor appropriate to delay the issuance of the warning required by this rule in order to hold a formal evidentiary hearing on the matter. Therefore, there is no right to an evidentiary hearing under the FD&C Act or under the APA and the comment did not make a sufficient showing to justify an exercise of FDA's discretion to grant one.

4. Some comments stated that FDA was being arbitrary and capricious because section 201(n) of the FD&C Act does not empower FDA to compel the disclosure of any and all information about of product. The comments argued that (1) FDA has not shown that the hazard for which disclosure will be required is "material"; (2) assessments by FDA and others establish that any potential risk associated with 4–MMPD is "very small"; (3) the risk under some assumptions is less than a one-in-a-million lifetime risk, a risk level considered acceptable by some authorities; (4) the potential risk associated with 4–MMPD is "dramatically smaller" than that associated with many other substances, including suspect or known carcinogens; and (5) in the past, FDA and other Federal agencies have not required warning statements for alleged carcinogenic risks comparable to or greater than that posed by 4–MMPD. One comment also sought information on whether FDA in proposing the rule considered how the risk from 4–MMPD compares with "other risks" for which FDA and other agencies have not required warnings. In sum, these comments argued that the human risk from 4–MMPD in hair dyes is very small relative to other, often accepted, risks; that it is too small a risk to warrant regulatory action.

FDA maintains that the animal carcinogenicity of 4–MMPD is a "material fact" because it demonstrates potential risk of human cancer resulting from the use of hair dyes containing this deliberately added ingredient. The risk of cancer has to be considered material in view of the seriousness of cancer, and the reliable evidence that a risk is posed by the use of 4–MMPD in hair dyes. This fact should be disclosed to consumers intending to purchase these hair dyes. The risk should also be considered material in light of the general public policy of the FD&C Act to protect consumers from deliberately added carcinogenic additives, the public expectations of such protection, and the fact that that protection cannot be provided in the case of 4–MMPD.

Generally, when dealing with questions about the carcinogenicity of ingredients intentionally added to products within its jurisdiction, FDA has relied upon the strength of the evidence showing whether or not the ingredient is a carcinogen, without reference to "degree of risk." That is, once it is established that the deliberate addition of an ingredient to a food or cosmetic results in a potential human cancer risk, the agency then has a basis for regulatory action, without having to establish the particular level of that risk (see, for example, 21 CFR 189.145 (dulcin)). Although FDA often makes rough estimates of the relative size or the level of a cancer risk, such estimations have been used by FDA for secondary purposes, such as establishing priorities. (FDA has also proposed the use of risk assessment procedures as the basis for regulating cancer-causing compounds used in food-producing animals (see 44 FR 17070, March 20, 1979), but that proposal relates to the DES proviso in 21 U.S.C. 360b(d)(1)(H), which is not relevant here.) In general, however, the presence in an FDA regulated product of any level of human risk from a deliberately added carcinogenic ingredient is not only material, but is a decisive factor in FDA's decisionmaking on whether to permit the addition of an ingredient to products.

FDA has adhered to this policy in dealing with cosmetic ingredients. FDA will not permit the deliberate addition to cosmetics of any ingredient that is a potential human carcinogen. For example, vinyl chloride and chloroform have been prohibited as cosmetic ingredients due to the risk of cancer associated with their use (21 CFR 700.14, 700.18). FDA's policy of prohibiting deliberately added carcinogenic ingredients has fostered a reasonable expectation by consumers that this policy applies to all cosmetic ingredients. FDA has received in this rulemaking a number of consumer comments that request that FDA ban 4–MMPD. It thus appears that many consumers assume FDA has the necessary authority to do so.

In fact, but for the statutory provision preventing it, FDA would have applied this policy here and banned 4–MMPD in hair dyes. The general effect of the act's adulteration provisions, and the Delaney anticancer clause governing food additives and color additives, in preventing the deliberate addition of carcinogens to foods and cosmetics is well known. The provisions of section 601 (a) and (e) that prevent FDA from banning 4–MMPD are anomalous when viewed against the background of other provisions in the FD&C Act that prohibit the deliberate addition to foods and cosmetics of carcinogenic ingredients (see sections 409(c)(3)(A); 512(d)(1)(G); 706(b)(5)(B) of the FD&C Act (21 U.S.C. 348(c)(3)(A); 360b(d)(1)(G); 376(b)(5)(B))). As a result of more than 20 years of experience with (and in recent years much controversy and publicity about) the Delaney Clause, the public is unlikely to expect cosmetics regulated

V 44 0 C 1 6 7 9 UMI

by FDA under the FD&C Act to contain a deliberately added carcinogen. Thus, it is a material fact that a cosmetic product contains an ingredient consumers could reasonably expect to be banned from cosmetics. The presence of an unbannable deliberately added carcinogen in a cosmetic product is sufficiently extraordinary and significant that consumers ought to be informed of it. It is the sort of fact that reasonably prudent consumers would want to know about. For this reason, it is "material." Once the consumers know about this fact, they can make an informed decision whether to use products containing 4–MMPD.

It has not been necessary in the past to require warning statements for cosmetics containing deliberately added carcinogens because FDA has prohibited the use of these ingredients under section 601(a) of the FD&C Act (see, for example, 21 CFR 700.14). The use of the misbranding provisions in this case is both necessary and appropriate. It is necessary because the coal tar hair dyes provision allows for no other regulatory action with respect to a deliberately added carcinogenic coal tar hair dye ingredient when the product bears the patch test caution statement. Section 601(a) does require a warning statement about the risk from coal tar hair dyes—the risk that Congress knew about in 1938—skin irritation. In 1938 there was litle knowledge about long-term health hazards, such as cancer, from such ingredients. Nonetheless, requiring today a similar warning about the recently discovered cancer risk associated with a particular coal tar hair dye ingredient is entirely consistent with that provision. Furthermore, FDA has previously recognized that warnings are needed on cosmetics when consumers' reasonable expectations as to the general safety of a product are not being met. For example, FDA has regarded it as misleading for manufacturers to fail to disclose on the label any health hazard from their products or the absence of safety substantiation for their products (21 CFR 740.1, 740.10; see 38 FR 6191 (March 7, 1973)).

Consequently, FDA believes that hair dye products containing 4–MMPD are misbranded under sections 602(a) and 201(n) of the FD&C Act when their labels fail to bear a warning disclosing the risk of cancer. The response in paragraph 2 above discusses FDA's authority under those provisions in greater detail.

It should be noted, that, under the more conservative estimates of risk included in one comment, the dark shades of hair dye having the highest concentration of 4–MMPD pose lifetime risks in excess of one-in-a-million, which is one of the benchmarks for acceptable risks cited in the comment. Moreover, as noted below, in paragraph 5, FDA does not have the authority to inspect records and to obtain data about cosmetics that the agency would need to have if it were to use risk assessments for cosmetics for the purposes advocated in the comment. Such records would include data on product composition and consumption and human exposure.

The comments argued that regulating "small" risks of cancer would divert resources and regulatory efforts from substances in various fields posing greater risks, and "foster excessive consumer apprehension about suspect carcinogens which pose small risks—and insufficient consumer apprehension about those suspect carcinogens for which there is truly a basis for serious concern."

In response, FDA states that a government agency is not estopped from taking warranted action against a particular hazard because of the existence of other hazards on which it has not taken action. Such a principle of estoppel could prevent the government from fulfilling its statutory responsibilities. As the Supreme Court stated in *Dandridge* v. *Williams*, 397 U.S. 471, 486–86 (1968), the government is not required to "choose between attacking every aspect of a problem or not attacking the problem at all."

Also, it is unlikely that an effort to reduce arguably greater risks posed by other activities is dependent upon or would be affected by action or inaction on the warning required for these cosmetics.

Another contention in the comments is that, when the level of risk from a carcinogenic substance is "very small" in relation to a wide range of other risks people are exposed to, it should be considered acceptable. The comments cited many other hazards as possible benchmarks for acceptable risk.

FDA did not compare the risk from 4–MMPD in cosmetics with a variety of other risks, as these comments suggest be done. Some of the suggested benchmark risks, like natural disasters, are beyond the government's ability to regulate; others, like sports, have not been a major focus of government safety regulation; and still others, like occupational safety hazards and automobile traffic hazards, are subject to Federal regulation under statutory criteria that call for a consideration of the feasibility or practicability of regulatory standards (29 U.S.C. 655(b)(5), 15 U.S.C. 1392). In motorcycle racing, rock climbing, automobile driving, and some of the other activities cited in the comments, the risks are obvious and are voluntarily assumed. In contrast, hair dyes are assumed by users to be safe, and the cancer risks will not be apparent to users unless the labeling brings the risk to their attention. Moreover, the fact that some people "accept" some high risks in some aspects of their lives does not mean that they or others are willing to accept risks in other aspects of their lives. The fact that some users of hair dyes engage in dangerous sports does not entail that they are prepared to disregard even small risks from hair dyes. In sum, FDA believes that the activities cited in the comment that are not under FDA's jurisdiction involve diverse considerations and are not directly relevant in determining FDA's responsibilities under the FD&C Act for judging the materiality of risks from cosmetics for deciding when to bring such risks to the attention of consumers. The benefits of hair dyes containing 4–MMPD may vary significantly from one user to another. Some users may consider the benefits very important; others may consider them trivial. Under the regulation, consumers will be able to consider the cancer risk in deciding whether to use such hair dyes.

It was asserted in the comments that it is inconsistent to require a warning on hair dyes containing 4–MMPD yet require no warning on other products within FDA's jurisdiction that also contain carcinogens. One of the examples cited in the comment as representing an inconsistency was failure to take regulatory action concerning oil of calamus, a flavoring agent in food. However, the addition of that substance to food has been prohibited since 1968 (21 CFR 189.110). Moreover, many of the other specific substances cited by the comments are not analagous to 4–MMPD in hair dyes in terms of the appropriateness of a warning. The agency has previously explained, for example, its rationale for believing that selenium and beverage alcohol do not present a risk of cancer when consumed at levels below those that induce a hepatotoxic effect (38 FR 10458 (April 27, 1973) and 39 FR 1355 (January 8, 1974)). Some of the substances cited in the comments are inherent rather than added substances in food, and the statutory standard for prohibiting these substances may warrant a different policy with respect to warnings (21 U.S.C. 342(a)(1)). Some of the activities listed in the comments involve matters for which labeling presents practical difficulties. In the case of charcoal broiled steaks, for example, the warning would have to be directed at a manner of cooking meat, a product with respect to which FDA's authority is limited under section 902(b) of the FD&C Act. Any regulation by FDA of substances in drinking water would have to take account of the responsibilities vested in the Environmental Protection Agency under the Safe Drinking Water Act (42 U.S.C. 300(f) et seq.).

Other asserted failures to require warnings cited in the comments concern carcinogenic substances in foods, particularly aflatoxins. Aflatoxins and several other substances cited are not deliberately added carcinogens. Rather, FDA has regarded them as unavoidable food contaminants subject to 21 U.S.C. 346. Under that provision, unavoidable substances in food can be permitted, subject to limits necessary for the protection of the public health.

In regulating aflatoxins, FDA has been primarily concerned with the aflatoxin level above which foods with aflatoxin should be prohibited. FDA has not considered requiring a label warning. Aflatoxins are unintentional contaminants, and they do not appear in every unit of peanuts, corn, and milk, or the foods containing these ingredients. Thus, any warning on these products would have to be considered in light of the fact that no detectable levels of aflatoxin may be present in some foods affected by the warning. In proposing a tolerance for aflatoxins in the Federal Register of December 6, 1974 (39 FR 42748), the agency also considered the extent to which aflatoxins are unavoidable under current conditions of good manufacturing practice and the "* * * need for the continued availability of a low cost protein source (that is, peanuts) * * *". Moreover, given the prevalence of foods containing milk, corn and peanuts in some form, it may be impractical and confusing to require a warning on all the foods that may be affected. Indeed, a requirement for warnings on all foods that may contain an inherent carcinogenic ingredient or a carcinogenic contaminant (in contrast to a deliberately added carcinogenic substance) would apply to many, perhaps most, foods in a supermarket. Such warnings would be so numerous they would confuse the public, would not promote informed consumer decisionmaking, and would not advance the public health. Warnings concerning deliberately added, unbannable carcinogens do not present this difficulty.

If interested persons believe, however, that a warning should appear on foods containing aflatoxins or other substances, they should file a citizen petition with adequate supporting data, to request the agency to require a warning. This procedure will ensure a full consideration of the appropriateness of the warning in light of the particular features of the substances, and the possible need for a restriction on their use rather than a warning.

In arguing that a warning for hair dyes is unwarranted, the comments noted that FDA advised in the March 3, 1975 Federal Register (40 FR 8912), regarding warning labels for self-pressurized food, drug, and cosmetic containers, that FDA would take into account whether a hazard was serious and frequent when considering a label warning requirement. FDA believes the hazard from 4–MMPD is sufficiently serious to warrant a label warning. The advice about the relevance of frequency in determining the need for a warning was provided in the preamble to a rule that particularly dealt with the need for warnings about the hazards of accidental misuse and intentional abuse of cosmetics. Any product is potentially dangerous if misused in a sufficiently gross way, for example, if a container of cosmetics is swallowed. Thus, the frequency and likelihood of misuse is a particularly important consideration in judging the materiality of the risks of misuse. When a risk of grave harm exists under the intended conditions of use of a product, however, a different situation is presented because risks of grave harm from the intentional use of a cosmetic product should be entirely avoidable.

In summary, FDA believes that the warning on cosmetics containing 4–MMPD is rational and reasonable in light of the special regulatory category into which Congress has placed all carcinogens (except carcinogenic coal tar hair dyes) that are food additives or color additives, FDA's general policy with respect to hazards from cosmetic ingredients, the different considerations that affect the choice of approaches for regulating other substances, and the scope that must ultimately be left to an agency to establish its priorities for regulatory action.

5. One comment suggested that the scope of the regulations be modified to exclude all hair dyes containing one percent or less of 4–MMPD from the warning requirement in view of the "Risk assessment implications" reported in another comment. This other comment described the risk from the brown and blond shades that have lower concentrations of 4–MMPD as being "disproportionately small," in comparison with black shades and as posing a risk under a linear model for brown shades of 1 in 6.2 million and for blond shades of 1 in 62 million.

This preamble has already discussed the general reasons for rejecting the position that the risk of cancer from hair dyes is too small to warrant a warning to consumers. Moreover, FDA's authority and resources for its cosmetics program are too limited to attempt to place varying restrictions on the amounts of a substance and tailor a regulatory policy to changing patterns of cosmetics use. For example, FDA did not know the existing sales and concentration levels for different types of hair dyes containing 4–MMPD until this information was submitted in the comments. Also, FDA's authority to inspect cosmetic companies is limited and does not generally extend to records. Thus, FDA would have considerable difficulty in verifying existing or future use patterns and the consequent risks posed.

FDA would also have considerable difficulty in enforcing a limitation because the lack of authority to inspect manufacturers' records means the agency would have to rely on its ability to detect the presence and amount of 4–MMPD by chemcial analysis. Although it is possible to detect the presence of 4–MMPD in a hair dye, it is not always possible to measure accurately the amount of 4–MMPD that is present, particularly in view of the number of dye ingredients that may be in a hair dye. Therefore, it may not be possible to detect and prosecute violations of a concentration limit.

6. The comments have also argued that the failure of Congress to require a warning on ingested cosmetics containing saccharin establishes that Congress viewed low levels of risks from cosmetics as immaterial and socially acceptable risks that need not be brought to the consumer's attention. On this basis, the comments argued that warnings could be omitted for cancer risks from hair dye ingredients if the risk were low.

FDA disagrees. Congress' attention in dealing with saccharin was focused on the food use of saccharin because of the widespread and intense public debate on whether the use of saccharin in diet sodas and other foods should be prohibited. The main purpose of Congress in passing the Saccharin Study and Labeling Act was to delay the proposed FDA ban on saccharin in foods while further studies were done by the National Academy of Sciences on the risks and benefits of saccharin and

V 44 0 C 16 79 9 UMI

other issues on which Congress wanted more information and analysis. The warning requirement for foods containing saccharin indicates, if anything, Congress' belief that consumers should be informed of a cancer risk even when Congress is uncertain about the extent of the risk or the policy to be followed.

The use of saccharin in ingested cosmetics was a tangential and minor issue that tended to be overlooked. In view of the primary interest in food uses and the temporary nature of the Saccharin Study and Labeling Act, it is attributing too much significance to Congress' silence on cosmetics to suggest that Congress deliberately intended to set an acceptable risk level for carcinogenic cosmetic ingredients.

It should also be noted that it has been argued that the use of saccharin in ingested cosmetics, such as toothpaste, provides a health benefit because use of toothpaste promotes dental health and saccharin in toothpaste gives it a palatable taste that encourages use. This argument presents enough distinct considerations that Congress may have believed it did not have sufficient time or an adequate legislative record to resolve this issue, when its concern was to implement a temporary delay as quickly as possible on the proposed ban of food uses of saccharin.

7. One comment averred that if FDA insists on requiring the warning statements verbatim, as proposed, or in any event without adequate information accurately describing the potential risk involved, cosmetic manufacturers have a First Amendment right to prepare an informative and accurate package insert to provide hair dye consumers with the factual information they need to assess intelligently the possible risk of using hair dyes containing 4–MMPD

FDA advises that manufacturers do not have a First Amendment right to make misleading statement (see *Virginia State Board* v. *Virginia Citizens' Consumer Counsel*, 425 U.S. 748, 771, 772, n. 24 (1976)). Furthermore, manufacturers do not have a constitutional right to contradict or discount on a label a warning that is required by a regulation promulgated in accordance with applicable legal standards and procedures. Under the FD & C Act and the APA, there is an established public procedure for determining the content of health-related information on labels. Once a label warning has been adopted by that procedure (which can culminate in judicial review), the text of the warning cannot be modified, added to, or subtracted from by a firm or by FDA without going through the same procedure again. FDA's position that manufacturers may not include a statement of difference of opinion with respect to any required warnings is stated in 21 CFR 1.21(c). Labeling statements, such as those that have been made in the past in an industry brochure that "scientific research confirms hair dye safety" and "appropriate animal studies show no evidence to question hair dye safety" are regarded by FDA as false representations; and, if included in labeling, they will be the subject of enforcement action. In other respects, of course, manufacturers do have a First Amendment right to engage in commercial speech although the scope of that right is not clear.

The comments pointed out that FDA advised in the preamble to 21 CFR 1.21(c)(1) that "the degree of scientific uncertainty about a possible hazard, or its frequency of occurrence, or other similar related information may, of course, accompany or be part of a warning," and that it is common "to point out that the relationship between adverse animal findings and human consequences has not yet been determined" (see the Federal Register of September 16, 1974 at 39 FR 33232).

In giving this advice, the agency's attention was focused on additional information given to a physician about drugs. This focus is indicated by the next sentence in the preamble following the material quoted in the comments: "However, presentation of such factual information, which is helpful to the physician in evaluating the significance of a warning, does not permit additional statement of conflicting medical opinion, relating to the warning." The agency also stated in the preamble that where "potential danger is the statutory standard, a warning must be unencumbered and unambiguous."

Because most consumers are not experts in the evaluation of toxicological information, there is a considerable potential that they will be misled by information about a hazard that would not be misleading to a physician or expert in the field. For example, those commenting believe that the labeling should provide information on the degree of risk in terms of the "maximum" lifetime risk from the substance, and on a comparison with other risks consumers commonly face everyday. However, due to the lack of validation, the risk assessments cannot predict with certainty the maximum degree of risk to which consumers are exposed in absolute terms, as the risk assessment report submitted in the comments acknowledges. Risk assessment can be useful on a comparative basis, but even if the limited comparative use were pointed out to consumers in labeling, there is a considerable possibility that consumers would interpret the comparative figures as predictions of the absolute degree of risk.

It is conceivable that the misleading potential of the labeling statements contemplated in the comments might be corrected by a balanced presentation of all the relevant information on these matters, including FDA's reasons, as discussed elsewhere in this document, for disagreeing with many of the contentions in the comments. The presentation would have to be fairly done; and FDA believes that such a presentation is likely to be so complex, and necessitate so much explanation of difficult scientific, statutory, and policy matters, that it could not feasibly be done in labeling in a way that consumers would understand. Thus, FDA believes that the full debate about these issues should occur in a more appropriate forum than labeling. This notice-and-comment proceeding is such a forum.

In sum, labeling should not contain any false or misleading statements concerning the risk from use of 4–MMPD, or other statements that conflict with the findings in this rulemaking proceeding. FDA will scrutinize any additional statements included in labeling about the risks from 4–MMPD in hair dyes for their potential to be misleading.

8. One comment argued that any rule promulgated by FDA would be invalid because FDA had acted improperly by failing to provide information needed by the submitter of the comment to provide full comments on the proposed regulation. The comment stated that a citizen petition requesting answers to questions had been filed but that FDA had denied this petition to the extent it went beyond an FOI request and sought answers to questions. Further, the comment stated that a Petition for Reconsideration has also been filed and FDA has not yet responded. The comment maintained that FDA could not respond to these issues in the preamble to the final rule without providing additional time to comment.

The validity of this regulation is not affected by FDA's not responding to the questions raised in the citizen petition, and the Petition for Reconsideration is appropriately denied. The petitioner was advised that such issues are more properly raised as comments on the proposal. The petitioner subsequently commented on the proposal. As the comment acknowledged, material

provided in response to FOI requests answered some of the questions posed. The petitioner maintained that other questions could not be answered, and identified some of these questions in its comment. FDA has responded in this preamble to all the questions raised in the comment, and has either answered the questions or explained why an answer is not significant or necessary. The underlying contentions of the comment are discernible from the questions posed. The responses made in this preamble have provided the agency's reasons for believing the warning should be required notwithstanding that in the bioassay of 4–MMPD there may have been, as suggested in the comment, some departures from current NCI guidelines and desirable good laboratory practices. Consequently, further delay to provide additional time to comment on the responses provided in this preamble is not warranted. Of course, any person may file a petition to revoke the rule if he or she believes that additional information should be considered.

9. One comment argued that the proposed regulation should be withdrawn because it violates the spirit of Executive Order No. 12044, which directs that regulations achieve legislative goals effectively and efficiently and not impose unnecessary burdens on the economy, on individuals, or on public or private organizations.

This regulations does not violate the spirit of Executive Order No. 12044, because consumers will be warned that there is a potential cancer risk associated with the use of hair dyes containing 4–MMPD. No convincing data were submitted in the comments to support the contention that the economic impact of this regulation might outweigh consumers' need to know of this risk.

Warning Posters

10. Some comments argued that FDA should not require warning posters in beauty salons. Some of these comments contended both that the FDA does not have the legal authority to require the proposed warning posters in beauty salons and that the requirement is unconstitutionally vague and discriminatory. A number of comments also objected to the proposed warning posters on the ground that they would be contrary to sound public policy. A few comments raised the objection that the proposed poster requirement would have a severe adverse economic impact. Other comments argued that the mere presence of cancer warning posters in beauty salons would seriously injure the cosmetology industry due to the adverse psychological impact on every customer visiting a beauty salon. Other comments objected that the warning posters would be highly deceptive. However, one comment suggested that the proposed § 740.18(b) be revised to require warning posters in any establishment where hair is dyed, rather than just in beauty salons. The comment pointed out that establishments such as barber shops also dye hair.

After carefully assessing the comments on the warning posters, FDA has decided to withdraw the proposed poster warning requirement. The practical problems of ensuring that warning posters are made available to owners or operators of each establishment where hair is dyed, and the difficulties inherent in enforcing the requirement, make it inadvisable at this time to issue this part of the proposal. Manufacturers would have been responsible for printing the warning posters and enclosing them in shipments of hair dyes containing 4–MMPD. Distributors would have been responsible for forwarding these posters to establishments that dye hair. It is likely that some distributors would not send posters to every such establishment. Although owners or operators of hair dying establishments might well print their own posters, a large number, if not most, would be unlikely to do so.

A requirement for display of warning posters in hair dye establishments would, for all practical purposes, have had to be self-enforcing. There are 250,000 to 300,000 establishments in the United States that dye hair. Routine inspections of such establishments are not made by FDA, and in light of budgetary constraints in general and on the cosmetic program in particular, it is not realistic to expect that resources would be available for widespread enforcement of the requirement. Intermittent enforcement of the poster requirement would be ineffective and arguably unfair.

FDA recognizes that the absence of a requirement for posters will reduce the likelihood of actual notice to the public about the risks from hair dyes containing 4–MMPD that are used on consumers in service establishments. However, the enforcement problems discussed above make it difficult to be sure that the poster requirement would be observed, if imposed. Furthermore, notices on packages of hair dyes containing 4–MMPD in retail stores will make many consumers continually aware of the presence of 4–MMPD in some hair dyes and of the potential risk of cancer that use of such hair dyes presents. These notices will also appear on labels of hair dye used at beauty salons and barber shops. As a result, a consumer may still determine whether a hair dye contains 4–MMPD by asking to see the label of the hair dye to be used on his or her hair in such an establishment.

Furthermore, posters have not been required for other hazards posed by cosmetics distributed in beauty salons, for example, the caution statement for coal tar hair dyes and the warnings on risks to the public health and environment from chlorofluorocarbon propellants. Further consideration is needed before singling out a particular warning for more prominent display in beauty salons.

On the basis of a review of the comments, FDA is not persuaded that it lacks the legal authority to require posters in beauty service establishments in these circumstances, but there is no need to discuss the comments in detail or to take a final position because the proposed poster requirement has been withdrawn for the reasons stated.

Scope of the Regulation

11. One comment suggested that the scope of this regulation be expanded to require warning statements on any poster or other display placed in beauty salons pertaining to hair dyes subject to this regulation.

In the response in paragraph 10 of this preamble, FDA explained why the proposed warning poster requirements are being withdrawn. Although manufacturers will not be required to print these posters, FDA believes that when manufacturers elect to print additional labeling (for example, displays promoting the sale of the hair dye, package inserts, and so forth) warning statements should also be required on this labeling, and the agency has revised § 740.18(a) accordingly, to increase the likelihood that consumers will be alerted to the risk of cancer attributable to the use of 4–MMPD. The same rationale for the requirement of warnings on labels set forth above also applies to labeling.

12. Some comments requested that FDA require warning labels on all cosmetics containing carcinogens, not just hair dyes containing 4–MMPD. One comment suggested that the proposed regulation be extended to include the following substances, which are present in hair dyes and have been shown by National Cancer Institute studies to be animal carcinogens: 4-amino-2-nitrophenol, 2-nitro-1,4-phenylenediamine, 2,4-toluenediamine, Direct Blue #6, lead acetate.

V 4 4 0 C 1 6 7 9 UMI

V 44 OC 16 79 UMI

FDA advises that it is not appropriate to extend the scope of this regulation in the manner suggested. Requiring warning statements for or taking other action on these substances would have to be considered in separate rulemaking proceedings in order to be sure that interested persons have an adequate opportunity to comment, in accordance with the requirements of the APA. However, as pointed out in the preamble to the proposed rule, the FDA is closely monitoring the results of NCI studies on these compounds. Appropriate action will be taken when the FDA evaluation of these studies is complete. FDA has stated in congressional testimony that it will propose to require a label warning on any hair dye containing a coal tar hair dye ingredient that poses the same type of hazard as 4–MMPD (Hearings before Oversight Subcomm., House Commerce Comm. (July 19, 1979)). The status of the provisional listing of lead acetate as a color additive is discussed in the Federal Register of March 6, 1979 (44 FR 12169, 12205).

13. One comment suggested that the scope of this regulation be expanded to require warning labels on all hair dyes containing 4–MMPD, whether for use in beauty salons, or for retail sale.

The scope of this regulation does not need to be expanded because the provisions of § 740.18(a) as proposed and as promulgated by this final regulation already apply to all hair dyes containing 4–MMPD, whether they are intended for sale to beauty salons or for retail sale.

14. A few comments from consumers suggested that FDA determine the conditions under which hair dyes containing 4–MMPD would be safe for humans and require manufacturers to label hair dyes as "SAFE" when the dyes meet these conditions.

FDA does not agree that any hair dyes containing 4–MMPD should be labeled as "SAFE" for the reasons discussed in paragraph 4. In addition, FDA does not have the authority to require that cosmetic manufacturers submit the data that would be required to determine that a hair dye is "SAFE."

15. A few comments suggested that the regulation require cosmetologists to warn their customers of the risk of using hair dyes containing 4–MMPD. One comment pointed out that some cosmetologists are advising customers to ignore FDA's warnings about hair dyes because the dyes may cause cancer only if taken internally. Another comment stated that some cosmetologists might not let their customers see any hair dye labels with cancer warnings.

FDA does not regulate oral statements made by cosmetologists to their customers; it has neither the authority nor the resources to do so. The agency expects that through labels and reports in the news media the public generally will become aware of the cancer risk associated with 4–MMPD.

Text and Placement of the Warning Statement

16. Several comments requested that the text of the proposed label warning statement be revised to advise consumers that hair dyes containing 4–MMPD pose a risk of cancer in humans because the 4–MMPD in such dyes has been determined to cause cancer in laboratory animals. The comments argued that such a revision is necessary due to the large amount of cosmetic industry publicity, which has attempted to convinced consumers that animal tests have no relevance to assessing human risk.

FDA does not agree that the text of the warning needs to be revised to alert consumers to the existence of a potential risk of cancer to them. The present text indicates that it is a "warning," and this term alerts consumers to the potential for harm to them. The rest of the text provides consumers with the essential information about the basis for the belief that there is a risk. As noted in the preamble to the proposal, the text of the warning is similar to that urged in a citizen's petition but includes the introductory signal word, "warning," to parallel other warnings for cosmetics that pose risks of possible grave injury, and to alert consumers to the nature of the information conveyed.

The demonstration that a compound causes cancer in animals must be taken as evidence that it has a potential for causing cancer in humans, unless there is strong evidence to the contrary. As pointed out in this preamble, the evidence does indicate that hair dyes containing 4–MMPD pose a potential risk in humans. However, this evidence does not establish that 4–MMPD is definitely a human carcinogen. Further, the reported epidemiological studies have not established a definitive cause-effect relationship between 4–MMPD and human cancer. Accordingly, in light of the current knowledge concerning 4–MMPD, the text of the proposed warning statement provides a fair and accurate description of the potential carcinogenic hazard posed by 4–MMPD.

17. Several comments considered the text of the proposed warning statements to be grossly oversimplified and therefore false and misleading. One comment cited the results of a survey of consumer understanding of FDA's proposed warning statement. This comment suggested that the survey indicated that the text of the proposed warning statement would be highly deceptive. Another comment requested that, if FDA requires a warning statement, it should revise the language to (1) delete the word "warning"; (2) indicate that the NCI study was an animal feeding study rather than a skin painting study; (3) reflect that the warning results from a screening study conducted by lifetime feeding of laboratory animals at massive daily does; (4) describe the animal skin painting tests and several epidemiology studies that support the safety of hair colors; and (5) provide information on the relative risk, if any, from use of the product.

FDA does not agree that the text of the proposed warning statement is false or misleading. As discussed in this preamble and in the proposal, the text reflects the facts that 4–MMPD penetrates human skin and causes cancer in animals. Consumers should be aware of these facts in order to make an informed buying decision; consequently, FDA has retained the text of the proposed warning statement.

The consumer survey submitted in the comment indicated that 68 to 76 percent of those surveyed believed the warning and proposed poster meant that the substance may or may not cause cancer, while 20 to 25 percent thought it meant the substance probably or definitely would. Thus, most consumers are interpreting the text in an appropriate way in light of the scientific evidence. Like the text of the warning prescribed by Congress to alert the consumer to the risks of saccharin in food, the warning indicates the existence of a possible risk without attempting to indicate how certain or probable the risk is. There is no reason to expect that consumers will interpret a warning that concerns the *nature* of a risk and that is phrased in general terms—as is the warning required here—as conveying information on the *size* of the risk in absolute terms or in comparison to other risks. Warning labels—including those for cigarettes and saccharin—simply do not purport to provide, and are not understood by the public as providing, that kind of information. There is always some possibility that consumers may misunderstand the text of any warning, but further public debate on cancer issues generally may help eliminate or reduce confusion in this instance.

As already noted, FDA views it to be misleading to supplement the warning to

suggest that the skin painting and epidemiology studies confirm or establish the safety of hair dyes because, as discussed in the preamble to the proposed rule, these studies are not dispositive and are not a basis for disregarding or discounting the results found in the more sensitive animal feeding studies.

It would also be misleading to state or imply that feeding studies are an inappropriate basis for determining potential risk from a cosmetic. As discussed in the proposal, the NCI study reported that tumors occurred at sites other than in the digestive tract; this occurrence indicated that 4–MMPD was absorbed into the bloodstream and transported to these other sites. Therefore, it is reasonable to assume that 4–MMPD entering the bloodstream by a different route could have similar effects. Modification of the warning statement to highligh that FDA is relying on data from a feeding study might imply to some consumers that that fact makes the warning inapplicable to a topically applied cosmetic. For purposes of a label warning intended for the general public, inclusion of isolated facts outside their scientific context would be misleading. The text of the warning reflects FDA's scientific and regulatory judgment as to the information needed to reflect the underlying scientific results fairly and also to give the public a message that is meaningful and understandable.

18. One comment requested that the proposed § 740.18(a) be revised to require that the text of the label warning statement be printed in 8 point boldface type upon a contrasting solid color background. This comment argued that this revision is necessary to ensure that the label warning is clear and conspicuous. The comment pointed out that a requirement for a solid color background would aid readability of the warning statement by preventing confusing full color photographic backgrounds. Another comment urged, however, that the warning be permitted to appear in accompanying labeling and not be required to appear on the label.

FDA advises that any label warning should be prominent and conspicuous, in bold type, and on contrasting background so that it is likely to be read and understood by consumers at the time of purchase or use. The provisions of § 740.2, which apply to all cosmetic warning statements, specify conditions for such prominence and conspicuousness. Although the provisions of this section would automatically apply to 4–MMPD warning statements, § 740.18(a) has been revised to refer specifically to § 740.2 to emphasize the requirements for conspicuousness and prominence for the 4–MMPD warning.

The agency does not agree that the provisions of § 740.18(a) should be revised to provide that label statements concerning 4–MMPD be printed in 8 point boldface type upon a contrasting solid color background. The provisions of § 740.2 already specify that the warning statement shall be in letters and numerals not less than 1/16 inch in height, a requirement that is generally applicable to all warnings on cosmetics.

Nor is the agency convinced that a solid color background is essential for good readability. However, multicolored photographic backgrounds may decrease the readability of the printed matter, with the result that the warning would violate the prominence and conspicuousness provisions of § 740.2.

In sum, the warning requirement for hair dyes should be subject to the same general requirements applicable to other warnings on cosmetics. If these warnings are not sufficiently conspicuous, the appropriate course is to revise the general requirements rather than to single out a particular warning for additional prominence. Interested persons may file a citizen's petition to seek such a change if they believe they can support the need for a change.

Like the other warnings in 21 CFR 740.10, for cosmetics that alert consumers to safety risks of possible grave harm under the intended conditions of use, the warning will, as proposed, be required to appear on the principal display panel. FDA rejects the suggestion that the warning be allowed to appear solely on labeling other than the label because that approach would provide less assurance that consumers would see it and would provide less prominence that that given to comparable required warnings on cosmetics.

19. One comment suggested that the text of the label warning statement be revised to advise consumers that the hair dye contains an ingredient that can penetrate the scalp as well as the skin.

The agency maintains that most consumers are probably aware that, because the scalp is actually skin, a substance that "can penetrate your skin" can also penetrate the scalp, and therefore it is not necessary to require such an explanation in the warning label statement.

Scientific Issues Concerning Mason Study

In the proposal, FDA advised that a study (the Mason study) sponsored by NCI establishes that technical grade 4–MMPD is carcinogenic in two rodent species. This study was conducted by the Mason Research Institute, Worchester, Massachusetts, initially under direct contract to the NCI and later under a subcontract to Tracor Jitco, Inc., prime contractor for the NCI Carcinogensis Testing Program. The agency pointed out that the clear demonstration that a compound causes cancer in animals must be taken as evidence that it has a potential for causing cancer in humans, unless there is strong evidence to the contrary.

A number of comments agreed that the results of the Mason study justify FDA's proposed rule on 4–MMPD. Most of these comments agreed that the Mason study provides sufficient evidence of a human health hazard so that consumers should be warned of the potential danger. The comments pointed out that, without the proposed regulation, the consumer would be denied the opportunity to make an informed choice.

However, other comments argued that the Mason study was so flawed that FDA could not rely upon it as a basis for rulemaking or at least should gather more facts about 4–MMPD before requiring warning statements.

Flaws of Mason Study

Several comments stated that the Mason study does not demonstrate the carcinogenicity of 4–MMPD in animals because the study was not conducted in accordance with accepted scientific procedures, particularly those set forth by the NCI in its "Guideline for Carcinogenesis Testing in Small Rodents." The following is a list of the specific aspects of the Mason study cited in the comments as deficiencies, together with FDA's response on each point. It should be noted at the outset that FDA acknowledges that today some aspects of the Mason study are not generally recognized as acceptable laboratory practices. The current NCI guidelines were not in effect at the time the study was conducted. However, the shortcomings were not sufficient to invalidate the study's finding that 4–MMPD is a carcinogen.

20. Some comments stated that a critical flaw occurred when the maximum tolerated dose (MTD) for the animals used in this study was exceeded. The comments contended that this occurred when high dose concentrations of 4–MMPD were greatly elevated after 11 months of the rat study and 7 months of the mouse study.

FDA does not agree that the MTD for the animals used in this study was exceeded. The "MTD" is defined in NCI guidelines as the highest dose of the test

agent given during the chronic (that is, long-term) study that can be predicted not to alter the animals' normal longevity from effects other than carcinogenicity. Adequate numbers of the animals involved in the Mason study survived for the duration of the study. The animals involved in this study did not exhibit significant adverse toxicological effects other than development of cancers.

21. A few comments objected that the 28-day subchronic study, which was used to establish the initial MTD in the Mason study, was inadequate. These comments pointed out that NCI guidelines recommend a 90-day subchronic study. One comment questioned whether histopathological examinations were conducted following the conclusion of the subchronic study.

The principal purpose of NCI's recommended 90-day sub-chronic study is to establish an MTD, to ensure that the animals survive to the end of the chronic test and that the compound in question is tested at the level likely to yield maximum tumor incidence. After the chronic study had progressed 10 months, the scientists involved in the Mason study noted that insufficient weight depression occurred in those animals being given the highest dose. They concluded at that point that the dose should be substantially higher and so sacrificed the rats being given the lowest dose and started a new group of rats on a new high dose. The old high dose group became the new low dose group. Thus, the MTD was established after the initial 10 months of the chronic study and, in effect, the sub-chronic study took place during that 10-month period.

It is not known whether histopathological examinations were conducted at the conclusion of the subchronic study. At the time this study was conducted, NCI did not require histopathological examinations at the conclusion of subchronic studies.

22. A few comments objected to the fact that a large number of compounds that have been shown to be carcinogenic were tested in the same rooms that housed the animals used for this study. The comments pointed out that NCI guideline II.E.1 provides that "animal facilities should be designed and operated to minimize the introduction of external biological and chemical agents into the building, as well as between individual animal rooms."

FDA acknowledges that the housing of the experimental animals in the same room with other potentially carcinogenic compounds is an undesirable practice. However, FDA does not believe that this housing situation affects the validity of the Mason study. FDA evaluated the possibility of cross-contamination with the other compounds by reviewing the studies of other animals that were housed in the same room as the 4-MMPD experimental animals. None of the other animals had developed thyroid or Zymbal's gland tumors at statistically significant levels. Therefore, FDA concludes that cross-contamination was not a factor in the formation of these unique tumor types.

23. A few comments stated that the Mason study was not properly controlled. These comments argued that the lack of control over temperature and humidity, the inconsistency in husbandry (for example, the control and the test animals were housed in separate rooms) and the different supply source for high and low dose experimental animals had seriously flawed the Mason study. One comment questioned whether any specific control measures were used to assure proper identity of animals, tissues, and slides in view of the large number of test materials and dose levels under test in the laboratory at any one time. The comment specifically asked whether the controls for the high dose 4-MMPD rats were also the low dose controls for the study of 2-methyl-1-nitroanthraquinone. Also, the comment asked for an explanation of the "unusual coincidence" of the findings that 10 of the 4-MMPD high dose controls had "palpable subcutaneous masses" while 10 of the low dose 2-methyl-nitroanthraquinone rats, housed in the same room, were reported to have had subcutaneous fibromas.

FDA acknowledges that the Mason study should have been better controlled; the control and the test animals should have been housed in the same area under the same environmental conditions; the animals should have been housed separately to prevent cannibalism; all the animals should have been procured together from the same supply source to ensure genetically similar backgrounds; the procedures used to identify tissue samples should have been recorded. However, for the reasons discussed below, the positive findings in the test animals cannot be attributed to these and the other cited shortcomings in laboratory procedure.

Although test and control animals should have been housed individually to prevent cannibalism, the data show that only one animal per dose level was lost in this manner. Further, analyses of the animals' growth during the Mason study, as reported by NCI, do not indicate that the animals were unduly stressed by their physical surroundings or husbandry. Also, the positive results of the Mason study are not affected by the different supply sources of the high and low dose experimental animals. The source of the high dose control and treated rats was different from that of the low dose control and treated rats. This difference implies only that dose related comparisons between the low and high dose groups may not be valid. It does not weaken the independent validity of the high or low dose results per se. Due to procurement of the treated rats and their controls from different shipments on different days, it is impossible to state with certainty whether the genetic backgrounds of these animals were the same. These differences may have reduced the probablity of observing weak dose response effects, but they cannot account for the appearance of the tumors in the test animals.

FDA does not know whether the high dose controls for the 4-MMPD study were also the low dose controls for the study of 2-methyl-1-nitroanthraquinone; however, a comparison of the histopathological data from these animals indicates that this may have been the case. This possible use of the control animals as controls in another study, while unusual and not good laboratory practice, does not by itself invalidate the positive results in the study of 4-MMPD.

The finding of ten 4-MMPD high dose controls with "palpable subcutaneous masses" and 10 of the low dose 2-methyl-1-nitroanthraquinone rats with subcutaneous fibromas appears to be coincidental. These are not necessarily the same tumors. A palpable subcutaneous mass is a gross observation, whereas a subcutaneous fibroma is identified by microscopic examination. When the masses from the high dose controls of the 4-MMPD study were examined microscopically in the Mason study, subcutaneous fibromas were not found in all 10 rats with palpable subcutaneous masses, but rather were found in the high dose rats only as follows: males, 3 out of 43; females, 1 out of 50.

24. A few comments stated that no analyses were done to establish stability of the dye in the animal diets. The comments pointed out that NCI guideline II.K. states that "when a test agent is given in the diet, its stability must be considered as a factor in determining how often the feed should be renewed."

From reviewing the NCI records upon which their report on the Mason study is based, FDA has determined that

although it was not indicated in the NCI report on the Mason study, analyses were done to establish the stability of the 4-MMPD in the diets. FDA has also determined that the more stable 4-MMPD sulfate, and not 4-MMPD itself, was used in the animal diets. During the subchronic phase of the study, the Mason Institute conducted analyses involving the recovery of 4-MMPD from animal diets. Recovery of 4-MMPD averaged 90 percent. Also, additional studies indicated that when 4-MMPD was added to the feed and the feed was stored for 2 weeks, recovery of 4-MMPD still averaged 90 percent. Since it is the practice of firms involved in animal testing to prepare 1 or 2 weeks' supply of feed, the agency believes that the stability tests were adequate.

25. Some comments stated that no analyses were done on the diets to determine homogeneity of the mixtures of 4-MMPD that were fed to the experimental animals. The comments argued that such analyses were necessary to ensure that the proper mixing and formulation procedures were being used.

FDA acknowledges that the NCI report on the Mason study does not indicate whether the diets were analyzed for homogeneity of 4-MMPD content. Consequently, FDA does not know whether proper mixing and formulation procedures were used at all times. If diets were not homogeneous, some test animals might have received no 4-MMPD, while other animals might have received more 4-MMPD than the anticipated dosage. It is conceded that if the results of the Mason study had been negative, the possibility of test animals receiving no 4-MMPD would have cast doubt on the validity of the study. However, FDA does not agree that the possibility of unequal doses casts doubt on the study's positive outcome. The 4-MMPD did induce cancers in enough test animals to justify the conclusion that 4-MMPD is an animal carcinogen under the conditions of this study.

26. One comment asked whether pathologists examining the slides from the Mason study knew which tissues were from the control group and which were from the test animals and whether they were aware of the identity of the test compound.

FDA does not know whether the pathologists were aware of whether the slides were from the control group or the test animals. However, even the current NCI guidelines do not address this issue, or impose any requirement that pathologists be unaware of the identity of tissue samples being examined.

27. One comment stated that many of the discrepancies listed above were noted by FDA employees during their review of the NCI study. The comment pointed out that the report of the Ad Hoc Committee on the carcinogenicity of 4-MMPD states: "Certain aspects of the design and conduct of the studies are disquieting and are not accepted good laboratory practices." One comment also asked for an explanation of why there were departures from the NCI guidelines.

FDA acknowledges that the FDA Ad Hoc Committee on carcinogenesis of 4-MMPD stated that aspects of the design and conduct of the Mason study were not in keeping with accepted good laboratory practices. However, it was also the opinion of this group and the Clearing House on Environmental Carcinogenesis of the National Cancer Institute that in spite of the errors in the conduct of this study 4-MMPD, when administered to rats and mice, induced the formation of tumor types not seen in the control animals, and therefore 4-MMPD must be considered carcinogenic to animals and potentially carcinogenic to humans.

The Mason study could not have followed all NCI guidelines because these guidelines were not published until 1976, well after this study was begun. Hardly any long-term animal study conceived prior to 1976 could be expected to comply fully with the 1976 NCI guidelines. Nonetheless, many of these studies, notwithstanding their use of procedures inappropriate by today's standards, still meet the basic objectives of a carcinogen bioassay.

Other Issues Concerning Mason Study

28. A few comments claimed that the increased number of thyroid and Zymbal's gland tumors reported in the Mason study were due to a secondary reaction following impaired thyroid function in the test animals. One comment argued that evidence of a secondary reaction was provided by the fact that a black granular precipitate was deposited in the thyroid glands of only the high dose experimental animals. Another comment stated that the nontumor thyroid pathology of Mason rats would interfere with thyroid function and cause a secondary reaction.

FDA has reviewed the data submitted with the comments and does not agree that the evidence establishes that observed thyroid and Zymbal's gland tumors were due to a secondary reaction. The data submitted did not substantiate interference with either thyroid or pituitary function. Following feeding of 4-MMPD (0.5 percent of the diet) for 2 weeks, the ratio between T3/T4 thyroid hormones was increased; such an increase is indicative of hyperthyroidism. However, the levels of T3 and T4 both decreased relative to control values. This fact indicates a hypothyroid condition. No change occurred with respect to the TSH level. This latter finding is characteristic of an euthyroid state. Had the 4-MMPD formed a complex with free iodine, as was proposed in the submitted comments, then the decreased T3 and T4 would have been accompanied by a feedback increase in TSH. There was no increase in TSH.

Alternatively, if, as was proposed by the comments 4-MMPD had formed a complex with inorganic iodine in the thyroid, rendering the iodine unavailable for incorporation into thyroid hormones, then the supplementation of test animals with up to 100 times the estimated daily requirement of iodine should have reversed the alleged hypothyroid condition. This effect was not observed.

Although a black precipitate could be produced by the in vitro reaction of 4-MMPD and inorganic iodine, no attempt was made to identify this material as being the same as that found in the test animals. The evidence so far submitted cannot, therefore, be considered as indicating interference with thyroid hormonal activity because the T3 and T4 findings are equivocal, and no interaction has been demonstrated between thyroid and pituitary glands.

This point assumes some importance in view of International Agency for Research in Cancer (IARC) statements relative to antithyroid compounds and their relationship to indirect thyroid neoplasia. According to IARC, "* * * The outcome will depend, however, upon the interplay of iodine intake, rate of thyroxine synthesis, and the functional state of the hypothalamo-pituitary system * * *" (IARC Monographs, 1974, Vol. 7, p. 24). Further, interference in thyroid function that gives rise to thyroid tumors would not be expected to affect portions of the gland not producing thyroxine. None of the black granular deposits was seen in medullary cells (for example, C-cells) that were found to develop tumors. The reasonable conclusion that could then be drawn is that the 4-MMPD possessed a direct carcinogenic effect on the medullary thyroid tissue.

Further, FDA does not agree that the nontumor thyroid pathology of the Mason study rats would interfere with thyroid function. Findings of hyperpigmentation, follicular cyst formation, and C-cell hyperplasia of the gland were recorded in this study in high dose animals. There is no reason to believe that hyperpigmentation in itself

V 44 OC 16 79 UMI

interferes with the functioning of the gland. Follicular cyst formation in normally functioning thyroids frequently precedes or accompanies papillary growth into the lumen of the follicle in a manner characteristic of thyroid papilloma or papillary carcinoma. Although C-cell hyperplasia was observed in the high dose female rats, William S. Hoffman *(The Biochemistry of Clinical Medicine,* Yearbook Medical Publishers, Inc., Chicago, IL, 1966) has stated that hyperplasia and thyroid hypertrophy are accompanied by hyperaemía. The hyperaemic conditions was described in the data submitted with the comments. It may have served as a precursor to formation of hyperplasia and adenoma, which was followed by the C-cell carcinoma seen in the Mason study.

29. A few comments indicated concern that thyroid hormonal imbalance was the cause of induction of the tumors of the Zymbal's gland and of the skin. In support of this possibility, the comments cited a report contained in HEW News (May 12, 1978) concerning the carcinogenicity of 4,4'-thiodianiline.

FDA does not agree that thyroid hormonal imbalance could have caused the induction of the tumors of the Zymbal's gland and of the skin. The response to the previous comment states that the evidence furnished does not substantiate this hypothesis. However, even if this hypothesis were correct and thyroid imbalance occurred, the evidence so far furnished does not support the contention that there is a relationship between thyroid imbalance and extrathyroidal tumors. Rosin and Ungar (*Cancer Research,* 17:302–305, 1957), who studied thiourea, a known anti-thyroid compound, were cited in the comments. These authors stated in their conclusion: "The most likely explanation for the strictly localized origin of the carcinoma evoked by thiourea appears to be the excretion of a carcinogen through the Meibomian and Zymbal's glands." The authors concluded, therefore, that the observed malignant neoplasia produced by thiourea was the result of the direct action of this compound in that area and was not secondary to any thyroid involvement.

The report in HEW News cited in the comments was not submitted with the comments, and attempts to obtain it have resulted in the finding that this periodical was not published on that date. It has been determined, however, that on January 18, 1978, the Data Evaluation/Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogenesis accepted the NCI study report that 4,4'-thiodianiline is a presumed carcinogen to humans and produces thyroid, colon, and integumentary cancer. Nothing in this report suggested that production of tumors at any site remote from the thyroid was caused by a hormonal imbalance.

30. One comment argued that it was improper to conclude that 4–MMPD induced tumors in Zymbal's glands in the Mason study. The comment inferred that sufficient data on the background of tumors of the Zymbal's gland had not been obtained to rule out a spontaneous tumor in the experimental animals. The comment asked where the NCI report on the Mason study obtained its figures on historical incidence of Zymbal's gland tumors.

FDA maintains that it is proper to conclude that 4–MMPD induced tumors in Zymbal's glands in the Mason study. The NCI report on the Mason study advises that the Mason Research Institute had compiled data on the historical incidence of Zymbal's gland tumors in its own untreated Fisher 344 rats. These data indicated that only 2 of 344 males and none of 366 females had tumors of the Zymbal's gland, ear canal, or skin of the ear. These historical controls, as well as the controls in the Mason study, reveal a low spontaneous incidence, compared to which the tumors found in the test animals were clearly significant.

31. One comment asked for an explanation of the finding in the Mason study that Zymbal's gland tumors were accompanied by a lowering of mammary fibroadenomas. This comment asserted that there is generally a positive association between Zymbal's gland tumors and mammary fibroadenomas in rats.

FDA is not aware of any positive association between Zymbal's gland tumors and mammary fibroadenomas in rats and notes that the comment contained no substantiation of its contrary assertion.

32. Some comments objected that the NCI report on the Mason study combines for statistical purposes basal, squamous cell, and Zymbal's gland tumors, which differ markedly in their genesis and in their prognosis in humans. The comments stated that no justification is given for this unusual procedure, which is not in accordance with accepted scientific procedures.

FDA advises that examination of the Mason study data reveals that, for female rats Zymbal's gland adenocarcinomas were present at a level of 14 percent in the high dose animals. As reported by NCI, this level of incidence for this tumor was significant at P=0.006. For male high dose rats, Zymbal's gland adenocarcinomas were present at an incidence of 8 percent versus 0 percent in controls. A similar incidence was observed for squamous cell carcinomas for the males. Considering the fact that in females Zymbal's gland adenocarcinomas alone were present at a statistically significant level and a positive trend was seen in male rats for both Zymbal's gland and squamous cell carcinomas, it appears clear that the combining of tumors was of no consequence in the judgment as to the significance of Zymbal's gland tumors.

33. A few comments pointed out that the incidence of lymphatic tumors of the hemopoietic system in mice has been quite variable in control animals, and has averaged 15 percent in female mice in five studies at the Mason Institute and 24 percent in a recent control group of mice at the same laboratory. The comments argued that in view of these historical data, no significance can be attached to the Mason study's finding of 28 percent (low dose) and 10 percent (high dose) of hemopoietic tumors. The comments also stated that this effect was not dose-related; and that there was no indication of an effect in male rats, whereas there was a statistically significant negative effect in female rats.

FDA agrees that no significance can be attached to the findings of lymphatic tumors. However, this fact does not alter FDA's position that 4–MMPD is an animal carcinogen because this position is based on findings of tumors of the thyroid and Zymbal's glands. The preamble to the proposal referred to lymphatic tumors to summarize accurately the NCI Report, not to justify FDA's position on 4–MMPD.

34. One comment stated "* * * it must also be taken into account when evaluating the Mason study, that it neither replicates nor is replicated by any independent researcher. Such customarily required confirmatory assurance seems especially requisite in this instance where such widely disparate data are generated by control groups, and maximum tolerated dose levels apparently were exceeded, and so many conventionally required procedures inexplicably violated."

FDA is of the opinion that replication of the Mason study results is not necessary for FDA to require a warning to consumers of the potential dangers of hair dyes containing 4–MMPD. Because the Mason study was a positive study in two animal species and the tumors produced were considered to be significant, and in some cases rare, the only prudent action is to consider 4–MMPD to be a potential human carcinogen.

35. A few comments objected to the high dose levels and route of administration for 4–MMPD in the Mason study. Some comments argued that the small doses of 4–MMPD to which humans are exposed through use of hair dyes would not induce cancer because the "threshold" level for carcinogenicity could not be exceeded. Other comments questioned the relevance to hair dyes of the feeding studies used in the Mason study because the dyes are used on the skin and are not likely to be ingested. The comments argued that NCI guidelines indicate that skin painting tests should be used to evaluate the carcinogenic hazard of 4–MMPD. Further, the comments argued that, except for certain references that are not directly applicable to the conditions of hair dye use, FDA has furnished no evidence to support its assertion that feeding data are metabolically and pharmacologically appropriate.

On the other hand, some comments agreed with the FDA position that the doses of 4–MMPD used in the Mason animal cancer study were necessary in order to detect whether this chemical is a weak carcinogen. These comments pointed out that most experts in the field of carcinogenesis agree that studies with low doses of carcinogens will not determine whether the compound studied will have no risk.

FDA considers that the dose levels and route of administration for 4–MMPD in the Mason study are appropriate. The issues concerning them were discussed thoroughly in the preamble to the proposed rule. There is no information in these comments that persuades FDA to alter the opinions expressed there.

36. One comment stated that the Mason study employed NCI bioassay procedures that it alleged were designed as screening studies to separate noncarcinogenic compounds from those as to which a suspicion of carcinogenicity is raised. The comment argued that positive animal results from such screening studies do not justify a regulatory action based on a danger of human cancer.

The NCI report on the Mason study states, "Positive results demonstrate that the test chemical is carcinogenic for animals under the conditions of the test and indicate a potential risk to man." Further, this report states, "Negative results, in which the test animals do not have a significantly greater incidence of cancer than control animals, do not necessarily mean that the test chemical is not a carcinogen." The Mason study spanned approximately 2 years and involved the testing of both sexes in two species of rodents. FDA has determined that the Mason study is adequate to demonstrate carcinogenesis, and is not merely a "screening study."

37. Several comments expressed the opinion that the Mason study could not be used to demonstrate the carcinogenicity of 4–MMPD in humans because no one test could be designed to evaluate the many complex issues affecting whether humans develop cancer. Some comments submitted a wide variety of data dealing with the complexities of establishing whether a compound is in fact a human carcinogen. One comment pointed out that man is rarely exposed to large doses of single carcinogens. The comment stated that man is usually exposed intermittently to smaller doses of many carcinogens, which could be mutually inhibitory, additive, or multiplicative in their effects.

FDA agrees that the Mason study does not demonstrate that 4–MMPD will definitely cause cancer in humans. It is also acknowledged that many factors may influence the development of cancer in humans. However, because this study does demonstrate that 4–MMPD will cause cancer in animals, it demonstrates that 4–MMPD has the potential for causing cancer in humans. Experience has indicated that compounds that are carcinogenic in humans usually are also carcinogenic in one or more experimental animals (see the **Federal Register** of April 15, 1977 at 42 FR 19995–19998 and L. Tomatis et al., "Evaluation of the Carcinogenicity of Chemicals: A Review of the Monograph Program of the International Agency for Research on Cancer (1971–77)," *Journal of Cancer Research,* 38:877–885, April 1978). Under the circumstances, FDA has concluded that consumers should be alerted to the existence of the potential risk associated with use of hair dyes containing 4–MMPD.

38. Several comments stated that FDA's assertion that a positive Ames test collaterally supports the results of a bioassay (the Mason study) cannot be justified given the present state of the science of mutagenicity testing, where the validation of such tests is dependent on confirmation in animal tests, rather than vice versa. In fact, one of these comments quoted the Commissioner's April 1, 1978 address to the American Cancer Society, that "false positives" may occur frequently with certain strains having an exceedingly high susceptibility to mutagenesis. The comments argued that although a positive result in a mutagenicity test might be justification for carrying out an animal test, it should not be considered validation of an improperly designed animal test. One comment stated that it should be noted that although 4–MMPD produced positive results in bacterial systems in in-vitro tests, it was found to be inactive in in-vivo mutagenicity tests in rats, such as in the dominant lethal test, the micronucleus test, and the sperm abnormality test.

FDA has concluded that the positive Ames test does collaterally support the results of the Mason study. It is acknowledged that "false positives" are a limitation with Ames tests. However, in the case of the aromatic amines, the Ames test is recognized to be quite reliable, and 4–MMPD is an aromatic amine (see preamble to the proposal of this rule published in the **Federal Register** of January 6, 1978 (43 FR 1101, 1102) and Refs. 10, 24, and 25). The agency cannot ignore the fact that the Ames test indicates that 4–MMPD is a strong mutagen. With respect to negative in-vivo mutagenicity tests in rats, FDA does not consider that these tests provide strong enough contrary evidence to counteract the positive Ames test results.

39. One comment stated that in the proposal FDA cited 34 references in support of the warning label and poster requirements. However, the comment advised that examination of the literature cited in this notice reveals that the Mason study is the only study in which a positive cancer result was observed in animals exposed to 4–MMPD. The comment stated that the only additional data supporting FDA's position consists of a positive response in the Ames *Salmonella* strain TA 1538 and *E. coli* WP 100 and a weak response in *Drosophila melanogaster.* The comment averred that, in all, only 5 of the 34 references offered as support for the proposed action by FDA relate to positive findings with the compound in question.

FDA acknowledges that only 5 of the 34 references in the notice for the proposed rule on 4–MMPD pertain to positive findings with 4–MMPD. The references that do not pertain to positive findings with 4–MMPD were included in the notice to support FDA's reasoning on certain issues and to indicate that a complete search of the literature had been made, not to imply that FDA's position was supported by 34 positive studies on 4–MMPD.

40. Some comments pointed out that, since the late 1960's, individual cosmetic companies and a trade association have been conducting scientific studies on the materials used in hair dyes and have submitted details of these studies for FDA evaluation. The comments stated

V 4 4 0 C 1 6 7 9 UMI

that these studies have revealed no evidence that questions the safety of hair dyes.

Other comments were of the opinion that the negative results of these industry studies were not convincing. One comment stated that, because these studies consisted of skin painting tests, the absorbed dose of 4–MMPD could not have been large enough to compensate for the short amount of time the animals were exposed to 4–MMPD, the animals' relatively fast metabolism of this chemical, and the small number of experimental animals used.

FDA considers that the Mason study provides clear evidence that 4–MMPD causes cancer in animals. Further, percutaneous absorption studies in humans demonstrate that 4–MMPD and similar aromatic amines can penetrate the skin and are absorbed systemically. Consequently, FDA must presume that 4–MMPD may cause cancer in humans, unless there is strong evidence to the contrary. The negative studies submitted do not provide adequate evidence that 4–MMPD will not cause cancer in humans. These negative studies were throughly discussed in the preamble to the proposal.

41. A few comments stated that 4–MMPD has been in use in hair dyes for over 60 years. Thus, epidemiological data are extremely important in determining whether use of this ingredient in hair dyes poses any significant risk. Two the of the comments submitted data on general cancer rates and epidemiological studies relating to both consumer and occupational exposure to hair dyes containing 4–MMPD. Most of these studies showed no statistically significant increase in cancers among people exposed to 4–MMPD. Although increases in cancer rates were noted for occupational exposure in a few studies, the comments contained data that put in question the validity of these studies. Most of the comments averred that there was impressive evidence of the absence of any epidemiological correlation between use of hair dyes and any form of cancer. However, one comment expressed the view that the epidemiological correlation between one occupational study and cancer was significant and urged FDA to require warning statements for hair dyes containing 4–MMPD.

FDA agrees that existing epidemiological evidence does not indicate that hair dyes cause cancer in humans. At the same time, lack of positive findings in these studies does not rebut the toxicological evidence indicating that 4–MMPD is an animal carcinogen and therefore a possible human carcinogen. During the time in which the epidemiological studies took place, individuals were probably exposed to many different carcinogens for varying lengths of time; consequently, it is very difficult to evaluate the effect of one particular ingredient, 4–MMPD, in hair dye. Although the results of these studies could mean that 4–MMPD does not cause cancer in humans, the results could also indicate that the incidence of cancer in humans caused by 4–MMPD is small enough that a proper study could not be designed to detect it. Of course, this incidence could still be significant.

Miscellaneous Issues

42. Some comments requested that FDA publish a list of hair dyes that contain 4–MMPD to assist consumers in avoiding these dyes.

FDA advises that since April 15, 1977, all newly packaged retail hair dyes must bear ingredient lists. If a hair dye contains 4–MMPD, the statement of ingredients on its package should declare the presence of 4–MMPD. Consumers can determine whether hair dyes contain 4–MMPD by reading these ingredient lists. In cases where hair dyes that were packaged before that time bear no ingredient lists, consumers may ask manufacturers whether the dye contains 4–MMPD, or they may assume that it does. Some manufacturers voluntarily submit hair dye ingredient information to FDA; however, FDA does not have authority to require them to do so. As a result, FDA does not have lists for all products. Further, manufacturers frequently reformulate their products; consequently any information provided to FDA may be out of date in a short time.

43. Some comments requested that the regulation on 4–MMPD become effective immediately in order to force hair dyes without warning statements out of use.

Other comments pointed out that immediate effectiveness would entail economically disastrous and disruptive overlabeling by distributors, sub-jobbers, and chain stores who sell in interstate commerce. The comments argued that these economic consequences would be severe and advised that a reasonable effective date would be 6 months from the date of publication of the final rule for products initially introduced into interstate commerce.

FDA agrees that it is important to have an orderly implementation of the labeling requirements and to minimize the costs of implementation. When FDA has required warning for other risks from cosmetics, the agency has allowed delayed effective dates of 6 months (21 CFR 740.11(c)) or more (21 CFR 740.10, 740.11). There is no convincing reason why this warning should be singled out for more stringent implementation than comparable warnings about other serious hazards. Accordingly, FDA has specified an effective date of April 16, 1980.

Background supporting information relating to the responses to the comments is on file with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 602 (a) and (c), 701(a), 52 Stat. 1041 as amended, 1054–1055 (21 U.S.C. 321(n), 362 (a) and (c), 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 740 is amended by adding new § 740.18 to read as follows:

§ 740.18 Coal tar hair dyes posing a risk of cancer.

(a) The principal display panel of the label and any labeling accompanying a coal tar hair dye containing any ingredient listed in paragraph (b) of this section shall bear, in accordance with the requirements of § 740.2, the following:

Warning—Contains an ingredient that can penetrate your skin and has been determined to cause cancer in laboratory animals.

(b) Hair dyes containing any of the following ingredients shall comply with the requirements of this section: (1) 4-methoxy-*m*-phenylenediamine (2,4-diaminoanisole) and (2) 4-methoxy-*m*-phenylenediamine sulfate (2,4-diaminoanisole sulfate).

Effective date. This regulation is effective for all products initially introduced into interstate commerce on or after April 16, 1980.

(Secs. 201(n), 602 (a) and (c), 701(a), 52 Stat. 1041 as amended, 1054–1055 (21 U.S.C. 321(n), 362 (a) and (c) 371(a)))

Dated: October 9, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79–31772 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7648]

Income Tax; Taxable Years Beginning After December 31, 1974; Income of Mutual or Cooperative Telephone Companies

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the income of tax exempt mutual or cooperative telephone companies. Changes to the applicable tax law were made by the Act of August 15, 1978. The regulations provide necessary guidance to the public for compliance with that Act and affect mutual or cooperative telephone companies which are exempt from Federal income tax.

DATE: The regulations are effective for taxable years beginning after December 31, 1974.

FOR FURTHER INFORMATION CONTACT: Ray K. Kamikawa of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE–145–78, (202) 566–3422 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 30, 1979, the Federal Register published at 44 FR 18992 proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 501(c)(12) of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to section 1 of the Act of August 15, 1978, Pub. L. 95–345 (92 Stat. 481). No public hearing was requested. After consideration of all comments regarding the proposed amendments, those amendments are adopted as revised by this Treasury decision.

Revenue Ruling 74–362

A mutual or cooperative telephone company qualifies for recognition of tax exemption under section 501(a) only if at least 85 percent of its income consists of amounts collected from members for the sole purpose of meeting losses and expenses. In Rev. Rul. 74–362, 1974–2 C.B. 170, the Internal Revenue Service ruled that certain amounts earned by a telephone cooperative in connection with completing calls between its members and subscribers of other telephone companies constituted nonmember income. If it could not be established that such amounts were less than 15 percent of total receipts, the telephone cooperative could not qualify for exempt status.

Act of August 15, 1978

In the Act of August 15, 1978, Congress provided that income received by a telephone cooperative from another telephone company for calls involving members of the telephone cooperative do not enter into the 85 percent member-income test in determining whether the telephone cooperative is tax exempt. The effect of this provision is to exclude from the member-income computation any amounts which, under Rev. Rul. 74–362, would be considered as paid for performance by the telephone cooperative of telephone call-connection services for nonmembers.

Revisions to Proposed Rules

Concern was expressed that the notice of proposed rulemaking, in discussing amounts earned by telephone companies in connection with completing calls involving members of the cooperative, impliedly made distinctions between incoming and outgoing long distance calls, between revenues collected by the cooperative and revenues collected by another telephone company for long distance calls, and between long distance calls between members of the same telephone cooperative and long distance calls involving a nonmember. Since it was not the intent of the proposed regulations to make these distinctions, the notice is revised to make clear that revenues from all the above types of long distance calls do not enter into the member-income computation.

Drafting Information

The principal author of this Treasury decision is Ray K. Kamikawa of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, section 1.501(c)(12)–1 is amended by adding a new paragraph (c), as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1974

§ 1.501(c)(12)–1 Local benevolent life insurance associations, mutual irrigation and telephone companies, and like organizations.

* * * * *

(c) For taxable years of a mutual or cooperative telephone company beginning after December 31, 1974, the 85 percent member-income test described in paragraph (a) of this section is applied without taking into account income received or accrued from another telephone company for the performance of communication services involving the completion of long distance calls to, from, or between members of the mutual or cooperative telephone company. For example, if, in one year, a cooperative telephone company receives $85x from its members for telephone calls, $15x as interest income, and $20x as credits under long distance interconnection agreements with other telephone companies for the performance of communication services involving the completion of long distance calls to, from, or between the cooperative's members (whether or not the credits may be offset, in whole or in part, by amounts due the other companies under the interconnection agreements), the member-income fraction is calculated without taking into account, either in the numerator or denominator, the $20x credits received from the other telephone companies.

In this example, the 85 percent member-income test is satisfied because at least 85 percent

$$\left(\frac{\text{member income}}{\text{total income}} = \frac{85x}{85x+15x} = \frac{85}{100} = 85\%\right)$$

of the cooperative's total income is derived from member income.

* * * * *

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805)).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: October 3, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 79–31935 Filed 10–15–79; 8:45 am]

BILLING CODE 4830–01–M

V 44 0 C 16 7 9 UMI

26 CFR Part 31

[T.D. 7647]

Employment Taxes; Applicable on or After January 1, 1955; Constructive Filing of Waivers of Exemption From Social Security Taxes by Certain Tax-Exempt Organizations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations. Changes to the applicable tax law were made by the Act of October 19, 1976 and by the Social Security Amendments of 1977. These regulations affect certain tax-exempt organizations that have paid social security taxes without filing a certificate waiving their exemption from those taxes.

DATE: The regulations are effective with respect to services performed after 1950.

FOR FURTHER INFORMATION CONTACT: Leonard T. Marcinko of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3459).

SUPPLEMENTARY INFORMATION:

Background

On April 12, 1979, the Federal Register published proposed amendments to the Employment Tax Regulations (26 CFR Part 31) under section 3121 (k) of the Internal Revenue Code of 1954 (44 FR 21824). These amendments were proposed to conform the regulations to the Act of October 19, 1976 (Pub. Law 94-563, 90 Stat. 2655) and to section 312 of the Social Security Amendments of 1977 (Pub. Law 95-216, 91 Stat. 1532). Only one substantive comment was received with respect to the proposed amendments, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision without change. These final regulations supersede the Temporary Employment Tax Regulations Under the Act of October 19, 1976 (26 CFR Part 33), which were published in the Federal Register for May 12, 1977 (42 FR 24046).

Explanation

The employees of certain tax-exempt organizations are excluded from social security coverage unless the employing organization files with the Internal Revenue Service a certificate waiving its exemption from social security taxes. Prior to the enactment of Pub. Law 94-563, a large number of tax-exempt organizations had been paying Federal Insurance Contributions Act (FICA) taxes without having filed certificates waiving their exemption from these taxes. The purpose of Pub. Law 94-563 was to validate the social security coverage of the employees. Section 312 of the Social Security Amendments of 1977 amended Pub. Law 94-563 to relieve certain tax-exempt organizations of retroactive FICA tax liability that resulted from the application of the constructive waiver provisions of the original legislation.

The one substantive comment received with respect to the notice of proposed rulemaking urged that the proposed regulations be amended to provide that the payment of social security taxes after issuance of a ruling or determination letter granting tax-exempt status be deemed a constructive waiver of exemption only if such payment was made with the knowledge or intent that it would constitute such a waiver. The rule referred to in this comment is contained in section 3121 (k) (4) (B) (iii) of the Code and § 31.3121 (k)-4 (a) (3) (i) of the proposed regulations. They provide that the constructive waiver rule of section 3121 (k) (4) does not apply if: (1) An organization paid FICA taxes pending determination of its tax-exempt status; (2) It subsequently received a ruling or determination letter granting it tax-exempt status; (3) It did not pay FICA taxes for any calendar quarter ending after the twelfth month following the date of the ruling or determination letter; and (4) It did not pay FICA taxes for any calendar quarter beginning after the later of December 31, 1975, or the date on which the ruling or determination letter was issued. Because this exception is specifically set forth in the Code in unambiguous terms, the statute precludes any qualification of this provision in the regulations as suggested by the comment.

The regulations adopted by this Treasury decision impose no new reporting burdens or recordkeeping requirements. The principal effect of the final regulations is to conform existing regulations under section 3121 (k) of the Code to changes made by the Act of October 19, 1976 and by section 312 of the Social Security Amendments of 1977. Evaluation of the effectiveness of these regulations after issuance will be based upon comments received from offices within Treasury and the Internal Revenue Service, other governmental agencies, and the public.

Drafting Information

The principal author of these proposed regulations is Leonard T. Marcinko of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Acordingly, the amendments to 26 CFR Part 31 published as a notice of proposed rulemaking in the Federal Register for April 12, 1979 (44 FR 21824), are hereby adopted as proposed.

(This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805))

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: September 26, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

Paragraph 1. Section 31.3121(k) is deleted.

Par. 2. A new § 31.3121(k)-4 is added immediately following § 31.3121(k)-3, to read as follows:

§ 31.3121(k)-4 Constructive filing of waivers of exemption from social security taxes by certain tax-exempt organizations.

(a) *Constructive filing of waiver certificate where no refund or credit has been allowed.* (1) This paragraph applies (except as provided in subparagraph (3) of this paragraph) to an organization if all of the following four conditions are met.

(i) The organization is one described in section 501(c)(3) of the Internal Revenue Code of 1954, which is exempt from income tax under section 501(a) of the Code.

(ii) The organization did not file a valid waiver certificate under section 3121(k)(1) of the Internal Revenue Code of 1954 (or the corresponding provision of prior law) as of the later of October 19, 1976, or the earliest date on which it satisfies subdivision (iii) of this subparagraph.

(iii) The taxes imposed by sections 3101 and 3111 of the Code were paid with respect to remuneration paid by the organization to its employees, as though such certificate had been filed, during any period that includes all or part of at least three consecutive calendar quarters and that did not terminate before the end of the third calendar quarter of 1973.

(iv) The Internal Revenue Service did not allow (or erroneously allowed) a refund or credit of any part of the taxes paid as described in subdivision (iii) of this subparagraph with respect to remuneration for services performed on or after April 1, 1973. For purposes of the previous sentence, a refund or credit which would have been allowed, even if a valid waiver certificate filed under section 3121(k)(1) had been in effect, shall be disregarded. A refund or credit will be regarded as having been erroneously allowed if it was credited by the Internal Revenue Service to the taxpayer account of the organization or any of its employees on or after September 9, 1976, even though it was properly made under the law in effect when made.

(2)(i) An organization to which this paragraph applies shall be deemed to have filed a valid waiver certificate under section 3121(k)(1) (or the corresponding provision of prior law) for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). The waiver certificate shall be deemed to have been filed on the first day of the period described in subparagraph (1)(iii) of this paragraph and shall be effective on the first day of the calendar quarter in which such period began. However, such waiver is effective only with respect to remuneration for services performed after 1950.

(ii) The waiver certificate shall be deemed to have been accompanied by a list containing the signature, address, and social security number (if any) of each employee with respect to whom the taxes imposed by sections 3101 and 3111 were paid as described in subparagraph (1)(iii) of this paragraph. Each such employee shall be deemed to have concurred in the filing of the certificate for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B). A statement containing the name, address, and employer identification number of the organization, and the name, last known address, and social security number (if any) of each employee described in the preceding sentence shall be filed by the organization at the request of the Internal Revenue Service.

(iii) The services of all employees entering or reentering the employ of an organization on or after the first day following the close of the calendar quarter in which the organization is deemed to have filed the waiver certificate, performed on or after the day of such entry or reentry, shall be covered by the certificate.

(3) This paragraph (a) shall not apply to an organization if—

(i) Prior to the end of the period referred to in subparagraph (1)(iii) (and, in addition, in the case of an organization organized on or before October 9, 1969, prior to October 19, 1976), the organization had applied for a ruling or determination letter acknowledging it to be exempt from income tax under section 501(c)(3);

(ii) The organization subsequently received such ruling or determination letter;

(iii) The organization did not pay any taxes under sections 3101 and 3111 with respect to any employee for any calendar quarter ending after the twelfth month following the date of mailing of the ruling or determination letter; and

(iv) The organization did not pay any taxes under sections 3101 and 3111 with respect to any calendar quarter beginning after the later of December 31, 1975, or the date on which the ruling or determination letter was issued.

(4) In the case of an organization which is deemed under this paragraph to have filed a valid waiver certificate under section 3121(k)(1), if the period with respect to which the taxes imposed by sections 3101 and 3111 were paid by the organization (as described in paragraph (a)(1)(iii) of this section) terminated prior to October 1, 1976, taxes under sections 3101 and 3111 with respect to remuneration paid by the organization after the termination of such period and prior to July 1, 1977, which remained unpaid on December 20, 1977 (or which were paid after October 19, 1976, but prior to December 20, 1977), shall not be due or payable (or, if paid, shall be refunded). Similarly, an organization that received a refund or credit of the taxes described in paragraph (a)(1)(iii) of this section after September 8, 1976, shall not be liable for the taxes imposed by sections 3101 and 3111 with respect to remuneration paid by it prior to July 1, 1977, for which the organization received the refund or credit. The waiver certificate, which an organization described in this subparagraph is deemed to have filed, shall not apply to any service with respect to the remuneration for which the taxes imposed by sections 3101 and 3111 are not due or payable (or are refunded) by reason of this subparagraph.

(5) In the case of an organization which is deemed under this paragraph to have filed a valid waiver certificate under section 3121(k)(1), if the taxes imposed by sections 3101 and 3111 were not paid during the period referred to in paragraph (a)(1)(iii) of this section (whether the period has terminated or not) with respect to remuneration paid by the organization to individuals who became its employees after the close of the calendar quarter in which such period began, taxes under sections 3101 and 3111 with respect to remuneration paid prior to July 1, 1977, to such employees, which remain unpaid on December 20, 1977 (or which were paid after October 19, 1976, but prior to December 20, 1977), shall not be due or payable (or, if paid, shall be refunded). The waiver certificate, which an organization described in this subparagraph is deemed to have filed, shall not apply to any service with respect to remuneration for which the taxes imposed by sections 3101 and 3111 are not due or payable (or are refunded) by reason of this subparagraph.

(6) This subparagraph allows certain employees to obtain social security coverage for service not covered by a deemed-filed waiver certificate by reason of section 3121(k)(4)(C) and subparagraph (4) or (5) of this paragraph. To qualify under this subparagraph, all of the following conditions must be met.

(i) An individual performed service as an employee of an organization which is deemed under this paragraph to have filed a waiver certificate under section 3121(k)(1), on or after the first day of the period described in subparagraph (1)(iii) of this paragraph and before July 1, 1977.

(ii) The service performed by the individual does not constitute employment (as defined in section 210 (a) of the Social Security Act and section 3121(b) of the Code) because the waiver certificate which the organization is deemed to have filed is inapplicable to such service by reason of section 3121(k)(4)(C), but would constitute employment (as so defined) in the absence of section 3121(k)(4)(C).

(iii) The individual files a request on or before April 15, 1980, in the manner and form, and with such official, as may be prescribed by regulations under title II of the Social Security Act.

(iv) That request is accompanied by full payment of the taxes, which would have been paid under section 3101 with respect to the remuneration for the service described in subdivision (ii) of this subparagraph but for the application of section 3121(k)(4)(C) (or by satisfactory evidence that appropriate arrangements have been made for the payment of such taxes in installments as provided in section 3121(k)(8) and paragraph (d) of this section).

If these conditions are satisfied, the remuneration paid for the service described in subdivision (i) of this subparagraph shall be deemed to constitute remuneration for employment. In any case where remuneration paid by

V 44 0 C 1 6 7 9 UMI

an organization to an individual is deemed under this subparagraph to constitute remuneration for employment, such organization shall be liable (notwithstanding any other provision of the Code or regulations) for payment of the taxes it would have been required to pay under section 3111 with respect to such remuneration but for the application of section 3121(k)(4)(C). The due date for the return and payment by the organization of the taxes described in the preceding sentence shall be the last day of the calendar month following the calendar quarter in which the organization is notified in writing of the employee's request. However, see paragraph (d) of this section which permits the payment of these taxes in installments.

(b) *Constructive filing of waiver certificate where refund or credit has been allowed and new certificate is not filed.* (1) This paragraph applies to an organization which meets two conditions. First, it must be an organization to which paragraph (a) of this section would apply but for its failure to satisfy the requirement of paragraph (a)(1)(iv) of this section because a refund or credit of taxes was allowed before September 9, 1976. Second, it must not have filed an actual valid waiver certificate under section 3121(k)(1) in accordance with the requirements of paragraph (c) of this section.

(2) An organization to which this paragraph applies shall be deemed, for purposes of section 210(a)(8)(B) of the Social Security Act and section 3121(b)(8)(B), to have filed a valid waiver certificate under section 3121(k)(1) on April 1, 1978. Such certificate shall be effective for the period beginning on the first day of the first calendar quarter with respect to which the refund or credit referred to in subparagraph (1) of this paragraph was allowed (or, if later, on July 1, 1973).

(3) If an organization is deemed under this paragraph to have filed a waiver certificate on April 1, 1978, the provisions of paragraph (a)(2)(ii) and (iii) of this section (relating to employees covered by a deemed-filed waiver certificate) shall apply. Such certificate shall supersede any certificate which may have been actually filed by such organization prior to that date.

(4) Where an organization is deemed under this paragraph to have filed a waiver certificate on April 1, 1978, the due date for the return and payment of the taxes imposed by sections 3101 and 3111 for wages paid prior to April 1, 1978, with respect to services constituting employment by reason of such certificate shall be August 1, 1978. However, see paragraph (d) of this section which permits the payment of these taxes in installments. Such taxes (along with the amount of any interest paid in connection with the refund or credit described in subparagraph (1) of this paragraph) shall be a liability of such organization, payable from its own funds. No portion of such taxes (or interest) shall be deducted from the wages of (or otherwise collected from) the individuals who performed such services, and those individuals shall have no liability for the payment thereof.

(5) This subparagraph allows certain employees of organizations covered under this paragraph to obtain social security coverage for periods prior to those covered by a deemed-filed waiver certificate. To qualify under this subparagraph, all of the following conditions must be met.

(i) An individual performed service, as an employee of an organization deemed under this paragraph to have filed a waiver certificate under section 3121(k)(1), at any time prior to the period for which such certificate is effective.

(ii) The taxes imposed by sections 3101 and 3111 were paid with respect to remuneration paid for such service, but such service (or any part thereof) does not constitute employment (as defined in section 210(a) of the Social Security Act and section 3121(b)) because the applicable taxes so paid were refunded or credited (otherwise than through a refund or credit which would have been allowed if a valid waiver certificate filed under section 3121(k)(1) had been in effect) prior to September 9, 1976.

(iii) Any portion of such service (with respect to which taxes were paid and refunded or credited as described in subdivision (ii) of this subparagraph) would constitute employment (as so defined) if the organization had actually filed under section 3121(k)(1) a valid waiver certificate effective as provided in paragraph (c)(2) of this section (with such individual's signature appearing on the accompanying list).

If this subparagraph applies, the remuneration paid for the portion of such service described in subdivision (iii) of this subparagraph shall be deemed to constitute remuneration for employment (as defined in section 210(a) of the Social Security Act and section 3121(b)), where such individual filed a request on or before April 15, 1980 (in the manner and form, and with such official, as may be prescribed by regulations under title II of the Social Security Act), accompanied by full repayment of the taxes which were paid under section 3101 with respect to such remuneration and were refunded or credited (or by satisfactory evidence that arrangements have been made for the payment of such taxes in installments as provided in section 3121(k)(8) and paragraph (d) of this section). In any case where remuneration paid by an organization to an individual is deemed under this subparagraph to constitute remuneration for employment such organization shall be liable (notwithstanding any other provision of the Code or regulations) for repayment of any taxes which it paid under section 3111 with respect to such remuneration and which were refunded or credited to it. Any interest received by the organization or its employees in connection with a refund or credit with respect to such taxes shall be remitted with the repayment of taxes pursuant to this subparagraph.

(c) *Actual filing of waiver certificate by April 1, 1978, where refund or credit has been allowed.* (1) An organization may file an actual waiver certificate in accordance with subparagraphs (2) and (3) of this paragraph if it is an organization to which paragraph (a) of this section would apply but for its failure to meet the condition set forth in paragraph (a)(1)(iv) of this section.

(2) An organization described in subparagraph (1) of this paragraph was permitted to file an actual waiver certificate on or before April 1, 1978. This certificate must be effective for the period beginning on or before the first day of the first calendar quarter with respect to which a refund or credit described in paragraph (b)(1) of this section was allowed (or, if later, with the first day of the earliest calendar quarter for which such certificate may be in effect under section 3121(k)(1)(B)(iii)). Such waiver certificate must have been accompanied by a list described in section 3121(k)(1)(A), containing the signature, address, and social security number of each concurring employee (if any).

(3) Such a waiver certificate shall be valid only if the organization complied with the following notification requirements and, on or before April 30, 1978, filed (with the service center of the Internal Revenue Service with which the waiver certificate was filed) a certification that it had complied with these notification requirements. However, these requirements shall be conclusively presumed to have been met with respect to any employees who concurred in the filing of the waiver certificate.

(i) Written notification of the option to obtain social security coverage for the retroactive period covered by the waiver certificate is required to have been given to all current and former employees of the organization with respect to whose remuneration taxes imposed by sections 3101 and 3111 were paid for any part of the period covered by the waiver certificate. For purposes of the preceding sentence, in the case of a former employee a mailing of notification to his or her last known address shall constitute delivery to the former employee. This notification must have been given at least 30 days prior to the date by which the employee was required to inform the organization whether he or she elects the retroactive social security coverage.

(ii) The notification required by this subparagraph must have stated the earliest date for which the waiver certificate is effective and the date by which the employee must have informed the organization of a decision to elect the retroactive coverage. In addition, the notification must have advised the employee how to obtain information as to the quarters of social security coverage to be obtained and any taxes or interest for which the employee would be liable if the election was made. The organization must have provided this information to any interested employee at least 14 days prior to the last day on which such employee was to have informed the organization of any election.

(iii) If the notification resulted in any employee electing the retroactive coverage whose signature did not appear on the list of concurring employees which accompanied a previously filed waiver certificate, the certification that was supplied on or before April 30, 1978, must have been accompanied by a special amendment to that list. Any employee whose name appears on this special amended list shall be treated as if his or her name appeared on the list of concurring employees filed with the waiver certificate. The preceding sentence shall only apply with respect to amended lists of concurring employees filed to comply with the requirements of this subparagraph.

(4) Any interest received in connection with a refund or credit described in paragraph (b)(1) of this section must have been repaid on or before April 30, 1978, with respect to each employee who concurs in the filing of a waiver certificate pursuant to this paragraph. Notwithstanding the provisions of paragraph (c)(4) of § 31.3121(k)–1, if such interest was repaid on or before April 30, 1978, the waiver certificate shall be considered to have been filed on the date it was originally furnished to the Internal Revenue Service.

(d) *Installment payment of taxes for retroactive coverage.* This paragraph applies if—

(1) An organization is deemed under paragraph (a) of this section to have filed a valid waiver certificate, but the applicable period described in paragraph (a)(1)(iii) has terminated and all or part of the taxes imposed by sections 3101 and 3111, with respect to remuneration paid by such organization to its employees after the close of such period, remains payable notwithstanding section 3121(k)(4)(C) and paragraph (a)(4) of this section; or

(2) An organization described in paragraph (c) files a valid waiver certificate by March 31, 1978, or, not having filed the certificate by that date, is seemed to have filed the certificate on April 1, 1978, under paragraph (b); or

(3) An individual files a request under paragraph (a)(6) or (b)(5) to have service treated as constituting remuneration for employment (as defined in section 210(a) of the Social Security Act and section 3121(b)).

If this paragraph applies, the taxes due under sections 3101 and 3111 (together with any additions to tax or interest other than interest described in paragraph (c)(4)) with respect to service constituting employment by reason of the waiver certificate for any period prior to the first day of the calendar quarter in which the certificate is filed or deemed filed, or with respect to service constituting employment by reason of an employee request, may be paid in installments over an appropriate period of time, as determined by the district director. In determining the appropriate period of time, the district director shall exercise forbearance and, to the extent possible, grant the organization an installment agreement that will allow it sufficient funds to carry out its basic mission. If any installment is not paid on or before the date fixed for its payment, the total unpaid amount shall become payable immediately and shall be paid upon notice and demand.

(e) *Application of certain provisions to cases of constructive filing.* (1) Except as provided in subparagraphs (2) and (3) of this paragraph, all of the provisions of section 3121(k) (other than subparagraphs (B), (F), and (H) of section 3121(k)(1)) and the regulations thereunder (including the provisions requiring the payment of taxes under sections 3101 and 3111 with respect to the services involved), shall apply with respect to any certificate which is deemed to have been filed under paragraph (a) or (b) of this section, in the same way they would apply if the certificate had been actually filed on that day under section 3121(k)(1).

(2) The provisions of section 3121(k)(1)(E) shall not apply unless the taxes described in paragraph (a)(1)(iii) of this section were paid by the organization as though a separate certificate had been filed with respect to one or both of the groups to which such provisions relate.

(3) The action of the organization in obtaining the refund or credit described in paragraph (b)(1) of this section shall not be considered a termination of such organization's coverage period for purposes of section 3121(k)(3).

(4) Any organization which is deemed th have filed a waiver certificate under paragraph (a) or (b) of this section shall be considered for purposes of section 3102(b) to have been required to deduct the taxes imposed by section 3101 with respect to the services involved.

[FR Doc. 79–31936 Filed 10–15–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Correction

AGENCY: U.S. Parole Commission.

ACTION: Correction to Final Rule.

SUMMARY: The Commission is correcting a clerical error to its final rule on superior program achievement published in the **Federal Register** on Monday, September 24, 1979, at Vol. 44 No. 186, page 55002.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Barbara Meierhoefer, Research Unit, U.S. Parole Commission, 320 First Street, NW., Washington, D.C. 20537 (202) 724–3095.

SUPPLEMENTAL INFORMATION: In F.R. Doc. 79–29443, appearing at page 55002 in the issue of Monday, September 24, 1979, make the following correction:

On page 55004 last column, § 2.60(d) second line, delete the word "both".

Dated: October 10, 1979.

Benjamin J. Malcolm,

Acting Chairman, United States Parole Commission.

[FR Doc. 79–31916 Filed 10–15–79; 8:45 am]

BILLING CODE 4410–01–M

V 44 O C 16 1979 UMI

28 CFR Part 2

Parole, Release, Supervision, and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The United States Parole Commission is clarifying the condition of parole that prohibits parolees from having firearms in their possession except with the permission of the Commission by adding that such permission cannot be given when any statute or ordinance to which the parolee is also subject prohibits such possession.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT:
Toby Slawsky, General Counsel's Office, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537, 202–724–7567.

SUPPLEMENTAL INFORMATION:
Accordingly, pursuant to the provisions of 18 U.S.C. § 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below to become effective November 1, 1979.

Dated: October 11, 1979.

Cecil C. McCall,
Chairman, United States Parole Commission.

28 CFR 2.40 is amended by revising paragraph (a)(11) as follows:

§ 2.40 Conditions of release.

(a) * * *

(11) The parolee shall not have firearms (or other dangerous weapons) in his possession without the written permission of his Probation Officer, following prior approval of the United States Parole Commission.

Note.—Such permission may not be considered in cases in which the parolee is prohibited from such possession by any federal, state, or local law.

* * * * *

[FR Doc. 79–31917 Filed 10–15–79; 8:45 am]

BILLING CODE 4410–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1330–4]

Approval of a Delayed Compliance Order Issued by the West Virginia Air Pollution Control Commission to Triangle PWC, Inc.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Triangle PWC, Inc. The Order requires the company to bring air emissions from its three coal fired boilers in Glen Dale, Marshall County, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order by Triangle PWC, Inc. will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on October 16, 1979.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch, U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT:
Mr. Patrick McManus, U.S. EPA, Region III, 3EN12, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597–9893.

SUPPLEMENTARY INFORMATION: On September 25, 1978, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 43, No. 186, a notice proposing partial approval and partial disapproval of a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Triangle PWC, Inc. The notice asked for public comments by October 25, 1978 on the EPA proposal.

No public comments have been received by this Office. Also, a deficiency pointed out by the previous notice has been corrected. Partial disapproval was proposed because Triangle PWC, Inc. had planned to bring Boiler No. 1 into compliance with Regulation II, "To Prevent and Control Particulate Air Pollution From Combustion of Fuel of Indirect Heat Exchangers" by shutting both boilers down by Juyl 1, 1979 and then installing equipment that would enable both boilers to operate in compliance upon restart-up. Section 113(d)(3) of the Clean Air Act, 42 U.S.C. 7413(d)(3) (the Act) requires that a bond be posted by the company when compliance is to be achieved by shutdown. Triangle PWC, Inc. had not secured a bond pursuant to Section 113(d)(3) of the Act at the time of proposal of this Order. A bond has recently been secured thus making the entire Order approvable. Therefore, the Delayed Compliance Order issued to Triangle PWC, Incorporated is approved by the Administrator of EPA pursuant to the authority of Section 113(d) of the Act.

To date the company has complied with all terms of the Order. EPA has determined that its approval of the Order shall be effective October 16, 1979, because of the need to immediately place Triangle PWC, Inc. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: October 5, 1979.

Douglas M. Costle,
Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.531:

§ 65.531 U.S. approval of State delayed compliance orders issued to major stationary sources.

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
Triangle PWC, Inc	Glen Dale, W Va	None	Sept 25, 1978	Regulation II	July 1, 1979

[FR Doc. 79–31865 Filed 10–15–79; 8:45 am]

BILLING CODE 6560–01–M

VETERANS ADMINISTRATION

41 CFR Part 8–4

Special Types and Methods of Procurement; Miscellaneous Amendments

AGENCY: Veterans Administration.

ACTION: Final Regulations.

SUMMARY: This amendment adds a section to specify that the Small Business Act applies to the procurement of architect-engineering services. The amendment also raises the limit that can be expended for the burial of unclaimed remains. Both of these changes implement legislation.

EFFECTIVE DATE: October 10, 1979.

FOR FURTHER INFORMATION CONTACT:
Chris A. Figg, Policy and Interagency Staff, Supply Service, Veterans Administration, Washington, DC 20420 (202–389–2334).

SUPPLEMENTARY INFORMATION: Pub. L. 95–507 enacted October 24, 1978, revised the Small Business Act. One of the revisions of the Act specifically provides that the procurement of architect-engineering services is not excluded from small business procurement. This is considered an important clarification because the applicability of the Small Business Act to the procurement of architect-engineering services has been questioned in the past.

The addition of § 8–4.1051 implements Pub. L. 95–507 by specifying that the set-aside procurement programs provided by the Small Business Act will be considered when procuring architect-engineering services.

Pub. L. 95–479, enacted October 18, 1978, raised the statutory allowance for the procurement of funeral and burial services. The amendment of § 8–4.5102 incorporates the new statutory allowance into the provisions for burial of unclaimed remains.

It is the general policy of the Veterans Administration to allow time for interested parties to participate in the rulemaking process (38 CFR 1.12). Since this amendment merely implements public laws, compliance with notice and public procedure is unnecessary in this instance.

Approved: October 10, 1979.

By direction of the Administrator.

Rufus H. Wilson,
Deputy Administrator.

1. In § 8–4.1050, paragraph (b) is revised to read as follows:

§ 8–4.1050 Application of 6-percent architect-engineer fee limitation.

* * * * *

(b) The total cost of the architect or engineer services contracted for may not exceed 6 percent of the estimated cost of the construction project plus the estimated cost of related services and activities such as those shown in paragraph (a) of this section. To support project submissions, VA Form 10–1193, EMIS Construction Program—Application for Health Care Facility Project, and VA Form 10–6238, EMIS Construction Program—Estimate Worksheet, will be used and the applicable proposed technical services shown in detail.

2. Section 8–4.1051 is added to read as follows:

§ 8–4.1051 Application of Small Business Act.

The provisions of the Small Business Act are applicable to the procurement of architect-engineering services. Consequently, consideration of procurement set-asides for small business and/or labor surplus area concerns will be made in accordance with § 8–1.706.

3. In § 8–4.5102, paragraphs (b) and (c) and footnote 1 are revised to read as follows:

§ 8–4.5102 Funeral authorization.

* * * * *

(b) The contracting officer will enter into negotiations with local funeral directors to procure a complete funeral and burial service within the statutory allowance of $300. This service will consist of:

(1) Preparation of the body, embalming.
(2) Clothing.
(3) Casket.
(4) Outside box.[1]
(5) Securing all necessary permits.
(6) Transportation to place of local burial (or to common carrier).

(c) In other than local burial, an additional allowance for transportation of the body to the place of burial is provided in 38 U.S.C. 903(a)(2). This allowance will cover the transportation cost of shipment of the body by common carrier or by hearse to the place of burial, any charges for an outside (shipment) box,[1] and the charges for securing all necessary permits for removal or shipment of the body. These costs are not chargeable against the $300 allowance.

4. Section 8–4.5104 is revised to read as follows:

§ 8–4.5104 Unclaimed remains—all other cases.

Requests for information on the disposition of the unclaimed remains of a veteran whose death occurs while not under the direct care or treatment of the Veterans Administration will be referred to the Veterans Services Officer for processing in accordance with Manual M27–1, Part II. This manual is available at any Veterans Administration regional office, medical center or VA office.

(38 U.S.C. 210, 40 U.S.C. 486(c))

[FR Doc. 79–31880 Filed 10–15–79; 8:45 am]

BILLING CODE 8320–01–M

[1] A wooden shipping box will be provided and chargeable against the $300 allowance specified in paragraph (b) of this section when the National Cemetery in which the remains are to be interred does not provide a grave liner. When a shipping box is required for transportation purposes only, it will be chargeable against the transportation allowance specified in paragraph (c) of this section.

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. E–68]

Ordering Items From GSA Supply Sources; Temporary Regulation

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation changes the mandatory requirements for use of GSA supply sources to reduce the requisitioning of items from GSA when it is economically unfeasible. The costs associated with preparing and processing requisitions have increased significantly making it uneconomical for small quantities of items with low line item dollar values to be requisitioned from GSA. This regulation will reduce costs to the Government by lowering the incidence of small quantities of items being requisitioned from GSA.

DATES: Effective date: October 16, 1979. Expiration date: September 30, 1980. Comments due on or before: November 15, 1979.

V 4 4 0 C 1 6 7 9 UMI

ADDRESS: Comments should be addressed to: General Services Administration (APM), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Agin, Acquisition Management and Review Directorate (202–566–1867).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

[Federal Property Management Regs.; Temporary Reg. E–68]

Ordering Items From GSA Supply Sources

1. *Purpose.* This regulation contains changes in the requirements for mandatory use of GSA supply sources.

2. *Effective date.* This regulation is effective October 16, 1979.

3. *Expiration date.* This regulation expires September 30, 1980.

4. *Applicability.* The provisions of this regulation apply to all executive agencies.

5. *Background.* Because of increases in the costs of preparing and processing requisitions, it is no longer economical for items with low line item dollar values to be requisitioned from GSA. An FPMR amendment will be issued at a later date to provide that GSA will reject requisitions with low line item dollar values from activities located in the United States. In the meantime, this temporary regulation will reduce uneconomical requisitioning of items from GSA by establishing minimum line item dollar values below which agencies are not required to requisition from GSA. The minimum dollar values to be prescribed in the amendment will be determined after a complete review of requisitioning costs has been made and comments on this temporary regulation have been evaluated.

6. *GSA stock items.* GSA is a non-mandatory source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for items listed in the GSA Supply Catalog when the total value of the line item requirement is less than $25.

7. *GSA nonstock centrally procured items.* GSA is a non-mandatory source of supply for activities of executive agencies in the conterminous United States, Hawaii, and Alaska for nonstock centrally procured items managed by GSA when the total value of the line item requirement is less than $100.

8. *Requisitioning items from GSA.* a. Requirements normally included in a single order shall not be subdivided in determining application of this regulation.

b. Executive agencies shall requisition items from GSA that are:

(1) Listed in the GSA Supply Catalog when the total value of the line item requirement is $25 or more; or

(2) Nonstock centrally procured items managed by GSA when the line item requirement is $100 or more.

c. GSA will process all requisitions for items listed in the GSA Supply Catalog or nonstock centrally procured items managed by GSA, regardless of value, from activities electing not to exercise the options provided by this regulation.

9. *Agency comments.* Comments concerning the effect or impact of this regulation on agency operations should be submitted to the General Services Administration (APM), Washington, DC 20405, no later than November 15, 1979, for consideration and possible incorporation into a permanent regulation.

10. *Effective on other directive.* This regulation supersedes FPMR 101–26.301(b).

R. G. Freeman III,
Administrator of General Services.

[FR Doc. 79–31878 Filed 10–15–79; 8:45 am]

BILLING CODE 6820–82–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 1821

Notice of Extension of Office Hours

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Extension of Office hours of Bureau of Land Management State Offices.

SUMMARY: 43 CFR 3833.1–2 provides that persons wishing to record unpatented mining claims located on the public lands before October 21, 1976, must record those claims with the Bureau of Land Management on or before October 22, 1979. In order to provide the best possible service to the public, the Bureau of Land Management State Office hours set out in 43 CFR 1821.2–1(a) are extended.

EFFECTIVE DATE: Change will be effective only on October 19, 20, and 22, 1979.

ADDRESS: Any questions or suggestions should be addressed to the Bureau of Land Management State Offices set forth in 43 CFR 1821.2–1(d) or Director (310), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

The office hours of the Bureau of Land Management State Offices are extended as follows:

Friday, October 19, Close at 9 p.m.;
Saturday, October 20, 8 a.m. to 1 p.m.;
Monday, October 22, Close at 10 p.m.

The hours are extended for the sole purpose of accepting the filing of mining claims for recordation pursuant to 43 CFR Subpart 3833.

Daniel P. Beard,
Acting Assistant Secretary of the Interior.

October 11, 1979.

[FR Doc. 79–31867 Filed 10–15–79; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 15

[Docket No. 20780; FCC 79–555]

Redefining and clarifying the rules governing restricted radiation devices and low power communication devices

AGENCY: Federal Communications Commission.

ACTION: First Report and Order adopting final rules.

SUMMARY: Adoption of rules to control the interference to radio and TV reception caused by electronic digital equipment. Computers and similar digital equipment have been found to be significant sources of interference to radio communications. The new rules adopt technical standards and a certification procedure. Computing devices manufactured after July 1, 1980 must comply with minimal technical specifications as a prerequisite for marketing.

EFFECTIVE DATE: November 19, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Art Wall, Office of Science and Technology, Phone No. (202) 632–7095.

Adopted: September 18, 1979.

Released: October 11, 1979.

By the Commission: Commissioners Lee and Quello absent; Commissioner Brown concurring and issuing a statement.

In the matter of amendment of Part 15 to redefine and clarify the rules governing restricted radiation devices and low power communication devices Docket No. 20780; First Report and Order—Technical Standards for Computing Equipment, 41 FR 23723, May 20, 1976.

1. On April 14, 1976, the Commission adopted a Notice of Proposed Rule Making in this proceeding to redefine and clarify the rules in Part 15 governing low power communication devices and the general requirements for a restricted radiation device in § 15.7.[1] Examples of devices subject to general requirements in § 15.7 include: Computers, RF power supplies, electronic games, carrier current systems, campus radio stations, electronic watches, calculators, tape recorders.

2. For the reasons given below, the Commission is adopting herein regulations, which we consider minimal, to reduce the interference potential of electronic computing equipment. Because of the complex issues and the numerous devices covered in this proceeding, the Commission is restricting this First Report and Order to electronic computing equipment; other aspects of this proceeding, e.g. campus radio systems, carrier current systems, etc., will be considered in subsequent Commission actions.

3. A computing device, as defined and used herein, is any electronic device or system that uses digital techniques. More precisely, it is an electronic product that intentionally generates and uses radio frequency energy in excess of 10,000 cycles (or pulses) per second.[2] The definition is intentionally broad so that it will cover any electronic device used for computations, control, operations, transformations, recording, filing, sorting, storage, retrieval, and transfer. Specifically excluded are transmitters, receivers and any other device separately regulated under some other part of the Commission's Rules. Examples of computing devices include, but are not limited to: business and personal computers, data processing equipment, digital weighing scales, switching power supplies, electronic games including coin operated games, electronic cash registers, digital watches, pocket calculators, digital clocks.

Background of this proceeding

4. Restricted radiation device, the subject of the proceeding, is defined in § 15.4(d) of the Commission's rules.[3] Simply stated, it includes any device that generates and uses radio frequency (RF) energy. It includes devices that are used to radiate this energy (miniature transmitters) as well as devices not intended to radiate (receivers, computers). The list of restricted radiation devices is almost unending since many devices include an oscillator (in the case of the computer—a clock that operates at RF). Most persons understand and have no problem interpreting this definition; however, the general requirement for a restricted radiation device in § 15.7, for a device which is not regulated elsewhere in the rules, appears to redefine the applicability of the definition. This is where the problem of interpretation has caused some consternation over the years.

5. The text of § 15.7 was adopted (FCC Docket No. 5335) in 1938 for resolving a specific problem concerning oscillator pick-up recorders has over the years been interpreted to apply to any device that fits within the definition of § 15.4(d). The present text of § 15.7 reads as follows:

Section 15.7 General requirements for restricted radiation devices.

Unless regulated under some other subpart of this part, any apparatus which generates a radio frequency electromagnetic field functionally utilizing a small part of such field in the operation of associated apparatus not physically connected thereto and at a distance not greater than 157,000/F (kHz) feet (equivalent to $\lambda/2\pi$) need not be licensed provided:

(a) That such apparatus shall be operated with the minimum power possible to accomplish the desired purpose.

(b) That the best engineering principles shall be utilized in the generation of radio frequency currents so as to guard against interference to established radio services, particularly on the fundamental and harmonic frequencies.

(c) That in any event the total electromagnetic field produced at any point a distance of 157,000/F (kHz) feet (equivalent to $\lambda/2\pi$) from the apparatus shall not exceed 15 microvolts per meter.

(d) That the apparatus shall conform to such engineering standards as may from time to time be promulgated by the Commission.

(e) That in the event harmful interference is caused, the operator of the apparatus shall promptly take steps to eliminate the harmful interference.

Note.—Radio receivers, cable television systems, Class I TV devices, and low power communications devices are regulated elsewhere in this chapter and are not regulated by this section.

6. The major area of confusion in applying § 15.7 to many devices falling under the purview of the definition of § 15.4(d) is the language in the opening paragraph that reads " " " "any apparatus which generates a radio frequency electromagnetic field functionally utilizing a small part of such field in the operation of associated apparatus not physically connected thereto " " " " The Commission has maintained over the years that a device falling under the definition in § 15.4(d) is subject to § 15.7, since it was never intended to leave such a large class of devices without any control over its interference potential. However, recognizing that the language therein is confusing and may be misleading as to its intended application, we initiated this instant proceeding to clarify the language and to redefine its applicability.

7. Another area of difficulty in applying § 15.7 to general restricted radiation devices is the field strength limit of 15 μV/m measured at a distance of $\lambda/2\pi$ from any part of the system,[4] where λ is the wavelength of the frequency of interest. The frequency dependency of the limit has made it extremely difficult to apply, especially at the higher frequency. Below 1 MHz the limit is extremely liberal; above 20 MHz the limit is overly conservative. For example, at 100 MHz the limit is 15 μV/m at 1.57 feet—an extremely conservative limit for a computer which, because of high speed data pulses, has emissions well into the VHF and UHF region of the spectrum. At 10 kHz, it is 15 μV/m at 3 miles, meaning that it is an extremely liberal emission limit close to the source.

[1] Released April 23, 1976, 62 FCC 2d 666, 671–72 (1976), 41 FR 17938 (1976), FCC 76–347.

[2] Section 15.4(n) of the new Rules defines Computing Device as: Section 15.4(n) *Computing Device.* A device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electric computations, operations, transformations, recording, filing, sorting, storage, retrieval, and transfer. A device or system that generates timing signals or pulses at rates in excess of 10,000 pulses (cycles) per second and uses digital techniques. A transmitter or any other device which is specifically covered elsewhere in this chapter is not encompassed by this definition.

[3] Section 15.4(d) defines a restricted radiation device as: Section 15.4(d) *Restricted Radiation Device.* A device in which the generation of radio frequency energy is intentionally incorporated into the design and in which the radio frequency energy is conducted along wires or is radiated, exclusive of transmitters which require licensing under other parts of this chapter and exclusive of devices in which the radio frequency energy is used to produce physical, chemical or biological effects in materials and which are regulated under the provisions of Part 18 of this chapter.

[4] The distance $\lambda/2\pi$ is equivalent in feet to $\frac{157,000}{F\ (kHz)}$ = distance in feet

8. The Commission in this proceeding proposed a single set of limits for all devices, both commercial and consumer, that fall under the general requirements for a restricted radiation device. For the reasons given in paragraphs 48 to 55 below, the Commission is persuaded to relax the limits for a computing device operated in commercial environments. We will, however, retain the proposed limit, with some relaxation at the higher frequencies, for a computing device operated primarily in the home or is widely distributed to the general public. A consumer computer is defined in § 15.4(p) of the rules in Appendix B as a Class B computing device; whereas, a commercial computer is defined in § 15.4(o) as a Class A computing device.[5]

9. Computers complying with the more liberal Class A limits as discussed in Paragraphs 49 to 55 below, will be required to have a label advising the user that his computer complies with the Class A limits, that operation of the computer in a residential environment may cause interference to radio and TV reception and that correcting the interference problem, if necessary, will be at his expense. Compliance with either Class A or Class B limits will not guarantee that the computer will not cause interference to radio communications. In instances where a computer is in juxtaposition to a susceptible receiver, interference may occur. In an effort to educate the user, we are requiring the manufacturer to include instructional information to the user about eliminating interference. For most computers, the manufacturer merely determines compliance with the appropriate limits before marketing the equipment. Personal computers and other equipment discussed in paragraphs 29 to 31 below, however, will be required to be certificated by the Commission as a prerequisite for marketing. The regulations for computing devices are in Appendix B, attached.

Background of Computer Interference

10. A simplified explanation of emanations from computers which may cause interference is given as follows: Computers generate timing signals and pulses at rates in excess of million pulses per second for the purpose of timing sequences of events and to carry out control and logic functions of the computer. Radio frequency (RF) energy associated with these pulses produce emissions that extend well up into the VHF and UHF portion of the radio frequency spectrum. Consequently, RF energy is floating around in the computer cabinet. Unless contained or filtered, some of this energy is radiated into space or conducted back into the power lines or a combination of both and can cause harmful interference to radio communications. Computers have been reported to cause interference to almost all radio services, particularly those services below 200 MHz, including police, aeronautical, and broadcast services. Several factors contributing to this include: (1) Digital equipment have become prolific throughout our society and are now being sold for use in the home; (2) technology has increased the speeds of computers to the point where the computer designer is now working with radio frequency and electromagnetic interference (EMI) problems—something he didn't have to contend with 15 years ago; (3) modern production economics has replaced the steel cabinets which shield or reduce radiated emanation with plastic cabinets which provide little or no shielding.

11. Over the last six years, the number of reported cases of interference to radio communications where the computer has been identified as the source has been increasing. The following summarizes some of these cases. In May of 1979, the Commission's field engineers investigated complaints of interference to the aeronautical frequency 113 MHz and found that it was caused by a cash register system. We have also received an informal report that these systems had caused interference to police frequencies around 155 MHz. In another case, a land mobile user operating on a frequency of 31.20 MHz complained of interference from a computer operated by a travel agency located across the street from the computer. In a related Commission proceeding, GEN Docket 78–369,[6] Southampton Electronic Associates, Inc. and Mr. Curt M. Huff, Vice President of Rapidata, Inc. commented about the interference potential of computers. Southampton claimed that both a personal computer and commercial computer terminals caused * * * "a constant roar in the land mobile receivers, both mobile units parked outside and base." Mr. Huff stated that * * * "most computers are not well shielded and filtered. I (Mr. Huff) have been unable to use radio transmitting and receiving equipment, pocket pagers, etc. in the vicinity of our computers."

12. One of the more interesting cases involving many investigations is still not satisfactorily resolved. In a series of letters, some dating back to 1975, Oregon and Nevada State police complain of interference to their highway patrol operations on 42 MHz from coin operated video games placed in casinos and restaurants. After extensive field investigations, the FCC notified the store owner that the game in his shop was causing interference to police communications. In response, the store owner had the distributor remove the game, which in actuality was simply moved to a different location. This solution of moving the game resolved the immediate complaint, but did not correct the problem, since it was merely moved to a new location. In Oregon and Nevada, a few of the games were identified as sources of interference in several investigations. For widely distributed products, this is an expensive use of manpower, when it is realized that each of these investigations consume many Commission and police manhours to locate the offending computer. In view of their proliferation and high potential for causing harmful interference, coin operated video games will be subject to the limits for the Class B computing and certification by the Commission. Certification of electronic games was proposed in the Notice.

13. Even pocket calculators can be a source of interference to radio communications, when placed close enough to susceptible equipment. In a recent technical paper, Mr. Charles T. Ristorcelli warned about the interference potential of small calculators to ADF signals operated in the cockpit of an airplane.[7] Test results of radiated emissions from three different calculators each operating in several modes, showed that major sources of RFI from calculators were caused by the internal digital processing circuitry strobing the LED display. He also showed that interference should be expected from any digital processor and that the power level of the interference is directly related to the power levels found in the device.

14. More recently, the Commission has become increasingly concerned about the interference caused by personal computers. Several letters from irate customers of personal computers have complained of interference not only to TVs located elsewhere in the same house, but also to neighbors' television reception. Most of these letters have been placed in the file of this proceeding. In one letter, Mr. Conklin, an active radio amateur and intruder watch of the American Relay Radio League, stated that numerous amateurs are receiving interference from computers from as far as 300 feet away. He also identifies a popular personal computer as a prolific source of interference. This is further substantiated by the experience of the Commission staff, some of whom own personal computers. It should be noted that the Commission is more concerned with interference to second parties, since the computer user can exercise some control over the interference to his own TV receiver. He can decide whether he wants to operate his TV receiver or his computer. His neighbor, however, does not have this choice. To determine the extent of such interference, the Commission requested six different manufacturers to submit their personal computers to the FCC Laboratory for testing and evaluation.[8] A report on the results and conclusion of these tests has recently been published.[9] This report clearly shows why the Commission is receiving interference complaints identifying the personal computer as the source. A copy of this report has been inserted into the record of the instant proceeding.

15. The problem of interference from personal computers is discussed in greater detail in the controversy initiated with two petitions filed by Texas Instruments, Inc. (TI). In its first petition, filed on February 16, 1979, designated RM–3328, TI requested the Commission to amend Part 15 of its rules to permit the marketing of a stand-alone RF modulator.[10] The approval of the RF modulator will permit TI to connect its personal computer to a home TV receiver so that it may be used as a display device for computers. In its rule making petition, TI proposed the same standards for a stand alone RF modulator that are presently required for a Class I TV device in Subpart H of Part 15 of FCC Rules. A stand alone RF modulator, i.e. without the video source, is not permitted under the present rules. The computer, video source to the TV interface device, would be subject to limits proposed by TI. In its second petition filed on February 27, 1979, TI requested a waiver of the appropriate rules to permit immediate marketing of their home computer and its stand alone RF modulator.

16. In response to the two petitions, the Commission was inundated with pleadings opposing the waiver on the grounds that the rules should be decided in a rule making procedure and not a waiver. Many of the commenters cited the interference potential of personal computers as the major reason for not granting the waiver. A more complete discussion of the TI petitions is given in two separate Commission actions adopted on September 18, 1979.[11] The arguments for or against the petitions for waiver are not considered here. However, we are considering all available information about the interference potential of personal computers, including that in the record established in response to the two petitions.

17. Returning to personal computers, it is noted that the present regulatory structure divides them into two types based on the manner of providing a visual display. The first type uses the home TV receiver as the display. The second uses a video monitor.[12] The first is subject to our rules for a Class I TV device, which TI contends are overly restrictive to permit the marketing of a personal computer at a reasonable cost. The second category, which incorporates a video monitor is subject to the technical specifications in § 15.7,[13] the subject of this proceeding.

18. A major reason for the Commission's concern about the interference potential of personal computers is their expected proliferation in the next few years. According to TI, * * *

> The potential uses of home computers are myriad. The most widespread application may be in providing computer-assisted instructions for all members of the family. Home computers will also be employed for a multitude of record keeping and analytical tasks involving personal finances. In addition, burglar and fire alarm systems will be controlled by these devices, and similarly, heating and air conditioning systems will be regulated by home computers to provide for a more efficient operation. Finally, with the addition of a modem, the home computer may be converted into an "intelligent" terminal to permit executives, engineers, and students (and farmers) to access more complex computers elsewhere.[14]

19. From the above summary of interference reports and TI controversy, it is clearly apparent that computers, both commercial and consumer, have a very real potential of causing harmful interference to radio communications depending on where the equipment is located. The interference potential of the computer is very succinctly stated by ATARI in its comments to RM–3328 filed May 2, 1979, at page 7:

> No restricted radiation device sold to home consumers has as wide an interfering frequency spectrum as does the computer. Quite literally, the home computer has the potential for thousands of interference-causing harmonics which would blanket not only the VHF bands, but also the FM bands. It should be noted that this blanketing phenomenon is not limited to only Class I TV device home computers, but would also be apparent in home computers using video monitors or other types of display. That is to say, rather than causing harmful interference at specifically known frequencies, home computers—both stand alone and TV connected—generate interfering signals virtually throughout all channels from below 100 kHz to above 300 MHz.

20. Several commenters to the TI petitions alleged that the NPRM in this proceeding (Docket 20780) only addressed commercial computers and did not cover personal (or consumer) computers. We find their argument to be without merit. The NPRM was not restricted to commercial equipment but was intended to cover all restricted radiation devices—consumer as well as commercial electronic devices. The NPRM (62 FCC 2d 666 (1976), 41 FR 17938 (1976)), for example, stated:

> Of particular concern in this proceeding are restricted radiation devices subject to the general requirements of 47 CFR 15.7 * * * Example of restricted radiation devices include computers, RF power supplies, electronic games, electronic watches and calculators, and tape recorders. (Para. 1.)

---

[5] For convenience, the term computer will be used throughout this Order to mean any computing device including large data processing equipment (DPE) and the small hand held calculator. The usage will be distinguished by using either commercial or consumer computing device.

[6] Notice of Inquiry on Radio Frequency Interference to Electronic Equipment, FCC 78–801, Adopted November 14, 1978, Released November 21, 1978 43 FR 56062, 70 FCC 2d 1685.

[7] *Electromagnetic Interference from Pocket Calculators* by Mr. Charles T. Ristorcelli, IEEE Transactions on Electromagnetic Compatibility, Vol. EMC–18 No. 1, February 1976, pages 42–45.

[8] Announced in a public notice dated March 8, 1979—G, mimeo #13224

[9] FCC Laboratory Report on "Personal Computers as Restricted Radiation Devices", Project No. 62502, August 1979.

[10] A stand alone RF modulator (or RF modulator) is an interface device that permits a home TV receiver to be used as a display device for any video source including personal computers.

[11] In response to the two TI petitions, the Commission took three separate actions. One action is set out in this Report & Order. A second action is set out in an Order Granting Waiver in Part in the Matter of Petition by Texas Instruments, Inc. for a waiver of § 15.4(m) and § 15.7 of FCC Rules. Adopted September 18, 1979, FCC 79–557. The third action is the issuance of a Notice of Proposed Rule Making in the Matter of Amendment of Part 15 of the Commission's Rules to provide for the operation of a TV Interface device. Adopted September 18, 1979. Docket No. 79–244, FCC 79–556.

[12] A video monitor is a device that accepts a video signal and displays that signal on a cathode ray tube (CRT). It differs from a TV receiver in that an RF carrier (TV channel) is not used, an RF tuning mechanism is not required and no local oscilator or IF strip is included in the monitor.

[13] TI, on pages 3, 4, and 5 of their reply comments to RM–3328, filed May 17, 1979 argues that a personal computer with a video monitor is not subject to the present rule § 15.7. Others commenting on the TI petitions have argued likewise, clearly pointing to the immediate need to clarify and define rules for computing devices without reference to § 15.7.

[14] TI petition, RM–3328, February 16, 1979, pages 5–6.

V 44 OC 16 79 UMI

Nothing in the foregoing language limits our proceeding to "commercial" computers. In fact, restricted radiation devices, computers, RF power supplies, electronic games, and calculators include examples of personal computers. Moreover, the NPRM even suggested that it might be necessary to impose stricter controls on personal computers than on commercial computers:

> A distinction is being made between equipment used commercially and equipment which is widely marketed to the general public such as hand held electronic calculators. Commercial equipment is not likely to become a source of interference to radio communications * * * Consumer products, on the other hand, are widely distributed, are harder to control once distributed, usually do not have the same technical sophistication as commercial equipment, and typically do not receive the same preventative maintenance. (Para. 19.)
>
> * * * * *
>
> * * * The marketing rules and the equipment authorization program are designed to protect the unsuspecting consumer by insuring that a RF device which is widely distributed will not become a source of harmful interference. (Para. 21.)
>
> * * * * *
>
> * * * Under the present rules, a RF device subject to § 15.7 may be operated without an equipment authorization from the FCC. Consequently, the Commission has no vehicle to alert it to the intended distribution of a new RF device and no mechanism to determine prior to distribution that such a device does in fact comply with our rules. The above factors have led to instances in which the Commission became aware, after the fact, that a number of these devices did not meet the technical requirements of § 15.7. An example of this problem is the electronic game. (Para. 22.)

The NPRM then concluded as follows:

> In view of the above, the Commission is proposing to require certification for those restricted radiation devices which have a relatively high interference potential and/or are widely distributed to the public. Certification is being proposed for the following equipment: (1) Electronic games which use RF energy; (2) RF (switching) power supplies; * * * (Para. 23.)

Again, the RF devices and electronic games referred to in the foregoing statements adequately describe personal computers. The proposed chart, moreover, on page 2 of the Appendix to the NPRM defined electronic equipment very broadly to include items that are plainly personal computers, such as:

> * * * computers, * * * data processing equipment, * * * switching power supplies, any device incorporating digital techniques, * * * digital displays, etc * * * (note 2.)

Furthermore, proposed rule 15.4(q) on page 3 of the Appendix defined electronic games as "A restricted radiation device designed to be operated for the purpose of amusement or recreation." This language, as well as the other quoted portions of the NPRM, provided adequate notice that personal computers were included within the scope of the NPRM.

20a. Any doubt on this point should have been removed on March 8, 1979, when the Commission issued a public notice entitled "Six Personal Computers Requested For Testing and Evaluation." This notice, stated, in part, the following:

> The Chief Engineer has requested six manufacturers of personal computers to send sample equipment to the FCC Laboratory for testing and evaluation. These requests are based on the consideration that personal computers are potential sources of radio frequency interference and as restricted radiation devices are subject to § 15.7 of the FCC rules.
>
> * * * * *
>
> Under the present FCC rules, a home computer is classified as a restricted radiation device subject to the specifications in § 15.7 (47 CFR 15.7). In 1976, the Commission initiated a rule making proceeding in FCC Docket No. 20780 (41 FR 17938) to update and clarify the applicability of this regulation to computing devices. A copy of the Notice of Proposed Rule Making in this proceeding is available from the Office of Chief Engineer upon request. The results of the testing of the six computers plus peripheral equipment will be used as a basis for further action in the rule making proceeding.

Thus, it appears that any possible ambiguity that is claimed by several commenters to have existed in the NPRM in Docket 20780 concerning the Docket's applicability to personal computers was clarified by the FCC's March 8, 1979 public notice. Numerous parties submitted comments regarding personal computers in response to TI's petitions (see Footnote 15 *infra*), and the FCC's public notice clearly indicated that Docket 20780 covered personal computers and that the Commission was still seeking information relating to the Docket. The FCC's public notice is germane to the issue of Docket 20780's alleged ambiguity because of the court's holding in *Forester* v. *Consumer Product Safety Com'n*, 559 F 2d 774, 788 (D.C. Cir. 1977). In *Forester* the court held that in considering whether adequate public notice of the subject matter of a rule making proceeding had been provided, it was important to consider not only the original NPRM, but all subsequent public notices issued "prior to the publication of the * * * regulations now in effect." Subsequent public notices were relevant, the court stated, because:

> Interested parties thus by incorporation had constructive notice of the scope of the regulations being proposed and an adequate opportunity to participate in the rule making. (Footnote 19) This cured any defect in the notice provided by the * * * proposed rules.

In footnote 19, the court added:

> We note in reaching this decision that the regulations were suspended for a period far in excess of the 30 days notice required by 5 U.S.C. 553(d)(1970). Potential commentators thus were not deterred from submitting comments on the regulations by the belief that it would be futile to submit comments on regulations already published as "final."
> * * *

This footnote is pertinent to Docket 20780 since the FCC's March 8, 1979, public notice, although issued after the formal comment period in Docket 20780 had closed, was released about six months before the First Report and Order in the Docket. Thus, the opportunity to file additional comments clearly existed. The NPRM in Docket 20780, therefore, cannot be viewed in isolation, but must be interpreted in light of subsequent public notices (including those relating to TI's petitions, see footnote 15 *infra* relating to the Docket). When considered together, the public notices concerning Docket 20780 clearly indicate that the FCC and the public considered personal computers to be within the scope of the Docket.

20b. It is true that the NPRM did not include the precise language of the rules we are adopting today. However, as paragraph 20 demonstrates, we did provide a general picture of what we intended to do, and that is legally adequate under the Administrative Procedure Act. (5 U.S.C. 553.) In *California Citizens Band Association* v. *U.S.*, 375 F 2d 43, 48–49 (9th Cir. 1967), *cert. denied*, 389 U.S. 844 (1967), the court held that the Administrative Procedure Act:

> * * * does not require an agency to publish in advance every precise proposal which it may ultimately adopt as a rule.
>
> * * * * *
>
> * * * [A] notice of rulemaking is sufficient if it provides a description of the subjects and issues involved.

Similarly, the court in *Forester* v. *Consumer Product Safety Com'n*, 559 F 2d 774, 787 (D.C. Cir. 1977), held:

> Section 553(b) does not require that interested parties be provided precise notice of each aspect of the regulations eventually adopted. Rather, notice is sufficient if it affords interested parties a reasonable opportunity to participate in the rulemaking process." * *

20c. Our view is confirmed by the fact that at least one personal computer manufacturer was fully aware of the impact of the NPRM on personal computers. Apple Computer, Inc., in

comments filed in this proceeding on April 4, 1979, stated:

> The proposal in Docket 20780 * * * was brought to the attention of Apple Computer, Inc. in mid-1977 through articles appearing in the press, at seminars on switching regulations and publications circulated by Corcom, Inc., 2635 North Kildare Ave., Chicago, Illinois * * *
>
> * * * A copy of Docket 20780 was conveyed to Apple Computer, Inc. by its attorneys on November 3, 1977. Through the 1977–1978 time frame, it has been assumed by most companies (including Apple Computer, Inc.) making small computers and/or switching regulator supplies, that rule making would follow Docket 20780 as a normal course of events and would affect all manufacturers in our industry in a uniform reasonable manner.[15]

21. Considering the interference potential of personal computers, their expected proliferation, the record established about their interference potential in response to the TI petitions, the detailed study provided by CBEMA [16] and also the fact that failure to act now before the expected explosion of personal computers may mean a monumental interference problem, the Commission has decided to adopt this First Report & Order and consolidate the rules for computers.

22. Further consideration of the additional issues and facts would not serve the public interest but will only serve to needlessly delay this proceeding. [17] Certainly, needless delay is not in the public interest. Moreover, failure of the Commission to act immediately will mean that millions of personal computers may be sold over the next few years with little or no radio frequency suppression. [17a]

[15] Apple's comments in Docket 20780, April 4, 1979, page 2. In addition to the comments filed by Apple Computer in response to the NPRM in Docket 20780, the Docket also includes the record established in response to the two petitions filed by TI. (Petition for rule making, RM–3328, public notice released March 2, 1979; and petition for waiver of §§ 15.4(m) and 15.7 of the FCC's rules, public notice released March 3, 1979.) Thirteen parties filed comments regarding personal computers in reply to TI's petitions. These comments were taken into consideration in adopting standards for personal computers in Docket 20780.

[16] See paragraph 50, below for a discussion of the CBEMA report.

[17] KSD/KDS–TV, Inc. 34 RR 2d 1635 (1976); Also Newhouse Broadcasting, 38 RR 2d 1705 (1976).

[17a] While we believe that the public notices relating to Docket 20780 provided adequate notice that personal computers were within the scope of the Docket, we would not defer action in the Docket even if notice had not been adequate. To defer a decision while asking for further comments would be contrary to the public interest because of the reasons stated in paragarphs 21 and 22 above. We would, therefore, claim and exemption from the advance notice requirement of the Administrative Procedure Act (5 U.S.C. 553(b)) based on public interest considerations as allowed by the Act (5 U S.C. 553(b)).

Comments in Response to NPRM and TI Petitions

23. During the course of this proceeding, the Commission received comments, reply comments and late comments [18] from a total of ninety different parties, of which 26 parties filed comments concerned with the technical and administrative provisions for digital equipment. A list of the parties concerned with computing devices is provided in Section 1 of Appendix A, attached. Parties filing comments about other aspects of this proceeding are given in Section II of the same appendix. To make the record as complete as possible, we are taking into consideration the comments filed in response to the two petitions filed by TI, particularly those comments dealing with the interference potential and limits for personal computers. A list of parties filing comments in response to the two waivers is given in Section III of Appendix A.

24. In general, most commenters to the NPRM supported the basic purpose of this rulemaking, i.e. to reduce interference to radio communications in the United States, although a few objected to this proposition. General Telephone and Electronic Service Corp. (GTESC) best summarized this objection:

> A number of the Commission's specific proposals will cause unnecessary burdens to manufacturers and users of Part 15 devices * * * the Commission should try to balance a potential for interference with radio communications of Part 15 devices against the additional burdens, financial and others, that such regulations may entail for entities subject to Part 15.[19]

25. Comments on specific aspects of the proposal were submitted by most of the commenters in order to make the proposed rules more workable and less of a burden to both the Commission and the companies seeking compliance. The following paragraphs summarize the comments filed in response to the proposal for computing devices along with our consideration and disposition of the comments. Comments filed in response to the two TI petitions about the limits and interference potential of personal computers are also summarized and considered below.

26. In paragraph 19 of the Notice, the Commission made a distinction between equipment sold and used commercially and equipment sold to and used by the general public. The basis for this distinction is the environment and maintenance commercial equipment receivers compared to that of consumer products which are widely distributed in the hands of the general public. Consumer equipment is located in closer proximity to radio, TV, and in many cases to land mobile communication equipment. Because consumer devices are closer, they have a higher potential for causing interference. Secondly, they usually do not have the same technical sophistication as commercial equipment, nor do they receive the same preventative maintenance. Many commenters applaud this concept. In particular, CBEMA carried this a step further.[20] CBEMA noted that the record of commercial data processing equipment in terms of electromagnetic interference has been outstanding, and because of this outstanding record, imposition of a detailed and stringent regulatory scheme for commercial data processing equipment would be inapporpriate. Any interference problems associated with commercial data processing equipment could be eliminated, according to CBEMA, by the imposition of a requirement that when such products cause interference with a radio service, the operator of the offending device must take steps to eliminate such interference.[21] GTESC and American Telephone and Telegraph (AT&T) supported this viewpoint.

27. Nonetheless, in the event the Commission considers rules necessary to protect radio communications, CBEMA submitted alternative proposals with respect to Electronic Data Processing and Office Equipment (EDP/OE) and specific comments concerning the technical and marketing issues raised by the Notice as they would effect such equipment. CBEMA stated further:

> Such comments can form the basis for EMI, regulation which achieves the Commission's objectives while holding to a minimum the burden placed upon manufacturers and users of commercial data processing equipment.[22]

28. The fact that CBEMA submitted a detailed report on the interference

[18] Comments and reply comments in this proceeding were requested by June 23, 1975 and July 8, 1976, respectively. The comment periods were subsequently extended to August 23, 1979 and September 23, 1979, respectively in response to several requests for extensions. Several recommendations filed in this proceeding stated that work was currently being done by ANSI and CBEMA and that additional comments would be filed in 1977–1978. Complexity of the technical issues along with a desire to consider all relevant information makes it imperative that we consider these comments. For these reasons, the late comments filed herein are hereby accepted.

[19] GTESC comments, August 24, 1976, page 2.

[20] CBEMA is the Computer Business Equipment Manufacturers Association, a trade association representing many of the larger data processing and office equipment manufacturers.

[21] CBEMA comments, June 16, 1977, pages 5 to 8.

[22] CBEMA comments, June 16, 1977, page 8.

V 44 0 C 16 7 9 UMI

capability of commerical data processing equipment indicates that it acknowledges that such equipment should be designed to meet reasonable limits to minimize the interference potential of such equipment. The CBEMA report, designated CBEMA/ESC5/77/29, in our opinion, achieves this objective for the most part for commercial computers. We are, therefore, relaxing the proposed rules and adopting most of CBEMA's recommendations with respect to commercial computing equipment. As discussed in paragraphs 8 and 9 above, computers are separated into two categories—Class A computing devices governing commercial computing equipment and Class B computing devices governing the computing equipment widely distributed to the general public. See paragraphs 63–72 inclusive for a more detailed discussion of the classification of computing equipment.

29. The Commission in the Notice of Proposed Rule Making in this proceeding proposed certification of certain restricted radiation devices which we considered to have a high potential for causing interference to radio communications.[23] These devices were electronic games, RF power supplies and any RF device used for communications, exclusive of transmitters. A number of commenters objected to certification of RF power supplies and RF devices used for communication, particularly for those devices used in industrial plants and commercial installations. GE and NEMA make the point that equipment used in manufacturing plants is not likely to cause interference because it is located within the plant and is commonly isolated by the size of the plant facility. Also factory buildings provide some shielding. Thus the Commission can expect few complaints of interference from restricted radiation devices therein.[24]

30. Lambda, CBEMA, Mr. King, and others point out that an RF power supply is an integral part of many computing devices. They point out further that RF supplies are custom made by or for the company that manufactures the complete device. Since the Commission did not propose certification for most restricted radiation devices, they request that this be made clear in the final rules.[25] Other commenters point to the administrative burden and delays in meeting production schedules as reason for not adopting certification. TI suggested a verification procedure instead of certification by the Commission.[26]

31. We agree in part with the above comments. Certification will only be required for those devices which the Commission has identified as having a significant potential for causing interference. Accordingly, we are requiring certification only for electronic games, personal computers and video sources to a TV Interface device. For all other computing devices, the manufacturer is responsible for verifying compliance before marketing. The three categories of devices will be subject to the marketing restrictions of § 2.803, whereas the other categories of computing devices are subject only to the restrictions of § 2.805. Other devices may be added to the certification list, if verification by the manufacturer does not adequately control the interference potential of a particular type of computing device.

32. In a similar vein, CBEMA, supported by AT&T and the Communications Division of the Electronics Industries Association (EIA–CD) in their reply comments, cautioned against the rigid application of § 2.805 of the Commission's rules to large computers.[27] Simply stated, § 2.805 proscribes the marketing (shipment, sale, etc.) of equipment,[28] until it complies with the applicable technical requirements. CBEMA points out that complex systems, such as large computers, may require lengthy development, and that time is saved if manufacturers and potential customers give and take suggestions about the product as it is developed. They are concerned that the rigid application of § 2.805 to large computers might prohibit such give and take. Rather than unnecessarily and unreasonably disrupting present business practices, CBEMA urges the Commission to * * *

Exercise its discretionary authority to apply basic marketing requirements in a way which takes in account the particular characteristics of the EDP/OE field. This would be accomplished by imposing an obligation upon the manufacturer providing that upon delivery or installation of EDP/OE equipment the equipment must meet applicable requirements and that the manufacturer would be under obligation to demonstrate this would be the case in the event of any question whether this was the case.[29]

33. We concur with CBEMA, AT&T, and EIA–CD that the marketing rules, specifically § 2.805 are not intended to disrupt or hamper business operation, but to insure that equipment subject to FCC technical specifications does in fact comply with those specifications before it is placed into operation. § 2.805 is accordingly revised to reflect this.

34. In Paragraphs 11 and 12 of the Notice, the Commission stated it was proposing to exempt carrier current systems operated by public utilities. GE, NEMA, and several others applauded this proposal. They suggested that this exemption of the technical and certification requirements be extended to other devices owned and operated by public utilities many of which fall within the scope of this Report & Order. For example, GE points out that * * *

Electronic controls are taking the place of mechanical control for steam turbines which drive generators in power plants. Some utilize digital techniques and thus are among the equipments which the Commission proposes to regulate.[30]

35. GE, LAMBDA, and NEMA[31] also request exclusion for equipment designed for the Department of Defense or the National Aeronautics and Space Administration for use in connection with defense or space programs.[32] NEMA adds industrial, commercial, and transportation equipment to the list of equipment for which they believe an exclusion is justifiable.

36. Although we are not considering the provision to exempt carrier current systems operated by public utilities, it is appropriate to consider the above comments since they refer to equipment which will be regulated by the rules adopted herein. The electronic controls mentioned by GE fall into our category of Class A computing devices. While these equipments will not require certification, we do not believe exemption from compliance with technical standards is justified. Reasonable limits, such as those proposed by ANSI/C63[33] and CBEMA,

[23] Certification is one of the Commission's three equipment authorizations. It requires the manufacturer to submit a report of measurement along with an application demonstrating the equipment is capable of complying with the applicable technical specifications. If acceptable, the applicant receives a grant of certification, after which he can legally market the approved device in the USA. The rules dealing with our equipment authorization program are in Subparts I, J, and K of Part 2 of FCC Rules.

[24] GE comments, August 20, 1976, page 6.

[25] CBEMA comments, June 16, 1977, page 12.

[26] TI comments, August 20, 1976, page 5.

[27] CBEMA comments, June 16, 1977, pages 13–21.

[28] As used in Part 15, marketing shall include sale or lease, offer for sale or lease, advertising for sale or lease, the import or shipment or other distribution for the purpose of sale or lease or offer for sale or lease.

[29] CBEMA comments, June 16, 1977, pages 20–21.

[30] GE comments, June 20, 1976, page 5.

[31] GE comments, June 20, 1976, page 9.

[32] NEMA is the National Electrical Manufacturers Association, an association of manufacturers and users of many types of electronic equipment.

[33] ANSI/C63 is the Radio Electrical Coordinating Committee, C–63, of the American National Standards Institute. It is charged with establishing

Footnotes continued on next page

have a sound technical basis and are considered appropriate in business installations. Equipments made for and marketed to the United States Government are specifically exempt from FCC Rules pursuant to the exemption in § 2.807(d) of our marketing rules.

37. In the Notice in this proceeding, we had proposed that a device subject to certification be labeled in accordance with proposed § 15.132. In addition to carrying a unique FCC identifier and name, it was proposed that the identification plate also carry the following statement:

"This device complies with FCC Rules of Part 15. Operation of this device is subject to the following two conditions: (1) This device may not cause harmful interference. (2) This device must accept any interference that may cause undesired operation."

38. EIA–CEG [34] and GTESC object to the use of the term "harmful interference" on the label. [35] GTESC contends that while the meaning of "harmful interference" is well recognized by the manufacturing industry, the general public might construe this term to imply that the interference is physically harmful.[36] To avoid this problem, GTESC suggests that the word objectable be used wherever appropriate in the regulations rather than "harmful". EIA–CEG prefers the statement: "this device may not cause interference as defined in § 15.4(b) of FCC Rules." GTESC also points to the fact that the labeling requirement is not consistent with the Commission proposal in Docket 20790 for a single system of identification for RF Devices.[37]

39. On the same subject, TI expressed a concern that the limited space available on many devices would make it impossible to comply with the proposed § 15.132. Independent of space limitations on equipment, they point to the fact that labeling is costly and such costs have to be passed on to consumers. Alternatively, TI suggests that labels could be printed for inclusion in or on the device packaging, rather than affixing labels on devices.[38]

40. The Commission has given the question of labelling and equipment compliance considerable thought. To insure compliance with the appropriate limit the Commission might have required certification of all computing devices. This option, however, places additional burdens on both the Commission and manufacturers in preparing and reviewing test data. In lieu of certification for all computers, the Commission is adopting a requirement that a commercial computer have a label that it complies with the limits for a Class A computing device, that operation of the computer in a residential environment may cause interference to radio and TV reception and that if interference does occur the user is required to correct the interference. A Class B computing device, except those requiring certification, does not require a label. Computers subject to certification shall be labelled pursuant to the recently adopted labelling requirement in § 2.925.

41. In addition to a label, the maintenance or instruction manual for each computing device shall include some educational information to help the consumer in case interference does occur. It is anticipated that this two step labelling and educational approach will help the user in recognizing the interference potential of computers so that it can be avoided without the need of tighter limits or certification for such equipment. For labels used on consumer computing products, the term harmful interference has been avoided to satisfy the concerns of GTESC and EIA-CEG about misconstruing the term "harmful".

42. GE, NEMA, and ANSI–C63 requested the Commission to delay this proceeding at least one year to allow ANSI–C63 time to complete its work on developing methods of measurement of emissions and instrumentation for that purpose. The Commission staff has been following the work of C63 and is taking special note of two recent standards published by ANSI.[39] Both standards have been considered and used in this proceeding, as noted below.

43. A related problem to the delay in this proceeding has to do with the date the rules adopted herein become effective. In Paragraph 23 of the Notice, the Commission proposed that the rules for certification would become effective six months after adoption. TI states that

* * *

The period of six months is not sufficiently adequate to permit redesign for certain kinds of existing products such as data processing equipment.[40]

TI goes on to say that as much as 18 months may be required to accomplish redesign of computing equipment and that the Commission should provide an implementation schedule which takes into account the difficulty associated with various equipment in meeting the radiation requirements and in obtaining certification. Similarly, Collins Division of Rockwell International Corporation (Collins) proposes that certification of large and complex modern message processing equipments should not become effective for at least two years after the rules become effective.[41]

44. CBEMA believes that the implementation can and should be done in a manner that would permit companies to meet their responsibilities without having to risk unnecessarily prohibitive cost burdens or competitive disadvantages because, by happenstance, the rule change catches them at a particular point in a product line life cycle. To meet this objective, CBEMA proposes the following implementation schedule:

(a) New EDP/OE product types first delivered two years after the release by the Commission of applicable EMI rules must meet the new regulations;

(b) Any EDP/OE equipment manufactured seven years after the release of the Commission's order must meet the new regulations.[42]

45. Considering the pros and cons of implementing these rules, the Commission is relaxing the proposal so that rules become effective nine months after adoption—i.e. July 1, 1980. The interference problem of home computers is escalating as indicated in paragraphs 10 to 18 above, and unless the Commission acts expediously to head off the problem, we may be faced with an intolerable interference problem similar to CB interference problems of several years ago. Moreover, the industry, both commercial EDP/OE equipment manufacturers and to a lesser extent the personal computer manufacturers have been aware since at least 1976 that the Commission was contemplating rules to control the interference potential of any device that generates radio frequency energy including computers, electronic games,

Footnotes continued from last page
voluntary standards in the general areas of electromagnetic compatibility. Members of the committee are technical experts from government and industry.

[34] Consumers Electronics Group of the Electronic Industry Association.

[35] Harmful interference is defined in § 15.4(b) and reads as follows: Any emission, radiation or induction which endangers the functioning of a radionavigation service or of other safety services or seriously degrades, obstructs or repeatedly interrupts a radio communication service operating in accordance with this chapter.

[36] EIA/CEG comments, August 23, 1976, page 2. GTESC comments, August 24, 1976, page 10.

[37] The Commission adopted a Report & Order in Docket 20790 on February 28, 1979; 44 FR 17175.

[38] TI's comments, August 20, 1976, page 7.

[39] Draft American National Standard C63.12 Recommended Practice on Procedures for Control of System Electromagnetic Compatibility, dated June 20, 1979. American National Standard C63.2: Both standards are available from: Standards Department, The Institute of Electrical and Electronic Engineers, 345 East 47th St., New York, NY 10017.

[40] TI's comments, June 20, 1976, page 9.

[41] Collins' comments, August 23, 1976, page 4.

[42] CBEMA comments, June 16, 1977, page 23.

V 44 0C 16 79 UMI

etc. Apple Computer Co. (Apple) makes this clear in the comments they filed on April 4, 1979. [43]

46. In addition, manufacturers of both commercial EDP/OE equipment and personal computers have been aware of the Commission's concern with the interference caused by personal computers since the beginning of this year, when it became known that the Commission was measuring six personal computers. [44] This points to the fact that manufacturers have had time to at least start initial design changes to reduce emanations from computers. If prudent manufacturers used the nine months from the beginning of this year and the nine months after the adoption of these rules, they have the required time period TI, Collins, and Tandy Corp. are seeking. [45]

47. Also, we can assume manufacturers of larger EDP/OE equipment, most of whom are represented by CBEMA, to already be complying with the technical recommendations in their report, CBEMA/ESC5/77/29. [46] Accordingly, the nine month lead time should not be a hardship for these manufacturers since we are adopting most of the technical recommendations in that report. For the above reasons, the Commission deems that it is in the public interest to require compliance within nine months after adoption of the attached rules. The Commission will accept petitions for waiver of this requirement in special hardship cases. Should we decide to grant a waiver, we will, at a minimum, require any computer sold under the waiver to bear a label as follows:

"This equipment is marketed pursuant to a waiver of FCC Rules Part 15 Subpart J. Operation of this computer in a residential area is likely to cause objectionable interference to radio and TV reception, because it emits more radio frequency energy than the FCC Rules allow. If interference occurs, the user will be required to take all steps necessary to correct the interference."

This should not be taken as an indication that any waivers will be granted, however. Each petition for waiver will be judged on its individual merits.

48. As discussed above, a number of the commenters, CORCOM, GE, NEMA, ANSI, CBEMA, AT&T, Collins, Mr. King and TI criticized the limits as being too stringent, particularly for devices that are manufactured for and operated in industrial and commercial environments where the potential for causing interference is much less than it would be for a device manufactured for and sold to the general public for operation in the home. The Commission had anticipated that the proposed limits might be too restrictive for large commercial data processing equipment and office equipment (EDP/OE) and in paragraphs 18 to 29 of the *Notice* and had specifically invited the manufacturers of such equipment to submit an alternative proposal. It should be emphasized, however, that the discussion about commercial EDP/OE equipment did not, in any way, restrict this proceeding to commercial equipment only, as noted above.

49. In lieu of the proposed limits, CBEMA, AT&T and ANSI/C63, recommended slightly higher radiation limits based on using a separation distance of 30 meters. [47] AT&T proposed a radiated limit of 300 μV/m at 3 meters over the frequency range of 16 to 1000 MHz. ANSI/C63 in a draft American National Standard—C63.12, released for limited use on June 20, 1979 [48] established guide lines for setting emanation and susceptibility limits to assure system compatibility. The radiated limit recommended on page 13 of the draft standard is 30 μV/m at 30 meters, which is essentially the same as the AT&T proposal when extrapolated on the basis of inverse distance.

50. CBEMA, although opposed to the Commission adopting any limits, nevertheless suggested as alternatives to the Commission's proposed limits, narrowband and broadband limits derived from its Report, CBEMA/ESC5/77/29. According to CBEMA, these limits

(1) Can be expected to provide more than adequate protection to domestic communication services,

(2) Are based on a firm technical rationale using a very conservative modelling approach, and

(3) Are supported by an extensive empirical and experimental data base. [49]

CBEMA also stressed that:

> * * * while we believe that electromagnetic control regulations for this category of equipment are unnecessary, if such regulations are to be applied to commercial EDP/OE products, those regulations should be acceptable on a worldwide basis. Worldwide compatibility is desirable, not only from a technical viewpoint but also for reasons of international comity. There are, in addition, economic considerations inasmuch as it is costly to comply with different, inconsistent standards using different measurement techniques and different kinds of measurement equipment. CBEMA members, engaged significantly in overseas business, favor uniform, worldwide EMI regulations so long as they are technically and economically reasonable. [50]

51. The Commission understands that the report developed by CBEMA has been submitted by US National Committee for the IEC (under the auspices of ANSI) to CISPR [51] where it is being used as the basis for developing international recommendations for such equipment. We commend such efforts. Moreover, we have reviewed the *Report* carefully and have decided that with certain exceptions, the limits recommended by CBEMA in the *Report*, which represents a relaxation of the limits proposed in the *Notice*, represents a major step in controlling the interference potential of data processing equipment operated in commercial, business, and manufacturing locations. In view of the fact that industry is supporting a relaxed limit for commercial computing equipment, that it has a strong technical basis, that it is being actively recommended and supported by U.S. industry for adoption on an international basis, the Commission is adopting most of the recommendation in the Report with a few minor exceptions. The limits and definition for commercial computing equipment are in Appendix B, attached. With the exception of a tightening at the higher frequencies, the limits for commercial equipment, which we have defined as Class A computing devices, are essentially the same as those recommended by ANSI/C63 and AT&T.

52. While we concur that the limits proposed by CBEMA may be satisfactory for controlling the interference potential of commercial computing, we do not consider those limits adequate for controlling interference from personal computers and similar electronic equipment operated in a residential area. In the home, the TV and AM/FM broadcast receivers are the most susceptible to interference from a computing device. For protection of radio and TV reception in the home, the Commission is adhering to the radiation limits proposed in the Notice with some relaxation at the higher frequencies.

53. The technical rationale for these limits is given in Appendix C, attached. It uses the same approach as that used by CBEMA in its Report. However, instead of using a separation distance of 30 meters, we are assuming that the home computing device is at least 10 meters from the receiver. The separation distance is a basis parameter in computing tolerable levels of signal that may be radiated by a computer.

54. We are most interested in protecting an individual who is receiving interference from his neighbor's computer. To a lesser extent, we are concerned about devices in the same household. In a household, the homeowner or apartment dweller can choose which device he wants to operate. For example, if a second TV set in the same house is receiving interference from a computing device in an adjacent room, there are a number of steps he can take to remedy or minimize the problem, or as a last option, he can always choose which is most important to operate—the TV set or the computing device. One of the first and easiest corrective steps he can take is to move the two pieces of equipment further apart. Another step is to reorientate the receiving antenna. Since there is a lobing effect associated with all antennas, by reorientating the antenna he can reduce the interfering signal picked up by the antenna. Reorientation of the equipment is another easy remedy, since radiated emanations from most electronic equipment is directional. These simple corrective steps can help correct such interference problems in most households. On the other hand, these remedies may not work when a second party is receiving the interference.

55. Assuming a separation distance of 10 meters, our analysis (as given in Appendix C) shows that the minimum limit necessary for protection of TV reception from a computing device operated in an adjacent household is essentially the limit that had been proposed in § 15.13(b)—100 μV/m at 3 meters. The Commission recognizes, of course, that there will be instances when the separation distance is less than 10 meters. In many such cases, we anticipate there will be mitigating circumstances which will counteract the shorter separation distance, such as greater attenuation due to additional walls between the computer and the TV receiver. We also anticipate that, in many cases, the orientation of the TV receiver with respect to the computer will help reduce pickup of the undesired computer signal. Because of the extensive objections to limits for radiated emanations below 30 MHz, and because of the fact line conducted limits are considered effective for protecting communications up to 30 MHz, the 100 μV/m limit adopted herein only covers the frequency range of 30–1000 MHz. If additional information comes to our attention that limits are needed to protect radio communications below 30 MHz, a separate proceeding will be instituted for that purpose.

56. Proposed § 15.13(c) in our Notice was intended to limit the amount of RF energy conducted from the restricted radiation device back into the public utility electric power network to 1000 μV from 100 to 450 kHz, 200 μV from 450 to 1600 kHz and 100 μV over the frequency range 1.6 to 30 MHz. Several commenters urged the Commission to relax these limits. Others questioned the need for conducted limits below 450 kHz. CBEMA and TI recommended separate limits for commercial and consumer computing equipment. A review of the conducted interference problem indicated additional investigations are required. For the time being, the Commission is adopting the narrowband conducted limits proposed by CBEMA for commercial equipment. For consumer equipment, we are adopting a limit of 250 μV over the frequency range of 0.45 to 30 MHz. Limits for broadband conducted emanations as well as the test procedures using the relatively new line impedance stabilization network (LISN) of 50 ohm/50 μH will be the subject of a new Notice of Proposed Rule Making to be released shortly. During the pendency of the proceeding for test procedures and broadband conducted limits, measurements may be made using the test procedures in the new NPRM in the interim. It is anticipated that the new proceeding should be finalized before July 1, 1980.

57. Almost all the parties filing comments in this proceeding called attention to the lack of test procedures in the Notice of Proposed Rule Making. CBEMA went as for to include test procedures in their report, CBEMA/ESC5/77/29 with the recommendation that the test procedures be used by the Commission as the basis for determining compliance with the limits recommended in the report. Mr. King and EIA–J supported the adoption of CISPR test methods by the Commission. Alternatively, Mr. King supports the test procedures recommended by the Commission in the Second Notice of Proposed Rule Making in Docket 20718 for ISM equipment, [52] which are based on CISPR recommendations to a large extent. The Commission agrees with the comment that the test procedures ought to be published, even though most of the test procedures are well known and have been used for years. We also support international acceptance of standards, whenever possible.

58. Several of the commenters, principally ANSI/C63, GE, NEMA, raised questions as to which network should be used in measuring conducted emanations from the equipment under test back into the public utility power network. Internationally, a 50 ohm/50 μH line impedance stabilization network (LISN) is beginning to have wide acceptance. This is supported nationally by ANSI/C63. It is also the network that is proposed by the Commission in Docket 20718. On the other hand, IEEE Standard 213 [53] which has been accepted by the Commission for a number of years as a measurement standard for line conducted measurements, calls for a 50 ohm/5 μH network. Above 2 MHz there is no difference in the measured emanations using either network. At approximately 500 kHz, the IEEE 50Ω/5 μH LISN gives results that are approximate 6 dB more stringent than the new network. This 6 dB is more than offset by 8 dB relaxation across the entire frequency band 0.45 to 30 MHz. For these reasons, the 50Ω/50 μH LISN will be proposed in the forthcoming Notice of Proposed Rule Making mentioned in paragraph 56, above.

59. A number of the commenters, EIA–J, ANSI/C63, NEMA, GE, Corcom object to the Commission's proposal in § 15.143(e) of the Notice to require testing without a ground, equipment which is normally grounded. All five commenters claim that such testing of equipment that normally is grounded is inappropriate for many devices, especially for those used in industrial plants. Grounding of industrial equipment, says GE, is required by

[43] See paragraph 20, above.

[44] See footnote 8, above.

[45] Tandy Corp., maker of the Radio Shack, TRS–80 personal computer, through its attorneys, requested an 18 month lead time in an ex parte contact on August 23, 1979.

[46] Limits and Methods of Measurement of Electromagnetic Emanations from Electronic Data Processing and Office Equipment, CBEMA/ESC5/77/29 submitted with additional filing on June 16, 1977 as a comment in Docket 20780.

[47] Separation distance (sometimes called protection distance) is the distance between the interfering source and the device receiving the interference.

[48] See footnote 39.

[49] CBEMA comments, June 16, 1977, page 26.

[50] CBEMA comments, dated June 16, 1977, pages 3 and 4.

[51] CISPR is the acronym for Comite International Special des Perturbations Radioelectrique (International Special Committee on Radio Interference). CISPR has adopted a number of recommendations for controlling interference from a number of electrical and electronic products. Recommendations adopted by CISPR are not mandatory by themselves, but a number of administrations have adopted the CISPR recommendations as their national law for such equipment. For example, a number of CISPR recommendations have been adopted by the European Economic Community (EEC) and have, in effect, become the law for all EEC signatories.

[52] Second Notice of Proposed Rule Making, FCC Docket No. 20718. In the matter of overall revision of Part 18 governing Industrial, Scientific, and Medical Equipment: Adopted January 18, 1979, Released January 29, 1979, FCC 79–29, 44 FR 9771.

[53] Institute of Electrical and Electronic Engineers Standard 213 (formally 61 IRE 2751) for conducted interference measurements from frequency modulated and television broadcast receivers in the range 300 kHz to 25 MHz.

V 44 0C 1 6 7 9 UMI

manufacturer's instructions and by the electrical codes of the Occupational Safety and Health Administration and by many other jurisdictions.[54] We accede to the comments and are withdrawing our proposal to require testing without a ground of equipment which is normally grounded.

60. With respect to the test site, TI recommended that the Commission permit measurements to be made in a shielded room for frequencies below 20 MHz where the radiation from a given device under test can be determined with accuracy. In addition, TI recommends that measurement above 100 MHz should be allowed in a suitable RF anechoic chamber. Nothing is said by TI with respect to the test site for measurement between 20 and 100 MHz.

61. We have already pointed out that we are not requiring radiated measurements below 30 MHz. While the Commission recognizes the advantage of making measurements in a shielded enclosure, we also recognize that large errors can arise due to the creation of standing waves due to reflections from the walls of the enclosure. We must, therefore, insist that radiated measurements be made at an open field test site which has been tested and found suitable for these type of measurements. The basic criterion for measuring radiated emanations is that the same results can be obtained if measured at another location. Therefore, we will accept measurements at other locations, provided the persons making the measurements can make a positive showing that the results are correlateable to those made in an open field. It should be stressed that the limits adopted herein are based on measurements of radiated emanations made under open field test conditions, such as those proposed in FCC Docket 21371.[55]

62. In general, the measurement procedures will follow the methods in Section X of the CBEMA Report, CBEMA/ESC5/77/29. Briefly, measurements shall be made in an open field or on a test site that produces results that are correlateable to open field test results. Measurements shall be made with a spectrum analyzer using a dipole antenna. Alternatively, measurement may be made with the instrumentation recommended by CISPR in their publications 1, 2, and 3 when significant broadband emissions are observed emanating from the computer. Measurements shall be made around the device under test, rotating search antenna and varying its height to search for maximum emissions. Line conducted measurements shall be made with 50Ω/50 μH LISN. In view of the fact, most parties have not had an opportunity to comment on the test procedures, the Commission will institute a new proceeding to obtain comments on the test procedures for computers. As indicated in paragraph 56 above, it is anticipated that the test procedures will be adopted before July 1, 1980. Until then, the proposed test procedures may be used.

Discussion of Classifications for Computing Equipment

63. The electromagnetic spectrum is a resource that can be used in many ways; not all of these uses are compatible. Interference results if two or more users attempt incompatible uses of a portion of the spectrum. Operating computing devices and receiving television or radio signals can be incompatible uses of the spectrum, just as raising a crop of corn and grazing cattle are incompatible uses of the same plot of land. The economic issue in each case is how the resource should be used, given that it cannot be simultaneously used in incompatible ways.[56]

64. The criterion of economic efficiency suggests that resources should be used in the most valuable way, the way that yields the greatest benefits. In the case of a plot of land this usually is easy to achieve. The owner of the land has an incentive to use the land in the way that offers the greatest profit return, and if the owner fails to choose the best use someone else will be able to purchase the land and use it in its most valuable and profitable use. A similar solution is not available in the case of interfering uses of the spectrum. Usually it will be prohibitively difficult for the competing users of the spectrum to identify each other and to arrange private transactions which resolve whose is the most valuable use of the spectrum. A further difficulty is that if interfering use of computing devices grows, that would be, in effect, an uncompensated appropriation of the spectrum from the previous users with whom the computing devices interfere.

65. In the absence of a reasonable prospect of a satisfactory private mediation between the incompatible, interfering uses of the spectrum, we are adopting minimal regulations which we consider necessary to control potential interference from computing equipment. The regulations are not intended to control interference of computing devices with other equipment owned by the same person. In this situation the competing uses of the spectrum are under the control of the same person, and private resolution of the conflict is possible.

66. Two criteria have guided our design of regulations to control other cases of interference from computing devices. First, we wish to resolve conflicts between users of the spectrum in favor of the most valuable uses, insofar as possible. Second, we recognize that enforcing and administering regulations is costly, and wish to keep this cost as low as possible without unduly compromising the objectives of the regulation.

67. We believe that in most cases interfering radiation from computing devices is a less valuable use of spectrum than the radio and television services that would be interfered with. Therefore, we consider it appropriate that our regulations deny to computing devices an interfering use of the spectrum (except where the interference is to other equipment of the computer owner). We have made this judgment by comparing the benefits of allowing current uses of spectrum to continue without interference from computing equipment with the costs of denying interfering use of the spectrum to computers.

68. The benefits consumers derive from current uses of the spectrum are considerable. While the precise size of the benefits is difficult to measure it is clear that the benefits of television viewing and radio services—both services with which computers can interfere—are substantial. We believe the cost of denying interfering use of the spectrum to computers would be smaller. This will not impose the significant cost of the loss of the services of these computing devices. Most of their use of the spectrum is incidental to their function and could be avoided without eliminating their services. The cost of preventing interference is the increase in cost necessary to redesign and manufacture computing devices that would not cause interference. We expect that much of this cost will be initial design costs rather than continuing material or manufacturing costs. Consequently, the increase in average unit cost necessary to limit interference will be small for large production runs. This expectation is partly supported by the results of our

[54] GE comments, August 20, 1976, page 13.

[55] FCC Docket No. 21371: In the matter of Amendment of Part 2 to require a description of measurement facilities used in the equipment authorization program and to make other changes. Notice of Proposed Rule Making adopted August 24, 1977, issued September 6, 1977; 42 FR 45342.

[56] For an analysis of the problem of incompatible uses of property see Richard Posner, *Economic Analysis of Law* (Boston: Little, Brown and Co., 2nd ed., 1977), esp. Chapter 3.

laboratory tests of personal computers, which found that several personal computers now on the market substantially exceed even the Class A emission limits, while others selling in approximately the same price range appear to comply with the more stringent Class B standards.[57] In addition, we expect that design lessons learned in avoiding RF radiation in one device or model will be partly applicable to later designs, further limiting the cost of reducing interference. To the extent that the cost of reducing interfering RF radiation is made up of initial design costs, rather than continuing manufacturing costs, the total costs to society of avoiding interference will mount up more slowly as the total number of units produced increases.

69. To avoid interference from computers it is not necessary to completely eliminate RF radiation from computers, but only to eliminate that RF radiation that is causing interference. Whether the strength and frequencies of RF radiation from a computer cause interference in a particular application will depend on such factors as the other equipment in use, its proximity, and what lies between the computer and other equipment. To tailor regulations on allowable radiation to every circumstance, however, would impose prohibitive costs of administering and enforcing the regulations. In it regulations the Commission has steered a middle course. We have defined Class A and Class B equipment in a way which recognizes broad differences in the circumstances in which computers are used. This allows us to provide protection from interference while limiting both the costs of producing computing equipment which does not interfere and the costs of administering and enforcing the regulations.

70. It is impossible to capture perfectly the diversity of environments by dividing them into two classes. Nonetheless we believe that computers in a "commercial, industrial, or business environment" (Class A) can emit more RF radiation without causing interference than computers in a "home or residential environment" (Class B). Analyses simulating these two environments have been used to establish the radiation limits for Class A and Class B.[58]

71. We recognize that in some residential environments a device placed in Class B by our definitions might exceed these strict limits on radiation and yet not cause interference. Nonetheless, we do not think it appropriate to subdivide Class B or to set higher limits on radiation for Class B equipment. The definition of Class B has been chosen to identify that equipment which will be used primarily in a residential environment or in large numbers of residential units. We believe that higher limits on radiation for this entire class of equipment would result in a substantial amount of interference which would be costly to correct. Nor do we think it appropriate to differentiate among this class of equipment. It would be difficult and costly to distinguish the many uses where this equipment would cause interference from those uses where it would cause little interference. On the other hand, the incremental cost of requiring all devices in this class to conform to the lower limits is likely to be small. As we argued above, much of the costs of limiting radiation is likely to be initial design costs. Once the device has been designed to meet Class B limits, we anticipate small additional costs of requiring all rather than some of these devices to meet the Class B limits.

72. We also recognize that some computing devices that are not widely marketed to the general public or intended for use by the general public, and therefore are classified as Class A devices, nonetheless will be used in a residential environment. The definitions of Class A and Class B devices insure such instances will be exceptions. The requirement of a label warning that a Class A device is likely to cause interference in a residential environment and that the user would be liable for correcting that interference should further limit interference problems. We believe these requirements represent an appropriate balancing of costs. Tighter limits on radiation from Class A equipment or on its use either would impose costs on commercial users incommensurate with the minimal amount of interference avoided, or would unnecessarily restrict the options of a few home users and involve the Commission in excessive enforcement costs. Note, however, that we retain ample authority under our rules to mandate compliance with Class B standards for any device, regardless of its intended purpose, which achieves widespread deployment in the residential environment or creates a large number of interference cases.

Summary and Conclusions

73. The procedures for measuring a Class A or Class B computing device are being proposed in a separate rule making proceeding to be initiated very shortly. Pending the outcome of that proceeding, the test procedures proposed in that proceeding may be used on interim basis. Test procedures when adopted will be incorporated in Subpart I of Part 15.[59]

74. Most computing devices will not be subject to an FCC equipment authorization. Only devices which have a high potential for causing harmful interference will require FCC certification. At this time, FCC certification will be required only for electronic games, personal computers and any video signal source designed to be attached to a TV Interface device. All other computing equipment is required to comply with the technical specifications, either Class A or B as appropriate, before it can be legally marketed. We have also added a proviso to § 2.805 to allow certain Class A computing equipment to be installed prior to testing for compliance.

75. Our rules for computing equipment will be implemented as follows:

(a) All computing equipment as defined in § 15.4(n), (o), and (p) which is manufactured after July 1, 1980 must comply with the technical standards set out in Subpart J.

(b) Certain Class B computing equipment listed in § 15.834 require certification by the Commission as a prerequisite for legal marketing. An application for certification for such an equipment may be filed at any time. A grant of certification will be issued as soon as processing of the application is completed.

(c) Computing equipment manufactured prior to July 1, 1980 is not subject to the specific technical standards in Subpart J but is subject to the non-interference requirement in § 15.3.

(d) There is no prohibition against the sale and resale after July 1, 1980 of equipment manufactured prior to July 1, 1980 subject only to the non-interference requirement of § 15.3.

76. For the reasons given above, the Commission concludes that adoption of the regulations in Appendix B below designed to control the interference potential of computing equipment will serve the public interest. Authority for these amendments is contained in Sections 4(i), 302, 303(r) of the Communications Act of 1934, as amended.

77. In view of the foregoing, it is ordered, effective November 19, 1979, that Parts 2 and 15 of FCC rules are amended as set forth in Appendix B below.

[57] See footnote 9, above.

[58] See paragraphs 49–53 above and Appendix C, attached.

[59] Until the NPRM is issued, the measurement procedures described in the FCC Report on Personal Computers (see footnote 9) may be used.

V 4 4 0 C 1 6 7 9 UMI

78. For further information on this order, contact Art Wall, Office of Science and Technology, FCC, Washington, D.C. 20554, phone 202-632-7095.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; (47 U.S.C. 154,303))

Federal Communications Commission.[60]

William J. Tricarico,

Secretary.

Appendix A

I. The following parties filed comments in Docket 20780 dealing with the technical administrative provisions of electronic devices subject to rules in Appendix B:

Name/Organization and Acronym

Nevada Highway Patrol
Computer Business Equipment Manufacturers Association—CBEMA
Federal Aviation Administration—FAA
Corcom, Inc.—CORCOM
General Electric Co.—GE
Mr. Bruce D. Ross
Radio Electrical Coordinating Committee, C63, of the American National Standards Institute—ANSI
Collins Division of Rockwell International Corporation—Collins
Aeronautical Radio Inc. and the Air Transport Association of America—ARINC/ATA
American Telephone and Telegraph Company—AT&T
Consumer Electronics Group of the Electronic Industries Association—EIA/CEG
Electronics Industries Association of Japan—EIA-J
Texas Instruments, Inc.—TI
GTE Service Corporation—GTE
State of Oregon Department of State Police—Oregon
National Electrical Manufacturers Association—NEMA
State of Nevada, Department of Motor Vehicles—Nevada
Sprague Electric Co.—Sprague
Scientific Apparatus Manufacturers Association—SAMA
Mr. William Goody
Mr. E. H. Conklin
Mr. W. Michael King
Apple Computer—Apple
General Motors—GM
Lambda Electronics—Lambda

II. The following parties filed comments dealing with other aspects of Docket 20780, e.g. carrier current, campus radio systems, and low power communication devices; power supplies, etc.:

Name

Gettysburg College
Tusculum College
State University of New York
La Salle College
Bunker Hill Community College
K. L. Welch
Intercollegiate Broadcasting System
Medford Public Schools
George Washington University
University of Tampa
County College of Morris
Boston University
Yoshiba University
Bowling Green University
Hewitt Union, S.U.C.O.
Salem State College
Southern Technical Institute
Boston University
Niagara University
Oakland University
Holy Cross College
Canisius College
Bristol Division
Richard Burden Association
University of Vermont
Scientific Apparatus Manufacturer's Association
Rider College
Furman University
Waynesburg College
Rockford College
Meyner Syner Markets
Barrett Elex Corp.
University of Missouri
Seymour College
Bridgewater College
State University of New York
Williams Patterson College
Texas Christian University
Halstead Communications, Inc.
Scientific Atlanta
Low Power Broadcast
Williams Sound Corp.
Medtronics, Inc.
University of Notre Dame
Utilities Telecommunications Council
American Science & Engineering, Inc.
LOCRAD, Inc.
North Electric Co.
Wilmore Elex Co., Inc.
Security Equipment Industries Association
The Apple Farm
Radio System Design
National Association of Educational Broadcasters
Walt Disney Products, Inc.
Fannon/Courier Corp.
Emporia Kansas State College
Powertec
Safety Education .
Sands Technical Corporation
Nevada Highway Patrol
Texas Christian University
Audio Sine, Inc.
Keith Olson
Mr. Ken Cornell

III. The following parties filed comments about personal computers in response to the two petitions filed by Texas Instruments, Inc.:

Name/Organization

Alpex Computer Corp.
Broadbein Instruments
Mattel Electronics
Dash-Strauss Associates
Atari, Inc.
Tandy Corp.
Association of Maximum Service Broadcasters (AMSB)
Interact Electronics Inc.
Apple Computer Co.
National Association of Broadcasters (NAB)
Commodore Business Machines, Inc.
Compucolor Corp.
Computer Business Equipment Manufacturers Association (CBEMA)

[60] See attached Concurring Statement of Commissioner Brown.

Appendix B

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

1. Section 2.805 of Part 2 is amended by designating the present text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 2.805 Equipment that does not require Commission approval.

* * * * *

(b) In the special case where it is impractical to determine compliance of a radio frequency device with the applicable technical specifications in this chapter prior to sale or lease or offer for sale, or import, shipment, or distribution for the purpose of selling or leasing or offer for sale or lease, because the installation of the device is a determining factor for compliance, the manufacturer may insure compliance at the end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance will be made.

PART 15—RADIO FREQUENCY DEVICES

2. Section 15.4 is amended by adding new paragraphs (n) through (p) to read as follows:

§ 15.4 General definitions.

* * * * *

(n) *Computing Device.* A device or system that generates and uses radio frequency energy for the purpose of performing data processing functions, such as electric computations, operations, transformations, recording, filing, sorting, storage, retrieval, and transfer. A device or system that generates timing signals or pulses at rates in excess of 10,000 pulses (cycles) per second and uses digital techniques. A transmitter or any other device which is specifically covered elsewhere in this chapter is not encompassed by this definition.

(o) *Class A computing device.* A computing device that is intended for use in a commercial, industrial, or business environment. A computing device which is widely marketed for use by the general public is excluded from this class of computing device.

(p) *Class B computing device.* A computing device that is widely marketed for use in a home or residential environment. Electronic games, personal computers, calculators, and similar electronic devices which are widely marketed for use by the general public are also covered by this definition.

3. A new Subpart J of Part 15 and index are added to read as follows:

Subpart J—Computing Devices

Sec.
15.801 Scope.
15.802 Cross reference.
15.803 Noninterference requirement.
15.804 General requirement.
15.810 Class A computing device: Radiation limit.
15.812 Class A computing device: Conduction limit.
15.814 Class A computing device: Certification requirement.
15.816 Class A computing device: Labelling requirement.
15.818 Class A computing device: Information to user.
15.830 Class B computing device: Radiation limit.
15.832 Class B computing device: Conduction limit.
15.834 Class B computing device: Certification requirement.
15.836 Class B computing device: Labelling requirement.
15.838 Class B computing device: Information to user.

Authority: Secs. 4, 303, 48 Stat., as amended, 1066,1082; (42 U.S.C. 154, 303).

Subpart J—Computing Device

§ 15.801 Scope of this subpart.

(a) Computers and similar electronic equipment that use digital techniques generate and use radio frequency (RF) energy for timing and control purposes. Unless proper precautions are taken, some of this RF energy is radiated into space or conducted along the power line (or combination of both) and may cause harmful interference to radio communications. This subpart sets out technical and administrative specifications to reduce the interference potential of such equipment. The devices subject to this subpart are defined in § 15.4(n).

(b) The requirements herein are a precondition for marketing pursuant to 47 U.S.C. 302 and Subpart I of Part 2 of this chapter.

§ 15.802 Cross reference.

The provisions of Subparts A, B, and I of this part and Subparts I, J, and K of Part 2 of this chapter shall apply to a computing device or system operating under this subpart.

§ 15.803 Noninterference requirement.

Notwithstanding the compliance with the technical specifications in this Part, the operation of each computing device is subject to the general conditions of § 15.3. The operator of a computing device may be required to stop operating his device upon a finding that the device is causing harmful interference and it is in the public interest to stop operation until the interference problem has been corrected.

§ 15.804 General requirement.

A computing device shall be constructed in accordance with good engineering design and practice. Emanations from the device shall be suppresed as much as is practical, but in no case shall they exceed the levels specified herein for each class of device.

§ 15.810 Class A computing device: Radiation limit.

Emanations from a Class A computing device, including any network of conductors and apparatus connected thereto, shall not exceed the level of field strength specified in the table below. The method for determining compliance with these limits shall be in accordance with the test procedures for a Class A computing device in Subpart I of this part.

Note. The test procedures are being proposed in a new rule making proceeding. Pending their adoption, the proposed test procedures may be used for determining compliance.

Frequency (F) (MHz)	Distance (meters)	Field Strength (μV/m)
30 to 88	30	30
88 to 216	30	50
216 to 1000	30	70

Notes. (1) The tighter limit shall apply at the edge between the two frequency bands.

(2) Distance refers to the distance in meters between the measuring instrument antenna and the closest point of any part of the device or system.

(3) F is the frequency in Megahertz of the emission under investigation.

(4) Measurement for compliance with these limits may be made at a closer distance, provided the test results are compared with the limits at 30 meters using the relationship

$E_{30} = Ed(d/30)$

where,

E_{30} = computed field strength in microvolts per meter at 30 meters.

Ed = measured field strength in microvolts per meter at the distance "d" meters.

d = distance in meters at which the field Ed was measured (less than 30 meters, but greater than or equal to 3 meters)

§ 15.812 Class A computing device: Conduction limit.

All conducted emissions from a Class A device, or accessory connected thereto, intended to be connected to the power lines of a public utility shall not exceed the level of voltage specified in the table below. The procedure for determining compliance shall be in accordance with the test procedure for measuring conducted voltage for such equipment in Subpart I of this part.

Note.— The test procedures are being proposed in a new rule making proceeding. Pending their adoption, the proposed test procedures may be used for determining compliance.

Frequency (MHz) and Maximum RF Line Voltage (μV)	
0.45 to 1.6	1000
1.6 to 30	3000

Note.— The tighter limit shall apply at the edge between the two frequency bands. Conducted limits in the frequency range of 10 to 450 kHz are under consideration.

§ 15.814 Class A computing device: Verification requirement.

A Class A computing device manufactured after July 1, 1980, shall be tested and verified by the manufacturer as being capable of complying with the specifications of this subpart. Certification by the Commission is not required; however, the Commission reserves the right to request additional testing to verify compliance, and if necessary, to require certification by the commission.

§ 15.816 Class A computing device: Labelling requirement.

Each Class A computing device shall have permanently attached in a conspicuous location for the user to observe a label with the following statements:

This equipment complies with the requirements for a Class A computing device in FCC Rules Part 15 Subpart J. Operation of this device in a residential area may cause harmful interference requiring the user to take whatever steps may be necessary to correct the interference.

§ 15.818 Class A computing device: Information to user.

Information about the interference potential of this equipment to radio communications shall be provided to the user in a conspicuous place in the instruction manual, preferably on the first page and in large letters.

Warning: This equipment generates and uses radio frequency energy and if not installed and used properly, i.e., in strict accordance with the instructions manual, may cause harmful interference to radio communications. It has been tested and found to comply with the limits for a Class A computing device pursuant to Subpart J of Part 15 of FCC Rules, which are designed to provide reasonable protection against such interference when operated in a commercial environment.

Operation of this equipment in a residential area is likely to cause interference in which case the user at his own expense will be required to take whatever measures may be required to correct the interference.

V 4 4 0 C
1 6 7 9
UMI

§ 15.830 Class B computing device: Radiation limit.

All emanations from a Class B computing device or system, including any network of conductors and apparatus connected thereto, shall not exceed the level of field strengths specified in the table below, when tested pursuant to the procedures for such a device in Subpart I of this part.

Note.— The test procedures are being proposed in a new rule making proceeding. Pending their adoption, the proposed test procedures may be used for determining compliance.

Frequency (F) (MHz)	Distance (meters)	Field strengths ($\mu V^{1/m}$)
30 to 88	3	100
88 to 216	3	150
216 to 1000	3	200

Notes.— (1) The tighter limit shall apply at the edge between two frequency bands.

(2) Distance refers to the distance in meters between the measuring instrument antenna and the closest point of any part of the device or system.

(3) F is the frequency in Megahertz of the emission under investigation.

§ 15.832 Class B computing device: Conduction limit.

All radio frequency voltages conducted into the power mains of a public utility network from a Class B computing device/system or accessory connected thereto, shall not exceed 250 microvolts in the frequency range 0.45 to 30 MHz, when measured in accordance with the procedures for measuring conducted voltages for such equipment in Subpart I of this part.

Note.—The test procedures are being proposed in a new rule making proceeding. Pending their adoption, the proposed test procedures may be used for determining compliance.

§ 15.834 Class B computing device: Certification requirement.

The following Class B computing devices manufactured after July 1, 1980 shall be certificated by the Commission in accordance with the procedures in Part 2 Subpart J of this chapter:

(a) Electronic games of all types

(b) Personal computers, excluding personal calculators and digital watches.

(c) Any device intended to be connected to a TV receiver or TV interface device.

All other Class B computing devices manufactured after July 1, 1980 shall comply with the technical specifications herein prior to marketing pursuant to Subpart I of Part 2 of this chapter. The Commission reserves the right to require additional testing of a Class B computing device to verify compliance with these technical specifications and, if necessary, to require certification by the Commission.

§ 15.836 Class B computing device: Labelling requirement.

(a) A Class B computing device subject to certification by the Commission shall be identified pursuant to the requirements in §§ 2.925 et seq. of this chapter.

(b) A Class B computing device may at the option of the manufacturer, have a label with the following statement on the equipment:

This equipment has been tested and found to comply with the technical specifications in Part 15 of FCC Rules for a Class B computing device.

§ 15.838 Class B computing device: Information to user.

(a) Information shall be provided to the user of a Class B computing device about

The interference potential of the device

Simple measures that can be taken by the user to correct the interference.

This information shall be included in a conspicuous place in the instruction manual. This is not required for an extremely low power, miniature computing device, such as an electronic digital watch.

(b) The following language may be used to provide the required information, but any language that conveys the same meaning and can be understood by an average person without a technical education, may be used.

This equipment generates and uses radio frequency energy and if not installed and used properly, that is, in strict accordance with the manufacturer's instructions, may cause interference to radio and television reception. It has been type tested and found to comply with the limits for a Class B computing device in accordance with the specifications in Subpart J of Part 15 of FCC Rules, which are designed to provide reasonable protection against such interference in a residential installation. However, there is no guarantee that interference will not occur in a particular installation. If this equipment does cause interference to radio or television reception, which can be determined by turning the equipment off and on, the user is encouraged to try to correct the interference by one or more of the following measures:

Reorient the receiving antenna

Relocate the computer with respect to the receiver

Move the computer away from the receiver

Plug the computer into a different outlet so that computer and receiver are on different branch circuits.

If necessary, the user should consult the dealer or an experienced radio/television technician for additional suggestions. The user may find the following booklet prepared by the Federal Communications Commission helpful:

"How to Identify and Resolve Radio-TV Interference Problems".

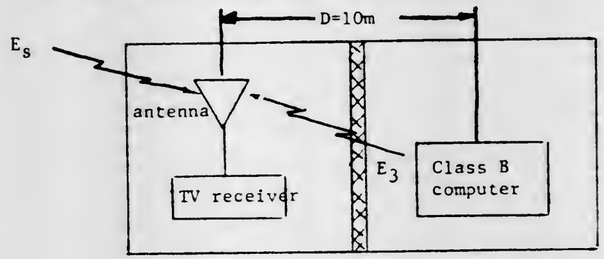
This booklet is available from the U.S. Government Printing Office, Washington, DC 20402, Stock No. 004-000-00345-4.

BILLING CODE 6712-01-M

APPENDIX C

Derivation of Limit for Class B Computing Device

The limits for a Class B computing device are derived from the following interference model:



The maximum permissible level of RF radiation from the Class B computer is computed from

$$E_3 = E_s - S/I + A + F$$

E_3 - Permitted level of radiation from the Class B computing device. (dB μV/m)

S/I - Signal to interference ratio in the TV receiver for the desired quality of service (dB).

A - Attenuation of the computer radiation due to wall(s) between the computer and the receiver (dB)

F - Extrapolation factor for the computer radiation from 10m to 3m. 10m is the distance from the computer to the TV receiver. 3m is the distance from the computer at which the computer radiated signal is measured.

E_s - The TV signal strength sought to be protected. (dB μV/m)

II. Calculation of limits in selected bands.

Frequency Band In MHz	54 to 88	88-108	174-216	470-1000
E_s (dB μV/m)	68	60	71	74
S/I (dB)	45	30	45	45
A (dB)	8	8	8	8
F (dB)	10	10	10	10
E_3 (dB μV/m)	41	48	44	47
Limit (μV/m at 3m)	100	150	150	200

BILLING CODE 6712-01-C

V 44 OC 1 6 7 9 UMI

Notes.—(a) E_s for the TV bands is the minimum Grade "A" statistically expected signal strength defined in Part 73 of FCC Rules.

(b) Experimental and literature studies indicate that buildings almost always introduce a signal loss. The single wall, 8 dB attenuation factor documented in the reported CBEMA/ESC5/77/29 is used here.

(c) S/I ratio of 45 dB is used to represent TV receiver noise tolerance in the narrowband EMI model.

III. Discussion

The Class B limits developed herein are expected to protect a TV receiver in a residential area receiving a TV signal E_s and located at 10 meters or more from a Class B computer with at least one wall between the computer and the TV receiver.

The tolerable interfering signal at the TV receiver (10 meters from the computer) is extrapolated to 3 meters from the computer (the distance at which the computer radiation is measured) using an inverse distance attenuation for the field radiated by the computer. Using inverse distance is actually a worst case situation since in many cases the field will decay faster than under the inverse distance law.

The distance 10 meters between computer and TV receiver was selected as representing the average separation that could be expected between a computer and a TV receiver in separate households. It is recognized, of course, that there will be instances when the separation distance is less than 10 meters. In many such cases, we anticipate there will be mitigating circumstances which will counteract the shorter separation in distance, such as greater attenuation due to additional walls between the computer and the TV receiver. We also anticipate that in many cases the orientation of the TV receiver with respect to the computer will help reduce pickup of the undesired computer signal. See paragraph 54 and 55 of the First Report and Order for additional discussion on separation distance.

Concurring Statement of Commissioner Tyrone Brown

Re: *Amendment of Part 15 to redefine and clorify the rules governing restricted radiation devices and low power communication devices. Docket No. 20780.*

Today the Commission adopts a First Report and Order in Docket No. 20780, which was initiated by a Notice of Proposed Rulemaking in 1976. I concur in the Commission's decision to adopt new rules setting forth technical specifications and equipment authorization requirements for personal computers in the context of Docket 20780, although in my judgment, that proceeding dealt primarily with commercial computers.

In 1976, when the Notice of Proposed Rulemaking in Docket 20780 was issued, personal computers were nonexistent. The commenting parties presumably did not focus attention on personal computer standards. Consequently, I considered urging the Commission to submit the proposed First Report and Order for further public comment with a special emphasis put on standards for personal computers.

I am persuaded, however, that we have technically complied with all notice and comment requirements. While the Notice of Proposed Rulemaking failed to mention personal computers *per se*, its scope was sufficiently broad to include those devices. Further, Texas Instrument's Petition for Rulemaking to revise our rules regarding personal computers (RM 3328) sparked voluminous comment. The staff heeded these comments in forging our new standards for personal computers.

I am also persuaded that immediate Commission action is required to keep objectionable interference in check. Recent technological advances and market demand have resulted in a proliferation of personal computers. Our existing rules are not comprehensive or clear enough to assure against unacceptable levels of interference. The standards in the Report and Order and those proposed for TV Interface devices in the Notice of Proposed Rulemaking should make our rules clearer and more effective. Therefore, I concur in the adoption of both the Report and Order and the Notice of Proposed Rulemaking.

If in our haste to remedy this problem we have overlooked important issues, interested parties still have an opportunity to bring them to our attention by filing for reconsideration of the Commission's action. I trust that the staff will give particularly close scrutiny to petitions for reconsideration which bear on the personal computer standards we adopt today.

[FR Doc. 79-31885 Filed 10-15-79; 8:45 am]
BILLING CODE 8712-01-M

---

47 CFR Part 87

[PR Docket No. 79-141; RM-3293; FCC 79-619]

Aviation Services; Providing a Frequency for Use by Helicopters for Air-to-Air Communications

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule provides a separate frequency for helicopters to use for air-to-air communications. This action was taken in response to a petition requesting a frequency solely for helicopter air-to-air use. Congestion on the frequencies currently used by helicopters should be reduced by the availability of a frequency available exclusively to helicopters for operational communications.

EFFECTIVE DATE: November 21, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Robert H. McNamara, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Adopted: October 2, 1979.
Released: October 10, 1979.
By the Commission:

Summary

1. This action will amend the Commission's rules to make the frequency 123.025 MHz available to helicopters for air-to-air communications.

Background

2. The G. H. Hart Company, Inc. (Hart) filed a petition (RM 3293) requesting that the Commission make a frequency available for helicopter air-to-air communications in the Houston, Texas area. Hart indicated that increased helicopter activities in the Houston area, primarily due to the extensive use of helicopters in the petroleum industry, has caused serious congestion on the frequencies currently available to these aircraft. In addition, Durwood Greene Construction Company filed a supporting statement pointing out the high level of Houston helicopter operations and the resulting need for coordination between helicopter pilots on a discrete frequency.

3. We concurred that helicopters, because of their unique flight characteristics and nature of their activities, often require fast, reliable air-to-air communications to assure safe and efficient operation when not operating under the positive control of FAA facilities.[1] We also noted that the use of helicopters is growing rapidly nationwide. This is not only due to offshore oil and gas exploration, but also to utilization by public safety agencies and conventional business activities. Thus it appeared that the one frequency now available for air-to-air communications [2] was insufficient to meet the needs of the expanding helicopter community.

4. Therefore, on June 14, 1979, we issued a Notice of Proposed Rule Making (NPRM) [3] (44 FR 36085, June 20, 1979) in which we proposed to make the frequency 123.025 MHz available for helicopter air-to-air communications. This frequency was selected from the so-called "25 kHz frequencies" set aside for future assignment in the Aviation Services in Docket No. 20123.[4] The period for public comment regarding this proposal has now passed.

[1] In certain areas and/or under certain weather conditions aircraft operate under the positive control of the Federal Aviation Administration (FAA). Safe separation between aircraft is provided by FAA ground facilities. Aircraft are required to remain in constant communication with the appropriate FAA facility on a specified air traffic control frequency. Obviously, under such conditions, there is no need to use a separate air-to-air frequency.

[2] 122.750 MHz is used by general aviation for formation and group flights and coordination between aircraft, including helicopters as well as conventional fixed-wing airplanes. This frequency is also shared with aeronautical advisory stations (unicoms) at private airports not open to the public.

[3] PR Docket No. 79-141 (RM 3293), adopted June 7, 1979, FCC 79-340, 44 FR 36085.

[4] Report and Order, Docket No. 20123, adopted April 5, 1977, 64 FCC 2d 573, 42 FR 20469. Essentially, this docket addressed the use and assignment of frequencies in the band 122.6875-123.0875 MHz for aeronautical advisory (unicom) and multicom purposes. Unicom and multicom frequencies are used for certain air-ground communications with private aircraft.

Comments

5. Comments concerning the NPRM were received from: (1) Alaska Helicopters, Inc.; (2) the Aircraft Owners and Pilots Association (AOPA); (3) Fetsko Aviation Sales and Transportation, Inc.; (4) Hale Mills, Inc.; (5) the Helicopter Association of America (HAA); (6) Helicopters Unlimited, Inc.; (7) the Transcontinental Gas Pipe Line Corporation, Aviation Department; and (8) Alan Vollert, Air Operations Advisor, Honolulu Police Department.

6. All of the comments favored amending the rules to provide a frequency for helicopters to use for air-to-air communciations nationwide. The commenters, consisting of two national aviation associations and individual organizations located in Alaska, California, Hawaii, Pennsylvania and Texas, represented a wide cross section of users.

7. However, Helicopters Unlimited and Fetsko Aviation argue that the selection of a "25 kHz frequency" is a poor choice because many helicopters with older radio equipment (i.e., those with 50 kHz channelization and thus only 360 channels available versus 720) will not be able to use the frequency. Fetsko Aviation feels this choice of frequency amounts to discrimination against helicopters with older equipment. Although Hale Mills, Inc. initially filed a comment suggesting an alternative frequency be selected, a second comment requested we disregard the earlier objection to the frequency 123.025 MHz.

8. The Helicopter Association of America (HAA), representing 325 helicopter owners and operators, also noted that many helicopter operators would not be able to take immediate advantage of the new frequency assignment. However, it pointed out that the industry is growing at a rate in excess of 15% per year with avionics becoming increasingly sophisticated. The HAA feels that an awareness of additional capabilities will be an incentive for helicopter operators to update their radio equipment. In the process of strongly supporting the NPRM, the HAA stated they received a number of calls enthusiastically supporting the proposal and no negative responses whatsoever.

Discussion

9. We realize that not all helicopter operators will be able to communicate on 123.025 MHz immediately. However, in the limited band available for private aircraft utilization (121.9625–123.0675 MHz) the 25 kHz channels set aside for future assignment are the only frequencies which could realistically be dedicated to helicopter air-to-air communications. The channels with 50 or 100 kHz separation in this band are heavily used for other aeronautical communications needs.

10. We feel that the assignment of 123.025 MHz as proposed will meet the requirements of the rapidly growing helicopter community. New helicopters are generally equipped with radios capable of using this frequency. As HAA indicates the availability of such a helicopter air-to-air frequency will add an incentive for operators to update older equipment. Further, the frequency 122.750 MHz will still be available to helicopters as well as other aircraft unable to take advantage of the 25 kHz channels air-to-air communications.

Commission Action

11. For the reasons discussed above, and considering the very favorable comments received, we are amending Section 87.183(m) of the Commission's rules to make the frequency 123.025 MHz available for helicopter air-to-air communications as proposed in the Notice of Proposed Rule Making. In addition we are deleting a reference to the date "January 1, 1978," which is no longer relevant, and making editorial changes in the proposed rule.

12. Regarding questions on matters covered in this document contact Robert H. McNamara (202) 632-7175.

13. Accordingly, it is ordered, That, pursuant to the authority contained in Sections 4(i) and 303(f) and (r) of the Communications Act of 1934, as amended, the Commission's rules are amended as set forth below, effective November 21, 1979.

14. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. In Section 87.183 paragraph (m) is amended to read as follows:

§ 87.183 Frequencies available.

* * * * *

(m) The frequency 122.750 MHz is authorized for use by private aircraft for air-to-air communications. The frequency 123.025 MHz is authorized for use by helicopters for air-to-air communications. Communications on either frequency shall be directly related to aircraft operational matters.

* * * * *

[FR Doc. 79-31863 Filed 10-15-79; 8:45 am]
BILLING CODE 6712-01-M

V 44 0 C 16 79 UMI

Proposed Rules

Federal Register
Vol. 44, No. 201
Tuesday, October 16, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

7 CFR Part 2853

Meats, Prepared Meats, and Meat Products; Grading, Certification, and Standards

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document announces a proposed rule to revise certain official United States standards for grades of meat and the related meat grading regulations. The proposed changes provide that, generally, meat will be graded only in the form of carcasses or sides and in the plant in which the animals were slaughtered. Also, trimming procedures and conditions necessary for the proper presentation of carcasses to be graded are clarified and revised. The proposed changes are designed to increase the accuracy and uniformity of grade determinations and to provide more accurate grade information to purchasers of meat.

DATE: Comments must be received on or before December 17, 1979.

ADDRESS: Written comments to: Executive Secretariat, Attn: Annie Johnson, Room 3807 South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. (For additional information on comments, see Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Goodall, Deputy Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4727.

SUPPLEMENTARY INFORMATION:

Comments

All persons who desire to submit written data, views, or comments on this proposal are invited to submit such material, in duplicate, to the Executive Secretariat. Comments must be signed and include the address of the sender and should bear a reference to the date and page number of this issue of the **Federal Register.** Since the comments will be considered in the resolution of this proposal, they should include definitive information which explains and supports the sender's views. All comments will be made available for public inspection at the Office of the Executive Secretariat during regular business hours (7 CFR 1.27(b)).

Background

The Federal grading of meat is a voluntary service, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), which is designed to facilitate the marketing of livestock and meat. The Federal grade designations indicate quality (a prediction of the palatability of the lean) and/or yield (an estimate of the yield of retail cuts that may be expected from a carcass). Since the use of grading services is voluntary, its costs are paid for by fees collected from those who request that their meat be graded. During the 52 years that the service has been provided by the Federal Government, it has been made as widely available as possible and has served the needs of both industry and consumers.

In 1978, approximately 56 percent of the beef, 83 percent of the lamb, and 8 percent of the veal and calf produced commercially were federally graded—approximately 13.8 billion pounds of graded meat. The service was conducted in over 650 plants by a staff of about 400 meat graders and 50 supervisory personnel. The demand for Federal meat grading has steadily increased. Based on USDA estimates of the number of fed cattle marketed in 1978 and the quantity of beef graded by FSQS' meat grading service, it is estimated that approximately three-fourths of the fed beef produced last year was federally graded. Fed beef is the source of most of the fresh beef cuts reaching consumers through retail stores. Since Federal grades are used extensively as the basis of marketing by the meat industry, and relatively wide spreads in price frequently result between grades, it is necessary that Federal meat grading continue to be conducted as accurately and uniformly as possible, in order to insure the required equity among all persons affected by grades, from the producer to the consumer.

On January 23, 1978, the Food Safety and Quality Service published in the **Federal Register** (43 FR 3140–3145) a proposed rule to revise certain official U.S. standards for grades of meat and the related meat grading regulations. The major changes proposed in the standards for grades of meat and related meat grading regulations contained in the January 1978 proposal were: (1) All meat from cattle and sheep would be graded only at the point of slaughter and only in carcass form, (2) beef carcasses would be required to be ribbed 30 minutes prior to being offered for grading, (3) the kidneys and all kidney, pelvic, and heart fat would be required to be removed from beef carcasses before being offered for grading, (4) conditions under which the yield grade designations may be removed from grade-identified steer, heifer, cow, and bullock beef would be modified, and (5) the term "beef carcass," which includes "side" or "sides," would be defined to include an explanation of the manner in which it shall be dressed before being presented for grading. Testimony was received from 100 witnesses at 5 public hearing sessions, and 496 written comments were received by the Department's Hearing Clerk. General reaction to the proposal was negative. However, evaluation of all comments and testimony indicated that much of the opposition to the proposed changes was not directed at the objectives of the proposed changes or the concepts involved but rather to deficiencies in the language of the proposal. Those providing comments and testimony also pointed out various problems associated with the proposed changes and proposed some substantive alternatives. These problems are acknowledged. They would place undue hardship on certain groups, and this was not the intent of the requirements.

Based upon original data and additional information made available to the Department, this proposal has been developed and, if adopted, would revise the subject standards and regulations in a significant manner. Because most of the major changes are substantive, Dr. D. L. Houston, Administrator, Food Safety and Quality Service, has determined that it is in the public interest to conduct further rulemaking proceedings by publishing this new proposal.

In consideration of the foregoing, the proposed rule published in the **Federal Register** (43 FR 3140–3145) on January 23, 1978, was withdrawn on October 12, 1979. This new proposal is published as set forth herein.

The following major proposed changes in the official U.S. Standards for grades of meat and the related meat grading regulations are included in this new proposal:

(1) The term "beef carcass" is defined to include an explanation of the manner in which it will be dressed before being presented for grading.

(2) All meat will be graded only as carcasses and only in establishments in which the animals were slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). Provisions will also be made for grading damaged sides, and upon special approval of the Food Safety and Quality Service, other exemptions may be granted.

(3) Beef carcasses must be ribbed a minimum of 10 minutes prior to being offered for grading.

(4) The conditions which must be met for yield grade designations to be removed from grade-identified beef are specified.

(5) Certain practices designed to alter the ribeye or the fat cover over the ribeye of a beef carcass will be considered fradulent and deceptive if the carcass is presented for grading.

To facilitate analysis and evaluation of comments in the resolution of this proposal, it is requested that comments specifically address the aforementioned major changes. Additionally, the following discussion addresses these major changes, respectively, under the following subheadings: (1) Beef carcass definition, (2) Location and product form requirements, (3) Ribbing time requirement, (4) Yield grade designation removal, and (5) Alteration of fat cover.

Beef Carcass Definition: The term "carcass" is used in the official standards for grades of carcass beef but is not technically defined therein. It is proposed to define a beef carcass to facilitate uniform application of the standards and to prevent possible confusion as to what constitutes a carcass. The definition of the term "carcass" would include an explanation of the manner in which a carcass shall be dressed before it may be presented for grading.

For purposes of the beef grading standards, it is proposed to define a carcass "* * *as the two sides of a slaughtered animal which result from splitting it lengthwise through its approximate median plane and after removal of (a) the head, (b) the legs, (c) the viscera (removal of the kidneys and kidney, pelvic, and heart fat is optional), and (d) all but two or less tail vertebrae. The head shall be removed between the occipital bone and the first cervical vertebra, and the front and hind legs shall not be removed below the knee and hock joints, respectively."

Location and Product Form Requirements: Because of the demand for Federal meat grading and its general acceptance by both industry and consumers, meat grading services have been made as widely available as possible. At the present time, meat may be graded in a number of forms other than as a carcass (e.g., forequarter, hindquarter, rib, and loin). Although this practice increases the availability of the meat grading service, it has often contributed to difficulties in supervision and managing the system and to possible inconsistencies or inaccuracies in grading. Problems arise when grading only a portion of a carcass because all the grade determining factors (quality or yield) may not be present on that particular portion or these factors may be in different stages of development for various cuts from the same carcass. For example, maturity is an important quality grade determining factor. It is possible that the maturity determined for a rib may be different from that of the entire carcass, thus causing a difference in the two final grades. The meat grading system should be designed to produce the most accurate grade determination possible, and grading in carcass form—the form in which all grade determining factors are present—should help to insure this.

Under the current regulations, meat may be graded in the establishment of slaughter as well as in establishments that are further along the distribution and/or processing and marketing system. This practice has contributed to difficulties in supervising and managing the system and has complicated the uniform application of grading standards. These problems arise because meat may be offered for grading in many locations and in some cases after considerable time has elapsed since slaughter. This causes difficulties in making accurate grade determinations because some grade determining factors may be altered by damage during shipment. Furthermore, the state of freshness of the meat may be less than is normally found at the slaughter establishment. This creates difficulties in accurately determining the grade because the factors (e.g., marbling and color, texture, and firmness of the lean) deteriorate from dehydration or prolonged exposure to the air.

In order to resolve the above-mentioned problems, the Department proposes that meat be graded only in the form of carcasses and only in the slaughter establishment (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs). FSQS may also grant specific exceptions to this requirement for cause, provided the meat can be adequately identified for grade in conformance with the standards. Examples of exceptions for which approval may be requested from FSQS are the grading of hindquarters for Kosher slaughterers and the grading of carcasses chilled in an establishment other than the one in which they were slaughtered. In addition, when a portion of a beef carcass is damaged, the remainder of the carcass will remain eligible for a grade determination and grademark application provided a cross section at the 12th-13th rib is available and an accurate grade determination may be made.

Although this proposed change will not alter current regulations which permit the reapplication of official grademarks to defatted cuts, extending grademarks to parts of carcasses not normally roller branded, or the reevaluation of carcasses for grade, it will eliminate the grading of hide-on veal and calf carcasses, a practice that is used only on a limited basis. Hide-on grading has created serious problems in supervising the grading system and in subsequently determining grade compliance. These problems arise because of changes in the appearance of conformation depending on the presence or absence of the hide and changes in the appearance of other grade factors due to the effects of dehydration after the hide is removed. These proposed requirements should improve the uniformity of grade determinations by more nearly standardizing the conditions under which meat is graded, e.g., time after slaughter, availability of grade factors, and the freshness of the meat.

Ribbing Time Requirement: The determination of the quality grade of beef is based largely on certain physical attributes of the carcass (e.g., marbling and color, texture, and firmness of the lean) found in the ribeye muscle which is exposed by ribbing the carcass. Upon exposure of the properly chilled ribeye muscle to the air, the color becomes a brighter shade of red. The color

V 4 4 0 C 1 6 7 9 UMI

references used in the beef standards are for beef after this brightening has occurred. Proper exposure may also allow the marbling within the muscle to become more evident. The occurrence of these changes is commonly referred to as "bloom." Presently, some beef is presented for grading before these factors have been given adequate time to develop to the extent necessary to permit proper grade determinations to be made. This results in graders having to unnecessarily re-review many carcasses before a grade determination may be made and also makes it difficult for supervisors to effectively review graders' evaluations. Therefore, in order to insure that these grade factors are developed to the extent that a proper grade determination can be made, it is proposed that a minimum of 10 minutes elapsed time between ribbing and presentation for grading be required. The 10-minute requirement should improve the condition of the quality characteristics of the ribeye so that proper grade determinations can be made on most carcasses when first presented for grading.

Yield Grade Designation Removal: The present regulations provide that the yield grade designation may be removed from wholesale cuts which have been "substantially trimmed" of external fat. A more definitive regulation is proposed which would alter and more specifically define the conditions under which the yield grade designation may be removed from officially grade-identified steer, heifer, cow, and bullock beef. This change should reflect current industry procedures, aid in the clarification of the requirement, improve uniformity of application of the regulation, and still add flexibility to present trimming procedures.

Under this proposal, if the entire surface fat cover on an officially grade-identified carcass or any cut is ¾ inch or less or is reduced by trimming to ¾ inch or less, the yield grade designation may be removed. This requirement relates only to the conditions under which yield grade designations my be removed and does not affect current meat grading policies which permit the reapplication of grade designations or the extension of grade designations to "minor cuts." Compliance with the specified ¾ inch maximum fat requirement would be based on the measurement of the surface fat cover following the natural contour of the cut, as measured over the major muscles and bones of a carcass or its cuts—excluding the areas of fat at natural muscle junctions commonly referred to as "bridging."

Alteration of Fat Cover. The area of the ribeye muscle and the thickness of fat over the ribeye are important yield grade determining factors. Any alteration of these characateristics may prevent an accurate yield grade determination and, thus, the present standards provide that carcasses so altered may not be eligible for a grade determination. One traditional exception to this rule has been the practice of allowing graders to make visual adjustments to compensate for trimming that has been necessitated by meat inspection requirements. Allowances are made for the grading of these carcasses because such trimming is usually obvious to the grader. However, these carcasses are eligible for grading only if an accurate grade determination may be made.

Clarification of the present regulation is necessary to prevent the grading of carcasses which have had the characteristics of the ribeye or the thickness of fat over the ribeye unnecessarily altered. Therefore, it is proposed that the portion of the standards referencing influences which alter the characteristics of the ribeye or the thickness of fat over the ribeye of beef carcasses be changed. The application of pressure, beveling of fat over the ribeye, or any other influence which alters the characteristics of the ribeye or the thickness of fat over the ribeye shall make carcasses so altered ineligible for a grade determination, and if offered for grading, would be considered a fraudulent and deceptive practice in connection with the applicant's request for grading service. Carcasses trimmed to comply with meat inspection requirements, e.g., removal of grubs or bruises, would be eligible for grading provided an accurate grade determination may be made.

In consideration of the foregoing, it is proposed that certain sections of the regulations and standards appearing in 7 CFR Part 2853 as they relate to meats, prepared meats, and meat products be amended as set forth below. This proposal also includes revisions of certain definitions in order that they may conform with the changes offered herein.

Subpart A—Regulations

1. In §2853.1, the definitions for "Quality grade" and "Yield grade" would be amended to read as follows:

§ 2853.1 Meaning of words.

* * * * *

Quality grade. A designation based on those characteristics of meat which predict the palatability characteristics of the lean.

* * * * *

Yield grade. A designation which reflects the proportion of retail cuts that may be obtained from a beef, lamb, yearling mutton, or mutton carcass.

2. The second sentence of §2853.4 would be amended to read as follows:

§ 2853.4 Kind of service.

* * * Class, grade, and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form only, except upon special approval by the Director upon his determination of good cause and that the meat can be identified in conformance with the standards. * * *

3. Section 2853.13, paragraph (b) would be amended as follows:

§2853.13 Accessibility and refrigeration of products; access to establishments.

* * * * *

(b) Grading service will only be furnished for meat than an official grader determines is chilled so that grade factors are developed to the extent that a proper grade determination can be made in accordance with the official standards (Subpart B of Part 2853 (7 CFR Part 2853)). Meat that is presented in a frozen condition shall not be eligible for a grade determination. Meat of all eligible species shall be graded only in the establishment where the animal was slaughtered (except for veal and calf carcasses, which shall be graded only after the hide is removed and only in the establishment where such removal occurs), except upon special approval by the Director. To be eligible for grading, beef carcasses must be ribbed at least 10 minutes prior to being offered for grading.

§ 2853.17 [Amended]

4. In Section 2853.17, paragraph (a), the words "and wholesale cuts" would be deleted.

5. In §2853.17, paragraph (c), second sentence, the phrase "and eligible cuts from bull and bullock carcasses" would be deleted.

6. Section 2853.19, paragraph (b) would be amended as follows:

§ 2853.19 What is appeal service; marking products on appeal; requirements for appeal; certain determinations not appealable.

* * * * *

(b) Grade determination cannot be appealed for any lot of product consisting of less than 10 similar units. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

Subpart B—Standards

Carcass Beef

7. Section 2853.102 would be revised as follows:

§ 2853.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used to also mean "side" or "sides." For purposes of these standards, a carcass is defined as the two sides of a slaughtered animal whch result from splitting it lengthwise through its approximate median plane and after removal of (a) the head, (b) the legs, (c) the viscera (removal of the kidneys and kidney, pelvic, and heart fat is optional), and (d) all but two or less tail vetebrae. The head shall be removed between the occipital bone and the first cervical vertebra, and the front and hind legs shall not be removed below the knee and hock joints, respectively.

§ 2853.103 [Amended]

8. In § 2853.103, paragraph (b)(5), the last sentence would be deleted.

9. In § 2853.104, paragraphs (a), (g), and (i), would be revised as follows:

§ 2853.104 Application of standards for grades of carcass beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated yield of closely trimmed (½ inch or less), boneless retail cuts expected to be derived from the four major wholesale cuts (round, loin, rib, and chuck) of a carcass, herein referred to as the "yield grade," and (2) characteristics of the meat which predict the palatability of the lean, herein referred to as the "quality grade." When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. The yield grade designation may be removed from officially graded beef on which the entire surface fat (natural or trimmed) does not exceed ¾ inch in thickness at any measured point. Beef cuts sold by retail outlets directly to final consumers need not retain their yield grademark. In instances in which removal of the yield grade designation is permitted, the USDA grade shall consist of the quality grade designation only. The grade of a bull carcass consists of the yield grade only.

* * * * *

(g) Beveling of the fat over the ribeye, appliation of pressure, or any other influences which may alter the characteristics of the ribeye or the thickness of fat over the ribeye prevent an accurate grade determination. Therefore, carcasses subjected to such influences shall not be eligible for a grade determination, and the presentation of such carcasses for an official grade determination shall be considered a fraudulent or decpetive practice in connection with the services requested for such carcasses. Carcasses that have had external fat removed in trimming for meat inspection compliance may be graded only if the official grader determines that an accurate grade determination can be made. Although entire carcasses with more than minor amounts of lean removed from the major wholesale cuts (round, loin, rib, or chuck) shall not be eligible for a grade determination, the remaining portions of these carcasses which are unaffected by the removal of lean shall remain eligible for a grade determination provided a cross section at the 12th–13th rib is available and an accurate grade determination may be made.

* * * * *

(i) To meet the demand of export trade or changing trade practices, grading of carcasses ribbed other than between the 12th and 13th ribs may be approved by the Director. When an exception is granted for export trade, such carcasses shall be identified with the word "EXPORT" in such a manner that will clearly distinguished them from other officially graded beef.

* * * * *

§ 2853.105 [Amended]

10. In § 2853.105, paragraph (b) would be deleted and paragraph (c) designated as (b).

§ 2853.106 [Amended]

11. In § 2853.106, paragraph (e)(1), first sentence, the words "and wholesale cuts" would be deleted.

Veal and Calf Carcasses

12. Section 2853.112 would be revised as follows:

§ 2853.112 Scope.

These standards for grades of veal and calf are written primarily in terms of carcasses. However, they also are applicable to the grading of sides. To simplify the phrasing of the standards, the words "carcass' and "carcasses" are used also to mean "side" or "sides."

§2853.115 [Amended]

13. In §2853.115, the first sentence in paragraph (d) would be deleted; in the first sentence of paragraph (e), the words "or portions of such carcasses" would be deleted; and in paragraph (g), the last sentence would be deleted.

Lamb, Yearling Mutton, and Mutton Carcasses

14. §2853.123, paragraph (c)(5) would be revised as follows:

§2853.123 Application of standards.

* * * * *

(c) ***

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides.

* * * * *

§2853.127 [Amended]

15. In §2853.127, paragraph (b) would be deleted and paragraph (c) would be designated as paragraph (b).

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant." An Approved Draft Impact Analysis has been prepared and is available from Mr. Jerry Goodall, Deputy Director, Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C., on October 5, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-31844 Filed 10-15-79; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-41]

Phased Deregulation of Upper Tier Crude Oil

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Cancellation of Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on Phased Deregulation of Upper Tier Crude Oil scheduled for 9:30 a.m. on October 16, 1979 at the Navaho Nambe Room, Albuquerque Inn, Second and Marquette Street, Albuquerque, New

V 44 0 C 1 6 7 9 UMI

Mexico. The Washington, D.C. hearing on this matter remains scheduled for October 24, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–5201.

William L Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C. 20461 (202) 634–2170.

William Carson (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2310, 2000 M Street, NW., Washington, D.C. 20461 (202) 254–7477.

Jack Kendall or Ben McRae (Office of General Counsel), Department of Energy, Room 6A127, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252–6739.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79–31920 Filed 10–15–79; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Line of Business Reports Program and Quarterly Financial Reports Program; Proposed Confidentiality Rules and Procedures

AGENCY: Federal Trade Commission.

ACTION: Proposed Rules (LB); Proposed Revision of Rules (LB and QFR).

SUMMARY: The Federal Trade Commission is proposing to adopt certain rules and procedures hereinafter set forth prescribing the confidential handling and use of reports to be filed by companies pursuant to an Order to File Special Report under the Line of Business (LB) Program relating to the 1977 reporting year and to conform existing rules for prior reporting years. The Commission is also proposing to revise its rules and procedures, as hereinafter set forth, prescribing the confidential handling and use of reports filed by companies pursuant to Orders to File Special Reports under the Quarterly Financial Reports (QFR) Program.

DATES: Comments will be received at the address below until December 17, 1979.

ADDRESSES: Comments should be addressed to the Secretary, Federal Trade Commission, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580. Comments will be entered on the public record for inspection in Room 130 at the above address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Sophie A. Krasik, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, Telephone (202) 523–3866.

SUPPLEMENTARY INFORMATION: The Commission proposes to adopt confidentiality rules for LB reports for 1977 which would differ somewhat from the rules adopted for LB reports for 1973–76 and to conform the rules for those years to the rules adopted for 1977. The Commission also proposes to adopt comparable revised confidentiality rules for all QFR reports.

The principal change in the proposed confidentiality rules for LB reports is a revision of the commitment not to disclose LB reports outside the Commission. This change is occasioned by the fact that Congress has not reenacted the statutory provision, found in earlier appropriations acts, which has been the legal basis cited by the Commission for its prior commitment not to disclose LB reports outside the Commission. Absent such an explicit statutory provision, it is the Commission's position that upon subpoena or official request of a congressional committee or subcommittee it must grant access to information in the Commission's possession (see, *e.g., Exxon Corp.* v. *FTC,* 589 F.2d 582 (D.C. Cir. 1978), *cert. denied,* 99 S.Ct. 2160 (1979)). In addition, the Commission must grant access to agency records under the Freedom of Information Act if they are not covered by an exemption from that Act. Accordingly, in the absence of the appropriations provisions previously relied upon, the proposed rules contain somewhat more limited confidentiality commitments which the Commission believes it is authorized to make and implement. Correspondingly, the rules also differ from prior LB confidentiality rules by providing for prior notice of disclosure of LB reports, generally in accordance with some of the likely final terms of the Commission's general confidentiality rules.[1] Those rules are expected to be promulgated in final form before these LB and QFR rules are issued on a final basis.

More specifically, acknowledging that certain disclosures may be mandatory, the rules permit disclosure in response to court orders and judicial subpoenas after requests for protective measures have been disposed of by the court (as under the rules for prior LB reports), and in response to official requests or subpoenas by congressional committees and subcommittees.

With respect to disclosure pursuant to the FOIA, the Commission has tentatively concluded that in general the only applicable exemption will be that covering "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552(b)(4)). The exemption under 5 U.S.C. § 552(b)(3) would apply only if, contrary to the weight of authority, 18 U.S.C. 1905 is determined to be an exempting statute within the meaning of 5 U.S.C. § 552(b)(3), see *Chrysler Corp.* v. *Brown,* 99 S.Ct. 1705, 1726 n.49 (1979); LB information would rarely, if ever, constitute "trade secrets" within the meaning of Section 6(f) of the FTC Act as construed by the Commission.[2]

The Commission believes, however, that it may properly regard LB information as exempt on a limited categorical basis. In particular, the Commission has tentatively concluded that the information in the 1977 LB forms of all companies should be deemed exempt for the following periods of time following the end of the reporting year: Schedule I: three years; Schedule II: five years; Schedule III: seven years; Schedule IV: five years; Schedule V (footnote schedule): three, five or seven years, depending on the schedule to which the footnote relates (three years—questions 10, 13; five years—questions 5, 6, 11, 12; seven years—questions 1, 2, 3, 4, 7, 8, 9).

In addition, under the proposed rules the Bureau of Economics' Assistant Director for Financial Statistics would be authorized to grant special confidential treatment pursuant to Commission's general rules extending beyond the categorical commitment (*e.g.,* extending a prior notice commitment beyond the period provided upon a showing that a particular company's LB data were still competitively sensitive). Of course, even in the absence of such a request confidential LB data would be subject to the limitations on disclosure imposed by statute (*e.g.,* 15 U.S.C. 46(f), 50; 18 U.S.C. 1905) and the Commission's rules.

The history of the LB program, including its administrative and Congressional development, the

[1] For the proposed rules published for comment, see 43 Fed. Reg. 3571 (1978).

[2] Statement of the Commission Denying Motions to Quash or Limit the Orders to File the 1976 Special Reports on Cigarette Advertising and Promotion, at 2 (March 9, 1977).

litigation concerning it, and the Commission's experience in processing FOIA requests recently made for LB reports,[3] has led the Commission to conclude that for all companies almost all of the information in the LB reports is likely to be competitively sensitive, at least for a period of time; that the likely periods of sensitivity will differ for different categories of information, as indicated; and that mandatory disclosure of a reporting company's LB information pursuant to the FOIA during some limited period of time could cause substantial competitive harm to the company. That history has also led the Commission to conclude that, absent some such categorical protection, the Commission's ability to obtain timely and complete compliance with its orders to file LB reports would be impaired. See generally *National Parks & Conservation Ass'n* v. *Morton,* 498 F.2d 765, 768–70 (D.C. Cir. 1974); *Green* v. *Department of Commerce,* 468 F. Supp. 691, 693 (D.D.C. 1979); *Mitsubishi Elec. Corp.* v. *Department of Justice,* CCH 1977–1 Trade Cas. ¶ 61356 (D.D.C. 1977).

Other proposed changes from confidentiality rules governing LB reports of previous years are: (1) to make clearer, through the definition of the term "LB Data," that limitations on disclosure apply to individual company data contained in an LB report as well as to the report itself; (2) to add a specific reference to 18 U.S.C. § 1905; (3) to reflect the fact that the Statistical Reports Unit was merged into the Division of Financial Statistics and later abolished; (4) to reflect internal FTC organizational changes now placing the agency's data processing functions in the Division of Information Systems (the Division of Management having been eliminated) and to authorize that Division to handle its data processing responsibilities under the LB program through contractors, as it does with other such work of the Commission; (5) to change the marking of LB Reports and reproductions of data to "LB Confidential Treatment Granted" from the previous marking of "Confidential" (the latter marking technically being a national security classification which this Commission does not have authority to make (§§ 1–2, Exec. Order No. 11652, 37 Fed. Reg. 5209 (as amended) (1972), *reprinted in* 50 U.S.C. § 301, pocket part at 45); (6) to make clear that a reporting company can consent to uses or disclosures of its LB data that would otherwise be limited by the rules; (7) to clarify the types of information or data to which the rules do not apply (*e.g.,* information or data obtained by the Commission other than from an LB Report, or LB Data made public by the reporting company or otherwise as authorized by law); (8) to authorize disclosure of LB Data to a limited group of federal agencies for statistical or audit purposes (the Bureau of Economic Analysis and the Bureau of the Census, both of the Department of Commerce, and the General Accounting Office), by specific approval of the Commission, on the condition that those agencies provide confidential protection for such data comparable to that afforded by the Commission's rules; [4] (9) to authorize limited disclosure of LB data to the General Counsel and the Commissioners, and their staffs, to the extent necessary for, and for the purpose of, dealing with matters such as FOIA requests, motions to quash, requests for special confidential treatment, and for other relief concerning a reporting company's LB data (in addition to acting on determinations by the Assistant Director for Financial Statistics concerning a company's refusal or failure to file an adequate LB report, as permitted under past rules); (10) to provide that no employee may be assigned to the Division of Financial Statistics unless he certifies that, during his assignment to that unit and after its termination, he will comply with the LB confidentiality rules and will not retain after any termination of his assignment any documents or materials which contain individual company LB data that has not been or may not be disclosed under these rules. In addition, upon termination of a DFS assignment each employee will be required to certify that he does not possess such documents or materials.

Comments are invited on the proposed changes, as well as on other aspects of the proposed rules. The Commission is particularly interested in comments on the appropriate duration and scope of the initial categorical grants, including whether they should be the periods specified or some shorter or longer periods.

The Commission also invites comment as to any reasons why the confidentiality rules now in effect for LB reports for reporting years 1973–1976 should not be supplemented and revised to conform with the proposed 1977 rules limiting disclosure, in view of the desirability of having uniform rules and the fact that the commitments in the 1974–76 rules concerning disclosure outside the Commission were explicity conditioned on the existence of the since-discontinued appropriations provisions.

Also published for comment here are proposed revised confidentiality rules for the Commission's Quarterly Financial Reports (QFR) Program. The current QFR confidentiality rules were issued in 1973 (38 Fed. Reg. 18720, 26162 (1973)), and are very similar to the confidentiality rules governing LB reports for 1973. The revised QFR rules proposed here are very similar to the proposed 1977 LB rules.

Like the proposed 1977 LB confidentiality rules, and for similar reasons, the proposed revised QFR confidentiality rules contain a categorical commitment foreclosing non-mandatory disclosures for a limited period (five years after the end of the reporting period covered by a QFR report). A categorical commitment of confidentiality, at least for some limited period of time, is justified for QFR reports. The current quarterly balance sheet and income statement data reported are likely to be competitively sensitive, at least for a limited period. Further, strict confidentiality has been the hallmark of the QFR Program over many years, and has very likely contributed to the high level of timely voluntary compliance. See *National Parks & Conservation Ass'n* v. *Morton, supra,* 498 F.2d at 767–70. As with the proposed LB confidentiality rules, the Commission seeks comment as to the appropriate duration and scope of that commitment.

Any revisions finally adopted for the existing LB rules or the QFR rules will not take effect until 30 days after publication.

In consideration of the foregoing, the Commission proposes to adopt the following confidentiality rules for LB reports for 1977, to conform the existing confidentiality rules for LB reports for 1973–76 to those adopted for 1977 and to adopt the following revised confidentiality rules for QFR reports:

Line of Business Program—Confidentiality Rules and Procedures for the 1977 Reporting Year

Definitions

For the purposes of these Rules and Procedures, the following definitions apply:

"LB Report" means a report filed by a company pursuant to an Order to File Special Report under the LB Program.

[3] See letter of July 26, 1979, from Michael N. Sohn, FTC General Counsel, to Derek Meier, Esq. in response to Mr. Meier's FOIA appeal (available in the Commission's Public Reference Room).

[4] The Commission's current QFR rules afford access to other government agencies under specified circumstances, 38 Fed. Reg. 18720, 26162 (1973).

"LB Data" means an LB Report or individual company data contained in an LB Report.

"Reporting Company" means a company ordered to file an LB Report.

Confidentiality of LB Data Within the Commission

Access to and use of LB Data within the Commission shall be restricted as hereinafter set forth, and persons authorized to have access thereto and use thereof shall not release any LB Data, or in any way provide access thereto, to anyone not authorized to have access. LB Data shall be used to compile statistical and other economic reports authorized by the Bureau of Economics or by the Commission. The latter reports may be utilize in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, they shall not be compiled in such a way that LB Data furnished by a particular Reporting Company can be identified. LB Data shall not be made available to any person within the Commission for use in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Except as hereinafter provided, access to and use of LB Data within the Commission shall be restricted to the Division of Financial Statistics, Bureau of Economics, and the Division of Information Systems as hereinafter set forth.

The Division of Financial Statistics plans, develops, and prepares for publication statistical and other economic reports such as the Quarterly Financial Report and the Annual Line of Business Report. The Division shall have access to and use of LB Data for planning, developing and preparing such statistical and economic reports. Procedures sufficient to assure that LB Data furnished by a particular Reporting Company cannot be identified shall be developed and implemented by that Division in connection with each statistical or other economic report to be published which is derived from LB Data.

With respect to each such report, the Assistant Director for Financial Statistics shall certify to the Director, Bureau of Economics, that he has reviewed and approved the procedures applied thereto.

Employees of the Division of Information Systems and its agents or contractors shall have access to LB Data but only during and for the purposes of electronic processing of LB Data.

Employees of the Division of Financial Statistics; while assigned to this unit, shall not participate in any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. Any employee who transfers into or out of this unit shall be formally notified in writing that he is subject to these rules and to Section 10 of the Federal Trade Commission Act and 18 U.S.C. 1905. No employee (including a special employee) shall be assigned to this unit unless he certifies that, during such assignment and after its termination for any reason, he will abide by the limitations in these rules and amendments thereto, will not use or disclose LB Data except in conformity therewith, and will not retain after any termination of his assignment possession of any documents or materials which contain data furnished by a Reporting Company that has not been or may not be disclosed pursuant to these rules; upon ceasing to be so assigned each employee shall certify that he does not possess any such documents or materials.

The Director, Bureau of Economics, shall not have access to LB Data. He shall, however, have supervisory responsibility and authority with respect to the Division of Financial Statistics. Such responsibility and authority shall include approving any reports prepared by it, making recommendations with respect to the preparation of such reports, and exercising any other supervisory control not requiring access to LB Data.

Upon notification to the General Counsel by the Assistant Director for Financial Statistics that a Reporting Company has failed adequately to comply with an Order to File Special Report under the LB Program, the following additional Commission officers and employees shall have access to such LB Data of that company required to evaluate the non-compliance and to advise and represent the Commission with respect to any proceeding initiated because of a refusal or failure of the Reporting Company to file an adequate LB Report: the General Counsel and his staff and the Commissioners and their assistants. In addition, these persons shall have access to LB Data to the extent necessary for, and only for the purpose of: (a) disposing of requests for mandatory access to such LB Data; (b) diposing of requests by the Reporting Company for relief (e.g., motion to quash, request for special confidential treatment) with respect to such LB Data; or (c) representing the Commission in litigation concerning the Reporting Company's LB Data.

Security of LB Data

All Commission members and employees authorized to have access to and use of LB Data as hereinbefore provided shall, while in possession of any such material, be personally responsible for ensuring that unauthorized personnel do not obtain access to such material and for observing the following procedures:

1. All LB Reports and reproductions of LB Data from individual Reporting Companies (such as tabulations, punch cards, tapes or printouts, etc.) shall be conspicuously marked "LB Confidential Treatment Granted."

2. All rooms containing LB Data from individual Reporting Companies shall be locked except when occupied.

3. All LB Data from individual Reporting Companies shall be stored in locked drawers, files or cabinets except when being used.

4. All LB Data from individual Reporting Companies shall be returned to the Division of Financial Statistics immediately after any authorized use of such material is no longer required.

Disclosure of LB Data to Persons Outside the Commission

Under Section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court shall be deemed guilty of a misdemeanor and upon conviction thereof, may be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of the court. Under 18 U.S.C. § 1905, any officer or employee of any federal agency who shall publish, disclose, or make known in any manner or to any extent not authorized by law any information coming to him in the course of his employment which concerns or relates to the identity, confidential statistical data, amount or source of any income, profits, losses or expenditures of any person, firm, partnership, corporation or association may be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, and shall be removed from office or employment.

LB Data in the Commission's possession shall not be disclosed to any person not employed by the Commission except in accordance with applicable statutes, the Commission's Procedures and Rules of Practice, and these rules. The limitations on disclosure imposed by statute and these rules may be supplemented by grants of special confidential treatment pursuant to the Commission's Procedures and Rules of Practice.

For the periods and categories of LB Data specified below:

(1) The Commission will consider records containing the individual company LB Data to be exempt, under 5 U.S.C. § 552(b)(4), from mandatory disclosure in response to a Freedom of Information Act request.

(2) Except as provided in these rules, the Commission will not exercise its discretion to disclose LB Data to any person not employed by the Commission, including other government agencies, individual members of Congress, parties in court proceedings, and members of the public.

(3) LB Data may be disclosed under any one of the following circumstances: (a) pursuant to court order; (b) pursuant to judicial subpoena, but only after a motion by the Commission to quash or for a protective order has been disposed of by the court; or (c) pursuant to a subpoena or an official request of a committee or subcommittee of Congress. In the event that the Commission receives a court order, judicial or congressional subpoena or official congressional request calling for LB Data of a Reporting Company, it will promptly notify the Reporting Company and advise the requesting authority as follows:

(i) As to release in response to a subpoena or official request from a committee or subcommittee of Congress, or in response to compulsory process or order of a court, 10 days' notice shall be given when possible, and otherwise such notice shall be given as is feasible under the circumstances, including subsequent notice. In the event of such release, the recipient shall be advised that the Reporting Company considers such information to be confidential, and, if applicable, that the Reporting Company considers the information to constitute trade secrets or names of customers within the meaning of Section 6(f) of the Federal Trade Commission Act.

(ii) As to release in response to a subpoena or an official request of a committee or subcommittee of Congress which also requests that no advance notice of either the request or the release be provided, such notice need not be provided until 90 days after the release of the information, subject to renewal by the requester, or until such shorter time as the requester concurs that notice may be given. Prior to release of the information without advance notice under this subsection, the Commission shall obtain a commitment from the recipient of the information that the recipient will not disclose the information to anyone other than its employees unless 10 days' notice is given to the Reporting Company.

(4) LB Data may be disclosed to the following government agencies for statistical or audit purposes by specific approval of the Commission: the Bureaus of Economic Analysis and of the Census, Department of Commerce, and the General Account Office. Such access will be subject to a requirement that the receiving agency maintain the confidentiality of the LB Data, and, specifically, a requirement that it adhere: (1) to security provisions numbered (1), (2), and (3) above; and (2) to the requirement that the Assistant Director for Financial Statistics certify to the Director, Bureau of Economics, FTC, for each report or type of report prepared by another agency using LB Data, that he has reviewed and approved the procedures applied thereto to assure that LB Data cannot be identified.

(5) The periods and categories are the following: Schedule I of Form LB: three years; Schedule II: five years; Schedule III: seven years; Schedule IV: five years; Schedule V: (footnote schedule): three, five, or seven years, depending on the schedule to which the footnote relates (three years—questions 10, 13; five years—questions 5, 6, 11, 12; seven years—questions 1, 2, 3, 4, 7, 8, 9). These time periods run from the end of the reporting period covered by an LB Report.

Limitations

The rules set forth above shall not apply:

(1) To disclosure of an LB Report of a Reporting Company to a court in connection with a proceeding initiated because of a refusal or failure of that company to file an adequate LB Report; (2) To the identity of a Reporting Company; (3) To information or data furnished by a Reporting Company in a context other than an LB Report (*e.g.*, a motion to quash or other motion concerning an Order to File Special Report under the LB Program); such information or data may be given special confidential treatment pursuant to the Commission's Procedures and Rules of Practice.

(4) To information or data which are or were obtained by the Commission other than from an LB Report.

(5) To the extent that the Reporting Company consents to the Commission's use or disclosure of information or that LB Data have been made public by the Reporting Company or otherwise as authorized by law.

(6) The authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Quarterly Financial Reports Program—Confidentiality Rules and Procedures

Definitions

For the purposes of these Rules and Procedures, the following definitions apply:

"QFR Report" means a report filed by a company pursuant to an Order to File Special Report under the QFR Program.

"QFR Data" means an QFR Report or individual company data contained in an QFR Report. "Reporting Company" means a company ordered to file a QFR Report.

Confidentiality of QFR Data Within the Commission.

Access to and use of QFR Data within the Commission shall be restricted as hereinafter set forth, and persons authorized to have access thereto and use thereof shall not release any QFR Data, or in any way provide access thereto, to anyone not authorized to have access. QFR Data shall be used to compile FTC merger statistical reports, the FTC series on aggregate concentration, and other statistical and economic reports authorized by the Bureau of Economics or the Commission. The latter reports may be utilized in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. However, they shall not be compiled in such a way that QFR Data furnished by a particular Reporting Company can be identified. QFR Data shall not be made available to any person within the Commission for use in connection with any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

Except as hereinafter provided, access to and use of QFR Data within the Commission shall be restricted to the Division of Financial Statistics, Bureau of Economics, and the Division of Information Systems as hereinafter set forth.

The Division of Financial Statistics plans, develops and prepares for publication statistical and other economic reports such as the Quarterly

V 44 0C 16 79 UMI

Financial Report and the Annual Line of Business Report. The Division shall have access to and use of QFR Data for planning, developing and preparing such statistical and economic reports. Procedures sufficient to asure that QFR Data furnished by a particular Reporting Company cannot be identified shall be developed and implemented by the Division in connection with each statistical or other economic report to be published which is derived from QFR Data.

With respect to each such report, the Assistant Director for Financial Statistics shall certify to the Director, Bureau of Economics, that he has reviewed and approved the procedures applied thereto.

Employees of the Division of Information Systems and its agents or contractors shall have access to QFR Data but only during and for the purposes of electronic processing of QFR Data.

Employees of the Division of Financial Statistics, while assigned to this unit, shall not participate in any Commission investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission. Any employee who transfers into or out of this unit shall be formally notified in writing that he is subject to these rules and to Section 10 of the Federal Trade Commission Act and 18 U.S.C. § 1905. No employee (including a special employee) shall be assigned to this unit unless he certifies that, during such assignment and after its termination for any reason, he will abide by the limitation in these rules and amendments thereto, will not use or disclose QFR Data except in conformity therewith, and will not retain after any termination of his assignment possession of any documents or materials which contain data furnished by a Reporting Company that has not been or may not be disclosed pursuant to these rules; upon ceasing to be so assigned each employee shall certify that he does not possess any such documents or materials.

The Director, Bureau of Economics, shall not have access to QFR Data. He shall, however, have supervisory responsibility and authority with respect to the Division of Financial Statistics. Such responsibility and authority shall include approving any reports prepared by it, making recommendations with respect to the preparation of such reports, and exercising any other supervisory control not requiring access to QFR Data.

Upon notification to the General Counsel by the Assistant Director for Financial Statistics that a Reporting Company has failed adequately to comply with an Order to File Special Report under the QFR Program, the following additional Commission officers and employees shall have access to such QFR Data of that company reqired to evaluate the non-compliance and to advise and represent the Commission with respect to any proceeding initiated because of a refusal or failure of the Reporting Company to file an adequate QFR Report: the General Counsel and his staff and the Commissioners and their assistants. In addition, these persons shall have access to QFR Data to the extent necessary for, and only for the purpose of: (a) disposing of requests for mandatory access to such QFR Data; (b) disposing of requests by the Reporting Company for relief (*e.g.*, motion to quash, request for special confidential treatment) with respect to such QFR Data; or representing the Commission in litigation concerning the Reporting Company's QFR Data.

Security of QFR Data

All Commission members and employees authorized to have access to and use of QFR Data as hereinbefore providied shall, while in possession of any such material, be personally responsible for ensuring that unauthorized personnel do not obtain access to such material and for observing the following procedures:

1. All QFR Reports and reproductions of QFR Data from individual Reporting Companies (such as tabulations, punch cards, tapes or printouts, etc.) shall be conspicuously marked "QFR Confidential Treatment Granted."

2. All rooms containing QFR Data from individual Reporting Companies shall be locked except when occupied.

3. Where feasible, all QFR Data from individual reporting companies shall be stored in locked drawers, files or cabinets except when being used.

4. All QFR Data from individual Reporting Companies shall be returned to the Division of Financial Statistics immediately after any authorized use of such material is no longer required.

Disclosure of QFR Data to Persons Outside the Commission

Under Section 10 of the Federal Trade Commission Act, any officer or employee of the Commission who shall make public any information obtained by the Commission, without its authority, unless directed by a court shall be deemed guilty of a misdemeanor and upon conviction thereof, may be punished by a fine not exceeding five thousand dollars ($5,000) or by imprisonment not exceeding one year, or by fine and imprisonment, in the discretion of court. Under 18 U.S.C. § 1905, any officer or employee of any federal agency who shall publish, disclose, or make known in any manner or to any extent not authorized by law any information coming to him in the course of his employment which concerns or relates to the identity, confidential statistical data, amount or source of any income, profits, losses or expenditures of any person, firm, partnership, corporation or association may be punished by a fine not exceeding $1,000 or by imprisonment not exceeding one year, or both, and shall be removed from office or employment.

QFR Data in the Commission's possession shall not be disclosed to any person not employed by the Commission except in accordance with applicable statutes, the Commission's Procedures and Rules of Practice, and these rules. The limitations on disclosure imposed by statute and these rules may be supplemented by grants of special confidential treatment pursuant to the Commission's Procedures and Rules of Practice.

For five years after the end of the reporting period covered by a QFR Report:

(1) The Commission will consider records containing the individual company QFR Data to be exempt, under 5 U.S.C. § 552(b)(4), from mandatory disclosure in response to a Freedom of Information Act request.

(2) Except as provided in these rules, the Commission will not exercise its discretion to disclosure QFR Data to any person not employed by the Commission, including other government agencies, individual members of Congress, parties in court proceedings, and members of the public.

(3) QFR Data may be disclosed under any one of the following circumstances: (a) pursuant to court order; (b) pursuant to judicial subpoena, but only after a motion by the Commission to quash or for a protective order has been disposed of by the court; or (c) pursuant to a subpoena or an official request of a committee or subcommittee of Congress. In the event that the Commission receives a court order, judicial or congressional subpoena or official congressional request calling for QFR Data of a Reporting Company, it will promptly notify the Reporting Company and advise the requesting authority as follows:

(i) As to release in response to a subpoena or official request from a committee or subcommittee of Congress, or in response to compulsory process or order of a court, 10 days' notice shall be given when possible, and other wise such notice shall be given as is feasible under the circumstances, including subsequent notice. In the event of such release, the recipient shall be advised that the Reporting Company considers such information to be confidential, and, if applicable, that the Reporting Company considers the information to constitute trade secrets or names of customers within the meaning of Section 6(f) of the Federal Trade Commission Act.

(ii) As to release in response to a subpoena or an official request of a committee or subcommittee of Congress which also requests that no advance notice of either the request or the release be provided, such notice need not be provided until 90 days after the release of the information, subject to renewal by the requester, or until such shorter time as the requester concurs that notice may be given. Prior to release of the information without advance notice under this subsection, the Commission shall obtain a commitment from the recipient of the information that the recipient will not disclose the information to anyone other than its employees unless 10 days' notice is given to the Reporting Company.

(4) QFR Data may be disclosed to the following government agencies for statistical or audit purposes by specific approval of the Commission: The Bureaus of Economic Analysis and the Census, Department of Commerce, and the General Accounting Office. Such access will be subject to a requirement that the receiving agency maintain the confidentiality of the QFR Data, and, specifically, a requirement that it adhere (1) to security provisions numbered (1), (2) and (3) above; and (2) to the requirement that the Assistant Director for Financial Statistics certify to the Director, Bureau of Economics, FTC, that for each report or type of report prepared by another agency using QFR Data, that he has reviewed and approved the procedures applied thereto to assure that QFR Data cannot be identified.

Limitations

The rules set forth above shall not apply:

(1) To disclosure of an QFR Report of a Reporting Company to a court in connection with a proceeding initiated because of a refusal or failure of that company to file an adequate QFR Report;

(2) To the identity of a Reporting Company;

(3) To information or data furnished by a Reporting Company in a context other than an QFR Report (*e.g.*, a motion to quash or other motion concerning an Order to File Special Report under the QFR Program); such information or data may be given special confidential treatment pursuant to the Commission's Procedures and Rules of Practice.

(4) To information or data which are or were obtained by the Commission other than from a QFR Report.

(5) To the extent that the Reporting Company consents to the Commission's use or disclosure of information or that QFR Data have been made public by the Reporting Company or otherwise as authorized by law.

(6) To the authority of the Commission to require by subpoena or other compulsory process the production of any information or data from any source outside the Commission for use in connection with an investigation or proceeding for carrying out specific law enforcement responsibilities of the Commission.

By direction of the Commission.

Dated: September 11, 1979.

Carol M. Thomas,

Secretary.

[FR Doc. 79-31780 Filed 10-15-79; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1404

Cellulose Insulation; Proposed Amendment to Labeling Requirement

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes an amendment to its labeling requirement concerning the proper installation of cellulose insulation to avoid fire. The proposed amendment, effective immediately on an interim basis, would allow manufacturers to use the phrase "TO HELP AVOID FIRE" as an alternative to the phrase "POTENTIAL FIRE HAZARD" in the present labeling requirement and would allow manufacturers to delete the word "cellulose" and related wording from the present labeling requirement. The Commission is proposing this rule since it appears to the Commission that the alternative labeling language will be just as effective in reducing the likelihood of injuries from fires as the language in the original label, and will relieve a perceived hardship expressed by many cellulose insulation manufacturers.

DATES: Cellulose insulation manufactured after October 15, 1979 must bear either the labeling required by the Commission's regulation issued July 6, 1979 (44 FR 39993) or the alternative labeling provided by this proposed rule. Written comments on this proposal must be submitted to the Commission on or before November 15, 1979.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 and should be titled: *Cellulose Insulation, Proposed Amendment to Section 27(e) Labeling Requirement.* Received comments may be examined in the Office of the Secretary, third floor, 1111 18th Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Wade D. Anderson, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington D.C. 20207, (301) 492-6400.

SUPPLEMENTARY INFORMATION:

A. Background

On July 11, 1978, the "Emergency Interim Consumer Product Safety Standard Act of 1978," Pub. L. 95-319, became law. In this act, Congress found that interim mandatory standards are reasonably necessary to eliminate or reduce an unreasonable risk of injury to consumers from flammable or corrosive cellulose insulation. The legislation amended the CPSA by adding a new section 35 (15 U.S.C. 2082) that required the Commission to issue an interim consumer product safety standard for cellulose insulation, based on requirements for flame resistance and corrosiveness in General Services Administration (GSA) Specification HH-I-515C, as effective February 1, 1978. As required by the statute, the Commission, on August 8, 1978, published the interim consumer product safety standard addressing the flammability and corrosiveness of cellulose insulation (16 CFR Part 1209, 43 FR 32540, corrected 43 FR 39564).

The legislation also provided that until a final consumer product safety standard is in effect, the Commission must propose as an amendment to the interim standard each revision GSA issues that supersedes the requirements for flame resistance and corrosiveness in GSA Specification HH-I-515C. On June 15, 1978, GSA issued GSA Specification HH-I-515D, which contains requirements for flame resistance and corrosiveness for cellulose insulation superseding the requirements of GSA Specification HH-0I-515C. As required by the legislation, the Commission proposed an amendment to the interim standard incorporating the flame resistance and

V 44 OC 16 79 UMI

corrosiveness provisions of HH-I-515D (44 FR 12872, March 8, 1979). On July 6, 1979, the Commission issued a final amendment (16 CFR Part 1209, Subpart A, 44 FR 39938).

The amendment to the interim standard establishes performance requirements for cellulose insulation to address the unreasonable risk of injury from flammable or corrosive cellulose insulation. However, the amendment does not adequately address hazards that may be caused by the improper installation of insulation. In the *Conference Report* on Pub. L. 95-319 the conferees stated that improper installation of cellulose insulation has been identified as a major cause of insulation fires. The conferees stated their expectation that the Commission would issue a rule under section 27(e) of the act to require manufacturers to provide safety information, on installation, to consumers (H.R. Rept. No. 95-1322, 95th Congress, 2d. Sess. 9 (1978)).

Section 27(e) of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2076(e)) authorizes the Commission to require manufacturers of consumer products to give notification of performance and technical data related to performance and safety at the time of original purchase to prospective purchasers and to the first purchaser of such product for purposes other than resale, as it determines necessary to carry out the purposes of the act. As provided in section 2(b) of the CPSA (15 U.S.C 2051(b)), one purpose of the act is to protect the public against unreasonable risks of injury associated with consumer products.

On December 20, 1978, the Commission proposed a rule under section 27(e) of the act to require manufacturers to provide safety information, on installation, to consumers and professional installers (43 FR 59390). The Commission published the proposal after considering fire incident information, information concerning improper installation, and technical information indicating that improperly installed cellulose insulation presents a serious risk of injury.

After considering comments received on the proposal, on July 6, 1979 the Commission issued a final rule to require manufacturers of cellulose insulation to give information to installers and consumers concerning the fire hazard associated with improper installation of the product (16 CFR Part 1404, 44 FR 39993). The rule requires manufacturers to label their containers of cellulose insulation with information instructing persons to avoid the flammability hazard by not installing or maintaining the product over or within three inches of the sides of recessed electrical light fixtures. The label suggests that persons installing the insulation use a barrier to permanently keep the insulation away from the recessed electrical light fixture. The label advises persons installing the insulation to check with local building or fire officials for guidance on barriers and installation requirements. The label also cautions persons to avoid the flammability hazard by not installing or maintaining the product near exhaust flues from heat-producing devices and apparatus such as furnaces, water heaters, and space heaters.

The label also requires cellulose insulation manufacturers to include a request to installers to remove the label and give it to the consumer after the insulation has been installed. The labeling requirement applies to cellulose insulation manufactured after October 15, 1979.

The Commission has been involved in litigation in the Ninth Circuit Court of Appeals (Action No. 79-7433) and in the District Court for the Western District of Washington (Action No. 79-1022M) concerning the cellulose insulation labeling requirement as well as the amended interim standard and certification rules for cellulose insulation (44 FR 39938, 39983, July 6, 1979.) As part of a stipulated agreement and order dismissing the litigation in the Ninth Circuit, the Commission has agreed to propose an amendment to the labeling requirement that would provide alternative language to certain language at 16 CFR 1404.4(a).

B. Nature of the Proposed Amendment

The proposed amendment provides that manufacturers may use the phrase "TO HELP AVOID FIRE" instead of the phrase "POTENTIAL FIRE HAZARD" in the label requirement issued on July 6, 1979. In addition, manufacturers may delete the word "cellulose" from the sentence of the present label stating "keep *cellulose* insulation at least three inches . . ." and may delete the word "this" from the sentence of the present label stating "Also keep *this* insulation away from exhaust flue . . .", (emphasis added).

The Commission has agreed to propose this alternative labeling for several reasons.

First, the Commission believes that the alternative phrase "TO HELP AVOID FIRE" will be just as effective as the phrase "POTENTIAL FIRE HAZARD" in informing persons installing insulation and consumers of the importance of proper installation. The Commission does not believe that the phrase "TO HELP AVOID FIRE" implies any less degree of urgency or importance that the phrase "POTENTIAL FIRE HAZARD".

Second, the Commission believes that deleting the word "cellulose" from the label would not diminish the clarity or effectiveness of the message of the label. In the final regulation issuing the labeling requirement last July, the Commission declined to accept the suggestion of one commentor that the word "cellulose" should be eliminated to avoid giving cellulose insulation products a negative connotation.

The Commission declined to make the change at that time since it believed that the word "cellulose" should remain on the label to enable consumers to identify the insulation. However, the Federal Trade Commission (FTC) has recently issued a trade regulation rule concerning the labeling and advertising of home insulation (44 FR 50218, August 27, 1979). This regulation, which is scheduled to become effective on November 30, 1979, requires insulation manufacturers to identify the type of insulation on the insulation package. The Commission also decided last July not to delete the word "cellulose" from the label since the Commission at that time had no information showing that including the word "cellulose" on the label would give cellulose insulation products a negative connotation. However, since the July 6, 1979 final regulation was published, the Commission has received many communications from manufacturers stating their belief that including the word "cellulose" on the label would lead to economic hardship by giving cellulose insulation products a negative connotation compared with other types of insulation which may present a similar fire hazard when improperly installed, or would otherwise lead to economic hardship. Considering the fact that deleting the word "cellulose" from the label would not impair the effectiveness of the label, the fact that the FTC regulation will require product identification, and the allegations of economic hardship by many cellulose manufacturers, the Commission now believes that it would be reasonable to allow manufacturers to delete the word "cellulose" from the label.

C. Comments on the Proposed Amendment

Interested persons may submit written comments on the proposed amendment until November 15, 1979. Comments, preferably in five copies, should be submitted to the Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street, N.W., Third floor, Washington, D.C. 20207. Comments should discuss only the labeling changes that are the subject of this proposed amendment; that is, the proposed use of the phrase "TO HELP AVOID FIRE" as an alternative for the phrase "POTENTIAL FIRE HAZARD" and the deletion of the word "cellulose" and related wording from the label. Before issuing a final regulation, the Commission will consider any timely comments received concerning this proposed amendment.

D. Environmental Considerations

The Commission's regulations for environmental review (16 CFR Part 1021, § 1021.5) provide that labeling rules are normally non-major actions with little or no potential for affecting the environment, so that an environmental review is not normally required. At the time the Commission proposed the labeling requirement last December, the Commission considered the potential environmental impact of the proposal and concluded that the environment would not be significantly affected and that an environmental impact statement is not necessary. The Commission does not foresee that this proposed amendment will become a major action anticipated to affect the environment.

E. Effective Date

The Commission finds that the labeling changes included in the proposed amendment would not impair the effectiveness of the present label language concerning the proper installation of cellulose insulation. The Commission also finds that it would not be in the public interest to delay the October 16, 1979 effective date of the labeling requirement issued July 6, 1979 (44 FR 39993), since to do so would mean that cellulose insulation for the upcoming peak purchasing season would not be required to have labeling concerning the proper installation to avoid fire. In addition, many cellulose insulation manufacturers have alleged that the proposed labeling changes are necessary to avoid perceived economic hardships. Also, in view of the minor differences between the original labeling requirement and the proposed alternative labeling the Commission believes that it would not be in the public interest to delay the alternative labeling until a final regulation could be issued. Such a delay would require manufacturers wishing to use the alternative labeling to use the original labeling now and go through the expense of changing labels in a few months.

As a result of these considerations, the Commission finds that it would be in the public interest to allow manufacturers to label their products with the alternative label language in this proposal for cellulose insulation manufactured after October 15, 1979. Therefore, the Commission, for good cause, finds that the notice, public procedure, and delayed effective date provisions of 5 U.S.C. 553 are contrary to public interest and should not be followed in this proceeding concerning the option of immediately using the alternative labeling. Pending completion of the rulemaking proceeding, manufacturers may use either the label language in the regulation at 16 CFR 1404.4(a) or the label language proposed here. If after considering timely comments and other available information the Commission decides not to issue the regulation as proposed, then manufacturers may continue to use either the label language in the July 6, 1979 regulation or the language as proposed here for up to 90 days after publication of the Commission decision on this matter. If the Commission decides to issue a final regulation incorporating the alternative labeling as proposed here, then manufacturers would be allowed to use either the alternative label language or the label language in the regulation issued on July 6, 1979.

F. Conclusion and Proposal

On the basis of the information discussed above, the Commission concludes that a regulation that would amend the Commission's labeling requirement for cellulose insulation to allow manufacturers to use alternative label language is necessary and in the public interest. Therefore, under provisions of the Consumer Product Safety Act (sec. 27(e), Pub. L. 92-573, 86 Stat. 1228; 15 U.S.C. 2076(e)), the Commission proposes that Part 1404 of Title 16 Chapter II of the Code of Federal Regulations be amended by adding the following language as a new paragraph at the end of section 1404.4(a):

§ 1404.4(a) [Amended]

* * * * *

Manufacturers of cellulose insulation may substitute the phrase "TO HELP AVOID FIRE" for the phrase "POTENTIAL FIRE HAZARD" in the label described above. Manufacturers may also delete the word "cellulose" from the first sentence of the label and may delete the word "this" from the third sentence of the label. The remainder of the label statement shall appear exactly as described above.

(Sec. 27(e) Pub. L. 92-573, 86 Stat. 1228; 15 U.S.C. 2076(e).)

Dated: October 11, 1979.

Sheldon D. Butts,

Assistant Secretary, Consumer Product Safety Commission.

[FR Doc. 79-31856 Filed 10-15-79; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 252

Business Practices on the Navajo, Hopi, and Zuni Reservations

October 4, 1979.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Bureau of Indian Affairs (BIA) proposes to find that the provisions of 25 CFR Part 252, work an undue hardship on Navajo tribal members desirous of opening business ventures on the Navajo Reservation, particularly the provisions of 25 CFR 252.7.

Many Navajos who wish to go into business on the reservations are unable to meet the bonding requirements of 25 CFR 252.7, because they do not have enough capital to meet the requirements of the bonding companies.

Since Navajos are completely subject to the Tribe's jurisdiction and since most live on or near the reservation, they can be adequately regulated by the Tribe itself.

The present exemption of Hopis and Zunis from the regulations when doing business on their own reservation has not given rise to any serious problems.

These findings are meant to promote the mandates of the U.S. Congress as set forth in Pub. L. 93-638, the Indian Education and Self-Determination Act.

DATE: The BIA seeks public comment in order to base such determinations on the best available information. Comments are due on or before November 15, 1979.

ADDRESSES: Written comments should be directed to: Assistant Secretary—Indian Affairs, Bureau of Indian Affairs, Attention: Chief, Division of Law Enforcement Services, 1951 Constitution Avenue, NW, Room 1342, Washington, D.C., 20245.

Forthcoming comments will be available for public inspection in Room 1342, 18th & C Streets, NW, Washington, D.C., from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene F. Suarez, Sr., Division of

Law Enforcement Services, telephone (202) 343-5786.

SUPPLEMENTARY INFORMATION: This notice of proposed rulemaking is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. The primary author of this document is Eugene F. Suarez, Sr.

On June 18, 1979, the Navajo Tribal Council, through Chairman Peter MacDonald and the Navajo Area Director, requested the Assistant Secretary—Indian Affairs, to amend 25 CFR, Part 252, to relieve the Navajo tribal members of the bonding requirements.

We, therefore, propose to give the same relief to the Navajo Tribe as has been given to the Hopi and Zuni Tribes by amending 25 CFR 252.2 to read as follows:

§ 252.2 Scope.

The regulations of this part apply to all non-members of the Navajo, Hopi and Zuni Tribes who engage in retail business on the above respective reservations. These regulations do not apply to businesses that are wholly owned and operated by either the Navajo, Hopi and Zuni Tribes, or, by individual tribal members within their respective reservations.

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-31879 Filed 10-15-79; 8:45 am]

BILLING CODE 4310-02-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

25 CFR Part 700

Commission Operations and Relocation Procedures—Revision of Regulations Regarding Commission; Hearings

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Extension of Comment Period—Revision of Regulations Regarding Commission Hearings.

SUMMARY: At the Commission's regularly scheduled meeting on October 4, 1979, a request to extend the comment period was made by the Office of Hopi Partitioned Lands in order that the comment of certain Hopi relocatees could be received and considered by the Commission (44 FR 53760, September 17, 1979). In this notice, the Commission extends the period during which comments must be received from October 17, 1979, until October 27, 1979.

DATE: Comments must be received on or before October 27, 1979.

ADDRESS: Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Bldg. A, Flagstaff, AZ 86001.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, Telephone No.: (602) 779-3311, Extension 1376, FTS: 261-1376.

Sandra Massetto,

Chairperson Navajo and Hopi Indian Relocation Commission.

[FR Doc. 79-31814 Filed 10-15-79; 8:45 am]

BILLING CODE 4310-HB-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1904

Reporting of Fatality or Multiple Hospitalization Accidents

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Proposed rule.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes to amend 29 CFR 1904.8, Reporting of Fatality of Multiple Hospitalization Accidents, to require that employers report a fatality or multiple hospitalization accident within 8 hours. OSHA also proposes that employers report all deaths resulting within 6 months of an accident within 8 hours of the time the employer becomes aware of the death. To facilitate timely reporting, a toll-free telephone number will be provided for use during night hours, weekends and holidays. OSHA will investigate reported accidents promptly and, as a result of the new reporting time of 8 hours, will be able to obtain information and interview personnel immediately after the accident.

DATE: Comments should be submitted on or before November 15, 1979.

ADDRESS: Comments should be sent to: Docket Officer, Docket S-125—Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW, Washington, DC 20210, 202-523-7894.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen Grosso, U.S. Department of Labor—OSHA, 200 Constitution Avenue, NW-Room N3106, Washington, DC 20210, 202-523-8137.

SUPPLEMENTARY INFORMATION:

Background. 29 CFR 1904.8 now requires that, after the occurrence of an accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer report the accident orally or in writing to the nearest OSHA Area Office within 48 hours.

OSHA investigates such accidents to determine whether a violation of Federal safety and health standards may have contributed to the occurrence, whether the accident could have been avoided if safety and health regulations had been enforced, and whether OSHA standards adequately cover the hazardous working conditions which led to the accident. In addition, the investigations provide information on the causes of these accidents which can be used by industry and labor in identifying serious hazards and preventing future accidents. This information is also used to assist OSHA in identifying serious hazards and developing needed standards. Prompt, thorough investigations must be performed if these purposes are to be achieved and if valid data is to be obtained.

The Proposal. Recently OSHA has received requests that the current reporting time of 48 hours be reduced to assure more timely reports and inspections, thereby improving the quality of inspection data.

The current requirement allows 48 hours to elapse before the employer is required to report the accident to the Office of the Area Director. If the report is mailed it may take several days to arrive. When holidays and weekends are considered, the report may not reach the Area Office until 7 days after the accident.

During the delay in receipt of the report, circumstances at the accident site may change. Projects may be completed and the site shut down, critical parts of a project may change although the site may remain, and witnesses' recollections may fade. Thus, results of such investigations are less effective in identifying and controlling the hazard which caused the accident.

OSHA's experience with fatality/multiple hospitalization accident investigations, as well as comments received from within and without OSHA, also indicate a need to keep the site of the fatality/multiple hospitalization accident intact following the accident to assure effective investigation. "Freezing" of the worksite will preserve pertinent evidence thereby providing the most valid accident data possible. Whether or not the worksite should be frozen will be decided in a subsequent rulemaking; however, comments are invited at this time.

Reducing the reporting time to 8 hours and prompt investigation of the accidents by OSHA will assure timely gathering of more useful information and more effective identification of the hazards involved. Worker safety will be improved through application of the investigation results in enforcing existing standards and developing necessary new standards. In addition, prompt investigation will result in the dissemination of more useful information to labor and management which, in turn, can undertake appropriate action to eliminate the hazards which led to the reported accident. These improvements are also important in implementing the recommendations made by the Comptroller General of the United States in the May 3, 1979, Report to the Congress: "How Can Workplace Injuries Be Prevented? The Answers May Be In OSHA Files," which concerns more effective collection and application of accident data.

The requirement to report deaths occurring within 6 months of the accident, within 8 hours of the time the employer becomes aware of the death, is intended to clarify the scope of the current requirement.

Neither the 8 hour report requirement nor the requirement to report deaths occurring within 6 months as a result of the accident will substantially burden employers. Work operations are not affected or interrupted by the changes. Furthermore, the basic reporting procedures now required in 29 CFR 1904.8 remain unchanged. Indeed, the report system will be facilitated by provision of a toll-free telephone number to be used during night hours, weekends and holidays.

Pursuant to the requirements of the Occupational Safety and Health Act, OSHA has consulted the Department of Health, Education and Welfare on the advisability of these revisions.

Public Participation. Interested persons are invited to submit comments, views and arguments on any issue raised by this proposed revised rule. These comments must be submitted on or before November 15, 1979, in quadruplicate, to Docket Officer, Docket S-125, Room S6212, U.S. Department of Labor, 200 Constitution Avenue, NW Washington, DC 20210. They will be available for public inspection and copying at the same address and will be carefully evaluated and considered by OSHA before it promulgates any revisions to the current rule.

Authority. This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW, Washington, DC 20210.

Accordingly, pursuant to sections 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1599, 1600; 29 U.S.C. 657) and Secretary of Labor's Order No. 8-76 (41 FR 25059), and in accordance with 5 U.S.C. 553, it is proposed to amend 29 CFR Part 1904 by revising § 1904.8 as set forth below:

§ 1904.8 Reporting of fatality or multiple hospitalization accidents.

(a) Within 8 hours after the occurrence of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, the employer of any employees so affected shall report the accident. Accidents not immediately reportable, but which result in death within six months of the date of the accident, shall be reported within 8 hours of the time the employer becomes aware of the death.

(b) The report may be made orally or in writing to the nearest office of the Area Director of the Occupational Safety and Health Administration, U.S. Department of Labor, or during night hours, weekends and holidays, by calling the toll-free number: 800- - - (The number will be provided at the time this rule is promulgated.)

(c) The report shall relate the circumstances of the accident, the number of fatalities, and/or the extent of any injuries. The OSHA Area Director may require additional reports, in writing or otherwise, as deemed necessary, concerning the accident.

(Section 8, 84 Stat. 1599, 1600 (29 U.S.C. 657); Secretary of Labor's Order No. 8-76 (41 FR 25059); 5 U.S.C. 553.)

Signed at Washington, D.C., the 4th day of October, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-31912 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-26-M

29 CFR Part 1926

[Docket No. S-007]

Occupational Safety and Health Standards; Guarding of Low-Pitched-Roof Perimeters During Roofing Work; Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Extension of Time for Written Comment.

SUMMARY: This notice extends the time for written comments concerning the rulemaking proceeding on the proposed changes to amend Subpart M of Part 1926—Floor and Wall Openings, and Stairways. The changes were proposed on August 17, 1979 (44 FR 48275). The notice had requested the submission of written comments not later than October 12, 1979. Subsequently, several interested parties requested extensions of time to submit their comments. The basis for the requests is their need for additional time to develop information on significant sections of the proposal, the potentially broad scope of its content, and the major importance of this proposal relating to workplace safety.

OSHA finds validity in these requests and has decided to grant an extension of time to submit written comments.

FOR FURTHER INFORMATION: Mr. Roy F. Gurnham, Occupational Safety and Health Administration, Room N3457, U.S. Department of Labor, Washington, D.C. 20210 (202) 523-8164.

SUBMISSION OF WRITTEN COMMENTS: Written comments from interested parties must be submitted by November 26, 1979. Comments must be submitted to the Docket Officer, Docket S-007, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210. (202) 523-7894.

Signed at Washington, D.C., this 11th day of October, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-31932 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1338-5]

Approval and Promulgation of Implementation Plans; Nevada Indirect Source Review Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: Revisions to the Nevada Revised Statutes and the Nevada Air Quality Regulations have been submitted to the Environmental Protection Agency (EPA) by the Governor for the purpose of revising the Nevada State Implementation Plan (SIP). The intended effect of these revisions is to repeal all of the indirect (complex) source regulations contained in the Nevada SIP. The EPA invites public comments on this action, especially as to its consistency with Section 110 of the Clean Air Act.

V 4 4 0 C 1 6 7 9 UMI

DATES: Comments may be submitted on or before December 17, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions are contained in document file ISRP-NV and are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Department of Conservation and Natural Resources, 201 S. Fall Street, Carson City NV 89710.
Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory Section, Air Technical Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556-2938.

SUPPLEMENTARY INFORMATION:

Background

In 1970 Congress amended the Clean Air Act and established a combined state and federal program to control air pollution. Under this statutory scheme the federal government is responsible for establishing national ambient air quality standards designed to protect the public health and welfare. The states are responsible for developing state implementation plans (SIP) adequate to attain and maintain these standards. Once a state has developed an SIP it must be submitted to EPA for approval under the criteria outlined in Section 110(a) of the Act. If a state fails to submit a plan, or has its plan disapproved, the Administrator must promulgate a substitute plan or portion thereof for the state. In general, SIP's must provide enforceable regulations controlling emissions from stationary and transportation related sources that will assure attainment and maintenance of the air quality standards.

An indirect source review program (ISRP) provides for the preconstruction review of facilities, like shopping centers, sports complexes, and apartment developments, which induce or attract significant motor vehicle traffic. The purpose of this program is to insure that the substantial increase in automobile use resulting from the construction of such facilities will not cause concentrations of auto-related pollutants harmful to the public's health. Generally this is done by controlling the design of access roadways, entrances and exits, and traffic flow patterns that influence the degree to which pollutant concentrations buildup at an indirect source. If the air quality effect is large enough however, and cannot be mitigated by redesign or other means, the construction of the facility is prohibited.

Transportation controls for air quality purposes, including ISRP, became one of the more controverial elements in the SIP process. In May of 1972, because of the state and federal governments' relative inexperience in this area, the Administrator defered submission of the transportation control portions of the SIP. This action was challenged in the U.S. Court of Appeals for the District of Columbia which found this delay contrary to the Act and ordered that transportation control plans be submitted by April 1973 (*NRDC* v. *Train*, 475 F. 2d 968, 970). In addition, the Administrator was required to review all SIPs and disapprove those without adequate maintenance provisions. Pursuant to this order, the Administrator reviewed the state plans and disapproved them for inadequate maintenance provisions. Based on his determination at that time that ISRPs were the only effective way to insure maintenance, the Administrator required every state to adopt an ISRP. Only Florida and Guam adopted ISRPs in a timely manner. Therefore, on February 25, 1974, the Administrator promulgated ISRPs for the remaining states in order to comply with the Court mandate.

The State of Nevada submitted an ISRP to EPA in April 1974. This SIP revision was approved by EPA in the March 26, 1975 **Federal Register** (40 FR 13306). (It should be noted that indirect sources are also known as "complex sources" in Nevada.)

Prior to the March 1975 EPA approval, the ISRP promulgated by the Administrator in February 1974, was scheduled to go into effect January 1, 1975. However these regulations had drawn significant criticism from the public. In response to this controversy, Congress acted to limit EPA's authority to administer such programs by restricting the Agency's 1974 appropriation as follows:

> No part of any funds appropriated under this Act may be used by the Environmental Protection Agency to administer any program to tax, limit or otherwise regulate parking facilities. Pub. L. No. 93-245 87 Stat. 1977 (Jan. 3, 1974).

This Congressional restriction, or similar language, was contained in each succeeding EPA appropriation until 1978, thus EPA had to indefinitely suspend the federally promulgated ISRPs. This left ISRPs only in the states that had voluntarily complied with EPA's requirements, including Nevada. Under the Act as it read prior to the 1977 amendments, existing state ISRPs could only be removed if a state could show that its SIP was still capable of attaining and maintaining the air quality standards.

In effect, Congress' and EPA's actions had created an anomaly. The states who had adopted ISRPs in response to EPA's requirements had to retain them unless an adequate substitute could be found, while those who had failed to adopt them were free of the requirement without any substitution requirement.

In 1977 Congress responded to the ISRP issue by adding Section 110(a)(5) to the Act. The Administrator could no longer require a state to adopt an ISRP as part of its SIP or disapprove an SIP for failure to have one. Nor could the Administrtor promulgate a federal ISRP for inclusion in a state plan, except for federally owned or assisted projects. Finally, Congress provided that:

> Any State may revise an applicable implementation plan approved under Section 110(a) to suspend or revoke any such program included in such plan, provided that such plan meets the requirements of this section (Section 110(a)(5)(A)(iii)).

Description of Proposed Revisions

In January 1977 the Nevada Legislature amended the Nevada Revised Statutes to restrict enforcement of Nevada's ISRP. Subsequently, on July 10, 1979 the Nevada Environmental Commission revised the Nevada Air Quality Regulations by removing all the indirect source review rules. These revisions were submitted to EPA by the Governor as revisions to the Nevada SIP on December 29, 1978 and July 24, 1979. The Governor has certified that the notice and public hearing requirements of 40 CFR 51.4 were complied with in the adoption of these revisions. The following regulations and statute are proposed to be added, revised, or revoked from the Nevada SIP.

Nevada Air Quality Regulations
Article 1—Definitions
1.12
1.95
1.147(b)
1.202
Article 3—Registration Certificates and Operating Permits
3.1.9
3.2.1
3.2.2
3.2.5
Article 13—Point Sources
13.1.1
13.1.2
13.2
13.2.1–13.5.3

Nevada Revised Statutes
445.493—Limitations on enforcement of regulations as to indirect sources and authority to review new indirect sources.

Clark County and Washoe County have also submitted revisions to their regulations revoking their ISRP regulations. However, their indirect source regulations have never been incorporated into the Nevada SIP and therefore, no action need be taken on Clark and Washoe Counties' revisions.

Proposed Action

EPA proposes to approve the above discussed revisions to the Nevada SIP which, in effect, place statutory limitations on enforcement of regulations as to indirect sources, and authority to review new indirect sources and repeal all of the indirect source regulations contained in the Nevada Air Quality Regulations. This approval action is consistent with the provisions of Section 110(a)(5)(A)(iii) and the procedural requirements of Section 110 of the Act regarding proper public notice and hearing.

This proposed approval is, in part, based on EPA's policy that Section 110(a)(5)(A)(iii) must be interpreted consistent with the historical Congressional intent to allow the states complete substantive freedom to choose to adopt, retain, or revoke an ISRP.

Beginning with the specific restrictions on EPA appropriations in 1974, Congress made clear its intent to not force an ISRP on the states. This Congressional tactic was followed in late 1977 by direct amendment of the Act. Sections 110(a)(5)(A) (i) and (ii) continue to restrict the Administrator from requiring a state to adopt an ISRP or promulgate a federal ISRP in its place. The thrust of these subsections is that EPA should not exercise any substantive control over a state's decision.

The same theme is evidenced in subsection (iii) as well. Section 110(a)(5)(A)(iii) provides that any state may revoke or suspend an existing ISRP. Only the proviso, "provided such revocation meets the requirements of this section," raises any doubt that Congress might have intended anything less. An examination of the legislative history surrounding the Conference Report removes this doubt. The history indicates that it was still Congress' firm objective to give the states free choice with respect to ISRPs.

For example, the Conference Report states: "Any [ISRP] which has already been approved by the Administrator may remain part of the applicable implementation plan. However, any State at any time may suspend or revoke such a program." The Report contains no qualifying language. This view was echoed by Congressman Rogers when he reported to the House.

> "We have basically taken the House Provisions relating to indirect sources. We have * * * allowed states to eliminate indirect source control requirements from existing plans." (123 Cong. Rec. H 8662, Aug. 4, 1977).

Similarly, Congressman Broyhill in a statement supporting the Conference Report states that "States are given authority to adopt, suspend, or revoke such [ISRP]." (123 Cong. Rec. H 8668, Aug. 4, 1977).

It is essential to understand that any other interpretation of Section 110(a)(5)(A)(iii) would leave Nevada and similarly situated states in the same position they were in 1973. The Act has always allowed a state to withdraw a SIP provision at any time if it can be shown that the removal of the provision would not interfere with the attainment or maintenance of the air quality standards. Section 110(a)(3)(A) provides, and has provided since 1970, that:

> The Administrator shall approve revisions of any implementation plan applicable to an air quality control region if he determines that it meets the requirements of paragraph (2) and has been adopted by the State after reasonable notice and hearing.

Taking into account the appropriations restrictions imposed by Congress between 1974 and 1978 and the legislative history concerning ISRPs, Section 110(a)(5)(A)(iii) cannot be interpreted to place the same requirement on a state as does Section 110(a)(3)(A). This was a major consideration that lead the Administrator to his interpretation of Section 110(a)(5)(A)(iii) to mean that a state must meet the procedural requirements of Section 110 only.

However, while EPA's interpretation of Section 110(a)(5)(A)(iii) allows a state to drop its ISRP without regard to the effect on the adequacy of that state's SIP, it does not relieve that state of its responsibility to have an adequate SIP. Section 110 and Part D of the Act continue to require the SIP to provide for the attainment and maintenance of the air quality standards. In accordance with those requirements, the State of Nevada has submitted revised control strategies and regulations to EPA in order to demonstrate attainment of the carbon monoxide, ozone, and total suspended particulate air quality standards throughout the State. These revisions to the SIP were submitted in December 1978 and July 1979 and are currently being reviewed by EPA. These SIP revisions are being addressed in separate rulemaking actions.

In summary, this rulemaking notice proposes to approve as an SIP revision the removal of Nevada's ISRP. The revision was adopted and submitted to EPA in accordance with the procedural requirements of Section 110 regarding proper public notice and hearing. This proposed approval action is consistent with the requirements of Section 110(a)(5)(A)(iii) of the Act.

Under Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before 60 days after publication of this notice will be considered. Comments received will be available for public inspection at the EPA Region IX Office and at the locations listed in the Addresses Section of this notice.

The Administrator's decision to approve or disapprove the proposed revisions will be based on the comments received and on a determination whether the amendments meet the requirements of Section 110(a) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". EPA has reviewed the regulations being acted upon in this notice and determined that they are specialized regulations not subject to the procedural requirments of Executive Order 12044.

Authority: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410 and 7061(a)).

Dated: September 12, 1979.

Paul De Falco, Jr.,
Regional Administrator.

[FR Doc. 79-31913 Filed 10-15-79; 8:45 am]
BILLING CODE 6560-01-M

V 4 4 0 C 1 6 7 9 UMI

V 4 4 0 C

1 6 7 9 UMI

40 CFR Part 52

[FRL 1338-2]

State of Maryland; Proposed Revision of Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Re-proposed rule.

SUMMARY: This proposed rule would approve a Consent Order issued by the State of Maryland to the Westvaco Corporation concerning its paper mill at Luke, Maryland. The order permits Westvaco to burn fuel with more than one percent sulfur, the limit set by Maryland regulations approved by EPA, provided that the aggregate emissions of sulfur dioxide (SO_2) from the six hundred (600) foot stack shall not exceed 49 tons per day. The order requires Westvaco to install and operate a sulfur dioxide and meteorological monitoring network for two years. Data from that network will be used to validate a rough terrain diffusion model which, in turn, is to be used to develop a permanent sulfur dioxide emission limitation.

DATE: Comments must be submitted on or before November 15, 1979.

ADDRESSES: Copies of the proposed revision, together with supporting documentation and correspondence are available for public inspection during normal business hours at the following offices:

U.S. Environmental Protection Agency, Air Programs Branch, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: Mr. Israel Z. Milner (3AH10).

Maryland State Bureau of Air Quality and Noise Control, 201 West Preston Street, Baltimore, Maryland 21201. ATTN: Mr. George P. Ferreri.

Public Information Reference Unit, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

All comments on the proposed revision submitted within 30 days of publication of this notice will be considered and should be directed to: Mr. Howard R. Heim (3AH10), Chief, Air Programs Branch, Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106. ATTN: AH006MD.

FOR FURTHER INFORMATION CONTACT: Mr. Israel Z. Milner (3AH10), Manager, Plans Management Group, Air Programs Branch, U.S. Environmental Protection Agency, Curtis Building, 10th Floor, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, (215) 597-8174.

SUPPLEMENTARY INFORMATION:

Introduction

On March 6, 1978 (43 Fed. Reg. 9162), EPA issued a Notice of Proposed Rulemaking pertaining to a proposed revision of the Maryland State Implementation Plan. This notice solicited public comment on the proposed revision referring to an exception request submitted to EPA by the State of Maryland on behalf of the Westvaco Corporation, Luke, Maryland. The request would except Westvaco from the applicable State and federal sulfur-in-fuel regulations but would limit sulfur dioxide emissions from the 600 foot stack at this facility to 49 tons per day. Extensions to the comment period were granted on April 11, 1978 (43 Fed. Reg. 15167), May 26, 1978 (43 Fed. Reg. 22748), June 29, 1978 (43 Fed. Reg. 28214), July 13, 1978 (43 Fed. Reg. 30075), and August 16, 1978 (43 Fed. Reg. 36283). The last notice granted a final extension for the receipt of comments until September 8, 1978.

Background

The Westvaco pulp mill in Luke, Maryland emits sulfur dioxide to the local atmosphere primarily as a result of the combustion of coal and oil at three principal boiler units whose emissions are vented through a 600 foot stack. Boilers 24 and 25 burn coal with a variable sulfur content. The number 26 package boiler is fired by residual oil with an essentially constant sulfur content of about 1% by weight. The SO_2 emissions from the 600 foot stack also include those non-condensible gases from the batch pulp digesters which are combusted into SO_2 in the principal boiler units. The non-condensible gases are estimated to contribute 3–4 tons per day of SO_2. This proposed revision deals with the impact on local air quality of all the SO_2 emissions from the 600 foot stack.

On August 8, 1974, Maryland's Department of Health and Mental Hygiene issued a notice of violation to the Westvaco Corporation charging that the company was burning coal with more than one percent sulfur at its Luke mill, in violation of Maryland Regulation 10.18.02.04B (formerly identified as 10.03.36.04B). Following a hearing on this matter, Maryland, on July 16, 1975, submitted to the Regional Administrator of EPA (Region III) a proposed revision of the Maryland State Implementation Plan for the attainment and maintenance of national ambient air quality standards. The proposed revision consisted of a consent order issued by the Secretary of the Maryland Department of Health and Mental Hygiene on July 8, 1975, to the Westvaco Corporation, which included in addition to other requirements, a provision which allowed the company to burn at its Luke, Maryland paper mill fuel with more than one percent sulfur so long as total emissions from the fuel burning equipment did not exceed 58 tons per day of sulfur dioxide. In support of its request, Maryland stated among other things that:

1. Westvaco wished to burn coal at the Luke mill, but was unable to secure an adequate supply of one percent sulfur coal, and

2. The increase in sulfur dioxide emissions proposed would not cause violation of federal or State standards for sulfur dioxide in ambient air.

Maryland submitted proof that a public hearing with adequate public notice was held on May 26, 1975 in accordance with 40 C.F.R. Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

In further support of its request, Maryland submitted a modeling analysis intended to demonstrate that the plan revision requested would not result in violations of standards for SO_2. EPA reviewed the analysis and noted several defects. EPA found that the modeling technique rested on what the agency believed to be unrealsitic assumptions about meteorological conditions and the behavior of the plume from the mill's emissions, and that averaging emissions over large areas may have concealed locally high concentrations of pollutants. After meetings with Maryland and Westvaco that answered some questions, EPA concluded that the modeling analysis did not demonstrate that the SO_2 limitations specified in the consent order would not result in violations of applicable SO_2 standards. Accordingly, EPA informed the State of Maryland, in a letter dated February 28, 1977, that EPA would not approve the requested revision of the Maryland SIP.

On November 18, 1977, Maryland submitted to the Regional Administrator an amendment to the 1975 Luke mill Consent Order. Maryland submitted proof that a public hearing on the amendment was held on October 7, 1977, after adequate public notice, in accordance with 40 C.F.R. Part 51. The amendment reduced the total allowed emissions of SO_2 from the 600 foot stack from 58 tons per day, as first proposed, to 49 tons per day, roughly equivalent to a limit of 2.3 percent sulfur-in-fuel. Westvaco also consented to install two meteorological stations and an unspecified number of additional SO_2 monitors. The additional equipment was to provide information regarding air quality levels and to verify the adequacy

of the 49 tons per day emission limitation as determined by the Company's modeling analysis, or to establish with any new data a different emission limitation. After evaluating the revised submittal, EPA found that the modeling analysis was in substantially the same form as first submitted, and had the same methodological weaknesses. Westvaco subsequently submitted a February 2, 1978 report to EPA in further support of the mathematical modeling previously provided. After receiving and reviewing the report, EPA on March 6, 1978, published a notice of its intention to disapprove the proposed revision of Maryland's plan (43 Fed. Reg. 9162).

Proposal Discussion

During the period for comment on EPA's proposal, many persons, including Westvaco, submitted comments and suggestions. EPA reviewed the mathematical modeling submitted by Maryland and performed an additional analysis using a different model which EPA Region III found to be acceptable in this circumstance. On further study, EPA continued to believe that the assumptions and techniques employed in support of Maryland's submittal were unrealistic and might underestimate sulfur dioxide concentrations. However, in the present state of modeling techniques, regardless of what modeling is used, unverified assumptions are required to simplify calculations in an area like that surrounding the Luke mill, where hills and variable meteorological conditions create extremely complex movements of pollutants. Another analysis performed for EPA, using a technique it had approved in other situations and which did not suffer from what the agency believed to be the particular deficiencies of Maryland's demonstration, predicted ambient air concentrations in excess of ambient air standards under certain assumed worst-case meteorological conditions; the differences, however, may be within the margin of error of either model. Thus it was not possible to determine which model's assumptions were more reasonable in the particular circumstances.

EPA therefore suggested to Maryland that it have Westvaco perform a study to measure the actual air concentrations which result from emissions from the Luke mill, and in this way test or validate the various techniques of analysis. This would enable an evaluation of modeling assumptions and a narrowing of the range of uncertainties of modeling analyses in the area of the Luke mill. Maryland and Westvaco subsequently agreed that the company would perform such a study at the company's own expense, and on June 15, 1979 Maryland submitted a new consent order requiring Westvaco to carry out substantially the detailed two-year research program described in the order, and limiting SO_2 emissions from the 600 foot stack at the Luke mill to 49 tons per day. After the research program, Westvaco will submit to Maryland a new analysis of the effects of its Luke mill emissions. Maryland will subsequently submit to EPA any modification to the 49 tons per day emission limitation which is necessary to prevent violations of national ambient air quality standards.

Other details of the June 15, 1979 consent order which is in addition to and does not supplant the earlier orders, are:

1. Westvaco will install and operate nine continuous SO_2 monitors and two meteorological stations at locations (defined in Attachment 1 of the order) in the vicinity of the Luke mill. (Additional monitors or stations can be added by Westvaco if it so chooses.)

2. The monitoring program and data transfer will be substantially as set forth in Attachment 2 of the order.

3. The following schedule shall apply:

a. Ambient air and meteorological monitoring at all locations is to begin no later than six months after the effective date of the Order (June 12, 1979).

b. Monitoring is to continue for 24 months, or until such time as 24 months of valid data is collected.

c. Ninety days after completion of monitoring, Westvaco is to submit a new diffusion analysis and validation which is to be in accordance with applicable EPA guidelines.

As indicated above, the assumptions underlying the modeling analysis submitted in support of the proposed rule have not been verified and it may have certain deficiencies in complex terrain situations. EPA believes that due to the unknowns in the present circumstances, Maryland's air quality predictions may be within the margin of error of other modeling techniques (which also rest on unverified assumptions). The agency has concluded that the demonstration is acceptable until such time that a further SIP revision is required or if a violation of air quality standards is measured. Because the terms of the Amended Consent Order allow Maryland to take appropriate action required to maintain national ambient air quality standards, EPA proposes to approve the order as a SIP revision.

The public is invited to submit to the address stated above, comments on whether the Amended Consent Order of June 15, 1979 should be approved as a revision of the Maryland State Implementation Plan. The Administrator's decision to approve or disapprove this proposed revision will be based on whether it meets the requirements of Section 110 of the Clean Air Act and EPA regulations in 40 C.F.R. Part 51, Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(42 U.S.C. 7401–7642)

Dated: October 5, 1979.

Jack J. Schramm,

Regional Administrator.

[FR Doc. 79-31815 Filed 10-15-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 120

[FRL 1304-2]

Water Quality Standards; Navigable Waters of the State of North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On October 4, 1978, the Environmental Protection Agency (EPA) disapproved a variance for the dissolved oxygen criterion in the water quality standards of Welch Creek near Plymouth, North Carolina. Information submitted by the North Carolina Environmental Management Commission in support of the variance did not meet the requirements of the Clean Water Act and applicable EPA regulations. EPA hereby proposes a rule reinstating the State's previous dissolved oxygen criterion.

DATES: All written comments received on or before December 17, 1979, will be considered in the preparation of the final rule. A public hearing will be held on December 6, 1979, beginning at 7:00 p.m., at the Washington County Courthouse, Adams Street, Plymouth, NC.

ADDRESSES: Mr. R. F. McGhee, Water Quality Standards Coordinator, EPA, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

FOR FURTHER INFORMATION CONTACT: Mr. R. F. McGhee, (404) 881–3012.

SUPPLEMENTAL INFORMATION: Section 303(c) (33 U.S.C. 1313(c)) of the Clean Water Act (hereinafter the Act) (Pub. L. 92–500 (33 U.S.C. 1251 *et seq.*)) provides that each State shall review its water quality standards and adopt appropriate revisions at least every three years. EPA must determine whether or not such revisions are consistent with the applicable requirements of the Act. EPA must approve the standards or notify the State specifying changes needed to make the standards meet the objectives of the Act. If changes are not made by the State within ninety days after the date of notification, the Administrator must initiate action to promulgate such water quality standards needed to attain consistency with the Act.

Background

Welch Creek drains approximately 45 square miles, has an average annual flow of 81 cubic feet per second (cfs), and a 7 consecutive day, once in 10-year, low flow of zero cfs. Welch Creek enters the Roanoke River near the corporate limits of Plymouth, North Carolina. The Weyerhaeuser Company pulp and paper mill ("Weyerhaeuser") discharges approximately 55 million gallons per day (85 CFS) of effluent to Welch Creek about two and one-half miles upstream from the confluence of Welch Creek with the Roanoke River. The rule proposed today addresses the 3-mile segment of Welch Creek from the Seaboard Coastline Railroad Bridge to its confluence with the Roanoke River which is the segment receiving the Weyerhaeuser discharge. Weyerhaeuser is the only discharger affecting this segment. It stands to benefit from the dissolved oxygen variance by subseqently receiving less stringent effluent limitations.

On October 8, 1976, the Weyerhaeuser Company requested an exception from the State to the dissolved oxygen criterion for Welch Creek. On November 30, 1977, the North Carolina Environmental Management Commission (EMC) held a public hearing to receive comments on the proposal to change the dissolved oxygen standard for the lower three miles of Welch Creek from 5.0 mg/l average, 4 mg/l minimum (5/4), to zero mg/l. The EMC adopted the proposed variance and submitted its action to EPA, Region 4, for approval on July 5, 1978. The Region 4 office of EPA reviewed the action of the EMC for consistency and compliance with the Act and 40 CFR 35.1550 [1] and disapproved the variance in a letter dated October 4, 1978. The North Carolina Division of Environmental Management submitted additional information to support its action on January 5, 1979. EPA has discussed this information with both the State and Weyerhaeuser and has concluded that the State has not justified the variance. Because the State has failed to adopt an appropriate water quality standard for Welch Creek within the ninety day period provided in Section 303(c) of the Clean Water Act, EPA is proposing a standard to replace that adopted by the State.

Basis and Purpose

Section 303(c) of the Clean Water Act provides the basis for EPA review of State water quality standards and for EPA promulgation of new or revised water quality standards to meet the requirements of the Act. EPA's water quality standards regulations at 40 CFR 35.1550 and implementation guidance entitled, "Chapter 5, Water Quality Standards" of the *Guidelines for State and Areawide Water Quality Management Program Development* [2] interpret this statutory mandate. EPA's policy on water quality standards was published in the **Federal Register** (43 FR 29588, July 10, 1978).

A water quality standard consists of two elements: a designated beneficial use for which a water body is to be protected, and qualitative or quantitative criteria which define the conditions and concentrations of various constituents that must be met to maintain the beneficial use. Because the Clean Water Act requires water quality standards to "protect the public health or welfare, enhance the quality of water and serve the purposes of this Act," EPA's regulations prohibit reclassifying a water segment for a less restrictive use unless the currently designated use is unattainable. 40 CFR 35.1550(c)(3) establishes three tests of attainability:

"(i) The existing designated use is not attainable because of natural background,

(ii) The existing designated use is not attainable because of irretrivable man induced conditions; or

(iii) Application of effluent limitations for existing sources more stringent than those required purpuant to Section 301(b)(2) (A) and (B) of the Act in order to attain the existing designated use would result in substantial and widespread adverse economic and social impact."

EPA has also recognized variances or limited use downgrades within the context of the water quality standards program. See Decision of the General Counsel on Matters of Law Pursuant to 40 CFR 125.36(m), No. 58, 29 March 1977.[3] A variance to a water quality criterion is different from a beneficial use downgrade in that it may affect only a single pollutant parameter for a particular discharger. Other dischargers are required to meet all criteria specified in the water quality standards necessary to support the designated use of that segment. Furthermore, a variance is a temporary condition which must be rejustified upon expiration or at least during each triennial water quality standards review. The bases for granting either a use downgrade or a variance are identical and 40 CFR 35.1550(c)(3) provides the exclusive justifications that can be approved by EPA.

It is unclear whether the State regards the change in the dissolved oxygen criterion for Welch Creek as a variance or as a *de facto* beneficial use downgrade. Because the demonstrations to justify the lowered standard are identical in either case as noted above, and the more limited variance is environmentally preferable, EPA is viewing the State's action as a variance.

Deficiency of State-Approved Dissolved Oxygen Variance for Welch Creek

Welch Creek is designated as a Class C water.[4] The North Carolina water quality standard for Class C waters provides that: ". . . In certain stream segments where the cost of meeting the standard with treatment in excess of present waste treatment technology is economically prohibitive when compared with the expected benefits to be obtained, . . . exceptions to the dissolved oxygen standards shall be established on a case-by-case basis . . . Such exceptions . . . shall be established at the highest dissolved oxygen concentration attainable with the application of present waste treatment technology." Class C waters are stated to be suitable for uses including fish and wildlife propagation, boating and wading.

EPA interprets the State's requirements for Class C waters to provide for temporarily lowered dissolved oxygen concentrations but only when beneficial uses consistent with Class C waters are maintained. Even a brief review indicates that the State's variance would not support the beneficial uses of Class C waters.

A zero dissolved oxygen concentration will not support the designated use of fish and wildlife propagation. As EPA has noted in the rationale for dissolved oxygen in *Quality Criteria for Water*,[5] fish and other aquatic life do not thrive in waters with insufficient dissolved oxygen concentrations. The State's dissolved oxygen criterion for Class C waters requires concentrations of not less than a daily average of 5 mg/l with a minimum instantaneous value of not less than 4.0 mg/l to protect fish and other aquatic life. In fact, a zero dissolved oxygen concentration is inadequate to protect any statutorily recognized beneficial water use. EPA's Chapter 5 Guidelines recommend that States require that all waters be free from substances attributable to man-caused point source or non-point source discharges in concentrations that ". . . 2. Produce objectionable color, odor, taste or turbidity; . . ." Stream conditions associated with zero dissolved oxygen include objectionable odors and unsightly conditions.

Documentation Presented by North Carolina

North Carolina's adoption of the zero mg/l dissolved oxygen variance was based on the economic test in the State standards for class C waters. For EPA to approve an economic justification, however, the State must demonstrate substantial and widespread adverse economic impact resulting from the application of waste treatment in excess of that needed to meet the highest technology-based requirements of section 301(b). 40 CFR 35.1550(c)(3)(iii). EPA has reviewed information submitted in support of the State's action to determine whether that test has been met. A summary of EPA's analysis follows.

Treatment alternatives and their estimated costs were provided by Weyerhaeuser for the State hearing record. To provide some perspective, the present level of treatment (BPT) with discharge to Welch Creek, as estimated by the State from data provided at the hearing, costs $1,364,000 per year. Further, whether it discharges to Welch Creek or the Roanoke River, Weyerhaeuser will be required to meet the highest technology-based level of treatment by mid-1984. At the State hearing, the company estimated that best available technology economically achievable (BAT) would increase costs by $8,280,000 per year.

Against this background, the company estimates that to upgrade treatment to meet a 5/4 dissolved oxygen standard while discharging into Welch Creek would cost an additional $7,605,000 per year (Alternative A).

In contrast, the incremental cost of moving the discharge to the Roanoke River would be $743,000 per year whether starting from the applicable 1984 technology requirements (Alternative B) or from existing BPT treatment (Alternative C). [Note: Alternative B is the 1984 technology requirement with diversion of the effluent to the Roanoke River; Alternative C is Weyerhaeuser's current waste treatment with diverson of the Roanoke River].

[Annual cost in thousands of dollars [1]]

	Incremental	Total
Technology-based control requirements:		
BPT (installed)		1,364
State estimate of BAT [2]	8,280	9,644
Additional measures to meet water quality standard:		
Alternative A	7,605	17,249
Alternative B	743	10,387
Alternative C	743	2,107

[1] The costs above are the annual O&M costs plus the annualized capital costs, taken over a 20 year period at 10 percent interest, in 1977 dollars.

[2] The North Carolina Class C standard provides that in cases of a variance the discharger shall provide, "present waste treatment technology." The State's hearing record summary indicates that such treatment is equivalent to EPA's BAT.

To permit EPA to examine the economic impact of the alternatives, Weyerhaeuser submitted confidential information on annual shipments and profits per ton (before and after taxes) for the Plymouth plant for the past few years. Assuming certain average effects of the investment tax credit, pollution control equipment credit and corporate income tax, EPA estimated the effect of the expenditures on profits after taxes. Without judging the effect of the increased treatment to meet a 5mg/l dissolved oxygen standard while discharging into Welch Creek (Alternative A), it appears that the alternatives of discharging into the Roanoke River (Alternative B or C) would meet the stream standards proposed below without causing significant adverse economic impact.

EPA welcomes additional information on the cost and environmental impacts of these options. For example, although Alternative A costs more than discharging into the Roanoke River, the State has raised questions about the environmental effects of a Roanoke discharge.

Welch Creek Water Quality

Although North Carolina's adoption of the requested variance was based on its judgment that the application met the State's economic test, Weyerhaeuser also asserted that water quality in the Creek could not support the designated use of fish and wildlife protection. For reasons presented below EPA does not believe such a rationale is justified.

EPA recognizes that Swamp areas typically are highly stressed environments for aquatic life because of naturally occurring acidity and low dissolved oxygen in the warmer months caused principally by the benthic oxygen demands from the decomposition of naturally occurring organic materials (e.g., leaf litter). However, aquatic communities adapt to these conditions and exhibit diversified, indigenous populations. Swamps are well recognized as nursery areas which act to maintain fish populations in the larger streams to which they are tributary.

Testimony from a North Carolina Department of Natural Resources and Community Development Fishery Biologist at the State hearing clearly indicated the presence of both game and non-game species in the area of Welch Creek upstream from, and therefore unaffected by, the Weyerhaeuser discharge.

Furthermore, information in EPA's *Quality Criteria for Water* discussing disssolved oxygen requirements of aquatic life, supports minimum concentrations of 5 mg/l generally, but recognizes differences in specialized ecosystems. The dissolved oxygen rationale included in *Quality Criteria for Water* is hereby incorporated by reference into the record of this proposed rulemaking.

Low dissolved ozygen concentrations resulting from the Weyerhaeuser discharge may cause anoxic water which would prevent fish migration from the Roanoke River into the swamp areas adjoining Welch Creek for reproduction and fry rearing, and block the migration of juvenile fish from the swampy areas through Welch Creek to the Roanoke River. The Weyerhaeuser discharge may therefore adversely affect aquatic life in the Roanoke River in addition to severely damaging or eliminating the beneficial uses of Welch Creek in the 2½ mile reach between the discharge and the Roanoke River.

It is EPA's judgment that natural background conditions in Welch Creek do not justify the State's variance.

[1] Recodified designation for former 40 CFR 130.17 (44 FR 30040, May 23, 1979).

[2] Notice of availability published in 41 FR 48777, November 5, 1976.

[3] Published as an Appendix to a proposed rule for the water quality standards of the State of Ohio on July 6, 1979 (44 FR 39508).

[4] For swamp waters, the North Carolina Class C dissolved oxygen criterion provides for lower dissolved oxygen concentrations than for other Class C waters if caused by natural conditions. The State has classified Welch Creek as swamp water.

[5] Notice of availability published at 41 FR 32947 on August 6, 1976.

V 44 OC 16 79 UMI

EPA's Proposed Rule

EPA's proposed rule would nullify the zero dissolved oxygen standard in the segment of Welch Creek downstream from the Seaboard Coastline Railroad Bridge and reestablish the State's previous standard of 5 mg/l average, 4 mg/l minimum, except for lower concentrations caused by natural swamp conditions.

Availability of the Record

The administrative record is available for public inspection and copying at the Environmental Protection Agency, Region 4 Office, Water Division, 345 Courtland St., N.E., Atlanta, Georgia 30308 during normal business hours of 8:00 to 4:30 p.m. The NCDEM-submitted water quality standards for Welch Creek, the proposed standards including supporting information are available for inspection and copying at the U.S. Environmental Protection Agency Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460 during normal business hours of 8:00 to 4:30 p.m.

Public Hearing

EPA intends to hold a public hearing on this proposed rulemaking. The public hearing is scheduled for December 6, 1979, North Carolina in the Washington County Courthouse building at 7:00 p.m.

Regulatory Analysis

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

(Section 303(c) [33 USC 1313(c)] of the Clean Water Act (Pub. L. 92-500 [33 USC 1251 *et seq.*)])

Dated: October 5, 1979.

Douglas M. Costle,

Administrator.

Section 120.43 of Part 120 of Chapter I, Title 40 of the Code of Federal Regulations is hereby proposed to read as follows:

§ 120.43 North Carolina.

The water quality criteria variance of zero mg/l dissolved oxygen for Welch Creek from the Seaboard Coastline Railroad Bridge to the Roanoke River which was approved by the North Carolina Environmental Management Commission on June 8, 1978, is null and void. The Class C dissolved oxygen criterion of not less than a daily average of 5.0 mg/l with a minimum instantaneous value of not less than 4.0 mg/l (with the proviso that swamp waters may have lower values if caused by natural conditions) is reinstated as the applicable limitation.

[FR Doc. 79-31914 Filed 10-15-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 73

[Gen. Docket No. 79-249; FCC 79-587]

Ex Parte Communications

AGENCY: Federal Communications Commission.

ACTION: Proposed Rulemaking.

SUMMARY: FCC proposes to apply the *ex parte* rules to contested application proceedings prior to designation for hearing where the issue has been joined but the opposition pleading is technically deficient. The amendment would enhance the fairness of the Commission's processes and increase the number of proceedings to which the ex parte rules apply.

DATES: Comments must be received on or before November 19, 1979 and Reply Comments must be received on or before December 4, 1979.

ADDRESSES: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Upton Guthery, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Adopted: September 27, 1979.
Released: October 10, 1979.

By the Commission: Commissioner Lee absent; Commissioners Quello and Jones concurring in the result; Commissioner Washburn Dissenting and issuing a statement.

1. Section 1.1203(b)(1) currently provides that *ex parte* communications prior to designation of a case for hearing shall not be made after the filing of a petition to deny. Section 309(d) of the Communications Act specifies four criteria for a petition to deny which are used to distinguish such formal pleadings from a complaint or a casual communication:

A. The petition must contain specific allegations of fact sufficient to show that the petitioner is a party in interest and which, if true, would demonstrate that a grant of the application would be inconsistent with the public interest.

B. Such allegations of fact shall, except for those of which official notice may be taken, be supported by affidavit of a person or persons with personal knowledge thereof.

C. The petitioner must serve a copy of the petition upon the applicant.

D. The petition must be filed within the time prescribed by the rules.

For purposes of the *ex parte* rules, a pleading does not qualify as a petition to deny if the showing with regard to the first criterion is patently inadequate or if petitioner fails to comply with any one of the last three criteria—affidavits, service or timeliness. If the filing of a petition to deny is required to trigger the *ex parte* rules, it is correct for the Commission to require a technically sufficient petition to deny. Penalties lie for violation of those rules. Parties and counsel are entitled to rely on the rules and govern their conduct accordingly, as are members of the Commission and its staff. To serve as a credible deterrent, the rules must draw a clear distinction between permissible and impermissible conduct.

2. Nevertheless, recent developments have led us to consider whether the applicability of the *ex parte* rules should be tied to the submission of a technically sufficient petition to deny—whether *ex parte* communications should be permissible where the issue is joined but not perfectly pleaded. In *Max M. Leon, Inc.*, 71 FCC 2d 316 (1979), for example, we ruled that a petition opposing an application by station WDAS did not trigger the *ex parte* rules because it was not supported by affidavits; and that a subsequent letter from WDAS' counsel was therefore not an *ex parte* communication. The Order then stated, however, that the pleading

> [E]vidences a sincere effort to participate in this proceeding. [W]e believe we should not disregard the document for technical deficiencies. The groups which have so expressed their concern should have notice of other documents filed with the Commission and an opportunity to respond before we address the merits.

The Broadcast Bureau was directed to send a copy of the WDAS letter to the groups and to offer them 20 days to respond, and the station and the groups were ordered to serve all subsequent pleadings or documents on each other. In effect, the *ex parte* rules were applied prospectively, although the opposition pleading was deficient as a petition to deny.

3. Considerations of fairness have thus led us to apply the *ex parte* rules prospectively on the basis of technically deficient pleadings, and we would expect this practice to continue. This being the case, it is clearly desirable for the lesser pleading standard to be specified by rule rather than by Commission orders in particular cases. It is important only that the rule be stated with clarity and precision: It must be clear when a pleading meeting the lesser standard has been filed, and the parties must have timely notice of its submission.

4. The proposed amendments are set out in the Appendix to this Order. We propose to amend Section 1.1203(b) to provide that: "Application proceedings are restricted as to interested persons from the day on which a petition to deny or a formal opposition is filed." The term "formal opposition" (the lesser pleading discussed above) would be defined as follows in Section 1.1201(h):

> (h) Formal opposition. A pleading opposing the grant of a particular application that meets the following requirements:
>
> (1) It must be unmistakably clear from the text of the pleading that petitioner is seeking denial of the application, and must specify a public interest ground for denial of the application. However, if this requirement is met, the validity or substantiality of that ground or the strength of the supporting evidence is irrelevant insofar as the *ex parte* rules are concerned.
>
> (2) It must be filed after the application is filed and prior to Commission action on the application.
>
> (3) It must be served by petitioner on the applicant and other parties to the proceeding.
>
> * * * * *

This liberal pleading standard nevertheless requires the petitioner to take a position against a particular application on a particular public interest ground and retains the essential element of service, by which the parties are put on notice (other requirements having been met) that the *ex parte* rules apply. The simple requirement that the petition be filed after the application is needed to protect against arguments that complaints or pleadings filed during the license term should trigger *ex parte* restrictions.[1] The formal opposition need not meet a number of the technical requirements for a petition to deny. On the other hand, it has no significance apart from the *ex parte* rules. Questions of standing and the right to participate as a party could still be presented only by filing a petition to deny. Apart from the *ex parte* rules, the person filing a formal opposition would be in the same position as one filing an informal objection.

5. Authority for issuance of the Notice is contained in §§ 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Pursuant to procedures set out in § 1.415 of the Rules and Regulations, 47 CFR 1.415, interested persons may file comments in this proceeding on or before November 19, 1979, and reply comments on or before December 4, 1979. Comments will be available for inspection in the Commission's Dockets Reference Room at its headquarters in Washington, D.C. All relevant and timely comments will be considered by the Commission prior to final action in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided the nature and source of such information, and the fact of the Commission's reliance on it, are noted in the Docket.

Formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and eleven copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted.

Federal Communications Commission.*

William J. Tricarico,

Secretary.

A. Part I of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 1.1201(h) is added to read as follows:

§ 1.1201 Definitions.

* * * * *

(h) *Formal opposition.* A pleading opposing the grant of a particular application that meets the following requirements:

(1) It must be unmistakably clear from the text of the pleading that petitioner is seeking denial of the application, and must specify a public interest ground for denial of the application. However, if this requirement is met, the validity or substantiality of that ground or the strength of the supporting evidence is irrelevant insofar as the *ex parte* rules are concerned.

(2) It must be filed after the application is filed and prior to Commission action on the application.

(3) It must be served by petitioner on the applicant and other parties to the proceeding.

Note.—This pleading standard determines only whether the *ex parte* rules will apply prior to designation for hearing. The pleading standard determining the rights of petitioner in other respects is set out in Section 309(d) of the Communications Act of 1934, as amended, 47 U.S.C. 309(d), which specifies the requirements for a petition to deny. The *ex parte* rules also apply if a petition to deny is filed.

2. Section 1.1203(b)(1) is revised to read as follows:

§ 1.1203 Restricted adjudicative proceedings.

* * * * *

(b) * * *

(1) Application proceedings are restricted as to interested persons from the day on which a petition to deny or a formal opposition is filed. (A petition to deny must meet the formal requirements specified in Section 309(d) of the Communications Act. The requirements for a formal opposition are specified in § 1.1201(h).) If the petition is denied, the proceeding is restricted until the order disposing of the petition is no longer subject to reconsideration by the Commission or to review by any court. If the proceedings is designated for hearing, Paragraph (a) of this section applies.

* * * * *

3. The first sentence of Section 1.1223(a) is revised to read as follows:

§ 1.1223 Presentations prohibited in restricted adjudicative proceedings prior to their designation for hearing.

(a) As provided in § 1.1203(b), certain application proceedings are "restricted" following the submission of a petition to deny or a formal opposition or public notice of the filing of a mutually exclusive application. * * *

* * * * *

B. In Part 73, Section 73.3587 is revised to read as follows:

§ 73.3587 Informal objections; formal oppositions.

(a) *Informal objection.* A pleading opposing the grant of any application for an instrument of authorization other than a license pursuant to a construction permit. Any person may file such an objection in letter form without extra copies, provided the objection is signed and is filed while the application is pending before the Commission. The limitation on pleadings and time for filing pleadings provided for in § 1.45 shall not be applicable to objections filed under this paragraph. The merits of matters raised will be considered prior to Commission action on the application.

(b) *Formal opposition.* A pleading opposing the grant of a particular application which meets the following requirements:

(1) It must be unmistakably clear from the text of the pleading that petitioner is

[1] The petition in *Max M. Leon, Inc., supra*, was filed well prior to the application it opposed.

*See attached Dissenting Statement of Commissioner Washburn.

V 44 0 C 1 6 7 9 UMI

seeking denial of the application, and must specify a public interest ground for denial of the application. However, if this requirement is met, the validity or substantiality of that ground or the strength of the supporting evidence is irrelevant insofar as the *ex parte* rules are concerned.

(2) It must be filed after the application is filed and prior to Commission action on the application.

(3) It must be served by petitioner on the applicant and other parties to the proceeding.

The Commission's ex parte rules (§§ 1.1201–1.1251 of this chapter) apply from the date that a formal opposition is filed. With this exception, the submission of a formal opposition has the same effect as the submission of an informal objection. See §§ 1.1201(h) and 1.1203(b)(1).

Dissenting Statement of Commissioner Abbott Washburn

Re Ex Parte Rules

I dissent in principle to the issuance of this Notice not because I question the usefulness of *ex parte* rules, but because this item proposes to extend those rules too far. Specifically, the majority here proposes to eliminate the "standing" requirement which is now required to trigger *ex parte* procedures. The unfortunate result is that pieces of paper, unsupported by interested parties, could stymie our processes and further isolate the Commissioners. Such insulation, while appropriate in situations where "parties in interest" are advocating particular views, is unnecessary here. This is one more example of an unfortunate trend toward isolation.

[FR Doc. 79-31601 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 15

[Gen. Docket No. 79-244; RM-3328; RM-2876; FCC 79-556]

Providing for the Operation of a TV Interface Device

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Commission institutes a proceeding in response to two petitions for rule making. This docket proposes to amend those rules governing equipments intended to utilize the home television receiver as a video display. Specifically, the proceeding will deal with the establishment of regulations which will provide for the operation of a TV interface device.

DATES: Comments must be received on or before November 19, 1979 and Reply Comments must be received on or before December 4, 1979.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert M. Bromery, Office of Science and Technology, (202) 632-7095.

Adopted: September 18, 1979.
Released: October 11, 1979.
By the Commission: Commissioners Lee and Quello absent; Commissioner Brown concurring.

In the matter of amendment of Part 15 of the Commission rules to provide for the operation of a TV Interface Device, Gen. Docket No. 79-244, RM 3328, RM 2876.

1. The Commission herewith institutes a proposed rule making proceeding to consider adoption of the rules contained in the Appendix to this Notice. By this docket we proposed to amend Part 15 of our rules and regulations [1] to revise those rules governing equipments intended to utilize the home television receiver as a video display.[2] Specifically, this proceeding will deal with the establishment of regulations which will provide for the operation of a TV interface device.[3]

2. This proceeding results from two petitions for Rule Making. One petition filed April 6, 1977 by the RCA Corporation (RM 2876)[4] and the other filed February 16, 1979 by Texas Instruments, Inc. (RM 3328).[5] A list of those parties filing comments and reply comments on these petitions are contained in the Appendix A to this Notice.

Regulatory Background

3. In 1972 the Commission amended its Rules to establish Subpart H of Part 15 governing Class I TV devices. The Commission's intent was to permit the marketing of equipment intended to utilize the home television receiver for a video display. By definition, a device that feeds a modulated signal to a TV receiver used as a display device is classified as a Class I TV device[6] in the Commission rules and must meet the applicable regulations (Part 15 Subpart H)[7] before it may be marketed. The definition of a Class I TV device has been construed not only to include the RF modulator, but also the circuitry intended to provide the video signals for the RF modulator. Thus, the Commission generally has applied the radiation interference limits set forth in § 15.419[8] not only to the radio frequency modulator but also to all circuits of the Class I TV device including the circuits which are the source of the video signal.

The Texas Instruments, Inc. (TI) Contention

4. In its petition for rule making, TI contends that the emanation limits set forth in § 15.419 can be met by RF modulators of good design but the increasing complexity of circuitry which provides the video input signal to the RF modulator has created situations in which compliance with § 15.419 for the video sources is not practical in commercial production. Typically, logic circuits and microprocessors employed in sophisticated electronic equipment generate radio frequency emissions in excess of the standard set forth in § 15.419. For simple machines, such as video electronic games, this requirement initially posed some difficulty. But, for the more sophisticated machines, such as today's personal computers,[9] the problem becomes more intense. The switching times employed in the home computer are often so fast that radiation in excess of that set forth in § 15.419 is emitted.

5. TI contends that § 15.419 imposes requirements which are inconsistent with the economics required to market a personal computer in volume, thereby, denying the equipment to the mass market consumer. Conventional techiques for minimizing radio frequency interference, such as shielding, do not provide an effective solution for this class of equipment. In addition to careful shielding, special treatment in required for all lines that transverse the shield.

[1] 47 CFR 15.1–15.423.

[2] The equipments designed to utilize the home television receiver as a video display include, but are not limited to, home computers, video tape recorders, electronic video games, and television cameras employed in closed circuit applications.

[3] A TV interface device (also referred to as a video RF modulator) is a radio frequency device which when connected to the home TV receiver permits it to be used as a display device for any source of video signal. The TV interface device may stand alone or may be built into combination with a video source and/or TV receiver.

[4] The RCA Corporation petition was put on public notice April 18, 1977 (Report 1039).

[5] The Texas Instruments, Inc. petition was put on public notice March 2, 1979 (Report 1166).

[6] A Class I TV device is defined in § 15.4(m) as follows: (m) *Class I TV device.* A restricted radiation device that produces on frequencies allocated for television broadcasting, an RF carrier modulated by a video signal and which feeds the modulated RF energy to the associated television receiver by conduction.

[7] 47 CFR 15.401–15.423.

[8] Section 15.419 provides that "the field strength of any electromagnetic energy radiated from the cabinet, control circuits and power leads of a Class I TV device (having its output terminated by a resistance equal to the rated output impedance) shall not exceed the field strength of 15 microvolts per meter at a distance of $\lambda/2\pi$ or at a distance of 1 meter, whichever is the larger distance."

[9] The term "personal computer" refers to a computer that is relatively low cost, mass produced for sale to the general public, and is intended for use in the home.

6. TI argues that the present rules in Part 15 were not written with the personal computer in mind and thus, they unduly limit the availability of this technology to the detriment of public interest. Because of the time and energy savings which these computers can produce, this technology should be offered to the widest cross section of the American public as possible.

7. TI contends that if compliance with § 15.419 for the personal computer were essential to prevent significant interference to radio services, then it would be appropriate to maintain the present technical standards for both the computer and the RF modulator. However, TI points out that a significant amount of data have been collected which demonstrates that a somewhat less stringent emission standard could be applied to the computer without significantly increasing its interference potential.

8. TI points qut that some manufacturers are marketing computers with a video monitor.[10] In this way, they avoid becoming subject to the Class I TV rules with its strict limits of radiation and requirements for type approval by the Commission as a prerequisite for marketing.[11] Using a video monitor alleviates the need to use the home TV receiver as a display device. TI maintains that this burdens the purchaser with an unnecessary cost of about $200–$400 and argues that this approach is not in the best interests of the consumer.

9. Other manufacturers who market computers, according to TI, instruct the purchaser to procure an RF modulator and use this modulator as an interface device between the computer and the purchaser's home TV receiver. This approach, TI argues, induces the user to buy and use a device in violation of the Commission's rules.

10. Thus when a manufacturer provides a video monitor as a display device, the purchaser is burdened with an extra cost of at least $200. If the manufacturer sells the computer without a video monitor display, he is in essence encouraging violation of the FCC rules by encouraging the vender to sell non-approved devices in violation of the Commission's marketing regulations. At the same time, the purchaser is encouraged to violate the FCC rules by using a non-approved device. Either course of action according to TI is contrary to the public interest. In contrast, TI has asked the Commission to revise its regulations and to permit the legal sale and use of a stand alone modulator.[12] The stand alone modulator could provide the consumer with greater flexibility in the use of his television receiver in order to utilize products which TI and, undoubtedly, other companies would offer.

Details of the Texas Instruments, Inc. Proposal

11. The TI petition calls for the establishment of a new equipment category known as the "Class II TV device." This device differs from the Class I device in that the video source is not contained within the device. Class II TV devices principally would be stand alone RF modulators. At a minimum, the devices would be required to meet the same output level restrictions set forth in present § 15.403 for Class I TV devices, and the same extraneous radiation limitations set fort in present § 15.419 for such equipment. In addition, Class II TV devices, would be required to incorporate circuitry to prevent automatically the operation of the device in such a way as to exceed the limitations set forth in present § 15.403, § 15.409, § 15.419, and § 15.421 of the Commission's Rules.[13] TI also proposes that the Class II TV device rules contain provisions which would permit marketing of a Class II TV device in an unassembled kit. Finally, the petition calls for the certification of equipment intended primarly to serve as the video source for Class II TV devices. In the case of personal computers, this would mean that a computer, primarily designed to supply a video input signal to a Class II TV device, would be required, according to TI's proposal, to be certificated as being in compliance with the following TI suggested limits prior to marketing:

(1) The field strength of electromagnetic energy radiated from the cabinet, control circuits and power leads of the video source used with a Class II TV device shall not exceed the following:

Frequency of Radiation	Measurement Distance (meters)	Radiation (in μV/m)
10 kHz–2400 kHz	30	[1] 24000
2.4 MHz–30 MHz	3	100
30 MHz–88 MHz	3	200
88 MHz–216 MHz	3	300
216 MHz–1000 MHz	3	[1] 300–1000

[1] Per f (kHz).
Linearly interplated.

(2) All emissions from a video source intended to be connected to the power lines of a public utility system shall not exceed the following:

Frequency Range (MHz)	Signal Level (μV)
0.1–0.45	2000
0.45–25	1000

RCA Corporation Petition

12. The RCA petition requests amendment of Part 15 of the Commission's rules to provide for a new category of restricted radiation devices that encompasses video disc players and video tape players and recorders. Since the video disc player and video tape players and recorders manufactured for use in the home contain an RF modulator that produces, on frequencies allocated for television broadcasting, a radio frequency carrier modulated by conduction, they are currently classified as Class I TV devices. Therefore, the video disc player, video tape player, and video tape recorder are subject to the technical limits and requirements for type approval of Part 15, Subpart H.

13. RCA submits that video disc players and video tape recorders are actually "systems" containing more than one restricted radiation device operating simultaneously and that the electronic circuits employed in these "systems" to obtain, process and transfer the video signal to the input of the RF modulator are in actuality separately distinguishable restricted radiation devices which are covered by other sections of Part 15.[14]

14. RCA believes that to regulate one portion of a system under rules intended and established for another portion of the same system is neither the intent of the current Part 15 Rules, nor a practical approach in the design, production, and operation of such systems.

15. RCA has developed a new product in the home entertainment field, named the "SelectaVision VideoDisc", that plays prerecorded video programs through an ordinary TV receiver. The VideoDisc system utilizes a combination of restricted radiation devices which are

[10] A video monitor is a device that accepts a video signal and displays that signal on a cathode ray tube. It differs from a TV receiver in that an RF carrier (TV channel) is not used, an RF tuning mechanism is not required and no local oscillator or IF strip is included in the monitor.

[11] 47 CFR 15.401–15.423.

[12] A stand-alone modulator (also referred to as a separate RF modulator) is a interface device that permits a home TV receiver to be used as a display device for any source of video signal.

[13] These rules prescribe the limits for output signal level, out of band conducted emissions, radiated emissions, and line conducted emissions for a Class I TV device which TI proposes be applied to its Class II TV device.

[14] 47 CFR 15.7 and 15.301–15. 323.

V 44 OC 16 79 UMI

currently regulated under various sections of Part 15. The devices are contained within the VideoDisc cabinet and are required for the proper functioning of the system. The individual devices include: A pick-up device (a field disturbance sensor under Subpart F, Part 15)[15] that reads pre-recorded information embedded on the surface of a rotating disc; a video sub-carrier generator (a restricted radiation device under § 15.7) that is used in the processing of the video information as it is transferred from the pick-up to the input of the RF modulator; and, an RF modulator (a Class I TV device under Subpart H, Part 15) that generates the RF carrier signals which are fed by direct connection to the antenna circuit of a TV receiver.

16. RCA believes that to make distinctions as to performance and RF emissions limitations, among various portions of a system which operate simultaneously unduly complicates the Commission's equipment approval process. Therefore, RCA feels that a rule making proceeding, looking toward producing the necessary regulations, is needed to provide for the operation of a self-contained video disc player or a video tape player and recorder, incorporating a combination of restricted radiation devices operating simultaneously.

17. The RCA petition proposes a new category of restricted radiation device which would be called "Class II TV devices" and would encompass video disc players and video tape players/recorders now included under Class I TV device category. The Class II TV device classification as proposed by RCA would be an extension of the Class I TV device concept. The rules applying to a Class II TV device would be the same as those currently in Subpart H Part 15 governing Class I TV devices with the exception of the radiated emission limitations and requirements for type approval. A Class II TV device, as proposed by RCA, would be required to be certificated prior to marketing and the level of radiated emissions from the device would be required to meet the current emission limitations established for each of the individual restricted radiation devices incorporated therein, with the greater level of permissible emission at a particular frequency, where more than one limit would apply, becoming the governing emission limitation for the Class II TV device at that frequency.

[15] 47 CFR 15.301–15.323.

Comments Received in Response to the Texas Instruments Petition

18. Analysis of the comments filed in response to Texas Instruments petition shows that nearly all were supportive of the idea of the Commission establishing a proceeding in which a comprehensive review of Part 15 rules as they apply to personal computers and other restricted radiation devices which are designed to be interconnected to the television receiver would be undertaken. However, Dash-Straus opposed the petition on the basis of what they call a very serious threat of interference from personal computers. They contend that several personal computers have already been approved under the current Class I TV devices rules which they believe are adequate. Therefore, they feel there should be no change in those rules.

19. Telecasters and Interact both oppose the adoption of the rules suggested by TI in its petition because they believe that the permitted levels of radiated emissions suggested by TI are too high for the home environment. In contrast, however, CBEMA was supportive of TI's approach to setting limits for personal computers. But CBEMA was unable to comment on the specific values proposed by TI for limits of radiated emissions without further studies being conducted in that area.

20. RCA was the only commenter who was fully supportive of the TI petition without some reservations about the rules proposed therein. Their main concern was that the Commission initiate a rulemaking proceeding at the earliest possible date taking into consideration both the similarities and differences of the TI petition and the RCA petition for rule making (RM 2876).

21. The only commenting party specifically addressing TI's proposal for a stand alone RF modulator was Atari. Atari states that TI in its petition claims that there is a recognizable and ever increasing need for RF modulators to be made separately available to the public. But, the logic regarding why that is so, however, is never developed by TI. Atari points out that TI's major argument is that such devices are available on the black market and to avoid having the public unwillingly violate the Commission's regulations, manufacturers should be able to lawfully market stand alone RF modulators. Atari submits that there is no persuasive justification for allowing RF modulators to be sold and regulated independently of their associated video sources, and that such a separation policy would not alleviate the interference problem plaguing personal computer technology. Atari contends that, in fact, the Commission must acknowledge that independently marketed RF modulators will function as a conduit for a potential multitude of harmfully interfering video sources aggravating the interference problem.

22. In another area, Atari claims that the potential for interference isn't limited to personal computers of the type proposed for marketing by TI which are to be interconnected to the home TV receiver. Atari contends that there is also a problem with those personal computers employing separate video monitors. Therefore, Atari submits that the Commission would be ill-advised to limit the rule making proceeding only to selected areas with which the TI proposal is concerned. Accordingly, Atari submits that it would be appropriate for the Commission to evaluate the interference potential of the entire personal computer model within the frame work of a rule making which TI requests the Commission to institute. Atari believes that with the personal computer meeting the requirements of § 15.7 and the modulator meeting the limits of § 15.419 the public's reception of radio and television signals would be sufficiently protected. However, although Atari believes the existing emission limits are reasonable, it supports the adoption of a Notice of Proposed Rule Making so that (1) the interference potential of personal computers can generally be explored, and (2) new rules may be promulgated to insure equivalent regulations of personal computers—both those that stand alone and those which are connected to a television receiver.

23. Atari questions TI's rationale for proposing the establishment of separate classes of television devices and subjecting them to different emission limits. If the existing RF interference specifications for Class I TV devices (§ 15.419) are reasonable for the RF modulator as proposed by TI in its proposal, Atari believes that the video source, i.e. the personal computer should not be governed by less stringent emission limits. In addition, Atari submits that TI's proposed certification for the video source and type approval for the RF modulator would be an ineffective manner in which to have adequate control over the interference problem. Atari perceives no logic in posing a less stringent authorization procedure on the equipment having the greatest interference potential.

24. Addressing specifically, certain sections of the current rules for Class I TV devices,[16] Atari submits that they should be reviewed and updated to eliminate inconsistencies which cause measurement difficulty and penalize some manufacturers. Atari submits that the 60 dB switch isolation requirement in § 15.407 [17] penalizes manufacturers whose equipment produces less than the maximum output signal allowable by § 15.405.[18] Citing an example, Atari states that if a Class I TN device has an output level of 3000 microvolts, the allowable signal level on the receiving antenna terminals of the transfer switch would be required to be 60 dB down or 3 microvolts. A different Class I TN device may have an output of 1,000 microvolts, with an acceptable signal 60 dB down being 1 microvolt. Thus, if the latter Class I TV device produced 2 microvolts instead of the presently permissable 1 microvolt, it would fail to satisfy the requirement of § 15.407 and yet would actually put less RF interference on the television antenna than the described Class I TV device with an output level of 3,000 microvolts. Atari believes that this problem could be corrected by imposing a specific maximum level at the receiving antenna terminals of the switch regardless of the output level of the device. Atari contends further that § 15.409, because of the same inconsistency, should be revised to specify a maximum level for out-of-band signals rather than the existing power ratio.

25. In its reply comments TI addressed the question of different Commission standards for the RF modulator and video sources as proposed in its petition. TI believes that unlike the video source the RF modulator should be subject to more exstringent standards because the device will be directly connected to the television receiver and, unlike personal computers, could be connected to the television receiving antenna which would become the transmitting antenna if the modulator were improperly designed. They state also that the modulator is designed to generate the frequency signal on the assigned video carrier of the television channel. Consequently, it raises a greater potential for co-channel or adjacent channel interference particularly in multiple unit dwellings where UHF signals may be routed over a distribution system after having been first converted to VHF signals. In short, there are differences between RF modulators and video sources which would warrant that the Rf modulators be subject to the most stringent standards reasonably possible.

[16] The rules section addressed by Atari, 47 CFR 15.407 and 15.409, are retained by TI in its proposal for a Class II TV device.

[17] § 15.407 requires that a Class I TV device be equipped with a transfer switch which provides for connecting the antenna terminals of the TV receiver selectively either to the receiving antenna or to the RF output of the Class I TV device. It also requires the switch provide at least 60 dB isolation between the Class I TV device and the receiving antenna.

[18] The maximum RF output signal permitted from a Class I TV device is 300 ohms or 3000 microvolts if the output impedance of the device is 75 ohms.

Comments received in response to the RCA Corporation petition

26. All of the parties commenting on the RCA petition were supportive and agreed that there is a need for new rules which recognizes the unique requirements of a video disc player or any other equipment which incorporates a combination of restricted radiation devices contained within the same cabinet and operating simultaneously. In addition, all parties agreed with RCA's proposal for certification rather than type approval which would permit production changes without the delays inherent in resubmitting equipment for Commission testing and approval.

Discussion

27. We find that both TI and RCA have demonstrated a sufficient public interest for their respective devices (TV stand alone RF modulator and video disc player) to merit issuance of a Notice of Proposed Rule Making at this time. In our analysis of these two petitions it was clearly evident that similarity in the two proposals dictated combining them in a single proceeding.

28. Although both TI and RCA petitions requested creation of a second classification of TV devices in our rules, the petitions differ in the type of equipment that would be subject to the rules promulgated under these classifications. We do not agree that a second classification of TV devices is the best approach to providing for the regulation, marketing, and operation of the types of equipment envisioned by these two petitioners. Over the past several years, the Commission has made a concerted effort to minimize the number of rules required to adequately regulate those areas under its jurisdiction. Two classifications and their associated rules would lead to confusion and complications which we feel is not in the best interest of either the manufacturer or the consumer. Therefore, we are proposing in this proceeding to replace the current Class I TV device rules with a single set of regulations which provides for the operation of all devices that feed RF signals into a TV receiver including a TV stand-alone RF modulator. We are calling such a device a TV interface device.[19] We believe that the TV interface device rules proposed herein are not only comprehensive enough to provide for the operation of the current Class I TV devices but also the equipments which are the subject of the TI and RCA petitions.

29. Both TI and RCA have requested that we recognize that our rules must provide enough flexibility to allow the operation of equipments which cannot always comply with a single set of rules and regulations. Under the current Class I TV rules there exists one set of requirements and limitations which had to be met by various devices although their design functions and needs for RF energy differed completely from one another. We agree with the petitioners and in the rules proposed in this proceeding we have endeavored to provide for maximum flexibility of equipment design for the manufacturer and operation for the consumer. However, this flexibility has been balanced by our intent to protect existing users of the radio spectrum.

30. In this proceeding, we recognize that most of the equipment produced today that uses the home TV receiver as a video display device, are actually systems composed of two or more restricted radiation devices which operate simultaneously to produce a video display from a variety of video originations, recording or playback techniques. Therefore, we are proposing rules which recognize the video display system and its three major components: the video source,[20] the TV interface device, the TV receiver. Not only does this approach provide for the greatest flexibility of design by recognizing the individual needs of each of the restricted radiation devices that compose the system, but it also reduces the requirement for additional rules by relying on existing rules to provide the needed regulatory safeguards. The TV receiver is currently regulated under Subpart C of Part 15 and the video source is regulated by other sections of Part 15 dealing with the specific type of device involved. Therefore, we need only to establish a single set of new

[19] We are defining a TV interface device as a device that produces a radio frequency carrier modulated by a video signal from a video source and which feeds the modulated radio frequency energy to the antenna terminals of a conventional television receiver by conduction. See § 15.4(o) of the appended proposed rules.

[20] We are defining a video source as a device which generates a video signal intended primarily to supply a video input signal to a TV interface device. Video sources may include, but are not limited to home computer, television cameras employed in closed circuit applications, video tape recorders, video disc players, and electronic video games. See § 15.4(n) of the appended proposed rules.

V 44 OC 16 79 9 UMI

rules dealing with the TV interface device with provisions for it to be marketed when constructed in combination with an associated video source or TV receiver.

31. However, we do not wish to ignore the contention raised by TI and commenting parties alike that data processing equipment is a video source not adequately covered by the existing Part 15 rules. TI has accordingly proposed technical requirements and certification for equipment intended primarily to serve as the video source for its proposed Class II TV device. The intent of this part of its proposal is to establish rules under which a computer can be connected to a TV receiver used as a video display. This item elicited more comments than any other proposal in the TI petition. Virtually, all of the parties who have commented in this proceeding voiced reservations regarding the technical specifications for the video source proposed by TI.

32. Nevertheless, we believe the question of rules and regulations pertaining to the personal computer as a video source is best addressed in a proceeding which has been seeking answers to the very issues raised by petitioner and commenters to this proceeding. Docket 20780 [21] was opened on April 14, 1976 and one of the items it addressed was the establishment of limits for the emanations from data processing equipment. In light of the large amount of data and comments filed in that proceeding, we do not find it necessary to initiate a new rulemaking addressing the same issues. Accordingly, we are treating the personal computer aspects of RM-3288 and the comments from Atari and others relating thereto in a separate action in a Report and Order in Docket 20780.

33. Although our proposed rules for a TV interface device are modelled after the current Class I TV rules several differences should be noted. We have proposed a design requirement, as TI suggested in its petition, to insure that the possibility of harmful interference is minimized if the device is misused by the consumer. Since in some cases the TV interface device will no longer have an associated video source, ample insurance must be built into the TV interface device to ensure that its emanations do not exceed the established limits under a variety of input signal levels. We are also providing for the marketing of a TV interface device in a unassembled kit.

34. We are also proposing higher limits for radiated emissions from the TV interface device than those established for Class I TV devices. Our experience with Class I TV devices over the years has shown that the original limits for these devices were overly restrictive and that higher limits would not prove harmful to television reception. Moreover, since the personal computer and the TV interface device share the same spatial relationship with the TV receiver, it would be appropriate for them to have the same limits.[22]

35. We agree with Atari that the current rules, specifically § 15.504 and § 15.507, pertaining to Class I TV devices do penalize those manufacturers whose devices produce less than the maximum allowed RF output. The rules appended to this document correct these inconsistencies and reduce the measurement difficulty by providing for a maximum level rather than a ratio.

36. In a letter to the Commission, Zenith Radio Corporation detailed plans to build an RF modulator into a TV receiver to provide a video input jack for the TV receiver which would permit display of various types of video signals generated in other devices. We have associated this letter with this proceeding because it demonstrates another video display device which was not provided for under the current Class I TV rules. We agree with Zenith that this is a logical use of a TV interface device to provide a much needed video input jack on the TV receiver. Therefore, we have made provisions for marketing a TV interface device which is built into a TV receiver. However, we do not believe that using the TV interface device in lieu of providing a direct access to the TV receiver video circuity is the best approach for furnishing a video input jack on a TV receiver. Our reservations regarding this approach is based on the fact that with the use of the TV interface device there is a requirement for the generation of an RF carrier with its potential of causing harmful interference. Nevertheless, we are willing to let Zenith and others test their idea in the marketplace. But we would strongly encourage all manufacturers who plan to provide a video input jack on their TV receiver to consider designing the receiver to provide direct access to the video circuitry.

37. Over the past seven years since the promulgation of the Class I TV rules, we have developed confidence in manufacturers' ability to produce equipment which can meet our technical requirements for this type of device and also their ability to accurately measure the equipment to determine if they comply with our rules. Therefore, as one more step in our effort to reduce regulatory burdens we are proposing certification in lieu of type approval. We feel that this will reduce the burden on manufacturers in such areas as design changes with its ensuing production delays because of the necessity of resubmission of equipment to the Commission. At the same time, we feel confident that certification will provide adequate regulatory protection that will insure that these devices do not become a source of harmful interference. In other words, we disagree with those commenters who contend that only through type approval can we ensure that these devices will not become a source of harmful interference. Finally, we are proposing a new Subpart I of Part 15 [23] containing a measurement procedure to be used in making measurements for certification of equipment governed by the rules proposed herein.

38. Notice is given of proposed rulemaking in this matter. Any interested person may participate in this proceeding by filing comments by November 19, 1979. Reply comments may be filed by December 4, 1979. Comments and reply comments may be addressed to the issues and proposals set forth in this Notice and to other issues as the participants believe are relevant and necessary to the resolution of these matters. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or writing indicating the nature and source of such information is placed in the public file and provided that the fact of the Commission's reliance on such information is noted in the Report & Order.

39. For further information concerning this Notice, contact Mr. Robert Bromery, FCC, Office of Science and Technology, Washington, DC 20554, telephone 202-632-7095. However, members of the public should note that from the time a Notice of Proposed Rulemaking is issued until the matter is no longer subject to the Commission consideration or court review, *ex parte* contacts made to members of the Federal Communications Commission in this proceeding must be disclosed in the public docket file. A summary of the Commission's procedure governing ex parte contacts in rulemaking [24] proceedings is available from the Commission's Consumer Assistance Office, FCC, Washington, DC 20554, (202) 632-2700.

40. Authority for the proposed amendments is contained in Sections 3, 4(i), and 301-303 of the Communications Act of 1934, as amended. Pursuant to § 1.415 of the Commission's rules, and original and five (5) copies of all comments, reply comments, and other pleadings and submissions shall be furnished to the Commission. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, DC.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

The following parties filed comments in response to the petition filed by Texas Instruments, Inc. (RM-3328).

Name/Organization and Acronym

1. James E. Henderson
2. Dash-Straus Associates—Dash-Straus
3. Interact Electronics, Inc.—Interact
4. RCA Corporation—RCA
5. Computer and Business Equipment Manufacturers Association—CBEMA
6. Atari, Inc.—Atari
7. Association of Maximum Service Telecasters, Inc.—Telecasters
8. Zenith Radio Corporation [1]—Zenith

The following parties filed comments in response to the petition filed by RCA Corporation (RM-2876).

1. The Consumer Electronics Group of the Electronics Industries Association
2. Zenith Radio Corporation
3. Magnavox Consumer Electronics Company

Appendix B

PART 15—RADIO FREQUENCY DEVICES

The following items are proposed amendments to Part 15 of Chapter I of Title 47 of the Code of Federal Regulations.

1. Section 15.7 is amended by changing the appended note to read as follows:

§ 15.7 General requirements for restricted radiation devices.

* * * * *

Note.—Radio receivers, cable television systems, TV interface devices, and low power communication devices are regulated elsewhere in this chapter and are not regulated by this section.

2. Section 15.4 paragraphs (q), (r), and (s) are added to read as follows:

§ 15.4 General definitions.

* * * * *

(q) *Video source.* A device which generates a video signal intended primarily to supply a video input signal to a TV interface device. Video sources may include, but are not limited to computers, television cameras employed in closed circuit applications, video tape recorders, video disc players, and electronic video games.

(r) *TV Interface Device.* A device that produces a radio frequency carrier modulated by a video signal from a video source and which feeds the modulated radio frequency energy to the antenna terminals of a conventional television receiver by conduction.

Note.—The TV interface device may be built into a video source, a television receiver, or it may stand alone as a separate piece of equipment. TV Interface devices do not include equipment used within a cable television system nor equipment producing signals at video base band frequencies.

(s) *TV Interface Device Kit.* Any number of electronic parts, usually provided with a schematic diagram of printed circuit board, which, when assembled in accordance with instructions, results in a TV interface device, even if additional parts of any type are required to complete assembly.

3. The present title, text, and table of contents of Subpart H is deleted in its entirety and is replaced with a new title, text, and table of contents to read as follows:

Subpart H—TV Interface Device

Sec.

15.601 Cross reference.
15.602 Conditions of operation.
15.603 Output signal level.
15.604 Transfer switch.
15.605 Output terminal conducted interference limits.
15.606 Radiation interference limits.
15.607 Line conducted interference limit.
15.608 General design requirement.
15.609 Certification required.
15.610 Certification with viedo source.
15.611 Certification of television receiver and TV interface device combination.
15.612 TV interface device kit.
15.613 Labelling requirement.
15.614 Interference from a TV interface device.

Authority: Secs. 3, 4(i), and 301-303 of the Communications Act of 1934, as amended.

Subpart H—TV Interface Device

§ 15.601 Cross reference.

The provisions of Subpart A, B, and I of this part and Subparts I, J and K of Part 2 of this chapter shall apply to a TV interface device operating under this subpart.

§ 15.602 Conditions of operation.

(a) TV interface devices shall operate in conjunction with a standard broadcast television receiver and the operation of such devices shall at all times comply with the requirements of this Subpart.

(b) The output signals of a TV interface device shall be transmitted to the TV receiver by means of a direct connection (either wires or coaxial cable) provided by the manufacturer of the TV interface device.

§ 15.603 Output signal level.

The voltage corresponding to the peak envelope power of the video modulated signal during maximum amplitude peaks across a resistance (R ohms) matching the rated output impedance of the device, shall not exceed $346.4\sqrt{R}$ microvolts. The peak envelope power of the sound modulated signal shall be at least 13 dB below that of the video modulated signal.

Note.—If R=300 ohms, the maximum RMS output voltage of the video carrier is 6,000 microvolts. If R=75 ohms, the maximum RMS output voltage of the video carrier is 3,000 microvolts.

§ 15.604 Transfer switch.

A TV interface device shall be equipped with a receiver transfer switch for connecting the antenna terminals of the TV receiver selectively either to the receiving antenna or to the radio frequency output of the TV interface device. In either position of the receiver transfer switch, the maximum voltage at the receiving antenna input terminals when terminated with a resistance (R ohms) matching the rated impedance of the antenna input of the switch, shall not exceed $0.346\sqrt{R}$ microvolts. The maximum voltage shall correspond to peak envelope power of the video modulated signal during maximum amplitude peaks.

§ 15.605 Output terminal conducted interference limits.

At any RF output terminal, the maximum voltage of any emission appearing on frequencies removed by more than 4.25 MHz below or 7.75 MHz above the video carrier frequency on which the TV interface device is operated shall not exceed $10.95\sqrt{R}$ microvolts when terminated with a resistance (R ohms) matching the rated

[21] Docket 20780: In the Matter of Amendment of Part 15 to redefine and clarify restricted radiation devices and low power communication devices. Notice of Proposed Rulemaking adopted April 14, 1976, released April 23, 1976, 41 FR 17938 (1976).

[22] The derivation and rationale for these proposed limits are presented in the Report & Order in Docket 20780 mentioned above.

[23] Subpart I of Part 15 was also proposed in General Docket 79-190 which was a Notice of Proposed Rule Making adopted to consider the amendment of Part 15 to provide for the operation of a wireless inflight entertainment system. The proposed Subpart I contained the applicable measurement procedures for certification of Wireless Inflight Entertainment Systems.

[24] See 63 FCC 2d 804 (1978) where the Commission set forth its interim policy.

[1] Although not filed in response to the reference petition, the Zenith Radio Corp. letter has been associated with this proceeding because it addresses a related subject.

V 44 0C 16 7 9 UMI

output impedance of the TV interface device.

§ 15.606 Radiation interference limits.

The field strength of any electromagnetic energy radiated from the cabinet, control circuitry and power leads of a TV interface device (having its output terminated by a resistance equal to the rated output impedance) shall not exceed the following limits:

Frequency (MHz)	Field Strength (μ V/m at 3 meters)
30-88	100
88-216	150
216-1000	200

Note.—The tighter limit shall apply at the edge between two frequency bands.

§ 15.607 Line conducted interference limits.

The RF voltage measured between each power line and ground at the power terminals of the TV interface device shall not exceed 250 microvolts at any frequency between 450 kHz and 30 MHz, inclusive, when measured in accordance with the procedure for measuring conducted voltages for such equipment in Subpart I of this part.

§ 15.608 General design requirements.

(a) A TV interface device shall incorporate circuitry to prevent automatically the devices emanations from exceeding the limits established in § 15.603, § 15.605, § 15.606, and § 15.607. These circuits shall be adequate enough to accomplish their function when the TV interface device is presented with video input signal levels in the range of one to ten volts. This requirement is not applicable to a TV interface device which incorporates a built-in video source and has no provisions for the connection of an external video source.

(b) The TV interface device must be so constructed that adjustments of any control accessible to the user will not cause operation in violation of the requirements of this Subpart.

§ 15.609 Certification required.

(a) A TV interface device shall be certificated pursuant to Subpart J of Part 2 of this chapter.

(b) To determine compliance with the technical requirements of this subpart all measurements shall be made in accordance with the applicable procedures set forth in Subpart I of this part.

§ 15.610 Certification with video source.

A television interface device which is constructed in combination with an associated video source (i.e. both devices located in the same cabinet) shall be certificated pursuant to Subpart J, Part 2 of this chapter under the following conditions:

(a) The individual restricted radiation devices incorporated therein shall meet the technical and operational requirements established for the individual restricted radiation devices.

(b) All measurments required to be reported under regulations governing the individual restricted radiation devices incorporated therein shall be reported for the frequency ranges, measurement conditions, and modes of operation that apply, respectively.

(c) A single application for certification shall be submitted. Required measurements should be made with all devices operating simultaneously and under the test conditions specified for the individual restricted radiation device incorporated therein.

(d) The radiated emissions from the combined devices shall conform to the emission limitations established for the individual restricted radiation devices incorporated therein, with the greater level of permissable emission at a particular frequency, where more than one limit would apply, becoming the governing emission limitation for the devices at that frequency. This provision is not applicable to television tuners.

§ 15.611 Certification of a TV receiver and TV interface device combination.

If a TV interface device is built into a television receiver, the request for certification of the TV interface device shall be included in the application for certification of the TV receiver. Measurements of the TV interface must be included to show compliance with the technical specifications in this subpart except for § 15.603 and § 15.605.

§ 15.612 TV interface device kit.

Any supplier of a TV interface device kit as defined by § 15.4(s) of this chapter shall comply with the following requirements:

(a) Assembly of one unit of a specific type shall be made in accordance with the instructions being supplied with the product being marketed. If all of the necessary components are not normally furnished with the kits, assembly shall be made using the recommended components.

(b) The measurement data required for certification shall be obtained for this unit and submitted with a certification application.

(c) A copy of the exact instructions which will be provided for assembly of the device shall be provided in addition to other material required by § 2.1033 of this chapter.

§ 15.613 Labelling requirements.

A TV interface device shall be identified pursuant to the requirements in § 2.925 et seq. of this chapter.

§ 15.614 Interference from a TV interface device.

(a) Operation of a TV Interface device is subject to the general conditions of operation set forth in § 15.3.

(b) The operator of a TV Interface device who is advised by the Commission that his device is causing harmful interference shall promptly stop operating the device and shall not resume its operation until the condition causing the harmful interference has been corrected.

4. A new Section I of Part 15 and index are added to read as follows:

Subpart I—Measurement Procedures

Sec.

15.701 Scope of this subpart.
15.702 Cross reference.

TV Interface Device

15.740 Application of procedure.
15.741 General test conditions.
15.742 Measurement of output signal level.
15.744 Measurement of output terminal conducted spurious emissions.
15.745 Measurement of transfer switch characteristics.
15.747 Measurement of field strength: Test configuration.
15.748 Measurement of field strength: Test equipment.
15.749 Measurement of field strength: Procedure.
15.750 Line conducted measurements.
15.751 Report of Measurements.

Authority: Secs. 3, 4(i) and 301-303 of the Communications Act of 1934, as amended.

Subpart I—Measurement Procedures

§ 15.701 Scope of this subpart.

This subpart sets forth procedures for measuring emanations from equipment governed by this part of the Commission's rules, where a measurement procedure is not specified for that equipment in other subparts.

§ 15.702 Cross reference.

The provisions of Subpart B of this part and Subpart J of Part 2 of this chapter shall apply to the measurement procedures described in this subpart.

TV Interface Device

§ 15.740 Application of procedure.

This procedure is to be used in testing TV interface Devices as defined in § 15.4(r). A TV interface device requires certification by the Commission, pursuant to § 15.609.

§ 15.741 General test conditions.

(a) All tests shall be performed with a video source connected. If the TV interface device is constructed in combination with an associated video source (i.e. both devices located in the same cabinet), that source shall be used for the tests. If the TV interface device does not have a built-in source of video signal, or has a provision for an external video source, it shall use the VIT multiburst TV test signal described in § 73.699 (a drawing of this signal is presented in Figure 13 of Page 73), applied continuously throughout the active picture field. If the TV interface device can operate from either internal or external sources, tests shall be run with the internal video source and then the external VIT source.

(b) Test shall be run with the level of the VIT signal at 1 volt and then at 10 volts.

(c) All unused RF terminals shall be terminated in their proper impedance during all measurements.

(d) If the TV interface device is capable of operating on more than one TV channel, then measurements of the output signal level, transfer switch characteristics, and output terminal conducted interference, shall be made for each channel.

§ 15.742 Measurement of output signal level.

(a) The measuring instrument shall be capable of measuring the level of the video modualted signal during maximum amplitude peaks. (Calibration will be in terms of the rms value of an equivalent sinusoid.) The VSWR at the measuring instrument when connected to the device shall be less than 1.5. The bandwidth of the measuring instrument shall be at least 100 kHz.

(b) If the RF output is to be fed to the TV receiver via coaxial cable, the signal level shall be measured by direct connection to the measuring instrument.

(c) If the RF output is fed to the TV receiver via "twin lead", the output shall be connected to a balanced RF voltmeter or to a balun, which in turn is connected to the measuring instrument. Connecting cables shall be kept as short as possible.

(d) The RF output signal level is construed to mean the highest RF level present at the output terminals during normal use of the TV interface device. Measurements shall be made of the levels of both the aural and visual carriers.

§ 15.744 Measurement of output terminal conducted spurious emissions.

(a) The measuring instrument shall have the characteristics described in § 15.742(a).

(b) If the RF output terminal is intended to be fed to the TV receiver via coaxial cable, measurements can be made by direct connection to the test instrument. If the output is fed via "twin lead", measurements are to be made through an appropriate balun with connecting cable kept as short as practical.

(c) The frequency range 30 MHz to 1000 MHz shall be investigated to locate significant emissions.

§ 15.745 Measurement of transfer switch characteristics.

(a) The measuring instrument shall have the characteristics described in § 15.742(a).

(b) Measurements shall be made of the maximum voltage at the antenna input terminals for all positions of the receiver transfer switch.

(c) If the antenna input terminal is to be connected to the antenna via coaxial cable, the signal level shall be measured by direct connection to the measuring instrument.

(d) The following procedure shall apply to the measurement of the signal level at the antenna input of the transfer switch if designed to use "twin lead".

(1) The TV interface device shall be supported so that the non-coaxial terminals are at a height between 75 and 150 centimeters above the ground.

(2) A section of balanced transmission line of the intended type, ¾ of a wavelength long at the signal frequency, shall be connected to the antenna input terminals of the switch and supported in a straight horizontal line from the TV interface device to the measuring equipment. There shall be a lateral clearance of at least 75 centimeters from any part of the line to any other object.

(3) The transmission line shall be connected to a balanced RF voltmeter or to a balun, which in turn is connected to the measuring instrument.

(4) Measurements of the signal level shall be made with the ¾ wavelength transmission line and with transmission lines of decreasing line length, in at least ten equal decrements (total of 11 measurements), to a length of ¼ wavelength.

(5) The signal level at the non-coaxial antenna input terminal of the transfer switch is taken to be the median of the values obtained in the measurements described in paragraph (d)(4) of this section.

§ 15.747 Measurement of field strength: Test configuration.

(a) Field strength measurements must be performed on an open field test site. A description of the test facility must be filed in accordance with § 15.38.

Note.—A Notice of Proposed Rule Making in FCC Docket No. 21371 was adopted by the Commission and released September 1, 1977, which proposed to expand the requirements for test sites. A test site used after the effective date of the new rules, if and when adopted, will be subject to the new regulations.

(b) The device (and accessories) shall be placed upon a rotatable nonconducting platform having the approximate dimensions of 75 centimeters by 100 centimeters, the top of which is 1 meter above the ground for equipment intended to be set on a table, or 45 centimeters above the ground for equipment intended to stand on the floor. The interface device should be connected to at least one of each type accessory provided by the manufacturer. Power and signal distribution interconnecting cable placement and accessory arrangement should simulate as near as possible the typical application and usage.

(c) The radiation from the TV interface device may be dependent upon the way accessories, remote controls, and the interconnecting cables are physically arranged on the table, and so several arrangements must be investigated to ensure that the maximum radiation is found.

(d) The distance between the measuring set antenna and the vertical axis of the turntable supporting the equipment under test (EUT) shall be 3 meters.

§ 15.748 Measurement of field strength: Test equipment.

(a) The level of radiated emissions shall be measured with a spectrum analyzer. The intermediate frequency (IF) bandwidth shall be at least 100 kHz for all measurements. Post detection filtering (i.e. video filtering) shall not be used. The signal level is considered to be the rms level of an unmodulated sine wave signal which produces a response corresponding to the peak of the emission observed on the spectrum analyzer.

(b) If the level of field strength measured with a conventional spectrum analyzer exceeds the prescribed limits, because of the broadband characteristics of a particular emission from the EUT, an instrument conforming to the American National Standard Specifications for Electromagnetic Interference and Field Strength Instrumentation 10 kHz to 1 GHz C63.2—1977, may be used. The CISPR quasi-peak detector shall be used in this instance.

(c) Measurements shall be made using a tuned calibrated dipole or a linearly polarized broadband antenna as the pickup device. A mast should be employed to allow variation of the

V 4 4 0 C 1 6 7 9 UMI

height above ground of the receiving antenna between 1 and 4 meters.

§ 15.749 Measurement of field strength: Procedure.

(a) The spectrum shall initially be searched from 30 MHz to at least 1000 MHz for emissions from the device under test. This search shall be made at a distance as close to the EUT as possible in order to increase the likelihood of detecting emissions.

(b) A measurement of field strength shall be made at 3 meters for each emission observed in the search discussed in paragraph (a) of this section which is likely to yield significant radiation. To find the maximum signal strength, the following steps must be taken:

(1) The test platform shall be rotated a full 360 degrees.

(2) The height of the receiving antenna shall be varied between 1 meter and 4 meters above ground.

(3) Measurements shall be made for both horizontal and vertical polarization of the receiving antenna.

(c) For the purpose of converting measured levels to field strengths in microvolts per meter (μV/m) the usual antenna calibration factors, which apply to field strength measurements at distances far from a source, shall be employed.

(d) All modes of operation on the interface device shall be investigated to find the maximum field strength.

§ 15.750 Line conducted measurements.

(a) Line conducted measurements shall be made with the equipment under test (EUT) connected to the power line through a line impedance stabilization network (LISN). The LISN provides a standard radio frequency (RF) impedance to the EUT and couples the conducted RF voltage to the measuring instrument. The LISN must be inserted in series with each current carrying conductor (including the neutral) in the line supplying power to the computing device, and in the lines of all the peripherals.

(b) Tests shall be performed using the procedure in IEEE Standard 213—1961, "Radio Interference: Methods of Measurement of Conducted Interference Output to the Power Line from FM and Television Broadcast Receivers in the range 300 kHz to 25 MHz with the exception that a 50 ohms-50 microhenry LISN shall be used in lieu of the LISN described in Standard 213." This procedure may be used for equipment other than broadcast receivers.

Note.—Consideration of the use of 50 ohms-50 microhenry line stabilization network in line conducted measurements is being addressed in another Commission proceeding which will deal with the procedures to be followed in measuring the emanations from computing devices.

(c) The TV interface device and its accessories shall be set up in a typical operating configuration. The test configuration shall include at least one of each type accessory provided by the manufacturer for use with the interface device.

(d) Measurements shall be made with instrumentation conforming to the requirements of American National Standard Specification for Electromagnetic Interference and Field Strength Instrumentation 10 kHz to 1 GHz C63.2—1977. Other instruments may be used for certain restricted or specialized measurements when correlation of data has been taken to establish the methods of conversion of data to that achieved with C63.2 instrumentation.

(e) Measurements are to be made over the frequency range 450 kHz to 30 MHz. If the AC power cord of the EUT has a third wire, providing for connection to ground, measurements shall be made with the third wire both grounded and ungrounded to the LISN.

(f) In cases where accessories have their own provisions for connection to AC power, the accessories shall be connected to the LISN by connecting their AC power cords in parallel with that of the interface device. Where there are provisions for connection to ground, measurements shall be made with all units sharing a common ground to the LISN, and all units simultaneously ungrounded from the LISN.

§ 15.751 Report of measurements.

(a) Measurements of output signal level shall be reported in microvolts (μV) or in dB above 1 V (dB/μV). The impedance at the output terminals at which this measurement was made shall also be specified. If a balun was used, the loss of the balun must be reported and accounted for.

(b) Measurements of output terminal conducted spurious emissions shall be reported in microvolts (μV) or in dB above 1 V (dB/μV). The frequency of the emission shall also be specified. If a balun was used, the loss of the balun must be reported and accounted for.

(c) The isolation is to be reported in microvolts (μV) or in dB above 1 V (dB/μV) for each channel frequency provided. The impedance at the antenna input terminals at which this measurement was made shall be specified.

(d) The following information is to be included in reporting the results of field strength measurements:

(1) Measurements of radiated field strength shall be reported in microvolts per meter (μV/m) measured at a distance of 3 meters. The data shall be presented in tabular form showing measured field strength versus frequency.

(2) The report shall state that the spectrum was searched from 30 MHz to 1000 MHz and that all emissions not reported were more than 20 dB below the prescribed limits.

(3) The instrumentation used and its settings shall be specified. The report shall indicate whether the results were obtained with the measuring instrument in the peak or quasi-peak mode.

(4) A discussion of how the equipment was arranged for the tests and what different configurations were investigated to maximize the emissions observed, must be included in the report.

(e) The following information is to be included in reporting the results of line conducted emissions measurements:

(1) The report shall indicate which LISN was used.

(2) Results shall be expressed in microvolts (μV) or in dB above 1 V (dB/μV) developed across the 50 ohm LISN port terminated into a 50 ohm measurement instrument. The data shall be reported in tabular or graphical form showing voltage level versus frequency.

(3) The report shall state that the spectrum was searched from 450 kHz to 30 MHz and that all emissions not reported were more than 20 dB below the limits.

[FR Doc. 79-31886 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 63

[CC Docket No. 78-72; FCC 79-515]

MTS and WATS Market Structure; Memorandum Opinion and Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time for the filing of comments on issues which may be designated to a Joint Board.

SUMMARY: This Memorandum Opinion and Order rules upon motions by the National Association of Regulatory Commissioners and the Southern Pacific Communications Company for extensions of time in which to file comments in CC Docket No. 78-72 (In the Matter of MTS and WATS Market Structure). Extensions are granted for the filing of comments and reply comments on the issues which may be designated for consideration by a Joint Board. No extension of the February 15, 1980 filing date is granted for the "industry model" comments which were requested in the Supplemental Notice of Inquiry and Proposed Rulemaking, 44 FR 50866 at 50875.

DATES: Comments which address the issues which may be designated to a Joint Board must be filed on or before December 14, 1979, and reply comments to those issues must be filed on or before January 15, 1980. MTS and WATS market structure comments must be received on or before February 15, 1980. Reply comments to the market structure comments must be filed on or before the 90th day after the deadline for the filing of responses to information requests.

ADDRESSES: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kent Nilsson, Common Carrier Bureau (202)632-9342.

SUPPLEMENTARY INFORMATION:

Adopted: October 2, 1979.

Released: October 4, 1979.

By the Chief, Common Carrier Bureau:

1. On September 25, 1979, the National Association of Regulatory Commissioners (NARUC) filed a "Motion For Extension Of Time" with the Secretary of the Federal Communications Commission, seeking an extension of the comment filing deadlines in CC Docket No. 78-72 from October 15, 1979 to January 14, 1980 for comments on issues which may be designated to a Joint Board and an extension in the filing date for the comments on an industry model in CC Docket No. 78-72 from February 15, 1980 to May 16, 1980. In its motion, NARUC noted its previous involvement in the development of separations procedures, its prior participation in this proceeding, its belief that NARUC's full participation in CC Docket No 78-72 is "important, not only to the NARUC's membership, but to all interested parties", and stated that it had not been possible to schedule a meeting of the NARUC Staff Subcommittee on Separations and Toll Rate Disparity until October 31, 1979.

2. On September 26, 1979, the Southern Pacific Communications Company (SPC) filed a motion seeking a sixty to ninety day extension of the October 15, 1979 date for filing comments on the issues which may be designated to a Joint Board. SPC stated that the issues contained in the Supplemental Notice of Inquiry in CC Docket No 78-72 (FCC 79-515, 44 FR 50866, August 30, 1979) are complex, and that "SPC finds it necessary at a bare minimum to analyze all the issues in a preliminary manner in order to derive its position on the appropriate role of a Joint Board". SPC did not, however, request an extension of the February 15, 1980 filing date for industry model comments.

3. The NARUC has been an important participant in many of the proceedings before this Commission, and its full participation in CC Docket No 78-72 may, as it has stated, not only be important to its membership but may also be important to other parties. In the light of the complexity of the issues which SPC has noted, the interrelationships among the issues in CC Docket No 78-72 and those which may be designated to a Joint Board, and the difficulty which NARUC has had in scheduling a meeting of the Staff Subcommittee on Separations and Toll Rate Disparity, a sixty day extension appears to be reasonable for the filing of comments on issues which may be designated to a Joint Board. However, since the initial Notice of Inquiry and Proposed Rulemaking in CC Docket No. 78-72 was released on March 3, 1978, nineteen months have elapsed. In addition, participants in this proceeding have had approximately seventeen months to consider the issues which they and other parties have raised in response to the first Notice of Inquiry and Proposed Rulemaking, and approximately five months have elapsed since the Supplemental Notice of Inquiry and Proposed Rulemaking in the Matter of MTS and WATS Market Structure ("Supplemental Notice") was discussed at a public meeting of the Commission on April 19, 1979. Moreover, the August 30, 1979 release date of the Supplemental Notice afforded participants five and one-half months to prepare their industry model comments. In light of the time which participants have had to reflect upon MTS and WATS market structure issues, the importance of those issues and timely resolution thereof, and the effects which continued uncertainty may have upon the allocation of resources within the MTS and WATS market, it would not appear to be desirable to extend the comment filing date of February 15, 1980. See Section 1.46(a) of the Federal Communications Commission's Rules and Regulations, 47 C.F.R. 1.46(a).

4. Accordingly IT IS ORDERED, pursuant to the authority delegated in § 0.303(c) of the Commission's rules and regulations 47 CFR 0.303(c), that the motions for extension of time to the dates specified in paragraph 47 of the Supplemental Notice of Inquiry and Proposed Rulemaking CC Docket No 78-72, 44 FR at 50875, ARE GRANTED TO THE EXTENT THAT interested parties may file comments on issues which may be designated to a Joint Board on or before December 14, 1979 and reply comments to those issues may be filed on or before January 15, 1980. The motions for extension of time by the NARUC and SPC are, in all other respects, DENIED.

Federal Communications Commission.

William Ginsberg,

Acting Chief, Common Carrier Bureau.

[FR Doc. 79-31662 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-178; RM-3160; RM-3357]

FM Broadcast Stations in Granbury and Burkburnett, Texas; Order Extending Time for Filing Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: Action taken herein extends the time for filing reply comments in a proceeding involving proposed FM channel assignments to Granbury, Texas, and Burkburnett, Texas. This action is taken in response to a motion filed by Granbury Radio Company.

DATE: Reply comments must be received on or before October 19, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jonathan David, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 3, 1979.

Released: October 9, 1979.

By the Chief, Broadcast Bureau:

1. The Commission has before it a motion requesting an extension of time for filing reply comments regarding the *Notice of Proposed Rulemaking* in the above-captioned matter, adopted July 18, 1979, 44 FR 44192, July 27, 1979. Granbury Radio Company requests that the date for filing reply comments be extended from October 6, to October 19, 1979.

2. Counsel states that the two-week delay is unavoidable due to prior travel plans. He notes that the additional time will permit him to review any comments filed and preparation of a reply thereto.

V 44 OC 16 79 UMI

3. In issuing the *Notice* proposing an FM assignment for Granbury, Texas, the Commission did not mention a pending petition, filed by Ted Hill, seeking the assignment of either Channel 292A or Channel 293 to Burkburnett, Texas, as its first FM assignment (RM-3357). Public Notice of the Commission's acceptance of this petition had been given on April 16, 1979, Report No. 1172. We are hereby joining this petition into this proceeding as a counterproposal because the Channel 293 proposal for Burkburnett, is mutually exclusive with the Channel 294 proposal for Granbury, Texas. The alternative proposal to assign Channel 292A to Burkburnett does not conflict. Since the Commission desires to consider comments on these proposals, we are granting additional time for filing reply comments.[1]

4. Accordingly, *it is ordered*, that the date for filing reply comments in BC Docket No. 79-178 is extended to and including October 19, 1979.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-31859 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[Docket No. 20735]

Changes in the Rules Relating to Noncommercial Educational FM Broadcast Stations; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: Action taken herein sets dates for filing comments and reply comments in a proceeding involving changes in the rules relating to noncommercial educational FM broadcast stations.

DATES: Comments must be filed on or before January 15, 1980, and reply comments must be filed on or before March 3, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gregory L. DePriest, Broadcast Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

In the matter of changes in the rules relating to noncommercial educational FM broadcast stations. Adopted: October 4, 1979; Released: October 9, 1979.

By the Chief, Broadcast Bureau:

1. On June 7, 1978, the Commission adopted a *Further Notice of Proposed Rule Making*, 43 FR 27682, in the above-captioned proceeding. Later the dates for filing comments and reply comments were extended in an *Order* released April 27, 1979, to October 15, and November 15, 1979, respectively, to provide an opportunity for parties to comment on a Report being prepared by the Office of Chief Scientist pertaining to television Channel 6 interference considerations.

2. On August 20, 1979, (44 FR 50380, August 28, 1979) the Commission, on its own motion, issued another *Order* extending the filing dates indefinitely because of a delay in the issuance of the above-mentioned Report. The *Order* stated that upon completion of the Report the Commission would set new filing dates.

3. The Office of Chief Scientist has now completed and issued its Laboratory Report [1] on educational FM interference to television Channel 6. The Commission, on its own motion, is therefore setting the dates by which parties may file comments and reply comments in this proceeding. Copies of the Laboratory Report can be obtained by sending a self-addressed label to "office of Science and Technology, Room 7008, Federal Communications Commission, Washington, D.C. 20554, Attention LAB79-01."

4. Accordingly IT IS ORDERED, that the dates for filing comments and reply comments in Docket No. 20735 ARE EXTENDED to and including January 15, and March 3, 1980, respectively.

5. This action is taken pursuant to authority contained in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-31848 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

---

[1] Since the Hill petition was filed before the comment period specified in the *Notice* expired, it is entitled to consideration as a counterproposal. Now that the comment period has expired, further counterproposals are not acceptable for filing. Thus, reply comments should deal exclusively with these two petitions and the issues they raise.

---

[1] FCC/OST LAB79-01 "Tests of TV Receivers for 'Just Perceptile' Interference to TV Channel 6 from Educational FM Signals."

---

47 CFR Part 73

[BC Docket No. 79-197; RM-3214]

FM Broadcast Station in Plainview, Texas; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving the proposed assignment of an FM channel to Plainview, Texas.

DATES: Comments must be filed on or before December 4, 1979, and reply comments must be filed on or before December 24, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTAL INFORMATION:

In the matter of amendment of § 73.202(b), Table of Assignments, FM broadcast stations; (Plainview, Texas). Adopted: October 4, 1979; Released: October 9, 1979.

By the Chief, Broadcast Bureau:

1. On August 6, 1979, the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 47964, in the above-entitled proceeding. The dates for filing comments and reply comments are October 5 and October 25, 1979, respectively.

2. On September 28, 1979, counsel for Panhandle Broadcasting, Inc., proponent in this proceeding, filed a request seeking the extension of time for filing comments and reply comments to and including December 4 and December 24, 1979, respectively. Counsel states that due to the hospitalization of the owner of Panhandle Broadcasting, Inc., and the change of management in Station KKYN, which is licensed to Panhandle, the additional engineering information relating to preclusion has not yet been assembled. Counsel indicates that an additional period of 60 days would permit it to prepare and file the material.

3. We are of the view that under these circumstances additional time is warranted. Providing this time will help assure development of a sound and comprehensive record on which to base a decision in this proceeding.

4. Accordingly, IT IS ORDERED, that the dates for filing comments and reply comments in Docket No. 79-197 ARE EXTENDED to and including December 4 and December 24, 1979, respectively.

5. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-31849 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 81

[PR Docket No. 79-68; RM-3127]

Specifying the Circumstances Under Which Class III-B Public Coast Stations May Be Exempted From the Watch Requirement on 156.8 MHz; Order Setting Reply Comment Date Concerning the United States Coast Guard Recommendation

AGENCY: Federal Communications Commission.

ACTION: Proposed rule (Order).

SUMMARY: The United States Coast Guard has recommended that the watch requirement on 156.8 MHz for public coast stations be eliminated. This action permits interested parties who have filed comments in PR Docket No. 79-68 to file reply comments concerning this recommendation.

DATE: Reply Comments must be received on or before October 25, 1979

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John C. K. Hays, Private Radio Bureau, (202) 632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: October 1, 1979.
Released: October 10, 1979.

In the matter of amendment of Part 81 of the Commission's rules to specify the circumstances under which Class III-B public coast stations may be exempted from the watch requirement on 156.8 MHz, PR Docket No. 79-68, RM-3127, *Order*, 44 FR 21831 April 12, 1979.

1. In response to the Notice of Proposed Rule Making issued in this proceeding, the Commission received comments from the United States Coast Guard (USCG) supporting, with modification, our proposal to exempt Class III-B public coast station from the watch requirement on 156.8 MHz if the station licensee can make a showing that the watch on 156.8 MHz is substantially provided over the service area of the coast station by U.S. Government stations having continuous hours of service. Subsequently, in General Docket No. 79-189, an Inquiry into High Seas Public Coast Station Operations, Services and Industry (71 FCC 2d 416 (1979), 44 FR 46493 (August 8, 1979)), the USCG filed comments recommending that the watch requirement for public coast stations be eliminated and that the rules be changed to permit this. Upon inquiry the Commission has learned that the position reflected in these comments is now the official position of the USCG in respect to public coast station watches including the 156.8 MHz watch for Class III-B public coast stations and, accordingly, will take them into consideration in reaching its decision in this proceeding, PR Docket No. 79-68. A copy of these comments is being placed in the public file in accordance with paragraph 7 of the Notice of Proposed Rule Making issued in this proceeding.

2. These comments are of great importance in view of the USCG's experience in handling distress communications and its responsibility in performing search and rescue missions. Moreover, Coast Guard stations would provide the duplicate Government coverage of 156.8 MHz upon which most exemptions from the watch requirement would be based. For these reasons, the Commission finds it in the public interest to permit those interested persons who have filed comments in this proceeding to file reply comments concerning the USCG's recommendation to eliminate the watch requirement on 156.8 MHz presently maintained by Class III-B public coast stations.

3. This action is taken pursuant to the authority contained in §§ 0.331 and 1.415 of the Commission's rules and interested persons may file reply comments concerning the USCG recommendation on or before October 25, 1979.

4. In accordance with the provisions of § 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments filed shall be furnished to the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

5. Regarding questions on matter covered in this document contact John C. K. Hays, Telephone (202) 632-7175.

Carlos V. Roberts,

Chief, Private Radio Bureau.

[FR Doc. 79-31860 Filed 10-15-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1036

[Ex Parte No. 252 (Sub-No. 4)]

Level of Incentive Per Diem Charges

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Interstate Commerce Commission proposes to amend its incentive per diem regulations to lower the level of incentive per diem (IPD) charges on plain boxcars and XF cars as has been done for gondolas. The Commission will also determines whether IPD should be placed on a year-round basis for plain boxcars as is the case for XF cars and gondolas.

DATES: Comments are due on or before November 5, 1979.

ADDRESSES: Comments should be marked "Ex Parte No. 252 (Sub-No. 4)" and should be sent to: Office of Proceedings, Room 5356, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Harvey Gobetz, (202) 275-7656.

SUPPLEMENTARY INFORMATION: In Ex Parte No. 252 (Sub-No. 2) *Incentive Per Diem Charges Gondolas* (decided May 15, 1979) (44 FR 29476, May 21, 1979) we found to be unnecessarily high the level of compensation produced by combining incentive per diem charges (IPD) and basic per diem charges increased by Ex Parte No. 334, *Car Service Compensation Basic Per Diem Charges*, 361 I.C.C. 189 (1979). Consequently, we reduced the level of IPD charges for gondolas. See 49 CFR 1036.2. In the wake of this action, and for the same reasons, we are proposing to reduce the level of IPD charges for plain boxcars and XF boxcars.

At the present time the combined rate of return on the net investment component is 17.94 percent for plain boxcars and 23.94 percent for XF boxcars. The proposed reduced charges to be codified at 49 CFR 1036.2 are in the appendix to this notice.

Those filing comments should address the proposed change in the level of IPD charges and whether the charges for XM boxcars should be restored to a year-round basis. Plain boxcar shortages appear to be persisting throughout the year.

This action does not significantly affect the quality of the human environment nor is it a major regulatory action under the Energy Policy and Conservation Act of 1975. This notice is

issued pursuant to the authority of 49 U.S.C. 10321 and 11122 (the Interstate Commerce Act) and 5 U.S.C. 553 and 559 (the Administrative Procedure Act).

Decided: September 25, 1979.

By the Commission. Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

James H. Bayne,
Acting Secretary.

Title 49 CFR is amended by revising § 1036.2 to read as follows:

Appendix

§ 1036.2 Amount of incentive charge.

The incentive hourly charges applicable in each cost bracket by age group are set forth below:

Amount of Incentive Hourly Charge Collectible on Unequipped Boxcars, XF Cars, and Gondolas

Cost bracket	0–5 years (cents)	6–10 years (cents)	11–15 years (cents)	16–20 years (cents)	21–25 years (cents)	26–30 years (cents)	Over 30 years (cents)
0 to $1,000	1	1	1	1	1	1	1
$1,001 to $3,000	2	1	1	1	1	1	1
$3,001 to $5,000	3	3	3	2	1	1	1
$5,001 to $7,000	5	5	3	3	2	2	1
$7,001 to $9,000	8	6	5	4	3	2	1
$9,001 to $11,000	9	7	6	5	3	2	1
$11,001 to $13,000	11	10	8	5	4	2	1
$13,001 to $15,000	12	11	9	7	5	3	2
$15,001 to $17,000	15	12	10	8	6	3	2
$17,001 to $19,000	16	14	10	9	6	4	2
$19,001 to $21,000	18	16	12	10	6	4	2
$21,001 to $23,000	20	17	13	10	6	4	2
$23,001 to $25,000	22	18	15	12	8	4	3
$25,001 to $27,000	23	20	16	13	8	5	3
$27,001 to $29,000	26	22	18	13	9	5	3
$29,001 to $31,000	28	23	18	15	9	5	3
$31,001 to $33,000	29	25	20	15	11	5	3
$33,001 to $35,000	31	27	21	17	11	6	3
$35,001 to $37,000	34	28	23	17	11	6	3
$37,001 to $39,000	34	29	24	18	12	6	4
$39,001 to $41,000	37	31	25	20	12	6	4

[FR Doc. 79-31846 Filed 10-15-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

Northwest Atlantic Ocean Fishery; Proposed Increased in Mesh Size

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Proposed rulemaking and request for comments.

SUMMARY: A single, minimum mesh size is proposed for trawl nets for foreign fishing vessels operating in the fishery conservation zone (FCZ) of the northwest Atlantic ocean fishery.

DATE: Written comments will be accepted until November 17, 1979.

ADDRESS: Comments should be submitted to: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Maritime Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930. Please mark "Comments on Foreign Fishing Regulations" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Mr. David Crestin, International Affairs Specialist, Northeast Region, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, Massachusetts 01930, Telephone: (617) 281–3600.

SUPPLEMENTARY INFORMATION: The foreign fishing regulations require vessels fishing with bottom trawls to use 60 millimeter (mm) or larger mesh, and permit use of 45 mm or larger mesh in off-bottom or pelagic trawls. The Northwest Atlantic Fisheries Organization (NAFO) and Canada have prohibited the use of nets smaller than 60 mm for all foreign trawls. There is sound justification for the United States to do likewise. The 45 mm trawls catch excessive amounts of young fish which are important to U.S. fishermen. A larger mesh will permit more young fish to escape and grow to a greater size before they are caught. Therefore, the minimum mesh size for all trawl nets used by foreign fishing vessels in the northwest Atlantic ocean fishery is proposed to be increased to 60 mm, effective January 1, 1980. This proposed amendment is consistent with all applicable preliminary fishery management plans (PMP's).

I have determined that this proposed amendment does not constitute a major federal action within the meaning of the National Environmental Policy Act of 1969, as amended. Therefore, no Environmental Assessment of Environmental Impact Statement is required. I have also determined that this action does not substantially or materially alter that portion of the foreign fishing regulations governing the northwest Atlantic ocean fishery and, therefore, does not require preparation of a regulatory analysis under Executive Order 12044.

Signed at Washington, D.C., this 10th day of October, 1979.

Winfred H. Meibohm,
Executive Director, National Marine Fisheries Service.

Authority: 16 U.S.C. 1801 *et seq.*

It is proposed to amend 50 CFR 611.50 by striking paragraphs (c) (1) and (2) and substituting the following:

§ 611.50 Northwest Atlantic Ocean Fishery.

* * * * *

(c) * * *

(1) No foreign fishing vessel may use a net having, in any part of the net, meshes of less than 60 millimeters (inside measure when wet after use).

Paragraphs (3) and (4) will be renumbered as (2) and (3), respectively.

[FR Doc. 79-31927 Filed 10-15-79; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 44, No. 201
Tuesday, October 16, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Meeting

Authority of Committee: The Pay Advisory Committee was established by the Council on Wage and Price Stability pursuant to Executive Order 12161 (44 FR 56663).

Time and Ploce of Meeting: The Pay Advisory Committee will meet on October 17, 22, and 29, 1979, at 10:00 a.m. The first meeting is to be held in Room 2008 of the New Executive Office Building, 726 Jackson Place NW., Washington, D.C. 20503. Each of these meetings may be recessed at 12:00 noon to be reconvened at 2:00 p.m. the same day and/or to be recessed at the end of the day to be reconvened the following day. More advance notice of the meetings was not possible because the dates could not be set until a substantial number of the members of the Committee were selected, and the date of the first meeting cannot be postponed because of the necessity for prompt consideration and resolution of the various issues before the Committee. Additional notice of these meetings is being given through a Council release to the general and trade press.

Purpose of Meetings: The purpose of these meetings is to enable the Committee to receive reports from Council staff, to develop procedures for the Committee; to consider recommendations to the Council with respect to possible modifications in the pay standards, the inflation assumption for evaluating cost-of-living adjustment clauses, the threshold for low-wage exemption, the treatment of increments and tandem relationships, and the appropriate adjustment for employee units not covered by cost-of-living adjustment clauses; and to discuss such other matters as may be raised relating to the anti-inflation program.

Public Participation: The meetings of the Pay Advisory Committee will be open to the public. Public attendance may be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Any interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Council, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

Additional Information: For additional information, please telephone the Office of Public Affairs at 456–6756.

Dated: October 12, 1979.

Sally Katzen,
Advisory Committee Management Officer.

[FR Doc. 79-32051 Filed 10-15-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

John L. Duntz, Jr.; Limited Exclusive Patent License Granted

Pursuant to the provisions of Part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on September 25, 1979, it granted to John L. Duntz, Jr., of Gulf Breeze, Florida, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Patent Number 3,877,287, issued April 15, 1975, entitled "Low Flow Gas or Liquid Calibrator", inventor, John L. Duntz, Jr.

Copies of the patent may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696–4005.

Dated: October 5, 1979.

James J. McHugh,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc. 79-31837 Filed 10-15-79; 8:45 am]

BILLING CODE 3810-71-M

Poly-Scientific Litton Systems; Limited Exclusive Patent License Granted

Pursuant to the provisions of part 746 of title 32, Code of Federal Regulations (41 FR 55711–55714, December 22, 1976), the Department of the Navy announces that on September 19, 1979, it granted to Poly-Scientific Litton Systems, a corporation of the State of Delaware, a revocable, nonassignable, limited exclusive license for a period of five years under Government-owned United States Number Patent Number 4,027,945, issued June 7, 1977, entitled "Optical Sliprings", inventor, Myren L. Iverson: and United States Patent Number 4,109,997, issued August 29, 1978, entitled "Optical Sliprings," inventor, Myren L. Iverson.

Copies of these patents may be obtained for fifty cents ($0.50) from the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

For further information concerning this notice, contact: Dr. A. C. Williams, Staff Patent Adviser, Office of Naval Research (Code 302), Ballston Tower No. 1, 800 North Quincy Street, Arlington, VA 22217, Telephone No. (202) 696–4005.

Dated: October 5, 1979.

James J. McHugh,
Captain, JAGC, U.S. Navy, Assistant Judge Advocate General (Civil Law).

[FR Doc. 79-31838 Filed 10-15-79; 8:45 am]

BILLING CODE 3810-71-M

Chief of Naval Operations Executive Panel Advisory Committee, Command, Control and Communications Sub-Panel; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), notice is hereby given that the Command, Control and Communications Sub-Panel of the Chief

V 4 4 0 C 1 6 7 9 UMI

of Naval Operations (CNO) Executive Panel Advisory Committee will meet on October 30–31, 1979, at Norfolk, Virginia. The session on October 30 will commence at 8:30 a.m. and terminate at 5:00 p.m. and the session on October 31 will commence at 8:20 a.m. and terminate at 3:15 p.m. All sessions of the meeting will be closed to the public.

The entire agenda for the meeting will consist of discussions of Atlantic Command Center functions and facilities, intelligence information collection and dissemination, and shipboard command, control and communications facilities. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Commander Robert B. Vosilus, USN, Executive Secretary of the CNO Executive Panel Advisory Committee, 2000 N. Beauregard Street, Room 392, Alexandria, VA 22311, telephone (703) 756–1205.

Dated: October 11, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-31383 Filed 10-15-79; 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Policy and Formula To Guide Allocation of Firm Electric Energy and System Reserve Energy From the Federal Columbia River Power System and Opportunities for Public Review and Written Comment

Correction

In FR Doc. 79–30804 appearing at page 57824 in the issue for Friday, October 5, 1979: on page 57830, second column, ninth line of the paragraph numbered 2, insert the following after "that": "customer's net requirement. All units".

BILLING CODE 1505-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-79-003; OFC Case No. 65003-9069-02-77]

Suwannee River Chemical Complex (Boiler No. N.B. 24382), Occidental Chemical Co.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On June 27, 1979, Occidental Chemical Company (Occidental) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify as existing a shop fabricated package boiler to be located at its Suwannee River Chemical Complex, White Springs, Florida pursuant to § 515.13 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule) issued by ERA on March 15, 1979 (44 F.R. 17464, March 21, 1979) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. § 8301 *et seq.* (FUA). FUA, which became effective May 8, 1979, imposes certain statutory prohibitions against the use of natural gas and petroleum by new major fuel burning installations (MFBI). The prohibitions that apply to a new MFBI do not apply to MFBI's that are classified as existing. The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with § 515.26 of the Revised Interim Rule, no public hearings will be held.

DATES: Written comments are due on or before November 6, 1979.

ADDRESSES: Ten copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA–FC–79–003 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT: William L. Webb (Office of Public Information) Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B–110, Washington, D.C. 20461, Phone (202) 634–2170.

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 3128, Washington, D.C. 20461, (202) 254–7814.

Robert L. Davies, Acting Assistant Administrator for Fuels Conversion, Department of Energy, 2000 M Street, NW., Room 3128–L, Washington, D.C. 20461, (202) 254–7442.

G. Randolph Comstock, Deputy Assistant General Counsel for Coal Regulations, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6G–087, Washington, D.C. 20585, (202) 252–2967.

SUPPLEMENTARY INFORMATION:

Occidental Chemical Company (Occidental) is a part of Hooker Chemical Company, a corporation organized under the laws of the State of California, and a wholly-owned subsidiary of Occidental Petroleum Corporation (OPC) also organized under the laws of California. Occidental mines phosphate rock from which it manufactures fertilizers and fertilizer intermediates including Superphosphoric Acid (SPA) in northern Florida near White Springs.

Occidental stated that due to its participation in a global agreement to buy and sell certain fertilizer materials between Occidental Petroleum Corporation and the Ministry of Foreign Trade of the U.S.S.R., it was necessary to expand the SPA production facilities in it's northern Florida operations including additions to the Suwannee River facility. That plant has been producing SPA since late 1978. Occidental uses this production to meet its contractual commitments to the Russians under their trade agreement.

Occidental makes SPA from upgraded phosphate ore by treating it with sulfuric acid. The resultant phosphoric acid is processed to achieve the desired concentration. Heat produced from burning sulfur during the production of sulfuric acid is used to generate steam used to concentrate the phosphoric acid. Occidental states that the gas fired package boiler is necessary to produce supplemental steam to balance the system when sufficient steam is not available from the sulfuric acid plants and existing base load boilers because of outages, emergencies, scheduled repairs or other reasons.

On June 1, 1979, at a conference of record pursuant to the Revised Interim Rule, Occidental and Wabash Power Equipment Company (Wabash) requested that this unit be automatically classified as "existing". In response to an issue raised by Occidental at that time, ERA, by letter dated June 13, 1979, advised Occidental and Wabash that the request for classification must be filed by Occidental, the ultimate user actually combusting fuel in the boiler.

On June 15, 1979, Occidental entered a lease purchase agreement with Wabash for the boiler identified as Boiler No. N.B. 24382. It is a shop-fabricated package boiler with 180 million BTU's/hour heat input capacity. It is designed and constructed to burn only gas or oil. Wabash initially purchased this boiler from the manufacturer under a purchase order dated December 16, 1976. It was completely constructed on January 16, 1978. Wabash arranged for the boiler to be moved to the manufacturer's storage area where it remained until after Occidental agreed to lease it. The unit is eligible for classification as "existing" under the criteria set forth in § 515.10 of the Revised Interim Rule because the contract for its construction or acquisition was signed prior to November 9, 1978. It is not autometically classified as "existing" under the provisions of § 515.12 of the Revised Interim Rule because it was neither shipped to the user prior to November 9, 1978 nor was it operational on or before May 8, 1979.

In accordance with the provisions of § 515.13, ERA will classify an eligible installation as existing if it is demonstrated to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or acquisition of the installation would result in a substantial financial penalty or a significant operational detriment.

Occidental supported its request for classification by providing evidence it believes will show that it would suffer both a substantial financial penalty and a significant operational detriment if Suwannee River Boiler No. N.B. 24382 were not classified as "existing".

Occidental has requested confidential treatment under § 515.31(h) of the Revised Interim Rule for certain information it has filed with its request on Schedules 1 and 2 of Form ERA–300B. The foregoing information is accordingly deleted from the evidentiary summary of Occidental's request that follows:

(a) *Substantial financial penalty*—Pursuant to § 515.13(a) of the Interim Rule, ERA will classify a facility as existing upon a satisfactory demonstration that at least 25 percent of the total projected cost of the project as of November 9, 1978, was expended in nonrecoverable outlays as of that date.

In response to the evidentiary requirements set forth in § 515.15(b)(1) Occidental provided the following information:

(i) Total projected project cost of the boiler facility as of 11/9/78 was: "confidential";

(ii) Total project expenditures for the boiler as of 11/9/78;

(iii) Total possible financial penalties that could be incurred by cancelling or terminating contracts for the project signed as of 11/9/78;

(iv) Total of recoverable expenditures for the boiler: "confidential";

(v) Total of the nonrecoverable outlays for the project: "confidential";

(vi) Occidental furnished information and financial cost data involved in the original purchase of the boiler by Wabash: "confidential";

(vii) Nonrecoverable outlays percent of total projected project cost as of 11/9/78.

(b) *Significant operational detriment*—Pursuant to § 515.13(b) of the Interim Rule, ERA will classify a facility as existing upon a satisfactory demonstration that a significant operational detriment would have been incurred if the installation had been cancelled, rescheduled, or modified to burn an alternate fuel or fuel mixture at 11/9/78.

Occidental's response in support of its request under this section is summarized as follows:

(1) The boiler unit was fully constructed on January 16, 1978, and is designed to burn only gas and oil. The unit was ready for operation on about September 16, 1979.

(2) Occidental did furnish an estimate of the potential impact of the loss of production that could not be rescheduled elsewhere. The estimate is claimed "confidential".

(3) Occidental stated that there would be no potential impact on employment or jobs lost, excluding those that may be absorbed elsewhere within the company.

(4) Occidental states that the anticipated annual capacity utilization factor of this boiler is estimated to be 17 percent.

ERA hereby invites all interested persons to submit written comments on this matter. The public file containing Occidental's request for classification, supporting materials and transcripts of the April 17th and June 20, 1979, conferences is available for inspection upon request at: ERA, Room 3128–L, 2000 M Street NW., Washington, D.C. 20461, Monday–Friday, 8:00 a.m.–4:30 p.m.

Issued in Washington, D.C. on October 9, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-31777 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Universal Inc.; Proposed Remedial Order

Pursuant to 10 C.F.R. § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Universal Incorporated of Luling, Texas. This Proposed Remedial Order charges Universal Incorporated with pricing violations in the amount of $324,401, connected with the sale of propane during the period July 1, 1973 through August 7, 1974 in the State of Texas.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 (214) 767–7745. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 205.193.

Issued in Dallas, Texas, on the 27th day of September 1979.

Wayne I. Tucker,

District Manager for Enforcement, Southwest District, Economic Regulatory Administration.

[FR Doc. 79-31779 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Imperial Refineries Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Imperial Refineries Corporation, P.O. Box 8440, St. Louis, Missouri 64132. This Proposed Remedial Order charges Imperial with pricing violations in the amount of $652,936.69, in sales of the motor gasoline, No. 1 fuel oil and propane during the time period October 1, 1973 through June 30, 1974, in the State of Missouri.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from William D. Miller, District Manager of Enforcement, 324 East 11th Street, Kansas City, Missouri 64106. Within 15 days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 C.F.R. Section 205.193.

V 44 O C 16 7 9 UMI

Issued in *Kansas City, Missouri*, on the *27th* day of *September* 1979.

William D. Miller,

District Manager, Central Enforcement District.

[FR Doc. 79-31919 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Counsel for Compliance

[Case No. 690R00104]

Adoption of Consent Order With Conoco Inc. as a Final Order

AGENCY: Department of Energy.

ACTION: Adoption of Proposed Consent Order as Final Order.

Pursuant to 10 CFR 205.199J, the Office of Special Counsel for Compliance (OSC) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes notice of its execution and solicits and considers public comments with respect to its terms. On July 3, 1979, DOE published Notice of a Consent Order which was executed between Conoco Inc. and DOE (44 FR 39017, July 3, 1979). With that Notice and in accordance with 10 CFR 205.199J(c) DOE invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. DOE has concluded that the Consent Order as executed between DOE and Conoco is an appropriate resolution of the Compliance proceedings described in the Notice published on July 3, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, October 16, 1979.

Issued in Washington, D.C., on the 28 day of September, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-31922 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Case No. 690R00101]

Adoption of Consent Order With Conoco Inc. as a Final Order

AGENCY: Department of Energy.

ACTION: Adoption of Proposed Consent Order as Final Order.

Pursuant to 10 CFR 205.199J, the Office of Special Counsel for Complaiance (OSC) of the Department of Energy (DOE) hereby gives notice of final action taken on a Consent Order. Under the terms of 10 CFR 205.199J(c), no Consent Order involving sums in excess of $500,000 shall become effective until DOE publishes notice of its execution and solicits and considers public comments with respect to its terms. On May 14, 1979, DOE published Notice of a Consent Order which was executed between Conoco Inc. and DOE (44 FR 28039, May 14, 1979). With that Notice and in accordance with 10 CFR 205.199J(c) DOE invited interested persons to comment on the Consent Order.

No comments were received with respect to the Consent Order. DOE has concluded that the Consent Order as executed between DOE and Conoco is an appropriate resolution of the Compliance proceedings described in the Notice published on May 14, 1979, and hereby gives notice that the Consent Order shall become effective as proposed, without modification, October 16, 1979.

Issued in Washington, D.C., on the 28th day of September, 1979.

Paul L. Bloom,

Special Counsel for Complaince.

[FR Doc. 79-31923 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Case No. REXMO1903]

Consent Order With Exxon Co., U.S.A.

AGENCY: Department of Energy

ACTION: Notice of Proposed Consent Order and Opportunity for Public Comment.

I. Introduction

Pursuant to 10 CFR Section 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Exxon Company, U.S.A. (Exxon) and the DOE on September 11, 1979. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and if appropriate, attempt to negotiate an alternative Consent Order.

II. The Consent Order

Exxon is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to DOE regulations.

During the period October 1973 through December 1976, Exxon made various errors in calculating the increased cost of motor gasoline which had been recouped through their Supply Department (Supply). The total amount of understated recovered costs from sale of motor gasoline by Supply was $5,628,750.

Exxon has completed corrective action by means of an appropriate "bank" adjustment to its EIA-14 to cover the $5,628,750 in understated recovered costs from sales of motor gasoline by Supply.

In resolution of the issue raised, DOE and Exxon executed a Consent Order on September 11, 1979, the significant terms of which are as follows:

1. In consideration of Exxon's actions regarding the aforementioned adjustments, DOE agrees that Exxon will be deemed to be presently in compliance with 10 CFR 212.83 and 212.126 regarding the facts set forth herein; and that it would not be in the public interest to take any additional remedial action against Exxon with respect to this matter. Provided, however, that DOE reserves the right to take further remedial action with respect to the aboved mentioned understatement of recoveries if DOE determines that any of the information used to compute the same is not in accordance with the aforementioned terms and conditions of this agreement, or with applicable DOE regulations or rulings. Provided further that should it be found that the adjustment described herein, when reflected in the reporting period to which it applies, and whether combined with other adjustments, would appear to result in overrecovery or overpricing violation, both parties reserve the right to take further action pertaining to the overrecovery or overpricing violation.

2. This Consent Order shall be a final order by the DOE having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.199B, 43 Fed. Reg. 1930 (January 13, 1978).

3. The provisons of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

III. Submission of Written Comments

Interested persons are invited to comment in writing to Mr. Bill Eaton, Deputy Director, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Street, Houston, Texas 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling (713) 226-5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Exxon Consent Order". All comments received by 4:30 p.m. CBT, on or before November 15, 1979, will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., September 28, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-31924 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TC80-10]

Alabama-Tennessee Natural Gas Co.; Tariff Filing

October 9, 1979.

Take notice that on October 1, 1979, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee) filed in Docket No. TC80-10 designated revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, pursuant to the requirements of Order No. 29 and Section 281.204 of the Commission's Regulations. Said section of the Regulations requires interstate pipelines to file no later than October 1, 1979, tariff sheets containing a curtailment plan and incorporating therein an index of high-priority and essential agricultural use entitlements of each of their customers. Alabama-Tennessee states that due to the vagaries of the postal service it was not able to file concurrently its Index of Entitlement nor report of the Data Verification Committee, which will be filed with the Commission immediately upon their receipt by Alabama-Tennessee.

The proposed tariff revisions, which are to become effective November 1, 1979, and designated as follows:

Second Revised Sheet No. 36-A
Second Revised Sheet No. 36-B
First Revised Sheet No. 36-C
First Revised Sheet No. 36-D
First Revised Sheet No. 36-E
Original Sheet No. 26-E-1.

Alabama-Tennessee alleges that the filing complies with the requirements of Order No. 29 with respect to the curtailment plan requirements of Section 401 of the Natural Gas Policy Act as it affects high priority and essential agricultural uses. Copies of this filing were served up on the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 and 1.10). All such petitions or protest must be filed on or before October 19, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31821 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP 80-2]

Alabama-Tennessee Natural Gas Co.; Proposed Changes in FERC Gas Tariff

October 10, 1979.

Take notice that on October 3, 1979, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), tendered for filing as part of its FPC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheets:

Thirty-First Revised Sheet No. 3-A
Fourth Revised Sheet No. 5
Fourth Revised Sheet No. 6
Fourth Revised Sheet No. 11
Third Revised Sheet No. 13-B
Fourth Revised Sheet No. 14

The increase in jurisdictional revenues to be provided by the revised rates would be $1,112,230, based upon the 12-month period ended August 31, 1979, as adjusted. Alabama-Tennessee states that the increased rates filed herewith are required to provide additional jurisdictional revenues sufficient to permit Alabama-Tennessee to recover its jurisdictional cost of service. Alabama-Tennessee states that the primary reason for this filing is to reflect in its rates, the costs associated with processing and transporting the supplementary gas authorized in Docket No. CP78-352, including the transportation charge of Tennessee Gas Pipeline Company.

Alabama-Tennessee states that this rate increase in in lieu of the filing which was suspended by order of January 31, 1979 in Docket No. RP79-20. Since Staff Counsel had filed pleadings in that proceeding to eliminate the costs included in that filing associated with facilities authorized in CP78-352, Alabama-Tennessee has proposed to withdraw the filing in RP79-20 and substitute the filing in this proceeding.

Because of the magnitude of the investment in the new CP78-352 facilities in relation to the previously existing plant, 50%, and an increase of 70% in the cost of service, other than the cost of purchased gas. Alabama-Tennessee states that in order to recoup these costs the proposed rates must be permitted to become effective promptly. As a consequence, Alabama-Tennessee requests a waiver of the Regulations to permit the increased rates to become effective October 4, 1979 after a one-day suspension.

Alabama-Tennessee states that copies of this filing have been served upon its customers and the State Commissions of Alabama, Mississippi, and Tennessee.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before October 25, 1979. Protests will be considered by the Commision in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31828 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-74]

Central Illinois Light Co.; Application

October 10, 1979.

Take notice that on September 26, 1979, Central Illinois Light Company (Applicant) filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $66 million in unsecured short-term notes and commercial paper. The securities are to have maturities of twelve months or less from the date of issuance, and, in any event, are to mature on or before December 31, 1981.

The short-term debt will be added to working capital for ultimate application toward the cost of gross additions to utility properties.

Any person desiring to be heard or to make any protests with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) on or before October 26, 1979. The

V 4 4 0 C 1 6 7 9 UMI

application is on file and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31827 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 93]

Columbia Gas Transmission Corp.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources, Division of Oil and Gas

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-21056/01341
2. 34-099-20361-0014
3. 108
4. Columbia Gas Transmission Corp
5. 7-11434 #1 G Domore
6.
7. Mahoning Co OH
8. 12.4 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp

1. 79-21057/03249
2. 34-157-21597-0014
3. 108
4. Appalachian Exploration Inc
5. Finley #1
6.
7. Tuscarawas OH
8. 15.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21058/03814
2. 34-119-23808-0014
3. 108
4. Desco Corporation
5. Susie Williams #4
6. Salem Township
7. Muskingum OH
8. 9.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp

1. 79-21059/04094
2. 34-075-21951-0014
3. 108
4. Oxford Oil Co
5. Zoro Smith #1
6.
7. Holmes OH
8. 6.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Trans Corp

1. 79-21060/04095
2. 34-075-21938-0014
3. 108
4. The Oxford Oil Co
5. James Campbell #1
6.
7. Holmes OH
8. 15.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Trans Corp

1. 79-21061/04096
2. 34-075-21285-0014
3. 108
4. The Oxford Oil Co
5. Patterson-Ridenbaugh #2
6.
7. Holmes OH
8. 2.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Trans Corp

1. 79-21062/04158
2. 34-127-23911-0014
3. 108
4. C J Warren Oil Company
5. Lewis/Peabody #1
6.
7. Perry OH
8. 1.5 million cubic feet
9. September 19, 1979
10. Foraker Gas Company

1. 79-21063/04159
2. 34-127-23918-0014
3. 108
4. C J Warren Oil Company
5. Nash #1
6.
7. Perry OH
8. .7 million cubic feet
9. September 19, 1979
10. Foraker Gas Company

1. 79-21064/04625
2. 34-007-20386-0014
3. 108
4. Layton Enterprises Inc
5. Smith & Wesson #5
6.
7. Ashtabula OH
8. 6.8 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

1. 79-21065/04632
2. 34-007-20388-0014
3. 108
4. Layton Enterprises Inc
5. Smith & Wesson #3
6.
7. Ashtabula OH
8. 6.8 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

1. 79-21066/05404
2. 34-169-21265-0014
3. 108
4. A W Yonne
5. John Lengacher 1-A
6. Wayne
7. Wayne OH
8. 2.2 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Co

1. 79-21067/05687
2. 34-059-21730-0014
3. 108
4. NRM Petroleum Corp
5. L & E Gibson #1
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21068/05688
2. 34-059-21728-0014
3. 108
4. NRM Petroleum Corp
5. Gray #2
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21069/05689
2. 34-059-21729-0014
3. 108
4. NRM Petroleum Corp
5. Gray #1
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21070/05690
2. 34-049-20404-0014
3. 108
4. NRM Corporation
5. Graham #1
6.
7. Mahoning OH
8. 15.0 million cubic feet
9. September 19, 1979
10. East Ohio GAs Co

1. 79-21071/05691
2. 34-059-21715-0014
3. 108
4. NRM Petroleum Corp
5. Kenworthy #1
6.
7. Guernsey OH
8. 2.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21072/05693
2. 34-059-21698-0014
3. 108
4. NRM Petroleum Corp
5. Kenworthy #2
6.
7. Guernsey OH
8. 12.0 million cubic feet
9. September 19, 1979
10. NRM Petroleum Corp

1. 79-21073/05693
2. 34-099-20403-0014
3. 108
4. NRM Petroleum Corp
5. Marshall #1
6.
7. Mahoning OH
8. 17.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21074/05694
2. 34-099-20430-0014
3. 108
4. NRM Petroleum Corp
5. W R Miller #1
6.
7. Mahoning OH
8. 12.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21075/05695
2. 34-099-20326-0014
3. 108
4. NRM Petroleum Corp
5. Troutman #1
6.
7. Mahoning OH
8. 13.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21076/05696
2. 34-099-20327-0014
3. 108
4. NRM Petroleum Corp
5. Ewing #1
6.
7. Mahoning OH
8. 7.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21077/05840
2. 34-073-20762-0014
3. 108
4. Quaker State Oil Refining Corp
5. Reedy #1 80085-1
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21078/05841
2. 34-073-21639-0014
3. 108
4. Quaker State Oil Refining Corp
5. Geiger #4 80066-4
6.
7. Hocking OH
8. .0 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21079/05842
2. 34-073-21611-0014
3. 108
4. Quaker State Oil Refining Corp
5. Geiger #3 80066-3
6.
7. Hocking OH
8. .7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21080/05843
2. 34-073-20866-0014
3. 108
4. Quaker State Oil Refining Corp
5. Geiger #1 80066-1
6.
7. Hocking OH
8. .7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21081/05844
2. 34-073-21594-0014
3. 108
4. Quaker State Oil Refining Corp
5. Shriner #3 80091-3
6.
7. Hocking OH
8. 2.7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21082/05845
2. 34-073-21601-0014
3. 108
4. Quaker State Oil Refining Corp
5. Shriner #2 80091-2
6.
7. Hocking OH
8. 2.7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21083/05846
2. 34-073-20757-0014
3. 108
4. Quaker State Oil Refining Corp
5. Shriner #1 80091-1
6.
7. Hocking OH
8. 2.7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21084/05847
2. 34-073-21518-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ucker #4 80064-4
6.
7. Hocking OH
8. 2.3 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21085/05848
2. 34-073-21119-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ucker #3 80064-3
6.
7. Hocking OH
8. 2.3 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21086/05849
2. 34-073-20761-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ucker #1 80064-1
6.
7. Hocking OH
8. 2.3 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21087/05850
2. 34-073-21256-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson-Holl #2 80089-2
6.
7. Hocking OH
8. 8.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21088/05851
2. 34-073-21235-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson-Holl #1 80089-1
6.
7. Hocking OH
8. 8.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21089/05852
2. 34-073-22118-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #13 80088-13
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21090/05853
2. 34-073-22116-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #12 80088-12
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21091/05854
2. 34-073-22117-0014-
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #11 80088-11
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21092/05855
2. 34-073-21802-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #10 80088-10
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21093/05856
2. 34-073-21791-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #9 80088-9
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21094/05857
2. 34-073-21723-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #8 80088-8
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21095/05858
2. 34-073-21705-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #7 80088-7
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21096/05859
2. 34-073-21603-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #4 80088-4
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company

1. 79-21097/05860

V 44 0C 16 79 UMI

2. 34-073-21580-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #3 80088-6
6.
7. Hocking OH
8. .4 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21098/05862
2. 34-073-21620-0014
3. 108
4. Quaker State Oil Refining Corp
5. Helber #2 80073-2
6.
7. Hocking OH
8. 1.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21099/05863
2. 34-073-20718-0014
3. 108
4. Quaker State Oil Refining Corp
5. Miller #1 80079-1
6.
7. Hocking OH
8. 3.1 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21100/05864
2. 34-073-21595-0014
3. 108
4. Quaker State Oil Refining Corp
5. Miller #2 80079-2
6.
7. Hocking OH
8. 3.1 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21101/05930
2. 34-073-21054-0014
3. 108
4. Quaker State Oil Refining Corp
5. F Nihiser #1 80082
6.
7. Hocking OH
8. 3.7 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21102/05931
2. 34-073-20640-0014
3. 108
4. Quaker State Oil Refining Corp
5. Amnah #1 80110-1
6
7. Hocking OH
8. 2.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21103/05932
2. 34-073-21691-0014
3. 108
4. Quaker State Oil Refining Corp
5. Amnah #2 80110-2
6.
7. Hocking OH
8. 2.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21104/05933
2. 34-073-20745-0014
3. 108
4. Quaker State Oil Refining Corp
5. Amnah #3 80110-3
6.
7. Hocking OH
8. 2.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21105/05934
2. 34-073-20663-0014
3. 108
4. Quaker State Oil Refining Corp
5. Helber #1 80073-1
6.
7. Hocking OH
8. 1.8 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21106/05935
2. 34-073-21607-0014
3. 108
4. Quaker State Oil Refining Corp
5. Souders #6 80092-6
6.
7. Hocking OH
8. 1.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21107/05936
2. 34-073-21609-0014
3. 108
4. Quaker State Oil Refining Corp
5. Souders #5 80092-5
6.
7. Hocking OH
8. 1.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21108/05937
2. 34-073-21606-0014
3. 108
4. Quaker State Oil Refining Corp
5. Souders #4 80092-4
6.
7. Hocking OH
8. 1.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21109/05938
2. 34-073-21383-0014
3. 108
4. Quaker State Oil Refining Corp
5. Souders #3 80092-3
6.
7. Hocking OH
8. 1.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21110/05939
2. 34-073-20966-0014
3. 108
4. Quaker State Oil Refining Corp
5. Souders #1 80092-1
6.
7. Hocking OH
8. 1.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21111/05940
2. 34-073-21608-0014
3. 108
4. Quaker State Oil Refining Corp
5. Congrove #3 80117
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21112/05941
2. 34-073-20951-0014
3. 108
4. Quaker State Oil Refining Corp
5. Congrove #1 80114-1
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21113/05942
2. 34-073-21010-0014
3. 108
4. Quaker State Oil Refining Corp
5. Goss-Huston #1 80070
6.
7. Hocking OH
8. 3.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21114/05944
2. 34-073-21262-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bebout-Holl #1 80112
6.
7. Hocking OH
8. .4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21115/05945
2. 34-073-21602-0014
3. 108
4. Quaker State Oil Refining Corp
5. Wilkins #2 80096-2
6.
7. Hocking OH
8. 1.8 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21116/05946
2. 34-073-20609-0014
3. 108
4. Quaker State Oil Refining Corp
5. Wilkins #1 80096-1
6.
7. Hocking OH
8. 1.8 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21117/05947
2. 34-073-21707-0014
3. 108
4. Quaker State Oil Refining Corp
5. R Brown #2-A 80048-2
6.
7. Hocking OH
8. 4.4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21118/05948
2. 34-073-21321-0014
3. 108
4. Quaker State Oil Refining Corp
5. R Brown #1-A 80048-1
6.
7. Hocking OH
8. 4.4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21119/05949
2. 34-073-21746-0014
3. 108
4. Quaker State Oil Refining Corp
5. Smith #3 80093-3
6.

7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21120/05950
2. 34-073-21708-0014
3. 108
4. Quaker State Oil Refining Corp
5. Smith #2 80093-2
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21121/05951
2. 34-073-20580-0014
3. 108
4. Quaker State Oil Refining Corp
5. Smith #1 80093-1
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21122/05952
2. 34-073-21761-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ghent Hutchison #5 80074-5
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21123/05953
2. 34-073-21587-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ghent Hutchinson #4 80074-4
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21124/05954
2. 34-073-21577-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ghent Hutchison #3 80074-3
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21125/05955
2. 34-073-20591-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ghent Hutchison #1 80074-1
6.
7. Hocking OH
8. 1.3 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21126/05956
2. 34-073-21585-0014
3. 108
4. Quaker State Oil Refining Corp
5. H Starner #3 80094-3
6.
7. Hocking OH
8. 3.0 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21127/05957
2. 34-073-21578-0014
3. 108
4. Quaker State Oil Refining Corp
5. H Starner #2 80094-2
6.
7. Hocking OH
8. 3.0 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21128/05958
2. 34-073-20636-0014
3. 108
4. Quaker State Oil Refining Corp
5. H Starner #1 80094-1
6.
7. Hocking OH
8. 3.0 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21129/05959
2. 34-073-21621-0014
3. 108
4. Quaker State Oil Refining Corp
5. Poling #3 80084-3
6.
7. Hocking OH
8. 1.5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21130/05960
2. 34-073-21597-0014
3. 108
4. Quaker State Oil Refining Corp
5. Poling #2 80084-2
6.
7. Hocking OH
8. 1.5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21131/05961
2. 34-073-20646-0014
3. 108
4. Quaker State Oil Refining Corp
5. Poling #1 80084-1
6.
7. Hocking OH
8. 1.5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21132/05962
2. 34-073-21089-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #2 80088-2
6.
7. Hocking OH
8. .4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21133/05963
2. 34-073-20628-0014
3. 108
4. Quaker State Oil Refining Corp
5. Robertson #1 80088-1
6.
7. Hocking OH
8. .4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21134/05964
2. 34-073-22072-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #6 80111-6
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21135/05965
2. 34-073-22073-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #5 80111-5
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21136/05966
2. 34-073-21664-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #4 80111-4
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21137/05967
2. 34-073-21623-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #3 80111-3
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21138/05968
2. 34-073-21624-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #2 80111-2
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21139/05969
2. 34-073-20572-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bartholomew #1 80111-1
6.
7. Hocking OH
8. .5 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21140/05970
2. 34-073-20681-0014
3. 108
4. Quaker State Oil Refining Corp
5. G Mathias #2 80078-2
6.
7. Hocking OH
8. .4 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21141/05971
2. 34-073-21875-0014
3. 108
4. Quaker State Oil Refining Corp
5. Beougher #6 80103-6
6.
7. Hocking, OH
8. .6 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21142/06117

2. 34-111-00241-0014
3. 108
4. Shaffer-Nelson
5. C A Howiler #1 241-A
6. Appalachian
7. Monroe Seneca Twn, Oh
8. 1.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission
1. 79-21143/06118
2. 34-111-01041-0014
3. 108
4. Shaffer-Nelson
5. C A Howiler #2 1041-A
6. Appalachian
7. Monroe Seneca Twn, OH
8. 1.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission
1. 79-21144/06121
2. 34-111-01043-0014
3. 108
4. Shaffer-Nelson
5. John R Stephens # 1043A
6. Appalachian
7. Monroe, OH
8. 1.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission
1. 79-21145/006461
2. 34-119-24736
3. 103
4 Williston Oil & Development Corp
5. W & M Dingey #2
6.
7. Muskingum, OH
8. 14.6 Million Cubic Feet
9. September 19, 1979
10.
1. 79-21146/06463
2. 34-007-21016-0014
3. 103
4. Chanse Petroleum Corporation
5. Judith B Watson #1
6.
7. Ashtabula, OH
8. 12.0 Million Cubic Feet
9. September 19, 1979
10.
1. 79-21147/06466
2. 34-155-21249-0014
3. 103
4 Gasearch Inc
5. #1 Whitfield-Simeone
6
7. Trumbull, OH
8. 100.0 Million Cubic Feet
9. September 19, 1979
10. East Ohio Gas Company
1. 79-21148/06467
2. 34-155-21242-0014
3. 103
4 Pioneer Oil Company
5. #1 Tyron
6.
7. Trumbull, OH
8. 100.0 Million Cubic Feet
9. September 19, 1979
10. East Ohio Gas Company
1. 79-21149/05972
2 34-073-21116-0014
3. 108
4. Quaker State Oil Refining Corp
5. Beougher #4 80103-4
6.
7. Hocking, OH
8. .6 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21150/05973
2. 34-073-21076-0014
3. 108
4. Quaker State Oil Refining Corp
5. Beougher #8 0103-3
6.
7. Hocking, OH
8. .6 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21151/05974
2. 34-073-20995-0014
3. 108
4. Quaker State Oil Refining Corp
5. Beougher #2 80103-2
6.
7. Hocking, OH
8. .6 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21152/05975
2. 34-073-21110-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ellinger #2 80065-2
6.
7. Hocking, OH
8. 2.2 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21153/05976
2. 34-073-20876-0014
3. 108
4. Quaker State Oil Refining Corp
5. Ellinger #1 80065-1
6.
7. Hocking, OH
8. 2.2 million cubic feet
9. September 19, 1979
10. Hocking Gas Company
1. 79-21154/05977
2. 34-073-21603-0014
3. 108
4. Quaker State Oil Refining Corp
5. Gisinger # 80068-2
6.
7. Hocking, OH
8. .7 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21155/05978
2. 34-073-21141-0014
3. 108
4. Quaker State Oil Refining Corp
5. Gisinger #1 80068-4
6.
7. Hocking, OH
8. .7 Million Cubic Feet
9. September 19, 1979
10. Hocking Gas Co
1. 79-21156/05983
2. 34-073-21271-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bowers #2 80054-2
6.
7. Hocking, OH
8. 10.8 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21157/05984
2. 34-073-21300-0014
3. 108
4. Quaker State Oil Refining Corp
5. Dougherty #3 80057-3
6.
7. Hocking, OH
8. 2.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21158/05985
2. 34-073-21248-0014
3. 108
4. Quaker State Oil Refining Corp
5. Dougherty 80057-2
6.
7. Hocking, OH
8. 2.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21159/05986
2. 34-073-21370-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bowers #3 80054-3
6.
7. Hocking, OH
8. 10.8 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21160/05987
2. 34-127-23154-0014
3. 108
4. Quaker State Oil Refining Corp
5. Rose Forquer #1 80164-1
6.
7. Perry, OH
8. 1.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21161/05988
2. 34-127-23691-0014
3. 108
4. Quaker State Oil Refining Corp
5. Rose Forquer #2 80164-2
6.
7. Perry, OH
8. 1.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21162/05989
2. 34-127-23766-0014
3. 108
4. Quaker State Oil Refining Corp
5. Rose Forquer #3 80164-3
6.
7. Perry, OH
8. 1.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21163/05990
2. 34-127-23734-0014
3. 108
4. Quaker State Oil Refining Corp
5. Rose Forquer #4 80164-4
6.
7. Perry, OH
8. 1.2 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21164/05991
2. 34-073-21569-0014
3. 108
4. Quaker State Oil Refining Corp
5. Wayne Griffith 1-T-1 80102
6.

7. Hocking, OH
8. .7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21165/05992
2. 34-045-20512-0014
3. 108
4. Quaker State Oil Refining Corp
5. Scholl 1-A 80001
6.
7. Fairfield, OH
8. 1.5 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21166/05993
2. 34-115-21157-0014
3. 108
4. Quaker State Oil Refining Corp
5. Timberman #1 80025-1
6.
7. Morgan, OH
8. 13.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21167/05994
2. 34-115-21321-0014
3. 108
4. Quaker State Oil Refining Corp
5. Timberman #2 80025-2
6.
7. Morgan, OH
8. 13.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21168/05995
2. 34-115-21323-0014
3. 108
4. Quaker State Oil Refining Corp
5. Timberman #3 80025-3
6.
7. Morgan, OH
8. 13.7 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21169/05996
2. 34-073-21453-0014
3. 108
4. Quaker State Oil Refining Corp
5. Dougherty-Carborundum #1 80059
6.
7. Hocking, OH
8. 9.5 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21170/05997
2. 34-073-21472-0014
3. 108
4. Quaker State Oil Refining Corp
5. Girl Scout #1 80053
6.
7. Hocking, OH
8. 1.5 Million Cubic Feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1.79-21171/05998
2. 34-1073-21436-0014
3. 108
4. Quaker State Oil Refining Corp
5. Hankinson #1 80100
6.
7. Hocking OH
8. 1.8 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21172/05999
2. 34-073-20032-0014
3. 108
4. Quaker State Oil Refining Corp
5. Kachelmacher #1 80101
6.
7. Hocking OH
8. 12.4 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Crop
1. 79-21173/06000
2. 34-119-23551-0014
3. 108
4. Cappetro Inc
5. J M Tignor No 1 Cappetro No 0501
6.
7. Muskingum OH
8. 13.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas
1. 79-21174/06019
2. 34-127-22566-0014
3. 108
4. Quaker State Oil Refining Corp
5. Adcock 1-T-2 80147-1
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas CO
1. 79-21175/06020
2. 34-127-23233-0014
3. 108
4. Quaker State Oil Refining Corp
5. Stanley Fink #1 80143
6.
7. Perry OH
8. .4 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21176/06021
2. 34-127-22873-0014
3. 108
4. Quaker State Oil Refining Corp
5. Wagner #1 80173-1
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21177/06022
2. 34-127-24084-0014
3. 108
4. Quaker State Oil Refining Corp
5. Wagner #2 80173-2
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21178/06024
2. 34-127-22906-0014
3. 108
4. Quaker State Oil Refining Corp
5. Josiah Brown #4 80152-4
6.
7. Perry OH
8. .1 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21179/06025
2. 34-127-23146-0014
3. 108
4. Quaker State Oil Refining Corp
5. Josiah Brown #6 80152-6
6.
7. Perry OH
8. .1 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21180/06026
2. 34-127-22890-0014
3. 108
4. Quaker State Oil Refining Corp
5. Josiah Brown #3 80152-3
6.
7. Perry OH
8. .1 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21181/06027
2. 34-127-23144-0014
3. 108
4. Quaker State Oil Refining Corp
5. Adcock 3-T-4 80149-3
6.
7. Perry OH
8. 1.1 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21182/06028
2. 34-127-22684-0014
3. 108
4. Quaker State Oil Refining Corp
5. Adcock 1-T-4 80149-1
6.
7. Perry OH
8. 1.1 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21183/06029
2. 34-127-22940-0014
3. 108
4. Quaker State Oil Refining Corp
5. Adcock 2-T-3 80148-2
6.
7. Perry OH
8. .7 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21184/06030
2. 34-127-23145-0014
3. 108
4. Quaker State Oil Refining Corp
5. Adcock 2-T-2 80147-2
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21185/06041
2. 34-127-23089-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #14 80167-14
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co
1. 79-21186/06040
2. 34-127-23090-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #11 80167-11
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

V 44 NO 201 10 16 79 UMI

1. 79-21187/06039
2. 34-127-23086-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #10 80167-10
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21188/06038
2. 34-127-23087-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #9 80167-9
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21189/06037
2. 34-127-23064-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #7 80167-7
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21190/06036
2. 34-127-23062-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #6 80167-6
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21191/06035
2. 34-127-22896-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #5 80167-5
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21192/06034
2. 34-127-457-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #4 80167-4
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21193/06033
2. 34-127-22401-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #2 80167-2
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21194/06032
2. 34-127-349-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #1 80167-1
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21195/06031
2. 34-127-22952-0014
3. 108
4. Quaker State Oil Refining Corp
5. Chester Ketcham #2 80157-2
6.
7. Perry OH
8. .2 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21196/06042
2. 34-127-23072-0014
3. 108
4. Quaker State Oil Refining Corp
5. Lewis #17 80167-17
6.
7. Perry OH
8. .5 million cubic feet
9. September 19, 1979
10. Foraker Gas Co

1. 79-21197/06107
2. 34-119-23604-0014
3. 108
4. Tiger Oil Inc
5. Rolland Ford #1
6.
7. Muskingum, OH
8. 4.6 million cubic feet
9. September 19, 1979
10. Columbia Gas Co

1. 79-21198/06472
2. 34-089-20613-0014
3. 103
4. Altheirs Oil Inc
5. Paul Dannemiller #1
6. Rushcreek TWP
7. Licking OH
8. 5.5 million cubic feet
9. September 19, 1979
10. National Oil and Gas Co

1. 79-21199/06482
2. 34-127-24300-0014
3. 103
4. Oxford Oil Co
5. Lester C Wilson #1
6.
7. Perry OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21200/06483
2. 34-119-24725-0014
3. 103
4. Oxford Oil Co
5. Leo J. Paul #1
6.
7. Muskingum, OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21201/06485
2. 34-089-23596-0014
3. 103
4. Oxford Oil Co
5. Generva Morgan #2
6.
7. Licking OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21202/06486
2. 34-157-23345-0014
3. 103
4. Orion Energy Corp
5. Glenn Garber #1
6.
7. Tuscarawas OH
8. 25.0 million cubic feet
9. September 19, 1979
10.

1. 79-21203/06487
2. 34-115-21839-0014
3. 103
4. Mnuteman Exploration Company
5. G L & F M Fox #1
6.
7. Morgan OH
8. 27.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co

1. 79-21204/06487
2. 34-167-24661-0014
3. 103
4. Trend Exploration LTD
5. Eva Showalter #2
6. Coolville
7. Washington County OH
8. 48.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission

1. 79-21205/06488
2. 34-167-24509-0014
3. 103
4. Trend Exploration Ltd
5. W Virginia Pulp and Paper Co #1
6. Coolville
7. Washington OH
8. 66.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission

1. 79-21206/06489
2. 34-083-22617-0014
3. 103
4. Richard C Meyer
5. Harrison Butler No 1
6. Bladensburg-West
7. Knox OH
8. 15.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp

1. 79-21207/06490
2. 34-007-21128-0014
3. 103
4. Clarence K Tussel Jr
5. A Vecchio #1
6.
7. Ashtabula OH
8. 30.0 million cubic feet
9. September 19, 1979
10. J & L Steel Co

1. 79-21208/06491
2. 34-031-23250-0014
3. 103
4. Bill D Vaught DBA Vaught Oil Co
5. Robert A Williamson #2A
6.
7. Coshocton OH
8. 1.5 million cubic feet
9. September 19, 1979
10.

1. 79-21209/06492
2. 34-167-24448-0014
3. 103
4. Whipple Run Oil & Gas Corp
5. Cook #3
6.
7. Washington OH
8. 36.5 million cubic feet
9. September 19, 1979
10.

1. 79-21210/06493
2. 34-167-24446-0014
3. 103
4. Whipple Run Oil & Gas Corp
5. Cook #4
6.
7. Washington OH
8. 36.5 million cubic feet
9. September 19, 1979
10.

1. 79-21211/06494
2. 34-115-21786-0014
3. 103
4. The Benatty Corporation
5. J Rush #1
6.
7. Morgan, OH
8. 23.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

1. 79-21212/06499
2. 34-169-22190-0014
3. 103
4. H E Rupp
5. Lemon #2
6.
7. Wayne OH
8. 250.0 million cubic feet
9. September 19, 1979
10.

1. 79-21213/06500
2. 34-083-22616-0014
3. 103
4. Richard C Meyer
5. Jack C Oney No 1
6. Martinsburg
7. Knox OH
8. 12.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp

1. 79-21214/06501
2. 34-115-21807-0014
3. 103
4. Temple Oil & Gas Co
5. John Deavers #1
6.
7. Morgan OH
8. 8.0 million cubic feet
9. September 19, 1979
10.

1. 79-21215/06502
2. 34-119-24414-0014
3. 103
4. Temple Oil & Gas Co
5. Arden Pennington #1
6.
7. Muskingum OH
8. 10.0 million cubic feet
9. September 19, 1979
10.

1. 79-21216/06503
2. 34-169-22126-0014
3. 103
4. Orrville Products Inc
5. Hostetler No 1
6.
7. Wayne OH
8. 26.0 million cubic feet
9. September 19, 1979
10. The East Ohio Gas Co

1. 79-21217/06504
2. 34-059-22541-0014
3. 103
4. Tiger Oil Inc
5. Mary Slasor #1
6.
7. Guernsey OH
8. 15.0 million cubic feet
9. September 19, 1979
10. East Ohio

1. 79-21218/06510
2. 34-157-23361-0014
3. 103
4. Orion Energy Corp
5. North American Refractories #1
6.
7. Tuscarawas OH
8. 20.0 million cubic feet
9. September 19, 1979
10.

1. 79-21219/06511
2. 34-075-22148-0014
3. 103
4. Ohio Natural Fuel Co
5. Welter/Cheek #1
6.
7. Holmes OH
8. 19.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp

1. 79-21220/06512
2. 34-075-22162-0014
3. 103
4. The Oxford Oil Co
5. Clarence Snyder Unit #1
6.
7. Homes OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21221/06513
2. 34-119-24784-0014
3. 103
4. The Oxford Oil Co
5. John Graham #3
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21222/06514
2. 34-031-23528-0014
3. 103
4. The Oxford Oil Co
5. Clifford Daliere #1
6.
7. Coshocton OH
8. 10.0 million cubic feet
9. September 19, 1979
10.

1. 79-21223/06515
2. 34-119-24270-0014
3. 103
4. The Oxford Oil Co
5. Robert E Chahey #4
6.
7. Muskingum OH
8. 9.0 million cubic feet
9. September 19, 1979
10.

1. 79-21224/06516
2. 34-119-24653-0014
3. 103
4. The Clinton Oil Company
5. Marcus Toth #2
6.
7. Muskingum OH
8. 15.0 million cubic feet
9. September 19, 1979
10.

1. 79-21225/06517
2. 34-031-23421-0014
3. 103
4. The Clinton Oil Company
5. Peabody Coal #1
6.
7. Coshocton OH
8. 20.0 million cubic feet
9. September 19, 1979
10.

1. 79-21226/06518
2. 34-009-19710-0014
3. 103
4. R Wolfe Oil & Gas
5. Burgess #1
6.
7. Athens OH
8. 4.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Company

1. 79-21227/06519
2. 34-169-22124-0014
3. 103
4. Kenoil
5. Thomas Savage #1
6.
7. Wayne OH
8. .0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission

1. 79-21228/06521
2. 34-133-21274-0014
3. 103
4. Jud Noble and Associates Inc
5. Grudosky #2
6.
7. Portage OH
8. 20.0 million cubic feet
9. September 19, 1979
10. American Energy Services Inc

1. 79-21229/06522
2. 34-133-21911-0014
3. 103
4. Jud Noble and Associates Inc
5. Hanna Hills #3
6.
7. Portage OH
8. .0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

1. 79-21230/06523
2. 34-133-21913-0014
3. 103
4. Jud Noble and Associates Inc
5. Ekama #1
6.
7. Portage OH
8. 20.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

1. 79-21231/06524
2. 34-133-21924-0014
3. 103
4. Jud Noble and Associates Inc
5. Ekama #2
6.
7. Portage, OH
8. 20.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Company

V 44 OC 16 79 UMI

1. 79-21232/06525
2. 34-151-23025-0014
3. 103
4. Belden & Blake and Co L P No 71
5. K & H Zellers #3-889
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 19, 1979
10.
1. 79-21233/06256
2. 34-151-23031-0014
3. 103
4. Belden & Blake and Co L P No 71
5. A & D Young #1-888
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 19, 1979
10.
1. 79-21234/06527
2. 34-075-22205-0014
3. 103
4. B T Simpson Jr
5. Raymond Kopack #1
6. Nashville
7. Holmes, OH
8. 50.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21235/06528
2. 34-075-22206-0014
3. 103
4. B T Simpson Jr
5. Larry Alexander #2
6. Nashville
7. Holmes, OH
8. 50.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21236/06529
2. 34-133-21959-0014
3. 103
4. Viking Resources Corporation
5. Harley-Dickey #1
6.
7. Portage, OH
8. 30.0 million cubic feet
9. September 19, 1979
10.
1. 79-21237/06530
2. 34-133-21944-0014
3. 103
4. Viking Resources Corporation
5. Harley-Dickey #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. September 19, 1979
10.
1. 79-21238/06531
2. 34-133-21938-0014
3. 103
4. Viking Resources Corporation
5. J Harley #2
6.
7. Portage, OH
8. 30.0 million cubic feet
9. September 19, 1979
10.
1. 79-21239/06532
2. 34-133-21872-0014
3. 103
4. Viking Resources Corporation
5. Mildred Kays Gollan #3
6.
7. Portage, OH
8. 30.0 million cubic feet
9. September 19, 1979
10.
1. 79-21240/06533
2. 34-153-20676-0014
3. 103
4. K S T Oil & Gas Co Inc
5. Powell-Heller #4
6.
7. Summit, OH
8. 72.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co
1. 79-21241/06534
2. 34-153-20717-0014
3. 103
4. K S T Oil & Gas Co Inc
5. Powell-Heller #3A
6.
7. Summit, OH
8. 72.0 million cubic feet
9. September 19, 1979
10. East Ohio Gas Co
1. 79-21242/06535
2. 34-105-21827-0014
3. 103
4. Thomas W George
5. Grandville Wamsley #5
6.
7. Meigs OH
8. 8.0 million cubic feet
9. September 19, 1979
10.
1. 79-21243/06536
2. 34-151-23038-0014
3. 103
4. Amtex Oil and Gas Inc
5. Stahr Well No 1
6.
7. Stark, OH
8. 250.0 million cubic feet
9. September 19, 1979
10.
1. 79-21244/06537
2. 34-151-23037-0014
3. 103
4. Amtex Oil and Gas Inc
5. Stahr Well No 2
6.
7. Stark, OH
8. 250.0 million cubic feet
9. September 19, 1979
10.
1. 79-21245/06546
2. 34-115-23671-0014
3. 103
4. Temple Oil & Gas Co
5. William J Goode #2
6.
7. Morgan, OH
8. 9.0 million cubic feet
9. September 19, 1979
10.
1. 79-21246/06547
2. 34-119-24757-0014
3. 103
4. Temple Oil & Gas Co
5. Jerry L Miller #2
6.
7. Muskingum, OH
8. 10.0 million cubic feet
9. September 19, 1979
10.
1. 79-21247/06548
2. 34-111-21895-0014
3. 103
4. Clearfork Oil Co
5. Clyde Weckbacher #1
6.
7. Monroe, OH
8. 73.0 million cubic feet
9. September 19, 1979
10. Columbia Gas Transmission Corp
1. 79-21248/06561
2. 34-151-23042-0014
3. 103
4. Belden & Blake and Co L P No 71
5. Springwood Lake #1-896
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 19, 1979
10.
1. 79-21249/06562
2. 34-157-23359-0014
3. 103
4. Belden & Blake and Co L P No 71
5. T & M Dawson Comm #1-894
6.
7. Tuscarawas, OH
8. 36.5 million cubic feet
9. September 19, 1979
10.
1. 79-21250/06563
2. 34-151-23032-0014
3. 103
4. Belden & Blake and Co L P No 71
5. United Methodist Church Comm #1-890
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 19, 1979
10.
1. 79-21251/06564
2. 34-119-24552-0014
3. 103
4. Leader Equities Inc
5. Howard Castor #1
6.
7. Muskingum, OH
8. 36.0 million cubic feet
9. September 19, 1979
10. National Petroleum Corp
1. 79-21252/06569
2. 34-157-23246-0014
3. 103
4. William N Tipka
5. Helmick #2
6.
7. Tuscarawas, OH
8. .0 million cubic feet
9. September 19, 1979
10.
1. 79-21253/06571
2. 34-007-21107-0014
3. 103
4. Nucorp Energy Co
5. Spurlock Well #1
6.
7. Ashtabula County, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21254/06572
2. 34-007-21106-0014
3. 103
4. Nucorp Energy Co
5. Spurlock Well #2
6.
7. Ashtabula County, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21255/06573
2. 34-007-21105-0014
3. 103
4. Nucorp Energy Co
5. Nagy Well #1
6.
7. Ashtabula County, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21256/06574
2. 34-007-21110-0014
3. 103
4. Nucorp Energy Co
5. Nagy Well #2
6.
7. Ashtabula County, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21257/06575
2. 34-007-21109-0014
3. 103
4. Nucorp Energy Co
5. Olin Well #1
6.
7. Ashtabula County, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21258/06578
2. 34-059-22572-0014
3. 103
4. B & B Enterprises
5. F and W Moore #1
6.
7. Guernsey, OH
8. 25.0 million cubic feet
9. September 19, 1979
10.
1. 79-21261/06581
2. 34-167-24625-0014
3. 103
4. Page P Blakemore
5. James & Joann Corbett #1
6. Grandview Township
7. Washington, OH
8. 20.0 million cubic feet
9. September 19, 1979
10.
1. 79-21262/06582
2. 34-167-24366-0014
3. 103
4. Page P Blakemore
5. Alloway #2
6. Grandview
7. Washington, OH
8. 19.0 million cubic feet
9. September 19, 1979
10.
1. 79-21264/06588
2. 34-167-24559-0014
3. 103
4. Page P Blakemore
5. Lucille Tetzel #2
6. Grandview Township
7. Washington, OH
8. 18.0 million cubic feet
9. September 19, 1979
10.
1. 79-21259/06579
2. 34-167-24711-0014
3. 103
4. Page P Blakemore
5. Cooper #2
6. Grandview
7. Washington, OH
8. 28.0 million cubic feet
9. September 19, 1979
10.
1. 79-21260/06580
2. 34-167-24624-0014
3. 103
4. Page P Blakemore
5. Corbett #3
6. Grandview
7. Washington, OH
8. 24.6 million cubic feet
9. September 19, 1979
10.
1. 79-21263/06583
2. 34-167-24689-0014
3. 103
4. Page P Blakemore
5. Miller Heirs #1-A
6. Grandview
7. Washington, OH
8. 23.0 million cubic feet
9. September 19, 1979
10.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 31, 1979. Please reference the FERC Control Number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-31820 Filed 10-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-2]

Consolidated Edison Company of New York, Inc.; Filing of Proposed Initial Rate Schedule

October 10, 9179.

The filing Company submits the following:

Take notice that on October 1, 1979, Consolidated Edison Company of New York (Con Edison) tendered for filing, an initial rate schedule, copies of a transmission agreement (the Agreement) between Con Edison and the Power Authority of the State of New York (PASNY).

The Agreement, dated March 19, 1979, provides for the transmission of firm power and energy by Con Edison from PASNY to three Long Island municipalities that are customers of PASNY. The municipalities are the Villages of Freeport, Greenport, and Rockville Center.

Service by Con Edison to PASNY under the proposed rate schedule commenced on March 23, 1979 and will terminate on one year's notice.

It is respectfully requested, in view of the contractual nature of the rate schedule, that the Commission waive the thirty (30) day notice requirement and permit the Agreement to become effective as of the actual effective date of March 23, 1979.

A copy of the filing has been served upon PASNY.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-31828 Filed 10-15-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ID-1754]

C. Robert Everman; Notice of Application

October 10, 1979

Take notice that C. Robert Everman, on September 27, 1979, filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Position, Corporation and Classification

Treasurer, The Cincinnati Gas & Electric Company—Public Utility.
Treasurer, The Union Light, Heat and Power Company—Public Utility.
Treasurer, Miami Power Corporation—Public Utility.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE.,

V 44 OC 16 79 UMI

Washington, D.C. 20426 in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31829 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. TC79-143 et al.]

East Tennessee Natural Gas Co. et al.; Election to Defer Filing of Tariff Sheets and Notice of Tariff Sheet Filings

October 9, 1979.

Section 281.204(a)(1) of the Commission's regulations under the Natural Gas Policy Act of 1978 (NGPA) provides that interstate pipelines must file tariff sheets, including an index of entitlement, by October 1, 1979, to become effective November 1, 1979, implementing the final regulations promulgated by the Commission pursuant to Section 401 of the NGPA requiring the amendment of the curtailment plans of interstate pipelines to give preference to the service of high priority and essential agricultural requirements. Section 281.204(a)(2) of the Regulations under the NGPA provides that an interstate pipeline may elect to defer the filing of the required tariff sheets until November 1, 1979, to become effective December 1, 1979, provided the pipeline files written notice of its election with the Commission by October 1, 1979, and the pipeline continues its interim curtailment rule in effect until December 1, 1979.

Take notice that the following pipelines [1] have, pursuant to Section 281.204(a)(2) of the Regulations, filed with the Commission notice of their election to defer the filing of the required tariff sheets until November 1, 1979:

East Tennessee Natural Gas Company, Docket No. TC79-143.
Arkansas Louisiana Gas Company, Docket No. TC79-144.
North Penn Gas Company, Docket No. TC79-145.
Southwest Gas Corporation, Docket No. TC79-146.
Cities Service Gas Company, Docket No. TC79-150.
Mid Louisiana Gas Company, Docket No. TC79-151.
Inter-City Minnesota Pipelines Ltd., Inc., Docket No. TC79-152.
Consolidated Gas Supply Corporation, Docket No. TC80-6.
Transwestern Gas Pipeline Company, Docket No. TC80-8.
Texas Eastern Transmission Corporation, Docket No. TC80-9.
South Georgia Natural Gas Company, Docket No. TC80-12.
Panhandle Eastern Pipe Line Company, Docket No. TC80-15.
Trunkline Gas Company, Docket No. TC80-16.
The Inland Gas Company, Inc., Docket No. TC80-17.
Kansas-Nebraska Natural Gas Company, Docket No. TC80-18.
United Gas Pipe Line Company, Docket No. TC80-19.
Texas Gas Transmission Corporation, Docket No. TC80-20.
Montana-Dakota Utilities Co., Docket No. TC80-21.
Colorado Interstate Gas Company, Inc., Docket No. TC80-22.
Lawrenceburg Gas Transmission Corporation, Docket No. TC80-23.
Florida Gas Transmission Company, Docket No. TC80-27.

Take further notice that the following pipelines have filed revised tariff sheets to become effective November 1, 1979, to continue the interim curtailment plans in effect until December 1, 1979:

Pipeline and Tariff Sheet

East Tennessee Natural Gas Company—Fifth Revised Sheet No. 74D, FERC Gas Tariff, Sixth Revised Volume No. 1.
Arkansas Louisiana Gas Company—Fifth Revised Sheet No. 3C, FERC Gas Tariff, First Revised Volume No. 1.
North Penn Gas Company—Third Revised Sheet No. 12I, FERC Gas Tariff, First Revised Volume No. 1.
Southwest Gas Corporation—First Revised Sheet No. 25A, FERC Gas Tariff, Original Volume No. 1.
Panhandle Eastern Pipe Line Company—Fifth Revised Interim Original Sheet No. 42-A, FERC Gas Tariff, Original Volume No. 1.
Trunkline Gas Company—Second Revised Sheet No. 21-C.2, FERC Gas Tariff, Original Volume No. 1.
Kansas-Nebraska Natural Gas Company, Inc.—First Revised Sheet No. 27C, FERC Gas Tariff, Third Revised Volume No. 1.
Texas Gas Transmission Corporation—First Revised Sheet No. 92-CCC, Second Revised Sheet No. 92-CC, FERC Gas Tariff, Third Revised Volume No. 1.
Montana-Dakota Utilities Co.—Second Revised Sheet No. 55, FERC Gas Tariff, First Revised Volume No. 1.
Colorado Interstate Gas Company—Second Revised Sheet No. 45, FERC Gas Tariff, Original Volume No. 1.
South Georgia Natural Gas Co.—First Revised Sheet No. 34A, FERC Gas Tariff, First Revised Volume No. 1.

It should be noted that the revised tariff sheets set forth above were filed only to continue the respective pipelines' interim curtailment plans in effect during the elected deferred period and their submittal should not be construed as compliance with the filing requirements of Section 281.204(a)(1) of the Regulations under the NGPA implementing the final regulations promulgated pursuant to Section 401 of the NGPA.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before October 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hering therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

East Tennessee Natural Gas Company, P.O. Box 2511, Houston, Texas 77001.
Arkansas Louisiana Gas Company, P.O. Box 21734, Shreveport, Louisiana 71151.
North Pen Gas Company, Port Allegany, Pennsylvania 16743.
Southwest Gas Corporation, 5241 Spring Mountain Road, Las Vegas, Nevada 89101
Cities Service Gas Company, P.O. Box 25128, Oklahoma City, Okla. 73125
Mid Louisiana Gas Company, 300 Poydras Street, New Orleans, Louisiana 70130
Consolidated Gas Supply Corporation, 445 West Main Street, Clarksburg, West Virginia 26301
Transwestern Gas Pipeline Company, P.O. Box 2521, Houston, Texas 77001
Texas Eastern Transmission Corporation, P.O. Box 1612, Shreveport, Louisiana 71102
Panhandle Eastern Pipe Line Company, P.O. Box 1642, Houston, Texas 77001
Trunkline Gas Company, P.O. Box 1642, Houston, Texas 77001
The Inland Gas Company, Inc., P.O. Box 1180, Ashland, Kentucky 41101.
Kansas-Nebraska Natural Gas Company, Inc., 300 North St. Joseph Avenue, Hastings, Nebraska 68901.
United Gas Pipe Line Company, P.O. Box 1478, Houston, Texas 77001
Texas Gas Transmission Corporation, 3800 Frederica Street, Owensboro, Kentucky 42301.
Montana-Dakota Utilities Co., 400 North Fourth Street, Bismarck, North Dakota 58501.
Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944
Lawrenceburg Gas Transmission Corporation, 230 West High Street, Lawrenceburg, Indiana 47025
Florida Gas Transmission Company, P.O. Box 44, Winter Park, Florida 32790
South Georgia Natural Gas Company, P.O. Box 1279, Thomasville, Georgia 31792
Inter-City Minnesota Pipelines Ltd., Inc., 612 Cloquet Avenue., Cloquet, Minnesota 55720.

[1] Addresses of the pipelines are listed in the appendix hereto.

[FR Doc. 79-31822 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-149]

Eastern Shore Natural Gas Co.; Tariff Filing

October 9, 1979.

Take notice that on September 28, 1979, Eastern Shore Natural Gas Company (Eastern Shore) filed in Docket No. TC79-149 proposed tariff sheets for revision of its FERC Gas Tariff pursuant to Section 401 of the Natural Gas Policy Act of 1978 (NGPA) and Section 281.204 of the Federal Energy Regulatory Commission's (Commission) Regulations in order to comply with the requirement prescribed by the Commission's Permanent Curtailment Rule, Order No. 29 issued May 2, 1979 (18 CFR Part 281).

Section 281.204 of the Commission's Regulations requires interstate pipelines to file no later than October 1, 1979, tariff sheets containing a curtailment plan and incorporating therein an index of the high-priority and essential agricultural use entitlements of each of their customers, and the establishment of a Data Verification Committee. Eastern Shore requests that it be permitted to revise its FERC Gas Tariff, Original Volume No. 1, to provide for the protection of high-priority and essential agricultural uses in the manner contemplated by the NGPA and the Commission's Regulations. The revised tariff sheets provide that, after complete curtailment as specified in Section 13.1(a), (b), (c) and (d) of Original Volume No. 1, gas sales to essential agricultural (Priority 2) users (as defined in Part 281 of the Commission Regulations), including those made by resale customers, will be curtailed in proportion to total essential agricultural use entitlements. The revised tariff sheets further provide that after complete curtailment as specified in Section 13.1(a), (b), (c), (d) and (e) of Original Volume No. 1, gas sales to high priority (Priority 1) users (as defined in Part 281 of the Commission Regulations) will be curtailed in proportion to total high priority use entitlements. Further provisions are made, notwithstanding Section 13.1(a) through (f) of Original Volume No. 1 for seller to make adjustments as necessary to provide for sufficient volumes of natural gas to respond to emergency situations (including environmental emergencies) during periods of curtailment where additional supplies are required to forestall irreparable injury to life or to property; and to provide for minimum plant protection when a plant is shut down.

Eastern Shore states that Original Sheet No. 424 contains the Index of Entitlements required under Part 281 of the Commission's Regulations. Eastern Shore further states that it has also tendered for filing the Data Verification Committee Report required under Section 281.204 of the Commission Regulations and that copies of the filing have been mailed to all of its customers and interested State Commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31823 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. TC80-1 and RP72-6]

El Paso Natural Gas Co.; Tariff Filing Pursuant to Order No. 29 of the Commission's Regulations

October 9, 1979.

Take notice that on October 1, 1979, El Paso Natural Gas Company (El Paso) filed in docket No. TC80-1, certain proposed tariff sheets in compliance with sections 281.201 to 281.215 of the Federal Energy Regulatory Commission's (Commission) Regulations and Ordering Paragraph (E) of the Federal Power Commission's (FPC) order issued July 29, 1977, at Docket No. RP72-6.[1] These tariff sheets are numbered as follows:

Original Volume No. 1

Fourth Revised Sheet No. 61
Fifth Revised Sheet No. 62 Original Sheet No. 62-A.
Seventh Revised Sheet No. 63
Third Revised Sheet No. 63-E
First Revised Sheet No. 63-H
Third Revised Sheet No. 100
First Revised Sheets Nos. 101-107
First Revised Sheets Nos. 129-154 Original Sheets Nos. 155-158

Third Revised Volume No. 2

Second Revised Sheet No. 1-H
Third Revised Sheet No. 1-I Original Sheet No. 1-I.1
Third Revised Sheet No. 1-J
Third Revised Sheet No. 1-O
First Revised Sheet No. 1-R

Original Volume No. 2A

Second Revised Sheet No. 2-MM
Third Revised Sheet No. 3-MM Original Sheet No. 3-MM.1
Third Revised Sheet No. 4-MM
Third Revised Sheet No. 9-MM
First Revised Sheet No. 12-MM

Sections 281.201 to 281.215 of said Regulations implement Section 401 of the Natural Gas Policy Act of 1978 [2] (NGPA) and require interstate pipelines to, *inter alia*, file no later than October 1, 1979, tariff sheets containing a curtailment plan and an index of the high-priority and essential agricultural use entitlements of each of their customers.

El Paso states that the instant filing modifies its currently effective curtailment plan and the seasonal base volumes of its customers in conformity with the said Regulations. According to El Paso, these revisions reflect among other things: (1) the reclassification of requirements included in Priority 1, described as "high-priority users" in section 281.203 of the Regulations; (2) the establishment of Priority 2(a) to reflect the upgrading of essential agricultural users; and (3) the reservation of Priority 2(b) for essential industrial process and feedstock uses to be certified in the future under section 401 of the NGPA.

El Paso states further that the seasonal volumes contained in its currently effective Index of Base Volumes and Index of Priority Limitations are also modified to reflect the upgrading of gas turbine fuel usage from Priority 4 and 5 to Priority 3 and the annualized effect of net new Priority 1 and 2 attachments during the period October 1, 1974 through December 19, 1974, all as required by the FPC order of July 29, 1977.

Any person desiring to be heard or to make any protest with reference to said

[1] Concurrently, El Paso filed, pursuant to Section 1.11(d) of the Commission's Rules of Practice and Procedure, a notice of withdrawal of the tariff sheets certified on October 5, 1977. These sheets were filed to conform to the Commission's July 29, 1977 Order at Docket No. RP72-6.

[2] Pub. L. No. 95-621, 92 Stat. 3352 (Nov. 9, 1978)

V 44 O C 16 79 UMI

tariff filing should, on or before October 19, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31824 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-140]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

October 10, 1979.

Take notice that Great Lakes Gas Transmission Company (Great Lakes), on October 1, 1979, tendered for filing Thirty-Second Revised Sheet No. 57, to its FERC Gas Tariff, First Revised Volume No. 1, proposed to be effective November 1, 1979.

The revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing March 1, 1979, and ending August 31, 1979.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31801 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ES79-73]

Idaho Power Co.; Application

October 10, 1979.

Take notice that on September 26, 1979 Idaho Power Company (Applicant) filed an Application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance of not to exceed $120,000,000 in principal amount at any one time outstanding of unsecured promissory notes (1) pursuant to Lines of Credit with certain banks, and (2) in the form of commercial paper.

Proceeds from the borrowing will be used in the further financing of Applicant's construction expenditures, and other corporate purposes. Construction expenditures for the period from January 1, 1980, to December 31, 1980, total approximately $133,049,000. The balance of funds required for construction is expected to come from internally generated cash. Further permanent financing is expected to be undertaken in 1980, but the amounts and types of securities and the exact timing of the issuance has not yet been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petition to intervene or protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31802 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-1]

Hampshire Gas Co.; Proposed Change in FERC Gas Tariff

October 10, 1979.

Take notice that Hampshire Gas Company (Hampshire) on October 1, 1979, tendered for filing a proposed change in its FPC Gas Tariff, Original Volume No. 1. The proposed changes will increase Hampshire's revenues from storage service sales by $133,027 for the 12 month period ending June 30, 1979, as adjusted. Copies of the filing were served upon Hampshire's sole customer, Washington Gas Light Company (Washington) the parent company of Hampshire.

Hampshire states that the increased revenues to be derived will be due to an increase in rate of return from 8.66% to 10.60%. Hampshire states the increased rate of return is necessary to attract funds of capital for its operations.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Oct. 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31803 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-674]

Indiana & Michigan Electric Co.; Proposed Changes in Rates and Charges

October 10, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on September 27, 1979 tendered for filing, on behalf of its affiliate Indiana & Michigan Electric Company (I&M), Modification No. 16, dated November 1, 1961, between Northern Indiana Public Service Company and Indiana & Michigan Electric Company, I&M's Rate Schedule FERC No. 22.

Section 1 of Modification No. 16 provides for a new initial rate schedule entitled "Limited Term Power"—Service Schedule H with a demand rate of $4.75/kw-month and a transmission charge of $0.75/kw-month for third party transactions.

Applicant states that since the use of Short Term Power cannot be accurately estimated, for the twelve months period succeeding the date of filing, it is impossible to estimate the increase in revenues resulting from this modification for such period.

Applicant requests that the Commission waive the normal filing requirements as it was necessary to commence delivery of Limited Term Power, at the proposed rate, to Northern Indiana Public Service Company on September 1, 1979. It is further requested that the Commission waive any remaining requirements not already complied with under Section 35.13 of the Commission's Regulations and permit this modification to become effective on September 1, 1979.

Copies of the filing were served upon Northern Indiana Public Service Company, the Public Service Commission of Indiana and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31804 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-1]

Indiana & Michigan Electric Co.; Agreement

October 10, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on October 1, 1979 tendered for filing on behalf of its affiliate, Indiana & Michigan Electric Company, Modification No. 9 dated September 15, 1979 to the Interconnection Agreement dated June 1, 1968 between Indiana & Michigan Electric Company (Indiana Company) and Central Illinois Public Service Company (Central Company), designated Indiana's Rate Schedule FERC No. 67.

This Modification No. 9 provides that, for the purpose of conserving energy resources during extended fuel shortages Indiana Company or Central Company may arrange to obtain Conservation Energy from the other. When supplied, the charge for Conservation Energy generated on the supplying party's will be 110% of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt-hour. The new Modification No. 9 also provides for a transmission service charge of 1.7 mills per kilowatt-hour for deliveries of Conservation Energy from systems interconnected with Indiana Company or Central Company.

Because the current uncertainty of fuel supplies and the possibility that transactions will be required immediately under the proposed Modification No. 9, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule become effective as soon as possible.

Copies of the filing were served upon Central Illinois Public Service Company, Indiana Public Service Commission and Michigan Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 in accordance with the Commission rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31805 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-97 and RP76-93]

Kentucky West Virginia Gas Co.; Proposed Change in Rates

October 10, 1979.

Take notice that Kentucky West Virginia Gas Company (Kentucky West) on September 27, 1979, tendered for filing with the Commission Tenth Revised Sheet No. 27 to its FERC Gas Tariff, First Revised Volume No. 1, to become effective November 1, 1979. Kentucky West states that the change in rates results from the application of the Purchase Gas Cost Adjustment provision in Section 9, General Terms and Conditions of FERC Gas Tariff, Original Volume No. 1, approved by the Commission in Docket No. RP73-97 and the Purchase Gas Cost Adjustment provision in Section 18, General Terms and Conditions of FERC Gas Tariff, First Revised Volume No. 1, approved by the Commission in Docket No. RP76-93.

Kentucky West states that a copy of its filing has been served upon the purchasers and interested state commissions and upon each party on the service list of Docket No. RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests must be filed on or before October 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31805 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-134]

Michigan Wisconsin Pipe Line Co.; Tariff Filing

October 10, 1979.

Take notice that on October 1, 1979, Michigan Wisconsin Pipe Line Company tendered for filing Second Revised Sheet No. 667 under Rate Schedule X-64 to its F.E.R.C. Gas Tariff, First Revised Volume No. 2 to be effective November 1, 1979.

Michigan Wisconsin states that this filing is made to reflect the redetermination of the monthly charge in accordance with a Service Agreement between Michigan Wisconsin and High Island Offshore System dated August 4, 1977, and authorized by Commission Order issued July 6, 1978 at Docket No. CP78-134.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capital Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before Oct. 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31806 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-3]

Monogahela Power Co., et al., Amendment to Interconnection Agreement

October 10, 1975.

The filing Companies submitted the following:

Take notice that on October 1, 1979, the Monogahela Power Company (Monogahela), the West Penn Power Company (West Penn), the Ohio Edision Company (Ohio Edison), and the Pennsylvania Power Company (Penn Power) filed Amendment No. 7 to the Interconnection Agreement between the companies dated October 17, 1968.

Amendment No. 7 adds to Schedule B, Interchange Power and Energy, by including therein provisions for a new service, namely for the parties to participate in economy transactions involving systems not party to the Agreement. Schedule B now provides only for economy transactions between the parties. Amendment No. 7 also adds a "Sierra Pacific" clause to the Agreement.

Because economy energy transactions are not firm, it is impossible to predict the transactions and revenues under Amendment No. 7 during the next 12 months. No facilities are required to be installed or modified in order to provide the services covered by Amendment No. 7.

The companies request that the Commission make Amendment No. 7 effective as of October 1, 1979. They further request that the Commission waive any requirements not already complied with, under Section 35.12 of its Rules and Regulations, in connection with this filing.

Copies of this filing have been sent to the Public Utility Commission of Pennsylvania, the Public Utilities Commission of Ohio, the Public Service Commission of West Virginia, and the Ohio Edison Company.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31807 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-97; PGA80-1]

Montana-Dakota Utilities Co.; Purchased Gas Cost Adjustment Filing

October 10, 1979.

Take notice that on October 1, 1979 Montana-Dakota Utilities Co ("MDU"), 400 North Fourth Street, Bismarck, North Dakota 58501, submitted for filing as part of its FERC Gas Tariff the following tariff sheets:

Original Volume No. 4

Twelfth Revised Sheet No. 3A

First Revised Volume No. 2

Fifth Revised Sheet No. 10

MDU states that this tariff filing is being made pursuant to its Purchased Gas Cost Adjustment Provision. Twelfth Revised Sheet No. 3A provides for an increase in MDU's total rate under Rate Schedules G-1, PR-1, and I-1. The proposed rate under Rate Schedules G-1 and PR-1 will increase from the currently effective 195.048 cents per Mcf to a new rate of 220.340 cents per Mcf. The rate increase under Rate Schedule I-1 will be from the currently effective 192.048 cents per Mcf to a new rate of 217.340 cents per Mcf. MDU states that these changes reflect a Gas Cost Adjustment above the integrated system average base cost of purchased gas of 29.970 cents per Mcf.

Fifth Revised Sheet No. 10 provides for a total rate increase under Rate Schedule X-1 from 153.208 cents per Mcf to 183.178 cents per Mcf. These changes reflect a Gas Cost Adjustment above the integrated system average cost of purchased gas of 29.970 cents per Mcf.

The above referenced tariff sheets were filed in conformance with the Commission's Orders of July 11 and September 10, 1979 issued in Docket No. RP74-97 (PGA78-1) ordering MDU to eliminate the cost of Powell II Unit gas from any of MDU's PGA adjustments. MDU states, however, that the filing of these tariff sheets is made under protest and should not be construed as an admission on MDU's part of the validity or correctness of the Commission's Orders.

MDU also submitted for filing the following Alternate Tariff Sheets:

Original Volume No. 4

Alternate Twelfth Revised Sheet No. 3A

First Revised Volume No. 2

Alternate Fifth Revised Sheet No. 10

The Alternate Tariff Sheets reflect the inclusion of gas purchased from the Powell II Unit. The resulting rates are 220.300 cents per Mcf for Rate Schedules G-1 and PR-1, 217.300 cents per Mcf for Rate Schedule I-1 and 190.637 cents per Mcf for Rate Schedule X-1, with the exception of Rate Schedule X-1, the rates reflected in the alternate sheets are lower than the rates which exclude the Powell II Unit gas.

MDU states that it is submitting these alternate tariff sheets because it believes that the inclusion of Powell II Unit cost is and always has been appropriate. In addition, MDU states that it will soon file an application with the Commission seeking authorization to make certain excess volumes from the Powell II Unit physically available to MDU's intergrated system. MDU's certificate application will seek a temporary certificate effective November 1, 1979 so as to coincide with the effective date of the current PGA adjustment.

The proposed effective date for all the tariff sheets is November 1, 1979.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31808 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RM79-3]

Natural Gas Policy Act of 1978; Receipt of Application for Approval of Alternative Filing Requirements From the New Mexico Oil Conservation Division

Issued October 10, 1979.

Take notice that on September 18, 1978, the Oil Conservation Division of the State of New Mexico (OCD) filed with the Federal Energy Regulatory Commission (Commission) an application for approval of alternative filing requirements pursuant to 16 CFR § 274.207.

The alternative filing requirements sought would apply only to infill wells drilled pursuant to OCD Orders Nos. R-1670-T and R-1670-V, which orders provide for the optional drilling of an additional well on each proration unit in the Blanco-Mesaverde and Basin-Dakota Pools, and would replace the requirements of 18 CFR §§ 274.204(d), (e) and (f). Copies of this application are on file with the Commission and are available for public inspection in the office of Public Information, Room 1000.

Any interested person may file written comments regarding the application with the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before October 31, 1979. All comments filed by that date will be considered prior to Commission action on the application.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31809 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-676]

Utah Power & Light Co.; Proposed Tariff Change

October 10, 1979.

The filing Company submits the following:

Take notice that Utah Power & Light Company (Utah) on September 27, 1979, tendered for filing proposed changes in its FERC Electric Service Tariff, Volume No. 1, together with an Electric Service Agreement to serve a new customer, the City of St. George, Utah (St. George).

For many years, Utah has been delivering Colorado River Storage Project (CRSP) power to CP National, formerly California-Pacific Utilities Co., for re-delivery to St. George under a wheeling agreement with the United States Government.

Additional CRSP power and energy are not available to take care of the St. George system's anticipated load-growth, and the agreement with Utah is designed to supply those additional requirements.

Utah requests that the Commission waive the notice requirements of Section 35.3. It further requests that both the Service Agreement and the Operating Agreement be accepted for filing as of June 25, 1979, the date of first delivery.

Copies of the filing were served upon the City of St. George, CP National and the Utah Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31810 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP73-94 (PGA80-1)]

Valley Gas Transmission, Inc.; Purchased Gas Cost Adjustment Filing

October 10, 1979.

Valley Gas Transmission, Inc. ("Valley"), on October 1, 1979, submitted for filing as part of its FERC Gas Tariff, Original Volume No. 1, its proposed "Sixteenth Revised Sheet No. 2A". The proposed effective date is November 1, 1979.

Valley states that this tariff sheet is filed pursuant to its currently effective Purchased Gas Cost Adjustment Provision. The proposed changes involve Valley's "Current Surcharge Adjustment" and "Current Gas Cost Adjustment." The adjustments are supported by computations attached to the filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of the filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31811 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP74-85; (PGA80-1)]

Western Gas Interstate Co.; Proposed PGA Rate Adjustment

October 10, 1979.

Take notice that on October 2, Western Gas Interstate Company ("Western") filed herein Thirteenth Revised Sheet No. 3A to its FERC Gas Tariff, Original Volume No. 1. Said tariff sheet is proposed to become effective on November 1, 1979.

Western states the proposed increase in rates is being filed in accordance with its Tariff's PGA clause which permits the recovery of increases in the cost of gas and of unrecovered purchased gas cost. Western further states the proposed Purchase Gas Cost Adjustment for the Northern Division is 31.48 cents per Mcf; for the Southern Division it is 9.48 cents per Mcf. The proposed surcharge adjustment is 3.72 cents per Mcf for the Northern Division and <5.27> cents per Mcf for the Southern Division; the surcharge adjustments will only be effective over the six-month period November 1, 1979 through April 30, 1980.

Any person desiring to be heard and to make any protest with reference to said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with the requirements of the Commission's rules of practice and procedure [18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 23, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants

V 44 0 C 1 6 7 9 UMI

parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Western's filing is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31812 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-673]

York Haven Power Co.; Proposed Change in Rates

October 10, 1979.

The filing Company submits the following:

Take notice that on September 26, 1979, the York Haven Power Company (York Haven) filed a proposed change in its rate schedule for the sale of power to its parent, Metropolitan Edison Company (Met-Ed). The proposed change would decrease revenues from jurisdictional sales and service by $10,859 based on the 12 month period ending November 30, 1980.

The change in rates is proposed to be effective for deliveries of power and energy on or after December 1, 1979.

York Haven further submits that under its agreement with Met-Ed, it is entitled to the same rate of return on net investment as was most recently allowed Met-Ed by the Pennsylvania Public Utility Commission. That Commission, on June 15, 1979, allowed a rate of return to Met-Ed of 9.47 percent. This filing is submitted to reflect that rate of return. York Haven's current rate of return is 9.74 percent under its current rate schedule.

Copies of this filing have been mailed to Met-Ed and the Pennsylvania Public Utility Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31813 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC79-139 [1]]

Texas Eastern Transmission Corp.; Proposed Settlement and Requests for Waiver and Adjustment

Issued September 28, 1979.

Take notice that on September 10, 1979, Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. TC79-139 pursuant to Section 1.18(e) of the Commission's Rules and Part 281 of the Regulations under the Natural Gas Policy Act of 1978 (NGPA) (Order No. 29, *et seq.*, in Docket No. RM79-15), a motion for approval of a stipulation and agreement with its customers resolving for the near term all issues arising from Order No. 29, *et seq.* Pursuant to Section 502(c) of the NGPA and Section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41), Texas Eastern also requests that the Commission grant an adjustment to Section 281.204 of the Commission's Regulations under the NGPA and waive the requirements of Order No. 29, *et seq.*, to the extent necessary to effectuate the stipulation and agreement. Texas Eastern's proposals are more fully set forth in the subject motion which is on file with the Commission and open to public inspection.

Texas Eastern states that it, its customers and their customers have collected the information sought by Order No. 29, *et seq.*, and convened a meeting of the Data Verification Committee. At this meeting and in subsequent discussions between Texas Eastern and its customers, it is indicated, the consensus was that the issues raised by Order No. 29, *et seq.*, could and should be settled without modification of the curtailment procedures currently utilized by Texas Eastern, and, therefore, the parties reportedly have entered into a stipulation and agreement.

Texas Eastern describes the stipulation and agreement as follows:

The Stipulation and Agreement reflects the parties' belief that the protection of essential agricultural and high-priority uses contemplated by the NGPA can be assured under Texas Eastern's current gas supply conditions by continuation of the existing curtailment procedures, so long as Section 12.7 of the General Terms and Conditions of Texas Eastern's tariff is extended beyond October 31, 1979. [2] Consequently, the Stipulation and Agreement provides that Texas Eastern would not be required to file the draft tariff sheets and index of entitlements contemplated by Order No. 29, *et seq.* and would be permitted to remove the time limitation currently incorporated in Section 12.7 of its General Terms and Conditions.

The Stipulation and Agreement recognizes that in the event Texas Eastern's projected gas supplies decrease significantly, its customers may not be able to continue to provide the protection contemplated by Section 401(a) of the NGPA. Accordingly, it is provided that if Texas Eastern files a Form 16 with the Commission containing a projection that Texas Eastern's future annual natural gas supply will be below 865 million dekatherms, Texas Eastern will so notify the Commission and its customers and request the convening of a settlement conference to determine whether changes in Texas Eastern's curtailment procedures are required.

The Stipulation and Agreement also acknowledges that the certain agreements were reached in the settlements in Texas Eastern's main curtailment case in Docket Nos. RP71-130, *et al.* Thus, the Stipulation and Agreement recognized the continuing effect on the agreement in the settlement underlying Opinion Nos. 787, *et seq.* that no party thereto would file with the Commission or the courts any request for a change, to be effective prior to September 1, 1981, in the end-use data utilized by Texas Eastern to administer curtailments.

The Stipulation and Agreement further provides that it shall not become effective unless and until the Commission issues a final order approving all of the terms and conditions thereof without modification or condition and such order becomes final and non-appealable. If the Stipulation and Agreement is not accepted in its entirety without condition, it shall be privileged and of no effect. By agreeing to the Stipulation and Agreement, no party waives any claim or right which it may otherwise have with respect to matters not expressly addressed in the Stipulation and Agreement, or with respect to other issues pending before the Commission or in related court proceedings. The parties thereto further agree that the Stipulation and Agreement represents a negotiated settlement and that no party thereto shall be deemed to have approved, accepted, agreed or consented to any principles provided for therein.

Accordingly, Texas Eastern requests the Commission to grant an adjustment under Section 502(c) of the NGPA to permit the proposed stipulation and agreement to take effect and to remove the time limitation now incorporated in Section 12.7 of Texas Eastern's tariff to permit continuation of the existing curtailment procedures now utilized on the Texas Eastern system. Further, Texas Eastern states that, assuming approval of the proposed stipulation and agreement, no purpose would be served by having Texas Eastern file tariff sheets and an index of entitlements that would not be utilized on its system, and, therefore, requests waiver of these requirements.

Pursuant to Section 1.7 of the Commission's Rules of Practice and Procedure, the procedural requirements of § 1.41 of such Rules and of § 1.18 of such Rules, as revised by Order No. 32 issued June 13, 1979, in Docket No. RM78-16, that comments be filed 20 days after a settlement is filed with the Commission are waived and any person desiring to be heard or to make any protest or comment with reference to the subject proposal should within 20 days after the date of this notice file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene, protest or comment in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). Reply comments may be filed within 30 days of the date of this notice. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules

By direction of the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-31815 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[1] The subject motion and proposed settlement agreement were filed inappropriately in Docket No. TC79-117, Texas Eastern's current "omnibus" docket. The Commission finds it is in the public interest to allow the submission of this settlement even though it is not strictly within the scope of the new settlement procedures set forth in Section 1.18(e) of the Commission's Rules of Practice and Procedure (18 CFR 1.18(e)). Therefore, in accordance with Section 1.7 of the Commission's Rules of Practice and Procedure (18 CFR 1.7), the Commission hereby waives the relevant provisions of its rules to allow the submission of this settlement to be treated in accordance with the provisions of Section 1.18(e) of the Rules, except that notice is given and dates for comment will be adjusted. Accordingly, the filing has been individually docketed in Docket No. TC79-139.

[2] Section 12.7 of Texas Eastern's tariff adopts *in toto* Section 281 of the Commission's Regulations under the Natural Gas Policy Act, which, absent extension by the Commission, would expire on October 31, 1979.

Grace Petroleum Corp., et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-21387/9-7-791PD
2. 01-057-20168
3. 102
4. Grace Petroleum Coporation
5. Killingsworth 7-9
6. Musgrove Creek
7. Fayette, AL
8. 180.0 million cubic feet
9. September 21, 1979
10.

1. 79-21388/9-7-794PD
2. 01-057-20167
3. 102
4. Warrior Drilling & Eng Co Inc
5. L Ellis 32-1
6. McCracken Mountain
7. Fayette, AL
8. 53.3 million cubic feet
9. September 21, 1979
10. Pipeline Div-Warrior Drlg & Eng

1. 79-21389/9-7-796PD
2. 01-075-20205
3. 102
4. Ancerman Operating Company
5. Frances Thomas #11-8
6. Blooming Grove
7. Lamar, AL
8. 390.0 million cubic feet
9. September 21, 1979
10.

1. 79-21390/9-7-797PD
2. 01-057-20175
3. 102
4. Anderman Operating Company
5. Linwood Smith #5-8
6. Musgrove Creek
7. Fayette, AL
8. 585.7 million cubic feet
9. September 21, 1979
10.

New Mexico, Department of Energy and Minerals, Oil Conservation Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-21265
2. 30-045-09991
3. 108
4. Amoco Production Company
5. Scott Gas Com #1
6. Basin-Dakota
7. San Juan, NM
8. 16.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-21266
2. 30-452-06850
3. 108
4. Amoco Production Company
5. Gerk Gas Com D#1
6. Aztec-Pictured Cliffs
7. San Juan, NM
8. 20.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-21267
2. 30-045-06996
3. 108
4. Amoco Production Company
5. Faverino Gas Com #1
6. Aztec-Pictured Cliffs
7. San Juan, NM
8. 15.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-21268
2. 30-045-22140
3. 108
4. Amoco Production Company
5. Valentine Gas Com B#1
6. Blanco-Pictured Cliffs
7. San Juan, NM
8. 9.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-21269
2. 30-045-08770
3. 108
4. Amoco Production Company
5. State Gas Com D#1
6. Aztec-Pictured Cliffs
7. San Juan, NM
8. 8.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-21270
2. 30-025-00000
3. 108
4. Two States Oil Company
5. Cole B State Lease Well No 5
6. Penrose Skelly Grayburg
7. Lea, NM
8. 6.0 million cubic feet
9. September 19, 1979
10. Warren Petroleum Co

1. 79-21271
2. 30-025-00000
3. 108
4. Two States Oil Company
5. Cole B State Lease Well No 6
6. Eumont Queen Gas
7. Lea, NM
8. 7.0 million cubic feet
9. September 19, 1979
10. Warren Petroleum Co

1. 79-21344
2. 30-025-00000

V 44 O C 16 79 UMI

3. 108
4. Texaco Inc
5. W L Nix #4
6. Drinkard (Drinkard)
7. Lea, NM
8. 4.7 million cubic feet
9. September 19, 1979
10. Getty Oil Corp

Oklahoma Corporation Commission

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-21391/00352
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Mutual No 2
6. South Guymon—Morrow
7. Texas, OK
8. 15.5 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21392/00356
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Neff—A No 1
6. Guymon Hugoton
7. Texas, OK
8. 12.5 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21393/00355
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Lewis A No 1
6. Guymon Hugoton
7. Texas, OK
8. 14.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21394/00354
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Jones—F No 1
6. Guymon Hugoton
7. Texas, OK
8. 4.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21395/00353
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Herbel No 1
6. Guymon Hugoton
7. Texas, OK
8. 9.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21396/00316
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Sidna No 1
6. Guymon Hugoton
7. Texas, OK
8. 14.5 million cubic feet
9. September 21, 1979
10. Michigan Wisconsin Pipeline Co

1. 79-21397/00315
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Sweet No 1
6. Guymon Hugoton
7. Texas, OK
8. 17.6 million cubic feet
9. September 21, 1979
10. Michigan Wisconsin Pipeline Co

1. 79-21398/00314
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Janie—A No 1
6. Guymon Hugoton
7. Texas, OK
8. 11.9 million cubic feet
9. September 21, 1979
10. Michigan Wisconsin Pipeline Co

1. 79-21399/00313
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Krull No 1
6. Guymon Hugoton
7. Texas, OK
8. 8.6 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co

1. 79-21400/00311
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. McDaniels-B No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 2.5 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co.

1. 79-21401/00310
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Esta No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 6.5 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co.

1. 79-21402/00304
2. 35-017-21080
3. 103
4. Phillips Petroleum Company
5. Gettings-A No. 1
6. Yukon
7. Canadian, OK
8. 83.0 million cubic feet
9. September 21, 1979
10.

1. 79-21403/00260
2. 35-017-21002
3. 102 Denied
4. Phillips Petroleum Company
5. Wilds A-1
6. Yukon
7. Canadian, OK
8. 157.0 million cubic feet
9. September 21, 1979
10.

1. 79-21404/00357
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Mayer A No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 6.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co.

1. 79-21405/00349
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Rowan A No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 7.3 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co.

1. 79-21406/00348
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. ORV No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 1.9 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co.

1. 79-21407/00413
2. 35-009-35427
3. 108
4. El Paso Natural Gas Company
5. Ray No. 1
6. Erick South (Brown Dolomite)
7. Beckham, OK
8. 11.0 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21408/00305
2. 35-047-21396
3. 103
4. Buttonwood Petroleum Inc
5. Smith No. 1
6. North Enid
7. Garfield, OK
8. 146.0 million cubic feet
9. September 21, 1979
10. Arkansas Louisiana Gas Company

1. 79-21409/00297
2. 35-137-00000
3. 108
4. E. Lyle Johnson
5. Meeks No. 1 ID No. 36490
6. S. W. Velma
7. Stephens, OK
8. 1.7 million cubic feet
9. September 21, 1979
10. Getty Oil Company

1. 79-21410/00294
2. 35-019-00000
3. 108
4. E Lyle Johnson Inc
5. Pruitt ID No. 42128314
6. Caddo
7. Carter, OK
8. 15.5 million cubic feet
9. September 21, 1979
10. Union Oil Company

1. 79-21411/00293
2. 35-019-00000
3. 108
4. E Lyle Johnson Inc
5. Black No. 1 ID No. 42128128

6. Caddo
7. Carter, OK
8. 3.1 million cubic feet
9. September 21, 1979
10. Union Oil Company

1. 79-21412/00290
2. 35-027-00000
3. 108 Denied
4. E Lyle Johnson Inc
5. Williams B-1 ID No. 28487
6. N Norman
7. Cleveland, OK
8. 1.3 million cubic feet
9. September 21, 1979
10. Phillips Petroleum

1. 79-21413/00288
2. 35-087-00000
3. 108 Denied
4. E Lyle Johnson
5. West No. 1 ID No. 874698
6. Flint Creek
7. McClain, OK
8. .0 million cubic feet
9. September 21, 1979
10. Sun Oil Company

1. 79-21414/00287
2. 35-087-00000
3. 108 Denied
4. E Lyle Johnson
5. Guffin No. 1 Id No. 836840
6. Flint Creek
7. McClain, OK
8. 10.7 million cubic feet
9. September 21, 1979
10. Sun Oil Company

1. 79-21415/00389
2. 35-007-21380
3. 108
4. CSG Exploration Company
5. Fogelman 1
6. East Boyd
7. Beaver, OK
8. 11.1 million cubic feet
9. September 21, 1979
10. Cities Service Gas Co

1. 79-21416/00073
2. 35-079-20242
3. 108
4. James C Meade
5. Snee & Eberly No. 2-10 Reed
6. NW SW Section 10-7N-23E
7. LeFlore County, OK
8. 11.0 million cubic feet
9. September 21, 1979
10. Arkansas Louisiana Gas Company

1. 79-21417/00105
2. 35-129-20295
3. 103
4. Grace Petroleum Corporation
5. Tracy No. 1-36
6. West Cheyenne
7. Roger Mills, OK
8. 2919.6 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21418/00291
2. 35-151-20826
3. 103
4. Nova Energy Corporation
5. Brown 1-9
6.
7. Woods, OK
8. 468.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipe Line Company

1. 79-21419/00383
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. La Motte No. 1
6. Guymon-Hugoton
7. Texas, OK
8. 21.8 million cubic feet
9. September 21, 1979
10. Michigan Wisconsin

1. 79-21420/00351
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Tedrow No. 1
6. Guymon Hugoton
7. Texas, OK
8. 19.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21421/00350
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Grooms No. 1
6. Guymon Hugoton
7. Texas, OK
8. 7.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21422/00421
2. 35-009-35557
3. 108
4. El Paso Natural Gas Company
5. Puckett No. 5
6. Erick South (Brown Dolomite)
7. Beckham, OK
8. 9.0 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21423/00420
2. 35-009-35552
3. 108
4. El Paso Natural Gas Company
5. Puckett No. 4
6. Erick South (Brown Dolomite)
7. Beckham, OK
8. 3.0 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21424/00417
2. 35-009-35441
3. 108
4. El Paso Natural Gas Company
5. Francis No. 1
6. Erick South (Brown Dolomite)
7. Beckham, OK
8. 32.0 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21425/00414
2. 35-009-35434
3. 108
4. El Paso Natural Gas Company
5. Brookshire No. 1
6. Erick South (Brown Dolomite)
7. Beckham, OK
8. 17.0 million cubic feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21426/00300
2. 35-139-20951
3. 103
4. Anadarko Production Co
5. Drosselmeyer No. 3
6. North Richland Center
7. Texas, OK
8. 132.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21427/00404
2. 35-153-00000
3. 108
4. Anadarko Production Company
5. Winter A-1
6. Cedardale
7. Woodard, OK
8. 9.0 million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline Co

1. 79-21428/00401
2. 35-007-00000
3. 108
4. Anadarko Production Company
5. Light Unit No. 1
6. Light Gas Area
7. Beaver, OK
8. 11.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21429/00407
2. 35-007-00000
3. 108
4. Anadarko Production Co
5. Allen B No. 1
6. Mocane
7. Beaver, OK
8. 13.0 million cubic feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-221430/00309
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Bergner-A No 1
6. Guymon-Hugoton
7. Texas OK
8. 17.2 Million cubic feet
9. September 21, 1979
10. Michigan-Wisconsin Pipeline

1. 79-21431/00317
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. NIC No 1
6. Guymon Hugoton
7. Texas OK
8. 1.8 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21432/00318
2. 35-139-00000
3. 108
4. Phillips Petroluem Company
5. Peek RA No 1
6. Guymon Hugoton
7. Texas OK
8. 4.5 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

1. 79-21433/00320
2. 35-139-21001
3. 108
4. Phillips Petroleum Company
5. Lath No 3
6. South Guymon-Morrow
7. Texas OK
8. 7.5 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipeline Co

V 44 O C 16 79 UMI

1. 79-21434/00347
2. 35-139-00000
3. 108
4. Phillips Petroleum Company
5. Hornet B No 1
6. Guymon-Hugoton
7. Texas OK
8. 5.3 Million Cubic Feet
9. September 21, 1979
10. Michigan Wisconsin Pipeline Co

1. 79-21435/00263
2. 35-071-00000
3. 108 Denied
4. Energy Reserves Group Inc
5. Fuqua #1 (North Nardin Red Fork Unit)
6. Nardin
7. Kay OK
8. 16.0 Million Cubic Feet
9. September 21, 1979
10. Cities Service Gas Company

1. 79-21436/00409
2. 35-055-06816
3. 108
4. El Paso Natural Gas Company
5. Wilsie A #1
6. Erick South (Brown Dolomite)
7. Greer OK
8. 1.0 Million Cubic Feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21437/00410
2. 35-055-06815
3. 108
4. El Paso Natural Gas Company
5. Wilcox #1
6. Erick South (Brown Dolomite)
7. Greer OK
8. 3.1 Million Cubic Feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21438/00411
2. 35-055-00124
3. 108
4. El Paso Natural Gas Company
5. Tandy #1
6. Erick South (Brown Dolomite)
7. Greer OK
8. 3.6 Million Cubic Feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21439/00412
2. 35-009-35432
3. 108
4. El Paso Natural Gas Company
5. Sutton #1
6. Erick South (Brown Dolomite)
7. Beckham OK
8. 22.0 Million Cubic Feet
9. September 21, 1979
10. El Paso Natural Gas Company

1. 79-21440/03860
2. 35-093-21470
3. 103
4. Red Eagle Oil Co
5. Elwell No 1
6. Ringwood
7. Major OK
8. 182.0 Million Cubic Feet
9. September 21, 1979
10. Phillips Petroleum Company

1. 79-21441/03861
2. 35-093-21489
3. 103
4. Red Eagle Oil Co
5. BMO No 1
6. Ringwood
7. Major OK
8. 100.0 Million Cubic Feet
9. September 21, 1979
10. Phillips Petroleum Company

1. 79-21442/03862
2. 35-093-21456
3. 103
4. Red Eagle Oil Co
5. Ratzlaff No 1
6. Ringwood
7. Major OK
8. 100.0 Million Cubic Feet
9. September 21, 1979
10. Phillips Petroleum Company

1. 79-21443/00381
2. 35-153-20898
3. 102
4. SK Tuthill & B J Barbee
5. Walker #1-23
6. SW Freedom
7. Woodward OK
8. 90.0 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipe Line

1. 79-21444/00379
2. 35-153-20926
3. 102
4. SK Tuthill & B J Barbee
5. Walker #1-22
6. SW Freedom
7. Woodward OK
8. 90.0 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipe Line

1. 79-21445/00380
2. 35-153-20829
3. 102
4. SK Tuthill & B J Barbee
5. Walker #1-16
6. SW Freedom
7. Woodward OK
8. 100.0 Million Cubic Feet
9. September 21, 1979
10. Panhandle Eastern Pipe Line

1. 79-21446/00265
2. 35-139-21036
3. 103
4. Cities Service Co
5. Stonebraker A-87
6. West Stonebraker
7. Texas OK
8. 10.8 Million Cubic Feet
9. September 21, 1979
10. Northern Natural Gas Co

1. 79-21447/00267
2. 35-139-21021
3. 103
4. Cities Service Co
5. Stonebraker A-92
6. West Stonebraker
7. Texas OK
8. 55.8 Million Cubic Feet
9. September 21, 1979
10. Northern Natural Gas Co

1. 79-21448/00146
2. 35-063-20803
3. 103
4. Texasgulf Inc
5. Cheyenne Et Al Steele No 1-19
6. Southwest Gilcrease
7. Hughes OK
8. 130.0 Million Cubic Feet
9. September 21, 1979
10.

1. 79-21449/00145
2. 35-063-20863
3. 103
4. Texasgulf Inc
5. Cheyenne Et Al Mittie No 1-13
6. North Fuhrman
7. Hughes OK
8. 75.0 Million Cubic Feet
9. September 21, 1979
10.

1. 79-21450/00395
2. 35-053-00000
3. 108
4. Energy Reserves Group Inc
5. JW Stewart #1
6. SE Eureka
7. Grant OK
8. 13.0 Million Cubic Feet
9. September 21, 1979
10. Sun Oil Company

1. 79-21451/00391
2. 35-087-35418
3. 108
4. Energy Reserves Group Inc
5. Oklahoma School Land 42 #1
6. N Marysville
7. McClain OK
8. 9.0 Million Cubic Feet
9. September 21, 1979
10. Warren Petroleum Corporation

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-21272
2. 47-033-00418
3. 108 Denied
4. Consolidated Gas Supply Corp
5. William G Brown 10836
6. West Virginia Other A-85772
7. Harrison WV
8. 15.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21273
2. 47-097-01326
3. 108 Denied
4. Consolidated Gas Supply Corp
5. H C Alexander 11288
6. West Virginia Other A-85772
7. Upshur WV
8. 15.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21274
2. 47-033-00128
3. 108
4. Consolidated Gas Supply Corp
5. N W Smith 8014
6. West Virginia Other A-85772
7. Harrison WV
8. 13.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21275
2. 47-033-00419
3. 108
4. Consolidated Gas Supply Corp
5. Thomas Evans 8060
6. West Virginia Other A-85772
7. Harrison WV
8. 8.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21276
2. 47-033-00583
3. 108
4. Consolidated Gas Supply Corp
5. A P Cookman 11410
6. West Virginia Other A-85-772
7. Harrison WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21277
2. 47-033-00740
3. 108
4. Consolidated Gas Supply Corp
5. Hiram Post 8157
6. West Virginia Other A-85772
7. Harrison WV
8. 1.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21278
2. 47-035-00945
3. 108
4. Consolidated Gas Supply Corp
5. H C Alexander 10112
6. West Virginia Other A-85772
7. Jackson WV
8. 5.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21279
2. 47-085-00685
3. 108
4. Consolidated Gas Supply Corp
5. B F Phillips 6764
6. West Virginia Other A-85772
7. Ritchie WV
8. 3.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21280
2. 47-085-03212
3. 108
4. Consolidated Gas Supply Corp
5. A D Goode 5620
6. West Virginia Other A-85772
7. Ritchie WV
8. 3.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21281
2. 47-045-00845
3. 108
4. Consolidated Gas Supply Corp
5. Dingess Run Coal Co 10641
6. West Virginia Other A-85772
7. Logan WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21282
2. 47-045-00841
3. 108
4. Consolidated Gas Supply Corp
5. Dingess Run Coal Co 10551
6. West Virginia Other A-85772
7. Logan WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21283
2. 47-097-00494
3. 108
4. Consolidated Gas Supply Corp
5. Isaac Smith 10011
6. West Virginia Other A-85772
7. Upshur WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21284
2. 47-041-01881
3. 108
4. Consolidated Gas Supply Corp
5. J M Lancaster 11529
6. West Virginia Other A-85772
7. Lewis WV
8. 4.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21285
2. 47-043-00794
3. 108
4. Consolidated Gas Supply Corp
5. Emma Chapman 9132
6. West Virginia Other A-85772
7. Lincoln WV
8. 7.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21286
2. 47-041-01828
3. 108
4. Consolidated Gas Supply Corp
5. A F Trefz 11334
6. West Virginia Other A-85772
7. Lewis WV
8. .4 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21287
2. 47-097-00982
3. 108
4. Consolidated Gas Supply Corp
5. Ethel L Mores 10830
6. West Virginia Other A-85772
7. Upshur WV
8. 15.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21288
2. 47-085-03496
3. 108
4. Consolidated Gas Supply Corp
5. Harriet M Jarvis 11491
6. West Virginia Other A-85772
7. Ritchie WV
8. 5.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21289
2. 47-097-00574
3. 108
4. Consolidated Gas Supply Corp
5. Anna Louise Casto Riggs 10197
6. West Virginia Other A-85772
7. Upshur WV
8. 8.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21290
2. 47-085-00593
3. 108
4. Consolidated Gas Supply Corp
5. Greta Proudfoot 10250
6. West Virginia Other A-85772
7. Upshur WV
8. 8.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21291
2. 47-097-00870
3. 108
4. Consolidated Gas Supply Corp
5. Thomasa Karickhoff 10680
6. West Virginia Other A-85772
7. Upshur WV
8. 7.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21292
2. 47-097-00497
3. 108
4. Consolidated Gas Supply Corp
5. G J Quertinmont 9973
6. West Virginia Other A-85772
7. Upshur WV
8. 12.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21293
2. 47-097-00499
3. 108
4. Consolidated Gas Supply Corp
5. M B Raoabaugh 10034
6. West Virginia Other A-85772
7. Upshur WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21294
2. 47-097-00413
3. 108
4. Consolidated Gas Supply Corp
5. Robert E Dean 9801
6. West Virginia Other A-85772
7. Upshur WV
8. 5.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21295
2. 47-041-00042
3. 108 Denied
4. Consolidated Gas Supply Corp
5. A P White 8385
6. West Virginia Other A-85772
7. Lewis WV
8. 5.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21296
2. 47-041-00580
3. 108
4. Consolidated Gas Supply Corp
5. Arno J Gould 10291
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21297
2. 47-041-00787
3. 108
4. Consolidated Gas Supply Corp
5. C E Peterson 10329
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

V 44 O C 16 7 9 UMI

1. 79-21298
2. 47-041-01872
3. 108
4. Consolidated Gas Supply Corp
5. J W Norris 11534
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21299
2. 47-041-01764
3. 108
4. Consolidated Gas Supply Corp
5. C F Swisher 3764
6. West Virginia Other A-85772
7. Lewis WV
8. 4.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21300
2. 47-041-01538
3. 108
4. Consolidated Gas Supply Corp
5. W C Law 10880
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 Million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21301
2. 47-041-01380
3. 108
4. Consolidated Gas Supply Corp
5. O W Gum 10679
6. West Virginia Other A-85772
7. Lewis, WV
8. 5.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21302
2. 47-041-01118
3. 108
4. Consolidated Gas Supply Corp
5. Andrew Lunsford 10446
6. West Virginia Other A-85772
7. Lewis, WV
8. 6.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21303
2. 47-105-00704
3. 108
4. Ray Resources Div of Flying Diamond
5. J W McCoy
6. Reedy
7. Wirt, WV
8. 1.3 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21304
2. 47-105-00707
3. 108
4. Ray Resources Div of Flying Diamond
5. G Cheuvront #728
6. Elizabeth
7. Wirt, WV
8. 5.1 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21305
2. 47-105-00675
3. 108
4. Ray Resources Div of Flying Diamond
5. Summers-Lee #544
6. Burning Springs Dist
7. Wirt, WV
8. 9.3 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21306
2. 47-105-00676
3. 108
4. Ray Resources Div of Flying Diamond
5. McConaughey-Roberts #545
6. Burning Springs
7. Wirt, WV
8. 15.0 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21307
2. 47-105-00679
3. 108
4. Ray Resources Div of Flying Diamond
5. Willie Lucky #540
6. Reedy Dist
7. Wirt County, WV
8. 8.8 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21308
2. 47-105-00689
3. 108
4. Ray Resources Div of Flying Diamond
5. McConaughey-Roberts #596
6. Burning Springs
7. Wirt, WV
8. 15.0 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21309
2. 47-105-00693
3. 108
4. Ray Resources Div of Flying Diamond
5. Anna Thorn #694
6. Reedy
7. Wirt, WV
8. 9.5 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21310
2. 47-105-00697
3. 108
4. Ray Resources Div of Flying Diamond
5. Billy Full #707
6. Reedy
7. Wirt, WV
8. 1.1 million cubic feet
9. September 20, 1979
10. Columbia Gas Trans

1. 79-21311
2. 47-039-02728
3. 108
4. Ray Resources Div of Flying Diamond
5. Earl Bess #556
6. Jefferson Dist
7. Kanawha, WV
8. .5 million cubic feet
9. September 20, 1979
10. Industrial Gas

1. 79-21312
2. 47-107-00677
3. 108
4. Ray Resources Div of Flying Diamond
5. Okey Barrett #483
6. Walker Dist
7. Wood, WV
8. 1.5 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21313
2. 47-107-00657
3. 108
4. Ray Resources Div of Flying Diamond
5. Okey Barrett #498
6. Walker Dist
7. Wood, WV
8. 1.5 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21314
2. 47-107-00690
3. 108
4. Ray Resources Div of Flying Diamond
5. Okey Barrett #491
6. Walker Dist
7. Wood, WV
8. 1.8 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21315
2. 47-107-00693
3. 108
4. Ray Resources Div of Flying Diamond
5. Okey Barrett #495
6. Walker Dist
7. Wood, WV
8. 1.8 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21316
2. 47-107-00689
3. 108
4. Ray Resources Div of Flying Diamond
5. Ira Jones #490
6. Walker Dist
7. Wood, WV
8. 1.6 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21317
2. 47-107-00684
3. 108
4. Ray Resources Div of Flying Diamond
5. Ira Jones #489
6. Walker Dist
7. Wood, WV
8. 1.6 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21318
2. 47-107-00681
3. 108
4. Ray Resources Div of Flying Diamond
5. Ira Jones #486
6. Walker Dist
7. Wood, WV
8. 1.6 million cubic feet
9. September 20, 1979
10. Consolidated Gas Supply

1. 79-21319
2. 47-001-00204
3. 108
4. Consolidated Gas Supply Corporation
5. H S Haller 10682
6. West Virginia Other A-85772
7. Barbour, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General System Purchaser

1. 79-21320
2. 47-001-00009
3. 108
4. Consolidated Gas Supply Corporation
5. W L Morrison 8873

6. West Virginia Other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21321
2. 47-013-00741
3. 108
4. Consolidated Gas Supply Corporation
5. S A McCartney 8637
6. West Virginia Other A-85772
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21322
2. 47-001-00358
3. 108
4. Consolidated Gas Supply Corporation
5. Lucille C Chesser 10916
6. West Virginia Other A-85772
7. Barbour, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21323
2. 47-013-00620
3. 108
4. Consolidated Gas Supply Corporation
5. J A Moss 8573
6. West Virginia Other A-85772
7. Calhoun, WV
8. 5.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21324
2. 47-013-00622
3. 108
4. Consolidated Gas Supply Corporation
5. Gertrude D Howell 8575
6. West Virginia Other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21325
2. 47-041-01712
3. 108
4. Consolidated Gas Supply Corporation
5. Margaret Shutts 11203
6. West Virginia Other A-85772
7. Lewis, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21326
2. 47-041-01805
3. 108
4. Consolidated Gas Supply Corporation
5. S L Brown 3437
6. West Virginia Other A-85772
7. Lewis, WV
8. 12.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21327
2. 47-041-01851
3. 108
4. Consolidated Gas Supply Corporation
5. T T Taylor 8420
6. West Virginia Other A-85772
7. Lewis, WV
8. 7.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21328
2. 47-097-00528
3. 108
4. Consolidated Gas Supply Corporation
5. H P Wilson 10114
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21329
2. 47-097-00540
3. 108
4. Consolidated Gas Supply Corporation
5. Mettie B Wilson 10154
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21330
2. 47-097-00001
3. 108
4. Consolidated Gas Supply Corporation
5. Loan Zickafoose 10266
6. West Virginia Other A-85772
7. Upshur, WV
8. 6.0 million cubic feet
9. September 20, 1979
10. General System Purchasers

1. 79-21331
2. 47-097-01279
3. 108
4. Consolidated Gas Supply Corporation
5. Carl Wentz 11227
6. West Virginia other A-85772
7. Upshur, WV
8. 7.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21332
2. 47-097-00886
3. 108
4. Consolidated Gas Supply Corporation
5. O D Harvey 10736
6. West Virginia other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21333
2. 47-097-00821
3. 108
4. Consolidated Gas Supply Corporation
5. Grace W Queen 10352
6. West Virginia other A-85772
7. Upshur, WV
8. 10.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21334
2. 47-013-00803
3. 108
4. Consolidated Gas Supply Corporation
5. A L Gainer 8894
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21335
2. 47-013-00936
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Thos J Wolverton 9106

1. 79-21336
2. 47-013-00950
3. 108
4. Consolidated Gas Supply Corporation
5. Vashti Roberts 6036
6. West Virginia other A-85772
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21337
2. 47-013-01007
3. 108
4. Consolidated Gas Supply Corporation
5. W H Betts 9099
6. West Virginia other A-85772
7. Calhoun, WV
8. 8.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21338
2. 47-013-01311
3. 108
4. Consolidated Gas Supply Corporation
5. Laura Westfall 9914
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21339
2. 47-013-01380
3. 108
4. Consolidated Gas Supply Corporation
5. D S Stewart 9960
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21340
2. 47-013-01548
3. 108
4. Consolidated Gas Supply Corporation
5. R M Marshall 10050
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21341
2. 47-005-00535
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co 8608
6. West Virginia other A-85772
7. Boone, WV
8. 1.5 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21342
2. 47-013-01951
3. 108
4. Consolidated Gas Supply Corporation
5. Prudence Jarvis 10380
6. West Virginia other A-85772
7. Calhoun, WV
8. 6.0 million cubic feet
9. September 20, 1979
10. General system purchasers

V 44 0C 16 79 UMI

1. 79-21343
2. 47-017-00091
3. 108
4. Consolidated Gas Supply Corporation
5. W B Maxwell 7051
6. West Virginia other A-85772
7. Doddridgel, WV
8. 5.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21345
2. 47-013-00357
3. 108
4. Consolidated Gas Supply Corporation
5. L J Smith 7747
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21346
2. 47-097-00727
3. 108
4. Consolidated Gas Supply Corporation
5. A L Hodges 10411
6. West Virginia other A-85772
7. Upshur, WV
8. 14.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21347
2. 47-005-00136
3. 108
4. Consolidated Gas Supply Corporation
5. C P Barker 7498
6. West Virginia other A-85772
7. Boone, WV
8. 5.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21348
2. 47-041-01290
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. W H Frost 10539
6. West Virginia other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21349
2. 47-097-00610
3. 108
4. Consolidated Gas Supply Corporation
5. Ernest Post 10286
6. West Virginia other A-85772
7. Upshur, WV
8. 6.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21350
2. 47-045-00342
3. 108
4. Consolidated Gas Supply Corporation
5. Dingess Run Coal Co 9817
6. West Virginia other A-85772
7. Logan, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21351
2. 47-045-00481
3. 108
4. Consolidated Gas Supply Corporation
5. Boone County Coal Co 9948
6. West Virginia other A-85772
7. Logan, WV
8. 8.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21352
2. 47-085-00903
3. 108
4. Consolidated Gas Supply Corporation
5. A A Clayton 8560
6. West Virginia other A-85772
7. Ritchie, WV
8. 1.5 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21353
2. 47-085-01018
3. 108
4. Consolidated Gas Supply Corporation
5. A T Prather 8846
6. West Virginia other A-85772
7. Ritchie, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21354
2. 47-085-01676
3. 108
4. Consolidated Gas Supply Corporation
5. J R Westfall 6618
6. West Virginia other A-85772
7. Ritchie, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21355
2. 47-033-00901
3. 108
4. Consolidated Gas Supply Corporation
5. G W Caynor 3552
6. West Virginia other A-85772
7. Harrison, WV
8. 7.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21356
2. 47-035-00985
3. 108
4. Consolidated Gas Supply Corporation
5. Jackson Co Bank 10185
6. West Virginia other A-85772
7. Jackson, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21357
2. 47-041-00073
3. 108
4. Consolidated Gas Supply Corporation
5. E H Bonnett 3111
6. West Virginia other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21358
2. 47-041-01112
3. 108
4. Consolidated Gas Supply Corporation
5. E T Linger 10440
6. West Virginia other A-85772
7. Lewis, WV
8. 4.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21359
2. 47-041-01391
3. 108
4. Consolidated Gas Supply Corporation
5. Leland L Gould 10683
6. West Virginia other A-85772
7. Lewis, WV
8. 12.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21360
2. 47-033-00859
3. 108
4. Consolidated Gas Supply Corporation
5. Jessie B Knight 5587
6. West Virginia other A-85772
7. Harrison, WV
8. 3.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21361
2. 47-001-00533
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Zona J Nuzum 11279
6. West Virginia other A-85772
7. Barbour, WV
8. 8.0 million cubic feet
9. September 20, 1979
10. General system purchasers

1. 79-21364
2. 47-035-00777
3. 108
4. Consolidated Gas Supply Corporation
5. J W Carter 9496
6. West Virginia other A-85772
7. Jackson WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21365
2. 47-035-00792
3. 108
4. Consolidated Gas Supply Corporation
5. E Gatchel 9627
6. West Virginia other A-85772
7. Jackson WV
8. 13.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21366
2. 47-041-01005
3. 108
4. Consolidated Gas Supply Corporation
5. Waldo Gould 10426
6. West Virginia other A-85772
7. Lewis WV
8. 19.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21367
2. 47-041-01572
3. 108
4. Consolidated Gas Supply Corporation
5. A W Woodford 10945
6. West Virginia other A-85772
7. Lewis WV
8. 15.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21368
2. 47-097-00822
3. 108
4. Consolidated Gas Supply Corporation
5. Esther Workman 10533

6. West Virginia other A-85772
7. Upshur WV
8. 18.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21369
2. 47-085-01027
3. 108
4. Consolidated Gas Supply Corporation
5. Sherwood Hrs 8885
6. West Virginia other A-85772
7. Ritchie WV
8. 11.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21370
2. 47-067-00297
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Lee Rader 11500
6. West Virginia other A-85772
7. Nicholas WV
8. 22.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21371
2. 47-045-00519
3. 108
4. Consolidated Gas Supply Corporation
5. Boone Coal Corp 9987
6. West Virginia other A-85772
7. Logan WV
8. 19.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21372
2. 47-067-00256
3. 108
4. Consolidated Gas Supply Corporation
5. C F Tomlinson 10665
6. West Virginia other A-85772
7. Nicholas WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21373
2. 47-067-00298
3. 108
4. Consolidated Gas Supply Corporation
5. N F Rader 11588
6. West Virginia other A-85772
7. Nicholas WV
8. 18.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21374
2. 47-085-00992
3. 108
4. Consolidated Gas Supply Corporation
5. W P Wright 8795
6. West Virginia other A-85772
7. Ritchie WV
8. 11.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21375
2. 47-041-01845
3. 108
4. Consolidated Gas Supply Corporation
5. Kemper 8359
6. West Virginia other A-85772
7. Lewis WV
8. 12.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21376
2. 47-041-01843
3. 108
4. Consolidated Gas Supply Corporation
5. Joseph Morris 11442
6. West Virginia other A-85772
7. Lewis WV
8. 15.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21377
2. 47-041-01746
3. 108
4. Consolidated Gas Supply Corporation
5. W G Bennett 2248
6. West Virginia other A-85772
7. Lewis WV
8. 16.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21378
2. 47-041-01857
3. 108
4. Consolidated Gas Supply Corporation
5. Union National Bank 11476
6. West Virginia other A-85772
7. Lewis WV
8. 19.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21379
2. 47-041-01850
3. 108
4. Consolidated Gas Supply Corporation
5. W G Bennett 11466
6. West Virginia other A-85772
7. Lewis WV
8. 18.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21380
2. 47-041-01878
3. 108
4. Consolidated Gas Supply Corporation
5. S S Goodwin 11524
6. West Virginia other A-85772
7. Lewis WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21381
2. 47-041-01879
3. 108
4. Consolidated Gas Supply Corporation
5. L C Randolph 11522
6. West Virginia other A-85772
7. Lewis WV
8. 18.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21382
2. 47-045-00431
3. 108
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9909
6. West Virginia other A-85772
7. Logan WV
8. 15.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21383
2. 47-045-00452
3. 108
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9928
6. West Virginia other A-85772
7. Logan WV
8. 14.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS Area Name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received At FERC
10. Purchasers(s)

1. 79-21362/G9-293
2. 17-705-40275-00D2-0
3. 102
4. Ocean Production Company
5. OCS-G-3393 No 3B
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. September 20, 1979
10. Transcontinental Gas P/L Corp
Consolidated Gas Supply Corp

1. 79-21363/G9-290
2. 17-705-40270-00D2-0
3. 102
4. Ocean Production Company
5. OCS-G-3393 No 2B
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. September 20, 1979
10. Transcontinental Gas P/L Corp
Consolidated Gas Supply Corp

1. 79-21384/G9-292
2. 17-705-40275-00D1-0
3. 102
4. Ocean Production Company
5. OCS-G-3393 No 3A
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. September 20, 1979
10. Transcontinental Gas P/L Corp
Consolidated Gas Supply Corp

1. 79-21385/G9-291
2. 17-705-00000-0000-0
3. 102
4. Ocean Production Company
5. OCS-G-3393 No 2 Alternate
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. September 21, 1979
10. Transcontinental Gas P/L Corp
Consolidated Gas Supply Corp

1. 79-21386/G9-294
2. 17-705-00000-0000-0
3. 102
4. Ocean Production Company
5. OCS-G-3393 No 3 Alternate
6. Vermilion
7. 102
8. 1000.0 million cubic feet
9. September 21, 1979
10. Transcontinental Gas P/L Corp
Consolidated Gas Supply Corp

The Applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent

such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 31, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary

[FR Doc. 79-31816 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 92]

Exxon Corp. et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Florida Department of Natural Resources, Bureau of Geology, Oil and Gas Section

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-20868
2. 09-113-20178-01
3. 107
4. Exxon Corporation
5. McDavid Lands et al No. 33-4A
6. Jay/Lec
7. Santa Rosa, FL
8. 1150.5 million cubic feet
9. September 18, 1979
10. Florida Gas Trans Co., St. Regis Paper Co., Gulf Power Co., Monsanto Co

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-20871
2. 30-025-02875
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2658011
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 3.2 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-20872
2. 30-025-24675
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2672 008
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 10.6 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20873
2. 30-025-02864
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2576001
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 1.9 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20874
2. 30-025-02887
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2672004
6. Vacuum GB-SA
7. Lea, NM
8. 7.5 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-20875
2. 30-025-02825
3. 108 Denied
4. Phillips Petroleum Company
5. East Vacuum GB/SA Un Tr 1910 002
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 19.1 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20876
2. 30-025-02838
3. 108 Denied
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2059 002
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 11.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20877
2. 30-025-00000
3. 108
4. James N Evans
5. J H Day No. 1
6. Jalmat
7. Lea, NM
8. 2.7 million cubic feet
9. September 19, 1979
10. Phillips Petroleum Company

1. 79-20878
2. 30-025-04579
3. 108
4. Arco Oil and Gas Company
5. E C Adkins #2
6. Eunice
7. Lea, NM
8. 6.0 million cubic feet
9. September 19, 1979
10. Phillips Petroleum Company

1. 79-20879
2. 30-025-04713
3. 108
4. Arco Oil and Gas Company
5. State 176 #7
6. Eunice
7. Lea, NM
8. 12.0 million cubic feet
9. September 19, 1979
10. Phillips Petroleum Co

1. 79-20880
2. 30-045-10678
3. 108
4. El Paso Natural Gas Company
5. Neil #3
6. Blanco-Mesaverde Gas
7. San Juan, NM
8. 13.9 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20881
2. 30-039-07231
3. 108
4. El Paso Natural Gas Company
5. SJ 28-5 Unit #15
6. Blanco-Mesaverde Gas
7. Rio Arriba, NM
8. 13.5 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20882
2. 30-015-00000
3. 102 103
4. Harvey E Yates Company
5. Travis State Com #1
6. Travis Upper Penn
7. Eddy, NM
8. 145.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20883
2. 30-025-23386
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA Unit Tr 2270001
6. Vacuum GB-SA
7. Lea, NM
8. 4.6 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Co

1. 79-20884
2. 30-025-21349
3. 108
4. Arco Oil and Gas Company
5. Sarkeys #6
6. Wantz (ABO)
7. Lea, NM
8. 1.4 million cubic feet
9. September 19, 1979
10. Warren Petroleum Co

1. 79-20885
2. 30-025-05779
3. 108
4. Arco Oil and Gas Company
5. J R Phillips A Well #7
6. Monument Blinebry
7. Lea, NM
8. 3.7 million cubic feet
9. September 19, 1979
10. Warren Petroleum Co

1. 79-20886
2. 30-025-10032
3. 108
4. Arco Oil and Gas Company
5. R L Brunson #5

6. Drinkard
7. Lea, NM
8. 7.2 million cubic feet
9. September 19, 1979
10. Northern Natural Gas, Warren Petroleum Co

1. 79-20949
2. 30-045-23162
3. 103
4. Amoco Production Company
5. Federal Gas Com 4 #1
6. Basin Dakota
7. San Juan, NM
8. 35.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20950
2. 30-015-22924
3. 103
4. Southland Royalty Company
5. State 16A Com #1
6. Turkey Track Morrow
7. Eddy, NM
8. 50.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

1. 79-20951
2. 30-055-00000
3. 103
4. Stevens Oil Company
5. O'Brien K No. 1
6. Twin Lakes San Andres Assoc
7. Chaves, NM
8. 12.0 million cubic feet
9. September 19, 1979
10. Transwestern Pipeline Co., Stevens Oil Co

1. 79-20952
2. 30-005-00000
3. 103
4. Stevens Oil Company
5. Obrien I No. 1
6. Twin Lakes-San Andres Assoc
7. Chaves, NM
8. 12.0 million cubic feet
9. September 19, 1979
10. Transwestern Pipeline Co, Stevens Oil Co

1. 79-20953
2. 30-005-00000
3. 103
4. Stevens Oil Company
5. Citgo A State No. 8
6. Twin Lakes-San Andres Assoc
7. Chaves, NM
8. 25.0 million cubic feet
9. September 19, 1979
10. Transwestern Pipeline Co, Stevens Oil Co

1. 79-20954
2. 30-015-70083-79
3. 103
4. Mesa Petroleum Co
5. Rio State No. 1
6.
7. Eddy, NM
8. 590.0 million cubic feet
9. September 19, 1979
10. El Paso Natural Gas Company

Utah Division of Oil, Gas and Mining

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-20998/K-111-9
2. 43-047-30443
3. 102
4. Belco Development Corporation
5. NBU 61-25B 30443
6. Natural Buttes Unit Field Wasatch
7. Uintah, UT
8. 10.0 million cubic feet
9. September 4, 1979
10. Colorado Interstate Gas Company

West Virginia Department of Mines, Oil and Gas Division

1. Control Number (FERC/State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-20887
2. 47-061-00308
3. 108
4. Consolidated Gas Supply Corp
5. J R Waetsell 10921
6. Greer-Cascade 290235
7. Monongalia, WV
8. 12.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20888
2. 47-061-00324
3. 108
4. Consolidated Gas Supply Corp
5. James N Shafer 11307
6. Greer-Cascade 290235
7. Monongalia, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20889
2. 47-001-00361
3. 108 denied
4. Consolidated Gas Supply Corp
5. S Paugh 10934
6. West Virginia Other A-86772
7. Barbour, WV
8. 21.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20890
2. 47-001-00359
3. 108 denied
4. Consolidated Gas Supply Corp
5. Stephen C Biesczad 10918
6. West Virginia Other A-85772
7. Barbour, WV
8. 15.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20891
2. 47-035-01063
3. 108 denied
4. Consolidated Gas Supply Corp
5. Otis Shinn 10519
6. West Virginia Other A-86772
7. Jackson, WV
8. .7 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20892
2. 47-077-00075
3. 108 denied
4. Consolidated Gas Supply Corp
5. F M Auvil 10096
6. Piefer Mt Area 555644
7. Preston, WV
8. 14.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20893
2. 47-077-00076
3. 108 denied
4. Consolidated Gas Supply Corp
5. C E Friend 10135
6. Pifer Mt Area 555644
7. Preston, WV
8. 14.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20894
2. 47-061-00300
3. 108 denied
4. Consolidated Gas Supply Corp
5. E T Donley 10862
6. Greer—Cascade 290235
7. Monongalia, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20895
2. 47-061-00317
3. 108 denied
4. Consolidated Gas Supply Corp
5. Greer Steel Co 11022
6. Greer—Cascade 290235
7. Monongalia, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20896
2. 47-061-00321-
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Farmer 11181
6. Greer-Cascade 290235
7. Monongalia, WV
8. 17.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20897
2. 47-041-01356-
3. 108 Denied
4. Consolidated Gas Supply Corp
5. H. D. Smith 10669
6. West Virginia Other A-85772
7. Lewis, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20898
2. 47-041-01567-
3. 108 Denied
4. Consolidated Gas Supply Corp
5. E. Lawson 10940
6. West Virginia Other A-85772
7. Lewis, WV
8. 14.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79-20899
2. 47-045-00868-

3. 108 Denied
4. Consolidated Gas Supply Corp
5. Boone County Coal 10844
6. West Virginia Other A–85772
7. Logan, WV
8. 15.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20900
2. 47–061–00328–
3. 108
4. Consolidated Gas Supply Corp
5. Greer Steel Co 11415
6. Greer-Cascade 290235
7. Monongalia, WV
8. 11.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20901
2. 47–001–00029–
3. 108
4. Consolidated Gas Supply Corp
5. Cora M. Peck 8992
6. West Virginia Other A–85772
7. Barbour, WV
8. .7 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20902
2. 47–021–00637–
3. 108
4. Consolidated Gas Supply Corp
5. Pearcy Boggs 8851
6. West Virginia Other A–85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20903
2. 47–021–00664–
3. 108
4. Consolidated Gas Supply Corp
5. Louis Bennett 8905
6. West Virginia Other A–85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20904
2. 47–021–00887–
3. 108
4. Consolidated Gas Supply Corp
5. Ella R. Despard 9685
6. West Virginia Other A–85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20905
2. 47–021–00903–
3. 108
4. Consolidated Gas Supply Corp
5. Louis Bennett 9704
6. West Virginia Other A–85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20906
2. 47–041–00455–
3. 108
4. Consolidated Gas Supply Corp
5. Alonzo A. Teter 11115
6. West Virginia Other A–85772
7. Lewis, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20907
2. 47–021–01034–
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Louis Bennett 9958
6. West Virginia Other A–85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20908
2. 47–097–00799–
3. 108
4. Consolidated Gas Supply Corp
5. John V. McDermott 10509
6. West Virginia Other A–85772
7. Upshur, WV
8. 165.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20909
2. 47–097–00884–
3. 108
4. Consolidated Gas Supply Corp
5. Guy Rohr 10733
6. West Virginia Other A–85772
7. Upshur, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20910
2. 47–097–00969–
3. 108
4. Consolidated Gas Supply Corp
5. S. R. Harrison, Jr. 10783
6. West Virginia Other A–85772
7. Upshur, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20911
2. 47–097–00977–
3. 108
4. Consolidated Gas Supply Corp
5. P. B. McDermott 10786
6. West Virginia Other A–85772
7. Upshur, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20912
2. 47–021–02232–
3. 108
4. Consolidated Gas Supply Corp
5. Porter Maxwell 11447
6. West Virginia Other A–85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20913
2. 47–033–00088–
3. 108
4. Consolidated Gas Supply Corp
5. Lemar Robinson 1981
6. West Virginia Other A–85772
7. Harrison, WV
8. .0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20914
2. 47–033–00421–
3. 108
4. Consolidated Gas Supply Corp
5. F. M. Atterholt 10789
6. West Virginia Other A–85772
7. Harrison, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20915
2. 47–041–01480–
3. 108
4. Consolidated Gas Supply Corp
5. Brent Maxwell 10797
6. West Virginia Other A–85772
7. Lewis, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20916
2. 47–033–00292–
3. 108
4. Consolidated Gas Supply Corp
5. Bessie P. Allen, et al 11041
6. West Virginia Other A–85772
7. Harrison, WV
8. .5 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20917
2. 47–041–01273–
3. 108
4. Consolidated Gas Supply Corp
5. S. D. Camden 10546
6. West Virginia Other A–85772
7. Lewis, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20918
2. 47–021–00951–
3. 108
4. Consolidated Gas Supply Corp
5. West Fall-Riddle 9785
6. West Virginia Other A–85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20919
2. 47–021–00959–
3. 108
4. Consolidated Gas Supply Corp
5. Louis Bennett 9810
6. West Virginia Other A–85772
7. Gilmer, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20920
2. 47–001–00246–
3. 108 Denied
4. Consolidated Gas Supply Corp
5. D. Dickenson 10752
6. West Virginia Other A–85772
7. Barbour, WV
8. 17.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20921
2. 47–033–00560–
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Stephen E. Bennett 1607
6. West Virginia Other A–85772

7. Harrison, WV
8. 3.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20922
2. 47–033–00457–
3. 108 Denied
4. Consolidated Gas Supply Corp
5. P. H. Hilkey 8034
6. West Virginia Other A–85772
7. Harrison, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20923
2. 47–021–00988–
3. 108
4. Consolidated Gas Supply Corp
5. Louis Bennett 9856
6. West Virginia Other A–85772
7. Gilmer, WV
8. 1.5 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20924
2. 47–001–00007–
3. 108
4. Consolidated Gas Supply Corp
5. P. D. Queen 8801
6. West Virginia Other A–85772
7. Barbour, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20925
2. 47–097–00992–
3. 108
4. Consolidated Gas Supply Corp
5. Warren L. Turner 10853
6. West Virginia Other A–85772
7. Upshur, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General System Purchasers

1. 79–20926
2. 47–041–01128
3. 108
4. Consolidated Gas Supply Corp
5. Ira F Linger 10439
6. West Virginia other A–85772
7. Lewis, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20927
2. 47–041–00485
3. 108
4. Consolidated Gas Supply Corp
5. Edward O Taylor 10279
6. West Virginia other A–85772
7. Lewis, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20928
2. 47–041–00802
3. 108
4. Consolidated Gas Supply Corp
5. Alfred Woofter 10334
6. West Virginia other A–85772
7. Lewis, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20929
2. 47–041–00858
3. 108
4. Consolidated Gas Supply Corp
5. Rastle-Cissy 10352
6. West Virginia other A–85772
7. Lewis, WV
8. 10.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20930
2. 47–097–01037
3. 108
4. Consolidated Gas Supply Corp
5. B C Radabaugh 10883
6. West Virginia other A–85772
7. Upshur, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20931
2. 47–097–00579
3. 108
4. Consolidated Gas Supply Corp
5. Delia M Golden 10188
6. West Virginia other A–85772
7. Upshur, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20932
2. 47–097–00530
3. 108
4. Consolidated Gas Supply Corp
5. W L Karickoff 10113
6. West Virginia other A–85772
7. Upshur, WV
8. 19.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20933
2. 47–097–00880
3. 108
4. Consolidated Gas Supply Corp
5. Nate McDermott 10728
6. West Virginia other A–85772
7. Upshur, WV
8. 19.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20934
2. 47–097–00876
3. 108
4. Consolidated Gas Supply Corp
5. M J Jackson 10717
6. West Virginia other A–85772
7. Upshur, WV
8. 17.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20935
2. 47–041–01459
3. 108
4. Consolidated Gas Supply Corp
5. N C Allman 10778
6. West Virginia other A–85772
7. Lewis, WV
8. 17.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20936
2. 47–041–00107
3. 108
4. Consolidated Gas Supply Corp
5. W G Gould 8976
6. West Virginia other A–85772
7. Lewis, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20937
2. 47–041–00116
3. 108
4. Consolidated Gas Supply Corp
5. W G Gould 9036
6. West Virginia other A–85772
7. Lewis, WV
8. 8.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20938
2. 47–041–01506
3. 108
4. Consolidated Gas Supply Corp
5. Brannon Hardman 10421
6. West Virginia other A–85772
7. Lewis, WV
8. 10.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20939
2. 47–041–01322
3. 108
4. Consolidated Gas Supply Corp
5. H N Hull 10643
6. West Virginia other A–85772
7. Lewis, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20940
2. 47–041–01824
3. 108
4. Consolidated Gas Supply Corp
5. Peter L Hull 11405
6. West Virginia other A–85772
7. Lewis, WV
8. 8.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20941
2. 47–045–00298
3. 108
4. Consolidated Gas Supply Corp
5. Borne County Coal Corp 9726
6. West Virginia other A–85772
7. Logan, WV
8. 3.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20942
2. 47–005–00458
3. 108
4. Consolidated Gas Supply Corp
5. H Nunnenkamp 8505
6. West Virginia other A–85772
7. Boone, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20943
2. 47–001–00170
3. 108
4. Consolidated Gas Supply Corp
5. Audrey D Teter 10639
6. West Virginia other A–85772
7. Barbour, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20944

2. 47–001–00073
3. 108
4. Consolidated Gas Supply Corp
5. H D Stewart 6966
6. West Virginia other A–85772
7. Barbour, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20945
2. 47–001–00042
3. 108
4. Consolidated Gas Supply Corp
5. French Trimble 9051
6. West Virginia other A–85772
7. Barbour, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20946
2. 47–001–00004
3. 108
4. Consolidated Gas Supply Corp
5. David Sigley 8612
6. West Virginia other A–85772
7. Barbour, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20947
2. 47–001–00210
3. 108
4. Consolidated Gas Supply Corp
5. J H Pitman 10709
6. West Virginia other A–85772
7. Barbour, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20948
2. 47–019–00093
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Vanetta Land Co 9875
6. West Virginia other A–85772
7. Fayette, WV
8. 20.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20955
2. 47–013–00813
3. 108
4. Consolidated Gas Supply Corp
5. V Higgingotham 8923
6. West Virginia other A–85772
7. Calhoun, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20956
2. 47–013–00700
3. 108
4. Consolidated Gas Supply Corp
5. Parr-Lewis 8615
6. West Virginia other A–85772
7. Calhoun, WV
8. 10.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20957
2. 47–021–01945
3. 108
4. Consolidated Gas Supply Corp
5. W Davis 10985
6. West Virginia other A–85772
7. Gilmer, WV
8. 14.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20958
2. 47–061–00327
3. 108
4. Consolidated Gas Supply Corp
5. Deckers Greer Sand Co 11414
6. Greer-Cascade 290235
7. Monongalia, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20959
2. 47–061–00326
3. 108
4. Consolidated Gas Supply Corp
5. Dale Staley 11314
6. Greer-Cascade 290235
7. Monongalia, WV
8. 10.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20960
2. 47–013–02332
3. 108
4. Consolidated Gas Supply Corp
5. S A Hays 10889
6. West Virginia other A–85772
7. Calhoun, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20961
2. 47–017–01064
3. 108
4. Consolidated Gas Supply Corp
5. E P Powell 10517
6. West Virginia other A–85772
7. Doddridge, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20962
2. 47–005–00508
3. 108
4. Consolidated Gas Supply Corporation
5. H Nunnenkamp 8582
6. West Virginia other A–85772
7. Boone, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20963
2. 47–007–01005
3. 108
4. Consolidated Gas Supply Corporation
5. I N Brown 11475
6. West Virginia other A–85772
7. Braxton, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20964
2. 47–013–00590
3. 108
4. Consolidated Gas Supply Corporation
5. Bee Hopkins 8549
6. West Virginia other A–85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20965
2. 47–013–00470
3. 108
4. Consolidated Gas Supply Corporation
5. Evylyn M Kenny 7814
6. West Virginia other A–85772
7. Calhoun, WV
8. 6.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20966
2. 47–001–00260
3. 108
4. Consolidated Gas Supply Corporation
5. Gideon Rogers 10776
6. West Virginia other A–85772
7. Barbour, WV
8. 14.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20967
2. 47–093–00014
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. W A Streets 9949
6. Piefer Mt Area 555644
7. Tucker, WV
8. 12.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20968
2. 47–061–00297
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. E G Powley 10858
6. Greer-Cascade 290235
7. Monongalia, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20969
2. 47–041–00063
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J W Kemper 8634
6. West Virginia other A–85772
7. Lewis, WV
8. 19.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20970
2. 47–033–00262
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J A Roby 11082
6. West Virginia other A–85772
7. Harrison, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20971
2. 47–093–00020
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. A W Myers 10097
6. Pierre Mt Area 555644
7. Tucker, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20972
2. 47–093–00017
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Walter Hovatter 9967
6. Pieffer Mt Area 555644

7. Tucker, WV
8. 1.5 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20973
2. 47–013–00844
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. L S Witt 8971
6. West Virginia other A–85772
7. Calhoun, WV
8. 19.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20973
2. 47–013–00844
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. L S Witt 8971
6. West Virginia other A–85772
7. Calhoun, WV
8. 19.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20974
2. 47–009–00479
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Burton A Roy 11187
6. West Virginia other A–85772
7. Barbour, WV
8. 20.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20975
2. 47–001–00554
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Clella Stalnaker 11316
6. West Virginia other A–85772
7. Barbour, WV
8. 21.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20976
2. 47–045–00481
3. 108
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Co 9948
6. West Virginia other A–85772
7. Logan, WV
8. 8.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20977
2. 47–001–00079
3. 108
4. Consolidated Gas Supply Corporation
5. Ord Bean 9922
6. West Virginia other A–85772
7. Barbour, WV
8. 2.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20978
2. 47–035–00514
3. 108
4. Consolidated Gas Supply Corporation
5. Margaret Harrison 9038
6. Shinn Area 652435
7. Jackson, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20979
2. 47–033–00618
3. 108
4. Consolidated Gas Supply Corporation
5. Howard Neeley 11478
6. West Virginia other A–85772
7. Harrison, WV
8. 11.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20980
2. 47–087–01942
3. 108
4. Consolidated Gas Supply Corporation
5. Nicolette Lumber Co 11371
6. West Virginia other A–85772
7. Roane, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20986
2. 47–013–01854
3. 108
4. Consolidated Gas Supply Corporation
5. Godfrey L Cabot Inc 10292
6. West Virginia other A–85772
7. Calhoun, WV
8. 8.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20987
2. 47–093–00021
3. 108
4. Consolidated Gas Supply Corporation
5. T A Loughry 10012
6. Piefer Mt Area 555644
7. Tucker, WV
8. 3.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20988
2. 47–017–01507
3. 108
4. Consolidated Gas Supply Corporation
5. W L Davis 10987
6. West Virginia other A–85772
7. Doddridge, WV
8. 16.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–209898
2. 47–041–01276
3. 108
4. Consolidated Gas Supply Corporation
5. J G Swisher 10534
6. West Virginia other A–85772
7. Lewis, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20990
2. 47–093–00011
3. 108
4. Consolidated Gas Supply Corporation
5. Alex Nestor Heirs 9924
6. Pieffer Mt Area 555644
7. Tucker, WV
8. 5.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20991
2. 47–097–00713
3. 108
4. Consolidated Gas Supply Corporation
5. E T Linger 10431
6. West Virginia other A–85772
7. Upshur, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20992
2. 47–033–00105
3. 108
4. Consolidated Gas Supply Corporation
5. Allison Bartlett 11043
6. West Virginia other A–85772
7. Harrison, WV
8. 9.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20993
2. 47–033–00273
3. 108
4. Consolidated Gas Supply Corporation
5. Jackson Arnold 10443
6. West Virginia other A–85772
7. Harrison, WV
8. 13.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20994
2. 47–093–00031
3. 108
4. Consolidated Gas Supply Corporation
5. Karl Wolfe 10259
6. Pieffer Mt area 555644
7. Tucker, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20995
2. 47–097–00195
3. 108
4. Consolidated Gas Supply Corporation
5. Mabel Mick 8805
6. West Virginia other A–85772
7. Upshur, WV
8. 4.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20996
2. 47–097–00424
3. 108
4. Consolidated Gas Supply Corporation
5. Will E Morris 9861
6. West Virginia other A–85772
7. Upshur, WV
8. 7.0 million cubic feet
9. September 19, 1979
10. General system purchasers

1. 79–20997
2. 47–097–00882
3. 108
4. Consolidated Gas Supply Corporation
5. David K Gueen 10737
6. West Virginia other A–85772
7. Upshur, WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General system purchasers

U. S. Geological Survey, Metairie, La.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC

10. Purchaser(s)
1. 79–20869/CG–573
2. 17–708–40193–0000–0
3. 102 Denied
4. Amoco Production Comapny
5. OCS–G–2882 No. A–10D
6. South Marsh Island
7. 125
8. 55.0 million cubic feet
9. September 19, 1979
10. Sea Robin Pipeline Co., Florida Gas Transmission Co., Florida Power & Light Co
1. 79–20870/CG–165
2. 17–711–40384–00D1–0
3. 102 Denied
4. Southern Natural Gas Company
5. OCS G–1525 No. D–5
6. Ship Shoal
7. 222
8. 21.0 million cubic feet
9. September 12, 1979
10. Sea Robin Pipeline Company

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–20999/COA—2441–79
2. 05–067–06137–0000–0
3. 103
4. Lynco Oil Corporation
5. West Animas No. 1
6. Ignacio Blanco Pictured Cliffs
7. La Plata, CO
8. 60.0 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21000/COA–2442–79
2. 05–067–06128–0000–0
3. 103
4. Lynco Oil Corporation
5. Southern UTE No. 2
6. Ignacio Blanco Mesaverde
7. La Plata, CO
8. 21.0 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–20981/NM–394–78
2. 30–045–07333–0000–0
3. 108
4. Energy Reserves Group Inc
5. Gallegos Canyon Unit P C No. 19
6. W Kurtz P C
7. San Juan, NM
8. 20.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–20982/NM–1161–79
2. 30–045–06954–0000–0
3. 108
4. El Paso Natural Gas Company
5. Hancock A No. 3
6. Blanco South-Pictured Cliffs Gas
7. San Juan, NM
8. 19.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–20983/NM–2411–79
2. 30–039–07039–0000–0
3. 108
4. El Paso Natural Gas Company
5. SJ 28–6 Unit No. 83
6. Blanco South-Pictured Cliffs Gas
7. Rio Arriba, NM
8. 1.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–20984/NM–2437–79
2. 30–043–20258–0000–0
3. 103
4. El Paso Natural Gas Company
5. Jicarilla 15 No. 1
6. Ballard
7. Sandoval, NM
8. 31.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–20985/NM 2437–79
2. 30–043–20258–0000–0
3. 108
4. El Paso Natural Gas Company
5. Jicarilla 15 No. 1
6. Ballard-Pictured Cliffs Gas
7. Sandoval, NM
8. 18.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21001/NM–2521–79
2. 30–039–21332–0000–0
3. 103
4. El Paso Natural Gas Company
5. San Juan 29–7 Unit No. 111
6. Basin
7. Rio Arriba, NM
8. 170.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21002/NM–2443–79
2. 30–039–06145–0000–0
3. 108
4. H A Yaffee
5. Yaffee No. 2—SF–080539
6. Tapacito
7. Rio Arriba, NM
8. 14.9 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21003/NM–2444–79
2. 30–045–05323–0000–0
3. 108
4. Alex N Campbell
5. Federal Tonkin No. 1–NM–02691
6. Basin Dakota
7. San Juan, NM
8. 16.9 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21004/NM–2445–79
2. 30–045–00000–0000–0
3. 108
4. Edge Oil & Gas
5. Patty No. 1–NM–036252
6. Bisti Gallup
7. San Juan, NM
8. 12.2 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21005/NM–2457–79–3
2. 30–039–21448–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 21
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 15.4 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21006/NM–2457–79–8
2. 30–039–21448–0000–0
3. 108
4. Cotton Petroleum Corporation
5. Apache No. 21
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 7.9 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21007/NM–2458–79–3
2. 30–039–21449–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 22
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 6.3 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21008/NM–2458–79–8
2. 30–039–21449–0000–0
3. 108
4. Cotton Petroleum Corporation
5. Apache No. 22
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 7.7 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21009/NM–2459–79
2. 30–039–21491–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 23
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 12.0 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21010/NM–2459–79–8
2. 30–039–21491–0000–0
3. 108
4. Cotton Petroleum Corporation
5. Apache No. 23
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 9.5 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21011/NM–2460–79
2. 30–039–21492–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 24
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 123.0 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21012/NM–2461–79–A
2. 30–039–21445–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 103 (Lindrith Gallup)
6. Lindrith Gallup
7. Rio Arriba, NM
8. 28.5 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation

1. 79–21013/NM–2461–79–B
2. 30–039–21445–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 103 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 28.5 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21014/NM–2462–79–A
2. 30–039–21538–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 104 (Lindrith Gallup)
6. Lindrith-Gallup
7. Rio Arriba, NM
8. 15.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21015/NM–2462–79–B
2. 30–039–21538–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 104 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 15.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21016/NM–2463–79–A
2. 30–039–21539–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 105 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 34.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21017/NM–2463–79–B
2. 30–039–21539–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 105 (Landrith Gallup)
6. Landrith Gallup
7. Rio Arriba, NM
8. 34.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21018/NM–2464–79–A
2. 30–039–21537–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 106 (Lindrith Gallup)
6. Lindrith-Gallup
7. Rio Arriba, NM
8. 24.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21019/NM–2464–79–B
2. 30–039–21537–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 106 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 24.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21020/NM–2465–79–A
2. 30–039–21759–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 107 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 21.6 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21021/NM–2465–79–B
2. 30–039–21759–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 107 (Lindruth Gallup)
6. Landrith Gallup
7. Rio Arriba, NM
8. 21.6 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21022/NM–2466–79–A
2. 30–039–21760–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 108 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 4.3 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21023/NM–2466–79–B
2. 30–039–21760–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 108 (Lindruth Gallup)
6. Landrith Gallup
7. Rio Arriba, NM
8. 4.3 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21024/NM–2467–79–A
2. 30–039–21761–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 109 (Dakota)
6. Dakota
7. Rio Arriba, NM
8. 27.6 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21025/NM–2467–79–B
2. 30–039–21761–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 109 (West Lind Gallup)
6. West Landrith Gallup
7. Rio Arriba, NM
8. 27.6 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21026/NM–2468–79–A
2. 30–039–21762–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 110 (Lindrith Gallup)
6. Landrith Gallup
7. Rio Arriba, NM
8. 3.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21027/NM–2468–79–B
2. 30–039–21762–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 110 (Dakota)
6. Dakota
7. Rio Arriba, NM
8. 3.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21028/NM–2468–79–A
2. 30–039–21763–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 111 (Lindrith Gallup)
6. Landrith Gallup
7. Rio Arriba, NM
8. 3.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21029/NM–2469–79–B
2. 30–039–21763–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 111 (Dakota West)
6. Dakota West
7. Rio Arriba, NM
8. 3.7 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21030/NM–2470–79–A
2. 30–039–21764–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 112 (Dakota)
6. Dakota
7. Rio Arriba, NM
8. 5.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21031/NM–2470–79–B
2. 30–039–21764–0000–0
3. 103
4. Cotton Petroleum Corporation
5. Apache No. 112 (West Lind Gallup)
6. West Landrith Gallup
7. Rio Arriba, NM
8. 5.9 Million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79–21032/NM–2471–79
2. 30–015–21417–0000–0
3. 108
4. Reserve Oil Inc
5. Western Reserves Federal No. 2
6. Avalon (Strawn)
7. Eddy NM
8. 3.5 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Co
1. 79–21033/NM–2472–79
2. 30–015–21183–0000–0
3. 108
4. Reserve Oil Inc
5. Western Reserves Federal No. 1
6. Avalon (Morrow)
7. Eddy, NM
8. 3.5 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Co
1. 79–21034/NM–2478–79
2. 30–045–07891–0000–0
3. 108
4. Thelma Ford Simmons
5. Simmons S No. 1
6. Blanco Mesaverde
7. Dan Juan, NM
8. 19.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79–21035/NM–2479–79
2. 30–045–11863–0000–0
3. 108
4. Thelma Ford Simmons
5. Simmons PC No. 5

V 44 0 C 16 7 9 UMI

6. Blanco Pictured Cliffs
7. San Juan, NM
8. 11.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21036/NM-2480-79
2. 30-045-11864-0000-0
3. 108
4. Thelma Ford Simmons
5. Simmons (PC) No. 6
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 14.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21037/NM-2481-79
2. 30-045-11866-0000-0
3. 108
4. Thelma Ford Simmons
5. Simmons PC No. 7
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 2.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21038/NM-2482-79
2. 30-045-11869-0000-0
3. 108
4. Thelma Ford Simmons
5. Simmons (PC) No. 11
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 15.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21039/NM-2483-79
2. 30-045-07900-0000-0
3. 108
4. Thelma Ford Simmons
5. Loura V Hammer B No. 1
6. Blanco Mesaverde
7. San Juan, NM
8. 6.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21040/NM-2484-79
2. 30-039-21802-0000-0
3. 103
4. El Paso Natural Gas Company
5. Lindrith Unit No. 95
6. South Blanco
7. Rio Arriba, NM
8. 60.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21041/NM-2485-79
2. 30-039-21690-0000-0
3. 103
4 El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 259
6. Basin
7. Rio Arriba NM
8. 264.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company Northwest Pipeline Corporation
1. 79-21042/NM-2486-79
2. 30-039-21747-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit No. 114
6. Basin
7. Rio Arriba NM
8. 120.0 Million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21043/NM-2487-79
2. 30-039-21734-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 199
6. Basin
7. Rio Arriba, NM
8. 130.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation
1. 79-21044/NM-2489-79
2. 30-045-22823-0000-0
3. 103
4. El Paso Natural Gas Company
5. Fields No. 10
6. Blanco
7. San Juan, NM
8. 80.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21045/NM-2490-79
2. 30-039-21063-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 234
6. Basin
7. Rio Arriba, NM
8. 115.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company, Northwest Pipeline Corporation
1. 79-21046/NM-2491-79
2. 30-039-21651-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 248
6. Basin
7. Rio Arriba, NM
8. 75.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company, Northwestern Pipeline Company
1. 79-21047/NM-2495-79
2. 30-039-21401-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit No. 221
6. Undesignated
7. Rio Arriba, NM
8. 80.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21048/NM-2498-79
2. 30-045-22897-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit No. 94
6. Blanco
7. San Juan, NM
8. 70.0 million cubic feet
9 September 18, 1979
10. El Paso Natural Gas Company, Northwestern Pipeline Corporation
1. 79-21049/NM-2500-79
2. 30-039-21733-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 257
6. Basin
7. Rio Arriba, NM
8. 155.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company, Northwestern Pipeline Corporation
1. 79-21050/NM-2501-79
2. 30-039-21649-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-7 Unit No. 246
6. Basin
7. Rio Arriba, NM
8. 75.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company, Northwestern Pipeline Corporation
1. 79-21051/NM-2504-79
2. 30-045-23083-0000-0
3. 103
4. El Paso Natural Gas Company
5. Hubbard No. 6
6. Blanco
7. San Juan, NM
8. 90.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21052/NM-2509-79
2. 30-039-21330-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 29-7 Unit No. 109
6. Basin
7. Rio Arriba, NM
8. 139.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21053/NM-2510-79
2. 30-045-22727-0000-0
3. 103
4. El Paso Natural Gas Company
5. Lucerne A No. 8
6. Blanco
7. San Juan, NM
8. 100.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21054/NM-2514-79
2. 30-039-20963-0000-0
3. 103
4. El Paso Natural Gas Company
5. Lindrith Unit No. 84
6. South Blanco
7. Rio Arriba, NM
8. 25.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company
1. 79-21055/NM-2520-79
2. 30-039-20847-0000-0
3. 103
4. El Paso Natural Gas Company
5. San Juan 28-6 Unit No. 203
6. Basin
7. Rio Arriba, NM
8. 105.0 million cubic feet
9. September 18, 1979
10. El Paso Natural Gas Company

The applications for determination in these proceedings together with a copy or decription of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 31, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31817 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 91]

Transcontinental Oil Corp. et al.; Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Mississippi Oil and Gas Board

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-20786/79-79-143
2. 23-121-20080
3. 102
4. Transcontinental Oil Corporation
5. Puckett Gas unit No. 5 well #4
6. Puckett
7. Rankin, MS
8. 365.0 million cubic feet
9. September 17, 1979
10. United Gas Pipeline Company
1. 79-20787/85-79-437
2. 23-095-20264
3. 102
4. Anderman Operating Company
5. Rye-Dobbs unit No. 1
6. Buttahatchie River
7. Monroe, MS
8. 547.5 million cubic feet
9. September 17, 1979
10.
1. 79-20788/83-79-474
2. 23-065-20110
3. 102
4. Forest Oil Corporation
5. Magnolia Well No. 1
6. Carson
7. Jefferson Davis, MS
8. 2500.0 million cubic feet
9. September 17, 1979
10. Columbia Gas Transmission Corp, Transcontinental Gas Pipeline Corp
1. 79-20789/87-79-474
2. 23-065-20119
3. 102
4. Forest Oil Corporation
5. Red Oak Well No. 1
6. Carson
7. Jefferson Davis, MS
8. 300.0 million cubic feet
9. September 17, 1979
10. Columbia Gas Transmission Corp, Transcontinental Gas Pipeline Corp
1. 79-20790/86-79-420
2. 23-065-20128
3. 107
4. First Energy Corporation
5. Otho McNease No. 1
6. Holiday Creek
7. Jefferson Davis, MS
8. 46.0 million cubic feet
9. September 17, 1979
10. Lithium Corporation of America
1. 79-20791/90-79-196
2. 23-001-21703
3. 103
4. Amoco Production Company
5. Quitman Bayou Field unit 26
6. Quitman Bayou Field
7. Adams, MS
8. 37.0 million cubic feet
9. September 17, 1979
10. Southern Natural Gas Company
1. 79-20792/89-79-468
2. 23-077-20025
3. 107
4. Petroleum Corporation of Delaware
5. Crown Zellerbach No. 1
6. Hooker
7. Lawrence, MS
8. 730.0 million cubic feet
9. September 17, 1979
10.
1. 79-20793/82-79-352
2. 23-031-20056
3. 103, 107
4. Callon Petroleum Company
5. Ada Miller gas unit No. 1
6. South Williamsburg
7. Covington, MS
8. .0 million cubic feet
9. September 17, 1979
10. Misc-Wisc Pipeline Co
1. 79-20794/81-79-352
2. 23-031-20053
3. 103, 107
4. Callon Petroleum Company
5. Mauldin gas unit No. 1
6. South Williamsburg
7. Covington, MS
8. .0 million cubic feet
9. September 17, 1979
10. Misc-Wisc Pipeline Co
1. 79-20795/80-79-420
2. 23-065-20123
3. 107
4. System Fuels Inc
5. Dale Estate 25-14 No. 1
6. Holiday Creek
7. Jefferson Davis, MS
8. 72.0 million cubic feet
9. September 17, 1979
10. System Fuels Inc., Lithium Corp of America
1. 79-20796/77-79-119
2. 23-147-20113
3. 103
4. Getty Oil Company
5. Morris 36-10 No. 1
6. Dexter
7. Walthall, MS
8. 180.0 million cubic feet
9. September 17, 1979
10. Southern Natural Gas Company
1. 79-20797/76-79-224
2. 23-045-20059
3. 102
4. Saga Petroleum US Inc
5. No. 1 Sharp 31-2
6. Waveland
7. Hancock, MS
8. 1095.0 million cubic feet
9. September 17, 1979
10. United Gas Pipeline Company

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-20709
2. 30-015-22329
3. 102
4. Yates Petroleum Corporation
5. Siegenthaler is com #1
6. Kennedy Farms Morrow
7. Eddy, NM
8. 310.0 million cubic feet
9. September 17, 1979
10. El Paso Natural Gas Co
1. 79-20710
2. 30-045-22631
3. 103
4. Amoco Production Company
5. Holmberg Gas Com #1A
6. Blanco Mesaverde
7. San Juan, NM
8. 200.0 million cubic feet
9. September 17, 1979
10. El Paso Natural Gas Company
1. 79-20711
2. 30-045-22765
3. 103
4. Amoco Production Company
5. State gas com m #1A
6. Blanco Mesaverde
7. San Juan, NM
8. 122.0 million cubic feet
9. September 17, 1979
10. El Paso Natural Gas Company
1. 79-20712
2. 30-025-26104
3. 102
4. Warren Petroleum Co/Div of Gulf Oil
5. LEA YH State Well No. 1
6. Airstrip Bone Springs
7. Lea, NM
8. .0 million cubic feet
9. September 17, 1979
10. El Paso Natural Gas
1. 79-20866
2. 30-025-00000
3. 108
4. Texaco Inc
5. W L Nix No. 2
6. Drinkard
7. Lea, NM
8. 3.2 million cubic feet
9. September 19, 1979
10. Getty Oil Co

V 44 0C 16 79 UMI

1. 79–20867
2. 30–025–00000
3. 102
4. Pogo Producing Company
5. State L–922 No. 2
6. Gramma Ridge-Morrow Field Area
7. Lea, NM
8. 540.0 million cubic feet
9. September 5, 1979
10. Llano Inc

Texas Railroad Commission, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)

1. 79–20768/07337
2. 42–365–00000
3. 103
4. Getty Oil Company
5. Tompkins-Spencer No. 2
6. Carthage (Cotton Valley)
7. Panola TX
8. 300.0 million cubic feet
9. September 17, 1979
10. United Gas Pipeline Company

1. 79–20769/06903
2. 42–435–31363
3. 103
4. Pennzoil Company
5. Vanderstucken A = 2–71419
6. Miers (Canyon)
7. Sutton TX
8. 120.0 million cubic feet
9. September 17, 1979
10. Lone Star Gas Company

1. 79–20770/06901
2. 42–435–31944
3. 103
4. Pennzoil Company
5. Vanderstucken A =4–72963
6. Miers (Canyon)
7. Sutton TX
8. 83.0 million cubic feet
9. September 17, 1979
10. Lone Star Gas Co

1. 79–20771/06899
2. 42–435–31954
3. 103
4. Pennzoil Company
5. Vanderstucken B = 3–73157
6. Miers (Canyon)
7. Sutton TX
8. 24.0 million cubic feet
9. September 17, 1979
10. Lone Star Gas Company

1. 79–20772/06897
2. 42–435–31955
3 103
4. Pennzoil Company
5. Venderstucken D =1–73001
6. Miers (Canyon)
7. Sutton TX
8. 95.0 million cubic feet
9. September 17, 1979
10. Lone Star Gas Company

1. 79–20773/05793
2. 42–211–00000
3. 103
4. Anadarko Production Company
5. George B 3028
6. Hemphill Granite Wash
7. Hemphill TX
8. 360.0 million cubic feet
9. September 17, 1979
10. Panhandle Eastern Pipe Line Company

1. 79–20774/05129
2. 42–003–00000
3. 108
4. Getty Oil Company
5. University K No 2
6. Triple–N (Silurian)
7. Andrews TX
8. 2.0 million cubic feet
9. September 17, 1978
10. Phillips Petroleum Company

1. 79–20775/05124
2. 42–413–00000
3. 108
4. Getty Oil Company
5. L P Martin No 2
6. Camar
7. Schleicher TX
8. 2.0 million cubic feet
9. September 17, 1979
10. Atlantic Richfield Company

1. 79–20776/04782
2. 42–233–00000
3. 108
4. North Star Petroleum Corporation
5. Mizel-Sanford 2RC
6.
7. Hutchinson TX
8. 14.1 million cubic feet
9. September 17, 1979
10. Panhandle Producing Co et al

1. 79–20777/03899
2. 42–475–31791
3. 103
4. Adobe Oil & Gas Corporation
5. Barstow No 10 well (new)
6. Scott (Cherry Canyon)
7. Ward TX
8. 84.0 million cubic feet
9. September 17, 1979
10. Transwestern Pipeline Company

1. 79–20778/03431
2. 42–357–00000
3. 108
4. Phillips Petroleum Company
5. Holliday–A No 1
6. Farnsworth-Conner
7. Ochiltree TX
8. 3.5 million cubic feet
9. September 17, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co

1. 79–20779/03411
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Obrien No 1
6. Texas Hugoton
7. Sherman TX
8. 2.5 million cubic feet
9. September 17, 1979
10. Michigan Wisconsin Pipeline Co

1. 79–20780/03393
2. 42–065–00000
3. 108
4. Phillips Petroleum Company
5. McConnell–C No 2
6. Panhandle Carson
7. Carson TX
8. 1.1 million cubic feet
9. September 17, 1979
10. Getty Oil Co

1. 79–20781/03390
2. 42–295–00000
3. 108
4. Phillips Petroleum Company
5. Cleveland B No 1
6. W Higgins
7. Lipscomb TX
8. 18.0 million cubic feet
9. September 17, 1979
10. Panhandle Eastern Pipeline Co

1. 79–20782/03189
2. 42–065–00000
3. 108
4. Phillips Petroleum Company
5. Cooper C No 13
6. Panhandle Carson
7. Carson TX
8. .2 million cubic feet
9. September 17, 1979
10. Getty Oil Co

1. 79–20783/03149
2. 42–065–00000
3. 108
4. Phillips Petroleum Company
5. Cooper C No 9
6. Panhandle Carson
7. Carson TX
8. .8 million cubic feet
9. September 17, 1979
10. Getty Oil Co

1. 79–20784/03148
2. 42–421–30062
3. 103
4. Phillips Petroleum Company
5. Brady E No 2
6. Stevens Marmaton
7. Sherman TX
8. 6.0 million cubic feet
9. September 17, 1979
10. Michigan Wisconsin Pipeline Co

1. 79–20785/02989
2. 42–461–31306
3. 103
4. Gulf Oil Corporation
5. B J Oneal et al No 45
6. McElroy
7. Upton TX
8. .1 million cubic feet
9. September 17, 1979
10. Phillips Petroleum Company

West Virginia Department of Mines, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block no.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79–20713
2. 47–043–01528
3. 108 denied
4. Pennzoil Company
5. Adkins R H =2
6. Duval
7. Lincoln WV
8. 1.0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20714
2. 47–043–01708
3. 108 denied
4. Pennzoil Company
5. C C Clay #2
6. Duval
7. Lincoln WV
8. 1.1 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20715
2. 47–043–01501
3. 108 denied
4. Pennzoil Company
5. A E Robertson #2
6. Duval
7. Lincoln WV
8. 1.6 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20716
2. 47–043–01542
3. 108 denied
4. Pennzoil Company
5. Zona Hughes #2
6. Duval
7. Lincoln WV
8. .0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20717
2. 47–043–01707
3. 108 denied
4. Pennzoil Company
5. C C Clay #1
6. Duval
7. Lincoln WV
8. 1.1 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20718
2. 47–043–01700
3. 108 denied
4. Pennzoil Company
5. A D Spurlock #4
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20719
2. 47–043–01557
3. 108 denied
4. Pennzoil Company
5. Lloyd Hilbert #5
6. Duval
7. Lincoln WV
8. 1.5 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20720
2. 47–043–01488
3. 108 denied
4. Pennzoil Company
5. E T Spurlock #9
6. Duval
7. Lincoln WV
8. .9 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20721
2. 47–043–01531
3. 108 denied
4. Pennzoil Company
5. E G Pauley #4
6. Duval
7. Lincoln WV
8. .3 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79–20722
2. 47–001–00167
3. 108
4. Consolidated Gas Supply Corporation
5. Upton-Morris 10629
6. West Virginia other A–85772
7. Barbour WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20723
2. 47–001–00060
3. 108
4. Consolidated Gas Supply Corporation
5. D C Hudkins 9171
6. West Virginia other A–85772
7. Barbour WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20724
2. 47–001–00041
3. 108
4. Consolidated Gas Supply Corporation
5. W H Chapman 9047
6. West Virginia other A–85772
7. Barbour WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20725
2. 47–001–00011
3. 108
4. Consolidated Gas Supply Corporation
5. Ali B Rymer 8389
6. West Virginia other A–85772
7. Barbour WV
8. 11.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20726
2. 47–019–00088
3. 108
4. Consolidated Gas Supply Corporation
5. Guy D Brown 9833
6. West Virginia other A–85772
7. Fayette WV
8. 15.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20727
2. 47–017–01656
3. 108
4. Consolidated Gas Supply Corporation
5. D C Stewart 11428
6. West Virginia other A–85772
7. Doddridge WV
8. 14.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20728
2. 47–017–01587
3. 108
4. Consolidated Gas Supply Corporation
5. M B Gray 11238
6. West Virginia other A–85772
7. Doddridge WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20729
2. 47–017–01552
3. 108
4. Consolidated Gas Supply Corporation
5. M B Gray 11168
6. West Virginia other A–85772
7. Doddridge WV
8. 18.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20730
2. 47–033–00137
3. 108
4. Consolidated Gas Supply Corporation
5. James S Law 8181
6. West Virginia other A–85772
7. Harrison WV
8. 10.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20731
2. 47–033–00052
3. 108
4. Consolidated Gas Supply Corporation
5. Luther H Coffman 7704
6. West Virginia other A–85772
7. Harrison WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20732
2. 47–021–02003
3. 108
4. Consolidated Gas Supply Corporation
5. J D Smith 11166
6. West Virginia other A–85772
7. Gilmer WV
8. 9.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20733
2. 47–001–00602
3. 108
4. Consolidated Gas Supply Corporation
5. Artie J Cole 11511
6. West Virginia other A–85772
7. Barbour WV
8. 20.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20734
2. 47–021–00925
3. 108
4. Consolidated Gas Supply Corporation
5. J D Smith 6119
6. West Virginia other A–85772
7. Gilmer WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20735
2. 47–001–00350
3. 108
4. Consolidated Gas Supply Corporation
5. Arlin Paugh 10907
6. West Virginia other A–85772
7. Barbour WV
8. 9.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79–20736

2. 47-001-00312
3. 108
4. Consolidated Gas Supply Corporation
5. Har & Ritchie Oil & Gas Co 10840
6. West Virginia other A-85772
7. Barbour WV
8. 10.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20737
2. 47-021-00914
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9730
6. West Virginia other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20738
2. 47-021-00879
3. 108
4. Consolidated Gas Supply Corporation
5. W G Bennett 9672
6. West Virginia other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20739
2. 47-013-02404
3. 108
4. Consolidated Gas Supply Corporation
5. Hunter M Bennett 11149
6. West Virginia other A-85772
7. Calhoun WV
8. 20.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20740
2. 47-043-01546
3. 108 denied
4. Pennzoil Company
5. Roxie Pauley =3
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20741
2. 47-043-01517
3. 108 denied
4. Pennzoil Company
5. Xenil E. Campbell =6
6. Duval
7. Lincoln WV
8. .0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20742
2. 47-043-01706
3. 108 denied
4. Pennzoil Company
5. Campbell Xenil =5
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20743
2. 47-043-01599
3. 108 denied
4. Pennzoil Company
5. W E Williams =2
6. Duval
7. Lincoln WV
8. 1.6 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20744
2. 47-043-01621
3. 108 denied
4. Pennzoil Company
5. A D Spurlock =2
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20745
2. 47-043-01696
3. 108 denied
4. Pennzoil Company
5. Alford J V =4
6. Duval
7. Lincoln WV
8. 2.2 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20746
2. 47-043-01605
3. 108 denied
4. Pennzoil Company
5. Bowman Samuel =2
6. Duval
7. Lincoln WV
8. .1 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20747
2. 47-043-01699
3. 108 denied
4. Pennzoil Company
5. A D Spurlock =3
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20748
2. 47-043-01697
3. 108 denied
4. Pennzoil Company
5. A A Woodrum =5
6. Duval
7. Lincoln WV
8. 1.3 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20749
2. 47-085-04080
3. 108 denied
4. Pennzoil Company
5. W S Grubb =1
6. Union
7. Ritchie WV
8. 2 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20750
2. 47-043-01500
3. 108
4. Pennzoil Company
5. Jones Jennie =17
6. Duval
7. Lincoln WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp

1. 79-20751
2. 47-043-01496
3. 108
4. Pennzoil Company
5. Jennie Jones =15
6. Duval
7. Lincoln WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp

1. 79-20752
2. 47-043-01561
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =8
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20753
2. 47-043-01560
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =7
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20754
2. 47-043-01544
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =4
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20755
2. 47-043-01558
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =6
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20756
2. 47-043-01535
3. 108
4. Pennzoil Company
5. E T Spurlock =11
6. Duval
7. Lincoln, WV
8. .9 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20757
2. 47-043-01536
3. 108
4. Pennzoil Company
5. E T Spurlock =12
6. Duval
7. Lincoln, WV
8. .9 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20758
2. 47-085-03683
3. 108
4. Pennzoil Company
5. S C Hammett =22
6. Grant
7. Ritchie, WV
8. 5.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20759
2. 47-043-01569
3. 108
4. Pennzoil Company
5. Adkins Herbert =5
6. Duval
7. Lincoln, WV
8. 1.0 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20760
2. 47-043-01543
3. 108 Denied
4. Pennzoil Company
5. Zona Hughes =3
6. Duval
7. Lincoln, WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20761
2. 47-043-01548
3. 108 Denied
4. Pennzoil Company
5. W T Harris =5
6. Duval
7. Lincoln, WV
8. .5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20762
2. 47-043-01688
3. 108 Denied
4. Pennzoil Company
5. Lelia Smith =2
6. Duval
7. Lincoln, WV
8. 1.2 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20763
2. 47-085-03682
3. 108 Denied
4. Pennzoil Company
5. S C Hammett =21
6. Grant
7. Ritchie, WV
8. 5.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20764
2. 47-043-01556
3. 108 Denied
4. Pennzoil Company
5. Adkins Herbert =3
6. Duval
7. Lincoln, WV
8. 1.0 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20765
2. 47-043-01487
3. 108 Denied
4. Pennzoil Company
5. E T Spurlock =8
6. Duval
7. Lincoln, WV
8. .9 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20766
2. 47-043-01486
3. 108 Denied
4. Pennzoil Company
5. Stowers Heirs =5
6. Duval
7. Lincoln, WV
8. .9 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20767
2. 47-043-01533
3. 108 Denied
4. Pennzoil Company
5. Roxie Pauley =2
6. Duval
7. Lincoln, WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20799
2. 47-043-01495
3. 108
4. Pennzoil Company
5. Jennie Jones =14
6. Duval
7. Lincoln, WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20800
2. 47-043-01516
3. 108
4. Pennzoil Company
5. Campbell Xenil =4
6. Duval
7. Lincoln, WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20801
2. 47-043-01492
3. 108
4. Pennzoil Company
5. Jennie Jones =13
6. Duval
7. Lincoln, WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20802
2. 47-043-01566
3. 108
4. Pennzoil Company
5. W T Harris =6
6. Duval
7. Lincoln, WV
8. .5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20803
2. 47-043-01538
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =2
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20804
2. 47-043-01509
3. 108
4. Pennzoil Company
5. Llody Hilbert =1
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20805
2. 47-043-01504
3. 108
4. Pennzoil Company
5. A E Robertson =4
6. Duval
7. Lincoln, WV
8. 1.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20806
2. 47-043-01497
3. 108
4. Pennzoil Company
5. Jennie Jones =16
6. Duval
7. Lincoln, WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20807
2. 47-043-01539
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =3
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20808
2. 47-043-01565
3. 108
4. Pennzoil Company
5. Lloyd Hilbert =9
6. Duval
7. Lincoln, WV
8. 1.5 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20809
2. 47-043-01490
3. 108
4. Pennzoil Company
5. Jennie Jones =11
6. Duval
7. Lincoln, WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20810
2. 47-043-01660
3. 108
4. Pennzoil Company
5. S C Hammett =18
6. Grant
7. Richie, WV
8. 5.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20811
2. 47-085-03644
3. 108
4. Pennzoil Company
5. S C Hammett =16
6. Grant
7. Ritchie, WV
8. 5.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.

1. 79-20812

V 4 4 0 C 1 6 7 9 UMI

2. 47-043-01553
3. 108
4. Pennzoil Company
5. Zona Hughes =6
6. Duval
7. Lincoln, WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp.
1. 79-20813
2. 47-085-00940
3. 108
4. Pennzoil Company
5. Foy Heirs =2
6. Grant District
7. Ritchie WV
8. 2.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20814
2. 47-043-01515
3. 108
4. Pennzoil Company
5. Campbell Xenil =1
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20815
2. 47-043-01503
3. 108
4. Pennzoil Company
5. A E Robertson =3
6. Duval
7. Lincoln WV
8. 1.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20816
2. 47-017-00124
3. 108
4. Consolidated Gas Supply Corporation
5. W H Hoskinson 3212
6. West Virginia other A-85772
7. Doddridge WV
8. 6.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20817
2. 47-021-01024
3. 108
4. Consolidated Gas Supply Corporation
5. E M Taggart 9906
6. West Virginia Other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20818
2. 47-041-01822
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 11406
6. West Virginia Other A-85772
7. Lewis WV
8. 5.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20819
2. 47-021-00538
3. 108
4. Consolidated Gas Supply Corporation
5. Boggs Pearcey 8604
6. West Virginia Other A-85772
7. Gilmer WV
8. 6.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20820
2. 47-017-01778
3. 108 denied
4. Consolidated Gas Supply Corporation
5. J E Greynolds 4772
6. West Virginia other A-85772
7. Doddridge WV
8. 19.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20821
2. 47-021-01996
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 11161
6. West Virginia other A-85772
7. Gilmer WV
8. 21.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20822
2. 47-021-01394
3. 108
4. Consolidated Gas Supply Corporation
5. Fred Gainer 10381
6. West Virginia other A-85772
7. Gilmer WV
8. 7.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20823
2. 47-033-00900
3. 108
4. Consolidated Gas Supply Corporation
5. A J Furby 2314
6. West Virginia other A-85772
7. Harrison WV
8. 17.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20824
2. 47-033-00622
3. 108
4. Consolidated Gas Supply Corporation
5. Martin McWhorter 11438
6. West Virginia other A-85772
7. Harrison WV
8. 16.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20825
2. 47-033-00599
3. 108
4. Consolidated Gas Supply Corporation
5. Patricia B Smith 11434
6. West Virginia other A-85772
7. Harrison WV
8. 4.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20826
2. 47-033-00584
3. 108
4. Consolidated Gas Supply Corporation
5. D D Underwood 8082
6. West Virginia other A-85772
7. Harrison WV
8. 10.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20827
2. 47-033-00582
3. 108
4. Consolidated Gas Supply Corporation
5. Russell D Bishop 11409
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20828
2. 47-033-00577
3. 108
4. Consolidated Gas Supply Corporation
5. Sidney Cookman 11388
6. West Virginia other A-85772
7. Harrison WV
8. 10.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20829
2. 47-033-00551
3. 108
4. Consolidated Gas Supply Corporation
5. J K Musser 11310
6. West Virginia other A-85772
7. Harrison WV
8. 20.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20830
2. 47-033-00547
3. 108
4. Consolidated Gas Supply Corporation
5. M Davission 11299
6. West Virginia other A-85772
7. Harrison WV
8. 18.0 million cubic feet
9. September 18, 1979
10. General System Purchasers
1. 79-20831
2. 47-043-01519
3. 108
4. Pennzoil Company
5. Campbell Xenil =2
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20832
2. 47-043-02293
3. 108
4. Pennzoil Company
5. A E Robertson =1
6. Duval
7. Lincoln WV
8. .7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20833
2. 47-043-01505
3. 108
4. Pennzoil Company
5. A E Robertson =5
6. Duval
7. Lincoln WV
8. 1.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20834
2. 47-043-01491
3. 108
4. Pennzoil Company
5. Jennie Jones =12
6. Duval

7. Lincoln WV
8. 1.8 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20835
2. 47-085-04093
3. 108
4. Pennzoil Company
5. J F Riggs =1
6. Union
7. Ritchie WV
8. 4.7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20838
2. 47-085-04094
3. 108
4. Pennzoil Company
5. J F Riggs =3
6. Union
7. Ritchie WV
8. 4.7 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20837
2. 47-043-01567
3. 108
4. Pennzoil Company
5. Hamlin Realty =1
6. Duval
7. Lincoln WV
8. .9 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20838
2. 47-043-01581
3. 108
4. Pennzoil Company
5. E G Pauley =7
6. Duval
7. Lincoln WV
8. .3 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp
1. 79-20839
2. 47-085-03674
3. 108
4. Pennzoil Company
5. S C Hammett =20
6. Grant
7. Ritchie WV
8. 5.6 million cubic feet
9. September 18, 1979
10. Consolidated Gas Supply Corp

U.S. Geological Survey, Metairie, Louisiana

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-20798/G9-824
2. 42-711-40355-00S1-0
3. 102
4. Exxon Corporation
5. OCS-G 2741 No A-6 (Sidetrack)
6. High Island
7. A-343
8. 7000.0 million cubic feet
9. September 18, 1979
10. Columbia Gas Trans Corp., Trunkline Gas Company, Natural Gas Pipeline Company

U.S. Geological Survey, Casper, Wyoming

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-20840/CC623-9
2. 05-103-07414-0000-0
3. 108
4. American Resources Management Corp.
5. Govt 2-11
6. Trail Canyon Field
7. Rio Blanco County, CO
8. 3.4 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79-20841/CC644-9
2. 05-103-07881-0000-0
3. 108
4. Twin Arrow Inc
5. Depco 2-6
6. Cathedral
7. Rio Blanco, CO
8. 5.9 million cubic feet
9. September 18, 1979
10. IGC Production Company
1. 79-20842/CC646-9
2. 05-103-08001-0000-0
3. 108
4. Twin Arrow Inc
5. Universal 3-19
6. Cathedral
7. Rio Blanco, CO
8. 13.6 million cubic feet
9. September 18, 1979
10. IGC Production Company
1. 79-20843/CC616-9
2. 05-103-08183-0000-0
3. 108
4. Joseph B. Gould
5. Lower Horse Draw 10-12
6. Lower Horse Draw Mancos Field
7. Rio Blanco, CO
8. .0 million cubic feet
9. September 18, 1979
10. Mountain Fuel Resources, Inc
1. 79-20844/CC613-9
2. 05-103-07392-0000-0
3. 108
4. Joseph B. Gould
5. Lower Horse Draw Unit =34-15
6. Lower Horse Draw Mancos Field
7. Rio Blanco, CO
8. 24.5 million cubic feet
9. September 18, 1979
10. Mountain Fuel Resources, Inc
1. 79-20845/CC612-9
2. 05-103-08153-0000-0
3. 108
4. Joseph B. Gould
5. Lower Horse Draw Unit 33-17
6. Lower Horse Draw Unit 33-17
7. Rio Blanco, CO
8. 4.5 million cubic feet
9. September 18, 1979
10. Mountain Fuel Resources, Inc
1. 79-20847/CC120-9
2. 05-103-05021-0000-0
3. 108
4. Lawrence Barker Jr
5. South Douglas Creek =1-B
6. South Douglas Creek
7. Rio Blanco, CO
8. 7.0 million cubic feet
9. September 18, 1979
10. Western Slope Gas Company
1. 79-20849/CC560-9
2. 05-103-07969-0000-0
3. 108
4. American Resources Management Corp
5. Govt 14-2
6. Trail Canyon
7. Rio Blanco County, CO
8. 4.8 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79-20857/CC647-9
2. 05-103-07880-0000-0
3. 108
4. Twin Arrow Inc
5. C & K 1-6
6. Cathedral
7. Rio Blanco, CO
8. 4.0 million cubic feet
9. September 18, 1979
10. IGC Production Company
1. 79-20858/CC643-9
2. 05-103-08106-0000-0
3. 108
4. Twin Arrow Inc
5. Continental 3-17
6. Cathedral
7. Rio Blanco, CO
8. 12.3 million cubic feet
9. September 18, 1979
10. IGC Production Company
1. 79-20859/CC642-9
2. 05-103-07922-0000-0
3. 108
4. Twin Arrow Inc
5. Universal 1-19
6. Cathedral
7. Rio Blanco, CO
8. 10.8 million cubic feet
9. September 18, 1979
10. IGC Production Company
1. 79-20848/M239-9
2. 25-071-21474—0000-0
3. 108
4. Midlands Gas Corporation
5. 2660 26-36-30 Federal
6. Bowdoin
7. Phillips, MT
8. 10.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20852/M222-9
2. 25-071-21413—0000-0
3. 108
4. Midlands Gas Corporation
5. 0612 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 8.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20853/M202-9
2. 25-071-21573-0000-0
3. 102
4. Midlands Gas Corporation
5. 2771 1-2771 Federal
6. Bowdoin

V 44 0C 1 6 7 9 UMI

7. Phillips, MT
8. 24.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20855/M226-9
2. 25-071-21292-0000-0
3. 108
4. Midlands Gas Corporation
5. 2121 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 9.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20861/M235-9
2. 25-071-21109-0000-0
3. 108
4. Midlands Gas Corporation
5. 1502 Miami-Federal 604-15 No. 1
6. Bowdoin
7. Phillips, MT
8. 7.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20863/M223-9
2. 25-071-21194-0000-0
3. 108
4. Midlands Gas Corporation
5. 2221 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 6.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20864/M227-9
2. 25-071-21309-0000-0
3. 108
4. Midlands Gas Corporation
5. 0712 No. 1 Federal
6. Bowdoin
7. Phillips, MT
8. 3.0 million cubic feet
9. September 18, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79-20846/W591-9
2. 49-013-00000-0000-0
3. 102 denied
4. W A Moncrief Jr
5. Bonneville II 23-1
6. Unnamed
7. Fremont, WY
8. 132.0 million cubic feet
9. September 18, 1979
10. Montana Dakota Utilities Co
1. 79-20850/W554-9
2. 49-007-20325-0000-0
3. 103
4. The Kemmerer Coal Company
5. Barrel Springs Unit 14-2
6. Barrel Springs Unit II
7. Carbon County, WY
8. 182.0 million cubic feet
9. September 18, 1979
10. Northwest Pipeline Corporation
1. 79-2085/W293-9
2. 49-005-24587-0000-0
3. 102
4. Davis Oil Company
5. W H G Federal #1
6. Hartzog Draw
7. Campbell, WY
8. .0 million cubic feet
9. September 18, 1979
10. Panhandle Eastern Pipeline Company, Phillips Petroluem Company
1. 79-20854/W3-9
2. 49-005-23044-0000-0
3. 108
4. Galaxy Oil Company
5. Federal #1-26
6. Porcupine Creek
7. Campbell, WY
8. 9.7 million cubic feet
9. September 18, 1979
10. McCulloch Gas Processors
1. 79-20856/W248-9
2. 49-023-20255-0000-0
3. 108
4. Pacific Transmission Supply Company
5. PTS 23-8 Federal
6. Fontenelle
7. Lincoln, WY
8. 15.0 million cubic feet
9. September 18, 1979
10. Pacific Gas Transmission Company
1. 79-20860/W490-9
2. 49-037-02128-0000-0
3. 102
4. Marathon Oil Company
5. Tierney II Unit #4-22
6. Tierney II Unit
7. Sweetwater, WY
8. 867.0 million cubic feet
9. September 18, 1979
10. Colorado Interstate Gas Company
1. 79-20862/W58-9
2. 49-013-20661-0000-0
3. 102
4. Monsanto Company
5. MDU Cottonwood Creek #1-29
6. Madden
7. Fremont, WY
8. 112.0 million cubic feet
9. September 18, 1979
10. Colorado Interstate Gas Company
1. 79-20865/W439-9
2. 49-013-20735-0000-0
3. 103
4. Husky Oil Company
5. Fuller Reservoir II Unit #12-19
6. Fuller Reservoir
7. Fremont, WY
8. 351.6 million cubic feet
9. September 18, 1979
10. Panhandle Eastern Pipeline Co, Colorado Interstate Gas Co

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file protest with the Commission on or before October 31, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31818 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. TC80-26]

Southern Natural Gas Co., Filing of Tariff Sheets Pursuant to Order No. 29

October 9, 1979.

Take notice that on October 2, 1979, Southern Natural Gas Company (Southern) filed in Docket No. TC80-26 pursuant to Order No. 29 and Subpart B of Part 281 of the Regulations under the Natural Gas Policy Act, the following tariff Sheets to its FPC Gas Tariff:

Tenth Revised Sheet No. 40
Fifth Revised Sheet No. 40C
Fourth Revised Sheet No. 40D
Fourth Revised Sheet No. 40E
Second Revised Sheet No. 40E.1
Original Sheet No. 40E.2
Eighth Revised Sheet No. 61
Original Sheet No. 61A
Seventh Revised Sheet No. 62
Original Sheet No. 62A
Eighth Revised Sheet No. 63
Original Sheet No. 63A
Eighth Revised Sheet No. 64
Original Sheet No. 64A
Fifth Revised Sheet No. 65
Original Sheet No. 65A
Seventh Revised Sheet No. 66
Original Sheet No. 66A
Eighth Revised Sheet No. 67
Original Sheet No. 67A
Second Revised Sheet No. 68
Original Sheet No. 68A
Fourth Revised Sheet No. 69
Original Sheet No. 69A
Fourth Revised Sheet No. 70
Original Sheet No. 70A
Eighth Revised Sheet No. 71
Original Sheet No. 71A
Seventh Revised Sheet No. 72
Original Sheet No. 72A
Sixth Revised Sheet No. 73
Original Sheet No. 73A
Seventh Revised Sheet No. 74
Original Sheet No. 74A
Seventh Revised Sheet No. 75
Original Sheet No. 75A
Fifth Revised Sheet No. 76
Original Sheet No. 76A
Seventh Revised Sheet No. 77
Original Sheet No. 77A
Eighth Revised Sheet No. 78
Original Sheet No. 78A
Second Revised Sheet No. 79
Original Sheet No. 79A
Fourth Revised Sheet No. 80
Original Sheet No. 80A
Fourth Revised Sheet No. 81
Original Sheet No. 81A
Eighth Revised Sheet No. 82
Original Sheet No. 82A

Southern states that such tendered sheets implement the Commission's Order No. 29 effective November 1, 1979.

Southern also states that copies of the filing have been served upon its purchasers and interested state commissions.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 19, 1979 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a aparty in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-3185 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

[No. 90]

Nucorp Energy Co. et al.; Determinations by Jurisdictional Agencies under the Natural Gas Policy Act of 1978

October 5, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Ohio Department of Natural Resources

Division of Oil and Gas

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-20471/02150
2. 34-029-20635-0014
3. 108
4. Nucorp Energy Company
5. Howenstine Well No. 1
6.
7. Columbiana County, OH
8. 8.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20472/02151
2. 34-029-20672-0014
3. 108
4. Nucorp Energy Company
5. Hoffman Well No. 2
6.
7. Columbiana County, OH
8. 4.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20473/02152
2. 34-029-20591-0014
3. 108
4. Nucorp Energy Company
5. Hazen-Dye Well No. 1
6.
7. Columbiana County, OH
8. 3.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20474/02153
2. 34-029-20673-0014
3. 108
4. Nucorp Energy Company
5. Hawthorne Well No. 1
6.
7. Columbiana County, OH
8. 9.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20475/02154
2. 34-029-20597-0014
3. 108
4. Nucorp Energy Company
5. H W Dye Well No. 1
6.
7. Columbiana County, OH
8. 6.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20476/02155
2. 34-029-20636-0014
3. 108
4. Nucorp Energy Company
5. Grim Well No. 1
6.
7. Columbiana County, OH
8. 20.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20477/02156
2. 34-029-20598-0014
3. 108
4. Nucorp Energy Company
5. Gottardi-Benner Well No. 1
6.
7. Columbiana County, OH
8. 13.5 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20478/02157
2. 34-029-20613-0014
3. 108
4. Nucorp Energy Company
5. Gottardi-Bandy No. 1
6.
7. Columbiana County, OH
8. 8.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20479/02158
2. 34-029-20660-0014
3. 108
4. Nucorp Energy Company
5. Conroy Well No. 1
6.
7. Columbiana County, OH
8. 7.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20480/02169
2. 34-151-21281-0014
3. 108
4. Nucorp Energy Company
5. Clark Well No. 1
6.
7. Stark County, OH
8. 18.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20481/02170
2. 34-133-20815-0014
3. 108
4. Nucorp Energy Company
5. H Carlisle Well No. 2
6.
7. Portage County, OH
8. .9 million cubic feet
9. September 14, 1979
10. Anchor Hocking Corporation
1. 79-20482/02171
2. 34-133-20814-0014
3. 108
4. Nucorp Energy Company
5. H Carlisle Well No. 1
6.
7. Portage County, OH
8. .9 million cubic feet
9. September 14, 1979
10. Anchor Hocking Corporation
1. 79-20483/02108
2. 34-133-20560-0014
3. 108
4. Nucorp Energy Company
5. Alger No. 1
6.
7. Portage, OH
8. 10.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20484/02109
2. 34-029-20688-0014
3. 108
4. Nucorp Energy Company
5. Yeagley Well No. 1
6.
7. Columbiana County, OH
8. 6.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20485/02110
2. 34-151-22476-0014
3. 108
4. Nucorp Energy Company
5. Heldreth Well No. 1
6.
7. Stark County, OH
8. .9 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20486/02111
2. 34-133-21011-0014
3. 108
4. Nucorp Energy Company
5. Perge No. 1
6.

V 4 4 0 C 1 6 7 9 UMI

7. Portage, OH
8. 10.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20487/02112
3. 34-133-20643-0014
3. 108
4. Nucorp Energy Company
5. Oros No. 1
6.
7. Portage, OH
8. 8.5 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20488/02113
2. 34-133-20624-0014
3. 108
4. Nucorp Energy Company
5. Moore No. 1
6.
7. Portage, OH
8. 6.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20489/02114
2. 34-133-20623-0014
3. 108
4. Nucorp Energy Company
5. Monroe No. 1
6.
7. Portage, OH
8. 16.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20490/02115
2. 34-133-20541-0014
3. 108
4. Nucorp Energy Company
5. Mollolan Prohn No. 1
6.
7. Portage, OH
8. 4.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20491/02116
2. 34-133-20956-0014
3. 108
4. Nucorp Energy Company
5. Luckay No. 1
6.
7. Portage, OH
8. 14.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20492/02117
2. 34-133-20684-0014
3. 108
4. Nucorp Energy Company
5. N D Alger No. 1
6.
7. Portage, OH
8. 1.5 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20493/02120
2. 34-133-20590-0014
3. 108
4. Nucorp Energy Company
5. Fleshman No. 1
6.
7. Portage, OH
8. 34.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20494/02121
2. 34-133-20583-0014
3. 108
4. Nucorp Energy Company
5. Fields No. 1
6.
7. Portage, OH
8. 11.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20495/02122
2. 34-133-20558-0014
3. 108
4. Nucorp Energy Company
5. Stefanek No. 23
6.
7. Portage, OH
8. 10.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20496/02123
2. 34-133-20530-0014
3. 108
4. Nucorp Energy Company
5. Snow No. 1
6.
7. Portage, OH
8. 7.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20497/02125
2. 34-133-20531-0014
3. 108
4. Nucorp Energy Company
5. Rodhe No. 1
6.
7. Portage, OH
8. 4.9 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20498/02127
2. 34-133-20536-0014
3. 108
4. Nucorp Energy Company
5. Pollard No. 1
6.
7. Portage, OH
8. 8.8 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20499/02128
2. 34-133-21014-0014
3. 108
4. Nucorp Energy Company
5. M Pochedly No. 1-B
6.
7. Portage, OH
8. 22.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20500/02172
2. 34-029-20634-0014
3. 108
4. Nucorp Energy Company
5. Saffel Well No. 1
6.
7. Columbiana County, OH
8. 6.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20501/02173
2. 34-151-21133-0014
3. 108
4. Nucorp Energy Company
5. Russell-Hoffman Well No. 1
6.
7. Stark County, OH
8. 2.8 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20502/02174
2. 34-029-20661-0014
3. 108
4. Nucorp Energy Company
5. Rohrer Well No. 1
6.
7. Columbiana County, OH
8. 9.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20503/02175
2. 34-151-22250-0014
3. 108
4. Nucorp Energy Company
5. Reber-Greenwalt Well No. 2
6.
7. Stark County, OH
8. 17.5 million cubic feet
9. September 14, 1979
10. Columbia Gas Company
1. 79-20504/02176
2. 34-151-22143-0014
3. 108
4. Nucorp Energy Company
5. Reber-Greenwalt Well No. 1
6.
7. Stark County, OH
8. 17.5 million cubic feet
9. September 14, 1979
10. Columbia Gas Company
1. 79-20505/02177
2. 34-151-21165-0014
3. 108
4. Nucorp Energy Company
5. Pustay Well No. 1
6.
7. Stark County, OH
8. 1.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20506/02178
2. 34-029-20664-0014
3. 108
4. Nucorp Energy Company
5. Pieren Well No. 1
6.
7. Columbiana County, OH
8. 4.8 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20507/02179
2. 34-151-21152-0014
3. 108
4. Nucorp Energy Company
5. Perfection Developers Well No. 1
6.
7. Stark County, OH
8. 3.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20508/02180
2. 34-029-20679-0014
3. 108
4. Nucorp Energy Company
5. Oesch Well No. 1
6.
7. Columbiana County, OH
8. 4.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20509/02210

2. 34-029-20687-0014
3. 108
4. Nucorp Energy Company
5. Mudrak Well No. 2
6.
7. Columbiana County, OH
8. 2.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20610/02211
2. 34-151-22489-0014
3. 108
4. Nucorp Energy Company
5. Unruh Well No. 1
6.
7. Stark County, OH
8. 3.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20511/02212
2. 34-029-20578-0014
3. 108
4. Nucorp Energy Company
5. Steiger Well No. 2
6.
7. Columbiana County, OH
8. 5.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20512/02213
2. 34-029-20577-0014
3. 108
4. Nucorp Energy Company
5. Steiger Well No. 1
6.
7. Columbiana County, OH
8. 5.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20513/02214
2. 34-029-20684-0014
3. 108
4. Nucorp Energy Company
5. Snively Well No. 1
6.
7. Columbiana County, OH
8. 3.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20514/02215
2. 34-029-20689-0014
3. 108
4. Nucorp Energy Company
5. Sherwood Well No. 1
6.
7. Columbiana County, OH
8. 5.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20515/02216
2. 34-133-20518-0014
3. 103
4. Nucorp Energy Company
5.
6. Cavanaugh No. 1
7. Portage, OH
8. 12.8 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20516/02285
2. 34-151-21134-0014
3. 108
4. Nucorp Energy Company
5. Werley Well No. 1
6.
7. Stark County, OH
8. 1.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20517/02286
2. 34-029-20615-0014
3. 108
4. Nucorp Energy Company
5. Wartluft Well No. 1
6.
7. Columbiana County, OH
8. 11.8 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20518/02287
2. 34-029-20632-0014
3. 108
4. Nucorp Energy Company
5. Watson Well No. 1
6.
7. Columbiana County, OH
8. 11.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20519/02288
2. 34-151-22447-0014
3. 108
4. Nucorp Energy Company
5. Wallace Well No. 1
6.
7. Stark County, OH
8. 2.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20520/02289
2. 34-133-20662-0014
3. 108
4. Nucorp Energy Company
5. Ronath No. 1
6.
7. Portage, OH
8. 12.3 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20521/02290
2. 34-133-20580-0014
3. 108
4. Nucorp Energy Company
5. Carlton No. 1
6.
7. Portage, OH
8. 8.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20522/02291
2. 34-029-20616-0014
3. 108
4. Nucorp Energy Company
5. Wartluft Well No. 2
6.
7. Columbiana County, OH
8. 11.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20523/02292
2. 34-133-20613-0014
3. 108
4. Nucorp Energy Company
5. Fritinger No. 2
6.
7. Portage, OH
8. 3.7 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20524/02293
2. 34-133-20661-0014
3. 108
4. Nucorp Energy Company
5. Foster No. 1
6.
7. Portage, OH
8. 7.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20525/02294
2. 34-133-20614-0014
3. 108
4. Nucorp Energy Company
5. Fritinger No. 1
6.
7. Portage, OH
8. 4.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20526/02295
2. 34-133-20591-0014
3. 108
4. NuCorp Energy Company
5. Fleshman No. 2
6.
7. Portage, OH
8. 34.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20527/02296
2. 34-133-20686-0014
3. 108
4. NuCorp Energy Company
5. Flickinger No. 1
6.
7. Portage, OH
8. 7.1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20528/02297
2. 34-029-20690-0014
3. 108
4. NuCorp Energy Company
5. Yant Well No. 1
6.
7. Columbiana County, OH
8. 5.9 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20529/02298
2. 34-151-21305-0014
3. 108
4. NuCorp Energy Company
5. Werley Well No. 3
6.
7. Stark County, OH
8. 1.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20530/02299
2. 34-151-21156-0014
3. 108
4. NuCorp Energy Company
5. Werley Well No. 2
6.
7. Stark County, OH
8. 1.4 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20531/05839
2. 34-073-21596-0014
3. 108
4. Quaker State Oil Refining Corp
5. Reedy No. 2 80085-2
6.

V 4 4 0 C 1 6 7 9 UMI

7. Hocking, OH
8. .4 million cubic feet
9. September 14, 1979
10. Hocking Gas Company
1. 79-20532/06331
2. 34-127-23972-0014
3. 108
4. Bethel Resources Inc
5. David J Lewis No. 2
6.
7. Perry, OH
8. 12.0 million cubic feet
9. September 14, 1979
10. Foraker Gas Company Inc
1. 79-20533/03727
2. 34-099-20768-0014
3. 108
4. Dick Hart
5. S Canale No. 1
6.
7. Mahaning, OH
8. 17.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Co
1. 79-20534/03726
2. 34-099-20777-0014
3. 108
4. Dich Hart
5. P & E Dierkes No. 1
6.
7. Mahaning, OH
8. 14.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Co
1. 79-20535/03381
2. 34-121-21687-0014
3. 108
4. St Joe Petroleum (US) Corporation
5. G Hurst No. 1
6. Undesignated
7. Noble, OH
8. 1.0 million cubic feet
9. September 14, 1979
10. Republic Steel Corporation
1. 79-20536/02302
2. 34-133-20829-0014
3. 108
4. NuCorp Energy Company
5. Cavanaugh No. 4
6.
7. Portage, OH
8. 15.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20537/02301
2. 34-133-20527-0014
3. 108
4. NuCorp Energy Company
5. Cavanaugh No. 3
6.
7. Portage, OH
8. 8.6 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20638/02300
2. 34-133-20520-0014
3. 108
4. NuCorp Energy Company
5. Cavanaugh No. 2
6.
7. Portage, OH
8. 9.2 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20539/05646
2. 34-073-21423-0014
3. 108
4. Quaker State Oil Refining Corp
5. Meadows No. 2 80044-2
6.
7. Hocking, OH
8. 2.4 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20640/05645
2. 34-073-21267-0014
3. 108
4. Quaker State Oil Refining Corp
5. Meadows No. 1 80044-1
6.
7. Hocking, OH
8. 2.4 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20541/05644
2. 34-073-21152-0014
3. 108
4. Quaker State Oil Refining Corp
5. Kornmiller No. 1 80049
6.
7. Hocking, OH
8. 1.1 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20542/05643
2. 34-073-22069-0014
3. 108
4. Quaker State Oil Refining Corp
5. Huston No. 3 80043-3
6.
7. Hocking, OH
8. 1.9 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20543/05642
2. 34-073-21489-0014
3. 108
4. Quaker State Oil Refining Corp
5. Huston No. 2 80043
6.
7. Hocking, OH
8. 1.9 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20544/05641
2. 34-073-21310-0014
3. 108
4. Quaker State Oil Refining Corp
5. Huston No. 1 80043
6.
7. Hocking, OH
8. 1.9 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20545/05640
2. 34-073-21417-0014
3. 108
4. Quaker State Oil Refining Corp
5. Bell-Keynes No. 1 80040
6.
7. Hocking, OH
8. 1.8 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20546/05639
2. 34-073-21390-0014
3. 108
4. Quaker State Oil Refining Corp
5. Meadows-Fetherolf No. 1 80042
6.
7. Hocking, OH
8. 4.0 million cubic feet
9. September 14, 1979
10. Paramount Transmission Corp
1. 79-20547/05638
2. 34-083-21793-0014
3. 108
4. Harold Sparks
5. Walter Wolfe Well No. 1
6.
7. Knox, OH
8. 3.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20548/05541
2. 34-151-21277-0014
3. 108
4. Belden & Blake Corporation
5. Bingham No. 1-686
6.
7. Stark, OH
8. .1 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20549/04940
2. 34-119-23799-0014
3. 108
4. Clinton Oil Co
5. Sagle No. 1
6.
7. Muckingum, OH
8. 12.0 million cubic feet
9. September 14, 1979
10. National Gas & Oil Corp
1. 79-20550/04937
2. 34-119-23614-0014
3. 108
4. Clinton Oil Co
5. J Zellar No. 1
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. September 14, 1979
10. National Gas & Oil Corp
1. 79-20551/04922
2. 34-115-21521-0014
3. 108
4. Clinton Oil Co
5. Karas No. 1
6.
7. Morgan, OH
8. 1.0 million cubic feet
9. September 14, 1979
10. National Gas & Oil Corp
1. 79-20552/03789
2. 34-119-22003-0014
3. 108
4. Oxford Oil Co
5. Guy Rider No. 1
6.
7. Muskingum, OH
8. .5 million cubic feet
9. September 14, 1979
10. Columbia Gas Trans Corp
1. 79-20553/05743
2. 34-105-21456-0014
3. 108
4. Adams Drilling Company
5. J A Harris No. 1
6.
7. Meigs, OH
8. 37.8 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20554/05650

2. 34-127-23493-0014
3. 108
4. Quaker State Oil Refining Corp
5. Miriam Clark Etal No. 1-T-1
6.
7. Perry, OH
8. 1.1 million cubic feet
9. September 14, 1979
10. Ludowici-Celadon Co
1. 79-20555/05649
2. 34-127-23237-0014
3. 108
4. Quaker State Oil Refining Corp
5. Joesph Clouse No. 1 80142
6.
7. Perry, OH
8. 1.1 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20556/05648
2. 34-127-23267-0014
3. 108
4. Quaker State Oil Refining Corp
5. Francis Metzler No. 1 80145
6.
7. Perry, OH
8. 4.7 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20557/05647
2. 34-127-23212-0014
3. 108
4. Quaker State Oil Refining Corp
5. J Albert Metzger No. 1 80144
6.
7. Perry, OH
8. 1.1 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20558/05744
2. 34-105-21472-0014
3. 108
4. Adams Drilling Company
5. J A Harris No. 2
6.
7. Meigs, OH
8. 3.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20559/06459
2. 34-115-21827-0014
3. 103
4. Fortune Gas and Oil Inc
5. Richardson No. 5
6.
7. Morgan, OH
8. 30.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20560/06458
2. 34-157-23178-0014
3. 103
4. K S T Oil & Gas Co Inc
5. Ralph J Owens No. 2
6.
7. Tuscarawas, OH
8. 36.0 million cubic feet
9. September 14, f1979
10. Columbia Gas Transmission Corp
1. 79-2-561/06457
2. 34-089-23600-0014
3. 103
4. American Well Management Company
5. Corbett No. 1
6.
7. Licking, OH
8. 18.0 million cubic feet
9. September 14, 1979
10.
1. 79-20562/06438
2. 34-157-23338-0014
3. 103
4. William N Tipka
5. Frank Quillin No. 1
6.
7. Tuscarawas, OH
8. 30.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Co
1. 79-20563/06342
2. 34-169-22047-0014
3. 103
4. Petroleum Sec FD-1977 Dr Progam
5. J Rupp et al No. 4
6. Smithville-Milton
7. Wayne, OH
8. 24.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Trans Corp
1. 79-20564/06341
2. 34-127-24347-0014
3. 103
4. Oak Dale Drilling Co
5. Soale No. 2
6.
7. Perry, OH
8. 10.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20565/06481
2. 34-127-24337-0014
3. 103
4. Oxford Oil Co
5. Delmar Pritchard No. 1
6.
7. Perry, OH
8. 9.0 million cubic feet
9. September 14, 1979
10.
1. 79-20566/06480
2. 34-119-24722-0014
3. 103
4. Oxford Oil Co
5. Gerald D Shaffer No. 1
6.
7. Muskingum, OH
8. 8.0 million cubic feet
9. September 14, 1979
10.
1. 79-20567/06479
2. 34-157-23356-0014
3. 103
4. Orion Energy Corp
5. Mary Vanfossen No. 1
6.
7. Tuscarawas, OH
8. 25.0 million cubic feet
9. September 14, 1979
10.
1. 79-20568/06478
2. 34-119-24585-0014
3. 103
4. Southern Ohio Energy Company
5. R David C Andrew & Florence M Crawf
6.
7. Muskingum, OH
8. 19.5 million cubic feet
9. September 14, 1979
10. International Harvester Company
1. 79-20569/06477
2. 34-151-22995-0014
3. 103
4. New Frontier Exploration Inc
5. Smith-Creighton Unit No. 1
6.
7. Stark, OH
8. 21.0 million cubic feet
9. September 14, 1979
10. East Ohio Gas Company
1. 79-20570/06473
2. 34-119-24587-0014
3. 103
4. Clinton Oil Company
5. Short No. 1
6.
7. Muskingum, OH
8. 2.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20571/06471
2. 34-151-23026-0014
3. 103
4. Belden & Blake and Co L P No 71
5. D & J Gabler No. 1-886
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 14, 1979
10.
1. 79-20572/06470
2. 34-151-23029-0014
3. 103
4. Belden & Blake and Co L P No 71
5. H & M Myers No. 1-892
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 14, 1979
10.
1. 79-20573/06469
2. 34-151-23036-0014
3. 103
4. Belden & Blake and Co L P No 71
5. A & R Schaefer Comm No. 1-887
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 14, 1979
10.
1. 79-20574/06468
2. 34-151-23039-0014
3. 103
4. Belden & Blake and Co L P No 71
5. J Fetty Comm No. 1-893
6.
7. Stark, OH
8. 36.5 million cubic feet
9. September 14, 1979
10.
1. 79-20575/06465
2. 34-115-21820-0014
3. 103
4. ONeal Productions Inc
5. Dearth No. 1
6.
7. Morgan, OH
8. .0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79-20576/06464
2. 34-009-21956-0014
3. 103
4. Trend Exploration Ltd
5. Burkhammer No. 2
6. Coolville

V 44 0 C 16 7 9 UMI

7. Athens, OH
8. 27.0 million cubic feet
9. September 14, 1979
10. Columbia Gas Transmission Corp
1. 79–20577/06462
2. 34–127–24350–0014
3. 103
4. Williston Oil & Development Corp
5. D Smith No. 2
6.
7. Perry, OH
8. .0 million cubic feet
9. September 14, 1979
10.
1. 79–20578/06460
2. 34–115–21828–0014
3. 103
4. Fortune Gas and Oil Inc
5. Richardson No. 6
6.
7. Morgan, OH
8. 30.0 million cubic feet
9. September 14, 1979
10. The East Ohio Gas Company

Texas Railroad Commission, Oil and Gas Division

1. Control Number (F.E.R.C./State)
2. API Well Number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79–20579/03344
2. 42–233–00000–108
3. 108
4. Phillips Petroleum Company
5. Perkins J J Well No. 27
6. Panhandle Hutchinson
7. Hutchinson, TX
8. 1.5 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20580/06953
2. 42–475–31686
3. 103
4. Shell Oil Company
5. Sealy Smith Foundation 159
6. Monahans (Clear Fork)
7. Ward TX
8. 6.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20581/06954
2. 42–475–31685
3. 103
4. Shell Oil Company
5. Sealy Smith Foundation 158
6. Monahans (Clear Fork)
7. Ward TX
8. 5.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20582/06948
2. 42–341–00000
3. 103
4. WM Gruenerwald & Assoc Inc
5. Masterson #G11R 03839
6. Panhandle (Red Cave)
7. Moore County TX
8. 10.6 million cubic feet
9. September 14, 1979
10. Colorado Interstate Gas Co
1. 79–20583/06694
2. 42–483–30171
3. 102
4. Earl T Smith & Associates Inc
5. Eunice Treadwell #1
6. Buffalo Wallow (a chert zone)
7. Wheeler Tx
8. 1850.0 million cubic feet
9. September 14, 1979
10. Pioneer Natural Gas company
1. 79–20584/04703
2. 42–357–30840
3. 103
4. Falcon Petroleum Company
5. Erickson #1 U 04349
6. Farnsworth East (Osewego)
7. Ochiltree TX
8. 91.0 million cubic feet
9. September 14, 1979
10. Phillips Petroleum Company
1. 79–20585/03677
2. 42–357–30817
3. 102
4. Courson Oil & Gas Inc
5. Waggoner #1–43
6. Hanna Lake
7. Ochiltree TX
8. 300.0 million cubic feet
9. September 14, 1979
10. Transwestern Pipeline Company
1. 79–20586/03406
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Whittenburg–E No. 1
6. Panhandle West
7. Hutchinson TX
8. 17.3 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20587/03404
2. 42–421–0000
3. 108
4. Phillips Petroleum Company
5. Sidney No. 1
6. Texas Hugoton
7. Sherman Tx
8. 13.9 million cubic feet
9. September 14, 1979
10. Michigan Wisconsin Pipeline Co
1. 79–20588/02696
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Byrd Minnie No 6
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 17.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20589/02700
2. 42–223–00000
3. 108
4. Phillips Petroleum Company
5. Bivins–HH No 2
6. Panhandle West Red Cave
7. Hutchinson, TX
8. 11.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co
1. 79–20590/02701
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Bivens U No 1
6. Texas Hugoton
7. Sherman TX
8. 11.1 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20591/02702
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Bivens–O No 1
6. Texas Hugoton
7. Sherman TX
8. 8.7 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20592/02705
2. 42–233–0000
3. 108
4. Phillips Petroleum Company
5. Garner C R No 1
6. Panhandle West
7. Hutchinson TX
8. 3.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20593/03134
2. 42–065–00000
3. 108
4. Phillips Petroleum Company
5. Cooper C No 18
6. Panhandle Carson
7. Carson TX
8. .4 million cubic feet
9. September 14, 1979
10. Getty Oil Co
1. 79–20594/03132
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Katz GR No 2
6. Panhandle West
7. Hutchinson TX
8. 17.3 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20595/03131
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Land S No 1
6. Panhandle West
7. Hutchinson TX
8. 5.5 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20596/03130
2. 42–233–0000
3. 108
4. Phillips Petroleum Company
5. Lewis C No 1
6. Panhandle West
7. Hutchinson TX
8. 12.9 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20597/03129
2. 42–179–00000

3. 108
4. Phillips Petroleum Company
5. McConn No 1
6. Panhandle West
7. Gray TX
8. 2.7 million cubic feet
9. September 14, 1979
10. Getty Oil Co
1. 79–20598/03128
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. McMann No 2
6. Panhandle West
7. Hutchinson, TX
8. 4.9 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20599/03127
2. 42–179–00000
3. 108
4. Phillips Petroleum Company
5. McKinney Birdie No 8
6. Panhandle West
7. Gray, Tx
8. 8.9 million cubic feet
9. September 14, 1979
10. Cities Service Oil Co
1. 79–20600/02837
2. 42–223–00000
3. 108
4. Phillips Petroleum Company
5. Garland-Sandford No 1
6. Panhandle West
7. Hutchinson, TX
8. 4.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20601/02739
2. 42–211–0000
3. 108
4. Phillips Petroleum Company
5. Jones N No 2
6. Feldman (Cherokee)
7. Hemphill, TX
8. 9.7 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipeline Co
1. 79–20602/02724
2. 42–421–0000
3. 10
4. Phillips Petroleum Company
5. Agate-A Well No 1
6. Texas Hugoton
7. Sherman, TX
8. 14.2 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20603/02723
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Berry D No 1
6. Texas Hugoton
7. Sherman, TX
8. 4.1 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20604/02719
2. 42–195–00000
3. 108
4. Phillips Petroleum Company
5. Hitch S No 2
6. Hitchland 4640
7. Hansford, TX
8. 4.1 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipeline Co
1. 79–20605/02716
2. 42–421–0000
3. 108
4. Phillips Petroleum Company
5. Bertie B No 1
6. Texas Hugoton
7. Sherman, TX
8. 8.1 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20606/02706
2. 42–393–00000
3. 108
4. Phillips Petroleum Company
5. Edge C No 3
6. Quinduno (Albany Dolomite Lower)
7. Roberts, TX
8. 5.4 million cubic feet
9. September 14, 1979
10. Southwestern Electric Power Co
1. 79–20607/02695
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Camer No 1
6. Texas Hugoton
7. Sherman, TX
8. 21.0 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20608/02692
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Butler A No 1
6. Texas Hugoton
7. Sherman TX
8. 17.4 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20609/02691
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Berry—C No 1
6. Texas Hugoton
7. Sherman TX
8. 1.7 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20610/02690
2. 42–205–00000
3. 108
4. Phillips Petroleum Company
5. Bay No 2
6. Panhandle West
7. Haratley TX
8. 15.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20611/02688
2. 42–421–00000
3. 108
4. Phillips Petroleum Company
5. Aycock No 1
6. Texas Hugoton
7. Sherman TX
8. 18.3 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co
1. 79–20612/02681
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Merchant Cal No 7
6. Panhandle West Red Cave
7. Hutchinson TX
8. 5.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20613/02680
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Merchant Cal No 6
6. Panhandle West
7. Hutchinson TX
8. 9.7 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern Pipeline Co
1. 79–20614/02679
2. 42–211–30438
3. 108
4. Phillips Petroleum Company
5. McQuiddy J No 1
6. Feldman (Douglas)
7. Hemphill TX
8. 5.4 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipeline Co
1. 79–20615/02659
2. 42–233–00000
3. 108
4. Phillips Petroleum Company
5. Whittenburg No 67
6. Panhandle West
7. Hutchinson TX
8. .7 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co
1. 79–20616/07668
2. 42–105–32194
3. 103
4. Suburban Propane Gas Corporation
5. Helen Wilkins "A" 2
6. Davidson Ranch (Penn 7890)
7. Crockett TX
8. 175.0 million cubic feet
9. September 14, 1979
10. Northern Natural Gas Company
1. 79–20617/07456
2. 42–065–30580
3. 103
4. Blair Oil Company
5. Burnett Lease #3–84
6. Panhandle-Carson County
7. Carson TX
8. 138.0 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipe Line
1. 79–20618/07455
2. 42–065–30588
3. 103
4. Blair Oil Company
5. Burnett Lease #4–95
6. Panhandle-Carson County
7. Carson TX
8. 118.6 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipe Line
1. 79–20619/07263

V 44 0C 16 79 UMI

2. 42-317-31991
3. 103
4. MGF Oil Corporation
5. Stimson "A" No 1
6. Spraberry (Trend Area)
7. Martin County TX
8. 11.1 million cubic feet
9. September 14, 1979
10. Northern Natural Gas Co

1. 79-20620/07262
2. 42-317-31990
3. 103
4. MGF Oil Corporation
5. Stimson "A" No 2
6. Spraberry (Trend Area)
7. Martin County TX
8. 14.7 million cubic feet
9. September 14, 1979
10. Northern Natural Gas Co

1. 79-20621/07261
2. 42-115-31181
3. 103
4. MGF Oil Corporation
5. Marshall No 2
6. Ackerly (Dean Sand)
7. Dawson TX
8. 4.2 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20622/07254
2. 42-317-31976
3. 103
4. MGF Oil Corporation
5. Dickenson No 1
6. Spraberry (Trend Area)
7. Martin County TX
8. 21.9 million cubic feet
9. September 14, 1979
10. Northern Natural Gas Company

1. 79-20623/07253
2. 42-115-31182
3. 103
4. MGF Oil Corporation
5. Marshall No 1
6. Ackerly (Dean Sand)
7. Dawson TX
8. 9.6 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20624/07244
2. 42-115-31231
3. 103
4. MGF Oil Corporation
5. M E Dyer No 1
6. Ackerly (Dean Sand)
7. Dawson TX
8. 14.4 million cubic feet
9. September 14, 1979
10. Texaco Inc

1. 79-20625/07243
2. 42-115-31178
3. 103
4. MGF Oil Corporation
5. Webb Estate No 2
6. Ackerly (Dean Sand)
7. Dawson TX
8. 6.0 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20626/07100
2. 42-081-00000
3. 103
4. Corpening Enterprises
5. Gillingham #1 RRC 07558
6. Meadow Creek (Canyon)
7. Coke TX
8. 19.0 million cubic feet
9. September 14, 1979
10. Sun Oil Company

1. 79-20627/07098
2. 42-081-00000
3. 103
4. Corpening Enterprises
5. I A Bird #4 RRC 07315
6. Meadow Creek (Canyon)
7. Coke TX
8. 5.0 million cubic feet
9. September 14, 1979
10. Sun Oil Company

1. 79-20628/07097
2. 42-081-00000
3. 103
4. Corpening Enterprises
5. I A Bird #3 RRC 07315
6. Meadow Creek (Canyon)
7. Coke TX
8. 6.0 million cubic feet
9. September 14, 1979
10. Sun Oil Company

1. 79-20629/07093
2. 42-151-30415
3. 103
4. Continental Oil Company
5. Dorothy Decker (13303) #8
6. Round Top/Canyon Sand
7. Fisher TX
8. 7.0 million cubic feet
9. September 14, 1979
10. Lone Star Gas Co

1. 79-20630/07089
2. 42-135-33026
3. 103
4. Continental Oil Company
5. Gist Unit (19373) #115
6. Foster
7. Ector TX
8. 7.7 million cubic feet
9. September 14, 1979
10. Odessa Natural Gaso Co

1. 79-20631/06985
2. 42-215-30857
3. 103
4. Shell Oil Company
5. A A Mc Allen No 56
6. Mc Allen Ranch (Vicksburg R)
7. Hidalgo TX
8. 400.0 million cubic feet
9. September 14, 1979
10. South Texas Natural Gas Gathering CoQ02

1. 79-20632/06982
2. 42-495-30901
3. 103
4. Shell Oil Company
5. Sealy Smith Foundation 160
6. Monahans (Clear Fork)
7. Winkler TX
8. 13.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20633/06981
2. 42-211-30969
3. 103
4. Shell Oil Company
5. Hobart Ranch 369
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 160.0 million cubic feet
9. September 14, 1979
10. Cities Service Gas Co

1. 79-20634/06973
2. 42-165-31177
3. 103
4. Sheel Oil Company
5. Newbern 10
6. Robertson N (San Andres)
7. Gaines TX
8. 50.0 million cubic feet
9. September 14, 1979
10. Phillips Petroleum Co

1. 79-20635/06980
2. 42-211-30937
3. 103
4. Shell Oil Company
5. Hobart Ranch 370
6. Hemphill (Granite Wash)
7. Hemphill TX
8. 365.0 million cubic feet
9. September 14, 1979
10. Cities Service Gas Co

1. 79-20636/03241
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Bret Q No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.7 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20637/03238
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 12
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20638/03237
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 11
6. Panhandle Hutchinson
7. Hutchinson TX
8. 2.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20639/03236
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 8
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20640/03235
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 6
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20641/03234
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 5
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20642/03233
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner Harris No 6
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20643/03399
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Trigg No 1
6. Panhandle West
7. Hutchinson TX
8. 14.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co

1. 79-20644/03356
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J. J. No 34
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20645/03355
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J. J. No 33
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20646/08551
2. 42-497-31288
3. 103
4. James L Moore
5. Deaver Pryor Unit #1 19081
6. Alvord (Caddo Conglomerate)
7. Wise TX
8. 30.0 million cubic feet
9. September 14, 1979
10. Natural Gas Pipeline Company Texas Utilities Fuel Co

1. 79-20647/002069
2. 42-079-00000
3. 103
4. Monsanto Company
5. F O Mastern #49 #03692
6. Levelland
7. Cochran TX
8. .9 million cubic feet
9. September 14, 1979
10. Cities Service Gas Company

1. 79-20648/03138
2. 42-421-00000
3. 108
4. Phillips Petroleum Company
5. Ada-Schultz No 1
6. Texas-Hugoton
7. Sherman TX
8. 11.8 million cubic feet
9. September 14, 1979
10. Michigan Wisconsin Pipeline Co

1. 79-20649/03137
2. 42-195-00000
3. 108
4. Phillips Petroleum Company
5. Berger No 1
6. Texas Hugoton
7. Hansford TX
8. 5.5 million cubic feet
9. September 14, 1979
10. Michigan-Wisconsin Pipeline Co

1. 79-20650/03135
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Chapp JA No 3
6. Panhandle West
7. Hutchinson TX
8. 5.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co

1. 79-20651/03216
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith A No 1
6. Panhandle Hutchinson
7. Hutchinson TX
8. .7 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20652/03215
2. 42-065-00000
3. 108
4. Phillips Petroleum Company
5. Cooper B No 2
6. Panhandle Carson
7. Carson TX
8. 3.0 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20653/03214
2. 42-065-00000
3. 108
4. Phillips Petroleum Company
5. Bryan No 5
6. Panhandle Carson
7. Carson TX
8. 5.0 million cubic feet
9. September 14, 1979
10. Cabot Corp

1. 79-20654/03212
2. 42-179-00000
3. 108
4. Phillips Petroleum Company
5. Skoog A No 1
6. Panhandle Gray
7. Gray TX
8. .7 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20655/03194
2. 42-179-00000
3. 108
4. Phillips Petroleum Company
5. Skoog B No 1
6. Panhandle Gray
7. Gray TX
8. .7 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20656/03191
2. 42-065-00000
3. 108
4. Phillips Petroleum Company
5. Felix N No 1
6. Panhandle West
7. Hutchinson TX
8. 16.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co

1. 79-20658/03139
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Mayer ER No 1
6. Panhandle West
7. Hutchinson TX
8. 5.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Easter P/L Co

1. 79-20659/03343
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 26
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20660/03341
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 24
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20661/03340
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 23
6. Panhandle Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20662/03336
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20663/03247
2. 42-233-00000
3. 108
4. Phillips Petroleum Company

V 44 0C 16 79 UMI

5. Turner-Smith D No 10
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20664/03243
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Luca No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.2 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20665/03242
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Bret Q No 3
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.1 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20666/02832
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Garner Cr No 2
6. Panhandle West
7. Hutchinson TX
8. 4.3 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co Panhandle Eastern P/L Co

1. 79-20667/03229
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 3
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20668/03228
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith D No 1
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20669/03227
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith C No 2
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20670/03226
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Johnson K No 1
6. Panhandle West
7. Hutchinson TX
8. 9.7 million cubic feet
9. September 14, 1979
10. Panhandle Eastern Pipeline Co

1. 79-20671/03225
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner-Smith C No 1
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20672/03221
2. 49-233-00000
3. 108
4. Phillips Petroleum Company
5. Rubin Gammel Well No 7
6. Panhandle-Hutchinson
7. Hutchinson TX
8. 1.5 million cubic feet
9. September 14, 1979
10. Getty Oil Company

1. 79-20673/03217
2. 42-065-00000
3. 108
4. Phillips Petroleum Company
5. Cooper C No 21
6. Panhandle Carson
7. Carson TX
8. .5 million cubic feet
9. September 14, 1979
10. Getty Oil Co

1. 79-20674/03232
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner Harris No 7
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20675/03231
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner Harris No 8
6. Panhandle Hutchinson
7. Hutchinson TX
8. .3 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20676/03230
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Turner Smith D No 4
6. Panhandle Hutchinson
7. Hutchinson TX
8. 3.5 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20677/03354
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 32
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20678/03352
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 19
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20679/03351
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 18
6. Panhandle Hutchinson
7. Hutchinson TX
8. .8 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20680/03350
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 14
6. Panhandle Hutchinson
7. Hutchinson TX
8. .9 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20681/03349
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 13
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20682/03348
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 31
6. Panhandle Hutchinson
7. Hutchinson TX
8. .5 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20683/03347
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 30
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20684/03346
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 29
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.4 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20685/03345
2. 42-233-00000
3. 108
4. Phillips Petroleum Company
5. Perkins J J No 28
6. Panhandle Hutchinson
7. Hutchinson TX
8. 1.0 million cubic feet
9. September 14, 1979
10. El Paso Natural Gas Co

1. 79-20686
2. 47-013-02025
3. 108
4. Consolidated Gas Supply Corp
5. Louis Bennett 10467
6. West Virginia Other A-85772
7. Calhoun WV
8. 17.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20687
2. 47-013-02012
3. 108
4. Consolidated Gas Supply Corp
5. S A Days 10492
6. West Virginia Other A-85772
7. Calhoun WV
8. 10.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20688
2. 47-033-00509
3. 108
4. Consolidated Gas Supply Corp
5. Isaac H Maxwell 11120
6. West Virginia Other A-85772
7. Harrison WV
8. 14.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20689
2. 47-001-00211
3. 108
4. Consolidated Gas Supply Corp
5. Burton A Roy 10711
6. West Virginia Other A-85772
7. Barbour WV
8. 10.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20690
2. 47-001-00207
3. 108
4. Consolidated Gas Supply Corporation
5. Leona Cool 10763
6. West Virginia Other A-85772
7. Barbour WV
8. 8.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20691
2. 47-001-00271
3. 108
4. Consolidated Gas Supply Corporation
5. George S White SR 10812
6. West Virginia Other A-85772
7. Barbour WV
8. 5.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20692
2. 47-001-00607
3. 108
4. Consolidated Gas Supply Corporation
5. Myron B Hymes 11517
6. West Virginia other A-85772
7. Barbour, WV
8. 14.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20693
2. 47-005-00577
3. 108
4. Consolidated Gas Supply Corporation
5. Spruce Boone Coal Co 8648
6. West Virginia Other A-85772
7. Boone WV
8. 5.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20694
2. 47-005-00956
3. 108
4. Consolidated Gas Supply Corporation
5. Albert H Cole 10489
6. West Virginia Other A-85772
7. Boone WV
8. 16.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20695
2. 47-013-00669
3. 108
4. Consolidated Gas Supply Corporation
5. C C Knotts 8596
6. West Virginia Other A-85772
7. Calhoun, WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20696
2. 47-013-00930
3. 108
4. Consolidated Gas Supply Corporation
5. M J Duffield 5466
6. West Virginia Other A-85772
7. Calhoun, WV
8. 6.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20697
2. 47-021-00442
3. 108
4. Consolidated Gas Supply Corporation
5. Wessen-Bennett 8514
6. West Virginia Other A-85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20698
2. 47-019-00095
3. 108
4. Consolidated Gas Supply Corporation
5. Guy O Brown 9899
6. West Virginia Other A-85772
7. Fayette, WV
8. 17.0 million cubic feet
9. September 17, 1979
10. General System Purchasers

1. 79-20699
2. 47-043-01568
3. 108 denied
4. Pennzoil Company
5. Adkins Herbert #4
6. Duval
7. Lincoln, WV
8. 1.0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20700
2. 47-085-03661
3. 108 denied
4. Pennzoil Company
5. S C Hammet #19
6. Grant
7. Ritchie, WV
8. .0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20701
2. 47-043-01507
3. 108 denied
4. Pennzoil Company
5. Adkins R H #1
6. Duval
7. Lincoln, WV
8. 1.0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20702
2. 47-043-01527
3. 108 denied
4. Pennzoil Company
5. R H Adkins #4
6. Duval
7. Lincoln, WV
8. .0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20703
2. 47-043-01529
3. 108 denied
4. Pennzoil Company
5. Adkins R H #3
6. Duval
7. Lincoln, WV
8. 1.0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20704
2. 47-043-01704
3. 108 denied
4. Pennzoil Company
5. Mitchell Heirs #3
6. Duval
7. Lincoln, WV
8. .1 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20705
2. 47-043-01545
3. 108 denied
4. Pennzoil Company
5. E T Spurlock #14
6. Duval
7. Lincoln, WV
8. .6 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

1. 79-20706
2. 47-043-01698
3. 108 denied
4. Pennzoil Company
5. A A Woodrum #6
6. Duval
7. Lincoln, WV

West Virginia Department of Mines, Oil and Gas Division

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well Name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

V 4 4 0 C
1 6 7 9
UMI

8. 1.0 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp
1. 79-20707
2. 47-043-01798
3. 108 denied
4. Pennzoil Company
5. Lloyd E Hilbert #10
6. Duval
7. Lincoln, WV
8. 2.5 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp
1. 79-20708
2. 47-043-01564
3. 108 denied
4. Pennzoil Company
5. E G Pauley #6
6. Duval
7. Lincoln, WV
8. .3 million cubic feet
9. September 17, 1979
10. Consolidated Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission on or before October 31, 1979.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-31819 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Energy Research

Energy Research Advisory Board; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 State. 770), notice is hereby given of the following advisory committee meeting:

Name: Energy Research Advisory Board.
Date: November 1 and 2, 1979.
Time: 9 a.m. to 5 p.m.
Place: Room 7E-069, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C.

Tentative Agenda

1. Proprosal for Organization of ERAB Subcommittees.
2. Update on Status of Strategic Petroleum Reserve.
3. Presentation of DOE Mission and the Nationl Labs.
4. Review of Responses to ERAB Report on GRI 1979 Program and Plan and Planning for Review of GRI 1980 R&D Program.
5. Presentation of Findings and Recommendations of Construction/Developments Projects Study.
6. Report on Status of Proposed Geothermal Advisory Committee and Proposed Solar Photovoltaic Advisory Committee.
7. Report on Status of Coal-Gasification Multi-Test Facility Review.
8. Presentation of DOE Synthetic Fuels Program.
9. Planning for ERAB 1980 Summer Study.
10. Presentation of ERAB and Technical Assessments.

Contact: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Room 8G031, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone: 202-252-5187.

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should call the Advisory Committee Management Office at the above number at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.

Transcripts: Available for public review and copying at the Freedom of Information Public Reading Room, GA-152, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Executive Summary: Available approximately 30 days following the meeting from the Advisory Committee Management Office.

Purpose of Committee: To advise the Department of Energy on the overall research and development conducted in DOE and to provide long-range guidance in these areas to the Department.

Issued at Washington, D.C. on October 10, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-31925 Filed 10-15-79; 8:45 am]

BILLING CODE 6450-01-M

Southeastern Power Administration

Proposed Power Marketing Policy; Georgia-Alabama System of Projects

AGENCY: Department of Energy, Southeastern Power Administration (SEPA).

ACTION: Notice of Proposed Power Marketing Policy for Georgia-Alabama System of Projects.

SUMMARY: SEPA has developed the following proposed power marketing policy for its Georgia-Alabama System of Projects pursuant to Notice published in the **Federal Register** of February 16, 1979, 44 FR 10111, and in accordance with Procedure for Public Participation in the Formulation of Marketing Policy published July 6, 1978, 43 FR 29186. In the Notice, SEPA proposed a System Policy which would deal with the complete Georgia-Alabama System of Projects effective with the availability of power from the Richard B. Russell Dam and Lake Project and a Pre-System Policy which would, prior to the effective date of the System Policy, apply to power from the Clark Hill and Hartwell projects presently sold East of the Savannah River. However, based on analysis of proposals and recommendations received, consultations with interested parties and further studies and considerations, SEPA decided to develop a single policy applying to the system effective with the expiration of existing contracts, or as soon thereafter as is practical, incorporating additional power sources as they become available. The policy, when finalized, will constitute written guidelines for future disposition of power from the system. The policy is developed under authority of Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and Section 302(a) of the Department of Energy Organization Act of 1977, 42 U.S.C. 7152. Interested persons are invited to submit written comments directly to SEPA and/or present written or oral views, data or arguments at the public comment forums on the proposed policy.

DATES: Written comments are due on or before February 18, 1980. Public comment forums will be held in Atlanta, Georgia on January 10, 1980, and in Columbia, South Carolina on January 24, 1980.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public comment forums will each begin at 10:00 a.m. on the following dates and at the following locations:

January 10, 1980, Armstrong Room, Holiday Inn-Airport, 1380 Virginia Avenue, Atlanta, Georgia 30320.

January 24, 1980, Strom Thurmond Federal Building, Room 861, 1835 Assembly Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Mr. Harry F. Wright, Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, 404-283-3261.

SUPPLEMENTARY INFORMATION: SEPA received 78 responses to its solicitation for proposals and recommendations contained in its February 16, 1979, Notice of Intent to Formulate Power Marketing Policy. These responses were carefully considered as were facts gathered from those who consulted with SEPA.

Major issues raised by the proposed policy are determination of marketing area, allocation of power among area customers, handling of energy at pump-storage installations, utilization of area utility systems for power integration, firming, wheeling, exchange and other essential relationships, wholesale rates, handling of resale relationships, and conservation measures.

The following identifiable studies were used in the development of the proposed marketing policy:

Power Marketing Policy Considerations, October 1977.
Preference agency loads in the Georgia-Alabama System and in the adjacent areas.
Capacity and energy sales by customer groups and by utility areas for Georgia-Alabama System.
Computer printout of simulated project operations for Georgia-Alabama System, January 1979.
Georgia-Alabama System rate and repayment study May—1979.
System costs for Georgia-Alabama Projects including Hartwell 5th unit and Richard B. Russell Project.

These studies are available for inspection or copying at the headquarters offices of Southeastern Power Administration in accordance with the Freedom of Information Act, 5 U.S.C. 552.

Additionally, an Environmental Assessment has been drafted indicating that the proposed power marketing policy will not have a significant effect upon the quality of the human environment. Comments upon this draft EA are invited through February 18, 1980. A copy may be obtained by contacting the Administrator at the address or telephone number listed above.

The public comment forums will not be adjudicative in nature. The Administrator shall act as or appoint a forum chairman. At the start of the forums the chairman shall briefly explain procedures and rules. Customers and the public shall be allowed to make oral statements and comments, introduce relevant documents, and ask questions regarding the proposed power marketing policy of SEPA representatives at the forum. Persons requesting to speak shall notify SEPA at which forum or forums they desire to speak at least 3 days before the particular forum is scheduled so that a list of forum participants can be prepared. If necessary, the chairman may establish time limitations for oral presentations by these participants to assure that all who register to speak shall have an opportunity to do so. Others will be permitted to speak if time allows. Those unable to speak because of time limitations and others who so desire may submit written comments. The chairman and SEPA representatives may question forum participants and, the chairman, at his discretion, may permit other participants a like privilege. Questions not answered by SEPA representatives during a forum shall be specifically identified by the chairman in the transcript and shall be subsequently responded to by SEPA in writing. All documents introduced and written answers to questions shall be available for inspection and copying at SEPA headquarters in accordance with the Freedom of Information Act. Forum proceedings shall be transcribed. Copies of the transcript may be purchased from the reporter.

Customers and the public may consult or file written comments and questions with SEPA regarding the proposed marketing policy on or before February 18, 1980. All such questions shall receive expeditious response, and all such comments, questions and answers shall be available at SEPA headquarters for inspection or copying in accordance with the Freedom of Information Act. The forum transcripts will likewise be available for inspection at SEPA headquarters in Elberton, Georgia.

Issued at Elberton, Georgia, September 28, 1979.

Harry F. Wright,

Administrator.

Proposed Power Marketing Policy—Georgia-Alabama Projects

General. The projects and power subject to this policy are:

Projects	Capacity (kw) (Nameplate)	Energy (mwh) (Average annual)
Allatoona	74,000	157,000
Buford	86,000	196,000
Carter's	500,000	[1] 201,000
Clark Hill	280,000	751,000
Hartwell	[2] 344,000	493,000
Jones Bluff	68,000	352,000
Millers Ferry	75,000	409,000
Walter F. George	130,000	451,000
West Point	73,375	213,000
Richard B. Russell [3]	300,000	464,000

[1] Does not include energy from pumping operation.
[2] Includes 80,000 kw 5th unit, availability scheduled 1983.
[3] Does not include pumping units, conventional units availability scheduled 1984.

There will be one policy for the Georgia-Alabama System of Projects. It will be implemented in respective utility service areas as existing contracts, or necessary extensions thereof, expire. Existing contracts in the Duke Power Company service area will expire May 20, 1980; in the South Carolina Public service area on June 30, 1981; and in the Southern Company service area on May 31, 1983. The policy will become applicable to the South Carolina Electric and Gas Company service area with the availability of power from the Russell Project.

The Policy will be implemented through negotiated contracts for terms not to exceed 10 years.

Transmission facilities owned by utilities within the marketing area will be used for all necessary purposes including transmitting power to load centers. Deliveries may be made at the projects, at utilities interconnections or at customer substations, as determined by SEPA. The projects will be hydraulically, electrically, and financially intergrated and will be operated to make maximum contribution to the power supply of the selected utility areas. Preference in the sale of the power shall be given to public bodies and cooperatives.

Marketing area. The marketing area shall consist of two parts, with the Savannah River being the dividing line. The portion west of the river shall consist of the approximate 112,000 square mile area generally known as the service areas of the Georgia, Alabama, Mississippi and Gulf Power Companies or the Southern Company service area. The portion east of the river shall consist of the approximate 40,000 square mile area generally known as the service areas of the South Carolina Public Service Authority and the South Carolina Electric and Gas Company plus that portion of the Duke Power Company's service area within a radius of 150 miles of the Clark Hill, Hartwell and Russell projects. The 204 eligible public bodies and cooperatives which now exist within the 152,000 square mile area are listed in Appendix A attached hereto.

Allocations of Power. Approximately one-half of the output of each of the projects, Clark Hill, Hartwell and Russell, will be allocated on a long-term basis to customers located in the eastern portion of the marketing area. The remainder of system power will be allocated on a long-term basis to customers in the western portion of the area. Except where duplication of allocation would result, each public body and cooperative within the marketing area as shown on Appendix A will be entitled to an allocation of power.

Existing preference customers within the marketing area will be entitled to retain their present allocations of energy. It is SEPA's goal to allocate all available and usable system power to preference customers, provided viable and acceptable marketing arrangements can be secured. Accordingly, all capacity from existing projects, excluding the 5th unit at Hartwell, will be allocated to existing preference customers of SEPA, to the maximum extent feasible and practical, in proportion to existing energy allocations.

New preference customers located within the selected utility areas will be entitled to share equitably with existing preference customers in new power which becomes available to preference customers from the 5th unit at the Hartwell Project and from the Russell Project. Allocations of Russell power

to the eastern and western portions of the marketing area will be divided among the respective utility service areas based upon the relationship of preference customer loads within a given utility area to total preference customer loads within a given portion (eastern or western) of the marketing area. Allocations of power from the 5th Hartwell unit to the eastern portion of the marketing area will be confined to customers in the Duke Power Company service area; provided that new preference customers entitled to share in power from the 5th Hartwell unit shall first receive such power in conjunction with power from the Russell Project.

Allocations of new Hartwell power and Russell power to a particular preference customer will be based on the relationship of such customer's maximum demand to the sum of the maximum demands of all preference customers in a given utility service area sharing in such power.

Energy from Pumped Water. SEPA will utilize its combination pump-storage and generation resources to produce high-value peak energy through utilization of lower-value off-peak steam energy and may arrange for such pumping energy either through purchase or exchange agreements at its election. Should the purchase alternative be selected, SEPA will obtain pumping energy from utilities offering the best terms. Should the exchange alternative be selected, pump-storage operations will be handled with public bodies, cooperatives and the utilities in a manner not involving the direct purchase and sales approach, with preference given to public bodies and cooperatives. Should pump-storage units be installed at Russell Project during the tenure of contracts implementing this policy, SEPA will allocate two units to the western division of the marketing area and two to the eastern division, with the latter assigned one to the SCPSA and SE&G areas and one to the Duke area.

Utilization of Utility Systems. In the absence of transmission facilities of its own, SEPA will use area generation and transmission systems to integrate the Government's projects, provide firming, wheeling, exchange and backup services and such other functions as may be necessary to dispose of system power under reasonable and acceptable marketing arrangements. Utility systems providing such services shall be entitled to adequate compensation. Specific terms and conditions of all such arrangements shall be the subject of negotiations between SEPA and the generation and transmission utilities providing the services. Individual preferred agencies directly affected by the negotiations shall stand in an advisory role to SEPA and shall be kept currently advised as to the status and progress of negotiations.

Wholesale Rates. Rate schedules shall be drawn so as to recover all costs associated with producing and transmitting the power in accordance with then current repayment criteria. Production costs will be determined on a system basis and rate schedules will relate to the integrated output of the projects. Rate schedules may be revised periodically.

Resale Rates. Resale rate provisions requiring the benefits of SEPA power to be passed on to the ultimate consumer will be included in each SEPA customer contract which provides for SEPA to supply more than 25 percent of the customers total power requirements during the term of the contract.

Conservation Measures. Each customer purchasing SEPA power shall agree to finance and take reasonable measures to encourage the conservation of energy by ultimate consumers.

Appendix A—Preference Agencies in the Georgia-Alabama System Area.

Distribution-Type Preference Agencies.

Western Area

Alabama

Alexander City	Troy
Andalusia	Tuskegee
Brundidge	Baldwin County EMC
Dothan	Black Warrior EMC
Elba	Central Alabama EC
Evergreen	Clarke-Washington EMC
Fairhope	
Foley	Coosa Valley EC
Hartford	Covington EC
LaFayette	Dixie EC
Lanett	Pea River EC
Luverne	Pioneer EC
Opelika	South Alabama EC
Opp	Southern Pine EC
Piedmont	Tallapoosa River EC
Robertsdale	Tombigbee EC
Sylacauga	Wiregrass EC

Florida

Choctawhatchee EC	Gulf Coast EC
Escambia River EC	West Florida ECA

Georgia

Acworth	Ellaville
Adel	Fairburn
Albany	Fitzgerald
Barneville	Forsyth
Blakely	Fort Valley
Brinson	Grantville
Buford	Griffin
Cairo	Hampton
Calhoun	Hogansville
Camilla	Jackson
Cartersville	LaFayette
College Park	LaGrange
Commerce	Lawrenceville
Covington	Mansfield
Dalton	Marietta
Doerun	Monroe
Douglas	Monticello
East Point	Moultrie
Elberton	Newnan
Norcross	Hart County EMC
Palmetto	Irwin County EMC
Quitman	Jackson EMC
Sandersville	Jefferson EMC
Sylvania	Lamar EMC
Sylvester	Little Ocmulgee EMC
Thomaston	Middle Georgia EMC
Thomasville	Mitchell EMC
Washington	Ocmulgee EMC
West Point	Oconee EMC
Whigham	Okefenoke Rural EMC
Crisp County Power Comm.	Pataula EMC
Altamaha EMC	Planters EMC
Amicalola EMC	Rayle EMC
Canoochee EMC	Satilla Rural EMC
Carroll EMC	Sawnee EMC
Central Georgia EMC	Slash Pine EMC
Coastal EMC	Snapping Shoals EMC
Cobb EMC	Sumter EMC
Colquitt EMC	Three Notch EMC
Coweta-Fayette EMC	Tri-County EMC
Douglas County EMC	Troup County EMC
Excelsior EMC	Upson County EMC
Flint EMC	Walton EMC
Grady County EMC	Washington EMC
Habersham EMC	

Mississippi

Coast EPA	Pearl River Valley EPA
Dixie EPA	Singing River EPA
East Mississippi EPA	Southern Pine EPA

Eastern Area

North Carolina

Bostic	Maiden
Cherryville	Monroe
Concord	Morganton
Cornelius	Newton
Dallas	Pineville
Drexel	Shelby
Forest City	Statesville
Gastonia	Blue Ridge EMC
Granite Falls	Crescent EMC
Huntersville	Haywood EMC
Kings Mountain	Pee Dee EMC
Landis	Rutherford EMC
Lincolnton	Union EMC

South Carolina

Abbeville	Aiken EC
Bamberg	Berkeley EC
Clinton	Black River EC
Due West	Blue Ridge EC
Easley	Broad River EC
Gaffney	Coastal EC
Georgetown	Edisto EC
Greenwood	Fairfield EC
Greer	Horry EC
Laurens	Laurens EC
McCormick	Little River EC
Newberry	Lynches River EC
Orangeburg	Marlboro EC
Prosperity	Mid-Carolina EC
Seneca	Newberry EC
Rock Hill	Palmetto EC
Union	Pee Dee EC
Westminster	Santee EC
Winnsboro	Tri-County EC
S.C. Public Service Auth.[1]	York EC

Publicly-Owned Wholesale Power Supply Agencies

Western Area

Alabama Electric Cooperative
Municipal Electric Authority of Georgia
Oglethorpe Power Corporation (Georgia)
South Mississippi Electric Power Association

Eastern Area

Central Electric Power Cooperative (S.C.)
North Carolina Municipal Power Agency =1

[FR Doc. 79-31776 Filed 10-15-79; 8:45 am]
BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided that a meeting of the Industry Working Party (IWP) to the International Energy Agency (IEA) will be held on October 24 and 25, 1979, at the offices of Gulf Oil Corporation, Gulf Building, 435 Seventh Avenue, Pittsburgh, Pennsylvania, beginning at 9:30 a.m.

[1] Also operates generation and transmission facilities and serves at wholesale.

The agenda for the meeting is as follows:

1. Status of SOM and IWP activities and arrangements for future meetings.
2. Report to IWP members on the meeting of the SOM *ad hoc* group.
3. Questions concerning the registration of oil market transactions included reporting instructions.
4. Further discussion on gravity correction factors.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., October 9, 1979.

Craig L. Bamberger,

Acting Assistant General Counsel, International Trade and Emergency Preparedness.

[FR Doc. 79-31921 Filed 10-15-79; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1338-1; Docket Nos. ECAO-HA-79-1, ECAO-HA-79-2, ECAO-HA-79-3, ECAO-HA-79-4]

Health Assessment Documents for Chlorinated Hydrocarbons; Correction

A registered trademark for the compound 1,1,2-trichloro-1,2,2-trifluoroethane was incorrectly used in the call for information notice that appeared in 44 FR 39303 (July 5, 1979).

A proper designation that will be used in future references to the above-mentioned compound is fluorocarbon 113.

David J. Graham,

Acting Assistant Administrator for Research and Development.

October 11, 1979.

[FR Doc. 79-31886 Filed 10-15-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1338-4; OTS-00006]

Interagency Toxic Substances Data Committee; Change of Meeting Date

AGENCY: Environmental Protection Agency (EPA), Council on Environmental Quality (CEQ).

ACTION: Change of date of Open Meeting.

SUMMARY: The date of the November meeting of the Interagency Toxic Substances Data Committee has been changed to November 13, 1979. The meeting will be held in Room 2010, New Executive Office Building, 17th Street and Pennsylvania Avenue, NW., Washington, D.C. 20006, at 9:30 a.m.

FOR FURTHER INFORMATION CONTACT: Ms. Nan Fremont, Executive Secretary, Interagency Toxic Substances Data Committee, Office of Toxic Substances (TS-793), EPA, 401 M Street, SW., Washington, D.C. 20460, Telephone: 202/755-8040.

SUPPLEMENTARY INFORMATION: The regular meetings of the Interagency Toxic substances Data Committee take place on the first Tuesday of each month at 9:30 a.m. The meetings are held in the New Executive Office Building at the address given above, and are open to the public. The date has been changed only for the November meeting. The next meeting of the Interagency Toxic Substances Data Committee will take place on December 4, 1979.

Dated: October 10, 1979.

Nan Fremont,

Executive Secretary, Interagency Toxic Substances Data Committee.

[FR Doc. 79-31884 Filed 10-15-79; 8:45 am]
BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-608-DR]

Connecticut; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Connecticut (FEMA-608-DR), dated October 4, 1979, and related determinations.

DATED: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: Pursuant to the authority vested in the Director of the Federal Emergency Management Agency by the President under Executive Order 12148 effective July 15, 1979, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, and by virtue of the Act of May 22, 1974, entitled "Disaster Relief Act of 1974" (88 Stat. 143); notice is hereby given that, in a letter of October 4, 1979, the President declared a major disaster as follows:

I have determined that the damage in certain areas of the State of Connecticut resulting from a tornado and severe storms beginning on October 3, 1979, is of sufficient severity and magnitude to warrant a major-disaster declaration under Pub. L. 93-288. I therefore declare that such a major disaster exists in the State of Connecticut.

Notice is hereby given that pursuant to the authority vested in the Director of Federal Emergency Management Agency under Executive Order 12148, and delegated to me by the Director under Federal Emergency Management Agency Delegation of Authority, I hereby appoint Laurie I. Dove of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared major disaster.

I do hereby determine the following area of the State of Connecticut to have been affected adversely by this declared major disaster.

For Individual Assistance and also for Federal assistance to disaster-damaged public schools under Public Law 81-875 and Public Law 81-874, as appropriate:

Hartford County

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance; No. 13.477, School Construction, and No. 13.478, School Maintenance and Operation Assistance.)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-31830 Filed 10-15-79; 8:45 am]
BILLING CODE 6718-02-M

Florida; Notice of Major Disaster Declaration

[FEMA-607-DR]

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Florida (FEMA-607-DR), dated September 29, 1979.

DATED: October 6, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D. C. 20472, (202) 634-7825.

NOTICE: The Notice of a major disaster for the State of Florida dated September 29, 1979, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 29, 1979.

The following Counties for Individual Assistance only: Hernando and Pasco.

V 44 0 C 1 6 7 9 UMI

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-31831 Filed 10-15-79; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-605-DR]

North Carolina; Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of North Carolina (FEMA-605-DR), dated September 29, 1979.

DATED: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the State of North Carolina dated September 29, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 29, 1979.

Previously designated eligible for Individual Assistance, now designated eligible for Public Assistance limited to Public Utilities:

The Town of Mt. Airy in Surry County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

[FR Doc. 79-31832 Filed 10-15-79; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-603-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY; Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FEMA-603-DR), dated September 25, 1979.

DATED: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634-7825.

NOTICE: The Notice of a major disaster for the State of Texas dated September 25, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 25, 1979.

The following for Individual Assistance only: Precinct 3 of Montgomery County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox.

Acting Director, Disaster Response and Recorvery, Federal Emergency Management Agency.

[FR Doc. 79-31833 Filed 10-15-79; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 9, 1979.

A. *Federal Reserve Bank of Chicago*, 230 South LaSalle Street, Chicago, Illinois 60690:

1. St. Joseph Bank and Trust Company, South Bend, Indiana (mortgage banking activities; Illinois): to engage, through its subsidiary, St. Joseph Agency, Inc., in originating, acquiring, selling and servicing of residential, commercial and industrial mortgage loans. These activities would be conducted from an office in Schaumburg, Illinois, Mount Prospect, Rolling Meadows, Wheeling and Inverness, all in Illinois.

2. Indiana National Corporation, Indianapolis, Indiana (insurance activities: Indiana): to continue to engage, through its second-tier subsidiary, Tower Agency, Inc., in acting as agent in selling insurance directly related to extensions of credit by its subsidiary bank, The Indiana National Bank, including the provision of reducing term credit life insurance and credit accident and health insurance on both direct and indirect extensions of credit; credit life insurance and credit accident and health insurance on residential mortgage loans; and level term credit life insurance on single payment and commercial credit extensions. Such activities will be conducted at offices located in Indianapolis, Indiana, serving the Indianapolis Standard Metropolitan Statistical Area ("SMSA").

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 9, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31781 Filed 10-15-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage de novo (or continue to engage in an activity earlier commenced de novo), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or

gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the apropriate Federal Reserve Bank not later than November 5, 1979.

A. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

United Virginia Bankshares Incorporated, Richmond, Virginia (financing and insurance activities; Alabama): to engage, through its subsidiary known as United Virginia Mortgage Corporation, in originating loans as principal and as agent; servicing loans for non-affiliated individuals, partnerships, and corporations; servicing loans for affiliates of United Virginia Bankshares Incorporated; selling, as agent, credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with such loans; and other activities incidental to the business of a mortgage corporation. These activities would be conducted from an office in Montgomery, Alabama, serving metropolitan Montgomery and surrounding counties. This application is for the relocation of an office within the same city.

B. *Federal Reserve Bank of Atlanta*, 104 Marietta Street, N.W., Atlanta, Georgia 30303:

Deposit Guaranty Corp., Jackson, Mississippi (mortgage banking and insurance activities; Florida): to engage, through its subsidiary, Deposit Guaranty Mortgage Company, in making or acquiring, for its own account the account of others, loans and other extensions of credit such as would be made by a mortage company and of servicing loans and other extensions of credit for any person; and selling and participating in the proceeds of the sale of credit life (mortgage cancellation) and credit accident and health insurance related to loans and other extensions of credit. These activities would be conducted from an office located in Ocala, Florida, and would serve Alachua, Baker, Bradford, Brevard, Citrus, Clay, Columbia, Dixie, Duval, Flagler, Gilchrist, Hernando, Lafayette, Lake, Levy, Marion, Nassau, Orange, Pasco, Putnam, Seminole, Sumler, Suwannce, St. Johns, Union and Volusia Counties, all in Florida.

C. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

Security Pacific Corporation, Los Angeles, California (mortgage banking activities; Colorado): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in making, purchasing, and servicing mortgage loans, including development and construction loans on multifamily and commercial properties, for its own account or for the account of others. These activities would be conducted from an office in Fort Collins, Colorado, serving Colorado.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31782 Filed 10-15-79; 8:45 am]

BILLING CODE 6210-01-M

The Marine Corporation; Acquisition of Bank

The Marine Corporation, Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 percent or more of the voting shares of Commercial State Bank, Madison, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System Washington, D.C. 20551, to be received not later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 4, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31783 Filed 10-15-79; 8:45 am]

BILLING CODE 6210-01-M

Tri City Bankshares Corporation; Formation of Bank Holding Company

Tri City Bankshares Corporation, Oak Creek, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Tri City National Bank of Oak Creek, Oak Creek, Wisconsin; Tri City National Bank of West Allis, West Allis, Wisconsin; and Tri City National Bank of Hales, Corners, Hales Corners, Wisconsin; Tri City National Bank of Brown Dear, Brown Dear, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 5, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 5, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-31784 Filed 10-15-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 138; I-CA-1134]

Portions, Central Valley Project, San Luis Canal Right-of-Way, Merced County, Calif.; Transfer of Property

October 4, 1979.

Pursuant to Section 2 of Pub. L. 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated April 4, 1979, and

recorded July 20, 1979, the property comprising approximately 114.98 acres of land identified as portions, Central Valley Project, San Luis Canal Right-of-Way, Merced County, California, has been conveyed to the State of California.

2. The above-described property was conveyed for wildlife conservation purposes in accordance with the provisions of Section 1 of said Pub. L. 80–537 (16 U.S.C. 667b), as amended by Pub. L. 92–432.

Dated: October 4, 1979.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 79–31839 Filed 10–15–79; 8:45 am]

BILLING CODE 6820–96–M

[Wildlife Order 139; I–Kans–498]

Portion, Norton Reservoir, Near Norton, Norton County, Kans.; Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated September 10, 1979, and recorded September 18, 1979, the property comprising approximately 9.9 acres of unimproved land identified as a portion of the Norton Reservoir, near Norton, Norton County, Kansas, has been conveyed to the Kansas State Fish and Game Commission.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of section 1 of said Pub. L. 80–537 (16 U.S.C. 667b), as amended by Pub. L. 92–432.

Dated: October 5, 1979.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 79–31840 Filed 10–15–79; 8:45 am]

BILLING CODE 6820–96–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Miscellaneous External Drug Products Panel.	October 28 and 29, 9 a.m., Georgia Rm., Holiday Inn, Bethesda, MD (October 28), Conference Rm. K, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD (October 29).	Open committee discussion October 28, 9 a.m. to 4:30 p.m.; open public hearing October 29, 9 a.m. to 10 a.m., open committee discussion October 29, 10 a.m. to 4:30 p.m.; John T. McElroy (HFD–510), 5600 Fishers Lane, Rockville, MD 20857, 301–443–1430.

General function of the Committee. The committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before October 24, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Panel will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)). The panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–31666 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

[Docket No. 79N–0330]

GRAS and Prior-Sanctioned Human Food Ingredients and Flavor Substances; Availability of Information

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the public availability of new data and information compiled during the Food and Drug Administration's (FDA) review of generally recognized as safe (GRAS) and prior-sanctioned human food ingredients and flavor substances.

FOR FURTHER INFORMATION CONTACT: Corbin I. Miles, Bureau of Foods (HFF–335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–472–4750.

SUPPLEMENTARY INFORMATION: FDA announced in notices published in the **Federal Register** of July 26, 1973 (38 FR 20054), April 17, 1974 (39 FR 13796), September 23, 1974 (39 FR 34218), August 29, 1975 (40 FR 39916), January 22, 1976 (41 FR 3331), June 14, 1977 (42 FR 30431), March 28, 1978 (43 FR 12947) and November 21, 1978 (43 FR 54293) the availability of data and information compiled during the safety review of GRAS and prior-sanctioned food ingredients and flavor substances. The availability of the data and information was announced to provide maximum public opportunity to present additional data, information, and views on the substances while they are being reviewed by the Select Committee on GRAS Substances (the Select Committee) of the Life Sciences Research Office, Federation of American Societies for Experimental Biology, and to serve as a basis for public comment on proposed FDA action on the ingredients.

This notice announces the public availability of, and purchasing information for, additional data and information obtained by FDA in conducting its safety review of GRAS and prior-sanctioned food ingredients and flavor substances. These data and information consists of 24 scientific literature reviews of GRAS substances, 51 scientific literature reviews of flavors, and 8 reports of the Select Committee on the evaluation of the health aspects of various food ingredients.

FDA recognizes that data and information on GRAS and prior-sanctioned food ingredients and flavor substances are of broad public interest. Accordingly, this information is available for purchase in microfiche and paper copy from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161, (telephone 703–557–4650). The price code for microfiche is A01; the current price for microfiche is $3.00. The order numbers and price information for paper copies are listed below.

Ingredient	Order No.	Papercopy price code	Papercopy price*
Scientific Literature Reviews of GRAS Substances			
Amino tri (methylphosphonic acid) sodium salt	PB 289–663/AS	A02	$4.00
Benzoyl peroxide	PB 284–877/AS	A03	4.50
Bioflavonoids	PB 289–600/AS	A06	6.50
Borax, boric acid, and borates	PB 287–761/AS	A06	6.50
Candelilla wax	PB 287–762/AS	A02	4.00
Chlorine	PB 289–592/AS	A05	6.00
Collagen	PB 289–599/AS	A05	6.00
Corn mint oil	PB 284–878/AS	A03	4.50
Enzyme-modified milk fat	PB 287–763/AS	A03	4.50
Ferrocyanide salts	PB 289–591/AS	A04	5.25
Glucono-delta-lactone	PB 284–879/AS	A03	4.50
Gluten and zein	PB 284–880/AS	A06	6.50
Malt extract	PB 284–881/AS	A05	6.00
Methylpolysilicones	PB 289–396/AS	A04	5.25
Microbial enzymes	PB 289–661/AS	A08	8.00
Nonmicrobial proteolytic enzymes (exclusive of papain)	PB 289–397/AS	A05	6.00
Oticia oil	PB 287–764/AS	A02	4.00
Peptone	PB 284–882/AS	A04	5.25
Potassium gluconate	PB 289–415/AS	A02	4.00
Shellac	PB 287–765/AS	A03	4.50
Sodium metasilicate	PB 287–766/AS	A03	4.50
Soya fatty acid amine	PB 289–414/AS	A02	4.00
Stearyl alcohol	PB 289–664/AS	A04	5.25
Vegetable gums	PB 289–412/AS	A06	6.50
Scientific Literature Reviews of Flavors**			
Acetophenones and related substances	PB 291–105/AS	A06	$6.50
Alicyclic Compounds of carbon, hydrogen, and oxygen (supplement 3)	PB 296–011/AS	A02	4.00
Aliphatic ethers	PB 291–118/AS	A05	6.00
Aliphatic keto- and hydroxy-acids with nonadjacent oxygen functions and related compounds (supplement 2).	PB 296–014/AS	A07	7.25
Aliphatic primary alcohols, aldehydes, esters, and acids (supplement 4)	PB 296–013/AS	A04	5.25
alpha-Alkylcinnamaldehydes and related substances	PB 283–505/AS	A05	6.00
Alkyl furans and benzo furans	PB 291–108/AS	A04	5.25
Anisole and derivatives	PB 284–962/AS	A08	8.00
Anthranilates	PB 291–112/AS	A06	6.50
Aromatic ethers	PB 284–867/AS	A04	5.25
Aromatic hydrocarbons	PB 291–111/AS	A09	9.00
Aromatic thiols and sulfides	PB 283–500/AS	A05	6.00
Aryl substituted primary alcohols, aldehydes, and related esters	PB 283–506/AS	A06	6.50
Aryl substitued secondary alcohols and ketones and derivatives	PB 284–963/AS	A07	7.25
Aryl substituted tertiary alcohols and esters	PB 283–503/AS	A04	5.25
Benzyl alcohol, benzaldehyde, benzoic acid, and related substances	PB 291–106/AS	A14	11.75
Capsaicin and related compounds	PB 284–868/AS	A04	5.25
Cinnamyl alcohol and related substances	PB 284–961/AS	A10	9.25
Common mixtures of aliphatic alcohols, aldehydes, acids, and related esters: butter acids, butter esters, fusel oil (refined), rum ether.	PB 296–010/AS	A04	5.25
Dithiols and related substance	PB 291–113/AS	A05	6.00
Epoxides	PB 291–103/AS	A06	6.50
Eugenol and related substances	PB 283–501/AS	A07	7.25
Furanones and related substances	PB 291–107/AS	A04	5.25
Furfuryl alcohol and related substances	PB 291–104/AS	A09	9.00
Furyl substituted esters and related substances	PB 291–110/AS	A04	5.25
Furyl substituted ketones	PB 291–109/AS	A05	6.00
Fused ring aromatic lactones	PB 283–502/AS	A04	5.25
Keto dioxanes	PB 291–120/AS	A03	4.50
Maltol and derivatives	PB 296–004/AS	A04	5.25

Scientific Literature Reviews of Flavors** —Continued			
Miscellaneous substances: Hydrogen sulfide, ammonium sulfide, 2,4,5-trimethyl-Δ-3-oxazoline, polylimonene, methylated silica.	PB 296-008/AS	A06	8.50
Nitrogen compounds, miscellaneous	PB 296-006/AS	A08	8.00
Phenethyl alcohol and related substances	PB 291-114/AS	A14	11.75
Phenols	PB 296-002/AS	A21	15.00
Phenoxy-acetic acid and related compounds	PB 283-507/AS	A04	5.25
3-phenyl-1-propanol and related substances	PB 283-504/AS	A05	6.00
Piperonal and related substances	PB 283-499/AS	A04	5.25
Pyridine and related substances	PB 296-005/AS	A10	9.25
Pyrrole and related substances	PB 296-007/AS	A08	8.00
Quinine salts	PB 296-017/AS	A05	6.00
Salicylates and salicylaldehyde	PB 291-115/AS	A06	6.50
Salts of carboxylic acids	PB 296-003/AS	A04	5.25
Sorbitan derivatives: polysorbate 20, polysorbate 60, polysorbate 80, sorbitan monooleate, sorbitan monostearate.	PB 296-016/AS	A07	7.25
Substituted benzaldehydes and related compounds	PB 284-869/AS	A07	7.25
Sulfur derivatives of furans	PB 291-119/AS	A07	7.25
Tetrahydrofurans, selected	PB 291-118/AS	A04	5.25
Tetrahydrofurfuryl alcohol and derivatives	PB 291-117/AS	A04	5.25
Thiazole and related substances	PB 296-012/AS	A09	9.00
Thiophene derivatives	PB 291-102/AS	A04	5.25
Vanillin and derivatives	PB 285-495/AS	A05	6.00
Wood pyrolsates: beechwood, (creosote), birch tar oil, cedarwood oil alcohols, cedarwood oil terpenes, pine tar oil.	PB 296-015/AS	A03	4.50
Wood rosin derivatives: glyceryl ester of wood rosin, methyl ester of wood rosin (partially hydrogenated), ethyl abietate.	PB 296-009/AS	A03	4.50
Reports of the Select Committee			
Butylated hydroxyanisole	PB 285-496/AS	A03	4.50
Gluconates	PB 288-675/AS	A02	4.00
Pantothenates	PB 288-672/AS	A03	4.50
Protein hydrolyzates	PB 283-440/AS	A04	5.25
Thiamines	PB 288-674/AS	A03	4.50
Urea	PB 288-673/AS	A02	4.00
Vitamin B_{12}	PB 289-922/AS	A03	4.50
Vitamin D_2 and Vitamin D_3	PB 293-099/AS	A03	4.50

*Price subject to change.

**The specific flavor compounds included in each literature review are listed here or have been listed in a notice published in the FEDERAL REGISTER of March 28, 1978 (43 FR 12941).

A single copy of all of the data and information given above is available for review in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday. Additional information relating to the review of GRAS and prior-sanctioned ingredients or flavor substances will be announced and placed on display at the office of the Hearing Clerk, at the address above, as it becomes available.

Dated: October 9, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31665 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by Anthony G. Whitehead, District Director, Houston District Office, Houston TX.

DATE: The meeting will be held at 9 a.m. Thursday, November 8, 1979.

ADDRESS: The meeting will be held at the G.P.M. Building South Tower, 3d floor Converence Room, San Antonio, TX.

FOR FURTHER INFORMATION CONTACT: Juan A. Tijerina, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 419 S. Main, Rm. 301, San Antonio, TX 78204, 512-229-6737.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Houston District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: October 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31774 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-03-M

Health Resources Administration

Advisory Council and Subcommittees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of November 1979:

Name: National Guidelines, Goals, Priorities, and Standards Subcommittee of the National Council on Health Planning and Development.

Date and Time: November 8, 1979, 9:00 a.m.-4:00 p.m.

Place: Ambassador Hotel, Boulevard Room, 3400 Wilshire Blvd., Los Angeles, California 90010.

Open for entire meeting.

Purpose. The Objectives of the National Guidelines, Goals, Priorities, and Standards Subcommittee are to study the experience nationwide in the public and private sectors with the adoption and/or adjustment of the National Guidelines for Health Planning and their impact and recommend changes as appropriate; study the experience of the Health Systems Agencies and State Health Planning and Development Agencies nationwide in implementation of high priority goals and sub-goals and their impact; advise the Council in identifying additional high priority goals and sub-goals; investigate and coordinate information on demonstrations underway by provider, reimbursement, regulatory, labor, industry, and community groups on sub-goals, such as those on alcoholism and prevention; study, investigate and identify research needs appropriate to the formulation, adjustment and refinement of the National Guidelines, and study and develop improved indicators to asses the impact of the Guidelines or the need for revisions; and recommend to the Council on the need for further development and/or revision of the National Guidelines.

Agenda. The Subcommittee will discuss the CT Scanner guidelines, will receive an update on activities related to access to health care, and will hear a report on consumer networking. A large portion of the meeting will be devoted to public testimony. The public is invited to provide testimony on the following issues: (1) Priorities for health systems reform; (2) recommendations on National Health Planning Goals; (3) the experience to date with resource standards; (4) priorities for review and revisions; and (5) recommendations on additional guidelines.

Any individual or organization wishing to make a presentation to the Subcommittee should write to Laurel Carson Shannon, OPEL, Center Building, Room 10-22, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436-7270, identifying the subject and including the points to be covered in the presentation. Please submit written remarks by October 26, 1979.

Name: Implementation and Administration Subcommittee of the National Council on Health Planning and Development.

Date and Time: November 8, 1979, 10:00 a.m.-4:00 p.m.

Place: Ambassador Hotel, Ambassador Ballroom, 3400 Wilshire Blvd., Los Angeles, California 90010.

Open for entire meeting.

Purpose. The objective of the Implementation and Administration Subcommittee is to study and make recommendations on the implementation and administration of Titles XV and XVI of the Public Health Service Act. Specific areas for the Subcommittee's consideration are (1) the impact of HEW's implementation/administration on the effectiveness of Health Systems Agencies and State Health Planning and Development Agencies; (2) the effectiveness of the interrelationships between health planning agencies and HEW, Central and Regional Offices; (3) the timing and strategy of implementation and of the dissemination and distribution of regulatory and technical material; (4) how to better meet the needs of HSAs and SHPDAs; and (5) the review of the Council's responsibilities under section 1122 of the Social Security Act.

Agenda. The Subcommittee will review 1122 cases and discuss an HEW staff report on consumer participation. The bulk of the meeting time will be available for public testimony according to the following schedule: 10:00 a.m.-12:45 p.m., Consumer groups and persons; 1:45 p.m.-2:30 p.m., Provider groups and persons; 2:30 p.m.-4:00 p.m., HSAs, SHPDAs, SHCCs, and other Government bodies.

Name: Technology and Productivity Subcommittee of the National Council on Health Planning and Development.

Date and Time: November 8, 1979, 7:00 p.m.-10:00 p.m.

Place: Ambassador Hotel, Regency Room, 3400 Wilshire Blvd., Los Angeles, California 90010.

Open for entire meeting.

Purpose. The objective of the Technology and Productivity Subcommittee is to advise the full Council on matters relating to the productivity of the health care delivery system and to the implications of new medical technology for the organization, delivery and equitable distribution of health care services. "Technology" includes the drugs, devices and medical and surgical procedures used in medical care and the organizational and supportive systems within which such care is delivered. "Productivity" is the efficiency with which health care is delivered.

The Subcommittee is to deliberate and to make recommendations to the full Council on matters chosen from among those brought to it by Council members, HEW staff and advisory committees, other Federal departments, congressional committees and staff, provider groups and the public at large.

The Subcommittee in addition will study and investigate the current needs for assistance of HSAs and SHPDAs in the area of evaluating productivity improvement and new medical technology, help transmit concerns of HSAs and SHPDAs to appropriate Federal agencies, and review the current resources both within the Federal Government and among the educational, research and other developmental agencies for providing needed assistance to HSAs and SHPDAs. In addition, it will review technology assessment activities within the Department in order to assure they are relevant to the needs of the HSAs and are useful in the development and implementation of national standards, goals, and guidelines, and for the establishment of priorities with those goals.

Agenda. The Subcommittee will be discussing draft monographs on Incentives for Improving Productivity in health care institutions, in health care technology, and of health care personnel. They will also discuss proposed policy recommendations for same. Status reports on subcommittee contracts will be heard, and a proposal for a conference on Incentives of Improving Productivity will be discussed.

Name: National Council on Health Planning and Development.

Date and Time: November 9, 1979, 8:45 a.m.-4:00 p.m.

Place: Ambassador Hotel, Boulevard Room, 3400 Wilshire Blvd., Los Angeles, California 90010.

Open for entire meeting.

Purpose. The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the development of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of Titles XV and XVI of Pub. L. 93-641, and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health

V 44 0 C 16 7 9 UMI

maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda. Welcome and Introduction, Administrator's Annual Report to Council, Implementation of New Planning Legislation, Incentives for Change Discussion, Subcommittee Reports, and Bureau Status Reports.

The purpose of meeting outside of Washington is to provide opportunity for dialogue between groups and individuals involved in or affected by the health planning legislation and the National Council on Health Planning and Development.

Anyone requiring information regarding the subject Council should contact Mrs. S. Judy Silsbee, Executive Secretary, National Council on Health Planning and Development, Room 10–27, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Telephone (301) 436–7175.

Agenda items are subject to change as priorities dictate.

Dated: October 9, 1979.

James A. Walsh,

Associate Administrator for Operations and Management.

[FR Doc. 79–31853 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–83–M

Health Systems Agency Application Information

Correction

In FR Doc. 79–31290, appearing at page 58811 in the issue of Thursday, October 11, 1979, the fifth line of the second complete paragraph on page 58812 should read "1979, and an application by February 12."

BILLING CODE 1505–01–M

Health Services Administration

Maternal and Child Health Research Grants Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1979:

Name: Maternal and Child Health Research Grants Review Committee.
Date and time: November 14–15, 1979, 9:00 a.m.
Place: Conference room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Open: November 14, 9:00 a.m.–10:00 a.m.
Closed for remainder of meeting.

Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Community Health Services.

Agenda: The Committee will be performing the review of grant applications for Federal assistance. This meeting will be open to the public from 9:00 to 10:00 a.m., November 14 for the Opening Remarks. The remainder of the meeting will be closed to the public for the review of grant applications in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Acting Administrator, Health Services Administration, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of the members, minutes of meeting, or other relevant information should contact Contran Lamberty, Dr. P.H., Bureau of Community Health Services, Room 7–15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–2190.

Agenda items are subject to change as priorities dictate.

Dated: October 5, 1979.

William H. Aspden, Jr.,

Associate Administrator for Management.

[FR Doc. 79–31854 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–84–M

National Institutes of Health

National Cancer Advisory Board Working Group; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board's Working Group on Board Activities and Agenda, National Cancer Institute, October 26, 1979, Building 31, Conference Room 7A24, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment to review the role of the National Cancer Advisory Board. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Board members, upon request.

Dr. Thomas J. King, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5147) will provide substantive program information.

Dated: October 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–31785 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–08–M

National Cancer Institute; Meetings for the Review of Contract Proposals and Grant Applications

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, unless otherwise stated.

Name of Committee: Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee).
Dates: October 31, 1979.
Place: Ambassador West Hotel, 1300 N. State Parkway, Chicago, Illinois 60610.
Times—Open: October 31, 8:30 a.m.–10:00 a.m. Closed: October 31, 10:00 a.m.–5:00 p.m.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. William E. Straile, Westwood Building, Room 853, National Institutes of Health, 301/496–7195.

(Catalog of Federal Domestic Assistance Number 13.393, 13.394, 13.395, National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.
Dates: November 5–6, 1979.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times—Open: November 5, 8:30 a.m.–12:00 noon.
Agenda—A Mini-Symposium on biostatistics and the impact on clinical trials. Closed: November 5, 1:00 p.m.–5:00 p.m., November 6, 8:30 a.m.–adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dorothy K. Macfarlane, M.D., Westwood Building, Room 619, National Institutes of Health, 301/496–7481.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

Name of Committee: Clinical Cancer Program Project & Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee).
Dates: November 15–16, 1979.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times—Open: November 15, 8:30 a.m.–10:00 a.m. Closed: November 15, 10:00 a.m.–6:00 p.m., November 16, 8:30 a.m.–adjournment.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Robert L. Manning, Westwood Building, Room 803, National Institutes of Health, 301/496–7721.

(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health.)

Names of Committee: Clinical Cancer Program Project & Cancer Center Support Review Cmt. (Clinical Cancer Program Project Rev. Subcommittee).
Dates: December 10–11, 1979.
Place: Building 31C, Conference Room 6, National Institutes of Health.
Times—Open: December 10, 8:30 a.m.–10:30 a.m. Closed: December 10, 10:30 a.m.–5:30 p.m., December 11, 8:30 a.m.–5:30 p.m.
Closure Reason: To review research grant applications.
Executive Secretary: Dr. Louise G. Thomson, Westwood Building, Room 809, National Institutes of Health, 301/496–7924.

(Catalog of Federal Domestic Assistance Number 13.397, National Institutes of Health.)

Name of Committee: Cause and Prevention Scientific Review Committee.
Dates: December 14, 1979.
Place: Building 310, Conference Room 6, National Institutes of Health.
Times—Open: December 14, 9:00 a.m.–9:30 a.m. Closed: December 14, 9:30 a.m.–adjournment.
Closure Reason: To review research contract proposals.
Executive Secretary: Dr. Eugene M. Zimmerman, Westwood Building, Room 826, National Institutes of Health, 301/496–7575.

(Catalog of Federal Domestic Assistance Number 13.393, National Institutes of Health.)

Dated: October 3, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–31786 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–08–M

National Diabetes Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the National Diabetes Advisory Board on December 4 and 5, 1979. The Executive Committee will meet on December 4 and the Board meeting will be held on December 5, 1979. The time and location of the meetings may be obtained by contacting Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Maryland, 20014, (301) 496–6045.

The meetings, which will be open to the public, are being held to continue review of the status and implementation of national diabetes programs. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne (address above) will provide summaries of the meeting and a roster of the committee members.

Dated: October 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–31787 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–08–M

National Arthritis Advisory Board; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis Advisory Board on December 6, 1979, 9:00 a.m. to 5:00 p.m., at the National Institutes of Health, Building 31, Conference Room 7, Bethesda, Maryland, to discuss the Board's activities and to continue the evaluation of the implementation of the long-range plan to combat arthritis. The meeting will be open to the public. Attendance is limited to space available.

In addition, the following Work Groups of the Board will meet the day before, December 5: Public Policy and Chronic Disease Care; Community Program, and Rehabilitation; Multipurpose Arthritis Centers; Private Sector; Education and Training; Research; Data; and Epidemiology. The times and meeting locations may be obtained by contacting Mr. William Plunkett, Executive Director, National Arthritis Advisory Board, P.O., Box 30286, Bethesda, Maryland 20014, (301) 496–1991. Summaries of the meetings and a roster of the Members of the Board also may be obtained from the above office.

(Catalog of Federal Domestic Assistance Program No. 13.846, National Institutes of Health)

Dated: October 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–31788 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–08–M

National Institute of Dental Research Programs Advisory Committee, Subcommittee on Periodontal Diseases; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Subcommitte on Periodontal Diseases, National Institute of Dental Research Programs Advisory Committee, on December 13–14, 1979, in Conference Room 4, Building 31–C, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m. on December 13, and from 9:00 a.m. to adjournment on December 14, to discuss research progress and ongoing plans and programs of the Periodontal Diseases Program Branch. Attendance by the public will be limited to space available.

Dr. Paul F. Parakkal, Executive Secretary, Subcommittee on Periodontal Diseases, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 519, Bethesda, MD 20205, (phone 301 496–7784) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.302, National Institutes of Health).

Dated: October 9, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–31789 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–08–M

Office of Education

Data Acquisition Activities

AGENCY: Office of the Assistant Secretary for Education, Department of Health, Education, and Welfare.

ACTION: Notice of Data Acquisition Activities Involving Educational Agencies and Institutions.

SUMMARY: The paperwork control requirements in section 400A of the General Education Provisions Act, added by Pub. L. 95–561, require public announcement of certain data requests that Federal agencies address to educational agencies and institutions. The Education Division of HEW proposes to collect the data described

V 44 0C 16 79 UMI

below from educational agencies or institutions during School Year 1979–80.

FOR FURTHER INFORMATION CONTACT: Mrs. Elizabeth M. Proctor, FEDAC Staff, 400 Maryland Avenue, SW., Washington, D.C. 20202. Phone (202) 245–1022.

SUPPLEMENTARY INFORMATION: Under the Paperwork Control Amendments of 1978, section 400A of the General Education Provisions Act, the Secretary of Health, Education, and Welfare is responsible for reviewing and approving collection of information and data acquisition activities of all Federal agencies.

(1) Whenever the respondents are primarily educational agencies or institutions; and

(2) Whenever the purpose of the activities is to request information needed for the management of, or the formulation of, policy related to Federal education programs or research or evaluation studies related to the implementation of Federal education programs. The Secretary has delegated authority to the Assistant Secretary for Education.

We published interim FEDAC review procedures on August 8, 1979 (44 FR 46535), which are now effective. However, we are accepting public comments on the procedures and we and the Federal Education Data Acquisition Council will decide if any changes are necessary based on any comments we receive.

One requirement is that "no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the February 15 immediately preceding the beginning of the new school year, unless there is an urgent need for this information or a very unusual circumstance exists regarding it." Since this requirement was not enacted until November, 1978, Federal agencies were unable to comply with it fully for data to be collected in School Year 1979–80 (the plan would have had to be announced by February, 1979). I determine an unusual circumstance exists regarding the data activities listed below because of the recent enactment of new review requirements.

Descriptions of proposed data acquisition activities for School Year 1979–80 are being published for comment. Most of these data acquisition activities were also listed—but not described in as much detail—in the **Federal Register** of February 15, 1979. Other activities previously approved were also in that list.

Each agency or institution subject to the request for the data, its representative organizations, or any member of the public, may comment on the proposed data acquisition activity. The Federal Education Data Acquisition Council Staff accepts comments at the above address. Comments should refer to the specific sponsoring agency and form number and they must be received on or before November 15, 1979.

I ask the affected educational agencies and institutions to cooperate in the following data collection activities that are being reviewed by the Federal Education Data Acquisition Council (FEDAC) Staff.

Dated: October 10, 1979.

Mary F. Berry,

Assistant Secretary for Education.

The proposed data collection activities are:

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Proposal Application Form.

(b) Agency/Bureau/Office: Department of Health, Education, and Welfare/Office of the Assistant Secretary for Education/Institute of Museum Services.

(c) Agency Form Number: IMS–102/IMS–103.

(d) Legislative Authority for the Activity: Museum Services Act—Title II of the Arts, Humanities and Cultural Affairs Act of 1976. Pub. L. 94–462 Section 206(a) "The Director . . . is authorized to make grants to museums to increase and improve museum services . . ." (20 U.S.C. 965).

(e) Concise Description of the Proposed Activity: The Institute of Museum Services provides discretionary grant program funds to museums for General Operating Support and Special Project Support. General Operating Support funds may be used to meet a museum's administrative, staff and operating costs. Special Project Support funds may be used for exemplary or model projects which are additional to a museum's operating program.

(f) Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

(g) Justification of How Information Collected Will Be Used: The proposed application forms for the March 7, 1980 deadline requesting general and budgetary information were developed for the Institute's previous grant cycle to simplify the application process for the museum applicant and to expedite the Institute's review process.

Because of the unique nature of the Institute's grant program—one of the few programs that provide general dollars for operating expenses—the financial information needed for an effective application review must contain data on the total operating budget of the museum, in addition to reflecting its long-range fiscal and program plans.

The information collected from the Institute's proposed application form will be used to evaluate the museums eligible for support during the March deadline. The museum applicants will be reviewed in relation to the Institute's published guidelines for its FY 1980 grants program determined by the National Museum Services Board, the policy-making arm of the Institute.

Each question contained in the application form corresponds directly with the IMS published criteria for evaluation and is essential for a thorough review of each museum's operation. In addition, the Institute is again requiring its applicants to notify it of any grants pending before other Federal agencies in an attempt to avoid duplication of funding efforts.

(h) Data Acquisition Plan:

1. Method of Collection: Mail.
2. Time of Collection: March.
3. Frequency: Annually.
4. Method(s) of Analyses: Not applicable.

(i) Timetable for Dissemination of the Collected Data: Not applicable.

(j) Respondents:

1. Type: Public or private non-profit museums.
2. Estimated Number: 3,000.
3. Estimated Average Person-Hours Per Respondent: 5 hours.

(k) Estimated Costs and Person-Hours to the Respondents (Total): 15,000 person-hours; $90,000.

(l) Estimated Costs to the Federal Agency to Collect, Process and Analyze the Data: $600,000.

(m) A List of the Specific Data To Be Collected:

1. A summary of the museum's history and propose
2. A summary of the organizational structure and staff size of museum
3. A summary of the size, type and quality of the museum's collection
4. A summary of the curatorial and educational activities of the museum
5. A summary of community outreach programs of the museum
6. A copy of the museum's long-range financial and program development plan
7. A complete detailed budget of the museum for the year for which funding is requested

8. A financial statement for the museum's most recently completed fiscal year

9. A Federal Internal Revenue Service determination letter affirming the museum's non-profit status, except in the case of museums operated as units of state, country or local government

(n) Name and Address of Individual or Office From Which a Copy of the Full Plan and the Data Instruments May Be Obtained: Peggy A. Loar, Assistant Director for Programs, Institute of Museum Services, 200 Independence Avenue, SW, Room 326H, Washington, D.C. 20201.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Fifth Annual Data Collection in Response to Section 406A of the General Education Provisions Act.

(b) Agency/Bureau/Office: U.S. Office of Education, Office of Evaluation and Dissemination.

(c) Agency Form Number: OE 511.

(d) Legislative Authority for This Activity "Responsibility of States To Furnish Information:

(a) The Commissioner shall require that each State submit to him, within ninety days after the end of any fiscal year, a report on the uses of Federal funds in that State under any applicable program for which the State is responsible for administration. Such report shall:

(1) List all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year;

(2) Include the total amount of funds available to the State under each such program for such fiscal year and specify from which appropriation Act or Acts these funds were available;

(3) With respect to the second preceding fiscal year, include a compilation of reports from local educational agencies and other public and private agencies and institutions within such State which sets forth the amount of such Federal funds received by each such agency and the purposes for which such funds were expended;

(4) With respect to such second preceding fiscal year, include a statistical report on the individuals served or affected by programs, projects, or activities assisted with such Federal funds; and

(5) Be made readily available by the State to local educational agencies and other public and private agencies and institutions within the State, and to the public.

(b) On or before March 31 of each year, the Commissioner shall submit to the Committee on Labor and Public Welfare of the Senate and to the Committee on Education and Labor of the House of Representatives an analysis of these reports and a compilation of statistical data derived therefrom."

((20 U.S.C. 1232f) Enacted August 21, 1974, Pub. L. 93–380, sec. 512 (a), 88 Stat. 571.)

(e) Concise Description of the Proposed Activity: This data collection is mandated by Sec. 406A of the General Education Provisions Act. The collected data will provide the basis for the required annual report to the Congress.

(f) Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

(g) Justification of How Information Collected Will Be Used: *General Purpose:* Data collected in this activity will be compiled, analyzed and publicly disseminated to serve multiple uses: (a) To respond to the specific Congressional mandate to list all grants and contracts made by the States under their responsibilities to administer certain Federal education programs; to establish the specific program purposes for which such funds are being expended; and to estimate the numbers of program participants or beneficiaries; (b) to establish a data base for the benefit of program management, assessment of program effectiveness, program evaluation, research, and future legislative actions; (c) to make this information readily available to the public.

(h) Data Acquisition Plan:

1. Method of Collection:

A computer generated data collection form will be mailed to respondents. Some data will be collected from USOE program offices.

2. Time of Collection: Forms will be mailed to respondents at or before the end of the fiscal year, Sept. 30, 1979; return of completed forms is specified by law for no later than Dec. 31, 1979.

3. Frequency: Annually.

4. Method of Analysis: Local level data will be aggregated to State level totals and tubulated by State, Federal education program, and type of grantee. Ratios will be developed such as program dollars per program participant. Distributions of grant dollars and grantee size will be developed according to simple stratifications.

(i) Timetable for Dissemination of the Collected Data: By law the summary report is to be submitted to the Congress on March 31, 1980.

(j) Respondents:

(1) Type: State Education Agencies.

(2) Estimated Number by Type: Universe, 51.

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 120.

(1) Type: Federal agencies (as grantees).

(2) Estimated Number by Type: Universe, 1.

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 20.

(1) Type: State library agencies (not under State Education Agencies).

(2) Estimated Number by Type: Universe, 30.

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 8.

(1) Type: State Vocational Education Directors (not under State Education Agencies).

(2) Estimated Number by Type: Universe, 6.

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 40.

(1) Type: Adult education administrators (not under State Education Agencies).

(2) Estimated Number by Type: Universe, 2.

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 10.

(k) Estimated Costs and Person-Hours to the Respondents (Total):

(1) Person-hours: 6620.

(2) Costs @ $10/hr: $66,200.

(l) Estimated Costs to the Federal Agency To Collect, Process, and Analyze the Data:

(1) Contract: $25,000.

(2) S&E: $75,000.

(m) A List of the Specific Data To Be Collected From Each Type of Respondent:

Section 406A of the General Education Provisions Act defines two broad classes of data to be collected for State administered Federal education programs. These classes are: (a) State level data, and (b) local level data.

(a) *State level data.* Paragraph (a)(2) requires that the State report "include the total amount of funds available to the State under each such program * * * and specify from which appropriation Act or Acts these funds were available * * *"

For this data collection we are concerned with Federal funds appropriated for fiscal years 1979 and 1978, respectively. The allocation of fiscal year 1979 funds to States by program is available at USOE; these items will not be collected from the respondents. However, we will ask for a report by State and program of fiscal

V 44 0 C 16 7 9 UMI

year 1978 funds carried over for allocation by States in fiscal year 1979.

(b) *Local level data.* Paragraph (a)(1) requires that the respondent "list all grants and contracts made under such program to the local educational agencies and other public and private agencies and institutions within such State during such year * * *" We are therefore asking respondents to provide such a list of grants and contracts made under applicable programs during fiscal year 1979.

The list should show all grantees which are ultimate recipients of Federal funds, and the amount of such funds. If a State agency makes a grant to another State agency, which in turn further allocates Federal funds, the intermediate action should not be shown, but the final grant activity must be reported. In some programs, Federal funds have been commingled with State funds for convenience. Section 406A requires that Federal funds alone be reported.

We have identified seven classes of recipient agency: local education agency, institution, intermediate administrative agency, State agency, university, public library, and other. These classes will be defined in instructions to be sent to respondents. The list of grantees called for by Paragraph (a)(1) should contain an agency name, and the proper code for agency type. for local education agencies, the standard ELSEGIS code should be included. (Code lists will be sent to respondents.)

The clerical burden of compiling the required list will be substantially reduced by USOE's use of a computer-generated data collection form with a pre-printed list of most expected grantees.

Paragraph (a)(3) requires that with respect to the second preceding fiscal year (that is, fiscal year 1978), the respondents will report "the amount of such Federal funds received by each such agency and the purposes for which such funds were expended * * *" This requirement is a report of expenditures made against grants made in fiscal year 1978. These expenditure reports must be aggregated to the total for a recipient agency. Partial reports, or reports of disbursement by project, classroom, school within an LEA, etc., are not acceptable.

The "purposes for which such funds were expended" are defined below for each applicable program.

Paragraph (a)(4) requires that with respect to such preceding fiscal year the respondent must include a statistical report on "the individuals served or affected by programs, projects, or activities assisted with such federal funds * * *"

For this data collection (for some programs only) we require a single program participant count (from best data available to State agencies) along with a code identifying data characteristics. (Code lists will be furnished to respondents.) This participant count will accompany reports of expenditures defined above, for certain applicable programs. (See list below.)

Data Collection Requirements by Program

For the fifth annual data collection in response to Section 406A of the General Education Provisions Act, we have identified 22 applicable State administered Federal education programs. However, for five of these programs it will be possible to obtain the necessary data from records already available at USOE, and no data will be collected from respondents. These programs are:

1. *Higher Education Act of 1965, Title I—University Community Service, grants to States (Community Service and Continuing Education Programs),* OMB Catalog No. 13.491.
2. *Higher Education Act of 1965, Title IV, Part A, Grants to States for State Student Incentive,* OMB Catalog No. 13.548.
3. *Higher Education Act of 1965, Title IV, Part A, Subpart 5: Educational Information Centers,* OMB Catalog No. 13.585.
4. *Vocational Education—State Advisory Councils,* OMB Catalog No. 13.500.
5. *State Postsecondary Educotion Commissions Program—Intrastate Planning (Section 1203(a) Program),* OMB Catalog No. 13.550.

For all but one of the remaining 17 formula grant programs, grants may be made to some or all of six outlying areas: American Samoa, Guam, the Virgin Islands, Puerto Rico, Trust Territorty of the Pacific Islands, and the Northern Mariana Island. (The exception is *ESEA I, Migrants,* OMB Catalog No. 13.429). All data regarding grants to the outlying areas will be collected from USOE program offices.

The list below shows for each of 17 programs the type and number of respondents and the current data collection requirement, if any, for:

(a) A report of FY 1979 grants;
(b) A report of expenditures made against previouly reported FY 1978 grants;
(c) A report of FY 1978 program participants;
(d) Categories of program purpose for a breakdown of FY 1978 expenditures.

1. *Elementary and Secondary Education Act of 1965, Title I, Educationally Deprived Children, Handicapped:*
OMB Catalog Number: 13.427.
Type of respondent: State Education Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. State Administration;
2. Trainable Mentally Retarded;
3. Educable Mentally Retarded;
4. Specific Learning Disabled;
5. Emotionally Disturbed;
6. Speech Impaired;
7. Orthopedically Impaired;
8. Visually Handicapped;
9. Deaf-Blind;
10. Deaf;
11. Hard of Hearing;
12. Other Health Impaired.

2. *Elementary and Secondary Education Act of 1965, Title I, Educationally Deprived Children, Migrants.*
OMB Catalog Number: 13.429.
Type of respondent: State Education Agencies.
(a) A report of FY 1978 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. Local Projects;
2. Instructional Services;
3. Support services;
4. Staff Development;
5. Other;
6. State Education Agency.

3. *Elementary and Secondary Education Act of 1965, Title I, Educationally Deprived Children, State Administration:*
OMB Catalog Number: 13.430.
Type of respondent: State Education Agencies.
(a) A report of 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is not required;
(d) A breakdown of FY 1978 expenditures is not required.

4. *Elementary and Secondary Education Act of 1965, Title I, Educationally Deprived Children in State Administered Institutions Serving Neglected or Delinquent Children:*
OMB Catalog Number: 13.431.
Type of respondent: State Education Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. Neglected Children;
2. Delinquent Children;
3. Children in State Correctional Institutions.

5. *Elementary and Secondary Education Act of 1965, Title I, Part A—Educationally Deprived Children—Local Education Agencies:*
OMB Catalog Number: 13.428.
Type of respondent: State Education Agencies, Federal Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is not required.

6. *Elementary and Secondary Education Act of 1965, Title IV, Part B—Libraries and Learning Resources:*
OMB Catalog Number: 13.570.
Type of respondent: State Education Agencies; Federal Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1979 program participants is not required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. SEA Administration;
2. Public School Library Resources and Other Instructional Material;
3. Public Textbooks;
4. Public Equipment;
5. Minor Remodeling;
6. Public Testing;
7. Public Counseling and Guidance;
8. Private School Library Resources and Other Instructional Material;
9. Private Textbooks;
10. Private Equipment;
11. Private Testing;
12. Private Counseling and Guidance.

7. *Elementary and Secondary Education Act of 1965, Title IV, Part C—Improvement in Local Educational Practice*
OMB Catalog Numnber: 13.571.
Type of respondent: State Education Agencies; Federal agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. SEA Administration;
2. Strengthening Leadership Resources of SEA's;
3. Strengthening Leadership Resources of LEA's;
4. Supplementary Centers and Services: Developmental/Innovative Projects;
5. Supplementary Centers and Services: Adopter/Dissemination/Facilitator;
6. Supplementary Centers and Services: All Other Programs;
7. Nutrition and Health;
8. Dropout Prevention.

8. *Education of the Handicapped Act, Title VI, Part B, Handicapped Preschool and School Programs:*
OMB Catalog Number: 13.449.
Type of respondent: State Education Agencies; Federal agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the same 12 categories of program purpose shown above for "Title I, Educationally Deprived Children, Handicapped."

9. *Adult Education Act, Title III, Grants to States:*
OMB Catalog Number: 13.400.
Type of respondent: State Education Agencies; Adult education administrators.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. State Administration;
2. Special Projects, Sec. 306;
3. Teacher Training, Sec. 306;
4. Research;
5. Programs of Instruction, Grades 1–8;
6. Programs of Instruction, Grades 9–12;
7. State Advisory Councils;
8. Special Projects, Sec. 309
9. Teacher Training, Sec. 309
10. Programs for Institutionalized Persons, Grades 1–8;
11. Programs for Institutionalized Persons, Grades 9–12;

10. *Vocational Education—Basic Grants to States:*
OMB Catalog Number: 13.493.
Type of respondent: States Education Agencies; State Vocational Education Directors.
(a) A report of FY 1979 grants is required.
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants, is required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. Vocational Education Programs;
2. Vocational Education for Displaced Homemakers;
3. Work Study;
4. Cooperative;
5. Energy;
6. Construction;
7. Industrial Arts;
8. Support Services for Women
9. Residential Schools;
10. Contracted Instruction;
11. Local Administration;
12. Other;

11. *Vocational Education—Special Needs (Special Program for Disodvantaged):*
OMB Catalog Number: 13.499.
Type of respondent: State Education Agencies; State Vocational Education Directors.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;
(d) A breakdown of FY 1978 expenditures is not required.

12. *Vocational Education—Consumer and Homemaking:*
OMB Catalog Number: 13.494.
Type of respondent: State Education Agencies; State Vocational Education Directors.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is required;

(d) A breakdown of FY 1978 expenditures is required using the following categories of program purpose:
1. Educational Programs in Non-Economically Depressed Areas
2. Ancillary Services in Non-Economically Depressed Areas
3. Educational Programs in Economically Depressed Areas
4. Ancillary Services in Economically Depressed Areas

13. *Vocational Education—Program Improvement and Supportive Services:*
OMB Catalog Number: 13.495.
Type of respondent: State Education Agencies; State Vocational Education Directors.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against FY 1978 grants is required;
(c) A report of FY program participants is not required;
(d) A breakdown of FY 1978 expenditures is required using the following categories of program purposes:
1. Preservice and Inservice;
2. Grants to Overcome Sex Bias;
3. Local Administration;
4. Research Programs;
5. Exemplary Programs;
6. Curriculum Development.

14. *Library Services and Construction Act, Title I, Grants for Public Libraries:*
OMB Catalog Number: 13.464.
Type of respondent: State Education Agencies; State Library Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is not required;
(d) A breakdown of FY 1978 expenditures is not required.

15. *Library Services and Construction Act, Title III, Interlibrary Cooperation:*
OMB Catalog Number: 13.465.
Type of respondent: State Education Agencies; State Library Agencies.
(a) A report of FY 1979 grants is required;
(b) A report of expenditures made against previously reported FY 1978 grants is required;
(c) A report of FY 1978 program participants is not required;
(d) A breakdown of FY 1978 expenditures is not required.

16. *Career Education Incentive Act, Sec. 5(a)(1):*
OMB Catalog Number: 13.596.
Type of respondent: State Education Agencies.
(a) A report of FY 1979 grants is required.

17. *Education of the Handicapped Act, Title VI, Part B, Preschool Incentive Grants:*
OMB Catalog Number: 13.449.
Type of respondent: State Education Agencies; Federal agencies.
(a) A Report of FY 1979 grants is required.
(n) Name and Address of Individual or Office From Which a Copy of the Full Plan and the Data Instruments May Be Obtained: Murray Spitzer, Office of Evaluation and Dissemination, U.S. Office of Education, Room 4079, FOB No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Application for grants under the Special Adult Education program for Indochina refugees.
(b) Agency/Bureau/Office: U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Adult Education.
(c) Agency Form Number: OE 575.
(d) Legislative Authority for the Activity: "Sec. 317(a) From the appropriations authorized for the period beginning July 1, 1976, and ending September 30, 1983, but not appropriated for other programs under this title, the Commissioner shall carry out a program of making grants of state and local education agencies for such years for the purpose of operating special adult education programs for Indochina refugees, as deined in section 3 of the Indochina Migration and Refugee Assistance Act of 1975".
(Pub. L. 91–230; 20 U.S.C. 1211b)
(e) Concise Description of the Proposed Activity: As a special effort to assist with the integration of Indochinese adults into American society, the Adult Education program is authorized to provide grants to State and local agencies for the operation of instructional programs.
(f) Voluntary/Obligatory Nature of Response: Required to obtain benefits.
(g) Justification of How Information Collected Will Be Used: This form will be used to determine applicant eligibility and the amount of the grant award.
(h) Data Acquisition Plan:
(1) Method of Collection: Mail.
(2) Time of Collection: Winter, 1980.
(3) Frequency: Annually.
(i) Timetable for Dissemination of the Collected Data: Not applicable.
(j) Respondents:
(1) Type: State education agencies;
(2) Estimated Number By Type: 57;
(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 40.
(1) Type: Local educational agency;
(2) Estimated Number By Type: 300;
(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 40.
(k) Estimated Costs and Person-Hours to the Respondents (Total): $55,000 costs to respondents, 14,280 total person hours.
(l) Estimated Costs to the Federal Agency To Collect, Process and Analyze the Data (Contract, S&E): $29,000.
(m) A List of the Specific Data To Be Collected From Each Type of Respondent: All respondents will be required to provide information requested on the standard nonconstruction application for Federal assistance. Special emphasis will be given in the program narrative to the design and educational significance of the proposed project; the approach to the project with particular reference to staffing and facilities; methods for evaluating the project; and cooperative arrangements with other agencies.
(n) Name and Address of Individual or Office From Which a Copy of the Full Plan and a Data Instrument(s) May Be Obtained: Mrs. Sharon A. Jones, U.S. Office of Education, Division of Adult Education, Room 5060, ROB #3, 7th & D Streets, SW., Washington, D.C. 20202.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Study of the Distribution, Utilization, and Impact of Research and Development Information and Products in Vocational Education.
(b) Agency/Bureau/Office: Office of Education, Bureau of Occupational and Adult Education.
(c) Agency Form Number: OE Form 700.
(d) Legislative Authority for the Activity: "Section 171(a). Funds reserved to the Commissioner * * * shall be used primarily for contracts * * * for (2) support of a national center for research in vocational education which Center shall * * * (A) conduct applied research and development on problems of national significance in vocational education * * * " (Pub. L. 94–482, Title II, Section 202; U.S.C. 2401).
(e) Concise Description of the Proposed Activity: This four-year study of research and development product distribution, use, and impact examines federally funded products from both federally administered and state administered projects. Products will be selected from all research and development products submitted to the ERIC Clearinghouse on Adult, Career, and Vocational Education from October 1978 through 1982. Three views of product dissemination are planned: A retrospective view of products generated from a planning and evaluation priority; a contemporary view of products currently being disseminated; and a selective view of products disseminated nationwide. This activity uses existing data reporting mechanisms to determine products and potential respondents. A self-report questionnaire in a survey mode will measure product distribution and use. Case studies are planned to document impact. Study results will be reported as they become available.
(f) Voluntary/Obligatory Nature of Response: Voluntary.
(g) Justification of How Information collected will be used: This study responds to the criticism of vocational education research and development (R&D) by the Committee on Vocational Education Research and Development (COVERED) " * * * that vocational education research and development shares with educational research and development a lack of both demonstrated impact on students and methods for rigorously measuring impact." The measurement instruments developed by this study will be used to determine the distribution, use, and impact of research and development based information and products in vocational education. It was necessary to develop four different instruments focusing on the following areas:
(1) Distribution: One instrument designed to describe product distribution;
(2) Utilization: Two instruments; one designed to measure teacher and administrator use for a sample of products, the second to measure student use;
(3) Impact: One case study instrument to be used with selected developers, students, teachers, and administrators to assess perceived impact of vocational education research and development.
The results of this study will be used by research administrators in the U.S. Office of Education and in state education agencies as a basis for planning research and development projects and the distribution of products to user groups. The study will build on extant data in state education agency files and on results from related studies such as the COVERD report and the Study of Vocational Education being conducted by the National Institute of Education (NIE 193–C). A series of meetings was held with vocational education representatives of state education agencies during 1978 to help design a study which minimizes respondent burden. The study design was reviewed by scholars consulting with the project. Indicators of impact used the generate items for the instruments were reviewed by the National Center Advisory Committee. Cooperative arrangements with states for impact case studies are planned. The study is planned as a four-year activity with a phased data collection and reporting schedule. The data acquisition plan (Item (h)), the timetable for dissemination of the collected data (Item (i)), and the respondents (Item (j)) are presented below separately for each of the four instruments. A separate sample will be drawn for each of the three years.

Instrument Title: Vocational Education Research and Development Product Distribution

(h) Data Acquisition Plan:
(1) Method of Collection: Mailed survey instrument;
(2) Time of Collection: Autumn 1979, 1980, and 1981;
(3) Frequency: Once each year for three successive school years;
(4) Method(s) of Analysis: Summary statistics using measures of central tendency and dispersion.
(i) Timetable for Dissemination of the Collected Data: A report describing the distribution of research and development products is scheduled for release in January 1980. Additional reports are planned for January 1981 and January 1982.
(j) Respondents:
(1) Type: Product developers and distributors;
(2) Estimated Number By Type: 1,080;
(3) Estimated Average Person-Hours Respondent Time Per Type of Respondent: .25 hours.

Instrument Title: Vocational Education Research and Development Product Use (Teachers and Administrators)

(h) Data Acquisition Plan:
(1) Method of Collection: Mailed survey instrument;
(2) Time of Collection: Spring 1980, 1981, and 1982;
(3) Frequency: Once each year for three successive school years;
(4) Method of Analysis: Summary statistics using measures of central tendency and dispersion.
(i) Timetable for Dissemination of Collected Data: Results from the use survey will be reported in January 1981. A revision of this report and individual reports to cooperating states will be released in 1982.
(j) Respondents:
(1) Type: School administrators and teachers;
(2) Estimated Number: 3,266 per year;
(3) Estimated Average Person-Hours Respondent Time Per Type of Respondent: .50 hours.
Instrument Title: Vocational Education Research and Development Product Use (Students).
(h) Data Acquisition Plan:
(1) Method of Collection: Self-administered survey instrument (distributed to students by school personnel);
(2) Time of Collection: Spring 1980, 1981, and 1982;
(3) Frequency: Once each year for three successive school years;
(4) Method of Analysis: Summary statistics using measures of central tendency and dispersion.
(i) Timetable for Dissemination of the Collected Data: These data will be reported on the same schedule as the product use data for teachers and administrators: one report in January 1981, a revision in April 1982, and individual reports to cooperating states in 1982.
(j) Respondents:
(1) Type: Students who have used the product and who are enrolled in vocational education classes;
(2) Estimated Number: 3,600 per year (180 classes with an average of 20 students per class);
(3) Estimated Average Person-Hours Respondent Time Per Type of Respondent: .125 hours.

Instrument Title: Vocational Education Research and Development Impact

(h) Data Acquisition Plan:
(1) Method of Collection: On-site interviews;
(2) Time of Collection: September 1980 through November 1982;
(3) Frequency: Single time for each of ten product case studies;
(4) Method of Analysis: Descriptive synthesis of events/activities on a product by product basis.
(i) Timetable for Dissemination of the Collected Data: The ten case study reports will be released when they are completed. Their release is expected at various times throughout 1981.
(j) Respondents:
(1) Type: Product developers, administrators, supervisors, teachers, and students;
(2) Estimated Number: 500;
(3) Estimated Average Person-Hours Respondent Time Per Type of Respondent: .25 hours.
(k) Estimated Costs and Person-Hours to the Respondents (Total): The cost will be $21,025 or 2,478 person-hours.

V 44 0C 16 79 UMI

(l) Estimated Costs to the Federal Agency to Collect, Process, and Analyze the Data (Contract, S&E): The cost of this activity to the Federal agency is estimated at $15,396 per year for four years or a total of $61,584. Cost efficiencies are possible because of the availability of product records in the National Center Clearinghouse and the use of these instruments across different types of products.

(m) A list of the Specific Data to be Collected From Each Type of Respondent:

(1) Number and type of research and development products distributed;

(2) Number and type of product recipients;

(3) Methods of product distribution;

(4) Anticipated and reported use of products;

(5) Anticipated impact of product use;

(6) User perceptions of product quality;

(7) Perceived benefits of and satisfaction with product use;

(8) Planned and unplanned product impact;

(9) Modifications in the product as a result of use;

(10) Demographic characteristics of respondents.

(n) Name and Address of the Individual or Office From Which Copies of the Data Instrument(s) May be Obtained: Dr. Paul Manchak, U.S. Office of Education, Bureau of Occupational and Adult Education, Room 5018, ROB #3, 400 Maryland Ave., SW., Washington, D.C. 20202.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Financial and Performance Report for the Incentive Grant Program (Pub. L. 94–142, Section 619).

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Education for the Handicapped/Division of Assistance to States.

(c) Agency Form Number: OE Form 716.

(d) Legislative Authority for the Activity: Subparts P and Q of the General Education Provision Regulations (Part 100b) constitute the authority for the requirement of the fundamental financial and performance reports.

Section 619(c) of Pub. L. 94–142 provides that "* * * the Commissioner shall pay to each State having an application approved under subsection (b) of this section the amount to which the State is entitled under this section, which amount shall be used for the purpose of providing services specified in clause (3) of subsection (a) of this section * * *" (Pub. L. 94–142, 20 U.S.C. 1419). The collection of this data will be used to monitor the use of these funds.

(e) Concise Description of the Proposed Activity: This activity is the means by which the recipients of the Incentive Grant provide the data regarding expenditures of funds and the extent to which the objectives of the application for the Incentive Grant have been met. The type of data to be collected is specified in the regulations, Section 121m.10 and must be submitted to the Commissioner of the U.S. Office of Education "within 90 days after the grant period * * * (b) the report must contain: (1) The results of the evaluation under Section 121m.5(g) and, (2) * * * the impact that these funds have had on the State's educational services to handicapped children ages three, four, and five."

(f) Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

(g) Justification of How Information Collected Will Be Used: The data to be collected will be used to monitor the use of the funds, to prepare the Congressional report and to provide resource data in the analyses of policy issues.

(h) Data Acquisition Plan:

(a) Method of Collection: Mail;

(b) Time of Collection: 90 days after the end of the Grant period;

(c) Frequency: Annually;

(d) Method of Analysis: Education Program Specialist evaluates the reports.

(i) Timetable For Dissemination of the Collected Data: January, 1981.

(j) Respondents:

(a) Type: State Education Agencies;

(b) Number: 58;

(c) Estimated Average Person Hours per Respondent: 2.5 hours per set of forms per state.

(k) Costs and Person-Hours to Respondent: Cost: $2,175. Hours: 145.

(l) Cost to the Federal Agency To Collect, Process and Analyze the Data: $2,300.00.

(m) List of the Specific Data To Be Collected: The information to be collected on the Financial Report is as follows: SEA and LEA administrative expenditures, amount of funds used for instructional personnel, related services, equipment, and supplies. The information to be collected on the performance report is as follows: number of children served (ages 3 through 5), number of children screened, number of children evaluated, number of teachers employed and the number of personnel receiving training from Grant funds. The results of the State's evaluation of the extent to which the activities met the objective, the major accomplishments resulting from the Grant fund and a listing of all the projects funded by the Grant will also be collected.

(n) Name and Address of Individual or Office From Which Copies of the Data Instrument(s) May Be Collected: Marilyn Semmes, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

(a) Title of Proposed Activity: Application for Grants under the National Diffusion Network (NDN).

(b) Agency/Bureau/Office: U.S. Office of Education; Office of Evaluation and Dissemination; Division of Educational Replication.

(c) Agency Form Number: OE Form 734.

(d) Legislative Authority for the Activity: "The Commissioner is authorized * * * to carry out innovative or experimental projects to assist in the development or demonstration of methods, techniques, or practices which cohntribute to the solution of educational problems * * *," Pub. L. 95–561, Title III, Sec. 303; 20 USC 2943; 45 CFR 193.

(e) Concise Description of the Proposed Activity: The NDN has previously operated under a contract procurement mechanism. New legislative authority, cited above, allows the Network to shift to grants, a structure which both the field and GPMD have requested. This application package is required to determine grant eligibility and to determine the size of the award.

(f) Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

(g) Justification of How Information Collected Will Be Used: Information will be used solely for program management in the determination of grant eligibility and in the determination of the amount of the grant award.

(h) Data Acquisition Plan:

(1) Method of Collection: Mail;

(2) Time of Collection: Winter 1979–80;

(3) Frequency: Annually.

(i) Timetable for the Dissemination of the Collected Data: It is expected that awards will be made public on or about May 12, 1980.

(j) Respondents:

(1) Type: Colleges and Universities;

(2) Estimated Number by Type: 10;

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 24 hours.

(1) Type: Local Education Agencies;

(2) Estimated Number by Type: 75;

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 24 hours.

(1) Type: Nonprofit Organizations;

(2) Estimated Number by Type: 30;

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 24 hours.

(1) Type: State Education Agencies;

(2) Estimated Number by Type: 35;

(3) Estimated Average Person-Hours Response Time Per Type of Respondent: 24 hours.

(k) Estimated Costs and Person-Hours to the Respondents (Total) 3600 hours (150 respondents); $15,000 ($100 x 150 respondents)

(l) Estimated Costs to the Federal Agency To Collect, Process and Analyze the Data: Approximately $20,400 for field readers and inhouse personnel processing time.

(m) A List of the Specific Data To Be Collected From Each Type of Respondent: Statement of Problem; Goals and Objectives; Methodology; Personnel; Cost.

(n) Name and Address of Individual or Office From Which a Copy of the Full Plan and the Data Instrument may be obtained: Andrew M. Lebby, U.S. Office of Education; Division of Educational Replication, 400 Maryland Ave. S.W., (ROB–3; Room 3616), Washington, D.C. 20202.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Current project report.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Higher and Continuing Education, Division of Training and Facilities, Academic Facilities Branch.

(c) Agency Form Number: OE Form 1118.

(d) Legislative Authority for This Activity: "Sec. 704 (a) Any State desiring to participate in the grant program authorized by this part for any fiscal year shall submit for that year to the Commissioner through the State Commission a State Plan for such information as may be necessary to enable the Commissioner to carry out his functions under this part and shall—(3)(B) approving and recommending to the Commissioner, in the order of such priority, applications governing such eligible projects, and for certifying to the Commissioiner the Federal share of the development cost of project involved;" (20 U.S.C. 1132a–3) (Pub. L. 92–318) as amended. Section 170.14(f), Part 170 of Title 45 of the Code of Federal Regulations provides that: "Promptly upon completing its consideration of applications as of each closing date * * * each State Commission will forward to the Commissioner: (1) A current project report, on forms supplied by the Commissioner * * * listing each application received * * * and the priority and the Federal share determined according to the State plan for each project considered * * *"

(e) Concise Description of the Proposed Activity: To approve and recommend to the Commissioner applications covering eligible projects, and to certify to the Commissioner the Federal share of the development cost of the project involved.

(f) Voluntary/Obligatory Nature of Response: The current project report is required, in order that the Commissioner may consider recommended projects for funding.

(g) Justification of How Information Collected Will Be Used: The information contained in the current project report enables the Commissioner to perform his function of funding projects as recommended by the State Commissions.

(h) Data Adcquisition Plan:

1. Method of Collections: Mail;

2. Time of Collection: After the consideration of applications as of each closing date;

3. Frequency: Either twice or three times a year;

4. Method of Analysis: The Commissioner reviews each current project report as a basis for approving recommended applications.

(i) Timetable for Dissemination of the Collected Data: Before the end of the fiscal year.

(j) Repondents:

1. Type: State Commissions;

2. Estimated Number By Type: 56;

3. Estimated Average Person-Hours Respondent Time Per Type of Respondent: 1.5.

(k) Estimated Costs and Person-Hours to the Respondents (Total): 252 person-hours @ $2,520.

(l) Estimated Costs to the Federal Agency To Collect, Process, and Analyze the Data: $3,780.

()(m) A List of the Specific Data To Be Collected From Each Type of Respondent: Information sufficient to identify the State, the closing date for receipt of applications and the application category. Also a list of application received and processed showing (1) date of receipt by State Commission, (2) priority number, (3) name of institution, (4) eligible project development cost, and (5) recommended Federal share.

(n) Name and Address of Individual or Office From Which a Copy of the Data Instrument May Be Obtained: Approval is requested until September, 1982. Thomas F. McAnallen, Chief, Academic Facilities Branch, Division of Training and Facilities, OE/BHCE, 400 Maryland Avenue, SW., Washington, D.C. 20202.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

(a) Title of Proposed Activity: Fiscal Year 1981–83 Incentive Grant Application, Section 619 of Part B of the Education of the Handicapped Act as amended by Pub. L. 94–142.

(b) Agency/Bureau/Office: U.S. Office of Education/Bureau of Education for the Handicapped/Division of Assistance to States.

(c) Agency Form Number: OE Form 9055–1.

(d) Legislative Authority for the Activity: Section 619 provides that "the Commissioner shall make a grant to any State which (1) has met the eligibility requirements of section 612; (2) has a State plan approved under section 613; and (3) provides special education and related services to handicapped children aged three to five, inclusive, who are counted for the purposes of 611(a)(1)(A) * * *" Any State desiring to receive a grant "Shall make an application to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably required * * *" (Pub. L. 94–142, 20 U.S.C. 1419)

The EHA–B regulations implementing the statutory requirements provide in 45 CFR Part 121m the contents of the application, the amount of the grants, the allowable expenditures, the excess cost requirements, the State Education Agency administrative responsibility and the requirement of an annual evaluation report (45 CFR 121m.5–121m.10)

(e) Concise Description of the Proposed Activity: This activity is the means by which the States receive Incentive Grants to provide special education and related services to handicapped children aged three through five. The type of data to be collected is specified in the Regulations and must be provided in order for a State to be awarded an Incentive Grant.

(f) Voluntary/Obligatory Nature of Response: Required to obtain or maintain benefits.

(g) Justification of How Information Collected Will Be Used:

(a) Program Management:

Grant Applications for the Incentive Grant Program are reviewed after the State's Annual Program Plan under Part B of the EHA has been approved for full

V 44 OC 16 79 UMI

funding. The Incentive Grant Application, in order to be found approvable, must adequately meet all the requirements outlined in the "Application for Federal Assistance, Education for the Handicapped Incentive Grant" and be accepted by the Bureau of Education for the Handicapped.

The Program Administrative Review conducted biennially by personnel from the Division of Assistance to States includes an assessment of the State's use of the Incentive Grant funds. Also, the End of the Year Report form is used as a monitoring instrument to determine compliance with the plan as stated in the grant application.

(b) *Evaluation:*

(1) The data currently collected in the Incentive Grant application may be used to prepare the Congressional Report.

(2) Data collected from the Incentive Grant Application is analyzed and used as resource data in the analysis of policy issues.

(h) Data Acquisition Plan:

(a) Method of Collection: Mail;

(b) Time of Collection: Spring, 1980;

(c) Frequency: Triennial;

(d) Method of Analysis: Education Program Specialist evaluate the Application.

(i) Timetable for Dissemination of the Collected Data: January 1981:

(j) Respondents:

(a) Type: State Education Agencies;

(b) Number: 58;

(c) Estimated Average Person-Hours Per Respondent: 6 hours.

(k) Costs and Person-hours to Respondent: Cost: $5,220. Hours: 398.

(l) Cost to the Federal Agency To Collect, Process and Analyze the Data: $3480.00.

(m) List of the Specific Data To Be Collected: The requirements for the FY 1981/82/83 Incentive Grant Application are based entirely on the Rules and Regulations for Title VI, Part B, published August 23, 1977 (45 CFR Part 121m). States, if they desire to participate, are required to submit an application to the Bureau of Education for the Handicapped to qualify for funds under the Incentive Grant Program. This application provides the Bureau of Education for the Handicapped with the information needed for the release of funds to the State Educational Agency. The data required in the application includes: a description of the State's goals and objectives for meeting the educational needs of handicapped children ages three through five; a description of the objectives and activities to be supported by the grant; a description of the impact the proposed activities will have on handicapped children ages three through five; the number of children to be served; the number of handicapped children who will be benefitted indirectly; the number of local educational agencies and intermediate education units; the number and names of other agencies which provide contractual services under the grant and the dollar amounts that will be spent for each major activity described.

(n) Name and Address of Individual or Office From Which Copies of the Data Instrument(s) May Be Collected: Marilyn Semmes, Division of Assistance to States, Bureau of Education for the Handicapped, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

[FR Doc. 79-31835 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-89-M

Office of the Secretary

Improving Government Regulations; Response To Executive Order Number 12044; Improving HEW Regulations

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Department Policies and Request for Further Public Comment.

SUMMARY: The President's Executive order on Improving Government Regulations, Executive Order 12044, requires each applicable federal department and agency to "review its existing process for developing regulations" and to revise the process to comply with the Executive order. The Department published its proposed plans to comply with the Executive order in the May 30, 1978 **Federal Register.** The public was invited to comment on the Department's regulation procedures. This notice describes the procedures the Department has implemented in accord with the Executive order, including discussion of, and response of, public comments received on the May 30 notice. In addition, the notice requests public comment on a proposed set of criteria for conducting reporting burden analysis for new or existing regulations.

EFFECTIVE DATE: The Department welcomes continued comment on its regulations procedures in general, and requests that comments on one new section of its procedures—criteria for reporting burden analyses, be submitted by December 17, 1979. All other policies are effective upon publication.

ADDRESS: Comments should be sent to Carolyn Chin, Executive Secretary to the Department of Health, Education, and Welfare, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Overview

On March 23, 1978, President Carter issued Executive Order 12044 directing each government agency to "adopt procedures to improve existing and future regulations," and to publish those procedures for public comment.

The President's desire to bring order to the confusing and cumbersome world of government regulation, and advance his more general goal of making government more comprehensible and responsible, translates into three Executive Order principles:

1. Keep regulations simple and clear:
2. Minimize the economic and administrative burdens of regulations;
3. Write regulations with meaningful citizen involvement.

In September 1977, HEW initiated Operation Common Sense—a comprehensive program to simplify, shorten, and expedite the Department's regulations development process. Operation Common Sense anticipated the President's Executive Order. It represents two distinct management and regulatory initiatives:

1. A five year effort to review and revise the more than 6,000 pages of HEW regulations already on the books; and
2. Revised procedures to facilitate faster writing of new regulations with policy guidance and oversight by the Secretary and agnecy heads, and with more citizen participation.

HEW's procedures for Operation Common Sense were published for public comment in the November 18, 1977 issue of the **Federal Register.**

When the President issued Executive Order 12044, HEW reviewed Operation Common Sense for its consistency with the President's directives.

As required by the Executive Order, the Department published in the May 30, 1978 **Federal Register** for public comment its proposed regulation procedures implementing the Executive Order.

Eight (8) individuals or organizations commented on the May 30, 1978 notice.

This Notice contains:

Part 1 A discussion of comments received and the Department's response to those comments; and

Part 2 The regulation procedures of the Department and of the Food and Drug Administration implementing Executive Order 12044.

In addition, Part 2 contains proposed criteria for analyzing the potential reporting burdens of regulations so that burdens may be reduced. The Department invites public comment on these criteria.

Dated: October 9, 1979.

Patricia Roberts Harris,

Secretary.

Part I—Response To Public Comments

A. Semi-Annual Agendas

Comment.—Several commentors questioned whether the Department's plan to publish a one-time list of all regulations being developed (see May 30, 1978 **Federal Register**) and a quarterly summary of actions taken by the Department met the spirit of the Executive Order. Commentors felt that the quarterly updating would not provide in one place a useful agenda of the Department's regulation activities.

Response.—The Department has reconsidered the approach it proposed in its May 30, 1978 plan and has decided to adopt the recommendation of commentors that we publish complete semi-annual agendas of regulations under development.

The Department will continue to provide the earliest possible information to the public regarding plans to develop new regulations or review and rewrite existing regulations through Notices of Decision to Regulate.

Comment.—Several commentors indicated that the format used by the Department in its May 30, 1978 agenda should be changed to include not only the statutory base for each regulation but also why the Department feels the regulation is needed. Several commentors also suggested that the agenda indicate how the Department has classified each regulation under development and whether or not a regulatory analysis will be conducted.

Response.—The Department has adopted the suggestions and its subsequent agendas have reflected the changes suggested.

B. Agency Head Oversight

Comment.—In reviewing the Department's procedures for early involvement of the Secretary/Under Secretary in regulation development, one commentor suggested that nongovernment experts be invited to attend regulation panel sessions at which key Secretarial staff review agency plans to develop regulations. The commentor suggested such participation would provide additional information to the Secretary/Under Secretary when decisions were being made on the need to regulate, the need to conduct a regulatory analysis, and the development of policies to be contained in the regulation.

Response.—The Department's procedures required that when an agency initiates regulations development, that agency shall consult with appropriate individuals and groups in drafting the regulation. The role of regulations panels is to review the procedures proposed by the agency to write regulations and to inform the Secretary of the agency's plans to seek his early guidance on the steps to be taken to complete drafting of proposed rules. Notices of Decision to Regulate are published in the **Federal Register** immediately following panel meetings in order to provide the public the earliest possible opportunity to communicate views and information to individuals responsible for regulations development. The Department encourages careful scrutiny of the initial decisions emanating from regulations panels including the need to regulate, the need for a regulatory analysis and the appropriateness of opportunities planned for further public participation in the rule development process.

The Department believes the Notices of Decision to Regulate provide the fairest approach to early public participation in that all interested parties have an equal opportunity to initiate contact.

C. Opportunity for Public Participation

Comment.—Several commentors recommended that the Department expand the number of days provided for comment on "policy significant" regulations and questioned why the Department's proposed procedures allowed a minimum of 45 days for comment on policy significant regulations while the Executive Order requires a minimum of 60 days for public comments.

Response.—The Department will strive to provide a 60 day comment period for all policy significant regulations. In those cases where the Department feels it cannot provide a full 60 day comment period because of legal requirements, court orders, or overriding public interest considerations, the Department will explain the reasons for a comment period less than 60 days in the preamble to the proposed regulation.

Comment.—One commentor suggested that we have a minimum of 90 days for comment on significant regulations.

Response.—In developing regulations procedures to implement the Executive Order, there has been an attempt to balance meaningful opportunity for public participation with the need to develop regulations on a more timely basis. The Department's procedures provide that for those regulations classified as "major" a minimum of 60 days be provided for public comment. In addition, the Department's procedures provide that the public comment for policy significant regulations be determined on a case-by-case basis. As stated above, the Department will strive to provide at least 60 days for all policy significant regulations and longer periods for public comment when appropriate.

D. Approval of Significant Regulations

Comment.—Several commentors recommended that additional criteria be added for determining the possible impact of regulations proposed on reporting burdens and on the relationship of the Federal government to State and local agencies, private citizens and organizations. Specifically, one commentor provided a list of questions that should be considered by the Department on the impact of proposed regulations on the operations of public agencies at the State and local level.

Response.—The Department believes that its current procedures require agencies to consider the impact of regulations on reporting requirements. This notice contains proposed criteria for conducting regulatory burden analyses and the threshold levels that would require a special burden reduction analysis (described more fully below) for proposed regulations. Regulations proposals developed by agencies must contain the agency's assessment of the possible impact of the regulation on individuals or organizations including State and local government. The Deputy Under Secretary for Intergovernmental Affairs is a permanent member of all regulations panels and has the responsibility for insuring that the needs and views of State and local agencies are incorporated into the regulations development process.

Comment.—One commentor suggested that the Department's procedures contain a more complete description of the procedures for evaluating regulations after they are issued.

Response.—At the present time, the Department does not have formal procedures for automatic evaluation of regulations. The Department is in the process of developing specific criteria and procedures for automatic evaluation and expiration dates and these will be published in the **Federal Register** for public comment in the future.

For many regulations, the Department does conduct automatic evaluation of regulations as part of its legislative planning process. Since the basic

V 44 0 C 1 6 7 9 UMI

authorizing statutes of most HEW programs expire every two or three years and must be reauthorized by the Congress, regulations for a large number of programs are periodically reviewed and changed when the authorizing statutes are amended or reenacted by the Congress.

E. Criteria for Determining Significant Regulations

Comment.—Several commentors suggested that the Department's three classifications for regulations (major, policy significant, and technical) and the criteria used by the Department to classify regulations make it difficult to determine which regulations the Department will classify as "significant" under the Executive Order. These commentors indicated that the Department should clarify the relationship between our classification system and the Executive Order to insure that all the requirements in the Executive Order are met in the development of significant regulations.

Response.—While there is some overlap between the Department's classification system for regulations and the Executive Order, the Department believes that the special treatment of "significant" regulations as described in the Executive Order is focused on *all* regulation initiatives. Specifically, regardless of how the Department classifies the regulation, a full and careful examination of the need for the initiative, for early Secretarial review, for meaningful public participation and for economic and burden reduction analyses, is part of the process for developing each new regulation.

After reviewing public comments, the Department agrees that some confusion existed about one requirement of the Executive Order—the minimum 60 day comment period for significant regulations. In the future, the Department will strive to provide a 60 day public comment period for policy significant regulations, unless shorter periods are required by statute, court order, or policy considerations. For such times, the Department will explain the reasons for shortened comment periods in preambles to proposed regulations.

F. Regulatory Analyses

Several commentors recommended that HEW modify its criteria for identifying which regulations should undergo regulatory analysis so that more analyses would be conducted for regulations with single-sector impact. Specifically, commentors believed that the single-sector threshold of a 10 percent increase in the annual cost of price goods and services for one sector of the economy, government or geographic region exceeding $10 million annually, should be lowered so that more analyses may be conducted. One commentor pointed out that a 10 percent increase in one sector of the health industry would equal $5.6 billion in that that threshold was too high to include a number of regulation initiatives with substantial economic impact.

Response.—The Department does not view its single-sector threshold as a substitute for the national cost or price criteria defined by the Executive Order—which specified as a threshold only $100 million projected increase in the cost of price of goods or services in the national economy. Any single-sector regulation that meets the national $100 million threshold would automatically undergo a regulatory analysis as part of the regulations development process.

In addition, the Department has additional criteria which permit the conduct of regulatory analyses for sensitive, significant, or potentially controversial regulations initiatives regardless of economic threshold. Under these discretionary criteria, the Department welcomes the recommendations of interested parties at any time.

Part II—The Department's Regulations Procedures

A. Regulation Development

President Carter's Executive Order states that "regulations should be as simple and clear as possible." The Executive Order further requires that each agency establish executive management procedures to reduce regulatory burdens by insuring that:

1. The need for and purposes of each regulatory initiative are scrutinized.
2. Heads of agencies provide effective oversight.
3. There be early and meaningful intergovernmental and public participation.
4. Policy alternatives are carefully considered before final decisions are made.
5. Paperwork costs and other burdens on the public are minimized.

Since September, 1977, the Department has followed these procedures in developing new regulations, which comply with the objectives of the Executive Order:

1. Each agency within the Department must submit a proposal to regulate to the Secretary within 45 days after a "triggering" event (enactment of new laws, court orders, Presidential or Secretarial policy decisions).

A regulations proposal is prepared for *every* regulations intiative an agency intends to undertake.

2. Each regulation proposal submitted by the initiating office or agency must contain the following information:
(a) The agency's view of the need to regulate.
(b) The social and policy significance of the regulations (that is, should the regulation be classified as "technical," "policy significant," or "major").
(c) The schedule for drafting the regulation, including provisions for securing early Secretarial guidance through issue papers and/or meetings.
(d) The name of the person responsible for drafting the regulaton.
(e) A public participation plan tailored *specifically* to the significance of the regulations being proposed, and to audiences potentially affected by the regulation.
(f) An early statement of the possible views of various segments of the public regarding policies to be contained in the regulation, including State and local governments, interest groups, private citizens and the Congress.
(g) The agency's plan to coordinate regulation drafting among various offices within HEW and with other agencies where relevant.

3. Regulation proposals are screened by standing Department regulations panels for each of HEW's major operating components composed of key Secretarial appointees representing each of his Assistant Secretaries (Planning and Evaluation, Management and Budget, Legislation, Public Affairs, Office of the General Counsel, Office for Civil Rights, and the Deputy Under Secretary for Inter-governmental Affairs). Regulations panels review each proposal to insure that:
(a) Regulations proceed to development *only* when they are necessary.
(b) The schedule and inter-office coordination proposed by the initiating agency is timely and adequate.
(c) Issues needing guidance and/or early resolution by the Secretary are surfaced in a timely and appropriate manner for his review before drafting begins.
(d) Plans for involving the public in the development of regulation policies are complete and appropriate.

4. The Secretary receives a summary of every meeting of these Department-wide regulations panels which, are chaired by top managers of the Secretary's Executive Secretariat. Through this early and close involvement, the Secretary selectively shapes regulations drafting and policy setting on a case-by-case basis.

5. Once approved for development, regulations are monitored by the Executive Secretary to the Department and Secretariat staff to insure that scheduling commitments are met and that planned coordination takes place within and outside the Department. The Assistant Secretary for Public Affairs helps agencies implement their public participation plans. The General Counsel is responsible for insuring that the regulations are written in clear English, that they are legally sufficient, and that policy options at every step of the process are fully developed and analyzed.

B. The Process for Developing Significant Regulations

1. *Semi-Annual Agenda of Regulations.*—The Executive Order requires that each Department publish a semi-annual agenda of significant regulations being developed. The Department published a complete agenda of *all* regulations under development in the May 30, 1978, January 19, 1979, and August 16, 1979 **Federal Register**. And agenda will be published on December 14, 1979. The Department will continue the practice of publishing Notices of Decision to Regulate in the **Federal Register** to provide the public the earliest opportunity to participate in regulation development.

2. *Agency Head Oversight.*—The President's Executive Order requires that each agency head review and approve plans for the development of significant regulations.

As noted earlier, the Secretary of HEW reviews plant for *every* significant regulation proposed by agencies within the Department, except for FDA. These regulations do not proceed to development without Secretarial approval. This approval is based on review of regulations proposals by a Department-wide Regulations Panel, which focuses on the issues to be addressed by the regulation, whether further development of alternatives will be undertaken for early Secretarial guidance or resolution, the need for and methods for achieving public participation, and the schedule for regulation writing.

3. *Opportunity for Public Participation.*—The Executive Order requires that each agency develop procedures to ensure that the public is given early and meaningful opportunity to participate in the development of regulations.

To comply with the Executive Order, every agency within the Department is, at a minimum:

(a) Publishing in the **Federal Register** an early notice to the public that a new regulation is being developed (Notices of Decision to Develop Regulations). In the future, the Department will also indicate in these notices whether it has classified the initiative as "major", "policy significant", or "technical".
(b) Publishing a more detailed Advance Notice of Proposed Rulemakiing for every regulation classified as "major" and, where needed, for some classified as "policy significant."
(c) Holding public hearings or open meetings for all "major" and "policy significant" regulatory initiatives.
(d) Using general and special mailing lists to contact and inform individuals and groups regarding regulations that are of particular interest (as a supplement to publication in the **Federal Register**).
(e) Contacting interested parties directly and inviting them to meet with policy officials.
(f) Providing for a minimum of 60 days for public comment on every "major" and "policy significant" regulation. Even for regulations classified as "technical" and without policy significance, the Department routinely maintains a minimum of 45 days for public comment and allows shorter time periods only in extraordinary circumstances (e.g., statutory mandate). In those cases where the Department feels that it cannot provide these minimum comment periods, it will explain the reasons for shorter periods in the preamble to proposed regulations.

4. *Approval of Significant Regulations.*—The Executive Order requires that the heads of each agency or designated official of statutory responsibility approve significant regulations before they are published for comment in the **Federal Register.** The Secretary or the Under Secretary of this Department (or the Commissioner in the case of the Food and Drug Administration) review and approve *every* regulation. Approval is based on all criteria enumerated in the Executive Order. Specifically:
(a) Early Secretarial screening prevents any regulation for which a need has not been established from being developed beyond the proposal stage.
(b) The direct and indirect effects of the regulation are studied and are frequently the focus of memoranda which cover each regulation presented to the Secretary for review.
(c) Consideration of alternative approaches for all "major" regulations and many "policy significant" regulations are raised to the Secretary for decision through issue papers and/or meetings *early* in the regulation development process.
(d) Public comments are summarized for *every* regulation, and the Department's summary and response to the comments are a part of the preamble for every final regulation.
(e) The regulation is reviewed for clarity and simplicity by the Deputy General Counsel for Regulation Review.
(f) Every effort has been made to hold down reporting and recordkeeping requirements and to asure, wherever possible, that such requirements are consolidated to avoid conflicting or duplicative burdens.
(g) Every regulation approved by the Secretary and published in the **Federal Register** contains the name, address, and telephone number of a contact individual within the Department.
(h) Each of HEW's regulations now on the books (6000 pages of the CFR) is being reviewed as part of Operation Common Sense.

5. *Criteria for Determining Significant Regulations.*—The Executive order directs each agency to develop criteria by which regulations will be evaluated for their significance. HEW has implemented a regulation classification system with three categories:
(a) "Major"—Those regulations issued by the Department that will have considerable economic or policy impact on a broad cross-section of the public, and for which the Department has considerable discretion under law to decide what policies the regulation will contain. The regulation implementing Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination against handicapped individuals, is an excellent illustration of this type of regulation.
(b) "Policy Significant"—Those regulations affect one segment of the population, an important category of institutions, such as hospitals, schools, or nursing homes. Also, the Department has latitude under law to consider alternative approaches to regulating.
(c) "Technical"—Those regulations that reflect no policy change, affect small numbers of institutions or individuals, cause no measurable economic impact, or involve narrow changes in an existing regulation. In most cases, technical regulations implement laws that are very detailed and specific, and for which the Department has no authority to consider alternative policies.

When an agency develops its regulation proposal, it makes a recommendation as to the category under which the initiative will be placed. The agency's classification proposal is reviewed by the relevant

V 4 4 0 C 1 6 7 9 UMI

regulations panel and ultimately by the Secretary. Once agreement is reached on classification, the development process begins:

(a) Major—When a regulation is classified as "major," the Department automatically:

(1) Undertakes a comprehensive study of alternative policy approaches, including determination of the need for a formal regulatory analysis (as described in the next section of this Notice);

(2) Undertakes an aggressive "out reach" effort to ensure meaningful public participation in the decision-making process. For major regulations, public participation activities typically include, at a minimum: The publication in the **Federal Register** of an Advance Notice of Proposed Rulemaking (in addition to a Notice of Proposed Rulemaking); Extended comment periods at every stage of the process (a minimum of 60 days); Public hearings and open meetings; and Special mailings to interested individuals, organizations, and media;

(3) Presents for review by the Secretary the results of studies and public views on alternative regulatory approaches;

(4) Designates a policy-level appointee to manage the regulation drafting process and to serve as the Secretary's personal contact point with the public and other agencies.

(b) Policy Significant—When a regulation is classifed as "policy significant," the Department will tailor, on a case-by-case basis, public participation activities, and study of alternative approaches. At a minimum, each agency in the Department will: Identify policy alternatives and the strengths and weaknesses of each alternative. Public participation in this process will be sought through Notices of Proposed Rulemaking (and in some cases, an additional Advance Notice); ample opportunity for public comment (60 days); the convening public hearings and open meetings; special mailings of information to interested individuals and groups.

As in the case of major regulations, the Secretary will choose among policy alternatives only after careful analysis of agency and public views.

(c) Technical—When a regulation is classified as "technical," HEW procedures anticipate that it will be written within 90 days after initiation. For technical rules, a Notice of Proposed Rulemaking is published in the **Federal Register** to ensure that the Department's initial view that no policy alternatives are available for consideration, is open to public comment and possible dissent.

C. *Regulatory Analysis.*—The President's Executive Order requires each agency to establish criteria for analysis of the potential economic consequences of regulations with significant policy implications before they are issued. The Order also requires agencies to have effective methods for obtaining public comment on such economic consequences.

To serve these purposes, the Department has developed criteria and procedures for the conduct of regulatory analyses which are not ends in themselves, but extensions and amplifications of the policy development responsibilities already imposed in drafting regulations. The preparation of regulatory analyses is intended to be an integral part—both substantively and procedurally—of the regulations development process of the Department.

1. *Procedures.*—HEW has modified its procedures to comply with the Regulatory Analysis requirements of the President's Executive Order. Specifically:

(a) The Department requires agencies proposing regulatory initiatives they believe to be "major" or "policy significant" to:

(i) Assess the need for a Regulatory Analysis, using threshold criteria described in the next section of this notice.

(ii) Recommend as an explicit aspect of the agency's regulations proposal, whether or not the agency plans to conduct or not conduct an analysis; and

(iii) Provide supporting material or information demonstrating potential economic consequences to support or refute the need for a Regulatory Analysis.

(b) The Secretary (or the Commissioner of FDA) will finally decide whether a Regulatory Analysis will be conducted. Affirmative decisions, with supporting information, will be included in all Notices of Decision to Regulate for "policy significant" and "major" regulations.

(c) Regulatory Analyses will be developed by the agency writing the regulation, under the guidance of the Assistant Secretary for Planning and Evaluation.

(d) Early findings are to be incorporated into both the agency's deliberation over recommendation and briefing or decision memoranda for the Secretary, *prior* to decisions.

(d) The outcome of Regulatory Analyses will be summarized in the Notice of Proposed Rulemaking Regulatory. Analyses will be available for public comment, and information on how to obtain analyses will be included also in the proposed rules.

(e) Based upon public comment, the Regulatory Analysis will be revised to accompany the Final Regulation.

2. *Criteria for Regulatory Analyses.*—The Department will use the following criteria for defining "major economic consequences," and hence for determining the need for conducting regulatory analyses:

(a) National Cost or Price—An analysis will be conducted if a regulation causes an increase in total cost or price of goods or services to the national economy of $100 million in any one year; or

(b) Sector Cost or Price—An analysis will be conducted if a regulation causes an increase in cost or price of goods or services of 10 percent in any one year in any industry or market, level of government, or geographic region; provided that the increase in cost or price of goods or services so affected exceeds $10 million annually; or

(c) Other—The regulation has been selected by the Secretary for voluntary regulatory analysis because of the sensitivity, significance, and potential controversy of the subject.

In addition to these basic criteria, the following supplementary criteria are to be used for selection of voluntary regulatory analyses. Absent specific Secretarial decisions to the contrary, regulatory analyses shall be prepared when there is:

(i) Major Decrease in NationaL Cost or Price—if the regulation causes decrease in national cost or price of $100 million in any one year; or

(ii) Significant Probability of Major Increase in National Cost or Price—if the upper end of a range of plausible estimates indicates that the regulation may cause an increase in national cost or price of $100 million in any one year; or

(iii) Major Difference in Cost Alternatives—if there is a $100 million difference between high and low cost options which the Department will seriously consider; or

(iv) Major Cost Controversy—if a regulation is likely to create exceptional controversy over costs, including shifting of burden from the government to the private sector, regardless of cost estimates.

These supplementary criteria are designed to cover cases which, while not strictly requiring a regulatory analysis, involve significant opportunities to improve the Departmental decision-making or to allay public concern, through systematic analysis of economic consequences—cases in which costs are a factor in either the *internal* or *external* debate over the regulations.

3. *Content of Regulatory Analyses.*—Most Department Regulatory Analyses will contain:

(a) A succinct statement of the problem that necessitates Federal action;

(b) A description of the major alternative ways of dealing with the problem that are being considered by the agency. These alternatives will typically include:

(1) Alternative types of regulations such as procedural requirements versus performance or outcome requirements;

(2) Alternative levels of strictness in requirements, possibly tailored to type or size of service providers;

(3) Alternative timing for imposing requirements;

(4) Alternative methods of insuring compliance, including economic incentives and various enforcement procedures.

(c) An analysis of the economic consequences (direct as well as indirect) of each regulatory alternative. Whenever possible, economic consequences will be presented in comparative form to sharpen the issues and provide a clear basis for choice among alternatives. Economic consequences will typically include:

1. Specific burdens of each alternative including type and degree of economic, administrative, and reporting impact, and who bears these burdens (level of government, region, income class);

2. Specific gains anticipated from each alternative;

3. Overall economic impacts of each alternative, including effects on productivity, prices, employment, competition, and costs.

(d) A detailed explanation of the reasons for choosing the preferred regulatory alternative over all others, with answers to such questions as:

(1) Will the selected alternative produce the intended results in the least burdensome manner possible? If not, why is this the preferred alternative?

(2) Why isn't the action more strict or less strict? What policy trade-offs does the selected alternative reflect?

D. *Review of Existing Regulations.*—The Executive order requires that each agency develop procedures to review regulations already on the books and to apply the same criteria used in developing new regulations to determine whether existing regulations should be retained, revoked or modified.

HEW began a comprehensive review of existing Departmental regulations in September 1977. This initiative contemplates analysis, revision and elimination, wherever possible, of about 6000 pages of Departmental rules in the Code of Federal Regulations.

The goals of reviewing and rewriting existing regulations under Operation Common Sense and the criteria for selecting regulations are:

1. To eliminate regulations that are unnecessary, outdated or ineffectual;

2. To rewrite regulations so that they are as straight-forward, understandable and clear as possible;

3. To remove unproductive, burdensome requirements;

4. To revise regulations on the basis of experience since their issuance; and

5. To better organize and consolidate regulations.

To realize these goals, each major operating component of HEW has submitted a plan to review and revise all existing regulations. The plans contain:

1. An agenda and more detailed schedules for reviewing regulations, for identifying those in need of revision and assigning priorities for revision;

2. A selection of priority regulations to be revised. (This notice contains a list of regulations now being reviewed and revised by each agency.)

3. The person responsible within each agency for review and revision of existing regulations;

4. A schedule for completing interim steps in the rewriting process (for example, the Department intends to eliminate all regulations for defunct programs within one year);

5. Methods to involve the public in selecting regulations for review and revision and in the actual changing of regulations; and

6. The designation of one regulation to be a "test model" for the review and rewriting procedure.

Once a decision is maded that an existing regulation will be reviewed and rewritten, the responsible agency must follow the Department's procedures that apply to the development of new regulations that are outlined above and repeated here:

1. The agency must submit a regulation proposal to the Secretary describing the need for continuing to have a regulation and the goals of reviewing and rewriting the regulation (clarity, policy revision, burden reduction, consolidation, etc.).

2. The Secretary approves both the goals and schedule for review and revision of existing regulation.

3. The public is informed early of the Department's decision to review and revise existing regulations through publication in the **Federal Register** of a Notice of Decision to Regulate.

4. Through the Notice of Decision to Regulate, the public is invited to assist the Department and may contact the individual listed in the Notice to provide or receive information on the regulation undergoing review.

E. Proposed Criteria and Procedures for Conducting Analysis of Reporting Burdens.—The Executive order requires agencies to examine the potential reporting burdens imposed on individuals or on public or private organizations by significant regulations in order to reduce such burdens whenever possible. To comply with the Executive order, the Department is proposing the following criteria for selecting those significant regulations that require detailed analysis of potential reporting burdens and the following procedures for conducting burden analyses:

1. For every regulation classified by an agency of the Department as major or policy significant, the potential reporting requirements will be assessed by an agency at the time it drafts a regulation proposal.

2. If the preliminary review of reporting requirements indicates that a regulation being developed meets one or more of the following criteria, further analysis will be required:

(a) The reporting burden imposed by the regulation involves a total of 50,000 or more hours annually on all individuals and organizations affected by the regulation;

(b) The reporting requirements imposed by the regulation would require the average respondent to spend 50 or more hours annually to comply with the regulation;

(c) The costs to the Government of collecting data associated with the regulation's requirements and/or the costs to the public of complying with data requirements imposed by the regulation total $500,000 or more.

3. Regulation proposals submitted for Secretarial review will indicate whether an agency plans to conduct an analysis of potential reporting burdens. If the agency plans to conduct an analysis, it will describe the basis for that decision and a schedule for completing the analysis.

4. An analysis of the burdens imposed by the proposed regulation will, at a minimum, include examination of:

(a) The need for and the use of data to be collected, the amount of time required to complete reports or forms, and the cost to the respondent of reporting and the cost to the Government of collecting, processing and analyzing data;

(b) Alternative approaches available for obtaining the required data including the use of data from existing sources.

Agencies must provide an opportunity for those affected to participate in

V 4 4 O C 1 6 7 9 UMI

determining the potential reporting burdens.

5. Analyses should be completed by an agency and submitted for Secretarial review with the proposed rule.

6. The Department will publish a summary of reporting burden analyses as part of the Notice of Proposed Rulemaking and invite further public comment on its findings and conclusions.

7. Copies of the complete analysis will be available to the public on request.

8. The Department intends to apply the reporting burden criteria and procedures set forth in this section to the review and rewriting of existing regulations.

F. Regulation Procedures of the Food and Drug Administration.—The Food and Drug Administration publishes approximately 500 new regulations each year. Many of these regulations are of a highly technical nature and extremely complex. Responsibility to review and approve Food and Drug Administration regulations has been, and continues to be delegated, by the Secretary to the Commissioner of Food and Drugs.

The Commissioner of Food and Drugs has approved the following procedures for the development of FDA regulations. The procedures comply with Executive Order 12044 requirements, and are intended to parallel the process that has been established by the Department.

In the following description of the Food and Drug Administration's regulation process, a specific notation and explanation are provided whenever FDA procedures vary to any extent from those followed by the Department.

1. Policy.—The Food and Drug Administration has developed a regulation development process that will:

(a) Write regulations in clear English;

(b) Ensure that regulations are consistent with current agency policy and completely and accurately present that policy;

(c) Evaluate all reasonable alternative approaches;

(d) Assess the compliance burdens being imposed by a regulation;

(e) Develop closely related regulations concurrently;

(f) Coordinate development of closely related policy significant regulations between the FDA and other Federal agencies particularly in the Interagency Regulatory Liaison Group (the Environmental Protection Agency, the Occupational Safety and Health Administration, and the Consumer Product Safety Commission, in addition to FDA);

(g) Provide full opportunity for public participation;

(h) Be responsive to public comments;

(i) Develop and adequate evaluation plan for the regulation.

2. Procedures.—(a) For each regulation or set of related regulations, the Food and Drug Administration prepares an annual regulations plan which provides an estimate of the agency resources required and identifies the persons and organizational units responsible for developing the regulation.

(b) Except where the Commissioner establishes priorities for particular regulations, each of the agencies six bureaus sets its own priorities for writing regulations. (This procedure differs the centralized approved process now followed in the rest of the Department. A somewhat decentralized process is both necessary and appropriate in the FDS because of the highly technical and diverse responsibilities of FDA bureaus.)

(c) For every regulation identified in the annual plan as "significant" (criteria for classifying regulations as significant are described in the next section), the responsible bureau prepares for the Commissioner's review a Strategy Document similar to the Regulation Proposal prepared by other HEW agencies. Strategy documents contain:

(1) A statement of the problems to which the proposed regulation is to be responsive;

(2) A summary of possible courses of action or policy alternatives;

(3) An assessment of foreseeable economic and societal impacts;

(4) A plan for public participation in the rulemaking process;

(5) The need for, and strategy to accomplish coordination within FDA, and with local, State and other Federal agencies;

(6) The schedule for developing regulations;

(7) The name, address and phone number of the person responsible for regulation development.

(d) No agency resources may be expended on drafting significant regulations until the Commissioner has approved the Strategy Document authorizing the regulation. This procedures parallels the Secretary's review of early warning memoranda and issue papers prior to the development of significant regulations by other HEW agencies.

(e) Depending upon the technical knowledge available to determine policies, the agency will either:

(1) Move directly to the development and publication in the **Federal Register** of a proposed regulation for public comment; or

(2) Publish an Advance Notice of Proposed Rulemaking seeking extended citizen assistance in developing a proposed rule.

(f) A minimum of 60 days for public comment is provided for all significant regulations.

3. Criteria for Determining Significant Regulations.—The Food and Drug Administration classifies a regulation as significant if it:

(a) Has public health implications, or has nonroutine safety and efficiency considerations;

(b) Has significant environment impact;

(c) Represents a new and important initiative;

(d) Responds to statutory commitments;

(e) Has significant potential economic impact (as defined by the Executive Order and Departmental Regulatory Analysis criteria);

(f) Is required to clarify misinterpretations of existing regulations;

(g) Is controversial and likely to attract considerable public interest and reaction; and

(h) Has significant promise of affecting the work requirements of FDS, local, State or other Federal agencies.

4. Regulatory Analyses.—The Food and Drug Administration uses the Department-wide criteria for selecting regulations requiring preparation of a Regulatory Analysis and/or of a Reporting Burden Analysis, and the procedures for conducting the Analyses.

[FR Doc. 79-31858 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-12-M

National Advisory Council on the Education of Disadvantaged Children; Meeting

Pursuant to the Federal Advisory Committee Act, Public Law 92-463, Section 10(a)(2), Notice is hereby given of the meeting of the National Advisory Council on the Education of Disadvantaged Children on Thursday, November 8, 1979 and Friday, November 9, 1979. The meeting will be held at the Hay Adams Hotel, 800-16th Street, N.W., Washington, D.C.

The meeting shall be open to the public on Thursday and Friday; however, in accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code, the meeting will be closed to the public from 2:30-3:30 p.m. on Friday, November 9, for a review and discussion of Council personnel and the selection of an Executive Director. This discussion could reveal personal information concerning individuals which could constitute unwarranted invasion of personal privacy.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Education Act (20 U.S.C. 2852) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

The proposed agenda for the meeting includes the following:

Thursday, November 8

Orientation Meeting & Procedures (New Presidential Appointees).
Council Structure and Operations.
Briefing on Programmatic and Administrative Structure and Operation of ESEA, Title I.
Oath of Office to New Members.

Friday, November 9, 1979

Status Report on title I Regulations.
Department of Education Briefing.
Planning Calendar/Activities for Future Meetings.

Because of limited space, all persons wishing to attend should call for reservations by November 5, 1979. Any additional information regarding the above meetings may be obtained by calling Mrs. Lisa Haywood at area code 202/724-0114.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children located at 425-13th St., N.W., Suite 1012, Washington, D.C. 20004. A summary of activities at the partially closed meeting will be available to the public within 14 days of the closed portion consistent with 5 U.S.C. 552b.

Signed at Washington, D.C. on October 9, 1979.

Gloria B. Strickland,

Acting Executive Director.

[FR Doc. 79-31911 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-02-M

Public Health Service

National Research Institutes; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of July 20, 1979 by the Secretary of Health, Education, and Welfare to the Assistant Secretary for Health (44 FR 46318), the Assistant Secretary for Health has delegated to the Director, National Institutes of Health, the authority delegated to the Assistant Secretary for Health under Title IV of the Public Health Service Act (42 U.S.C. 281 *et seq.*), as amended, insofar as the authority pertains to functions assigned to the National Institutes of Health. The delegation specified that the authority shall be redelegated as required by pertinent provisions of Title IV of the Public Health Service Act or, in the absence of such provisions, may be redelegated.

Previous delegations to the Director, National Institutes of Health, of authority under Title IV of the Public Health Service Act have been superseded. Provision has been made for delegations to other officials within the National Institutes of Health of authority under Title IV of the Public Health Service Act to continue in effect for no longer than 90 days from the effective date of the delegation to the Director, National Institutes of Health.

The delegation to the Director, National Institutes of health, became effective on September 28, 1979.

Dated: September 28, 1979.

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 79-31841 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-08-M

Authorization of Funds To Assist in the Construction of Community Hospitals; Delegations of Authority

Notice is hereby given that there have been made the following delegations and redelegations of authority under Pub. L. 85-151 (42 U.S.C. 2005 *et seq.*) for the authorization of funds to assist in the construction of community hospitals which will serve both Indians and non-Indians:

1. Delegation by the Assistant Secretary for Health, pursuant to the authority delegated to him on March 13, 1968 (33 FR 4894), to the Administrator, Health Services Administration, with authority to redelegate, of all the authorities under Pub. L. 85-151 (42 U.S.C. 2005 *et seq.*).

(2) Delegation by the Administrator, Health Services Administration, to the Regional Health Administrators, Public Health Service Regional Offices, with authority to redelegate, of the authorities under:

(a) Section 3 of Pub. L., 85-151 (42 U.S.C. 2005b), providing for the review and approval of architectural plans and specifications for Indian health projects and the waiver of technical compliance with requirements of the terms and conditions of agreements executed under Section I of Pub. L. 85-151, as they pertain to architectural plans and specifications for Indian health projects; and

(b) Section 4 of Pub. L. 85-151 (42 U.S.C. 2005c), providing for the authorization and scheduling of payments of the Federal portion of costs of construction of community hospital facilities to project sponsors who have executed agreements with the Health Services Administration for the construction of such facilities to provide care for Indians except that the schedule of advance payments shall be submitted to and approved by the Director, Indian Health Service, Health Services Administration, prior to notifying a project sponsor that such schedule of payments will be followed.

3. Delegation by the Administrator, Health Services Administration, to the Director, Indian Health Service, Health Services Administration, with authority to redelegate, of all the authorities under Pub. L. 85-151, providing for the authorization of funds to assist in the construction of community hospitals which will serve both Indians and non-Indians, excluding those authorities delegated by the Administrator, Health Services Administration, to the Regional Health Administrators.

The following delegations, insofar as they pertain to authority to perform functions under Public Law 85-151, have been superseded:

1. Delegation, effective June 23, 1978, to the Administrator, health Services Administration (43 FR 29034).

2. Delegation, effective March 1, 1970, to the Regional Health Directors (35 FR 7387-7388), which was continued in the Regional Health Administrators (38 FR 18261-18262).

3. Delegation, effective July 27, 1978, to the Director, Indian Health Service, Health Services Administration.

Provision has been made for any previous delegations and redelegations to other Public Health Service officials within the Health Services Administration and the Public Health Service Regional Offices of authority to perform functions under Pub. L. 85-151 to continue in effect for no more than 90 days from the effective date of the above delegations.

The above delegations became effective on September 28, 1979.

Dated: September 28, 1979.

Julius B. Richmond,

Assistont Secretary for Health.

[FR Doc. 79-31842 Filed 10-15-79; 8:45 am]

BILLING CODE 4110-84-M

V 4 4 0 C 1 6 7 9 UMI

HOUSING AND URBAN DEVELOPMENT

[Docket No. D-79-588]

Delegation of Contracting Authority

AGENCY: Department of Housing and Urban Development, Office of the Secretary.

ACTION: Delegation of Contracting Authority for Temporary Housing.

SUMMARY: This notice excepts all contracting authority pertaining to temporary housing for disaster relief from the delegation of authority to the Assistant Secretary for Housing Management, published at 37 FR 3376, February 15, 1972, and revokes Section A.3 of the delegation of authority to the Assistant Secretary for Administration published at 41 FR 2665, January 19, 1976, thereby transferring to the Assistant Secretrary for Administration all procurement and contract authority for temporary housing for disaster relief activities until October 31, 1979.

FOR FURTHER INFORMATION CONTACT: Cheryl Yeargin, Office of Procurement and Contracts, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 724–0038.

SUPPLEMENTAL INFORMATION: By a notice published at 37 FR 3376, February 15, 1972, the Secretary of Housing and Urban Development redelegated to the Assistant Secretary for Housing Management (presently the Assistant Secretary for Housing-Federal Housing Commissioner) his authority under the Disaster Relief Act of 1970, Pub. L. 91–606 (superseded by the Disaster Relief Act of 1974, Pub. L. 93–288) with respect to disaster relief functions. This notice excepts from those functions all contracting authority pertaining to temporary housing for disaster relief, and transfers all procurement and contract authority for temporary housing for disaster relief to the Assistant Secretary for Administration by revoking Section A.3 of the delegation of authority to the Assistant Secretary for Administration published at 41 FR 2665, January 19, 1976, in which the Secretary excepted that authority from the general procurement and contract authority delegated to the Assistant Secretary for Administration.

Section A. Accordingly, Section D of the delegation of authority published at 37 FR 3376, February 15, 1972 is redesignated Section E, and a new Section D is added as follows:

Section D. *Authority Excepted.* There is excepted from the authority delegated herein all contracting authority pertaining to temporary housing for disaster relief.

Section B. *Authority Revoked.* Paragraph 3 of Section A of the delegation of authority published at 41 FR 2665, January 19, 1976, is revoked.

Section C. *Supersedure.* This notice revokes all previous delegations and redelegations of purchase and procurement contract authority for temporary housing for disaster relief activities, including 35 FR 474, January 14, 1970; 37 FR 3376, February 15, 1972 (Designation and Redelegation to Regional Administrators, et al.); 37 FR 7170, April 11, 1972; 38 FR 17033, June 26, 1973; 38 FR 9845, April 20, 1973; and 40 FR 3488, January 22, 1975

(Disaster Relief Act of 1974, 42 U.S.C. 5121 et seq.; E.O. 11795, 39 FR 25939, July 15, 1974; Sec. 7(d) of the Department of HUD Act, 42 U.S.C. § 3535(d))

Effective date: January 28, 1979. Expiration date of Delegation is October 31, 1979.

Issued at Washington, D.C., October 9, 1979.

Moon Landrieu

Secretary of Housing and Urban Development.

[FR Doc. 79-31790 Filed 10-15-79; 8:45 am]

BILLING CODE 4210-01-M

[Docket N. D-79-589]

Redelegation of Contracting Authority; Director, Office of Procurement and Contracts

AGENCY: Department of Housing and Urban Development, Director, Office of Procurement and Contracts.

ACTION: Redelegation of Contracting Authority.

SUMMARY: This notice redelegates to the Director of the Office of Procurement and Contracts purchase and procurement contract authority for temporary housing for disaster relief, updates this authority to include grants and cooperative agreements consistent with the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501, Pub. L. 95–224, and authorizes the Director to redelegate any of his/her authority to any employee of the Office of Procurement and Contracts.

FOR FURTHER INFORMATION CONTACT: Cheryl Yeargin, Office of Procurement and Contracts, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 724–0038.

SUPPLEMENTAL INFORMATION: By a notice published at 41 F.R. 2665, January 19, 1976, the Secretary of Housing and Urban Development, implementing a reorganization of the procurement function under the Assistant Secretary for Administration, delegated certain purchase and procurement contract authority to the Assistant Secretary for Administration. Explicitly excepted was the authority to enter into purchase and procurement contracts for temporary housing for disaster relief. The redelegation of purchase and procurement authority from the Assistant Secretary for Administration to the Director of the Office of Procurement and Contracts reflected this exception (41 F.R. 2666, January 19, 1976).

By a document published today in the Notices section, the Assistant Secretary for Administration is delegated the authority to enter into and administer purchase and procurement contracts for temporary housing for disaster relief.

The present notice redelegates this authority to the Director of the Office of Procurement and Contracts by revoking the previous exception at Sec. A.1.c. of the delegation published at 41 F.R. 2666, January 19, 1976, and updates the Director's authority consistent with the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. § 501, P.L. 95–224. It also gives the Director the authority to redelegate any of the Director's authority to any employee of the Office of Procurement and Contracts.

Accordingly, Sections A and B of the redelegation published at 41 F.R. 2666, January 19, 1976 are amended to read as follows:

Section A. *Authority redelegated.* The Director, Office of Procurement and Contracts is designated as Chief Officer responsible for procurement, as a Contracting Officer and Purchasing Agent, and is authorized to:

1. Enter into and administer all purchases, procurement contracts, grants and cooperative agreements for property, services and assistance, and make determinations related thereto under sections 302(c) (1 through 15) of the Federal Property and Administrative Services Act, as amended, 41 U.S.C. § 252(c) (1 through 15), except:

(a) Make related determinations under § 302(c)(11) with respect to purchases and procurement contracts in excess of $25,000 and under section 302(c)(12) and (13) of the Federal Property and Administrative Services Act, 41 U.S.C. § 252(c)(11), (12) and (13).

(b) Enter into and administer purchases, procurement contracts, grants and cooperative agreements and make related determinations with respect to properties acquired by the Secretary under provisions of mortgage insurance issued pursuant to the National Housing Act.

2. Enter into and administer Interagency Agreements with all other Federal agencies.

3. Make administrative determinations under 41 CFR § 1–2.406–3 and 1–2.406–4.

4. Make findings and determinations with respect to advance payments under 41 CFR § 1–30.406, with the prior advice and concurrence of the Director of the Office of Finance and Accounting.

Section B. *Authority to redelegate.* The Director of the Office of Procurement and Contracts is authorized to redelegate any of the authority of Section A to employees of the Office of Procurement and Contracts.

Section C. *Supersedure.* This redelegation of authority supersedes Sections A and B of the redelegation of authority to the Director of the Office of Procurement and Contracts published at 41 F.R. 2666, January 19, 1976, and revised at 41 F.R. 11067, March 16, 1976 and 41 F.R. 47279, October 28, 1976.

(Delegation of Authority to Assistant Secretary for Administration, 41 F.R. 2665, January 19, 1976).

EFFECTIVE DATE: January 28, 1979.

Issued at Washington, D.C., October 9, 1979.

William A. Medina,

Assistant Secretary for Administration.

[FR Doc. 79-31791 Filed 10-15-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf, North Atlantic Oil and Gas Lease Sale No. 42

Correction

In FR Doc. 79–30838 appearing at page 57512 in the issue for Friday, October 5, 1979; on page 57519, second column, the signature of the Secretary of the Interior should have read:

"Cecil D. Andrus,".

BILLING CODE 1505-01-M

[AA-27357]

Alaska Native Claims Selection

On July 30, 1979, Cook Inlet Region, Inc., filed selection application AA–27357 under the provisions of Secs. 12(b)(6) of the act of January 2, 1976 (89 Stat. 1151) and I.C.(2) of the Terms and conditions for Land Consolidation and Management in the Cook Inlet Area, as clarified August 31, 1976, for the surface and subsurface estates of certain lands located in Juneau, Alaska.

Section 12(b)(6) of the act of January 2, 1976, authorizes conveyance of lands to Cook Inlet Region, Inc., from a selection pool established by the Secretary of the Interior and the General Services Administrator.

The lands are located outside the boundaries of Cook Inlet Region. With the concurrence of the State of Alaska and Cook Inlet Region, Inc., the lands and improvements within selection AA–27357 were placed in the pool of properties available for selection by Cook Inlet Region, Inc., subject to valid existing rights, by notice dated March 12, 1979.

The selection application of Cook Inlet Region, Inc., as to the lands described below is properly filed and meets the requirements of the act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

In view of the foregoing, the surface and subsurface estates of the following described lands are considered proper for acquisition by Cook Inlet Region Inc., and are hereby approved for conveyance pursuant to Sec. 12(b)(6) of the act:

Lots 1, 2 and 3, Block 2 of the Irwin Addition of the Juneau Townsite situated in Juneau, Alaska.
Containing .26 acre.

There are no easements to be reserved to the United States pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

The grant of lands shall be subject to:

Valid existing reights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (1976) (ANCSA)), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law.

Section 12(b)(6) of Public Law (Pub. L.) 94–204 provides that conveyances pursuant to this section shall be made in exchange for lands or rights to select lands outside the boundaries of Cook Inlet Region as described in Sec. 12(b)(5) of this act and on the basis of values determined by appraisal. The lands and improvements described above have been appraised at a value of $67,508. Under Sec. I.C.(2)(e) of the Terms and Conditions, this property constitutes 135.02 acre/equivalents. Upon acceptance of title to these lands, Cook Inlet Region, Inc., will relinquish its selection rights to 135.02 acres of its out-of-region entitlement.

Conveyance of the remaining entitlement to Cook Inlet Region, Inc., shall be made at a later date.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Southeast Alaska Empire. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, 701 "C" Street, P.O. Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 "L" Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision by mail shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until October 15, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 "C" Street, P.O. Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the party to be served with a copy of the Notice of Appeal is:

Cook Inlet Region, Inc., P.O. Drawer 4–N, Anchorage, Alaska 99509.

Sue Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79-31875 Filed 10-15-79; 8:45 am]

BILLING CODE 4310-84-M

[F-14841-A and F-14841-B]

Alaska Native Claims Selections

On April 3 and December 11, 1974, the Brevig Mission Native Corporation, for the Native village of Brevig Mission filed

selection applications F-14841-A and F-14841-B under the provisions of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of Brevig Mission.

On September 30, 1976, Bering Straits Native Corporation filed selection application F-23058, pursuant to Sec. 14(h)(8) of ANCSA. Section 14(h) and Departmental regulations issued thereunder authorize the Secretary of the Interior to withdraw and convey only unreserved and unappropriated public lands. Since a portion of the lands encompassed in the subject Sec. 14(h)(8) application had been properly selected by the Brevig Mission Native Corporation under Sec. 12 of ANCSA, these lands were not unreserved or unappropriated at the time of selection by the Bering Straits Native Corporation. Therefore, selection application F-23058 must be and is hereby rejected as to the following described lands:

U.S. Survey No. 2250 of the School Reserve, situated on the east edge of the unsurveyed Native town of Teller Mission, Alaska.

Containing 4.68 acres.

Further action on 14(h)(8) application F-23058 as to those lands not rejected herein, will be taken at a later date.

The State of Alaska filed general purposes grant selection applications on November 14, 1978, pursuant to Sec. 6(b) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 340; 48 U.S.C. Ch. 2, Sec. 6(b) (1976)), for certain lands in the Bering Straits area. Applications F-44293, F-44294, F-44462, F-44465, F-44466, F-44467 and F-44470, all as amended, selected all available lands in T. 1 N., R. 38 W.; T. 1 N., R. 39 W.; T. 1 S., R. 40 W.; T. 2 S., R. 36 W.; T. 2 S., R. 37 W.; Tps. 2 S., Rs. 39 and 40 W.; and T. 3 S., R. 36 W.; Kateel River Meridian, respectively. Brevig Mission Native Corporation properly selected lands located within the above townships in village selection applications F-14841-A on April 3, 1974 and F-14841-B on December 11, 1974. Section 6(b) of the Alaska Statehood Act of July 7, 1958, provides that the State may select *vacant, unappropriated* and *unreserved public lands in Alaska.*

Therefore, in view of the above the following State selection applications are hereby rejected as to the following described lands:

Kateel River Meridian, Alaska (Unsurveyed)

State Selection F-44293

T. 1 N., R. 38 W.,
Secs. 7, 8 and 9, all;
Secs. 16 to 21, inclusive, all;
Secs. 28 to 3, inclusive, all.

Containing approximately 9,574 acres.

State Selection F-44294

T. 1 N., R. 39 W.,
Secs. 10 to 15, inclusive, all;
Secs. 22 to 27, inclusive, all;
Secs. 34, 35 and 36 all.

Containing approximately 9,600 acres.

State Selection F-44462

T. 1 S., R. 40 W.,
Secs. 7 to 24, inclusive, all;
Sec. 25 (fractional), excluding Native allotment F-18016 Parcel A;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional), excluding Native allotment F-15761 Parcel C;
Secs. 30, 32 and 33 (fractional), all;
Sec. 34 (fractonal), excluding Native allotment F-029777 Parcel B;
Secs. 35 and 36 (fractional), all.

Containing approximately 13,420 acres.

State Selection F-44465

T. 2 S., R. 36 W.,
Secs. 19, 28 and 29, all;
Secs. 30 and 31 (fractional), all;
Sec. 32 (fractional), excluding Native allotments F-12527 and F-12551 Parcel A;
Sec. 33 (fractional), all;
Sec. 34, all;
Sec. 35, excluding Mineral Survey Applications F-23167 and F-23168.

Containing approximately 4,282 acres.

State Selection F-44466

T. 2 S., R. 37 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Mineral Survey 735;
Secs. 4 to 8, inclusive, all;
Secs. 9 and 10, excluding Mineral Survey 735;
Secs. 11 to 15, inclusive, all;
Sec. 16 (fractional), excluding Mineral Survey 735;
Sec. 17 (fractional), all;
Sec. 18 (fractional), excluding Native allotment F-029785;
Sec. 21 (fractional), excluding Mineral Survey 735;
Sec. 22 (fractional), excluding Native allotment F-15770 Parcel A;
Sec. 23 (fractional), excluding Native allotments F-13054 Parcel A, F-15760 Parcel B and F-15770 Parcel A;
Sec. 24 (fractional), all;
Sec. 30 (fractional), excluding Native allotments F-12585, F-13054 Parcel B and ANCSA Sec. 3(e) application F-47015 (Executive Order 4257).

Containing approximately 11,375 acres.

State Selection F-44467

T. 2 S., R. 40 W.,
Sec. 1 (fractional), excluding Native allotment F-18570 Parcel C;
Sec. 2 (fractional), excluding Native allotments F-029976 Parcel B and F-18016 Parcel B;
Sec. 3 (fractional), excluding Native allotment F-029976 Parcel B.

Containing approximately 440 acres.

T. 2 S., R. 39 W.,
Sec. 1 (fractional), excluding Native allotment F-18013 Parcel B;
Secs. 2, 3 and 5 (fractional), all;
Secs. 6 and 7 (fractional), excluding Native allotment F-15774 Parcel B;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment F-15761 Parcel B;
Sec. 12 (fractional), all.

Containing approximately 824 acres.

State Selection F-44470

T. 3 S., R. 36 W.,
Sec. 2, excluding Mineral Survey Application F-23167;
Sec. 3 (fractional), excluding Native allotments F-594 Parcel A, F-595 and Mineral Survey Application F-23167;
Sec. 4 (fractional), excluding Native allotments F-594 Parcel A and F-031234;
Sec. 10 (fractional), excluding Native allotments F-595, F-12560 Parcel A and Mineral Survey Application F-23167;
Secs. 11 and 12, all.

Containing approximately 2,950 acres.

Aggregating approximately 52,465 acres.

Further action on the subject State selection applications, as to those lands not rejected herein, will be taken at a later date.

As to the lands described below, the applications submitted by the Brevig Mission Native Corporation, as amended, are properly filed, and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 88,354 acres, is considered proper for acquisition by the Brevig Mission Native Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act.

U.S. Survey No. 2250 of the School Reserve, situated on the east edge of the unsurveyed Native town of Teller Mission, Alaska.

Containing 4.68 acres.

U.S. Survey No. 4238 situated at Brevig Mission, Alaska.

Containing 128.63 acres.

Kateel River Meridian, Alaska (Unsurveyed)

T. 2 S., R. 36 W.,
Secs. 19, 28 and 29, all;
Secs. 30 and 31 (fractional), all;
Sec. 32 (fractional), excluding Native allotments F-12527 and F-12551 Parcel A;
Sec. 33 (fractional), all;
Sec. 34, all;
Sec. 35, excluding Mineral Survey Applications F-23167 and F-23168.

Containing approximately 4,282 acres.

T. 3 S., R. 36 W.,
Sec. 2, excluding Mineral Survey Application F-23167;
Sec. 3 (fractional), excluding Native allotments F-594 Parcel A, F-595 and Mineral Survey Application F-23167;
Sec. 4 (fractional), excluding Native allotments F-594 Parcel A and F-031234;
Sec. 10 (fractional), excluding Native allotments F-595, F-12560 Parcel A and Mineral Survey Application F-23167;
Secs. 11 and 12, all.

Containing approximately 2,950 acres.

T. 2 R. S., 37 W.,
Secs. 1 and 2, all;
Sec. 3, excluding Mineral Survey 735;
Secs. 4 to 8, inclusive, all;
Secs. 9 and 10, excluding Mineral Survey 735;
Secs. 11 to 15, inclusive, all;
Sec. 16 (fractional), excluding Mineral Survey 735;
Sec. 17 (fractional), all;
Sec. 18 (fractional), excluding Native allotment F-029785;
Sec. 21 (fractional), excluding Mineral Survey 735;
Sec. 22 (fractional), excluding Native allotment F-15770 Parcel A;
Sec. 23 (fractional), excluding Native allotments F-13054 Parcel A, F-15760 Parcel B and F-15770 Parcel A;
Sec. 24 (fractional), all;
Sec. 30 (fractional), excluding Native allotments F-12585 and F-13054 Parcel B and ANCSA Sec. 3(e) application (Executive Order 4257), F-47015

Containing approximately 11,375 acres.

T. 1 S., R. 38 W.,
Sec. 30, all;
Sec. 31, excluding Native allotment F-16718;
Sec. 32, all.

Containing approximately 1,680 acres.

T. 2 S., R. 38 W.,
Secs. 1 and 2, all;
Sec. 3, excluding U.S. Survey 4238 and U.S. Survey 4494;
Sec. 4, excluding U.S. Survey 4494;
Sec. 5 (fractional), excluding U.S. Survey 4494;
Sec. 6 (fractional), excluding Native allotment F-029776 Parcel A and F-18013 Parcel B;
Sec. 8 (fractional), excluding U.S. Survey 4494;
Sec. 10 (fractional), excluding U.S. Survey 4238; and U.S. Survey 4494;
Secs. 11 and 12, all;
Sec. 13 (fractional) excluding Native allotment F-15760 Parcel A;
Sec. 14 (fractional), excluding Native allotment F-15771 Parcel A and F-029783;
Sec. 15 (fractional), all;
Sec. 24 (fractional), excluding Native allotment F-029777 Parcel A, F-029976 Parcel A, F-11986, F-15763, F-15768 Parcel A, F-15769 Parcel A and F-1653;
Sec. 25 (fractional), excluding Native allotments F-029776 Parcel B and F-15769 Parcel A.

Containing approximately 5,219 acres.

T. 1 S., R. 39 W.,
Secs. 1 to 29, inclusive, all;
Secs. 30 to 35 (fractional), inclusive, all;
Sec. 36, all.

Containing approximately 21,381 acres.

T. 2 S., R. 39 W.,
Sec. 1 (fractional), excluding Native allotment F-18013 Parcel B;
Secs. 2, 3 and 5 (fractional), all;
Secs. 6 and 7 (fractional), excluding Native allotment F-15774 Parcel B;
Secs. 8, 9 and 10 (fractional), all;
Sec. 11 (fractional), excluding Native allotment F-15761 Parcel B;
Sec. 12 (fractional), all.

Containing approximately 824 acres.

T. 4 S., R. 39 W.,
Sec. 29 (fractional), all;
Sec. 30 (fractional), excluding Native allotment F-15771 Parcels B and C;
Secs. 31 and 32, all.

Containing approximately 1,711 acres.

T. 1 S., R. 40 W.,
Secs. 7 to 24, inclusive, all;
Sec. 25 (fractional), excluding Native allotment F-18016 Parcel A;
Secs. 26, 27 and 28 (fractional), all;
Sec. 29 (fractional), excluding Native allotment F-15761 Parcel C;
Secs. 30, 32 and 33 (fractional), all;
Sec. 34 (fractional), excluding Native allotment F-02977 Parcel B;
Secs. 35 and 36 (fractional), all.

Containing approximately 13,420 acres.

T. 2 S., R. 40 W.,
Sec. 1 (fractional), excluding Native allotment F-18570 Parcel C;
Sec. 2 (fractional), excluding Native allotments F-029978 Parcel B and F-18016 Parcel B;
Sec. 3 (fractional), excluding Native allotment F-029976 Parcel B.

Containing approximately 440 acres.

T. 4 S., R. 40 W.,
Secs. 5 and 6 (fractional), excluding Public Land Order 2650;
Secs. 7, 8 and 15 (fractional), all;
Sec. 16 (fractional), excluding Native allotments F-15761 Parcel A and F-15768 Parcel B;
Sec. 17 (fractional), excluding Native allotment F-15768 Parcel B;
Secs. 20 to 23 (fractional), inclusive, all;
Secs. 25 and 26 (fractional), all;
Sec. 27, all;
Secs. 28, 33 and 34 (fractional), all;
Secs. 35 and 36, all.

Containing approximately 5,765 acres.

T. 1 N., R. 38 W.,
Secs. 7, 8 and 9, all;
Secs. 16 to 21, inclusive, all;
Secs. 28 to 33, inclusive, all.

Containing approximately 9,574 acres.

T. 1 N., R. 39 W.,
Secs. 10 to 15, inclusive, all;
Secs. 22 to 27, inclusive, all;
Secs. 34, 35 and 36, all.

Containing approximately 9,600 acres.

Aggregating approximately 88,354 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States.

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file F-14841-EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

50 Foot Trail—The uses allowed on a fifty (50) foot wide trail easement are: travel by foot, dogsled, animals, snowmobiles, two and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, and four-wheel drive vehicles.

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading, or unloading shall be limited to 24 hours.

a. (EIN 4 C5, D1, L) An easement for an existing access trail fifty (50) feet in width from the east side of an unnamed lake in Sec. 24, T. 2 S., R. 38 W., Kateel River Meridian, northeasterly thence northwesterly through Brevig Mission, to join with Inalik trail EIN 3a C5 in Sec. 24, T. 1 S., R. 41 W., Kateel River Meridian. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

b. (EIN 8 L) An easement for an existing access trail fifty (50) feet in width from trail EIN 4 C5, D1, L, at the mouth of the Don River in Sec. 28, T. 1 S., R. 40 W., Kateel River Meridian, northerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

c. (EIN 10 C3, C5, D1, L) An easement for an existing access trail fifty (50) feet in width from the intersection with trail EIN 4 C5, D1, L, in Sec. 18, T. 2 S., R. 37 W., Kateel River Meridian, northerly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

d. (EIN 20 L) An easement for an existing access trail twenty-five (25) feet in width from the village of Brevig Mission in Sec. 9, T. 2 S., R. 38 W., Kateel River Meridian northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

e. (EIN 25 D1) An easement for an existing access trail fifty (50) feet in width from near the mouth of Offield

V 44 O C 16 79 UMI

Creek in Sec. 10, T. 3 S., R. 36 W., Kateel River Meridian easterly to public lands. The uses allowed are those listed above for a fifty (50) foot wide trail easement.

f. (EIN 25a C5) An easement for an existing access trail twenty-five (25) feet in width from trail EIN 25 D1 in Sec. 11, T. 3 S., R. 36 W., Kateel River Meridian, southerly joining trail EIN 16 C3, D1, D9 of Teller village selection. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement. The season of use will be limited to winter use.

g. (EIN 26 C5) A one (1) acre site easement upland of the ordinary high water mark in Sec. 10, T. 3 S., R. 36 W., Kateel River Meridian, on the left bank of the Offield Creek at its mouth on Grantley Harbor. The uses allowed are those listed above for a one (1) acre site easement.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g), (1976))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him. Further, pursuant to Sec. 17(b)(2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Grazing Permit F–11729 to Ward Olannaa and Arthur Tocktoo within Tps. 1 S., Rs. 38, 39 and 40 W., Kateel River Meridian and Tps. 2 S., Rs. 36, 37, 38, 39 and 40 W., Kateel River Meridian and T. 3 S., R. 36 W., Kateel River Meridian and Tps. 1 N., Rs. 38 and 39 W., Kateel River Meridian, under the act of September 1, 1937 (50 Stat. 902; 48 U.S.C. 250k); and

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Brevig Mission Native Corporation is entitled to conveyance of 92,160 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. To date, 88,354 acres of this entitlement have been approved for conveyance; the remaining entitlement of 3,806 acres will be conveyed at a later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above shall be granted to Bering Straits Native Corporation when conveyance is granted to Brevig Mission Native Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Nome Nugget. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501. Also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until November 15, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is to be taken, the adverse parties to be served are:

State of Alaska, Department of Natural Resources, Division of Research and Development, 323 East Fourth Avenue, Anchorage, Alaska 99501.

Brevig Mission Native Corporation, Brevig Mission, Alaska 99785.

Bering Straits Native Corporation, P.O. Box 1008, Nome, Alaska 99762.

Sue A. Wolf,

Chief, Branch of Adjudication.

[FR Doc. 79–31876 Filed 10–15–79; 8:45 am]

BILLING CODE 4310–84–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 5, 1979. Pursuant to section 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243.

Written comments or a request for additional time to prepare comments should be submitted by October 26, 1979.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Tuscaloosa County

Tuscaloosa, *Old Tuscaloosa County Jail*, 2803 6th St.

CALIFORNIA

San Francisco County

San Francisco, *Rincon Annex*, 101–199 Mission St.

COLORADO

Denver County

Denver, *Fire Station No. 1*, 1326 Tremont Pl.
Denver, *St. Patrick Mission Church*, 3325 Pecos St.

FLORIDA

Dade County

Miami, *Miami City Hospital, Building No. 1*, 1611 NW. 12th Ave.

Duval County

Jacksonville, *Morocco Temple*, 219 Newnan St.

Lee County

Boca Grande vicinity, *Boca Grande Lighthouse*, S of Boca Grande on Gasparilla Island

Pinellas County

Dunedin, *Douglas, J. O., House*, 209 Scotland St.

St. Johns County

St. Augustine, *Grace United Methodist Church*, 8 Carrera St.

GEORGIA

Catoosa County

Ringgold vicinity, *Stone Church*, E of Ringgold off U.S. 76/41

Clinch County

Homerville, *Clinch County Jail*, Court Sq.

Jackson County

Commerce, *Shankle, Seaborn M., House*, 125 Cherry St.

INDIANA

Grant County

Fairmount, *Patterson, J. W., House*, 203 E. Washington St.

Marion County

Indianapolis, *Schnull-Rauch House*, 3050 N. Meridian St.

Shelby County

Morristown, *Junction Railroad Depot*, U.S. 52

Switzerland County

Vevay, *Vevay Historic District*, IN 56 and IN 156

MARYLAND

Baltimore (independent city).
Cummins Memorial Church, 1210 W. Lanvale St.

Charles County

Port Tobacco, *Port Tobacco Historic District*, Off MD 6.

Queen Anne's County

Millington vicinity, *Embert, John, Farm*, SE of Millington.
Sudlersville vicinity, *Dudley's Chapel*, SW of Sudlersville off MD 300.

MASSACHUSETTS

Middlesex County

Newton, *Peirce School*, 88 Chestnut St.

Worcester County

Gardner, *Heywood, Levi, Memorial Library Building*, 28 Pearl St.
Gardner, *Patridge, Jabez, Homestead*, 81 Patridge Rd.

MICHIGAN

Bay County

Bay City, *Sage Library*, 100 E. Midland St.

Grand Traverse County

Traverse City, *Central Neighborhood Historic District*, Roughly bounded by 5th, Locust, Union, 9th, and Division Sts.

Lenawee County

Blissfield, *Carpenter, David, House*, 424 W. Adrian St.

St. Joseph County

Three Rivers, *Silliman, Arthur, House*, 116 S. Main St.

Washtenaw County

Ann Arbor, *Northern Brewery*, 1327 Jones Dr.

Wayne County

Detroit, *Scarab Club*, 217 Farnsworth Ave.
Detroit, *Women's City Club*, 2110 Park Ave.
Detroit, *Woodbridge Neighborhood Historic District*, Bounded by Trumbull, Calumet, Gibson, 12th, W. Warren, Grand River, Wabash Sts., RR tracks and Edsel Ford Expwy.

MINNESOTA

Goodhue County

Red Wing, *Gladstone Building*, 309 Bush St.
Red Wing, *Hewitt, Dr. Charles, Laboratory*, 216 Dakota St.
Red Wing, *Kappel Wagon Works*, 221 W. 3rd St.
Red Wing, *Keystone Building*, 409 Main St.
Red Wing, *Nelson, Julia B., House*, 219 5th St.
Red Wing, *Pratt-Tabor House*, 706 W. 4th St.
Red Wing, *Red Wing City Hall*, W. 4th St.
Red Wing, *Red Wing Iron Works*, 401 Levee St.
Red Wing, *Towne-Akenson House*, 1121 W. 3rd St.

NEW HAMPSHIRE

Rockingham County

Kingston, *First Universalist Church*, Main St.

NORTH CAROLINA

Currituck County

Corolla, *Whalehead Club*, Currituck Banks.

Henderson County

Fletcher vicinity, *Meadows, The*, N. of Fletcher on SR 1547.

NORTH DAKOTA

Benson County

Maddock vicinity, *Viking Lutheran Church*, SE of Maddock.

Williams County

Williston, *James Memorial Library*, 621 1st. Ave. W.

OKLAHOMA

Atoka County

Atoka, *Standley, Capt. James S., House*, 207 N. Ohio Ave.

Beckham County

Erick, *First National Bank*, 101 S. Main St.

Haskell County

Kinta, *Cotton Storage House*, Off OK 2.
Kinta, *Scott Store*, OK 2.

Kay County

Braman vicinity, *Rock Falls Townsite*, NW of Braman.

Latimer County

Wilburton vicinity, *United Sponish Wor Veterans' Colony*, 9 mi. S of Wilburton on OK 2.

McCurtain County

Garvin vicinity, *Waterhole Cemetery*, S. of Garvin.

Pittsburg County

McAlester, *First Presbyterian Church*, 101 E. Washington Ave.
McAlester, *McAlester House*, 14 E. Smith Ave.
McAlester vicinity, *Bug Tussle School House*, N. of McAlester off U.S. 69.

Pushmataha County

Albion, *Albion State Bank*, Off U.S. 271.
Albion vicinity, *Kosyk, Mato, House*, E. of Albion off U.S. 271.
Antlers, *Citizens National Bank*, 111 W. Main St.
Antlers, *Locke Family Cemetery*, Off OK 3 and OK 7.

Tulsa County

Tulsa, *McFarlin Building*, 11 E. 5th St.
Tulsa, *Pierce Block*, 301 E. 3rd St.

OREGON

Benton County

Corvallis, *Bryson, J. R., House*, 242 NW. 7th St.

Jackson County

Medford vicinity, *Furry, Frederic E., House*, SE of Medford at 1720 N. Phoenix Rd.

Marion County

Salem vicinity, *Witzel, Robert, House*, 6576 Joseph St., SE.

PENNSYLVANIA

Berks County

Reading, *Hendel Brothers, Sons and Company Hat Factory*, 517–539 S. 5th St.
Reading, *Reading Hardware Company Butt Works*, 537 Willow St.

Butler County

Butler, *Elm Court*, Between Polk and Elm Sts.

Centre County

Pine Grove Mills vicinity, *Ayres, Bucher, Farm*, SW of Pine Grove Mills on Whitehall Rd.
Rebersburg, *Rebersburg Historic District*, PA 192.

Chester County

West Chester, *Warner Theater*, 120 N. High St.

Clearfield County

Clearfield, *Dimeling Hotel*, 2nd and Market Sts.

Delowore County

Swarthmore, *Ogden House*, 530 Cedar Lane.

Dauphin County

Hershey vicinity, *Sandhill Church*, N of Hershey on Hill Church Rd.

Lancaster County

Columbia, *Wright's Ferry Mansion*, 38 S. 2nd St.

Lebanon County

Schaefferstown, *Erpff, Philip, House*, S. Market St.

Lycoming County

Muncy, *St. James Episcopal Church*, 215 S. Main St.

Montgomery County

Hatboro, *Union Library Company*, 243 S. York Rd.

Northampton County

Bethlehem, *Packer Memorial Chapel*, Packer Ave.

V 44 0 C 1 6 7 9 UMI

Nazareth, *Whitefield House and Gray Cottage*, 214 E. Center St.

Philadelphia County

Philadelphia, *Barnegat Light Ship*, Pier Thirty South.
Philadelphia, *Druim Moir Historic District*, Bounded by Fairmount Park, Cherokee St., Hartwell Lane and Valley Green Rd.
Philadelphia, *Glen Foerd at Torresdale*, 5001 Grant Ave.
Philadelphia, *McIlvain, Frantcis, House*, 1924 Arch St.
Philadelphia, *New York Mutual Life Insurance Company Building*, 1001–1005 Chestnut St.
Philadelphia, *Widener, P. A. B., Mansion*, 1200 N. Broad St.

TENNESSEE

Davidson County

Nashville, *Cole, Anna Russell, Auditorium*, Tennessee Preparatory School campus.

Hamilton County

Chattanooga, *Brainerd Mission Cemetery*, Off Brainerd Rd.
Chattanooga, *Saints Peter and Paul Catholic Church and Buildings*, 214 E. 8th St.

Shelby County

Raleigh, *Goodwinslow*, 4066 James Rd

Williamson County

Franklin, *Cox House*, 150 Franklin Rd.

Wilson County

Lebanon, *Mitchell House*, Castle Heights Military Academy.

TEXAS

Harris County

Houston, *Bayou Bend*, 1 Westcott St.

Hudspeth County

Sierra Blanca vicinity, *Alamo Canyon Rock Art Site.*

Victoria County

Victoria vicinity, *Mission Creek Dam and Acequia Site*, NW of Victoria.

Williamson County

Georgetown, *University Avenue-Elm Street Historic District*, 304 and 308 E. University Ave. and 1304, 1312 and 1404 Elm St.

VIRGINIA

Richmond (independent city).
Loew's Theater, 6th and Grace Sts.

[FR Doc. 79-31474 Filed 10-15-79; 8:45 am]
BILLING CODE 4310-03-M

Office of the Secretary

[INT FES 79-51]

Emery Generating Units 3 and 4

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of Final Environmental Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for the proposed addition of two generating units to a power plant in Emery County, Utah.

DATE: Written comments from public agencies and interested citizens on the final environmental statement will be accepted until November 9, 1979.

ADDRESS: Comments should be sent to: District Manager, Richfield District, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Comments will be available for public review at the Richfield District Office, during regular business hours (7:45 a.m. to 4:15 p.m.) on regular work days.

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement that addresses the proposed addition of two 430 megawatt generating units, a new coal mine portal, and transportation systems, transmission line, and total employment of 1,610 people.

Written comments from public agencies and interested citizens on the final environmental statement will be accepted until November 9, 1979. Comments should be sent to the District Manager, Richfield District, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701.

Copies of the final environmental statement are available for inspection at the following Bureau of Land Management Office locations:

Washington Office of Public Affairs, 18th and C Streets, N.W., Washington, D.C. 20240.
Emery County Library, Castle Dale, Utah 84513 (801) 748–2554.
College of Eastern Utah-Library, 451 East 400 North, Price, Utah 84501 (801) 637–9943.
Harold B. Lee Library, Brigham Young University, Provo, Utah 84601 (801) 374–2121 ext. 2926.

A limited number of copies are available upon request at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets, N.W., Washington, D.C. 20240 (202) 343–5717.
Richfield District Office, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801) 896–8221.
Utah State Office, Bureau of Land Management, University Club Building, 136 East South Temple, Salt Lake City, Utah 84111 (801) 524–4227.
Price River Resource Area, Bureau of Land Management, Price, Utah 84501 (801) 637–4584.

Dated: October 11, 1979.

Larry E. Meierotto,
Assistant Secretary.

[FR Doc. 79-31877 Filed 10-15-79; 8:45 am]
BILLING CODE 4310-84-M

INTERNATIONAL COMMUNICATION AGENCY

U.S. Advisory Commission on Public Diplomacy (Formerly, U.S. Advisory Commission on International Communication, Cultural and Educational Affairs); Meeting

As previously announced, the U.S. Advisory Commission on Public Diplomacy will meet November 1–2. The topics covered will be "Management" and "Congressional and Public Liaison," involving a presentation to the Commission of the policies and programs conducted by these elements. The meeting will begin in Room 700, 1717 H Street, NW., moving later to Room 600, 1750 Pa. Ave., NW. Since space is limited, please call Miss Elizabeth Fahl, 724–9244, if you are interested in attending the meeting.

Jane S. Grymes,
Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 79-31855 Filed 10-15-79; 8:45 am]
BILLING CODE 8230-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

National Advisory Committee on Occupational Safety and Health; Full Committee Meeting and Subgoup Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on November 1 and 2, 1979 at the New Department of Labor Building, Room N–4437, Third Street and Constitution Avenue, Northwest, Washington, D.C. The meetings will begin at 9:00 a.m. The public is invited to attend.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 (Pub. L. 91–596) to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The meeting agenda will include a panel discussion on Regulatory Analysis with Economists from the Council on Wage and Price Stability, the Council of Economic Advisors, the Regulatory Analysis Review Group, and the Council on Environmental Quality as the panelists. Reports on OSHA activities will be given and the Committee will break up in subgroups to discuss issues and draft recommendations.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentaztion should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee to the extent which time permits.

For additional information contact:

Clarence Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N–3635, Third Street and Constitution Avenue NW. Washington. D.C. 20210, Telephone 202–523–8024.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C., this 11th day of October 1979.

Eula Bingham,
Assistant Secretary of Labor.

[FR Doc. 79-31968 Filed 10-15-79; 8:45 am]
BILLING CODE 4510-26-M

Office of the Secretary

[TA-W-5819]

Al-Mae Co., Croydon, Pa.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 7, 1979 in response to a worker petition received on August 3, 1979 which was filed on behalf of workers and former workers producing ladies' dresses and sportswear at Al-Mae Company, Croydon, Pennsylvania. The investigation revealed that sportswear consists of shirts, blouses, pants, skirts, sweaters, coats, skorts, and shorts. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A Departmental survey was conducted with the customers of Al-Mae Company. The survey revealed that most of the customers who decreased purchases from Al-Mae and increased their purchases of imported dresses and sportswear also substantially increased their purchases from other domestic sources, in 1978 compared in 1977 and in the first six months of 1979 compared to the same period of 1978. Those customers who purchased from foreign sources and who reduced their purchases from Al-Mae as well as from all other domestic sources represented an insignificant proportion of Al-Mae's sales.

The average employment of warehousing and shipping workers at Al-Mae increased in the January through September period of 1979 compared to the like period of 1978. Average employment was constant in each month of the June through September 1979 period.

Conclusion

After careful review, I determine that all workers of Al-Mae Company, Croydon, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of October 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-31891 Filed 10-15-79; 8:45 am]
BILLING CODE 4510-20-M

[TA-W-5848]

Campbell Mining Co. Summersville, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 13, 1979 in response to a worker petition received on August 6, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at the Campbell Mining Company, Campbell Strip Mine, Fayette County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that the manufacturer that contracts the Campbell Mining Company, Summersville, West Virginia to strip mine metallurgical coal, distributes the coal primarily to foreign users, with the domestic market accounting for only a minor portion of the company's sales.

As a contractor, the Campbell Mining Company strip mines coal from a surface mine owned by a larger coal company for a fee that is based on tonnage delivered. This coal is then distributed by the larger coal company's parent firm, primarily to foreign users. Consequently, increased imports of coal or coke could not affect sales and production levels at the mine operated by Campbell Mining Company.

Conclusion

After careful review, I determine that all workers of the Campbell Mining Company, Summersville, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979.

James F. Taylor,
Director, Office of Management, Administration and Planning.

[FR Doc. 79-31893 Filed 10-15-79; 8:45 am]
BILLING CODE 4510-28-M

V 44 0 C 16 79 UMI

[TA-W-5935]

Congress Textile Printers, Inc., Hawthorne, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 30, 1979 in response to a worker petition received on August 27, 1979 which was filed by the Amalgamated Clothing and Textile Workers Union of America on behalf of workers and former workers producing lacquer, duco and flock paint for fabrics at Congress Textile Printers, Incorporated, Hawthorne, New Jersey. The investigation revealed that the plant produces printed fabric, and that the petition was filed by the United Textile Workers of America. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The ratio of U.S. imports of finished fabric to domestic production was 2.0 percent in 1978. U.S. imports decreased absolutely in the first six months of 1979 when compared with the same period in 1978.

Sales and production of printed fabric at Congress Textile Printers, Incorporated increased from 1977 to 1978 and in the first eight months of 1979 compared to the like period of 1978. Sales and production increased in four consecutive quarters beginning in July, 1978, when compared with the same quarters of a year earlier. Quarter to quarter sales and production declines during this period were a manifestation of established seasonal fluctuations.

Conclusion

After careful review, I determine that all workers of Congress Textile Printers, Incorporated, Hawthorne, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-31894 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5617]

Donna Coal Corp., Ethel, W. Va.; Negative Determination Regarding Application for Reconsideration

By an application dated September 4, 1979, supported by a letter from a company official, the petitioning workers requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Apply for Worker Adjustment assistance in the case of workers and former workers mining coal at the Donna Coal Corporation, Ethel, West Virginia. The Determination was published in the Federal Register on August 31, 1979, (44 FR 51365).

Pursuant to 29 CFR 90.18(c), reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justifies reconsideration of the decision.

The petitioning workers believe that the negative determination was based on failure to meet the criteria of Section 222 of the Trade Act of 1974 relating to declines in employment and production. They point out that they were involved in a contract strike during the first quarter of 1978 and any production in early 1979 would make it impossible for the worker group to meet the production and employment criteria of the Trade Act.

The Department's review revealed that workers at the Donna Coal Corporation were denied certification because they did not meet the "contributed importantly" test of the Act. The Department's investigation revealed that Donna Coal Corporation's major customer increased its domestic purchases of coke in the first five months of 1979 compared to the period in 1978 while decreasing its purchases of imported coke. This major customer did not purchase imported metalurgical coal.

The Department sees no validity in the petitioning workers' claim since the workers at the Donna Coal Corporation were denied certification because they failed to meet the "contributed importantly" test of section 222 of the Act.

Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of fact or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. This application is, therefore, denied.

Signed at Washington, D.C., this 10th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31895 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5832]

Fall River Knitting Mills, Fall River, Mass.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 8, 1979 in response to a worker petition received on August 6, 1979 which was filed on behalf of workers and former workers producing men's, women's, and children's sweaters at Fall River Knitting Mills, Fall River, Massachusetts. It is concluded that all of the requirements have been met.

U.S. imports men's and boys' sweaters, knit cardigans, and pullovers increased in 1978 compared to 1977. U.S. imports of women's, misses', and children's sweaters increased relative to domestic production in 1978 compared to 1977.

Several surveyed customers of Fall River Knitting Mills decreased purchases from Fall River Knitting Mills and increased purchases of imports in 1978 compared to 1977.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and childrens's sweaters produced at Fall River Knitting Mills, Fall River, Massachusetts contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of Fall River Knitting Mills, Fall River, Massachusetts who became totally or partially separated from employment on or after August 1, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 5th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31896 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

Buffalo Brake Beam Co., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm of subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 26, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 26, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 10th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Buffalo Brake Beam Company (workers)	Lackawanna, N.Y	10/3/79	9/21/79	TA-W-6,170	Railway car parts, brake beams, ladders, and connectors.
General Tire & Rubber Company (workers)	Mayfield, Ky	9/27/79	9/14/79	TA-W-6,171	Tires.
Grandinetti, Incorporated (company)	Lynwood, Calif	10/3/79	9/19/79	TA-W-6,172	Small appliances.
Sharpe Manufacturing Company (ACTWU)	Minneapolis, Minn	9/24/79	9/20/79	TA-W-6,173	Women's outerwear.
Sharpe Manufacturing Company (ACTWU)	Brainerd, Minn	9/24/79	9/20/79	TA-W-6,174	Women's outerwear.
V-Line Clothes (workers)	Philadelphia, Pa	10/3/79	9/24/79	TA-W-6,175	Men's clothing.
C. N. Wilcher Mining, Inc. (workers)	Charleston, W. Va	10/3/79	9/26/79	TA-W-6,176	Metallurgical coal and coke.

[FR Doc. 79-31892 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5877 and 5878]

J & J Coal Co., Inc., #12-A Sunnyside Mine, Cyclone, W. Va., #62 Bans Branch Mine, Oceana, W. Va.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements for Section 222 of the Act must be met.

The investigation was initiated on August 21, 1979 in response to a worker petition received on August 17, 1979 which was filed on behalf of workers and former workers mining coal at the J & J Coal Company, Incorporated, #12-A Sunnyside Mine, Cyclone, West Virginia and #62 Bans Branch Mine, Oceana, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The J & J Coal Company, Incorporated owns and operates the #12-A Sunnyside Mine in Cyclone, West Virginia and the #62 Bans Branch Mine in Oceana, West Virginia. All coal from these two mines is sold to larger coal companies. The preponderance of the coal sold by the larger coal companies is exported. Consequently, increased imports of coal or coke into the United

States could not affect sales and production levels at the two mines operated by the J & J Coal Company.

Conclusion

After careful review, I determine that all workers of the J & J Coal Company, Incorporated, #12–A Sunnyside Mine, Cyclone, West Virginia and #62 Bans Branch Mine, Oceana, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79–31897 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5879]

J & J Coal Co., Inc., #12–B Mine, Pineville, W. Va.; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on August 21, 1979 in response to a worker petition received on August 17, 1979 which was filed on behalf of workers and former workers producing coal at the J & J Coal Company, #12–B Mine, Pineville, West Virginia.

The Notice of Investigation was published in the Federal Register on August 31, 1979 (44 FR 51368). No public hearing was requested and none was held.

Section 221(a) of the Trade Act of 1974 states that a petition for certification of eligibility to apply for adjustment assistance may be filed with the Secretary of Labor by a group of workers or by their certified or recognized union or other duly authorized representative. During the course of the investigation, it was established that the #12–B Mine, Pineville, West Virginia is operated for the J & J Coal Company by a contracting firm. All workers at the #12–B Mine are employed by the contracting coal company and there is no corporate affiliation between the contractor and the J & J Coal Company. The petition was filed on behalf of workers of the J & J Coal Company, Incorporated and no workers of the J & J Coal Company are employed at the #12–B Mine, Pineville. West Virginia; consequently, continuation of this investigation would serve no purpose.

Signed at Washington, D.C. this 9th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79–31898 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5857]

Jodi Scott Dress Co., Pitman, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 13, 1979 in response to a worker petition received on August 8, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' dresses and blouses at Jodi Scott, Pitman, New Jersey. The investigation revealed that the workers primarily produce dresses at the Jodi Scott Dress Company. In the following determination, without regard to whether any of the criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's and misses' dresses increased absolutely and relative to domestic production in 1978 compared with 1977, then decreased during the first half of 1979 compared with the first half of 1978.

The Department conducted surveys of the major manufacturer which contracted dress production with Jodi Scott and that manufacturer's customers. According to the survey results, the manufacturer did not import any dresses and did not utilize any foreign contractors during the period 1977 through August 1979, and the customers of this manufacturer did not significantly increase purchases of imported dresses during that period.

Conclusion

After careful review, I determine that all workers of Jodi Scott Dress Company, Pitman, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79–31899 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5833]

John Kiss & Sons Textile Mills, Inc. North Bergen, N.J.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to made an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 8, 1979 in response to a worker petition received on August 6, 1979 which was filed on behalf of workers and former workers producing sweaters at John Kiss and Sons Textile Mills, Incorporated, North Bergen, New Jersey. It is concluded that all of the requirements have been met.

The ratio of U.S. imports to domestic production of women's, misses' and children's sweaters has been over 100 percent in each year from 1974 to 1978. The ratio increased from 1977 to 1978.

A survey of manufacturers which contract production with John Kiss and Sons Textile Mills, Incorporated revealed that some of the manufacturers representing a significant proportion of the subject firm's total decline in sales, decreased orders with John Kiss and increased purchases of imported sweaters in 1978 and the first two quarters of 1979.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with sweaters produced at John Kiss and Sons Textile Mills, Incorporated, North Bergen, New Jersey contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of John Kiss and Sons Textile Mills, Incorporated, North Bergen, New Jersey who became totally or partially separated from employment on or after July 31, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79–31900 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5562]

L. B. Evans' Son Co., Wakefield, Mass.; Affirmative Determination Regarding Application for Reconsideration

On September 12, 1979, the company requested administrative reconsideration of the Department of Labor's Negative Determination Regarding Eligibility to Appy for Worker Adjustment Assistance for workers and former workers of Evans' Son Company, Wakefield, Massachusetts. This determination was published in the Federal Register on August 24, 1979, (44 FR 49809).

The company claims that the Department used a flawed definition of slippers that did not accurately describe the men's slipper produced by the L. B. Evans' Son Company in denying the workers' claim for trade adjustment assistance and implied that the customer survey was deficient.

Conclusion

After review of the application, I conclude that the claim of the petitioners' company with respect to the Department's use of a definition of slippers other than that produced by the company and the implied criticisms of the customer survey are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 10th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79–31901 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5930]

The Lamson & Sessions Co., Birmingham, Ala.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 29, 1979 in response to a worker petition received on August 27, 1979 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing nuts and bolts at the Birmingham, Alabama plant of the Lamson and Sessions Company. In the following determination, at least one of the criteria has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

On April 30, 1976 the Office of Trade Adjustment Assistance issued a certification of eligibility to apply for worker adjustment assistance applicable to workers at the Birmingham plant of the Lamson and Sessions Company (TA–W–630). That certification expired on April 30, 1978—two years from its date of issuance.

On March 15, 1979 the Office of Trade Adjustment Assistance received a petition filed on behalf of workers and formers workers of the Birmingham, Alabama plant of the Lamson and Sessions Company. On May 18, 1979 workers of the Birmingham plant were denied eligibility to apply for worker adjustment assistance (TA–W–4996). This determination was reached because the Department was unable to find the decline in sales or production required by the Trade Act of 1974. Further, such worker separations as occurred in the period under investigation were not import related.

Production of nuts and bolts at the Birmingham plant, measured in both quantity and value, increased during 1978 compared to 1977 and during the first half of 1979 compared to the first half of 1978. Moreover, compared to the same quarters in the previous year, production at Birmingham, measured in quantity and value, increased during the first and second quarters of 1979 compared to the previous quarters.

Average total employment at the Birmingham plant increased during 1978 compared to 1977. Layoffs of production workers during late 1978 and early 1979 were short term in nature except for a few workers who were laid off in May 1979 when cold nut forming machines were moved to another Lamson and Sessions facility. Other workers laid off in the first half of 1979 were maintenance workers not involved in the production process.

Conclusion

After careful review, I determine that all workers of the Birmingham, Alabama plant of the Lamson and Sessions Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 10th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79–31902 Filed 10–15–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5924]

Max Kirmayer & Sons, Inc., Brooklyn, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 29, 1979 in response to a worker petition received on August 27, 1979 which was filed on behalf of workers and former workers producing men's trousers at Max Kirmayer and Sons, Incorporated, Brooklyn, New York. It is concluded that all of the requirements have been met.

Imports of men's and boys' dress and sport trousers and shorts increased absolutely and relatively in 1978 compared with 1977. The ratio of imports to domestic production was 42 percent in 1978.

A survey of customers of Max Kirmayer and Sons, Incorporated

V 4 4 0 C 1 6 7 9 UMI

conducted by the Department of Labor evinced increased imports of men's trousers by a major customer in 1978 and in January–August 1979, and decreasing purchases of men's trousers from Max Kirmayer and Sons, Incorporated.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's trousers produced at Max Kirmayer and Sons, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Max Kirmayer and Sons, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after March 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 10th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31903 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5825]

Miller Shoe Co., Brunswick, Maine; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 7, 1979 in response to a worker petition received on August 6, 1979 which was filed on behalf of workers and former workers cutting and stitching ladies' shoes at the Brunswick, Maine plant of Miller Shoe Company.

In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separation, or threat thereof, and to the absolute decline in sales or production.

The Department surveyed the customers of Miller Shoe Company. The survey revealed that customers which decreased purchases of women's shoes from Miller Shoe in the first six months of 1979 compared to the first six months of 1978 also decreased purchases of imported shoes.

Declines in production and employment at the subject firm in the fourth quarter of 1978 and in the first six months of 1979 can be attributed to the problem of obtaining components, especially leather and heels, necessary for the company's shoe production.

Conclusion

After careful review, I determine that all workers of the Brunswick, Maine plant of Miller Shoe Company are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-31904 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5826]

Newark Textile Printing, Inc., East Newark, N.J.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 7, 1979 in response to a worker petition received on August 6, 1979 which was filed by the Amalgamated Clothing and Textile Workers' Union on behalf of workers and former workers at Newark Textile Printing, Incorporated, East Newark, New Jersey. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of importat of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of finished fabric (bleached, dyed, and printed) decreased during the first half of 1979 compared with the first half of 1978. The ratios of imports to domestic production and consumption have been 2 percent or less in each year since 1974.

The Department conducted a survey of customers of Newark Textile Printing, Incorporated concerning purchases of finished fabric. Survey respondents reported they did not increase purchases of imported finished fabric while at the same time decreasing purchases from domestic commission printers.

Conclusion

After careful review, I determine that all workers of Newark Textile Printing, Incorporated, East Newark, New Jersey are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31905 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5834]

Olis Knitting Mills, Inc., Brooklyn, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 8, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producting men's, women's and children's sweaters at Olis Knitting Mills, Incorporated, Brooklyn, New York. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's sweaters increased relative to domestic production in 1978 compared to 1977. Imports of men's and boys' sweaters, knit cardigans, and pullovers increased absolutely and relative to domestic production in 1978 compared to 1977.

A survey of manufacturers who contracted production with Olis Knitting Mills revealed that as a percentage of total sweater contracts by the manufacturers, foreign contracts increased in the January through July period of 1979 compared to the same period of 1978. Orders by the manufacturers to Olis for sweater production decreased during the same period.

Customers of the manufacturers who reduced orders to Olis were also surveyed by the Department. Customers of the manufacturers decreased purchases of sweaters from the manufacturers and increased imports in 1978 compared to 1977 and in the first seven months of 1979 compared to the same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with men's, women's and children's sweaters produced at Olis Knitting Mills, Incorporated, Brooklyn, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Olis Knitting Mills, Incorporated, Brooklyn, New York who became totally or partially separated from employment on or after August 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31906 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5389]

R&R Cedar Products, Cottage Grove, Ore.; Revised Determination

On July 13, 1979, the Department of Labor issued a Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance in the case of workers and former workers producing cedar shingles at R&R Cedar Products, Cottage Grove, Oregon, (44 FR 42810). Subsequent to the issuance of the Notice of Negative Determination, the Department of Labor, on its own motion, reopened the investigation in the light of other determinations on petitions from workers in the same industry (cedar shingles).

In reopening its investigation, the Department evaluated a second survey of R&R Cedar Products' customers of cedar shingles, and the evaluation revealed that the "contributed importantly" test was met. All of the original survey participants increased their purchases of cedar shingles from foreign sources in 1978 compared to 1977, while the second survey revealed that two major customers decreased purchases from R&R Cedar Products in 1978 compared to 1977. U.S. imports of red cedar shingles and shakes increased both absolutely and relative to domestic production in 1978 compared to 1977. The ratio of imports to domestic production increased from 71.4 percent in 1977 to 83.1 percent in 1978 when production of shingles at R&R Cedar Products ceased.

Conclusion

After review of the investigative file, I conclude that there is an adequate basis to revise the determination. Therefore, I make the following revised determination:

All workers engaged in producing cedar shingles at R&R Cedar Products, Cottage Gove, Oregon, who became totally or partially separated from employment on or after September 1, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 9th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-31907 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5817]

Tami Sportswear, Inc., San Francisco, Calif.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 3, 1979 in response to a worker petition received on August 1, 1979 which was filed on behalf of workers and former workers producing ladies' jackets, skirts, pants, blouses, shirts and sweaters at Tami Sportswear, Incorporated, San Francisco, California. The investigation revealed that Tami Sportswear, Incorporated domestically produces ladies' sportswear coordinates, which consist of skirts, pants, jackets and vests. Tami also sells ladies' sweaters, shirts and blouses which are primarily produced by foreign contractors. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The products produced domestically by Tami Sportswear are in three industry import and production categories: Women's, Misses' and Children's skirts; Women's, Misses' and Children's Slacks and Shorts; and Women's Misses' and Children's Coats and Jackets. U.S. imports in all three categories decreased absolutely in the first six months of 1979 compared to the first six months of 1978.

The Office of Trade Adjustment Assistance conducted a survey among customers purchasing ladies' sportswear from Tami Sportswear, Incorporated. The survey revealed that most customers which reduced their purchases of ladies' sportswear (skirts, pants, jackets and vests) from Tami Sportswear, in 1978 compared to 1977 and during the first seven months of 1979 compared to the same period of 1978, increased their purchases to a greater extent with other domestic sources than with foreign sources. Those customers which increased their purchases of imported sportswear and decreased purchases from Tami and other domestic sources were an insignificant proportion of Tami's sales. In aggregate, imported sportswear as a percent of the customers' total sportswear demand declined in both time periods.

Conclusion

After careful review, I determine that all workers of Tami Sportswear, Incorporated of San Francisco, California be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

V 4 4 0 C 1 6 7 9 UMI

Signed at Washington, D.C. this 10th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-31908 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5912]

Todd Shipyards Corp., Brooklyn Division, Brooklyn, N.Y.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Todd Shipyard Corporation, Brooklyn Division, Brooklyn, New York, engaged in conversion, repair, overhaul and maintenance of marine vessels. The investigation revealed that the legal title of the firm is Todd Shipyards Corporation.

Todd Shipyards Corporation, Brooklyn Division is engaged in providing the service of repairing and converting ships.

Thus, workers of Todd Shipyards Corporation, Brooklyn Division, do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from the parent firm, a firm otherwise related to Todd Shipyards Corporation by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Todd Shipyards Corporation and its customers have no controlling interest in one another. The subject firm, although affiliated with producers of ships, does not direct any services toward other divisions of Todd Shipyards Corporation or any other affiliated companies.

All workers engaged in repairing and converting ships at Todd Shipyards Corporation, Brooklyn Division, are employed by that firm. All personnel actions and payroll transactions are controlled by Todd Shipyards Corporation. All employee benefits are provided and maintained by Todd Shipyards Corporation. Workers are not, at any time, under employment or supervision by customers of Todd Shipyards Corporation. Thus, Todd Shipyards Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Todd Shipyards Corporation, Brooklyn Division, Brooklyn, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 9th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31909 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5845 and 5846]

Uniroyal Tire Co., Eau Claire, Wis. and Chicopee, Mass.; Certifications Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of two investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on August 9, 1979 in response to worker petitions received on August 8, 1979 which were filed by the United Rubber, Cork, Linoleum and Plastic Workers of America on behalf of workers and former workers producing passenger bias tires, passenger radial tires, monoply tires, truck tires and small heavy service tires at the Eau Claire, Wisconsin plant of Uniroyal Tire Company and on behalf of workers and former workers producing truck and passenger car tires at the Chicopee, Massachusetts plant of Uniroyal Tire Company. The investigation revealed that the plants produce primarily passenger car tires. It is concluded that all of the requirements have been met.

U.S imports of passenger car tires increased relative to domestic production in 1978 compared to 1977, and increased both absolutely and relative to domestic production in the first six months of 1979 compared to the same period in 1978.

Total Uniroyal imports of passenger car tires increased substantially in 1978 compared to 1977 and increased in the first eight months of 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with passenger car tires produced at the Eau Claire, Wisconsin and the Chicopee, Massachusetts plants of Uniroyal Tire Company contributed importantly to the decline in sales or production and to the total or partial separation of workers of those plants. In accordance with the provisions of the Act, I make the following certifications:

All workers of the Eau Claire, Wisconsin and Chicopee, Massachusetts plants of Uniroyal Tire Company who became totally or partially separated from employment on or after June 19, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 5th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-31910 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-28-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Notice of Meeting

The eighteenth meeting of the National Commission on Unemployment Compensation is scheduled to be held at the Four Seasons Hotel in Ottawa, Canada. The meeting will begin at 8:30 A.M. on Friday, October 26, 1979, and conclude at 4:00 P.M. on Saturday, October 27, 1979.

There will be no public testimony at this meeting. The Commission will meet with Canadian officials to hear about their experiences under the Canadian Unemployment Insurance program. It is also expected that the Commission will discuss its future work plans and agenda. No detailed program for this meeting has as yet been developed.

Telephone inquiries and communications concerning this meeting should be directed to: James M. Rosbrow, Executive Director, National Commission on Unemployment Compensation, Room 440, 1815 Lynn Street, Rosslyn, Va. 22209, (703) 235-2782.

Signed at Rosslyn, Virginia, this 12th day of October, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-31967 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

Privacy Act of 1974; Systems of Records, Minor Amendments

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notification of proposed minor amendments to system of records.

SUMMARY: The Nuclear Regulatory Commission is proposing amendments to the system of records, NRC-21, which contains personal information about individuals and from which such information can be retrieved by an individual identifier. Amendments would be made to paragraphs entitled "Storage", "Retrievability", "Safeguards", and "Retention and disposal." The amendments are minor to reflect the use of automatic data processing (ADP) equipment.

COMMENT DATE: Comments are due on or before November 15, 1979.

ADDRESS: Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing & Service Branch.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-7211.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, the Nuclear Regulatory Commission has published notices of those systems of records maintained by the NRC which contain personal information about individuals and from which such information can be retrieved by an individual identifier. The notices have been published as documents subject to publication in the annual compilation of Privacy Act documents. The amendments set forth below would amend certain paragraphs of System of Records NRC-21, "Payroll Accounting Records—NRC" entitled "Storage" to include magnetic tapes and disks; "Retrievability" to include social security number; "Safeguards" to include magnetic tapes and disks and ADP protection; and "Retention and disposal" to include ADP information destruction schedule. The use of ADP equipment will not increase the risk of unauthorized access to the information.

Pursuant to the Atomic Energy Act of 1954, as amended, and sections 552, 552a, and 553 of title 5 of the United States Code, as amended, notice is hereby given that adoption of the following amendments to system of records NRC-21 is contemplated. All interested persons who desire to submit written comments or suggestions for consideration in connection with the proposed amendments should send them to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch by November 15, 1979. Copies of comments on the proposed amendments may be examined at the NRC Public Document Room 1717 H Street, N.W., Washington, DC. For further information concerning this notice contact: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (310) 492-7211.

The paragraphs of NRC-21 entitled "Storage", "Retrievability", "Safeguards", and "Retention and disposal" are amended to read as follows:

NRC-21

SYSTEM NAME:

Payroll Accounting Records—NRC.

. . . . . .

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, microfiche, magnetic tapes, and disks.

RETRIEVABILITY:

Accessed by name and social security number.

SAFEGUARDS:

File folders, microfiche, tapes, and disks, including backup data, are maintained in locked cabinets in secured locked rooms after working hours. Access to and use of these records are limited to those persons whose official duties require such access.

RETENTION AND DISPOSAL:

File folders are retained for four years after transfer or separation of employee, then destroyed by shredding. ADP information is retained on disks for one year, transferred to and retained on magnetic tape for three years, then tape is erased.

. . . . . .

Dated at Bethesda, MD, this 3rd day of October, 1979.

For the Nuclear Regulatory Commission

Lee V. Gossick,

Executive Director for Operations.

[FR Doc. 79-31576 Filed 10-15-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management; Meeting

The ACRS Subcommittee on Waste Management will hold an open meeting on October 31, 1979 in Room 1046, 1717 H St., N.W., Washington, D.C. 20555.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, October 31, 1979, 8:30 a.m. until the conclusion of business.

The Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff on the high-level waste, low-level waste, and uranium mill tailings programs. Discussions will be held on the objectives and goals of these programs, and the priorities of the research and technical assistance projects to meet these goals.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Ragnwald Muller (telephone 202/634-1414), between 8:15 a.m. and 5:00 p.m., EDT.

V 44 0C 16 79 UMI

Dated: October 11, 1979.
John C. Hoyle,
Advisory Committee Management Officer
[FR Doc. 79-31868 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket Nos. 50-352 and 50-353]

Philadelphia Electric Co. (Limerick Nuclear Generating Station, Units 1 and 2); Issuance of Director's Decision Under 10 CFR 2.206

By letter dated April 12, 1979, Frank Romano of Amber, Pennsylvania, requested that the Commission investigate the effects of blasting at a nearby quarry on the site of the Philadelphia Electric Company's Limerick Nuclear Generating Station. Notice of receipt of Mr. Romano's April 12th letter was published in the Federal Register, 44 Fed. Reg. 33987 (June 13, 1979). In letters dated May 14 and June 12, 1979, Mr. Romano raised additional concerns regarding the Limerick facility and further requested that repair of concrete voids in structures be investigated.

On review of the information presented by Mr. Romano, I have determined that an investigation of the effects of blasting on the Limerick site should be conducted. Because deficiencies associated with concrete voids and their repair have been previously investigated and resolved, I have also determined that a further investigation into this matter is not warranted at this time.

A copy of the decision in the matter will be placed in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 and in the local public document room for the Limerick Generating Station at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Dated at Bethesda Maryland this 9th day of October 1979.

For the Nuclear Regulatory Commission.
E. G. Case,
Deputy Director, Office of Nuclear Reactor Regulation.
[FR Doc. 79-31869 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-220]

Niagara Mohawk Power Corp.; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 35 to Facility Operating License No. DPR-63 to Niagara Mohawk Power Corporation (the licensee) which revised the Technical Specifications for operation of the Nine Mile Point Nuclear Station, Unit No. 1 (the facility) located in Oswego County, New York. The amendment is effective as of its date of issuance.

The amendment revises the provisions in the Technical Specifications to authorize use of biocides in the main condenser cooling water or service water system for a one month test period.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 29, 1979, (2) Amendment No. 35 to License No. DPR-63, (3) letter dated August 14, 1979 from EPA to licensee, and (4) the Commission's letter to the licensee dated October 9, 1979. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126. A copy of items (2) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 9th day of October 1979.

For the Nuclear Regulatory Commission.
Thomas A. Ippolito,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.
[FR Doc. 79-31873 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

Proposed Agency Policy and Procedures for Differing Professional Opinions; Request for Comments

The Nuclear Regulatory Commission (NRC) has developed a statement of policy on differing professional opinions and the general procedures for implementing this policy within the agency. The NRC requests comments upon the proposed policy and the procedures, and also any additional recommendations or experiences regarding policy objectives, procedures, or other provisions that the Commission should consider before proceeding to adopt the proposed policy and procedures.

The proposed statement of policy clarifies the responsibilities of both NRC employees and NRC management regarding the expression and resolution of differing professional opinions. Moreover, the policy assures all employes the opportunity to have differing professional opinions heard and considered by NRC management free from retaliation in any form.

The proposed system for implementing this policy on differing professional opinions within the agency is described in a set of thirteen detailed procedures. These procedures provide, for example, alternate channels for the submission of differing professional opinions, accountability for all actions taken on a differing professional opinion, resolution of all differing professional opinions submitted in accordance with these procedures, and assurance against retaliation for the submission of a differing professional opinion. Also included are provisions for follow-up and evaluation of these procedures to ensure that implementation accomplishes the stated objectives and to recommend changes, as appropriate.

Single copies of the proposed policy and procedures can be obtained by writing to the U.S. Nuclear Regulatory Commission, Office of Management and Program Analysis, Washington, D.C. 20555. In addition, a single copy of the proposed policy and procedures is available, and may be inspected and copied, in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. Copies of comments received are also available for inspection at the Washington, D.C. Public Document Room.

Persons with questions may call Dr. Harry J. Watters in the Office of Management and Program Analysis, telephone 301-492-7721.

Written comments or questions should be addressed to the Director, Office of Management and Program Analysis, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Comments must be received by December 10, 1979.

Dated at Bethesda, Maryland this 9th day of October, 1979.

For the U.S. Nuclear Regulatory Commission.
Lee V. Gossick,
Executive Director for Operations.
[FR Doc. 79-31871 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-224]

University of California at Berkeley; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 2 to Facility Operating License No. R-101, issued to The Regents of the University of California (the licensee), which renews the license for operation of the TRIGA Mark III research reactor, located on the campus of the University of California at Berkeley. The facility is a research reactor that has been operating since August 10, 1966, and is currently licensed to operate at 1 MWt. The amendment is effective as of its date of issuance.

The amendment extends the expiration date of Facility Operating License No. R-101 to February 3, 2005.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the Federal Register on September 30, 1976 (41 FR 43258). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this section, see (1) the application for amendment dated December 30, 1974 as supplemented February 18, 1976, and December 21, 1976; August 15, 1977; and February 28, April 3, and May 14, 1979, (2) Amendment No. 2 to License No. R-101, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTENTION: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 28th day of September 1979.

For the Nuclear Regulatory Commission.
Robert W. Reid,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.
[FR Doc. 79-31872 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-280]

Virginia Electric & Power Co.; Approval of Design Modifications

During the current shutdown of the Surry Power Station, Unit 1 located in Surry County, Virginia, the U.S. Nuclear Regulatory Commission (the Commission) has reviewed and found acceptable modifications to the 480V Class IE System (480V emergency bus) which were found to be necessary by the licensee, the Virginia Electric and Power Company. The modifications which have been completed, corrected a condition which could have resulted in an under power situation preventing the proper functioning of engineered safeguards equipment during a postulated loss of coolant accident.

Prior public notice of acceptance of these modifications was not required since the acceptance did not involve a significant hazards consideration. The Commission has determined that this action will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this action.

For further details with respect to this action, see (1) the Commission's letter to the licensee dated April 16, 1979, (2) the licensee's letters dated May 3 and June 18, 1979, (3) the Commission's letter to the licensee dated August 20, 1979, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Swem Library, College of William and Mary, Williamsburg, Virginia. A copy of items (1), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors:

Dated at Bethesda, Maryland, this 3rd day of October 1979.

For the Nuclear Regulatory Commission.
A. Schwencer,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.
[FR Doc. 79-31870 Filed 10-15-79; 8:45 am]
BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10896; 812-4512]

Nel Cash Management Account, Inc.; Filing of Application

October 9, 1979.

Notice is hereby given that NEL Cash Management Account, Inc. ("Applicant"), 501 Boylston Street, Boston, Massachusetts, 02117, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 2, 1979, and an amendment thereto on September 17, 1979, for an order pursuant to Section 6(c) of the Act, exemping Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to calculate its net asset value per share using the amortized cost method of valuing portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund that seeks to provide maximum current income consistent with preservation of capital and liquidity by investing in high quality money market instruments. Applicant further states that it presently values its portfolio securities in accordance with the views of the Commission as set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release"). In the Release, the Commission expressed its view that, among other things: (1) Rule 2a-4 under the Act requires that portfolio instruments of "money market" funds be valued with reference to market factors, and (2) it would be inconsistent, generally, with the provisions of Rule 2a-4 for a "money market" fund to value its portfolio instruments on an amortized cost basis.

Applicant states that it sells and redeems its shares at a constant net asset value of $10 per share, and that this constant share value is presently maintained by declaring daily, as a dividend to shareholders, Applicant's total net income. For this purpose, Applicant states that net income includes (i) all accrued interest on portfolio securities, plus or minus (ii) all long and short-term realized and unrealized gains and losses, less (iii) all expenses. Applicant notes that as a result of these policies, a sudden rise in interest rates or other factors might cause Applicant's net income to be a negative amount, in which case Applicant would offset dividends accrued during the month for shareholder accounts by such negative amount. Applicant states that in the event such negative amount exceeded accrued dividends, to maintain a consant net asset value of $10 per share Applicant would reduce the number of its outstanding shares.

Applicant states that its Board of Directors has concluded that it is in the best interests of Applicant's shareholders to adopt the amortized cost method of valuation in order to maintain Applicant's $10.00 net asset value per share. Applicant further states that although it has thus far avoided the necessity of reducing the number of its outstanding shares in the manner described above by investing in securities with relatively short maturities, the use of amortized cost valuation would remove the necessity for such action and would provide Applicant with greater investment flexibility. Applicant states that its proposed use of amortized cost valuation would, in addition, offer its shareholders the convenience of being able to value their investments in Applicant simply by knowing the number of shares they own.

Rule 22c-1 adopted under the Act provides, in part, that no registered investment company or principal underwriter therefor issuing any redeemable security shall sell, redeem, or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a-4 adopted under the Act provides, as here relevant, that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a-4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company.

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the granting of an exemption to enable it to utilize amortized cost valuation would be appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant further submits that the rationale which the Commission has followed in granting exemptive orders to permit certain "money market" funds having net asset values of $1.00 per share to adopt the amortized cost method of valuation, should apply equally to Applicant's proposal. Applicant asserts that the fact that its net asset value per share is $10.00, rather than $1.00, should not alter the Commission's position because Applicant's shareholders would be exposed to no greater risk than would be the case if Applicant were to price its shares at $1.00. Applicant states that its shares are sold at $10.00, rather than at $1.00, because by so doing it reduces the cost of authorizing capital under Massachusetts state law.

Applicant states that the following conditions may be imposed in an order granting the exemption it requests:

1. In supervising Applicant's operations and delegating special responsibilites involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to establish procedures reasonably designed, taking into account current market conditions and Applicant's investment objectives, to stabilize Applicant's net asset value per share, as computed for the purpose of distribution, redemption and repurchase, at $10.00 per share.

2. Included within the procedures to be adopted by the Board of Directors shall be the following:

(a) Review by the Board of Directors, as it deems appropriate and at such intervals as are reasonable in light of current market conditions, to determine the extent of deviation, if any, of the net asset value per share as determined by using available market quotations from Applicant's $10.00 amortized cost per share and the maintenance of records of such review.

(b) In the event such deviation from Applicant's $10.00 amortized cost price per share exceeds ½ of 1 percent, a requirement that the Board of Directors will promptly consider what action, if any, should be initiated.

(c) Where the Board of Directors believes the extent of any deviation from Applicant's $10.00 amortized cost price per share may result in material dilution or other unfair results to investors or existing shareholders, it shall take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results, which may include: redemption of shares in kind; selling portfolio instruments prior to maturity to realize capital gains or losses, or to shorten the average portfolio maturity of Applicant; withholding dividends; or utilizing a net asset value per share as determined by using available market quotations.

3. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable net asset value per share; provided, however, that Applicant will not (a) purchase any instrument with a remaining maturity of greater than one year, or (b) maintain a dollar-weighted average portfolio maturity which exceeds 120 days. In fulfilling this condition, Applicant agrees that if the disposition of a portfolio instrument should result in a dollar-weighted average portfolio maturity in excess of 120 days, Applicant will invest its available cash in such a manner as to reduce its dollar-weighted average portfolio maturity to 120 days or less as soon as reasonably practicable.

4. Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 1. above; and, Applicant will record, maintain, and preserve for a period not less than six years (the first two years in an easily accessible place) a written record of the Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition shall be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as though such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

5. Applicant will limit its portfolio investments, including repurchase agreements, to those instruments which its investment adviser determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not so rated, of comparable quality as determined by Applicant's Board of Directors.

6. Applicant will include in each quarterly report, as an attachment to Form N-1Q, a statement as to whether any action pursuant to condition 2(c) above was taken during the preceding fiscal quarter, and, if any action was taken, will describe the nature and circumstances of such action.

7. Applicant's Board of Directors will make a determination that, absent unusal circumstances, amortized cost value represents the fair value of Applicant's portfolio securities.

Notice is further given that any interested person may, not later than October 30, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31867 Filed 10-15-79, 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10894; 811-766]

The Nassau Fund; Filing of Application

October 4, 1979.

Notice is hereby given that The Nassau Fund ("Fund"), One Palmer Square, Princeton, New Jersey 08540, an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on August 14, 1979, pursuant to Section 8(f) of the Act for an order of the Commission declaring that the Fund has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

The Fund was incorporated in New Jersey. On March 6, 1957, the Fund registered under the Act by filing its Notification of Registration on Form N-8A, and, on May 1, 1957, it filed a Registration Statement under the Act on Form N-8B-1.

The Fund states that on December 11, 1978, its Board of Directors voted unanimously to authorize, approve and recommend to Fund's shareholders a proposal to transfer substantially all of Fund's assets to Windsor Fund, Inc. ("Windsor"), a registered open-end, management investment company, in exchange for shares of Windsor. The Fund further states that on April 30, 1979, at a special meeting of shareholders held in lieu of the annual meeting, shareholders voted in favor of the proposal to transfer substantially all of Fund's assets to Windsor.

Pursuant to an Agreement and Plan of Reorganization dated January 19, 1979, between the Fund and Windsor substantially all of the assets of the Fund were transferred to Windsor in exchange for its common stock in an amount equal to the net asset value of the Fund on May 4, 1979. The Fund represents that on May 7, 1979, it liquidated and distributed pro rata to its shareholders of record as of the close of business on May 7, 1979, the shares of Windsor received by the Fund. Such liquidation and distribution was accomplished by the establishment of open accounts on the share records of Windsor in the name of Fund's shareholders and representing the respective pro rata number of shares of Windsor due each shareholder. Each holder of any certificate or certificates representing shares of the Fund may surrender the same to the Vanguard Group, Inc., as transfer agent for Windsor and request in exchange therefor a certificate or certificates representing the number of whole shares of Windsor attributable to such surrendered shares. According to the Fund, on May 4, 1979, it had outstanding 238,591 shares of common stock with a net asset value per share of $10.73 and an aggregate net asset value of $2,559,705.

The Fund represents that it intends to file a certificate of dissolution with the Secretary of State New Jersy as soon as New Jersey Franchise Tax Audits have been completed. The Fund indicates that its only assets consist of $338.17 retained to pay outstanding liabilities. Further, the Fund asserts that it no longer has any security holders, is not a party to any litigation or administrative proceeding and does not propose to engage in any activity other than that necessary for winding up its business affairs.

Section 8(f) of the Act provides, in pertinent part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company, it shall so declare by order, and upon the effectiveness of such order, the registration of such company shall cease to be in effect.

Notice is further given that any interested person may, not later than October 29, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Fund(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or

V 44 0C 1 16 7 9 UMI

advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31688 Filed 10-15-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 16257; SR-BSECC-79-6]

Boston Stock Exchange Clearing Corp.; Order Approving Proposed Rule Change

October 9, 1979.

I. Introduction

On June 27, 1979, the Boston Stock Exchange Clearing Corporation ("BSECC"), 53 State Street, Boston, MA 02109, filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder,[2] copies of a proposed rule change ("Permanent Rule Change") which would impose a charge of two cents per share ("Permanent Charge") on BSECC members [3] that clear and settle transactions which result from commitments to trade sent from the BSE to another market center through the Intermarket Trading System ("ITS").[4]

Notice of the proposed Permanent Rule Change together with its terms of substance was given by publication of a Commission release [5] and by publication in the **Federal Register.**[6] In addition, the Commission's staff solicited comments from the other market centers participating in the ITS.[7] Further, the BSECC notified its own members and members of the BSE of the proposed Permanent Rule Change.[8] All written statements regarding the proposed Permanent Rule Change which were filed with the Commission and all written communications relating to the proposed Permanent Rule Change between the Commission and any person were considered and were made available to the public at the Commission's Public Reference Room.[9] As discussed more fully below, the Commission has determined to approve the proposed Permanent Rule Change.

II. Background

On September 26, 1978, the Commission issued an order ("Order") summarily abrogating a rule change filed by the BSECC which had permitted the imposition of a charge ("Original Charge") on BSECC members of two cents per share plus one day's interest on the value of the securities traded for transactions effected through the ITS.[10] The Commission's action reflected several considerations. First, the rule change seeking to impose the Original Charge was filed pursuant to Section 19(b)(3)(A) of the Act and thereby became effective upon filing with the Commission. Thus, the Commission did not have time to develop an adequate record for review of the proposed rule change by providing other interested parties, notably other participants in the ITS, with an opportunity to comment on the proposed rule change. This concern was exacerbated because an organization representing specialists on the BSE had expressed opposition to the Original Charge.[11] The Commission therefore directed the BSECC that, "if [it chose] to refile" a proposed rule change, to "do so pursuant to Section 19(b)(2) of the Act" which provides that a proposed rule change will not become effective until it has been approved by the Commission after an opportunity for public notice and comment.[12] In addition, the Order also noted the Commission's concern that the Original Charge might act as a disincentive to the use of the ITS and raised "important questions relating to the Commission's statutory responsibility to facilitate the establishment of a national market system." [13]

On March 8, 1979, the BSECC filed with the Commission a temporary rule change to impose a revised version of the Original Charge which assessed a two cents per share fee on transactions effected through the ITS.[14] The BSECC delayed the implementation of this charge until approximately March 26, 1979, to provide its members with notice of the charge. On April 9, 1979, the BSECC filed another rule change to provide that the charge would only apply to commitments to trade sent from the BSE ("Revised Charge").[15]

The BSECC's proposed Permanent Rule Change which is the subject to this order would, in effect, adopt the Revised Charge on a permanent basis. Section 19(b)(2) requires "[t]he Commission [to] approve a proposed rule change if it finds that such proposed rule change is consistent with the requirements of [the Act] and the rules and regulations thereunder . . .," [16] and to disapprove a proposed rule change if it is unable to make such finding.

III. Discussion

In response to the publication of the proposed Permanent Rule Change, the Commission received comments from the BSECC, three ITS participants and a group of BSE members. The BSECC predicted that the Permanent Charge would have "little, if any, adverse effect upon [BSE's] participation in ITS . . . ." [17] The Amex stated that because "we have seen no evidence that the [Revised C]harge . . . has discouraged BSE members from sending commitments to trade through ITS, we have no objection" to the Permanent Charge.[18] The NYSE concurred that the Revised Charge had not acted as a disincentive to the use of ITS and did not object to the Permanent Charge.[19]

The BSE Independent Dealers Association, Inc. ("Dealers Association"), which represents approximately 16 of the 18 specialists on the BSE, submitted the only comment in opposition to the Permanent Charge.[20] The Dealers Association contended that "[i]mposition of [the Revised Charge] has discouraged dual members of [the BSE] and other exchanges from using the facilities of the [BSE] through ITS" and that "the [Permanent Charge] will serve to discourage parties from becoming members of the [BSE] and diminish its growth . . . ." [21]

The Commission does not believe that it would be justified in concluding at this time that the proposed Permanent Rule Change is inconsistent with the development of a national market system. Commentators were divided on the effects of the Revised Charge on the use of the ITS, and the available information is inconclusive as to whether the Revised Charge has discouraged broker-dealers from using it. In addition, the Commission has seen no evidence which indicate that the Permanent Charge would induce brokers to execute transactions "at prices inferior to the quotations disseminated by other linked exchanges. . . ." [22]

Moreover, the Commission wishes to stress that the ITS remains a pilot program designed to address the problems of market fragmentation and market maker competition. As such, the Commission believes that, as an initial matter, the ITS participants should be left free to finance that endeavor in the manner in which they see fit until such time as the Commission makes more generic findings in terms of the structure and financing of facilities of a national market system.

More importantly, the Permanent Charge is not a direct ITS fee, but rather a clearance and settlement charge which results from the unique problems, discussed more fully below,[23] that BSECC has encountered in clearing and settling ITS transactions with other clearing agencies. Thus, in light of the particular circumstances in this special case, the Commission does not believe that the Permanent Charge is an inappropriate interim measure while the BSECC seeks to develop a more effective and efficient automated system. Nevertheless, the Commission expects the BSECC to continue to monitor the Permanent Charge's implications for its participation in both the national market system [24] and the national clearance and settlement system.

The Commission must also determine whether the Permanent Charge represents an "equitable allocation of reasonable dues, fees and other charges" among BSECC members.[25] The BSECC contends

> That the [Permanent Charge] is allocated fairly between participants in BSECC in that it is imposed upon all participants which make active use of the [ITS] by sending commitments to trade to another exchange rather than those whose offers are subject to acceptance by others from other exchanges through the ITS . . . and, therefore, have no choice in the matter.[26]

The NYSE argued "that any ITS participant exchange should be free to impose charges . . . as an expression of the independent economic/business judgment that must and should rest with each individual exchange." [27] Similarly, the Phlx argued that a self-regulatory organization "should be free to allocate its financial responsibility in the manner it considers advisable. Different financing considerations would and should apply . . . to each such" self-regulatory organization.[28]

On its face, the Permanent Charge appears to be reasonably related to separately identifiable clearance and settlement expenses BSECC incurs in clearing and settling ITS transactions. Although the Commission has not determined whether, as a general matter, user charges are an appropriate method to finance a possible national market system facility,[29] the Commission is not prepared in the context of this specific proposed rule change, to find that this particular charge is inequitably allocated among BSECC members.

Finally, the Commission must also find that the Permanent Charge is consistent with the establishment of a national clearance and settlement system.[30] Because the BSECC still uses a clearance and settlement system which is "on a trade-for-trade basis," [31] the

---

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 C.F.R. § 240.19b-4.

[3] The BSECC is a wholly-owned subsidiary of the Boston Stock Exchange, Inc. ("BSE").

[4] The ITS links participating market centers and provides facilities and procedures for (1) routing of commitments to trade and administrative messages between and among participants, and (2) participation, under certain conditions, by members of all participating markets in opening transactions in the primary markets. The ITS is operated pursuant to the "Plan Submitted to Securities and Exchange Commission for the Purpose of Creating and Operating an Intermarket Communications Linkage Pursuant to Section 11A(a)(3)(B) of the Securities Exchange Act of 1934," (March 1978), as amended April 25, July 1, and November 30, 1978. ("ITS Plan"), contained in File No. 4-208. *See* Securities Exchange Act Release Nos. 14661 (April 14, 1978), 15058 (August 11, 1978), 16074 (August 2, 1979) & 16214 (September 21, 1979), 43 FR 17419 & 36732, 44 FR 47419 & ——.

[5] Securities Exchange Act Release No. 16002 (July 10, 1979).

[6] 44 FR 41364 (July 16, 1979).

[7] Letters from George T. Simon, Assistant Director, Division of Market Regulation, dated July 16, 1979, to: Stephen L. Williams, Vice President, Planning Division, American Stock Exchange, Inc. ("Amex"); Kenneth I. Rosenblum, Senior Vice President and General Counsel, Midwest Stock Exchange, Inc. ("MSE"); Christopher Keith, Senior Vice President, New York Stock Exchange, Inc. ("NYSE"); Charles Foreman, First Vice President, Equities Trading Division, Pacific Stock Exchange, Inc. ("PSE"); and Nicholas A. Giordano, Executive Vice President, Philadelphia Stock Exchange, Inc. ("Phlx"). These letters are contained in File No. SR-BSECC-79-6.

[8] BSECC Participant Bull., No. 79-2, to Members of BSE and BSECC, from BSECC, re Fee for Clearance and Settlement of Transactions Executed via the ITS, dated July 26, 1979, contained in File No. SR-BSECC-79-6.

[9] The BSECC consented to an extension of the time period applicable to Commission consideration of the proposed Permanent Rule Change until October 9, 1979. Letter from James A. P. Homans, Peabody & Arnold, attorneys for BSECC, to Brandon Becker, Division of Market Regulation, dated July 30, 1979, & letter from Howard M. Sticklor, Peabody & Arnold, to Brandon Becker, Division of Market Regulation, dated August 24, 1979. These letters are contained in File No. SR-BSECC-79-6.

[10] Securities Exchange Act Release No. 15192 (September 26, 1978), 43 FR 46391. The rule change imposing the Original Charge became effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act. Notice of the rule change was provided by Securities Exchange Act Release No. 15120 (September 1, 1978), 43 FR 30968.

Footnotes continued on next page

[11] Order, *id.*, at 3, 43 FR at 46392.

[12] *Id.* (footnotes omitted).

[13] *Id.*

[14] *See* Securities Exchange Act Release No. 15703 (April 4, 1979), 44 FR 21822. The March 8, 1979 rule change became effective upon filing with the Commission pursuant to Section 19(b)(3)(A).

[15] *See* Securities Exchange Act Release Nos. 15903 (June 6, 1979) & 16222 (September 28, 1979) 44 FR 34673 & ——. The Revised Charge became effective upon filing with the Commission pursuant to Section 19(b)(3)(A). The Revised Charge expires on October 9, 1979.

[16] Section 19(b)(2) of the Act. In considering whether the Permanent Charge is consistent with the Act, the Commission must consider, among other matters, Section 11A of the Act which directs the Commission to facilitate the development of a national market system. Regarding the role the ITS may play in a national market system, the Commission has stated that "the ITS . . . offer[s a] valuable opportunit[y] for increased competition and for the Commission and the brokerage community to assess the ability of [a] . . . market linkage system . . . to integrate trading in physically separate locations and to observe the effect . . . of th[is] market linkage system . . . on the operation of the markets." Securities Exchange Act Release No. 15671, at 12, (March 22, 1979) ("Status Report"), 44 FR 20360, 20361. *See also*

Footnotes continued from last page

Securities Exchange Act Release No. 16214 (September 21, 1979), 44 FR ——.

[17] Securities Exchange Act Release No. 16002, at 5, (July 10, 1979) 44 FR at 41365.

[18] Letter from Robert J. Birnbaum, President, Amex, to George A. Fitzsimmons, Secretary, SEC, dated September 13, 1979, at 2, contained in File No SR-BSECC-79-6.

[19] Letter from Christopher Keith, Senior Vice President, NYSE, to George T. Simon, Assistant Director, Division of Market Regulation, at 1, dated August 16, 1979, ("NYSE Letter"), contained in File No. SR-BSECC-79-6. Although the Phlx did not comment specifically on the BSECC's Permanent Charge, it did support "a self-regulatory organization's ability to assess this type of charge for costs it incurs in pursuing the goals of a national market system." Letter from Nicholas A. Giordano, Executive Vice President, Phlx, to George A. Fitzsimmons, Secretary, SEC, at 1, dated August 17, 1979, ("Phlx Letter"), contained in File No. SR-BSECC-79-6.

[20] Letter from Richard Warner, Dealers Association, to Division of Market Regulation, dated August 14, 1979, ("Dealers Association Letter"), contained in File No. SR-BSECC-79-6.

[21] *Id.* at 1. At the request of the Commission's staff, the BSECC provided additional information concerning ITS usage since imposition of the Revised Charge. Letters from James A. P. Homans, Peabody & Arnold, to Brandon Becker, Division of Market Regulation, dated September 5 and 21, 1979, contained in File No. SR-BSECC-79-6. Due to the short sample period involved and the possible existence of extraneous factors, the Commission believes that this data is inconclusive.

[22] Status Report, *supra* note 16, at 31, 44 FR at 20364. *See* Securities Exchange Act Release No. 16214, at 5, (September 21, 1979), 44 FR ——,——.

[23] *See* text accompanying notes 30-36, *infra*.

[24] *See also* Securities Exchange Act Release No. 16214, at 15, (September 21, 1979), 44 FR ——, ——.

[25] *See* Sections 17A(b)(3)(F) and 17A(b)(3)(f) of the Act. *Cf.* Sections 6(b)(4) and 6(b)(5) of the Act.

[26] Securities Exchange Act Release No. 16002 (July 10, 1979), 5-6, 44 FR at 41365 (emphasis deleted).

[27] NYSE Letter, *supra* note 19, at 1-2.

[28] Phlx Letter, *supra* note 19, at 2. Indeed, the ITS has been criticized because it does not involve user charges such as the proposed BSECC Permanent Charge. Letter from K. Richard B. Niehoff, President, Cincinnati Stock Exchange, Inc., to George A. Fitzsimmons, Secretary, SEC, dated July 24, 1979, contained in File No. SR-CSE-79-3.

[29] The Commission notes, however, that user charges are a common method of financing for self-regulatory organizations. *See, e.g.*, SEC Directorate of Economic and Policy Research, *Staff Report on the Securities Industry in 1978*, at 64-65 (July 26, 1979) (During 1978, transactional or volume related charges accounted for 23% of the Amex's, 80% of the BSE's, 72% of the MSE's, 44% of the NYSE's, 65% of the PSE's and 81% of the Phlx's total revenues.); SEC Directorate of Economic and Policy Research, *Staff Report on the Securities Industry in 1977*, at 20 (May 2, 1978); Securities Exchange Act Release Nos. 16144 (August 28, 1979) and 15431 (December 22, 1978), 44 FR 52772 and 1810.

[30] *See* Section 17A of the Act. In addition, the Commission has set forth certain characteristics which, in its view, the national clearance and settlement system should meet in order to satisy the requirements of Section 17A. *See* Securities Exchange Act Release No. 13163 (January 13, 1977), at 21, 42 FR 3916, 3920; Status Report, *supra* note 16, at 49 n.55, 44 FR at 20367 n.55.

[31] Securities Exchange Act Release No. 16002 (July 10, 1979), at 2, 44 FR at 41364.

V 44 NO 201 10 16 79 UMI

BSECC must incur certain expenses to make its system compatible with other clearing agencies. The "BSECC realizes that the [Permanent Charge] would not be required but for the incompatibility between the" BSECC's system and other systems.[32] Nevertheless, the BSECC contends that the Permanent Charge is consistent with a national clearance and settlement system because the BSECC system allows "more entiites access" to the national clearance and settlement system "by serving its region," *i.e.*, "regional brokers who might have no need for [continuous net settlement] and many of whose customers are still used to dealing in stock certificates and the regional banks. . . ." [33] In contrast, the Dealers Association contends that the Permanent Charge "will only give further encouragement to continue an incompatible system to remain 'status quo,' [*sic*] rather than adapting to a new environment. The [Permanent Charge] will serve to discourage parties from becoming members of the [BSE] and diminish its growth. . . ." [34]

The Commission has stated that it "will seek during the coming year to complete [the development and expansion of interfaces] so that all broker-dealers and financial institutions participating in the national clearance and settlement system have one account processing." [35] The Commission shares the concern of the Dealers Association that approval of the Permanent Charge might, through financial support of the BSECC's current clearing system, delay the development of a BSECC clearance system providing a more fully effective and efficient automated interface between the BSECC and other clearing agencies.

Notwithstanding this concern, however, and given the particularized costs which the BSECC must incur in clearing trades through the ITS, the Commission believes that the Permanent Charge is a reasonable interim measure, provided that the BSECC moves forward expeditiously with the development of an effective and efficient automated interface. Moreover, the Commission has determined that certain of the questions raised by this charge are similar to questions which have been raised concerning the financing of currently existing interfaces between clearing agencies and, therefore, should be considered in a more general proceeding rather than in the context of a particular self-regulatory organization's proposed rule change filing.[36] Thus, the Commission does not believe that the proposed Permanent Rule Change is the appropriate forum in which to resolve the various generic questions relating to interface fees in a national clearance and settlement system.

[32] *Id.* at 4, 44 FR at 41364–65.

[33] *Id.* at 5, 44 FR at 41365.

[34] Dealers Association Letter, *supra* note 20, at 1.

[35] Status Report, *supra* note 16, at 50, 44 FR at 20367.

[36] *See* Securities Exchange Act Release No. 14531 (March 6, 1978), at 99 n.68, 43 FR 10288, 10302 n.68.

IV. Conclusion

Section 19(b)(2) requires the Commission to consider all the provisions of the Act and rules and regulations thereunder in reviewing a proposed rule change. Although the Commission believes that the sections of the Act discussed above are the primary sections applicable to this proposed rule change, the Commission has also considered other sections of the Act and rules and regulations thereunder which may be related to this proposed rule change and does not find that this proposed rule change is inconsistent with them.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and a registered clearing agency and, in particular, the requirements of Sections 6, 11A and 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above mentioned proposed rule change be, and it hereby is, approved.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31889 Filed 10-15-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16253/October 5, 1979; File No. SR-Phlx-79-7]

Self-Regulatory Organizations; Proposed Rule Changes by Philadelphia Stock Exchange, Inc.

Relating To: Responses to the Recommendations of the Special Study of the Options Markets as Promulgated by the Securities and Exchange Commission in Release No. 34–15575.

Comments Requested By: November 2, 1979.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1) as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on September 24, 1979 the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The Commission has determined that it is necessary and appropriate to provide additional time for public comment on and Commission consideration of the proposed rule changes. Because the subject filing contains numerous rule proposals which, if approved, would affect significantly the operation of the standardized options markets, the Commission believes that additional time is necessary to enable commentators to address meaningfully the substance of the proposals and to enable the Commission to give the proposals the careful consideration they warrant before determining whether to approve the proposals or to initiate proceedings to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2), of the Act, hereby extends until 90 days from the date of publication of notice of filing of the proposed rule changes captioned above, the time period within which the commission must either approve the proposed rule changes or institute proceedings to determine whether the proposed rule changes should be disapproved.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes[1]

The following is a summary of the rule changes proposed by the PHLX. The text of the proposed rule changes is attached as Exhibit A to this notice, with brackets used to indicate words to be deleted and italics used for words to be added.

Rule 1024. A new Commentary .01 has been added to the Rule which lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. Paragraph (b)(ii) of the Rule is proposed to be amended to require that customer background and financial information be retained by the member organization as provided in Rule 1025(a). Paragraph (b)(iii) of the rule is proposed to be amended to require that such information be furnished to each new options customer (that is a natural person) for his verification. Also, it is proposed that this information must be sent again to a customer whenever the firm is aware of any material change in the customer's financial situation.

Rule 760. This rule is proposed to reference the recordkeeping and retention requirements of the Act as well as the requirement that all such records maintained by PHLX member broker/dealers be made available to the PHLX during the course of any examination, inspection or investigation.

Rule 1052. This Rule is proposed to be amended to require customer account statements to bear a legend asking customers to notify the firm of any changes in their financial situation.

Rule 1025. A new paragraph (c) of this Rule is proposed to be added to require that customer background and financial information be maintained in accordance with Rule 760, by members at the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Also, it is proposed that monthly account statements for the most recent months and other records necessary to the proper supervision of accounts be maintained at, or easily accessible to, both offices. A new paragraph (b) is proposed to be added which would require member firms that do a public business to specifically identify a Compliance Registered Options Principal ("CROP") having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision of all of the firm's options activities would remain with the Senior Registered Options Principal ("SROP") although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions annually or having 10 or less options registered representatives.

Rule 1026. The Rule is proposed to be amended to prohibit a broker/dealer from recommending any opening transaction to a customer unless he has a reasonable basis for believing that the customer is able to evaluate the risks of the transaction and is financially able to bear them.

Rule 1070. This new Rule would require firms to maintain, in accordance with Rule 760, a central firm-wide file containing specified information concerning all options-related complaints. Copies of such complaints would be required to be forwarded to the central location and maintained at the branch office that is the subject of the complaint.

Rule 619. The Rule is proposed to be amended to call for written notification to the PHLX of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

610. The Rule is proposed to be amended to extend the period of continued disciplinary jurisdiction over terminated registered employees provided an inquiry is commenced within one year following notice of termination.

Rule 1049. The Rule is proposed to be amended to require the approval by the CROP of all communications to customers and to further define the standards applicable to such communications. The proposed amendments would also exempt advertisements from certain of the approval requirements if such advertisements had been previously submitted to another self-regulatory organization having comparable standards regarding advertising. Commentaries .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers. Relevant costs and other assumptions used in computing annualized rates of return would also be required to be disclosed by Commentary .03 under the Rule. This Commentary would also contain other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options worksheets utilized by member firms, including the requirement that such worksheets must be uniform within a given firm. Completed worksheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 would also include performance reports within the definition of "sales literature", require that they be approved by the CROP and be retained by the firm, and establish standards for their content.

Rule 1043. The Rule is proposed to be amended to require members who utilize random allocation of exercise notices to use either an automated method that has been approved by a self-regulatory organization, or the manual method that has been uniformly specified by all of the self-regulatory organizations. FIFO methods of allocation would also be required to be approved by a self-regulatory organization. Members would be required to notify their customers of the method of allocation utilized and explain how it works. Also, it is proposed that the rule be amended to require that records relating to exercise allocation be preserved for three years in accordance with Rule 760.

Rule 1022. The Rule is proposed to be amended to require that Specialists and Registered Options Traders inform the PHLX of all accounts in which they trade stock or options, and also notify the PHLX of all orders for and positions in underlying securities and related securities.

Rule 1025. This Rule is proposed to be amended to require every branch manager to be qualified as a Registered Options Principal ("ROP"), unless the branch office has not more than three Registered Representatives, and is otherwise under the supervision of an ROP.

Rule 1027. The Rule is proposed to be amended to require that customers over whose accounts members exercise investment discretion be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed Rule 1049. The proposed amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.

II. Self-Regulatory Organization's Statement of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, the PHLX included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule changes. Such statements are reproduced in Sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes

The rule changes filed herewith represent responses to the recommendations of the Special Study of the Options Markets as promulgated by the Commission in Release No. 34–15575.

A discussion of the purpose of each of the rule changes included in this filing is presented below under the caption of the respective recommendation of the Options Study to which the rule change is responsive. To facilitate the

[1] The Philadelphia Stock Exchange notified the Commission, by letter dated September 20, 1979, that its Board of Governors had approved the proposed rule changes which follow, at a meeting held on September 19, 1979.

V 44 0 C 16 7 9 UMI

Commission's review, the captions of the various responses to recommendations of the Options Study are keyed to the numbering system used in Release No. 34–15575.

The statutory basis for these rule changes, as stated in Release No. 34–15575, is that the implementation of the recommendations of the Options Study is "consistent with the scheme of self-regulation embodied in the Securities Exchange Act of 1934."

I.A.1. a., b., and c. (Rule 1024).—These related recommendations call for the collection and recording of background and financial information concerning customers in order to support the approval of their accounts for options transactions and subsequent suitability determinations, and they also call for the verification by the customer of this information. In response, we propose to add a new Commentary .01 to Rule 1024, governing the opening of accounts, that lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. We have not required that all member organizations adopt a uniform options customer information form, since we believe it appropriate to permit the firms to have some flexibility in this regard, so long as the minimum information required by Commentary .01 is included. However, we understand on the basis of discussions with representatives of the Securities Industry Association, that the SIA expects to develop and make available contemporaneously with the effective date of this Commentary, a standard options customer information form that would satisfy the new requirements.

We also propose to add specific recordkeeping requirements applicable to options customer information by including in paragraph (b)(ii) of Rule 1024 a cross-reference to the provisions of Rule 1025 that state how options customer information should be maintained. (See I.A.1.d. below)

Paragraph (b)(iii) to Rule 1024 will require that every new options customer that is a natural person be sent for his verification the background and financial information reflected in his customer account information form within 15 days of the approval of his account for options transactions. In addition, this information must again be sent to the customer for verification whenever the firm is aware of any material change in the customer's financial situation. Customer account statements will contain a legend asking that customers notify the firm of any changes in their financial situation (see proposed change to Rule 1032).

I.A.1.d. (Rule 1025).—In response to this recommendation concerning the maintenance of records of customer background and financial information, we propose to add to Rule 1025 a requirement that background and financial information of customers approved for option transactions must be maintained both at the branch office and at the principal supervisory office having jurisdiction over the branch office. In addition, Rule 1025 will require that monthly account statements for the most recent six months be maintained at both offices and that other records necessary to the proper supervision of accounts be easily accessible to both offices. With these new recordkeeping requirements, not only the registered representative servicing a customer's account, but also the persons responsible for supervising the registered representative, will have easy access to all relevant information concerning the customers and his account.

I.A.1.e. (Rule 1026).—The purpose of the proposed amendment to Rule 1026 is to make applicable to all recommended opening options transactions the more stringent suitability requirements (that the customer be able to evaluate the risks of the transaction and be financially able to bear them) that now apply only to recommendations for uncovered call writing or put writing. Under the amended suitability rule, a broker/dealer would be prohibited from recommending any opening options transaction to a customer unless these requirements are met.

I.A.1.f. (Rule 1070).—In response to the recommendation that copies of customer complaints be maintained at a central office and at relevant branch offices, we propose to require member firms to maintain a central, firm-wide file of all options-related complaints containing specified information concerning each complaint. Copies of the complaints themselves would also be forwarded to and maintained at the same central location. In addition, a copy of every options-related complaint would be maintained at the branch office that is the subject of the complaint.

I.A.1.g. (Rule 1025).—This proposed amendment to Rule 1025 would require member firms that do a public business to specifically identify a Compliance Registered Options Principal having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision over all of the firm's options activities would remain with the SROP, although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The separation of responsibilities between the CROP and the SROP (except in those firms that choose to have a non-sales SROP) provides for audit of compliance by someone having no sales functions, and yet recognizes that the leadership of most securities firms appropriately has and will continue to have sales functions in combination with supervisory responsibilities. In order to avoid placing unacceptable economic burdens upon similar firms, the requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions or having 10 or less options registered representatives.

I.A.1.h. (Rule 619 and 610).—The proposed amendment to Rule 619 provides for notification to the Exchange of disciplinary action taken against members. The Rule will call for written notification of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

The proposed amendment to Rule 610 extends the period of continued disciplinary jurisdiction over terminated registered employees so long as an inquiry is commenced within one year following notice of termination.

I.A.1. i, j., k., and 1. and I.A.3. a., b. and c. (Rule 1049).—We proposed to expand existing rule 1049, which currently deals with advertisements, market letters and sales literature, so as to cover all communications to customers. The expanded rule, together with interpretations thereunder, will incorporate a number of different recommendations of the Options Study.

Proposed revisions to Rule 1049 itself are designed to require that approval by the Compliance Registered Options Principal of all communications to customers and to further define the standards applicable to such communications. The Rule would also provide for better coordination among the self-regulatory organizations with respect to the approval of advertisements. Commentaries .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers.

The recommendations that relevant costs and other assumptions used in computing annualized rates of return must be disclosed will be included in Commentary .03 under the Rule. This Commentary also contains other

standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options worksheets utilized by member firms, including the requirement that such worksheets must be uniform within a given firm. Completed worksheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 also includes performance reports within the definition of "sales literature", and requires that they be approved by the Compliance Registered Options Principal and retained by the firm, and it contains standards for performance reports to assure that each such report is confined to a specifically identifiable and relevant universe.

Finally, the Rule and its Commentaries contemplate the distribution to all member firms of a publication entitled "Guidelines for Options Communications" that would provide further information concerning the standards applicable to communications to customers. A copy of this publication is attached hereto as Exhibit III, but is not filed as a proposed rule change.

I.A.1.m. (Rule 1043).—We propose to amend Rule 1043 by requiring members who choose to utilize a random allocation of exercise notices to use either an automated method that has been approved by an SRO, or the manual method that has been uniformly specified by all of the SRO's. FIFO methods of allocation must also be approved by an SRO. Members will be required to notify their customers of the method of allocation utilized, explaining how it works.

I.A.1.n. (Rule 1043).—We proposed adding to Rule 1043 a requirement that records relating to exercise allocation be preserved for three years, in accordance with Rule 760. This period of retention will facilitate auditing compliance with required methods of exercise allocation.

I.A.1. o. and p. (Rule 1022).—Rule 1022 will be amended by adding a new requirement that Specialists and Registered Options Traders must inform the Exchange of all of the accounts in which they trade stock or options, and must also notify the Exchange of all orders for and positions in underlying securities and related securities. Both of these requirements will improve Exchange surveillance over the option-related trading activities of such persons.

I.A.2.b. (Rule 1025).—The proposed amendment to this Rule will require every branch manager to be qualified as an ROP, unless the branch office has not more than three RR's, and is otherwise under the supervision of an ROP. This requirement is one of a number of changes intended to improve internal supervision of firms' options activities.

I.A.2.c. and I.A.2.d. (Rule 1027).—The proposed amendment to this Rule will require that customers over whose accounts members exercise investment discretion must be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed "Communications to Customers" rule. The amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions. Under existing Rule 1027, an ROP must personnally accept every discretionary account and the added step of an SROP's review of the ROP's acceptance is intended to provide an additional level of supervisory audit over the acceptance of these kinds of accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange recognizes that, as is pointed out in several of the comments received from members (see Exhibit II), certain of the proposed rule changes will increase the costs to members in handling customers' options transactions, which, in turn, may place smaller member organizations at a disadvantage. The Commission will have to determine whether the possible competitive burden of these rule changes is necessary or appropriate in furtherance of the Act in deciding whether to approve these rule changes.

(C) Self-Regulatory Organization's Statement on Comments Received From Members, Participants, or Others on Proposed Rule Changes

Comments on the proposed rule changes were solicited and received from members in several ways. First, representatives of the Securities Industry Association attended and actively participated in most of the meetings of the joint SRO task force that developed the rule changes. Second, a preliminary draft of the rule changes was mailed to every member of each of the SRO's involved, with a request that comments be forwarded to any one of the seven signatory SRO's. A large number of detailed comments were received in response to this mailing; these are available for copying in the Commission's Public Reference Room. Many of the comments received in response to the preliminary draft led to revisions in rule changes that are reflected in the proposals presented in Item I hereof. Where the SRO's determined not to make changes in response to member comments, often the SRO's were sympathetic to the concerns raised by the commentators, but felt that these concerns were outweighed by the emphasis that the Commission had placed upon the particular rule change that was the subject of the comment. The following is a summary of those comments received from members that are relevant to the proposed rule changes in their present form.

Recommendation I.A.1. a.–c. (Conduct of Accounts for Options Trading)

A number of members commented that many customers will consider it burdensome and an invasion of privacy to have to provide personal financial information to their brokers and will refuse to do so. Others questioned the relevance of much of the information that must be sought. In response to these comments, the list of information that must be obtained has been reduced, as explained in Item 3 above. Verification of customer information was subject to much criticism as being very expensive (especially for smaller firms) and not likely to be meaningful. While much of this comment was directed at the requirement for periodic verification, which has since been significantly reduced, the requirement for *any* verification was criticized by many members. One member criticized the inclusion of specific time requirements governing when the record of a new customer's background information must be first sent to him for verification, claiming that such time limits are arbitrary and artificial.

Recommendation I.A. 1. d. and f. (Recordkeeping)

Many members criticized as unnecessarily duplicative and expensive the requirement that customer account records be kept both at headquarters and at the branch office.

Recommendation I.A.1.e. (Suitability)

Several firms expressed the belief that expanded concepts of suitability exposed firms to inappropriate risks of liability. Other comments were that customers should be able to make their own investment decisions without having to satisfy a third party, and that strict options suitability rules would

V 44 OC 16 79 UMI

drive customers into other, riskier, less regulated products. Specific criticism was made of the requirement that a broker must assess the customer's ability to evaluate risks, claiming that this goes beyond traditional concepts of suitability.

Recommendation I.A.1.g. (Non-Sales Options Compliance Person)

This proposal drew many comments pointing out the cost it would present for small firms. The expanded exemptive provisions of the rule as filed are included in response to this concern. Other comments objected to the concept of separating the sales function from compliance and supervision functions, while others expressed the view that the non-sales compliance officer would amount to a token appointment, but at a high cost. Many comments noted that the costs of complying with this requirement would place smaller firms at a competitive disadvantage.

Recommendation I.A.1.h. (Disciplinary Reports and Jurisdiction)

Some firms observed that a reporting requirement might inhibit firms from taking discipliinary action. Other noted the absence of clear standards defining what constitutes disiplinary action. Sereral comments objected to the apparent ned to file duplicate reports (which will be eliminated upon the implementation of proposed 17d–2 plans). One comment endorsed the extension of SRO disciplinary jurisdiction over former members, while another comment expressed the view that this was improper and inconsistent with the spirit of the Act:

ARecommendations I.A.1.i., j., k., l., and I.A.3.a.—c. (Communications to Customers)

Comments suggested that this rule imposed too many responsibilities on the CROP, that centralized approval of communications to customers is unworkable, especially in a large firm, and that advance SRO approval of advertising is contrary to the trend in such matters. Many comments were addressed to the requriements applicable to specific types of written communications, generally criticizing them for being inflexible, unworkable, expensive to administer and enlarging the firms' exposure to liabilities.

Recommendation I.A.1.m. & n. (Allocation of Exercise Assignment Notices)

Comments suggested that firms should be given more flexibility than this rule would permit, and that an explanation of exercise allocation would be confusing to customers. Others noted the expense involved in conforming data processing equipment to required methods of allocation.

Recommendction I.A.1.o. & p. (Market-Makers' Account and Stock Orders)

Many comments characterized these requirements as burdensome and costly. It was suggested that these requirements should apply to exchange floor members only, and not to upstairs traders.

Recommendation I.A.2.b. (ROP Qualification of Branch Managers)

This requirement was criticized as being costly and not likely to result in improved supervision. Some suggested that it should be sufficient if an assistant manager or other supervisor is ROP-qualified, without requiring that the branch manager be so qualified.

Recommendation I.A.2.c. & d. (Discretionary Accounts)

Several firms commented that these requirements would be so onerous as to inhibit firms from offering discretionary accounts. The requirement for providing an explanation of each strategy utilized in the account was the focus of special criticism. We have attempted to respond to this criticism by making the requirement apply to "programs" for trading options, but not to each separate strategy that might be used.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

On or before January 14, 1979, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. Section 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR–Phlx–79–7 and should be submitted on or before November 2, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 5, 1979.

Conduct of Accounts for Options Trading

Rule 1024. (a)—No change

(b)(i) No member or member organization shall accept an order from a customer [for the] *to* purchase or [sale (writing)] *write* an option contract unless the customer's account has been approved for options trading in accordance with the provisions of this Rule.

[(b)(ii) through (b)(iv)]—Delete

(b)(ii) Diligence in Opening Accounts. In approving a customer's account for options transactions, a member of member organization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information which shall be retained in accordance with Rules 760 and 1025. Based upon such information, the branch office manager or other Registered Options Principal shall approve, in writing, the customer's account for options transactions: provided, that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time be a Registered Options Principal.

(b)(iii) Verification of Customer Background and Financial Information. The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, unless the information is included in the customer's account agreement, shall be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the member organization shall also be sent to the customer for verification within fifteen (15) days after the member organization becomes aware of any material change in the customer's financial situation.

(b)(iv) Agreements to be Obtained. Within fifteen (15) days after a customer's account has been approved for options transactions, a member organization shall obtain from the customer a written agreement that the account shall be handled in accordance with the Rules of the Exchange and the Rules of the Options Clearing Corporation and that such customer, acting alone or in concert with others, will not violate the position or exercise limits set forth in Rules 1001 and 1002.

(b)(v) Prospectus to be Furnished. At or prior to the time a customer's account is approved for options transactions, a member organization shall furnish the customer with a current Prospectus as defined in Rule 1029.

Commentary

[.01 through .03]—Delete

.04 through .06—No change

.01 In fulfilling its obligations pursuant to paragraph (b)(ii) of this Rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

1. Investment objectives (e.g., safety of principol, income, growth, trading profits, speculation)

2. Employment status (name of employer, self-employed or retired)

3. Estimated annual income from all sources

4. Estimated net worth (exclusive of family residence)

5. Estimated liquid net worth (cash, securities, other)

6. Marital status; number of dependents

7. Age

8. Investment experience and knowledge (e.g., number of years, size, frequency and types of transactions) for options, stocks and bonds, commodities, other

In addition, the customer's account records shall contain the following information, if applicable:

a. Source or sources of background and financial information (including estimates) concerning the customer

b. Discretionary trading authorization: agreement on file; name; relationship to customer and experience of person holding trading authority

c. Date prospectus furnished to customer

d. Types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading)

e. Name of registered representative

f. Name of ROP approving account; date of approval

g. Dates of verification of currency of account information.

The member organization should consider utilizing a standard account approval form so as to insure the receipt of all the required information.

.02 Refusal of a customer to provide any of the information called for in Commentary .01 shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other information available in determining whether and to what extent to approve the account for options transactions.

.03 The requirement of paragraph (b)(iii) of this Rule for the initial and subsequent verification of customer background and financial information is to be satisfied by sending to the customer the information required in Items 1 through 6 of Commentary .01 above as contained in the member's records and providing the customer with opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

I.A.1.c.

Statement of Accounts

Rule 1032. Statements of accounts required by Rule 752 shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option contract[.] *and at least quarterly to all accounts having a money or a security position during the preceding quarter. The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.*

I.A.1.d.

Maintenance, Retention and Furnishing of Books, Records and Other Information

Rule 760. Every member and member organization shall make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Securities Exchange Act of 1934 and the rules and regulations thereunder. No member or member organization shall refuse to make available to the Exchange such books, records or other information as may be called for under the rules or as may be requested in connection with an investigation by the Exchange.

I.A.1.e.

Suitability

Rule 1026. (a) No member, member organization or registered employee thereof shall recommend to any customer any transaction [for the] *to* purchase or [sale (writing) of] *write* an option contract unless such member, member organization or registered employee has reasonable grounds to believe that the entire recommended transaction is not unsuitable for such customer on the basis of information furnished by such customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such member, member organization or registered employee.

[(b)]—Delete

(b) No member, member organization or registered employee thereof, shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capoble of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract.

I.A.1.f.

Customer Complaints

Rule 1070. Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complaint; (ii) date complaint was received; (iii) identification of Registered Representative servicing the account; (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of

V 44 0 C 1 16 7 9 UMI

a member organization shall be forwarded to the office in which the separate, central file is located no later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

Supervision of Accounts

Rule 1025. *(a) Senior Registered Options Principal.* In addition to the requirements of Rule 747, every member organization shall provide for the diligent supervision of all its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member organization who is a Registered Options Principal and who has been specifically identified to the Exchange as the member organization's Senior Registered Options Principal.

(b) Compliance Registered Options Principal. Member organizations shall designate and specifically identify to the Exchange a Compliance Registered Options Principal, who may be the Senior Registered Options Principal and who shall have no sales functions and shall be responsible to review and to propose appropriate action to secure the member organizaion's compliance with securities laws and regulations and Exchange rules in respect of its options business. The Compliance Registered Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Registered Options Principal is not himself the compliance officer) and to other senior management of the member organization. The requirement that the Compliance Registered Options Principal have no sales functions shall not apply to a member organization that has received less than $1,000,000 in gross commissions on options business as reflected in its FOCUS Report for either of the preceding two fiscal years or that currently has 10 or less Registered Representatives.

(c) Maintenance of Customer Records. Background and financial information of customers who have been approved for options transactions shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

(d) Branch Offices. No branch office of a member organization shall transact options business with the public unless the principal supervisor of such branch office accepting options transactions has been qualified as a Registered Options Principal; provided, that this requirement shall not apply to branch offices in which no more than three Registered Representatives are located, so long as the options activities of such branch offices are appropriately supervised by a Registered Options Principal.

Commentary

.01 No change
.02 No change

I.A.1.h.

Disciplinary Jurisdiction

Rule 610. (a) A member, member organization or a person associated with a member or member organization, who is alleged to have violated or aided and abetted a violation of any provision of the Securities Exchange Act of 1934 (the "Act"), as amended, the rules and regulations promulgated thereunder, or any By-Law or rule of the Exchange or of the Clearing Corporation, or any stated policy, practice or interpretation thereof, or resolution of the Board of the Exchange or of the Clearing Corporation regulating the conduct of business on the Exchange, shall continue to be subject to the disciplinary jurisdiction of the Exchange under this Section and disciplined by expulsion, suspension, limitation of securities functions and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction in accordance with provisions of the By-Laws.

An individual member may be charged with any violation committed by employees under his supervision or by the member organization with which he is associated, as though such violation were his own. A member organization may be charged with any violation committed by its employees or by a member or other person who is associated with such member organization, as though such violation were its own.

(b) Retention. Any member or person associated with a member or member organization, and any member organization shall continue to be subject to the disciplinary jurisdiction of the Exchange following the termination of such person's membership or association with a member or member organization or following the deregistration of a member organization from the Exchange; provided that the Exchange serves written notice to such former member, associated person or member organization within one year of receipt by the Exchange of notice of such termination or deregistration that the Exchange is making inquiry into a matter or matters which occurred prior to the termination of such person's status as a member or person associated with a member or member organization or prior to the deregistration of such member organization.

(c) Termination of Employment. Members and member organizations shall immediately inform the Office of the Secretary of the Exchange of any termination of employment of any person associated with such member or member organization together with the reasons therefor. Such information is to be submitted on Form U–5, Uniform Termination Notice for Securities Industry Representative and/or Agent.

Commentary

.01 The term "person associated with a member" shall have the same meaning as in Section 3(a)(21) of the Securities Exchange Act of 1934.

I.A.1.h.

Disciplinary Action by Other Organizations

Rule 619. Every member, member organization or person associated with a member or member organization shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any national securities exchange or association, clearing corporation, commodity futures market or government regulatory body against the member or its associated persons, and shall similarly notify the Exchange of any disciplinary action taken by the member itself against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500, or any other significant limitation on activities.

I.A.1. i., j., k., l and I.A.3. a., b., c.

[Advertisements, Market Letters and Sales Literatures Relating to Options]

Rule 1049. [(a) through (d)]—Delete

Communications to Customers

Rule 1049. *(a) General Rule.* No member or member organization, and no partner or employee thereof, shall utilize any advertisement, sales literature or other communications to customers or the public concerning options which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labelled as forecasts;

(iii) contains hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste and truthfulness; or

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(b) Approval by Compliance Registered Options Principal. All advertisements and sales literature (except completed worksheets) issued by a member or member organization pertaining to options shall be approved in advance by the Compliance Registered Options Principal or his designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval required by paragraph (b) of this rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Exchange at least ten days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisements submitted to another self-regulatory organization having comparable standards pertaining to advertisements; and

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization.

(d) Except as otherwise provided in the Commentary hereunder, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received a current prospectus of the Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following definitions shall apply:

(i) The term "advertisement" shall include any sales material that reaches a mass audience through public media such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by a current prospectus of the Options Clearing Corporation.

(ii) The term "sales literature" shall include any written communication (not defined as an "advertisement") distributed or made available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

Commentary

[.01]—Delete

Commentary

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any communication which discusses the uses or advantages of options. In the preparation of communications respecting options, the following guidelines shall be observed:

A. Any statement referring to the potential opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement should reflect the same degree of specificity as the statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time".

B. It should not be suggested that options are suitable for all investors. All communications discussing the use of options should include a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisements pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of the Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Exchange Act of 1933, as that Rule has been interpreted as applying to options. Under rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of the Options Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is the Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of the Option Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any State law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of recommendations or of past or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

.03 Written communications (other than advertisements) pertaining to

V 44 OC 16 79 UMI

options shall conform to the following standards:

A. Such communications shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparisons, recommendations, statistics or other technical data, will be supplied upon request.

B. Such communications may contain projected performance figures (including projected annualized rates of return), provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (e.g., "assume option exercised", etc.);

(vi) the risks involved in the proposed transactions are also discussed;

(vii) in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions, provided that:

(i) any records or statistics must be confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include or offer to provide the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;

(v) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (e.g., comparison to an index) is valid;

(vi) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vii) a Registered Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

D. In the case of an options program (i.e., an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

E. Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.

F. Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

I.A.1.m. and I.A.1.n.

Allocation of Exercise Assignment Notices Rule 1043. (a) Each member organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in option contracts in such member organization's customers' accounts. Such allocation shall be made on a "first-in, first-out" [basis, on a basis of random selection or another allocation method that is fair and equitable to the customers of such member organization, provided, however, that such method of allocation may provide that an exercise notice of block size will to the extent possible be allocated to a customer or customers having an open short position of block size and that an exercise notice of less than block size will to the extent possible be allocated to a customer having a short position of less than block size; and provided further that such method of allocation may provide that a member organization shall allocate an exercise notice to a customer based upon the form of margin deposited by such customer if directed to do so by the Options Clearing Corporation. For the purposes of this Rule, an exercise notice or a short position with respect to 25 or more units of trading of the same class of options shall be deemed to be of "block size".] *or automated random selection basis that has been approved by the Exchange or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system.*

(b) Each member organization shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member organization shall change its method of allocation unless the change has been reported to and approved by the Exchange. [Each member organization shall, upon the request of a customer, furnish to such customer a description of the method used by it in assigning exercise notices to the accounts of customers.] *The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another Exchange having comparable standards pertaining to methods of allocation.*

(c) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise notices is in fact being accomplished. [. . . Commentary]

[.01]—delete

I.A.1.o. and I.A.1.p.

[Reports of Purchase and Sales for Specialist's Own Options Account]

Securities Accounts and Orders of Specialists and Registered Options Traders

Rule 1022. [Every specialist shall file with the Exchange before 10 A.M. on the next business day:]

[(a)]—delete

[(b)]—delete

(a) Identification of Accounts. In a manner prescribed by the Exchange, each Specialist and Registered Options Trader shall file with the Exchange and keep current a list identifying all accounts for stock, option and related securities trading in which the Specialist or Registered Options Trader may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Specialist or Registered Options Trader shall engage in stock, option, or related securities trading in an account which has not been reported pursuant to this Rule.

(b) Reports of Options. In a manner prescribed by the Exchange, each Specialist or Registered Options Trader shall, no later than 10:00 A.M. on the business day following order entry date, report to the Exchange opening positions and each purchase and sale in each option in which the Specialist or Registered Options Trader is registered for each account reported pursuant to this Rule. The report shall designate the time and type of tick at which such transaction was effected.

(c) Reports of Orders. In a manner prescribed by the Exchange, each Specialist or Registered Options Trader shall, no later than 10:00 A.M. on the business day following order entry date, report to the Exchange every order entered by the Specialist or Registered Options Trader for the purchase or sale of a security convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to this Rule. The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times reports of executions were received and, if all or part of the order was executed, the quantity and execution price. . . .Commentary

.01 Reports required to be filed with the Exchange pursuant to this Rule relate only to accounts in which a Specialist or Registered Options Trader, as an individual, directly or indirectly, controls trading activities. Reports are required for accounts over which a Specialist or Registered Options Trader exercises investment discretion as well as his proprietary accounts. Reports are not required simply because of a Specialist or Registered Options Trader's interest in his firm's' proprietary accounts. For purposes of this Rule, related securities include securities convertible into or exchangeable for underlying securities.

I.A.2.c. and I.A.2.d.

Discretionary Accounts

Rule 1027.[(a)]—Delete

(a) Authorization and approval required. No member and no partner or employee of a member organization shall exercise any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior authorization and the account has been accepted in writing by a Registered Options Principal. The Senior Registered Options Principal shall review the acceptance of each discretionary account to determine that the Registered Options Principal accepting the account has a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintain a record of the basis for his determination. Each discretionary order shall be approved and initialled on the day entered by the branch office manager or other Registered Options Principal, provided that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the Compliance Registered Options Principal. The provisions of this paragraph shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchase or sale of a definite number of option contracts in a specified securities shall be executed.

(b) Options Programs. Where the discretionary account utilizes options programs involving the systematic use of one or more options strategies, the customer shall be furnished with a written explanation meeting the requirements of Rule 1049 of the nature and risks of such programs.

Paragraph.	Now becomes paragraph
[(b)] "Prohibited Transactions",	(c)—No change in text.
[(c)] "Record of Transaction",	(d)—No change in text

.....Commentary

.01—No change in text.

Rule	Number of days following Commission approval
1024(b)(ii)	30 days.
1024(b)(iii)	30 days for initial verification; 60 days for subsequent verification
760	Immediately.
1032	60 days.
1026	30 days.
1070	60 days.
1025	30 days.
1025 (b) and (c)	90 days.
619(d)	30 days.
610	Immediately.
1049(a)	Immediately.
1049(b)	90 days; until then approval under present 1049(a).
1049(c), (d) and (e)	Immediately.
1043(a)	60 days.
1043(b)	Immediately.
1043(c)	60 days.
1022 (a) and (b)	60 days.
1025(d)	90 days.
1027(a)	60 days.
1027(b)	90 days.

[FR Doc. 79-31890 Filed 10-15-79; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 06/06-0221]

Roger Cox Small Business Investment Co.; Issuance of License To Operate as a Small Business Investment Company

On June 26, 1979, a notice was published in the Federal Register (44 FR 37362) stating that an application had been filed by Roger Cox Small Business Investment Co., 4121 Wyoming Blvd., N.E., Albuquerque, New Mexico 87111, with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business July 11, 1979, to submit their written comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, and after having considered the application and all other information, SBA issued License No. 06/06-0221, on September 27, 1979, to Roger Cox Small Business Investment Co. to operate as an SBIC.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-31882 Filed 10-15-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/239]

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its annual meeting on Thursday, December 13, 1979, 9:30 a.m., in Conference Room 1207, Department of State building, Washington, D.C.

Agenda items scheduled for discussion are as follow:

V 44 0C 1 16 79 UMI

I. Welcome and Introduction of Participants
II. Greetings from the Department of State
III. Presentation of Recommendations of the Executive Committee Meeting of June 14, 1979
IV. Results of Surveys and Reports Relating to Local Fund-Raising Activities Conducted by the Overseas Schools and Regional School Associations During the 1978/1979 School Year
V. Status Report and Review of the Council's Fund-Raising Activities
VI. Council Communications with the U.S. Business and Foundation Community Concerning the Schools' Needs
VII. Other Business

For purposes of fulfilling building security, members of the public desiring to attend the meeting should call Ms. Judy Knott, Office of Overseas Schools, Department of State, Washington, D.C., Area Code 703-235-9600, prior to December 13. The public may participate in discussion at the Chairman's instructions.

Dated: October 5, 1979.

Earnest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 79-31793 Filed 10-15-79; 8:45 am]

BILLING CODE 4710-01-M

[Public Notice CM-8/238]

Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 5 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 5, 1979 from (9:30 a.m. until 12:30 p.m., in Room 157 of the University of Colorado Memorial Center, Boulder Campus, Boulder, Colorado.

Study Group 5 deals with propagation of radio waves (including rado noise) at the surface of the earth, through the non-ionized regions of the earth's atmosphere, and in space where the effect of ionization is negligible. The purpose of the meeting is to review preparations for the international meetings of Study Group 5 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632-2592.

Dated: October 5, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79-31792 Filed 10-15-79; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice 686]

Participation of Private-Sector Representatives of U.S. Delegations

As announced in Public Notice No. 623 (43 FR 37783), August 24, 1978, the Department is submitting its September 1979 list of U.S. accredited Delegations which included private-sector representatives.

Publication of this list is required by Article IV(c)(4) of the guidelines published in the **Federal Register** on August 24, 1978.

Dated: October 3, 1979.

George A. Furness, Jr.,

Acting Director, Office of International Conferences.

U.S. Delegation to the 23d Session of the Subcommittee on Safety of Navigation of the Maritime Safety Committee (MSC), Intergovernmental Maritime Consultative Organization (IMCO), London, September 3–7, 1979

Representative

Daniel B. Charter, Jr., Captain, USCG, Chief, Port Safety and Law Enforcement Division, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation.

Alternate Representative

George P. Wisneskey, Commander, USCG, Chief, Rules of the Road Branch, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation.

Advisers

H. Clay Black, Shipping Attache, American Embassy, London.
David T. Haislip, Chief, Radio-Navigation Aids Branch, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation.
Frederick A. Schwer, Jr., Rules of the Road Branch, Port Safety and Law Enforcement Division, Office of Marine Environment and Systems, United States Coast Guard, Department of Transportation.

Public Sector Adviser

William Rosenfeld, Assistant Executive Director, American Boat and Yacht Council, Inc., Amityville, New York.

U.S. Delegation to the United Nations World Food Council (WFC), Ottawa, September 4–7, 1979

Representative

The Honorable Robert Bergland, Secretary of Agriculture.

Alternative Representative

The Honorable Dale Hathaway, Under Secretary for International Affairs and Commodity Programs, Department of Agriculture.

Advisers

Eugene N. Babb, Deputy Assistant Administrator for Food and Nutrition, Bureau for Development Support, Agency for International Development.
Roger Brewin, Director, Agriculture Directorate, Bureau of International Organization Affairs, Department of State.
Avram Guroff, Attaché for U.N. Food and Agriculture Affairs, Office of FAO Affairs/FODAG, Rome.
Donald F. Hart, Director, Office of Food Policy and Programs, Bureau of Economic and Business Affairs, Department of State.
Martin Kriesberg, Coordinator, International Organization Affairs, Office of International Cooperation and Development, Department of Agriculture.

Private Sector Adviser

Larry Minear, Interreligious Task Force on Food Policy, Washington, D.C.

U.S. Delegation to the Accident Prevention and Investigation Divisional Meeting of the International Civil Aviation Organization (ICAO), Montreal, September 4–20, 1979

Representative

Martyn V. Clarke, Director, Bureau of Technology, National Transportation Safety Board.

Advisers

James W. Danaher, Chief, Operational Factors, Bureau of Technology, National Transportation Safety Board.
Bernard A. Geier, Chief, General Aviation Division, Flight Standards Service, Federal Aviation Administration.
David R. Kelly, Chief, Information Systems Division, Bureau of Technology, National Transportation Safety Board.
Fritz L. Puls, General Counsel, National Transportation Safety Board.
David F. Thomas, Supervisory Air Safety Investigation, Bureau of Accident Investigation, National Transportation Safety Board.

Private Sector Adviser

Lawrence E. Gillespie, Manager, Flight Operators, Air Transport Association of America, Washington, D.C.

U.S. Delegation to the Economic Commission for Europe (ECE), Group of Experts on Combined Transport: Inland Transport Committee, Geneva, September 10–13, 1979

Representative

Paul B. Larsen, Office of the Assistant General Counsel for International Law, Department of Transportation.

Advisers

Charles H. Hochman, Chief, Container Certification Section, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

John T. Norris, Jr., Chief Transportation System Division, Office of Facilitation, Department of Transportation.

Private Sector Adviser

Donald L. O'Hare, American Maritime Association.

U.S. Delegation to the Sixth Session of the Subcommittee on Bulk Chemicals, Intergovernmental Maritime Consultative Organization (IMCO), London, September 10–14, 1979

Representative

William N. Spence, Captain, USCG, Cargo and Hazardous Materials, Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Alternative Representative

Fritz Wybenga, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Advisers

Frederick R. Adamchak, Lt. Commander, USCG, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.
Michael D. Morrissette, Cargo and Hazardous Materials Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Private Sector Adviser

Robert K. Gregg, Assistant Manager, Ocean Transportation, DOW Chemical Company, Freeport, Texas.

U.S. Delegation to the International Telecommunications Union/CCITT, Study Group XVII, Boulder, Colorado, September 11–19, 1979

Representative

Thijs de Haas, Department of Commerce, Boulder, Colorado.

Alternate Representative

Richard H. Howarth, Office of International Communications Policy, Bureau of Economic and Business Affairs, Department of State.

Private Sector Advisers

Gordon Bremer, Paradyne Corporation, Largo, Florida.
Luis Cifuentes, RCA Global Communications, New York, New York.
C. C. Kleckner, American Telephone and Telegraph Company, Basking Ridge, New Jersey.
J. J. Rehse, Western Union International, New York, New York.
E. C. Schoen, Hawaiian Telephone Company, Honolulu, Hawaii.
Virginius Vaughan, American Telephone and Telegraph Company, Basking Ridge, New Jersey.

Proposed United States Delegation to the Fourth Preparatory Meeting on Cotton; United Nations Conference on Trade and Development (UNCTAD) Geneva, September 17–21, 1979

Representative

Gordon S. Brown, Deputy Director, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

David A. Ross, Tropical Projects Division, Bureau of Economic and Business Affairs, Department of State.

Advisers

Gordon Streeb, United States Mission, Geneva.
H. Reiter Webb, Director, Tobacco and Cotton Division, Foreign Agricultural Service, Department of Agriculture.

Private Sector Advisers

Carl C. Campbell, Cotton Council International, Washington, D.C.
Herman Probst, National Cotton Council, Washington, D.C.
F. Marion Rhodes, President Emeritus, New York Cotton Exchange, New York, New York.
Walton H. Scott, Jr., American Cotton Shippers Association, Memphis, Tennessee.
G. L. Seitz, Chairman of the Board, AMCOT, Bakersfield, California.

U.S. Delegation to the Executive Board International Coffee Organization (ICO) London, September 17–21, 1979

Representative

Paul P. Pilkauskas, Commodities Officer, United States Embassy, London.

Alternate Representative

James M. Derham, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State

Private Sector Advisers

E. Phillip Le Veen, Public Interest Economics Foundation, San Francisco, California.
Andrew A. Scholtz, President, Scholtz and Company, New York, New York.
Marvin Schur, President, J. Aron and Company, New York, New York.

U.S. Delegation to the Meeting of the Experts on Legal Aspects of Weather Modification of the United Nations Environmental Program and World Meteorological Organization, Geneva, September 17–21, 1979

Representative

John Arbogast, Office of Legal Advisers, Department of State.

Advisers

Eugene Bollay, Special Assistant, Office of Research and Development, National Oceanic Atmospheric Administration.
John S. Brookbank Jr., General Council's Office, National Oceanic Atmospheric Administration.
Gordon Cartwright, Science Attache, Geneva.

Private Sector Adviser

Ray J. Davis, J. Reuben Clark Law School, Brigham Young University.

U.S. Delegation to the Group of Experts on Data Requirements and Group of Experts on Data Processing and Coding, Economic Commission for Europe (ECE), Geneva, September 20–28, 1979

Representative

Gregory T. Haugan, Director, Transportation Programs Bureau, Department of Transportation.

Alternate Representative

William R. Myers, Office of Facilitation, Department of Transportation.

Adviser

Harry S. White, Jr., Associate Director for ADP Standards, Department of Commerce.

Private Sector Advisers

Arthur E. Baylis, Executive Director, National Committee on International Trade Documentation.
Edward A. Guilbert, President, Transportation Data Coordinating Committee.

U.S. Delegation to a Meeting of the International Institute for Cotton, Geneva, September 24, 1979

Representative

H. Reiter Webb, Director, Tobacco and Cotton Division, Foreign Agricultural Service, Department of Agriculture.

Alternate Representative

Gordon S. Brown, Deputy Director, Office of International Commodities, Bureau of Economic and Business Affairs, Department of State.

Adviser

The Honorable P. R. Smith, Assistant Secretary, Department of Agriculture.

Private Sector Advisers

Carl C. Campbell, Cotton Council International, Washington, D.C.
Walton H. Scott, Jr., American Cotton Shippers Association, Memphis, Tennessee.

U.S. Delegation to the Seventh Preparatory Meeting on Copper, United Nations Conference on Trade and Development, Geneva, September 24–28, 1979

Representative

Gordon Streeb, United States Mission, Geneva.

Alternate Representative

Robert S. Simpson, Industrial and Strategic Materials Division, Bureau of Economic and Business Affairs, Department of State.

Advisers

Timothy Dulaney, Office of Raw Materials and Oceans Policy, Department of the Treasury.
Paul Hurley, Bureau of Intelligence and Research, Department of State.
James H. Jolly, Bureau of Mines, Department of the Interior.

V 4 4 0 C
1 6 7 9
UMI

Antonio Macone, Assosciate Director, Office of International Trade Policy, Department of Commerce.

Private Sector Advisers

Herbert Barchoff, President, American Copper Council, New York, New York.
Morton L. Schultz, President, ACLI Metal and Ore Company, White Plains, New York.

U.S. Delegation to the International Coffee Organization (ICO) Coffee Council, London, September 24–28, 1979

Representative

Michael Calingaert, Deputy Assistant Secretary for International Resources and Food Policy, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Paul P. Pilkauskas, Commodities Officer, United States Embassy, London.

Advisers

William Bowser, Foreign Agriculture Service, Department of Agriculture.
James M. Derham, Tropical Products Division, Bureau of Economic and Business Affairs, Department of State.
Ralph Ives, Resources Policy Division, Department of Commerce.

Private Sector Advisers

George E. Boecklin, President, National Coffee Association, New York, New York; September 26.
John C. K. Buckley, Vice President Purchasing, Nestle Co., Inc., White Plains, New York; September 24–26.
Kenneth R. Dunnivant, Vice President, Proctor and Gamble, Cincinnati, Ohio; September 27–28.
John Heuman, President, Coffee and Food Manufacturing Division, CFS Continental, Inc., Chicago, Illinois; September 24–25.
Paul J. Keating, Vice President, General Foods Corporation, New York, New York; September 27–28.
Jan Rathe, Oregon Consumer League, Portland, Oregon.
Edward Rosen, President, Coffee Division, ACLI International, Inc., White Plains, New York; September 24–25.
John W. Schimelpfenig, Machado and Company, Inc., New York, New York; September 26.
Andrew A. Scholtz, President, Scholtz and Company, New York, New York; September 24–26.
Marvin Schur, President, J. Aron and Company, New York, New York; September 27–28.
H. Grady Tiller, Vice President, Director of Purchasing, The Coca-Cola Company, Foods Division, Houston, Texas; September 27–28.

U.S. Delegation to the 21st Session of the Subcommittee on Ship Design and Equipment of the Maritime Safety Committee (MSC), Intergovernmental Maritime Consultative Organization (IMCO), London, September 24–28, 1979

Representative

Richard L. Brown, Captain, USCG, Assistant Chief, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Alternative Representative

James C. Card, Commander, USCG, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Advisers

H. Clay Black, Shipping Attaché, American Embassy, London.
John C. Maxham, Lieutenant Commander, USCG, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.
Paul J. Pluta, Lieutenant Commander, USCG, Merchant Marine Technical Division, United States Coast Guard, Department of Transportation.
Gordon B. Sims, Jr., Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.
Samuel H. Wehr, Merchant Marine Technical Division, Office of Merchant Marine Safety, United States Coast Guard, Department of Transportation.

Private Sector Adviser

William A. Mayberry, Captain, USCG (Ret.), Executive Director, Offshore Marine Service Association, New Orleans, Louisiana.

U.S. Delegation to the Geneva Meeting on Cotton Development International United Nations Development Program (UNDP), Geneva, September 25–28, 1979

Representotive

Gordon Brown, Bureau of Economic and Business Affairs, Department of State.

Alternate Representative

Roger Lewis, Office of International Cooperation and Development, Department of Agriculture.

Adviser

Reiter Webb, Foreign Agriculture Service, Department of Agriculture.

Private Sector Adviser

Carl C. Campbell, National Cotton Council, Washington, D.C.

[FR Doc. 79-31843 Filed 10-15-79; 8:45 am]

BILLING CODE 4710-19-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Performance Review Board

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Change of the members of a Senior Executive Service Performance Review Board.

DATE: Performance Review Board effective July 1, 1979.

FOR FURTHER INFORMATION CONTACT: James W. House, RM:P:X, 1111 Constitution Avenue, N.W., Room 1510, Washington, D.C. 20224, Telephone No. 202–566–4633 (not a toll free number).

SUPPLEMENTARY INFORMATION: The members of the Internal Revenue Service's Senior Executive Service Performance Review Board which appeard in the **Federal Register**, Volume 44, No. 171, Page 51393, Friday, August 31, 1979, have changed. The changes are as follows:

Thomas A. Cardoza, Regional Commissioner, Western Region (alternate member), replaces Edwin P. Trainor, Regional Commissioner, Midwest Region, as a regular member of the Board.

Leon C. Green, Regional Commissioner, Central Region, is appointed to serve as an alternate member of the Board.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the **Federal Register** for Wednesday, November 8, 1978. (43 FR 52122).

William E. Williams,

Deputy Commissioner.

[FR Doc. 79-31918 Filed 10-15-79; 8:45 am]

BILLING CODE 4830-01-M

Office of the Secretary

[Amdt. to Dept. Circular Public Debt Series No. 23-79]

Treasury Bonds of 1994

October 10, 1979.

Department of the Treasury Circular, Public Debt Series No. 23–79, dated October 1, 1979, descriptive of Treasury Bonds of November 15, 1994, is hereby amended, effective October 8, 1979. The bonds will be auctioned Thursday, October 11, 1979, and will accrue interest from Thursday, October 18, 1979.

The same numbered paragraphs of Department of the Treasury Circular, Public Debt Series No. 23–79, are hereby amended and replaced with the following paragraphs. The other terms and conditions remain unchanged.

2. Description of Securities

2. 1. The securities will be dated October 18, 1979, and will bear interest from that date, payable on a semiannual basis on May 15, 1980, and each subsequent 6 months on November 15 and May 15, until the principal becomes payable. They will mature November 15, 1994, and will not be subject to call for redemption prior to maturity.

3. Sale Procedures

3. 1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Thursday, October 11, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, October 10, 1979.

5. Payment and Delivery

5. 1. Settlement for allotted securities must be made or completed on or before Thursday, October 18, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Tuesday, October 16, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Monday, October 15, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

* * * * *

The foregoing amendment was effected under authority of Section 18 and 20 of the Second Liberty Bond Act, as amended (49 Stat. 21, as amended; 31 U.S.C. 753, 754b), and 5 U.S.C. 301. Notice and public procedures thereof are unnecessary as the fiscal policy of the United States is involved.

Supplementary Statement: The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Paul H. Taylor,

Fiscal Assistant Secretary.

[FR Doc. 79-31931 Filed 10-15-79; 8:45 am]

BILLING CODE 4810-40-M

[General Counsel Order No. 21]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, Treasury Department Order No. 190 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) for the General Panel—
Chairperson, David R. Brennan; Wolf Haber; Luke Lynch; John Shockey; Stephen Miller; Marvin Dressler.

(2) for the IRS Panel——
Chairperson, a Deputy Chief Counsel as designated by the Chief Counsel of the Internal Revenue Service.
David R. Brennan;
Deputy Chief Counsels for the Internal Revenue Service;
A rotating Regional Counsel and Division Director of the Internal Revenue Service as designated annually by the Chief Counsel for the Internal Revenue Service.

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 U.S. Code of the members of the IRS Panel.

Effective Date: October 11, 1979.

Robert H. Mundheim,

General Counsel.

[FR Doc. 79-31874 Filed 10-15-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

[Project No. 526–080]

120-Bed Nursing Home Care Unit, VAMC, Bronx, N.Y.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a new 120-Bed Nursing Home Care Unit (NHCU) at the Veterans Administration Medical Center (VAMC), Bronx, New York.

The VA currently has under construction the development of a 702-Bed Replacement Hospital Master Plan at the Bronx station. The master plan includes the replacement hospital, all supportive structures, appropriate parking facilities and landscaping. Upon completion of the replacement hospital, all existing buildings will be razed with the exception of building nos. 13, 16, 21 and building H (chapel). This demolition area will be utilized for the development of parking facilities. By using phased construction, a full service capability will be maintained at the site.

The project proposes construction of a 120-Bed NHCU adjacent to building H (existing chapel). The proposed NHCU, a two-story structure of approximately 31,000 net square feet, will have access to the main hospital building via underground tunnels.

Development of the project will have minimal impacts on the human and natural environment as construction noise, dust, fumes and visual impacts will exist during construction. Also, the project will affect the replacement hospital master plan as the proposed NHCU displaces approximately 190 planned parking spaces.

Mitigation of the project impacts include: onsite noise abatement measures, control of construction dust and fumes, and relocation of the planned parking spaces displayed by the proposed project. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 5, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-31850 Filed 10-15-79; 8:45 am]

BILLING CODE 8320-01-M

V 44 0 C 16 7 9 UMI

Outpatient Care Unit, VAMC, Fresno, Calif.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the development of an outpatient care unit at the Veterans Administration Medical Center (VAMC) in Fresno, California.

The proposed project action involves development of a two-story outpatient facility of approximately 25,000 gross square feet and includes expansion of the existing chiller building no. 22. Planning of exterior work includes alteration of an existing open space area for construction of a 119 car surface parking area and development of a small access road. Total estimated project cost is approximately 3.6 million dollars for construction.

Development of the proposed project will have impacts on the environment as it affects vegetation and open space. Temporary construction impacts will include minor soil erosion, dust generation, and construction noise.

The mitigation of the project impacts on the environment include: implementation of erosion and sedimentation controls; onsite noise measures; and air quality controls related to construction. Additional landscaping and development of designed open space will occur.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Sections 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 10, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrotor for Financial Mangement and Construction.

[FR Doc. 79–31851 Filed 10–15–79; 8:45 am]

BILLING CODE 8320–01–M

Research and Education Building VAMC, Long Beach, Calif.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may be associated with the proposed Research and Education Building, Veterans Administration Medical Center (VAMC), Long Beach, California.

The project proposes the development of a Research and Education Building with a corridor connection to the northwest corner of building no. 7. The structure will be a three level building of approximately 40,000 net square feet (basement, ground and second).

Development of the project will have minimal impacts on the human and natural environment. There will be some temporary noise, dust, fumes, and visual impacts during construction.

Mitigation efforts of the anticipated project impact include: soil erosion and sedimentation control, onsite noise abatement measures and control measures for construction dust and fumes. This Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, Section 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202–389–2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 5, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction

[FR Doc. 79–31852 Filed 10–15–79; 8:45 am]

BILLING CODE 8320–01–M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 9, 1979.

In our decisions of September 11, 18, and 25, and October 2, 1979, a 9.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload-rated traffic whether on now owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level. In addition, a 1.7-percent surcharge was authorized on less-than-truckload (LTL) traffic performed by carriers not utilizing owner-operators.

The weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload-rated traffic is 9.7-percent. We are requiring that the surcharge for this traffic be held at 9.5-percent. In addition, no change will be made in the existing authorization of a 1.7-percent surcharge on LTL traffic performed by carriers not utilizing owner-operators.

Notice of this decision shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation by depositing a copy in the Offcie of the Secretary, Interstate Commerce Commission, Washington, D.C. for public inspection, and by delivering a copy to the Director, Office of the Federal Register for publication therein.

It is ordered: This decision shall become effective Friday at 12:01 a.m., October 12, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Alexis not participating.

James H. Bayne,

Acting Secretary.

October 9, 1979.

Appendix.—*Fuel Surcharge*

Base Date and Price Per Gallon (Including Tax)	
January 1, 1979	63.5¢
Date of Current Price Measurement and Price Per Gallon (Including Tax)	
October 9, 1979	100.1¢ [1]
Average Percent Fuel Expenses (Including Taxes) of Total Revenue	
(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)
16.9%	2.9%
Percent Surcharge Developed	
9.7%	1.7%
Percent Surcharge Allowed	
9.5%	1.7%

[1] Additional data for general commodity carriers indicate the following:

(a) Percent Fuel (including tax) of revenue (all traffic) 7.3%

(b) Percent T.L. and LTL Revenue of total revenue:

	Revenue (000)	Percent
T.L.	$3,451,661	32
LTL	7,427,232	68
Total	10,878,893	100

Utilizing the T.L. and LTL weighting factors and retaining the relationship of fuel to revenue for owner operators (also applied to T.L. rated traffic) and in total of 16.9 percent and 7.3 percent respectively, the comparable relationship for LTL is 2.9 percent. This figure should not be construed as an actual relationship but is developed as a method to adjust the LTL surcharge.

[FR Doc. 79–31796 Filed 10–15–79; 8:45 am]

BILLING CODE 7035–01–M

Fourth Section Application for Relief

October 10, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Protests are due at the I.C.C. on or before October 30, 1979.

FSA No. 43750, Southwestner Freight Bureau, Agent (No. B–30), cotton, in carloads, from and to points in various states, in Supp. 86 to its Tariff ICC SWFB 4003, effective October 28, 1979. Grounds for relief—need for increased revenue.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79–31797 Filed 10–15–79; 8:45 am]

BILLING CODE 7035–01–M

Permanent Authority Decisions Applications; Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicant an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 158

Decided: August 31, 1979.

By the Commission. Review Board Number 1, Members Carleton, Joyce, and Jones.

V 4 4 0 C 1 6 7 9 UMI

MC 720 (Sub-67F), filed April 24, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, WI 53963. Representative: Tom Westerman (same address as applicant). Transporting *foodstuffs and materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs (except frozen foods and commodities in bulk, in tank vehicles), between the facilities of Stokely-Van-Camp, Inc., at or near (a) Gibson City, Hoopeston, and Rochelle, IL; (b) Indianapolis and Tipton, IN, (c) Hart and Scottsville, MI; (d) Fairmont and Lakeland, MN; (e) Norwalk and Paulding, OH; (f) Appleton, Columbus, Cumberland, Frederic, and Plymouth, WI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of traffic originating at and, destined to the named points. (Hearing site: Indianapolis, IN, or Milwaukee, WI.)

MC 730 (Sub-437F), filed April 26, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a Corporation, 25 North Via Monte, Walnut Creek, CA 94595. Representative: E. E. Reddick (same address as applicant). Transporting *automobile parts and automobile accessories*, between the facilities of Ford Motor Company, at Detroit, MI, and Norfolk, VA. (Hearing site: Detroit, MI or San Francisco, CA.)

MC 11220 (Sub-168F), filed May 7, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *paper and paper products*, from (a) Mobile, AL, and (b) the facilities of International Paper Company, at or near Moss Point and Redwood, MS, to points in IL, IN, IA, MN, MO, OH, WI, and those in KY on and north of Interstate Hwy 64, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New Orleans, LA.)

MC 13651 (Sub-18F), filed April 30, 1979. Applicant: PEOPLES TRANSFER, INC., 1430 West 11th Street, Long Beach, CA 90813. Representative: James H. Culseth, 100 Bush Street, San Francisco, CA 94104. Transporting *foodstuffs*, (except in bulk), from the facilities of American Home Products Corporation, American Home Foods Division, at or near Vacaville, CA, to points in WA, OR, AZ, and NV. (Hearing site: Sacramento or San Francisco, CA.)

MC 35320 (Sub-312F), filed April 30, 1979. Applicant: T.I.M.E–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Dresser Industries, at or near Salisbury, MD, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 35320 (Sub-313F), filed April 30, 1979. Applicant: T.I.M.E–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Wurlitzer Company, at or near Corinth, and Holly Springs, MS, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 35320 (Sub-314F), filed May 1, 1979. Applicant: T.I.M.E–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Piper Industries, Inc., at or near New Albany, MS, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Memphis, TN, or Washington, DC.)

MC 48441 (Sub-42F), filed April 27, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *such commodities* as are dealt in or used by grocery stores and food business houses, (except commodities in bulk), between the facilities of Ralston Purina Company, at or near (a) Clinton and Davenport, IA, on the one hand, and, on the other, points in IL, IN, OH, the Lower Peninsula of MI, MO, and NY, and (b) Battle Creek, MI, on the one hand, and, on the other, points in MO and NY; and (c) at or near Battle Creek, MI, and Lancaster and Sharonville, OH. (Hearing site: St. Louis, MO.)

MC 52861 (Sub-62F), filed April 30, 1979. Applicant: WILLS TRUCKING, INC., 4500 Rockside Road, Cleveland, OH 44131. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. Transporting (1) *lime, limestone, and limestone products*, and (2) *materials, equipment, supplies* used in the manufacture of the commodities in (1) above, in bulk, between points in OH, on the one hand, and, on the other, points in MI, IL, IN, NY, PA, WV, KY, and TN. (Hearing site: Columbus, OH.)

MC 53841 (Sub-26F), filed April 25, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State St., Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *petroleum and petroleum products* (except in bulk), from Reno and Rouseville, PA, to points in VA. (Hearing site: Pittsburgh, PA, or Washington, D.C.)

MC 53841 (Sub-27F), filed April 25, 1979. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting (1) *containers and container accessories*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) between points in IL, IN, OH, MI, KY, PA, WI (except Brown County), MD, NY, NJ, MA, CT, RI, ME, VT, NH, DE, NC, VA, and WV, restricted to transportation of traffic originating at or destined to the facilities of National Can Corporation. (Hearing site: Pittsburgh, PA, or Washington, D.C.)

MC 56270 (Sub-28F), filed April 30, 1979. Applicant: LEICHT TRANSFER & STORAGE CO., A Corporation, 1401–55 State Street, P.O. Box 2385, Green Bay, WI 54306. Representative: Dennis L. Sedlacek (same address as applicant). Transporting *such commodities* as are dealt in by department stores (except commodities in bulk), from points in the United States (except AK and HI), to points in MN, SD, WI, and the Upper Peninsula of MI, restricted to the transportation of traffic destined to the facilities of Shopko Stores, Inc. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 59150 (Sub-151F), filed April 25, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting (1) *gypsum wallboard, ceiling tile, ceiling suspension systems, moveable partition systems*, and (2) *supplies, materials, and accessories* used in the manufacture and installation of the commodities named in (1) above, between the facilities of Donn Corporation, at or near Norcross, GA, on the one hand, and, on the other, points in AL, FL, GA, MS, NC, SC, TN, and VA. (Hearing site: Atlanta, GA.)

MC 71920 (Sub-7F), filed April 17, 1979. Applicant: PROGRESSIVE TRANSPORTATION COMPANY, a corporation, 5455 Irwindale Avenue, (P.O. Box 2205), Irwindale, CA 91706. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Transporting *contractors and construction materials, equipment, and supplies* (except commodities in bulk and cement), (1) between those points in and south of the northern boundaries of San Luis Obispo, Kern, Tulare, and San Bernardino Counties, CA, on the one hand, and, on the other, points in NV. (Hearing site: Los Angeles, CA.)

MC 74321 (Sub-148F), filed April 26, 1979. Applicant: B. F. WALKER, INC., P.O. Box 17–B, Denver, CO 80217. Representative: Richard P. Kissinger, Steele Park, Suite 330, 50 South Steele Street, Denver, CO 80209. Transporting *lumber, lumber products*, and *wood products*, from points in MN, AZ, UT, and CO to points in TX, OK, KS, CO, LA, AR, MO, IL, KY, and TN, restricted against the transportation of traffic between points in CO. (Hearing site: Denver, CO, or Albuquerque, NM.)

MC 80430 (Sub-173F), filed May 8, 1979. Applicant: GATEWAY TRANSPORTATION CO., INC., 455 Park Plaza Drive, La Crosse, WI 54601. Representative: Lem Smith (same address as applicant). Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requireing special equipment), serving the facilities of the Owatonna Tool Company, at Searcy, AR, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 94201 (Sub-173F), filed April 30, 1979. Applicant: BOWMAN TRANSPORTATION, INC., P.O. Box 17744, Atlanta, GA 30316. Representative: Maurice F. Bishop, 601–09 Frank Nelson Bldg., Birmingham, AL 35203. Transporting *(1) (a) pipe, fittings, valves, hydrants, and castings, and (b) materiols, equipment, supplies used in connection with the commodities in (1)(a) above* (except commodities in bulk), from points in Talladega, Calhoun, and Jefferson Counties, AL, to points in the United States (except AK and HI). (2) *equipment, materials, and supplies used in the manufacture and distribution of the commodities described in (1) (a) and (b) above*, (except commodities in bulk), in the reverse direction. (Hearing site: Birmingham, AL.)

MC 95540 (Sub-1103F), filed April 26, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting (1) *foodstuffs*, and (2) *meats, packing-house products, and commodities used by packing houses* (except foodstuffs), as described in Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between Britt and Mason City, IA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Phoenix, AZ, or Washington, DC.)

MC 95540 (Sub-1113F), filed May 7, 1979. Applicant: WATKINS MOTOR LINES, INC., 1144 West Griffin Road, P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same address as applicant). Transporting *meats, meat products, and meat byproducts, dairy products and articles distributed by meat-packing houses*, as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Dakota City, South Sioux City, and Omaha, NE, and points in IA, to Memphis, TN, and points in LA. (Hearing site: Omaha, NE, or Washington, DC.)

MC 108341 (Sub-150F), filed April 30, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Transporting *tractors* (except truck tractors), from the facilities of Ford Motor Company, at or near Romeo, MI, to points in AL, FL, GA, NC, SC, and TN, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations, (except traffic moving in foreign commerce). (Hearing site: Detroit, MI, or Washington, DC.)

MC 111231 (Sub-262F), filed April 24, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, Prairie Grove, AR 72753. Transporting (1) *iron and steel articles* from St. Louis, MO, to points in TX, and (2)(a) *material, equipment, and supplies used in the manufacture of the commodities in (1) above*, and (b) *graphite*, in the reverse dirction. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 113271 (Sub-56F), filed April 30, 1979. Applicant: CHEMICAL TRANSPORT, a corporation, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *empty beveroge containers*, from points in King, Pierce and Snohomish Counties, WA, to points in MT. (Hearing site: Great Falls, MT.)

MC 113651 (Sub-301F), filed April 27, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 522, Riggin Road, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). Transporting *cheese and cheesefoods*, from the facilities of Borden Foods, Division of Borden, Inc., at Van Wert, OH, to points in LA, FL, and GA. (Hearing site: Columbus, OH, or Washington, DC.)

MC 114211 (Sub–406F), filed April 26, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by agricultural equipment and industrial dealers and manufacturers, (except commodities in bulk), (1) between Long Lake, MN, and points in Platte County, NE, and Taylor County, IA, on the one hand, and, on the other, points in the United States (except AK and HI), and (2) *commodities* described in (1) above, which at the time are (a) being transported for the purpose of display or experiment, and not for sale, and (b) are moving between the sites of plants, sales branches, warehouses, experimental stations, farms, shows, exhibits, or field demonstrations owned, operated, or used by Tote Co., Creston Mfg., Van Dale, Inc., Fleming Mfg. Co., Inc., between points in the United States (except AK and HI). (Hearing site: Minneapolis or St. Paul, MN.)

MC 115651 (Sub-58F), filed April 18, 1979. Applicant: KANEY TRANSPORTATION, INC., 7222 Cunningham Road, Rockford, IL 61102. Representative: R. D. Higgins (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *resin products and latex products*, in bulk, in tank vehicles, from Carpentersville, IL, to points in WY and those points in the

V 4 4 0 C 1 6 7 9 UMI

United States on and east of U.S. Hwy 85. (Hearing site: Chicago, IL.)

MC 115841 (Sub-709F), filed May 7, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *foodstuffs* (except in bulk), from points in WA, OR, and ID, to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MS, NC, OH, OK, SC, TN, and TX. (Hearing site: Seattle, WA, or Boise ID.)

MC 115841 (Sub-711F), filed May 7, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *foodstuffs* (except in bulk), from Westfield, NY, and North East, PA, to points in KS, MO, and NM. (Hearing site: Buffalo, NY, or Washington, DC.)

MC 115841 (Sub-712F), filed May 7, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), from the facilities of Beatrice Foods Company, at or near Archbold, OH, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Ft. Wayne, IN, or Detroit, MI.)

MC 116710 (Sub-38F), filed April 30, 1979. Applicant: MISSISSIPPI CHEMICAL EXPRESS, INC., 2001 East Texas St., P.O. Box 6176, Bossier City, LA 71010. Representative: Kenneth R. Hoffman, 801 Vaughn Building, 807 Brazos St., Austin, TX 78701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *sulphuric acid*, from the facilities of Stauffer Chemical Company, at Baton Rouge, LA, to points in TX, OK, AR, TN, GA, AL, and MS, (2) *spent sulphuric acid*, in the reverse direction, and (3) *caustic soda and cleaning compounds*, from the facilities of Stauffer Chemical Company, at St. Gabriel, LA, to points in TX, OK, AR, TN, GA, AL, and MS, under continuing contract(s) with Stauffer Chemical Company, of Westport, CT. (Hearing site: Houston, TX, or Washington, DC.)

MC 119670 (Sub-46F), filed May 8, 1979. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *glass containers*, from Lawrenceburg, IN, to points in St. Louis County, MO, and KY, OH, IL, and MI. (Hearing site: Cincinnati, OH.)

MC 119670 (Sub-47F), filed May 7, 1979. Applicant: THE VICTOR TRANSIT CORPORATION, 5250 Este Ave., Cincinnati, OH 45232. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. Transporting *glass containers and fibreboard boxes*, from Indianapolis and Gas City, IN, to points in KY and OH. (Hearing site: Cincinnati, OH.)

MC 119741 (Sub-176F), filed April 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs*, from the facilities of Lancaster Colony Corporation, New York Frozen Foods, Inc., T. Marzetti Company, and Quality Bakery Company, Inc., at or near Columbus and Bedford Heights, OH, to points in CO, IL, IA, KS, MN, MO, ND, OK, SD, TX, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 119741 (Sub-177F), filed April 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *plastic and rubber articles, aluminum kitchenware, candles, gloves, and pottery* from points in OH to points in CO, IL, IA, KS, MN, MO, ND, OK, SD, TX, and WI, restricted to the transportation of traffic originating at the facilities of Lancaster Colony Corporation, Barr Incorporated, Inc., Candle-Lite Incorporated, Enterprise Aluminum Company, Jackson Corporation, Lancaster Glass Company, Koneta Rubber Company, The Nelson McCoy Pottery Company, Pertty Products, Inc., and National Glove, Inc., and destined to the indicated destinations. (Hearing site: Columbus, OH.)

MC 119741 (Sub-178F), filed April 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities as are dealt in by or used by manufacturers of glass and glass products*, between the facilities of Anchor Hocking Corporation, at points in IL, IN, MN, OH, PA, TX, and WV, on the one hand, and, on the other, points in AR, CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, TX, and WI, restricted to transportation of traffic originating at and destined to the named points. (Hearing site: Columbus, OH.)

MC 119741 (Sub-179F), filed April 30, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities as are dealt in by wholesale and retail drug outlets*, from the facilities of the Procter & Gamble Distributing Co. at (a) Chicago, IL, and (b) Lima, OH, to points in CO, IA, KS, MN, MO, NE, ND, and SD, restricted to the transportation traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cincinnati, OH.)

MC 119741 (Sub-180F), filed May 8, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *foodstuffs* (except in bulk), from the facilities of Jeno's Inc., at or near Sodus, MI, to points in CO. (Hearing site: Chicago, IL.)

MC 119741 (Sub-181F), filed May 8, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Avenue, N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *such commodities* as are used, manufactured, or dealt in by manufacturers and distributors of automotive supplies, from points in IL, MI, MN, MO, NJ, NY, OH, and PA, to the facilities of Western States Manufacturing Co., at Sioux City, IA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Sioux City, IA.)

MC 121420 (Sub-12F), filed April 30, 1979. Applicant: DART TRUCKING COMPANY, INC., 61 Railroad Street, P.O. Box 158, Canfield, OH 44406. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Transporting (1) *lime, limestone, and limestone products*, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above, between points in OH, PA, KY, VA, and MI, on the one hand, and, on the other, points in PA, OH, KY, IN, IL, MI, VA, WV, NY, and TN. (Hearing site: Columbus, OH.)

MC 124141 (Sub-16F), filed April 30, 1979. Applicant: JULIAN MARTIN, INC., P.O. Box 3348, Batesville, AR 72501. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. Transporting (1) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds (except commodities in bulk, in tank vehicles), and filters*, from points in Warren County, MS, to points in AR, IA, KS, MO, NE, ND, OK, SD, and TX, (2) (a) *petroleum, petroleum products, vehicle body sealer and sound deadener compounds, filters, and* (b) *equipment, materials, and supplies used in the manufacture, and distribution of the commodities named in (1) above (except in bulk, in tank vehicles)*, from points in OK, to points in Warren County, MS restricted to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Oil City, PA, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 124170 (Sub-128F), filed May 7, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Defiance, Troy, and Archbold, OH, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, VA, VT, WV, and DC. (Hearing site: Detroit, MI, or Washington, DC.)

MC 124251 (Sub-67F), filed April 30, 1979. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting *liquid chemicals*, in bulk, in tank vehicles, from points in Barrow County, GA, to points in CA and those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Atlanta, GA.)

MC 125470 (Sub-50F), filed April 30, 1979. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, NE 68701. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *iron and steel articles*, from the facilities of Nucor Steel Corporation, at or near Norfolk, NE, to points in AZ, CA, CO, ID, KS, MO, MT, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY, and (2) *parts, equipment, materials, and supplies* used in the manufacture and sale of the commodities named in (1) above, in the reverse direction, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the named points. (Hearing site: Norfolk, NE or Lincoln, NE.)

MC 125951 (Sub-41F), filed April 23, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). Transporting *malt beverages*, from St. Louis, MO, Peoria, IL, and Milwaukee, WI, to the facilities of Doll Distributing, Inc., at or near Council Bluffs, IA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 127840 (Sub-97F), filed April 30, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *vegetable oil*, in bulk, in tank vehicles, between the facilities of Hunt Wesson Foods, Inc., at Harvey, LA, on the one hand, and, on the other, points in the United States, (except AK and HI). (Hearing site: Chicago, IL.)

MC 127840 (Sub-103F), filed May 7, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle St., Chicago, IL 60601. Transporting *such commodities* as are dealt in or used by meat-packing houses, in bulk, in tank vehicles, from Iowa Falls and Denison, IA, and Crete, NE, to points in NE, OK, TX, LA, WI, MN, MO, AR, CO, IA, SD, KS, and IL. (Hearing site: Omaha, NE.)

MC 128021 (Sub-41F), filed April 25, 1979. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *charcoal, charcoal briquets, vermiculite, active carbon, and hickory chips* and (2) *charcoal lighter fluid, and charcoal grills and accessories* for charcoal grills, between the facilities of Husky Industries, Inc., at points in the United States (except AK and HI), under continuing contract(s) with Husky Industries, Inc., of Atlanta, GA. (Hearing site: Atlanta, GA, or Montgomery, AL.)

MC 129291 (Sub-12F), filed April 30, 1979. Applicant: McDANIEL MOTOR EXPRESS, INC., 1115 Winchester Road, Lexington, KY 40505. Representative: George M. Catlett, 708 McClure Building, Frankfort, KY 40601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*, (1) between Frankfort and Lexington, KY, over U.S. Hwy 60, serving all intermediate points, (2) between Lexington and Delaplain, KY, from Lexington over U.S. Hwy 25 to junction KY Hwy 620, then over KY Hwy 620 to Delaplain, KY, and return over the same route, serving all intermediate points, (3) between junctions U.S. Hwy 25 and U.S. Hwy 62 and Cynthiana, KY, over U.S. Hwy 62, serving no intermediate points, and (4) between Lexington and Danville, KY, from Lexington over U.S. Hwy 60 to junction Blue Grass Parkway, then over Blue Grass Parkway to junction U.S. Hwy 127, then over U.S. Hwy 127 to Danville, KY, and return over the same route, serving no intermediate points, and serving Danville, KY, for purposes of joinder only. Service in routes (1) through (4) above is restricted to the transportation of traffic interchanged at Danville, KY. (Hearing site: Lexington, KY, or Nashville, TN.)

MC 133591 (Sub-68F), filed May 8, 1979. Applicant: WAYNE DANIEL TRUCK, INC., Post Office Box 303, Mount Vernon, MO 65712. Representative: Harry Ross, 58 S. Main St., Winchester, KY 40391. Transporting *such commodities* as are dealt in by food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AZ, AR, ID, IL, KS, MO, ND, NE, NY, PA, TN, TX, and UT, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

Note.— Dual operations may be involved.

MC 133971 (Sub-5F), May 7, 1979. Applicant: TRUAX TRUCK LINE, INC., P.O. Box 248, Egan, LA 70531. Representative: Edward A Winter, 235 Rosewood Drive, Metairie, LA 70005. Transporting *building materials* (except in bulk), from the facilities of Bird & Son, Inc., at or near Shreveport, LA, to points in MS. (Hearing site: Baton Rouge, or New Orleans, LA.)

MC 134460 (Sub-12F), filed April 30, 1979. Applicant: MARKET EXPRESS, INC., 3261 North Marks, Fresno, CA 93791. Representative: Jack H. Blanshaw, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting (1) *Bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) [formerly 203(b)(6)

V 44 0 C 1 6 7 9 UMI

of the Interstate Commerce Act] when moving in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

MC 135070 (Sub-53F), filed April 30, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 765, (except hides and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) Memphis, TN, (b) Fort Smith, AR, (c) El Paso, Lubbock, and Amarillo, TX, and (d) Shreveport, LA, to points in AL, CA, CT, DE, FL, GA, IL, IN, LA, ME, MA, MD, MI, MS, NH, NJ, NY, OH, PA, NC, RI, SC, TN, VT, VA, WI, and DC, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL, or Amarillo, TX.)

Note.— Dual operations may be involved

MC 135691 (Sub-30F), filed April 26, 1979. Applicant: DALLAS CARRIERS CORP., 3510 Garden Brook Drive, Box 402626, Dallas, TX 75240. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) (a) *air conditioning equipment and furnaces*, (b) *parts and accessories* for the commmodities named in (a) above, and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (a) and (b) above, between Syracuse, NY, Memphis and Nasville, TN, and Tyler, TX, on the one hand, and, on the other, points in the United States (except AK and HI), (2)(a) *air conditioning equipment, furnaces*, and (b) *parts and accessories* for the commodities named in (2)(a) above, from Los Angeles, CA, to points in the United States (except AK and HI), and (3)(a) *air conditioning equipment, furnaces*, (b) *parts and accessories* for the commodities named in (3)(a) above, and (c) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (3) (a) and (b) above, from points in the United States (except AK and HI), to the facilities of Carrier Air Conditioning Company, in Warren County, TN, restricted in (1), (2), and (3) above, against the transportation of commodities in bulk or those which by reason of size or weight require the use of special equipment, under continuing contract(s) with Carrier Air Conditioning Company, of Syracuse, NY. (Hearing site: Dallas, TX.)

MC 135691 (Sub-31F), filed April 26, 1979. Applicant: DALLAS CARRIERS CORP., P.O. Box 402626, 3510 Garden Brook Drive, Dallas, TX 75240. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coiled sheet steel*, (a) from Gary, IN, to Birmingham, AL, Cozad and Seward, NE, Paragould, AR, and Hartwell, GA, (b) from Chicago, IL, to Paragould, AR, Hartwell, GA, and Seward and Cozad, NE, and (c) from Lackawanna, NY, to Chicago, IL, (2) *coiled sheet steel, rods, and bars*, from Gary, IN, to Paragould, AR, Cozad, NE, and Hartwell, GA, under continuing contracts(s) with Tenneco Automotive, a Division of Tenneco, Inc., of Deerfield, IL. (Hearing stie: Dallas, TX, or Chicago, IL.)

MC 142310 (Sub-16F), filed April 30, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *such commodities as are dealt in, or used by manufacturers, converters, or printers of paper and paper products*, between the facilties of Mosinee Paper Corporation, at or near Columbus, Green Bay, and Mosinee, WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Stevens Point or Madison, WI.)

MC 142330 (Sub-12F), filed April, 26, 1979. Applicant: PONY EXPRESS COURIER CORP., P.O. Box 4313, Atlanta, GA 30302. Representative: Francis J. Mulcahy (same address as applicant). Transporting *film, film prints, and incidental film dealer handling supplies*, between points in AL, GA, KY, FL, NC, SC, TN, VA, and WV, restricted to the transportation of traffic having an immediately prior or subsequent movement by air and originating at or destined to the facilities of Photo Services, Inc., at Cincinnati, OH. (Hearing site: Cincinnati, OH.)

Note.—Dual operations may be involved.

MC 142941 (Sub-45F), filed May 7, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 West Monroe, 10th floor, Phoenix, AZ 85003. Transporting *such commodities* as are dealt in by grocery food business houses and discount houses (except commodities in bulk), from the facilities of S. C. Johnson & Son, Inc., at or near Waxdale, WI, to points in AZ, CA, ID, MT, NV, OR, UT, WA, and WY. (Hearing site: Phoenix, AZ, or Milwaukee, WI.)

MC 143570 (Sub-13F), filed April 30, 1979. Applicant: D & G TRUCKING, INC., 4420 East Overland Road, Meridian, ID 83642. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *feed and feed ingredients* (except liquid feed and feed ingredients, in bulk in tank vehicles), from points in CA (except the facilities of Moorman's Manufacturing of California Co., at or near San Gabriel, CA), to points in OR, UT, and WA. (Hearing site: Boise, ID, or Portland, OR.)

MC 143701 (Sub-12F), filed April 26, 1979. Applicant: HODGES FREIGHT LINES, INC., 5733 Airline Highway OFC 805, Metairie, LA 70003. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting (1) *bananas*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6) [formerly Section 203(b)(6) of the Interstate Commerce Act], when moving in mixed loads with bananas, from the facilities of Best Banana, Inc., at or near Norfolk, VA, to points in IL, MI, OH, NY, MA, PA, MD, WV, VA, NC, SC, MO, IN, Toronto in the Province of Ontario and Montreal in the Province of Quebec, and DC, restricted to the transportation of traffic having an immediately prior movement by water. (Hearing site: Washington, DC, or Norfolk, VA.)

MC 144140 (Sub-31F), filed April 26, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting *citrus products* (except in bulk), from points in FL, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Orlando or Tampa, FL.)

Note.—Dual operations may be involved.

MC 144330 (Sub-59F), filed April 30, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *lumber and lumber mill products*, (except commodities in bulk), from points in MS to points in CO, restricted to the transportation of traffic originating at the named origins and destined to the

indicated destinations. (Hearing site: Denver, CO.)

MC 144461 (Sub-3F), filed April 27, 1979. Applicant: BILLY M. EDMONDSON, d.b.a. EDMONDSON SWIFT MEAT TRANSPORT, Route 1, Georgetown, GA 31754. Representative: Theodore Polydoroff, suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from the facilities of M & M/Mars Snack-Master Division, A Division of Mars Incorporated, at Albany, GA, to those points in the United States in and west of MN, IA, MO, AR, and LA (except AK and HI), under continuing contract(s) with M & M/Mars Snack-Master Division, A Division of Mars Incorporated, of Albany, GA. (Hearing site: Atlanta, GA.)

MC 144951 (Sub-1F), filed April 26, 1979. Applicant: RAYMOND G. AND BARBARA A. CEBULSKI, d.b.a. CEBULSKI TRUCKING, P.O. Box 103, Seeley Lake, MT 59868. Representative: John R. Davidson, suite 805, Midland Bank Building, Billings, MT 59101. Transporting (1) *pre-cut wood buildings, and materials and supplies used in the construction and erection of pre-cut wood buildings*, (except commodities in bulk), from the facilities of Rustics of Lindbergh Lake, Inc., at Condon, MT, to points in the United States (except AK and HI), and (2) *lumber and wood products*, from the facilities of Pyramid Mountain Lumber, Inc., at Seeley Lake, MT, to Missoula, MT, restricted in (2) above to the transportation of traffic having a subsequent movement by rail. (Hearing site: Missoula, MT.)

MC 145441 (Sub-37F), filed April 27, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same address as applicant). Transporting *shampoo*, in containers, from Chicago, IL, to points in WA, OR, CA, ID, NV, UT, AZ, MT, WY, CO, and NM. Dual operations may be involved. (Hearing site: Chicago, IL, or Little Rock, AR.)

MC 145710 (Sub-1F), filed April 27, 1979. Applicant: CHARLES ALBERT MACON, d.b.a. MACON FARMS TRUCK & TRUCK LEASING, 101 Evans Road, Cheraw, SC 29520. Representative: James W. Freeman, 1400 Chandler Building, Atlanta, GA 30303. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers and container closures*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (except commodities in bulk), between points in SC, on the one hand, and, on the other, points in AL, AR, DE, FL, GA, IL, IN, KY, LA, MD, MI, MS, MO, NJ, NC, OH, PA, TN, TX, VA, and WV, under continuing contract(s) in (1) and (2) above, with Crown Cork and Seal, Inc., of Cheraw, SC. (Hearing site: Cheraw, SC.)

MC 145761 (Sub-3F), filed May 8, 1979. Applicant: A & A TRANSPORT SERVICES, INC., Maple Tree Industrial Park, Boston Road, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *soap, soap products, and cleaning compounds*, from West Warwick, RI, to points in the United States (except AK and HI), under continuing contract(s) with Original Bradford Soap, Inc., of West Warwick, RI. (Hearing site: Boston, MA, or Hartford, CT.)

Note.—Dual operations may be involved.

MC 146041 (Sub-4F), filed April 30, 1979. Applicant: CAL-TEX, INC., 2300 Harbor Boulevard #8, Costa Mesa, CA 92626. Representative: Robert G. Egerton (same address as applicant). Transporting (1) *waterbed frames and bedroom furniture*, and (2) *materials and supplies used in the manufacture, installation and distribution* of the commodities named in (1) above, from Irvine, CA, to points in GA, FL, IL, PA, and NY. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 146071 (Sub-6F), filed April 30, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting (1) *gates, corn cribs, grain bins, feed boxes, water troughs, portable augers, front-end loading attachments*, (except machinery and commodities which because of size or weight require the use of special equipment), and (2) *parts and attachments* for the commodities in (1) above, from the facilities of Sioux Steel Co., at or near (a) Hull, IA, and (b) Lennox and Sioux Falls, SD, to points in the United States (except AK and HI), and (3) *materials and supplies* used in the manufacture of the commodities in (1) and (2) above, (except commodities in bulk), in the reverse direction. (Hearing site: St. Paul, MN, or Milwaukee, WI.)

MC 146071 (Sub-7F), filed April 30, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting (1) *frozen prepared foods* and *frozen meats*, (except commodities in bulk), from Fairmont, MN, and Eau Claire, WI, to points in OH, PA, NY, NJ, ME, RI, MA, CT, NH, VA, WV, MD, KY, TN, NC, SC, GA, IL, IN, MI, and DC; (2) *meats, meat products, and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk and hides), from Eau Claire, WI, to points in MO, AR, LA, IL, KY, TN, MS, AL, FL, GA, SC, NC, VA, IN, MI, OH, WV, PA, MD, DE, NJ, NY, VT, NH, MA, CT, RI, ME, IA, MN, TX, OK, KS, NE, SD, ND, CO, NM, WI, and DC. (Hearing site: St Paul, MN, or Milwaukee, WI.)

MC 146071 (Sub-9F), filed May 3, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) Sioux Falls, SD, (b) Esterville and Sioux City, IA, and (c) Worthington, MN, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin. (Hearing site: Chicago, IL.)

MC 146590 (Sub-2F), filed April 27, 1979. Applicant: JOSEPH R. PROSTKO, 1300 Island Avenue, McKees Rock, PA 15136. Representative: John A. Pillar, 1500 Bank Tower, 307 Forth Avenue, Pittsburgh, PA 15222. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *Wire, rods, and cable*, from Glassport, PA, Fayetteville, TN, and Oswego NY, to those points in the United States east of MT, WY, CO, and NM and (2) *materials, equipment, and supplies used in the manufacture of the commodities in (1) above*, in the reverse direction, under continuing contract(s) with Copperweld Corp., Bimetallics Division, of Glassport, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 146890 (Sub-1F), filed May 8, 1979. Applicant: C & E TRANSPORT, INC., d.b.a. C. E. ZUMSTEIN CO., P.O. Box 27,

V 44 OC 16 79 UMI

Lewisburg, OH 45338. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. Transporting *glass*, from the facilities of PPG Industries, at or near Kebert Park, PA, to those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Pittsburgh, PA.)

Note.—Dual operations may be involved.

MC 146980F, filed April 27, 1979. Applicant: HOOSIER EXPRESS, INC., P.O. Box 705, Westville, IN 46391. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *steel and aluminum articles*, and (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above*, between the facilities of Roll Coater, Inc., at or near Greenfield and Kingsbury, IN, on the one hand, and, on the other, points in IL, KY, MI, OH, MO, NY, PA, WI, and WV, under continuing contract(s) with Roll Coater, Inc., of Greenfield, IN. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 147131F, filed April 6, 1979. Applicant: KENNAMER BROS. INC., Route 2, Box 866, Grant, AL 35747. Representative: Nelson Kennamer (same address as applicant). Transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of (a) Geo. A. Hormel & Company, at or near Austin and Owatonna, MN, and (b) Miami Margarine Co., at or near Albert Lea, MN, to points in AL, FL, GA, NC, SC, and TN. (Hearing Site: Birmingham, AL. or Atlanta, GA.)

MC 147150F, filed April 25, 1979. Applicant: TRYPORT TRANSPORTATION, INC., 1425 South Main Street, Pittston, PA 18640. Representative: Ronald N. Cobert, suite 501, 1730 M Street NW., Washington, D.C. 20036. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Broome and Chemung Counties, NY, and points in Lackawanna, Lehigh, Luzerne, Northampton, and Wayne Counties, PA, on the one hand, and, on the other, points in CA, CO, FL, GA, IL, MI, MN, MO, NE, OR, TX, WA, and WI, and (2) *printed matter*, between Philadelphia and Scranton, PA, Binghamton and New York, NY, and St. Louis and Troy, MO, on the one hand, and, on the other, points in CT, IL, IN, KY, MA, MD, MI, MN, MO, NJ, NY, OH, PA, TN, VT, and WI. (Hearing site: Washington, DC.)

MC 147151F, filed April 30, 1979. Applicant: LLOYD I. BENSCOTER, Rural Delivery, Laceyville, PA 18623. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA. Transporting (1) *Lumber, and wood residuals*, from points in Schuyler, Tioga, and Tompkins Counties, NY, to points in PA, and (2) *farm machinery and lumber mill machinery*, from Laceyville, PA, to points in NY. (Hearing site: Scranton, PA.)

MC 147161F, filed April 26, 1979. Applicant: MASS TRANSIT, INC., 2450 Orange Avenue, Signal Hill, CA 90806. Representative: Milton W. Flack, 4311 Wilshire Boulevard, suite 300, Los Angeles, CA 90010. To operate as a *Contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in by retail and chain grocery stores*, from points in the United States, (except AK, CA, and HI), to the facilities of Thriftimart, Inc., doing business as Smart & Final Iris Co., at Vernon, CA, under continuing contract(s) with Thriftimart, Inc., doing business as Smart & Final Iris Co., of Los Angeles, CA. (Hearing site: Los Angeles, CA.)

Volume No. 174

Decided: September 24, 1979.

By the Commission, Review Board Numbers 3, Members Parker, Fortier, and Hill.

MC 21366 (Sub-114F), filed April 9, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Avenue, Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *iron and steel articles*, from the facilities of Wheeling-Pittsburgh Steel Corporation at points in (a) OH and WV, to points in CT, MD, NJ, NY, PA, and VA, (b) PA, to points in CT, MD, NJ, NY and VA. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 26396 (Sub-239F), filed April 10, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O Box 82028, Lincoln, NE 68501. Transporting *agricultural chemicals*, from Atlanta, IL, to points in IA, KS, MN, MO, NE, SD and WI. (Hearing site: Billings, MT.)

MC 30067 (Sub-13F), filed April 10, 1979. Applicant: SOUTH BRANCH MOTOR FREIGHT, INC., P.O. Box 576, Petersburg, WV 26747. Representative: Maurice S. Bozel, 303 Felton Road, Lutherville, MD 21093. Transporting *poles, posts, piling, lumber, cross ties, and mine ties*, from the facility of Koppers Baltimore, MD, or Pittsburgh, PA.)

MC 31237 (Sub-11F), filed April 3, 1979. Applicant: DIGNAN TRUCKING, INC., a corporation, P.O. Box 7463, Baltimore, MD 21227. Representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, VA 22611. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Baltimore, MD, on the one hand, and, on the other, points in MD and those in DE on and south of the Chesapeake and Delaware Canal, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 37656 (Sub-13F), filed April 10, 1979. Applicant: DOYLE TRUCKING CORP., 100 Plaza Center, Secaucus, NJ 07094. Representative: Edward L. Nehex, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *commodities dealt in or used by manufacturers of furniture, bedding, and home furnishings* (except commodities in bulk), between the facilities of Simmons Company at Elizabeth and Linden, NJ, on the one hand, and, on the other, points in MA, RI, CT, NY, NJ, PA, DE, MD, VA, ME, VT, NH, WV, and DC under contract with Simmons Company, of Norcross, GA. (Hearing site: Newark, NJ, or Washington, DC.)

MC 50866 (Sub-10F), filed April 4, 1979. Applicant: BURLINGAME TRUCK LINE, INC., Route 2, Scranton, KS 66537. Representative: Frederick W. Gooderz, First State Bank Bldg., Burlingame, KS 66413. Transporting *dry feed and feed ingredients* (except in bulk, in tank vehicles), (1) from Cozad, Darr, Dakota City, Kearney, Lexington, Orleans, Odessa, Superior, York and Schuyler, NE, to points in KS, (2) from North Platte, Fremont, Lincoln, Weeping Water and Omaha, NE, to those points in KS west of KS Hwy 14, (3) from Kansas City, MO, and St. Joseph, MO, to points in KS (except points in Crawford, Cherokee, Franklin, Anderson, Linn, Miami, Nemaha, Brown, Atchison, Doniphan, Jackson, Labette,

Montgomery, Wilson, Neosho, Woodson, Allen, Johnson, Wyandotte, Leavenworth, Jefferson, Douglas, Riley, Pottawatomie, Geary, Morris, Chase, Lyon, Osage and Coffey Counties), and (4) from the facilities of Farmland Industries, Inc., in Kansas City, KS, to Gothenburg, NE. (Hearing site: Kansas City, MO, or Topeka, KS.)

MC 59117 (Sub-69F), filed April 10, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 74301. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *dry bulk fertilizer, fertilizer materials, and dry urea* from Atlas, MO, to points in AR, KS, IA, IL, OK, NE, and TX. (Hearing site: Tulsa, OK, or Oklahoma City, OK.)

MC 63417 (Sub-200F), filed April 9, 1979. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Transporting *ceramic floor and wall tile*, from the facilities of American Olean Tile Company, at Lansdale and Quakertown, PA, to points in FL, GA, NC, and SC. (Hearing site: Roanoke, VA, or Washington, DC.)

MC 69116 (Sub-231F), filed April 9, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Joel H. Steinertt, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *Metal roofing and siding, and fabricated metal products and* (2) *Materials, equipment, and supplies* used in the manufacture of metal roofing and siding and fabricated metal products, between Lancaster, PA, Jackson, GA, Gridley, IL, and Idabel, OK, on the one hand, and on the other, points in the United States in and east of ND, SD, NE, KS, and TX. (Hearing site: Chicago, IL.)

MC 100666 (Sub-456F), filed April 13, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 North Expressway, Oklahoma City, OK 73112. Transporting (1) *Gypsum, gypsum products, and building materials* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of gypsum, gypsum products, and building materials, between points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at or destined to the facilities of Georgia-Pacific Corporation-Gypsum Division. (Hearing site: Dallas, TX or Chicago, IL.)

MC 103926 (Sub-89F), filed April 9, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting commodities, the transportation of which because of size or weight require the use of special equipment, between the facilities of the Harnischfeger Corporation, at or near Cudahy, Milwaukee, Oak Creek and West Allis, WI, on the one hand, and, on the other, points in AL, AR, GA, FL, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Milwaukee, WI or Atlanta, GA.)

MC 103926 (Sub-90F), filed April 9, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059 Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301.Transporting *electric circuit brteakers and switches and parts* for electric circuit breakers and switches, between the facilities of Siemens-Allis Corp. at or near Milwaukee, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX, and VA. (Hearing site: Milwaukee, WI or Atlanta, GA.)

MC 105006 (Sub-11F), filed April 4, 1979. Applicant: L. L. SMITH TRUCKING, P.O. Box 566, Powell, WY 82435. Representatives: Raymond M. Kelley, 450 Capitol Life Center, Denver, CO 80203. Transporting (1)(a) *machinery, equipment, materials and supplies used in or in connection with the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products and byproducts*, and (b) *machinery, materials equipment and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, including the stringing and picking up of pipelines*, between points in AR, AZ, CA, CO, ID, KS, LA, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA and WY, (2) *bentonite* from points in MT, ND, and SD to points in AR, AZ, CA, CO, ID, KS, LA, MO, NE, NM, NV, OK, OR, TX, UT, WA and WY; and from points in WY to points in AR, AZ, CA, CO, KS, LA, MO, MT, ND, NE, OK, OR, SD, TX and WA, restricted against the transportation of "Mercer" commodities as defined in *Mercer Extension—Oil Field Commodities*, 74 MCC 459 (1946). (Hearing site: Denver, CO.)

MC 111496 (Sub-27F), filed April 9, 1979. Applicant: TWIN CITY FREIGHT, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: James M. Sanden, 502 First National Bank Bldg., Fargo, ND 58126. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Duluth, MN, and the junction of MN Hwy 23 and U.S. Hwy 61, over MN Hwy 23, serving no intermediate points, as an alternate route for operating convenience only. (Hearing site: Minneapolis or St. Paul, MN.)

MC 111956 (Sub-48F), filed April 12, 1979. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, PA 15301. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Pittsburgh, PA and New Castle, PA, (a) from Pittsburgh, PA over Interstate Hwy 279 to its junction with Interstate Hwy 79, then north over Interstate Hwy 79 to its junction with U.S. Hwy 422, then west over U.S. Hwy 422 to New Castle, PA, and return over the same route, serving all intermediate points, (b) from Pittsburgh, PA over Pennsylvania Hwy 60 to its junction with Pennsylvania Hwy 18, then north over Pennsylvania Hwy 18 to New Castle, PA, and return over the same route, serving all intermediate points, (2) between Pittsburgh, PA and Butler, PA; (a) from Pittsburgh, PA over Interstate Hwy 279 to its junction with Interstate Hwy 79, then north over Interstate Hwy 79 to its junction with U.S. Hwy 422, then east over U.S. Hwy 422 to Butler, PA, and return over the same route, serving all intermediate points, (b) from Pittsburgh, PA north over Pennsylvania Hwy 8 to Butler, PA, and return over the same route, serving all intermediate points. Serving all points in Beaver, Butler and Lawrence Counties, PA as off-route points in connection with the above-described routes. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 111956 (Sub-50F), filed April 13, 1979. Applicant: SUWAK TRUCKING COMPANY, a corporation, 1105 Fayette Street, Washington, PA 15301. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined

V 44 0 C 16 79 UMI

by the Commission, commodities in bulk, and those requiring special equipment) between Washington, PA, and Wheeling, WV, over Interstate Hwy 70. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 117686 (Sub-256F), filed April 3, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, P.O. Box 417, Sioux City, IA 51102. Transporting, *heating and cooling units*, from Louisville, GA, New Orleans, LA, Minneapolis, MN and Charleston, SC to Des Moines and Sioux City, IA; Wichita, KS; Albert Lea, MN; Omaha, NE and Sioux Falls, SD. (Hearing site: Omaha, NE; or Kansas City, MO.)

Note: Dual operations are involved.

MC 117816 (Sub-3F), filed April 9, 1979. Applicant: BERWICK & SON'S, INC., Plainfield Road, West Lebanon, NH 03784. Representative: Donald C. Berwick, Plainfield Road, West Lebanon, NH 03784. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting, (1) *Plastic articles*, and (2) *equipment, materials, and supplies* used in the manfacture and distribution of plastic articles (except commodities in bulk, in tank vehicles) between the facilities of Consolidated Plastechs, Inc. in East Hampton, CT, and Hampstead, NH, on the one hand, and, on the other, points in ME, NH, VT, CT, RI, MA, NY, NJ, MD, PA, and DE, under a continuing contract or contracts with Consolidated Phastechs, Inc., of Hampstead, NH. (Hearing site: Boston, MA, or Washington, DC.)

MC 123987 (Sub-20F), filed April 13, 1979. Applicant: JEWETT SCOTT TRUCK LINE, INC., Box 267, Mangum, OK 73554. Representative: Richard Hubbertiamson, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) (a) *roofing, roofing materials, roofing products, and roofing insulation*, and (b) *equipment and supplies* used in the installation and manufacture of the commodities named in (1)(a) above, (except materials in bulk), from the facilities of Owens Corning Fiberglass Corp. at (a) Oklahoma City, OK, (b) Lubbock, Irivig, and Houston, TX, (c) Woods Cross, UT, and (d) Denver, CO, to points in TX, OK, AR, NM, AZ, LA, CA, UT, NV, WY, KS, and NE, and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Oklahoma City, OK, or Dallas, TX.)

MC 125777 (Sub-243F), filed April 5, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, IN 46403. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. Transporting *such commodities as are ordinarily transported in dump vehicles* between the facilities of the Georgia Ports Authority at Brunswick, Savannah, Columbus, Bainbridge, and Augusta, GA, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 127187 (Sub-50F), filed April 5, 1979. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Blvd., P.O. Box 492, Fergus Falls, MN 56537. Representative: James B. Hovland, 414 Gate City Building, P.O. Box 1660, Fargo, ND 58107. Transporting *animal and poultry feed and animal and poultry feed ingredients* (except commodities in bulk, in tank vehicles) from points in IA, IL, MN, NE, ND, SD, and WI to ports of entry of the international boundary line between the United States and Canada at points in MN, ND, and MT. (Hearing site: Fargo, ND.)

MC 128527 (Sub-132F), filed April 24, 1979. Applicant: MAY TRUCKING COMPANY, a corporation, P.O. Box 400, Payette, ID 83661. Representative: J. Michael Alexander, 136 Wynnewood Professional Bldg., Dallas, TX 75224. Transporting *such commodities* as are dealt in by department stores, and *equipment, materials, and supplies* used in the conduct of such business, from (1) Seattle, WA, and points in CA, CT, FL, GA, IL, MA, MN, NJ, NY, NC, SC, and TX, to points in ID, MT, OR, UT, and WY, and (2) points in CA, CT, FL, GA, IL, MA, MN, NJ, NY, NC, SC, and TX, to Seattle, WA, restricted to the transportation of traffic originating at or destined to the facilities of The Bon Marche Company. (Hearing site: Boise, ID, or Seattle, WA.)

MC 134467 (Sub-44F), filed April 10, 1979. Applicant: POLAR EXPRESS, INC., P.O. BOX 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capital Life Center, 1600 Sheerman Street, Denver, CO 80203. Transporting *cheese, cheese products, and synthetic cheeses* (except commodities in bulk), from the facilities of L. D. Schreiber Cheese Co., Inc. at points in Jasper, Newton, Barry and Lawrence Counties, MO, to points in KY, TN, MS, AL, GA, FL, NC, SC, VA, CT, MA, RI and DE. (Hearing site: Green Bay, WI, or Little Rock, AR.)

MC 138157 (Sub-136F), filed April 4, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in CA to points in the United States in and east of ND, SD, NE, KS, OK and TX, restricted to the transportation of traffic originating at the facilities of Fritz Companies, Inc., and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

MC 138157 (Sub-139F), filed April 5, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *medical equipment, materials, and supplies* (except commodities in bulk and those which by reason of size or weight require the use of special equipment) from Johnson City, TN, to points in the United States in and east of MT, WY, CO, and NM, and (2) *equipment, materials, and supplies used in the manufacture, production and distribution of medical equipment, materials and supplies*, in the reverse direction restricted to the transportation of traffic originating at or destined to Johnson City, TN. (Hearing site: Los Angeles, CA.)

Note.—Dual operations are involved.

MC 139207 (Sub-8F), filed April 9, 1979. Applicant: MCNABB-WADSWORTH TRUCKING CO., INC., 305 S. Wilcox Drive, Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Building, 13th & Pennsylvania Avenue, NW, Washington, DC 20005. Transporting *flat glass*, from Norcross, GA, to points in AL, AR, FL, KY, MS, NC, SC, TN, VA, and WV. (Hearing site: Atlanta, GA.)

MC 139906 (Sub-49F), filed April 10, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. Transporting *musical instruments, parts, equipment, materials, and supplies*, for musical instruments, *and printed matter*, from the facilities of CBS Musical Instruments at Fullerton and Pasadena, CA, to points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itaska County, MN, then northward along the western boundaries of Itaska and Koochiching Counties, MN, to the International Boundary line between the United States and Canada. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

MC 143807 (Sub-3F), filed April 9, 1979. Applicant: EARL GASS AND ALVIN WALLACE d.b.a. G AND W RIGGING AND ERECTION COMPANY, a partnership, Route 13, Box 14A, Greeneville, TN 37743. Representative: Earl Gass (same address as applicant). Transporting *commodities*, which because of size or weight require the use of special equipment, between points in TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Nashville, TN.)

MC 144917 (Sub-1F), filed April 13, 1979. Applicant: BAPTIST TRANSPORTATION CORP., 140–24 181st Street, New York, NY 11413. Representative: Sidney J. Leshin, 575 Madison Avenue, New York, NY 10022. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in special operations, in non-scheduled door-to-door service, beginning and ending at New York, NY, and extending to points in the United States (except AK and HI) under continuing contract(s) with Eastern Baptist Association of Brooklyn, NY. (Hearing site: New York, NY.)

MC 145026 (Sub-2F), filed April 13, 1979. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Avenue, Federalsburg, MD 21632. Representative: Dwight L. Loerber, Jr., 666 Eleventh Street, NW., Suite 805, Washington, DC 20001. Transporting (1) *bananas*, and (2) *agricultural commodities*, the transportation of which is otherwise exempt from economic regulation under 49 USC § 10526(a)(6), in mixed loads with bananas, from Norfolk, VA, to points in MD, PA, VA, NJ, NY, CT, RI, MA, VT, NH, ME, OH, IN, KY, IL, IA, WI, MI, MN, MO, and DC. (Hearing site: Washington, DC.)

MC 145187 (Sub-1F), filed April 9, 1979. Applicant: W. R. HURST, INC., P.O. Box 416, 349 South Main Street, Blanding, UT 84511. Representative: Grant A. Hurst, 68 South Main, Fifth Floor, Salt Lake City, UT 84101. Transporting *ore, rock and sand, gravel, powder caps, drill steel, oil and gasoline in barrels, and mining equipment, material and supplies*, between points in the area beginning at Salina, UT, then east on Interstate 70 to Grand Junction, CO, then south on U.S. Hwy 50 to Montrose, CO, then south on U.S. Hwy 550 to Shiprock, NM, then south on U.S. Hwy 666 to Gallup, NM, then west on Interstate 40 to Flagstaff, AZ, then north on U.S. Hwy 89 to Salina, UT. (Hearing site: Blanding, UT, or Moab, UT.)

MC 145406 (Sub-33F), filed April 9, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *meats, meat products, meat byproducts* and *articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in sections A and C of Appendix I to the report in *Descriptions in Motor Corrier Certificates*, 61 M.C.C. 209 and 766, from the facilities of Fischer Cold Storage, utilized by Wilson Foods Corporation at Dubuque, IA to points in California, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO).

MC 145406 (Sub-36F), filed April 13, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *office furniture, knocked down*, from the facilities utilized by Clipper Products—Div. of Standard Ohio Leasing Corp., at or near (a) Sheboygan, WI, (b) Morristown, TN, and (c) Carrollton, KY, to Denver, CO, Los Angeles, Anaheim, and San Francisco, CA, New York, NY, Jacksonville, FL, Boston, MA, and Texarkana, TX. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 145516 (Sub-4F), filed April 6, 1979. Applicant: T. G. STEGALL TRUCKING CO., INC., 6333 Idlewild Road, Charlotte, NC 28212. Representative: Triston G. Stegall, Jr. (same address as applicant). Transporting *foodstuffs*, in vehicles equipped with mechanical refrigeration, from points in FL to Charlotte, NC. (Hearing site: Charlotte, NC, or Washington, DC.)

MC 146156 (Sub–2F), filed April 3, 1979. Applicant: TIPPECANOE WAREHOUSING, INC., 455 Morland Drive, Lafayette, IN 47905. Representative: Richard A. Mehley, 1000–16th Street, NW, Washington, DC 20036. Transporting *such commodities as are dealt in or used by wholesalers and retail outlets*, between points in IN, on the one hand, and, on the other, points in IN, Chicago, IL, Cincinnati, OH, and Louisville, KY. (Hearing site: Washington, DC, Indianapolis, IN.)

Note.—Dual operations are involved.

MC 146246 (Sub-21F), filed April 5, 1979. Applicant: PETER AND SON, INC., 1424 Water Street, P.O. Box 903, Fitchburg, MA 01420. Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street, Suite 413, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *such commodities as dealt in by mail order houses and retail stores*, between Leominster, MA, on the one hand, and, on the other, points in Cheshire, Hillsborough, and Rockingham Counties, NH, under a continuing contract or contracts with Sears, Roebuck and Company, of St. Davids PA. (Hearing site: Springfield, or Boston MA, or Washington, DC)

Note:—Dual operations are involved.

MC 146317 (Sub-2F), filed April 9, 1979. Applicant: BOB BALCH TRUCKING CO., 214 South Lake Street, Tucumcari, NM 88401. Representative: Roger V. Eaton, Post Office Drawer 965, Albuquerque, NM 87103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cottonseed meal, cottonseed cake, alfalfa pellets*, and *dried alfalfa* from Lubbock and Leveland, TX, to Tucumcari, NM, under a continuing contract or contracts with Worley Mills, Inc., of Tucumcari, NM. (Hearing site: Lubbock, TX, or Albuquerque, NM.)

MC 146416 (Sub-6F), filed April 13, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, a coroporation, 155 N. Eucla Avenue, P.O. Box 476, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Boulevard, Los Angeles, CA 90017. Transporting *chemicals, cleaning, scouring* and *washing compounds, plastic liquids* and *sheeting, ink, defoaming compounds, laminating machinery, parts, solvents, pallets*, and *contoiners*, in vehicles equipped with mechanical refrigeration, between the facilities of Thiokol/Dynachem Corporation at or near Tustin, CA, and points in Los Angeles, Orange, Riverside and San Bernardino Counties, CA, on the one hand, and on the other, points in MA, NJ, VA, NC, FL MI, IN, and TX. (Hearing site: Los Angeles, CA.)

MC 146686 (Sub-1F), filed April 4, 1979. Applicant: G.M.G. EXPRESS, INC., 2020 State Road 31 E, Jeffersonville, Indiana 47130. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, Indiana 46224. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between those points in IN on and south of U.S. Hwy 40 (including points in Marion County, IN) on the one hand,

V 44 0C 1 16 79 UMI

and, on the other, Louisville, KY, restricted to the transportation of traffic having a prior or subsequent movement by rail or water. (Hearing site: Indianapolis, IN.)

MC 146766 (Sub-3F), filed April 9, 1979. Applicant: F. E BLATCHLEY, INC., Silver Street, Portland, CT 06480. Representative: Edward F. Bowes, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum products*, in bulk, in tank vehicles, from East Hartford, New Haven, West Haven, East Haven, Rocky Hill, and Wethersfield, CT, to those points in MA on and west of MA Hwy 12, under a continuing contract(s) with Getty Refining and Marketing Corp., of Tulsa, OK, and F. C. Roberts & Co., Inc., of Springfield, MA. (Hearing site: New Haven, CT, or New York, NY.)

Volume No. 176

Decided: September 19, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, & Liberman.

MC 26396 (Sub-245F), filed April 23, 1979. Applicant: POPELKA TRUCKING CO. d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82038, Lincoln, NE 68501. Transporting *bentonite clay, slip clay, and wood floor*, from the facilities of American Colloid Co. (a) at Aberdeen MS, and (b) points in Lowndes County, AL, to points in AZ, CA, CO, ID, IA, KS, MN, NV, NE, MT, ND, OK, OR, NM, SD, TX, UT, WA, and WY. (Hearing site: Billings, MT.)

MC 29886 (Sub-365F), filed April 26, 1979. Applicant: DALLAS & MAVIS FORWARDING CO., INC., 4314 39th Avenue, Kenosha, WI 53142. Representative: Richard C. McGinnis, 711 Washington Building, Wasington, DC 20005. Transporting (1) *construction, mining, and logging equipment, and* (2) *accessories, attachments, and parts* for the commodities in (1) above, between the facilities of Dravo Corporation at (a) Clearfield, Somerset, and Warrendale, PA, (b) Fairmont, WV, (c) Brunswick, Cincinnati, Canton, Youngstown, Columbus, Maumee, and Hopedale, OH, (d) Eugene, Medford, and Redmond, OR, (e) Seattle and Spokane, WA, and (f) Redding, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 39167 (Sub-15F), filed April 16, 1979. Applicant: C. J. ROGERS TRANS. CO., 2947 Greenfield Road, Melvindale, MI 48122. Representative: Robert D. Schuler, 100 W. Long Lake Rd., Suite 102, Bloomfield Hills, MI 48013. Transporting *iron and steel articles*, (1) from the facilities of Republic Steel Corporation at (a) Chicago, IL, and (b) Gary, IN, to points in MI and OH, and (2) from the facilities of Republic Steel Corporation at Canton, Cleveland, Elyria, Massillon, Niles, Warren, and Youngstown, OH, to points in IL and IN. (Hearing site: Cleveland, OH or Chicago, IL.)

MC 41406 (Sub-137F), filed April 20, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammon, IN 46323. Representative: Wade H. Bourdon (same address as applicant). Transporting (1) *furnaces*, from the facilities of Singer Corporation at Red Bud, IL, to points in WI, MI, IN, OH, KY, WV, PA, NY, NJ, MD, and DE, and (2) *materials, supplies, and equipment* used in the manufacture of furnaces, in the reverse direction. (Hearing site: St. Louis, MO or Chicago, IL.)

MC 41406 (Sub-140F), filed April 19, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). Transporting (1) *lead*, from the facilities of Division Lead Company and Illinois Lead Shot Company, at or near Summit, IL, to points in OH, PA, and NY, and (2) *materials* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 59806 (Sub-11F), filed April 19, 1979. Applicant: GROSS & HECHT TRUCKING, INC., 35 Burnswick Avenue, Edison, NJ 08817. Representative: A. David Millner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by (a) grocery, food, drug, and liquor business houses, and (b) department stores, and (2) *materials, supplies, and equipment* used in the manufacture, sale, and distribution of the commodities in (1) above, (except commodities in bulk), between points in the United States (except AK and HI), under continuing contract(s) with The Great Atlantic & Pacific Tea Company, Inc., of Montvale, NJ, Compass Foods, Inc., of Montvale, NJ, and Super Market Service Corp., of Dunmore, PA. (Hearing site: New York, NY.)

MC 76677 (Sub-13F), filed April 25, 1979. Applicant: HALLAMORE MOTOR TRANSPORTATION, INC., 795 Plymouth Street, Holbrook, MA 02343. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting (1) *coolers, heat exchangers, condensers, and equalizers*, and (b) *parts, accessories, and attachments* for the commodities named in (1) above, from the facilities of General Electric Company at South Portland, ME, to points in the United States (except AK, HI, and ME), (2) *materials, equipment and supplies* used in the manufacture, repair and distribution of the commodities in (1) above, from points in the United States (except AK, HI, and ME), to the facilities of General Electric Company at South Portland, ME, (3) *turbine generators, and parts, attachments and accessories* for turbine generators, from the facilities of General Electric Company at Merrimack, NH, to points in the United States (except AK, HI and NH), and (4) *materials, equipment and supplies* used in the manufacture, repair, and distribution of the commodities in (3) above, from points in the United States (except AK, HI and NH), to the facilities of General Electric Company at Merrimack, NH. (Hearing site: Boston, MA.)

MC 78687 (Sub-63F), filed April 17, 1979. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, Moravia, New York 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *salt and salt products*, from Jersey City and Port Newark, NJ to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 103926 (Sub-91F), filed April 16, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. Transporting (1)(a) *agricultural and industrial machinery* (except truck-tractors), (b) *parts* for the commodities in (1)(a) above, (c) *pollution control, crushing, screening, and asphalt processing equipment*, and (d) commodities which by reason of size or weight require the use of special equipment (except commodities in bulk and those named in (1)(a), (b) and (c) above), between the facilities of Allis-Chalmers Corporation at or near Appleton and Milwaukee, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX and VA; and (2)(a) *agricultural machinery*, and (b) *accessories, attachments, and parts* for agricultural machinery, from the facilities of Allis-Chalmers Corporation at or near La Porte, IN, to points in AL, AR, FL, GA, LA, MS, NC, OK, SC, TN, TX and VA. (Hearing site: Chicago, IL or Atlanta, GA.)

MC 105457 (Sub-96F), filed April 19, 1979. Applicant: THURSTON MOTOR LINES, INC., 600 Johnston Road, Charlotte, NC 28206. Representative: Everett Hutchinson, Suite 400, 1150 Connecticut Ave., NW., Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (a) OVER REGULAR ROUTES: (1) between Knoxville and Bristol, TN; (a) over U.S. Hwy 11w, serving all intermediate points, and (b) from Knoxville over Interstate Hwy 40 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Bristol, and return over the same route, serving all intermediate points; (2) Between Hickory, NC, and Kingsport, TN: From Hickory over U.S. Hwy 321 to Johnson City, TN, then over U.S. Hwy 23 to Kingsport, and return over the same route, serving all intermediate points; (3) between Elizabethton and Bristol, TN: from Elizabethton, over U.S. Hwy 19E to junction U.S. Hwy 19, then over U.S. Hwy 19 to Bristol, and return over the same route, serving all intermediate points; (4) Between Greensboro, NC, and Bristol, TN: over U.S. Hwy 421, serving all intermediate points; and (5) Between Asheville, NC, and Johnson City, TN: over U.S. Hwy 23, serving all intermediate points, and serving points in Campbell, Carter, Cocke, Clairborne, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Sullivan, Union and Washington Counties, TN, as off-route points in connection with routes (1) through (5) above: and (B) OVER IRREGULAR ROUTES: (1) between Bristol and Kingsport, TN, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC, and (2) between Greensboro, NC, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI and DC. (Hearing site: Washington, DC.)

Note.—Applicant intends to join the authority sought herein with its regular route authority to transport general commodities, with the usual exceptions, between points on and appurtenant to its authorized routes in NC, SC, GA, TN, and portions of MS, and AL, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, VA, PA, RI, and DC. The purpose of the instant application is to relocate applicant's gateways at Vance and Halifax Counties, NC, and Lenoir, Hickory, and Charlotte, NC, by which it now performs this service, to Bristol and Kingsport, TN, and Greensboro, NC, and thereby to increase the economies and efficiencies of its operations.

MC 114457 (Sub-500F), filed April 16, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), and *filters*, from points in Warren County, MS, to points in AR, IL, IN, KS, KY, MO, and OK; and (2) *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, filters, and materials, supplies, and equipment* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from points in IL, IN and KY, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation in Warren County, MS. (Hearing site: Pittsburgh, PA or St. Paul, MN.)

MC 117686 (Sub-259F), filed April 23, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach, (same address as applicant). Transporting (1) *bananas*, and (2) *agricultural commodities* otherwise exempt from economic regulation under the Provisions of 49 U.S.C. 10526(a)(6), in mixed loads with bananas, from the facilities of Del Monte Banana Company at Port Hueneme, CA, to points in IA, MN, NE, ND, and SD, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Miami, FL or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 117686 (Sub-263F), filed April 25, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., P.O. Box 417, Sioux City, IA 51102. Representative: George L. Hirschbach (same address as applicant). Transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc. at or near (a) Denison and Ft. Dodge, IA, (b) Dakota City and West Point, NE, and (c) Luverne, MN, to points in NC and SC, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Omaha, NE, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 118457 (Sub-30F), filed April 24, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher Street, West Allis, WI 53227. Representative: David V. Purcell, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting (1) *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, foodstuffs, and commodities in bulk), in vehicles equipped with mechanical refrigeration and (2) foodstuffs (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from points in WI, to points in AL, AR, CT, DE, FL, GA, LA, MA, MD, ME, MS, NC, NH, NJ, NY, PA, RI, SC, TN, TX, VA, VT, WV and DC, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 119577 (Sub-25F), filed April 16, 1979. Applicant: OTTAWA CARTAGE, INC., P.O. Box 458, Ottawa, IL 61350. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp. at East Chicago, IN, to points in IL and IA. (Hearing site: Chicago, IL.)

MC 119777 (Sub-371F), filed April 25, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *iron and steel articles*, from points in Moore County, NC, to points in AL, AZ, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MD, ME, MA, MI, MS, MO, NE, NH, NJ, NM, NY, OH, OK, PA, RI, SC, TN, TX, UT, VA, VT, WV, WI and DC. (Hearing site: Charlotte, NC or Atlanta, GA.)

MC 119777 (Sub-387F), filed April 23, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer "L." Transporting (1) *construction forms, molds, ties, fixtures*, and *scaffolding*, and (2) *materials, equipment and supplies* used in the installation of the commodities in (1) above, between New Braunfels, TX, on the one hand, and, on the other, points in the United States

V 44 O C 16 7 9 UMI

(except AK and HI). (Hearing site: Chicago, IL.)

MC 120456 (Sub-5F), filed April 27, 1979. Applicant: BOUMA CARTAGE CO., a corporation, 146 Pleasant Street SW., Grand Rapids, MI 49503. Representative: Karl L. Gotting, 1200 Bank of Lansing Building, Lansing, MI 48933. Transporting (1) *furniture*, and *pleasure boats*, between Grand Rapids, MI, on the one hand, and, on the other, points in MI (except Grand Rapids) (2) *furniture*, between Detroit, MI, on the one hand, and, on the other, points in MI (except Detroit), and (3) *household goods, store fixtures*, and *office furniture*, between points in Kent, Ottawa, Allegan, Barry, and Ionia Counties, MI, on the one hand, and, on the other, points in MI. (Hearing site: Grand Rapids or Lansing, MI.)

Note.—This application seeks to convert a certificate of registration in MC 120456, to a certificate of public convenience and necessity.

MC 121107 (Sub-22F), filed April 26, 1979. Applicant: PITT COUNTY TRANSPORTATION CO., INC., P.O. Box 207, Farmville, NC 27828. Representative: Harry J. Jordan, 1000–16th Street NW., Washington, DC 20036. Transporting *paper and paper products*, from points in NC, to points in NJ and FL. (Hearing site: Raleigh, NC or Washington, DC.)

MC 125126 (Sub-4F), filed April 25, 1979. Applicant: CO–TRUX RENTALS, INC., a Pennsylvania corporation, RFD No. 1, Honeyman Street, Princeton, NJ 08540. Representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household cleaning, polishing, and washing compounds; toilet preparations;* and *fabric dying, bleaching, and softening agents*, from the facilities of Knowmark, Inc. at Jamaica, NY, to points in CA, DE, FL, GA, IL, IN, MD, MI, NC, OH, PA, TN, TX, WI, and WV; and (2) *materials* and *supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Knowmark, Inc., of Jamaica, NY. (Hearing site: New York, NY.)

MC 127647 (Sub-5F), filed April 18, 1979. Applicant: RALPH H. LARSEN, 195 Roundtoft Drive, Salt Lake City, UT 84103. Representative: Harry D. Pugsley, 1283 East So. Temple, No. 501, Salt Lake City, UT 84102. Transporting *such commodities* as are dealt in by grocery and food business houses, from points in CA, to the facilities of Buttrey Food Stores (a) at Sparks, NV, and (b) at points in MT and WY. (Hearing site: Salt Lake City, UT or Great Falls, MT.)

MC 128246 (Sub-41F), filed April 23, 1979. Applicant: SOUTHWEST TRUCK SERVICE, a corporation, P.O. Box AD, Watsonville, CA 95076. Representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meet byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of MBPXL Corporation at or near Dodge City, KS, to points in AZ, AR, CO, ID, IL, IA, MN, MO, MT, NV, NM, OK, OR, TX, UT, WA, WI, and WV, under continuing contract(s) with MBPXL Corporation at Wichita, KS. (Hearing site: Wichita, KS, or San Francisco, CA.)

MC 134286 (Sub-104F), filed April 23, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). Transporting *ferrous sulphate, fertilizer, and feed* (except commodities in bulk), from the facilities of Cosmin Corporation at or near Baltimore, MD, to points in CO, IA, IL, IN, KS, MI, MO, MN, NE, OH and WI. (Hearing site: Sioux City, IA, or Denver, CO.)

Note.—Dual operations may be involved.

MC 134286 (Sub-105F), filed April 19, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as above). Transporting *such commodities* as are dealt in by grocery and food business houses (except frozen commodities and commodities in bulk), (1) from the facilities of the Clorox Company at Kansas City, MO, to points in CO, IA, NE, KS and SD, and (2) from the facilities of the Clorox Company at Sparks, NV, to the facilities of the Clorox Company at Kansas City, MO, and Chicago, IL (Hearing site: Sioux City, IA, or Denver, CO.)

Note.—Dual operations may be involved.

MC 134477 (Sub-337F), filed April 18, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *musical instruments*, and (2) *parts, materials, and supplies* used in the distribution of musical instruments, from points in CT, MD, MA, MI, NJ, NY, OH, PA and RI to Northbrook, IL. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-341F), filed April 19, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *such commodities* as are dealt in or used by department and hardware store (except commodities in bulk), from Charlotte, NC, to the facilities of Kansas City Shippers Association at Kansas City, MO, restricted to the transportation of traffic originating at the named origin and destined to the indicated facilities. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-343F), filed April 16, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *meats, meat products and meat byproducts and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodites in bulk), from the facilities of Sunstar Foods, Inc., at or near St. Paul, MN, to points in SD and TX. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-353F), filed April 25, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *ammunition* and (2) *materials, supplies and equipment* used in the manufacture and distribution of ammunition, from Anoka, MN, to points in AL, AR, CO, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MS, MO, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI and DC. (Hearing site: St. Paul, MN.)

MC 135797 (Sub-202F), filed April 24, 1979. Applicant: J. B. HUNT TRANSPORT, INC., U.S. Highway 71, P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant, P.O. Box 130, Lowell, AR 72745. Transporting *foodstuffs*, from the facilities of Duffy-Mott Company Inc., at or near (a) Hamlin and Williamson, NY, and (b) Aspers, PA, to points in OK, LA, and TX. (Hearing site: New York, NY, or Washington, DC.)

MC 136247 (Sub-17F), filed April 26, 1979. Applicant: WRIGHT TRUCKING, INC., 409 17th Street, SW, Jamestown, ND 58401. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *non-alcoholic beverages* (except in bulk, in tank vehicles), from Jamestown, ND, to points in MN and WI. (Hearing site: St. Paul, MN.)

MC 138627 (Sub-63F), filed April 30, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *iron and steel articles* from the facilities of Armco, Inc., at (a) Ashland, KY, and (b) Middletown, OH, to points in AR, IA, KS, MN, MO, NE, OK, and TX, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Cincinnati, OH, or St. Louis, MO.)

MC 138676 (Sub-12F), filed April 23, 1979. Applicant: O–J TRANSPORT CO., a corporation, 10290 Gratiot, Detroit, MI 48213. Representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Transporting *auto parts, and materials, supplies, equipment*, used in the manufacture of motor vehicles, between Detroit, MI, and Chicago, IL. (Hearing sites: Detroit, MI and Lansing, MI.)

MC 139577 (Sub-40F), filed April 30, 1979. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, WI 53935. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *foodstuffs, and materials, equipment, and supplies used in the manufacture of foodstuffs* (except commodities in bulk, in tank vehicles), between Arlington and Ortonville, MN, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MO, OH, TN, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Big Stone, Incorporated. (Hearing site: Madison, WI, or Minneapolis-St. Paul, MN.)

MC 139767 (Sub-7F), filed April 17, 1979. Applicant: M & M TRUCKING CO., INC., P.O. Box 1743, Auburn, AL 36830. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301. Transporting *crushed stone*, in bulk, in dump vehicles, from points in Troup, Bibb, Fulton, and Muscogee Counties, GA, to points in AL. (Hearing site: Montgomery, AL, or Atlanta, GA.)

MC 140267 (Sub-9F), filed April 30, 1979. Applicant: R.A. TRANSPORTATION, INC., 115 Jacobus Avenue, South Kearny, NJ 07032. Representative: Thomas F. X. Foley, State Highway 34, Colts Neck, NJ 07722. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *such commodities* as are dealt in or used by department stores and food business houses, between Chambersburg, Peach Glen, and Orrtanna, PA, on the one hand, and on the other, points in NY and NJ, under continuing contract(s) with Knouse Foods, Inc., of Peach Glen, PA. (Hearing site: Newark, NJ, or Washington, DC.)

MC 140827 (Sub-12F), April 23, 1979. Applicant: MARKET TRANSPORT, LTD., 33 N.E. Middlefield Road, Portland, OR 97211. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97528. Transporting *malt beverages*, from Portland, OR, to points in CA, ID, NV, UT, AZ, CO, WY, and NM. (Hearing site: Portland, OR or Seattle, WA.)

Note.—Dual operations may be involved.

MC 143267 (Sub-6F), filed April 30, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, NW., Washington, DC 20005. Transporting (1) *asphalt, building and insulating materials* (except iron and steel articles and commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, (except iron and steel articles and commodities in bulk), (a) between the facilities of CertainTeed Corporation in Erie County, OH, on the one hand, and, on the other, points in KY, IN, NY, PA, and WV, and (b) between the facilities of CertainTeed Corporation in Granville County, NC, on the one hand, and, on the other, points in KY, MD, OH, SC, TN, VA, WV, and DC. (Hearing site: Cleveland, OH or Washington, DC.)

MC 143267 (Sub-66F), filed April 30, 1979. Applicant: CARLTON ENTERPRISES, INC., 4588 State Route 82, P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, NW., Washington, DC 20005. Transporting (1) *plastic pipe, and fittings*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Charlotte, NC, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, WV, and DC. (Hearing site: Cleveland, OH or Washington, DC)

MC 143346 (Sub-6F), filed April 24, 1979. Applicant: BILLY JACK HOLLINGSWORTH, d.b.a. HOLLINGSWORTH GRAIN & TRUCKING, P.O. Box 384, Sanger, TX 76226. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *motor fuel and heating fuel*, in bulk, in tank vehicles, (1) from points in TX, to points in AZ, CO, NM and OK, and (2) from points in OK, to points in AZ, CO, NM and CO. (Hearing site: Fort Worth or Wichita Falls, TX.)

MC 144027 (Sub-9F), filed April 25, 1979. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities used by The Proctor and Gambie Distributing Company, at or near Cincinnati, OH, to points in KY (except Louisville), and (2) *foodstuffs*, from Lexington, KY, to the facilities used by The Proctor and Gamble Distributing Company, at or near Cincinnati, OH. (Hearing site: Louisville, KY, or Nashville, TN.)

MC 144407 (Sub-10F), filed April 19, 1979. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *motor vehicles, automobile parts, hardware, conveyor equipment, furniture, power equipment, and wheel goods*, (2) *parts, attachments, and accessories* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture or sale of the commodities in (1) and (2) above, (except commodities in bulk), between the facilities of MTD Products, Inc., Brownsville Division, at or near Brownsville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144846 (Sub-8F), filed April 30, 1979. Applicant: TRANSTATE, INC., 3216 E. Westminister, Santa Ana, CA 92703. Representative: Patricia M. Schnegg, Suite 1809, 707 Wilshire Boulevard, Los Angeles, CA 90017. Transporting *fiberglass, woven roving, polyester resins, and materials, supplies, and equipment used in the manufacture of fiberglass*, from points in Los Angeles, Orange, and Ventura Counties, CA, to points in CO, NM, TX, OK, KS, NE, IA, MO, AR, LA, MS, AL, TN, KY, and IL. (Hearing site: Los Angeles, CA.)

MC 144927 (Sub-16F), filed April 20, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridan Street, Indianapolis, IN 46204. Transporting (1) *musical instruments, phonograph records,*

V 44 OC 16 79 UMI

phonographs, tape recorders, magnetic tapes, carrying cases, show and display cases, pallets, speakers, televisions, printed matter, and paper, and (2) *such commodities* as are dealt in by retail music stores (except those commodities in (1) above), between points in CA, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA, and (2) between points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL or Washington, DC.)

MC 145406 (Sub-39F), filed April 25, 1979. Applicant: MIDWEST EXPRESS, INC., 350 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting (1) *Meats, meat products and meat by products, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, and foodstuffs), and (2) *foodstuffs,* from the facilities of Oscar Mayer & Co., Inc., at or near Madison, WI, to points in CA. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 145517 (Sub-3F), filed April 25, 1979. Applicant: MANITO TRANSIT CO., Box 8, Ashkum, IL 60911. Representative: Douglas G. Brown, The INB Center-Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. Transporting *liquid fertilizer,* in bulk, in tank vehicles, from Watseka, IL, to points in IN. (Hearing site: Chicago, IL.)

MC 146087 (Sub-12F), filed April 23, 1979. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, NE 68127. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over iregular routes, transporting *iron and steel articles,* from Pueblo, CO, to points in AZ, CA and NE, under continuing contract(s) with CF&I Steel Corporation of Pueblo, CO. (Hearing site: Denver, CO or Omaha, NE.).

Note.—Dual operation may be involved.

MC 146146 (Sub-5F), filed April 23, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: James F. Schouman, 21925 Garrison, Dearborn, MI 48124. Transporting (1) *iron and steel articles, machinery, aluminum, plastics, auto trim, and paint,* from points in the Lower Peninsula of MI, to points in the United States (except AK and HI); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Detroit, MI, or Washington, DC.)

MC 146376 (Sub-2F), filed April 26, 1979. Applicant: ALL-TOW BOAT MOVING LTD., 8533 Barnet Highway, Barnet P.O., British Columbia, Canada VOM 1EO. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *boats,* between the ports of entry on the international boundary line between the United States and Canada, at or near Blaine, WA, on the one hand, and, on the other, points in WA. (Hearing site: Seattle, WA.)

MC 146896 (Sub-1F), filed April 19, 1979. Applicant: PAUL R. CHENEY, d.b.a. CHENEY TRUCKING COMPANY, Route 1, Artesian Street, Lemont, IL 60439. Representative: Patrick H. Smyth, Suite 521, 19 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rolled paper mill products,* from the facilities of Prairie State Paper Mills, at Joliet, IL, to points in IN, IA, KY, MI, MN, OH, and WI, and (2) *materials, supplies, and equipment* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction, under continuing contracts(s) with Prairie State Paper Mills, a Division of Chippewa Paper Products Company, of Joliet, IL. (Hearing site: Chicago, IL.)

MC 147056 (Sub-1F), filed April 27, 1979. Applicant: ARDEN CARTAGE, LTD., 14 Arden Avenue, Hamilton, Ontario, Canada. Representative: Peter A. Greene, 900 17th Street NW., Washington, DC 20006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* between the facilities of Thomsson Steel Company, Inc., at Beltsville, MD, on the one hand, and, on the other, points in PA, VA and WV, under continuing contract(s) with Thomsson Steel Company, Inc., Beltsville, MD. (Hearing site: Washington, DC.)

Volume No. 177

Decided: September 21, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 8310 (Sub-10F), filed May 14, 1979. Applicant: JEFF'S TRUCKING, INC., 22½ North Madison St., P.O. Box 282, Waupun, WI 53963. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *foodstuffs,* between points in WI, restricted to the transportation of traffic originating at or destined to the facilities of Beatrice Foods Co. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 42011 (Sub-53F), filed May 11, 1979. Applicant: D. Q. WISE & CO., INC., P.O. Drawer L, Tulsa, OK 74112. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting (1) *building materials, building supplies and building components,* from the facilities of H. H. Robertson Co., at or near Ambridge, PA, Batavia, OH, Connersville, IN, and Stockton, CA, to points in the United States (except AK, HI, FL, GA, NC, and SC); and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 48441 (Sub-43F), filed May 11, 1979. Applicant: R.M.E. INC., P.O. Box 418, Streator, IL 61364. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting (1) *malt beverages,* in containers, from the facilities of Pabst Brewing Company, at or near Peoria Heights, IL, to points in OH, IN, and the Lower Peninsula of MI; and (2) *empty containers,* in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 59150 (Sub-153F), filed May 14, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *prefabricated log houses and prefabricated buildings,* from the facilities of Carolina Log Buildings, Inc., at or near Fletcher, NC, and the facilities of Traditional Log Homes, Inc., at or near State Road, NC, to points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA. (Hearing site: Asheville, NC, or Jacksonville, FL.)

MC 59150 (Sub-154F), filed May 14, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose St., Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting *such commodities* as are dealt in by retail home improvement, home furnishing, and lumber stores, between points in AL, FL, GA, KY, LA, MS, NC, SC, TN, and VA, restricted to the transportation of traffic originating at or destined to the facilities of Lowes Companies, Inc. (Hearing site: Winston-Salem, NC, or Jacksonville, FL.)

MC 65491 (Sub-10F), filed May 11, 1979. Applicant: GEORGE W. BROWN, INC., 1475 East 222nd St., New York, NY 10469. Representative: William

Biederman, 371 Seventh Avenue, New York, NY 10001. Transporting *synthetic fibres* from the facility of Polymers, Inc., at Middlebury, VT, to the facilities of Marathon Carey-McFall, at Montgomery and Montoursville, PA, and the facilities of Marathon Carey-McFall, at Muncy, PA. (Hearing site: New York, NY, or Washington, DC.)

MC 67450 (Sub-86F), filed May 10, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in IA, IL, IN, MI, MN, MO, MY, OH, PA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 105461 (Sub-107F), filed May 14, 1979. Applicant: HERR'S MOTOR EXPRESS, INC., P.O. Box 8, Quarryville, PA 17566. Representative: Robert R. Herr (same address as applicant). Transporting (1) *such commodities* as are dealt in by food and drug business houses; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commmodities in bulk), (a) between the facilities of The Clorox Company, at Cleveland, OH, and those points in New York on and west of Interstate Hwy 81 and (b) between the facilities of The Clorox Company, at Hudson County, NJ, and points in NY. (Hearing site: Washington, DC, or Oakland, CA.)

MC 111231 (Sub-267F), filed May 14, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: John C. Everett, P.O. Box A, 140 East Buchanan, Prairie Grove, AR 72753. Transporting (1) *paper and paper products, and woodpulp;* and (2) *material, equipment, and supplies* used in the production and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles), between the facilities of American Can Company, at those points in the United States in and east of ND, SD, NE, KS, OK, and TX, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Greenwich or Hartford, CT.)

MC 113861 (Sub-75F), filed May 10, 1979. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Ave., Memphis, TN 38106. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. Transporting (1) *liquid fertilizer,* in bulk, in tank vehicles, from Memphis, TN, to points in AR, MS, MO, TN, AL, and KY; and (2) *petroleum and petroleum products,* in bulk, in tank vehicles, from Memphis, TN, to points in AR. (Hearing site: Memphis, TN.)

MC 115311 (Sub-354F), filed May 9, 1979. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Transporting (1) *fabricated and shaped metal articles, and building materials* (except commodities in bulk); and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above (except commodities in bulk and those requiring special equipment), between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to the transportation of traffic originating at or destined to the facilities of Kinkead Industries, Inc. (Hearing site: Chicago, IL.)

MC 115841 (Sub-713F), filed May 9, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting (1) *foodstuffs, hospitol supplies, drugs, toilet articles, health care products, water with vitamins, rubber and plastic articles;* and (2) *advertising, promotional, and display materials* in mixed loads with the commodities named in (1) above, from the facilities of Ross Laboratories, at or near Sturgis, MI, and Columbus, OH, to points in GA, NC, SC, and TX. (Hearing site: Columbus, OH, or Washington, DC.)

MC 116300 (Sub-45F), filed May 9, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting *malt beverages and materials and supplies* dealt in by malt beverage distributors, from the facilities of Jos. Schlitz Brewing Company, at or near Memphis, TN, to points in Jefferson and Lafayette Parishes, LA. (Hearing site: Memphis, TN.)

MC 119531 (Sub-170F), filed May 9, 1979. Applicant: SUN EXPRESS, INC., P.O. Box 808, Warren, OH 44482. Representative: Andrew Jay Burkholder, 275 East State St., Columbus, OH 43215. Transporting *such commodities* as are dealt in by manufacturers of plastic products (except commodities in bulk), between points in IL, MO, WI, IN, MI, NJ, NY, MD, and PA, restricted to the transportation of traffic originating at or destined to the facilities of Sajar Plastics. (Hearing site: Columbus, OH.)

MC 121060 (Sub-106F), filed May 14, 1979. Applicant: ARROW TRUCK LINES, INC., Post Office Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. Transporting (1) *building and construction materials* and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of the Celotex Corporation, at or near Fort Dodge, IA, and L'Anse, MI, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Tampa, FL, or Washington, DC.)

MC 124821 (Sub-46F), filed May 11, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Ave., Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting (1) *tile, facing or flooring;* and (2) *materials and supplies* used in the manufacture of tile, from the facilities of Kentile Floors, Inc., at Chicago, IL, to points in NY, NJ, PA, VA, MD, and DC. (Hearing site: Harrisburg, PA.)

MC 129830 (Sub-14F), filed May 9, 1979. Applicant: JACOBSMA TRANSPORTATION, INC., 2600 Hwy 75 North, Sioux City, IA 51105. Representative: Edward A. O'Donnell, 1004 29th St., Sioux City, IA 51104. Transporting *aluminum and iron and steel articles,* from points in IL, IN, KS, MN, MO, NE, SD, ND, and WI, to Sioux City, IA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destination, except traffic moving in foreign commerce. (Hearing site: Sioux City, IA.)

MC 133541 (Sub-8F), filed May 14, 1979. Applicant: McKIBBEN MOTOR SERVICE, INC., 494 West Sharon Road, Cincinnati, OH 45264. Representative: James Duvall, Post Office Box 97, 220 West Bridge St., Dublin, OH 43017. Transporting (1) *containers and container ends;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of containers, between points in GA, IL, IN, KY, MI, OH, PA, TN, WV, and WI; and (3) *malt beverages,* from Evansville, IN,

V 44 0 C 1 6 7 9 UMI

and Newport KY, to points in GA, IL, IN, KY, MI, OH, PA, TN, WV, and WI. (Hearing site: Cincinnati, OH.)

MC 134131 (Sub-12F), filed May 14, 1979. Applicant: R & S TRANSIT, INC., 1323 West Locust, Springfield, MO 65803. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *bubble bath, shampoo, toilet preparations, liquid cleaning compounds and buffing or polishing compounds* (except commodities in bulk), from Manitowoc, WI, to Los Angeles and San Francisco, CA. (Hearing site: Chicago, IL.)

MC 134501 (Sub-50F), filed May 10, 1979. Applicant: INCORPORATED CARRIERS, LTD., P.O. Box 3128, Irving, TX 75061. Representative: T. M. Brown, P.O. Box 1540, Edmond, OK 73034. Transporting (1) *new furniture*, from Beatrice, NE, to points in Cocke, Knox, and Hamblin Counties, TN, and points in WA, OR, ID, UT, MT, ND, SD, MN, WI, IL, MI, KY, OH, VA, WV, MD, DE, PA, NJ, NY, CT, MA, RI, VT, NH, ME, and DC; and (2) *new fixtures and furnishings*, from Beatrice, NE, to points in the United States (except AK and HI). (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 134940 (Sub-5F), filed May 9, 1979. Applicant: VERNON KUFAHL d.b.a. KUFAHL TRUCKING, 4704 North 32nd Avenue, Wausau, WI 54401. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are used or dealt in by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between the facilities of Wausau Papers, Inc., at or near Brokaw, WI, on the one hand, and, on the other, points in DE, IA, IL, IN, KS, KY, MD, MI, MN, MO, NY, OH, PA, TN, VA, and WV, under continuing contract(s) with Wausau Papers, Inc., of Brokaw, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 135170 (Sub-40F), filed May 14, 1979. Applicant: TRI-STATE ASSOCIATES, INC., P.O. Box 188, Federalsburg, MD 21632. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *containers, container ends and closures, container accessories, and paper and plastic articles;* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and those which, because of size or weight, require the use of special equipment), between those points in the United States in and east of WI, IL, KY, TN, AR, and LA, under continuing contract(s) with American Can Company, of Greenwich, CT. (Hearing site: New York, NY, or Washington, DC.)

MC 135231 (Sub-32F), filed May 14, 1979. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *sound reproducing equipment;* and (2) *parts, materials, and supplies* used in the manufacture of the commodities named in (1) above, from Blue Earth, MN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved

MC 136511 (Sub-51F), filed May 8, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting (1) *confectionery and snack foods;* and (2) *commodities* exempt from economic regulation under 49 U.S.C. Section 10526(a)(6)(B) when moving in mixed loads with the commodities named in (1) above (except commodities in bulk), from Albany, GA, and Elizabeth, NJ, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 136511 (Sub-52F), filed May 11, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORPORATION, 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., N.W, Washington, DC 20001. Transporting (1) *animal feed, feed ingredients, feed additives and supplements;* and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of Kal Kan Foods, Inc., at or near Hutchinson, KS, Mattoon, IL, Terre Haute, IN, and Columbus, OH, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Washington, DC.)

MC 140241 (Sub-52F), filed May 1, 1979. Applicant: DALKE TRANSPORT, INC., Box 7, Moundridge, KS 67107. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Transporting *lumber, lumber products, wood products, and millwork* (except commodities in bulk), from Craig, CO, to points in AR, IL, IN, IA, KS, KY, LA, MS, MO, NE, OH, OK, TN, TX, and WI. (Hearing site: Denver, CO, or Kansas City, MO.)

MC 141781 (Sub-21F), filed May 8, 1979. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue South, Minneapolis, MN 55420. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *forms or molds, concrete construction materials, iron and wood;* and (2) *materials* used in the installation of the commodities named in (1) above, between points in Cook County, IL, on the one hand, and, on the other, Minneapolis, MN, and those points in MN on, south, and east of a line beginning at the MN–WI State line and extending along MN Hwy 36 to junction Interstate Hwy 35, then along Interstate Hwy 35 to the MN–IA State line. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 141961 (Sub-3F), filed May 14, 1979. Applicant: CARMAN CARRIER, INC., P.O. Box 2139, Clarksville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *storage, septic, and holding tanks* and (b) *vessels and ports of the commodities* in (1)(a), and (2) *materials and equipment* used in the manufacture and erection of the commodities named in (1) above, between the facilities of New Albany Welding Works, Inc., at Clarksville, IN, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with New Albany Welding Works, Inc., of Clarksville, IN. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 142250 (Sub-1F), filed May 14, 1979. Applicant: BAXTER TRUCKING CORP., 91 Scott Avenue, Brooklyn, NY 11237. Representative: John L. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wearing apparel and containers* used for the transportation of wearing apparel, from New York, NY, to Allentown, PA, restricted to the transportation of traffic having a prior movement by air or water, under continuing contract(s) with Kickers, Inc., Marigo Starr, and McHowdan Sportswear, of New York, NY. (Hearing site: New York, NY.)

MC 142941 (Sub-50F), filed May 14, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor, Phoenix, AZ 85003. Transporting (1) *coffee* (except in bulk), from Nogales, AZ, to points in the United States (except AK, HI, and AZ); and (2) *materials and supplies* used in the packaging of coffee, from points in CA, to Nogales, AZ. (Hearing site: Phoenix, AZ.)

MC 144041 (Sub-34F), filed May 15, 1979. Applicant: DOWNS TRANSPORTATION CO., INC., 2750 Canna Ridge Circle, NE, Atlanta, GA 30345. Representative: Paul M. Daniell, Post Office Box 56387, Atlanta, GA 30343. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Questor Corporation. (Hearing site: Columbus, OH, or Atlanta, GA.)

MC 144140 (Sub-35F), filed May 8, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 158, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting (1) *citrus products*, not canned and not frozen (except commodities in bulk), from the facilities of The Coca-Cola Company Foods Division, at points in FL, to points in AL, GA, LA, MS, NC, SC, and TN; and (2) *beverages, beverage preparations, and citrus products*, from the facilities of The Coca-Cola Company Foods Division, at points in NJ, to points in OH, NY, PA, DE, MD, VA, WV, SC, GA, TN, AL, FL, IN, MI, and DC. (Hearing site: Orlando or Tampa, FL.)

Note.—Dual operations are involved.

MC 145750 (Sub-1F), filed May 11, 1979. Applicant: CHARLES SIZEMORE, d.b.a. C.S. TRUCK SERVICE, 930 Caroline St., O'Fallon, IL 62269. Representative: Charles Sizemore (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *ice cream, sherbets, ice cream novelties, and dairy products;* and (2) *materials, equipment, and supplies* used in the production and distribution of the commodities named in (1) above, between the facilities of Prairie Farms Dairy, Inc., at or near O'Fallon, IL, on the one hand, and, on the other, points in IN, MO, IA, AR, KS, KY, and TN, under continuing contract(s) with Prairie Farms Dairy, Inc., of O'Fallon, IL. (Hearing site: St. Louis, MO, or Springfield, IL.)

MC 146081 (Sub-3F), filed May 14, 1979. Applicant: SERVICE EQUIPMENT & TRUCKING, INC., Box 162, Mattoon, IL 61932. Representative: Robert T. Lawley, 300, Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *equipment and machinery* used for the manufacture of concrete products, between Mattoon, IL, and Vancouver, WA, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Columbia Machine, Inc., of Vancouver, WA. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 146520 (Sub-1F), filed April 4, 1979, and previously noticed in Federal Register issue of August 28, 1979. Applicant: QUALITY TRANSPORT, INC., 4404 West Berteau, Chicago, IL 60641. Representative: William J. Boyd, 2021 Midwest Road, Suite 205, Oak Brook, IL 60521. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, and *such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers*, as described in sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), between the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA and (b) Armour and Company, at or near Mason City, IA, on the one hand, and, on the other, points in CT, DE, KY, IL, IN, MA, MD, ME, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the named origins. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—This republication includes section D of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766. Dual opperations may be involved.

MC 147141F, filed May 10, 1979. Applicant: LUJO TRUCKING CO., INC., 121 Braley Road, East Freetown, MA 02717. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic articles* (except in bulk), cushioned envelopes and packaging machinery, from Hyannis, MA, to points in the United States (except AK, HI, and MA); and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction, under continuing contract(s) with Sentinel Foam Products, Inc. and Packaging Industries, Inc., of Hyannis, MA. (Hearing site: Boston, MA.)

MC 147210 (Sub-2F), filed May 9, 1979. Applicant: HOWARD DOUGHMAN TRUCKING, d.b.a. HOWARD DOUGHMAN, 9317 Woodville Road, R.R. No. 1, Pleasant Plain, OH 45162. Representative: Boyd B. Ferris, 50 West Broad St., Columbus, OH 43215. Transporting (1) *ceramics and ceramic products;* and (2) *commodities* used in the manufacture or distribution of ceramic products (except commodities in bulk), between Blanchester, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus or Cincinnati, OH.)

MC 147311F, filed May 9, 1979. Applicant: T & S TRANSPORTATION, INC., 7420 Ranco Road, Post Office Box 9729, Richmond, VA 23228. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between the facilities of Taylor & Sledd, Inc., at or near Greendale, VA, and Memphis, TN, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Taylor & Sledd, Inc., of Richmond, VA. (Hearing site: Washington, DC.)

MC 148270 (Sub-1F), filed May 11, 1979. Applicant: BRELAR, INC., Post Office Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. Transporting (1) *foodstuffs* (except frozen commodities and commodities in bulk, in tank vehicles); and (2) *materials, equipment, and supplies* used in the manufacture and distribution of foodstuffs, (except commodities in bulk, in tank vehicles), (1) between the facilities of Vlasic Foods, Inc., at or near Greenville, MS, and points in the United States (except AK, HI, and MS), and (2) between the facilities of Vlasic Foods, Inc., at Memphis, Bridgeport, and Imlay City, MI, Millsboro, DE, Greenville, MS, and City of Industry, CA. (Hearing site: Greenville or Jackson, MS.)

Note.—Dual operations are involved.

V 44 0 C 16 7 9 UMI

Volume No. 163

Decided: September 19, 1979.

By the Commission Review Board Number 1, Members Carleton, Joyce and Jones.

MC 1824 (Sub-89F), filed April 19, 1979. Applicant: PRESTON TRUCKING CO., INC., 151 Easton Boulevard, Preston, MD 21655. Representative: Charles S. Perry (same address as above). Transporting *foodstuffs*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Kraft, Inc., at Dunkirk, NY, to points in IL, restricted to traffic originating at the named and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 2754 (Sub-33F), filed May 8, 1979. Applicant: NEUENDORF TRANSPORTATION CO., a corporation, P.O. Box 7730, Madison, WI 53707. Representative: Steven C. Porter (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between DeKalb, IL, and Rockford, IL, from DeKalb over IL Hwy 38 to junction U.S. Hwy 51, then over U.S. Hwy 51 to Rockford, and return over the same route, serving the intermediate point of Rochelle, IL. (Hearing site: Madison or Rockford, IL.)

MC 9194 (Sub-3F), filed April 9, 1979. Applicant: AAA TRANSFER, INC., P.O. Box 3746, Seattle, WA 98124. Representative: Michael B. Crutcher, 2000 IBM Building, Seattle, WA 98101. Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, automobiles, and those requiring special equipment), in containers or trailers, having a prior or subsequent movement by water, (a) between points in WA and OR, and (b) between points in WA and OR, on the one hand, and, on the other, points in CA, ID, NV, UT, and MT, and (2) *empty used containers, used trailers,* and *used trailer chassis*, between points in WA and OR, on the one hand, and, on the other, points in CA, ID, NV, UT, and MT. Condition: Issuance of a certificate is subject to prior or coincidental cancellation of Certificate No. MC 9194 Sub 2 at applicant's written request. (Hearing site: Portland, OR, or Seattle, WA.)

MC 30844 (Sub-646F), filed May 8, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *foodstuffs*, from the facilities of Nabisco, Inc., in NJ, to points in IL, IN, KY, MI, and OH, restricted to the transportation of traffic originating at the named origins. (Hearing site: New York, NY, or Washington, DC.)

MC 30844 (Sub-647F), filed May 8, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, at or near Grand Prairie, TX, to points in AR, LA, OK, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Pittsburgh, PA.)

MC 61825 (Sub-98F), filed April 20, 1979. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, Collinsville, VA 24078. Representative: John D. Stone (same address as above). Transporting (1) *canned and preserved foodstuffs*, from the facilities of HEINZ, USA, at or near Pittsburgh, PA, to points in SC, restricted to traffic originating at the named origin and destined to the indicated destinations, and (2) *petroleum and petroleum products*, in packages, from Reno and Rouseville, PA, to points in NC, SC, and VA. (Hearing site: Washington, DC.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act) or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 73165 (Sub-475F), filed May 8, 1979. Applicant: EAGLE MOTOR LINES, INC., 830—33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *building boards, wallboards, insulating boards, and building woodwork*, from the facilities of Pan American Gyro-Tex, at or near Corona, CA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Phoenix, AZ, or San Francisco, CA.)

MC 73165 (Sub-476F), filed May 8, 1979. Applicant: EAGLE MOTOR LINES, INC., 830—33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *plywood* (except paneling), *panelings, particleboard, hardboard, gypsum board, composition board*, and *moulding*, from the facilities of Pan American Gyro-Tex Company, at or near (a) Jasper, FL, and (b) Valdosta, GA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Tampa or Jacksonville, FL.)

MC 98614 (Sub-12F), filed May 9, 1979. Applicant: ARKANSAS TRANSPORT CO., a corporation, P.O. Box 702, Little Rock, AR 72203. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *petroleum and petroleum products*, in bulk, between Ft. Smith, AR, and points in OK. (Hearing site: Oklahoma City, OK.)

MC 106674 (Sub-384F), filed April 20, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as above). Transporting (1) *containers, and container ends*, and (2) *parts* of the commodities named in (1) above, from Burlington, WI, Cleveland, OH, Elk Grove Village, IL and Kentwood, MI, to points in AL, AR, KY, GA, LA, MS, and TN. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 112304 (Sub-187F), filed May 10, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock St., Cincinnati, OH 45223. Representative: Fred Schmits (same address as applicant). Transporting (1) *metal roofing and siding and fabricated metal products*, from Lancaster, PA, Gridley, IL, Jackson, GA, and Idabel, OK, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacturing of the commodities in (1) above, in the reverse direction. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 113855 (Sub-484F), filed April 20, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road, Rochester, MN 55901. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *plastic pipe* and *accessories* for plastic pipe, from the facilities of Apache Plastics, Inc., at or near (a) Stockton and Santa Ana, CA, and (b) Phoenix, AZ, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

MC 115654 (Sub-136F), filed April 20, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth St. NW., Washington, DC 20004. Transporting *foodstuffs, and materials, supplies, ingredients, and equipment* used in the manufacture of frozen foods, between the facilities of Morton Frozen Foods, Division, ITT Continental Baking Co., Inc., at or near Russellville and Searcy, AR, on the one hand, and, on the other, points in AL, GA, IL, IN, KY, MS, OH, TN, MI, and LA. (Hearing site: Nashville, TN, or Charlottesville, VA.)

MC 116544 (Sub-171F), filed March 16, 1979, previously published on August 2, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *frozen foods*, from the facilities of the Pillsbury Company and Fox DeLuxe Pizza Company, at or near Joplin and Carthage, MO, to points in NE, IA, CO, KS, OK, TX, IL, MN, WI, FL, AL, MS, LA, GA, UT, ID, TN, and AR, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Minneapolis, MN.)

Note.—This republication correctly states the representative and the correct destination States including MN in lieu of NM.

MC 119774 (Sub-100F), filed May 8, 1979. Applicant: EAGLE TRUCKING CO., a corporation, P.O. Box 471, Kilgore, TX 75662. Representative: Bernard H. English, 6270 Firth Rd., Fort Worth, TX 76116. Transporting *concrete cylinder pipe*, from the facilities of Gifford Hill American, at or near Grand Prairie, Houston, Lubbock, and Victoria, TX to points in AR. (Hearing site: Dallas or Fort Worth, TX.)

MC 123375 (Sub-16F), filed April 19, 1979. Applicant: KIRK TRUCKING SERVICE, INC., 3100 Braun Avenue, Murrysville, PA 15668. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *building materials* (except commodities in bulk), from the facilities of Bird & Son, Inc., at Perth Amboy, NJ, to points in WV. (Hearing site: Washington, DC.)

MC 124174 (Sub-148F), filed May 8, 1979. Applicant: MOMSEN TRUCKING CO., a corporation, 13811 "L" St., Omaha, NE 68137. Representative: Karl E. Momsen (same address as applicant). Transporting (1) *foodstuffs and tobacco*, and (2) *unmanufactured tobacco*, which is otherwise exempt from economic regulation under Section 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities named in (1) above, from El Paso, Eagle Pass, and Laredo, TX, to those points in the United States in and east of ND, SD, NE, CO, and NM. (Hearing site: Chattanooga, TN, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 125674 (Sub-13F), filed April 20, 1979. Applicant: JACK RABBIT EXPRESS COMPANY, a corporation, 64 East Concord Street, Orlando, FL 32802. Representative: Francis W. McInerny, 1000 16th St., NW., Washington, D.C. 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between those points in FL on, south, and east of a line beginning at Yankeetown, FL, and extending along FL Hwy 40 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction FL Hwy 24, then along FL Hwy 24 to Waldo, FL, then along U.S. Hwy 301 to the FL–GA State line, then along the FL–GA State line to the Atlantic Ocean (excluding points in Monroe County, FL), (2) between points in the area described in (1) above, on the one hand, and, on the other, points in Douglas, Fulton, DeKalb, Cobb, Gwinnett, Clayton, Rockdale, and Henry Counties, GA, and (3) between points in Douglas, Fulton, DeKalb, Cobb, Gwinnett, Clayton, Rockdale, and Henry Counties, GA. Restriction: The operations authorized herein are restricted against the transportation of any single package or article weighing more than 125 pounds. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication. (Hearing site: Atlanta, GA, or Orlando, FL.)

Note.—Dual operations may be involved.

MC 129905 (Sub-4F), filed May 9, 1979. Applicant: ALL STATES MOVING & STORAGE CO., INC., 2800 Navy Blvd., Pensacola, FL 32505. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *new furniture*, from the facilities of the Federal Correctional Institutions, at or near, Tallahassee, FL, to points in the United States (except AK and HI), restricted to the transportation of shipments destined to the facilities of the United States of America. (Hearing site: Tallahassee, FL.)

MC 133154 (Sub-9F), filed May 8, 1979. Applicant: BELL TRANSPORT COMPANY, a corporation, 16036 Valley Blvd., Fontana, CA 92335. Representative: Jerry I. Michael (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plate steel and sheet steel*, from the facilities of Natter Manufacturing, a division of VSI Corporation, at or near Covina and Temple City, CA, to the facilities of Natter Manufacturing, a division of VSI Corporation, at or near Salt Lake City, UT; and (2) *computer panels* and *parts* for computer panels, from the facilities of Natter Manufacturing a division of VSI Corporation, at or near Salt Lake City, UT, to points in AZ, CA, and CO, under continuing contract(s) with Natter Manufacturing, a division of VSI Corporation, of Temple City, CA. (Hearing site: Los Angeles, CA.)

MC 135524 (Sub-25F), filed May 9, 1979. Applicant: G. F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *iron and steel articles, electrical conduit, pipe*, and *accessories* for the pipe, between Brookfield, OH, on the one hand, and, on the other, points in CT, ME, MD, MA, NH, NJ, NY, PA, RI, and VT. (Hearing site: Columbus or Cleveland, OH.)

MC 139495 (Sub-443F), filed May 3, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in or used by distributors of petroleum and petroleum products, in containers, from Ponca City, OK, to points in AZ, CA, CO, ID, IL, IN, IA, KS, MN, MO, MT, NE, NV, NM, ND, OR, SD, TX, UT, WA, WI, and WY. (Hearing site: Washington, DC.)

MC 140564 (Sub-4F), filed April 4, 1979, and previously erroneously published on August 16, 1979 as MC 140654 Sub 4F. Applicant: OLIVER & OLIVER, INC., P.O. Box 83, Campton, KY 30301. Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *coal*, from points in Bath, Bell, Boyd, Carter, Clay, Clinton, Cumberland, Elliott, Floyd, Greenup, Harlan, Jackson, Johnson, Knott, Knox, Laurel, Lawrence, Leslie, Letcher, Lewis, Martin, McCreary, Menifee, Owsley, Perry, Pulaski, Rockcastle, Rowan, Russell, Wayne, and Whitley Counties, KY, to points in IL, IN, OH, KY, WV, VA, and TN. (Hearing site: Frankfort or Louisville, KY.)

Note.—The purpose of this republication is to indicate the correct docket number.

MC 141124 (Sub-42F), filed May 9, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in or used by manufacturers or

V 44 0 C 16 7 9 UMI

converters of paper and paper products, (except in bulk), between Boston, MA, on the one hand, and, on the other, points in the United States (except AK). (Hearing sites: Columbus, OH.)

MC 142715 (Sub-46F), filed May 7, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, (except hides and skins and commodities in bulk), from the facilities of John Morrell & Co., at or near (a) Sioux Falls, SD, (b) Estherville and Sioux City, IA, and (c) St. Paul, MN, to points in IL, IN, KY, MI, MO, and OH, restricted to the transportation of traffic originating at the named origins. (Hearing site: St. Paul, MN, or Chicago, IL.)

MC 142905 (Sub-4F), filed May 9, 1979. Applicant: PETROLEUM TRANSPORTATION CORPORATION, 9717 E. 42nd St., Tulsa, OK 74145. Representative: Thomas N. Willess, 1000 16th St., NW, Washington, DC 20036. Transporting (1) *anhydrous ammonia,* and (2) *liquid fertilizer* (except anhydrous ammonia), from Hoag, NE, to points in CO, KS, IA, MN, NE, MO, OK, SD, and WY. (Hearing site: Kansas City, MO.)

MC 142905 (Sub-5F), filed May 9, 1979. Applicant: PETROLEUM TRANSPORTATION CORPORATION, 9717 E. 42nd St., Tulsa, OK 74145. Representative: Thomas N. Willness, 1000 16th St., NW, Washington, DC 20036. Transporting (1) *anhydrous ammonia,* and (2) *liquid fertilizer* (except anhydrous ammonia), from the plant site of Agrico Chemical Co., at Verdigris, OK, to points in AR, KS, MO, OK, and TX. (Hearing site: Kansas City, MO.)

MC 143775 (Sub-86F), filed May 8, 1979. Applicant: PAUL YATES, INC., 6501 West Orangewood, Glendale, AZ 85301. Representative: Michael R. Burke (same address as applicant). Transporting (1) *power saws, generators, gasoline engines, hedge trimmers* and *earth drilling machines,* and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, (a) from Los Angeles, CA, and Lake Havasu City, AZ, to points in the United States (except AK and HI), and (b) from Buffalo, NY, to Lake Havasu City, AZ, restricted to the transportation of traffic originating at or destined to the facilities of McCulloch Corporation. (Hearing site: Los Angeles or San Francisco, CA.)

Note: Dual operations may be involved.

MC 144305 (Sub-1F), filed May 9, 1979. Applicant: McCAIN TRANSPORT, INC., 5 Wade Road, Washburn, ME 04786. Representative: John C. Lightbody, 30 Exchange St., Portland, ME 04101. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs,* and *materials and supplies* used in the manufacture and distribution of foodstuffs, (a) between the facilities of McCain Foods, Inc., at Washburn, Easton and Portland, ME, on the one hand, and, on the other, ports of entry on the international boundary line between the United States and Canada, at or near Houlton, Bridgewater, Fort Fairfield and Limestone, ME, and points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, MD, MA, MI, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, and DC, under a continuing contract(s) with McCain Foods, Inc., of Washburn, ME, and (b) between ports of entry on the international boundary line between the United States and Canada, at or near Houlton, Bridgewater, Fort Fairfield, and Limestone, ME, on the one hand, and, on the other, points in DE, IN, ME, MD, MA, MI, PA, and TX, under a continuing contract(s) with McCain Foods, Ltd., of Florenceville, New Brunswick, Canada: (2) *fertilizer,* from ports of entry on the international boundary line between the United States and Canada, between Madawaska and Calais, ME, to points in ME; (3) *fertilizer ingredients and chemicals,* in bags, from points in FL, IN, KY, and TN, to point in ME; and (4) *fertilizer ingredients and chemicals,* in bags, between points in ME, under continuing contract(s) in (2), (3), and (4) with McCain Fertilizer Ltd., of Florenceville, New Brunswick, Canada. (Hearing site: Portland, ME, or Boston, MA.)

MC 144715 (Sub-3F), filed May 8, 1979. Applicant: ANDERSON & WEBB TRUCKING CO., INC., 542 West Independence Blvd., Mount Airy, NC 27030. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting (1) *air cleaners, fuel and oil filters, air cleaner cartridges,* and *oil filter cartridges,* and (2) *materials and supplies* used in the distribution of the commodities in (1) above, from the facilities of Wix Corporation, at or near (a) Dillon, SC, and (b) Gastonia, NC, to those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Charlotte, NC.)

MC 145054 (Sub-13F), filed April 13, 1979, previously published on September 11, 1979 as MC 14504 (Sub-13). Applicant: COORS TRANSPORTATION CO., a corporation, 5101 York St., Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln St., Denver, CO 80264. Transporting *baker's yeast,* from Bakersfield, CA, to Salt Lake City, UT, Denver and Grand Junction, CO, and Houston, Corpus Christi, and San Antonio, TX. (Hearing site: Denver, CO.)

Note.—Dual operations may be involved. This republication indicates the correct MC number.

MC 145194 (Sub-3F), filed May 9, 1979. Applicant: WOOSTER MOTOR WAYS, INC., 1357 Mechanicsburg Rd., P.O. Box 436, Wooster, OH 44691. Representative: David A. Turano, 100 East Broad St., Columbus, OH 43215. Transporting (1) *paints and cleaning compounds,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), (a) from the facilities of Standard T Chemical Company, Inc., at (1) Chicago Heights, IL, and (2) at points in Richmond County, NY, to points in PA and WV, and (b) between the facilities of Standard T Chemical Company, Inc., at (1) Chicago Heights, IL, and (2) at points in Richmond County, NY. (Hearing site: Columbus, OH.)

MC 145395 (Sub-2F), filed May 12, 1979. Applicant: LUCKEY TRUCKING, INC., R.R. No. 5, Streator, IL 61364. Representative: James R. Madler, 120 W. Madison St., Chicago, IL 60602. Transporting *sand,* in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VA, WV, VT, and WI. (Hearing site: Chicago, IL.)

MC 145465 (Sub-2F), filed April 19, 1979. Applicant: GURN ENTERPRISES, INC., Rt. 6, Box 8, Allegan, MI 49010. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To operate as a *contract carrier,* by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *drugs and toilet articles,* and (2) *materials and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, between Allegan, MI, on the one hand, and, on the other, points in ME, VT, NH, MA, RI, CT, NY, NJ, DE, MD, PA, WV, VA, NC, SC, GA, FL, AL, MS, TN, KY, OH, LA, AR, OK, TX, and AZ, under continuing contract(s) with L. Perrigo Company, of Allegan, MI. (Hearing site: Allegan, MI.)

MC 146325 (Sub-2F), filed May 3, 1979. Applicant: DELIVERY SERVICE, INC., 6284 Claude Way East, Inver Grove Heights, MN 55075. Representative: Ralph S. Mehlhorn (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *computer components, cables, and cable assemblies,* between points in Ramsey, Dakota, Jackson and Hennepin Counties, MN, and Cerro Gordo County, IA, under a continuing contract(s) with Sperry Univac Computer Systems, of Roseville, MN. (Hearing site: St. Paul, MN.)

MC 146554 (Sub-2F), filed April 19, 1979. Applicant: GEORGE L. BRINCKS, Templeton, IA 51463. Representative: Richard D. Howe, 600 Hubbell Building, Des Moines, IA 50309. Transporting *iron and steel articles,* from Chicago, IL, and the facilities of J & L Steel, at or near Hennepin, IL, to the facilities of M. L. Foss Incorporated, at or near Denver, CO. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 146864 (Sub-1F), filed May 9, 1979. Applicant: HALL'S FAST MOTOR FREIGHT, INC., 330 Oak Tree Ave., South Plainfield, NJ 07080. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid penicillin,* in vehicles equipped with mechanical refrigeration, between New Brunswick and South Plainfield, NJ, on the one hand, and, on the other, Kenly, NC, under a continuing contract(s) with E. R. Squibb & Son, Inc., of New Brunswick, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 147135F, filed April 19, 1979. Applicant: WAYNE'S DELIVERY SERVICE, INC., 2226 Bentley Manor Dr., Fenton, MO 63026. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. Transporting *such commodities* as are dealt in by retail department stores, furniture stores and appliance stores, from St. Louis, MO, to those points in IL on, south, and west of a line beginning at junction MO–IL State line and U.S. Hwy 24, and extending along U.S. Hwy 24 to Peoria, then along Interstate Hwy 74 to Champaign, then along U.S. Hwy 45 to Pesotum, then along Interstate Hwy 57 to Effingham and then along U.S. Hwy 45 to the IL–KY line. (Hearing site: St. Louis, MO.)

MC 147194F, filed May 8, 1979. Applicant: SAMUEL ODUS COFFEY d.b.a. COFFEY TRUCKING, Route 1, P.O. Box 339A, Deale, MD 20751. Representative: Harry J. Jordan, 1000 16th St., NW., Washington, DC 20036. Transporting *lumber,* from points in Calvert, Charles, and St. Marys Counties, MD, to points in NJ, NY, NC, OH, PA, and VA. (Hearing site: Washington, DC.)

MC 147195F, filed May 9, 1979. Applicant: CHAMSY TRANSFER, INC., 6310 S. W. 108th Place, Miami, FL 33173. Representative: Richard B. Austin, 5255 N. W. 87th Ave., Suite 214, Miami, FL 33178. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the Miami, FL, commercial zone, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Miami, FL.)

Passenger Authority

MC 147735F, filed March 7, 1979, previously published on September 11, 1979. Applicant: DALE EVANS d.b.a. EVANS TRANSPORTATION, 420 Allen St., Yreka, CA 96097. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Ave., Portland, OR 97210. Transporting *passengers and their baggage* in round-trip and one-way charter operations, beginning or ending at points in Siskiyou County, CA, and extending to points in OR and NV. (Hearing site: Yreka, CA, or Medford, OR.)

Note.—This republication indicates that the applicant is requesting common carrier authority.

Volume No. 185

Decided: September 27, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 11207 (Sub-490F), filed May 3, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *iron and steel articles,* between Warrior, AL, on the one hand, and, on the other, points in DE, IL, IN, OH, PA, VA, and WV. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 11207 (Sub-491F), filed May 3, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers, container ends, and container closures (except commodities in bulk), between points in AL, AR, FL, GA, KY, LA, MS, MO, NC, OK, SC, TN, TX, VA, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Crown Cork & Seal Co., Inc. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 18037 (Sub-12F), filed May 3, 1979. Applicant: CHAS. LEVY CIRCULATING CO., a corporation, 1200 North Branch Street, Chicago, IL 60622. Representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *printed matter,* from Des Moines, IA, to points in IL, IN, KY, MI, OH, and WI, under continuing contract(s) with Meredith Printing, of Des Moines, IA. (Hearing site: Chicago, IL.)

MC 26396 (Sub-244F), filed May 3, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, a corporation, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *roofing materials,* from the facilities of CertainTeed Corporation at Shakopee, MN, to points in CO and WY. (Hearing site: Billings, MT.)

MC 43246 (Sub-31F), filed May 15, 1979. Applicant: BUSKE LINES, INC., 123 W. Tyler Avenue, Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *silica sand,* in bulk, in dump and hopper-type vehicles, from Festus, Crystal City, Klondike, and Pacific, MO, to Hillsboro, IL, under continuing contract(s) with Hillsboro Glass Company, of Hillsboro, IL. (Hearing site: St. Louis, MO, or Springfield, IL.)

Note.—Dual operations may be involved.

MC 59457 (Sub-43F), filed May 3, 1979. Applicant: SORENSEN TRANSPORTATION COMPANY, INC., Old Amity Road, Bethany, CT 06525. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Transporting *fiberboard, paperboard, and pulpboard,* (1) between Roanoke, VA, and Augusta, GA, on the one hand, and, on the other, the facilities of Robertson Paper Box Co., Inc., at Montville and Franklin, CT, (2) from Riegelwood, NC, to the facilities named in (1) above at Montville and Franklin, CT, and (3) from the facilities named in (1) above at Montville and Franklin, CT, to Lakewood, NJ, Greencastle, PA,

V 44 O C 1 6 7 9 UMI

Pulaski, TN, and Fayetteville, NC. (Hearing site: Hartford or New Haven, CT.)

MC 102567 (Sub-228F), filed May 4, 1979. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy, Suite 130, Houston, TX 77040. Transporting *petroleum products*, in bulk, in tank vehicles, from points in Sebastian County, AR, to points in Le Flore, Haskell, McIntosh, McCurtain, Sequoyah, Muskogee, Latimer, Adair, Pushmataha, Pittsburg, Cherokee, Wagoner, Tulsa, Okmulgee, and Choctaw Counties, OK. (Hearing site: Tulsa, OK, or Little Rock, AR.)

MC 105566 (Sub-194F), filed May 3, 1979. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1120, Cape Girardeau, MO 63701. Representative: Thomas F. Kilroy, Suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Transporting *laminated plastic sheets, laminoted plastic tubes, and laminated plastic rods*, from Coshocton, OH, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Columbus, OH.)

MC 115826 (Sub-461F), filed May 3, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *such commodities* as are dealt in by retail stores (except commodities in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gamble Skogmo, Inc. (Hearing site: Denver, CO.)

MC 115826 (Sub-466F), filed May 7, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *meat and meat products*, from Lincoln, NE, to points in CA. (Hearing site: Denver, CO.)

MC 119777 (Sub-373F), filed May 7, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Transporting *aluminum cable and wire*, from Flora, IL, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 119777 (Sub-374F), filed May 7, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Highway 85 East, Madisonville, KY 42431. Representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY 42431. Transporting *pipe*, from Osceloa, AR, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

MC 123407 (Sub-573F), filed May 1, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *glass and glass glazing units*, from Chicago, IL, to those points in the United States in and east of ND, SD, KS, NE, OK, and TX. (Hearing site: Chicago, IL.)

MC 133566 (Sub-137F), filed May 3, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in by chain grocery and food business houses, in vehicles equipped with mechanical refrigeration, (except commodities in bulk, in tank vehicles), between points in AL, AR, AZ, CT, GA, IA, ID, IL, IN, KS, KY, MD, MA, MI, MN, MO, MS, MT, NC, ND, NE, NY, NJ, OH, PA, SD, TN, TX, UT, VA, VT, WI, and WV, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 135616 (Sub-21F), filed May 3, 1979. Applicant: PERRYSBURG TRUCKING CO., INC., 24982 Thompson Road, Perrysburg, OH 43551. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crated flat glass*, from the facilities of PPG Industries, Inc., at or near Cumberland, MD, to those points in the United States in and east of MN, IA, MO, AR, and LA, under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 143696 (Sub-10F), filed May 1, 1979. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *furniture and furniture parts*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Anderson Hickey Co., at or near (a) Halls, TN, and (b) Henderson, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Anderson Hickey Co., of Henderson, TX. (Hearing site: Dallas, TX.)

MC 144186 (Sub-3F), filed May 2, 1979. Applicant: SUPERIOR TRANSFER, INC., 2669 Merchant Drive, Baltimore, MD 21230. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, N.W., Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities used by Streamline Shippers Association, Inc., (a) at Baltimore, MD, to Los Angeles and San Francisco, CA, and Dallas and Houston, TX, and (b) at Los Angeles and San Francisco, CA, and Dallas and Houston, TX, to Baltimore, MD, Richmond, VA, Philadelphia, PA, New York, NY, and DC. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 144407 (Sub-11F), filed May 1, 1979. Applicant: DECKER TRANSPORT COMPANY, INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *drugs and toilet preparations*, (1) between Philadelphia, PA, on the one hand, and, on the other Sparks, NV, and South Haven, MS, (2) from Sparks, NV, to points in AL, CT, DE, FL, GA, IL, IN, KY, MA, MD, MI, MS, NC, NJ, NY, OH, PA, RI, SC, TN, VA, WI, WV, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 144407 (Sub-13F), filed May 2, 1979. Applicant: DECKER TRANSPORT COMPANY, INC., 412 Route 23, Pompton Plains, NJ 07444. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *paper and paperboard covered books*, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, between Willard, OH, and Crawfordsville, IN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 146606 (Sub-2F), filed May 1, 1979. Applicant: BRUNNER DRILLING & MANUFACTURING, INC., P.O. Box C, Elroy, WI 53929. Representative: James A Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting *rough iron and steel castings*, between Reedsburg, WI, on the one hand, and, on the other, points in IL. (Hearing site: Madison or Milwaukee, WI.)

MC 144667 (Sub-8F), filed May 3, 1979. Applicant: ARTHUR E. SMITH & SON TRUCKING, INC., P.O. Box 1054, Scottsbluff, NE 69361. Representative: Bradford E. Kistler, P.O. Box 82082, Lincoln, NE 68501. Transporting (1) (a) *cabinets, wood products, and lumber*, and (b) *building materials* (except those described in (1)(a) above), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between points in Scotts Bluff County, NE, on the one hand, and, on the other, those points in the United States in and west of OH, KY, TN, and AL (except AK and HI). (Hearing site: Scottsbluff or Lincoln, NE.)

MC 146677 (Sub-2F), filed May 3, 1979. Applicant: GRANNY'S EXPRESS, INC., 2101 Ross Avenue, Cincinnati, OH 45212. Representative: E. H. van Deusen, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cincinnati, OH, on the one hand, and, on the other, points in IL, IN, KY, MI, OH, TN, and WV. (Hearing site: Columbus, OH.)

Volume No. 186

Decided: September 26, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 27817 (Sub-157F), filed May 4, 1979. Applicant: H. C. GABLER, INC., R.D. #3, P.O. Box 220, Chambersburg, PA 17201. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting *foodstuffs*, in containers, (except frozen), from the facilities of William Underwood Company at or near (a) Portland, ME, and (b) Boston, MA, to Detroit, MI and points in MD, NJ, NY, NC, OH, PA, VA, WV, and DC, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 29547 (Sub-46F), filed March 26, 1979. Applicant: CHARLTON BROS. TRANSPORTATION COMPANY, INC., 552 Jefferson Street, Hagerstown, MD 21740. Representative: William A. Chestnutt, 1333 New Hampshire Avenue, N.W., Suite 960, Washington, DC 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Cello Chemical Co., at or near Havre de Grace, MD, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Baltimore, MD, or Washington, DC.)

MC 31367 (Sub-30F), filed May 8, 1979. Applicant: H. F. CAMPBELL & SON, INC., P.O. Box 260, Millerstown, PA 17062. Representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Transporting (1) *food and food products*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and storage of the commodities named in (1) above, in vehicles equipped with mechanical refrigeration, between the facilities of Empire Kosher Poultry, Inc., at Mifflintown, Bird-In-Hand, and Kistler, PA, on the one hand, and, on the other, points in CT, DE, FL, GA, IL, IN, KY, MA, MD, ME, MI, MO, NC, NJ, NY, OH, RI, SC, VA, VT, WV, and DC. (Hearing site: Harrisburg or Philadelphia, PA.)

MC 31367 (Sub-31F), filed May 8, 1979. Applicant: H. F. CAMPBELL & SON, INC., P.O. Box 260, Millerstown, PA 17062. Representative: John M. Musselman, 410 North Third Street, Harrisburg, PA 17108. Transporting (1) *bananas*, and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. § 10526 (6) (formerly Section 203(b)(6) of the Interstate Commerce Act), in mixed loads with bananas, from New York, NY, and Port Newark, NJ, to Harrisburg, PA. (Hearing site: Harrisburg or Philadelphia, PA.)

MC 48386 (Sub-14F), filed May 3, 1979. Applicant: GRAVER TRUCKING, INC., Rte 7, Box 7655, Stroudsburg, PA 18360. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Transporting *sand, stone, and gravel*, from points in Northampton and Monroe Counties, PA, to points in Passaic and Morris Counties, NJ. (Hearing site: Allentown, PA.)

MC 69116 (Sub-233F), filed May 8, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *plasterboard joint systems, and parts for plasterboard joint systems*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities named in (1) above, from Milford, VA, to points in CT, DE, ME, MD, MA, NH, NJ, NY, NC, PA, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL.)

MC 78687 (Sub-65F), filed May 4, 1979. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting *building materials*, (except commodities in bulk), from the facilities of Bird & Son, Inc., at Perth Amboy, NJ, to points in NC, NY, and VA. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 95876 (Sub-278F), filed May 8, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Copper Avenue North, St. Cloud, MN 56301. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting (1) *metal products, machinery, and machinery parts*, from points in Stearns County, MN, to points in the United States (including AK, but excluding HI), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of Hanauer Machine Works, Inc., in Stearns County, MN. (Hearing site: Minneapolis or St. Paul, MN.)

MC 100666 (Sub-471F), filed May 9, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615—The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *tractors* (except truck tractors), from the facilities of Ford Motor Company at or near Romeo, MI, to points in AR, IL, IN, IA, KS, LA, MN, MO, NE, OK, TX, and WI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Detroit, MI.)

MC 107107 (Sub-476F), filed May 3, 1979. Applicant: ALTERMAN TRANSPORT LINES, INC., 13805 NW. 42nd Avenue, Opa Locka, FL 33054. Representative: Ford W. Sewell (same address as applicant). Transporting (1) *frozen crab shells*, from those points in FL in and west of Columbia, Gilchrist, and Levy Counties, to those points in the United States in and east of NE, KS, ND, OK, SD, and TX, and (2) *foodstuffs*, (except commodities in bulk, in tank vehicles), in vehicles equipped with

mechanical refrigeration, from points in Coffee County, GA, to those points in the United States in and east of ND, NE, SD, KS, OK, and TX. (Hearing site: Jacksonville, FL.)

MC 113047 (Sub-12F), filed May 4, 1979. Applicant: BUANNO TRANSPORTATION CO., INC., R.D. No. 1, Fort Johnson, NY 12070. Representative: Henry Buanno (same address as applicant). Transporting *candy and chewing gum*, between Holland, MI, and Canajoharie and Port Chester, NY. (Hearing site: Albany or Syracuse, NY.)

MC 121066 (Sub-10F), filed May 8, 1979. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, NE 69361. Representative: Scott T. Robertson, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *meats, meat products* and *meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 MC.C. 209 and 766 (except hides and commodities in bulk), and (2) *canned goods*, from Owatonna and Austin, MN, to Fremont and Omaha, NE, and Denver, CO. (Hearing site: Minneapolis, MN, or Omaha, NE.)

MC 125997 (Sub-11F), filed May 8, 1979. Applicant: L. C. FOESCH d.b.a. FOESCH TRANSFER LINE, Box 434, Shawano, WI 54166. Representative: Michael S. Varda, P.O. Box 2509, Madison, WI 53701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plywood products*, from the facilities of Weber Veneer & Plywood Corporation at or near Shawano, WI, to points in IL and IN, and (2) *materials, equipment, and supplies* used in the manufacture of plywood products (except lumber), in the reverse direction, under continuing contract(s) with Weber Veneer & Plywood Corporation of Shawano, WI. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 127337 (Sub-22F), filed May 8, 1979. Applicant: CHET'S TRANSPORT, INC., Charlotte, ME 04666. Representative: Lawrence E. Lindeman, 425 13th street, N.W., Suite 1032, Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as described by the Commission, commodities in bulk, and those requiring special equipment), from points in the United States (except AK and HI), to points in MA, and the ports of entry on the international boundary line between the United States and Canada located in ME. (Hearing site: Boston, MA.)

MC 133566 (Sub-135F), filed May 9, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in section A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Geo. A. Hormel & Company at Ottumwa, IA, to points in IN, KY, and MI. (Hearing site: Chicago, IL, or New York, NY.)

MC 139206 (Sub-58F), filed May 9, 1979. Applicant: F.M.S. TRANSPORTATION, INC., 2564 Harley Drive, Maryland Heights, MO 64043. Representative: R. C. Mitchell (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe*, (2) *automotive air conditioner parts*, and (3) *aluminum and steel*, between the facilities of Thermal Components, Inc., at Montgomery, AL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Thermal Components, Inc., of Montgomery, AL. (Hearing site: St. Louis or Jefferson City, MO.)

MC 141076 (Sub-25F), filed May 9, 1979. Applicant: ROGERS MOTOR LINES, INC., R.D. 2 P.O. Box 388D2, Hackettstown, NJ 07840. Representative: Eugene M. Malkin, Suite 6193, Five World Trade Center, New York, NY 10048. Transporting (1) *foodstuffs* (except commodities in bulk), from the facilities of American Home Foods Division of American Home Products Corporation at or near Milton, PA, to points in CT, NJ, and NY, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: New York, NY, or Washington, DC.)

Note.—Dual operations may be involved.

MC 142207 (Sub-27F), filed May 4, 1979. Applicant: BRANNAN SYSTEMS, INC., P.O. Box 29287, New Orleans, LA 70189. Representative: Bruce E. Mitchell, 3390 Peachtree Road, Atlanta, GA 30326. Transporting (1) *lumber products* and *wood products*, and (2) *materials, equipment*, and *supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between those points in the United States in and east of MN, IA, NE, KS, OK and TX. (Hearing site: New Orleans, LA, or Chicago, IL.)

MC 143436 (Sub-29F), filed May 8, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 150 Main Street, Speedway, IN 46224. Transporting (1) *such commodities* as are dealt in by grocery houses, retail chain department stores, medical supply houses, and drug stores, (except commodities in bulk), from the facilities of Colgate-Palmolive Company at or near Jeffersonville, IN, to points in KY, MI, OH, and TN, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), in the reverse direction, restricted to the transportation of traffic originating at or destined to the facilities of Colgate-Palmolive Company. (Hearing site: Indianapolis, IN.)

MC 143696 (Sub-9F), filed May 3, 1979. Applicant: AMERICAN INDUSTRIAL TRANSPORTATION, INC., P.O. Box 1416, Henderson, TX 75652. Representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *used and rebuilt plastic injection molding machinery*, and (2) *parts and attachments* used in the rebuilding of the commodities named in (1) above, between Houston, TX, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Houston Plastics Machinery, Inc., of Houston, TX. (Hearing site: Dallas, TX.)

MC 144117 (Sub-38F), filed May 1, 1979. Applicant: T.L.C. LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *such commodities* as are dealt in or used by manufacturers of photographic products, (except commodities in bulk), (1) from the facilities of of Eastman Kodak Company at Rochester, NY, to San Ramon, Los Angeles, and Whittier, CA, Dallas, TX, and Windsor, CO, and (2) from Windsor, CO, to the facilities of Eastman Kodak Company at Rochester, NY, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 144117 (Sub-39F), filed May 8, 1979. Applicant: T.L.C. LINES, INC., P.O. Box 1090, Fenton, MO 63026. Representative: Daniel C. Sullivan, 10 South La Salle Street, Suite 1600, Chicago, IL 60603. Transporting *iron and steel articles* (except commodities in bulk), from the facilities of Keystone Consolidated Industries, Inc., at or near (a) Peoria, IL, (b) Crawfordsville, IN, and (c) Sherman, TX, to points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, MT, WA, and WY, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 144927 (Sub-22F), filed March 27, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47997. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, 320 North Meridian Street, Indianapolis, IN 46204. Transporting *vegetable oil and vegetable oil shortening*, from Columbus, OH, to points in CT, MA, ME, NH, NJ, NY, RI, and VT. (Hearing site: Columbus, OH, or Indianapolis, IN.)

MC 145636 (Sub-1F), filed May 8, 1979. Applicant: BOB BRINK, INC., 165 Stueben Street, Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *waste materials*, in bales, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation under the provision of 49 U.S.C. § 10526(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities named in (1) above, from the facilities of Miller Waste Mills, Inc. at Winona, MN, to Portland, OR and points in CA. (Hearing site: Minneapolis, or St. Paul, MN.)

MC 145636 (Sub-2F), filed May 9, 1979. Applicant: BOB BRINK, INC., 165 Stueben Street, Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *silk screen processed products*, and (2) *commodities* the transportation of which is otherwise exempt from economic regulations under the provisions of 49 U.S.C. § 10526(6) (formerly 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities in (1) above, from Winona, MN, to Phoenix, AZ, Los Angeles and San Francisco, CA, Denver, CO, Des Moines, IA, Kansas City, MO, Omaha, NE, Oklahoma City, OK, and Dallas, Houston, and San Antonio, TX. (Hearing site: Minneapolis, or St. Paul, MN.)

MC 145636 (Sub-8F), filed May 9, 1979. Applicant: BOB BRINK, INC., 165 Stueben Street, Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *steel fasteners*, and (2) *commodities* the transportation of which is otherwise exempt from economic regulation under the provisions of 49 U.S.C. § 10526(6) (formerly section 203(b)(6) of the Interstate Commerce Act), in mixed loads with the commodities in (1) above, (a) from Decorah, IA, to points in CA, OR, UT, and WA, and (b) between Decorah, IA, on the one hand, and, on the other, points in CT. (Hearing site: Minneapolis, or St. Paul, MN.)

MC 146437F, filed May 9, 1979. Applicant: STATE TRUCKING COMPANY, a corporation, P.O. Box 11439, Greensboro, NC 27409. Representative: A. W. Flynn, Jr., 314 South Eugene Street, P.O. Box 180, Greensboro, NC 27402. Transporting *glass containers and fibreboard containers*, from Midway, NC, to Eden, NC. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) (formerly section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. (Hearing site: Greensboro, NC.)

Volume No. 187

Decided: September 21, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 13569 (Sub-52F), filed May 18, 1979. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, INC., 1200 So. State Street, Girard, OH 44420. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. Transporting *aluminum sheet and aluminum industrial foil* from the facilities of the Alcan Aluminum Corporation at Oswego, NY, to the facilities of Alcan Aluminum Corporation at Fairmont, WV. (Hearing site: Washington, DC.)

MC 25869 (Sub-152F), filed May 17, 1979. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting (1) *food, food products, and animal feed*, from points in WI and IL to points in the United States in and west of MN, IA, MO, AR, and LA, and (2) *foodstuffs* (except commodities in bulk), from the facilities of the Green Giant Company at or near Belvidere, IL, to points in CO, restricted in (2) to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 25869 (Sub-153F), filed May 17, 1979. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, Xerox Building, 7171 Mercy Road, Omaha, NE 68106. Transporting *weather stripping and auto parts*, from Keokuk, IA, to points in MI, MO, IL, and OH. (Hearing site: Chicago, IL.)

MC 29079 (Sub-107F), filed April 29, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H Street Northwest, Washington, DC 20006. Transporting (1) *pipe, tubing and fittings*, from Winchester, KY, to points in IL, IN, MD, MA, MI, MO, NJ, NY, NC, OH, PA, SC, VT, VA, WV, WI, and DC, and (2) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 100449 (Sub-108F), filed April 30, 1979. Applicant: MALLINGER TRUCK LINE, INC., R.R. 4, Fort Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *such merchandise* as is dealt in by chain grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, IA, IL, KS, MN, MO, ND, NE, TX, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., (Hearing site: Washington, DC, or Chicago, IL.)

MC 103498 (Sub-62F), filed May 18, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th St., Lubbock, TX 79408. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *building materials, gypsum, and gypsum products*, from the facilities of National Gypsum Co., at Westwego, LA, to points in AR, OK, and TX, and (2) *materials, equipment and supplies* used in the manufacture and distribution of commodities in (1) above, in the reverse direction. (Hearing site: New Orleans, LA or Dallas, TX.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

V 44 OC 16 79 UMI

MC 106398 (Sub-895F), filed April 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *steel pipe* from Kansas City, MO, to points in CO, IA, MI, MN, NM, OH, TX, and WI. (Hearing site: Chicago, IL.)

MC 108119 (Sub-157F), filed May 18, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *knocked down steel buildings*, between Oklahoma City, OK, on the one hand, and, on the other, points in CA, AZ, ID, NV, and UT. (Hearing site: Oklahoma City, OK.)

MC 112989 (Sub-98F), filed April 30, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., (same address as applicant). Transporting (1) *charcoal, charcoal briquettes, sawdust, fireplace logs, charcoal lighter fluid, in containers and hickory chips*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of The Kingsford Company. (Hearing site: Louisville, KY.)

MC 114969 (Sub-86F), filed April 30, 1979. Applicant: PROPANE TRANSPORT, INC., 1734 State Route 131, P.O. Box 232, Milford, OH 45150. Representative: James R. Stiverson, 1396 West Fifth Avenue, Columbus, OH 43212. Transporting *sand*, in bulk, from points in LaSalle County, IL, and Berrien County, MI, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Columbus, OH.)

MC 118989 (Sub-218F), filed April 30, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, IL 60601. Transporting (1) *plastic foam products and materials and supplies* used in the manufacture and distribution of plastic foam products (except commodities in bulk), from the facilities of Future Foam, Inc., at or near Council Bluffs, IA and Madison, WI, to points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2)(a) *plastic containers and lids, plastic foam products*, and (b) *materials and supplies* used in the manufacture and distribution of the commodities in (2)(a) above (except commodities in bulk), from the facilities of Airlite Plastics Co., at or near Omaha, NE, to points in the United States, in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Chicago, IL.)

MC 125689 (Sub-4F), filed May 18, 1979. Applicant: BEATTYVILLE TRANSPORT, INC., P.O. Box 357, Catlettsburg, KY 41129. Representative: Oakie G. Ford (same address as applicant). Transporting *petroleum, petroleum products, and chemicals*, in bulk, between the facilities of Ashland Oil, Inc., in Boyd County, KY, Lawrence County, OH, and Wayne County, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA (except AK and HI). (Hearing site: Charleston, WV.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 126118 (Sub-158F), filed May 17, 1979. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *retail store fixtures, and equipment, material and supplies* used in the manufacture of retail store fixtures, (1) between the facilities of Lozier Corporation at or near Omaha, NE, Cucamonga, CA, Scottsboro, AL, and McClure, PA, and (2) between the facilities of Lozier Corporation at or near Omaha, NE, Cucamonga, CA, Scottsboro, AL, and McClure, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 126118 (Sub-159F), filed May 17, 1979. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *skin care products, cosmetics, and toilet preparations* (except chemicals and commodities in bulk), from Ormond Beach, FL, and Dallas, TX, to the facilities of Pacific World Products, Inc., at Laguna Hills, CA. (Hearing site: Los Angeles, CA, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 134599 (Sub-171F), filed April 30, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting (1) *rubber and plastic hose and hose fittings*, from the facilities of Electric Hose & Rubber Co., in Marion County, FL, to points in the United States (except AK and HI) and (2) *equipment, materials and supplies* used in the manufacture of the commodities in (1) above in the reverse direction, under continuing contract(s) with Dayco Corporation, of Dayton, OH. (Hearing site: Lincoln, NE or Salt Lake City, UT.)

Note.—Dual operation are involved.

MC 134599 (Sub-172F), filed April 30, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crated office furniture and equipment, materials and supplies* used in the manufacture of crated office furniture between Athens, AL, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with steelcase, Inc., of Grand Rapids, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations are involved.

MC 134979 (Sub-14F), filed May 17, 1979. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58102. To operate as a *contract* carrier, by motor vehicle, in interstate or foreign commerce, transporting (1) *canned pet food and canned tuna*, from the facilities of Star-Kist Foods, Inc., at or near Terminal Island, CA, to points in IL, IA, KS, MN, MO, NE, ND, SD, and WI, and (2) *dried pet food*, from the facilities of Star-Kist Foods, Inc., at or near Terminal Island, CA, to points in OR and WA, under a continuing contract with Star-Kist Foods, Inc., of Terminal Island, CA. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 135078 (Sub-53F), filed May 17, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *floor tile, and materials and supplies* used in the installation and maintenance of floor tile, from the facilities of G.A.F. Corp., at or near Vails Gate, NY, to points in CO, IA, KS, LA, MO, NE, OK, and TX. (Hearing site: Omaha, NE, or Kansas City, MO.)

Note.—Dual operations are involved.

MC 135078 (Sub-54F), filed May 17, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, NE 68127. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *floor coverings, and materials and supplies* used in the installation and maintenance of floor coverings, from the facilities of G.A.F. Corp., at Whitehall, PA, to points in IA, MO, and NE. (Hearing site: Omaha, NE, or Kansas City, MO.)

Note.—Dual operations are involved.

MC 135859 (Sub-1F), filed April 30, 1979. Applicant: KAUFFMAN & MINTEER, INC., P.O. Box 14, Jobstown, NJ 08041. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *petroleum products* (in bulk) (1) from Philadelphia, PA, to points in NJ and DE, and (2) from Delair, NJ, to points in PA and DE. (Hearing site: Philadelphia, PA, or New York, NY.)

MC 136168 (Sub-34F), filed April 30, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *carcass and boxed lamb*, from the facilities of Wilson Foods Corp., at Denver, CO, to points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC, under continuing contract(s) with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Denver, CO, or Omaha, NE.)

Note.—Dual operations are involved.

MC 136168 (Sub-36F), filed April 30, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *citrus products, beverages, and fruit and vegetable juices and concentrates* (except commodities in bulk, in tank vehicles), from the facilities of Lykes Pasco Packing Co., at or near Dade City, FL, to points in AR, IL, IN, IA, KY, KS, MN, MO, NE, OK, TN, and WI, under continuing contract(s) with Lykes Pasco Packing Co., of Dade City, FL. (Hearing site: Tampa, FL.)

Note.—Dual operations are involved.

MC 138308 (Sub-72F), filed April 30, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *canned and preserved foodstuffs* from the facilities of Heinz U.S.A., Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in AR, LA, MS, OK, and TX, restricted to the transportation of traffic originating at the named facilities and destined to the named destinations. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations are involved.

MC 138328 (Sub-90F), filed April 30, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby (same address as applicant). Transporting *natural or synthetic rubber, and equipment, supplies, and materials* used in the manufacture of rubber or synthetic rubber products, from Tacoma and Seattle, WA, to Oklahoma City, OK; Des Moines, IA; Decatur, IL; Memphis, TN; Akron, OH; Salinas and Los Angeles, CA, and Noblesville, IN, restricted to the transportation of shipments originating at the named origins and destined to the named destinations. (Hearing site: Cleveland, OH, or Chicago, IL.)

Note.—Dual operations are involved.

MC 138388 (Sub-6F), filed May 17, 1979. Applicant: CHESTER CAINE, JR., d.b.a. CAINE TRANSFER, Box 376, Lowell, WI 53557. Representative: James A. Spiegal, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting *cheese and cheese products, and materials, equipment, and supplies* used in the manufacture of cheese, (a) between Van Wert, OH, and points in WI, and (b) between Van Wert, OH, Warsaw, IN, Rochester, MN, and points in IL. (Hearing site: Madison, WI.)

MC 138438 (Sub-54F), filed May 17, 1979. Applicant: D. M. BOWMAN, Inc., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Charles Creager, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Transporting *leather, and materials, supplies and equipment* used in the manufacture and distribution of leather, between the facilities of Walter Kiddie & Co., Inc., at or near Williamsport, MD, and Reading and Fleetwood, PA, on the one hand and, on the other, points in and east of ND, SD, NE, CO, OK, and LA. (Hearing site: Hagerstown, MD.)

Note.—Dual operations are involved.

MC 140389 (Sub-56F), filed April 30, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Gadsden, AL 35902. Representative: Clayton R. Byrd, P.O. Box 12566, Atlantic, GA 30315. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (a) between Battle Creek, MI, Lancaster and Sharonville, OH, (b) between Battle Creek, MI, and Lancaster and Sharonville, OH, on the one hand, and, on the other, points in AL, FL, GA, LA, MS, NC, SC, and TN, and (c) between Louisville, KY, on the one hand, and, on the other, points in AL, CO, FL, GA, IL, IA, KS, LA, MN, MS, MO, ME, NC, ND, SC, SD, TN, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. (Hearing site: St. Louis, MO.)

MC 140829 (Sub-230F), filed April 30, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King, (same address as applicant). Transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, IA, IL, IN, KS, KY, MA, MI, MN, MO, ND, NE, NY, OH, PA, SD, TX, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-231F), filed April 30, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting (1) *batteries, battery acid, and battery parts*, and (2) *material, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from Kankakee, IL, to points in CO, LA, MO, NJ, PA, and TX, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-233F), filed April 30, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (same address as applicant). Transporting *such commodities* as is dealt in by mail order houses, (except commodities in bulk), (1) from Boston, MA, New York, NY, and Philadelphia, PA, to Chicago, IL, and (2) between Chicago, IL and Charlotte, NC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-240F), filed April 30, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David King (same

V 44 0 C 1 6 7 9 UMI

address as applicant). Transporting *confectionery* (except in bulk), from the facilities of E. J. Brach & Sons, Inc., at or near Chicago and Carol Stream, IL, to points in AR, CO, IA, KS, MO, NE, NM, OK, SD, and TX, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141539 (Sub-1F), filed May 18, 1979. Applicant: GORDON HART, d.b.a. HART TRANSPORT, P.O. Box 458, Dexter, MO 63841. Representative: William F. Ringer, 21 Vine Street, Dexter, MO 63841. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mufflers, exhaust pipes, tailpipes, steel, machinery, machinery parts, motors, transformers, converters, filters, flanges, gauges, tubing, asbestos, strapping, cartons, boxes, drums, pallets, steel racks, scrap metal, oil, solvents, and cleaning products* (except commodities in bulk), between Fayette, AL, and Monticello, AR, on the one hand, and, on the other, Dexter, MO, Fayette and Monroeville, AL, Monticello, AR, and Columbus, Franklin, Greenwood, Indianapolis, and North Vernon, IN, and (2) *steel* from Granite City and Madison, IL, and St. Louis, MO, to Monticello, AR, and Fayette, AL, under continuing contract(s) with Arvin Industries, Inc. of Dexter, MO. (Hearing site: St. Louis, MO, or Memphis, TN.)

MC 141759 (Sub-11F), filed May 17, 1979. Applicant: OHIO PACIFIC EXPRESS, INC. 2385 South High Street, Columbus, OH 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chinoware*, from Newell, WV, to points in AZ, CA, CO, OR, WA, NV, UT, ID, MT, NM, WY, TX, FL, KY, and TN, under continuing contract(s) with Homer Laughlin China Company. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 141889 (Sub-1F), filed April 30, 1979. Applicant: RONALD DE BOER, d.b.a., RON DE BOER TRUCKING, Route 1, Box 82, Sherry Station, Milladore, WI 54454. Representative: Wayne W. Wilson, 150 E. Gilman Street, Madison, WI 53703. Transporting *paper and paper products* from the facilities of Appleton Papers, Inc., at or near Appleton and Combined Locks, WI, to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA, and WY. (Hearing site: Madison or Appleton, WI.)

MC 142059 (Sub-70F), filed April 30, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). Transporting (1) *steel silos, loading and unloading devices, waste storage tanks, livestock feed bunkers, forage metering devices, animal waste spreader tanks, livestock feeding systems, manure spreaders*, and (2) *parts and accessories* for the commodities in (1) above, from Dekalb and Eureka, IL and Vinton, IA, to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142059 (Sub-72F), filed April 30, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, (same address as applicant). Transporting *foodstuffs* (except frozen or in bulk) from Hoopeston and Princeville, IL, and Mayville, WI, to points in the United States in and east of MN, IA, MO, OK, and TX, and Kansas City, KS, restricted to the transportation of shipments originating at the facilities of Joan of Arc Company. (Hearing site: Chicago, IL, or Washington, DC.)

MC 142559 (Sub-92F), filed April 30, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in by manufacturers and distributors of building materials, and *parts and supplies* for such commodities (except commodities in bulk and those requiring special equipment) (1) between Cleveland and Medina, OH, on the one hand, and, on the other, points in the United States (except AK and HI); and (2) between Red Lion, PA, and Baltimore, MD, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH.)

Note.—The person or persons who appear to be engaged in common control with another carrier must either file an application under 49 U.S.C. 1343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Dual operations may be involved.

MC 143209 (Sub-9F), filed April 30, 1979. Applicant: HOUSTON FREIGHTWAYS, INC., P.O. Box 473, Galena Park, TX 77547. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. Transporting *rust preventive pipeline coating*, in bulk, in tank vehicles, from Granite City, IL, to Fort Collins, CO, Birmingham, AL, El Reno and Tulsa, OK, and Baton Rouge, LA. (Hearing site: St. Louis, MO.)

MC 144688 (Sub-19F), filed April 30, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *such commodities* as are dealt in by grocery and food business houses (except frozen commodities and commodities in bulk), from the facilities of the Clorox Company, at or near Atlanta, GA, to points in AL, AR, LA, MS, and TN, and (2) *materials, equipment, and supplies* used in the manufacture, sale and distribution of the commodities named in (1) above, in the reverse direction, restricted in part (1) to the transportation of traffic originating at the named facilities and destined to points in the named States; and in part (2) to the transportation of traffic originating at points in the named States and destined to the named facilities. (Hearing site: Oakland, CA, or Omaha, NE.)

MC 144688 (Sub-23F), filed May 17, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *scrap plastic*, between the facilities of ABC Polymers, Inc., at or near Atlanta, GA, on the one hand, and, on the other, points in AL, AR, FL, KY, LA, MS, MO, NC, OK, PA, SC, TN, TX, VA, and WV, and (2) *reprocessed resin*, from the facilities ABC Polymers, Inc., at or near Atlanta, GA, to points in AL, AR, FL, KY, LA, MS, MO, NC, OK, PA, SC, TN, TX, VA, and WV, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the named facilities or the named points in the named States. (Hearing site: Atlanta, GA.)

MC 146699 (Sub-2F), filed April 27, 1979. Applicant: KENNETH E. JONES AND JAMES H. PARRISH, d.b.a. DESOTO TRAIL, 282 East Main Street, Franklin, NC 28734. Representative: Bruce E. Mitchell, 3390 Peachtree Road, NE., Atlanta, GA 30326. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials* between the facilities of Zickgraf Hardwood Company, at or near Franklin, NC, on the one hand, and, on the other, points in FL, GA, SC, VA, WV, MD, NJ, PA, NY, CT, RI, MA, NH, VT, ME, and DC, under continuing

contract(s) with Zickgraf Hardwood Flooring Company, of Franklin, NC. (Hearing site: Charlotte, NC, or Atlanta, GA.)

MC 147008 (Sub-1F), filed April 30, 1979. Applicant: ALBERT NEAL WEBBER, JR., d.b.a. A .N. WEBBER, P.O. Box 95, Chebanse, IL 60922. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *water heaters, house heating boilers, and glasslined tanks* from Kankakee, IL, to points in MT, CO, ND, WY, those points in SD west of the Missouri River and those points in KS and NE west of U.S. Hwy 183, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, (except commodities in bulk), from points in CO to Kankakee, IL. (Hearing site: Chicago, IL.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31795 Filed 10-15-79; 8:45 am]

BILLING CODE 7035-01-M

Decision-Notice

Correction

In FR Doc. 79-12957 appearing at page 25296 in the issue of Monday, April 30, 1979, the tenth line of the third complete paragraph (me 59150 (sub-147F)) on page 25297 should read, "to points in AL. (Hearing site:"

BILLING CODE 1505-01-M

V 44 OC 16 79 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 201
Tuesday, October 16, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1, 2
Equal Employment Opportunity Commission	3
Federal Election Commission	4
Federal Energy Regulatory Commission	5
Federal Maritime Commission	6
International Trade Commission	7

1

[M-252, Amdt. 1; Oct. 11, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the October 16, 1979, agenda.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

4a. Docket 36758, Application of Pacific Southwest Airlines for emergency exemption. (OGC)

5a. Dockets 36453 and 36536, Applications of Trans World and Ozark for restriction removal under Subpart Q in the Kansas City-Tulsa market. (BDA)

5b. Dockets 36416, 36598, 36604, and 36748, Applications of Trans World for restriction removal under Subpart Q in the Kansas City-Salt Lake City market and conforming applications of Western, USAir, and Republic. (BDA)

STATUS: Open.

PESON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 4a is being added because PSA desires to begin service on October 18, and the public interest would be best served by permitting the carrier to proceed with its plans. The statutory deadline for acting on Items 5a and 5b will be before the next open Board meeting. The staff was unable to provide the draft orders earlier because of the press of other business. Accordingly, the following Members have voted that agency business requires the addtion of Items 4a, 5a, and 5b to the October 16, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2019-79 Filed 10-12-79; 3:59 pm]

BILLING CODE 6320-01-M

2

[M-252, Amdt. 2; Oct. 11, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 16, 1979, agenda.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: 3a. Docket 35390, Frontier's notice to suspend service at Sidney, Alliance, and Chadron, Nebraska. (BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 3a is being added to the October 16, 1979 agenda so that the Board can issue its instructions to the staff on the matter in time to make a final determination of essential air service for the communities involved by October 24, 1979. Accordingly, the following Members have voted that Item 12a be added to the October 16, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2020-79 Filed 10-12-79; 3:59 pm]

BILLING CODE 6320-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION FOR PREVIOUS ANNOUCEMENT: S-2004-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, October 16, 1979.

CHANGE IN TIME OF THE MEETING: 10:30 a.m.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 12, 1979.

[S-2021-79 Filed 10-12-79; 3:59 pm]

BILLING CODE 6570-06-M

4

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, October 11, 1979, 11:30 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

Due to extraordinary circumstances, the Commission held a special executive session to consider compliance matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred S. Eiland, Public Information Officer, Telephone: 202-523-4065.

Majorie W. Emmons,
Secretary to the Commission.

[S-2017-79 Filed 10-12-79; 11:02 am]

BILLING CODE 6715-01-M

5

October 12, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 23, 1979, 10 a.m.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing of the Commission by Irwin Stelzer, Chairman of the Subcommittee on Review of Decisional Process with respect to his report on behalf of that Subcommittee. The report deals primarily with electric rate matters.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

[S-2022-79 Filed 10-12-79; 3:59 pm]

BILLING CODE 6450-01-M

6

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 11, 1979, 44 FR 58863.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 16, 1979, 10 a.m.

CHANGE IN THE MEETING: The Time of the meeting is corrected to read: 8:30 a.m. instead of 10 a.m. on October 16, 1979.

[S-2016-79 Filed 10-12-79; 9:20 am]

BILLING CODE 6730-01-M

7

[USITC SE-79-38A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To FR October 4, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Tuesday, October 23, 1979.

CHANGES IN THE MEETING: Amendment to notice for the meeting scheduled for Tuesday, August 23, 1979, as follows:

In its notice for the meeting of Tuesday, October 23, 1979, the Commission indicated that the briefing under agenda item No. 5 [Nonelectric Cooking Ware (Inv. TA-201-39)—briefing and vote on injury] would be held in open session. However, by action jacket OP2-79-77, approved October 10, 1979, the United States International Trade Commission, in conformity with 19 CFR 201.36(b)(4), voted to close the briefing under this agenda item to the public. Commissioners Parker, Alberger, Moore, Bedell, and Stern voted, pursuant to 19 CFR 201.37(b), that Commission business requires the change to the agenda, and directed the issuance of this announcement at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-2018-79 Filed 10-12-79; 3:41 pm]

BILLING CODE 7020-02-M

V 44 OC 16 79 UMI

federal register

Tuesday,
October 16, 1979

Part II

Department of the Treasury

Customs Service

Antidumping Duties; Proposed Revision to Customs Regulations and Procedures for Conference on Proposed Amendment to Antidumping and Countervailing Duty Regulations

V 4 4 0 C 1 6 7 9 UMI

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 153

Proposed Revision of the Customs Regulations Relating to Antidumping Duties

AGENCY: United states Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: It is proposed to amend the Customs Regulations relating to antidumping duties in order to reflect the changes made by the Trade Agreements Act of 1979, which replace the Antidumping Act, 1921, as amended. Proposed amendments to the Antidumping Regulations relating, respectively, to circumstances of sale, September 14, 1976, *ex parte* communications November 7, 1977, requirements for petitions, January 9, 1978, and the deposit of estimated duties and use of best information available, December 14, 1978, are hereby withdrawn. The principal changes in the new law relate to shortened time limits during the investigative phase of proceedings; detailed provisions concerning suspension of investigations; the imposition of time limits on the liquidation of entries subject to the assessment of antidumping duties; yearly administrative review of outstanding suspension agreements and Antidumping Duty Orders; and greater public participation in, and access to information developed in the course of, antidumping proceedings. These changes in the law require that conforming amendments be made to the Customs Regulations.

DATE: Written comments must be received on or before November 30, 1979. A conference will be held on November 5 and 6, 1979, at 9:30 a.m.

ADDRESS: Comments should be addressed to the Commissioner of Customs Attention: Regulations and Legal Publications Division U.S. Customs Service 1301 Constitution Avenue, N.W., Washington, D.C. 20229. The open conference will be held in Room 4121 of the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C., and will provide an additional opportunity for comment on the proposed amendments to the Regulations.

FOR FURTHER INFORMATION CONTACT: Lynn J. Barden, Senior Counsel (International Trade and Tariff Affairs), Department of the Treasury, Washington, D.C. 20220, 202–566–2688, or James Lyons, Office of the Chief Counsel, U.S. Customs Service, 202–566–2938.

SUPPLEMENTARY INFORMATION:

Background

The existing provision of the Customs Regulations relating to antidumping duties are based on the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*). Section 106(a) of the Trade Agreements Act of 1979, Pub. L. 96–39, repeals the Antidumping Act, 1921, as amended, effective January 1, 1980. Although Title I, Subtitles B, C, and D (Antidumping Duties) of the Trade Agreements Act in large measure retains the substantive law aspects of the 1921 Act, some changes and additions to the Regulations are required are required in order to implement the modifications in substantive law and procedure effected by the 1979 Act. A number of other regulations will incorporate existing administrative interpretations and practices which had not heretofore been set forth in regulations but which are intended to be continued under the new statute.

The principal changes in the new law relate to shortened time limits during the investigative phase of proceedings; detailed provisions concerning suspension of investigations; the imposition of time limits on the liquidation of entries subject to the assessment of antidumping duties; yearly administrative review of outstanding suspension agreements and Antidumping Duty Orders; and greater public participation in, and access to information developmed in the course of, antidumping proceedings. These changes in the law require that conforming amendments be made to the Customs Regulations.

The proposed regulations borrow substantially from the language of the new statute, but, where appropriate, they also enlarge upon and clarify some of the provisions of the 1979 Act and incorporate existing administrative interpretations and practices. Thus, the regulations contain language intended to implement the Statements of Administrative Action, approved by Congress in enacting Pub. L. 96–39.

The proposed regulations, like the new Act, will continue use of the term "fair value" during the investigative phase of a proceeding. The term will continue to be analogous to "foreign market value," the standard used in assessment of antidumping duties. The regulations also will generally retain existing definitions and terms. There are three major modifications: (1) Where sales in the country of exportation are inadequate to determine foreign market value, either sales to third countries or constructed value can be used for that purpose; the former is still preferred, but constructed value can be used whenever deemed appropriate by the Secretary. (2) The definition of "purchase price" has been changed in both the statute and the proposed regulations to reflect current Customs practice and to dispel doubts raised by the Customs Court decision in *Voss International* v. *United States*, C.D. 4801 (May 7, 1979). Thus, pursuant to the statute and the proposed regulations, if a producer knew that the merchandise was intended for sale to an unrelated purchaser in the United States under terms of sale determinable on or before the date of importation, the producer's sale price to an unrelated middleman will be used as the "purchase price". (3) The Secretary is given authority to disregard claimed adjustments to foreign market value which are insignificant in relation to the price or value of the affected transactions and to use averaging or generally recognized sampling techniques whenever a significant volume of sales is involved or a significant number of adjustments to prices is required to determine foreign market value; the regulations detail when this authority will be exercised.

Some of the regulations are designed primarily to expedite the pace of proceedings. They include, in addition to the option for using either third country prices or constructed value and the ability to disregard insignificant adjustments, described above, the requirement of English translations for any foreign language materials submitted, which will enable quicker analysis of information. The regulations also will clarify certain matters. For example, the existing practice of treating a sale by a selling agent of a related foreign manufacturer to an unrelated buyer in the United States as "purchase price" when the transactions between the related parties indicate that the merchandise has been sold prior to importation to an unrelated buyer will be codified in the regulations.

Some changes in the proposed regulations will permit interested parties to have access to information previously not available to them. Thus, the proposed regulations will permit, where appropriate, the disclosure of business confidential information pursuant to protective order. Other practices designed to promote the efficient handling of information are now being considered. In order to facilitate the identification of entries of products subject either to an investigation or an outstanding Order, it is contemplated that the notice of initiation may require the importer to provide a special color-coded copy of the entry summary form (C.F. 7501) and an additional copy of the commercial invoice. Analysis of the burden this may impose on importers is now being considered, and comments on this point, although not formally proposed herein, are invited.

Equally important, the Act provides for earlier and more effective application of remedial measures once an Order is issued. The proposed regulations will implement section 736(a)(3) of the Act, which requires the deposit of estimated duties with regard to all merchandise subject to a Finding of Dumping in effect on January 1, 1980, or an Antidumping Duty Order published after January 1, 1980, which was entered, or withdrawn from warehouse, for consumption after December 31, 1979. The amount of the estimated duty to be deposited by each manufacturer, producer, or exporter shall equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise as determined in the affirmative final determination of the Secretary, the lastest administrative review of such determination under § 153.53, or pursuant to § 153.49, which provides for a posting of security other than the deposit of estimated duties pending an early determination of the amount of the duty. Bonds required under § 153.51 of the current Customs Regulations (19 CFR 153.51) on entries made prior to January 1, 1980, will remain in effect and no deposit of estimated duties or additional security will be required with respect to those entries.

It is therefore proposed that the provisions presently set forth in Part 153 of the Customs Regulations (19 CFR) be replaced by the revised and expanded provisions contained in this notice of proposed rulemaking. The following proposed regulations relating to antidumping duty investigations, previously published in the **Federal Register** are hereby withdrawn: (1) Circumstances of sale, September 14, 1976 (41 FR 39030), (2) *ex parte* communications, November 7, 1977 (42 FR 57973), (3) requirements for petitions, January 9, 1978 (43 FR 1358), and (4) deposit of estimated duties and use of best information available, December 14, 1978 (43 FR 58384). The changes set forth in these notices of proposed rulemaking have been superseded by the provisions of the Trade Agreements Act of 1979.

The principal changes in the requirements and procedures under the proposed regulations are described below:

1. Section 153.0 amends the provision in the existing regulations to refer to Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1671 *et seq.*) (hereinafter referred to as "the Act"). This section also provides that determinations by the Secretary under the Act shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended, or relevant Executive Orders.

2. Section 153.1 sets forth the meaning of the term "fair value" and the relation of that term to "foreign market value". In both regards, this section follows current practice. Throughout this preamble, as in the proposed regulations, references to "foreign market value" generally apply to "fair value" as well, but references to "fair value" do not also apply to "foreign market value."

3. Sections 153.2 through 153.9 describe the manner in which foreign market value shall be determined. Section 153.3 indicates that normally foreign market value will be calculated on the basis of market data in the country from which the merchandise relevant to the investigation is exported. Restrictions on sales in the country from which the merchandise is exported will not disqualify those transactions for purposes of calculating foreign market value, but will require adjustments where the restrictions affect the value of the merchandise pruchased.

4. Section 153.4 indicates that where sales in the county of exportation are inadequate for purposes of calculating foreign market value, sales to third countries or the constructed value of the merchandise may be considered for that purpose. This is a change from the 1921 Act, which required use of third country prices whenever available. Under the proposed regulations the use of sales to third countries normally will be preferred, but there is discretion to use constructed value whenever deemed appropriate. The most usual situation in which it may be appropriate is when sales at less than cost have been alledged and investigated; the data from which constructed value can be determined is generally and immediately available, while sales prices in third countries would require further, possibly more time-consuming, investigation.

5. Section 153.5 details the manner in which the most appropriate country for comparison will be selected when sales to third countries are to be utilized in determining foreign market value. The criteria, in order of priority, which will be considered in the selection of the appropriate third country are: similarity of product, volume of sales, and the existence in the third country of market conditions similar to those prevalent in the country of exportation. If sales to a single country do not provide an adequate sample, sales to additional countries may be aggregated. These criteria conform to existing practice.

6. Section 153.6 sets forth the manner in which constructed value shall be determined for purposes of calculating foreign market value. In the case of any element of value required to be considered in determining the constructed value of the merchandise under investigation, direct or indirect transactions between related parties may be disregarded if the amount designated as representing that element does not fairly reflect the prevailing market conditions.

7. Section 153.7 directs that whenever sales are disregarded by virtue of having been made at less than the cost of production, and the remaining sales in the home market or, as appropriate, to third countries or by facilities outside the country of exportation by a related company, are determined to be inadequate for the determination of foreign market value, the Secretary shall determine foreign market value on the basis of constructed value. Unlike the current regulation, the proposed regulation sets forth how "cost of production" will be computed.

8. Section 153.8 retains the procedures presently set forth in § 153.7, as amended in 1978, relating to the determination of foreign market value in proceedings involving state-controlled-economy countries.

9. Section 153.9 implements the statutory provisions whereby fair value for certain multinational corporations may be determined on the basis of sales in a third country by a related company.

10. Section 153.10 defines the term "United States Price" and describes the manner in which purchase price and exporter's sales price are to be determined. "Purchase price" is not defined as the price, determined prior to importation, for which the merchandise is purchased or agreed to be purchased. The definition makes clear that if the manufacturer or producer knew or had reason to know that the goods were for sale to an unrelated U.S. buyer and the terms of sale were fixed or determinable from events beyond the control of the parties as of the date of importation, the manufacturer's or producer's sales price to an unrelated middleman will be used as "purchase price." This provision reflects current practice. The definition

of "exporter's sales price" is unchanged. The provision on adjustments to both purchase price and exporter's sales price includes the new statutory provision requiring that the price be increased by the amount of any countervailing duty imposed on the merchandise to offset an export subsidy; in all other respects this provision in unchanged. The provision on additional adjustments to exporter's sales price reflects recently adopted practice by providing that if the value of merchandise when imported is less than 80% of the price when sold to a party unrelated to the exporter, an allocation of profit attributable to the addition of post-importation material, labor or services shall be included in the adjustments made.

11. Sections 153.11 and 153.12 define the terms "proceedings," "investigations," "determinations," and "Orders," and set forth the definitions for several terms basic to the Act: "Country", "industry", "interested party," "person," "Secretary," "Commission," "Customs Service," "Department," and "Party to the Proceeding."

12. Section 153.13 indicates the adjustments which are permissible in calculating foreign market value. It also indicates that the party alleging entitlement to an adjustment has the burden of proof.

13. Section 153.14 replaces without substantive change the comparable provision in the present regulations (§ 153.9).

14. Section 153.15 sets forth the adjustments which are appropriate for differences in circumstances of sale. In addition to the allowances currently made, this section will permit three new adjustments—for salaries (as well as commissions) paid to salesmen, for reserves for bad debt costs where established on the basis of actual experience, and for warehousing expenses.

15. Section 153.16 amends and expands upon the existing provision relating to adjustments for differences in merchandise (§ 153.11). The new provision indicates that if the differences in the physical characteristics of the merchandise account for more than 10 percent of the value of the merchandise sold at a lower price, an appropriate allocation of any profit realized will be made to the material or labor used in creating such differences.

16. Sections 153.17 and 153.18, respectively, continue the current regulations relating to offering price and fictitious sales (§§ 153.12, 153.14).

17. Section 153.19 amends and expands upon the existing regulation relating to level of trade adjustments. The new provision will allow an adjustment for discounts based on level of trade considerations offered by the producer in third country markets if none can be based on experience in the U.S. market because sales to only a single level of trade have occurred there. However, the adjustment will be allowed only if the volume of sales in the third country at the discounted price is substantial and the prices in the third country market are no lower than prices in the home market at the same level of trade.

18. Section 153.20 amends and expands upon the present provision relating to sales at varying prices (§ 153.16).

19. Section 153.21 replaces without modification the present section relating to shipments from intermediate countries (§ 153.17).

20. Section 153.22 amends and clarifies the existing regulation relating to the treatment of transactions between related persons (§ 153.13). It permits the use of such transactions if the prices are consistent with prices in transactions between unrelated persons.

21. Section 153.23 is a new provision. It permits the Secretary to disregard insignificant adjustments affecting the calculation of foreign market value. Individual adjustments of less than 0.33 percent and cumulative adjustments of less than 1.0 percent may be disregarded unless their disallowance would have a significant impact on the results of the calculations to be made. This provision also empowers the Secretary to use averaging or generally accepted sampling techniques in determining foreign market value. It will be used to prevent delays in the proceedings for reasons which do not significantly alter the results of such proceedings.

22. Section 153.24 is a new provision, applicable to the fair value phase of proceedings, dealing with situations in which, in the markets being compared, pricing behavior runs in parallel. If within very short time periods prices in the two markets for such or similar merchandise are aligned, insignificant price differences may be disregarded in determining whether sales at less than fair value have occurred where, because of the nature of the markets and the merchandise under consideration, such insignificant price differences are inadvertent or unavoidable. The purpose of the provision is to deal with cases in which prices fluctuate significantly within a period of investigation in both markets and the customary application of weighted averages of home or third country sales prices in determing fair value fails to reflect accurately the actual existence of parallel, non-dumping pricing. Suggestions for alternative procedures to deal with this phenomenon are particularly solicited.

Comments and suggestions also are invited concerning any provisions that may be desirable to deal with particular problems associated with making determinations in connection with sales to the U.S. on a consignment basis.

23. Section 153.25 implements the statutory requirement for the development of a record by the Secretary.

24. Section 153.26 is a new provision which sets forth the manner in which *ex parte* meetings with decision-makers are to be recorded and made a part of the record.

25. Sections 153.27, 153.28, 153.29 and 153.31 set forth new provisions dealing with the treatment of confidential information. Section 153.31 specifies the types of information exempt from disclosure.

26. Section 153.30, a new provision relating to the limited disclosure of certain confidential information pursuant to protective order, provides the mechanism by which such information may be released, the conditions attached to that release, and the sanctions for the breach of those conditions. The details of the mechanism by which it will be determined whether a violation of a protective order has occured and the most appropriate sanction to be applied in the case of a breach are still under consideration. Regulations governing these procedures will be published in proposed form for comment at a later date.

27. Section 153.35 sets forth the procedures by which an investigation may be self-initiated by the Secretary.

28. Section 153.36 amends and expands upon the existing provisions concerning initiation in response to a petition (§§ 153.26 and 153.27). It set forth the type of information required in a petition for such petition to be considered as being in acceptable form. Section 153.37 establishes the time limits and notice requirements relating to the administering authority's determination respecting the sufficiency of a petition.

29. Section 153.38 describes the time period that normally will be investigated during the fair value phase of a proceeding and sets forth the authority of the Customs Service to require the submission of information, including cost data, relevant to that period. Normally no less than 60 percent of the dollar value of exports to the United States from each country subject to an antidumping investigation shall be examined. Because of the shortened time limits under the Act, the period of investigation has been changed; ordinarily, it will run from 150 days prior to, to 30 days after, the first day of the month during which the petition was received in proper form.

30. Section 153.39 (which would replace the provisions presently set forth in § 153.32) relates to preliminary antidumping determinations. It sets forth the time limits for making such determinations and indicates the information to be contained in the notice of such determinations. The section contains provisions relating to extending the deadline for the determination when requested by the petitioner or in "extraordinarily complicated cases" and for shortening the deadline where written irrevocable waivers of verification are furnished. The latter will be used when a determination is made that information available during the first 60 days of an investigation is adequate to make a preliminary determination and the petitioner and other domestic parties agree, after disclosure of such data, to waive verification of such information.

31. Section 153.40 is a new provision which implements the statutory provision for a 90-day retroactive suspension of liquidation where critical circumstances are determined to exist.

32. Section 153.41 sets forth new provisions which deal with the determination of an antidumping proceeding upon withdrawal of the petition and upon publication of any negative final determination by either the Secretary or the U.S. International Trade Commission.

33. Section 153.42 provides the procedures for suspending, and conditions upon which the Secretary may suspend, an investigation prior to a final determination by the Secretary. Normally, this provision is limited to cases in which the Secretary accepts an agreement from exporters who account for no less than 85 percent by volume of imports of the subject merchandise either to cease exports to the U.S. within 6 months or immediately to revise their prices to eliminate completely any amount by which the foreign market value of the merchandise exceeds the United States price. However, the section also details the additional requirements that, if satisfied, permit suspension of an investigation based on acceptance by the Secretary of an agreement eliminating the injurious effect of imports of the affected merchandise. The section also contains provisions relating to the International Trade Commission's review of agreements to eliminate injurious effect and to the continuation of suspended investigations upon the request of exporters accounting for a significant proportion of exports of the merchandise, the petitioner, or any other domestic interested party then party to the proceedings. Section 153.43 describes the consequences which may follow upon the intentional violation of an agreement which is the basis for the suspension of an investigation.

34. Section 153.44 (which would replace the provisions presently set forth in §§ 153.36 and 153.37) relates to final antidumping determinations by the Secretary. It sets forth the time limits for making such determinations (normally and where an extension has been granted) and indicates the information to be contained in the notice of such determination, including that necessary where "critical circumstances" are found to exist. The section also provides for the disclosure of information promptly after the preliminary determination and the opportunity to present views prior to the final determination, both upon request. Provision also is made for the automatic termination of a proceeding upon a negative final determination by either the Secretary or the Commission.

35. Section 153.45 sets forth the procedure by which a firm which is not exporting merchandise at prices below fair value may be excluded from an affirmative preliminary or final determination or an Antidumping Duty Order. In order to be so excluded, such firm normally must submit information on 100 percent of the exports in question, whether or not previously requested by the Customers Service, and that information must demonstrate that sales at less than fair value have not occurred.

36. Sections 153.46 and 153.47 provide, respectively, for the submission of written views and for procedures concerning antidumping hearings during a proceeding.

37. Section 153.48 sets forth the time period within which an Antidumping Duty Order shall be issued, the information to be contained in the Order, and the period within which assessments shall be made. Generally, estimated antidumping duties are to be deposited upon entry of merchandise subject to an Order. The time limits on assessment are new and are designed to promote expeditious submissions and analysis of data upon which assessments are based, thereby reducing the period of uncertainty that prevails during the suspension of liquidation.

38. Section 153.49 permits the Secretary to accept the posting of a bond or other security in lieu of the deposit of estimated duties where an early determination (within 90 days of the Order) can be made with respect to a foreign manufacturer, producer, or exporter who expeditiously submits information establishing the foreign market value and the United States price for all its merchandise described in the Antidumping Duty Order entered after the affirmative preliminary determination (or affirmative final determination where the preliminary was negative). The amount of duty so determined during the period shall be the basis for calculating the estimated antidumping duty payable on future entries to which the Order is applicable.

39. Section 153.50 provides for adjustments to be made where the estimated antidumping duty differs from that finally determined to be due.

40. Section 153.51 provides for the verification of information used in a proceeding and for publication in the **Federal Register** of the means by which verification was made. The section contains a requirement that all responses be in English and in the form requested, and it clearly indicates that failure to supply necessary information or to permit such access as is necessary during the verification process shall cause the Secretary to use the best information otherwise available.

41. Section 153.52 sets forth the rate of interest to be paid on certain overpayments and underpayments of estimated duties on entries made after an affirmative final determination of injury by the Commission.

42. Section 153.53 sets forth new provisions for the annual administrative review of determinations and suspensions of investigations, beginning on the anniversary of the date on which an Antidumping Duty Order is published, and whenever changed circumstances, including violation of suspension agreements, are alleged. The period within which responses to questionnaires must be submitted is substantially shortened by this section. Provision is made for the submission of comments and requests for a hearing prior to the revision of an Order.

43. Section 153.54 provides for the revocation of an Order or the termination of a suspended investigation where there have been no entries, or no entries for which the foreign market value exceeded the United States price, for a period of three successive years.

44. Section 153.55 instructs each district director of Customs to suspend liquidation on merchandise where appropriate pursuant to statutory

V 4 4 0 C 1 6 7 9 UMI

authority and to notify appropriate parties of the amount of estimated or determined antidumping duty, where relevant.

45. Section 153.56 details the action to be taken by the administering authority where the amount of any antidumping duty is, or will be, reimbursed to the importer, by the manufacturer, producer, seller or exporter, either directly or indirectly. This section amends the existing regulation by specifying the current Customs practice of deducting any such reimbursement, from United States price, only once. Additionally, the regulation provides for a presumption of reimbursement whenever an importer fails to file the required certificate.

46. Section 153.57 describes the manner in which conversion of currencies will be made and the effect such conversions shall have on the determination of the amount of any difference between United States price and fair value or foreign market value.

47. Section 153.58 directs that entered value will not be controlling in determining the amount of antidumping duty assessed.

Authority

The authority for the proposed amendments is R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. (19 U.S.C. 1624), and the Trade Agreements Act of 1979, Pub. L. 96–39, Section 3(b), 93 Stat. 148.

Comments

The Customs Service invites written comments (in triplicate) from all interested parties on the proposed amendments. Prior to final adoption of the proposed regulations, consideration will be given to all relevant data, views or arguments submitted. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Moreover, an open conference will be held on November 5 and 6, 1979, at 9:30 a.m. in Room 4121 of the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C., to discuss the proposed amendments to these Regulations and those relating to countervailing duties, as indicated in the Notice published concurrently herewith.

Drafting Information

The principal authors of this document were C. Christopher Parlin, Office of the General Counsel, Department of the Treasury, and James Lyons, Office of the Chief Counsel, U.S. Customs Service. However, other personnel in the Customs Service and the Department of the Treasury assisted in its development.

Regulations Determined To Be Significant

In a directive published in the **Federal Register** on November 8, 1978 (43 FR 52120), implementing Executive Order 12044, "Improving Government Regulations", the Treasury Department stated that it considers each regulation or amendment to an existing regulation published in the **Federal Register** and codified in the Code of Federal Regulations to be "significant". It has been determined that these proposed regulations meet the Treasury Department criteria in the directive for a "significant" regulation.

Proposed Amendment

Accordingly, it is proposed to amend Part 153 of the Customs Regulations (19 CFR Part 153) to reflect the changes, necessitated by the Trade Agreements Act of 1979, set forth below.

R. E. Chasen,
Commissioner of Customs.

Approved:

Robert H. Mundheim,
General Counsel of the Treasury.

It is proposed to revise Part 153 of Title 19 of the Code of Federal Regulations to read as set forth below:

PART 153—ANTIDUMPING DUTIES

Sec.
153.0 Scope.

Subpart A—Definitions

153.1 Relationship of fair value to foreign market value.
153.2 Definition of foreign market value.
153.3 Foreign market value based on price in the country of exportation.
153.4 Foreign market value where sales in the country of exportation are inadequate.
153.5 Foreign market value based on sales to a third country.
153.6 Foreign market value determined by constructed value.
153.7 Foreign market value where sales are made at less than the cost of production.
153.8 Foreign market value of merchandise from state-controlled-economy countries.
153.9 Foreign market value based on sales in a third country by a related company.
153.10 Definition of United States price.
153.11 Definitions of antidumping duty "proceedings," "investigations," "determinations" and "orders".
153.12 Other definitions.
153.13 Determination of foreign market value.
153.14 Differences in quantities.
153.15 Differences in circumstances of sale.
153.16 Differences in physical characteristics.
153.17 Offering price.
153.18 Fictitious sales.
153.19 Level of trade.
153.20 Sales at varying prices.
153.21 Shipments from intermediate countries.
153.22 Transactions between related persons.
153.23 Disregarding insignificant adjustments; use of averaging and sampling techniques.
153.24 Fair value price comparisons in markets reflecting parallel pricing.

Subpart B—Access to Information

153.25 Information generally available.
153.26 Ex parte meetings.
153.27 Nonconfidential treatment of certain submissions.
153.28 Requests for confidential treatment of information.
153.29 Standards for determining confidentiality of information.
153.30 Limited disclosure of certain confidential information under a protective order.
153.31 Information exempt from disclosure.

Subpart C—Antidumping Procedures and Determinations

153.35 Procedures for self-initiation.
153.36 Procedures for initiation by petition.
153.37 Determination of sufficiency of petition.
153.38 Full-scale investigation.
153.39 Preliminary determinations.
153.40 Critical circumstances determinations.
153.41 Termination of investigation.
153.42 Suspension of investigations.
153.43 Violations of agreements.
153.44 Final determinations.
153.45 Exclusions of particular firms.
153.46 Submission of information and written views.
153.47 Hearings.
153.48 Antidumping duty order.
153.49 Security in lieu of estimated duty pending early determination of duty.
153.50 Differences in determined and estimated dumping duties.
153.51 Verification of information; use of best information available.
153.52 Interest on certain overpayments and underpayments.
153.53 Administrative review of determinations.
153.54 Revocation of antidumping duty order and termination of suspension.

Subpart D—Action by District Director of Customs

153.55 Action by the District Director; suspension of liquidation.
153.56 Reimbursements of dumping duties.
153.57 Conversion of currencies.
153.58 Entered value not controlling.

Authority: R.S. 251, sec. 624, 46 Stat. 759, sec. 101, 76 Stat. 72; 5 U.S.C. 301, 19 U.S.C. 66, 1624, Gen Hdnote. 11, Tariff Schedules of the United States.

§ 153.0 Scope.

This part sets forth procedures and rules applicable to proceedings under Title VII of the Tariff Act of 1930, as amended (19 U.S.C. 1673 *et seq.*) (hereinafter referred to as "the Act"), relating to the imposition of antidumping duties. Determinations by the Secretary under the Act shall not be considered major federal actions significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and Executive Order 11514, March 5, 1970, as amended by Executive Order 11991, May 24, 1977; and Executive Order 12114, January 9, 1979.

Subpart A—Definitions

§ 153.1 Relationship of fair value to foreign market value.

Fair value, used during the investigative phase of a proceeding, is intended to be an estimate of foreign market value. Except where specifically noted, all references in this subpart to "foreign market value" should be considered to apply to "fair value" as well; on the other hand, specific references to "fair value" in this subpart should not be considered to refer to "foreign market value."

§ 153.2 Definition of foreign market value.

For purposes of the Act, the foreign market value of imported merchandise shall be determined in accordance with §§ 153.3 through 153.9.

§ 153.3 Foreign market value based on price in the country of exportation.

(a) *In general.* (1) The foreign market value of merchandise imported into the United States shall ordinarily be determined by the price, at the time of exportation of such merchandise to the United States, at which such or similar merchandise is sold or, in the absence of sales, offered for sale in the principal markets of the country from which exported, in the usual wholesale quantities and in the ordinary course of trade for home consumption, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase.

(2) In determining the ordinary course of trade, conditions and practices which, for a reasonable time prior to the exportation of the merchandise which is the subject of an investigation, have been normal in the trade under consideration with respect to merchandise of the same class or kind shall be applicable.

(b) *Restricted sales.* When home market sales form the basis of comparison to the United States price, they may be used for this purpose whether or not they are restricted, provided however, that appropriate adjustment for the home market price will be made for such restrictions that affect the value of the merchandise to the purchaser.

§ 153.4 Foreign market value where sales in the country of exportation are inadequate.

(a) *In general.* If it is established, in a situation other than that provided for in § 153.9, that during the representative period chosen for investigation the quantity of such or similar merchandise sold for consumption in the country of exportation is so small in relation to the quantity sold for exportation to countries other than the United States as to be an inadequate basis for determining the foreign market value of the merchandise imported into the United States, the foreign market value of the imported merchandise shall be determined either by reference to the price at which such or similar merchandise is sold or offered for sale for exportation to countries other than the United States or by reference to its constructed value.

(b) *Preference for Third Country Sales.* Foreign market value based on sales to a third country generally will be preferred to foreign market value based on constructed value if the relevant information is available and can be verified within the time required.

§ 153.5 Foreign market value based on sales to a third country.

(a) *In general.* Where based on sales to a third country, foreign market value shall be determined by the price, at the time of exportation of the merchandise under investigation, at which such or similar merchandise is sold or offered for sale to countries other than the United States, plus, when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States, except that in the case of merchandise purchased or agreed to be purchased by the person by whom or for whose account the merchandise is imported, prior to the time of importation, the foreign market value shall be ascertained as of the date of such purchase or agreement to purchase.

(b) *Restricted sales.* When third country sales form the basis of comparison to United States price, they may be used for this purpose whether or not they are restricted: *Provided however,* That appropriate adjustment of the third country price will be made for such restrictions that affect the value of the merchandise to the purchaser.

(c) The third country selected for such purposes will generally be that single country meeting the first of the following criteria: (1) The product exported to such country has a greater degree of similarity to the product exported to the United States than does the product exported to other countries, provided the volume of sales to such country is deemed adequate; (2) the volume of sales to such country is the largest sales volume of any country outside the home market or the United States; and (3) the market in such country is, in terms of organization and development, most like the home market.

(d) If sales to a single country selected under paragraph (c) of this section do not provide an adequate sample, sales to additional countries selected using such criteria may be aggregated.

§ 153.6 Foreign market value determined by constructed value.

(a) *Method of determining constructed value.* Where based on constructed value, foreign market value shall be determined, from the best available information, by adding—

(1) The cost of materials (exclusive of any internal tax applicable in the country of exportation directly to such materials or their disposition, but remitted or refunded upon the exportation of the article in the production of which such materials are used) and of fabrication or other processing of any kind employed in producing such or similar merchandise, at a time preceding the date of exportation of the merchandise under consideration, which would ordinarily permit the production of that particular merchandise in the ordinary course of business;

(2) An amount for general expenses and profit equal to that usually reflected in sales of merchandise of the same general class or kind as the merchandise under consideration which are made by producers in the country of exportation, in the usual wholesale quantities and in the ordinary course of trade, except that the amount for general expenses shall not be less than 10 percent of the cost as defined in paragraph (a)(1) of this section and the amount for profit shall not be less than 8 percent of the sum of such general expenses and cost; and

V44 OC 16 79 UMI

(3) The cost of all containers and coverings of whatever nature, and all other expenses incidental to placing the merchandise under consideration in condition packed ready for shipment to the United States.

(b) *Transactions with related parties.* Direct or indirect transactions between related parties (as defined in section 773(e)(3) of the Act) may be disregarded if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in sales in the market under consideration of the merchandise subject of the investigation. If a transaction is disregarded under the preceding sentence and there are no other transactions available for consideration, the determination of the amount required to be considered shall be based on the best evidence available as to what the amount would have been if the transaction had occurred between non-related parties.

§ 153.7 Foreign market value where sales are made at less than the cost of production.

(a) *Method for determining whether sales are at less than cost.* Whenever the Secretary has reasonable grounds to believe or suspect that the price at which such or similar merchandise is sold for consumption in the country of exportation as determined under § 153.3, or as appropriate, the price at which such or similar merchandise is sold for exportation to countries other than the United States as determined under § 153.5, or the price at which such or similar merchandise is sold by facilities outside the country of exportation by a related company as determined under § 153.9, represents a price which is less than the cost of producing the merchandise, the Secretary shall disregard such sales in the determination of foreign market value if such sales:

(1) Have been made over an extended period and in substantial quantities, and

(2) Are not at prices which permit recovery of all costs within a reasonable period in the normal course of trade.

Whenever sales are disregarded by virture of having been made at less than the cost of production, and the remaining sales in the home market or, as appropriate, to third countries or by facilities outside the country of exportation by a related company, made at not less than the cost of production, are determined to be inadequate as a basis for the determination of foreign market value, the Secretary shall determine foreign market value on the basis of the constructed value as determined under § 153.6. The cost of production will be computed on the basis of the best available information of costs of materials, labor and general expenses, excluding profit, incurred in producing such or similar merchandise.

(b) *"Cost of production" defined.* For the purposes of this section, "the cost of production" means all costs, including both variable and fixed costs. Variable costs, such as of raw materials and labor used to make the merchandise sold during the relevant period, will be ascertained for such period. Fixed costs, such as overhead, interest and depreciation of plant and equipment, will be allocated to units of merchandise produced during a production period considered representative. Such period may be longer then the period of investigation for which variable costs are determined. Generally, fixed costs will be allocated to a rate of capacity utilization that is considered "normal" in the investment planning period of the industry affected. This period generally will be one year, including the period of investigation, unless the investment planning period in that industry indicates that a different period is appropriate.

§ 153.8 Foreign market value of merchandise from state-controlled-economy countries.

(a) *In general.* If, on the basis of the information available, it is determined that the economy of the country from which the merchandise is exported is state-controlled to an extent that sales or offers of sales of such or similar merchandise in that country or to countries other than the United States do not permit a determination of foreign market value under §§ 153.3, 153.5, or § 153.9, foreign market value shall be determined on the basis of the normal costs, expenses, and profits as reflected by either:

(1) The prices, determined in accordance with § 153.3 or § 153.5, at which similar merchandise produced in a non-state-controlled-economy country or countries is sold either: (i) For consumption in the home market of that country or countries, or (ii) to other countries, including the United States; or

(2) The contructed value of such a similar merchandise in a non-state-controlled-economy country, determined in accordance with § 153.6.

(b) *Comparability of economies.* (1) The prices as determine under paragraph (a)(1) of this section, or the constructed value as determined under paragraph (a)(2) of this section, shall be determined, to the extent possible, from the prices or costs in a non-state-controlled-economy country or countries at a stage of economic development comparable to the state-controlled-economy country from which the merchandise is exported. Comparability of economic development shall be determined from generally recognized criteria, including per capita gross national product and infrastructure development (particularly in the industry producing such or similar merchandise).

(2) If no non-state-controlled-economy country of comparable economic development can be identified, then the prices or constructed value as determined from another non-state-controlled-economy country or countries other than the United States shall be used, suitably adjusted for known differences in the costs of material and labor.

(3) If neither paragraph (b)(1) nor (b)(2) of this section provides an adequate basis for determining the price or constructed value of such a similar merchandise, then the prices or constructed value, as determined from the sales or production of such or similar merchandise in the United States, shall be used.

(c) *Use of constructed value.* If such or similar merchandise is not produced in a non-state-controlled-economy country which is concluded to be comparable in terms of economic development to the state-controlled-economy country from which the merchandise is exported, the constructed value of such or similar merchandise may be determined from the costs of specific objective components or factors of production incurred in producing the merchandise in question, including, but not limited to, hours of labor required, quantities of raw materials employed, and amounts of energy consumed, if such information is obtained from the producer of the merchandise in the state-controlled-economy country under investigation, and verification of such information in the state-controlled-economy country is concluded to the satisfaction of the Secretary. Such components or factors shall be valued and such values verified in a non-state-controlled-economy country determined to be reasonably comparable in economic development to the state-controlled-economy country under investigation. To the values thus obtained, there shall be added an amount for general expenses and profit, as required by section 773(e)(1)(B) of the Act, and the cost of all containers and coverings and other expenses, as required by section 773(e)(1)(C) of the Act.

§ 153.9 Foreign market value based on sales in a third country by a related company.

The determination of foreign market value of merchandise sold by those multinational corporations described in section 773(d) of the Act shall be made in accordance with provisions of that section.

§ 153.10 Definition of United States price.

(a) *In General.* For purposes of this part, the term "United States price" means the purchase price or the exporter's sales price of the merchandise under investigation, as appropriate.

(b) *Purchase price.* (1) "Purchase price" means the price at which the merchandise under investigation is purchased, or agreed to be purchased, prior to the date of importation, from the manufacturer or producer of the merchandise for exportation to the United States. Appropriate adjustments for costs and expenses under paragraph (d) of this section shall be made if they are not reflected in the price paid by the person by whom, or for whose account, the merchandise is imported.

(2) Whenever purchase price is used and there is reason to believe that the price to the person by whom or for whose account the merchandise is imported does not reflect the costs and expenses incident to bringing the merchandise from the country of exportation, then appropriate adjustments for such costs and expenses shall be made under paragraph (d) of this section.

(c) *Exporter's sales price.* "Exporter's sales price" means the price at which merchandise under investigation is sold or agreed to be sold in the United States, before or after the time of importation, by or for the account of the exporter, as adjusted under paragraphs (d) and (e) of this section.

(d) *Adjustments to purchase price and exporter's sales price.* The purchase price and the exporter's sales price shall be adjusted by being—

(1) Increased by—

(i) When not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the merchandise in condition packed ready for shipment to the United States;

(ii) The amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States;

(iii) The amount of any taxes imposed in the country of exportation directly upon the exported merchandise or components thereof, which have been rebated, or which have not been collected, by reason of the exportation of the merchandise to the United States, but only to the extent that such taxes are added to or included in the price of such or similar merchandise when sold in the country of exportation; and

(iv) The amount of any countervailing duty imposed on the merchandise to offset an export subsidy; and

(2) Reduced by—

(i) Except as provided in paragraph (d)(1)(iv) of this section, the amount, if any, included in such price, attributable to any additional costs, charges, and expenses, and United States import duties, incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States; and

(ii) The amount, if included in such price, of any export tax, duty, or other charge imposed by the country of exportation on the exportation of the merchandise to the United States other than an export tax, duty, or other charge described in section 771(6)(C) of the Act.

(e) *Additional Adjustments to Exporter's Sales Price.* For purposes of this section, the exporter's sales price shall also be adjusted by being reduced by the amount, if any, of—

(1) Commissions for selling in the United States the particular merchandise under consideration,

(2) Expenses generally incurred by or for the account of the exporter in the United States in selling identical or substantially identical merchandise, and attributable under generally accepted accounting principles to the particular merchandise under consideration; and

(3) Any increased value resulting from a process of manufacture or assembly performed on the imported merchandise after the importation of the merchandise and before its sale to a person who is not the exporter of the merchandise, which value generally will be determined from the costs of material, labor and other expenses incurred in such manufacture or assembly.

If the value of the merchandise as imported into the United States is less than 80 percent of the price at which the merchandise is sold or agreed to be sold in the United States to a party unrelated to the exporter, such increased value shall also include an appropriate allocation of profit to such material or labor used or services performed after importation as was not included in the value of the merchandise imported.

§ 153. 11 Definitions of antidumping duty "proceedings," "investigations," "determinations" and "orders."

(a) A "proceeding" refers to that time from the filing of a petition (or self-initiation under section 732(a) of the Act) until the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) a notice of revocation of an order.

(b) An "investigation" refers to that time between the publication of a notice of initiation and the publication of the earliest of (1) a notice of termination, (2) a negative determination that has the effect of terminating the administrative proceedings; or (3) an "Order".

(c) A "determination" is an official decision in the course of a proceeding.

(d) An "Order" is a notice issued following final determinations of sales at less than fair value and injury, which provides for the imposition of antidumping duties.

§ 153.12 Other definitions.

(a) *Country.* "Country" shall mean a foreign country, a political subdivision, dependent territory, or possession of a foreign country.

(b) *Industry.* "Industry" means the domestic producers as a whole of a like product, or those producers whose collective output of the like product constitutes a major proportion of the total domestic production of that product in accordance with section 771(4) of the Act.

An "industry" may also consist of domestic producers in a particular market in the United States where such producers sell all or almost all of their production of the like product in question in that market and where the demand for the like product in that market is not supplied to any substantial degree by producers of the product located elsewhere in the United States.

(c) *Interested Party.* "Interested party" shall mean—

(1) A foreign manufacturer, producer, or exporter, or the United States importer, of merchandise which is the subject of an investigation under this part or a trade or business association a majority of the members of which are importers of such merchandise;

(2) The government of a country in which such merchandise is produced or manufactured;

(3) A manufacturer, producer, or wholesaler in the United States of a like product;

(4) A certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or

V 4 4 0 C 1 6 7 9 UMI

wholesale in the United States of a like product; and

(5) A trade or business association, a majority of whose members manufacture, produce, or wholesale a like product in the United States.

(d) *Person.* "Person" shall include all "interested parties" as well as other individuals, enterprises or entities, as appropriate to the context.

(e) *Secretary.* "Secretary" shall mean the Secretary of the Treasury, unless such functions relative to this part are by law transferred to another Administering Authority under the Act, in which event, it shall refer to such Administering Authority.

(f) *Commission.* "Commission" shall mean the U.S. International Trade Commission.

(g) *Customs Service.* "Customs Service" shall mean the Customs Service of the Treasury Department, unless the functions relative to this part are transferred to another agency, in which event it will refer to the entity performing such functions in such agency.

(h) *Department.* "Department" shall mean the Treasury Department for as long as the Secretary of the Treasury is the Administering Authority under the Act and thereafter shall refer to the agency or department of which the Administering Authority is a part.

(i) *Party to the Proceeding.* "Party to the proceeding" shall mean (1) the petitioner; (2) any foreign manufacturer, producer and exporter of the merchandise subject to the investigation; and (3) any other interested party, within the meaning of paragraph (c) of this section, who informs the Secretary in writing of his intent to become a party to the proceeding.

(j) *Generally Accepted Accounting Principles.* "Generally accepted accounting principles" shall mean those accounting principles generally applied and consistently followed in the country in question: *Provided,* That the Secretary may apply generally accepted accounting principles of the United States, if, and to the extent that, generally accepted accounting principles in the country in question, (1) do not exist, (2) have not been applied by the person claiming their application, or (3) significantly distort the presentation of the information to which they are applied.

§ 153.13 Determination of foreign market value.

In determining foreign market value, the criteria in §§ 153.14 through 153.23 shall apply. The party who alleges entitlement to any adjustment pursuant to §§ 153.14 through 153.19 shall have the burden of proof.

§ 153.14 Differences in quantities.

(a) *In general.* In comparing the United States price with such applicable criteria as sales or offers, on which a determination of foreign market value is to be based, comparisons normally will be made on sales of comparable quantities of the merchandise under consideration. Further, reasonable allowances will be made for differences in quantities, to the extent that it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences in the quantities sold. In determining allowances for differences in quantity, consideration will be given, among other things, to the practice of the industry in the country of exportation with respect to affording in the home market (or third country markets, where sales to third countries are the basis for comparison) discounts for quantity sales in the ordinary course of trade.

(b) *Criteria for allowances.* Allowances for price discounts based on quantitative differences in sales ordinarily will not be made unless:

(1) *Six month rule.* The exporter during the six months prior to the date when the question of dumping was raised or presented (or during such other period as investigation shows is more representative) had been granting quantity discounts of at least the same magnitude with respect to 20 percent or more of such or similar merchandise sold in the home market (or in third country markets when sales to third countries are the basis for comparison) in the ordinary course of trade; or

(2) *Cost justification.* The exporter can demonstrate that the discounts are warranted on the basis of savings which are specifically attributable to the production or delivery of the different quantities involved.

(3) *Use in determining foreign market value.* If the exporter satisfies the conditions in paragraph (b) of this section, the price of such or similar merchandise sold at a discount in the home market (or in third country markets when third countries are basis for comparison) will ordinarily be used as the basis for determining the foreign market value of merchandise for comparison with comparable quantities sold in the United States. If the exporter does not satisfy the conditions in paragraph (b) of this section, any sales of such or similar merchandise in the home market (or in third country markets when third countries are the basis for comparison) which are made at a discount will be used in calculating a weighted average in accordance with § 153.20.

(c) *Price lists.* In determining whether a discount has been given, the existence of a published price list reflecting such a discount will not be controlling. A price list ordinarily will be accepted only if, in the line of trade and market under consideration, the exporter demonstrates that it has adhered to its price list.

§ 153.15 Differences in circumstances of sale.

(a) *In general.* In comparing the United States price with such applicable criteria as sales or offers, on which a determination of foreign market value is to be based, reasonable allowances will be made for bona fide differences in the circumstances of the sales compared, to the extent that it is established to the satisfaction of the Secretary that the amount of any price differential is wholly or partly due to such differences. Differences in circumstances of sale for which such allowances will be made are limited, in general, to those circumstances which bear a direct relationship to the sales under consideration.

(b) *Examples.* Examples of differences in circumstances of sale for which reasonable allowances generally will be made are those involving differences in credit terms, guarantees, warranties, technical assistance, servicing, and the assumption by a seller of a purchaser's advertising or other selling costs. Reasonable allowances also generally will be made for differences in commissions or salaries paid to salesmen, warehousing expenses and reserves for bad debt costs (to the extent such reserves are established on the basis of actual experience). Allowances generally will not be made for differences in elements of overhead and general expenses, including research and development costs, advertising and other selling costs of a seller, unless such costs are attributable to a later sale of the merchandise by a purchaser.

(c) *Special rule.* Notwithstanding the criteria for adjustments for differences in circumstances of sale set forth in paragraphs (a) and (b) of this section, reasonable allowances for other selling expenses will be made in cases where a reasonable allowance is made for commissions in one of the markets under consideration and no commission is paid in the other market under consideration, the amount of such allowance being limited to the actual other selling expenses incurred in the one market, or the total amount of the commission allowed in such other market, whichever is less. In making comparisons using exporter's sales price, reasonable allowance will be made for all actual selling expenses incurred in the home market up to the amount of the selling expenses incurred in the United States market.

(d) *Determination of allowances.* In determining the amount of the reasonable allowances for any differences in circumstances of sale, the Secretary will be guided primarily by the cost of such differences to the seller, but, where appropriate, he may also consider the effect of such differences upon the market value of the merchandise.

§ 153.16 Differences in physical characteristics.

(a) *In general.* In comparing the United States price with the selling price in the home market, or for exportation to countries other than the United States in the case of similar merchandise, due allowance shall be made for differences in the physical characteristics of the merchandise in the markets being compared. In this regard, the Secretary will be guided primarily by the differences in cost of manufacture, to the extent that it is established to his satisfaction that the amount of any price differential is wholly or partly due to such differences, but, when appropriate, the effect of such differences upon the market value of the merchandise may also be considered. In the case of merchandise which does not lend itself to comparison with other merchandise for the purpose of this section, any method reasonably calculated to reflect the impact on cost or value of any differences in the merchandise under consideration may be used.

(b) *Where differences account for more than 10 percent.* If differences in the physical characteristics of the merchandise account for more than 10 percent of the value of the merchandise sold at a lower price, an appropriate allocation of any profit realized on the sales under consideration shall also be made to such material or labor used or services performed in creating such differences.

§ 153.17 Offering price.

In determining foreign market value, offers generally will be considered only in the absence of sales. An offer, the acceptance of which, is not reasonably expected shall not be deemed an offer.

§ 153.18 Fictitious sales.

In determining foreign market value, no pretended sale or offer for sale, and no sale or offer for sale intended to establish a fictitious market, will be taken into account.

§ 153.19 Level of trade.

The comparison of the United States price with the applicable price in the market of the country of exportation (or, as the case may be, the price to or in third country markets) generally will be made at the same commercial level of trade. However, if it is found that the sales of the merchandise to the United States or in the applicable foreign market at the same commercial level of trade are insufficient in number to permit an adequate comparison, an adjustment may be based, in order of preference, on (a) costs directly relating to the affected sales incurred in sales to a level of trade in one market that are not incurred in sales to a different level of trade in the other market, or (b) discounts based on level of trade considerations offered by the producer in third country markets: *Provided,* That (1) the volume of sales at the discounted price is substantial and (2) the price in the third country market from which the discount is granted is no lower than prices in the home market at the same level of trade.

§ 153.20 Sales at varying prices.

(a) Where the prices of the sales which are being examined for a determination of fair value vary, the determination of fair value will normally be based upon the weighted average of all the sales prices used to determine fair value: *provided, however,* That where appropriate fair value will be determined in accordance with § 153.14(b)(3) or § 153.19 and such sales will not be included in calculating the fair value of the remaining sales.

(b) If not less than 80 percent of all sales in the home market (or to third countries, if appropriate) during the period of investigation were made at the same price, weighted averages of all sales will not be used and fair value will be based upon the sales at that price

(c) If the provisions of paragraph (b) of this section do not apply and weighted averages of the prices are determined to be inappropriate, the Secretary will use any other method for determining value which he deems appropriate.

(d) No sales disregarded pursuant to § 153.7 shall be used for purposes of this section.

§ 153.21 Shipments for intermediate countries.

If the merchandise which is the subject of the investigation is not imported directly from the country of origin, but is merely transshipped through the country of shipment, the price at which such or similar merchandise is sold in the country of origin will be used in the determination of foreign market value.

§ 153.22 Transactions between related persons.

(a) *Sales agencies.* If such or similar merchandise is sold or, in the absence of sales, offered for sale through a sales agency or other organization related to the seller in any of the respects described in section 771(13) of the Act, the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale by such sales agency or other organization may be used in the determination of foreign market value.

(b) *Sales to related persons.* If such or similar merchandise is sold, or in the absence of sales, offered for sale in the home market or, as appropriate, to third countries, to a person related to the seller of the merchandise in any of the respects described is section 771(13) of the Act, the price at which such or similar merchandise is sold or, in the absence of sales, offered for sale to such person ordinarily will not be used in the determination of foreign market value unless such sales are demonstrated to the satisfaction of the Secretary to be at prices comparable to those at which such or simliar merchandise is sold to persons unrelated to the seller.

§ 153.23 Disegarding insignificant adjustments; use of averaging or sampling techniques.

(a) *Insignificant adjustments.* In determining the adjustments to be made to foreign market value pursuant to §§ 153.14 to 153.22, adjustments which are insignificant in relation to the price or value of the affected transactions may be disregarded. Ordinarily, individual adjustments having an *ad valorem* effect of less than 0.33 percent or any group of adjustments having an *ad valorem* effect of less than 1.0 percent will be disregarded. For purposes of this section, the groups of adjustments consist of: Differences in the quantities sold, difference in circumstantces of sale, differences in the physical characteristics of the merchandise, and differences in the levels of trade in the markets being compared. However, even when any adjustment or group of adjustments may be disregarded under this section, such adjustment or group of adjustments shall not be disregarded if it is determined that such disregarding would significantly affect the results of the calculations.

V 44 0 C 1 6 7 9 UMI

(b) *Averaging or sampling techniques.* The Secretary may use averaging or generally recognized sampling techniques in determining foreign market value in any proceeding in which either a significant volume of sales is involved or a significant number of adjustments to prices in required.

§ 153.24 Fair value price comparisons in markets reflecting parallel pricing.

In the course of the fair value investigation, in comparing United States prices with prices in the home country or in one or more third countries to determine whether sales in the United States have been made at less than fair value, the Secretary may consider whether, during the period of investigation, the United States prices of the imported merchandise were at all times approximately equal to the prices at which such or similar merchandise was sold in the home country or third country or countries. In significant differences between prices in the markets being compared, when both prices are reasonably proximate in time, will be disregarded if the Secretary is satisfied from the nature of the merchandise and the markets under consideration that such insignificant price differences are inadvertent or unavoidable.

Subpart B—Access to Information

§ 153.25 Information generally available.

(a) *Duty to Maintain Material in Record.* The Customs Service will maintain the official record of all proceedings, including all information submitted or collected in the course of a proceeding. The record will contain three types of materials (see Sec. 516A(b)(2) of the Act):

(1) Materials protected from disclosure;

(2) Non-confidential material submitted by any person other than an employee or officer of the United States Government; and

(3) Non-confidential and non-privileged material submitted or developed by an employee or officer of the United States Government.

With respect to documents prepared by an officer or employee of the United States, factual matter, as distinguished from recommendations and evaluations, contained in any such documents will be made available by summary or otherwise on the same basis as information contained in documents submitted by other persons.

(b) *Examination and copying of information.* In general, all information in paragraphs (a)(2) and (3) of this section will be available for inspection or copying by any person at the Customs Service during business hours. The fees charged for providing copies of documents shall be the same as for providing copies of documents pursuant to requests made under the Freedom of Information Act (5 U.S.C. 552). (See 31 CFR 1.6).

(c) *Reports of Progress of Investigation.* The Customs Service shall, from time to time upon request, inform any party to the proceeding of the progress of an investigation. Ordinarily, no such report shall be provided until 60 days after the petition is filed. Such progress reports shall not contain privileged or confidential information and, if in written form, shall be included in the official record.

(d) *Protection of the Record.* Unless otherwise ordered in a particular case by the Commissioner, the record shall not be removed from the Customs Services. A certified copy of such record shall be made available to any court before which any aspect of a proceeding is under review, with appropriate safeguards to prevent disclosure of confidential or privileged information that may be included therein.

§ 153.26 Ex parte meetings.

A written memorandum will be prepared of any *ex parte* meeting between (a) any interested party or other person providing factual information material to a determination in the proceeding and (b) the person to whom the authority to make determinations under the Act has been delegated or the person making a final recommendation for decision to such person, presently the General Counsel or the Deputy Assistant Secretary (Tariff Affairs), respectively, of the Treasury Department. The memorandum of the *ex-parte* meeting shall include the identity of the persons present at the meeting, and a nonconfidential summary of the matters discussed or then submitted. Such memorandum shall be included in the record described in § 153.25(a), and ordinarily shall be prepared contemporaneously with such meeting.

§ 153.27 Nonconfidential treatment of certain submissions.

(a) Any information submitted in connection with a proceeding which is not designated as confidential by the person submitting it shall not be treated as confidential.

(b) Any confidential information received in the course of a proceeding may be disclosed or released if it is determined to be in a form which cannot reasonably be associated with, or otherwise used to identify, the operations of a particular person.

§ 153.28 Requests for confidential treatment of information.

(a) *Submission and contents of requests.* Any person who submits information in connection with a proceeding may request that such information, or any specified part thereof, be treated as confidential. Information which is subject to such a request shall be set forth in separate pages and each such page shall be clearly marked "Confidential Treatment Requested." Each separate request for confidential treatment of information, other than information submitted in confidence by a foreign government which is properly classified and exempted from disclosure pursuant to statute or Executive Order, shall be accompanied by a full statement of the reason or reasons why the submitting party believes that each piece of information subject to such request is entitled to confidential treatment within the guidelines set forth in § 153.29 below. All requests for confidential treatment shall be accompanied by one of the following:

(1) A summary or approximated presentation of all information which may be disclosed to the public and which is sufficiently full and descriptive of the confidential information. Generally, data in numerical form relating to prices and costs of individual firms shall be considered adequately summarized (and not incapable of summary) if presented (or capable of being presented) in terms of indices or in figures within 10% of the actual figure;

(2) A statement by the person submitting the information that the information is not susceptible to such a summary or presentation, accompanied by a full statement of the reasons supporting this conclusion; or

(3) An agreement to permit disclosure under protective order, accompanied by a brief nonconfidential statement describing the confidential data submitted, which need not be as detailed as the summary provided under paragraph (a)(1) of this section.

(b) *Return of information as a result of non-conforming requests.* Any information for which confidential treatment is requested which does not conform to the requirements of paragraph (a) of this section (including the requirement that any summary or approximated presentation be sufficiently full and descriptive) may be returned to the submitting person, and not considered in connection with the proceeding. Information so returned may be submitted with a new request for confidential treatment which complies with the requirements of this section, and will be dealt with in the same manner as an original submission of information accompanied by a request in acceptable form, if received within the time for the original submission. Belated submissions may be rejected.

(c) *Consideration of requests.* A determination will be made upon the receipt of information for which confidential treatment is requested, whether, and to what extent, the request for confidential treatment shall be granted and whether claims submitted under paragraph (a)(2) of this section are justified.

(d) *Treatment of information.* If a request for confidential treatment of information is granted, the information covered thereby will not be made available except pursuant to § 153.30 for inspection or copying by any person other than an officer or employee of the United States Government directly involved with carrying out the investigation in connection with which the information is submitted, or by a person who has been specifically authorized to receive such information by the person who requests the confidential treatment. National security information shall be made available only to the extent, and under the procedures, provided in Executive Order 12065 of June 28, 1978 (43 FR 28949) or any superseding Order.

Should it be determined that any part of the material for which confidential treatment has been requested should be made available in whole or in part, or that information claimed not be susceptible to a summary is in fact capable of such treatment, the person submitting the information will be so notified. Unless the person submitting the information thereafter agrees that the information (including any summarized or approximated presentation thereof) may be treated as non-confidential information, or provides a summary of matters found to be capable of such treatment, such information (including any summarized or approximated presentation thereof) shall be returned to the submitting person and not considered in the proceeding.

§ 153.29 Standards for determining confidentiality of information.

(a) *In general.* Information ordinarily will be considered to be privileged or confidential only if its disclosure would by likely:

(1) To cause substantial harm to the competitive position of the person submitting the information;

(2) To have a substantial adverse effect upon the person supplying the information or upon the person from whom the information was obtained; or

(3) To impair the ability of the United States Government to obtain in the future necessary information, not required by law to be provided, from the same person or others similarly situated.

(b) *Information ordinarily regarded as appropriate for disclosure.* Except as provided in paragraph (c) of this section, information ordinarily will be regarded as appropriate for disclosure if it relates to:

(1) Prices, market conditions, terms of sale or similar information that is published or otherwise available to the public; or

(2) Laws, regulations, Executive Orders, or other official documents which are published in the country by which adopted, as well as translations thereof.

(c) *Information ordinarily regarded as privileged or confidential.* Information will ordinarily be regarded as privileged or confidential if its disclosure would disclose:

(1) Business or trade secrets;

(2) Production costs;

(3) Distribution costs;

(4) Prices of actual transactions or offers;

(5) The names of particular customers or suppliers; or

(6) The names of particular persons from whom confidential information was obtained, if nondisclosure of the names has been requested and approved by the Secretary.

§ 153.30 Limited disclosure of certain confidential information under a protective order.

(a) *In general.* Upon receipt of an application from an attorney or other representative of an interested party which describes with particularity the information requested, sets forth the reasons for the requests, and indicates the procedures to be followed to avoid unauthorized disclosure of the information requested, any confidential information, including some or all of the information described in § 153.29(c), may be made available to such person under a protective order as described in paragraph (b) of this section. Forms for submitting requests for disclosure pursuant to a protective order incorporating the terms of this regulation may be adopted from time to time.

In determining whether to release information under a protective order, account shall be taken of the probable effectiveness of the sanctions described under (c), or other sanctions as may be prescribed for breach of the order.

(b) *Protective Order.* The protective order under which information is made available to the representative of an interested party shall require that representative to submit a personal sworn statement that he will:

(1) Not divulge any of the information so obtained and not otherwise available to him to any other person other than:

(i) Personnel of agencies of the United States Government directly responsible for conducting the proceeding in question who are involved in such proceeding;

(ii) The party from whom the information was obtained;

(iii) An attorney in good standing employed on behalf of the party requesting the disclosure who has furnished an appropriate, similar statement; or

(iv) Those persons employed by or supervised by the representative having a need therefore in connection with preparing oral or written statements in the proceeding, who shall have furnished a similar statement;

(2) Use such information solely for the purposes of the proceeding then in progress;

(3) Not consult with any person other than a person described in paragraph (b)(1) of this section concerning such confidential information without first obtaining the approval of the Customs Service and the party or the attorney for the party from whom such confidential information was obtained;

(4) Take adequate precautions to ensure the security of the confidential materials and the information contained therein subject to the protective order; and

(5) Promptly report any breach of such agreement to the Secretary.

(c) *Acknowledgement of sanctions for breach of protective order.* The sworn statement referred to in paragraph (b) of this section shall include an acknowledgment by the person providing it that breach thereof:

(1) May subject to disbarment from practice before any constituent agency of the Department for up to seven years following publication of a determination that the order has been breached—

(i) The person submitting the statement;

(ii) Any firm of which such person is a partner, associate, or employee; and

(iii) Such person's partners, associates, employer and employees;

(2) Shall in the case of an attorney, lead to referral of such breach to the ethics panel of the appropriate bar associations; and

V 44 0 C 1 6 7 9 UMI

(3) Shall subject the offender and the party he represents to such other administrative sanctions as are determined to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

(d) *Final disposition of materials released under protective order.* Upon completion of a proceeding, or at such earlier date as may be determined appropriate for particular data, the security of confidential information shall be protected by the return of all copies of materials released to representatives of parties pursuant to this section accompanied by a certificate from the attorney or representative to whom the material was delivered or disclosed and each person specified in paragraph (b)(1) (iii) or (iv) of this section, attesting to his personal, good faith effort to determine that no other copies of such material have been made available to or retained by the party he represents or any other person to whom disclosure was not specifically authorized.

(e) *Sanctions for breach of protective order.* The Secretary shall determine whether any person has violated a protective order, and, as a sanction, may:

(1) Bar any such person and any firm of which such person is a partner, associate, or employee, or any partner, associate, employer, or employee of such person, from representing any other person's interest before any constituent agency of the Department in any capacity for a period of up to seven years from the date of publication in the Federal Register of a notice that the existence of a breach has been determined to exist;

(2) In the case of a violation of this section by an attorney, refer such breach to the ethics panel of the appropriate bar associations; and

(3) Subject the offender and the party he represents to such other administrative sanctions, as are determined by the Secretary to be appropriate, including striking from the record any information or briefs submitted by, or on behalf of, the party represented by the offender, terminating any investigation then in progress, or revoking any Order then in effect.

Any person to whom such sanction is proposed to be applied shall be afforded a reasonable opportunity to be heard before the determination is made.

§ 153.31 Information exempt from disclosure.

Information which might otherwise be available under this subpart shall be exempt from disclosure if it relates to any matter which is required to be kept confidential pursuant to privilege, statute or Executive Order. This includes classified information received from a foreign government which is restricted from disclosure pursuant to Executive Orders No. 11652 of March 8, 1972 (37 FR 3782) and 12065 of June 28, 1978 (43 FR 28949) (see 31 CFR 2.6).

Subpart C—Antidumping Procedures and Determinations

§ 153.35 Procedures for self-initiation.

Whenever the Secretary determines, from information available to him, that an antidumping investigation is warranted into the question of whether the antidumping duty imposed by section 731 of the Act should be imposed with respect to a particular class or kind of merchandise imported into the United States, he shall, after consultation with the signatory or signatories to the Agreement on Antidumping which may be affected by any affirmative determination, publish in the Federal Register a "Notice of Initiation of Antidumping Investigation." The Notice will include:

(a) A description of the merchandise involved;

(b) The name of the country of exportation to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which the merchandise is produced; and

(c) A summary of the information received that would, if found to be accurate, require the imposition of antidumping duties pursuant to section 731 of the Act.

Upon initiation of the investigation, the Commission will be notified promptly and will be provided with such information as is available relating to the matter under investigation, including any available information on the amount by which the foreign market value exceeds United States price and the volume of trade.

§ 153.36 Procedures for initiation by petition.

(a) *Contents of petition.* Any interested party, as defined in subparagraph (C), (D), or (E) of section 771(9) of the Act, who has reason to believe that merchandise imported into the United States is being, or is likely to be, sold at less than fair value, by reason of which an industry in the United States is being or is likely to be materially injured or its establishment is being materially retarded, may file a petition on behalf of an industry pursuant to section 731 of the Act with the Commissioner of Customs, 1301 Constitution Avenue, NW., Washington, D.C. 20229, requesting the imposition of additional duties in an amount equal to the amount by which the foreign market value exceeds the United States price. The petition shall contain, or be accompanied by, information, to the extent reasonably available to the petitioner, in substantially the following form:

(1) The name and address of the petitioner and any other person, firm, or association the petitioner represents, if appropriate;

(2) The industry on whose behalf the petition is filed;

(3) A statement indicating whether the applicant has filed, or is filing, for import relief pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251), or has initiated proceedings pursuant to sections 337 or 702 of the Act (19 U.S.C. 1337, 1671a), section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), or section 301 of the Trade Act of 1974 (19 U.S.C. 2411);

(4) A detailed description of the imported merchandise, including its technical characteristics and uses, and, where appropriate, its tariff classification under the Tariff Schedules of the United States;

(5) The name of the country or countries from which the merchandise is being, or is likely to be exported to the United States and, if the merchandise is produced in a country other than that from which it is exported, the name of the country in which it is produced;

(6) The names and addresses of all known foreign enterprises believed to be manufacturing, producing or exporting the merchandise in question;

(7) All pertinent facts as to the price at which the foreign merchandise is sold or offered for sale in the United States and in the home market in which produced or from which exported, including information concerning transportation and insurance charges, and if appropriate, information regarding sales in third countries or the cost of producing the merchandise. Petitioners unable to furnish information on foreign sales or costs may present information concerning U.S. domestic producer's costs adjusted for differences in the foreign country in question from information publicly available;

(8) If the merchandise is being exported from a country which is considered to be a state-controlled-economy-country, any information pertaining to the price or prices at which such or similar merchandise of a non-state-controlled-economy-country or countries, considered to be comparable in terms of economic development to the state-controlled-economy-country, is sold for consumption in the home market of that country or countries or to other countries (including the United States), or the constructed value of such or similar merchandise in a non-state-controlled-economy-country, determined in accordance with § 153.8;

(9) Any evidence which would tend to indicate that some or all of the sales in the home market are being made at a price which does not reflect the cost of production of the merchandise, and the circumstances under which such sales are made;

(10) The volume and value of imports of the merchandise from the country in question in the most recent two-year period, and also other periods if the petitioner believes such other periods to be more representative, or, if the merchandise is not presently imported into the United States or is not imported in significant quantities, information as to the likelihood of its importation;

(11) The names and addresses of enterprises believed to be importing the merchandise;

(12) The names and addresses of other enterprises in the United States engaged in the production, manufacture or sale of like merchandise. If numerous, information need not be provided with respect to any enterprises that accounted for less than 2 percent of domestic production, manufacture or sale of such merchandise during the most recent 12-month period;

(13) Information concerning the material injury to, or threat thereof, or the material retardation of the establishment of, a United States industry by reason of the imported merchandise alleged to be sold at less than fair value including information, to the extent relevant, on the factors to be considered by the Commission enumerated in section 771(7) of the Act; and

(14) If "critical circumstances" are alleged, information should be presented—(i) as to a history of dumping or (ii) that the importer knew or should have known the exporter was selling at less than fair value, and (iii) that injury which is difficult to repair is caused by reason of massive imports in a relatively short period.

Forms for the submission of petitions may be adopted from time to time. The use of such forms shall not be mandatory: *Provided*, The information required thereby and reasonably available to the petitioner is otherwise included in the petition.

(b) *Translations to English.* Unless such requirement is waived in individual cases, any information submitted in the petition or in support thereof, which is in a foreign language, must be accompanied by an English translation.

(c) *Simultaneous Filing with Commission.* The Petitioner shall file a copy of the petition with the Commission on the same day as the petition is filed with the Commissioner of Customs and shall so certify in submitting the petition to the Commissioner.

(d) *Confidentiality of Information.* Any petition which contains information for which confidential treatment has been requested and which is essential to support the petition will not be considered to have been received in acceptable form unless the requirements of section 153.28(a) are met.

(e) *Amendment of Petition.* Upon timely receipt of additional information, the Secretary shall allow amendment of the petition. Any such amendments must be filed with the Commission on the same day as they are filed with the Commissioner of Customs.

(f) *Form and Number of Copies.* The petition and, to the extent feasible, all supporting information, shall be submitted on letter-size paper, double spaced, typewritten or printed, in 10 copies.

(g) *Notification of Affected Country's Representative.* Upon receipt of a petition, a copy thereof shall promptly be delivered to a representative in Washington, D.C. of the affected country or countries in which merchandise subject to the investigation is manufactured or produced or from which it is exported.

§ 153.37 Determination of sufficiency of petition.

(a) *Determination of Sufficiency.* Within 20 days after having received a petition, a determination shall be made whether the petition properly alleges the basis on which antidumping duties may be imposed under section 731 of the Act.

(b) *Notice.* If a petition properly alleges the basis on which antidumping duties may be imposed, an investigation shall be initiated and a notice of "Initiation of Antidumping Investigation" shall be published in the Federal Register. Unless otherwise stated in the notice, the investigation will relate to all merchandise of the class or kind in question from the exporting country. The notice shall indicate that information sufficient to allege the basis on which antidumping duties may be imposed has been received, and it shall include the name of the petitioner and of the industry on whose behalf the petition was filed, the date on which information in an acceptable form was received, a description of the merchandise involved (which shall be based on consultation between the Secretary and the Commission), the country of exportation, and a summary of the information received.

(c) *Insufficiency of Petition.* If it is determined that a petition does not properly allege the basis on which antidumping duties may be imposed, the petition shall be dismissed and the proceeding terminated. The petitioner shall be notified in writing of the reasons for dismissal, and a notice of "Dismissal of Antidumping Petition" shall be published in the Federal Register, which shall summarize the reasons for dismissal of the petition.

(d) *Notice to Commission.* A copy of any determination hereunder shall be furnished promptly to the Commission. If the investigation is initiated, such information as has been received relating to the matter under investigation shall be made available to the Commission pursuant to the procedures developed under § 153.39(f).

§ 153.38 Full-scale investigation.

Upon publication of the notice of "Initiation of Antidumping Investigation," the Commissioner of Customs shall proceed promptly to obtain such information as may be necessary to enable the Secretary to make preliminary and final determinations of sales at less than fair value. The Customs Service normally will examine at least 60 percent of the dollar volume of exports to the United States from any country subject to an antidumping investigation. Ordinarily the Commissioner will require the foreign manufacturer, producer, or exporter subject to the investigation to submit pricing information covering a period of at least 150 days prior to, and 30 days after, the first day of the month during which the petition was received in acceptable form. The Commissioner may, however, require the submission of pricing information for such other period as he deems necessary and he may also require the submission of pricing information on a current basis during the course of an investigation. Where appropriate, cost information also will be required.

§ 153.39 Preliminary determinations.

(a) *In General.* Within 160 days after the date on which a petition is filed under section 732(b) of the Act, or an investigation is commenced under

V 44 0 C 1 6 7 9 UMI

section 732(a) of the Act, but not before an affirmative preliminary determination by the Commission under section 733(a) of the Act, a preliminary determination shall be made, based upon the best information available at the time of the determination, as to whether there is a reasonable basis to believe or suspect that foreign merchandise which is the subject of the investigation is being sold or is likely to be sold at less than fair value. If the determination is affirmative, the amount by which the foreign market value exceeds the United States price shall be estimated and stated. Notice of the determination, the parties affected, and the estimated amount by which the foreign market value exceeds the United States price shall be published in the Federal Register. The determination shall be mailed or otherwise delivered to all interested parties which are party to the proceeding and the Commission and shall be published in the Federal Register.

(b) *Request for Extension by Petitioner.* If a request for an extension is received from the petitioner no later than 25 days before the preliminary determination would otherwise be required under section 733(b) of the Act, the preliminary determinatin may be postponed until not later than the 210th day after the date on which the petition is filed. Upon acting on such a request, a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, stating that it has been made at the petitioner's request.

(c) *Extraordinarily Complicated Cases.* (1) If a case is determined to be extraordinarily complicated, the preliminary determination shall be made no later than the 210th day after the petition is filed under Section 732(b) of the Act, or an investigation is commenced under section 732(a) of the Act.

(2) Any determination that a case is "extraordinarily complicated" shall be based on express findings that:

(i) The importing and exporting parties are cooperating with the investigation;

(ii) The case is extraordinarily complicated by reason of (A) the number and complexity of the transactions under the investigation or the adjustments to be considered, (B) the novelty of the issues presented, or (C) the number of firms whose activities must be investigated; and

(iii) Additional time is needed to make the preliminary determination.

(3) All parties to the proceeding shall be notified in writing of any determination to treat the case as "extraordinarily complicated" not later than 20 days before the date on which the preliminary determination would otherwise be required under section 733(b) of the Act. Upon making such a determination, a notice of "Postponement of Preliminary Determination" shall be published in the Federal Register, which notice shall summarize the reasons for the postponement.

(d) *Waiver of Verification.* Within 75 days after the initiation of an investigation, an official designated for such purpose by the Secretary shall review the information received during the first 60 days of the investigation. If this official (who shall not be the official responsible for making the preliminary determination) concludes that there appears to be sufficient information available upon which the preliminary determination can reasonably be based, all nonconfidential information and all other information available under section 777 of the Act shall be disclosed to the petitioner and any domestic interested party (within the meaning of subparagraph (C), (D) or (E) of section 771(9) of the Act) which is a party to the proceeding that requests such disclosure. Within 3 working days after such disclosure, the petitioner and each party to whom such disclosure was made may furnish an irrevocable written waiver of verification of the information received by the Secretary or the Commissioner of Customs and an agreement that it is willing to have a preliminary determination made on the basis of the record then available to the Secretary. If a timely waiver and agreement have been received from the petitioner and each domestic interested party to whom the disclosure was made, and the Secretary finds that sufficient information is then available upon which the preliminary determination can reasonably be based, a preliminary determination shall be made within 90 days after the commencement of the investigation on the basis of the record established during the first 60 days after the investigation was commenced.

(e) *Contents of Preliminary Determination.* The preliminary determination shall include conclusions with regard to all facts and issues of law considered material to the determination, the name of the petitioner and of the industry on whose behalf the petition was filed, a description of the merchandise involved, the name of the county of exportation, and, if practicable, the names of the foreign manufacturers, producers, or exporters. If affirmative, the determination shall:

(1) Order the suspension of liquidation of all entries of merchandise subject to the determination which are entered, or withdrawn from warehouse, for consumption on or after the date of publcation of the notice of the determination in the Federal Register; and

(2) Impose provisional measures by directing each district director of Customs to require a cash deposit, or the posting of a bond or other security, as he deems appropriate, for each entry of the merchandise concerned equal to the estimated amount by which the foreign market value exceeds United States price.

(f) *Commission Access to Information.* All information upon which the determination was based and which the Commission may consider relevant to its injury determination shall be made available to the Commission pursuant to such procedures as the Commission, together with the Commissioner of Customs, may establish to prevent disclosure, other than with the consent of the party providing it or under protective order, of any information to which confidential treatment has been given.

§ 153.40 Critical circumstances determinations.

(a) *Determination.* If, not less than 30 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then at the time the preliminary determination is made or, if such determination is due within 20 days or has already been made, then within 1 month after the allegation is received, a determination shall be made, on the basis of the best information available at the time, whether there is a reasonable basis to believe or suspect that:

(1) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(2) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

(i) If, not more than 30 but not less than 20 days before the date on which a final determination is due, a petitioner alleges critical circumstances, then no preliminary determination as to critical circumstances shall be made. A finding as to critical circumstances shall be

included pursuant to § 153.55(b) in the Affirmative Final Determination.

(ii) In making such determination, account shall be taken of departures in the ratio of import penetration of the subject merchandise and historic patterns of importation.

(b) *Notification of Commission.* The Commission shall be notified promptly of any determination under this section.

(c) *Suspension of liquidation.* Upon an affirmative preliminary determination of critical circumstances, any suspension of liquidation ordered under section 733(d)(1) of the Act shall apply, or if notice of suspension of liquidation has already been published, such suspension shall be amended to apply, to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the date on which suspension of liquidation was first ordered.

(d) *Publication of Notice.* Upon an affirmative preliminary determination of critical circumstances, notice thereof shall be published in the Federal Register, either as part of the notice of preliminary determination, or, if the preliminary determination already has been published, as a separate notice of "Preliminary Determination of Critical Circumstances".

§ 153.41 Termination of investigation.

(a) *Termination Upon Withdrawal of Petition.* An antidumping investigation may be terminated at any time upon withdrawal by the petitioner of the petition on which the investigation was initiated, after notice to all other parties to the proceeding and consultation with the Commission. No investigation shall be terminated unless it is determined such termination is in the public interest. Notice of any termination shall be published in the Federal Register, together with a copy of any correspondence exchanged with the petitioner on the basis of which the petitioner withdrew the petition and the investigation was terminated.

(b) *Termination Upon Negative Determinations.* An investigation shall be deemed terminated, without further comment or action, upon publication of any negative final determination, including a negative determination by the Commission on the issue of injury.

§ 153.42 Suspension of investigations.

(a) *Agreements to Eliminate Completely Sales at Less Than Fair Value or to Cease Exports.* An investigation may be suspended at any time before a final determination if the exporters of the merchandise which is the subject of the investigation who account for substantially all of the imports of the merchandise agree:

(1) To cease exports of the merchandise to the United States within 6 months after the date on which the investigation is suspended, or

(2) To revise their prices promptly to eliminate completely any amount by which the foreign market value of the merchandise which is the subject of the agreement exceeds the United States price of that merchandise.

(b) *Agreements Eliminating Injurious Effect—(1) Generally.* An investigation may be suspended at any time before a final determination upon acceptance of an agreement to revise prices from exporters accounting for substantially all of the imports of the merchandise which is the subject of the investigation, if it is determined:

(i) Extraordinary circumstances are present; and

(ii) The agreement will eliminate completely the injurious effect of the exports to the United States of the merchandise which is the subject of the investigation.

(2) *Additional Requirements.* No agreement under this subsection may be accepted unless:

(i) The suppression or undercutting of price levels of like domestic products by imports of the merchandise will be prevented; and

(ii) For each entry of each exporter the amount by which the estimated foreign market value exceeds the United States price will not exceed 15 percent of the weighted average amount by which the estimated foreign market value exceeded the United States price for all less-than-fair-value entries of the exporter examined during the course of the investigation.

(c) *Definition of "substantially all".* For purposes of section 734 (b) and (c) of the Act, exporters who account for "substantially all" of the imports in question shall mean exporters who have accounted for no less than 85 percent of volume of the subject merchandise imported into the United States during the period of investigation, or such other recent, representative period determined appropriate. The number and identity of affected exporters shall be considered no less frequently than once annually in connection with the determination required under section 751 of the Act, and, if appropriate, additional or different exporters may be required to furnish assurances to ensure continued applicability of the assurance to the requisite percentage of the affected trade.

(d) *Definition of "extraordinary circumstances."* For purposes of section 734(c) of the Act, "extraordinary circumstances" shall mean circumstances in which (1) suspension of the investigation will be more beneficial to the domestic industry than continuation of the investigation, and (2) the investigation is complex.

For purposes of this section, "complex" shall mean there are a large number of transactions to be investigated or adjustments to be considered, the issues raised are novel, or the number of firms involved is large.

(e) *Monitoring of Agreements.* No agreement under section 734 of the Act shall be accepted unless effective monitoring of the agreement is practicable. In accepting assurances and in monitoring compliance therewith, the Secretary shall not be obliged to ascertain on a continuing basis the level of domestic prices of merchandise like that covered by the agreement.

(f) *Public Interest.* No agreement under section 734 of the Act shall be accepted unless the agreement is determined to be in the public interest.

(g) *Exports not to Increase During Interim Period.* No agreement to cease exports to the United States under section 734(b)(1) of the Act shall be accepted unless that agreement provides an adequate means of ensuring that the quantity of the merchandise covered by that agreement and exported to the United States during the period provided for cessation of exports does not exceed the quantity of such merchandise exported to the United States during the most recent representative period determined to be appropriate to the case. In ordinary circumstances, the representative period shall refer either to the six months preceding the month in which the petition was filed or the comparable six month period of a year earlier. If deemed necessary, an order excluding from entry, or withdrawal from warehouse, for consumption, any entries of the subject merchandise in excess of the quantity exported to the U.S. during the period determined to be representative shall be ordered.

(h) *Procedures for Suspension of Investigations.* Prior to accepting any agreement under section 734:

(1) A copy of the proposed agreement shall be furnished to the petitioner no less than 30 days prior to the proposed suspension of the investigation. Any such agreement shall contain the procedures to be followed to monitor compliance, and a statement of the compatability of the agreement with the requirements of subsections (b) and (d) or (c) and (d) of section 734 of the Act;

(2) All parties to the proceeding shall be notified of the proposed suspension not less than 30 days prior thereto; and

V 44 O C 16 79 UMI

(3) All parties to the proceeding and other government agencies which may have an interest in the effects of the agreement shall be afforded an opportunity to submit written comments and information for the record with respect to the proposed suspension.

(i) *Issuance of an Affirmative Preliminary Determination.* Upon acceptance of an agreement to suspend an investigation, a "Notice of Suspension of Antidumping Investigation" shall be published in the Federal Register, including a summary of the principal provisions of the agreement on the basis of which the investigation was suspended. Unless an Affirmative Preliminary Determination has already been issued, an "Affirmative Preliminary Determination" shall be published together with the notice suspending the proceeding.

(j) *Suspension of liquidation.*—(1) *Cessation of exports; complete elimination of dumping margin.* If an agreement is accepted which provides for the cessation of exports or complete elimination of a dumping margin of merchandise exported to the United States, pursuant to section 734(b) of the Act, then, notwithstanding the issuance of an Affirmative Preliminary Determination, the liquidation of entries of merchandise covered by the agreement shall not be suspended. If liquidation has previously been suspended in the investigation, such suspension shall, without further comment or action, terminate on the date the notice is published and estimated duties shall be refunded, or bonds or other security shall be released.

(2) *Other suspension agreements.* Agreements to suspend an investigation other than those described in paragraph (j)(1) of this section shall not affect the suspension of liquidation of entries of merchandise (except that the security required may be adjusted to reflect the effect of the agreement) until the Commission has completed its review of the suspension agreement, if such review is requested. If no request for review of suspension is received by the Commission within 20 days after the "Notice of Suspension of Antidumping Investigation" is published, the suspension of liquidation shall, without further comment or action, terminate on the 21st day after such publication.

(k) *Commission Review.* Where the Commission, having undertaken a review of an agreement to suspend an investigation other than one described in paragraph (j)(1) of this section, makes a negative determination, the Secretary shall resume his investigation on the date of publication of such determination as if the affirmative preliminary determination under § 153.39 had been made on that date. Where the Commission makes an affirmative determination in such a case, the Secretary shall terminate the proceeding, including any suspension of liquidation which may then be in effect, and all estimated duties shall be refunded and all bonds or other security shall be released.

(l) *Continuation of Investigation.* By filing a request with both the Commissioner of Customs and the Commission on the same date, exporters accounting for a significant proportion of exports to the United States of the merchandise which is the subject of the investigation, or the petitioner or any other domestic interested party (within the meaning of subparagraph (C), (D), or (E) of section 771(9) of the Act), which is a party to the proceeding, may, during the 20-day period following the date of publication of the notice of suspension, request a continuation of the investigation. Upon receiving such a request, the Secretary and Commission shall continue the investigation. If, as a result of such continued investigation, a Final Negative Determination is made or the Commission makes a negative injury determination, the investigation shall be terminated, without further comment or action, and notice thereof published in the Federal Register. If an Affirmative Final Determination is made and the Commission makes an affirmative injury determination, the suspension shall remain in effect in accordance with its terms. The provisions of paragraph (j) of this section regarding the suspension of liquidation of entries of merchandise covered by the agreement are unaffected by this subsection.

§ 153.43 Violations of agreements.

(a) *In general.* If it is determined that an agreement on the basis of which an investigation was suspended is being, or has been violated, or no longer meets the requirements of subsections (b) and (d) or (c) and (d) of section 734 of the Act:

(1) Liquidation of the unliquidated entries of merchandise shall be suspended effective as of the later of the date which is 90 days before the date of publication of the notice of suspension of liquidation, or the date on which the merchandise, the sale or export to the United States of which was in violation of the agreement, was first entered, or withdrawn from warehouse, for consumption;

(2) If the investigation was not completed, the investigation shall be resumed as if the Affirmative Preliminary Determination was made on the day on which the investigation is resumed;

(3) If the investigation was completed, an Antidumping Duty Order shall be issued, effective with respect to entries the liquidation of which was suspended upon the determination that the agreement had been violated; and

(4) The petitioner, interested parties who are or were party to the proceedings, and the Commission shall be notified and notice of the determination shall be published in the Federal Register, including a summary of the reasons therefor.

(b) *Notice of possible breach.* If there is reason to believe that an agreement no longer meets the requirements of the Act or that an agreement is being breached even though there has been no overt action on the part of any party to the agreement, each party to the agreement shall be notified at the earliest moment, so that appropriate action may be considered before the agreement is deemed violated.

(c) *Intentional Violations.* The intentional violation of any agreement entered into under this section shall subject any person who is party to the agreement and is determined to have intentionally violated it to the same penalties as for a fraudulent violation of section 592 of the Act (19 U.S.C. 1592). The procedural requirements of section 592 and 19 CFR Part 171 shall be applicable to any action to collect penalties.

§ 153.44 Final determinations.

(a) *In general.* Within 75 days after the date of a preliminary determination, a final determination shall be made of whether merchandise which is the subject of the investigation is being, or is likely to be, sold in the United States at less than fair value.

(b) *Extension of period.* The final determination may be postponed until not later than 135 days after the date of a preliminary determination where a written request for such a postponement is received, prior to the time the final determination otherwise would be due, from either the exporters who account for a significant proportion of the merchandise which is the subject of the investigation (in proceedings in which the preliminary determination was affirmative) or the petitioner (in proceedings in which the preliminary determination was negative).

(c) *Critical circumstances.* If critical circumstances are found to exist, the final determination shall include a finding of whether—

(1)(i) there is a history of dumping in the United States or elswhere of the class or kind of merchandise which is the subject of the investigation, or

(b)(ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value, and

(2) There have been massive imports of the merchandise which is the subject of the investigation over a relatively short period.

(d) *Disclosure of information.* Promptly after making the preliminary determination, there shall be disclosed, to each interested party then a party to the proceedings who requests such disclosure, all non-confidential information and, where appropriate, pursuant to a protective order, confidential information, on the basis of which the preliminary determination was made.

(e) *Opportunity of Parties to Present Views.* Prior to making the final determination, an opportunity shall be provided for all parties to be heard orally in person or by counsel before a designated official pursuant to § 153.47. Written views will be received from any person at any time, provided that, unless an order entered in a proceeding otherwise provides, consideration of written views may be declined if received more than 10 days after the transcript of any hearing is available to the public or less than 30 days before the final determination is due, whichever is earlier.

(f) *Notice of Determination.* Notice of the final determination, the parties affected and the estimated margin of dumping, if any, shall be published in the Federal Register. Copies of the determinaiton shall be mailed or otherwise delivered to all interested parties party to the proceeding and the Commission.

(g) *Contents of Final Determinations.* The final determination shall include conclusions with regard to all facts and issues of law considered material to the determination, the name of the petitioner and of the industry on whose behalf the petition was filed, a description of the merchandise involved, the name of the country of exportation, and, if praticable, the names of the foreign manufacturers, producers or exporters. If the determination is affirmative, the amount of the dumping margin shall be estimated and stated.

(h) *Effect of Negative Final Determination.* If the final determination is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated duties shall be refunded and all bonds or other security shall be released.

(i) *Effect of Negative Final Determination by Commission.* If the final determination by the Commission under section 735(b) is negative, the proceeding shall be terminated including any suspension of liquidation which may then be in effect, and all estimated duties shall be refunded and all bonds or other security shall be released.

§ 153.45 Exclusions of Particular Firms.

The Secretary may exclude one or more foreign manufacturers, producers or exporters from an affirmative preliminary or an affirmative final determination if he finds that all examined exports of the merchandise in question to the United States by the manufactured, producer, or exporter in question during the period under consideration were made at prices not less than the fair value of the merchandise concerned. Usually, information on 100 percent of the exports in question will be required to be submitted to support a request for exclusion. In exceptional cases, the Secretary may determine that examination of a lesser percentage (never less than 75 percent) is adequate. A manufacturer, producer, or exporter requesting exclusion, must submit all relevant sales information to permit consideration of the request and verification of the data on which the request is based, whether or not information concerning such sales has been requested by the Customs Service. Companies not excluded under this section will become subject to an Antidumping Duty Order, should one be issued, and must thereafter petition for exclusion pursuant to the procedures of § 153.53.

§ 153.46 Submission of information and written views.

(a) *Submission of information and written views.* Except in situations where it would be manifestly unjust, any information or written views submitted in connection with a proceeding shall be considered only if received within the time established by these regulations or by specific instructions applicable to any request for information; and information or written views received after such time shall not be considered in the proceeding. Any written views intended to be considered in connection with a proceeding shall be submitted on letter-size paper, double spaced, in 10 copies, to the Commissioner of Customs. A copy shall also be served at the same time, by mail or personal service, on counsel for each party to the proceeding as of the date of such filing, or if not represented by counsel, then the person designated for such purpose by the party. A certificate of such service shall accompany any such filing.

(b) *Designation of agent.* Every party to the proceeding shall designate a person to receive service of all papers filed in a proceeding. A list of such designated agents shall be made available by the Customs Service.

§ 153.47 Hearings.

During the course of an investigation, normally within 30 days after the Preliminary Determination is published, a hearing shall be held, upon the request of any party to the proceeding, to provide interested persons an opportunity to present views orally. Such hearing shall be conducted before a designated official. A verbatim record shall be transcribed and copies of the transcript made available to the public. The hearing shall not be subject to the Administrative Procedure Act, and shall not involve the examination or cross examination of witnesses under oath. At the discretion of the officer conducting the hearing, persons not party to the proceeding, including officials of other agencies or departments of the United States Government, may present views. If not included in the notice of the preliminary determination, notice of such a hearing shall be published in the Federal Register. All requests for hearings shall be accompanied by a statement outlining the issues which the person wishes to discuss. Reasonable notice of the hearing will be given to all parties to the proceeding. One week prior to such a hearing, pre-hearing briefs shall be submitted to the Secretary and exchanged among parties to the proceeding. Persons will be restricted, in their oral presentations, to issues raised in this pre-hearing brief. Any person not submitting such a brief ordinarily will be restricted to rebuttal of points made by other persons. Ordinarily, the presiding officer at a hearing will provide an opportunity for the submission of post-hearing briefs, within the time limits prescribed at the hearing. The Secretary may at any time invite any person to supply him with information or argument.

§ 153.48 Antidumping duty order.

Within seven days of notification that the Commission has made an affirmative determination on the issue of material injury, an Antidumping Duty Order shall be published that:

(a) Directs customs officers to assess an antidumping duty, on the merchandise found to be sold at less than fair value, equal to the amount by which the foreign market value of the

V 44 0C 16 79 UMI

merchandise exceeds the United States price of the merchandise, such assessment to be made within 6 months after the date on which the Secretary has received satisfactory information upon which such assessment may be based, but in no event later than 12 months after the end of the exporter's annual accounting period within which the merchandise is entered, or withdrawn from warehouse, for consumption, or in the case of merchandise not sold prior to its importation, 12 months after the end of the annual accounting period of the manufacturer or exporter within which it is sold in the United States to a person who is not the exporter of that merchandise:

(b) Includes a description of the class or kind of merchandise to which it applies, in such detail as is deemed necessary; and

(c) Pending liquidation of entries of the merchandise, requires the deposit of estimated antidumping duties at the same time as estimated normal customs duties on that merchandise are deposited.

The deposit of estimated duties for each manufacturer, producer or exporter shall be equal to the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise, as determined in the affirmative final determination of the Secretary or the latest administrative review of such determination under § 153.53, or, if appropriate, under § 153.49.

§ 153.49 Security in lieu of estimated duty pending early determination of duty.

(a) *Conditions for use.* The Secretary may allow, for no more than 90 days after the date of publication of an Antidumping Duty Order under § 153.48, the posting of a bond or other security in lieu of the deposit of estimated antidumping duties required under § 153.48(3) if, on the basis of information presented to it by any manufacturer, producer, or exporter within seven days after publication of the Antidumping Duty Order, the Secretary is satisfied that within 90 days after the date of publication of an Order under § 153.48, a determination can be made concerning the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that Order which was entered, or withdrawn from wearhouse, for consumption on or after the date of publication of—

(1) An affirmative preliminary determination as to sales at less than fair value; or

(2) If a negative determination under paragraph (a)(1) of this section, an affirmative final determination as to sales at less than fair value:

and before the date of publication of the affirmative final determination by the Commission.

(b) *Notice and hearing.* The Secretary shall publish notice of any determination to allow the posting of security in lieu of the deposit of estimated duties, and shall, upon the request of any interested party, hold a hearing in accordance with § 153.47 before determining the United States price and foreign market value of the merchandise of the foreign manufacturer, producer or exporter.

(c) *Determination used as basis of duty.* The Secretary shall publish notice of the results of the determination of United States price and foreign market value, and that determination shall be the basis for the assessment of antidumping duties on entries of merchandise to which the notice under this section applies and shall also be the basis for the deposit of estimated antidumping duties on future entries of merchandise of manufacturers, producers or exporters described in paragraph (a) of this section to which the Order issued under § 153.48 applies.

§ 153.50 Differences in determined and estimated dumping duties.

If the amount of the estimated antidumping duty deposited pursuant to the Preliminary Affirmative Determination is different from the amount of the antidumping duty determined pursuant to an Antidumping Duty Order, the difference for entries of merchandise entered, or withdrawn from warehouse, for consumption before notice of the Commission's affirmative Final Determination shall be:

(a) Disregarded, to the extent that the estimated duty is lower than the duty determined to be assessable under the Order, or

(b) Refunded, to the extent that estimated duties collected were higher than the duty determined to be assessable under the Order.

§ 153.51 Verification of information; use of best information available.

(a) Information upon which a final determination or a revised Antidumping Duty Order is based shall be verified, whether submitted by a foreign or domestic party. The methods and procedures used to verify information in a particular case shall be published in the **Federal Register** in the "Notice of Affirmative Final Antidumping Determination," "Notice of Negative Final Antidumping Determination," or revised Antidumping Duty Order, as appropriate.

(b) Whenever information cannot be satisfactorily verified, or is not submitted in a timely fashion or in the form required, the affected determination will be made on the basis of the best information then otherwise available, which may include the information submitted in support of the petition. Where a party to the proceeding refuses to provide requested information, that fact may be taken into account in determining what is the best available information.

(c) In verifying information under this section, access to files, records and personnel may be requested by personnel of the Customs Service as part of the verification process. Failure to permit such access may prevent satisfactory verification and require the application of paragraph (b) of this section.

(d) All responses to requests for information must be in English and in the form requested unless such requirement is waived. Failure to supply information in the form requested may require the application of paragraph (b) of this section.

(e) Responses to all questionnaires directed to foreign parties shall be forwarded by air mail or faster means simultaneously to the Commissioner of Customs and to the U.S. Embassy in the country in question and shall be deemed timely received if received at either office within the time required by any specific request, order or regulation.

§ 153.52 Interest on certain overpayments and underpayments.

Interest shall be payable, at the rate in effect under section 6621 of the Internal Revenue Code of 1954 on the date on which the rate or amount of duty is finally payable, or 6 percent, whichever is higher, on overpayments and underpayments of amounts deposited on merchandise entered, or withdrawn from warehouse, for consumption on or after the date on which notice of an affirmative determination by the Commission with respect to that merchandise is published.

§ 153.53 Administrative review of determinations.

(a) *In general.* At least once during each 12-month period beginning on the anniversary of the date an Antidumping Duty Order or notice of suspension of an investigation is published, the Secretary shall determine:

(1) The foreign market value and United States price of each entry of merchandise subject to the Antidumping Duty Order and included within that

determination, and the amount, if any, by which the foreign market value of each such entry exceeds the United States price of the entry; or

(2) The status of, and compliance with, any agreement by reason of which an investigation was suspended.

(b) *Changed circumstances.* Whenever the Secretary receives information concerning, or a request for the review of, an agreement on the basis of which an investigation was suspended or an Antidumping Duty Order, which shows changed circumstances sufficient to warrant review of such agreement or Order, he shall, before conducting such review, publish a "Notice of Intention to Review Suspension Agreement (or Antidumping Duty Order)" in the **Federal Register**. Such Notice shall indicate the merchandise concerned, and any changed circumstances or other significant issues then known which will be considered during the review.

In the absence of good cause shown, no review based on allegations of changed circumstances shall be conducted within 24 months after the date of an Affirmative Final Determination.

(c) *Procedures.* Written views on proposed revisions of an Antidumping Duty Order, including new facts for examination, will be accepted at any time, but unless changed circumstances are alleged, normally will not be processed sooner than 90 days before such redetermination is due for publication. Questionnaires requesting current relevant data normally will be sent 75 days before such date, requesting reply within 15 days of receipt. A disclosure may be made, generally about 30 days prior to the date the redetermination is due for publication, on request by interested parties then party to the proceeding, to such interested parties of all nonconfidential information and, where appropriate, pursuant to a protective order, confidential information on the basis of which the redetermination will be made. Written views may be presented, and an opportunity to present oral views may be requested, by any party to whom disclosure was made. After providing an opportunity for comment by interested parties on the proposed determination, a revised Antidumping Duty Order, including any revised bases for the assessment of duties on the merchandise, shall be published in the **Federal Register.**

§ 153.54 Revocation of antidumping duty order and termination of suspension.

An Antidumping Duty Order may be revoked, in whole or in part, or a suspended investigation terminated, if there has been, for a period of three successive years, no entries for which the foreign market value exceeded the United States price or no entries of merchandise subject to the Order. The procedures for such revocation shall be the same as those set forth in § 153.53.

Subpart D—Action by District Directors of Customs

§ 153.55 Action by the district directors; suspension of liquidation.

(a) *Suspension of liquidation; notice to importers.* Upon receipt of notification from the Commissioner, each district director of Customs shall suspend liquidation on merchandise entered, or withdrawn from warehouse, for consumption, on or after the date of publication of the "Notice of Preliminary Affirmative Antidumping Determination," "Notice of Final Affirmative Antidumping Determination" or "Notice of Violation of Agreement." Each district director shall immediately notify the importer, consignee, or agent of each entry of merchandise in question with respect to which liquidation is suspended. Such notice shall indicate the relevant ascertained and determined or estimated antidumping duty.

§ 153.56 Reimbursements of dumping duties.

(a) *General.* In calculating the United States price there shall be deducted the amount of any dumping duties which are, or will be, paid by the manufacturer, producer, seller, or exporter, or which are, or will be, refunded to the importer by the manufacturer, producer, seller, or exporter, either directly or indirectly, but a warranty of nonapplicability of dumping duties entered into before the initiation of the investigation, will not be regarded as affecting United States price if it was granted to an importer with respect to merchandise which was:

(1) Purchased, or agreed to be purchased, before publication of a notice in which liquidation was suspended with respect to such merchandise; and

(2) Exported before a final determination of sales at less than fair value is made.

Ordinarily, the deduction for reimbursement of dumping duties shall be made only once in the calculation of the United States price of any entry of merchandise subject to an Antidumping Duty Order.

(b) *Certificate.* A certificate in the form set forth below shall be filed by any importer of merchandise subject to an Antidumping Duty Order with the district director of Customs in the district in which such merchandise is or is intended to be imported within 30 days after the earlier of (1) publication of the Order or any administrative review thereof pursuant to § 153.53, or, if appropriate, § 153.49, or (2) importation of the merchandise in a district in which not previously imported:

I hereby certify that I (have) (have not) entered into any agreement or understanding for the payment or for the refunding to me, by the manufacturer, producer, seller or exporter of all or any part of the dumping duties assessed upon the following importations of _____ (commodity) from _____ (country); (List entry numbers) which have been purchased on or after _____ (date of publication of notice suspending liquidation in **Federal Register**) or purchased before _____ (same date) but exported on or after _____ (date of final determination of sales at less than fair value).

(c) *Presumption.* The failure to file the certificate required in paragraph (b) of this section may result in a presumption of reimbursement.

§ 153.57 Conversion of currencies.

(a) *Rule for conversion.* In determining the existence and amount of any difference between the United States price and the fair value or foreign market value for the purposes of this part or of the Act, any necessary conversion of a foreign currency into its equivalent in United States currency shall be made in accordance with the provisions of section 522 of the Tariff Act of 1930, as amended (31 U.S.C. 372) and Part 159, Subpart C of this chapter:

(1) As of the date of purchase or agreement to purchase, if the purchase price is an element of the comparison; or

(2) As of the date of exportation, if the exporter's sales price is an element of the comparison.

(b) *Special rule for fair value investigations.* For purposes of fair value investigations, manufacturers, exporters, and importers concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates. Where prices under consideration are affected by temporary exchange rate fluctuations, no differences between the prices being compared resulting solely from such exchange rate fluctuations will be taken into account in fair value investigations.

§ 153.58 Entered value not controlling.

The fact that the importer has indicated, on entry, the difference between the United States price and the

V 44 OC 16 79 UMI

foreign market value and the district director of Customs has approved the resulting entered value shall not prevent the assessment of the antidumping duty.

[FR Doc. 79-31767 Filed 10-15-79; 8:45 am]

BILLING CODE 4810-22-M-M

---

19 CFR Parts 153, 155, 159

Procedures for Conference on Proposed Amendment to Antidumping and Countervailing Duty Regulations

AGENCY: Customs Service, Treasury Department.

ACTION: Procedures for participation in Conference.

SUMMARY: In the proposed revision of the Customs Regulations relating to Countervailing Duties, published in the Federal Register on October 3, 1979 (44 FR 57044), and in the proposed revision of the Customs Regulations relating to Antidumping, published concurrently with this notice of conference, the Department announced that an open conference will be held to provide an opportunity for comment on the proposed regulations. The conference originally was scheduled for October 24 and 25, 1979. It is hereby rescheduled for Monday and Tuesday, November 5 and 6, 1979, at 9:30 a.m., in Room 4121 of the Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, D.C. This conference is in addition to written comments, which may be submitted until the dates set forth in the two previously mentioned notices. The public is invited to comment on the proposed revision to the antidumping and countervailing duty regulations. This notice sets forth the procedures applicable to the conference.

DATES: The conference will be held on November 5 and 6, 1979. For other important dates see supplementary information below.

ADDRESS: The conference will be held at the location mentioned in the Summary. Other addresses are mentioned on supplementary information.

FOR FURTHER INFORMATION CONTACT: Peter D. Ehrenhaft, Deputy Assistant Secretary (Tariff Affairs), Telephone (202) 566-2806.

SUPPLEMENTARY INFORMATION:

Procedures:

1. *Requests to present oral testimony:* All requests to present oral testimony, and an outline of the proposed testimony, must be received in writing not later than the close of business, Tuesday, October 23, 1979.

Requests to present oral testimony should include the following information:

(a) The name, address, telephone number, and official position (if applicable) of the party submitting the request, and the person or persons who will present the oral testimony (if different from the party submitting the request); and

(b) A brief outline of the proposed testimony.

2. *Written submissions:* Any person may submit a written submission in addition to, or in lieu of, oral testimony. Each such submission should designate clearly the name and address of the party making the submission; it should be submitted in five copies and must be received not later than the close of business, Tuesday, November 6, 1979.

3. *Oral testimony:* Each person from whom oral testimony can be received will be notified of the date and the amount of time alloted for his or her presentation no later than Friday, October 26.

The Department might find it useful to organize oral testimony into panels of witnesses so that specific issues can be explored in depth among persons who bring to the discussion varying experience and points of view. Any person requested to participate in such a panel may decline to do so; however, alternative opportunities to present oral views cannot be assured.

4. *Communication:* All communications with regard to oral testimony or written submissions should be addressed to—Peter D. Ehrenhaft, Deputy Assistant Secretary (Tariff Affairs), Room 3424, Department of the Treasury, Washington, D.C. 20220; telephone: (202) 566-2806.

Dated: October 10, 1979.

Robert H. Mundheim,

General Counsel of the Treasury.

[FR Doc. 79-31727 Filed 10-15-79; 8:45 am]

BILLING CODE 4810-22-M

V 4 4 O C 1 6 7 9 UMI

federal register

Tuesday
October 16, 1979

Part III

Environmental Protection Agency

Reproposal of Toxic Substances Control Act (TSCA) Premanufacture Notice (PMN) Forms and Provisions of Rules

V 4 4 0 C 1 6 7 9 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[FRL—1314-1; OTS-050002E]

Reproposal of Premanufacture Notice Form and Provisions of Rules

AGENCY: Environmental Protection Agency (EPA), Office of Toxic Substances.

ACTION: Reproposal of Toxic Substances Control Act (TSCA) Premanufacture Notice (PMN) forms and provisions of rules; request for public comment.

SUMMARY: On January 10, 1979, EPA proposed rules and notice forms to govern premanufacture notification for new chemical substances in accordance with section 5(a)(1)(A) of TSCA. In response to numerous comments, EPA is reproposing the following: (1) Briefer notice forms for domestic manufacturers, importers, and exporters that require submitters to provide significantly less detailed information, and (2) certain provisions of the rules concerning confidentiality and supplemental reporting.

DATES: Written comments must be submitted by November 30, 1979. EPA will meet with interested members of the public who wish to discuss and comment on this reproposal from October 16, 1979 to November 30, 1979. Following the 45-day period, the Agency will hold at least one public meeting to discuss the comments. Persons who want to meet with Agency representatives either during or after the comment period should refer to the section of this notice entitled "Comments and Public Meetings".

ADDRESS: All comments should bear the identifying notation OTS–050002E and be addressed to Document Control Officer, Office of Toxic Substances (TS–793), EPA, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Ritch, Director, Industry Assistance Office (TS–799), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; 800–424–9065 toll free; in Washington, D.C., please call 554–1404.

SUPPLEMENTARY INFORMATION: EPA proposed the Premanufacture Notification Requirements and Review Procedures (40 CFR Part 720) on January 10, 1979 (44 FR 2242). Section 5(a)(1)(A) of TSCA requires each person who intends to manufacture or import a new chemical substance for a commercial purpose to submit a PMN to EPA at least 90 days before he commences such manufacture or importation. A "new" chemical substance is one that is not included on the TSCA section 8(b) Inventory of Chemical Substances. At the end of the notification period, the person may manufacture or import the substance unless EPA has taken action to ban or otherwise regulate the substance. The requirement to submit PMN's took effect on July 1, 1979, 30 days after EPA first published the TSCA Inventory (44 FR 28558 May 15, 1979). Thirty days after the Agency publishes the Revised Inventory [see 44 FR 28558, 28561–64] the premanufacture requirements will apply to importers of new chemical substances as a part of mixtures. On May 15, 1979, EPA published a Statement of Interim Policy (44 FR 28564) to govern the submittal and review of premanufacture notices prior to promulgation of the final rules and forms. Under the Interim Policy, a PMN must satisfy the requirements of section 5 of TSCA.

Following is an index to the remainder of this preamble and the major elements of this reproposal.

Preamble
I. The Premanufacture Notice Form
A. *January 10 Proposed Form*
1. General Approach
2. Summary of Public Comments
B. Revised PMN Form
1. General Approach
2. Optional Part
3. Forms for Importers and Exporters
4. Estimated Costs
C. Related Issues
1. Customer Information
2. Form for Low Volume Substances
3. Followup Reporting
D. Section-by-Section Review
1. Manufacturer Identification
2. Production and Marketing Data
3. Federal Register Notice
4. Risk Assessment Data
5. Worker Exposure
6. Environmental Release
7. Byproducts, Co-products, Feedstocks and Intermediates
8. Transport
9. Process Flow Description
10. Consumer and Commercial Exposure
II. Confidentiality
A. *Issues Addressed in this Proposal*
B. *Asserting and Substantiating Claims of Confidentiality*
1. January 10 Proposal
2. Summary of Comments on January 10 Proposal
3. Revised Approach for Asserting and Substantiating Claims of Confidentiality
C. *Submittal of Generic Information if Certain Information is Claimed Confidential*
1. January 10 Proposal
2. Summary of Comments on January 10 Proposal
3. Revised Approach
III. Supplemental Reporting
A. *January 10 Proposal*
B. *Summary of Comments on January 10 Proposal*
C. *Revisions to Proposed § 720.50*
D. *Revisions to Proposed § 720.51*
IV. Costs and Economic Impact Issues
A. *January 10 Proposal*
B. *Summary of Comments on January 10 Proposal*
C. *Revised Analysis*
V. Comments and Public Meetings
IV. Public Record

Reproposed Premanufacture Rules
I. Confidentiality: 40 CFR 720.40–.45
II. Supplemental Reporting: 40 CFR 720.50 and 720.51

Revised PMN Forms
I. General Premanufacture Notice Form (Form for Domestic Manufacturers)
Appendix A.—Instructions for Asserting and Substantiating Claims of Confidentiality
Appendix B.—Examples of Asserting and Substantiating Claims of Confidentiality
Appendix C.—Examples of Process Descriptions
II. Importers Form
III. Exporters Form

I. The Premanufacture Notice Form

A. January 10 Proposed Form

1. *General Approach.* The January proposal included the following four separate notice forms that were similar in scope and content but designed for different purposes: (1) Domestic manufacturers, (2) importers, (3) processers, and (4) foreign manufacturers/suppliers.

The form for domestic manufacturers and importers contained mandatory and optional parts. The mandatory parts primarily required information on the identity of the manufacturer or importer, the specific identity of the new chemical substance; and production, use, and human and environmental exposure. Submitters were required to provide the information requested in the mandatory parts to the extent it was "known to or reasonably ascertainable by" them. The optional parts identified information concerning engineering and industrial hygiene safeguards, economics, and the assessment of the sufficiency of data submitted on health and environmental effects. If a submitter believed that additional information, other than that requested in the form, would significantly affect EPA's assessment of risk, he could provide it voluntarily. EPA intended for the notice submitter to consider the properties of the new chemical substance, the nature of the business venture, and the costs of completing the optional section(s) when deciding if it is in his best interest to submit the information contained in the optional part.

2. *Summary of Comments on January 10 Proposal.* Public interest organizations, other federal agencies, and organized labor generally supported the January 10 proposed forms. Individual companies and trade associations commented that the information requirements of the proposed forms were excessive both in scope and level of detail. Industry commenters primarily were concerned about the specific estimates required in the worker exposure and environmental release sections (e.g., estimates of the concentration of the new chemical substance in effluent streams). The commenters stated that much of these data would not be available at the time a PMN was submitted and that estimates based on pilot-plant operations would be unreliable because transfer of production from pilot-plant operation to full-scale operation usually results in a change of almost every equipment parameter. In addition, they stated that the cost of generating such data would impose unreasonable burdens upon submitters. A large number of industry commenters stated that EPA lacks statutory authority to require much of the information in the January 10 proposal.

Several industry commenters submitted alternative forms with their comments. Generally, these forms were based upon a narrower interpretation of EPA's statutory authority and data needs than that taken by the Agency. The Chemical Manufacturers Association (CMA—formerly the Manufacturing Chemists Association) submitted a form that would reduce both the scope and the level of detail of the information EPA would receive. For example, questions concerning the transport of the new chemical substance and estimates of workplace concentrations would be optional in the CMA form. Many commenters endorsed the CMA form; some submitted forms with even further data deletions, requiring in some instances little more than the name of the submitter and the chemical identity.

Consistent with this narrow interpretation of the premanufacture notification requirements, several industry commenters stated that the level of detail of the proposed forms indicated that EPA's program objectives went far beyond the intent of Congress. They stated that Congress intended the information requirements of a PMN to be minimal. They also commented that the Agency's proposed form seemed more appropriate for a registration or certification program (similar to the program for registering pesticides under the Federal Insecticide, Fungicide and Rodenticide Act), instead of a more limited notification program. They stated that EPA's proposed approach would significantly impede innovation in the chemical industry.

Finally, some in industry commented that because EPA did not provide specific guidance as to what is meant by the phrase "known to or reasonably ascertainable," it was unclear how much effort EPA expected submitters to expend to gather and format certain types of data.

B. Revised PMN Form

Sections 5(d)(1)(A), (B) and (C) of the Act authorize EPA to require the data specified in both the January 10 proposal and the current reproposal. EPA does not agree with industry's narrow interpretation of the Agency's statutory authority; therefore, the reduced data requirements of the current reproposal do *not* reflect a determination by EPA that it lacks statutory authority to require additional information. Based on the comments EPA received on this reproposal, the Agency may expand the data requirements when it promulgates the final rules and forms.

EPA has two major objectives in revising the January 10 proposed notice form: (1) To obtain adequate information to permit at least a preliminary assessment of the risks associated with the manufacture, processing, distribution in commerce, use, and disposal of new chemical substances; and (2) to achieve this objective at a minimum cost to persons submitting notices. In revising the notice form, EPA considered the minimum information and level of detail necessary for such a preliminary assessment, the likely availability of such information, and the associated costs.

Since January EPA has further defined key phases of its process for reviewing PMNs, including information needed for each phase. The Agency faces both time and resource limitations on its ability to review notices. Also, EPA assumes that although some new substances may present risks to health or the environment, most will not require regulatory attention by the Agency. Thus at the beginning of the review process, EPA will review each PMN in an Initial Screen, to identify a small number of chemicals that will be the subject of more detailed assessments and possible regulatory actions. At this time we believe that the information required by the revised form, plus information available to the Agency through quick literature searches, will be adequate to perform this screening function.

In particular, the revised form is designed to provide EPA information to make the following decisions at the end of the screening phase: (1) Select some substances for more detailed evaluation and for which additional exposure or toxicological data are needed; (2) Identify some that will be subject to requirements for followup reporting concerning their commercial development; (3) Eliminate others from further consideration; and (4) Select a limited number for immediate regulatory attention. When EPA needs additional exposure information, the Agency intends to obtain it from submitters during the notice review period, either voluntarily or by using the authorities of sections 8(a) and 11(c) of TSCA. (Also see Section III, Supplemental Reporting.) For followup reporting, EPA will issue requirements under sections 8 and 5(a)(2). (See Section I–C–3, Related Issues—Followup Reporting.) This approach eliminates the need for companies to submit a considerable amount of information that is not related to EPA's decisionmaking.

Finally, EPA believes that this approach is more cost effective than the one proposed in January. The revised form requests all of the major types of information contained in the January proposal, but at a significantly reduced level of detail. EPA will impose additional reporting burdens only when warranted, based on the contents of PMNs and other information available to the Agency. This will considerably reduce industry's costs of compiling and reporting information on new substances, as demonstrated by the revised cost estimates described below. (See Section I–B–4, Estimated Costs.)

EPA welcomes comments on whether the objectives discussed above could be accomplished by less burdensome, alternative strategies. Specifically, the Agency encourages representatives of public interest organizations and small businesses to comment.

1. *General Approach.* The revised forms maintain the mandatory and optional approach of the forms proposed in January. The notice submitter must provide the information in the mandatory parts of the revised forms to the extent it is known to or reasonably ascertainable by him. This includes all information in the submitter's possession or control as well as information that he could obtain without unreasonable burden or cost.

Many in industry have expressed difficulty in determining what information EPA considers to be "reasonably ascertainable". Specifically, they are uncertain about the effort EPA expects them to make in obtaining certain types of information. This is particularly true for information concerning exposure levels, byproducts, and impurities. EPA has considered defining, for each item of information requested in the form, what the Agency considers to be "reasonably ascertainable". However, what would be a reasonable effort for one company under a certain set of circumstances could be extremely burdensome and costly for the same company under different circumstances (e.g., producing a different chemical substance) or for another company in the same situation. Therefore, a specific definition of "reasonably ascertainable" may result in inequitable treatment of notice submitters. Under the regulations proposed in January, the notice submitter would be responsible for deciding whether and how to obtain the required data, and when information requested in the form is not reasonably ascertainable. In most instances, data generation activities that are so costly as to preclude commercialization of a new substance would not be reasonable. EPA is continuing to evaluate this issue as part of the rulemaking.

2. *Optional Part.* To simplify this reproposal, EPA has not published the optional part of the revised form in this notice. EPA intends to revise the optional part of the form, to include most of the information that the Agency deleted from the mandatory part of the form.

Specifically, EPA would make optional some of the information included in Part II, Section B, questions 1–5 of the January proposal. Such information includes: (1) Detailed descriptions and estimates of the magnitude, duration, and frequency of worker exposure to the new chemical substance; (2) explanations of how worker exposure estimates are derived; (3) descriptions of analytical sampling methods and capabilities; (4) site-specific data, including stack parameters and water effluent and air emission concentrations; (5) explanations of how environmental release estimates are derived; (6) estimates of the efficiency of disposal methods; (7) descriptions of worker exposure during normal disposal operations; (8) descriptions of worker exposure to byproduct materials; (9) estimates of the concentration and flow rate of byproduct materials in water effluent and air emission streams; (10) descriptions of potential hazards to transport operators during normal operations and in the event of spills; (11) descriptions of safeguards taken to limit risks during transport; (12) detailed descriptions of the magnitude, duration and frequency of consumer exposure to the new chemical substance; and (13) descriptions of how consumer exposure estimates are derived. The optional section also would include questions concerning these data as they relate to processing operations.

As with the January form, at their discretion, manufacturers may submit any section(s) of the optional part with the revised notice form. This optional information would not be required, and a PMN would be complete and satisfy the statutory requirements if only the mandatory part of the form is completed. EPA is considering providing guidance in the instructions manual to the final forms, to aid submitters in deciding whether to submit any of the optional information. EPA would not require manufacturers to submit any of the optional information; rather, it would identify particular situations when the Agency would be most interested in obtaining the optional information. The Agency welcomes comments on the necessity and feasibility of such guidance.

EPA received comments that companies should be able to submit optional information in any reasonable format. For example, it was suggested that notice submitters be permitted to submit portions of documents which they previously developed, such as standard industrial manuals in lieu of completing the optional industrial hygiene section. EPA agrees with this approach to obtaining information on a voluntary basis. Although the approach undoubtedly will increase EPA's burden in reviewing PMN's, it could significantly reduce the costs of submitting optional information.

3. *Forms for Importers and Exporters.* EPA also is proposing separate notice forms for importers and exporters. (The January 10 proposal did not include a separate form for exporters.) These forms closely parallel the revised form for domestic manufacturers and are consistent with that form in scope and level of detail. Under the rules proposed in January, importers and exporters would not be required to report information concerning commercial activities outside the United States. However, importers and exporters would be required to report information concerning domestic operations.

Only submitters who are manufacturing or processing a new chemical substance solely for export would use the export form. Moreover to use the form, any processing would have to be conducted at sites under the control of the manufacturer. If the new chemical substances were transferred to any other person for processing, the submitter would be required to complete the domestic notice form.

If EPA promulgates an exporters' form the PMN regulations will explicitly state the conditions under which the form would be used. EPA specifically invites comments on the utility of the proposed exporters' form and the proposed conditions under which it should be used.

Section 720.21(c) of the proposed rules required the importer of a new chemical substance to contact the manufacturer and the person who supplies the substance to the importer and to request such persons to complete a form for foreign manufacturers and suppliers. At this time, EPA is considering whether it should retain this provision in the final rules. If the provision is retained the Agency will promulgate a separate Foreign Manufacturers/Suppliers Form that will be modified to be consistent with the revised form for domestic manufacturers.

4. Estimated Costs

Introduction. As part of an effort to evaluate the economic effects of PMN requirements, EPA had an economic contractor prepare unit costs for the revised PMN form (EPA Contract No. 68–01–4717). The contractor's estimated costs include the costs of preparing the revised notice form and the attachments (except for voluntary attachments), but do not include the costs of responding to supplemental reporting requirements that may be incurred for some PMN submissions. The report of the contractor's findings, entitled "Estimated Costs of Preparation and Submission of Reproposed Premanufacture Notice Form", is a part of the record for this rulemaking and is available from EPA's Industry Assistance Office. This section summarizes the findings of that study and presents EPA's interpretation of them.

The estimated cost range for the mandatory portion of the revised form, not including the costs of asserting and substantiating claims of confidentiality, is $1,200 to $8,900 per chemical substance. EPA believes this cost range will apply to most substances submitted for premanufacture review; however, it is conceivable that certain chemicals, for example very low or high volume substances, will fall below or above the range. Thus, the cost range should not be regarded as reflecting the absolute cost limits for PMN submissions.

The costs of asserting and substantiating claims of confidentiality, if claims are made, are estimated to range from $900 to $6,400. EPA does not regard the $900 figure as an absolute lower limit and expects that many companies will be able to comply with the requirements for much less. Thus, including confidentiality costs, the total cost of PMN form submissions are estimated to range from $1,200 to $15,300.

The costs of asserting and substantiating claims of confidentiality are presented separate from the costs of the revised form because to a certain extent they are not affected by the form *per se*. Rather, they are determined largely by provisions in TSCA itself, the Freedom of Information Act (FOIA), and EPA's general rules regarding the treatment of confidential information (40 CFR Part 2). In addition, the importance of confidentiality to each company's product development strategy will be a major determinant of the costs incurred in asserting and substantiating claims of confidentiality. The contractor did not estimate the proportion of the costs of confidentiality that is attributable to the revised form *per se*, but EPA believes that it is insignificant, as discussed later in this section.

The major cost elements in making a PMN submission, in addition to asserting and substantiating confidentiality claims, appear to be the requirements to retrieve, organize, and submit health and safety data and the requirement to submit a process flow diagram. These requirements and their associated costs are discussed in more detail later in this section.

Variables Influencing Costs of PMN Submissions. The cost ranges for the revised form necessarily are wide, reflecting the extreme variations in the types of companies and chemicals which are subject to PMN requirements. In developing the unit cost estimates, the contractor assumed that the range of notification costs is a function of the following variables:

Company-Related Variables

Company size
Degree of diversification
Organizational style
Level of technical resources
Importance of confidentiality to company's new product development strategy

Chemical Substance-Related Variables

Apparent toxicity
Anticipated distribution, use, exposure
Complexity of production process
Complexity of composition of chemical substance
Importance of confidentiality for the substance in question.

Thus, in the contractor's estimation, the lowest costs of submitting PMN's should apply to substances submitted by small, closely held or private companies with limited technical resources; substances that do not cause significant health or environmental effects; substances for which exposure will be limited; substances that have limited distribution and use, substances for which confidentiality concerns are minimal; and substances that are simple in composition or are synthesized by simple production processes. Conversely, the highest costs of submitting PMN's should apply to substances submitted by large, publicly owned, and diversified companies with extensive technical resources or research arms; substances that may cause significant health or environmental effects; substances for which exposure will be significant: Substances that have extensive distribution and use; substances for which confidentiality concerns are an important factor; and substances that are complex compositions or are synthesized in complex production processes.

Breakdown of PMN Form Costs. Following is a detailed breakdown of the contractor's estimated costs.

Total Cost Estimates for Completion of Revised PMN Form

[EPA contractor estimates]

Component	Cost
Part I: General information	$275–$2,125
Part II: Human exposure and environmental release:	
Section A: Industrial sites controlled by submitter	275– 2,100
Section B: Industrial sites controlled by others	0– 1,200
Section C: Consumer exposure	0– 800
Total	275– 4,100
Part III: List of Attachments:	
a. Physical/chemical properties	150– 600
b. Health and environmental effects data	300– 1,400
c. Notice attachments [1]	
d. Confidentiality attachments [2]	
Total	450– 2,000
Part IV: FEDERAL REGISTER Notice	75– 300
Clerical costs—all sections	80– 400
Subtotal [3]	1,155– 8,925
Confidentiality costs—all sections	0– 6,400
Grand total	1,155–15,325

[1] The costs of listing attachments in part III–C are negligible.

[2] The costs of providing confidentiality attachments are included in the line item entitled "Confidentiality Costs—all sections".

[3] Because confidentiality costs were not included in the cost estimates for the form proposed in January, the range of subtotal costs ($1,155–$8,925), and not the range of total costs ($1,155–$15,325), should be compared with the January cost estimates.

The economic contractor's report on this reproposal contains more detail on these costs and on the methodology and assumptions used to derive them.

Comparison of January 10 PMN Form and Revised Form. The cost range estimated for the revised PMN form reflects approximately a 50%–60% reduction in costs over the January 10 proposed PMN form. The $1,200 to $8,900 range for the mandatory portion of the revised PMN form compares with the $2,500 to $22,200 range estimated for the mandatory sections of the January 10 form. The difference in costs between the January 10 form and the revised form is due primarily to the reduction in the level of detail of the questions, particularly those dealing with exposure from industrial manufacturing and processing operations.

Ecomonic Impact Conclusions—Caveats. At this time, EPA has not completed an economic impact analysis based on the change in reporting burden introduced by the revised PMN form. This is because the Agency lacks sufficient data on specific new chemicals to determine which types of new ventures would be subject to which levels of reporting costs. Initial findings of the economic contractor from a small, non-random sample of chemical companies indicate that most substances may be subject to the low end of the cost range, but the Agency is hesitant to draw conclusions from these data. EPA is preparing an economic impact analysis, based on additional data on new chemicals, and will publish this analysis for public comment prior to promulgation of the premanufacture rules and notice forms. This analysis is discussed in more detail in *Section IV—Cost and Economic Impact Issues.* The cost ranges are based on the assumption that one new substance will be submitted per PMN. EPA realizes that there will be cases where new products or process will be developed that entail multiple new substances, related either in a common process or chemical product. EPA believes that the costs of submitting PMN's for multiple-substance products or processes will not simply be multiples of the cost range estimated by the contractor, because there will be many commonalities among substances submitted in this manner. For example, a PMN for four new chemical intermediates to be used in the same process would cost less than four times the cost of submitting a PMN for one intermediate. This is because the information on production process, use, production volume, marketing estimates, and chemical structure probably will be largely the same for all four substances.

V 4 4 0 C 1 6 7 9 UMI

Contractor's Methodology for Estimating Costs. For the purpose of developing unit cost estimates for the revised PMN form, the contractor used the same methodology that it used to derive the cost estimates for the January 10 form. That methodology consisted of the following steps:

- Identification of specific information elements required by the forms;
- Design of worksheets based on these information elements to obtain estimates of time requirements;
- Completion of worksheets by contractor personnel with experience in chemical marketing, chemical and environmental engineering, chemistry, data analysis, and toxicology;
- Assimilation of information from worksheets to develop estimated ranges of time required to complete the forms;
- Multiplication of time estimates by estimated labor rates, to obtain total direct labor costs;
- Interviews with selected chemical companies to obtain their time and cost estimates for completing the forms; and
- Comparison of the chemical companies' estimates for time and costs with the contractor's estimates.

Costs of PMN Forms for Importers and Persons Manufacturing Solely for Export. EPA did not prepare separate estimates of the costs that would be incurred by importers and persons who manufacture new substances solely for export. The Agency will develop estimates as part of its economic impact analysis of the premanufacture rules and notice forms. However, it is possible at this time to discuss several factors that will influence the level of direct costs that may be incurred.

The major distinction between the importers' and exporters' forms, and the form for domestic manufacturers, is that importers and exporters would not be required to provide information on human and environmental exposures resulting from manufacturing, processing, distribution in commerce, use, and disposal which occur outside the United States.

An importer would not need to submit information on exposure at the foreign facility or facilities where the substance was manufactured or processed. Thus the importer would not incur some and perhaps most of the costs attributed to completing Part II, Section A of the revised form for domestic manufacturers. However, because of the way the contractor prepared the cost estimates for this section of the domestic form, it is not possible to make reliable estimates of the proportion of the costs attributed to this section ($275 to $2,100) that importers would not incur.

Similar cost reductions might be experienced by persons who manufacture solely for export. They would be required to submit exposure information only concerning operations within the United States. They would be required to submit information concerning foreign processing sites, under either their own or others' control, or information concerning commercial and consumer exposures, that would occur exclusively outside this country. Therefore exporters would not be subject to the costs ($0 to $800) attributed to completion of Section II–C, Consumer Exposure, of the domestic form. In addition, exporters may not incur some or most of the costs attributed to Section II–A ($275 to $2,100) or Section II–B ($o to $1,200) of the domestic form, although again it is impossible to give a more definitive range for the likely cost reductions. Overall, the costs of completing the form should be significantly less for persons who manufacture solely for export than for those who manufacture for further processing or use within the United States.

A second factor that may influence the costs of completing the revised import and export forms is the degree to which information is known to or reasonably ascertainable by the submitter. This factor may influence overall costs in two ways. A submitter that does not possess information called for in a section of the form may state that the information is "not available". This submitter would not be subject to the costs of completing that section of the form. On the other hand, although a person may lack certain information, he may incur costs to obtain it because it is reasonably ascertainable to him.

The significance of these factors to importers will depend on the type of importer that submits the PMN. In some cases the importer may be a multinational corporation that manufactures the substance outside the United States and processes or uses it in this country. In other cases, the importer may be an intermediary/broker or a domestic processor or user of the substance, who is not involved in manufacturing the substance. The first importer probably would have considerable information available. However, the latter may lack basic information on the substance he imports and would need to contact his foreign supplier for much of the information requested in Parts I and IV of the form, including specific chemical identity, production data, physical and chemical properties, and health and safety studies. Such contacts undoubtedly would add some costs to completing the PMN.

The impact of an importer's lack of information about *"downstream"* activities involving the chemical substance is less clear. A broker-type importer may not possess much information about the processing and use of a substance. This lack of knowledge could reduce the costs of completing the form if he enters "not available" in response to questions about processing and use. On the other hand, EPA assumes that importers who do not possess this basic information will make reasonable efforts to obtain it and may incur some costs in doing so. Taking both of these considerations in account, a broker-importer's costs in completing the processing and use sections of the form may not be distinquishable from costs incurred by a small domestic manufacurer who has limited knowledge about how his customers will process or use a substance.

These factors discussed above concerning the availability of information do not provide a basis for differentiating between exporters and domestic manufacturers. In general, exporters will "know" or find "reasonably ascertainable" the same amount of information concerning chemical identity, manufacturing process, production estimates, physical and chemical properties, and health and safety studies, as would be known to or reasonably ascertainable by a person who manufactures for domestic consumption. Therefore all other things being equal, there is no reason to conclude that an exporter will state that either more or less information is "not available" or that an exporter will incur any different costs in obtaining relevant information from companies.

On the basis of this analysis, EPA believes that many persons manufacturing solely for export may incur direct costs that are somewhat less than those incurred by domestic manufacturers. The conclusions are less certain for importers. Some factors would result in lower costs while others

(e.g., contact with foreign suppliers) may lead to higher costs. EPA will further study the costs and economic impacts of the premanufacture requirements on exporters and importers. The Agency requests comments on the factors it should consider in comparing costs likely to be experienced by manufacturers for domestic consumption, manufacturers solely for export, and importers. In addition, information developed by particular exporters and importers on the costs they would incur in completing the forms for particular chemical substances, and breakdowns of how those costs are derived, would be very useful to EPA in refining its cost estimates.

Significant Cost Components of the Revised PMN Form. Three potentially significant cost components the PMN form merit special attention: (1) The procedures for asserting and substantiating claims of confidentiality: (2) The requirement to provide a process flow description in the PMN form; and (3) The requirement in the form to retrieve, organize, and submit health and safety data.

EPA's contractor estimated that the costs of asserting and substantiating claims of confidentiality would range from $0 to $6,400. The costs will vary from substance to substance depending upon the submitter's perceived needs for confidentiality and the amount of resources (legal and technical) he is able and willing to commit to asserting and substantiating claims of confidentiality. In general, EPA believes that larger companies will spend the most of claims of confidentiality and that smaller companies rarely will spend more than $2,000 per PMN. The Agency assumes that both large and small companies may claim the same items confidential because they have the same needs for confidentiality. However, because of their greater legal and technical resources, larger companies will go to greater lengths to identify and substantiate claims of confidentiality. In addition, larger companies probably will encounter greater costs in organizing and coordinating information to substantiate their claims.

The contractor did not estimate the incremental costs or burdens of confidentiality introduced by the revised PMN form. However, it would be erroneous to attribute the full amount of the estimated costs to the revised form, because the requirements to assert and substantiate claims of confidentiality in some manner exists regardless of the form that EPA proposes. These requirements are contained in Section 14 of TSCA, the Freedom of Information Act, and EPA's business confidentiality regulations (40 CFR Part 2). Thus, the proportion of the total costs of confidentiality that are attributable to EPA's requirements for asserting and substantiating confidentiality claims may be slight.

Even if the required format results in some additional confidentiality costs, the revised approach introduces only a minimal incremental cost or burden over the approach proposed in January. First, the January 10 proposal also required manufacturers to assert claims of confidentiality at the time they submit PMN's, and it required them to substantiate their claims for chemical identity and health and safety studies. These two items appear to be the most burdensome to substantiate in both the January 10 and revised approaches, and probably account for much of the total costs of confidentiality claims. Second, under the January 10 proposal EPA would require manufacturers to substantiate claims for other categories of information in the PMN, such as use and manufacturer's identity, whenever the Agency received FOIA requests for the information. EPA expects to receive FOIA requests for a high percentage of PMN's. If this happens under the January approach, manufacturers would have been required to substantiate many of the items claimed confidential in the PMN's but not substantiated at the time the PMN's were submitted.

Finally, the level of effort expended by companies in response to PMN confidentiality provisions will be more a function of company strategy and perceived need for confidentiality than of the precise form and instructions set forth by EPA, and the timing of substantiation. Companies will incur a major proportion of the costs of confidentiality when they develop their PMN strategies on a case-by-case basis. This development of strategy most likely will occur prior to the initial submission of each PMN, and is likely to include the identification of confidential items and linkages and the construction of the rationale for claiming those items. Once a confidentiality strategy has been developed, the incremental cost of preparing specific responses to the substantiation questions, whether done in the initial PMN submission or in later submissions, probably will be slight.

In sum, EPA does not believe that a significant incremental burden has been introduced by the revised approach to confidentiality. EPA requests comments on the findings presented here and specifically encourages companies to provide estimates of the time and costs that they actually will spend.

The estimated costs for completing the process information portion of the revised PMN form (Part II, Section A–1) are $100 to $800. The costs of reporting process information will be influenced by a number of factors, including the number of steps in the process, the complexity of the process, the number of manufacturing sites, and the final disposition of products and byproducts. Further, the company's degree of sophistication in process engineering and design is largely correlated with the company's size, and will influence the time and costs to complete the process information section.

The estimated costs for the retrieval, organization and attachment of health and safety data range from $300 to $1,400, making it a potentially significant cost component. This range reflects differences among companies in the amount of data routinely developed on new chemicals and their ability to retrieve information in the open scientific literature. It also reflects differences among chemicals in the amount of data that are available and must be submitted. For substances with multiple impurities and byproducts that are not on the Inventory and for which data exist, the costs will be the high end of the range. Similarly, PMN's may be more costly for highly toxic chemicals that have more data associated with them.

It is important to stress that the revised form has not changed in any way the basic requirement in section 5(d)(1)(B) of TSCA that the manufacturer must submit all health and safety data that are in his possession or control. It also does not specify formatting requirements for the submittal of test data. The costs of retrieval, organization, and attachment of health and safety data will be largely unaffected by the PMN form because this statutory requirement exists regardless of the PMN form that submitters must use.

A more detailed discussion of the estimated PMN costs, including a section-by-section explanation of the cost estimates, is contained in the separate document entitled "Estimated Costs for Preparation and Submission of Reproposed PMN Form." This is available from EPA's Industry Assistance Office. An appendix to this report includes cost estimates for the PMN form submitted by the Chemical Manufacturers Association during the public comment period on the January proposal. EPA invites comments on all cost esimates presented in the report, as well as on the methodology and

V 4 4 0 C 1 6 7 9 UMI

assumptions untilized in developing the costs. Commenters are especially encouraged to provide their own estimates of the time and effort necessary to complete the revised PMN form, using chemicals they manufacture.

As mentioned previously, although the data do not exist currently with which to determine with confidence the economic impacts of the revised PMN form, EPA intends to gather additional data and to conduct an impact analysis prior to the promulgation of the premanufacturer rules and notice forms. This analysis will attempt to determine the proportion of new chemicals that will be subject to various levels of PMN costs and will estimate the corresponding effect on the rate of introduction of new chemicals. Also, the analysis will address the costs and impacts of the proposed premanufacturer requirements in their entirety, including the effects of the initial PMN submission requirements, the proposed Section 8(a) supplemental reporting requirements, and various provisions in the proposed rules (e.g., such as those pertaining to confidentiality, invalid notices, and importers and exporters). This analysis, and EPA's plans for public review and comment, is discussed in more detail in *Section IV—Costs and Economic Impacts.*

C. Related Issues

1. *Customer Information.* The January proposal would have required the notice submitter to contact persons whom he had reason to believe would purchase the new chemical substance (Part 720, Subpart C, § 720.20(e)). He would be required to request them to provide information (either to him or directly to EPA) about worker exposure and environmental release associated with their processing operations, and their intended uses of the substance. The January proposal contained a separate customer contact form that requested this information. Submitters also would have been required to include in their PMNs the names and addresses of those customers contacted.

EPA received numerous comments from industry concerning this "customer contact" provision. Most questioned EPA's statutory authority to require customer contact. They also claimed it would impose excessive administrative burdens, adversely impact innovation, create possible anti-trust violations, and alter the competitive marketplace. Several stated that any customer contact provision should be limited to persons who had made a firm commitment to purchase the substance. EPA has not decided whether to include the mandatory customer contact provision in the final rules and is still considering the customer contact form proposed in January. EPA is actively considering the following alternatives to the January 10 proposal for customer contact and invites comment on their practicality.

First, to determine the extent of each submitter's knowledge of customer use, the revised form would require the submitter to indicate the number of customers who have made a firm commitment to purchase the substance for a category of use unknown to him (Part I, Section D, question 5). In addition, the submitter would be required to indicate the percent of the estimated production volume of the new substance that such customers will purchase during the first three years of production. This would give EPA an understanding of how complete the use information is in the premanufacturer notice, and would be less burdensome on the industry than the customer contact provision proposed in January.

In combination with other requirements in the revised form, this information would help EPA decide whether to obtain additional use information from the submitter's prospective customers. If EPA determines that it needs additional use information, the Agency can contact the submitter and ask him to voluntarily provide the names and addresses of the relevent customers. EPA also could require the submitter to provide this information under the supplemental reporting provision (see reproposed Part 720, Subpart F, § 720.50).

Second, EPA is considering the alternative of requiring the submitter to provide a list of the names and addresses of customers who have made a firm commitment to purchase the new chemical substance. This alternative would allow EPA to contact prospective customers directly in cases where use data or other customer information submitted in the PMN is inadequate to assess potential exposures. One advantage to this alternative is that it would eliminate the need for EPA to contact the notice submitter (for customer identities) each time the Agency needs to obtain information from customers. Conversely, it would require all submitters to provide information that the Agency may not use in every case. Further, EPA recognizes the customers lists often are highly confidential, particularly during research and development.

EPA is considering each of these alternatives, or a combination of these alternatives. EPA invites comments on the feasibility of these alternative approaches. It is not necessary to repeat comments previously submitted on the customer contact provisions proposed in January. EPA will consider them when it develops the final rules.

2. *Form for Low Volume Substances.* Based on comments on the January proposal, EPA has considered developing a special PMN form for extremely low volume chemical substances (e.g., substances manufactured in quantities of less than one metric ton per year). Such a form could require even less detailed information than the reproposed form. If necessary, after submittal of the form EPA could obtain additional data on the substance during the notice review period. More often EPA would require follow-up reporting on the substance under section 8(a) or section 5(a)(2) (see discussion below).

At this time, EPA is not proposing a form for low volume substances. The revised form would significantly reduce the reporting burden and, therefore, be appropriate even for very low volume chemical substances. EPA specifically welcomes comments on this issue. Commenters should focus on the need for a separate form for low volume substances, considering the reduced level of detail required in the revised form.

3. *Follow-up Reporting.* EPA intends to require follow-up reporting on selected new chemical substances to obtain information not readily available at the time a premanufacture notice is submitted, since manufacturers will be able to report more reliable production, use, and exposure data on new substances after they have been commercially developed. At this time, it also will be feasible to perform more extensive health and environmental effects tests.

EPA currently is developing a follow-up reporting scheme that would employ a combination of TSCA section 8 reporting rules and section 5(a)(2) significant new use rules to track the development of many new chemical substances. Under this scheme, the Agency would require reporting of certain data over a specific period of time after premanufacture notification, or when specific reporting "triggers" are met (e.g., production of a certain number of kilograms of the substance). Comments from industry on the January proposal suggested such a scheme. Any action the Agency takes concerning the followup of new chemical substances will involve separate rulemakings in which EPA would propose one or more schemes and allow public comment on them.

D. Section-by-Section Review

Following is a section-by-section discussion of the information requirements that have been deleted from the forms proposed in January and of other modifications contained in the revised form for domestic manufacturers. EPA invites comments on these changes and the rationales presented below.

1. *Manufacturer Identification.* Several questions have been deleted from the manufacturer identification section of the January forms. These questions concerned (1) the principal place of business of the submitter, (2) subsidiary companies, and (3) other persons who the submitter authorizes to manufacture the new substance. EPA may need this information if it considers regulating the new substance, however, it is not warranted for all new chemical substances. When necessary, EPA can obtain this information through supplemental reporting during the notice review period. The revised form still would require submitters to include in their production estimates the production volume of others who are authorized to manufacture the new substance. The deletion of these information requirements should not affect the Agency's assessment of the risks presented by new substances.

2. *Production and Marketing Data.* The January forms required sales volume estimates and an indication of the basis upon which production estimates were reported (i.e., firm order, forecasts, or speculation). Through reporting about sales volume, EPA sought an indication of the distribution of a new substance to other persons. In addition, the "basis of the production estimates" would have demonstrated the uncertainty associated with these estimates. EPA has deleted these requirements from the revised form.

The revised form would require production volume estimates to be reported. EPA has deleted estimates of sales volume because it can obtain information about distribution of the substance from other questions in the form (e.g., category of use). The questions concerning the "basis of production estimates" were deleted because EPA will base its exposure assessments for screening purposes on estimates of the maximum production volume. The Agency also will perform market analyses for particular substances of concern and obtain further information from manufacturers on a case-by-case basis.

The January 10 proposed form also required estimates of prior production volume and information concerning prior government actions, litigation, or voluntary control of the PMN substance. EPA has deleted these requirements to reduce the reporting burden. The Agency expects to obtain information on prior government actions through a routine search of its own data bases. Therefore, the Agency's risk assessment capabilities will not be diminished significantly.

Finallly, EPA has deleted the ranges it had provided for reporting production volume. Rather than impose specific ranges, the revised form would permit a submitter to report production volume estimates in any range he considers appropriate. This approach will provide the Agency with a much clearer estimate of potential production volume and adds no additional reporting burden. When EPA performs exposure assessments, it will focus on the upper end of the range.

3. **Federal Register** *Notice.* Under section 5(d)(2) of the Act, EPA is required, subject to section 14, to publish a **Federal Register** notice when a PMN is submitted. This notice must identify the chemical substance, list its uses, and describe certain test data submitted with the PMN. In addition, the Agency is authorized to provide public access to non-confidential data. On January 10, EPA proposed that in addition to the information explicitly listed in section 5(d)(2) of the statute, the **Federal Register** notice would contain information to further characterize exposure to the substance and its potential effects. This information included estimates of populations exposed and the magnitude and duration of such exposures. Some industry commenters argued that EPA lacked statutory authority to include this additional information in the section 5(d)(2) notice.

The revised form proposes a more limited approach to this notice. First, EPA has retained a provision from January that requires the Agency to publish the specific chemical identity unless it is claimed confidential. If it is claimed confidential, the Agency will publish a generic name chosen from three generic names that must be submitted with the PMN. Second, if the manufacturer claims the use confidential, he must report using a generic use scheme that conveys information to interested parties concerning the exposures resulting from the use. Questions proposed in January concerning exposure and release are deleted and replaced with more general indicators of these factors. EPA's generic use scheme is discussed in Section II below, "Generic Use Information".

Third, the revised form would require submitters to abstract only those data that directly concern the new chemical substance, for publication in the **Federal Register** notice. EPA also would publish a list of all test data submitted with the PMN concerning both the PMN substance and other related chemicals. This approach is consistent with the Agency's intent to reduce reporting burdens and focus reporting requirements on the new chemical substance itself.

4. *Risk Assessment Data.* The January 10 proposed form contained several risk assessment questions and a table for submitters to check off the types of test data submitted. The risk assessment questions were included in the proposed form to highlight EPA's determination that risk assessment data are part of "health and safety data" and, thus, must be submitted. In some instances, this led to the misconceptions that TSCA requires submitters to perform risk assessments on their new substances. The revised form clarifies this distinction, and deletes the specific questions contained in Part II, Section A, of the January 10 form. This change should not result in the submittal of substantially different information than would happen under the January proposal, and simplifies the notice form.

EPA included the health effects table in the January proposed form for use by the Agency in organizing data in PMNs. Because this led to the misconception that these data must be developed, EPA has deleted the table from the revised form. Instead, the revised form would require submitters to provide their own list of the data that they have included in the PMN.

5. *Worker Exposure.* The January 10 proposed form required specific estimates of the magnitude, duration and frequency of worker exposure to the new chemical substance. While these specific estimates would be extremely useful to EPA in assessing worker exposure to new substances, these requirements may be too detailed and burdensome to be imposed on all notice submitters. In cases where the data are available, significant uncertainties also would be inherent in such specific estimates. To mitigate the reporting burden, the revised form requires significantly less detailed estimates and provides ranges for reporting expected workplace concentration levels.

Reducing the detail of workplace estimates requires EPA to use other information in the PMN and to make assumptions concerning potential exposure. However, this other

V 44 0 C 16 7 9 UMI

information and assumptions should be sufficient for the Agency's initial screening of all new substances. Detailed assessments of priority substances will require more specific information, which will necessitate supplemental reporting by submitters and others on a case-by-case basis.

EPA also has eliminated the requirement that the submitter explain how he derived estimates of workplace exposure. This is in keeping with the Agency's general effort to avoid questions requiring potentially burdensome, narrative responses. If the submitter's estimates do not appear reasonable to EPA, the Agency may contact the submitter to learn how the estimates were derived. However, at this time EPA does not think it is appropriate to require this information in all PMNs.

Similarly, the revised form would not require specific information about analytical methods that have been developed. The submitter merely must indicate whether a method exists for detecting and quantifying the presence of the new chemical substance in various media. This approach will require increased supplemental reporting in cases where exact knowledge of available techniques is necessary for surveillance and monitoring purposes.

6. *Environmental Release.* The January 10 proposed form required specific estimates of environmental release data including stack parameters, concentrations, and daily and hourly discharge rates. This information would enable the Agency to perform detailed modeling to assess the environmental impact of new chemical substances. These requirements are not included in the revised form because commenters indicated that they were too burdensome and that in cases where the estimates were reported, significant uncertainties might render them useless for purposes of performing risk assessments. Given these comments, EPA does not believe that the requirement should be imposed on all notice submitters.

The revised form requires only total release estimates of the new chemical substance. The Agency will make conservative ("reasonable worst case") assumptions concerning release conditions based on standard production practices and other information reported in the PMN. In cases where this approach does not allow an adequate assessment of risk, the Agency intends to require supplemental reporting to obtain more specific estimates if they are known or reasonably ascertainable.

Finally, EPA has deleted a general question concerning data on environmental degradation products. The Agency intends to clarify in the final rules that these data are considered to be "Health and Safety Data", and they must be submitted under proposed § 720.23.

7. *Byproducts, Co-products, Feedstocks and Intermediates.* The January 10 proposal required the submitter to provide estimates of concentration, flow rates, and the number of persons exposed to byproducts, co-products, feedstocks and intermediates. Because EPA's initial review of PMN's will focus on the new chemical substances themselves, and to minimize the burden on submitters, the Agency has reduced the level of detail concerning environmental release and exposure to such byproduct materials. In the revised form submitters would be required to report the identity of these related substances, and the Agency would obtain further information concerning these substances from other sections of the form (e.g., the process description). This would enable the Agency to identify particular substances of concern while reducing the reporting burden on industry. In some cases, EPA may regulate a substance based on this information. As with other sections of the form where information requirements have been reduced, the Agency may require supplemental reporting by submitters on a case-by-case basis.

8. *Transport.* The January 10 proposed form required submitters to describe the potential risks presented by transport of the new chemical substance. They also were required to discuss intended safeguards to prevent or reduce those risks. EPA has deleted this information from the revised forms because the Agency believes it may be too burdensome to provide and, in most cases, is unavailable. The Agency will make basic assumptions about the potential risks presented by transport of new chemical substances. When these assumptions are combined with the information required by the revised form (hazard class designation and mode of transport), and with EPA's evaluation of the toxicity of substances, the Agency will be able to focus its assessment on a smaller and better defined group of new chemical substances.

9. *Process Flow Description.* The January 10 proposed form required the submitter to provide a detailed schematic flow diagram. This information on the manufacturing and processing operations and the resultant environmental releases is critical for EPA's exposure assessments. This information also supplemented and clarified other data requirements in the January 10 form. However, in an effort to simplify the form and reduce the reporting burden, EPA has deleted several specific requirements from the process description. The revised form does not require description of the type of process equipment, the components of each process stream, and process parameters. Rather, it requires a simplified block diagram that will provide a basic understanding of the manufacturing process necessary to identify the potential exposures. (See sample block diagram provided in Appendix C). EPA welcomes comments on the reduced scope of the process flow requirement. Commenters are encouraged to propose other more appropriate ways to obtain the information required.

10. *Exposure to Consumers and Commercial Users.* The January 10 proposed form required the submitter to estimate the magnitude, duration and frequency of consumer exposure to the new chemical substance. This information would enable EPA to assess the potential exposure to consumers in the general population who use or otherwise come in contact with the new chemical substance. The consumer exposure section of the revised form has been modified only slightly from the January 10 proposed form. It requires less specific estimates of the duration and frequency of consumer exposure to the new chemical substance. In addition, the revised form does not require quantitative estimates of the magnitude of consumer exposure unless the submitter already has developed them. EPA will rely upon qualitative data for screening purposes. For detailed assessments, the Agency will seek more specific data from submitters, or will make assumptions about the magnitude of exposure.

II. Confidentiality

A. Issues Addressed in This Proposal

In the January 10, 1979, proposed premanufacture notification rules, EPA included several sections describing procedures for asserting claims of confidentiality; and procedures for determining whether PMN information was entitled to confidential treatment (Part 720, Subpart E, §§ 720.40–720.44). EPA intended to use these rules in conjunction with the Agency's existing rules concerning confidentiality of business information, 40 CFR Part 2, Subpart B.

EPA is proposing new procedures for asserting and substantiating confidentiality claims and for providing generic descriptions for certain types of information. If these procedures are adopted, they would replace those proposed in January. However, the Agency is actively considering both alternatives. Any comments concerning asserting and substantiating claims of confidentiality should consider the earlier proposal, the alternatives included in this proposal and any other schemes that would meet the needs of the Agency, industry and the public.

This reproposal does not change the substantive bases for granting confidentiality. Nor does this reproposal discuss the question of confidentiality for information in a health and safety study, or for specific chemical identity as part of health and safety studies. However, EPA has received extensive comment on both subjects in response to the January proposal. EPA will address these issues in the rules on premanufacture notification.

B. Asserting and Substantiating Claims of Confidentiality

1. *January 10 Proposal.* Under the January proposal, submitters could assert a claim of confidentiality for any item on the form by checking a box adjacent to the item of information; claims would be made on an item-by-item basis. Submitters could also claim confidentiality for any information contained in attachements to the PMN form. Submitters were required to submit two copies of those attachments. One copy was to be complete, with confidential items clearly indicated. The other copy was to have all information claimed as confidential deleted so that it may be placed in the public file.

The January proposal required the submitter to provide substantiation at the time the PMN was submitted for any claim of confidentiality asserted with respect to specific chemical identity or information in a health and safety study. Substantiation for other information could be required at a later date. Substantiation was to consist of complete responses to several questions developed by EPA that would provide information to either grant or deny the claim of confidentiality § 720.40(c)).

2. *Summary of Comments on January 10 Proposal.* Few industry representatives commented on the method proposed in the January proposal for asserting claims of confidentiality on the PMN form. In general, industry comments favored the proposed check-off approach. However, two comments suggested that in addition to the check-off, information claimed to be confidential should be stamped "Confidential" as an extra precaution against inadvertent release by the Agency.

Some comments stated that information on the form is "private property" and should be kept confidential automatically. One comment stated that substantiation should not be required for data protected under section 14(b) of TSCA (i.e. process and mixtures).

However, representatives of public interest groups favored an approach to confidentiality that would require submitters to individually substantiate each item claimed confidential when a PMN is submitted. They also suggested that EPA abbreviate its procedures for reviewing claims of confidentiality so that non-confidential information would be disclosed more quickly to the public.

3. *Revised Approach for Asserting and Substantiating Claims of Confidentiality.* In this notice, EPA is proposing a revised approach for asserting claims of confidentiality for information submitted as part of a premanufacture notice (on the forms or in attachments to it), and for substantiating those claims. In addition, the Agency is modifying and expanding the procedures for providing generic descriptions for certain information which is claimed confidential in PMNs. The proposals are based upon EPA's experience with premanufacture notices submitted to date, comments received on the January 10 proposal, and further reflection upon the various interests of industry, the public, and the Agency concerning how the Agency determines whether to release or withhold PMN information.

There are three key features to the revised approach. First, EPA has identified five categories into which most confidentiality claims will fall. The submitter, instead of just checking off the items claimed confidential, would be required to indicate, by use of a simple letter code based on these five categories, into which category the claim would fall. Submitters would be required in some cases to provide a brief explanation of why they believe a particular type of information belongs in that category.

Second, rather than substantiating claims only for chemical identity and health and safety data when the PMN is submitted, submitters would be required to provide substantiation for *every* category of information claimed confidential. For the manufacturer's identity category, substantiation would be very simple--the submitter would attest to the truth of a certification statement. Other categories of claims require more complex substantiation, as discussed below. In general, the varying amounts of substantiation required reflect the Agency's judgment of the type of information needed to determine whether the specific information can be held confidential.

Third, the proposal provides requirements and new guidelines for providing generic information when specific chemical identity, category of use, submitting company's identity and specific data on physical and chemical properties are claimed confidential.

These new proposals for claiming and substantiating confidentiality and providing generic information are discussed in more detail below.

Assertion of Claims. Any item on the form can be claimed confidential. The Agency has identified five categories into which the majority of confidentiality claims will fall. The five categories are—

A. Manufacturer's (Importer's) Identity
B. Specific Chemical Identity
C. Production Volume
D. Uses of the New Chemical Substance
E. Process Information

The Agency recognizes that there may be confidential business information on the form which does not fall into these categories. The submitter may claim this information confidential by using category F, "other".

The instructions indicate which items in the form are automatically included or "linked" to any of the five categories. For example, if specific chemical identity is claimed confidential, the CAS number is automatically considered " chemical identity" and is included in the claim. To assert a claim of confidentiality for all the items automatically linked to a category, the submitter is required only to place a check in the box on the form for that category.

To assert a claim of confidentiality for an item that is *not* automatically linked to a category of claim, the submitter must place the *letter* representing the category in the box next to the item and explain how disclosure of this information would reveal the category of information. To do this, the submitter would answer the corresponding linkage question. The submitter may claim that any single item is confidential for several distinct reasons. For example, if an item is claimed confidential because disclosure would reveal both chemical identity and process information, the submitter should place both a "B" and "E" in the box and answer the linkage questions for both categories.

Substantiation of Claims. The revised premanufacture notification procedure employs an incremental approach to substantiation. For example,

V 4 4 O C 1 6 7 9 UMI

manufacturer's identity is substantiated by signing a certification statement similar to the one required to substantiate confidentiality claims on the Inventory reporting form. This is all the substantiation that would be required.

For production volume, use data, and process information, in addition to signing the certification statement, the submitter would be required to answer two questions. The first asks whether the submitter's confidentiality concern will be met if the link between the manufacturer's (or inporter's) identity and the item claimed confidential is not disclosed. The second asks whether the submitter's confidentiality concern will be met if the link between the specific chemical identity and the item claimed confidential is not disclosed. The two questions are designed to lessen the need for multiple confidentiality claims.

Finally, to substantiate a claim of confidentiality for chemical identity and for the category of "other" claims, the submitter would respond to a series of questions. Detailed substantiation is required for each item in the category "other" because the information does not fall within one of the five categories identified by EPA. In addition, submitters would be required to explain why disclosure of the specific information would disclosure confidential information if the link between the company and the item is not disclosed and if the link between the chemical identity and the item is not disclosed.

In January, EPA proposed in § 720.40(c)(1) that a submitter who asserts a claim of confidentiality for chemical identity or health and safety data must substantiate the claim in his PMN. Under proposed § 720.40(c)(2), if the company does not provide this substantiation, EPA would notify the company and give it ten days to provide the substantiation before the Agency would place the information in the public record. EPA included this latter provision to ensure that submitters who assert claims, but who unintentionally fail to substantiate them, are given an opportunity to correct this error. The Agency did not intend for proposed § 720.40(c)(2) to affect the requirement in § 720.40(c)(1) that companies must substantiate claims for chemical identity and health and safety data at the time they submit their PMN's.

At this time, EPA is not proposing to change section 720.40(c)(2). However, EPA is considering whether it should eliminate this provision in the final rules if the Agency adopts its new scheme for substantiating all claims when PMN's are submitted. A major reason for requiring substantiation when PMN's are submitted is to eliminate delays in giving the public information which is not entitled to confidential treatment. Proposed § 720.40(c)(2) is not entirely consistent with this goal because it requires EPA to go back to submitters in all cases where claims are made but substantiation is missing. Further, in most cases EPA will not need to go back to submitters because they will have adequate notice of the Agency's substantiation requirements and should be expected to undertake reasonable steps to ensure that their PMN's are complete. EPA requests comments on whether it should retain proposed § 720.40(c)(2) in the final rules if it promulgates the reproposed scheme for substantiating claims of confidentiality.

Health and Safety Studies. The January 10 proposal would require the submitter to respond to a list of questions when substantiating confidentiality claims for information included in health and safety studies. This procedure was proposed because of the Act's special provisions for release of data from health and safety studies. EPA is proposing an alternative to the January 10 proposal which is consistent with the new approach described above. Information within a health and safety study may be claimed confidential by linking the information claimed to any of the categories proposed by the Agency. In addition, because of the specific language of section 14(b) of TSCA, a person may claim an item of data from a health and safety study as confidential because it would reveal confidential information on the portions of the substance in a mixture. This is claimed confidential by identifying the item with an "M".

Because of the Act's special provisions for release of data from health and safety studies, EPA will deny any claim of confidentiality that does not establish that disclosure of the information claimed would reveal the following confidential information:

Specific chemical identity of the chemical substance (only until the commencement of manufacture)
Process information
Portions of a mixture
Other information that is unrelated to the effects of the substance on human health and the environment.

Section 3(6) of the Act defines "health and safety study" to include "studies of occupational exposure." Any exposure information provided on the PMN form derived from a "health and safety study" is subject to the special provisions of section 14(b) of the Act and those described in this section for asserting and substantiating claims of confidentiality for health and safety studies. In particular, both section A, subsection 3; and section B, subsection 3 of Part II of the form would require reporting about worker exposure to the extent such information is known to or reasonably ascertainable by the submitter.

EPA specifically invites comment on the extent to which exposure information in PMN's is included in the general definition of "health and safety study". As stated in its January 10 proposal (44 FR 2242, 2258, 2264), EPA interprets the term broadly so that much of the information on exposure included in PMN's could be subject to section 14(b). In addition, the Agency solicits comments on how its proposed scheme for asserting and substantiating claims of confidentiality should be explained and applied to health and safety data contained in the forms themselves.

Analysis of the Revised Proposal for Asserting and Substantiating Confidentiality Claims

EPA's revision of the procedures for asserting and substantiating confidentiality claims is based on a variety of administrative and policy considerations. These include the need to provide non-confidential PMN information to the public, to provide the Agency with information necessary to make judgments under FOIA, and to establish a mechanism for persons to assert claims of confidentiality, with a minimum burden and uncertainty as to the criteria the Agency will use in making its determinations.

EPA's responsibility to provide PMN information to the public is an affirmative one, extending beyond any requirement merely to comply with FOIA. Section 5(d)(1) states explicitly that the PMN must be made available for "examination by interested persons," subject to section 14. Further, section 5(d)(2) requires EPA to publish a **Federal Register** notice which identifies the chemical substance, lists the uses or intended uses, and describes test data. More generally, TSCA includes a variety of provisions whereby citizens can petition the Agency to take particular actions with respect to premanufacture notices. EPA interprets such provisions as indicating that, while the Agency is to be the primary decisionmaker regarding new chemical substances, strong citizen involvement was intended. Effective participation is impossible if the maximum amount of information is not made available to the public.

The proposed scheme serves to increase public information in several ways. First, by focusing submitters' attention on why items are being claimed confidential and by indicating

the type of substantiation EPA must have to grant a confidentiality claim, the scheme will result in defensible rather than unwarranted claims. Second, by requiring a generic description of certain data which is claimed confidential, the scheme should provide the public with important information on the risks of the new substance without revealing confidential business information.

In addition to these TSCA-specific responsibilities, EPA has responsibilities under FOIA. Under FOIA, any person may request disclosure of any information submitted in a PMN. When such a request is made, EPA, in accordance with the procedures of 40 CFR Part 2, Subpart B, must review any information claimed confidential to determine whether it is entitled to confidential treatment. If EPA does not disclose information because it determines the information is confidential business information, the requester may bring an action in Federal court to review EPA's decision.

In any case, to determine whether information claimed confidential is, in fact, entitled to confidential treatment, EPA requires the submitter of the information to substantiate his claim. Under the January 10 proposal, if substantiation of claims of confidentiality are not included with the PMN, EPA must contact the submitter to request a substantiation of claims. After the person provides this information EPA reviews it and makes a final determination. Under TSCA, EPA provides 30 days notice to the submitter before disclosing the information. It would not be unusual for the full 90-day PMN review period to expire before EPA could release information in response to an FOIA request—even if the original confidentiality claim was totally without legal merit.

EPA's proposed alternative would provide the Agency with all the information it needs to make confidentiality determinations upon receipt of the PMN. Thus, if EPA wished to make a determination of confidentiality (either on its own, or in response to an FOIA request) there would be a significant savings in time, and an increase in the likelihood that information claimed confidential which is not entitle to such treatment could be made available to the public during the 90-day notice period.

Both TSCA and current government policy make it clear that in administration of the Act, unnecessary burdens on industry are to be avoided. EPA believes that the proposed approach provides additional information to the public without substantially increasing the burdens placed on the notice submitter.

The earlier proposal would have required submitters to assert a claim of confidentiality at the time of submission and to provide substantiation for two classes of claims—specific chemical identity and health and safety studies. However, if other items were claimed confidential, and EPA received an FOIA request, under its business confidentiality rules, the Agency would contact the submitter and require submission of detailed substantiation for this other data within fifteen business days. EPA is currently using a long letter to explain the information required to substantiate claims of confidentiality in PMN's. Included in this letter is a request that the submitter answer detailed questions to show why confidential treatment should be granted for all information claimed confidential in the PMN. Thus, under the January 10 rules, the burdens of substantiating a claim of confidentiality were divided into two phases—those associated with the filing of the notice itself, and those resulting from the requirement to provide additional substantiation at a later date in response to an EPA request.

Under EPA's business confidentiality rules, the submitter must file his substantiation within 15 business days. This deadline is necessary for the Agency to respond to FOIA requests in a timely fashion. Under EPA's January, 1979 proposal this follow-up substantiation procedure would be the rule rather than the exception, because public interest groups have indicated that they intend to submit FOIA requests on all PMNs.

While the January 10 proposal and the scheme proposed here impose similar burdens on the notice submitter, the scheme proposed here offers substantially increased certainty about the criteria the Agency will use in making its confidentiality decisions. For each item of information on the form, the submitter would state what type of information an item will reveal, explain why an item reveals that type of information, and substantiate the claim that the information in that category is entitled to confidential treatment. If a submitter makes a reasonable effort to understand the logic of the factors that entitle information to confidential treatment, and if, with this understanding, he signs the certification and in good faith provides the appropriate answers to all questions, he would have provided the information which the Agency needs to determine whether to release or withhold PMN information. Of course, EPA's determinations are subject to judicial review.

Additional Proposal for Substantiating Claims of Confidentiality. In addition to the January proposal and this revised scheme, EPA is considering a third approach that combines elements of the first two. The Agency would require substantiation of claims of confidentiality for specific chemical identity, use and test data at the time the PMN is submitted. For other types of information, submitters would have the option of either providing substantiation with their PMN's, or providing substantiation only if EPA specifically requested them to do so, perhaps as a result of an FOIA request. This would allow the Agency to review confidentiality claims for the type of information required to be published in the **Federal Register** notices under section 5(d)(2) of the Act while deferring substantiation of all other information claimed confidential until the receipt of an FOIA request.

There are at least two problems with this approach. First, although the particular information required to be published by section 5(d)(2) notice is significant for public review, as discussed above, all information in a PMN notice is subject to FOIA requests. Because EPA expects to receive FOIA request for most PMN's, the Agency would be required to request additional substantiation from submitters with the attendant time and resource burdens for both parties.

Second, this approach reduces the benefits provided by the revised approach presented in this reproposal. As discussed above, the revised approach provides a scheme which allows the submitter to understand the relationship among his confidentiality claims, and, therefore, not make claims which may be difficult to defend. This third approach, by requiring substantiation of confidentiality claims in two phases, makes it more difficult for the submitter, as well as the Agency, to evaluate the bases for confidentiality claims.

The Agency specifically solicits comments on this approach as well as other approaches to providing substantiation of confidentiality claims.

C. Submittal of Generic Information if Certain Information is Claimed Confidential

1. *January 10 Proposal.* In the January proposal, persons claiming the specific chemical identity of a new substance confidential would be required to provide a generic name. This name was to be "only as generic as necessary to

V 44 0C 16 79 UMI

protect the confidential identity of the particular chemical substance" and to reveal, to the maximum extent possible, toxicologically significant aspects of the molecular structure. Submitters were to utilize EPA guidelines in constructing generic names (§ 720.41).

EPA also proposed that submitters who claimed confidentiality for information on uses of the new chemical substance provide a generic (i.e., less specific) use description and supplement this information with a characterization of likely exposure to humans or the environment (§ 720.42). This procedure would provide the public with information useful in assessing notices and protect the submitter's confidentiality rights.

No other provisions concerning generic information were included in the January 10 proposal.

2. *Summary of Comments on January 10 Proposal.* EPA received several comments from industry and trade associations concerning the generic name requirements. The major concern was that the proposed generic name guidelines would not permit the degree of masking necessary to adequately conceal the specific chemical identity. Commenters also stated that the requirement to reveal toxicologically significant aspects of the molecular structure is not realistic given the limited understanding of the relationship between structure and biological activity.

Some commenters also stated that a submitter of a premanufacture notice who claims specific chemical identity confidential will also need to claim some of the physical and chemical property data confidential to prevent disclosure of the specific chemical identity.

3. *Revised Approach.* In response to these comments and in an effort to provide the public with meaningful information which can be used in assessing a new chemical substance, the Agency has modified its January 10 proposal. Certain data submitted on the form or attachments would have particular significance in aiding the public in assessing a new chemical substance; however, the Agency recognizes that much of this information may be subject to a claim of confidentiality. Therefore, the Agency has identified four classes of information for which EPA would require the submitter to either provide generic (less specific) information if certain items are claimed confidential, *or* explain why this less specific information cannot be provided. The classes of information are (1) manufacturer's identity, (2) specific chemical identity, (3) use data, and (4) physical and chemical properties data.

EPA is proposing the following procedures. If specific chemical identity is claimed confidential and the Agency determines that all of the three generic names proposed by the submitter are more generic than necessary to protect the confidential identity, the Agency will propose in writing (to the submitter) an alternative generic name. If the EPA proposed name is not acceptable to the submitter, the submitter must explain why disclosure of the generic name would reveal confidential business information and propose another generic name. If the submitter's proposed generic name is acceptable, it will be published in an amended **Federal Register** notice under § 720.32. If the submitter's proposed generic name is not acceptable, EPA will notify the submitter of its choice and publish the chosen generic name in an amended **Federal Register** notice thirty days after this notification.

For manufacturer's identity, use and physical and chemical properties, the procedures for developing acceptable generic descriptions would be modified. If the submitter proposed a generic description that was not developed in accordance with the reporting instructions, he must explain why disclosure of such a generic description would reveal confidential business information. If the submitter does not provide a generic description or if EPA determines the generic description provided is more generic than necessary to protect confidential business information, the Agency will develop a generic description and notify the submitter. Thirty days after this notification, the generic information will be disclosed to the public.

The Agency specifically solicits comments on the guidelines for developing acceptable generic descriptions. Comments should address the procedures for notifying submitters that descriptions reported are more generic than necessary to protect confidential business information, and for requiring the submitter to provide additional generic descriptions if the descriptions they have submitted are not acceptable to the Agency.

Chemical Identity. The January 10 proposal required persons claiming the specific chemical identity of a new chemical substance confidential to provide a generic name. Before submitting a premanufacture notice, the submitter was advised to seek an advance determination by EPA of an appropriate generic name. The advantages of this procedure are that the Agency would not need to publish an amended notice under § 720.32(c), uncertainty about EPA's choice of a generic name would be resolved prior to submission of the notice, and the public would receive useful information. If the prenotice communication procedure is not used by the submitter, the Agency is proposing the following modification to the January 10 proposal for providing generic names.

The revised form requires that the manufacturer provide three different generic names, each masked in a different manner in order to give the Agency a choice in determining which name to publish in the **Federal Register.** (The names not selected by EPA would be kept confidential if their disclosure in conjunction with other information which is disclosed would reveal confidential information.) This approach is being proposed because of two major considerations. First, section 5(d)(2) of TSCA requires the Agency to publish in the **Federal Register** a generic description of the new substance within five days of receipt of the notice. This does not allow EPA enough time to resolve problems with respect to the generic name. The Agency believes that the submission of three names will enable it to utilize its own expertise in choosing the most toxicologically descriptive name and will increase the likelihood that an acceptable name can be published in the **Federal Register** notice.

The second consideration is the limited ability of the Agency to amend a name once it is published in the **Federal Register.** Once EPA publishes a generic name, any subsequent amendment of that name, taken in conjunction with the one that was originally published, could reveal confidential information. Consequently, EPA's ability to provide the public with an amended name would be seriously impaired.

The requirement to submit three names would not apply to individuals who have developed an acceptable generic name through prenotice communication with EPA.

Generic Use Information. EPA is proposing a modification of its January 10 proposal regarding generic use descriptions for new chemical substances. The objective of the revised approach is to provide information to the public about use data without compromising the submitter's confidential information. The proposal establishes a framework for submitters to describe generic use for the chemical substance when the specific categories of use are confidential.

The proposed approach would require persons who claim the chemical use confidential to provide a use description based on several lists of use characteristics provided by the Agency. (See Appendix A.) The categories are—

1. Degree of Containment
2. Level of Environmental Release
3. Type of Population Exposed
4. Type of Environmental Release
5. Type of Human Contact
6. Average Frequency of Human Contact

Each category includes several characteristics, which describe an aspect of the use of the chemical. The submitter would select the characteristic(s) within each list that describe the use of the chemical. If more than one characteristic on each list describes the use which is claimed confidential, the submitter would select all the characteristics that describe the use. If use has been claimed confidential, the generic characteristics selected will be published in the **Federal Register** notice in the narrative format proposed in the Appendix. Publication of this generic description of use in the **Federal Register** notice provides the public with useful information, while avoiding negative effects on innovation and marketing which could result from disclosure of more specific use information. A detailed description of this system is included in *Appendix A, Section III.*

In general, if a submitter adheres to the proposed system of use characterization, a "generic" description of use and exposure should be developed which eliminates the need for any further explanation. If the submitter did not use the scheme developed by the Agency, then the submitter would be required to explain, in an attachment to the premanufacture notice, why use of the scheme would disclose confidential business information.

The Agency invites comments on cases in which the lists of characteristics may not provide an accurate description of use from which EPA can develop generic use descriptions. EPA would expect those descriptions to provide information on the level, duration and frequency of exposure as well as characteristics of the population that will be exposed to the new chemical substance. The Agency specifically solicits comments on its generic use classification system. Comments should also address alternative ways to provide sufficient instruction to the submitter for development of generic use descriptions which are only as generic as necessary to protect confidential business information while providing use information to the public as required by Section 5(d)(2) of the Act.

Ranges for Physical and Chemical Properties. EPA is proposing a requirement whereby submitters would report physical and chemical properties in ranges if disclosure of the specific value of the property would reveal confidential business information. EPA is proposing ranges for the following properties: vapor pressure, density, solubility, melting point and boiling point/sublimation point. (See *Appendix A, Section III.*) Submitters would provide their own ranges for other properties if additional specific physical and chemical properties are claimed confidential. EPA will also place these ranges in the public file. If the submitter does not use the proposed ranges, he would be required to explain, in an attachment to the form, why use of the ranges would disclose confidential business information and provide alternative generic information.

EPA is proposing this approach for several reasons. First, the Agency agrees with comments that exact physical and chemical property data, when combined with some generic chemical identity information, may reveal the specific chemical identity of the substance. On the other hand, as indicated in the January 10 proposal, EPA believes that physical and chemical property data are health and safety data and that this data would disclose information on the potential effects of a substance, especially with regard to exposure levels. EPA believes that the use of ranges, as proposed, would address both concerns to a significant extent. EPA intends the ranges to be broad enough to conceal confidential information and narrow enough to provide the public useful information about the new substance.

The Agency specifically solicits comments on the concept of using ranges to disclose physical and chemical property data. Comments are also solicited on whether or not the proposed ranges are too broad to provide useful information to the public or if they are too narrow to conceal confidential information.

Manufacturer's Identification. EPA also is proposing that the submitter of a PMN who asserts that the fact that *his company* has submitted a PMN is confidential, must provide a generic description of the company for inclusion in the section 5(d)(2) **Federal Register** notice. The objective of this requirement is to provide information to the public about the company without disclosing the submitter's confidential identity. The proposal would require persons who claim manufacturer's identity confidential to provide a description based on three categories of characteristics: (1) General geographic location of the company, (2) size of the company in total annual sales, and (3) type of company by Standard Industrial Classification (SIC) Code. (See *Appendix A, Section III.) EPA would publish the characteristics in the section 5(d) (2) notice, in a narrative format.*

In particular, the manufacturer would be required to identify the region of the country (as used by the Bureau of Census in its annual Statistical Abstract of the United States) in which the intended site of manufacture is located, and the total annual sales of the company (in ranges). The manufacturer also must provide the three-digit SIC code for the manufacturing site. However, if this code will reveal the company's identity when taken together with the information on geographic location and annual sales, the manufacturer should provide a two-digit code and a brief explanation of why a three-digit code is too specific. If the submitter does not know the intended site of manufacture, he should identify the region in which the company's headquarters is located and the primary SIC code for the entire company.

EPA invites comments on alternative ways to provide information about the manufacturer or importer to the public without compromising the submitter's legitimate interests in maintaining confidentiality. EPA especially invites comments on whether this will provide useful information to the public about importers of new chemical substances. Comments also should address the characteristics EPA has provided to describe manufacturers and whether the subcategories are only as broad as necessary to protect confidential business information while providing useful information to the public.

III. Supplemental Reporting

A. January 10 Proposal

On January 10, 1979, EPA proposed in the **Federal Register** (44 FR 2242) as part of its Premanufacture Notification Requirements and Review Procedures under Section 5 of TSCA, rules governing supplemental reporting requirements under sections 8(a) and 5 of the Act. The proposed rules provide that EPA may require in writing that certain persons report supplemental information concerning a new chemical substance for which EPA receives a premanufacture notice if it is known to or reasonably ascertainable by them. Small manufacturers (total annual sales less than $1,000,000) would have been exempt from these reporting requirements, except with respect to information which supplements,

V 4 4 0 C 1 6 7 9 UMI

provides further detail on, or clarifies that included on the PMN form.

The supplemental reporting rules as first proposed would have required certain additional informational about the new chemical substance. First, under § 720.50(b) EPA could require the manufacturer or importer of a reactant of unknown composition to report the identity or composition of the reactant to EPA under the following circumstances: (1) If a person submitted a PMN for a substance which was a product of a reaction which includes that reactant, and if the submitter has attempted unsuccessfully to obtain the information: and (2) EPA could require a person who submits a premanufacture notice § 720.50(c)), or a person who intends to process a substance for which a premanufacture notice has been submitted (§ 720.50(d)), to provide the following: (1) Information designated "optional" on the notice form; (2) information supplementing, detailing, or clarifying information submitted on the notice form; (3) information concerning the benefits of the substance and the economic consequences of any specified regulation under TSCA: and, (4) in addition, EPA could require such intended processors to provide information concerning categories of use, amounts processed, manner and menthods of disposal, and any resulting human and environmental exposure that may occur. Such information could be required if it would be relevant to a determination of whether the substance should be tested under section 4 of the Act, controlled under section 5 or section 6, or followed up under sections 5 or 8.

Paragraph (e) of § 720.50 specified the procedures EPA would follow in requiring the submittal of supplemental information. EPA would provide a written notice to any person subject to a reporting requirement. The notice was to include a copy of § 720.50, a detailed description of the information to be submitted, the name and address of the person to whom the information was to be submitted, and the date by which submittal was required. This date was to be no sooner than 15 days after receipt of the notification. The preamble stated that only the Assistant Administrator for Toxic Substances, or one of his Deputy Assistant Administrators, could issue a § 720.50 supplemental reporting requirement.

An analogous provision to § 720.50, proposed § 720.51, stated that EPA could require any person who has possession of a health and safety study to submit that study to EPA, if EPA found that the study will assist in evaluating the health or environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the substance. The reporting procedures were to be identical to those in § 720.50.

B. Summary of Comments on the January 10 proposal

EPA received a number of comments in response to the January 10 supplemental reporting proposal. Although all comments were reviewed and considered by the Agency in developing the present reproposal, EPA will discuss in this notice only those comments addressing parts of the proposed rule which are being reproposed. EPA will respond to comments concerning other aspects of the January 10 supplemental reporting proposal when the rule is published in final form.

The comments focused on three issues: (1) EPA's authority to require information through letter-writing; (2) the lack of specific criteria indicating when information would be required; and (3) the lack of any procedure for clarifying or objecting to a supplemental reporting requirement.

Some commenters questioned EPA's letter-writing authority and thus objected to the issuance of a general reporting rule providing for such procedures. The commenters strongly suggested that rulemaking on a case-by-case basis would be more consistent with TSCA.

The January 10 regulations were seen by some commenters as overly broad and vague, giving the EPA or any of its employees total discretion as to the types of information which could be required. To remedy this perceived deficiency, commenters suggested that EPA should promulgate self-executing regulations that outline clear criteria that would enable submitters and processors to better predict when supplemental information might be required.

Commenters also suggested that there should be procedures for clarifying or objecting to a supplemental reporting requirement. They stated that without such a procedure, administrative review of each request for information would be precluded and regulatees would be deprived of notice and opportunity to be heard.

C. Revisions to Proposed § 720.50

After an initial review of the comments received on the January 10 proposal, EPA is still convinced that the reporting approach contained in § 720.50—implementing information requirements by letter rather than by case-by-case rulemaking procedures, with notice in the **Federal Register**—is valid and necessary. EPA's key concern, as indicated in the January 10 proposal, is time. It would be difficult to promulgate section 8(a) reporting rules on a case-by-case basis and still receive the needed information within the section 5 review period. Also, it is not clear that full rulemaking procedures are necessary since the supplemental requirement would apply to a single individual who will receive actual notice of the requirement and be given an opportunity to comment.

The need for supplemental reporting authority is made more acute by EPA's reproposed PMN form. Except in a very limited number of cases, the information contained in a PMN should be adequate to identify substances and exposures of concern; it may, however, be inadequate to determine how or if such new substances should be regulated. Use of supplemental reporting authority to gather additional information for further evaluation of substances of concern is an integral part of the Agency's proposal to reduce the PMN requirements, and if EPA lacks a mechanism for obtaining such information on an expedited basis, one of EPA's major justifications for streamlining the PMN form will be removed.

While EPA is not proposing a modification of the principle of imposing reporting requirements under section 8(a) by letter, the Agency is reproposing this section of the regulations to alleviate some of the chief concerns expressed in the comments. EPA's major effort has been to develop more detailed criteria indicating when EPA may require additional information, and specifying the types of information that the Agency may require if the criteria are met. A second significant change has been to add to the paragraph on "Procedures For Reporting" (former § 720.50(e)) a mechanism by which the person subject to a proposed reporting requirement can file a request for modification or clarification of the requirement. These major revisions, along with others of a less significant nature, are discussed in detail below.

Subsection (a)(1) of proposed § 720.50 has been modified to clarify the applicability of the proposed rule. First, it states that the supplemental reporting requirement may pertain to chemical substances for which a premanufacture notification has been received *and* related substances. Related substances include impurities, byproducts, coproducts, degradation products, and unintended reaction products. Thus, EPA will be able to obtain complete information on exposure related to the

manufacture, processing, distribution in commerce, use, and disposal of a new chemical substance. Second, the revised paragraph (a) provides that EPA would issue supplemental reporting requirements under § 720.50 only during the premanufacture review period (including any extensions under section 5(c) of the Act). This limitation was not contained in the January 10 proposal. After the PMN review period EPA would rely on general section 8(a) reporting rules now being developed.

Paragraph (a)(2) contains the proposed small business definition for the purposes of § 720.50. The definition is the same as that proposed in January 1979. EPA has received many comments on this proposed definition and is still evaluating them; the Agency is not proposing any modification. Persons may wish to supplement their comments in the context of the revised reporting requirements.

EPA is also proposing, in paragraph (a)(2), that the provisions requiring small manufacturers to submit additional information explaining that the PMN be retained. Small business is generally exempt from reporting under section 8(a) of TSCA; it is not exempt from section 5 requirements. Therefore, EPA believes small business can be required under the authority of section 5 to submit information that could have been required in the PMN but was not. The Agency is proposing to modify significantly the scope of the information small business could be required to report. The exclusion would now be limited to information which explains or clarifies information the person was required to submit in a premanufacture notice. EPA has deleted the provision that information which "supplements" that submitted in the PMN could also be required because the Agency recognizes that the term "supplements" is broad enough to cover the information the Agency would require under § 720.50. The terms "explains" and "clarifies" may be somewhat ambiguous, and EPA solicits comments on how the regulations might more clearly define the boundary between information which could be required under section 5 and other information the Agency will obtain under the authority of section 8(a). Finally, the revised proposal for paragraph (a)(2) specifically recognizes that section 8(a)(3)(ii) authorizes EPA to require small business to report information in specified circumstances; EPA intends to maintain this authority in § 720.50.

Proposed paragraph (b) provided that if EPA received a PMN for a new substance which was the product of an unknown reactant, the Agency could require the manufacturer or the importer to report concerning the composition of the reactant. EPA is not proposing any modification of this provision in this notice. However, EPA will, in the future, be proposing a rule under section 8(a) to require reporting by manufacturers and importers of unknown reactants. Paragraph (b) may be modified or deleted when such a rule becomes effective.

Sections 720.50(c) and (d) of the January proposal, which contained supplemental reporting requirements for notice submitters and intended processors, have been replaced by paragraphs (c)—(g) in this proposal. Paragraph (c) of this proposal would require reporting by notice submitters concerning direct human exposure, and paragraph (d) would require reporting by notice submitters concerning environmental release or indirect human exposure. Analogous reporting requirements for persons who intend to process the new substance are contained in paragraphs (e) and (f). Paragraph (g), which would apply to both notice submitters and processors, prescribes information EPA may requires to identify the submitter and its customers, and prescribes information to determine the economic significance of the new substance and the impact of possible regulatory actions. The general structure of each paragraph (c) through (f) is as follows. First, EPA details the finding the Agency would make before requiring *any* supplemental reporting; then the rule spells out the types of information EPA may require.

Each paragraph sets out the two basic findings which must be made before EPA could require supplemental reporting. The first alternative finding applies to a substance of suspected toxicity. If this determination is made, EPA must also find that the physical and chemical properties of the substance (or chemical fate information, where reporting of environmental release data is concerned) and information on release indicate a potential for human or environmental exposure.

As an alternative, EPA may apply a reporting requirement if the Agency determines that it lacks sufficient data to determine the potential hazard from the substance. In this situation, EPA would also have to find that physical and chemical properties (or chemical fate data) indicate a potential for *significant* human or environmental exposure. In general, exposure could be "signficant" if it is widespread at any level of concentration, or if there is high exposure to any number of persons or ecological populations. Thus, if EPA lacks data indicating toxicity, the Agency would need to meet a more rigorous exposure test before requiring supplemental reporting during the PMN review period.

Once one of the findings set out above is made, EPA, under the revised proposal, would require reporting of specific information only if the Agency found that exposure might occur at a particular stage of a substance's life cycle. These stages include manufacturing, processing and industrial use, distribution in commerce, disposal, and end use. The last part of each paragraph sets forth the information which may be required for each stage in a substance's life cycle. For example, if under § 720.50(c) EPA found that the criteria of paragraphs (c)(2) or (c)(3) were met and that exposure might occur upon end use of a substance, the Agency could require reporting of information on packaging and labeling, use specifications and recommendations, and other similar information.

A reporting requirement under paragraph (g) may be issued on the basis of any of the findings under paragraphs (c) through (f). If such findings are made, EPA may need to identify potential customers. Furthermore, any substance for which such findings are made is a candidate for regulatory action by EPA. For most regulatory actions under TSCA, EPA will consider available data on economic consequences of the action. In addition, if EPA intends to seek judicial action under sections 5(e) or 5(f), specific identifying information for the company may be required. (This **Federal Register** notice proposes deleting the requirement that submitters provide such information in the PMN.)

Finally, in paragraph (h) of § 720.50, EPA is proposing a modification of the procedures for imposing a supplemental reporting requirement. As in the January 10 proposal, the requirement will be initiated by a written notice to the person for whom information is required. The regulation specifies that the notice will be signed by the Assistant Administrator or a Deputy Assistant Administrator in the Office of Toxic Substances. This makes clear that these reporting requirements will not be issued by lower-level staff members within OTS.

Under the proposed approach, the first notice to the company will be a *proposed* reporting requirement. The contents of this notice will be expanded from those previously proposed. EPA is proposing to include a statement of the findings made under this section to

V 44 0C 16 79 UMI

require supplemental reporting; in addition, the notice will describe the appeal procedures EPA has established.

The proposed appeal procedures, set forth in § 720.50(h)(2), were developed in response to comments that persons subject to the rule should be given an individual opportunity to comment. The person subject to the requirement would be required to file any formal objections within ten days after his receipt of the reporting notice. This short time period is necessitated by the statutory time limits on PMN review. An objection may include a request for modification or further explanation of the requirement, or a request for an extension of the time period within which to report. In any case, the company would be required to state which specific part of the requirement it is seeking to modify, and to provide a detailed explanation of the grounds for this objection. Provisions for which no objections or requests have been received within the ten-day filing period will become final at the end of the ten day period.

EPA would consider all objections or requests regarding the supplemental reporting requirements, and in every case would respond in writing to the objections. EPA could either revoke the proposed requirement, or finally adopt it. The reporting requirement would become final and effective as soon as it was received by the submitter or other person subject to the requirement.

Alternatives Considered. In formulating this reproposal, EPA considered two alternative approaches for establishing criteria for imposition of a supplemental reporting requirement. The first alternative was to maintain very general criteria similar or identical to those in the proposal of January 10. These criteria were very broad. This alternative would be attractive to EPA because, by setting out more specific criteria, the Agency will inevitably find that in at least some cases information would not be available during the PMN review period. However, EPA recognizes that this approach would not allow industry to anticipate the circumstances under which information would be required.

A second alternative considered by EPA was to develop very precise criteria, which would link the presence or absence of specific information on the form to specific categories of information which could be required by EPA. Although this approach would be more responsive to the request for more concrete reporting criteria, EPA has concluded that development of such criteria at this time would be extremely difficult. The state of the art concerning analysis of the risk potential of new chemical substances does not allow for the development of simple equations to determine if a substance presents a risk, and to indicate what if any additional data are necessary to make a responsible evaluation. It would be nearly impossible, for example, to prescribe a specific range of results concerning the activity of analogue substances that could be relied upon, in combination with exposure data, to indicate the Agency's informational needs efficiently and effectively. Intending to avoid both extremes, EPA with this notice is reproposing the rule to clarify and specify when reporting may be required, without creating a criteria system so complex that it is burdensome and inefficient to administer.

D. Revisions to § 720.51

EPA is not proposing any revision in the criteria to exercise the Agency's authority to require submission of health and safety studies. The criteria for reporting are simple. First, EPA must have some indication that the person possesses a study concerning a particular substance. Second, the study must be such as to assist EPA in evaluating potential health and environmental effects of a substance. Generally, this second finding should not be controversial, because for many new substances (and related substances) there will be little testing available, and each study will have a significant incremental value in understanding potential hazards.

EPA has revised § 720.51(b) to reflect the new reporting procedures developed for § 720.50. While the possible objections to a requirement to provide a particular health and safety study or studies are less complex, and the full procedures of § 720.50(h) may not often be necessary to resolve any conflict, this distinction does not justify the maintenance of different reporting procedures under §§ 720.50 and 720.51.

Section IV—Cost and Economic Impact Issues

A. January 10 Proposal

In January 1979 EPA published an economic report entitled "Impact of TSCA Proposed Premanufacturing Notification Requirements" (EPA Contract No. 68–01–4717), which accompanied the proposed premanufacture rules and notice forms. The report was a preliminary attempt to characterize the chemical industry, particularly to estimate the effect that the proposed PMN requirements might have on the development of new chemicals in this country.

Although the data and time available to complete the study were limited, the study did provide EPA with the following:

(1) A characterization of the chemical industry in terms of products and markets, output, growth, foreign trade, employment, and market structure;

(2) A characterization of new chemical development practices;

(3) An estimate of the range of unit costs possible under the proposed PMN forms;

(4) An assessment of the impact of premanufacture notice costs on the rate of introduction of new chemicals; and

(5) An estimate of the total industry costs as a result of the proposed PMN forms.

EPA acknowledges that the study was limited in scope, because it only addressed the notice form itself. The study did not consider the costs and perceived risks to new product introduction presented by other provisions, such as those dealing with confidentiality, invalid notices, "customer contact", and importers and exporters. Similarly, the study was limited in that it only addressed one measure of impact, the impact on the numbers and types of chemicals introduced for commercial purposes.

The conclusions of the study, as interpreted by EPA, were that PMN costs would range from about $2,500 to $22,200 per substance for the mandatory portion of the form, and from about $8,000 to $41,400 for the combined mandatory and optional parts. EPA agreed with the contractor's findings that, in general, the lowest costs of premanufacture notification would apply to substances (1) that are submitted by smaller companies, (2) that are not expected to have significant health/environmental effects or exposure, (3) for which most data are readily available, and (4) for which there is limited distribution and use. EPA similarly agreed with the contractor's findings that the highest costs of premanufacture notification would apply to substances (1) that are submitted by larger companies, (2) that might have significant health/environmental effects or exposure, (3) for which the existing data would require extensive retrieval and formatting efforts, and (4) for which there is extensive distribution and use.

Given this range of costs, the report concluded that one result of PMN requirements could be that the rate of introduction of chemical substances could be reduced from 10% (if the $2,500 figure were incurred for *all* submissions) to 90% (if the $41,400 figure were incurred for *all* submissions).

The costs and impacts derived in the study may have been overestimated because the study did not adequately take into account the approach that small companies would take to completing the PMN form. Due to the limited technical and legal resources of small companies, and because the answer to many of the questions in the form would be "not available", EPA concluded that the unit costs of notification and, hence, the impacts for many companies would be much lower than these ranges.

In addition, EPA believed that the data on which the analysis was based were insufficient to characterize new chemicals and their development process with an adequate degree of certainty, for purposes of projecting the impacts of the premanufacture requirements. Because inadequate data existed with which to characterize the uses, production processes, and toxicity of the chemicals sampled in the study, no attempt could be made to determine which chemicals in the sample would have been subject to which levels of cost. Further, the contractor had to make assumptions concerning the ability of manufacturers to pass foward the costs of premanufacture notification to consumers; the maximum portion of profit that manufacturers might be willing to divert to regulatory costs; and the average length of product life. These assumptions had direct bearing on the outcome of the impact analysis and, in the opinion of EPA, should be subject to closer scrutiny before determining the economic impact of the premanufacture requirements.

B. Public Comments

During the public comment period following the January 10 proposal, EPA received a number of comments concerning the costs and economic impacts of the proposal. With few exceptions there was general consensus from the industry that the unit costs estimated by the contractor were accurate and reasonable and that, given those costs, the conclusions concerning the effect on the rate of introduction of new chemicals were acurate. In light of the contractor's conclusions, industry commenters stated that the burden of the proposed requirements would be onerous, a deterrent to innovation, and a threat to the economic viability of the chemical industry.

Although most commenters did not provide much information about their new chemical development practices or about how the PMN requirements would actually affect them, the following common areas of concern were identifiable:

(1) Proposed Notice Form—Comments concerning the notice form indicated that the costs of completing the form would be excessive relative to the profits of many new substances. Several companies commented that the scope of the form was too broad and that many companies do not possess the types of expertise identified by the economic contractor as being required to complete the form.

(2) Invalid Notice Provisions—Comments on the invalid notice provisions (proposed § 720.34) indicated a concern by many companies that there could be lengthy delays in the notice review process that would erode the commercial attractiveness of certain new ventures (particularly small volume specialty chemicals). This in turn would discourage companies from initiating those types of ventures. However, some companies stated that the possibility for dialogue with EPA in case of ambiguity or error would alleviate some of the uncertainty associated with this provision and, hence, some of the barriers to innovation.

(3) Confidentiality Provisions—Comments concerning the confidentiality provisions indicated that the provisions could be a major deterrent to innovation, depending upon how EPA implemented them. The risks posed by untimely disclosure of chemical identity, company name, or marketing data could create disincentives to develop new chemicals because disclosure would erode a company's competitive advantage in new ventures as well as its ability to secure patents.

(4) "Customer Contact" Provisions—Industry comments on the proposed "customer contact" provisions (proposed § 720.20(e)) indicated that the procedures for mandatory notification of potential customers would dissuade many potential customers from sampling, testing, and purchasing new substances and would thus create disincentives to the development of new chemicals.

(5) Import Provisions—Comments on the provisions for imported substances (proposed § 720.21) indicated a number of distinct concerns:

a. Commenters stated that notification requirements appeared to be less stringent for importers than for domestic manufacturers (due to the omission of workplace exposure questions in the importers form), and that importers, therefore, would have a cost advantage in bringing new chemical substances to the American market.

b. Commenters stated that the import provisions would give a competitive advantage to importers or foreign manufactuers by virtue of their ability more freely to test market abroad and screen out commercially unsuccessful substances prior to submitting PMN's.

c. Commenters stated that the import provisions would create a non-tariff trade barrier to importation of chemicals due to the requirement for "upstream" commercial contact (proposed § 720.21(e)). Because some importers (e.g. brokers, intermediaries) do not know very much about the chemicals they import, they would have to rely on foreign manufacturers to provide most of the information to EPA. Because these types of importers also typically do not have direct access to their foreign manufacturers, there was concern that there would be difficulties getting the necessary data to EPA In a timely fashion, possibly leading to frequent findings of invalid notice, supplemental reporting requirements, and Section 5(e) actions.

(6) Impact on Research and Development (R&D) Expenditures and Activities—Several industry commenters indicated that the premanufacture requirements would force changes in the R&D expenditure policies of companies. Some companies commented that the increased costs of product development would lower the profitability of basic research, resulting in a cutback in funding for basic research and increased emphasis on development and modification of existing chemicals.

(7) Macroeconomic Impacts of PMN requirements—Several commenters stated that the proposed PMN requirements would have far-reaching effects on the economy as a whole. The importance of innovation in chemical technology to all facets of the American economy, and the reliance on chemical innovation by many other industries for their own competitive advantage in world markets, were said to be a basis for the proposed requirements to have significant effects on gross natural product, the balance of trade, prices, employment, and other macroeconomic indicators.

(8) Impact on Small Business—Several commenters expressed concern that small businesses would be disadvantageously affected by the proposed requirements. The reasons stated generally were that small companies would not be able to absorb the increases in R&D costs as readilty as larger companies and would be forced to cutback R&D expenditures or to discontinue R&D altogether. It was stated that this would result in a greater concentration of R&D activities and sales among the larger companies.

V 44 0 C 16 79 UMI

C. EPA's Response to Comments—The Revised Analysis

EPA currently is conducting a more in-depth study of the proposed premanufacture requirements to respond to the issues raised in the public comment period and to determine with a greater degree of confidence the nature of the results costs and economic impacts. The main purpose of this analysis is to account for the costs and impacts of the initial reporting program in its entirety. EPA will attempt to access the costs and economic implications of the following rules provisions, in addition to the costs and impacts of the notice form itself:

Confidentiality
Invalid Notice
Imports and Exports
"Customer Contact"
Supplemental Reporting
Notice of Continuing Review
Extension of Notice Period
Exemptions for Small Quantities for Research and Development
Exemptions for Test Marketing

Although these assessments are likely to be qualitative EPA believes they will help answer the questions of which, if any, types of companies or ventures will be adversely affected by the rulemaking and how they would be affected.

A second purpose of the revised analysis is to attempt to extend the previous analysis by examining more closely the secondary impacts of the premanufacture requirements. The proposed economic analysis examined the impact of the requirements on the rate of introduction of new chemicals. To the extent possible, this revised analysis will assess the effects that changes in the numbers and types of chemicals will have on policies for R&D allocation and expenditure and on industry sales, growth, profitability, and structure. Due to the complexity of the chemical industry, it is not likely that this analysis will yield quantitative conclusions. However, it may give some indication of the direction and types of change that might occur if EPA promulgates the proposed requirements.

The revised analysis will use a methodolgy similar to that used in the previous economic analysis, but will benefit from an improved data base. Data will be collected on chemicals recently introduced by as many as 30 companies. This should provide information from which to determine the types of chemicals and companies that may be affected adversely by the premanufacture requirements, and why they would be so affected.

At this time EPA believes that the premanufacture requirements will not adversely effect most manufacturers, due to the reduced costs of the revised PMN form. However, EPA is aware that even minimal notifiction requirements and time delays may impose special burdens on, and threaten the existence of, certain enterprises. Through its data gathering effort, EPA intends to characterize those companies and chemicals that may be adversely affected.

D. Public Review and Comment

This new analysis will focus on the economic costs and impacts of major provisions in the proposed premanufacture rules and forms, and will be based upon an expanded data base. Therefore, before the Agency promulgates the rules and notice forms, it will publish for public comment a report that includes the new data plus the cost and impact analyses. Notice of the availability of this report will be published in the **Federal Register**. During the public comment period EPA will solicit input concerning these data and analyses, including the assumptions and methodologies used and conclusions reached.

In general, EPA will not ask the public to provide comments on the technical, legal, and policy aspects of the proposed rules and notice forms—those comments must have been submitted during the public comment period accompanying the January proposal and this current reproposal. However, comments on the economics report may address policy and other non-economic aspects of the rulemaking insofar as decisions on the latter should be influenced by the economic findings and conclusions. EPA will carefully review and use the report and comments received on it in making decisions concerning the contents of the final rules and notice forms.

V. Comments and Public Meetings

EPA invites comments on all issues raised in this notice. Comments on the revised notice forms should focus on EPA's general approach, the Agency's need for the information, the availability of requested information to notice submitters, and the burden of obtaining the information and completing the forms. Do *not* resubmit comments on the January 10 proposed rules and forms. They will continue to be a part of the official record of this rulemaking. When EPA promulgates the final rules and forms, the comments on the January proposal, as well as the comments on this notice, will be evaluated.

During the 45-day comment period, beginning on the publication date of this notice, EPA personnel will be available to meet with interested persons from individual companies, trade associations, organized labor, and public interest organizations to discuss the revised notice form and other issues raised in this notice. EPA will provide the facilities and make other necessary arrangements for such meetings. The Agency will prepare transcripts or summaries of the meetings for inclusion in the official public record.

The meetings will be open to all members of the public, but active participation will be limited to those persons who request the meetings and EPA participants. Persons should call EPA's Industry Assistance Office at the number listed below for more information (i.e. dates, times, places, participants, topics).

Most meetings will be held in Washington, D.C. However, EPA is very interested in obtaining input directly from small companies, local labor officials, and regional public interest organizations. For this reason, the Agency will hold a limited number of meetings outside of Washington where there is a demonstrated interest in and need for such meetings. For example, EPA officials will agree to meet with a number of small companies at a central location if it is clear that the Agency cannot otherwise receive input from such persons.

Persons who wish to meet with EPA representatives should contact the Industry Assistance Office at 800–424–9065; in Washington, D.C. please call 554–1404. This office will arrange times and places for the meetings and, as noted above, will provide such information to the public.

After the public comment period closes, EPA will evaluate the comments received and will hold at least one general public meeting to discuss the comments with interested persons (particularly those who submitted them); the meeting is scheduled as follows:

Date: *Dec. 12, 1979*
Time : *9:00–4:00*
Location: *Health Education and Welfare Auditorium, 4th & Independance Ave. SW., Washington, D.C.*

During the comment period, if EPA determines that it should hold more than one of these general meetings, the Agency will announce them in the **Federal Register**. In general, any such meetings will be organized around a series of key topics, and will include a panel of EPA officials in dialogue with persons who submitted written comments. The Agency will prepare transcripts of such meetings for inclusion in the public record. Active participation will be limited in these meetings to persons who submit written comments during the 45-day comment period. The Agency does *not* intend to reopen the comment period for submittal of written comments following these meetings.

EPA welcomes suggestions concerning these meetings—(number, formats, and so forth). Address specific comments on this issue to:

Director, Industry Assistance Office, Environmental Protection Agency, 401 M Street, SW., Wash. DC 20460

VI. Public Record

EPA has established a public record for this rulemaking (docket number OTS 050002) that is available for inspection in the OTS Reading Room from 9:00 a.m. to 5:00 p.m., on working days (Room 447E, 401 M Street, S.W., Washington, D.C. 20460). This record includes all of the information considered by the Agency in developing this proposal. The Agency will supplement the record with additional information as it is received. The record includes all of the categories of information listed in the January 10, 1979, Notice of Proposed Rulemaking (44 FR 2263). In particular, the record has been supplemented for the purposes of this reproposal with the following documents:

(1) USEPA—OTS. "Reproposal of Premanufacture Notice Forms and Provisions of Rules: Notice of Proposed Rulemaking."

(2) USEPA—OTS. (Impact of TSCA Proposed Premanufacturing Notification Requirements; contract No. 68–01–4717.)

(3) Working drafts of the proposed Premanufacture Notice forms dated June 28, 1979, July 23, 1979, and August 7, 1979.

(4) EPA documents distributed at the meetings (and transcripts) of the Administrator's Toxic Substances Advisory Committee (ATSAC), August 14, 1979, and September 25, 1979.

(5) EPA materials on the planned reproposal of the premanufacture notice forms distributed at the Embassy Officials Briefing, September 11, 1979.

The docket of the record that details its specific contents to date is available in the OTS Reading Room. EPA welcomes comments on any additional material that should be part of the record to date. EPA will identify the complete rulemaking record on or before the date of promulgation of these requirements, as prescribed by TSCA section 19(a)(3).

Note.—Under Executive Order 12044, Improving Government Regulations, EPA must determine whether a proposed regulation is "significant" and therefore subject to the requirements of the order. On May 29, 1979, EPA published a report on how it will implement the order (44 FR 30988). Consistent with the order and EPA's report, the Agency has reviewed the proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242), January 10, 1979, and the forms and rules that are reproposed in this **Federal Register** notice. EPA has determined that they are "major significant" regulations, as that term is defined in the Agency's report (44 FR 30989–90). EPA will issue them in accordance with the requirements of the report concerning internal Agency development and review, public participation, economic analysis, and consideration of other regulatory impacts and alternatives. In particular, see Section I.B.4 above for a discussion of the economic costs of this reproposal and Section IV for a description of other economic analyses that EPA has under way.

(Secs. 5, 8, and 14 of the Toxic Substances Control Act (15 U.S.C. 1604, 2607, and 2613.))

Dated: October 1, 1979.

Douglas M. Costle,
Administrator.

40 CFR 720.40, 720.41, 720.42 and 720.43 are reproposed to read as follows: Section 720.44 is redesignated as § 720.45, and a new § 720.44 is added.

§ 720.40 General provisions.

* * * * *

(c)(1) At the time a person submits the information to EPA, he must substantiate all claims of confidentiality. The person must provide substantiation in the manner specified in the reporting instructions.

* * * * *

§ 720.41 Specific chemical identity.

(a) * * *

(3) * * *

(i)(A) Submit the specific chemical identity of the substance; and either

(B) Report the generaic name which was accepted by EPA in the prenotice consultation under paragraph (a)(2) of this section or

(C) Provide three generaic names, each masking the chemical identity in a different manner, and each only as generic as necessary to protect the confidential identity of the particular chemical substance. These names should reveal to the maximum extent possible toxicologically significant aspects of the molecular structure. Before proposing generic names to meet these criteria, the submitter should consult the guidelines for Creating Proposed Generic Names, published as Appendix II to these rules. The submitter shall explain why a more specific name would reveal confidential business information.

(4) * * *

(i) If a submitter asserts such a claim, and if he complies with the procedures specified in paragraph (a)(3) of this section, EPA will publish in the **Federal Register** notice under § 720.32 either the generic name agreed upon by EPA or one of the generic names proposed by the submitter.

* * * * *

(iv)(A) If at any time EPA determines that the generic names proposed by the submitter are more generic than necessary to protect the confidential identity, the Agency will propose in writing, for review by the submitter, an alternative generic name that will reveal to the maximum extent possible toxicologically significant aspects of the molecular structure.

(B) If the EPA proposed generic name is acceptable to the submitter, EPA will publish the generic name in an amended **Federal Register** notice under § 720.32.

(C) If the EPA proposed generic name is not acceptable to the submitter, the submitter must explain in detail why disclosure of the generic name would reveal confidential business information and propose another generic name which is only as generic as necessary to protect this confidential information. If EPA does not receive a response from the submitter within 30 days after the person receives this notice, the Agency will publish its chosen generic name in an amended **Federal Register** notice under § 720.32 without further notice. If the submitter does provide the information requested, EPA will review the response. If the submitter's proposed generic name is acceptable, EPA will publish the generic name in an amended **Federal Register** notice under § 720.32. If the submitter's proposed generic name is not acceptable, EPA will notify the submitter of its choice of a generic name. Thirty days after this notification, EPA will publish the chosen generic name in an amended **Federal Register** notice under § 720.32.

* * * * *

(b) * * *

(6) * * *

(ii) If EPA determines that the generic name proposed by the submitter is more generic than necessary to protect the confidential identity, the Agency will propose in writing for review by the submitter an alternative generic name that will reveal to the maximum extent possible toxicologically significant aspects of the molecular structure.

(iii) If the EPA proposed generic name is acceptable to the submitter, EPA will place the generic name in an appendix to the inventory.

(iv) If the EPA proposed generic name is not acceptable to the submitter, the submitter must explain in detail why disclosure of that generic name would reveal confidential business information and propose another generic name

V 44 0C 16 79 UMI

which is only as generic as necessary to protect the confidential identity. If EPA does not receive a response from the submitter within 30 days after he receives this notice, the Agency will place its chosen generic name in an appendix to the inventory. If the submitter does provide the information requested, EPA will review the response. If the submitter's proposed generic name is acceptable, EPA will publish the generic name in an appendix to the inventory. If the submitter's proposed generic name is not acceptable, EPA will notify the submitter of its choice of a generic name. Thirty days after this notification, EPA will place the chosen generic name in an appendix to the inventory.

§ 720.42 Uses and intended uses of a new chemical substance.

* * * * *

(b) * * *

(2) Provide, in non-confidential form, a description of the uses that is only as generic as necessary to protect the confidential business information. Before proposing a generic description of the uses to meet these criteria, the submitter should consult EPA's reporting instructions. The generic use description will be included in the Federal Register notice under § 720.32.

* * * * *

(4) Provide a detailed written substantiation of the claim, as specified in the reporting instructions.

* * * * *

(d)(1) If the submitter reports a generic use description other than in accordance with the reporting instructions, he must explain in an attachment to the form why disclosure of a generic use description developed in accordance with the reporting instructions would reveal confidential business information.

(2) If the submitter does not provide a generic use description, or if EPA determines that the use description provided is more generic than necessary to protect the confidential uses, the Agency will develop a generic use description and notify the submitter. Thirty days after this notification, EPA will publish its chosen generic use description in an amended Federal Register notice under § 720.32.

§ 720.43 Data from health and safety studies.

* * * * *

(e) *Ranges for physical and chemical properties.* (1) If a submitter has claimed specific chemical properties of the substance confidential, he must report the specific data to EPA and also provide the data for these properties in ranges that are only as generic as necessary to protect the confidential data. These ranges will be placed in the public docket of the premanufacture notice. Before proposing the ranges, the submitter should consult EPA's reporting instructions.

(2) The submitter must provide a detailed written substantiation of the claim, as specified in the reporting instructions.

(3) If the submitter does not provide this data in the ranges specified by EPA, he must explain in an attachment to the form why disclosure of the data in the specified ranges would reveal confidential business information.

(4) If the submitter does not provide ranges for the chemical properties or if EPA determines that the ranges provided are more generic than necessary to protect the confidential data, EPA will assign a range to the data and notify the submitter. Thirty days after this notification, EPA will place the ranges for the data in the public docket.

§ 720.44 Manufacturer's identity.

(a) If the submitter claims his identity confidential, he must provide a description of the company which is only as generic as necessary to protect the confidential identity. This generic description will be included in the Federal Register notice under § 720.32. Before preparing the description, the submitter should consult EPA's reporting instructions.

(b) The submitter must provide substantiation of the claim, as specified in the reporting instructions.

(c)(1) If the submitter does not follow the reporting instructions for developing a generic manufacturer identity, he must explain in an attachment to the form why disclosure of the generic identity developed in accordance with the reporting instructions would reveal confidential business information.

(2) If the submitter does not submit a generic description for manufacturer's identity, or if EPA determines that the description provided is more generic than necessary to protect the confidential identity, the Agency will develop a generic description of the manufacturer's identity and notify the submitter. Thirty days after this notification, EPA will publish the chosen generic manufacturer identity description in an amended Federal Register notice under § 720.32.

§ 720.45 Public files. [Redesignated from § 720.44.]

* * * * *

2. 40 CFR 720.50 and 720.51 are reported to read as follows:

§ 720.50 Reporting Requirements under section 8(a) and section 5 of the Act.

(a) *General.* (1) EPA may use the procedures established in paragraph (h) of this section to require persons to report supplemental information during the premanufacture review period. EPA may request information with respect to the manufacture, import, processing, distribution in commerce, use, or disposal of a new chemical substance or related substances for which the Agency receives a premanufacture notice. Related substances include impurities, by-products, coproducts, degradation products, and unintended reaction products. Except as provided in paragraph (a)(2) of this section, paragraphs (b), (c), (d), (e), (f), and (g) of this section prescribe the persons who may be subject to these reporting requirements. Information must be submitted if it is known to or reasonably ascertainable by the submitter or processor.

(2) No person whose total annual sales are less than $1,000,000, based upon the person's latest complete fiscal year, shall be subject to a reporting requirement under this section, except for information which explains or clarifies any infomration which the person was required to submit in his premanufacture notice, or information with respect to a substance for which section 8(a)(3)(ii) of the Act is applicable. In the case of a company which is owned or controlled by another company, total annual sales shall be based on the total annual sales of the owned or controlled company, the parent company, and all companies owned or controlled by the parent company taken together.

(b) * * *

(c) *Notice submitters' requirement to report information concerning potential risk resulting from direct human exposure.*—(1) *General.* If EPA makes the findings in paragraphs (c)(2) or (c)(3) of this section, and if EPA finds that there may be exposure in the manufacture, processing, distribution in commerce, use, or disposal stages of a chemical substance's life cycle, the Agency may require the submitter of a premanufacture notice to report any of the information specified in paragraph (c)(4) of this section, pertaining to that stage of a substance's life cycle.

(2) *Finding with respect to substances of suspected toxicity.* A finding under this paragraph (c)(2) may be made if all of the following criteria are met with respect to a new chemical substance or a related substance:

(i) Information on toxicity submitted with the premanufacture notice or otherwise obtained by EPA indicates the substance may present a significant hazard to humans. The following will be considered: Results of in vitro tests, results of in vivo tests, data an analogues, epidemiological data, and other similar data;

(ii) Information on physical/chemical properties indicates a potential for release resulting in human exposure. Properties to be considered include: Physical state, vapor pressure, viscosity, particle size distribution, surface tension, solubility, vapor emission rate, and other similar data; and

(iii) Information on release submitted in the notice form and any other information obtained by EPA indicates a potential for release resulting in human exposure.

(3) *Finding with respect to substances of unknown toxicity.* A finding under this paragraph (c)(3) may be made if all the following criteria are met:

(i) Sufficient data on toxicity have not been submitted with the premanufacture notice nor have other data been obtained by EPA (including data on analogues) that are sufficient to determine whether the substance may be harmful to humans;

(ii) Physical/chemical properties, including those listed in paragraph (c)(2)(ii) of this section, indicate a potential for release resulting in significant human exposure; and

(iii) Information on release submitted with the premanufacture notice or any other information obtained by EPA indicates a potential for release resulting in significant human exposure.

(4) *Information which may be required.* EPA may require the following information with respect to the stage of the substance's life cycle for which appropriate findings are made:

(i) With respect to the manufacture, processing, or industrial use of a substance, EPA may require information concerning: an explanation of any information presented in the form, equipment specifications, engineering safeguards, operating procedures, industrial hygiene practices, maintenance, cleaning, and preparation procedures, process chemistry, use, and other similar information.

(ii) With respect to distribution in commerce, EPA may require the following types of information about the substance, and mixtures and articles containing the substance: Packaging and labeling information, potential for and magnitude of a spill, transport safeguards and handling procedures, and other similar information.

(iii) With respect to disposal, EPA may require the following types of information about the substance, and mixtures and articles containing the substance: Waste handling procedures, identity of disposal site, information on method of disposal, and other similar information.

(iv) With respect to end use, EPA may require the following types of information about the substance, and mixtures and articles containing the substance: Formulation or construction of the product, packaging and labeling information, use specifications and recommendations, and other similar information.

(d) *Notice submitters' requirement to report information concerning potential risk to human health or the environment resulting from environmental release.*—(1) *General.* If EPA makes the findings in paragraphs (d)(2) or (d)(3) of this section, and if EPA finds that there may be environmental release in the manufacture, processing, distribution in commerce, use, or disposal stages of a chemical substance's life cycle, the Agency may require the submitter of a premanufacture notice to report any of the information specified in paragraph (d)(4) of this section pertaining to that stage of a substance's life cycle.

(2) *Finding with respect to substances of suspected toxicity.* A finding under this paragraph (d)(2) may be made if all of the following criteria are met with respect to a new chemical substance or a related substance:

(i) Information on toxicity, including data listed in paragraph (c)(2)(i) of this section, submitted with the premanufacture notice or otherwise obtained by EPA, indicates that the substance or mixtures or articles containing the substance may present a significant hazard to human health or the environment;

(ii) Information on chemical fate submitted with the premanufacture notice or other information obtained by EPA, including information on potential for environmental transport, potential for or nature of transformation in the environment, and potential for bioaccumulation indicates that human or environmental exposure might occur; and

(iii) Information on release submitted with the premanufacture notice and any other information obtained by EPA indicates a potential for release resulting in human or environmental exposure.

(3) *Finding with respect to substances of unknown toxicity.* A finding under this paragraph (d)(3) may be made if all the following criteria are met:

(i) Sufficient data on toxicity have not been submitted with the premanufacture notice nor have other data been obtained by EPA (including data on analogues) which are sufficient to determine whether the substance may be harmful to humans or the environment;

(ii) Information on chemical fate submitted with the premanufacture notice and other information obtained by EPA, including data on properties listed in paragraph (d)(2)(ii) of this section, indicates that significant human or environmental exposure might occur; and

(iii) Information on release submitted with the premanufacture notice and other information obtained by EPA indicates a potential for significant release resulting in human or environmental exposure.

(4) *Information which may be required.* EPA may require the following information with respect to the stage of the substance's life cycle for which appropriate findings are made:

(i) With respect to the manufacture, processing, or industrial use of the substance, EPA may require information concerning: pollution control equipment, existing treatment of the substance, specific aspects of the manufacturing or processing operation, uses of the substance, and other similar information.

(ii) With respect to distribution in commerce, EPA may require the types of information concerning the substance, and mixtures and articles containing the substance, that are listed in paragraph (c)(4)(ii) of this section.

(iii) With respect to disposal, EPA may require the types of information concerning the substance, and mixtures and articles containing the substance, that are listed in paragraph (c)(4)(iii) of this section.

(iv) With respect to end use, EPA may require the types of information concerning the substance, and mixtures and articles containing the substance, that are listed in paragraph (c)(4)(iv) of this section.

(e) *Processors' requirement to report information concerning potential risk resulting from direct human exposure.*—(1) *General.* If EPA makes the findings set forth in paragraphs (c)(2) or (c)(3) of this section, and if EPA finds that there may be exposure in the processing, distribution in commerce, use, or disposal stages of a chemical substance's life cycle, the Agency may require any person who intends to process a substance for which a premanufacture notice was submitted to report the information specified in paragraph (e)(2) of this section, pertaining to that stage of a substance's life cycle.

(2) *Information which may be required.* EPA may require submittal of the types of information listed in

V 44 0C 16 79 UMI

paragraph (c)(4) of this section, with respect to the stage of the substance's life cycle for which appropriate findings have been made. EPA will not require information concerning the manufacturing or import of the chemical substance under this paragraph.

(f) *Processors' requirement to report information concerning potential hazard to health or the environment resulting from environmental release.*— (1) *General.* If EPA makes the findings in paragraphs (d)(2) or (d)(3) of this section, and if EPA finds that there may be exposure in the processing, distribution in commerce, use, or disposal stages of a chemical substance's life cycle, the Agency may require any person who intends to process a substance for which a premanufacture notice was submitted to report the information specified in paragraph (f)(2) of this section pertaining to that stage of a substance's life cycle.

(2) *Information which may be required.* EPA may require submittal of the types of information listed in paragraph (d)(4) of this section, with respect to the stage of the substance's life cycle for which appropriate findings have been made. EPA will not require information concerning the manufacturing or import of the chemical substance under this paragraph.

(g) *Person's requirements to submit other types of information, including information concerning the benefits of the substance and the economic consequences of any specified regulation.* If the finding in paragraphs (c)(2), (c)(3), (d)(2) or (d)(3) of this section is made, EPA may require the following information from submitters of premanufacture notices or persons intending to process the new chemical substance, as appropriate:

(1) Information concerning the identity of the submitter of the premanufacture notice, including information on place of incorporation and principal place of business;

(2) Information concerning other companies which are involved with the substance, including subsidiaries associated in commercialization activities, or other persons who may manufacture the substance in the U.S., or import the substance into the U.S. by virtue of an existing or planned business arrangement.

(3) Information concerning the identity of any persons who have either contracted to purchase, submitted a purchase order or made any other firm commitment to purchase the new chemical substance or related substances for processing, distribution in commerce, industrial or end use;

(4) Information concerning the benefits of the substance for various uses resulting from either the manufacture or the processing of the substance, and the availability of substitutes for those uses; and

(5) Information concerning the reasonably ascertainable economic consequences of any specified control measure under the Act, including impact on the national economy, small business, technological innovation, the environment, and public health.

(h) *Procedures for imposing a reporting requirement.*—(1) *Written notification from EPA.* If EPA makes the findings required by paragraphs (b)—(g) of this section, EPA will propose a supplemental reporting requirement. EPA will notify in writing any person who would be subject to a proposed reporting requirement under this section. The proposed requirement will be signed by the Assistant Administrator, or a Deputy Assistant Administrator, for Toxic Substances. The notification will be sent by certified mail, with return receipt requested. The written notification will include:

(i) A copy of this § 720.50;

(ii) A statement of the findings made by EPA under this section with respect to the Agency's need for the specified information;

(iii) A detailed description of the information which would be required, with a citation to the paragraph of this section under which the information would be required;

(iv) The name, address, and telephone number of the person to whom the information would be submitted;

(v) The date by which the information would be submitted, which shall be no sooner than 15 days after the 10-day period for filing objections under paragraph (h)(2) of this section has ended; and,

(vi) Information on procedures under paragraph (h)(2) of this section for filing objections to the proposed reporting requirement.

(2) *Submitter's or processor's objections.* (i) Within 10 days after a submitter or processor receives the notice of a proposed reporting requirement, he may file written objections, requesting modification or explanation of the requirement or a change in the reporting schedule. Any such objections must specify that part of the proposed requirement which the submitter or processor seeks to modify and the basis for the objection. Any provisions of the reporting requirement concerning which no objections are received within the 10-day filing period will become final at the expiration of the 10-day period.

(ii) EPA will consider the objections filed, and the Assistant Administrator or Deputy Assistant Administrator for Toxic Substances will either revoke the proposed reporting requirement or promulgate a final requirement. EPA will notify the person who would be subject to the reporting requirement, by letter (certified mail, return receipt requested), of the Agency's response to the objection. The reporting rule will be final and effective upon receipt by the person subject to the reporting rule.

§ 720.51 Requirements for Submittal of Health and Safety Studies under section 8(d) of the Act

(a) * * *

(b) *Procedures.* (1) EPA will notify in writing any person who would be subject to a proposed reporting requirement under this section. The proposed requirement will be signed by the Assistant Administrator, or a Deputy Assistant Administrator, for Toxic Substances. The notification will be sent by certified mail, with return receipt requested. The written notification will include:

(i) A copy of this § 720.51;

(ii) A statement of the findings made by EPA under paragraph (a) of this section;

(iii) A description of the requested study;

(iv) The name, address, and telephone number of the person to whom the information would be submitted:

(v) The date by which the information would be submitted, which shall be no sooner than 15 days after the 10-day period for filing objections under paragraph (b)(2) of this section has ended; and,

(vi) Information on procedures under paragraph (b)(2) of this section for filing objections to the proposed reporting requirement.

(2) *Submitter's or processor's objections or requests for modification.* (i) Within 10 days after a person receives the notice of a proposed reporting requirement, he may file written objections, requesting modification or explanation of the requirement or a change in the reporting schedule. Any such objections must specify that part of the proposed requirement which the person seeks to modify and the basis for the objection. Any provisions of the reporting requirement concerning which no objections are received within the 10-day filing period will become final at the expiration of the 10-day period.

(ii) EPA will consider the objections filed, and the Assistant Administrator or Deputy Assistant Administrator for Toxic Substances will either revoke the proposed reporting requirement or promulgate a final requirement. EPA will notify the person who would be subject to the reporting requirement, by letter (certified mail, return receipt requested), of the Agency's response to the objection. The reporting rule will be final and effective upon receipt by the person subject to the reporting rule.

BILLING CODE 6560-01-M

V 4 4 O C 1 6 7 9 UMI

PROPOSED FORM

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE

DOMESTIC MANUFACTURERS

When completed send this form to:

Document Control Officer
Office of Toxic Substances, TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

EPA USE ONLY
Date of receipt

GENERAL INFORMATION

The Premanufacture Notice form for domestic manufacturers is divided into the following parts:

Part I – General Information

Part II – Human Exposure and Environmental Release

Part III – List of Attachments

Part IV – Federal Register Notice

Part V – Optional Data

The optional part (part V) is not included in this package. All data requested in the mandatory parts (parts I, II, III, and IV) must be reported to the extent they are known to or reasonably ascertainable by the submitter. This means that the submitter is expected to answer all questions to the best of his/her ability, including making reasonable estimates in cases where complete factual information is not available. If the submitter is unable to make a reasonable estimate (i.e., the data is not known and is not reasonably ascertainable), he/she should enter "NA" (not available).

In part I, the submitter is required to report the specific chemical identity of the new substance, regardless of whether the information is claimed as confidential. In accordance with proposed §720.20(f), the submitter may authorize another person to report the specific chemical identity in his/her behalf. The notice will not be valid until the specific chemical identity is received by EPA.

If the space on the form is not sufficient to adequately answer a question, the submitter may attach additional sheets. Identify any continuation by part, section, subsection, and item.

ASSERTING AND SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

Read Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality, for information on how to claim and substantiate confidential business information included in this form or in attachments to the form. Claims of confidentiality must be made in accordance with sections I and II of these instructions. In addition, substantiation of all claims of confidentiality must be made in accordance with section IV of these instructions. If you claim any item in any attachment to this form confidential, see SPECIAL INSTRUCTIONS for attachments, Appendix A, Section II. Appendix B "Examples," provides additional guidance for asserting and substantiating claims of confidentiality.

In accordance with sections I and II of the confidentiality instructions, claims of confidentiality must be made by using the following six categories:

A. MANUFACTURER'S IDENTITY

A claim of confidentiality for Category A, Manufacturer's identity, automatically includes items 1, 2, and 3 in part 1, section A.

B. SPECIFIC CHEMICAL IDENTITY

A claim of confidentiality for category B, Specific Chemical Identity, automatically includes items 1, 2, and 3 in part I, section B.

C. PRODUCTION VOLUME

A claim of confidentiality for category C, Production Volume automatically includes item 1 in part I, section D. These items do not need to be individually claimed.

D. USE DATA

A claim of confidentiality for category D, Use Data, automatically includes item 2 in part I, section D. These items do not need to be individually claimed.

E. PROCESS INFORMATION

A claim of confidentiality for category E, Process Information, automatically includes items in part II, section A, subsection 2. These items do not need to be individually claimed.

F. OTHER INFORMATION

No items on the form are automatically included in this category. Thus all claims for this category must specify category F.

GENERAL CERTIFICATION

I hereby certify to the best of my knowledge and belief, that:

a. The company named in section A, item 1, intends to manufacture for a commercial purpose the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13);

b. All information entered on this Premanufacture Notice form is complete and truthful as of the date of submittal; and

c. I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23.

I also agree to permit access to, and the copying of records by a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of authorized official

Date

CONFIDENTIALITY CERTIFICATION

I hereby certify to the truth and accuracy of the following four statements concerning all information which is claimed confidential.

a. My company has taken measures to protect the confidentiality of the information, and it will continue to take these measures;

b. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding) without the company's consent;

c. The information is not publicly available elsewhere, and

d. Disclosure of the information claimed confidential would cause substantial harm to my company's competitive position.

Signature of authorized official

Date

EPA Form 7710-25 (9-79)

Part I – GENERAL INFORMATION

Section A – MANUFACTURER IDENTIFICATION

If you claim Manufacturer's identity confidential, mark (X) the box at the right. → ☐
The answers to items 1, 2, and 3 will be included in this claim.

If you claim the answers to items 4 or 5 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Confidential code

1. Person Filing Notice

Name of authorized official — Title

Organization

Mailing address *(Number and street)*

City, State, ZIP code

2. Technical Contact

Name — Title

Mailing address *(Number and street)*

City, State, ZIP code — Telephone — Area code — Number

3. Parent Company

Name

Mailing address *(Number and street)*

City, State, ZIP code

4. Enter the intended date of commencement of manufacture for commercial purposes. — Month — Year

If the intended date of commencement of manufacture is more than 3 years after the date of this notice, submit evidence of intent to manufacture in accordance with 40 CFR 720.20(h).

☐ *Mark this box if you attach evidence.*

5. If you have had a Prenotice Communication (PC) concerning this notice and EPA assigned a PC number to this notice, enter PC Number → — *Mark (X) if none* → ☐

CONTINUE WITH SECTION B ON PAGE 3

V 4 4 0 C 1 6 7 9 UMI

Section B – CHEMICAL IDENTITY

If you claim Chemical Identity confidential, mark (X) the box at the right. → ☐
The answers to items 1, 2, and 3 will be included in this claim.

If you claim Chemical Identity confidential, is this claim limited to the period prior to manufacture? 1 ☐ Yes 2 ☐ No

If you claim the answer to item 4 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Complete either 1, 2, or 3 as appropriate. Complete 4.

		Confidential code
1. Class 1 Chemical Substance (other than polymers)	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Molecular formula	
	d. Synonyms	
	e. Trademarks	
	f. Structural diagram	
	☐ *Mark this box if you attach a continuation sheet.*	
2. Class 2 Chemical Substance	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Synonyms	
	d. Trademarks	
	e. List the immediate precursor substance(s) and reactants with their respective CAS Registry Number(s) and describe the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.	
	☐ *Mark this box if you attach a continuation sheet.*	

3. Polymers

a. (1) Provide the specific chemical names and the CAS Registry Number of those monomers and other reactants used in the manufacture of the polymer. (2) Mark (X) the identity column if you wish monomers used at two percent (by weight) or less to be listed as part of the polymer description on the inventory. (3) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition. (4) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

Monomers and CAS Registry No. (1)	Identity Mark (X) (2)	Range of composition (3)	Maximum amount (weight percent) (4)	Confidential code (5)
			%	
			%	
			%	
			%	

b. Indicate the minimum average molecular weight or the minimum degree of polymerization of the polymeric compositions to which this notice applies.

☐ *Mark this box if you attach a continuation sheet.*

4. Impurities

(a) List each impurity, including CAS Registry Number, which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. (b) Estimate the maximum percent (by weight) of each impurity. Base your answer on information developed during R & D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. (c) Mark (X) if the concentration of an impurity will be specifically controlled because of your concern about potential adverse health or environmental effects. (d) Estimate the maximum total percent (by weight) of the impurities that may be present.

Impurity and CAS Registry number (a)	Maximum percent present (b)	Mark if to be specifically controlled (c)	Confidential code
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
d. Total percent →	%		

☐ *Mark this box if you attach a continuation sheet.*

Section C – GENERIC NAMES

Complete this section only if Specific Chemical Identity is claimed confidential.

For instructions on how to develop generic names, see appendix II, 40 CFR 720 (44 FR 2278), Proposed Premanufacture Notification Requirements and Review Procedures.

1. Enter the generic name agreed on by EPA in Prenotice Communication or provide 3 generic names. _____

V 4 4 0 C 1 6 7 9 UMI

Section D – PRODUCTION AND MARKETING DATA

If you claim Production Volume confidential, mark (X) the box at the right. → ☐
The answers to item 1 will be included in this claim.

1. Estimate the minimum and maximum annual production volume for the first three years of production. Include in your estimates production by others with whom you have contracted to manufacture the new chemical substance.

Production year (1)	Production (Kg/yr) Minimum (2)	Maximum (3)	Confidential code
a. First year			
b. Second year			
c. Third year			

2. Category of use
If you claim Use Data confidential, mark (X) the box at the right. → ☐
The answers to item 2 will be included in the claim.

a. List the category(ies) of use on which you have based your production estimates. (Example: solvent used in automotive paint.) List partial information if complete information is not known. (Example: solvent.) Mark (X) the categories of use as site limited, industrial, commercial, or consumer. Estimate the percent of total production for the first 3 years devoted to each category of use.

Category of use (1)	Production percent (2)	Mark (X) appropriate column(s) Site limited (3)	Industrial (4)	Commercial (5)	Consumer (6)	Confidential code
	%					
	%					
	%					

☐ *Mark this box if you attach a continuation sheet.*

b. List any other category(ies) of use that you have actively explored

☐ *Mark this box if you attach a continuation sheet.*

c. Do you intend or expect the new chemical substance to be used to treat drinking water supplies or to be used in products (e.g., paints or coatings) that will come in contact with drinking water? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

NOTE – If you claim the answers to items 3 or 5 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.
If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

3. Has the chemical substance been manufactured before? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

4. Hazard warnings Attach to this notice a copy or reasonable facsimile of any hazard warning statement, label, labeling, marking or instructions, technical data sheet, material safety data sheet, and any other information which will be provided to any person regarding the safe handling, transport, use, disposal, treatment upon accidental exposure, or the formulation, construction, or labeling of products containing the new chemical substance.

☐ *Mark this box if you attach a hazard warning.*

5. Enter the number of customers who have either contracted to purchase, submitted a purchase order, or made any other firm commitment to purchase the new chemical substance from you for a category of use unknown to you. Estimate the percentage of your production volume that will be purchased by such customers during the first 3 years of production.	Number of customers	Percentage production volume	Confidential code
		%	

Section E – TRANSPORT

Complete this section if you intend to ship the new chemical substance from its site of manufacture.

If you claim the answers to items 1 or 2 confidential, place the letter(s) (A–F) in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.

1. Enter the proper DOT shipping name and hazard class of the new chemical substance (if applicable). — Confidential code

a. Shipping name

b. Hazard class

2. Mark (X) the mode(s) of transport which you believe will be used for the new chemical substance.

1 ☐ Truck
2 ☐ Railcar
3 ☐ Barge, vessel
4 ☐ Pipeline
5 ☐ Plane
6 ☐ Other – *Specify*

Section F – RISK ASSESSMENT

If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

If you have evaluated the health or environmental risks which may be presented by the manufacture, processing distribution in commerce, use, or disposal of the new chemical substance attach your evaluation.

☐ *Mark this box if you attach a risk assessment.*

Section G – DETECTION METHODS

If you claim the answers to item 1 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

1. Is an analytical method available to identify and quantify the presence of the new chemical substance – Confidential code

Identify	Quantify
a. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	e. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
b. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	f. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
c. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	g. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
d. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	h. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

V 4 4 0 C 1 6 7 9 UMI

Part II – HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

Section A – INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER

If you claim Process Information confidential, mark (X) the box at the right. ⟶ ☐
The answer to subsection 2 will be included in this claim.

If you claim the answers to items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E. If you claim the answers to items 3.3, 4.3, or 4.4 in subsections 3 or 4, or any items submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

Complete a separate subsection 1 and subsection 2 sheet for each site where you will manufacture, process or use the new chemical substance.

▶ Subsection 1 – PROCESS INFORMATION

		Confidential code
1.1 Identity of site	Name	
	Physical location address *(Number and street)*	
	City, County, State, ZIP code	
1.2 Type of site	1 ☐ Manufacturing 2 ☐ Processing 3 ☐ Use 4 ☐ Continuous 5 ☐ Batch	
1.3 Hours of operation ⟶	Days per year / Hours per day	
1.4 Amount manufactured, processed, or used ⟶	Minimum Kg/yr. / Maximum Kg/yr.	

▶ Subsection 2 – BLOCK DIAGRAM

2.1 Provide a block diagram identifying the major unit operations and chemical conversions. Also include:

a. For each chemical conversion in the block diagram identify the major chemical reactions and the major side reactions.

b. Provide the approximate mass of all feed materials, byproduct materials, and products which are entering and leaving each major unit operation and chemical conversion. Indicate the method of transfer of these materials and whether the operation is open or closed to the workplace environment.

c. Identify those points in the block diagram from which there will be releases of the new chemical substance or byproduct materials into the air, land, or water environment.

☐ *Mark this box if you attach a continuation sheet.*

▶ Subsection 3 – OCCUPATIONAL EXPOSURE

Complete a separate subsection 3 for each site at which you will manufacture, process, use, or dispose of the new chemical substance. Indicate the anticipated route(s) of exposure to the new chemical substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route, and the maximum duration of such exposure (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on maximum annual production, processing, or use during the first 3 years of manufacture under normal operating conditions with all engineering safeguards in place.

		Confidential code
3.1 Identity of site	Name	
	Physical location address *(Number and street)*	
	City, County, State, ZIP code	

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hr./day	Maximum duration (4) Days/yr.	Concentration (5) Unit of measure	Concentration (5) Mark (X) appropriate column A – Average P – Peak 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	> 100 A	> 100 P
a. Manufacture					1 ☐ ppm 2 ☐ mg/m³								
b. Processing					1 ☐ ppm 2 ☐ mg/m³								
c. Use					1 ☐ ppm 2 ☐ mg/m³								
d. Disposal					1 ☐ ppm 2 ☐ mg/m³								

3.3 Describe those operations in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the new chemical substance to which workers may be exposed in the workplace. (Confidential code)

1 ☐ Solid 3 ☐ Aerosol 5 ☐ Mist 7 ☐ Dust 9 ☐ Other – *Specify* ▶ _____
2 ☐ Gas 4 ☐ Powder 6 ☐ Fume 8 ☐ Liquid

3.5 For each site of manufacture, list any other substances (e.g., byproducts, co-products, feedstocks and intermediates) associated with the manufacture of the new chemical substance that may reasonably be anticipated to be present in the workplace and to which workers may be exposed. Provide the CAS Registry Number.

Substance (1)	CAS Registry Number (2)	Confidential code

☐ *Mark this box if you attach a continuation sheet.*

V 4 4 0 C 1 6 7 9 UMI

▶ **Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL**

Complete a separate subsection 4 for each site where you intend to manufacture, process, use or dispose of the new chemical substance.

Confidential code

4.1 Identity of site

Name

Physical location address *(Number and street)*

City, County, State, ZIP code

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release: Hrs./day (2)	Duration of release: Days/yr. (3)	Amount of new chemical substance released (Kg/yr.): Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)
a. Air							
b. Land							
c. Water							

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name

d. Effluent stream flow rate → Gallons per day

4.3 For each release point indicated in the block diagram, characterize the composition of the release materials.

☐ *Mark this box if you attach a continuation sheet.*

4.4 Describe pollution control equipment and disposal operations (e.g., scrubber, baghouse, landfill, incinerator, activated sludge, carbon absorption, etc.) used to treat individual or combined releases indicated in the block diagram(s) of manufacturing, processing, and use operations.

☐ *Mark this box if you attach a continuation sheet.*

Section B – INDUSTRIAL SITES CONTROLLED BY OTHERS

Complete this section using your own forecasts, any information already obtained from other persons who may process, use, dispose of, or manufacture (under contract) the new chemical substance or any other information that is reasonably ascertainable. Complete a separate subsection 1 and subsection 2 for each site where you expect other persons to manufacture (under contract), process, use, or dispose of the new chemical substance.

If you claim the answers to the items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

If you claim the answers to items in subsection 2, or item 3.3 in subsection 3 confidential, see SPECIAL INSTRUCTIONS in appendix A, section II, part B.

▶ **Subsection 1 – PROCESS INFORMATION**

Confidential code

1.1 Identity of site (Optional)

Name

Physical location address (Number and street)

City, State, ZIP code

County

▶ **Subsection 2 – PROCESS DESCRIPTION**

Briefly describe processing, use, or manufacturing operations conducted by others.

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

▶ **Subsection 3 – OCCUPATIONAL EXPOSURE**

Complete a separate subsection 3 for each industrial site where you expect other persons to process, use, dispose of, or manufacture the new chemical substance. Indicate the anticipated routes of exposure to the substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route, and the maximum duration of such exposure (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on the maximum amount anticipated to be manufactured, processed, used, or disposed during the first 3 years of operation under normal conditions with all engineering safeguards in place.

Confidential code

3.1 Identity of site (optional)

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hrs./day	Maximum duration (4) Days/yr.	Concentration (5) Unit of measure	Mark (X) appropriate column A – Average P – Peak 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	> 100 A	> 100 P	Confidential code
a. Manufacture					1 ☐ ppm 2 ☐ mg/m³									
b. Processing					1 ☐ ppm 2 ☐ mg/m³									
c. Use					1 ☐ ppm 2 ☐ mg/m³									
d. Disposal					1 ☐ ppm 2 ☐ mg/m³									

3.3 Describe those activities in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the new chemical substance to which workers may be exposed in the workplace.

1 ☐ Solid 2 ☐ Gas 3 ☐ Aerosol 4 ☐ Powder 5 ☐ Mist 6 ☐ Fume 7 ☐ Dust 8 ☐ Liquid 9 ☐ Other – *Specify* _____

Confidential code

▶ **Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL**

Complete a separate subsection 4 for each site where other persons intend to manufacture, (under contract) process, use, or dispose of, the new chemical substance.

Confidential code

4.1 Identity of site (Optional)

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release Hrs./day (2)	Duration of release Days/yr. (3)	Amount of new chemical substance released (Kg/yr.) Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)	Confidential code
a. Air								
b. Land								
c. Water								

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name _____

d. Effluent stream flow rate → Gallons per day

4.3 (1) List any byproduct materials containing the new chemical substance that are generated during manufacturing, use, and processing operations and which are disposed of (e.g., landfill, incineration, or other physical/chemical treatment). Water effluent and air emission streams should not be listed here. Estimates of release of the new chemical substance contained in such streams are required to be reported in item 4.2. (2) Indicate the method of disposal. (3) Estimate the amount of each material generated (Kg/Kg of the new chemical substance), and (4) estimate the percent (by weight) of the new chemical substance.

Material requiring disposal (1)	Anticipated method of disposal (2)	Amount (Kg/Kg) (3)	Percent of new chemical substance (4)	Confidential code

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

Section C – CONSUMER AND COMMERCIAL USER EXPOSURE

Complete this section for all consumer and commercial categories of use which involve use of a product that intentionally contains the new chemical substance. Provide the information based on your own forecasts, information already obtained from other persons, or any other information that is reasonably ascertainable.

If you claim the answers to item 1 confidential, enter letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

If you claim the answers to items 2, 3, or 4 confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

1. Complete the table below. For each consumer and commercial use category reported in section D, item 2, mark (X) if the product will be manufactured by the submitter or by other persons. Indicate the maximum number of consumers or commercial users expected to be exposed, the expected routes of human exposure and the frequency of exposure.

Category of use from part II, section D	Use category (2)		Manufactured by – (3)		Exposure route(s)	Maximum number exposed	Frequency of exposure (6)				Confidential code
(1)	Consumer	Commercial	Submitter	Other	(4)	(5)	Daily	Weekly	Monthly	Yearly	

2. Attach any estimates that have been developed of potential exposure levels for each category of use.

☐ *Mark this box if you attach any estimates.*

3. For each product containing the new chemical substance, explain any aspect of its construction or formulation which you believe will limit the potential for exposure to the new chemical substance. For mixtures, indicate the maximum percent by weight of the chemical substance in the product.

☐ *Mark this box if you attach a continuation sheet.*

4. Identify any byproducts which are formed as a result of each category of use described in this section.

☐ *Mark this box if you attach a continuation sheet.*

Part III – LIST OF ATTACHMENTS

Under section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, a manufacturer must submit all test data in his possession and control, and a description of any other data that are known to or reasonably ascertainable by him/her concerning the effect of manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance on health or the environment. The regulations specify which data must be submitted with the notice and which data may be referenced by literature citations. Using the categories provided, identify (1) attachments containing test data, descriptions of data, or literature citations in accordance with 720.23; (2) other attachments required to be submitted with this notice; (3) confidentiality substantiations and (4) attachments which contain information voluntarily submitted. All attachments should be clearly identified and numbered.

To assert and substantiate a claim of confidentiality for any information included in the following attachments, follow the instructions in Appendix A, section II, part B. Note – Special directions for test data or other "Health and Safety" studies included in section III, part C.

The instructions provide that you must also submit a "sanitized" copy of the attachment with all information that you are claiming confidential deleted. EPA will place this copy in the public docket.

	Attachment name	Part	Section/Subsection	Item	Attachment number
a. Physical and chemical properties data					
b. Health and environmental effects data					
c. Notice attachments					
d. Confidentiality attachments					
e. Voluntary attachments					

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

Part IV – FEDERAL REGISTER NOTICE

Information provided in this part will be published in the Federal Register in accordance with section 5(d)(2) of TSCA. Do not enter any information in this part for which you have asserted a claim of confidentiality.

Section A – CHEMICAL IDENTITY

Enter the specific chemical name of the substance if it is not claimed confidential. If the chemical identity is claimed confidential, enter the name agreed to by EPA in Prenotice Communication or EPA will enter one of the three proposed generic names in part I, section C.

Section B – MANUFACTURER IDENTIFICATION

Enter the legal title of the organization filing this notice if it is not claimed confidential. If the legal title of the organization is claimed confidential, provide a description of the organization in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

Section C – USE DATA

1. If use data were not claimed confidential in section D, list the category(ies) of use that you reported in section D, item 2a. Mark (X) if the use category(ies) is site limited, industrial, commercial, or consumer.

Category of use (1)	*Mark (X) appropriate box*			
	Site limited (2)	Industrial (3)	Commercial (4)	Consumer (5)

2. If use data were claimed confidential, provide a description of the category of use(s) of the chemical substance in accordance with section II, Appendix A, Instructions for Asserting and Substantiating Confidentiality. This description should be as specific as possible without revealing confidential information.

Section D – TEST DATA

List all test data concerning health and environmental effects of the manufacture, processing, distribution, in commerce, use, or disposal of the new chemical substance that are being submitted, described, or cited as part of this notice. Provide a brief abstract of all test data on the new chemical substance that are submitted in accordance with 720.23(a) and 720.20(j). If physical-chemical properties are claimed confidential, provide a generic description of these properties in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

☐ *Mark this box if you attach a continuation sheet.*

APPENDIX A

INSTRUCTIONS FOR ASSERTING AND SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

INTRODUCTION

These are the instructions for asserting and substantiating claims of confidentiality for any information you submit in a premanufacture notice (PMN). You may request confidential treatment for any item of information you submit in a PMN, whether it is entered on the PMN form or in attachments to the form.

To make this request, you must follow the procedures set out in these instructions. More specifically:

1. You must assert a claim of confidentiality, identifying the information that you claim to be confidential. You must do this in accordance with these instructions, at the time you submit the PMN. Any information you do not claim as confidential will be included in the PMN public record without further notice to you.

2. You must substantiate your claims of confidentiality. You must do this in accordance with these instructions, at the time you submit the PMN. Otherwise, EPA may determine that you have waived your claims, and may then release the information in question, in accordance with section 720.40(c)(2).

V 4 4 0 C 1 6 7 9 UMI

3. For some of the items contained in the PMN, you must provide a non-confidential, generic (i.e. less specific) substitute for the information you claim to be confidential. In providing generic substitutes you must follow the instructions in this Appendix. Otherwise, EPA will develop its own generic substitutes, which it will publish after giving you notice. This third requirement applies to:

- The identity of the company submitting the notice;
- The specific chemical identity of the new chemical substance;
- The proposed categories of use of the substance; and
- Certain physical and chemical properties of the substance.

If you assert a claim of confidentiality and you substantiate that claim, EPA will disclose the information only as provided in the Agency's confidentiality regulations which appear in 40 CFR Part 2. Those regulations include provisions stating that, with specific exceptions, EPA will maintain the confidentiality of information claimed as confidential until the EPA General Counsels Office makes a final determination that certain information is not entitled to confidential treatment: and that if confidentiality is denied, the submitter will receive written notice 30 days before the date EPA will make the information available to the public.

V 4 4 0 C 1 6 7 9 UMI

ORGANIZATION OF THESE INSTRUCTIONS

These instructions are organized as follows:

- Section I describes six "categories" of confidentiality claims. The categories will apply to all claims, both those for items on the form and those for any information submitted separately as attachments.
- Section II - A explains how to assert a claim of confidentiality for information on the PMN form, and describes the steps you must take to "link" individual claims to the appropriate categories described in Section I.
- Section II - B explains how to assert a claim of confidentiality for information in attachments to the PMN form, and includes special instructions for asserting a claim for information in health and safety studies.
- Section III identifies the items in the PMN for which you must develop generic substitutes, and provides a method for creating these substitutes.
- Section IV describes how to provide the required substantiation for each of the five specific categories of information in which you have asserted a claim of confidentiality and for each piece of information that is claimed confidential which is not "linked" to the five specific categories.
- Section V describes the format for answering linkage and substantiation questions, and for justifying generic substitutes which are not developed in accordance with the instructions provided in Section III.

I. CATEGORIES OF CLAIMS

EPA has identified five categories of information into which most confidentiality claims will fall:

Category A: Manufacturer's (Importer's) Identity
Category B: Specific Chemical Identity
Category C: Production Volume
Category D: Uses of the New Chemical Substance
Category E: Process Information

You may wish to claim confidential treatment for information that does not fall under any of the categories A-E. These claims will be referred to in these instructions as "Category F" claims.

The instructions that follow explain how these six categories are to be used.

II. ASSERTING CONFIDENTIALITY CLAIMS

A. Use of the Categories to Assert Claims of Confidentiality for Information on the Premanufacture Notice Form

There are two ways to assert claims of confidentiality on the form. The first may be used for items that EPA has "linked" to one of the categories A-E. The second way must

be used for items that you have to link to one of these categories, or that you claim as a "category F" item. The instructions for each of these two ways of asserting claims follow.

(1) Linkages Identified by EPA

To assert a claim of confidentiality for any item on the PMN form in Column 2 (below) you must mark the box on the form next to that item. (EPA has already determined the category linkages for these items, as indicated under Column 1.) However, if the basis of your claim of confidentiality for any of the items listed in Column 2 does not correspond with the linkages given in Column 1, then you must use the procedures in the following section, "Linkages that You Must Indicate and Establish", to assert your claim.

Column 1 Category Linkages		Column 2 Identified
A:	Manufacturer's (Importer's) Identity	Part I, Section A, items 1,2, & 3
B:	Chemical Identity	Part I, Section B, items 1,2, & 3
C:	Production Volume	Part I, Section D, item 1
D:	Use Data	Part I, Section D, item 2
E:	Process Information	Part II, Section A

V 4 4 0 C 1 6 7 9 UMI

Subsection 2

F: Other

NONE

(2) Linkages that You Must Indicate and Establish

If you wish to claim confidentiality for any information not listed in Column 2 above, first you must indicate the category of information -- that is, in which of the categories A-F the item falls. To do this you must place the appropriate category letter(s) in the box next to the information you claim to be confidential. By doing this, you indicate the basis of your confidentiality claim.

Second, if you assert a claim by linking an item to one of the categories A-E, you must explain why the item would reveal information in that category. You must do this for each item, by answering the appropriate "linkage" questions below. If you assert a confidentiality claim in category F because disclosure would reveal other confidential information that is not in any of the categories A-E, you do not have to answer any linkage questions.

Linkage Questions

A: Manufacturer's (Importer's) Identity

For every item that you have marked with an "A", answer the following question:

How would disclosing this item reveal your company's identity?

B: Specific Chemical Identity

For every item that you have marked with a "B", answer the following question:

How would disclosing this item reveal the specific chemical identity?

C: Production Volume

For every item that you have marked with a "C", answer the following question:

How would disclosing this item reveal production volume?

D: Use Data

For every item that you have marked with a "D", answer the following question:

How would disclosing this item reveal the use(s) of the new chemical substance?

E. Process Information

For every item that you have marked with an "E", answer the following question:

How would disclosing this item reveal process information?

V 44 OC 16 79 UMI

B. Asserting Claims of Confidentiality for Information in Attachments to the PMN Form

To assert a claim of confidentiality for information in attachments to the PMN form, you must:

- Provide a complete copy of the attachment which (i) clearly indicates (e.g., by circling, underlining, bracketing) the information you wish to claim confidential, and (ii) identifies with a letter A-F the category on which your claim is based. (You should make clear to what information a particular letter refers.)
- Answer the appropriate linkage questions for each item claimed confidential in categories A-E.
- Submit a sanitized copy, deleting all the information that you claim as confidential on the original document. The sanitized version will be placed in the public docket.

C. Special Directions for Attachments Containing Test Data or Other "Health & Safety Studies"

In general, you must assert a claim of confidentiality for information in health and safety studies in the same manner as for other attachments. However, when identifying the category on which a claim is based, you may find it necessary to claim an item confidential because it reveals confidential information on the portions of chemical substances in a mixture. For purposes of Health and Safety studies only, you should identify this information with an

"M". Each time you indicate this reason for asserting confidentiality, you must answer the following linkage question:

How would disclosing this information reveal the portion of any chemical substance in the mixture?

You may claim any data included in test data or health and safety studies confidential for any reason. However, in accordance with EPA's interpretation of section 14(b) of the Act, the Agency will deny confidentiality claims for any item not shown to reveal information in one of the following categories:

- specific chemical identity of the chemical substance (a claim on this basis alone will be upheld only until manufacture of the substance begins)
- process information
- portion of a mixture comprised by any of the chemical substances in the mixture
- other items of information such as manufacturer's identity, cost or financial data, marketing plans, only if they are unrelated to the health and safety effects of the substances. (Information on the methodology of the test and its results does not fall within this exception.)

III. PROVIDING GENERIC SUBSTITUTES FOR CERTAIN INFORMATION ASSERTED TO BE CONFIDENTIAL

Certain information submitted on the form or in

V 4 4 O C 1 6 7 9 UMI

attachments is particularly important for public participation in the assessment of new chemical substances. However, much of this information may be subject to claims of confidentiality. To balance these interests, EPA requires you to either provide generic (i.e. less specific) substitutes for certain items you claim confidential, or to explain why nonconfidential generic information cannot be developed. EPA will review the generic substitute or the explanation and notify you of its decision. After notifying you, EPA will make public the chosen non-confidential generic description. Note: You must provide EPA the specific information requested on the form. The generic substitute is for public disclosure. It should not be used as a substitute for any of the items on the form. Generic substitutes are for the following:

- If you assert a claim of confidentiality for specific chemical identity (Part I, section B of the form) you must provide three generic names in Part I, section C in accordance with the EPA Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance Identities for Premanufacture Notification. EPA will select one generic name to publish in the FEDERAL REGISTER notice.
- If you assert a claim of confidentiality for category of use (Part I, section D of the form), you must provide generic use information for Part III of the form in accordance with these instructions. EPA will publish the generic information in the FEDERAL REGISTER notice.
- If you submit (in an attachment) data on the new substance's vapor pressure, density, solubility, melting point, or boiling point/sublimation point, and if you assert a claim of confidentiality for such data, you must provide the data in the ranges specified in these instructions. These ranges will be placed in the public docket.
- If you assert a claim of confidentiality for manufacturer's identity (Part I, section A of the form) you must develop a description of the manufacturer for Part III of the form in accordance with these instructions to be published in the FEDERAL REGISTER notice.

The instructions for developing these four kinds of generic information follow.

A. Instructions for Generic Chemical Identity Names

If (but only if) you claim specific chemical identity confidential and you have not agreed with EPA on a generic name during prenotice communication, you must provide three generic names to be included in the FEDERAL REGISTER notice, Part III, Section A, of the PMN form. These names must be provided in accordance with the Guidelines for Creating Proposed Generic Names for Confidential Chemical Substance

V 44 OC 16 79 UMI

Identities for Premanufacture Notification.

B. Instructions for Generic Descriptions of Manufacturer's Identity

If you have claimed your company's identity confidential, use the following scheme to develop a generic description of the company identity for inclusion in the FEDERAL REGISTER notice, Part III, section B of the PMN form.

Instructions for Selection of Characteristics

Select from List 1, Geographic Location of the Company, the region of the country in which the intended site of manufacture is located. If you do not know the site, identify the region in which your company's headquarters is located.

Select from List 2, Size of Company in Total Annual Sales, the category in which your company's total annual sales figure fall. This figure should be based on the company's latest complete fiscal year and should reflect the entire corporate entity.

Identify the three-digit Standard Industrial Classification (SIC) Code for the manufacturing site. If you do not know the site, identify the primary SIC code for the entire company. If the three-digit code will reveal the company's identity taken together with the information on geographic location and annual sales, provide a two-digit code and a brief explanation of why a three-digit code is

Once you have selected the appropriate characteristics, you may use them to write a generic manufacturer identity description. Alternatively, you may select the characteristics and enter them in the spaces provided on the form. In this case, EPA will compose the generic manufacturer identity based upon the selected descriptors. The following example is provided as a suggested format for composing generic manufacturer identity descriptions. If the Agency composes any descriptions, it will follow this format.

Example: ABC Chemicals Company has corporate headquarters in Chicago, Illinois, with total annual sales of $87,500,000. It intends to produce the new substance at its plant in Los Angeles, California, which has SIC code 2861. The company's general description would read as follows: "The submitter has total annual sales of between $10,000,000 and $99,999,999, and intends to produce the new chemical substance at a plant in the Pacific region of the country whose three-digit Standard Industrial Classification code is 286, "Industrial Organic Chemicals".

V 44 OC 16 79 UMI

List of Characteristics

List 1 Geographic Location of the Company

Region

Northeast: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

Middle Atlantic: New Jersey, New York, Pennsylvania

East North Central: Illinois, Indiana, Michigan, Ohio, Wisconsin

West North Central: Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota

South Atlantic: Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia

East South Central: Alabama, Kentucky, Mississippi, Tennessee

West South Central: Arkansas, Louisiana, Oklahoma, Texas

Mountain: Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming

Pacific: Alaska, California, Hawaii, Oregon, Washington

List 2 Size of Company

a) under $1,000,000

b) $1,000,000 to $9,999,999

c) $10,000,000 to $99,999,999

d) $100,000,000 to $499,999,999

e) $500,000,000 and up

C. Instructions for Generic Use Information

If (but only if) you claim the categories of use or intended uses of the substance confidential, you must use the following method to develop generic use information to be included in the section 5(d)(2) FEDERAL REGISTER notice, Part III, section C, of the PMN form.

Select from List 1, Degree of Containment, the characteristics which describe the degree of containment of the substance. Some examples are included in List 1, to help explain the meaning of the terms. Most industrial uses of chemicals will fall in the "open use" or "dispersive use" categories. Most consumer uses will be classified as "highly dispersive". If no characteristic is appropriate, provide an appropriate term on the line marked "other".

Select from List 2, Level of Environmental Release, one characteristic to represent the total loss to the environment due to the use. Total loss includes losses from commercial and industrial waste streams and fugitive emissions, consumer end use, and final consumer disposal as solid waste.

Select from List 3, Type of Population Exposed, the characteristic which describe each type of population that may be exposed to the substance due to its use. Many uses will involve some commercial or industrial exposure as well as some consumer exposure. In the case of some printing inks, for example, the press operators are exposed to them

V 4 4 0 C 1 6 7 9 UMI

as are the consumers who handle the printed material. In these cases, more than one type of population characteristic should be chosen for each category of use or intended use.

Select from List 4, Environmental Release, the necessary descriptors for each type of release to the environment due to the use. Only identify the releases that give information about the use of the substance. For example, using an industrial coating on furniture production may involve some release of spent lacquers to a landfill. However, during the use of the substance, release would result from the evaporation of solvents from the coatings. In this case, you would report the releases as an industrial or commercial loss or waste stream to the air, but not a release to a landfill. Some releases, particularly some industrial releases, may not give any information about the use. In these cases you should choose descriptor (e).

For each type of population identified above, select as many descriptors as appropriate from List 5, Type of Human Contact.

For each type of population identified above select one descriptor from List 6, Frequency of Use or Human Contact. Most consumer uses will imply an average frequency of use. For example, dishwashing detergents may be used an average of five times per week. Industrial and commercial uses may differ, since discrete occurrences of use are replaced by frequent or perhaps continuous exposure to substances which are used daily. Either type of use can be classified by the

descriptors in List 6. Group the descriptors from List 5 and 6 according to the exposed populations identified.

Once you have selected the appropriate characteristics, you may use them to write narrative generic substitutes for the use information you claim confidential. Alternatively, you may select the characteristics and enter them in the space provided on the form. In this case, EPA will compose the narrative generic substitute based upon the selected descriptors. The following example is provided as a suggested format for composing narrative generic substitutes for use information. If the Agency composes any generic substitutes, it will follow this format.

Example: The premanufacture notice indicates that the substance will be used in an open use that will release more than 50 kilograms but less than 5,000 kilograms of the substance to the environment per year. The manufacturer states that the use will involve exposure to non-chemical industry employees more than five times per week with intended skin contact and a potential for eye contact. The use will also involve exposure for consumers as part of an article with an average exposure frequency of once a month or less and a potential for skin and eye contact. There will be release to the environment as an industrial loss to the air and in an industrial waste stream to a Publicly Owned Treatment Works (POTW) as well as release to the air from a consumer end use.

V 4 4 O C 1 6 7 9 UMI

LIST OF CHARACTERISTICS

List 1 Degree of Containment

a)	destructive use	(e.g., fuels, fuel additives, chemical intermediates)
b)	contained use	(e.g., closed processes, fluids sealed in products)
c)	open use	(cases somewhere in between dispersive uses and contained uses)
d)	dispersive use	(e.g., some textile dyes, automobile tire rubber, friction devices)
e)	highly dispersive use	(e.g., pesticides, fertilizers, salt for snow removal, paint solvents)
f)	other, please describe	_____

V 4 4 0 C 1 6 7 9 UMI

List 2 Level of Environmental Release

a) less than 50 kg/year

b) more than 50 kg/year but less than 5,000 kg/year

c) more than 5,000 kg/year but less than 50,000 kg/year

d) more than 50,000 kg/year

List 3 Type of Population Exposed

a) industrial employees - chemical

b) industrial employees - non-chemical

c) commercial employees - maintenance, services and retail sales

d) consumers - formulated products (e.g., mixtures)

e) consumers - part of an article

List 4 Environmental Release

As an industrial or commercial loss or waste stream

a) - to air

b) - to water

c) - to a Publicly Owned Treatment Works (POTW)

d) - to a landfill

e) - other, please describe

Consumer end use

f) - to air

g) - to navigable waters

h) - to a Publicly Owned Treatment Works (POTW)

j) - final consumer disposal as solid waste

List 5 Type of Human Contact

a) - very low potential for contact

b) - potential skin contact

c) - potential eye contact

d) - potential oral contact

e) - potential inhalation

f) - potential ingestion

g) - intended skin contact

h) - other, please describe

List 6 Average Frequency of Human Contact

a) - once a year or less

b) - once a month or less

c) - once a week or less

d) - more than once per week

e) - five times per week

f) - continuous or very frequent exposure during working hours

g) - other, please describe

D. Instructions for Providing Generic Physical and Chemical Properties

You must use the ranges provided below for vapor pressure, density, solubility, melting point and boiling point/sublimation point if you claim these physical and chemical properties confidential because disclosing the "specific" value for any of them would

reveal confidential business information. If you do not use these ranges, provide a range of your own and explain why such an expanded or different range is necessary to protect the confidential business information. If you claim any other specific physical and chemical properties confidential, provide a range of your own choosing. This nonconfidential information will be placed in the public docket.

Ranges for Reporting Physical and Chemical Properties

Vapor Pressure

Temperature _____

[ ] 0 - 1^{-2}

[ ] 10^{-2} - 1 torr

[ ] 1 - 1- torr

[ ] 10 - 100 torr

[ ] 100 - 1000 torr

[ ] >1000 torr

Density (Liquid or Solid)

[ ] <.9 gm/cc

[ ] .9 - 1.1 gm/cc

[ ] >1.1 gm/cc

Solubility

Temp _____

Solvent _____

[ ] $<1^{-6}$ gm/l

[ ] 10^{-4} - 10^{-6} gm/l

[ ] 10^{-4} - 10^{-2} gm/l

[ ] 10^{-2} -1 gm/l

[ ] 1 - 10 gm/l

[ ] >10 gm/l

Melting Point

[ ] <0C°

[ ] 0 - 30C°

[ ] 30 - 50C°

[ ] 50 - 100C°

[ ] >100C°

Boiling Point/Sublimation Point

[ ] <0C°

[ ] 0 -30C°

[ ] 30 - 50C°

[ ] 50 - 100C°

[ ] 100 - 200C°

[ ] >200C°

V 44 OC 16 7 9 UMI

IV. SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

In addition to asserting a claim as explained in sections I - III of the instructions, notice submitters must do the following to substantiate claims of confidentiality for information on the PMN form or in attachments to the form.

A. GENERAL CERTIFICATION

The person who signs the form must certify the truth and accuracy of the following four statements which apply to all information claimed confidential. (Note: The certification is only to be signed once for the entire form and attachments):

a. My company has taken measures to protect the confidentiality of the information, and it will continue to take these measures;

b. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding) without my company's consent;

c. The information is not publicly available elsewhere; and

d. Disclosure of the information claimed confidential would cause substantial harm to my company's competitive position.

B. CATEGORY A: Manufacturer's (Importer's) Identity

To substantiate claims for Category A, Manufacturer's Identity, you need only sign the confidentiality certification. You are not required to answer any specific questions for this category.

C. CATEGORY B, C, D, E, and M: SPECIFIC QUESTIONS

In addition to the certification, you must answer the following questions if you claim information confidential in these categories. (Note: for each category, you must answer the questions only once, regardless of the number of times you claim information confidential in that category.)

Category B - Specific Chemical Identity

1. How would disclosing the specific chemical identity substantially harm your competitive position? Be specific about the connection between disclosure and the harm.
2. How long should confidential treatment be given (until a specific date, until the occurrence of a specific event, or permanently)? Why?
3. Has the chemical substance been patented? If so, have you granted licenses to others with respect to the patent? If the substance has been patented and therefore disclosed through the patent, why should it be treated as confidential?
4. To what extent has it been revealed to others that this chemical substance is or will be manufactured or imported for a commercial purpose? What precautions

V 44 O C 16 7 9 UMI

have been taken regarding these disclosures? Have there been public disclosures or disclosures to competitors?

5. Has this particular chemical substance left your site in any form, e.g., as product, effluent, emission? If so, what measures have you taken to guard against discovery of its identity? Before you begin manufacture of this substance will it leave your site in any form? If so, what measures will you take to guard against discovery of its identity?
6. If the chemical substance has left the site in a product that is available to the public or your competitors, can the substance be identified by analysis of the product?
7. Has EPA, another federal agency, or any federal court made any pertinent confidentiality determinations regarding this information? If so, please attach copies of such determinations.
8. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA keeps confidential the link between your company identity and the specific chemical identity, your identity will not be associated in any way with the chemical identity. In this case, what harm to your competitive position would result from disclosing only the specific chemical identity? How could a

competitor use this information? What is the casual relationship between the disclosure and the harm?

Category C - Production Volume

1. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA keeps confidential the link between your company identity and production volume, your identity will not be associated in any way with the production volume. In this case, what harm to your competitive position would result from disclosing the production volume? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?
2. If you have claimed confidentiality for chemical identity (Category B) so that the chemical identity (other than generic name) is not associated in any way with production volume, what harm to your competitive position would result from disclosing the production volume? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

Category D - Use Data

1. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA keeps confidential the link between your company identity and the use data, your identity will not be associated in any way with the use data. In this

V 4 4 O C 1 6 7 9 UMI

case, what harm to your competitive position would result from disclosing the use data? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

2. If you have claimed confidentiality for chemical identity (Category B) so that the chemical identity (other than generic name) is not associated in any way with the use data, what harm to your competitive position would result from disclosing the use data? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

Category E - Process Information

1. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA keeps confidential the link between your company identity and process information, your identity will not be associated in any way with this information. In this case, what harm to your competitive position would result from disclosing the process information? How could a competitor use such information? What is the causal relationship between the disclosure and the harmful effects?
2. If you have claimed confidentiality for chemical identity (Category B) so that the chemical identity (other than generic name) is not associated in any way with the process information, what harm to your

competitive position would result from disclosing the process information? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

Category M: Portions of a Mixture

(Only for use in Health and Safety Studies)

1. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA keeps confidential the link between your company identity and the proportions of the mixture, your identity will not be associated in any way with this information. In this case, what harm to your competitive position would result from disclosing the proportions of the mixture? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?
2. If you have claimed confidentiality for chemical identity (Category B) so that the chemical identity (other than generic name) is not associated in any way with the proportions of the mixture, what harm to your competitive position would result from disclosing the proportions of the mixture? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

V 4 4 0 C 1 6 7 9 UMI

D. CATEGORY F - OTHER INFORMATION - SPECIFIC QUESTIONS

For Category F, Other Information, you must answer the following questions each time you claim information confidential for that category:

1. Is the item confidential in and of itself? If so, what is revealed by its disclosure?
2. Is the item confidential because it will reveal some other confidential information, whether or not that other information is reported on this form? If so, what is the information that will be revealed?
3. Is the item confidential because it will reveal other confidential information when the item is disclosed in association with some other item(s) submitted on this form? Is so, what are those item(s)?
4. If the answer to 1, 2, or 3 is yes, what harm would disclosing the confidential information cause to your competitive position? How would disclosure lead to this harm?
5. If you have claimed confidentiality for manufacturer's identity (Category A) and EPA maintains the confidentiality of the link between your company identity and this information, your identity will not be associated in any way with the item claimed. In this case what harm to your competitive position would result from disclosing the item? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?
6. If you have claimed confidentiality for chemical identity (Category B) so that the chemical identity (other than generic name) is not associated in any way with the item claimed, what harm to your competitive position would result from disclosing the item? How could a competitor use this information? What is the causal relationship between the disclosure and the harm?

V. FORMAT FOR RESPONSES TO LINKAGE AND SUBSTANTIATION QUESTIONS AND JUSTIFYING GENERIC SUBSTITUTES

Any attachments to the premanufacture notice form that either (i) establish linkages to the EPA categories of claims, or (ii) substantiate information claimed confidential, or (iii) justify generic substitutes should follow the format described below:

1. The responses for any one category -- whether establishing a linkage, substantiating a claim of confidentiality, or justifying a generic substitute should be grouped together. For example, responses to linkage questions, substantiation questions and any explanation of why the EPA approach to developing generic substitutes was not used (if it was not used), about the information in the use data category should be grouped together.

V 44 OC 16 79 UMI

2. With your responses grouped by category, you should then arrange the groups in the order of the categories themselves, starting with A. For example, if category A (manufacturer's identity) and category D (use data) are claimed confidential, the responses in category D should all follow the responses in category A. An outline of your attachments if you make confidentiality claims in each of the categories might be the following:

I. Category A Claims (Manufacturer's Identity)
  A. Answers to linkage questions.
  B. Justification of a generic substitute (only if you do not use EPA's guidelines for providing this information.)
  (To substantiate a claim of confidentiality for Manufacturer's Identity, sign the Confidentiality Certification statement appearing on the front of the PMN form.)

II. Category B Claims (Specific Chemical Identity)
  A. Answers to linkage questions.
  B. Justification of generic description (only if you do not use EPA's guidelines for providing this information.)
  C. Answers to substantiation questions.

III. Category C Claims (Production Volume)
  A. Answers to linkage questions
  B. Answers to substantiation questions

IV. Category D Claims (Use of the New Chemical Substance)
  A. Answers to linkage questions.
  B. Justification for generic description (only if you do not use EPA's guidelines for providing this information.)
  C. Answers to substantiation questions.

V. Category E Claims (Process Information)
  A. Answers to linkage questions
  B. Answers to substantiation questions

VI. Category F Claims (Other)
  A. Answers to substantiation questions for each item claimed in this category.

EPA will treat as confidential the information provided to justify confidentiality claims, so long as this information is clearly marked CONFIDENTIAL.

Appendix B

Examples of Asserting and Substantiating Claims of Confidentiality

The following three examples are provided to illustrate how a submitter would assert a claim of confidentiality.

Example 1 - Manufacturer's Identity (Part I, Section A)

Absolusol Company has filed a PMN. The company is asserting a claim of confidentiality for the company name because public disclosure of the fact that this company intends to manufacture a new chemical substance would reveal confidential business information. As illustrated on the attachment, a check has been placed in the box to indicate

V44 OC 16 79 UMI

that the company is asserting this claim. The answers to Questions 1, 2 and 3 of Part I, Section A are automatically included in the claim of confidentiality for manufacturer's identity when this single box is checked.

In accordance with EPA's instructions for claiming confidentiality for manufacturer's identity, Absolusol has provided EPA a generic description in Part III of the form which will be published in the FEDERAL REGISTER notice. (See attached sample page.)

The company is also asserting a claim of confidentiality for the answer to Question 4, intended date of commencement of manufacture for commercial purposes. The company has placed an "A" in the box next to Question 4 because the company is asserting that disclosure of this information will reveal the company identity. The company explains how disclosure of the answer to question 4 will reveal company identity by responding to the linkage question found in the instructions.

To substantiate the claim of confidentiality for all category A claims, Samuel Hunter, President of Absolusol Company, has signed the confidentiality certification statement appearing on the front of PMN form. No other substantiation is required for claims in this category.

PROPOSED FORM

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE

DOMESTIC MANUFACTURERS

When completed send this form to:
Document Control Officer
Office of Toxic Substances, TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

EPA USE ONLY
Date of receipt

GENERAL INFORMATION

The Premanufacture Notice form for domestic manufacturers is divided into the following parts:

Part I – General Information
Part II – Human Exposure and Environmental Release
Part III – List of Attachments
Part IV – Federal Register Notice
Part V – Optional Data

The optional part (part V) is not included in this package. All data requested in the mandatory parts (parts I, II, III, and IV) must be reported to the extent they are known to or reasonably ascertainable by the submitter. This means that the submitter is expected to answer all questions to the best of his/her ability, including making reasonable estimates in cases where complete factual information is not available. If the submitter is unable to make a reasonable estimate (i.e., the data is not known and is not reasonably ascertainable), he/she should enter "NA" (not available).

In part I, the submitter is required to report the specific chemical identity of the new substance, regardless of whether the information is claimed as confidential. In accordance with proposed §720.20(f), the submitter may authorize another person to report the specific chemical identity in his/her behalf. The notice will not be valid until the specific chemical identity is received by EPA.

If the space on the form is not sufficient to adequately answer a question, the submitter may attach additional sheets, identify and continuation by part, section, subsection, and item.

SAMPLE

ASSERTING AND SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

Read Appendix A, Instructions for Asserting and Substantiating Claims of confidentiality, for information on how to claim and substantiate confidential business information included in this form or in attachments to the form. Claims of confidentiality must be made in accordance with sections I and II of these instructions. In addition, substantiation of all claims of confidentiality must be made in accordance with section IV of these instructions. If you claim any item in any attachment to this form confidential, see "SPECIAL INSTRUCTIONS for attachments, Appendix A, Section II. Appendix B "Examples," provides additional guidance for asserting and substantiating claims of confidentiality.

In accordance with sections I and II of the confidentiality instructions, claims of confidentiality must be made by using the following six categories:

A. MANUFACTURER'S IDENTITY

A claim of confidentiality for Category A, Manufacturer's identity, automatically includes items 1, 2, and 3 in part I, section A.

B. SPECIFIC CHEMICAL IDENTITY

A claim of confidentiality for category B, Specific Chemical Identity, automatically includes items 1, 2, and 3 in part I, section B.

C. PRODUCTION VOLUME

A claim of confidentiality for category C, Production Volume automatically includes item 1 in part I, section D. These items do not need to be individually claimed.

D. USE DATA

A claim confidentiality for category D, Use Data, automatically includes item 2 in part I, section D. These items do not need to be individually claimed.

E. PROCESS INFORMATION

A claim of confidentiality for category E, Process Information, automatically includes items in part II, section A, subsection 2. These items do not need to be individually claimed.

F. OTHER INFORMATION

No items on the form are automatically included in this category. Thus all claims for this category must specify category F.

SAMPLE

GENERAL CERTIFICATION

I hereby certify to the best of my knowledge and belief, that:

a. The company named in section A, item 1, intends to manufacture for a commercial purpose the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13);
b. All information entered on this Premanufacture Notice form is complete and truthful as of the date of submittal; and
c. I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23.

I also agree to permit access to, and the copying of records by a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of authorized official
Samuel Hunter, President
Date
Sept. 15, 1979

CONFIDENTIALITY CERTIFICATION

I hereby certify to the truth and accuracy of the following four statements concerning all information which is claimed confidential.

a. My company has taken measures to protect the confidentiality of the information, and it will continue to take these measures;
b. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding) without the company's consent;
c. The information is not publicly available elsewhere; and
d. Disclosure of the information claimed confidential would cause substantial harm to my company's competitive position.

Signature of authorized official
Samuel Hunter, President
Date
Sept. 15, 1979

EPA Form 7710-25 (9-79)

16 2749

V 44 0 C 1 16 7 9 UMI

Part I – GENERAL INFORMATION

Section A – MANUFACTURER IDENTIFICATION

If you claim Manufacturer's identity confidential, mark (X) the box at the right. → [X]
The answers to items 1, 2, and 3 will be included in this claim.

If you claim the answers to items 4 or 5 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

			Confidential code
1. Person Filing Notice	Name of authorized official: Samuel Hunter.	Title: President	
	Organization: Absolusol Company		
	Mailing address (Number and street): 1820 State Street		
	City, State, ZIP code: Boston, Mass. 01792		
2. Technical Contact	Name: Sally Murphy, Ph.D.	Title: Project Engineer	
	Mailing address (Number and street): 1820 State Street		
	City, State, ZIP code: Boston, Mass. 01792	Telephone: 607 / Area code: 992 / Number: 8666	
3. Parent Company	Name: N/A		
	Mailing address (Number and street)		
	City, State, ZIP code		

4. Enter the intended date of commencement of manufacture for commercial purposes.	Month	Year
If the intended date of commencement of manufacture is more than 3 years after the date of this notice, submit evidence of intent to manufacture in accordance with 40 CFR 720.20(h).	April 1	1980
☐ Mark this box if you attach evidence.		

5. If you have had a Prenotice Communication (PC) concerning this notice and EPA assigned a PC number to this notice, enter PC Number →	1	Mark (X) if none → ☐

SAMPLE

CONTINUE WITH SECTION B ON PAGE 3

Part IV – FEDERAL REGISTER NOTICE

Information provided in this part will be published in the Federal Register in accordance with section 5(d)(2) of TSCA. Do not enter any information in this part for which you have asserted a claim of confidentiality.

Section A – CHEMICAL IDENTITY

Enter the specific chemical name of the substance if it is not claimed confidential. If the chemical identity is claimed confidential, enter the name agreed to by EPA in Prenotice Communication or EPA will enter one of the three proposed generic names in part I, section C.

This section would be completed in accordance with the instructions.

SAMPLE

Section B – MANUFACTURER IDENTIFICATION

Enter the legal title of the organization filing this notice if it is not claimed confidential. If the legal title of the organization is claimed confidential, provide a description of the organization in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

The submitter has total annual sales of between $1,000,000 and $9,999,999, and intends to produce the new chemical substance at a plant in the Northeast region of the country whose three digit Standard Industrial Classification code is 307.

Section C – USE DATA

This section would be completed in accordance with the instructions.

1. If use data were not claimed confidential in section D, list the category(ies) of use that you reported in section D, item 2a. Mark (X) if the use category(ies) is site limited, industrial, commercial, or consumer.

Category of use (1)	Mark (X) appropriate box: Site limited (2)	Industrial (3)	Commercial (4)	Consumer (5)

SAMPLE

2. If use data were claimed confidential, provide a description of the category of use(s) of the chemical substance in accordance with section II, Appendix A, Instructions for Asserting and Substantiating Confidentiality. This description should be as specific as possible without revealing confidential information.

SAMPLE

Section D – TEST DATA

This section would be completed in accordance with the instructions.

List all test data concerning health and environmental effects of the manufacture, processing, distribution, in commerce, use, or disposal of the new chemical substance that are being submitted, described, or cited as part of this notice. Provide a brief abstract of all test data on the new chemical substance that are submitted in accordance with 720.23(a) and 720.20(j). If physical-chemical properties are claimed confidential, provide a generic description of these properties in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

--- ☐ Mark this box if you attach a continuation sheet.

V44 0C16 79 UMI

(This information would be provided in an attachment to the form.)

CONFIDENTIAL

SAMPLE

Sample

Confidentiality Claims

Category A

Linkage Question

A. Manufacturer's (Importer's) Identity

For every item that you have marked with an "A", answer the following question:
How would disclosing this item reveal your company's identity?

Part I, Section A, Question 4:

"This information in conjunction with the generic information provided for the manufacturer's identity and chemical identity would reveal our company name because we are the only company of our size located in the northeast with the capability of manufacturing a new chemical substance of this type within the next six months. When we introduce our new product it will be clear that our company submitted the premanufacture notice."

Example 2 - Chemical Identity

(Part II, Section B)

Beeswax Incorporated has filed a PMN. The company is asserting a claim of confidentiality for information in category B, specific chemical identity. As illustrated on the form, a check has been placed in the box to indicate that the company is asserting this claim. The answers to items 1,2, and 3 are automatically included in the claim of confidentiality. In accordance with EPA's instructions for claiming confidentiality for specific chemical identity the company has provided three generic name(s) from which EPA will choose a single name for publication in the FEDERAL REGISTER notice along with other information in Part III of the form.

The company is also asserting a claim of confidentiality for information on impurities provided in response to question 4. Because the answer to question 4 is not automatically linked to the claim of confidentiality for category B, specific chemical identity, Beeswax must place a "B" in the box next to question 4, and answer the following linkage question in Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality:

B: Specific Chemical Identity

For every item that you have marked with a "B", answer the following question:
How would disclosing this item reveal the specific chemical identity?

The answers to the linkage question and the answer to the substantiation questions for category B, chemical identity, were attached to the form by the company.

V 44 OC 16 79 UMI

Section B – CHEMICAL IDENTITY

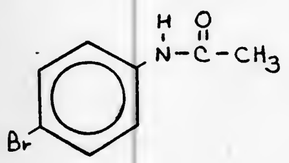
If you claim Chemical Identity confidential, mark (X) the box at the right. The answers to items 1, 2, and 3 will be included in this claim. → [X]

If you claim Chemical Identity confidential, is this claim limited to the period prior to manufacture? 1 [X] Yes 2 [ ] No

If you claim the answer to item 4 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section H, for categories A–E.

Complete either 1, 2, or 3 as appropriate. Complete 4.

		Confidential code
1. Class 1 Chemical Substance (other than polymers)	a. CAS Registry No. (if known): 103-88-8	
	b. Specific chemical name: N-(4-bromophenyl) acetamide	
	c. Molecular formula: C_8H_8ONBr	
	d. Synonyms: 4-bromo acetanilide, p-bromo acetanilide	
	e. Trademarks: N/A	
	f. Structural diagram	
2. Class 2 Chemical Substance	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Synonyms	
	d. Trademarks	
	e. List the immediate precursor substance(s) and reactants with their respective CAS Registry Number(s) and describe the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.	



SAMPLE

[ ] Mark this box if you attach a continuation sheet.

[ ] Mark this box if you attach a continuation sheet.

3. Polymers

a. (1) Provide the specific chemical names and the CAS Registry Number of those monomers and other reactants used in the manufacture of the polymer. (2) Mark (X) the identity column if you wish monomers used at two percent (by weight) or less to be listed as part of the polymer description on the inventory. (3) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition. (4) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

Monomers and CAS Registry No. (1)	Identity Mark (X) (2)	Range of composition (3)	Maximum amount (weight percent) (4)	Confidential code (5)
			%	
			%	
			%	
			%	

b. Indicate the minimum average molecular weight or the minimum degree of polymerization of the polymeric compositions to which this notice applies.

SAMPLE

[ ] Mark this box if you attach a continuation sheet.

4. Impurities

(a) List each impurity, including CAS Registry Number, which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. (b) Estimate the maximum percent (by weight) of each impurity. Base your answer on information developed during R & D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. (c) Mark (X) if the concentration of an impurity will be specifically controlled because of your concern about potential adverse health or environmental effects. (d) Estimate the maximum total percent (by weight) of the impurities that may be present.

Impurity and CAS Registry number (a)	Maximum percent present (b)	Mark if to be specifically controlled (c)	Confidential code
2,4-dibromo acetanilide (23373-04-8)	.5 %		B
N,N-diacetylaniline (NA)	.01 %		B
acetanilide (103-84-4)	.1 %		B
	%		
	%		
	%		
	%		
	%		
	%		
d. Total percent →	.7 %		

[ ] Mark this box if you attach a continuation sheet.

Section C – GENERIC NAMES

Complete this section only if Specific Chemical Identity is claimed confidential.

For instructions on how to develop generic names, see appendix II, 40 CFR 720 (44 FR 2278), Proposed Premanufacture Notification Requirements and Review Procedures.

1. Enter the generic name agreed on by EPA in Prenotice Communication or provide 3 generic names.

4-substituted acetanilide

4-substituted bromobenzene

N-(bromo carbomonocycle) acetamide

V 44 OC 16 79 UMI

SAMPLE

CONFIDENTIAL

SAMPLE

(Submitter's Attachment to the Form)

Confidentiality Claims

Category B

1. Linkage Question for Question 4 of Part I, Section B:
   Disclosure of the information that one of the impurities is 2,4-dibromo acetanilide in conjunction with the generic name "4-substituted acetanilide" clearly reveals that the masked substituent in the generic name is bromine.
   In addition disclosure of the information that N,N-diacetylaniline and acetanilide are minor impurities in conjunction with generic names 2 or 3 reveals that the masked portion of the molecular structure is an acetamide derivative. Therefore, the information in question 4 plus the generic names would disclose the specific chemical identity which we claim is confidential business information.
2. Substantiation for All Claims in Category B:
   (Beeswax Incorporated's answers to the substantiation questions would begin here.)

V 4 4 0 C 1 6 7 9 UMI

Example 3 - Health and Safety Study

(Attachment)

This example illustrates how a submitter would assert a claim of confidentiality for information in a health and safety study. Examples of substantiation for this information are not provided.

Pinnacle Chemical Company filed a PMN and submitted a health and safety study as an attachment to the PMN form. It claimed confidentiality for information in the health and safety study under Category A, Manufacturer's Identity, and Category B, Specific Chemical Identity. Pinnacle identified these confidential items in the health and safety study by circling them where they appear in the study and by writing the appropriate category letter (A or B, in this case) in the margin next to the circled information. (In addition to the claims illustrated in this example, Pinnacle made the claims on the PMN form itself in accordance with EPA's reporting instructions. The company also adhered to the guidelines for developing a generic manufacturer's identity and three generic chemical names in Part III of the form, for publication in the Section 5(d)(2) FEDERAL REGISTER notice).

Pinnacle answered the linkage questions for Categories A & B that are found in Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality. The company also submitted an explanation establishing that its identity is unrelated to the health and safety effects of the substance, as explained in Section II C of the Instructions.

SAMPLE

(Submitter's Attachment to the Form)

Confidentiality Claims

Category A

SAMPLE CONFIDENTIAL

Linkage Question for Items in Our Health and Safety Study:

How would disclosing this item reveal your company's identity?

Answer: These items are our company's identity.

[NOTE: If other items on the form or in the attachment are claimed confidential and linked to Category A, Manufacturer's Identity, the answers to the linkage questions for each item claimed in Category A would be included in this attachment.]

SAMPLE

(Submitter's Attachment to the Form)

SAMPLE CONFIDENTIAL

Explanation of Irrelevance of Manufacturer's Identity to Health and Safety Study

Our company's identity is totally irrelevant to the health and safety effects of this substance. It is not necessary to know the name of our company to interpret and assess this health and safety study. Knowledge of our company's identity would not provide any information regarding the appropriateness, the validity, the methodology or the accuracy of this study. Thus keeping our identity confidential will have no bearing on using the attached study to assess the risks that this chemical may or may not present to health and the environment.

SAMPLE

SAMPLE (Submitter's Attachment to the Form) CONFIDENTIAL

Confidentiality Claims

Category B

Linkage Question for Items in Our Health and Safety Study:

How would disclosing this item reveal the specific chemical identity?

Answer: $CH_2F\ CH_2OCH_2H_2F$ is the molecular formula of the substance and is equivalent to specific chemical identity.

Explanation: Chlorsake is the common name of this chemical and has been manufactured previously. It has been referenced in the chemical literature and the name Chlorsake is tied to the molecular structure in this literature. Therefore any competitor who would see Chlorsake appearing in conjunction with the generic names we have submitted, and who knows that Chlorsake is being used with reference to a new chemical substance, would have enough information to know the specific chemical identity.

[NOTE: If other items on the form or in the attachments are claimed confidential and linked to Category B, Specific Chemical Identity, the answers to the linkage questions for each item claimed in category B would be included in this attachment.]

V 44 OC 16 79 UMI

NOTE: (The tradename, molecular formula, and test results used in this example are for illustrative purposes only and do not reflect actual test results. Only the executive summary has been included in this example. The company would have submitted the entire report).

HEALTH AND SAFETY STUDY

EXECUTIVE SUMMARY

SAMPLE CONFIDENTIAL

SAMPLE

1. Identity:

[B] Chemical Substance: [Chlorsake] [(CH_2F $CH_2OCH_2CH_2F$)]

2. Summary of Adverse Effects and Possible Risks:

[B] Previous testing has shown that [Chlorsake] was not mutagenic to bacteria in the Ames test. In teratogenicity studies involving rats, the compound is fetotoxic at exposure levels of 500 ppm., but no effects were seen at exposure levels of 50 ppm.

CONFIDENTIAL

The following effects have been noted in two dominant lethal studies using mice. The studies were designed to look for possible sperm effects in male animals. In the first study, two groups of male mice were exposed in inhalation chambers for six hours per day to levels of 100 and 1000 ppm for five days and a third group was exposed to 2000 ppm for two days followed by 500 ppm for three days (necessary because of the toxic effects of 2000 ppm on the mice). Each of the mice was mated weekly with two virgin females for eight-nine weeks to cover all stages of spermatogenesis. The number of sucessful fertilizations was reduced at the 1000 and 2000 ppm levels, but unaffected the 100 ppm level when compared with an unexposed control group. It was not possible to determine whether the reduction in fertilizations was due to reduced food intake, to loss of libido, or to a true sperm effect.

The second study, while not statistically analyzed, has confirmed the reduced fertility observed in the first study and demonstrated a true sperm effect. The reduced fertility occured in both exposed groups (1000 and 250 ppm) and was accompanied by high cumulative mortality (34% and 27% at the high and low dosages respectively), reduced testicular

V 44 OC 16 79 UMI

weight, a low sperm count, and a slight increase in the percentage of abnormal sperm. Histological examination of the testes revealed direct toxic effects on the germinal epithelium in which most damage occured by weeks two, three and four with recovery of tubules and spermatogenesis from week five onwards.

[B] The present commercial usage of [Chlorsake] is as an intermediate ingredient. In contrast to the levels of exposure in the above animal tests, normal exposure levels of [Chlorsake] measured in our facility are less than four ppm and average less than two ppm personal exposure. We therefore do not believe, on the evidence that we have, that there will be an effect on the employees from the very low exposure levels found in the workplace.

Submitted by:

[A] [Pinnacle Chemical Company
Niagara Falls, N.Y.]

Sincerely yours,

[A] [T. M. I. Babylon
Director
Safety/Environmental Affairs
Pinnacle Chemical Company
Hoboken, N.J.]

CONFIDENTIAL

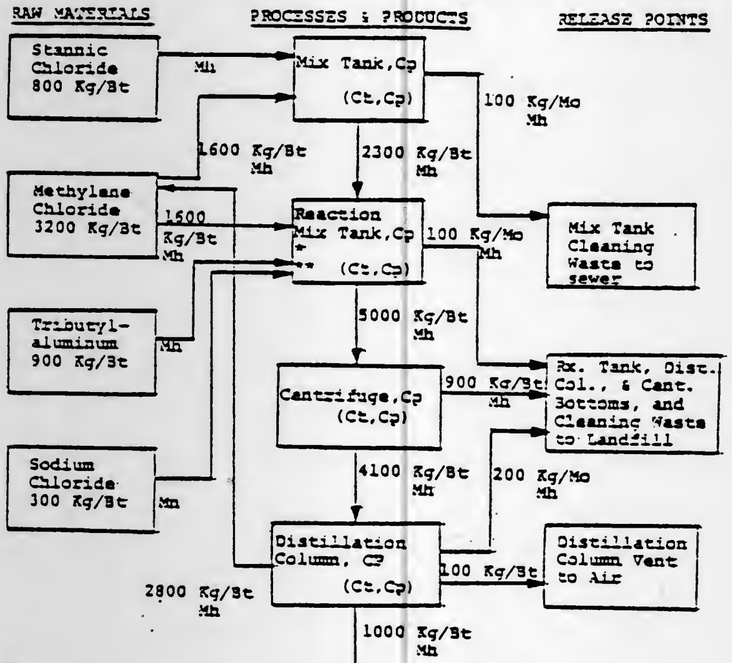
APPENDIX C

Attached are two sample block diagrams (A, manufacturing operation; B, processing operation) that illustrate the type of response that should be provided in completing Part II, Section A, Subsection 2, of the Premanufacture Notice Form for domestic manufacturers. The level of detail of an individual submitter's response may vary depending upon the extent to which the information is "known to or reasonably ascertainable."

V 44 OC 16 79 UMI

Attachment A

PROCESS INFORMATION
TETRABUTYLTIN BATCH PRODUCTION



KEY:

Cp = Closed Process
Op = Open Process
Mh = Mechanical Transfer
Mn = Manual Transfer
Bt = Batch
Mo = Month
Ct = Cleaning Operation

NOTE:

The mix tank, reaction tank, and distillation column are cleaned once a month, or when a different product is manufactured. The mix tank is purged with water when cleaned. The wastewater is then discharged to sewer. The reaction tank, centrifuge, and distillation column are purged with methylane, chloride, or other suitable solvent depending upon product to be manufactured. These wastes are distilled to recover solvent and product. The bottoms are drummed and sent to a landfill.

*REACTION:

$$4(CH_3CH_2CH_2CH_2)_3Al + 3SnCl_4 + 4NaCl \xrightarrow{CH_2Cl_2} 4NaAlCl_4 + 3(CH_3CH_2CH_2CH_2)_4Sn$$

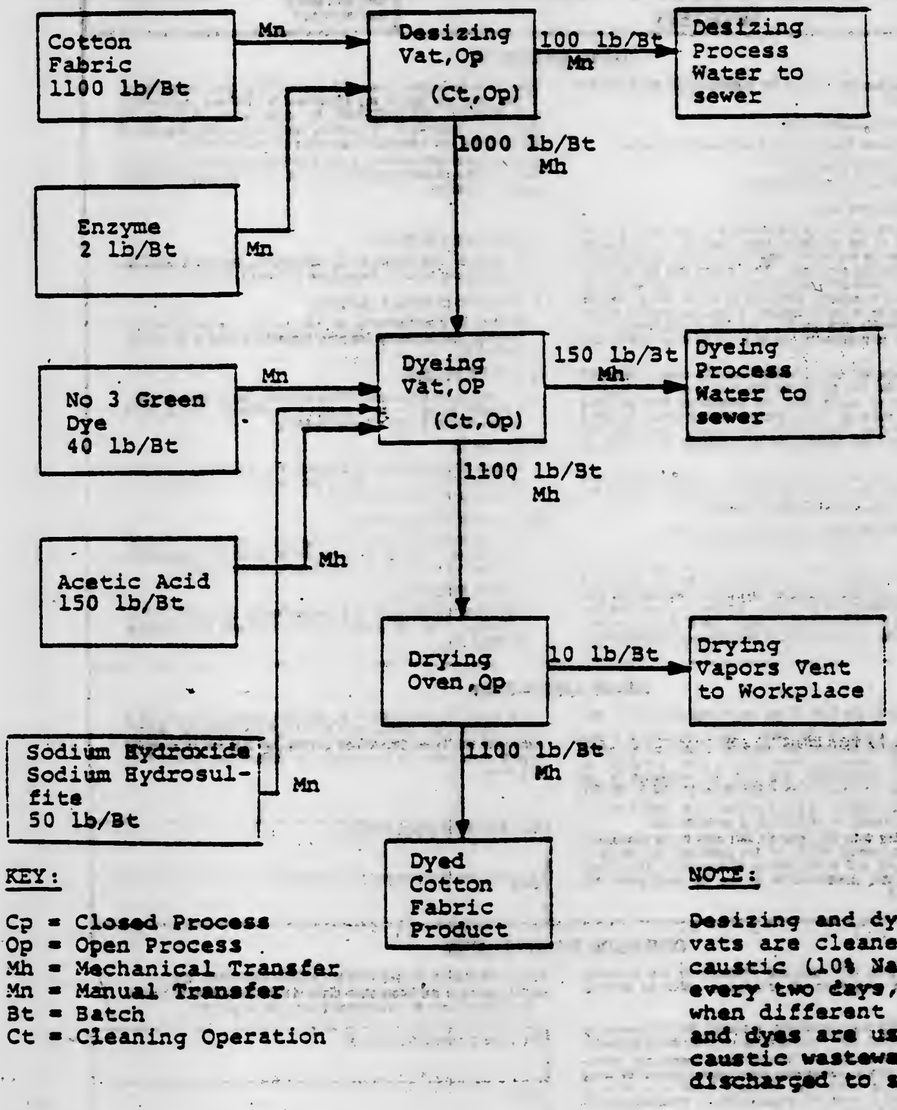
**SIDE REACTION:

$$\frac{n}{3}(CH_3CH_2CH_2CH_2)_3Al + SnCl_4 \longrightarrow \frac{n}{3}AlCl_3 + (CH_3CH_2CH_2CH_2)_nSnCl_{4-n}$$

(n = 1,2,3)

Attachment B

PROCESS INFORMATION
BATCH DYEING PROCESS
USING NUMBER 3 GREEN DYE



KEY:

Cp = Closed Process
Op = Open Process
Mh = Mechanical Transfer
Mn = Manual Transfer
Bt = Batch
Ct = Cleaning Operation

NOTE:

Desizing and dyeing vats are cleaned with caustic (10% NaOH) every two days, or when different fabrics and dyes are used. The caustic wastewater is discharged to sewer.

PROPOSED FORM

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE

IMPORTERS

When completed send this form to:

Document Control Officer
Office of Toxic Substances, TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

EPA USE ONLY
Date of receipt

GENERAL INFORMATION

The Premanufacture Notice form for importers is divided into the following parts:

Part I – General Information

Part II – Human Exposure and Environmental Release

Part III – List of Attachments

Part IV – Federal Register Notice

Part V – Optional Data

The optional part (part V) is not included in this package. All data requested in the mandatory parts (parts I, II, III, and IV) must be reported to the extent they are known to or reasonably ascertainable by the submitter. This means that the submitter is expected to answer all questions to the best of his/her ability, including making reasonable estimates in cases where complete factual information is not available. If the submitter is unable to make a reasonable estimate (i.e., the data is not known and is not reasonably ascertainable), he/she should enter "NA" (not available).

In part I, the submitter is required to report the specific chemical identity of the new substance, regardless of whether the information is claimed as confidential. In accordance with proposed §720.20(f), the submitter may authorize another person to report the specific chemical identity in his/her behalf. The notice will not be valid until the specific chemical identity is received by EPA.

If the space on the form is not sufficient to adequately answer a question, the submitter may attach additional sheets. Identify any continuation by part, section, subsection, and item.

ASSERTING AND SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

Read Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality, for information on how to claim and substantiate confidential business information included in this form or in attachments to the form. Claims of confidentiality must be made in accordance with sections I and II of these instructions. In addition, substantiation of all claims of confidentiality must be made in accordance with section IV of these instructions. If you claim any item in any attachment to this form confidential, see SPECIAL INSTRUCTIONS for attachments, Appendix A, Section II. Appendix B "Examples," provides additional guidance for asserting and substantiating claims of confidentiality.

In accordance with sections I and II of the confidentiality instructions, claims of confidentiality must be made by using the following six categories:

A. IMPORTER'S IDENTITY

A claim of confidentiality for category A, Importer's identity, automatically includes items 1 and 2 in part 1, section A.

B. SPECIFIC CHEMICAL IDENTITY

A claim of confidentiality for category B, Specific Chemical Identity, automatically includes items 1, 2, and 3 in part I, section B.

C. IMPORT VOLUME

A claim of confidentiality for category C, Import Volume automatically includes item 1 in part I, section D. These items do not need to be individually claimed.

D. USE DATA

A claim of confidentiality for category D, Use Data, automatically includes item 2 in part I, section D. These items do not need to be individually claimed.

E. PROCESS INFORMATION

A claim of confidentiality for category E, Process Information, automatically includes items in part II, section A, subsection 2. These items do not need to be individually claimed.

F. OTHER INFORMATION

No items on the form are automatically included in this category. Thus all claims for this category must specify category F.

GENERAL CERTIFICATION

I hereby certify to the best of my knowledge and belief, that:

a. The company named in section A, item 1, intends to import for a commercial purpose the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13);

b. All information entered on this Premanufacture Notice form is complete and truthful as of the date of submittal; and

c. I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23.

I also agree to permit access to, and the copying of records by a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of authorized official

Date

CONFIDENTIALITY CERTIFICATION

I hereby certify to the truth and accuracy of the following four statements concerning all information which is claimed confidential.

a. My company has taken measures to protect the confidentiality of the information, and it will continue to take these measures;

b. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding) without the company's consent;

c. The information is not publicly available elsewhere; and

d. Disclosure of the information claimed confidential would cause substantial harm to my company's competitive position.

Signature of authorized official

Date

EPA Form 7710-26 (9-79)

Part I – GENERAL INFORMATION

Section A – IMPORTER IDENTIFICATION

If you claim importer's identity confidential, mark (X) the box at the right. ☐
The answers to items 1 and 2 will be included in this claim.

If you claim the answers to items 3, 4, 5, or 6 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Confidential code

1. Person Filing Notice

Name of authorized official — Title

Organization

Mailing address *(Number and street)*

City, State, ZIP code

2. Technical Contact

Name — Title

Mailing address *(Number and street)*

City, State, ZIP code — Telephone — Area code — Number

3. Enter the intended date of commencement of import for commercial purposes.

If the intended date of commencement of import is more than 3 years after the date of this notice, submit evidence of intent to import in accordance with 40 CFR 720.20(h).

☐ *Mark this box if you attach evidence.*

Month — Year

4. Port of entry – *Enter name* →

5. If you have had a Prenotice Communication (PC) concerning this notice and EPA assigned a PC number to this notice, enter PC Number →

Mark (X) if none → ☐

6. Do you intend to manufacture, or contract for the manufacture of the new chemical substance in the United States within 3 years of the intended date of import? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

CONTINUE WITH SECTION B ON PAGE 3

V 44 0 1 6 7 9 UMI C

Section B – CHEMICAL IDENTITY

If you claim Chemical Identity confidential, mark (X) the box at the right. The answers to items 1, 2, and 3 will be included in this claim. → ☐

If you claim Chemical Identity confidential, is this claim limited to the period prior to manufacture? 1 ☐ Yes 2 ☐ No

If you claim the answer to item 4 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Complete either 1, 2, or 3 as appropriate. Complete 4.

Mark (X) the box at the right if the chemical identity will be reported by the foreign manufacturer or supplier. → ☐

		Confidential code
1. Class 1 Chemical Substance (other than polymers)	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Molecular formula	
	d. Synonyms	
	e. Trademarks	
	f. Structural diagram	
	☐ *Mark this box if you attach a continuation sheet.*	
2. Class 2 Chemical Substance	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Synonyms	
	d. Trademarks	
	e. List the immediate precursor substance(s) and reactants with their respective CAS Registry Number(s) and describe the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.	
	☐ *Mark this box if you attach a continuation sheet.*	

3. Polymers

a. (1) Provide the specific chemical names and the CAS Registry Number of those monomers and other reactants used in the manufacture of the polymer. (2) Mark (X) the identity column if you wish monomers used at two percent (by weight) or less to be listed as part of the polymer description on the inventory. (3) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition. (4) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

Monomers and CAS Registry No. (1)	Identity Mark (X) (2)	Range of composition (3)	Maximum amount (weight percent) (4)	Confidential code (5)
			%	
			%	
			%	
			%	

b. Indicate the minimum average molecular weight or the minimum degree of polymerization of the polymeric compositions to which this notice applies.

☐ *Mark this box if you attach a continuation sheet.*

4. Impurities

(a) List each impurity, including CAS Registry Number, which may reasonably be anticipated to be present in the chemical substance as it will be imported for commercial purposes. (b) Estimate the maximum percent (by weight) of each impurity. Base your answer on information developed during R & D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. (c) Mark (X) if the concentration of an impurity will be specifically controlled because of your concern about potential adverse health or environmental effects. (d) Estimate the maximum total percent (by weight) of the impurities that may be present.

Impurity and CAS Registry number (a)	Maximum percent present (b)	Mark if to be specifically controlled (c)	Confidential code
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
d. Total percent →	%		

☐ *Mark this box if you attach a continuation sheet.*

Section C – GENERIC NAMES

Complete this section only if Specific Chemical Identity is claimed confidential.

For instructions on how to develop generic names, see appendix II, 40 CFR 720 (44 FR 2278), Proposed Premanufacture Notification Requirements and Review Procedures.

1. Enter the generic name agreed on by EPA in Prenotice Communication or provide 3 generic names. _____

V 4 4 0 C 1 6 7 9 UMI

Section D – U.S. IMPORT AND MARKETING DATA

If you claim Import Volume confidential, mark (X) the box at the right → ☐
The answers to item 1 will be included in this claim.

1. Estimate the minimum and maximum annual import volume for the first three years of import. Include in your estimates import by others with whom you have contracted to import the new chemical substance.

Import year (1)	Import (K_g/yr) Minimum (2)	Maximum (3)	Confidential code
a. First year			
b. Second year			
c. Third year			

2. Category of use

If you claim Use Data confidential, mark (X) the box at the right. → ☐
The answers to item 2 will be included in the claim.

a. List the category(ies) of use on which you have based your import estimates. (Example: solvent used in automotive paint.) List partial information if complete information is not known. (Example: solvent.) Mark (X) the categories of use as industrial, commercial, or consumer. Estimate the percent of total import volume for the first 3 years devoted to each category of use.

Category of use (1)	Percentage of import volume (2)	Mark (X) appropriate column(s) Industrial (3)	Commercial (4)	Consumer (5)	Confidential code
	%				
	%				
	%				

☐ *Mark this box if you attach a continuation sheet.*

b. List any other category(ies) of use that you have actively explored

☐ *Mark this box if you attach a continuation sheet.*

c. Do you intend or expect the new chemical substance to be used to treat drinking water supplies or to be used in products (e.g., paints or coatings) that will come in contact with drinking water? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

NOTE – If you claim the answers to items 3 or 5 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.
If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

3. Has the chemical substance been manufactured before? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

4. Hazard warnings — Attach to this notice a copy or reasonable facsimile of any hazard warning statement, label, labeling, marking or instructions, technical data sheet, material safety data sheet, and any other information which will be provided to any person regarding the safe handling, transport, use, disposal, treatment upon accidental exposure, or the formulation, construction, or labeling of products containing the chemical substance.

☐ *Mark this box if you attach a hazard warning.*

5. Enter the number of customers who have either contracted to purchase, submitted a purchase order, or made any other firm commitment to purchase the new chemical substance from you for a category of use unknown to you. Estimate the percentage of your import volume that will be purchased by such customers during the first 3 years of import.

Number of customers	Percentage import volume	Confidential code
	%	

Section E – TRANSPORT

If you claim the answers to items 1 or 2 confidential, place the letter(s) (A–F) in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.

1. Enter the proper DOT shipping name and hazard class of the new chemical substance (if applicable). — Confidential code

a. Shipping name

b. Hazard class

2. Mark (X) the mode(s) of transport which you believe will be used for the new chemical substance to enter the U.S. and within the U.S.

a. To enter the United States –
1 ☐ Truck 3 ☐ Barge, vessel 5 ☐ Plane
2 ☐ Railcar 4 ☐ Pipeline 6 ☐ Other – *Specify* _____

b. Within the United States –
1 ☐ Truck 3 ☐ Barge, vessel 5 ☐ Plane
2 ☐ Railcar 4 ☐ Pipeline 6 ☐ Other – *Specify* _____

Section F – RISK ASSESSMENT

If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

If you have evaluated the health or environmental risks which may be presented by the manufacture, processing distribution in commerce, use, or disposal of the new chemical substance attach your evaluation.

☐ *Mark this box if you attach a risk assessment.*

Section G – DETECTION METHODS

If you claim the answers to item 1 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E. — Confidential code

1. Is an analytical method available to identify and quantify the presence of the new chemical substance –

Identify	Quantify
a. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	e. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
b. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	f. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
c. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	g. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
d. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	h. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

V 44 OC 16 79 UMI

Part II – HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

Section A – U.S. INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER

If you claim Process Information confidential, mark (X) the box at the right. → ☐
The answer to subsection 2 will be included in this claim.

If you claim the answers to items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E. If you claim the answers to items 3.3, 4.3, or 4.4 in subsections 3 or 4, or any items submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

Complete a separate subsection 1 and subsection 2 sheet for each site where you will process or use the new chemical substance.

▶ Subsection 1 – PROCESS INFORMATION

		Confidential code
1.1 Identity of site	Name	
	Physical location address *(Number and street)*	
	City, County, State, ZIP code	
1.2 Type of site	1 ☐ Processing 2 ☐ Use 3 ☐ Continuous 4 ☐ Batch	
1.3 Hours of operation →	Days per year / Hours per day	
1.4 Amount processed or used →	Minimum Kg/yr. / Maximum Kg/yr.	

▶ Subsection 2 – BLOCK DIAGRAM

2.1 Provide a block diagram identifying the major unit operations and chemical conversions. Also include:

a. For each chemical conversion in the block diagram identify the major chemical reactions and the major side reactions.

b. Provide the approximate mass of all feed materials, byproduct materials, and products which are entering and leaving each major unit operation and chemical conversion. Indicate the method of transfer of these materials and whether the operation is open or closed to the workplace environment.

c. Identify those points in the block diagram from which there will be releases of the new chemical substance or byproduct materials into the air, land, or water environment.

☐ *Mark this box if you attach a continuation sheet.*

▶ Subsection 3 – OCCUPATIONAL EXPOSURE

Complete a separate subsection 3 for each site at which you will process, use, or dispose of the new chemical substance. Indicate the anticipated route(s) of exposure to the new chemical substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route, and the maximum duration of such exposure, (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on maximum annual processing, or use during the first 3 years of import under normal operating conditions with all engineering safeguards in place.

Confidential code

3.1 Identity of site — Name; Physical location address *(Number and street)*; City, County, State, ZIP code

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hr./day	Maximum duration (4) Days/yr.	Concentration (5) Unit of measure	Concentration (5) Mark (X) appropriate column 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	> 100 A	> 100 P
a. Processing					1 ☐ ppm 2 ☐ mg/m³								
b. Use					1 ☐ ppm 2 ☐ mg/m³								
c. Disposal					1 ☐ ppm 2 ☐ mg/m³								

3.3 Describe those operations in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the chemical substance to which workers may be exposed in the workplace. (Confidential code)

1 ☐ Solid 3 ☐ Aerosol 5 ☐ Mist 7 ☐ Dust 9 ☐ Other – *Specify* _____
2 ☐ Gas 4 ☐ Powder 6 ☐ Fume 8 ☐ Liquid

V 44 OC 16 79 UMI

▶ Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL

Complete a separate subsection 4 for each site where you intend to process, use or dispose of the new chemical substance.

Confidential code

4.1 Identity of site

Name

Physical location address *(Number and street)*

City, County, State, ZIP code

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release: Hrs./day (2)	Duration of release: Days/yr. (3)	Amount of new chemical substance released (Kg/yr.): Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)
a. Air							
b. Land							
c. Water							

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name

d. Effluent stream flow rate → Gallons per day

4.3 For each release point indicated in the block diagram, characterize the composition of the release materials.

☐ *Mark this box if you attach a continuation sheet.*

4.4 Describe pollution control equipment and disposal operations (e.g., scrubber, baghouse, landfill, incinerator, activated sludge, carbon absorption, etc.) used to treat individual or combined releases indicated in the block diagram(s) of processing and use operations.

☐ *Mark this box if you attach a continuation sheet.*

▶ Section B – U.S. INDUSTRIAL SITES CONTROLLED BY OTHERS

Complete this section using your own forecasts, any information already obtained from other persons who may process, use, or dispose of, the new chemical substance or any other information that is reasonably ascertainable. Complete a separate subsection 1 and subsection 2 for each site where you expect other persons to process, use, or dispose of the new chemical substance.

If you claim the answers to the items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

If you claim the answers to items in subsection 2, or item 3.3 in subsection 3 confidential, see SPECIAL INSTRUCTIONS in appendix A, section II, part B.

▶ Subsection 1 – PROCESS INFORMATION

Confidential code

1.1 Identity of site (Optional)

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

▶ Subsection 2 – PROCESS DESCRIPTION

Briefly describe processing or use operations conducted by others.

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

▶ Subsection 3 – OCCUPATIONAL EXPOSURE

Complete a separate subsection 3 for each industrial site where you expect other persons to process, use, or dispose of the new chemical substance. Indicate the anticipated routes of exposure to the substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route, and the maximum duration of such exposure (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on the maximum amount anticipated to be processed, used, or disposed of during the first 3 years of operation under normal conditions with all engineering safeguards in place.

Confidential code

3.1 Identity of site (optional)

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hrs./day	Days/yr.	Concentration (5) Unit of measure	Mark (X) appropriate column A – Average P – Peak 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	> 100 A	> 100 P	Confidential code
a. Processing					1 ☐ ppm 2 ☐ mg/m³									
b. Use					1 ☐ ppm 2 ☐ mg/m³									
c. Disposal					1 ☐ ppm 2 ☐ mg/m³									

3.3 Describe those activities in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the new chemical substance to which workers may be exposed in the workplace. Confidential code

1 ☐ Solid 2 ☐ Gas 3 ☐ Aerosol 4 ☐ Powder 5 ☐ Mist 6 ☐ Fume 7 ☐ Dust 8 ☐ Liquid 9 ☐ Other – *Specify* _____

▶ Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL

Complete a separate subsection 4 for each site where other persons intend to process, use, or dispose of the new chemical substance.

Confidential code

4.1 Identity of site (Optional)

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release Hrs./day (2)	Days/yr. (3)	Amount of new chemical substance released (Kg/yr.) Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)	Confidential code
a. Air								
b. Land								
c. Water								

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name _____

d. Effluent stream flow rate → Gallons per day

4.3 (1) List any byproduct materials containing the new chemical substance that are generated during processing and use operations and which are disposed of (e.g., landfill, incineration, or other physical/chemical treatment). Water effluent and air emission streams should not be listed here. Estimates of release of the new chemical substance contained in such streams are required to be reported in item 4.2. (2) Indicate the method of disposal. (3) Estimate the amount of each material generated (Kg/Kg of the new chemical substance), and (4) estimate the percent (by weight) of the new chemical substance.

Material requiring disposal (1)	Anticipated method of disposal (2)	Amount (Kg/Kg) (3)	Percent of new chemical substance (4)	Confidential code

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

Section C – U.S. CONSUMER AND COMMERCIAL USER EXPOSURE

Complete this section for all consumer and commercial categories of use which involve use of a product that intentionally contains the new chemical substance. Provide the information based on your own forecasts, information already obtained from other persons, or any other information that is reasonably ascertainable.

If you claim the answers to item 1 confidential, enter letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

If you claim the answers to items 2, 3, or 4 confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

1. Complete the table below. For each consumer and commercial use category reported in section D, item 2, mark (X) if the product will be manufactured by the submitter or by other persons. Indicate the maximum number of consumers or commercial users expected to be exposed, the expected routes of human exposure and the frequency of exposure.

Category of use from part II, section D	Use category (2)		Manufactured by – (3)		Exposure route(s)	Maximum number exposed	Frequency of exposure (6)				Confidential code
(1)	Consumer	Commercial	Submitter	Other	(4)	(5)	Daily	Weekly	Monthly	Yearly	

2. Attach any estimates that have been developed of potential exposure levels for each category of use.

☐ *Mark this box if you attach any estimates.*

3. For each product containing the new chemical substance, explain any aspect of its construction or formulation which you believe will limit the potential for exposure to the new chemical substance. For mixtures, indicate the maximum percent by weight of the chemical substance in the product.

☐ *Mark this box if you attach a continuation sheet.*

4. Identify any byproducts which are formed as a result of each category of use described in this section.

☐ *Mark this box if you attach a continuation sheet.*

Part III – LIST OF ATTACHMENTS

Under section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, an importer must submit all test data in his/her possession and control, and a description of any other data that are known to or reasonably ascertainable by him/her concerning the effect of manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance on health or the environment. The regulations specify which data must be submitted with the notice and which data may be referenced by literature citations. Using the categories provided, identify (1) attachments containing test data, descriptions of data, or literature citations in accordance with 720.23; (2) other attachments required to be submitted with this notice; (3) confidentiality substantiations and (4) attachments which contain information voluntarily submitted. All attachments should be clearly identified and numbered.

To assert and substantiate a claim of confidentiality for any information included in the following attachments, follow the instructions in Appendix A, section II, part B. Note – Special directions for test data or other "Health and Safety" studies included in section III, part C.

The instructions provide that you must also submit a "sanitized" copy of the attachment with all information that you are claiming confidential deleted. EPA will place this copy in the public docket.

	Attachment name	Attachment number
a. Physical and chemical properties data		
b. Health and environmental effects data		
c. Notice attachments	Part / Section/Subsection / Item	
d. Confidentiality attachments		
e. Voluntary attachments		

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

Part IV – FEDERAL REGISTER NOTICE

Information provided in this part will be published in the Federal Register in accordance with section 5(d)(2) of TSCA. Do not enter any information in this part for which you have asserted a claim of confidentiality.

Section A – CHEMICAL IDENTITY

Enter the specific chemical name of the substance if it is not claimed confidential. If the chemical identity is claimed confidential, enter the name agreed to by EPA in Prenotice Communication or EPA will enter one of the three proposed generic names in part I, section C.

Section B – IMPORTER IDENTIFICATION

Enter the legal title of the organization filing this notice if it is not claimed confidential. If the legal title of the organization is claimed confidential, provide a description of the organization in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

Section C – USE DATA

1. If use data were not claimed confidential in section D, list the category(ies) of use that you reported in section D, item 2a. Mark (X) if the use category(ies) is site limited, industrial, commercial, or consumer.

Category of use (1)	Mark (X) appropriate box: Site limited (2)	Industrial (3)	Commercial (4)	Consumer (5)

2. If use data were claimed confidential, provide a description of the category of use(s) of the chemical substance in accordance with section II, Appendix A, Instructions for Asserting and Substantiating Confidentiality. This description should be as specific as possible without revealing confidential information.

Section D – TEST DATA

List all test data concerning health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance that are being submitted, described, or cited as part of this notice. Provide a brief abstract of all test data on the new chemical substance that are submitted in accordance with 720.23(a) and 720.20(j). If physical-chemical properties are claimed confidential, provide a generic description of these properties in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

☐ *Mark this box if you attach a continuation sheet.*

PROPOSED FORM

EPA United States Environmental Protection Agency

PREMANUFACTURE NOTICE

EXPORTERS

When completed send this form to:
Document Control Officer
Office of Toxic Substances, TS-793
U.S.E.P.A.
401 M Street, S.W.
Washington, D.C. 20460

EPA USE ONLY
Date of receipt

GENERAL INFORMATION

The Premanufacture Notice form for exporters is divided into the following parts:

Part I – General Information

Part II – Human Exposure and Environmental Release

Part III – List of Attachments

Part IV – Federal Register Notice

Part V – Optional Data

The optional part (part V) is not included in this package. All data requested in the mandatory parts (parts I, II, III, and IV) must be reported to the extent they are known to or reasonably ascertainable by the submitter. This means that the submitter is expected to answer all questions to the best of his/her ability, including making reasonable estimates in cases where complete factual information is not available. If the submitter is unable to make a reasonable estimate (i.e., the data is not known and is not reasonably ascertainable), he/she should enter "NA" (not available).

In part I, the submitter is required to report the specific chemical identity of the new substance, regardless of whether the information is claimed as confidential. In accordance with proposed §720.20(f), the submitter may authorize another person to report the specific chemical identity in his/her behalf. The notice will not be valid until the specific chemical identity is received by EPA.

If the space on the form is not sufficient to adequately answer a question, the submitter may attach additional sheets. Identify any continuation by part, section, subsection, and item.

ASSERTING AND SUBSTANTIATING CLAIMS OF CONFIDENTIALITY

Read Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality, for information on how to claim and substantiate confidential business information included in this form or in attachments to the form. Claims of confidentiality must be made in accordance with sections I and II of these instructions. In addition, substantiation of all claims of confidentiality must be made in accordance with section IV of these instructions. If you claim any item in any attachment to this form confidential, see SPECIAL INSTRUCTIONS for attachments. Appendix A, Section II. Appendix B "Examples," provides additional guidance for asserting and substantiating claims of confidentiality.

In accordance with sections I and II of the confidentiality instructions, claims of confidentiality must be made by using the following six categories:

A. MANUFACTURER'S IDENTITY

A claim of confidentiality for Category A, Manufacturer's identity, automatically includes items 1, 2, and 3 in part I, section A.

B. SPECIFIC CHEMICAL IDENTITY

A claim of confidentiality for category B, Specific Chemical Identity, automatically includes items 1, 2, and 3 in part I, section B.

C. PRODUCTION VOLUME

A claim of confidentiality for category C, Production Volume automatically includes item 1 in part I, section D. These items do not need to be individually claimed.

D. USE DATA

While use data itself is not required in the exporter's form, a manufacturer may claim information on the form confidential because it reveals confidential use data.

E. PROCESS INFORMATION

A claim of confidentiality for category E, Process Information, automatically includes items in part II, section A, subsection 2. These items do not need to be individually claimed.

F. OTHER INFORMATION

No items on the form are automatically included in this category. Thus all claims for this category must specify category F.

GENERAL CERTIFICATION

I hereby certify to the best of my knowledge and belief, that:

a. The company named in section A, item I, intends to manufacture, solely for export, the chemical substance for which this notice is submitted, other than in small quantities for research and development, and that the substance is not excluded from premanufacture notification (40 CFR 720.13);

b. All information entered on this Premanufacture Notice form is complete and truthful as of the date of submittal; and

c. I am submitting with this form all test data in my possession or control concerning effects of the substance on health or the environment and a description of any other data known to or reasonably ascertainable by me, in accordance with 40 CFR 720.23.

I also agree to permit access to, and the copying of records by a duly authorized representative of the EPA Administrator in accordance with the Toxic Substances Control Act and any regulations issued thereunder, to document any information reported in this form.

Signature of authorized official

Date

CONFIDENTIALITY CERTIFICATION

I hereby certify to the truth and accuracy of the following four statements concerning all information which is claimed confidential.

a. My company has taken measures to protect the confidentiality of the information, and it will continue to take these measures;

b. The information is not, and has not been, reasonably obtainable by other persons (other than governmental bodies) by using legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding) without the company's consent;

c. The information is not publicly available elsewhere; and

d. Disclosure of the information claimed confidential would cause substantial harm to my company's competitive position.

Signature of authorized official

Date

EPA Form 7710-27 (9-79)

Part I – GENERAL INFORMATION

Section A – MANUFACTURER IDENTIFICATION

If you claim Manufacturer's identity confidential, mark (X) the box at the right. → ☐
The answers to items 1, 2, and 3 will be included in this claim.

If you claim the answers to items 4 or 5 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

		Confidential code
1. Person Filing Notice	Name of authorized official / Title	
	Organization	
	Mailing address *(Number and street)*	
	City, State, ZIP code	
2. Technical Contact	Name / Title	
	Mailing address *(Number and street)*	
	City, State, ZIP code / Telephone: Area code / Number	
3. Parent Company	Name	
	Mailing address *(Number and street)*	
	City, State, ZIP code	
4. Enter the intended date of commencement of manufacture for export. If the intended date of commencement of manufacture is more than 3 years after the date of this notice, submit evidence of intent to manufacture in accordance with 40 CFR 720.20(h). ☐ *Mark this box if you attach evidence.*	Month / Year	
5. If you have had a Prenotice Communication (PC) concerning this notice and EPA assigned a PC number to this notice, enter PC Number →	*Mark (X) if none* → ☐	

CONTINUE WITH SECTION B ON PAGE 3

Section B – CHEMICAL IDENTITY

If you claim Chemical Identity confidential, mark (X) the box at the right. → ☐
The answers to items 1, 2, and 3 will be included in this claim.

If you claim Chemical Identity confidential, is this claim limited to the period prior to manufacture? 1 ☐ Yes 2 ☐ No

If you claim the answer to item 4 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Complete either 1, 2, or 3 as appropriate. Complete 4.

		Confidential code
1. Class 1 Chemical Substance (other than polymers)	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Molecular formula	
	d. Synonyms	
	e. Trademarks	
	f. Structural diagram	
	☐ *Mark this box if you attach a continuation sheet.*	
2. Class 2 Chemical Substance	a. CAS Registry No. (if known)	
	b. Specific chemical name	
	c. Synonyms	
	d. Trademarks	
	e. List the immediate precursor substance(s) and reactants with their respective CAS Registry Number(s) and describe the nature of the reaction. Also provide a partial or incomplete chemical structure diagram (where appropriate). Indicate the range of composition.	
	☐ *Mark this box if you attach a continuation sheet.*	

V 4 4 0 C 1 6 7 9 UMI

3. Polymers

a. (1) Provide the specific chemical names and the CAS Registry Number of those monomers and other reactants used in the manufacture of the polymer. (2) Mark (X) the identity column if you wish monomers used at two percent (by weight) or less to be listed as part of the polymer description on the inventory. (3) Provide the intended range of composition of the polymer in terms of monomer percent (by weight). If your notice is for any copolymer of the listed monomers, enter "any" under Range of Composition. (4) For each monomer, indicate the maximum amount (weight percent) that may be present as a residual in the polymer as distributed in commerce.

Monomers and CAS Registry No. (1)	Identity Mark (X) (2)	Range of composition (3)	Maximum amount (weight percent) (4)	Confidential code (5)
			%	
			%	
			%	
			%	

b. Indicate the minimum average molecular weight or the minimum degree of polymerization of the polymeric compositions to which this notice applies.

☐ *Mark this box if you attach a continuation sheet.*

4. Impurities

(a) List each impurity, including CAS Registry Number, which may reasonably be anticipated to be present in the chemical substance as it will be manufactured for commercial purposes. (b) Estimate the maximum percent (by weight) of each impurity. Base your answer on information developed during R & D activities, your knowledge of manufacturing process chemistry and anticipated quality control operations. (c) Mark (X) if the concentration of an impurity will be specifically controlled because of your concern about potential adverse health or environmental effects. (d) Estimate the maximum total percent (by weight) of the impurities that may be present.

Impurity and CAS Registry number (a)	Maximum percent present (b)	Mark if to be specifically controlled (c)	Confidential code
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
	%		
d. Total percent ⟶	%		

☐ *Mark this box if you attach a continuation sheet.*

Section C – GENERIC NAMES

Complete this section only if Specific Chemical Identity is claimed confidential.

For instructions on how to develop generic names, see appendix II, 40 CFR 720 (44 FR 2278), Proposed Premanufacture Notification Requirements and Review Procedures.

1. Enter the generic name agreed on by EPA in Prenotice Communication or provide 3 generic names.

Section D – PRODUCTION AND MARKETING DATA

If you claim Production Volume confidential, mark (X) the box at the right. ⟶ ☐
The answers to item 1 will be included in this claim.

If you claim the answers to items 2 or 3 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.

If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

1. Estimate the minimum and maximum annual production volume for the first three years of production. Include in your estimates production by others with whom you have contracted to manufacture the new chemical substance.

Production year (1)	Production (Kg/yr) Minimum (2)	Production (Kg/yr) Maximum (3)	Confidential code
a. First year			
b. Second year			
c. Third year			

2. Reentry into the United States

Will the new chemical substance reenter the United States within the first 3 years of production –

a. In bulk form? 1[ ] Yes 2[ ] No 3[ ] Don't know

b. As part of a mixture? 1[ ] Yes 2[ ] No 3[ ] Don't know

c. As part of an article? 1[ ] Yes 2[ ] No 3[ ] Don't know

3. Has the chemical substance been manufactured before?

1[ ] Yes 2[ ] No 3[ ] Don't know

4. Hazard warnings

Attach to this notice a copy or reasonable facsimile of any hazard warning statement, label, labeling, marking or instructions, technical data sheet, material safety data sheet, and any other information which will be provided to any person regarding the safe handling, transport, use, disposal, treatment upon accidental exposure, or the formulation, construction, or labeling of products containing the chemical substance.

☐ *Mark this box if you attach a hazard warning.*

CONTINUE WITH SECTION E ON PAGE 6

V 44 OC 16 79 UMI

Section E – TRANSPORT

If you claim the answers to items 1 or 2 confidential, place the letter(s) (A–F) in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E.

1. Enter the proper DOT shipping name and hazard class of the new chemical substance (if applicable).	Confidential code
a. Shipping name	
b. Hazard class	

2. Mark (X) the mode(s) of transport which you believe will be used for the new chemical substance –

a. Within the United States

1 ☐ Truck 3 ☐ Barge, vessel 5 ☐ Plane
2 ☐ Railcar 4 ☐ Pipeline 6 ☐ Other – *Specify* _____

b. From U.S. port of exit to destination

1 ☐ Truck 3 ☐ Barge, vessel 5 ☐ Plane
2 ☐ Railcar 4 ☐ Pipeline 6 ☐ Other – *Specify* _____

Section F – RISK ASSESSMENT

If you claim any item submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

If you have evaluated the health or environmental risks which may be presented by the manufacture, processing distribution in commerce, use, or disposal of the new chemical substance attach your evaluation.

☐ *Mark this box if you attach a risk assessment.*

Section G – DETECTION METHODS

If you claim the answers to item 1 confidential, place the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

Confidential code

1. Is an analytical method available to identify and quantify the presence of the new chemical substance –

Identify	Quantify
a. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	e. In workplace air? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
b. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	f. In effluent streams? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
c. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	g. In materials requiring disposal? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know
d. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know	h. In end products for which the new substance is an intermediate? 1 ☐ Yes 2 ☐ No 3 ☐ Don't know

Part II – HUMAN EXPOSURE AND ENVIRONMENTAL RELEASE

Section A – INDUSTRIAL SITES CONTROLLED BY THE SUBMITTER

If you claim Process Information confidential, mark (X) the box at the right. ⟶ ☐
The answer to subsection 2 will be included in this claim.

If you claim the answers to items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II for categories A–E. If you claim the answers to items 3.3, 4.3, or 4.4 in subsections 3 or 4, or any items submitted in an attachment confidential, see SPECIAL INSTRUCTIONS, appendix A, section II, part B.

Complete a separate subsection 1 and subsection 2 sheet for each site where you will manufacture or process the new chemical substance.

Subsection 1 – PROCESS INFORMATION

				Confidential code
1.1 Identity of site	Name			
	Physical location address *(Number and street)*			
	City, County, State, ZIP code			
1.2 Type of site	1 ☐ Manufacturing	2 ☐ Processing	3 ☐ Continuous 4 ☐ Batch	
1.3 Hours of operation ⟶		Days per year	Hours per day	
1.4 Amount manufactured or processed ⟶		Minimum Kg/yr.	Maximum Kg/yr.	

Subsection 2 – BLOCK DIAGRAM

2.1 Provide a block diagram identifying the major unit operations and chemical conversions. Also include:

a. For each chemical conversion in the block diagram identify the major chemical reactions and the major side reactions.

b. Provide the approximate mass of all feed materials, byproduct materials, and products which are entering and leaving each major unit operation and chemical conversion. Indicate the method of transfer of these materials and whether the operation is open or closed to the workplace environment.

c. Identify those points in the block diagram from which there will be releases of the new chemical substance or byproduct materials into the air, land, or water environment.

☐ *Mark this box if you attach a continuation sheet.*

V 44 0C 16 79 UMI

▶ **Subsection 3 – OCCUPATIONAL EXPOSURE**

Complete a separate subsection 3 for each site at which you will manufacture, process, or dispose of the new chemical substance. Indicate the anticipated route(s) of exposure to the new chemical substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route and the maximum duration of such exposure (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on maximum annual production or processing during the first 3 years of manufacture under normal operating conditions with all engineering safeguards in place.

Confidential code

3.1 Identity of site

Name

Physical location address *(Number and street)*

City, County, State, ZIP code

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hr./day	Maximum duration (4) Days/yr.	Concentration (5) Unit of measure	Mark (X) appropriate column A – Average P – Peak 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	>100 A	>100 P
a. Manufacture					1 ☐ ppm 2 ☐ mg/m³								
b. Processing					1 ☐ ppm 2 ☐ mg/m³								
c. Disposal					1 ☐ ppm 2 ☐ mg/m³								

3.3 Describe those operations in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the chemical substance to which workers may be exposed in the workplace.

Confidential code

1 ☐ Solid 2 ☐ Gas 3 ☐ Aerosol 4 ☐ Powder 5 ☐ Mist 6 ☐ Fume 7 ☐ Dust 8 ☐ Liquid 9 ☐ Other – *Specify* _____

3.5 For each site of manufacture, list any other substances (e.g., byproducts, co-products, feedstocks and intermediates) associated with the manufacture of the new chemical substance that may reasonably be anticipated to be present in the workplace and to which workers may be exposed. Provide the CAS Registry Number.

Substance (1)	CAS Registry Number (2)	Confidential code

☐ *Mark this box if you attach a continuation sheet.*

▶ **Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL**

Complete a separate subsection 4 for each site where you intend to manufacture, process, or dispose of the new chemical substance.

Confidential code

4.1 Identity of site

Name

Physical location address *(Number and street)*

City, County, State, ZIP code

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release Hrs./day (2)	Duration of release Days/yr. (3)	Amount of new chemical substance released (Kg/yr.) Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)
a. Air							
b. Land							
c. Water							

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name _____

d. Effluent stream flow rate → _____ Gallons per day

4.3 For each release point indicated in the block diagram, characterize the composition of the release materials.

☐ *Mark this box if you attach a continuation sheet.*

4.4 Describe pollution control equipment and disposal operations (e.g., scrubber, baghouse, landfill, incinerator, activated sludge, carbon absorption, etc.) used to treat individual or combined releases indicated in the block diagram(s) of manufacturing and processing operations.

☐ *Mark this box if you attach a continuation sheet.*

V 4 4 0 C 1 6 7 9 UMI

Section B – INDUSTRIAL SITES CONTROLLED BY OTHERS

Complete this section using your own forecasts, any information already obtained from other persons who may manufacture (under contract) or dispose of the new chemical substance, or any other information that is reasonably ascertainable. Complete a separate subsection 1 and subsection 2 for each site where you expect other persons to manufacture (under contract), or dispose of the new chemical substance.

If you claim the answers to the items in subsections 1, 3, or 4 confidential, enter the letter(s) A–F in the box which indicates the basis of your claim and answer the linkage questions in appendix A, section II, for categories A–E.

If you claim the answers to items in subsection 2, or item 3.3 in subsection 3 confidential, see SPECIAL INSTRUCTIONS in appendix A, section II, part B.

▶ Subsection 1 – PROCESS INFORMATION

Confidential code

1.1 Identity of site

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

▶ Subsection 2 – PROCESS DESCRIPTION

Briefly describe manufacturing operations conducted by others.

☐ *Mark this box if you attach a continuation sheet.*

▶ Subsection 3 – OCCUPATIONAL EXPOSURE

Complete a separate subsection 3 for each industrial site where you expect other persons to manufacture or dispose of the new chemical substance. Indicate the anticipated routes of exposure to the substance (e.g., inhalation, ingestion, dermal), the number of employees anticipated to be exposed by each route, and the maximum duration of such exposure (in days per year and hours per day). In the table below, mark (X) A–Average or P–Peak for the concentration levels that are expected to be present in the immediate vicinity of the process equipment. Base your answer on the maximum amount anticipated to be manufactured or disposed during the first 3 years of operation under normal conditions with all engineering safeguards in place.

Confidential code

3.1 Identity of site

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

3.2 Occupational Exposure at Industrial Site

Activity (1)	Exposure route(s) (2)	Maximum number exposed (3)	Maximum duration (4) Hrs./day	Maximum duration (4) Days/yr.	Unit of measure (5)	Concentration (5) *Mark (X) appropriate column* A – Average P – Peak: 0–1 A	0–1 P	1–10 A	1–10 P	10–100 A	10–100 P	> 100 A	> 100 P
a. Manufacture					1 ☐ ppm 2 ☐ mg/m³								
b. Disposal					1 ☐ ppm 2 ☐ mg/m³								

3.3 Describe those activities in which workers will be directly exposed to the new chemical substance.

☐ *Mark this box if you attach a continuation sheet.*

3.4 Mark (X) as many of the physical states of the new chemical substance to which workers may be exposed in the workplace.

Confidential code

1 ☐ Solid 2 ☐ Gas 3 ☐ Aerosol 4 ☐ Powder 5 ☐ Mist 6 ☐ Fume 7 ☐ Dust 8 ☐ Liquid 9 ☐ Other – *Specify*

V 44 OC 16 79 UMI

▶ Subsection 4 – ENVIRONMENTAL RELEASE AND DISPOSAL

Complete a separate subsection 4 for each site where other persons intend to manufacture (under contract) or dispose of the new chemical substance.

Confidential code

4.1 Identity of site

Name

Physical location address *(Number and street)*

City, State, ZIP code

County

4.2 Indicate the duration of release into the air and water environment and the annual amount of new chemical substance released to the air, water, and land. Mark (X) the disposition of the water discharge and estimate the effluent flow rate from the site. Enter the name of the POTW or receiving water body. Base your answer on maximum annual production during the first 3 years of manufacture under normal operating conditions.

Media (1)	Duration of release: Hrs./day (2)	Duration of release: Days/yr. (3)	Amount of new chemical substance released (Kg/yr.): Less than 10 (4)	10–100 (5)	100–1000 (6)	1000–10,000 (7)	More than 10,000 (8)	Confidential code
a. Air								
b. Land								
c. Water								

1 ☐ POTW (Publicly Owned Treatment Works)
2 ☐ Navigable waterway
3 ☐ Other

Enter name ↘

d. Effluent stream flow rate → Gallons per day

4.3 (1) List any byproduct materials containing the new chemical substance that are generated during manufacturing and processing operations and which are disposed of (e.g., landfill, incineration, or other physical/chemical treatment). Water effluent and air emission streams should not be listed here. Estimates of release of the new chemical substance contained in such streams are required to be reported in item 4.2. (2) Indicate the method of disposal. (3) Estimate the amount of each material generated (Kg/Kg of the new chemical substance), and (4) estimate the percent (by weight) of the new chemical substance.

Material requiring disposal (1)	Anticipated method of disposal (2)	Amount (Kg/Kg) (3)	Percent of new chemical substance (4)	Confidential code

☐ *Mark this box if you attach a continuation sheet.*

Part III – LIST OF ATTACHMENTS

Under section 5(d)(1)(B) and (C) of TSCA and 40 CFR 720.23, a manufacturer must submit all test data in his possession and control, and a description of any other data that are known to or reasonably ascertainable by him/her concerning the effect of manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance on health or the environment. The regulations specify which data must be submitted with the notice and which data may be referenced by literature citations. Using the categories provided, identify (1) attachments containing test data, descriptions of data, or literature citations in accordance with 720.23; (2) other attachments required to be submitted with this notice; (3) confidentiality substantiations and (4) attachments which contain information voluntarily submitted. All attachments should be clearly identified and numbered.

To assert and substantiate a claim of confidentiality for any information included in the following attachments, follow the instructions in Appendix A, section II, part B. Note – Special directions for test data or other "Health and Safety" studies included in section III, part C.

The instructions provide that you must also submit a "sanitized" copy of the attachment with all information that you are claiming confidential deleted. EPA will place this copy in the public docket.

	Attachment name	Attachment number
a. Physical and chemical properties data		
b. Health and environmental effects data		

c. Notice attachments	Part	Section/Subsection	Item	
d. Confidentiality attachments				
e. Voluntary attachments				

☐ *Mark this box if you attach a continuation sheet.*

V 44 OC 16 79 UMI

Part IV – FEDERAL REGISTER NOTICE

Information provided in this part will be published in the Federal Register in accordance with section 5(d)(2) of TSCA. Do not enter any information in this part for which you have asserted a claim of confidentiality.

Section A – CHEMICAL IDENTITY

Enter the specific chemical name of the substance if it is not claimed confidential. If the chemical identity is claimed confidential, enter the name agreed to by EPA in Prenotice Communication or EPA will enter one of the three proposed generic names in part I, section C.

Section B – MANUFACTURER IDENTIFICATION

Enter the legal title of the organization filing this notice if it is not claimed confidential. If the legal title of the organization is claimed confidential, provide a description of the organization in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

Section C – TEST DATA

List all test data concerning health and environmental effects of the manufacture, processing, distribution in commerce, use, or disposal of the new chemical substance that are being submitted, described, or cited as part of this notice. Provide a brief abstract of all test data on the new chemical substance that are submitted in accordance with 720.23(a) and 720.20(j). If physical-chemical properties are claimed confidential, provide a generic description of these properties in accordance with section III, Appendix A, Instructions for Asserting and Substantiating Claims of Confidentiality.

☐ *Mark this box if you attach a continuation sheet.*

[FR Doc 79-31566 Filed 10-15-79; 8:45 am]
BILLING CODE 6560-01-C

V 44 O C 16 7 9 UMI

federal register

Tuesday
October 16, 1979

Part IV

ACTION

Department of Justice

Law Enforcement Assistance Administration

Joint Urban Crime Prevention Program; Publication of Draft Proposed Guidelines

ACTION

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

Proposed Implementation of the Joint ACTION/LEAA Urban Crime Prevention Program (UCPP) for Fiscal Year 1980

AGENCIES: ACTION Agency and Law Enforcement Assistance Administration, Department of Justice.

ACTION: Publication of Draft Proposed Guideline for the Urban Crime Prevention Program

SUMMARY: These proposed guidelines describe a new program jointly developed and administered by ACTION and the Law Enforcement Assistance Administration. The program was initiated by the President's Urban Policy Message of March 1978. Since the Law Enforcement Assistance Administration will provide the funding for the joint Urban Crime Prevention Program (UCPP), the basic requirements will be the LEAA's Guidelines as outlined in LEAA M4500.1G, Guide for Discretionary Grant Programs, and LEAA Financial Guideline M7100. The *Urban Crime Prevention Program* will not in any way impact upon the programs or regulations presently set out in the LEAA Manual M4500.1G, nor will the proposed program affect the eligibility of those individuals applying for previously announced programs.

The program design and management are a joint venture by ACTION and the LAW Enforcement Assistance Administration (LEAA) drawing upon ACTION's expertise in volunteerism and community organizing and LEAA's expertise in the field of crime prevention.

FOR FURTHER INFORMATION CONTACT:

W. Philip McLaurin, Director, Urban Crime Prevention Program, Office of Domestic and Anti-Poverty Operations, ACTION, Washington, D.C. 20525 (202) 254–3142.

Ernest Milner, Director, Urban Crime Prevention Program, Office of Community Anti-Crime Programs, Department of Justice, Law Enforcement Assistance Administration, 633 Indiana Avenue, NW., Room 1300, Washington, D.C. 20531 (202) 724–5935.

SUPPLEMENTARY INFORMATION: ACTION and the Law Enforcement Assistance Administration (LEAA) are proposing a new program for the fiscal year 1980. ACTION, under the legislative authority of Title I of the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. 4951 *et seq.* and LEAA, under the legislative authority of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. 3701 *et seq.* have jointly developed draft guidelines for this program entitled the Urban Crime Prevention Program. In order to ensure that interested organizations, agencies, and individuals have an opportunity to review and comment on guidelines, this invitation to submit written views, comments, and specific recommendations is being provided. The final program announcement and guidelines will be published in the **Federal Register.** All written comments, due 60 days from the publication of this notice, will be considered. Comments should be addressed to Mr. W. Philip McLaurin or Mr. Ernest Milner (see addresses above). The text of the proposed guidelines follows:

Urban Crime Prevention Program

A. Program Goals: The goals of this program are to increase neighborhood participation and problem-solving capacity, and to forge a working partnership among neighborhood groups, elected officials, criminal justice agencies and other public/private sector institutions in new community crime prevention efforts.

B. Program Objectives: The objectives of this program are divided into three main areas as follows:

1. Innovative Approach:

a. To encourage projects which have not received significant emphasis in past federal funding.

b. To promote efforts which expand their focus of attention beyond the actual commission of a crime to include the social and economic factors which are directly associated with criminal activity.

c. To generate activities which provide adoption of project models and other suggested and innovative projects which are consistent with the program's goals and objectives.

2. Neighborhood Orientation:

a. Decrease the fear of crime among residents.

b. Increase a sense of responsibility for dealing with crime among residents.

c. Increase residents' perception of the importance of neighborhood groups in crime prevention.

d. Increase the number of neighborhood groups that work with a broad-based Advisory Council and are engaged in community crime prevention, including new of fledgling groups and those not previously involved.

e. Increase the financial and managerial competence of neighborhood groups to conduct a funded crime prevention program.

f. Increase the ongoing ability of neighborhood groups to define and analyze local crime problems, develop solutions, and implement projects designed to combat such problems.

g. Increase the ability of neighborhood groups to work in partnership with other private and public sector organizations and agencies on crime prevention efforts.

h. Achieve substantial volunteer participation by residents in UCPP funded projects.

i. Create new roles for and effectively utilize the talents of volunteers in the operation of crime prevention programs.

j. Increase cohesiveness among neighborhood residents through efforts directed at preventing criminal activity.

3. Partnership:

a. Insure the input of a wide range of expert advice, data, and support in the planning and implementation of neighborhood crime prevention projects.

b. Assure the cooperation and support of urban government and other interests in carrying out intended crime prevention efforts.

c. Avoid duplication or conflict of prevention activities among projects being developed in the UCPP and other urban crime prevention efforts.

d. Set in motion a process of coalition-building which, over a period of time, will define mutual interests and forge cooperative relationships for initiating future crime prevention projects.

C. Structure and Operation of Grants:

The UCPP will fund up to 15 programs in cities of 250,000 or greater in population. Grants will range up to $500,000 for a 18-month grant period. Grants awarded under the UCPP will not require a matching contribution.

The program's organizational structure at each of the local levels will operate through a grantee, its Advisory Council and project organizations. Each grant will be used to make allocations up to $50,000 each to 5 to 15 project organizations, which must use the allocations to conduct crime prevention projects.

Administrative costs generally should not exceed 20 percent. The UCPP anticipates that these costs will be less. An important criterion in reviewing applications will be the extent to which the proposed administrative costs are minimized without sacrificing program quality. The remaining funds will be used for implementing projects.

1. Local Level:

The organizational structure through which each local program must operate consists of the following:

a. *The Grantee*

The grantee must be a private not-for-profit corporation with the legal responsibility for administering a UCPP grant and must have the demonstrated capacity to work with both public agencies and neighborhood groups.

A potential grantee is responsible for developing the UCPP grant application, the major part of which will describe a number of project organizations and the crime prevention projects each will carry out in a specific urban neighborhood. The proposal must be based on systematic project planning and incorporate relevant crime and demographic data as well as other supporting information. In developing its application, the potential grantee must consult with a wide range of interests to assess specific crime problems, attract potential project organizations, and design appropriate crime prevention projects.

During this process, the potential grantee will identify Advisory Council members; the grantee will also be responsible for overall administrative supervision and coordination of project activities and the fiscal management of the project organizations' budgets. The grantee will provide appropriate administrative services, and ensure adequate training for volunteers, project organizations and the Advisory Council. The grantee will be responsible for complying with grant reporting requirements which will include quarterly financial and narrative progress reports.

b. *The Advisory Council*

The Advisory Council must bring together a broad range of public and private interest to assist in planning and conducting the grant. The Advisory Council should reflect the program's goals of forging a partnership of citywide resources to support neighborhood crime prevention. The mayor, or highest elected city official or his or her designee, and a representative of each awarded project organization must serve on the Advisory Council. Other members will be drawn from the following groups or interests:

(1) Volunteer citizen organizations;
(2) Social or human service agencies;
(3) Criminal justice agencies;
(4) Labor and business;
(5) Public interest organizations;
(6) Other program-related public agencies; and
(7) Others as deemed appropriate.

While the specific duties, organization, and responsibility of the Advisory Council should be the decision of the grantee the broad responsibilities of the Advisory Council will include:

(a) Providing policy and program guidance to the grantee;

(b) Providing general oversight on matters of program implementation and maintenance, including involvement in the monitoring and evaluation processes of the grant and in the review of project organizations;

(c) Providing, through its members, liaison with an access to public and private agencies whose assistance would be useful in carrying out the program's objectives;

(d) Publicizing the grant in the broader community; and

(e) Serving as a forum in which information can be exchanged, mutual interests defined, and cooperative relations established among members.

c. *Project Organizations*

Project organizations will for the most part be neighborhood groups, which typically are local community organizations but which can include other neighborhood elements such as churches, business associations parent/school groups, community centers, local ethnic associations, or tenant organizations. While the majority of project organizations must be neighborhood groups, public sector agencies are also eligible. Project organizations which are from the private sector must be not-for-profit organizations, but need not be incorporated.

Grantees will provide funds for project organizations to conduct crime prevention projects which are located in and operated for the benefit of specific low or moderate income neighborhoods. These projects must involve neighborhood residents in the development and implementation of their activities. Neighborhood residents must actively participate in all projects rather than merely being served by them.

2. Allocation of Grant Funds:

The allocations to project organizations may vary in size up to $50,000. A *minimum* of 60 percent of a grantees' project funds must be devoted to one or more of the project models described below. A higher proportion of project funds may be allocated to the project models if desired. Up to 40 percent project funds may go to the suggested projects, mentioned below, or to original locally initiated projects.

Normally only one allocation will be made in a neighborhood. Allocations to more than one project organization in a specific neighborhood, however, will be permitted where a compelling justification is made in the grant application and where each organization indicates its willingness to cooperate with the other. Two or more project organizations in the same neighborhood can not run the same type of crime prevention project. Only one allocation of up to $50,000 will be made to a project organization. Typically, an allocation will fund one type of crime prevention project, although a project organization with sufficient justification may undertake more than one type of project.

3. Grant Assistance and Requirements

In addition to the overall management and administration of the program, provisions will be made at the federal level for: a) technical assistance, b) evaluation, and c) monitoring and reporting requirements including on-site visits. Training will be provided by the grantee with some assistance by UCPP staff.

D. Models, Suggested Project Areas and Locally Initiated Projects:

The principal means to further the UCPP goals and objectives will be the use of successful models, suggested project areas and original locally initiated community crime prevention projects. The UCPP will emphasize projects which address local crime problems of special concern to low and moderate income neighborhoods, which have not received substantial federal support to date, and which complement other federal anti-crime programs.

1. Common Characteristics of all Projects:

All UCPP projects must include the following characteristics:

a. They must be carried out at the neighbrohood level by project organizations.

b. They must be based on the substantial participation of those who live or work in the local area.

c. They must include volunteers in key roles.

d. They must address important crime problems of a locale.

e. They must be developed in light of, and seen as a part of, broader efforts to address neighborhood problems while addressing the issues of crime prevention.

f. While the projects must deal with crime prevention, and must have the effect of strengthening the long-term capacity of neighborhood groups to address local crime problems, they must also improve neighborhood life generally.

g. They must foster working relations with urban resources which can assist in developing implementing these local crime prevention projects.

h. While all projects must emphasize neighborhood action, a limited amount of funds may be used for research, data gathering, and conferences related to crime prevention and the overall objectives of the program.

In addition to neighborhood groups, public agencies which satisfy these

V 4 4 0 C 1 6 7 9 UMI

project elements may be project organizations.

2. Project Models:

Project models are presented in four particular areas and are predicated primarily on efforts which have been tried successfully in the past, but have not in their proposed form received major federal funding. Although the models must have the respective listed elements, considerable variation and adaptation to local needs is expected.

a. Community Dispute Settlement Project:

For a variety of reasons many disputes are not reported to the police, nor is resolution sought through the courts. It has been demonstrated that for a wide range of minor disputes, particularly those between people who have an ongoing or prior relationship, a more informal process of dispute settlement may be more efficacious and satisfying.

The successful resolution of such disputes can prevent their recurrence and the more serious violence and property destruction which sometimes emerge from them.

(1) *Project Elements*

Projects under the Community Dispute Settlement model have the following characteristics:

(a) Projects must coordinate their activities with the prosecutor, court, and police.

(b) Projects must hold discussions with appropriate authorities about accepting referrals from the criminal justice system or other appropriate public or private sources. It is expected that the projects will have at least some disputes referred to them from criminal justice agencies.

(c) The dispute resolution must take place locally in the neighborhood.

(d) The principal third parties in the dispute settlement hearings must be people who live or work in the neighborhood.

(e) Projects must accept disputes which might be defined as minor crimes.

(f) Participation by disputant parties must be voluntary.

(g) Settlements must be based on voluntary agreement of the parties.

b. Arson Project:

Arson is one of the fastest increasing serious crimes in urban America. Losses due to such criminal activity can be traced to unemployment, increased insurance rates, higher taxes, lost revenue, etc., in urban areas. Although exact statistics are unavailable, arson-for-profit is believed to be a significant part of a problem that causes the loss of lives and injuries to thousands of people each year. The UCPP will support the involvement of neighborhood groups in dealing with arson problems in their areas.

(1) *Project Elements*

Projects under the arson model must have the following characteristics:

(a) Projects must document with data the seriousness of arson in a specific neighborhood.

(b) Projects must develop strategies to reduce both the opportunities and incentives to comit arson.

(c) Projects must have volunteers play a central role in the development and implementation of the project.

(d) Projects must demonstrate how their efforts to fight arson will lead to a reduction in such criminal activity.

(e) Projects must be able to demonstrate how their efforts will fight both arson and neighborhood deterioration.

(f) Projects must work in conjunction with appropriate authorities in identifying potential arson sites and prevention programs.

c. Projects to Reduce the Impact of Property Crime Victimization

A significant portion of crime within urban neighborhoods involves crimes against property. A number of community crime prevention projects have sought to reduce the incidence of such crimes by educating citizens about protective measures that they can take as individuals or groups.

Successful efforts by neighborhood residents to reduce property crimes should increase the availability of insurance and thereby help to revitalize the neighborhood, improve the local opportunities for employment, and enhance the safety and quality of neighborhood life.

When insurance providing protection from losses due to crimes against property is systematically denied, businesses and individuals have greater reluctance to purchase property or locate in a given area or they have greater incentive to leave. These conditions contribute to the general decay of the neighborhood.

(1) *Project Elements*

Projects under the model to Reduce the Impact of Property Crime Victimization must have the following characteristics:

(a) Projects must be community-based and must systematically gather data on the seriousness of the problem of insurance unavailability, the factors contributing to the problem, and appropriate alternatives to deal with the problem.

(b) Projects must extensively document the problem. The documentation must establish that there is a relationship between the problem and crime.

(c) Projects must find ways to involve community people in the development and implementation of strategies to address these problems.

(d) Projects must describe how actions on this problem are part of a more comprehensive strategy to enhance the neighborhood through related neighborhood improvement activities and crime prevention.

d. Community Victim and Witness Project.

In recent years there has been a growing awareness of the failure to deal adequately with the interests and needs of victims and witnesses. Such conditions contribute to the problem of victim/witness non-cooperation in reporting, investigating and preventing crime. Victims/witnesses often feel that their concerns are not routinely elicited or given serious consideration in criminal justice decisions.

Neighborhood-based programs can provide an opportunity to assist specific victims and witnesses and to work to improve the more general practices of criminal justice agencies that affect the community of victim and witness.

(1) *Project Elements*

Projects under the Community Victim and Witness model must have the following characteristics:

(a) Projects must document the extent and nature of the problems victims and witnesses who live in a specific neighborhood are encountering as a result of their victimization or participation in the criminal justice process.

(b) Projects must show a willingness to cooperate with relevant criminal justice agencies.

(c) Projects must address the interests and needs of victims and witnesses of crime.

(d) Projects must be located in specific neighborhoods and must focus on promoting the interests and needs of victims and witnesses who live or work in those areas.

(e) Projects must incorporate community victims' and witnesses' needs and those of the criminal justice system to obtain victim/witness cooperation.

3. Suggested Project Areas

The UCPP also includes a number of suggested project areas in which grantees and project organizations are encouraged to consider developing projects. Since the UCPP provides fewer initial guidelines in these areas, more local creativity on the part of applicants is expected in developing these potential projects.

Applicants may develop projects using these suggestions and/or locally initiated projects, as explained below, or a combination of the two with up to 40 percent of the proposed project funds.

Below is a brief description of several suggested areas which address problems that are consistent with the objectives of the UCPP.

a. Family violence

In recent years, people have become aware of the prevalence of child and spouse abuse, of which only a small proportion comes to the attention of the legal authorities or other agencies. A number of efforts, although not providing a long term solution to the problems, are being explored to provide assistance and protection to abused family members, as well as counseling and other services for the entire family.

The UCPP encourages grantees and project organizations to develop neighborhood projects with primary reliance on volunteers and community participation to seek to reduce and prevent the incidence of family violence.

b. Consumer Fraud

While accurate statistics are not available, it is generally agreed that consumer frauds represent a major cost to specific individuals and to the society as a whole.

Specific types of fraud may cause great hardships in certain urban areas. The UCPP encourages grantees and project organizations to identify fraud problems and work with criminal justice officials to document, to prosecute, and to prevent the recurrence of such crimes.

c. Unemployment and Crime

Although there are conflicting studies as to the extent of the relationship between unemployment and crime, it is now generally accepted that such a relationship does exist.

While it is recognized that increases in unemployment are primarily determined by national or local economic conditions, other factors such as employment discrimination based on race, ethnic background, or prior contact with the criminal justice system also appear to contribute to such increases in many urban areas.

UCPP encourages the development of neighborhood-based projects which address unemployment and employment discrimination and youth placement opportunities as related to crime.

d. Public Housing Anti-Crime Initiatives

Organizations within and in areas surrounding public housing projects, including those participating in the Public Housing Urban Initiatives Anti-Crime Program, sponsored by the Department of Housing and Urban Development, are eligible to become project organizations under the UCPP and are encouraged to develop proposed volunteer programs consistent with the UCPP goals and objectives.

e. School Crime

Neighborhoods are often judged by the environment and quality of their schools. The willingness of people to move into or remain in a neighborhood may be based more on the reputation of its schools than any other factors.

The UCPP encourages grantees and project organizations to develop projects in the prevention of school crime including combatting vandalism, alternatives to suspension as a disciplinary tool, and the counseling of disruptive students.

4. Locally Initiated Projects

Some original projects initiated at the local level may be funded under the UCPP. These projects must be consistent with the goals and objectives of the UCPP and must include the common characteristics referred to previously. In addition, the 40 percent limitation of the proposed project funds mentioned in Section C of this Chapter applies.

E. Use of Volunteers:

Grantees and project organizations in the UCPP must involve volunteers in local projects. Volunteers in the UCPP may be community residents who volunteer a few hours a week, or full-time volunteers who receive a living allowance or members of established volunteer organizations whose interests coincide with those of local projects.

The grantee must include in its grant application a workplan for each UCPP full-time volunteer. These volunteers may function in a variety of roles, such as organizers, researchers, lawyers, and accountants; however, their acitivities must be ultimately directed toward mobilizing community resources and increasing the capacity of the target community to solve its own crime problems. It is expected that UCPP grants will reflect a minimum of one UCPP full-time volunteer for each project organization.

UCPP full-time volunteers should be recruited locally. Federal level UCPP staff will be available to assist in this process and in locating candidates from outside of the target area when necessary. Volunteer selection is the responsibility of project organizations with concurrence from respective grantees.

UCPP full-time volunteers will serve a minimum of 40 hours per week and are available, as needed, at other times. Consequently, they may not hold part-time jobs nor receive compensation from another volunteer program. Full-time volunteers must be at least 16 years of age, be United States citizens or have permanent visa status, should be in general good health, and may not be currently involved in criminal litigation. They may, however, be in parole or probation status. Project organizations are responsible for specifying skill level criteria. Full-time volunteers in the UCPP may receive a living allowance equal to but not in excess of that which is provided VISTA volunteers.

F. Eligibility and Selection Criteria:

All UCPP grants will be awarded on a competitive basis. Grant applicants will be required to complete the LEAA Standard Form 424 which is the application for UCPP funding.

1. Eligibility Criteria:

The applicant must meet the following criteria:

a. Be located in a city with a population of at least 250,000.

b. Be a private not-for-profit corporation.

c. Submit a CPA certification of accounting capability.

d. Propose projects which will be carried out in low and/or moderate income neighborhoods.

e. Propose projects in residential areas which meet one or more of the following criteria for being a neighborhood:

(1) Being known by a given name.

(2) Having generally agreed upon boundaries.

(3) Having some historical continuity.

(4) Having a territorial group which bears its name.

f. Assure that a majority of proposed projects are conducted by, and a majority of project funds are awarded to, neighborhood groups.

g. Develop crime prevention projects which are responsive to identified crime problems and which conform to UCPP's goals and objectives. The process utilized to determine crime problems must be clearly described in the application. Input on local crime problems should be obtained from public and private organizations including neighborhood groups.

h. Document each Advisory Council member's willingness to serve for the duration of the grant, whether he/she participated in the project planning, whether he/she is familiar with the contents of the proposal, and whether or not a Council member's organization will receive an allocation.

i. Provide a description of how and where the applicant drew on sources of data, information, and expertise in developing its application.

j. Submit brief biographies of Advisory Council members describing their backgrounds and the group or interests they represent on the Council.

k. Provide in the grant application a separate description of: each project organization; its experience in carrying

V 44 O C 16 79 UMI

out neighborhood projects and involving neighborhood people in them; the specific activities to be conducted by each project organization and the nature of the crime problem which will be addressed; and a separate itemized budget and budget narrative for each project.

l. Describe any past and present community crime prevention efforts, including those receiving municipal, state, and/or federal assistance (e.g., LEAA, HUD, CETA, etc.).

m. Provide assurance of willingness to cooperate with a national contractor in the evaluation of grant activities.

n. Conform with federal level goals and objectives established for the UCPP.

o. Comply with all regulations, policies, and procedures established for the management of the UCPP grant.

p. Comply with the OMB Circular A–95 which requires appropriate areawide and state clearinghouse review.

q. Participate in the UCPP technical assistance component which will provide ongoing help in project implementation at no cost to grantees. All successful applicants must agree to participate in this training and technical assistance program. Each application must include a description of its anticipated technical assistance needs during the program's start-up and implementation phases.

r. Submit every application to the mayor for review. Mayors will, in writing, indicate whether:

(1) The proposal was reviewed or not.

(2) He/she or a designated representative participated in developing the application.

(3) The mayor, or his or her designee is willing to serve on Council.

Responses to the above must be submitted with the application. If the mayor chooses not to act on the application, the applicant will provide evidence that the application has been submitted to the mayor. The mayor may endorse more than one application if he/she chooses. The lack of the mayor's willingness to serve or to designate a representative to serve on the Advisory Council makes selection of the application as a tentative finalist in the review process unlikely. Once the proposed grantees are identified by the UCPP staff, and prior to awards, the mayor will have a 30-day period to veto any proposed grant within his/her jurisdiction. His/her veto is conclusive. No grant will be made if vetoed by the mayor.

2. Selection Criteria Priorities

The following criteria will be utilized to rank eligible applicants in determining the selection of grantees. The 16 criteria are divided into three categories based on the priority given to each criterion.

a. Primary importance will be given to:

(1) Extent to which all proposed projects meet the common characteristics developed by the UCPP.

(2) Applicants' demonstrated ability to work with neighborhood groups and public and private organizations.

(3) Extent of volunteer involvement in proposed crime prevention projects.

(4) Degree to which the applicant involved public and private organizations, especially neighborhood groups and residents, in planning proposed crime prevention efforts.

(5) Applicant's experience in developing, implementing, and managing neighborhood programs in crime prevention or other areas.

(6) Extent to which proposed projects employing models fulfill UCPP-determined project elements.

b. Secondary importance will be given to:

(1) Demonstration in the proposal development of a sound planning process which includes the use of the best available crime statistics and other evidence of crime and its impact.

(2) Extent to which those proposed project organizations which are neighborhood groups have a multi-issue orientation.

(3) Extent of experience in and/or plans for community organizing as part of the proposed crime prevention projects.

(4) Extent to which the proposed projects address crime problems identified in the planning process.

(5) Breadth, representativeness, and expertise of Advisory Council membership and the degree of their involvement in developing the proposal.

c. Consideration will also be given to:

(1) Extent to which those proposed project organizations which are neighborhood groups have an established organizational structure, including elected officers and regular meetings, involve members in their decision-making processes, and promote participation of residents in their activities.

(2) Reasonableness of costs in relation to activities proposed and results anticipated.

(3) Capability of applicants to afford training to project organizations and volunteers.

(4) Adequacy of grantee and project organization staffing patterns and the expertise of individual staff members in implementing and managing a UCPP grant and projects.

(5) Adequacy of plans by project organizations for effective supervision of volunteers receiving living allowances.

G. Application Deadline and Submission Procedures:

1. All applications for fiscal year 1980 funds must be received no later than April 1, 1980. No applications will be considered if received after that date.

2. In addition to the copies of the application sent to the state and local A–95 clearinghouses, the original plus two (2) copies of the entire application package should be sent to: The Control Desk, GCMD/FMGAB, Office of the Comptroller, LEAA, 633 Indiana Avenue, NW., Room 942, Washington, D.C. 20531.

Dated: October 11, 1979.

Henry S. Dogin,

Administrator, Law Enforcement Assistance Administration.

Sam Brown,

Director, ACTION.

[FR Doc. 79–31933 Filed 10–15–79; 8:45 am]

BILLING CODE 4410–18–M

V 44 O C 16 7 9 UMI

federal register

Tuesday
October 16, 1979

Part V

Department of Labor

Employment and Training Administration

Adverse Effect Wage Rate Methodology; Public Hearings

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Adverse Effect Wage Rate Methodology; Public Hearings

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of public hearings.

SUMMARY: The employment and Training Administration (ETA) of the Department of Labor (DOL) announces its intention to hold public hearings on methodologies for computing and applying agricultural adverse effect wage rates (AEWRs). These rates are authorized by the Immigration and Nationality Act, 8 U.S.C. 1101 *et seq.*, and the regulations of the Immigration and Naturalization Service appearing at 8 CFR 214.2(h)(3). AEWRs are the minimum wage rates that must be paid to employees of employers seeking importation of temporary nonimmigrant alien workers. The AEWRs are established so that employment of those aliens at those rates will not adversely affect the wage rates of similarly employed United States workers. The Secretary of Labor has summarized these provisions of law in the explanation published at 20 CFR § 655.0. See also in this regard 20 CFR §§ 655.202(b)(9) and 655.207. It should be noted that the only employers required to pay the AEWRs are those who seek to import temporarily nonimmigrant alien workers.

DATES: The dates of the hearings are as follows:

Nov. 5 & 6: Chicopee, Mass.
Nov. 8 & 9: West Palm Beach, Fla.
Nov. 13 & 14: Martinsburg, W. Va.
Nov. 15 & 16: McAllen, Tex.
Nov. 26 & 27: Yakima, Wash.
Nov. 29 & 30: Bakersfield, Calif.

Persons desiring to testify at the hearings, including those who previously requested that a public hearing be held, must provide DOL a notice of intent to appear, postmarked on or before October 31, 1979, for the hearings at Chicopee, Massachusetts, at West Palm Beach, Florida, and at Martinsburg, West Virginia. Notices of Intent to appear for the McAllen, Texas, hearing must be postmarked on or before Nov. 1, 1979; for the Yakima, Washington, hearing on or before Nov. 13, 1979; and for the Bakersfield, California, hearing on or before Nov. 15, 1979.

ADDRESSES: An opportunity to submit oral testimony concerning the issues raised will be provided at these public hearings. Interested persons who are unable to present their views at the hearings in person are invited to submit a written statement or comments for the record. The record will be held open for this purpose until the date specified in subsequent proposed rulemaking.

The material should be addressed to David O. Williams, Administrator, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8000, 601 D Street NW., Washington, D.C. 20213, telephone: 202–376–6289.

The hearing locations are as follows:

Chicopee, Mass., Rodeway Inn & Convention Ctr., 296 Burnett Rd.
West Palm Beach, Fla., Health & Rehabilitative Service (HRS), 2701 Lake Ave., (Lake Ave. & Belvedere Rd.).
Martinsburg, W. Va., Martinsburg Public Library, Martinsburg Room, King & Queen Sts.
McAllen, Tex., Civic Auditorium, 1300 So. 10th St.
Yakima, Wash., Holiday Inn, 9 No. 9th St. & E. Yakima Ave.
Bakersfield, Calif., Ramada Inn, 2620 Pierce Rd., Banquet Rm. "A"

FOR FURTHER INFORMATION CONTACT: Kenneth Bell, U.S. Employment Service, Employment and Training Administration, U.S. Department of Labor, Room 8410, 601 D Street NW., Washington, D.C. 20213. Telephone: 202–376–6297.

SUPPLEMENTARY INFORMATION: There has been widespread interest, among individuals and groups concerned with agricultural employment, in the methodology currently used by the Employment and Training Administration (ETA) to compute the Department of Labor's DOL's) agricultural adverse effect wage rates (AEWRs). Because of this interest, ETA will hold public hearings in various locations around the country to examine the current and alternative methodologies for computing the AEWRs.

Purpose

The purpose of an adverse effect wage rate, as described by the Fifth Circuit Court of Appeals, is "to neutralize any 'adverse effect' resultant from the influx of temporary foreign workers". It is a "method of avoiding wage deflation." *Williams* v. *Usery*, 531 F.2d 305, 306 (1976).

The First Circuit Court of Appeals has recognized that the AEWR is a minimum and neither forbids employers from offering more, nor employees from seeking more. See *Flecha* v. *Quiros*, 567 F.2d 1154 at 1156 (1977). However, that court recognized two competing statutory purposes, quoting from a recent Third Circuit decision:

> The common purposes are to assure [employers] an adequate labor force on the one hand and to protect the jobs of citizens on the other. Any statutory scheme with these two purposes must inevitably strike a balance between the two goals. Clearly, citizen-workers would best be protected and assured high wages if no aliens were allowed to enter. Conversely, elimination of all restrictions upon entry would most effectively provide employers with an ample labor force. *Rogers* v. *Larson*, 3 Cir., 1977, 563 F.2d 617, 626.

The First Circuit then capsulized the purpose of the statute and regulations as "to provide a manageable scheme * * * that is fair to both sides." 567 F.2d at 1156. Thus, the current and alternative methodologies set out below are designed to evoke thoughtful comments from the public concerning a fair and manageable method of setting an AEWR. The methodologies recognize the need to balance the goals of supplying an adequate labor force and protecting the jobs of citizens.

Current Methodology

The current methodology for annually computing the AEWRs is set forth in 20 CFR § 655.207. This methodology was described in the **Federal Register** at 41 FR 25018 (June 22, 1976), reprinted in relevant part as follows:

> Last year [1975], and since 1968, the prior year's adverse effect rate was adjusted by the percentage change in the United States Department of Agriculture (U.S.D.A.) hourly farm wage rate (without room or board). This data was published in the U.S.D.A. publication Farm Labor (Publication Code No. La 1). The data was expressed as a yearly average on a State by State basis.
>
> In 1974, which was a transition year, U.S.D.A. began utilizing a different survey method, publishing average farm wage rates on a quarterly basis, and publishing rates expressed by method of pay and type of work performed. No annual data is published. Data is listed in a State by region format with the New England States not reported separately. In view of this new manner of expressing average wage data by U.S.D.A., it is necessary that the Department of Labor adjust its method of adjusting its "adverse effect" rates.
>
> The movement of wage rates and not absolute wage rates are utilized to update the § 602.10b [now § 655.207] adverse effect rates for workers performing similar tasks, therefore, it was deemed desirable that the choice of what data to utilize from U.S.D.A. should coincide with the crop affected. In the States for which adverse effect rates are being published, temporary foreign agricultural workers are imported primarily for crop harvesting activities, e.g., to pick apples in the eastern seaboard States and to cut sugar cane in Florida. It is reasonable, therefore, to utilize the average wage rate that most closely coincides with the type of work performed by these workers. The category which closely resembles that task for which data is obtained by U.S.D.A. is Field and Livestock Workers.
>
> Although[,] U.S.D.A. also obtains data based upon Piece-Rate methods of pay to farmworkers, this data was determined to be less desirable than the data utilized in view of the limited data available from some States, and the inclusion of Packing House Workers, Machine Operators and Supervisors in this category.
>
> To determine the adverse effect rate for this year [1976] the Department of Labor sought, and obtained, average hourly wage rates for Field and Livestock Workers from U.S.D.A. for calendar years 1974 and 1975. This data is not published by U.S.D.A. However, the primary data, which is[,] the basis for the statistics in Farm Labor, was utilized in responding to the Department of Labor's request. The U.S.D.A. response was as follows:
>
> The sample design for the Quarterly Agricultural Labor Survey is such that the valid wage rates for the individual states in New England cannot be produced. Because of the limited use of hired agricultural labor in New England and limited resources available to us, it was decided to treat New England as a single unit for sampling purposes. We have examined the results when calculated for individual states and find them too variable for release. Consequently, we can provide only the annual average rate for New England as a whole.
>
> * * * * *
>
> [U.S.D.A. tabular material omitted.]
>
> Note.—For documentation of the methodology utilized in the Quarterly Agricultural Labor Survey, we suggest that the section on "Sources and Reliability of Estimates" as published on p. 2 of the enclosed Farm Labor release be used.
>
> To obtain this year's [1976] adverse effect rate the prior year's rate was adjusted by the percentage change in the U.S.D.A. farm wage rate for Field and Livestock Workers between 1974 and 1975. For the individual New England states the prior year's adverse effect rates for each State was adjusted by the percentage change in all the New England States.

Under the above methodology, AEWRs are computed and published annually for agricultural employment. For 1979 the published rates are:

Adverse Effect Wage Rates

State	Hourly Rate
Arizona	$3.67
Colorado	3.59
Connecticut	2.92
Florida (sugar cane only)	3.79
Maine	3.01
Maryland	3.01
Massachusetts	2.90
New Hampshire	3.15
New York	3.06
Rhode Island	2.90
Texas	3.25
Vermont	3.10
Virginia	2.96
West Virginia	3.10

Note.—Based upon 1977–78 USDA wage data and the formula published at 20 CFR § 655.207(b)(1). Pursuant to 20 CFR § 655.207(e), the employer must pay at least $2.90 per hour in calendar year 1979 and $3.10 per hour in calendar year 1980, as applicable. 29 U.S.C. 206(a)(1).

Alternative Methodologies and Workforce Average Earnings Principle

DOL has developed five alternative methodologies for computing an AEWR. Any of the five methodologies, a variation, or a different methodology suggested during the rulemaking process may be used to replace the current methodology. Each alternative assumes that the adverse effect rate must be offered and paid by any agricultural employer seeking to import temporary foreign workers.

Irrespective of which alternative is selected, consideration is being given also to applying the AEWR as an average rate earned by the employer's workforce. [The current application, by contrast, guarantees the hourly AEWR to each individual worker.] If the AEWR is calculated at $3.99 per hour, the workforce average principle would require that the employer's affected workers as a unit must receive average hourly earnings equal to the AEWR. This means that some employees in the unit, assuming they were paid on a piece rate basis, could earn more than $3.99 per hour while others might earn less based upon each indivdual's production under a single piece rate. Should the workforce average exceed the AEWR, no pay reduction would be permitted because the employer elected to compensate the workers on a piece rate incentive basis. Should the average for the unit fall below the AEWR, the entire workforce would receive the same percentage make up pay until the workforce average equals the AEWR. The employer would adjust the single piece rate upwards for the next payroll period so that it would yield a workforce average equal to or above the AEWR.

The current application of the AEWR, by contrast, guarantees the hourly AEWR to each individual worker. If the worker doesn't harvest fast enough on a piece rate to earn the hourly AEWR, the employer must make up the difference. However, some employers have terminated workers who were not able to produce at or above the AEWR. The application of the AEWR as a workforce average which piece rates must yield should tend to eliminate this dynamic.

Another approach being considered would require that at least 90% of the workforce must receive the AEWR. In any event, each individual worker under either the "average" or "90%" approach would be guaranteed an hourly wage that is not less than the federal minimum wage.

The five alternative methodologies developed by DOL are as follows:

Alternative 1: Single National AEWR

Under this methodology, a single nationwide AEWR would be based on the hourly earnings, as reported by the U.S. Department of Agriculture, on piece rate work paid farm laborers, and the demonstrable historical relationship between the average hourly earnings, as reported by the U.S. Department of Labor, of production workers in the private non-farm economy. DOL has found that there is a strong statistical relationship between increases in average hourly earnings of agricultural piece rate workers and increases in the hourly earnings of nonfarm production workers. However, the fact that the labor certification process must be instituted long before any of the farm work begins means that current wage data for such work is not available and it is thus necessary to forecast the AEWR rather than to use actual farm wage statistics. This is done by applying the historical statistical relationship between the farm and non-farm wages to the wage data for non-farm production workers. Using a regression equation now being formulated, DOL annually would use wage data for nonfarm production work, from a selected calendar quarter or from the entire year, to forecast an agricultural AEWR for the following year.

The methodology suggested under this alternative takes cognizance of the interstate movement of farm workers. It also recognizes the fact that farm earnings are affected by many of the same economic forces such as the general rise in prices, productivity and foreign trade that impact on other sectors of the economy and the earnings of labor in these sectors. The relationship between earnings in the two sectors is also affected by the fact that depending on the wage movement workers move from one sector to the other. Absent distortions that would be caused by the importation of foreign farm labor, DOL would expect a close statistical relationship (though not necessarily a one to one relationship) between the earnings of farm laborers and workers in other sectors.

Alternative 2: National AEWR by Crop Activity

Under this methodology, the guaranteed hourly AEWR would be based on the national wage rate prevailing in the particular crop activity for which the aliens are sought. The prevailing rate would be the average of the rates paid domestic workers in that crop activity at the end of the previous

V 4 4 0 C 1 6 7 9 UMI

year's harvest season. The AEWR for each crop activity would apply nationwide. Piece rates would be separately adjusted based on the percentage change in the hourly rate, and the bases for the piece rates would be the piece rates prevailing for each crop at the end of the 1979 harvest season.

This approach also recognizes the national nature of the labor market, and that earnings vary by the nature of the crop. To the extent that these factors can be considered the methodology would avoid the potential distortions that accompany the importation of foreign labor.

Alternative 3: Federal Minimum Wage Adjusted by the Annual Percentage Change in the National or State U.S.D.A. Farm Wage Rate For Field Workers

Beginning in the 1980 harvest seasons, the Federal minimum wage would be adjusted by the percentage change occurring between 1978 and 1979 in the higher of the national or state farm wage rate for field workers. The same procedure would be repeated in subsequent years.

This alternative takes cognizance of the significant changes that have taken place in the federal minimum wage over the past fifteen years, in terms of its level and its applicability to both non-farm and farm labor. There are numerous public policy considerations taken into account by the Congress in enacting the federal minimum wage. Using that wage as a benchmark would include those considerations in the computation process. In addition, this methodology would take into account increases in farmworker earnings over the past year.

Alternative 4: Workforce Average 25 Percent Above Federal Minimum Wage

Individual employers would be required to pay piece-rates designed to yield earnings at least 25 percent above the Federal minimum wage, on the average, to the work force in a particular crop activity during a payroll period.

This alternative, like Alternative 3, takes cognizance of the significant changes that have taken place in the federal minimum wage over the past fifteen years. There are numerous public policy considerations taken into account by the Congesss in enacting the federal minimum wage. Using that wage as a benchmark would include those considerations in the computation process. In addition, this methodology would set a constant differential to the federal minimum wage, which recognizes that farmworker wages are generally above the federal minimum wage.

Alternative 5: Retain the Existing System Publishing Rates for All States

Under this methodology, rates would continue to be set on a State-by-State basis without respect to crop activity. Under the present system States are added to the list of States for which AEWRs are published when there has been a request for non-immigrant alien labor. This methodology would call for rates in all States, and the current requirement for makeup pay would be retained. By extending the AEWR to all States, DOL would be recognizing the fact that the past presence or potential usage of foreign workers could have a deleterious effect on the earnings of domestic workers.

Notice of Public Hearings

ETA has decided to hold public hearings to give interested parties an opportunity to express their views of the present methodology and alternative methodologies, including but not limited to those methodologies presented by ETA in this notice. The hearings are intended to provide ETA and DOL with sufficient background information to provide reasonable safeguards of job opportunities for U.S. workers.

The hearing locations and dates are as follows:

Locations and Dates

Chicopee, Mass., Rodeway Inn & Convention Ctr., 296 Burnett Rd.; Nov. 5 & 6, 1979.
West Palm Beach, Fla., Health & Rehabilitative Service (HRS), 2701 Lake Ave. (Lake Ave. & Belvedere Rd.); Nov. 8 & 9, 1979
Martinsburg, W. Va., Martinsburg Public Library, Martinsburg Room, King & Queen Sts.; Nov. 13 & 14, 1979
McAllen, Tex., Civic Auditorium, 1300 So. 10th St.; Nov. 15 & 16, 1979.
Yakima, Wash., Holiday Inn, 9 No. 9th St. & E. Yakima Ave.; Nov. 26 & 27, 1979.
Bakersfield, Calif., Ramada Inn, 2620 Pierce Rd., Banquet Rm. "A"; Nov. 29 & 30, 1979.

The above addresses will be published in local newspapers of record approximately two weeks prior to the start of the hearings at each site. This information will also be provided to individuals or groups specifically requesting this information from the contact person indicated earlier in this notice, as soon as it is available.

Public Participation

Persons desiring to testify at the hearings, including those who previously requested that a public hearing be held, must provide DOL a notice of intent to appear, postmarked on or before October 31, 1979, for the hearings at Chicopee, Massachusetts, at West Palm Beach, Florida, and at Martinsburg, West Virginia. Notices of intent to appear for the McAllen, Texas, hearing must be postmarked on or before Nov. 1, 1979; for the Yakima, Washington, hearing on or before Nov. 13, 1979; and for the Bakersfield, California, hearing on or before Nov. 15, 1979.

The notice of intent to appear, which will be available for public inspection, must contain the following information:

(1) The name, address, and telephone number of each person to appear;

(2) the capacity in which the person will appear;

(3) the approximate amount of time required for the presentation; and

(4) the issues that will be addressed.

This information is necessary to properly schedule witnesses. In addition, the amount of time requested for each presentation will be reviewed in light of the number of persons or groups who wish to appear and will affect the time limitations of the hearing schedule. In some cases, the time requested may be modified and the participant so informed

Since this is a continuous hearing process building a single record, material submitted for the official record at one hearing should not be submitted again at another site.

Hearings Procedures and Objectives

The hearing will commence at 9:30 a.m. at each location. The presiding official at the hearing shall have all the powers necessary or appropriate to conduct a full and fair public hearing, including the powers:

(1) To regulate the course of the proceedings including the order of the appearance of witnesses;

(2) To dispose of procedural requests and comparable matters;

(3) To confine the presentations to matters pertinent to the adverse effect wage rate methodology; and

(4) To regulate the conduct of those present at the hearing by appropriate means.

The presiding official may question and shall permit questioning of witnesses by a person or persons representing the United states Employment Service for purposes of clarifying the comments and documents received. Following the close of the hearings, the presiding official shall certifiy the record thereof.

All oral and written submissions received as part of the record will be considered in developing an adverse effect wage rate methodology for publication as proposed rulemaking. Final action will take into account the entire record in this proceeding and the formal comments received during the period of public comments on proposed rulemaking. The object of hearings and subsequent proposed rulemaking are to ensure that whatever regulations are issued by the DOL for application in the harvest activities will treat all interested groups in an equitable manner, consistent with the provision of the law.

Interested parties are encouraged to review the current and alternative methodologies for computing adverse effect wage rates for purposes of submitting oral or written testimony.

Signed at Washington, D.C. this 12th day of October, 1979.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 79-32047 Filed 10-15-79; 8:45 am]

BILLING CODE 4510-30-M

V 4 4 0 C 1 6 7 9 UMI

V 44 OC 16 7 9 UMI

Reader Aids

Federal Register

Vol. 44, No. 201

Tuesday, October 16, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662.....1
56663-56918.....2
56919-57064.....3
57065-57378.....4
57379-57906.....5
57907-58492.....9
58493-58670.....10
58671-58888.....11
58889-59194.....12
59195-59488.....15
59489-59894.....16

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163).....56673
10900 (Amended by EO 12163).....56673
10973 (Revoked by EO 12163).....56673
11223 (Amended by EO 12163).....56673
11269 (Amended by EO 12164).....56681
11579 (Amended by EO 12163).....56673
11846 (Amended by EO 12163).....56673
11958 (Amended by EO 12163).....56673
12065 (Amended by EO 12163).....56673
12087 (Superseded by EO 12165).....58671
12092 (Amended by EO 12161).....56663
12140 (Amended by EO 12162).....56665
12161.....56663
12162.....56665
12163.....56673
12164.....56681
12165.....58671

Proclamations:
4693.....56669
4694.....56671
4695.....58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163).....56673

Presidential Determination:
No. 79-17 of September 28, 1979.....56667

5 CFR

340.....57379
353.....56683
451.....58889
890.....57379

6 CFR

705.....56900, 58891
706.....56910, 58891

Proposed Rules:
702.....59166
703.....59166
704.....59166

7 CFR

2.....57907, 58495, 58679
6.....58893
15a.....57907
16.....56919
29.....57907
246.....59489
282.....59052
421.....58893
905.....59195
906.....57909
908.....57065, 58680
910.....57383, 58893
929.....56683
932.....58495
944.....59195
966.....58894, 59197
979.....56684
982.....57065
1139.....57066
1421.....56305, 57383
1464.....57909, 58894
1822.....56919, 59198
1861.....56920
1901.....59198
1941.....58895
1942.....56684
1944.....59198
1951.....56306
1980.....56920, 58896

Proposed Rules:
6.....56943
20.....57931
27.....57932
272.....57414
273.....57414, 58915
318.....57415
725.....57932
729.....57416
981.....57417
1065.....57103
2853.....58916, 59548
2858.....58916

8 CFR

100.....56311

Proposed Rules:
103.....56368

9 CFR

78.....57384
91.....59498
92.....58896
113.....58897
309.....59498

Proposed Rules:
92.....58918

10 CFR

50.....57911, 57912
51.....56312
211.....56888, 57067
212.....57069
320.....58900

476.....57370
570.....56921
Proposed Rules:
211.....56369, 59240, 59551
214.....57103
220.....56369
375.....56953
376.....56953

11 CFR
Proposed Rules:
100.....59162
110.....59162
114.....59162

12 CFR
Ch. VII.....56691
201.....57385
202.....57070
205.....59474
207.....56922
220.....56922
221.....56922
224.....56922
226.....56312
263.....56685
265.....56313, 59227
346.....57385
545.....57386
704.....58496
742.....57071
Proposed Rules:
Ch. II.....58744
Ch. V.....57419
205.....59464
545.....58744

13 CFR
101.....59499
121.....58744, 59504
Proposed Rules:
111.....58745

14 CFR
39.....56315-56322, 57072, 57073, 58680-58684
71.....56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686
73.....57080-57082
75.....57082-57084
97.....57918
207.....58499
208.....58499
212.....57386, 58500
214.....57387, 58500
221a.....57085
241.....58500, 59505
287.....57085
1214.....56923
Proposed Rules:
Ch. I.....56369
Ch. V.....56377
11.....56370, 59242
21.....56370, 59242
37.....56370, 59242
39.....57105
71.....56373-56376, 57106, 57934-57938
73.....58746
93.....56376
233.....59242
270.....59242
302.....59242

15 CFR
30.....58686
370.....59227
371.....59227
374.....59227
377.....59227

16 CFR
13.....56323, 56923, 57920, 58901-58906
1700.....57920
Proposed Rules:
Ch. I.....59552
Ch. II.....57352
13.....58516, 58518, 58747
1404.....59557

17 CFR
210.....57030, 57037
211.....57038
231.....56924
240.....57387
241.....56924
249.....57374, 57387
270.....58502, 58907
Proposed Rules:
240.....56953
270.....58521

18 CFR
2.....56926
154.....57726
201.....57726
204.....57726
271.....56926
273.....59230
274.....59230
282.....57726, 57754, 57778
290.....58687
Proposed Rules:
282.....57783, 57786, 57788, 58749
292.....57107

19 CFR
4.....57086, 57087
101.....57088
Proposed Rules:
134.....58527
153.....59741, 59762
155.....57044, 59762
159.....57044, 59762
177.....56715
201.....59392
207.....59392

20 CFR
404.....56691
675.....56866
680.....56866
Proposed Rules:
615.....56715
665.....59689

21 CFR
10.....59174
12.....59174
13.....59174
14.....59174
15.....59174
16.....59174
109.....57389
177.....59505
178.....59506
193.....59231
510.....57389, 59507
520.....59507, 59508
558.....57389
740.....59509
1316.....56324
Proposed Rules:
166.....57422
203.....58918
310.....58919
312.....58919
314.....58919
890.....57939, 57940, 58919
1020.....57423

22 CFR
515.....58708
Proposed Rules:
216.....56378

23 CFR
140.....59232
Proposed Rules:
771.....59438

24 CFR
Ch. XIII.....58507
42.....56324
203.....57089
205.....57090
207.....57090
213.....56927, 57089, 57090
220.....57090
221.....57090
232.....57090
234.....57089
235.....57090
236.....57090
240.....58503
241.....57090
242.....57090
244.....57090
250.....57090
290.....56608
403.....58503
510.....58506
570.....56325
803.....59112
841.....57922
880.....59408
888.....57925, 59112
Proposed Rules:
203.....58527
881.....59246
888.....58528

25 CFR
31a.....58096
31b.....58101
Proposed Rules:
252.....59559
700.....59560

26 CFR
1.....57925, 59523
7.....57390
31.....59524
Proposed Rules:
Ch. I.....56502
1.....57423, 57427
31.....57940
301.....56715

27 CFR
9.....56692
201.....56326

28 CFR
0.....57926, 58908
2.....58507, 59527, 59528
50.....57926
Proposed Rules:
2.....58528
16.....58920, 58921

29 CFR
14.....57397
1604.....58073
2610.....58908
2703.....57348
Proposed Rules:
1904.....59560
1926.....59561

30 CFR
Ch. VII.....57927
701.....58783
741.....58783

31 CFR
Proposed Rules:
Ch. II.....59246

32 CFR
51.....56328
199.....58709
231.....56328
706.....56929, 57400
901.....56930
Proposed Rules:
56.....58750

33 CFR
117.....59233
127.....57092, 57927
147.....57927
165.....57928, 57929

35 CFR
133.....56916
253.....56693
Proposed Rules:
133.....57941

36 CFR
50.....56934
1228.....58088
Proposed Rules:
Ch. IX.....56954, 58528

38 CFR
3.....58709
Proposed Rules:
3.....58758
36.....56329, 58508

39 CFR
111.....58509

40 CFR
52.....56694, 57401
65.....56696, 59528
81.....57929
117.....58711, 58909
231.....58076
257.....58910
413.....56330
600.....57358

Proposed Rules:
40.....56955
50.....56730
51.....56957, 57107
52.....56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564
55.....56721, 58759
60.....57792, 58602
61.....58642, 58661
62.....57118, 57948
81.....57942, 58758, 58922
120.....57428, 59565
122.....56957
162.....57429
250.....56724, 58923
600.....57362
707.....56856
713.....59106
720.....59764

41 CFR
Ch. 101.....56699, 59192, 59529
8-4.....59529
101-29.....58910
Proposed Rules:
Ch. 25.....56387
9-7.....57119
101-40.....59247
109-1.....57121
109-60.....57121

42 CFR
57.....56937
71.....58911
456.....56333
Proposed Rules:
74.....58923
405.....58923

43 CFR
221.....56339
1821.....59530
2880.....58126
3400.....56339
3410.....56339
3420.....56339
3422.....56339
3430.....56339
3440.....56339
3450.....56339
3460.....56339
3470.....56339
3500.....56339
3501.....56339
3502.....56339
3503.....56339
3504.....56339
3507.....56339
3511.....56339
3520.....56339
3521.....56339
3524.....56339
3525.....56339
3526.....56339
3550.....56339
3564.....56339
3565.....56339
3566.....56339
3568.....56339
Proposed Rules:
4.....57948
34.....59096
1780.....56622
2800.....58106
3100.....58638

44 CFR
64.....56354, 57092, 57093
65.....57094
67.....56366, 56701
Proposed Rules:
67.....56957, 57429-57432

45 CFR
Ch. I.....56938
20.....58912
55.....58912
61.....58912
80.....58509
82.....58912
116.....59152
116a.....59152
304.....56939
1010.....56548
1012.....56548
1050.....56548
1060.....56548
1061.....56548, 58876
1062.....56548
1063.....56548
1064.....56548
1067.....56548
1068.....56548
1069.....56548
1070.....56548
1075.....56548
1076.....56548
1624.....58712
Proposed Rules:
Ch. VI.....56387
Ch. XI.....56389
234.....56389
236.....56389
617.....57127
1152.....56725
1172.....57130

46 CFR
154.....59234
154a.....59234
503.....57411
Proposed Rules:
66.....57137
283.....58928
355.....58928

47 CFR
0.....57096
2.....58712, 59530
15.....59530
18.....56699
61.....57096
73.....57097, 58718-58729, 58912
74.....58729
87.....59546
90.....57098, 58737, 59234
97.....58742
Proposed Rules:
0.....57636
1.....59568
15.....59570
21.....58929
63.....59578
73.....57138, 57636, 58762-58764, 59568, 58579, 59580
76.....58766
81.....59581

49 CFR
192.....57100
213.....56342
301.....59239
571.....57100
801.....56340, 57930
1011.....58511
1033.....56343, 56939, 58913, 58914
1100.....58511
1307.....57413
1310.....57413
1322.....57930
Proposed Rules:
Ch. X.....57139
110-189.....58767
172.....58767
173.....58767
195.....57952
575.....56389
622.....59438
1036.....59581

50 CFR
13.....59080
17.....56862, 58866, 58868, 59080
32.....56940, 56941
218.....57100
611.....57101
652.....56941
653.....56700, 56701
810.....59086
Proposed Rules:
17.....56618
285.....57140
611.....59257, 59582

V 44 O C 16 7 9 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

INTERIOR DEPARTMENT

Fish and Wildlife Service—

42910 7-20-79 / West African Manatee; final threatened status

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 15, 1979

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202-523-5239.

V 4 4 0 C 1 6 7 9 UMI

10-17-79
Vol. 44 No. 202
Pages 59895-60068

Federal Register

Wednesday
October 17, 1979

Highlights

59963 **Strengthening Developing Institutions Program** HEW/OE announces closing date for transmittal of applications for Fiscal Year 1980; applications by 12-10-79 (2 documents)

60022 **Career Education Incentive Programs** HEW/OE authorizes four new programs of financial assistance (Part II of this issue)

60038 **Chemical Carcinogens** Regulatory Council issues policy and requests comments; comments by 11-15-79 (Part IV of this issue)

60056, 60057, 60061 **Asbestos** CPSC and EPA issue a joint statement on coordination of regulatory activities, and advance notices of proposed rulemaking; comments by 12-17-79 (3 documents) (Part VI of this issue)

60052 **National Voluntary Laboratory Accreditation Program** Commerce/Sec'y announces the granting of accreditation to laboratories for specific tests on thermal insulation materials; accreditation 10-12-79 through 10-11-80 (Part V of this issue)

59914, 60032 **Nondiscrimination on the Basis of Age** EEOC and SBA propose provisions for programs or activities receiving Federal financial assistance; comments by 12-17-79 (Parts I and III of this issue)

CONTINUED INSIDE

V 4 4 0 C 1 7 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Area Code 202-523-5240

Highlights

59911 **Whaling** Commerce/NOAA issues rule and closes season for taking of Bowhead whales by Indians, Aleuts, or Eskimos for subsistence purposes; (2 documents)

59897 **Antiboycott and Export Control Compliance** Commerce/ITA issues interim rule, requests comments, and proposes to conduct a public survey regarding administrative proceedings; effective 10-12-79; comments by 12-11-79, and 12-3-79 (2 documents)

59936-59947 **Antipesticide Products** EPA issues specific exemptions for certain pesticides, and approves 59950-59953 certain applications, and tolerances; (11 documents)

59914 **Architectural Glazing Materials** CPSC proposes partial revocation of safety standard; comments by 11-26-79, oral presentation 10-23-79

59930 **Cable Royalty Distribution** Copyright Royalty Tribunal requests information; comments by 11-15-79, reply comments by 11-28-79, oral arguments on 12-5-79

59908 **Voting Trusts Rules** ICC issues rules intended to correct abuses of voting trust agreements; effective 12-17-79

59895 **Loan Payments and Collections** USDA revises rules regarding the depositing of payments received in local offices; effective 10-17-79

59895 **Real Property Transactions with Affiliated Persons** FHLBB amends rules; effective 11-16-79

59930 **Certain Man-Made Fiber Apparel Products from the Republic of the Philippines** CITA reduces overshipment charges to level of restraint; effective 10-18-79

59931 **Certain Cotton, Wool and Man-Made Fiber Floor Coverings from India** CITA waives export visa and exempts certification requirements; effective 10-12-79

59985 **Tuna and Tuna Products** Treasury/Customs removes importation prohibition from Peru; effective 10-17-79

60000 **Sunshine Act Meetings**

Separate Parts of This Issue

60022 **Part II, HEW/OE**
60032 **Part III, SBA**
60038 **Part IV, Regulatory Council**
60052 **Part V, Commerce/Sec'y**
60056 **Part VI, CPSC and EPA**

Contents

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

Agricultural Marketing Service
PROPOSED RULES
Milk marketing orders:
59913 Iowa

Agriculture Department
See Agricultural Marketing Service; Farmers Home Administration; Forest Service.

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Meetings:
59961 Advisory committees; November

Civil Aeronautics Board
NOTICES
Hearings, etc.:
59922 Eastern Air Lines, Inc., et al.
59922, 59924 Former large irregular air service investigation (2 documents)
59921 International Air Transport Association
59924 Miami/New Orleans-San Jose, C. R. case
59924 Southwest Alaska service investigation
60000 Meetings; Sunshine Act

Commerce Department
See also Industry and Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
Laboratory Accreditation Program, National Voluntary:
60052 Thermal insulation materials; testing laboratories accreditation; list

Commodity Futures Trading Commission
60000 Meeting; Sunshine Act

Consumer Product Safety Commission
PROPOSED RULES
59914 Architectural glazing materials; safety standards; partial revocation; meeting
60057 Asbestos, use in consumer products; advance notice
NOTICES
60056 Asbestos, use in consumer products containing; policy statement on coordination of regulatory activities
60000 Meetings; Sunshine Act

Copyright Royalty Tribunal
NOTICES
59930 Cable royalty fees; structure and procedure of distribution proceedings; inquiry

Customs Service
NOTICES
59984 Imported cab chassis; tariff classification
59985 Tuna and tuna products from Peru; importation prohibition

Defense Department
NOTICES
Meetings:
59932 DIA Advisory Committee

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
59914 Motor gasoline retail sales; equal application rule and increased cost allocation; hearing cancelled

Education Office
RULES
60022 Career education incentive programs
NOTICES
Grant applications and proposals, closing dates:
59963 Strengthening developing institutions program; new projects
59963 Strengthening developing institutions program; noncompeting continuation projects
Meetings:
59962 Vocational Eduation National Advisory Council

Energy Department
See Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
59907 Chlorpyrifos
Pesticides; tolerances in animal feeds:
59903 Thidiazuron
PROPOSED RULES
Toxic Substances:
60061 Asbestos fibers, commercial and industrial use; advance notice
NOTICES
Air quality implementation plans; approval and promulgation:
59952 Nevada; temporary emergency suspension disapproved
Environmental statements; availability, etc.:
59933 Agency statements, weekly receipts
59933 Agency statements, weekly receipts; correction
59956 Pesticide applicator certification; cotton defoliants in Arizona; advisory opinion
Pesticide registration, cancellation, etc.:
59938 Amitraz; correction
59939 Amitraz
59936 Bayleton technical
59936 Bayleton 50% wettable powder
59937 Bayleton 25% wettable powder
59953 Sumithion 8-E
Pesticides; emergency exemption applications:
59947, 59951 Permethrin (2 documents)
59950 Permethrin and fenvalerate
59937 Terramycin
59938 Velpar

Pesticides; temporary tolerances:
59956 Thidiazuron
Toxic and hazardous substances control:
59948 Aromatic haloethers; denial of petition to remove from toxic pollutant list
60056 Asbestos fibers; commercial and industrial use, policy statement on coordination of regulatory activities
59953, 59994 Premanufacture notices receipts (2 documents)
59955 Premanufacture notices; monthly status report

Equal Employment Opportunity Commission
PROPOSED RULES
Nondiscrimination:
59914 Age discrimination in federally-assisted programs

Farmers Home Administration
RULES
59895 Loan payments and collections; deposits in local Treasury General Accounts

Federal Communications Commission
NOTICES
Hearings, etc.:
59950 Southern Bell Telephone & Telegraph Co. et al

Federal Deposit Insurance Corporation
60000, 60001 Meetings; Sunshine Act

Federal Home Loan Bank Board
RULES
Federal Savings and Loan Insurance Corporation
59895 Real property transactions with affiliated persons

Federal Maritime Commission
NOTICES
59960 Agreements filed, etc.
60001 Meeting; Sunshine Act

Federal Mine Safety and Health Review Commission
60002 Meeting; Sunsine Act

Federal Prison Industries
RULES
59904 Inmate accident compensation; claims procedures

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations:
59961 Petro-Lewis Corp.

Fish and Wildlife Service
RULES
Fishing:
59910 Bear River Migratory Bird Refuge, Utah
Hunting:
59910 Bear River Migratory Bird Refuge, Utah
NOTICES
59969 Endangered and threatened species permits; applications (2 documents)

Foreign Claims Settlement Commission
RULES
59908 International Claims Settlement Act of 1949; claims filing and proposed determination procedure

Forest Service
NOTICES
Environmental statements; availability, etc.:
59921 Burlington Northern Inc. Land Exchange, Mont., et al.; cancellation of preparation of EIS
Meetings:
59921 Routt National Forest Grazing Advisory Board

Geological Survey
NOTICES
Meetings:
59970 Earthquake Studies Advisory Panel

Health, Education, and Welfare Department
See also Alcohol, Drug Abuse, and Mental Health Administration; Education Office; Social Security Administration.
RULES
Nondiscrimination:
59908 Federally-assisted programs; policy interpretation; correction

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
59932 Cases filed

Housing and Urban Development Department
NOTICES
Environmental statements; availability, etc.:
59967 Solano County urban corridor growth area along I-80 Freeway, Calif.

Immigration and Naturalization Service
NOTICES
Meetings:
59971 Immigration and Naturalization Federal Advisory Committee

Immigration and Refugee Policy Select Commission
NOTICES
59983 Meetings

Industry and Trade Administration
RULES
59897 Antiboycott and export control compliance; administrative proceedings; interim rule and request for comments
NOTICES
59926 Restrictive trade practices or boycotts; proposed public survey

Interior Department
See Fish and Wildlife Service; Geological Survey; Land Management Bureau; National Park Service.

International Trade Commission
NOTICES
Import investigations:
59970 Automatic crankpin grinders

Interstate Commerce Commission
RULES
Practice rules:
59908 Voting trust agreements; guidelines
NOTICES
Agreements under sections 5a and b, applications for approval, etc.:
59986 Automobile Transporters Tariff Bureau, Inc.
59988 Fourth section applications for relief (2 documents)
59986 Hearing assignments
59989 Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications
Rail carriers:
59999 Chicago, Rock Island & Pacific Railroad Co.; continued directed service; hearings
Railroad car service orders; various companies:
59987 Burlington Northern Inc.
59987 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.
59987, 59988 Railroad car service rules, mandatory; exemptions (4 documents)
Rerouting of traffic:
59999 All railroads

Justice Department
See also Federal Prison Industries; Immigration and Naturalization Service.
RULES
Information; production or disclosure:
59904 Subpenas or demands of courts or other authorities, response; Deputy Assistant Attorney General, Antitrust Division; authority delegation

Land Management Bureau
NOTICES
Applications, etc.:
59968 New Mexico (3 documents)
59969 Wyoming
Meetings:
59969 Uinta-Southwestern Utah Federal Regional Coal Team

National Bureau of Standards
NOTICES
59930 Senior executive service, Limited Performance Review Board; additional member

National Oceanic and Atmospheric Administration
RULES
Whaling:
59911 Bowhead whales, taking by Indians, Aleuts, or Eskimos for subsistence purposes (2 documents)

National Park Service
NOTICES
Environmental statements; availability, etc.:
59970 Chesapeake & Ohio Canal National Historical Park, Md., development concept plan; hearings

National Science Foundation
NOTICES
Meetings:
59972 Atmospheric Sciences Advisory Committee

National Transportation Safety Board
60002 Meetings; Sunshine Act

New Community Development Corporation
NOTICES
Environmental statements; availability, etc.:
59968 Jonathan New Community, Minn.

Nuclear Regulatory Commission
60002 Meetings; Sunshine Act

Regulatory Council
NOTICES
60038 Chemical carcinogens regulation; statement and inquiry

Securities and Exchange Commission
NOTICES
Hearings, etc.:
59972 Arkansas Power & Light Co.
59973 Eastern Utilities Associates et al.
Self-regulatory organizations; proposed rule changes:
59974 Midwest Stock Exchange, Inc.

Small Business Administration
PROPOSED RULES
Nondiscrimination:
60032 Age discrimination in federally-assisted programs
NOTICES
Applications, etc.:
59983 Denver Ventures, Inc.
59984 Western Venture Resources, Inc.

Social Security Administration
NOTICES
59963 Social security for the future; meetings; correction

State Department
NOTICES
Meetings:
59984 International North Pacific Fisheries Commission, U.S. Section Advisory Committee

Textile Agreements Implementation Committee
NOTICES
Cotton, wool, and man-made textiles:
59931 India
Man-made textiles:
59930 Philippines

Treasury Department
See also Customs Service.
NOTICES
Bonds, Treasury:
59986 1994 series

Unemployment Compensation, National Commission
NOTICES
59972 Commission continuation

V 44 0 C 1 7 7 9 UMI

Veterans Administration
RULES
Organization and functions:
59905 Regional office committees; jurisdiction on waivers and compromises

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
59921 Routt National Forest Grazing Advisory Board, 11–15–79

DEFENSE DEPARTMENT
Office of the Secretary—
59932 Defense Intelligence Agency Advisory Committee, 11–19 and 11–20–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Alcohol, Drug Abuse, and Mental Health Administration—
59961 Various advisory committees, November and December 1979
Education Office—
59962 National Advisory Council on Vocational Education, 11–2–79

INTERIOR DEPARTMENT
Geological Survey—
59970 Earthquake Studies Advisory Panel, 11–1 and 11–2–79
Land Management Bureau—
59969 Uinta-Southwestern Utah Federal Regional Coal Team Briefing, 10–31–79

JUSTICE DEPARTMENT
Immigration and Naturalization Service—
59971 Federal Advisory Committee on Immigration and Naturalization, 11–1 and 11–2–79

NATIONAL SCIENCE FOUNDATION
59972 Advisory Committee for Atmospheric Sciences, 10–31, 11–1, and 11–2–79

STATE DEPARTMENT
59984 Advisory Committee to United States Section International North Pacific Fisheries Commission, 10–28–79

HEARINGS

INTERNATIONAL TRADE COMMISSION
59970 Certain automatic crankpin grinders, 10–29–79, request to appear by 10–24–79, written submissions by 11–12–79

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY
59983 Baltimore, Maryland regional hearing, 10–29–79

CANCELLED HEARING

ENERGY DEPARTMENT
Economic Regulatory Administration—
59914 Mandatory Petroleum Price Regulations, Equal Application Rule and Allocation of Increased Cost at Retail Level, 10–18–79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
1864 59895
1942 59895
1951 59895
1955 59895
Proposed Rules:
1079 59913

10 CFR
Proposed Rules:
212 59914

12 CFR
563 59895

13 CFR
Proposed Rules:
117 60032

15 CFR
388 59897

16 CFR
Proposed Rules:
Ch. II 60057
1201 59914

21 CFR
561 59903

28 CFR
16 59904
301 59904

29 CFR
Proposed Rules:
1616 59914

38 CFR
1 59905

40 CFR
180 59907
Proposed Rules:
763 60061

45 CFR
80 59908
161 60022
161a 60022
531 59908

49 CFR
1013 59908

50 CFR
32 59910
33 59910
230 (2 documents) 59911

V 44 OC 17 79 UMI

V 4 4 0 C 1 7 7 9 UMI

Rules and Regulations

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1864, 1942, 1951, and 1955

Loan Payments and Collections

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) revises its regulations regarding the depositing of loan payments received in local offices. The intended effect of this action is to authorize District Directors and County Supervisors to deposit loan payments in local Treasury General Accounts (TGAs) in locations where Treasury has established such accounts and make appropriate cross-reference changes and minor editorial changes to implement this system. Implementation of this system will result in substantial interest savings to FmHA.

EFFECTIVE DATE: October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. LaVerne A. Isenberg, Phone: 202-447-2852.

SUPPLEMENTARY INFORMATION: Various sections of Part 1864, Subpart A of Part 1942, Subpart B of Part 1951, and Subpart A of Part 1955, Chapter XVIII, Title 7, Code of Federal Regulations are amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These actions, however, are not published for proposed rulemaking as they are amendments to FmHA internal operating procedures and operations. This determination has been made by LaVerne A. Isenberg.

Accordingly, miscellaneous amendments are made to Chapter XVIII as follows:

PART 1864—DEBT SETTLEMENT

§ 1864.15 [Amended]

1. In § 1864.15(b)(1), first sentence, delete "transmitted to the Federal Reserve Bank or Branch, as required in Part 1862" and insert "deposited in accordance with Subpart B of Part 1951."

PART 1942—ASSOCIATIONS

Subpart A—Community Facility Loans

§ 1942.7 [Amended]

2. In § 1942.7(d), in the last sentence, delete the words "to the Finance Office" and insert a period following the word "funds."

§ 1942.19 [Amended]

3. In § 1942.19(h)(6), in the last sentence, delete "on Form FmHA 451-2, 'Schedule of Remittances' " and insert "or deposit them in a Treasury General Account in accordance with Subpart B of Part 1951 of the chapter."

PART 1951—SERVICING AND COLLECTIONS

Subpart B— Collections

§ 1951.54 [Amended]

4. In § 1951.54, delete the period after the word "collections" and insert "or deposit collections in a local Treasury General Account when authorized to do so by the Farmers Home Administration National Office."

PART 1955—PROPERTY MANAGEMENT

Subpart A—Liquidation of Loans and Acquisition of Property

§ 1955.10 [Amended]

5. In § 1955.10(j)(3)(iii), in the first sentence, insert "deposit them in a Treasury General Account" preceding the word "forward."

6. Section 1955.15(d)(14)(iii) is amended to read as follows:

§ 1955.15 Foreclosure of loans secured by real estate.

* * * * *

(d) *Approval of foreclosure.* * * *

* * * * *

(14) *Leases.* * * *

* * * * *

(iii) The County Supervisor will collect payments due and payable after the date of foreclosure and deposit or transmit them as miscellaneous collections in accordance with the FMI for Form FmHA 451-2, and Subpart B of Part 1951 of this Chapter.

Note.—This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environment Policy Act of 1969, Public Law 91-190, an Environmental Impact Statement is not required. This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, 14th Street and Independence Avenue, Southwest, Room 6346, Washington, DC 20250.

(7 U.S.C. 1989; (42 U.S.C. 1480; 5 U.S.C. 301); sec. 10 Pub. L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

Dated: September 21, 1979.

Gordon Cavanaugh,
Administrator, Farmers Home Administration.

[FR Doc. 79-32041 Filed 10-16-79; 8:45 am]
BILLING CODE 3410-07-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 563

[No. 79-509]

Real Property Transactions With Affiliated Persons

October 11, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: This amendment modifies present regulations which generally prohibit any FSLIC-insured institution or its subsidiary(s) from jointly owning with, purchasing or leasing from, or selling to, any affiliated person of the

insured institution any interest in real property. The amendment permits the Principal Supervisory Agent to approve otherwise prohibited transactions that are found to be fair to, and in the best interests of, the insured institution or subsidiary.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Kathleen E. Topelius, Attorney, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552. Telephone number: 202–377–6444.

SUPPLEMENTARY INFORMATION: The Federal Home Loan Bank Board by Resolution No. 79–344, dated June 14, 1979 (44 FR 36064, dated June 20, 1979), proposed to amend Part 563 of the Rules and Regulations for Insurance of Accounts (12 CFR 563.41) which prohibits, with certain limited exceptions, any insured institution or its subsidiary from jointly owning with, purchasing or leasing from, or selling to, any affiliated person any interest in real property.

Experience with § 563.41 since its adoption in August 1976 (Resolution No. 76–588, 41 FR 35812) has indicated to the Board that the regulation is too rigid. Frequently, transactions prohibited by the regulation have appeared from available information to be potentially very advantageous to the insured institution or subsidiary in question. Because § 563.41 includes no provision for waiver of its restrictions, the only alternatives available to the insured institution or subsidiary were to forego the transaction or to require that the affiliated person sever his or her relationship with the institution. Election of the first alternative often deprived an insured institution of an opportunity from which it could derive substantial benefit. Election of the second alternative was frequently impracticable because the affiliated person was an owner, an officer, or an especially valued director of the insured institution.

The Board proposed to amend § 563.41 by providing a general exception for real estate transactions that the Principal Supervisory Agent determines to be fair to, and in the best interests of, the insured institution or subsidiary. As further safeguards against possible abuse, the proposal subjected such transactions to prior written approval of the Principal Supervisory Agent, independent appraisal of the property, and prior approval by a disinterested majority of the institution's board of directors or membership after full disclosure.

The Board requested submission of comments on the proposed amendment by August 20, 1979. Comments were received from nine state-chartered and 14 Federal savings and loan associations and from two trade associations. Twenty-four commenters strongly favored the proposal. Many of the comment letters included brief descriptions of situations in which a transaction, prohibited by the present regulation, would have been clearly beneficial to the association. Commenters noted that the safeguards of Principal Supervisory Agent approval, independent appraisal, and approval by the association's board of directors would guarantee the fairness of the transaction.

One commenter suggested that the Board should carefully monitor approved transactions. Because approved transactions continue to be subject to independent review by the Board's examiners and, often, by state banking authorities, the Board believes that any abuses will be readily detected.

A number of commenters who favored the proposal suggested concurrent amendment of other sections of the Conflict of Interest regulations. Such suggestions are beyond the scope of the current proposal.

One commenter suggested preapproval of any transactions involving the sale of a single-family residence to an affiliated person for use as his or her personal residence. The Board previously considered and rejected preapproval of single-family residence transactions based on the difficulties inherent in monitoring the fairness of insider transactions after the fact. The Board believes that requiring prior review by the Principal Supervisory Agent insures the fairness of the transaction and avoids any appearance of insider advantage.

One commenter expressed opposition to the proposal stating that the amendment would be difficult to administer and of minor benefit. As previously stated, insured institutions that have been forced to forego beneficial transactions regard the amendment very favorably. The Board does not believe that the provisions requiring prior approval are overly burdensome or difficult to administer.

Therefore, the Board has determined to amend § 563.41 as proposed.

Accordingly, the Board hereby amends § 563.41 and Instruction 4(f) of Item 6(e), Form AR, § 563.45, as set forth below.

1. Section 563.41 is amended to read as follows:

§ 563.41 Restrictions on real property transactions with affiliated persons.

(a) *Scope of section.* Section 584.3 of this chapter is controlling with respect to transactions between an insured institution and a holding company.

(b) *Restrictions.* No insured institution or subsidiary thereof may, directly or indirectly, purchase or lease from, jointly own with, or sell to, an affiliated person of the institution any interest in real property unless the transaction is determined by the Principal Supervisory Agent to be fair to, and in the best interests of, the insured institution or subsidiary.

(c) *Conditions.* Transactions permitted under paragraph (b) of this section shall—

(i) Receive prior written approval of the Principal Supervisory Agent indicating that the terms of such transactions are fair to, and in the best interests of, the insured institution or subsidiary;

(ii) Be supported by an independent appraisal not prepared by an affiliated person or employee of the institution or subsidiary; and,

(iii) Be approved in advance by a resolution duly adopted with full disclosure by at least a majority (with no director having an interest in the transaction voting) of the entire board of directors of the institution or subsidiary (or alternatively by a majority of the total votes eligible to be cast by the voting members of the institution at a meeting called for such purpose, with no votes cast by proxies not solicited for such purpose). Full disclosure must include the affiliated person's source of financing for the real property involved in the transaction, including whether the insured institution or any subsidiary thereof has a deposit relationship with any financial institution or holding company affiliate thereof providing the financing.

2. Instruction 4(f) of § 563.45, Form AR, Item 6(e), is amended to read as follows:

§ 563.45 Disclosure.

* * * * *

Form AR (Annual Report Form)

* * * * *

Item 6

(e) *Transactions where certain persons have a material interest.*

* * * * *

4. No information need be given in answer to this item as to any transaction where

* * * * *

(f) The transaction is in compliance with § 563.41 of this part.

(Secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730). Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425(a), 1437). Sec. 5 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 172 FR 4891, 3 CFR, 1943–48 Comp., 1071.)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-32043 Filed 10-16-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 388

Interim Rulemaking and Request for Comment for Revision of Administrative Proceedings for Antiboycott and Export Control Compliance

AGENCY: Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Interim rule.

SUMMARY: The agency is revising the Administrative Proceedings portion of the Export Administration Regulations (Part 388, Title 15, Code of Federal Regulations). The changes are being made in part to implement Title II of the Export Administration Amendments of 1977 (Pub. L. 95–52) which has been incorporated into the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401, *et seq.*). These regulations prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979, or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)).

DATES: These rules are effective October 12, 1979 and may be further revised in light of any comments received. Comments must be received by the Department before noon, December 11, 1979.

ADDRESSES: Written comments (six copies when possible) should be sent to: U.S. Department of Commerce, Room 3845, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Oral communications or requests for further information concerning these interim rules should be directed to: Cecil Hunt, Assistant General Counsel for Industry and Trade, 202/377–5301, or Pamela P. Breed, Deputy Assistant General Counsel for Regulatory Compliance, 202/377–5311.

SUPPLEMENTARY INFORMATION: The regulations in this Part prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979 (Pub. L. 96–72, to be codified at 50 U.S.C. App. 2401, *et seq.*) or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)) (hereinafter collectively referred to as the "Act," although citations to particular sections of the Act will be to the 1979 Act), or of any regulation, order, license, or other export authorization issued thereunder. The regulations provide for an initial decision by an Administrative Law Judge, as required by the Act in proceedings charging antiboycott violations, and extend this process, except as otherwise set forth, to proceedings charging nonboycott violations. Final disposition in proceedings will be transferred from an Appeals Board to the Assistant Secretary for Industry and Trade who is the responsible agency official. Nothing in this Part shall be construed as applying to or limiting other administrative or enforcement action relating to the Act, including any exercise of the investigative authorities conferred by Section 12(a) of the Act. These regulations are issued subject to the requirement of Section 11(c) of the Act that administrative sanctions for violations of the antiboycott provisions of the Act and regulations be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554–557). The Adminsitrative Procedure Act provisions relating to *ex parte* communications apply to proceedings arising under section 8 of the Act; however, these regulations do not at present apply such provisions to proceedings arising under other provisions of the Act. These regulations shall not be construed to confer any procedural rights or requirements based upon the Administrative Procedure Act to proceedings charging nonboycott violations, except as expressly provided for in Part 388. For proceedings initiated prior to the effective date of these regulations, the public availability of charging letters, answers, decisions, final orders and the complete record for decision will be governed by the applicable regulations in effect at the time the proceedings were initiated.

Because the material contained herein relates to agency procedures pursuant to the Act, the relevant provision of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date is inapplicable. However, in accordance with the spirit of the public policy set forth in 5 U.S.C. 553, interested persons who desire to comment are encouraged to do so at the earliest possible time to permit the fullest consideration of their views. Comments may take the form of proposed regulatory language, narrative discussion, or any other appropriate format. Comments will be evaluated and acted upon in the same manner as if this document were a proposal. Until such time as any further changes are made, however, 15 CFR 388 as set forth hereafter shall remain in effect.

The period for submission of comments will close at noon, December 11, 1979. No comments received after the close of the comment period will be accepted or considered by the Department. Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in any further revision to the regulations.

All public comments to be considered in any further revision to these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments, as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

The public record concerning these regulations will be maintained in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs.

V 44 O C 17 79 UMI

Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202/377-3031.

It has been determined that Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), as implemented by Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1-6 (44 FR 2093 *et seq.*, January 9, 1979), do not apply to this interim regulation issued with respect to military and foreign affairs functions of the United States. These regulations shall be republished after public comments have been considered and any further revisions have been made.

DRAFTING INFORMATION: The principal authors of these rules are Cecil Hunt, Assistant General Counsel for Industry and Trade; Kent N. Knowles, Director, Office of Export Administration; Vincent J. Rocque, Acting Director, Antiboycott Compliance Staff; Pamela P. Breed, Deputy Assistant General Counsel for Regulatory Compliance, and Daniel C. Hurley, Jr., Attorney-Advisor.

Accordingly, the regulations on Administrative Proceedings, 15 CFR Part 388, are revised as set forth below.

Issued in Washington, D.C. on October 12, 1979

Stanley J. Marcuss,

Acting Assistant Secretary for Industry and Trade

Sec

388.1 Purpose and limitations.
388.2 Definitions.
388.3 Denial of export privileges and imposition of civil penalties.
388.4 Institution of administrative proceedings.
388.5 Representation.
388.6 Filing and service of papers.
388.7 Answer and demand for hearing.
388.8 Default.
388.9 Discovery.
388.10 Subpoena.
388.11 Matter protected against disclosure.
388.12 Prehearing conference.
388.13 Hearings.
388.14 Proceeding without a hearing.
388.15 Procedural stipulations.
388.16 Decision of administrative law judge.
388.17 Consent orders.
388.18 Reopenings.
388.19 Temporary denials.
388.20 Extension of time.
388.21 Record for decision.
388.22 Availability of documents.
388.23 Alternative presiding official.
388.24 Consolidation of proceedings.
388.25 Appeals.

Authority: Secs. 4, 5, 6, 7, 8, 11, 12 and 21, Pub. L. 95-72, to be codified at 50 U.S.C. App. 2401, *et seq.*; E.O. 12002, 42 F.R. 35623 (1977). 3 CFR 133 (1978); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977), and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977).

§ 388.1 Purpose and limitations.

The regulations in this Part prescribe the procedures to be followed in proceedings for the imposition of administrative sanctions for violation of the Export Administration Act of 1979 (Pub. L. 96-72, to be codified at 50 U.S.C. App. 2401, *et seq.*) or its predecessor statute, the Export Administration Act of 1969, as amended (50 U.S.C.A. App. 2401, *et seq.* (1979)) (hereinafter collectively referred to as the "Act," although citations to particular sections of the Act will be to the 1979 Act), or of any regulation, order, license or other authorization issued thereunder. An Administrative Law Judge duly appointed to conduct such proceedings shall preside, except as provided in § 388.23 and for purposes of appeals under § 388.25. Nothing in this Part shall be construed as applying to or limiting other administrative or enforcement action relating to the Act, including any exercise of the investigative authorities conferred by Sec. 12(a) of the Act. These regulations are issued subject to the requirement of Sec. 11(c) of the Act that administrative sanctions for violations of the antiboycott provisions of the Act and Regulations be determined only after notice and opportunity for an agency hearing on the record in accordance with the applicable provisions of the Administrative Procedure Act (5 U.S.C. 554-557). However, these regulations shall not be construed to confer any procedural rights or requirements based upon the Administrative Procedure Act to proceedings not charging antiboycott violations, except as provided in this Part. For proceedings initiated after the effective date of these regulations, all charging letters, answers, decision, final orders and the complete record for decision, except for any restricted access portion segregated pursuant to § 388.21(b), will be made available for inspection.

§ 388.2 Definitions.

As used in this Part:

(a) "Bureau" means the Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce, and includes the Office of Export Administration and the Antiboycott Compliance Staff;

(b) "Regulations" means the Export Administration Regulations (15 CFR Parts 368-399), including the Antiboycott Regulations (15 CFR Part 369); and

(c) "Party" shall include the Bureau and any person named as a respondent in a charging letter proposed or issued under this Part.

§ 388.3 Denial of export privileges and imposition of civil penalties.

(a) *Administrative Sanctions.*[1] A respondent who is found to have violated the Act, the Regulations, or any order, license or other authorization issued thereunder, is subject to any or all of the following sanctions in proceedings brought by the Bureau under this Part:

(1) *Suspension or revocation of validated export licenses.* Any outstanding validated export license affecting any transaction in which the respondent may have any interest, direct or indirect, may be suspended or revoked and ordered returned forthwith to the Office of Export Administration;

(2) *General denial of export privileges.* The respondent may be denied the privilege of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, or produced abroad by persons subject to the jurisdiction of the United States, or which are otherwise subject to the Act or the Regulations. Such participation may include:

(i) Participation as a party or as a representative of a party to any validated export license application;

(ii) Participation in the preparing or filing of an application for, or the obtaining or using of, any validated or general export license, reexport authorization, or other export control document;

(iii) Participation in the carrying on of negotiations with respect to, or in the receiving, ordering, buying, selling, delivering, storing, using, or disposing of any commodities or technical data; and

(iv) Participation in the financing, forwarding, transporting, or other servicing of such commodities or technical data.

Such denial of export privileges may be partial or entire; may be by commodity or geographical area, and may be for any specified period of time.

(3) *Exclusion from practice.* Any respondent acting as attorney, accountant, consultant, freight forwarder, or in any other representative capacity with regard to any export license application or other matter before the Bureau, may be excluded from any or all such activities before the Bureau.

(4) *Civil penalty.* In addition to any or all of the administrative sanctions described in paragraph (a) (1), (2) and (3) of this section, or in lieu thereof, a civil penalty not to exceed $10,000 per violation may be imposed.

The imposition of any of these sanctions may be suspended pursuant to § 388.16(c).

(b) *Applicability to related persons.* After notice and opportunity for comment, any order under this Part denying or affecting export privileges or excluding a respondent from practice before the Bureau may be made applicable not only to respondent but also, to the extent necessary to prevent evasion, to other persons with whom such respondent may then or thereafter be related by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or related services. In addition, the order may contain provisions implementing § 387.10 of the Regulations.

[1] Violations of the Act or Regulations may result not only in the imposition of administrative sanctions, but may also be punishable additionally or alternatively by fine or imprisonment as decribed in Sec. 387.1(a) of the Regulations, seizure or forfeiture of property under 22 U.S.C. 401, or any other liability or penalty imposed by law.

§ 388.4 Institution of administrative proceedings.

(a) *Charging letters.* The Director of the Office of Export Administration or the Director of the Antiboycott Compliance Staff may, as to their respective areas, initiate administrative proceedings under this Part by issuing a charging letter in the name of the Bureau. The charging letter will state that there is reason to believe that a violation of the Act, the Regulations, or any order, license or other authorization issued thereunder, has occurred. It will set forth the essential facts constituting the alleged violation, refer to the specific regulatory or other provisions involved, and give notice that the respondent, if found to have committed the alleged violation, will be subject to sanctions as provided in § 388.3(a). The charging letter will inform the respondent that failure to answer as provided in § 388.7 may be treated as a default under § 388.8; that he is entitled to a hearing if he files a written demand therefor with his answer, and that if he so desires he may be represented by counsel. A copy of the charging letter shall be filed with the Administrative Law Judge. Charging letters may be amended or supplemented at any time before an answer is filed, or, by leave of the Administrative Law Judge, thereafter.

(b) *Service of Charging Letter on Resident.* A charging letter, or any amendment or supplement thereto, shall be served upon a respondent: (1) By registered or certified mail addressed to him at his last known address; (2) When left with him or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service for respondent; or (3) When left at his last known dwelling with a person of suitable age and discretion then residing therein. Service made in the manner described in paragraph (b) (2) or (3) of this section shall be evidenced by a certificate of service signed by the person making such service, stating the nature of the service and the identity of the person with whom the charging letter was left.

(c) *Service of Charging Letter on Non-resident.* If applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraph (b) inappropriate or ineffective, service of the charging letter on a respondent not a resident of the United States may be made by any method that is permitted by the country in which the respondent resides and satisfies the due process requirements under United States law with respect to notice in administrative proceedings.

§ 388.5 Representation.

A respondent individual may appear and participate in person, a corporation by a duly authorized officer or employee thereof, a partnership by a member thereof, and any respondent may appear by counsel, who shall be a member in good standing of the bar of any state, commonwealth or territory of the United States, or of the District of Columbia. A respondent personally or through counsel shall file notice of appearance with the Administrative Law Judge. The Bureau shall be represented by the Office of Assistant General Counsel for Industry and Trade, U.S. Department of Commerce.

§ 388.6 Filing and service of papers other than charging letter.

(a) *Filing.* All papers to be filed shall be delivered or mailed to the Administrative Law Judge, Room 6627, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Filing by United States mail, first class postage prepaid, or by express or equivalent parcel delivery service, is acceptable. Filing by mail from a foreign country shall be by airmail. A copy of each paper filed shall be simultaneously served on each party.

(b) *Service.* Service shall be made by personal delivery or alternatively by mailing one copy of each paper to each party to be served. Service by delivery service in the manner prescribed in paragraph (a) is acceptable. Service on the Bureau shall be addressed to the Assistant General Counsel for Industry and Trade, Room 3845, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230. Service on a respondent shall be to the address to which the charging letter was sent or to such other address as respondent may have indicated for this purpose in the answer, other appearance or subsequent communication. When a party has appeared by counsel, service on such counsel shall constitute service on that party.

(c) *Date.* The date of service or filing shall be the day when the matter is deposited in the mail or is delivered in person, or by delivery service, except that the date of service of the charging letter shall be the date of its delivery, or of its attempted delivery if delivery is refused.

(d) *Certificate of Service.* The original of every paper filed and served upon parties shall be endorsed with a certificate of service signed by the party making service, stating the date and manner of service.

§ 388.7 Answer and demand for hearing.

(a) *When to answer.* The respondent must answer the charging letter within 30 days after service unless time is extended pursuant to § 388.20.

(b) *Contents of answer.* An answer must be responsive to the charging letter and must fully set forth the nature of the respondent's defense or defenses. In his answer, the respondent must admit or deny specifically each separate allegation of the charging letter, unless the respondent is without knowledge, in which case his answer shall so state and the statement shall operate as a denial. Failure to deny or controvert a particular allegation will be deemed admission thereof. The answer must also set forth any additional or new matter the respondent believes supports a defense or claim of mitigation. Any defense or partial defense not specifically set forth in the answer shall be deemed waived, and evidence thereon may be refused except upon good cause shown.

(c) *Demand for hearing.* If the respondent desires a hearing, a written demand therefor must be submitted with the answer. Any request by the Bureau for a hearing must be filed with the Administrative Law Judge within 14 days after service of the answer. Failure to make a timely written demand for a hearing shall be deemed a waiver thereof except for good cause shown.

(d) *Documentary evidence.* If the respondent does not demand a hearing, he must file with the answer originals or photocopies of all correspondence,

V 44 O C 17 79 UMI

papers, records, and other documentary evidence having any bearing upon or connection with the matters in issue. If any such materials, including the answer, be in a language other than English, translations into English must be filed at the same time.

§ 388.8 Default.

(a) *General.* If a timely answer is not filed, the Bureau shall file with the Administrative Law Judge proposed findings of fact and conclusions of law and a proposed order together with supporting evidence for the allegations in the charging letter. The Administrative Law Judge may require further submissions and shall issue any order he deems justified by the evidence of record. Any order so issued shall have the same force and effect as an order issued following the disposition of contested charges.

(b) *Petition to set aside default.* (1) *Procedure.* Upon petition filed by a respondent against whom a default order has been issued, which petition is accompanied by an answer meeting the requirements of § 388.7(b), the Administrative Law Judge may, after giving all parties opportunity to comment and for good cause shown, set aside the default and vacate the order entered thereon and resume the proceedings. (2) *Time limits.* A petition under this section must be made within one year of the date of entry of the order which the petition seeks to have vacated or prior to the expiration of any administrative sanctions imposed thereunder, whichever is later.

§ 388.9 Discovery.

(a) *General.* Parties may obtain discovery under these Regulations regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding. The parties are encouraged to engage in voluntary discovery procedures. The Administrative Law Judge may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. These orders may include limitations on the scope, method, time and place of discovery, and provisions for protecting the confidentiality of classified or otherwise sensitive information.

(b) *Interrogatories and Requests for Admission or Production of Documents.* A party may serve upon any party interrogatories, requests for admission, or requests for production of documents for inspection and copying, and a party concerned may thereafter apply to the Administrative Law Judge for such enforcement or protective order as that party deems warranted with respect to such discovery. The service of a discovery request shall be made at least 20 days prior to the scheduled date of hearing or by such date as the Administrative Law Judge may specify. Copies of interrogatories, requests for admission and requests for production of documents and responses thereto shall be served on all parties. Matters of fact or law of which admission is requested shall be deemed admitted unless within a period designated in the request (not less than 10 days after service thereof, or within such further time as the Administrative Law Judge may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either denying specifically the matters of which admission is requested or setting forth in detail the reasons why he cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the Administrative Law Judge may order the taking of the testimony of any person by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and shall set forth the facts sought to be established through the deposition. The provisions of the Federal Rules of Civil Procedure relating to depositions shall apply to the extent not inconsistent with these Regulations and except as otherwise directed by the Administrative Law Judge or by waiver or agreement of the parties.

(d) *Enforcement.* If a party does not comply with an order of the Administrative Law Judge directing the party to answer designated questions, to produce specified documents or things or to take any other action in response to a proper discovery request, the Administrative Law Judge may make such determination or enter such order in the proceedings as he deems reasonable and appropriate, including striking related charges or defenses in whole or in part or taking particular facts pertaining to the discovery request to which that party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In addition, enforcement by a United States district court of appropriate jurisdiction may be sought under Sec. 12(a) of the Act.

§ 388.10 Subpenas.

At the request of any party, the Administrative Law Judge may issue subpoenas requiring the attendance of witnesses at any hearing and the production of such books, records or other documentary or physical evidence as he deems relevant and material to the proceedings, and reasonable in scope.

§ 388.11 Matters protected against disclosure.

In administering the Act, it is necessary for the Bureau to receive and consider information and documents that are sensitive from the standpoint of national security or business confidentiality and are to be protected against disclosure. Accordingly, and without limiting the discretion of the Administrative Law Judge to give effect to any other applicable privilege, it shall be proper for the Administrative Law Judge to limit discovery or introduction of evidence or to issue such protective or other orders as in his judgment may be consistent with the objective of preventing undue disclosure of such sensitive documents of information. Where the Administrative Law Judge determines that documents containing such sensitive matter should be made available to a respondent, he may direct the Bureau to prepare an unclassified and non-sensitive summary or extract of such documents and he may compare such extract or summary with the original to ensure that it is supported by the source document and that it omits only so much as must remain classified or undisclosed. The summary or extract may be admitted as evidence in the record.

If the Administrative Law Judge determines that this procedure is inadequate and that classified or otherwise sensitive matter must form part of the record in order to avoid prejudice to a party, he may advise the parties and provide opportunity for arrangements to permit a party or a representative to have access to such matter. Such arrangements may include obtaining security clearances or obtaining a determination under Sec. 12(c) of the Act, giving counsel for a party access to sensitive information and documents subject to assurances against further disclosure.

§ 388.12 Prehearing conference.

(a) The Administrative Law Judge, on his own motion or on request of a party, may direct the parties to attend a prehearing conference to consider: (1) Simplification of issues; (2) The necessity or desirability of amendments to pleadings; (3) Obtaining stipulations of fact and of documents to avoid unnecessary proof; or (4) Such other matters as may expedite the disposition of the proceeding. The conference proceedings may be recorded magnetically or taken by a reporter and transcribed, and will be filed with the Administrative Law Judge. The Administrative Law Judge will prepare a summary of any actions agreed upon or taken at the conference, and will incorporate therein any written stipulations or agreements made by the parties.

(b) If a prehearing conference is impracticable, the Administrative Law Judge may direct the parties to correspond with him to achieve the purposes of such a conference. The Administrative Law Judge, as in subsection (a), will prepare a summary of such correspondence and any actions taken or agreed upon.

§ 388.13 Hearings.

(a) *Scheduling.* The Administrative Law Judge, by agreement with the parties or upon notice to all parties of no less than 30 days, will set the matter for hearing.

(b) *Hearing Procedure.* Hearings shall be conducted by the Administrative Law Judge in a fair and impartial manner. The Administrative Law Judge may limit attendance at any hearing or portion thereof to the parties, their representatives and witnesses if he deems this necessary or advisable in order to protect sensitive matter (see § 388.11) from improper disclosure. The rules of evidence prevailing in courts of law shall not apply, and all evidentiary material deemed by the Administrative Law Judge to be relevant and material to the proceeding and not unduly repetitious will be received and given appropriate weight.

(c) *Testimony and Record.* Witnesses will testify under oath or affirmation. A verbatim record of the hearing and of any other oral proceedings will be taken by reporter or by magnetic recording, transcribed and filed with the Administrative Law Judge. A respondent may examine the transcript and may obtain a copy upon payment of proper costs. Upon such terms as the Administrative Law Judge deems just, he may direct that the testimony of any person be taken by deposition and may admit an affidavit as evidence, provided that affidavits shall have been filed and served on the parties sufficiently in advance of the hearing to permit a party to file and serve an objection thereto on the grounds that it is necessary that the affiant testify at the hearing and be subject to cross-examination.

(d) *Failure to Appear.* If a party fails to appear in person or by counsel at a scheduled hearing, the hearing may nevertheless proceed, and that party's failure to appear will not affect the validity of the hearing or any proceedings or action taken thereafter.

§ 388.14 Proceeding without a hearing.

If the parties have waived a hearing, the case shall be decided on the record by the Administrative Law Judge. Proceeding without a hearing does not relieve the parties from the necessity of proving the facts supporting their charges or defenses. Affidavits, depositions, admissions, answers to interrogatories and stipulations may supplement other documentary evidence in the record. The Administrative Law Judge shall give each party reasonable opportunity to file rebuttal evidence.

§ 388.15 Procedural stipulations.

Unless otherwise ordered, a written stipulation joined in by all parties and filed with the Administrative Law Judge may modify any time limitations, discovery procedures or other prescribed procedures.

§ 388.16 Decision of the Administrative Law Judge.

(a) *Predecisional Matters.* Except insofar as the default procedures of § 388.8 may be applicable, the Administrative Law Judge shall give the parties reasonable opportunity to submit: (1) Exceptions to any ruling by him on the admissibility of evidence proffered at the hearing; (2) Proposed findings of fact and conclusions of law; (3) Supporting legal arguments for the exceptions and proposed findings and conclusions submitted; and (4) A proposed order. Such exceptions, proposed findings and conclusions, arguments in support thereof, and proposed order shall be made a part of the record, together with the Administrative Law Judge's ruling on each.

(b) *Decision and Order.* After considering the entire record in the proceeding, the Administrative Law Judge shall issue a written initial decision. The initial decision shall include findings of fact, conclusions of law, and findings as to whether there has been a violation of the Act, of the Regulations, or of any order, license or other authorization issued thereunder. If the Administrative Law Judge finds that the evidence of record is insufficient to sustain a finding that a violation has occurred with respect to one or more charges, he shall order dismissal of the charges in whole or in part as appropriate. If the Administrative Law Judge finds that one or more violations has been committed, he shall order appropriate disposition of the case. He may issue an order imposing administrative sanctions or civil penalties as provided in § 388.3, or take such other action as he deems appropriate. A copy of the initial decision and order shall be served on each party.

(c) *Suspension of Sanctions.* Any order providing administrative sanctions may provide that the imposition of any sanction shall be suspended in whole or in part upon such terms of probation or other conditions as the Administrative Law Judge may specify. Any such suspension may be modified or revoked by the Administrative Law Judge, or on appeal by the Assistant Secretary of Commerce for Industry and Trade, upon application of the Bureau showing a violation of the probationary terms or other conditions, after service upon the respondent of notice of the application in accordance with the service provisions of § 388.4 and with such opportunity for response as the acting official in his discretion may allow. A copy of any order modifying or revoking suspension shall also be served on the respondent in accordance with the provisions of § 388.4.

(d) *Effect of Initial Decision.* The initial decision and implementing order shall become final upon expiration of the time for filing an appeal unless an appeal shall have been filed pursuant to § 388.25.

§ 388.17 Consent orders.

(a) At any time after the filing of a charging letter but prior to issuance of an initial decision, the parties may submit a proposal to the Administrative Law Judge for a consent order. Filing and service shall be as set forth in Sec. 388.6. The consent proposal shall include proposed findings of fact and conclusions of law and shall be accompanied by a proposed consent order. If the Administrative Law Judge does not approve the proposal, he will notify the parties and the case will proceed as though no consent proposal had been made. If the Administrative Law Judge approves the proposal, he will issue a decision and order on the basis of the proposal or such modification thereof as the parties may have agreed to in writing and the order shall be final.

(b) Cases may also be settled by consent agreement entered into prior to the filing of a charging letter with the Administrative Law Judge. In such event, the proposed charging letter, order and consent agreement shall be submitted for approval and signature to the Deputy Assistant Secretary of Commerce for Trade Regulation, and no action by the Administrative Law Judge shall be required.

(c) Cases settled by consent agreement may not be reopened or appealed.

V 44 O C 17 7 9 UMI

§ 388.18 Reopening.

A party may petition the Administrative Law Judge within one year of the date of the final decision to reopen proceedings to receive any relevant and material evidence which was unknown or unobtainable at the time the proceedings were held. The petition shall include a summary of such evidence, the reasons why it is deemed relevant and material, and the reasons why it could not have been presented at the time the proceedings were held. The Administrative Law Judge shall grant or deny the petition after providing other parties reasonable opportunity to comment. If proceedings are reopened, the Administrative Law Judge may make such arrangements as he deems appropriate for receiving the new evidence and completing the record. Where proceedings have been reopened, the Administrative Law Judge shall issue a new decision and order, reaffirming, vacating or modifying the prior decision and order.

§ 388.19 Temporary denials.

(a) *Denial by charging letter.* A charging letter issued by the Director, Office of Export Administration, may from the date of its issuance suspend or revoke outstanding validated licenses in which the respondent has any interest, direct or indirect, but shall not otherwise deny export privileges to the respondent.

(b) *Generel Denial of Export Privileges.* The Bureau may request the Administrative Law Judge to issue a temporary denial order on an *ex parte* basis summarily denying any or all of the export privileges specified in § 388.3(a) (1) and (2) to any person against whom a proceeding is brought under this Part, or against whom other administrative or judicial proceedings relating to export control are pending, or who is under investigation for violation of the Act, the Regulations, or any order, license, or other authorization issued thereunder. The Administrative Law Judge may issue such order upon a showing that the order is required in the public interest to permit or facilitate enforcement of the Act, any applicable Executive Order, or the Regulations; to avoid circumvention of such administrative or judicial proceedings; or to permit the completion of such investigation. The order shall be temporary and shall be issued initially only for such period of time, ordinarily not exceeding 30 calendar days, as may be required to complete the administrative or judicial proceedings, or to complete the investigation.

(c) *Motions to Vacate, Extend or Modify.* (1) *Filing.* A party may at any time file a motion asking the Administrative Law Judge to vacate, extend or modify any temporary denial of export privileges contained in any charging letter under § 388.19(a) or in any order issued by the Administrative Law Judge under § 388.19(b). (2) *Hearing.* If requested by one of the parties, the Administrative Law Judge shall schedule a hearing on the motion at the earliest convenient date. The Administrative Law Judge shall receive evidence and hear argument on the motion and shall issue such order disposing of the motion as he deems reasonable and just.

(d) A copy of any temporary denial order issued shall be served upon the respondent in the same manner as provided in § 388.4 for service of a charging letter.

(e) No temporary denial order may extend beyond: (1) the date of issuance of a dispositive order in the proceedings, or (2) six months, whichever is earlier.

§ 388.20 Extension of time.

Upon application by any party before or after expiration of the applicable time limitation, the Administrative Law Judge, for good cause shown, may extend the time within which to prepare and submit an answer to a charging letter or do any other act required by this Part.

§ 388.21 Record for decision.

(a) *General.* The transcript of hearings, exhibits, rulings, orders, all papers and requests filed in the proceedings and, for purposes of any appeal pursuant to § 388.25, the decision of the Administrative Law Judge and such submissions as are provided for by § 388.25, shall constitute the exclusive basis for decision.

(b) *Restricted Access.* On his own motion, or on the motion of any party, the Administrative Law Judge may direct that there be a restricted access portion of the record to contain any material in the record to which public access is restricted by law or by the terms of a protective order entered in the proceedings. This portion of the record shall be placed in a separate file and clearly marked to avoid improper disclosure and to identify it as a portion of the official record in the proceedings. Such files shall be periodically reviewed so that material that becomes declassified or unrestricted through passage of time may be transferred to the unrestricted portion of the record.

§ 388.22 Availability of documents.

For proceedings initiated on or after October 12, 1979, all charging letters, answers, decisions and final orders disposing of a case, except for any restricted access portion segregated pursuant to § 388.21(b), shall be made available for public inspection in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, U.S. Department of Commerce. Except for charging letters in proceedings arising under section 8 of the Act, this availability shall commence following the final administration disposition of the case. The complete record for decision, except for any restricted access portion segregated pursuant to § 388.21(b), shall be made availabe for inspection upon request following the final administrative disposition of the case. In addition, all final orders and decisions on appeal shall be published in the **Federal Register.** For proceedings initiated prior to October 12, 1979, the public availability of charging letters, answers, decisions, final orders and the complete record for decision will be governed by the applicable regulations in effect at the time the proceedings were initiated.

§ 388.23 Alternative presiding official.

Except for proceedings arising under section 8 of the Act and the Regulations issued thereunder, the Bureau reserves the right to refer any proceedings under these Regulations to a Hearing Commissioner or other designated impartial Departmental official in lieu of the Administrative Law Judge. In such case, the presiding official shall perform all functions and shall have the powers and duties which are provided to the Administrative Law Judge under this Part.

§ 388.24 Consolidation of proceedings.

On his own motion or on motion of any party, and with reasonable notice to all parties affected, the Administrative Law Judge may consolidate two or more proceedings under this Part involving different respondents, if all parties to the proceedings agree in writing to such consolidation and if the Administrative Law Judge, in his discretion, determines that such consolidation would serve more efficiently to resolve common questions of law or fact raised in such proceedings.

§ 388.25 Appeals.

(a) *Grounds.* Grounds shall be specified. A party may appeal to the Assistant Secretary for Industry and Trade from an order disposing of a proceeding, granting or denying a motion to vacate under § 388.19(c), denying a petition to set aside a default or denying a petition of reopening, on the grounds: (1) That a necessary finding of fact is omitted, erroneous or unsupported by substantial evidence of record; (2) That a necessary legal conclusion or finding is contrary to law; (3) That prejudicial procedural error occurred, or (4) That the decision or extent of sanctions is arbitrary, capricious or an abuse of discretion. The appeal must specify upon which of these grounds the appeal is based and from what provisions of the order the appeal is taken.

(b) *Filing of Appeal.* An appeal must be filed with the Office of the Assistant Secretary for Industry and Trade, Room 3850, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W. Washington, D.C. 20230, within 30 days after service on the appellant of the order appealed from. If the Assistant Secretary for Industry and Trade cannot act on an appeal for any reason, the Secretary of Commerce may designate another Department of Commerce official to receive and act on the appeal.

(c) *Effect of Appeal.* The taking of an appeal shall not stay the operation of any order, unless the order by its express terms so provides or unless the Assistant Secretary shall grant a stay.

(d) *Appeal Procedure.* The Assistant Secretary normally will not hold hearings or entertain oral argument on appeals. A full written statement in support of the appeal must be filed with the appeal and be simultaneously served on all parties, who shall have 30 days from service to file a reply. The acceptance of further submissions is within the discretion of the Assistant Secretary, but leave will not ordinarily be granted for any submission to be filed more than 30 days after the filing of the reply to the appellant's initial submission.

(e) *Decisions.* The Assistant Secretary shall decide the appeal within 60 days following the last date fixed under subsection (d) or any other date fixed by action of the Assistant Secretary for the filing of a reply or other submission. The decision shall be in writing and shall be accompanied by an order signed by the Assistant Secretary giving effect to the decision. The order may either dispose of the case by confirming, modifying or reversing the order of the Administrative Law Judge or may refer the case back to the Administrative Law Judge for further proceedings.

[FR Doc. 79-32029 Filed 10-16-79; 8:45 am]

BILLING CODE 3510-25-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 9H5198/T51; FRL 1340-5]

Tolerances for Pesticides in Animal Feeds Administered by the Environmental Protection Agency; Thidiazuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation related to the experimental use of the defoliant thidiazuron on cotton. The regulation was requested by Nor-Am Agricultural Products, Inc. This rule will permit the marketing of cottonseed hulls while further data is collected on thidiazuron.

EFFECTIVE DATE: Effective on October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Willa Garner, Product Manager (PM) 23, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, DC 20460 (202/755-1397).

SUPPLEMENTARY INFORMATION: On November 2, 1978, the EPA announced (43 FR 51131) that Nor-Am Agricultural Products, Inc., 1275 Lake Avenue, Woodstock, Il 60098, had filed a food additive petition (FAP 9H5198). This petition proposed that 21 CFR 561 be amended by the establishment of a regulation permitting residues of the herbicide thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on cottonseed hulls resulting from application of the defoliant to cotton for defoliation of cotton leaves prior to harvest in a proposed experimental program with a tolerance limitation of 0.4 part per million (ppm) in accordance with an experimental use permit (2139-EUP-23) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136). No comments were received by the Agency in response to this notice of filing.

For purposes of clarification, the Agency has determined that the regulation should specify that the residues result in or on cottonseed hulls from defoliant use of thidiazuron rather than herbicide use.

The scientific data reported and other relevant material have been evaluated, and it has been determined that the defoliant may be safely used in accordance with the provisions of the experimental use permit which has been issued under FIFRA. It has further been determined that since residues of the pesticide may result in or on cottonseed hulls from the agricultural uses provided for in the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation.

The data submitted in this petition and other relevant material have been evaluated. The data considered in support of the proposed tolerance included radiotracer matabolism studies in cotton plants, rats, lactating goats, and laying hens; rat and mouse acute oral toxicity studies with a median lethal dose (LD_{50}) of 4 grams (g)/kilogram (kg) of body weight (bw) and 5 g/kg bw respectively; a 90-day rat feeding study with a no-observed effect-level (NOEL) of 200 ppm and a 90-day dog feeding study with an NOEL of 300 ppm. The acceptable daily intake (ADI) for humans is 0.0038 mg/kg bw/day based on a 300 ppm NOEL determined in the 90-day dog feeding study and a 2,000-fold safety factor. The requested feed additive tolerance of 0.4 ppm in or on cottonseed hulls will not affect the theoretical maximum residue contribution (TMRC). Proposed temporary tolerances of 0.2 ppm in or on cottonseed, 0.05 ppm in milk and dairy products, 0.1 ppm in eggs and 0.2 ppm in meat, including poultry, yield a TMRC of 0.0676 mg/day/1.5 kg of diet for a 60-kg human, which is equivalent to 30.05% of the ADI.

A regulatory action was pending against thidiazuron based upon Industrial Bio-Test Laboratories (IBT) data of the two 90-day subacute and acute studies, but this was resolved after these data were validated.

The metabolism of thidiazuron is adequately understood, and an adequate analytical method (gas-liquid chromatography using electron capture detection) is available for enforcement purposes.

No permanent tolerances have previously been established for residues of thidiazuron, and no desirable data are lacking from the petition, nor are any other considerations involved in establishing the proposed tolerance. (A related document establishing temporary tolerances for residues of thidiazuron in or on cottonseed at 0.2 ppm; milk at 0.05 ppm; eggs at 0.1; and the meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm appears elsewhere in today's **Federal Register.** The tolerances in eggs; milk; and the meat, fat, and meat byproducts of cattle, etc. are

V 44 O C 17 7 9 UMI

adequate to cover residues in these tissues resulting from the proposed feed additive use.)

The pesticide is considered useful for the purpose for which a tolerance is sought. Therefore, the regulation establishing a tolerance of 0.4 ppm in or on cottonseed hulls by amending 21 CFR 561 is being promulgated as proposed. Accordingly a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on the date of publication in the Federal Register, 21 CFR 561 is amended as set forth below.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

(Section 409(c)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348 (c)(1)))

Part 561 is amended by establishing the new section 561.385 to read as follows:

§ 561.385 Thidiazuron.

(a) A tolerance of 0.4 part per million is established for combined residues of thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline containing metabolites in or on cottonseed hulls resulting from the preharvest application of the defoliant thidiazuron to cotton in accordance with an experimental use permit that expires July 1, 1980.

(b) Residues in cottonseed hulls not in excess of 0.4 part per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental program will not be considered to be actionable if the defoliant is legally applied during the term of an in accordance with provisions of the experimental use permit and feed additive tolerance.

(c) Nor-Am Agricultural Products, Inc. shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 79-32013 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[Memorandum 79-2]

Appendix to Subpart B—Production or Disclosure; in Response to Subpenas or Demands of Courts or Other Jurisdictions

AGENCY: Department of Justice.

ACTION: Final rule; delegation of authority.

SUMMARY: This memorandum delegates the authority previously granted to the Assistant Attorney General, Antitrust Division, to approve production of material and disclosure of information described in 28 CFR 16.21(a) to the Deputy Assistant Attorney General for Litigation, Antitrust Division.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Joseph H. Widmar, Director of Operations, Antitrust Division, Department of Justice, Washington, D.C. 20530, (202) 633-3543.

Pursuant to the authority vested in me by Subpart B of Part O of Chapter I of Title 28, Code of Federal Regulations, I issue the following memorandum as an appendix to Subpart B of Part 16 of Chapter I of Title 28, Code of Federal Regulations:

Redelegation of Authority to Deputy Assistant Attorney General for Litigation, Antitrust Division, To Authorize Production or Disclosure of Material or Information

1. By virtue of the authority vested in me by § 16.23(b)(1) of Title 28 of the Code of Federal Regulations, the authority delegated to me by that Section to authorize the production of material and disclosure of information described in § 16.21(a) of that Title is hereby redelegated to the Deputy Assistant Attorney General for Litigation of the Antitrust Division.

2. This directive is effective October 15, 1979.

Dated: October 9, 1979.

John H. Shenefield,

Assistant Attorney General, Antitrust Division.

[FR Doc. 79-32035 Filed 10-16-79; 8:45 am]

BILLING CODE 4410-01-M

Federal Prison Industries

28 CFR Part 301

Inmate Accident Compensation

AGENCY: Federal Prison Industries, Justice.

ACTION: Final rule.

SUMMARY: This document amends the language of 28 CFR 301.17(f) to reflect that it is the Claims Examiner who makes the initial determination on a claim for Inmate Accident Compensation. This revision complements final rules on this subject (at 44 FR 34943-44) published June 18, 1979 in the Federal Register.

DATE: This amendment is effective October 17, 1979.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 910, 320 First Street, N.W., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724/3062.

SUPPLEMENTAL INFORMATION: By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General at 28 CFR 0.99 to the Board of Directors of Federal Prison Industries, Inc., Part 301 of Chapter III of Title 28, Code of Federal Regulations is hereby amended as set forth below. As this amendment places no increased burden on a claimant but is an amendment of internal procedures, the provisions of the Administrative Procedures Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation and delay in effective date are inapplicable.

Federal Prison Industries published in the Federal Register June 18, 1979 (at 44 FR 34943-44) final rules which authorized the Claims Examiner to make the initial determination on a claim for inmate accident compensation. To reflect this revision, the June 18, 1979 Federal Register amended several sections of 28 CFR Part 301. Section 301.17(f) was inadvertently omitted from this process. The present document amends 28 CFR 301.17(f) to read "the Claims Examiner's initial decision" as opposed to "its [Committee's] original decision".

In consideration of the foregoing, Part 301 of Title 28, Code of Federal Regulations is amended as set forth below. The effective date of this rule is October 17, 1979.

Dated: October 11, 1979.

Norman A. Carlson,

Commissioner, Federal Prison Industries, Inc.

PART 301—INMATE ACCIDENT COMPENSATION

By revising § 301.17(f) to read as follows:

§ 301.17 Conduct of hearing.

* * * * *

(f) The Committee shall mail a written notice of its determination to affirm or amend the Claims Examiner's initial decision with the reasons therefor to the claimant at his or her last known address not later than 30 days after the date of the hearing, unless the Committee needs to make a further investigation as a result of information received at the hearing.

[FR Doc. 79-32040 Filed 10-16-79; 8:45 am]

BILLING CODE 4410-05-M

VETERANS ADMINISTRATION

38 CFR Part 1

Regional Office Committees on Waivers and Compromises

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The regulations are revised for purposes of overall clarification. Revision is also made to reflect additions to, and deletions from, the jurisdiction of the regional office Committees on Waivers and Compromises.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Peter T. Mulhern (047C5), Special Assistant to the Assistant Director for Fiscal Systems, Office of the Controller, Veterans Administration, Washington, D.C. 20420, (202-389-3405).

SUPPLEMENTARY INFORMATION: On page 34975 of the Federal Register of June 18, 1979, there was published a notice of proposed regulatory development to amend 38 CFR 1.955-1.970 relating to regional office Committees on Waivers and Compromises.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulations. No written comments have been received. However, the Comptroller General of the United States recently revised 4 CFR Parts 91-93 to permit agencies to deny requests by employees for waiver of erroneous payment of pay and allowances regardless of the aggregate amount. Previously, all requests for waiver of claims aggregating more than $500 were required to be settled by the Comptroller General. Thus, reference to a $500 limit is deleted from § 1.957(a)(1)(iv) and § 1.963a is changed to reflect additional Committee authority resulting from the GAO regulation revision.

The proposed regulations are hereby adopted without change, except for the revisions to §§ 1.957 and 1.963a, and are set forth below:

Approved: October 5, 1979.

By direction of the Administrator.

Rufus H. Wilson,

Deputy Administrator.

1. The center title is changed and § 1.955 is revised to read as follows:

Regional Office Committees on Waivers and Compromises

§ 1.955 Regional Office Committees on Waivers and Compromises.

(a) *Delegation of authority and establishment.* (1) Sections 1.955 et seq. are issued to implement 38 U.S.C. 1820(a)(4) and 3102, 31 U.S.C. 951-953 and 5 U.S.C. 5584. The duties, delegations of authority and all actions required of the Committee on Waivers and Compromises, are to be accomplished under the direction of, and authority vested in, the Director of the regional office.

(2) There is established in each regional office, a Committee on Waivers and Compromises to perform the duties and assume the responsibilities delegated by §§ 1.956 and 1.957. The term "regional office", as used in §§ 1.955 et seq., includes VA Medical and Regional Office Centers and VA Centers where such are established.

(b) *Committee on Waivers and Compromises*—(1) *Composition.* The Committee shall consist of a Chairperson and five members at regional offices having loan guaranty activities or a Chairperson and four members at other regional offices. Members shall be selected so that in each of the debt claims activities of compensation, pension, education, insurance, loan guaranty (at offices having such activities), and finance, there is at least one member with special competence. An alternate Chairperson and an unlimited number of alternate members may be designated and used in place of Committee member(s), or as panel members (see paragraph (c) of this section), whenever needed.

(2) *Selection.* The Director shall designate the employees to serve as Chairperson, members and alternates. Except upon specific authorization of the Chief Benefits Director, when workload warrants a full-time committee, such designation will be part-time additional duty upon call of the Chairperson.

(3) *Control and staff.* The Division Chief of the Fiscal activity is accountable for the administrative control of the Committee functions. The quality control of the Committee and its professional and clerical staff is the responsibility of the Chairperson.

(4) *Overall control.* The Controller is delegated complete management authority, including planning, policy formulation, control, coordination, supervision and evaluation of Committee operations.

(c) *Panels.* When a claim is properly referred to the Committee, the Chairperson shall ordinarily designate from members and/or alternates, a panel of three (of whom the Chairperson may be one), to consider and determine the action to be taken. One person from this panel shall be specially qualified in the program field in which the debt arose. If their panel decision is unanimous, it will be the Committee decision. Otherwise, the case will be decided by the entire membership of the Committee (i.e., either six or five persons as provided in paragraph (b)(1), of this section) and the majority vote of the Committee shall determine the decision. In such cases the Chairperson shall not vote except when necessary on four-member committees to break a tie.

(d) *Single signature authority.* Where a request is for waiver of collection of a debt of $500 or less, exclusive of interest, the Chairperson shall designate from members and/or alternates one person, with special competence in the program area where the debt arose, to consider the request. His/her signature alone to the decision will suffice. In compromise cases, however, three-person panels are always required regardless of the amount of the debt. (38 U.S.C. 210(c)(1))

2. Section 1.956 is amended as follows:

(a) By adding the words "or her" before the word "discretion" and adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b).

(b) By revising the introductory portion of paragraph (a) and paragraph (a)(1)(i) to read as follows:

§ 1.956 Jurisdiction.

(a) The regional office Committees are authorized, except as to determinations under § 2.6(e)(4)(i) of this chapter where applicable, to consider and determine as limited in §§ 1.955 et seq., settlement, compromise and/or waiver concerning the following debts and overpayments:

(1) Arising out of operations of the Department of Veterans Benefits:

V 44 O 17 9 UMI

(i) Overpayment or erroneous payments of pension, compensation, dependency and indemnity compensation, burial allowances, plot allowance, subsistence allowance, education (includes debts from work study and education loan defaults as well as from other overpayments of educational assistance benefits) or insurance benefits, clothing allowance and automobile or other conveyance and adaptive equipment allowances.

* * * * *

3. Sections 1.957, 1.958, 1.959, and 1.960 are revised to read as follows:

§ 1.957 Committee authority.

(a) *Regional office committee.* On matters covered in § 1.956, the regional office Committee is authorized to determine the following issues:

(1) *Waivers.* A decision may be rendered to grant or deny waiver of collection of a debt in the following overpayment categories:

(i) Loan guaranty program (38 U.S.C. 3102(b)). Committees may consider waiver of the indebtedness of a veteran or spouse resulting from (*a*) the payment of a claim under the guaranty or insurance of loans, (*b*) the liquidation of direct loans, (*c*) the liquidation of loans acquired under § 36.4318, and (*d*) the liquidation of vendee accounts. The phrase "veteran or spouse" includes a veteran-borrower, veteran-transferee, a veteran-purchaser on a vendee account, a former spouse or surviving spouse of a veteran.

(ii) Other than loan guaranty program. (38 U.S.C. 3102(a))

(iii) Services erroneously furnished. (§ 17.62(a))

(iv) Erroneous payment of pay and allowances. (5 U.S.C. 5584)

(2) *Compromises*—(i) *Loan program debts.* Accept or reject a compromise offer irrespective of the amount of the debt (loan guaranty matters under 38 U.S.C. ch. 37, are unlimited as to amount).

(ii) *Other than loan program debts (38 U.S.C. 951-953).* (a) Accept or reject a compromise offer on a debt which exceeds $1,000 but which is not over $20,000 (both amounts exclusive of interest).

(b) Accept or reject a compromise offer on a debt of $1,000 or less, exclusive of interest, which is not disposed of by the Chief, Fiscal activity or the Chief, Centralized Accounts Receivable Division pursuant to paragraph (b) of this section.

(3) *Breached career residency contracts.* Final settlement of any breached career residency contract in which terms are different than those provided in the contract, which will result in the payment of less than liquidated value or in an extension of time in which to pay damages.

(b) *Chief of the Fiscal Activity and the Chief, Centralized Accounts Receivable Division.* The Chief of the Fiscal activity at both Department of Veterans Benefits and Department of Medicine and Surgery offices and the Chief, Centralized Accounts Receivable Division have authority, as to debts arising within their jurisdictions, to:

(1) Suspend or terminate collection action on all debts of $20,000 or less, exclusive of interest.

(2) On other than loan guaranty program debts under 38 U.S.C. chapter 37, accept compromise offers of 50 percent or more of a total debt not in excess of $1,000, exclusive of interest, regardless of whether or not there has been a prior denial of waiver.

(3) On other than loan guaranty program debts under 38 U.S.C. chapter 37, reject any offer of compromise of a total debt not in excess of $1,000, exclusive of interest, regardless of whether or not there has been a prior denial of waiver. (38 U.S.C. 210(c)(1))

§ 1.958 Finality of decisions.

A decision by the regional office Committee operating within the scope of its authority, denying waiver of all or a part of an overpayment is subject to appeal. There is no right of appeal from a decision rejecting a compromise offer. (38 U.S.C. 210(c)(1))

§ 1.959 Records and certificates.

The Chairperson of the Committee shall execute or certify any documents pertaining to its proceedings. He/she will be responsible for maintaining needed records of the transactions of the Committee and preparation of any administrative or other reports which may be required. (38 U.S.C. 210(c)(1))

§ 1.960 Legal and technical assistance.

Legal questions involving a determination under § 2.6(e)(4) of this chapter will be referred to the District Counsel for action in accordance with delegations of the General Counsel, unless there is an existence a General Counsel's opinion or an approved District Counsel's opinion dispositive of the controlling legal principle. As to matters not controlled by § 2.6(e)(4) of this chapter, the Chairperson of the regional office Committee or at his/her instance, a member, may seek and obtain advice from the District Counsel on legal matters within his/her jurisdiction and from other division chiefs in their areas of responsibility, on any matter properly before the Committee. Guidance may also be requested from the Central Office staff. (38 U.S.C. 210(c)(1))

4. Section 1.962 is amended as follows:

(a) By deleting the words "Chief Attorney" and inserting the words "District Counsel" in the third sentence and adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b).

(b) By revising the introductory portion preceding paragraph (a) to read as follows:

§ 1.962 Waiver of overpayments.

The term "overpayment" means payments made and determined to be erroneous, indebtedness resulting from work study and education loan defaults, indebtedness resulting from services erroneously furnished and indebtedness of a veteran-borrower or veteran-transferee under the loan guaranty program or the indebtedness of the spouse under laws administered by the Veterans Administration.

* * * * *

5. Section 1.963 is amended as follows:

(a) By adding the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (c).

(b) By revising paragraph (b) to read as follows:

§ 1.963 Waiver, other than loan guaranty.

* * * * *

(b) *Application.* Request for waiver of an overpayment will be considered only if received within 2 years following the date of notice of the indebtedness by the Veterans Administration to the payee.

* * * * *

6. In §1.963a, paragraphs (b) and (e) are revised to read as follows:

§ 1.963a Waiver; erroneous payment of pay and allowances.

* * * * *

(b) Allowances as they relate to an employee include, but are not limited to, payments for quarters, uniforms, and overseas cost of living expenses, but exclude travel and transportation expenses and relocation allowances. All requests for waiver of salary overpayments and allowances shall be referred for consideration of waiver before any determinations are made as to compromise or suspension or termination of collection action as follows:

(1) If the erroneous payment of pay or allowances was not more than $500 in the aggregate, the request for waiver shall be referred to the Chief of the Fiscal activity for review and necessary development before transmittal to the Committee on Waivers and Compromises for consideration.

(2) If the erroneous payment of pay or allowances was more than $500 in the aggregate:

(i) The Committee on Waivers and Compromises only has authority to deny waiver of collection of the entire amount of the debt.

(ii) Otherwise, the request for waive, after review and necessary development, shall be referred to the VA Controller for transmittal to the General Accounting Office for consideration of full or partial waiver.

* * * * *

(e) There shall be no right of appeal to the Board of Veterans Appeals from a determination made under this section denying a waiver of erroneous payment of pay or allowances. Denial of a waiver of erroneous payment of pay and allowances may be appealed to the General Accounting Office (GAO) in accordance with procedures established by that agency and the Veterans Administration. (38 U.S.C. 210(c)(1))

§ 1.964 [Amended]

7. Section 1.964 is amended by deleting the words "widow (widower)" and "widow or widower" and inserting the words "surviving spouse" in paragraph (c) and inserting the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (f).

§ 1.966 [Amended]

8. By deleting the word "his" and inserting "his/her" in paragraph (a); by deleting the words "field station Committee" and inserting "regional office Committee" in the introductory portion of paragraph (b) and by inserting the legal citation "(38 U.S.C. 210(c)(1))" at the end of paragraph (b)(2)(ii).

9. In § 1.967, paragraph (c) is revised to read as follows:

§ 1.967 Refunds.

* * * * *

(c) Amounts which have been recovered by the U.S. Government prior to the date of receipt by the Veterans Administration of a request for waiver, will not be refunded and will be excluded from waiver. Where recovery is made by offset or recoupment from a check(s) of a running award, the date of recovery is the date of issuance of the check from which the offset is made; or in the case of total recoupment the date of recovery is the date on which the check would have been issued. However, any amounts repaid because of erroneous payment of pay or allowances to employees will be considered for waiver action (regardless of date of request as long as such is timely in accordance with § 1.963a(c)) and, if waived, refund will be made to the employee, provided application for refund is made no later than 2 years following the date of waiver. (38 U.S.C. 210(c)(1))

§ 1.968 [Revoked]

10. Section 1.968 is revoked.

11. Sections 1.969 and 1.970 are revised to read as follows:

§ 1.969 Revision of waiver decisions.

(a) *Jurisdiction.* A decision involving waiver may be reversed or modified on the basis of new and material evidence, fraud, a change in law or interpretation of law specifically stated in a Veterans Administration issue, or clear and unmistakable error shown by the evidence in file at the time the prior decision was rendered by the same or any other regional office Committee.

(b) *Finality of decisions.* Except as provided in paragraph (a) of this section, a decision involving waiver rendered by the Committee having jurisdiction is final, subject to the provisions of:

(1) Sections 3.104(a), 19.153 and 19.154 of this chapter as to finality of decisions;

(2) Section 3.105 (a) and (b) of this chapter as to revision of decisions, except that the Central Office staff may postaudit or make an administrative review of any decision of a regional office Committee;

(3) Sections 3.103, 19.113 and 19.114 of this chapter as to notice of disagreement and the right of appeal;

(4) Section 19.124 of this chapter as to the filing of administrative appeals and the time limits for filing such appeals.

(c) *Difference of opinion.* Where reversal or amendment of a decision involving waiver is authorized under § 3.105(b) of this chapter because of a difference of opinion, the effective date of waiver will be governed by the principle contained in § 3.400(h) of this chapter. (38 U.S.C. 210(c)(1))

§ 1.970 Standards for compromise.

Decisions of the Committee respecting acceptance or rejection of a compromise offer shall be in conformity with the standards in §§ 1.900 through 1.937. In loan guaranty cases the offer of a veteran or other obligor to effect a compromise must relate to an indebtedness established after the liquidation of the security, if any, and shall be reviewed by the Committee. An offer to effect a compromise may be accepted if it is deemed advantageous to the Government. A decision on an offer of compromise may be revised or modified on the basis of any information which would warrant a change in the original decision. (38 U.S.C. 210(c)(1))

[FR Doc. 79-31990 Filed 10-16-79, 8:45 am]
BILLING CODE 6320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E2038/R221; FRL 1340-1]

Chlorpyrifos; Tolerances and Exemptions From Tolerances for Pesticide Chemicals

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for residues of the insecticide chlorpyrifos on radishes and rutabagas at 3 parts per million (ppm). The proposal was submitted by the Interregional Research Project No. 4. This rule establishes maximum permissible levels for residues of the insecticide chlorpyrifos on radishes and rutabagas.

EFFECTIVE DATE: October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mrs. Patricia Critchlow, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, SW, Washington, D.C. (202/426-0223).

SUPPLEMENTARY INFORMATION: On August 22, 1979, the EPA published a notice of proposed rulemaking in the **Federal Register** (44 FR 49276) in response to a pesticide petition (PP 8E2038) submitted to the Agency by the Interregional Research Project No. 4 (IR-4), New Jersey State Agricultural Experiment Station, PO Box 231, Rutgers University, New Brunswick NJ 08903, on behalf of the IR-4 Technical Committee and the Agricultural Experiment Stations of Colorado, Hawaii, Idaho, Michigan, New York, Oregon, Utah, Washington, and Wisconsin. This petition proposed that 40 CFR 180.342 be amended by the establishment of tolerances for residues of the insecticide chlorpyrifos (*O,O*-diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate) and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities radishes and rutabagas at 3 ppm. No comments or requests for referral to an advisory committee were received in response to this notice of proposed rulemaking.

It has been concluded, therefore, that the proposed amendment to 40 CFR 180.342 should be adopted without change, and it has been determined that

V 44 OC 17 79 UMI

this regulation will protect the public health.

Any person adversely affected by this regulation may, within 30 days after publication in the Federal Register, file written objections with the Hearing Clerk, EPA, Rm. M-3708 (A-110), 401 M St., SW, Washington, DC 20460. Such objections should be submitted in triplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA lables these other regulations "specialized". This regulation has been reviewed, and it has been determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Effective on the date of publication in the Federal Register, Part 180, Subpart C, section 180.342 is amended by alphabetically inserting radishes and rutabagas in the table at 3 ppm as set forth below.

Dated: October, 9, 1979.

Statutory Authority: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

Part 180, Subpart C, section 180.342 is amended by alphabetically inserting radishes and rutabagas at 3 ppm in the table to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

Commodity	Parts per million
* * * * *	
Radishes	3
Rutabagas	3
* * * * *	

[FR Doc. 79-32044 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

45 CFR Part 80

Nondiscrimination in Federally Assisted Programs; Title VI of the Civil Rights Act of 1964; Policy Interpretation

Correction

In FR Doc. 79-31218, published on page 58509, in the issue of Wednesday, October 10, 1979, make the following correction:

On page 58511, in the first column, the heading "§ 80.3 [Amended]. (b)(6) * * *", should have read: "Section 80.3(b)(6)", to reflect the fact that the text following the heading is an "interpretation" not intended to amend the CFR.

FOREIGN CLAIMS SETTLEMENT COMMISSION

45 CFR Part 531

Determination of Claims; Role of Staff Members

AGENCY: Foreign Claims Settlement Commission.

ACTION: Amendment of Regulations.

SUMMARY: The Commission has determined that in the event that only one member of the Commission is available as a result of unfilled vacancies on the Commission, or due to a member's inability to function, a member of the staff may be designated to issue proposed decisions on claims pending before the Commission, effectuating the first step in the adjudication process. Such proposed decisions issued by the staff person shall not be entered as the final decisions without the approval of a quorum of the Commission. The Commission determined that this change in the regulations is important in the management of the business of the Commission to allow its work to continue in an orderly manner in the absence of an appointed quorum. This notice proposes to adopt new paragraphs (b) and (g) of § 531.5 of Part 531 of 45 CFR, consisting of the regulations set forth below, to implement these determinations of the Commission.

DATES: Effective October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Wayland D. McClellan, General Counsel, Foreign Claims Settlement Commission, Room 414, 1111 20th Street, NW., Washington, DC 20579, (202) 653-6166.

The regulations of the Foreign Claims Settlement Commission are amended by revising paragraphs (b) and (g) of § 531.5 of Part 531 of 45 CFR to read as follows:

PART 531—FILING OF CLAIMS AND PROCEDURES THEREFOR

§ 531.5 Procedure for determination of claims.

* * * * *

(b) Without previous hearing, the Commission or a designated member of the staff may issue a Proposed Decision in determination of a claim.

* * * * *

(g) Upon the expiration of 30 days after such service or receipt of notice, if no objection under this section has in the meantime been filed, such proposed staff decision, when approved by the Commission, shall become the Commission's final determination and decision on the claim. A proposed decision approved by the Commission may become final after 30 days without further order or decision by the Commission.

(Sec. 3, 64 Stat. 13, as amended; 22 U.S.C. 1622.)

Dated at Washington, D.C. on October 10, 1979.

Richard W. Yarborough,

Chairman.

Wilfred J. Smith,

Commissioner.

[FR Doc. 79-32056 Filed 10-16-79; 8:45 am]

BILLING CODE 6770-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1013

[Ex Parte No. 332]

Voting Trusts Rules

AGENCY: Interstate Commerce Commission.

ACTION: Final Rules.[1]

SUMMARY: By this notice the Commission is (1) adopting guidelines to assist those preparing voting trust agreements involving securities of regulated carriers; (2) establishing a process for obtaining informal opinions from the Commission regarding the propriety of a proposed agreement; and (3) requiring that final agreements be filed with the Commission. The rules are intended to correct abuses of voting trust agreements.

EFFECTIVE DATE: December 17, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The Commission has recognized that the use of an independent voting trust is an acceptable means of acquiring control of publicly held regulated carriers without prior Commission approval pursuant to 49 U.S.C. 11343. This use of voting trusts has been approved by the Federal courts (see *B. F. Goodrich Co.* v. *Northwest Industries, Inc.*, 303 F. Supp. 53, 61 (D. Del. 1969), aff'd 424 F. 2d 1349 *(3rd Cir. 1970)*, cert. denied, 400 U.S. 822 (1971)).

However, the Commission has encountered a number of instances involving improper use of voting trusts. In three major cases, the Commission has granted approval of the application in spite of violations involving improper usage of voting trusts, because the benefits to the public were found to outweigh the harm resulting from the violations. See *East Texas Motor Frt.-Control-Consolidated*, 109 M.C.C. 218 (1969), *Alleghany Corporation-Control and Purchase*, 109 M.C.C. 333 (1970), and *Eastern Freight Ways, Inc.-Invest. of Control*, 122 M.C.C. 143 (1975).

To attempt to deal with the abuses of voting trusts, proposed regulations were drafted and published for public comment (42 FR 39243). The proposed rules required that certain provisions be included in voting trust agreements; that proposed agreements receive Commission review and approval before taking effect; and that certain reports be submitted to the Commission. After review of the comments on the proposed rules and after further staff study, we determined that the comprehensive regulations originally proposed should not be adopted. We have concluded that we should not burden the transportation industry with complex voting trust regulations to combat abuses by a small number of individuals in very limited circumstances.

As a result, we have eliminated many of the provisions originally proposed in this proceeding. Instead of comprehensive mandatory regulations, we are adopting guidelines governing the provisions of voting trust agreements which concern the independence of the trustee and the irrevocability of the trust. The guidelines are intended to inform the public of the provisions which should be included in a voting trust agreement to insure that it is not used to obtain unauthorized control of a regulated carrier.

We are also establishing a voluntary procedure whereby any person considering establishing a voting trust may obtain an informal opinion from the Commission as to whether the proposed agreement conforms to the Commission's guidelines. The Deputy Director of the Office of Proceedings' Section of Finance will review any proposed agreement submitted to the Commission and will issue an informal opinion stating whether the agreement conforms to the Commission's guidelines.

The only mandatory provisions in the proposed rules are the requirements in § 1013.3 (b) and (c) that voting trust agreements be filed with the Commission and that any person required to file Schedule 13D with the Securities and Exchange Commission also file a copy of that schedule with the Commission. (Schedule 13D is used to report the purchase of 5 percent or more of the registered securities of an ICC regulated carrier or of the listed shares of a company controlling 10 percent or more of the stock of an ICC regulated carrier.)

The adoption of these simplified rules should not be viewed as an invitation to abuse voting trust agreements. The Commission intends to monitor closely the continued use of these devices and to take whatever action is necessary, including forced divestiture of stock, in those instances where a voting trust agreement has been used improperly to obtain unauthorized control of a carrier subject to the Commission's jurisdiction.

These regulations are being adopted at a time when there is great concern about the effects of over-regulation on the transportation industry. The Commission is seeking wherever possible to revise its regulations so that all unnecessary restraints and costs are eliminated. At the same time, where problems exist, or where abuses have been perpetrated, which threaten the health of the national transportation system, we must take action. The approach taken here represents the minimal regulatory approach to the problem presented by abuses of voting trust agreements. Whether it succeeds will depend to a great extent on those within and without the transportation industry who use voting trust agreements to acquire interests in regulated carriers.

It is ordered, that 49 CFR Chapter X is amended by the addition of new Part 1013, set forth below.

Note.—This decision does not significantly affect the quality of the human environment, nor is it a major regulatory action under the Energy Policy and Conservation Act of 1975.

These regulations are issued under the authority of 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: October 10, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis.

Agatha L. Mergenovich,

Secretary.

Part 1013 is added to read as follows:

PART 1013—GUIDELINES FOR THE PROPER USE OF VOTING TRUSTS

Sec.

1013.1 The independence of the trustee of a voting trust.
1013.2 The irrevocability of the trust.
1013.3 Review and reporting requirements for regulated carriers.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

§ 1013.1 The independence of the trustee of a voting trust.

(a) In order to avoid an unlawful control violation, the independent voting trust should be established before a controlling block of voting securities is purchased.

(b) In voting the trusteed stock, the trustee should maintain complete independence from the creator of the trust (the settlor).

(c) Neither the trustee, the settlor, nor their respective affiliates should have any officers or board members in common or direct business arrangements, other than the voting trust, that could be construed as creating an indicium of control by the settlor over the trustee.

(d) The trustee should not use the voting power of the trust in any way which would create any dependence or intercorporate relationship between the settlor and the carrier whose corporate securities constitute the corpus of the trust.

(e) The trustee should be entitled to receive cash dividends declared and paid upon the trusteed voting stock and turn them over to the settlor. Dividends other than cash should be received and held by the trustee upon the same terms and conditions as the stock which constitutes the corpus of the trust.

(f) If the trustee becomes disqualified because of a violation of the trust agreement or if the trustee resigns, the settlor should appoint a successor trustee within 15 days.

§ 1012.2 The irrevocability of the trust.

(a) The trust and the nomination of the trustee during the term of the trust should be irrevocable.

(b) The trust should remain in effect until certain events, specified in the trust, occur. For example, the trust might

[1] The rules originally proposed in this proceeding were to be incorporated into 49 CFR as new Part 1106. That part has since been assigned to another proceeding, and the final rules adopted by this notice are being published as new Part 1013.

V 44 0 C 17 7 9 UMI

remain in effect until (1) all the deposited stock is sold to a person not affiliated with the settlor or (2) the trustee receives a Commission decision authorizing the settlor to acquire control of the carrier or authorizing the release of the securities for any reason.

(c) The settlor should not be able to control the events terminating the trust except by filing with this Commission an application to control the carrier whose stock is held in trust.

(d) The trust agreement should contain provisions to ensure that no violations of 49 U.S.C. 11343 will result from termination of the trust.

§ 1013.3 Review and reporting requirements for regulated carriers.

(a) Any carrier choosing to utilize a voting trust may voluntarily submit a copy of the voting trust to the Commission for review. The Commission's staff will give an informal, nonbinding opinion as to whether the voting trust effectively insulates the settlor from any violation of Commission policy against unauthorized acquisition of control of a regulated carrier.

(b) Any person who establishes an independent trust for the receipt of the voting stock of carrier must file a copy of the trust, along with any auxiliary or modifying documents, with the Commission.

(c) Any carrier required to file a Schedule 13D with the Securities and Exchange Commission (17 CFR 240.13d-1) which reports the purchase of 5 percent or more of the registered securities of another I.C.C. regulated carrier (or the listed shares of a company controlling 10 percent or more of the stock of an I.C.C. regulated carrier), must simultaneously file a copy of that schedule with this Commission, along with any supplements to that schedule.

(d) Failure to comply with the reporting requirements in paragraphs (b) or (c) of this section will result in denial of the application in which acquisition of control, through the acquisition of the voting stock of another carrier, is sought, unless the applicant shows, by clear and convincing evidence, and the Commission finds, that the failure to comply was unintentional and that denial of the application will substantially and adversely effect the public interest and the national transportation policy.

[FR Doc. 79-31991 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

Opening of Bear River Migratory Bird Refuge, Utah; to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: Pheasants, November 3, 1979 through December 2, 1979, inclusive.

FOR FURTHER INFORMATION CONTACT: Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801/744-2488.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasants is permitted on the Bear River Migratory Bird Refuge, Utah, only on the area designated by signs as being open to hunting. This area comprising 12,855 acres, are delineated "Area A" and "Area B" on maps available at the refuge headquarters, Brigham City, Utah and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required in 12 guage guns on all days in both Hunting Area "A" and Area "B" for the entire season. Lead shot may be used in all other guages. The possession of 12 guage lead shot shells within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Roads.* No hunting is permitted from roadways or within 100 yards of any roadway.

(3) *Hunter Check Station.* Each hunter who enters Area "A" or Area "B" is required to register at the checking station and check out before leaving the refuge.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Routes of Travel.* Travel to open hunting areas is permitted by foot or bicycle over roads between Units 1 and 2 and Units 2 and 3, and by vehicle without towed boats or trailers to designated parking area on these roads. Travel by boat is permitted from headquarters area boat ramps down canals between Units 1 and 2 and Units 2 and 3, and the main river channel into Unit 2. Vehicles with boats and trailers are permitted to travel dike roads to designated parking and launching sites on the outer dike. Travel by boat to reach lands outside refuge boundary will be permitted only over designated travel lanes through closed areas. Firearms must be unloaded and either cased or broken down when transported by motor vehicle or boat over the above designated travel lanes.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 6, 1979.

Ned I. Peabody,

Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc. 79-31996 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 33

Opening of Bear River Migratory Bird Refuge, Utah; to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1980.

FOR FURTHER INFORMATION CONTACT: Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801/744-2488.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Bear River Migratory Bird Refuge, Utah, only on the areas designated by signs as being open to fishing. These areas comprising 10 acres are delineated on maps available at the refuge headquarters and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of boats is prohibited below the river control gates at refuge headquarters.

2. Fisherman are required to register at the refuge office upon entering the refuge.

The provisions for this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

Note.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 6, 1979.

Ned I. Peabody,

Refuge Manager, Bear River Migratory Bird Refuge, Brigham City, Utah.

[FR Doc. 79-31997 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Final rulemaking.

SUMMARY: At its 30th annual meeting held in London on June 26-30, 1978, the International Whaling Commission ("IWC") adopted an amendment to the Schedule of the International Convention for the Regulation of Whaling, 1946 (the "Convention") which established a quota for the taking of the Bering Sea stock of bowhead whales for calendar year 1979 of 18 landed or 27 struck, whichever occurs first. Under the rules of procedure of the IWC, the Schedule to the Convention containing the 1979 quota became effective on October 19, 1978. On March 31, 1979, the regulations governing the 1979 bowhead hunt and establishing village allocations for that hunt became effective. These regulations are located at 44 FR 19408 (April 3, 1979). This rulemaking amends those regulations by adding a provision which allows the Assistant Administrator for Fisheries to close the whaling season when the overall bowhead quota has been reached.

This regulation is being promulgated on an emergency basis for a good cause, inasmuch as the 1979 IWC quota was reached on October 12, 1979, and the failure to amend the regulations to permit the Assistant Administrator for Fisheries to close the whaling season may result in the Alaska Eskimos exceeding the IWC quota and placing the U.S. in violation of its international treaty obligations.

DATES: These regulations will become effective upon issuance.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: (202) 634-7287.

SUPPLEMENTARY INFORMATION: The U.S. government reported to the IWC at the 31st annual meeting in London that as of July 1979, the Alaskan Eskimos had landed 7 bowheads and struck 22. IWC 31/4; SC/31/Doc. 50, page 39. During the period October 1, 1979 to October 12, 1979, the village of Kaktovik landed 5 whales, thus bringing the Alaska Eskimo whaling villages up to their full quota.

50 CFR Part 230 is amended to read as follows:

Section 230.72(f) is revised to read as follows:

§ 230.72 Prohibited acts.

* * * * *

(f) No whaling captain shall continue to whale after, (1) the quota set forth in § 230.74 for his village of domicile is reached, or (2) the license under which he is whaling is suspended as provided in § 230.73(b), or (3) the Assistant Administrator has declared that the whaling season is closed pursuant to § 230.74(c).

* * * * *

Section 230.74 is hereby amended to contain a new paragraph (c), to read as follows:

§ 230.74 Quotas.

* * * * *

(c) The Assistant Administrator of Fisheries shall monitor the bowhead whale hunt and keep tally of the number of bowheads landed and struck. When the number of bowhead whales landed or struck reaches the sum total of the village allocations set forth in § 230.74(a), the Assistant Administrator of Fisheries may declare that the whaling season is closed and there shall be no further whaling during the calendar year 1979. Closure shall become effective upon receipt by the Federal Register of notice by the Assistant Administrator of Fisheries that the season has been closed pursuant to this regulation.

* * * * *

[Former paragraph § 230.74(c) shall be renumbered § 230.74(d)].

Issued in Washington, D.C., October 12, 1979

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 79-32053 Filed 10-12-79; 5:03 pm]

BILLING CODE 3510-22-M

50 CFR Part 230

Taking of Bowhead Whales by Indians, Aleuts, or Eskimos for Subsistence Purposes

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of closing.

SUMMARY: This notice is filed pursuant to 50 CFR Section 230.74(c), which allows the Assistant Administrator of Fisheries of the National Marine Fisheries Service to close the bowhead whaling season when the quota has been reached by those villages.

DATES: This notice becomes effective upon issuance.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION: Dr. William Aron, Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C. 20235, Telephone: (202) 634-7287.

V 44 O C 17 7 9 UMI

SUPPLEMENTARY INFORMATION: On October 12, 1979, the National Marine Fisheries Service determined that Kaktovik landed its 5th whale of the 1979 calendar season, bringing the total of entire bowhead whales landed and struck by Alaskan Eskimos for the calendar year 1979 to 12 and 27, respectively. Inasmuch as the quota for calendar year 1979 is 18 landed or 27 struck, whichever occurs first, the 1979 bowhead quota has now been reached.

Pursuant to regulations promulgated at 50 CFR 230.74(c) (October 12, 1979), I am announcing the closure of the bowhead whale fishery for the calendar year 1979. This action is necessary inasmuch as the bowhead quota has reached 12 landed and 27 struck, thus meeting the IWC quota of 18 landed or 27 struck, whichever occurs first.

Issued in Washington, D.C., October 12, 1979.

Terry L. Leitzell,

Assistant Administrator for Fisheries.

[FR Doc. 79-32054 Filed 10-12-79; 5:03 pm]

BILLING CODE 3510-22-M

V 44 OC 17 79 UMI

Proposed Rules

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1079

Milk in the Iowa Marketing Area; Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend certain order provisions that affect the diversion of milk from pool plants to other plants. The action was requested by a proprietary handler. It would remove for November 1979 one of the limitations on the quantity of milk that may be diverted from the handler's supply plant to pool distributing plants and to nonpool plants. Also, it would remove for the period November 1979 through August 1980 the provision that the milk of a producer must be delivered to the diverting handler's supply plant on one day during the month to qualify the milk of such producter for diversion by that handler.

DATE: Comments are due on or before October 25, 1979.

ADDRESS: Comments (two copies) should be filed with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 202-447-7311.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), the suspension of the following provisions of the order regulating the handling of milk in the Iowa marketing area is being considered for the periods indicated:

1. In § 1079.13(d)(1), for the period November 1, 1979, through August 31, 1980, the words "as producer milk".

During the effective period of such suspension, § 1079.13(d)(1) would provide as follows:

"Milk of a dairy farmer shall not be eligible for diversion under this section unless during the month at least one day's production of milk of such dairy farmer is physically received at a pool plant;"

2. In § 1079.13(d)(3), for the month of November 1979, the portion of the last sentence as follows: "50 percent in the months of September through November, and"; and the words "in other months".

During the effective period of such suspension, the last sentence in § 1079.13(d)(3) would provide as follows:

"The total quantity so diverted during the month may not exceed 70 percent of the milk received at or diverted from such pool plant during the month that is eligible to be diverted by the plant operator;"

All persons who want to comment on the proposed suspension should send 2 copies of their comments to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250, on or before the 8th day after **Federal Register** publication. A relatively limited period for comments is being provided to facilitate the timely suspension of the provisions in question.

The comments that are sent will be made available for public inspection at the Hearing Clerk's office during regular business hours (7 CFR 1.27(b)).

Statement of Consideration

Kraft, Inc., has built a plant at Earlville, Iowa, which it intends to operate as a pool supply plant under the Iowa milk order. There will be no manufacturing facilities at the supply plant. Kraft, Inc., intends to supply milk that will be associated with the supply plant to the pool distributing plant of a proprietary handler in Des Moines, Iowa. The milk would move from farms directly to the Des Moines distributing plant by diversion from the Earlville supply plant. Unless the provision "as producer milk" in § 1079.13(d)(1) is suspended, as proposed, at least one day's production of milk of a dairy farmer would have to be physically received at the supply plant for the milk of such farmer to be eligible for diversion as producer milk to the Des Moines distributing plant. Thus, the milk of each producer that would be involved in such diversion would have to be delivered to the supply plant at least once a month and then reloaded to be delivered to the distributing plant.

The attorney for Kraft, Inc., stated that such requirement should not be necessary to pool the milk of such producers under the Iowa milk order. In his view, the fact that the milk would be received at a pool distributing plant directly from farms should be a sufficient basis for establishing the pooling eligibility for such milk under the Iowa order.

According to Kraft, Inc., if the suspension proposed for § 1079.13(d)(1) is not adopted, extra pumping of milk will be required which, it was stated, tends to deteriorate the quality of the milk so handled. Also, the handler claimed that for the milk that is received at the supply plant, a location adjustment of minus 16 cents a hundredweight would apply in paying producers, when the sole purpose of delivering the milk to the supply plant is to qualify the producers' milk for diversion.

Kraft, Inc., claimed also that by providing 70 percent diversion for November 1979, instead of the 50 percent now provided by the order, economies of about $100 per day could be realized in the cost of marketing the milk involved, considering the hauling distances and the quantity of milk involved. According to the handler, much of the milk would be diverted to the Des Moines distributing plant, while some milk would be diverted to a Kraft, Inc., nonpool manufacturing plant at Galena, Illinois. These economies, according to Kraft, do not include the cost reduction that could be realized in reducing the milk pumping that would be involved if the proposed suspension were adopted.

The petitioner asked that the suspension be effective October 1, 1979. However, such time frame would not provide other handlers in the market an opportunity to adjust their operations for the month of October considering the October issuance date of this proposed suspension notice. Accordingly, the proposed suspension is contemplated to begin November 1, 1979.

The petitioner stated that a suspension is requested due to the

greater time and delay that would be involved in proposing an amendment hearing at this time. Petitioner intends to request an amendment hearing, if the suspension is adopted, to establish the effect of the suspension on a permanent basis.

Signed at Washington, D.C., on October 12, 1979.

Irving W. Thomas,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 79-32042 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32C]

Mandatory Petroleum Price Regulations; Equal Application Rule and Allocation of Increased Cost at Retail Level

AGENCY: Economic Regulatory Administration.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of the cancellation of a public hearing on Mandatory Petroleum Price Regulations; Equal Application Rule and Allocation of Increased Cost at Retail Level scheduled for 9:30 a.m. on October 18, 1979 at the Federal Building, Room 1407, 1960 Stout Street, Denver, Colorado. DOE published the hearing date initially on September 21, 1979 (44 FR 54902). The Washington, D.C. hearing on this matter remains scheduled for October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2214, 2000 M Street NW., Washington, D.C. 20461, (202) 254-5201.
William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B-110, 2000 M Street NW., Washington, D.C. 20461, (202) 634-2170.
Chuck Boehl or Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254-7200.
William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-31948 Filed 10-16-79; 8:45 am]

BILLING CODE 6450-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1201

Proposed Partial Revocation of Standard Concerning Accelerated Environmental Durability Testing of Plastic Glazing Materials; Withdrawal of Previously Proposed Amendment

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed partial revocation of rule; Notice of Oral Presentation

SUMMARY: This notice announces procedures for a public meeting at which interested persons will be given an opportunity to orally present data, views, or arguments concerning the proposed partial revocation of the Safety Standard for Architectural Glazing Materials published in the Federal Register of September 26, 1979 (44 FR 55386).

DATES: (1) Written comments concerning the proposed partial revocation should be submitted by November 26, 1979. Comments received after this date will be considered to the extent practicable. (2) There will be an opportunity for interested persons to orally present data, views or arguments on October 23, 1979 at 9:30 am.

ADDRESSES: Comments, summaries or copies of testimony should be sent to: Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received material may be seen in, or copies obtained from the Office of the Secretary, 1111 18th Street NW., Third Floor, Washington, D.C.

Hearing location: CPSC Hearing Room, 1111 18th Street NW., Third Floor, (9:30 a.m.), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492-6453; for information on the oral presentation, contact Richard Danca or Sheldon Butts, Office of the Secretary, (202) 634-7700.

SUPPLEMENTARY INFORMATION: The oral presentation will take place on October 23, 1979 and will be conducted in accordance with the Commission's procedural regulations for oral presentations concerning consumer product safety rules, 16 CFR Part 1109. These procedural regulations provide that the purpose of the oral presentation is to give interested persons an opportunity to participate in person in the Commission's rulemaking proceedings. The oral presentation is an informal, non-adversary, legislative-type proceeding at which there are no formal pleadings or adverse parties.

Persons wishing to make oral presentations must have notified the Office of the Secretary in writing on or before October 10, 1979, and must provide the Office of the Secretary with a summary or copy of the testimony to be presented, including an estimate of the amount of time required, on or before October 16, 1979. The oral presentation will begin at 9:30 a.m. in the Commission's hearing room, 3rd floor, 1111 18th Street NW., Washington, D.C.

As indicated in the proposed partial revocation published on September 26, 1979, interested persons also are invited to submit written comments concerning the proposal on or before November 26, 1979.

Dated: October 10, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-32034 Filed 10-16-79; 8:45 am]

BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1616

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From EEOC

AGENCY: Equal Employment Opportunity Commission.

ACTION: Proposed regulations.

SUMMARY: These regulations will implement the provisions of the Age Discrimination Act of 1975, as amended. The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. These proposed regulations set forth procedures and policies to assure nondiscrimination because of age in programs and activities receiving Federal financial assistance from EEOC, and define and forbid such discrimination.

DATES: Written comments must be received on or before December 17, 1979. Final regulations will be issued after consideration of all comments and after coordination with the Department of Health, Education, and Welfare.

ADDRESS: Comments should be addressed to Marie Wilson, Executive Secretariat, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2254, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, (202) 634-6595.

SUPPLEMENTARY INFORMATION: In October 1978 Congress amended the Age Discrimination Act, 42 U.S.C. § 6101 *et seq.* The Age Discrimination Act prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions which permit, under limited circumstances, continued use of age distinctions or factors other than age which may have a disproportionate effect on the basis of age. The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act. The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 *et seq.* continues to be the Federal statute that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must look to the ADEA for relief rather than the Age Discrimination Act. The Act requires the Secretary of HEW to publish proposed and then final regulations setting standards for other Federal agencies to follow in the development of agency specific regulations on nondiscrimination because of age in programs or activities receiving Federal financial assistance. HEW published its final rules on June 12, 1979, at 44 Fed. Reg. 33768. The Act also requires each agency which provides Federal financial assistance to issue proposed and then final specific regulations. All agency specific regulations must conform to these general regulations and must be approved by the Secretary of HEW.

These regulations are the EEOC's proposed regulations required by the Act. They are patterned after the regulations issued by HEW. Changes were made to meet the specific organizational and programmatic requirements of the Equal Employment Opportunity Commission. The principal Commission programs which involve Federal financial assistance are listed in Appendix C.

These are not significant regulations within the meaning of Executive Order 12044.

The Commission proposes to add a new Part 1616 to title 29 of the Code of Federal Regulations to read as set forth below.

Signed this 4th day of October 1979.

For the Commission.

Eleanor Holmes Norton,

Chair.

PART 1616—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM EEOC

Subpart A—General

Sec.
1616.1 Purpose of EEOC's age discrimination regulations.
1616.2 Applicability of these regulations.
1616.3 Definitions.

Subpart B—Standards for Determining Age Discrimination Standards

1616.4 Standards.

Subpart C—Duties of EEOC Recipients

1616.5 General responsibilities.
1616.6 Notice to subrecipients.
1616.7 Self-evaluation.
1616.8 Information requirements.

Subpart D—Investigation Conciliation, and Enforcement Procedures

1616.9 Compliance reviews.
1616.10 Complaints.
1616.11 Mediation.
1616.12 Investigation.
1616.13 Prohibition against intimidation or retaliation
1616.14 Compliance procedure.
1616.15 Hearings.
1616.16 Decisions, notices and post-termination proceedings.
1616.17 Judicial review.
1616.18 Remedial action by recipients.
1616.19 Alternate funds disbursal procedure.
1616.20 Exhaustion of administrative remedies.

Authority: Age Discrimination Act of 1975, as amended, 42 U.S.C. 6101 *et seq.*; 45 C.F.R. 90.

Subpart A—General

§ 1616.1 Purpose of EEOC's age discrimination regulations.

The purpose of these regulations is to set out EEOC's policies and procedures under the Age Discrimination Act of 1975 and the government-wide age discrimination regulations at 45 CFR 90. The Act and the governement-wide regulations prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the government-wide regulations permit Federally assisted programs and activities, and recipients of Federal funds, to continue to use age distinctions and factors other than age which meet the requirements of the Act and the government-wide regulations.

§ 1616.2 Applicability of these regulations.

These regulations apply to each EEOC recipient and to each program or activity operated by the recipient which receives or benefits from Federal financial assistance provided by EEOC.

§ 1616.3 Definitions.

(a) As used in these regulations, the term: "Act" means the Age Discrimination Act of 1975, as amended. [Title III of Public Law 94-135].

"Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of ages [for example, "children," "adult," "older persons," but not "student"].

"Agency" means a Federal department or agency that is empowered to extend financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract [other than a procurement contract or a contract of insurance or guaranty], or any other arrangement by which the agency provides or otherwise makes available assistance in the form of: (1) Funds; (2) Services of Federal personnel; or (3) Real and personal property or any interest in or use of property, including: (i) Transfers or leases of property for less than fair market value or for reduced consideration; and (ii) Proceeds from a subsequent transfer or lease of property if the Federal share of its fair market value is not returned to the Federal Government.

"Recipient" means any State or its political subdivision, any instrumentality of a State or its political sub-division, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"United States" means the fifty States, the District of Columbia, Puerto Rico,

V 44 OC 17 79 UMI

the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

These definitions are the same as those used in the government-wide regulations.

(b) As used in these regulation, the term: "EEOC" means the United States Equal Employment Opportunity Commission.

"Chair" means the Chairman of the EEOC or her designee.

"Subrecipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on Federal financial assistance. A subrecipient is generally regarded as a recipient of Federal financial assistance and has all the duties of a recipient in these regulations.

Subpart B—Standards for Determining Age Discrimination

§ 1616.4 Standards.

The standards EEOC uses to determine whether an age distinction or a factor other than age is prohibited are set out in 45 CFR Part 90 (44 FR 33776; June 12, 1979) the government-wide regulations.

Subpart C—Duties of EEOC Recipients

§ 1616.5 General responsibilities.

Each EEOC recipient has primary responsibility to ensure that its programs and activities are in compliance with the Act, the government-wide regulations and these regulations. Each recipient also has responsiblity to maintain records, provide information, and to afford access to its records to the EEOC to the extent required to determine whether it is in compliance with the Act.

§ 1616.6 Notice to subrecipients.

Where a recipient passes on Federal financial assistance from EEOC to subrecipients, the recipient shall provide the subrecipients written notice of their obligations under these regulations.

§ 1616.7 Self-evaluation.

(a) Each recipient employing the equivalent of 15 or more full-time employees shall complete a written self-evaluation of its compliance under the Act within 18 months of the effective date of these regulations.

(b) In its self-evaluation, each recipient shall identify all age distinctions it uses, and justify each age distinction it imposes on the program or activity receiving Federal financial assistance from EEOC.

(c) Each recipient shall take corrective and remedial action whenever a self-evaluation indicates a violation of these regulations and the Act.

(d) Each recipient shall make the self-evaluation available on request to EEOC and to the public for a period of three years following its completion.

§ 1616.8 Information requirements.

Each recipient shall:

(a) Make available upon request to EEOC information necessary to determine whether the recipient is complying with these regulations.

(b) Permit reasonable access by EEOC to the books, records, accounts, and other recipient facilities and sources of information to the extent necessary to determine whether the recipient is in compliance with these regulations.

Subpart D—Investigation, Conciliation, and Enforcement Procedures

§ 1616.9 Compliance reviews.

(a) EEOC may conduct compliance reviews and pre-award reviews of recipients that will permit it to investigate and correct violations of these regulations. EEOC may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of these regulations, EEOC will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, EEOC will arrange for enforcement as described in § 1616.14.

§ 1616.10 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the Chair of the EEOC, alleging discrimination prohibited by these regulations and the Act. A complainant must file a complaint within 180 days from the date the complainant first had knowledge of the alleged act of discrimination. However, for good cause shown, EEOC may extend this time limit. The Act excludes from its coverage most employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act. The Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 *et seq.* continues to be the Federal statutes that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must look to the ADEA for relief rather than the Age Discrimination Act.

(b) EEOC will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(1) Accepting as a sufficient complaint any written statement which identifies the parties involved, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations.

(4) Notifying the complainant and the recipient of their rights under the complaint procedure, including the right to have a representative at all stages of the complaint procedure.

(5) Notifying the complainant and the recipient (or their representatives) of their right to contact EEOC for information and assistance regarding the complaint resolution process.

(c) EEOC will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reason(s) why it is outside the jurisdiction of these regulations.

§ 1616.11 Mediation.

(a) Referral of complaints for mediation.

§ 90.43 of the government-wide regulations provides that each agency shall promptly refer all complaints which fall within the coverage of the Act to a mediation agency designated by the Secretary of Health, Education and Welfare. EEOC will refer to the mediation agency designated by the Secretary all complaints that:

(1) Fall within the jurisdication of these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. There must be at least one meeting with the mediator before EEOC will accept a judgment that an agreement is not possible. However, the recipient and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to EEOC. EEOC will take no further action on the complaint unless the complainant or the recipient fail to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(e) EEOC will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time EEOC receives the complaint; *or*

(2) Prior to the end of that 60 day period, an agreement is reached; *or*

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to the EEOC.

§ 1616.12 Investigation.

(a) Informal investigation.

(1) EEOC will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(2) As part of the initial investigation, EEOC will use informal fact finding methods, including joint or separate discussions with the complainant and recipient, to establish the facts and, if possible, settle the complaint on terms that are mutually agreeable to the parties. EEOC may seek the assistance of any involved State program agency.

(3) EEOC will put any agreement in writing and have it signed by the parties and an authorized official at EEOC.

(4) The settlement shall not affect the operation of any other enforcement effort of EEOC, including compliance reviews and investigation of other complaints which may involve the recipient.

(5) The settlement is not a finding of discrimination against a recipient.

(b) Formal investigation. If EEOC cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, EEOC will attempt to obtain voluntary compliance. If EEOC cannot obtain voluntary compliance, it will begin enforcement as described in § 1616.14.

§ 1616.13 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by these regulations or the Act; or

(b) Cooperates in any mediation, investigation, hearing, or other part of EEOC's investigation, conciliation, and enforcement process.

§ 1616.14 Compliance procedure.

(a) EEOC may enforce the Act and these regulations through:

(1) Termination of a recipient's Federal financial assistance from EEOC under the program or activity involved where the recipient has violated the Act or these regulations. The determination of the recipient's violation may be made only after a recipient has had an opportunity for a hearing on the record before an administrative law judge. Therefore, cases which are settled in mediation, or prior to a hearing, will not involve termination of a recipient's Federal financial assistance from EEOC.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations of the recipient created by the Act or these regulations.

(ii) Use of any requirement of or referral to any Federal, State, or local government agency that will have the effect of correcting a violation of the Act or these regulations.

(b) EEOC will limit any termination under § 1616.14(a)(1) to the particular recipient and particular program or activity EEOC finds in violation of these regulations. EEOC will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive Federal financial assistance from EEOC.

(c) EEOC will take no action under paragraph (a) of this section until:

(1) The Chair has advised the recipient of its failure to comply with the Act and these regulations and has determined that voluntary compliance cannot be obtained.

(2) Thirty days have elapsed after the Chair has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the Federal program or activity involved. The Chair will file a report whenever any action is taken under paragraph (a) of this section.

(d) The Chair also may defer granting new Federal financial assistance from EEOC to a recipient when a hearing under section 1616.14(a)(1) is initiated.

(1) New Federal financial assistance from EEOC includes all assistance for which EEOC requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New Federal financial assistance from EEOC does not include increases in funding as a result of changed computation of formula awards or assistance approved prior to the beginning of a hearing under section 1616.14(a)(1).

(2) EEOC will not begin a deferral until the recipient has received a notice of an opportunity for a hearing under section 1616.14(a)(1). EEOC will not continue a deferral for more than 30 days after the close of the hearing, unless the hearing results in a finding against the recipient.

§ 1616.15 Hearing.

(a) Opportunity for hearing. Whenever an opportunity for a hearing is required by § 1616.14(a)(1), reasonable notice shall be given by certified mail, return receipt requested, to the affected recipient. This notice shall fix a date not less than 3 weeks after the date of receipt of such notice within which the recipient may file with the Chair a request in writing that the matter be scheduled for hearing. A recipient may waive a hearing and submit written information and argument for the record. The failure of a recipient to request a hearing under this paragraph or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under 1616.14(a)(1) and consent to the making of a decision on the basis of such information as is available to the Chair.

(b) Time and place of hearing. Hearings shall be held at the Office of the EEOC in Washington, D.C. unless the Chair determines that the convenience of the recipient or of the EEOC requires that another place be selected. Hearing shall be held at a time fixed by the Chair before a hearing examiner designated in accordance with 5 U.S.C. § 3105 or 5 U.S.C. § 3344.

(c) Right to counsel. In any proceeding under this section, the recipient and the EEOC shall have the right to be represented by counsel.

(d) Procedures, evidence, and record. (1) The hearing, decision, and any administrative review thereof shall be conducted pursuant to these regulations, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied, where reasonably

V 44 0 1 7 9 UMI

necessary, by the hearing examiner conducting the hearing. Technical rules of evidence shall not apply to hearings conducted pursuant to these regulations; however, the hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. A transcript shall be made of the oral evidence except to the extent that the substance thereof is stipulated to for the record. All decisions shall be based upon the hearing record.

(2) The hearing record including, but not limited to, the transcript of oral testimony given at the hearing, all documentary evidence introduced under the modified rules of evidence applied by the hearing examiner, and all other exhibits or proof so introduced, accompanied by written recommended findings of fact and conclusions of law, shall be prepared by the hearing examiner and submitted to the Chair for final agency decision.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted and which constitute either (1) noncompliance with these regulations with respect to two or more types of Federal financial assistance to which these regulations apply, or (2) non-compliance with both these regulations and the regulations of one or more other Federal departments or agencies issued under the Act, the Chair may, by agreement with such other departments or agencies, provide for conduct of the consolidated or joint hearings, and for the application to such hearings of rules or procedures not inconsistent with these regulations. Final decisions in such cases, insofar as the EEOC is concerned, shall be made in accordance with § 1616.16

1616.16 Decisions, notices and post-termination proceedings.

(a) Procedure when a hearing is held. The hearing examiner shall make a recommended decision, including findings of fact, conclusions of law and a proposed disposition, and a copy of such recommended decision shall be mailed by certified mail (return receipt requested) to the Chair, to the recipient, and the complainant, if any. The recipient and the complainant, if any, may, within 30 days after the receipt of such notice of recommended decision, file with the Chair its exceptions to the recommended decision, and reasons therefore. The Chair may accept, reject, or modify the recommended decision of the hearing examiner. The decision of the Chair shall be the final decision of the agency. A copy of this decision shall be sent to the recipient, and to the complainant, if any.

(b) Procedure when hearing is waived. Whenever a hearing is waived pursuant to section 1616.15(a), a decision shall be made by the Chair on the record and a written copy of such decision shall be sent to the recipient, and to the complainant, if any.

(c) Content of orders. The final decision may provide for termination of, or refusal to grant or continue, Federal financial assistance, in whole or in part, to the program involved and contain such terms, conditions, and other provisions as are consistent with and will effectuate the purpose of the Act and these regulations. The final decision may include proivisions designed to assure that no Federal financial assistance will thereafter be extended by the Commission under such program to the recipient determined by such decision to have failed to comply with requirements imposed by or under these regulations unless and until it corrects its non-compliance and satisfies the Chair that it will henceforth fully comply with these regulations.

(d) Post-termination proceedings. (1) A recipient adversely affected by an order issued under paragraph (c) of this section shall be restored to full eligibility to receive Federal financial assistance from the EEOC if it satisfies the terms and conditions of that order for such eligibility and brings itself into compliance with these regulations and the Act, and provides reasonable assurance that it will fully comply with these regulations and the Act in the future. (2) Any recipient adversely affected by an order entered pursuant to paragraph (c) of this section may at any time request the Chair to restore fully its eligibility to receive Federal financial assistance from the EEOC. Any such request shall be supported by information showing that the recipient has met the requirements of paragraph (d)(1) of this section. If the Chair determines that those requirements have been satisfied, the Chair shall restore such eligibility. (3) If the Chair denies any request made under paragraph (d)(2) of this section, the recipient may submit a request in writing for a hearing, specifying why it believes the Chair to have been in error. It shall thereupon be given an expeditious hearing by the Chair, with a decision on the record in accordance with rules or procedures issued by the Chair. The recipient will be restored to such eligibility if it proves at such a hearing that it satisfied the requirements of sub-paragraph (d)91) of this section. (4) While proceedings under paragraph (d) of this Section are pending, the sanctions imposed by the order issued under paragraph (c) of this section shall remain in effect.

§ 1616.17 Judicial review.

Action taken under the Act by the Chair of the EEOC is subject to judicial review as provided under the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*

1616.18 Remedial Action by recipients.

(a) Where a recipient is found to have discriminated on the basis of age, the recipient shall take any remedial action which the EEOC may require to overcome the effects of the discrimination. If another recipient exercises control over the recipient that has discriminated, both recipients may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children in addition to persons of other ages provides special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

1616.19 Alternate funds disbursal procedure.

(a) When EEOC withholds funds from a recipient under these regulations, the Chair may disburse the withheld funds directly to an alternate recipient: any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Chair will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

1616.20 Exhaustion of administrative remedies.

(a) A complainant may file a civil action against a recipient following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and EEOC has made no finding with regard to the complaint; or

(2) EEOC issues any finding in favor of the recipient.

(b) If EEOC fails to make a finding within 180 days or issues a finding in favor of the recipient, EEOC will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his right under § 305(e) of the Act to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary of HEW, the Attorney General of the United States, the Chair of the EEOC, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested, the court in which the complainant will bring the action; and whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That no action may be brought if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Note.—The following Appendices will not appear in the Code of Federal Regulations.

Appendix A

§ 90.12 Rules against age discrimination.

The rules stated in this section are limited by the exceptions contained in sections 90.14, and 90.15 of these regulations.

(a) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(b) Specific rules: A recipient may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) excluding individuals from, denyng them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 90.13 Definitions of "normal operation" and "statutory objective."

For purposes of sections 90.14, and 90.15, the terms "normal operation" and "statutory objective" shall have the following meaning:

(a) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

(b) "Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 90.14 Exceptions to the rules against age discrimination. Normal operation or statutory objective of any program or activity.

A recipient is permitted to take an action, otherwise prohibited by section 90.12, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(a) Age is used as a measure or approximation of one or more other characteristics; and

(b) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(c) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(d) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 90.15 Exceptions to the rules against age discrimination. Reasonable factors other than age.

A recipient is permitted to take an action otherwise prohibited by section 90.12 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

§ 90.16 Burden of proof.

The burden of proving that an age distinction or other action falls within the exceptions outlined in sections 90.14 and 90.15 is on the recipient of Federal financial assistance.

Appendix B—EEOC Responsibilities

For the information of recipients and other reviewers, the following is a summary of activities that the Government-wide regulations require of EEOC. The citation in brackets is to the section of the Government-wide regulations which EEOC is summarizing.

(1) Submit its final agency regulations to the Department of Health, Education and Welfare for review no later than 120 days after publication of these proposed regulations. [§ 90.31]

(2) Publish an appendix to its final age discrimination regulations containing a list of each age distinction provided in a Federal statute or in regulations affecting financial assistance administered by EEOC. [§ 90.31]

(3) Review age distinctions EEOC imposes on its recipients to determine whether they are permissible under the Act. EEOC will publish the results of that review for public comment within 12 months after it publishes its final regulations. [§ 90.32]

(4) Cooperate for all compliance and enforcement purposes, with other Federal agencies which provide Federal financial assistance to the same recipient or class of recipients. [§ 90.33]

(5) Submit annual reports to the Secretary of Health, Education and Welfare describing EEOC's efforts to carry out the Act. [§ 90.34]

(6) Attempt to ensure that EEOC recipients comply voluntarily with the Act. [§ 90.42]

(7) Review the effectiveness of these regulations 30 months after they become effective. [§ 90.62]

Appendix C—Current Commission Programs Covered by These Regulations

This Appendix sets forth the principal programs to which the Equal Employment Opportunity Commission provides Federal financial assistance, and which therefore are covered by these regulations. It is not intended to be inclusive.

(1) *Contracts with State Fair Employment Practices Agencies:* The Commission has an ongoing contract program with a number of state and local fair employment practices agencies. Participating agencies receive funding from the Commission in exchange for their agreement to process a certain number of charges of discrimination per year and to improve their charge processing systems. This program strengthens and assists these agencies in carrying out their missions under their respective State or local fair employment practice laws. As a corollary, the Equal Employment Opportunity Commission receives a benefit in that it is able to avoid duplication in its own investigative efforts in cases investigated by the State or local agencies.

(2) *Attorney Loan Fund Program:* Under this program, the Commission makes limited funds available to private attorneys to help defray the plaintiff's costs in bringing litigation under Title VII of the Civil Rights Act of 1964, as amended. Attorneys are required to reimburse the loan fund if they prevail in the law suit and recover their costs.

V 4 4 0 C 1 7 7 9 UMI

V 4 4 0 C 1 7 7 9 UMI

(3) *Area Bar Center (ABAR) Program:* The Commission has recently instituted a program to establish and fund five "Area Bar Centers" (ABAR's). These centers, to be administered by non-profit and educational organizations, will provide technical assistance and training to attorneys representing plaintiffs in litigation brought under Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, as amended, the Equal Pay Act of 1963 and Section 501 of the Rehabilitation Act of 1973, as amended.

Such cooperative assistance is authorized by Section 705(g)(1) and 709(b) of Title VII of the Civil Rights Act of 1964, as amended. Section 42 U.S.C. 2000e–4(g)(1) and Section 2000e–8(b) respectively. Section 705(g)(1) of Title VII authorizes the Commission to carry forward the underlying purposes of the Title by utilizing State and regional agencies, both public and private, or individuals. Section 709(b) of Title VII specifically authorizes the Commission to cooperate with, share information with, and assist in every way State or local authorities established to foster and enforce the equal employment opportunity rights of all citizens guaranteed by Title VII.

[FR Doc. 79-31953 Filed 10-16-79; 8:45 am]

BILLING CODE 6570-06-M

Notices

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Cancellation To Prepare an Evnironmental Impact Statement

Burlington Northern Inc. Land Exchange—Gallatin, Lake, Lincoln, Sanders, Flathead, Madison, Mineral, Missoula, Park, Ravalli Counties, Montana; Flathead National Forest Timber Management Plan—Flathead, Lake, Lewis and Clark, Lincoln, Missoula, Powell, Glacier, Sanders Counties, Montana; Rocky Mountain Front Land Management Plan—Glacier, Pondera, Teton, Lewis and Clark Counties, Montana; Cedars Land Management Plan—Clearwater, Shoshone Counties, Idaho; Hayden Wolf-Lodge Planning Unit—Kootenai County, Idaho.

The Forest Service, Department of Agriculture, has determined the planning process for the above-listed environmental impact statements will be discontinued.

Comments concerning this notice should be addressed to USDA Forest Service, Northern Region, P.O. Box 7669, Missoula, MT 59807.

Dated: October 9, 1979.

James E. Reid,

Acting Regional Forester.

[FR Doc. 79-32001 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-11-M

Routt National Forest Grazing Advisory Board; Meeting

The Routt National Forest Grazing Advisory Board will meet November 15, 1979 at the Ramada Inn, 1006 South Lincoln Ave., Steamboat Springs, Colorado. The board will meet at 10 a.m.

The board will meet to: (1) Review range improvement needs on range allotments; (2) Make recommendations on the utilization of range betterment funds; (3) Make recommendations concerning the development of allotment management plans.

The meeting will be open to the public. Persons who wish to attend and participate should notify Les Clark or Jim Webb, Routt National Forest (303–879–1722) prior to the meeting. Public members may participate in discussions during the meeting at any time or may file a written statement following the meeting.

Lester D. Clark,

Acting Forest Supervisor.

October 3, 1979.

[FR Doc. 79-32000 Filed 10-16-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Docket 32851; Agreement C.A.B. 1175, as amended; Order 79-10-63]

Agreements adopted by the International Air Transport Association relating to the Traffic Conferences

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 10th day of October, 1979.

In Order 79-5-113, served May 14, 1979, we narrowed the scope of this proceeding and established further procedures for this docket, including original and reply testimony, a "legislative" hearing, briefs, and oral argument to the Board. According to the procedural schedule announced in that Order, and modified in subsequent Orders,[1] the hearing will begin October 22. This is the procedural order we promised in Order 79-9-99.

We have made arrangements to hold the hearing in the auditorium of the Department of Commerce, located at 14th Street and Constitution Avenue NW.[2] from 9:00 a.m. to 5:30 p.m. on October 22–25. The Friday session, October 26, will be held in Room 1027 at the Board, 1825 Connecticut Avenue NW., Washington, D.C.

At the hearing, witnesses will be arranged into the panels listed in Appendix A, and examined by the Board, staff, and parties according to the schedule in Appendix B. there will be no opening statements, and witnesses will be questioned on the positions taken in their testimony. Only parties sponsoring witnesses at the hearing will be permitted to conduct examination and no party will be allowed to examine its own witness.

We are scheduling fifteen minutes of examination each day by the Department of State, fifteen minutes by the Department of Transportation, and fifteen minutes by the Department of Justice; thirty minutes each day to the proponents of Order 78–6–78,[3] and one hour and fifteen minutes to the opponents of Order 78–6–78.[4] The proponents and opponents of our tentative findings in that Order are encouraged to decide among themselves how they will divide up their alloted cross-examination time. The selection of one representative counsel to conduct the examination on behalf of the group would appear to be both feasible and the most efficient method of using the time available. If the parties are unable to agree on a representative, or some allocation scheme, it will be necessary for us to divide the time equally among all those who wish to conduct examination.

Transcripts will be beneficial to parties who cannot attend the hearing, and to all parties for preparation of their final briefs. We have made arrangements with the Acme Reporting Co. to have transcripts of the hearing available on a 24-hour basis.[5]

In its petition for reconsideration of Order 79–5–113, IATA requested that the Bureaus of Domestic Aviation and International Aviation assume the status of parties in this proceeding. We denied that request, in Order 79–8–65, because we believed that IATA had not demonstrated any fact that would require an alteration in the staff's traditional role as advisors to the Board. We believed then, as we do now, that because of our direct participation in this proceeding there will be no problem of the screening by staff of testimony or briefs in a way that might favor any point of view. However, we believe that it will be useful for all parties to be aware of the opinions on this proceeding held by senior members of the staff.

[1] *See* Orders 79–6–65, 79–7–78, and 79–9–99.

[2] Those attending the hearing should enter the Department of Commerce at the main entrance, located on 14th Street NW., Washington, D.C.

[3] International Airforwarder and Agents Association, The Electronics Shippers, Air Freight Forwarders of America, ACAP, Continental Airlines.

[4] Air Canada, Aer Lingus, British Airways, El Al Israel Airlines, Ltd., IATA.

[5] Acme Reporting Company, 1411 K Street NW., Suite 600, Washington, D.C. 20005.

Accordingly, we are considering various methods of making staff views a part of the formal record in the proceeding. We will announce a decision on this matter next week.

IATA, and other parties, have also requested that the staff or Board Members hold a pre-hearing conference prior to the hearing to discuss the procedural format for the hearing. We believe that this Order adequately covers all procedural aspects of the hearing. However, if any party believes that a conference is still necessary, it should inform the staff by Monday, October 15.[5]

We will issue an Order on Wednesday, October 17, addressing IATA's motion for a pre-hearing conference, and any further communications concerning the need for a conference, and discussing any remaining procedural matters involving the hearing.

Accordingly,

1. Witnesses will be presented at the hearing in the panels listed in Appendix A, and examined by the Board, staff, and parties according to the schedule in Appendix B;

2. The hearing will be conducted according to the procedures discussed in this Order; and

3. We will issue an Order on Wednesday, October 17, dealing with IATA's request for a pre-hearing conference and any other final procedural questions related to the hearing.

This Order shall be served on all parties who have previously filed in this docket and shall be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

All Members concurred except Member O'Melia who did not participate.

Appendix A

Monday, October 22

Deringer
Bockstiegel
Kauper
Cooper
Hewitt
Hammarskjold
Laker

Tuesday, October 23

Caves
Teneja
Kanafani
Welburn
Cruz
Kamm
Bjorck
Miller

Wednesday, October 24

Lipman
Taylor
deWolf
Ruppenthal
Hope
Paul
Silberman

Thursday, October 25

Trezise
Haimbe
Pellegrini
Medhane
O'Siochru
Ben-Ari

Friday, October 26

Currier
Raven
Blakely
Meiser
McKnight
Rojinsky
Elkins
Cope
Lemaire

Appendix B—Order

Hearing Schedule

8:30—Auditorium will be open
9:00–12:30—Examination by the Board
12:30–1:30—Lunch
1:30–3:00—Examination by staff
3:00–5:30—Examination by the parties

[FR Doc. 79-32060 Filed 10-16-79, 8:45 am]

BILLING CODE 6320-01-M

[5] All calls should be directed to Paul H. Karlsson (202) 673-5322.

[Docket 33363]

Former Large Irregular Air Service Investigation; Hearing

1. The hearing set upon the application of Lone Star Airways is continued from October 22, 1979 (44 FR 55021, Sept. 24, 1979) to November 27, 1979 at the time and place shown below.

2. The hearing heretofore set for October 19, 1979 on the application of The Phoenix Corporation (44 FR 53556, Sept. 14, 1979) is continued *sine die* subject to further action of the presiding administrative law judge.

3. Hearings herein will be held during the month of November 1979 in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C. at 9:00 A.M. on the following applications: Joseph S. Norman II, November 20, 1979; Lone Star Airways, November 27, 1979.

Dated at Washington, D.C., October 12, 1979.

Rudolf Sobernheim,

Administrative Law Judge.

[FR Doc. 79-32031 Filed 10-16-79, 8:45 am]

BILLING CODE 6320-01-M

[Docket 36737; Order 79-10-34]

Eastern Air Lines, Inc., et al.; Increases in Western Hemisphere Fares Proposed; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of September, 1979.

Several carriers have recently filed for increases in Western Hemisphere passenger fares which they state are intended to compensate for fuel cost escalations. Eastern Air Lines, Inc. (Eastern) proposes increases of about six percent in most of its U.S.-Caribbean and Mexico fares, for effect December 5, 1979. ALM Antillean Airlines (ALM) proposes increases of 10 to 12 percent in its U.S.-Netherlands Antilles and Leeward Islands fares, effective October 11, or November 10, 1979. Aerovias Nacionales de Colombia S.A. (Avianca) proposes an 11 percent increase in its U.S.-South America fares effective November 9, 1979, and Linea Aerea Nacional de Chile (Lan Chile) proposes a seven percent increase in its U.S.-South America fares, effective October 10, 1979. Lloyd Aereo Boliviano S.A. (LAB) proposes a seven percent increase in Miami-La Paz fares, effective November 10, 1979.

In Order 79-9-75, September 4, 1979, the Board considered, among other things, a proposal of Pan American World Airways, to restructure its fares. The carrier proposed a 10 percent fuel-related fare increase in conjunction with the "unbundling" of normal economy fares in most of its international markets; it would introduce a new business class fare at levels 15 percent above present normal economy fares; reduce the normal economy fares by five to 25 percent (before the 10 percent fuel-related increase); and eliminate free stopovers and limit free interlining on its new normal economy fares. The Board reviewed Pan American's proposal in conjunction with an intensive international fares study, and based upon the results of that study approved the filing in many markets. Where Pan American's unbundled normal fares were introduced, we permitted other carriers to raise their bundled normal economy fares; where the unbundled fares were not available and we could not otherwise rely on competition to regulate fare levels, we suspended other carriers' increases in full-service economy fares. (See Order 79-9-74, August 31, 1979.)

In the Western Hemisphere, we approved Pan American's proposed normal economy fares in the Caribbean and most Central American markets,

and suspended them in U.S.-South America markets. Pan American had proposed net increases or maintenance of the status quo in U.S.-South America normal economy fares. Our studies indicated the fares were already too high in relation to costs and in the absence of workable competition the carrier's proposal was found to be unacceptable. We also suspended increases in U.S.-South America promotional fares because the existing fares were set at inordinately high levels, and the proposed levels exceeded normal fares available in other international markets. Subsequently the carrier refiled its South America fares to reduce normal economy fares by approximately 3 to 19 percent from present levels in conjunction with unbundling, and to cancel many of the proposed promotional fare increases; and the Board permitted the revised proposal to become effective.

We have considered the subject tariff filings against this background. In the Caribbean, we will permit the increases in first-class and promotional fares to take effect, consistent with our earlier actions this year on fuel-related fare increases in that area.[1] We will also approve full-service normal economy fare increases in markets where the new unbundled fares provide competitive pressure and give the point-to-point, on-demand service passenger a choice of fares. In markets where the unbundled fares are not available, the on-demand passenger is already forced to pay too high a fare, and we will therefore suspend increases in such fares.[2]

Pan American does not serve Colombia, Chile or Bolivia, and there are no unbundled fares available in those markets. Further, the existing fares, now proposed to be increased, are already at high levels.[3] Thus we will suspend all the proposed increases in fares between the United States and Colombia, Chile and Bolivia.

[1] See Orders 79-8-2, July 23, 1979, and 79-7-30, June 26, 1979.

[2] A review of ALM's normal economy fares, for example, shows a fare per mile of 12.6 cents in the Miami-St. Kitts market which ALM proposes to increase to 14.0 cents, compared to Pan American's Houston-Port au Prince fare of 10.8 cents per mile. Fares in many markets are even lower.

[3] For example, Avianca would increase its Miami-Bogota normal economy fare from 12.5 to 13.9 cents per mile, compared to Pan American's new Miami-Caracas fare of 12.3 cents per mile. Lan Chile's proposed Miami-Santiago normal economy fare, and LAB's Miami-La Paz normal economy fare, would be at 11.0 and 11.3 cents per mile, respectively, compared to Pan American fares in the Rio de Janeiro and Buenos Aires markets of 9.6 and 10.3 cents. Fares in many competitive transatlantic and transpacific markets are even lower.

Accordingly, pursuant to sections 102, 204(a), 403, 801 and 1002(j) of the Federal Aviation Act of 1958, as amended:

1. We shall institute an investigation to determine whether the fares and provisions set forth in Appendices A, B, C, D, E and F hereof, and rules and regulations or practices affecting such fares and provisions, are or will be unjust or unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial or otherwise unlawful; and if we find them to be unlawful, to act appropriately to prevent the use of such fares, provisions or rules, regulations, or practices;

2. Pending hearing and decision by the Board, we suspend and defer the use of the tariff provisions in the attached:

Appendix A—from October 11, 1979, to and including October 10, 1980.

Appendix B—from November 10, 1979, to and including November 9, 1980.

Appendix C—from December 5, 1979, to and including December 4, 1980.

Appendix D—from November 10, 1979, to and including November 9, 1980.

Appendix E—from November 9, 1979, to and including November 8, 1980.

Appendix F—from October 10, 1979, to and including October 9, 1980.

unless otherwise ordered by the Board, and shall permit no changes to be made therein during the period of suspension except by order or special permission of the Board;

3. We shall submit this order to the President [4] and it shall become effective on October 11, 1979 with respect to the tariff provisions in Appendix A, on November 10, 1979 with respect to the tariff provisions in Appendix B, on December 5, 1979 with respect to the tariff provisions in Appendix C, on November 10, 1979, with respect to the tariff provisions in Appendix D, on November 9, 1979, with respect to the tariff provisions in Appendix E and on October 10, 1979, with respect to the tariff provisions in Appendix F; and

4. We shall file copies of this order in the aforesaid tariffs and serve them on ALM Dutch Antillean Airlines, Eastern Air Lines, Inc., Lloyd Aereo Boliviano S.A., Aerovias Nacionales de Colombia, S.A., Linea Aerea Nacional de Chile, and on the Ambassadors of the Netherlands, Peru, Colombia, and Chile in Washington, D.C.

We shall publish this order in the **Federal Register.**

[4] We submitted this order to the President on September 28, 1979.

By the Civil Aeronautics Board.[5]

Phyllis T. Kaylor,

Secretary.

Appendix A—Western Hemisphere Passenger Fares Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

All increased Normal Economy (y) class fares applicable to ALM Dutch Antillean Airlines on the following pages:

20th Revised Page 237.
20th Revised Page 238.
28th Revised Page 239.
28th Revised Page 240.
4th Revised Page 252–A.
4th Revised Page 252–B.
3rd Revised Page 260–A.
6th Revised Page 262–A.
6th Revised Page 262–B.

Appendix B—Western Hemisphere Passenger Fares, Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

All increased and new Normal Economy (y) class fares applicable to ALM Dutch Antillean Airlines on the following pages:

19th Revised Page 304–B.
Original Page 306–A.
Original Page 306–B.
30th Revised Page 307.
30th Revised Page 308.
20th Revised Page 308–D.
30th Revised Page 308–E.
30th Revised Page 308–F.
14th Revised Page 308–G.
14th Revised Page 308–H.
34th Revised Page 309.
34th Revised Page 310.

Appendix C—Western Hemisphere Passenger Fares, Tariff No. P-NS-4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 66

All increased Normal Economy (y) class fares *except:*

(a) Between Caracas, Venezuela and Houston, Texas; Los Angeles, California; Miami, Florida; New York, New York; San Francisco, California; San Juan, Puerto Rico and Washington, D.C.

(b) Between Georgetown, Guyana and New York, New York

(c) Between Port au Prince, Haiti and Houston, Texas; Miami, Florida; and San Francisco, California

(d) Between Port of Spain, Trinidad and Los Angeles, California; New York, New York; and San Francisco, California

(e) Between Santo Domingo, Dominican Republic and Houston, Texas; Miami, Florida; and San Francisco, California

[5] All Members concurred except Member Schaffer who dissented to that part of the order which approves increases in only first-class and promotional fares.

V 44 OC 17 79 UMI

(e) Between points in Guatamala on the one hand, and points in the United States on the other

(f) Between points in Jamaica on the one hand, and points in the United States on the other

Appendix D—Western Hemisphere Passenger Fares, Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

On 21st Revised Page 345, the $348.00 Normal Economy (y) class fare and the $278.00 Economy Class Group Affinity fare (YGA25) bearing route number 33 and the $591.00 Economy class Excursion fare (YE28) and the $529.00 Economy Class Group Inclusive Tour fare (YGV) bearing route number 4110 between La Paz, Bolivia and Miami, Florida.

Appendix E—Western Hemisphere Passenger Fares Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 65

All increased fares between points in the United States on the one hand and points in Columbia on the other *except* all increased First (F) class fares.

Appendix F—Western Hemisphere Passenger Fares, Tariff No. P–NS–4, C.A.B. No. 74, Issued by Air Tariffs Corporation, Agent

In Supplement No. 72

All increased fares between points in the United States on the one hand and points in Chile on the other *except* all increased First (F) class fares.

[FR Doc. 79-32049 Filed 10-16-79, 8:45 am]

BILLING CODE 6320-01-M

[Docket 33361, 32460, and 36457]

Former Large Irregular Air Service Investigation (Application of Imperial Airlines, Inc.); Rescheduled Hearing

On August 15, 1979, I issued a Notice of Hearing (44 FR 49000, dated August 21, 1979) setting November 6, 1979 as the date for hearing for the above application in Docket 32460. On September 17, 1979, I issued an Amended Notice of Hearing (44 FR 54744, dated September 21, 1979) which stated that Imperial's application in Docket 36457, consolidated into these proceedings by Order 79–9–32, would be heard at the same time.

Notice is now hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that the hearing in the above entitled proceeding, previously scheduled for November 6, 1979, will, upon request of the applicant, be held instead on December 3, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 C, Universal Building North, 1875 Connecticut Avenue, N.W., Washington, D.C., before me. The hearing will cover applications in Docket 32460 and in Docket 36457.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, in Docket 33361 and other documents which are in the dockets of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, October 10, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-32033 Filed 10-16-79, 8:45 am]

BILLING CODE 6320-01-M

[Docket 36767]

Miami/New Orleans-San Jose, C.R. Case; Prehearing Conference

Notice is hereby given that a prehearing conference will be convened in the above-entitled matter on October 31, 1979, at 9:30 a.m. (local time), in Room 1003–A, North Universal Building, 1875 Connecticut Avenue, N.W., Washington, D.C., with the undersigned presiding.

The Bureau of International Aviation will serve on all parties on or before October 19, 1979, a statement of proposed issues, proposed stipulations, requests for information, and proposed procedural dates. The other parties to this proceeding will serve on each other and the Bureau of International Aviation on or before October 26, 1979, a proposed statement of issues, proposed stipulations, requests for information, and proposed procedural dates, provided that the submissions of other parties are to be restricted to matters upon which they differ with the Bureau's proposals. The parties are directed to adopt the Bureau's lettering and numbering format to facilitate cross-referencing.

Six copies of all submissions will be served on the administrative law judge promptly.

Dated at Washington, D.C., October 11, 1979.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 79-32032 Filed 10-16-79, 8:45 am]

BILLING CODE 6320-01-M

[Dockets 36815 and 34725; Order 79-10-45]

Southwest Alaska Service Investigation; Application of Klondike Air, Inc., for Certificate of Public Convenience and Necessity.

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 9th day of October, 1979

We are instituting the *Southwest Alaska Service Investigation* to undertake a comprehensive inquiry into all aspects of air service in Southwest Alaska, particularly in the area comprising Kodiak Island, Bristol Bay, the Alaska Peninsula and the Aleutian Islands. In order to reach an informed judgment concerning the air transportation needs of the area, we expect the proceeding to evaluate the quality and quantity of past and current air service; whether the subsidy being paid bears a reasonable relationship to the service offered; what service would be offered in the absence of subsidy; the price of air travel as well as all other related aspects of quality such as whether service should be scheduled or on demand, and the need for improved mail service and cargo service. We also expect the record to show all proposals for improvement that may be offered by carrier applicants and incumbents, and requests by civic interests. To this end, we are placing in issue the following broad questions: the certification of new authority, the limitation or conditioning of new or current authority, the modification of existing authority, and the cost-effectiveness of subsidy assistance.

We have received one application for new authority.[1] Klondike Air, Inc., has applied for a number of routes parallel to segments now served by Kodiak-Western Alaska Airlines, Wien Air Alaska, Peninsula Airways and Reeve Aleutian Airways.[2] We will consolidate Klondike's application, and the application of any other carrier wishing authority in the area, into the proceeding.

Our purpose in instituting this investigation may best be understood in light of the current condition of air transportation in Southwest Alaska, and in the Bristol Bay and Kodiak Island areas in particular.

Kodiak Island is situated in the Gulf of Alaska, separated from the mainland of the Peninsula by the Shelikof Strait. Its terrain is rugged and its coast deeply incised by dozens of long bays. On the western side of the Peninsula lies the Bristol Bay area, enclosed on three sides by mountains and on the fourth by the sea. It is marked by numerous rivers and lakes.

Kodiak Island and Bristol Bay have rich fishery resources in their adjacent waters. The activity of the entire region revolves about the commercial and sport fishing industries. Thus, commerce,

[1] Docket 34725, filed December 18, 1978. This application requests a certificate, and in the alternative, exemption authority.

[2] See fn. 10, *infra*.

travel, and even population, fluctuate according to the fishing seasons and life cycles of salmon, shrimp and crab.

Most of the area's population is located in small villages, often primarily cannery-sites or equipment centers, ranging in size from a few individuals to a few hundred. The size of a village at any given time depends mainly on the stage of the fishing cycle.

These points are dependent on air transportation. Except for occasional barge service, surface transportation is not available throughout most of the area. Residents are served by a number of air taxis. Scheduled service is provided by Kodiak-Western Alaska Airlines, the area's only federally certificated carrier. It has been serving many of the area's towns and villages since 1973 when it was formed by a merger of Kodiak Airways and Western Alaska Airlines.[3] Before the merger, the separate carriers had served Kodiak Island and Bristol Bay, respectively, for over 20 years.

The route structure currently flown by Kodiak-Western is actually two geographically separate systems, divided by the Aleutian Range of mountains, and linked by a single air route from Kodiak to King Salmon. Kodiak-Western provides on-demand as well as scheduled service. It is the only carrier with a Postal Service contract for the carriage of mail to these points.

Kodiak-Western has received subsidy under Section 406 of the Act since it began service. Its subsidy was most recently fixed at $411,283 per year.[4] Over the past 5½ years, it has been paid more than $1,200,000 in subsidy. Throughout this time, it has been plagued by serious financial troubles, particularly in the past four years. We recognized in 1977 that it was on the verge of bankruptcy,[5] and have noted since that its financial condition has remained precarious.[6] However, Kodiak-Western's financial reports indicate that its losses have been reduced somewhat in the past year, and it has even reported an operating profit during two recent quarters.[7] [8]

[3] See *Kodiak-Western Alaska Merger Case*, Order 72–11–71, November 16, 1972.

[4] Order 79–4–116, April 19, 1979. We have revised Kodiak-Western's temporary rate three times since it filed its original petition for increased subsidy rates on December 16, 1976, at which time its rate was $129,509.

[5] Order 77–3–136, March 23, 1977, p. 3.

[6] See Orders 77–9–133, 77–10–126 and 78–4–23.

[7] Kodiak-Western reported either an operating loss, a net loss, or both, for calendar years 1976–1978, and for the quarter ending March 31, 1979.

Data from Schedule P1.1, Form 41, may be summarized as follows:

Calendar Year 1976: Operating loss—$101,273. Net loss—$200,860.

Calendar Year 1977: Operating loss—$560,422. Net loss—$10,338.

Calendar Year 1978: Operating loss—$11,441. Net loss—$168,442.

Quarter ending 9/31/78: Operating profit—$90,882. Net profit—$69,019.

Quarter ending 12/31/76: Operating loss—$12,862. Net profit—$9,660.

Quarter ending 3/31/79: Operating loss—$24,000. Net loss—$36,914.

Quarter ending 6/30/79: Operating profit—$11,659.

[8] Since its formation, Kodiak-Western has been owned and controlled by Mr. Robert L. Hall, who was president of Kodiak Airways prior to the merger. However, Mr. Charles F. Willis III has applied for approval of his acquisition of 65 percent of the carrier's stock. (Docket 35394, filed April 24, 1979. In a separate order (Order 79–9–119) we have tentatively approved Mr. Willis acquisition.

Kodiak-Western's service has been the source of widespread discontent among the area's residents, who depend on it for mail service. We have received oral or written complaints from six communities served by the carrier, all of them in the Bristol Bay area.[9] Complaints have focused on the reliability of the service, particularly the carrier's handling of the mail.

Three of the other areas included in the geographic scope of this investigation are the Aleutian Islands, the Alaska Peninsula (south of Bristol Bay) and the Kenai Peninsula.

The Peninsula and the Islands together extend in a mountainous arc through 1500 miles of ocean, dividing the Bering Sea from the Pacific. The settlements are isolated, the climate inhospitable, and flying conditions dangerous. The area is served by approximately four or five air taxi operators, and one federally-certificated carrier, Reeve Aleutian Airways.

The Kenai Peninsula, on the other hand, is near Anchorage, the population center of Alaska. Because of its ease of access, it is a favorite area for vacationers. It has several substantial towns, such as Homer, Kenai, Soldotna and Seward. It is served by over a dozen air taxis and a federally-certificated carrier, Wien Air Alaska.

The application filed by Klondike Air requests certification for routes in all of the areas described. Two of the proposed route segments cover points on Kodiak Island and in the Bristol Bay and Alaska Peninsula areas. A third route joins the City of Kodiak and the village of King Slamon, on the Peninsula. Kodiak-Western is the only federally-certificated carrier serving these routes. A fourth route would connect Kodiak with Homer, Anchorage, and Kenai. The fifth proposed segment originates in Kodiak and extends via four points down the Peninsula and into the Aleutian Islands.[10]

Klondike is a small air taxi headquartered in Anchorage. It carries mail in the Upper Cook Inlet area under a contract with the Postal Service. It holds temporary authority from the Alaska Transportation Commission to carry passengers on these routes as space is available. It also holds a Section 418 all-cargo certificate from the Board and is registered as a Part 298 exemption operator.[11]

The proceeding which we are instituting will be called the Southwest Alaska Service Investigation, Docket —— and shall be set for hearing before an Administrative Law Judge.

This order places an issue new or expended authority at the 51 points covered in Kodiak-Western's certificate and Klondike's application and at other points in the region which may be requested and designated by the Administrative Law Judge.[12]

Threshold questions will be whether the grant of new authority requested by Klondike or any other applicants is

[9] Complaints from three of the communities were made by their representatives at the regional meeting on essential air service in Anchorage, May 2, 1979, and at Bethel, August 10, 1979.

[10] The five route segments requested are described as follows:

Route 200: Between the terminal point of Kodiak, and the intermediate points of Old Harbor, Akhiok, Lazy Bay-Alitak, Sitkinak, Moser Bay, Port Bailey, Terror Bay, San Juan, West Point-Village Isle, Karluk, Larsen Bay, and Port Williams, and the terminal point of Kodiak.

Route 300: Between the terminal point of Ugashik, and the intermediate points of Pilot Point, Egegik, King Salmon, South Naknek, Pederson Point, Nakeen, Igiugig, Levelock, Portage Creek, Ekwak, Mnokotak, Twin Hills, and the terminal point of Togiak.

Route 400: Between the terminal point of Kodiak and the terminal point of King Salmon.

Route 500: Between the terminal point of Kodiak with intermediate points at Homer, Anchorage, and the terminal point of Kenai.

Route 600: Between the terminal point of Kodiak with intermediate points at Chignik, Sand Point, Cold Bay, Dutch Harbor, and the terminal point of Kodiak.

[11] Peninsula Airways, of King Salmon, filed an answer in opposition to Klondike's application, and a motion to intervene. Wien, Kodiak-Western and the Alaska Transportation Commission have also filed motions to intervene.

[12] Although the geographic scope of this investigation encompasses Southwest Alaska, we have a particular concern for the regularity and dependability of the service at those points on Kodiak Island and around Bristol Bay served by Kodiak-Western. Also, since we are considering Klondike's application for authority at these points plus six others, a total of 51 points will necessarily be in issue. Carriers or civic parties may request that additional points be placed in issue. The Administrative Law Judge assigned to the case will have discretion to determine which points lie within the geographic region should be included in this proceeding. The question of Klondike's fitness and the issue of whether it should receive passenger and property authority may be severable from other issues, such as its right to carry mail or the questions related to Kodiak-Western Alaska. The judge is invited to consider whether to split the case in some fashion at any stage in the proceeding he considers desirable.

V 44 0C 17 79 UMI

consistent with the public convenience and necessity, and whether the applicants are fit, willing and able. We will inquire into whether any authority granted should include, or be restricted to, authority to carry mail. We will also inquire into the cost-effectiveness of subsidy monies paid to carriers in the region.[13] We expect the case to explore the feasibility of placing restrictions and conditions on new or existing authority, designed to facilitate adequate service with the greatest economy to the taxpayer.[14] [15]

Because this proceeding stems largely from our concern for the quality of service in the areas served by Kodiak-Western, we will consider in issue all aspects of its authority and service at the points at which it is certificated. We will specifically consider possible modification of Kodiak-Western's certificate,[16] and will examine its fitness.[17]

We invite the participation of State and local civic bodies and of interested citizens and organizations. We encourage them to express their views on the issues we will be considering.

Accordingly,

1. Under authority granted by Section 204(a) of the Act, we institute the Southwest Alaska Service Investigation in Docket 36815, and set it for hearing before an Administrative Law Judge at a time and place to be determined later;

2. The application of Klondike Air, Inc. in Docket 34725 is consolidated into the proceeding described paragraph 1;

3. The Southwest Alaska Service Investigation shall include consideration of the following issues:

a. Is it consistent with the public convenience and necessity to grant authority for service between and among the following points: Kodiak, Old Harbor, Akhiok, Lazy Bay-Alitak, Sitkinak, Moser Bay, Olga Bay, Port Bailey, Terror Bay, San Juan, West Point-Village Isle, Karluk, Larsen Bay, Parks, Zachar Bay, Ouzinkie, Port Lions, Kitoi Bay, Port Williams, Ugashik, Pilot Point, Egegik, King Salmon, South Naknek, Naknek, Pederson Point, Nakeen, Igiugig, Levelcok, Portage Creek, Ekwak, New Stuyahok, Koliganek, Tikchik Lake, Golden Horn, Nerka Lake, Wood River, Aleknagik, Dillingham, Queen, Clark's Point, Ekuk, Manokotak, Twin Hills, Togiak, Homer, Anchorage, Kenai, Chignik, Sand Point, Cold Bay, and Dutch Harbor.

b. Is Klondike Air and any other applicant fit, willing, and able to perform properly the air transportation proposed in its application, and to conform with the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board?

c. If requested authority is granted, should it include, or be limited to, the authority for the carriage of mail?

d. If the requested authority is granted, what terms, conditions and restrictions, if any, should be imposed?

e. Does the public convenience and necessity require the modification of existing authority under section 401(g) of the Act?

f. Does the public convenience and necessity require the suspension or revocation of the certificate of Kodiak-Western Alaska Airlines?

g. Is Kodiak-Western Alaska fit, willing and able to continue the service which it provides under its certificate of public convenience and necessity, and to conform to the provisions of the Federal Aviation Act of 1958, as amended, and the rules, regulations and requirements of the Board?

4. Any new authority granted in this proceeding will not be eligible for subsidy under section 406 of the Act.

5. Applications, answers and motions to consolidate shall be filed no later than November 13, 1979;

6. Answers in response to pleadings filed under paragraph 5 shall be filed no later than December 3, 1979;

7. We direct Klondike Air to file by November 13, 1979, an illustrative service schedule, and environmental and energy evaluations as prescribed in Parts 312 and 313 of the Board's Rules;

8. We grant Peninsula Airways' motions to file a late answer and to intervene, grant the motions of Wien Air Alaska, Kodiak-Western Alaskan Airlines and the Alaska Transportation Commission to intervene in this proceeding, and we deny the motion of Klondike Air for an Order to Show Cause; and

9. We will serve a copy of this order on Klondike Air, Kodiak-Western Air Lines, Peninsula Airways, the Alaska Transportation Commission, Wien Air Alaska, Reeve Aleutian Airways, communters and air taxis in the region, the Mayors of all communites listed in footnote 2 of this order, Cook Inlet Regional Corp., Bristol Bay Native Corp., Aleut Corp., Koniag Inc., Calista Corp., Association of Village Council Presidents, Aleutian/Pribilof Island Association, Bristol Bay Native Association, Kodiak Area Native Association, and the Cook Inlet Native Association.

This order shall be published in the Federal Register.

By the Civil Aeronautics Board: [18]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32048 Filed 10-16-79; 8:45 am]

BILLING CODE 6320-01-M

[13] This should include a comparative analysis of the subsidy needs of applicants and incumbents. It should be understood that any new authority granted in this proceeding will not be eligible for subsidy under section 406 of the Act. However, we expect to use the record developed here in our later consideration of subsidy at points eligible under section 419.

[14] For example, we would like the Administrative Law Judge to consider the comparative merits of requiring service to be provided according to schedule as opposed to allowing it to be provided as demend warrants.

[15] It is not the purpose of this proceeding to make determinations of essential air service (EAS) needs for the points involved, or to hear appeals from our EAS determinations. We are obligated to establish EAS levels for all eligible single-carrier points by October 24, 1979, and we will do so by separate order. Part 323 of the Board's Rules provides for appeal of those decisions through informal conferences.

[16] Certificate modifications are authorized in Section 401(g) of the Act, and Part 302.915 of the Board's Rules. Deletion of points, and removal of authority to carry mail, are examples of modifications which will be considered.

[17] Under the Deregulation Act, fitness is a continuing requirement which may be reexamined. Section 401(r) of the Federal Aviation Act of 1958, as amended.

[18] All Members concurred.

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Restrictive Trade Practices or Boycotts; Proposed Public Survey

SUMMARY: The Department proposes to conduct a public survey under the foreign boycott provisions (Section 369.6(a)(7)) of the Export Administration Regulations (Part 369, Title 15, Code of Federal Regulations).

DATES: Comments must be received by the Department before noon, December 3, 1979.

ADDRESSES: Written comments (four copies when possible) should be sent to: Antiboycott Compliance Staff, Room 3226, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

ORAL COMMUNICATIONS: Oral communications or requests for further information should be directed to: Philip L. Ray Jr., Antiboycott Compliance Staff, Bureau of Trade Regulation, 202-377-2008.

SUPPLEMENTARY INFORMATION: Section 369.6(a)(7) provides that: (7) From time-to-time the Department will survey domestic concerns for purposes of determining the worldwide scope of boycott requests received by their controlled foreign subsidiaries and affiliates with respect to their activities outside United States commerce. This pertains to requests which would be reportable under this Section but for the fact that the activities to which the requests relate are outside United States commerce. The information requested will include the number and nature of non-reportable boycott requests received, the action(s) requested, the action(s) taken in response and the countries in which the requests originate. The results of such surveys, including the names of those surveyed, will be made public.

This survey of domestic concerns, as it is currently envisioned, would request information, on a voluntary basis, about boycott requests received from January 1, 1980 through December 31, 1980. Domestic concerns should, therefore, keep records of boycott requests received during this period. The Department would survey the 100 domestic concerns having the most business with or in boycotting countries. The results of the survey, including the names of those surveyed, would be published in a manner which would reflect each domestic concern's response. For example,

> "ABC company's controlled foreign subsidiaries and affiliates received "x" number of requests of "y" type which they did not have to report because they pertained to transactions outside U.S. commerce. They complied with "m" number of them and refused to comply with "n" number of them. The countries from which the boycott-related requests came were as follows: * * *"

A proposed survey form is attached to this notice.

Although this survey is exempt from the notice and comment procedures of the Administrative Procedure Act, because of the importance and complexity of the issues involved, the Department is inviting public participation in its development. All persons who desire to comment are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments may take the form of a discussion of the issues involved in conducting such a survey, alternative survey formats, or any other appropriate form.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the survey.

All public comments to be considered in the development of the survey will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

In the interests of accuracy and completeness, comments in written form are preferred. If oral comments are received, the Department official receiving such comments will prepare a memorandum summarizing the substance of the comments and identifying the individual making the comments as well as the person on whose behalf they purport to be made. All such memoranda will also be a matter of public record and will be available for public review and copying.

The public record concerning the survey will be maintained in the Industry and Trade Administration Freedom of Information Records Inspection Facility, Room 3012, Main Building, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer, at the above address or by calling 202-377-3031.

The final survey form will be ready for distribution as soon as possible after the comment period closes.

Issued in Washington, D.C. on October 12, 1979.

Stanley J. Marcuss,

Acting Assistant Secretary for Industry and Trade.

BILLING CODE 3510-25-M

UMI 7 9 7 1 7 0 0 4 4 V

DRAFT

U.S. Department of Commerce
Industry and Trade Administration
Washington, D.C. 20230

Period Covered: January 1 - December 31, 1980

SURVEY OF BOYCOTT REQUESTS OUTSIDE UNITED STATES COMMERCE

INSTRUCTIONS: This form should be used to report all boycott requests received by your controlled foreign subsidiaries and affiliates with respect to their activities outside United States commerce. List each activity across the sheet, completing all items that apply. Use as many lines as necessary but separate transactions with a blank line. Assemble original report forms and accompanying documents as a unit and submit intact and unaltered.

Unless indicated otherwise by checkmark in the box below, I (we) certify that the information provided by me (us), regarding quantity, description, and value of any articles, materials and supplies, including related technical data and other information, whether contained in the attached continuation sheet(s) or in any accompanying document(s), is of a commercial or financial nature, and its disclosure to the public would place me (us) at a competitive disadvantage. I (we) further certify that all statements and information contained in this report are true and correct to the best of my (our) knowledge and belief.

Sign here in ink_____ Type or print_____ Date_____
(Signature of person completing report)
(Name and title or person whose signature appears on line to left)

[ ] I (We) authorize public release of all information contained in this report.

If the surveyed firm certifies that disclosure of the information specified above would result in competitive disadvantage, it should assemble and submit a duplicate set of continuation sheet(s) and accompanying document(s), deleting the information on both the continuation sheet(s) and accompanying document(s) that would result in competitive disadvantage if disclosed.

This survey is voluntary, and its results will be made public in aggregate form. The names of those surveyed will also be made public.

Name, Address, and Firm Identification Number of Domestic Concern	Originating Country	Boycotted Country	Date Request Received By Foreign Subsidiary	Requesting Document Code (2 copies of each) U Unwritten (make transcript of request) L Letter of Credit R Requisition/Purchase Order/ Accepted Contract/Shipping Instruction B Bid Invitations/tender/ proposal trade opportunity Q Questionnaire 9 Other written	Decision on Request Code R Have not taken and will not take the action requested T Have taken or will take the action requested	Your Reference Number Of Accompanying Document (s)	Commodities or Technical Data (Description, quantity, and value to nearest whole dollar)

DRAFT

[FR Doc. 79-32028 Filed 10-16-79; 8:45 am]
BILLING CODE 3510-25-C

National Bureau of Standards

Appointment of Additional Member to Limited Performance Review Board

In a notice published in the Federal Register on October 5, 1979 (44 FR 57462), announcement was made of the establishment of the Limited Performance Review Board (LPRB) by the Director of the National Bureau of Standards (NBS), as Appointing Authority for the Senior Executive Service at NBS. That notice also announced the purpose of the LPRB, the appointment of two of its initial members, and the terms of such members. In addition, the notice pointed out that upon the appointment of the third member to complete the initial membership of the LPRB, such appointment would be announced in the Federal Register.

This notice announces the appointment of the third member to the NBS LPRB, whose name, title and term is set out below.

Dr. James S. Kane, Associate Director for Basic Energy Sciences, U.S. Department of Energy, Mail Station J 309, Washington, D.C. 20545, Term—2 years.

Persons desiring any further information about the LPRB or its membership may contact Clarence Hardy, Chief, Personnel Division, National Bureau of Standards, Washington, D.C. 20234 (301) 921–3555.

Dated: October 12, 1979.

Thomas A. Dillion,

Acting Director.

[FR Doc. 79-32106 Filed 10-16-79, 8:45 am]

BILLING CODE 3510-13-M

COPYRIGHT ROYALTY TRIBUNAL

Cable Royalty Distribution Proceeding

AGENCY: Copyright Royalty Tribunal.

ACTION: Notice.

SUMMARY: As the result of a conference on October 11, 1979 for claimants or their duly authorized representatives to discuss the structure and procedure of the cable distribution proceedings, the Copyright Royalty Tribunal directs interested parties to submit a legal brief or memorandum:

(1) Concerning the issue of the broadcast day as a copyright compilation;

(2) Concerning the issue of programming of which a broadcast station is an exclusive licensee;

(3) Concerning the objections raised as to the standing of certain or all sports claimants;

(4) Concerning any other question of copyright ownership as it affects a claim or right to any of the cable television royalties.

These submissions must be received by the Tribunal no later than November 15, 1979; reply comments no later than November 28, 1979. Oral arguments on the above issues will commence on December 5, 1979, and continue on such subsequent days that week as may be necessary.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal (202) 653–5175.

SUPPLEMENTARY INFORMATION

Background

In the notice of the declaration of a controversy concerning the distribution of cable royalty fees on September 12, 1979 (44 FR 53099), the Copyright Royalty Tribunal announced that a conference would take place on October 11, 1979 for claimants or their authorized representative to discuss the structure and procedures of the distribution proceedings. Claimants were further directed to submit proposals on the structure and procedures of the proceedings to the Tribunal no later than October 1, 1979.

As a result of those proposals and the conference the Tribunal has determined that certain threshold issues must be addressed. They are the issue of the broadcast day as a copyright compilation; the issue of programming of which a broadcast station is an exclusive licensee; the issue of the objection raised as to the standing of certain or all sports claimants; and any other question of copyright ownership as it affects a claim or right to any of the cable television royalties.

The Tribunal directs claimants to submit legal briefs or memoranda on the above issues no later than November 15, 1979; with reply comments no later than November 28, 1979. Documents should be submitted in the original with 15 copies. Commencing on December 5, 1979 oral arguments will be heard at 10:00 a.m., at the Vanguard Building, 1111 20th Street, NW., Room 450, Washington, D.C., and continue on such subsequent days that week as may be necessary.

Douglas Coulter,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-31982 Filed 10-16-79, 8:45 am]

BILLING CODE 1410-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Reducing Overshipment Charges to Level of Restraint for Certain Man-Made Fiber Apparel Products from the Republic of the Philippines

October 12, 1979.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Reducing by 39,117 dozen the amount of 1978 overshipments charged to the level of restraint established for man-made fiber sweaters in Category 645/646 pt., exported from the Philippines during the agreement year which began on January 1, 1979. (A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: By an exchange of notes dated September 4 and 12, 1979, the Governments of the United States and the Republic of the Philippines have further amended the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 11, 1978, as amended, among other things, to apportion the 1978 overshipments, charged in full to the current-year level for Category 645/646 pt., over a five-year period beginning in 1980. Charges amounting to 39,117 dozen are, therefore, being deducted from the total amount currently charged to the category ceiling. The reduction in charges will be accounted for, in part, by a reduction in the levels for Category 645/646 pt. in future agreement years.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Carl J. Ruths, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

SUPPLEMENTARY INFORMATION: On January 2, 1979, there was published in the Federal Register a letter dated December 27, 1978 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established levels of restraint for certain specified categories of cotton, wool and man-made fiver textile products, produced or manufactured in the Philippines, which may be entered into the United States for consumption or withdrawn from warehouse for consumption during the twelve-month period which began on January 1, 1979 and extends through December 31, 1979. As agreed under the terms of the bilateral agreement, shipments in excess of the level established for Category 645/646 pt. during the 1978 agreement year, amounting to 39,117 dozen, were charged to the level of restraint for the category in the 1979 agreement year. Under the terms of an amendment to the bilateral agreements, the two governments have agreed to apportion these overshipments over a five-year period, beginning in 1980, instead of charging the full amount to the 1979 level. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements requests the Commissioner of Customs to reduce the import charges to the level of restraint established for Category 645/646 pt. by 39,117 dozen during the agreement year which began on January 1, 1979.

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 12, 1979.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 11, 1978, as amended, between the Governments of the United States and the Republic of the Philippines, it would be appreciated if, effective on October 18, 1979, you would deduct 39,117 dozen from the charges made to the level of restraint established for Category 645/646 pt. during the agreement period which began on January 1, 1979.

The action taken with respect to the Government of the Republic of the Philippines and with respect to imports of man-made fiber textile products from the Philippines has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary to the implementation of such actions, fall within the foreign affairs exceptions to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31948 Filed 10-16-79, 8:45 am]

BILLING CODE 3510-25-M

Waiving Export Visa and Exempt Certification Requirements for Certain Cotton, Wool and Man-Made Fiber Floor Coverings from India

October 12, 1979.

AGENCY: Committee for the Implementation of Textile Agreements

ACTION: Waiving the export visa and exempt certification requirements, as applicable, for certain cotton, wool and man-made fiber floor coverings with pile or tuft hand-inserted or hand-knotted in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200 and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843)).

SUMMARY: Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India, it has been agreed to waive the export visa and exempt certification requirements, as applicable, for certain cotton, wool and man-made fiber floor coverings in Categories 369, 465 and 665 with pile or tuft hand-inserted or hand-knotted, which are exempt from the agreement. Accordingly, in the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs no longer to require an export visa or exempt certification for floor coverings produced or manufactured in India and classified in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200, and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Jane C. Bonds, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202/377–5423).

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

October 12, 1979.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of January 5, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements which directed you to prohibit, for the twelve-month period beginning on January 1, 1979 and extending through December 31, 1979, entry into the United States for consumption and withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products, produced or manufactured in India. This directive also further amends, but does not cancel, the directive of May 13, 1975, as amended, which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption of certain cotton, wool and man-made fiber textile products for which the Government of India had not issued an appropriate export visa.

Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 29, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 30, 1977, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed, effective on October 12, 1979 and until further notice, to exempt from levels of restraint and no longer to require export visas or exempt certifications for floor coverings, produced or manufactured in India and classified in Category 369 (only T.S.U.S.A. numbers 360.7600 and 361.5420), Category 465 (only T.S.U.S.A. numbers 360.0500, 360.1000, 360.1500, 361.4200 and 361.4400) and Category 665 (only T.S.U.S.A. number 360.7800).

The action taken with respect to the Government of India and with respect to the designated cotton, wool and man-made fiber textile products from India has been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the inplementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the Federal Register.

Sincerely,

Paul T. O'Day,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 79-31945 Filed 10-16-79, 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that closed meetings of the DIA Advisory Committee will be held at the Pentagon, Washington, D.C. on: Monday & Tuesday, November 19–20, 1979.

The entire meetings commencing at 0900 hours are devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA on related scientific and technical intelligence matters.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 12, 1979.

[FR Doc. 79–31970 Filed 10–16–79; 8:45 am]

BILLING CODE 3810–70–M

DEPARTMENT OF ENERGY

Application for Exception Filed by Unio Oil Co. of California; Public Hearing

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Public Hearing and Request for Written Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy (DOE) hereby gives notice of a public hearing to be held in Washington, D.C. to receive comments concerning an Application for Exception filed by Union Oil Company of California (Union) on August 31, 1979. In addition, the DOE requests the submission of written comments by interested parties concerning the Application. In its Application, Union requests a reduction of its obligation to purchase or sell entitlements pursuant to 10 CFR 211.67 (the Entitlements Program) to the extent necessary to bring the firm's weighted average cost of imported crude oil into parity with the weighted average cost of imported crude oil of the refining industry in general. In the alternative, Union requests a reduction of its sales obligation pursuant to 10 CFR 211.65 (the Buy-Sell Program). The purpose of the hearing and the solicitation of written comments is to provide all refiners and other interested parties an opportunity to present their views regarding the impact of the exception relief requested.

DATES: Written Comments: October 26, 1979. Hearing: October 29, 1979. Requests to Speak: October 23, 1979.

ADDRESSES: Requests to Speak: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N. W., Room 8014, Washington, D.C. 20461 (202) 254–8606. Hearing Location: Room 2105, 2000 M Street, N.W., Washington, D.C. 20461. Comments and Further Information To: Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N. W., Room 8014, Washington, D. C. 20461 (202) 254–8606.

SUPPLEMENTARY INFORMATION: Currently pending before the Office of Hearings and Appeals is an Application for Exception filed by Union Oil Company of California (Union) on August 31, 1979. In its Application, Union states that a very substantial disparity exists between the price paid for foreign crude oil purchased under contract and foreign crude oil which is purchased on the spot market. According to Union, this situation means that its entitlement adjusted cost of crude oil is greater than that of most other major refiners, notwithstanding Union's devotion of considerable funds to the exploration and development of domestic crude oil production. Union contends that the Entitlements Program by failing to account for this price disparity, deprives the firm of the benefits of the lower-cost domestic crude oil production which it developed in furtherance of national energy goals while at the same time poses an economic disincentive to the purchase of foreign crude oil which is needed to satisfy other national goals such as the production of sufficient supplies of heating oil and motor gasoline. Union maintains that it is entitled to exception relief on the basis of the gross inequity and unfair distribution of burdens imposed on the firm by the Entitlements Program. The firm requets relief to the extent necessary to reduce its weighted average cost of imported crude oil to the same level as the weighted average cost of imported crude oil to all domestic refiners.

In addition, Union maintains that because the Entitlements Program is currently creating a disincentive to the purchase of foreign spot crude oil by the firm, it should be granted exception relief from the Entitlements Program for public policy reasons. In the alternative, Union requests a reduction in its sales obligation under the Buy-Sell Program in order to increase the supplies of crude oil available for use in the firm's refineries.

Union also filed Applications for Stay and Temporary Exception on August 31, 1979. A public hearing was held on September 13, 1979 to permit presentations by Union and other interested parties with respect to those Applications. At the conclusion of the hearing, the Office of Hearings and Appeals determined that the record assembled as of the hearing date did not indicate that there was a sufficiently substantial likelihood of success on the merits to justify a Stay or Temporary Exception. The Presiding Officer of the hearing emphasized however that the decision reached with respect to the stay and temporary exception would not be viewed as determinitive of the ultimate merits of the underlying exception application. In fact the Presiding Officer stated that a further opportunity would be afforded to all parties to submit additional data and views as to the Union exception request. At the same time, it was pointed out that even though Union's exception request is based on the particular crude oil pricing differential being experienced by the firm and is therefore cognizable within the exceptions process, the market behavior which the Union Application illustrates also presents broader issues which might appropriately be addressed through a rule-making proceeding. Accordingly, on September 18, 1979, the Office of Hearings and Appeals requested the views of the Economic Regulatory Administration (ERA) concerning this matter and an indication of whether ERA intended to initiate a rule-making. While ERA has indicated that it is still considering this matter, in view of the urgency of Union's request the Office of Hearings and Appeals will proceed to consider the issues raised by Union through the exceptions process.

Since granting exception relief to Union will affect Union's customers, as well as all other refiners in the petroleum industry, the Office of Hearings and Appeals has determined that it would prove beneficial to convene a public hearing at which interested parties will have an opportunity to make oral presentations regarding the merits of Union's exception application. The Office of Hearings and Appeals is particularly interested in comments regarding the type of material which should be analyzed in considering Union's request and the form of relief, if any, which should be granted to Union.

Any party that wishes to make an oral presentation at the hearing should contact the individual whose name appears at the beginning of this notice. The Office of Hearings and Appeals will consider permitting a party to present the testimony of expert witnesses to introduce specific factual data at the hearing. Any person that wishes to present material of this nature should so indicate in its request to make an oral presentation. Appropriate cross examination may also be permitted of any witnesses.

It is to be emphasized that the hearing that will be convened on October 30, 1979 is for the purpose of oral argument. Consequently, a person will generally not be permitted to read a prepared text at the hearing. A party may however submit written statements for inclusion in the record of the proceeding and present oral arguments.

The Office of Hearings and Appeals reserves the right to limit the number of persons making oral presentation at the hearing and to establish the procedures governing the conduct of the hearing. Those individuals selected to make oral presentations will be notified by October 26, 1979. The Director of the Office of Hearings and Appeals or his designee will preside at the hearing. Any further procedural rules needed for the conduct of the hearing will be announced at the hearing by the Presiding Officer.

A transcript of the hearing will be made and may be purchased from the reporter. The entire record of the hearing will be retained by DOE and will be made available for public inspection at the Office of Hearings and Appeals Public Docket Room, Room B–120, 2000 M Street, N.W., Washington, D. C. 20461, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., Monday through Friday.

Issued in Washington, D.C. October 10, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 79–32045 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1314–6]

Availability of Environmental Impact Statements

Corrections

In FR Doc. 79–28049 appearing at page 52327 in the issue for Friday, September 7, 1979; on page 52329, make the following changes:

First Column

ENVIRONMENTAL PROTECTION AGENCY

Wherever dates referring to "Sept." appear, change to "August".

FEDERAL ENERGY REGULATORY COMMISSION

Wherever dates referring to "Sept." appear, change to "August".

Second Column

DEPARTMENT OF HUD

Wherever dates referring to "Sept." change to "August"; also in the third column at the top of the page.

Third Column

DEPARTMENT OF INTERIOR

Wherever dates referring to "Sept." appear, change to "August".

BILLING CODE 1505–01–M

[FRL 1338–6]

Availability of Environmental Impact Statements

AGENCY: Office of Environmental Review, Environmental Protection Agency.

PURPOSE: This Notice lists the Environmental Impact Statements which have been officially filed with the EPA and distributed to Federal Agencies and interested groups, organizations and individuals for review pursuant to the Council on Environmental Quality's Regulations (40 CFR Part 1506.9).

PERIOD COVERED: This Notice includes EIS's filed during the week of October 1 to October 5, 1979.

REVIEW PERIODS: The 45-day review period for draft EIS's listed in this Notice is calculated from October 12, 1979 and will end on November 26, 1979. The 30-day review period for final EIS's as calculated from October 12, 1979 will end on November 13, 1979.

EIS AVAILABILITY: To obtain a copy of an EIS listed in this Notice you should contact the Federal agency which prepared the EIS. This Notice will give a contact person for each Federal agency which has filed an EIS during the period covered by the Notice. If a Federal agency does not have the EIS available upon request you may contact the Office of Environmental Review, EPA for further information.

BACK COPIES OF EIS'S: Copies of EIS's previously filed with EPA or CEQ which are no longer available from the originating agency are available with charge from the following sources: For hard copy reproduction:

Environmental Law Institute, 1346 Connecticut Avenue, NW, Washington, D.C. 20036.

For hard copy reproduction or microfiche:

Information Resources Press, 2100 M Street, NW, Suite 316, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Kathi Weaver Wilson, Office of Environmental Review (A–104), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, (202) 245–3006.

SUMMARY OF NOTICE: On July 30, 1979, the CEQ Regulations became effective. Pursuant to Section 1506.10(a), the 30-day review period for final EIS's received during a given week will now be calculated from Friday of the following week. Therefore, for all final EIS's received during the week of October 1 to October 5, 1979, the 30-day wait period will be calculated from October 12, 1979. The review period will end on November 13, 1979.

Appendix I sets forth a list of EIS's filed with EPA during the week of October 1 to October 5, 1979 the Federal agency filing the EIS, the name, address, and telephone number of the Federal agency contact for copies of the EIS, the filing status of the EIS, the actual date the EIS was filed with EPA, the title of the EIS, the State(s) and County(ies) of the proposed action and a brief summary of the proposed Federal action and the Federal agency EIS number if available. Commenting entities on draft EIS's are listed for final EIS's.

Appendix II sets forth the EIS's which agencies have granted an extended review period or a waiver from the prescribed review period. The Appendix II includes the Federal agency responsible for the EIS, the name, address, and telephone number of the Federal agency contact, the title, State(s) and County(ies) of the EIS, the date EPA announced availability of the EIS in the **Federal Register** and the extended date for comments.

Appendix III sets forth a list of EIS's which have been withdrawn by a Federal agency.

Appendix IV sets forth a list of EIS retractions concerning previous Notices of Availability which have been made because of procedural noncompliance with NEPA or the CEQ regulations by the originating Federal agencies.

Appendix V sets forth a list of reports or additional supplemental information on previously filed EIS's which have been made available to EPA by Federal agencies.

Appendix VI sets forth official corrections which have been called to EPA's attention.

V 44 OCT 17 79 UMI

Dated: October 11, 1979.

William N. Hedeman, Jr.,

Director, Office of Environmental Review.

Appendix I.—EIS's Filed With EPA During the Week of October 1 to 5, 1979

Department of Agriculture

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, Office of the Secretary, U.S. Department of Agriculture, Room 412A, Washington, D.C. 20250, (202) 447-3965

Forest Service

Draft

10-Year Timber Resource Plan, Siskiyou National Forest, several counties in Oregon and California, October 4: The proposed action is to develop a revised Ten-year Timber Resource Management Plan for the Siskiyou National Forest, which includes parts of Coos, Curry, and Josephine Counties in Southwestern Oregon and a corner of Del Norte County in California. Four alternatives have been addressed: (1) no change, (2) extensive management, (3) intensive forest management (preferred alternative), and (4) 5% declining yield. The proposal will become effective for the fiscal year in which it is approved and will extend for ten years. (EIS Order No. 91036.)

Final

Norbeck Wildlife Preserve, Black Hills National Forest, Custer and Pennington Counties, S. Dak., October 4: Proposed is a land management plan for the Norbeck Wildlife Preserve of the Black Hills National Forest located in Custer and Pennington Counties, South Dakota. The Preserve encompasses 34,873 acres of National Forest, private, State or other Federally owned lands. The preferred alternative consists of: (1) allocation of the entire unit (with exception of the Norbeck RARE II Area and the pine Creek Natural Area) for wildlife habitat improvement, (2) use of motorized vehicles for management activities, (3) closing of roads after management activities are completed, and (4) continuing use of existing main highways and roads serving private lands. (USDA-FS-R2-FEIS(ADM)FY-78-04.) Comments made by: EPA, USDA, DOT, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 91037.)

Department of Defense, Army

Contact: Col. Charles E. Sell, Chief of the Environmental Office, Headquarters DAEN-ZCE, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310, (202) 694-4269.

Draft

On-going Mission Activities, Fort Devens, Worcester County, Mass., October 5: Proposed is the ongoing mission activities of Fort Devens located in Worcester County, Massachusetts. The basic alternatives considered are: (1) continuance of Fort Devens' mission and activities at current levels, (2) downgrading Fort Devens' activities by relocating existing activities and troop units to other installations and by maintaining the installation in a semi-active status, (3) total closure of the installation and transfer of all functions to other Federal facilities, and (4) expand the mission to include restationing of troops and activities from other locations. (EIS Order No. 91041.)

On-going Mission, 101 Airborne Division and Fort Campbell, several counties in Tennesseee and Kentucky, October 5: The proposed action is the continuation of the ongoing activities of the 101st Airborne Division (Air Assault) and Fort Campbell, Kentucky, in compliance with the Department of Defense missions assigned. Fort Campbell is located in northcentral Tennesseee in Montgomery and Steward Counties and in southwestern Kentucky in Christian and Trigg Counties. The alternatives considered include: no action, total installation closure, and mission modification. (EIS Order No. 91043.)

Department of Defense, Army Corps

Contact: Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.

Final

Transfer Terminal Fleeting Facility, Ohio R. 308, Lawrence County, Ohio, October 4: Proposed is the issuance of a permit for the construction, operation, and maintenance of a proposed transfer terminal fleeting facility for mooring barges. The 3,344 foot facility would be built on Ohio River Mile 308. Adverse impacts of the project include some increase in air pollution caused by coal dust blowing from loaded barges during dry, windy weather, increased barge traffic, reduced value of adjacent lands for residential purposes, and the loss of a segment of the Ohio River and adjacent riverbanks for other purposes. (Huntington District) COMMENTS MADE BY: EPA, DOI, USDA, FPC, CGD, ORBC AHP, State and Local Agencies, Groups, Individuals, and Businesses. (EIS Order No. 91039.)

Environmental Protection Agency; Region IV

Contact: Mr. John Hagan, Region IV, Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia 30308, (404) 881-7458.

Draft

Estech General Chemicals Corp., Duette Mine, Permit, Manatee County, Fla., October 5: Proposed is the issuance of a new source National Pollutant Discharge Elimination System (NPDES) Permit to Estech General Chemicals Corporation. Estech has proposed an open pit phosphate mine, beneficiation plant and rock dryer on a 10,394 acre site, Duette Mine, located in northeastern Manatee County, Florida. Mining will involve 6,600 acres most of which will be reclaimed, and will produce 3 million tons per year for 21 years. Operation of the proposed facilities requires a mining plan, a water management system and an integrated waste disposal reclamation plan. (EPA 904/9-79-044, permit FL0036609.) (EIS Order No. 91044.)

Department of HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Room 7274, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6306.

Draft,

Crowfield Plantation, PUD, Charleston, Berkeley County, S.C., October 5: The proposed action is the approval of the Crowfield Plantation Subdivision located in Berkeley County, South Carolina for FHA mortgage insurance. The proposed development would contain approximately 5,500 dwelling units and will encompass a 2,850 acre area. Several alternatives have been addressed including: 1) approve as proposed, 2) approve at the maximum density permitted, 3) approve with condition, and 4) withhold FHA mortgage insurance. (HUD-R04-EIS-78-17.) (EIS Order No. 91042.)

Department of Interior

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256 Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

National Park Service

Draft

Stones River National Battlefield and Cemetery, GMP, Rutherford County, Tenn., October 1: Proposed is a new General Management Plan to update the Master Plan currently govering Stones River National Battlefield and Cemetery located in Rutherford County, Tennessee. Included in this Plan is: 1) develop vegetation screens and buffer zones, 2) preserve integrity of the battlefield, 3) work closely with county and city officials on new development, 4) construction of a new park entry/connector road, 5) to protect the cedar glades, 6) expand interpretation, 7) construct two luncheon/trail shelters, 8) extend NESA trails, 9) increase parking, and 10) selected land acquisition. (DES-79-56.) (EIS ORDER No. 91032.)

Department of Justice

Contact: Ms. Lois Schiffer, Chief, General Litigation, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, (202) 633-2704.

Final

Federal Detention Center, Construction, Tucson, Pima County, Ariz., October 4: Proposed is the construction of a new Federal Detention Center in Tucson, Pima County, Arizona. The complex will contain a gross area of approximately 40,000 square feet of low profile buildings, on a 40 acre site. The facility will house approximately 200 federal prisoners and will be master planned for possible future expansion to house 350. (BOP-TUC-Z21.) Comments made by: FERC, USDA, COE, EPA, DOI, DOC, State and Local Agencies, Individuals. (EIS ORDER No. 91038.)

Department of Transportation

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.

Federal Highway Administration

Draft

Fort McHenry Tunnel, I-95, Dredging and Disposal, Baltimore County, Md., October 2: The proposed action is the dredging and disposal of materials associated with the construction of the Fort McHenry Tunnel located in Baltimore, Maryland. The Tunnel will provide the crossing for I-95 under the Northwest Branch of the Patapsco River. It is estimated that approximately 3,343,000 cubic yards of bottom material must be dredged to form the trench for the prefabricated tubes sections. The alternatives address numerous water and upland disposal areas and the recommended site is a contained area adjacent to the shoreline in Baltimore Harbor. (FHWA-MD-EIS-79-03-D.) (EIS ORDER No. 91034.)

TN-61, Hillcrest St. to Clinch River, Clinton, Anderson County, Tenn., October 3: The proposed project consists of the reconstruction of TN-61 within the Town of Clinton, Anderson County, Tennessee. The project, approximately 3.5 miles, begins at the intersection of existing TN-61 and Hillcrest Street and ends 0.25 miles south of the Clinch River. The proposed cross section includes 4 twelve-foot traffic lanes and a continuous center left turn with curbs and gutters, sidewalks, and grass plots on each side. In addition 4-lane connector routes will be considered in the northern portion of the project. (FHWA-TN-EIS-02-D.) (EIS ORDER No. 91035.)

Final

Clackamas Highway, OR-212, I-205 to Boring Road, Clackamas County, Oreg., October 5: Proposed is the improvement of OR-212 (Clackamas Highway) for a distance of 3.39 miles extending east from I-205 (East Portland Freeway) to Boring Road. The plan is to widen the existing two-lane highway to four lanes between SE 82nd Drive to the Boring Road junction, with a nearly continuous left turn lane, widened and signalized intersections, and general road realignment. The alternatives considered include: 1) no build; and 2) build, consisting of two design options.

(FHWA-OR-EIS-79-03-F.)

Comments made by: EPA, USA, DOI, State and Local Agencies.

(EIS ORDER NO. 91040.)

Utah Valley to Heber Valley, UT-52 and U.S. 189 Wasatch County, Utah, October 1: Proposed is the improvement to 9 miles (14km) of existing contiguous highways, UT-52 and U.S. 189, between U.S. 89, Center Street, in Orem, Utah County and the Wasatch County line in the vicinity of the intersection of U.S. 189 and UT-92 at Wildwood in Provo Canyon in Utah. UT-52 is to be upgraded from an existing 2-lane road to 4 lanes and U.S. 189 is proposed as an improved 2-lane-with-passing-lanes facility. Included in the alternatives are: 1) no build, 2) alternative routing within corridor, 3) alternative corridor, and 4) alternative mode.

(FHWA-UT-EIS-76-02-F.)

Comments made by: AHP, USDA, HEW, HUD, DOI, EPA, GSA, State Agencies, Groups and Businesses.

(EIS ORDER NO. 91031.)

U.S. Coast Guard

Droft Supplement

Calhoun St. Bridge Replacement, Delaware Ri. (DS-1, New Jersey and Pennsylvania, October 1: This statement supplements the draft EIS (=71128) issued on 9-14-77. The supplement addresses substantial changes to the original proposal and significant new circumstances. Proposed is the construction of a four lane toll bridge across the Delaware River connecting Morrisville, Pennsylvania and Trenton, New Jersey. The bridge will replace the existing two-lane, tax supported structure erected in 1884. Bridge design changes have been proposed such as a narrower bridge, smaller piers and relocation of toll booths. This supplement is not a replacement document for the draft EIS but rather a companion document. (EIS ORDER NO. 91033.)

EIS's Filed During the Week of Oct. 1 to 5, 1979

(Statement Title Index—by State and County)

State	County	Status	Statement title	Accession No	Date filed	Orig. agency No
Arizona	Pima	Final	Federal Detention Center, Construction, Tucson	91038	10-04-79	DJUS
California	Several	Draft	10-Year Timber Resource Plan, Siskiyou NF	91036	10-04-79	USDA
Florida	Manatee	Draft	Estech General Chemicals Corp, Duette Mine, Permit.	91044	10-05-79	EPA
Kentucky	Several	Draft	On-going Mission, 101 Airborne Div & Ft. Campbell	91043	10-05-79	USA
Maryland	Baltimore	Draft	Fort McHenry Tunnel, I-95, Dredging and Disposal	91034	10-02-79	DOT
Massachusetts	Worcester	Draft	On-going Mission Activities, Fort Devens	91041	10-05-79	USA
New Jersey		Supple	Calhoun St. Bridge Replacement, Delaware Ri. (DS-1).	91033	10-01-79	DOT
Ohio	Lawrence	Final	Transfer Terminal Fleeting Facility, Ohio R. 308	91039	10-04-79	COE
Oregon		Draft	10-Year Timber Resource Plan, Siskiyou NF	91035	10-04-79	USDA
	Clackamas	Final	Clackamas Highway, OR-212, I-205 to Boring Road.	91040	10-05-79	DOT
Pennsylvania		Supple	Calhoun St. Bridge Replacement, Delaware Ri (DS-1).	91033	10-01-79	DOT
South Carolina	Berkeley	Draft	Crowfield Plantation, PUD, Charleston	91042	10-05-79	HUD
South Dakota	Custer	Final	Norbeck Wildlife Preserve, Black Hills NF	91037	10-04-79	USDA
	Pennington	Final	Norbeck Wildlife Preserve, Black Hills NF	91037	10-04-79	USDA
Tennessee		Draft	On-going Mission, 101 Airborne Div & Ft. Campbell	91043	10-05-79	USA
	Anderson	Draft	TN-61, Hillcrest St. to Clinch River, Clinton	91035	10-03-79	DOT
	Rutherford	Draft	Stones River National Battlefield & Cemetery, GMP	91032	10-01-79	DOI
Utah	Utah	Final	Utah Valley to Heber Valley, UT-52 & US 189	91031	10-01-79	DOT
	Wasatch	Final	Utah Valley to Heber Valley, UT-52 & US 189	91031	10-01-79	DOT

Appendix II.—*Extension/Waiver of Review Periods on EIS's Filed With EPA*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Waiver/extension	Date review terminates
DEPARTMENT OF TRANSPORTATION					
Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, (202) 426-4357.	I-59/U.S. 84, Laurel Bypass, Jones County, Mississippi.	Draft 91017	Oct. 5, 1979	Extension	Nov. 30, 1979
U.S. ARMY CORPS OF ENGINEERS					
Mr. Richard Makinen, Office of Environmental Policy, Attn: DAEN-CWR-P, Office of the Chief Engineers, U.S. Army Corps of Engineers, 20 Massachusetts Avenue, Washington, D.C. 20314, (202) 272-0121.	Marco Island/Vicinity Wetlands Development, Permit.	Draft 90980	Sept. 28, 1979	Extension	Nov. 27, 1979

Appendix III.—*EIS's Filed With EPA Which Have Been Officially Withdrawn by the Originating Agency*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Date of withdrawal
None				

Appendix IV.—*Notice of Official Retraction*

Federal agency contact	Title of EIS	Status/No	Date notice published in "Federal Register"	Reason for retraction
None				

Appendix V.—*Availability of Reports/Additional Information Relating to EIS's Previously Filed With EPA*

Federal agency contact	Title of report	Date made available to EPA	Accession No
None			

Appendix VI.—*Official Correction*

Federal agency contact	Title of EIS	Filing status/accession No	Date notice of availability published in "Federal Register"	Correction
None				

[FR Doc. 79-31941 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-30138B; FRL 1340-2]

Approval of Application to Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., PO Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125-GRO) with the Environmental Protection Agency (EPA) to register the pesticide product BAYLETON TECHNICAL containing 92% of the ative ingredient 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125-319. BAYLETON TECHNICAL is classified for general use as a fungicide in the formulation of economic poisons. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-21) office, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB-35, EPA, telephone number 202/426-8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32016 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-30138C; FRL 1340-3]

Approval of Application to Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125-GEN) with the Environmental Protection Agency (EPA) to register the pesticide product BAYLETON 50% WETTABLE POWDER containing 50% of the active ingredient 1-(4-chlorophenoxy)-3,3-dimethly-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125-320. BAYLETON 50% WETTABLE POWDER is classified for general use as a fungicide to control azalea petal blight. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-21) office, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, 401 M Street SW., Washington, DC 20460, telephone number 202/755-2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB-35, EPA telephone number 202/426-8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrotor for Pesticide Programs.

[FR Doc. 79-32015 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP-30138A; FRL 1334-8]

Approval of Application To Register Pesticide Product Containing New Active Ingredient

On October 7, 1977, notice was given (42 FR 54594) that Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120 had filed an application (EPA File Symbol 3125-GRI) with the Environmental Protection Agency (EPA) to register the pesticide product Bayleton 25% Wetable Powder containing 25% of the active ingredient 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone which was not previously registered at the time of submission. Notice of this registration is given in accordance with 40 CFR 162.7(d)(2).

This application was approved on September 27, 1979 and the product has been assigned EPA Registration No. 3125-318. Bayleton 25% Wetable Powder is classified for general use as a fungicide to control azalea petal blight. A copy of the approved label and list of data references used to support registration are available for public inspection in the Product Manager's (PM-21) office, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. The data and other scientific information used to support registration, except for the material specifically protected by Section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) will be available for public inspection in the Information Services Branch, Room EB-35, EPA, telephone number 202/426-8850 in accordance with section 3(c)(2) of FIFRA, within 30 days after the registration date of September 27, 1979. Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), EPA, at the above address. Such requests should: (1) identify the product by name and registration number and (2) specify the data or information desired.

Dated: October 9, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32017 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

[OPP 180310a; FRL 1339-3

California Department of Food and Agriculture; Amendment to Specific Exemption To Use Terramycin To Control Western X-disease in Sweet Cherries

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has issued an amendment to a specific exemption granted to the California Department of Food and Agriculture (hereafter referred to as the "Applicant") to use Terramycin to control Western X-disease in sweet cherries.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Friday, July 6, 1979 (44 FR 39606), EPA published a notice in the **Federal Register** which announced the granting of a specific exemption to the Applicant to use 2,400 kilograms of Terramycin on 9,226 acres of sweet cherries in San Joaquin and Stanislaus Counties, California, for the control of Western X-disease. The specific exemption was to expire on September 30, 1979. Since then, the Applicant has requested that the expiration date be changed to December 30, 1979. According to the Applicant, growers will not be able to make adequate post-harvest applications of Terramycin by September 30 because cherry bloom was well under way when the exemption was granted and one of the limitations of the exemption was that no application would be made after ten percent of a tree had bloomed. The Applicant also reported that new counties, not allowed under the specific exemption, now have an urgent need to treat cherry trees to control Western X-disease, and requested that the exemption be amended to allow treatment in all sweet cherry-growing areas of the State.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly increase the amount of Terramycin already being used in the sweet cherry-growing areas of California, nor would it significantly increase any environmental risk. Accordingly, EPA has granted the requested amendment so that the specific exemption expires on December 30, 1979 and is subject to the following limitations:

1. Application is limited to 10,300 acres of sweet cherry trees;

2. A maximum of 2,680 kilograms (5,896 pounds) of Terramycin may be applied; and

3. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32022 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-M

V 4 4 0 C 1 7 7 9 UMI

[OPP 180367; FRL 1339-4]

Hawaii Department of Agriculture; Issuance of Specific Exemption To Use Velpar To Control Vasey and Dallis Grasses in Post-Plant Pineapple Fields

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of a specific exemption.

SUMMARY: EPA has granted a specific exemption to the Hawaii Department of Agriculture (hereafter referred to as the "Applicant") to use Velpar (hexazinone) on a maximum of 1,400 acres of pineapples in Hawaii to control vasey and dallis grasses. The specific exemption expires on September 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Vasey and dallis grasses are perennial grasses which thrive in the soil types and under the cultural practices prevailing in the wetter pineapple areas in Hawaii. They are heavy seeders and the stumps of mature plants are difficult to kill by heavy disking and plowing. The stems sprawl over the crop, screening out the light and robbing the crop of nutrients and water. The root system is extensive and strong, making it almost impossible to pull a mature plant out of the ground by hand. The plants start producing seed about four months after they appear from germinating seed.

Seed germination can be suppressed with registered herbicides during the drier months of the year (June-Novermber). The heavier rains of the winter months break the herbicide "blanket" and seed emergence starts. The Applicant states that the newly emerged seedling can be effectively killed with Evik plus surfactant until it passes the 3-leaf stage. According to the Applicant, after this stage the seedling is resistant to all of the registered herbicides, unless they are used at higher-than-label rates, which would also seriously damage or kill the pineapple plant. If heavy rain follows shortly after an Evik application to young vasey grass seedlings, the grass survives the treatment and grows on through the herbicide-sensitive stage. The herbicide is still in the pineapple root zone, however, and repeat applications cannot be made in time to kill the grass without seriously damaging the pineapple plant. The Applicant reports that the extraordinarily heavy and persistent rains of 1978-1979 made the Evik seedling control program ineffective. Part of the pineapple crop, now approaching one year after planting, is beginning to close its canopy and the vasey grass is starting to grow into the canopy. The Applicant states that the grasses must be treated immediately if the weeds are to be sprayed without getting unacceptable amounts of Velpar on the pineapple foliage.

On May 29 and July 19, 1979 the Applicant notified EPA that it was availing itself of crisis exemptions to use Velpar. Under these crisis exemptions the Applicant has applied approximately 370 pounds of Velpar to 740 acres of pineapples at a rate of one-half pound Velpar per acre in 75 gallons of water. Velpar was used in a tank-mix with Karmex 80-W, Hyvar 80-W and Evik 80-W (all but Velpar are registered for this use). The Applicant has requested permission to treat a total of 1,400 acres.

The Applicant anticipates a reduction of ten tons of pineapples and a twenty-ton reduction in ratoon yield per acre, if the Velpar mix cannot be used to control the grasses. This would amount to over $5 million on the 1,400 acres of pineapples.

EPA has determined that residues of hexazinone and its metabolites should not exceed the following levels from the proposed use: 0.4 part per million (ppm) in pineapple (whole fruit); 2.0 ppm in pineapple forage; 0.02 ppm in milk; and 0.01 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep. These levels have been judged by EPA to be adequate to protect the public health. The proposed use is not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) pest outbreaks of dallis and vasey grasses have occurred in pineapple fields; (b) there is no effective pesticide presently registered and available for use to control these grasses in Hawaii; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the pests are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Velpar 90-W, EPA Reg. No. 352-378, may be applied to pineapples;
2. A single application of Velpar may be applied at a rate of one-half pound product per acre in seventy-five gallons of water;
3. Velpar may be tank-mixed with Karmex 80-W, Hyvar 80-W and Evik 80-W;
4. Application will take place by ground equipment on a maximum of 1,400 acres of pineapples;
5. A nine-month pre-harvest interval is imposed;
6. Residues of hexazinone and its metabolites should not exceed 0.4 ppm in pineapple (whole fruit), 2.0 ppm in pineapple forage, 0.02 ppm in milk, or 0.01 ppm in meat, fat, and meat byproducts of cattle, goats, horses, hogs, and sheep. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been notified of this action;
7. All applicable precautions and restrictions on the registered label must be adhered to;
8. Any adverse effects from the use of Velpar under this exemption must be reported immediately to EPA; and
9. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a report summarizing the results of this program by December 31, 1979.

Statutory Authority: Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32021 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1339-7; OPP 30000/12D]

Intent To Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears; Correction

On Thursday, June 7, 1979 (FR 32736), information appeared pertaining to the issuance of a Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears. At the time of publication, Position Document 4 (PD 4), explaining the agency's analysis of comments submitted by USDA, SAP, et al., was inadvertently omitted.

EPA publishes the Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for use on Pears and the Position Document 4 in their entirety.

Dated: October 10, 1979.

James M. Conlan,

Deputy Assistant Administrator for Toxic Substances.

Intent To Conditionally Register a Pesticide Produce Containing Amitraz for Use on Pears

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of Intent to Conditionally Register a Pesticide Product Containing Amitraz for Use on Pears and to Not Grant Registration of this Product for Use on Apples; Notice of Availablity of Position Document 4.

FOR FURTHER INFORMATION CONTACT: Jeff Kempter, Project Manager, Special Pesticide Review Division, Office of Pesticide Programs (TS-791), EPA, Washington, D.C. 20460 (703/577-7986).

SUPPLEMENTARY INFORMATION: On July 23, 1976, the Environmental Protection Agency (EPA) received an application for registration of a pesticide product (BAAM EC) containing amitraz for use on apples and pears. On April 6, 1977, EPA published in the **Federal Register** (42 FR 18299), a notice of rebuttable presumption against registration (RPAR) of amitraz based on its determination that amitraz and a metabolite of amitraz had induced cancer in laboratory animals. After issuance of the RPAR, the Agency considered comments submitted by applicant for registration and other persons for the purpose of rebutting the resumption or demonstrating possible benefits of amitraz. The Agency also received and considered comments from the U.S. Department of Agriculture (USDA) on the possible benefits of amitraz.

After reviewing all the submitted information and considering the requirements for full registration under Section 3(c)(5) of FIFRA and for conditional registration of pesticides containing unregistered active ingredients under Section 3(c)(7)(C), the Agency determined that it would conditionally register amitraz for use on pears and would not register that pesticide for use on apples. Notice of this determination was published in the **Federal Register** on January 12, 1979 (44 FR 2678-2682), that notice, Amitraz Position Document 3, which detailed the Agency's reasons for its determination, and other documents referenced in the Position Document were sent to the FIFRA Scientific Advisory Panel (SAP) and USDA for comment. EPA has received comments from SAP and USDA, as well as from the applicant for registration and other interested persons on its January 12, 1979 Notice of Determination.

After considering all these comments, the Agency has concluded the following with respect to risks and benefits: (1) there is weakly positive evidence that amitraz is a potential human carcinogen; (2) use of amitraz on pears and apples for a short period of time would pose a very small risk of cancer to applicators, bystanders, and the general U.S. population; (3) a bioassay of the carcinogenicity of amitraz on mice submitted by the applicant suffers from deficiencies which make it unreliable for purposes of estimating the risks resulting from exposure to amitraz over a long period of time; (4) use of amitraz on pears may result in significant benefits; (5) use of amitraz on apples would result in insignificant or speculative benefits.

The Agency has made the following decisions on the pending application for registration of amitraz:

1. The bioassay for carcinogenicity of amitraz in mice does not satisfy the data requirements for full registration under Section 3(c)(5). Therefore, the Agency cannot consider granting full registration for use of amitraz on either apples or pears until another bioassay has been conducted.

2. The Agency cannot grant conditional registration of amitraz for use on apples because the requirements of Section 3(c)(7)(C) of FIFRA have not been met. That section permits conditional registration of pesticide products containing unregistered active ingredients only if such registration would not cause any unreasonable adverse effects and would be in the public interest. Because use of amitraz on apples would result in a small carcinogenic risk to people and insignificant benefits, the Agency concludes that such use would cause unreasonable adverse effects and would not be in the public interest.

3. The Agency will conditionally register amitraz for restricted use on pears for four years under Section 3(c)(7)(C) of FIFRA. The Agency has concluded that such registration would not cause any unreasonable adverse effects and would be in the public interest because it would result in substantial benefits and very small risks.

This registration will be subject to certain terms and conditions. Label directions will specify that only certified applicators may spray amitraz, and will also require a 7-day preharvest interval, protective clothing for applicators, and a prohibition against reentry until the treated leaves are dry and in any event until 24 hours after application. Also, additional benefits data and another mouse oncogenic bioassay must be submitted within 4 years, with annual reports of progress and test results. If the registrant does not meet these stipulations, the conditional registration may be cancelled.

The Agency will issue a conditional registration of amitraz for use on pears after the applicant agrees in writing to the conditions and terms specified in this document and agrees to satisfy all of the Agency's data requirements.

Position Document 4 (PD 4) follows this Notice of Intent to Conditionally Register Pesticide Products containing Amitraz for Use on pears. It explains in detail the Agency's analysis of the comments submitted by the USDA, SAP and other interested parties regarding Position Document 3 (PD 3). Appendix of PD 4 contains the SAP and USDA comments in their entirety. PD 3 sets forth the Agency's reasons and factual bases for the regualtory actions proposed in the Janaury 12, 1979, Notice of Determination. PD 3 and PD 4 provide the reasons and factual bases for the decisions and regulatory actions initiated in today's notice.

Amitraz (BAAM): Position Document 4

Special Pesticide Review Division, Office of Pesticide Programs, Office of Toxic Substances, U.S. Environmental Protection Agency.

Acknowledgements

Writing Staff

Jeff Kempter, Project Manager, SPRD, OPP
Paul N. Parsons, Writer-Editor, SPRD, OPP

EPA Project Support Team

Fred Arnold, Regulatory Analyst, SPRD, OPP
Merry Lou Alexander, Aquatic Biologist, HED, OPP
Laura Bennett, Physiologist, HED, OPP
Dr. George Beusch, Chemist, HED, OPP
Richard Bozof, Attorney, OGC
Edwin Budd, Toxicologist, HED, OPP
Carolyn Gregorio, Toxicologist, HED, OPP
Dr. C. Hiremath, Toxicologist, CAG
Phillip O. Hutton, Entomologist, RD, OPP
Mark Luttner, Economist, BFSD, OPP
Dr. Robert McGaughy, Toxicologist, CAG
Abraham Mittelman, Chemist, HED, OPP
William S. Rabert, Aquatic Biologist, HED, OPP

V 4 4 0 C
1 7 7 9
UMI

Dr. David Severn, Cehmist, HED, OPP
Robert Stapp, Entomologist, BFSD, OPP
Geraldine Werdig, Branch Chieft, SPRD, OPP

EPA Pesticide Chemical Review Committee (PCRC)

Dr. William A. Wells, Chairperson, SPRD, OPP
Dr. Elizabeth Anderson, CAG, ORD
Dr. Richard N. Hill, OTS
Dr. Allen Jennings, SRD, OPM
Dr. Donna Kuroda, OHEE, ORD
Mr. John J. Neyland, PED, OE
Mr. Michael S. Winer, OGC

Table of Contents

I. Introduction.
II. Analysis of Comments.
A. Comments Relating to Risk.
1. Lymphoreticular Tumors in Female CFLP Mice.
2. Oncogenicity of a Metabolite: 2,4-dimethylaniline.
3. Mutagenicity of 2,4-dimethylaniline.
4. Overall Evaluation of the Oncogenicity of Amitraz.
5. Risk Assessment.
B. Comments Relating to Benefits.
1. Pears.
2. Apples.
C. Comments Relating to Regulatory Options.
1. Pears—Conditional Registration and Restricted Use.
Apples—Denial of Registration.
III. Conclusions.
Bibliography.
Appendix A—List of Comments.
Appendix B—SAP and USDA Comments.

Amitraz (BAAM): Position Document 4

I. Introduction

Under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA) (7 U.S.C. Section 136 *et. seq.),* the Environmental Protection Agency (EPA or the Agency) regulates all pesticide products. On June 22, 1976, the Upjohn Company applied to the Agency for registration of amitraz (BAAM EC), a chemical which had not been previously registered for use in the United States.

Section 3(c)(5) of FIFRA sets forth the conditions for approval of a registration. It directs the Administrator to register a pesticide if:

(A) its composition is such as to warrant the proposed claims for it;

(B) its labeling and other material required to be submitted comply with the requirements of (FIFRA);

(C) it will perform its intended function without unreasonable adverse effects on the environment, and

(D) when used in accordance with commonly recognized practice it will not generally cause unreasonable adverse effects on the environment.[1]

Section 3(c)(6) states that if the requirements of 3(c)(5) are not satisfied, the Administrator may deny the registration application. The Agency must notify the applicant of his decision and his reasons for doing so, and publish a notice in the **Federal Register** allowing the applicant 30 days to respond. The applicant may either correct any conditions specified by the Administrator, or seek relief by requesting a hearing via the processes described in Section 6 of FIFRA.

Section 3(c)(7)(C) of FIFRA allows the Administrator to conditionally register a new pesticide containing an unregistered active ingredient under special circumstances, even though all the data requirements for full registration have not been met. Specifically, the Administrator may conditionally register such a pesticide for a period reasonably sufficient for the generation and submission of required data if:

—The required data are lacking because a period reasonably sufficient for the generation of the data has not elapsed since the Administrator first imposed the data requirement,
—By the end of the conditional registration the submitted data do not meet or exceed the risk criteria listed in the Agency's regulations (40 CFR 162.11),
—The use of the pesticide during such period will not cause any unreasonable adverse effect on the environment, and
—The use of the pesticide is in the public interest.

On March 30, 1977, the Agency determined that the use of amitraz may result in unreasonable adverse effects and issued a Rebuttable Presumption Against Registration (RPAR). The Agency designed the Rebuttable Presumption Against Registration (RPAR) process to gather risk and benefit information about pesticides suspected of posing certain adverse effects and to make balanced decisions concerning them in a manner which allows all interested groups to participate. This process is set forth in 40 CFR 162.11. A **Federal Register** notice on April 6, 1977 announced the availability of Position Document 1 to support the RPAR (42 FR 18299–18302).

After reviewing rebuttal comments received in response to Position Document 1, the Agency issued a notice of determination and availability of Position Document 3 in the **Federal Register** on January 12, 1979 (44 FR 2678–2682). In Position Document 3 the Agency analyzed the rebuttals, presented its analysis of the risks and benefits from the uses of amitraz, and proposed a decision to conclude the RPAR process. The decision was to conditionally register amitraz for 4 years on pears, during which more risk and benefit data would be generated, and to deny the registration of amitraz on apples.

When issuing a notice of intent to cancel or intent to hold a hearing under Section 6(b) of FIFRA, the Administrator must submit such notices to the Secretary of Agriculture and to the Scientific Advisory Panel for their review and comment. Because the decisions described in this notice were made with respect to the registration and conditional registration provisions of Section 3, the Agency is not required to submit notice of these decisions to the Secretary of Agriculture or to the SAP. However, the Agency in its discretion has elected to follow the procedure for notices issued under Section 6. In addition, the Agency has afforded registrants and other interested persons an opportunity to comment on the decision described in Position Document 3 and the January 12, 1979 Notice of Determination.

The Agency received and considered three timely sets of comments in response to the January 12, 1979 Notice of Determination and the Amitraz Position Document 3. The Agency also considered four comments which were received after the mandatory 30-day period allowed by law. All comments received either during or after the 30-day period were made available in the public file for review and evaluation by the public. Responses from the SAP, the U.S. Department of Agriculture, and other interested parties have been analyzed and are addressed in Section II of this document. Section III summarizes the Agency's decision concerning pesticide products containing amitraz. Appendix A lists all comments received by the Agency. Appendix B contains the responses from the SAP and the USDA in their entirety.

II. Analysis of Comments

The Agency received comments from the Secretary of Agriculture, the Scientific Advisory Panel (SAP), and five other concerned individuals and organizations. These comments are organized by topic and discussed in this section. The Agency has changed some aspects of its risk assessment, benefits, and regulatory options in response to the comments. Except as discussed, the Agency has not changed any other aspects of its analysis in Position Document 3.

[1] "Unreasonable adverse effects" is defined by Section 2(bb) of FIFRA as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide."

A. Comments Relating to Risk

1. Lymphoreticular (LR) Tumors in Female CFLP Mice

The amitraz risk assessment was based primarily on a mouse oncogenic bioassay by the Boots Chemical Company (Burnett et al., 1976). This Boots study, according to its authors and several EPA pathologists, showed a statisitically significant increase in lymphoreticular (LR) tumors in female mice ingesting amitraz. Position Document 3 outlined the key issues and the opinions of several pathologists on the protocols and results of that study.

One commenter [2A(30000/12B)] submitted two additional pathologists' opinions on the histopathological results of the Boots mouse study. These pathologists, Dr. Maurice C. Lancaster of the Boots Company and Dr. Thomas J. Kakuk of the Upjohn Company, independently examined the lymphoid tissues of the female mice, apparently without knowledge of the dose group for the animals (i.e., so that they read the slides "blind," or without bias). They each concluded that there was not a statistically significant incidence of LR tumors in the high-dose females compared to the controls. Using these opinions, the commenter stated, "[I]t can be concluded that amitraz (BTS–27419) should not be regarded as a weak carcinogen nor should amitraz accordingly present any human health risk for the uses specified."

Commenter 2A(30000/12B) also testified before the Scientific Advisory Panel on January 25, 1979, and requested the Agency to consider his testimony [comments 2C and 2D (30000/12)] as part of his comments. At the SAP meeting, Dr. Kakuk [comment 2D(30000/12B)] explained his findings and those of Dr. Lancaster. He asserted that the difference between their pathology diagnoses and those of the other pathologists "was due to the recognition or the lack thereof of microscopically detectable LR tumors . . . and the failure to differentiate them from reactive inflammatory lesions (hyperplasia, lyphadenitis, etc.)." He also stated that the original three Boots Study pathologists and Dr. Reuber (for EPA) had "overdiagnosed the frequency of LR tumors." While not refusing the positive findings of Dr. Dubin (after consultation with Dr. Squire), Dr. Kakuk concluded that the incidence of LR tumors in the high-dose female mice was *not* significantly greater that the LR tumor incidence in the matched controls.

The Agency's Carcinogen Assessment Group reviewed these most recent reports of Drs. Lancaster and Kakuk (Albert 1979). The CAG indicated that these reports did not change the CAG's previous position that "the evidence is weakly positive that amitraz is likely to be a human carcinogin." Dr. Kakuk's report had restated the main pathology issue which the Agency has faced throughout the RPAR review of amitraz: namely, how to definitely distinguish microscopic lymphoreticular tumors from precursor lesions and from reactive inflammatory hyperplasia. As explained by Dr. Dubin in his diagnosis (Albert 1979), an LR tumor develops along a continuous progression from preneoplastic hyperplasia to a fully malignant lymphoma. Because of the lack of uniformly accepted criteria, some pathologists might identify a specific lesion as hyperplasia, while others would call it a lymphoma. Dr. Dubin has also pointed out the potential for confusing LR tumors with slight chronic inflammation of tissue. Given the lack of agreed-upon criteria for positively identifying LR tumors, the Agency expects differences among the diagnoses of reputable pathologists, and differences were indeed seen in this case. The Agency finds that the additional comments and diagnoses by Drs. Kakuk and Lancaster did not resolve the issue and did not negate the opinions of the original Boots pathologists, of Dr. Reuber or of Drs. Dubin and Squire jointly, who found a statistically significant lymphoreticular tumor response in the high dose female mice.

The Scientific Advisory Panel [Comment 3(30000/12B)] reviewed the Boots mouse study and the diagnoses of the study's three pathologists, of Dr. Reuber, of Dr. Dubin, of Drs. Dubin and Squire jointly, of Dr. Lancaster and of Dr. Kakuk. The SAP concluded, "From consideration of all these data, the Panel is of the opinion that a statistically significant increase in mouse lymphoma has not been shown." The SAP also recommended that a new mouse oncogenicity study be performed. The SAP did not explain its reasons for reaching these conclusions.

In response to the SAP's conclusion that a statistically significant increase in mouse lymphoma has not been demonstrated, the Agency replies that the *absence* of carcinogenic effect has by no means been demonstrated, since two reputable pathologists in addition to the original Boots pathologists concluded that lymphoreticular tumors were induced by amitraz. Further, the SAP has not provided any reason for rejecting the diagnoses of these pathologists. Therefore, the Agency concludes that the Boots mouse study provides weakly positive evidence that amitraz is a possible human carcinogen. The Agency agrees with the SAP that a new mouse oncogenicity study be carried out, because of the deficiencies of that experiment which were described in Position Document 3.

2. Oncogenicity of a metabolite: 2,4-dimethylaniline

Commenters 2A(30000/12B) and 2D(30000/12B) contested the agency's conclusion that 2,4-dimethylaniline may present an oncongenic risk to man. The commenters agreed that an NCI study has shown a statistically significant difference between the incidence of pulmonary tumors (11/19) in female mice treated at the high dose and the incidence of those tumors (5/22) in the matched control females ($p < .025$). However, the commenters asserted that this evidence does not justify labeling the compound a carcinogen, because:

(1) 34% of the pooled control female mice had not been pathologically examined.

(2) There were more sarcomas and malignant tumors in the matched control female mice than in treated female mice.

(3) The Boots mouse study with amitraz did not show an increase of pulmonary tumors.

(4) 2,4-dimethylaniline did not induce LR tumors in the NCI study.

(5) The author of the NCI study on 2,4-dimethylaniline stated that since only one sex of one species was affected at one site, "such findings are contrary to the criteria of the NCI Subcommittee on Environmental Carcinogenesis, in which greater confidence is placed on a dose-dependent relationship and positive results in more than one group of animals."

Point (1) refers to the "pool" of six control groups that were run during the NCI's 9 month study of 21 compounds. However, when comparing treated groups to control groups to determine the statistical significance of tumor incidences, it is approrpiate to compare the treated group to its *matched* control group. This was the procedure followed in the NCI study. The fact that 100% of the matched controls and the treated animals were examined should dispel any question of irregularity concerning the protocol.

In point (2), the commenters combined the incidences of tumors at *several* sites and compared these *combined* incidences to the matched control animals. This approach is not as

definitive as evaluating the tumor incidence for *specific* sites. In addition, in order to demonstate that a chemical is not an oncogen, a bioassay may not show positive tumorigenic activity at any site. Thus, the Agency does not recognize the commenter's point as meaningful.

Point (3) does not negate the NCI study's finding that 2,4-dimethylaniline induced pulmonary tumors. Since different strains were used in the Boots and NCI studies, the results are not comparable. Further, the Boots study may not have been sensitive enough to detect on oncogenic response caused by this metabolite.

Point (4) is factually correct but is irrelevant to the potential carcinogenicity of 2,4-dimethylaniline, which is based on its induction of pulmonary tumors in the NCI study.

Regarding point (5), the agency's conclusion that 2,4-dimethylaniline is a potential human carcinogen is based upon the statistically significant higher incidence of lung tumors in high dose female mice compared to the matched controls. Although a significant finding in more than one dose group and a positive dose-response relationship would indicate a stronger effect, the positive finding in one group is sufficient evidence of a presumptive cancer risk.

3. Mutagenicity of 2,4-dimethylaniline

Commenter 2D (30000/12B) asserted that Position Document 3 was "somewhat misleading" in that it described the one positive response obtained for 2,4-dimethylaniline in the TA100 strain of the Ames test, but did not mention the negative results for other tests on that chemical, on amitraz, or on other metabolites of amitraz.

The Agency refers the commenter to page 18, paragraph 4, of Position Document 3, which states:

> The CAG also reviewed mutagenic test data submitted by the registrant [on 2,4-dimethylaniline] and found a positive mutagenic response in one strain (TA 100) of bacteria (*S. typhimurium*). The data in three replicate dose-response curves appeared to be accurate and valid (Albert 1978a). *No mutogenic response was seen in the other four [Ames Test] strains of bacteria tested* [for 2,4-dimethylaniline]. (emphasis added)

With respect to the mutagenic test results on amitraz and metabolites other than 2,4-dimethylaniline, the Agency refers to page 18, second paragraph, of Position Document 3, which states:

> While the registrant submitted the results of several mutagenicity tests, *the CAG found the data insufficient for defining amitraz as a mutagen or non-mutagen, because of deficiencies in the protocols (Albert 1978e). The outhors of those tests had reported that amitraz caused no response in those tests.* (emphasis added)

The Agency concluded in Position Document 3 that the single positive mutagenic result for 2,4-dimethylaniline, together with the induction of pulmonary tumors in the NCI bioassay by this chemical, are additional evidence that amitraz may pose a carcinogenic risk.

In sum, the Agency was not misleading in its dicsussion and use of the mutagenic test data for amitraz and its metabolites.

4. Overall Evaluation of the Oncogenicity of Amitraz

In Position Document 3 (pp. 15–19) the Agency evaluated the overall weight of evidence concerning the oncogenicity of amitraz. The data reviewed included the Boots rat and mouse bioassays on amitraz, the NCI rat and mouse bioassays on the metabolite 2,4-dimethylaniline, and Boot-Upjohn's mutagenic studies on amitraz and several metabolites. In response to Position Document 3, the Boots and Upjohn companies jointly submitted comments rejecting the Agency's findings with respect to these studies. The Scientific Advisory Panel, however, only commented upon the issue of lymphoreticular tumors in the Boots mouse study and reached its conclusions without addressing the NCI study on 2,4-dimethylaniline or the mutagenicity data. Nevertheless, the Agency has reviewed all the comments and data relevant to the oncogenicity of amitraz and concludes that the positive responses observed for amitraz and 2,4-dimethylaniline constitute weakly positive evidence that amitraz is a potential human carcinogen.

5. Risk Assessment

Commenter 2C(30000/12B) was concerned that the Agency has assumed that the potential oncogenic activity of amitraz is "real and definite" and that the Agency used "the most extreme pathological evaluation" for calculating risk. This commenter asserted,

> It is particularly unfair, we believe, that the recently published Notice of Determination gives no indication of the disparity in the several pathology evaluations, nor that the numerical risks cited are based on the most extreme opinion. To issue such a biased document to the public, and ask for comments, makes a mockery of a process which the Agency claims allows an open, balanced decision.

The Agency believes that Position Document 3, to which the Notice of Determination referred to as the Statement of Reasons, objectively and explicitly explained all facts, assumptions and steps used in estimating the risks associated with amitraz (see pp. 26–30, Position Document 3). In Position Document 3 the Agency was careful to caution, "the risk estimates are neither scientific certainties nor absolute upper limits, but are used by the Agency only as rough approximations of potential health risks." Contrary to the commenter's implication, the Position Document 3 discussed the results of *all* pathologists' reviews of the slides (pp. 16–17, Position Document 3) and noted that the risk estimates, in order to obtain an upper-bound estimate, were based upon Dr. Reuber's analysis. Further, footnote 3 of Table 4, entitled "Potential Risks Through Dietary and Occupational Exposure to Amitraz" (p. 29, PD3), made it distinctly clear that the risk numbers were founded on Dr. Reuber's count of the LR tumor incidences. Thus, it is apparent that the commenter has disregarded the discussion and explanations in Position Document 3, and that the Agency presented its risk calculations and estimates openly and objectively.

B. Comments Relating to Benefits

The Agency presented its analysis of the benefits of amitraz on pears and apples on pp. 31–49 of Position Document 3. During the rebutal period, comments and information were invited on the economic, social and environmental benefits of the pesticide, and this information was reviewed and considered in the development of Position Document 3. The USDA worked with the EPA to produce a Pesticide Impact Assessment (USDA, 1978), which provided the basis for the benefits analysis in Position Document 3.

1. Pears

No commenters objected to the agency's assessment of the benefits of amitraz on pears.

2. Apples

Several parties submitted statements and additional data on the use of amitraz on apples.

Commenter 2B(30000/12B) provided a large volume of efficiacy and benefits data for amitraz on apples. The commenter asserted that the need for new apple miticides is "very real," but cautioned that this need is not as well documented as the need for psyllicides on pears. In support of this position, the commenter made these points:

1. The use of amitraz on apples would be limited to the North Central and Eastern States, primarily for control of European red mites.

2. Amitraz would provide growers in these states an alternative miticide where they are having difficulty obtaining control with current miticides.

3. Amitraz would enable growers to reduce the development of mite resistance to current miticides.

4. Amitraz would be used in orchards where IPM programs have failed.

5. Amitraz would be used in IPM programs involving predator insects to which amitraz is not toxic.

6. Amitraz applcations may be timed to mitigate the adverse effect on predator mites, such as during the early season (pink or petal fall).

7. Amitraz could be applied late in the season as a "clean-up" spray to prevent mites from depositing over-wintering eggs in the calyx of the fruit.

8. In normal spray programs (petal fall and five cover sprays), amitraz has controlled white apple leafhopper and suppressed codling moth, leaf rollers, oriental fruit moth, San Jose scale and tentiform leaf miner; the results of these programs "suggest the possibility of reducing usage of other pesticides when amitraz is used for mite control."

9. The USDA/EPA Benefits Analysis overemphasizes the per-acre cost of amitraz versus alternative miticides; these figures "can change drastically as it is anticipated that as production of [amitraz] increases, as well as other developments, the price of [amitraz] may be considerably lower."

The Agency agrees with points 1, 2, 3, 4 and 5 made by the commenter, since these statements reiterated the findings of the USDA/EPA Benefits Analysis. That analysis had concluded that up to 52,000 acres of apples in the Eastern and North Central states would have been treated if amitraz had been available in 1978. The analysis had indicated that amitraz would likely be applied in rotation with other miticides to minimize the development of mite resistance in areas where growers were experiencing difficulty in controlling mites with current miticides. However, because several efficacious alternatives to amitraz exist the Agency considers these benefits to be speculative and insubstantial.

Further, the Agency believes that the other points made by the commenter are speculative and do not firmly establish any "real" benefits over and above those offered by currently registered miticides. Specifically, point (6) does not establish a benefit, since the commenter indicated that amitraz is "hard on predatory mites" and acknowledged that several of the alternative are "less harmful to predator mites" or "not highly toxic to predator mites."

On point (7), the Agency appreciates the needs of food processors for clean fruit. However, as indicated by the commenter's table on alternatives, some of the current miticides already have the capability to kill adult mites and thereby prevent egg-laying in the calyx of fruit at the end of the season.

Point (8) suggests the potential for reduced use of insecticides due to the suppressive activity of amitraz against certain insects. However, the Agency is of the opinion that while amitraz is possibly sufficient for light infestations of certain insect species, it will not preclude the necessity for insecticides against stronger attacks (Hutton 1979). The Agency also notes that amitraz has limited activity against codling moth and other lepidopterous pests, and very little or no activity against apple maggot and plum curculio. Further, only certain pest complex situations will reap the benefit of additional insect suppression, and the extent to which such situations may occur is not known.

Finally, regarding point (9), the Agency recognizes that the cost of amitraz could change as production increases in the United States. However, since the magnitude and direction of a price change cannot reliably be predicted, the Agency must rely on the present price in comparing the per-acre costs of this chemical to other miticides.

The USDA [=4(30000/12B)] urged that the Agency further explore the potential benefits of amitraz on apples by granting Experimental Use Permits under Section 5 of FIFRA. The reasons for their recommendations are listed in point =1 in the Secretary of Agriculture's letter in Appendix A.

The Agency's general response to the comments on benefits is that while amitraz is an efficacious miticide, there are other currently registered miticides which are also efficacious and cheaper. The Agency will continue to consider granting further experimental use permits, special local need registrations or emergency exemptions on apples or other crops on a case-by-case basis.

C. Comments Relating to Regulatory Options

1. Pears—Conditional Registration and Restricted Use

In Position Document 3, the Agency proposed to conditionally register amitraz for use on pears for 4 years. The conditions of registration were that the applicant for registration would have to repeat an oncogenic bioassay of amitraz in female mice, to submit additional benefits data, and to report annually on progress and test results. In Position Document 3 the Agency also proposed to initially classify amitraz for restricted use on pears and to modify the label to include these use instructions:

Restricted Use Pesticide. For retail sale to and use only by certified applicators or persons under their direct supervision and only for those uses covered by the certified applicator's certification.

General Precautions

A. Avoid getting in eyes, on skin or on clothing.

B. Avoid breathing vapors or spray mist.

C. In case of contact with skin, wash as soon as possible with soap and plenty of water.

D. If amitraz gets on clothing, remove contaminated clothing and wash affected parts of body with soap and water. If the extent of contamination is unknown, bathe entire body thoroughly. Change to clean clothing.

E. Wash hands with soap and water each time before eating, drinking, or smoking.

F. At the end of the work day, bathe entire body with soap and plenty of water.

G. Wear clean clothes each day and launder before reusing.

Required Clothing and Equipment for Mixing, Loading and Cleanup Procedures

1. Long-sleeve shirt (fine weave).
2. Long pants (fine weave).
3. Rubber gloves.
4. Apron.
5. Boots.

Required Clothing for Ground Spray Application:

1. Long-sleeve shirt (fine weave).
2. Long pants (fine weave).
3. Rubber gloves.
4. Boots.

Reentry Interval. Reentry into treated areas is prohibited until the leaves are completely dry, and in any event, until at least, 24 hours after application.

Preharvest Interval. Harvest of treated pears is prohibited until 7 days after application of amitraz.

The SAP and the USDA agreed with the Agency's proposal to conditionally register amitraz for use on pears for 4 years with a 24 hour reentry period and a 7 day preharvest interval. However, while the SAP was in favor of limiting use to certified applicators wearing protective clothing, the USDA opposed this. Specifically, the USDA objected to the classification of amitraz as a restricted use pesticide, and to the protective clothing requirements. The USDA argued against restricted use.

V 4 4 0 C 1 7 7 9 UMI

since the people applying pesticides to commercial fruit trees are knowledgeable in the handling of pesticides and since the proposed precautionary labeling would give them adequate protection. The USDA further asserted, "the 'Restricted Use' category should be limited to pesticides that, when used as directed, pose a substantial risk to the use and/or the environment." About the protective clothing requirements, the USDA stated that aprons are impractical and a cause of accidents around farm equipment, and that simultaneously requiring goves and washing the hands before eating, drinking or smoking seemed unnecessary.

The Agency believes that, because there is a risk of cancer for applicators, amitraz must be classified for restricted use. During application of this chemical, the additional risk of cancer to the individual ranges from one in ten thousand for groundspray equipment, to three in one million for aerial application. While these numbers may not appear significant, they are based upon an oncogenic study which must be repeaded due to uncertainties in the protocols and results. The outcome of the repeat study could indicate a greater risk than is reflected by the present Boots mouse study. It is important that the Agency take precautions to reduce exposure to the maximum extent possible. Therefore, the Agency believes that only certified applicators should apply amitraz. Further, the applicators for the commercial pear orchards are likely to be already certified and experienced with the use of amitraz under the Agency's emergency use permit during 1977 and 1978.

The Agency accepts the USDA's suggestions to delete the requirements for an apron, since the apron might cause accidents. However, the Agency rejects the USDA's request to delete the requirement to wear gloves and to wash one's hands before eating, drinking or smoking, since oral exposure to amitraz should be avoided.

While agreeing with the SAP's recommendations that another mouse study be conducted, that amitraz should be conditionally registered for 4 years, and that use restrictions should be imposed, commenter 2(30000/12B) did not concur with the Agency's requirement for submission of additional benefits data. The commenter preferred that the applicant for registration be allowed to determine whether to gather more benefits data for pears. The only reason given for this proposition opinion was that the Agency's requirement "is not reasonable."

The Agency stated clearly in Position Document 3 and still concludes that the data base used by the USDA Assessment Team for estimating the economic benefits of amitraz on pears was very weak, and that the Assessment Team's estimate was unreliable. Because the evidence suggests that amitraz poses a carcinogenic risk, the Agency anticipates that it will need empirical benefits data in order to determine whether full registration of amitraz for pears will result in any unreasonable adverse effects. Therefore, the Agency's stipulation that the applicant for registration submit additional benefits data on pears within 4 years of the date of conditional registration is a reasonable one. Neither the SAP nor the USDA objected to this data requirement.

The additional benefits data which will be required as part of the conditional registration for pears need to be specified. By "additional" data, the Agency means data in addition to that cited by the USDA Assessment Team which would support a more reliabe estimate of economic benefits. Such data should include:

(1) Actual cost of amitraz versus non-amitraz spray schedules.

(2) Tree loss in plots treated with amitraz versus control plots.

(3) Percent and gross pack-out for the different grades of pears from plots treated with amitraz versus control plots.

(4) Any other relevant economic data.

2. Apples

Position Document 3 proposed that the Agency deny the application for registration of amitraz on apples, since it was concluded that the risks outweighed the benefits for that use.

Both the SAP and USDA disagreed with the Agency's consideration of risks and benefits. About the potential cancer risks, the SAP stated, "the issue of oncogenicity of BAAM is sufficiently questionable that the restriction of the use of BAAM on apples is not warranted." USDA emphasized the potential benefits of amitraz's use on apples and the "promising results" obtained in the U.S. for amitraz on several crops and domestic animals. The Secretary of Agriculture recommended that all pending experimental use permits and applications for registration should be reevaluated "on their own merits." The Secretary's statement, although not clear, apparently advocates conditional registration of amitraz on apples.

Commenter 2C(30000/12B) was also critical of the Agency's position:

We believe, frankly, that the reasons cited for denying availability of BAAM for use on apples even during the time required to repeat the study, are spurious and the conclusion therefore unwarranted. First, to claim a 'negative economic impact' which assumes that growers would use a product which did nothing more than less expensive products, and thus increase costs, is unrealistic. Second, to state that denial would eliminate a hypothetical risk of the infinitesimal magnitude estimated on the basis of the extreme 'worst case' assumptions cited, is meaningless. And then, to claim as a factor favoring denial that such action would result in continued use of other available products on which *comparable studies have not yet been carried out*, is scientifically unreasonable and socially irresponsible. We suggest that a more reasonable course would be to grant conditional registration for use on apples and thus more definitely evaluate the benefits which we believe can be demonstrated. I remind you again that amitraz products are registered for use on apples in various countries around the world, where benefits are recognized.

Finally, We are also concerned for the development of further uses of amitraz under the proposed conditions. Our currently pending applications for Experimental Use Permits for use on cotton and citrus demonstrate potentially significant usefullness, while resulting in extremely low consumer dietary exposure. Such developmental programs should not arbitrarily be held up on the basis of the data and assumptions now being discusssed. (emphasis in original)

The agency stands by its conclusion that it cannot grant either full registration or conditional registration of amitraz for use on apples. The agency concludes that the Boots mouse study does not satisfy the agency's data requirements for full registration under Section 3(c)(5) of FIFRA. As noted in Position Document 3, the deficiencies of the Boots study and the uncertainty of its results make this study an inadequate basis for estimating cancer risks from long-term exposure to amitraz. The salient reasons for the Agency's decison not to grant conditional registration for the use of amitraz on apples are:

(1) *The benefits of amitraz do not outweigh the potential risks for a 4 year period.* The potential benefits of the use of amitraz on apples are not significant. As stated in Position Document 3, the available alternative miticides are just as efficacious and cost less than amitraz. At most, amitraz might be used on 10% of the U.S. apple acreage. Amitraz could be used in rotation with other miticides to slow the development of mite resistance to these chemicals, but the "benefit" of this practice is speculative and not measurable. The insect suppression exhibited by amitraz is limited and would only be useful in certain pest complex situations. While amitraz appears to be less toxic to wildlife than the alternatives (except mineral oil), the actual hazards posed by amitraz and the alternatives to wildlife are not known. Oncogenic studies are not availbable for cyhexatin, but are available for propargite and mineral oil (Gregorio, 1979)l Lifetime feeding of propargite to rats showed no oncogenic acitivity. The National Cancer Institute has established the non-carcinogenicity of mineral oil through its use of this compound as a vehicle for mixing and intubating anaimals in many bioassays.

On the risk side of the scale, the Agency has determined that there is weakly positive evidence to indicate amitraz is a potential human carcinogen. Accordingly, applicators and persons eating treated fruit are believed to be exposed to a small cancer risk.

It is the Agency's conclusion that benefits would not exceed risks for a four year period of conditional registration, since the benefits of amitraz would be insignificant or speculative, some risk of cancer would be present, and efficacious and safe alternative miticides are available.

(2) *It is not in the public interest to approve the conditional registration of amitraz on apples.* Section 3(c)(7)(C) of FIFRA requires the Administrator to determine that it is in the public interest to conditionally register a pesticide. This is a stringent test which requires that the benefits of the use of a particular pesticide must be very great in relation to any potential risks associated with that use. As indicated previosly, the beneifts of the use of amitraz on apples are limited and speculative. As for the risks, a small carcinogenic risk would exist for applicators and for humans consuming treated fruit. Therefore, the public interest test has not been met.

III. Conclusions

After reviewing the comments from the Secretary of Agriculture, the Scientific Advisory Panel and others concerning Amitraz Position Document 3, the Agency has confirmed its determination to conditionally register amitraz for pears and to not grant either full or conditional registration for use on apples.

The label for pears will be modified as follows:

1. Delete apron as a requirement during mixing and loading.

The conditional registration for pears is contingent upon the applicant for registration agreeing to submit:

1. A repeat mouse oncogenic bioassay conducted in accordance with protocols approved by the Agency.

2. Additional economic benefits data detailed in section II.C.1. of this document.

3. Annual reports of progress and available test results.

Bibliography

Acme Reporting Company. (January 25, 1979). Transcript of Proceedings. Environmental Protection Agency. FIFRA Scientific Advisory Panel. Volume 1.

Albert, Roy E. (March 4, 1977). The Carcinogen Assessment Group's preliminary review of oncogenicity of Amitraz (BAAM). pp. 22 (unpublished).

Albert, Roy E. (September 8, 1978a). Carcinogen Assessment Group's response to rebuttal comments for Amitraz. pp. 7.

Albert, Roy E. (September 5, 1978b). The Carcinogen Assessment Group's risk assessment on Amitraz (BAAM).

Albert, Roy E. (October 18, 1978c). Addendum to BAAM Rebuttal Analysis. pp. 5.

Albert, Roy E. (September 18, 1978d). CAG interim position regarding the carcinogenicity of BAAM. pp. 1.

Albert, Roy E. (December 21, 1978e). The Carcinogen Assessment Group's risk assessment on Amitraz.

Albert, Roy E. (March 2, 1979). Review of two additional pathogists' reports on BAAM. p. 1.

Batchelor, G. S. and K. C. Walker. (1953). Health hazards involved in use of parathion in fruit orchards of north-central Washington. Ind. Hyg. & Occ. Med. pp. 522-529.

Beusch, G. (September 15, 1978). Graph of residue values (amitraz). Person communication to J. Kempter, Special Pesticide Review Division, OPP, EPA.

Budd, E. R. (June 30, 1978). Memo from Toxicity Branch Registration Division, EPA, concerning the dermal and lung penetration capability of amitraz (BAAM).

Burnett, R., J. Crowley, B. Lesse, D.S. G. Patton, M. M. Sutton, G. J. T. Turnbull, and G.A. H. Williams. (1976). BTS 27419: 80-week carcinogenicity study in mice—final report. The Upjohn Company, Kalamazoo, Michigan (unpublished). *Confidential.*

Bushong, C. (July 31, 1978). Revised fish and wildlife analysis. Ecological Effects Branch, Hazard Evaluation Division, EPA. pp. 100.

Clayson, D. B. (1975). Nutrition and experimental carcinogenesis: a review. Cancer Res. 35:3292-300 in Upjohn Rebuttal.

Cox, W. S., and Quick, R. S. (February 4, 1977). Memo from Chemists, Chemistry Branch, RD., OPP, and James Rea, Product Manager, Insecticide and Rodenticide Branch, RD, OPP, concerning analytical method and residue data for PP=6F1816 and FAP =6H5138 [amitraz in apples, pears, milk and meat].

Dale, L. B. (August 2, 1978). Toxicology Data on Alternative Pesticides to BAAM. Toxicology Branch, Hazard Evaluation Division, Office of Pesticide Programs, EPA. *Confidential.*

Davis, James E. (April 21, 1978 and May 15, 1978). Interim reports on the analysis of samples from environmental and occupational exposures to BAAM during the 1977 pear psylla program in the Wenatchee area. EPA, Field Studies Section, Health Effects Research Laboratory, Wenatchee, Washington.

Dreer, R. A. (November 18, 1976). Memo from Acting Director, OSPR, OPP, to M. H. Rogoff, Associate Director for Scientific Review, RD, OPP, concerning RD referral of BAAM [amitraz] to OSPR for RPAR determination.

Entomological Society of America. (1977 and 1978). *Insecticide and Acaricide Tests.* Volumes 2, 3.

Environmental Protection Agency. (May 25, 1976). Interim Procedures and Guidelines for Health Risk and Economic Impact Assessment of Suspected Carcinogens. **Federal Register,** vol. 41:21401-21405.

Ford, J. H. (June 5, 1978). Collaborative study with Upjohn, SEA and APHIS on pear samples collected from the Northwestern United States. Memorandum to Dr. R. L. Williamson, Chief Staff Officer, Environmental Evaluation Staff, APHIS, USDA.

Garner, Willa. (1978a). Exposure analysis: Amitraz. Prepared by Chemist, Environmental Fate Branch, Hazard Evaluation Division, OPP, EPA.

Garner, Willa. (1978b). Addendum to 7/28/78. Exposure analysis for Amitraz. Environmental Fate Branch, Hazard Evaluation Division, OPP, EPA.

Garner, W. (1978c). Personal communication with Dr. James E. Davis, Field Studies Section, Environmental Protection Agency, Wenatchee, Washington. September, 1978.

Hutton, P. O. (1979). Memorandum to J. Kempter (SPRD/EPA) concerning review of benefits data for amitraz on apples.

Gregorio, C. (1979). Memorandum to J. Kempter (SPRD/EPA) concerning the oncogenic testing of alternatives to amitraz on apples.

Jegier, Z. (1964). Health hazards in insecticide spraying of crops. Arch. Environ. Health. 8:670.

Kakuk, T. J., [The Upjohn Company]. 1976. Viral induced lymphoreticular tumors in mice orally administered U-36059: Supplemental report. 16 pp. (unpublished). *Confidential.*

Kuntz, B. T. (June, 1978). Economic implications of Amitraz (BAAM) use on pears. Agricultural Resources and Environmental Group, Natural Resource Economics Division, Economics, Statistics, and Cooperative Service, USDA. Corvallis, Washington.

Luttner, M. (June 27, 1976). Memos from Economist, Economic Analysis Branch, BFSD, OPP, to Willa Garner, Chemist Environmental Fate Branch, HED, OPP, concerning number of applicators exposed to amitraz in pear and apple spraying operations.

Luttner, M. (March 2, 1977). Assessment of economic impacts resulting from non-availability of BAAM for pear psylla control in Oregon and Washington, 1977 crop year. Economic Analysis Branch, OPP, EPA. pp. 28.

McKissick, G. E., R. A. Griesemer, and R. L. Rarrell. (1970). Aerosol transmission of Rauscher murine leukemia virus. Jnl. Nat'l. Canc. Inst. 45:4(625-4] in Upjohn Rebuttal.

Roe, F. J. C. [The Boots Company, Ltd.] 1976. Opinion on the possible carcinogenicity of

V 4 4 0 C 1 7 7 9 UMI

amitraz (BTS 27419). 22 pp. plus Appendices. (unpublished). *Confidential.*
Rogoff, M. H. (October 15, 1976a). Memo from Associate Director for Scientific Review, RD, OPP, to R. H. Dreer, Acting Director, OSPR, OPP, referring BAAM [amitraz] to OSPR for RPAR review.
Turnbull, G. T. [The Boots Company, Ltd.] 1976. Revised notes on murine lymphosacroma. n.p. (unpublished). *Confidential.*
Upjohn Company (EPA Co. No. 1023). 1976. Application for new pesticide product registration: BAAM (R) EC miticide/insecticide. Book VI. Upjohn discussion of toxicology section, Part 1, Kalamazoo, Michigan. (unpublished). *Confidential.*
Upjohn Company. (July 18, 1977). Rebuttal to the Rebuttable Presumption Against Registration and Continued Registration of Certain Products Containing Amitraz. Kalamazoo, Michigan, 4 volumes.
USDA/State Assessment Team on Amitraz. (August 11, 1978). Pesticide Impact Assessment: Amitraz [Benefits Analysis].
U.S. Environmental Protection Agency. (May 25, 1976). Health Risk and Economic Impact Assessments of Suspected Carcinogens. **Federal Register**, Vol. 41, pp. 21402–21405.
Vesselinovitch, S. D. 1976. Analysis of carcinogenicity bioassay data on Amitraz (BTS 27419, U–36059). n.p. (unpublished). *Confidential.*
Weisburger, E. K. (May 8, 1978). Testing of 21 environmental aromatic amines or derivatives for long-term toxicity or carcinogenticity. Carcinogen Metabolism and Toxicology Branch, National Cancer Institutes. Unpublished.

Appendix A. List of Comments

[1(30000/2B)]: Michael Dover. January 16, 1979. Environmental Protection Agency. Memo to J. Kempter, EPA.
[2(30000/2B)]: Dr. Ross R. Herr. February 2, 1979. The Upjohn Company. Letter to EPA Federal Register Section.
[2A(30000/2B)]: Dr. Ross R. Herr. December 20, 1978. The Upjohn Company. Letter to Scientific Advisory Panel appending two proprietary pathologists' reports.
[2B(30000/2B)]: The Upjohn Company. December 20, 1978. Volume of benefits data submitted to J. Kempter, EPA.
[2C(30000/12B)]: Dr. Ross R. Herr. January 25, 1979. The Upjohn Company. Presentation to the Scientific Advisory Panel.
[2D(30000/12B)]: Dr. Thomas J. Kakuk, D.V.M. January 25, 1979. The Upjohn Company. Presentation to the Scientific Advisory Panel.
[3(30000/12B)]: Dr. H. Wade Fowler, Jr. February 2, 1979. Scientific Advisory Panel. Review of 6(b) action on amitraz (BAAM).
[4/(30000/12B)]: Bob Bergland. February 14, 1979. U.S. Department of Agriculture. Letter to D. Costle, EPA.
[5/30000/12B]: Professor Angus J. Howitt. March 12, 1979. Cooperative Extension Service. East Lansing, MI. Letter to J. Kempter, EPA.
[6/30000/12B]: John R. Leeper and James P. Teete. March 19, 1979. New York State Agricultural Experimental Station. Letter to J. Kempter, EPA.
[7/30000/12B]: John Stover. April 2, 1979. Consulting Service, Fennville, Michigan. Letter to J. Kempter, EPA.

Appendix B—Comments by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel has completed review of plans by the Environmental Protection Agency (EPA) for initiation of regulatory action on amitraz pesticide products under the provisions of Section 6(b) of FIFRA as amended. The review was completed after an open meeting was conducted in Arlington, Virginia, during the period January 25–26, 1979.

Maximum public participation was encouraged during formal review of all aspects of the conclusion of the RPAR on amitraz. **Federal Register** notices announcing meetings in October, November, and January were published in the **Federal Register** on October 16, 1978, October 30, 1978, and January 18, 1979, respectively. The meeting announced in the **Federal Register** notice dated October 30, 1978, for November 15 and 16, 1978, was cancelled and rescheduled for January. In addition, telephone calls and special mailings were sent to the general public who had previously expressed an interest in activities of the Panel. Written statements relative to regulatory action on amitraz were received over a period of several weeks from the Upjohn Company and Boots Ltd.; and expert witnesses which submitted documents in behalf of the Upjohn Company and Boots Ltd.; the Carcinogen Assessment Group of EPA; and EPA technical staff. In addition, oral comments were received from EPA staff; USDA staff; expert witnesses from New York State Agricultural Experiment Station; Cooperative Extension Service, University of California; Mid-Columbia Experiment Station, Oregon State University; members of the pesticide industry; and the general public.

In consideration of all matters brought out during Panel meetings, matters detailed in written and oral statements, and careful study of all documents submitted by the Agency, the Panel submits the following report on amitraz:

The trigger for the RPAR on BAAM is oncogenicity. The oncogenic potential of BAAM was raised initially by the pathologists of Boots Ltd. on the basis of a study in mice. The oncogenic potential of BAAM in this study was confirmed on reexamination of these data by Dr. Rueber, a consultant to EPA. A subsequent examination of these same data by Dr. Dubin, another consulting pathologist to EPA, failed to confirm a statistically significant increase in lymphoreticular tumors. However, in a reexamination of the data jointly by Dr. Dubin and Dr. Squire, another consulting pathologist to EPA, indicated a statistically significant increase in lymphoreticular tumors in the BAAM exposed mice. Finally, a recent reexamination of the data by Dr. Lancaster, a pathologist for Boots Ltd. and Dr. Kakuk, a pathologist for the Upjohn Company, failed to reveal statistically significant differences in tumor incidence between BAAM exposed animals and untreated controls. From consideration of all these data, the Panel is of the opinion that a statistically significant increase in mouse lymphoma in BAAM treated mice has not been shown.

The FIFRA Scientific Advisory Panel agrees with the regulatory option under consideration by EPA for the use of BAAM on pears. This includes the use by certified applicators, an increased preharvest interval, the use of protective clothing, and reentry restrictions. As noted previously we are also recommending that a new mouse oncogenicity study be carried out.

The FIFRA Scientific Advisory Panel does not agree with the regulatory option choosen by the EPA for use of BAAM on apples. The Panel is of the opinion that the issue of oncogenicity of BAAM is sufficiently questionable that the restriction of the use of BAAM on apples is not warranted. The Panel is of the opinion that BAAM may prove to be of value in mite control on apples in some geographic areas of the United States. The Panel also believes that the restriction of the experimental use of BAAM on other crops is not warranted from the current human risk data.

Comments by the Secretary of the U.S. Department of Agriculture

This is the United States Department of Agriculture's response to the U.S. Environmental Protection Agency's (EPA) Notice of Determination pursuant to 40 CFR 162.11 (a)(5), concluding the Rebuttable Presumption Against Registration (RPAR) of Pesticide Products Containing Amitraz (BAAM).

The Department of Agriculture and State Cooperators, under the National Agricultural Pesticide Impact Assessment Program (NAPIAP), recognize the need to interact with EPA in developing biological, economic and exposure information according to the current Memorandum of Understanding between the Department and the Agency. We are also pleased to have the opportunity to review and comment on the Notice of Determination and the accompanying position document. We are dedicated to the mutual resolution of issues including health risks to applicators, farm workers, and consumers as well as possible adverse impacts on wildlife, non-target organisms and/or the environment.

We concur with EPA's selection or regulatory options that are consistent with the biological and economic assessments.

We, therefore, commend the decision that amitraz be retained for further evaluation under a "Conditional Registration" for four (4) years for use on pears with a one (1) day (24 hour) re-entry period and a seven (7) day preharvest interval.

The Department, however, believes the following concerns should be taken into consideration by the Agency in the development of the final regulatory decision:

1. We believe Experimental Use Permits for amitraz should be considered for use on apples. There are potential benefits for this use which should be explored. Permits should be granted to all states that express an interest and agree to demonstrate potential values with appropriate research and field evaluation. The reasons for this recommendation are:

a. The two most widely used miticides for apples control only the mobile mite forms, while amitraz controls not only this form, but also the eggs and resting forms. Also, these materials are usually limited to postbloom and summer sprays. Amitraz has the versatility of being applied on a selective, as needed basis over the entire growing season, which permits use according to local conditions and circumstances.

b. It is true that amitraz is more costly to apply when compared to the other registered materials for mite control. However, amitraz also controls and/or suppresses other apple insect pests. When these "other" pests are a problem, additional insecticides must be applied for their control.

c. Amitraz may be a useful and needed tool in those areas where resistance to conventional miticides has been demonstrated.

d. Amitraz could be useful in apple growing areas as a late season "clean-up" spray to reduce overwintering populations.

It is probably true that amitraz will not perform significantly better than the registered apple miticides. However, when its relative safety, additional insects suppressed and/or controlled, usefulness in areas of resistance, and minimal hazard potential from ingestion of residues from treated fruit are considered, this action is warranted.

2. We have reservations on the practicality and enforceability of some of the Protective Clothing Regulatory Options under the General Precautions Section. Aprons are impractical and would cause a greater risk of accidents when working around equipment. Considering the relative safety of amitraz, we do not understand the necessity for requiring both rubber gloves and the carrying of wash water and soap into the field for hand washing each time before eating, drinking, or smoking. We concur with the other General Precautions which provide adequate protection in this regard.

3. We do concur with the proposal to classify amitraz as a "Restricted Use Pesticide." The information presented to users in the certification training program for general and "Restricted Use" is that classification for "Restricted Use" really implies a definite concern over and above the precautions normally exercised in the handling, mixing, and application of pesticides. These precautions have been emphasized by registrants in labeling and in the education programs of Cooperative Extension for many years. All States have on-going educational programs and the people applying pesticides to commercial fruit trees are knowledgeable in the handling of pesticides. It is unreasonable to assume that when these applicators apply amitraz, they are going to relax, in any way, their application procedures. The highest exposure potential to amitraz is during mixing, loading, or application of the product. Again, the proposed precautionary labeling for protective clothing adequately covers this area.

We support the concept of "Restricted Use" and have devoted considerable time and funding to the development of State programs for certification. However, we believe that the "Restricted Use" classification should be limited to those pesticides that, when used as directed, pose a substantial risk to the user and/or the environment. We do not believe that amitraz falls into this category and strongly feel that a classification of "Restricted Use" may further dilute the sense of caution which should accompany "Restricted Use" pesticides.

World wide registrations have been obtained for amitraz not only on apples and pears but also on fruits, vegetables, hops, citrus, cotton, sheep, cattle and pigs. In the U.S., promising results have been obtained for mite control on citrus, strawberries, swine, dogs, and for the bollworm complex on cotton. American Agriculture should have the benefit of any effective pest control measures after they have been adequately researched and registered. We feel that the Experimental Use Permits (EUP) and pending registrations for amitraz now held in abeyance by EPA because of the RPAR should be put back into the review process and evaluated on their own merits given the useful information and understanding that has resulted from this RPAR activity.

We are confident EPA will give favorable consideration to these suggestions and recommendations in developing the final amitraz regulatory decisions. The opportunity to have cooperated on this important agricultural matter is very much appreciated by us as well as the whole agricultural community. Please let us know if additional information would be helpful.

[FR Doc. 79-32018 Filed 10-16-79, 8:45 am]
BILLING CODE 6560-01-M

[OPP-180369; FRL 1339-6]

Kansas State Board of Agriculture; Issuance of Specific Exemption To Use Permethrin on Field Corn To control Southwestern Corn Borer

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA granted a specific exemption to the Kansas State Board of Agriculture (hereafter referred to as the "Applicant") to use permethrin on a maximum of 358,415 acres of field corn to control the southwestern corn borer. The specific exemption expired on September 10, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The corn borer is a serious pest of irrigated corn in much of the southwestern region of Kansas. It has been found in Kansas since 1913. On at least two occasions (1940 and 1954), the corn borer damage seriously curtailed corn production in the State. The Applicant expressed concern that many growers might stop corn production if satisfactory control of the pest was not achieved. The Applicant estimated a loss of 10,708,565 bushels of corn (valued at $32,125,695) without the use of permethrin.

Diazinon, Sevimol, and Furadan are currently registered for control of the southwestern corn borer. According to the Appplicant, Diazinon and Sevimol are ineffective, and Furadan is effective only under conditions of perfect timing.

The Applicant proposed to make a maximum of two applications of permethrin (Pounce and Ambush) using air or ground equipment. A 30-day pre-harvest interval was to be imposed.

EPA determined that the proposed use should not result in residues of permethrin of more than 0.05 part per million (ppm) in field corn, and 2.0 ppm in forage and fodder, provided that a 30-day pre-harvest interval was observed. These levels were judged by EPA to the adequate to protect the public health. Established meat and milk tolerances would not be exceeded as a result of feeding forage and fodder. Because of permethrin's toxicity to fish and other aquatic organisms, and bees, appropriate restrictions were imposed. The use of permethrin under this specific exemption was not expected to present an unreasonable hazard to the environment.

After reviewing the application and other available information, EPA determined that (a) a pest outbreak of southwestern corn borer had occurred or was likely to occur; (b) there was no effective pesticide currently registered and available for use to control the southwestern corn borer on Kansas; (c) there were not alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems might result if the southwestern corn borer was not controlled; and (e) the time available for action to mitigate the problems posed was insufficient for a pesticide to be registered for this use. Accordingly, the Applicant was granted a specific exemption to use the pesticide noted above until September 10, 1979, to the extent and in the manner set forth in the application. The specific exemption was also subject to the following conditions:

1. The products Ambush 2E, manufactured by ICI Americas, Inc., and Pounce 3.2 EC, manufactured by FMC Corporation, might be applied at a rate

V 44 O C 17 79 UMI

of 0.1 to 0.2 pound active ingredient per acre;

2. A maximum of two applications of permethrin might be made;

3. The applicant was to establish criteria which were to be used in determining when emergency conditions existed. The existence of these conditions was to have been determined prior to the application of permethrin in a given area. This determination was to have been made by an employee of the Applicant or of the State Extension Service, or by a knowledgeable expert who was licensed by, or under the direct supervision of, the Applicant;

4. No individual was to use permethrin until it had been determined that emergency conditions existed in the area in which the user grew corn. Growers were to obtain authorization from the applicant to use permethrin and the applicant was to regulate pesticide dealers to limit distribution and sale to areas of actual or projected emergency. Records were to be kept regarding the amounts of each product sold and applied, total acreage treated, and general benefits realized from the treatments. All unused, unopened containers were to be returned to the manufacturer after the end of the 1979 season;

5. A maximum of 358,415 acres were to be treated;

6. Applications were to be made with air or ground equipment with a minimum spray mixture volume of three gallons of water per acre;

7. Applications were to be made by State-certified commercial applicators;

8. Ambush and Pounce are toxic to fish. The products were to be kept out of any body of water. They were not to be applied where excessive run-off was likely to occur. They were not to be applied when weather conditions favored drift from treated areas. Care was to be taken to prevent contamination of water by cleaning of equipment or disposal of wastes;

9. Permethrin is highly toxic to bees exposed to direct treatment or residues on crops or weeds. It was not to be applied or allowed to drift to weeds on which an economically significant number of bees were actively foraging. Protecive information was to be obtained from the State Cooperative Agricultural Extension Service;

10. Residue levels of permethrin were not expected to exceed 0.05 ppm in corn grain and 2.0 ppm in forage and fodder. Corn grain (except popcorn) and forage and fodder with residues which are not in excess of these levels may enter interstate commerce. The existing meat and milk tolerences will not be exceeded as a result of this use of permethrin. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, was notified of this action;

11. A 30-day pre-harvest interval was to be observed;

12. A 60-day crop rotation restriction was imposed;

13. The EPA was to be immediately informed of any adverse effect resulting from use of permethrin in connection with this specific exemption;

14. The Applicant was responsible for assuring that all of the provisions of this specific exemption were met and must submit a report summarizing the results of this program by February 15, 1980; and

15. Since inadequate data existed concerning the propensity of permethrin to enter aquatic ecosystems, field monitoring in accordance with an EPA monitoring program was required.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32019 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1335-7]

List of Toxic Pollutants; Petition To Remove Aromatic Haloethers; Final Action

AGENCY: United States Environmental Protection Agency.

ACTION: Denial of petition to remove aromatic haloethers from list of toxic pollutants under section 307(a) of the Clean Water Act, as amended, 33 USC 1317(a).

SUMMARY: This action gives notice of denial of a petition to remove aromatic haloethers from the toxic pollutant list. It addresses comments received on the proposal to deny, reviews additional information regarding these chemicals, and affirms that aromatic halothers be retained on the toxic pollutant list.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth M. Mackenthun, Director, Criteria and Standards Division (WH-585), Office of Water Planning and Standards, U.S. Environmental Protection Agency, 401 M St. S.W., Washington, D.C. 20460 (202-755-0100).

SUPPLEMENTAL INFORMATION: On June 7, 1978, the Agency received a petition from the Dow Chemical Company requesting that aromatic haloethers, found under the general class haloethers, be removed from the toxic pollutant list under Section 307(a) of the Clean Water Act.

EPA reviewed the information submitted by Dow in support of its petition as well as other available information and concluded that aromatic haloethers should be retained on the list. A proposed denial and request for public comments was published on March 27, 1979 (44 FR 18279). Three respondents submitted comments.

The General Electric Company objected to an Agency statement suggesting that highly toxic dibenzofurans and dibenzodioxins were formed when PCBs were used in electrical capacitors or exposed to the environment. This statement was based on the assertion of Dow that "the toxicity of PCBs has been attributed in part to acnegenic impurities such as the chlorinated dibenzodioxins and chlorinated dibenzofurans."

A review of the literature indicates that the Agency's statement in the notice was partially inaccurate. Chlorinated dibenzofurans have been found in some commercially prepared PCBs (Vos et al., 1970) and have been shown to be formed when PCB's are used in heat exchangers (Roach and Pomerantz, 1974; Nagayama et al., 1976). Data are not sufficient to assess the possiblity of chlorinated dibenzofuran formation from PCBs while in electrical capacitor or trnasformer service but to date these contaminants have not been found under these use conditions. Despite occasional statements that commercial PCBs may contain polychlorinated dibenzo-p-dioxins, there appear to be no authenticated reports of their presence in PCBs or any reports on their formation from PCBs under industrial use or environmental exposure conditions.

Dow Chemical U.S.A. submitted eight specific comments.

(1) Dow asserted that the report (Kloepfer, 1977) of a single occurrence of a bromochlorodiphenyl oxide in the oil of a waste pit, cited by the Agency, does not demonstrate known occurrence in point source effluents, in aquatic environments, in fish and/or drinking water. Contrary to Dow's assertion, the Kloepfer (1977) report indicates that three bromophenylchlorophenyl ethers were found (86,000 ppm w/w) in the contents of the waste pit and that at least one of the ethers was found in soils, sediments, and aquatic biota, including fish in water surrounding and adjacent to the pit. Gas chromatographic analysis of the oil also suggested the presence of monochlorodiphenyl oxide isomers.

The Agency has also obtained additional information demonstrating the presence of aromatic haloethers in the aquatic environment. At least eight fully aromatic or aromatic-alklyhaloethers have been found in raw and finished drinking water (Schackelford and Keith, 1976; Ewing, et al., 1977; Friloux, 1971; U.S. EPA, 1972). For instance, the analysis of 204 water samples collected from 14 heavily industrialized river basins indicated the presence of pentachlorophenyl methyl ether in 12 samples (5.88%) (Ewing, et al., 1977). In addition bis (4-chlorophenyl) ether, dichlorophenyl chlorophenyl ether, and 2,4,4'-trichloro-2'-hydroxydiphenyl ether were found in at least 1 water sample. These four compounds were also found in at least one sample of several industrial effluent samples (Schackelford and Keith, 1976). Thus, EPA believes it is reasonable to conclude that aromatic haloethers are found in points source discharges and the aquatic environment.

(2) Dow asserted that the Agency ignored the structural and chemical reactivity dissimilarities between aliphatic and aromatic haloethers in terms of their physical and toxicological properties, particularly with respect to trying to link carcinogenicity of some aliphatic haloethers to that property for the aromatic compounds. EPA made no suggestion of carcinogenicity for aromatic haloethers nor did it see a need to discuss structural and chemical reactivity dissimilarities between the two classes of compounds. The Agency considered the properties of individual aromatic holoethers in deciding to retain these compounds on the toxic pollutant list. Dow also stated that certain functional groups, such as the nitro group, impart toxicity to the aromatic haloethers which are not common to the category in general and that data on the nitro substituted aromatic ethers should be used to place nitroaromatic haloethers on the list, rather than to retain the entire class. Dow did not submit comparative toxicological data for the non-nitro analogue that could be compared to the nitrated aromatic haloether mentioned in the proposed Agency action. Finally, since the petition sought removal of the entire class of aromatic haloethers, the Agency has no choice but to consider all compounds in this class including nitrated derivatives.

(3) Dow asserted that the Agency ignored the data which showed no effect to rabbits from monochlorodiphenyl ether. These data were included in Table 3 (44 FR 18281) in the Agency proposed action. The negative results of monochlorodiphenyl ether were not cause to grant the petition, however, since the higher chlorinated compounds demonstrated significantly toxicity.

(4) Dow objected that the Agency ignored the results of tests it asserts showed the absence of dibenzofurans and dibenzodioxins in Dow's dielectric fluid after use in capacitors or after environmental exposure. The Agency acknowledges that the results of a bioassay run on freshly prepared dielectric fluid and on the fluid from highly stressed capacitors did not indicate the presence of acnegenic impurities in either fluid. However, this bioassay cannot conclusively prove the presence or absense of chlorinated dibenzofurans or dioxins. A more appropriate technique for demonstrating the presence of absence of these compounds is gas chromatography (gc)-mass spectrophotometric (ms) analysis, a highly sensitive procedure. Although Dow submitted gc-ms analysis of freshly prepared dielectric fluid, it submitted no such analysis of the highly stressed capacitor fluid.

(5) Dow challenged EPA's conclusions about persistence and accumulation of aromatic haloethers on the grounds that the Agency considered properties of the aromatic haloethers individually, rather than collectively. Contrary to Dow's assertions, the Agency considered collectively several physical properties such as vapor pressure and water solubility, as well as Dow's bioconcentration data to conclude that aromatic haloethers, as a class, would be expected to persist in water and/or sediment and bioconcentrate in aquatic organisms. Dow offered no direct empirical data to refute these conclusions. Instead, Dow argued that the aromatic haloethers were not persistent or bioaccumulative because a few members of the haloether class were less persistent and bioaccumulative than a PCB isomer. However, PCB's are extremely persistent and accumulative. The fact that aromatic haloethers may be less persistent and bioaccumulative than PCB's does not demonstrate that the former are not persistent or bioaccumulative.

(6) Dow criticized the Agency's statement that additional bioconcentratiion data were needed before it could be concluded that aromatic haloethers had low bioconcentration potential. As stated in the proposed denial, Dow had submitted data showing that at least two compounds bioconcentrate several hundred fold in trout muscle and argued that since these figures were considerably lower than bioconcentration figures for PCB's, the bioconcentration potential of aromatic haloethers was insignificant. EPA does not agree. Although the haloether data show less bioconcentration potential than that of a PCB isomer, the haloether data show a significant potential for accumulation of these compounds or other compounds in the class in tissue of aquatic organisms. By calling for additional bioconcentration data, the Agency was attempting to determine if the same high degree of bioconcentration exhibited by the two compounds mentioned by Dow exist for other aromatic haloethers as well.

(7) Dow asserted that since the rates of appearance for $14CO_2$ and disappearance for ring-labelled 4-chlorophenylphenyl ether are similar it could be concluded that no stable degrates were formed. Since no such rate data were presented in Dow's supporting documentation, EPA can only concludes that the absence of stable degrates has not been demonstrated.

(8) With its comments, Dow submitted additional data on octabromo diphenylether showing toxicity and bromide residues in rats. Dow appears to argue that these data should not detract from its petition because Dow did not commercialize this compound. This reasoning is spurious. The demonstration of toxic potential from yet another member of the class of aromatic haloethers, whether commercialized or not, is further evidence that the class should not be removed from the toxic pollutant list.

At the conclusion if its comments, Dow suggested that all aromatic haloethers be delisted except for specific compounds demonstrated to present unusual hazard to man and the environment. Dow's petition sought removal of the entire class of aromatic haloethers. Demonstration that one member of a class does not possess a specific property which calls for listing does not prove that this member does not possess other properties which warrant listing. Still less does it demonstrate that the entire class should be delisted. For reasons noted in the proposed denial and the Agency's review of Dow's comments on that proposal, the petition must be denied.

Comments from the Food and Drug Administration supplied further information supporting retention of aromatic haloethers on the toxics list. FDA pointed out that there are a number of aromatic haloethers in addition to the ones mentioned in the agency's response to the petition which should be of concern as potential environmental contaminants.

V 4 4 0 C 1 7 7 9 UMI

—Chlorinated diphenyl ether (Cl_7 to Cl_{10}) were found in fish collected in 1977 following a fish kill in a lake in Mississippi resulting from a spill of waste pentachlorophenol.

—The estimated annual production of decabromodiphenyl ether is 10 to 12 million pounds.

—Several other aromatic haloethers are believed to be produced in commercial quantities. Among them is 2,4,4'-trichloro-2'-hydroxydiphenyl ether, a compound that could potentially form a chlorinated dioxin under manufacturing conditions or environmental exposure.

Action: EPA hereby denies the Dow Chemical Company's petition to remove aromatic haloethers from the list of toxic pollutants under section 307(a) of the Clean Water Act, as amended, 33 USC 1317(a).

Dated: October 10, 1979.

Douglas M. Costle,

Administrator.

References

Ewing, B. B. et al., 1977. Monitoring to detect previously unrecognized pollutants in surface waters. EPA 560/6–77–015.

Friloux, J. 1971. Petrochemical wastes as a pollution problem in the lower Mississippi River. Paper submitted to the Senate Subcommittee on Air and Water Pollution. April 15.

Kloepfer, R. D. 1977. Contamination of waste oil by industrial chemicals. U.S. Environmental Protection Agency. Region VII.

Nagayama, J., M. Kuratsune, and Y. Masuda, 1976. Determination of chlorinated dibenzofurans in Kanechlors and "Yusho Oil". 1976. *Bulletin Environmental Contamination and Toxicology 15(1):9–13.*

Roach, J. A. G. and I. H. Pomerantz, 1974. The finding of chlorinated dibenzofurans in a Japanese polychlorinated biphenyl sample. *Bulletin Environmental Contamination and Toxicology* 12(3):338–342.

Shackelford, W. M. and L. H. Keith 1976. Frequency of organic compounds identified in water. EPA–600/4–76–062. U.S. Environmental Protection Agency. Athens, Ga.

U.S. Environmental Protection Agency. 1972. Industrial pollution of the lower Mississippi River in Louisiana. Region VI. Surveillance and Analysis Division. Dallas, Texas.

Vos, J. G., J. H. Koeman, H. L. van der Maas, M.C. ten Noever de Brauw, and R. H. de Vos, 1970. Identification and toxicological evaluation of chlorinated dibenzofurans and chlorinated naphthalene in two commercial polychlorinated biphenyls. *Food and Cosmetics Toxicology* 8:625–633.

[FR Doc. 79–32010 Filed 10–16–79; 8:45 am]

BILLING CODE 6560–01–M

[FRL 1339–2; OPP–180364]

New Mexico Department of Agriculture; Issuance of Specific Exemption To Use Permethrin or Fenvalerate To Control Heliothis Species on Lettuce

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the New Mexico Department of Agriculture (hereinafter referred to as the "Applicant") to use permethrin or fenvalerate to control *heliothis* species on 6,000 acres of lettuce in New Mexico. The specific exemption expires on June 1, 1980.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: *Heliothis virescens* and *H. zea* migrate from cotton to lettuce after the cotton is defoliated. In the past, growers plowed the cotton under after harvest. Now, however, the cotton is allowed to stay in the fields and thereby provides an excellent habitat for the pest. According to the Applicant, registered insecticides failed to control *Heliothis* spp. in cotton in 1977 and 1978. The Applicant stated that a fifty percent infestation of *Heliothis* spp. was found in New Mexico's fall lettuce crop, and approximately two to three percent of the 1978 lettuce fields were not harvested due to the lack of control of *Heliothis* spp. by available pesticides. The Applicant anticipated that losses of up to $6 million initial investment could result to lettuce producers in New Mexico without sufficient control of *Heliothis* spp.

The Applicant proposed to use permethrin (manufactured by ICI Americas, Inc. as Ambush, EPA Reg. No. 10182–18, and by FMC Corp. as Pounce 3.2 E.C., EPA Reg. No. 279–3014), or in the event of insufficient stocks of permethrin, fenvalerate (manufactured by Shell Chemical Co. as Pydrin, EPA Reg. No. 201–401). Permethrin or fenvalerate would be applied at a rate of 0.1 to 0.2 pound active ingredient (a.i.) per acre by ground or air equipment with a maximum of five applications made at 5- to 7-day intervals.

EPA has determined that residue levels of permethrin and fenvalerate should not exceed 10 parts per million (ppm) and 1 ppm, respectively, on lettuce, from the proposed use. EPA has judged these levels to be adequate to protect the public health. EPA has also determined that the proposed use should not pose an unreasonable hazard to the environment. Since permethrin and fenvalerate are known to be highly toxic to aquatic vertebrates and invertebrates and to bees, appropriate conditions have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of *Heliothis* has occurred; (b) there is no effective pesticide presently registered and available for use to control this pest in New Mexico; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if *Heliothis* is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 1, 1980, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The permethrin products Ambush, EPA Reg. No. 10182–18, and Pounce, EPA Reg. No. 279–3014, may be used at a maximum dosage rate of 0.2 pound a.i. per acre;

2. In the event that a sufficient quantity of permethrin is not available for this use, the fenvalerate product Pydrin, EPA Reg. No. 201–401, may be used at a maximum dosage rate of 0.2 pound a.i. per acre;

3. Available data indicate that the 0.1 pound a.i. rate should provide as good a control as the 0.2 pound a.i. rate in most situations. Therefore, in most instances the 0.1 pound a.i. rate should be recommended;

4. Applications are limited to 6,000 acres of lettuce in New Mexico;

5. A maximum of five applications may be made per season at 5- to 7-day intervals with a 7-day pre-harvest interval;

6. Applications may be made by either air or ground equipment;

7. Lettuce will be field-trimmed to remove wrapper leaves;

8. The feeding of trimmings of lettuce from treated fields to livestock is prohibited;

9. All applicable directions, restrictions, and precautions on the product label must be followed;

10. These pesticides are extremely toxic to fish and aquatic invertebrates. They must be used with care when being applied in areas adjacent to any body of water. They may not be applied when weather conditions favor run-off or drift. They must be kept out of lakes, streams, and ponds. Care must be taken so as not to contaminate water by cleaning of equipment or disposal of wastes;

11. Permethrin or fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height: aerial (10 ft.), ground (2 ft.)
Application rate (lbs. active ingredient) permethrin—0.05, 0.1, 0.2, .05, 0.1, 0.2.
Freshwater (distance in feet)—585, 990, 1600, 117, 198, 320.
Application method and height: aerial (10 ft.), ground (2 ft.)
Application rate (lbs. active ingredient) fenvalerate—0.05, 0.1, 0.2, 0.05, 0.1, 0.2.
Freshwater (distance in feet)—1,847, 2,779, 3,950, 369, 556, 790.

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or other aquatic organism kills;

12. These products are highly toxic to bees exposed to direct treatment or residues on crops or weeds. They may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

13. A 60-day crop rotation restriction is imposed for permethrin. For fenvalerate: root crops may not be planted for 12 months after last application; no other crop may be planted for 60 days after the last application;

14. Only fields where registered alternatives have been applied, and a knowledgeable expert determines that control has not been achieved, may be treated under this exemption;

15. The EPA shall be immediately informed of any adverse effects resulting from use of these pesticides in connection with this exemption;

16. Lettuce with residue levels of permethrin not exceeding 10 ppm or of fenvalerate not exceeding 1 ppm, may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been informed of this action; and

17. The Applicant is responsible for assuring that all the provisions of this specific exemption are met and must submit a final report summarizing the results of this program to EPA by December 1, 1980.

Statutory Authority: Sec. 18, Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32023 Filed 10–16–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP–180366; FRL 1339–5]

New York Department of Environmental Protection; Issuance of Specific Exemption To Use Permethrin To Control Cabbage Looper on Cabbage

AGENCY: Enivronmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the New York Department of Environmental Protection (hereafter referred to as the "Applicant") to use permethrin on 11,000 acres of cabbage in New York to control the cabbage looper. The specific exemption expires on October 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The Applicant anticipates that an emergency situation will develop with respect to cabbage loopers on cabbage in upstate counties of New York. The Applicant contends that if the cool weather sets in during the last 35 days of cabbage growth, the cabbage looper will not be controllable. The Applicant claims that use of the pesticides registered for control of the cabbage looper is not practicable because:

1. The pesticide Phosdrin is not very effective against the pest and its residual action is short;

2. The pesticide Diazinon has not been effective in New York for many years;

3. Methomyl and *Bacillus thurengiensis* do not control the cabbage looper when temperatures are low; and

4. While Monitor generally controls the pest, it may not be used within 35 days of harvest. This 35-day pre-harvest internal is a critical period for cabbage due to the unusually high infestation of the cabbage looper.

The Applicant estimates that cabbage growers in New York could lose 30 to 50 percent of their crop, if permethrin is not available.

The Applicant proposes to use permethrin in the New York counties of Erie, Livingston, Madison, Monroe, Niagara, Onondaga, Ontario, Wayne, and Yates. Application would be made in fields within 35 days of harvest. More than 50 percent of the fields checked in a county would have to be infested with cabbage loopers in numbers greater than one to two loopers per plant, as determined by research or Cooperative Extension personnel. Application would be made only when anticipated average daily temperature during the spray period is below 80 degrees F during the day and/or 55–60 degrees F at night.

EPA has determined that residues of permetrin in or on cabbage should not exceed 3 parts per million (ppm) from the proposed use. EPA has judged this level to be adequate to protect the public health. No unreasonable hazard to the environment is anticipated from this program. Since permethrin is highly toxic to aquatic vertebrates and invertebrates and to bees, appropriate conditions to protect them have been imposed.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of cabbage loopers is likely to occur; (b) there is no effective pesticide presently registered and available for use to control the cabbage looper in New York; (c) there are no alternative means of control taking into account the efficacy and hazard; (d) significant economic problems may result if the cabbage looper is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until October 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The products Ambush (EPA Reg. No. 10182–18), manufactured by ICI Americas, Inc., and Pounce 3.2 E.C. (EPA Reg. No. 279–3014), manufactured by FMC Corp., may be used;

2. Total acreage of cabbage to be treated may not exceed 11,000 acres;

3. A maximum of 4.400 pounds of active ingredient (a.i.) may be applied at a maximum rate of 0.1 pound a.1. per acre;

4. A maximum of four applications is authorized;

5. A one-day pre-harvest interval is imposed;

6. All applications will be made by State-certified commercial applicators or by qualified growers;

7. A 60-day crop rotation restriction is imposed for all crops that do not have permanent tolerances for permethrin;

8. Permethrin will be applied by ground or aerial equipment in a spray volume of 5 to 100 gallons per acre;

9. Permethrin may be applied to cabbage fields only when:

a. Fields are to be harvested within 35 days;

b. More than 50 percent of the fields checked in a county are infested with numbers greater than 1–2 loopers per plant (checking is to be done by research or Cooperative Extension personnel); and

c. Anticipated average daily temperature during period spray is to be applied is below 80 degrees F during the day and/or 55–60 degrees F at night;

10. Permethrin should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method; aerial, ground.
Application height—10 feet, 2 feet.
Application rate (lbs. A.I.)—0.05, 0.1, 0.2, 0.05, 0.1, 0.2.
Fresh water (distance in feet)—585, 990, 1,600, 117, 198, 320.
Salt water (distance in feet)—1,847, 2,779, 3,950, 369, 556, 790.

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic invertebrate kills;

11. Participants are to be notified of their obligation to report any adverse effects on non-target organisms arising from the use of these products. The EPA shall be immediately informed of any adverse effects resulting in connection with this specific exemption;

12. Precautions must be taken to avoid or minimize spray drift to non-target areas;

13. These products are highly toxic to bees exposed to direct treatment or to residues on crops or weeds. It may not be applied or allowed to drift to weeds in bloom on which a significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

14. Permethrin is extremely toxic to fish and aquatic invertebrates. It must be kept out of lakes, streams, ponds, tidal marshes and estuaries. Care must be taken to prevent contamination of water by cleaning of equipment or disposing of wastes;

15. Cabbage with residues of permethrin not exceeding 3 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

16. Cabbage trimmings from treated fields must not be fed to livestock;

17. All applicable directions, restrictions, and precautions on the product labels must be adhered to; and

18. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met and must submit a final report summarizing the results of this program by February 28, 1980.

Statutory Authority: Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

Dated: October 10, 1979.

James M. Conlon,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32020 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1340-8]

Particulate Emissions From Kennecott Copper Smelter, McGill, Nev.; Order Disapproving Temporary Emergency Suspension of an Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Order Disapproving Temporary Emergency Suspension of the Nevada State Implementation Plan Under Section 110(g) of the Clean Air Act.

SUMMARY: It is hereby ordered that the temporary emergency suspension of the Nevada State Implementation Plan (SIP) issued by the Governor of Nevada on September 18, 1979, is disapproved. The Governor's suspension was issued under Section 110(g) of the Clean Air Act and would allow the Kennecott copper smelter in McGill, Nevada, to operate in violation of the particulate matter emissions limitation in the present SIP, and thereby possibly violate the national ambient air quality standards. The basis for the Governor's Section 110(g) suspension was a proposed revision of the Nevada SIP submitted to EPA on September 18, 1979, the same day that the Governor's suspension was issued. Section 110(g) provides that a suspension of the SIP cannot be issued unless EPA has failed to act on a proposed SIP revision within four months after its submittal to EPA by the State. Consequently, this order is invalid on its face and must be disapproved.

DATES: This disapproval order was effective upon signature by the Administrator on October 11, 1979.

FOR FURTHER INFORMATION CONTACT: David Mowday, Chief, Air and Hazardous Materials Branch, Enforcement Division, 215 Fremont Street, San Francisco, California 94105, Environmental Protection Agency, Region IX, 415–556–6150.

SUPPLEMENTARY INFORMATION: On August 24, 1979, Nevada Governor Robert List signed an executive order, pursuant to Section 110(g)(1) of the Clean Air Act, 42 U.S.C. 7410(g)(1). The order suspended "Articles 4.1 and 7.2.1 of the State of Nevada Air Quality Reguations, and related regulations, insofar as they limit emissions of particulate matter from the smelter of Kennecott Minerals Company at McGill, Nevada". Those articles and regulations constitute a portion of the federally-approved Nevada State Implementation Plan (SIP) for the control of particulate matter.

On September 6, 1979, the Administrator disapproved the suspension pursuant to Section 110(g)(2) of the Act, because the proposed SIP revision on which the Governor's suspension was based did not demonstrate attainment and maintenance of national ambient air quality standards, and thus clearly did not meet the requirements of Section 110 of the Act (44 FR 53305, September 13, 1979).

By letter dated September 18, 1979, Governor List informed the Administrator that he had submitted another revised SIP, and that he had issued another temporary emergency suspension, again suspending "Articles 4.1 and 7.2.1 of the State of Nevada Air Quality Regulations, and related regulations, insofar as they limit emissions of particulate matter from the smelter of Kennecott Minerals Company at McGill, Nevada".

Section 110(g)(1) allows a governor to suspend a portion of a state implementation plan if a proposed SIP revision has been submitted "which the Administrator has not approved or disapproved under this section *within the required four month period*". (Emphasis added.) The Governor has found that such suspension is necessary to prevent the closing of the McGill smelter and to prevent substantial increases in unemployment which would result from such a closing.

Governor List states that he submitted the revised SIP to EPA on September 18, 1979. A temporary emergency suspension of that revised SIP is not permitted by the Act until the required four month period has elapsed. Consequently, even if all of the other criteria are met, a temporary emergency suspension of the revised SIP is not legally permissible until January 18, 1980, and then only if EPA has not acted on the revised SIP by approving or disapproving by that date. Therefore, the most recent suspension is premature, and the Act mandates disapproval.

This disapproval order is a final action which is locally applicable for the purposes of Section 307(b)(1) of the Clean Air Act. Therefore, judicial review is available only in the United States Court of Appeals for the Ninth Circuit. A petition for review must be filed on or before December 17, 1979.

Dated: October 11, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-32009 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1339-1; OPP-C31032]

Receipt of Application To Conditionally Register Pesticide Product Entailing a Changed Use Pattern

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of receipt of application.

SUPPLEMENTARY INFORMATION: Stauffer Chemical Co., 1200 So., 47th St., Richmond, CA 94804, has submitted to EPA an application to conditionally register the pesticide product SUMITHION 8–E (EPA File Symbol 476–EROT) containing 76.8% of the active ingredient *O,O*-dimethyl *O*-(4-nitro-*m*-tolyl) phosphorothioate. The application received from Stauffer Chemcial Co. proposes that the use pattern of this pesticide be changed from its present use as an insecticide for outdoor use to control easter spruce budworm to include indoor use on cockroaches. The application also proposes that the product be classified for general use.

Notice of approval or denial of this application to conditionally register SUMITHION 8–E will be announced in the **Federal Register**. Except for such material protected by section 10 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136) and the regulations thereunder (40 CFR Part 162), the test data and other scientific information deemed relevant to the registration decision may be made available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the **Federal Register** if an application is approved. Notice of receipt of this application does not indicate a decision by the agency on the application.

Comments/Inquiries

Interested persons are invited to submit written comments on this application. Comments may be submitted, and inquiries directed, to Product Manager (PM) 16, Mr. William Miller, Room E-343, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426–9458.

The comments must be received on or before November 16, 1979 and should bear a notation indicating the EPA File Symbol "476–EROT". Comments received within the specified time period will be considered before a final decision is made; comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. The lable furnished by Stauffer Chemical Co., as well as all written comments filed in connection with this notice, will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sec. 3(c)(4), FIFRA and 40 CFR Part 162.)

Dated: October 11,1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32024 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS-51005; FRL 1338-8]

Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register**. This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS–793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS–794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426–3936.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under section 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date (44 FR 28559). The section 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in section 5(d)(1) of TSCA. Under section 5(d)(2), EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under section 5(b). In addition, EPA has decided that the section 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the section 5(d)(2) notice is subject to section 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemical identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice

V 4 4 0 C 1 7 7 9 UMI

of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (section 5(a)(1)). The section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extention is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under section 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

Authority: Section 5 of the Toxic Substance Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1079-0030

Close of Review Period: December 30, 1979.

Manufacturer's Identity: Bonewitz Chemical Services, Inc., 1731 N. Roosevelt Avenue, Burlington, Iowa 52601.

New Chemical Substance: The specific chemical identity of the substance for this PMN is magnesium dodecylbenzene sulfonate salt.

Uses: The substance, which is a detergent solution, is intended to be used to make liquid laundry detergents or industrial cleaning compounds. The company estimates a maximum annual production of 20,000 pounds. It also estimates that a maximum of 20 workers may come in dermal contact with the salt solution during manufacture and processing.

Data Submitted: The substance is defined as a magnesium dodecylbenzene sulfonate salt manufacturered in a water solution from dodecylbenzene sulfonic acid and magnesium oxide. The company claims that the exact chemical and physical properties are unknown, but submits that in most respects they should be similar to those of the sodium salt. The company also claims that the health and environmental effects would be very similar to those produced by the sodium salt.

The report on which data are based and other non-confidential information concerning this notice are available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room E-447, 401 M Street, S.W., Washington, D.C. 20460).

[FR Doc. 79-32025 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS 51006; FRL 1340-7]

Toxic Substances; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA, or the Agency).

ACTION: Receipt of Premanufacture Notice.

SUMMARY: Section 5(a)(1)(A) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. Section 5(d)(2) requires EPA to publish a summary of each PMN in the **Federal Register.** This Notice announces receipt of a PMN and provides a summary.

DATE: Persons who wish to file written comments on a specific chemical substance should submit their comments no later than 30 days before the applicable notice review period ends.

ADDRESS: Written comments should bear the PMN number of the particular chemical substance, and should be submitted in triplicate, if possible, to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATON CONTACT: Mr. George Bagley, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, D.C. 20460, telephone: 202/426-3936.

SUPPLEMENTARY INFORMATION: Under Section 5 of TSCA, any person who intends to manufacture or import a new chemical substance must submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import. A "new" chemical substance is any substance that is not on the Inventory of existing substances compiled by EPA under Section 8(b) of TSCA. On May 15, 1979, EPA announced the availability of the Initial Inventory and identified June 1, 1979, as the official publication date ((44 FR 28559). The Section 5 requirements became effective on July 1, 1979.

A PMN must include the information listed in Section 5(d)(1) of TSCA. Under Section 5(d)(2) EPA must publish in the **Federal Register** information on the identity and uses of the substance, as well as a description of any test data submitted under Section 5(b). In addition, EPA has decided that the section 5(d)(2) notice will include a description of any other test data submitted with the PMN, plus the identity of the manufacturer, when possible.

Publication of the Section 5(d)(2) notice is subject to Section 14 concerning disclosure of confidential data. A company can claim confidentiality for any information submitted as part of a PMN. If the company claims confidentiality for the specific chemcial identity, EPA will publish a generic name if the submitter provides one. If no generic name is provided, EPA will develop one and publish an amended notice after providing due notice to the submitter. EPA immediately will review confidentiality claims for chemical identity and for health and safety studies. If EPA determines that portions of this information are not entitled to confidential treatment, after complying with applicable procedures, the Agency will place the information in the public file and will publish an amended notice of the information that should have been in the original **Federal Register** notice.

Once EPA receives a PMN, the Agency normally has 90 days to review it (Section 5(a)(1)). The Section 5(d)(2) **Federal Register** notice indicates the date when the review period ends for each PMN. Under Section 5(c), EPA may for good cause extend the review period for up to an additional 90 days. If EPA determines that an extension is necessary, it will publish a notice in the **Federal Register.**

Once the review period ends, the submitter may manufacture the substance unless EPA has imposed restrictions. When manufacture begins, the submitter must report to EPA and the Agency will add the substance to the Inventory. After the substance is added to the Inventory, anyone may manufacture it without providing EPA notice under Section 5(a)(1)(A).

EPA has proposed Premanufacture Notification Requirements and Review Procedures (44 FR 2242, January 10, 1979). These requirements are not yet in effect. Interested persons should consult the Agency's Interim Policy (44 FR 28564, May 15, 1979) for guidance concerning premanufacturing requirements prior to the effective date of the premanufacture rules and forms. In particular, see the section entitled "Notice in the **Federal Register**" on p. 28567 of the Interim Policy.

Statutory Authority: Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

John P. DeKany,

Deputy Assistant Administrator for Chemical Control.

PMN No. 5AHQ-1079-0035(S)

Close of Review Period: January 1, 1980.

Manufacturer's Identity: Schenectady Chemicals Inc., 9th and Congress Streets, Schenectady, New York 12301.

New Chemical Substance: The chemical identity of the substance for this PMN is 2-*tert*-butyl-4-*sec*-butylphenol.

Uses: The submitter intends to manufacture the compound for a commercial purpose, with a small amount to be used solely for research and development. The specific use of the substance and the amounts to be produced are claimed as confidential. Byproducts resulting from the manufacture of the substance are small amounts of 2-*tert*-butyl-4-*sec*-butylphenol, which will be incorporated into the final product and small amounts of tri-butylphenol, which will be disposed of by incineration. The company estimates that worker exposure will be limited to no more than 10 individuals exposed for no longer than 6 hours per day.

Data Submitted: The company indicated that no test data are available and that the health and environmental effects are not known or reasonably ascertainable.

The report on which data are based and other non-confidential information concerning this notice is available in the public record in the Office of Toxic Substances Reading Room from 9:00 a.m. to 5:00 p.m. on working days (Room E-447, 401 M Street, S.W., Washington, D.C. 20460).

[FR Doc. 79-32011 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[OTS 53006; FRL 1340-4]

Toxic Substances; Premanufacture Notices Status Report for September 1979

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Monthly Summary of Premanufacture Notices.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to publish a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMN's) pending before the Agency and the PMN's for which the review period has expired since publication of the last monthly summary. This is the report for September 1979.

DATE: Any person who wishes to file written comments on a specific chemical substance should submit those comments no later than 30 days before the expiration of the applicable notice review period.

ADDRESS: Written comments should bear the PMN number of the particular substance and should be addressed to the Document Control Officer (TS-793), Office of Toxic Substances, EPA, 401 M St., SW, Washington, DC 20460.

Nonconfidential portions of the PMN's and other documents in the public record are available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday (excluding holidays), in Room E-447 at the address above.

FOR FURTHER INFORMATION CONTACT: Joyce Hagen, Premanufacturing Review Division (TS-794), Office of Toxic Substances, EPA, Washington, DC 20460, 202/426-3680.

SUPPLEMENTARY INFORMATION: Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes in the United States must submit a notice to EPA at least 90 days before he begins manufacture or import. A "new" chemical substance is any chemical substance that is not on the inventory of existing chemical substances compiled by EPA under section 8(b) of TSCA. EPA first published the inventory on June 1, 1979 (44 FR 28558, May 15, 1979). The section 5 requirements are effective for all new chemical substances manufactured or imported for a commercial purpose after July 1, 1979. Once EPA receives a PMN, the Agency normally has 90 days to review it. However, under section 5(c) of TSCA, the Agency may, for good cause, extend the review period for up to an additional 90 days. If EPA determines that such an extension is necessary, the Agency publishes the reasons for the extension in the **Federal Register.**

The monthly status report required under section 5(d)(3) will identify: (a) PMN's received during the month; (b) PMN's received previously and still under review at the beginning of the month; (c) PMN's for which the notice review period has ended since the last monthly summary; and (d) chemical substances that EPA has added to the inventory since the last monthly summary.

Statutory Authority: Section 5 of the Toxic Substances Control Act (90 Stat. 2012; 15 U.S.C. 2604).

Dated: October 10, 1979.

Marilyn C. Bracken,

Deputy Assistant Administrator for Program Integration and Information.

Premanufacture Notices; Status Report for September 1979

PMN No.	Identity/generic name	FR citation	Expiration date
I. Premanufacture Notices Received During the Month			
5AHQ-0979-0016	*n*-Methanesulfonyl-p-toluene sulfonamide	44 FR 54118 (9/18/79)	Dec. 4, 1979
5AHQ-0979-0022	Postassium salt of polyfunctional aliphatic acid oligomer.	44 FR 55416 (9/26/79)	Dec. 17, 1979
5AHQ-0979-0023	Ammonium salt of polyfunctional aliphatic acid oligomer.	do	Do.
5AHQ-0979-0011(A)	Polyvinyl acetate, acrylic acid, butylacrylate dioctyl maleate, 2 ethylhexyl acrylate).	In preparation	Dec. 23, 1979
5AHQ-0979-0024	2,2'-methylenebis (4-secbutyl-6-tert-butyl-phenol).	do	Dec. 25, 1979
5AHQ-0979-0025	2,2'-ethylidenebis (4-secbutyl-6-tert-butyl-phenol)	do	Do.
II. Premanufacture Notices Received Previously and Still Under Review at the Beginning of the Month			
5AHQ-0779-0004	Amine salts of dicarboxylic acids	44 FR 44931 (7/31/79)	Oct. 17, 1979
III. Premanufacture Notices for Which the Notice Review Period Has Ended Since the Last Monthly Summary			
5AHQ0479-0002-1	Isobutyric acid carbomonocyclic ester	44 FR 23310 (4/19/79)	Sept. 2, 1979
5AHQ0479-0002-2	Propiophenone, ring substitute-2-methyl	do	Do.
5AHQ0479-0002-3	Butyronitrile, 2-(substituted phenyl)-3-methyl	do	Do.
5AHQ0479-0002-4	Benzyl alcohol, ring substituted-alpha-isopropyl.	do	Do.
IV. Chemical Substances that EPA has Added to the Inventory Since the Last Monthly Summary: None			

[1] Per section 5(c), TSCA extension of 60 days.

[FR Doc. 79-32014 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

V 44 0 C 17 79 UMI

[PP 6G1807/T219; FRL 1340-6]

Establishment of Temporary Tolerances for Pesticide Thidiazuron

Nor-Am Agricultural Products, Inc., 1275 Lake Ave. Woodstock, IL 60098, submitted a pesticide petition (PP6G1807) to the Environmental Protection Agency (EPA). This petition requested that temporary tolerances be established for residues of the herbicide thidiazuron (*N*-phenyl-*N'*-1,2,3-thiadiazol-5-ylurea) and its aniline-containing metabolites in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm), milk at 0.05 ppm, eggs at 0.1 ppm, and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm. (A related document establishing a feed additive regulation for residues of thidiazuron in or on cottonseed hulls appears elsewhere in today's **Federal Register**.) These temporary tolerances will permit the marketing of the above raw agricultural commodity when treated in accordance with an experimental use permit (2139-EUP-23) that has been issued under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).

An evaluation of the scientific data reported and other relevant material showed that the tolerance was adequate to cover residues resulting from the proposed experimental use, and it was determined that the temporary tolerances would protect the public health. The temporary tolerances have been established for the pesticide, therefore, with the following provisions:

1. The total amount of the herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. Nor-Am Agricultural Products, Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire July 1, 1980. Residues not in excess of these temporary tolerances remaining in or on cottonseed after expiration of these tolerances will not be considered actionable if the herbicide is legally applied during the term of, and in accordance with provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquires concerning this notice may be directed to Ms. Willa Garner, Product Manager 23, Registration (TS-767), Office of Pesticide Programs, East Tower, 401 M St., SW, Washington, DC 20460 (202/755-1397).

Dated: October 10, 1979.

(Section 408(j) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346(j)].)

[FR Doc. 79-32012 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1341-4]

Advisory Opinion Concerning Application of Cotton Defoliants in Arizona

Purpose and Scope of This Notice

The United States Environmental Protection Agency (EPA) recently held three days of public hearings in Phoenix, Arizona to receive information concerning, among other things, the application of pesticides to agricultural lands near or adjoining residential areas. The hearing was, in part, prompted by complaints by residents of Scottsdale, Arizona that pesticides being used on agricultural lands along Pima Road in that community were causing offensive odors as well as adverse human health and environmental effects. Testimony presented at the hearing based on a series of pesticide use observations conducted by EPA personnel in Arizona in August, 1979 indicated that even under ideal conditions pesticides drifted into residential areas and school grounds adjoining agricultural lands. In addition, EPA is currently conducting a human and environmental monitoring program in the Scottsdale and Yuma areas of Arizona. This monitoring program should yield valuable data concerning the question of whether or not pesticides being applied to agricultural lands result in human exposure in adjacent residential areas, and help point the way for future action.

However, this fall defoliants and desiccants will be applied to cotton crops throughout Arizona in order to prepare for mechanical picking of the crop. Some spraying has already begun. It is EPA's position that while awaiting the results of the ongoing monitoring study and for studies assessing the possible effects of human exposure to pesticide drift immediate steps can be taken to ensure that drift from applications of harvest aids into adjoining residential areas is minimized.

Depending on the circumstances, the drift of cotton defoliants to nontarget areas can constitute use of a pesticide in a manner "inconsistent with its labeling", which may result in an enforcement action against the applicator under section 12 and 14 of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C.A. §§ 136j and 136l (Supp. 1979). However, after the fact imposition of civil penalties or other sanctions for violations of label statements pertaining to pesticide drift which do not provide guidelines for preventing drift into nontarget areas is, at best, an awkward and inadequate means of reducing such drift. Accordingly, EPA has developed a series of recommended application practices to be followed when applying defoliants and desiccants in Arizona to cotton fields located next to or near sensitive areas as defined in this Notice. It is our opinion that if these practices are properly followed drift into nontarget areas will be minimized.

Therefore, if an applicator follows the specific application practices outlined in this Notice, EPA will not prosecute such an applicator for violating the misuse provisions of FIFRA if small amounts of measurable drift away from the target site occurs. On the other hand, an applicator who chooses not to follow the practices outlined in this Notice may be subject to prosecution if his application results in pesticide drift to nontarget areas. EPA intends to monitor the application of these pesticides in Arizona to determine whether applicators are following the recommended application practices and whether pesticide drift is occurring. It should be noted that applicators are not exempted by this Notice from compliance with all other label provisions not covered by the application practices in this Notice. It should also be noted that this Notice only covers applications made through February 1980. In the meantime, EPA is considering what additional Agency action would be appropriate to minimize drift of cotton defoliants as well as other pesticides into residential areas.

The application practices outlined in this Notice (devised after consultation with experts in application technology and cotton culture) were developed with the expectation tht they would not make the use of any currently registered desiccants and defoliants so impractical as to constitute a de facto "ban". It is also our opinion that the use of the application techniques and procedures outlined in this Notice employing widely available and inexpensive application equipment is reasonable and does not present any substantial countervailing costs or risks. At the same time, while it is EPA's view that if the recommended practices are followed pesticide drift into residential areas will be minimized, there is no absolute assurance that the resulting reduction in human exposure will be sufficient to eliminate altogether symptoms which may be associated with the spraying of cotton.

Application Practices

The Agency has developed certain application practices which should mitigate spray drift. These practices address such areas as wind direction and velocity, distance restrictions (buffer zones), aircraft type, aircraft speed, nozzle size, nozzle pressure, nozzle angle, and dilution factors. Attached is a chart outlining the recommended application practices discussed in this Notice. A particular concern is to minimize spray drift into sensitive areas, which for the purposes of this Notice means any areas where people are actually residing, areas in which substantial commercial activities are conducted (e.g., shopping centers), any area where a school is in session or will be in session within 24 hours, public parks and highways.

The Agency has determined that for purposes of developing these application practices, cotton defoliants used in the State of Arizona should be separated into two groups. Defoliants with particular irritation characteristics are placed in Group 1; all other defoliants used on cotton are placed in Group 2. Other factors such as human and animal toxicity have been taken into consideration in making these groupings. A review of cotton defoliants used in Arizona, using the above factors, resulted in the following groupings:

Group 1

Def
Folex
Paraquat

Group 2

Cacodylic Acid, Sodium Cacodylate
Endothall
Sodium Chlorate, Sodium Chlorate Borate
Arsenic Acid

A. Aerial Application

1. *General Considerations.* Certain specified application practices apply to the aerial application of cotton defoliants regardless of the group within which they have been placed. For all aerial application of cotton defoliants, there must be an air movement of not less than 2 miles per hour nor more than 10 miles per hour *away from* any sensitive areas. If the wind direction changes during the application, the application must be halted. In all applications, because of the large droplet size produced, applicators should be aware that if an insufficient volume of diluent is used they might not obtain adequate coverage or achieve efficacious defoliation. A nozzle pressure not to exceed forty (40) pounds per square inch (gauge) must be used.

For fixed wing aerial applications, nozzles must have not less than a one-sixteenth inch nor larger than a one-quarter inch orifice and they must produce a jet or cone type dispersion pattern. Jet and cone nozzles may be fitted with a No. 46 (or larger) WHIRL PLATE WHICH PRODUCES A CONE TYPE DISPERSION PATTERN. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. Nozzles must be directed back with the airstream. Aircraft speed must not exceed 130 miles per hour.

For rotary wing aerial application, cone or jet nozzles must have not less than a one-sixteenth inch nor larger than a one-quarter inch orifice and may be fitted with a No. 46 (or larger) whirl plate capable of producing a cone dispersion pattern. Nozzles must be directed back with the airstream where application speeds exceed sixty (60) miles per hour. No restriction on nozzle angle is placed on rotary wing aircraft at application speeds of less than sixty (60) miles her hour. Other nozzles may be used but they must produce a droplet comparable in size to the droplets produced by the previously mentioned equipment. Drift control agents may be used at the applicator's discretion.

2. *Group 1.* Defoliants in Group 1 (Def, Folex, Paraquat) must not be aerially applied closer than one-quarter mile (440 yards) from a sensitive area.

3. *Group 2.* Defoliants in Group 2 (Cacodylic Acid, Sodium Cacodylate, Endothall, Sodium Chlorate, Sodium Chlorate Borate, Arsenic Acid) must not be aerially applied closer than one hundred (100) feet from a sensitive area.

B. Other Application Methods

1. *Air Carrier Applications.* For all air carrier applications (mist blowers) there must be an air movement of not less than 2 miles per hour nor more than 10 miles per hour *away from* any sensitive area. If the wind direction changes during the application, the application must be halted. In all applications, applicators should be aware that if an insufficient volume of diluent is used they might not obtain adequate coverage or achieve efficacious defoliation. A nozzle pressure not to exceed forty (40) pounds per square inch (guage) must be used. Other nozzle types such as fan, cone, or spinning screen may be used but they must produce a droplet comparable to the droplets produced by the previously mentioned aerial equipment (1/16" to 1/4" orifice). A No. 46 (or larger) whirl plate may be used.

a. Group 1 defoliants must not be applied by air carrier applicators closer than one quarter mile (440 yards) from a sensitive area.

b. Group 2 defoliants must not be applied by air carrier applicators closer than one hundred (100) feet from a sensitive area.

2. *Hydraulic Ground Applications.* Air movement must be away from sensitive areas but wind speed is not specified. In all applications, applicators should be aware that if an insufficient volume is used they might not obtain adequate coverage or achieve efficacious defoliation. Nozzles of either fan or cone type may be used. Such nozzles must be of a type which would permit no less than 0.2 gallons per minute flow rate. This includes, for example, fan nozzles such as the 6502, 7302 or 8002, and cone nozzles such as the D3-25 and TX 12. The 8002 nozzle is recommended. Nozzle pressure should not exceed 40 pounds per square inch (guage) pressure.

a. Group 1 defoliants must not be applied by Hydraulic Ground applicators closer than one quarter mile (440 yards) from a sensitive area.

b. Group 2 defoliants have no distance restrictions (buffer zones) other than any recommended by product labeling.

V 4 4 0 C 1 7 7 9 UMI

Authority

This advisory opinion governing the use of certain cotton defoliants and desiccants in Arizona through February, 1980 is issued pursuant to the authority granted to the Administrator by section 2(ee) of FIFRA, 7 U.S.C.A. 136 (ee) (Supp. 1979). Section 12 (a)(2)(G) of FIFRA makes it unlawful for any person "to use any registered pesticide in a manner inconsistent with its labeling". Section 2(ee) defines this terminology as prohibiting the use of a registered pesticide "in a manner not permitted by the labeling". However, section 2(ee) also provides that this prohibition does not apply with respect to certain practices specified in that section nor with respect to "any use of a pesticide in a manner that the Administrator determines to be consistent with the purposes of this Act."

This Notice is effective through February 29, 1980.

Dated: October 12, 1979.

Steven Jellinek,

Assistant Administrator for Toxic Substances.

BILLING CODE 6560-01-M

	WIND SPEED AND DIRECTION	NOZZLE SIZE AND ANGLE	NOZZLE PRESSURE	AIRCRAFT SPEED
AERIAL--FIXED WING	Wind speed must not be less than 2 MPH nor greater than 10 MPH. Wind direction must ALWAYS be away from sensitive areas. Stop application if wind direction changes toward sensitive areas.	Jet and Cone nozzles must have a 1/16" to 1/4" orifice and may be fitted with a #46 or larger whirl plate capable of producing a cone dispersion pattern. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. Nozzles must be directed back with the airstream.	Not exceeding 40 ISI(gauge)	130 MPH or less
AERIAL--ROTARY WING	Same as aerial-fixed wing	Jet and Cone nozzles must have a 1/16" to 1/4" orifice and may be fitted with a #46 or larger whirl plate capable of producing a cone dispersion pattern. Fan nozzles are not recommended unless they are capable of producing a droplet of comparable size. If aircraft speed is more than 60 MPH, nozzles must be directed back with the airstream. If aircraft speed is 60 MPH or less there is no restriction on nozzle angle.	Not exceeding 40 PSI(gauge)	130 MPH or less
GROUND--AIR CARRIER SYSTEM	Same as aerial-fixed wing	Same as aerial-fixed wing	Not exceeding 40 PSI(gauge)	Not applicable
GROUND--HYDRAULIC SYSTEM	No wind speed specified. Wind direction must be away from sensitive areas.	Nozzle size and pressure must deliver 0.2 gal./minute or more.	Not exceeding 40 PSI(gauge)	Not applicable

NOTE: Distance restrictions (buffer zones) must be observed as follows:

Group 1 pesticides (DEF, FOLEX, PARAQUAT)--One-quarter (1/4) mile from sensitive areas with all types of application.

Group 2 pesticides (ARSENIC ACID, CACODYLIC ACID, SODIUM CACODYIATE, SODIUM CHLORATE, SODIUM CHLORATE BORATE, ENDOTHALL)--One hundred (100) feet from sensitive areas for all aerial application and ground air carrier systems. No restrictions other than that found on product labeling for ground hydraulic systems.

[FR Doc. 79-32160 Filed 10-16-79; 8:45 am]
BILLING CODE 6560-01-C

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-566; CC Docket No. 78-242]

Inquiry Into Alleged Improper Activities by Southern Bell Telephone and Telegraph Co. and Southwestern Bell Telephone Co.

Order

Adopted: September 20, 1979.

Released: October 1, 1979.

By the Commission: Commissioner Quello concurring in part and dissenting in part; Commissioner Jones concurring and issuing a Statement.

1. By Order FCC 78-567, released August 7, 1978, the Commission instituted an inquiry under Section 403 of the Communications Act to determine whether Southern Bell Telephone and Telegraph Company, Southwestern Bell Telephone Company, or other Bell System operating companies have violated, or continue to violate, Sections 201, 217, 219, 220, 308 and 605 of the Act as well as Part 31, § 43.21 and § 43.31 of our rules. See 69 FCC 2d 1234 (1978), *recon. denied*, 70 FCC 2d 705 (1979). The allegations before us, which involved only Southern Bell and Southwestern Bell, included, among other things, abuses of political and charitable contributions, improper use of corporate funds and facilities, and rate and expense voucher data falsifications.

2. In view of the sensitivity of these matters, the Commission further ruled that public interest considerations required closing investigatory sessions to the public. Additionally, we decided that similar considerations warranted our requiring the record to be kept temporarily non-public until we had an opportunity to review it fully.

3. The investigatory record in this proceeding is now complete, and has been certified to this Commission by the Presiding Judge. Moreover, the Common Carrier Bureau, as required by paragraph 10 of our instituting Order, *supra*, has reported their findings and recommendations to us.

4. Among other things, the Bureau recommends that we release their report and the certified record for comment by the public and the Bell System.[1] We believe this course of action to be sound, since it would afford both the "subjects" of the investigation as well as other interested persons the opportunity to make their views known on the numerous important issues raised by this complex proceeding. To this end, moreover, we have also determined to release simultaneously a public notice advising as to the location of the certified record and the Bureau's report and recommendation. Upon receipt and analysis of the responsive comments, we shall decide, upon the record as a whole, what future action is appropriate in this and related matters.

5. Accordingly, it is ordered, on the Commission's own motion, pursuant to Sections 4(i), 4(j), and 403 of the Communications Act of 1934, as amended, that all interested persons may file comments on the report and recommendations of the Bureau in this proceeding, as well as the underlying record, on or before November 15, 1979. Reply comments, including those of the Common Carrier Bureau, shall be filed on or before November 30, 1979.

6. It is further ordered, that the Chief, Common Carrier Bureau, is delegated authority to modify dates and procedures, if necessary.

7. It is further ordered, that the Secretary shall cause this Order as well as a Public Notice setting forth the location of the Bureau's Report to the Commission and the certified record to be published in the **Federal Register**. (See Public Notice, FCC 79-567, released October 1, 1979, and published in the **Federal Register**, on October 9, 1979, at 44 FR 57992)

Federal Communications Commission[2]

William J. Tricarico,

Secretary.

Concurring Statement of Commissioner Anne P. Jones

In Re: Investigation of Southern and Southwestern Bell Telephone Companies, CC Docket No. 78-242

I regret the necessity for republishing information which already has been adequately disclosed and has caused pain to many individuals. However, reluctantly, I concur that disclosure is required.

[FR Doc. 79-31989 Filed 10-16-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Requests to withhold certain portions of the record from public disclosure are currently before the Chief, Common Carrier Bureau. These requests for confidentiality will be ruled upon pursuant to § 0.459(d) of the Commission's rules.

[2] See attached Concurring Statement of Commissioner Anne P. Jones.

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before November 6, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No. T-3852-A

Filing Party: Wallace Aiken, Esq., Aiken, St. Louis & Siljeg, 1215 Norton Building, Seattle, Washington 98104.

Summary: Agreement No. T-3852-A, between the City of Kodiak, Alaska (City) and Alaska Terminal and Stevedoring, Inc. (AT&S), provides for the 5-year lease by the City to AT&S of certain terminal facilities at Kodiak for non-preferential use in performing a full range of stevedoring and various other terminal services to any and all vessels calling at the facility, excluding those customarily serviced and controlled by Sea-Land Service, Inc. AT&S will pay monthly rental charge to City in a sum equivalent to the rental or use charge set forth in the current tariff of the Port of Kodiak applicable to such equipment.

Agreement No. T-3867

Filing Party: Betty I. Crofoot, House Counsel, Port of Portland, Box 3529, Portland, Oregon 97208.

Summary: Agreement No. T-3867, between the Port of Portland and The Japanese Six Lines, (Japan Line, Ltd., Kawasaki Kisen Kaisha, Ltd., Mitsui OSK Lines, Ltd., Nippon Yusen Kaisha, Showa Line, Ltd., and Yamashita-Shinnihon Steamship Co., Ltd.) provides for reductions to the Port's tariff wharfage rates on container cargoes in excess of 368,000 short tons annually—such reductions to be calculated by percentage increments based on increased volume.

Agreement No. 9548-18.

Filing party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street N.W., Washington, D.C. 20006.

Summary: Agreement No. 9548-18, amends the basic agreement of the North Atlantic Mediterranean Freight Conference by adding new Articles 13.3(c), 13.4(c) and 13.5(b) for the purpose of providing substituted service by land, at the member's expense, between or to discharge ports within the scope of the Conference Agreement. Article 13.3(c) concerns cargo transported to ports within the scope of authority of the French Rate Committee and Article 13.5(b) concerns cargo transported to ports within the scope of authority of the Section I Rate Committee; and in each instance substituted service shall only be permitted, amended or cancelled by the unanimous vote of all members of those respective Committees. Article 13.4(c) provides for substituted service by land between or to ports of discharge within the scope of authority of the Italian Rate Committee and shall only be permitted to the ports of Genoa, Leghorn or Naples from the ports of Genoa, Leghorn or Naples unless expanded, amended or cancelled by a unanimous-less-one vote of all members of the Italian Rate Committee. By Order of the Federal Maritime Commission.

Dated: October 11, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-31937 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the 30-day waiting period of the premerger notification rules.

SUMMARY: Perto-Lewis Corporation is granted early termination of the 30-day waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of certain assets of Clark Oil and Refining Corporation. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties to the transaction. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: October 10, 1979.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by sections 201 and 202 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consumation of such plants. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-32039 Filed 10-16-79; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committees; Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National advisory bodies scheduled to assemble during the month of November 1979.

Alcohol Abuse Prevention Review Committee

November 1-2, 9:00 a.m., Sheraton Hotel, Fiesta East Room, 8127 Colesville Road, Silver Spring, Maryland 20910.
Open: November 1, 9:00 a.m.-10:30 a.m.
Closed: Otherwise.
Contact Robert E. Davis, Room 14-C-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to prevention activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.
Agenda: From 9:00-10:30 a.m., November 1, the meeting will be open for discussion of administrative reports, announcements, and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Basic Sociocultural Research Review Committee

November 1-3, 9:00 a.m., Wellington Hotel, 2505 Wisconsin Avenue, N.W., Washington, D.C. 20007.
Open: November 1, 9:00-9:30 a.m.
Closed: Otherwise.
Contact Marilyn Anderson, Room 10-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-3936.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-9:30 a.m., November 1, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Treatment Development and Assessment Research Review Committee

November 2-3, 9:00 a.m., Shoreham Americana, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open: November 2, 9:00-10:00 a.m.
Closed: Otherwise.
Contact Mrs. Eileen Nugent, Room 10C-25, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3367.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m. November 2, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

November 15-17, 9:00 a.m., Sheraton Silver Spring, 8727 Colesville Road, Silver Spring, Maryland 20910.
Open: November 15, 9:00-10:00 a.m.
Closed: Otherwise.
Contact: Ms. Barbara Spelman, Room 9C-09, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research education for scientists concerned with mental health problems from a biological, psychological, or social science perspective, and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m., November 15, the meeting will be open for discussion of

V 44 O C 17 79 UMI

administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Cognition, Emotion, and Personality Research Review Committee

November 16-17, 9:00 a.m., Riviera Room, Holiday Inn, 2101 Wisconsin Avenue, NW., Washington, D.C. 20007.
Open: November 16, 9:00-10:00 a.m.
Closed: Otherwise.
Contact: Shirley Maltz, Room 10C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-10:00 a.m., November 16 the meeting will be open for discussions of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Research Scientist Development Review Committee

November 19-21, 9:00 a.m., Conference Room 905, CHevy Chase Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20015.
Open: November 19, 9:00-9:30 a.m.
Closed: Otherwise.
Contact: Miriam Stein, Room 9C-18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-4347.
Purpose: The Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientists Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.
Agenda: From 9:00-9:30 a.m. on November 19, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Mental Health Small Grant Review Committee

November 29, 30 and December 1, 1:00 p.m., Shoreham Americana Hotel, 2500 Calvert Street, N.W., Washington, D.C. 20008.
Open: November 29, 1:00-2:00 p.m.
Closed: Otherwise.
Contact: Mary D. Cope, Room 10C-14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4337.
Purpose: The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Council of the respective Institutes for final review.
Agenda: From 1:00-2:00 p.m., on November 29, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Public Law 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the Committee members is Mr. Harry Bell, Associate Director for Public Affairs, National Institute on Alcohol Abuse and Alcoholism, Room 11-A-17, Parklawn Building, 5600 Fishers Land, Rockville, Maryland 20857, 301/443-3306. The NIMH Information Officer who will furnish summaries of the meetings and rosters of the committee members is Mr. Paul Sirovatka, Chief, Public Information Branch, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301/443-4536.

Dated: October 11, 1979.

Elizabeth A. Connolly,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 79-31958 Filed 10-16-79; 8:45 am]
BILLING CODE 4110-88-M

Office of Education

[Notice-1]

National Advisory Council on Vocational Education; Meeting

AGENCY: National Advisory Council on Vocational Education.

ACTION: Notice of Public Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Vocational Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act, (5 U.S. Code, Appendix I Section 10(a)(2)). This document is intended to notify the general public of its opportunity to attend.

DATE: November 2, 1979.

ADDRESS: Washington Hilton Hotel, 1919 Connecticut Avenue, N.W., Washington, D.C., The Map Room, Terrace Level.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, P.L. 90-576. The Council is directed to:

(A) Advise the Commissioner concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to the Congress; and

(C) conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

On November 2, 1979, the National Advisory Council on Vocational Education will meet in regular session from 9:00 A.M. to 5:00 P.M. in the Map Room of the Washington Hilton Hotel, Washington, D.C.

The following agenda will be included in this meeting:

Report of Council Chairperson
Report of Executive Director
Formation of Committees
Appointment of Committee Chairpersons
Election of a Vice Chairperson
Discussion of Council Work Plan and Committee Activities
Formation of Meeting Calendar for FY '80
General Council Business

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the National Advisory Council on Vocational Education, located at 425 13th Street N.W., Suite 412, Washington, D.C. 20004. For further information call Virginia Solt: (202) 376-8873.

Signed at Washington, D.C. on October 11, 1979.

Raymond C. Parrott,
Executive Director, National Advisory Council on Vocational Education.

[FR Doc. 79-31940 Filed 10-16-79; 8:45 am]
BILLING CODE 4110-02-M

Office of Education

Strengthening Developing Institutions Program; Closing Date for Transmittal of Applications for Fiscal Year 1980; Noncompeting Continuation Projects

Applications are invited from grantees who were awarded noncompeting continuation projects in fiscal year 1979 for project periods extending beyond one full year of operation under the Strengthening Developing Institutions Program. These noncompeting projects were awarded in fiscal year 1979 only to two-year public and private developing institutions.

Authority for this program is contained in Sections 301-306 of Title III Higher Education Act of 1965, as amended.

(20 U.S.C. 1051-1056)

The purpose of the awards is to assist developing institutions of higher education to strengthen their academic quality, administrative capacity, and student services.

Closing Date for Transmittal of Applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by December 10, 1979.

If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications Delivered by Mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered should be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturday, Sundays, and Federal holidays.

Available funds: It is estimated that approximately $110,000,000 will be available for the Strengthening Developing Institutions Program in FY 1980. Of that amount approximately $12 million will be available for noncompeting continuation projects.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by October 23, 1979. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Strengthening Developing Institutions Program (45 CFR Part 169); and

(b) General Provisions Regulations for Office of Education Programs (45 CFR Parts 100 and 100a).

Note.—The Proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through d).

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of Part 100a of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further information: For further information contact Dr. Edward J. Brantley, Director, Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2418.

(20 U.S.C. 1051-1056)

(Catalog of Federal Domestic Assistance Number 13.454: Strengthening Developing Institutions Program)

Dated: October 12, 1979.

John Ellis,
Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-31987 Filed 10-16-79; 8:45 am]
BILLING CODE 4110-02-M

Social Security Administration

Social Security for Your Future; Meetings—Correction

On September 18, 1979, national and regional symposia were announced in the Federal Register at 44 FR 54128. The telephone number to call in Region VI, Dallas, Texas, should be changed from "(214) 749-4339" to "(214) 729-4339".

Dated: October 9, 1979.

Edwin C. Simmons,
Director, Office of Regulations.

[FR Doc. 79-32002 Filed 10-16-79; 8:45 am]
BILLING CODE 4110-07-M

Office of Education

Strengthening Developing Institutions Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new projects under the Strengthening Developing Institutions Program.

Authority for this program is contained in Sections 301-306 of Title III Higher Education Act of 1965, as amended.

(20 U.S.C. 1051-1056)

This program issues awards to two-year and four-year, public and private developing institutions of higher education.

V 4 4 O C 17 7 9 UMI

The purpose of the awards is to assist developing institutions of higher education to strenghten their academic quality, administrative capacity, and student services.

Closing Date for Transmittal of Applications: An application for a grant must be mailed or hand delivered by December 10, 1979.

Applications Delivered By Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.454, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications Delivered By Hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: Applications for new grants will be accepted from (1) institutions not currently in the program, and (2) Title III grantees (under either the Advanced Institutional Development Program or the Strengthening Developing Institutions Program) whose grants expire on or before December 31, 1980.

The conversion tables, which explain how the Commissioner assigns points to institutions applying for designation as developing are published as an appendix to this notice.

Available Funds: It is estimated that approximately $110,000,000 will be available for the Strengthening Developing Institutions Program in FY 1980.

Two-Year Colleges: No more than $26.4 million will be available for two-year institutions. Of this sum, approximately $14 million will be available for new projects. For the most part, awards will be for between $100,000 and $300,000, and will be for a one year period.

Four-Year Colleges: Approximately $83.6 million will be available for four-year institutions in FY 1980. Awards will be for between $200,000 and $500,000 annually, the majority of which will be for a one year period.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant unless that amount is specified by statute or regulations.

Application Forms: Application forms and program information packages are expected to be ready for mailing by October 23, 1979. They may be obtained by writing to the Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the application not exceed 100 pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Note.—The Proposed Education Division General Administrative Regulations (EDGAR) were published in the **Federal Register** on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs (the current 45 CFR Parts 100a through d).

If EDGAR takes effect before grants are made under this program, those grants will be subject to the following provisions of Part 100a of EDGAR: Subpart A (General); Subpart E (What Conditions Must be Met by a Grantee?); Subpart F (What are the Administrative Responsbilities of a Grantee?); and) Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

Further Information: For further information contact Dr. Edward J. Brantley, Director, Division of Institutional Development, U.S. Office of Education (Room 3052, Regional Office Building 3), 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245-2418.

(20 U.S.C. 1051-1056)

John Ellis,

Executive Deputy Commission for Educational Programs.

(Catalog of Federal Domestic Assistance Number 13.454; Strengthening Developing Institutions Program)

Appendix

Tables to be used in determining eligibility for participation in the strengthening developing institutions program.

Educational and General Expenditure Tables

Point Tables: To assist in determining Designation as a Developing Institution for FY 1980 (based upon 1977-1978 data).

Points for E. & G. Expenditures Per FTE Student

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
0	$6,145———	$10,777———	$21,093———	$14,185———
1	4,986- 6,144	7,821-10,776	15,636-21,092	13,110-14,184
2	4,483- 4,985	7,295- 7,820	12,335-15,637	10,646-13,109
3	4,396- 4,482	6,245- 7,294	9,875-12,334	9,544-10,647
4	4,016- 4,397	5,989- 6,244	9,044- 9,874	8,875- 9,543
5	3,812- 4,015	5,839- 5,988	8,052- 9,043	8,493- 8,874
6	3,730- 3,811	5,606- 5,838	7,971 -8,051	7,648- 8,492
7	3,605- 3,729	5,329- 5,605	7,376- 7,970	7,292- 7,647
8	3,479- 3,604	4,824- 5,328	7,253- 7,375	7,051- 7,291
9	3,438- 3,478	4,677- 4,823	7,122- 7,252	6,807- 7,050
10	3,363- 3,437	4,558- 4,676	6,905- 7,121	6,529- 6,806
11	3,313- 3,362	4,461- 4,557	6,691- 6,904	6,327- 6,526
12	3,261- 3,312	4,331- 4,460	6,171- 6,690	6,187- 6,326
13	3,224- 3,260	4,296- 4,330	6,072- 6,170	6,047- 6,186
14	3,164- 3,223	4,210- 4,295	6,023- 6,071	5,954- 6,046
15	3,137- 3,163	4,165- 4,209	5,893- 6,022	5,745- 5,953
16	3,104- 3,136	4,063- 4,164	5,725- 5,892	5,597- 5,744
17	3,073- 3,103	3,976- 4,062	5,615- 5,724	5,530- 5,596
18	3,057- 3,072	3,939- 3,977	5,380- 5,614	5,444- 5,529
19	3,033- 3,056	3,864- 3,938	5,309- 5,379	5,370- 5,443
20	2,988- 3,032	3,826- 3,863	5,199- 5,308	5,256- 5,369
21	2,948- 2,987	3,727- 3,835	5,103- 5,195	5,132- 5,255
22	2,900- 2,947	3,689- 3,726	5,053- 5,102	5,108- 5,131
23	2,841- 2,899	3,641- 3,688	4,997- 5,052	5,029- 5,107
24	2,829- 2,840	3,577- 3,640	4,905- 4,996	4,957- 5,028
25	2,787- 2,828	3,553- 3,576	4,811- 4,904	4,894- 4,956
26	2,761- 2,786	3,492- 3,552	4,712- 4,810	4,855- 4,893
27	2,723- 2,760	3,451- 3,491	4,647- 4,711	4,759- 4,854
28	2,714- 2,722	3,391- 3,450	4,524- 4,646	4,690- 4,758
29	2,670- 2,713	3,356- 3,390	4,495- 4,523	4,622- 4,689
30	2,663- 2,669	3,228- 3,355	4,446- 4,495	4,549- 4,621
31	2,656- 2,662	3,179- 3,227	4,389- 4,445	4,491- 4,548
32	2,630- 2,655	3,115- 3,178	4,334- 4,388	4,445- 4,490
33	2,614- 2,629	2,967- 3,114	4,276- 4,333	4,407- 4,444
34	2,600- 2,613	2,919- 2,966	4,226- 4,275	4,385- 4,406
35	2,574- 2,599	2,904- 2,918	4,088- 4,225	4,336- 4,384
36	2,557- 2,573	2,782- 2,903	4,047- 4,087	4,295- 4,337
37	2,526- 2,556	2,768- 2,781	4,024- 4,046	4,274- 4,297
38	2,513- 2,525	2,753- 2,767	3,957- 4,023	4,237- 4,273
39	2,494- 2,512	2,703- 2,752	3,691- 3,956	4,191- 4,236
40	2,476- 2,493	2,690- 2,702	3,846- 3,890	4,155- 4,190
41	2,451- 2,475	2,649- 2,689	3,808- 3,845	4,115- 4,154
42	2,429- 2,450	2,641- 2,648	3,775- 3,807	4,087- 4,114
43	2,414- 2,428	2,623- 2,640	3,751- 3,774	4,068- 4,086
44	2,394- 2,413	2,613- 2,622	3,747- 3,750	4,044- 4,066
45	2,373- 2,393	2,600- 2,612	3,701- 3,746	4,010- 4,043
46	2,362- 2,372	2,553- 2,599	3,679- 3,700	3,993- 4,009
47	2,352- 2,361	2,534- 2,552	3,626- 3,678	3,952- 3,992
48	2,337- 2,351	2,508- 2,533	3,617- 3,625	3,927- 3,951
49	2,320- 2,336	2,456- 2,507	3,585- 3,616	3,890- 3,926
50	2,302- 2,319	2,420- 2,455	3,536- 3,567	3,860- 3,889
51	2,296- 2,301	2,375- 2,419	3,516- 3,535	3,831- 3,859
52	2,283- 2,295	2,346- 2,374	3,495- 3,517	3,806- 3,830
53	2,247- 2,282	2,319- 2,345	3,455- 3,494	3,783- 3,805
54	2,233- 2,246	2,290- 2,318	3,440- 3,454	3,746- 3,782
55	2,217- 2,232	2,273- 2,289	3,372- 3,439	3,714- 3,745
56	2,188- 2,216	2,221- 2,272	3,341- 3,371	3,660- 3,713
57	2,170- 2,187	2,194- 2,220	3,254- 3,340	3,628- 3,659
58	2,163- 2,169	2,169- 2,193	3,257- 3,283	3,606- 3,627
59	2,150- 2,162	2,139- 2,166	3,200- 3,256	3,580- 3,607
60	2,130- 2,149	2,106- 2,138	3,154- 3,199	3,553- 3,579
61	2,123- 2,129	2,096- 2,105	3,142- 3,153	3,525- 3,552

V 44 OC 17 79 UMI

Points for E. & G. Expenditures Per FTE Students—Continued

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
62	2,187- 2,122	2,074- 2,095	3,086- 3,141	3,473- 3,524
63	2,093- 2,106	2,023- 2,073	3,062- 3,085	3,439- 3,472
64	2,086- 2,092	2,003- 2,022	3,032- 3,061	3,402- 3,438
65	2,072- 2,085	1,986- 2,002	2,991- 3,031	3,375- 3,401
66	2,064- 2,072	1,975- 1,987	2,966- 2,990	3,361- 3,374
67	2,057- 2,063	1,952- 1,974	2,957- 2,965	3,318- 3,360
68	2,041- 2,056	1,936- 1,951	2,928- 2,956	3,290- 3,317
69	2,020- 2,040	1,882- 1,935	2,917- 2,927	3,271- 3,289
70	2,012- 2,019	1,863- 1,881	2,889- 2,916	3,242- 3,270
71	1,986- 2,011	1,834- 1,862	2,845- 2,888	3,183- 3,241
72	1,979- 1,985	1,831- 1,833	2,826- 2,844	3,152- 3,182
73	1,962- 1,978	1,810- 1,830	2,809- 2,827	3,131- 3,151
74	1,940- 1,961	1,798- 1,809	2,771- 2,808	3,088- 3,130
75	1,928- 1,939	1,770- 1,797	2,737- 2,770	3,060- 3,087
76	1,905- 1,927	1,763- 1,769	2,686- 2,736	3,039- 3,059
77	1,897- 1,904	1,731- 1,762	2,652- 2,685	3,000- 3,038
78	1,877- 1,896	1,725- 1,730	2,639- 2,661	2,973- 2,999
79	1,853- 1,876	1,665- 1,724	2,605- 2,638	2,930- 2,972
80	1,823- 1,852	1,660- 1,664	2,593- 2,604	2,861- 2,929
81	1,807- 1,822	1,628- 1,659	2,577- 2,592	2,839- 2,860
82	1,797- 1,806	1,601- 1,627	2,516- 2,576	2,822- 2,838
83	1,772- 1,796	1,450- 1,600	2,460- 2,515	2,778- 2,821
84	1,758- 1,771	1,399- 1,449	2,423- 2,459	2,718- 2,777
85	1,742- 1,757	1,363- 1,388	2,373- 2,422	2,682- 2,717
86	1,706- 1,741	1,332- 1,362	2,352- 2,372	2,646- 2,681
87	1,664- 1,705	1,325- 1,331	2,329- 2,361	2,580- 2,645
88	1,666- 1,693	1,317- 1,324	2,316- 2,328	2,521- 2,579
89	1,638- 1,665	1,303- 1,316	2,291- 2,315	2,451- 2,520
90	1,612- 1,637	1,275- 1,302	2,263- 2,290	2,375- 2,450
91	1,591- 1,611	1,205- 1,274	2,234- 2,262	2,328- 2,374
92	1,563- 1,590	1,132- 1,204	2,161- 2,233	2,210- 2,327
93	1,534- 1,562	1,014- 1,131	2,138- 2,180	2,166- 2,209
94	1,513- 1,533	867- 1,013	2,080- 2,137	2,074- 2,165
95	1,483- 1,512	800- 866	2,065- 2,079	1,951- 2,073
96	1,436- 1,482	740- 799	1,978- 2,064	1,808- 1,950
97	1,384- 1,435	721- 739	1,836- 1,977	1,685- 1,807
98	1,294- 1,383	695- 720	1,626- 1,835	1,487- 1,684
99	949- 1,293	632- 694	1,577- 1,625	1,062- 1,486
100	1- 948	1- 631	1- 1,576	1- 1,061

Basic Educational Opportunity Grant Tables

Point Tables: To assist in determining Designation as a Developing Institution for FY 1980 (based upon 1977–1978 data).

Points for BEOG Per FTE Undergraudate Student

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
0	$1-11	$0	$1-23	$1-14
2	12-28	1	24-54	15-41
4	29-30	1	55-60	42-5
6	31-6	2-6	61-74	46-53
8	37-40	7-21	75-80	54-5
10	41-5	22-31	81-2	56-9
12	46-8	32-42	83-6	60-5
14	49-50	43-6	87-9	66-7
16	51-4	47-53	90-2	68-70
18	55-7	54-5	93-4	71-5
20	58-60	56-60	95	76-7
22	61-2	61-6	96-9	78-80
24	63-4	67-8	100-1	81-2
26	65-6	69-70	102-3	83-5
28	67-9	71-2	104-5	86-7
30	70-1	73-9	106-8	88-92
32	72	80	109-11	93
34	73-5	81-3	112	94-7
36	76-7	84-7	113	98-102
38	78	86-90	114-5	103-4
40	79-81	91-3	116-7	105-7
42	82-4	94-5	118	108
44	85-6	96-100	119-20	109
46	87-9	101	121	110-2
48	90-2	102-4	122-3	113-7
50	93	105-7	124-5	118-20
52	94-6	108-9	126	121
54	97-8	110-1	127-8	122-5
56	99-100	112-4	129-30	126-7
58	101-2	115-9	131	128-30
60	103-4	120-1	132-3	131-4
62	105	122-4	134-6	135-8
64	106-8	125-7	137	139-40
66	109-10	128-9	138-40	141
68	111-2	130-2	141	142-5
70	113-4	133	142	146-7
72	115-7	134-7	143-4	148-9

Points for BEOG Per FTE Undergraudate Student—Continued

Points	2-year colleges		4-year colleges	
	Public	Private	Public	Private
74	118-9	138-42	145	150-2
76	120-1	143	148	153
78	122-3	144-89	147	154-6
80	124	149-51	148	157-9
82	125-6	152	149	160-3
84	127-8	153-6	150-1	164
86	129-30	157-8	152	165-6
88	131-4	159-62	153	167-9
90	135	163-5	154-6	170-2
92	136-7	166-7	157	173-4
94	138	168-70	158-9	175-9
96	139-40	171-2	160-2	180-1
98	141-2	173-7	163	182-5
100	143-4	178-82	164	186-8
102	145-6	183-4	185	189
104	147-8	185-7	166-7	190-2
106	149-51	188-95	168	193-5
106	152-4	196	169	196-7
110	155-6	197-200	170-3	198-202
112	157-8	201-3	174-7	203-4
114	159-60	204	178-9	205-9
116	161-3	205-6	180	210-1
118	164	207-10	181-4	212-5
120	165-7	211-13	185-6	216-8
122	168-71	214	187-9	219-23
124	172	215-21	190	224-5
126	173-4	222-5	191-2	226-30
126	175-7	226	193	231-2
130	178-81	227-31	194	233-6
132	182-3	232-4	195-200	237-41
134	184-5	235-6	201-4	242-3
136	186-9	237-45	205-6	244-7
138	190-1	245-51	207-10	248-9
140	192-5	252-5	211-4	250-6
142	196-7	256-60	215-21	257-60
144	198-201	261-4	222-4	261-6
146	202-4	265-6	225-9	267-73
148	205-6	267-70	230-4	274-8
150	207-8	271-80	235-7	279-83
152	209-12	281-5	238-9	284-90
154	213-9	286-7	240-2	291-300
156	220-2	288-98	243-6	301-4
158	223-6	299-303	247-51	305-12
160	227-31	304-21	252-64	313-23
162	232-7	322-34	265-76	324-32
164	238-40	335-42	277-94	333-47
166	241-7	343-53	295-300	348-55
168	248-52	354-78	301-21	356-61
170	253-8	377-87	322-34	362-88
172	259-62	388-403	335-43	389-99
174	263-71	404-32	344-61	400-26
176	272-9	433-61	362-73	427-36
178	280-91	462-74	374-93	437-69
180	292-302	475-506	394-425	470-86
182	303-10	507-48	426-43	487-512
184	311-20	549-55	444-88	513-42
186	321-35	556-83	489-603	543-622
188	336-51	584-625	604-8	623-89
190	352-82	626-75	609-70	690-833
192	383-458	676-792	671-719	834-78
194	459-86	793-935	720-56	879-951
196	487-572	936-1,068	757-810	952-999
198	573-716	1,069-1,221	811-48	1,000-1,092
200	717- —	1,222- —	847- —	1,093- —

[FR Doc. 79-31968 Filed 10-17-79; 8:45 am]
BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. NI-1]

Intent To File a Draft Environmental Impact Statement/Environmental Impact Report

AGENCY: San Francisco Area Office, HUD.

ACTION: Notice.

SUMMARY: The San Francisco Area Office of the U.S. Department of Housing and Urban Development proposes to publish and distribute in the Winter of 1979, a Draft Areawide Environmental Impact Statement/ Environmental Impact Report (EIS/EIR) on the prospective residential growth in the Solano County urban corridor growth area along the I–80 Freeway for the next five years. The focus of the EIS/EIR will be on anticipated residential growth; expected commercial and industrial growth may be noted, but as adjuncts residential development. This document will be developed pursuant to the CEQ regulations dated November 29, 1978, including a scoping process.

The proposed Draft EIS/EIR is expected to satisfy the requirements of the California Environmental quality Act (CEQA) as well as those of the National Environmental Protection Act (NEPA). The document is being prepared in cooperation with the planning departments of Solano County and the Cities of Vacaville, Fairfield, and Suisun City. This joint effort is intended to: (1) Resolve regional environmental problems on a uniform basis; (2) Eliminate duplication and accelerate the process of obtaining environmental review of proposed housing projects in the Solano County urban corridor growth area; and (3) Establish a single data base for the development of future environmental studies under NEPA and CEQA.

Solano County Central Growth Corridor Area-Wide EIS/EIR

(Including Cities of Fairfield, Vacaville, and Suisun City)

Boundary Description

North: Midway Road, from Gibson Canyon Road to I–80.

East: Lewis Road, from I–80 to Hay Road to Meridian Road (through Travis AB) to Creed Road to Denverton Road to Highway #12.

South: Highway #12 to first slough west of Grizzly Island Road. Around island surrounded by sloughs to Cordelia Road to railroad (S.P.T. Co.) to I–680 to 1 mile north of Goodyear overpass. Around Fairfield zone of influence to Green Valley Road.

West: Along Green Valley Road to foothills and generally along the foothills to Midway Road.

HUD has received several applications for subdivision approval under the 203b Mortgage Insurance Program covering nearly 3,000 Single Family residential units. One of these, Ridgeview, in the City of Vacaville, will be covered by this EIS/EIR. A Notice of Intent to file an EIS on this subdivision was published in the Vacaville Reporter on January 12 and January 14, 1979. This Notice now includes that EIS.

Another, Montabello Vista, in Suisun City, will also be covered by this EIS/EIR. A Notice of Intent to File an EIS on this subdivision was published in the Fairfield Daily Republic on July 23 and 24, 1978.

Possible alternatives will consider alternate locations for proposed residential growth based upon environmental considerations.

Due to the large area to be covered by this EIS/EIR and the complexity of regional and local environmental concerns to be addressed, HUD has determined that a written request would be more appropriate to determine the scope of issues to be addressed and for identifying the significant issues related

V 44 OCT 17 79 UMI

to the anticipated residential growth. This written request will be sent to all affected Federal, State and local agencies, major developers in the study area and other interested persons who normally would receive a copy of the Draft EIS. The document will request each recipient to identify any issues which should be analyzed in depth in the EIS and, in accordance with paragraph 1501.6 of 40 CFR Part 1500, solicit assistance in developing information and preparing environmental analyses including portions of the environmental impact statement concerning which the cooperating agency has special expertise. If necessary, a request will be made by HUD for staff support to enhance its interdisciplinary capability.

Any questions about the proposed action and the EIS/EIR should be directed to: Mr. George B. Adams, Project Manager, Environmental Staff, 9.3SS, San Francisco Area Office—HUD, One Embarcadero Center, Suite #1600, San Francisco, California 94111, Telephone: (415) 556–6642.

Henry Dishroom,

Area Manager, Department of Housing and Urban Development, San Francisco, California 94111.

[FR Doc. 79–31961 Filed 10–16–79; 8:45 am]

BILLING CODE 4210–01–M

New Community Development Corporation

[Docket No. N–79–953]

Jonathan New Community; Intent To Supplement Environmental Impact Statement

The U.S. Department of Housing and Urban Development, New Community Development Corporation, Washington, D.C., intends to issue a Supplement to the Final Environmental Impact Statement for the Jonathan New Community which is located approximately 25 miles southwest of Minneapolis, in Carver County, Minnesota.

The Supplement will evaluate the environmental impacts of the proposed action of selling HUD's interest in the Jonathan new community project rather than proceeding with the foreclosure action. The First National Bank of St. Paul has signed a letter of intent to acquire HUD's interest.

The new community project was originally planned to consist of 7,522 acres, about 15,309 dwelling units, and about 45,927 population after 20 years. Current development consists of about 900 residential units on about 200 acres, a village center and various recreation facilities. There are approximately 3,000 residents.

Copies of the Supplement will be available in the near future. The comment period for the Draft Supplement will be forty-five (45) calendar days after the date of publication of notice in the **Federal Register** that such Draft Supplement has been filed.

The final EIS for Jonathan was issued in April, 1978. Copies are available for review at the New Community Development Corporation, HUD, in Washington, D.C., and in Jonathan at the offices of the community association.

Comments concerning this Notice are invited from all affected and interested parties and should be received in writing as soon as possible, but not later than ten (10) calendar days after publication of this notice in the **Federal Register.**

Telephone inquiries about this Notice may be directed to Daryl C. Ray, Environmental Clearance Officer (alternate) (202) 755–5510.

Issued at Washington, D.C., October 9, 1979.

Bryant L. Young,

Deputy General Manager, New Community Development Corporation.

[FR Doc. 79–31960 Filed 10–16–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 38460, 38481, and 38482]

New Mexico; Applications

October 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 5 W.,
Sec. 17, W½NW¼ and NW¼SW¼.
T. 31 N., R. 6 W.,
Sec. 35, NE¼NE¼ and SE¼SE¼.

These pipelines will convey natural gas across 0.720 of a mile of public lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–32004 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38488, 38491, and 38543]

New Mexico; Applications

October 10, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for three 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 7 W.,
Sec. 10, SE¼SE¼;
Sec. 11, NE¼NW¼ and SW¼SW¼.
T. 30 N., R. 10 W.,
Sec. 27, lot 11.

These pipelines will convey natural gas across 0.567 of a mile of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–32003 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38545 and 38546]

New Mexico; Applications

October 10, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Llano, Incorporated has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 24 S., R. 32 E.,
Sec. 29, N½SW¼, SE¼SW¼ and S½SE¼;
Sec. 30, S½NE¼ and NE¼SE¼.
T. 19 S., R. 33 E.,
Sec. 7, lots 3, 4 and SE¼SW¼;
Sec. 18, SW¼NE¼, E½NW¼, W½SE¼ and SE¼SE¼;
Sec. 19, E½NE¼;
Sec. 20, SW¼NW¼, W½SW¼ and SE¼SW¼;
Sec. 29, SW¼NE¼, E½NW¼ and NW¼SE¼.

These pipelines will convey natural gas across 4.526 miles of public lands in Lea County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79–32005 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

[W–69205]

Wyoming; Application

October 5, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline and relate facilities consisting of a 4'x6' meter building and dehydrator facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridan, Wyoming

T. 36 N., R. 93 W.,
Sec. 19, Lot 4.
T. 36 N., R. 94 W.,
Sec. 24, E½NE¼.

The proposed pipeline will extend from the Federal Fuller Well located in the NE¼ of Section 24, T. 36 N., R. 94 W., to a point of connection with Colorado Interstate Gas Company's existing pipeline located in Lot 4 of Section 19, T. 36 N., R. 93 W., all within Fremont County, Wyoming. The proposed 4'x6' meter building and dehydrator facilities will be located entirely within the proposed 50' right-of-way width at a point located in the NE¼ of Section 24, T. 36 N., R. 94 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

William S. Gilmer,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–32006 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

Utah; Announcement of Federal Regional Coal Team Briefing

AGENCY: Department of the Interior, Bureau of Land Management.

ACTION: Announcement of Uinta-Southwestern Utah Federal Regional Coal Team Briefing.

DATE: 8:00 a.m. October 31, 1979.

ADDRESS: Briefing will be held in Room 1408, University Club Building, 136 East South Temple Street, Salt Lake City, Utah.

FOR FURTHER INFORMATION CONTACT: Edward F. Spang, Regional Coal Team Chairman (702) 784–5451.

SUMMARY: The Bureau of Land Management is announcing a briefing of the Uinta-Southwestern Federal Regional Coal Team to conduct business pursuant to Departmental rules 43 CFR 3400.4, 44 FR 42612, July 19, 1979.

Arnold E. Petty,

Acting Associate Director, Bureau of Land Management.

October 11, 1979.

[FR Doc. 79–31967 Filed 10–16–79; 8:45 am]

BILLING CODE 4310–84–M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: **Cheyenne Mountain Zoological Park (PRT 2–4697), Box 158, Colorado Springs, Colorado 80901.**

The applicant requests a permit to import and purchase in foreign commerce one (1) captive-bred male Sumatran tiger (*Panthera tigris sumatrae*) from the Royal Rotterdam Zoological & Botanical Garden, Rotterdam, Netherlands for enhancement of propagation.

Applicant: **San Diego Zoological Garden (PRT 2–4748), P.O. Box 551, San Diego, California 92112.**

The applicant requests a permit to import and purchase in foreign commerce one (1) captive-bred Bactrian camel (*Camelus bactrianus*) from the Parc Safari Africain, Quebec, Canada for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish and Wildlife Service, WPO, Washington, D.C. 20240.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: October 3, 1979.

Fred L. Bolwah,

Acting Chief, Permit Branch, Federal Wildlife Permit Office, U.S Fish and Wildlife Service.

[FR Doc. 79–31938 Filed 10–16–79; 8:45 am]

BILLING CODE 6730–01–M

Endangered Species Permit; Receipt of Applications

The applicants listed below wish to be authorized to conduct the specified activity with the indicated Endangered Species:

Applicant: **National Zoological Park (PRT 2–4751), Washington, D.C. 20008.**

The applicant requests a permit to import six (6) captive-bred Goeldi's marmosets (*Callimico goeldii*) from the Jersey Wildlife Preservation Trust, Channel Islands for enhancement of propagation.

Applicant: San Diego Zoological Garden (PRT 2–4768), P.O. Box 551, San Diego, California 92112.

The applicant requests a permit to import eight (8) captive-bred Cuvier's gazelles (*Gozella cuvieri*) and eight captive-bred Mhorr gazelles (*C. dama mhorr*) from the Parque de Rescate de la Fauna Sahariana, Spain for enhancement of propagation.

Humane care and treatment during transport, if applicable, has been indicated by the applicant.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Road, Arlington, Virginia, or by writing to the Director, U.S. Fish & Wildlife Service, WPO, Washington, D.C. 20240.

V 44 0 C 17 7 9 UMI

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the Director at the above address.

Dated: October 10, 1979.

Donald G. Donohoe,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish & Wildlife Service.

[FR Doc. 79-31939 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

Geological Survey

Earthquake Studies Advisory Panel; Public Meeting

Pursuant to Public Law 92-463, effective January 5, 1973, notice is hereby given that an open meeting of the Earthquake Studies Advisory Panel will be held beginning at 8:30 a.m. (local time) on Thursday, November 1, 1979, and continuing through Friday, November 2, 1979. The Advisory Panel will meet in the Marine Biology Conference Room Scripps Institute of Oceanography at the University of California/San Diego, La Jolla, California 92093.

(1) *Purpose.* The Advisory Panel was appointed to advise the Geological Survey on earthquake plans and programs which are conducted in cooperation with universities, industry, and other Federal and State government agencies in a coordinated national program for earthquake research.

(2) *Membership.* The Advisory Panel is chaired by Professor Nathan M. Newmark and is composed of persons drawn from the fields of geology, geophysics, engineering, rock mechanics, and socioeconomics, primarily from the academic community.

(3) *Agenda.* Review of the program activities for Fiscal Year 1980 and plans for Fiscal Year 1981.

For more detailed information about the meeting, please call Dr. Robert L. Wesson, Chief, Office of Earthquake Studies, Reston, Virginia 22092 (703) 860-6472.

Henry W. Coulter,

Acting Director, U.S. Geological Survey.

[FR Doc. 79-31778 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-31-M

National Park Service

Availability of Assessment of Alternatives for a Development Concept Plan and Notice of Public Hearings Chesapeake and Ohio Canal National Historical Park

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared an assessment of alternatives for a Development Concept Plan for the Great Falls, Maryland section of the C&O Canal National Historical Park. The section includes the area from Mile 12 (Anglers Inn vicinity) to Mile 16.5 (Swains Lock).

Public hearings on this planning effort will be held as follows:

November 13, 1979 (Tuesday) at 8 p.m., Saint Francis Hall, Saint Francis Episcopal Church, 10033 River Road, Potomac, Maryland.

December 1, 1979 (Saturday) at 10 p.m., Westmoreland Congregational Church, 1 Westmoreland Circle, Washington, D.C.

Written comments on this assessment are invited and will be received no later than January 4, 1980. Written comments should be addressed to the Superintendent, C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782.

Copies of the assessment of alternatives are available from:

C&O Canal National Historical Park, P.O. Box 4, Sharpsburg, Maryland 21782 (phone: 301/432-2231 or 948-5641).

National Park Service, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. (phone: 202/426-6738).

Dated: October 11, 1979.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 79-31959 Filed 10-16-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-60]

Certain Automatic Crankpin Grinders; Commission Hearing on the Presiding Officer's Recommendation and on Relief, Bonding, and the Public Interest, and of the Schedule for Filing Written Submissions

Recommendation of the Presiding Officer

In connection with the U.S. International Trade Commission's investigation under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), of alleged unfair methods of competition and unfair acts in the importation and sale of certain automatic crankpin grinders in the United States, the presiding officer filed his recommended determination on September 26, 1979. The presiding officer determined—

That there is a violation of Section 337 of the Tariff Act of 1930, as amended, in the unauthorized importation into the United States, and the sale of certain automatic crankpin grinders by reason of the fact that these automatic crankpin grinders infringe United States Letters Patent 3,118,258 with the effect or tendency to destroy or substantially injure an industry, efficiently and economically operated in the United States.

The presiding officer certified the evidentiary record to the Commission for its consideration. Interested persons may obtain copies of the presiding officer's recommendation (and all other public documents) by contacting the office of the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone (202) 523-0161.

Commission Hearing Scheduled

The Commission will hold a hearing beginning at 10:00 a.m., e.s.t., on October 29, 1979, in the Commission's Hearing Room (Room 331), 701 E Street NW., Washington, D.C. 20436, for two purposes. First, the Commission will hear oral arguments on the presiding officer's recommendation that there is a violation of section 337 of the Tariff Act of 1930, as amended. Second, the Commission will hear oral presentations concerning appropriate relief, bonding, and the public-interest factors for consideration in the event that the Commission determines that there is a violation of section 337. These matters are being heard on the same day in order to facilitate the completion of this investigation within time limits established under law and to minimize the burden of this hearing upon the parties to the investigation. The procedure for each portion of the hearing follows.

Oral Argument Concerning the Presiding Officer's Recommendation

A party to the Commission's investigation or an interested agency wishing to present to the Commission an oral argument concerning the presiding officer's recommendation will be limited to no more than 30 minutes. A party or interested agency may reserve 10 minutes of its time for rebuttal. The oral arguments will be held in this order: complainant, respondents, interested agencies, and Commission investigative staff. Any rebuttals will be held in this order: Respondents, complainant, interested agencies, and Commission investigative staff.

Oral Presentations on Relief, Bonding, and the Public Interest

Following the oral arguments on the presiding officer's recommendation, a party to the investigation, an interested agency, a public-interest group, or any interested member of the public may make an oral presentation on relief, bonding, and the public interest.

1. *Relief.* If the Commission finds a violation of section 337, it may issue (1) an order which could result in the exclusion from entry of automatic crankpin grinders into the United States or (2) an order which could result in requiring respondents to cease and desist from alleged unfair methods of competition or unfair acts in the importation and sale of such automatic crankpin grinders. Accordingly, the Commission is interested in what relief should be ordered, if any.

2. *Bonding.* If the Commission finds a violation of section 337 and orders some form of relief, such relief would not become final for a 60-period, during which the President would consider the Commission's report. During this period the automatic crankpin grinders would be entitled to enter the United States under a bond determined by the Commission and prescribed by the Secretary of the Treasury. Accordingly, the Commission is interested in what bond should be determined, if any.

3. *The public interest.* If the Commission finds a violation of section 337 and orders some form of relief, it must consider the effect of that relief upon the public. Accordingly, the Commission is interested in the effect of any exclusion order or cease and desist order upon (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers.

Those persons making an oral presentation on any or all of the above topics will be limited to 15 minutes, with an additional 5 minutes each for summation after all presentations have been made. Participants with similar interests may be required to share time. The order of oral presentations will be as follows: complainant, respondents, interested agencies, public-interest groups, other interested members of the public, and Commission investigative staff. Summations will follow the same order.

How to participate in the hearing. Any person desiring to appear at the Commission's hearing must file a written request to appear with the Secretary to the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, no later than the close of business (5:15 p.m., e.d.t.) on October 24, 1979. The written request must indicate whether such person wishes to present an oral argument concerning the presiding officer's recommendation and/or an oral presentation concerning relief, bonding, and the public interest. While only parties to the Commission's investigation, interested agencies, and the Commission investigative staff may present an oral argument concerning the presiding officer's recommended determination, public-interest groups and other interested members of the public are encouraged to make an oral presentation concerning the public interest.

Written Submissions to the Commission

The Commission requests that written submissions of two types be filed no later than the close of business on November 12, 1979.

1. *Briefs on the presiding officer's recommendation.* Parties to the Commission's investigation, interested agencies, and the Commission investigative staff are encouraged to file briefs concerning exceptions to the presiding officer's recommendation. Briefs must be served on all parties of record to the Commission's investigation on or before the date they are filed with the Secretary. Statements made in briefs should be supported by references to the record.

2. *Written comments and information concerning relief, bonding, and the public interest.* Parties to the Commission's investigation, interested agencies, public-interest groups, and any other interested members of the public are encouraged to file written comments and information concerning relief, bonding, and the public interest. These submissions should include a proposed remedy, a proposed determination of bonding, and a discussion of the effect of the proposals on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, and U.S. consumers.

Additional Information

The original and 19 true copies of all briefs and written comments and any written request to participate must be filed with the Secretary to the Commission.

Any person desiring to discuss confidential information at the hearing shall request the Chairman to direct that a portion of the hearing be held *in camera.* Documents containing confidential information which has been previously submitted subject to the protective order in this investigation will be treated accordingly. Documents containing information which has not been previously submitted as confidential subject to the protective order will be treated as confidential only upon written request directed to the Secretary which includes a full statement of the reasons why the Commission should grant such treatment. All nonconfidential written submissions will be open to public inspection at the Secretary's office.

Notice of the Commission's investigation was published in the Federal Register of December 15, 1978 (43 FR 58642).

By order of the Commission.

Issued: October 11, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32008 Filed 10-16-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Federal Advisory Committee on Immigration and Naturalization; Meeting

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Meeting.

SUMMARY: This notice announces the meeting of the Federal Advisory Committee on Immigration and Naturalization to be held in Los Angeles, California on November 1-2, 1979.

FOR FURTHER INFORMATION CONTACT: Paul Rogers, Special Assistant to the Commissioner of Immigration and Naturalization Service, Room 7056, 425 Eye Street, NW., Washington, DC 20536. Telephone: (202) 633-2648.

SUPPLEMENTARY INFORMATION AND MEETING AGENDA: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. app. I) notice is hereby given of a meeting of the Federal Advisory Committee on Immigration and Naturalization. (All Sub-Committees will have work sessions on November 1, 1979, from 4:00 p.m. to 7:00 p.m., prior to commencement of the formal Federal Advisory Committee meeting.) The meeting will start at 8:30 a.m. to 5:30 p.m., on Friday, November 2, 1979, at the Federal Building, located at 300 North Los Angeles Street, Room 8544, Los Angeles, California 90012.

Federal Advisory Committee Agenda

Subcommittee Meeting—November 1, 1979; 4:00 p.m. to 7:00 p.m.

FAC Meeting—November 2, 1979; 8:30 a.m. to 5:30 p.m.

I. Call to Order: 8:30 a.m.
II. Roll Call: 8:40 a.m.
III. Welcoming Remarks by Western Regional Commissioner Edward F. O'Connor: 8:50 a.m.

V 44 OC 17 79 UMI

Introduction of Los Angeles District Director, Joe D. Howerton
IV. Opening Remarks by Acting Commissioner, David Crosland; 9:30 a.m.
V. Review of Agenda Topics; 10:00 a.m.
VI. Reading of the Minutes; 10:15 a.m.

Break

VII. Staff Presentations:
A. Refugee and Parole, Jack Rebsamen, Director; 11:00 a.m.
B. Immigration Legislative Update, Paul Schmidt; 11:30 a.m.

Lunch

C. Tour of Los Angeles District Office, Joe Howerton; 1:15 p.m.
D. Select Commission; 1:45 p.m.
VIII. Public Commentary
IX. Sub-Committee Reports; 3:15 p.m.
X. Formal Recommendations to the Commissioner; 4:15 p.m.
XI. Meeting Adjourns; 5:30 p.m.

Attendance is open to the interested public on a space available basis only. Persons or groups wishing to attend the meeting or to make public commentary should address a letter to Mr. Paul Rogers at the address below:

Mr. Paul Rogers, U.S. Immigration and Naturalization Service, 425 Eye Street, NW., Room 7056, Washington, DC 20536.

Dated: October 12, 1979.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 79-31986 Filed 10-16-79; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION

Continuation of Work

With the enactment of Pub. L. 96-84, signed into law by the President on October 10, 1979, the work of the National Commission on Unemployment Compensation has been extended by one year. Interim reports may be issued by the Commission as deemed appropriate. The final report of the Commission, to the President and the Congress, is due not later than July 1, 1980, and the Commission will cease to exist 90 days after the date on which the report has been filed. The Commission will receive written comments, suggestions or reports on any aspects of the employment security program or on any of the items listed in Title IV of the Unemployment Compensation Amendments of 1976 which the Commission is authorized to consider, up until May 30, 1980.

Signed at Rosslyn, Virginia, this 12th day of October, 1979.

James M. Rosbrow,

Executive Director, National Commission on Unemployment Compensation.

[FR Doc. 79-31969 Filed 10-16-79; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Atmospheric Sciences

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Atmospheric Sciences.
Date: October 31, November 1 and 2, 1979.
Time: 9:00 a.m.-5:00 p.m.
Place: Rooms 642 and 628, National Science Foundation, 1800 G. Street, N.W., Washington, D.C. 20550.
Type of Meeting:
Closed—October 31 (all day) and November 1 (9:00 a.m.-12:00 Noon).
Open—November 1 (1:00 p.m.-5:00 p.m.) and November 2 (all day).
Contact Person: Dr. Eugene W. Bierly, Division Director, Division of Atmospheric Sciences, Room 644, National Science Foundation, Washington, D.C. 20550, telephone: (202) 634-1490.
Purpose of Committee: The Advisory Committee for Atmospheric Sciences provides advice, recommendations, and oversight concerning support for research and research-related activities in the atmospheric sciences area. Provides expert assistance in carrying out external oversight which is concerned with the examination of decisions made, procedures and policies in effect and focuses on operations and activities, priorities, program balance and selection of awards.
Agenda:
October 31-9:00 a.m. to 5:00 p.m. and November 1-9:00 a.m. to 12 Noon (CLOSED) Rooms 642 and 628—Committee review of the Global Atmospheric Research Program and the Aeronomy Program, including examination of proposal jackets, reviewer comments and other privileged material.
November 1, 1979 (Open 1:00 p.m.-5:00 p.m.) Room 642—1:00 p.m.—Approval of Minutes of May 3-4, 1979 Meeting; 1:45 p.m.—Reports of Working Groups on Program Reviews; 2:45 p.m.—Discussion of NSF Circular 147; 3:45 p.m.—UCAR Initiatives and NCAR Cost Recovery Plans; 5:00 p.m.—Adjourn.
November 2, 1979 (Open 9:00 a.m.-5:00 p.m.) Room 642—9:00 a.m.—Division of Atmospheric Sciences (ATM) Reorganization; FY 1980 Appropriation and Allocation; FY 1981 Budget to Office of Management and Budget; ATM Long-Range Plans; ATM Staffing Plans. 10:45 a.m.—Structure and work of Atmospheric Sciences Advisory Committee (ASAC); Nominees for ASAC; Chairman for 1980 ASAC. 1:00 p.m.—Discussions. 5:00 p.m.—Adjourn.
Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt material that may be discussed at this meeting (proposals that have been awarded) will be inextricably interwined with the discussion of exempt materials and no further separation is practical. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c). the Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10 (d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

This meeting notice is late due to a miscalculation of time required to publish a notice of meeting.

M. Rebecca Winkler,

Committee Monagement Coordinator.

October 11, 1979.

[FR Doc. 79-31949 Filed 10-16-79; 8:45 am]

BILLING CODE 7555-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 21245; (70-6185)]

Arkansas Power & Light Co.; Proposal To Increase Borrowings To Finance Nuclear Fuel Procurement and Processing

October 10, 1979.

In the Matter of Arkansas Power & Light Company, First National Building, Little Rock, Arkansas 72203.

Notice is hereby given that Arkansas Power & Light Company ("AP&L"), an electric utility subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to an application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the amended application, which is summarized below, for a complete statement of the proposed transaction.

By order dated August 22, 1978 in this matter (HCAR No. 20679) AP&L was authorized to consolidate the arrangements whereby it leases nuclear fuel, including facilities incident to its use ("Nuclear Fuel"), for Units No. 1 and 2 of Arkansas Nuclear One, located near Russellville, Arkansas. In accordance with the terms of such order it entered into an amended and restated Fuel Lease ("Lease") with Southwest Fuel Company ("Fuel Company") pursuant to which the Fuel Company would make payments to suppliers, processors and manufacturers necessary to carry out the terms of AP&L's contracts for Nuclear Fuel for such Units, or AP&L would make such payments and be reimbursed by the Fuel Company. The maximum commitment of the Fuel Company to make payments for Nuclear Fuel was $99,000,000 at any one time outstanding. The Fuel Company financed such obligations under the Lease by entering into a $100,000,000 credit agreement ("Credit Agreement") with Bank of America National Trust and Savings Association ("Bank") and Southwest Contracts, Inc.

AP&L presently estimates that in view of the increased cost of uranium and related services, the maximum commitment of the Fuel Company under the present arrangements will not be sufficient to pay the cost of Nuclear Fuel for Arkansas Nuclear One. The Fuel Company, however, has advised AP&L that it is willing to amend the Credit Agreement to provide for a loan commitment by the Bank of $130,000,000 and thereby increase its maximum commitment to make payments for Nuclear Fuel to $129,000,000 at any one time outstanding. As required by the Lease, AP&L would approve any amendment of the Credit Agreement by the Fuel Company.

Except as indicated above, the terms and conditions of the Lease and related arrangements will be the same as those approved in the order of August 22, 1978.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction, except that the Nuclear Regulatory Commission has licensing and regulatory jurisdiction over the ownership possession, storage and handling of the Nuclear Fuel.

Notice is further given that any interested person may, not later than October 31, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended, or as it may be further amended, may be granted effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-31951 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel No. 21244; (70-6365)]

Eastern Utilities Associates; Proposed Issuance and Sale of Common Stock at Competitive Bidding by Holding Company, Issuance and Sale of Common Stock by a Subsidiary to Holding Company and Issuance and Sale of Common Stock by a Subsidiary to Another Subsidiary

October 10, 1979.

In the Matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107, Eastern Edison Company, 36 Main Street, Brockton, Massachusetts 02403; Montaup Electric Company, P.O. Box 391, Fall River, Massachusetts 02722.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, and two of its electric utility subsidiaries, Eastern Edison Company ("Eastern Edison") and Montaup Electric Company ("Montaup"), have filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7, 9(a), 10 and 12 of the Act and Rules 42(b)(2), 43(a) and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

EUA proposes to issue and sell at competitive bidding up to 600,000 shares of its authorized but unissued common stock, par value $5.00. EUA proposes to apply the net proceeds from such sale to the purchase, at their par value of $25 per share, of the maximum number (but not more than 400,000) of shares of Eastern Edison common stock so purchasable (the "Additional Eastern Edison Stock").

Eastern Edison proposes to increase its capital stock in an amount equal to the par value of the Additional Eastern Edison Stock, and to issue and sell the Additional Eastern Edison Stock, at par, to EUA. Eastern Edison proposes to use the proceeds from such sale to purchase, at their par value of $100 per share, the full number of shares of common stock of Montaup so purchasable (the "Additional Montaup Stock"), such number of shares (if not an integral multiple of 1,000) to be rounded to the next higher integral of 1,000 (which number so rounded will not exceed 100,000). To the extent that the net proceeds to Eastern Edison are less than the amount required for the purchase of the Additional Montaup Stock, the deficiency will be supplied from Eastern Edison's treasury cash. Eastern Edison proposes to pledge the Additional Montaup Stock to State Street Bank and Trust Company under Eastern Edison's Indenture of First Mortgage and Deed of Trust, dated as of September 1, 1948, as supplemented and modified, securing Eastern Edison's First Mortgage and Collateral Trust Bonds.

Montaup proposes to increase its capital stock in an amount equal to the par value of the additional Montaup Stock, and to issue and sell the Additional Montaup Stock, at par, to Eastern Edison. Montaup proposes to apply the proceeds from such sale to reduce its outstanding short-term debt to banks, which was approximately $25,750,000 at June 30, 1979, and is expected to be approximately $45,000,000 at the time of sale.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that the Department of Public Utilities of the Commonwealth of Massachusetts has jurisdiction over various aspects of the proposed transactions, that the Public Utilities Control Authority of the State of Connecticut will be asked to waive any jurisdiction it might have over the proposed transactions, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than November 2, 1979, request in writing

V 44 O C 17 7 9 UMI

V 4 4 0 C 1 7 7 9 UMI

that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 31952 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16254/October 5, 1979; SR-MSE-79-18]

Midwest Stock Exchange, Inc.; Self-Regulatory Organization

Comments Requested by: November 2, 1979.

Relating to: Responses to the Recommendations of the Special Study of the Options Markets as promulgated by the Securities and Exchange Commission in Release No. 34-15575.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 26, 1979, the Midwest Stock Exchange, Incorporated ("MSE") filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

The Commission has determined that it is necessary and appropriate to provide additional time for public comment on and Commission consideration of the proposed rule changes. Because the subject filing contains numerous rule proposals which, if approved, would affect significantly the operation of the standardized options markets, the Commission believes that additional time is necessary to enable commentators to address meaningfully the substance of the proposals and to enable the Commission to give the proposals the careful consideration they warrant before determining whether to approve the proposals or to initiate proceedings to determine whether they should be disapproved.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends until 90 days from the date of publication of notice of filing of the proposed rule changes captioned above, the time period within which the Commission must either approve the proposed rule changes or institute proceedings to determine whether the proposed rule changes should be disapproved.

I. Self-Regulatory Organization's Statement of Terms of Substance of the Proposed Rule Changes [1]

The following is a summary of the rule changes proposed by MSE. The text of the proposed rule changes is attached as Exhibit A to this notice, brackets used for words to be deleted and italics used for words to be added.

Rule 3 of Article XLIII. A new Interpretation .01 has been added to the Rule which lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. Paragraph (b) of the Rule is proposed to be amended to require that customer background and financial information be retained by the member organization as provided in Rule 9.8. Paragraph (c) of the Rule is proposed to be amended to require that such information be furnished to each new options customer (that is a natural person) for his verification. Also, it is proposed that this information must be sent again to a customer whenever the firm is aware of any material change in the customer's financial situation.

Rule 11 of Article XLVIII. This Rule is proposed to be amended to require customer account statements to bear a legend asking customers to notify the firm of any changes in their financial situation.

Rule 4 of Article XLVIII. A new paragraph (c) of this Rule is proposed to be added to require that customer background and financial information be maintained by members at the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Also, it is proposed that monthly account statements for the most recent months and other records necessary to the proper supervision of accounts be maintained at, or easily accessible to, both offices. A new paragraph (b) is proposed to be added which would require member firms that do a public business to specifically identify a Compliance Registered Options Principal ("CROP") having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision of all of the firm's options activities would remain with the Senior Registered Options Principal ("SROP") although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions annually or having 10 or less options registered representatives.

Rule 5 of Article XLVIII. The Rule is proposed to be amended to prohibit a broker-dealer from recommending any opening transaction to a customer unless he has a reasonable basis for believing that the customer is able to evaluate the risks of the transaction and is financially able to bear them.

Rule 15 of Article XLVIII. This new Rule would require firms to maintain a central, firm-wide file containing specified information concerning all options-related complaints. Copies of such complaints would be required to be forwarded to the central location and maintained at the branch office that is the subject of the complaint.

Rule 16 of Article VII. The Rule is proposed to be amended to call for written notification to the MSE of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

Rule 7 of Article XII. The period of continued disciplinary jurisdiction over terminated members is proposed to be extended if an inquiry is commenced within one year following notice of termination, and the requirement that disciplinary proceedings themselves must commence within any stated time is proposed to be deleted.

Rule 4 of Article XIII. The Rule is proposed to be amended to require the approval by the CROP of all communications to customers and to further define the standards applicable to such communications. The proposed amendments would also exempt advertisements from certain of the approval requirements if such advertisements had been previously submitted to another self-regulatory organization having comparable standards regarding advertising. Interpretations .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers. Relevant costs and other assumptions used in computing annualized rates of return would also be required to be disclosed by Interpretation .03 under the Rule. This Interpretation would also contain other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Interpretation .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Interpretation .03 would also include performance reports within the definition of "sales literature", require that they be approved by the CROP and be retained by the firm, and establish standards for their content.

Rule 2 of Article L. The Rule is proposed to be amended to require members who utilize random allocation of exercise notices to use either an automated method that has been approved by a self-regulatory organization, or the manual method that has been uniformly specified by all of the self-regulatory organizations. FIFO methods of allocation would also be required to be approved by a self-regulatory organization. Members would be required to notify their customer of the method of allocation utilized and explain how it works. Also, it is proposed that the Rule be amended to require that records relating to exercise allocation be preserved for three years.

Rule 11 of Article XLVII. The Rule is proposed to be amended to require that Market-Makers inform the MSE of all accounts in which they trade stock or options, and also notify the MSE of all orders for and positions in underlying securities and related securities.

Rule 4 of Article XLVIII. This Rule is proposed to be amended to require every branch manager to be qualified as a Registered Options Principal ("ROP"), unless the branch office has not more than three Registered Representatives, and is otherwise under the supervision of a ROP.

Rule 6 of Article XLVIII. The Rule is proposed to be amended to require that customers over whose accounts members exercise investment discretion be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed Rule 4 of Article XIII. The proposed amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions.

II. Self-Regulatory Organization's Statement of Purpose and Statutory Basis of Proposed Rule Change

In its filing with the Commission, MSE included the following statements concerning the purpose and basis of the proposed rule changes and discussed comments it received on the proposed rule change. Such statements are reproduced in sections (A), (B) and (C) below.

(A) Self-Regulatory Organization's Statement of Purpose of and Statutory Basis for Proposed Rule Changes

The rule changes filed herewith represent responses to the recommendations of the Special Study of the Options Markets as promulgated by the Commision in Release No. 34-15575.

A discussion of the purpose of each of the rule changes included in this filing is presented below under the caption of the respective recommendation of the Options Study to which the rule change is responsive. To facilitate the Commission's review, the captions of the various responses to recommendations of the Options Study are keyed to the numbering system used in Release No. 34-15575.

The statutory basis for these rule changes, as stated in Release No. 34-15575, is that the implementation of the recommendations of the Options Study is "[c]onsistent with the scheme of self-regulation embodies in the Securities Exchange Act of 1934."

I.A.l.a, b, and c. Rule 3, Article XLVIII

These related recommendations call for the collection and recording of background and financial information concerning customers in order to support the approval of their accounts for options transactions and subsequent suitability determinations, and they also call for the verification by the customer of this information. In response, we propose to add a new Commentary .01 to Rule 3, governing the opening of accounts, that lists specific categories of minimum information that a member organization must seek to obtain before opening an options account for a customer. We have not required that all member organizations adopt a uniform options customer information form, since we believe it appropriate to permit the firms to have some flexibility in this regard, so long as the minimum information required by Commentary .01 is included. However, we understand on the basis of discussions with representatives of the Securities Industry Association that the SIA expects to develop and make available contemporaneously with the effective date of this Commentary, a standard options customer information form that would satisfy the new requirements.

We also propose to add specific record keeping requirements applicable to options customer information by including in paragraph (b) of Rule 3 a cross-reference to the provisions of Rule 4 that state how options customer information should be maintained. (I.A.l.d. below).

Paragraph (c) to Rule 3 will require that every new options customer that is a natural person be sent for his verification the background and financial information reflected in his customer account information form within 15 days of the approval of his account for options transactions. In addition, this information must again be sent to the customer for verification whenever the firm is aware of any material change in the customer's financial situation. Customer account statements will contain a legend asking that customers notify the firm of any changes in their financial situation (see proposed change to Rule 12 of Article XLVIII).

I.A.l.d. Rule 4 Article XLVIII

In response to this recommendation concerning the maintenance of records of customer background and financial information, we propose to add to Rule 4 a requirement that background and financial information of customers approved for options transactions must be maintained both at the branch office

---

[1] The Midwest Exchange informed the Commission by amendment three to file number SR-MSE-79-18, submitted on October 3, 1979, that its Board of Governors approved on September 21, 1979 the rule proposals which follow.

and at the principal supervisory office having jurisdiction over the branch office. In addition, Rule 4 will require that monthly account statements for the most recent six months be maintained at both offices and that other records necessary to the proper supervision of accounts be easily accessible to both offices. With these new record keeping requirements, not only the registered representative servicing a customer's account, but also the persons responsible for supervising the registered representative, will have easy access to all relevant information concerning the customer and his account.

I.A.l.e. Rule 5 of Article XLVIII

The purpose of the proposed amendment to Rule 5 is to make applicable to all recommended opening options transactions the more stringent suitability requirements (that the customer be able to evaluate the risks of the transaction and be financially able to bear them) that now apply only to recommendations for uncovered call writing or put writing. Under the amended suitability rule, a broker-dealer would be prohibited from recommending any opening options transaction to a customer unless these requirements are met.

I.A.l.f. Rule 15 of Article XLVIII

In response to the recommendation that copies of customer complaints be maintained at a central office and at relevant branch offices, we propose to require member firms to maintain a central, firm-wide file of all options-related complaints containing specified information concerning each complaint. Copies of the complaints themselves would also be forwarded to and maintained at the same central location. In addition, a copy of every options-related complaint would be maintained at the branch office that is the subject of the complaint.

I.A.l.g. Rule 4 of Article XLVIII

This proposed amendment to Rule 4 would require member firms that do a public business to specifically identify a Compliance Registered Options Principal having no sales functions to be responsible for the review of the firm's options compliance program and to propose any appropriate remedial action. Final responsibility for supervision over all of the firm's options activities would remain with the SROP, although the CROP would be required to furnish reports on a regular basis directly to the firm's senior management. The separation of responsibilities between the CROP and the SROP (except in those firms that choose to have non-sales SROP) provides for audit of compliance by someone having no sales functions, and yet recognizes that the leadership of most securities firms appropriately has and will continue to have sales functions in combination with supervisory responsibilities. In order to avoid placing unacceptable economic burdens upon smaller firms, the requirement for a non-sales CROP will not apply to firms earning less than $1,000,000 in options commissions or having 10 or less options registered representatives.

I.A.l.h. Rule 7 of Article XII

The new Rule provides for notification to the Exchange of disciplinary action taken against members. The Rule will call for written notification of disciplinary action taken against persons associated with a member as well as against the member itself, including notification of significant action taken by the member against its associated persons.

The new Rule also extends the period of continued employees so long as an inquiry is commenced within one year following notice of termination.

I.A.l.i, j, k, and l. and I.A.3.a, b and c. Rule 4 of Article XIII

We propose to delete existing Rule 4, which currently deals with advertisements, market letters and sales literature, and by new Rule 4 to cover all communications to customers. The new rule, together with interpretations thereunder, will incorporate a number of different recommendations of the Options Study.

Proposed Rule 4 is designed to require the approval by the Compliance Registered Options Principal of all communications to customers and to further define the standards applicable to such communications. The new Rule would also provide for better coordination among the self-regulatory organization with respect to the approval of advertisements. Commentary .01, .02 and .03 contain further detail concerning what should or should not be included in particular types of communications to customers.

The recommendations that relevant costs and other assumptions used in computing annualized rates of return must be disclosed will be included in Commentary .03 under the Rule. This commentary also contains other standards and disclosure requirements pertaining to projected performance figures. Other provisions of Commentary .03 would impose requirements applicable to options work sheets utilized by member firms, including the requirement that such work sheets must be uniform within a given firm. Complete work sheets would be required to be retained by member firms the same as all other written communications to customers. Commentary .03 also includes performance reports within the definition of "sales literature", and requires that they be approved by the Compliance Registered Options Principal and retained by the firm, and it contains standards for performance reports to assure that each such report is confined to a specifically identifiable and relevant universe.

Finally, the Rule and its commentary contemplate the distribution to all member firms of a publication entitled "Guidelines for Options Communications" that would provide further information concerning the standards applicable to communications to customers.

I.A.l.m. Rule 2 of Article L

We propose to amend this Rule by requiring members who choose to utilize a random allocation of exercise notices to use either an automated method that has been approved by an SRO, or the manual method that has been uniformly specified by all of the SROs. FIFO methods of allocation must also be approved by an SRO. Members will be required to notify their customers of the method of allocation utilized, explaining how it works.

I.A.l.n. Rule of Article L

We propose adding to Rule 2 a requirement that records relating to exercise allocation be preserved for three years. This period of retention will facilitate auditing compliance with required methods of exercise allocation.

I.A.1.o. and p. Rule 11 of Article XLVII

Rule 11 will be amended by adding a new requirement that Market Makers in options must inform the Exchange of all of the accounts in which they trade stock or options, and must also notify the Exchange of all orders for and positions in underlying securities and related securities. Both of these requirements will improve Exchange surveillance over the options-related trading activities of such persons.

I.A.2.b. Rule 4 of Article XLVIII

The proposed amendment to this Rule will require every branch manager to be qualified as a ROP, unless the branch office has not more than three RRs, and is otherwise under the supervision of a ROP. This requirement is one of a number of changes intended to improve

internal supervision of firm's options activities.

I.A.2.c. and I.A.2.d. Rule 6(a) of Article XLVIII

The proposed amendment to this Rule will require that customers over whose accounts members exercise investment discretion must be furnished with a written explanation of the risks involved in the systematic use of one or more options strategies in these accounts. All such descriptive material would be required to meet the "sales literature" minimum standards of the proposed "Communications to Customers" rule. The amendment would also require that the SROP review the acceptance of each discretionary account to determine whether the ROP accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the proposed strategies or transactions. Under existing Rule 6(a), a ROP who is a general partner or an officer must personally accept every discretionary account, and the added step of a SROP's review of the ROP's acceptance is intended to provide an additional level of supervisory audit over the acceptance of these kinds of accounts.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange recognizes that, as is pointed out in several of the comments received from members, certain of the proposed rule changes will increase the costs to members in handling customers' options transactions, which in turn may place smaller member organizations at a competitive disadvantage. The Commission will have to determine whether the possible competitive burden of these rule changes is necessary or appropriate in furtherance of the Act in deciding whether to approve these rule changes.

(C) Self-Regulatory Organization's Statement on Comments Received from Members, Participants, or Others on Proposed Rule Changes

Comments on the proposed rule changes were solicited and received from members in several ways. First, representatives of the Securities Industry Association attended and actively participated in most of the meetings of the joint SRO task force that developed the rule changes. Second, a preliminary draft of the rule changes was mailed to every member of each of the SROs involved, with a request that comments be forwarded to any one of the seven signatory SROs. A large number of detailed comments were received in response to this mailing; comments are available for copying in the Commission's Public Reference Room. Many of the comments received in response to the preliminary draft led to revisions in the rule changes that are reflected in the proposals presented in Item 1 hereof. Where the SROs determined not to make changes in response to member comments, often the SROs were sympathetic to the concerns raised by the commentators, but felt that these concerns were outweighed by the emphasis that the Commission had placed upon the particular rule change that was the subject of the comment. The following is a summary of those comments received from members that are relevant to the proposed rule changes in their present form.

Recommendations I.A.1.a.–c. (Opening of Accounts)

A number of members commented that many customers will consider it burdensome and an invasion of privacy to have to provide personal financial information to their brokers, and will refuse to do so. Others questioned the relevance of much of the information that must be sought. In response to these comments, the list of information that must be obtained has been reduced, as explained in Item 3 above. Verification of customer information was subject to much criticism as being very expensive (especially for smaller firms) and not likely to be meaningful. While much of this comment was directed at the requirement for periodic verification, which has since been significantly reduced, the requirement for *any* verification was criticized by many members. One member criticized the inclusion of specific time requirements governing when the record of a new customer's background information must be first sent to him for verification, claiming that such time limits are arbitrary and artificial.

Recommendation I.A.1.d. and f. (Record-Keeping)

Many members criticized as unnecessarily duplicative and expensive the requirement that customer account records be kept both at headquarters and at the branch office.

Recommendation I.A.1.E. (Suitability)

Several firms expressed the belief that expanded concepts of suitability exposed firms to inappropriate risks of liability. Other comments were that customers should be able to make their own investment decisions without having to satisfy a third party, and that strict options suitability rules would drive customers into other, riskier, less regulated products. Specific criticism was made of the requirement that a broker must assess the customer's ability to evaluate risks, claiming that this goes beyond traditional concepts of suitability.

Recommendation I.A.1.g. (Non-Sales Options Compliance Person)

This proposal drew many comments pointing out the cost it would present for small firms. The expanded exemptive provisions of the rule as filed are included in response to this concern. Other comments objected to the concept of separating the sales function from compliance and supervision functions, while others expressed the view that the non-sales compliance officer would amount to a token appointment, but at a high cost. Many comments noted that the costs of complying with this requirement would place smaller firms at a competitive disadvantage.

Recommendation I.A.1.h. (Disciplinary Reports and Jurisdictions)

Some firms observed that a reporting requirement might inhibit firms from taking disciplinary action. Others noted the absence of clear standards defining what constitutes disciplinary action. Several comments objected to the apparent need to file duplicate reports (which will be eliminated upon the implementation of proposed 17d–2 plans). One comment endorsed the extension of SRO disciplinary jurisdiction over former members, while another comment expressed the view that this was improper and inconsistent with the spirit of the Act.

Recommendation I.A.1. i, j, k, l., and Recommendation I.A.3.a.–c. (Communications to Customers)

Comments suggested that this rule imposed too many responsibilities on the CROP, that centralized approval of communications to customers is unworkable, especially in a large firm, and that advance SRO approval of advertising is contrary to the trend in such matters. Many comments were addressed to the requirements applicable to specific types of written communications, generally criticizing them for being inflexible, unworkable, expensive to administer, and enlarging the firms' exposure to liabilities.

Recommendation I.A.1. m. and n. (Allocation of Exercise Notices)

Comments suggested that firms should be given more flexibility than this rule would permit, and that an explanation of exercise allocation would be confusing to customers. Others noted the expense involved in conforming data

V 44 O C 17 79 9 UMI

processing equipment to required methods of allocation.

Recommendation I.A.1. o. and p. (Market-Makers' Account and Stock Orders)

Many comments characterized these requirements as burdensome and costly. It was suggested that these requirements should apply to exchange floor members only, and not to upstairs traders.

Recommendation I.A.2.b. (ROP Qualification of Branch Managers)

This requirement was criticized as being costly and not likely to result in improved supervision. Some suggested that it should be sufficient if an assistant manager or other supervisor is ROP-qualified, without requiring that the branch manager be so qualified.

Recommendation I.A.2. c. and d. (Discretionary Accounts)

Several firms commented that these requirements would so onerous as to inhibit firms from offering discretionary accounts. The requirement for providing an explanation of each strategy utilized in the account was the focus of special criticism. We have attempted to respond to this criticism by making the requirement apply to "programs" for trading options, but not to each separate strategy that might be used.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 90 days of the date of publication of this notice in the Federal Register, the Commission will:

(A) By order approve such proposed rule changes, or

(B) institute proceeding to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 522, will be available for inspection and copying in the Commission's Public Reference Section, 1100 L Street, N.W., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to file number SR-MSE-79-18 and should be submitted on or before November 2, 1979.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

October 5, 1979.

Additions Italicized—[Deletions Bracketed]

Recommendations Rule 3 Article XLVIII

I.A.1. a., b. and c. Opening of Accounts

(a) No member *or member organization* shall accept an order from a customer [for the] *to* purchase or [sale] *write* an option contract unless the customer's account has been approved for options trading in accordance with the provisions of this Rule.

[delete present (b)]

(b) Diligence in Opening Account. In approving a customer's account for options transactions, a member or member organization shall exercise due diligence to learn the essential facts as to the customer and his investment objectives and financial situation, and shall make a record of such information which shall be retained in accordance with Rule 4(c) of Article XLVIII. Based upon such information, the branch office manager or other Registered Options Principal shall approve in writing the customer's account for options transactions; provided, that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal.

[delete present (c)]

(c) Verification of Customer Background and Financial Information. The background and financial information upon which the account of every new customer that is a natural person has been approved for options trading, unless the information is included in the customer's account agreement, shall also be sent to the customer for verification within fifteen (15) days after the customer's account has been approved for options transactions. A copy of the background and financial information on file with the member organization shall be sent to the customer for verification within fifteen (15) days after the member organization becomes aware of any material change in the customer's financial situation.

[delete present (d)]

(d) Agreements to be Obtained. Within fifteen (15) days after a customer's account has been approved for options transactions, a member organization shall obtain from the customer a written agreement that the account shall be handled in accordance with the Rules of the Exchange and the Rules of the Options Clearing Corporation and that such customer, acting alone or in concert with others, will not violate the position or exercise limits set forth in Rules 1 and 2 of Article XL.

(e) Prospectus to be Furnished. At or prior to the time a customer's account is approved for options transactions, a member organization shall furnish the customer with a current Prospectus as defined in Rule 8 of Article XLVIII.

[delete present Interpretations and Policies .01 through .06]

Interpretations and Policies

.01 In fulfilling its obligations pursuant to paragraph (b) of this Rule with respect to options customers that are natural persons, a member organization shall seek to obtain the following information at a minimum (information shall be obtained for all participants in a joint account):

1. Investment objectives (e.g., safety of principal, income, growth, trading profits, speculation)

2. Employment status (name of employer, self-employed or retired)

3. Estimated annual income from all sources

4. Estimated net worth (exclusive of family residence)

5. Estimated liquid net worth (cash, securities, other)

6. Marital status; number of dependents

7. Age

8. Investment experience and knowledge (e.g., number of years, size, frequency and types of transactions) for options, stocks and bonds, commodities, other

In addition, the customer's account records shall contain the following information, if applicable:

a. Source or sources of background and financial information (including estimates) concerning the customer

b. Discretionary trading authorization: agreement on file; name, relationship to customer and experience of person holding trading authority

c. Date prospectus furnished to customer

d. Types of transactions for which account is approved (e.g., buying, covered writing, uncovered writing, spreading)

e. Name of registered representative

f. Name of ROP approving account; date of approval

g. Dates of verification of currency of account information

The member organization should consider utilizing a standard account approval form so as to ensure the receipt of all the required information.

02. Refusal of a customer to provide any of the information called for in .01 shall be so noted on the customer's records at the time the account is opened. Information provided shall be considered together with other information available in determing whether and to what extent to approve the account for options transactions.

03. The requirement of paragraph (c) of this Rule for the initial and subsequent verification of customer background and financial information is to be satisfied by sending to the customer the information required in Item 1 through 6 of .01 above as contained in the member's records and providing the customer with an opportunity to correct or complete the information. In all cases, absent advice from the customer to the contrary, the information will be deemed to be verified.

[Delete present Rule 11 of Article XLVIII]

Rule 11 of Article XLVIII

I.A.1.c. Statement of Account

Statements of account shall be sent not less frequently than once every month to each customer in whose account there has been an entry during the preceding month with respect to an option contract. The statement shall bear a legend requesting the customer to promptly advise the member of any material change in the customer's investment objectives or financial situation.

[Delete present Rule 5 of Article XLVIII]

Rule 5 of Article XLVIII

I.A.1.e. Suitability

(a) No member, member organization or registered employee thereof shall recommend to any customer any transaction for the purchase or sale (writing) of an option contract unless such member, member organization or registered employee has reasonable grounds to believe that the entire recommended transaction is not unsuitable for such customer on the basis of information furnished by such customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by such member, member organization or registered employee.

(b) No member, member organization or registered employee thereof, shall recommend to a customer an opening transaction in any option contract unless the person making the recommendation has a reasonable basis for believing, at the time of making the recommendation, that the customer has such knowledge and experience in financial matters that he may reasonably be expected to be capable of evaluating the risks of the recommended transaction, and is financially able to bear the risks of the recommended position in the option contract.

Rule 14 Article XLVIII (New)

I.A.1.f. Customer Complaints

Every member organization conducting customer business shall maintain and keep current a separate central log, index or other file for all options-related complaints, through which these complaints can easily be identified and retrieved. The central file shall be located at the principal place of business of the member organization or such other principal office as shall be designated by the member organization. At a minimum, the central file shall include: (i) identification of complainant, (ii) date complaint was received, (iii) identification of Registered representative servicing the account, (iv) a general description of the matter complained of, and (v) a record of what action, if any, has been taken by the member organization with respect to the complaint. The term "options-related complaint" shall mean any written statement by a customer or person acting on behalf of a customer alleging a grievance arising out of or in connection with listed options. Each options-related complaint received by a branch office of a member organization shall be forwarded to the office in which the seporate, central file is located not later than 30 days after receipt by the branch office. A copy of every options-related complaint shall be maintained at the branch office that is the subject of the complaint.

[Delete present Rule 4 of Article XLVIII]

I.A.1.d.I.A.1.g.I.A.2.b. Rule 4 of Article XLVIII Supervision of Accounts

(a) Senior Registered Options Principal. In addition to the requirements of Rule 17 of Article VIII, every member shall provide for the diligent supervision of all its customer accounts, and all orders in such accounts, to the extent such accounts and orders relate to options contracts, by a general partner (in the case of a partnership) or officer (in the case of a corporation) of the member who is a Registered Options Principal and who has been specifically identified to the Exchange as the member's Senior Registered Options Principal.

(b) Compliance Registered Options Principal. Member organizations shall designate and specifically identify to the Exchange a Compliance Registered Options Principal, who may be the Senior Registered Options Principal and who shall have no sales functions and shall be responsible to review and to propose appropriate action to secure the member organization's compliance with securities laws and regulations and Exchange rules in respect of its options business. The Compliance Registered Options Principal shall regularly furnish reports directly to the compliance officer (if the Compliance Registered Options Principal is not himself the compliance officer) and to other senior management of the member organization. The requirement that the Compliance Registered Options Principal have no sales functions shall not apply to a member organization that has received less than $1,000,000 in gross commissions on options business as reflected in its FOCUS Report for either of the preceding two fiscal years or that currently has 10 or less Registered Representatives.

(c) Maintenance of Customer Records. Background and financial information of customers who have been approved for options transactions shall be maintained at both the branch office servicing the customer's account and the principal supervisory office having jurisdiction over that branch office. Copies of account statements of options customers shall be maintained at both the branch office supervising the accounts and the principal supervisory office having jurisdiction over that branch for the most recent six-month period. Other records necessary to the proper supervision of accounts shall be maintained at a place easily accessible both to the branch office servicing the customer's account and to the principal supervisory office having jurisdiction over that branch office.

(d) Branch Offices. No branch office of a member organization shall transact options business with the public unless the principal supervisor of such branch office accepting options transactions has been qualified as a Registered Options Principal; provided, that this requirement shall not apply to branch

V 44 0 C 17 79 UMI

offices in which no more than three Registered Representatives are located, so long as the options activities of such branch offices are appropriately supervised by a Registered Options Principal.

Interpretations and Policies:

.01 The Senior Registered Options Principal in meeting his responsibility for supervision of customer accounts and orders, may delegate to qualified employees, including other Registered Options Principals, responsibility and authority for supervision and control of each branch office handling transactions in option contracts, provided that such Senior Registered Options Principal shall have overall authority and responsibility for establishing appropriate procedures of supervision and control over such employees.

.02 In meeting their supervisory responsibilities, every member organization shall establish, maintain, and enforce written procedures governing the conduct of options accounts.

[Article VI, Rule 4 and Article I, Rule 2(d) are deleted]

I.A.1.h. Article XII, Rule 8 (New)

Disciplinary Jurisdiction

(a) A member or a person associated with a member (the "Respondent") who is alleged to have violated or aided and abetted a violation of any provision of the Securities Exchange Act of 1934, as amended ("Exchange Act"), the rules and regulations promulgated thereunder, or any constitutional provisions by-law or rule of the Exchange or any interpretation thereof or resolution of the Board of the Exchange regulating the conduct of business on the Exchange shall be subject to the disciplinary jurisdiction of the Exchange under these Rules, and after notice and opportunity for a hearing may be appropriately disciplined by expulsion, suspension, limitation of activities, functions, and operations, fine, censure, being suspended or barred from being associated with a member or any other fitting sanction, in accordance with the provisions of these Rules.

(b) Any member or person associated with a member shall continue to be subject to the disciplinary jurisdiction of the Exchange following such person's termination of membership or association with a member with respect to matter that occurred prior to such termination; provided that written notice of the commencement of an inquiry into such matters is given by the Exchange to such former member or associated person within one year of receipt by the Exchange of written notice of the termination of such person's status as a member or person associated with a member.

[Delete present Rule 16 of Article VIII]

I.A.1.h. Rule 16 Article VIII Disciplinary Actions by Other Organizations

Disciplinary Action. Every member shall promptly notify the Exchange in writing of any disciplinary action, including the basis therefor, taken by any national securities exchange or association, clearing corporation, commodity futures market or government regulatory body against the member or its associated persons, and shall similary notify the Exchange of any disciplinary action taken by the member itself against any of its associated persons involving suspension, termination, the withholding of commissions or imposition of fines in excess of $2,500, or any other significant limitation on activities.

[Delete present Rule 4 of Article XIII]

I.A.1.i., j., k. l Rule 4 Article XIII

I.A.3.a., b., c. Communications to Customers

(a) General Rule. No member or member organization and no partner or employee thereof, shall utilize any advertisement, sales literature or other communications to customers or the public concerning options which:

(i) contains any untrue statement or omission of a material fact or is otherwise false or misleading;

(ii) contains promises of specific results, exaggerated or unwarranted claims, opinions for which there is no reasonable basis or forecasts of future events which are unwarranted or which are not clearly labelled as forecasts;

(iii) contains hedge clauses or disclaimers which are not legible, which attempt to disclaim responsibility for the content of such literature or for opinions expressed therein, or which are otherwise inconsistent with such advertisement or sales literature;

(iv) fails to meet general standards of good taste and truthfulness; or

(v) would constitute a prospectus as that term is defined in the Securities Act of 1933, unless it meets the requirements of Section 10 of said Act.

(b) Approval by Compliance Registered Options Principal. All advertisements and sales literature (except completed worksheets) issued by a member or member organization pertaining to options shall be approved in advance by the Compliance Registered Options Principal or his designee. Copies thereof, together with the names of the persons who prepared the material, the names of the persons who approved the material and, in the case of sales literature, the source of any recommendations contained therein, shall be retained by the member or member organization and be kept at an easily accessible place for examination by the Exchange for a period of three years.

(c) Exchange Approval Required for Options Advertisements. In addition to the approval required by paragraph (b) of this Rule, every advertisement of a member or member organization pertaining to options shall be submitted to the Exchange at least ten days prior to use (or such shorter period as the Exchange may allow in particular instances) for approval and, if changed or expressly disapproved by the Exchange, shall be withheld from circulation until any changes specified by the Exchange have been made or, in the event of disapproval, until the advertisement has been resubmitted for, and has received, Exchange approval. The requirements of this paragraph shall not be applicable to:

(i) advertisement submitted to another self-regulatory organization having comparable standards pertaining to advertisements; and

(ii) advertisements in which the only reference to options is contained in a listing of the services of a member organization.

(d) Except as otherwise provided in the Commentary hereunder, no written materials respecting options may be disseminated to any person who has not previously or contemporaneously received a current prospectus of The Options Clearing Corporation.

(e) Definitions. For purposes of this Rule, the following defintions shall apply:

(i) The term "advertisement" shall include any sales material that reaches a mass audience through public media, such as newspapers, periodicals, magazines, radio, television, telephone recording, motion picture, audio or video device, billboards, signs, or through written communications to customers or the public not required to be accompanied or preceded by a current prospectus of The Options Clearing Corporation.

(ii) The term "sales literature" shall include any written communication (not defined as an "advertisement") distributed or made available to customers or the public that contains any analysis, performance report, projection or recommendation with respect to options, underlying securities or market conditions, any standard

forms of worksheets, or any seminar text which pertains to options and which is communicated to customers or the public at seminars, lectures or similar such events, or any Exchange-produced materials pertaining to options.

[delete present Interpretations and Policies .01]

Interpretations and Policies

.01 The special risks attendant to options transactions and the complexities of certain options investment strategies shall be reflected in any communication which discusses the uses or advantaes of options. In the preparation of communications respecting options, the following guidelines shall be observed:

A. Any statement referring to the potential opportunities or advantages presented by options should be balanced by a statement of the corresponding risks. The risk statement of opportunities, and broad generalities should be avoided. Thus, a statement such as "with options, an investor has an opportunity to earn profits while limiting his risk of loss", should be balanced by a statement such as "of course, an options investor may lose the entire amount committed to options in a relatively short period of time."

B. It should not be suggested that options are suitable for all investors. All communications discussing the use of options should include a warning to the effect that options are not for everyone.

C. Statements suggesting the certain availability of a secondary market for options should not be made.

.02 Advertisement pertaining to options shall conform to the following standards:

A. Advertisements may only be used (and copies of the advertisements may be sent to persons who have not received a prospectus of The Options Clearing Corporation) if the material meets the requirements of Rule 134 under the Securities Act of 1933, as that Rule has been interpreted as applying to options. Under Rule 134, advertisements must be limited to general descriptions of the security being offered and of its issuer. Advertisements under this Rule shall state the name and address of the person from whom a current prospectus of The Options Clearing Corporation may be obtained. Such advertisements may have the following characteristics:

(i) The text of the advertisement may contain a brief description of such options, including a statement that the issuer of every such option is The Options Clearing Corporation. The text may also contain a brief description of the general attributes and method of operation of the exchange or exchanges on which such options are traded and of The Options Clearing Corporation, including a discussion of how the price of an option is determined on the trading floor(s) of such exchange(s);

(ii) The advertisement may include any statement required by any state law or administrative authority;

(iii) Advertising designs and devices, including borders, scrolls, arrows, pointers, multiple and combined logos and unusual type faces and lettering as well as attention-getting headlines and photographs and other graphics may be used, provided such material is not misleading.

B. The use of recommendations or of post or projected performance figures, including annualized rates of return, is not permitted in any advertisement pertaining to options.

.03 Written communications (other than advertisements) pertaining to options shall conform to the following standards:

A. Such communications shall state that supporting documentation for any claims (including any claims made on behalf of options programs or the options expertise of sales persons), comparison, recommendations, statistics or other technical data, will be supplied upon request.

B. Such communications may contain projected performance figures (including projected annualized rates of return), provided that:

(i) no suggestion of certainty of future performance is made;

(ii) parameters relating to such performance figures are clearly established (e.g., to indicate exercise price of option, purchase price of the underlying stock and its market price, option premium, anticipated dividends, etc.);

(iii) all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) are disclosed;

(iv) such projections are plausible and are intended as a source of reference or a comparative device to be used in the development of a recommendation;

(v) all material assumptions made in such calculations are clearly identified (e.g., "assume option exercised," etc.);

(vi) the risks involved in the proposed transactions are also discussed;

(vii) in communications relating to annualized rates of return, that such returns are not based upon any less than a sixty-day experience; any formulas used in making calculations are clearly displayed; and a statement is included to the effect that the annualized returns cited might be achieved only if the parameters described can be duplicated and that there is no certainty of doing so.

C. Such communications may feature records and statistics which portray the performance of past recommendations or of actual transactions, provided that:

(i) any records or statistics must be confined to a specific "universe" that can be fully isolated and circumscribed and that covers at least the most recent 12-month period;

(ii) such communications include or offer to provide the date of each initial recommendation or transaction, the price of each such recommendation or transaction as of such date, and the date and price of each recommendation or transaction at the end of the period or when liquidation was suggested or effected, whichever was earlier;

(iii) such communications disclose all relevant costs, including commissions and interest charges (if applicable with regard to margin transactions) and, whenever annualized rates of return are used, all material assumptions used in the process of annualization;

(iv) in the event such records or statistics are summarized or averaged, such communications include the number of items recommended or transacted, the number that advanced and the number that declined;

(v) an indication is provided of the general market conditions during the period(s) covered, and any comparison made between such records and statistics and the overall market (e.g., comparison to an index) is valid;

(vi) such communications state that the results presented should not and cannot be viewed as an indicator of future performance; and

(vii) a Registered Options Principal determines that the records or statistics fairly present the status of the recommendations or transactions reported upon and so initials the report.

D. In the case of an options program (i.e., an investment plan employing the systematic use of one or more options strategies), the cumulative history or unproven nature of the program and its underlying assumptions shall be disclosed.

E. Standard forms of options worksheets utilized by member organizations, in addition to complying with the requirements applicable to sales literature, must be uniform within a member organization.

F. Communications that portray performance of past recommendations or actual transactions and completed worksheets shall be kept at a place easily accessible to the sales office for the accounts or customers involved.

[Delete present Rule 2 of Article I.]

I.A.1.m. Rule 2 Article L

I.A.1.n. Allocation of Exercise Notices

(a) Each member organization shall establish fixed procedures for the allocation of exercise notices assigned in respect of a short position in option contracts in such member organization's customers account. Such allocation shall be made on a "first-in, first-out" or automated random selection basis that has been approved by the Exchange or on a manual random selection basis that has been specified by the Exchange. Each member organization shall inform its customers in writing of the method it uses to allocate exercise notices to its customers' accounts, explaining its manner of operation and the consequences of that system.

(b) Each member shall report its proposed method of allocation to the Exchange and obtain the Exchange's prior approval thereof, and no member shall change its method of allocation unless the change has been reported to and approved by the Exchange. The requirements of this paragraph shall not be applicable to allocation procedures submitted to and approved by another Exchange having comparable standards pertaining to methods of allocation.

(c) Each member organization shall preserve for a three-year period sufficient work papers and other documentary materials relating to the allocation of exercise assignment notices to establish the manner in which allocation of such exercise notices is in fact being accomplished.

Interpretations and Policies:

.01 No change

I.A.1.o. Rule 11, Article XLVII (New)

Securities Accounts and Orders of Market Makers

(a) Identification of Accounts. In a manner prescribed by the Exchange, each Market-Maker shall file with the Exchange and keep current a list identifying all accounts for stock, option, and related securities trading in which the Market-Maker may, directly or indirectly, engage in trading activities or over which he exercises investment discretion. No Market-Maker shall engage in stock, option, or related securities trading in an account which has not been reported pursuant to this Rule.

(b) Reports of Orders. In a manner prescribed by the Exchange, each Market-Maker shall, on the business day following order entry date, report to the Exchange every order entered by the Market-Maker for the purchase or sale of a security underlying options traded on the Exchange or a security convertible into or exchangeable for such underlying security as well as opening and closing positions in all such securities held in each account reported pursuant to Paragraph (a) of this Rule. The report pertaining to orders must include the terms of each order, identification of the brokerage firms through which the orders were entered, the times of entry or cancellation, the times reports of executions were recived and, if all or part of the order was executed, the quantity and execution price.

(c) Joint Accounts. No Market-Maker shall, directly or indirectly, hold any interest or participate in any joint account for buying or selling any option contract unless each participant in such joint account is a member or member organization and unless such account is reported to and not disapproved by the Exchange. Such reports in form prescribed by the Exchange shall be filed with the Exchange before any transaction is effected on the Exchange for such joint account.

Interpretations and Policies:

.01 Each participant in such joint account shall be jointly and severally responsible for assuring that the account complies with the provisions of the Exchange Constitution, Rules and Interpretations thereof.

.02 In order to establish a joint account which acts in the capacity of a Market-Maker, there may not be more than two participants of which at least one shall be an individual who is registered as a Market-Maker. If the other participant in such joint account is to be a member organization, it shall either (a) have a registered Market-Maker register his membership for the organization, (b) have a nominee of the organization who is a registered Market-Maker or (c) be a clearing member which clears and carries such joint account. All references herein to individuals registered as Market-Makers shall mean those having appointments under Rule 3 of Article XLVII. Member organizations meeting the requirements of (a) and (b) above who participate in joint accounts shall be deemed to be registered as Market-Makers for the purpose of transactions in such accounts.

.03 Each participant in a joint account must:

(a) file with the Department of Market Regulation and thereafter keep current a completed application on such form as is prescribed by the Exchange;

(b) be registered in accordance with the provisions of Section 15(a)(i) of the Securities Exchange Act of 1934.

Upon determination by the Department of Market Regulation not to disapprove a joint account, notice will be promptly mailed to all Exchange members.

.04 The following formulae will be used in apportioning contract volume among participants in a joint account under Exchange Rules:

(a) For purposes of evaluating Market-Maker performance in accordance with Rule 6 of Article XLVII, all contract volume from the joint account shall be assigned to participants based upon their profit and loss participation in the joint account as shown on the joint account application. Notwithstanding this, however, where only one participant is an individual Market-Maker, he shall be assigned all of the volume in the joint account.

(b) For purposes of determining continued eligibility under Rule 3 of Article XLVII for Supplemental Appointment only, if a participant in the joint account also acts as a Floor Broker, contracts in any Market-Maker joint account in which said Floor Broker participates shall be assigned to him in accordance with the formula set forth in (a) above and shall be aggregated with contracts executed as a Market-Maker which are cleared through any individual trading account of such Floor Broker. If the number of contracts executed as a Floor Broker on a quarterly basis do not exceed the total number of contracts executed as a Market-Maker, such participant will be required to obtain a Principal Appointment.

(c) For purposes of assessing positions under Rule 1 of Article XL and exercises under Rule 2 of Article XL, the following presumptions shall apply (lacking any other information regarding "in-contcert" activity):

(i) A Market-Maker's position and exercises in his own trading account shall be aggregated with all of the positions in or exercises for any joint account in which he participates to determine whether or not the Market-Maker is in violation of Rule 1 and Rule 2 of Article XL.

(ii) Positions in and exercises for a joint account shall be aggregated with the positions and exercises of each participant in the joint account to determine whether or not the joint account is in violation of Rule 1 of Article XL.

(iii) If one of the participants is a member, organization, positions and exercises of the nominees of (and those registered for) the member organization (who are not also registered broker/dealers trading for their own account) must be aggregated in (i) and (ii) above.

.05 Participants in the joint account shall not execute transactions with the joint account or among themselves either as Floor Broker or Market-Maker.

.06 Reports of accounts and orders required to be filed pursuant to paragraphs (a) and (b) of this Rule relate only to accounts in which a Market-Maker, individually, directly or indirectly, controls trading actitivies. Thus, reports would be required for accounts over which a Market-Maker exercises investment discretion as well as for his proprietary accounts. Reports would not be required simply because a Market-Maker has a passive interest in his firm's proprietary accounts. For purposes of this Rule, reloted securities include securities convertible into or exchangeable for underlying securities.

[Delete present Rule 6 of Article XLVIII]

I.A.2.c. Rule 6 Article XLVIII

I.A.2.d. Discretionary Accounts

(a) Authorization and Approval Required. No member and no partner, officer or employee of a member organization shall exercise any discretionary power with respect to trading in options contracts in a customer's account unless such customer has given prior written authorization and the account has been accepted in writing by a Registered Options Principal. The Senior Registered Options Principal shall review the acceptance of each discretionary account to determine that the Registered Options Principal accepting the account had a reasonable basis for believing that the customer was able to understand and bear the risks of the strategies or transactions proposed, and he shall maintain a record of the basis for his determination. Each discretionary order shall be approved and initialled on the day entered by the branch office manager or other Registered Options Principal, provided that if the branch office manager is not a Registered Options Principal, his approval shall be confirmed within a reasonable time by a Registered Options Principal. Every discretionary order shall be identified as discretionary on the order at the time of entry. Discretionary accounts shall receive frequent appropriate supervisory review by the Compliance Registered Options Principal. The provisions of this paragraph shall not apply to discretion as to the price at which or the time when an order given by a customer for the purchose or sale of a definite number of option contracts in a specified security shall be executed.

(b) Options Programs. Where the discretionary account utilizes options programs involving the systematic use of one or more options stategies, the customer shall be furnished with a written explanation meeting the requirements of Rule 4 of Article XIII the nature and risks of such programs.

(c) Prohibited Transactions. No member and no partner, officer or employee of a member organization having discretionary power over a customer's account shall, in the exercise of such discretion, execute or cause to be executed therein any purchases or sales of option contracts which are excessive in size or frequency in view of the financial resources and character of such account.

(d) Record of Transactions. A record shall be made of every transaction in option contracts in respect to which a member or a partner, officer or employee of a member organization has exercised discretionary authority clearly reflecting such fact and indicating the name of the customer, the designation and number of the option contracts, the premium and the date and time when such transaction was effected.

Interpretation and Policies:

.01 No change.

Effectiveness Timetable

MSE Rule and Number of Days Following Commission Approval

3(a) of Article XLVIII—30 days.
3 (b), (c), (d), and (e) of Article XLVIII—30 days for initial verification. 60 days for subsequent verification.
11 of Article XLVIII—60 days.
5 of Article XLVIII—30 days.
15 of Article XLVIII—60 days.
4(a) of Article XLVIII—Immediately.
4(b) of Article XLVIII—90 days.
4(c) of Article XLVIII—90 days.
16 of Article VIII—30 days.
7 of Article XII (new)—Immediately.
4(a) of Article XIII—Immediately.
4(b) of Article XIII—90 days; until then approval under present 4[a].
4 (c), (d) and (e) of Article XIII—Immediately.
2(a) of Article L—60 days.
2(b) of Article L—Immediately.
2(c) of Article L—60 days.
11 (a), (b) and (c) of Article XLVII—60 days.
4(d) of Article XLVIII—90 days.
6(a) of Article XLVIII—60 days.
6(b) of Article XLVIII—90 days.

[FR Doc. 79-31950 Filed 10-16-79; 8:45 am]

BILLING CODE 8010-01-M

SELECT COMMISSION ON IMMIGRATION AND REFUGEE POLICY

Public Hearing—Baltimore, Md.

The Select Commission on Immigration and Refugee Policy will hold the first of 12 regional hearings on:

Date: October 29, 1979
Time: 9:00–5:00; 7:00–9:00 p.m.
Place: Edward A. Garmatz Federal Building-U.S. Courthouse, 101 W. Lombard Street, Baltimore, Maryland 21201.

The Baltimore hearing will be co-chaired by Senator Charles McC. Mathias and Representative Peter W. Rodino.

The major portion of this first hearing will be devoted to testimony from invited witnesses addressing issues relating to immigration and the U.S. economy, with particular emphasis on the regional and local labor force.

There will also be an "Open Mike" in the evening from 7:00–9:00 p.m. available to anyone wishing to address any issue before the Commission. Written statements will be acccepted for a period of 7 days following the hearing from people unable to appear in person.

The public is cordially invited to attend both the day and evening discussions.

The Select Commission on Immigration and Refugee Policy was created by public law to provide a comprehensive review of U.S. immigration laws, policies, and procedures. The regional hearings are being held to asure that a wide range of views are heard and considered by the Commission. Other hearings will be held in Chicago, Denver, Los Angeles, Miami, New Orleans, New York, Phoenix, San Antonio and San Francisco.

Anyone wishing more information about the Baltimore hearing or testifying at the evening session should contact: Elaine Daniels, Select Commission on Immigration and Refugee Policy, Suite 2020, New Executive Office Building, Washington, D.C. 20506.

Lawrence H. Fuchs,
Executive Director.

[FR Doc. 79-32007 Filed 10-16-79; 8:45 am]

BILLING CODE 6820-AR-M

SMALL BUSINESS ADMINISTRATION

[License No. 08/08-0051]

Denver Ventures, Inc.; Issuance of a Small Business Investment Company License

On August 6, 1979, a notice was published in the **Federal Register** (44 FR 46012) stating that an application has been filed by Denver Ventures, Inc., 4142 Tejon Street, Denver, Colorado 80211, with the Small Business Administration (SBA) pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)) for a license as a small business investment company.

V 44 O C 17 79 UMI

Interested parties were given until close of business August 21, 1979, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 08/08–0051 on September 27, 1979, to Denver Ventures, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–31942 Filed 10–16–79; 8:45 am]

BILLING CODE 8025–01–M

[License No. 10/08–0037]

Western Venture Resources, Inc.; Notice of License Surrender

Notice is hereby given that Western Venture Resources, Inc., 3734 Seattle-First National Bank Building, Seattle, Washington 98154, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (the Act). Western Venture Resources, Inc. was licensed by the Small Business Administration on March 25, 1975.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted October 8, 1979, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79–31943 Filed 10–16–79; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[CM–8/240]

Advisory Committee to United States Section International North Pacific Fisheries Commission; Open Meeting

The advisory Committee to the United States Section, International North Pacific Fisheries Commission, will meet on October 28, 1979, at the U.S. Embassy, Tokyo, Japan, at 3:30 p.m. The meeting will discuss the 1979 Protocol to the International Convention for the High Seas Fisheries of the North Pacific Ocean, surveillance of foreign fishing fleets, the progress of fisheries research, the Alaska salmon fisheries, and fishery developments as they affect the International North Pacific Fisheries Commission. The meeting on October 28 will be open to the public.

Requests for further information on the meeting should be directed to Mr. Carl Price, Pacific Fisheries Officer, Room 5806 (OES/OFA), U.S. Department of State, Washington, D.C. 20520. Mr. Price can be reached by telephone on (202) 632–2883.

Dated: October 10, 1979.

Brian S. Hallman,

Acting Director, Office of Fisheries Affairs.

[FR Doc. 79–31954 Filed 10–16–79; 8:45 am]

BILLING CODE 4710–09–M

DEPARTMENT OF THE TREASURY

Customs Service

Tariff Classification of Imported Cab Chassis

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice—Request for public comments.

SUMMARY: This is to advise that the Customs Service is reconsidering its practice of classifying imported cab chassis under the provision for bodies (including cabs) and chassis, in item 692.20, Tariff Schedules of the United States (TSUS), in view of the decision of the U.S. Court of Customs and Patent Appeals in *Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979). As part of this review, Customs requests comments concerning the application of *Daisy-Heddon* to the tariff classification of cab chassis.

DATE: Comments must be received on or before (60 days from the date of publication in the Federal Register).

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Thomas L. Lobred, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C., 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

In a notice published in the Federal Register on September 2, 1975 (40 FR 40190), and modified on October 10, 1975 (40 FR 47806), Customs announced that it was reviewing its practice concerning the tariff classification of cab chassis (consisting of frames, suspension systems, wheels, engines, steering mechanisms and cabs) without bodies, having no cargo carrying capacity in their condition as imported. This action was taken after the contention was advanced that cab chassis should be classified under the provision for automobile trucks valued at $1,000 or more, in item 692.02, TSUS (19 U.S.C. 1202), dutiable at the rate of 25 percent ad valorem under 945.69, TSUS, following General Headnote 10(h), TSUS, rather than in accordance with the established and uniform practice.

After a review of the comments submitted in response to the notice, Customs concluded that the existing practice of classifying cab chassis was correct and should not be changed.

Following Customs decision in this matter, the General Accounting Office (G.A.O.), at the request of the Committee on Ways and Means, U.S. House of Representatives, examined Customs classification practices regarding imported cab chassis. The report subsequently issued by the G.A.O. noted that while it was difficult to conclude that the current classification practice was clearly wrong, the G.A.O. was of the opinion that the practice was questionable (Report by the Comptroller General of the United States, GGD 79–19, December 13, 1978). The International Trade Commission (I.T.C.) has recently released a report commenting on the G.A.O. study (Assessment of the December 13, 1978, Report of the Comptroller General of the United States, May 18, 1979). The I.T.C. report concluded that the present cab chassis classification practice is "clearly wrong".

After reviewing the G.A.O. report, the Treasury Department reaffirmed the correctness of the existing practice of classifying imported cab chassis as parts. This decision was based upon the following considerations:

(1) The fundamental customs principle that the tariff classification of an article must be determined by its condition at the time of importation;

(2) The fact that an essential part of a truck, the cargo bed, is missing from cab chassis;

(3) Evidence that legislative history favors the classification of cab chassis as parts;

(4) The "chief use" of cab chassis as parts of vehicles and not as vehicles themselves; and

(5) Administrative practice of long standing.

The second of these considerations was founded on the opinion of the Court of Customs and Patent Appeals in *Authentic Furniture Products, Inc.* v. *United States*, 61 CCPA 5, C.A.D. 1109 (1973). However, that Court issued a decision in June which expressly overruled the majority rationale in *Authentic Furniture*, but approved the result reached. (*Daisy-Heddon, Div. Victor Comptometer Corp.* v. *United States*, C.A.D. 1228 (1979).)

In *Doisy-Heddon*, the Court stated:

> * * * The result in *Authentic Furniture Products* does not merely depend on the "essential" nature, be it functional or commercial, of the omitted side rails. It is abundantly clear from the opinion of the Customs Court, which was approved by this court, that the basis of the decision in that case was that "it is the determination of this court that the importations do not constitute a substantially complete article." 68 Cust. Ct. at 215, 343 F. Supp. at 1380. Such a determination does not depend merely on the presence or absence of an "essential" part.
>
> There are several factors which may come into play in the determination of whether an article is substantially complete. In a case, such as this, where the article is incomplete due to the omission of one or more parts, as opposed to where an article is incomplete because the material which comprises the article is in need of further processing, the following factors can be relevant: (1) Comparison of the number of omitted parts with the number of included parts; (2) comparison of the time and effort required to complete the article with the time and effort required to place it in its imported condition; (3) comparison of the cost of the included parts with that of the omitted parts; (4) the significance of the omitted parts to the overall functioning of the complete article; and, (5) trade customs, i.e., does the trade recognize the importation as an unfinished article or as merely a part of that article. This list of factors is not exhaustive; it must be recognized that fewer than all of the above factors, or additional factors, may come into play depending on the particular importation. The outcome of each case will always depend on the particular merchandise involved. It would be over-simplification of an essentially difficult juridical problem, often involving a determination of congressional intent, for us to attempt to provide anything more than guidelines for the trier of fact to follow in assessing a given case. * * *

On the basis of the Court's opinion in *Daisy-Heddon* Customs is again reviewing the tariff classification of imported cab chassis. As part of this review, written comments are invited from interested parties concerning the application of *Daisy-Heddon* to imported cab chassis. The comments should be directed primarily to the following issues:

(1) Are the 5 factors cited by the Court in *Daisy-Heddon* applicable to the tariff classification of cab chassis or should other factors or expressions of legislative intent govern?

(2) If the 5 factors are applicable, in what manner should they be applied? (Factual information regarding the number and relative value of parts involved may be relevant to this question.)

(3) Does the opinion of the Court in *Daisy-Heddon* require a finding that cab chassis should be classified under the superior heading "Motor vehicles (except motorcycles) for the transport of persons or articles"?

(4) If so, should they be classified under the inferior heading "Automobile trucks valued at $1,000 or more, and motor buses: Automobile trucks" (692.02, TSUS) or as "Other" (692.10, TSUS)?

Comments

Consideration will be given to any written comments, preferably in triplicate, timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, N.W., Room 2335, Washington, D.C. 20229.

Drafting Information

The principal author of this document was Lawrence P. Dunham, Regulations and Research Division, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices in Customs and the Treasury Department participated in its development.

Jack T. Lacy,

Acting Commissioner of Customs.

Approved: October 11, 1979.

John P. Simpson,

Acting Assistant Secretary of the Treasury.

[FR Doc. 79–32174 Filed 10–16–79; 8:45 am]

BILLING CODE 4810–22–M

Removal of Prohibition on the Importation of Tuna and Tuna Products From Peru

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General Notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs has notified the Secretary of the Treasury that the reasons for the imposition of a prohibition on the importation of tuna and tuna products from Peru no longer prevail.

EFFECTIVE DATE: The prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is removed effective October 17, 1979.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination, and Liquidation Branch, Office of Commercial Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801, *et seq.*), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the United States, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the United States. The responsibility for this certification was delegated to the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs by Department of State Delegation of Authority No. 138 of April 29, 1977.

Pursuant to section 205(b) of the Act, upon receiving the certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On May 1, 1979, a notice was published in the Federal Register (44 FR 25554) advising that under section 205(a)(4)(C) of the Act, on April 2, 1979, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs certified to the Secretary of the Treasury that a United States fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the United States, was seized by Peru as a

V 44 OCT 17 1979 UMI

consequence of a claim of jurisdiction which is not recognized by the United States. Under the authority of sections 205 (b) and (c) of the Act, on April 20, 1979, the Secretary of the Treasury determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru was prohibited until the Department of State notified the Secretary of the Treasury that the reasons for this prohition no longer prevailed.

On September 11, 1979, the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs informed the Secretary of the Treasury that the reasons for the imposition of the import prohibition on tuna and tuna products no longer prevail. Accordingly, the prohibition against the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Peru is removed.

Drafting Information

The principal author of this document was Laurie Strassberg Amster, Regulations and Research Division, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Treasury Department participated in its development.

Dated: October 9, 1979.

Richard J. Davis,

Assistant Secretary of the Treasury.

[FR Doc. 79-32144 Filed 10-16-79; 9:19 am]

BILLING CODE 4810-22-M

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 23-79]

Interest Rates on Bonds

The Secretary of the Treasury announced on October 11, 1979, that the interest rate on the bonds described in Department Circular—Public Debt Series—No. 23-79, as amended, dated October 1, 1979, will be 10¼ percent. Interest on the bonds will be payable at the rate of 10⅛ percent per annum.

SUPPLEMENTARY STATEMENT

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 79-31998 Filed 10-16-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 140]

Assignment of Hearings

October 11, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 143059 (Sub-51F), Mercer Transportation Co., now assigned for continued hearing on November 6, 1979 at the Office of the Interstate Commerce Commission, Washington, DC.

MC 4491 (Sub-13F), Great Coastal Express, Inc., now assigned for hearing on October 29, 1979 (2 weeks), at New York, NY is postponed indefinitely.

MC 114569 (Sub-246F), Shaffer Trucking, Inc., now assigned for hearing on November 8, 1979 at Washington, DC is postponed and reassigned to December 3, 1979 (1 week) at Harrisburg, PA in a hearing room to be later designated.

MC 133937 (Sub-28F), now being assigned for continued hearing on November 15, 1979 (2 days) at Atlanta, GA, location of hearing room will be by subsequent notice.

MC 37165, Southern Pacific Transportation Company Rates And Classification of Iron Ore Within Texas, now assigned for hearing on November 27, 1979 (1 day) at Dallas, TX, in a hearing room to be later designated.

MC 110683 (Sub 135F), Smith's Transfer Corporation, now being assigned for hearing on January 8, 1980 (9 Days), at Louisville, KY, in a hearing room to be designated later.

MC 138438 (Sub-35F), D. M. Bowman, Inc., now assigned for hearing on November 7, 1979, at Washington, DC, is canceled and application dismissed.

MC 134838 (Sub-22F), Southeastern Transfer & Storage Co., Inc., Application dismissed.

MC 56679 (Sub-109F), Brown Transport Corporation, now being assigned for hearing on December 11, 1979 (9 Days) at Atlanta, GA, in a hearing room to be designated later.

MC 141952 (Sub-2F), Walter A. Junge, Inc., transferred to Modified Procedure.

MC 107012 (Sub-339F), North American Van Lines, Inc., transferred to Modified Procedure.

MC 41406 (Sub-119F), Artim Transportation System, Inc., transferred to Modified Procedure.

MC 121664 (Sub-54F), Hornady Truck Line, a Corporation, now assigned for hearing on November 26, 1979 at Montgomery, AL, is canceled and transferred to Modified Procedure.

MC 93649 (Sub-23F), Gaines Motor Lines, Inc., now assigned for hearing on December 3, 1979, at Charlotte, NC, is canceled and reassigned to December 3, 1979 (1 week) at New York, NY, location of hearing room will be designated later.

MC 143701 (Sub-7F), William Oberste, Inc., transferred to Modified Procedure.

MC 59135 (Sub-38F), Red Star Express Lines of Auburn, Inc., transferred to Modified Procedure.

MC 134084 (Sub-6), Shrock Trucking, Inc., transferred to Modified Procedure.

MC 145406 (Sub-16F), Midwest Express, Inc., transferred to Modified Procedure.

MC 2066 (Sub-5F), R. M. Sullivan Transportation, Inc., now assigned for hearing on November 5, 1979 (1week) at Hartford, CT, will be held at the Examination Conference Room, Room 529, Federal Building, 450 Main Street.

MC 143812 (Sub-3F), Martin E. Van Diest, d.b.a. M. Van Diest Co., now assigned for hearing on November 27, 1979 (2 days), at Los Angeles, CA in a hearing room to be later designated.

MC 129537 (Sub-40F), Reeves Transportation Co., now assigned for hearing on December 3, 1979 (5 days), at New Orleans, LA in a hearing room to be later designated.

James H. Bayne,

Acting Secretary.

FR Doc. 79-31983 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 3]

Automobile Transporters Tariff Bureau, Inc.; Section 5a Application 94

The Commission is in receipt of an application in the above proceeding for the approval of amendments to the approved agreement.

Filed June 4, 1979 by: Eugene C. Ewald, Attorney for Applicant, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013; Matheson, Bieneman, Parr, Schuler & Ewald of Counsel, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013.

The amendments involve: Changes to comply with Ex Parte 297, 349 ICC 811 and 351 ICC 437.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before November 6, 1979. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved without public hearing.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31981 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Rev. S. O. No. 1312; Exception No. 15]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; Exception To Order

Because of the inability of the railroad to assemble the cars, a movement of fifty (50) loaded covered hopper cars will be seriously delayed on the Chicago, Milwaukee, St. Paul and Pacific Railroad Company (MILW) enroute to Chicago, Illinois. Cargill desires to ship a fifty (50) car unit-grain-train to Chicago routed MILW–CNW. The consignee at Chicago is badly in need of the grain, but only forty-five (45) covered hoppers have arrived at the loading point of Emmetsburg, Iowa. Section (a) of Revised Service Order No. 1312 authorizes any railroad which is unable to supply the number of covered hopper cars required by its tariffs to transport unit-grain-trains of fewer cars in accordance with the scale in Section (b).

Pursuant to the authority vested in the Director, Bureau of Operations, by Section (h) of Revised Service Order No. 1312, the Chicago, Milwaukee, St. Paul and Pacific Railroad Company is authorized to operate a fifty (50) car unit-grain-train from Emmetsburg, Iowa, to Chicago, Illinois, comprised of fifty (50) privately owned covered hopper cars, on a one trip basis, with a minimum of forty-five (45) loaded cars operated in the first movement, and the remaining cars of the unit-train operated together in the final movement of this unit-grain-train. The total tariff minimum weight will be transported as required except if the railroad is unable to move all of the empty covered hoppers to the loading point on the final movement, the train can be reduced by the allowable number of cars or allowable weight percentage, as set forth in Section (b) of this Service Order.

This exception applies to privately owned covered hopper cars.

The bills of lading and waybills shall bear the following endorsement: "Unit-grain-train of ( ) tons or ( ) cars. Partial movement of ( ) tons or ( ) cars forwarded authority Exception No. 15 to ICC Revised Service Order No. 1312, ( ) tons or ( ) cars to follow."

Demurrage rules will be treated as if each of the movements of the unit-train is a complete movement in itself.

Effective September 24, 1979.

Expires 11:59 p.m., October 10, 1979.

Issued at Washington, D.C., September 24, 1979.

Robert S. Turkington,

Acting Director.

[FR Doc. 79-31979 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Corrected Exception No. 4; Amdt. No. 1]

Burlington Northern Inc.; Exception Under Section (a)(4) Corrected Second Revised Service Order No. 1301

To: Burlington Northern Inc.

Upon further consideration of Corrected Exception No. 4 and good cause appearing therefor:

It is ordered: Corrected Exception No. 4 to Corrected Second Revised Service Order No. 1301 is amended to *expire November 30, 1979.*

Issued at Washington, D. C., September 26, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Director, Bureau of Operations.

[FR Doc. 79-31974 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 39th Rev. Exemption No. 12]

Exemption Under Mandatory Car Service Rules

To all railroads:

It appearing, That the railroads named herein own numerous plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC–RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" or "XMI," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(b), and 2(b).

Atlantic and Western Railway
Reporting Marks: ATW
Chicago & Illinois Midland Railway Company
Reporting Marks: CIM
Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI—ROCK
Fonda, Johnstown and Gloversville Railroad Company
Reporting Marks: FJG
Hartford and Slocum Railroad Company
Reporting Marks: HS
Hillsdale County Railway Company Inc.
Reporting Marks: HCRC
Lackawaxen and Stourbridge Railroad Corporation
Reporting Marks: LASB
Maryland and Pennsylvania Railroad Company
Reporting Marks: MPA
Pickens Railroad Company
Reporting Marks: PICK

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31977 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; Second Rev. Exemption No. 171]

Because of a strike, the Chicago, Rock Island and Pacific Railroad Company (RI) is unable to relocate empty cars to other stations for loading or to return them promptly to car owners in accordance with Car Service Rules 1 and 2. Consequently, RI is unable to furnish cars of suitable ownerships to shippers while at the same time similar cars of other ownerships are idle because of the inability of the RI to return them to owners.

It is ordered, that pursuant to the authority vested in me by Car Service Rule 19:

(a) The Chicago, Rock Island and Pacific Railroad Company (RI) is authorized to accept from shippers general service freight cars described in paragraph (b) owned by other railroads regardless of the provisions of Car Service Rules 1 and 2. This exemption shall not apply to cars of Mexican or Canadian ownership or to cars subject to Interstate Commerce Commission or Association of American Railroads' orders requiring return of cars to owners.

(b) This exemption is applicable to general service freight cars bearing reporting marks assigned to railroads listed in the Official Railway Equipment Register, ICC RER 6410–B issued by W. J. Trezise, or successive issues thereof as having the following mechanical designations:

---

*Addition.

Plain boxcars: "XM", "XMI", "XMIH"
Gondola Cars: "GA", "GB", "GD", "GH", "GS", "GT"
Hopper Cars: "HFA", "HK", "HM", "HMA", "HT", "HTA"
Flat Cars: "FM", less than 200,000 lb. capacity

(c) Carriers connecting with the RI may accept and bill general service freight cars listed in paragraph (b) owned by other railroads which are received in switching service from RI regardless of the provisions of Car Service Rules 1 and 2.

Effective September 28, 1979.
Expires October 12, 1979.

Issued at Washington, D.C., September 27, 1979

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31978 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 33rd Rev. Exemption No. 129]

Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous forty-foot plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1(a), 2(a), and 2(b).

Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP
Illinois Terminal Railroad Company
Reporting Marks: ITC
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
*Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
North Stratford Railroad Corporation
Reporting Marks: NSRC
*St. Louis Southwestern Railway Company
Reporting Marks: SSW
Southern Pacific Transportation Company
Reporting Marks: SP

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission,

Joel E. Burns,

Agent.

[FR Doc. 79-31973 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 241; 5th Rev. Exemption No. 141]

Exemption Under Mandatory Car Service Rules Ordered

To all railroads:

It appearing, That the railroads named below own numerous plain gondola cars less than 61-ft.; that under present conditions there are surpluses of these cars on their lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC RER No. 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

*Chicago, Rock Island and Pacific Railroad Company
Reporting Marks: RI–ROCK
Chicago, West Pullman & Southern Railroad Company
Reporting Marks: CWP–CWP&S
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Louisiana Midland Railway Company
Reporting Marks: LOAM
Maryland and Delaware Railroad Company
Reporting Marks: MDDE

*Additions.
*Addition.

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31975 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 12, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C. Expedited handling of the application has been granted.

FSA 43753, Southwestern Freight Bureau, Agent, No. B–33, reduced rates on furniture from stations in Southern Territory to stations in Southwestern Territory published in to be published in its Tariff ICC SWFB 2007–H. Grounds for relief—motor competition and improved car utilization. Protests against grant of relief are due at the offices of the Commission, Suspension and Fourth Section Board in Washington, D.C., not later than noon, October 24, 1979. Telegraphic filing with indication of notarization is acceptable.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31984 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Applications for Relief

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 1, 1979.

FSA No. 43747, Southwestern Freight Bureau, Agent's No. B–25, rates on lime, in bulk carloads, from stations in Arkansas, Missouri, Oklahoma and Texas, to Donaldsonville, La., in Supplement 47 to its Tariff ICC SWFB 4798, to become effective November 4, 1979. Grounds for relief—market competition.

FSA No. 43749, Southwestern Freight Bureau, Agent's No. B–27, rates on ethyl chloride, in tank carloads, from Lake Charles, West Lake Charles, La.; Bayport, Baytown, Freeport and Houston, Tex., to Carney's Point (Deepwater) and Deepwater (Carney's Point), N.J., in Supplement 39 to its Tariff ICC SWFB 4616, to become effective November 1, 1979. Grounds for relief—market competition.

FSA No. 43751, Southwestern Freight Bureau, Agent's No. B–26, rates on

sugar, in tank carloads, from Colorado, Kansas and Nebraska, to Dallas, Ft. Worth, Garland and Great Southwest, Tex., in Supplement 19 to its Tariff ICC SWFB 4412, to become effective October 30, 1979. Grounds for relief—market competition.

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31976 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[Volume No. 36]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: October 3, 1979.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the **Federal Register** with a copy being furnished the applicant. Protests to these applications with be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277.

Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 21788 (Sub-2 M1F), filed April 26, 1979. Petitioner: J. A. GRIMM & WHEELING MOTOR EXPRESS, INC., 2995 Grand Ave., Neville Township, Allegheny County, Pittsburgh, PA. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Petitioner holds motor *common carrier* Certificate in MC 21788 (Sub-2) issued February 15, 1978. MC 21788 (Sub-2) authorizes transportation, over regular routes, of *general commodities*, (1) between Waynesburg, PA, and (a) Washington, (b) Brownsville, and (c) Point Marion, PA. (2) between Carmichaels and Uniontown, PA, and (3) between Pittsburgh and Waynesburg. In parts (1) and (2) no service is authorized to or from Washington, Waynesburg, or Point Marion, PA, for pick-up and delivery of traffic originating at or destined to said points. In part (3) no service is authorized to or from Pittsburgh, Washington or Waynesburg for pick-up and delivery of traffic originating at or destined to said points. By the instant petition, petitioner seeks to modify the authority as follows: Delete the service restrictions described above.

MC 25399 and (Subs-5(M1F), 6(M1F), 7(M1F), 8(M1F), 10(M2F), 11(M1F), and 14(M1F)), filed July 2, 1979. Applicant: A-P-A TRANSPORT CORP., 2100 88th Street, North Bergen, NJ 07934. Representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934Petitioner holds motor *common carrier* certificates in MC–25399 Subs 5, 6, 7, 8, 10, 11, and 14 issued May 7, 1969, April 29, 1971, September 12, 1974, February 14, 1972, January 31, 1973, June 15, 1977, September 25, 1975, and July 20, 1977, respectively, authorizing the transportation of (1) Irregular routes. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between points in Bergen, Essex, Hudson, Middlesex, and Passaic Counties, on the one hand, and, on the other, Owego, NY, points in that part of Connecticut west of U.S. Highway 5, those in that part of New York east and south of New York Highway 7, those in that part of Pennsylvania east of a line beginning at the Maryland-Pennsylvania state line and extending northward along unnumbered highway (formerly portion U.S. Highway 111) via Shrewsbury, Loganville, and Jacobus, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along unnumbered highway to junction Pennsylvania Highway 295 (formerly portion U.S. Highway 111), then along Pennsylvania Highway 295 via Zions View and Strinestown, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction U.S. Highway 11, then along U.S. Highway 11 to the Pennsylvania-New York State line, including points on the indicated portions of the highways specified. Between points in Hudson, Essex, and Bergen Counties, NJ, on the one hand, and, on the other, Bridgeport, CT, and points in that part of New York east of a line beginning at the New York-New Jersey State line and extending through Greenwood Lake, NY, to Amsterdam, NY, and south of a line beginning at Amsterdam, NY, and extending along New York Highway 5S to Schenectady, NY then along New York Highway 7 to the New York-Vermont State line, including New York, NY, points on Long Island, NY, and those on the indicated portions of the highways specified. Between points in Union County, NJ, on the one hand, and, on the other, Bridgeport, CT. Between points in Union County, NJ, on the one hand, and, on the other, points in that part of Connecticut west of U.S. Highway 5 and those in that part of Pennsylvania east of a line beginning at the Maryland-Pennsylvania State line and extending northward along unnumbered highway (formerly U.S. Highway 111) via Shrewsbury, Loganville and Jacobus, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction unnumbered highway (formerly portion U.S. Highway 111), then along unnumbered highway to

V 44 No 202 10 17 79 UMI

junction Pennsylvania Highway 295 (formerly portion U.S. Highway 111), then along Pennsylvania Highway 295 via Zions View and Strinestown, PA, to junction Interstate Highway 83 (formerly portion U.S. Highway 111), then along Interstate Highway 83 to junction U.S. Highway 11, then along U.S. Highway 11 to the Pennsylvania-New York State line, including points on the indicated portions of the highways specified. Between Newark, Kearny, and Harrison, NJ, on the one hand, and, on the other, points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665. Between New York, NY, and points in Nassau and Westchester Counties, NY, on the one hand, and, on the other, points in Hunterdon, Morris, Sussex, and Warren Counties, NJ, and those in that part of Mercer County, NJ, on and north of New Jersey Highway 33. Between Hackettstown, NJ, and Newark, NJ. Between Hackettstown, NJ, on the one hand, and, on the other, points in Warren and Sussex Counties, NJ. Between Hackettstown, NJ, on the one hand, and, on the other, points in Morris County, NJ.

General Commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between points in the Philadelphia, PA, Commercial Zone, as defined by the Commission, on the one hand, and, on the other, points in Camden, Gloucester, Burlington, Mercer, Ocean, Monmouth, Middlesex, and Somerset Counties, NJ. Between points in Camden, Gloucester, Burlington, Mercer, Ocean Monmouth, Middlesex, and Somerset Counties, NJ. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, office furniture and equipment, and commodities injurious or contaminating to other lading, between points in New Haven County, CT, on the one hand, and, on the other, points in Connecticut. *Lard* and *dog food*, from Long Island City, NY, to Scranton, PA, and Binghamton, NY, with no transportation for compensation on return except as otherwise authorized. *Waste paper and materials, machinery, and equipment*, used in the manufacture of paper, paperboard, and paperboard products, from points in Bergen, Essex, Hudson, Mercer, Passaic, Somerset, Union, Middlesex, Monmouth and Morris Counties, NJ, and those in the New York, NY, Commercial Zone as defined by the Commission 1 M.C.C. 665, to points in Saratoga and Washington Counties, NY, with no transportation for compensation on return except as otherwise authorized. Between Newark, NJ, on the one and, and, on the other, points in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665. *Paper, paperboard products and machiery* used in the manufacture of paper, paperboard and paperboard products, from points in Saratoga and Washington Counties, NY, to points in Bergen, Essex, Hudson, Mercer, Passaic, Somerset, Union, Middlesex, Monmouth, and Morris Counties, NJ, and those in the New York, NY Commercial Zone as defined by the Commission in 1 M.C.C. 665, with no transportation for compensation on return except as otherwise authorized. From Newark, NJ, to points in New York in the New York, NY Commercial Zone, as defined by the Commission in 1 M.C.C. 665, with no transportation for compensation on return as otherwise authorized. (2) Regular routes, *General commodities*, except classes A and B explosives, coal, coke, currency or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished, and bulky or heavy freight the dimensions of which exceed 7 feet in width, 6 and one-half feet in height, and 25 feet in length, or weighing in excess of 6,000 pounds, and liquid chemicals in bulk, between Albany, NY, and New York, NY, serving all intermediate points: From Albany over U.S. Highway 9 to New York, and return over the same route. Between Albany, NY, and Amsterdam, NY, serving all intermediate points: From Albany over New York Highway 5 to Amsterdam, and return over the same route.

Regular and Irregular Routes, *General commodities*, except classes A and B explosives, coal, coke, currency or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished, and bulky or heavy freight, the dimensions of which exceed 7 feet in width, 6 and one-half feet in height, and 25 feet in length, or weighing in excess of 6,000 pounds, and liquid chemicals in bulk, Between New York, NY, and points in Essex, Hudson and Union Counties, NJ. Points in that part of Bergen County, NJ, on and south of New Jersey Highway 4, points in that part of Passaic County, NJ, on, south, and east of the Passaic River, and points in that part of Middlesex County, NJ, on and north of the Raritan River, and Fort Edward, NY, serving all intermediate points on the specified regular route. From New York and points in the above-described New Jersey territory over irregular routes, to junction New Jersey Highway 17, then over New Jersey Highway 17 to the New Jersey-New York State line, then over New York Highway 17 to Harriman, NY, then over U.S. Highway 6 to Central Valley, NY, then over New York Highway 32 to Newburgh, NY, then over U.S. Highway 9–W to Albany, NY, then over New York Highway 32 to junction U.S. Highway 4, and then over U.S. Highway 4 to Fort Edward, NY, and return over the same route to junction irregular routes, then over irregular routes, to above-specified origin points. Irregular routes, *General commodities*, except classes A and B explosives, coal, coke, currency, or precious metals and gem materials, dynamite, furs, sand, gravel, crushed stone, iron or steel articles exceeding 30 feet in length, alcoholic beverages, livestock, silk, raw or finished and bulky or heavy freight the dimensions of which exceed 7 feet in width, 6 and one-half feet in height and 25 feet in length, or weighing in excess of 6,000 pounds and liquid chemicals in bulk, between New York, NY, points in Essex, Hudson, and Union Counties, NJ, points in that part of Bergen County, NJ, on and south of New Jersey Highway 4, points in that part of Passaic County, NJ, on, south and east of the Passaic River, and points in that part of Middlesex County, NJ, on and north of the Raritan River, on the one hand, and, on the other, Fort Edward, NY. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk; and those requiring special equipment, and liquid chemicals in bulk, between points in Union County, NJ, on the one hand, and, on the other, points in New York within 200 miles of Newark, NJ. Between Newark, NJ, and points in New Jersey (except Union County) within 20 miles of Newark, on the one hand, and, on the other, points in New York within 200 miles of Newark, NJ. (except Oswego, NY, and points east and south of New York Highway 7, including points on the highway specified). Restriction, the authority granted under the two routes next above shall be considered as a single grant, which may not be tacked or joined one to the other, for the purpose of performing any through transportation. Between points in the New York, NY, Commercial Zone as defined by the Commission, on the one hand, and, on the other, points in that part of New Jersey north of a line from the New Jersey-Pennsylvania State line

at Trenton, NJ, to Asbury Park, NJ, including the points named. (3) Regular routes, *Bakery products*, serving Manchester, NH, as an off-route point in connection with carrier's regular-route operations authorized herein. Serving Concord, NH, as an off-route point in connection with carrier's regular-route operations authorized herein. Restriction, the authority granted above is restricted against the transportation of traffic originating at or destined to points in Massachusetts or Rhode Island.

General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, between Hartford, CT, and New Haven, CT, serving all intermediate points, from Hartford, CT over U.S. Highway 5 to New Haven, and return over the same route. From Hartford over Connecticut Highway 9 to Middletown, CT, and then over Connecticut Highway 17 to New Haven, and return over the same route. From Hartford over Connecticut Highway 17 to Durham Center, CT, then over Connecticut Highway 77 to Guilford, CT, and then over U.S. Highway 1 to New Haven, and return over the same route. From Hartford to Guilford as specified above, then over U.S. Highway 1 to New Haven, and return over the same route. From Hartford over Connecticut Highway 71 to New Britain CT, then over Connecticut Highway 174 to junction Connecticut Highway 72, then over Connecticut Highway 72 to Plainville, CT, and then over Connecticut Highway 10, via Hamden, CT, to New Haven (also, from Hamden, CT, over Connecticut Highway 10A to New Haven), and return over the same routes. Between Hartford, CT, and Bridgeport, CT, serving all intermediate points, from Hartford over U.S. Highway 6 to Thomaston, CT, then over Connecticut Highway 8 to Shelton, CT, and then over Connecticut Highway 110 to Bridgeport, and return over the same route. From Hartford over Connecticut Highway 4 to junction Connecticut Highway 10, thence over Connecticut Highway 10 to Plainville, CT, then over Connecticut Highway 72 to junction U.S. Highway 6, then over U.S. Highway 6 to Thomaston, CT, then over Connecticut Highway 8 to Shelton, CT, and then over Connecticut Highway 8 to Bridgeport, and return over the same route. Between Framington, CT, and Thomaston, CT, serving all intermediate points. From Framington over Connecticut Highway 4 to Torrington, CT, and then over Connecticut Highway 8 to Thomaston, and return over the same route. Between junction Connecticut Highway 4 and unnumbered highway, near Collinsville, CT, and Torrington, CT, serving all intermediate points. From junction Connecticut Highway 4 and unnumbered highway over Connecticut Highway 4 to junction Connecticut Highway 179, then over Connecticut Highway 179 to Collinsville, CT, then over unnumbered highway to junction U.S. Highway 44, northwest of Canton, CT, then over U.S. Highway 44 to Winsted, CT, then over Connecticut Highway 8 to Torrington, and return over the same route. Between Waterbury, CT, and Middletown, CT, serving all intermediate points. From Waterbury over Connecticut Highway 66 to Middletown, and return over the same route. Between Seymour, CT, and Danbury, CT, serving all intermediate points. From Seymour over Connecticut Highway 115 to Derby, CT, then over Connecticut Highway 34 to Sandy Hook, CT, and then over U.S. Highway 6 to Danbury, and return over the same route. Serving the off-route points of Waterville, Watertown, Woodbury, Southbury, Bethel, Brookfield, Bridgewater, New Milford, Washington, Rosbury, Bethlehem, Morris, Litchfield, Middlefield, Bloomfield, Glastonbury, and Batam, CT, in connection with the regular routes described above. Between Boston, MA, and Hartford, CT, serving all intermediate points, and the off-route points of Monson, Chicopee, Chicopee Falls, Indian Orchard, Holyoke, Agawan, Gilbertville, Barre, Barre Plains, Florence, Northampton, North Brookfield, Warren, West Warren, Wilbraham, Williamansett, Rutland, Ludlow, West Springfield, Mittineague, and Westfield, MA, and Suffield and Poqnonock, CT. From Boston over Massachusetts Highway 9 to Ware, MA, then over Massachusetts Highway 32 to Palmer, MA, then over U.S. Highway 20 to Springfield, MA, and then over U.S. Highway 5 to Hartford (also from Springfield, MA, over Alternate U.S. Highway 5 to Hartford), and return over the same route.

Between Boston, MA, and Hartford, CT, serving all intermediate points, and the off-route points of Holland, Oxford, North Osford, Southbridge, Brimfield, Sturbridge, Needham, Wellesley, Natick, Hopkinton, Ashland, Framingham, Marlboro, Hudson, Stow, Shrewsbury, Berlin, Clinton, Boyleston, Northboro, Westboro, Saxonville, and Southboro, MA, and Rockville, Manchester, and South Manchester, CT. From Boston over Massachusetts Highway 9 to junction U.S. Highway 20, then over U.S. Highway 20 to junction Massachusetts Highway 15, then over Massachusetts Highway 15 to the Massachusetts-Connecticut State line, then over Connecticut Highway 15 to East Hartford, CT, and then over U.S. Highway 6 to Hartford, and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Westwood, East Walpole, Norfolk, City Mills, Franklin, Blackstone, Millville, and Bellingham, MA, and Harrisville, Pascoag, North Smithfield, Greystone, Georgiaville, and Manton, RI. From Boston over Massachusetts Highway 1A to junction Massachusetts Highway 121, then over Massachusetts Highway 121 to the Massachusetts-Rhode Island State line, then over Rhode Island Highway 114 to Woonsocket, RI, then over Rhode Island Highway 102 to Chepachet, RI, then over U.S. Highway 44 to Providence (also from Woonsocket over Rhode Island Highway 122 to Providence) and return over the same routes. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Sharon, Foxboro, East Mansfield, Norton, Attleboro, Plainville, and Attleboro Falls, MA, and Saylesville, Manville, Ashton, Valley Falls, Central Falls, East Providence, and Rumford, RI. From Boston over U.S. Highway 1 to Providence and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points, and the off-route points of Canton, North Easton, Somerset, Swansea, Rehoboth, and Seekonk, MA, and Warren, Bristol and Barrington, RI. From Boston over Massachusetts Highway 138 to Fall River, MA, and then over U.S. Highway 6 to Providence, and return over the same route. Between Boston, MA, and Providence, RI, serving all intermediate points. From Boston over Massachusetts Highway 1A to junction U.S. Highway 1, and then over U.S. Highway 1 to Providence, and return over the same route. From Boston over Massachusetts Highway 138 to Taunton, MA, and then over U.S. Highway 44 to Providence, and return over the same route. Between Providence, RI, and Peace Dale, RI, serving all intermediate points. From Providence over U.S. Highway 1 to Wakefield, RI, and then over unnumbered highway to Peace Dale, and return over the same route. Between Boston, MA, and New Bedford, MA, serving all intermediate points, and the off-route points of Holbrook, Braintree, Abington, Witman, and East Bridgewater, MA. From Boston over Massachusetts Highway 28 to Bridgewater, MA, then over

Massachusetts Highway 18 to junction Massachusetts Highway 140, and then over Massachusetts Highway 140 to New Bedford, and return from New Bedford, over U.S. Highway 6 to Fall River, MA, and then over Massachusetts Highway 138 to Boston. Between Boston, MA, and Worcester, MA, serving all intermediate points and the off-route points of Medway, East Holliston, Sherbon, Dover, Crafton, Upton, West Upton, Millbury, Whitinsville, and Auburn, MA. From Boston over U.S. Highway 1 to Dedham, MA, then over Massachusetts Highway 109 to Milford, MA, then over Massachusetts Highway 16 to Uxbridge, MA, and then over Massachusetts Highway 122 to Worcester, and return over the same route. Between Boston, MA, and Rockland, MA, serving all intermediate points and the off-route points of Hingham, Norwell, and Hanover, MA. From Boston over Massachusetts Highway 3 to Assinippi, MA, and then over Massachusetts Highway 123 to Rockland, and return over the same route. Between Boston, MA, and Maynard, MA, serving all intermediate points, and the off-route points of Sudbury and Lincoln, MA. From Boston, over U.S. Highway 20 to Waltham, MA, then over Massachusetts Highway 117 to junction Massachusetts Highway 27, and then over Massachusetts Highway 27 to Maynard, and return over the same route. Between Bosion, MA, and Beverly, MA, serving all intermediate points, and the off-route points of Winthrop, Marblehead, Peabody, Everett, Malden, Saugus, Danvers, and Swampscott, MA. From Boston over Massachusetts Highway 107 to Lynn, MA, and then over Massachusetts Highway 1A to Beverly, and return over the same route.

Between Boston, MA and Haverhill, MA, serving all intermediate points, and the off-route points of Methuen, Graniteville, Forge Village, North Acton, Concord, Lexington, Littleton, Ayer, Andover, North Andover, and North Chelmsford, MA. From Boston over Massachusetts Highway 1A to Beverly, MA, and then over Massachusetts Highway 97 to Haverhill, and return from Haverhill over Massachusetts Highway 110 to Littleton Common, MA, and then over Massachusetts Highway 2A to junction Massachusetts Highway 2, and then over Massachusetts Highway 2 to Boston. Between Boston, MA, and Haverhill, MA, serving all intermediate points, and the off-route points of Malden, Melrose, Medford, North Reading, Wakefield, and North Andover, MA. From Boston over Massachusetts Highway 28 to Lawrence, and return over the same route. Between Littleton Common, MA, and Worcester, MA, serving all intermediate points. From Littleton Common over Massachusetts Highway 110 to Worcester, and return over the same route. Between Littleton Common, MA, and Gardner, MA, serving all intermediate points and the off-route points of North Leominster, Leominster, Groton, West Groton, and Shirley, MA. From Littletown Common over Massachusetts Highway 2A to junction Massachusetts Highway 2, then over Massachusetts Highway 2 to South Gardner, MA, and then over Massachusetts Highway 68 to Gardner, and return over the same route. Between Boston, MA, and Amesbury, MA, serving all intermediate points, and the off-route point of Merrimac, MA. From Boston over U.S. Highway 1 to Newburyport, MA, then over Massachusetts Highway 113 to junction unnumbered highway, and then over unnumbered highway to Amesbury, and return over the same route. Between Boston, MA, and Lowell, MA, serving all intermediate points, and the off-route points of Cambridge, Somerville, Winchester, Woburn, North Woburn, North Billerica, Wilmington, Tewksbury, North Chelmsford, Dracut and Bedford, MA. From Boston over U.S. Highway 3 to Lowell, and return over the same route. Between Oxford, MA, and New London, CT, serving all intermediate points, and the off-route points of Thompson, Pombert, Brooklyn, Moosup, Taftville, and Montville, CT. From Oxford over Massachusetts Highway 12 to the Massachusetts-Connecticut State line, then over Connecticut Highway 12 to junction U.S. Highway 1, and then over U.S. Highway 1 to New London, and return over the same route. Between Sturbridge, MA, and Palmer, MA, serving the intermediate points of Brimfield, MA. From Sturbridge over U.S. Highway 20 to Palmer and return over the same route. Between Providence, RI, and Lowell, MA, serving all intermediate points and the off-route points of Bristo, Cranston, Greystone, Olneyville, Thornton, Manton, Stillwater, and Warren, RI, and Dracut, Forge Village, Quincy, Graniteville, North Chelmsford, North Andover, Methuen and Norton, MA, and those within 10 miles of the State House of Boston, MA. From Providence over U.S. Highway 1 to Boston, MA, and then over Massachusetts Highway 38 to Lowell, and return over the same route. From Providence over U.S. Highway 1 to Boston, MA, then over U.S. Highway 3 to junction Massachusetts Highway 3A, then over Massachusetts Highway 3A to Lowell, and return over the same route. From Providence over Rhode Island Highway 122 to Woonsocket, RI, then over Rhode Island Highway 114 to the Rhode Island-Massachusetts State line, then over Massachusetts Highway 121 to Wrentham, MA, then over Massachusetts Highway 140 to junction U.S. Highway 1, and then to Lowell as specified above, and return over the same route. Between Providence, RI, and Haverhill, MA, serving all intermediate points, and the off-route points of Bristol, Cranston, Greystone, Olneyville, Thornton, Manton, Stillwater, and Warren, RI, and Dracut, Forge Village, Quincy, Graniteville, North Chelmsford, North Andover, Methuen, and Norton, MA, and those within 10 miles of the State House at Boston, MA.

From Providence over U.S. Highway 44 to Taunton, MA, thence over Massachusetts Highway 138 to Boston, MA, thence over Massachusetts Highway 28 to Lawrence, MA, and thence over Massachusetts Highway 110 to Havehill, and return over the same route. From Providence over Rhode Island Highway 122 to Woonsocket, RI, thence over Rhode Island Highway 114 to the Rhode Island-Massachusetts State line, thence over Massachusetts Highway 121 to Wrentham, MA, thence over Massachusetts Highway 1A to Boston, and thence to Haverhill as specific above, and return over the same route. From Providence over U.S. Highway 44 to junction Alternate U.S. Highway 1, thence over Alternate U.S. Highway 1 to junction U.S. Highway 1, thence over U.S. Highway 1 to junction Massachusetts Highway 1A, thence over Massachusetts Highway 1A to Boston, and thence to Haverhill as specified above, and return over the same route. Between Maynard, MA, and Boston, MA, serving all intermediate points, and the off-route points of Hudson, MA. From Maynard over Massachusetts Highway 27 via Sudsbury, MA, to Wayland, MA, and thence over U.S. Highway 20 to Boston, and return over the same route. Between Uxbridge, MA, and Woonsocket, RI, serving all intermediate points. From Uxbridge over Massachusetts Highway 122 to the Massachusetts-Rhode Island State line, and thence over Rhode Island Highway 122 to Woonsocket, and return over the same route. Between junction Connecticut Highways 15 and 20 (east of Staffordville, CT), and junction Connecticut Highways 74 and 30 (east of Rockville, CT), serving all intermediate points. From junction Connecticut Highways 15 and 20 over relocated Connecticut Highway 15 to junction Connecticut Highway 74, thence over Connecticut Highway 74 via Tolland, CT, to junction Connecticut Highway 30, and return over the same route. *General commodities*, except those of unusual value, commodities in bulk, livestock, classes A and B explosives, household goods as defined by the Commission, and commodities requiring refrigeration or special equipment, Between Boston, MA, and Barre, MA, serving all intermediate points. From Boston over U.S. Highway 20 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to Worcester, MA, and thence over Massachusetts Highway 122 to Barre, and return over the same route. From Boston over Massachusetts Highway 9 to Worcester, MA, and thence to Barre as specified above. Between Lawrence, MA, and Lowell, MA, serving all intermediate points. From Lawrence over Massachusetts Highway 110 to Lowell, and return over the same route. Between Lowell, MA, and North Chelmsford, MA, serving all intermediate points. From Lowell over U.S. Highway 3 to North Chelmsford, and return over the same route. Between Boston, MA, and Woonsocket, RI, serving all intermediate points. From Boston, over U.S. Highway 1 to junction Massachusetts Highway 140, thence over Massachusetts Highway 140 to Wrentham, MA. (also from Boston over Massachusetts Highway 1A to Wrentham), thence over Massachusetts Highway 121 to the Massachusetts-Rhode Island State Line, thence over Rhode Island Highway 114 to Woonsocket, and return over the same route. *Wool*, from Boston, MA. to Barre, MA, serving the intermediate point of Gilbertville, MA, for delivery only. From Boston over U.S. Highway 20 to junction Massachusetts Highway 9, thence over Massachusetts Highway 9 to Worcester, MA (also from Boston over Massachusetts Highway 9 to Worcester, MA), thence over Massachusetts Highway 9 to junction Massachusetts Highway 32, and thence over Massachusetts Highway 32 to Barre, and return over the same routes with no transportation for compensation except as otherwise authorized. *Books, magazines, paper, waste paper and platforms*, Between Lowell, MA, and Concord, NH, serving no intermediate points. From Lowell over U.S. Highway 3 to Concord, and return over the same route. *Printed matter, oil, and textile machinery and parts, except commodities requiring special equipment*, from Uxbridge, MA to Woonsocket, RI, serving no intermediate points. From Unxbridge over Massachusetts Highway 122 to the Massachusetts-Rhode Island State line and thence over Rhode Island Highway 122 to Woonsocket and return over the same route, with no transportation for compensation except as otherwise authorized.

General Commodities, except those of unusual value, classes H and B, explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Irregular routes, *Magazines*, From Old Saybrook, CT, to points in Massachusetts, Rhode Island and New York authorized to be served by carrier over regular routes in the transportation of general commodities, with specified exceptions, as authorized herein. *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Between Danbury, Waterbury, Hartford, East Hartford, New Haven, Southbury, Long Hill, Stepney, Trumbull, Newton, Ansonia, South Norwalk, and Old Greenwich, CT, on the one hand, and, on the other, Pelham, Yonkers, and White Plains, NY, and Jersey City, Newark, Hoboken, and Edgewater, NJ. *Wool, waste, and cloth*, Between Boston, MA, and points within 10 miles of Boston, on the one hand, and, on the other, points in Connecticut and Rhode Island. *Wool, wool products, mohair, rayon rags, and burlap bags and supplies*, used in connection with the manufacture of textiles, except liquid commodities in bulk, Between Franklin, NH, and Tilton, NH. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, Between Boston, MA on the one hand, and, on the other, points in Massachusetts within 10 miles of Boston. *Wool and wool shoddy*, Between Newton, MA, on the one hand, and, on the other, Harrisville, NH, Wickford, RI, and points in Providence County, RI. *Wool and wool products*, Between points in Massachusetts and Rhode Island. *Oil, paints, ventilating fans, rubberized fabric and cloth, and jack lifts, and truck*, except commodities requiring special equipment, Between Newton and Watertown, MA, on the one hand, and, on the other, points in Providence County, RI. *Empty containers*, except those requiring special equipment, From Harrisville, NH, Wickford, RI, and points in Providence County, RI, to Watertown and Newton, MA, with no transportation for compensation on return except as otherwise authorized. *General commodities*, except those of unusual value, livestock, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and commodities requiring refrigeration or special equipment, Between Boston, MA, on the one hand, and, on the other, points in that part of Massachusetts on an east of Massachusetts Highway 12. Between points in that part of Massachusetts on and east of Massachusetts Highway 12, on the one hand, and, on the other, points in Rhode Island. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment, Between Boston, MA, and points in Massachusetts within 40 miles of Boston, MA, on the one hand, and, on the other, points in Rhode Island and Connecticut and those in that part of New Hampshire south of a line beginning at the New Hampshire-Maine line, and extending along U.S. Highway 202 to Hillsboro, NH, and then along New Hampshire Highway 9 to the Connecticut River, including points on the indicated portions of the highways specified. Between New York, NY, on the one hand, and, on the other, New London, Danbury, Norwich, and Willimantic, CT. Between New Britain, CT, and Worcester, MA.

Wool, wool products, mohair, rayon rags, and burlap bags, Between Boston, MA, and points in Massachusetts, within 40 miles of Boston, MA, on the one hand, and, on the other, Franklin, Derry, and Manchester, NH, points in Rhode Island, those in Massachusetts on and south of a line beginning at South Duxbury, MA, and extending westerly through Bridgewater, MA, to the Massachusetts-Rhode Island State line, and those in that part of Connecticut east of a line beginning at the Connecticut-Massachusetts State line and extending along Alternate U.S. Highway 5 to Hartford, CT, then along U.S. Highway 5 to New Haven, CT, then along U.S. Highway 1 to Norwalk, CT, then south along Connecticut Highway 136 via South Norwalk, CT, to Long Island Sound, including points on the indicated portions of the highway specified. Between Barre, MA, and Peace Dale, RI. *Heavy machinery and machine parts*, except commodities which require the use of special equipment. Between points in Massachusetts, on the one hand, and, on the other, New York, NY, and points in Rhode Island, Connecticut, New Hampshire, Vermont and

V 44 NO 201 7 9 UMI

Massachusetts. Between points in that part of New Hampshire south and east of a line beginning at Portsmouth, NH, and extending along U.S. Highway 4 to junction U.S. Highway 202, and then along U.S. Highway 202 to the New Hampshire-Massachusetts State line, including points on the indicated portions of the highways specified, on the one hand, and, on the other, points in Rhode Island. *Textile supplies*, except in bulk, and commodities requiring special equipment. Between Franklin, NH, on the one hand, and, on the other, Boston, MA, and points in Massachusetts within 40 miles of Boston, MA. *Shop furniture*, From New Britain, CT, to points in New York, with no transportation for compensation on return except as otherwise authorized. *Wrenches*, From New Britain, CT, to Poughkeepsie, NY, with no transportation for compensation on return except as otherwise authorized. *Groceries*, From New Britain, CT, to points in Connecticut, with no transportation for compensation on return except as otherwise authorized. *Packinghouse products, eggs, and empty containers*, for such commodities, except commodities requiring special equipment, Between Hartford, CT, on the one hand, and, on the other, Millerton, NY, Irregular routes, *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between New Windsor and Glenmont, NY, on the one hand, and, on the other, Meriden, CT. Irregular routes, *General commodities*, (except articles of unusual value, classes A and B explosives, household goods, as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Scranton, PA, and New Windsor, NY, Irregular routes, *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Philadelphia, PA, on the one hand, and, on the other, points in Salem, Atlantic, Cumberland, and Cape May Counties, NJ. Irregular routes, *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities, the transportation of which requires special equipment). Between Syracuse and Glenmont, NY, and Canton, MA. Irregular routes, *General commodities*, (except commodities of unusual values, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), Between Springfield, MA (except points in Connecticut, within the Springfield, MA. Commercial Zone, as defined by the Commission), on the one hand, and, on the other, points in Berkshire, Franklin, Hampden, Hampshire, and Worcester Counties, MA. By the instant petition, petitioner seeks to modify the territorial description by eliminating the present irregular and regular operations and in lieu thereof substituting *General commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities, the transportation of which requires special equipment), over irregular routes, Between points in the states of PA, NJ, NY, CT, MA, RI and NH, Between points in the Philadelphia, PA Commercial Zone as defined by the Commission.

Republications of Grants of Operating Rights Authority Prior to Certification

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the **Federal Register**.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before November 19, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 112801 (Sub-203F) (republication), filed July 5, 1978, previously noticed in the **Federal Register** issue of August 31, 1978. Applicant: TRANSPORT SERVICE CO., a Corporation, 2 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, DC 20001. By the Commission, Review Board Number 2, decided July 19, 1979, and served August 6, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *corn syrup, sugar, and blends of corn syrup and sugar*, in bulk, in tank vehicles, from Cincinnati, OH, to St. Louis, MO, and points, in IL, IN, KY, MS, NC, OH, TN, VA, and WV. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add Kentucky and Ohio as a destination territory.

MC 115841 (Sub-631F) (republication), filed ???? 13, 1978, previously noticed in the **Federal Register** issue of July 27, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 11th Street NW., Washington, DC 20001. By the Commission, Review Board Number 2, decided March 6, 1979, and served April 3, 1979, finds that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air conditioning and heating equipment*, and *materials, equipment, and supplies* used in the manufacture and distribution of air conditioning and heating equipment, from the facilities of Heil Quaker Corporation at or near Murfreesboro, TN, to points in OK, AZ, CO, UT, NV, CA, NM, NE, KS, SD, OR, and WA. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose for this republication is to show the origin point of Murfreesboro, TN.

MC 121006 (Sub-4F) (republication), filed June 14, 1978, published in the **Federal Register** issue of September 14, 1978, and republished this issue. Applicant: GADSEN TRUCK LINE, INC., 1708 Mount Zion Ave., Gadsen, Alabama 35901. Representative: John P. Calton, 727 Frank Nelson Bldg., Birmington, Alabama 35203. A Decision of the Commission, Review Board Number 2, decided July 24, 1979, and served August 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, in interstate or foreign commerce (A), over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Republic Steel Corporation and Hanna Steel Corp., in Etowah County, AL, to points in Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, restricted to the transportation of traffic originating at the named facilities, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), (a) between Gadsen, AL, points in Etowah, Cherokee, DeKalb, Jackson, Marshall, Madison, Morgan, Cullman, Blount, Jefferson, Shelby, Talladega, Cleburne, Clay, Randolph, Calhoun, and St. Clair Counties, AL, those in Limestone County, AL, on, south, and east of a line beginning at the Madison-Limestone County line and extending along U.S. Hwy 72 to junction U.S. Hwy 31, and then along U.S. Hwy 31 to the Tennessee River, those in Coosa County, AL, on and north of U.S. Hwy 280, those in Walker County, AL, on and east of Alabama Hwy 69, and those in Tallapoosa County, AL, on and north of Alabama Hwy 22, and (b) between Gadsen, AL, on the one hand, and, on the olther, Decatur, Mobile, and Montgomery, AL; and (B), over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Birmingham and Gadsen, AL; from Birmingham over Interstate Hwy 59 to junction U.S. Hwy 278, then over U.S. Hwy 278 to Gadsen, and return over the same route, serving no intermediate points. **Conditions:** (1) The authorities set forth in parts (A)(2) (a) and (b) may be tacked in order to provide a through service will be consistent with the public interest and the national transportation policy. The purpose of this republication is to modify the authority by adding the tacking information.

MC 121060 (Sub-65F) (republication), filed June 7, 1978, previously noticed in the **Federal Register** issue of November 24, 1978. Applicant: ARROW TRUCK LINES, INC., P.O. Box 1416, Birmingham, AL 35201. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. By the Commission, Review Board Number 1, decided September 6, 1979, and served September 12, 1979, find that the present and future public convenience and necessity require operation by applicant, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities as are dealt in or used by wholesale and retail chain and grocery houses and foodstuff manufacturers* (except in bulk) between the facilities of Hudson Industries, Inc., at or near Brundidge and Troy, AL, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to broaden the commodity description.

MC 126358 (Sub-14F) (2nd republication), filed April 3, 1978, published in the **Federal Register** issue of June 22, 1978 and June 11, 1979, and republished this issue. Applicant: BENNETT TRUCKING CO., a Corporation, P.O. Box 526, Hawkinsville, GA 31036. Representative: Paul M. Daniell, P.O. Box 872, Atlanta, GA 30301. An Order of the Commission, Division 2, decided September 12, 1979, and served September 18, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of *lumber* (except plywood and veneer), (1) from Union Springs, Dothan, and Glenwood, AL, to points in FL, GA, and SC; (2) from Blountstown, FL, to points in AL, GA, MS, NC, and TN, and (3) from Albany, Bainbridge, Buena Vista, Damascus, La Grange, Mitchell, Preston, Thomaston, GA, and points in Peach and Crawford Counties, GA, to points in AL, FL, GA, MS, NC, SC, TN, and VA, that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate applicant's actual grant of authority.

MC 144760F (republication), filed May 15, 1978, previously noticed in the **Federal Register** issue of October 19, 1978. Applicant: HITTMAN TRANSPORT SERVICES, INC., 2700 Keslinger Road, Geneva, IL 60134. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. By the Commission, Review Board Number 2, decided July 26, 1979, and served August 13, 1979, finds that operation by applicant, as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, transporting (1) *radioactive wastes*, from the facilities of (a) Zione Nuclear Plant, at Zion, IL, (b) Dresden Nuclear Station at Morris, IL (c) Quad Cities Nuclear Station at Cordoba, IL, (d) Duan-Arnold Energy Center, at Palo, IA, and (e) Donald C. Cook Nuclear Station, at Bridgeman, MI, to Barnwell, SC, Beatty, NV, and Richland, WA; and (2) *radio-active shipping containers*, from Barnwell, SC, Beatty, NV, and Richland, WA, to the origin facilities named in (1) above, under continuing contract(s) in (1) and (2) with Hittman Nuclear and Development Corporation, of Columbia, MD, will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add Beatty, NV, and Richland, WA in part (2) and to delete the restriction in part (1) in reference to shipper owned containers trailers.

MC 145240F (republication), filed August 21, 1978, previously noticed in the Federal Register issue of September 28, 1978. Applicant: L. D. BRINKMAN TRUCKING CORP., 520 North Wildwood, Irving, TX 75060. Representative: Lawrence A. Winkle, P.O. Box 45538, Dallas, TX 75245. By the Commission, Review Board Number 3, decided April 30, 1979, and served May 25, 1979, finds that operation by applicant, as a *contract carrier*, by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *floor coverings, and materials and supplies* used in the installation of floor coverings, (1) from points in NJ, PA, GA, CA and MS, to points in TX, OK, AR, LA, MS, MO, CO, UT, AZ, KS, NM, and TN; and (2) between points in TX, OK, AR, LA, MS, KS, MO, CO, UT, AZ, TN, NM and CA, under continuing contract(s) with L. D. Brinkman & Company of Irving, TX, will be consistent with the public interest and the national transportation policy. Applicant is fit, willing, and able properly to perform such service and to conform to the requirements of Title 49, Subtitle IV, U.S. Code, and the Commission's regulations. The purpose of this republication is to add California as an origin state in (1) above.

Broker, Water Carrier and Freight Forwarder Operating Rights Applications

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal**

V 44 OC 17 79 UMI

Register. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions

Decision-Notice

Decided: October 1, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the application. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broodening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members, Parker, Hill, and Fortier.

Broker Authority

MC 12721 (Sub-1F), filed May 4, 1979. Applicant: BECKHAM TRAVEL SERVICE, INC., 587 Washington St., Canton, MA 02021. Representative: R. Bruce Beckham (same address as applicant). To engage in operations, in interstate or foreign commerce, as a *broker*, at Canton and Boston, MA, and Concord, Laconia, and Nashua, NH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special or charter operations, between points in the United States (including AK and HI). (Hearing site: Boston, MA.)

MC 130605F, filed September 17, 1979. Applicant: WILLIAM J. AND MARY E. PARKE, d.b.a. DELTONA/LONGWOOD TRAVEL, 1853-A State Rd. 434, Longwood, FL 32750. Representative: Elbert Brown, Jr., P.O. Box 1378, Altamonte Springs, FL 32701. To engage in operations, in interstate or foreign commerce, as a *broker*, at Longwood and Deltona, FL, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, beginning and ending at points in FL, and extending to points in the United States (including AK and HI). NOTE: Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension—New York, N.Y.*, 54 M.C.C. 291(1952). (Hearing site: Orlando, FL.)

Finance Applications; Notice

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before November 16, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-14001F Applicants: MILNE TRUCK LINES, INC., 2500 West California Ave., Salt Lake City, UT 84104. INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021. Representatives Transferee: Edward J. Hegarty and Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, CA 94104. Transferor: Milton W. Flack, Suite 300, 4311 Wilshire Boulevard, Los Angeles, CA 90010. Authority sought for purchase by MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104, of a portion of the operating rights, as more specifically described in Certificate of Registration No. MC-98890 (Sub-No. 3), of INTERFREIGHT CORPORATION, 2429 E. Washington Blvd., Los Angeles, CA 90021, and for acquisition by Sun Carriers, Inc. and, in turn, by Sun Company, Inc., both of 100 Matsonford Road, Radnor, PA 19087, of control of the operating rights through the purchase. Operating rights sought to be transferred: General commodities (with certain exceptions) as a common carrier over regular routes: (1) Between the San Francisco Territory, on the one hand, and the Los Angeles Basin Territory, on the other hand; (2) Between the San Francisco Territory, on the one hand, and the San Diego Territory, on the other hand; (3) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within 20 miles laterally of said highway and (4) Between all points and places located on State Highway 99 between Sacramento and Bakersfield, inclusive, and all points located within twenty miles laterally of said highway, on the one hand, and the Los Angeles Basin Territory and the San Diego Territory, on the other hand, via State Highway 99 and Interstate Highway 5 between Bakersfield and the Los Angeles Basin Territory and Interstate Highways 5 and 15 (U.S. Highway 395), and State Highway 1 between the Los Angeles Basin Territory and the San Diego Territory, with service to all intermediate points located on and along said highways and serving all points within twenty miles laterally of said highways mentioned. Operating rights sought to be retained: General commodities (with certain exceptions) as a common carrier. (1) To, from, and between all points and places located in the Los Angeles Basin Territory, and (2) between the Los Angeles Basin Territory, on the one hand, and the San Diego Territory, on the other hand, via Interstate Highways 5 and 15 (U.S. Highway 395) and State Highway 1, serving all intermediate points and places located within twenty miles laterally of the named highways. Milne Truck Lines, Inc. is authorized to operate as a common carrier in AZ, CA, ID, NV, UT and WY. Application has been filed for temporary authority under section 210a(b) and for conversion to Certificate of Public Convenience and Necessity. If a hearing is deemed necessary, applicants request that it be held at San Francisco and Los Angeles, CA.

MC-F-14093 F. Authority sought for control by SCHIAVONE CHARTERS, INC., 243 Universal Drive, North Haven, CT 06473, of Valley Transportation, Inc., 516 Oxford Road, Oxford, CT, and subsequent merger of Valley Transportation, Inc. into Schiavone Charters, Inc., and for acquisition by Schiavone Transportation Corp., Michael Schiavone & Sons, Inc. and Joel Schiavone, Michael Schiavone and Esther Schiavone, through the acquisition by Schiavone Charters, Inc. of control of Valley Transportation, Inc. Applicant's attorneys: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103 and L. C. Major, Jr., Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Operating rights sought to be controlled and merged: authority to operate as a *common carrier* in the transportation of passengers and their baggage and express and newspapers in the same vehicle with passengers over regular routes between Waterbury, and Bridgeport, CT and between Port Chester, NY and Stamford, CT; passengers and their baggage in charter operations: (1) from Trumbull, CT and points within 30 miles of Trumbull to points in NY, NJ, MA, RI and PA and (2) from points in CT (except points in New London County) to points in 11 states and DC; and special operations (1) between numerous specified points in CT and named racetracks in NY, (2) from points in CT (except points in New London County) to points in 4 states and DC, (3) from numerous specific points in CT to portions of NY and MA, (4) beginning and ending at specified points in CT and extending to points in 7 specified states, (5) beginning and ending at specified points in CT and extending to Yankee and Shea Stadiums in New York City, all as more fully described in Certificates of Public Convenience and Necessity issued in MC-109865 Subs 5 and 13 and certificate to be issued in MC-109865 Sub 14F and broker license issued in MC-12723 authorizing brokerage operations at Bridgeport, CT in arranging transportation for passengers in special and charter operations in roundtrip, all expense tours beginning and ending at points in Fairfield, New Haven and Hartford Counties, CT and extending to points in the U.S. (including AK and excepting HI). Schiavone Charters, Inc. holds no authority from the I.C.C. but is affiliated with Connecticut Limousine Service, Inc. which conducts bus and limousine operations between nineteen points in CT, on the one hand, and, on the other, the John F. Kennedy International Airport and La Guardia Airport in New York City and Newark Memorial Airport, Newark, NJ. Application has been filed for temporary authority under Section 210a(b) and has been granted by decision served August 31, 1979.

*Corrected**

Captioned Summary for Publication in the Federal Register

MC-F-14138F. Transferee: SMITH's TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Transferor: FREDERICK J. FAURIE d.b.a. F F EXPRESS 438 Countyline Road, Bensenville, IL 60166. Applicant's Representative: Francis W. McInerny, 1000 16th Street NW., Washington, DC 20036 and Neil H. Garson, 3251 Old Lee Hwy, Fairfax, VA 22030. Authority sought to be purchased: Certificate of Registration No. MC-98662 (Sub-No. 2) authorizing generally the transportation of general commodities by motor carrier between a fifty mile radius of Chicago on the one hand, and, on the other, points in IL. Transferee is authorized pursuant to No. MC-110683 (and subs thereunder) to operate as a common carrier by motor vehicle in AL, AR, CT, DC, DE, FL, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VA, WV, and WI. Application has been filed for TA under 49 U.S.C. 11349. Related applications have also been filed under 49 U.S.C. 10922 and 10928 providing for the conversion of the Certificate of Registration to a Certificate of Public Convenience and Necessity and a conversion from irregular routes to regular routes. The proposed regular routes are structured to connect with

*Corrected to reflect applicant's request for authority to serve all points in Illinois as off-route point in connection with applicant's regular route authority requested upon conversion.

V 44 O C 17 79 UMI

transferee's existing regular routes in IL, IA, IN, and KY and include (1) between Chicago, IL and Paducah, KY, serving all intermediate points and serving Paducah for joinder only; (2) between Rockford, IL, and Cairo, IL, serving all intermediate points; (3) between E. St. Louis, IL, and Terre Haute, IN, serving all intermediate points and serving Terre Haute for joinder only; (4) between E. St. Louis, IL, and Evansville, IN, serving all intermediate points and serving Evansville for joinder only; (5) between Rock Island, IL, and Marshall, IL, serving all intermediate points; (6) between Chicago, IL, and Burlington, IA, serving all intermediate points; (7) between Rock Island, IL, and E. St. Louis, IL, serving all intermediate points; serving in connection with carriers regular routes all points in IL as off-route points. The applications filed under 49 U.S.C. 10922 and 10928 are filed with certificates of support.

MC-F-14142F. Authority sought by The Edward Corporation for Orin S. Neiman to become a member of the Board of Directors of Transcon Lines, 101 Continental Boulevard, El Segundo, CA 90245. Applicant's attorneys: Wentworth Griffin, Esquire, Griffin, Dysart, Taylor, Penner & Lay, P.C., 1221 Baltimore Avenue, Kansas City, MO 64105 for Transcon Lines, and Paul F. Beery, Beery & Spurlock CO., L.P.A., 275 East State Street, Columbus, OH 43215, for The Edward Corporation and Orin S. Neiman.

Orin S. Neiman has been requested to become a member of the Board of Directors of Transcon Lines. Commission approval may be required since Orin S. Neiman controls The Edward Corporation, which holds all of the outstanding common stock of Ohio Fast Freight, Inc., a motor carrier, and Ohio Fast Freight, Inc. owns all of the outstanding common stock of Bellevue Trucking Corporation and Case Heavy Hauling, Inc., both motor carriers.

MC-F-14170F. Authority sought for control by Country Wide Truck Service, Inc. 1110 South Reservoir Street, Pomona, CA 91766 of R. F. Box, Inc., P.O. Box 25604, Albuquerque, NM 87125 and for acquisition by Stuart F. Jaquay also of Pomona, CA 91766 of control of R. F. Box, Inc. through the acquisition. Representatives: K. Edward Wolcott, Esq., Watkins & Daniell, P.C., P.O. Box 56387, Atlanta, GA 30343. Kendall O. Schlenker, Esq., Schlenker, Craig & Lebeck, P.O. Box 925, Albuquerque, NM 87103. Operating rights sought to be controlled: Specified commodities, as a contract carrier, over irregular routes, from, to and between specified points in the States of: AZ, CA, CO, ID, KS, MT, NE, NV, NJ, NM, NY, OK, OR, PA, SD, TX, VA, VT, WA, and WY as more specifically described in the R. F. Box, Inc. permits in MC-136989. Application has been filed for Temporary Authority under 49 U.S.C. 11349. (Hearing site: Los Angeles, CA or Albuquerque, NM.)

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed on or before November 16, 1979. Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 29555 (Deviation No. 36) (Amendment), BRIGGS TRANSPORTATION CO., North 400, Griggs-Midway Bldg., St. Paul, MN 55104, filed August 8, 1979, and published in the Federal Register on September 7, 1979, as amended September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle of *General Commodity*, with certain exceptions, over deviation routes as follows: (1) from Rockford, IL, over US Hwy 51 to junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, IA, and (2) from Rockford, IL, over US Hwy 51 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, IA, (3) from Rockford, IL, over US Hwy 51 to junction Illinois Hwy 5, then over Illinois Hwy 5 to junction US Hwy 30, then over US Hwy 30 to Cedar Rapids, IA, and (4) from Rockford, IL, over US Hwy 51 to junction Illinois Hwy 5, then over Illinois Hwy 5 to Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines, IA, and return over the same routes for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over pertinent service routes as follows: (1) from Rockford, IL, over US Hwy 20 to Independence, IA, then over Iowa Hwy 150 to Cedar Rapids, IA, and (2) from Rockford, IL, over US Hwy 20 to Waterloo, IA, then over US Hwy 63 to junction US Hwy 6, then over US Hwy 6 to Des Moines, IA, and return over the same routes. NOTE: The purpose of this amendment is to include deviation routes 3 and 4 which were inadvertently omitted.

MC 30605 (Deviation No. 31), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201, filed September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Raton, NM, over U.S. Hwy 87 to Amarillo, TX, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities, over a pertinent service route as follows: from Raton, NM, over U.S. Hwy 85 to Albuquerque, NM, then over U.S. Hwy 66 to Amarillo, TX, and return over the same route.

MC 30605 (Deviation No. 32), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 East Waterman, P.O. Box 56, Wichita, KS 67201, filed September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Kansas City, KS, over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction alternate U.S. Hwy 71 near Carthage, MO, then over alternate U.S. Hwy 71 to junction U.S. Hwy 71 south of Neosho, MO, then over U.S. Hwy 71 to Fort Smith, AR, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: Kansas City, KS, over U.S. Hwy 40 to Lawrence, KS, then over U.S. Hwy 59 to junction U.S. Hwy 169, then over U.S. Hwy 169 to junction New U.S. Hwy 169 near Cherryvale, KS, then over New U.S. Hwy 169 to junction U.S. Hwy 169 near Coffeyville, KS, then over U.S. Hwy 169 to Coffeyville, KS, then over U.S. Hwy 166 to Caney, KS, then over U.S. Hwy 75 to junction New U.S. Hwy 75 near Bartlesville, OK, then over New U.S. Hwy 75 to junction U.S. Hwy 75 near Ramona, OK, then over U.S. Hwy 75 to Tulsa, OK, then over U.S. Hwy 64 to Fort Smith AR, and return over the same route.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-31980 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

[S.O. No. 1344; I.C.C. ORDER NO. 50-A]

Rerouting of Traffic

To: All Railroads.

Upon further consideration of I.C.C. Order No. 50, and good cause appearing therefor:

Upon further consideration of I.C.C. Order No. 50, and good cause appearing therefor:

It is ordered:

I.C.C. Order No. 50 is vacated.

This order shall become effective September 27, 1979, and shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroad subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. A copy shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-31972 Filed 10-16-79; 8:45 am]

BILLING CODE 7035-01-M

Section of Rail Services Planning; Notice of Public Hearings

October 11, 1979.

The Interstate Commerce Commission today announced dates in October and early November for public hearings to consider the need for continued directed service over the bankrupt Chicago, Rock Island and Pacific Railroad Company. The initial 60-day period of directed service ends December 3, 1979.

On September 26, the ICC directed the Kansas City Terminal Railway Co. (KCT)—a swtiching company owned by 12 other railroads—to provide service for 60 days over the Rock Island lines, effective at 12:01 a.m., September 27. Under the Interstate Commerce Act, the Commission can extend the existing directed service for an additional 180 days.

The purpose of the public hearings is to identify which Rock Island services are "essential" and to identify those critical shipping points which do not receive adequate service from other railroads or other transportation modes. "The public input we receive at these hearings will have a substantial impact on the Commission's decision on continuing the Rock Island directed service," ICC Chairman Daniel O'Neal said.

To expedite the informal hearings, the ICC is requesting parties to coordinate their presentations with other participants representing similar interests. The ICC also requests that, if possible, written statements be submitted and that an oral summary of the testimony be presented during the hearings. No cross examination of witnesses will be permitted. The presiding officer, however, may ask questions of the witnesses.

Persons who wish to testify at the hearings should call the ICC's Section of Rail Services Planning toll free number—800-424-5204—between 7:30 a.m. and 5:00 p.m. (Central-Time) to arrange a convenient time to testify. Information about the hearings also may be obtained from the Section of Rail Services Planning at (202) 275-0831.

The Office of Rail Public Counsel has announced that it will be available to assist anyone interested in participating in the hearings. The Rail Public Counsel is an idependent federal agency, affiliated with the ICC, whose statutory duties include representing to the Commission the views of those communities and users of rail services which would not otherwise be represented in an ICC proceding, and assuring the development of a full public interest record. The Office of Rail Public Counsel's address is Suite 200, 1030 15th Street, N.W., Washington, D.C. 20005. The Rail Public Counsel may also be reached at (202) 254-7803.

The hearing locations, dates and times follow:

Rock Island Directed Service Hearings Locations, Dates, and Times

Little Rock, Arkansas, Sheradon Motor Inn, 6th & Ferry, Room B, Little Rock, Arkansas, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Denver, Colorado, Main Post Office, Auditorium, Room 269, 1823 Stout Street, Denver, Colorado, October 25, 1979, 9:30 a.m.

Chicago, Illinois, Palmer House, Dining Room #17, 17 East Monroe, Chicago, Illinois, October 30, 1979, 9:30 a.m. & 7:30 p.m.

Rock Island, Illinois, City Counsil Chambers, City Hall, 1520 3rd Avenue, Rock Island, Illinois, October 25, 1979, 9:30 a.m. & 7:30 p.m.

Des Moines, Iowa, Best Western Airport Inn, Gateroom 1, 1810 Army Post Road, Des Moines, Iowa, October 29, 1979, 9:30 a.m. & 7:30 p.m.

West Bend, Iowa, West Bend Community School, Auditorium, West Bend, Iowa, October 25, 1979, 9:30 a.m.

Phillipsburg, Kansas, Majestic Theater, Phillipsburg, Kansas, October 29, 1979, 9:30 a.m.

Topeka, Kansas, Ramada Inn Downtown, 6th Street and I-70, Regency Foyer Room, Topeka, Kansas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Wichita, Kansas, Post Office & Court House, Room 408, 401 N. Market, Wichita, Kansas, November 1, 1979, 9:30 a.m. & 7:30 p.m.

Alexandria, Louisiana, City Council Chambers, City Hall, 1st Floor, 913 3rd Street, Alexandria, Louisiana, October 25, 1979, 9:30 a.m. & 7:30 p.m.

St. Paul, Minnesota, St. Paul Civic Center, I.A. O'Shaughnessy Plaza, Concourse Meeting Room C-15, St. Paul, Minnesota, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Kansas City, Missouri, Holiday Inn, City Center, Topeka Room, 1301 Wyandotte Street, Kansas City, Missouri, October 22, 1979, 9:30 a.m. & 7:30 p.m.

Lincoln, Nebraska, City Council Chambers, County/City Building, 555 South 10th, Lincoln, Nebraska, October 25, 1979, 9:30 a.m. & 7:30 p.m.

Oklahoma City, Oklahoma, Alfred P. Murrah Bldg., Room 911, 200 N.W. 5th, Oklahoma City, Oklahoma, November 1, 1979, 9:30 a.m.

Amarillo, Texas, Amarillo Civic Center, Meeting Area South, 3rd & Buchanan, Amarillo, Texas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Dallas, Texas, Federal Office Building, 1100 Commerce Street, Room 5815, Dallas, Texas, October 29, 1979, 9:30 a.m. & 7:30 p.m.

Houston, Texas, Sheraton Hotel, Ballroom, 777 Polk Street, Houston, Texas, November 1, 1979, 9:30 a.m.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-31985 Filed 10-16-79; 8:45am]

BILLING CODE 7035-01-M

V 44 0C 17 79 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Commodity Futures Trading Commission	2
Consumer Product Safety Commission	3, 4
Federal Deposit Insurance Corporation	5, 6
Federal Maritime Commission	7
Federal Mine Safety and Health Review Commission	8
National Transportation Safety Board	9
Nuclear Regulatory Commission	10

1

[M-252, AmdL 3; Oct. 11, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 16, 1979, agenda.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Dockets 36442 and 36443—Application of Ozark Air Lines for restriction removal under Subpart Q in the Chicago-Madison market, and related exemption request. (Memo No. 9208, BDA)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: The Subpart Q application in Docket 36442 is required to be acted on by October 22, 1979. In order for the Board to act before this date, it is necessary for this item to be considered at the October 16, 1979 meeting. Accordingly, the following Members have voted that Item 2a be added to the October 16, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2031-79 Filed 10-15-79; 3:34 pm]

BILLING CODE 6320-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 26, 1979.

PLACE: 2033 K Street NW., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2023-79 Filed 10-15-79; 10:32 am]

BILLING CODE 6351-01-M

3

[Revised Agenda as of Oct. 12, 1979][1]

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: Commission Meeting, Wednesday, October 17, 1979, 9:30 a.m.

LOCATION: Third Floor Hearing Room, and Eighth Floor Conference Room, 1111-18th St., NW., Washington, DC.

STATUE: Part Open, Part Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public

1. Data Collection Options

The Commission will decide on two matters related to collection of hazard data: an interagency with the U.S. Fire Administration, and the Medical Examiners and Coroners Alert Program (MECAP). The Commission and staff previously discussed this matter on August 29 and on September 13.

B. Closed to the Public

2. Lead in Point: Children's Clothing

The Commission and staff will discuss issues related to litigation concerning the regulation of lead-containing paint. (Closed under exemption 10: litigation.)

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111-18th St., NW., Washington, DC 20207, Telephone: (202) 634-7700.

[S-2024-79 Filed 10-15-79; 11:41 am]

BILLING CODE 6355-01-M

[1] Agenda revised October 12 to amend the description of Item 1. Agenda previously revised October 9 to add Item 2. Agenda originally approved October 5.

4

CONSUMER PRODUCT SAFETY COMMISSION.

Agenda

TIME AND DATE: Commission Meeting, Wednesday, October 24, 1979, 9:30 a.m.

LOCATION: Third Floor Hearing Room, 1111-18th St., NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Environmental Review: Droft Proposed Procedures

The Commission will consider a draft document to propose procedures to implement regulations issued by the Council on Environmental Quality concerning agency compliance with the National Environmental Policy Act.

2. Asbestos in Hair Dryers: 26 Corrective Action Plans: Status Report

Staff from the Product Defect Correction Division of Compliance and Enforcement has recommended that the Commission accept corrective action plans proposed by 26 firms that manufactured, imported or distributed hand-held hair dryers contain asbestos. The staff will also present a status report on its monitoring or previously-accepted corrective action plans.

Agenda approved October 12, 1979.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Assistant Secretary, Suite 300, 1111-18th St., NW., Washington, DC 20207, Telephone: (202) 634-7700.

[S-2025-79 Filed 10-15-79; 11:41 am]

BILLING CODE 6355-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, October 22, 1979, to consider the following matters:

Disposition of minutes of previous meetings.

Request by the Comptroller of the Currency for a report on the competitive factors involved in the proposed merger of Northwestern National Bank of Sioux Falls, Sioux Falls, South Dakota, and Springfield State Bank, Springfield, South Dakota.

Request by the Board of Governors of the Federal Reserve System for a report on the competitive factors involved in the proposed merger of United California Bank, Los Angeles, California, and Gavilan Bank, Gilroy, California.

Memorandum and Resolution proposing the publication for comment of an amendment to the Corporation's regulations governing disclosure of information (12 CFR Part 309) regarding Annual Trust Department Reports of Assets.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assests pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2026-79 Filed 10-15-79; 1:03 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, October 22, 1979, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors pursuant to sections 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of title 5, United States Code, to consider the following matters:

Applications for Federal deposit insurance:

The Peoples Bank and Trust Company of Pointe Coupee Parish, Louisiana, at proposed new bank, to be located at the intersection of Hospital Road and Ewing Drive, New Roads, Pointe Coupee Parish, Louisiana, for Federal deposit insurance.

American Bank of Commerce, a proposed new bank, to be located at 500 East Charleston Boulevard, Las Vegas, Nevada, for Federal deposit insurance.

Colonial Mutual Savings Bank, Philadelphia, Pennsylvania, a proposed new bank, for Federal deposit insurance coincident with conversion of a savings and loan association into a mutual savings bank.

Applications for consent to establish a branch:

Lloyds Bank California, Los Angeles, California, for consent to establish a branch at the northwest corner of Almaden Boulevard and Santa Clara Street, San Jose, California.

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey, for consent to establish a branch at the intersection of Route 9 and Beach Boulevard, Lacey Township (P.O. Forked River), New Jersey.

The Western New York Savings Bank, Buffalo, New York, for consent to establish a branch at 807 Elmwood Avenue, Buffalo, New York.

Banco de Ponce, Ponce, Puerto Rico, for consent to establish a branch at Trujillo Alto Avenue (Route 181), Km 3.5, Las Cuevas Ward, Trujillo Alto, Puerto Rico.

Application for consent to add a subordinated capital note to the bank's capital structure and for advance consent to the retirement thereof:

Citizens State Bank of New Jersey, Lacey Township (P.O. Forked River), New Jersey.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 44,070-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 44,083-NR—United States National Bank, San Diego, California.

Case No. 44,084-L—Northern Ohio Bank, Cleveland, Ohio.

Case No. 44,088-L—American Bank & Trust, Orangeburg, South Carolina.

Case No. 44,089-L—American Bank & Trust, Orangeburg, South Carolina.

Application for consent to merge, to establish branches, and to redesignate the main office location:

American Beach Boulevard Bank, Jacksonville, Florida, an insured State nonmember bank, for consent to merge with American Arlington Bank, Jacksonvile, Florida, an insured State nonmember bank, and American Mandarin Bank, Jacksonville, Florida, an insured State nonmember bank, under the charter of American Beach Boulevard Bank and with the title American Bank, for consent to establish the sole office of each of the two banks being acquired as branches of the resultant bank, and for consent to redesignate the main office location of the resultant bank to be the present site of American Mandarin Bank.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, N.W., Washington, D.C.

Requests for information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2027-79 Filed 10-15-79; 1:03 pm]

BILLING CODE 6714-01-M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 22, 1979, 9:30 a.m.

PLACE: Hearing Room One—1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

1. Special Docket No. 666: Application of Sea-Land Service, Inc. for the Benefit of New Era Shipping as Agent for Central National Corporation—Review of Initial Decision.
2. Docket No. 78-46—Proposed rules establishing substantive guidelines applicable to NVOCC's operating in the domestic offshore trades.
3. Docket No. 79-65: Trailer Marine Transport Corporation—Proposed Reduced Rates on Sugar Cane & Refined Sugar N.O.S.—Appeal of denial of motion to discontinue.
4. Agreement No. LM-27-A: Assessment agreement of the Tampa Maritime Association.

Portion Closed to the Public

1. Docket No. 78-28: International Trade & Development, Inc. and Robert H. Wall, Inc. v. Sentinel Line and Anchor Shipping Corporation—Review of Initial Decision.

V 44 O C 17 79 UMI

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary, (202) 523-5725.

[S-2030-79 Filed 10-15-79; 8:45 am]

BILLING CODE 6730-01-M

8

October 11, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10 a.m., October 16, 1979.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: This meeting may be closed.

MATTERS TO BE CONSIDERED:

The Commission will consider and act upon the following:

1. Davis Coal Company, HOPE 79-195-P, 79-233-P, 79-234-P and WEVA 79-25 (Consideration of direction for review)
2. Hyannis Sand and Gravel, Inc., YORK 79-59-M (Consideration of direction for review)
3. King Coal Company, KENT 79-196, 79-197. (Consideration of direction for review)
4. Helen Mining Company, PITT 79-11-P
5. Kentland-Elkhorn Coal Corporation, PIKE 78-399.

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on these items and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2026-79 Filed 10-15-79; 2:41 pm]

BILLING CODE 6820-12-M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 3:30 p.m., Monday, October 15, 1979. [NM-79-38]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Closed under Exemption 9B of the Government in the Sunshine Act. (A majority of the Board has voted that this meeting may be closed and that no earlier notice was possible.)

MATTER TO BE CONSIDERED: *Discussion* of Board strategy for proposed investigation and hearing on commuter aviation safety.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202-472-6022.

October 15, 1979.

[S-2032-79 Filed 10-15-79; 3:36 pm]

BILLING CODE 4910-58-M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of October 15, 1979 (Changes).

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, DC.

STATUS: Open/Closed.

MATTERS TO BE CONSIDERED:

Monday, October 15, 11 a.m.

Discussion of Personnel Matter (approximately 1½ hours, closed—Ex. 6, Continued from 10/11)—Additional Item.

Monday, October 15, 1:30 p.m.

1. Briefing on Siting Policy Task Force Report (approximately 1½ hours, public meeting)—As Scheduled.
2. Discussion of Improving Commission Procedures and Full Access Provision (approximately 1½ hours public meeting)—As Scheduled.

Tuesday, October 16, 9:30 a.m.

1. Briefing on TMI Lessons Learned Task Force Report (approximately 2 hours, public meeting)—As Schedule.
2. Affirmation Session (approximately 5 minutes, public meeting): a. ALAB-531, Portland General Electric, Trojan, rescheduled from 10/10)—Additional Item.

Tuesday, October 16, 1:30 p.m.

1. Briefing on Revision to the Operating Assumption covering the Relative Ease of Fabricating Clandestine Fission Explosives (approximately 1½ hours, closed—Ex. 1)—As Scheduled.
2. Discussion of Commission's Decision-Making Role in Emergency Response (rescheduled from 10/11, approximately 1½ hours, public meeting)—Additional Item.

Friday, October 19, 2 p.m.

Briefing on 10 CFR Part 21, Analysis of Comment Letters (approximately 1 hours, public meeting)—Tentative.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202-634-1410.

Walter Magee,
Office of the Secretary.
October 11, 1979.

[S-2028-79 Filed 10-15-79; 8:45 am]

BILLING CODE 7590-01-M

V 44 0C 1 7 7 9 UMI

federal register

Wednesday
October 17, 1979

Part II

Department of Health, Education, and Welfare

Office of Education

Career Education Incentive Programs

V 44 0C 17 79 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Parts 161 and 161a

Career Education Incentive Programs

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: The Commissioner of Education issues final regulations to govern the Career Education Incentive Program authorized under the Career Education Incentive Act.

The Act authorizes four new programs of financial assistance to enable public and private agencies and organizations to make career education a major goal of education by increasing the emphasis they place on career awareness, exploration, decisionmaking, and planning.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. These regulations will be transmitted to Congress several days before they are published in the Federal Register. The effective date is changed by statute if Congress disapproves the provisions of these regulations or takes certain adjournments. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Sidney C. High, Jr. U.S. Office of Education, 7th & D Streets, S.W., Room 3108–A, Washington, D.C. 20202. Telephone: (202)245–2331.

SUPPPLEMENTARY INFORMATION: The Commissioner of Education published in the Federal Register on December 18, 1978 (43 FR 58912) a Notice of Proposed Rulemaking. On December 29, 1978, January 6, 1979, and January 12, 1979 the Commissioner held public meetings on the proposed regulations in St. Louis, Missouri; Phoenix, Arizona; and Washington, D.C. respectively. Interested persons were afforded forty-five days to comment on these proposed regulations. During the forty-five day comment period ninety-three persons submitted written comments and sixty-seven made statements or posed questions at the three public meetings. The paragraphs that follow summarize those comments and the Commissioner's responses to them.

PART 161—STATE ALLOTMENT PROGRAM

§ 161.2 Purposes.

Comment. A person commented that the phrase "in making career choices" should be included after "opportunities" in § 161.2(b).

Response. The Commissioner agrees. Section 161.2(b) has been changed accordingly.

§ 161.2(c) Purposes.

Comment. Another person indicated that the phrase "work to eliminate" be used instead of "eliminate".

Response. No change has been made. The language used reflects the purposes described in Section 3 of the Act, as well as the definitions for career education in section 15(a) and (b) of the Act.

§ 161.3 Definitions.

Comment. Several other persons suggested that the terms "career education" and "handicapped" be defined.

Response. No change has been made. Those terms are defined in section 15 of the Act and are not repeated in these regulations.

Comment. A person commented that the definition for discrimination should say that it is an illegal action.

Response. No change has been made. Any State and its subgrantees that receive Federal assistance from this Department, must comply with the following statutes and regulations regarding nondiscrimination. These statutes prohibit, in any Federally assisted activity, discrimination based on 1) race, color, or national origin—Title VI of the Civil Rights Act of 1964, (42 CFR Part 80); 2) sex—Title IX of the Education Amendments of 1972 (45 CFR Part 86); 3) handicap—section 504 of the Rehabilitation Act of 1973 (45 CFR Part 84); and 4) age—The Age Discrimination Act of 1975 (45 CFR Part 90 "general government-wide age discrimination regulations"). Whether an action constitutes discrimination, is governed by these authorities. Procedures and requirements for determining the legality of any action are contained in those authorities. The regulations in Part 161 and 161a do not cover this determination. Therefore, the definition of discrimination has not been changed to include the term "illegal".

§ 161.14(a) Allotments for Fiscal Years 1980–81.

Comment. Several persons commented that the Commissioner should recommend goals and steps to assist States to meet the State plan requirements of Section 7 of the Act.

Response. No change has been made. Each State or Insular Area can best develop a plan to fit its own situation. In doing this it must determine its own needs and establish objectives, policies, and procedures to respond to those needs. This assures maximum State initiative without Federal interference in the State and local school systems.

§ 161.21 Use of funds.

Comment. A person suggested that a State that receives a minimum allotment of funds under section 5 of the Act should be allowed to exceed the 10 percent limit on the amount of the State allotment funds that can be used for hiring State educational agency personnel.

Response. No change has been made. This limitation is prescribed in section 9(b) of the Act. No exception is made for a State that receives a minimum allotment.

§ 161.31 Applications and review.

Comment. Several persons commented that the regulations should require States to review applications from local educational agencies for compliance with provisions for equal access to career education projects for all students through the elimination of bias, stereotyping and discrimination.

Response. No change has been made. The Act does not set criteria for the review by States of local applications. These criteria are to be established by the States. One of the purposes of the Career Education Program is to provide equal access of all students to career education projects through the elimination of bias, stereotyping, and discrimination. All activities carried out under the program must contain this element. The State in administering the program, must insure this purpose is carried out in the local projects for which it is responsible.

Comment. A person suggested that the regulations require linkages between career education projects and Comprehensive Employment and Training Act (CETA) projects.

Response. No change has been made. Section 161.31(b) requires only that each State establish criteria for making payments to local educational agencies. A State may include provisions for linkages with CETA projects if it feels that these linkages are appropriate.

§ 161.54 Reports.

Comment. A person suggested that reports describe the linkages between career education projects and CETA projects.

Response. No change has been made. Although these linkages may be

desirable for some projects, they are not required under the Act.

Other comments.

Comment. A person suggested that the regulations should include provisions to enable handicapped students and gifted and talented students to participate in career education.

Response. No change has been made. Section 7(3) of the Act requires a State to provide in its State plan, equal access for all students to career education programs. Handicapped students are specifically included under the language of that section. Gifted and talented students, though not singled out under the law as a group, would be afforded equal access as individuals with other students under the statutory term "all students."

Comment. One person suggested that the Commissioner should recommend procedures that a State should use to "assure access for all students in local projects".

Response. No change has been made. Under section 7 of the Act, each State or Insular Area develops its procedures to assure equal access of all students. Each State or Insular Area that receives an allotment of funds must submit an annual report. This contains an analysis of the extent to which it has met its objectives, policies, and procedures for overcoming bias, discrimination, and stereotyping, as well as for assuring equal access for all students to projects assisted under this program. After a review of this report the Commissioner makes recommendations to the State for improvement. Section 9(a) authorizes the Commissioner to reduce a State's allotment to the extent it fails to meet these objectives.

Comment. One person commented that the Commissioner should require States to describe how the needs of handicapped students will be met.

Response. No change has been made. The regulations in § 161.14(a) require each State and Insular Areas to submit a plan that contains the information required in Section 7 of the Act. This information includes "policies and procedures which the State will follow to assure equal access of all students (including the handicapped . . .) to career education programs . . ."

Comment. One person suggested that 15 percent of the funds distributed to local schools should be allocated for handicapped students. The same person suggested that 5 percent of this amount allocated for handicapped students should go to State institutions for the handicapped.

Response. No change has been made. Section 6(9) of the Act sets certain restrictions on the local distribution of funds by the State. Thus a State cannot allocate funds among LEAs on a per capita enrollment basis or through matching of local expenditures on a uniform basis. Beyond these restrictions a State distributes the funds as it sees fit, consistent with the intent of the Act. A State cannot be required to reserve a portion of the local funds for handicapped students. This type of provision, however, would not be inconsistent with the Act if a State wanted to use a certain portion of the funds for these students.

Comment. A person expressed concern that the person designated as State Vocational Education Sex Equity Coordinator might not be used to satisfy the staffing requirements of section 6(6) of the Act.

Response. Any State that receives more than the minimum allotment of $125,000 must meet these staffing requirements. It is up to the State to determine the person best qualified to deal with problems of discrimination and stereotyping. Although many of the activities conducted by the State Vocational Education Sex Equity Coordinator could be coordinated with those provided under the State Allotment Program, the specific responsibilities of the sex equity coordinator are mandated by the Vocational Education Act. Thus, a State cannot delegate the responsibilities under section 6(6) to the sex equity coordinator.

Comment. Several people suggested content changes in the assurances in Appendix A.

Response. The only changes that have been made with respect to the assurances are for clarity or organization. Section 6 of the Act specifies certain assurances that a State must make before it can receive funds under the State allotment program. The assurances in Appendix A reflect these statutory requirements.

PART 161a—DISCRETIONARY PROGRAMS

§§ 161a.12 and 161a.22 Eligible applicants.

Comment. Several persons raised questions about those eligible to apply for assistance under the Model Program and the Postsecondary Career Education Demonstration Program. Some persons suggested that participants in model projects under section 10 of the Act be students at the postsecondary level. Others suggested that participants in postsecondary projects under section 11 of the Act be high school students.

Response. No change has been made. The eligible applicants specified in §§ 161a.12 and 161a.22 of the regulations reflect the provisions of sections 10 and 11 of the Act respectively.

These regulations reflect Congressional intent to establish two separate discretionary programs that address the needs of students at elementary and secondary levels and at the postsecondary level.

§ 161a.21 Purpose.

Comment. Several persons made suggestions regarding specific groups to whom the postsecondary demonstration projects should be targeted.

Response. No change has been made. The applicant is responsible for selecting the population to be served that will best carry out one or more of the purposes described in § 161a.21(a). Although the projects must focus on the postsecondary level, there are no further requirements with respect to specific groups that must be served.

Comment. A number of persons raised questions and made suggestions about specific types of projects that could be supported under the Postsecondary Career Education Demonstration Program. Some asked if the Commissioner would fund projects that addressed any purpose specified in § 161a.21(a) through staff development. Others thought that internal collaboration among various departments within their respective institutions was an appropriate response to their needs. Some thought that a project involving collaboration among postsecondary institutions—as well as with business, labor, and community organizations—should be allowed. Some said that projects should focus on the transition of persons from work to school, as well as from school to work. Several thought that a comprehensive approach should be specified in the regulations.

Response. No change has been made. Any eligible applicant that addresses the general purposes in § 161a.21 will be reviewed according to the criteria contained in § 161a.41. The applicant's approach could focus on staff development, internal or external collaboration, communication, or transition, or it could be a comprehensive approach. The key issue is the extent to which the applicant addresses the purposes in § 161a.21. This enables the applicant to determine the approach that best suits its needs.

Comment. Several persons commented that the term "postsecondary education program" in § 161a.21(a)(1) might be construed to mean programs designed to train educational personnel. They suggested substituting the word "educational" for "education".

Response. The Commissioner agrees that this usage might be confusing. However, to call the program in § 161a.21(a)(1) an educational program might imply that the guidance programs in § 161a.21 (2) and (3) are not considered educational programs. Consequently, to avoid any confusion, and make clear that the purpose in § 161a.21(a)(1) is not limited to promoting career education in educational personnel training programs, § 161a.21(a)(1) has been changed to read "postsecondary intructional programs". This insures that a broad range of postsecondary level programs will be affected by career education.

Comment. A number of persons recommended that the Commissioner give priority to certain purposes under the postsecondary demonstration program. One person recommended that 85 percent of the postsecondary funds be reserved for guidance. Several others thought that college placement should be emphasized.

Response. No change has been made. The Act does not set specific percentages of funds for certain types of activities for any of the discretionary programs. However, in order to meet unexpected needs that might arise in a particular year, a new § 161a.4 *Emphasis among project purposes* has been added. This section provides that the Commissioner may, in any given year, emphasize one or more of the discretionary project purposes in § 161a.11 (Model projects), § 161a.21 (Postsecondary projects), and § 161a.31 (Career education information program). This is announced in the Federal Register.

§ *161a.22 Eligible applicants.*

Comment. One person asked if a Territorial agency was an eligible applicant under the Postsecondary Career Education Demonstration Program. Another asked if postsecondary associations were eligible.

Response. A territorial or Insular Area agency is a public agency and is therefore eligible to apply for assistance under the postsecondary program. If an association is a public or nonprofit private organization, it is eligible for a grant under this program.

A profit-making private organization may bid only for a procurement contract under this program.

§ *161a.41 Application review criteria.*

Comment. A number of persons commented that too little emphasis had been placed on the elimination of bias, discrimination, and stereotyping based on sex and handicap. Others felt that too much emphasis has been placed on the elimination of bias, discrimination, and stereotyping in general. Some commented that the emphasis placed on equity issues reduced the consideration given to other criteria.

Response. No change has been made. In keeping with the purpose stated in section 3 of the Act, each career education project must promote equal opportunity in making career choices. It must promote this through the elimination of bias, discrimination, and stereotyping in career awareness, exploration, decisionmaking, and planning. The Act does not differentiate between the specific bases for bias and stereotyping. It does not emphasize one basis over another. This is maintained in these regulations.

Because of the importance of this requirement in the concept of career education, it is necessary to assure that a project that fails to respond to these requirements is not funded. Therefore, the Commissioner has established a minimum required point score with respect to the elimination of stereotyping, bias, and discrimination in career education activities. This means that regardless of an applicant's score on all criteria, if it did not achieve at least 7 points under this criterion it would not be funded.

Comment. A number of people made suggestions regarding the content and strategies for requests for proposals under both the Postsecondary Career Education Demonstration Program and the Career Education Information Program.

Response. No change has been made. These regulations do not govern procurement contracts. Contracts are subject to applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3 and requirements and criteria in particular requests for proposals. Those suggestions will be considered in developing the requests for proposals.

These final regulations contain minor editorial and organizational changes to conform to the Education Division General Administrative Regulations (EDGAR). Section 161a.41 has been reorganized to include general criteria required of all Education Division Programs under EDGAR.

These proposed regulations are issued under the authority of the Career Education Incentive Act, Pub. L. 95–207.

Dated: August 2, 1979.

Mary F. Berry,

Acting U.S. Commissioner of Education.

Approved: October 4, 1979.

Patricia Roberts Harris,

Secretary of Health, Education, and Welfare.

(Catalog of Federal Domestic Assistance Nos. 13.596, Career Education State Allotment Program and 13.554, Career Education Discretionary Programs.)

Having considered all comments, the Commissioner is amending the Parts 161 and 161a of Title 45 of the Code of Federal Regulations to read as follows:

PART 161—CAREER EDUCATION, STATE ALLOTMENT PROGRAM

General

Sec.
161.1 Scope.
161.2 Purposes.
161.3 Definitions.
161.4 Regulations applicable to the State allotment program.
161.5–10 [Reserved]

Allotments

161.11 Eligible applicants.
161.12 Allotments.
161.13 Allotments for Fiscal Year 1979.
161.14 Allotments for Fiscal Years 1980–81.
161.15 Allotments for Fiscal Years 1982–83.
161.16–20 [Reserved]

Use of Funds

161.21 Use of funds.
161.22–30 [Reserved]

Local Educational Agencies

161.31 Applications and review.
161.32 Use of funds.
161.33–40 [Reserved]

Private Schools

161.41 Private school participation.
161.42–50 [Reserved]

Maintenance of Effort and Cost Sharing

161.51 Maintenance of effort.
161.52 Federal share of expenditures for employing State personnel.
161.53 Federal share of expenditures for State leadership and local implementation.
161.54 Reports.
Appendix: Assurances.

Authority.—Secs. 2–16, Pub. L. 95–207, 91 Stat. 1464–1474 (20 U.S.C. 2601–2614, 2502), unless otherwise noted.

General

§ 161.1 Scope.

Part 161 contains regulations for the State allotment program of the Career Education Incentive Act (Pub. L. 95–207).

(Secs. 1–9, 13–16, 20 U.S.C. 2601–2608, 2612–2614, 2502)

§ 161.2 Purposes.

(a) Recipients of funds under this part shall make career education a major goal in education by increasing the emphasis they place on career awareness, exploration, decision making, and planning.

(b) Recipients shall conduct activities in a manner that promotes equal opportunities in making career choices for students engaging in the activities and programs assisted under the Act.

(c) Recipients shall eliminate practices that promote bias and stereotyping based on race, sex, age, economic status, national origin and handicap.

(Sec. 3, U.S.C. 2602)

§ 161.3 Definitions.

(a) *Definitions in EDGAR.*

The following terms used in this part are defined in Part 100c of The Education Division General Administratve Regulations:

"Applicant"
"Applications"
"EDGAR"
"Grant"
"Nonprofit"
"Private"
"Program"
"Project"
"Public agency"

(b) The following definitions apply to these regulations:

"Act" means the Career Education Incentive Act, Pub. L. 95–207.

(20 U.S.C. 2601–2614, 2502)

"Bias" means behavior resulting from the assumption that one person or group of persons is superior or inferior to another person or group of persons on the basis of sex, race, age, economic status, national origin, or handicap.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, national origin, or handicap.

(Sec. 15, 20 U.S.C. 2614)

"Insular Areas" means the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(48 U.S.C. 1469a)

"Plan" means the State plan required under Sec. 7 of the Act.

"Recipient" means a State or Insular Area that receives an allotment under this Part.

"State" means the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

"Stereotyping" means attributing behavior, abilities, interests, values, and roles to a person or group of persons on the basis of sex, race, age, economic status, national origin, and handicap.

In addition, the definitions in Sec. 15 of the Act apply to this part.

(Sec. 15, 20 U.S.C. 2614)

§ 161.4 Regulations applicable to the State allotment program.

Programs and projects under this Part are subject to the applicable provisions of:

(a) The Education Division General Administrative Regulations (EDGAR), part 100b (State administered programs) and part 100c (Definitions) published as a notice of proposed rulemaking on May 4, 1979 in the Federal Register; and

(b) The regulations in this part.

(20 U.S.C. 2301 *et seq.*)

ALLOTMENTS

§ 161.11 Eligible applicants.

Any State or Insular Area may apply for an allotment of funds under this part.

(Sec. 5, 20 U.S.C. 2604)

§ 161.12 Allotments.

(a) The Commissioner determines each State's allotment of funds for career education according to the formula in Sec. 5 of the Act.

(b) No State will be allotted less than $125,000 for a fiscal year.

(Sec. 5(a)(1), 20 U.S.C. 2604)

(c) The Commissioner may reserve an amount, in accordance with Sec. 5 of the Act, for payments to the Insular Areas.

(Sec. 5(a)(2)(D), 20 U.S.C. 2604)

§ 161.13 Allotments for Fiscal Year 1979.

(a) A State applying for an allotment of funds for Fiscal Year 1979 must file an application that contains the assurances listed in the Appendix to these regulations.

(Sec. 6, 20 U.S.C. 2605)

(b) An Insular Area applying for an allotment of funds for Fiscal Year 1979 must file assurances in the same manner as a State.

(Implements Sec. 5(a)(2)(D), 20 U.S.C. 2606)

§ 161.14 Allotments for Fiscal Years 1980–81.

(a) A State applying for an allotment for each of the Fiscal Years 1980 and 1981 must submit a plan to the Commissioner by July 1, 1979. In the plan the State must:

(1) Provide the information specified in Sec. 7 of the Act;

(2) Describe the methods it plans to use to evaluate the extent to which it has:

(i) Achieved its objectives for State leadership and local implementation of career education; and

(ii) Eliminated discrimination, bias, and stereotyping in career education activities; and

(3) Describe the methods it plans to use to evaluate the overall effectiveness of State leadership and coordination and of local implementation.

(b) An Insular Area applying for an allotment for each of the Fiscal Years 1980 and 1981 must file a plan in the same manner as a State. The plan must contain the information required in § 161.14(a).

(Implements Sec. 7, 20 U.S.C. 2606)

(c) The Commissioner pays each State or Insular Area its allotment of funds for each of these fiscal years, provided the State or Insular Area has filed the assurances in accordance with § 161.13 and is in compliance with Secs. 6, 7, and 8 of the Act for Fiscal Years 1980 and 1981.

(Sec. 9(a)(1), 20 U.S.C. 2608)

§ 161.15 Allotments for Fiscal Years 1982–83.

(a) The Commissioner pays the State or Insular Area its allotment of funds for each Fiscal Year 1982 and 1983 provided the State or Insular Area is in compliance with Secs. 7 and 8 of the Act, for Fiscal Years 1980 and 1981.

(b) The Commissioner reduces the recipient's allotment in proportion to the extent the Commissioner determines the recipient has failed to meet the objectives in its plan.

(Implements Secs. 7, 9(a)(2), 20 U.S.C. 2606, 2608)

Use of Funds

§ 161.21 Use of funds.

(a) No State may reserve more than 10 percent of its funds received under this part for providing State leadership activities listed in Sec. 8(a)(2) of the Act, either directly or through arrangements with public agencies and private organizations, including institutions of higher education.

(Secs. 8(a)(2), 9(b)(1), 20 U.S.C. 2607, 2608)

(b) No State may reserve more than 10 percent of its funds received under this part for Fiscal Year 1979 and 5 percent of its funds in Fiscal Years 1980, 1981, 1982, and 1983 for—

(1) Employing additional State educational agency (SEA) personnel as required for administration and coordination of programs assisted under the Act; and

(2) Reviewing and revising the State plan.

(Secs. 8(a) (1) and (4), 9(b)(2), 20 U.S.C. 2607, 2608)

(c) The remainder of these funds—the funds not reserved as described in paragraphs (a) and (b) above—must be distributed by the State to local educational agencies (LEAs) for comprehensive career education

V 44 0 C 1 7 7 9 UMI

programs described in Sec. 8(a)(3) of the Act.

(Sec. 9(b), 20 U.S.C. 2608)

(d) At least 15 percent of the funds distributed to LEAs, as described in paragraph (c) above, must be used for programs to develop and implement comprehensive career guidance, counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel. For example, the State's allotment is $1,000,000 and the total amount distributed to the LEAs in the State is $850,000. At least 15 percent of this amount, or $127,500, must be used for these purposes. Each LEA does not have to use 15 percent of the funds it receives for these purposes. Some may use more; Some may use less, but the average amount spent by all the LEAs for these purposes must be at least 15 percent of the total LEAs' distribution, or $127,500.

(Secs. 6(10), 9(b), 20 U.S.C. 2605, 2608)

Local Educational Agencies

§ 161.31 Applications and review.

(a) To obtain funds for comprehensive career education programs, a local educational agency (LEA) must apply to its State educational agency (SEA).

Sec. 8(a)(3), (b), 20 U.S.C. 2607)

(b) Each SEA shall review applications and may make payments to LEAs, on an equitable basis to the extent practicable, on the basis of criteria established by the SEA and criteria in Sec. 8(b) of the Act.

(Sec. 8(b), 20 U.S.C. 2607)

§ 161.32 Use of funds.

LEAs may use funds for any of the purposes specified in Sec. 8(a)(3) of the Act.

(Sec. 8(a)(3), 20 U.S.C. 2607)

Private Schools

§ 161.41 Private school participation.

(a) Unless a State is prohibited by law from providing services to students and teachers in nonprofit private schools, the State must make provisions for the effective participation on an equitable basis of these students and teachers in programs assisted under this part. Services for students in private nonprofit schools shall be provided in accordance with 45 CFR Part 100b.650 through 100b.663 (EDGAR).

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(b) In States that are prohibited by law from providing for participation of students in private non-profit schools in programs under this part or if the State or LEA has substantially failed to provide for participation of these students on an equitable basis, the Commissioner arranges for provision of services to these students in accordance with Sec. 9(d) of the Act.

(Secs. 8(c)(1), 9(d) (1) and (2), 20 U.S.C. 2607, 2608)

(c) Services to students and teachers in nonprofit private schools shall be provided by employees of a public agency or through a contract between the public agency and a person, association, private agency, or corporation, each of which must be independent of any private school or of any religious organization. The employment or contract must be under the control or supervision of a public agency.

(Secs. 8(c)(1), 9(d)(1), 20 U.S.C. 2607, 2608)

(d) No funds to accommodate students and teachers in private schools shall be commingled with State or local funds.

(Sec. 8(c)(2)(B), 20 U.S.C. 2607)

Maintenance of Effort and Cost Sharing

§ 161.51 Maintenance of effort.

A State shall expend from its own sources an amount that is equal to or greater than the amount the State expended for career education in the immediately preceding fiscal year.

(Sec. 6(3)(A), 20 U.S.C. 2605)

§ 161.52 Federal share of expenditures for employing State personnel.

The Federal share of the cost of employing State personnel under Sec. 8(a)(1) of the Act (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Year 1979;

(b) 75 percent in Fiscal Year 1980; and

(c) 50 percent in Fiscal Years 1981, 1982, and 1983.

(Sec. 9(c)(1), 20 U.S.C. 2608)

§ 161.53 Federal share of expenditures for State leadership and local implementation.

The Federal share of the cost of providing State leadership for career education and making payments for local implementation (subject to the limitation in § 161.21) shall not exceed:

(a) 100 percent in Fiscal Years 1979 and 1980;

(b) 75 percent in Fiscal Year 1981;

(c) 50 percent in Fiscal Year 1982; and

(d) 25 percent in Fiscal Year 1983.

(Sec. 9(c)(2), 20 U.S.C. 2608)

§ 161.54 Reports.

Each grantee shall submit to the Commissioner, on or before December 31, of each year (except the first year of operation under this program), a report that contains:

(1) An analysis of the extent to which each objective in the State plan has been achieved;

(2) A description of the extent to which SEAs and LEAs are using State and local resources to achieve these objectives and a description of the extent to which funds received under this Act have been used to achieve these objectives; and

(3) A description of each career education project funded within the State, including an analysis of the reasons for its successes of failures.

(Sec. 14, 20 U.S.C. 2613)

Appendix—Assurances

A State or Insular Area shall assure the Commissioner that it will conduct the State allotment program in Part 161 in accordance with the following provisions. Those provisions preceded by an asterisk do not apply to the Insular Areas.

1. The State has notified the legislature and the Chief Executive that it is applying for an allotment of funds under Part 161.

(Sec. 6(2), 20 U.S.C. 2605)

2. The State educational agency (SEA) will plan for the use of funds and will administer the expenditure of funds received under Part 161.

(Sec. 6(1), 20 U.S.C. 2605)

3. The State will make every possible effort to integrate career education into the regular educational programs offered in elementary and secondary schools.

(Sec. 6(4), 20 U.S.C. 2605)

4. The SEA will require that career education programs assisted under the State allotment program be administered by SEAs and local educational agencies (LEAs) in a way that affects all elementary and secondary school instructional programs and not solely as a part of the vocational education program.

(Sec. 6(5), 20 U.S.C. 2605)

5. The SEA will designate a person with prior experience in career education to coordinate the programs assisted under the State allotment program.

(Sec. 6(5), 20 U.S.C. 2605)

State leadership activities

6. The State will reserve not more than ten percent of its allotment for Fiscal Years 1979, 1980, 1981, 1982, and 1983 for the following State leadership activities:

(a) Conducting in-service institutes for educational personnel;

(b) Training local career education coordinators;

(c) Collecting, evaluating, and disseminating career education materials with special emphasis on overcoming sex bias;

(d) Conducting Statewide needs assessment and evaluation studies;

(e) Conducting Statewide career education leadership conferences;

(f) Engaging in collaborative relationships with other agencies of State government and with public agencies and private organizations representing business, labor, industry, and the professions and organizations of handicapped persons, minorities, women, low-income persons and the elderly; and

(g) Assisting institutions of higher education to adapt teacher-training curricula to the concept of career education.

(Sec. 6(11), 20 U.S.C. 2605)

7. The State will reserve not more than ten percent of its allotment for Fiscal Year 1979 and not more than five percent of its allotment for Fiscal Years 1980, 1981, 1982, and 1983 for:

(a) Employing additional personnel to administer and to coordinate programs described in Part 161; and

(b) Reviewing and revising the State plan.

*8. The SEA will employ the staff necessary to administer the State allotment program and the programs assisted under it, including but not limited to:

(a) A person or persons experienced in dealing with problems of discrimination in the labor market, and stereotyping in career education, including bias and stereotyping based on race, sex, age, national origin, economic status, and handicap;

(b) A professional trained in guidance and counseling who shall work jointly in the office of the principal staff person responsible for the administration of this program and in the office of the person responsible for guidance and counseling for the State, if the latter office exists.

Paragraph (8) does not apply if the State receives only the minimum allotment of funds for the fiscal year.

(Secs. 5(c), 6(6), 20 U.S.C. 2604, 2605)

Review and revision of State plans

9. The SEA will continuously review and revise the plan submitted under Part 161.

10. The SEA will report to the Commissioner any amendments to the plan.

(Sec. 6(7), 20 U.S.C. 2605)

Maintenance of effort and cost sharing

*11. The State will expend, from its own sources, an amount equal to or greater than the amount it expended for career education the immediately preceding fiscal year.

*12. The State will pay from non-Federal sources the non-Federal share of the costs of carrying out the plan for Fiscal Years 1980, 1981, 1982, and 1983.

(Sec. 6(3), 20 U.S.C. 2605)

State payments to local educational agencies

*13. If the State determines that the jurisdiction in which an LEA is located is making a reasonable tax effort, the State will not deny funds to the LEA solely because the agency is unable to pay the non-Federal share of cost of programs assisted under part 161.

*14. The State will not make payments to LEAs based on per capita enrollment or through matching of local expenditures on a uniform percentage basis.

(Sec. 6(9), 20 U.S.C. 2605)

*15. The State will make payments to LEAs, on an equitable basis to the extent practicable, on the basis of criteria established by the SEA and will consider the special needs of LEAs that serve areas with:

(a) High incidence and prevalence of youth and adult unemployment;

(b) Sparse population; or

(c) Relatively few students.

(Secs. 6(11), 8(b), 20 U.S.C. 2605, 2607)

Local implementation activities

16. The State will use at least 15 percent of funds reserved for payments to LEAs under Sec. 9(b) of the Act to enable local agencies to develop and implement comprehensive career guidance programs. These programs include career counseling, information, placement, and follow-up services using counselors, teachers, parents, and community resource persons.

17. The State will distribute the remainder of its allotment of funds—not reserved under Sec. 9(b) of the Act or as described in Assurance 16—to LEAs to enable them to conduct comprehensive programs, including:

(a) Incorporating career education concepts and approaches into the instructional program;

(b) Developing and implementing comprehensive career guidance counseling, placement, and follow-up services using counselors, teachers, parents, and community resource personnel;

(c) Developing and implementing collaborative relationships with business and community organizations, including those that are represented by handicapped persons, minority groups, women, older persons, low-income persons, and other members of the community, and using persons from these groups as resource persons in schools and for student field trips into the community;

(d) Providing students whose primary purpose is career exploration with non-discriminatory and non-stereotyped work experiences that relate to existing or potential career opportunities and with work experiences that do not cause students to displace other workers;

(e) Employing career education coordinators in LEAs or in combinations of these agencies (but not at the individual school building level);

(f) Training local career education coordinators;

(g) Providing in-service education for teachers, counselors, and school administrators to enable them to understand career education, the changing work patterns of men and women, ways of overcoming sex stereotyping in career education, ways of helping men and women broaden their career horizons, and to develop competencies in the field of career education;

(i) Purchasing instructional materials and supplies for career education activities;

(j) Conducting institutes for members of boards of LEAs, community leaders, and parents about the nature and goals of career education;

(i) Establishing and operating community career education councils with appropriate representation of women, minorities, older persons, low-income persons, and handicapped persons;

(k) Establishing and operating career education resource centers to serve both students and the general public;

(l) Adopting, reviewing, and revising local plans for coordinating the implementation of the comprehensive program; and

(m) Conducting needs assessments and evaluations.

(Secs. 6(8), (11), 8(a)(3), 9(b), 20 U.S.C. 2605, 2607, 2608)

Services to students and teachers in nonprofit private schools

18. The State will consult with officials of private non-profit elementary and secondary schools. It will make provision for the effective participation, on an equitable basis, of students and teachers in programs and services assisted under part 161.

19. A public agency will control the funds provided under Part 161 and maintain title to and administer the use of the materials and equipment acquired with these funds.

20. A public agency will provide these services to students and teachers in nonprofit private schools directly using agency employees, or through a contract.

21. The public agency will not award a contract for the provisions of these services to a person, association, private agency, or corporation that is not independent of any private school or religious organization.

22. The State will not commingle with State or local funds those funds received under part 161 to accommodate students and teachers in private, non-profit schools.

(Secs. 6(11), 8(c), 20 U.S.C. 2605, 2607)

PART 161a—CAREER EDUCATION, DISCRETIONARY PROGRAMS

General

Sec.
161a.1 Scope.
161a.2 Definitions.
161a.3 Other regulations applicable to the career education discretionary programs.
161a.4 Emphasis among project purposes.
161a.5 Project duration.
161a.6–10 [Reserved]

Model Program

161a.11 Purpose.
161a.12 Eligible applicants.
161a.13 Criteria for review of applications.
161a.14–20 [Reserved]

Postsecondary Career Education Demonstration Program

161a.21 Purpose.
161a.22 Eligible applicants.
161a.23 Criteria for review of applications.
161a.24–30 [Reserved]

Career Education Information Program

161a.31 Purpose.
161a.32 Eligible applicants.
161a.33 Application information.
161a.34–40 [Reserved]

Model and Postsecondary Application Review Criteria

161a.41 Application review criteria.

Authority.—Secs. 2–16, Pub. L. 95–207, 91 Stat. 1464–1474 (20 U.S.C. 2601–2614, 2505), unless otherwise noted.

V 44 OC 17 79 UMI

V 44 0C 17 79 UMI

General

§ 161a.1 Scope.

Part 161a contains regulations for the discretionary model career education program, postsecondary career education demonstration program, and career education information program of the Career Education Incentive Act, Pub. L. 95-207.

(Secs. 10-12, 20 U.S.C. 2609-2611)

§ 161a.2 Definitions.

(a) *Definitions in EDGAR.* The following terms used in this part are defined in Part 100c of EDGAR:

"Applicant"	"Private"
"Applications"	"Program"
"EDGAR"	"Project"
"Grant"	"Public agency"
"Nonprofit"	"Secondary school"

(b) As used in these regulations—

"Act" means the "Career Education Incentive Act", Pub. L. 95-207, 20 U.S.C. 2601-2614, 2502.

"Bias" means behavior resulting from the assumption that one person or group of persons is superior or inferior to another person or group of persons on the basis of sex, race, age, national origin, economic status, or handicap.

"Discrimination" means any action that limits or denies a person or group of persons opportunities, privileges, roles, or rewards on the basis of race, sex, age, national origin, or handicap.

"Exemplary career education program" means a career education program that has achieved the standard of performance prescribed by the Joint Dissemination Review Panel of the Education Division of the Department of Health, Education, and Welfare.

"Stereotyping" means attributing behavior, abilities, interests, values, and roles to a person or group of persons on the basis of sex, race, age, national origin, economic status or handicap.

In addition, the definitions in Sec. 15 of the Act apply to this Part.

(Sec. 15, 20 U.S.C. 2614)

§ 161a.3 Other regulations applicable to the career education discretionary programs.

(a) Programs or projects under this Part are subject to the applicable provisions in:

(1) The Education Division General Administrative Regulations (EDGAR), part 100a (Direct Grant Programs) and part 100c (Definitions); and

(2) The regulations in this part.

(20 U.S.C. 2301 *et seq.*)

(b)(1) If the Commissioner arranges for the conduct of model programs under Sec. 10 of the Act, postsecondary career education demonstration projects under Sec. 11 of the Act, or carries out the career education information program under Sec. 12 of the Act by contract, these contracts are subject to the applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3.

(2) If the Commissioner proceeds by grant, the applicable provisions of 45 CFR parts 100a and 100c apply.

(Secs. 10-12, 20 U.S.C. 2609-2611, 2301 *et seq.*)

§ 161a.4 Emphasis among project purposes.

The Commissioner, may, in any given year, support projects for one or more of the purposes in § 161a.11 (model projects), § 161a.21 (Postsecondary projects), and § 161a.31 (career education information program). This is announced in the **Federal Register.**

(Secs. 10, 11, 12; 20 U.S.C. 2601, 2610, 2611)

§ 161a.5 Project duration.

(a) Projects will be funded for one year.

(b) An applicant desiring funding for a project under this part more than one year must submit a new application each fiscal year.

(20 U.S.C. 1221e-3(a)(1), 2602)

Model Program

§ 161a.11 Purposes.

The Commissioner makes awards to eligible applicants to support projects at elementary and secondary levels that demonstrate effective techniques of—

(a) Eliminating or counteracting bias and stereotyping based on race, sex, age, national origin, economic status, and handicap as well as eliminating or counteracting discrimination in career awareness, exploration, decision making, and planning;

(b) Promoting and sustaining diverse community and parent collaboration in the delivery of career awareness, exploration, decision making, and planning; or

(c) Accommodating handicapped students in regular classrooms to enable them to engage effectively in career awareness, exploration, decision making, and planning.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.12 Eligible applicants.

(a) Those eligible to apply for grants for model career education projects are:

(1) State educational agencies (SEAs);

(2) Local educational agencies (LEAs);

(3) Institutions of postsecondary education; and

(4) Other non-profit agencies and organizations.

(b) New applicants, as well as those that have conducted projects of proven effectiveness may apply under this program.

(Sec. 10(a), 20 U.S.C. 2609)

§ 161a.13 Criteria for review of applications.

The Commissioner uses the criteria in § 161a.41 to review applications for model project grants.

(Implements Sec. 10(a), 20 U.S.C. 2609)

Postsecondary Career Education Demonstration Program

§ 161a.21 Purposes.

(a) The Commissioner may conduct a postsecondary career education program that supports demonstration projects that:

(1) Promote career education in postsecondary instructional programs;

(2) Promote postsecondary career guidance and counseling programs designed to overcome bias and stereotyping based on race, sex, age, national origin, economic status, or handicap; or

(3) Strengthen career guidance, counseling, placement, and follow-up services.

(b) Each project assisted under Sec. 11 of the Act must be:

(1) Of national significance; or

(2) Of special value to others; and

(3) Free of bias, and stereotyping based on race, sex, age, economic status, and handicap, as well as discrimination.

(c) The Commissioner makes awards for postsecondary career education projects that foster communication, coordination and collaboration among—

(1) Similar projects at local, State, and Federal levels;

(2) Community and business organizations.

(Sec. 11(a) (1)-(3), 20 U.S.C. 2610)

§ 161a.22 Eligible applicants.

Those eligible to apply for awards are—

(a) Institutions of higher education;

(b) Public agencies; and

(c) Non-profit private organizations.

(Sec. 11(a), 20 U.S.C. 2610)

§ 161a.23 Criteria for review of applications.

(a) The Commissioner uses the criteria in § 161a.41 to review applications for grants.

(Implements Sec. 11, 20 U.S.C. 2610)

(b) The Commissioner does not approve an application unless—

(1) The applicant addresses at least one of the purposes specified in § 161a.21; and

(2) The applicant includes adequate provisions for evaluating overall project effectiveness and the extent to which each objective is achieved.

(Sec. 11(b), 20 U.S.C. 2610)

Career Education Information Program

§ 161a.31 Purpose.

The Commissioner provides information to projects assisted under this Act and to the general public about—

(a) Federal programs that gather, analyze, and disseminate occupational and career information; and

(b) Exemplary career education programs, including programs assisted under this Act.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.32 Eligible applicants.

Public and private agencies and organizations are eligible to apply for contract awards to carry out the career education information program.

(Sec. 12, 20 U.S.C. 2611)

§ 161a.33 Application information.

Applicants must apply in accordance with the application contents and application review criteria to be announced each fiscal year in the *Commerce Business Daily.*

(Implements Sec. 12, 20 U.S.C. 2611)

Model and Postsecondary Application Review Criteria

§ 161a.41 Application review criteria.

(a) The Commissioner evaluates an application for a grant under the Model Program (§ 161a.13) and the Postsecondary Career Education Demonstration Program (§ 161a.23) on the basis of the selection criteria used in §§ 100a.202 through 100a.206 (EDGAR) and the criteria contained in these regulations. The maximum possible point score for each criterion indicates the relative importance assigned to that criterion by the Commissioner.

(b) The selection criteria in EDGAR constitute 45 possible points and include the following:

(1) Plan of operation. (10 points)

(2) Quality of staff. (7 points)

(3) Budget and cost effectiveness. (5 points)

(4) Evaluation plan. (20 points)

(5) Adequacy of resources. (3 points)

(c) The criteria contained in the following paragraphs supplement the EDGAR criteria and constitute 55 possible points.

(1) *Need.* The extent to which the applicant clearly describes and documents the need for the project, including the population to be served and the project setting. (2 points)

(2) *Rationale.* The extent to which the applicant:

(i) Reviews and describes career education processes, techniques, and material developed in previous career education projects conducted by the applicant and/or by others.

(ii) Explains how relevant aspects of this previous work is to be utilized in implementing the proposed project. (3 points)

(3) *Objectives.* The applicant presents objectives that are:

(i) Clearly stated;

(ii) Relevant to project purposes;

(iii) Relevant to project needs;

(iv) Significant to others;

(v) Attainable; and

(vi) Measurable in terms of both the process and the outcome. (10 points)

(4) *Exemplary nature of project.* The extent to which the applicant's plan:

(i) Provides for a comprehensive career education project that, if successfully attained, holds high promise of serving as a useful model for others, and whose activities would be useful in other career education projects or programs for similar educational purposes. (10 points)

(ii) Contains provisions that foster coordination with similar projects, including plans for the development of an inventory of such projects and including provisions for collaborating with coordinators, managers, and staff of these projects. (10 points)

(iii) Contains specific measures to improve the project's career education activities by developing and maintaining effective education/work connections. (10 points)

(5) *The elimination or counteraction of stereotyping, bias and discrimination in career education activities.*

(i) The applicant addresses the need to eliminate discrimination, bias, and stereotyping in career education activities. (2 points)

(ii) The applicant's objectives adequately address the elimination of bias, and stereotyping based on race, sex, age, economic status, national origin, and handicap as well as the elimination of discrimination. (3 points)

(iii) The applicant's plan contains appropriate and effective procedures for achieving collaboration with organizations that include respectively, minorities, women, older persons, handicapped persons, and low-income persons. (3 points)

(iv) The personnel designated to carry out the project reflects an appropriate representation of women, minorities, older persons, and handicapped persons. (2 points)

The Commissioner does not fund a project unless it scores at least 7 points on this criterion.

(Implements secs. 10(a), 11(a); 20 U.S.C. 2609, 2610)

[FR Doc. 79-31631 Filed 10-16-79; 8:45 am]

BILLING CODE 4110-02-M

V 44 OC 17 79 UMI

federal register

Wednesday
October 17, 1979

Part III

Small Business Administration

Nondiscrimination on the Basis of Age in SBA Financial Assistance Programs

V 4 4 0 C 1 7 7 9 UMI

SMALL BUSINESS ADMINISTRATION

13 CFR Part 117

Nondiscrimination in Financial Assistance Programs of the Small Business Administration; Effectuation of the Age Discrimination Act of 1975, as Amended

AGENCY: Small Business Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed Part has been promulgated to implement the provisions of the Age Discrimination Act of 1975, as amended (hereinafter referred to as the Act). The Act prohibits discrimination on the basis of age by recipients of Federal financial assistance in the rendering of services to persons of all ages, unless an age designation for such service is sanctioned by the exceptions set forth in the Act.

DATES: Comments must be received on or before December 17, 1979.

ADDRESS: 1441 L Street, NW, Suite 1200, Vermont Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. J. Arnold Feldman, Chief, Civil Rights Compliance Division, Office of Equal Employment Opportunity and Compliance, (202) 653–6054.

Dated: October 3, 1979.

William H. Mauk, Jr.,
Acting Administrator.

PART 117—NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF SBA—EFFECTUATION OF THE AGE DISCRIMINATION ACT OF 1975, AS AMENDED.

Sec.

117.1 Purpose.
117.2 Application of this part.
117.3 Definitions.
117.4 Discrimination prohibited.
117.5 Discrimination in providing financial assistance.
117.6 Discrimination in accommodations or services.
117.7 Illustrative applications.
117.8 Assurances required.
117.9 Compliance Information.
117.10 Review and Complaint procedures.
117.11 Procedure for effecting compliance.
117.12 Hearings.
117.13 Decisions and notices.
117.14 Judicial review.
117.15 Effect on other regulations, forms and instructions.
Appendix A.
Appendix B.

Authority: Age Discrimination Act of 1975, 42 U.S.C. 6101 et seq.

§ 117.1 Purpose.

The purpose of this part is to effectuate the provisions of The Age Discrimination Act of 1975, as amended (hereinafter referred to as the "Act"), to the end that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under programs receiving financial assistance or any financial activities of the Small Business Administration to which this Act applies. The Act also permits recipients of Federal funds to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and these regulations in the provision of services to the public.

§ 117.2 Application of this part.

(a) This part applies to all recipients of assistance under programs administered by the Small Business Administration and to programs of financial assistance by the Small Business Administration.

(b) For the purposes of this part, the prohibition against age discrimination applies to persons of all ages.

(c) This part does not apply to the employment practices of a recipient except where a major purpose of the financial assistance is to provide employment.

(d) The effective date of this part is July 1, 1979, and its provisions apply to all recipients and applicants who apply for assistance on or after that date. Although complaints of violations will be processed after July 1, 1979, the mediation of complaints will not commence until after November 1, 1979.

§ 117.3 Definitions.

As used in this part:

(a) The term "financial assistance" means any financial assistance extended pursuant to any authorizing legislation administered by the Small Business Administration, whether extended directly in the form of a loan or indirectly through the services of Federal personnel or persons receiving Federal monies to perform such service.

(b) The term "applicant" means one who applies for Federal financial assistance.

(c) The term "recipient" means one who receives any Federal financial assistance from SBA under any of the statutes referred to in Appendix A of this part. The term "recipient" also shall be deemed to include "subrecipients" of SBA financial assistance, i.e., concerns which secondarily receive financial assistance from the primary recipients of such financial assistance. For the purposes of this part, a paragraph (b) lender (13 CFR 120.4 (b)) shall be deemed a recipient of financial assistance.

(d) The term "normal operation" means the operation of a business or activity without significant changes that would impair its ability to meet its objectives.

(e) The term "statutory objective" means any purpose of a business or activity expressly stated or affected by any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

§ 117.4 Discrimination prohibited.

(a) *General.* To the extent that this part applies, no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any business or activity receiving Federal financial assistance.

(b) Specific discriminatory actions prohibited. (1) To the extent that this part applies, a business or other activity or recipient may not, directly or through contractual arrangements, on the ground of age:

(i) Deny an individual any services, financial aid or other benefit provided by the business or other activity, except when prohibited from doing so by statutory objective;

(ii) Provide any service, financial aid or other benefit to a recipient or an individual which is not sanctioned by one of the exceptions stated below, which would deny or limit persons in their efforts to participate in Federally assisted programs;

(iii) Treat an individual differently from others, except as sanctioned by an exception stated below, in determining whether the person satisfied any admission, enrollment, quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service, financial aid or other benefit provided by the business or activity.

(2) The enumeration of specific forms of prohibited discrimination in this paragraph does not limit the generality of the prohibition in paragraph (a) of this section.

(c) *Exceptions.* A recipient is permitted to take an action otherwise prohibited by paragraph (a) above, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a business or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of

any statutory objective of a business or activity, if:

(i) Age is used as a measure or approximation of one or more other characteristics, and

(ii) The other characteristic(s) must be measured or approximated in order for the normal operation of the business or activity to continue, or to achieve any statutory objective of the business or activity; and

(iii) The other characteristic(s) are impractical to measure directly on an individual basis; and

(iv) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(v) The factor bears a direct and substantial relationship to the normal operation of the business or activity or to the achievement of a statutory objective.

Note.—All of the above factors must be met in order to exclude a business or activity from the provisions of this part.

(d) The burden of proving that an age distinction or other action falls within the exceptions outlined in (c) is on the recipient of Federal financial assistance.

§ 117.5 Discrimination in providing financial assistance.

Development companies, small business investment companies, and paragraph (b) lenders under authority of 13 CFR 120.4(b) which apply for or receive any financial assistance may not discriminate on the ground of age in providing financial assistance to small business concerns.

§ 117.6 Discrimination in accommodations or services.

Small business concerns which apply for or receive any financial assistance or who are identifiable beneficiaries of loans made under any of the programs enumerated in Appendix A, such as but not limited to physicians, dentists, hospitals, schools, libraries, and other individuals or organizations which receive Federal financial assistance may not discriminate in the treatment, accommodations or services they provide to their patients, students, members, passengers, or members of the public, except when the normal operation or statutory objective of the business or activity of the intended beneficiary is designated in age-related terms, whether or not operated for profit. Such business or activities excluded from compliance with this regulation must fall within the exceptions enumerated in § 117.4(c) of this part.

§ 117.7 Illustrative applications.

(a) *Financial assistance.* The discrimination prohibited by § 117.4 includes but is not limited to the failure or refusal, because of the age of the applicant, to extend a loan or equity financing to any business concern or, in the case of financing which has actually been extended, the failure or refusal because of the age of the recipient, to accord the recipient fair treatment and the customary courtesies regarding such matters as default, grace periods and the like.

(b) *Accommodations or services.* The discrimination prohibited by § 117.6 includes, but is not limited to the failure or refusal, because of age, to accept a patient, student, member, or passenger, except when the intended beneficiary is designated in age-related terms or when the imposition of this prohibition would interfere with the normal operation of the business.

§ 117.8 Assurances required.

An application for any financial assistance described in Appendix A shall, as a condition of its approval and the extension of such assistance, contain or be accompanied by an assurance that the recipient will comply with this part. SBA shall specify the form of the foregoing assurance for each program, and the extent to which like assurances will be required of contractors and subcontractors, transferees, successors, and other participants in the program.

§ 117.9 Compliance information.

(a) *Cooperation and assistance.* SBA shall to the fullest extent practicable seek the cooperation of applicants and recipients in obtaining compliance with this part and shall provide assistance and guidance to applicants and recipients to help them comply voluntarily with this part.

(b) *Self-evaluation.* Each recipient or subrecipient of Federal financial assistance, employing 15 or more full-time employees, shall complete and submit to SBA a written self-evaluation of its compliance under the Act within 18 months of the effective date of this regulation. This self-evaluation shall identify and justify each age distinction imposed by the recipient.

(c) Compliance reports: Each applicant or recipient shall keep such records and submit to SBA timely, complete and accurate compliance reports at such times, and in such form and containing such information, as SBA may determine to be necessary to enable SBA to ascertain whether the applicant or recipient has complied or is complying with this part. In the case of a small business concern which receives financial assistance from a development company or from a small business investment company, such concern shall submit to the company such information as may be necessary to enable the company to meet its reporting requirements under this part.

(d) Access to sources of information. Each applicant or recipient shall permit access by SBA during normal business hours to such of its books, records, accounts, and other sources of information, and its facilities as may be pertinent to ascertain compliance with this part. Where any information required of an applicant or recipient is in the exclusive possession of any other agency, institution or person and that agency, institution or person shall fail or refuse to furnish the information, the applicant or recipient shall so certify in its report and shall set forth what efforts it has made to obtain the required information. The recipient will be held responsible for submitting the information. Failure to so submit reports on required information to SBA subject recipient to sanctions as provided in Section 117.11 of this part.

(e) Information to the public. Each recipient shall make available to persons entitled under the Act, and under this part to protection against discrimination by the recipient, such information as SBA may find necessary to apprise them of their rights to such protection.

§ 117.10 Review and complaint procedures.

(a) *Periodic compliance reviews.* SBA shall from time to time review the practices of recipients to determine whether they are complying with this part. Failure by a recipient to come into compliance following a finding of noncompliance will subject recipients to the sanctions contained in Section 117.11 of this part. A refusal to permit an on-site review during normal working hours constitutes noncompliance with this part.

(b) *Compliants.* (1) Any person who believes that he/she or any specific class of individuals is being or has been subjected to discrimination prohibited by this part may, by themself or by a representative, file with SBA a written complaint. A complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by SBA. The complainant has the right to have a representative at all stages of the complaint procedure.

(2) Each complaint will be reviewed to ensure that it falls within the coverage

of the Act and contains all information necessary for further processing.

(3) Notice shall be given to complainants and/or recipients of their rights and obligations in the complaint process. The complainant or the recipient (or the representative for the complainant or recipient) has the right to contact SBA for information and assistance regarding the complaint resolution process.

(c) *Mediation.* (1) SBA shall, after ensuring that the complaint falls within the coverage of this Act, promptly refer the complaint to the Federal Mediation and Conciliation Service (FMCS). SBA shall require the participation of the recipient and the complainant in the mediation process in an effort to reach a mutually satisfactory settlement of the complaint. Both parties need not meet with the mediator at the same time.

(2) If the complainant and the recipient reach a mutually satisfactory resolution of the complaint during the mediation period, they shall reduce the agreement to writing.

(3) A copy of the written mediation agreement will be referred to SBA, and no further action will be taken unless it appears that either the complainant or the recipient is failing to comply with the agreement.

(4) If at the end of 60 days after the receipt of a complaint by SBA, or at any time prior thereto, the complaint is still unresolved by the FMCS, or it appears that the complaint cannot be resolved through mediation, the complaint will be returned to SBA for an initial investigation. The mediator has the authority to terminate the mediation process at any time prior to the end of the 60-day period if the process appears to have broken down.

Note.—The mediator shall be compelled to protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained during the course of the mediation process without prior approval of the head of the agency appointing the mediator.

(d) *Investigations.* SBA will make a prompt investigation whenever a compliance review indicates a possible failure to comply with this part by the recipient and additional information is needed by SBA to assure compliance with this part, or when an unresolved complaint has been returned by the FMCS, or when it appears that the complainant or the recipient is failing to comply with a mediation agreement. A compliance review and an investigation shall include, where appropriate, a review of the pertinent practices and policies of the recipient, the circumstances under which the possible noncompliance with this part occurred, and other factors relevant to a determination as to whether the recipient is complying, is not complying, or has failed to comply with this part.

(e) *Resolution of matters.* If a review or an investigation, pursuant to paragraphs (a) or (d) of this section, indicates a failure to comply with this part, SBA will so inform the complainant, if applicable, and the recipient that the matter will be resolved by informal means whenever possible. If it has been determined that the matter cannot be resolved by informal means, action will be taken as provided for in § 117.11.

(2) If an investigation does not warrant action pursuant to paragraph (e) of this section, SBA will so inform the complainant, if applicable and the recipient in writing.

(f) *Intimidatory or retaliatory acts prohibited.* No complainant, recipient or other person shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by this part or because an individual or group has made a complaint, testified, assisted, or participated in any manner in an investigation, review, proceeding, or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, mediation, or judicial proceeding.

§ 117.11 Procedure for effecting compliance.

(a) *General.* (1) If there appears to be a failure or threatened failure to comply with this part and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by suspending, terminating, or refusing any financial assistance approved but not yet disbursed to an applicant, or in the case of a loan which as been partially disbursed, by refusing to make further disbursements. In addition, compliance may be effected by any other means authorized by law.

(2) Such other means may include but are not limited to (i) action by SBA to accelerate the maturity of the recipient's obligation; (ii) referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any law of the United States, including the Act; and (iii) any applicable proceedings under State or local law.

(b) *Noncompliance with § 117.8 and § 117.9.* If an applicant fails or refuses to furnish an assurance required under § 117.8, or fails to submit a required report or access to information under § 117.9, or otherwise fails or refuses to comply with a requirement imposed by or pursuant to those sections, Federal financial assistance may be refused in accordance with the procedures of paragraph (c) of this section. SBA shall not be required to provide assistance in such a case during the pendency of the administrative proceedings under such paragraph except that SBA shall continue assistance during the pendency of such proceedings where such assistance is due and payable pursuant to an application approved prior to July 1, 1979.

(c) *Conditions precedent.* No order accelerating repayment, suspending, terminating, or refusing financial assistance shall become effective until (1) SBA has advised the applicant or recipient of the failure to comply and has determined that compliance cannot be secured by voluntary means; (2) there has been an express finding on the record, after an opportunity for hearing, of a failure by the applicant or recipient to comply with a requirement imposed by or pursuant to this part; (3) the action has been approved by the Administrator of SBA pursuant to § 117.13; and (4) the expiration of 30 days after SBA has filed with the committee of the House and the committee of the Senate having legislative jurisdiction of the form of financial assistance involved, a full written report of the circumstances and the grounds for such action.

(d) Other means authorized by law. No action to effect compliance by any other means authorized by law shall be taken until (1) SBA has determined that compliance cannot be secured by voluntary means; (2) the action has been approved by the Administrator or designee; (3) the applicant or recipient has been notified of the failure to comply, and of the action to be taken to effect compliance; and (4) the expiration of at least 10 days from the mailing of such notice to the applicant or recipient or other person. During this period of at least 10 days from the mailing of such notice to the applicant or recipient or other person, additional efforts shall be made to persuade the applicant or recipient to comply with this part and to take such corrective action as may be appropriate.

§ 117.12 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 117.11, reasonable notice shall be given by registered or certified mail, return receipt requested, to the affected applicant or recipient. This notice shall advise the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and the matters of fact or law asserted as the basis for this action, and either (1) fix a date not less than 20 days after the date of such notice within which the applicant or recipient may request of SBA that the matter be scheduled for hearing or (2) advise the applicant or recipient that the matter in question has been set down for hearing at a stated place and time. The time and place so fixed shall be reasonable and shall be subject to change for cause. The complainant shall be advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing under this paragraph within 30 days after the date of such notice or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing and as consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be held at the offices of SBA in Washington, D.C. at a time fixed by SBA unless SBA determines that the convenience of the applicant or recipient or of SBA requires that another place be selected. Hearings shall be held before an administrative law judge designated in accordance with the Administrative Procedures Act.

(c) *Right to counsel.* In all proceedings under this section, the applicant or recipient and SBA shall have the right to be represented by counsel.

(d) *Procedures, evidence, and record.* (1) The hearings, decisions, and any administrative review thereof shall be conducted in conformity with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving of notices to those provided for in paragraph (a) of this section, taking of testimony, exhibits, arguments, and briefs, request for findings and other related matters. SBA, the complainant, if any, and the applicant or recipient shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing, or as determined by the administrative law judge conducting the hearing at the outset of or during the hearing.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules or principles designed to assure production of the most credible evidence available, and subject testimony to test by cross-examination shall be applied where reasonably necessary by the administrative law judge conducting the hearing. The administrative law judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions shall be based upon the hearing record and written findings shall be made.

(e) Consolidated or joint hearings. In cases in which the same or related facts are asserted to constitute noncompliance or threatened noncompliance with this part, with respect to two or more forms of financial assistance to which this part applies, or noncompliance with this part and the regulations of one or more other Federal agencies issued under the Act, the Administrator may, by agreement with such other agencies, provide for the conduct of consolidated or joint hearings, and for the application to such hearings of rules and procedures not inconsistent with this part. Final decisions in such cases, insofar as this part is concerned, shall be made in accordance with § 117.13.

§ 117.13 Decisions and notices.

(a) *Decision by an administrative law judge.* If the hearing is held by an administrative law judge such administrative law judge shall either make an initial decision, if so authorized, or certify the entire record, including recommended findings and proposed decision, to the Administrator for a final decision, and a copy of such initial decision or certification shall be mailed to the applicant or recipient and the complainant. Where the initial decision is made by the administrative law judge, the applicant or recipient may, within 30 days of the mailing of such notice of initial decision, file with the Administrator exceptions to the initial decision, with the reasons therefore. In the absence of exceptions, the Administrator may, by motion within 45 days after the initial decision, serve on the applicant or recipient, a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review, the Administrator shall review the initial decision and issue his/her decision thereon, including the reasons therefor. The decisions of the Administrator shall be mailed promptly to the applicant or recipient, and the complainant, if any. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of the Administrator.

(b) *Decisions on record or review by the Administrator.* Whenever a record is certified to the Administrator for decision or the Administrator reviews the decision of an administrative law judge pursuant to paragrpah (a) of this section, or whenever the Secretary of the Department of Health, Education, and Welfare or the Department of Justice conducts the hearing, the applicant or recipient shall be given reasonable opportunity to file briefs or other written statements of its contentions, and a copy of the final decision of the Administrator shall be given in writing to the applicant or recipient and the complainant, if any.

(c) Decisions on record where a hearing is waived. Whenever a hearing is waived pursuant to § 117.12, a decision shall be made by the Administrator on the record and a copy of such decision shall be given in writing to the applicant or recipient, and to the complainant, if any.

(d) *Rulings required.* Each decision of an administrative law judge or the Administrator shall set forth the ruling on each finding, conclusion, or exception presented, and shall identify the requirement or requirements imposed by or pursuant to this part with which it is found that the applicant or recipient has failed to comply.

(e) *Content of orders.* The final decision may provide for accelerating of repayment, suspension or termination of, or refusal to approve, disburse, or continue Federal financial assistance, in whole or in part, under the programs involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and this part, including provisions designed to assure that no Federal financial assistance will, thereafter, be extended under such program to the applicant or recipient determined by such decision to have failed to comply with this part, unless and until it corrects its noncompoliance and satisfies the Administrator that it will fully comply with this part.

(f) *Post termination proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance only if it satisfies the terms and conditions of that order for such eligibility and it brings itself into compliance with this regulation and provides reasonable

V 4 4 0 C 1 7 7 9 UMI

assurance that it will fully comply with this regulation.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may at any time request the Administrator to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or recipient has met the requirements of paragraph (f)(1) of this section. If the Administrator determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the Administrator denies any such request, the applicant or recipient may submit a request for a hearing in writing, specifying why it believes such official to have been in error. It shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with rules and procedures issued by the Adminstrator. The applicant or recipient shall be restored to such eligibility if it proves at such hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposd by the order issued under paragrph (e) of this section shall remain in effect.

§ 117.14 Judicial review.

(a) The complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and the Agency has made no finding with regard to the complaint; or

(2) The agency issued any finding in favor of the recipient.

(b) If either of the conditions set forth in § 117.14(a) is satisfied, and the complainant wishes to file a suit in a United States District Court, the complainant shall:

(1) Give 30 days notice, by registered mail, to the Attorney General, the Secretary of the Department of Health, Education, and Welfare, the Administrator of SBA, and the recipient; and

(2) Indicate at the time the suit is filed if attorney's fees will be demanded in the event that the complainant is successful.

(c) No action shall be brought if the same alleged violation of the Act by the same recipient is the subject of a district in which the recipient is found or transacts business.

§ 117.15 Effect on other regulations, forms and instructions.

(a) *Effect on other regulations.* All regulations, orders or like directions heretofore issued by SBA which impose requirements designed to prohibit any discrimination against individuals on the grounds of age and which authorize the suspension or termination of or refusal to grant to or to continue financial assistance to any applicant for or recipient of such assistance for failure to comply with such requirements, are hereby superseded to the extent that such discrimination is prohibited by this part, except that nothing in this part shall be deemed to relieve any person of any obligation assumed or imposed under any such superseded regulation, order, instruction, or like direction prior to the effective date of this part. Nothing in this part, however, shall be deemed to supersede any of the following (including future amendments thereof): (1) Executive Order 11246, as amended, and regulations issued thereunder, (2) Title VI of the Civil Rights Act of 1964, as amended, (3) The Equal Credit Opportunity Act, as amended and Regulation B of the Board of Governors of the Federal Reserve System (12 CFR 202), (4) Section 504 of the Rehabilitation Act of 1973, as amended, (5) Part 113 of Title 13 of the Code of Federal Regulations (13 CFR 113), or (6) any other statute, order, regulation or instruction, insofar as such order, regulation, or instruction prohibits discrimination on the grounds of age in any program or situation to which this part is inapplicable on any other ground.

(b) *Forms and instructions.* SBA shall issue and promptly make available to interested persons forms and detailed instructions and procedures for effectuating this part.

(c) *Supervision and coordination.* The Administrator may from time to time assign to officials of SBA or to officials of other agencies of the Government with the consent of such agencies, responsibilities in connection with the effectuation of the purpose of Act and this part (other than responsibility for final decision as provided in § 117.13), including the achievement of effective coordination and maximum uniformity within SBA and within the Executive Branch of the Government in the application of the Act and this part to similar programs and in similar situations. Any action taken, responsibility under this subsection shall have the same effect as though such action had been taken by the Administrator of SBA.

Appendix A

Nome of program and authority

Regular Business Loans—Small Business Act, Sec. 7(a).
Economic Opportunity Loans—Small Business Act, Sec. 7(i) (Formerly Title IV of the Economic Opportunity Act).
Pool Loans—Small Business Act, Sec. 7(a)(5).
Displaced Business Loans—Small Business Act, Sec. 7(b)(3).
Handicapped Assistance Loans—Small Business Act. 7(h).
Disaster loans:
- Physical, including riot—Small Business Act, Sec. 7(b)(1) as amended by secs. 231, 234, and 237 of the Disaster Relief Act of 1970, PL 92-385, PL 93-24, and PL 94-68.
- Economic Injury—Small Business Act, sec. 7(b)(2) as amended by secs. 231 and 234 of the Disaster Relief Act of 1970, PL 92-385, PL 93-24, and PL 94-68.
- Product disaster—Small Business Act, Sec. 7(b) PL 93-385, PL 93-24, PL 94-68.
- Coal mine health and safety—Small Business Act, Sec. 7(b)(5).
- Consumer protection—Small Business Act, Sec. 7(b)(5).
- Occupational safety and health—Small Business Act, Sec. 7(b)(5).
- Strategic arms, economic injury—Small Business Act, Sec. 7(b)(6).
- Air pollution control—Small Business Act, Sec. 7(b)(5).
- Base closing economic injury—Small Business Act, Sec. 7(b)(7).
- Water pollution control—Small Business Act, Sec. 7(g)(1).
- Emergency energy shortage economic injury—Small Business Act, Sec. 7(b)(8).
- Other regulatory—Small Business Act, Sec. 7(b)(5).

Debtor local development company loans (502) and their small business concerns—Small Business Investment Act, Sec. 502.
Debtor state development company loans (501) and their small business concerns—Small Business investment Act, Sec. 501.
Debtor small business investement companies and their small business concerns—Small Business investment Act, title III.

Note.—All programs listed above are also covered by Parts 112, and 113 of Title 13 of the Code of Federal Regulations.

Appendix B

Statutes which the age designations made in those businesses and activities whose services are restricted to certain age groups are based on state laws.

[FR Doc. 79-31997 Filed 10-16-79; 8:45 am]
BILLING CODE 8025-01-M

Federal Register

Wednesday
October 17, 1979

Part IV

Regulatory Council

Statement on Regulation of Chemical Carcinogens; Policy and Request for Public Comments

V 44 OC 17 79 UMI

V 4 4 O C 1 7 7 9 UMI

REGULATORY COUNCIL

Statement on Regulation of Chemical Carcinogens; Policy and Request for Public Comment

AGENCY: Regulatory Council.

ACTION: Notice of Policy and Request for Public Comment.

SUMMARY: This policy is being published in the Federal Register to inform the public of the practices and principles the participating Federal regulatory agencies will follow in initiating regulatory actions relating to chemical carcinogens.

The Regulatory Council would welcome any comments from the public, particularly any additional information pertinent to these policies which may have been considered in the preparation of the statement.

Because much of the scientific basis for the policies on identifying chemical carcinogens and assessing human risk relies on the analyses and discussion in the document "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks," published at 44 FR 39858, July 6, 1979 (Annex B to this document), we request potential commenters to read that document carefully before commenting on the *scientific issues* addressed in the Regulatory Council's statement. We would further suggest that any comments on the substance of Annex B be addressed directly to that document which is currently undergoing public review and comment as well. The comment period on that document is being extended to October 31 by separate notice to allow additional comments to be received.

DATES: We would appreciate receiving comments by November 15, 1979, to ensure speedy consideration of additional public views.

ADDRESS: Mail comments to: Regulatory Council, Attention: Cancer Policy, Room 5002, New Executive Office Building, Washington, D.C. 20503.

Copies of this document including Annex B are available from: Industry Assistance Office, Office of Toxic Substances (TS–799), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; or

Call toll-free 800/424–9065. In Washington, call 554–1404.

Signed in Washington, D.C., this 11th day of October 1979.

Peter J. Petkas,

Director.

Regulation of Chemical Carcinogens, September 28, 1979.

Statement on Regulation of Chemical Carcinogens

Introduction.
Determining Whether a Chemical Substance May Cause Cancer.
Assessing the Risk of Cancer to Humans.
Setting Priorities for Regulating Carcinogens.
Considering Regulatory Action.
Federal Agencies Having Primary Roles in the Regulation of Chemical Carcinogens, Annex A.
Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks, Annex B.
Interagency Coordination Efforts Currently Underway Relevant to the Regulation of Carcinogens, Annex C.

Statement on Regulation of Chemical Carcinogens

Introduction

Cancer is a major national public health problem. Various kinds of cancer currently claim almost 400,000 lives per year, second only to heart disease, and a million people are under treatment for some form of the disease. One in four Americans—an average of almost one person per family—can expect to develop cancer in his or her lifetime, one in five will eventually die of it.

Cancer is also a substantial economic burden. The National Center for Health Statistics estimates that by 1977 the Nation was spending $5.5 billion each year on hospital care and physicians' services for cancer patients, and that the expected earnings of people who died that year had a value of $14.6 to $18.5 billion.

In addition, there are substantial social costs that are more difficult to quantify. The cancer victim may be disabled and in substantial pain even if he or she survives the disease. The victim's family may be left financially destitute and socially isolated, and may not recover from the psychological and economic costs related to the disease.

Encouraging advances are being made in treating some forms of cancer, so that more victims are now living five or more years after the disease is discovered. But progress in cancer treatment is slow because of the many gaps in our basic scientific knowledge about the disease.

The Nation, therefore, must make a particularly strong effort to prevent various kinds of cancer. With our present knowledge, this can be done most effectively by preventing the exposure of people to cancer-causing agents. There is substantial evidence that environmental factors are among the major causes of at least some kinds of cancer. Environmental factors include potential cancer-causing substances (called carcinogens) in food, air, drinking water, tobacco products, workplaces, drugs, and household products, as well as radiation (including ultraviolet light). In many instances people are exposed unknowingly to these factors and have little or no power to prevent such exposure.

To provide effective means of dealing with these problems, the Congress has enacted a number of laws under which several Federal agencies are empowered to prevent or limit human exposure to carcinogens. Annex A lists the Federal agencies primarily involved in such activities and briefly describes their authority to regulate carcinogens (excluding radiation, which is not covered in this policy statement). Because of the number of different agencies that are involved in the effort to control cancer, many people in the Administration, in Congress, and in the general public have become concerned about possible inconsistencies, duplication of effort, and lack of coordination which could make the attack on cancer less effective and more expensive than it need be.

Avoiding such problems has been one of the major priorities of this Administration. To this end, President Carter established the Regulatory Council in October 1978 to promote improved coordination of regulatory activities and to help ensure that regulatory objectives are achieved in a cost effective manner. Because of the importance of cancer in our society and the need to ensure that we control it effectively and efficiently, the President asked the Regulatory Council, as one of its first projects, to develop a statement setting forth the policies to be followed by regulatory agencies in their efforts to prevent or limit human exposure to carcinogens. This document is the product of that effort.

It in turn relies substantially upon an earlier effort undertaken by four of the regulatory agencies—the Environmental Protection Agency, Food and Drug Administration, Occupational Safety and Health Administration, and Consumer Product Safety Commission (recently joined by the Food Safety and Quality Service). Two years ago, the heads of these agencies formed the Interagency Regulatory Liaison Group (IRLG) to improve the public health through sharing of information, avoiding duplication of effort, and developing consistent regulatory policy.

Recognizing the importance of coordinating their regulation of cancer-causing chemicals, the agency heads asked key scientists and other staff from their agencies, the National Cancer Institute, and the National Institute of Environmental Health Sciences to prepare a document setting forth the scientific bases for making regulatory decisions on carcinogens. This group prepared a document entitled "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" (attached as Annex B) which represents the best judgment of the participating scientists on the scientific principles applicable to identifying and evaluating substances that may pose a risk of cancer to humans.

The Regulatory Council's assignment was to consider the scientific issues addressed in the IRLG document along with the many other aspects of the government's efforts to regulate carcinogens, and to prepare a government-wide policy which reflected this Administration's actions to promote more effectively the public health without imposing unnecessary burdens upon the economy, and to eliminate potential inconsistencies and inefficiencies in the government's regulatory programs.

In carrying out this assignment the Council took account of not only the IRLG document, but many other reports and activities relating to the government's effort to control cancer. These included reports by the President's Office of Science and Technology Policy and the interagency Toxic Substances Strategy Committee, the analyses and comments relating to the Occupational Safety and Health Administration's proposed cancer policy, and the activities of the National Toxicology Program, the National Institutes of Health, and the National Cancer Advisory Board.

Although the preparation of this statement benefited from all of these efforts, it is based most substantially upon the document prepared by the IRLG. That document, attached as Annex B, should be referred to for additional information. The IRLG document has undergone scientific peer review and is currently receiving public comment; any changes made in it as a result of the review and comment process will be incorporated into this policy.

There are many important aspects of the government's efforts to reduce the seriousness of the problem of cancer in our society. These range from basic research on the biology and causes of cancer, through efforts to improve the diagnosis and treatment of the disease, to the rehabilitation of cancer victims. The focus of the Regulatory Council, however, was on issues relating to the efforts of the regulatory agencies to limit people's exposure to cancer-causing substances. Here the Council carefully reviewed the different components of the regulatory process, and the current efforts to coordinate activities in each (Annex C). As a result, it concluded that the predominant need for clarification and coordination was limited to the following four major areas of activity relating to the regulation of chemical carcinogens:

- Determining whether a chemical may cause cancer.
- Assessing the risk of cancer to humans.
- Establishing regulatory priorities.
- Undertaking regulatory activities.

These are the four areas addressed in this policy statement. An agency's actions within these areas are, of course, determined by the specific language in the applicable Federal law. However, there are many common issues which all the agencies have to deal with. This statement briefly summarizes the concepts and principles that the regulatory agencies will generally follow in each of the four areas, consistent with substantive and procedural legal constraints, in initiating regulatory action. The members of the Council do not consider this statement in any way to alter their obligations to reach decisions based upon information in the record of the particular action involved.

Determining Whether a Chemical Substance May Cause Cancer

The first step in regulating a substance as a carcinogen is to examine and evaluate the evidence that it may cause or contribute to the occurrence of human cancer. The two principal sources of such evidence are epidemiological studies involving people exposed to the substance, and testing in laboratory animals.

It is important that the regulatory agencies make such evaluations in accordance with current scientific thinking and in a consistent manner. The IRLG document "Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks" is a significant step in this direction. One portion of this document describes the basis for making qualitative evaluations of whether a particular substance presents a carcinogenic hazard, and how the results of epidemiological studies and animal testing, along with other types of information, are used in making these evaluations.

Regulatory agencies will base their determinations of whether a substance is likely to be carcinogenic upon a rigorous evaluation of all relevant, available scientific evidence. Epidemiological studies or animal tests provide the best evidence of carcinogenicity, but other types of information can also be important. Although they cannot be adequately summarized in a few sentences it is important that there be a general understanding of several basic concepts involved in these evaluations.

Epidemiological Studies. Properly designed and conducted epidemiological studies showing a significant satistical relationship between human exposure to a substance and an increased occurrence of cancer in the exposed population are considered to provide good evidence that the substance is carcinogenic.

In the past many people argued that such studies should be considered a prerequisite to undertaking any significant regulatory action. There are, however, limitations on the usefulness of epidemiology. Everyone is exposed to many chemicals in his or her lifetime. And cancer may not occur until 30 years or more after exposure to a carcinogen. Thus, there may be a substantial delay, allowing many additional people to be exposed, before any epidemiological evidence can be obtained. Even then, it may be very difficult to associate the occurrence of cancer with exposure to specific chemicals may years previously. Epidemiological studies often cannot detect even large increases (which could involve thousands of people) in the occurrence of cancer resulting from exposure to chemicals. For these reasons:

- The failure of an epidemiological study to detect an association between the occurrence of cancer and exposure to a specific substance should not be taken to indicate necessarily that the substance is not carcinogenic.
- Because it is unacceptable to allow exposure to potential carcinogens to continue until human cancer actually occurs, regulatory agencies should not wait for epidemiological evidence before taking action to limit human exposure to chemicals considered to be carcinogenic.

Testing in Animals. Properly designed and conducted tests in laboratory animals also provide good evidence of a substance's potential human carcinogenicity. From a biological standpoint the development of cancer is similar in humans and animals, even though different species and different strains of a species may demonstrate different sensitivities to specific

V 4 4 0 C 1 7 7 9 UMI

substances. Because we cannot test substances in humans or wait for demonstrations of carcinogenicity from epidemiological studies, Federal agencies must continue to use animal tests to identify chemical substances that may cause human cancer. In interpreting and applying the results of these tests they should use the following precepts unless there is substantial scientific or legal reason not to:

• A substance that causes cancer in animals, when tested under appropriate conditions, will be considered a potential human carcinogen.

• Animal tests provide valid information even though the dosage administered to the animals may be higher than humans are likely to experience. Animals are given relatively high doses both to increase the sensitivity of the test by maximizing the likelihood that a cancer-causing substance will actually produce cancer, and to compensate for the relatively small numbers of animals typically used in the tests. Although the likelihood of detecting a carcinogenic effect and the time between exposure to the carcinogen and the occurrence of cancer may be related to the dose level tested, the intrinsic ability of a substance to induce cancer is independent of dosage. A noncarcinogen can be toxic when administered in high doses, but it will not directly cause cancer at any dose level. In fact, the majority of chemicals tested in animals, even at high doses, has not been found to be carcinoginic.

• Evaluation of the results of animal testing is simplified when the animals are exposed by the same route by which people are or will be exposed, but the results are also relevant to human risks where exposure is by a different route. For instance, if a substance causes cancer when tested by ingestion, there is good reason to expect it to be able to cause cancer when inhaled.

• In evaluating results of animal tests, the occurrence of benign tumors in the treated animals is an indication that the substance being tested may produce malignant tumors as well. Benign tumors often are a precursor stage of malignant growths. Furthermore, virtually all extensively tested chemicals that have produced benign tumors have also produced malignant tumors.

• If a substance has been shown to be carcinogenic under the conditions of a single properly designed and conducted test, it should be considered as posing a risk of cancer to humans. Although the agencies should attempt to obtain additional data, they should not take the risk involved in waiting the two to four years required to complete an additional animal bioassay before initiating regulatory action.

• Evidence that a chemical is a carcinogen is strengthened by test results indicating carcinogenicity under two or more tests or test conditions (for example, at two or more dose levels, in both sexes, or in two or more animal strains of species). Similarly, evidence that a substance is not a carcinogen is strengthened if there is a lack of carcinogenic response in two or more properly disigned and conducted tests.

• In cases where there are conflicting results from more than one properly designed and conducted test, results failing to demonstrate a carcinogenic response do not detract from the validity of results showing such a response if different species of animals were tested, and they do not ordinarily detract from such results if the same species were tested. Even known carcinogens would be expected to show no response in some tests, particularly, for instance, when relatively few animals are involved, dose levels are low, or an insensitive animal strain is used.

Other Types of Evidence. In recent years there has been encouraging progress in developing certain short-term screening tests (involving animals, mammalian cells, or micro-organisms) and in using chemical structure to predict carcinogenic potential. Such approaches may provide a substantially faster and less expensive way of obtaining evidence on a substance's potential carcinogenicity. Such evidence, although currently only considered suggestive, can properly be used for the following purposes:

• To help identify chemicals that should be more thoroughly tested.

• To help in planning priorities for regulatory actions.

• To buttress evaluations of the results of long-term testing in animals.

• To support regulatory actions dealing with groups of substances having similar chemical or biological properties.

Testing Policy: Because long-term testing in animals is so important in evaluating the cancer-causing potential of chemical substances, and because such testing is time-consuming and expensive and requires scientific expertise and specialized facilities, it is essential that it be performed as efficiently as possible. The current government policy on such testing is that:

• The primary responsibility for much of this testing, as specified in several Federal laws, lies with the firms involved in manufacturing chemical substances. Agencies having the authority to do so should ensure that any required testing is carried out properly and as expeditiously as possible.

• The Federal regulatory agencies specify the chemicals to be tested and the testing procedures to be used by industry, and ensure industry compliance with testing requirements. they also cooperate with the Federal research agencies responsible for basic research on cancer causes and treatment, to support the development and validation of new testing procedures, and to perform testing (as well as epidemiological studies) in certain circumstances, for instance, where it is not practical to rely on industry to do so or where an agency is not authorized to impose such requirements on industry.

• Although a substance may sometimes need to be tested more than once to assess its potential carcinogenicity under differing conditions, regulatory agencies will avoid, whenever possible, imposing duplicative or conflicting testing requirements. The IRLG agencies are already preparing testing guidelines to accomplish this goal.

Assessing the risk of cancer to humans

After it has been determined that a chemical substance is likely to be carcinogenic, the next step in regulatory decision-making is to assess the risk that people face of developing cancer from their exposure to the substance.

Contents of Risk Assessments. All risk assessments contain two basic components. The first is an analysis of the evidence of the carcinogenicity of the substance, and the second is an analysis of the human exposure to the substance in order to assess the health risk it may pose.

The analysis of the carcinogenicity as described in the preceding section of this statement, involves a determination of whether a substance is likely to cause cancer in humans, accompanied by a characterization of the extent and quality of the evidence supporting this determination. It may also include an analysis of the relationship between the observed carcinogenic effects and the dose levels used in animal tests or the apparant levels of exposure in epidemiological studies.

The analysis of human exposure involves at least an estimate of the size of the exposed population, and may also include such factors as exposure sources, routes, and conditions, the duration, frequency, and intensity of exposure, and the relevant characteristics (e.g., age, sex, health) of the exposed population. The agencies will use exposure measurements when they are available and reliable; otherwise, they should estimate exposure based upon reasonable assumptions and interpretations of the best data available, which may be limited to information on the manufacture, use, or environmental discharge/disposal of the chemical substance in question.

Although all rish assessments include these two basic components (analyzing the evidence of carcinogenicity and likely human exposure) the form, methodology, and elaborateness of the assessment may vary substantially. Depending upon the characteristics and extent of the available information and on the regulatory agency's specific needs, the range of approaches varies from quantitative estimates of the increased human risk of developing cancer to nonquantitative assessments of relevant epidemiological and/or testing data and evidence that people are likely to be exposed to the substance.

Risk Assessment Precepts. When undertaking risk assessments, the regulatory agencies will follow the following precepts:

• Except where a statute, as in the case with the Clean Water Act, explicitly indicates which substances are to be controlled and how, every regulatory proposal will be accompanied by some form of risk assessment which includes, at a minimum, an analysis of the evidence of the substance's carcinogenicity and a determination that people are likely to be exposed to the substance.

• The particular form and type of risk assessment undertaken will depend upon the suitability of the available information to support different types of analyses, and upon the amount of information the agency needs to support proposed regulatory actions.

• Because there is no currently recognized method for determining a no-effect level for a carcinogen in an exposed population, substances identified as carcinogens will be considered capable of causing or contributing to the development of cancer even at the lowest doses of exposure.

Where the available data are scientifically adequate to support them, quantitative risk estimates can provide useful information for proposed regulatory decisions. When they make such estimates in initiating regulatory actions, the agencies will use the procedures described in the IRLG document "Scientific Bases for the Identification of Potential Carcinogens and Estimation of Risks".

• However, quantitative risk estimates are not yet sufficiently developed to be regarded as more than rough indicators of the level of human risk. The sources of uncertainty include, for instance, the difficulties of extrapolating from one population group to another, from high doses to low doses, and from animals to man, and the impossibility of identifying or considering all the factors that affect the response of people to exposure from specific carcinogenic substances.

• In certain instances, it is impractical or unnecessary to make quantitative exposure or risk estimates. This may be true when it is impossible to predict what exposure may occur, in dealing with complex chemical mixtures of unknown or varying composition where it is not feasible to regulate each of the constituents independently, or when regulatory action is concerned with substances to which the population is exposed through a multitude of sources or products at different levels and in different ways.

• If they undertake quantitative estimates of risk, agencies will attempt to identify the range of risk that could, on the basis of available information, reasonably be associated with possible exposure to the substance. Because underestimating cancer risks could have serious public health consequences, the agencies will in particular attempt to estimate the maximum risk that could reasonably be expected.

• Because all risk assessments, whether quantitative or not, necessarily involve substantial degrees of uncertainty, they will be accompanied by statements discussing these uncertainties.

Setting priorities for regulating carcinogens

A substantial number of cancer-causing chemicals has already been identified. As other chemicals are tested, some of them also are likely to be found capable of producing cancer. In deciding which ones to regulate first, Federal agencies will generally assign higher priorities to substances for which:

• There is substantial evidence that the substance is likely to present a risk of human cancer. Epidemiological studies and/or animal testing are sources of such evidence.

• There is reason to believe that the level of human exposure and/or risk is high. Either quantitative or nonquantitative risk assessments may provide a basis for such belief.

• The exposed population is large or is of special concern, such as children.

• Regulatory action could significantly reduce the extent of intensity or human exposure.

• Regulatory action could reduce not only cancer risk but also other human health and environmental hazards.

• A substance is, or could be, available that would pose a lower risk of cancer or other serious human health problems, or available evidence otherwise suggests that the social and economic costs of regulation would be small.

The relative importance of these priority-setting criteria will necessarily vary from case to case, and in establishing their final priorities the agencies also consider:

• The requirements of applicable laws or court orders which may limit their flexibility to establish their own priorities

• Their responsibilities for dealing with other health and environmental hazards

• The regulatory actions being taken or planned by other agencies.

Although the agencies will continue to coordinate their regulatory actions, each agency will establish its own regulatory priorities. Specific substances usually are not equally important from the standpoint of every agency's statutory mission. As an example, one substance may provide a serious risk to workers, but very little in consumer products. Another, however, might provide a serious risk in consumer products, but present little risk to workers. The most effective public health protection would occur if the agency concerned with protecting workers gives the former a higher priority and the agency concerned with protecting consumers gives the latter a higher priority.

In general, the regulatory programs will provide the most public health protection if each agency dealing with a specific area of exposure places the highest priority on the substance which provides the greatest health risk in its area of concern. Otherwise, agencies might be regulating substances which are of relatively little importance in their area of concern, creating unnecessary regulations and costs, with little public health benefit, and putting off actions which would provide much more benefit. For these reasons, it is neither necessary nor desirable that all agencies assign the same priority to each substance.

Considering Regulotory Action

Federal laws governing the regulatory programs often prescribe the factors to be considered in choosing among regulatory options and deciding how extensive and stringent regulatory

action should be. In many instances, however, regulatory agencies have latitude to interpret and apply the statutory language.

Bases for Regulatory Action. In brief, regulatory decisions generally are based upon one or some combination of the following approaches:

• *Risk.* A few statutes require agencies, when making a regulatory decision, to consider solely or primarily the risk a substance poses. If a statute requires the elimination of risk, this can be accomplished only by eliminating human exposure, because there is no known way to identify levels below which exposure to cancer-causing substances presents no risk.

• *Technical and Economic Feasibility.* Various Federal laws require that regulatory decisions be based solely or primarily upon the technical and/or economic feasibility of controlling the release of or human exposure to cancer-causing substances. The stringency sought in such feasibility-based standards is stated in the applicable law—for example, "best available technology." The statute's language determines how an agency chooses among technologies capable of reducing environmental releases of (or human exposure to) chemical substances, and whether and how it considers associated economic and other impacts in making this choice. In some instances the technological standard is also determined by requirements to achieve certain ambient exposure levels.

• *Comparing Costs and Benefits.* Various statutes permit or sometimes require regulatory agencies to ensure that the economic and social costs of regulatory action are taken into account along with the expected risk reduction. Such statutes may refer to consideration of either the costs and benefits of regulatory action or the risks a substance poses and the benefits it provides.

In some statutes, Congress, after considering the advantages and disadvantages of these different approaches, has specified that one of them be used. For instance, Congress enacted a section of the Food, Drug and Cosmetic Act that requires the Food and Drug Administration to prohibit the use of any food additive found to be carcinogenic which presumably reflected a judgment that, among other considerations, the seriousness of the risk posed by carcinogenic food additives would exceed the benefits they provide and the costs associated with not using them; while a statute enacted to regulate pesticides indicates that the agency must take into account "the economical, social, and environmental costs and benefits" associated with the pesticide's use.

The fact that cancer-causing substances enter the environment and come into contact with people by various routes means that no single regulatory approach is equally suitable for dealing with cancer-causing substances in media as different as foods, drugs, household products, workplaces, air, and drinking water. Accordingly, it is, and will continue to be, necessary for Federal regulatory agencies to make appropriate use of different regulatory approaches when making regulatory decisions.

Regulatory Principles. The agencies nevertheless will follow several common regulatory principles. These principles will ordinarily guide the agencies in initiating regulatory actions, but they will not be rigidly and uniformly applied in all cases.

• In some cases, zero risk will be an appropriate regulatory goal. It is established as such in a few national policies and statutes. It is also an appropriate goal where (e.g., in controlling specific commercial products or specific types of discharges) the economic and social costs of regulation are so slight that almost any risk would be unreasonable. This might be the case, for instance, when there are several available substitutes for the substance being regulated which are no more costly than that substance and which create no known health risks.

• Zero risk will not routinely be considered achievable. For carcinogens, existing scientific knowledge indicates that zero risk requires zero exposure. But cancer-causing substances often occur in so many different consumer products, industrial raw materials, and commerical and industrial wastes that completely eliminating exposure, even if possible to do so, could, in many cases, have unacceptable economic, social and even health impacts.

• When planning a major regulatory action, in keeping with Executive Order 12044 and other Administration regulatory reform initiatives, agencies will analyze the economic consequences of proposed regulations, will identify and consider alternatives that would achieve their health protection goals, and, to the extent consistent with applicable laws, will choose the alternative that achieves their goals with the least economic and social costs.

• In limiting a substance's use, it is sometimes appropriate to consider other products or processes which might be adopted as a substitute for the substance being regulated. In these cases, one of the factors the agencies will consider, to the extent practicable, in making their regulatory decision is the health hazards associated with such substitutes.

• To avoid conflict and duplication, if several agencies are planning to adopt regulations controlling a specific substance or problem, they will coordinate the development of their regulations. The IRLG and the Regulatory Council have already adopted mechanisms to promote such coordination.

These principles are generally in accord with the requirements of Executive Order 12044. Federal agencies have elsewhere described the specific procedures they follow in analyzing and documenting the probable environmental, public health, economic, technological, and other impacts of proposed regulations and in providing opportunities for public participation.

Further Actions. Agencies responsible for regulating carcinogens have and will continue to identify and evaluate ways of improving their regulatory programs. Among other possibilities, they have considered or will consider, when appropriate, adopting generic policies for regulating carcinogens. Some are also evaluating the advantages and disadvantages of taking interim regulatory action to reduce high exposures to cancer-causing chemical before they undertake the usually time-consuming task of establishing permanent standards and regulations.

In general, the agencies should continue their efforts to develop carcinogen regulatory programs which will effectively protect public health without imposing unnecessary or unreasonable burdens upon the economy. In this process they should ensure that their actions are consistent and coordinated, and that the public has substantial opportunity to contribute.

Annex A to Statement on Regulation of Chemical Carcinogens

Federal Agencies Having Primary Roles in the Regulation of Chemical Carcinogens

Regulatory Agencies

Consumer Product Safety Commission (CPSC)

The purpose of the Consumer Product Safety Commission is to protect the public against unreasonable health and injury risks from consumer products; to assist consumers to evaluate the comparative safety of consumer products; to develop uniform safety standards for consumer products and minimize conflicting State and local regulations; and to promote research and investigtion into the causes and prevention to product-related deaths, illnesses, and injuries.

The Commission assesses the health risks associated with the use of potential carcinogens in consumer products, and has the authority to restrict or prohibit uses considered to provide an unreasonable risk. It also sponsors some research on carcinogenic substances.

The statutes defining CPSC's responsibilities for regulating carcinogens and other toxic substances include The Federal Hazardous Substances Act (1966), The Consumer Product Safety Act (1972), and The Poison Prevention Packaging Act (1970).

Environmental Protection Agency (EPA)

The purpose of the Environmental Protection Agency is to protect and enhance our environment by controlling pollution in the areas of air, noise, radiation, and toxic substances.

EPA regulates potential carcinogens under several statutes, controlling their release into the air and water, their disposal as solid or liquid wastes on land and in the ocean, their occurrence in drinking water supplies, and their use in pesticides. It also is responsible for developing national strategies for controlling the general production and use of such substances and with coordinating these activities with other agencies. EPA also conducts and sponsors research on how chemicals are transported through and modified by the environment and on the carcinogenic potential of selected substances.

The statutes defining responsibilities for regulating carcinogens and other toxic substances include The Toxic Substances Control Act (1976), The Clean Air Act (1970, amended 1977), The Clean Water Act (as amended in 1972 and 1977), The Safe Drinking Water Act (1974, amended 1977), The Federal Insecticide, Fungicide, and Rodenticide Act (1947, amended 1972, 1975, 1978), The Act of July 22, 1954 (codified as section 346(a) of the Food, Drug, and Cosmetic Act) (1954, amended 1972), and The Resource Conservation and Recovery Act (1976).

Food and Drug Administration (FDA) (U.S. Department of Health, Education and Welfare).

The purpose of the Food and Drug Administration is to protect the health of the Nation against impure and unsafe foods, drugs, cosmetics, and other potential hazards.

FDA regulates the composition, quality, and safety of foods, food additives, food contaminants, colors, human and animal drugs, medical devices, and cosmetics. It must, by law, prohibit the use of any food additive found to be a carcinogen. It also conducts and sponsors research on the carcinogenicity of food contaminants, cosmetics, and other substances, and on the development of better methods for detecting the carcinogenic potential of regulated substances. FDA also develops methods to detect the presence of these substances in consumer products and monitors them to ensure their compliance with regulations.

The statutes defining FDA's responsibilities for regulating carcinogens and other toxic substances include The Food, Drug, and Cosmetic Act (1938) with its amendments pertaining to food additives (1958), color additives (1960), new drugs (1962), and new animal drugs (1968); The Fair Packaging and Labeling Act (1976); and The Public Health Service Act (1944).

Food Safety and Quality Service (FSQS) (U.S. Department of Agriculture).

The purpose of the Food Safety and Quality Service is to provide assurance to the consumer that foods are safe, wholesome, and nutritious; that they are of good quality; and that they are informatively and honestly labeled; and to provide assistance to the marketing system through purchase of surplus food commodities and those needed in the National Food Assistance Programs.

The FSQS inspects and controls the production of meat, poultry, eggs, and dairy products to ensure, among other things, that they are not contaminated with carcinogenic substances. The statutes defining FSQS's responsibilities for regulating carcinogens and other toxic substances include The Federal Meat Inspection Act (1967), The Poultry Products Inspection Act (1957), and The Egg Products Inspection Act (1970).

Occupational Safety and Health Administration (OSHA) (U.S. Department of Labor).

The purpose of the Occupational Safety and Health Administration is to ensure, so far as possible, safe and healthful working conditions for every working man and woman in the Nation.

OSHA assesses the health risks to workers associated with the use of carcinogenic substances in the workplace, and regulates the release of and concentration of carcinogenic substances that can occur in the workplace. It also monitors job related illnesses and informs workers of the potential hazards associated with specific substances found in the workplace.

The statute defining OSHA's responsibilities for regulating carcinogen and other toxic substances is the Occupational Safety and Health Act (1970).

Materials Transportation Bureau, Federal Railroad Administration, U.S. Coast Guard (U.S. Department of Transportation).

Among its many other activities, the Department of Transportation also has the responsibility to protect the public's health and safety when hazardous materials are transported.

The Materials Transportation Bureau was established to coordinate the agency's overall responsibilities concerning the regulation of hazardous materials transportation. It has the primary responsibility for promulgating regulations for all modes of transportation and for all aspects of regulating intermodal transportation of such substances. Among their other activities, the Federal Railroad Administration implements the regulations concerning the transportation of explosives and other dangerous articles by railroads, the U.S. Coast Guard implements the regulations covering the transportation of hazardous substances by water, and the Federal Highway Administration implements them for highways.

The major statutes defining the agency's responsibilities are The Hazardous Materials Transportation Act (1970), The Federal Railroad Safety Act (1979), The Port and Waterways Safety Act (1972), and The Dangerous Cargo Act (1952).

Research Institutes

National Cancer Institute (NCI) (National Institutes of Health, U.S. Department of Health, Education and Welfare).

The purpose of the National Cancer Institute is to expand scientific knowledge on the causes, prevention, diagnosis, and treatment of cancer in order to eliminate this disease as a national health problem.

NCI conducts and sponsors research on the origin, causes, and spread of cancer and on methods for diagnosing, preventing, and treating cancer. It conducts animal tests and epidemiological studies to identify carcinogens and research directed at developing (improved testing methods for identifying carcinogens. It also, through its cancer control element, applies research findings to prevent, control, and treat human cancer and to rehabilitate cancer victims.

National Institute of Environmental Health Sciences, (NIEHS) (National Institutes of Health, Department of Health, Education and Welfare).

The purpose of the National Institute of Environmental Health Sciences is to

V 44 0C 17 79 UMI

provide information on the impact of environmental factors on human health in order to aid those agencies charged with devising and instituting control or therapeutic measures.

NIEHS supports and conducts basic research focused upon the interaction between man and potentially toxic or harmful agents in his environment. This research is concentrated upon recognizing, identifying, and investigating the environmental factors that may have deleterious effects on population groups, on quantifying those efforts, and on understanding the mechanisms of action of toxic agents on biological systems.

National Institute of Occupational Safety and Health (NIOSH) (Center for Disease Control, Public Health Service, U.S. Department of Health, Education and Welfare).

The purpose of the National Institute of Occupational Safety and Health is to conduct research on and develop standards for occupational safety and health to ensure safe and healthful working conditions for all working people.

NIOSH conducts epidemiological, laboratory testing, exposure and source characterization studies on potential carcinogens found in the workplace. It also develops methods for monitoring the presence of carcinogens and for testing worker protection equipment and makes recommendations to OSHA regarding standards that should be applied to control workplace exposure and protect workers' health.

Annex B to Statement on Regulation of Chemical Carcinogens

Scientific Bases for Identification of Potential Carcinogens and Estimation of Risks

A Report Prepared by the Interagency Regulatory Liaison Group Work Group on Risk Assessment

Annex B is filed with the Office of the Federal Register as part of the original document. See 44 FR 39858, July 6, 1979.

Annex C to Statement on Regulation of Chemical Carcinogens

Interogency Coordination Efforts Currently Relevant to the Regulation of Carcinogens

There are a number of different mechanisms in existence for the purpose of promoting coordination among the agencies. Some of these have been established legislatively, others are imposed by the President or his staff, and others have been created by the agencies themselves.

An example of legislative coordination mechanisms would include provisions in several of the health and safety statutes which require the implementing agency to consider the views of or work done by other agencies and the appropriateness and advantage of deferring to other agencies authorities to address a particular problem.[1]

Another example of legislated coordination is the National Cancer Advisory Board (NCAB) established by the National Cancer Act of 1971 (as amended) to assist the Director of the National Cancer Institute with respect to a "National Cancer Program," and to review applications for funds to conduct cancer research. The 1978 amendments to this Act included the heads of NIOSH, NIEHS, FDA, EPA, CPSC, and the Secretary of Labor as *ex officio* members of this board. Other members of the board (18 are appointed by the President and 11 are *ex officio* members) represent the academic world, the public, and other Federal agencies. The NCAB not only receives and reviews reports on progress and plans from the National Cancer Institute, but has also established several subcommittees to analyze and report on particular issues of interest to the board. The National Cancer Advisory Board, composed of government and nongovernment representatives, advises NCI on policies regarding cancer research and other related issues, and thereby serves a coordinating function both within the government, and between the government and people outside government.

The Executive Office of the President, through its review and oversight functions, helps to coordinate the various cancer-related programs administratively. Such coordination particularly occurs with the budget and program reviews carried out annually by the Office of Management and Budget. The preparation of the Administration's proposed budget and the review and approval of proposed legislation both involve interagency coordination, and are necessarily fundamental steps in defining and coordinating all aspects of the government's cancer policy.

The Administration will also initiate special policy coordination reviews. An example is the Toxic Substances Strategy Committee (TSSC) which was established by the President in his 1977 Environmental Message. This committee, which is in the process of completing its work, was established (1) to eliminate overlaps and fill gaps in the collection of data on toxic chemicals, and (2) "to coordinate Federal research and regulatory programs affecting them."[2] The committee is chaired by the Chairman of the Council on Environmental Quality (in the Executive Office of the President), and includes 17 agencies involved in the effort to control toxic substances. The TSSC adopted a work plan and established work groups to deal with many of the issues involved in regulating carcinogens.[3] The reports of the work groups were summarized in the committee's final report which has been released in draft form for public comment.[4]

A third example of such coordination efforts is the Regulatory Council established by President Carter in October 1978. This council, composed of 35 departments and agencies with significant regulatory responsibilities, was created to coordinate the activities of the regulatory agencies and to assist them in implementing their regulatory programs in a consistent and cost-effective manner. Nineteen independent regulatory agencies also contribute to the council's activities in various ways. The first responsibility of the council was to prepare a "regulatory calendar" which summarized the important Federal regulations under development.[5] The council will also undertake various other policy and procedural coordination efforts related to the regulation of carcinogens.

An example of coordination efforts instituted by the agencies themselves is the Interagency Regulatory Liaison Group (IRLG). This is perhaps the most ambitious of such coordinating efforts. It was formed in 1977 by four agencies—the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, and the Occupational Safety and Health Administration, and was expanded in December, 1978, to include the Food Safety and Quality Service of the Department of Agriculture. All five agencies are responsible for regulating hazardous substances—protecting people from excessive exposure to such substances in their food, drugs, consumer goods, workplace, and in the air and water. The IRLG established a series of work groups and task forces to deal with many of the regulatory and research issues which affect the agencies, both at headquarters and in each of the 10 Federal regions. These groups have been

[1] For example, section 9 of the Toxic Substances Control Act and section 29 of the Consumer Product Safety Act.

[2] The President's Message to the Congress on the Environment, May 23, 1977, Section I.

[3] (42 FR 57866).

[4] (44 FR 48134, Part IV).

[5] The first calendar was published on Wednesday, February 28, 1979 (44 FR 11388).

carrying out projects which are directly related to ensuring better coordination of carcinogen regulatory programs.

A closely related effort, the National Toxicology Program (NTP), was established in November, 1978, by the Department of Health, Education, and Welfare to coordinate the activities of HEW's several institutes and bureaus devoted to toxicological research and testing. The broad goal of this program is to strengthen HEW's activities in the testing of chemcials of public health concern, as well as in the development and validation of new and better integrated test methods. At present the NTP is comprised of the relevant activities of the Food and Drug Administration (FDA), the National Cancer Institute (NCI), the Center for Disease Control/National Institute for Occupational Safety and Health (NIOSH), and the National Institute of Environmental Health Sciences (NIEHS). In order to ensure that these activities within HEW are coordinated with the needs and activities of the regulatory agencies, the original four IRLG agencies are members of the program's executive committee.

The coordinating programs described above are some of the more important and broader ranging efforts. However, a number of less extensive coordinating mechanisms have been established to deal with specific issues. These, and the particular activities of the broader programs, are described in the remainder of this annex.

Identifying Carcinogens

Much of the effort to coordinate carcinogen policies has focused on the scientific issues involved in testing carcinogenic substances and assessing carcinogenic risks. As a result, this is the general area in which most progress has already been made. The IRLG has focused many of its activities in this area and the National Toxicology Program was established to bring about further coordination. In addition, there have been a number of administrative and legislative efforts at coordination that have focused in this area.

Research

A number of different government agencies have developed significant research programs to gain a better understanding of carcinogens and the way in which they affect humans. The largest programs are sponsored by the National Cancer Institute, the National Institute of Environmental Health Sciences, the National Institute of Occupational safety and Health, the Environmental Protection Agency, the Food and Drug Administration, the Department of Energy, the Department of Defense, the Department of Commerce, and the Department of Agriculture.

According to one tabulation, these agencies spent a total of approximately $400 million dollars in FY 1977 in research related to toxic substances, a large proportion of which was focused on the problem of cancer and carcinogens.[6]

These research programs tended to develop in a largely uncoordinated fashion, but during the past year there have been several major efforts to gain a better understanding and improve the coordination of different agencies' research programs. The first of these was the IRLG Research Planning Work Group. This group tabulated all the toxics research being sponsored by the four IRLG agencies plus three research institutes (NCI, NIEHS, and NIOSH) and analyzed this information to try to identify areas of overlap or particular gaps in the research programs. They did not isolate cancer-related research but analyzed it along with their other toxics research. They discovered few instances of possible research overlaps, but did identify some potentially serious research gaps.

A similar effort was initiated by the Toxic Substances Strategy Committee covering more agencies than the seven included in the IRLG's effort. This analysis was based upon the information collected by the IRLG Research Planning Work Group, the Smithsonian Institution's Scientific Information Exchange System, and special submissions by individual agencies. Again, there was no specific focus on cancer-related research, although it was included with the other toxics research. Like the IRLG effort they found little evidence of duplication, but some possibly significant gaps.

Concern about the budgetary coordination of toxics-related research led the Office of Management and Budget to initiate a cross-agency "Zero-Based Budget" (ZBB) exercise for the 1980 budget year. This exercise included the same agencies in the IRLG effort (the four IRLG agencies, NCI, NIEHS, and NIOSH). For this exercise each agency divided its research into "decision units" which were ranked jointly by all the agencies according to commonly agreed upon criteria relating primarily to the quality and importance of the research. Again, there was not particular focus on cancer-related research, and no effort was made to obtain a specific understanding of what was being done in this subject area.

The fourth effort, the National Toxicology Program, is focusing more on developing an ongoing management system for planning and coordinating research done under different auspices within HEW. This program was given authority to plan use of part of the research budget for four agencies—NCI, NIEHS, NIOSH, and FDA. The program does not cover all of the cancer-related research, but does include most of that testing within HEW directly relevant to the identification of carcinogens. In order to ensure that the HEW research plans are coordinated with the research and information needs of other agencies, three of these agencies (EPA, OSHA, and CPSC) are members of the Executive committee which reviews the program plans.

The National Toxicology Program is related to a broader Department of Health, Education and Welfare coordination effort, the Committee to Coordinate Toxicology and Related Programs. This committee provides advice to the department on toxicological activities and serves to coordinate the exchange of information and the sharing of resources among agencies in the department. Although established within HEW, it includes liaison members from most other Federal agencies having significant interests in toxicology, and thus serves as a focus for more general information exchange and coordination.

Two other research planning, advising, and coordinating efforts also deserve mention. These include the National Cancer Advisory Board and the NCI Clearinghouse for Environmental Carcinogens. Each of these efforts is primarily concerned with the programs and activities of the National Cancer Institute. However, each accomplishes some important coordination among agencies. Their membership includes representatives from other agencies and the public. The National Cancer Advisory Board reviews all research applications submitted to the National Cancer Institute, and, in addition has a subgroup focusing upon environmental carcinogenesis. The NCI clearinghouse, which includes even broader representation from other agencies, is concerned with planning and advising on test methods and priorities and with evaluating the results of NCI's testing and associated risk assessments.

Testing Priorities

In the past, each of the agencies doing carcinogenesis testing tended to set its

[6] Toxic substances Strategy Committee, "Toxic Substances: A Review of Federal Research, Development, Testing and Monitoring Activities," August 1978.

V 44 OC 17 79 UMI

V 4 4 0 C 1 7 9 UMI

own testing standards and establish its own priorities.

Some consistency in priority setting was accomplished through various advisory committees, of which NCI's Clearinghouse on Environmental Carcinogenesis was perhaps the most important. Although NCI and other testing agencies did attempt to respond to regulatory needs when they were expressed, the regulatory agencies often did not have strong inputs to those committees.

The creation of the National Toxicology Program has established a more vigorous forum for coordinating testing priorities. This program is developing criteria for setting testing priorities which reflect the needs of both the regulatory agencies and the research institutes. The regulatory agencies, represented on the program's Executive Committee, will also have a stronger role in selecting the specific substances tested for all of the HEW testing programs covered by the NTP.

Another major program established to coordinate testing is the Interagency Toxic Substances Testing Committee. This committee was established by section 4(e) of the Toxic Substances Control Act of 1977, and includes members from eight agencies involved in regulating toxic substances. Its role is to review current knowledge of the potential toxic effects of different substances, and recommend to EPA which of these substances should receive highest priority for testing. EPA then reviews these recommendations in terms of the priorities it will establish for tests to be conducted by industry under section 4 of the Act.

The National Toxicology Program and the Interagency Toxic Substances Testing Committee substantially improve the amount of coordination occurring on setting testing priorities. The National Toxicology Program will serve to coordinate testing priorities among the research agencies and the regulatory agencies, and the testing committee will serve to coordinate priorities between the government and private sector. Coordination between these two efforts results from having the same agencies represented on both.

Conduct of Studies

Typically, when laboratory testing is as diffused and is changing as rapidly as it is in the case of cancer research, a number of different experimental methods tend to come into use. To a large extent this is desirable, for it allows for development of new equipment and techniques, and often results in discovery of more efficient and accurate procedures. However, for the purpose of making regulatory decisions, the agencies must have confidence in the quality of the testing, and in the consistency of test results.

Efforts to promote such quality and consistency can take several forms. The first stage is usually the development of suggested analytical methods for use within an agency. Some of these will be adopted by other agencies as well. For instance, the National Cancer Institute has prepared manuals containing recommended testing methods for determining carcinogenesis. The National Academy of Sciences, the World Health Organization, FDA, and EPA have also prepared such manuals.

As more experience is gained with the different methods, the agencies begin to agree on what the preferred methods are. In the second stage of coordination, the different agencies adopt consistent methods. Thus, HEW prepared regulations defining Good Laboratory Practices, and during the past year these have also been accepted by EPA, CPSC, FDA, and OSHA. This has represented a significant step forward in consistency and quality control.

An associated problem is being addressed by the IRLG Work Group on Testing Standards and Guidelines. This work group is addressing the problem that would be created if the different agencies where to require slightly different testing procedures, all of which might be equally acceptable from the standpoint of quality control, to be used in conjunction with their specific regulatory programs. These differences can cause confusion and unnecessary costs by requiring a firm to undertake somewhat different tests on the same substance when trying to satisfy different regulatory requirements. The IRLG Testing Standards and Guidelines Work Group is attempting to avoid this problem by developing one set of testing standards that will be accepted by all the IRLG agencies.

The IRLG Epidemiology Work Group is attempting to accomplish some of the same improvements with respect to epidemiological studies. However, this group is focusing more on defining the minimal characteristics of epidemiological studies than in defining study protocols similar to those being developed by the Testing Standards and Guidelines Work Group.

Similar coordination of testing methods is occurring in the international context through the Organizations for Economic Development and, to a lesser extent, United Nations' associated organizations such as the World Health Organization and the Food and Agriculture Organization.

Identifying Carcinogens

With the profusion of different testing and regulatory programs, there has been some concern that different agencies will make inconsistent assessments of the potential carcinogenicity of a particular substance. This concern has created a substantial interest during the past 2 years in developing procedures for ensuring that these qualitative assessments of risks are consistent.

One of the more ambitious of these efforts was the report prepared by the IRLG Risk Assessment Work Group entitled "Scientific Bases for the Identification of Potential Carcinogens and the Estimation of Risks."[7] This document represents the judgment of the agency scientists on the scientific concepts and methods used to identify and evaluate substances that pose a risk of cancer to humans. The document describes the bases for making a qualitative evaluation of whether a particular substance presents a carcinogenic hazard, and how the results of epidemiological studies and animal bioassays, along with other types of information, are to be used in making that evaluation. The document is currently receiving public and scientific review and comment.

Several other efforts in the government have also addressed this issue. The National Cancer Advisory Board's Committee on Environmental Carcinogenesis is preparing a document which is similar to that prepared by the IRLG. The Office of Science and Technology Policy, in the Executive Office of the President, has also prepared a similar document.

Another step to promote consistency is the effort by the National Cancer Institute to disseminate the results of its carcinogen assessments. This is done through the Clearinghouse on Environmental Carcinogenesis and via an annual report on Carcinogens NCF is required to make to Congress under a recent amendment to the National Cancer Act.[8]

Assessing Humon Risk

Most of the government's attention on issues relating to the assessment of human risk has been focused on the appropriateness and methodologies for making quantitative risk estimates.

A number of different estimation techniques have been proposed and used without general agreement about their accuracy and reliability. Because of the substantial uncertainties involved, it is probably not possible to determine whether a specific estimation technique, is correct. It is nevertheless desirable for all agencies using quantitative estimates in their regulatory programs to make such estimates consistently.

A major purpose of the IRLG Risk Assessment Work Group was to provide a framework for this consistency. Their report ("Scientific Bases for the Identification of Potential Carcinogens and Estimation of Risks") describes some methods that are used in making quantitative estimates of the Carcinogenic risks posed by a substance if such risk estimates are appropriate or required. The report discusses the various quantitative estimation techniques currently being used, the various problems associated with such estimation techniques, and recommends that the agencies include the results from onr particular technique when undertaking quantitative risk estimations. This document should serve both to insure that the agencies interpret data consistently and to reduce the public's uncertainty about the scientific and policy judgments that the agencies make in their interpretations.

Regulatory Policies

Until recently, most efforts to coordinate agency actions in regulating carcinogens focused upon the scientific aspects of the regulatory programs—the testing of substances, the assessment of hazards, the estimation of risks. As these become better coordinated,the emphasis is shifting—particularly with the establishment of the IRLG and The Regulatory Council—to coordinating government intervention as well. These efforts are dealing with issues such as setting regulatory priorities, agreeing upon what analyses ought to be undertaken to support regulatory decisions, coordinating specific regulatory actions, and coordinating compliance monitoring and enforcement.

Regulatory Priorities

The IRLG regulatory Development Work Group is responsible for the major efforts to coordinate regulatory priorities among agencies. It has set up a process whereby each agency is notified immediately as soon as one of the agencies begins to consider regulating a particular substance. With this arrangement the agencies are aware of one another's priorities and can reevaluate their own priorities in view of other agency plans.

Decision Analyses

The major coordination on decision analyses has resulted from Executive Order 12044 issued by President Carter[9] and The National Environmental Policy Act.

The National Environmental Policy Act requires each agency to analyze the environmental implications of those actions which may have a significant impact upon the human environment. The Council on Environmental Quality implements these provisions and has issued regulations governing the preparation and processing of environmental impact statements.[10] However, there is some variation among agencies regarding how and when they undertake environmental impact assessments related to regulatory activities.

Executive Order 12044 applies to all regulations which potentially have a major economic impact issue by agencies within the Executive Branch. It requires agencies proposing these regulations to undertake regulatory analyses which are published for review and comment. The Council on Wage and Price Stability and the Office of Management and Budget have prepared guidelines regarding the content of these analyses and the way in which they should be done.[11]

Selected regulatory analyses are also reviewed by the Regulatory Analysis Review Group (RARG). This group is chaired by the Chairman of the Council of Economic Advisors and is made up of representatives from the Office of Management and Budget and the principal Executive Branch economic and regulatory agencies. RARG reviews up to 20 regulations a year (not more than 4 from any one agency) which it believes may have a significant impact upon the economy. The implementation of Executive Order 12044 has resulted in substantial consistency with respect to the issues of when economic analyses will be conducted and what they should contain.

The IRLG Regulatory Development Work Group is also concerned with what analyses are done and how they are coordinated among the IRLG agencies. The IRLG also has a group of Senior Economists to coordinate the economic analyses carried out by different agencies and to develop common analytical tools and data bases that could be used in these analyses.

Regulatory Actions

The type of actions that regulatory agencies can take and the considerations and principles that are to be taken into account in deciding upon these actions are largely specified by Congress in the statutes establishing the various regulatory programs. However, there are several major efforts to coordinate the agencies' actions within these statutory constraints.

The IRLG agencies are attempting to coordinate their regulatory actions through the Regulatory Development Work Group. This work group has identified the hazardous substances which two or more of the IRLG agencies are currently considering regulating. For each of these substances the work group has established a special subgroup composed of key officials from the relevant agencies. These subgroups have the responsibility for coordinating the actiities of the various agencies, ensuring that they are consistent with one another and informing the public on what each of the agencies is doing. As part of this effort they have prepared a document entitled *Hazardous Substonces* which lists 24 substances; summarizes what is known about their health effects, production, and use; lists the regulatory authorities under which action is being taken or considered; indicates certain regulatory issues that have arisen; and sets forth the agencies' proposed schedule of regulatory activities.[12] The information in this document is being updated semi-annually by an IRLG publication entitled *Regulatory Reporter*.[13]

The Regulatory Council's "regulatory calendar" should also serve as an important coordinating mechanism.[14] The calendar contains a listing of all the important rules and regulations that the agencies are working on, the benefits and costs anticipated to result from the agency's regulatory action, and the alternative actions being considered. The preparation and public release of this calendar should serve to increase the consistency of agency interventions. In addition, the staff of The Regulatory Council will examine the submissions to

[7] (44 FR. 39858–39879) and *Journal of the Notional Cancer Institute*, Vol. 63, No. 1 (July, 1979), pp. 241–268.

[8] Pub. L. 95–622, Title II, Part E, section 262.

[9] Executive Order 12044, "Improving Government Regulations," issued by the President on March 23, 1978 (42 FR 59790).

[10] 43 FR 55978 (November 29, 1978, Pt. 6).

[11] Memorandum from Wayne G. Grinquist, Associate Director, Management and Regulatory Policy, Office of Management and Budget to the "Heads of Departments and Agencies." Subject: Guidance for Regulatory Analysis, dated November 21, 1978.

[12] Interagency Regulatory Liaison Group. *Hazardous Substances* (Washington, D.C., U.S. Government Printing Office, December 1, 1978).

[13] Interagency Regulatory Liaison Group. *Regulatory Reporter*, Vol. I, Issue 1, published June, 1979 (Washington, D.C., U.S. Government Printing Office).

[14] The first calendar was published in the *Federal Register* on February 28, 1979, a 44 *Federal Register* 11388–11516.

identify possible conflicts, inconsistencies, or instances of overlap.

Executive Order 12044 (and NEPA, where applicable) also requires agencies to analyze proposed interventions and the reasonable alternative means of intervention in the economic (or environmental) impact statements they are required to prepare. The economic impact statements are reviewed by the Council on Wage and Price Stability which attempts, among other things, to identify any inconsistencies among the agencies. Where potentially serious inconsistencies appear, the proposed intervention may be referred to the Regulatory Analysis Review Group for more intensive consideration.

The potential for coordination and the benefits that can result if the agencies do work closely together were clearly demonstrated in the regulation of chlorofluorocarbons.

Chlorofluorocarbons were at one time used extensively as propellants in aerosol sprays, among other uses. They were found, however, to be causing a potentially serious depletion of ozone in the atmosphere.

Various scientific studies demonstrated that such depletion could have very serious long-range impacts on health and the environment. Three agencies, EPA, CPSC, and FDA, had partial jurisdiction. When it became evident that there was a potentially serious problem, these agencies met together to consider possible regulatory responses. As a result, they developed a joint regulatory approach that embodied agreement on the actions that each of the agencies would take and the timing of these actions. This arrangement resulted in one of the agencies (CPSC) agreeing to take no action at all because it would have done little more than duplicate what the regulations of the other two agenices would accomplish. This cooperation enabled the three agencies to announce jointly what each of them would be doing and when, eliminating any uncertainty about the specific interventions that were planned. The agencies also jointly undertook to sponsor additional research on the problem to determine whether further actions with respect to nonaerosol uses of cloroflurocarbons were needed and how any such intervention could most efficiently occur.

Monitoring

Ambient and compliance monitoring are important aspects of any regulatory program. Ambient monitoring involves identifying the existence of potential carcinogens in places—e. g., the air, food products, consumer products, the workplace—where people may be exposed to them. Compliance monitoring involves determining whether sources of these contaminants are complying with regulations to control people's exposure to such substances.

In the past, the main coordination of monitoring has resulted from the regulatory agencies using data collected by other data-collecting agencies such as HEW's Center for Health Statistics. Recently, the coordination of ambient monitoring has been looked at in greater detail by an interagency committee established by the Council on Environmental Quality to review environmental data and monitoring, by the Interagency Toxic Substances Data Committee, by the IRLG Information Exchange Work Group, and by the Office of Management and Budget. Various efforts have also been undertaken to coordinate compliance monitoring through the IRLG Compliance and Enforcement Work Group and various regional IRLG organizations.

The President established the CEQ Interagency Task Force on Environmental Data and Monitoring in his Environmental Message of May, 1977.[15] This task force has undertaken an extensive review of the government's efforts to monitor air pollutants, water pollutants, and other environmental characteristics. However, it has deferred consideration of carcinogen and toxics monitoring to the Interagency Toxic Substances Data Committee.

The Interagency Toxic Substances Data Committee was established by section 4(e) of The Toxic Substances Control Act. Its purpose is to facilitate the exchange of information on toxic substances among agencies. Although the focus is on information exchange, it must also consider who should collect the information and how they should collect it. The issues being addressed by this interagency committee are closely coordinated with those being addressed by the IRLG Information Exchange Work Group, which serves a similar role among the IRLG agencies. However, neither of these efforts has yet led to an intensive effort to improve the coordination of ambient monitoring activities by the different agencies.

The coordination carried out by the Office of Management and Budget occurs primarily with respect to the budget submissions of the individual agencies and to the clearance of the forms which will be used to collect the information. The coordination of data collection efforts is further emphasized in The Regulatory Reform Act of 1979 submitted to the Congress by the President in March, 1979.

There is, however, a significant increase in the coordination of compliance monitoring by the agencies. In the agencies' regional offices, inspectors from each agency are being educated about the programs of the other agencies. A process for referring possible violations of another agency's regulations to that agency has also been instituted. The IRLG Compliance and Enforcement Work Group has developed the educational materials and the forms being used in this effort. This work group is also exploring the possibility of such further coordination as joint inspections (where inspectors from different agencies inspect a site jointly) and cross-over inspections (where the inspectors from one agency inspect for other agencies as well as their own).

An important contribution to such coordination may result from a demonstration project in New Jersey conducted by the Environmental Protection Agency in association with the IRLG Information Exchange Work Group. A serious hurdle to better coordination has been that the different agencies, and often different programs within the same agency, do not use the same means for identifying individual facilities being controlled. The New Jersey project is exploring the feasibility of developing a "common code" system of identifying facilities. If such codes were used to identify facilities and sites, one could quickly identify how each agency is involved with any particular facility or site, when any agency last inspected the facility, whether any and what type of violations have been found, etc.

Enforcement

The primary coordination of enforcement policies is occurring through the IRLG Compliance and Enforcement Work Group and IRLG cooperation among the regional offices. In addition to the training of inspectors and the referral of violations, there has been increased mutual support of enforcement actions through the sharing of laboratory facilities, information, and expert witnesses among agencies, and by the agencies undertaking special investigations for one another.

Agency coordination is also important in responding to emergency episodes, such as spills or plant accidents, involving the release of toxic chemicals. The Toxic Substances Strategy Committee established a special subcommittee to address this problem. It has concentrated upon improving the response capacity at the State and local levels, better organizing EPA's response system, and achieving better coordination between EPA, the Department of Transportation, and the private sector. In addition, the IRLG agencies have developed, at both regional and headquarters levels, emergency notification schemes and emergency response plans to deal with such episodes. These are currently being integrated with the national response system established by The Clean Water Act (involving the Council on Environmental Quality, the Department of Transportation, and EPA) to respond to oil and hazardous substances spills.

Conclusion

This appendix describes some of the ongoing coordination efforts which are most relevant to the regulation of carcinogens. Additional efforts are also occurring in areas less directly related. Further information about the activities of the major coordinating efforts can be obtained by contacting the following:

Interagency Regulatory Liaison Group, 1111 18th Street, NW. (Room 509), Washington, D.C. 20207.

The Regulatory Council, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. 20460.

National Cancer Advisory Board, National Cancer Institute, Public Health Service, U.S. Department of Health, Education, and Welfare, 900 Rockville Pike, Bethesda, Maryland 20014.

National Toxicology Program, National Institute of Environmental Health Sciences, Public Health Service, Department of Health, Education, and Welfare, Bethesda, Maryland 20014.

Table 1—Interagency Coordination Efforts

Overall Coordination Efforts

Office of Management and Budget:
- Budget preparation
- Legislative clearance

Toxic Substances Strategy Committee (TSCC)
Regulatory Council
Interagency Regulatory Liaison Group (IRLG)
Committee to Coordinate Toxicology and Related Programs (HEW)
National Toxicology Program (NTP)
National Cancer Advisory Board

Identifying Carcinogens

Research:
- IRLG Research Planning Work Group
- TSSC
- Interagency Toxic Substances Zero Based Budget Analysis
- NTP
- National Cancer Advisory Board
- National Cancer Institute Clearinghouse for Environmental Carcinogens
- IRLG Preventive Health Initiative
- CCTRP
- Interagency Collaborative Group on Environmental Carcinogens

Testing Priorities:
- NTP
- Interagency Toxic Substances Testing Committee
- NCI Chemical Selection Committee

Conduct of Studies:
- Manuals of recommended testing procedures (e.g., NCI)
- Good Laboratory Practices
- IRLG Testing Standards and Guidelines Work Group
- IRLG Epidemiology Work Group
- Various international efforts

Assessing Human Risk:
- IRLG Risk Assessment Work Group
- Office of Science and Technology Policy
- NCI Clearinghouse on Environmental Carcinogens
- Annual Report of NCI
- National Cancer Advisory Board Committee on Environmental Carcinogens

Regulatory Policies

Regulatory Priorities:
- IRLG Regulatory Development Work Group
- TSSC

Decision Analyses:
- National Environmental Policy Act
- Executive Order 12044
- Regulatory Analysis Review Group (RARG)

Regulatory Actions:
- IRLG Regulatory Development Group
- Regulatory Council
- Executive Order 12044

Monitoring:
- Control Data Collection Agencies, Center for Health Statistics
- Interagency Toxic Substances Data Committee
- IRLG Information Exchange Work Group
- Office of Management and Budget
  - Survey clearance functions
  - Budget preparation
- IRLG Compliance and Enforcement Work Group
- IRLG regional activities

Enforcement:
- IRLG Compliance and Enforcement Work Group
- IRLG regional activities
- TSSC
- National Response System

[FR Doc. 79-31999 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-24-M

[15] The President's Message to Congress on the Environment, May 23, 1977.

V 44 OC 17 79 UMI

federal register

Wednesday
October 17, 1979

Part V

Department of Commerce

Office of the Secretary

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

V 4 4 0 C 1 7 7 9 UMI

DEPARTMENT OF COMMERCE

National Voluntary Laboratory Accreditation Program; Report of Accreditation Actions

AGENCY: Assistant Secretary of Commerce for Science and Technology.

ACTION: Announcement of the granting of accreditation to laboratories for specific tests on thermal insulation materials.

SUMMARY: The Department of Commerce announces the granting of accreditation to laboratories named herein which were determined to be capable of conducting specific tests on thermal insulation materials under the provisions of the National Voluntary Laboratory Accreditation Program (NVLAP). These laboratories are accredited only for the specific tests identified in this notice. Potential users of these laboratories may verify that a laboratory is accredited to conduct a specific test by identifying the NVLAP Code for each test method of interest in Table 1 and by consulting the tabulation of test methods for which each laboratory is accredited in Table 2.

TERM: Accreditation is granted for a one-year term commencing October 12, 1979, and expiring October 11, 1980, except that the accreditation may be revoked before the expiration date due to violation of the criteria or other conditions of the laboratory's accreditation, or otherwise terminated at the request of the laboratory.

FOR FURTHER INFORMATION CONTACT:
Mr. John W. Locke, Coordinator, NVLAP, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230; (202) 377–2054.

SUPPLEMENTAL INFORMATION

Background

The National Voluntary Laboratory Accreditation Program (NVLAP) was established by notice in the **Federal Register** on February 25, 1976 (41 FR 8163–8168, 15 CFR Part 7, which has been recently redesignated 15 CFR Part 7a). The first laboratory accreditation program (LAP) (NVLAP 01) is for accrediting laboratories that test thermal insulation materials. A final finding of need for this LAP was published on October 12, 1977 (42 FR 55020–55024). The general and specific criteria used in determining the capability of laboratories to test thermal insulation materials were published on January 18, 1979 (44 FR 3886–3906). The testing laboratories which applied for accreditation in response to that announcement have been examined and the resultant determination to grant accreditation are set forth below.

Test Methods for Which Accreditation May Be Granted

A total of 62 test methods have been identified for which laboratory accreditation may be sought. These are identified in Table 1.

Accredited Laboratories and the Test Methods for Which Each is Accredited

A total of 30 laboratories have been accredited to perform one or more of the test methods available in the NVLAP program. An alphabetical listing of the laboratories showing the NVLAP Codes for the test methods for which each laboratory is accredited is shown in Table 2.

Conditions Applicable to Accredited Laboratories

A laboratory which has been accredited may announce its accreditation status in the trade press and in literature to industrial firms which may wish to use its testing services. However, in accordance with the NVLAP procedures (15 CFR 7a.7(c)(3)), the laboratories are required to avoid reference regarding their accreditation and to forbid others utilizing their services from referencing their accreditation in consumer media and in product advertising, or on product labels, containers and packaging, or the contents therein. An accredited laboratory may reproduce its Certificate of Accreditation only in its entirety and only for purposes consistent with the above conditions.

This accreditation shall in no way relieve the laboratories from the necessity of observing and being in compliance with any existing Federal, State, and local statutes, ordinances, and regulations that may be applicable to the operations of the laboratory, including consumer protection and antitrust laws.

Dated: October 12, 1979.

Howard I. Forman,

Deputy Assistant Secretary for Product Standards.

Table 1.—*List of Test Methods for Which Accreditation May Be Sought*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
01/C01	ASTM C739 (para. 7.7 in 77 version)	Corrosiveness; cellulosic fiber (loose-fill).
01/C02	HH–I–515 (para. 4.8.5 in D version)	Corrosiveness; cellulosic fiber (loose-fill).
01/D01	ASTM C136	Sieve or screen analysis.
01/D02	ASTM C167	Thickness and density; blanket and batt.
01/D03	ASTM C209 (para. 6 in 72 version)	Thickness board (cellulosic fiber).
01/D04	ASTM C209 (para. 13 in 72 version)	Water absorption, 2 hour; board (cellulosic fiber).
01/D05	ASTM C209 (para. 13 in 72 version) by D1037 (para. 100–106 in 72 version).	Water absorption, 24 hour; board (cellulosic fiber).
01/D06	ASTM C209 (para. 13 in 72 version) by D1037 (para. 107–110 in 72 version).	Linear expansion; board (cellulosic fiber).
01/D07	ASTM C272	Water absorption; core materials.
01/D08	ASTM C302	Density; preformed pipe insulation.
01/D09	ASTM C303	Density; preformed block insulation.
01/D10	ASTM C355	Water vapor transmission; thick materials; desiccant method.
01/D11	ASTM C356	Linear shrinkage; soaking heat; preformed high temperature insulation.
01/D12	ASTM C411	Hot-surface performance; high temperature insulation.
01/D13	ASTM C519	Density; loose-fill (fibrous).
01/D14	ASTM C520	Density; granular loose-fill.
01/D15	ASTM D756	Weight and shape changes; accelerated service (proc. A); plastics.
01/D16	ASTM D756	Weight and shape changes; accelerated service (proc. B); plastics.
01/D17	ASTM D756	Weight and shape changes; accelerated service (proc. E); plastics.
01/D18	ASTM D1622	Apparent density; rigid cellular plastics.
01/D19	ASTM D2126	Response to thermal and humid; aging (proc. B); rigid cellular plastics.
01/D20	ASTM D2126	Response to thermal and humid; aging (proc. D); rigid cellular plastics.
01/D21	ASTM D2126	Response to thermal and humid; aging (proc. E); rigid cellular plastics.
01/D22	ASTM D2126	Response to thermal and humid; aging (proc. F); rigid cellular plastics.
01/D23	ASTM D2842	Water absorption; rigid cellular plastics.
01/D24	ASTM C739 (para. 7.5 in 77 version)	Moisture absorption; cellulosic fiber (loose-fill).
01/D25	HH–I–515 (para. 4.8.3 in D version)	Moisture absorption; cellulosic fiber (loose-fill).
01/D26	HH–I–515 (para. 4.8.1 in D version)	Settled density; cellulosic fiber (loose-fill).
01/F01	ASTM D777 as modified by HH–B–100B	Flammability; paper and paperboard.
01/F02	ASTM E84	Surface burning characteristics; building materials (loose-fill).
01/F03	ASTM E84	Surface burning characteristics; building materials (blanket and batt).
01/F04	ASTM E84	Surface burning characteristics; building materials (board and block).
01/F05	ASTM E136	Noncombustibility; elementary materials.
01/F06	ASTM C739 (para. 10.4 in 77 version)	Flame resistance permanency; cellulosic fiber (loose-fill).

Table 1.—*List of Test Methods for Which Accreditation May Be Sought—Continued*

NVLAP code	Test method designation	Short title (property) subtitle (if applicable)
01/F07	HH–I–515 (para. 4.8.7 in D version)	Critical radiant flux; radiant panel (cellulosic fiber, loose-fill).
01/F08	HH–I–515 (para. 4.8.8 in D version)	Smoldering combustion; cellulosic fiber (loose-fill).
01/S01	ASTM C165	Compressive properties; thermal insulation (proc. A).
01/S02	ASTM C203	Breaking load/flexural strength; preformed block insulation.
01/S03	ASTM C209 (para. 9 in 72 version)	Transverse strength; board (cellulosic fiber).
01/S04	ASTM C209 (para. 10 in 72 version)	Deflection at specified load; board (cellulosic fiber).
01/S05	ASTM C209 (para. 11 in 72 version)	Tensile strength; parallel to surface; board (cellulosic fiber).
01/S06	ASTM C209 (para. 12 in 72 version)	Tensile strength; perpendicular to surface.
01/S07	ASTM C273	Shear test; sandwich construction.
01/S08	ASTM C446	Breaking load/modulus of rupture; preformed pipe insulation.
01/S09	ASTM D781	Puncture test; paperboard and fiberboard.
01/S10	ASTM D828	Tensile breaking strength; paper and paperboard.
01/S11	ASTM D1621	Compressive properties; rigid cellular plastics (proc. A-crosshead).
01/T01	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (loose-fill).
01/T02	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (blanket and batt).
01/T03	ASTM C177	Thermal transmission properties; low-temperature guarded hot plate (board and block).
01/T04	ASTM C236	Thermal conductance; guarded hot box.
01/T05	ASTM C335	Thermal conductivity; pipe insulation.
01/T06	ASTM C518	Thermal transmission properties; heat flow meter (blanket and batt).
01/T07	ASTM C518	Thermal transmission properties; heat flow meter (board).
01/T08	ASTM C518	Thermal transmission properties; heat flow meter (loose-fill).
01/T09	ASTM C653	Thermal resistance (rec. practice); blanket (mineral fiber).
01/T10	ASTM C687	Thermal resistance (rec. practice); Loose-fill (fibrous).
01/V02	ASTM D591	Starch in paper; qualitative test.
01/V03	ASTM D2020	Mildew (fungus) resistance; paper and paperboard.
01/V04	ASTM E96	Water vapor transmission; thin sheets (proc. A).
01/V05	HH–I–515 (para. 4.8.6 in D version)	Fungus; cellulosic fiber (loose-fill).
01/V06	HH–I–515 (para. 4.8.9 in D version)	Starch; cellulosic fiber (loose-fill).

Table 2.—*Alphabetical List of Laboratories Showing Test Methods for Which Each is Accredited*

Butler Manufacturing Company, Research Center, 135th Street and Botts Road, Grandview, MO 64030.	01/T04, 01/T06, 01/T07.
CertainTeed Corporation, Research and Development Laboratory, 1400 Union Meeting Road, Blue Bell, PA 19422.	01/C02, 01/D01, 01/D02, 01/D08, 01/D09, 01/D13, 01/D25, 01/D26, 01/F01, 01/F05, 01/F07, 01/F08, 01/S01, 01/S08, 01/S09, 01/S10, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V04.
Certified Testing Laboratories, Inc., 1105 Riverbend Road, Dalton, GA 30720.	01/C02, 01/D25, 01/F07, 01/F08, 01/V06.
Commercial Testing Company, Inc., P.O. Box 94, Dalton, GA 30720.	01/C02, 01/D25, 01/F07, 01/F08, 01/T06, 01/V06.
Dynatech R/D Company, 99 Erie Street, Cambridge, MA 02139	01/C01, 01/D24, 01/S01, 01/S02, 01/S11, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/V06.
Dynatherm Engineering, 595 Marshan Lane, Lino Lakes, MN 55014.	01/T04.
DOW Chemical U.S.A., Granville R & D Center, P.O. Box 515, Granville, OH 43023.	01/D07, 01/D10, 01/D18, 01/D23, 01/S02, 01/S11, 01/T07.
Factory Mutual Research, 1151 Boston-Providence Turnpike, Norwood, MA 02062.	01/F02, 01/F03, 01/F04, 01/F06, 01/F07, 01/F08.
Hauser Laboratories, P.O. Box G, Boulder, CO 80306	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/T08, 01/V05, 01/V06.
International Acoustical Testing Laboratory, 2820 Anthony Lane South, Minneapolis, MN 55418.	01/C02, 01/D25, 01/D26, 01/F07, 01/F08, 01/V06.
Jim Walter Research Corporation, 10301 Ninth Street, North, St. Petersburg, FL 33702.	01/D03, 01/D04, 01/D05, 01/D06, 01/D09, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S11, 01/T03, 01/T04, 01/T05, 01/T07.
Johns-Manville R & D Center, P.O. Box 5108, Denver, CO 80217.	01/D02, 01/D03, 01/D04, 01/D08, 01/D09, 01/D11, 01/D12, 01/D13, 01/F02, 01/F03, 01/F04, 01/F05, 01/S01, 01/S02, 01/S03, 01/S06, 01/S08, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V04.
NAHB Research Foundation, Inc., P.O. Box 1627, Rockville, MD 20850.	01/D02, 01/T06, 01/T07, 01/T09.

Table 2.—*Alphabetical List of Laboratories Showing Test Methods for Which Each is Accredited—Continued*

Owens-Corning Fiberglas Corp., Technical Center Laboratory, P.O. Box 415, Granville, OH 43023	01/C01, 01/C02, 01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D07, 01/D08, 01/D09, 01/D10, 01/D11, 01/D12, 01/D13, 01/D15, 01/D16, 01/D17, 01/D18, 01/D19, 01/D20, 01/D21, 01/D22, 01/D23, 01/D24, 01/D25, 01/D26, 01/F01, 01/F02, 01/F03, 01/F04, 01/F05, 01/F07, 01/F08, 01/S01, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S07, 01/S08, 01/S09, 01/S10, 01/S11, 01/T01, 01/T02, 01/T03, 01/T04, 01/T05, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V02, 01/V03, 01/V04, 01/V05, 01/V06.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 8, Barrington, NJ 08007.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 89, Delmar, NY 12054.	01/D02, 01/T06.
Owens-Corning Fiberglas Corp., Plant Laboratory P.O. Box 578, Fairburn, GA 30213.	01/D02, 01/T06.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 15139 Fairfax Station, Kansas City, KA 66115	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, Case Avenue, Newark, OH 43055.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 89, Santa Clara, CA 95052.	01/D02, 01/D09, 01/T06, 01/T07.
Owens-Corning Fiberglas Corp., Plant Laboratory, P.O. Box 837, Waxahachie, TX 75165.	01/D02, 01/D09, 01/T06, 01/T07.
Louisiana-Pacific Corporation, Pabco Insulation Division, 1110 Sixteen Road, Fruita, CO 81521	01/T03, 01/T05.
Southwest Research Institute, P.O. Drawer 28510, San Antonio, TX 78284	01/C01, 01/C02, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F05, 01/F06, 01/F07, 01/T04, 01/V05, 01/V06.
Sparrell Engineering Research Corporation, P.O. Box 8, Salem, MA 01970	01/T01, 01/T02, 01/T03, 01/T08.
Technical Micronics Controls, Inc., P.O. Box 1330, Huntsville, AL 35807	01/C02, 01/D26, 01/F07, 01/F08, 01/T01, 01/V05.
Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, IL 60062	01/C01, 01/C02, 01/D01, 01/D02, 01/D03, 01/D04, 01/D05, 01/D06, 01/D08, 01/D09, 01/D13, 01/D14, 01/D18, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F06, 01/F07, 01/F08, 01/S02, 01/S03, 01/S04, 01/S05, 01/S06, 01/S08, 01/S11, 01/T06, 01/T07, 01/T08, 01/T09, 01/T10, 01/V02, 01/V03, 01/V05, 01/V06.
Underwriters Laboratories, Inc., 1655 Scott Blvd., Santa Clara, CA 95050.	01/D13, 01/F02, 01/F03, 01/F04, 01/F06, 01/F07.
United States Testing Company, Inc., 1415 Park Avenue, Hoboken, NJ 07030.	01/C01, 01/C02, 01/D10, 01/D24, 01/D25, 01/D26, 01/F02, 01/F03, 01/F04, 01/F05, 01/F06, 01/F07, 01/F08, 01/T06, 01/T07, 01/T08, 01/V04, 01/V05, 01/V06.
United States Testing Company, Inc., California Branch Laboratory, 5555 Telegraph Road, Los Angeles, CA 90040.	01/C02, 01/D10, 01/D21, 01/D25, 01/D26, 01/F02, 01/F04, 01/F05, 01/F07, 01/F08, 01/V04, 01/V06.
United States Testing Company, Inc., Tulsa Branch Laboratory, 1341 North 108 East Avenue, Tulsa, OK 74116.	01/C02, 01/D10, 01/D18, 01/D25, 01/D26, 01/F08,. 01/V05, 01/V06.

[FR Doc. 79-32052 Filed 10-16-79, 8:45 am]

BILLING CODE 3510-13-M

V 4 4 0 C 1 7 7 9 UMI

federal register

Wednesday
October 17, 1979

Part VI

Consumer Product Safety Commission

Environmental Protection Agency

Commercial and Industrial Use of Asbestos Fibers and Consumer Products Containing Asbestos

CONSUMER PRODUCT SAFETY COMMISSION

ENVIRONMENTAL PROTECTION AGENCY

Commercial and Industrial Use of Asbestos Fibers and Consumer Products Containing Asbestos; Statement of Policy on Coordination of Regulatory Activities

AGENCIES: Consumer Product Safety Commission and Environmental Protection Agency.

ACTION: Joint Statement on Coordination of Regulatory Activities

This issue of the Federal Register contains two Advance Notices of Proposed Rulemaking (ANPRM) regarding exposure to asbestos. The Notices are being issued by the Consumer Product Safety Commission (CPSC) and the Environmental Protection Agency (EPA). Both agencies have taken previous regulatory action to control human exposure to asbestos. Even with these actions, both continue to be concerned that human exposure to asbestos from many sources may present an unreasonable health risk. The purpose of this joint statement is to explain the interrelationship of the proposed regulatory efforts by the two agencies and to assure the public that these investigations and possible resulting regulations will be coordinated, compatible and nonduplicative.

EPA has authority to regulate asbestos under a number of laws it administers. In the ANPRM appearing in this issue, EPA describes a regulatory investigation using the authority provided by the Toxic Substances Control Act (TSCA, 15 U.S.C. 2601). Under TSCA, EPA may regulate any chemical substance whose manufacture, processing, distribution in commerce, use and/or disposal presents an unreasonable risk of injury to human health or the environment.

CPSC administers two statutes under which it is empowered to regulate asbestos in consumer products. Under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051), CPSC has the general responsibility to protect the public from unreasonable risks of injury, illness, or death associated with consumer products, and may take action against specific products presenting a substantial product hazard. Under the Federal Hazardous Substances Act (15 U.S.C. 1261), CPSC may regulate hazards involved in the presence or use of toxic and other hazardous substances in the household.

The EPA Advance Notice of Proposed Rulemaking describes the Agency's broad effort to systematically gather information on asbestos exposure sources and to evaluate health risk from these sources based on the "life cycle" concept. In the life cycle analysis, the cumulative risk from exposure to asbestos is examined from primary processing through end use and disposal. The CPSC Advance Notice describes a narrower approach to the investigation of possible health risks that may be associated with the use of asbestos in a number of consumer products.

The Agencies recognize that in order to expeditiously and effectively provide public health protection from certain asbestos-containing products, there may be a need for remedial actions individually tailored to specific products or uses as well as broader controls. For example, the Agencies anticipate situations where CPSC's authority may enable it to reduce consumer exposure to asbestos-containing products pending more general proceedings initiated under EPA's broader program.

Through close cooperation in our regulatory endeavors, EPA and CPSC hope to achieve the following three objectives. The first is to significantly reduce unreasonable human health risk from exposure to asbestos through complementary actions. The second is to reduce potential reporting burdens on industry by coordinating information gathering under our respective statutory authorites. We plan to share all available data, while maintaining the confidentiality of business information in accordance with applicable law. Third, to avoid inconsistent or needlessly burdensome regulations, each Agency's regulatory actions (e.g., rules, bans, recalls) that may result from these investigations will be developed in close consultation with the other agency.

The initiatives described here are illustrative of the efforts of CPSC and EPA to further the goals of the Interagency Regulatory Liaison Group (IRLG). The IRLG was established in 1977 to promote better coordination among the major health and safety regulatory agenices.

Dated: October 10, 1979.

For the Consumer Product Safety Commission:

Susan B. King,

Chairman.

For the Environmental Protection Agency:

Douglas M. Costle,

Administrator.

[FR Doc. 79-32036 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Chapter II

Consumer Products Containing Asbestos; Advance Notice of Proposed Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Consumer Product Safety Commission is concerned that consumer exposure to asbestos from consumer products may present an unreasonable risk of injury and that some consumer products containing asbestos may present a substantial product hazard. CPSC will begin its formal investigation of the use of asbestos in consumer products by publishing this notice soliciting general information on the use of asbestos in consumer products. In addition to soliciting information on the use of asbestos in consumer products, this notice describes CPSC's proposed regulatory approach to asbestos in consumer products and solicits public comment on the approach. The Commission will consider the comments during the development of any proposed regulation or other remedial action to protect consumers.

DATE: Comments and information should be submitted on or before December 17, 1979. Those comments received after this date will be considered only to the extent practicable.

ADDRESS: Comments and information should be sent, preferably in five copies, to Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, and should refer to "Asbestos." Received comments and other relevant information may be examined in copies obtained from Office of the Secretary, 1111 18th Street, N.W., 3rd Floor, Washington, D.C. 20207, during business hours Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Francine Shacter, Program Manager, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6557. For information concerning financial compensation for public participation in this investigation, contact Catherine Bolger, Office of the Secretary at the above address, telephone (202) 254-6241.

SUPPLEMENTARY INFORMATION:

Background

Asbestos is a general term for any of several naturally occurring fibrous minerals composed of silica, oxygen, hydrogen, and other elements such as sodium, calcium, iron, or magnesium. There are six basic varieties of asbestos minerals that are found in fiber form: chrysotile (the most common variety, and that found in about 95% of asbestos-containing products in the Unites States), amosite, crocidolite, actinolite asbestos, tremolite asbestos, and anthophyllite asbestos.

The high tensile strength, flexibility and heat chemical resistance of asbestos makes it adaptable to a large number of uses. Although precise figures on the number of asbestos-containing products are not available, the Commission estimates that hundreds of different types of consumer products contain asbestos in some form. Many consumer products, for example, contain asbestos paper as a thermal or electrical insulating barrier. Asbestos is also commonly used in household building products to provide strength and stability.

Health Risks Related to Asbestos Exposure

CPSC is concerned that the presence of asbestos in consumer products, under certain conditions, may present a risk of cancer and respiratory disease. On the basis of current information, it appears that consumer products containing asbestos fibers can pose a health hazard if the asbestos fibers are released into the air, and therefore are available for inhalation. The hazard may be undetectable in the ordinary use of asbestos-containing products, since some asbestos fibers may be visible only by means of optical or electron microscopy.

A large body of scientific evidence suggests that all major types of asbestos are carcinogenic. Animal data and human epidemiologic studies support this conclusion.

Extensive epidemiologic studies of health effects conducted in occupational settings provide the largest body of information on asbestos-related diseases. Since the early 1960's there has been increasing evidence as well of asbestos-related diseases in populations not occupationally exposed to asbestos. Epidemiologic studies have demonstrated increased incidence of asbestos-related diseases, including lung cancer and mesothelioma (a cancer of the linings of the pleura and peritoneum) among nonoccupationally exposed populations, including individuals with only brief or intermitten "bystander" exposures.

Autopsy studies of lung tissues of residents in urban areas in many parts of the world indicate that the general population is being exposed to asbestos from the general environment and, that once inhaled, asbestos fibers can remain lodged in the lungs for life.

Health Risks Related to Consumer Products Containing Asbestos

Asbestos released from consumer products poses several unique problems in the household. First, young children and infants are subject to exposure. This is of particular concern to the Commission. Second, unlike asbestos released into the general environment, where fibers may be disbursed by air currents, asbestos fibers released from consumer products into the living space can remain in a confined space over long periods of time and may be subject to repeated cycles of settling and resuspension. The presence of asbestos fibers can thus pose an ongoing inhalation risk in the household. Third, unlike the workplace where engineering control systems and protective clothing are available to minimize worker exposure to asbestos, household members have little or no protection from exposure to asbestos fibers released from consumer products.

Previous Commission Action Concerning Asbestos in Consumer Products

The Commission has issued rules declaring consumer patching compounds and artificial emberizing materials containing respirable asbestos as banned hazardous products under the Consumer Product Safety Act (CPSA). (16 CFR 1304 and 1305, 42 FR 63354, December 15, 1977.) These actions were taken on the basis of Commission findings that the use of these products in the household would subject consumers to increased exposure to asbestos fibers. The Commission determined that this increased exposure, combined in many cases with exposure to asbestos from other sources, would result in an increased risk of cancer. In view of the seriousness of this illness and the cumulative effects of asbestos exposure, the Commission determined that continued use of these products in the household presented an unreasonable risk of unjury and that no feasible consumer product safety standard under the CPSA could adequately protect the public from the risk.

The Commission has also been concerned with the use of asbestos in hair dryers in light of information initially indicating that a significant

V 4 4 0 C 1 7 7 9 UMI

proportion of some 50 to 60 million hair dryers in consumers' hands or in the chain of distribution contained asbestos. As a result of negotiations between the Commission's staff and firms which share approximately 90% of the consumer hair dryer market, the firms have agreed to cease production and distribution of hair dryers containing asbestos and to offer consumers some form of repair, replacement, or refund.

The Commission's concern with hair dryers containing asbestos has been broadened to include hair dryers used by consumers in commercial hair dressing establishments.

Tests of hair dryers containing asbestos have been performed for CPSC by the National Institute of Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare to aid in the determination of emission of asbestos fiber from the hair dryers. The results of these tests are currently being analyzed.

Information Gathering on Consumer Products Containing Asbestos

In order to determine the scope of the potential problem posed by consumer products containing asbestos, CPSC commissioned a study to determine what other categories of consumer products contain asbestos. As a result of a report by a Commission contractor, *Review of Asbestos Use in Consumer Prducts*, A. T. Kearney, Inc., Management Consultants (April, 1978) (Kearney report) and through examination of other published sources, the Commission has developed information that indicates the presence of asbestos in a number of consumer products. Using the Kearney report and other available published sources, the Commission's staff has grouped the products according to the general form in which the asbestos exists in the product. This list of consumer products or categories of products containing asbestos is set forth in Appendix A to this notice. Also included in Appendix A is a list of consumer products that have been the subject of consumer inquiries or that are otherwise alleged to contain asbestos. The Commission requests interested persons to provide information on whether the lists in Appendix A are complete and accurate. Any information received in response to this notice will help the Commission determine the scope of the problem and identify specific products on which it may need to focus its attention.

To obtain additional specific information on the use of asbestos in consumer products in the near future, the Commission intends to issue general and special orders under the authority of section 27(b)(1) of the CPSA (15 U.S.C. 2076(b)(1)) to require manufacturers (including importers) and private labelers of certain categories of consumer products to submit information on the use of asbestos in specified consumer products which the Commission believes merit initial attention. The Commission intends to select consumer products containing asbestos for priority attention in this investigation, based on the following criteria: (1) the number of units of the product estimated to be in use by consumers, (2) the form and location of the asbestos in the product; (3) the frequency, duration, manner, and location in the consumer's environment of product use, including such factors as the expected useful life of the product and the presence of heat and/or moisture and the likelihood of abrasion during use or forseeable misuse; (4) the likely availability and feasibility of substitutes for asbestos in the product; (5) the relative ease of data collection and analysis by the Commission and the reporting burden on industry; and (6) the degree of potential overlap of CPSC reporting requirements with the information gathering efforts of other regulatory agencies, particularly the Environmental Protection Agency.

The information which the Commission may require in the general or special orders includes for the products covered: specific product indentification information; the function performed by the abestos in the product; a description of the asbestos; the location of the asbestos in the product; available test or other data concerning asbestos fiber emission; information on the promotion, marketing, and use patterns of the product; and information on possible substitutes for the asbestos in the product.

The Commission plans to begin selecting products for priority attention and may issue general or special orders to require the submission of information on those products during the time it is receiving comments on this notice.

The Commission intends to coordinate the gathering of information under the general and special orders with the information gathering activities of the Environmental Protection Agency (EPA), which is proposing, in an Advance Notice of Proposed Rulemaking appearing elsewhere in this issue of the Federal Register, a comprehensive regulatory program under the Toxic Substances Control Act to address asbestos exposure. Coordination between CPSC and EPA will include the sharing of information, including where permitted by applicable law, the sharing of confidential business information. Through this coordination, EPA and CPSC will endeaver to reduce reporting burdens on industry and improve the efficiency and effectiveness of regulatory efforts. The Commission solicits comments and information from interested persons on the issues raised by the sharing of confidential business information, particularly concerning ways to reconcile the agencies' need for information with industry's legitimate interest in preserving the confidentiality of trade secrets and other confidential commerical or financial information.

Regulatory Approach

General Policy

The previous regulatory action the Commission has taken concerning asbestos in consumer products has been based on several principles. First, the Commission concluded that exposure to any respirable asbestos fibers from consumer products presents a health risk because there has not been demonstrated to be a threshold or no-effect level below which exposure to asbestos fibers would be considered safe. Further, exposure to asbestos from consumer products is generally in addition to environmental exposure from a number of other sources, and therefore must be viewed as part of a cumulative burden of asbestos exposure.

Second, the seriousness of the injury associated with asbestos exposure—the potential increased risk of cancer—was given considerable weight by the Commission in the decision-making process to determine whether the consumer products presented an unreasonable risk. As it is required to do by statute, the Commission carefully considered the effect of regulatory action on the utility, cost, and availability of the product and concluded that in the absence of compelling evidence of unacceptable social or economic costs associated with removal of asbestos from the product, regulatory action was warranted.

The Commission recognizes that before it may take regulatory action, the Commission must make the necessary statutory findings, based on substantial evidence; and that it must observe the requisite procedures designed to ensure due process in taking regulatory action.

As a general approach, however, the Commission proposes initially to seek the elimination of all non-essential uses of asbestos in consumer products from which asbestos fibers are released during reasonably foreseeable conditions of use, including misuse. The Commission proposes to take regulatory action concerning non-essential uses of asbestos on the basis of a determination of the fact of asbestos fiber emission, rather than a quantitative assessment. In determining whether a use of asbestos is essential, the Commission will generally consider a number of factors, including but not limited to: the function performed by the asbestos in the product, the benefit derived from the use of asbestos in the product; and the availability and cost of substitutes for the asbestos; and the safety of such substitutes.

The Commission proposes to use this regulatory approach in addressing the problem of asbestos exposure from consumer products and solicits comments from interested persons on whether this is an appropriate approach under the regulatory authority of the Commission.

By proposing this regulatory approach, the Commission does not intend to preclude possible action to address essential uses of asbestos in consumer products from which asbestos fibers are released. The initial focus, however, will be on non-essential uses of asbestos.

Statutory Tools for the Regulation of Asbestos in Consumer Products

CPSC administers two statutes under which it is empowered to regulate asbestos in consumer products. Under the Consumer Product Safety Act (CPSA, 15 U.S.C. 2051, et seq.), CPSC has the general responsibility to protect the public from unreasonable risks of injury, illness or death associated with consumer products. Under the Federal Hazardous Substances Act (FHSA, 15 U.S.C. 1261, et seq.), CPSC may regulate hazards presented by the presence or use of toxic and other hazardous substances in the household.

Possible regulatory actions under the CPSA to address asbestos exposure include:

(1) consumer product safety standards consisting of requirements as to performance, composition, contents, design, construction, finish or packaging of the product;

(2) consumer product safety standards requiring that the product be marked with or accompanied by clear and adequate warnings or instructions, including requirements specifying the form of warnings or instructions;

(3) rules declaring the product a banned hazardous product;

(4) orders, following the opportunity for an evidentiary hearing, determining that a product presents a substantial product hazard; and requiring the manufacturer, distributor, or retailer to notify the public and specific purchasers of the product of the nature of the hazard and requiring the repair or replacement of the product or refund of the purchase price; or

(5) rules requiring manufacturers of the product to give notification to consumers of performance and technical data, including warnings or instructions for safe use, at the point of sale. Such performance and technical data could include the results of testing which, under certain circumstances, the Commission may require manufacturers to perform.

At any time, even when one of the above proceedings is pending, the Commission may file a civil action in a United States district court against an "imminently hazardous" consumer product or the manufacturer, distributor or retailer of such product for seizure or injunctive relief.

The FHSA prescribes requirements for cautionary labeling of household products which are or contain "hazardous (including "toxic") substances", as those terms are defined in the Act or as the Commission may define them by regulation. The Commission also may prescribe by regulation reasonable variations or additional label requirements for hazardous substances. If the Commission finds that notwithstanding cautionary labeling, the degree or nature of the hazard presented by the substance is such that the public health can be adequately protected only by excluding such substance from the channels of commerce, it may, by regulation, declare the substance a banned hazardous substance. Banned hazardous substances are subject to automatic repurchase under the Act. Where a serious threat to public health exists, the Commission, pending completion of a rulemaking proceeding to declare a substance a banned hazardous substance, may, by notice published in the Federal Register, declare a substance an "imminent hazard", and thus temporarily ban such substance from the channels of commerce.

The CPSA empowers the Commission to address unreasonable risks of injury associated with consumer products or components of such products. The inclusion of components was intended to enable the Commission "to regulate just a part of a consumer product if only such regulation were warranted." *ASG Industries, Inc.* v. *Consumer Product Safety Commission*, 593, F. 2d 1323 (D.C. Cir. 1979). This recognition that products may pose a risk of injury because of the presence of a particular component suggests that the Commission could address in a single regulatory action the use of asbestos as a component in a number of different consumer products that share similar or related uses of asbestos, provided the Commission makes the requisite statutory findings under the CPSA. (See section 9(c), 15 U.S.C. 2058(c).)

Regulatory action to address asbestos in consumer products could include regulation of asbestos as a component in any consumer product where exposure to asbestos fibers occurs; regulation of a group or category of consumer products which contain asbestos in a form that results in exposure to asbestos fibers; or regulation of individual products that contain asbestos on a case-by-case basis if exposure to asbestos fibers occurs. The Commission has used the latter approach in the past. From the standpoint of effective protection of the public health and efficient expenditure of limited resources, however, the Commission believes that in certain circumstances a broader, more "generic" approach to regulation may be preferable. Where appropriate, the Commission will consider such an approach to the regulation of asbestos in consumer products. In situations where a particular type of product is found to present a hazard, the Commission will pursue appropriate regulatory action as to that product type.

Issues Highlighted For Comment

The Commission solicits comments and information from interested persons on all the issues raised in this notice as well as any other matter relevant to the investigation and possible regulation of consumer products containing asbestos. The Commission is particularly interested in receiving comments and information on the issues and questions set forth below.

1. Is the Commission's list of consumer products containing asbestos (or possibly containing asbestos) contained in Appendix A accurate and complete? Are there products or categories of products on the list that are (a) no longer manufactured or (b) currently manufactured but no longer contain asbestos? Are there products or categories of products currently manufactured that contain asbestos but that are not on the list?

2. How can agencies (such as CPSC and EPA) proceed to obtain information necessary to make informed regulatory decisions concerning asbestos while considering industry's, and the general public's interest in avoiding unnecessary reporting burdens? How can the agencies' needs for information be met while protecting industry's legitimate interest in preserving the confidentiality of trade secrets and other confidential commercial and financial information.

V 4 4 0 C 1 7 7 9 UMI

3. The Commission's proposed regulatory approach will initially seek the elimination of all non-essential uses of asbestos in consumer products from which asbestos fibers are released during reasonably foreseeable conditions or duration of use, including misuse. Is this a sound approach? Is it an appropriate one under the statutes the Commission administers? Under what circumstances should the Commission consider action to address essential uses of asbestos in consumer products from which fibers are released?

4. How should the Commission determine what constitutes an essential use of asbestos in consumer products? Are the Commission's proposed criteria appropriate? How much weight should be given to cost, availability, utility or safety of substitutes for asbestos in consumer products? How should the societal benefit derived from a product, or the use of asbestos in a product, be assessed?

5. The Commission's proposed position concerning the type of evidence necessary for regulatory action is that it can take action on the basis of a determination that asbestos fibers are being emitted from a product. Is this approach appropriate? In what situations should quantitative measures of asbestos fiber emission be attempted? If so, who should conduct the tests to determine the quantitative levels being emitted from particular products? Should the Commission attempt to define or develop criteria to determine whether asbestos fibers are "respirable"?

6. Where appropriate the Commission intends to consider regulation of asbestos as a component of one or more groups or classes of consumer products (i.e. "generically"), rather than on a product-by-product basis. Under what circumstances would this be an appropriate approach? What are the advantages or disadvantages of such an approach?

7. The Commission does not intend to employ quantitative estimates of cancer risks posed by exposure to asbestos fibers in making regulatory decisions concerning consumer products containing asbestos. Is this an appropriate approach to the regulation of the risks posed to the public from exposure to asbestos in consumer products?

8. The Commission has limited information concerning qualitative or quantitative studies of asbestos fiber emission from particular consumer products. The Commission is interested in receiving any such information in order to help identify products which should receive priority attention in this investigation.

9. The Commission has listed a number of criteria which it intends to apply in selecting consumer products containing asbestos for priority attention in its investigation. Are these criteria appropriate? Are there additional criteria that should be applied?

Public Participation

During the investigation and possible regulation of consumer products containing asbestos, the Commission hopes to receive the views of public interest, consumer, industry and other interested groups on all relevant issues. In order to facilitate this participation, the Commission, in addition to soliciting written comments and information through this notice, may conduct one or more public hearings or meetings. In order to ensure representation of viewpoints from groups and individuals who might otherwise not have the means to furnish comments in response to this notice, the Commission will make available financial compensation for reasonable expenses incurred in furnishing comments. Funding will also be available for participation in any hearings, meetings, or other future Commission proceedings connected to this investigation. Eligibility for financial compensation will be determined in accordance with the Commission's Interim Policies and Procedures concerning Financial Compensation of Participants in Informal Rulemaking Proceedings (16 CFR Part 1050). Individuals or groups who wish to apply for financial compensation should promptly contact the Office of the Secretary at the above address, and indicate their interest in receiving the necessary application forms and other information.

(Consumer Product Safety Act, 15 U.S.C. 2051 et. seq., Federal Hazardous Substances Act, 15 U.S.C. 1261, et. seq.)

Dated: October 12, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Appendix A.—Consumer Products Containing Asbestos [1]

Asbestos Paper Products

Acoustical ceiling tile
Lamp sockets
Burner mats for gas stoves
Roofing felts (outer layers)
Pipe and boiler covering
Vinly sheet flooring backing
Radiator top insulation
Appliance heating shielding (paper)
  Slow cookers
  Hair dryers
Paper sheets for heat insulation
Millboard
  TV and other electronic switch plates
  Electric switch boxes
  Metal reinforced gaskets (for air-cooled engines)
  Electrical washers
  Linings for ovens, kilns, safes, safety boxes, incinerators
  Millboard sheet
    Wall protection behind heat-generating products
    Floor protection under wood and coal stoves
  Soldering and welding blocks
Iron rests
Appliance heat shielding (millboard)
  Toasters
  Rotisserie broilers
Fireproof wallboard
Metal-clad fire doors and partitions
Tent grommets
Stove pipe rings

Cloth and Woven Products

Flexible air conductor for heating, cooling and ventilating equipment
Appliance wiring
  Barbecue fire starters
  Broilers
  Curling irons
  Electric blankets
  Hair dryers
  Heating pads
  Ranges
  Slow cookers
  Toasters
  Irons
  Deep fat fryers
  Electric fry pans
Awnings
Candlesticks
Catalytic Heater Mantles
Cigarette Lighter wicks
Cord
  Seals for high temperature gaskets
  Valve steam packings
  Insulation for glass handling tools
  Reinforcing for braided wall stem hose
Theater curtains
Felt
  Reinforcements in plastics
  Gaskets
  Reinforcement in asbestos tapes
  Secondary insulation in high temperature wire and cable
  Asphalt impregnated roofing felts
  Piano and organ felts
Heating pads (element insulation)
Ironing board pads and covers
Lamp and lantern mantles
Pipe and boiler covering
Pot holders and oven mitts
Flame resistant garments
  Gloves
  Hats
  Helmets
  Hoods
  Mittens
Overgaiters
Sleeves
Suits
Umbrellas
Aprons
Arm protectors
Flame-resistant blankets
Boots
Caps
Smokers' bibs
Stoves—Coal and wood burning
Tape for pipe insulation
Braid and rope for packing
Motion picture screens
Tent grommets

Asbestos Cement Products

Water, sewer and septic drain field pipe
Airduct pipe
Sheet products
  Roofing clapboard
  Siding
  Shingles
  Interior walls
  Boiler and furnace baffles
  Bulk sheeting
  Welding shields
  Baking sheets
  Blackboards
  Laboratory table tops
  Linings for vaults, safes, humidifiers and filing cabinets

Viscous Matrix Products

Adhesives (glues and epoxies)
Air duct cement for asbestos-cement air duct
Buffing and polishing compounds
Caulks and putties
Floor tile cement and mastic
Auto body filler
Flashing cement
Furnace cement
Glazing compound for ceramics
Pipe and boiler coverings
Roof and driveway coatings
Stains and varnishes
Automotive metal deadener
Automotive undercoating
Refrigerant cements
Automotive muffler repair compounds

Products Subject to Inadvertent Asbestos Contamination

Driveway gravel
Fertilizer and lawn care products
Potting materials (vermiculite)
Talcs for noncosmetic or food use applications

Miscelloneous Products

Acoustical and thermal insulation material, sprayed
Ammunition shell wadding
Automotive mufflers
Barbecue firebed materials in gas barbecue grills
Boat Hull Repair Kits
Flower pots
Friction Materials
  Clutch plates
  Brake linings
Potters' kilns (home hobby)
Pottery clay
Powder (asbestos)
Bulk fiber
Reinforcement in molded plastics and rubber
Automotive radiator sealant
Vinyl asbestos floor tiles
Abrasive wheels
Aerial distress flares
Molded plastics and phenolic laminates
Paint
Textured paint
Cement, drywall and plaster patching compounds
Artificial gas fireplace emberizing material
Phonograph records

Consumer Products Possibly Containing Asbestos [2]

Appliances

Air conditioners
Dishwashers
Hand-held mixers
Portable electric heaters
Popcorn poppers
Refrigerators
Vacuum cleaners
Waffle Makers

Miscellaneous Products

Carpet padding
Fire places
Instant papier mache
Light fixtures on railroad passenger cars
Welding masks
File cabinets

[1] Source: *Review of Asbestos Use in Consumer Products*, A. T. Kearny Inc., Management Consultants (April, 1978), and other published sources. Final jurisdictional determinations for these products have not been made. The inclusion of a product on this list does not mean that all brands or models of that product contain asbestos.

[2] Source: Consumer inquiries and other sources not verified by the Commission.

[FR Doc. 79-32037 Filed 10-16-79; 8:45 am]
BILLING CODE 6355-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OTS 61005; FRL 1332-4A]

Commercial and Industrial Use of Asbestos Fibers; Advance Notice of Proposed Rulemaking

AGENCY: Office of Toxic Substances, Environmental Protection.

AGENCY: (EPA, or the Agency).

ACTION: Advance Notice of Proposed Rulemaking (ANPRM) Under the Toxic Substances Control Act (TSCA).

SUMMARY: EPA is concerned that many sources of human exposure to asbestos may present an unreasonable health risk. Exposure to asbestos fibers has been shown to contribute to increased risk of lung damage (asbestosis) and cancer of several anatomic sites in humans.

Asbestos is a generic name for several naturally occurring mineral fibers. Since the beginning of the century, approximately 30 million tons of asbestos fibers have been used in the United States to produce thousands of commercial and industrial products. The inventory of asbestos products is growing since products introduced into commerce represent about 750,000 tons of asbestos per year. Some fibers used in these products are inevitably released as a result of fiber processing, product manufacturing, distribution in commerce, product use, and disposal. Much of this asbestos remains in the biosphere as a ubiquitous pollutant because of the fibers' mobility and resistance to chemical and physical decomposition. Humans may be exposed to these fibers from the aforementioned direct and indirect sources.

Certain exposures to asbestos are controlled under various Federal and State authorities. However, because of limited mandates (i.e., focused on specific populations or exposure sources), technical difficulties (e.g., available fiber measurement techniques), and other analytical constraints, these authorities are not able to deal with the total asbestos problem. As a result, many population segments remain exposed to, and inadequately protected from both direct and diffuse sources of asbestos.

The comprehensive manadate of the TSCA enables EPA to reduce health risk from sources which are difficult to control through media-specific or source-specific regulation authorized under other Federal authorities. Under TSCA, EPA is currently investigating the cumulative effects of exposure to asbestos throughout its life cycle in commercial and industrial products (i.e., from mining and milling through processing, product manufacturing, use and disposal). Our preliminary studies indicate substantial continuing exposure of millions of people to the ever growing inventory of asbestos sources. As a result of this study, the Agency expects to promulgate rules to prevent and reduce any unreasonable risks that are identified.

EPA anticipates that any rules it develops to control unreasonable asbestos risk will evolve chiefly from a combination of the following regulatory approaches. Under the first approach, the Agency might promulgate rules that prohibit the processing, manufacture, and use of certain asbestos-containing products or product categories. Under the second approach, the Agency might limit the annual amount of asbestos imported and produced in the United States, or it might limit the amount of asbestos processed in the United States. Both approaches would aim at reducing the consumption of asbestos for nonessential purposes. Both reflect the Agency's belief that many asbestos products have economically available substitutes. All rules would be designed to minimize adverse impacts on industry

by providing sufficient time to adopt substitutes and eliminate asbestos processing equipment.

Control of asbestos already installed or in service will generally require action different from the ones above. Many existing sources are difficult to identify and control. However, as an initial step, the Agency is investigating the development of a rule to require public school surveys to determine whether asbestos hazards are present due to deteriorating insulation. The Agency will also consider requiring appropriate corrective measures where hazards are found. An Advance Notice of Proposed Rulemaking has been published in the **Federal Register** describing this action (44 FR 54676, September 20, 1979). Other existing sources that the Agency may control in the future include public buildings where asbestos was used as an insulation or decorative material and merchant ships where asbestos is widely used as insulation.

In support of the investigation of asbestos products and uses, EPA expects to issue a reporting rule under section 8(a) of TSCA to gather economic and exposure information. The Agency also anticipates issuing a rule under section 8(d) of TSCA to require the submittal of unpublished health and safety studies relating to asbestos. Finally, EPA will consider the need for supplementary regulation under other Federal laws administered by EPA and other Federal agencies.

EPA solicits comments on this Notice. These comments will be considered during development of any proposed regulations.

DATE: All comments must be received by the Record Clerk by December 17, 1979.

ADDRESS: Mrs. Joni T. Repasch, Record Clerk, Office of Toxic Substances (TS–793), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Comments should include the docket number OTS–61005. Comments received on this Notice will be available for viewing and copying from 9 a.m. to 4:30 p.m., Monday through Friday, excluding holidays, in Room 447 East Tower, EPA Headquarters, 401 M Street, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS–799), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone: 800–424–9065, [In Washington, D.C., call 554–1404].

SUPPLEMENTARY INFORMATION:

The Problem

EPA has conducted a preliminary evaluation of asbestos related health effects and exposure situations. On the basis of this evaluation, EPA believes that many sources of exposure to asbestos may present an unreasonable human health risk because of serious adverse health effects and large numbers of people subject to exposure. Studies of exposed populations have shown that asbestosis, a progressive deterioration of lung function, and various types of cancer are associated with asbestos exposure, even at low concentrations or after short exposure periods.[1, 2]

Asbestos is a generic name for a variety of naturally occurring fibrous mineral silicates (chrysotile, amosite, crocidolite, anthophyllite, tremolite, and actinolite). For many years asbestos has provided reliable protection against damage from heat, fire, and rot and has served many other valuable functions. The high tensile strength, flexibility, and heat and chemical resistance of asbestos fibers make them adaptable to a large number of uses. Although accurate figures on the number of asbestos-containing products are not available, some 2,000 to 3,000 discrete products are estimated to contain the material.

Asbestos use has been increasing steadily. Since the beginning of this century, approximately 30 million tons of asbestos have been used in the United States with the total increasing annually by about 750,000 tons (average annual use over the past ten years).[3]

Much of this asbestos is still in the biosphere because asbestos fibers are highly indestructible and quite mobile, moving from land and water to air through normal physical processes. Exposure sources include mines, mills, processing facilities, products, disposal sites and the ambient environment. With long latency periods between exposure and evidence of disease, we probably have not yet felt the total impact of asbestos-related disease incidence due to the growing presence of asbestos in the biosphere.

Approximately twenty Federal regulations under various laws regulate human and environmental exposure to asbestos.[4] Despite these regulations, however, large segments of the population continue to be exposed to asbestos. Consistent with their legislative mandates, existing regulations are limited to controlling asbestos in specific media (e.g., air, water, food), source categories (e.g., process emissions, waste piles), or population segments (e.g., workers). These regulations are not designed to control the full range of exposure situations. For example, there are over 100 million motor vehicles in the United States today. Since most vehicles use a set of asbestos-containing brake linings every 3 or 4 years, a considerable amount of asbestos-containing material is released to the environment during use and maintenance. Yet, not Federal regulation addresses the problem of asbestos build-up in the biosphere from this and many other sources.

Even within their regulatory purviews, Federal and state authorities are constrained in establishing adequate asbestos exposure controls. Because of their limited focus, these authorities only weigh partial risks (e.g., occupational exposure) against total societal benefits of asbestos-containing products and uses. The limitations of available fiber measurment techniques also constrain the range of feasible control options.

Approach to Regulation of Asbestos Under TSCA

The Agency believes that TSCA provides an effective means of controlling the proliferation of asbestos use in the United States and of reducing the health risks associated with the existing accumulation of asbestos in the environment. Under the compreshensive jurisdiction of TSCA, EPA has authority to weigh overall risks presented by the entire asbestos life cycle, from mining to final disposal. For example, EPA can control any chemical manufacturing, processing, distribution in commerce, use, or disposal activity, or any combination of these activities found to pose an unreasonable risk to health and the environment. EPA is planning to use TSCA's unique authority in this rulemaking to assess whether exposure to asbestos throughout its life cycle presents an unreasonable risk to human health. Where the presence of risk is determined, EPA will consider developing regulations under TSCA and other laws which the Agency administers. The development of

[1] Bogoviski, P. et al. (eds.), *The Biological Effects of Asbestos*. Proceedings of working conference held at the International Agency for Research on Cancer, Lyon, France; 2–6 October 1972, pages 155–182.

[2] Levin, R.J. (ed.), *Asbestos: An Information Resource*. DHEW Publication No. (NIN) 78–1681. May 1978, page 24.

[3] U.S. Environmental Protection Agency, *Chemical Market Input/Output Analysis of Selected Chemical Substances to Assess Sources of Environmental Contamination: Task III Asbestos*. Washington, D.C., 1978.

[4] U.S. Environmental Protection Agency, *Federal Register Citations Pertaining to the Regulation of Asbestos*. In-House Report, April 1979.

regulations under TSCA and other authorities will be integrated to promote adequate health protection and minimize impacts on industry.

The Agency anticipates that most asbestos regulatory action will be taken under section 6(a) of TSCA, although section 5(a) might also be used where appropriate. Among other things, section 6(a) enables the Agency to restrict chemical processing, limit quantities that can be used, require appropriate labels, and mandate recordkeeping. Section 5(a) enables the Agency to require that manufacturers submit premanufacturing notification for significant new uses of a chemical.

Before promulgating a rule under section 6(a) of TSCA, the Administrator must determine that the substance in question presents an unreasonable risk to human health and the environment. The Agency can then develop rules to reduce or prevent the risk using the least burdensome requirements.

To accomplish this end in the case of asbestos, TSCA requires that the following areas be examined and documented:

(1) The seriousness of health effects associated with identified levels and durations of human exposure to asbestos;

(2) The benefits of various uses of asbestos and the availability of practical substitutes for these uses; and

(3) The reasonably ascertainable economic impacts of the rules on the national economy, small business, technological innovation, the environment, and public health.

The following sections discuss the method the Agency plans to use in carrying out these studies.

Risk Assessment

EPA is examining the total risk to human health from exposures to asbestos throughout the material's commercial life cycle (i.e., from mining and milling, through fabrication into products, to final use and ultimate disposal). The Agency is preparing an assessment of occupational and general population risks from both new and existing exposure sources. The investigation will be based principally on available data concerning asbestos-related health effects and potential exposure situations. EPA believes that it already has much data to support rulemaking under TSCA. However, to insure that all relevant information is considered, the Agency expects to propose a reporting rule under section 8(d) of TSCA. The rule will require submission to the Agency of any unpublished health and safety studies on asbestos.

In examining asbestos health effects, EPA is relying heavily on the extensive epidemiological studies conducted primarily in occupational settings. The results of animal studies are being used to supplement epidemiolgic data. For example, data from animal studies are being used to assess the biological activity of fibers which differ in size, shape, or chemical composition. These studies, when combined with known and potential exposure situations, will show the seriousness of health effects associated with identified routes, levels, and durations of human exposure to asbestos. The linear nonthreshold model is being used to provide quantitative estimates of cancer risk in accordance with EPA Interim Guidelines for Carcinogen Risk Assessment (41 FR 21402, May 25, 1976) and the Interagency Regulatory Liaison Group's Guidance (44 FR 39858–39879, July 6, 1979) on the subject.

EPA particularly requests comment with respect to the analysis it intends to perform on the health risks of asbestos. Ideally, EPA would examine health risks presented throughout the commercial life cycle of asbestos associated with particular end products then analyze the substitutes for each of the end use products to determine if the risks presented are unreasonable. Asbestos, however, is contained in so many products that it would be an impracticable, if not impossible, task to analyze the risks associated with each of the 2,000–3,000 uses, except for certain distinct products which may present unique exposure situations. Furthermore, it is not clear that it is technically possible to trace the life cycle risks for a particular product, since at the early stages, such as mining and milling, asbestos is undifferentiated and may be used in any number of different end products.

Accordingly, EPA intends to analyze as a whole all the health risks associated with asbestos. The Agency's risk assessment will document major risks that occur within stages of the asbestos life cycle. Individual situations will be described that illustrate these stages. For certain situations, such as in some of the well studied asbestos workplaces, more precise estimates will be possible than in other situations. This type of risk assessment would show that risks occur generally from exposure to asbestos, rather than from any particular product because of the characteristics of that product.

EPA requests comment on the general validity of its risk assessment approach, and solicits suggestions for alternatives to remedy the problems associated with a product-by-product approach.

Some technical problems remain in making comparisons among the concentrations of asbestos that were measured by different sampling and analytical techniques. In particular, a comparison of work place levels measured with the light microscope to ambient urban levels measured with the more sensitive electron microscope would be helpful in estimating some components of asbestos risk. The Agency welcomes comments on the appropriate conversion factors to use when making comparisons of both types of data, and on the implications for estimating risk.

Socioeconomic and Substitute Assessment

If EPA's life cycle risk assessment concludes that substantial human health risk is associated with general exposure to asbestos, then the Agency will examine the situation for the presence of "unreasonable" risk on the basis of the availability of reasonable substitutes. Unreasonable risk may be analyzed on the basis of the present or future availability of reasonable substitutes on a product or category specific basis, or may be analyzed by a more general, representative socioeconomic evaluation of proposed asbestos controls. The Agency's choice of economic analysis will depend on the choice of regulatory options, which are explained below in the section titled "Regulatory Control Options." A combination of the two types of economic analyses is also being considered. The Agency will develop least burdensome controls to reduce these risks after consideration of probable socioeconomic impacts.

The analysis of substitutes will address the following issues: (1) the basic need for the product in the marketplace; (2) the performance capabilities of substitutes; (3) the present and anticipated availability of substitutes; (4) the cost of substitutes; and (5) the health and environmental hazards associated with substitutes. The evaluation of hazards from substitutes generally will be limited to a qualitative analysis. The economic analysis will include an economic profile of the industry and an examination of the potential impacts of any proposed controls. Key factors to be examined include: (1) industry structure and concentration; (2) pricing; (3) production volume; (4) current employment; (5) energy consumption; (6) income distribution; (7) growth, profitability, and capital availability; and (8) market segmentation.

V 44 OC 17 79 UMI

Regulatory Control Options

The Agency is considering the following regulatory approaches to prevent and reduce unreasonable health risks at all stages of the asbestos life cycle.

First, the Agency might promulgate prohibitions on the manufacture, processing, and use of specific asbestos-containing products or product categories. The products or categories to be controlled would be determined on the basis of a category or product specific analysis of socioeconomic factors. Possible controls might include banning the manufacture and use of asbestos-containing textiles, roofing paper, or brake linings.

One disadvantage of this approach stems from asbestos fiber demand which reportedly exceeds current supplies. If this situation persists, fibers orginally destined for a banned product might be transferred to increase production of unrestricted products. Such a transfer could offset the reduction in asbestos use anticipated under the product use ban. The situation would only change after a large number of asbestos-containing products and uses were banned.

Another disadvantage of the specific product restriction approach is that it could generate voluminous exemption requests. Although well defined exemption criteria could minimize the number of requests, the demand on EPA resources could be significant. Despite these drawbacks, this option should still enable EPA to reduce and prevent many exposures associated with nonessential asbestos products.

Under the second approach, EPA could promulgate regulations setting limits on the amount of asbestos mined in the United States and imported annually. Alternatively, the regulation could restrict the amount of asbestos processed annually in the United States. The net risk reduction and prevention from either alternative should be about the same. In selecting between them, EPA would consider such factors as economic impacts and resources necessary for enforcement. Either alternative within this approach would be supported by a general or representative socioeconomic analysis of the proposed asbestos controls.

In essence, the second approach would establish a ceiling on the amount of asbestos used in the United States. This ceiling could be reduced gradually until it reaches a level which the Agency's socioeconomic analysis indicates is necessary for essential asbestos-containing products and uses. This approach would allow industry to determine which products and uses to eliminate. EPA would still be assured of reduction in asbestos use and environmental build-up. The disadvantage of this approach is that there is no guarantee of eliminating products which present a particularly high risk. For example, if a product with easily released fibers commands a relatively high price, it might remain in the marketplace much longer than if it was regulated specifically.

Under the third approach, the Agency might select a combination of the preceding approaches to take maximum advantage of their desirable features. The key differences between the two approaches are (1) whether EPA or industry determines which products are eliminated, and (2) whether specific products or overall quantity of asbestos fibers are regulated. EPA may prefer to allow industry to determine which products to eliminate and how to allocate available asbestos fibers. In order to provide this opportunity, the Agency may select production/import limits as the primary control option. Depending upon the outcome of socioeconomic and substitute analyses, EPA might reduce the initially established ceiling limit annually by 5 to 20 percent until an appropriate level is reached where all remaining fiber use is essential. In conjunction with the production/import rule, EPA might also ban a few selected products to ensure speedy elimination of items or uses presenting particularly significant risk. Possible candidates for ban include millboard, commercial paper, and certain friction products.

All regulations developed by the Agency under any of these approaches will be designed to minimize adverse impacts on the asbestos industry and asbestos users. To this end, the development of implementation schedules will allow for reasonable transitions to substitutes and orderly phase-out of asbestos processing equipment.

Phased Approach of Anolysis

The widespread use of asbestos makes evaluating substitutes, assessing economic impact, and examining other factors necessary to support regulation a difficult and time consuming process. Therefore, the Agency is conducting regulatory assessments in a systematic manner on all asbestos product categories.

The following product categories account for the major portion of asbestos used in 1978: Paper products including certain roofing and flooring products, other flooring products, asbestos-cement pipe, asbestos-cement sheet, friction products, plastics, packing and gaskets, coatings and compounds, insulation and textiles.[5] Of these, EPA has selected asbestos paper products and automobile and light truck brake linings as initial candidates for analysis and possible rulemaking.

According to various estimates of asbestos use in 1978, paper products account for approximately 30–40 percent of the total asbestos consumption. Much of asbestos paper is used to make asbestos roofing products. Because of its versatility, however, asbestos paper has a wide variety of applications. These include asbestos paper, tubes, and tapes for electrical and thermal insulation; diaphragms for brime electrolysis cells; corrugated paper sheets and blocks for use in appliances and other applications; underlayments for sheet vinyl flooring; gaskets; beverage filters; molten glass handling equipment; and general heat/fire-proofing components. Many of these uses have reasonable substitutes. For example, roofing felt can also be made with organic and fiberglass fibers at less cost than asbestos fibers. The performance of these materials is very similar to asbestos roofing felt.

Friction products currently account for about 14 percent of total asbestos consumption. Brake linings constitute the largest single product within the friction product subcategory. Human exposure to asbestos emissions from brake linings occurs not only during processing (i.e., production of the brake linings), but also during use and servicing of brakes. Several automobile manufacturers are already using nonasbestos disc brake pads with plans to ultimately convert totally to nonasbestos pads. Nonasbestos shoes for drum brakes have been more difficult to develop but some manufacturers believe that they are near to developing a commercially acceptable substitute.

Existing Sources of Asbestos Exposure

Although risk associated with newly processed asbestos may be substantial, the continuing aggregate risk associated with existing and past asbestos use may be equally and possibly more significant. Unfortunately, reducing risks from the latter group is more complicated than reducing new risks because of difficulties in identifying all the related exposure sources, the lack of feasible control options for many sources, and the large costs associated with removing and replacing existing

[5] Clifton, R. A., *Asbestos-Mineral Commodity Profiles*, U.S. Department of the Interior, Washington, D.C., July 1979.

products. Some existing asbestos products, however, are amenable to evaluation and control. For example, asbestos has been widely used for insulation in schools and other buildings. In some of these buildings the insulation has deteriorated and fibers are entering the air in the buildings. EPA is currently investigating whether to require surveys of public schools for asbestos and appropriate control actions wherever exposure problems are identified. This action was announced in another ANPRM published in the **Federal Register** on September 20, 1979 (44 FR 54676).

Other existing uses of asbestos will be examined where practicable during subsequent stages of the asbestos regulatory investigation. Possible candidates include all public buildings and merchant ships.

Information Gathering under Section 8(a) of TSCA

EPA is developing a section 8(a) rule to help gather information needed for this investigation. The information will be used to determine appropriate regulatory action under TSCA as well as under other laws administered by EPA and other Federal activities. EPA invites comments on the need for such a rule; who should be subject to, or exempt from reporting; what information should be gathered under this authority; and how the section 8(a) rule should be designed.

Under section 8(a), EPA could require maintenance of records and reporting by persons who mine or mill asbestos, process asbestos (including making asbestos-containing products), and import asbestos or asbestos-containing products. Insofar as the information is known to, or reasonably ascertainable by those persons, the Agency could require reporting of information about any aspect of asbestos manufacture and processing. Possible reporting topics include the composition of asbestos-containing products, the uses of each product, all existing data concerning environmental and health effects, the number of individuals exposed in workplaces, and the duration and extent of these exposures, and the manner and method of asbestos waste or product disposal.

The section 8(a) rule could be designed in several ways depending, in part, on the control strategy selected by the Agency. A single rule might require one-time reporting of information, while a series of rules might require phased reporting by industry segments. Either type of rule could establish different reporting requirements for the various groups or persons (i.e., millers, processors, importers of asbestos) subject to the rule. A rule might require immediate submission of some information while retaining the authority to request other specified information by letter at a later date. The possible scope of a section 8(a) rule is discussed in more detail in the issue section below.

Citizens Petition

Under section 21 of TSCA, a citizen may petition EPA to initiate a proceeding for the issuance, amendment, or repeal of a rule under various provisions of the Act. On June 21, 1979, the Agency received such a petition requesting that a proceeding be initiated to restrict future use of asbestos-cement pipe in drinking water supply systems. This request is compatible with the Agency's plans, as announced in this Notice, to initiate a comprehensive investigation of commercial and industrial asbestos uses including asbestos-cement pipe.

The Administrator's response to the petition notes that the evaluation of health effects information on risks resulting from the ingestion of asbestos is not yet complete. It also states that the Agency has just begun gathering exposure and socioeconomic information on asbestos-cement products. Thus, it is not EPA's intent to include asbestos-cement pipe as a candidate for Initial rulemaking. Nonetheless, because the Agency has initiated investigations to support a decision on whether to regulate asbestos-cement pipe under TSCA, the Administrator granted the petition.

Issues

Several issues must be resolved during this asbestos rulemaking process. EPA invites comments on the following issues and any others which might be relevant.

1. *Health Effects of Substitutes.* To adequately assess substitutes for asbestos, EPA requests health, environmental and socioeconomic information on substitute materials. This information has two purposes: (1) it will allow an informed analysis of the health effects of the substitutes for comparison with the known hazards of asbestos, and (2) it will enable a balanced consideration of the environmental, economic, and social impact of any action taken by the Agency.

We are particularly concerned with materials, such as fibrous glass, that might have physical dimensions and characteristics very similar to those of asbestos fibers, but differ only in chemical composition. EPA is aware of relevant research, especially the studies by Stanton [6, 7, 8] Pott [9, 10] and others.[11, 12, 13, 14, 15] These studies suggest that the length and width of fibers or the ratio of the width to the length may be more important than their chemical composition in determining carcinogenicity. More specifically, current research findings suggest that fibers with diameters less than or equal to 1.5 microns and lengths between 5 and 60 microns are likely to have greater fibrotic and carcinogenic potency than fibers falling outside these ranges. Consequently, we plan to adopt a policy that nonasbestos fibers with physical dimensions within these ranges are not appropriate substitutes unless appropriate testing indicates otherwise. Fibrous or other substitutes which do not present major health risks would be determined to be suitable. EPA solicits comments on this approach.

2. *Scope of a Section 8(a) Rule.* To develop regulations for asbestos sources, the Agency must gather and

[6] Stanton, M. F. Layard M. "The carcinogenicity of fibrous minerals." Proceedings of the workshop on asbestos: definitions and measurements methods held at NBS, Gaithersburg, Maryland, July 18–20, 1977. National Bureau of Standards Special Publication 506, November 1978.

[7] Stanton, M. F. "Some etiological considerations of fiber carcinogenesis." In: Bogovski P. Gibson J. C., Timbrell V. Wagner J. C., eds. *Biological effects of asbestos*. Lyon: International Agency for Research on Cancer (IARC Scientific Publication number 8). 1973: pages 289–294.

[8] Stanton, M. F., Layard M. Tegeris A. Miller E. May M. Kent E. "Carcinogencity of fibrous glass: pleural response in the rat in relation to fiber dimension." J. Nat. Can. Inst. 1977; 58(3).

[9] Pott F. Huth F. Friedricks K. H. "Results of animal carcinogenesis studies often applications regarding human exposure." In: NIOSH symposium on occupational exposure to fibrous glass. University of Maryland, 1974. National Institute for Occupational Safety and Health, 1977 (DHEW publication number (NIOSH) [76–151).

[10] Pott, F. Huth F. Friedricks K. H. "Tumoren der matte mnach i.p. injektion von gamahl-enem chrysotil und benzo (a) pyren.".

[11] Wagner J. C., Berry G. "Mesothelioma in rats following innoculation with asbestos and other materials." B. J. Can 1969; 23: pages 567–81.

[12] Wagner J. C., Berry G., Timbrell V. "Mesotheliomas in rats often innoculated with asbestos and other materials." B. J. Can 1973; 26: pages 173–85.

[13] Wagner J. C., Berry G. Timbrell V. "Mesothelioma in rats following the intrapleural innoculation of asbestos." In: Shapiro H. A., ed. *Pneumoconosis*. Proceedings of the international conference. Cape Town: Oxford University Press. 1970: pages 216–19.

[14] Wagner J. C., Berry G. Skidmore J. W. "Studies of the carcinogenic effects of fiber glass of different diameters following intrapleural innoculation in experimental animals." In: NIOSH symposium on occupational exposure to fibrous glass, University of Maryland, 1974. National Institute for Occupational Safety and Health, 1977. (DHEW publication number (NIOSH) 76-151).

[15] Smith, W. E., Hubert D. D. "The intrapleural route as a means for estimating carcinogenicity." In: Karbe E., Park J. F., eds. *Experimental lung cancer. Carcinogenesis and Bioassays*. New York: Springer-Verlog, 1974: pages 92–101.

V 44 OC 17 79 UMI

analyze a variety of information concerning asbestos. Various EPA program offices have already accumulated a considerable amount of data through previous studies. These data will be used as much as possible. However, the Agency anticipates that it will need additional data for regulatory decision-making. The additional data includes recent production, market, substitute, exposure and health effects information. The Agency hopes to acquire some of this information through submittals by industry and other knowledgeable people in response to this ANPRM. EPA has also specifically contracted for studies to review the state-of-the-art knowledge and to develop new environmental and economic data.

Insofar as these nonregulatory avenues (e.g., this ANPRM, contractor studies, and other informal information requests) do not provide, or are not likely to provide sufficient information, the Agency will promulgate a section 8(a) rule. The issue at hand regards the appropriate scope of the section 8(a) rule. The Agency would like to minimize reporting burdens on industry. To this end, the promulgation of such a rule and its potential content will be influenced by responses to this ANPRM and informal Agency requests and by the need for confidential business information or other data not likely to be provided on a voluntary basis.

Relationship With Other Federal Laws

As previously noted, a number of rules for controlling exposure to asbestos have been promulgated under several Federal laws.

The Occupational Safety and Health Administration (OSHA) and the mining Safety and Health Administration (MSHA) regulate workplace exposures, the Department of Transportation (DOT) regulates the commercial transport of asbestos, the Food and Drug Administration (FDA) regulates the use of asbestos by the food and drug industries, and the Consumer Product Safety Commission (CPSC) regulates consumer products containing asbestos. EPA has established National Emission Standards for Hazardous Air Pollutants (NESHAP) for several asbestos sources under the Clean Air Act [16], 42 U.S.C. 7401 *et seq.*, and is considering additional asbestos air emission standards. EPA is developing effluent guidelines regulating wastewater discharges of asbestos and a water quality criterion under the Federal Water Pollution Control Act, 33 U.S.C. 1251, *et. seq.*, as amended in 1972 and 1977. EPA is also considering additional regulation of asbestos in drinking water under the Safe Drinking Water Act, 42 U.S.C. 300f *et seq.* The Agency may also develop regulations for asbestos waste management under Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. 6921 to 6931.

Under section 9 of TSCA, 15 U.S.C. 2608, the Administrator will consider whether risks from asbestos exposure could be reduced to a sufficient extent by actions taken by other agencies under other Federal laws. The Administrator will also consider whether rules promulgated under other EPA authorities could address the asbestos problems more effectively. To maximize the effectiveness of this proposed rule, EPA is coordinating with several agencies both directly and through the Interagency Regulatory Liaison Group (IRLG). These agencies include the Food and Drug Administration, Consumer Product Safety Commission, Department of Agriculture, Mine Safety and Health Administration, and Occupational Safety and Health Administration.

Public Participation

The Agency plans to conduct this investigation and rulemaking in compliance with the public participation section of the *FR Notice* entitled "EPA: Improving Regulation; Final Report Implementing E.O. 12044" (44 FR 30988, May 29, 1979). Before and after publication of any notice of proposed or final rulemaking in the **Federal Register**, EPA will identify and meet with public interest groups, industry, regional, State, and local governments and other interested groups to obtain their views on regulatory needs, the Agency's approach, and technical issues. Information exchange will be facilitated through various public participation mechanisms, including public meetings and public hearings at appropriate locations around the country.

A financial compensation program for public participation will be available to applicants meeting eligibility criteria. The funds may be used for the cost incurred in commenting on proposed rules after publication. A Notice of Availability of Grant Funds will be published in the **Federal Register** announcing the financial compensation program, eligibility criteria, level of funding, and the procedures for applying for reimbursement.

Public Record

EPA has established a public record for this rulemaking (docket number OTS 61005) which, along with a complete index, is available for inspection in the OTS Reading Room from 9:00 a.m. to 4:30 p.m. on working days (Room 477, East Tower, 401 M Street, S.W., Washington, D.C., 20460). This record includes basic information considered by the Agency in developing this ANPRM. The Agency will supplement the record with additional information as it is received. Materials for incorporation in the public record include:

1. This Notice.
2. All comments on this Advance Notice and the proposed rule.
3. All relevant support documents and studies (including economic analyses performed for the purpose of defining small business as prescribed by section 8(a)(3)).
4. Records of all communications between EPA personnel and persons outside the Agency pertaining to the development of this rule. (This does not include any inter- or intra-agency memoranda unless specifically noted in the index of the rulemaking record).
5. Minutes, summaries, or transcripts of any public meetings held to develop this rule.

EPA will identify the completed rulemaking record on or before the date of promulgation of the regulation, as prescribed by section 19(a)(3) of TSCA, and will accept additional material, for inclusion in the record at any time between this Notice and such designation. The final rule will also permit persons to point out any errors or omissions in the record.

Questions and Information Needs

To assist the Agency in gathering information for regulatory decision-making, EPA invites comments on, and responses to, the questions and information requests that are listed here or are discussed elsewhere in this Notice.*

1. The Agency solicits suggestions relating to the definition of several key terms identified below as well as other terms members of the public consider important to regulatory decision-making. To the extent possible the Agency would like our definitions to conform to generally accepted usage. The terms to be defined include: (1) asbestos, (2) encapsulated fibers, (3) locked-fibers, (4) easily released fibers, and (5) friable materials.

2. The Agency is requesting all unpublished data or estimates relating to human exposure and to human health risks from exposure to asbestos during mining, manufacturing, processing, use, and disposal for all asbestos products including the following product categories:

(a) Asbestos paper, including roofing and floor underlayments;
(b) Friction products;
(c) Asbestos cement sheet;
(d) Asbestos cement pipe;
(e) Textiles;
(f) Flooring;
(g) Gaskets and packings;
(h) Paints, coatings and sealants;
(i) Asbestos-reinforced plastics.

The information submittals should include data on exposure of both workers and people near mining, manufacturing and processing facilities. Where data might be extensive, covering several years, many work stations or many sampling points, summaries which include appropriate statistical analysis would be sufficient. Data of interest include present and future estimates of:

(a) The number of people exposed;
(b) The routes, duration and frequency of exposure;
(c) The intensity of exposure (fiber concentration preferred);
(d) Fiber size distributions;
(e) Fiber types;
(f) Relative and attributable risk estimates for all cancers of specific organs and nonneoplastic respiratory diseases;
(g) Variations in risk by age, sex, smoking status, duration and intensity of exposure, fiber types, and time from onset of exposure; and
(h) Technical controls currently used to monitor and control exposures to asbestos at the plant site.

3. Based on preliminary information, a list of asbestos-containing commercial and industrial product categories is presented in the Appendix to this Notice. The extent of human exposure to asbestos fibers from these products depends on many factors including the releasability of the fibers, the duration of the exposures, and the size of the population exposed throughout various parts of the life cycle of asbestos in the product. Products which release asbestos fibers during normal use, installation, maintenance, removal, or plausible mishandling are of particular concern during the use segment of the life cycle. Categories containing products which EPA believes may fall into this classification are noted with an asterisk in the Appendix. Identification of these products was based not upon testing but upon generally available information. The Agency is interested in determining the necessity of using asbestos in these products. The Agency requests the following information on these products and other asbestos-containing products.

(a) Do these products contain asbestos?
(b) What is the purpose of asbestos in the product; what is the asbestos content by percent of total composition and weight; and what is the asbestos fiber type, size and shape?
(c) What are the figures for annual production and sales of the product, and the annual amounts of asbestos used in each product?
(d) What is the value of the product and the cost of the asbestos used in that product?
(e) What exposures are expected during the manufacture of the asbestos-containing product; and what are the expected exposures associated with each use? (Rate of fiber release, frequency, duration, population exposed, and conditions of use.)
(f) What point source and non-point source discharges of asbestos to water are associated with the processing of asbestos fibers, manufacture and use of asbestos-containing products (e.g., quantity, concentration)?
(g) What amounts and types of asbestos-containing wastes are generated in connecton with manufacture of the product; and what methods and sites of storage, treatment and disposal are currently used for those wastes?
(h) What are the product life, and expected removal and disposal techniques for each use? What type of disposal sites are used?

4. The Agency is requesting the following information regarding the industry structure.

(a) What are the current trends in the use of asbestos and asbestos-containing products?
(b) Is the market stable?
(c) What size and type of industry is most likely to be affected by regulation of asbestos under TSCA?
(d) What effects on industry structure would be anticipated from regulation under TSCA?
(e) What effects on employment can be anticipated from asbestos regulation under TSCA?

5. The Agency is requesting the following information regarding substitutes for asbestos and asbestos-containing products. Manufacturers of substitutes are particularly encouraged to submit information.

(a) What substitute substances are presently available or currently under development for asbestos in paper products (including roofing felts and floor underlayments), friction products, flooring, plastics, cement, sealants and other commercial and industrial products?
(b) What substitute products are presently available or currently under development for asbestos-containing products in the categories described above?
(c) What are the performance characteristics of these substitute substances and products as compared to asbestos-containing products?
(d) What unpublished data are available regarding human exposure to, and health effects of substitutes for asbestos-containing products?
(e) What is the price differential between asbestos or asbestos-containing products and their substitutes?
(f) How long will it take to convert to production and use of alternatives? Please comment on a product-specific or product category-specific basis.
(g) To what extent can present makers of asbestos-containing products change to substitute materials? Can this conversion be accomplished using existing asbestos production facilities? What will the cost of the changeover be in terms of capital and operating costs?
(h) If existing facilities cannot be used once substitutes replace asbestos, will new facilities be built by existing asbestos processing companies, by other companies, or by some combination of these?
(i) What effects might regulation of asbestos have on industrial innovation and introduction of new products?

6. What categories or individual products and uses containing asbestos do not present a health hazard to users? Why?

7. What asbestos-containing individual products or categories might be considered essential because of significant benefits and/or lack of reasonable substitutes? What are the specific benefits and costs and how should they be weighed?

8. Is the state-of-the-art for asbestos identification and quantification (phase contrast or electron microscopy) analytically adequate and economically feasible to establish numerical standards for fiber release and exposure resulting from the production of asbestos-containing products, their use and disposal? Can airborne fiber levels

[16] These standards included certain work practice requirements which the United States Supreme Court in *Adamo v. Train*, 98 St. Ct. 566 (1978), found to be invalid. The Clean Air Act was amended by Congress in 1977 and 1978 to provide EPA with the authority to prescribe and enforce work practice standards. These asbestos standards are being promulgated again by EPA.

* CSPC, in an Advance Notice of Proposed Rulemaking appearing elsewhere in this issue of the **Federal Register**, announces a program to investigate the use of asbestos in consumer products. As part of this investigation, CPSC will solicit information through a variety of voluntary and regulatory means. To reduce potential reporting burdens on industry, CPSC will take into account response to EPA's questions when tailoring the Commission's requests for information on the use of asbestos in consumer products.

V 44 0 C 17 7 9 UMI

be measured at 10^2 fibers/m^3, 10^3 fibers/m^3, 10^4 fibers/m^3, or 10^5 fibers/m^3, and can waterborne fiber levels be measured at 10^3 fibers/liter, 10^4 fibers/liter, 10^5 fibers/liter, 10^6 fibers/liter or 10^7 fibers/liter? Should the level be expressed as total fibers or as fibers greater than a specified length or aspect ratio? Are other parameters more appropriate (e.g., total mass release, etc.)?

9. What unpublished data are available regarding ambient levels or asbestos in air and water and asbestos exposure from various noncommercial asbestos sources such as drinking water supplies and naturally occurring asbestiform rock?

10. EPA and CPSC intend to share information received in support of their respective asbestos regulatory investigations. However, in view of potential statutory conflict regarding treatment of confidential business information, how should the agencies treat data for which a company claims confidentiality?

Authority: Secs. 5 and 6 of the Toxic Substances Control Act (TSCA) (90 stat. 2003; 15 U.S.C. 2601).

Dated: October 10, 1979.

Douglas M. Costle,
Administrator.

APPENDIX

A. *Automotive Repair*

1. Mufflers *
2. Brake linings *
3. Clutch facings *
4. Custom auto body filler *
5. Metal deadener *

B. *Household Materials*

1. Appliance wiring *
2. Counter surfaces *
3. Electrical cord *
4. Filler for shoe soles *
5. Floor tile *
6. Hair dryers *
7. Heat protective mats *
8. Ironingboard pads and covers *
9. Lamp mantles *
10. Lamp sockers *
11. Potters' kilns *
12. Slow cookers *
13. Toasters *

C. *Safety Equipment*

1. Aprons *
2. Arm protectors *
3. Blankets *
4. Boots *
5. Caps *
6. Clothing *
7. Curtains *
8. Draperies *
9. Gloves *
10. Hats *
11. Helmets *
12. Hoods *
13. Mittens *
14. Overgaiters *
15. Sleeves *
16. Suits *
17. Umbrellas *

D. *Recreational Activity*

1. Aerial distress flares *
2. Ammunition shell wadding *
3. Catalytic heater mantles *
4. Tent gromets *
5. TV sets and projector equipment *

E. *Home Building Repairs*

1. Latex paints *
2. Texture paints *

F. *Commercial Applications*

1. Aluminized cloth *
2. Bags *
3. Bearings *
4. Belting *
5. Blocks *
6. Boards *
7. Braid *
8. Buffing and polishing compounds *
9. Cloth *
10. Cord *
11. Diaphragms *
12. Drier felt *
13. Drilling fluids *
14. Fabrics *
15. Felt *
16. Filtering materials *
17. Metallic cloth *
18. Millboard *
19. Paper *
20. Pipe and boiler covers *
21. Pottery clay *
22. Plywood patch *
23. Sheet flooring *
24. Table tops *
25. Tape *
26. Textiles *
27. Welding electrodes *

G. *Asbestos Cement Products*

1. A/C air duct *
2. A/C pipe *
3. A/C sheet *
4. Baking sheets *
5. Cement boards *
6. Clapboard *
7. Roofing *
8. Shingles *
9. Siding *
10. Tile *

H. *Molded Products*

1. Gun grips
2. Filler and reinforcement in plastic *
3. Pond liners
4. Phenolic laminates
5. Resins
6. Rheostat backing

I. *Roofing Materials*

1. Aluminum roof coating
2. Roof patch
3. Roofing felts *
4. Roof preservative

J. *Sealants and Mastics for Consumer and Commercial Use*

1. A/C pipe joint sealant
2. Adhesives
3. Caulking compounds and putty *
4. Furnance cement
5. Glazing compound
6. Radiator sealant
7. Varnish *

[FR Doc. 79-32038 Filed 10-16-79; 8:45 am]

BILLING CODE 6560-01-M

* Indicates that products within the category potentially contain easily releasable fibers.

Note.—Not all of the products in each identified category are believed to contain asbestos.

Reader Aids

Federal Register
Vol. 44, No. 202
Wednesday, October 17, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662	1
56663-56918	2
56919-57064	3
57065-57378	4
57379-57906	5
57907-58492	9
58493-58670	10
58671-58888	11
58889-59194	12
59195-59488	15
59489-59894	16
59895-60068	17

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) 56673
10900 (Amended by EO 12163) 56673
10973 (Revoked by EO 12163) 56673
11223 (Amended by EO 12163) 56673
11269 (Amended by EO 12164) 56681
11579 (Amended by EO 12163) 56673
11846 (Amended by EO 12163) 56673
11958 (Amended by EO 12163) 56673
12065 (Amended by EO 12163) 56673
12087 (Superseded by EO 12165) 58671
12092 (Amended by EO 12161) 56663
12140 (Amended by EO 12162) 56665
12161 56663
12162 56665
12163 56673
12164 56681
12165 58671

Proclamations:
4693 56669
4694 56671
4695 58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163) 56673

Presidential Determination:
No. 79-17 of September 28, 1979 56667

5 CFR

340 57379
353 56683
451 58889
890 57379

6 CFR

705 ..... 56900, 58891
706 ..... 56910, 58891

Proposed Rules:
702 59166
703 59166
704 59166

7 CFR

2 ..... 57907, 58495, 58679
6 58893
15a 57907
16 56919
29 57907
246 59489
282 59052
421 58893
905 59195
906 57909
908 ..... 57065, 58680
910 ..... 57383, 58893
929 56683
932 58495
944 59195
966 ..... 58894, 59197
979 56684
982 57065
1139 57066
1421 ..... 56305, 57383
1464 ..... 57909, 58894
1822 ..... 56919, 59198
1861 56920
1864 59895
1901 59198
1941 58895
1942 ..... 56684, 59895
1944 59198
1951 ..... 56306, 59895
1955 59895
1980 ..... 56920, 58896

Proposed Rules:
6 56943
20 57931
27 57932
272 57414
273 ..... 57414, 58915
318 57415
725 57932
729 57416
981 57417
1065 57103
1079 59913
2853 ..... 58916, 59548
2858 58916

8 CFR

100 56311

Proposed Rules:
103 56368

9 CFR

78 57384
91 59498
92 58896
113 58897
309 59498

Proposed Rules:
92 58918

10 CFR

50 ..... 57911, 57912
51 56312

211 ..... 56888, 57067
212 57069
320 58900
476 57370
570 56921

Proposed Rules:
211 ..... 56369, 59240, 59551
212 59914
214 57103
220 56369
375 56953
376 56953

11 CFR

Proposed Rules:
100 59162
110 59162
114 59162

12 CFR

Ch. VII 56691
201 57385
202 57070
205 59474
207 56922
220 56922
221 56922
224 56922
226 56312
263 56685
265 ..... 56313, 59227
346 57385
545 57386
563 59895
704 58496
742 57071

Proposed Rules:
Ch. II 58744
Ch. V 57419
205 59464
545 58744

13 CFR

101 59499
121 ..... 58744, 59504

Proposed Rules:
111 58745
117 60032

14 CFR

39 ..... 56315-56322, 57072, 57073, 58660-58684
71 ..... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686
73 57080-57082
75 57082-57084
97 57918
207 58499
208 58499
212 ..... 57386, 58500
214 ..... 57387, 58500
221a 57085
241 ..... 58500, 59505
287 57085
1214 56923

Proposed Rules:
Ch. I 56369
Ch. V 56377
11 ..... 56370, 59242
21 ..... 56370, 59242
37 ..... 56370, 59242
39 57105
71 ..... 56373-56376, 57106, 57934-57938
73 58746
93 56376
233 59242
270 59242
302 59242

15 CFR

30 58686
370 59227
371 59227
374 59227
377 59227
377 59227
388 59897

16 CFR

13 ..... 56323, 56923, 57920, 58901-58906
1700 57920

Proposed Rules:
Ch. I 59552
Ch. II 57352, 60057
13 ..... 58516, 58518, 58747
1201 59914
1404 59557

17 CFR

210 ..... 57030, 57037
211 57038
231 56924
240 57387
241 56924
249 ..... 57374, 57387
270 ..... 58502, 58907

Proposed Rules:
240 56953
270 58521

18 CFR

2 56926
154 57726
201 57726
204 57726
271 56926
273 59230
274 59230
282 ..... 57726, 57754, 57778
290 58687

Proposed Rules:
282 ..... 57783, 57786, 57788 58749
292 57107

19 CFR

4 ..... 57086, 57087
101 57088

Proposed Rules:
134 58527
153 ..... 59741, 59762
155 ..... 57044, 59762
159 ..... 57044, 59762
177 56715
201 59392
207 59392

20 CFR

404 56691
675 56866
680 56866

Proposed Rules:
615 56715
665 59889

21 CFR

10 59174
12 59174
13 59174
14 59174
15 59174
16 59174
109 57389
177 59505
178 59506
193 59231
510 ..... 57389, 59507
520 ..... 59507, 59508
558 57389
561 59903
740 59509
1316 56324

Proposed Rules:
166 57422
203 58918
310 58919
312 58919
314 58919
890 ..... 57939, 57940, 58919
1020 57423

22 CFR

515 58708

Proposed Rules:
216 56378

23 CFR

140 59232

Proposed Rules:
771 59438

24 CFR

Ch. XIII 58507
42 56324
203 57089
205 57090
207 57090
213 ..... 56927, 57089, 57090
220 57090
221 57090
232 57090
234 57089
235 57090
236 57090
240 58503
241 57090
242 57090
244 57090
250 57090
290 56608
403 58503
510 58506
570 56325
803 59112
841 57922
880 59408
888 ..... 57925, 59112

Proposed Rules:
203 58527
881 59246
888 58528

25 CFR

31a 58096
31b 58101

Proposed Rules:
252 59559
700 59560

26 CFR

1 ..... 57925, 59523
7 57390
31 59524

Proposed Rules:
Ch. I 56502
1 ..... 57423, 57427
31 57940
301 56715

27 CFR

9 56692
201 56326

28 CFR

0 ..... 57926, 58908
2 ..... 58507, 59527, 59528
16 59904
50 57926
301 59904

Proposed Rules:
2 58526
16 ..... 58920, 58921

29 CFR

14 57397
1604 58073
2610 58908
2703 57348

Proposed Rules:
1616 59914
1904 59560
1926 59561

30 CFR

Ch. VII 57927
701 58783
741 58783

31 CFR

Proposed Rules:
Ch. II 59246

32 CFR

51 56328
199 58709
231 56328
706 ..... 56929, 57400
901 56930

Proposed Rules:
56 58750

33 CFR

117 59233
127 ..... 57092, 57927
147 57927
165 ..... 57928, 57929

35 CFR

133 56916
253 56693

Proposed Rules:
133 57941

36 CFR

50 56934
1228 58088

Proposed Rules:
Ch. IX 56954, 58528

38 CFR

1 59905
3 58709

Proposed Rules:
3 58758
36 ..... 56329, 58508

39 CFR

111 58509

40 CFR

52 ..... 56694, 57401
65 ..... 56696, 59528
81 57929
117 ..... 58711, 58909
180 59907
231 58076
257 58910
413 56330
600 57358

Proposed Rules:
40 56955
50 56730
51 ..... 56957, 57107
52 ..... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564
55 ..... 56721, 58759
60 ..... 57792, 58602
61 ..... 58642, 58661
62 ..... 57118, 57948
81 ..... 57942, 58758, 58922
120 ..... 57428, 59565
122 56957
162 57429
250 ..... 56724, 58923
600 57362
707 56856
713 59106
720 59764
763 60061

41 CFR

Ch. 101 ..... 56699, 59192, 59529
8-4 59529
101-29 58910

Proposed Rules:
Ch. 25 56387
9-7 57119
101-40 59247
109-1 57121
109-60 57121

42 CFR

57 56937
71 58911
456 56333

Proposed Rules:
74 58923
405 58923

43 CFR

221 56339
1821 59530
2880 58126
3400 56339
3410 56339
3420 56339
3422 56339
3430 56339
3440 56339
3450 56339
3460 56339
3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:
4 57948
34 59096
1780 56622
2800 58106
3110 58638

44 CFR

64 ..... 56354, 57092, 57093
65 57094
67 ..... 56366, 56701

Proposed Rules:
67 ..... 56957, 57429-57432

45 CFR

Ch. I 56938
20 58912
55 58912
61 58912
80 ..... 58509, 59908
82 58912
116 59152
116a 59152
161 60022
161a 60022
304 56939
531 59908
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:
Ch. VI 56387
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130

46 CFR

154 59234
154a 59234
503 57411

Proposed Rules:
66 57137
283 58928
355 58928

47 CFR

0 57096
2 ..... 58712, 59530
15 59530
18 56699
61 57096
73 ..... 57097, 58718-58729, 58912
74 58729
83 ..... 58712, 58735
87 59546
90 ..... 57098, 58737, 59234
97 58742

Proposed Rules:
0 57636
1 59568
15 59570
21 58929
63 59578
73 ..... 57138, 57636, 58762-58764, 59568, 58579, 59580
76 58766
81 59581

49 CFR

192 57100
213 56342
301 59239
571 57100
801 ..... 56340, 57930
1011 58511
1013 59908
1033 ..... 56343, 56939, 58913, 58914
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:
Ch. X 57139
110-189 58767
172 58767
173 58767
195 57952
575 56389
622 59438
1036 59581

50 CFR

13 59080
17 ..... 56862, 58866, 58868, 59080
32 ..... 56940, 56941, 59910
33 59910
216 57100
230 59911
611 57101
652 56941
653 ..... 56700, 56701
810 59086

Proposed Rules:
17 56618
285 57140
611 ..... 59257, 59582

V 44 0 1 7 9 UMI

V 44 OCT 17 79 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

AGRICULTURE DEPARTMENT

Forest Service—

53928 9-17-79 / National Forest System Land and Resource Management Planning provisions

[Corrected at 44 FR 54294, September 19, 1979]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

53723 9-17-79 / Increase in approved takeoff weights and passenger seating capacities of reciprocating and turbopropeller-powered small multiengine airplanes

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

52226 9-7-79 / Wheat and wheat foods research and nutrition; comments by 10-22-79

52243 9-7-79 / Wheat and wheat foods research and nutrition education; comments by 10-22-79

Animal and Plant Health Inspection Service—

48974 8-21-79 / Importation of animals; revision of certain requirements; comments by 10-22-79

Commodity Credit Corporation—

54516 9-20-79 / 1979 Crop Grade Loan Rates Burley tobacco; comments by 10-22-79

Rural Electrification Administration—

49695 8-24-79 / Electric distribution borrowers' financial and statistical report; comments by 10-23-79

49696 8-24-79 / Operating report-power supply borrowers and distribution borrowers with generating facilities; comments by 10-23-79

CIVIL AERONAUTICS BOARD

43481 7-25-79 / Consumer protections for members of scheduled-service tour groups; comments by 10-23-79

52246 9-7-79 / Establishing service mail rate zones for interstate, overseas and foreign air transportation; comments by 10-22-79

49464 8-23-79 / Extension of Credit by air carriers to political candidates; comments by 10-22-79

54068 9-18-79 / Implementation of the National Environmental Policy Act of 1969; reply comments by 10-22-79

ENERGY DEPARTMENT

54719 9-21-79 / Administrative claims under Federal Tort Claims Act; comments by 10-22-79

Economic Regulatory Administration—

50847 8-30-79 / Mandatory petroleum price regulations; refiner investment incentives; comments by 10-26-79

Energy Conservation and Solar Applications Office—

49696 8-24-79 / Energy efficiency standards for consumer products; comments by 10-23-79

Federal Energy Regulatory Commission—

53492 9-14-79 / Rules generally applicable to regulated sales of natural gas; comments by 10-22-79

ENVIRONMENTAL PROTECTION AGENCY

54507 9-20-79 / Administrative order issued by the South Carolina Department of Health and Environmental Control to the U.S. DOE, Savannah River Operations Office; comments by 10-22-79

55396 9-26-79 / Air pollution; Ohio; delayed compliance order for General Motors Corp.; comments by 10-26-79

55213 9-25-79 / Pesticide registration and hazard evaluation; comments by 10-25-79

54510 9-20-79 / Proposed tolerances for the pesticide chemical atrazine; comments by 10-22-79

54510 9-20-79 / Proposed tolerances for the pesticide chemical carbaryl; comments by 10-22-79

55396 9-26-79 / Washington State implementation plan; revision; comments by 10-26-79

54072 9-18-79 / Stationary internal combustion engines; standards of performance; comments by 10-22-79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

48987 8-21-79 / Procedural regulations; comments by 10-22-79

FEDERAL COMMUNICATIONS COMMISSION

55401 9-26-79 / FM broadcast stations in Athens and New Boston, Ohio and Greenup and Vanceburg, Ky.; change in table of assignments; reply comments by 10-23-79

47963 8-16-79 / FM broadcast stations; table of assignments, Paridise, Cal.; comments by 10-25-79

47962 8-16-79 / FM broadcast stations; table of assignments, Enid, Okla.; reply comments by 10-25-79

47964 8-16-79 / FM broadcast stations; table of assignments, Plainview, Texas; comments by 10-25-79

51263 8-31-79 / Multiple licensing of land mobile radio systems in bands 806-812 and 851-866 MHz; comments by 10-23-79

FEDERAL DEPOSIT INSURANCE CORPORATION

54722 9-21-79 / Interest on deposits; Exempt nondeposit obligations of mutual savings banks in minimum denominations of $100,000 or more; comments by 10-26-79

FEDERAL EMERGENCY MANAGEMENT AGENCY

50299 8-27-79 / Policy and procedures; comments by 10-26-79

FEDERAL TRADE COMMISSION

54730 9-21-79 / Advertising and labeling of protein supplements; comments extended to 10-24-79

[Originally published at 44 FR 43489, July 25, 1979]

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

48979 8-21-79 / Imminent hazard criteria and procedure; comments by 10-22-79

48983 8-21-79 / Imminent hazard determinations; separation of functions; comments by 10-22-79

49844, 49954 8-24-79 / Medical devices, general hospital and personal use; classification; comments by 10-23-79

49699 8-24-79 / Radiofrequency sealers and electromagnetic induction heating equipment manufacturers; comments by 10-23-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

55332 9-26-79 / Mobile home loans; comments by 10-26-79

49700 8-24-79 / Nursing homes and intermediate care facilities mortgage insurance; eligibility requirements definitions; comments by 10-23-79

INTERIOR DEPARTMENT

Bureau of Mines—

55210 9-25-79 / Revised fee schedules; comments by 10-25-79

Fish and Wildlife Service—

43442 7-24-79 / Proposed listing with endangered status for the American crocodile throughout its range and the saltwater crocodile exclusive of the Papua New Guinea population; comments by 10-26-79

Surface Mining Office—

54493 9-20-79 / Coal mining on Federal lands; Federal/State cooperative agreements, North Dakota; comments by 10-22-79

INTERSTATE COMMERCE COMMISSION

49279 8-22-79 / Railroads; movement of containerized freight; comments by 10-22-79

LABOR DEPARTMENT

Mine Safety and Health Administration—

52258 9-7-79 / Safety and healths standards for surface construction; comments by 10-22-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

52680 9-10-79 / Nondiscrimination on the basis of handicap; comments by 10-25-79

NUCLEAR REGULATORY COMMISSION

50012, 50015 8-24-79 / Uranium mill tailings licensing and construction of major plants; comments by 10-24-79

[Corrected at 44 FR 54307, Sept. 19, 1979; 44 FR 55327, Sept. 26, 1979]

PERSONNEL MANAGEMENT OFFICE

49641 8-24-79 / Vacancies in competitive service; notification requirements; comments by 10-23-79

TRANSPORTATION DEPARTMENT

Coast Guard—

53184 9-13-79 / Vessel equipment specifications; pilot hoist, pilot ladder, and chain ladder; comments by 10-22-79

TREASURY DEPARTMENT

Comptroller of the Currency—

55191 9-25-79 / Participation by national banks in the sale of single-premium annuity contracts; comments period extended from 9-25-79 to 10-25-79

[Originally published at 44 FR 44172, July 27, 1979

Internal Revenue Service—

50065 8-27-79 / Excise tax on coal; comments by 10-26-79

48719 8-20-79 / Individual retirement plans; penalties and withholding tax rules; comments by 10-22-79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

56732 10-2-79 / Rulemaking and Public Information Committee, Washington, D.C. (open), 10-22-79

AGING, FEDERAL COUNCIL

56398 10-1-79 / Long Term Care Committee, Washington, D.C. (open), 10-24-79

AGRICULTURE DEPARTMENT

Forest Service—

54738 9-21-79 / Deerlodge National Forest Grazing Advisory Board, Butte, Mont. (open), 10-26-79

AIR QUALITY, NATIONAL COMMISSION

40572 7-11-79 / Meeting, Washington, D.C. (partially open), 8-6-79

CIVIL RIGHTS COMMISSION

56733 10-2-79 / Virginia Advisory Committee, Arlington, Va. (open), 10-23-79

COMMERCE DEPARTMENT

Census Bureau—

55621 9-27-79 / Agriculture Statistics Census Advisory Committee, Suitland, Md. (open), 10-23-79

57462 10-5-79 / Census Advisory Committee on the Asian and Pacific Americans Population for the 1980 Census, Suitland, Md. (open), 10-26-79

Industry and Trade Administration—

57143 10-4-79 / Computer peripherals, Components and Related Test Equipment Technical Advisory Committee, Washington, D.C. (partially closed), 10-24-79

Maritime Administration—

54748 9-21-79 / U.S. Merchant Marine Academy Advisory Board, Washington, D.C. (open), 10-24-79

National Oceanic and Atmospheric Administration—

52711 9-10-79 / Mid-Atlantic Fishery Management Council's Surf Clam/Ocean Quahog Resources Subpanel, Dover, Del. (open), 10-26-79

54328 9-19-79 / South Atlantic Fishery Management Council, Myrtle Beach, S.C. (open), 10-23 through 10-25-79

Office of the Secretary—

55622 9–27–79 / National Laboratory Accreditation Criteria Committee for Freshly Mixed Field Concrete, Gaithersburg, Md. (open), 10–23 and 10–24–79

DEFENSE DEPARTMENT

Air Force Department—

55222 9–25–79 / Scientific Advisory Board, Kirtland AFB, N. Mex. (closed), 10–23 and 10–24–79

Army Department—

57463 10–5–79 / U.S. Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Medicinal Chemistry, Washington, D.C. (partially open), 10–26–79

Office of the Secretary—

52714 9–10–79 / Defense Advisory Committee on Women in the Services, Ft. Jackson, S.C. (open), 10–24 and 10–25–79

52714 9–10–79 / Defense Advisory Committee on Women in the Services, Columbia, S.C. (open), 10–21 through 10–23–79

49009 8–21–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 10–23–79

ENERGY DEPARTMENT

54336 9–19–79 / Automotive Propulsion Research and Development; Contractor Coordination, Dearborn, Mich. (open), 10–23 through 10–25–79

57959 10–9–79 / Preparation of environmental impact statement; Louisville, Ky. (open), 10–25–79

57959 10–9–79 / Preparation of environmental impact statement; Owensboro, Ky. (open), 10–24–79

Energy Research Office—

57153 10–4–79 / High Energy Physics Advisory Panel, Germantown, Md. (open), 10–22 and 10–23–79

Environment Office—

57154 10–4–79 / Environmental Advisory Committee, Washington, D.C. (open), 10–22 and 10–23–79

National Petroleum Council—

56978 10–3–79 / Coordinating Subcommittee of Refinery Flexibility Committee, Washington, D.C. (open), 10–22–79

Office of the Secretary—

53100 9–12–79 / Meeting in conjunction with Solar Energy Research Institute, Washington, D.C. (open), 10–23 and 10–24–79

ENVIRONMENTAL PROTECTION AGENCY

57200 10–4–79 / Energy emergencies and clean air regulations, Washington, D.C. (open), 10–24–79

57482 10–5–79 / Science Advisory Board, Environmental Pollutant Movement and Transformation Committee, Washington, D.C. (open), 10–22 and 10–23–79

FEDERAL COMMUNICATIONS COMMISSION

57200 10–4–79 / National Industry Advisory Committee, Amateur Radio Services Subcommittee, Washington, D.C. (open), 10–22–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

53570 9–14–79 / Open Committee, Washington, D.C. (open), 10–25–79

FINE ARTS COMMISSION

55622 9–27–79 / Meeting, Washington, D.C. (open), 10–23–79

GENERAL SERVICES ADMINISTRATION

57494 10–5–79 / Regional Public Advisory Panel on Architectural and Engineering Services, Boston, Mass. (open) 10–24–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

54122 9–18–79 / Alcohol Training Review Committee, Rockville, Md. (open and closed), 10–22 and 10–23–79

54123 9–18–79 / Basic Behavioral Processes Research Review Committee, Washington, D.C. (open and closed), 10–24 through 10–26–79

54123 9–18–79 / Board of Scientific Counselors, NIMH, Bethesda, Md. (open and closed), 10–25 and 10–26–79

54123 9–18–79 / Community Alcoholism Services Review Committee, Washington, D.C. (open and closed), 10–24 through 10–29–79

54123 9–18–79 / Criminal and Violent Behavior Review Committee, Washington, D.C. (open and closed), 10–24 through 10–26–79

54122 9–18–79 / Drug Abuse Biomedical Research Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54123 9–18–79 / Drug Abuse Resource Development Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54123 9–18–79 / Drug Abuse Clinical, Behavioral and Psychosocial Research Review Committee, Rockville, Md. (open and closed), 10–22 through 10–26–79

54124 9–18–79 / Minority Group Mental Health Review Committee, Washington, D.C. (open and closed), 10–25 through 10–27–79

Center for Disease Control—

56401 10–1–79 / Immunization Practices Advisory Committee, Atlanta, Ga. (open) 10–25 and 10–26–79

Education Office—

56745 10–2–79 / Adult Education National Advisory Council, Washington, D.C. (open), 10–24 through 10–26–79

Food and Drug Administration—

35242 6–19–79 / Current good manufacturing practices in manufacturing, processing, packing or holding human food, Atlanta, Ga., 10–24–79

53573 9–14–79 / Gastroenterology Devices Section of the General Medical Devices Panel, Washington, D.C. (open) 10–26–79

52338 9–7–79 / Science Advisory Board, Jefferson, Ark. (open), 10–23 and 10–24–79

National Institutes of Health—

45256 8–1–79 / Allergy and Clinical Immunology Research Committee, Bethesda, Md. (open), 10–22–79

50659 8–29–79 / Allergy and Infectious Diseases National Advisory Council, Bethesda, Md. (partially open), 10–23 and 10–24–79

53803 9–17–79 / Communicative Disorders Review Committee, Bethesda, Md. (partially open), 10–25 through 10–27–79

45257 8–1–79 / Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 10–25 and 10–26–79

55421 9–26–79 / National Advisory Eye Council, Bethesda, Md. (partially open), 10–25 and 10–26–79

53802 9–17–79 / National Advisory General Medical Sciences Council, Bethesda, Md. (open), 10–24 and 10–25–74

57503 10–5–79 / National Advisory Research Resources Council, Bethesda, Md. (partially open), 10–24 through 10–26–79

49309 8–22–79 / National Arthritis, Metabolism, and Digestive Diseases Advisory Council, Bethesda, Md. (open), 10–26 through 10–28–79

52039 9–6–79 / Pathology A Study Section Workshop, Chantilly, Va. (open), 10–22–79

52038 9–6–79 / Reproductive Biology Study Section and the Human Embryology and Development Study Section Workshop, St. Louis, Mo. (open), 10–22 and 10–23–79

53800 9–17–79 / Research grant study sections (partially open):
Bethesda and Chevy Chase, Md., 10–21 through 10–27–79
Chantilly, Va., 10–23 through 10–26–79
Washington, D.C., 10–24 through 10–27

53106 9–12–79 / Scientific Counselors Board, National Institute on Aging, Baltimore Md. (partially open), 10–25 and 10–26–79

Office of the Assistant Secretary for Health—

55067 9–24–79 / National Committee on Vital and Health Statistics, Washington, D.C. (open), 10–22 and 10–23–79

Office of the Secretary—

58545 10–10–79 / Advisory Panel on Financing Elementary and Secondary Education, Washington, D.C. (open), 10–26 and 10–27–79

55437 9–26–79 / Rights and Responsibilities of Women Advisory Committee, Washington, D.C. (open), 10–25 and 10–26–79

55437 9–26–79 / Rights and Responsibilities of Women Advisory Committee, Health Task Force, Washington, D.C. (open), 10–24–79

INTERIOR DEPARTMENT

Land Management Bureau—

57505 10–5–79 / Colorado and Wyoming, Proposed Leasing of Federal Coal in the Green-River Hams Fork Region, Denver and Craig, Colo. and Rawlins and Cheyenne, Wyo. (open), 10–22 through 10–25–79

53315 9–13–79 / Montrose District Grazing Advsory Board, Montrose, Colo. (open), 10–25–79

National Park Service—

56051 9–28–79 / Committee for the Preservation of the White House, Washington, D.C. (open), 10–26–79

55069 9–24–79 / National Capital Memorial Advisory Committee, Washington, D.C. (open), 10–24–79

58548 10–10–79 / Ozark National Scenic Riverways Advisory Commission, Van Buren, Mo. (open), 10–26–79

54130 9–18–79 / Upper Delaware Citizens Advisory Council, Narrowsburg, N.Y. (open), 10–26–79

JUSTICE DEPARTMENT

57522 10–5–79 / Advisory Committee on Tax Litigation, Washington, D.C. (open), 10–22–79

National Institute of Corrections—

57523 10–5–79 / Advisory Board, New York, N.Y. (open), 10–24 and 10–25–79

LIBRARY OF CONGRESS

56407 10–1–79 / American Folklife Center Board of Trustees, Los Angeles, Calif. (open), 10–23 and 10–24–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

56062 9–28–79 / NASA Advisory Council; Aeronautics Advisory Committee; Hampton, Va. (open), 10–24 and 10–25–79

58007 10–9–79 / NASA Advisory Council (NAC) Space and Terrestrial Applications Advisory Committee (STAAC), Washington, D.C. (closed), 10–25–79

NATIONAL SCIENCE FOUNDATION

58553 10–10–79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Regulatory Biology, Washington, D.C. (closed), 10–25 and 10–26–79

58554 10–10–79 / Advisory Committee for Social and Economic Science, Subcommittee on History and Philosphy of Science, Washington, D.C. (closed), 10–26 and 10–27–79

58551 10–10–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Linguistics, Washington, D.C. (closed), 10–25 and 10–26–79

58554 10–10–79 / Advisory Committee for Behavioral and Neural Sciences, Subcommittee on Social and Developmental Psychology, Washington, D.C. (closed), 10–25 and 10–26–79

58552 10–10–79 / Advisory Committee for Mathematical and Computer Sciences, Subcommittee for Computer Sciences, Washington, D.C. (open and closed), 10–25 and 10–26–79

58553 10–10–79 / Advisory Committee for Social and Economic Science, Subcommittee for Sociology, Washington, D.C. (closed), 10–25 and 10–26–79

PENSION POLICY, PRESIDENT'S COMMISSION

42831 7–20–79 / Study Group on Present and Future Income Needs of Retired and Disabled Population, Detroit, Mich. (open), 10–24–79

SMALL BUSINESS ADMINISTRATION

56772 10–2–79 / Region I Advisory Council, Hartford, Conn. (open), 10–24–79

52066 9–6–79 / Region II Advisory Council, Syracuse, N.Y. (open), 10–26–79

52066 9–6–79 / Region IV Advisory Council, Coral Gables, Fla. (open), 10–24–79

55262 9–25–79 / Region IV Advisory Council, Sumter, S.C. (open), 10–24–79

56773 10–2–79 / Region VI Advisory Council, Albuquerque, N. Mex. (open), 10–26–79

54574 9–20–79 / Region VI Advisory Council El Paso, Tex., (open), 10–26–79

56773 10–2–79 / Region IX Advisory Council, San Francisco, Calif. (open), 10–26–79

STATE DEPARTMENT

53834 9–17–79 / Shipping/Coordinating Committee's Committee on Ocean Dumping, Washington, D.C. (open), 10–22 through 10–26–79

Agency for International Development—

58014 10–9–79 / Board for International Food and Agricultural Development, Washington, D.C. (open), 10–25–79

Office of the Secretary—

58015 10–9–79 / Shipping Coordinating Committee, U.S. SOLAS Working Group on Fire Protection, Washington, D.C. (open), 10–24–79

TRANSPORTATION DEPARTMENT

Coast Guard—

57248 10–4–79 / Ship Structure Committee, New York, N.Y. (open), 10–24–79

National Highway Traffic Safety Administration—

34235 6–14–79 / National Highway Safety Advisory Committee, Washington, D.C. (open) 10–23 through 10–25–79

57248 10–4–79 / National Highway Safety Advisory Committee, Washington, D.C. (open), 10–23 through 10–25–79

TREASURY DEPARTMENT

Office of the Secretary—

55692 9–27–79 / Debt Management Advisory Committees, Washington, D.C. (closed), 10–23 and 10–24–79

VETERANS ADMINISTRATION

55082 9–24–79 / Station Committee on Educational Allowances, Toqus, Maine (open), 10–26–79

50425 8–28–79 / Voluntary Service National Advisory Committee, Arlington, Va., 10–24 through 10–26–79

WOMEN, PRESIDENT'S ADVISORY COMMITTEE

56770 10–2–79 / Meeting, Washington, D.C. (partially open), 10–22–79

57543 10–5–79 / Meeting, Washington, D.C. (partially open), 10–22 and 10–24–79

Next Week's Public Hearings

COMMERCE DEPARTMENT

Foreign Trade Zone Board—

55621 9–27–79 / Establishment of two general purpose foreign trade zone facilities in Clinton County, N.Y., Plattsburgh, N.Y., 10–24–79

National Oceanic and Atmospheric Administration—

55914 9–28–79 / Mid-Atlantic Fishery Management Council:
Riverhead, N.Y. and Ocean City, Md., 10–22–79
Norfolk, Va., 10–23–79

V 44 OC 17 79 UMI

CONSUMER PRODUCT SAFETY COMMISSION

55386 9–26–79 / Partial revocation of standard for accelerated environmental durability testing of plastic glazing materials, Washington, D.C., 10–23–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

50605 8–29–79 / Phased Deregulation of Upper Tier Crude Oil, Washington, D.C., 10–24–79

54902 9–21–79 / Mandatory petroleum price regulations; Equal application rule and allocation of increased cost at retail level, Washington, D.C., 10–23–79

Federal Energy Regulatory Commission—

57107 10–4–79 / Small power production and cogeneration; rates and exemption

New Orleans, La., 10–22–79

Washington, D.C., 10–24–79

Boston, Mass., 10–26–79

ENVIRONMENTAL PROTECTION AGENCY

58540 10–10–79 / California State Motor Vehicle Pollution Control Standards, San Francisco, Calif., 10–25–79

54970 9–21–79 / Standards of performance for new stationary sources; Phosphate rock plants, Research Triangle Park, N.C., 10–25–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Office of the Secretary—

56029 9–28–79 / White House Conference on Families, Denver, Colo. (open), 10–26 and 10–27–79

LABOR DEPARTMENT

Mine Safety and Health Administration—

53540 9–14–79 / Independent contractors, Seattle, Wash., 10–23–79

53540 9–14–79 / Independent contractors, San Diego, Calif., 10–25–79

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

50362 8–28–79 / Unlawful trade practices under the Federal Alcohol Administration Act, Washington, D.C., 10–22 and 10–23–79

[Originally published at 44 FR 45298, August 1, 1979]

Customs Service—

57044 10–3–79 / Countervailing duties; hearing, Washington, D.C., 10–24 and 10–25–79

Listing of Public Laws

[Last Listing October 15, 1979]

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

H.J. Res. 412 / Pub. L. 96–86 Making continuing appropriations for the fiscal year 1980, and for other purposes. (Oct. 12, 1979; 93 Stat. 656) Price: $.75.

H.R. 5419 / Pub. L. 96–87 To authorize the Secretary of the Interior to provide for the commemoration of the efforts of Goodloe Byron to protect the Appalachian Trail, and for other purposes. (Oct. 12, 1979; 93 Stat. 664) Price: $.75.

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

57370 10–4–79 / DOE—Electric and Hybrid Vehicle Program; small business planning grants; effective 11–5–79

58126 10–9–79 / Interior/BLM—Management of oil and natural gas pipelines and related facilities on Federal lands and reimbursement of costs; effective 11–8–79

58088 10–9–79 / Interior/HCRS—Urban Park and Recreation Recovery Program eligibility; effective 10–9–79

DEADLINES FOR COMMENTS ON PROPOSED RULES

58106 10–9–79 / Interior/BLM—Federal Land Policy and Management Act; Management of rights-of-way and related facilities on public lands and reimbursement of costs; comments by 1–7–80

57130 10–4–79 / NFAH—Nondiscrimination on basis of age in programs or activities receiving Federal financial assistance from NEH; comments by 12–14–79

57127 10–4–79 / NSF—Nondiscrimination on basis of age in programs or activities receiving Federal financial assistance from NSF; comments by 12–3–79

APPLICATIONS DEADLINES

58811 10–11–79 / HEW/HRA—Expanded function dental auxiliary training grants; apply by 11–15–79

58546 10–10–79 / HEW/NIOSH—Demonstration programs for safe asbestos removal or treatment in schools; announcement of request for competitive grant applications, apply by 12–1–79

58916 10–12–79 / USDA/FNS—Food Stamp Program; demonstration, research and evaluation projects; apply by 11–15–79, full proposals by 12–17–79.

V 44 OC 17 79 UMI

V
4
4

0
C

1
7

7
9
UMI

Advance Orders are now Being Accepted for Delivery in About 6 Weeks

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1979)

Quantity	Volume	Price	Amount
_____	Title 29—Labor (Parts 500 to 1899)	$9.00	$_____
_____	Title 29—Labor (Parts 1920 to End)	7.50	_____
_____	Title 41—Public Contracts and Property Management (Chapters 19 to 100)	6.00	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name _____

Street address _____

City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.

____Enclosed
____To be mailed later
____Subscription
Refund
Postage
Foreign Handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name _____

Street address _____

City and State _____ ZIP Code _____

V 4 4 0 C 1 7 7 9 UMI

10-18-79
Vol. 44 No. 203
Pages 60069-60250

Federal Register

Thursday
October 18, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue. **An interpreter for hearing impaired persons will be present for the November 16 briefing.**

60167 **Basic Educational Skills Research Grant Program** HEW/HDSO announces availability of grant funds

60085 **Income Tax** Treasury/IRS issues rules concerning indirect foreign tax credit for dividends from less developed country corporations

60233 **Surface Coal Mining and Reclamation Operations** Interior/SMRE proposes rules relating to procedures for approval or disapproval of State permanent regulatory program submissions, comments by 11-21-79, hearing on 11-21-79 (Part III of this issue)

60226 **Surface Coal Mining and Reclamation Operations** Interior/SMRE considers petition to amend performance standards, comments by 11-19-79 (Part II of this issue)

60228 **Surface Coal Mining and Reclamation Operations** Interior/SMRE solicits comments by 11-19-79 concerning petition to amend procedures, time schedules and criteria for an alteration or amendment of approved state program (Part II of this issue)

CONTINUED INSIDE

V 4 4 O C 1 8 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

60108 **Public Utilities** DOE/FERC will hold conference relating to the filing of information in support of a change in wholesale electric rates, 10-18-79

60084 **Natural Gas** DOE/FERC issues notice of question and answer session on 10-31-79 concerning implementation of the incremental pricing program

60091 **Subscription Television Services** FCC amends rules; effective 11-23-79

60120 **Federal Motor Vehicles Safety Standards** DOT/NHTSA proposes rules concerning heavy duty vehicle brake systems; comments by 12-3-79

60113 **Federal Motor Vehicle Safety Standards** DOT/NHTSA proposes rules concerning hydraulic brake systems; comments by 12-3-79

60244 **Human Development Services** HEW/HDSO announces revisions to its Grants Administration Manual; comments by 11-19-79 (Part V of this issue)

60080 **Fuel Oil Displacement by Process and Feedstock Users** DOE/FERC issues interim rules; effective 10-5-79; comments by 10-31-79

60236 **Solar Energy and Renewable Resources** DOE/ERA proposes voluntary guidelines; comments by 12-10-79, hearings on 11-29 and 12-4-79 (Part IV of this issue)

60071 **Federal Reserve System—Marginal Reserve Requirements** FRS amends rules

60197 **Sunshine Act Meetings**

Separate Parts of this issue

60226 **Part II, Interior/SMRE**
60233 **Part III, Interior/SMRE**
60236 **Part IV, DOE/ERA**
60244 **Part V, HEW/HDSO**

Contents

Federal Register
Vol. 44, No. 203
Thursday, October 18, 1979

ACTION
PROPOSED RULES
60110 National Environmental Policy Act; implementation

Agricultural Marketing Service
RULES
60070 Oranges (Valencia) grown in Ariz. and Calif.
60070 Raisins produced from grapes grown in Calif.
PROPOSED RULES
60105 Tomatoes grown in Fla.

Agriculture Department
See also Agricultural Marketing Service; Federal Grain Inspection Service; Forest Service.
RULES
Meat import limitations:
60069 Nicaragua

Air Force Department
RULES
Security:
60090 Membership in Air Force; security qualifications
NOTICES
Meetings:
60134 Community College Advisory Committee

Army Department
See Engineers Corps.

Arts and Humanities, National Foundation
NOTICES
Meetings:
60177 Arts and Artifacts Indemnity Panel
60177 Media Arts Advisory Panel
60178 Special Projects Panel

Civil Aeronautics Board
NOTICES
Hearings, etc.:
60132 Capitol International Airways, Inc.
60132 Former large irregular air service investigation
60197 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
60197 Meetings; Sunshine Act

Coast Guard
RULES
Anchorage regulations:
60091 Nevada
NOTICES
Meetings:
60188 Coast Guard Academy Advisory Committee
60188 New York Harbor Vessel Traffic Service Advisory Committee

Commerce Department
See also National Oceanic and Atmospheric Administration.
NOTICES
Committees; establishment, renewals, terminations, etc.:
60133 Trademark Affairs Public Advisory Committee

Defense Department
See Air Force Department; Engineers Corps.

Delaware River Basin Commission
NOTICES
60134 Comprehensive plan, water supply and sewage treatment plant projects; hearings

Economic Regulatory Administration
NOTICES
Consent orders:
60135 Bob & Dave's Chevron Service et al.
60139 Gustafson Oil Co. of California
60139 Kim's Exxon Service et al.
60143 Union Oil Co. of California
Public Utility Regulatory Policies Act of 1978:
60236 Solar energy and renewable resources; voluntary guidelines; inquiry and hearings

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
60153, 60154 European Atomic Energy Community (7 documents)
60153 Japan

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
60134 Richland Creek, Ill.; flood control and erosion and silt accumulation prevention

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; delayed compliance orders:
60109, 60110 West Virginia; withdrawn (2 documents)
NOTICES
Meetings:
60157 Energy emergencies and availability of low sulfur residual fuel oil; correction
60157 Science Advisory Board (2 documents)
Toxic and hazardous substances control:
60155 Asbestos cement water pipes; rulemaking petition approved

Environmental Quality Council
NOTICES
60197 Meetings; Sunshine Act

Farm Credit Administration
RULES
Organization and functions:
60076 Farm credit districts, employee conduct, etc.; technical amendments

Federal Aviation Administration
RULES
Airworthiness directives:
60079 Gulfstream American Corp.
60079 Transition areas
PROPOSED RULES
60107 Rulemaking petitions; summary and disposition
60107 Terminal control areas; informal airspace; meetings; cancellation
60107 Transition areas
NOTICES
60189 Exemption petitions; summary and disposition
Meetings:
60189 Aeronautics Radio Technical Commission

Federal Communications Commission
RULES
Radio stations; table of assignments:
60097 California
Television broadcasting:
60091 Subscription television service; licensing policies
PROPOSED RULES
Communications equipment:
60112 Television; improvements to UHF reception; extension of time
NOTICES
Hearings, etc.:
60158 American Telephone & Telegraph Co.
Meetings:
60161 National Industry Advisory Committee

Federal Deposit Insurance Corporation
NOTICES
60197, 60198 Meetings; Sunshine Act (3 documents)

Federal Election Commission
NOTICES
60198 Meetings; Sunshine Act

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
60084 Incremental pricing; change of telephone number
60084 Incremental pricing program; questions and answers session
60083 Interstate pipelines; rate schedules and tariffs; third-party protests
Policy and interpretation:
60080 Natural gas; fuel oil displacement by process and feedstock users; interim rule
PROPOSED RULES
Electric utilities:
60108 Rate schedules; public utilities; filing; technical conference
NOTICES
Hearings, etc.:
60144 Cambridge Electric Light Co.
60145 Cincinnati Gas & Electric Co.
60145 Columbia Gas Transmission Corp.
60146 Commercial Pipeline Co., Inc.
60147 Eastern Shore Natural Gas Co.
60147 El Paso Natural Gas Co.
60148 Locust Ridge Gas Co.
60151 National Fuel Gas Supply Corp. et al.
60150 National Gas Storage Corp.
60151 Natural Gas Pipeline Co. of America
60152 Pacific Gas Transmission Co.
60152 Texas Gas Transmission Co. et al.
Natural gas companies:
60148 Certificates of public convenience and necessity; applications, abandonment of service and petitions to amend

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
60130 Texas

Federal Highway Administration
NOTICES
Environmental statements, availability, etc.:
60190 Orange County, Calif.; et al.

Federal Housing Commissioner—Office of Assistant Secretary for Housing
PROPOSED RULES
60108 Minimum property standards; one and two-family dwellings; intent to file environmental impact statement
Mortgage and loan insurance programs:
60109 Partial payment of claim; transmittal to Congress

Federal Labor Relations Authority
RULES
60069 Case processing; interim regulations; Washington, D.C. and Atlanta Regional Offices, addresses and telephone numbers

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
60161 Aero-Nautics Ocean Forwarders, Inc.
60162 Frank, Herbert M.
60161 Front Express, Inc.
60163 Natco International Ltd.
60164 Seaport Shipping & Forwarding, Inc.
60162 Imperial Forwarding Co.
60164 Thompson International Shipping
60164 W. D. Wall Traffic Service
60165 Winair Freight, Inc.
Rate increases, etc.; investigations and hearings, etc.:
60162 Matson Navigation Co.

Federal Reserve System
RULES
Interest on deposits: (Regulation Q):
60076 Member bank participation in Federal funds market; official staff interpretation
Reserves of member banks (Regulation D):
60071 Marginal reserve requirements
NOTICES
Applications, etc.:
60166 Blakely Investment Co.
60166 Dickey County Bancorporation
60166 Douglas County Bancshares, Inc.
60166 Granbury Bancshares, Inc.
60167 Mid-Continental Bancorporation, Inc.
60165 Philadelphia National Corp. et al.
60167 Ranger Financial Corp.
60167 Tonganoxie Bankshares, Inc.
Meetings:
60166 Consumer Advisory Council; agenda addition

Federal Trade Commission
RULES
Prohibited trade practices; cease and desist orders:
60080 California Milk Producers Advisory Board, et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
60103 Purple-spined hedgehog cactus and Wright fishhook cactus; correction
60103 Sclerocactus glaucus (Uinta Basin hookless cactus); correction
NOTICES
Pipeline applications:
60173 Sea Rim Marsh National Wildlife Refuge, N. Mex.

Forest Service
NOTICES
Environmental statements; availability, etc.:
60130 Eldorado National Forest, forest plan, Calif.
60131 Tahoe National Forest, forest plan, Calif.
Meetings:
60131 Payette National Forest Grazing Advisory Board

Geological Survey
PROPOSED RULES
Outer Continental Shelf; oil, gas, and sulfur operations:
60109 Unitization of operations for oil and gas leases; extension of time

Health, Education, and Welfare Department
See also Human Development Services Office.
NOTICES
Meetings:
60170 Ethics Advisory Board

Health Resources Administration
NOTICES
60167 Health systems agency application information; availability; correction

Housing and Urban Development Department
See also Federal Housing Commissioner—Office of Assistant Secretary for Housing; Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.
RULES
Low-income housing:
60085 Housing assistance payments; neighborhood strategy areas, funding

Human Development Services Office
NOTICES
60244 Children, youth and families grant programs; revision; inquiry
Grant applications and proposals; closing dates:
60167 Head Start basic educational skills programs

Indian Affairs Bureau
NOTICES
60171 Indian tribes, acknowledgment of existence; petitions

Interior Department
See Fish and Wildlife Service; Geological Survey; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.

Internal Revenue Service
RULES
Income taxes:
60085 Foreign corporations in less developed countries; tax credit for domestic corporate shareholders

International Trade Commission
NOTICES
60198 Meetings; Sunshine Act

Interstate Commerce Commission
PROPOSED RULES
Motor carriers:
60122 Intercity passenger service; adequacy of equipment, facilities, etc.; extension of time
Tariffs and schedules:
60122 Simplification, format standardization, and electronic technology compatibility
NOTICES
Motor carriers:
60196 Permanent authority applications; correction
60196 Railroad car service rules, mandatory; exemptions

Land Mangement Bureau
NOTICES
Applications, etc.:
60173 Wyoming (2 documents)
Motor vehicles, off-road, etc.; area closures:
60172 New Mexico
Wilderness areas; characteristics, inventories, etc.:
60172 New Mexico

Libraries and Information Science, National Commission
NOTICES
60174 White House Conference on Libraries and Information Services, rules of order for conduct; proposal

Management and Budget Office
NOTICES
60185 Agency forms under review

Materials Transportation Bureau
See Research and Special Programs Administration, Transportation Department

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
60120 Brake systems, heavy duty vehicle
60113 Brake systems, hydraulic; trucks, buses, and multipassenger vehicles
NOTICES
Meetings:
60193 Biomechanics Advisory Committee
Motor vehicle defect proceedings; petitions, etc.:
60193 Fiat Motors of North America underbody corrosion
Motor vehicle safety standards; exemption petitions, etc.:
60193 Goodyear Tire & Rubber Co.
60194 Wagner Electric Corp.; lamps, reflective devices, and associated equipment; petition denial

National Institute of Corrections
NOTICES
Grants solicitation:
60174 Fire safety planning and training; development of information and training materials

V 44 0 C 1 18 79 UMI

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
60103 Surf clam and ocean quahog fisheries; fourth quarter quotas; increase of fishing time
PROPOSED RULES
Fishery conservation and management:
60129 Surf clam and ocean quahog fisheries; closure of area offshore of Ocean City, Md.

National Park Service
NOTICES
Concession permits, etc.:
60173 Rock Creek Park Horse Centre, Inc.

National Transportation Safety Board
NOTICES
60181 Accident reports, safety recommendation letters and responses; availability

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary
NOTICES
Meetings:
60170 Mobile Home National Advisory Council

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
60179 Consumers Power Co.
60179 Puget Sound Power & Light Co. et al.
60180 Tennessee Valley Authority
60180 United Nuclear Corp.
Meetings:
60179 Nuclear Power Plant Construction During Adjudication Advisory Committee
60178 Reactor Safeguards Advisory Committee

Personnel Management Office
NOTICES
Meetings:
60165 Federal Prevailing Rate Advisory Committee

Research and Special Programs Administration, Transportation Department
RULES
Hazardous materials:
60097 Exemptions, individual; conversion to regulations of general applicability
PROPOSED RULES
Hazardous materials:
60112 Shipment; obsolete packaging specifications termination

Securities and Exchange Commission
NOTICES
60199 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
60188 Great Northern Capital Corp.
60188 Ibero American Investors Corp.

Surface Mining Office
PROPOSED RULES
Surface coal mining and reclamation enforcement operations:
60228 Permanent regulatory program; approved State program; alteration procedures, time schedules, criteria; petition to amend
60226 Permanent regulatory program; sediment control performance standards; petition to amend
60233 Permanent regulatory program; State program submissions; Federal Register publication requirements

Trade Negotiations, Office of Special Representative
NOTICES
Import quotas:
60187 Anhydrous ammonia from Soviet Union

Transportation Department
See also Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration, Transportation Department.

Treasury Department
See Internal Revenue Service.

Veterans Administration
NOTICES
Environmental statements; availability, etc.:
60195 Houston National Cemetery, Tex.
60195 Lincoln, Nebr.; VAMC, new clinical building
60195 Temple, Tex.; VAMC, 120-bed nursing home care unit
60194 Tucson, Ariz.; VAMC, clinical addition

Water Resources Council
NOTICES
60194 Performance Review Board, Senior Executive Service; establishment

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
60131 Payette National Forest Grazing Advisory Board, 11–20–79

DEFENSE DEPARTMENT
Department of the Air Force—
60134 Community College of the Air Force Advisory Committee, 11–20–79

ENVIRONMENTAL PROTECTION AGENCY
60157 Science Advisory Board, Environmental Measurements Committee, 11–13 and 11–15–79
60157 Science Advisory Board, Executive Committee, 11–5 and 11–6–79

FEDERAL COMMUNICATIONS COMMISSION
60161 National Industry Advisory Committee, Citizens Band Radio Communications Subcommittee 11–1–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
60170 Ethics Advisory Board, 11–15 and 11–16–79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection—
60170 National Mobile Home Advisory Council, 11–14, 11–15 and 11–16–79

INTERSTATE COMMERCE—TARIFF IMPROVEMENT
60122 ICC proposes rules, comments by 12–17–79

NATIONAL FOUNDATION FOR THE ARTS AND HUMANITIES
60177 Federal Council on the Arts and the Humanities, Arts and Artifacts Indemnity Panel, 11–8–79
60177 Media Arts Panel, 11–5–79
60178 Special Projects Panel, 11–8, 11–9 and 11–10–79

NUCLEAR REGULATORY COMMISSION
60179 Advisory Committee on Nuclear Power Plant Construction During Adjudication, 10–19–79
60178 Advisory Committee on Reactor Safeguards, subcommittees and working groups, October, November and December dates

FEDERAL PREVAILING RATE ADVISORY COMMITTEE
60165 10–18 and 10–25–79

TRANSPORTATION DEPARTMENT
Coast Guard—
60188 Coast Guard Academy Advisory Committee, 10–24 and 10–25–79
60188 New York Harbor Vessel Traffic Service Advisory Committee, 11–21–79
Federal Aviation Administration—
60107 Informal Airspace, 11–7–79
60189 Radio Technical Commission for Aeronautics, Special Committee 134 on Electronic Test Equipment for General Application, 11–8 and 11–9–79
National Highway Traffic Safety Administration—
60193 Biomechanics Advisory Committee, 11–7 and 11–8–79

AMENDED MEETINGS

ENVIRONMENTAL PROTECTION AGENCY
60157 State environmental and energy agencies, 10–31–79 and Fuel oil supply and marketing industry, 10–29–79

HEARINGS

DELAWARE RIVER BASIN COMMISSION
60134 Environmental impact statement, 11–14, 11–15, 11–19, 11–20 and 11–27–79

V 44 OCT 18 79 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. XIV..... 60069

7 CFR
18..... 60069
908..... 60070
989..... 60070

Proposed Rules:
966..... 60105

12 CFR
204..... 60071
217..... 60076
660..... 60076
601..... 60076
602..... 60076
611..... 60076

14 CFR
39..... 60079
71..... 60079

Proposed Rules:
Ch. I (2 documents)..... 60107
71..... 60107

16 CFR
13..... 60080

18 CFR
2..... 60080
154..... 60083
282 (2 documents)..... 60084

Proposed Rules:
35..... 60108

24 CFR
891..... 60085

Proposed Rules:
200..... 60108
208..... 60109

26 CFR
1..... 60085

30 CFR

Proposed Rules:
Ch. VII (2 documents)..... 60226, 60228
250..... 60109
732..... 60233

32 CFR
853..... 60090

33 CFR
110..... 60091

40 CFR

Proposed Rules:
65 (2 documents)..... 60109, 60110

45 CFR

Proposed Rules:
1205..... 60110

47 CFR
73 (2 documents)..... 60091, 60097

Proposed Rules:
15..... 60112

49 CFR
172..... 60097
173..... 60097
174..... 60097
177..... 60097
178..... 60097

Proposed Rules:
173..... 60112
178..... 60112
571 (2 documents)..... 60113, 60120
1063..... 60122
1300..... 60122
1303..... 60122
1304..... 60122
1306..... 60122
1307..... 60122
1308..... 60122
1309..... 60122
1310..... 60122
1312..... 60122

50 CFR
17 (2 documents)..... 60103
652..... 60103

Proposed Rules:
652..... 60129

Rules and Regulations

Federal Register
Vol. 44, No. 203
Thursday, October 18, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

Federal Service Impasses Panel

5 CFR Chapter XIV

Interim Rules and Regulation; Case Processing

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Interim rules and regulations.

SUMMARY: This rule amends Appendix A, paragraph (d) (44 FR 44775) of the interim rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 44 FR 44740, to establish new addresses and telephone numbers for the Authority's Washington, D.C. and Atlanta Regional Offices.

EFFECTIVE DATE: October 10, 1979.

FOR FURTHER INFORMATION CONTACT: S. Jesse Reuben, Deputy General Counsel (202) 523–7262.

SUPPLEMENTARY INFORMATION: Effective July 30, 1979, the Authority, General Counsel, and Panel published, at 44 FR 44740, interim rules and regulations to principally govern the processing of cases by the Authority, General Counsel, and Panel under chapter 71 of title 5 of the United States Code. These interim rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and will continue to be applied until their expiration on January 31, 1980, or upon the effective date of final rules and regulations prior to January 31, 1980. As previously indicated at 44 FR 44740, interested labor organizations, agencies and other persons may comment in writing on the interim rules and regulations and such comments should be submitted no later than October 31, 1979.

Appendix A, paragraph (d) of the interim rules and regulations (44 FR 44775) sets forth the temporary office addresses and telephone numbers of the Regional Directors of the Authority. The Authority's Washington, D.C. and Atlanta Regional Offices have changed their addresses and phone numbers from those listed in paragraph (d) of Appendix A.

Accordingly, Appendix A, paragraph (d) of the Authority, General Counsel, and Panel interim rules and regulations (44 FR 44775) is amended, in part, to read as follows:

Appendix A—Authority, General Counsel, Chief Administrative Law Judge, Regional Directors and Panel

Temporary Addresses and Geographic Jurisdictions

* * * * * *

(d) The office address of Regional Directors of the Authority, are as follows:

* * * * * *

(3) *Washington Regional Office*, 1730 K Street, NW., Room 401, Washington, D.C. 20006, Telephone: FTS–653–7213, Commercial–(202) 653–7213.

(4) *Atlanta Regional Office*, 1776 Peachtree Street, NW. Suite 501, North Wing, Atlanta, Georgia 30309, Telephone: FTS–257–2324, Commercial–(404) 257–2324.

* * * * * *

(5 U.S.C. 7134)

Dated: October 11, 1979.

Ronald W. Haughton,
Chairman.
Henry B. Frazier III,
Member.
Leon B. Applewhaite,
Member.
H. Stephan Gordon,
General Counsel

Federal Labor Relations Authority

[FR Doc. 79–32199 Filed 10–17–79; 8:45 am]
BILLING CODE 6325–19–M

DEPARTMENT OF AGRICULTURE

Office of Secretary

7 CFR Part 16

[Amdt. 9]

Restrictions on the Importation of Meat From Nicaragua

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the final rule published on June 20, 1979 (44 FR 36001) regarding limitations on the importation of certain meats from Nicaragua. Imports of such meat from Nicaragua were previously limited to 64.1 million pounds for calendar year 1979 in order to carry out the 1979 restraint program pursuant to Section 204 of the Agricultural Act of 1956. This amendment increases this limitation to 66.8 million pounds for calendar year 1979 in view of the changes which have been made in the restraint levels for various countries participating in the 1979 restraint program. The global level of imports has not been changed.

EFFECTIVE DATE: October 18, 1979. See supplementary information.

FOR FURTHER INFORMATION CONTACT: Bryant Wadsworth (FAS), 202–447–7217 Dairy, Livestock & Poultry Division, CP, FAS, USDA, Room 6621 South Building, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Secretary of State and the Special Representative for Trade Negotiations concur in the issuance of this regulation.

The action taken herewith has been determined to involve foreign affairs functions of the United States. Therefore, these regulations fall within the foreign affairs exception to the notice and effective date provisions of 5 U.S.C. 553 and E.O. 12044.

Effective Date

Meat released under the provisions of sections 448(b) and 484(a)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1448(b) (immediate delivery) and 19 U.S.C. 1484(a)(1)(A) (entry)) prior to (date of publication in the **Federal Register**) shall not be denied entry.

§ 16.5 [Amended]

Accordingly, Section 16.5 "Quantitative Restrictions" of Subpart A, Section 204 Import Regulations of

Part 16, Limitation on Imports of Meat, of Title 7 of the Code of Federal Regulations is amended as follows:

In paragraph (a) "64.1 million pounds" is deleted and "66.8 million pounds" is inserted in lieu thereof.

(Sec. 204 Pub. L. 540 84th Cong., 70 Stat. 200 as amended (7 U.S.C. 1854) and Executive Order 11539 (35 FR 10733)).

Issued at Washington, DC., this 12th day of October 1979.

Jim Williams,

Acting Secretary.

[FR Doc. 79-32094 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-10-M

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 634]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period October 19–25, 1979. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that the action will tend to effectuate the declared policy of the act by tending to establish and maintain, in the interests of producers and consumers, an orderly flow of oranges to market and avoid unreasonable fluctuations in supplies and prices. The action is not for the purpose of maintaining prices to farmers above the level which is declared to be the policy of Congress under the act.

The committee met on October 16, 1979 to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is steady.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, the emergency nature of this regulation warrants publication without opportunity for further public comment, in accord with emergency procedures in Executive Order 12044. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An impact analysis is available from Malvin E. McGaha, (202) 447–5975.

§ 908.934 Valencia Orange Regulation 634.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period October 19 through October 25, 1979, are established as follows: (1) District 1: 650,000 cartons; (2) District 2: Unlimited; (3) District 3: Unlimited.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the market order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: October 17, 1979

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-32452 Filed 10-17-79; 12:29 pm]

BILLING CODE 3410-02-M

7 CFR Part 989

Expenses of the Raisin Administrative Committee and Rate of Assessment for the 1979–80 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1979–80 crop year, to be collected from handlers to support activities of the Raisin Administrative Committee which locally administers the Federal marketing order covering raisins produced from grapes grown in California.

DATES: Effective August 1, 1979 through July 31, 1980.

FOR FURTHER INFORMATION CONTACT: William J. Higgins (202) 447–5053.

SUPPLEMENTARY INFORMATION: *Findings:* Pursuant to Marketing Order No. 989, as amended (7 CFR Part 989), regulating the handling of raisins produced from grapes grown in California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Committee, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553), as the order requires that the rate of assessment for a particular year shall apply to all assessable raisins handled from the beginning of such year which began August 1, 1979. To enable the Committee to meet crop year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Committee. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further comments. The regulation has not been classified significant under USDA criteria for implementing the executive order. An Impact Analysis is available from William J. Higgins, (202) 447–5053.

§ 989.330 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Committee during the 1979–80 crop year will amount to $219,343.

(b) The rate of assessment for said period payable by each handler in accordance with § 989.80 is fixed at $1.00 per ton for: (1) Free tonnage raisins acquired by the handler during the crop year, exclusive of such quantity thereof as represents the assessable portions of other handlers' raisins under paragraph (b)(3) of this section; (2) reserve tonnage raisins released or sold to the handler for use as free tonnage during that crop year; and (3) standard raisins (which he does not acquire) recovered by the handler by the reconditioning of off-grade raisins, but only to the extent of the aggregate quantity of the free tonnage portions of these standard raisins that are acquired by other handlers during the crop year.

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674))

Dated: October 12, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79-32156 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Reg. D; Docket No. R-0218]

Reserves of Member Banks; Marginal Reserve Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended Regulation D to establish a marginal reserve requirement of 8 per cent on the amount by which the total of certain managed liabilities of member banks (and Edge and Agreement Corporations) and United States branches and agencies of foreign banks exceeds the amount of such managed liabilities outstanding during a base period. The purpose of this action is to better control the expansion of bank credit, help curb speculative excesses in financial, foreign exchange and commodity markets and thereby serve to dampen inflationary forces. The managed liabilities affected by this action include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less than one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of depository institutions not required to maintain Federal reserves and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities entered into with parties other than institutions required to maintain Federal reserves; and (4) Eurodollar borrowings from foreign banking offices, asset sales to related foreign offices, and member bank foreign office loans to U.S. residents. The marginal reserve requirement will not apply to borrowings from the United States, principally in the form of Treasury tax and loan account note balances. The 8 per cent marginal reserve requirement will apply to the amount by which the daily average amount of an institution's total managed liabilities during a reserve computation period exceeds a base amount calculated generally as either the daily average amount of such liabilities outstanding during the base period (September 13 to 26, 1979) or $100 million, whichever is greater.

EFFECTIVE DATE: With regard to member banks (and Edge and Agreement Corporations), the marginal reserve requirement is effective on marginal total managed liabilities outstanding during the seven-day computation period beginning October 11, 1979, and reserves will be required to be maintained against such marginal total managed liabilities during the seven-day period beginning on October 25, 1979. With regard to U.S. branches and agencies of foreign banks, the marginal reserve requirement also is effective on marginal total managed liabilities outstanding during the seven-day computation period beginning October 11, 1979. However, such institutions will not be required to maintain marginal reserves until the seven-day period beginning on November 8, 1979. During the seven-day period beginning on Nobember 8, 1979, the U.S. reporting office of a U.S. branch and agency family will be required to maintain marginal reserves for the family for the seven-day computation periods beginning October 11, 18, and 25.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452–3623); Anthony F. Cole, Senior Attorney (202/452–3711); or Paul S. Pilecki, Attorney (202/452–3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board of Governors has amended Regulation D (12 CFR Part 204) to impose a marginal reserve requirement of 8 percent on the amount by which the total managed liabilities of certain institutions exceeds the amount of the institution's base amount of managed liabilities. Generally, an institution's base is the daily average amount of the institution's total managed liabilities outstanding during the base period (September 13–26, 1979) or $100 million, whichever is greater. The marginal reserve requirement will apply to member banks, Edge and Agreement Corporations, and families of U.S. branches and agencies of foreign banks whose foreign parents have worldwide banking assets in excess of $1 billion. The managed liabilities of U.S. branches and agencies of the same foreign bank family will be reported on a consolidated basis. The managed liabilities on which marginal reserves will apply include the total of (1) time deposits in denominations of $100,000 or more with original maturities of less than one year; (2) Federal funds borrowings with original maturities of less than one year from U.S. offices of depository institutions not required to maintain Federal reserves and from U.S. government agencies; (3) repurchase agreements with original maturities of less than one year on U.S. government and agency securities entered into with parties other than institutions required to maintain Federal reserves; and (4) Eurodollar borrowings from foreign banking offices of the same institution or of other banks, asset sales to related foreign offices, and member bank and Edge and Agreement Corporation foreign office loans to U.S. residents.

Time Deposits of $100,000 or More

Managed liabilities subject to the marginal reserve requirement include deposits of the following types:

(a) Time deposits of $100,000 or more with original maturities of less than one year; and

(b) Time deposits of $100,000 or more with original maturities of less than one year represented by promissory notes, acknowledgements of advance, due bills, or similar obligations (written or oral) as provided in § 204.1(f) of Regulation D; and

(c) Time deposits of any denomination with remaining maturities of less than one year represented by ineligible bankers' acceptances or obligations issued by a member bank's affiliate to the extent that the proceeds are supplied

V 44 OC 18 79 UMI

to the member bank as provided in § 204.1(f) of Regulation D.

Credit balances of $100,000 or more with original maturities of 30 days or more but less than one year will also be treated as managed liabilities subject to the marginal reserve requirement. Time deposits subject to the marginal reserve requirement do not include savings deposits and Christmas club-type deposits. U.S. branches and agencies of foreign banks generally will be required to maintain marginal reserves based on similar types of obligations, but will *not* be required to maintain the basic reserve requirements imposed on time deposits under § 204.5(a)(1)(ii) and (2)(ii).

Federal Funds and Repurchase Agreements

On April 13, 1979, the Board solicited public comment (44 FR 23867) on a proposal to apply reserve requirements to certain member bank Federal funds borrowings and to certain repurchase agreements entered into by member banks. Under the Board's April proposal, member bank borrowings from U.S. offices of other banks whose liabilities are not subject to Federal reserve requirements and from the U.S. government and its agencies would have been treated as a new category of time deposit subject to a 3 per cent reserve requirement.

The Board's April proposal also would have treated as deposits member bank borrowings in the form of repurchase agreements based on U.S. government and agency securities. Such obligations would have been subject to a 3 per cent reserve requirement. However, repurchase agreements entered into by a member bank with U.S. banking offices of other member banks or other organizations subject to Federal reserve requirements and with the Federal Reserve Banks would have continued to be exempt from reserve requirements.

After consideration of the more than 350 comments received from the public on this proposal, the Board has adopted the proposal in a modified form. The Board has determined to treat certain Federal funds borrowings and repurchase agreements of member banks, Edge and Agreement Corporations, and U.S. branches and agencies of foreign banks as managed liabilities subject to the marginal reserve requirement. Under this approach, the amount of borrowings with original maturities of less than one year from U.S. offices of other banks whose liabilities are not subject to Federal reserve requirements and from agencies of the United States (together with other managed liabilities) that exceeds the institution's base, will be subject to an 8 per cent marginal reserve requirement. The Board believes that exempting Federal funds borrowings from institutions maintaining Federal reserves from the marginal reserve requirement is appropriate to facilitate the reserve adjustment process and to avoid the possibility of imposing double Federal reserve requirements on liabilities that already may be subject to Federal reserve requirements at another institution.

Borrowings from the United States government (principally in the form of Treasury tax and loan account note balances), however, will not be regarded as managed liabilities subject to the marginal reserve requirement. Borrowings with original maturities of less than one year from Federal agencies and instrumentalities such as the Federal Home Loan Bank Board and the Federal Home Loan Banks will be subject to the marginal reserve requirement.

In the past, the term "bank" has been defined by the Board to include commercial banks, savings banks, savings and loan associations, cooperative banks, the Export-Import Bank, and Minbanc Capital Corporation (see 12 CFR 217.137). For purposes of reserve requirements (and interest rate provisions) the term "bank" is being modified to include credit unions. Consequently, while borrowings from such nonmember institutions by member banks will be regarded as managed liabilities subject to the marginal reserve requirement, such borrowings would be exempt from the basic reserve requirements of Regulation D.

Borrowings from domestic offices of organizations that are required by the Board to maintain reserves and from Federal Reserve Banks will not be regarded as managed liabilities subject to the marginal reserve requirement. The institutions that currently are required to maintain reserves include member banks, Edge Corporations engaged in the banking business (12 U.S.C. 615), Agreement Corporations (12 U.S.C. 601–604a), operations subsidiaries of member banks (12 CFR 204.117), and, under this action, U.S. branches and agencies of foreign banks with worldwide banking assets in excess of $1 billion (12 U.S.C. 3105).

Under the Board's action, borrowings in the form of repurchase agreements with original maturities of less than one year involving U.S. government and agency securities also would be regarded as managed liabilities subject to the marginal reserve requirement. Repurchase agreements entered into with U.S offices of other member banks or organizations that are required by the Board to maintain reserves with the Federal Reserve System would not be regarded as managed liabilities subject to the marginal reserve requirement. Repurchase agreements entered into by member banks, banking Edge and Agreement Corporations, and U.S. branches and agencies of foreign banks with nonexempt entities, such as nonmember banks and nonbank dealers, will not be subject to the marginal reserve requirement if such transactions are intended to provide collateral to nonexempt entities in order to engage in repurchase transactions with the Federal Reserve System Open Market Account.

In order to continue to facilitate the activities of bank dealers in the U.S. government and agency securities markets, and to provide competitive equality between bank and nonbank dealers, the amendment permits member banks, Edge and Agreement Corporations, and U.S. branches and agencies of foreign banks to deduct the amount of U.S. government and agency securities held by the institution in its trading account from the total amount of its repurchase agreements entered into with nonexempt entities in determining the amount of its repurchase agreements subject to the marginal reserve requirement. A trading account represents the U.S. government and agency securities that are held for dealer transactions—*i.e.*, securities purchased with the intention that they will be resold rather than held as an investment. The Board expects that institutions will not reclassify U.S. government and agency securities held in their investment or other accounts to their trading accounts for the purpose of avoiding marginal reserve requirements.

Managed liabilities subject to the 8 percent marginal reserve requirement also will include any obligation that arises from a borrowing for one business day from a dealer in securities whose liabilities are not subject to the reserve requirements of the Federal Reserve Act of proceeds of a transfer of deposit credit in the Federal Reserve Bank (or other immediately available funds), received by such dealer on the date of the loan in connection with clearance of securities transactions.

Eurodollars

The Board also has included the Eurodollar borrowings of member banks, Edge and Agreement Corporations and U.S. branches and agencies of foreign banks as managed liabilities subject to the marginal reserve requirement. Consequently, the amount of Eurodollars (together with other managed liabilities) of a member bank, Edge or Agreement Corporation, or U.S. branch or agency that exceeds the institution's base will be subject to the 8 percent marginal reserve requirement. With regard to member banks and Edge and Agreement Corporations, such Eurodollars include the institution's daily average balance of (1) borrowings with original maturities of less than one year from foreign offices of other banks and institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q; (2) net balances due from an institution's domestic offices to the institution's foreign offices; (3) assets (including participations) held by the institution's foreign offices that were acquired from the institution's domestic offices; and (4) the credit outstanding from the institution's foreign offices to U.S. residents.

With regard to U.S. branches and agencies of a family of a foreign bank with worldwide banking assets in excess of $1 billion, such Eurodollars include the daily average balance of (1) borrowings with original maturities of less than one year from non-U.S. offices of other banks and institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q; (2) assets (including participations) sold to and held by the foreign parent (including branches and agencies and subsidiaries located outside the U.S.) and the parent holding company that were acquired from the U.S. branches or agencies (except assets that for Federal supervisory purposes are required to be sold); and (3) net balances due to the foreign parent (including branches and agencies and banking subsidiaries located outside the U.S.) and the parent holding company after deducting an amount equal to 8 percent of the total assets of the U.S. branches and agencies, less certain cash assets (cash, cash items in the process of collection or other balances due from the foreign parent bank or related institutions or unrelated U.S. and foreign banks). Since U.S. branches and agencies do not possess a separate capital account like domestic banks, the 8 percent allowance is provided in order to contribute to competitive equity and to the safety and soundness of foreign banking offices in the U.S. (It should be noted that proceeds of commercial paper issued in the United States by the foreign bank parent will be subject to marginal reserve requirements only if such funds are provided as Eurodollar advances to its U.S. branches and agencies.)

U.S. Branches and Agencies of Foreign Banks

On July 23, 1979, the Board requested public comment on a proposal to apply Federal reserve requirements and interest rate limitations to U.S. branches and agencies of foreign banks (44 FR 44876). The period for comment on the Board's proposal expires on November 23, 1979. The Board's action with regard to marginal reserve requirements on managed liabilities of U.S. branches and agencies does not reflect a Board determination of the issues raised by the July 23 proposal.

Under the Board's action, all reports on total managed liabilities of U.S. branches and agencies of the same family must be reported on a consolidated basis by one U.S. office of the family to the Federal Reserve Bank of the district in which the reporting office is located. Intra-family transactions between U.S. branches and agencies of the same family should not be included in computing the family's managed liabilities. A foreign bank family consists of the U.S. branches and agencies of the same foreign parent bank and of its majority owned (greater than 50 per cent) foreign banking subsidiaries. The office designated by the family to file reports also will be required to maintain the marginal reserves of the family in a reserve account at the Federal Reserve Bank to which it submits the family's reports. In view of the outstanding proposal concerning issues relating to the application of all Federal Reserve requirements to U.S. branches and agencies, Federal Reserve services and access to the Federal Reserve discount window will not be made available at this time to U.S. branches and agencies. Funds will be permitted to be transferred by a U.S. branch or agency only by drafts drawn on the family's reserve account. A family's reserve account will not be available for general clearing purposes.

Computation and Maintenance of Marginal Reserve Requirements

The amount of marginal reserves that a member bank, Edge or Agreement Corporation, or a U.S. branch or agency family of a foreign bank that is a net borrower of managed liabilities will be required to maintain will be determined by the amount by which the total of the institution's managed liabilities during a given seven-day reserve computation period exceeds the total of its managed liabilities during the base period or $100 million, whichever is greater. For an institution that is a net lender of managed liabilities (that is, the sum of its managed liabilities is negative because its net Eurodollar loans to its foreign offices are greater than the total of its large time, Federal funds, repurchase agreements, and borrowed Eurodollars), its base will be the algebraic sum of its managed liabilities and $100 million. For example, if an institution has negative $150 million of managed liabilities during the base period, its base will be negative $50 million, and marginal reserve requirements will apply to the amount of its total managed liabilities above that amount. Consequently, if such an institution maintained a daily average of total managed liabilities during a computation period of negative $30 million, it would be required to maintain the 8 per cent marginal reserve requirement against $20 million of managed liabilities during the reserve maintenance period.

The base period amount will be determined from the daily average total of the institution's managed liabilities during the fourteen-day period ending September 26, 1979. During the seven-day maintenance period beginning October 25, 1979, a member bank (and an Edge or Agreement Corporation) will be required to maintain a daily average reserve balance of 8 per cent of its daily average marginal managed liabilities outstanding during the seven-day computation period beginning October 11, 1979. Thereafter, a member bank (and an Edge or Agreement Corporation) will be required to maintain its marginal reserve balance on a daily average basis for the seven-day maintenance period beginning eight days after the end of the corresponding computation period.

During the seven-day maintenance period beginning November 8, 1979, a reporting office of a U.S. branch or agency family will be required to maintain a daily average reserve balance of 8 per cent of the total of the family's daily average marginal managed liabilities outstanding during the three seven-day computation periods beginning October 11, 18 and 25, 1979. The initial reserve maintenance period for U.S. branches and agencies is being deferred to the seven-day period beginning November 8, 1979, since such institutions will be reporting liabilities and maintaining reserves with the Federal Reserve for the first time. Thereafter, the reporting office of a U.S. branch or agency family will be required to maintain the family's marginal reserve balance in the same manner as a member bank *i.e.*, during the seven-day maintenance period beginning eight days after the end of the corresponding computation period. As is the case with

V 4 4 0 C 1 8 7 9 UMI

member banks, the U.S. currency and coin held by U.S. branches or agencies during the seven-day computation period may be used to satisfy the family's required reserves.

These actions are being taken to help curb speculative excesses in financial, foreign exchange and commodity markets and to moderate expansion of bank credit, thereby dampening inflationary pressures. In order to achieve the above stated objectives as soon as possible, the Board for good cause finds that further notice, public procedure, and deferral of effective date provisions of 5 U.S.C. 553(b) with regard to these actions are impracticable and contrary to the public interest.

These actions are taken pursuant to the Board's authority under sections 19, 25 and 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601 *et seq.*) and under section 7 of the International Banking Act of 1978 (12 U.S.C. 3105).

Effective October 6, 1979, § 204.5 of Regulation D (12 CFR 204.5) is amended by revising the introductory text of paragraph (a), by revising paragraph (b) and by adding a new paragraph (f) to read as follows:

§ 204.5 Reserve requirements.

(a) *Reserve percentages.* Pursuant to the provisions of section 19 of the Federal Reserve Act, section 7 of the International Banking Act of 1978 and § 204.2(a) and subject to paragraphs (b) through (f) of this section, • • •

(b) *Currency and coin.* The United States currency and coin of a member bank or a United States branch or agency of a foreign bank shall be counted as reserves in determining compliance with the reserve requirements of this section.

• • • • •

(f) *Marginal Reserve Requirements*—(1) *Member banks.* During the seven-day reserve maintenance period beginning October 25, 1979, and during each seven-day reserve maintenance period thereafter, a member bank shall maintain a daily average reserve balance against its time deposits equal to 8 percent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the member bank's managed liabilities base. For a member bank that, on a daily average basis, is a net borrower of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the daily average of its total managed liabilities during the base period or $100 million, whichever is greater. For a member bank that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending September 26, 1979, its managed liabilities base shall be the sum of its negative total managed liabilities and $100 million. A member bank's managed liabilities are the total of the following:

(i)(A) Time deposits of $100,000 or more with original maturities of less than one year;

(B) Time deposits of $100,000 or more with original maturities of less than one year representing borrowings in the form of promissory notes, acknowledgements of advance, due bills, or similar obligations as provided in § 204.1(f); and

(C) Time deposits with remaining maturities of less than one year represented by ineligible bankers' acceptances or obligations issued by a member bank's affiliate, as provided in § 204.1(f). However, managed liabilities do not include savings deposits, or time deposits, open account that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months;

(ii) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a promissory note, acknowledgment of advance, due bill, ineligible bankers' acceptance, repurchase agreement (except on a U.S. or agency security), or similar obligation (written or oral) issued to and held for the account of a domestic banking office or agency [15] of another commercial bank or trust company that is not required to maintain reserves pursuant to this part, a savings bank (mutual or stock), a building or savings and loan association, a cooperative bank, a credit union, or an agency of the United States, the Export-Import Bank of the United States, Minbanc Capital Corporation and the Government Development Bank for Puerto Rico;

(iii) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a repurchase agreement arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the institution is obligated to repurchase (except repurchase agreements issued to a domestic banking office or agency of a member bank, or other organization that is required to maintain reserves under this part pursuant to the Federal Reserve Act,[16] or to a Federal Reserve Bank [17]) to the extent that the amount of such repurchase agreements exceeds the total amount of United States and agency securities held by the member bank in its trading account;

(iv) Any obligation that arises from a borrowing by a member bank from a dealer in securities that is not a member bank or other organization that is required to maintain reserves pursuant to this part,[16] for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank (or other immediately available funds), received by such dealer on the date of the loan in connection with clearance of securities transactions;

(v) Borrowings with an original maturity of less than one year from foreign offices of other banks and from institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q;

(vi) Net balances due from the member bank's domestic offices to its foreign branches;

(vii) Assets (including participations) held by the member bank's foreign branches that were acquired from the member bank's domestic offices; and

(viii) Credit outstanding from its foreign branches to U.S. residents [18] (other than assets acquired and net balances due from its domestic offices). *Provided,* That this paragraph does not apply to credit extended (A) in the aggregate amount of $100,000 or less to any United States resident, (B) by a foreign branch which at no time during the computation period had credit outstanding to United States residents exceeding $1 million, (C) under binding commitments entered into before May 17, 1973, or (D) to an institution that will be maintaining reserves on such credit under paragraphs (c) or (f) of this section or under Regulation K.

Provided, however, That in no event shall the reserves required on a member bank's aggregate time and savings deposits be more than 10 percent.

(2) *United States branches and agencies of foreign banks.* During the seven-day reserve maintenance period beginning November 8, 1979, a United States branch or agency of a foreign bank with worldwide banking assets in excess of $1 billion shall maintain a daily average reserve balance against its liabilities equal to 8 per cent of the amount by which the daily average of its total managed liabilities during the three seven-day computation periods beginning October 11, 18 and 25, 1979, exceeds the total of the institution's managed liabilities base. During the seven-day reserve maintenance period beginning November 15, 1979, and during each seven-day reserve maintenance period thereafter, a United States branch or agency of a foreign bank with worldwide banking assets in excess of $1 billion shall maintain a daily average reserve balance against its liabilities equal to 8 percent of the amount by which the daily average of its total managed liabilities during the seven-day computation period ending eight days prior to the beginning of the corresponding seven-day reserve maintenance period exceeds the institution's managed liabilities base. In determining managed liabilities of United States branches and agencies, the managed liabilities of all United States branches and agencies of the same foreign parent bank and of its majority-owned (greater than 50 percent) foreign banking subsidiaries (the "family") shall be consolidated. Asset and liability amounts that represent intra-family transactions between United States branches and agencies of the same family shall not be included in computing the managed liabilities of the family. United States branches and agencies of the same family shall designate one U.S. office to be the reporting office for purposes of filing consolidated family reports required for determination of the family's marginal reserve requirements. The reporting office shall file reports and maintain marginal reserves required under this section for the family at the Federal Reserve Bank of the district in which the reporting office is located. For a family of United States branches and agencies that, on a daily average basis, is a net borrower of total managed liabilities during the fourteen-day base period ending September 26, 1979, the managed liabilities base for the family shall be the daily average of the family's total managed liabilities during the base period or $100 million, whichever is greater. For a family of United States branches and agencies that, on a daily average basis, is a net lender of total managed liabilities during the fourteen-day base period ending September 26, 1979, the managed liabilities base for the family shall be the sum of the family's negative total managed liabilities and $100 million. The total managed liabilities of a family are the total of each branch's and agency's:

(i)(A) Time deposits of $100,000 or more with original maturities of less than one year;

(B) Time deposits of $100,000 or more with original maturities of less than one year representing borrowings in the form of promissory notes, acknowledgements of advance, due bills, or similar obligations as provided in § 204.1(f);

(C) Obligations with remaining maturities of less than one year represented by ineligible bankers' acceptances;

(D) Credit balances of $100,000 or more with an original maturity of 30 days or more but less than one year. However, managed liabilities do not include savings deposits, or time deposits, open account that constitute deposits of individuals, such as Christmas club accounts and vacation club accounts that are made under written contracts providing that no withdrawal shall be made until a certain number of periodic deposits have been made during a period of not less than 3 months;

(ii) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a promissory note, acknowledgement of advance, due bill, ineligible bankers' acceptance, repurchase agreement (except on a U.S. or agency security), or similar obligation (written or oral) issued to and held for the account of a domestic banking office or agency [15] of another commercial bank or trust company that is not required to maintain reserves pursuant to this part, a savings bank (mutual or stock), a building or savings and loan association, a cooperative bank, a credit union, or an agency of the United States, the Export-Import Bank of the United States, Minbanc Capital Corporation and the Government Development Bank for Puerto Rico;

(iii) Any obligation with an original maturity of less than one year that is issued or undertaken as a means of obtaining funds to be used in its banking business in the form of a repurchase agreement arising from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States or any agency thereof that the institution is obligated to repurchase (except repurchase agreements issued to a domestic banking office or agency of a member bank, or other organization that is required to maintain reserves under this part pursuant to the Federal Reserve Act,[16] or to a Federal Reserve Bank [17]) to the extent that the amount of such repurchase agreements exceeds the total amount of United States and agency securities held by the institution in its trading account;

(iv) Any obligation that arises from a borrowing from a dealer in securities that is not a member bank or other organization that is required to maintain reserves pursuant to this Part,[16] for one business day, of proceeds of a transfer of deposit credit in a Federal Reserve Bank (or other immediately available funds), received by such dealer on the date of the loan in connection with clearance of securities transactions;

(v) Borrowings with an original maturity of less than one year from foreign offices of other banks and from institutions that are exempt from interest rate limitations pursuant to § 217.3(g) of Regulation Q;

(vi) Assets (including participations) held by the foreign parent bank (including branches and agencies located outside the States of the United States and the District of Columbia) and by the foreign parent's majority-owned (greater than 50 per cent) foreign subsidiaries (including branches and agencies located outside the States of the United States and the District of Columbia) or parent holding company that were acquired from the U.S. branch or agency (other than assets required to be sold by the Federal supervisory authority of the branch or agency); and

(vii) Net balances due to the family's foreign parent bank (including branches and agencies located outside the States of the United States and the District of Columbia) and to the foreign parent's majority-owned (greater than 50 per cent) foreign banking subsidiaries (including branches and agencies located outside the States of the United States and the District of Columbia) or parent holding company, after deducting

[15] Any banking office or agency in any State of the United States or the District of Columbia of a bank organized under domestic or foreign law.

[16] Edge Corporations engaged in banking, Agreement Corporations, operations subsidiaries of member banks, and U.S. branches and agencies of foreign banks with worldwide banking assets in excess of $1 billion.

[17] Repurchase agreements entered into with nonexempt entities, such as nonmember banks and nonbank dealers, are not subject to marginal reserve requirements if such agreements are intended to provide collateral to such nonexempt entities in order to engage in repurchase transactions with the Federal Reserve System Open Market Account.

[18] (a) Any individual residing (at the time the credit is extended) in any State of the United States or the District of Columbia; (b) any corporation, partnership, association or other entity organized therein ("domestic corporation"); and (c) any branch or office located therein of any other entity wherever organized. Credit extended to a foreign branch, office, subsidiary, affiliate or other foreign establishment ("foreign affiliate") controlled by one or more such domestic corporations will not be deemed to be credit extended to a United States resident if the proceeds will be used in its foreign business or that of other foreign affiliates of the controlling domestic corporation(s).

V 44 0C 18 79 UMI

an amount equal to 8 per cent of the U.S. branch and agency family's total assets (not including cash, cash items in the process of collection, or balances due from the foreign parent bank (including branches and agencies located outside the States of the United States and the District of Columbia), the parent's majority-owned (greater than 50 per cent) subsidiaries (including branches and agencies located outside the States of the United States and the District of Columbia) or parent holding company, and balances due from unrelated banks).

Any excess or deficiency in the marginal reserve balances required under this paragraph shall be subject to § 204.3.

By order of the Board of Governors of the Federal Reserve System, October 6, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32155 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Part 217

[Reg. Q; Docket No. R-0218]

Member Bank Participation in "Federal Funds" Market; Final Interpretation

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation.

SUMMARY: The Board of Governors has modified an existing interpretation of Regulation Q concerning the Federal funds market to include credit unions within the category of institutions from whom member banks may borrow Federal funds.

EFFECTIVE DATE: October 6, 1979.

FOR FURTHER INFORMATION CONTACT: Gilbert T. Schwartz, Assistant General Counsel (202/452-3623), or Paul S. Pilecki, Attorney (202/452-3281), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: On April 13, 1979, the Board solicited public comment (44 FR 23867) on a proposal to apply reserve requirements to certain member bank Federal funds borrowings and to certain repurchase agreements entered into by member banks. The Board also proposed that the term "bank" be expanded to include credit unions. The Board has determined that credit unions should be included within the category of institutions from whom member banks may borrow Federal funds. It should be noted that member bank borrowings from credit unions in the form of Federal funds are managed liabilities that may be subject to marginal reserve requirements (12 CFR 204.5(f) as amended effective October 6, 1979). Effective October 6, 1979, 12 CFR 217.137 is amended by deleting the first paragraph and adding a new first paragraph as follows:

§ 217.137 Member bank participation in "Federal funds" market.

Since the adoption of § 217.1(f) in 1966, an exemption from Regulation Q has existed for member bank obligations in nondeposit form to another bank. As used in such exemption, "bank" includes a member bank, a nonmember commercial bank, a savings bank (mutual or stock), a building or savings and loan association or cooperative bank, the Export-Import Bank of the United States, Minbanc Capital Corp., a foreign bank, or a credit union. It also includes bank subsidiaries that engage in business in which their parents are authorized to engage and subsidiaries the stock of which is by statute explicitly eligible for purchase by national banks. These institutions are considered to be "banks" also for the purposes of Regulation D (12 CFR Part 204). * * *

* * * * *

This action is taken pursuant to the Board's authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461) to determine what types of obligations issued by a member bank shall be deemed a deposit.

By order of the Board of Governors, October 6, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32143 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

FARM CREDIT ADMINISTRATION

12 CFR Parts 600, 601, 602, 611

Miscellaneous Amendments

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration publishes amendments to its general regulations relating to the organization of the Farm Credit Administration and the Farm Credit System. These amendments (1) describe the responsibilities of the Deputy Governors and the General Counsel, (2) explain the functions of the other administrative units of the Farm Credit Administration and (3) reflect name changes of banks in the Farm Credit districts.

EFFECTIVE DATE: October 5, 1979.

FOR FURTHER INFORMATION CONTACT: Sandford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, SW., Washington, DC 20578 (202-755-2181).

SUPPLEMENTARY INFORMATION: These technical amendments to the regulations will reflect reorganization changes in the Farm Credit Administration and the Farm Credit System. Since these amendments reflect only technical changes in the regulations and are not intended to make any substantive changes therein, it is found that notice of proposed rulemaking is not necessary to the public interest.

Chapter VI of Title 12 of the Code of Federal Regulations is amended as follows:

PART 600—ORGANIZATION AND FUNCTIONS

1. Sections 600.4, 600.5 and 600.10 are revised to read as follows:

§ 600.4 Senior Deputy Governor, Deputy Governors and General Counsel.

The Governor of the Farm Credit Administration is assisted in executing his responsibilities by a Senior Deputy Governor, Deputy Governors, a General Counsel and other members of his staff. The Senior Deputy Governor serves as the chief operating officer of the Farm Credit Administration and is responsible, under policy guidance from the Governor, for the management of agency offices in their day-to-day operations. The Executive Staff is composed of the Senior Deputy Governor, the Deputy Governors and such other members as the Governor may designate. It provides advice and counsel to the Office of Governor on matters of policy and maintains lines of communication among agency offices.

(a) The Office of Supervision, headed by a Deputy Governor, regulates and supervises the extension and administration of credit by, and the operating policies and practices of, the banks and associations of the Farm Credit System.

(b) The Office of Finance, headed by a Deputy Governor, regulates and supervises the financing activities of the Farm Credit banks and their Fiscal Agency.

(c) The Office of Administration, headed by a Deputy Governor, provides resources and services to enable other units of the Farm Credit Administration to carry out their responsibilities in supervision, finance and examination, supervises information and personnel programs of the banks and associations of the Farm Credit System, and conducts current and long-range research in the areas of agricultural credit and finance.

(d) The Office of Examination, headed by a Deputy Governor and Chief Examiner, examines and audits the banks and associations of the Farm Credit System, and, in limited instances, investigates alleged violations of Federal criminal statutes and conflicts of interest regulations which relate to System institutions.

(e) The Office of General Counsel, headed by the General Counsel, provides legal services for the Federal Farm Credit Board, the Governor, and Staff, and provides leadership to legal counsel for the Farm Credit banks in interpreting the Farm Credit Act of 1971 and regulations and bylaws issued to implement the Act.

§ 600.5 Other administrative units.

(a) In the Office of Supervision, there are the following divisions, each of which is headed by a Director:

(1) Eastern Division which supervises the banks and associations in the Springfield, Baltimore, New Orleans and Columbia Farm Credit districts.

(2) Central Division which supervises the banks and associations in the Louisville, St. Louis, Wichita and Texas Farm Credit districts.

(3) Western Division which supervises the banks and associations in the St. Paul, Omaha, Sacramento and Spokane Farm Credit districts.

(4) Credit Risk Evaluation Division which evaluates risks associated primarily with large bank for cooperative loans.

(5) Technical Services Division which provides technical support to the Office.

(b) In the Office of Finance are the following divisions, each of which is headed by a Director:

(1) Marketing and Funding Division which is responsible for (i) supervising the issuance, marketing, and redemption of securities of the Farm Credit banks and (ii) monitoring financial markets.

(2) Bank Financial Supervision Division which is responsible for supervising the banks and associations in the area of funding, investments, cash management, and commercial bank borrowing.

(c) In the Office of Administration are the following divisions, each of which is headed by a Director:

(1) Personnel Division which plans, develops and administers agency personnel programs; provides guidance on administration of System personnel programs; reviews and approves district retirement programs; and reviews and approves salary ranges for bank employees.

(2) Administrative Division which plans, directs, and participates in FCA budget development, supervises all administrative services including FCA accounting, voucher, auditing, payroll, procurement, supplies, general files, mail, messenger, space utilization, and supervises district director elections.

(3) Public Affairs Division which plans and implements FCA public information programs, produces information materials including news releases, annual reports, broadcast tapes, visual materials, publications, exhibits, and others, and assists and helps coordinate information programs of the Farm Credit System.

(4) Economic Analysis Division which plans, coordinates and conducts current and long range studies in financing the Farm Credit System and in areas of agricultural credit to farmers, cooperatives, and rural homeowners.

(5) Congressional Affairs Division which prepares reports to congressional committees and monitors pending legislation which may have an impact upon the operations of the Farm Credit System.

(d) In the Office of Examination are the following divisions, each of whch is headed by a Director to carry out a program of examinations and audits in four of the twelve Farm Credit Districts:

(1) Eastern Division, located in Columbia, South Carolina, performs examinations and audits in the Springfield, Baltimore, Columbia and New Orleans Farm Credit Districts.

(2) Central Division, located in St. Louis, Missouri, performs examinations and audits in the Louisville, St. Louis, Wichita, and Texas Farm Credit Districts.

(3) Western Division, located in Bloomington, Minnesota, performs examinations and audits in the St. Paul, Omaha, Sacramento, and Spokane Farm Credit Districts. It also maintains a suboffice in Spokane, Washington.

§ 600.10 Farm Credit districts and institutions.

(a) The United States is divided into 12 Farm Credit districts which are as follows:

District No.	District name	Territory
1	Springfield	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey.
2	Baltimore	Pennsylvania, Delaware, Maryland, Virginia, West Virginia, District of Columbia, Puerto Rico.
3	Columbia	North Carolina, South Carolina, Georgia, Florida.
4	Louisville	Ohio, Indiana, Kentucky, Tennessee.
5	New Orleans	Alabama, Mississippi, Louisiana.
6	St. Louis	Illinois, Missouri, Arkansas.
7	St. Paul	Michigan, Wisconsin, Minnesota, North Dakota.
8	Omaha	Iowa, Nebraska, South Dakota, Wyoming.
9	Wichita	Oklahoma, Kansas, Colorado, New Mexico.
10	Texas	Texas.
11	Sacramento	California, Nevada, Utah, Arizona, Hawaii.
12	Spokane	Washington, Oregon, Montana, Idaho, Alaska.

(b) In each district, there is a Federal land bank, a Federal intermediate credit bank, and a bank for cooperatives which maintain their principal offices together at the same location. The names of the district served by these banks are reflected in the banks' names. Each district is also served by a number of Federal land bank associations and production credit associations. In addition there is a Central Bank for Cooperatives which serves the entire United States. The location of the principal offices of the Central and district banks are as follows:

Central Bank—5290 DTC Center Parkway, Englewood, Colorado 80111.

District Banks

Springfield—67 Hunt Street, Agawam, Massachusetts 01001.
Baltimore—St. Paul and 24th Streets, Baltimore, Maryland 21218.
Columbia—1401 Hampton Street, Columbia, South Carolina 29201.
Louisville—Riverview Square, Louisville, Kentucky 40202.
New Orleans—860 St. Charles Avenue, New Orleans, Louisiana 70130.
St. Louis—1415 Olive Street, St. Louis, Missouri 63103.
St. Paul—375 Jackson Street, St. Paul, Minnesota 55101.
Omaha—206 South 19th Street, Omaha, Nebraska 68102.
Wichita—151 North Main, Wichita, Kansas 67202.
Texas—430 Lamar Avenue, Houston, Texas 77002.
Sacramento—3636 American River Drive, Sacramento, California 95825.
Spokane—W. 705 First Avenue, Spokane, Washington 99220.

(c) Each district has a part-time, policymaking Farm Credit board of seven members who are ex officio, directors of each of the three banks in that district. The Central Bank for Cooperatives has a separate board of 13 directors. Each bank has its own officials.

(d) In each district, the Federal land bank associations, the production credit associations, and the cooperatives which borrow from the banks for cooperatives, as separate groups are each entitled to elect two members of the district Farm Credit board. The seventh member of the district board is appointed by the Governor of the Farm

V 44 O C 18 79 UMI

Credit Administration with the advice and consent of the Federal Farm Credit Board. Activities of the three banks in each district are coordinated through the district Farm Credit board and a committee composed of the bank presidents.

(e) From each district, the board of directors of the bank for cooperatives elects a director of the Central Bank. The 13th director of the Central Bank is appointed by the Governor with the advice and consent of the Federal Farm Credit Board.

PART 601—EMPLOYEE RESPONSIBILITIES AND CONDUCT

2. Sections 601.101, 601.140, the introductory paragraph of 601.150 and 601.165(b) are revised to read as follows:

§ 601.101 Responsibilities.

(a) In the administration of the policy set forth in § 602.200 of this chapter, and the rules and regulations thereunder, the Director, Personnel Division, Office of Administration, is responsible for (1) general coordination, (2) dissemination of information, (3) handling of complaints, (4) assignment of investigations, (5) administrative interpretation, and (6) periodic review and evaluation of compliance.

(b) The Director, Personnel Division, Office of Administration, shall serve as counselor on ethical conduct and shall be responsible for assuring that counseling and interpretations on questions dealing with employee conduct and conflicts of interest are available to any officer or employee who desires advice and guidance on such questions.

§ 601.140 Political activity.

Various provisions of Federal statutes and regulations prohibit or limit political activity on the part of officers and employees of Federal agencies. Any officer or employee who desires to have more detailed information should make inquiry of the Personnel Division.

§ 601.150 Distribution of printed material by employees.

The distribution of circulars, flyers, posters, etc. by individual Farm Credit Administration employee groups should be confined to material that will not result in embarrassment to the Farm Credit Administration. Distribution of any such material should be cleared with the Personnel Division. Specifically, no circulars, flyers, posters, etc. may be so distributed which:

* * * * *

§ 601.165 Foreign decorations.

* * * * *

(b) Any Farm Credit Administration employee who has had such a present conferred on him or her, must notify the Personnel Division that it is being held by the State Department so that appropriate steps may be taken at time of the employee's retirement, for reporting to Congress.

PART 602—RELEASING INFORMATION

3. Sections 602.200, 602.235(a), 602.260, 602.261(a) and the introductory text of paragraph (d) are revised to read as follows:

§ 602.200 General rule.

Except as necessary in performing official duties or as authorized by §§ 602.205–602.235, no one employed by Farm Credit Administration shall disclose information of a type not ordinarily contained in published reports or press releases regarding Farm Credit Administration or any banks or associations of the Farm Credit System or their borrowers or members. Information prepared for newspaper, publishing and broadcasting companies, and all new or revised publications shall be cleared with the Public Affairs Division.

§ 602.235 Information regarding personnel.

List of employees shall not be released by an office of the Farm Credit Administration without the approval of the Governor or a Deputy Governor. This section is subject to the following exceptions:

(a) Taxing authorities shall be supplied, on request, with the names, addresses, and compensation of officers and employees of the Farm Credit Administration. Field officers receiving any such requests shall forward them to the Administrative Division.

* * * * *

§ 602.260 Request for records.

Requests for records, other than records identified in § 602.265(a) which are available in a public reference facility in the offices of the Farm Credit Administration, shall be in writing, in an envelope clearly marked "FOIA Request", and addressed to the Freedom of Information Officer, Public Affairs Division, Office of Administration, Farm Credit Administration, Washington, D.C. 20578. A request improperly addressed will be deemed not to have been received for purposes of the ten-day time period set forth in § 602.261(a) until it is received, or would have been received with the exercise of due diligence by Agency personnel, in the Public Affairs Division. Records requested in conformance with this Subpart B and which are not exempt records may be received in person or by mail as specified in the request. Records to be received in person will be available for inspection or copying during business hours on a regular business day in the public reference facility in the offices of the Farm Credit Administration which are located in Suite 4000, 490 L'Enfant Plaza East S.W., Washington, D.C. 20578.

§ 602.261 Response to requests for records.

(a) Within ten days (excluding Saturdays, Sundays, and legal public holidays), or any extension thereof as provided in paragraph (d) of this section, of the receipt of a request in the Public Affairs Division, the Freedom of Information Officer shall determine whether to comply with or to deny such request and place a notice thereof in writing in the mails addressed to the requester.

* * * * *

(d) In unusual circumstances as specified in this paragraph the ten-day time limit prescribed in paragraph (a) of this section or the twenty-day time limit prescribed in paragraph (c), or both, may be extended by the Freedom of Information Officer or the Deputy Governor, Office of Administration, as the case may be, provided that the total of all extensions shall not exceed ten days (excluding Saturdays, Sundays, and legal public holidays). Extensions shall be made by written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be mailed. As used in this paragraph, "unusual circumstances" means, but only to the extent necessary to the proper processing of the request:

* * * * *

PART 611—ORGANIZATION

4. Subpart E, "Farm Credit Districts," is revised to read as follows:

Subpart E—Farm Credit Districts

The United States is divided into 12 Farm Credit districts. The designation and territory comprising each district are as follows:

District No.	District name	Territory
1	Springfield	Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey
2	Baltimore	Pennsylvania, Delaware, Maryland, Virginia, West Virginia, District of Columbia, Puerto Rico
3	Columbia	North Carolina, South Carolina, Georgia, Florida
4	Louisville	Ohio, Indiana, Kentucky, Tennessee.
5	New Orleans	Alabama, Mississippi, Louisiana.
6	St. Louis	Illinois, Missouri, Arkansas.
7	St. Paul	Michigan, Wisconsin, Minnesota, North Dakota.
8	Omaha	Iowa, Nebraska, South Dakota, Wyoming.
9	Wichita	Oklahoma, Kansas, Colorado, New Mexico.
10	Texas	Texas.
11	Sacramento	California, Nevada, Utah, Arizona, Hawaii.
12	Spokane	Washington, Oregon, Montana, Idaho, Alaska.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621).

Donald E. Wilkinson,

Governor.

[FR Doc. 79-32213 Filed 10-17-79; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-SO-49; Amdt. No. 39-3586]

Airworthiness Directives: Gulfstream American Corp.; Models AA-5 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing Airworthiness Directive (AD) applicable to certain Gulfstream American Corporation (GAC) Models AA-5, AA-5A, and AA-5B aircraft. This amendment is needed to allow additional time for the modification to be accomplished.

DATES: Effective October 17, 1979. Compliance as prescribed in body of AD.

ADDRESSES: The applicable GAC Service Bulletin and Service Kit may be obtained from Gulfstream American Corporation, P.O. Box 2206, Savannah, Georgia 31402.

A copy of the Service Bulletin and Service Kit are also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Curtis Jackson, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: This amendment amends Amendment 39-3524 (31 FR 45918), AD 79-16-05, which required compliance within 50 hours time in service from the effective date of August 10, 1979. After issuing Amendment 39-3524, the FAA received several requests from operators for an extension of the compliance time. The FAA reviewed the requirements of the AD and determined that the compliance time should be extended to 150 hours time in service. Therefore, on August 31, 1979, an air mail letter extending the compliance time was issued.

Since this amendment relieves a restriction and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and good cause exists for making the amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39-3524 (31 FR 45918), AD 79-16-05, as follows:

The compliance statement is revised to read ". . . compliance is required within 150 hours time in service after the effective date of this AD (August 10, 1979) . . ." instead of 50 hours time in service.

This amendment is effective October 17, 1979, and was effective upon receipt for all recipients of the air mail letter dated August 31, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

Issued in East Point, Georgia, on October 2, 1979.

George R. La Caille,

Acting Director, Southern Region.

[FR Doc. 79-31993 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Docket No. 79-RM-17]

Designation of Federal Airways, Area Low Routes, Controlled Airspace and Reporting Points; Alteration of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the 700' transition area at Fort Collins, Colorado to provide controlled airspace for aircraft executing the new VOR/DME-B standard instrument approach procedure for the Downtown Fort Collins Airpark, Fort Collins, Colorado.

EFFECTIVE DATE: 0901 GMT, January 24, 1980.

FOR FURTHER INFORMATION CONTACT: David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, ARM-500, Federal Aviation Administration, Rocky Mountain Region, 10455 East 25th Avenue, Aurora, Colorado 80010; telephone (303) 837-3937.

SUPPLEMENTARY INFORMATION:

History

On August 20, 1979, the FAA published for comment a Notice of Proposed Rulemaking (NPRM) to alter the 700' transition area at Fort Collins, Colorado (44 FR 48707). No objections were received in response to this notice.

Rule

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations alters the 700' transition area at Fort Collins, Colorado. This action is necessary to provide controlled airspace for aircraft executing the new VOR/DME-B standard instrument approach procedure to the Downtown Fort Collins, Airpark, Fort Collins, Colorado.

Drafting Information

The principal authors of this document are David M. Laschinger, Operations, Procedures and Airspace Branch, Air Traffic Division, and Daniel J. Peterson, Office of Regional Counsel.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective 0901 GMT, January 24, 1980, as follows:

By amending Subpart G, Section 71.181 (44 FR 442) by altering the following transition area:

Fort Collins, Colorado

That airspace extending upward from 700 feet above the surface within 9.5 miles east and 9.5 miles west of the 173° and 353° bearings from the Fort Collins-Loveland NDB (latitude 40°26'59" N., longitude 105°00'19" W.) extending from 18 miles north to 18.5 miles south of the NDB.

(Sec. 307(a) Federal Aviation Act of 1958 as amended (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); and 14 CFR 11.69.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and

Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Aurora, Colorado on October 4, 1979.

M. M. Martin,

Director, Rocky Mountain Region.

[FR Doc. 79-31992 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket 8988]

California Milk Producers Advisory Board, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order dismisses a complaint issued against a Modesto, Calif. milk producer association and its New York City advertising agency, on grounds that it was unreasonable to condemn advertising claiming that "Every body needs milk" because of the small fraction of allergic people.

DATES: Complaint issued Aug. 1, 1974. Final order issued Sept. 21, 1979.*

FOR FURTHER INFORMATION CONTACT: Gerald E. Wright, Attorney, San Francisco Regional Office, Federal Trade Commission, 9R, 450 Golden Gate Ave., San Francisco, Calif. 94102. (415) 556-1270.

SUPPLEMENTARY INFORMATION: In the Matter of California Milk Producers Advisory Board, an unincorporated association, and Cunningham & Walsh, Inc., a corporation.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52.)

The Final Order is as follows:

Final Order

The Administrative Law Judge filed an initial decision dismissing the complaint in this matter on July 31, 1979. No appeal from the initial decision having been filed and the Commission having determined that the case should not be placed on its own docket for review and that the initial decision should become effective as provided in Rule 3.51(a) of the Commission's Rules of Practice (16 CFR § 3.51(a)).

It is ordered that the initial decision shall become effective on September 24, 1979.

By the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 79-32078 Filed 10-17-79; 8:45 am]

BILLING CODE 6750-01-M

*Copies of the Complaint, Initial Decision and Final Order filed with the original order.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. RM80-1]

General Policy and Interpretations; Fuel Oil Displacement by Process and Feedstock Users

AGENCY: Federal Energy Regulatory Commission.

ACTION: Interim regulations.

SUMMARY: Federal Energy Regulatory Commission's (FERC) direct sale program for process and feedstock users of natural gas is expanded. Certificates of public convenience and necessity issued under this interim rule will permit participating process and feedstock users to use natural gas to the same extent as non-participating users. As a result, participating users will be able to displace the consumption of fuel oil with natural gas. Transporting pipelines may apply to amend existing certificates to reflect the provisions of the interim rule.

DATES: Written Comments by October 31, 1979.

EFFECTIVE DATE: October 5, 1979.

ADDRESS: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Reference Docket No. RM80-1).

FOR FURTHER INFORMATION CONTACT:

Robert C. Platt, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-357-8454.

Robert D. Long, Office of Pipeline and Producer Regulations, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, 202-275-4382.

Before Commissioners: Charles B. Curtis, Chairman; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Interim Rule

Issued October 5, 1979.

In the matter of Fuel Oil Displacement by Process and Feedstock Users, Docket No. RM80-1; Order No. 52.

I. Background

The Commission hereby issues an interim rule to amend the regulations establishing a direct sale program for process and feedstock users of natural gas (FPC Order No. 533 and FERC Order No. 2). Under these rules, prescribed in § 2.79 of the Commission's Regulations, high priority industrial users facing curtailment are permitted to obtain natural gas which otherwise would not be available to them. The proposed amendment herein would remove some of the end-use limitations presently incorporated in the FPC Order No. 533 and FERC Order No. 2 program.

The Commission's rule presently prevents process and feedstock customers who receive natural gas under Order No. 533 (Order No. 533 customers) from also receiving interstate system supplies for lower priority uses. This prohibition is of consequence for any Order No. 533 customer with both high priority and low priority loads (such as boiler fuel). The prohibition on low priority use of natural gas from system supplies applies regardless of the supplier's general level of curtailment. As a result, the low priority requirements of Order No. 533 customers are not served even when a supplier has sufficient natural gas to serve these requirements and is serving similarly low priority requirements of customers not receiving natural gas under Order No. 533. This constraint places the Order No. 533 customers at a disadvantage. The recent drop in curtailment levels [1] and the national need to displace fuel oil [2] makes these limitations inconsistent with the public interest. Accordingly, the proposed rule would eliminate these limitations and would permit customers to receive natural gas for low priority uses without jeopardizing their right to receive direct sale gas under Order No. 533.

A. Interstate System Supplies

Section 2.79(e) and (f) as amended by Order No. 2 presently limit the use of both system supplies and direct sale gas to two specified high priority uses. Only process uses (such as heat treatment) and feedstock uses (such as the production of ammonia from methane)

[1] Protection of High Priority Natural Gas Consumers: The Emergency Authorities of the Natural Gas Policy Act of 1978. A Report to Congress by the FERC, issued June 1979, at 53, and Appendix C.

[2] Presidential Proclamation of a National Energy Supply Shortage of July 10, 1979.

are permitted.[3] At the time the Order No. 533 program was established in 1975, the system supplies of many interstate pipelines were so limited that many process and feedstock uses were facing imminent curtailment despite their high priority. Order No. 533 then represented a means of obtaining natural gas at unregulated prices, which was otherwise unavailable to the interstate market, for use in the interstate market. But Order No. 533 included end-use restrictions to prevent an Order No. 533 customer from meeting his low priority requirements at the expense of the high priority needs of other customers who rely upon interstate system supplies. The limitations of § 2.79(e) and (f) were intended to prevent disruption of supplies available to interstate pipelines and to allow unregulated natural gas to displace interstate pipeline supplies to the benefit of the other customers of the pipeline.

Two recent events permit the Commission to consider a relaxation of the paragraph (e) and (f) limitations. First, enactment of the Natural Gas Policy Act of 1978 (NGPA) has removed most of the distinctions between the intrastate and interstate markets. Second, the recent improvement in natural gas supplies on many interstate pipelines coupled with the current threat of a fuel oil shortage has prompted the Department of Energy (DOE) to encourage the use of natural gas instead of fuel oil where possible.

In response to a DOE proposal, on May 17, 1979, the Commission issued Order No. 30 which established procedures for the transportation of natural gas purchased by an end-user to displace fuel oil consumption during a fuel shortage emergency period.[4] As noted in Order No. 30, interstate system supplies are viewed by DOE as the first priority for fuel oil displacement:

> The Department will undertake two approaches to reduce imports in the near-term through movement of surplus gas to oil users. The first approach is to encourage sales from producers or intrastate pipelines to interstate pipelines and distribution companies. Such sales will increase general system supply, thereby reducing overall gas curtailments and displacing fuel oil. The second approach is to encourage and facilitate the transportation of natural gas purchased directly from producers or intrastate pipelines by users capable of substituting gas for oil. In general, the Department's first priority is to encourage additions to interstate pipeline system supplies. However, when surplus gas in not fully utilized by interstate pipelines, the transportation of direct purchases will be facilitated.[5]

Because such uses of natural gas have already been authorized by outstanding contracts and certificates of public convenience and necessity, as well as by the normal operation of curtailment plans, this method of fuel oil displacement by those customers who do not receive Order No. 533 gas has occurred without additional Commission action. The proposed rule allows Order No. 533 customers to accept system supplies to displace fuel oil in the same manner as customers who do not receive gas under Order No. 533. As a result, the interim rule permits Order No. 533 customers to displace fuel in these circumstances without prior certification from the Economic Regulatory Administration.

B. FERC Order No. 30 Direct Sales for Fuel Oil Displacement

A similar problem arises in the case of Order No. 533 customers who wish to obtain additional natural gas to displace fuel oil through the direct sale program established by Order No. 30. These fuel oil users are prohibited from using natural gas for other than process and feedstock uses by limitations imposed in § 2.79(e) and (f) and by conditions attached to the certificate of public convenience and necessity which authorizes the transportation of direct sale gas to the Order No. 533 customer. The interim rule would modify these limitations and also would permit Order No. 533 customers to purchase natural gas under Order No. 30 for those low priority uses which have been certified by the Economic Regulatory Administration as displacing fuel oil.

C. Related Issues

The interim rule does not attempt to resolve all of the issues raised by direct sales to process and feedstock users. The Commission intends to address many of these issues in the pending adjudication in Docket No. CP77-71 and in a direct sale program for "essential industrial process or feedstock uses" accorded a high curtailment priority under section 402 of the NGPA.

II. Summary of Rule

The interim rule adds four new paragraphs to § 2.79 of the Commission's Regulations.

A. Transitional Rules

The interim rule would not alter the conditions contained in outstanding Order No. 533 certificates. Instead, the Commission intends that the policy outlined in this rule would be automatically incorporated into certificates issued after the effective date of the interim rule. Under paragraph (k) any pipeline seeking to amend its outstanding certificates issued pursuant to Order No. 533 and Order No. 2 may make a one-time blanket filing with the Commission. The Commission will consider the application on an expedited basis, and has delegated approval of such amendments to the Director of the Office of Pipeline and Producer Regulations in § 3.5(f)(iv) of this chapter.

Paragraph (l)(1) states the Commission's intention to incorporate paragraph (m) as a condition in certificates issued after the effective date of the interim rule. The Commission's policy of limiting volumes transported under an Order No. 533 certificate to a customer's process and feedstock requirements is continued in paragraph (l)(2).

Paragraph (m) defines the volume of natural gas that an Order No. 533 customer may purchase from either his supplier or through direct sale. Paragraph (m) is intended to lift many of the restrictions previously imposed by paragraphs (e) and (f). The restrictions are now framed in terms of aggregate volumes to give the customer flexibility in meeting its requirements. Unlike the terms of paragraph (f), the Order No. 533 customer may now vary the proportion of total natural gas supplies that are purchased from its supplier or in direct producer sales.

Paragraph (m) classifies the customer's aggregate supplies into two volumes. The "normal entitlement" represents the volume of natural gas which the customer would have received under the supplier's curtailment plan if the customer was not an Order No. 533 customer. Any aggregate supplies in excess of the normal entitlement are permitted only in three specific cases.

B. Use of System Supplies

Paragraph (m)(1)(i) provides that the customer is not disqualified from purchasing its normal entitlement from the supplier by reason of any condition in a certificate issued pursuant to this section.[6] The only restriction is that the customer's aggregate supply volume (including direct purchases) may not exceed the limit specified in paragraph (m)(2).

[3] These uses are defined in § 2.78(c)(7) and (8).

[4] 44 F.R. 30323 (May 25, 1979).

[5] Statement of James R. Schlesinger dated March 13, 1979 at 2.

[6] In contrast, under paragraph (f), an Order No. 533 customer was previously required to reduce the volume purchased from its supplier so that the customer's aggregate supplies did not exceed the customer's process and feedstock requirements.

V 44 0C 18 79 UMI

C. Use of Direct Sale Gas

Due to the recent improvement in natural gas supplies, an Order No. 533 customer frequently receives less aggregate supplies than would be otherwise available to the customer in the absence of participation in the Order No. 533 program. Paragraph (m) removes three previous restrictions from the Order No. 533 customer and thereby puts him on a par with customers that do not receive natural gas under Order No. 533. First, paragraph (m)(1)(ii) does not impose an end-use restriction upon the customer's Order No. 533 gas. Given the volumetric limitations upon a customer's aggregate supplies in paragraph (m)(2), end-use restrictions are no longer required.

Second, paragraph (m)(2)(ii)(A) permits the Order No. 533 customer to receive the maximum daily volume authorized in the certificate if the customer's aggregate supplies do not exceed the normal entitlement. In other words, the mix of direct purchase and system supply volumes is left to the customer; the Commission will be concerned only with the total volumes consumed from all sources.

Second, during periods of deep curtailment, a customer's normal entitlement may drop below the customer's high priority requirements. The Order No. 533 program was designed to protect process or feedstock uses in these circumstances. Paragraph (m)(2)(i) continues to provide a means of protecting against curtailment of the customer's high priority requirements. Prior to the interim rule, only the requirements described in paragraph (a) were so protected. The interim rule expands the category of requirements eligible for this protection to reflect the new curtailment priorities created by Title IV of the NGPA. These requirements are defined as "high priority requirements" in paragraph (n)(3).

In addition, paragraph (m)(2)(ii)(B) increases the normal entitlement ceiling by adding the volume of fuel oil displacement gas certified by the Economic Regulatory Administration under the Order No. 30 program (Subpart F of Part 284). This paragraph should also remove any doubt that Order No. 533 customers are eligible to participate in fuel oil displacement transactions under Order No. 30. Because the paragraph (m)(2) test is made on an aggregate volume basis, the customer may meet eligible fuel oil displacement requirements with natural gas purchased from a producer under Order No. 533. Upon the expiration of the Order No. 30 program, the ceiling on aggregate supplies would revert to the normal entitlement volume.

Paragraph (m)(2)(ii)(C) clarifies the relationship between this direct sale program and the direct sale program created for essential agricultural uses by Order No. 27 (Subpart E of Part 157). Participation in the Order No. 533 program does not disqualify a customer from participating in Order No. 27 transactions. Volumes received under Order No. 27 are simply included in the customer's aggregate supplies and remain subject to the terms and conditions specified in Order No. 27.

III. Effective Date

These regulations are being issued effective immediately on an interim basis, because the Commission finds that the need to promote immediate displacement of fuel oil constitutes good cause to find prior notice and public procedure to be impracticable and to waive the thirty day publication requirement. The Commission requests data, views or arguments with respect to these regulations. After evaluating the information received, the Commission will make any appropriate revisions to these regulations.

IV. Written Comment Procedures

Interested persons are invited to submit written comments, data, views or arguments with respect to this proposal. An original and 14 copies should be filed with the Secretary of the Commission. All comments received prior to October 31, 1979, will be considered by the Commission prior to promulgation of final regulations. All written submissions will be placed in the Commission's public files and will be available for public inspection in the Commission's Office of Public Information, 825 North Capitol Street, N.E., Washington, D.C., during regular business hours. Comments should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should reference Docket No. RM80–1.

(Natural Gas Act, 15 U.S.C. § 717, *et seq.*; Public Utilities Regulatory Policy Act of 1978, Pub. L. 95–617; Department of Energy Organization Act, 42 U.S.C. § 7101, *et seq.*, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, the Commission amends Part 2, Subchapter A, of Chapter I of Title 18, Code of Federal Regulations, as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 2.79 is amended by redesignating the existing paragraph (k) as (o) and adding new paragraphs (k) through (n) as follows:

§ 2.79 Policy with respect to certification of pipeline transportation agreements.

* * * * *

(k) *Outstanding certificates.*—Any holder of a certificate issued pursuant to this section may file a blanket application to amend the certificates by replacing any end-use restrictions with limitations as provided in paragraph (m) of this section.

(l) *New certificates.*—(1) In any certificate issued pursuant to this section after October 5, 1979, the Commission intends to incorporate the limitations contained in paragraph (m) instead of a condition incorporating paragraphs (e) and (f).

(2) Each certificate shall specify a maximum daily volume authorized to be transported under the certificate issued pursuant to this section which does not exceed the customer's requirements for uses specified in paragraph (a) of this section.

(m) *Volumetric and End-Use Restrictions.*—(1) *Inapplicability of certain use and volumetric restrictions.* Except as provided in paragraph (m)(2), a certificate issued under this section to which this paragraph applies:

(i) does not limit the customer from purchasing any volumes of natural gas from its suppliers which does not exceed its normal entitlement, and

(ii) does not impose any end-use restriction upon the natural gas transported under the certificate.

(2) *Volumetric limitations.* The customer's aggregate supply volumes may not exceed the greater of:

(i) the customers high priority requirements, or

(ii) the sum of:

(A) the customer's normal entitlement, plus

(B) the fuel oil displacement volume authorized to be delivered under Subpart F of Part 284, plus

(C) the direct sale volumes authorized to be delivered under certificates issued pursuant to Subpart E of Part 157.

(n) *Definitions.*—For the purpose of this section:

(1) "Aggregate supply" means the total volume of natural gas actually received by a customer from all sources including system supplies, direct sales, and the supplemental supplies of the local distribution company.

(2) "Normal entitlement" means the volume of natural gas that the consumer would have been entitled to receive from its supplier if the consumer had not received natural gas under any certificate issued pursuant to this section.

(3) "High priority requirements" means the aggregate volume of natural gas requirements for any use:

(i) Specified in paragraph (a) of this section; or

(ii) Certified by the Secretary of Agriculture under 7 CFR 2900.3 as an "essential agricultural use" pursuant to section 401(c) of the Natural Gas Policy Act of 1978; or

(iii) By a person who uses natural gas in a hospital or school or similar institution as defined in § 281.103(a) (11) and (12) of this chapter; or

(iv) Certified by the Secretary of Energy as an "essential industrial process or feedstock use" pursuant to section 402(c) of the Natural Gas Policy Act of 1978.

(4) "Supplier" means:

(i) An interstate pipeline in the case of a direct industrial customer, or

(ii) A local distribution company in case of an indirect customer of an interstate pipeline.

* * * * *

[FR Doc. 79–32172 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

18 CFR Part 154

[Docket No. RM79–22]

Natural Gas; Order Amending Regulations Relating to Evidentiary Submissions and Extending Deadlines for Filing of Third-Party Protests

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Amendment to final regulations.

SUMMARY: The regulations are amended to delete the requirement that third-party protests be served on each affected producer who may be a party to the contract in issue. The third-party protest must, however, in all cases be served on the affected interstate pipeline. The pipeline shall mail a copy of such protest to the producer who is the other party to the contract. The regulations are further amended to extend the deadline for the filing of third-party protests to 60 days after the date that the evidentiary submission regarding the contract was filed with the Commission.

EFFECTIVE DATE: October 11, 1979.

FOR FURTHER INFORMATION CONTACT: Mark Magnuson, Office of the General Counsel, Federal Energy Regulatory Commission, Room 4016–G, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8511.

SUPPLEMENTARY INFORMATION: Amendment and clarification of the Commission's interim regulations Implementing the Natural Gas Policy Act of 1978 and regulations under the Natural Gas Act, Docket No. RM79–22. October 11, 1979.

Sections 154.94(h)(8), and 154.94(i)(3)(i)(B) of our regulations set forth the service requirements that must be met for interested parties to protest an assertion that a natural gas purchase contract contains the requisite contractual authority under the Natural Gas Act (NGA) for the producer to charge and collect the applicable maximum lawful price under the Natural Gas Policy Act of 1978 (NGPA). Among other things, these regulations require that any third-party protest, i.e., and protest by a party who was not a party to the contract, must be submitted to the Commission, the pipeline/purchaser, and the producer/seller.

On September 21, 1979, a Petition of Third-Party Protesters for Waiver of Service Requirements was filed by a group of potential third-party protesters (petitioners).[1] Petitioners request that the Federal Energy Regulatory Commission (Commission) waive the requirement that each protest be served on the affected producer.

Petitioners object to this requirement for two reasons. First, it is alleged that petitioners do not have reasonable access to the addresses of all the producers who may be a party to the contracts which may be protested. Second, even if the addresses were made available, petitioners allege that the expense of providing service of the protests to the producers is prohibitive. As an alternative to requiring third-party protesters to submit the protests to the producers, petitioners suggest that adequate notice could be given to producers either through publication in the **Federal Register** or by service by the pipeline.

Indicated Producers filed an answer to this petition on October 2, 1979. Indicated Producers urge in their answer that the service requirement not be changed. However, it is suggested that the pipelines should be required to provide, to any interested party, the address of each producer mentioned in the pipeline's evidentiary submission. Further, Indicated Producers state that they have no objection to a short extension of the deadline for the filing of third-party protests, in order to afford adequate time for the third-party protester to receive the addresses and serve the producer.

The Commission believes that both of the objections raised by petitioners are well founded, and that unless they are eliminated, the protest procedure established in Order No. 23–B could not be meaningfully utilized by interested parties. Further, we disagree with Indicated Producers that adequate notice to producers can only be afforded through mailed service by the third-party protester. We believe that adequate notice will be given to the producers by publication in the **Federal Register**. Accordingly, we shall amend our regulations to delete the requirement that third-party protests be served on producers. However, such protests must in all cases be served on the affected interstate pipeline. In order to provide additional assurance that the producers are given notice of the filing of a third-party protest, we shall further require that upon receipt by a pipeline of any third-party protest, such pipeline shall mail, within 30 days to the other party to the contract, the producer/seller, a copy of such protest.

We also note that if the third-party protest meets the burden of coming forward and a hearing is ordered, the producer and the pipeline will be provided with mailed notice of that hearing.

Further, the Commission has determined that the deadlines for the filing of third-party protests should be changed. The present rule sets the deadline at 120 days from the date of the blanket affidavit or interim or retroactive collection filing, or at a specified date, whichever is later. Evidentiary submissions are required to be submitted 60 days after such filings, but many pipelines have received extensions of this deadline.

To afford adequate time for third-party protesters to examine the evidentiary submissions of the pipeline, the deadline for filing third-party protests will be extended to 60 days after the date that the evidentiary submission regarding the protested contract was filed with the Commission. This deadline will supercede the

[1] Associated Gas Distributors, Pacific Gas and Electric Company, Public Service Commission of the State of New York, Kansas Corporation Commission, Arizona Corporation Commission, Gas Consumers Group, Winfield, Kansas, Mangum, Oklahoma, State of Michigan, Michigan Public Service Commission, Congressman Andrew Maguire South Dakota Public Utilities Commission, Southern California Gas Company, Memphis Light, Gas and Water Division, Wisconsin Public Service Commission, Minnesota Public Service Commission, and Public Utilities Commission of the State of California.

V 4 4 0 C 1 8 7 9 UMI

deadlines which have previously been indicated.[2]

The amendments contained herein were developed in consideration of petitioners' comments, as well as the answer of Indicated Producers and all of the comments generated by the orders and notices issued in Docket No. RM79–22. Accordingly, the Commission finds that further notice and public procedures on these amendments are unnecessary and impracticable, and that good cause exists to dispense with additional notice and opportunity to comment. Further, we find good cause for the amendments in the regulations contained in this order to be effective immediately, in light of the fact that deadline for filing many third-party protests is October 15, 1979.

[Natural Gas Act as amended, U.S.C. 717, *et seq.*; Department of Energy Organization Act, 42 U.S.C. 710, *et seq.*, E.O. 12009; 42 FR 46467; Natural Gas Policy Act of 1978, 15 U.S.C. 3301 *et seq.*]

In consideration of the foregoing, Part 154 of Subchapter E, Chapter I, Title 18, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. Section 154.94 is amended in paragraphs (h), and (i) by deleting paragraphs (h)(8), (i)(3)(i), and substituting the following in lieu thereof:

§ 154.94 Changes in rate schedules.

* * * * *

(h) *Blanket filings.*—(8) *Protests.* Any protest to a blanket affidavit shall be submitted to the Commission.

(i) In the case of a protest by the purchaser in the first sale, within 60 days from the filing of the blanket affidavit or August 15, 1979, whichever is later; or

(ii) In any other case, within 60 days of the filing of the evidentiary submission referencing the contract which governs the sales covered by the blanket affidavit, or October 15, 1979, whichever is later. A protest under this clause shall also be served upon the purchaser in the first sale.

* * * * *

(i) *Interim and retroactive collections.* * * *

(3) *Protests.* (i) any protest shall be submitted to the Commission.

(A) In the case of a protest by the purchaser in the first sale, within 60 days from the date of such filing or August 15, 1979, whichever is later; or

(B) In any other case, within 60 days of the filing of the evidentiary submission referencing the contract which governs the sales covered by the interim or retroactive collection filing, or October 15, 1979, whichever is later. A protest filed under this subclause shall also be served upon the purchaser in the first sale.

* * * * *

2. Section 154.94 is amended in paragraph (j) (4) by inserting a new subdivision (iii) to read as follows:

* * * * *

(j) * * *

(4) * * *

(iii) Upon receipt by a pipeline of any third-party protest referred to in subdivision (i) of this subparagraph, the pipeline shall mail within thirty days to the seller under the contract a copy of such third-party protest. For purposes of this clause, a third-party protest is a protest by a party who is not a party to the contract which is protested.

* * * * *

[FR Doc. 79–32076 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

[2] The petitions for extension of time that have been filed which have not requested extensions beyond 60 days after the filing of the evidentiary submission are thus rendered moot by this order.

---

18 CFR Part 282

[Docket Nos. RM 79–14 and RM 79–21]

Incremental Pricing; Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Regulations Implementing Alternative Fuel Price Ceilings on Incremental Pricing under the Natural Gas Policy Act of 1978; Change of Telephone Number

October 16, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Change of Telephone Number.

SUMMARY: Notice is hereby given that the telephone number for Ms. Alice Fernanadez which is listed in the "Affidavit for Exemptions from Incremental Pricing for Certain Categories of Industrial Boiler Fuel Use of Natural Gas" (relating to Docket No. RM79–14) and in the "Alternative Fuel Capability Affidavit" (relating to Docket No. RM79–21) has been changed, effective immediately. The new telephone number is (202) 357–8965.

DATE: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Ms. Alice Fernandez, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8965.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32393 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

---

18 CFR Part 282

[Docket Nos. RM79–14; RM79–21]

Incremental Pricing; Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Regulations Implementing Alternative Fuel Price Ceilings on Incremental Pricing under the Natural Gas Policy Act of 1978; Question and Answer Session on Implementation of the Incremental Pricing Program

October 16, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Question and Answer Session on Implementation of the Incremental Pricing Program.

SUMMARY: On September 28, 1979, the Federal Energy Regulatory Commission (Commission) issued final regulations in Docket Nos. RM79–14 and RM79–21 (44 FR 57726, October 5, 1979), which implement the first phase of the incremental pricing program under the Natural Gas Policy Act of 1978.

An informal question and answer session will be held with respect to these final regulations in Chicago, Illinois on October 31, 1979, beginning at 9 a.m. CST. The session will be held in Room 1818 of the State of Illinois Building, located at 160 North La Salle Street, Chicago, Illinois 60601.

The session is being held in order to provide those firms which are impacted by the Phase I regulations an opportunity to discuss with Commission Staff (Staff) questions regarding the implementation of these regulations. Staff will respond only to questions which are directed to the interpretation or application of the Phase I regulations. Staff will not discuss questions which are directed to the general policies which underlie these regulations.

All interested persons, including representatives of pipeline companies, local distribution companies, and industrial end-users affected by the Phase I regulations, are invited to attend the question and answer session.

It would be helpful for Staff if prior to October 31st, those who plan to attend the question and answer session would submit, to the address indicated below, a list of the questions which they intend to raise at the session.

DATE: Question and answer session: October 31, 1979.

ADDRESSES: Question and answer session: State of Illinois Building, Room 1818, 160 North La Salle Street, Chicago, Illinois 60601.

Submit written questions to: Barbara K. Christin, Office of the General Counsel, Room 8113, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (Reference Dockets Nos. RM79–14 and RM79–21).

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Ofice of the General Counsel, Room 8113, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, (202) 357–8079.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32394 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 891

[Docket No. R–79–726]

Neighborhood Strategy Area (NSA) Funding

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule sets forth policies and procedures under which contract authority will be assigned to Neighborhood Strategy Areas (NSA) approved in September 1978 from the Field Office's allocation.

DATES: Effective date November 9, 1979.

FOR FURTHER INFORMATION CONTACT: Ross Kumagai, Director, Funding Control Division, Office of Housing Operations and Field Monitoring, Department of Housing and Urban Development, Rm. 6278, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755–5934. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In allocating contract authority for units in NSAs which were approved in September 1978 pursuant to 24 CFR 881.304, Field Offices may use the following procedures for years two through five of the NSA schedule.

Where these procedures are applicable, contract authority will be identified for use in NSAs from the Field Office allocation before any other suballocations are made. Contract authority so identified may not exceed 20 percent of total Section 8 contract authority allocated to the Field Office. Contract authority remaining after funds for approved NSAs have been set aside will be allocated according to housing and household type proportionality as established in local Housing Assistance Plans.

Additional contract authority will be made available from Headquarters' reserve funds where the total contract authority required for the NSA program exceeds 20 percent of the Field Office's allocation for Section 8.

Because of the importance of making funds available early in Fiscal Year 1980, it has been determined that it is in the public interest to make these regulations effective as soon as possible after publication.

A finding of inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this finding of inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

§ 891.404 [Amended]

Accordingly, 24 CFR, Chapter VIII, Section 891.404(a)(2) is revised by adding the following two sentences at the end: "The Field Office may identify contract authority from its metropolitan or non-metropolitan allocation, as appropriate, for use in Neighborhood Strategy Areas (NSA) approved under 24 CFR Part 881 prior to performing the actions set forth in this paragraph (a)(2). In such cases, additional contract authority will be made available from the contract authority retained by the Assistant Secretary for Housing under Section 891.403(b) where the total contract authority required for NSAs exceeds 20 percent of the Field Office allocation for Section 8 derived pursuant to Section 891.402."

In addition, the fourth sentence of Section 891.404(c)(1) is revised by adding after "housing type" the following: "(except in the case of contract authority for NSAs described in the last two sentences of paragraph (a)(2))".

Authority: Section 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, D.C. October 11, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79–32109 Filed 10–17–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 7649]

Income Tax; Taxable Years Beginning After December 31, 1953; Indirect Foreign Tax Credit for Dividends From Less Developed Country Corporations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the foreign tax credit for domestic corporate shareholders of certain foreign corporations. Changes to the applicable law were made by the Tax Reform Act of 1976. These regulations provide the public with guidance needed to comply with the law, and affect all domestic corporations receiving actual or deemed distributions from corporations which were less developed country corporations.

DATE: These regulations are effective generally for taxable years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT: Diane L. Renfroe of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, Attention: CC:LR:T, 202–566–3289, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On December 29, 1978, the **Federal Register** published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 78, 902, and 960 of the Internal Revenue Code of 1954 (43 FR 60960). These amendments were proposed to conform the regulations to changes made by section 1033 of the Tax Reform Act of 1976 (90 Stat. 1626). One written comment suggesting a technical change in the proposed amendments was received. This comment was rejected as technically incorrect. No public hearing was requested. After consideration of all comments regarding the proposed amendments, those amendments are

V 44 0 C 18 7 9 UMI

adopted as revised by this Treasury decision.

Indirect Foreign Tax Credit Provisions

Sections 902 and 960 provide that domestic shareholders receiving actual dividends and deemed distributions under section 951 from certain foreign corporations shall be deemed to have paid a portion of the foreign income taxes paid or deemed paid by such corporations on or with respect to their accumulated profits. Section 78 provides that amounts of foreign taxes deemed paid under sections 902 and 960 shall be included in the gross income of the domestic shareholder. Prior to amendment by section 1033 of the Tax Reform Act of 1976, sections 902 and 960 contained a separate set of rules for computing the tax credit on distributions from less developed country corporations. In addition section 78 did not apply to foreign taxes deemed paid on distributions from less developed country corporations. Section 1033 eliminated this separate set of rules. These amendments change the regulations under each of those sections accordingly.

Minor Changes to the Notice

These regulations are being published as they appeared in the notice of proposed rulemaking with minor changes. Several parenthetical clauses have been added to examples (1) and (2) of § 1.902–2 to make it clear that certain references contained therein are to section 902 of the Code prior to amendment by the Tax Reform Act of 1976. In addition, references to the corporate tax rate assumed in the examples contained in §§ 1.960–4 and 1.960–6 have been added.

Drafting Information

The principal author of this regulation is Diane L. Renfroe of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments To The Regulations

Accordingly, the proposed amendment to 26 CFR Part 1 as published in the **Federal Register** (43 FR 60960) on December 29, 1978, is adopted with the following changes.

Paragraph 1. Examples (1) and (2) of § 1.902–2(d) as set forth in paragraph 5 of the notice of proposed rulemaking appearing in the **Federal Register** on December 29, 1978, at page 60962 are amended by:

1. Inserting the words "(under sec. 902(c)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976)" after the words "Accumulated profits" each place they appear in the computations for 1975.

2. Inserting the words "(under sec. 902(a)(2) as in effect prior to amendment by the Tax Reform Act of 1976)" after the words "Foreign income taxes of A Corp. deemed paid by M Corp." and before the parenthetical calculations in the computations for 1975.

3. Inserting the words "(under sec. 902(b)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976)" after the words "Foreign taxes of B Corp. for 1975 deemed paid by A Corp." and before the parenthetical "($240×$300/$600)" in example (2)(b).

Par. 2. Paragraph 9 of the notice of proposed rulemaking appearing in the **Federal Register** on December 29, 1978, at page 60963 is amended by inserting the words "by deleting the words 'the surtax exemption under section 11(d) being disregarded for the purposes of simplification:' in examples (1) and (3) and inserting in place thereof 'assuming a corporate tax rate of 48 percent:';" after the second semicolon.

Par. 3. Paragraph 11 of the notice of proposed rulemaking appearing in the **Federal Register** on December 29, 1978, at page 60963 is amended by inserting the words "; and by inserting the words ', assuming a corporate tax rate of 22 percent, a surtax of 26 percent and a surtax exemption of $25,000' after the words 'determined as follows for such years' and before the colon in the example" after the word "respectively" at the end of the sentence.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,
Commissioner of Internal Revenue.

Approved: September 25, 1979.

Donald C. Lubick,
Assistant Secretary of the Treasury.

§ 1.78–1 [Amended]

Paragraph 1. Section 1.78–1 is amended by deleting the words "section 902(a)(1) and § 1.902–1(b)(2)" and "section 902(a)(1)" each place they appear and inserting "section 902(a) in accordance with §§ 1.902–1 and 1.902–2" in lieu thereof; and by deleting the words "section 960(a)(1)(C) and the regulations thereunder" and "section 960(a)(1)(C)" each place they appear and inserting in lieu thereof "section 960(a)(1) in accordance with § 1.960–7".

§ 1.535–2 [Amended]

Par. 2. Section 1.535–2(a)(2)(ii) is amended by striking the words "section 902(a)(1) or section 960(a)(1)(C)." and inserting in lieu thereof "section 902(a) in accordance with §§ 1.902–1 and 1.902–2 or section 960(a)(1) in accordance with § 1.960–7."

§ 1.545–2 [Amended]

Par. 3. Section 1.545–2(a)(3)(ii) is amended by striking out the words "section 902(a)(1) or section 960(a)(1)(C)." and inserting in lieu thereof "section 902(a) in accordance with §§ 1.902–1 and 1.902–2 or section 960(a)(1) in accordance with § 1.960–7."

§ 1.902–1 [Amended]

Par. 4. Section 1.902–1 is amended as follows:

1. Paragraph (a) is amended by deleting subparagraph (6) and by redesignating subparagraphs (7) and (8) as subparagraphs (6) and (7) respectively.

2. Paragraph (b) is amended by deleting the words "or (3)" following the words "(b)(2)" in subparagraphs (1)(i) and (1)(iv); by deleting the words "section 902(a)(1)" in subparagraph (1)(iii) and inserting in place thereof "section 902(a)"; by revising subparagraph (2) to read as set forth below; and by deleting subparagraph (3).

3. Paragraph (c) is amended by deleting the words "and (3)" following the words "paragraph (b)(2)" and the words "or (3)" following the words "paragraph (c)(2)" in subparagraph (1); by revising subparagraph (2) to read as set forth below; and by deleting subparagraph (3).

4. Paragraph (d) is amended by deleting the words "and (3)" following the words "(c)(2)" and the words "or (3)" following the words "(d)(2)" in subparagraph (1); by revising subparagraph (2) to read as set forth below; and by deleting subparagraph (3).

5. Paragraph (e) is revised to read as set forth below.

6. Paragraph (f) is revised to read as set forth below.

7. Paragraph (j) is amended by deleting the words "or (3)" which follow the words "paragraph (b)(2)".

8. Paragraph (k) is amended as follows:

a. By deleting the words ", not a less developed country corporation" which follow the words "foreign corporation A" in examples (1), (3), and (5);

b. By deleting the words "sec. 902(a)(1)" in examples (1), (3), and (5), and inserting in place thereof "sec. 902(a)";

c. By revising example (2) to read as set forth below;

d. By deleting the words "sec. 902(b)(1)(A)" in example (3) and inserting in place thereof the words "sec. 902(b)(1)";

e. By deleting example (4);

f. By redesignating "Example (5)" as "Example (4)";

g. By deleting the words ", a less developed country corporation," which follow the words "foreign corporation B" and which follow the words "foreign corporation C" in example (4) as redesignated;

h. By deleting example (6);

i. By deleting each reference to the date "1975" as it appears in examples (1), (3), and (4) (as redesignated) and inserting in place thereof "1978";

j. By deleting each reference to the date "1973" or "1974" as it appears in example (4) as redesignated, and inserting in place thereof the date "1976" or "1977" respectively.

9. Paragraph (l) is amended by deleting the word "This" at the beginning of the first sentence and inserting in place thereof the words "Except as provided in § 1.902–2, this".

The revised provisions read as follows:

§ 1.902–1 Credit for domestic corporate shareholder of a foreign corporation.

* * * * *

(b) *Domestic shareholder owning stock in a first-tier corporation.* * * *

(2) *Amount of foreign taxes deemed paid by a domestic shareholder.* To the extent dividends are paid by a first-tier corporation to its domestic shareholder out of accumulated profits, as defined in paragraph (e) of this section, for any taxable year, the domestic shareholder shall be deemed to have paid the same proportion of any foreign income taxes paid, accrued or deemed, in accordance with paragraph (c)(2) of this section, to be paid by such first-tier corporation on or with respect to such accumulated profits for such year which the amount of such dividends (determined without regard to the gross-up under section 78) bears to the amount by which such accumulated profits exceed the amount of such taxes (other than those deemed, under paragraph (c)(2) of this section, to be paid). For determining the amount of foreign income taxes paid or accrued by such first-tier corporation on or with respect to the accumulated profits for the taxable year of such first-tier corporation, see paragraph (f) of this section.

(c) *First-tier corporation owning stock in a second-tier corporation.* * * *

(2) *Amount of foreign taxes deemed paid by a first-tier corporation.* A first-tier corporation which receives dividends in any taxable year from its second-tier corporation shall be deemed to have paid for such year the same proportion of any foreign income taxes paid, accrued, or deemed, in accordance with paragraph (d)(2) of this section, to be paid by its second-tier corporation on or with respect to the accumulated profits, as defined in paragraph (e) of this section, for the taxable year of the second-tier corporation from which such dividends are paid which the amount of such dividends bears to the amount by which such accumulated profits of the second-tier corporation exceed the taxes so paid or accrued. For determining the amount of the foreign income taxes paid or accrued by such second-tier corporation on or with respect to the accumulated profits for the taxable year of such second-tier corporation, see paragraph (f) of this section.

(d) *Second-tier corporation owning stock in a third-tier corporation.* * * *

(2) *Amount of foreign taxes deemed paid by a second-tier corporation.* For purposes of applying paragraph (c)(2) of this section to a first-tier corporation, a second-tier corporation which receives dividends in its taxable year from its third-tier corporation shall be deemed to have paid for such year the same proportion of any foreign income taxes paid or accrued by its third-tier corporation on or with respect to the accumulated profits, as defined in paragraph (e) of this section, for the taxable year of the third-tier corporation from which such dividends are paid which the amount of such dividends bears to the amount by which such accumulated profits of the third-tier corporation exceed the taxes so paid or accrued. For determining the amount of the foreign income taxes paid or accrued by such third-tier corporation on or with respect to the accumulated profits for the taxable year of such third-tier corporation, see paragraph (f) of this section.

(e) *Determination of accumulated profits of a foreign corporation.* The accumulated profits for any taxable year of a first-tier corporation and the accumulated profits for any taxable year of a second-tier or third-tier corporation, which are taken into account in applying paragraph (c)(2) or (d)(2) of this section with respect to such first-tier corporation, shall be the sum of—

(1) The earnings and profits of such corporation for such year, and

(2) The foreign income taxes imposed on or with respect to the gains, profits, and income to which such earnings and profits are attributable.

(f) *Taxes paid on or with respect to accumulated profits of a foreign corporation.* For purposes of this section, the amount of foreign income taxes paid or accrued on or with respect to the accumulated profits of a foreign corporation for any taxable year shall be the entire amount of the foreign income taxes paid or accrued for such year on or with respect to such gains, profits, and income. For purposes of this paragraph (f), the gains, profits, and income of a foreign corporation for any taxable year shall be determined after reduction by any income, war profits, or excess profits taxes imposed on or with respect to such gains, profits, and income by the United States.

* * * * * *

(k) *Illustrations.* * * *

Example (2). The facts are the same as in example (1), except that M Corporation also owns all the one class of stock of foreign corporation B which also uses the calendar year as the taxable year. Corporation B has accumulated profits, pays foreign income taxes, and pays dividends for 1978 as summarized below. For 1978, M Corporation is deemed under paragraph (b)(2) of this section, to have paid $20 of the foreign income taxes paid by A Corporation for 1978 and to have paid $50 of the foreign income taxes paid by B Corporation for 1978, and includes $70 in gross income as a dividend under section 78, determined as follows:

B Corporation

Gains, profits and income	$200
Foreign income taxes imposed on or with respect to gains, profits, and income	100
Accumulated profits	200
Foreign income taxes paid by B Corp. on or with respect to accumulated profits	100
Accumulated profits in excess of foreign income taxes	100
Dividends paid to M Corp	50
Foreign income taxes of B Corporation deemed paid by M Corporation under section 902(a) ($100 × $50/$100)	50

M Corporation

Foreign income taxes deemed paid under sec. 902(a):	
Taxes of A Corp. (from example (1))	$20
Taxes of B Corp. (as determined above)	50
Total	70
Foreign income taxes included in gross income under sec. 78 as a dividend:	
Taxes of A Corp. (from example (1))	20
Taxes of B Corp	50
Total	70

* * * * * *

Par. 5. Section 1.902–2 is revised to read as set forth below.

§ 1.902–2 Rules for distributions attributable to accumulated profits for taxable years in which a first-tier corporation was a less developed country corporation.

(a) *In general.* If a domestic shareholder receives a distribution from a first-tier corporation before January 1, 1978, in a taxable year of the domestic shareholder beginning after December

V 44 0 C 1 8 7 9 UMI

31, 1964, which is attributable to accumulated profits of the first-tier corporation for a taxable year beginning before January 1, 1976, in which the first-tier corporation was a less developed country corporation (as defined in 26 CFR § 1.902–2 rev. as of April 1, 1978), then the amount of the credit deemed paid by the domestic shareholder with respect to such distribution shall be calculated under the rules relating to less developed country corporations contained in (26 CFR § 1.902–1 rev. as of April 1, 1978).

(b) *Combined distributions.* If a domestic shareholder receives a distribution before January 1, 1976, from a first-tier corporation, a portion of which is described in paragraph (a) of this section, and a portion of which is attributable to accumulated profits of the first-tier corporation for a year in which the first-tier corporation was not a less developed country corporation, then the amount of taxes deemed paid by the domestic shareholder shall be computed separately on each portion of the dividend. The taxes deemed paid on that portion of the dividend described in paragraph (a) shall be computed as specified in paragraph (a). The taxes deemed paid on that portion of the dividend described in this paragraph (b), shall be computed as specified in § 1.902–1.

(c) *Distributions of a first-tier corporation attributable to certain distributions from second- or third-tier corporations.* Paragraph (a) shall apply to a distribution received by a domestic shareholder before January 1, 1978, from a first-tier corporation out of accumulated profits for a taxable year beginning after December 31, 1975, if:

(1) The distribution is attributable to a distribution received by the first-tier corporation from a second- or third-tier corporation in a taxable year beginning after December 31, 1975.

(2) The distribution from the second- or third-tier corporation is made out of accumulated profits of the second- or third-tier corporation for a taxable year beginning before January 1, 1976, and

(3) The first-tier corporation would have qualified as a less developed country corporation under section 902(d) (as in effect on December 31, 1975), in the taxable year in which it received the distribution.

(d) *Illustrations.* The application of this section may be illustrated by the following examples:

Example (1). M, a domestic corporation owns all of the one class of stock of foreign corporation A. Both corporations use the calendar year as the taxable year. A Corporation pays a dividend to M Corporation on January 1, 1977, partly out of its accumulated profits for calendar year 1976 and partly out of its accumulated profits for calendar year 1975. For 1975 A Corporation qualified as a less developed country corporation under the former section 902(d) (as in effect on December 31, 1975). M Corporation is deemed under paragraphs (a) and (b) of this section to have paid $63 of foreign income taxes paid by A Corporation on or with respect to its accumulated profits for 1976 and 1975 and M Corporation includes $36 of that amount in gross income as a dividend under section 78, determined as follows upon the basis of the facts assumed:

1976

Gains, profits, and income of A Corp. for 1976	$120.00
Foreign income taxes imposed on or with respect to such gains, profits, and income	36.00
Accumulated profits	120.00
Foreign income taxes paid by A Corp. on or with respect to its accumulated profits (total foreign income taxes)	36.00
Accumulated profits in excess of foreign income taxes	84.00
Dividend to M Corp. out of 1976 accumulated profits	84.00
Foreign income taxes of A for 1976 deemed paid by M Corp. ($84/$84 × $36)	36.00
Foreign income taxes included in gross income of M Corp. under sec. 78 as a dividend from A Corp	36.00

1975

Gains, profits, and income of A. Corp for 1975	$257.14
Foreign income taxes imposed on or with respect to such gains, profits, and income	77.14
Accumulated profits (under sec. 902(c)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976)	160.00
Foreign income taxes paid by A Corp. on or with respect to its accumulated profits ($77.14 × $180/$257.14)	54.00
Dividends paid to M Corp. out of accumulated profits of A Corp. for 1975	90.00
Foreign income taxes of A Corp. for 1975 deemed paid by M Corp. (under sec. 902(a)(2) as in effect prior to amendment by the Tax Reform Act of 1976) ($54 × $90/$180)	27.00
Foreign income taxes included in gross income of M Corp. under sec. 78 as a dividend from A Corp	0

Example (2). The facts are the same as in example (1), except that the distribution from A Corporation to M Corporation on January 1, 1977, was from accumulated profits of A Corporation for 1976. A Corporation's accumulated profits for 1976 were made up of income from its trade or business, and a dividend paid by B, a second-tier corporation in 1976. The dividend from B Corporation to A Corporation was from accumulated profits of B Corporation for 1975. A Corporation would have qualified as a less developed country corporation for 1976 under the former section 902(d) (as in effect on December 31, 1975). M Corporation is deemed under paragraphs (b) and (c) of this section to have paid $543 of the foreign taxes paid or deemed paid by A Corporation on or with respect to its accumulated profits for 1976, and M Corporation includes $360 of that amount in gross income as a dividend under section 78, determined as follows upon the basis of the facts assumed:

Total gains, profits, and income of A Corp. for 1976	$1,500
Gains and profits from business operations	1,200
Gains and profits from dividend A Corp. received in 1976 from B Corp. out of accumulated profits of B Corp. for 1975	300
Foreign taxes imposed on or with respect to such profits and income	450
Foreign taxes paid by A Corp. attributable to gains and profits from A Corp.'s business operations	360
Foreign taxes paid by A Corp. attributable to dividend from B Corp. in 1976	90
Dividends from A Corp. to M Corp. on Jan. 1, 1977	1,050
Portion of dividend attributable to gains and profits of A Corp. from business operations ($1,200/$1,500 × $1,050)	840
Portion of dividends attributable to gains on profits of A Corp. from dividend from B Corp. ($300/$1,500 × $1,050)	210

(a) *Amount of foreign taxes of A Corp. deemed paid by M Corp. on A Corp.'s gains and profits for 1976 from business operations.*

Gains, profits, and income of A Corp. from business operations	$1,200
Foreign income taxes imposed on or with respect to gains, profits, and income	360
Accumulated profits	1,200
Foreign income taxes paid by A Corp. on or with respect to its accumulated profits (total foreign income taxes)	360
Accumulated profits in excess of foreign income taxes	840
Dividend to M Corp	840
Foreign taxes of A Corp. deemed paid by M Corp. ($360 × $840/$840)	360
Foreign taxes included in gross income of M Corp. under sec. 78 as a dividend	360

(b) *Amount of foreign taxes of A Corp. deemed paid by M Corp. on portion of the dividend attributable to B Corp.'s accumulated profits for 1975.*

B Corp. (second-tier corporation):	
Gains, profits, and income for calendar year 1975	$1,000
Foreign income taxes imposed on or with respect to gains, profits, and income	400
Accumulated profits (under sec. 902(c)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976)	600
Foreign income taxes paid by B Corp. on or with respect to its accumulated profits ($400 × $600/$1,000)	240
Dividend to A Corp. in 1976	300
Foreign taxes of B Corp. for 1975 deemed paid by A Corp. (under sec. 902(b)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976) ($240 × $300/$600)	120
A Corp. (first-tier corporation):	
Gains, profits, and income for 1976 attributable to dividend from B Corp.'s accumulated profits for 1975	300
Foreign income taxes imposed on or with respect to such gains, profits, and income	90
Accumulated profits (under sec. 902(c)(1)(B) as in effect prior to amendment by the Tax Reform Act of 1976)	210
Foreign taxes paid by A Corp. on or with respect to such accumulated profits ($90 × $210/$300)	63
Foreign income taxes paid and deemed to be paid by A Corp. for 1976 on or with respect to such accumulated profits ($120 + $63)	183
Dividend paid to M Corp. attributable to dividend from B Corp. out of accumulated profits for 1975)	210
Foreign taxes of A Corp. deemed paid by M Corp. (under sec. 902(a)(2) as in effect prior to amendment by the Tax Reform Act of 1976) ($183 × $210/$210)	183
Amount included in gross income of M Corp. under sec. 78	0

Par. 6. Section 1.960–1 is amended as follows:

1. Paragraph (b) is amended by deleting subparagraph (4).

2. Paragraph (c) is amended as follows:

a. By revising subparagraph (2)(i) to read as set forth below;

b. By deleting subparagraph (2)(ii);

c. By deleting the words ", not a less developed country corporation" which follows the words "foreign corporation A" in examples (1), (3), (5), and (6) of subparagraph (4);

d. By deleting the words "section 960(a)(1)(C)" or "sec. 960(a)(1)(C)" each place they appear in examples (1), (3), (5), and (6) of subparagraph (4) and inserting in place thereof "section 960(a)(1)" or "sec. 960(a)(1)";

e. By deleting example (2) and example (4) of subparagraph (4);

f. By redesignating "Example (3)" as "Example (2)", "Example (5)" as "Example (3)", "Example (6)" as "Example (4)"; and

g. By deleting the words ", not a less developed country corporation" which follow the words "corporation B" in example (3) as redesignated.

h. By deleting the date "1965" each place it appears in example (1) and examples (2), (3), and (4) as redesignated and inserting in lieu thereof "1978".

3. Paragraph (e) is deleted.

4. Paragraphs (f), (g), and (h) are redesignated as paragraphs (e), (f) and (g) respectively.

5. Paragraph (i) is amended by redesignating it paragraph (h); by deleting the words "section 960(a)(1)(C)" in subparagraph (1)(ii) and inserting in place thereof "section 960(a)(1)"; by deleting the words ", and A Corporation is not a less developed country corporation for 1965" following the words "taxable year" in the example contained in subparagraph (3); by deleting the words "section 960(a)(1)(C)" each place they appear in that example and inserting in place thereof "section 960(a)(1)"; and by deleting the date "1965" each place it appears in that example and inserting in place thereof "1978".

§ 1.960–1 Foreign tax credit with respect to taxes paid on earnings and profits of controlled foreign corporations.

* * * * *

(c) *Amount of foreign income taxes deemed paid by domestic corporation in respect of earnings and profits of foreign corporation attributable to amount included in income under section 951*—(1) *In general.* * * *

(2) *Taxes paid or accrued on or with respect to earnings and profits of foreign corporation.* For purposes of subparagraph (1) of this paragraph, the foreign income taxes paid or accrued by a first-tier corporation or its second-tier corporation, as the case may be, on or with respect to its earnings and profits for its taxable year shall be the total amount of the foreign income taxes paid or accrued by such foreign corporation for such taxable year.

* * * * *

§ 1.960–2 [Amended]

Par. 7. Paragraph (e) of § 1.960–2 is amended as follows:

1. The words "examples (7) and (8)" in the first sentence are deleted and the words "examples (6) and (7)" are inserted in place thereof.

2. Example (2) is deleted.

3. Examples (3), (4), (5), (6), (7), and (8) are redesignated as examples (2), (3), (4), (5), (6), and (7), respectively.

4. The words ", not a less developed country corporation" which follow the words "foreign corporation A" in example (1), and examples (2), (3), (4), (5), (6), and (7) as redesignated are deleted.

5. The words "section 960(a)(1)(C)", or "sec. 960(a)(1)(C)", or"section 902(a)(1)" or "sec. 902(a)(1)" are deleted each place they appear in example (1) and examples (2), (3), (4), (5), (6), and (7) as redesignated and the words "section 960(a)(1)" or "sec. 960(a)(1)" or "section 902(a)" or "sec. 902(a)" are inserted in place thereof respectively.

6. The date "1965" is deleted each place it appears in example (1) and examples (2), (3), (4), (5), (6), and (7) as redesignated and the date "1978" is inserted in place thereof.

§ 1.960–3 [Amended]

Par. 8. Section 1.960–3 is amended by deleting the words "section 960(a)(1)(C)" and "section 902(a)(1)" each place they appear and inserting in place thereof "section 960(a)(1)" or "section 902(a)" respectively; by deleting the words ", not a less developed country corporation" following the words "corporation A" in examples (1) and (2) of paragraph (c); and by deleting the date "1965" each place it appears in examples (1) and (2) of paragraph (c) and inserting in lieu thereof "1978".

§ 1.960–4 [Amended]

Par. 9. Paragraph (f) of § 1.960–4 is amended by deleting example (4); by deleting the words ", not a less developed country corporation" which follow the words "corporation A" in examples (1) and (3); by deleting the words "the surtax exemption under section 11(d) being disregarded for the purposes of simplification:" in examples (1) and (3) and inserting in place thereof "assuming a corporate tax rate of 48 percent:"; by deleting the words "section 960(a)(1)(C)" or "sec. 960(a)(1)(C)" each place they appear in examples (1), (2), and (3), and inserting in place thereof "section 960(a)(1)" or "section 960(a)(1)" respectively; by deleting "section 904(d)" each place it appears in example (2) and inserting in place thereof "section 904(c)"; and by deleting the dates "1962", "1963", "1964", "1965", "1966", and "1967" each place they appear in examples (1), (2), and (3), and inserting in place thereof "1975", "1976", "1977", "1978", "1979", and "1980" respectively.

§ 1.960–5 [Amended]

Par. 10. Paragraph (b) of § 1.960–5 is amended by deleting the words ", not a less developed country corporation" following the words "corporation A"; by deleting the words "section 960(a)(1)(C)" and inserting the words "section 960(a)(1)" in place thereof; and by deleting the dates "1965" and "1966" each place they appear and inserting in place thereof "1978" and "1979" respectively.

§ 1.960–6 [Amended]

Par. 11. Paragraph (b) of § 1.960–6 is amended by deleting the words ", not a less developed country corporation" following the words "corporation A"; by deleting the words "section 960(a)(1)(C)" or "sec. 960(a)(1)(C)" each place they appear and inserting in place thereof the words "section 960(a)(1)" or "sec. 960(a)(1)" respectively; by deleting the dates "1965" and "1966" each place they appear and inserting in lieu thereof "1978" and "1979" respectively; and by inserting the words ", assuming a corporate tax rate of 22 percent, a surtax of 26 percent and a surtax exemption of $25,000" after the words "determined as follows for such years" and before the colon in the example.

Par. 12. Section 1.960–7 is added immediately after § 1.960–6 to read as follows:

§ 1.960–7 Effective dates.

(a) *General rule.* Except as provided in paragraph (b), the rules contained in §§ 1.960–1—1.960–6 shall apply to taxable years of foreign corporations beginning after December 31, 1962, and taxable years of U.S. corporate shareholders within which or with which the taxable year of such foreign corporation ends.

(b) *Exception for less developed country corporations.* If for any taxable year beginning after December 31, 1962, and before January 1, 1976, a first-tier foreign corporation qualified as a less developed country corporation as defined in 26 CFR 1.902–2 revised as of April 1, 1978, the rules pertaining to less developed country corporations contained in 26 CFR 1.960–1—1.960–6 revised as of April 1, 1978, shall apply to

V 44 O C 1 18 7 9 UMI

any amounts required to be included in gross income under section 951 for such taxable year.

[FR Doc. 79-32196 Filed 10-17-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 853

Security Qualifications for Membership in the United States Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is amending its regulations by adding a new Part 853 to Subchapter E of 32 CFR, consisting of §§ 853.1 through 853.4. The new part provides policy for processing members and prospective members of the Air Force when there is a question concerning qualifications for membership in the United States Air Force. It applies to all military personnel in the Air Force, including Reserve components, and candidates or applicants for appointment or induction, whether voluntary or involuntary. This part implements DOD Directive 5210.7, September 2, 1966, and Changes 1 through 6; DOD Directive 5210.9, January 19, 1956, and Changes 1 through 7; DOD Instruction 5210.31, January 16, 1957, and Changes 1 and 2; and supersedes Air Force Regulation 35-62, August 11, 1965.

EFFECTIVE DATE: March 30, 1979.

FOR FURTHER INFORMATION CONTACT: Captain F. J. Kane, AFMPC/MPCRPP, Randolph AFB, Texas, telephone (512) 652-3363.

SUPPLEMENTARY INFORMATION: Chapter VII, Title 32 of the Code of Federal Regulations is revised by adding Part 853 to Subchapter E—Security. This part deletes all guidance on initiating investigations and processing cases (see AFR 205-32, USAF Personnel Security Program); updates policy guidance; deletes information and guidance contained in other directives; and changes the title to reduce confusion with other directives.

Title 32 of the Code of Federal Regulations is amended by adding a new Part 853 to read as follows:

PART 853—SECURITY QUALIFICATIONS FOR MEMBERSHIP IN THE UNITED STATES AIR FORCE

Sec.

853.1 Purpose.
853.2 Program responsibilities.
853.3 Policy.
853.4 Processing procedures.

Authority: 10 U.S.C. 8012.

Note.—This part is derived from Air Force Regulation 35-62, March 30, 1979.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 853.1 Purpose.

This part provides policy for processing members and prospective members of the Air Force when there is a question concerning qualifications for membership in the United States Air Force. This part applies to all military personnel in the Air Force, including Reserve components, and candidates or applicants for appointment or induction, whether voluntary or involuntary. It is the authority for the final disposition of such cases. AFR 205-32, USAF Personnel Security Program, contains procedures for the commander to initiate and process cases to HQ USAF for final determination. This part implements DOD Directive 5210.7, September 2, 1966, and Changes 1 through 6; DOD Directive 5210.9, January 19, 1956, and Changes 1 through 7; and DOD Instruction 5210.31, January 16, 1957, and Changes 1 and 2.

Note.—Proposed supplements that affect any military personnel function performed at MAJCOM level or below are processed as prescribed in AFR 5-13, Publications or Communications Affecting Personnel Functions Performed at MAJCOM Level or Below.

§ 853.2 Program responsibilities.

(a) The Administrative Assistant to the Secretary of the Air Force (SAF/AA) has overall responsibility for this program.

(b) The Deputy Chief of Staff, Personnel, through the Assistant Deputy Chief of Staff, Manpower and Personnel for Military Personnel (MPC), is responsible for establishing policy for the removal or nonacceptance of individuals under this program.

(c) The Personnel Security Division, HQ USAF/DAI(S), is responsible for the procedures for processing security cases and making recommendations for action to SAF/AA for individuals who are processed under this program.

(d) The Air Force Office of Special Investigations and the Defense Investigative Service provide investigative support for this program.

(e) Each commander is responsible for initiating cases that fall under this program, and for providing any additional information required to adjudicate cases according to AFR 205-32.

§ 853.3 Policy.

(a) No person will be retained or accepted in military status in the Air Force, or its Reserve components, if there is a reasonable doubt of the individual's loyalty to the Government of the United States.

(b) The Air Force assumes that there is no reasonable doubt of the individual's loyalty unless a determination to the contrary is made.

(c) An individual will not be appointed, enlisted, or inducted into the Air Force if that individual has previously been discharged or separated under any regulation or program implementing DOD Directive 5210.9, Military Personnel Security Program, or was separated under other directives while undergoing investigation or processing under such security program directives.

(d) No individual will be processed under this part without first being presented the reasons for such action and the opportunity to present evidence in his or her behalf. Before discharge processing (AFR 36-2, Administrative Discharge Procedures (Unfitness, Unacceptable Conduct, or in the Interest of National Security), AFM 39-12, Separation of Unsuitability, Unfitness or Misconduct; Resignation or Request for Discharge for the Good of the Service, and Procedures for the Rehabilitation Program, etc.), HQ USAF/DAI(S) will advise each individual of his or her right to appeal any decision to process discharge for security reasons to the Administrative Assistant to the Secretary of the Air Force.

(e) Action should not be taken under this part if the case can be resolved by action under other Air Force regulations. Removal of an individual, or rejection of an applicant under this part may only be taken for cases which fall under the security criteria of AFR 205-32, chapter 10.

§ 853.4 Processing procedures.

(a) Investigative case files will be processed according to AFR 205-32, chapter 10.

(b) HQ USAF/DAI(S) will review case files and, when removal or nonacceptance appears appropriate, will gather necessary documentation and advise the individual.

(c) HQ USAF/DAI(S) will then notify the parent MAJCOM. An information copy of the letter will be furnished HQ AFMPC/MPCAK when it has been determined the member should not be retained.

(d) If removal action is not warranted, HQ USAF/DAI(S) will further evaluate the individual's security clearance eligibility.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 79-32142 Filed 10-17-79; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 79-045]

Disestablishment of Special Anchorage Area, Lake Mead, Nev.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule disestablishes Special Anchorage Area (e)(2), Lake Mead, Nevada. Portions of the anchorage extend into a narrow section of the lake which is highly transited. Disestablishment of this anchorage, in which unlighted vessels may anchor, will enhance navigational safety in the area.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. D. W. Ziegfeld, Office of Marine Environment and Systems (G-WLE/TP11), Room 1104, Department of Transportation, U.S. Coast Guard Headquarters, 2100 Second St., S.W., Washington, D.C. 20590, (202) 426-1934.

SUPPLEMENTARY INFORMATION: On June 7, 1979, the Coast Guard published a proposed rule (44 FR 32713) concerning this amendment. Interested persons were given until July 23, 1979 to submit comments. No comments were received.

DRAFTING INFORMATION: The principal persons involved in drafting this rule are Mr. D. W. Ziegfeld, Project Manager, Office of Marine Environment and Systems and Lieutenant J. W. Salter, Project Attorney, Office of the Chief Counsel.

§ 110.127 [Amended]

In consideration of the foregoing Part 110 of Title 33 of the Code of Federal Regulations is amended by deleting paragraph (e)(2) of § 110.127.

(Sec. 1, 30 Stat. 98 as amended (33 U.S.C. 180); sec. 6(g)(1)(B), 80 Stat. 937 (49 U.S.C. 1655(g)(1)(B)); 49 CFR 1.46(c)(2)).

Dated: October 10, 1979.

W. E. Caldwell,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

[FR Doc. 79-31966 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[Docket No. 21502; RM-2737; FCC 79-535]

Radio Broadcast Services; Amending Rules Regarding the Subscription Television Service

AGENCY: Federal Communications Commission.

ACTION: First Report and Order.

SUMMARY: Three issues raised in a Notice of Inquiry and Rulemaking, FCC 78-848, are resolved by this action. First, the rule allowing only one television station in a given community to provide a subscription television ("STV") service is deleted. Second, the regulation allowing the existence of non-compatible STV systems is affirmed. Third, a cut-off procedure for STV applications is not adopted. The intended effect of these decisions is to provide for the growth of STV and, by so doing, provide greater program choice for television consumers. This proceeding was initiated by a petition filed on behalf of Midwest St. Louis, Inc., Liberty STV, Inc., *et al.*

EFFECTIVE DATE: November 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Freda Lippert Thyden, Broadcast Bureau (202) 632-7792.

SUPPLEMENTARY INFORMATION:

First Report and Order, 43 FR 23618, June 1, 1978.

Adopted: September 25, 1979.
Released: October 12, 1979.

By the Commission: Commissioner Quello absent.

In the matter of amendment of Part 73 of the Commission's rules and regulations in regard to § 73.642(a)(3) and other aspects of the Subscription Television Service, Docket No. 21502, RM-2737.

1. This proceeding involves various aspects of the subscription television ("STV") service.[1] Now before the Commission for consideration are the filings generated in response to a combined *Notice of Inquiry and Rule Making*,[2] FCC 77-848, 67 FCC 2d 202 (1977).

2. This document will address three of the six issues raised in the *Notice*, these three being: (1) Whether the Commission should permit more than one television station in a given community to provide an STV service; (2) whether the Commission should require compatibility of STV systems; and (3) whether the Commission should adopt a cut-off procedure for STV applications. The first and third issues were the subject of proposed rule making, while the second issue, as well as the remaining three matters, were only raised for inquiry. The issues for later resolution are: (a) Whether the Commission should allow the purchase of decoders by subscribers or the present system of permitting only the leasing of such equipment should be continued; (b) whether the Commission should consolidate proceedings where an applicant is involved in two mutually exclusive hearings, one in which he seeks a construction permit for a new television station and the other in which he seeks STV authorization;[3] and (c) whether the Commission should establish criteria for comparing two competing STV applications, as well as for comparing two competing applications for a new television station when one is for conventional use and the other contemplates STV operation. These last three issues, as well as additional STV matters not previously raised, will be the subject of a Further Notice of Proposed Rule Making soon to be released.

An Historical Development of STV Regulation

3. In order to place the first issue, which concerns relaxing the "one-to-a-community" rule, in proper perspective, we will first provide a brief history of the subscription television service. In 1957, the first of five Reports and Orders was adopted in a lengthy proceeding in Docket No. 11279. It was in this *First Report and Order* ("*First Report*"), 23 FCC 532, that the Commission concluded that it had statutory authority to authorize STV operations.

4. In that *First Report*, the Commission also began an ongoing assessment of whether authorizing STV operations would lead to increasing services and program choices available to the public without seriously affecting the quantity and quality of advertiser-financed programming that is provided free of direct charge to the public. The Commission concluded that without a

[1] Briefly described, subscription television broadcasting involves the broadcasting of a scrambled television signal which, on payment of a fee, subscribers are authorized to unscramble through use of a decoder. See *In the Matter of Subscription Television Program Rules*, 52 FCC 2d 1, at 2 (1974).

[2] A list of the parties filing formal comments and/or reply comments is contained in Appendix B.

[3] STV authorization may be issued only to an entity that already is either the licensee of a commercial television broadcast station or the holder of a construction permit for a new commercial television broadcast station.

V 44 OC 18 79 UMI

demonstration of the service in operation, this question could not be resolved.

5. To gather the data and information necessary to answer this, as well as other issues, the Commission thought it best to authorize only trial operations. Also, in an effort to protect conventional television during this trial period, the Commission established certain limitations and conditions under which STV applications would be accepted. For instance, each STV system was permitted a trial in no more than three markets and authorizations were limited to stations in cities with at least four commercial television services including the applicant's station.

6. In a *Second Report and Order*, 16 R.R. 1529 (1958), the Commission gave notice that action on trial STV applications would be deferred in order to provide the 85th Congress an opportunity to consider pending legislation on the subject of subscription television. No national laws affecting STV, however, were then or have since been adopted. Believing that its action would be consonant with the then current Congressional concern with the development of STV, the Commission in 1959, issued a *Third Report and Order* ("*Third Report*"), 26 FCC 265, which basically readopted and affirmed the *First Report*.

7. The *Third Report* stated that the Commission was ready to consider applications for trial STV operations and take action appropriate with the public interest. STV trial operations might be conducted only in communities lying within the Grade A contours of at least four commercial television stations, including the station of the STV applicant, to assure the continued availability of substantial amounts of conventional television programming to the public. The Commission also decided that authorizations would be limited to one market per subscription system as well as one subscription system per market. Three applications for trial authorizations were filed; one was denied, one was granted but operation never commenced, and the third was granted to UHF Station WHCT, Hartford, Connecticut,[4] which began STV operations in the summer of 1962.[5]

8. Based on experience with the trial operation in Hartford, Connecticut, and a five year experimental cable operation at Etobicoke, a suburb of Toronto, Canada, the Commission adopted a *Fourth Report and Order* ("*Fourth Report*"), 15 FCC 2d 466 (1968), which established the basis for nationwide over-the-air STV service. The experience had enabled the Commission to conclude that STV could provide a beneficial supplement to conventional television programming and that, as an alternative medium, it might well provide a wholesome stimulus to free television which could lead to an improvement in overall programming available to the public. Although, as the Commission noted, a considerable amount of the information provided by the parties was speculative, the Commission did believe that the Hartford experience provided an adequate foundation for reasonable estimates about the future.

9. Nonetheless, the Commission felt it best to proceed with caution until more was known about how STV would develop on a nationwide scale. For this reason, in the *Fourth Report*, the Commission adopted regulations designed to strike what it considered a reasonable balance between the two services so as not to hamstring the development of STV and yet provide safeguards against the possibility that events would develop in a manner contrary to the public interest. The Commission was interested in maintaining the availability of conventional programming, and it restricted STV operation to communities within the Grade A contour of at least five commercial television stations including that of the STV operator. Before an STV grant could be made, at least four of the stations would have to be in operation and providing conventional television service.

10. In order to further restrict the preemption of time, the Commission provided that in the five station communities where STV would be permitted, only one of these stations might engage in STV operations (the "one-to-a-community" rule) and required that STV stations broadcast at least 28 hours of conventional programming per week.[6] In addition, certain program restrictions were placed on STV operations to prevent the siphoning of programs from conventional to subscription television.[7] The regulations limiting the program fare of STV were adopted because of Commission concern that the revenue derived from subscription operations would permit subscription operators to bid away the best films and sports programs perhaps reducing conventional television's capacity to meet consumer preferences. These program restrictions were also designed to enhance the diversity of program offerings broadcast on television as a whole.

11. In the last and *Fifth Report and Order*, 19 FCC 2d 559 (1969), in Docket No. 11279, the Commission adopted rules governing equipment and system performance capability. It also announced the manner in which applications for STV authorization should be filed, and it prescribed their content and form.

12. In *National Association of Theatre Owners* v. *FCC* ("*NATO*"), 420 F. 2d 194 (D.C. Cir. 1969), *cert. denied*, 397 U.S. 922 (1970), the Court of Appeals affirmed the Commission's power to authorize nationwide STV on a permanent basis. The Court found that the Communications Act did not preclude the Commission from approving a system of direct charges to the public as a means of financing broadcasting services. Rather, the Court stated that the Act seems designed to foster diversity in the financial organization and *modus operandi* of broadcasting stations as well as in the content of programs. Further, the Commission's conclusion that the establishment of a subscription television service was consistent with these goals was upheld by the *NATO* court.

13. Also before the Court in the *NATO* case was the question of whether Commission authorization of nationwide STV operations would result in unconstitutional discrimination against people in low income groups unable to afford to subscribe. The Court rejected the assertion of discrimination and concluded that there was nothing distinguishing broadcasting from other regulated industries which would justify imposing on it alone a requirement that any service be made available to all citizens regardless of their ability to pay. The Court also upheld the Commission's effort, by promulgating restrictions governing the development of STV, to strike a balance between the possible danger to free broadcasting of allowing unfettered STV operations and the risk of stifling the growth of a new service. The Court also rejected suggestions that the STV industry should have its rates regulated as a monopoly, supporting the Commission determination that a substantial amount of economic competition would exist between STV and the other forms of entertainment and information available in the community. Courts should be very reluctant, said the Court in *NATO*, to declare that free market forces must be supplanted by rate regulation when neither Congress nor the agency administering the area has found that such regulation is essential.

14. Eight years after the *NATO* decision, the Court of Appeals in *Home Box Office v. F.C.C.*, 567 F. 2d 9 (D.C. Cir. 1977), *cert. denied*, 434 U.S. 829 (1977), reviewed those Commission regulations limiting the program fare cable television systems and subscription television stations might offer to the public for a fee set on a per-program of per-channel basis. These rules, which were originally developed for STV and then applied to pay cable, (1) restricted the presentation of certain feature movies on pay cable and STV; (2) restricted those sports events which might be offered on pay cable and STV; (3) prohibited commercial advertising on pay cable and STV; and (4) limited the combined amount of sports and movies to 90% of a pay cable or STV station's programming.[8]

15. After concluding that the Commission had exceeded its authority over cable television in promulgating the pay cable rules [9] and that there was no evidence to support the need for regulation of pay cable television, the Court in *Home Box Office* vacated the pay cable rules. The Court found that the Commission had failed to state clearly the harm which its regulations sought to remedy and its reasons for supposing that this harm existed. In regard to the subscription television sphere, the Court noted that rules substantially similar to the program restrictions under review [10] had been affirmed in the *NATO* decision. At that time, the Court stated, the Commission acted on an elaborate rule making record concerning the Hartford STV experience. Since it appeared that few, if any, STV stations had begun operation in the interim, the Court believed the best information available with respect to STV was that reviewed in *NATO*, which had been called into question in the present rule making. For this reason, the Court of Appeals concluded that *NATO* required affirmance of the promulgation of the STV program restrictions under review in *Home Box Office*.[11] The Court noted, however, that petitioners' charge that these restrictions had the effect of killing the subscription television medium in its infancy by denying it access to necessary programming seemed to be supported by the then absence of viable commercial applications for STV. Even though *Home Box Office* did not vacate the STV program limitations, they were deleted by the Commission in November 1977, and April 1978,[12] in view of the Court's decision concerning pay cable. This action was taken on the basis that STV and pay cable are two communications activities in direct competition and as a result should be given equal treatment insofar as program availability is concerned.

The STV Marketplace of Today

16. Since 1969, when the *Fifth Report and Order* was adopted, ninety applications for STV authorization have been submitted to the Commission. Of this number, fifteen have been granted and fifty-nine STV applications have been accepted for filing. Of the applications granted, only six STV stations are presently operating: Station WWHT (Channels 60 and 68),[13] Newark, New Jersey; Station KBSC (Channel 52), Corona, California; Station KWHY (Channel 22), Los Angeles, California; Station WQTV (Channel 68), Boston, Massachusetts; Station WXON (Channel 20), Detroit, Michigan; and Station KNXV (Channel 15), Phoenix, Arizona. The remaining nine authorizations which have been approved, but are not yet in operation, are the following: Station KTSF (Channel 26), San Francisco, California; Station WCGV (Channel 24), Milwaukee, Wisconsin; Buford Television of Ohio for its new commercial station on Ch. 64, Cincinnati, Ohio; Cleveland Associates Company for a station on Channel 61, Cleveland, Ohio; Station WNJU (Channel 47), Linden, New Jersey; Station WSNL (Channel 67), Smithtown, New York; Station WXID (Channel 51), Fort Lauderdale, Florida; Station KMUV-TV (Channel 31), Sacramento, California; and Radio Broadcasting Co. for its new commercial station on Channel 57, Philadelphia, Pennsylvania.

17. Of those STV facilities presently operating, Station WWHT, Newark, New Jersey, licensed to Wometco Industries, was the first non-experimental STV station in the country, having commenced operation on March 1, 1977.[14] STV programming is aired on WWHT from 9 to 10:30 a.m. and after 8 p.m. on weekdays and after 7 p.m. on weekends. Before that hour, the station broadcasts conventionally. There are presently 65,000 subscribers. WWHT's STV programming consists of movies, sports, children's programs, cultural presentations, as well as educational programming. The installation fee for WWHT's STV system is $49.95. The monthly charge to subscribers is $15. A one-time returnable deposit of $200 is required on the decoder, although consumers with a line of credit can waive that for $25 cash, which also is refundable.

18. The largest STV station in the country is KBSC at Corona, California, licensed to Oak Industries. The station has a current customer list of 210,000 subscribers. KBSC operates conventionally about forty-five hours a week with STV programming commencing at 8 p.m. and continuing through midnight. The station offers its STV subscribers current movies, live coverage of local professional sports teams, as well as other major sporting events and movie specials. Ten new movies are broadcast each month and, once a week, on a program entitled "Dimension," the station presents on an STV basis a diversified format of foreign films, ballet, opera and plays. Children's movies are also offered as STV programs. Subscription charges are $19.49 per month. There is a one-time installation charge of $39.95, which includes a new, pre-cut UHF antenna for the subscriber, designed to maximize reception of KBSC's signal. The subscriber then owns this equipment, but a one-time refundable security deposit of $25 is required on the decoder.

---

[4] The Hartford grant was affirmed by the U.S. Court of Appeals in *Connecticut Committee Against Pay TV* v. *FCC*, 301 F. 2d 835 (D.C. Cir. 1962); *cert. denied*, 371 U.S. 816 (1962).

[5] A six-and-a-half year trial STV authorization granted Station WHCT in Hartford, Connecticut, ended in 1969.

[6] See § 73.643(a). After an STV station is in operation 36 months, it is to provide conventional programming no less than 2 hours per day and not less than 28 hours per week.

[7] For a description of these STV program restrictions and a further discussion of their history, see paras. 14 and 15, *infra*.

[8] These rules, as they relate to feature films and sports, were amended soon after their adoption. The general effect of the amendment was a relaxation of the requirements. A rule prohibiting subscription exhibition of series programming, originally one of the program restrictions, was deleted in its entirety by amendment.

[9] The Court did not hold that the Commission had to find express statutory authority for its cable television regulations. It did require, however, that at a minimum, the Commission, in developing its cable television regulations, needed to demonstrate that the objectives to be achieved by regulating cable television are also objectives for which the Commission could legitimately regulate the broadcast media.

[10] See para. 14 and n. 8, *supra*.

[11] The affirmance of these rules was subject, however, to further review upon completion of additional hearings regarding *ex parte* contacts.

[12] See the *Reports and Orders* in Docket 21311, 42 FR 62372, published December 12, 1977, and in Docket 21489, 43 FR 15322, published April 12, 1978.

[13] WWHT's signal goes out over Channel 68, but, because some communities in the greater New York area have difficulty receiving that frequency, the station operates a translator on top of the World Trade Center which rebroadcasts the signal over Channel 60.

[14] The original call letters of Station WWHT were WBTV, at the time the facility was licensed to Blonder-Tongue. In 1977, Wometco Enterprises bought an eighty percent interest in the station, and the license was transferred to it in July of 1977, which the call sign being changed to WTVG. That call sign has been recently changed again to WWHT, although there has been no change in ownership of the station.

V 44 0 C 1 8 7 9 UMI

V 44 0 C 1 8 7 9 UMI

19. On July 23, 1978, Station KWHY, Los Angeles, California, licensed to Coast TV Broadcasting Corporation, began broadcasting STV programs. At present, the station has 35,000 subscribers. STV programming is aired from 2:30 to 4:30 p.m. and after 8 p.m on weeknights; from 2 to 4 p.m. and after 7 p.m. on Saturdays; and after 7 p.m. on Sundays. The basic STV service includes movies and interviews and costs $72 per year. Per program charge offerings include movies, sports events, variety programs and children's movies. Subscribers must pay a $25 decoder deposit, unless a Mastercharge or VISA credit card is used.

20. One of the relatively new stations to offer STV is WQTV, Boston, Massachusetts, licensed to Boston Heritage Broadcasting. It began operation in January of this year. On weekdays, WQTV broadcasts STV programs from 7 p.m. to sign off and on weekends from 1 p.m. to sign off. WQTV currently airs twelve or more feature films a month and specials starring top entertainers. Children's movies are also being aired. The station has 12,000 subscribers. Present customers pay $90 in installation charges and $15.95 in monthly billings. No deposit on the decoder is required if subscribers have acceptable credit.

21. Just having begun STV operation on July 1, 1979, Station WXON, Detroit, Michigan, licensed to WXON–TV, Inc. has 11,000 subscribers. It broadcasts STV programs from 8 p.m. to sign off on weekdays and for 8½ hours on Saturdays and 6½ hours on Sundays. Pay programming includes sports and movies, as well as stage performances, variety programs, filmed documentaries and classic foreign films. Present customers pay $49.95 in installation charges and $22.50 a month. A $50 returnable deposit is required on the decoder equipment.

22. The newest station to provide STV programming is KNXV, Phoenix, Arizona, licensed to New Television Corporation. It commenced operation on September 22, 1979. On weekdays, KNXV broadcasts STV programs beginning at 7 p.m. and on weekends, the station begins its STV programming at 5 p.m. Pay programming includes first run movies, sports, primarily of local origin, and taped specials. Present customers pay $39.95 in installation charges and $20.45 a month. There are probably 2,000 subscribers as of this date.

The "One-To-A-Community" Rule

23. Under the current language of § 73.642(a)(3) of the Commission's rules, only one station in a community may engage in STV operations (the "one-to-a-community" rule). Because of the significant interest being shown by broadcasters and the public in the operation of STV stations, and the recent development of the industry, we proposed in the *Notice* to consider a change in this requirement. Specifically, we asked interested parties to comment on whether the Commission should permit more than one television station in a given community to provide an STV service.

24. A significant number of commenters suggest that STV allocations be made on a market rather than a community basis. They argue that the present rule is inequitable in that it limits some markets to one STV operation but permits others comprised of a number of clustered communities, such as those in the Los Angeles market, to have more than one. As to the specific question asked, whether the "one-to-a-community" rule should be relaxed, proponents assert that doing so would bring increased competition to the field which would help develop STV to the highest attainable quality. Proponents further contend that allowing more than one STV station to a community would be a strong incentive for the production of creative programming and, as such, would provide a spur to conventional television as well. They also submit that a relaxation of the present rule, by allowing construction and operation of new STV stations, would provide additional conventional service since STV stations must broadcast a minimum number of hours of free programming. Additionally, supporters of relaxing the rule assert that a rivalry between STV and conventional television should stimulate each station to its best efforts.

25. Parties favoring a relaxation of the "one-to-a-community" rule have submitted a variety of possible formulas to use. For instance, Buford Television, Inc., recommends that the very largest markets, those with eight or more television stations, be allowed a second STV station. American Broadcasting Companies, Inc., recommends that a market be allowed a second STV station if it has available the following non-subscription services: Three network affiliated stations plus three, or two or one independent station(s) depending upon whether the market is one of the top-50, second 50, or below the top 100 in ranking. Also proposed is a rule allowing an unlimited number of STV stations in a community or market with the proviso that if circumstances presented by an STV application raised a serious possibility of adverse impact on a conventional television station, one which threatened its viability and ability to serve the public interest, the Commission would examine such circumstances in its consideration of the application. This last approach is akin to both a case-by-case approach and a waiver procedure suggested by a number of commenters.

26. Those parties opposing a relaxation of the "one-to-a-community" rule argue that the abandonment of this provision may serve as a deterrent to the development of STV. They assert that the present rule minimizes the risk of a new industry. A number of opponents also contend that until such time as one STV station per market provides a full day of truly diverse programming, no need exists to consider allowing another STV facility. They argue that the only benefit derived from additional STV service is an increase in the capacity to provide the service expeditiously to all customers. Opponents state that additional competition does not at the moment seem to carry with it benefits to the public. On the other hand, Oak Broadcasting and National Subscription Television submit that relaxing the rule would have no adverse effect on conventional television. They believe that the number of subscribers would not increase, but rather it would remain the same to be divided between the STV stations in a particular community.

27. In resolving the issue of whether to relax the "one-to-a-community" rule, we have carefully reviewed the record, observed the marketplace and considered the legal guidelines pronounced by the Court of Appeals in the *Home Box Office* decision. A key question to be considered in making this determination is one the Commission has repeatedly addressed during STV's regulatory history, that being, what is the likely impact of pay television on conventional television. Using data from the Hartford experiment and some speculation, the Commission in the *Fourth Report* determined that conventional television might suffer in quality or quantity as a consequence of the siphoning of programs and the pre-empting of time. To prevent this situation from occurring, the Commission adopted, among other regulations, the "one-to-a-community" rule. Although the Commission believed it best at the outset of the STV service to adhere to this rule, even in the *Fourth Report*, the Commission recognized that once more experience was gained, consideration could be given to relaxing the regulation.

28. Now, more than a decade since the initiation of STV on a nationwide basis.

the time for reevaluation has come. Based on the evidence presented to date, permitting unrestricted entry of STV stations, after a conventional station threshold has been reached, would provide greater program choice for consumers without unduly affecting the supply of conventional programs.[15] Rather than precluding additional conventional programming, we feel the growth of STV will both stimulate the use of UHF channels not presently utilized and provide a sound economic underpinning for existing UHF facilities. Our present experience offers support for such developments. All five of the STV stations presently operating broadcast on UHF channels and all of those STV authorizations approved by the Commission are for use by presently operating or new UHF facilities. Also, the existing STV stations provide conventional programs during most broadcast hours, with approximately four or five hours of their broadcast day, usually during prime time, consisting of pay programming. This practice appears likely to continue to be the norm. Thus, a station's ability to spread the fixed cost of operation across conventional and pay programming will provide additional conventional programming rather than less and improve the welfare of both subscribers and non-subscribers.

29. We also believe that STV could provide a stimulus to free television which coud actually improve rather than impair the quality of conventional programming. If STV is allowed to develop, with the probable result being greater competition between it and conventional television, programming is likely to be further diversified. We also believe that STV can respond to competitive forces that woud not operate in the same way for conventional television. It is well recognized that conventional American television today is not a classical competitive market in which the program viewer is able to directly express not only a preference but the intensity of this preference as well. Conventional television has no mechanism for responding to this intensity of demand. Advertisers rather than viewers support television programming, and they are only interested in attracting the greatest number of viewers and receive little, if any, benefit from attracting a more enthusiastic viewer. STV, on the other hand, can obtain subscribers by responding to intense demands of a small viewing group. This could bring cultural, minority-oriented, or quality children's programming fare that advertisers might find less profitable to support on conventional television. Also to be noted is STV's service to minorities on its conventional programming, as well as its potential for meeting minority needs during pay programming hours. For instance, STV Station KWHY in Los Angeles, presently carries foreign language programming for its Japanese, Korean and Chinese communities during the station's conventional hours of operation.

30. If these and other benefits are to occur, if is important that we reduce administrative barriers to entry into the STV sphere. Then, the STV industry can respond to consumer preferences rather than to incentives created by the regulatory process. It is precisely in the realm of pay television, where consumers can express their preferences most effectively, that we should eliminate unnecessary government regulation. Certainly in markets where channels are available we should not create an artificial scarcity to serve the interest of the initial STV entrant. Nor is the present rule needed to minimize risk in the new industry. We believe it appropriate to place reliance on the ability of rational entrepreneurs to function in their own best interest. As we have noted, out of this competitive counterplay can come public benefits. Once STV has been securely established, a financial base will exist for a greater variety of programming within the pay television sphere.

31. In terms of the present issues, this means eliminating the "one-to-a-community" rule. We believe that this step does not endanger the continued availability of a substantial amount of free television, but rather it holds the promise of more diversity in the mode and substance of its television fare. The growth of STV also promises greater opportunities in broadcasting for minorities and women and for small, independent business people. This, too, will aid in creating more specialized programming, thus better serving the country's diverse population.

32. By eliminating the "one-to-a-community" rule, we will be allowing the marketplace to determine how many STV stations it can support. It appears likely that the economic forces of the marketplace, that is, the substantial financial investment required and limited amount of available programming, will naturally limit the growth of STV to a level which will not significantly harm the quality or quantity of conventional programming. Further, the fact of multiple applications for STV authorizations having been filed in numerous cities, such as Atlanta, Chicago, Detroit and Philadelphia, indicates the public's interest in and therefore need for STV. For all the reasons thus far discussed, we believe it inadvisable as well as unnecessary to limit STV to a specific number of television stations, such as two or three, in a community. Since we are not adopting any limit on the number of STV stations in a community once the conventional threshold is met, we need not decide whether to formulate a community or market standard in this regard.

33. We believe that our action today is in keeping with the dictates of the *Home Box Office* case where the Court of Appeals emphasized that the Commission must not only state clearly the harm which its regulations seek to remedy, but also its reasons for supposing that this harm exists. In the *Notice* released in this proceeding, we specifically asked that commenting parties consider what impact a relaxation of the "one-to-a-community" rule would have on conventional television service. Neither the comments submitted nor the experience gained in the area of STV, however, has provided any data indicating that the harm which once concerned us, *i.e.*, impairment of conventional programming, is occurring or is likely to occur. We have been cautious about allowing subscription television to mature. Now the time is ripe, however, for permitting greater STV development. Thus, we are changing our rules to allow an unlimited number of STV stations in any community which is located within the Grade A contours of four or more conventional stations.

Compatibility of STV Systems

34. In the *Fourth Report* the Commission decided that it was in the public interest to permit multiple STV systems. This conclusion was based on the belief that little or no problem of inconvenience or expense to the public would be caused by having to have more than one decoder for receiving multiple STV operations. Under the "one-to-a-community" limitation on STV operations there would rarely be a situation in which a home could have two decoders. Since the "one-to-a-community" rule is now being eliminated, however, this is a real possibility. Thus, the time is ripe for resolving the issue of whether the Commission should continue to allow technically differing STV systems or whether it should require their compatibility so that a subscriber

[15] We presently plan to address the issue of the continuing need for a minimum number of conventional services in a Further Notice of Proposed Rule Making to be released in this proceeding in the near future.

receiving multiple STV services will not have to attach a number of different decoders to his television set.

35. Almost all those commenting parties who addressed this question opposed requiring compatibility. They argued that STV technology is in its infancy and requiring compatibility would freeze further technological development that could offer the public better service and lower costs. They asserted that only actual operation could conclusively establish comparative technical merits, efficiency of collection methods, ease of operation in subscribers' homes, as well as other features of an STV technical system. Also, they contended that the matter of hardware clutter in a subscriber's home is not nearly as significant as the issue of business viability and security of the service. A number of commenting parties, however, have suggested that if more than one STV station to a community or market is allowed, an applicant for the second authorization should be required to propose the same or compatible technical system or make a compelling showing as to why the introduction of a second, non-compatible system into the market would serve the public interest.

36. We believe that the arguments made by the bulk of the commenting parties have merit and, therefore, will continue to allow the existence of non-compatible STV systems. STV technology has not yet reached the stage at which the Commission can decide which STV system or whether any single STV system should be approved. In fact, the present operating STV facilities do not even meet present TV technical standards Thus, even if one system should eventually be approved, this is not the appropriate time to make that decision. We believe that the public interest will be served by allowing STV operators the option of deciding whether or not to standardize their systems or to offer decoders compatible with whatever other STV systems serve the market. Public demand rather than administrative regulation will thus be able to govern this subject. If the population of a particular locale desires compatible STV systems, it can be expected that the good businessman will be responsive to the public's judgment. If not, his pay television station will fail for lack of subscribers. Not only can there be diversity in programing, but there can also be diversity of technical systems in order to meet a particular market's needs.

Cut-Off Procedure for STV Applications

37. In the *Notice*, we raised the question of whether a cut-off procedure for STV applications should be adopted. For a clear understanding of this issue, it is important to keep in mind that, at this point, the Commission follows a two-step procedure in which an STV authorization may be issued only to an entity that already is either the licensee of a commercial television broadcast station or the holder of a construction permit for a new commercial television broadcast station. Although the Commission has established cut-off procedures to provide an orderly method for the consideration of mutually exclusive television applications, as well as AM and FM applications, such a mechanism had not been adopted for STV applications. Because of the volume of applications for subscription television authorization, however, we proposed that such a rule be promulgated in regard to STV. Although fewer than half of those parties submitting comments to the *Notice* addressed themselves to this issue, those doing so were in support of a cut-off procedure. Those commenting generally state that such a provision would serve the Commission's interest in the orderly processing of applications and the public's, as well as the applicant's, interest in avoiding unnecessary delay and uncertainty.

38. Since we have resolved to eliminate the "one-to-a-community" rule, we no longer believe that a cut-off procedure for applications for STV authorization is necessary or beneficial. As multiple STV stations will now be allowed, we expect situations involving mutually exclusive STV applications to be significantly fewer. Thus, at the present time, there does not appear to be a need for any cut-off procedure either to serve the public interest or to aid Commission staff in the efficient processing of STV applications. If the need for a cut-off procedure becomes apparent, however, the subject will be revisited.

39. Accordingly, it is ordered, that pursuant to the authority contained in Sections 4(i), 303(g), (j) and (r) of the Communications Act of 1934, as amended, § 73.642(a)(3) of the Commission's rules is amended, effective November 23, 1979, as set forth in the attached Appendix A below.

40. For further information concerning this proceeding, contact Freda Lippert Thyden, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303.)]

William J. Tricarico,
Secretary.

Appendix A

Section 73.642(a) of the Commission's rules is amended to read as follows:

§ 73.642 Licensing policies.

(a) * * *

(3) An applicant for a construction permit for a new commercial television broadcast station: *Provided, however,* That such authorization will not be issued prior to issuance of the construction permit for the new station. Moreover, such an authorization will be issued only for a station the principal community of which is located entirely within the Grade A contours of five or more commercial television broadcast stations (including the station of the applicant), whether the principal community each station is authorized to serve is the same as that of the applicant, or is a nearby community. No such authorization will be granted unless, not counting the station of the applicant, at least four of the stations which include the community of the applicant within their Grade A contours are operating nonsubscription stations.

* * * * *

Appendix B—Parties Filing Comments

American Broadcasting Companies, Inc.
American Civil Liberties Union
American Television and Communications Corp.
Blonder-Tongue Laboratories, Inc.
Buford Television, Inc.
Cleveland Associates Co.
Jesus Lives, Inc.
KCAU-TV, et al.
Ledbetter, Theodore S., Jr.
Motion Picture Association of America, Inc.
National Association of Broadcasters
*National Business Network, Inc.
National Subscription Network, Inc.
New Life Evangelistic Center, Inc.
Oak Broadcasting System, Inc.
Pay TV Corporation
Peter and John Radio Fellowship, Inc.
*Radio Broadcasting Company
Subscription Television of America
*Tarshis, Mark, B.
Teleglobe Pay-TV System, Inc.
The American Subscription Television Companies
The National Cable Television Association, Inc.
Universal Subscription Television, Inc.
Video 44
Wometco Blonder-Tongue Broadcasting Corporation
Wometco Enterprises, Inc.
Wometco Home Theatre, Inc.

* The comments marked with an asterisk were late-filed but since their consideration is not prejudicial to any party and their lateness did not exceed a few days, we shall consider them in this proceeding.

Parties Filing Reply Comments

American Subscription Television Companies, Inc.
Blonder-Tongue Laboratories, Inc.
National Business Network, Inc.
*Pay TV Corporation
Radio Broadcasting Company
*Subscription Television of America Inc.
Wometco Blonder-Tongue Broadcasting Corp.
Wometco Enterprises, Inc.
Wometco Home Theatre, Inc.

[FR Doc. 79-32082 Filed 10-17-79; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[BC Docket No. 79-132; RM-3340]

Radio Broadcast Services; FM Broadcast Station in Oakhurst, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Oakhurst, California, as its first FM assignment, in response to a petition filed by Randolph L. Johnston and James T. Dee. The assigned channel can be used to provide a first local broadcast service to Oakhurst.

EFFECTIVE DATE: November 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Oakhurst, California) *Report and Order* (Proceeding Terminated).

Adopted: October 9, 1979.

Released: October 15, 1979.

By the Chief, Broadcast Bureau.

1. On May 24, 1979, at the request of Randolph L. Johnston and James T. Dee ("petitioners"), the Commission adopted a *Notice of Proposed Rule Making*, 44 FR 33124, proposing the assignment of FM Channel 296A to Oakhurst, California, as its first FM assignment. Supporting comments were filed by petitioners in which they reaffirmed their intent to apply for the channel, if assigned. No oppositions to the proposal were received.

2. Oakhurst [1] is an unincorporated community in Madera County (pop. 41,519),[2] located on California State Highway 41, approximately 80 kilometers (50 miles) northeast of Fresno, California. It has no local aural broadcast service.

3. According to petitioners, the Madera Chamber of Commerce estimated the 1974 population of Oakhurst to have been 5,500. They state that Oakhurst has grown rapidly since 1974 and attribute this growth to an influx of people from other areas due to its mountain environment and recreational attractions. They note that Oakhurst has a post office, library, churches, schools, fire department, shops, civic organizations and theatres. Petitioners state that the nearest incorporated city to Oakhurst is Mariposa (in Mariposa County) 40 kilometers (25 miles) to the northwest, with Madera being the nearest incorporated city within Madera County, approximately 80 kilometers (50 miles) to the southwest.

4. Petitioners claim that because Oakhurst is located in a valley surrounded by mountains, radio reception is intermittent and FM reception is hampered by multipath distortion. They note that there are no radio stations in eastern Madera County and that the nearest service comes from an FM station in adjacent Mariposa County 40 kilometers (25 miles) to the northwest. Petitioners point out that the only radio service in Madera County is 80 kilometers (50 miles) to the southwest.

5. In view of the information submitted in response to the *Notice*, we are persuaded that the Oakhurst area has shown a steady growth during the past several years. This area is in need of radio service and Oakhurst has been shown to be an appropriate location to use to bring such service. Petitioners have established that Oakhurst is a community with its own post office, library, schools, and civic and social organizations. The Commission thus believes it would be in the public interest to assign FM Channel 296A to Oakhurst, California. A demand has been shown for its use and it would provide the community with a first aural broadcast service. It can be made without affecting any existing assignments and would be consistent with the applicable distance separation requirements.

6. Authority for the adoption of the amendment contained herein appears in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. In view of the foregoing, IT IS ORDERED, that effective November 23, 1979, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, IS AMENDED with respect to the community listed below, as follows:

City, Channel No.
Oakhurst, California, 296A.

8. IT IS FURTHER ORDERED, that this proceeding IS TERMINATED.

9. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Richard J. Shiben,
Chief, Broadcast Bureau.

[FR Doc. 79-32084 Filed 10-17-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Oakhurst is not listed in the 1970 U.S. Census.

[2] 1970 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 172, 173, 174, 177, 178

[Docket No. HM-139B; Amdt. Nos. 172-55, 173-133, 174-35, 177-46, 178-58]

Conversion of Individual Exemptions to Regulations of General Applicability

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Final Rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analyses supplied in selected exemption applications or from existing exemptions. The need for this action has been created by the public demand to make available new packaging and shipping alternatives that have proven themselves safe under the Department's exemption program. The intended effect of these amendments is to provide wider access to the benefits of transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: October 18, 1979, except that the effective date of § 173.3(c)(3) is February 15, 1980.

FOR FURTHER INFORMATION CONTACT: Darrell L. Raines, Office of Hazardous Materials Regulations, 400 7th Street, S.W., Washington, D.C. 20590. [202-426-2075].

SUPPLEMENTARY INFORMATION: On June 25, 1979, the Materials Transportation

Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-139B; Notice No. 79-10 [44 FR 37017] which proposed these amendments. The background and the basis for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of July 25, 1979.

Primary drafters of this document are Darrell L. Raines, Office of Hazardous Materials Regulation, Exemption and Regulations Termination Branch, and Evan C. Braude, of the Office of the Chief Counsel, Research and Special Programs Administration.

The Bureau received seven comments on Notice 79-10, all of which were favorable to the proposed changes except for minor modifications.

Although seven comments were received, only three subjects were involved and they were in reference to (1) recovery drums [now identified as salvage drums], (2) bottom outlets on DOT Specification MC 310 and MC 311 cargo tanks, and (3) calcium carbide, [DOT-E 8052].

The major concern with the salvage drum had to do with (a) shipping paper requirements, (b) re-use, and (c) marking. Two commenters pointed out the inconsistency for shipping papers between the rail and truck mode. The Bureau agrees that the need for shipping papers is important regardless of the mode of transportation. Therefore, § 174.48(b) has been revised by deleting that portion in the notice which read "except that shipping papers are not required."

Based on the comments received, there appears to be some misunderstanding concerning the authorized reuse of salvage drums. The purpose of the rule is to provide an appropriate means to mitigate problems resulting from the discovery of damaged or leaking packages during transportation. It was not intended that they be used to ship damaged or leaking packages discovered before transportation begins. However, one commenter stated: * * * "another restricted situation we envision is the use of the 'Recovery Drum' for transportation of contaminated soil (earth) from the scene of a hazardous material incident to an authorized disposal site." The MTB agrees that provisions should be made for such circumstances occurring during transportation and has revised paragraph (c) of Section 173.3 accordingly.

An exception to the reconditioning requirements of § 173.28(h) has been added to § 173.3(c)(6). Any authorized removable head drum used as a salvage drum may be reused provided it has been adequately cleaned and inspected.

One commenter requested that a time period of at least 60 days be allowed from the effective date of these amendments to permit implementation of the new marking requirements for the salvage drum. In view of the change to "Salvage Drum" a time period of 120 days has been granted.

The term "Recovery Drum" has been replaced with the term "Salvage Drum" as the result of a letter from Counsel for Natico, Inc., in which they stated:

" * * * It is noted that the term 'Recovery Drum' has been used in your recent proposal for amendment of Hazardous Materials Regulations. It is with approval that we note that in your usage of the term 'Recovery Drum', use has been made of capital letters to set it apart as a trademark. Natico, Inc. has no objection to such usage of its trademark RECOVERY DRUM if it is accompanied with identification of Natico, Inc. as the owner of the trademark. In the absence of such identification as a trademark owned by Natico, Inc., you are respectfully requested to discontinue usage of the mark, since such usage would ultimately bring about dilution of the trademark and valuable rights therein that have been acquired by Natico, Inc."

It was not the MTB's intent to impose or promote a marking that is a trademark nor to bring about its dilution; therefore, the marking adopted is "SALVAGE DRUM."

Two commenters objected to the use of bottom outlets on DOT Specification MC 310 and MC 311 cargo tanks for the shipment of hydrofluoric acid, (hydrogen fluoride) and hydrofluosilicic acid. Based on the information received and upon further consideration the Bureau agrees that bottom outlets should be prohibited from use on MC 310 and MC 311 cargo tanks for the above commodities.

Upon further consideration and the comments received from the Union Carbide Corporation, the proposed change to § 173.178(a)(5) has been changed by deleting the requirement for a DOT Specification 12B fiberboard box. Also, specific requirements for construction of the water-tight metal cans have been deleted and the maximum 2-quart capacity has been changed to 10 pounds. None of these changes should have any affect on safety during handling and transportation.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 177 and 178 are amended as follows:

BILLING CODE 4910-60-M

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

§ 172.101 [Amended]

1. In § 172.101 the Hazardous Materials Table is amended as follows:

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quantity in one package		Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger-carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Add)									
	Battery, lithium. See § 173.206(f).									
*	*	*	*	*	*	*	*	*	*	*
	Dimethyl chlorothiophosphate or Dimethyl phosphorochloridothioate.	Corrosive material	Corrosive	§ 173.244	§ 173.245	1 quart	1 quart	1,2	1,2	*
*	*	*	*	*	*	*	*	*	*	*
	Dimethyl phosphorochloridothioate. See Dimethyl chlorothiophosphate.									
*	*	*	*	*	*	*	*	*	*	*
	Lithium battery. See § 173.206(f).									

BILLING CODE 4910-60-C

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

2. In § 173.3 paragraph (c) is revised as follows:

§ 173.3 Packaging and exceptions.

* * * * *

(c) Packages of hazardous materials that are damaged or found leaking during transportation, and hazardous materials that have spilled or leaked during transportation, may be placed in a metal removable head salvage drum and shipped for repackaging or disposal under the following conditions:

(1) The drum utilized may be either a DOT specification or a non-DOT specification drum as long as the drum has equal or greater structural integrity than a drum that is authorized for the respective material in this subchapter. Maximum capacity shall not exceed 110 gallons.

(2) Each drum must be provided with adequate closure and, when necessary, provided with sufficient cushioning and absorption material to prevent excessive movement of the damaged package and to absorb all free liquid. All cushioning and absorbent material used in the drum must be compatible with the hazardous material.

(3) Each drum must be marked with the proper shipping name of the material inside the defective packaging and the name and address of the consignee. In addition, the drum must be marked "SALVAGE DRUM".

(4) Each drum must be labeled as prescribed for the respective material.

(5) The shipper shall prepare shipping papers in accordance with Subpart C of Part 172 of this subchapter.

(6) The overpack requirements of § 173.25, and the reuse provisions of § 173.28(h) and § 173.28(m) do not apply to drums used in accordance with this paragraph.

3. In § 173.93 paragraph (b)(2) is added as follows:

§ 173.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

* * * * *

(b) * * *

(2) Specification 17H (§ 178.118 of this subchapter). Steel drums (single-trip) not over 30-gallon capacity each.

* * * * *

4. In § 173.119 paragraph (m)(14) is revised as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(14) Specification 105A100W, 112A200W, or 114A340W (§§ 179.100 and 179.101 of this subchapter). Tank cars. Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile.

* * * * *

5. In § 173.154 paragraph (a)(9) is revised, paragraph (a)(21) is added as follows:

§ 173.154 Flammable solids, organic peroxide solids and oxidizers not specifically provided for.

(a) * * *

(9) Specification 21C (§ 178.224 of this subchapter). Fiber drums. Maximum net weight may not exceed 225 pounds except that a 21C400 fiber drum may have a net weight not exceeding 350 pounds.

* * * * *

(21) Specification 105A200ALW (§§ 179.100, 179.101 of this subchapter). Tank cars. Authorized only for a mixture of 24 to 26 percent ammonia, 68 to 70 percent ammonium nitrate and 5 to 7 percent water. Transportation by water is not authorized.

6. In § 173.157 paragraphs (a)(5), (b)(2), and (b)(3) are revised as follows:

§ 173.157 Benzoyl peroxide, chlorobenzoyl peroxide (para), cyclohexanone peroxide, dimethylhexane dihydroperoxide, lauroyl peroxide, or succinic acid peroxide, wet.

(a) * * *

(5) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with securely closed inside plastic containers made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each inside container may not exceed 25 pounds. Each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Authorized only for benzoyl peroxide.

(b) * * *

(2) Specification 21C (§ 178.224 of this subchapter). Fiber drum with securely closed inside plastic containers made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each outside drum may not exceed 55 pounds.

(3) Specification 12B (§ 178.205 of this subchapter). Fiberboard box with securely closed inside plastic containers made of polyethylene film at least 0.004 inch thick. Net weight (dry weight) in each inside container may not exceed 25 pounds. Each inside container must be surrounded by asbestos or an equivalent fire-resistant cushioning material. Net weight (dry weight) in each outside box may not exceed 50 pounds.

7. In § 173.178 paragraph (a)(5) is added as follows:

§ 173.178 Calcium carbide.

(a) * * *

(5) In water-tight metal containers not exceeding 10 pounds net weight.

8. In § 173.202 paragraph (a)(4) the second sentence is amended as follows:

§ 173.202 Sodium metal liquid alloy, potassium metal liquid alloy, and sodium potassium liquid alloy.

(a) * * *

(4) * * * Tanks shall have a minimum design pressure of 150 pounds per square inch. * * *

9. In § 173.206 paragraph (f) is added as follows:

§ 173.206 Sodium or potassium, metallic; sodium amide; sodium potassium alloys; sodium aluminum hydride; lithium metal; lithium silicon; lithium ferro silicon; lithium hydride; lithium borohydride; lithium aluminum hydride; lithium acetylide-ethylene diamine complex; aluminum hydride; cesium metal; rubidium metal; zirconium hydride, powdered.

* * * * *

(f) Lithium batteries (or cells) which are hermetically sealed, containing not more than 0.5 gram each of lithium or lithium alloy, separated from each other so as to prevent short circuits, and overpacked in a strong outside container are not subject to the requirements of this subchapter. This exception also applies to batteries shipped as a part of devices such as calculators, photographic equipment and watches.

10. In § 173.245 paragraph (a)(32) is revised as follows:

§ 173.245 Corrosive liquids not specifically provided for.

(a) * * *

(32) Specification 103AW, 103A–ALW, 103ANW, 103BW, 103CW, 103EW, 105A100W, 105A200ALW, 111A100F2, 111A60ALW2, 111A60W2, 111A60W5 or AAR–201A80W (§§ 178.100, 179.101, 179.200, and 179.201 of this subchapter). Tank cars. Specification 105A200ALW tank cars authorized only for acetic anhydride. Specification 105A100W tank cars authorized only for aluminum hydroxide and dimethyl chlorothiophosphate. AAR201A80W tank cars authorized only for ammonium hydroxide.

11. In § 173.247 paragraph (a)(9) is revised; paragraph (a)(12) is amended by adding the following sentence:

§ 173.247 Acetyl bromide; acetyl chloride; acetyl iodide; antimony pentachloride; benzoyl chloride; boron trifluoride acetic acid complex; chromyl chloride; dichloroacetyl chloride; diphenylmethyl bromide solutions; pyrosulfuryl chloride; silicon chloride; sulfur chloride (mono and di); sulfuryl chloride; thionyl chloride; tin tetrachloride (anhydrous); titanium tetrachloride; trimethyl acetyl chloride.

(a) * * *

(9) Specification 5C (§ 178.83 of this subchapter). Barrels or drums of Type 304 stainless steel not over 30-gallon capacity each. Authorized for chromyl chloride and thionyl chloride only.

* * * * *

(12) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

12. In § 173.247a paragraph (a)(3) is amended by adding the following sentence:

§ 173.247a Vanadium tetrachloride and vanadium oxytrichloride.

(a) * * *

(3) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

13. In § 173.248 paragraph (a)(6) is amended by adding the following sentence:

§ 173.248 Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.

(a) * * *

(6) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

14. In § 173.249 paragraph (a)(6) is amended by adding the following sentence:

§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution; boiler compound, liquid, solution.

(a) * * *

(6) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

15. In § 173.250a paragraph (a)(2) is amended by adding the following sentence:

§ 173.250a Benzene phosphorus dichloride and benzene phosphorus thiodichloride.

(a) * * *

(2) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

16. In § 173.252 paragraph (a)(4) the last sentence is amended and an additional sentence is added as follows:

§ 173.252 Bromine.

(a) * * *

(4) * * * The total quantity loaded must not be less than 92 percent of the quantity the tank is authorized to carry. Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

17. In § 173.253 paragraph (a)(6) is amended by adding the following sentence:

§ 173.253 Chloracetyl chloride.

(a) * * *

(6) * * * Bottom outlets are authorized if the meet the requirements of § 178.343–5 of this subchapter.

* * * * *

18. In § 173.254 paragraph (a)(5) is amended by adding the following sentence:

§ 173.254 Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.

(a) * * *

(5) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

19. In § 173.255 paragraph (a)(5) is amended by adding the following sentence:

§ 173.255 Dimethyl sulfate.

(a) * * *

(5) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

20. In § 173.256 paragraph (a)(7) is revised as follows:

§ 173.256 Compounds, cleaning, liquid.

(a) * * *

(7) Specification 37M (§ 178.134 of this subchapter). Cylindrical steel overpack with inside specification 2U (§ 178.24 of this subchapter) polyethylene container. For compounds containing not more than 7 percent hydrofluoric acid by weight, the steel overpack must be a minimum of 22-gauge. For compounds containing more than 7 percent hydrofluoric acid by weight but not over 14 percent hydro-fluoric acid by weight, the steel overpack must be a minimum of 20-gauge body and 18-gauge heads. When a full removable head is used, the bolted type ring closure must be a minimum of 16-gauge.

21. In § 173.257 paragraph (a)(4) is amended by adding the following sentence:

§ 173.257 Electrolyte (acid) and alkaline corrosive battery fluid.

(a) * * *

(4) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

22. In § 173.262 paragraph (a)(11) and paragraph (b)(4) are amended by adding the following sentence:

§ 173.262 Hydrobromic acid.

(a) * * *

(11) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

(b) * * *

(4) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

23. In § 173.263 paragraph (a)(10) is amended by adding the following sentence:

§ 173.263 Hydrochloric (muriatic) acid; hydrochloric (muriatic) acid mixtures; hydrochloric (muriatic) acid solution, inhibited; sodium chlorite solution (not exceeding 42 percent sodium chlorite); and cleaning compounds, liquids, containing hydrochloric (muriatic) acid.

(a) * * *

(10) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

24. In § 173.267 paragraph (a)(7) is amended by adding the following sentence:

§ 173.267 Mixed acid (nitric and sulfuric acid) (nitrating acid).

(a) * * *

(7) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

25. In § 173.268 paragraph (b)(3) is amended by adding the following sentence:

§ 173.268 Nitric acid.

* * * * *

(b) * * *

(3) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

26. In § 173.272 paragraphs (i)(21), (i)(25), and (i)(28) are amended by adding the following sentence:

§ 173.272 Sulfuric acid.

* * * * *

(i) * * *

(21) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

(25) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

(28) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

V 44 0 C 18 79 UMI

27. In § 173.273 paragraph (a)(5) is amended by adding the following sentence:

§ 173.273 Sulfur trioxide.

(a) * * *

(5) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

28. In § 173.276 paragraph (a)(6) is amended by adding the following sentence:

§ 173.276 Anhydrous hydrazine and hydrazine solution.

(a) * * *

(6) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

29. In § 173.280 paragraph (a)(8) is amended by adding the following sentence:

§ 173.280 Trichlorosilanes.

(a) * * *

(8) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

30. In § 173.289 paragraph (a)(4) is amended by adding the following sentence:

§ 173.289 Formic acid and formic acid solutions.

(a) * * *

(4) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

31. In § 173.292 paragraph (a)(2) is amended by adding the following sentence:

§ 173.292 Hexamethylene diamine solution.

(a) * * *

(2) * * * Bottom outlets are authorized on MC 310, MC 311, or MC 312 cargo tanks if they meet the requirements of § 178.343–5 of this subchapter.

32. In § 173.294 paragraph (a)(3) is amended by adding the following sentence:

§ 173.294 Monochloroacetic acid, liquid or solution.

(a) * * *

(3) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

33. In § 173.295 paragraphs (a)(9) and (a)(10) are amended by adding the following sentence:

§ 173.295 Benzyl chloride.

(a) * * *

(9) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

(10) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

34. In § 173.296 paragraph (a)(2) is amended by adding the following sentence:

§ 173.296 Diisooctyl acid phosphate.

(a) * * *

(2) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

35. In § 173.297 paragraph (a)(1) is amended by adding the following sentence:

§ 173.297 Titanium sulfate solution containing not more than 45 percent sulfuric acid.

(a) * * *

(1) * * * Bottom outlets are authorized if they meet the requirements of § 178.343–5 of this subchapter.

* * * * *

36. In § 173.346 paragraph (a)(20) is revised as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a) * * *

(20) Specification 6D or 37M (§§ 178.102, 178.134 of this subchapter). Cylindrical steel overpacks with inside specifications 2S or 2SL (§§ 178.35, 178.35a of this subchapter) polyethylene containers. Authorized for materials that will not react with polyethylene and result in container failure.

* * * * *

PART 174—CARRIAGE BY RAIL

37. In § 174.48 paragraph (b) is revised as follows:

§ 174.48 Leaking packages other than tank cars.

* * * * *

(b) Packages of hazardous materials that are damaged or found leaking during transportation, and hazardous materials that have spilled or leaked during transportation, may be forwarded to destination or returned to the shipper in a salvage drum in accordance with the requirements of § 173.3(c) of this subchapter.

PART 177—CARRIAGE BY PUBLIC HIGHWAY

38. In § 177.854 paragraph (c)(2) is revised as follows:

§ 177.854 Disabled vehicles and broken or leaking packages; repairs.

* * * * *

(c) * * *

(2) Packages of hazardous materials that are damaged or found leaking during transportation, and hazardous materials that have spilled or leaked during transportation, may be forwarded to destination or returned to the shipper in a salvage drum in accordance with the requirements of § 173.3(c) of this subchapter.

* * * * *

PART 178—SHIPPING CONTAINER SPECIFICATIONS

39. In § 178.16, § 178.16–13 the second sentence of paragraph (a)(3) is amended and an additional sentence is added as follows:

§ 178.16 Specification 35; non-reusable molded polyethylene drum for use without overpack; removable head required.

§ 178.16–13 Design qualification tests.

(a) * * *

(3) * * * the two drums of identical capacity, stacked two high, must withstand a static compression test applied evenly for 48 hours to the top rim of the top drum without buckling of the side walls or leakage. The compression weight load to be applied must be the greater of 300 pounds or the volume in gallons of one drum times 85 pounds. * * *

* * * * *

40. In § 178.252, § 178.252–1 paragraph (b) is revised as follows:

§ 178.252 Specification 56; metal portable tank.

§ 178.252–1 General requirements.

* * * * *

(b) Each tank may not exceed a rated gross weight of 7,700 pounds.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53 and App. A to Part 1).

Note.—The Materials Transportation Bureau has determined that this document will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on October 11, 1979.

L. D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 79-32171 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That Sclerocactus Glaucus Is a Threatened Species

Correction

In FR Doc. 79–31316, appearing at page 58868 in the issue of Thursday, October 11, 1979, the 25th through last lines of text (beginning "July 1, 1975 * * * ") in column three on page 58868 should be inserted between the third and fourth lines of text which immediately follow the table in column two on page 58868.

BILLING CODE 1505–01–M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That the Purple-Spined Hedgehog Cactus and Wright Fishhook Cactus Are Endangered Species

Correction

In FR Doc. 79–31315, appearing at page 58866 in the issue of Thursday, October 11, 1979. The second line of the "Effective Date" paragraph on page 58866 should read "becomes effective on November 13, 1979".

BILLING CODE 1505–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries; Increase of Fishing Time for Surf Clams

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of Increase of Fishing Time for Surf Clams.

SUMMARY: This notice increases the allowable fishing time for surf clams for vessels harvesting surf clams in the fishery conservation zone (FCZ) to 36 hours per week. The increase in fishing time is intended to allow the surf clam industry the opportunity to harvest the full quarterly allocation of surf clams for the fourth quarter of 1979.

EFFECTIVE DATE: October 15, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: Pursuant to Section 302 of the Fishery Conservation and Management Act of 1976, (Act), a fishery management plan (FMP) for the surf clam and ocean quahog fisheries was prepared by the Mid-Atlantic Fishery Management Council. The FMP was approved in accordance with Section 304 of the Act and published on November 25, 1977. Regulations implementing the FMP were published on February 17, 1978. On October 1, 1979, regulations were published implementing an amendment to the FMP which, in addition to other measures, establishes a mechanism whereby the Regional Director can adjust surf clam fishing time in response to changes in harvest rates or for other reasons. § 652.7 (a)(4) allows the Regional Director to increase the number of hours per week during which fishing for surf clams is permitted to facilitate the harvest of the full quarterly allocation if he determines that the quarterly allocation will not be harvested at the then-current level of fishing effort, and that the catch rate has not diminished as a result of a decline in abundance of stocks of surf clams.

It is currently estimated that harvest of surf clams during the third quarter of 1979 fell short of the quarterly allocation by nearly 140,000 bushels. This shortfall will be added to the quarterly quota for the fourth quarter of 1979. With the addition, the allocation for the fourth quarter will approach 490,000 bushels.

A number of factors have conspired to reduce the rate of harvest of surf clams. These include the closure or slowdown of some processing plants due to market conditions, diversion of considerable processing effort away from surf clams to ocean quahogs, and periods of high winds which prevented some vessels from realizing their full fishing potential. Although the weather has been a generally favorable factor during the last few months, the general deterioration of weather toward winter in combination with previous mentioned factors are expected to contribute to continued low rates of harvest unless fishing time is increased.

In evaluating an increase in allowable fishing time, the Regional Director has consulted with members of the surf clam committee and the surf clam advisory sub-panel of the Mid-Atlantic Council. They have advised him to increase allowable fishing time as required to ensure the harvest of the full quarterly allocation. The Regional Director has determined that the quarterly allocation of surf clams will not be harvested with the current 24 hour fishing week. Further, there is no evidence that the catch rate may have diminished as a result of a decline in abundance of stocks of surf clams. Therefore, effective October 15, 1979, the allowable fishing time for surf clams will increase to 36 hours per week for the remainder of the fourth quarter.

The National Oceanic and Atmospheric Administration has determined that this action does not constitute a major federal action significantly affecting the quality of the human environment requiring the preparation of either an environmental impact statement or a regulatory impact analysis under Executive Order 12044.

The Assistant Administrator finds that there is good cause to make this regulation effective sooner than 30 days after its publication because of the conservation needs of the resource.

Authority: 16 U.S.C. 1801 *et seq.*

Signed at Washington, D.C. this the 15th day of October 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

§ 652.7 Effort restrictions.

(a) *Surf Clams.* (1) Fishing for surf clams shall be permitted during 4 days per week, from 12:01 a.m. (0001 hours) Monday to 12 midnight (2400 hours) Thursday. However, no fishing vessels shall engage in fishing for surf clams for more than 36 hours in any week. For the period from October 15, 1979, through December 31, 1979, inclusive, the authorized fishing periods for surf clams for each vessel shall be periods designated on the letter of authorization from the Regional Director. The letter shall be kept aboard the vessel at all times and shall state those periods in which the vessel is authorized to fish for surf clams. Such periods shall be 12, 18, 24 or 36 hours in duration and cumulatively cannot exceed 36 hours total in one week. Once the letter has been issued, no changes in authorized fishing periods will be permitted during the fourth quarter of 1979. All requests for changes for subsequent quarters must be received by the Regional Director 15 days prior to the beginning of the next quarter. Fishing for any part of an authorized period will be counted as one period of fishing. In this paragraph "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling to or from the fishing grounds. (i) Designated fishing periods

shall end at 5:00 p.m. (1700 hours) during that part of the year in which Eastern Standard Time is in effect. Designated fishing periods shall end at 6:00 p.m. (1800 hours) during that part of the year in which Daylight Saving Time is in effect.

[FR Doc. 79-32114 Filed 10-17-79; 8:45 am]
BILLING CODE 3510-22-M

V 44 OC 18 79 UMI

Proposed Rules

Federal Register
Vol. 44, No. 203
Thursday, October 18, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 966

Tomatoes Grown In Florida; Proposed Handling Regulation—Amdt. No. 1

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would extend through June 14, 1980, the minimum grade, size, pack, container, marking and inspection requirements effective from October 15 through November 30, 1979, for tomatoes grown in certain counties in Florida. It would promote orderly marketing of such tomatoes and keep less desirable sizes and qualities from being shipped to consumers.

DATE: Comments due: November 20, 1979.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077–S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written comments shall be submitted, and they will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447–5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

This notice is based upon recommendations made by the committee at its public meeting in Palm Beach, Florida, on September 7, 1979.

The recommendations of the committee reflect its appraisal of the composition of the 1979–80 crop of Florida tomatoes and the marketing prospects for this season. The proposed regulation is similar except for size to those issued during past seasons and to the temporary regulation in effect during October 15 through November 30, 1979. The proposed grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable size from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. Thiswould provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. During the past two seasons, some problems were encountered in properly sizing varieties that have a tendency towards an oblong shape when grown under unfavorable weather conditions. Last season a 1/32 inch overlap of sizes was permitted to help alleviate the problem. This season the overlap has been increased to 2/32 inch in an effort to ensure more accurate sizing. The proposed requirements, including those for containers, container net weights, and size classifications, are intended to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions would be provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable. Shipments would be allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards were used to prevent such tomatoes from reaching unauthorized outlets. Tomatoes for canning are exempt under the legislative authority for this part. Tomatoes for experimental purposes would be exempt since such tomatoes would not usually enter fresh market channels of trade. Since no purpose would be served by regulating tomatoes used for relief or charity purposes such shipments would also be exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments would also be exempt.

The following types of tomatoes would be exempt from these regulations: elongated types commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Only tomatoes shipped outside the regulated area would be regulated because of an increase in the U-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption would permit persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This would reduce the problem of enforcement on small shipments of essentially noncommercial nature. The proposals concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

Occasionally individual fruit of several new varieties, including Flora-Dade, may be elongated in shape. This characteristic may be exaggerated by adverse growing conditions. It is anticipated that handlers packing these varieties usually will be able to comply with all provisions of the regulation. However, if situations arise in which the incidence of tomatoes not of the normal globular shape makes sizing in accordance with present grade standards infeasible, the affected varieties could be exempted from the size requirements of the regulation.

This proposal has been reviewed under USDA criteria for implementing Executive Order 12044. It is being published with less than a 60-day comment period because (1) shipments of the 1979–80 crop tomatoes grown in the production area are expected by, and the regulation should become effective on, the effective date herein to maximize benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among growers and handlers of tomatoes in the production area; (3) a temporary regulation with identical requirements is effective for the period October 15 through November 30, 1979; and (4) compliance with this section should not require any special preparation on the

part of handlers subject thereto which cannot be completed by such effective date. A determination has been made that this action should not be classified "significant." A Draft Impact Analysis is available from Peter G. Chapogas (202) 447-5432.

It is proposed that 7 CFR 966.318 be amended to read as follows:

§ 966.318 Handling regulation.

During the period December 1, 1979, through June 14, 1980, no person shall handle any lot of tomatoes for shipment outside the regulated area unles they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.* (1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) Tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter and be sized in one or more of the following ranges of diameters. Measurement of diameters shall be in accordance with the methods prescribed in Paragraph 2851.1859 of the U.S. Standards for Grades of Fresh Tomatoes.

Size classification	Inches	
	Minimum diameter	Maximum diameter
7 × 7	2$^{3}/_{32}$	2$^{8}/_{32}$
6 × 7	2$^{5}/_{32}$	2$^{11}/_{32}$
6 × 6	2$^{15}/_{32}$	2$^{15}/_{32}$
5 × 6 and larger	2$^{15}/_{32}$	

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2$^{15}/_{32}$ inches in diameter and each container shall be marked to indicate the designated size.

(iii) Only numerical terms may be used to indicate the above listed size designations on containers of tomatoes, except when tomatoes are commingled the containers can be marked 6×6 & Lgr. or 5×6 & Lgr.

(iv) To allow for variations incident to proper sizing, not more than a total of ten (10) percent, by count, of the tomatoes in any lot may be smaller than the specified minimum diameter or larger than the maximum diameter.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (¼) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains, or other evidence of previous use, the lid of such container shall be marked in a principal display area at least 2½ inches high and 4½ inches long with the words "USED BOX" in letters not less than 1¼ inches high and the name of the shipper and point of origin in letters not less than ⅜ inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, experimental purposes, relief, chairty or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, experimental purposes, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the reciever for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment may be cause for cancellation of such handler's certificate and/or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.* (1) *For types.* The following types of tomatoes are exempt from this regulation: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhous tomatoes.

(2) *For minimum quantity.* For purposes of this regulation each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of this regulation but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) *For special packed tomatoes.* Tomatoes which met the inspection requirements of paragraph (a)(4) which are resorted, regraded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from (i) the tomato grade classifications of paragraph (a)(1), (ii) the size classifications of paragraph (a)(2) except that the tomatoes shall be at least 2$^{3}/_{32}$ inches in diameter and (iii) the container weight requirements of paragraph (a)(3).

(4) *For varieties.* Upon recommendation of the committee, varieties of tomatoes that are elongated or otherwise misshapen due to adverse growing conditions may be exempted by the Secretary from the provisions of paragraph (a)(2) *Size.*

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section. Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under Section 8e of the act and Section 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2$^{3}/_{32}$ inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

Dated: October 15, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-32195 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

Proposed Nashville, Tenn., Terminal Control Area, Cancellation of Meeting

AGENCY: Department of Transportation.

ACTION: Informal Airspace Meeting, Proposed Nashville, Tenn., Terminal Control Area; Notice of Meeting Cancellation.

DATE: Effective: October 18, 1979.

SUMMARY: The Federal Aviation Administration (FAA) has cancelled the Informal Airspace Meeting scheduled for November 7, 1979, (44 FR 54489; September 20, 1979) in Nashville, Tennessee, to discuss a proposed Terminal Control Area (TCA) for the Nashville Metropolitan Airport. The meeting will be rescheduled and a new date announced later.

FOR FURTHER INFORMATION: Call, Mr. Clifford C. Montean, FAA Southern Region, telephone (A/C 404) 763-7866.

Issued in Atlanta, Georgia, on October 4, 1979.

Dorsey A. Odle,

Acting Chief, Air Traffic Division, Southern Region.

[FR Doc. 79-31965 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Chapter I

[Summary Notice No. PR-79-10]

Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before: November 14, 1979.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C. on October 5, 1979.

Edward P. Faberman,

Assistant Chief Counsel, Regulations and Enforcement Division.

Docket No.	Petitioner	Description of the rule requested
Petitions for Rulemaking		
18904	National Business Aircraft Association.	*Regulations affected:* 14 CFR Sections 25.1326 and 91.50. *Description of rulemaking sought:* To amend the rules requiring installation of a pitot heat indication system on transport category airplanes so that operations in private aircraft in a "not for hire" capacity would be excluded. Petitioner contends that existing training, use of checklists, and cross-checking of instruments provide an equivalent level of safety and that the corporate/executive airplane fleet safety record bears this out.
Petitions for Rulemaking: Denied		
18882	Aircraft Owners	Amendment of 14 CFR 77.17(a) to require construction sponsors to submit, as part of the "Notice of Proposed Construction or Alteration," construction plans, engineering data, or similar substantial information which discloses the overall dimensions of the proposed structure. *Denied 9/11/79.*

[FR Doc. 79-31845 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-SO-61]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Designation of Transition Area, Lafayette, Tenn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule will designate the Lafayette, Tennessee, Transition Area and will lower the base of controlled airspace in the vicinity of the Lafayette Municipal Airport from 1,200 to 700 feet AGL. A public use standard instrument approach procedure has been developed to the airport and additional controlled airspace is required to protect aircraft conducting Instrument Flight Rule (IFR) operations.

DATES: Comments must be received on or before: November 28, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: John W. Schassar, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to

the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before November 28, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to designate the Lafayette, Tennessee, 700-foot Transition Area. This action will provide controlled airspace protection for IFR operations at the Lafayette Municipal Airport. A standard instrument approach procedure, NDB Rwy 19, to the airport, utilizing the Lafayette Non-directional Beacon is proposed in conjunction with the designation of the Transition Area. If the proposed designation is acceptable, the airport operating status will be changed from VFR to IFR.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by adding the following:

Lafayette, Tennessee

That airspace extending upward from 700 feet above the surface within a 5.5-mile radius of Lafayette Municipal Airport (Latitude 36°31'05" N., Longitude 86°03'51" W.); within 3 miles either side of the 012° bearing from the Lafayette non-directional radio beacon (NDB) (Latitude 36°30'54" N., Longitude 86°03'40" W.) extending from the 5.5-mile radius to 8.5 miles north of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Exective Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on October 1, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-31847 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM79-64]

Technical Conference Regarding Filing of Changes in Rate Schedules

October 12, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Technical Conference.

SUMMARY: The Office of Electric Power Regulation, Federal Energy Regulatory Commission (Commission), will conduct a technical conference to discuss a draft revision of 18 CFR 35.13, relating to the filing of information in support of a change in wholesale electric rates by public utilities. This will be a continuation of the conferences held on October 4 and 5, 1979 (44 FR 53538, September 14, 1979) and will deal with items not considered at that time, namely engineering, rate design and summary statements. The conference may be extended to two consecutive days. Full participation in the conference is by invitation. However, the public is invited to attend and questions will be taken from the floor as time permits. A transcript of the proceedings will be placed in the public record.

DATES: October 18, 1979 at 10:00 a.m.

ADDRESSES: Federal Energy Regulatory Commission, Hearing Room A, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION: Leo T. Markey, Federal Energy Regulatory Commission, Division of Rates and Corporate Regulation, Office of Electric Power Regulation, 825 North Capitol Street, N.E., Washington, D.C. 20426. (202) 275–4667.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32077 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. NI-2]

Revision to HUD 4900.1 Minimum Property Standards (MPS) for One- and Two-Family Dwellings

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of intent to file an Environmental Impact Statement.

SUMMARY: The Environmental Impact Statement will be for a change to incorporate appropriate portions of the model One- and Two-Family Dwelling Code and to remove those criteria from the MPS for One- and Two-Family Dwellings that do not bear directly on health, life, safety, legislative requirements and durability. These changes are:

1. In accordance with Task Force on Housing Costs recommendations for:
   a. reconciliation of the MPS with a nationally recognized consensus version of the One- and Two-Family Dwelling Code,
   b. arrangement of the MPS to allow design and construction of basic low-priced starter houses,
   c. removal of cost-increasing technical and design requirements from the MPS.
2. To make the criteria for HUD-associated housing more compatible to conventionally financed units.
3. To simplify and reduce the volume of the MPS and to eliminate conflicts in communities where the model code is in use.
4. To place responsibility for marketability decisions in the local field office and to reduce the architectural analysis work load in the field offices.
5. To encourage local jurisdictions to adopt the model One- and Two-Family Dwelling Code.
6. To conform with the Administration policy to reduce regulation and paperwork.

Additional changes have been made where possible to provide a basic measurement of workmanship to be added to the standards which are concerned primarily with materials and methods of construction. These requirements are similar to those proposed by the homeowner warranty program.

The proposed changes will be coordinated with the Farmers Home Administration and the Veterans Administration. Both of these agencies use the MPS in their programs.

DATES: Comments for this must be received on or before October 29, 1979. (10 days after publication). The estimated date for completion of the draft Environmental Impact Statement within HUD is October 1, 1979.

ADDRESS: Comments and requests for further information should be addressed to: Richard A. Gray, Office of Architecture and Engineering Standards, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Richard A. Gray, (202) 755–6590.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in Handbooks, MPS for One- and Two-Family Dwellings 4900.1, MPS for Multifamily Dwellings 4910.1, and MPS for Care-Type Housing 4920.1. The MPS are the standards for all new construction in HUD associated programs. The MPS are incorporated by reference into 24 CFR 200.929.

All substantive changes in the MPS are required by 24 CFR 200.933 to be published in the **Federal Register** using the same procedure as for the publication of regulations. The MPS for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of the Headquarters at the above address during business hours.

Alternatives considered in preparation of this proposal are:

1. No change to the MPS.
2. Elimination of all HUD Standards for One- and Two-Family Dwellings.
3. Location of all livability criteria in the Manual of Acceptable Practices to the HUD Minimum Property Standards.
4. Preparation of more suitable livability criteria for use in the MPS.
5. Development of the proposed rule which is the subject of this Notice.

(Sec. 7(d) of the Department of HUD Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., October 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-32069 Filed 10-17-79; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 208

[N-79-725]

Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under Section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR PART 208—PARTIAL PAYMENT OF CLAIM

This proposed rule would add a new 24 CFR Part 208 to enable the Secretary to request that the mortgagee, in lieu of assignment and full payment of the claim: (1) accept partial payment of the claim under the mortgage insurance contract; and (2) recast the remaining mortgage balance under the insured mortgage. The mortgagee would hold the reduced insured mortgage and the Secretary would hold a second mortgage for the amount of the partial payment under terms and conditions set by the Secretary. Participation by mortgagees would be voluntary.

(Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978).

Issued at Washington, D.C. October 11, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-32086 Filed 10-17-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Geological Survey

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Proposed Model Unit Agreement.

AGENCY: U.S. Geological Survey, Department of the Interior.

ACTION: Extension of Comment Period on Proposed Rules and Proposed Model Unit Agreement.

SUMMARY: The Department of the Interior hereby extends until November 5, 1979, the comment period on the proposed rules to govern the unitization of Outer Continental Shelf oil and gas leases and the proposed model unit agreement. The proposed rules and model unit agreement were published August 10, 1979 (44 FR 47109 and 47169 respectively), with the comment period scheduled to end October 9, 1979.

DATES: Comments must be received by November 5, 1979.

ADDRESSES: Responses should identify the subject matter and be directed to the Chief, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092.

FOR FURTHER INFORMATION CONTACT: Gerald D. Rhodes, Conservation Division, U.S. Geological Survey, National Center, Mail Stop 620, Reston, Virginia 22092 (703/860–7531).

J. S. Cragwall, Jr.,

Acting Director.

[FR Doc. 79-32059 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-31-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1341-3]

Proposed Delayed Compliance Order for FMC Corp., South Charleston, W. Va.

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior **Federal Register** notice proposing a Delayed Compliance Order for FMC Corporation at South Charleston, West Virginia. This action is being taken because FMC Corporation is no longer in violation of the West Virginia State Implementation Plan

V 44 0C 18 79 UMI

provisions covered by the proposed Order.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick M. McManus (3EN12), USEPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597–9893.

SUPPLEMENTARY INFORMATION: A Federal Register notice published at 43 FR 43336, (September 25, 1978) solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to FMC Coporation at South Charleston, West Virginia. FMC Corporation has subsequently achieved compliance with the West Virginia State Implementation Plan regulations covered by the Order. An inspection was conducted on August 30, 1979 and the plant was found to be in compliance with applicable provisions of the West Virginia State Implementation Plan.

In consideration of the foregoing, the proposal published in the Federal Register 43 FR 43336 on (September 25, 1978) entitled "Proposed Partial Approval and Partial Disapproval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to FMC, Corporation" is hereby withdrawn.

Dated: September 26, 1979.

Jack J. Schramm,

Regional Administrator, Region III.

[FR Doc. 79-32173 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 65

[FRL 1341-2]

Proposed Delayed Compliance Order for Monongahela Power Co., Harrison Power Station

AGENCY: Environmental Protection Agency.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The purpose of this notice is to withdraw a prior Federal Register notice proposing a Delayed Compliance Order for Monongahela Power at Haywood, West Virginia. This action is being taken because Monongahela Power Company is no longer in violation of the West Virginia State Implementation Plan provisions covered by the proposed Order.

EFFECTIVE DATE: October 18, 1979.

FOR FURTHER INFORMATION CONTACT: Patrick M. McManus (3EN12), USEPA, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania 19106, Telephone (215) 597–9893.

SUPPLEMENTARY INFORMATION: A Federal Register notice published at 43 FR 45405, (October 2, 1978) solicited public comments and offered the opportunity to request a public hearing on a proposed Delayed Compliance Order to be issued by EPA to the Monongahela Power Company at Haywood, West Virginia. Monongahela Power Co. has subsequently achieved compliance with the West Virginia State Implementation Plan regulations covered by the Order.

In consideration of the foregoing, the proposal published in the Federal Register 43 FR 45405 on (October 2, 1978) entitled "Notice of Proposed Approval of an Administrative Order Issued by the West Virginia Air Pollution Control Commission to Monongahela Power Co., Harrison Power Station" is hereby withdrawn.

Dated: September 26, 1979.

Jack J. Schramm,

Regional Administrator, Region III.

[FR Doc. 79-32175 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

ACTION

45 CFR Part 1205

Environmental Policy Analysis; Proposed Implementation Procedures

AGENCY: ACTION.

ACTION: Proposed Procedures for Implementing the National Environmental Policy Act.

SUMMARY: This notice proposes the agency procedures to be followed to comply with section 102(2) of the National Environmental Policy Act of 1969, as amended, (NEPA) (42 U.S.C. 4321, *et seq.*); Executive Order 11514 of March 5, 1970, entitled: "Protection and Enhancement of Environmental Quality;" and the Regulations issued by the Council on Environmental Quality (40 CFR Parts 1500–1508).

DATE: Comments by November 19, 1979, to Office of General Counsel, ACTION, Washington, D.C. 20525.

FOR FURTHER INFORMATION CONTACT: Louise E. Maillett, Assistant General Counsel, ACTION, at 202–254–8855.

SUPPLEMENTARY INFORMATION: (a) The National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*) establishes national policies and goals for the protection of the environment. Section 102(2) of NEPA contains certain procedural requirements directed toward the statement of such goals. In particular, all Federal agencies are required to give appropriate consideration to the environmental effects of their proposed actions in their decision-making and to prepare detailed environmental statements on recommendations or reports on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment.

(b) Executive Order 11991 of May 24, 1977, directed the Council on Environmental Quality (CEQ) to issue regulations to implement the procedural provisions of NEPA (NEPA Regulations). Accordingly, CEQ issued final NEPA Regulations on November 29, 1979, which are binding on all Federal agencies as of July 30, 1979. (40 CFR Parts 1500–1508). These regulations follow § 1507.3(b) of the NEPA regulations which identify those sections of the regulations that must be addressed in agency procedures.

(c) The following procedures apply to all actions of the ACTION agency which may affect the environmental quality in the United States. ACTION is in the process of reviewing its international activities to determine whether separate procedures for conducting environmental reviews under E.O. 12114 (January 4, 1979) are required because of potential effects on the environment of the global common areas or on the environment of foreign nations.

It is proposed to add Part 1205 to 45 CFR to read as set forth below:

PART 1205—PROCEDURES FOR ENVIRONMENTAL POLICY ANALYSIS

Sec.

1205.1 Purpose and scope.
1205.2 Early involvement in Private, State, and Local activities requiring Federal approval.
1205.3 Ensuring environmental documents are actually considered in Agency determinations.
1205.4 Typical classes of action.
1205.5 Environmental information.

Authority: National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*)

§ 1205.1 Purpose and scope.

(a) *Purpose.* This part implements the National Environmental Act of 1969 (NEPA) and provides for the implementation of those provisions identified in § 1507.3(b) of the regulations issued by the Council on Environmental Quality (CEQ) (40 CFR Parts 1500–1508) published pursuant to NEPA.

(b) *Scope.* This part applies to all actions of the ACTION agency which may affect environmental quality in the United States.

§ 1205.2 Early involvement in private, State, and local activities requiring Federal approval.

(a) 40 CFR 1501.2(d) requires agencies to provide for early involvement in actions which, while planned by private applicants or other non-federal entities, require some sort of Federal approval. Pursuant to the Domestic Volunteer Service Act of 1973, as amended (DVSA), (42 U.S.C. 4951 *et seq.*). ACTION, through both grants and the services of volunteers, provides the catalyst by which the communities and volunteers work together towards the betterment of their lives and their community.

(b) To implement the requirements of 40 CFR 1501.2(d) with respect to these actions, ACTION shall—

(1) Consult as required with other appropriate parties to initiate and coordinate the necessary environmental analysis.

(2) These responsibilities will be performed by the Office of Policy and Planning, in consultation with the Office of General Counsel. The Director of the Office of Planning and Policy shall determine on the basis of information submitted by private applicants and other non-federal entities or generated by ACTION whether the proposed action is one that normally does not require an environmental assessment or environmental impact statement, (EIS) as set forth in § 1205.4, or is one that requires an environmental assessment as set forth in 40 CFR 1501.4.

(c) To facilitate compliance with these requirements, private applicants and other non-Federal entities are expected to:

(1) Contact ACTION, Office of Policy and Planning, as early as possible in the planning process for guidance on the scope and level of environmental information required to be submitted in support of their application;

(2) Conduct any studies which are deemed necessary and appropriate by ACTION to determine the impact of the proposed action on the human environment;

(3) Consult with appropriate Federal, Regional, State and local agencies and other potentially interested parties during preliminary planning stages to ensure that all environmental factors are identified;

(4) Submit applications for all Federal, Regional, State and local approvals as early as possible in the planning process;

(5) Notify ACTION as early as possible of all other Federal, Regional, State, local, and Indian tribe actions required for project completion so that ACTION may coordinate all Federal environmental reviews; and

(6) Notify ACTION of all known parties potentially affected by or interested in the proposed action.

§ 1205.3 Ensuring environmental documents are actually considered in Agency determinations.

(a) 40 CFR 1505.1 of the NEPA regulations contains requirements to ensure adequate consideration of environmental documents in agency decision-making. To implement these requirements, ACTION officials shall—

(1) Consider all relevant environmental documents in evaluating proposals for agency action;

(2) Ensure that all relevant environmental documents, comments, and responses accompany the proposal through the agency review processes;

(3) Consider only those alternatives discussed in the relevant environmental documents when evaluating proposals for agency action.

(4) Where an EIS has been prepared consider the specific alternative analysis in the EIS when evaluating the proposal which is the subject of the EIS.

(b) For each of ACTION's principal programs authorized by the Domestic Volunteer Service Act, the following chart identifies the point at which the NEPA process begins, the point at which it ends, and the key agency officials or offices required to consider the relevant environmental documents as a part of their decision-making:

Program	Start of NEPA process	Completion of NEPA process	Key officials or offices required to consider environmental document
Grants: VISTA, Older Amercan, Title 1, Part C.	When proposal is received.	When deciding official reviews proposals and makes determination.	When positive determination made under § 1205.2(b), the applicant in conjunction with the Office of Policy and Planning will prepare the necessary environmental information.
Others	When proposal is ended.	When deciding official reviews proposals and makes determination.	When positive determination made under § 1205.2(b), the applicant in conjunction with the Office of Policy and Planning will prepare the necessary environmental information.

§ 1205.4 Typical classes of action.

(a) Section 1507.3(c)(2) in conjunction with § 1508.4 requires agencies to establish three typical classes of action for similar treatment under NEPA. These typical classes of action are set forth below:

Actions normally requiring EIS	Actions normally requiring assessments but not necessarily EIS's	Actions normally not requiring assessments or EIS's
None	Requests for ACTION grants or contracts for which determinations under § 1205.2(b) are found affirmative.	Request for assistance pursuant to the authority of the Domestic Volunteer Service Act, as amended (42 U.S.C. § 4951 *et seq.*).

(b) ACTION shall independently determine whether an EIS or an environmental assessment is required where—

(1) A proposal for agency action is not covered by one of the typical classes of action above; or

(2) For actions which are covered, the presence of extraordinary circumstances indicates that some other level of environmental review may be appropriate.

§ 1205.5 Environmental information.

Interested persons may contact Mr. David Gurr of the Office of Policy and Planning at (202) 254–8420 for information regarding ACTION's compliance with NEPA.

Signed at Washington, D.C., this 12th day of October 1979.

Sam Brown,

Director of ACTION.

[FR Doc. 79-32129 Filed 10-17-79; 8:45 am]

BILLING CODE 6050-01-M

V 4 4 0 C 1 8 7 9 UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[Gen. Docket No. 78-391]

Improvements to UHF Television Reception; Order Setting Deadline for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein sets date for reply comments in Docket 78-391, staff report *Comparability for UHF Television: A Preliminary Analysis.*

DATES: Comments must be filed on or before November 13, 1979 and Reply Comments must be filed on or before December 10, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Virginia Armstrong, Office of Plans and Policy (202) 653-5940.

SUPPLEMENTAL INFORMATION: In the Matter of improvements to UHF television reception; Order setting deadline for filing comments and reply comments (See also 44 FR 45227, August 1, 1979).

Adopted: October 4, 1979.

Released: October 10, 1979.

By the Office of Plans and Policy:

1. On September 11, 1979, the Commission approved delegated authority to the Office of Plans and Policy to file the staff reports of the UHF Comparability Task Force in Docket 78-391, and to set deadlines for filing comments and reply comments for those reports.

2. On that date the Commission approved submission of the document *Comparability for UHF Television: A Preliminary Analysis* into docket 78-391, and released it to the public.

3. The document is available for inspection in the FCC's Public Information Division.

4. Accordingly, IT IS ORDERED that the deadline for comments in the above mentioned report be set for November 13, 1979, and the deadline for reply comments be set for December 10, 1979.

Action is taken pursuant to Section 4(i) of the Communications Act of 1934, as amended.

Federal Communications Commission.

Nina W. Cornell,

Chief, Office of Plans and Policy.

[FR Doc. 79-32083 Filed 10-17-79; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 173 and 178

[Docket No. HM-166C; Notice No. 79-13]

Termination of Certain Regulations; Obsolete Packaging Specifications

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Materials Transportation Bureau (MTB), in its continuing effort to clarify and simplify the Hazardous Materials Regulations, believes that certain specification packagings are no longer being manufactured or in general use and is proposing their termination.

DATE: Comments by January 8, 1980.

ADDRESS: Send comments to: Dockets Branch, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT: Irving R. Abis, Exemptions and Regulations Termination Branch, Materials Transportation Bureau, Department of Transportation, Washington, DC 20590. (202-472-2726).

SUPPLEMENTARY INFORMATION: This notice proposes to eliminate 27 DOT specification packagings from Part 178 of the Hazardous Materials Regulations. It also would eliminate references to these specifications contained in Part 173. It is believed that these named specification packagings are no longer being manufactured or in general use. A preliminary review revealed that DOT Specification 2A metal containers are still being manufactured; however, it is believed that this specification could be deleted from Part 178 and revisions made to the eight sections in Part 173 which authorize a 2A container by requiring a tight metal container of not over 10-gallon capacity. The MTB believes that this revision would maintain the level of safety equivalent to requiring the use of a specification 2A container. This proposal would eliminate approximately 18 percent of the specifications contained in Part 178. It is believed that this termination effort will be an aid in simplifying the use of the regulations.

The MTB solicits comments from persons manufacturing or using any of the packagings which the MTB is proposing to delete. Comments should include: (1) The specification identification number of any of the listed packagings still in production; (2) the number of packagings affected by this proposal that are still in use and (3) the expected economic impact of elimination of any of the specifications. The MTB also requests information regarding other specification packagings which are obsolete.

The primary drafters of this notice are Irving R. Abis, Office of Hazardous Materials Regulation, Exemptions and Regulations Termination Branch, and Evan C. Braude, of the Office of the Chief Counsel, Research and Special Programs Administration.

In consideration of the foregoing, it is proposed to amend Part 173 and Part 178 of Title 49, Code of Federal Regulations, as follows:

PART 173—SHIPPERS GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

1. All references to Specifications proposed to be deleted from Part 178 would be deleted in Part 173.

PART 178—SHIPPING CONTAINER SPECIFICATIONS

2. In part 178 the following specifications would be deleted in their entirety

Section No.	Specification
178.20	2A—inside containers, metal cans, pails and kits.
178.38	3B—seamless steel cylinders.
178.40	3C—seamless steel cylinders.
178.41	3D—seamless steel cylinders.
178.43	3A480X—seamless steel cylinders.
178.48	4—forge welded steel cylinders.
178.49	4A—forge welded steel cylinders.
178.52	4C—welded and brazed steel cylinders.
178.84	5D—steel barrels or drums, lined.
178.85	5F—steel drums.
178.87	5H—steel barrles or drums, lead lined.
178.89	5L—steel barrels or drums.
178.91	5X—steel drums, aluminum lined.
178.92	5P—lagged steel drums.
178.97	6A—steel barrels or drums.
178.99	6C—steel barrels or drums.
178.101	6K—steel barrels or drums.
178.108	42C—aluminum barrels or drums.
178.110	42F—aluminum barrels or drums.
178.111	42G—aluminum drums.
178.112	42H—aluminum drums; removable head containers not authonzed.
178.119	17X—steel barrels or drums.
178.130	37K—steel drums.
178.136	42E—aluminum drums.
178.140	13—metal kegs.
178.214	23F—fiberboard boxes.
178.219	23H—fiberboard boxes.

Authority: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1, and paragraph (a)(4) App. A to Part 106.

Note.—The Materials Transportation Bureau has determined that this proposed regulation will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (44 FR 11034), nor an environmental impact under the National Environmental Policy Act (49 U.S.C. 4321 et seq.). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C. on October 12, 1979.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-32159 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 70-27; Notice 19]

Federal Motor Vehicle Safety Standards; Hydraulic Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking and invitation for applications for financial assistance in the preparation of comments.

SUMMARY: Analysis of accident data shows that light trucks and vans inflict substantial injuries on the other road users they strike. Because of the increasing popularity of light trucks and vans, the number of fatal and other accidents involving those vehicles is expected to increase unless action is taken to improve their accident avoidance capability. One important way to improve that capability is to reduce the current disparity between the braking capability for passenger cars and that of many light trucks and vans. In view of these data, NHTSA is proposing to amend Standard No. 105-75, *Hydraulic Brake Systems,* which currently only applies to passenger cars and school buses, to extend the applicability of the standard on a limited basis to trucks, all types of buses, and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of more than 10,000 pounds and on a general basis to trucks, all types of buses, and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less. The proposal would also upgrade the current performance requirements set for school buses. These requirements would result in reduced motor vehicle deaths and injuries by providing drivers with improved braking capability and warnings about possible brake system failures.

DATES: Comments must be received on or before February 15, 1980. Applications for financial assistance in commenting on this notice must be received on or before December 3, 1979. The proposed effective date for the extension of Standard No. 105-75 is September 1, 1981.

ADDRESSES: Comments should refer to the docket number and must be submitted in writing to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. All applications for financial assistance should be submitted in writing to: Ms. Ann E. Mitchell, Public Affairs and Consumer Participation, National Highway Traffic Safety Administration, Room 5232, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-0670).

FOR FURTHER INFORMATION CONTACT: Mr. George L. Parker, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-2720).

Background

Standard No. 105-75 currently sets performance requirements for passenger cars and school buses. This notice proposes an amendment to Standard No. 105-75, *Hydraulic Brake Systems* (49 CFR 571.105-75) which would upgrade the performance requirements for school buses and extend the applicability of the standard on a limited basis to trucks, all types of buses and multipurpose passenger vehicles (MPV's), e.g., passenger vans with a gross vehicle weight rating (GVWR) of more than 10,000 pounds.

This notice proposes to extend the standard on a general basis to trucks, buses and MPV's with a GVWR of 10,000 pounds or less. For those vehicles, performance requirements are proposed covering such areas as vehicle stopping distances from various speeds with the vehicle in the empty and loaded condition, and with the brake system in the intact and partially failed condition. Those vehicles would also have to meet performance requirements covering brake fade and water recovery, parking brake grade holding ability, maximum and minimum limits on control force for service and parking brakes, master cylinder labeling and reservoir capacity and brake system integrity.

All hydraulic brake equipped trucks, buses and MPV's, regardless of GVWR, would have to meet requirements for brake system failure warning systems, provide braking capability in the event of a partial failure of the service brake system, and master cylinder labeling and reservior capacity requirements. The agency intends to establish additional performance requirements for trucks, buses and MPV's with a GVWR of more than 10,000 pounds in future rulemaking.

This proposal is a continuation of prior NHTSA rulemaking on Standard No. 105-75. In November 1970, the agency issued a notice of proposed rulemaking that would have upgraded passenger car braking requirements and extended the applicability of the standard to trucks, buses and MPV's (35 FR 17345, Nov. 11, 1979). A final rule was adopted in September 1972 (37 FR 17970, Sept. 2, 1972) setting an effective date of September 1, 1974. Subsequently, in response to numerous petitions for reconsideration, the effective date was twice postponed and substantial revisions were made to lessen the stringency of the original performance requirements (Feb. 1, 1973, 38 FR 3047; May 18, 1973 38 FR 13017; Feb. 22, 1974, 39 FR 6708; and July 15, 1974, 39 FR 25943). In March 1975, the agency, in response to 13 petitions seeking postponement or revocation of the standard, proposed an indefinite delay in the standard as it applied to trucks, buses and MPV's. (March 6, 1975, 40 FR 10483). Finally, in April 1975, the agency indefinitely delayed application of the standard to trucks, buses and MPV's. The agency determined that while the safety benefits of the standard were considerable, the substantial costs associated with the standard, particularly for heavy trucks, warranted delaying the standard. (40 FR 18411, April 28, 1975).

In satisfaction of the mandate of the Motor Vehicle and School Bus Safety Amendements of 1974 (Pub. L. 93-492), NHTSA proposed requirements for school buses in April 1975 (40 FR 18469, April 28, 1975). As a result of the limited leadtime mandated by the Congress, the final rule adopted by the agency was based on the performance levels set in the Society of Automotive Engineers recommended practices (41 FR 2391, January 16, 1976). Compliance testing done by the agency shows that current level of performance in today's better school buses is much higher than the performance requirements originally set by the agency. This notice would upgrade the standard to require improved levels of performance in all school buses.

Since 1975, sales of light trucks, vans and on/off road vehicles have increased substantially and, despite a recent sales slump, are expected to continue growing at a rapid rate. As the number of light trucks, vans and on/off road vehicles has increased, so has the number of deaths in those vehicles. Data from the agency's Fatal Accident Reporting System show that light truck, bus and

V 4 4 O C 1 8 7 9 UMI

MPV occupant fatalities rose from 4,672 in 1975 to 6,585 in 1978, a 40.9 percent increase. During the same time period, there was only a 7.4 percent increase in passenger car occupant fatalities, from 25,929 to 27,844.

Because of the increased safety need created by the rising number of light truck, bus and MPV deaths, NHTSA proposes to adopt many of the performance requirements contained in the rule delayed in 1975. Since 1975 many manufactureres have gradually improved the braking capability of some of their light trucks, buses and MPV's in anticipation of the agency reinstating the prior braking requirements. Thus, the costs of complying with the proposed standard are substantially below the cost associated with the 1975 rule. The proposed rule will preserve the improvements voluntarily made by many manufacturers and improve the braking capability of the remaining vehicles.

The agency also wants to ensure that efforts to improve the fuel economy of light trucks, buses and MPV's are coordinated with the effort to improve brake performance. Reducing the weight of the vehicle is one major way of improving fuel economy. Since the brake system is composed of many heavy parts, such as brake discs, drums and calipers, it is a possible target for weight reduction. However, too much weight reduction in the drums and discs may reduce the heat absorption capabilities of those parts so that the vehicle's stopping distance is increased and its fade resistance is reduced. Adoption of mandatory brake system performance requirements will ensure that these vehicles have adequate braking capability even if the weight of the brake system is reduced to improve fuel economy.

Adoption of the rule should reduce the present disparity between the stopping capability of many trucks, buses and MPV's and that of the small and lighter passenger cars travelling in the same stream of traffic. Improving light truck, bus and MPV accident avoidance capability by providing those vehicles with improved brakes should bring about a reduction in motor vehicle deaths and injuries. Analysis of available fatal accident data clearly shows the aggressivity of light trucks, buses and MPV's in collisions with other road users. NHTSA's analysis of data for 1975–78 from the agency's Fatal Accident Reporting System shows that in fatal accidents involving light trucks, buses and MPV's, those vehicles cause more than twice as many fatalities per accident than passenger cars to the pedestrians, cyclists and occupants of the other vehicles with which they collided.

The aggressivity of light trucks, buses and MPV's in accidents with passenger cars is of concern, since the light truck, bus and MPV population has increased dramatically in the past 10 years, and is projected to have a continuing high growth rate. From 1968 to 1977, the number of trucks, buses and MPV's in use increased 80 percent, from 15.7 million to 28.2 million. (Light trucks, buses and MPV's accounted for 89 percent of all new truck, bus and MPV sales in 1977.) During the same period, the passenger car population rose 32 percent, from 75.4 million to 99.9 million. It has been projected that the light truck, bus and MPV population will reach 58 million by 1990, more than double the 1978 population, as compared with a 26 percent increase estimated for passenger cars over the same time span. Unless action is taken to improve the accident avoidance capability of those vehicles, the numbers of accidents involving light trucks, buses and MPV's will markedly increase.

Effectiveness Requirements

The cruicial test of a brake system is its effectiveness in bringing the vehicle to a quick and controlled stop in an emergency situation. To provide for acceptable brake system effectiveness, the proposal would require trucks, buses and MPV's with a GVWR of 10,000 pounds or less to make a stable stop in specified distances from various speeds while remaining within a 12-foot wide lane during the stop. The test conditions for the stopping distance requirements represent the variety of real world situations that a vehicle driver may face in making an emergency stop. Thus, the brakes would be tested in a pre-burnish condition, representing brakes on new vehicles that have not been broken-in. In addition, the brakes would be tested in a burnished or broken-in condition and after experiencing a series of fade tests, representing the high brake temperature created by prolonged or severe use. The vehicles would also be tested in both fully loaded and lightly loaded conditions.

The stopping distances proposed in this notice are essentially the same as those contained in the standard delayed in 1975. Research done by the agency's Safety Research Laboratory in Ohio, copies of which have been placed in the docket, as well as confidential test results submitted by vehicle manufacturers show that many current vehicles can meet the proposed performance requirements with little or no modification. The current level of compliance is due to manufacturers upgrading their vehicles in anticipation of the agency reinstating the performance requirements delayed in 1975.

Although trucks, buses and MPV's can theoretically stop in as short a distance as passenger cars, there are certain differences between those vehicles which make accomplishing that goal more difficult for trucks, buses and MPV's. The primary differences are the greater loaded to empty weight ratio of trucks, MPV's and buses, the higher center of gravity found in those vehicles, which results in greater dynamic weight transfer during braking, the greater variations in loaded and empty weight distribution that occur in those vehicles and the lower traction capabilities of truck tires. All of these factors make it difficult to produce a brake system which will provide the appropriate brake capacity for each axle under all braking load conditions without requiring overly powerful brakes or highly sensitive brake pedal forces. Although anti-lock braking system could overcome these problems there is no field-tested anti-lock system for hydraulic-braked vehicles commercially available at this time. The agency's proposal takes these factors into account and sets slightly longer stopping distance requirements for light trucks, buses and MPV's than for passenger cars. For example, the current standard requires passenger cars to stop in 194 feet from 60 mph in a lightly loaded condition. This notice proposes a stopping distance of 216 feet for trucks, buses and MPV's with a GVWR of less than 8,000 pounds under the same conditions and, as explained below, a range of stopping distances of from 228 to 242 feet for lightly loaded trucks, buses and MPV's with a GVWR between 8,000 and 10,000 pounds.

The agency is about to begin vehicle testing for the purposes of further upgrading the performance requirements of the standard for light trucks, buses and MPV's in future rulemaking. The testing will also examine ways to simplify the current tests procedures of the standard. The agency is seeking suggestions from manufacturers and other interested parties about specific vehicles the agency should test in order to obtain information about problems that may be uniquely or disproportionately experienced by some vehicles and classes of vehicles in meeting upgraded requirements. The agency will consider suggestions received within 30 days of publication of this notice. The suggestions should be sent to the docket at the address given at the beginning of this notice.

As previously mentioned, this notice proposes that one category of light trucks, buses and MPV's, those with GVWR of more than 8,000 pounds or more, have slightly longer stopping distances than other light trucks, buses and MPV's in one particular test. During the agency's prior hydraulic brake rulemaking, manufacturers said that vehicles with a GVWR of more than 8,000 pounds have unique design problems that complicate their compliance with the lightly loaded stopping distance requirements. In order to stop in as short a distance as lighter vehicles, vehicles with a GVWR of 8,000 pounds or more must have powerful rear brakes to meet the fully-load stopping distance tests. However, when the vehicle is stopped in a lightly-loaded condition, the powerful brakes can cause wheel lock-up and resulting vehicle instability. Because of the present unavailability of field-tested antilock systems for these vehicles, the agency proposes to only lengthen the stopping distance requirements set for light trucks, buses and MPV's with a GVWR of 8,000 or more pounds when tested in a lightly-loaded condition. The stopping distances for vehicles with a GVWR of 8,000 or more pounds would not be changed for any other stopping distance tests.

Based on tests conducted by the agency's Safety Research Laboratory and the confidential test data supplied by the industry, the agency believes that, for example, the stopping distance from 60 mph for lightly loaded trucks, buses and MPV's with a GVWR of 8,000 or more pounds coud be at least 228 feet, but not more than 242 feet. Comments are requested on the appropriateness of the 8,000 lbs. boundary, on the lengthening of the lightly-loaded stopping distances rather than the fully-loaded stopping distances and on what should be the exact stopping distance set within the ranges proposed for various speeds in the lightly-loaded stopping distance tests.

Fade and Water Recovery

The proposed brake fade and recovery tests would require adequate stopping power for brake systems exposed to the high brake temperatures caused by prolonged or severe use, such as is found in long, downhill driving. The proposal would require trucks, buses and MPV's with a GVWR of 10,000 pounds or less to undergo two series of 60 mph stops to ensure that the brake system does not lose its heat absorbing capacity after repeated exposure to high temperatures. The fade tests would be followed by five 30 mph recovery stops. The maximum brake pedal force could not exceed 150 pounds and the minimum brake pedal force could not be less than 5 pounds.

The water recovery requirements measure the brake systems ability to perform adequately after immersion in water. Each vehicle would be driven for 2 minutes at a speed of 5 mph through a water-filled trough and then have to make five stops from 30 mph. Again, the maximum and minimum pedal force would be limited.

Partial System Failure

If a part of the service brake system should fail, it is crucial that the vehicle brakes still be capable of bringing the vehicle to a controlled stop in a reasonable distance. To ensure brake systems have a residual braking capability, the proposal sets performance requirements for all trucks, buses and MPV's in stopping tests from 60 mph with a partial system failure. Vehicles with a GVWR of 10,000 lbs. or less would be required to stop in 517 feet while vehicles with a GVWR above 10,000 pounds would be required to stop in 613 feet.

Many manufacturers currently provide so-called split brake systems to provide braking capacity in the event of a partial failure. The split system consists of two or more brake subsystems, each of which is not affected by leakage or failure in the other subsystem. The proposed performance requirements would ensure that a split or a redundant brake system is used in all hydraulic brake equipped vehicles.

In addition to the stopping distance requirements for partially failed service brake systems, the proposal would also set requirements for brake systems with failed brake power-assist units or brake power units. (The distinction between the two types of units is that a brake power-assist unit has a push-through capability, i.e., the driver can apply additional muscular effort and obtain braking action. A brake power unit does not have this capability. If power is lost, a driver cannot increase braking force by additional muscular effort on the pedal.) The suddent loss of a brake power-assist unit, which occurs when a vehicle stalls, can substantially increase the force needed to activate the brake system control. The sudden increase in force needed to activate the brakes can impair the driver's ability to bring the vehicle to a controlled stop. The proposal would, for example, require vehicles with a GVWR of 10,000 lbs. or less to stop from 60 mph in 517 feet with an inoperative brake power-assist unit or brake power unit, and vehicles with a GVWR greater than 10,000 lbs. to stop in 613 feet from the same speed.

Equipment Integrity

To alert drivers to possible dangerous conditions in the brake system, such as a leak in the system, the proposals would require manufacturers to equip all trucks, buses and MPV's, regardless of GVWR, with brake indicator signals to warn the driver of a failure so that he or she can take appropriate precautionary action. As with passenger cars, manufacturers would have the option of equipping their vehicles with either a brake fluid level indicator (BFLI), which would indicate a slow seepage type of failure, or a gross loss of pressure indicator (GLPI), which would indicate a sudden rupture-type failure. A manufacturer using a GLPI would have the option of having the brake system indicator lamp turn on when a gross pressure failure is due to any of the following conditions: (a) Before or upon application of 50 pounds of pedal force on a fully manual operated service brake; (b) Before or upon application of 25 pounds on a service brake with a brake power assist unit; (c) When the supply pressure in a brake power unit drops to not less than one-half of the normal system pressure; (d) Before or upon application of a differential pressure of not not more than 225 lb/in ^{2} between the active and failed brake system measured at the master cylinder outlet or a slave cylinder outlet. Vehicles using a BFLI would have to have the brake system indicator lamp turn on when the level of brake fluid in any master cylinder reservoir compartment is less than the recommended safe level specified by the manufacturer or is equal to one-fourth of the fluid capacity of the reservoir compartment, whichever is greater.

In addition, a brake system indicator lamp must light when there is an electric failure in an antilock or brake proportioning system, if the vehicle is equipped with such a device, and when the parking brake is applied.

The ability of the brake system of trucks, buses and MPV's with a GVWR of 10,000 lbs. or less to withstand sever brake application without loss of brake systemstructural integrity would be measured by a series of "spike" stops (i.e., an extremely suddent stop in which 200 pounds of pedal force is applied to the brake control in 0.08 seconds) from 30 mph.

Parking Brakes

In normal usage, vehicles are parked, in loaded and unloaded conditions, on steep hills (i.e. up to 30 percent grades).

V 4 4 O C 1 8 7 9 UMI

To provide adequate grade holding performance, the proposal would require the parking brake systems on trucks, buses and MPV's with a GVWR of 10,000 pounds or less to hold the vehicle stationary for 5 minutes in both a forward and reverse direction on a 30 percent grade. If the vehicle is equipped with a mechanism that locks the transmission to prevent vehicle movement when the transmission control is placed in park or other gear position and the ignition key is removed, a manufacturer could instead comply with the following three requirements: (a) with the parking brake and transmission parking mechanism engaged, hold the vehicle stationary on a 30 percent grade for 5 minutes in both a forward and reverse direction; (b) with only the parking brake engaged, hold the vehicle stationary for 5 minutes in the forward and reverse direction on a 20 percent grade or; (c) with only the transmission parking mechanism engaged, be impacted front and rear on a level surface by a 4,000 poundmoving barrier without having its parking mechanism disengage or fracture.

Technical Amendments

The agency is proposing two minor technical amendments to the standard's testing conditions. The first amendment provides that since some light trucks, buses and MPV's have main and auxiliary fuel tanks, all of a vehicle's fuel tanks are to be filled in establishing the vehicle's GVWR test weight. The second amendment provides that dual wheels (i.e., two wheels physically joined together on one side of an axle) are considered one wheel for the purposes of determining whether the vehicle complies with the requirement that not more than one wheel of the vehicle may lockup during certain of the performance tests. Since dual wheels are joined together, if one of the wheels experiences lockup, then the other wheel in the combination must also lockup. The no lockup provision of the standard is aimed at prohibiting lockup of wheels on both aides of an axle. It does not apply to wheels located on the same end of an axle.

Costs and Benefits

The National Traffic and Motor Vehicle Safety Act is a precautionary statute that directs the agency to issue vehicle safety standards to protect the public against unreasonable risk of vehicle accidents and of death or injury occurring as a result of such accidents.

In carrying out the congressional mandate to reduce the risk of vehicle accidents through issuing accident avoidance standards, the agency is confronted with special inherent problems that limit the degree of certainty and precision achievable in estimating the effectiveness and therefore benefits of proposed standards. The agency's engineering and accident analyses lead it to believe that certain vehicle improvements will facilitate the performance of the driver's task and thereby improve safety.

Predicting the precise level of improvement is complicated, however, since analysis of accident causation requires consideration of the contributions by multiple interrelated driver, vehicle, highway, and environmental factors. Isolating individual factors and determining their relative importance is extremely difficult and oftern impossible. Similar difficulties are encountered in trying to predict the effectiveness particular remedies will have in reducing accidents.

Given the duty to act in the area of accident avoidance notwithstanding the inherently greater measure of imprecision and uncertainty, the agency has proceeded to develop and issue accident avoidance standards while attempting within its capabilities to quantify the benefits of the standards and limit the uncertainty. Because of the inevitable residual uncertainty, the decisionmaking regarding accident avoidance standards necessarily rests in part on policy judgment.

The agency has considered the economic and other impacts of this proposal and determined that they are not significant within the meaning of Executive Order 12044 and Department of Transportation's policies and procedures for implementing that order. The agency's reasonable assessment of the benefits and the economic consequences of this proposal are contained in a regulatory evaluation which has been placed in the docket. Copies of that regulatory evaluation can be obtained by writing NHTSA's docket section, at the address given in the beginning of this notice.

The agency also has reviewed the proposed rule and concluded that it has no environmental impact. A copy of the environmental review has been placed in the docket.

It is difficult to quantify many of the benefits attributable to the improved brake performance that will result from meeting the performance requirements of this proposal. For example, while the brake fade performance requirements are designed to provide adequate stopping power for brake systems exposed to the high brake temperatures caused by prolonged or severe use, such as is found in long, downhill driving. Is impossible to tell from mass accident data how many lives saved or injuries prevented will be due to the brake fade requirements.

The brake standard relates to a sensitive vehicle operational system. Even a relatively modest improvement in braking capabilities could be helpful in averting accidents, especially nonfatal accidents. Furthermore, as the 1975 study by the University of Indiana Institute for Research in Public Safety (IRPS) reports, small percentage reductions in stopping distance consistently result in proportionately larger reductions in accidents or accident severity. A copy of the IRPS study is in the docket.

Many manufacturers have gradually improved the brake systems of their truck, buses and MPV's in anticipation of this rulemaking. As a consequence, the types of brake system modifications which are necessary to satisfy the requirements of this standard will affect less than 18% of the total vehicles under consideration based on the 1978 level of sales. Approximately 17% of those vehicles with a GVWR of 10,000 lbs. or less will require some equipment modifications to comply with this standard. The typical engineering modifications anticipated involve: the parking brake system, power brake system, brake shoes, lining, wheel cylinders, combination valve and master cylinder. NHTSA estimates that the average cost is approximately $21 for each vehicle modified, resulting in a total cost of approximately $11.8 million. When the cost is estimated on the basis of per vehicle produced rather than a per vehicle modified basis, the cost is reduced to only $3 per vehicle.

For medium to heavy trucks (i.e., those vehicles with a GVWR over 10,000 lbs.), compliance with the standard will cost approximately $54 per vehicle modified or $13 per vehicle produced for a total of $2.6 million. to meet the partial failure and warning indicator requirements set in the standard, manufacturers must make engineering modifications to or additions of: a dual master cylinder, pressure differential valve, warning lamp and power brake system. Though approximately 24% of the total vehicles of this weight group will be affected by the standard, the total population is relatively small when compared to vehicles with a GVWR of 10,000 lbs. or less: 48,800 vehicles compered to 3,825,000, respectively.

Applications for Financial Assistance

NHTSA invites all qualified individuals and organizations financially unable to participate in this proceeding to apply for financial assistance. Interested persons should note, however, that the Department of Transportation's Appropriations Bill for fiscal year 1980 has not been passed by the Congress and therefore, funds for such financial assistance are not available at this time. NHTSA will inform individuals and organizations submitting applications for finanical assistance about the availability of funds once the Congress takes final action on the bill.

All applications submitted before the deadline specified at the beginning of this notice will be examined by an evaluation board, composed of NHTSA and other Department of Transportation officials, to determine whether each applicant is eligible to receive funding. Consideration of late applications is at the discretion of the evaluation board.

In general, an applicant is eligible if its participation would contribute substantially to a full and fair determination of the issues involved in the proceeding, taking into consideration the novelty, complexity, and significance of the ideas advanced and the ability of the applicant to represent the interests it espouses competently. Additionally, it must be demonstrated that the applicant does not have sufficient resources available to participate effectively in the proceeding in the absence of an award under this program.

If more than one applicant representing the same or similar interest is deemed eligible, the board will either select the applicant which can make the strongest presentation or select more than one applicant if justified. Compensation is to the extent the agency's budget for this purpose will permit. Payment is made as soon as possible after the selected applicant has completed its work and submitted a claim, but not later than 60 days after a completed claim is submitted.

Each applicant should specify in its application which rulemaking actions and issues it proposes to address if its application for funding is approved, and the nature of its proposed work product. Applicants must submit as part of their application all information required by section 5.49 of the recently revised DOT regulations governing this financial assistance program (44 FR 4675; January 23, 1979). Failure to submit the required information may result in delays in evaluation and possible disqualification of the application.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the address for comments given above. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter, or in the case of a corporation, a responsible corporate official authorized to speak for the corporation, must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of 5 U.S.C. 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to ensure that none of the specified items has previously been released to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the c'osing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The principal authors of this notice are George L. Parker, Office of Vehicle Safety Standards, and Stephen L. Oesch, Office of Chief Counsel.

§ 571.105–75 [Amended]

In consideration of the foregoing, it is proposed that the following amendments be made in § 571.105–75, Chapter V of Title 49, Code of Federal Regulations:

1. Section S3 would be amended to read:

S3 *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses with hydraulic service brake systems.

2. Section S5.1 would be amended to read:

S5.1 *Service brake systems.* Each passenger car and each multipurpose passenger vehicle, truck and bus with a GVWR of 10,000 lbs. or less, and each school bus with a GVWR of greater than 10,000 lbs. shall be capable of meeting the requirements of S5.1.1 through S5.1.6 under the conditions prescribed in S6, when tested according to the procedures and in the sequence set forth in S7. Each multipurpose passenger vehicle, truck, and bus (other than a school bus) with a GVWR greater than 10,000 lbs. shall meet the requirements of S5.1.2 and S5.1.3 under the conditions specified in S6 when tested according to the procedures and in the sequence set forth in S7. Except as noted in S5.1.1.2 and S5.1.1.4, if a vehicle is incapable of attaining a speed specified in S5.1.1, S5.1.2, S5.1.3, or S5.1.6, its service brakes shall be capable of stopping the vehicle from the multiple of 5 mph that is 4 to 8 mph less than the speed attainable in 2 miles, within distances that do not exceed the corresponding distances specified in Table II. If a vehicle is incapable of attaining a speed specified in S5.1.4 in the time or distance interval set forth, it shall be tested at the highest speed attainable in the time or distance interval specified.

3. Section S5.1.1.2 would be amended to read:

S5.1.1.2 In the second effectiveness test, the vehicle shall be capable of stopping from 30 and 60 mph within the corresponding distances specified in column II of Table II. If the speed attainable in 2 miles is not less than 84 mph, a passenger car or other vehicle with a GVWR of 10,000 pounds or less shall also be capable of stopping from 80 mph within the corresponding distances specified in column II of Table II.

4. The second sentence of section S5.1.1.4 would be amended by adding after the words "passenger car" the words "or other vehicle with a GVWR of 10,000 lbs. or less."

V 44 0C 18 79 UMI

5. Section S5.1.3 would be amended to read:

S5.1.3 *Inoperative brake power assist unit or brake power unit.* A vehicle equipped with one or more brake power assist units shall meet the requirements of either S5.1.3.1, S5.1.3.2, or S5.1.3.4 (chosen at the option of the manufacturer), and a vehicle equipped with one or more brake power units shall meet the requirements of either S5.1.3.1, S5.1.3.3, or S5.1.3.5 (chosen at the option of the manufacturer).

6. Sections S5.1.3.2(b) and S5.1.3.3(b) would be amended to read:

(b) In a final stop, at an average decelerating that is not lower than 7 FPSPS for passenger cars (equivalent stopping distance 554 feet) or 6 FPSPS for vehicles other than passenger cars (equivalent stopping distance 646 feet), as applicable, when the inoperative unit is depleted of all reserve capacity.

7. Section S5.1.6 would be amended to read:

S5.1.6 *Spike stops.* Each vehicle with a GVWR of 10,000 lbs. or less shall be capable of making 10 spike stops from 30 mph, followed by 6 effectiveness (check) stops from 60 mph, at least one of which shall be within a corresponding stopping distance specified in column I of Table II.

8. Section S5.2 would be amended by amended by adding after the word "vehicle" in the first sentence the words, "with a GVWR of 10,000 lbs. or less and each school bus with a GVWR greater than 10,000 lbs.

9. Section S5.2(a) would be amended by removing the words "passenger car" and inserting in their place the words, "vehicle with a GVWR of 10,000 lbs. or less."

10. Section S5.2(b) would be amended by inserting after the words "school bus", the words "with a GVWR greater than 10,000 lbs."

11. Section S6.1.2 would be amended to read:

S6.1.2 For the applicable tests specified in S7.7, S7.8, and S7.9, vehicle weight is lightly loaded vehicle weight, with the added weight distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles, and trucks, and in the area adjacent to the driver's seat in buses.

12. Section S7 would be amended by inserting the word "applicable" before the word "requirements" in the first sentence and inserting the following sentence after the first sentence, "(For vehicles only having to meet the requirements of S5.1.2 and S5.1.3 in section S5.1, the applicable test procedures and sequence are S7.1, S7.2, S7.4, S7.9, S7.10 and S7.18.)"

13. Section S7.5 would be amended to read:

S7.5 *Service brake system—second effectiveness test.* Repeat S7.3. Then (for passenger cars and other vehicles with A GVWR of 10,000 lbs. or less) make four stops from 80 mph if the speed attainable in 2 miles is not less than 84 mph.

14. Section S7.7.1.3 (a) and (b) would be amended to read:

(a) In the case of a passenger car or other vehicle with a GVWR of 10,000 lbs. or less, not more than 125 pounds for a foot-operated system, and not more than 90 pounds for a hand-operated system; and

(b) In the case of a school bus with a GVWR greater than 10,000 lbs. not more than 150 pounds for a foot-operated system, and not more than 125 pounds for a hand-operated system.

15. Section S7.10.2 would be amended to delete the words "passenger cars only" from the title of the section.

16. Section 5.1.1.3 would be amended by adding a new second sentence to read: However, a vehicle other than a passenger car with a GVWR of between 8,000 and 10,000 pounds may stop within the corresponding distance specified in parentheses in column III(b) of Table II.

17. Table 11 would be amended by revising subcolumn (b) under column I to read:

30	[1]65
35	83
40	108
45	137
50	169
55	204
60	[1]242
80	[1]454
95	694
100	769

18. Table II would be amended by revising subcolumn (b) under column II to read:

30	57
35	74
40	96
45	121
50	150
55	181
60	[1]216
80	[1]430
95	(2)
100	

19. Table II would be amended by revising subcolumn (b) under column III to read:

30	57 (61-65)
35	74 (78-83)
40	96 (101-108)
45	121 128-137)
50	150 (158-169)
55	181 (191-204)
60	[1]216 (228-242)
80	(2)
95	(2)
100	

20. Table II would be amended by revising subcolumn (b) under column IV to read:

30	130
35	176
40	229
45	291
50	300
55	433
60	[1]517
80	(2)
95	(2)
100	

21. Table II would be amended by revising subcolumn (c) under column IV to read:

30	170
35	225
40	288
45	358
50	435
55	530
60	[1]613
80	(2)
95	(2)
100	

22. Table III would be amended to read:

BILLING CODE 4910-59-M

TABLE III -Inoperative brake power assist and brake power units

Stop No.	Average deceleration, FPSPS				Equivalent stopping distance, feet			
	Column 1-Brake power assist		Column 2-Brake power unit		Column 3-Brake power assist		Column 4-Brake power unit	
	(a)	(b),(c)	(a)	(b),(c)	(a)	(b),(c)	(a)	(b),(c)
1	16.0	14.0	16.0	13.0	242	277	242	298
2	12.0	12.0	13.0	11.0	298	323	298	352
3	10.0	10.0	12.0	10.0	323	388	323	388
4	9.0	8.5	11.0	9.5	352	456	352	409
5	8.0	7.5	10.0	9.0	388	517	388	431
6	7.5	6.7	9.5	8.5	409	580	409	456
7	17.0	16.0	9.0	8.0	431	646	431	484
8	NA	NA	8.5	7.5	456	NA	456	517
9	NA	NA	8.0	7.0	484	NA	484	554
10	NA	NA	7.5	6.5	517	NA	517	596
11	NA	NA	17.0	16.0	554	NA	554	646

[1] Depleted.

(a) Passenger cars
(b) Vehicles other than passenger cars with GVWR of 10,000 lbs or less.
(c) Vehicles other than passenger cars with GVWR greater than 10,000 lbs.
NA = Not applicable.

BILLING CODE 4910-59-C

V 44 0C 18 79 UMI

23. The first sentence of section S6.1.1 would be amended to read:

S6.1.1 Other than tests specified at lightly loaded vehicle weight in S7.7, S7.8, and S7.9, the vehicle is loaded to its GVWR such that the weight on each axle as measured at the tire—ground interfaced is in proportion to its GAWR, except that each fuel tank is filled to any level from 100 percent of capacity (corresponding to full GVWR) to 75 percent.

24. Section S6.10 would be amended to read as follows:

S6.10 *Vehicle position.* The vehicle is aligned in the center of the roadway at the start of each brake application. Stops, other than spike stops, are made without any part of the vehicle leaving the roadway. Except as noted below, stops are made without lockup of any wheel at speeds greater than 10 mpg. There may be controlled lockup on an antilock-equipped axle, and lockup of not more than one wheel per vehicle, uncontrolled by an antilock system. (Dual wheels on one side of an axle are considered a single wheel.) Locked wheels at speeds greater than 10 mph are allowed during spike stops (but not spike check stops), partial failure stops and inoperative brake power or power assist unit stops.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 12, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79–32170 Filed 10–17–79; 8:45 am]

BILLING CODE 4910–59–M

---

49 CFR Part 571

[Docket No. 79–03; Notice 2]

Heavy Duty Vehicle Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes the early implementation of a portion of a new safety standard on heavy duty vehicle brakes. The proposed standard would require vehicles over 10,000 lbs, to have service brakes that act on all wheels. This action is being taken to prevent a serious downgrading in the safety of existing truck brake systems.

DATES: Comment closing date: December 3, 1979.

EFFECTIVE DATE: Since this proposal would impose no additional burdens on manufacturers, it would become effective upon publication of the final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and be submitted to: Docket Section, Room 5108, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Scott Shadle, Crash Avoidance Division, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (202–426–2153)

SUPPLEMENTARY INFORMATION: This notice proposes the establishment of a small part of a new safety standard, Standard No. 130, *Heavy Duty Vehicle Brake Systems.* When fully implemented, Standard No. 130 will be the agency's major standard regulating the brake systems on heavy duty vehicles. As a first step in establishing that new standard, the agency issued an Advance Notice of Proposed Rulemaking (ANPRM) (44 FR 9783, February 15, 1979) soliciting comments on various related issues. Although most of the comments on this ANPRM will be discussed in a future notice, it is appropriate to address some of them here.

One commenter, the Insurance Institute for Highway Safety (IIHS), suggested that the agency not limit the applicability of FMVSS 130 to air braked vehicles, but rather extend it to cover all heavy duty vehicles regardless of the means of brake actuation. The NHTSA's plans, prior to the court decision on FMVSS 121 in *PACCAR v. NHTSA*, 573 F.2d 632 (9th Cir. 1978), cert. denied, October 2, 1978, had been to extend FMVSS 105–75, *Hydraulic Brake Systems*, to trucks and then at some later date either combine Standards 105–75 and 121, or revise them both to eliminate differences in performance requirements for heavy duty vehicles. As a result of the Ninth Circuit Court decision, however, new requirements need to be written for both air and hydraulic braked heavy duty vehicles, and the NHTSA believes it would be most prudent to promulgate the combined regulation from the outset. This approach also has the advantage that the standard can include requirements for trailers having electrically-actuated brakes, which do not fit under either the air or hydraulic category.

In another comment to the ANPRM, the American Bus Association (ABA) requested that intercity buses be addressed by a regulation separate from that for trucks. The agency has not decided whether or not ABA's request should be adopted, but the proposed rulemaking action is directed toward trucks and trailers at this time, with a decision on buses to be made at a later date. Regardless of the organizational approach ultimately adopted, the agency will take into consideration relevant differences between buses and trucks as they bear on questions of braking.

Several vehicle manufacturers and the Motor Vehicle Manufacturers Association (MVMA) suggested in their comments to the ANPRM that if the purpose of FMVSS 130 were merely to replace FMVSS 121, then the number should not be changed. They recommended that a date suffix be added to indicate a major revision, as has been done with FMVSS 105–75. As noted above, however, FMVSS 130 is intended to encompass more than just air brake systems, and therefore is not merely a replacement for FMVSS 121. Accordingly, the NHTSA concludes that the new standard should be given a new number, to avoid confusion with either FMVSS 105–75 or FMVSS 121. As proposed, Standard No. 130 would apply to all trucks, multipurpose passenger vehicles, and trailers having gross vehicle weight ratings (GVWR's) greater than 10,000 lbs. As FMVSS 130 is implemented, any redundant requirements in either FMVSS 105–75 or FMVSS 121 will be revoked.

The balance of the ANPRM comments are still being considered, and a draft of the entire proposed new standard has not been written at this time. In the February ANPRM, the NHTSA indicated that it intended to issue a second ANPRM on Standard No. 130 with respect to long-range rulemaking issues on advanced brake technology. Such long-range issues will include improved braking and vehicle stability. The agency still intends to proceed in this manner regarding the long-range implementation of Standard No. 130. The proposed requirements are numbered in a way that will allow later insertion of other sections.

Basis for This Notice

Although the agency is not prepared to propose FMVSS 130 in its entirety, new information has led the agency to conclude tentatively that there is an immediate need to establish one portion of Standard No. 130. As a result of the PACCAR decision, the agency suspended the road test requirements for trucks and trailers. This suspension has reportedly caused some manufacturers to contemplate the removal of front axle service brakes from some trucks. This is an extremely dangerous situation that could significantly reduce the safety of the affected vehicles.

An analysis of agency test data shows that the removal of front axle service brakes significantly increases the stopping distance of a vehicle. Dry road stopping distance tests from 60 mph of three truck-tractors and one straight truck, all having three axles, were examined. The tests included both fully loaded and empty or bobtail configurations. For the tractors, the loaded condition was with a trailer attached. In all cases, the stopping distance was greater for vehicles without front axle service brakes.

The loaded tractor-trailer combinations had an increase in stopping distance without front brakes that ranged from 36 feet (24%) to 90 feet (40%). The numbers in parentheses indicate the percentage increase in stopping distance for a particular vehicle. The loaded straight truck had an increase in stopping distance of 91 feet (31%). The bobtail tractors showed stopping distance increases that ranged from 80 feet (21%) to 139 feet (66%) and the empty straight truck had an increase of 70 feet (25%). The stopping distance increase for all tests without front brakes ranged from a minimum of 36 feet (24%) to a maximum of 139 feet (66%) with an average stopping distance increase of 84 feet.

The net effect of removing the front axle brakes would, therefore, be to increase the disparity between the stopping distances of heavy duty vehicles and those of smaller vehicles. This means that the ability of heavy duty vehicles to avoid colliding with the smaller vehicles would be significantly downgraded. The results would be potentially dangerous for the occupants of the smaller vehicles and for the heavy duty vehicle occupants themselves. The NHTSA finds the possible reduction in braking capability of heavy duty vehicles particularly troublesome in light of the already rapidly increasing number of accidents for these vehicles.

The NHTSA had previously thought that product liability concerns would keep manufacturers and purchasers of heavy duty vehicles from taking advantage of the consequences of the *PACCAR* decision by removing the front axle service brakes. Under FMVSS 121, the provision of those brakes has been an industry practice for over five years. The technology for the brakes has not only been available for at least that period of time, but also does not present any questions of reliability. The safety value of the front axle brakes has been documented in testing showing their effect on the stopping distance of heavy duty vehicles. In this context, a manufacturer's reversion to a less safe vehicle braking system would likely expose him to product liability in accidents which might have been averted or whose consequences might have been mitigated by the presence of the front axle service brakes. By opting for deletion of these brakes, purchasers could subject themselves to at least a portion of the liability for this knowing backward step in safety.

The fear of product liability claims has apparently been outweighed for some manufacturers by the savings in weight and cost that would result from the removal of front axle brakes. As a result, some manufacturers are considering production of vehicles without front brakes. To prevent this action, the agency proposes the implementation of a portion of Standard No. 130.

This proposal would require vehicles with gross vehicle weights of more than 10,000 pounds to be equipped with service brakes that act on each wheel. To the best of the agency's knowledge, all vehicles in this weight category are now constructed with brakes on all wheels. Accordingly, this proposal would merely maintain the status quo, and require manufacturers to continue to construct vehicles in the same manner that they are now doing. The agency notes that the proposal is compatible with Regulation 13 of the Economic Commission for Europe (ECE).

Since this amendment would not require the addition of any new equipment to vehicles, it will have minimal economic impact and is not a significant regulation. Accordingly, no economic evaluation is required.

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. Any claim of confidentiality must be supported by a statement demonstrating that the information falls within 5 U.S.C. section 552(b)(4), and that disclosure of the information is likely to result in substantial competitive damage; specifying the period during which the information must be withheld to avoid that damage; and showing that earlier disclosure would result in that damage. In addition, the commenter or, in the case of a corporation, a responsible corporate official authorized to speak for the corporation must certify in writing that each item for which confidential treatment is requested is in fact confidential within the meaning of section 552(b)(4) and that a diligent search has been conducted by the commenter or its employees to assure that none of the specified items has previously been disclosed or otherwise become available to the public.

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

The authors of this notice are Scott Shadle of the Crash Avoidance Division and Roger Tilton of the Office of Chief Counsel.

In accordance with the foregoing discussion, Volume 49 of the Code of Federal Regulations would be amended by the addition of Standard No. 130, *Heavy Duty Vehicle Brake Systems*, as set forth below.

(Sec. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1352, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on October 10, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

Motor Vehicle Safety Standard No. 130; Heavy Duty Vehicle Brake Systems

S1. *Scope.* This standard specifies requirements for braking systems on vehicles that have gross vehicle weight

V 44 0C 18 79 UMI

ratings (GVWR's) of greater than 4536 kg (10,000 pounds).

S2. *Purpose.* The purpose of this standard is to provide safe braking performance under normal and emergency condition.

S2. *Application.* This standard applies to trucks, multipurpose passenger vehicles, and trailers that have gross vehicle weight ratings (GVWR's) of greater than 4536 kg (10,000 pounds).

S4. [Reserved]

S5. *Requirements—powered vehicles.*

S5.1 [Reserved]

S5.2 [Reserved]

S5.3 *Service brake system.*

S5.3.1 *General requirements.*

S5.3.1.1 *Brake distribution.* Each vehicle shall be equipped with a service brake system acting on all wheels.

S6. *Requirements—trailers.*

S6.1 [Reserved]

S6.2 [Reserved]

S6.3 *Service brake system.*

S6.3.1 *General requirements.*

S6.3.1.1 *Brake distribution.* Each trailer shall be equipped with a service brake system acting on all wheels.

[FR Doc. 79-31836 Filed 10-11-79, 2:11 pm]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1063

[Ex Parte No. MC 95 (Sub-3)]

Regulations Governing the Adequacy of Intercity Motor Common Carrier Passenger Service (Modification of Regulations)

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments.

SUMMARY: The purpose of this document is to give notice that the time for filing comments in the proceeding relating to the adequacy of intercity motor common carrier passenger service is extended to November 28, 1979.

DATES: Comments should be filed by November 28, 1979.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Richard Armstrong, (202) 275-7046.

SUPPLEMENTARY INFORMATION: Charles A. Webb, on behalf of the American Bus Association (ABA), has filed a written request that the time for filing comments in this proceeding be extended for 60 days. (44 FR 53092, September 12, 1979.) It is contended that the ABA needs an extension due to the considerable amount of time required to obtain the necessary information from its approximately 400 members and to ascertain the impact of the proposed regulations before comments are submitted. Also, an extension is requested so that the ABA can consider the proposed regulations at its annual meeting the last week of October.

We believe that a 30-day extension for the filing of comments in this proceeding is warranted. Coupled with the original comment period of 45 days, a 30-day extension would allow sufficient time for the ABA to gather whatever information it needs from its members so that meaningful comments may be filed. Also, an extension of this length would allow the ABA to consider the proposed regulations at its annual meeting and to incorporate these considerations into its comments. A 30-day extension would not, on the other hand, delay the proceeding for an unreasonable period of time.

Accordingly, the time for filing comments in this proceeding is extended to November 28, 1979.

By the Commission, Director Fitzwater.

Dated: October 10, 1979.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-32157 Filed 10-17-79; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1300, 1303, 1304, 1306, 1307, 1308, 1309, 1310, and 1312

[Ex Parte No. 370]

Tariff Improvement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission proposes to adopt new rules designed to improve, simplify and modernize tariffs by reducing their size, complexity and cost; by standardizing their formats; and by promoting greater compatibility with electronic technology. Specifically, the proposed rules would:

(1) Permit tariffs to express rates and amounts of increase or reduction as percentages;

(2) Declare rate increases unlawful which result from improperly-symbolized tariff changes;

(3) Prescribe standard titles and item numbers for commonly-published tariff rules; and

(4) Allow tariffs to identify commodities and points locations by uniform standard code designations.

DATES: Interested persons may submit written comments on the proposed rules on or before December 17, 1979.

ADDRESS: Send comments and 10 copies, if possible, to: Room 5356, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Martin E. Foley, (202) 275-7348.

SUPPLEMENTARY INFORMATION: The Commission proposes to adopt new rules designed to improve, simplify and modernize the tariffs published and filed by carriers subject to its jurisdiction. The objectives of these rules are to reduce the size, complexity and cost of tariffs, to standardize their formats, and to promote greater compatibility with electronic computer technology.

For convenience, the supplementary information offered in connection with the proposed rules is divided into four parts, with Part IV containing two subparts. Parties wishing to comment on the proposed rules are asked to separate and clearly identify, by number and title, the parts or subparts to which their comments are directed.

PART I—PERCENTAGE EXPRESSION OF RATES, CHARGES AND AMOUNTS OF INCREASE OR REDUCTION

(See Appendix A for proposed rules)

The rules proposed in Appendix A are designed to reduce the size, complexity and cost of tariffs by allowing railroads, freight forwarders and motor common carriers to express their rates, charges and amounts of change as percentages.

In the last 15 years the number of tariff pages filed with the Commission has nearly doubled, as has the cost of compiling, publishing, filing and examining those pages. One of the major factors contributing to this avalanche of paper is the necessity for carriers to publish thousands of pages annually to express all their rates as "explicit statements." That is, they must state each rate in cents, in dollars, or in dollars and cents, not only in the first instance, but each time the rates are increased or reduced as well.

The Commission has insisted on the "explicit statement" requirement since the early days of regulation. Section 10762(a)(2) of the Interstate Commerce Act (49 U.S.C. 10762(a)(2)) specifies that motor carrier, freight forwarder and water carrier rates "shall be stated in money of the United States." This section does not apply to railroads, but the Commission has long held that railroad tariffs should state rates in a definite and exact manner without forcing shippers to compute dollar amounts. See, for example, *Rice* v. *Atchison, Topeka & Santa Fe Railroad*, 4 I.C.C. 228, 246 (1890).

The Commission is empowered, however, to change any of the requirements of Section 10762 "if cause exists in particular instances or as they apply to special circumstances." We have used this power sparingly in the past. Now, however, there appears to be "special circumstances" which warrant a general relaxation of the explicit-statement requirement.

Over the years the requirement has come to be in large measure self-defeating. With the proliferation of general increases and alternative rate scales, the requirement has served to increase the sheer bulk of tariffs to the point where finding the exact rate—even though it is explicitly stated—is often a complicated, confusing and time-consuming task. Moreover, the thousands of tariff pages which compliance with this requirement necessitates carriers to publish annually are an enormous expense to them and, in turn, to the shipping public.

Perhaps the most persuasive argument for discontinuing the explicit-statement requirement, however, is that protection of the public no longer seems to demand it. The universal availability and use of inexpensive, solid-state calculators has transformed the additional computation required by percentage-rate expression from a complicated plan into a time and money-saving scheme. In many cases it is faster and easier to find a base rate and then compute a published percentage of it on a calculator than it is to thumb through pages and pages of rate columns and tables to find its explicitly-stated counterpart.

The rules proposed in the appendix to this notice would relax this long-standing requirement by allowing property tariffs of railroads, freight forwarders and motor common carriers to:

(1) Express rates as percentages of explicitly stated rates contained in the same tariff;

(2) Express the amount of change as a percentage by which explicitly-stated rates in the tariff are to be increased or reduced. This would be implemented by use of a "percentage supplement" filed in connection with any change in the general level of rates; and

(3) Incorporate the percentage changes into the base rates, by use of a special supplement, prior to publication of every third change in the general level of rates.

The application of these rules is limited to property tariffs of railroads, forwarders and motor common carriers because tariffs of other modes are generally not voluminous enough to need, or to derive any significant advantage from, the percentage-expression concept. However, if the comments received indicate otherwise, we will consider extending the application of the rules to other modes where warranted.

It should be noted here that the rules are entirely permissive, not mandatory. If adopted, carriers would be at liberty to retain their present publishing practices. It is our belief, however, that the cost benefits offered by use of the proposed rules will encourage carriers and forwarders to utilize them wherever possible. Under these rules, for example, Class Rate tariffs which have maintained a tautology between the class rates and true percentages (i.e., where the Class 70 rate is identical to 70% of the Class 100 rates, etc.) could eliminate hundreds of pages of rate tables by publishing only the Class 100 rate. A possibility for other tariffs is the use of a "master rate" concept, whereby the tariff need contain only one rate stated in dollars and cents, with all other rates expressed as percentages of the master rate. With this method only one rate in the tariff would have to be updated after a general increase. In other areas, a single tariff item could be used to replace several pages of volume incentive rate tables, aggregate tender rate tables and rate conversion tables, etc.

It should also be noted here that the proposed rules authorizing the filing of "percentage supplements" to provide general changes in the level of rates do not authorize such supplements to be filed to tariffs which refer to a master tariff for the application of increases or reductions. To do so would be to allow a rate in one tariff to be increased or reduced by a percentage amount shown in another tariff. We feel that this would be putting still another burden on the already over-burdened user of master tariffs. We believe, however, that these rules offer an attractive *alternative* to the use of master tariffs. Master tariffs, of course, may be published only on Special Permission authority, and are subject to the updating rules adopted in Ex Parte No. 326, *Regulations Governing the Transfer of General Increases from Master Tariffs into the Individual Tariffs of Railroads or Rail Ratemaking Organizations.*

Percentage supplements may also not be filed to tariffs of motor common carriers which refer to conversion supplements filed under 49 CFR 1310.10(j) for the application of increases or reductions. Under the proposed rules, carriers would have the option of using either the conversion supplement system or the percentage supplement system, but not both.

PART II—SYMBOLIZATION OF TARIFF MATTER RESULTING IN INCREASES

(See Appendix B for Proposed Rules)

Current Commission regulations require that proposed changes in tariff publications be symbolized to identify the effect of the change—that is, whether it is an increase, a reduction, or a change in wording which results in neither an increase nor a reduction. These regulations are designed to allow tariff users to rely on symbolization to (1) discover changes and (2) evaluate those changes. Discovery and evaluation are vital to tariff users' rights to timely protest proposed tariff changes.

The rules proposed in Appendix B are designed to emphasize the importance of these requirements to the tariff user by stipulating that increases arising from tariff changes not properly symbolized are unlawful.

Historically the Commission has maintained a staff whose primary function has been the review of newly-filed tariff matter to ensure compliance with the Commission's tariff regulations, including those regulations concerning symbolization. Faced with the need to re-allocate its resources, the Commission has determined that it can no longer maintain a full force to provide complete tariff-examination services. Very shortly the Commission will implement a plan to review tariff filings on a random sampling basis only. It is only realistic to recognize that some tariff deficiencies previously discovered by the full complement of tariff examiners will not be caught by the sampling net.

We believe it would be inappropriate for tariff users to be burdened with the onerous chore of comparing proposed tariff filings word-for-word or figure-for-figure against existing tariff matter. They should be able to rely on the accuracy of tariff symbolization. The rules proposed here would stipulate that improperly-symbolized changes which result in increases would be considered improperly published and thus invalid and uncollectable. This would offer retroactive protection to tariff users who had been effectively deprived of their right to protest by mis-symbolization.

We realize that this proposal represents a departure from numerous Commission and court decisions in the past. However, the approach suggested here is not without foundation. In *H. J. Baker & Bros., Inc.—Statute of Limitations*, 357 I.C.C. 640 (1978), the entire Commission concluded that

V 44 0 C
1 8 7 9
UMI

improperly symbolized increased rates were not lawful, and were subject to claims for overcharges.

In *Chicago, M., St. P. & P.R. Co.* v. *Alouette Peat Products*, 253 F.2d 449 (1958), the court determined, in essence, that seemingly collectable (applicable) rates were not valid (or collectable) because they had been filed in violation of the tariff-publishing requirements. While this decision dealt with a statutory requirement (the 30-day notice period) rather than a requirement imposed solely by Commission regulations, we believe that the same principle can be, and should be, applied.

The proposed rules would be an extension of the rationale in the *Baker* and *Alouette* cases. They would hold that tariff increases not properly symbolized are unlawful; unlawful tariff provisions are invalid (uncollectable) notwithstanding the passing of the purported effective date of the unlawful publication. Charges assessed on the basis of the invalid provisions would be subject to the usual overcharge claim procedures. Although we would anticipate only rare disagreements on the factual questions of whether published tariff provisions had or had not been properly symbolized, the Commission would stand ready to resolve any such disputes.

We would like to emphasize that the proposed rules pertain only to improperly-symbolized changes resulting in *increases*. However, we welcome any comments on the advisability of extending the rules to encompass improperly-symbolized reductions. While the latter would not appear to have as great a potential for harm to the tariff user, we do realize that improperly-symbolized reductions could cause hardships to competing carriers.

PART III—STANDARD TITLES AND ITEM NUMBERS FOR COMMONLY PUBLISHED TARIFF RULES

(See Appendix C for Proposed Rules)

Standardization and uniformity of tariff elements is essential not only to facilitate computer capability but also to enable tariff users to determine transportation charges quickly and accurately. We are therefore proposing to adopt regulations requiring standard titles and item numbers for all tariffs and schedules.

In Docket No. 35867 (Sub-No. 1), *Standard Headings and Standard Item Numbers for Commonly Published Rules in Tariffs of Class I Motor Common Carriers of Property and of Agents*, the Commission considered adopting such requirements for motor common carriers. Due to a lack of general support, however, the proceeding was discontinued and carriers and agents were allowed to continue using the voluntary numbering system formulated by the National Motor Freight Traffic Association (NMFTA) and the National Industrial Traffic League (NITL).

Most of the respondents in that proceeding indicated that they were in favor of standard titles and item numbers. However, they felt that if such a requirement was to be made, the NMFTA–NITL numbering system should be adopted. Although the Commission had reservations about adopting that system at the time, we now believe that the NMFTA–NITL numbering system has proven to be workable and useful as a standardized tariff format scheme. We therefore propose to codify that system in our regulations.

Our review of tariffs currently on file indicates that the agents for motor carriers are for the most part now using the NMFTA–NITL numbering system. However, many motor carriers are not using the format in their individually-filed tariffs and schedules. Thus, our codification of the NMFTA–NITL system would substantially affect these publications. In order to lessen the impact of the proposed regulations, we would allow a gradual conversion to the proposed numbering systems. Such a conversion could be accomplished by requiring that each new motor tariff or motor reissue tariff cancelling an existing tariff utilize the standard title/numbering system. Thus, we would not demand that existing motor tariffs undergo an immediate transition to the new requirements; but we would require that all tariffs be in compliance with the standard system within 5 years of the effective date of the regulations.

Rail carriers and their agents have been utilizing a tariff numbering system which was prescribed by the Railroads' Tariff Research Group (RTRG). We believe the RTRG system has merit and we propose to codify it as a mandatory rail tariff format. For those rail carriers and agents not utilizing the system at present, we would allow a gradual conversion to the required format.

We propose to require that freight forwarders and their agents use the system (motor or rail) which best fits their needs. Again, we would allow for the gradual conversion of their tariffs to the appropriate standard title/numbering systems.

The existing industry-adopted systems do not appear to be appropriate for use in tariffs of the remaining modes of transportation subject to our regulation. Therefore, we do not propose to prescribe standard titles and numbers for them.

We believe that a uniform use of the title/numbering systems will allow for substantial standardization of tariffs and schedules. When used in connection with other proposals presented in this rulemaking proceeding and those which have been implemented in the past, the standard title/numbering systems will also contribute to the simplification of tariffs.

PART IV—STANDARD TARIFF CODES FOR COMMODITY AND POINTS IDENTIFICATION

The purpose of this two-part proposal is to insure that the Commission's tariff requirements are realistically attuned to the needs of the entire transportation community. We are aware of the increasing use of electronic technology as applied to tariff data and, to the extent possible, we intend to accommodate that technology through improved tariff compatibility. In order to accomplish this, we believe that the Commission must take the lead in establishing uniform standards for the most common elements of tariff data.

Two elements common to virtually all aspects of transportation are the points (places), where service is performed, and the commodities (articles or products), which are accorded that service. The rules proposed in this part would revise our tariff requirements to allow the identification of both these elements by code designation.

Subpart (A)—Standard Codes for Commodity Identification

(See Appendix D for Proposed Rules)

Our current regulations require the showing of the *name* of the commodities on which rates apply (or for other purposes). We have been lenient in allowing departures from this requirement in rail tariffs, either through a grant of special permission authority to deviate from the regulations, or through acceptance of publications for "information only." In the latter regard, the filed publications have usually cited the commodity code parenthetically to the naming of the commodity. Under the proposed rules we would allow all modes to utilize the standard commodity code developed and assigned by the Standard Transportation Commodity Code Technical Committee, (which administers the code under the auspices of the Association of American Railroads) as an alternative to *naming* the commodity.

STCC has been a recognized transportation commodity code since 1964, and has gained substantial acceptance—particularly by rail carriers and their users. Although we are aware of efforts to formulate other code structures, much of that effort is designed to produce an acceptable code for international as well as domestic use. Our information is that all such efforts are—at minimum—several years away from fruition.

Although STCC is now used only by rail carriers, the proposed rules would authorize its use by all modes. We do not believe that STCC is merely a one-mode oriented code. The STCC Technical Committee includes representatives of the motor carrier industry and the shipping public, as well as members of the rail industry. The Committee routinely incorporates and/or reconciles commodity descriptions published in the National Motor Freight Classification.

We are therefore proposing to endorse STCC as the *only* valid tariff code for the identification of commodities. This is essential if we are to encourage computer usage. STCC is the chosen code because: (1) there is no other known code that is feasible for tariff use; (2) the STCC already exists in tariff form; and (3) a large segement of the shipping community is familiar with it.

Subpart (B)—Standard Tariff Codes for Points Identification

(See Appendix E for Proposed Rules)

Our current tariff regulations generally require the showing of the *name* of the point or place (city, town, village, county, state, etc.) to, from or at which transportation service is provided. Code letters and/or numbers are permissible only to indicate grouping of points. Under the proposed rules we would allow tariffs to identify points by a specific code in lieu of naming them. The permissible standard code would be that of the *Federal Information Processing Standards Publication 55* (FIPS PUB 55), which is issued by the National Bureau of Standards, U.S. Department of Commerce pursuant to Public Law 89–306, Executive Order 11717, and Part 6 of Title 15, Code of Federal Regulations.

FIPS PUB 55 implements codes for points in the United States as developed and approved by the American National Standards Institute (ANSI). The current issue, dated June 1, 1978, consists of two volumes totaling 1946 pages. The publication includes standard codes for named populated cities, towns, villages, whether incorporated or not, important military and naval installations, townships, Indian reservations, named places that form parts of other places, places important for transportation, industrial or commercial purposes, i.e., unpopulated railroad points, airports and shopping centers.

The code itself is seven characters in length, the first two of which identify the state. The last five numeric characters identify the place within the State and provide an alphabetic ordering of the place names. In addition to the place name and its code, the list also provides the name and code for the county (3 characters) in which the place is located, the ZIP code of the servicing post office, cross-references to former or alternate names, an inclusion code, a class designator code, and a cross-reference to the Worldwide Geographic Location Codes issued by the General Services Administration.

The "inclusion code" identifies those points which are part of other coded points. The former are assigned their own codes but are also cross-referenced to the point within which they are included. This permits users to either recognize such "inclusions" as separate places or to combine them with their parent place.

A "class designator" is also provided for each coded point. Eighteen different classes are established including airports, shopping centers (not part of other places), places that are part of incorporated places, places that are part of populated unincorporated places, rural communities, urban communities, and unpopulated transport points. "Unpopulated transport points" are named stations, factories, quarries, prisons, institutions, industrial parks, or similar facilities recognized as a point of origin or destination for transportation, but not qualifying for other separately defined classes of places.

Copies of the current edition are for sale ($12.50) by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering refer to NBS–FIPS–PUB–55. Two additional forms of this material are also available and for sale: Magnetic Tape, PB 274–150 ($125) and Microfiche, PB 274–148 ($12.50). Additional information may be obtained from the NTIS Computer Products Office (703) 557–4763.

Copies of American National Standard X3.47–1977, *Structure for the Identification of Named Populated Places and Related Entities of the States of the United States for Information Interchange*, is available ($4.00) from the American National Standards Institute, 1430 Broadway, New York, NY 10018.

The Department of Commerce, National Bureau of Standards, Institute for Computer Sciences and Technology serves as maintenance agent for FIPS PUB 55. Requests for additions, deletions or revisions are addressed to that office. Quarterly amendments to FIPS PUB 55 are planned. The initial publication and all future amendments would be filed with this Commission in tariff form, and it is anticipated that no fees would be assessed for carrier participation in that tariff.

FIPS PUB 55 has been developed for use as a standard code throughout the Federal sector. Beyond that, it is intended for use to comply with the reporting requirements of the private sector to the various Federal agencies. At this point we question whether the transportation community (including this Commission) should remain aloof from that standard code.

We realize that other point codes are being utilized by many shippers, carriers and others in existing electronic data transmission systems. Perhaps the most notable of these is the *Standard Points Location Code* (SPLC). It is not our purpose to thwart other point codes nor to displace or disrupt established data systems. To facilitate coordination of SPLC with FIPS PUB 55, interagency agreements have been drawn which call for joint efforts of this Commission, the Department of Transportation and the U.S. Army Corps of Engineers to develop a one-for-one, code-for-code "bridge" between SPLC and FIPS PUB 55 for points in the United States. The bridge would be incorporated in future editions of FIPS PUB 55.

This rulemaking proceeding is instituted under the authority of section 553 of the Administrative Procedure Act (5 U.S.C. 553) and section 10762(b)(1) of the Interstate Commerce Act (49 U.S.C. 10762(b)(1)).

This decision does not appear to affect significantly the quality of the human environment of energy consumption.

We propose to adopt the rules set forth in the appendices to this notice.

Decided: October 9, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioner Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Commissioners Alexis not participating.

Agatha L. Mergenovich,
Secretary.

Appendix A—Proposed Rules To Govern Percentage Expression of Rates, Charges, and Amounts of Increase or Reduction

We propose to amend 49 CFR, Chapter X, Subchapter D, as follows:

1. By revising § 1300.4(i)(1) to read as follows:

V 44 OCT 18 79 UMI

§ 1300.4 Contents of tariffs.

Tariffs shall contain, in the order named:

* * * * *

(i) *Rates.* (1) A statement of the rates and the places from, to, and between which they apply, arranged in a simple and systematic manner. At least one of the rates shall be explicitly stated (per 100 pounds, ton, car or other unit) in dollars and cents in lawful money of the United States. Other rates in the tariff may be expressed as percentages of the stated rates, provided that the tariff clearly explains how to compute the other rates, including how to dispose of fractions. A rate may not be expressed as a fraction or multiple of another rate, as a percentage of a rate contained in another tariff, or as a percentage of another rate which is itself expressed as a percentage. A tariff may be converted to percentage-rate expression only by reissue, not by amendment.

2. By adding § 1300.9(n) to read as follows:

§ 1300.9 Amendments and supplements.

* * * * *

(n) *Percentage supplements to provide general rate changes.* A supplement, which expresses the amount of change as a percentage by which the tariff's explicitly-stated rates and charges are to be increased or reduced, may be filed to any tariff to provide a general change in the level of all or substantially all rates and charges, or all or substantially all the rates and charges in a specific category in the tariff. This supplement will be subject to the regulations contained in Part 1312 of this chapter.

3. By deleting the first two sentences and the first word of the third sentence of § 1310.7(a)(2), and replacing them with the following:

§ 1310.7 Statement of rates (rule 7).

(a) *Rates must be clear and explicit.*

* * * * *

(2) The rates and the places from, to, and between which they apply shall be arranged in a simple and systematic manner. At least one of the rates shall be explicitly stated in dollars and cents in lawful money of the United States. Other rates in the tariff may be expressed as percentages of the stated rates, provided the tariff clearly explains how to compute the other rates and how to dispose of fractions. A rate may not be expressed as a fraction or multiple of another rate, as a percentage of a rate contained in another tariff, or as a percentage of a rate which is itself expressed as a percentage. A tariff may be converted to a percentage-rate expression only by reissue, not by amendment. All explicitly-stated rates * * *

* * * * *

4. By deleting § 1310.7(c) which now prohibits the expression of class rates as percentages, fractions or multiples of another rate.

5. By adding § 1310.10(k) to read as follows:

§ 1310.10 Amendments (rule 10).

* * * * *

(k) *Percentage supplements to provide general rate changes.* A supplement which expresses the amount of change as a percentage by which the tariff's explicitly stated rates and charges are to be increased or reduced may be filed to any tariff to provide a general change in the level of all or substantially all the rates and charges, or all or substantially all the rates and charges in a described category in the tariff. This supplement will be subject to the regulations contained in Part 1312 of this chapter.

6. By adding Part 1312 to read as follows:

PART 1312—PERCENTAGE SUPPLEMENTS

Sec.

1312.1 Percentage supplements to provide general rate changes.

1312.2 Supplements to transfer rate changes from percentage supplements into base rates.

Authority: 5 U.S.C. 553 and 49 U.S.C. 10762(b)(1).

§ 1312.1 Percentage supplements to provide general rate changes.

(a) A percentage supplement shall contain an application provision reading substantially as follows:

> Except as provided in subsequent amendments to this tariff, all explicitly stated rates and charges in this tariff are [specify whether increased or reduced] as follows for the period this supplement is in effect.

The supplement shall state where any exceptions to its application are listed. If not all of the explicitly-stated rates are being changed, the provisions shall state the exact category of rates being changed or list the items, sections, etc., of the tariff which contain them.

(b) The supplement shall show how to compute the increased or reduced rates from the percentages shown; how to dispose of fractions; and how to compute multiple factor rates made by the use of arbitraries or other means.

(c) The supplement shall have an expiration date which must be within one year from its effective date. The title page shall indicate, in the top margin, whether the changes are increases or reductions. If both, "as indicated" shall be added, and the different categories of changes shall be appropriately referenced.

(d) Only one percentage supplement to a tariff may be in effect at one time. A percentage supplement may not be reissued with the same or an earlier expiration date unless the Commission requests its reissue. The application of changes in a percentage supplement may not be extended by a like supplement providing essentially the same increases or reductions. A percentage supplement reflecting a change in the general rate level may, however, cancel the preceding percentage supplement reflecting a change in the general rate level and incorporate that change (and related provisions) into the new percentage supplement. No percentage change may be so incorporated more than once.

(e) Only matter concerning the percentage change and its application may be published in the supplement.

(f) An exception item or note may not be republished from the percentage supplement into a regular supplement of a bound tariff or incorporated into the tariff proper of a loose-leaf tariff.

(g) Tariff amendments containing explicitly-stated rates or charges becoming effective during the effectiveness of a percentage supplement shall state whether or not they are subject to the provisions of the percentage supplement.

(h) Percentage supplements shall be exempt from the terms of §§ 1300.9(e) and 1310.9(d) governing the number of supplements and volume of supplemental matter permissable.

(i) The provisions of this section do not authorize the publication and filing of so-called master tariffs or connecting link supplements, and percentage supplements may not be filed to tariffs which refer to a master tariff for the application of increases or reductions.

(j) Percentage supplements may change tariff matter which will not have been in effect for 30 days. Subsequent amendments filed prior to the effective date of the percentage supplement may change or cancel, on lawful notice, matter changed by the percentage supplement before that change has been in effect for 30 days.

§ 1312.2 Supplements to transfer rate changes from percentage supplements into base rates.

(a) A supplement (not a percentage supplement [may be filed to a bound tariff for the primary purpose of incorporating into the explicitly-stated base rates all applicable changes effected by use of a percentage supplement filed under § 1312.1 of this Part. The supplement may contain other

matter brought forward from prior supplements, provided those supplements are cancelled. The supplement shall bring forward all explicitly-stated rates in the original tariff and prior supplements even though some rates already include all applicable increases or reductions effected by means of percentage supplements.

(b) The title pages of supplements issued under authority of this section shall bear the following notation:

> Issued under authority of 49 CFR 1312.2. This supplement contains all the explicitly-stated rates and charges provided by this tariff in effect on the effective date of this supplement.

(c) This paragraph applies to rail carriers only. If different increases or reductions apply on related articles shown in an item or descriptive listing of commodities, the rates may be brought forward into the supplement on the basis of the increases or reductions applying to the predominant article in the item or description, provided that a statement is included in the supplement that this has been done. The rate changes shall be appropriately referenced except as specified in paragraph (d) of this section for exceptions concerning symbolization.

(d) Symbolization of the increases and reductions (see §§ 1300.4(m) and 1310.10(f)) resulting from the normal rounding off of fractions, or from the use of predominant article authority in the case of rail carriers, may be omitted in the supplement providing the supplement is filed on not less than 45 days' notice and the title page of the supplement also bears the following statement:

> This supplement contains changed basis of rates, charges and provisions which result in increases and reductions. The supplement also contains variations in wording which result in no change in the rates and charges. These changes are not shown by use of uniform symbols which have been omitted under authority of 49 CFR 1312.2.

(e) Supplements issued under authority of this section shall be exempt from §§ 1300.9(e) and 1310.9(d) governing the number of supplements and the volume of supplemental matter permissible.

Appendix B—Proposed Rules To Govern Symbolization of Changed Tariff Matter Resulting in Increases

§§ 1300.2, 1303.4, 1304.2, 1306.5, 1307.5, 1308.2 and 1310.10 [Amended]

We propose to amend 49 CFR Parts 1300, 1303, 1304, 1306, 1307, 1308 and 1310 by adding the following new paragraph to be designated, respectively, as § 1300.2(a)(4), § 1303.4(d)(3) § 1304.2(c), § 1306.5(b)(2), § 1307.5(r)(1), § 1308.2(a) and § 1310.10(f)(5):

Changes resulting in increases which are not identified by proper symbols shall be considered unlawfully published and filed and therefore invalid and not collectable. In such cases, the lawful provisions will be those which were purportedly superseded. Invalid provisions shall be canceled by publications which shall bring forward, or properly amend, provisions which have remained in effect by reason of invalid publication.

Appendix C—Proposed Rules To Govern Standard Titles and Item Numbers for Commonly Published Tariff Rules

We propose to amend 49 CFR Chapter X, Subchapter D as follows:

1. By revising § 1300.4(h)(2) to read as follows:

§ 1300.4 Content of tariffs.

* * * * *

(h) *Rules governing the tariffs.*

* * * * *

(2)(i) Each rule shall be assigned the appropriate item number and title from the following list. If a title includes subjects not treated in the rule, those subjects may be eliminated from the title.

Item and Title	
5	Description of Governing Classification, Exceptions and Rules Tariffs
10	Station List and Conditions
15	Explosives, Dangerous Articles
20	Reference to Tariffs, Items, Notes, Rules, etc.
25	Terminal or Transit Privileges or Services
30	Perishable Freight
35	Transfer Between Connecting Carriers
40	Consecutive Numbers
45	Capacities and Dimension of Cars
50	Combination Rates
55	Substitution of Motor Service for Rail or Water Service
60	National Service Order Tariff
65	Proportional Rates—application
70	Alternation
75	Method of Canceling Items
80	Intermediate Application—origin
85	Intermediate Application—destination
90	Fourth Section Authorities
100	Method of Denoting Reissued Matter in Supplements
105	Straight or Mixed CL Application

(ii) A carrier or agent may assign a title and number of its choosing for matter not listed in subparagraph 2(i), provided the title and number chosen do not conflict with those listed.

(iii) If a title in subparagraph 2(i) does not properly identify a rule's content, qualifying words, phrases or subtitles may be added. When qualifying words or phrases are used, the prescribed title shall be followed by a dash and the added words, for example: "Alternation—C.L. Rates—Varying Minimum Weights." Subtitles or references to excepted classification rules shall follow the title.

(iv) When it is necessary or practicable to split a rule into two or more parts, the prescribed item number may be subdivided. The first part of the rule (which shall contain the general or master rule, if any) must be assigned the prescribed item number without a numerical suffix. Each subdivision shall be assigned a compound number, which shall be constructed by use of the prescribed number followed by a hyphen, then a new series of numbers, for example: item 70–1, 70–2, 70–3, etc., in numerical sequence. Each subdivision must show the prescribed title.

(v) Exceptions to a rule may be included in the general rule or arranged in items immediately following the rule to which exception is taken. In the latter case, exception items are to use the standard item number of the general rule followed by a suffix—for example, exceptions to item 85 would use items 85–1, 85–2, etc.

2. By revising § 1307.5(l) to read as follows:

§ 1307.5 Form and content of schedules.

* * * * *

(l) *Rules.* (1) Rules and other provisions affecting rates and charges shall be published following the index of points. Each rule or regulation shall be given a separate item number. Where the subjects shown in § 1310.4(h)(4)(i) of this chapter are to be provided for in schedules, the rules covering them shall bear the titles and be assigned the item numbers listed in § 1310.4(h)(4)(i) of this chapter.

(2) A carrier may assign a title and number of its choosing for matter not listed in § 1310.f(h)(4)(i) of this chapter, provided the title and number chosen do not conflict with those listed.

(3) If a title listed in § 1310.4(h)(4)(i) of this chapter does not properly identify a rule's content, qualifying words, phrases or subtitles may be added. When qualifying words are used, the prescribed title shall be followed by a dash and the added words, for example: "Bills of Lading—Order Notify." Subtitles or references to excepted classification rules shall follow the title.

(4) When it is necessary or practicable to split a rule into two or more parts, the prescribed item number may be subdivided. The first part of the rule (which shall contain the general or master rule, if any) must be assigned the

V 44 0 C 1 8 7 9 UMI

prescribed item number without a numerical suffix. Each subdivision must be assigned a compound number, which shall be constructed by use of the prescribed number followed by a hyphen, then a new series of numbers—for example, item 390–1, 390–2, 390–3, etc., in numerical sequence. Each subdivision must show the prescribed title.

(5) Exceptions to a rule may be included in the general rule or arranged in items immediately following the rule to which exception is taken. In the latter case, exception items are to use the standard item number of the general rule followed by a suffix—for example, exceptions to item 510 would use items 510–1, 510–2, etc.

* * * * *

§ 1309.1 [Amended]

3. By adding the following sentence at the end of § 1309.1: "Rules contained in tariffs shall be numbered and titled using the system prescribed either in § 1300.4(h)(2)(i) of this chapter or in § 1310.4(h)(4)(i) of this chapter."

4. By adding the following subparagraph (4) to § 1310.4(h):

§ 1310.4 Form, size, and printing (rule 4).

* * * * *

(h) * * *

(4)(i) Each rule shall be assigned the appropriate item number and title from the following list. If a title includes subjects not treated in the rule, those subjects may be eliminated from the title.

Item and Title

100 Governing publications.
110 to 119 Definitions.
150 Application of tariff, schedule.
160 to 290 Application of rates.
299 Absorptions.
300 Advancing charges.
305 Advertising on carrier equipment.
310 Advertising or premiums.
315 to 335 Allowances.
340 Arbitraries or differentials.
345 Arrival notice and undelivered freight
350 Assembling or distributing freight.
360 Bills of lading.
370 Bulk freight.
381 Cancellation of items.
382 Cancellation of looseleaf pages.
390 Capacity loads.
405 Carrier trade names.
407 to 419 Claims, loss and damage
420 Classification of articles—General.
421 Classification by analogy.
422 Classification of combined articles.
423 Classification of loose articles.
424 Classification of parts or pieces of a complete article.
426 Classification of reconditioning bags.
428 Classification of various documents included with freight.
430 COD shipments.
435 Collection of charges.
440 Commercial zones.
455 Consecutive numbers.
460 Consolidation of shipments.
465 Containers.
470 Control and exclusive use of vehicles.
480 Customs or in-bond freight.
490 Density.
500 Detention—Vehicles with power units.
501 Detention—Vehicles without power units.
502 Detention—LTL or AQ shipments.
510 Distances.
520 Equipment.
535 Expiration dates.
540 Explosives and other dangerous articles.
550 Export, import, coastwise or intercoastal freight.
560 Extra labor.
565 Fractions.
566 Handling freight not adjacent to vehicle.
568 Heavy or bulky freight.
570 Impracticable operations.
575 Light or bulky freight.
578 Loading by consignor—Unloading by consignee.
580 Marking or tagging freight.
595 Maximum charge.
600 Meat hooks or racks.
610 Minimum charge.
640 Mixed shipment—LTL.
645 Mixed shipment—TL or Vol.
647 Notification prior to delivery.
650 Operating rights.
670 Over dimension freight.
680 to 689 Packing or packaging.
710 Pallets, platforms or skids.
720 Payment of charges.
730 Peddler truck shipments.
740 Permits, special.
750 Pickup or delivery service.
754 Pickup or delivery service—Sundays or holidays.
755 Pickup or delivery service—Saturdays.
756 Pickup or delivery service—Saturdays, Sundays, or holidays.
765 Precedence of rates.
766 Precedence of rules.
770 Prepayment.
780 Prohibited or restricted articles.
784 Proof of delivery.
800 Proportional rates.
810 Protective service.
820 Reconsignment or diversion.
830 Redelivery.
845 Reference to tariffs, schedules.
846 Reissued matter, method of treating.
848 Released value.
850 Reporting charge.
880 Sealing of trucks.
883 Shipments tendered as a truckload.
885 Single shipment pickup.
887 Sorting or segregating.
890 Special services.
900 Stopoffs.
910 Storage.
920 Substitution of service.
940 Terminal areas.
950 Terminal charges at ports.
957 Tools.
959 Transfer of lading.
960 Transfer of service.
970 Transit privileges or services.
980 Unnamed points.
985 Vehicle furnished but not used.
990 Weighing and weights.
992 Weight verification.
995 Weights—Gross weights and dunnage.
997 Weights—Minimum weight factor.

(ii) A carrier or agent may assign a title and number of its choosing for matter not listed in subparagraph (4)(i), provided the title and number chosen do not conflict with those listed.

(iii) If a title in subparagraph (4)(i) does not properly identify a rule's content, qualifying words, phrases or subtitles may be added. When qualifying words or phrases are used, the prescribed title shall be followed by a dash and the added words, for example: "Bills of Lading—Order Notify." Subtitles or references to excepted classification rules shall follow the title.

(iv) When it is necessary or practicable to split a rule into two or more parts, the prescribed item number may be subdivided. The first part of the rule (which shall contain the general or master rule, if any) must be assigned the prescribed item number without a numerical suffix. Each subdivision must be assigned a compound number, which shall be constructed by use of the prescribed number followed by a hyphen, then a new series of numbers—for example, item 390-1, 390-2, 390-3, etc., in numerical sequence. Each subdivision must show the prescribed title.

(v) Exceptions to a rule may be included in the general rule or arranged in items immediately following the rule to which exception is taken. In the latter case, exception items are to use the standard item number of the general rule followed by a suffix—for example, exceptions to item 568 would use items 568–1, 568–2, etc.

Appendix D—Proposed Rules To Govern Standard Codes for Commodity Identification

§ 1300.34, 1304.45, 1307.18, 1308.15, 1308.112, 1310.36 [Added]

We propose that 49 CFR, Parts 1300, 1304, 1307, 1308 and 1310 be amended by adding to each part the following new sections to be designated respectively as §§ 1300.34, 1304.45, 1307.18, 1308.15, 1308.112 and 1310.36, each to be entitled "Standard Codes for Commodity Identification.

(a) *Definition.* As used in this part, the term "standard transportation commodity code" (STCC) means the standard transportation commodity codes assigned by the Association of American Railroads as contained in tariffs filed with the Commission.

(b) *Use.* Standard transportation commodity codes may be used instead of names to identify commodities in tariffs or schedules. Tariffs or schedules using the codes shall contain, or refer to a tariff publication which contains, the code assignments. Carriers do not need to be shown as participants in the code assignment tariff, and any tariff or schedule may refer to it. The standard transportation commodity codes are the only codes, standing alone, that may be used to identify commodities.

(c) *Listing.* Where the regulations in this part require commodity names to be published in alphabetical order, the standard transportation commodity codes shall be published in numerical order.

Appendix E—Proposed Rules To Govern Standard Codes for Points Identification

§§ 1300.33, 1303.38, 1304.44, 1306.19, 1307.17, 1308.14, 1308.111 and 1310.35 [Added]

We propose to amend 49 CFR, Parts 1300, 1303, 1304, 1306, 1307, 1308 and 1310 by adding to each part the following new sections to be designated respectively as §§ 1300.33, 1303.38, 1304.44, 1306.19, 1307.17, 1308.14, 1308.111 and 1310.35, each to be entitled "Standard Codes for Points Identification."

(a) *Definition.* As used in this part, the term "standard codes for points identification" means the codes assigned to points (places) by the Federal Information Processing Standards Publication 55 (FIPS PUB 55), issued by the National Bureau of Standards, U.S. Department of Commerce, and as contained in tariffs filed with the Commission.

(b) *Use.* Standard codes for points identification may be used in tariffs or schedules to identify points instead of the names of the points. The standard codes for points identification are the only codes, standing alone, that may be used to identify points and places. This does not prohibit the use of other codes when used parenthetically with named points.

(c) *Listing.* If the regulations in this part require the point (place) names to be published in alphabetical order, the standard codes for point identification shall be published in alpha-numerical order—i.e., arranged alphabetically by State code with points within each State sublisted in numerical order.

[FR Doc. 79-32092 Filed 10-17-79; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

Atlantic Surf Clam and Ocean Quahog Fisheries Proposed Rulemaking; Announcement of Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Proposed Rulemaking, Announcement of Public Hearing.

SUMMARY: A public hearing will be held by the National Marine Fisheries Service (NMFS) to solicit comments on the proposed closure of an area of the fishery conservation zone (FCZ) offshore of Ocean City, Maryland to fishing for surf clams. Closure of the area has been proposed because of the predominance of small (less than 4½ inches) surf clams. The area proposed for closure is approximately 25 square miles, and lies between seven and ten miles directly offshore of Ocean City, Maryland.

DATES: Comments are invited until November 15, 1979. A public hearing will be held on November 1, 1979. The hearing is scheduled between 7:00 and 10:00 p.m.

ADDRESSES: The hearing will be held at the Fenwich Inn, 13801 Coastal Highway, Ocean City, Maryland. Written comments may be directed to the Regional Director of the National Marine Fisheries Service at 14 Elm Street, Gloucester, Massachusetts 01930.

FOR FURTHER INFORMATION CONTACT: Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930. Telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: Regulations implementing the fishery management plan for the Atlantic surf clam and ocean quahog fisheries contain provisions for the closure of areas which contain beds of small surf clams. Section 652.8(b) allows the Regional Director to close an area to surf clam fishing if he determines (based on logbook entries, processors' reports, survey cruises, or other information) that the area contains surf clams of which 60 percent or more are smaller than 4½ inches in size and not more than 15 percent are larger than 5½ inches in size.

In one previous instance, an area was closed under the authority of this provision. That 35 square mile area off Atlantic City, New Jersey was closed on September 20, 1978 (43 FR 42765). Since the beginning of this year, numerous fishermen and processors of surf clams have indicated that large numbers of small surf clams were present in areas offshore of Ocean City, Maryland. A special study was conducted in August and September to locate and define the area where small clams predominate. That study has delineated an area within which the surf clam size distribution meets the criteria for closure under provisions of section 652.8 of the regulations. The area proposed for closure is approximately 25 square miles, and is defined as follows: Beginning at a point at 74°57′ W. longitude and 38°17′ N. latitude; thence northeasterly in a straight line to 74°51′ W. longitude and 38°20.5′ N. latitude; thence southeasterly in a straight line to 74°48.5′ W. longitude and 38°19′ N. latitude; thence southwesterly in a straight line to 74°51′ W. longitude and 38°12.5′ N. latitude; thence northwesterly in a straight line to 74°57′ W. longitude and 38°17′ N. latitude, the point the beginning. The corners of the area are also approximated by loran "C" bearings. Overlay on National Ocean Survey chart 12211. The loran "C" bearings, are, respectively, 52540–70430; 52470–70420; 52470–7035; 52540–70465. Closure of this area for a period of at least two years has been recommended.

The public hearing has been scheduled to provide the fishermen and others who may depend on the area or have information pertinent to the proposed closure with an opportunity to comment on the proposal. It is hoped that comments and information presented at the hearing will facilitate an accurate assessment of the economic and social importance of the area proposed for closure.

The Assistant Administrator has determined that this proposed rulemaking is not significant within the meaning contemplated by Executive Order 12044.

Authority: 16 U.S.C. 1801 *et seq.*

Signed at Washington, D.C. this 15th day of October, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32118 Filed 10-17-79; 8:45 am]
BILLING CODE 3510-22-M

V 44 OC 18 79 UMI

Notices

Federal Register
Vol. 44, No. 203
Thursday, October 18, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Designation of the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Tex., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and request for comments.

SUMMARY: This notice announces the designation of the Fort Worth Grain Exchange Inspection Service, Inc., Fort Worth, Texas, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before December 3, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8262.

SUPPLEMENTARY INFORMATION: Fort Worth Grain Exchange Inspection Service, Inc. (the "Agency"), 2707 Decatur Avenue, P.O. Box 4421, Fort Worth, Texas 76106, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 et seq.) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on March 20, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Fort Worth Grain Exchange. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is the following counties: Bell, Bosque, Brown, Coleman, Collin, Comanche, Cooke, Dallas, Denton, Ellis, Falls, Fannin, Grayson, Hamilton, Hill, Johnson, Lamar, Limestone, McLennan, Milam, Red River, Tarrant, and Williamson.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-8525.

Publication of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since March 1979. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public affect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than December 3, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 1.27 (b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94-582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note)).

Done in Washington, D.C. on: October 15, 1979.

L. E. Bartelt,
Administrator.

[FR Doc. 79-32191 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Land and Resource Management Plan; Eldorado National Forest, Calif.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the forest plan for the Eldorado National Forest.

This forest plan is one of eighteen currently being developed in the Pacific Southwest Region. The development of these several forest plans and the regional plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Eldorado National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest System lands,

(b) The public costs of providing these goods and services, and

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest plan will be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns,

(c) One or more alternatives that respond to Resources Planning Act (RPA) target ranges.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this, public meetings will be held:

Sacramento Community Convention Center, 1100 14th Street, Sacramento, California.
Monday, November 5, 1979, Afternoon—1:30 to 4:00 p.m., Evening—7:30 to 9:30 p.m.
Jackson Civic Center, Junction of Hwys. 49 and 88, Jackson, California.
Wednesday, November 7, 1979, Evening—7:30 to 9:30 p.m.
Forest Supervisors Office, 100 Forni Road, Placerville, California.
Wednesday, November 14, 1979, Afternoon—1:30 to 4:00 p.m., Evening—7:30 to 9:30 p.m.
Georgetown Elementary School, Library, Harkness Avenue, Georgetown, California.
Thursday, November 15, 1979, Evening—7:30 to 9:30 p.m.
Pioneer Inn, 221 South Virginia Street, Reno, Nevada.
Tuesday, November 27, 1979, Afternoon—1:30 to 4:00 p.m., Evening—7:30 to 9:30 p.m.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the draft environmental impact statement is July 1982. Following a three month public review period, a final environmental impact statement will be prepared and distributed in approximately April 1983.

For further information about the planning project, or the availability of the environmental impact statements, or other documents relevant to the planning process, contact:

Jesse J. Barton, Forest Planner, Eldorado National Forest, 100 Forni Road, Placerville, CA 95667, (916) 622-5061.

Dated: October 9, 1979.

Zane G. Smith, Jr.,
Regional Forester, Pacific Southwest Region.

[FR Doc. 79-32137 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-11-M

Payette National Forest Grazing Advisory Board; Meeting

The Payette National Forest Grazing Advisory Board will meet at 1 PM, November 20, 1979, at the District Forest Ranger's Office, Council, Idaho. The purpose of this meeting is to organize the Board and elect Officers.

The meeting will be open to the public. Persons who wish to attend should notify M. S. Wright, Payette National Forest, McCall, Idaho, 634-2255. Written statements may be filed with the Board before or after the meeting.

Dated: October 10, 1979.

W. B. Sendt,
Forest Supervisor.

[FR Doc. 79-32133 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan; Tahoe National Forest, Calif.; Intent To Prepare Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the Forest Plan for the Tahoe National Forest.

This forest plan is one of eighteen currently being developed in the Pacific Southwest Region. The development of these several forest plans and the Regional Plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Tahoe National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, by uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest System lands.

(b) The public costs of providing these goods and services, and

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns,

(c) One or more alternatives formulated to investigate opportunities for departure from even flow non-declining timber yield.

(d) One or more alternatives formulated to respond to the forest's share of the Resource Planning Act program targets.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may

V 44 0 C 1 18 7 9 UMI

be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this, public meetings will be held:

Sacramento, California—November 5, 1979, 1:30 to 4:00 P.M. and 7:30 to 9:30 P.M. Sacramento Community Convention Center, 1100 14th Street.

Nevada City, California—November 7, 1979, 3:00 to 5:30 P.M. and 7:30 to 9:30 P.M. National Guard Armory, Corner of Ridge Road and Zion Street.

Auburn, California—November 8, 1979, 3:00 to 5:30 and 7:30 to 9:30 P.M. Placer County Administrative Building, 175 Fulweiler.

Downieville, California—November 14, 1979, 3:00 to 5:30 P.M. and 7:30 to 9:30 P.M. Downieville Community Hall, Main Street.

Sierraville, California—November 15, 1979, 3:00 to 5:30 P.M. and 7:30 to 9:30 P.M. Sierraville Elementary School, Highway 89.

Reno, Nevada—November 27, 1979, 1:30 to 4:00 P.M. and 7:30 to 9:30 P.M. Pioneer Inn, 221 South Virginia Street.

Truckee, California—November 29, 1979, 3:00 to 5:30 P.M. and 7:30 to 9:30 P.M. Donner Memorial State Park, Off I–80 at Truckee.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the draft environmental impact statement is July 1982. Following a three month public review period, a final environmental impact statement will be prepared and distributed in approximately April 1983.

For further information about the planning project, or the availability of the environmental impact statements, or other documents relevant to the planning process, contact: George A. Cadzow, Tahoe National Forest, Highway 49 and Coyote Street, Nevada City, California, (916) 265–4531.

Dated: October 9, 1979.

Zane G. Smith, Jr.,

Regional Forester, Pacific Southwest Region.

[FR Doc. 79-32136 Filed 10-17-79; 8:45 am]

BILLING CODE 3410-11-M

CIVIL AERONAUTICS BOARD

[Dockets 33361, 32637, and 32638]

Former Large Irregular Air Service Investigation (Application of Aero Finance Corp.); Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 28, 1979, at 9:30 a.m. (local time), in Hearing Room 1003 C, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before me.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served November 9, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 15, 1979.

Marvin H. Morse,

Administrative Law Judge.

[FR Doc. 79-32168 Filed 10-17-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-10-76]

Capitol International Airways, Inc.; Order Granting Exemptions and Waiver

Issued Under Delegated Authority October 15, 1979.

On September 22, 1979, we were advised by counsel for Capitol International Airways, Inc. that that carrier would be forced to cease operations at 12:01 a.m. e.d.t. that night due to a strike against it by the International Brotherhood of Teamster, Airline Division, Local 732.[1] This strike, like the current strike against World Airways, has the potential to disrupt the travel plans of thousands of persons who hold reservations on Capitol flights.[2]

In order to avert almost certain hardship which will befall its passengers, Capitol requested that the Board grant authority to U.S. certificated air carriers and foreign air carriers to permit them to provide emergency transportation on any flight otherwise authorized by their certificates or permits to any prson who was to have been transported on any Capitol flight. Such authority was granted recently as a result of the World Airways strike, to permit domestic and foreign carriers to provide emergency transportation for passengers of that carrier on their charter flights.[3]

We have decided to act on Capitol's request and grant an exemption to all U.S. certificated air carriers from section 401 of the Act and all foreign air carriers from the provisions of section 402 of the Act to permit them to provide emergency transportation on any charter flight (including ferry legs) to any person who was to have been transported on any Capitol flight, scheduled or charter.[4] We are also granting an exemption to permit these carriers to carry Capitol's scheduled passengers between New York and Brussels and New York and Los Angeles on any of their scheduled flights in these markets. This confirms or oral action communicated to Capitol on September 22, 1979. We find that grant of the exemption is consistent with the public interest.[5]

As we did in the case of World Airways, we also are granting a waiver of the Board's Special Regulations to all charter operators in order to enable them to provide emergency transportation on their charter flights to any passenter who was to have been transported on any Capitol Flight.[5] We find that there are special and unusual circumstances warranting grant of this waiver and that such waiver is in the public interest.

The authority granted here is subject to the conditions that original (*i.e.*, non-Capitol) passengers or cargo may not be displaced to make room for Capitol's traffic, and the original passengers or cargo shippers may not be unreasonably inconvenienced by any flight reroutings which may be necessary in order to pickup or discharge Capitol traffic.[6]

[1] Airline personnel affected are flight engineers.

[2] In addition to holding world-wide charter authority, Capitol also operates scheduled services between New York and Brussels and New York and Los Angeles.

[3] Order 79-8-11, dated August 2, 1979. In addition, scheduled carriers are authorized to offer seats to charter passengers, whose flights are canceled in emergency situations, by Order 79-5-89, dated May 10, 1979.

[4] In making subservice arrangements for their participants in accordance with this exemption, charter operators will be permitted to request from charter participants a portion of the increased costs of providing return transportation for those participants stranded because of the strike. The additional amount requested shall not exceed one-half the charter operator's cost increase for that participant attributable to the Capitol strike, and shall in no event be more than $20.

[5] We are also granting an exemption to permit these carriers to carry any cargo which was to have been carried by Capitol.

[6] Because the circumstances of each case will vary, we shall leave to the carriers' discretion the point at which a rerouting becomes an inconvenience to the original passengers or shippers. Obviously, the addition of numerous intermediate stops, or multi-hour layovers to enplane passengers or to load cargo, would cause a

Footnotes continued on next page

Since this authority merely permits the addition of passengers and cargo to existing flights, we find that our action does not constitute a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, or a major regulatory action under the Energy Policy and Conservation Act of 1975. Finally, our action is not an endorsement by the Board that the services described here are hardships qualifying any affected carrier for additional fuel allocation under any aviation fuel allocation program.

Accordingly, acting under authority delegated by the Board in its Regulations, 14 CFR 385:

1. We exempt all U.S. certificated air carriers from the provisions of section 401 of the Act and all foreign air carriers from the provisions of section 402 of the Act to the extent necessary to permit them to provide emergency transportation on any charter flight (including ferry legs) otherwise authorized by the carriers' certificates or permits, to any passenger who was to have been transported on any Capitol International Airways flight;

2. We exempt all U.S. certificated air carriers from the provisions of section 401 of the Act and all foreign air carriers from the provisions of section 402 of the Act to the extent necessary to permit them to provide on any scheduled flight authorized by the carriers' certificates or permits to be operated between New York and Brussels or New York and Los Angeles emergency transportation to any passenger who was to have been transported on any Capitol International Airways' scheduled flight between such points;

3. We exempt all U.S. certificated direct air carriers from the provisions of section 401 of the Act, and all direct foreign air carriers from the provisions of section 402 of the Act, to the extent necessary to permit them to carry cargo which was to have been carried on any Capitol flight;

4. We exempt all U.S. certificated air carriers and foreign air carriers from the provisions of section 403 of the Act and Part 221 of the Board's Economic Regulations, insofar as enforcement of section 403 and Part 221 would prevent them from providing emergency transportation as described in paragraphs 1, 2, and 3;

5. The exemptions granted by paragraphs 1, 2 and 3 shall not authorize any foreign air carrier to engage in air transportation between united States points;

6. We grant all charter operators conducting charter programs under the provisions of the Board's Special Regulatoins a waiver of those rules to the extent necessary to provide emergency transportation on their charter flights to any charter passenger who was to have been transported on any Capitol flight;

7. We waive the prohibition against price increases in 14 CFR 380.33(b) to the extent necessary to permit charter operators to request from charter participants a portion of the increased costs of providing the return transportation described in their operator-participant contracts, as set forth in paragraph 8 of this order. This waiver shall apply only to transportation of participants whose charter trips have already begun by the date of this order and whose originally contracted-for return transportation was to be performed by Capitol;

8. The additional amount requested from any participant pursuant to paragraph 7 above shall not be more than one-half the charter operator's cost increase for that participant attributable to the Capitol strike, and shall in no event be more than $20;

9. The waiver set forth in paragraph 7 above is conditioned on the charter operator extending credit before the return flight's departure to any participants who need it in order to pay the price increase;

10. The authority granted by paragraphs 1–5 above is subject to two conditions: (a) original passengers or cargo shall not be displaced by the Capitol traffic; and (b) original passengers or cargo shippers shall not be unreasonably inconvenienced by any necessary flight reroutings or delays;

11. This authority is applicable only to those passengers or cargo the carriers can verify were to have been transported on a flight operated by Capitol International Airways;

12. This authority shall terminate five days after the resumption of normal services by Capitol International Airways;

13. The Board, at its discretion, may at any time and without hearing amend, modify, or revoke this authority.

This order will be published in the **Federal Register.**

Persons entitled to petition the Board for review of this order under 14 CFR 385.50 may file their petitions within 10 says after the issuance of this order.

This order shall be effective immediately and the filing of a petition for review shall not preclude its effectiveness.

Phillis T. Kaylor,

Secretary.

[FR Doc. 79-32169 Filed 10-17-79; 8:45 am]

BILLING Code 6320-01-M

Footnotes continued from last page

serious inconvenience. Moreover, any delay whatsoever on a flight carrying perishable cargo would constitute an inconvenience. We will monitor closely any complaints arising from this authority; at the same time we do not wish to hinder the addition of passengers or cargo on flights where the effects of a delay would be minimal.

DEPARTMENT OF COMMERCE

Office of the Secretary

Public Advisory Committee for Trademark Affairs; Renewal

In accordance with the provisions of the Federal Advisory Committee Act 5 U.S.C. App. (1976) and Office of Management and Budget Circular A–63 of March 1974, and after consultation with GSA it has been determined that the renewal of the Public Advisory Committee for Trademark Affairs is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee was first established in September, 1970. It was reestablished on April 12, 1979 and its present charter will expire on October 12, 1979. Since its inception the purpose of the Committee has been to advise the Patent and Trademark Office concerning steps which can be taken to increase the efficiency and effectiveness of administration of the Trademark Act and to provide a continuing flow of knowledge from the private sector to the government in the field of trademarks. Approximately seventy-five percent of the over one hundred twenty-five specific recommendations have been implemented at least in part. There is no question that the Committee has contributed greatly to the efficiency and effectiveness of the administration of the statute. In reviewing the Committee, the Secretary has sought continued effort towards this objective. The Committee's function cannot be accomplished by any organizational element or other committee of the Department.

As it was initially established, the Committee will continue to comprise the members of the Advisory Committee for Trademark Affairs of the United States Trademark Association. The membership is balanced and is under the control of the President of the Association. The Committee will continue to operate in compliance with the provisions of the Federal Advisory Committee Act.

V 4 4 0 C 1 8 7 9 UMI

Copies of the Committee's revised charter will be filed with appropriate committees of Congress.

Any inquiries or comments may be addressed to Patricia M. Davis, Committee Control Officer, Office of Trademark Program Control, U.S. Patent & Trademark Office, Washington, D.C. 20231; telephone (703) 557-3881.

Dated: October 11, 1979.

Elsa O. Porter,

Assistant Secretary for Administration.

[FR Doc. 79-32087 Filed 10-17-79; 8:45 am]

BILLING CODE 3510-17-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Community College of the Air Force (CCAF) Advisory Committee; Meeting

The Community College of the Air Force Advisory Committee will hold a meeting on November 20, 1979 at 8:00 a.m. in the Conference Room, Number 121, Building 836, located at Maxwell Air Force Base, Montgomery, Alabama.

The meeting is open to the public.

Agenda items include: Academic Policy, Master Plan, Staff Tenure, Use of Consultants in Curriculum Development, Licensing Requirements in the Health Care Sciences, Outreach to Guard and Reserve units, Preparation for Commission on Colleges Visit.

For further information contact Lt Col Thomas C. Padgett, 205-293-7937, Community College of the Air Force, Maxwell AFB, Alabama 36112.

[FR Doc. 79-32060 Filed 10-17-79; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers

Richland Creek, Ill.; Intent To Prepare a Draft Environmental Impact Statement (DEIS)

AGENCY: St. Louis District, U.S. Army Corps of Engineers.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS) for Richland Creek, Illinois.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a DEIS for the Richland Creek, Illinois, General Investigation Study concerning flood control and water related problems. These measures will provide varying degrees of protection for flood control and for the prevention of erosion and silt accumulation.

2. *Alternatives:* Alternatives include both structural and non-structural measures such as: detention reservoirs, channel enlargement, channel realinement, clearing and snagging, levees, warning systems, floodplain management, flood-proofing, relocations, bridge opening enlargements, low level flood shields, greenbelts, wildlife habitat areas, and no action.

3. *Scoping Process.* a. *Public Involvement Program.* The public involvement program began with the notification of the initiation of the study to Federal, state, and local governments and agencies in November 1978. An inter-agency field trip was made on 19 December 1978 along with the initiation of correspondence with the local governments to determine the problems and needs of the area. The initial public meeting, which was held on 11 July 1979, was two-fold: first, to obtain information from the public concerning the problems and needs, and second, to begin the scoping process as outlined by the Council of Environmental Quality (29 November 1978). Throughout the remainder of the study, workshops and public meetings will be periodically scheduled to inform the public of the events taking place and to ask for their opinions and comments.

b. *Significant Issues.* Significant issues addressed in the DEIS will include: the presentation of wildlife habitat, historical and archeological sites, and endangered species, the creation of greenbelts, and an analysis of the effects on the environment regarding the economically justified alternatives.

c. *Lead Agency and Cooperating Agency Responsibilities.* The St. Louis District, Army Corps of Engineers, is the lead agency responsible for the preparation of the DEIS. The U.S. Fish and Wildlife Service and the Environmental Protection Agency will be requested to participate as cooperating agencies.

d. *Environmental Review and Consultation Requirements.* The completed DEIS will be circulated to the general public (i.e., those who have expressed interest), as well as to the appropriate local, state, and Federal agencies and representatives of environmental groups. This DEIS will contain records of compliance with designated consultation requirements if found applicable during the course of this study.

4. *Scoping Meeting.* The scoping process was initiated in conjunction with the initial public meeting of 11 July 1979. This scoping process will continue throughout the duration of the study effort, as it is to be incorporated into the total planning process (i.e., public meetings and workshops, meetings with local, state, and Federal agencies and representatives of environmental groups).

5. *DEIS Preparation.* The DEIS is tentatively scheduled to be completed in the third quarter of FY 82. (April–June, 1982). ADDRESS: Questions about the proposed action and the DEIS can be answered by: Mr. Jack F. Rasmussen, ED-B, U.S. Army Engineer District, St. Louis, 210 N. 12th Street, St. Louis, Missouri 63101.

Dated: October 10, 1979

John S. Wilkes III,

Lieutenant Colonel, Acting District Engineer.

[FR Doc. 79-32134 Filed 10-17-79; 8:45 am]

BILLING CODE 3710-GS-M

DELAWARE RIVER BASIN COMMISSION

Public Hearings

The Delaware River Basin Commission will conduct five public hearings from November 14 to November 27, 1979, on the draft final report of the Delaware River Basin Comprehensive (Level B) Study and its draft environmental impact statement.

The report and impact statement were released to the public on October 15, 1979. Copies are available by calling, writing or visiting the Commission's offices.

The draft report is subject to revision following the public hearing and comment process, and the Commission urges all interested parties to make their reactions to the report known to it during a two-month open-record period that will end at 5 p.m. on December 14, 1979.

Responses may be made either in writing directly to the Commission at any time during the comment period or verbally or in writing at any of the five public hearings listed below. The Commission also will welcome at any time through December 14 post-hearing statements and amendments or additions to statements submitted earlier at the hearings or directly in writing.

It is the Commissioners' intention to approve and issue the Level B final report and final environmental impact statement early in 1980. Those components of the final report that may be incorporated into the Commission's comprehensive plan will be the subject of further public hearings, as required by the Delaware River Basin Compact.

Individuals or organizations wishing to testify are requested to so by notifying the Commission by noon of the business day prior to the hearing at which they wish to appear.

The hours for all five hearings will be 2:30 to 5:30 p.m., each resuming at 7:30 p.m. to accommodate persons unable to appear during the day. Following is the schedule of hearings:

Wednesday, November 14—Supervisors Chamber, Sullivan County Government Center, Monticello, N.Y.

Thursday, November 15—East Stroudsburg State College Auditorium, East Stroudsburg, Pa.

Monday, November 19—Council Room, City-County Building, 800 French Street, Wilmington, Del.

Tuesday, November 20—Auditorium, Township Building, Plymouth Township (Montgomery County), Pa.

Tuesday, November 27—Council Chamber, Municipal Complex, Salem Road, Willingboro, N.J.

W. Brinton Whitall,

Secretary.

October 15, 1979.

[FR Doc. 79-32131 Filed 10-17-79; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below during the months of *May through July 1979.* These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; and

3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact Jack Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, telephone number (415) 556-7200.

Dated: October 10, 1979.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

Firm Name, Address, and Audit Date

Bob & Dave's Chevron Service, 188 E. Foothill Blvd., Upland, CA 91786—4/24/79

Martinez Union Service, 331 E. Foothill Blvd., Upland, CA 91786—6/4/79

Steve's Service Center (Mobil), 204 N. Euclid, Upland, CA 91786—5/24/79

Upland Arco, 187 S. Mountain, Upland, CA 91786—5/17/79

Jack's Union 76, 4600 Melrose, Los Angeles, CA 90029—7/20/79

Gorman Arco, 49669 Golden St. Hwy, Gorman, CA 93534—5/16/79

Casino Car Wash, 1736 Las Vegas Blvd., Las Vegas, NV—8/6/79

Dorrell's Chevron Service, 1720 W. Charleston, Las Vegas, NV 89102—8/1/79

Fred's Union 76, 131 Las Vegas Blvd. N., Las Vegas, NV—7/26/79

Strip Exxon, 2130 Las Vegas Blvd. So., Las Vegas, NV—8/6/79

Bitar Exxon Service Ctr., 2702 W. 1st St., Santa Anna, CA—4/25/79

Harry's Chevron Service, 9971 Adams, Huntington Beach, CA 92646—4/25/79

J & L Oil Co. (Arco), 11470 Edinger, Fountain Valley, CA 92708—7/10/79

Huntington CTR Chevron, 7777 Edinger, Huntington Beach, CA—7/25/79

Huntington Beach Chevron, 7012 Edinger, Huntington Beach, CA—7/25/79

Sam' Shell, 1200 N. Euclid, Anaheim, CA—6/8/79

Nick's Service Ctr., 532 S. Brookhurst, Anaheim, CA—6/8/79

Perez Union, 1913 Edinger, Santa Ana, CA—7/31/79

Kirkor Toprakojian, 13972 So. Tustin Ave., Santa Ana, CA 92701—4/24/79

Cesar P. Batalon, 1630 E. Chapman Ave., Orange, CA 92667—4/24/79

Fred Barrera, 995 W. Chapman Ave., Orange, CA 92668—4/24/79

Paul S. Melt, 9672 Garden Grove Blvd., Garden Grove, CA 92640—4/24/79

R & D Mobil, 13521 Brookhurst, Garden Grove, CA 92643—5/1/79

J. Lawyer & T. Lawyer (Texaco), 13502 Beach Blvd., Westminster, CA 92683—5/1/79

Nicholas R. Barone, 4105 W. Chapman, Orange, CA 92668—5/2/79

Amil Borrelli, 1302 W. Chapman, Orange, CA 92640—3/2/79

Harding Schad Union 76, 12002 Harbor Blvd., Gardon Grove, CA 92640—5/2/79

E. H. Schafer Chevron, 2181 W. Katella, Anaheim, CA—5/4/79

Bob's Motor Home Rentals & R.V. Supplies, 8911 Katella Ave., Anaheim, CA 92804—5/4/79

Marini's Automotive, 1895 W. Katella Ave., Anaheim, CA—5/4/79

Bob's Chevron, 10972 Katella, Anaheim, CA 92804—5/4/79

James Stephens, 2576 Clairemont Dr., San Diego, CA 92117—4/25/79

Chuck Foreman, 3001 Clairemont Dr., San Diego, CA 92117—4/25/79

Pro Auto Service Exxon, 6125 Balboa Ave., San Diego, CA 92111—4/25/79

Sam's Shell, 6055 Balboa Ave., San Diego, CA 92111—4/26/79

Arco Products, Jim Meton's Arco, 6130 Balboa Ave., San Diego, CA—4/26/79

R.C. Service Stations Inc., 7807 Balboa, San Diego, CA 92111—4/27/79

Ard Kewilan, Archies Exxon, 4518 Westminster Blvd., Santa Ana, CA 92703—5/7/74

Ruben Flora Union, 17961 Chapman, Orange, CA—5/9/79

Norm Lefebvre, 2101 S. Harbor Blvd., Anaheim, CA 92806—5/9/79

Joseph Suggs, 16404 E. Colima Rd., Hacienda Hts., CA 91745—4/23/79

Fred I. Foscalina, 2136 S. Hacienda Blvd., Hacienda Hts., CA 91745—4/23/79

Gary Graham, 2010 S. Hacienda Blvd., Hacienda Hts., CA 91745—4/23/79

Ara K. Topalian Arco, 1404 So. Hacienda Blvd., Hacienda Hts., CA 91745—7/2/79

Joseph A. Torchia Jr., 2529 W. Valley Blvd., Alhambra, CA 91803—4/19/79

Al's Chevron, 2600 W. Valley Blvd., Alhambra, CA 91803—4/19/79

Jack's Service Center, 2 E. Valley Blvd., Alhambra, CA 91803—6/26/79

Ray & Bill Mobil Svc. Center, 12402 Washington Place, Los Angeles, CA 90066—6/29/79

Westside Shell Service, 12343 Washington Blvd., Los Angeles, CA 90066—7/2/79

Tom Casgrove Chevron, 11960 Washington Blvd., Los Angeles, CA 90066—7/18/79

Neighborhood Shell, 11281 Washington Place, Culver City, CA 90230—6/29/79

Mikes Shell Service, 9829 Venice Blvd., Los Angeles, CA 90034—6/29/79

Chun Ki Union Service, 3470 So. Sepulveda, Los Angeles, CA 90034—7/2/79

E. R. Ladendecker, 3500 So. Sepulveda, Los Angeles, CA 90034—6/29/79

Gabe's Union 76, 11203 Washington Place, Culver City, CA 90230—6/29/79

George's Union Service, 4436 S. Sepulveda Blvd., Culver City, CA 90230—7/2/79

Bill's Chevron, 11197 Washington Place, Culver City, CA 90230—7/2/79

DeMare's Union Svc., 8525 So. Sepulveda, Los Angeles, CA 90045—7/3/79

Vic's Shell, 5908 Manchester, Los Angeles, CA—7/3/79

Kim's Shell Service, 1135 W. Manchester Blvd., Inglewood, CA 90301—7/3/79

Manchester Shell, 804 W. Manchester Blvd., Inglewood, CA 90301—7/3/79

Don O'Connor's Chevron, 601 W. Manchester, Los Angeles, CA 90045—7/3/79

Morris Chevron, 6530 Sepulveda Blvd., Los Angeles, CA—7/3/79

Art's Exxon, 1100 Manhattan Beach Blvd., Manhattan Beach, CA—5/21/79

John's Service Center (Mobil), 1119 S. Sepulveda Blvd., Manhattan Beach, CA 90266—4/23/79

Don's Shell No. 2, 1129 Sepulveda Blvd., Manhattan Beach, CA 90266—4/23/79

V 44 0 C 1 8 7 9 UMI

Sav-on Gas, 12505 Vanowen Ave., North Hollywood, CA—8/16/79
Al's Arco Mini Mart, 1002 Manhattan Beach Blvd., Manhattan Beach, CA 90266—4/23/79
Venice Marina (Arco), 12903 Washington Blvd., Los Angeles, CA 90066—5/23/79
Bob Jiminez Chevron, 4004 Lincoln Blvd., Venice, CA 90291—5/23/79
Villa Marina Union, 4300 Lincoln Blvd., Marina Del Ray, CA 90291—5/23/79
Allan Wutkee Union 76 Service, 4801 Lincoln Blvd., Marina Del Ray, CA 90291—5/23/79
Leonard's Svc. (Mobil), 6600 West Manchester Blvd., Los Angeles, CA 90045—5/24/79
Art Fisherson, d.b.a. Arts Chevron, 6508 W. Manchester, Los Angeles, CA 90045—5/24/79
Barell's Texaco, 6575 W. Manchester, Los Angeles, CA 90045—5/24/79
Doug Kitchen's Union 76, 6601 W. Manchester, Los Angeles, CA 90045—5/24/79
Airport Union 76, 603 N. Sepulveda, El Segundo, CA 90245—5/24/79
Greenwood Texaco, 7401 East McDowell Rd., Scottsdale, AZ 85257—6/18/79
ABE's Arco, 2523 Foothill Blvd., Pasadena, CA 91107—6/8/79
Dick & Greg's Mobil, 201 E. Live Oak, Arcadia, CA—4/24/79
Royce Hartlfield Union, 701 W. Huntington Dr., Arcadia, CA—5/3/79
Jimmy's Mobil Service, 284 So. San Gabriel Blvd., San Gabriel, CA 91776—5/29/79
Jordan's Union 76, 1305 N. Mountain Ave., Ontario, CA—7/30/79
Ruiz Chevron Service, 3073 Los Feliz Blvd., Los Angeles, CA 90039—6/20/79
Simon Union 76 Service, 3050 Los Feliz Blvd., Los Angeles, CA 90039—4/23/79
Ray Charzeddine Ray's Service, 1324 S. Central, Glendale, CA 91204—4/23/79
John's Mobil, 18353 E. Arrow Hwy., Azusa, CA 91702—6/15/79
Ron's Shell, 18354 Arrow Hwy., Covina, CA—5/2/79
A & B Texaco, 909 No. Citrus, Corina, CA—5/22/79
Hagen Chevron Service, 201 N. Grand Ave., West Covina—5/24/79
Elmer Webb Chevron Service, 22242 S. Main St., Carson, CA 90745—4/27/79
Gulesserian Arco, 800 E. Valley, San Gabriel, CA 91745—4/23/79
Stan Hartmark No. 2., 1741 Main, Wilmington, CA 90021—5/3/74
ABE's Union, 20315 S. Avalon, Carson, CA 90746—5/3/74
Crenshaw Shell Service, 2477 W. Lomita Blvd., Lomita, CA 90717—5/3/79
Buenos Aires Union, 1345 W. Pacific Coast Hwy., Wilmington, CA 90744—5/1/79
E. Kim's Union 76, 1259 W. Carson, Torrance, CA 90502—5/2/79
John R. Hood Jr. Union 76, 26393 S. Vermont Ave., Harbor City, CA 90710—5/4/79
Miriam Vasquez Shell, 1202 W. Anaheim, Harbor City, CA 90710—5/4/79
Troy Howells Towing, 20802 S. Vermont, Torrance, CA 90502—5/4/79
Harbor General Towing, 911 W. Carson, Torrance, CA 90502—5/4/79
Cho Shell Group, 7121 Atlantic, Bell, CA 90201—8/9/79
Gart La Cour Union, 18605 S. Western Ave., Gardena, CA 90247—7/31/79
Jon Kinsey Arco, 23510 Crenshaw Blvd., Torrance, CA—5/9/79
Bill Jordan's Union Service, 4404 E. 4th St., Long Beach, CA 90814—5/9/79
Wally's Arco, 1905 Grand Ave., San Diego, CA 92109—5/3/79
Bill Hart's Fairmount Shell, 4357 El Cajon Blvd., San Diego, CA 92105—5/3/79
Mission Bay Shell, 2830 Grand Ave., San Diego, CA 92109—6/14/79
Blackburn Mission Valley Exxon, 2432 Hotel Circle Dr., San Diego, CA 92110—6/14/79
Tom Fortune Chevron, 8140 Telegraph Rd., Downey, CA 90240—4/24/79
Ray's Mobil, 311 Castillo St., Santa Barbara, CA 93101—7/12/79
La Colina Mobil, 4151 Foothill Road, Santa Barbara, CA 93105—7/12/79
Ray's Mobil, 45 Glenn Annie Rd., Colita, CA—7/16/79
University Chevron, 6895 Hollister, Colita, CA 93017—8/13/79
Orange Mall Chevron, 2500 N. Tustin Ave., Orange, CA 92665—7/25/79
Howard's Chevron, 1940 E. Katella & Newport Fwy., Orange, CA 92666—7/25/79
Mark's Texaco Service 1140 E. Colorado, Glendale, CA 91205—4/18/79
Necaster Service, 1201 E. Colorado, Glendale, CA 91205—5/1/79
Coyote Chevron, 5241 Beach Blvd., Buena Park, CA—90620—4/19/79
Nadim Shell Service, 6242 Beach Blvd., Buena Park, CA 90620—4/19/79
Jerry's Texaco Service, 2510 Foothill Blvd., La Verne, CA 91750—5/15/79
Atco Oil Co., 370 W. Foothill Blvd., Pomona, CA 92335—7/26/79
Ira Kay Chevron, 695 S. Western Ave., Los Angeles, CA 90005—4/11/79
Chang Shell Station, 2190 W. Washington Blvd., Los Angeles, CA 90018—6/7/79
Western & 4th Carwash—Mobil, 401 S. Western Ave., Los Angeles, CA 90020—5/7/79
Harrison Carroll Jr. Chevron, 303 S. Western Ave., Los Angeles, CA 90005—7/27/79
Fernando Morales Chevron, 1278 N. Western, Los Angeles, CA 90029—5/2/79
Walter's Union Service Center, 4005 W. 3rd Street, Los Angeles, CA 90020—5/1/79
Frank's Arco, 3817 W. 3rd Street, Los Angeles, CA 90020—4/17/79
Sam's Foothill Shell, 183 E. Foothill, Upland, CA—5/9/79
Charles Drysdale Union, 502 N. Euclid Avenue, Upland, CA 91786—6/6/79
Javad Mazarei, 434 N. Euclid Avenue, Ontario, CA 91762—6/8/79
Bob's Union 76, 506 N. Euclid Avenue, Ontario, CA 91761—5/2/79
Boyd Moss Texaco, 4141 W. Charleston, Las Vegas, NV 89102—5/30/79
Anthony's Mobil Service, 4191 Boulder Hwy., Las Vegas, NV 89121—6/6/79
Charleston Height Busky, Las Vegas, NV—6/20/79
Joe's Union Oil, Las Vegas, NV—6/19/79
Gulf (5th & Utah), Las Vegas, NV—6/19/79
Kelly's Shell, Las Vegas, NV—6/20/79
G. H. Chevron, 1104 S. Bristol, Santa Ana, CA 92704—4/17/79
Bitar Fountain Valley Co., 16225 Harbor Blvd., Fountain Valley, CA 92708—4/17/79
Abe Adam Union Service, 3599 Harbor Blvd., Costa Mesa, CA 92626—4/18/79
S. J. Shell, 702 S. Harbor Blvd., Santa Ana, CA 92704—4/19/79
John's Exxon, 15980 Brookhurst, Fountain Valley, CA 92708—4/19/79
Pete's Mobil, 3001 Bristol St., Costa Mesa, CA 92626—4/20/79
Ram's Arco, 10721 Westminister, Garden Grove, CA 92640—5/1/79
F-Z Shell Service, 13991 Brookhurst, Garden Grove, CA 92644—5/1/79
Joe Wasserman Shell, 7951 Westminister, Westminister, CA 92683—5/1/79
Shell Self Serve, 8990 Westminister, Westminister, CA 92680—5/1/79
Mobil Service C & R, 13982 Bolse Chica, Westminister, CA 92683—6/5/79
Bill's Service Center, 17025 Brookhurst, Fountain Valley, CA—5/8/79
Altinaivi Exxon, 14520 Magnolia, Westminister, CA—6/5/79
Chang Min, 1300 W. Bristol, Santa Ana, CA 92704—4/17/79
Steve Kelso Mobil, 171 East 1st St., Tustin, CA 92680—4/19/79
Norris Haight, 23652 Rockfield & Lake Forrest, Tustin, CA—7/31/79
Roy Calvetti Mobil, Corner of Laguna & Red Hill, Tustin, CA 92680—4/19/79
Peter's Exxon, 2701 N. Bristol, Santa Ana, CA 92706—4/20/79
John's Exxon, 2641 N. Bristol, Santa Ana, CA 92706—4/20/79
Mike Donley's Union Service, 14903 Burbank Blvd., Van Nuys, CA 91401—6/10/79
Harry's Mikaelian Brothers, 12450 Burbank Blvd., N. Hollywood, CA 91607—7/27/79
Mike Donely Union, 14903 Burbank Blvd., Van Nuys, CA 91401—6/19/79
PMP Mobil Inc., Las Vegas, NV—6/19/79
Tropicana Strip Chevron, Las Vegas, NV—6/20/79
Bonanza Union, Las Vegas, NV—6/20/79
Arnie's Blvd. Shell, Las Vegas, NV—6/20/79
Wilt Fong Shell, 1031 S. Hacienda Blvd., Hacienda Heights, CA 91745—5/3/79
Bill's Mobil, 1004 N. Hacienda Blvd., La Puente, CA 91744—5/8/79
Brake King, 15156 E. Valley Blvd., Industry, CA 91744—6/4/79
Howard's Service Center, 15580 E. Valley Blvd., Industry, CA 91744—5/1/79
Far-Go Gas, 15508 E. Gale Ave., Hacienda Hts., CA 91745—5/4/79
Phil's Exxon Service, 15215 E. Gale Ave., Industry, CA 91744—5/8/79
Rick's Arco, 15156 E. Gale Ave., Hacienda Hts., CA 91745—5/2/79
Dick Wagoner Chevron, 14814 E. Gale Ave., Hacienda Hts., CA 91745—5/2/79
Ray Bartz Chevron Center, 841 S. 7th Street, Industry, CA 91745—5/2/79
Bates Chevron, 506 S. Workman Mill Rd., La Puente, CA 91746—5/2/79
John Union 76, 15135 E. Amar Ave., La Puente, CA 91744—5/8/79
Ettore Union, 551 N. Sunset Ave., La Puente, CA 91744—5/8/79
John & Chuck's Union, 1601 N. Hacienda Blvd., La Puente, CA 91744—5/9/79
S & H Gulf, 1411 N. Hacienda Blvd., La Puente, CA 91744—5/9/79
Mariano Arco, 14641 Dalewood Ave., Baldwin Park, CA 91706—5/9/79
Chang O. Kim's Mobil, 1606 N. Puente Ave., Baldwin Park, CA 91706—4/27/79

Carl Burnett's Texaco, 1870 N. Puente Ave., Baldwin Park, CA 91706—4/27/79
John Baird Chevron, 3106 N. Puente Ave., Baldwin Park, CA 91706—5/1/79
Alfredo's Union 76, 3109 N. Puente Ave., Baldwin Park, CA 91706—5/1/79
Jack Bever Chevron, 18081 Ventura Blvd., Woodland Hills, CA—4/4/79
Jerry Schmidt Shell, 1000 S. Santa Anita, Arcadia, CA 91006—4/18/79
Ivan Milicic—Hillcrest Automotive, 233 N. Altadena Dr., Pasadena, CA 91104—4/19/79
Hagop & Yeghia Shekerdemian—Arco, 1150 N. Allen Avenue, Pasadena, CA 91104—4/20/79
Don's Chevron, 186 E. Duarte Road, Arcadia, CA—4/18/79
Steve Bercik's Service Mobil, 201 E. Duarte Road, Arcadia, CA—4/19/79
John Kyle Mobil, 1813 E. Colorado Blvd., Pasadena, CA—5/23/79
Glen Curtis Union Co., 997 Las Tunas, Temple City, CA—4/20/79
Irv Edward's Union, 1127 S. Baldwin, Arcadia, CA—5/2/79
Joe Polimeni Mobil, 4749 Santa Anita, El Monte, CA—5/2/79
Najeeb Abujudeh Shell, 3700 Colorado, Pasadena, CA—5/3/79
Lavaugh Johns Mobil, 810 Huntington, San Marino, CA—5/3/79
Hancock Chevron, 801 W. Huntington Dr., Arcadia, CA 91006—5/30/79
Don Cooks Chevron, 10030 Lakewood Blvd., Downey, CA 90240—5/17/79
Robert M. Wood Union 76, 10208 Lakewood Blvd., Downey, CA 90241—5/16/79
Dogan Tasci Texaco Service, 10037 Lakewood Blvd., Downey, CA 90240—5/1/79
South Clairemont Mobil, 3095 Clairemont Dr., San Diego, CA 92117—4/26/79
Joe Hernadez Arco, 1550 Marina Blvd., San Diego, CA 92110—4/26/79
Don Gressman Chevron Service, 1330 Santa Monica Blvd., Santa Monica, CA 90401—4/25/79
George Ando Service, 11350 W. Olympic Blvd., W. Los Angeles, CA 90064—7/19/79
Sung's Shell Service, 1502 14th St., Santa Monica, CA 90404—4/17/79
Jack Edwards Shell, 11944 Olympic Blvd., W Los Angeles, CA—4/19/79
Charles Service Center, 10857 Santa Monica Blvd., Los Angeles, CA 90025—5/14/79
Hassanali Rawji Chevron, 2328 Pico Blvd., Santa Monica, CA 90405—5/1/79
Grant Fought Auto Service No. 1, 2344 Pico Blvd., Santa Monica, CA 90405—4/19/79
Curt's Chevron, 1750 Ocean Park Blvd., Santa Monica, CA 90405—4/19/79
Bill's Shell, 11574 Santa Monica Blvd., Los Angeles, CA 90025—4/19/79
Saffie Union 76, 879 N. Wilcox Ave., Montebello, CA 90640—4/19/79
Andrew Pica's Shell Service, 631 N. Garfield Ave., Monterey Park, CA 91754—4/19/79
J & B Shell, 5300 Arlington Ave., Riverside, CA 93504—7/11/79
Fay Morrison's Chevron, 5305 Arlington Ave., Riverside, CA 92504—4/20/79
Ary Kang Shell Station, 2716 E. Colorado Blvd., Pasadena, CA 91607—5/30/79
MH Kaboud Arco, 3706 Foothill Blvd., Pasadena, CA 91107—5/25/79
Rabiees Union 76, 16205 E. Leffingwell, Whittier, CA 90603—5/14/79
Harry's Service Center Mobil, 1277 N. Western Ave., Hollywood, CA 90029—4/12/79
Petty's Shell Service, 4455 W. Beverly Blvd., Los Angeles, CA 90004—5/2/79
Alex Service Mobil, 4474 W. Beverly Blvd., Los Angeles, CA 90004—5/7/79
Hossein Fadakar Union, 304 Vermont Ave., Los Angeles, CA 90004—5/10/79
Don McCormick Chevron Suc., 581 S. Vermont Ave., Los Angeles, CA 90020—5/17/79
Velazques Chevron, 270 S. Normandie Ave., Los Angeles, CA 90004—5/7/79
Peter Hong Union, 210 W. 8th St., Los Angeles, CA 90057—6/11/79
Louie Laymance Union, 49704 Gorman Post Rd., Gorman, CA 93243—6/8/79
Tovroj Service, 300 S. Normandie Ave., Los Angeles, CA 90005—4/23/79
Kirby Clark Exxon, 19005 E. Colima Road, Rowland Heights, CA—4/20/79
Norms Exxon, 350 S. Diamond Bar Blvd., Diamond Bar, CA 91765—5/14/79
Rowland Heights Service Center, 18999 Colima Boulevard, Rowland Heights, CA—5/31/79
George Bower, Chevron, 19004 E. Colima Road, Rowland Heights, CA—6/5/79
Howard's Union, 420 N. Azusa Ave., Covina, CA 91722—4/18/79
Peterson Shell No. 2, 1247 W. San Bernardino Road, Covina, CA 91722—5/29/79
Macks Arco, 1680 W. San Bernardino Road, Covina, CA 91722—5/11/79
Bob & John's Service, 18677 E. Arrow Highway, Azusa, CA—4/19/79
Mike's Mobil, 18253 Colima Road, Rowland Heights, CA—4/20/79
Kenneth Warbrick Chevron, 4710 Green River Drive, Corona, CA—6/3/79
Juan Camboa Chevron, 1515 N. Garey Avenue, Pomona, CA—5/22/79
Diamond Jims Dairy, 18470 E. Colima Road, Rowland Heights, CA—6/28/79
Sabin Chevron, 3635 Wilshire Blvd., Los Angeles, CA—5/29/79
Peterson Shell, 200 S. Azuza Ave., West Covina, CA—5/29/79
Len's Mobil, 201 S. Azuza Ave., West Covina, CA 91791—7/11/79
Tom's Exxon, 18515 E. Arrow Highway, Covina, CA 91722—4/24/79
Talal K. Khaled, Jba Samj Service Center, West Covina, CA—5/4/79
Richard H. Ahrens, 777 N. Glendora, La Puente, CA 91744—5/9/79
Boshva Guirguis, 1333 W. Merced, West Covina, CA—5/9/79
Essam Karadshih, 333 S. Vincent, West Covina, CA—5/9/79
Richard G. Stakey, 21008 Arrow Highway, Covina, CA—7/23/79
Chester Parker, 2657 E. Valley Blvd., West Covina, CA—5/11/79
Hawkin Self-Service, 8945 N. Central Ave., Phoenix, AZ—6/20/79
Joe Jones Chevron, 702 E. Van Burin, Phoenix, AZ 85006—4/25/79
Valley Shell Auto Care, 543 E. Thomas Road, Phoenix, AZ 85014—4/26/79
Jim B. Murphy Chevron, 2817 N. 7th St., Phoenix, AZ 85006—4/25/79
Country Club Shell, 2902 N. 16th St., Phoenix, AZ—4/26/79
Hal's Exxon, 6747 E. Thomas Road, Scottsdale, AZ 85251—4/26/79
Laing's Mobil, 6750 E. Thomas Road, Scottsdale, AZ 85251—4/26/79
Jose A. Placencia Shell, 6520 N. Central Ave., Phoenix, AZ 85012—4/27/79
Chuck's Freeway Shell, 4041 N. Black Canyon Dr., Phoenix, AZ—6/26/79
Paradise Valley Mobil, Phoenix, AZ—6/15/79
B & H Union, Phoenix, AZ—6/19/79
Bob's West Indian Service, Phoenix, AZ—6/20/79
Dees Union, Phoenix, AZ—6/21/79
C G Exxon Service, 22000 Wilmington Ave., Carson, CA 90745—6/12/79
Harts Mobil, 21682 S. Wilmington Ave., Carson, CA 90745—5/23/79
C. E. Malone Arco Service, Stations, 21704 S. Figueroa, Carson, CA 90745—5/2/79
Jack's Chevron Service, 21633 S. Wilmington Ave., Carson, CA 90745—4/17/79
Hanson's Shell Service, 22251 Wilmington Ave., Carson, CA 90745—4/18/79
Hanson's Texaco, 22232 Wilmington Ave., Carson, CA 90745—4/19/79
Galo's Union Service, 608 W. Carson St., Carson, CA 90745—4/20/79
AA Shell Service, 22303 S. Avalon, Carson, CA 90745—5/15/79
Burke and Cridland Texaco, 796 E. Altadena, Altadena, CA 91001—5/17/79
H & N Chevron, 1318 Huntington Dr., So. Pasadena, CA 91030—5/16/79
Ruiz and Son Mobil, 900 W. Sepulveda Blvd., Harbor City, CA 90710—5/15/79
Eum's Exxon, 921 Sepulveda Blvd., Torrance, CA 90502—5/23/79
Peter Guu Mobil, 501 W. Willow Street, Long Beach, CA 90806—6/22/79
Bob Union, 2205 W. Sepulveda, Torrance, CA—7/25/79
John A. Potter Shell, 25001 S. Western, Lomita, CA 90717—8/28/79
Sung Shell, 2155 W. Rosecrans, Gardena, CA 90249—5/24/79
Vasquez Shell, 1880 W. Carson St., Torrance, CA 90501—5/25/79
Suh's Shell, 506 Rosecrans, Gardena, CA 90247—5/30/79
Lorenzo Shell, 490 W. Rosecrans, Gardena, CA 90247—5/30/79
Young Duk Choi Exxon, 14221 S. Figueroa, Los Angeles, CA 90247—5/30/79
Cervantes Shell, 101 W. Pacific Coast Hwy., Wilmington, CA 90744—5/30/79
Kim's Exxon Shell, 18526 S. Normandie, Gardena, CA 90248—6/1/79
Kenneth Sample Shell, 1695 W. Pacific Coast Highway, Harbor City, CA 90710—6/1/79
H & A Mini Market ARCO, 3015 W. 182nd St., Torrance, CA 90504—6/18/79
H & V Mobil, 5850 W. 3rd Street, Los Angeles, CA 90036—6/19/79
Samir's Shell, 3106 W. Compton Blvd., Gardena, CA 90249—6/18/79
Song-Huh Shell, 5800 Atlantic/South, Long Beach, CA 90805—4/17/79
Song's Union 76, 5740 Atlantic Blvd., Long Beach, CA 90805—4/17/79
An's Mobil Service, 5005 Long Beach Blvd., Long Beach, CA 90805—4/19/79
Bob's Chevron, 4991 Del Amo Blvd., Long Beach, CA 90807—4/19/79
Don's Union 76, 3395 Orange Ave., Long Beach, CA 90803—4/20/79
I & L Service—Mobil, 5401 Atlantic Ave., Long Beach, CA 90805—4/20/79

V 44 0C 1 8 7 9 UMI

Ralph's Union Service, 1790 Atlantic Ave., Long Beach, CA 90813—4/20/79
Orlando's Service Station—Union 76, 4870 Bellflower Blvd., Lakewood, CA 90713—5/8/79
Art Moore's Arco Service, 5800 Bellflower Blvd., Lakewood, CA 90713—5/9/79
Rod Pearson Exxon, 1509 W. Charleston, Las Vegas, NV 89102—6/20/79
Don's Arco, 1548 F Street, San Diego, CA 4/25/79
Brannon's Exxon, 420 Robinson Ave., San Diego, CA 92103—4/26/79
C. W. Morris Union, 3795 6th Ave., San Diego, CA 92103—4/26/79
Don Morton Chevron, 3806 6th Ave., San Diego, CA 92103—4/26/79
Mission Valley Union 76, 500 Hotel Circle North, San Diego, CA 92108—4/27/79
Mission Valley Mobil, 1110 W. Hotel Circle, San Diego, CA 92110—4/27/79
Moshe Toister Mobil, 1229 E. 17th St., Santa Ana, CA 92701—4/18/79
George's Mobil Service, 521 E. 17th Street, Santa Ana, CA 92761—7/2/79
David Hughes Chevron Station, 400 E. 17th Street, Santa Ana, CA 92701—6/18/79
Jim's Shell Service, 11281 Santa Monica Blvd., Los Angeles, CA 90025—4/20/79
Gerry's Union Service, 11305 Santa Monica Blvd., W. Los Angeles, CA 90025—4/20/79
Frank's Union 76, 1645 Crenshaw Blvd., Torrance, CA 90501—4/20/79
Gary's Service Center—Mobil, 1640 Crenshaw Blvd., Torrance, CA 90501—4/20/79
Hangtown Chevron, 88 Main Street, Placerville, CA 95667—6/1/79
Len's Texaco, 801 E. Kettleman Lane, Lodi, CA 95240—6/13/79
Carralejo & Sons Mobil, 101 S. La Cumbre Road Santa Barbara, CA 93105—6/11/79
Pronto Chevron Automated Service, 3020 N. Olive St., Burbank, CA 6/14/79
Fazloliah Bazargannan Shell, 16201 Woodley, Granda Hills, CA 91344—7/23/79
S & K Shell, 21347 Ventura Blvd., Woodland Hills, CA 91364—8/14/79
Samran Thomloi Union 76, 11700 Magnolia Blvd., N. Hollywood, CA—6/3/79
Phil's Union Service, 9055 Wilshire Blvd. Beverly Hills, CA—5/4/79
Roy Surey Union 76, 21940 Ventura Blvd., Woodland Hills, CA—6/25/79
Woodland Hills Chevron, 5356 Canoga Ave., Woodland Hills, CA—6/25/79
Dale's Union Service, 18524 Ventura Blvd., Tarzana, CA—5/24/79
Dave's Union Service, 17849 Ventura Blvd., Encino, CA 91316—5/25/79
Young's Shell Service, 15255 Roscoe Blvd., Van Nuys, CA 91402—6/13/79
Sam's Arco, 804 Wilshire Blvd., Santa Monica, CA 90401—5/25/79
Koko's Exxon, 1260 Lincoln Blvd., Santa Monica, CA 90401—5/25/79
Midlad's Union 76, 1402 Santa Monica Blvd., Santa Monica, CA 90404—5/25/79
Osko's Mobil, 731 Santa Monica Blvd., Santa Monica, CA 90401—5/29/79
Manuel Quintana, d.b.a. Mannys Chevron, 1117 Santa Monica, Los Angeles, CA 90025—6/11/79
David's Shell Station 1221 Artesia Blvd., Manhattan Beach, CA 90266—6/4/79
Manny Granada, d.b.a. Mobil West, 11178 Santa Monica, Los Angeles, CA 90025—6/11/79
Ed Randall, Malibu Arco, Malibu, CA—6/12/79
Mike Burko, Burko's Union No., 23670 Pacific Coast Highway, Malibu, CA—6/12/79
Winson Hong, d.b.a. Francas Canyon Chev., 30811 Pacific Coast Hwy., Malibu, CA 90265—6/12/79
Brian Crouley, Francas Mobil, Malibu, CA—6/12/79
Hans Paul, Malibu, CA—6/12/79
Hondo Oil No. 2, Malibu, CA—6/13/79
Greenwood Texaco, Phoenix, AZ—6/19/79
Emil's Shell, Phoenix, AZ—6/20/79
Raouf's Mobil, 9000 Telegraph Rd., Downey, CA 90240—4/24/79
Albert's Shell, 8801 Lakewood Blvd., Downey, CA 90240—4/24/79
Haddad Mobil, 18501 Soledad Canyon Rd., Canyon Country, CA 91350—5/17/79
Burdin's Mobil, 25357 N. Chiquilla Lane, Newhall, CA—5/3/79
Kim's Service Center, 5776 W. Washington Blvd., Culver City, CA 90230— 6/13/79
Standard Service Station, 4350 University Ave., San Diego, CA—6/20/79
Lee Bagshaw's Shell, 7006 El Cajon Blvd., San Diego, CA—6/20/79
Joe's ARCO, 6801 Reseda Blvd., Reseda, CA 91335—6/12/79
Reseda Chevron, 6804 Reseda Blvd., Reseda, CA 91335—6/13/79
George Lyle Chevron Service, 8301 Reseda Blvd., Northridge, CA 91324—6/12/79
Jerry Benson Shell, 19030 Sherman Way, Reseda, CA 91335—6/14/79
Leon's Exxon Service, 18058 Saticoy Street, Reseda, CA 91335—6/15/79
L. K. Exxon, 301 S. Atlantic Blvd., Alhambra, CA 90803—6/12/79
John's ARCO, 235 S. Garfield Avenue, Alhambra, CA 91801—6/13/79
Mansour Mobil Service, 1000 W. Valley Blvd., Alhambra, CA 91801—6/13/79
Shell Service Station, 1200 E. Valley Blvd., Alhambra, CA 91801—6/14/79
Van Alstine's ARCO, 532 W. Garvey Blvd., San Gabriel, CA 91776—6/18/79
Floyd's ARCO Service, 3201 W. Valley Blvd., Alhambra, CA 91801—6/19/79
Manny's Service, 848 S. Garfield Ave., Alhambra, CA 91801—6/18/79
Pete's Service, 10742 E. Beverly Blvd., Whittier, CA 90601—6/14/79
James Werner Chevon, 4798 Clairmont Mesa Blvd., San Diego, CA 92117—6/22/79
Chuckta's Shell Svc., 5550 Clairmont Mesa Blvd., San Diego, CA 92117—6/22/79
Casper Mobil Svc., 1495 E. Valley Blvd., Alhambra, CA 91801—6/21/79
Ramirez Shell, 11301 Garvey Ave., El Monte, CA 91733—6/26/79
Garo's Svc Ctr., 1100 N. Santa Anita, S. El Monte, CA 91733—6/28/79
Phillip's Svc. Ctr., 12054 Wilshire Blvd., Los Angeles, CA 90025—6/28/79
Bob Saydeh Chevron, 5200 Arbor Vitae, Los Angeles, CA 90045—6/28/79
Pacific Sunset 76, 17299 Pacific Coast Hwy., Pacific Palisades, CA—6/26/79
Jim's Exxon, 17474 Brookhurst, Fountain Valley, CA—6/22/79
Chung's Shell Svc., 801 W. Rosecrans Ave., Gardena, CA 90247—6/28/79
John A. Potter Shell, 25001 S. Western, Lomita, CA 90717—6/28/79
Bunty Landmark ARCO, 3175 Paradise Rd., Las Vegas, NV 89109—6/21/79
Sand's Mobil, 3376 Las Vegas Blvd. S., Las Vegas, NV—6/22/79
Cec Worthren's Union, 1129 E. Charleston Blvd., Las Vegas, NV—6/22/79
Cloverfield Richfield, 1819 Cloverfield, Santa Monica, CA 90404—6/14/79
Koko's Union, 1776 Cloverfield, Santa Monica, CA 90404—6/14/79
Vern's Chevron, 14791 Pacific Coast Hwy., Santa Monica, CA 90402—6/15/79
Wynkoop Chevron, 17301 Pacific Coast Hwy., Pacific Palisades, CA 90272—6/15/79
Palisades Mobil, 16605 Sunset Blvd., Pacific Palisades, CA 90272—6/15/79
Jim's Palisade's Shell, 15401 Sunset Blvd., Pacific Palisades, CA 90272—6/15/79
Dave's Mobil, 1925 N. Scottsdale Rd., Tempe, AZ 85031—6/21/79
Paradise Valley Mobil, 3202 E. Cactus Rd., Phoenix, AZ 85032—6/18/79
B & H Union 76, 5836 W. Indian School Rd., Phoenix, AZ 85031—6/19/79
Bob's W. Indian Station, 5843 W. Indian School Rd., Phoenix, AZ 85031—6/20/79
Dee's Union 76, 4245 W. Thomas Rd., Phoenix, AZ 85009—6/21/79
Ray's ARCO, 702 W. Broadway, Phoenix, AZ 85041—6/22/79
Bob's ARCO, 2401 E. Broadway, Phoenix, AZ 85040—6/22/79
Monrovia Exxon, 101 W. Huntington, Monrovia, CA 91016—6/27/79
Jackel's Union Svc., 15400 Sunset Blvd., Pacific Palisades, CA 90272—6/26/79
Gehrker's Chevron Svc., 15441 Sunset Blvd., Pacific Palisades, CA 90272—6/26/79
Cal's Union 76, 15200 Sunset Blvd., Pacific Palisades, CA 90272—6/26/79
Chon's Shell Svc., 1866 Lincoln Blvd., Santa Monica, CA 90404—6/26/79
Mauries Shell Svc., 1020 Venice Blvd., Venice, CA 90291—6/27/79
Abrams Shell, 3801 Sepulveda Blvd., Culver City, CA—6/27/79
Adlis Mobil Svc., 3800 So. Sepulveda Blvd., Culver City, CA 90230—6/27/79
John Piechowski Chevron, 3775 S. Sepulveda Blvd., Los Angeles, CA 90064—6/27/79
Kirk's Mobil Svc. Ctr., 11965 Venice Blvd., Los Angeles, CA 90066—6/27/79
Hawkins Self Serv., 8945 N. Central Ave., Phoenix, AZ 85020—6/20/79
Woodland Hills Chevron, 5356 Canoga Ave., Woodland Hills, CA 91364—6/25/79
Rod Pearson Exxon, 1509 W. Charleston, Las Vegas, NV—6/20/79
Castaic Union 76, 31786 Frontage Rd., Castaic, CA 91310—5/17/79
Saludo's Chevron Service, 12801 Inglewood Ave., Hawthorne, CA 90250—7/3/79
Cha's Union, 4801 Imperial Hwy., Inglewood, CA 90304—7/25/79
Arneson Service Inc. (Chevron), 5201 W. Imperial Hwy., Los Angeles, CA 90045—7/10/79
George's Chevron USA, 3742 So. La Brea Ave., Los Angeles, CA 90016—7/3/79
Salvador San Doval Chevron Service, 5791 Rodeo Rd., Los Angeles, CA 90016—7/20/79
Pass Go Service, Inc., 17255 Roscoe Blvd., Northridge, CA—7/23/79

Sante Fe Shell, Inc., 510 Sante Fe Dr., Encinitas, CA 92024—7/31/79
Bill's Shell, 907 W. Mill St., San Bernardino, CA 92408—7/19/79
Monrovia Shell, 102 W. Huntington Dr., Monrovia, CA 91016—7/23/79
Chuck Bryant Chevron, 11403 E. Whittier Blvd., Whittier, CA 90601—7/19/79
Mike's Mobil Service, 11253 Whittier Blvd., Whittier, CA 90606—7/26/79
Joe Bezzera's Chevron, 3200 W. Beverly Blvd., Montebello, CA 90640—7/23/79
Joe Bezzera's Chevron Service, 801 W. Olympic Blvd., Montebello, CA 90646—7/23/79
Joe's Mobil II, 4749 Santa Anita, El Monte, CA 91731—8/1/79
4th Avenue Mobil, 4th & Delaware, San Mateo, CA—5/8/79
Union 76 Station, 401 San Mateo Ave., San Bruno, CA—4/25/79
Union 76 Service, 170 West San Bruno Ave., San Bruno—4/25/79
Mobil Station #18, 2290 98th Ave., Oakland, CA—4/25/79
Kim's Mobil Station, 3101 98th Ave., Oakland, CA—4/25/79
San Bruno Mobil, 500 El Camino Real, San Bruno, CA—4/25/79
San Bruno Shell, 798 El Camino Real, San Bruno, CA—4/25/79
Bud's Union 76, 699 Ralston, Belmont, CA—4/27/79
Belmont Chevron, 990 El Camino Real, Belmont, CA—4/27/79
Belmont Texaco, 1200 El Camino Real, Belmont, CA—4/27/79
Roy & Ray's Chevron, 320 East Millbrae Ave., Millbrae, CA—5/1/79
Shell Service, 225 West Brokaw Road, San Jose, CA—5/2/79
Shell Service, 3290 South White Road, San Jose, CA—5/2/79
Great America Shell, 3751 Lafayette, Santa Clara, CA—5/3/79
Hillsborough Shell, 407 So. Delaware Ave., San Mateo, CA—5/7/79
4th & El Dorado Chevron, 602 E. 4th Ave., San Mateo, CA—5/7/79
Stan's Service Center, 3350 N. Texas St., Fairfield, CA—5/2/79
Muffin Treat Shell, 2345 N. Texas St., Fairfield, CA—5/2/79
Arco Service, 3650 Nelson Grove, Fairfield, CA—5/4/79
Arco Service, 6140 Greenback Lane, Citrus Heights—5/7/79
Greenback Shell, 6600 Greenback Lane, Citrus Heights—5/7/79
Exxon Station, 7961 Madison, Citrus Heights—5/7/79
Dick's Arco, 8461 Folsom Blvd., Sacramento, CA—5/8/79
College Town Texaco, 7901 College Town Drive, Sacramento—5/8/79
Houston's Union 76, 1500 Bayshore Hwy., Burlingame, CA—5/9/79
Millbrae Square Chevron, 501 El Camino Real, Millbrae, CA—5/9/79
Whipple Avenue Mobil, 640 Whipple Ave., Redwood City, CA—5/8/79
Tony & Tom's Shell, 6400 Stockton Blvd., Sacramento, CA—5/11/79
Whipple Avenue Chevron, 585 Whipple Avenue, Redwood City, CA—5/9/79
San Joaquin City Resort, 30836 So. Airport Way, Tracey, CA—6/26/79
Arco Sales Service, 300 North Hartz, Danville, CA—6/28/79
City Union 76, 1935 Washington Avenue, San Leandro—6/28/79
Mani Guerami Mobil, 609 E. 4th Ave., San Mateo, CA—5/8/79
Arco Motor Mart, 504 Whipple, Redwood City, CA—5/8/79
19th Avenue Arco, 19th and Delaware, San Mateo, CA—5/7/79
5th Avenue Shell, 3201 El Camino, Menlo Park, CA—5/8/79
University Shell, 2194 University Avenue, Palo Alto, CA—5/8/79
Murray Petroleum, 300 New Stine Road, Bakersfield, CA—5/22/79
Dale's Arco, 1129 Union Ave., Bakersfield, CA—5/27/79
Spenser's Union, 2524 Oswell Ave., Bakersfield, CA—5/25/79
Ray's Exxon, 2600 Oswell Ave., Bakersfield, CA—5/29/79
Tom's Union, 300 Niles St., Bakersfield, CA—5/29/79
Tom's Mobil, 2688 Oswell Ave., Bakersfield, CA—5/29/79
Don's Arco, 2106 Taft Hiway, Bakersfield, CA—5/29/79
Berg's Exxon, 5213 Olive St., Bakersfield, CA—5/29/79
Riley's Chevron, 5201 Olive St., Bakersfield, CA—5/30/79
Larry's Texaco, 5300 Olive Drive, Bakersfield, CA—5/31/79
Bales Union, 701 Airport Drive, Bakersfield, CA—5/31/79
Thompson's Shell, 5212 Olive Drive, Bakersfield, CA—5/31/79
Lowe's Chevron, 700 Airport Drive, Bakersfield, CA—6/1/79
Paul's Place, Weldon, CA—6/22/79
Brock's Texaco, Lake Isabella, CA—6/22/79
Herb's Arco, 8100 Buena Vista, Lamont—6/21/79

[FR Doc. 79-32178 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

Firm name and address	Refund amount	Product	Period covered	Recipients of refund
Gustafson Oil Company of California, 1888 Century Park East, Century City, CA 90067	$170,308	Fuel oil	October 1973; June 1976	

Issued in Washington, D.C. on October 12, 1979.

Robert D. Gerring,

Director, Program Operations Division, Economic Regulatory Administration.

[FR Doc. 79-32179 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA and the firms listed below during the month of August. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and

Action Taken on Consent Order

AGENCY: Economic Regulatory Administration.

ACTION: Notice of Action Taken on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of September, 1979. The Consent Order represents the resolutions of an outstanding compliance investigation or proceeding by the DOE and the firm which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest. For Consent Orders involving sums of $500,000 or more, Notice will be separatedly published in the Federal Register. This Consent Order is concerned exclusively with payment of the refunded amounts to injured parties for alleged overcharges made by the specified company during the time period indicated below through direct refunds or rollbacks of prices.

For further information regarding these Consent Orders, please contact Jack L. Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, Telephone number (415) 556-7200.

V 44 0 C 1 18 79 UMI

letters not less than one-half inch in height; and

3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact Jack Wood, District Manager of Enforcement, 111 Pine Street, San Francisco, California 94111, telephone number (415) 556-7200.

Dated: October 10, 1979.

Robert D. Gerring,

Director, Program Operations Division, Office of Enforcement, Economic Regulatory Administration.

Firm Name, Address, and Audit Date

Kim's Exxon Service, 6605 York Blvd., Los Angeles, CA 90042—8/23/79
Phil's Auto Care, 405 North Ave. 64, Los Angeles, CA 90042—8/24/79
Gary Kingsbury Chevron, 1200 Fair Oaks, South Pasadena, CA 91030—8/24/79
Gregor's Shell Service Station, 3047 Glendale Blvd., Los Angeles, CA 90039—8/24/79
Camile's Shell Service, 1050 S. Fair Oaks, Pasadena, CA 91105—8/28/79
Cesar's Chevron Service, 6201 Franklin Ave., Hollywood, CA 90028—8/28/79
Herb's Chevron Service, 6450 Sunset Blvd., Hollywood, CA 90028—8/29/79
Gary's Texaco Service, 6767 Sunset Blvd., Hollywood, CA 90028—8/29/79
Carlos Barrero Chevron Service, 1459 N. Highland Ave., Hollywood, CA 90028—8/29/79
Luis Rosado Chevron Dealer, 7077 W. Sunset Blvd., Hollywood, CA 90028—8/29/79
Calabasas Exxon, 24025 Calabasas Rd., Calabasas, CA 91302—8/24/79
Malibu Canyon Exxon, 4919 Las Vircines Rd., Calabasas, CA 91302—8/24/79
Jossein Mazarei Shell, 22021 Ventura Blvd., Woodland Hills, CA 91364—8/24/79
Samir J. Haddad Shell, 22295 Mulholland Hwy., Woodland Hills, CA 91364—8/29/79
Don Bucklin Texaco, 13400 Artesia Blvd., Cerritos, CA 90701—8/22/79
Tom Glascock Shell, 3430 South Street, Long Beach, CA 90805—8/28/79
Anastas Shell Station, 17254 Lakewood Blvd., Bellflower, CA 90706—8/24/79
Park's Exxon, 17055 Lakewood, Bellflower, CA 90706—8/24/79
Bob Post Texaco, 15805 Roscoe Blvd., Sepulveda, CA 91343—8/23/79
Art Hahn's Chevron, 6759 Sepulveda Blvd., Van Nuys, CA 91411—8/27/79
A & B Chevron, 6402 Sepulveda Blvd., Van Nuys, CA 91401—8/28/79
Bouquet Exxon, 27777 Bouquet Exxon, Saugus, CA 91350—8/28/79
Keith's Exxon, 20500 San Fernando Rd., Newhall, CA 91321—8/28/79
C & S Texaco, 14058 Burbank Blvd., Van Nuys, CA 91401—8/29/79
St. Clair's Chevron Service, 16203 Parthenia, Sepulveda, CA 91343—8/29/79
Amir Mobil Service Station, 616 Paseo Grande, Corona, CA—8/24/79
Dolly & Toms Exxon Service, 10290 Central, Monclair, CA—8/24/79
American Motors Home Sales Texaco, 2302 Hiway 91, Corona, CA 91720—8/24/79
Russell's Chevron Service, 9110 Glenoaks, Blvd., Sun Valley, CA 91352—8/27/79
Tim's Chevron, 3701 Riverside Drive, Burbank, CA 91505—8/27/79
Helo's Shell, 13700 Sherman Way, Van Nuys, CA 91405—8/27/79
Lakeside Car Wash, 3700 Riverside Drive, Burbank, CA 91505—8/29/79
Omar's Chevron Service, 8700 Foothill Blvd., Sunland, CA 91040—8/29/79
Song Shell, 4380 S. Broadway, Los Angeles, CA—8/24/79
Chang's Shell Service, 854 W. El Segund, Gardena, CA—8/27/79
George W. Newbins & Son Super, 4625 Avalon Blvd., Los Angeles, CA—8/27/79
Choe Auto Service, 4368 Avalon, Los Angeles, CA—8/27/79
Arco Service, 2050 W. Manchester Blvd., Los Angeles, CA—8/27/79
Unsell's Shell Service, 5970 E. Florence Ave., Bell Gardens, CA—8/28/79
Hector Shell, 6350 Florence, Bell Gardens, CA—8/28/79
Alameda Shell, 811 S. Alameda, Compton, CA—8/28/79
Veia's Mobil Auto Center, 4363 E. Imperial Hwy., Lynwood, CA—8/29/79
Jerry McCohn Chevron, 520 E. Alondra Blvd., Compton, CA—8/29/79
Khorehian Union Service, 5890 Hollywood Blvd., Los Angeles, CA 90028—8/17/79
Lloyd's Arco Service, 1874 N. Vermont Ave., Los Angeles, CA 90027—8/17/79
Tony Ortiz Chevron Service, 5871 Hollywood Blvd., Hollywood, CA 90028—8/17/79
Jong Kim's Shell Station, 2315 S. La Brea Ave., Los Angeles, CA 90016—8/21/79
Norman Reisch Union, 31786 Frontage Rd., Castaic, CA 91310—8/17/79
Jim McDaniel's Chevron, 24701 W. Pico Con Blvd., Valencia, CA 91355—8/17/79
Mayer's Freeway Shell, 1-5 Lyons Ave., Newhall, CA 91321—8/17/79
Dave Derai Union, 17849 Ventura Blvd., Encino, CA 91316—8/21/79
Canoga Exxon, 21405 Ventura Blvd., Woodland Hills, CA—8/21/79
Carr's Arco Service, Bellflower & Rosecrans, Bellflower, CA—8/16/79
Street's Union Service, 15462 Golden West, Westminister, CA 92663—8/20/79
Keith Van Hoesen Chevron, 590 N. Magnolia Ave., Anaheim, CA 92801—8/16/79
Lee's Shell Service, 351 N. Placentia, Fullerton, CA 92631—8/17/79
University Shell, 2960 Yorba Linda, Fullerton, CA 92631—8/17/79
Agape Texaco, 2600 W. Lincoln, Anaheim, CA 92801—8/17/79
Insta-Lube Arco, 2604 West La Palma, Anaheim, CA 92801—8/22/79
Osko's Service Station, 731 Santa Monica, Santa Monica, CA 90400—8/16/79
Bill's Tire & Texaco Service, 11250 Los Alamitos, Los Alamitos, CA 90270—8/17/79
Joe's Service Center, 8090 E. Wardlow, Long Beach, CA 90808—8/17/79
Khair Exxon Service, 20001 Beach Blvd. Huntington Beach, CA 92648—8/17/79
Thomas Union 76 Service, 18971 So. Beach Blvd., Huntington Beach, CA 92648—8/17/79
Tanger Shell Service, 10961 Los Alamitos, Sepulveda, CA 91401—8/17/79
Dercole Texaco, 15652 Devonshire, Sepulveda, CA 91401—8/21/79
John's Shell, 7204 Sherman Way, Van Nuys, CA 91405—8/22/79
T & M Sons Exxon Service, 14731 Sand Canyon Ave., Irvine, CA—8/16/79
John's Exxon, 2230 N. Tustin Ave., Santa Ana, CA—8/16/79
Automotive of Costa Mesa, 195 E. 17th St., Costa Mesa, CA—8/17/79
Bitar Fountain Valley Exxon, 16225 Harbor, Fountain Valley, CA—8/17/79
Jeffrey's Mobil Center & Car Wash, 4625 W. Coast Hwy., Newport Beach, CA—8/21/79
Gary's Exxon, 1250 S. Beach, Anaheim, CA—8/22/79
Westcliff Plaza Shell, 1000 Irvine Ave., Newport Beach, CA—8/17/79
Mardis Chevron, 2201 West Lincoln, Anaheim, CA—8/22/79
Ara Kessedjian Shell Service, 5007 Sunset Blvd., Hollywood, CA—8/20/79
Hong's Shell Service, 4960 W. Pico., Los Angeles, CA 90019—8/21/79
Danny Kawasaki, 16024 So. Vermont, Gardena, CA—8/20/79
James Funderburk, 256 E. Manchester, Los Angeles, CA—8/20/79
Hollis & Wallace Magee, 5103 S. Figueroa, Los Angeles, CA—8/20/79
Rev. X. Trone Carter, 1202 E. Firestone Blvd., Los Angeles, CA—8/20/79
Soy I. Kim, 16101 S. Figueroa St., Gardena, CA—8/20/79
Young Choi, 800 W. Manchester, Los Angeles, CA—8/21/79
Bong Jung, 504 W. Santa Barbara, Los Angeles, CA—8/21/79
Winston Gambel, 481 W. Manchester, Los Angeles, CA—8/21/79
Chung T. Yi, 440 S. Broadway, Los Angeles, CA—8/22/79
Stan Dunk, 315 Vernon, Los Angeles, CA—8/22/79
Manny Quintana, 11175 Santa Monica, Los Angeles, CA—8/16/79
Thomas Kim, 10830 Firestone Blvd., Norwalk, CA—8/16/79
Ronald McCoy, 10965 Firestone Blvd., Norwalk, CA—8/17/79
Chan Do Han, 10970 Firestone, Norwalk, CA—8/17/79
Joe E. Randle, 9090 Imperial Hwy., Downey, CA—8/17/79
Adrian Angulo, 7407 E. Firestone, Downey, CA—8/17/79
Sun Son Pak, 8901 S. Atlantic, South Gate, CA—8/17/79
Yong Hong, 4200 Firestone Blvd., South Gate, CA—8/17/79
Shin Ho Cho., 7007 E. Alondra, Paramount, CA—8/17/79
Sid Husain, 15900 Paramount Blvd., Paramount, CA—8/17/79
John Hamamura, 1231 W. Vernon, Los Angeles, CA—8/22/79
Ephraim Gross, 1111 W. Manchester Ave., Los Angeles, CA—8/22/79
Don's Chevron Service No. 2, 100 South Glenoaks Blvd., Burbank, CA 91501—8/20/79
Rays Union Service, 900 West Burbank Blvd., Burbank, CA 91502—8/20/79
Ray's Shell Service, 11680 Victory At Lankershim, North Hollywood, CA 91606—8/20/79

John's Chevron Service, 11335 Magnolia Blvd., North Hollywood, CA 91601—8/22/79
Del Amo Shell Service, 20223 S. Avalon Blvd., Carson, CA 90745—8/7/79
North Carson Shell, 21304 S. Avalon Blvd., Carson, CA 90745—8/7/79
Carlos Chevron, 1101 S. Glendale Ave., Glendale, CA 91205—8/8/79
Mike's Chevron, 5700 San Fernando Blvd., Glendale, CA 91202—8/8/79
Albert Mobil Service, 500 W. Colorado, Glendale, CA 91204—8/8/79
Bob Hofwanger Chevron, 101 E. Colorado, Glendale, CA 91205—8/8/79
California Shell Service, 306 N. Central, Glendale, CA 91203—8/8/79
Demerjian Joes 76, 1320 N. Altadena, Pasadena, CA 91107—8/9/79
Pasadena Shell, 200 N. Fair Oaks, Pasadena, CA—8/9/79
Shehadeh Abu Judeh Shell, 1420 E. Hill, Pasadena, CA—8/10/79
Semaan Shell, 13541 Lakewood Blvd., Downey, CA—8/7/79
Kassab Mobil, 10656 E. Rosecrans Ave., Norwalk, CA 90650—8/7/79
Carl Kang Shell, 10210 Rosencrans Ave., Bellflower, CA 90706—8/7/79
Aristique Shell, 10159 Alondra Blvd., Bellflower, CA 90706—8/8/79
Ackerman Exxon, 10962 Alondra Blvd., Norwalk, CA—8/8/79
Yip's Union 76 Service, 10200 Alondra Blvd., Bellflower, CA 90706—8/8/79
Bill Chapman's Mobil, 10701 E. South St., Cerritos, CA 90701—8/9/79
Ed Sadd's Arco, 4900 Palo Verdes, Lakewood, CA 90713—8/9/79
Pricha's Shell Service, 6404 E. South St., Lakewood, CA 90713—8/9/79
Fortish Enterprise, 11347 E. Washington, Whittier, CA 90606—8/7/79
Bob Humphrey Mobil, 1199 S. Beach, La Habra, CA 90631—8/3/79
College Shell Service, 1001 W. Valencia Dr., Fullerton, CA 92633—8/9/79
Haidarali S. Kaidi, 1000 North Harbor Fullerton, CA 92632—8/9/79
Sunny Hills Texaco, 2201 N. Harbor, Fullerton, CA 92635—8/9/79
Sunny Hills Service, 110 W. Bastanchury, Fullerton, CA 92635—8/9/79
John's Shell Service, 14211 E. Imperial Hwy., La Mirada, CA 90638—8/8/79
Pat's Service Center, 14155 Imperial Hwy., La Mirada, CA 90638—8/8/79
Jim's Union, 6050 Tampa, Tarzana, CA 91356—8/6/79
Jerry Benson Shell, 19309 Sherman Way, Reseda, CA 91335—8/6/79
C & M Automotive, 7654 Tampa, Reseda, CA 91335—8/6/79
IM's Texaco, 15020 E. Whittier, Whittier, CA 90605—8/7/79
Willy Nesh Mobil, 13320 Whittier, Whittier, CA 90602—8/7/79
Stan Chancellor Chevron, 14986 Imperial Blvd., La Mirada, CA 90638—8/8/79
Paul Eschardies Union, 14152 Imperial Hwy., La Mirada, CA 90638—8/8/79
Jack Ware Texaco, Valley View & Imperial Hwy., La Mirada, CA 90638—8/8/79
Yang's Texaco, 11005 Imperial Hwy., Norwalk, CA 90650—8/8/79
La Habra Chevron, 1950 W. Imperial Hwy., La Mirada, CA 90631—8/3/79
Creek Park Shell, 15809 E. Imperial Hwy., La Mirada, CA 90638—8/3/79
Peter Gharibeh Shell, 1802 Clover Field, Santa Monica, CA 90404—8/8/79
Rob's Shell, 7403 La Tijera, Los Angeles, CA 90045—8/6/79
Clyde's Texaco Service, 7897 La Tijera Blvd., Los Angeles, CA 90045—8/8/79
Vic's Shell, 5908 W. Manchester, Los Angeles, CA 90045—8/6/79
Palisades Arco, 15207 Sunset Blvd., Pacific Palisades, CA—8/3/79
Naylor's Shell, 2207 W. 190th St., Torrance, CA 90505—8/9/79
Won's Arco Service, 4015 El Segundo Blvd., Hawthorne, CA 90250—8/8/79
Naylor's Texaco, 2201 W. 182nd St., Torrance, CA 90504—8/8/79
Yosh's Shell, 2150 West Artesia, Torrance, CA 90504—8/8/79
Ko's Exxon, 16025 S. Figueroa, Gardena, CA 90248—8/8/79
Sandy's Exxon Service, 15736 Hawthorne, Lawndale, CA 90260—8/8/79
Harbor General Shell, 911 W. Carson St., Torrance, CA—8/8/79
Kim's Mobil, 21700 S. Vermont, Torrance, CA 90502—8/8/79
Top Value Texaco, 22801 S. Vermont, Torrance, CA 90502—8/8/79
Gart La Cour Union, 18805 S. Western Ave., Gardena, CA 90247—8/7/79
Jimmy Oshiro's Mobil, 18203 S. Western Ave., Gardena, CA 90247—8/7/79
Western Auto Service Arco, 14636 S. Western Ave., Gardena, CA 90247—8/7/79
Vaskin's Shell, 18145 Crenshaw, Torrance, CA 90504—8/7/79
Cervantes Shell, 101 W. Pacific Coast Hwy., Wilmington, CA 90774—8/7/79
Gene Lustig Chevron, 1700 S. Crenshaw, Torrance, CA—8/7/79
Gary Mobil Center, 1640 Crenshaw, Torrance, CA 90501—8/7/79
Hickman Chevron, 8145 Manchester, Playa Del Rey, CA 90291—8/6/79
Teruichi & Masaru Kozai Texaco, 18564 S. Western, Gardena, CA 90247—8/7/79
Ed's Exxon Service, 182 Crenshaw, Torrance, CA 90504—8/7/79
Ted's Automotive Service, 7209 S. Atlantic, Bell, CA 90201—8/8/79
Kim's Shell, 11151 Long Beach Blvd., Lynwood, CA 90262—8/8/79
Salvador Cervantes Mobil, 4417 E. Rosecrans, Compton, CA 90221—8/8/79
Rabadi Mobil, 6685 Atlantic Ave., Long Beach, CA—8/9/79
Sang Y Kum, 7359 Rosecrans, Paramount, CA 90723—8/8/79
Caceres Chevron, 2035 W. Sunset, Los Angeles, CA 90026—8/13/79
Mesa Verde Mobil, 2799 Harbor Blvd., Costa Mesa, CA—8/13/79
Gilbert's Union, 2248 Harbor Blvd., Costa Mesa, CA—8/13/79
Theo's Exxon, 2180 W. Ball, Anaheim, CA—8/13/79
Hadri Exxon, 100 W. Ball, Anaheim, CA—8/13/79
John's Mobil Service, 10203 Rosecrans, Bellflower, CA 90706—8/13/79
Malouf Union, 12555 E. Alondra, Norwalk, CA—8/13/79
Ken Sample's Shell, 12560 E. Artesia, Cerritos, CA 90701—8/13/79
Ruiz Exxon, 1107 South St., Cerritos, CA—8/13/79
Awad's Shell, 13405 Artesia Blvd., Cerritos, CA 90701—8/15/79
Joe's Exxon, 1730 W. Orange Thorpe, Fullerton, CA 92633—8/13/79
Dominguez Texaco, 9209 Telegraph Rd., Pico Rivera, CA 90660—8/14/79
Doug Wallick Union, 1133 E. Commonwealth, Fullerton, CA 92631—8/14/79
Lorenzo Izquieta Shell, 490 W. Rosecrans, Gardena, CA 90247—8/9/79
Rasmussen's Union, 375 East Olive Ave., Burbank, CA—8/14/79
David's Shell Service, 1221 Artesia Blvd., Manhattan Beach, CA—8/14/79
California Car Wash, 1805 Park Street, Alameda, CA 94501—8/3/79
Wong's Texaco, 2200 E. 12th, Oakland, CA 94006—8/3/79
John Eastmont Service, 7210 Bancroft Ave., Oakland, CA 94006—8/3/79
Wilson's Mobil, 2180 Orchard Ave., San Leandro, CA 94577—8/10/79
Dixon Shell, 1784 150th Ave., San Leandro, CA 94578—8/10/79
Frank Tien Union, 20405 Redwood Road, Castro Valley, CA—8/10/79
Larry Lee Shell, 2175 Marina Blvd., San Leandro, CA 94577—8/10/79
Jetts Auto Care, 20500 Hesperian, Hayward, CA—8/14/79
Keene's Union, 898 A Street, Hayward, CA—8/14/79
Harden Road Shell, 197 West Harder Road, Hayward, CA—8/14/79
Kamur Ind., Inc., 2530 E. 14th, Oakland, CA 94601—8/7/79
Marina Union 76, 846 Marina Blvd., San Leandro, CA 94577—8/10/79
Whipple Road Texaco, 1998 Whipple Rd., Union City, CA 94587—8/16/79
Leighton Etter, 42240 Fremont Blvd., Fremont, CA 94538—8/16/79
Ray Santos, 20001 Decoto Rd., Union City, CA 94587—8/16/79
Akinshin Union, 101 Marinwood Ave., Marinwood, CA—8/10/79
South City Service 929 Petaluma Blvd., Petaluma, CA—8/10/79
Kreger's Chevron Service, 2 Petaluma Blvd., Petaluma, CA—8/10/79
New San Rafael Car Wash, 990 Francisco Blvd., San Rafael, CA—8/10/79
Denny's Mobil, 981 Francisco Blvd., San Rafael, CA—8/10/79
Occhipintis One Stop Service, 210 5th Street, Santa Rosa, CA 95401—8/14/79
Bay Bridge Arco, 400 5th Street, San Francisco, CA 94105—8/7/79
Omar Seefeldt, 2190 3rd Street, San Francisco, CA 94107—8/7/79
Bill's Super Shell, 2390 3rd Street, San Francisco, CA 94107—8/7/79
Twin Peaks Mobil, 598 Portola Dr., San Francisco, CA 94127—8/8/79
Bill Sturtevant, 2380 San Bruno Ave., San Francisco, CA—8/9/79
Bob's Union 76, 2895 San Bruno Ave., San Francisco, CA—8/10/79
Silver Arco, 2190 Carroll St., San Francisco, CA—8/10/79
Kambiz Arco, 2990 San Bruno Ave., San Francisco, CA—8/14/79
Tony's Olympic, 2800 California St., San Francisco, CA—8/14/79

V 44 0 C 1 8 7 9 UMI

Simon's Texaco, 2225 Telegraph, Oakland, CA—8/3/79
Bill Stauder Chevron, 5500 Telegraph, Oakland, CA—8/3/79
Cedar Shell, 1580 San Pablo, Berkeley, CA—8/8/79
Mac Brown Shell, 3420 San Pablo, Oakland, CA—8/9/79
Ben's Chevron, 1615 Carlson, Richmond, CA—8/15/79
Lei Le's Exxon, 1568 Carlson, Richmond, CA—8/15/79
Airport Union, 449 Hegenberger, Oakland, CA—8/16/79
Juan Bauson Exxon, 2985 San Bruno Ave., San Francisco, CA—8/15/79
Sino American Oil Co., Inc., 3550 Mission St., San Francisco, CA 94110—8/17/79
Paglias Mobil, 2410 Main St., Walnut Creek, CA 94549—8/15/79
Concord Tire & Auto Center, 2025 Monument Blvd., Concord, CA 94518—8/15/79
Mark's Curry Chevron, 892 John Daly Blvd., Daly City, CA—8/20/79
Daly City Service, 7200 Mission St., Daly City, CA 94014—8/22/79
Joe L. Mendez, Inc., 287 Westmoor Ave., Daly City, CA—8/21/79
Daly City Texaco, 1690 Sullivan Ave., Daly City, CA—8/21/79
Ray's Service Center, 717 E. San Bruno Ave., San Bruno, CA—8/24/79
S & M Shell Service Center, 383 San Bruno Ave., San Bruno, CA—8/23/79
San Bruno Shell, 798 El Camino Real, San Bruno, CA—8/24/79
Half Moon Bay Texaco, 196 San Mateo Road, Half Moon Bay, CA—8/24/79
Chuck's Chevron, 260 El Camino Real, Burlingame, CA—8/24/79
Burlingame Chevron, 1501 El Camino Real, Burlingame, CA—8/24/79
Jerair's Arco, 491 El Camino Real, Millbrae, CA—8/24/79
Marvin Garage Inc., 699 Columbus, San Francisco, CA—8/21/79
Giles Lee Exxon, 701 Lombard, San Francisco, CA—8/21/79
Toscanini Marina Shell, 1600 Bay St., San Francisco, CA—8/22/79
Kubo's Service Center, 14994 E. 14th, San Leandro, CA—8/21/79
Civic Center Mobil, 301 S. Market, San Jose, CA—8/23/79
Airport Shell, 285 Hegerberger Rd., Oakland, CA—8/16/79
Ken Holstein's Exxon, 6710 Bancroft Ave., Oakland, CA—8/16/79
Bhatt's Arco Service, 6235 Seminary Ave., Oakland, CA—8/17/79
Pete's Stop, 447 E. Williams, San Jose, CA 95112—8/29/79
Story-McLaughlin Chevron, 1144 Story Road, San Jose, CA—8/31/79
Kam & Chuck's Chevron, 2901 San Pablo, Oakland, CA 94608—8/6/79
Broadway Mobil, 1100 Broadway, Redwood City, CA—8/29/79
Wood's Texaco, 503 Whipple Ave., Redwood City, CA—8/31/79
Barry Iver's Chevron, 458 Miller Ave., Mill Valley, CA 94941—8/28/79
K. K. Skyline Shell, 505 Skyline Blvd., Daly City, CA—8/30/79
Gil's Arco, One San Bruno Ave., Brisbane, CA—8/27/79
Charlie's Union, 901 Airport Blvd., So. San Francisco, CA—8/27/79
Westborough Exxon, 2296 Westborough Blvd., So. San Francisco, CA—8/29/79
Park's Texaco Service, 683 E. San Bruno Ave., San Bruno, CA—8/27/79
Las Palmas Shell Service, 123 Linden Ave., So. San Francisco, CA—8/28/79
Jesse Perking Shell Service, 398 Sellert Blvd., Daly City, CA—8/29/79
Brentwood Texaco Station, 209 El Camino Real, So. San Francisco, CA—8/29/79
San Carlos Shell Service, 500 El Camino Real, San Carols, CA—8/30/79
Belmont Texaco, 1200 El Camino Real, Belmont, CA—8/29/79
Menlo Atherton Shell, 1400 El Camino Real, Menlo Park, CA—8/30/79
Broome Taylor Shell, 7915 E. 14th, Oakland, CA—8/31/79
Mike's Union, 1606 Ellington, Delano, CA—8/27/79
Big Four Shell, 1212 Fresno St., Fresno, CA—8/29/79
Domingo Gonzalez, 1160 Fresno St., Fresno, CA—8/29/79
Williams Chevron, 2514 E. Olive Ave., Fresno, CA—8/29/79
Monroe's Mobil, 4149 Clovis Ave., Fresno, CA—8/29/79
Glen Collins, 301 N. China Lake, Ridgecrest, CA—8/21/79
John Fowler, 901 Panorama, Bakersfield, CA—8/21/79
Vernon Wilson, 2115 N. Chester Ave., Oildale, CA—8/22/79
Tony Boles, 701 Airport Dr., Oildale, CA—8/21/79
Swafford & Fowler, 4199 Union Ave., Bakersfield, CA—8/20/79
Arthur C. Folson, 3220 Ming Ave., Bakersfield, CA—8/20/79
Charles Uarbrough, 1901 N. Chester Ave., Oildale, CA—8/21/79
Garcia's Mobil, 466 Cecil Ave., Delano, CA—8/28/79
Chuck Foutz Texaco, 5321 Stockdale Highway, Bakersfield, CA—8/17/79
Bill Johnson Chevron Service, 2515 W. Wellesley, Spokane, Washington 99205—8/8/79
Jess Case, 2202 N. Monroe, Spokane, Washington 99205—8/8/79
Town & Country, 1020 W. Francis, Spokane, Washington 99208—8/8/79
Kelly Shell, 4605 N. Assembly, Spokeane, Washington 99205—8/8/79
Country Oil Station, 8915 N. Division, Spokane, Washington 99218—8/8/79
Chevron USA, 318 Elliott Ave. W., Seattle, Washington 98119—8/6/79
Lake City Union, 13003 Lake City Way N.E., Seattle, Washington 98125—8/9/79
Bruces Texaco, 12001 N.E., 8th, Bellevue, Washington 98004—8/8/79
Lake Hills Arco, 10600 148th Ave. N.E., Bellevue, Washington 98004—8/8/79
Bob's Chevron Service, 16000 N.E., 80th, Redmond, Washington 98052—8/10/79
Curtis Heistand, Rt. 4, Box 312A, Ellenburg, Washington 98926—8/6/79
Donald E. Nelson, 8th and Main, Ellenburg, Washington 98926—8/6/79
Steve's Union, 1709 Canyon Rd., Ellenburg, Washington 98926—8/6/79
Lee Blvd. Arco, 1325 Lee Blvd., Richland, Washington 99352—8/7/79
Desert Oil Co., 5301 W. Canal Drive, Kennewick, WA 99336—8/7/79
Bill Stearns, 281 Baren St. SW., Ephrata, WA—8/9/79
Clarles Mobile, 408 N. Chelan, Wenatchee, WA 98801—8/10/79
South End Self-Serv, 821 S. Wenatchee, Wenatchee, WA 98801—8/10/79
Wenatchee Grange Supply Co., 1115 N. Wenatchee, Wenatchee, WA 98801—8/10/79
Jim Mercier, Hiway No. 2 and Ski Hill Drive, Leavenworth, WA—8/10/79
Darsel Joselyn, Hiway 2nd and 5th, Box 6, Shyhomish, WA 98288—8/10/79
Harrisson Ave. Union 76, 1010 Belmont, Centralia, WA 98531—8/8/79
Ray'sTexaco, 1801 E. Nob Hill, Yakima, WA 98901—8/6/79
Steve's Texaco, Rt. 1, U.S. Hwy. 2, Cashmere, WA—8/10/79
F & F Self-Serve, 5304 W. Canal Kennewick, WA 99336—8/7/79
L & L Exxon, 1315 Lee, Richland, WA 99352—8/7/79
Warhers Mobil, 1824 Geo. Wash. Way, Richland, WA 99352—8/7/79
Larry's Mobil, 1918 N. Hamilton, Spokane, WA 99207—8/9/79
Merritt Chevron, Parkway Dr. and Hiway 26, Blackfoot, ID 83221—8/9/79
Harold's Conoco, 622 N. 8th, Boise, ID 83702—8/10/79
Motor Village Conoco, 7405 Franklin, Boise, ID 83705—8/10/79
Circle K, 1795 Vista, Boise, ID 83706—8/10/79
Hillcrest Conococ, 4201 Overland Rd., Boise, ID 83705—8/10/79
Morris Serv. Station, 603 N. 8th, Boise, ID 83702—8/9/79
Capitol Shell, 403 S. Capitol, Boise, ID 83706—8/9/79
Westgate Texaco, 7320 Fairview, Boise, ID 83704—8/8/79
Bill Waters Arco Service, 9500 35th Ave. NE., Seattle, WA 989115—8/14/79
Roadway Chevron, 7002 S. Sprague, Tacoma, WA 98404—8/15/79
Stan's Chevron, 3001 N. Pearl St., Tacoma, WA 98407—8/14/79
Big Six Service, 3826 6th Ave., Tacoma, WA 98406—8/14/79
Dave's West Meeker Chevron Service, 105 Washington St., Kent, WA 98031—8/21/79
Ken's Chevron, 10120 S.E. 256th St., Kent, WA 98031—8/17/79
Central Texaco, 111 So. Central and Meeker, Kent, WA 98031—8/17/79
Jerry's Chevron, 1019 Griffin, Enumclaw, WA 98002—8/16/79
Ralph's Arco, 600 Simpson Ave., Hoquiam, WA 98550—8/22/79
Robbin's Grocery, 100 Elma-Monte Rd., Elma, WA 98541—8/22/79
Nisqually Mobil, 10324 Martin Way East, Olympia, WA 98501—8/17/79
Top's Mobil, 8202 Berkeley SW., Tillicum, WA 98498—8/17/79
Tillicum Arco, 15408 Union Ave., SW., Tillicum, WA 98498—8/17/79
Lakewood Foreign Car Shell, 11738 Pacific Hwy., SW., Tacoma, WA 98499—8/16/79
Floyds Texaco No. 1, 11102 Bridgeport Way SW., Tacoma, WA 98499—8/16/79
Floyds Texaco No. 2, 11901 Pacific Hwy., SW., Tacoma, WA 98499—8/16/79

Ben's Husky Station 1653 E. Francis Spokane, WA 99207—8/20/79
Ron & Ed's Texaco, 14501 15th N.E., Seattle, WA 98115—8/17/79
Trotter's Arco, 3418 N.E. 65th, Seattle, WA 98115—8/17/79
Donald Hike, d.b.a. Hank's Grocery, 3629 Chico Way N.W., Bremerton, WA 98030—8/22/79
Mike Oberg, d.b.a. Mike's Westpack, 4399 Kitsap Way, Bremerton, WA 98030—8/22/79
Bob McNell, McNell's Chevron, 3520 Kistsap Way, Bremerton, WA 98030—8/22/79
Tena Youngblood, d.b.a. Te's Arco, 2801 1st Ave., Seattle, WA 98121—8/15/79
Wiliam F. Arnold, d.b.a. Uptown Texaco, 629 Queen Anne, Ave. N., Seattle, WA 98119—8/15/79
Edgar Hallman, d.b.a. Ed Hallman's Chevron, 600 Warren Ave. N., Seattle, WA 98109—8/15/79
Hezekiah Rhodes, d.b.a. Rhodes' Dome Stadium Service, 500 S. Jackson, Seattle, WA 98104—8/17/79
SnoKing Shell, 22000 Highway 99, Edmonds, WA 98020—8/15/79
Northgate Rent-A-Buy, 11001 Roosevelt Way NE., Seattle, WA 98125—8/15/79
Garden Valley Union, 764 N.W. Garden Valley Rd., Roseburg, OR 97470—8/29/79
J. W. MacDonald Chevron, Rt. 1, Oakland, OR 97462—8/29/79
Rice Hill Mobil, Rt. 1 Box 52A, Oakland, OR 97462—8/29/79
Jack's Chevron, 302 W. Lewis, Pasco, WA 99301—8/28/79
Lies Texaco, 1602 Third Ave., Spokane, WA 99204—8/28/79
King Arthur Car Wash, 1311 South First, Yakima, WA 98901—8/28/79
Geo. Lockman/Sandy Exxon, 5636 N.E. Sandy Blvd., Portland, OR 97213—8/7/79
Sandy Blvd. Shell, 5949 N.E. Sandy Blvd., Portland, OR 97213—8/7/79
Cecil Freshner Shell, 1327 N.E. 82nd, Portland, OR 97220—8/7/79
Silver Enterprises, 1255 N.E. 82nd, Portland, OR 97220—8/7/79
Warren's Union 76, 926 N.W. 23rd, Portland, OR 97210—8/9/79
Ross Island Mobil Service, 4450 S.E. McLoughlin, Portland, OR 97202—8/7/79
Jolley's Union, 18th and Lovejoy, Portland, OR 97209—8/9/79
Fall Mart, 1110 S.E. Powell, Portland, OR 8/7/79
Harold Conely Mobil, 6136 S.E. Powell, Portland, OR 8/10/79
Woodburn Exxon, 2515 Newburg, Hwy., Woodburn, OR 97071—8/8/79
Payne's Service, 16211 S.W. Boones Ferry, Lake Grove, OR 97034—8/8/79
Lake Grove Shell, 16000 Lower Boones Ferry, Lake Grove, OR 97034—8/8/79
Tigard Arco, 12485 S.W. Main St., Tigard, OR 97223—8/8/79
Tigard Texaco Service, 11834 S.W. Pacific Hwy., Tigard, OR 97223—8/8/79
Fred Poehler Auto., 11540 S.W. Barbur Blvd., Tigard, OR 97223—8/8/79
Neuman's Exxon, 3135 S.E. Hwy. 34, Albany, OR 97321—8/9/79
Dave's Freeway Texaco, 3135 Santiam Hwy., Albany, OR 97321—8/9/79
Bart's Exxon, 3650 Glenwood Dr., Eugene, OR 97403—8/10/79
Southside Exxon, 105 S. Boone, Aberdeen, WA 98520—8/23/79
Cliff Marston, d.b.a. Lake Hills Shell, 106 148th S.E., Bellevue, WA 98004—8/9/79
John Georgeadis, d.b.a. Frank's Mutual, 9520 Greenwood Ave. N., Seattle, WA 98133—8/9/79
Leo Black, d.b.a. Highland Plaza 76, 1150 N. 175th, Seattle, WA 98133—8/14/79
George Lavender, d.b.a. George's Chevron, 9571 Silverdale Way, Silverdale, WA 98383—8/23/79
Harry Cole's, d.b.a. Harry's Hoodspot Texaco, Hwy. 101, Hoodspot, WA 98548—8/28/79
Sandy Oen, d.b.a. Sandy's Chevron, Box 307, Quilcene, WA 98376—8/29/79
Sandy Stevens, Center Valley Market, Rt. 2, Box 814A, Quilcene, WA 98376—8/29/79
Edwin Maybee, Maybee's Village, 1105 E. Front, Port Angeles, WA 98362—8/30/79
John Wagner, Laird's Corner, 408 Hwy. 101, Port Angeles, WA 98362—8/31/79
Savway, 2350 Vista, Boise, ID 83705—8/9/79
Earl Carey, 116 N. Chelan, Wenatchee, WA 98801—8/5/79
Hoberg's Chevron, 345 U.S. Hwy. 101, Florence, OR 97439—8/31/79

[FR Doc. 79-32180 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

Union Oil Co. of California; Proposed Consent Order

I. Introduction

Pursuant to 10 CFR 205.199J, the Office of Special Counsel (OSC) of the Department of Energy (DOE) hereby gives notice of a Consent Order which was executed between Union Oil Company of California and the OSC on July 23, 1979. In accordance with that section, the OSC will receive comments with respect to this Consent Order. Although the Consent Order has been signed and tentatively accepted by OSC, the OSC may, after consideration of comments received, withdraw its acceptance and if appropriate, attempt to negotiate an alternative Consent Order.

II. The Consent Order

Pursuant to 10 CFR 205.199J, and Section 301 of the Department of Energy Organization Act, 42 U.S.C. 7151, the Office of Special Counsel (OSC) of the Department of Energy (DOE) hereby enters into this Consent Order with Union Oil Company of California (Union), with regards to Union's method of determining extraction loss for purposes of calculating increased product costs (shrinkage) at Union's Santa Clara Valley Gasoline Plant (SVC Plant) for the period January 1975 through January 1979. Since September 1978, OSC has been conducting an examination of the books and financial records of Union, pursuant to its authority conferred by the Economic Stabilization Act of 1970, as amended, 12 U.S.C. § 1904, note (Economic Stabilization Act) and the Emergency Petroleum Allocation Act of 1973), as amended, 15 U.S.C. § 751 *et seq.* (Allocation Act). The examination being conducted by OSC focuses on Union's computation of product and non-product cost increases for natural gas liquids (NGL's) and natural gas liquid products (NGLP's) from Union operated and interest-owned gas plants during the period August 1973 through December 1978.

During the course of OSC's examination, OSC was informed by Union that a lump sum downward adjustment of at least $2.4 million was anticipated relative to shrinkage calculations for the SCV Plant which is owned and operated by Union.

Jurisdiction

The Office of Special Counsel was created by Delegation of Authority No. 02044 from the Administrator of the Economic Regulatory Administration which was created by § 206 of the Department of Energy Organization Act, 42 U.S.C. § 7136. Consequently, OSC is empowered to conduct and conclude audits and proceedings concerning the DOE Mandatory Petroleum Price and Allocation Regulations.

Facts

The stipulated facts upon which this Consent Order is based are contained in the following paragraphs numbered 1 through 7.

1. Union, a refiner as defined by the Cost of Living Council (CLC) Regulations 6 CFR 105.352 (31 FR 22536, August 22, 1973) and Federal Energy Administration (FEA) Regulations at 10 CFR 212.31 (39 FR 1924, January 15, 1974) and a gas plant owner-operated as defined under FEA regulations at 10 CFR 212.162 (39 FR 44407, December 24, 1974) produces and sells NGL's and NGLP's.

2. Analysis of Union's computations of increased product costs reveals that for the SCB Plant Union erroneously computed natural gas shrinkage costs contrary to 10 CFR 212.162 which provides that increased shrinkage costs may be claimed only for that volume or quantity of gas lost due to the removal of NGL's.

3. The definition of "cost of natural gas shrinkage" as set forth in 10 CFR 212.162 and 212.167 (effective November 1, 1978 previously § 212.166; *See* 43 FR 42948, September 1, 1978), and clarified by FEA Ruling 1975-18, makes clear that only those shrinkage costs which are "attributable to the *reduction in volume* or BTU value of the natural gas resulting

from the extraction of natural gas liquids" are included in the "cost of natural gas shrinkage." (Emphasis added.) When a firm elects to use the "inlet-outlet" method described by this ruling it is required to include in the outlet component, all volumes (or BTU values) of outlet (residue) gas except quantities of residue gas utilized as plant fuel. Union has elected to use the "inlet-outlet" method to calculate increased shrinkage costs for the SCV Plant.

4. Analysis of Union' calculations for the SCV Plant revealed that outlet determinations had not included certain volumes of residue gas previously utilized as injection gas ("dry gas circulated"). These volumes had been included in Union's inlet determination for the SCV Plant.

5. The failure by Union to include volumes of "dry gas circulated" in SCV Plant outlet determinations resulted in the overstatement of extraction loss (reduction in volume resulting from the extraction process) thereby overstating increased shrinkage costs for the SCV Plant.

6. Union has recalculated its increased shrinkage costs at the SCV Plant for the period January 1975 through January 1979 including the volumes of "dry gas circulated" in outlet determinations. These recalculations indicate an overstatement of increased shrinkage costs for the SCV Plant in the amount of $2,413,516.77. These recalculations have been provided to OSC.

7. Union, without admitting any non-compliance with, or violation of, any rule or regulation of the DOE, desires to resolve pursuant to 10 CFR 205.199J, the dispute arising between itself and the OSC as a result of the matters described herein; OSC, by means of this Consent Order, also desires to resolve the matters described herein. Therefore, Union and OSC have mutually determined to conclude these matters and agree to the terms and conditions specified herein.

Terms and Conditions

1. For purposes of this Consent Order, OSC and Union agree that $2,413,516.77 represents the effect on increased product costs reporting of Union's failure to include "dry gas circulated" volumes in outlet determinations for the SCV Plant during the period January 1975 through January 1979.

2. Union agrees to adjust its increased product costs according to the recalculations, submitted to OSC and shown in the attached Schedule, in each month of the period January 1975 through January 1979. Union will make the foregoing adjustments in accordance with instructions applicable to FEO–96, P–110–M–1 and EIA–14 upon ninety days written notice from the Special Counsel (or his designee), or by December 31, 1979, whichever is earlier.

3. When such refilings are completed, Union will provide certified copies to: R. Avon Jackson, Branch Manager, Houston Branch Office, Natural Gas Liquids Audit Division, Office of Special Counsel, Department of Energy, 500 Dallas Avenue, Suite 660, Houston, Texas 77002.

4. OSC reserves the right to take further remedial action in this case if OSC determines that information upon which this Order is based is materially erroneous or that the actions of Union, or its calculations and revised reports filed hereunder have not been undertaken in a manner consistent with the aforementioned terms and conditions of this Order or with applicable DOE rules and regulations.

5. This Order shall not preclude OSC from directing Union to take such further remedial action as OSC may determine to be necessary to bring Union's gas processing operations at the SCV Plant into compliance with DOE regulations.

6. This Order shall be a final order of the DOE having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.199B. In consideration of OSC's agreement to the terms of this Consent Order and in accordance with § 205.199J, Union hereby expressly waives its right to appeal or obtain judicial review of this Order. This Consent Order shall become effective upon publication of notice to that effect in the **Federal Register**. Prior to its effective date, the OSC will publish notice in the **Federal Register** pursuant to 10 CFR 205.199J(c) that it has entered into this Consent Order and will provide not less than thirty days for members of the public to submit written comments with respect to it. After expiration of the comment period and prior to the effective date of this Consent Order, the OSC reserves the right to withdraw its consent to this Order for any reason.

7. The provisions of 10 CFR 205.199J are applicable to this Consent Order and are incorporated by reference herein.

III. Submission of Written Comments

Interested persons are invited to comment on the Consent Order by submitting such comments in writing to Nick L. Kelly, Director, NGL Division, Office of Special Counsel, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

Copies of this Consent Order may be received free of charge by written request to this same address, or by calling 214–767–7560.

Comments should be identified on the outside of the envelope and on documents submitted with the designation "Comments on Union Oil Company of California Consent Order." All comments received by 4:30 p.m., C.S.T. on or before the 30th day following publication of this notice will be considered by the OSC in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential, must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C. on October 10, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc 79–32181 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER79–536]

Cambridge Electric Light Co.; Order Granting Motion

October 1, 1979.

On September 20, 1979, the Cambridge Electric Light Company (Cambridge) filed a Motion requesting that the proposed effective date of its July 27, 1979 rate increase filing in this docket be deferred from October 1, 1979 to October 14, 1979. Cambridge also moves for waiver of all applicable notice requirements in order to make a proposed settlement rate effective October 1, 1979. This settlement rate is part of an Offer of Settlement filed by Cambridge on September 20, 1979 in this docket. The Town of Belmont, Massachusetts on September 24, 1979 filed comments in support of the Motion and Offer of Settlement described above.

Pursuant to Section 35.3(a) of our Regulations the commission will grant the Motion and defer the proposed effective date from October 1, 1979 to October 14, 1979. The Commission will, however, defer ruling on that part of the Motion requesting waiver of notice requirements to make the settlement rate effective October 1, 1979, until the Commission has had adequate time to review the Offer of Settlement.

The Commission orders: (A) The Motion of Cambridge Electric Light Company to defer the proposed effective date of its rate increase filing from October 1, 1979 to October 14, 1979 is hereby granted.

(B) The Secretary shall cause prompt publication of this Order in the **Federal Register**.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–32085 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ER 80–4]

The Cincinnati Gas & Electric Co.; Proposed Rate

October 11, 1979.

The filing company submits the following: Take notice that The Cincinnati Gas & Electric Company (Cincinnati) tendered for filing on October 2, 1979, a proposed Winter Capacity Reservation Service Rate based upon an agreement between Cincinnati and the City of Lebanon, Ohio (Lebanon) executed on September 18, 1979.

The proposed rate provides for a Capacity Charge of $3.75 per kilowatt per month and provides for an Energy Charge for the kilowatt hours of scheduled energy at a rate per kilowatt hour equal to Cincinnati's out-of-pocket cost of such energy plus ten percent (10%) of such cost.

This new service is expected to commence on December 1, 1979. Because this is a new service, an estimate of the transactions and revenues under this rate schedule are not feasible. No facilities will be installed as modified in order to supply service under the proposed rate.

The filing company requests that the Commission waive any requirements not already complied with under Section 35.12 of its Regulations.

A copy of this filing has been mailed to the City of Lebanon, Ohio.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32066 Filed 10–17–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. TC79–127]

Columbia Gas Transmission Corp.; Order Approving Offer of Settlement

September 28, 1979.

On April 27, 1979, as supplemented May 2, 1979, Columbia Gas Transmission Corporation (Columbia) submitted for filing in the captioned proceeding, pursuant to Section 4 of the Natural Gas Act, certain proposed changes to its FERC Gas Tariff, Original Volume No. 1,[1] designed to delete the seasonal curtailment provisions and Maximum Monthly Volume limitations from its currently effective tariff. In its filing, Columbia requested that the proposed tariff changes be permitted to become effective as of April 1, 1979, and that, if suspended, such suspension be for only one day in order that the proposed tariff changes could be made effective at the earliest possible date. Concurrently with its April 27, 1979, filing, Columbia requested in a separate pleading that an informal conference be convened in connection with said filing.

As indicated above, Columbia's filing eliminates the seasonal curtailment procedures from its tariff. However, the revised tariff sheets retain Columbia's daily curtailment procedures for implementation in the event of *force majeure* situations, including unanticipated temporary losses of gas supply. Also retained are tariff provisions designed to protect high-priority and essential agricultural uses [2] on Columbia's system, and thus comport with the requirements of Section 401 of the Natural Gas Policy Act of 1978.

Pursuant to Notice issued May 2, 1979, and published in the **Federal Register**, petitions for leave to intervene and notices of intervention were due on or before May 11, 1979. Petitions for and notices of intervention were filed by various parties, all of which have been permitted to intervene and participate in this proceeding.

By Order issued May 25, 1979, the Commission, *inter alia*, suspended Columbia's tariff filing for one day, thereby permitting the proposed tariff changes to become effective as of April 2, 1979, and granted Columbia's motion requesting an informal conference. A conference was convened before an Administrative Law Judge on June 19, 1979, and recessed the same day to permit the parties to confer on an informal basis for the purpose of attempting to resolve any issues or questions relating to Columbia's April 27, 1979, tariff filing. Further informal settlement discussions were held on July 24, 1979, and again on August 8, 1979. As a result of such discussions, the parties entered into a Stipulation and Agreement dated August 8, 1979, which, with the Commission's approval, would resolve all of the issues in this proceeding. Said Stipulation and Agreement was placed in the record in a proceeding before the Presiding Judge on August 8, 1979, at which time the parties were provided an opportunity to orally present their views concerning the offer of settlement.

In accordance with Section 1.18 of the Commission's Rules of Practice and Procedure, as amended by Order No. 32 issued June 13, 1979, in Docket No. RM78–16, the August 8, 1979, Stipulation and Agreement was filed by Columbia with the Commission's Secretary on August 10, 1979. Accordingly, as provided by Section 1.18(e)(2), initial comments were due to be filed on or before August 30, 1979, and reply comments on or before September 10, 1979. On September 11, 1979, the Presiding Judge certified the settlement to the Commission, with the finding that the settlement is uncontested.

The subject offer of settlement reflects the parties' agreement that, in view of Columbia's projected excess gas supply situation through the 1981 contract year (as shown in Appendix A to the Stipulation and Agreement), coupled with the considerable uncertainty that exists with respect to the future curtailment policies of the Commission and the Economic Regulatory Administration (ERA), it is neither appropriate nor necessary at this time to develop specific seasonal curtailment procedures for Columbia. Instead, the Stipulation and Agreement provides a mechanism by which specific seasonal curtailment procedures could be promptly developed and implemented on Columbia's system if that should become necessary or appropriate in the

[1] Fifth Revised Sheet Nos. 1 and 18; Fourth Revised Sheet Nos. 20, 28, 29, 30 and 33; Second Revised Sheet Nos. 27, 31, 32, 37, 43 and 63; Third Revised Sheet No. 34; First Revised Sheet Nos. 38, 44, 44A, 44B, 44C, and 44D; Sixth Revised Sheet No. 47; Seventh Revised Sheet Nos. 62 and 90; and Original Sheet No. 63A.

[2] This provision in Columbia's existing tariff expires on October 31, 1979. It is the stated intention of the settlement to continue the provision beyond that date and our approval of this settlement will be conditioned on Columbia's amending its tariff in that respect.

V 44 0C 18 79 UMI

future.[1] It also identifies the general parameters which would govern such specific seasonal curtailment procedures and, at the same time, retains sufficient flexibility to permit the parties and the Commission to consider the conditions and curtailment policies in existence at the time that such specific seasonal curtailment procedures may be required.

The Stipulation and Agreement also expresses the parties' agreement that Columbia's currently effective daily curtailment procedures, *i.e.*, those filed on April 27, 1979, and placed in effect as of April 2, 1979, shall continue in full force and effect for an indefinite period extending beyond October 31, 1979, after which some modification may be required if specific seasonal curtailment procedures are placed in effect. The parties also agreed that, when essential industrial process and feedstock uses are finally defined by the Commission and the ERA, an exemption provision designed to protect said uses from *force majeure* daily curtailment will be filed by Columbia.

In addition to the foregoing, the Stipulation and Agreement contains a specific request by Columbia and the parties, including the Commission's Staff, that the Commission's order herein expressly Columbia from the application of Order Nos. 29, 29–A and 29–B to the extent that said orders would require Columbia to file specific seasonal curtailment procedures no later than October 1, 1979, or November 1, 1979, as the case may be. The parties further request that said exemption continue in effect until the need arises for Columbia to have specific curtailment procedures. Finally, Columbia and the parties, including the Commission's Staff, agree that the August 8, 1979, Stipulation and Agreement is consistent with the objectives of Order Nos. 29, 29–A and 29–B and request that the Commission's order in this proceeding contain a specific finding to that effect.

On the basis of the Commission's review of (i) Columbia's April 27, 1979, tariff filing, as supplemented May 2, 1979, (ii) the August 8, 1979, Stipulation and Agreement, including Appendix A thereto, (iii) the hearing record of August 8, 1979, and (iv) the initial and reply comments filed by the parties to this proceeding, the Commission finds that the settlement encompassed in said Stipulation and Agreement appears to be fair, reasonable and in the public interest, and that all of the terms and provisions thereof should be approved without modification.

The Commission further finds: (1) The tariff sheets filed by Columbia on April 27, 1979, as identified in the Footnote on Page 1 hereof, have been shown to be just and reasonable and otherwise lawful and should be permitted to continue in effect, provided that Columbia amends its tariff to protect essential agricultural uses after October 31, 1979.

(2) The August 8, 1979, Stipulation and Agreement encompasses a resolution of the issues in this proceeding that is consistent with the provisions of Sections 4 and 5 of the Natural Gas Act and Section 401 of the Natural Gas Policy Act and is consistent with the objectives of Commission Order Nos. 29, 29–A and 29–B.

(3) Good cause exists to grant Columbia an exemption from the application of Order Nos. 29, 29–A and 29–B to the extent that said orders would require Columbia to file specific seasonal curtailment procedures on or before November 1, 1979.

(4) Said exemption should be continued in effect until the forecast required by Article III of the Stipulation and Agreement shows that Columbia will have insufficient assured gas supplies to meet the estimated market requirements of its wholesale customers at any time during the two full contract years commencing with the next succeeding November billing month.

(5) The approval of the terms of this uncontested settlement is consistent with the applicable provisions of Section 502(c) of the Natural Gas Policy Act.

The Commission Orders: (A) The Tariff sheets filed by Columbia on April 27, 1979, shall continue in effect, as of April 2, 1979, provided that Columbia amends its tariff as indicated in finding paragraph (1).

(B) The settlement encompassed in the August 8, 1979, Stipulation and Agreement, and all of the terms and provisions thereof, are hereby approved without modification.

(C) Columbia is hereby granted an exemption from the application of Commission Order Nos. 29, 29–A and 29–B to the extent that said orders require Columbia to file specific seasonal curtailment procedures on or before November 1, 1979.

(D) The exemption granted in ordering paragraph (C) shall continue in effect until the forecast required by Article III of the Stipulation and Agreement shows that Columbia will have insufficient assured gas supplies to meet the estimated market requirements of its wholesale customers at any time during the two full contract years commencing with the next succeeding November billing month.

(E) Any necessary adjustment under Section 502, in these circumstances, is hereby granted.

(F) The Commission's approval of this settlement shall not constitute approval of or precedent regarding any principle or issue in this proceeding.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-32063 Filed 10-16-79; 8:45 am]

BILLING CODE 6450-01-M

[1] To be certain that sufficient advance notice is given to the parties and the Commission Staff of the need to expeditiously devise seasonal curtailment procedures, Article III of the Stipulation and Agreement requires Columbia (i) to prepare systemwide five-year gas supply and requirements forecasts annually, (ii) to provide, on request, a summary of each of its wholesale customers' estimated requirements, and (iii) to promptly notify its wholesale customers, the parties to this proceeding, and the Commission Staff at any time that a change in its estimated gas supply and/or requirements occurs which could have a significant adverse impact on Columbia's ability to continue serving its wholesale customers' requirements. Also, in Article XI the parties have reserved their rights under Sections 4 and 5 of the Natural Gas Act to seek relief from the Commission if they believe that such changed circumstances in gas supply and/or requirements have or are about to take place.

[Docket No. RP75-8 (PGA79-4)]

Commercial Pipeline Co., Inc.; PGA Filing

October 11, 1979.

Take notice that on September 17, 1979 Commercial Pipeline Co., Inc. (Commercial) tendered for filing 31st Revised Sheet No. 3A reflecting Purchased Gas Adjustments and effective dates as set out below:

Sheet No.: 31st Revised Sheet No. 3A.
Current adjustments: .0019.
Cumulative adjustments: .2690.
Effective date: July 23, 1979.

Commercial states that these revisions track precisely similar revisions in the tariff of Cities Service Gas Company, its sole supplier. Commercial requests waiver of notice to the extent required to permit said tariff sheets to become effective as proposed.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the F.E.R.C., 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 25, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32067 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP72-134]

Eastern Shore Natural Gas Co.; Tariff Filing

October 11, 1979.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following corrected tariff sheets to Original Volume No. 1 of Eastern Shore's FERC Gas Tariff.

To be effective September 1, 1979: Corrected Subtitute Eleventh Revised Sheet No. 5; Corrected Substitute Eleventh Revised Sheet No. 10; Corrected Substituted Eleventh Revised Sheet No. 11; Corrected Substitute Eleventh Revised Sheet No. 12.

These tariff sheets are being filed to correct certain clerical errors only and do not constitute a rate increase, according to Eastern Shore.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32068 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. RP72-155, RP79-12 (PGA79-2), (AP79-2), and RP79-37]

El Paso Natural Gas Co.; Order Accepting for Filing and Suspending Proposed Tariff Sheets, Subject to Conditions and Establishing Procedures

September 28, 1979.

On August 31, 1979, El Paso Natural Gas Company (El Paso) filed a net rate increase [1] of approximately $40.5 million, reflecting a semi-annual PGA rate increase together with transportation, advance payment, gas well royalty and production tax rate changes provided for in the El Paso settlement agreement in docket No. RP79–12. The filing includes, among other things, purchases from certain reversionary interest owners, five 60-day emergency purchases, purchases pursuant to Sections 311(b) and 312 of the NGPA, and adjustments tracking the estimated effect of the Louisiana First Use Tax. Public notice of this filing was issued September 21, 1979.

On August 29, 1979, El Paso filed revised tariff sheets [2] reflecting the same Louisiana First Use Tax adjustments as are contained in the subsequent PGA filing. Public notice of this filing was issued August 31, 1979, with comments due on September 20, 1979.

El Paso proposes net PGA increases of 3.76¢ to its East of California (EOC) customers and 11.95¢ per Mcf to its California customers based on (a) an increase of 27.50¢ per Mcf in gas costs, (b) elimination of a 9.13¢ per Mcf surcharge previously assessed pursuant to Order No. 18, (c) an increase of 0.42¢ per Mcf (from 0.16¢ to 0.58¢) in the transportation costs surcharge, and (d) a decrease of 6.29¢ per Mcf (from 2.36¢ to (3.93¢)) in the gas well royalty and production tax surcharge. The proposed increases also reflect a decrease of 8.74¢ per Mcf (from 16.41 to 7.67) in the surcharge to its EOC customers to recover a balance of $8,063,123 in deferred purchased gas costs and a decrease of 0.55¢ per Mcf (from 9.70¢ to 9.15¢) in the surcharge to its California customers to recover a balance of $39,500,984 in deferred purchased gas costs. In addition, El Paso proposes an increase of 0.04¢ per Mcf in Louisiana First Use Tax (LaFUT) rates consisting of (a) a 0.03¢ per Mcf increase to recover estimated annualized increases in LaFUT costs of $718,337 and (b) a 0.01¢ per Mcf surcharge to recover the June 30, 1979 balance of $68,551 in its LaFUT deferred account.

Based upon a review of El Paso's filing, the Commission finds that the proposed PGA rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable, and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept El Paso's revised tariff sheets filed August 31, 1979, grant waiver of the 30 day notice requirements and suspend the effectiveness such that it shall become effective, subject to refund and as conditioned on October 1, 1979.

El Paso's filing includes gas purchases from producer affiliates and certain company-owned production at prices an independent producer would receive under the Natural Gas Policy Act (NGPA). The Commission has not yet determined the appropriate price to be assigned to pipeline production under the NGPA. The Commission shall therefore require that the costs associated with El Paso's pipeline production be collected subject to refund pending the Commission's final NGPA Regulation (on rehearing) governing this issue.

The acceptance of this filing is further conditioned upon the elimination by El Paso of those costs from its producer suppliers which those suppliers were not actually authorized to charge as of October 1, 1979, pursuant to the Natural Gas Act and the regulations thereunder, and the NGPA and the regulations thereunder. El Paso shall be required to submit data in response to the items listed in Appendix A to this Order. It is further noted that this filing includes producer rate changes pursuant to area rate clauses in the applicable contracts between the respective producers and El Paso. The Commission's acceptance of the subject filing shall not constitute a final determination that any or all of the area rate clauses permit NGPA prices. That determination shall be made in accordance with the procedures prescribed in Order No. 23, issued March 13, 1979, as amended by order issued April 30, 1979, and Order 23–B issued June 22, 1979, in Docket No. RM79–22. Should the Commission ultimately determine that a producer was not entitled to an NGPA price determine the area rate clause, the refunds which would be made by the producer to El Paso would be flowed through to El Paso's customers in

[1] Twenty-seventh Revised Sheet No. 3–B to FERC Gas Tariff, Original Volume No. 1, Eighteenth Revised Sheet No. 1–D to FERC Gas Tariff, Third Revised Volume No. 2, Nineteenth Revised Sheet No. 1–C and Thirteenth Revised Sheet No. 1–D to FERC Gas Tariff, Original Volume No. 2A.

[2] Twenty-sixth Revised Sheet No. 3–B to FERC Gas Tariff, Original Volume No. 1, Seventeenth Revised Sheet No. 1–D to FERC Gas Tariff, Third Revised Volume No. 2, Eighteenth Revised Sheet No. 1–C to FERC Gas Tariff, Original Volume No. 2A.

V 4 4 0 C 1 8 7 9 UMI

accordance with the procedures prescribed in El Paso's PGA clause.

This filing also includes emergency purchases at rates which exceed the maximum lawful price specified in Section 271.202 of the Interim Regulations under the NGPA.[3] El Paso has not demonstrated that these purchases satisfy the "prudent pipeline" criteria. Accordingly, we shall set for hearing the question of the prudence of these purchases.

The revised tariff sheets filed by El Paso on August 29, 1979, reflect the same Louisiana First Use Tax adjustments as are contained in the PGA filing. Therefore, acceptance of the PGA filing in this order renders the August 29, 1979, filing moot and of no effect.

The Commission Orders: (A) Pending hearing and decision and subject to the conditions of the Ordering Paragraphs below, El Paso's proposed Twenty-seventh Revised Sheet No. 3-B to FERC Gas Tariff, Original Volume No. 1; Eighteenth Revised Sheet No. 1-D to FERC Gas Tariff, Third Revised Volume No. 2; Nineteenth Revised Sheet No. 1-C and Thirteenth Revised Sheet No. 1-D to FERC Gas Tariff, Original Volume No. 2A is hereby accepted for filing and suspended, and waiver of notice requirements is granted such that the filing shall become effective October 1, 1979, subject to refund.

(B) The costs associated with El Paso's purchases from producer affiliates and company-owned production (1) shall be collected subject to refund, in accordance with Ordering Paragraph (A) above. The ultimate determination as to the just and reasonable rate to be charged for such purchases from producer affiliates shall be governed by the Commission's final NGPA Regulations on rehearing governing this issue.

(C) El Paso shall file within 15 days of issuance of this order revised tariff sheets to become effective subject to refund on October 1, 1979, reflecting the elimination of costs from producer and pipeline suppliers which those suppliers are not authorized to charge El Paso on or before October 1, 1979 pursuant to applicable Commission orders, the NGPA, the Natural Gas Act and the Regulations thereunder. This filing shall be accompanied by the data prescribed in Appendix A to this order. Elimination of these supplier costs and volumes from El Paso's rates shall not be permitted to increase the level of the original suspended rates.

(D) El Paso's proposed revised tariff sheets filed August 29, 1979, are hereby rendered moot and are therefore rejected.

(E) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 8 and 15 thereof, and the Commission Rules and Regulations thereunder, a public hearing shall be held concerning the prudence of emergency purchases made by El Paso in excess of NGPA authorized rates.

(F) The Commission Staff shall prepare and serve its Statement of Position on or before January 14, 1979.

(G) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Judge, pursuant to 18 CFR 3.5(d), shall convene a prehearing conference in this proceeding within 10 days after the filing of Staff's statement of position, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, for the purpose of establishing procedures for the investigation and hearing to be held pursuant to this order. The Presiding Judge shall also be authorized to modify all procedural dates and to establish further procedures as may in his judgment be required. The Presiding Judge shall also be authorized to rule upon all motions except motions to consolidate, sever, or dismiss, as provided for in the Rules of Practice and Procedure.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-32064 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[3] Five 60-day emergency purchases are reflected in this filing. The two purchases made at prices in excess of NGPA rates were from Intratex Gas Company and Lone Star Gas Company.

[Docket No. RP80-4]

Locust Ridge Gas Co.; Proposed Changes in FERC Gas Tariff

October 11, 1979.

Take notice that Locust Ridge Gas Company (Locust Ridge) on October 4, 1979, tendered for filing proposed changes in its FERC Gas Tariff Original Volume No. 3. The proposed changes would increase revenues from jurisdictional sales and service by $108,730 based on the twelve (12) month period ending May 31, 1979, as adjusted. Locust Ridge states that the principal reasons for the proposed rate increases are increased operating costs and to partially offset a net operating revenue deficiency.

Copies of the filing were served upon the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 27, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32069 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. G-13746, et al.]

Mobil Oil Corp., et al.; Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates[1]

October 11, 1979.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before November 2, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-13746, C, Sept. 24, 1979	Mobil Oil Corp., 9 Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Transcontinental Gas Pipe Line Corp., ship shoal block 72 field, Federal offshore Louisiana.	(1)	15.025
G-15238, F, Sept. 5, 1979	Mobil Oil Corp.	United Gas Pipe Line Co., blocker unit No. 1, well No. 2, Bethany Blocker field, Harrison County, Tex.	(2)	14.65
CI70-375, D, Sept. 17, 1979	Aminoil USA, Inc., P.O. Box 94193, Houston, Tex. 77018.	Panhandle Eastern Pipe Line Co., McBride, Jester, and Beckwith units in Woods and Major Counties, Okla.	(3)	
CI71-223, D, Sept. 21, 1979	Texaco Inc., P.O. Box 60252, New Orleans, La. 70160.	Columbia Gas Transmission Corp. (Succeeding to United Fuel Gas Co.), block 38 field, south Marsh Island, area, offshore Louisiana.	Applicant has released OCS lease Nos. 0779, 0784 and 0785 and no longer has any right, title, or interest in the released area.	
CI76-729, C, Sept. 21, 1979	Mobil Oil Corp.	Transcontinental Gas Pipe Line Corp., south Pelto block 10 field, Federal offshore Louisiana.	(4)	15.025
CI78-1042, C, Sept. 27, 1979	Chevron U.S.A. Inc., P.O. Box 7643, San Francisco, Calif. 94120.	Natural Gas Pipeline Co. of America, east Cameron block 34 field, offshore Louisiana.	(5)	15.025
CI79-472, C, Sept. 27, 1979	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Tex. 79189.	Michigan Wisconsin Pipe Line Co., High Island area, southwest quarter of block A-312, offshore Texas, Gulf of Mexico.	(6)	14.65
CI79-607, B, Aug. 20, 1979	Lone Star Gas Co., a Division of ENSERCH Corp., 301 South Harwood St., Dallas, Tex. 75201.	Arkansas Louisiana Gas Co., Carthage Field, Panola County, Tex.	In compliance with Commission order issued Apr 18, 1979, in docket Nos. CP78-86 and CP79-93	
CI79-612, C, Oct. 3, 1979	Panhandle Western Gas Co., P.O. Box 1348, Kansas City, Mo. 64141.	Panhandle Eastern Pipe Line Co., certain acreage in Lincoln and Sweetwater Counties, Wyo.	(7)	15.025
CI79-649, A, Sept. 13, 1979	The Offshore Co., P.O. Box 2765, Houston, Tex. 77001.	Southern Natural Gas Co., Vermilion block 267 and a portion of Vermilion block 276, offshore Louisiana	(4)	15.025
CI79-650, A, Sept. 13, 1979	Sonat Exploration Co., 3336 Richmond Ave., Houston, Tex. 77098.	do	(4)	15.025
CI79-651, A, Sept. 13, 1979	Conoco Inc., P.O. Box 2197, Houston, Tex. 77001	Texas Eastern Transmission Corp., West Cameron block 222, offshore Louisiana.	(4)	15.025
CI79-652 (G-15216), B, Sept. 14, 1979.	Phillips Petroleum Co., 5 C4 Phillips Bldg., Bartlesville, Okla. 74004.	Panhandle Eastern Pipe Line Co., Cabot-Clawson No. 1, east Hansford field, sec. 141, block 45, H&TC survey, Hansford County, Tex.	Depleted and no further development is anticipated	
CI79-653 (CI73-293), B, Sept. 14, 1979	Belco Petroleum Corp., agent, 1 Dag Hammarskjold Plaza, New York, N.Y. 10017.	Tennessee Gas Pipeline Co., west Delta block 64, Federal domain, offshore Louisiana.	Ceased production; wells watered out	
CI79-654, A, Sept. 14, 1979	Amerada Hess Corp., 1200 Milam, 6th floor, Houston, Tex. 77002	United Gas Pipe Line Co., block A-279, High Island area, offshore Texas.	(8)	14.65
CI79-655, A, Sept. 14, 1979	Columbia Gas Development Corp., P.O. Box 1350, Houston, Tex. 77001.	Columbia Gas Transmission Corp., block 247, platform "F", ship shoal area, south addition, offshore Louisiana.	(8)	15.025
CI79-656, A, Sept. 14, 1979	do	Columbia Gas Transmission Corp., block 248, platform "D", ship shoal area, south addition, offshore Louisiana.	(8)	15.025
CI79-657, A, Aug. 31, 1979	Conoco Inc., P.O. Box 2197, Houston, Tex. 77001	Michigan Wisconsin Pipe Line Co., Vermilion block 242, offshore Louisiana.	(10)	15.025
CI79-658, A, Sept. 17, 1979	Monsanto Co., 1300 Post Oak Tower, 5051 Westheimer, Houston, Tex. 77056.	Columbia Gas Transmission Corp., certain acreage covered by OCS-G-2342, lease, Galveston area, block A-131, south addition, Federal offshore Texas.	(11)	14.65
CI79-659, A, Sept. 17, 1979	Conoco Inc	Tennessee Gas Pipeline Co., Eugene Island block 257, offshore Louisiana.	(12)	15.025
CI79-660, B, Sept. 17, 1979	Payne, Inc., 720 N.E. 63d, Suite 103, Oklahoma City, Okla. 73105.	Michigan Wisconsin Pipe Line Co., southwest Cedardale (Chester) field of Woodward County, Okla.,	Nonproductive, leases have expired and have been returned back to the lessors and no further exploration of the leases is contemplated.	
CI79-661 (G-11470), B, Sept. 17, 1979	Amerada Hess Corp	El Paso Natural Gas Co., Eumont field, Lea County, N. Mex.,	The last remaining well in the State "T" gas unit has been plugged and abandoned and this acreage has been released.	
CI79-662, A, Sept. 19, 1979	Texaco Inc., P.O. Box 3109, Midland, Tex. 79701	Northern Natural Gas Co., Gem-Hemphill field, Hemphill County, Tex.	(13)	14.65
CI79-663, A, Sept. 19, 1979	Quintana Gulf, Inc., P.O. Box 3331, Houston, Tex. 77001.	Transcontinental Gas Pipe Line Corp., block 146, south Marsh Island area, Gulf Of Mexico.	(14)	15.025
CI79-664, A, Sept. 19, 1979	Quintana Offshore, Inc., P.O. Box 3331, Houston, Tex. 77001	Transcontinental Gas Pipe Line Corp., block A-313 field, High Island area, Gulf Of Mexico.	(14)	14.65
CI79-665, A, Sept. 19, 1979	Quintana Oceanic, Inc., P.O. Box 3331, Houston, Tex. 77001	Transcontinental Gas Pipe Line Corp., block 146, south Marsh Island area, Gulf of Mexico.	(14)	15.025
CI79-666, A, Sept. 19, 1979	Quintana Oil & Gas Corp., Inc., P.O. Box 3331, Houston, Tex. 77001	Transcontinental Gas Pipe Line Corp., block A-313 field, High Island area, Gulf of Mexico.	(14)	14.65
CI79-667, A, Sept. 19, 1979	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kans. 67201.	Northern Natural Gas Co., certain acreage in Beaver County, Okla.	(15)	14.73
CI79-668, A, Sept. 19, 1979	Hamilton Brothers Oil Co., Suite 2600, 1600 Broadway, Denver, Colo. 80202.	Panhandle Eastern Pipe Line Co., north Sharon field, Woodward County, Okla.	(16)	14.65
CI79-669, A, Sept. 19, 1979	The Louisiana Land & Exploration Co., 225 Baronne St., New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corp., certain acreage located in west Cameron area, block 540 field, Gulf of Mexico (south half of southwest quarter, block 525, offshore Louisiana).	(17)	15.025

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
CI79-670, A, Sept. 19, 1979	Louisiana Land Offshore Exploration Co., 225 Baronne St., New Orleans, La. 70160.	do	(17)	15.025
CI79-671, A, Sept. 20, 1979	Amoco Production Co., P.O. Box 50879, New Orleans, La. 70150.	Michigan Wisconsin Pipe Line Co., south Marsh Island block 260, offshore Louisiana.	(3)	15.025
CI79-672 (CI73-136), B, Sept. 18, 1979	Cities Service Co., P.O. Box 300, Tulsa, Okla 74102.	Tennessee Gas Pipeline Co., east Cameron block 77, offshore Louisiana.	Uneconomical and lease expired for lack of production and was released.	
CI79-673, A, Sept. 24, 1979	Mobil Oil Exploration & Producing Southeast, Inc., 9 Greenway Plaza, Suite 2700, Houston, Tex. 77046.	Transcontinental Gas Pipe Line Corp., certain acreage in the ship shoal block 72 field, Federal offshore Louisiana.	(18)	14.73
CI79-674 (I76-279), B, Sept. 24, 1979	Marathon Oil Co., 539 South Main St., Findlay, Ohio 45840.	Cities Service Gas Co., Hamon Locke field, Hemphill County, Tex.	(19)	
CI79-675, A, Sept. 20, 1979	Getty Oil Co., P.O. Box 1404, Houston, Tex. 77001	Northern Natural Gas Co., certain acreage in block 686, Matagorda Island area, offshore Texas.	(20)	14.65
CI79-676, A, Sept. 24, 1979	Pennzoil Producing Co., P.O. Box 2967, Houston, Tex. 77001.	Tennessee Gas Pipeline Co., Nichols field, Hidalgo County, Tex.	(1)	14.65
CI79-677, A, Sept. 18, 1979	Marathon Oil Co	United Gas Pipe Line Co., High Island area, High Island blocks, A-474 and A-489, offshore Texas.	(21)	14.65
CI79-678 (G-11471), B, Sept. 25, 1979	Amerada Hess Corp., 1200 Milam, 6th Floor, Houston, Tex. 77002.	El Paso Natural Gas Co., Eumont field, Lea County, N. Mex.	The last remaining well in the State "T" gas unit has been plugged and abandoned and this acreage has been released.	
CI79-679, A, Sept. 27, 1979	Getty Oil Co	Transcontinental Gas Pipe Line Corp., certain acreage in block 194 field, Mississippi Canyon area, offshore Louisiana.	(22)	15.025
CI79-680, E, Sept. 28, 1979	Gulf Oil Corp. (succeeding in interest to Kewanee Oil Co.), P.O. Box 2100, Houston, Tex. 77001.	United Gas Pipe Line Co., certain acreage located in the Bear Creek field, Bienville Parish, La.	(23)	15.025
CI79-681, A, Sept. 28, 1979	Mobil Oil Exploration & Producing Southeast, Inc., 9 Greenway Plaza, Suite 2700, Houston, Tex 77046.	Michigan Wisconsin Pipe Line Co., certain acreage in the Eugene Island block 39 field, Federal offshore Louisiana.	(24)	14.73
CI79-682, A, Sept. 28, 1979	Union Texas Petroleum, a Division of Allied Chemical Corp., P.O. Box 2120, Houston, Tex. 77001.	Columbia Gas Transmission Corp., block 43, Eugene Island area, offshore Louisiana.	(25)	15.025
CI80-1, A, Oct. 2, 1979	The Offshore Co., P.O. Box 2765, Houston, Tex 77001.	Southern Natural Gas Co., Mustang Island block 758, offshore Texas.	(1)	14.65
CI80-2, A, Oct. 2, 1979	Sonat Exploration Co., 3336 Richmond Ave., Houston, Tex. 77098	Southern Natural Gas Co., Mustang Island block 758, offshore Texas.	(1)	14.65

[1] Applicant is filing under gas sales contract, as amended, dated Sept. 18, 1957, amended by amendment dated Sept. 7, 1979.
[2] By partial assignment of oil, gas, and mineral leases, executed Mar. 22, 1979 Mobil acquired from Mrs. Ruth Anne Storey, *et al.*, all of their right, title, and interest in and to those certain leases fully described in said assignment, an additional 28.09328 pct working interest in the blocker unit No. 1, well No. 2.
[3] Said sale covers production from Champlin's interest under Casinghead Gas contract's dated Jan. 5, 1967, Apr. 28, 1967, and Aug. 1, 1967. This is in compliance with Commission's order issued on Feb. 9, 1979 in docket No. CI78-726, approving Champlin's request to abandon sales of the same gas to Aminoil in order that Champlin would be able to sell said gas directly to Pannandle.
[4] Applicant is filing under Gas Sales Contract, as amended, dated July 29, 1976, and amended by amendment dated May 23, 1979.
[5] Applicant is willing to accept a certificate establishing the initial rate as the applicable rate for the gas pursuant to the Natural Gas Policy Act of 1978
[6] Applicant is filing under gas purchase contract dated Apr. 23, 1979, amended by amendment dated Aug. 23, 1979.
[7] Applicant is filing under gas purchase and sales agreement dated Oct. 18, 1977 by an addendum dated Sept. 4, 1979
[8] Applicant is filing under gas sales contract dated Oct. 7, 1979
[9] Applicant is filing under gas purchase contract dated Aug. 20, 1979
[10] Applicant is filing under gas purchase and sales agreement dated Aug. 9, 1979
[11] Applicant is filing under gas purchase contract dated May 30, 1979
[12] Applicant is filing under gas purchase and sales agreement dated Aug. 28, 1979
[13] Applicant is filing under gas purchase contract dated Sept., 14, 1979.
[14] Applicant is willing to accept certification conditioned to an initial rate equal to the applicable maximum lawful price prescribed in the NGPA and the Commission's regulations implementing the NGPA, including any increase in such prices, provided that applicant shall be entitled to file increases to any higher contractually authorized prices in accordance with the Natural Gas Act and the Natural Gas Policy Act of 1978
[15] Applicant is filing under gas purchase contract dated Aug. 30, 1979
[16] Applicant is filing under gas sales contract dated Apr. 10, 1979
[17] Applicant is willing to accept a certificate conditioned upon a price equal to the maximum lawful price under sec. 104 of the Natural Gas Policy Act of 1978, reserving its right to collect any higher applicable NGPA rate.
[18] Applicant is willing to accept an initial rate determined in accordance with the Natural Gas Policy Act of 1978, pt. 271, subpt. B, sec. 102(d) and requests that the certificate to be issued herein be made effective Oct. 18, 1976. To the extent necessary to make the certificate effective Oct. 18, 1976, applicant would further agree that the rates in effect prior to Dec. 1, 1978, would be at or below ceiling rates established by the Commission in accordance with opinion Nos. 770 and 770-A.
[19] Depleted and the well was plugged and abandoned on Apr. 20, 1979. Leases expired by their own terms and were released of record by release executed Aug. 29, 1979
[20] Applicant is filing under gas purchase contract dated Aug. 31, 1979
[21] Applicant is filing under gas purchase contract dated Aug. 1, 1979
[22] Applicant is filing under gas purchase contract dated Sept. 18, 1979
[23] Effective as of July 1, 1978, applicant acquired all of Kewanee's interest in properties covered by contract dated Oct. 8, 1959, as amended
[24] Applicant is willing to accept an initial rate determined in accordance with the Natural Gas Policy Act of 1978, pt. 271, subpt. B, sec. 102
[25] Applicant is filing under gas purchase contract dated June 22, 1979

Filing code: A—Initial service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total succession. F—Partial succession.

[FR Doc. 79-32070 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-212]

National Gas Storage Corp.; Amendment

October 11, 1979.

Take notice that on September 19, 1979, National Gas Storage Corporation (National), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP79-212 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing long-term underground gas storage service through facilities certificated in Docket No. CP76-492, *et al.*, to Boston Gas Company (Boston), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

National proposes to render underground gas storage service to Boston bringing the total number of customers proposed in this docket to seven and the corresponding maximum aggregate amount of top gas capacity to 3,421,620 Mcf.

National states that Boston's annual storage quantity would be 876,620 Mcf; its maximum daily injection volume would be 5,844 Mcf; and its maximum daily withdrawal volume would be 7,969 Mcf, pursuant to a precedent agreement between National and Boston.

It is stated that the service to be rendered to Boston and the other customers would be through facilities proposed in Docket No. CP76-492 during Phase I (April 1, 1980 through March 31, 1982) as supplemented by the facilities of National Fuel Gas Supply Corporation. Tennessee Gas Pipeline Company, a division of Tenneco, Inc., would perform the necessary transportation service for Boston.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32079 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP76-492]

National Fuel Gas Supply Corp. and National Gas Storage Corp.; Amendment

October 11, 1979.

Take notice that on September 19, 1979, National Fuel Gas Supply Corporation (Supply), 308 Seneca Street, Oil City, Pennsylvania 16301, and National Gas Storage Corporation (Storage), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP76-492 an amendment to its application filed in said docket pursuant to Sections 7(c) and (b) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicants to provide natural gas storage service to identified storage customers according to revised service schedules and Supply to render limited term storage service through existing facilities to Storage during the period 1980-81 and 1981-82 in order for Storage to meet customer needs in excess of available capacity in Storage's facilities, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.[1]

Applicants propose to render storage service during the 1980-81 storage year to seven customers in an aggregate amount of 9,150,000 Mcf top gas storage capacity and further propose to render storage service in the 1981-82 storage year to 17 customers (including those served in 1980-81) in an aggregate amount of 15,771,620 Mcf annual storage quantity. The maximum daily injection quantity in these years for each customer would be one/two-hundredth of its annual storage quantity and the maximum daily withdrawal quantity for these two years would be one/one hundredth and fiftieth of its annual storage quantity, it is asserted. It is indicated that in each such year, the maximum daily injection and withdrawal quantities may be exceeded upon the customers' request as operating conditions permit. Applicants state that the rates to be charged by Storage during these two years would be consistent with the methodology proposed in hearings in Docket No. CP76-492 *et al.*, and would be filed in no less than 30 or more than 60 days prior to the date of commencement of service on April 1, 1980.

Applicants propose that Supply render up to 7,850,000 Mcf of best efforts underground storage service to Storage during the period 1980-81 and up to 6,171,620 Mcf during the period 1981-82. It is stated that this service would enable Storage to meet customer requirements in excess of available capacity in Storage's facilities and thereby permit rendering the amount of service proposed.

It is indicated that Storage would pay Supply 40.77 cents per Mcf of top storage capacity for this service. Applicants indicate further that Storage would charge its customers on a rolled-in basis, a rate which reflects the 40.77 cents per Mcf paid to Supply for 7,850,000 and 6,171,620 Mcf, respectively, of storage capacity.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32071 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP77-135]

Natural Gas Pipeline Co. of America; Petition To Amend

October 11, 1979.

Take notice that on September 25, 1979, Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-135 a petition to amend the order of May 23, 1977,[1] issued in said docket pursuant to Section 7(c) of the Natural Gas Act authorizing additional exchange points and increased exchange volumes of natural gas, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

On May 23, 1977, the Commission authorized the exchange of gas between Natural and Texas Eastern Transmission Corporation (Texas Eastern), and the construction and operation of certain facilities by Texas Eastern to implement such exchange. Pursuant to a gas exchange agreement dated December 22, 1976, Natural and Texas Eastern have agreed to exchange volumes of gas available and tendered from time to time by Natural to Texas Eastern subject to volume limits set forth therein.

Natural has contracted to purchase gas from an additional well in Colorado County, Texas and from two wells in DeWitt County, Texas. It is indicated that Natural and Texas Eastern have by amendment dated September 19, 1979, agreed to provide for additional delivery points in Colorado, DeWitt, and Kenedy Counties, Texas. Natural states that gas from the Mudd Field, Colorado County, Texas would be delivered to Texas Eastern at a point on Texas Eastern's 24-inch pipeline in the George W. Wright

[1] This Proceeding was commended before the FPC. By joint regulation of October 1, 1977, (10 CFR 1000.1), it was transferred to the Commission.

V 44 0 1 8 7 9 UMI

Survey A-583 and together with the delivery currently made in the same county, would constitute the Colorado Delivery Point. Natural proposes to increase the authorized maximum daily exchange volume at the Colorado Delivery Point to 3,000 Mcf. Deliveries at the Goliad Delivery Point would remain at up to 2,000 Mcf per day.

Natural also proposes to deliver up to 2,000 Mcf of gas per day from the Gohlke North Field, DeWitt County, to Texas Eastern at a new delivery point to be located on Texas Eastern's 16-inch pipeline in the SA and MGRR Survey A-440, DeWitt County. It is stated that any facilities required to implement the connection of the delivery points in Colorado and DeWitt Counties would be constructed under Natural's currently effective gas purchase facilities budget-type authorization.

Texas Eastern would redeliver equivalent volumes to Natural at the currently authorized Brazoria Delivery Point, Brazoria County, Texas, or at the Kenedy Delivery Point located at the inlet to Natural's measurement station on the outlet of the Sarita Gasoline Plant located in Kenedy County, Texas.

No monetary compensation is provided for in the exchange agreement as amended, it is stated. Natural indicates that Texas Eastern would construct tap connections in Colorado and DeWitt Counties, Texas, and Natural would reimburse Texas Eastern for the cost thereof.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32073 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP80-5]

Pacific Gas Transmission Co.; Rate Change

October 11, 1979.

Take notice that on October 9, 1979, Pacific Gas Transmission Company tendered for filing a "Notice of Rate Change to Reflect Increase in the Price of Canadian Gas in Cost of Service Charges and Request for Expedited Consideration."

PGT states that its filing is made in compliance with the Federal Power Commission's orders in Docket No. RP73-111 which require PGT to make filings pursuant to Section 4 of the Natural Gas Act before there is reflected in PGT's cost of service charges any increase in the cost of gas imposed or required by Canadian authorities.

PGT indicates that its filing will effect increases in rates charged under its PL-1 Rate Schedule which is applicable to sales of gas made by PGT to its one customer for sale, Pacific Gas and Electric Company.

The filed changes in rates will reflect in PGT's cost of service charges certain increases mandated by Canadian authorities in the price of gas imported from Canada, commencing November 3, 1979. PGT presently obtains more than 99% of its entire supply of gas from Canada at a border price which is the Canadian dollar equivalent of $2.80 (U.S.) per Mcf of 1000 Btu gas. PGT recites that on October 5, 1979, it was notified by its Canadian supplier that existing National Energy Board (NEB) export licenses would be amended, effective November 3, 1979, to increase the border export price to the Canadian dollar equivalent of $3.45 (U.S.) per Mcf of 1000 Btu gas payable in Canadian dollars in accordance with a monetary exchange formula specified by the NEB. On the basis of expected volumes and Btu content, PGT estimates that the effect of the November 3, 1979 increase would be approximately $254,100,000 (U.S.) on an annualized basis.

PGT advises that copies of its filing have been mailed to its customers and to interested state commissions. PGT requests that expedited consideration be given to the instant filing and that the filing be allowed to become effective on less than 30 days notice.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.18 and 1.10). All such petitions or protests should be filed on or before October 29, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32074 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. GP79-144, GP79-145, GP79-146, and GP79-147]

Texas Gas Transmission Co. v. Eason Oil Co., et al.; Protests

October 11, 1979.

Take notice that on August 15, 1979, Texas Gas Transmission Company (Texas Gas) filed with the Federal Energy Regulatory Commission (Commission) pursuant to 18 CFR 154.94, protests to the blanket affivdavits of three producers insofar as they relate to the contractual authority under the following contracts to collect the maximum lawful price under the following sections of the Natural Gas Policy Act of 1978 (NGPA):

Eason Oil Company,
Rate Schedule 56—NGPA § 104
Eason Oil Company,
Rate Schedule 68—NGPA § 104
Devon Corporation
Rate Schedule 36—NGPA § 104
TransOcean Oil, Incorporated
Rate Schedule 9—NGPA § 104

Texas Gas asserts that the above listed producers have claimed contractual authority to collect the maximum lawful prices under the above listed sections of the NGPA, but that the above listed applicable contracts do not authorize the collection of those prices.

These contracts are on file with the Commission and are open to public inspection.

Any person desiring to be heard or to make any response with respect to these protests shall file with the Commission, on or before October 23, 1979, a petition to intervene in accordance with 18 CFR 1.8. After that date, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order 23-B (44 FR 38834, July 3, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32075 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sales:

Contract No	United States to—	Description
S-EU-600	Netherlands	1 milligram of Plutonium, enriched to approximately 92.5 pct in Pu-242, and .00188 microgram of Plutonium, enriched in Pu-236, to be used for low activity measurements in soils and plants to study the transport of uranium and trans uranium elements.
S-EU-602	Belgium	10 grams of uranium as oxide, enriched to approximately 99.4 pct in U-233, to be used for spike and isotopic reference materials needed in mass spectrometry, mainly for safeguards.
S-EU-603	Belgium	4 grams of uranium as oxide enriched to greater than 99 pct in U-234, to be used for neutron cross section measurement at the Central Bureau for Nuclear Measurements linac and synthetic isotope mixtures needed in mass spectrometry.
S-EU-604	Belgium	10 grams of uranium as oxide enriched to greater than 99.9 pct in U-235, to be used for spike and isotopic reference materials needed in mass spectrometry, mainly for safeguards.
S-EU-605	Belgium	1 gram of uranium as oxide enriched to approximately 89.2 pct in U-236, to be used as base material for sample preparation covering long term needs of nuclear physicists in the European Communities.
S-EU-606	Belgium	10 grams of uranium as oxide enriched to greater than 99.99 pct in U-238, to be used for spike and isotopic materials needed in mass spectrometry, mainly for safeguards.
S-EU-607	Belgium	200 grams of uranium as oxide enriched to greater than 99.99 pct in U-238, to be used in average neutron capture measurements.
S-EU-608	Belgium	200 milligrams of thorium as oxide, enriched to greater than 99 pct in Th-230, to be used for spike and isotopic reference materials needed in mass spectrometry, mainly for safeguards.
S-EU-609	Belgium	100 milligrams of thorium as oxide, enriched to 80-95 pct in Th-230, to be used for spike and isotopic reference materials needed in mass spectrometry, mainly for safeguards.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: October 12, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32182 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sales:

Contract S-JA-260, sale to the Power Reactor and Nuclear Fuel Development Corporation, Japan, of 2,000 milligrams of uranium, 99.5% enriched in U-233, to be used for burn-up measurements of irradiated fuels by isotope dilution mass spectrometry.

Contract S-JA-261, sale to the Power Reactor and Nuclear Fuel Development Corporation, Japan, of 1,850 milligrams of plutonium, enriched to greater than 90% in Pu-242, to be used for burn-up measurements of irradiated fuels by isotope dilution mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32184 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada.

The subsequent arrangement to be carried out under the above mentioned agreements involve approval of the following sales:

Contract S-EU-611, sale to the Universite Libre de Bruxelles, Belgium, of 0.4 grams of normal uranium as carnotite/pitchblende ore, and 4.8 grams of thorium as monazite sand, to be used for calibration of uranium and thorium analyses by x-ray fluorescence.

Contract S-CA-281, sale to Scintrex, Ltd., Ontario, Canada, of 606.9 grams of normal uranium as pitchblende ore, to be used in the manufacture of small standard calibration sources to calibrate radiometric instruments, and for research and development of radiometric instruments.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32185 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

V 44 OC 18 79 UMI

Proposed Subsequent Arrangements

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following contracts:

S-EU-613, 500 milligrams of uranium enriched to 89.3% in uranium-236, to the CEA Dept. de Recherche et Analyse, Saclay, France, for use as a tracer for isotopic analysis of uranium samples.

WC-CA-19, two fission chambers containing 1.25 grams of depleted uranium, and 1.25 grams of uranium enriched to 93% in uranium-235, to the University of British Columbia, Cancouver, Canada, to be used for research of Mu-minus capture studies in actinides.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32186 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following contracts:

S-EU-614, sale to Amersham Buchler Gmbh & Co., West Germany, of 5 milligrams of Thorium, enriched to 80% in Th-230, for production of source standards.

S-EU-615, sale to France of 1,000 milligrams of uranium enriched to greater than 99% U-238, for manufacture of dosimeters.

S-EU-617, sale to Kernforschungsanlage Julich Gmbh, West Germany of 50 micrograms of plutonium, enriched to greater than 99.96% Pu-242, to be used as a tracer for radioactive materials.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear material will not be inimical to the common defense and securify.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32187 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following sales:

S-EU-618, sale of 455 milligrams of uranium enriched to 98.64% in U-235 to C.E.A. Department de Recherche, Roissy, France, to be used for isotope dilution analysis and mass spectrometry of rock samples for determination of natural radioactivity.

S-EU-619, sale of 2 milligrams of thorium enriched to 99.86% in Th-230 to C.E.A. Department de Recherche, Roissy, France, to be used for isotope dilution analysis and mass spectrometry of rock samples for determination of natural radioactivity.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32188 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Austria, Norway, and Sweden.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following retransfers:

RTD/SW(EU)-106, transfer from Julich, West Germany to Studsvik, Sweden of 5 grams Uranium, containing 4.5 grams U-235, and 45 grams of thorium, contained in four spherical fuel elements for irradiation in the R-2 test reactor.

RTD/NO(SW)-11, transfer from Sweden to Norway of 8,000 grams Uranium, containing 280 grams of U-235 (3.5% U-235) for analysis of uranium content, enrichment, and rare earth metals.

RTD/EU(AT)-11, transfer of 3.0252 grams Uranium, containing 2.5686 grams U-235 (84.907% U-235), and 10.295 grams thorium in the form of fuel sphere fragments for further post irradiation analysis and disposal.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of these retransfers will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32189 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangements" under the Additional Agreement

Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Austria and Sweden.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following retransfers:

RTD/AT(EU)-53, transfer from West Germany to Austria of 3.085 grams Uranium, containing 0.22 grams U-235 (7.131% U-235) for destructive analysis.

RTD/EU(SW)-47, transfer from Sweden to Belgium of 11,245 grams Uranium, containing 882 grams of U-235, for scrap recovery.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of these retransfers will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner that fifteen days after the date of publication of this notice.

Dated: October 12, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32190 Filed 10-17-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1341-8; OTS 211000]

Granting of Citizen's Petition To Initiate Regulatory Proceedings To Control Asbestos Cement Pipe

AGENCY: Environmental Protection Agency (EPA or the Agency).

ACTION: Granting of Citizen's Petition.

SUMMARY: On June 21, 1979, Mr. Glenn Scott of Louisville, Kentucky filed a citizen's petition under section 21 of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2620. Mr. Scott requested that EPA initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement water pipes under 15 U.S.C. 2605. The Administrator has granted the petition. The Administrator's Decision appears below.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, 800-424-9065 [in Washington, D.C., call 554-1404].

Copies of the Administrator's Decision may be obtained from the Industry Assistance Office.

SUPPLEMENTARY INFORMATION: EPA has established a public record for this Decision which is available for inspection in room 447 East Tower, 401 M Street, SW., Washington, D.C. 20460 from 9:00 a.m., to 4:30 p.m., on working days.

The Decision of the Administrator appearing below was sent to Mr. Glenn Scott.

Dated: October 3, 1979.

Steven D. Jellinek,

Assistant Administrator for Toxic Substances.

Environmental Protection Agency

Response to the Citizens Petition from Mr. Glenn Scott of Louisville, Kentucky to initiate a proceeding for the issuance of a rule to prohibit the manufacture and distribution of asbestos cement water pipes.

Decision of the Administrator

The Environmental Protection Agency (EPA) has received a petition, under section 21 of the Toxic Substance Control Act (TSCA), 15 U.S.C. 2620, requesting that the Agency initiate a proceeding to control the future manufacture and distribution of asbestos cement water pipes under section 6 of the Act, 15 U.S.C. 2605. The petition is granted. EPA plans to investigate asbestos cement pipe as part of an ongoing regulatory development program by the Office of Toxic Substances. The objective of this program is to reduce human exposure to asbestos fibers during the use of commercial and industrial products as well as during manufacturing and processing activities.

EPA will initiate a proceeding, as required under section 21, by publishing an Advance Notice of Proposed Rulemaking (ANPRM) in the Federal Register this fall. The ANPRM will announce EPA's proposed broad regulatory investigation of asbestos under TSCA. It will also request data and invite comments on key issues such as relevant economic considerations and matters related to the health effects associated with asbestos cement pipe.

I. Background

Petition Request

The section 21 petition, filed by Mr. Glenn Scott of Louisville, Kentucky on June 21, 1979 requested that a proceeding be initiated to prohibit further manufacture and distribution of asbestos cement water pipes. The petition did not seek Agency action on pipes already installed around the country.

In his petition, Mr. Scott noted that asbestos is a known carcinogen and outlined his concern that asbestos fibers may leach out of asbestos cement pipe and contaminate water supplies. Mr. Scott indicated that a variety of substitutes for asbestos cement pipe were available and therefore a ban would not significantly impact the economy or impair the efficient operation of water systems.

Agency Action in Response to Section 21 Petition

Under section 21 of TSCA, a citizen may petition the EPA "to *initiate* a proceeding for the issuance, amendment, or repeal of a rule under section 4, 6, or 8 (of TSCA) * * *" (emphasis added), 15 U.S.C. 2620. Upon receipt of such a petition the Agency has 90 days to respond. If the Agency chooses to deny the petition, it must publish in the **Federal Register** its reasons for doing so. If the Agency grants the petition, it must promptly commence an appropriate proceeding. In the usual case a proceeding to issue a rule under section 6 is officially initiated by the publication of an ANPRM in the **Federal Register**. This Notice would indicate the Agency's data needs, raise issues regarding the need to propose a rule, and commit the Agency to investigating the chemical. This investigation must be done in a comprehensive manner in accordance with section 6 to decide what regulatory action, if any, the Agency should take. The comprehensive nature of the analysis necessitates the above interpretation that the Agency's obligation to initiate a proceeding under section 21 is satisfied by the issuance of an ANPRM.

Granting a petition to initiate a proceeding to issue a rule does not mean that EPA will promulgate or even propose a rule. Such a decision will depend on the outcome of the regulatory analysis. The Agency may promulgate a rule under section 6 of TSCA only if it finds that "there is a reasonable basis to conclude that * * * a chemical substance or mixture * * * presents or will present an unreasonable risk of injury to health or the environment." 15 U.S.C. section 2605. The risk presented by a chemical may be considered unreasonable if its potential adverse health and environmental effects outweigh the effects of contemplated regulatory action on the benefits of the substance. An analysis of the health and environmental effects requires

determining the magnitude and severity of a chemical's toxicity and the probability of human and environmental exposure to the chemical. An analysis of the benefits of the substance takes into consideration the loss to society of a chemical's beneficial properties; the cost, performance, and hazards of substitutes; and the adverse effects which regulatory action may have on society, such as economic dislocation and impacts on technological innovation.

If the Administrator makes a finding of unreasonable risk under section 6 he may ban the manufacture of the substance, limit its use, or impose other restrictions as necessary to adequately reduce the health or environmental risks associated with that substance. Alternatively, EPA may refer the problem to another Federal agency or take action under an EPA statute other than TSCA.

If EPA later decides to terminate the rulemaking proceeding, the Agency will notify the public in the **Federal Register** and will notify the petitioner personally by letter. Such notification will give the petitioner or any other person the opportunity to file a petition again under section 21 or to take alternative actions permitted under the law.

II. Current EPA Regulatory Activities With Respect to Drinking Water

Asbestos can enter drinking water supplies through many sources including natural weathering of asbestos-bearing deposits, by leaching from asbestos cement pipe in the presence of aggressive water or by deposition of airborne asbestos. Section 1412 of the Safe Drinking Water Act gives EPA authority to prescribe National Primary Drinking Water Regulations to control drinking water contaminants such as asbestos by establishing maximum contaminant levels or by prescribing appropriate treatment technique requirements. This authority is implemented through EPA's Office of Drinking Water.

Under section 1412, EPA has proposed amendments to the National Interim Primary Drinking Water Regulations which would require public water systems to implement corrosion control programs under State direction. The purpose of these programs would be to prevent leaching of contaminants such as asbestos and heavy metals from system distributor pipes into the drinking water (44 FR 42246, July 19, 1979). The aggressive, or corrosive nature of drinking water can be indirectly estimated through the use of a number of different indices, including the "Langelier," "Ryznar" and "Aggressive" indices. EPA has proposed to establish one or more of these indices as maximum contaminant levels to minimize pipe corrosion. Where asbestos cement pipe is used, the potential for fiber release would be reduced.

In addition, the National Interim Primary Drinking Water Regulations already contain turbidity standards (40 CFR, 141.13, 40 FR 39571 (December 25, 1975)). Filtration systems needed by most surface sources to comply with these standards are additionally effective in reducing the concentration of naturally-occuring asbestos fibers in finished drinking water. Studies have shown that maintaining a turbidity of .1 Turbidity Unit, which can be achieved by efficiently operating filtration systems, virtually eliminates naturally-occuring asbestos fiber in finished drinking water.

In addition to these actions taken under the National Interim Primary Drinking Water Regulations, the Agency is also considering the establishment of Revised National Primary Drinking Water Regulations to control asbestos. Finally, EPA will evaluate asbestos cement pipe as an indirect source of drining water contamination when it is used to carry water during treatment and distribution. EPA will use its authorities under the Safe Drinking Water Act and TSCA to conduct this investigation (see 44 FR 42775, *et. seq.*, July 20, 1979).

III. Reason for the Administrator's Decision

As Mr. Scott pointed out in his petition, asbestos is a known human carcinogen. A large body of scientific evidence demonstrates that exposure to asbestos fibers results in an increased risk of cancer at several anatomical sites including the lungs, pleura, peritoneum, and several organs of the gastrointestinal system.[1] [2]

To protect the public from unreasonable exposure to asbestos, EPA and other Federal agencies have promulgated several regulations. Consistent with their legislative mandates, these regulations have focused on controlling exposure to asbestos relative to specific environmental media, source categories, and population groups.

Despite these regulations, asbestos use is increasing and the amount of asbestos in the biosphere is growing at a rate of about 750,000 tons per year. Large populations are still being exposed to asbestos fibers due to the build-up of asbestos products, wastes, and fugitive releases of asbestos-containing materials. These exposures suggest that additional controls under a more comprehensive authority may be required to protect human health adequately. The Toxic Substances Control Act provides such broad authority.

Therefore, EPA is investigating regulatory controls under TSCA to reduce and prevent human exposure to asbestos fibers from the multitude of processing facilities, commercial products and other sources of asbestos. The investigation, through EPA's Office of Toxic Substances, will encompass major uses of asbestos including asbestos-containing flooring and roofing products, other paper products, asbestos cement products (e.g., asbestos cement pipe), textiles, and friction products (e.g., brake and clutch linings.[3]

Because of the complex analysis required to support regulatory action under TSCA, the Agency has decided to conduct regulatory assessments in a systematic manner on all asbestos product categories. Under this approach, EPA may issue rules to reduce health risks from certain sources prior to the completion of an assessment of all fiber emission sources.

The Agency is considering three major regulatory strategies for asbestos. The first option entails developing specific product restrictions. The second would set limits on the amount of asbestos fibers for use in the United States. The third strategy would combine the first two approaches.

To assist the Agency in choosing among these options and to support proposed regulatory action under TSCA, EPA has started an investigation of asbestos-containing products. The Agency is focusing initially on asbestos-containing paper and friction products. These categories were selected because they comprise a large segment of the asbestos market, have a high asbestos fiber content, and have a high potential for fiber release during their life cycles. In addition many products within these categories have reasonable substitutes.

Detailed regulatory investigation of these two product categories is already underway. If EPA were to delay this investigation pending completion of an analysis for asbestos cement pipe, the time necessary to propose the first regulations may be significantly extended. The Agency does not believe this would be a prudent course of action since it would mean prolonging human exposure to significant sources of asbestos.

Nonethless, much of the background information which the Agency has begun to gather and analyze regarding asbestos will be relevant to possible control of asbestos cement products. A review of the health risk associated with ingested and inhaled asbestos for example, will be part of the support documentation for the first phase of asbestos regulations and all other asbestos regulations under TSCA.

Development of an asbestos cement pipe regulation will also involve an analysis of product substitutes for possible adverse health effects. For example, cast iron pipe, a potential substitute for use in drinking water distribution systems is sometimes lined with coal tar pitch. Because coal tar pitch contains chemicals suspected of being carcinogenic, this substitute may be found to be unacceptable. TSCA also requires analysis of the economic impact of banning or otherwise restricting the use of asbestos cement pipe. In addition, the Administrator will evaluate the Agency's current efforts to reduce the corrosiveness of drinking water so that leaching of asbestos fibers from asbestos cement pipe into public water supplies may be controlled. If contamination of water by asbestos could be effectively prevented, the Administrator may decide that a ban on asbestos cement pipe is not the best alternative to reducing health risk.

These detailed scientific and socioeconomic analyses related to asbestos cement pipe will be completed after the first rules are proposed under TSCA.

In the fall of 1979, an ANPRM will be published in the **Federal Register** to initiate officially the regulatory process. The Notice will announce the Agency's intent to reduce human exposure to asbestos fibers during processing activities as well as during the use of commercial and industrial products. The ANPRM will also contain supplementary material describing the Agency's regulatory approach, basic strategy, informational needs and provide background technical information. Regulations developed from the first phase of investigation are expected to be proposed in early 1980, with a final rule expected in late 1980.

IV. Conclusion

For the reasons discussed above the Administrator is granting the petition to initiate a rulemaking proceeding.

EPA will investigate control options for asbestos cement pipe as part of a comprehensive regulatory program to reduce human exposure to asbestos fibers under TSCA. This investigation will consider risks posed by inhalation and ingestion of asbestos fibers associated with asbestos cement pipe manufacturing, installation, and use. The rulemaking proceeding will be initiated with the publication of an ANPRM in the **Federal Register** in the fall of 1979.

Dated: October 10, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-32161 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

---

[1] Levine, R. J. (ed.), *Asbestos: An Information Resource*. DHEW Publication Number (NIN) 78-1081. May 1978, page 24.

[2] *IARC Mongraphs on the Evaluation of Carcinogenic Risk of Chemicals to Man*. Volume 14. Asbestos: Lyon, France.

[3] International Agency for Research on Cancer. 1977. EPA has also initiated an independent rulemaking proceeding on asbestos contained in school ceilings. See 44 FR 40900.

[FRL 1341-5]

Science Advisory Board, Executive Committee; Open Meeting

As required by Public Law 923-463, notice is hereby given that a meeting of the Executive Committee of the Science Advisory Board will be held beginning at 9 AM, November 5 and 6, 1979, in the Administrator's Conference Room (Room 1101 West Tower), EPA Headquarters, 401 M Street, S.W., Washington, D.C. The agenda includes a briefing by the Office of Research and Development on new policies and procedures for the review and award of research grants and cooperative agreements, a discussion of hazardous waste disposal issues, and other issues of member interest. The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. Richard M. Dowd, Director, Science Advisory Board, 202-755-0263, by close of business October 29, 1979.

Dated: October 12, 1979.

Joel L. Fisher,

Acting Staff Director, Science Advisory Board.

[FR Doc. 79-32162 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1341-6]

Science Advisory Board, Environmental Measurements Committee; Open Meeting

As required by Public Law 92-463, notice is hereby given that a meeting of the Environmental Measurements Committee of the Science Advisory Board will be held beginning at 9:00 a.m., November 13 and 15, 1979, in Room N303 at the main Agency facility in Research Triangle Park, North Carolina. The Committee is meeting to provide a review of measurement progress in the Agency's Environmental Monitoring and Support Laboratory located at Research Triangle Park.

On November 13, the agenda will consist of a series of briefings on the laboratory's programs. There will be no meeting on November 14 as this day will be set aside for a physical inspection of the facilities by the Committee. The Committee will reconvene on November 15 to provide a discussion forum between themselves and laboratory personnel in order to complete their evaluation.

The meeting is open to the public but space is limited. Any member wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, Environmental Measurements Committee, by November 5, 1979.

Dated: October 12, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-32163 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1341-1]

Section 110(f) Energy Emergencies: Notice of Open Meetings; Meeting Dates Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction of Meeting Dates.

SUMMARY: On Thursday, October 4, 1979 (44 FR 57200) a Notice appeared announcing a series of Clean Air Act Section 110(f) open meetins. In the *Meetings Time and Place* paragraph, at page 57202, the dates for the state environmental and energy agencies and the fuel oil supply and marketing industry meetings were reversed. Lines 4 through 7 should be ". . . fuel oil supply and marketing industry, October 29; state environmental and energy agencies, October 31; . . ."

Dated: October 12, 1979.

David G. Hawkins,

Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79-32164 Filed 10-17-79; 8:45 am]

BILLING CODE 6560-01-M

V 44 0C 18 79 7 9 UMI

V 44 0C 18 79 UMI

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 76-63]

American Telephone & Telegraph Co. 1; Order Instituting Hearing

In the Matter of American Telephone and Telegraph Company; [CC Docket No. 79-63], Petition for Modification of Prescribed Rate of Return

Adopted: September 18, 1979

Released: September 26, 1979

By the Commission: Commissioner Fogarty issuing a separate statement; Commissioner Brown concurring in part and dissenting in part and issuing a statement.

1. The Commission has before it for consideration a "Petition'for Determination of Fair Rate of Return" (Petition) filed by the American Telephone and Telegraph Company on behalf of itself and its affiliated companies (AT&T) on March 8, 1979, seeking an increase in its prescribed rate of return [1] to a range of at least 11 to 12 percent.[2] It is requested that this increase be allowed, at least in part, forthwith.[3] On March 26, 1979, we issued Public Notice No. 13790, 44 FR 20501 (April 5, 1979), which invited comments on the AT&T petition. Comments were filed by U.S. Office of Consumer Affairs, American Satellite Corp., United States Independent Telephone Association, and the General Services Administration.[4] Reply comments were filed by AT&T.

2. AT&T submits that an increase in its authorized rate of return on interstate operations to the range of at least 11 to 12 percent is mandated by materially changed economic and financial conditions since the issuance of the Commission's Final Decision in Docket No. 20376, *supra*. AT&T alleges that such an adjustment "is essential in order to raise the capital needed in interstate and foreign operations, to continue to provide excellent service, and to preserve the financial integrity of the Bell System." *Petition*, paragraph 7.

3. We are, of course, cognizant of the general changes and trends in the national economy. While such recent and prospective trends in the economy might indicate that AT&T's cost of capital may no longer be as most recently prescribed by this Commission, on the basis of the material presently before us, we are unable to make a complete determination of the extent to which changes may have occurred in AT&T's cost of capital. As the record of our last overall rate of return proceeding for AT&T compellingly indicates, arriving at an allowed rate of return is a complex matter which involves assessments of financial, accounting, economic information and theory, and detailed expert opinion thereon. Accordingly, we are herewith instituting an evidentiary hearing [5] into AT&T's cost of capital. As we have previously stated:

> We wish to stress that our obligation to protect the consumer requires us not only to assure ourselves that excessive rates are not being charged but also that the carrier is financially capable of providing the consumer the needed service. This requires a rate of return sufficient to allow investors to have confidence in the financial integrity of the carrier so that it can maintain its credit and attract needed capital. *F.P.C. v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944); *F.P.C. v. Memphis Light, Gas & Water Div.*, 411 U.S. 458, 465–6 (1973).
>
> —Docket No. 20376, 51 F.C.C. 2d 619 at 626.

In consideration of these consumer interests and the carriers' financial requirements, we believe that an expeditious resolution of the issues attendant to AT&T's rate of return based upon a comprehensive, full and fair record will be in the public interest. Therefore, we are directing that such a hearing be conducted on an expedited basis.[6]

4. From the material (AT&T's Petition, AT&T's filings with the Securities and Exchange Commission, the comments of other parties, and AT&T's reply thereto) before us, we are identifying the following areas of preliminary concern:

a. The manner in which AT&T has treated current liabilities for the purpose of estimating its cost of capital. To be more precise, certain short term sources of funds have not been included in AT&T's measurements of its financial structure and the costs of those sources of funds have not been included in AT&T's measurement of its cost of capital. These sources of funds include: accounts payable, advance billings, accrued taxes, dividends payable, accrued interest, and drafts outstanding. To the extent that these sources of funds are stable [7] in nature, they are as fully available for financing assets as other sources of funds such as long term debt and equity.

[1] In Docket No. 20376, AT&T Rate of Return, 57 F.C.C. 2d 960 (1976), this Commission most recently prescribed the fair rate of return for AT&T at 9.5% with a .5% range above the prescribed return in order to provide AT&T "an incentive to increase productivity and efficiency." *Id.* at 973.

[2] We note that AT&T's request is not accompanied by any revision to its currently effective tariffs, nor does AT&T "seek authorization to increase its rates. . . . Bell does not intend to seek any general increase in interstate long distance rates in 1979." *Petition*, paragraph 10.

[3] By a companion order which we have adopted today, we are considering, independently of this matter, a related issue: what action this Commission should take with regard to AT&T's revenues which may be in excess of the prescribed rate of return. See, *Notice of Inquiry, In the Matter of AT&T's Earnings on Interstate and Foreign Services During 1978* (CC Docket No. 79-187), released September, 1979. It should be noted, however, that our action in this related order is without prejudice to AT&T's basic position under consideration here.

[4] In addition, on December 20, 1978, the General Service Administration (GSA) had filed a "Petition for Order to Show Cause" which sought the institution of a proceeding to investigate and prescribe a fair rate of return for AT&T under current economic and financial conditions. GSA also requested that it be allowed to present testimony as to its views on AT&T's presently needed earnings levels, in the range of 8.82 to 9.32 percent as asserted by GSA. *Id.*, page 3–4. Our order today with its associated companion order disposes of the GSA petition.

[5] Numerous comments by various parties filed in response to AT&T's petition supported the institution of such a proceeding.

[6] In light of the novelty and complexity of our preliminary concerns expressed in paragraph 4, reasonable expedition should be exercised within the framework of our desire to have a comprehensive, full and fair record developed.

[7] Examination of the composition of liabilities in Annual Reports published by AT&T for the years 1969 through 1978 reveals a high degree of stability in these sources of funds. The table which follows shows the proportions of: accounts payable, accrued taxes, advance billings and customer deposits (aggregated), dividends payable, and accrued interest, to AT&T's total liabilities plus equity (expressed in percent). Drafts outstanding are shown as a percentage of total assets.

	Year									
	1978	1977	1976	1975	1974	1973	1972	1971	1970	1969
Accounts payable	2.9	2.8	2.5	2.4	2.6	2.6	2.7	2.7	3.2	3.1
Accrued taxes	1.3	1.1	1.3	1.1	1.1	1.4	1.0	1.3	1.5	1.7
Advance billing and customer deposits	.9	.9	.9	.9	.9	.9	.9	.9	.9	.9
Dividends payable	.8	.8	.8	.7	.7	.7	.7	.7	.7	.8
Interest accrued	.7	.7	.7	.7	.7	.7	.7	.6	.6	.5
Drafts outstanding	5.3	4.6	3.7	3.7	3.6	4.3	4.5	3.9	4.3	(*)

(*) Not reported.

Note.—These calculations do not reflect the effects of the inclusion of Western Electric data, which was unavailable on a consolidated basis.

b. For the purpose of measurement of AT&T's financial structure, AT&T has apparently chosen to include sources of funds which finance its equity investment in the Western Electric Corporation, but it has not included the amount of debt nor the cost of the debt which has been issued by Western Electric.

c. The treatment which should be accorded to the "ownership interest of others in consolidated subsidiaries".[8] Because the funds which are represented in that balance sheet account title have not been supplied by shareholders of the American Telephone and Telegraph Company, we question the proprietary and manner of AT&T's inclusion of those funds in its equity ratio and the imputation of AT&T's cost of equity to those funds for the purpose of determining the authorized rate of return. It should also be noted that, in at least one instance, the "ownership interest of others in consolidated subsidiaries" consists of preferred stock of an operating company which, in turn, has a lower cost than AT&T's common stock equity.[9] Thus, AT&T appears to have chosen to impute a higher charge to those funds than it is actually paying.

d. The bases of AT&T's existing and proposed financial structures.[10]

We are specifically instructing the separated Trial Staff,[11] which is being made a participant herein pursuant to Section 1.1209 of the Commission's Rules, 47 CFR § 1.1209, to investigate and pursue by discovery [12] these areas of concern. These areas, and other areas which the Trial Staff may deem to be related to the determination of AT&T's fair rate of return, shall be explored formally on the record for resolution under the broad issues of this proceeding.

5. We are unable to grant AT&T the interim relief sought in its March 8, 1979 Petition. We believe that an interim increase in AT&T's allowed rate of return without a hearing of any kind would raise serious legal questions and would appear to be otherwise inappropriate. AT&T has not made the showing of financial need or economic stringency traditionally required for rate relief in the absence of a hearing.

Although AT&T urges that it is entitled to have its rate of return prescription modified on the basis of "known facts"—*viz.*, the change in its cost of debt and debt equity ratio—these "facts" have not yet been fully established. As made clear by our order herein (paragraph 4), questions remain which interested parties might wish to raise and perhaps must be given the opportunity to raise.

6. The particular relief requested by AT&T in its Petition—an interim increase in its allowed rate of return to 10.38%—presents a further problem in that it is based upon a cost of equity of 13% whereas the Commission's order in Docket 20376 allows only 12%. AT&T's use of a 13 percent figure for equity assumes a 10% overall return. The Commission prescribed rate of return in Docket 20376 was 9.5 percent and not 10 percent (See *Nader* v. *FCC* 520 F.2d 182, 204 (D.C. Cir., 1975), and see AT&T Reply Comments in Docket 79–63, pp. 7–8).

7. Although we must deny AT&T interim relief as such, we would agree with AT&T that economic conditions are changing rapidly, that the cost of debt and presumably equity are continuing to increase, and that a new rate of return should be prescribed as soon as practicable. We further believe that it would not in the public interest, and specifically with the need to maintain investor confidence, to subject AT&T indefinitely to the possibility of refunds or other rate actions based on our existing rate of return prescription. This proceeding has already been delayed a number of months and because of the complexity of the issues involved, will probably take the better part of a year to complete, even on an expedited basis. Under these circumstances, we would not consider it equitable and, therefore, do not presently intend to award refunds or take other rate actions for any earnings of AT&T during the pendancy of CC Docket 79–63 so long as AT&T earnings do not yield a rate of

[8] Securities and Exchange Commission Form 10–K (Annual Report) filed by AT&T for the fiscal year ended December 31, 1978, page 29.

[9] In its May 16, 1979, response to a Common Carrier Bureau data request, AT&T showed that, as of April 30, 1979, approximately $518,000,000 of Pacific Telephone and Telegraph preferred stock is held by individuals or institutions outside the Bell System. AT&T further stated that the cost of this preferred stock to the company is 8.98%. Response, Tab. 3. These funds constitute approximately 37% of the total "ownership interest in the 1978 From 10 K Balance Steel, p. 29.

[10] *E.g.*, analysis of the financial structure when total liabilities and equity are considered reveals a very different picture than that portrayed by the comparison of debt and equity as utilized in Docket No. 20376. The following table shows the results of these methods of measuring financial structure (expressed in percent).

	Year									
	1978	1977	1976	1975	1974	1973	1972	1971	1970	1969
Debt (as measured in Debt + Equity Docket No. 20376)	46	47	48	50	50	48	47	46	45	40
Total Liabilities—Total Liabilities + Equity	*57	*57	57	57	56	54	53	50	50	46
Total Liabilities-Investment Tax Credit—Total Liabilities + Equity	*	*54	54	54.5	54.2	52	52	49	49	45

(*) This ratio incorporates the restated results related to Pacific Telephone and Telegraph Company's revenue refund and potential loss of eligibility for tax benefits.

Source: The Docket No. 20376 ratios are derived from AT&T's December "Bell System Summary of Reports, C.R. 51–No. 1, Sheet 2", other ratios are derived from AT&T's Annual Reports to its Shareholders.

Note.—These ratios indicate that while the 20376 "definition" shows a decrease in the proportion of debt in AT&T's financial structure, the proportion of equity supporting total assets has remained relatively constant since 1974. This change in AT&T's pattern of financing suggests that AT&T has been using new sources of financing which are not included in AT&T's Docket No. 20376 "debt ratio". In addition, all of the foregoing ratios may understate the total sources of debt financing at AT&T, its consolidated subsidiaries, and its affiliates because neither drafts outstanding nor Western Electric's liabilities are included in the foregoing measurements of debt liabilities.

[11] The Trial Staff has the authorization under the Communications Act and our Rules to utilize all investigatory powers in developing a full and fair record in this proceeding. See Sections 213(e)–(f), 215(a), 218, and 220(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 213(e)–(f), 215(a), 218, and 220(c).

[12] The formal discovery provisions of our Rules are not applicable to a proceeding of this nature. *E.g.*, see our discussion in *Multi-Schedule Private Line*—"MPL" (Docket No. 20814), 62 F.C.C. 2d 35 at 37. As has been the case in recent rate and rate of return cases, information requests may be made on a continuing basis throughout the trial of the case. This allows for the further narrowing of the issues, the updating of material, and the compilation of a full and fair record. The presiding officer of course will exercise his discretion to insure that these discovery procedures are not abused and do not result in a record lacking information which is essential to a decision. However, at the same time, we want to encourage the Administrative Law Judge to exercise his discretion and adopt, where possible, creative approaches during the discovery process to ensure that parties expeditiously produce and are able to analyze the information which is relevant to this proceeding (e.g., submission of quanitative data in computer tape or card format).

return which is above the permanent rate of return to be established herein.[13]

8. Accordingly, It is ordered, That pursuant to the provisions of Sections 4(i)–(j), 201, 204, 205, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i)–(j), 201, 204, 205, and 403, an investigation and hearing [14] is instituted into the authorized rate of return of AT&T for interstate and foreign services.[15]

9. It is further ordered, That, without in any way limiting the scope of the investigation, it shall include, but shall not necessarily be limited to, the consideration and determination of the following:

a) the cost of embedded debt;

b) the cost of preferred stock equity;

c) the cost of common stock equity;

d) the cost of other sources of financing, as appropriate (see paragraph 4, *supra*);

e) the weights to be accorded these (items 9a through 9d, above) costs of sources of financing in the financial structure of AT&T;

f) the authorized rate of return.[16]

10. It is further ordered, That included within its Final Decision herein, consideration may be given to what action, if any, should be taken by the Commission to effect such rate adjustments as may be warranted on the basis of the record and such order or orders will issue as may be appropriate to this end.

11. It is further ordered, That the hearings in this investigation should be expedited and held at the Commission's offices in Washington, D.C. at a time to be specified, before an Administative Law Judge to be designated.

12. It is further ordered, That the Administrative Law Judge shall, upon closing of the record, prepare and issue an initial decision including specific findings of fact as indicated in paragraph 9 herein, which shall be subject to the submission of exceptions and requests for oral argument, as provided in Sections 1.276 and 1.277 of the Commission's Rules, 47 CFR §§ 1.276 and 1.277, after which the Commission shall issue its decision as provided in Section 1.282 of those Rules, 47 CFR § 1.282.

13. It is further ordered, That a separated Trial Staff of the Common Carrier Bureau will participate in the above-captioned proceeding. The Chief, Hearing Division and his staff will be separated in accordance with Section 1.1209 of the Commission's Rules, 47 CFR § 1.1209.

14. It is further ordered, That the Petitions [17] and Comments thereto are GRANTED to the extent noted herein and OTHERWISE DENIED.[18]

15. It is further ordered, That the American Telephone and Telegraph Company is named Party Respondent and any other interested party wishing to actively participate in this proceeding shall file a notice of its intention to do so on or before Novmber 19, 1979.

16. It is further ordered, That the Secretary shall send a copy of this order by certified mail, return receipt requested, to the American Telephone and Telegraph Company, and shall cause a copy to be published in the Federal Register.

Federal Communications Commission.*

William J. Tricarico,

Secretary.

Separate Statement of Commissioner Joseph R. Fogarty

In Re: AT&T Petition for Modification of Prescribed Rate of Return.

Although AT&T has not made a sufficient case for grant of an immediate interim rate of return increase, changing economic conditions suggest that the Company is experiencing significant increases in its cost of debt and probably equity which in turn would appear to indicate that an upward revision in the rate of return is warranted.[1] The record required to determine these issues must, of course, be developed in the full evidentiary hearing which the Commission institutes today. However, under these economic circumstances, and given the staleness of the record underlying the existing AT&T rate of return prescription and the regulatory lag already experienced as well as anticipated, it is entirely equitable, fair, and proper for the Commission to indicate a present intention not to award refunds for AT&T earnings during the pendency of this proceeding where those earnings are within the permanent rate of return to be prescribed herein. While the Commission may not set rates or, by implication, rates of return to allow a utility to recoup past rate losses or, by implication, to retain past rate of return overages.[2] It is clear that questions as to the appropriateness of refunds are matters within the sound discretion of the regulatory agency.[3]

Statement of Commissioner Tyrone Brown, Concurring in Part, Dissenting in Part

In Re: (1) AT&T's Request for Immediate Increase in Its Rate of Return; (2) Disposition of AT&T's 1978 Excess Earnings; (3) Modification of AT&T's Rate of Return.

In 1976, after a lengthy proceeding, the Commission authorized AT&T to earn a rate of 9.5 percent on its interstate and foreign investment. In addition, we indicated that revision of AT&T's rates would not be triggered if its rate of return did not exceed 10 percent. This additional .5 percent was not considered a part of the authorized rate of return; *i.e.*, rates charged for AT&T services were to be targeted to achieve an overall 9.5 percent rate of return. Rather, the additional .5 percent was described as an incentive for increased productivity and efficiency.

Of course the Commission has no way of determining whether AT&T's earnings above 9.5 percent since 1976 were attributable to increased productivity and efficiency. We never intended to make such a determination. As a practical matter, provision for the extra .5 percent was simply a concession to the fact that rate-making is not an exact science. Accordingly, earnings which exceeded the authorized rate by not more than 5.26 percent were not to be treated as substantial enough to warrant Commission action. I have described the additional .5 percent above the authorized rate as a "fudge factor." I believe it is a useful device.

In the latter part of 1978, it came to the attention of the Commission that AT&T's earnings appeared to exceed both the authorized rate of return and the described "fudge factor." In 1978 AT&T's rate of return may have been as high as 10.22 percent and it may have charged its customers as much as $100 million more than our 1976 prescription permitted, even taking into account the "fudge factor."

AT&T's response to staff inquiries concerning the apparent overage was to file a request for an increase in its authorized rate of return and for an interim increase in that rate pending completion of a hearing (required by law) on the permanent increase. As justification for the increase, AT&T cites increased cost of capital due to inflation. The issues presented are quite straight forward:

(1) Given that AT&T in 1978 exceeded both the permitted rate of return and the "fudge factor," what should this Commission do about the excess earnings?

(2) Should AT&T's rate of return be revised upward on an interim basis?

(3) Should AT&T's rate of return be revised upward on a permanent basis to take account of alleged increases in the cost of capital?

On the last point, the Commission correctly has ordered a hearing into the need for an adjustment in AT&T's rate of return. AT&T has presented evidence, impressive on its face, that changed economic circumstances have increased its costs for both debt and equity capital. However, that evidence has not been tested and we cannot grant a permanent increase until a full record is made in a hearing. Considering that the hearing apparently can be limited solely to the cost-of-capital question, I hope and expect that the proceeding can be completed on an expeditious basis.

On the second issue—the question whether AT&T is entitled to an interim rate increase—I agree with the Commission's rejection of the company's request. Interim relief of the sort requested by AT&T, without the benefit of a hearing, should be granted only if the Company's financial posture would otherwise be impaired or under other extraordinary circumstances. That is not the case here. What I disagree with on the interim increase issue is the Commission's decision to, in effect, grant a limited interim increase in AT&T's rate of return under the guise of a promise not to require refunds if AT&T's earnings during this interim period do not exceed the rate of return that we ultimately authorize at the completion of the permanent rate case we order today. I concede that the granting or withholding of refunds is a matter within the discretion of the Commission. However, we do not now have before us a record sufficient to determine whether a permanent increase is in order. I fail to see how we can nonetheless determine at this early stage that under no circumstances will we decide *at a future date, on the basis of a fuller record,* that refunds are in order. Lacking a full record, I would not at this point commit the Commission to a particular course. Therefore, I dissent to the portion of the designation order which puts the Commission on record as making such a commitment.

I also dissent to the Commission's issuance of the Notice of Inquiry with respect to the handling of AT&T's apparent excessive earnings during 1978. In my judgment, this Notice of Inquiry is merely a means of putting off the decision whether or not to require AT&T to disgorge the excessive earnings. Absent the "fudge factor" which I described above, I believe a case could be made that the Commission should not be concerned with earnings that are close to but exceed the authorized rate. Here, AT&T has had the advantage of the authorized rate, the "fudge factor," and some as yet undetermined overage above both.

I would require AT&T to return the overage to its customers, not as a penalty to AT&T, but because the funds rightfully belong to the customers. With respect to the overage, the only matters I would inquire into at this point are the amount of the overcharges and the procedure by which AT&T would be required to make refunds.

[FR Doc. 79-32080 Filed 10-17-79; 8:45 am]

BILLING CODE 6712-01-M

[13] All other issues pertaining to refunds will, of course, be considered in our Notice of Inquiry instituted this day. See footnote 3, above.

[14] Parties other than AT&T shall file their responsive cases after cross-examination of AT&T's direct case has been completed.

[15] We are not designating any issue regarding the measurement of AT&T's rate base or the measurement or inclusion of specific elements therein.

[16] A separate proceeding will be initiated shortly to consider an allowance for productivity and efficiency. Accordingly, a determination of such a range for AT&T's authorized rate of return is not at issue in this proceeding, and the Administrative Law Judge should not include such a range in his decision.

[17] As noted in footnote 4, above, this ordering clause is also applicable to GSA's Petition.

[18] Except to the extent addressed in the companion order related to the matter under consideration herein. See footnote 3, above.

* See Separate Statement of Commissioner Joseph R. Fogarty and Statement of Commissioner Tyrone Brown.

[1] The courts have recognized as a "general proposition" that "a prescription cannot remain binding indefinitely without agency reevaluation, especially during periods of rapidly changing economic conditions." *Nader* v. *FCC*, 520 F.2d 182, 205 (D.C. Cir. 1975).

[2] *Nader* v. *FCC*, 520 F.2d at 202.

[3] 47 U.S.C. 204(a) and 4(i); *Cf. Nader* v. *FCC*, 520 F.2d at 203.

National Industry Advisory Committee, Citizens Band Radio Communications Subcommittee; Meeting

Pursuant to the provisions of Public Law 92–463, announcement is made of a public meeting of the Citizens Band Radio Communications Subcommittee of the National Industry Advisory Committee (NIAC) to be held Thursday, November 1, 1979. The Subcommittee will meet at the Federal Communications Commission Annex Building, Room A–110, 1229 20th Street, N.W., Washington, D.C. at 10:00 A.M.

Purpose: To consider emergency communications matters.

Agenda: As follows:

Items: 1. Chairman's opening remarks. 2. Old business. 3. Review by the Subcommittee and possible recommendation to the Commission of a Citizens Band Emergency Communications Plan developed by members of the Citizens Band Radio Subcommittee of the National Advisory Committee. 4. New business. 5. Adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632–7232.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32079 Filed 10-17-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1491R]

Aero-Nautics Ocean Forwarders, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Aero-Nautics Ocean Forwarders, Inc., P.O. Box 3087, Miami, Florida 33152, FMC No. 1491R, was cancelled effective August 30, 1979.

By letter dated August 1, 1979, Aero-Nautics Ocean Forwarders, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1491R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Aero-Nautics Ocean Forwarders, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1491R was revoked effective August 30, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1491R, issued to Aero-Nautics Ocean Forwarders, Inc., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Aero-Nautics Ocean Forwarders, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32146 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1928]

Front Express, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Front Express, Inc., 8647 Aviation Boulevard, Inglewood, California 90301, FMC No. 1928, was cancelled effective April 18, 1979.

By letter dated March 21, 1979, Front Express, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1928 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Front Express, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 20.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1928 was revoked effective April 18, 1979; and

It is ordered, that Independent Ocean Freight Forwarder license No. 1928, issued to Front Express, Inc. be returned to the Commission;

It is further ordered, that a copy of this Order by published in the Federal Register and served upon Front Express, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32163 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1934]

Herbert M. Frank; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Herbert M. Frank, 30 Ocean Parkway, Brooklyn, New York 11218, FMC No. 1934, was cancelled effective April 19, 1979.

By letter dated March 21, 1979, Herbert M. Frank was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1934 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Herbert M. Frank has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1934 was revoked effective April 19, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1934, issued to Herbert M. Frank, be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Herbert M. Frank.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32152 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1314]

Imperial Forwarding Co., J. E. Smith d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Imperial Forwarding Co., J. E. Smith d/b/a, 7700 N.W. 54th Street, Miami, Florida 33166, FMC No. 1314, was cancelled effective October 28, 1978.

By letter dated September 28, 1978, Imperial Forwarding Co., J. E. Smith d/b/a was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1314 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Imperial Forwarding Co., J. E. Smith d/b/a has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1314 was revoked effective October 28, 1978; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1314, issued to Imperial Forwarding Co., J. E. Smith d/b/a be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Imperial Forwarding Co., J. E. Smith d/b/a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32148 Filed 10-16-79; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 79-92]

Matson Navigation Co. (Matson)—Proposed 6.66 Percent Bunker Surcharge Increase in Tariffs FMC-F Nos. 164, 165, 166, and 167; Order of Investigation

On August 31, 1979, Matson filed amendments to its Tariffs FMC-F Nos. 164, 165, 166 and 167, proposing a 6.66 percent bunker surcharge increase, scheduled to become effective October 1, 1979. The proposed 6.66 percent bunker surcharge is the cumulative amount of surcharge to be applied. It represents a net increase of .76 percent over the present 5.90 percent surcharge. The publications all provide for a 120-day expiration date.

A protest to Matson's bunker surcharge was filed by Oscar Mayer & Co. Oscar Mayer requests the suspension and investigation of Matson's proposed bunker surcharge increase. The protest alleges that the surcharge results in unreasonable preference for eastbound shippers over westbound shippers. This essentially represents a challenge to the Commission's use of round voyage accounting in determining whether or not a surcharge is just and reasonable. Oscar Mayer seeks a rulemaking proceeding to change the methodology employed in Form FMC-274 and would have the Commission suspend the surcharge in the meantime. We reject these arguments. The protest challenges the procedure employed by the Commission, not an action taken by Matson. An investigation is not the proper forum for discussion of the merits of Circular Letter 1-79, Form FMC-274 and General Order 11, nor is suspension appropriate pending rulemaking.

The State of Hawaii requests suspension and investigation because (1) since January, 1979, the combined overall rate increases and surcharge increases amount to cumulative increase of 15.54 percent and represent an excessive burden to the economy of the State of Hawaii, (2) Matson's fuel consumption estimates are overstated by as much as 25,000 barrels; (3) Matson's revenue forecast is understated by $1,589,000; and (4) Matson's surcharge revenues are understated by as much as $280,000.

It is the opinion of the Commission's staff that increased fuel costs should be allocated to the tariffs affected by the surcharge on a measurement ton basis; and Matson should make an allocation between trade and non-trade cargo carried between the West Coast and Hawaii.

The issues raised by the State of Hawaii and the staff are presently being considered in *Matson Navigation Company—Proposed Bunker Surcharge in the Hawaii Trade, Docket No. 79-55 (FMC, May 25, 1979)* and *Matson Navigation Company—Proposed Bunker Surcharge in the Hawaii Trade*, Docket No. 79-84 (FMC, August 24, 1979). The decisions in those proceedings will determine the methodology to be used in deciding the reasonableness of this bunker surcharge. While there is no need to relitigate these issues, we believe that a proceeding is necessary in order to give the shipping public a remedy here in the event the methodology issues in Docket Nos. 79-55 and 79-84 are decided in favor of the protestants and the staff.

Accordingly, we will institute a proceeding limited to the issues specified in the second ordering paragraph below in order to determine whether the surcharge is unjust, unreasonable or otherwise unlawful under section 18(a) of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933, but will hold the procedural schedule in abeyance pending final decisions in Docket Nos. 79-55 and 79-84.

Now, therefore, it is ordered, that pursuant to the authority of sections 18(a) and 22 of the Shipping Act, 1916, and sections 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. sections 817, 821, 845, 845(a)), an investigation is hereby instituted into the lawfulness of the tariff matter listed in Appendix A for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, that this proceeding be limited to an investigation of the following areas:

1. Is the proposed bunker surcharge unjust, unreasonable or otherwise unlawful in that it will provide Matson with an amount in excess of its increased fuel costs?

2. Should fuel costs be allocated between general cargo and sugar/molasses on the basis of measurement tons carried?

3. Should an allocation be make between trade and non-trade cargo carried between the West Coast and Hawaii?

It is further ordered that Matson Navigation Company be named Respondent in this proceeding;

It is further ordered that Oscar Mayer & Co., and the State of Hawaii be named Protestants in this proceeding;

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), Hearing Counsel shall be a party to this proceeding;

It is further ordered, that this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge;

It is further ordered, that except as provided in this order, the procedural shcedule in this proceeding be held in abeyance pending final decisions in Docket Nos. 79-55 and 79-84;

It is further ordered, that, notwithstanding our order holding the procedural schedule in abeyance, discovery, pursuant to subpart L of the Commission's Rule of Practice and Procedure, shall commence no later than 30 days after the date of publication in the Federal Register of this order;

It is further ordered, that subsequent to the final decisions in Docket Nos. 79-55 and 79-84, the Administrative Law Judge shall, at his direction, direct all parties to consider and make recommendations regarding:

1. Simplification of issues;

2. Identification of issues which can be resolved readily on the basis of documents, admissions of fact, or stipulations;

3. Identification of any issues which require evidentiary hearing;

4. Limitation of witness and areas of cross-examination should an evidentiary hearing be necessary;

5. Requests for subpoenas; and

6. Other matters which may aid in the disposition of hearing.

It is further ordered, that, after considering the procedural recommendations of the parties, the Administrative Law Judge shall limit the issues to the extent possible and establish a procedure for their resolution;

It is further ordered, that during the pendency of this investigation, Respondent will serve the Administrative Law Judge and all parties of record with notice of any tariff changes affecting the material under investigation at the same time such changes are filed with the Commission;

It is further ordered, that notice of this Order be published in the Federal Register, and a copy be served upon all parties of record;

It is further ordered, that any person other than parties of record having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that except as provided in Rules 159 and 201(a) of the Commission's Rules of Practice and Procedure (46 CFR 502.159, 46 CFR 502.201(a)), all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Francis C. Hurney,

Secretary.

Appendix A

Matson Navigation Company Freight Tariff No. 1-T, Supplement No. 17 to FMC-F No. 164.

Matson Navigation Company Freight Tariff No. 30-A, Supplement No. 14 to FMC-F No. 165.

Matson Navigation Company Freight Tariff No. 15-C, Supplement No. 14 to FMC-F No. 166.

Matson Navigation Company Freight Tariff No. 14-A, Supplement No. 15 to FMC-F No. 167.

[FR Doc. 79-32145 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1761]

Natco International, Ltd.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Natco International Ltd., 210 W. Fayette Street, Room 310, Baltimore, Maryland 21201, FMC No. 1761, was cancelled effective April 11, 1979.

By letter dated March 19, 1979, Natco International Ltd. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1761 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Natco International Ltd. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1761 was revoked effective April 11, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1761, issued to Natco International Ltd., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Natco International Ltd.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32149 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1661]

Seaport Shipping & Forwarding, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Seaport Shipping and Forwarding, Inc., 1746 E. Adams Street, Jacksonville, Florida 32206, FMC No. 1661, was cancelled effective June 6, 1979.

By letter dated May 8, 1979, Seaport Shipping and Forwarding, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1661 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Seaport Shipping and Forwarding, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1661 was revoked effective June 6, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1661, issued to Seaport Shipping and Forwarding, Inc. be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Seaport Shipping and Forwarding, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32150 Filed 10-17-79 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1466]

Thompson International Shipping, Ann T. Thompson, d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Thompson International Shipping, Ann T. Thompson, d.b.a., 530 W. 6th Street, Suite 1122, Los Angeles, California 90014, FMC No. 1466, was cancelled effective March 7, 1979.

By letter dated February 8, 1979, Thompson International Shipping, Ann T. Thompson, d.b.a. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1466 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Thompson International Shipping, Ann T. Thompson, d.b.a. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1466 was revoked effective March 7, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1466, issued to Thompson International Shipping, Ann T. Thompson, d.b.a., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Thompson International Shipping, Ann T. Thompson, d.b.a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32147 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 77]

W. D. Wall Traffic Service, W. D. Wall, d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of W. D. Wall Traffic Service, W. D. Wall, d.b.a., 998 Park Avenue, San Jose, California 95125, FMC No. 77, was cancelled effective April 18, 1979.

By letter dated March 27, 1979, W. D. Wall Traffic Service, W. D. Wall, d.b.a., was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 77 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

W. D. Wall Traffic Service, W. D. Wall, d.b.a., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 77 was revoked effective April 18, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 77, issued to W. D. Wall Traffic Service, W. D. Wall, d.b.a., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon W. D. Wall Traffic Service, W. D. Wall, d.b.a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32154 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1584]

Winair Freight, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Winair Freight, Inc., 1810 Tonnelle Avenue, North Bergen, New Jersey 07047, FMC No. 1584, was cancelled effective January 18, 1979.

By letter dated December 28, 1978, Winair Freight, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1584 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Winair Freight, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1584 was revoked effective January 18, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1584, issued to Winair Freight, Inc. be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Winair Freight, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32151 Filed 10-17-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

Cancellation of Meetings

Pursuant to the provisions of Section 10 of the Federal Advisory Committee Act (Pub. L. 92-463) notice was published in 44 FR 53570 of September 14, 1979, that meetings of the Federal Prevailing Rate Advisory Committee would be held on October 18, 1979, and October 25, 1979. Notice is hereby given that the meetings scheduled for those dates have been cancelled.

Jerome H. Ross,

Chairman, Federal Prevailing Rate Advisory Committee.

October 16, 1979.

[FR Doc. 79-32385 Filed 10-17-79; 8:45 am]

BILLING CODE 6325-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than November 9, 1979.

A. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (insurance underwriting activities; Pennsylvania): to engage, through its indirect subsidiaries, Patrick Henry Insurance Company and Patrick Henry Life Insurance Company, in the reinsurance of credit life insurance and credit accident and health insurance underwritten by a nonaffiliated insurance company with respect to installment loans of The Philadelphia National Bank, the bank subsidiary of Philadelphia National Corporation. These activities will be conducted at the branch offices of The Philadelphia National Bank located in and serving the Pennsylvania counties of Philadelphia, Bucks, Chester, Delaware, Montgomery, Lehigh and Berks.

2. PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (mortgage lending activities; Virginia, West Virginia): to engage, through its subsidiary, Colonial Mortgage Company Associates, Inc., in the oridination of residential mortgage loans. This activity would be conducted from an office in Frederick, Maryland, serving Virginia and West Virginia. This notice is a republication of a previous notice (44 *Fed. Reg.* 57219) published on October 4, 1979. Comments must be received by October 26, 1979.

3. PHILADELPHIA NATIONAL CORPORATION, Philadelphia, Pennsylvania (trust company activities; Washington): to engage, through its subsidiary, CMSC Escrow Company, in escrow agency services involving the receipt, holding, distribution and disbursement of instruments, documents and funds delivered in connection with, and by parties to real estate sales and mortgage loans. These activities would be conducted from an office in Bellevue, Washington, serving the State of Washington.

B. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

UNITED VIRGINIA BANKSHARES INCORPORATED, Richmond, Virginia, (financing and insurance activities; Virginia): to engage, through its subsidiary, United Virginia Mortgage Corporation, in originating loans as agent or principal; servicing loans for nonaffiliated individuals, partnerships and corporations and for affiliates of Applicant; acting as agent for the sale of credit life disability, mortgage redemption and mortgage cancellation insurance in connection with such loans; and such other activities as may be incidental to the business of a mortgage corporation. These activities would be conducted from the cities in which those offices are located and the surrounding areas.

C. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

U.S. Bancorp Portland, Oregon, (financing, leasing and insurance activities; Oregon, California and

V 4 4 0 C 1 8 7 9 UMI

Nevada): to engage, through its subsidiary U.S. Bancorp Financial, Inc., Medford, Oregon, in the leasing of personal property and equipment and the making, acquiring and servicing of loans and other extensions of credit, either secured or unsecured, for its own account or for the account of others, including but not limited to, commercial and rediscount loans; installment sales contracts and other forms of receivables. These activities would be conducted from an office located in Medford, Oregon and would serve Curry, Josephine, Jackson, Klamath, Lake, Coos and Douglas Counties in southern Oregon and Del Norte, Sisdiyou, Humbolt, Trinity, Modoc, Shasta and Lasser Counties in northern California and all of Nevada. Comments on this application must be received by November 5, 1979.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32103 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Blakely Investment Co., Commercial Bankshares, Inc.; Acquisition of Bank

Blakely Investment Company, Griffin, Georgia ("Blakely"), has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire through its subsidiary, Commercial Bankshares, Inc., Griffin, Georgia ("Commercial") voting shares of Bank of Hampton, Hampton, Georgia ("Bank"). Blakely will indirectly acquire 34.23 per cent of the voting shares of Bank through the acquisition of 100 per cent of the voting shares of Bank by its subsidiary, Commercial. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 11, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32104 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Consumer Advisory Council; Meeting

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Addendum to Notice of Meeting of Consumer Advisory Council.

SUMMARY: The Consumer Advisory Council announces that an additional matter concerning Regulation Z, Truth in Lending, will be discussed at its October 22–23, 1979 meeting.

DATES: October 22 and 23, 1979.

ADDRESS: Terrace Room E of the Martin Building, located on C Street, Northwest, between 20th and 21st Streets in Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph R. Coyne, Assistant to the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202) 452–3204.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Board has invited comments from the Consumer Advisory Council on three amendments to the Truth in Lending Enforcement Guidelines proposed by the five federal enforcement agencies. The October 22–23, 1979 meeting of the Council, notice of which was published at 44 FR 58744 (October 11, 1979), will include consideration of this topic.

Board of Governors, October 12, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32103 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Dickey County Bancorp.; Formation of Bank Holding Company

October 11, 1979.

Dickey County Bancorporation, Ellendale, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 98 percent of the voting shares of The First National Bank and Trust Company of Ellendale, Ellendale, North Dakota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32098 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Douglas County Bancshares, Inc.; Formation of Bank Holding Company

Douglas County Bancshares, Inc., Ava, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less director's qualifying shares) of Citizens Bank, Ava, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 11, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32101 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Granbury Bancshares, Inc.; Formation of Bank Holding Company

Granbury Bancshares, Inc., Granbury, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Granbury State Bank, Granbury, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1312(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 9, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32099 Filed 10-17-79; 8:45am]

BILLING CODE 8210-01-M

Mid-Continental Bancorporation, Inc.; Formation of Bank Holding Company

Mid-Continental Bancorporation, Inc., Milwaukee, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of American Hampton Bank; Continental Bank & Trust Co.; Guardian State Bank; and Mid-American Bank, Milwaukee, Wisconsin. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1312(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 10, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32100 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Ranger Financial Corp.; Formation of Bank Holding Company

Ranger Financial Corporation, Brownwood, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 96.5 per cent or more of the voting shares of First State Bank in Tuscola, Tuscola, Texas, and 100 per cent of the voting shares of Ranger Financial Corporation, Ranger, Texas, thereby acquiring 92 per cent of the voting shares of First State Bank, Ranger, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 9, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 10, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32097 Filed 10-17-79; 8:45 am]

BILLING CODE 6210-01-M

Tonganoxie Bankshares, Inc.; Formation of Bank Holding Company

Tonganoxie Bankshares, Inc., Tonganoxie, Kansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Tonganoxie, Tonganoxie, Kansas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 11, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32102 Filed 10-17-79; 8:45am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

Health Systems Agency Application Information

Correction

In Federal Register Doc. 79-3290, appearing at page 58811 in the issue of Thursday, October 11, 1979, The next to last line in the second complete paragraph of column one, page 58812, should read, "1979, and an application by February 12,"

BILLING CODE 1505-01-M

Office of Human Development Services

[Program Announcement No. 13600-801]

Basic Educational Skills Research Grant Program

AGENCY: Office of Human Development Services, DHEW.

SUBJECT: Announcement of Availability of Grant Funds for Basic Educational Skills Research Grant Program.

SUMMARY: The Administration for Children, Youth and Families (ACYF) announces that applications are being accepted for the Basic Educational Skills Research Grant Program under Title V, Part A of the Community Services Act of 1974, as amended.

DATES: Closing date for receipt of all applications under this Program Announcement is December 18, 1979.

SCOPE OF THIS ANNOUNCEMENT: This Program Announcement covers the Head Start Basic Educational Skills Research Grant Program for FY 80. Applications will be received and competitively reviewed for the award of research grants relating solely to the purposes of this program. Grant support is not available for ongoing programs or services, research which addresses program implementation or service delivery issues or curriculum development projects.

V 44 O C 18 79 UMI

Program Purpose

The purpose of the Basic Educational Skills Research Grant Program is to generate the knowledge necessary to improve the quality and design of child development programs which aim to advance the acquisition of basic educational skills for children in preschool through grade six. Basic educational skills are defined as developmentally appropriate educational sills which are necessary for the later acquisition of skills commonly associated with school readiness and achievement.

Program Goal and Objectives

The overall goal of the Basic Educational Skills Research Grant Program is to support projects which will result in knowledge which will further the acquisition of appropriate educational skills by children from low-income families. ACYF proposes to support this goal by funding single year projects which will result in state-of-the-art papers and multi-year research projects as described below.

Projects To Fund State-of-the-Art Paper

State-of-the-Art Papers

• Address the educational needs of children of low-income families in preschool through grade six;

• If appropriate, summarize findings from all disciplines that can contribute to the issue addressed;

• Be for new efforts not completed or undertaken prior to this program announcement.

Applications for projects shall indicate that the proposed project will result in a state-of-the-art paper which addresses one of the following objectives:

(a) The relationship of parent/child interaction to children's development of basic educational skills including positive learning attitudes, such as self-esteem as a learner, motivation, curiosity, initiative, purposefulness, persistence, task completion and interest in further learning.

(b) Teacher behaviors (both in transmitting the curriculum and other interactions) associated with children's acquisition of basic educational skills including children's development of positive learning attitudes, such as, self-esteem as a learner, motivation, curiosity, initiative, purposefulness, persistence, task completion and interest in further learning. The paper should focus on findings which have applicability to preschool programs for low-income children.

(c) The precursor skills which, if mastered, will enhance children's ability to acquire basic eduational skills in oral language, reading, mathematics, science and problem solving.

A subtopic under this area of interest to ACYF is: the relationship between the provision of experiences designated to develop visual and auditory perception and children's acquistion of basic educational skills.

(d) The qualitative changes which occur in classroom environments as group size increases or decreases. Subtopics of interest to ACYF are the relationship between group size and:

• Teacher's strategies for assisting children to acquire basic educational skills:

• Classroom staffing patterns and roles of aides and other adults in the classroom;

• The teacher's planning and implementation of experiences for individual children;

• Opportunities for child/child interaction;

• Opportunities for child selection of activities and child initiation of activities;

• The frequency of use of different sizes and types of groupings within the classroom;

• The temporary assignment of children to other areas within the school or to other teachers/staff for special services; and

• Other factors which promote children's acquisition of basic educational skills.

(e) Other topics which are relevant to ACYF's objective of increasing the knowledge regarding children's acquisition of basic educational skills.

Research Projects

Research projects funded must:

• Address the educational needs of children in preschool through grade six;

• If appropriate, encourage multidisciplinary research;

• Be for new efforts not completed or undertaken prior to this program announcement.

Applications for research projects shall address one or more of the following objectives:

(a) The parent/child interactions which contribute to low-income children's acquisition of basic educational skills including positive learning attitudes, such as self-esteem as a learner, motivation, curiosity, initiative, purposefulness, persistence, task completion and interest in further learning. A subtopic of interest to ACYF is the factors (including attitudes and beliefs) that promote or discourage low-income parents' involvement in the education of their children.

(b) The teacher behaviors (both in transmitting the curriculum and in other interactions) which contribute to children's acquisition of basic educational skills including children's development of positive learning attitudes such as self-esteem as a learner, motivation, curiosity, initiative, purposefulness, persistence, task completion and interest in further learning. A subtopic of interest to ACYF is the teacher's use of play experiences to promote the acquisition of basic educational skills.

(c) The precursor skills which, if mastered, will enhance the child's ability to acquire basic educational skills in oral language, reading, mathematics, science and problem solving.

A subtopic of interest to ACYF is: The relationship between the child's involvement in experiences designed to develop visual and auditory perception and the acquisition of basic educational skills.

(d) The qualitative changes which occur in classroom environments as group size increases or decreases. Subtopics of interest to ACYF are:

• Teachers' strategies for assisting children to acquire basic educational skills;

• Classroom staffing patterns and roles of aides and other adults in the classroom;

• The teacher's planning and implementation of experiences for individual children;

• Opportunities for child selection and initiation of activities;

• The frequency of use of different sizes and types of groupings within the classroom;

• The teacher's perception of the implementation of his/her role in the classroom;

• The temporary assignment of children to other areas within the school or to other teachers/staff for special services; and

• Other factors which promote children's acquisition of basic educational skills

(e) Other topics related to basic educational skills. The areas listed are of equal interest to ACYF. ACYF recognizes that it will not be possible to fund projects for all areas in FY '80. Interested applicants may submit proposals for projects to develop state-of-the-art papers or research projects or both.

Eligible Applicants

Public, private nonprofit organizations, or institutions of higher learning may apply for grants.

Available Funds

The Administration for Children, Youth and Families expects to award $550,000 for new grants in response to this announcement. It is expected that approximately five to seven grants will be awarded pursuant to this announcement. The range of grant awards is expected to be between $20,000 to $50,000 for projects to develop state-of-the-art papers and between $80,000 to $110,000 for research projects. Research projects for state-of-the-art papers will be supported for a period of one year; and other research projects will be funded for one to three years. Continuation support depends on funds available and the grantees' satisfactory performance of the project for which the grant was awarded.

Grantee Share of the Project

Grantees must share in the costs of research projects; it is generally expected that grantees will provide at least five percent of total project costs. The grantee share may be in cash or in kind but must be project related and allowable under the Department's applicable cost principles and Subpart G published in 45 CFR Part 74.

The Application Process

Availability of Forms

In order to be considered for a grant under the Basic Educational Skills Reserach Grant Program, an application must be submitted on the standard forms supplied and in the manner prescribed by the Administration for Children, Youth and Families. Application kits which include the forms and other information may be obtained by writing to: Administration for Children, Youth and Families, Development and Planning Division, P.O. Box 1182, Washington, D.C. 20013, Attention: Jenni Klein, Telephone (202) 755–7794.

Application Submission

The prescribed application form must be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award.

One signed original and two copies of the grant application, including all attachments, must be submitted to the address indicated in the application instructions. The application must clearly identify the program announcement number and the program objective for which the application is to compete.

A–95 Notification Process

This program does not require the A-95 notification process.

Application Consideration

The Commissioner for Children, Youth and Families will make the final decision on each grant application for this program. Applications which are complete and conform to the requirements of this program announcement will be competitively reviewed and evaluated by qualified persons independent of the Administration for Children, Youth and Families. An application for a project to develop a state-of-the-art paper will compete only with other applications for projects to develop state-of-the-art papers; an application for a research project will compete only with other applications for research projects. The results of the review will assist the Commissioner in considering competing applications. The Commissioner's consideration will also take into account the comments of the HEW Regional Offices and the Headquarters ACYF staff. If the Commissioner decides to disapprove or not to fund a competing grant application, the unsuccessful applicant will be notified in writing.

Successful applicants will be notified through the issuance of a Notice of Grant Awarded (NGA), which sets forth the amount of funds granted, the terms and conditions of the grant, the budget period for which support is given, the total grantee share expected, and the total period for which project support is contemplated.

Criteria for Review and Evaluation of Grant Applications

Competing grant applications for projects to develop state-of-the-art papers will be reviewed and evaluated against the following criteria:

1. Estimated cost to the government is reasonable considering anticipated results; (10 points)

2. Proposed objectives for project to develop the state-of-the-art paper are identical with or capable of achieving the specific program purpose and objectives defined in the program announcement and program guidance; (30 points)

3. Proposed methodology or procedures for preparation of state-of-the-art paper are capable of attaining objectives:

a. Plan for review of literature

b. Proposed outline of paper

c. Questions or issues to be addressed

d. Plan for synthesis and application to child development programs; (30 points)

4. Project personnel are or will be well-qualified, and applicant organization has or will have adequate facilities; (20 points)

5. Projected plan for dissemination/use of the project results:

a. Applicant indicates knowledge of appropriate users.

b. Applicant presents an appropriate dissemination plan. (10 points)

Competing grant applications for research projects will be reviewed and evaluated against the following criteria:

1. Estimated cost to the government is reasonable considering anticipated results; (10 points)

2. Project objectives are identical with or capable of achieving the specific program purpose and objectives defined in the program announcement and program guidance; (30 points)

3. Proposed methodology or procedures, if well-executed, are capable of attaining project objectives:

a. Review of literature

b. Innovativeness of approach/design

c. Objectives/hypotheses clearly stated

d. Procedures (sample size: Comparison/control groups; treatment(s); design, measures/instruments; data analysis plan; time schedule; reports); (30 points)

4. Project personnel are or will be well-qualified, and applicant organization has or will have adequate facilities; (20 points)

5. Projected plan for dissemination/use of research findings:

a. Applicant indicates knowledge of appropriate plan

b. Applicant presents an appropriate dissemination plan; (10 points)

In addition to the above criteria, applications will be reviewed to assure:

1. That if subjects are at risk, appropriate safeguards have been taken, and

2. That if formal agreements with cooperating agencies are necessary for the implementation of a research project, they are documented and included with the application.

Closing Date for Review of Applications

The closing date for receipt of all applications under this Program Announcement is December 18, 1979. Applications may be mailed or hand delivered. An application will be considered received on time if:

The application was sent by registered or certified mail not later than December 18, 1979 as evidenced by the U.S. Postal Service postmark or the original receipt from the U.S. Postal Service;

The application is received on or before close of business December 18,

V 44 0C 18 79 UMI

1979 in the DHEW mailroom in Washington, D.C.; or

The application is hand-delivered to the address on the application kit by close of business December 18, 1979. Hand-delivered applications will be accepted daily from 9 a.m. to 5:30 p.m. except Saturdays, Sundays, and Federal holidays. In establishing the date of receipt, consideration will be given to the time date stamps of the mailroom or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare. Applications received after the deadline because they were postmarked or hand-delivered too late or addressed incorrectly will not be accepted and will be returned to the applicant without consideration.

(Catalog of Federal Domestic Assistance Program Number 13600 Administration for Children, Youth and Families-Head Start)

Dated: October 10, 1979.

Herschel Saucier,

Acting Commissioner for Children, Youth and Families.

Approved: October 11, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

[FR Doc. 79-32165 Filed 10-17-79; 8:45 am]

BILLING CODE 4110-92-M

Office of the Secretary

Ethics Advisory Board

Notice is hereby given that the Ethics Advisory Board will hold a meeting on November 15–16, 1979 in Room 800 of the Hubert H. Humphrey Building, 200 Independence Avenue S.W., Washington, D.C. The meeting will be held on Thursday, November 15, from 7–10 p.m. and Friday, November 16, from 8 a.m.–4 p.m. It will be open to the public subject to limitations of available space.

The agenda for the meeting will include further consideration of possible exemptions to disclosure under the Freedom of Information Act for data relating to: (1) institutions and individuals cooperating with epidemiologic investigations conducted by the Center for Disease Control (CDC); and (2) clinical trials being conducted or supported by the National Institutes of Health (NIH) where the data are incomplete. The Board will also hold preliminary discussion regarding its study of compensation for research-related injuries.

Requests for information should be directed to Ms. Amanda MacKenzie, Westwood Building, Room 125, 5333 Westbard Avenue, Bethesda, Maryland, 20016, telephone 301–496–7526.

Dated: October 10, 1979.

Barbara Mishkin,

Acting Staff Director, Ethics Advisory Board.

[FR Doc. 79-32076 Filed 10-17-79; 8:45 am]

BILLING CODE 4110-08-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. N-79-954]

National Mobile Home Advisory Council Meeting

AGENCY: Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection, HUD.

ACTION: Notice of National Mobile Home Advisory Council Meeting.

SUMMARY: This Notice announces a biannual meeting of the National Mobile Home Advisory Council.

FOR FURTHER INFORMATION CONTACT: Jesse C. McElroy, Director, Office of Mobile Home Standards, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, Telephone (202) 755–5595.

SUPPLEMENTARY INFORMATION: The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI of the Housing and Community Development Act of 1974) authorizes the Secretary of the Department of Housing and Urban Development to establish Federal construction and safety standards for mobile homes. It provides for the appointment by the Secretary of a National Mobile Home Advisory Council composed of 24 members. The membership of the Council is selected equally from each of the following categories: (a) consumer organizations, community organizations, and recognized consumer leaders; (b) the mobile home industry and related groups, including at least one representative of small business; and (c) government agencies including Federal, State and local governments. The purpose of the National Mobile Home Advisory Council is to advise the Department to the extent feasible prior to the establishment, amendment or revocation of any mobile home construction and safety standard.

Sections 6 (a) and (b) of the Charter of the National Mobile Home Advisory Council enacted pursuant to Section 9(c) of the Federal Advisory Committee Act stipulates that members are appointed to serve two-year terms which expire on August 21 of the second year of the member's appointment.

In accordance with Section 605 of Title VI of the Housing and Community Development Act of 1974 (Public Law 93–383) and Section 10(a)(2) of the Federal Advisory Committee Act of 1972 (Public Law 92–463) announcement is made of the following meeting: The National Mobile Home Advisory Council will meet on November 14, 15 and 16, 1979. The meetings are open to the public and will convene at 9:00 a.m. on Wednesday, November 14, 1979, at the HUD Building, Room 10233, 451 7th Street, S.W., Washington, D.C. 20410.

Depending on the availability of research conclusions, among other items, the Department plans to discuss and seek recommendations on the following agenda items:

National Mobile Home Advisory Council Agenda—November 14, 15, 16, 1979

November 14—Morning (9:00 a.m.–12:00 p.m.)

Opening remarks, swearing-in of new members, update on standards' involvement, preview of council's presentations—agenda.

Afternoon (1:00 p.m.–5:00 p.m.)

Voucher information: *Transportation, durability, and safety,* committee report, research information, on-site structural durability and safety research—status report, structural adhesives—research and findings.

November 15—Morning (9:00 a.m.–12:00 p.m.)

Fire safety: Committee report, U.S. Fire Administration report and findings, smoke detector research and findings.

Afternoon (1:00 p.m.–5:00 p.m.)

Energy, Heating and Cooling: Committee report, heating/cooling system and thermal envelope research report, indoor air quality (formaldehyde)—research status.

November 16—Morning (8:30 a.m.–12:00 p.m.)

Status of HUD/DOE energy research, applicability of referenced standards' study—status report, report on advance notice of proposed rulemaking (ANPR)—comments, open discussion on ANPR.

Afternoon (1:00 p.m.–3:00 p.m.)

Council's deliberations and recommendations.

Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d) and Section 605, National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5404.

Issued at Washington, D.C. October 11, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-32085 Filed 10-17-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Proposed Findings for Federal Acknowledgment of Grand Traverse Band of Ottawa and Chippewa Indians as an Indian Tribe

October 5, 1979.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 54.9(f) notice is hereby given that the Assistant Secretary proposes to acknowledge that the Grand Traverse Band of Ottawa and Chippewa Indians, c/o Ardith Harris, Post Office Box 37, Sutton's Bay, Michigan 49682, exists as an Indian tribe. This notice is based on a determination that the group satisfies the criteria set forth in 25 CFR 54.7.

Under § 54.9(f) of the Federal regulations, a report summarizing the evidence for the proposed decision is available to the petitioner and other parties upon written request.

Section 54.9(g) of the regulations, provides that any individual or organization wishing to challenge the proposed findings may submit factual or legal arguments and evidence to rebut the evidence relied upon. This material must be submitted within 120 days of the publication of this notice. Comments and requests for a copy of the report should be addressed to: Assistant Secretary—Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242, Attention: Federal Acknowledgment Project.

Within 60 days after the expiration of the response period, the Assistant Secretary will publish his determination regarding the petitioner's status in the Federal Register as provided in § 54.9(h).

Rick Lavis,

Deputy Assistant Secretary—Indian Affairs.

[FR Doc. 79-32135 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico Off-Road Vehicle Designations

October 9, 1979.

AGENCY: Bureau of Land Management.

ACTION: Notice of Off-Road Vehicle Designation Decisions.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as closed, limited or open to off-road motorized vehicle use.

The area affected by these designations is known as the East Chaves Planning Unit, containing all public lands in Chaves County, New Mexico, that are east of the Pecos River. These designations are a result of land use decisions developed with broad public involvement in the 1976 East Chaves Management Framework Plan. This area contains 425,264 acres of public land.

The areas of East Chaves Planning Unit which are designated as *closed* are:

1. *Comanche Hill Areas A and C.* Comanche Hill is located approximately seven miles east of Roswell, New Mexico. Closure of Area A is necessary to protect scenic quality, prevent disturbance of waterfowl at the adjacent Bitter Lakes National Wildlife Refuge, and to protect raptor nesting habitat in the area. There are approximately 660 acres in Area A. Closure of Area C is necessary to protect the scenic value of this area which is highly visible from the adjacent U.S. Highway 380. Area C contains approximatley 240 acres.

2. *Mathers Natural Area.* The Mathers Natural Area is located approximately 35 miles east of Roswell, New Mexico, and contains 96 acres. Closure to off-road vehicles is necessary to protect a unique climax shinnery oak-bluestem vegetative type.

3. *Mescalero Sands South Dune Area A.* This area is located in the Mescalero Sands Recreation Complex approximately 33 miles east of Roswell, New Mexico. South Dune Area A is fenced and closed to off-road vehicles in order to protect the unique scenic, cultural, biological, and geological values of the area. This area contains approximately 1,512 acres.

The areas of East Chaves Planning Unit which are designated as *limited* are:

1. *Mescalero Sands Recreation Complex.* Vehicle use in the Mescalero Sands Recreation Complex will be restricted to designated roads and trails, which will be marked by appropriate signs and recorded on maps. Until road and trail designations are made, vehicular use in this area is restricted to existing roads and trails. This restriction is necessary to protect the biological and cultural resources of this 19,068 acre area.

The 640 acre North Dune Area within Mescalero Sands Recreation complex is proposed for development as an intensive vehicle use area. Potential impacts to an endangered wildlife species that may inhibit this area must be determined through an inventory effort scheduled for completion during the Spring of 1980. Prior to the completion of that inventory, vehicle use in the North Dunes Area is restricted to existing trails and active sand dunes.

2. *Haystack Mountain Area.* This area is located approximately 20 miles northeast of Roswell, New Mexico. The limited designation is for the purpose of establishing and managing this area for intensive motorcycle use. Legal public access is not available to this area and other resource values are present which require protection prior to promoting or allowing intensive vehicular use. The Bureau of Land Management is in the process of negotiating legal access and providing protection for other resource values to facilitate the proposed intensive recreational use. Until access and protection requirements are completed, vehicular use is restricted to existing roads and trails in this area. Additional public notification will be given when this area is available for the proposed intensive use. Continuing management of this area will be specified in an activity plan, developed with public input, which will prescribe applicable limitations to allow off-road vehicle use and protect natural resources. The area affected by this limited designation contains approximately 3,520 acres.

The remainder of all public lands in East Chaves Planning Unit are designated as open to off-road vehicle use. Open designations for these public lands are made for the following reasons; the majority of off-road vehicle activity will be directed to intensive use areas; concentrated use of these areas does not presently occur; and significant resource values requiring special protection or management have not been identified on these areas. The area affected by this open designation contains approximately 399,528 acres of public land.

V 44 0C 1 18 79 UMI

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the State Director. An environmental assessment record which describes the impacts of these designations is available for inspection.

ADDRESS: For further information about these designations, contact the following BLM office: Roswell District Office, Bureau of Land Management, 1717 W. 2nd Street, P.O. Box 1397, Roswell, New Mexico 88201.

FOR FURTHER INFORMATION CONTACT: James O'Connor, District Manager at the Roswell, New Mexico Address or call (505) 622-7673.

Arthur W. Zimmerman,

State Director.

[FR Doc. 79-32057 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-84-M

New Mexico Off-Road Vehicle Designations

October 9, 1979.

AGENCY: Bureau of Land Management.

ACTION: Notice of Off-Road Vehicle Designations Decision.

DECISION: Notice is hereby given relating to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as closed, limited or open to off-road motorized vehicle use.

The area affected by these designations is known as the East Eddy/Lea Planning Unit, which includes all public lands in Eddy County and Lea County, New Mexico, that are east of the Pecos River. These designations are a result of land use decisions developed with public involvement in the 1979 East Eddy/Lea Management Framework Plan. This area contains 1,174,134 acres.

The areas of East Eddy/Lea Planning Unit which are designated as *closed* are:

1. *Laguna Plata.* Laguna Plata is located approximately 30 miles northeast of Carlsbad, New Mexico. Closure of this area is necessary to protect significant cultural values. Archaeological sites in this area have been determined to be eligible for inclusion in the National Register of Historic Places. An inventory of this 3,360 acre area has recently been completed to identify the geographic extent of sites that comprise an archaeological district. This inventory will provide a basis for preparing a formal nomination of eligible property to the National Register of Historic Places. At the current time prohibitions to off-road vehicle use apply to the entire 3,360 acre area which was inventoried. The closed area may be reduced at a later date in the event that a smaller area is formally nominated to the National Register. Closure boundary modifications in this area will be identified by placement of appropriate signs and distribution of informational maps.

2. *Pierce Canyon.* Pierce Canyon is located approximately seven miles southeast of Malaga, New Mexico. Closure of this area is necessary to protect the relatively undisturbed scenic values. Pierce Canyon contains approximately 1,215 acres.

3. *Pope's Well* and *Campsite #3.* This area is located approximately 22 miles southeast of Malaga, New Mexico, and one mile north of the Texas border. Closure of this area is necessary to preserve the fragile physical evidences of a historical survey expedition. This area contains 40 acres.

The areas of East Eddy/Lea Planning Unit which are designated as *limited* are:

1. *Maroon Cliffs.* The Maroon Cliffs areas is located approximately 20 miles northeast of Carlsbad, New Mexico. Vehicle use in this area will be restricted to designated roads and trails to protect significant cultural values, prevent undue erosion, and minimize conflicts with other resource uses. Indentification and designation of acceptable roads and trails where off-road vehicle use may continue will be determined through detailed inspection. Existing roads and trials may be designated open for a specific type of off-road vehicle, rerouted or closed to reduce impacts to other resource values. Designated roads and trials and use limitations will be indicated with appropriate signs and recorded on informational maps. Until road and trail designations are completed in this area all vehicular use is restricted to existing roads and trials. The area affected by this limited designation contains approximately 12,423 acres.

The remainder of all public lands in East Eddy/Lea Planning Unit are designated as *open* to off-road vehicle use. Open designation was determined to be appropriate for these public lands since off-road vehicle use is an important recreational activity and supports other authorized resource uses. Also, considerable adverse effects of off-road vehicle use upon other resource values and uses have not been identified on these areas of public land. The area affected by this open designation contains approximately 1,157,096 acres of public land.

These designations become effective upon publication in the **Federal Register** and will remain in effect until rescinded or modified by the State Director. An environmental assessment which describes the impact of these designations is available for inspection.

ADDRESS: For further information about these designations, contact either of the following Bureau of Land Management Offices: Roswell District Office, 1717 W. 2nd Street, P.O Box 1397, Roswell, New Mexico 88201; or Carlsbad Resource Area Headquarters, 114 S. Halagueno, P.O. Box 506, Carlsbad, New Mexico 88220.

FOR FURTHER INFORMATION CONTACT: James O'Connor, District Manager at the Roswell New Mexico address or call (505) 622-7673.

Arthur W. Zimmerman,

State Director.

[FR Doc. 79-32056 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-84-M

Special Project Wilderness Inventory of 9,740 Acres of Public Land in Socorro County, N. Mex.

The Bureau of Land Management's Socorro, New Mexico District Office has completed a special project wilderness inventory of 9,740 acres M/L of public land located approximately six miles northeast of Socorro. The Bureau is tentatively recommending that the area, called Coyote (NM-020-036) be released from further wilderness consideration due to lack of wilderness characteristics.

Public comments on the Bureau's recommendation will be accepted until November 22, 1979. An open house to answer public inquiries and to acquaint them with findings is scheduled for November 7, 1979 between 5 and 9 p.m. at the Masonic Lodge, 912 Leroy Place NW, Socorro, New Mexico.

A summary of the Bureau's findings follow: The Coyote Inventory Unit meets the basic requirement of size, but not solitude and naturalness except for a small, unmanageable 2,000 acre site. The rest of the unit, after considering boundary adjustments due to mining impacts, a road, stock water tank, and a petroleum pipeline right-of-way with a substantially noticeable route, failed to meet outstanding solitude or primitive recreation requirement. The impacts cannot be rehabilitated by hand labor or natural processes in a reasonable period of time, and the boundary cannot be expanded due to defined roads and private lands.

Further information can be obtained from the BLM's Socorro District Office, P.O. Box 1217, Socorro, New Mexico 87801.

Arlen P. Kennedy,

District Manager.

October 10, 1979.

[FR Doc. 79-32128 Filed 10-17-79; 8:45am]

BILLING CODE 4310-84-M

[W-69201]

Wyoming; Application

October 10, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. pipeline, a 4' by 6' meter house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands;

Sixth Principal Meridian, Wyoming

T. 20 N., R. 95 W.,
Sec. 4, Lot 1, E½SE¼;
T. 21 N., R. 95 W.,
Sec. 36, SE¼SW¼, SW¼SE¼, E½SE¼.

The proposed pipeline will transport natural gas from the Government-Challenge Pacific (NCT-1) No. 1 Well located in the SE¼ of Sec. 4, T. 20 N., R. 95 W., to a point of connection with an existing pipeline located in the N½SE¼, Sec. 36, T. 21 N., R. 95 W., The proposed 4' by 6' meter house and related metering and dehydration facilities will be located entirely within the 50 foot right-of-way in the SE¼ of Sec. 4, T. 20 N., R. 95 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32139 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming Amendment 68178]

Wyoming; Application

October 9, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Montana Dakota Utilities Company of Bismarck, North Dakota filed an application to amend an existing right-of-way to contruct a 12 inch pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 50 N., R. 93 W.,
Sec. 28, E½NW¼.

The purpose of this amendment is to construct an additional 12 inch pipeline for the purpose of transporting natural gas to their existing compressor plant located in the NE¼NW¼ of section 28, T. 50 N., R. 93 W., Big Horn County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 119, 1700 Robertson, Worland, Wyoming 82401.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32140 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Texas; Application

Notice is hereby given that under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (37 Stat. 576) (Pub. L. 93-153), Transcontinental Gas Pipe Line Corporation has applied for a 24-inch natural gas pipeline right-of-way across wildlife refuge lands. This pipeline will convey natural gas across 2.6 miles (834 rods) of the Sea Rim Marsh National Wildlife Refuge in Jefferson County, Texas.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. The Committees on Interior and Insular Affairs of the U.S. Senate and the U.S. House of Representatives shall receive notification of the receipt of this application because their approval is required for all rights-of-way pipelines of 24 inches or more in diameter.

Interested persons desiring to express their views, should do so within thirty (30) days by sending their name, address, and comments to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

October 9, 1979.

W. O. Nelson, Jr.,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 79-32130 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-55-M

Rock Creek Park Horse Centre, Inc.; Intention To Negotiate a Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Rock Creek Park Horse Centre, Inc., authorizing it to continue to provide riding stable concession facilities and services for the public at Rock Creek Park in the District of Columbia for a period of 5 years from the date of execution.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, 1100 Ohio Drive, S.W., Washington, D.C.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under existing contracts which expired by limitation of time on September 30, 1975, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Rock Creek Park Horse Centre, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract if, thereafter, the offer of Rock Creek

V44 0C 18 79 UMI

Park Horse Centre, Inc. is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Superintendent, Rock Creek Park, 5000 Glover Road, N.W., Washington, D.C. 20015 (202–426–6833), for information as to the requirements of the proposed contract.

Dated: June 21, 1979.

Robert Stanton,

Acting Regional Director, National Capital Region.

[FR Doc. 79–32055 Filed 10–17–79; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF JUSTICE

National Institute of Corrections

Program Solicitation SD–20, "Development of Staff Training Materials"; Reinstatement

This announcement serves to reinstate with modifications Program Solicitation SD–20 "Development of Staff Training Materials," published in the National Institute of Corrections' Annual Program Plan for Fiscal Year 1979.

The Institute is at this time soliciting proposals for development of information and training materials for correctional agencies in the area of fire safety planning and training.

Materials developed by grantee will include:

(1) A perspective on the history of and need for fire safety planning in correctional settings;

(2) Guidance to correctional managers in the area of planning and implementing fire safety programs/activities (includes, but is not limited to, short-range planning, long-range planning, obtaining necessary funds, locating expertise, etc.); and

(3) A training manual with basic curricula (one for line staff and one designed for managerial/supervisory personnel) in fire safety for use by correctional agency trainers.

Maximum funds available for this project are $40,000. Estimated length of project is six months.

Applicants should prepare a concept paper—maximum of five pages (double spaced) one of which contains budget information—titled "Development of Staff Training Material: Fire Safety in Correctional Institutions" and submitted in six copies to: National Institute of Corrections, 320 First Street, N.W., Washington, D.C. 20534.

The deadline for submissions is October 30, 1979. If you need further information, please contact Bill Wilkey or Mary Lou Commiso at 202–724–3106.

Allen F. Breed,

Director.

[FR Doc. 79–32192 Filed 10–17–79; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

White House Conference on Library and Information Services

AGENCY: National Commission on Libraries and Information Science.

ACTION: Notice.

SUMMARY: The National Commission on Libraries and Information Science proposes the rules of order for the conduct of the White House Conference on Libraries and Information Services. The intent of these rules is to provide for the orderly conduct of the Conference in accordance with the authority vested in the Commission to organize and to convene the Conference.

EFFECTIVE DATE: These rules, and amendments suggested hereto, are effective upon adoption by delegates.

FOR FURTHER INFORMATION CONTACT: Jean-Anne South, Program Coordinator, White House Conference on Library and Information Services, c/o National Commission on Libraries and Information Science, 1717 K Street, NW., Suite 601, Washington, D.C. 20036, telephone 202–634–1527.

Section 1—Definitions of terms used

(a) "Commission" means the National Commission on Libraries and Information Science, established by Pub. L. 91–345, July 20, 1970.

(b) "Advisory Committee" means the Advisory Committee of the White House Conference on Library and Information Services which is composed of 28 members: Three designated by the Chairman of the Commission; five designated by the Speaker of the House of Representatives (with no more than three being members of the House of Representatives); five designated by the President Pro Tempore of the Senate (with no more than three being members of the Senate); and not more than fifteen appointed by the President. The Advisory Committee assists and advises the Commission in planning and conducting the White House Conference on Library and Information Services in accordance with Pub. L. 93–568, December 31, 1974.

(c) "Conference" means the White House Conference on Library and Information Services, to be organized and convened by the Commission in accordance with Pub. L. 93–568.

(d) "Planning committees" means the planning committees in each State and territory designated by the Commission to organize and conduct a pre-White House Conference in each State and territory in preparation for the White House Conference on Library and Information Services.

(e) "States" includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, The Trust Territories, Northern Mariana Islands, American Indians on or near Reservations, Federal Librarians, and the Virgin Islands, unless otherwise specified.

(f) "State meetings" means the meeting organized and conducted in each State by the planning committees in preparation for the Conference.

(g) "Act" means Pub. L. 93–568, December 31, 1974.

(h) "General session" refers to the meetings which will be held at the following times:

Session I. November 15, evening.
Session II. November 15, evening (RULES).
Session III. November 16, morning.
Session IV. November 18, afternoon.
Session V. November 19, morning.

(i) "Theme Session" refers to the five concurrent meetings of Delegates assigned to issues within a given theme. These meetings to be held at the following times:

Session I: November 17, evening.
Session II. November 18, morning.

(j) "Small Work Groups" refer to the work sessions of Delegates assigned by issues within the Conference Themes.

(k) "Open Hearings" refer to those sessions during which non-Delegates are invited to present testimony to a panel of the Commission's designation. These Open Hearings to be held at the following times:

I. November 16, afternoon.
II. November 17, morning.
III. November 17, afternoon.

(l) "Delegates" mean

(a) Individuals selected or elected through a process determined by those planning committees in each state and territory designated by the Commission to conduct the State and territory pre-White House Conferences.

(b) Individuals selected as Delegates-at-Large in accordance with Commission policies and procedures.

(m) "Alternates" mean those individuals selected by the "States" as official alternates to their Delegates. This status does not confer voting and other Delegate rights.

(n) "Official Observers" mean those individuals representing organizations, agencies, or groups, invited to attend the Conference. This status does not confer voting and other delegate rights.

(o) "Observers" mean those individuals who have no official function or role at the Conference but who have come to the Conference and registered as observers.

(p) "Facilitators" mean those individuals who have been invited as disinterested persons to assist the Delegates in their Small Work Groups. These individuals have agreed to participate in special training for facilitating the work of the Delegates in their Small Group Sessions. Facilitators have no voice or vote in the resolution-making process of the Delegates.

(q) "Moderators—General Session" means those non-Delegate/Alternate individuals who have been selected, and who have agreed, to chair the Delegates in their General Session deliberations and voting.

(r) "Moderators—Theme Session" means those non-Delegate/Alternate individuals who have been selected, and who have agreed to chair the Delegates in their Theme Session deliberations and voting.

(s) "Recorders" means those non-Delegate/Alternate individuals who have been assigned as staff to each Delegate Work Group to record that group's deliberations and resolutions.

(t) "Recording Secretaries—Theme Sessions, Open Hearings, and General Sessions" means those individuals assigned to keep track of the proceedings of those sessions, and to provide accurate summaries of those sessions for further use by the Delegates.

(u) "Staff" means the White House Conference staff and the staff to the Conference provided under contract by KAPPA Systems.

(v) "Volunteers" means those individuals who have offered their services to assist in the work of the Conference.

(w) "Dignitaries" means those other individuals who have been invited to attend all or parts of the Conference in recognition of their key roles in the history of the Conference and the future of the Conference recommendations.

(x) "Chair" means the Chairman of the National Commission on Libraries and Information Science who is also Chairman of the White House Conference Advisory Committee.

(y) "Credentials Committee" means those members of the Commission and the Advisory Committee authorized to certify Official Alternates as Delegates in the event that persons from the States previously certified as voting Delegates are unable to participate in the Conference, and to adjudicate any registration difficulties.

(z) "Rules Committee" means those members of the Commission and the Advisory Committee assigned to assist Delegates in interpreting the Conference Rules.

Section 2—Words Importing Gender

As used in these rules, unless the context requires a different meaning, all words importing the masculine gender include both masculine and feminine genders.

Section 3—Conference Process

Proposed Rules

Subparts
4.1 Call to Conference.
4.2 Voting body.
4.3 No proxy voting.
4.4 Method of voting.
4.5 Identification.
4.6 Registration for Conference sessions.
4.7 Order of business.
4.8 Designated seating.
4.9 Quorum.
4.10 Adoption of rules.
4.11 Discussion and debate.
4.12 Making motions.
4.13 Credentials Committee.
4.14 Timekeepers.
4.15 Floor tellers.
4.16 Resolutions Committees.
4.17 Parliamentary authority.
4.18 Rules Committee.
4.19 Minutes.
4.20 Conference officials.
4.21 Committee of the Conference.

4.1 Call to Conference.

The Commission shall determine the time, place, format and the agenda of the Conference and shall issue official notice thereof to the State Library Agency Heads of each State, to all Delegates, and to the general public.

4.2 Voting body.

The voting body of the Conference shall consist of the following voting Delegates:

(a) State Delegates certified as having been duly selected as a part of State or Territorial pre-Conference in accordance with applicable regulations (Reference to *Advisory Memo* Number 1, Delegate Determination).

(b) 105 Additional Delegates-at-Large designated by the Commission as deemed necessary and appropriate to fill the requirements of Pub. L. 93–568, S.J. Res. 40(a)(2), December 31, 1974.

(c) Alternate State Delegates who have been properly certified in one of the following two ways:

(1) If the Commission receives proper notification by November 1, 1979 that a State Delegate is unable to attend, the ranking alternate selected at the State pre-White House Conference will be permanently certified by the Commission as a State Delegate; or

(2) At the Conference, the Chair of the affected State delegation or the Delegate shall notify the Credentials Committee of that Delegate's inability to attend or to continue to participate in one or more sessions. Upon such notification the Credentials Committee will then certify the appropriate ranking alternate Delegate present at the Conference as a Delegate for the State for the appropriate session or sessions.

(3) In implementing the aforementioned rules, the following principles shall be controlling:

(i) In no case shall the two-thirds non-library-related to one-third library-related balance of the Conference delegation be abrogated.

(ii) An alternate has no right to participate as a voting Delegate unless properly certified pursuant to paragraph (c) (1) or (2) of this section.

(iii) A Delegate who has been replaced by an alternate for any session according to procedures in this section, may not return and be recertified as a voting Delegate during that session.

(iv) There shall be no alternate Delegates for Delegates-at-Large to the Conference.

4.3 No proxy voting.

There shall be no proxy voting.

4.4 Method of voting—Theme and general sessions.

No individual shall have more than one vote. The regular method of voting shall be by Voting Credential, Paper Ballot, and automated voting mechanisms. Two-thirds vote of those present and voting shall be required in order to overrule any ruling of the moderator. Secret ballots or roll call votes shall be by a two-thirds vote of the Delegates.

4.5 Identification.

All voting delegates and all alternates shall have identification badges.

4.6 Registration for Conference sessions.

All persons who attend any Conference sessions (including press) must comply with registration requirements, including registration with name, address, identification, and payment of any required fee for meal functions. Upon compliance with registration requirements, each registrant shall be issued an

V 44 0C 18 79 UMI

identification badge as delegate, alternate, official observer, observer, press, staff, facilitator, moderator, or recorder, etc. Badges shall not be transferable and they must be visible at all meetings. Badges altered in any fashion shall be deemed illegal.

4.6–1 Appeals to registration.

All appeals to the above-mentioned registration rules shall be adjudged by the Credentials Committee of the Conference.

4.7 Order of business.

The Commission shall establish the order of business for the Conference when it issues the Call to the Conference according to 4.1, which shall be published in the **Federal Register** as procedurally demanded. New business may be submitted and adopted in accordance with 4.7–1.

4.7–1 New business.

Proposals for the consideration of subject matter not embraced within the established order of business of the Conference may be brought up under the heading of new business at a general voting session of the Delegates (see Definitions), by a petition signed by 100 voting Delegates, presented to the Chair of the Conference 12 hours before the beginning of the final General Session. Any such new business shall also be submitted to the recording secretary in writing at least twelve-hours prior to the beginning of the last General Session. A two-thirds vote of those voting Delegates present shall be required to consider such new business.

4.8 Designated seating.

Separate seating spaces shall be provided and clearly designated as follows (not in order of preference): (a) Current and past Commission members and Advisory Committee members; (b) State Delegates and Delegates-at-large; (c) Alternate State Delegates; (d) Dignitaries; (e) Official observers; (f) Conference staff; (g) Duly registered press; and (h) Duly registered observers to the capacity of the meeting rooms.

Only persons wearing appropriate badges shall be admitted to any session by the Credentials monitors, and only to those designated areas and at designated times in accordance with procedures established by the Commission and the Credentials Committee. Only voting Delegates, authorized media personnel, and authorized Commission, Advisory Committee, or Conference staff shall be admitted to the Delegate arena for general Conference sessions.

4.9 Quorum—Theme and general sessions.

Two-thirds of the duly registered voting Delegates shall constitute a quorum for all general voting sessions.

4.9.1 Two-thirds of the duly registered voting Delegates assigned to Theme Sessions or to Work Group Sessions shall constitute a quorum for these sessions.

4.10 Adoption of rules.

In accordance with 4.9, an affirmative vote by a simple majority of all voting Delegates present shall be required for adoption of Conference rules.

4.10–1 Amendments to rules.

All suggested amendments to the adoption of the proposed rules shall be presented in writing to the Chair of the Conference five hours prior to the first general session of the Conference. A two-thirds majority vote of the Delegates present (who must constitute a quorum) shall be required for an amendment to the Conference rules. All discussion and debate on the adoption of rules shall be governed by the requirements as stated in 4.11.

4.11 Discussion and debate in theme and general sessions (all subject to quorum requirements).

(a) In order to address the Conference, a voting Delegate must address the moderator, await recognition, give name and identification, and state whether speaking in the affirmative or the negative.

(b) Discussion on a motion or agenda topic shall be limited to three minutes for each speaker.

(c) No individual may speak a second time on an issue until all others who wish to speak have had a opportunity to do so.

(d) Debate may be limited or terminated by a majority vote of those voting Delegates present and voting.

(e) By a simple majority vote of Delegates present, a person other than a voting Delegate may be permitted to speak in clarification of an issue during Conference debate.

4.12 Making motions.

(a) Only properly certified voting Delegates may speak to issues, make motions or vote. All motions, on substantive matters, shall be written and signed by the person who makes the motion, the moderators may require such written motions before action is taken.

(b) A two-thirds vote of those authorized voting Delegates who are present and voting shall be required to table, or to postpone indefinitely, or to object to consideration.

4.13 Credentials Committee.

The Credentials Committee shall have the authority and responsibility to resolve any questions of registration, voting rights, or admission to the Conference, and to report registration to the Conference upon request of the Chair. The current list of State Delegates and Alternates and of Delegates-at-large shall be provided to the chair of the Credentials Committee prior to the opening of Conference registration.

(a) No registrant will be permitted to obstruct the view or hearing of any other registrant by any device. Only persons authorized by the Commission shall be permitted to bring any electronic or sonic device (e.g., band radios) into the Conference. Any person violating these rules may be denied all Conference privileges and removed from the Conference.

(b) Any registrant may be requested at any time by the Credentials Committee to provide additional identification. The Credentials Committee may deny any or all Conference privileges to any registrant who lacks appropriate indentification, or abuses any Conference privilege, or obstructs the orderly conduct of the Conference.

(c) The Credentials Committee shall have available sergeants-at-arms and credentials monitors as necessary to assist in the enforcement of the rules of the Conference at any or all of the Conference sessions.

4.14 Timekeepers.

Timekeepers shall serve at all sessions. Their duty shall be to indicate to each speaker an appropriate warning before expiration of the allowed time.

4.15 Floor tellers.

(a) At theme sessions, floor tellers shall be available to count, and report votes. The floor tellers shall be assigned to definite sections of the Conference floor. A record of the vote shall be entered in the minutes. During a vote count, only floor tellers shall be permitted to move about. All other persons except voting Delegates shall leave the voting ares.

4.16 Resolutions Committee.

There shall be Conference Resolutions Committees, whose membership shall consist of Delegate representative elected by each small working group.

4.16.1 Theme Resolutions Committee

The membership of the Resolutions Committee shall be divided into five

theme areas, and each of these five groups shall consist of one elected Delegates from each of the small work groups in that theme. In addition, there shall be a theme moderator. It shall be the duty of each theme moderator to meet with the elected Delegates from each of the small working groups within his/her theme area, to discuss the order of presentation by those Delegates of the priority (five to eight) resolutions from their respective work groups during the first theme session of the Conference. At the theme sessions, which shall be attended by all Delegates to the small working groups in the relevant theme area, all resolutions from the small work groups will be voted on by the Delegates and the top five (5) priority resolutions (for each theme area) from among the small work groups' resolutions will be forwarded to the general voting session for vote.

4.16.2 General Resolutions Committee.

The membership of the General Resolutions Committee shall consist of Delegates elected in the following manner: Two from each of the Theme Resolutions Committees. In addition, there shall be a General Session Moderator to meet with the elected Delegates from each of the Theme Resolutions Committees to discuss the order of presentation by those Delegates of the priority (five to eight) resolutions from each of the Theme Sessions. The General Resolutions Committee will consider all Theme resolutions, and those resolutions which were not voted by the individual theme sessions as top priority, and which were not incorporated into the top priority resolutions—as determined by the full Resolutions Committee—will be placed on a paper ballot for affirmative or negative vote by the entire voting Delegate body.

4.17 Parliamentary authority.

(a) The Commission shall appoint the parliamentarians who shall be advisors to the facilitators of working groups, and moderators of theme sessions, and general sessions. The rules in Roberts' Rules of Order Newly Revised shall govern all sessions of the Conference in all cases not covered by these rules.

(b) Any questions regarding the interpretation of these rules shall be resolved by the Moderator of the Conference session in consultation with Conference Parliamentarian, subject to appeal by Delegated under Robert's Rules.

4.18 Rules Committee.

Any Delegate questions of interpreting the Conference Rules between general sessions shall be handled by the Rules Committee, assisted by an official Conference Parliamentarian.

4.19 Minutes.

The recording secretary(s), who shall be appointed by the Commission, shall be responsibe for the preparation of the official minutes of all theme and general sessions and open hearings. Tape recordings shall be provided for all general session discussions to aid in the preparation of accurate minutes by the designated recorder or recorders. Minutes shall be approved by the moderators of the appropriate Session(s) and by the Chair of the Commission or his designate.

4.20 Conference officials.

At each general session, there shall be in attendance a moderator, Federal officer appointed pursuant to the requirements of the Federal Advisory Committee Act, chair of the Rules Committee or his designee, the chair and co-chair of the Resolutions Committee (as elected by the Delegates), the chair of the Credentials Committee or his designee, an official conference parliamentarian, timekeepers, tellers, recording secretary(s), and credentials monitors. The moderators for general sessions shall be appointed by the Commission.

4.21 Committee of the Conference.

The General Resolutions Committee shall be the Committee of the Conference which will take steps to provide for the accurate reporting of the proceedings and recommendations of the Conference, as well as taking responsibility for any procedures relating to future convening of another White House Conference on Library and Information Services.

Marilyn K. Gell,

Director.

October 15, 1979.

[FR Doc. 79–32202 Filed 10–17–79; 8:45 am]

BILLING CODE 7527–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Federal Council on the Arts and the Humanities; Arts and Artifacts Indemnity Panel; Advisory Committee; Meeting

October 15, 1979.

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended) notice is hereby given that a meeting of the Arts and Artifacts Indemnity Panel of the Federal Council on the Arts and the Humanities will be held at the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506 in room 1422, from 9:00 a.m. to 5:00 p.m. on November 8, 1979.

The purpose of the meeting is to review applications for certificates of indemnity submitted to the Federal Council on the Arts and the Humanities for exhibits beginning after February 1, 1980.

Because the proposed meeting will consider commercial and financial data and because it is important to keep values of objects, methods of transportation, and security measures confidential, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 16, 1978, I have determined that the meeting would fall within exemptions (4) and (9) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street, N.W., Washington, D.C. 20506, or call (202) 724–0367.

Stephen J. McCleary,

Advisory Committee Monagement Officer.

[FR Doc. 79–32095 Filed 10–17–79; 8:45 am]

BILLING CODE 7536–01–M

Media Arts Panel (Programming in the Arts); Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), as amended, notice is hereby given that a meeting of the Media Arts Panel (Programming in the Arts) will be held November 5, 1979, from 9:00 a.m. to 5:30 p.m., in the 12th floor screening room, Columbia Plaza, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr.

John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

Dated: October 11, 1979.

John H. Clark,

Director, Office of Council and Panel Operation, National Endowment for the Arts.

[FR Doc 79–32132 Filed 10–17–79; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

Special Projects Panel, National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that a meeting of the Special Projects Panel to the National Council on the Arts will be held on November 8, 1979, from 9:00 a.m.–5:30 p.m.; November 9, 1979, from 9:00 a.m.–5:30 p.m.; and November 10, 1979, from 9:00 a.m.–5:30 p.m.; and November 10, 1979, from 9:00 a.m.–5:30 p.m. in Room 1340 of the Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C. 20506.

This meeting will be open to the public on a space available basis. The topic for discussion will be "Policy: Guidelines."

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc 79–32138 Filed 10–17–79; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups, and of the full Committee, the following preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published September 20, 1979 (44 FR 54556). Those meetings which are definitely scheduled have had, or will have, and individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting.

Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by as asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m. and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the November 1979 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202/634–3267, ATTN: Mary E. Vanderholt) between 8:15 a.m. and 5:00 p.m., EDT before, and EST after, October 28, 1979.

Subcommittee and Working Group Meetings

**La Crosse Water Reactor,* October 26, 1979, Washington, DC. Rescheduled from October 19, 1979. The Subcommittee will consider proposed changes to the existing spent fuel storage pool to accommodate a larger number of spent fuel assemblies. Notice of this meeting was published October 12, 1979.

**Three Mile Island, Unit 2,* October 30, 1979, Washington, DC. The Subcommittee will review the NRC Inspection and Enforcement Report (NUREG–0600) pertaining to the TMI–2 Accident. Notice of this meeting was published October 15, 1979.

**Waste Management,* October 31, 1979, Washington, DC. The Subcommittee will discuss NRC programs on high-level waste, low-level waste, and uranium mill tailings, the objectives and goals of these programs, and the priorities of the research and technical assistance projects to meet these goals. Notice of this meeting was published October 16, 1979.

**Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design,* November 5, 1979, Washington, DC. Rescheduled from November 7, 1979. An Ad Hoc Subcommittee will continue its discussion of the implications of the TMI–2 Accident.

**Metal Components,* November 5, 1979, Washington DC. The Subcommittee will discuss pipe crack with the BWR Owners Group, and will consider unresolved generic issues which are pertinent to its purview, such as inservice inspection and BWR piping.

**Reactor Safety Research,* November 6 (morning) and November 7 (afternoon), 1979, Washington, DC. The Subcommittee will discuss preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program. Notice of this meeting was published September 20, 1979.

**Reliability and Probabilistic Assessment,* November 6 (afternoon) and November 7 (morning), 1979, Washington, DC. The Subcommittee will meet with representatives of the Federal Republic of German Reactor Safety Committee (RFGRSK), the Federal Republic of France Groups Permanent Reactors (FRFGPR), the Electric de France (EDF), and the United Kingdom Atomic Energy Authority (UKAEA) to discuss the development and use of possible quantitative risk assessment criteria for nuclear power reactors.

**Regulatory Activities,* November 7, 1979, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation. Notice of this meeting was published September 20, 1979.

**Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design,* November 7, 1979, Washington, DC. Rescheduled from November 5, 1979. Notice of this meeting was published September 20, 1979.

**General Electric Test Reactor,* November 14, 1979, San Francisco, CA. The Subcommittee will discuss seismic design requirements that may be imposed as a result of recent geologic investigations. Notice of this meeting was published September 20, 1979.

**Extreme External Phenomena,* November 15–16, 1979, Los Angeles, CA. The Subcommittee will discuss the NRC-sponsored Seismic Safety Margins Research Program. Notice of this meeting was published September 20, 1979.

**Fluid Dynamics,* November 16, 1979, San Francisco, CA. The Subcommittee will meet to continue its review of topics related to the BWR Mark I Containment Long-Term Program and the NRC Acceptance Criteria for the containment structure.

**Floating Nuclear Plant,* November 17, 1979, Los Angeles, CA. The Subcommittee will discuss the proposed design of the core ladle and implications of the TMI–2 Accident on the Floating Nuclear Plant design.

**Advanced Reactors,* November 29–30, 1979, Albuquerque, NM. The Subcommittee will discuss the NRC-sponsored research at Sandia and LASL on the safety of advanced reactors. Notice of this meeting was published September 20, 1979.

**Reactors Safety Research,* December 4, 1979, Washington, DC. RESCHEDULED TO JANUARY 8, 1980. Notice of this meeting was published September 20, 1979.

**Reliability and Probabilistic Assessment,* December 4, 1979, Washington, DC. The Subcommittee will discuss the role quantitative risk criteria might play in the licensing of nuclear power plants.

**Three Mile Island, Unit 2 Accident—Implication Re Nuclear Power Plant Design,* December 4, 1979 (Tentative), Washington, DC. An Ad Hoc Subcommittee will continue its discussion of the implications of the TMI–2 Accident.

**Regulatory Activities,* December 5, 1979, Washington, DC. The Subcommittee will review regulatory guides and revisions to existing regulatory guides; also, it may discuss pertinent activities which affect the current licensing process and/or reactor operation.

**Power and Electrical Systems,* December 13, 1979, Washington, DC. The Subcommittee will discuss several miscellaneous items with regard to electrical power, instrumentation, control, and protection systems in nuclear power plants.

**Reactor Safety Research,* January 8, 1980, RESCHEDULED FROM DECEMBER 4, 1979, Washington, DC. The Subcommittee will continue its discussion of preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program.

ACRS Full Committee Meetings

November 8–10, 1979

A. **Diablo Canyon Nuclear Power Station, Units 1 & 2*—Operating License.

B. **Sequoyah Nuclear Plant*—Operating License.

C. **McGuire Nuclear Station, Units 1 & 2*—Operating License.

D. **Nuclear Regulatory Process*—Adequacy of process including implementation of ACRS recommendations.

E. **NRC Inspection and Enforcement Investigation into the March 28, 1979 Three Mile Island Accident (NUREG–0600)*—Evaluation of accident sequence/causes.

F. **Salem Nuclear Generating Station, Unit 1—Evaluation of high pressure-high temperature line failure outside containment of this type of nuclear plant.*

G. **Proposed Changed in NRC Regulatory Guides*—Adequacy of proposed changes.

H. **Resolution of Generic Safety Issues Applicable to Light-Water Reactors*—Proposed plan of action/ACRS involvement in resolution of generic safety issues.

December 6–8,1979—Agenda to be announced.

January 10–12, 1980—Agenda to be announced.

Dated: October 15, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79–32111 Filed 10–17–79; 8:45 am]

BILLING CODE 7590–01–M

Study of Nuclear Power Plant Construction During Adjudication

The next meeting of the Nuclear Regulatory Commission's advisory committee on nuclear power plant construction during adjudication, will be held at 9:00 a.m. Friday, October 19, 1979, in Room 415, East West Towers, 4350 East West Highway, Bethesda, Maryland. This meeting may be continued for more than one day, but each day's session will begin at the same time and place. At this meeting the group will continue drafting its final report to the Commission.

Members of the public are invited to attend the group's meetings and there will be a limited amount of time available during each meeting for members of the public to make oral statements to the study group. Written comments, addressed to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch, will be accepted for one week after each meeting. The Chairman of the study group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the group's work, including, if necessary, continuing or rescheduling meetings to another day.

A file of documents relevant to the group's work, including a complete transcript of each meeting, memoranda exchanged between group members, public comments and other documents, is available for inspection and copying at the Commission's Public Document Room at 1717 H Street, NW., Washington, DC, 20555. The Secretary of the NRC maintains a mailing list for persons interested in receiving notices of the group's meetings and actions. Anyone wishing to be on that list should write to: Secretary of the Commission, Nuclear Regulatory Commission, Washington, DC, 20555, Attention: Docketing and Service Branch.

The study group will provide its final report to the Commission by November 1, 1979. For further information on the study group's mission, please call Stephen S. Ostrach, Office of the General Counsel, Nuclear Regulatory Commission, 202/634–3224.

Dated at Washington, DC, this 15th day of October 1979.

Gary Milhollin,

Chairman.

[FR Doc. 79–32110 Filed 10–17–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–522 and 50–523]

Puget Sound Power & Light Co., et al. (Skagit Nuclear Power Project Units 1 and 2); Change in Place of Scheduled Hearings

The place of hearings scheduled on October 25 through October 27, 1979 and on October 29 through November 2, 1979 is changed from Room 3086 to the North Auditorium (4th floor), New Federal Building, 915—Second Avenue, Seattle, Washington.

Done this 11th day of October 1979 at Washington, D.C.

Valentine B. Deale,

Atomic Safety and Licensing Board.

[FR Doc. 79–32123 Filed 10–17–79; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–155]

Consumers Power Co. (Big Rock Point Nuclear Plant); Order Setting Special Prehearing Conference

On July 23, 1979, the Nuclear Regulatory Commission published in the **Federal Register** a notice of a proposed issuance of an amendment to Facility Operating License No. DPR–6 that had been issued to Consumers Power Company (the licensee) for operation of the Big Rock Point Plant (the facility) located in Charlevoix County, Michigan. 44 FR 43126. The proposed amendment would allow the addition of 3 racks with a close center-to-center spacing of spent fuel assemblies to the facility's spent fuel pool which would allow an increase in storage capacity from 193 to 441 fuel assemblies.

By Memorandum and Order, dated September 25, 1979, the Board made certain preliminary determinations on petitions to intervene and directed the petitioners, licensee and staff to consult with each other with regard to the petitions and the contentions to be filed 15 days prior to the special prehearing conference.

Pursuant to the provisions of 10 CFR 2.751(a) the Board will conduct a special

prehearing conference beginning at 9:30 a.m. on November 14, 1979, and continuing to November 15, 1979, if necessary, at the City Council Chambers, 200 Division Street, Petoskey, Michigan 49770.[1]

The parties to this proceeding, or their respective counsel are directed to attend. At the special prehearing conference the Board will consider all intervention petitions, discuss specific issues to be considered at the evidentiary hearing, and will consider a schedule for further actions in the proceeding.

The public is invited to attend the prehearing conference.[1] Depending upon space and time limitations the Board will try to afford an opportunity for members of the public who are not parties to the proceeding to make oral limited appearance statements on the first day (November 14, 1979) of the prehearing conference including that evening, if necessary. Additional opportunities for limited appearance statements may be afforded at subsequent evidentiary hearings. Any person may request permission to make a limited appearance pursuant to provisions of 10 CFR 2.715 of the Commission's "Rules of Practice." Persons desiring to make limited appearance statements are requested to inform the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, giving their preferences as to the morning or evening of November 14, 1979. Written limited appearance statements may be mailed to the Secretary or presented to the Board at the special prehearing conference or at any subsequent sessions of the evidentiary hearing.

By order of the Board.

Dated at Bethesda, Md., this 11th day of October 1979.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 79-32121 Filed 10-17-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-259, 50-260, and 50-296]

Tennessee Valley Authority; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 53 to Facility Operating License No. DPR-33, Amendment No. 48 to Facility Operating License No. DPR-52 and Amendment No. 25 to Facility Operating License No. DPR-68 issued to Tennessee Valley Authority (the licensee), which revised Technical Specifications for operation of the Browns Ferry Nuclear Plant, Units Nos. 1, 2 and 3, located in Limestone County, Alabama. The amendments are effective as of the date of issuance.

These amendments change the Technical Specifications to (1) allow the count rate in the Source Range Monitor channels to drop below 3 counts per second when the entire reactor core is being removed or replaced and (2) delete the sections on respiratory protective equipment which are no longer applicable due to the Commission's amendment of § 20.103 of 10 CFR 20.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments. Prior public notice of these amendments was not required since the amendments do not involve a significant hazards consideration.

The Commission has determined that the issuance of these amendments will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) and environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of these amendments.

For further details with respect to this action, see (1) the application for amendments dated July 20, 1979, (2) Amendment No. 53 to License No. DPR-33, Amendment No. 48 to License No. DPR-52, and Amendment No. 25 to License No. DPR-68, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Athens Public Library, South and Forrest, Athens, Alabama 35611. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 11th day of October 1079.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief, Operating Reactors Branch #3, Division of Operating Reactors.

[FR Doc. 79-32122 Filed 10-17-79; 8:45 am]

BILLING CODE 7590-01-M

United Nuclear Corp.; Order Conditioning License

I

United Nuclear Corporation (Licensee), owner-operator of the Church Rock Uranium Mill holds a general license under 10 CFR 40.26 from the Nuclear Regulatory Commission for the receipt of title to, ownership of, or possession of byproduct material (uranium mill tailings) as defined in § 11e.(2) of the Atomic Energy Act of 1954, as amended by the Uranium Mill Tailings Radiation Control Act of 1978. This general license is issued pursuant to all the conditions in 10 CFR 40.26, including § 40.26(c)(2), which provides that the general license is subject to "* * * any additional requirements the Commission may by order deem necessary." Although the Church Rock Uranium Mill also holds a specific license from the State of New Mexico pursuant to the State's agreement with the Nuclear Regulatory Commission under section 274 of the Atomic Energy Act of 1954, the Uranium Mill Tailings Radiation Control Act of 1978 requires that the NRC assume authority over uranium mill tailings in non-Agreement and Agreement States. See 44 FR 47192 (1979) "Implementation of the Uranium Mill Tailings Radiation Control Act of 1978."

II

On July 16, 1979, a breach occurred in the United Nuclear Corporation's Church Rock Uranium Mill Tailings Dam releasing to the environment about 100 million gallons of acidic tailings solution and 11 hundred tons of tailings solids. Subsequent evaluations of the probable cause of this accident indicate a large differential settlement of the dam causing cracking to occur. Internal erosion then occurred through the cracks with subsequent breaching of the dam. The NRC believes that a full evaluation of the remaining portions of the embankment for similar deficiencies is required before operations resume to assure there will not be a recurrence of this failure and the associated potential public health and environmental impacts. To perform this evaluation several requests for information were transmitted to the State with copies to the Licensee. Sufficient data to complete this evaluation has not yet been received. A list of the required information has been transmitted to the State and United Nuclear Corporation.

During the course of numerous telephone conversations with various officials of the State of New Mexico and of United Nuclear Corporation on October 12, 1979, the Nuclear Regulatory Commission received varying and inconsistent reports as to whether immediate resumption of operation of the Church Rock Mill was contemplated. The NRC is presently unable to conclude that operation of the mill (and consequent discharge of tailings) could be conducted with reasonable assurance of protection for the public health and safety.

III

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission's Rules and Regulations in 10 CFR Parts 2 and 40, IT IS HEREBY ORDERED THAT United Nuclear Corporation's use of the general license set forth in 10 CFR 40.26 be conditioned as follows: United Nuclear shall not generate additional byproduct material (tailings) at its Church Rock Mill until such time as the Director of Waste Management, Office of Nuclear Materials Safety and Safeguards makes, and confirms in writing, a conclusion that the embankment is stable, thereby assuring containment of the uranium tailings.

In light of the factors discussed in Part II, above, the Director of Waste Management has determined that the public health, safety or interest require that this action be effective immediately.

The Licensee or any interested person may (within twenty days of the date of this Order) file a request for a hearing with respect to all or any part of the condition imposed by this Order.

In the event a hearing is requested, the issues to be considered at such hearing shall be:

(1) Whether the facts set forth in Part II of this Order are true.

(2) Whether this Order shall be sustained.

Any request for a hearing will not stay the immediate effectiveness of this Order.

Dated at Silver Spring, Maryland, this 12th day of October 1979.

For the Nuclear Regulatory Commission.

John B. Martin,

Director, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 79-32215 Filed 10-17-79; 8:45 am]

BILLING CODE 7590-01-M

---

[1] Persons attending the special prehearing conference should use the Lake Street entrance to the City Council Chambers.

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 79-42]

Accident Reports, Safety Recommendation Letters and Responses; Availability

Accident Reports

Aircraft: *Allegheny Airlines, Inc., Nord 262, Mohawk/Frokes 298, N29824, Benedum Airport, Clarksburg, West Virginia, February 12, 1979* (NTSB-AAR-79-12).—Now available are copies of the National Transportation Safety Board's formal report on investigation into this accident which killed two and injured eight of the 25 persons aboard the aircraft. The aircraft crashed 14 seconds after liftoff from Benedum Airport, bound for National Airport, Washington, D.C. The official weather at the time of departure was: Sky—partial obscuration, 1,000 ft overcast; visibility—⅝ mi in snow; wind—calm; altimeter—29.89 inHg.

The Safety Board determined that the probable cause of the accident was the captain's decision to take off with snow on the aircraft's wing and empennage surfaces which resulted in a loss of lateral control and a loss of lift as the aircraft ascended out of ground effect.

The report shows that the captain could remember nothing of the accident, but eyewitnesses said that after a normal takeoff roll and lift-off, the aircraft rolled both to the right and to the left before the right wing struck the runway. The Safety Board concluded that snow which had adhered to the outboard surfaces of the wing, in addition to reducing lift, had rendered the ailerons "at least partially ineffective" after the plane climbed out of "ground effect"—the cushioning effect which increases lift and reduces drag when an aircraft is airborn but still close to the ground.

Highway: *Multiple Vehicle Collision and Fire, State Route 2, near Cleveland, Ohio, May 6, 1979* (NTSB-HAR-79-7).—Also now available are copies of the Safety Board's investigation report concerning this accident. Investigation showed that about 3:05 a.m. last May 6 in Willowick, Ohio, near Cleveland, an eastbound 1976 Dodge van crossed the median and collided with a westbound 1971 Ford LTD. The van then proceeded a short distance and collided with a westbound 1976 Oldsmobile. In this collision, gasoline spilled from a ruptured fuel tank and the van and the Oldsmobile were engulfed in flames. Five of the six occupants in the Ford were killed instantly; the sixth occupant died on May 13. The van driver was ejected from his vehicle and injured seriously; the two occupants of the Oldsmobile escaped with minor injuries.

The probable cause of this accident, as determined by the Safety Board, was the loss of control by the driver of the van for unknown reasons. Contributing to the fatal injuries of the occupants of the Ford was their failure to wear the available occupant restraints.

Investigation showed that the van was travelling about 50 miles an hour before it left the roadway. There were no traffic conflicts to cause the driver to lose control, nor were the brakes applied when the van crossed the median. The driver of the van was in a coma for 10 days following the accident. When he regained consciousness, he stated that he had no recollection of the accident, or of his activities prior to the accident.

As a result of its investigation of this accident, the Safety Board on September 26 recommended that the National Highway Traffic Safety Administration expedite the development of a Federal Motor Vehicle Safety Standard on motor vehicle fuel systems to include a performance standard for non-metallic fuel tanks. (Recommendation No. H-79-41) In addition, the Board recommended that the comtemplated revision of Federal Motor Vehicle Safety Standard 301-75, Fuel System Integrity, include: A definition of what constitutes the makeup of a fuel system (H-79-42); performance requirement for each of the components of the fuel system (H-79-43); requirements for rearend impact tests with both vehicles in a braking attitude (H-79-44); and the requirement for rearend collision tests at angles from straight ahead to 90 degrees (H-79-45). The Board also made two recommendations to the State of Ohio: Install a median barrier in the segment of State Route 2 within Wickliffe, Willowick, and Eastlakes (H-79-46); and conduct an engineering study of a 60-foot median segment of Route 2 through Willoughby and install median barriers in those locations where there is an adverse history of across-the-median accidents (H-79-47). (See 44 FR 57244, October 4, 1979.)

Safety Recommendation Letters

Aviation

A-79-73 and 74 to the Federal Aviation Administration.—Safety Board investigation of the midair collision involving a Pacific Southwest Airlines Boeing 727 and a Cessna 172 at San Diego, Calif., September 25, 1978, revealed that the air carrier's flightcrew probably was not aware of the full extent of its responsibility after

V 44 0 C 18 79 UMI

accepting a maintain-visual-separation clearance. Because of the cooperative nature of the air traffic control (ATC) system, the Board is concerned that pilots may not understand the relationship of their responsibility and the air traffic controller's responsibility when a pilot accepts a maintain-visual-separation clearance.

Although the Airman's Information Manual (AIM) adequately describes the interrelationship of pilot and controller roles and responsibilities, the board believes that all pilots should be tested recurrently on pilot/controller interrelationships and responsibilities as outlined in the AIM. The Safety Board states that a way to address this issue might be for the requirements of 14 CFR 61.57, "Recent Flight Experience: Pilot in Command" to be expanded expressly to include a review of ATC procedures, and for 14 CFR Part 121, "Appendix F—Proficiency Check Requirements," to be expanded expressly to include a similar review.

Therefore, on October 4 the Safety Board recommended that FAA:

Prescribe an appropriate method to do so and require all air carrier companies and commercial operators to test their pilots recurrently on ATC radar procedures, radar services, pilot/controller relationships, and ATC clearances. (A–79–73)

Prescribe a method to insure that all general aviation pilots are tested periodically on ATC radar procedures, radar services, pilot/controller relationships, and ATC clearances as appropriate to their operations. (A–79–74)

A–79–76 through 78 to the Federal Aviation Administration.—In another letter forwarded October 4, the Safety Board states that the violent decelerative forces generated in an aircraft accident cause the upper torso of passengers who are restrained solely by seatbelts to swing forward and strike other objects. This reaction often results in serious or fatal injuries in otherwise survivable crashes. An FAA document ("General Aviation Structures Directly Responsible for Trauma in Crash Deceleration," J. J. Swearingen, FAA CAMI, Oklahoma City, Okla., FAA Report AM–71–3, January 1971) suggests the upper torso of passengers restrained solely by seatbelts will jackknife forward if decelerative forces exceed 1.5 to 2.0 g's.

This premise was illustrated dramatically in a recent crash landing of a New York Airways Sikorsky S–61L helicopter on April 18, 1979, at Newark Airport, N.J. Fifteen passengers and three crewmembers were on board. Three passengers received fatal crash injuries, and 10 passengers and all three crewmembers were injured seriously. Two male passengers, who reportedly took a brace position before the crash, were seated in the forward cabin where all of the fatalities and most of the severe injuries occurred; yet, both individuals received only minimal head or chest trauma. The flight attendant had prewarned the passengers to expect a hard landing; however, she did not direct them to assume any kind of a brace position because there was not enough time after the tail rotor separated. There was no specific requirement in the flight manual to give such a directive; moreover, there was no instruction on the passenger briefing cards telling them to take a brace position.

In its letter to FAA, the Board cites data from three other recent aircraft accidents which also suggest that passengers who lean forward or assume a brace position before a crash receive significantly less trauma than do other passengers. These accidents involved an Atlantic City Airlines DeHavilland DHC–6 Twin Otter commuter aircraft which crashed while on an approach to Cape May County Airport, N.J., on December 12, 1976; a Rocky Mountain Airlines DeHavilland DHC–6 Twin Otter which crashed into snow-covered mountainous terrain near Steamboat Springs, Colo., on December 4, 1978; and a Downeast Airlines Dehavilland DHC–6 Twin Otter commuter aircraft which crashed on May 30, 1979, during an approach to Knox County Regional Airport near Rockland, Maine.

The Safety Board notes that there are a number of important factors to consider in choosing an appropriate brace position: (1) various types of seat designs, such as short versus high backs and fixed versus folding backs; (2) various seating arrangements, such as forward versus aft-facing and side-facing units; and (3) differences in seat pitch.

In view of the above, the Safety Board recommended that FAA:

Establish a research project to determine the optimal brace position for various seat designs and seating configurations on aircraft used in passenger-carrying operations. (A–79–76)

Issue an Air Carrier Operations Bulletin requesting principal operations inspectors to insure that the training of crewmembers includes information on the appropriate passenger brace position for specific aircraft configurations during potential crash landings. (A–79–77)

Issue an Air Carrier Operations Bulletin requiring principal operations inspectors to instruct their assigned air carriers to describe the appropriate emergency brace position on the passenger briefing card and to require that preflight briefings including a reference to the proper brace position. (A–79–78)

All of the above aviation safety recommendations are designated "Class II, Priority Action."

Marine

M–79–100 and 101 to the Geological Survey, U.S. Department of the Interior.—On October 25, 1978, the U.S. Geological Survey research vessel (R/V) DON J. MILLER II, inbound to Seattle, Wash., was overtaking the fishing vessel (F/V) WELCOME in Admiralty Inlet. The MILLER's master slowed his vessel to allow the WELCOME to clear ahead, after which he increased the MILLER's speed. The MILLER's master then left the pilothouse, leaving the vessel's helm control on autopilot. During his absence, the WELCOME changed course across the MILLER's bow and the vessels collided, causing the fishing vessel to sink shortly thereafter at a position below buoy "SC" near the Hood Canal entrance. The MILLER's damage was negligible but the WELCOME was a total loss, estimated at about $300,000.

Investigation showed that the MILLER had been on a survey operations from 1030 in the San Juan Islands and had completed its survey work for the day at Burrows Bay, Fidalgo Island. Because it was participating in the Vessel Traffic Services (VTS), as required, the MILLER entered the VTS traffic lanes southbound off Lawson Reef at 1900 bound for Seattle. The MILLER's master informed VTS by radio that his estimated time for arrival at Shilshole Approach Buoy would be midnight—a scheduling which shows that the MILLER's master would have been on duty for over 13 hours by time of arrival. Although the MILLER carried 14 scientists, the vessel had only a four-man crew. The Board feels that the crew manning of the vessel did not allow for a regular navigation watch relief for the master while the MILLER was on extended cruising, and questions whether the vessel's crew complement was adequate for the safety of the vessel and its embarked scientists in an emergency.

The WELCOME, following the movements of another fishing vessel, preceded the MILLER into Admiralty Inlet. Although the WELCOME was not participating in the VTS and was not required to, the vessel entered the traffic lanes and crossed the path of the MILLER. The MILLER's master slowed his vessel and allowed the WELCOME to proceed ahead, as required by the rules of the road. The MILLER's master then increased the speed and left the pilothouse and went to the galley, leaving the helm unattended on autopilot and without posting a lookout. During his absence, the WELCOME altered its course across the MILLER's bow. The WELCOME's helmsmen did not check the location of the MILLER prior to altering course nor did the WELCOME have a proper lookout. Although both vessels were equipped with VHF/FM radio transceivers, neither attempted to communicate its maneuvering intentions to the other.

Although vessels of the Geological Survey and other U.S. Government agencies are not required by law to be inspected by the U.S. Coast Guard whenever such vessels become involved in accidents which are caused by inadequate or improper equipment, poor maintenance procedures, or unsafe operation because of inadequate manning or training, this is a matter of concern to the Safety Board. Accordingly, on October 4, the Safety board recommended that the Geological Survey:

Arrange with the U.S. Coast Guard for an examination of the R/V DON J. MILLER II to determine the extent to which she conforms to the minimum manning and other regulations applicable to privately operated vessels of the same type and size engaged in similar oceanographic operations with embarked scientists, and if necessary, consider taking action to bring the vessel into reasonable conformance with the standards prescribed by regulations for privately operated research vessels. (Class II, Priority Action) (M–79–100)

Enter into an agreement with the U.S. Coast Guard to have USCG vessels regularly examined by the Coast Guard to determine if they meet the standards prescribed by regulations for privately operated research vessels of similar type and service, and initiate a program to bring the vessels into reasonable conformance with these standards. (Class III, Longer Term Action) (M–79–101)

Pipeline

P–79–28 to Lone Star Gas Company.—As a result of its investigation of the January 19, 1979, pipeline accident at North Richland Hills, Texas, the Safety Board on October 4 forwarded a letter to the Lone Star Gas Company of Dallas containing the following recommendation:

Determine through sample inspections, the extent of the problem of circumferential cracking on its service line/gas main connections similar to that at the accident locations. Take appropriate action to reduce the probability of the recurrence of similar accidents. (Class I, Urgent Action) (P–79–28)

A similar letter containing comparable recommendation P–79–27 was forwarded to the Research and Special Programs Administration, U.S. Department of Transportation, on September 6. (For background information on this accident at North Richland Hills and similar pipeline accidents occurring earlier on the Lone Star System, see 44 FR 52064, September 6, 1979.)

P–79–29 to the American Gas Association.—At 3:05 p.m. last May 11, two almost simultaneous explosions and an ensuing fire destroyed three buildings near the intersection of Tacony and Margaret Streets in Philadelphia, Pa. Seven persons, including a Philadelphia Gas Works employee, were killed; 19 persons were injured and several adjacent rowhouses were damaged. The explosions also caused a section of Margaret Street to collapse, exposing a large cavern underneath the paved surface.

Safety Board investigation showed that natural gas which had leaked from a broken, 8-inch, cast-iron gas main under Margaret Street had migrated through a damaged 8-inch sewer lateral and into the basement of the building where it was ignited by an undetermined source. The soil which had supported the gas main had eroded over an extended period of time and contributed to the collapse of the pipe.

The Board noted that the prompt arrival of the gas company and the fire department at the site after the explosion and fire, and their coordinated evacuation of adjacent residences, together with the expeditious "greasing off" of the gas main, probably prevented secondary explosions and additional fatalities and injuries.

In light of its investigation, the Safety Board on October 4 recommended that the American Gas Association:

Advise its member companies of the circumstances of this accident and of the prompt and effective coordination between the gas company and the fire department and urge them to review their emergency practices and procedures, particularly those concerning evacuation and liaison with fire and police departments to insure that coordination is planned adequately for similar accidents. (Class II, Priority Action) (P–79–29)

P–79–30 to the Secretary, U.S. Department of Transportation.—Since its establishment in April 1967, the Safety Board has been concerned that certain safety problems of national significance have not been addressed as rapidly as possible, even though needed improvements were known, feasible, and timely. One such problem is the risk of catastrophic accidents involving pipelines transporting highly volatile liquids. Therefore, in fiscal year 1979 the Safety Board adopted as a safety objective the improvement of safety standards for those pipelines. (For additional information see the Board's soon-to-be-released "Safety Report on the Progress of Improvements in Pipeline Transportation of Highly Volatile Liquids.")

The Safety Board first formally identified the need to establish separate, more stringent safety standards for pipelines which transport highly volatile liquids in 1972 in its report on a propane gas explosion and fire in Franklin County, Mo. Four recommendations were directed to the Federal Railroad Administration (FRA) which then had administrative responsibility for the safety standards governing those pipelines.

Since the Franklin County accident, the Safety Board has investigated and reported on seven additional serious pipeline accidents involving the release of propane, natural gas liquids, anhydrous ammonia, and other highly volatile liquids. Analysis of these accidents led the Safety Board to issue 14 additional recommendations for improving liquid pipeline safety standards. The recommendations were directed to FRA, to the Office of Pipeline Safety, to the Materials Transportation Bureau (MTB), and to other offices within the Department of Transportation as the administrative responsibility for liquid pipeline safety was reassigned over the years. Another recommendation, made in the Safety Board's special study, "Safe Service Life for Liquid Petroleum Pipelines," asked MTB to expedite its rulemaking schedule.

The Board notes that only two of the 19 recommendations have been fully implemented, and there is rulemaking currently in progress which addresses 14 Board recommendations. In respect to the latter, the Board was advised on several occasions, as early as the first quarter of 1975, that proposals for regulatory changes would be issued by a specific date; subsequent deadlines for the proposed rulemaking notices have also slipped.

Following Safety Board testimony before committees of the U.S. Congress and staff meetings with MTB, the first proposed rulemaking for the transportation of highly volatile liquids by pipeline was issued on August 3, 1978. A second proposed rulemaking was issued on August 28, 1978, twenty-three days after a major highly volatile liquid pipeline accident in Donnellson, Iowa, which killed three persons and critically injured two others.

During the Safety Board's hearing on the Donnellson, Iowa, accident, MTB witnesses acknowledged delays in developing safety standards. Later, MTB made a written commitment to the Safety Board that the development of strengthened safety standards for highly

V 44 0 C 1 8 7 9 UMI

volatile liquid pipelines would be MTB's number one priority and that all previous Safety Board recommendations would be reevaluated for possible inclusion in the ongoing rulemaking activities.

The Safety Board has followed closely the increased MTB activity in developing these standards and has commented on the three notices of proposed rulemaking, suggesting improvements in the proposed standards and consideration of safety concerns not included within the proposals. While the Board is pleased with the present increased activity to correct the longstanding identified problems, the Board would like to see the pending rulemaking completed at an early date. Further, the Board's review of the three proposals and past accident data in the context of this report has identified two major areas where additional action is needed.

First, MTB has not proposed a requirement that existing pipelines meet the same minimum safety standards as those proposed for new pipelines. That will result in a double standard of safety for new and for existing highly volatile liquid pipelines, since many of those pipelines were constructed in areas that were originally rural but which have become more densely populated as urban centers have expanded. This same population growth pattern affects the growth in exposure to hazards associated with natural gas pipelines. (See MTB's "Minimum Federal Safety Standards for Gas Lines.")

Second, the MTB has not proposed any performance standards for the prompt detection and rapid isolation of failed sections of highly volatile liquid pipelines, although response time for detecting product release and the timely isolation of the release point is critical to effectively limiting the severity of the accident.

The Safety Board reiterates its recommendations that MTB expedite present rulemaking actions and establish population-based requirements to minimize losses due to inadvertent releases of product from highly volatile liquid pipelines. Also, evaluation of current rulemaking actions and past accident data indicates the need for additional safety standards to minimize remaining risks to the public. Accordingly, on October 4 the Safety Board recommended that the Secretary of Transportation:

Establish minimum performance standards for the prompt detection and rapid isolation of failed sections of highly volatile liquid pipelines. [Class II, Priority Action] (P–79–30)

Responses to Safety Recommendations

Aviation

A–76–9 through 100.—The Federal Aviation Administration on October 3 provided information supplementing its August 17, 1977, response. The subject recommendations were issued July 29, 1976, as a result of the Safety Board's concern about the number of accidents which involve light twin-engine aircraft that fail to recover from apparently unintentional spins. FAA's October 3 letter states that proposed criteria for establishing V_{sse} being developed by the General Aviation Manufacturers Association (GAMA) and FAA is nearing completion. V_{sse} is scheduled to be included in Revision Number 1, GMMA Specification Number 1, Pilot's Operating Handbook and is one of several items to be included in Revision Number 1. FAA says the effort to complete the revision is proceeding as rapidly as possible.

A–77–63.—FAA's letter of October 3 is in response to the Safety Board's letter dated August 8, 1979, concerning a "Class II, Priority Followup" recommendation which asked FAA to: Expedite the development and implementation of an aviation weather subsystem for both en route and terminal area environments, which is capable of providing a real-time display of either precipitation or turbulence, or both, and which includes a multiple-intensity classification scheme; transmit this information to pilots either via the controller as a safety advisory or via an electronic data link.

The Board's August 8 letter notes that FAA, in responding to this recommendation, reported that in August 1975 the Air Traffic Service initiated an R&D effort requesting (a) en route and terminal radars be evaluated to ascertain their capabilities to detect and display weather, (b) a comparison of ARSR/ASR and National Weather Service radar dection capabilities, (c) identification of modifications to improve ATC radars, and (d) improve radar weather detection without derogation in aircraft detection. The Safety Board classified FAA's response as acceptable action but has been holding the recommendation in open status.

Further, the Safety Board noted that on August 26, 1978, a PA–28–200 broke up in flight after encountering turbulence associated with a severe thunderstorm over Bolton, N.C. The pilot and his passenger were killed in the crash. During investigation of this accident the Safety Board learned that weather information displayed to controllers on the NAS stage A en route radar display was not consistent with the meteorological environment actually being experienced by flightcrews in the area.

The Board expressed concern about FAA's plans to phase out all existing broad band radar systems which presently serve as a backup to the newer narrow band radar, especially since it is the only source of primary radar intelligence available to en route controllers from which raw weather information can be derived. The Board believes there is a continuing need for primary radar in the en route system to aid in the detection and mapping of hazardous weather conditions.

In view of continuing occurrences of fatal aircraft accidents where severe weather is involved, the Safety Board believes that the present ARTCC radar systems do not adequately meet the needs of users of the national airspace system with regard to reliable severe weather avoidance operational requirements. The Board notes that the R&D effort cited in FAA's response to recommendation A–77–63 was initiated in August 1975, which predates the recommendation, issued September 27, 1977. The Board's August 8 letter asks to be apprised of current radar weather detection improvement efforts and future plans.

In response to the Safety Board's letter, FAA notes that the mode settings for air traffic control radars are intended to provide the controller with the maximum strength in aircraft return with the least amount of distortion from all other sources, ground clutter, weather, and anomalous propagation. FAA's present program involves the remoting of 75 National Weather Service (NWS) radars to air route traffic control centers (ARTCC) and En Route Flight Advisory Service (EFAS) locations. An FY–80 budget item will provide each ARTCC controller with direct access to a color weather radar display showing real-time weather with multiple-intensity levels. This program will be implemented in 1981 and completed sometime in 1982. FAA notes that a large part of the Western United States, including Alaska and Hawaii, does not have NWS radar installations. FAA primary radar from sites in these areas will be equipped with a weather intensity decoding device, remoted to ARTCC's, and depicted on a separate display in color. Once the weather radar system is installed, using dedicated communications, the primary radar will be relegated to a less significant role in weather detection and display.

FAA reports that future plans call for replacement of NWS radars with a doppler weather radar sometime in the mid-1980's. The doppler weather radar or next generation weather radar will be a joint NWS/FAA Air Weather Service Program. The next generation radar requirements and a program development office are expected to be established in the new future. This system will in all probability be remoted and displayed in the same manner as the forthcoming color weather radar remoting and display system, FAA stated.

FAA's October 3 letter also provides a brief summary of its R&D efforts and future plans and assures that all weather enhancement activities will be continued until FAA is satisfied that it has the best weather detection and display system possible within the state-of-the-art.

Marine

M–79–81 through 87.—Letter of September 24 from the University of Hawaii is in response to recommendations issued September 6 during investigation of the disappearance last December 9 of the motor vessel HOLOHOLO while on a research expedition off the shores of Hawaii. The HOLOHOLO was under bareboat charter contract to the Research Corporation of the University of Hawaii, and the recommendations dealt with the safety of research vessel operations. (See 44 FR 52602, September 6, 1979.)

With reference to recommendations M–79–81 through M–79–85, the response letter notes that University of Hawaii-owned and -operated vessels have operated under the University-National Oceanographic Laboratory System (UNOLS) guidelines since UNOLS was established as a charter member. Also, since January 1979, the University's Research Corporation has been requested to adhere to and to apply the same procedures applicable to the operation of University-owned vessels; i.e., the Research Corporation has been requested to comply with said procedures in the charter of any vessel for the University's use, pursuant to a service order request. Further, the University states that a review will be made to determine whether adequate procedures are in place to meet the recommendations contained in M–79–87.

Finally, the response states that although the University of Hawaii was not a named party in interest at the Coast Guard proceedings, the University does not concur that the evidence uncovered to date supports all of the Safety Board's statements regarding the loss of the HOLOHOLO—especially to the extent that those findings involve the University of Hawaii, its agents or its employees.

Railroad

R–75–29.—Letter of September 28 from the Federal Railroad Administration responds to the Safety Board's inquiry of last March 5 as to the results of the "slippery wheel detector" research project referenced in FRA's response of May 20, 1976. The recommendation was issued following investigation of a hazardous material switching accident at Houston, Texas, on September 21, 1974, and asked FRA to cooperate with the Association of American Railroads in doing necessary research and development of minimum performance standards for retarding systems in gravity switching yards.

FRA's response indicates that the slippery wheel detector project proved unworkable and was eventually terminated by the initiating carrier (Southern Pacific Company). FRA reports that West Virginia University in a program sponsored by the Association of American Railroads has developed a laboratory simulator for determining the friction characteristics of a railroad hump yard retarder. The simulator is used to evaluate the friction force at the interface between the car wheel and retarder brakeshoe when foreign substances coat the surfaces. The purpose of the simulator is to obtain a better understanding of retarder characteristics so that their performance can be improved under contaminated conditions. FRA says that the present simulator is a geometrically "one-eighth" scaled model of the car wheel retarder brakeshoe components. The simulator duplicates the correct relative motion between wheel and shoe. Initial use of the simulator has yielded some significant findings, according to FRA. FRA states that once this research is completed, the need for performance standards can be better evaluated.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommendation letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906.)

Dated: October 15, 1979.

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 79-32166 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-58-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

October 15, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

V 44 0 C 18 79 UMI

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

Revisions

Agricultural Stabilization and Conservation Service
*Application for approval of warehouse (peanuts)
CCC–1029
On Occasion
Cold storage warehouses; 40 Responses; 8 hours
Charles A. Filett, 395–5080

Agricultural Stabilization and Conservation Service
*Request for long-term agreement—ACP
RE–310
On occasion
Farmers; 10,000 responses; 5,000 hours
Charles A. Ellett, 395–5080

Agricultural Stabilization and Conservation Service
*Contract for tank storage
CCC–32m 32–1, & 32–2
On occasion
Operators of tank farms; 25 responses; 6 hours

Charles A. Ellett, 395–5080
Agricultural Stabilization and Conservation Service
Application for approval of tank farm
CCC–513
On occasion
Operators of tank farms; 25 responses; 13 hours

Charles A. Ellett, 395–5080

Extensions

Agricultural Stabilization and Conservation Service
*Application for duplicate marketing card or marketing certificate (for producers)
MQ–117
On occasion
Farm operators who need marketing cards replaced; 3,000 responses; 300 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Officer—Edward Michals—377–3627

New Forms

Bureau of the Census
Stocks of wool and related fibers in the United States
MA–22M
Single time
Companies and warehouses holding wool stocks; 350 responses; 88 hours
Office of Federal Statistical Policy and Standard, 673–7974

Revisions

Bureau of the Census
Office furniture (manufacturers' shipments)
MA–25H
Annually
Office furniture manufacturers; 250 responses; 250 hours
Office of Federal Statistical Policy and Standard, 673–7974

Extensions

Bureau of the Census
Survey of Assessed Values
GP–33
Single time
State Officials in charge of assessed values; 51 responses; 153 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245–7488

New Forms

Public Health Service
National Ambulatory Medical Care Survey—1980
Complement survey
PHS–6105 A, B, C, and D
Single time
Physicians providing office-based care; 17,000 responses, 617 hours
Office of Federal Statistical Policy and Standard, 673–7974

Revisions

National Institutes of Health
Implementation of the Hospice Concept
Other (see SF–83)
Significant others, Hospice staff and volunteers; 2,186 responses; 1,629 hours
Richard Eisinger, 395–3214

Public Health Service
1980 Health Interview Survey/ Reinterview Questionires
Other (see SF–83)
Sample Hsehlds. Rep. the Civ. Noninstit. Pop. of the United States; 40,000 responses; 30,659 hours
Office of Federal Statistical Policy and Standard, 673–7974

Reinstatements

Center for Disease Control
Influenza Immunization Grant Activity
CDC–1030–5, 6
Monthly
Influenza Immunization grant awarders; 312 responses; 559 hours
Richard Eisinger 395–3214

Health Resources Administration
Application to Participate in the Health Professions
Capitation Grant Program
Annually
Health professions school; 350 responses; 1,050 hours
Richard Eisinger, 395–3214

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masafsky—755–5184

New Forms

Policy Development and Research
Minority and Women-owned Research Contractors Survey
Single time
Minority and women-owned businesses; 1,000 responses; 165 hours
Arnold Strasser, 395–5080

Revisions

Policy Development and Research
Annual Housing Survey—SMSA Sample Group CC–1
Questionnaire and Control Card
AHS–51, 52, 53, 54D1, 54D2, 54D(SP), 56L
Other (see SF–83)
Households in 15 SMSA's; 117,000 responses; 73,710 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF THE INTERIOR

Agency Clearance Officer—William L. Carpenter—343–6716

New Forms

Bureau of Mines
The use of Timber in Mining
6–PI–15
Single time

Coal mining companies and metal mining companies; 373 responses; 187 hours
Office of Federal Statistical Policy and Standard, 673–7974

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426–1887

Revisions

National Highway Traffic Safety Administration
Fatal Accident Reporting System (FARS)
HS–214, 214A, and 214B
On occasion
States; 45,000 responses; 96,750 hours
Office of Federal Statistical Policy and Standard, 673–7974

GENERAL SERVICES ADMINISTRATION

Agency Clearance Officer—John F. Gilmore—566–1164

Reinstatements

*Statement of Personal History (security questionnaire)
GSA 176
On occasion
Contract employees; 10,000 responses; 5,000 hours
Laverne V. Collins, 395–3214

UNITED STATES INTERNATIONAL TRADE COMMISSION

Agency Clearance Officer—Charles Ervin—523–0267

New Forms

U.S. Fishermens' Questionnaire (certain groundfish)
Single time
Fishing vessel owners; 100 responses; 800 hours
Susan B. Geiger, 395–5867

Importers Questionnaire (certain groundfish)
Single time
Medium sized importers; 30 responses; 480 hours
Susan B. Geiger, 395–5867

Fish Processors' Questionnaire (certain groundfish)
Single time
The leading processing firms; 20 responses; 320 hours
Susan B. Geiger, 395–5867

Purchasers' Questionnaire (certain groundfish)
Single time
The largest fish block purchasers; 10 responses; 120 hours
Susan B. Geiger, 395–5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389–2282

New Forms

Phase II—Survey of Public Attitudes Toward Vietnam
ERA Veterans
Single time
Description not furnished by agency; 6,700 responses; 6,405 hours
Office of Federal Statistical Policy and Standard, 673–7974

Extensions

*Request for Status of Loan Account—Foreclosure of Other II Quidation
FL–26–567
On occasion
Loan holder; 25,200 responses; 4,200 hours
Richard Eisinger, 395–3214

Reinstatements

*Application on the Death of Veteran by the Immediate Family for Accrued Benefits Witheld During Treatment or Care 21–551
On occasion
Veteran's dependents; 3,000 responses; 1,000 hours
Richard Eisinger, 395–3214

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79–32177 Filed 10–17–79; 8:45 am]

BILLING CODE 3110–01–M

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

Trade Policy Committee Solicitation of Public Views: Market Disruption Case Involving Anhydrous Ammonia From the U.S.S.R.

Pursuant to Section 406 of the Trade Act of 1974 and Executive Order No. 11947, on October 11, 1979, the Special Representative for Trade Negotiations received for the President a report from the U.S. International Trade Commission (USITC) on the case of anhydrous ammonia being imported from the Union of Soviet Socialist Republics (USSR) (Investigation No. TA–406–5). The Commission's report contained an affirmative determination that market disruption exists with respect to imports from the USSR into the United States of anhydrous ammonia, provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States (TSUS). The USITC found that such imports are increasing rapidly, either absolutely or relatively, so as to be a significant cause of material injury, or threat thereof, to a domestic industry producing a like or directly competitive product.

The USITC split by a three to two vote on the question of determination of market disruption. The three Commissioners who found affirmatively, recommended that to prevent the material injury threatened, it would be necessary to establish a quota for anhydrous ammonia from the USSR as follows:

Quota Period and Quota Quantity

Jan. 1, 1980–Dec. 31, 1980, 1 million short tons;
Jan. 1, 1981–Dec. 31, 1981, 1.1 million short tons;
Jan. 1, 1982–Dec. 31, 1982, 1.3 million short tons.

Within 60 days of receiving a report from the USITC containing an affirmative determination, the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest, and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and, if relief is provided, what method and amount of import relief to provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

1. The probable effectiveness of the import relief as a means of promoting adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

2. The effect of import relief on consumers and on competition in the domestic market for the product;

3. The effect of import relief on the international economic interest of the United States;

4. The impact on U.S. industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

5. The geographic concentration of imported products marketed in the United States;

6. The extent to which the U.S. market is a focal point for exports of such articles by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

7. The economic and social costs which would be incurred by taxpayers.

V 44 OC 18 79 UMI

communities and workers if import relief were or were not provided.

The Office of the Special Representative for Trade Negotiations chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action he should take on reports submitted by the USITC under section 406. In order to assist the Trade Policy Staff Committee in developing recommendations to the President as to what action to take under Section 406 and sections 202 and 203 of the Trade Act of 1974, the Committee welcomes briefs from interested parties on the above listed subjects. (Additional information on this case is available in USITC report No. TA-406-5).

Briefs should be submitted in conformance with 15 CFR 2003 to: Secretary, Trade Policy Staff Committee, Room 728, Office of the Special Representative for Trade Negotiations, 1800 G Street N.W., Washington, D.C. 20506.

To be considered by the Trade Policy Staff Committee, submissions should be received in the Office of the Special Representative for Trade Negotiations as soon as possible, but in any event not later than the close of business Friday, November 2, 1979.

For further information contact Richard Heimlich or March Schweitzer at 202-395-7203.

William B. Kelly, Jr.,

Associate Special Trade Representative.

[FR Doc. 79-32108 Filed 10-17-79 8:45 am]

BILLING CODE 3190-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 01/01-0292]

Great Northern Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company

On August 22, 1979, a Notice was published in the Federal Register (44 FR 50666) stating that Great Northern Capital Corporation, 97A Exchange Place, Portland, Maine 04111, had filed an application with the Small Business Administration, pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1979)), for a License to operate as a Small Business Investment Company.

Interested persons were given until the close of business on September 13, 1979, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received and, having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 01/01-0292 on September 28, 1979, to Great Northern Capital Corporation pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Programs 59.011, Small Business Investment Companies)

Dated: October 5, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-32062 Filed 10-16-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-5369]

Ibero American Investors Corp.; Issuance of a License To Operate as a Small Business Investment Company

On September 29, 1979, a notice was published in the Federal Register (44 FR 54611), stating that Ibero American Investors Corporation, located at 954 Clifford Avenue, Rochester, New York 14621, has filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1979), for a license to operate as a small business investment company under the provisions of Section 301(d) of the Small Business Investment Act of 1958, as amended.

The period for comment expired on October 5, 1979, and no significant comments were received.

Notice is hereby given that having considered the application and other pertinent information, SBA has issued License No. 02/02-5369 to Ibero American Investors Corporation.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 11, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-32061 Filed 10-16-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

New York Harbor Vessel Traffic Service Advisory Committee; Open Meeting

The New York Harbor Vessel Traffic Service Advisory Committee will conduct an open meeting on Wednesday, November 21, 1979, in the Community Center, Building 301, Governors Island, New York. The meeting is scheduled to begin at 10:00 am. The agenda for this meeting of the New York Harbor Vessel Traffic Service Advisory Committee is as follows:

1. Discuss the implementation of the New York Vessel Traffic Service.

2. Comments and questions from the floor.

3. Tour of the Vessel Traffic Center.

The New York Harbor Vessel Traffic Service Advisory Committee was established by the Commander, Third Coast Guard District to advise on the need for, and development, installation and operations of a vessel traffic service for New York harbor. Members of the committee serve voluntarily without compensation from the Federal Government, either travel or per diem.

Interested persons may obtain additional information or the summary of the minutes of the meeting by writing to: Commander W. P. Leahy, Jr., USCG, commanding officer, precommissioning detail, Governors Island, New York, New York 10004, or by calling (212) 668-7954.

This notice is issued under section 10(a) of the Federal Advisory Committee Act (P.L. 92-463, 86 Stat. 770, 5 U.S.C. App. 1).

Dated: October 10, 1979.

L. L. Zumstein,

Rear Admiral, U.S. Coast Guard, Chief, Office of Public and International Affairs.

[FR Doc 32093 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-14-M

[CGD 79-145]

Coast Guard Academy Advisory Committee; Open Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Coast Goard Academy Avisory Committee to be held at the U.S. Coast Guard Academy, New London, CT, on Wednesday and Thursday, October 24-25, 1979. The session on Wednesday will begin at 1:00 and adjourn at 4:00 p.m. An open session will also be held on Thursday from 8:45 to 10:55 a.m. and from 2:45 to 3:45 p.m.

The agenda for this meeting is as follows: (a) faculty, (b) curricula.

The Coast Guard Academy Advisory Committee was established in 1937 by Pub. L. 75-38 to advise on the course of instruction at the Academy, and to make recommendations as necessary.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend or present oral statements at the hearing should notify, not later than the day before the meeting: CAPT Roderick M. White, USCG, Dean of Academics/Executive Secretary of the Academy Advisory Committee, U.S. Coast Guard Academy, New London, CT 06320, phone (203) 443-8463.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 28, 1979.

J. B. Hayes,

Admiral U.S. Coast Guard Commandant.

[FR Doc. 79-32196 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 134—Electronic Test Equipment for General Application; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 134 on Electronic Test Equipment for General Application to be held November 8-9, 1979, in Conference Rooms 5A-B, DOT/Federal Aviation Administration Building, 800 Independence Avenue, SW., Washington, D.C. commencing at 9:00 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Meeting held September 13-14, 1979; (3) Review of All Issue Papers Completed to Date and Preparation of Final Changes; (4) Assignment of Tasks to Complete the Committee Report; and (5) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 5, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79-31798 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-79-24]

Summary of Exemption Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petitions or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 5, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 5, 1979.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19629	Curtis Ciancetta	14 CFR § 69.91(c)(1)	To permit the petitioner to take the required examinations for an inspection authorization without 3 years of mechanic experience.
Amdt. 39-3224	United Airlines	14 CFR § 39.13	To allow petitioner an eight-month extension of compliance time, March 1, 1980, to November 1, 1980, to accomplish blue-etch anodize inspection of PWA JT3D first stage fan blades.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19428	Metro Airlines	14 CFR 135.171	To allow petitioner to operate their aircraft without the shoulder harnesses required by section 135.171. *Petition withdrawn 8/8/79*
19473	Central Michigan Aviation, Inc	14 CFR § 135.149(c)	To permit petitioner to operate its two Cessna Citations without a third attitude gyroscopic bank-and-pitch indicator until July 1, 1980. *Granted 10/2/79*
19605	Albuquerque International Balloon Fiesta, Inc	14 CFR §§ 61.3 and 91.27	To allow foreign balloon pilots and foreign balloons to participate in the 1979 Albuquerque International Balloon Festival at Albuquerque, New Mexico without complying with the pilot certification and airworthiness requirements of those sections. *Granted 10/2/79*
19590	Key Airlines	14 CFR § 121.291	To permit petitioner to operate their Convair 440 configured with 50 passenger seats without having to demonstrate a full seating capacity emergency evacuation. *Granted 9/24/79*
19307	Federal Express Corp	14 CFR Part 121, Appendix E	To permit the petitioner's pilots to meet the requirements for one night takeoff and landing for Initial Trainees during the required operating experience. *Denied 9/28/79*
19345	Pope Valley Parachute Center	14 CFR § 105.43(a)(1)	To allow foreign nationals to use their equipment at the Pope Valley Parachute Center without complying with the equipment and packing requirements of Section 105.43. *Denied 9/28/79*

[FR Doc. 79-31798 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-13-M

V44OC18 1979 UMI

V 4 4 0 C 1 8 7 9 UMI

Federal Highway Administration

Environmental Impact Statements; Notice of Intent

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to advise the public that a decision has been made to prepare environmental impact statements for highway projects in Orange County, California; San Diego County, California; Great Falls, Montana; Biloxi, Mississippi; Montgomery County, Maryland; Kalamazoo, Michigan; and Fairfax County, Virginia.

SUPPLEMENTARY INFORMATION: In accordance with the provisions of the National Environmental Policy Act of 1969, as amended, the Council on Environmental Quality's implementing regulations (40 CFR Parts 1500–1508), and the Department of Transportation's procedures for considering environmental impacts (DOT Order 5610.1C), the FHWA hereby gives notice that environmental impact statements (EIS's) will be prepared for the following proposed Federal-aid highway projects:

Orange County, Calif.—City of Irvine

The FHWA in cooperation with the California Department of Transportation (CALTRANS) will be preparing an EIS on a proposal to construct a new interchange (Alton Parkway) on the Santa Ana Freeway (I–5) between I–405 and Route 133, to modify an existing interchange (Irvine Center Drive) on the San Diego Freeway (I–405), and to make related future changes to existing facilities.

Probable environmental effects of the proposed project include induced growth and urbanization, increased traffic on Interstate Routes 5 and 405, the taking of agricultural land, and increased water runoff due to larger pavement area.

Possible alternatives to this proposal include the construction of a new overcrossing at Alton Parkway with no interchange improvements and the "do nothing" alternative.

The FHWA and CALTRANS will coordinate the proposed project with the city of Irvine and consult with other government agencies on their areas of responsibility. These agencies include the Soil Conservation Service, Orange County, State Department of Fish and Game, and U.S. Environmental Protection Agency. A scoping meeting will not be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and other persons interested in submitting comments or questions should contact: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone (916) 440–2804.

Orange County, Calif.—Tustin and Santa Ana

The FHWA in cooperation with the California Department of Transportation (CALTRANS) will be preparing an EIS on a proposal to modify the existing interchange at Interstate Route 5 (Santa Ana Freeway) and State Route 55 (Newport-Costa Mesa Freeway) in the cities of Tustin and Santa Ana. The proposed project would include construction of elevated direct connectors, auxiliary lanes, and sound walls and the relocation of ramps. Also, the project may be coordinated with freeway modifications approaching or leaving the interchange to improve traffic flow.

The proposed project is intended to improve trafic conditions at the interchange by eliminating inadequate facilities. Freeway capacity will probably be increased. The project may require the use of additional land and may have an adverse effect on noise and air quality.

Alternatives under consideration for this project include (1) a complete modification of the interchange with direct connectors provided for all traffic movements, along with freeway and ramp modifications; (2) a lesser version consisting of new connectors for major traffic movements only, along with freeway and ramp modifications; and (3) the "do nothing" alternative.

The FHWA and CALTRANS will consult with other government agencies on their areas of responsibility. The details of the scoping process have not been determined at this time.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and other persons interested in submitting comments or questions should contact: Albert J. Gallardo, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809, Telephone (916) 440–2804.

San Diego County, Calif.

The Federal Highway Administration, Department of Transportation, and the Public Buildings Service, General Services Administration, give notice as coordinating agencies that an Environmental Impact Statement will be prepared for: (1) the proposed development of an interim access to a proposed second international border crossing; and (2) the proposed construction of the required Border Station facilities in the county of San Diego, California.

The proposed project is located on lands under the jurisdiction of the city of San Diego and the county of San Diego. The city of San Diego will be the local project director and the local agency responsible for preparation of the joint Environmental Impact Statement/ Environmental Impact Report in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code, Section 21000 et. seq.) and the National Environmental Policy Act of 1969 (Section 102[2](c)).

The primary purpose of construction of a second Border Station at the International Port of Entry in San Diego County is to establish a main commercial inspection station for San Diego which would also have primary and secondary inspection capability for passenger vehicles. The proposed second crossing would further serve to facilitate both commercial and passenger vehicle crossing of the international border by providing an alternative to the existing San Diego Border Station, which requires all traffic to pass through the central business district of Tijuana, B.C. It is anticipated that the existing commercial crossing at Virginia Street, one-half mile west of the existing San Diego Border Station in San Ysidro, will remain open for local commercial traffic, and that the San Diego Border Station will continue as the main crossing for passenger vehicles and pedestrians. Alternative sites to be examined for the second Border Station location include:

(1) Otay Mesa/Mesa De Otay, about eight miles east of the San Diego Border Station, at the junction of Harvest Road and the International Border.

(2) About five miles west of the San Diego Border Station, at a point where traffic may connect directly with the Ensenada Toll Way (Mexican Highway 1–D).

(3) Expansion of the existing Virginia Street commercial crossing. The access alternatives to be examined include:

(1) Improvement of an interim access route to the proposed Otay Mesa/Mesa De Otay border crossing from a point about one mile east of Interstate Highway 805 and terminating on a southerly extension of Harvest Road at the International Border, a total distance of about six miles.

(2) Construction of an access route to the proposed Western or Ocean Border Crossing from Interstate Highway 5 to a point where traffic may connect directly with the Ensenada Toll Way (Mexican Highway 1–D), a total distance of about six miles.

(3) Potential improvement of existing access to the Virginia Street commercial crossing, a total distance of about one mile.

It is anticipated that Phase I construction of the access route to the proposed international border crossing will commence in the summer of 1981. Contingent upon funding, the new Border Staton and associated roadway system could be completed in 1983. The no action alternative for both the Border Station and roadway system will also be examined.

A preliminary scoping document identifying project purpose, alternatives and major issues of concern has been developed by the city of San Diego and county of San Diego, with input from the Federal Highway Administration, General Services Administration and other affected agencies. This document will be made available to responsible agencies and other organizations which might have an interest in the proposed action to solicit their involvement in the scoping process. The Federal Highway Administration and General Services Administration invite participation of agencies and individuals to comment on the scope of this Environmental Impact Statement. Scoping meetings will be held in San Diego and San Ysidro from October 31 through November 1, 1979.

It is anticipated that a Draft Environmental Impact Statement will be available in August 1980. Comments and questions regarding the proposed action, the scoping meetings, and the Environmental Impact Statement should be referred to: C. G. Clinton, District Engineer, Federal Highway Administration, P.O. Box 1915, Sacramento, California 95809; or Mary E. Brant, Regional Facilities Planner, Operational Planning Staff, GSA–PBS M/S 30A, 525 Market Street, San Francisco, California 92105.

Great Falls, Mont.

The FHWA in cooperation with the Montana Department of Highways will be preparing an EIS on a proposal to construct a south arterial highway in Great Falls, Montana. The proposed action, referred to as the Great Falls South Arterial, would include a structure crossing the Missouri River.

Several alternatives are under study including doing nothing. Additional alternatives include degree of control of access, possible stage construction of only two lanes initially, need for interchanges, etc. The proposed work will develop an appropriate location and right-of-way width for a south arterial that will be compatible with the present and future growth of Great Falls and allow for orderly planning of new subdivisions, utilities, etc.

All affected Federal, State and local agencies and any interested persons are invited to participate in the scoping process for this EIS. A public information meeting was held April 5, 1979, to obtain input from interested agencies and individuals. Also various Federal and State agencies have been contacted regarding the proposed action and have already provided input as to the scope of the EIS.

Based on information collected and comments received to date, the following issues related to the proposed action have been identified and will be addressed in the EIS.

Major Issues

Relocation of residents and businesses
Compatibility with present and future land use
Possible impacts on or taking of park lands
Flood Plain impacts

Minor Issues

Historic (impact on Lewis & Clark Great Falls Portage)
Wetlands
Air quality
Water quality
Highway noise
Rare and endangered species
Visual impacts

Another public involvement meeting to discuss progress to date and to further refine the scope of the proposed EIS will be held in the near future. The date, time, and location of this meeting will be announced through the local news media in Great Falls, Montana, and by direct mail to all agencies that have indicated interest in the project to date. Oral statements regarding the scope of issues to be addressed in the environmental impact statement may be presented at this meeting.

To ensure that the full range of issues related to this proposal are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Written statements and requests for additional information should be directed to: William Dunbar, U.S. Department of Transportation, Federal Highway Administration, Federal Office Building, 301 South Park Avenue, Helena, Montana 59601, Telephone (406) 449–5310.

Biloxi, Miss.

The FHWA in cooperation with the Mississippi Highway Department will be preparing an EIS on a proposal to complete Interstate 110 from the existing Chartres Street Interchange south to an interchange with U.S. Highway 90 in Biloxi, Mississippi, a distance of 1.5 miles. Interstate 110 (I–110) is a controlled access, 4-lane spur segment of the Interstate Highway System. The completed facility will connect Interstate 10 (I–10) with the city of Biloxi and U.S. Highway 90, providing access to Biloxi and Keesler Air Force Base. The highway will distribute local traffic to the central business district and Keesler. Regional traffic will be distributed to the beach front areas of U.S. Highway 90.

An existing 2.5-mile segment of I–110 from I–10 south to Chartres Street is completed and open to traffic. The remaining urban segment, which is the subject of this notice, received location and design approval from the FHWA in the early 1970's. Land was acquired for the proposed facility at that time. No EIS was required. Due to changes in design standards and the need to improve previously designed urban highway segments, it is planned to redesign the remainder of this route. It is estimated that this new design will require approximately 10 percent more land. Impacts on the beach area at the interchange of I–110 and U.S. 90 may result from this proposal. A number of alternatives were previously considered. Substantive alternatives to be considered include the "do nothing" or "no build" alternative and the proposed design.

This proposal has an extensive history of coordination with the public, City officials, and State and Federal agencies. The last meeting on this proposal was held on April 3, 1979. It is expected that coordination will continue throughout project development. No additional scoping meetings are planned.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues

identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. Charles Dick, Federal Highway Administration, 666 North Street, Suite 105, Jackson, Mississippi 39202, Telephone (601) 969–4222.

Kalamazoo, Mich.

The FHWA in cooperation with the Michigan Department of State Highways and Transportation and the city of Kalamazoo will be preparing an EIS for the consolidation of the railroad corridors in the city of Kalamazoo. This proposed improvement will include a grade separation at the intersection of existing Michigan Avenue and Kalamazoo Avenue, which are both on the Federal-aid highway system. Other related Federal-aid highway improvements will include the removal of a number of existing at-grade railroad crossings on other city streets where the existing railroad corridor is abandoned and improvements to those crossings where the railroads are consolidated in another corridor.

It is anticipated that by consolidating the rail corridors into a more efficient arrangement, the citizens of Kalamazoo would benefit from fewer rail/auto conflicts, develop a more cohesive community and expand the commercial/industrial base in a logical manner. The proposed improvements to the at-grade crossings and grade separation in conjunction with the proposed railroad consolidation are expected to reduce the potential for accidents at rail/street crossings and improve traffic circulation and reduce delays in the Kalamazoo Central Business District.

Alternatives to the grade separation being considered are the "do nothing" alternative and an underpass or overpass with or without service roads. These alternatives will have varying effects on the need for land, commercial and residential relocations, and connections to or reconstruction of the existing street system.

A scoping meeting was held in the city of Kalamazoo on Tuesday, October 2, 1979, for all interested Federal State and local agencies. The purpose of the meeting was to involve review agencies and other interested parties early in the project study in a working session to identify central project issues as well as issues of lesser importance to be addressed in the EIS.

At this time no other Federal agencies have been identified as having an interest in the project to be designated a cooperating agency. The Michigan Department of Transportation is a State cooperating agency. No local agencies have requested to be a cooperating agency. Agencies having such an interest may request such designation to assist in the preparation of the environmental document. The FHWA and city of Kalamazoo are considered the joint lead agencies for this action. A summary of the scoping meeting will be included in the draft EIS when circulated.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact:

Mr. R. H. Jones, Staff Specialist for Environment; or Mr. K. L. Barkema, District Engineer, Federal Highway Administration, P.O. Box 10147, Lansing, MI 48901.

Ms. Sheryl L. Sculley, Railroad Consolidation Project Manager, Assistant to the City Manager, 241 W. South Street, Kalamazoo, MI. 49007.

Montgomery County, Md.

The FHWA in cooperation with the Maryland State Highway Administration will be preparing an EIS on a proposal to widen Layhill Road (Maryland Route 182) from Georgia Avenue (Maryland Route 97) to Argyle Club Road in Montgomery County, Maryland. The proposed action would address the safety and adequacy of the existing two-lane road. Possible alternative improvements would include upgrading Route 182 to a four-lane highway with traffic signals and bike lanes. The total length of the proposed project is 2.7 miles. Major design features would include access to the proposed Glenmont Metro Station which is planned for construction between Georgia Avenue and Glenallen Road.

A number of parks and recreation facilities lie in close proximity to Maryland Route 182. They range from small neighborhood playgrounds to large regional parks, both public and private. Twelve historic sites have been identified in close proximity to Maryland Route 182 between Norbeck Road and Georgia Avenue. The corridor also has the potential for a minimal involvement with the 100-year floodplain. There are no wetlands affected by the proposed action.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. No formal scoping meetings will be held on this proposed action. Agencies, organizations, and individuals who wish to be involved as the study develops should contact:

Mr. Hal Kassoff, Director, Office of Planning and Preliminary Engineering, Maryland State Highway Administration, 300 West Preston Street, Baltimore, Maryland 21201.

The FHWA contact for this project is: Mr. Roy D. Gingrich, District Engineer, The Rotunda, Suite 220, 711 West 40th Street, Baltimore, Maryland 21211, Telephone (301) 962–4011.

Fairfax County, Va.

The FHWA In cooperation with the Virginia Department of Highways and Transportation will be preparing an EIS on a proposal to construct a bypass highway (Springfield Bypass) in Fairfax County, Virginia. The proposed Springfield Bypass would extend from U.S. Route 1 (south of Alexandria) to Virginia Route 7 (in the vicinity north of Herndon and Reston) for a distance of approximately 30 miles.

The proposed project is intended to achieve the following goals: (a) improve the circulation of traffic in the present Springfield interchange area with I–95, (b) provide a connection to the proposed Franconia Metro Station, and (c) improve cross county transportation. The proposed environmental study includes the analysis of four types of alternatives to meet the transportation requirements along the project corridor: no build; improve existing facilities; mass transit alternative; and several alternative highway location routes within the corridor.

The FHWA and the Virginia Department of Highways and Transportation will follow current procedures for contacting other government agencies. There are currently no plans to hold a formal scoping meeting on this proposal.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues indentified, comments and suggestions are invited from all interested parties. Agencies, organizations, and individuals interested in submitting comments or questions should contact: Mr. Robert B. Welton, Federal Highway Administration, P.O. Box 10045, Richmond, Virginia 23240. Telephone, (804) 782–2805.

Issued on October 10, 1979.

Karl S. Bowers,

Federal Highway Administrator.

[FR Doc. 79–31944 Filed 10–17–79; 8:45 am]

BILLING CODE 4910–22–M

National Highway Traffic Safety Administration

Biomechanics Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. I), notice is hereby given of a meeting of the Biomechanics Advisory Committee to be held on November 7 and 8, 1979, in Department of Transportation Headquarters Building, 400 Seventh Street, SW, Washington, DC.

On November 7 the Committee will meet in room 3328 and on November 8 the Committee will meet in room 8348. Meetings will start at 9:00 a.m. on both days. The agenda will consist of the following:

(1) Review of last meeting of Biomechanics Advisory Committee; 2) Review of changes to NHTSA Order 700–1, "Protection of the Rights and Welfare of Human Subjects Involved in NHTSA-Sponsored Experiments," and NHTSA Order 700–2, "Biomechanics Advisory Committee"; 3) Summary and discussion of projects reviewed by the Human Use Review Committee; and 4) Review of selected research projects being considered by NHTSA.

Attendance is open to the interested public, but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Any member of the public may present a written statement to the Committee at any time.

This meeting is subject to the approval of the appropriate DOT officials. Additional information may be obtained from the NHTSA Executive Secretary, Room 5221, 400 Seventh Street, SW, Washington, D.C. 20590, telephone 202–426–2872.

Issued in Washington, DC on: October 12, 1979.

Wm. H. Marsh,

Executive Secretary.

[FR Doc. 79–32167 Filed 10–17–79; 8:45 am]

BILLING Code 4910–59–M

[Docket No. IP 79–13, Notice 1]

Fiat Motors of North America, Inc.; Receipt of Petition for Determination of Inconsequential Defect

Fiat Motors of North America, Inc. has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (the Act) (15 U.S.C. 1381 *et seq.*) for an apparent safety-related defect involving the susceptibility of critical components to weakening and failure due to rust or corrosion. The basis of Fiat's petition is that the defect is inconsequential as it related to motor vehicle safety.

This notice of receipt of a petition is published under section 157 of the Act (15 U.S.C. 1417).

On August 22, 1979, the NHTSA informed Fiat pursuant to section 152(a) of the Act (15 U.S.C. 1412(a) that it was reinstating its initial determination of January 16, 1979, that Fiat model 124 for model years 1970–1974 contains a safety-related defect resulting from a susceptibility to failure from rust and corrosion. The NHTSA further informed Fiat that a public processing on this matter was scheduled for September 26, 1979 (44 FR 50945). That hearing was rescheduled and held October 3, 1979 (44 FR 56420). Within 30 days of receipt of the August 22 notice, Fiat filed a petition for inconsequentiality under 49 CFR 556.4(c).

The NHTSA reinstated its initial determination on the model 124 in response to a large number of consumer complaints. The model 124 determination has been suspended by the NHTSA following an agreement between the agency and Fiat wherein Fiat would recall the 1970–1971 model 850 and the agency would suspend its earlier model 124 defect determination. Fiat has assured the agency that the problem was concentrated among the 1970–1971 model 850 vehicles. The NHTSA's investigation indicates that the underbody assemblies of the model 124 vehicles are subject to weakening and failure of critical structural components which can result in accidents, injuries, deaths, and property damage. Fiat's petition challenges the NHTSA's finding, stating that no collisions, accidents, or injuries have resulted from failure of components due to weakening caused by corrosion. Further, Fiat claims that: "each owner of a Subject Vehicle knows or, with the exercise of due diligence, should know of the existence of the alleged 'defect' in his/her vehicle."

Because there has been a previous opportunity for public comment on the issue of inconsequentiality during the comment period established in the agency's notice of March 8, 1979, 44 FR 127793, the comment period on this petition will be 15 days. The March 8 notice was issued in connection with a petition for inconsequentiality filed by Fiat for the model 124 when the January 16 initial determination was originally pending. No further action was taken on the earlier petition after the NHTSA and Fiat reached an agreement to suspend the model 124 investigation and to recall the 1970–1971 model 850.

In addition, opportunity for the public comment on the safety relationship of the apparent defect was afforded at the October 3 hearing. The hearing involved the issue of whether or not a defect which related to motor vehicle safety existed in the model 124 vehicles. Notice of the hearing was published in the **Federal Register** and interested persons were invited to submit data, views and arguments both orally and in writing (44 FR 56920). The petition of inconsequentiality was made a part of the record at the hearing. The manufacturer and other interested persons were given a two-week extension following the hearing to submit any additional comments on the hearing's issues.

Interested persons are invited to submit written data, views, and arguments on the Fiat petition described above to the Office of Defects Investigation, National Highway Traffic Safety Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comment received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date November 2, 1979.

(Sec. 102, Pub. L. 93–493, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on October 17, 1979.

Lynn L. Bradford,

Associate Administrator for Enforcement.

[FR Doc. 79–32451 Filed 10–17–79; 12:13 pm]

BILLING CODE 4910–59–M

[Docket No. IP78–1; Notice 3]

The Goodyear Tire & Rubber Co.; Final Notice on Petition for Determination of Inconsequential Noncompliance

This notice announces that Goodyear Tire & Rubber Company intends to bring certain passenger car tires into compliance with Motor Vehicle Safety Standard No. 109, *New Pneumatic Tires*, thus mooting its petition that a noncompliance with the standard be deemed inconsequential as it relates to motor vehicle safety.

V 44 0 C 1 8 7 9 UMI

On April 17, 1978, notice was published in the **Federal Register** (43 FR 16234) that Goodyear had petitioned that a labeling error on 2600 tires intended as original equipment on Chevrolet Corvettes be judged to have an inconsequential effect upon safety. Each tire was labeled as having five plies including one nylon cord, when, in reality, there was no nylon cord ply and only four plies. Although the tire met all performance requirements of Standard No. 109 and no comments were received on the petition, the agency announced on August 18, 1979 (44 FR 48022) that it considered the primary issue in the case to be one of the adequacy of labeling information rather than one of safety. Accordingly, Goodyear was offered the option of affixing a label to each tire pointing out the error (in which event Goodyear's petition would be granted), or of buffing off the incorrect description, thereby achieving compliance with Standard No. 109. The agency also announced that it would issue a final notice of disposition when Goodyear had informed it of a decision.

On September 4, 1979, Goodyear wrote the agency that it had decided to buff off the incorrect description on the sidewall and restamping the "5" with a "4" thus bringing the tires into compliance. The petition for a determination of inconsequentiality is now moot and the docket is closed.

(Sec. 102, Pub. L. 93-492, 99 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on October 9, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc 79-31834 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-59-M

Wagner Electric Corp.; Denial of Petition for Rulemaking

This notice sets forth the reasons of the National Highway Traffic Safety Administration (NHTSA) for denying a petition by Wagner Electric Corporation to amend Federal Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, to allow an alternative headlighting system. The agency is publishing this notice in accordance with section 124(d) of the National Traffic and Motor Vehicle Safety Act, (15 U.S.C. 1410) which provides that the agency must grant or deny rulemaking petitions within 120 days and publish the reasons for any denials in the **Federal Register**.

Wagner Electric Corporation has petitioned to amend paragraph S4.1.1.21 of Standard No. 108 to incorporate a two lamp headlamp system that it has been developing. The lamps are rectangular in shape and possesses the photometric equivalent of today's larger two lamp rectangular headlamp system while the dimensions of the lamps are identical with those found in the four-lamp headlamp system. The agency denied the petition on the basis that it would lead to a further proliferation of headlamp types creating possible difficulties in obtaining replacements, while providing no safety benefit not otherwise obtainable through use of current headlighting systems.

Wagner's petition did raise the possibility, however, that use of smaller headlamp systems could contribute to improved fuel economy through reduction in weight and a more efficient aerodynamic vehicle design. The NHTSA is interested in exploring this possibility further and intends to issue an ANPRM before the end of the year soliciting comments on alternative headlighting systems, photometrics of such systems and market proliferation. Wagner's petition will be considered as a comment in that rulemaking action.

(Sec. 103, 119 Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1410a); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on October 9, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc 79-31773 Filed 10-17-79; 8:45 am]

BILLING CODE 4910-59-M

WATER RESOURCES COUNCIL

Establish of Performance Review Board Senior Executive Service

AGENCY: U.S. Water Resources Council.

SUBJECT: Notice of Establishment of Performance Review Board, Senior Executive Service.

ACTION: Notice.

DATE EFFECTIVE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis A. Smith, Director, Management Services Division, U.S. Water Resources Council, 2120 L Street, N.W., Washington, DC 20037, Phone: (202) 254-6448.

Pursuant to the Civil Service Reform Act, (4134)(c)(4) requires the appointment of Performance Review Board members be published in the **Federal Register**.

The following persons will serve on the Performance Review Board, which overseas the utilization and evaluation of the U.S. Water Resources Council's Senior Executive Service:

Performance Review Board

Gerald D. Seinwill, Chair and Executive Secretary, Lewis D. Walker and Richard N. Vannoy

Dated: October 12, 1979.

Leo M. Eisel,

Director.

[FR Doc. 79-32141 Filed 10-17-79; 8:45 am]

BILLING CODE 6410-01-M

VETERANS ADMINISTRATION

Clinical Addition; VAMC, Tucson, Ariz.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a Clinical Addition at the Veterans Administration Medical Center (VAMC), Tucson, Arizona.

The project proposes construction of a two story addition of 80-85,000 square feet adjacent and connected to buildings Nos. 2 and 38, renovation of space vacated in buildings Nos. 2, 30, and 38 and construction of a 70 space parking area. Services to be located in the new construction include supply processing and distribution, prosthetics, dental, surgery, surgical intensive care unit, hemodialysis and radiology.

Development of the project will have minimal impacts on the human and natural environment as it affects soil stability, erosion and vegetation. In addition, construction noise, dust, fumes and visual impacts will exist during the construction phase. The addition must also be compatible with the surrounding architectural style.

Mitigation of the project impacts include: erosion and sedimentation control, onsite noise abatement measures, dust and fume emission controls, use of compatible architectural materials, and building emissions design and operation in accordance with applicable Federal, State and local air quality standards.

Findings conclude the proposed action will not cause a significant effect on the physical and human environment and, therefore, does not require preparation of an Environmental Impact Statement. The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 12, 1979.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-32127 Filed 10-17-79; 8:45am]

BILLING CODE 8320-01-M

Development of 15 Acres; Houston National Cemetery, Houston, Tex.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts of the 15 Acre Development at the Houston National Cemetery, Houston, Texas.

The 15 acre development will include access roadways, landscaping, fencing, irrigation and development of 9,000 gravesites. This action will allow the cemetery to remain open until 1990, an additional 8.6 years past the current closing date.

Development of the project will have impacts on the human and natural environment as it affects soil stability, water drainage, erosion, vehicular circulation, vegetation and noise levels. During the construction phase, additional noise, fumes, odors, sedimentation, traffic and visual impacts will exist. Mitigating actions include implementation of thorough erosion and sedimentation controls, onsite noise abatement techniques, landscaping, dust and fume emission controls and compatible open space design.

A "Finding of No Significant Impact" was concluded based on the information presented in this assessment. The project development will not cause significant adverse effects on the human and physical environments

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420 (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 12, 1979.

By direction of the Administrator:

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-32124 Filed 10-17-79; 8:45 am]

BILLING CODE 8320-01-M

120-Bed Nursing Home Care Unit; VAMC, Temple, Tex.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a 120-Bed Nursing Home Care Unit at the Veterans Administration Medical Center (VAMC) Temple, Texas.

The project proposes to contruct a 120-Bed Nursing Home Care Unit on the site at building no. 3. This building will be demolished as part of the overall project action. The new construction will have a one-story 120-Bed NHCU of approximately 52,000 gross square feet.

Development of the proposed project will have impacts on the environment as they affect existing vegetation, soil stability and noise levels.

The mitigation of the project impacts on the environment include implementation of erosion and sedimentation controls, onsite noise abatement measures and building emissions design in accordance with Federal, state, local air quality standards. Short term impacts of dust and fumes associated with the project construction phase will be minimized by control measures outlined in construction contract documents.

The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies of the Environmental Assessment may be addressed to the above office.

Dated: October 11, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc. 79-32125 Filed 10-17-79; 8:45 am]

BILLING CODE 8320-01-M

New Clinical Building; VAMC, Lincoln, Nebr.; Finding of No Significant Impact

The Veterans Administration (VA) has assessed the potential environmental impacts that may occur as a result of the construction of a New Clinical Building at the Veterans Administration Center (VAMC), Lincoln, Nebraska.

The project proposes construction of a two-story clinical building between buildings Nos. 1, 2 and 3. The proposed structure will provide approximately 25,500 gross square feet for the relocation of ambulatory care, pharmacy and supply processing and distribution. Vacated space in the existing buildings will be used for the expansion of radiology, laboratory and surgery.

Development of the project will have minimal impacts on the human and natural environment as it affects topography and erosion. In addition, temporary impacts from construction noise, dust and fumes will occur. The historic character of the station will be somewhat affected.

Mitigation of the project impacts include: soil erosion and sedimentation control, noise abatement measures and control of construction dust and fumes. The building design will be developed to achieve compatibility between the existing architecture and the proposed structure. The Environmental Assessment has been performed in accordance with the requirements of the National Environmental Policy Act Regulations, §§ 1501.3 and 1508.9, Title 40, Code of Federal Regulations. A "Finding of No Significant Impact" has been reached based on the information presented in this assessment.

The assessment is being placed for public examination at the Veterans Administration, Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Willard Sitler, Director, Office of Environmental Affairs (004A), Room 1018, Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420, (202-389-2526). Questions or requests for single copies

V 44 0C 18 79 UMI

of the Environmental Assessment may be addressed to the above office.

Dated: October 12, 1979.

By direction of the Administrator.

Maury S. Cralle, Jr.,

Assistant Deputy Administrator for Financial Management and Construction.

[FR Doc 79-32127 Filed 10-17-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 241, Rule 19, 71st Rev. Exemption No. 90]

Aberdeen & Rockfish Railroad Co., et al.; Exemption Under Mandatory Car Service Rules

It appearing, That the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, ICC RER 6410–B, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM," and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Aberdeen and Rockfish Railroad Company
Reporting Marks: AR
Ann Arbor Railroad System, Michigan Interstate Railway Company, Operator
Reporting Marks: AA
Apalachicola Northern Railroad Company
Reporting Marks: AN
Atlanta & Saint Andrews Bay Railway Company
Reporting Marks: ASAB
Bath and Hammondsport Railroad Company
Reporting Marks: BH
Berlin Mills Railway Inc.
Reporting Marks: BMS
Cadiz Railroad Company
Reporting Marks: CAD
Camino, Placerville & Lake Tahoe Railroad Company
Reporting Marks: CPLT
City of Prineville
Reporting Marks: COP
The Clarendon and Pittsford Railroad Company
Reporting Marks: CLP
Columbus and Greenville Railway Company
Reporting Marks: CAGY
Delta Valley & Southern Railway Company
Reporting Marks: DVS
Duluth, Missabe and Iron Range Railway Company
Reporting Marks: DMIR
East Camden & Highland Railroad Company
Reporting Marks: EACH
East St. Louis Junction Railroad Company
Reporting Marks: ESLJ
Galveston Wharves
Reporting Marks: GWF
Genessee and Wyoming Railway Company
Reporting Marks: GNWR
Greenville and Northern Railway Company
Reporting Marks: GRN
The Hutchinson and Northern Railway Company
Reporting Marks: HN
Helena Southwestern Railroad Company
Reporting Marks: HSW
Illinois Terminal Railroad Company
Reporting Marks: ITC
Indiana Eastern Railroad and Transportation, Inc. D/B/A The Hoosier Connection
Reporting Marks: HOSC
Lake Erie, Franklin & Clarion Railroad Company
Reporting Marks: LEF
Lake Superior & Ishpeming Railroad Company
Reporting Marks: LSI
Lenawee County Railroad Company, Inc.
Reporting Marks: LCRC
Longview, Portland & Northern Railway Company
Reporting Marks: LPN
Louisiana Midland Railway Company
Reporting Marks: LOAM
Louisville and Wadley Railway Company
Reporting Marks: LW
Louisville, New Albany & Corydon Railroad Company
Reporting Marks: LNAC
Manufacturers Railway Company
Reporting Marks: MRS
Maryland and Delaware Railroad Company
Reporting Marks: MDDE
Middletown and New Jersey Railway Company, Inc.
Reporting Marks: MNJ
Missouri-Kansas-Texas Railroad Company
Reporting Marks: MKT–BKTY
Moscow, Camden & San Augustine Railroad
Reporting Marks: MCSA
New Hope and Ivyland Railroad Company
Reporting Marks: NHIR
New Orleans Public Belt Railroad
Reporting Marks: NOPB
New York, Susquehanna and Western Railroad Company
Reporting Marks: NYSW
Octararo Railway, Inc.
Reporting Marks: OCTR
Oregon & Northwestern Railroad Co.
Reporting Marks: ONW
Pearl River Valley Railroad Company
Reporting Marks: PRV
Peninsula Terminal Company
Reporting Marks: PT
Port Huron and Detroit Railroad Company
Reporting Marks: PHD
Port of Tillamook Bay Railroad
Reporting Marks: POTB
Providence And Worcester Company
Reporting Marks: PW
Raritan River Rail Road Company
Reporting Marks: RR
Sacramento Northern Railway
Reporting Marks: SN
St. Lawrence Railroad
Reporting Marks: NSL
*St. Louis Southwestern Railway Company
Reporting Marks: SSW
St. Marys Railroad Company
Reporting Marks: SM
Savannah State Docks Railroad Company
Reporting Marks: SSDK
Sierra Railroad Company
Reporting Marks: SERA
Southern Pacific Transportation Company
Reporting Marks: SP
Terminal Railway, Alabama State Docks
Reporting Marks: TASD
The Texas Mexican Railway Company
Reporting Marks: TM
Tidewater Southern Railway Company
Reporting Marks: TS
Toledo, Peoria & Western Railroad Company
Reporting Marks: TPW
Union Railroad of Oregon
Reporting Marks: UO
Vermont Railway, Inc.
Reporting Marks: VTR
Virginia & Maryland Railroad
Reporting Marks: VAMD
Wabash Valley Railroad Company
Reporting Marks: WVRC
WCTU Railway Company
Reporting Marks: WCTR
Youngstown & Southern Railway Company
Reporting Marks: YS
Yreka Western Railroad Company
Reporting Marks: YW

Effective October 1, 1979, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 27, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-32091 Filed 10-17-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79–23840 appearing at page 45527 in the issue for Thursday, August 2, 1979, on page 45536, in the second column, in the third paragraph, with the heading "MC 103798 (Sub-32F)", application of "Martin Transport, Ltd., in the 18th line, "NM" should read "MN".

BILLING CODE 1505-01-M

*Addition.

Sunshine Act Meetings

Federal Register
Vol. 44, No. 203
Thursday, October 18, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Civil Rights Commission	2
Environmental Quality Council	3
Federal Deposit Insurance Corporation	4, 5, 6
Federal Election Commission	7
International Trade Commission	8
Securities and Exchange Commission	9

1

[M-252, Amdt. 4; Oct. 15, 1979]

CIVIL AERONAUTICS BOARD.

Notice of addition of item to the October 16, 1979, meeting.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT: 7a. Docket 36618; Delta's petition for review of staff action requiring submission of fuel purchase invoices and United's motion for exemption from public disclosure. (Memo 9213, 9213-A, BDA, OEA, BCP, OG)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Item 7a involves a request by staff for fuel-cost related information which is not being honored by all carriers. Staff believes that further delay in reviewing the information would be undesirable. Action by the Board on this item should facilitate receipt of this urgently needed information. Accordingly, the following Members have voted that Item 7a be added to the October 16, 1979 agenda and that no earlier announcement was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S-2039-79 Filed 10-16-79; 3:33 pm]

BILLING CODE 6320-01-M

2

COMMISSION ON CIVIL RIGHTS.

DATE AND TIME: Monday, October 22, 1979; 1 p.m. to 5 p.m.

PLACE: Room 512, 1121 Vermont Avenue, N.W., Washington, D.C.

STATUS: Open to public.

MATTTERS TO BE CONSIDERED:

I. Approval of Agenda.
II. Approval of Minutes of last meeting.
III. Staff Director's report:
A. Status of funds.
B. Personal report.
C. Office Directors' reports.
D. Correspondence:
1. Letter from OMB on Alabama Committee report.
2. Letters and responses to members of Congress re study of Congressional exemption from Federal EEO laws and provisions.
E. Commission Calendar for FY 1980.
IV. Memo re Congressional exemption from Federal EEO laws.
V. Report on civil rights developments in Mid-Atlantic region.
VI. Action re Indiana Advisory Committee report on Fort Wayne school desegregation.
VII. Action re South Carolina Advisory Committee report on municipal services in Mullins.
VIII. Action re North Carolina Advisory Committee report entitled, "Where Mules Outrate Men".
IX. Transmittal of Rocky Mountain Advisory Committee's proceedings on energy resource development.
X. Response to West Virginia Advisory Committee Chairperson McIntyre.
XI. Status report on Census efforts to count Hispanics in 1980.
XII. Action re Title VII and the handicapped.
XIII. Briefing memo on Chicago public school desegregation.
XIV. Status report on religious discrimination enforcement efforts.
XV. Memo re desk monitoring strategy.
XVI. Memo re Affirmative Action monitoring.
XVII. Review of National Immigration report.

PERSON TO CONTACT FOR FURTHER INFORMATION: Barbara Brooks, Press and Communications Division, (202) 254-6697.

[S-2037-79 Filed 10-16-79; 1:52 pm]

BILLING CODE 6335-01-M

3

COUNCIL ON ENVIRONMENTAL QUALITY.

TIME AND DATE: Thursday, October 25, 1979; 11:30 a.m.

PLACE: Conference Room, 722 Jackson Place, N.W., Washington, D.C. 20006.

STATUS: Open meeting.

MATTERS TO BE CONSIDERED:

1. Old Business:
2. Report on the Economic Commission for Europe Seminar on Environmental Impact Assessment.
3. Briefing on the Status of Transportation Initiatives Set Forth in the President's Second Environmental Message to Congress.
4. Briefing on the Status of Agencies' NEPA Procedures.

CONTACT PERSON FOR MORE INFORMATION: John F. Shea III (202) 395-4616.

[S-2033 Filed 10-16-79; 10:28 am]

BILLING CODE 3125-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 7:30 p.m. on Friday, October 12, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in American National Bank, Houston, Texas, which was closed by the Comptroller of the Currency as of the close of business at 7:00 p.m. (EDT) on October 12, 1979; (2) accept the bid for the transaction submitted by the newly-chartered American Bank, Houston, Texas; (3) approve a resulting application of American Bank, Houston, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in the closed bank; (4) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (5) appoint a liquidator for such of the assets of the closed bank as were not purchased by American Bank.

The Board reconvened the meeting at 8:35 p.m. to (1) accept sealed bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Livingston State Bank, Livingston, New Jersey, which was

V 44 OC 1 18 79 UMI

closed by the Commissioner of Banking of the State of New Jersey as of the close of business at 8:00 p.m. (EDT) on October 12, 1979; (2) accept the bid for the transaction submitted by Fidelity Union Trust Company, Newark, New Jersey, a State bank member of the Federal Reserve System; (3) provide such financial assistance, pursuant to section 13(e) of the Federal Deposit Insurance Act (12 U.S.C. 1823(e)), as was necessary to effect the purchase and assumption transaction; and (4) appoint a liquidator for such of the assets of the closed bank as were not purchased by Fidelity Union Trust Company.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Mr. Paul M. Homan, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; and that the meeting could be closed to public observation, pursuant to subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii)), since the public interest did not require consideration of the matters in a meeting open to public observation.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2034-79 Filed 10-16-79; 11:32 am]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, October 15, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding rental of storage space for the New York Regional Office.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2035-79 Filed 10-16-79; 11:32 am]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, October 15, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Issac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the liquidation of assets acquired by the Corporation from Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico (Case No. 44,092-L).

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(9)(B) and (c)(10)).

Dated: October 15, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2036-79 Filed 10-16-79; 11:32 am]

BILLING CODE 6714-01-M

7

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Tuesday, October 23, 1979, at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This hearing will be open to the public.

MATTERS TO BE CONSIDERED: Hearing on the proposed regulations for funding of Federal candidate debates (11 CFR Parts 100, 110, and 114).

DATE AND TIME: Tuesday, October 23, 1979, following hearing on candidate debates.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance and Personnel.

DATE AND TIME: Thursday, October 25, 1979, at 10:00 a.m.

PLACE: 1325 K Street, N.W., Washington, D.C.

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates for future meetings.
Correction and approval of minutes.
Advisory Opinions:
Draft AO 1979-52—Jeffery M. Koopersmith, Director, Committee to Elect Ed Howard.
Draft AO 1979-53—Phyllis M. Sanders, Treasurer, Ownership Campaign.
Draft AO 1979-45—Robert Moore, Executive Director National Republican Senatorial Committee.
1980 elections and related matters.
consultant's report on audit process (continued).
Ernst & Whinney Consultant's Report on Statistical Sampling.
Appropriations and budget.
Pending legislaton.
Classification actions.
Routine administrative matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2041-79 Filed 10-16-79; 3:41 pm]

BILLING CODE 6715-01-M

8

[USITC SE-79-40]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, November 1, 1979.

PLACE: Room 117, 701 E Street, N.W., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Pump-top insulated containers (Inv. 337-TA-59)—briefing (in the morning session) and vote (at 2:00 p.m.).
6. Titanium dioxide from Belgium, France, the United Kingdom, and the Federal Republic of Germany (Inv. AA1921 -206, -207, -208, and -209)—briefing (in the morning session) and vote (at 2:00 p.m.).
7. Copper rod (Inv. 337-TA-52)—briefing (in the morning session) and vote (at 2:00 p.m.).
8. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523-0161.

[S-2038-79 Filed 10-16-79; 1:52 pm]

BILLING Code 7020-02-M

9

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be published.

STATUS: Closed Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C. 0**PREVIOUSLY ANNOUNCED DATE:** Wednesday October 10, 1979.

CHANGES IN THE MEETING: Rescheduling.

The following items scheduled for consideration at a closed meeting on Tuesday, October 16, 1979, immediately following the 10:00 a.m. open meeting has been rescheduled for Tuesday, October 23, 1979, at 10 a.m.:

Institution of administrative proceeding of an enforcement nature.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above Change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: John Ketels at (202) 272-2568.

October 16, 1979.

[S-2040-79 Filed 10-16-79; 3:33 pm]

BILLING CODE 8010-01-M

V 44 OC 18 79 UMI

V 44 OC 18 79 UMI

federal register

Thursday
October 18, 1979

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Permanent Regulatory Program; Petitions To Amend Sediment Control Performance Standards and the Regulations Governing Approved State Programs

V 4 4 0 C 1 8 7 9 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Chapter VII

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; Petition To Amend Sediment Control Performance Standards

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior, Washington, D.C. 20240.

ACTION: Consideration of petition to amend 30 CFR Chapter VII, Subchapter K, concerning Performance Standards.

SUMMARY: OSM seeks public comment on whether to grant a petition for certain amendments to regulations found in 30 CFR Subchapter K concerning sediment control in surface mining and reclamation operations. If OSM grants the petition, rulemaking will be initiated to consider appropriate amendments to OSM's regulations.

DATES: Comments must be received by November 19, 1979, at the address below by not later than 5:00 p.m. A public hearing will be held on October 30, 1979, and can be extended to October 31, 1979, if necessary. Representatives of OSM will be available to meet with interested persons upon request between October 18, 1979 and November 19, 1979.

ADDRESSES: Written comments must be mailed or hand delivered to Office of Surface Mining, U.S. Department of the Interior, Room 135, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240. The public hearing will be held in the Department of the Interior Auditorium, 18th and C Streets, N.W., Washington, D.C. 20240. Persons wishing to testify at the hearing should contact the person listed below under "For further information contact". Summaries of meetings with representatives of OSM will be prepared and made available for public review in Room 135 of the Interior South Building.

FOR FURTHER INFORMATION CONTACT: Jose R. del Rio, Civil Engineer, Division of Technical Services, Office of Surface Mining, U.S. Department of the Interior, Interior South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343–4022.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM issued permanent program regulations which include sediment control performance standards in Subchapter K (44 FR 15398, 15400–15401, 15424–15425, and 15426–15428). A petition of September 21, 1979, to amend Subchapter K has been submitted to OSM by the Joint National Coal Association/American Mining Congress (NCA/AMC) Committee on Surface Mining Regulations (a copy of this petition is at Appendix A hereto). The petition seeks to amend certain requirements for sediment control performance standards set forth in 30 CFR Subchapter K. It contends that 30 CFR 816.42(a)(7), 817.42(a)(7), 816.46, and 817.46 should be repealed and reconsidered primarily upon the basis of two new studies done by the engineering firms Skelly and Loy and D'Appolonia. The petition says that the studies show that the effluent limitations imposed on total suspended solids cannot be met during substantial rainstorm events, if the mine operator utilize a sediment pond designed according to OSM's design criteria at 30 CFR 816.46 and 817.46.[1]

OSM notes that the matters covered in the instant petition are related to the U.S. Environmental Protection Agency (EPA) regulations (40 CFR 434) covering the coal industry under the National Pollutant Discharge Elimination System (NPDES) of the Clean Water Act, 33 U.S.C. 1251 *et seq.* On April 26, 1977, EPA promulgated final regulations establishing effluent limitation guidelines based on best practicable control technology currently available (BPT) for existing sources in the coal mining point source category 42 FR 21380. On January 12, 1979, EPA promulgated standards of performance for new sources (NSPS) within the coal mining category based on the best available demonstrated control technology. 44 FR 2586. Both sets of EPA regulations on numerical effluent limitations for discharges of total suspended solids are similar to those promulgated by OSM at 30 CFR 816.42(a)(7) and 817.42(a)(7).

After having previously revised its catastrophic rainfall exemption for the BPT regulations to conform to the corresponding provision in its NSPS regulations, EPA revised the exemption provision for both the BPT and NSPS rules on July 6, 1979. 44 FR 39391–39392. At that time EPA solicited public comment on what type of final revised rainfall exemption should be adopted at 40 CFR 434. Following the publication of the Skelly and Loy and D'Appolonia reports described above, EPA supplemented its request for comments to include consideration of those reports. 44 FR 47595 (August 14, 1979). On September 25, 1979, EPA extended this public comment period from a deadline of October 1, 1979, to October 19, 1979. 44 FR 55223.

OSM plans to consult with EPA on what actions EPA will take in response to the public comments submitted to EPA, when OSM itself begins review of materials submitted to it in response to the NCA/AMC petition.

Public comment on the NCA/AMC petition may consider the entire OSM administrative record relevant to the question of regulation of sedimentation from coal mining including, but not limited to, the technical and other materials identified in the preamble to 30 CFR 816.41–816.42, 817.41–817.42, 816.45–816.46, 817.45–817.46, the Environmental Impact Statement, the Regulatory Analysis, the petition and its accompanying material, all material referenced by EPA in its **Federal Register** Notice, and comments submitted to EPA by the October 19, 1979 deadline.

OSM hereby requests that comments specifically address the following issues:

1. Whether the EPA and OSM effluent limits for total suspended solids should be revised, and, if so, what alternatives should be considered.

2. Whether OSM's design criteria for sediment ponds should be revised and, if so, what alternatives should be considered.

3. Whether there are relevant differences in the requirements of the Clean Water Act and Surface Mining Control and Reclamation Act that justify the establishment of different regulations for sediment control between EPA and OSM.

In response to the comments, OSM may decide to propose revision to its permanent program regulations. It may also decide to propose revision to its regulations covering sediment control under the initial regulatory program, 30 CFR 715.17 and 717.17. OSM reserves the right to make appropriate modifications of its rules during the public-comment period.

OSM seeks public comment as to whether this petition should be granted in whole or in part. Publication of this petition for public consideration and comment should in no way be construed to affect the effectiveness or enforceability of the existing regulations in Subchapter K.

Public Hearing

Individual testimony at the hearing will be limited to 15 minutes. The hearing will be transcribed. Filing of a written statement at the time of giving oral testimony would be helpful and facilitate the job of the court reporter. Submission of written statements to the person identified under "For further information contact," in advance of the hearing date whenever possible, would greatly assist OSM officials who will attend the hearing. Advance submissions will give these officials an opportunity to consider appropriate questions which could be asked to clarify or elicit more specific information from the person testifying. The administrative record will remain open for receipt of additional written comments until November 19, 1979.

Persons in the audience who have not been scheduled to speak and wish to do so will be heard after the scheduled speakers. Persons not scheduled to testify, but wishing to do so, assume the risk of having the public hearing adjourned if they are not present when all scheduled speakers conclude.

The hearing shall be from 9:00 a.m. to noon and from 1:00 p.m. to 4:15 p.m.

Public Meetings

Representatives of OSM will be available to meet between October 18, 1979 and November 19, 1979 at the request of members of the public, State representatives, industry officials, labor representatives, and environmental organizations, to receive their advice and recommendations concerning the content of the proposed regulations.

Persons wishing to meet the representatives of OSM during this time period may request to meet with OSM officials at the Washington office. OSM will be available for such meetings from 9:00 a.m. to noon and 1:00 p.m. to 4 p.m., local time, Monday through Friday, excluding holidays, at this location. Summaries of meetings will be prepared and made available for public review in Room 135 of the Interior South Building.

Public Comment Period

The comment period on the petition will extend until November 19, 1979. All written comments must be received at the OSM Headquarters, Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240, by 5:00 p.m., November 19, 1979. Comments received after that hour will not be considered or included in the administrative record on this petition.

OSM cannot ensure that written comments received at or delivered to any location other than specified above will be considered and included in the administrative record on this petition.

Availability of Copies

Copies of the petition published here as Appendix A, and copies of 30 CFR Chapter VII Subchapter K, are available for inspection and may be obtained at the following offices:

OSM Headquarters, Department of the Interior, South Building, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343–4728.
OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, W. Va. 25301; (304) 342–8125.
OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, Tenn. 37902; (615) 637–8060.
OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, Ind. 46204; (317) 331–2609.
OSM Region IV, 818 Grant Avenue, Scarritt Building, 5th Floor, Kansas City, Mo. 64106; (816) 758–2193.
OSM Region V, Post Office Building, 1823 Stout Street, Denver, Colo. 80202; (303) 837–5511.

Copies of materials in the administrative record (except comments submitted to EPA) are available at OSM's Headquarters office. Comments submitted to EPA are available at EPA's office at 401 M Street, S.W., Washington, D.C. 20460; (202) 426–2726.

Dated: October 15, 1979.

Walter N. Heine,

Director, Office of Surface Mining Reclamation and Enforcement.

Appendix A—Petition of NCA/AMC Committee on Surface Mining Regulations

The purpose of this letter is to petition the Director of OSM, pursuant to Section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1211(g), to immediately suspend certain hydrologic balance provisions of the permanent program regulations, and to initiate a proceeding for repeal of those regulations. The National Coal Association and the American Mining Congress ("NCA/AMC"), on behalf of themselves and their member companies, hereby petition for suspension and repeal of the effluent limitations for total suspended solids (TSS) in §§ 816.42(a)(7) and 817.42(a)(7), and the design criteria in §§ 816.46 and 817.46 of the permanent program regulations.

As grounds for the Petition, NCA/AMC state that new technical studies conclusively establish that sedimentation ponds built to OSM design criteria cannot meet the effluent limitations for TSS established by the regulations, and cannot be constructed economically or safely in many parts of the country. NCA/AMC hereby petition for an immediate suspension of these regulations in light of the new technical studies, and request the Director to initiate a proceeding to repeal the effluent limitations and design criteria for sedimentation ponds within 90 days.

Section 201(g) of the Act provides that any person may petition the Director of OSM to initiate a proceeding for the repeal of regulations promulgated pursuant to Section 501 of the Act. The Secretary's implementing regulations further provide at 40 CFR 700.12 that a petition shall contain

a concise statement of facts, technical justification, and law which require . . . repeal of a regulation under the Act and shall indicate whether the petitioner desires a public hearing.

The facts, technical justification, and legal basis for NCA/AMC's petition for repeal are set forth below. NCA/AMC request that notice of its petition be published in the **Federal Register**, that public comments be received, and that a public hearing be held on its petition as provided in § 700.12. The petition must be acted upon within 90 days. In the interim the regulations should be suspended.

Background

NCA/AMC have a grave concern that the hydrologic balance regulations lack a sound policy and legal basis, are economically and practically infeasible, and are environmentally unsound. This petition focuses on only two areas of concern. NCA/AMC have maintained from the time the regulations were proposed that the TSS effluent limitations applicable to the entire area disturbed by mining and reclamation operations could not be met by sedimentation ponds built to OSM design criteria. NCA/AMC also stated in its comments on the proposed regulations that effluent limitations were developed for normal conditions and were never intended to be applied during rainfall. NCA/AMC's comments were either ignored by OSM, or prompted changes which only served to compound the technical problems of the regulations. The technical inadequacies of the regulations have also been set forth in the complaint in *National Coal Association and American Mining Congress* v. *Environmental Protection Agency*, Civ. Action No. 79–2406, a copy of which is attached hereto as Exhibit A.

New Facts and Technical Justification for Repeal of Regulations

EPA has authorized two specific new studies to "assess the feasibility of the current storm provisions in light of the BPT and NSPS requirements governing discharges of total suspended solids (TSS)." 44 FR at 39392 (July 6, 1979). The new studies were commissioned to determine whether effluent limitations could be met by sedimentation ponds during any rainfall event. On August 14, 1979, EPA published a notice that it had received and was making available to the public these new technical reports. 44 FR 47595.

These reports, which NCA/AMC have reviewed, conclusively demonstrate that OSM's effluent limitations cannot be met, even by ponds built specifically to OSM criteria. The first significant study was prepared by Skelly and Loy Consulting Engineers entitled "Evaluation of Performance Capability of Surface Mine Sediment Basins." A copy of this report is attached as Exhibit B. The purpose of the study was to determine the ability of "surface mine sedimentation basins to meet the current effluent limitations for suspended solids." Report at p. iii. The Skelly and Loy report concludes that all sedimentation ponds

[1] The present OSM regulations require that an operator achieve effluent limitations for total suspended solids under 30 CFR 816.42(a)(7) and 817.42(a)(7), unless the operator satisfies the demonstration required by 30 CFR 816.42(b) and 817.42(b).

studied "were unable to meet the maximum 24-hour TSS limitations during the five-year and ten-year, 24-hour precipitation events." Report at p. 4. The best effluent limitations that could be met by any pond during the design rainfall event was 400 mg/1, and the majority of the ponds discharged effluent above 2,000 mg/1 during 5-year and 10-year storms.[2] Report at p. 24.

The Skelly and Loy report assessed the sediment removal efficiency of 11 ponds at 6 Appalachian coal mines during the hypothetical occurrence of five-year and ten-year, 24-hour storms. All ponds were designed in accordance with design criteria established by OSM. Report at p. 3. Skelly and Loy used computer modeling techniques to evaluate the performance of these representative sediment ponds. A number of assumptions incorporated in the computer model favored the result that ponds could meet effluent limitations. For example, a hypothetical pond location was postulated as close to the disturbed area as possible as a counterpart to each actual location. The ponds were actually located downstream from the mining site where construction was not restricted by severe topographic constraints.

It was also assumed that drainage from above the mining area was diverted around the ponds. The computer model used a "plug-flow" concept that assumed no mixing between plugs and an outflow on a first-in, first-out basis. The ponds were assumed to have no dead storage area, and to exhibit no short circuiting. It was also assumed that the ponds were new or recently cleaned of sediment and thus the full sediment storage volume was available. In other words, "the results represent the pond's performance at its peak sediment removal efficiency." Report at p. 17.

Despite the bias of the model, the results indicated that "none of the sediment ponds (including the hypothetical locations) meets the daily maximum effluent limitations for suspended solids, 70 mg/1" during the five-year and ten-year, 24-hour precipitation events. In fact, the data demonstrated that suspended sediment in the influent was frequently in the 125,000 mg/l to 165,000 mg/l range. No pond met an effluent limitation better than 400 mg/l. The results were orders of magnitude away from the 70/35 TSS effluent limitations imposed by the OSM regulations, and are a dramatic demonstration that ponds cannot meet the effluent limitations during rainfall.

The second major study was prepared by D'Appolonia Consulting Engineers entitled "Evaluation of Sedimentation Pond Design Relative To Capacity and Effluent Discharge." A copy of the report is attached as Exhibit C. The purpose of the D'Appolonia study was "to assess the impact of multiple storm occurrences on the (OSM) design requirements for sedimentation ponds for surface mine facilities." Report at p. 1. Three representative surface mines in northern and southern Appalachian regions were studied. The study evaluated whether the cost to design ponds which would treat sedimentation from a number of small storms would be greater than the cost to design for a 10-year storm for which effluent limitations do not have to be met.

The D'Appolonia study concluded that "[w]hen overflow occurs from a multiple storm event . . . the effluent limitations will not be met." Report at p. 9. The report noted that increasing pond size to retain runoff from multiple storm events is not the solution. As pond size is increased, "large incremental cost increases are anticipated for decreasing increments of protection." The report concluded further:

Without regulations which recognize the probability of extreme events in terms of numerical values, there is no event for which the probability is zero so that a penalty would always be levied for multiple storm events even if a 10-year storm does not occur. This makes interpretation of a design criteria difficult or impractical. (*Id.*)

This study highlights the fact that a series of small storms, the entire runoff from which must be contained in an OSM pond, presents difficulties even greater than those created by a 10-year storm.

These studies demonstrate beyond doubt that the OSM effluent limitations are unsound. They also demonstrate that the OSM design criteria for sedimentation ponds will not achieve the effluent limitations and are technically unsupportable. In addition, NCA/AMC has initiated certain studies to evaluate these reports and their application to the OSM regulations. NCA/AMC intends to submit these studies during the comment period as a supplement to its petition.

Discussion of Legal Authority

There is a long line of authority that establishes that an agency should reconsider its regulations in light of newly discovered evidence. The line of cases begins with *Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375 (D.C. Cir. 1973), where the court stated:

In order that rulemaking proceedings to determine standards be conducted in orderly fashion, . . . information that is material to the subject at hand should be disclosed as it becomes available, and comments received, even though subsequent to issuance of the rule—with court authorization where necessary. (486 F. 2d at 394).

The Court of Appeals for the District of Columbia Circuit remanded regulations to an agency with directions to consider amending them in light of new studies in *Environmental Defense Fund, Inc.* v. *Castle*, —— F. 2d ——, 11 ERC 1209, 1215 (D.C. Cir. 1978). Plaintiffs challenged EPA's interim regulations controlling contaminates in drinking water. A new study came to light that brought the Agency's original support for its regulations into question. The court enjoined and remanded the regulations with a direction to EPA to reconsider them

and to advise the court of its determinations—as of the time of the report—as to whether it plans to propose amended interim regulations in light of newly acquired data. (11 ERC at 1215.)

The District Court for the District of Columbia followed these cases during the challenge to OSM's interim program regulations when the court remanded the valley and head-of-hollow fill regulations with instructions to reconsider them in light of a new Skelley and Loy report. *In Re Surface Mining Regulation Litigation*, 456 F. Supp. 1301, 1131 (D.D.C. 1978).

Thus, there is ample legal support for NCA/AMC's request that the hydrology regulations be repealed and reconsidered in light of the new Skelly and Loy and D'Appolonia studies.

Request for Relief

For the foregoing reasons, NCA/AMC request that §§ 816.42(a)(7), 817.42(a)(7), 816.46, and 817.46 be immediately suspended. The regulations should be suspended pending full reconsideration because new evidence clearly demonstrates their technical unsoundness. NCA/AMC request that their petition for repeal be noticed in the **Federal Register** so that public comments may be received and a public hearing held within the statutory 90-day period. On or before the 90th day following receipt of their petition, NCA/AMC request that the regulations be repealed and a rulemaking commenced to develop technically sound and achievable regulations.

[FR Doc. 79-32176 Filed 10-17-79; 8:45 am]

BILLING CODE 4310-05-M

[2]The report follows an earlier Skelly and Loy study prepared for the Buffalo Mining Company entitled "Comparative Analysis of Sediment Pond Design Requirements—Current Practice Versus Federal Interim Regulations" (January 18, 1978). The Comparative Analysis establishes that construction of a sedimentation pond to OSM design requirements at a mine site located in Logan County, West Virginia would be "physically impossible." An excavated type pond would have to be approximately 2,500 feet long, 300 feet wide and 13 feet deep; would result in the disturbance of 77 acres and the "permanent and irreparable alteration of the landscape"; and would cost $18 million. An embankment type pond would have to be 246 feet high; would require more than 5,700,000 cubic yards of material; and would cost $5.7 million.

---

30 CFR Chapter VII

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Petition to Amend 30 CFR Part 732.17 Concerning Procedures, Time Schedules and Criteria for an Alteration or Amendment of an Approved State Program.

SUMMARY: OSM seeks public comment on a petition for certain amendments to regulations found in 30 CFR Part 732.17 relating to the procedures, time schedules and criteria for an alteration or amendment of an approved State program. The petition proposes regulation changes that would allow OSM Regional Directors to approve within 60 days State programs amendments in response to any changes in provisions of the Surface Mining Act or any of OSM's regulations.

DATES: Comments must be received by November 19, 1979 at the address below by no later than 5 p.m.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044; or be hand delivered to: Office of Surface Mining, Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director for State and Federal Programs, Office of Surface Mining, U.S. Department of the Interior, Washington, D.C. 20240, (202) 343-4225.

SUPPLEMENTARY INFORMATION: On March 13, 1979, OSM published final rules setting forth procedures and criteria for approval or disapproval of State program submissions (44 FR 15326). A petition to amend Part 732.17 has been submitted to OSM by Ed Herschler personally and as Governor on behalf of the State of Wyoming. A copy of this petition is appended to this notice as Appendix A. The petition published herein seeks to amend procedures, time schedules and criteria for alteration or amendment of an approved State program set forth in 30 CFR Section 732.17.

The basic position of the petitioner is that existing procedures for amending State programs focus on changes in the Act or regulations which result in more stringent Federal requirements but do not address changes which make the Act or regulations less stringent. When this type of change is contemplated the petitioner believes that the current procedure and time schedule are burdensome, the criteria for approval are of little relevancy, and the authority for approving such changes should rest with the Regional Director. The petitioner states that the present regulations are contrary to the recognition of State primacy in implementing the surface mining reclamation and control program and specifically argues that present regulations violate Section 505(a) of the Surface Mining Control and Reclamation Act of 1977. The petitioner proposes amending § 732.17(g) to address the concerns cited. OSM seeks public comment as to whether the changes requested in this petition should be granted in whole or part.

Public Comment Period

The comment period on the petition will extend until November 19, 1979. All written comments must be received at the addresses given above by 5 p.m. on November 19, 1979. Comments received after that hour will not be considered or included in the administrative record on this petition. The Office cannot insure that written comments received or delivered during the comment period to any other locations than specified above will be considered and included in the administrative record on this petition.

Availability of Copies

In addition to its publication here as Appendix A, copies of the petition and copies of 30 CFR Part 732.17 are available for inspection and may be obtained at the following offices:

OSM Headquarters, Department of the Interior, South Building Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; (202) 343-4728.
OSM Region I, First Floor, Thomas Hill Building, 950 Kanawha Boulevard, East Charleston, WV 25301; (304) 432-8125.
OSM Region II, 530 Gay Street, S.W., Suite 500, Knoxville, TN 37902; (615) 637-8060.
OSM Region III, Federal Building and U.S. Courthouse, 46 East Ohio Street, Indianapolis, IN 46204; (317) 269-2609.
OSM Region IV, 818 Grand Avenue, Scarritt Building, 5th Floor Kansas City, MO 64106; 913-758-2193.
OSM Region V, Post Office Building, 1823 Stout Street, Denver, CO 80202; (303) 837-5511.

Dated: October 11, 1979.

Walter N. Heine,

Director, Office of Surface Mining.

Appendix A—U.S. Department of the Interior Office of Surface Mining Reclamation and Enforcement

Ed Herschler Personally and on Behalf of the State of Wyoming, Petitioner. Petition To Initiate Rulemaking

Petition

Pursuant to the provisions of 201(g) of the Surface Mining Control and Reclamation Act of 1977 (hereinafter, the Act), 30 U.S.C. Sec. 1201 *et. seq.*, (Supp. 1978) and the requirements of 30 CFR Sec. 700.12, I, Ed Herschler, personally and on behalf of the State of Wyoming, petition the Director of the Office of Surface Mining Reclamation and Enforcement to initiate a proceeding for the amendment of regulations found at 30 CFR Sec. 732.17 related to the procedures, time schedules and criteria for an alteration or "amendment" of an approved State program. This petition summarizes the object of the proposed rulemaking proceeding and provides a reasonable basis on facts and law for amendment of the regulation.

The Proposed Amendment

The proposed amendment would provide in subsection 732.17(g) that if or when any provision of the Act or any regulation promulgated pursuant thereto is repealed or amended, declared invalid or set aside, the Regional Director shall be authorized to approve or disapprove any proposed State program amendment containing analogous changes to State laws or regulations.

(i) The decision shall be made after notice of the proposed amendment is published in the **Federal Register**, all interested persons are provided an opportunity to participate through submission of written comments, and the Regional Director has considered the relevant matter presented. The decision by the Regional Director constitutes the final decision by the Department.

(ii) The criteria for the decision shall be shether the amended State program demonstrates a State law and regulations in accordance with and consistent with the Act and, if necessary, the regulations, as they are written at the time of the decision.

(iii) The Regional Director shall either approve or disapprove the State program amendment within 60 days from the date of its submission and publish that decision and reasons for the decision in the **Federal Register**. The amended State program becomes effective on the date of the publication approving the State program amendment.

Reasons Why This Petition Should Be Granted

1. Congress declared that a primary purpose of the Act was to "establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations." Sec. 102(a). The purpose of this nationwide program is to provide for effective and reasonable regulation of surface coal mining operations through a cooperative effort between the States and the Federal Government. Sec. 101(e) and (k).

2. Even though the Act establishes a Federal-State cooperative regulatory effort, it looks to the States to take the lead as the primary governmental entity responsible for implementing the national program. Sec. 101(f). This primacy is obtained through the submission and approval of a State program which demonstrates the State's capability of carrying out the provisions of the Act and meeting its purposes. This demonstration includes the requirements for a State law that is in accordance with the requirements of the Act and State rules and regulations consistent with the regulations issued by the Secretary pursuant to the Act. Sec. 503(a).

3. Even though the Act provides no specific authority for State program amendments, OSM's regulations include a provision addressing actual changes in the approved State program submissions which may affect implementation, administration or enforcement of that program. See 44 FR 14967 (March 13, 1979). This resulted in 30 CFR 732.17 describing State program amendments and the procedures for their approval.

4. Section 732.17 provides that amendments are available so that an approved State program may be adjusted to meet changes in the Act or regulations. However, by the terms of the section and OSM's explanation in the **Register**, it is clear that the section only contemplates changes in the Act or regulations which result in more stringent federal requirements. If this occurs, an approved State program may no longer be adequate. This petition does not address this

V 44 0 C 18 7 9 UMI

occurrence. Rather, it addresses changes which make the Act or regulations less stringent.

5. By the terms of the Section, the procedures, time schedule and criteria for the State program amendment are the same as that for approval of the initial State program submittal. 30 CFR 732.17(f)(2).

6. The procedure and time schedule for a decision on a State program submittal are burdensome. It entails a two-month period for notice and hearing on the completeness of the submittal; a one-month opportunity to make a revised submittal; a three-month period for notice, hearing and substantive review of the contents of the submittal; and a four-month period for notice, hearing and substantive review of any resubmittal. See 30 CFR 732.11, 732.12, and 732.13. With the exception of the completeness determination procedures, this is also the required procedure for State program amendments.

7. The criteria for a decision on the State program are also applicable to State program amendments. However, this has little relevancy to any proposal for changes in State laws or regulations in response to Congress or court-caused deletions of requirements in the Federal law. Section 732.15 by rule establishes nineteen factors for consideration in approving the submittal. This is in contrast to the one criteria proposed by this petition and envisioned by the Act as sufficient for the decision. See Section 503(a).

8. The State program amendment section makes it clear that, with regard to changes in State program authority, an amendment is always required. 30 CFR 732.17(d). This requirement is specifically set out in § 732.17(g), a new section that was not published as proposed rules. The subsection was first published in the Final Environmental Statement (OSM-EIS-1) as part of the preferred alternative final rules in January 1979. I submitted comments on the final EIS to the Secretary on February 15, 1979. None of the comments addressed the issue raised in this petition. Furthermore, from OSM's summary of the comments received on the EIS and the fact that the section was not changed between the release of the EIS and promulgation of the final rules, it appears that the issue which this petition raises has not been considered by the Secretary or the Office.

9. The rules which this petition proposes are necessary. Subsection 732.17(g) provides that any changes to the approved State program are not enforceable by the State until also approved by the Office as part of the state program. Due to the cumbersome procedures and unnecessarily long timetable, Wyoming's legislative and administrative bodies are unjustifiably foreclosed from making rapid changes in the State's laws and regulations in response to changes in the Federal laws or regulations. This is contrary to the spirit of a nationwide program for the reasonable and effective regulation of surface coal mining operations. This is also contrary to the spirit of the Act's recognition of State primacy in implementing the program. However, more importantly, this is contrary to Section 505(a) of the Act which states, "No State law or regulation . . . which may become effective [after the date of enactment of this Act] shall be superseded by any provision of this Act or any regulation issued pursuant thereto, except insofar as such State law or regulation is inconsistent with the provisions of this Act."

10. Since taking office as Governor of the State of Wyoming I have fought to make Wyoming's environmental quality program the finest in the nation. This program is fully adequate to protect, preserve and enhance the air, land and water resources of the State. I brought my efforts and experience to the national level when I supported federal surface mining legislation which clearly recognized the role of a strong and independent State regulatory authority. From the time of the Act's passage until not I have pursued State primacy over surface coal mining on both Federal and non-Federal lands, including submittal of a State program and a request to continue regulating on Federal lands. Both the Attorney General for the State of Wyoming and I believe that the submittal and request are sufficient to obtain State primacy under the Act. This primacy should not be undercut by procedural burdens and obstacles that restrict a State response to changes initiated on the national level.

11. The amendment proposed by this petition is timely in light of the extensive litigation which is occurring on both the interim and final programs set out in the Act and regulations. In addition, S.B. 1403 brings reality to the issue of amendments to the Surface Mining Act.

12. The amendment proposed by this petition is reasonable. The lesser procedural safeguards which allow for quick implementation by the State of national changes are not of such a nature that the described review may adversely affect the health or safety of the public or cause significant environmental harm to land, air or water resources.

Dated this 19th day of September 1979.

Respectfully submitted,
Ed Herschler,
On behalf of the State of Wyoming.

[FR Doc. 79-32203 Filed 10-17-79; 8:45 am]
BILLING CODE 4310-05-M

V 44 0 C 18 79 UMI

federal register

Thursday
October 18, 1979

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

State Permanent Regulatory Program Submissions; Procedures for Approval or Disapproval

V 4 4 0 C 1 8 7 9 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 732

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), U.S. Department of the Interior.

ACTION: Proposed rule.

SUMMARY: OSM proposes amending § 732.12(a)(1) of the final permanent regulatory program regulations as published in the **Federal Register** on March 13, 1979 (44 FR 15323), relating to procedures for approval or disapproval of State permanent regulatory program submissions by the Secretary of the Department of the Interior. The proposed action is to amend § 732.12(a)(1) of Subchapter C, Title VII to delete the requirement to publish the complete text of the State statutes and regulations in the **Federal Register** along with notice announcing the beginning of the public comment period on the substance of the program submission. The action would also require both OSM and the State agency responsible for the program submission to make copies of the complete text of the statutes and regulations available at reasonable cost.

DATES: A public hearing on the proposed amendment will be held on November 21, 1979, at 9:30 a.m. Comments must be received at the address below on or before November 21, 1979, by no later than 5 p.m.

ADDRESS: Written comments must be mailed or hand delivered to: Office of Surface Mining, U.S. Department of the Interior, Administrative Record, Room 135, 1951 Constitution Avenue NW., Washington, DC 20240.

HEARING LOCATION: Department of the Interior Auditorium, 18th and C Street NW., Washington, DC

All comments will be available for review at: Office of Surface Mining, U.S. Department of the Interior, South Bldg., Room 135, 1951 Constitution Avenue NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Carl C. Close, Assistant Director, State and Federal Programs, Office of Surface Mining, 1951 Constitution Avenue NW., Washington, DC 20240, 202–343–4225.

SUPPLEMENTARY INFORMATION: OSM's final permanent regulations (44 FR 15323 *et seq.*, March 13, 1979), require OSM to publish the complete text of State statutes and regulations in the **Federal Register** at the time of publication of a notice announcing a public hearing on a State's proposed program for regulation of surface coal mining and reclamation operations. The requirement for publishing the complete text is in § 732.12(a)(1).

OSM's reason for requiring publication of the full text of proposed State statutes and regulations was to facilitate effective public involvement in the review process. It was thought that such publication would ensure widespread availability to the public of the State statutes and regulations which would form the basis of a proposed State program.

Since the promulgation of the final regulations, OSM has become aware of the overwhelming burden that such a requirement would put on the Government Printing Office (GPO). OSM has also become concerned over the high cost of such publication in comparison to the expected benefits and the misleading effect of publishing proposed State statutes and regulations which may change substantially during State program review.

OSM projects that a complete text of statutes and regulations would amount to 150 or more **Federal Register** pages for each of 25 to 30 State program submissions. OSM's present regulations would require printing the complete text for each State during a short time period. Preparation and actual printing for each State within such short time frame would severely burden both OSM and GPO and may be impossible to accomplish.

In addition, OSM believes that full text publication may lead to confusion in the permanent program. If a State's program is initially disapproved and subsequently revised, the full text of different versions of the provision would be published in the **Federal Register** at different times in the approval process. This might lead to confusion about which publication contained the definitive version of the programs by which the industry and public will be bound after approval.

The amendment being proposed today will allow OSM to accomplish wide dissemination of the complete text of State statutes and regulations without unnecessary expense or confusion to the public. With the amendment OSM proposes to make copies of the State statutes and regulations available to the public, at the reasonable cost, to the fullest extent possible for each State submission. The reasonable cost, which OSM expects to be $10 for most States, is not likely to preclude acquisition by any interested person or group. If $10 is too much for any would-be analyst of the program, he or she can examine these materials at no cost at various State or Federal offices set forth in § 732.12(a)(1).

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 13, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared.

Statement of authorship: The primary author of this document was James Fulton, State Programs Division, Office of Surface Mining.

§ 732.12 [Amended]

Proposed rule: It is proposed that the last sentence of § 732.12(a)(1) would be amended as follows: In addition, the notice in the **Federal Register** shall indicate that copies of the complete text of the State's statutes and regulations are available at reasonable cost at the regional office, at OSM's Washington, D.C. Office and at the central office and each field office of the State agency responsible for the submission.

Dated: October 11, 1979.

Joan M. Davenport,

Assistant Secretary for Energy and Minerals.

[FR Doc. 79-32183 Filed 10-17-79; 8:45 am]

BILLIN CODE 4310-05-M

V
4
4

0
C

1
8

7
9
UMI

register

federal

Thursday
October 18, 1979

Part IV

Department of Energy

Economic Regulatory Administration

Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978; Proposed Voluntary Guideline and Public Hearings

V 4 4 0 C 1 8 7 9 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-46]

Voluntary Guideline for Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978; Proposed Guideline and Public Hearings

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed voluntary guideline and public hearings.

SUMMARY: On June 20, 1979, the President directed the Department of Energy (DOE) to develop and publish within 120 days a voluntary guideline, applying specifically to solar energy and renewable resources, for the ratemaking and other regulatory policy standards established under Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA). Appendix A to this Notice contains the proposed vuluntary guideline for solar energy and renewable resources. Written comments will be received and two public hearings will be held with respect to the proposed guideline.

DATES: Comments by December 10, 1979. Requests to speak by November 15, 1979, 4:30 p.m. Hearing dates: Washington, D.C. hearing—December 4, 1979, 9:30 a.m.; Kansas City, Missouri hearing—November 29, 1979, 9:30 a.m.

ADDRESSES: All comments addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-79-46, 2000 M Street, NW., Room 2313, Washington, D.C. 20461. Requests to speak addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-79-46, 2000 M Street, NW., Room 2313, Washington, D.C. 20461, telephone (202) 254-5201. Hearing locations: Washington, D.C. hearing: 2000 M Street, NW., Room 2105, Washington, D.C. 20461; Kansas City, Missouri hearing: 601 East 12th Street, Room 140, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Dr. Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Adminstration, Department of Energy, 2000 M Street, NW., Room 4016D, Washington, D.C. 20461, telephone (202) 254-8209. William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, telephone (202) 634-2170. Mary Ann Masterson, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, NW., Room 3228, Washington, D.C. 20461, telephone (202) 376-9469.

SUPPLEMENTARY INFORMATION:

I. Background

On June 20, 1979, the President directed DOE to develop and publish within 120 days a voluntary guideline, applying specifically to solar energy and renewable resources, for the 11 standards established in the Public Utility Regulatory Policies Act of 1978 (PURPA), Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*). The 11 standards, specified in detail by sections 111(d) and 113(b) of PURPA, are summarized as follows:

(1) *Cost-of-Service Standard:* Rates to each class of consumers shall be designed to the maximum extent practicable to reflect the costs of providing service to that class;

(2) *Declining Block Rates Standard:* Declining block energy charges that are not cost-based shall be eliminated;

(3) *Time-of-Day Rates Standard:* Time-of-day rates shall be established, if cost-effective, where costs vary by time of day;

(4) *Seasonal Rates Standard:* Seasonal rates shall be established where costs vary by season;

(5) *Interruptible Rates Standard:* Interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers;

(6) *Load Management Techniques Standard:* Load management techniques shall be offered to consumers where practicable, cost-effective, reliable and useful to the utility for energy or capacity management;

(7) *Master Metering Standard:* Master metering shall be prohibited or restricted for new buildings to the extent necessary to carry out the purposes of Title I of PURPA;

(8) *Automatic Adjustment Clauses Standard:* Automatic adjustment clauses shall not be allowed unless they provide efficiency incentives and are reviewed in a timely manner;

(9) *Consumer Information Standard:* All consumers shall receive a clear and concise explanation of applicable and proposed rate schedules, and annual consumption, upon request;

(10) *Procedures for Termination of Service Standard:* Service shall not be terminated except pursuant to certain enumerated procedures; and

(11) *Advertising Standard:* Political or promotional advertising shall not be charged to ratepayers.

PURPA requires each State regulatory authority, with respect to each utility for which it has ratemaking authority and certain nonregulated electric utilities, to consider the standards within the time frames, procedures and other requirements established by PURPA and to make a specific determination with respect to the implementation or adoption of each standard.

Section 131 of PURPA gives the Secretary of Energy the authority to prescribe voluntary guidelines respecting consideration of the standards. Congress intended that, in formulating these guidelines, the Secretary utilize a procedure involving significant input from concerned persons.

On August 20, 1979, DOE issued a Notice of Intent (44 FR 49998, August 24, 1979) setting forth, among other things, its intentions with respect to the exercise of its authority under PURPA to promulgate voluntary guidelines for the standards. On August 24, 1979, DOE issued a Notice of Inquiry (44 FR 50635, August 29, 1979) to solicit public comments for consideration by DOE in developing a guideline for applying the PURPA standards to solar energy and renewable resources. DOE received and considered 33 written comments in response to the Notice of Inquiry. These comments, DOE's response to them, and the proposed guideline are discussed below.

II. Discussion of Comments and DOE's Response.

The following is a discussion of comments received and DOE's response to these comments. The discussion is organized according to the general areas of concern expressed by the commenters.

A. Definition of Solar Energy and Renewable Resources

The majority of the commenters agreed with DOE's definition of solar energy and renewable resources. A number of them felt, however, that (1) "biomass" might be loosely interpreted to include oil, gas and coal; (2) energy stored in the atmosphere, wave action and ocean currents which appeared to be excluded from the definition should be included; and/or (3) solar energy and renewable resource were not synonomous.

DOE did not intend to have biomass interpreted to include oil, natural gas and coal. The expanse of time needed to regenerate these resources is significant and not comparable to that required for wood and other traditional biomass types. Therefore, oil, natural gas and coal are not considered renewable in the DOE's sense of the definition. DOE considers energy stored in the atmosphere to be included within the meaning of the proposed definition.

DOE agrees that solar energy and renewable resources are not synonomous. In the proposed guideline, DOE has decided to use the terms "solar energy and renewable resources" to make it clear that the guideline includes both concepts. Furthermore, DOE has restricted the definition to dispersed (on-site) technologies for which solar energy and renewable resource systems provide only a portion of end-use requirements, the remainder being provided through retail purchases of utility generated electricity.

B. Factors To Consider in Cost-of-Service Determination

The majority of commenters felt that the factors considered in the determination of cost of service for customers using solar energy and renewable resource systems should be consistent with the factors considered in cost-of-service determination for other customer classes (basically energy, customer and demand-related costs.) DOE agrees that in determining cost of service, solar energy and renewable resource customers should not be treated differently than other customers. However, the proposed guideline does not identify precise factors to be considered for cost-of-service considerations but addresses more general cost-of-service issues.

C. Treatment of Solar Energy and Renewable Resources as a Separate Tariff Class

Many commenters agreed that if solar energy and renewable resource customers impose costs and demands similar to others in an existing class, then a separate tariff class is not warranted. However, several commenters made the observation that if rates are structured on a time-differentiated basis, there is no need for a separate tariff class. A few commenters insisted that solar energy and renewable resource customers be placed on a separate tariff.

DOE agrees that a separate tariff class for solar energy and renewable resources may be justified under certain circumstances and has structured the guideline accordingly.

D. Factors To Consider in Assessment of Impact of Time-of-Day, Seasonal, Interruptible and Declining Block Rates on Solar Energy and Renewable Resource Customers

Commenters provided both general and specific factors they felt should be considered in assessing the impact of alternative rate designs on solar energy and renewable resources. These factors ranged from customer load shapes and storage capacity to meteorological conditions.

DOE agrees with many of the factors presented by various commenters. However, in most cases the factors raised by commenters were generally applicable and were not specifically related to solar energy and renewable resource systems. In this guideline DOE chose to emphasize the relationship between various rate designs and the use of solar energy and renewable resource systems. For this reason the factors which would be generally applicable in making a PURPA determination on a rate design are not addressed here.

E. Factors To Consider in Assessing Use of Solar Energy and Renewable Resources as Load Management Devices

Commenters suggested several factors which should be considered in assessing the usefulness of solar energy and renewable resources as load management devices.

DOE agrees with some of the factors provided by the commenters and has included them in the guideline. Other factors suggested by commenters were determined to be generally applicable to assessing load management capability, and not specifically related to solar energy and renewable resources. Therefore, these factors are not addressed in this guideline. In the guideline DOE has suggested that a solar energy and renewable resource system, suitably configured, may provide load management benefits consistent with the definition of "load management techniques" in Title I of PURPA. However, DOE cautions that not all solar energy and renewable resource systems can provide useful load management advantages. Whether solar energy and renewable resource systems can act as load management devices should be determined on a case basis.

F. Factors To Consider in Assessing Impact of Master Metering on Solar Energy and Renewable Resources

Some commenters felt that the cost-benefit assessment of master metering in multi-unit dwellings would be the same with solar energy and renewable resource systems as it would without these systems. Others felt that master metering is necessary if energy conservation is to accrue from the use of solar energy and renewable resource devices in multi-unit dwellings.

The proposed guidelines suggests that the master metering standard be evaluated in terms of its benefits and costs with respect to the use of solar energy and renewable resource systems in multi-unit dwellings.

G. Other Comments

Two commenters asserted that DOE lacks authority to issue a guideline applying the 11 PURPA standards to solar energy and renewable resources for the following reasons: (1) A solar energy and renewable resource guideline goes beyond the scope of section 131 of PURPA; (2) the Presidential directive lacks the specificity necessary for the development of a meaningful guideline; and (3) Title I of PURPA does not cover the issue of utility purchase of excess energy from solar energy or renewable resource systems.

Section 131 of PURPA provides that voluntary guidelines prescribed by the Secretary "may not expand the scope or legal effect" of the PURPA standards or establish additional standards. It is DOE's opinion that the proposed guideline does not expand the scope or legal effect of the PURPA standards; neither does the guideline establish additional standards for solar energy and renewable resource systems. The proposed guideline addresses the 11 PURPA standards in the specific context of solar energy and renewable resource use. It does not advocate that solar energy and renewable resource systems be accorded special treatment outside the scope of the PURPA provisions relating to the standards. It is DOE's opinion that the proposed guideline carries out the intent of the Presidential directive, that is, to provide guidance for consideration of the PURPA standards with particular reference to solar energy and renewable resources.

Finally, it should be noted that the proposed guideline does not cover utility purchase of excess energy from solar and renewable resource systems. Section 210 of PURPA and applicable rules promulgated by the Federal Energy Regulatory Commission govern such situations for qualifying cogeneration and small power production facilities.

Several commenters urged DOE to issue general guidelines which provide the flexibility necessary to deal with a relatively new resource system and which give adequate attention to unique, geographic, utility system and energy system characteristics. DOE recognizes this concern and believes that the proposed guideline is general in nature and ensures sufficient flexibility.

V 44 0C 18 79 UMI

III. PURPA Guideline for Solar Energy and Renewable Resources

Appendix A to this Notice contains the proposed guideline. This guideline is intended to provide assistance to State regulatory authorities and nonregulated electric utilities in their consideration of the PURPA standards with respect to the use of solar energy and renewable resources by utility customers.

The guideline sets forth DOE's opinion regarding consideration of the PURPA standards by discussing (1) issues which are pertinent to consideration of the standards with respect to solar energy and renewable resources, and (2) particular factors which should be considered in addressing the issues and making the PURPA determinations. DOE intends to supplement this guideline, as necessary, with technical information manuals and other resource materials which address specific analytical issues that may arise in the consideration of these standards as they affect the introduction and use of solar energy and renewable resource technologies.

The proposed guideline is advisory and contains DOE's opinion on the relationship between consideration of the 11 PURPA standards and the use of solar energy and renewable resources by utility customers. In the proposed guideline, DOE's concern is focused substantively on the following: (1) That utility regulatory and ratemaking policy neither favor nor penalize use of alternative sources of energy by customers, and (2) that consideration of the PURPA standards further the three purposes of Title I of PURPA (that is, conservation of energy supplied by utilities, optimization of the efficient use of facilities and resources by utilities, and equitable rates to consumers).

Following is a brief summary of the proposed guideline for each of the PURPA standards:

Cost of Service. DOE proposes that marginal costing procedures be used in determining cost of service. It is DOE's opinion that marginal cost pricing is consistent with the PURPA goals of efficient use of facilities and resources and conservation of energy. In addition, marginal cost pricing is necessary if rates are, in an economic sense, to be nondiscriminatory and therefore equitable for all customers including solar energy and renewable resource customers.

Rate Design Standards: Declining Block, Time-of-Day, Seasonal and Interruptible. The proposed guideline advocates the development of rate structures which reflect marginal costs to the maximum extent practicable. Depending upon circumstances unique to a utility, these rate structures may include time-of-day rates (where cost-effective), seasonal rates, and interruptible rates.

Load Management Techniques: It is DOE's opinion that, within the context of section 115(c) of PURPA, solar energy and renewable resource systems, suitably configured, may provide load management benefits. Depending on the type of solar energy or renewable resource system used, particularly its storage capacity, a solar energy or renewable resource system may reduce maximum kilowatt demand on the utility. The proposed guideline emphasizes the importance of this effect when a State regulatory authority or nonregulated utility is assessing alternative load management options.

Master Metering. Cost-effective use of solar energy and renewable resource systems in some facilities may not be possible with separate metering, at least for centralized heating and cooling systems. In system instances, master metering in combination with solar energy and renewable resource systems may be appropriate. The proposed guideline recommends that the benefits of and costs associated with the installation of individual meters be carefully weighed against the benefits and costs of master metering combined with solar energy and renewable resource systems.

Automatic Adjustment Clauses. Section 115(e)(1)(A) of PURPA requires that fuel adjustment clauses provide incentives for efficient use of resources, including incentives for economical purchase and use of fuel and electric energy, by a utility. The proposed guideline emphasizes the potential of solar energy and renewable resources as alternatives to the purchase of conventional fuels and sources of power.

Information to Consumers. The proposed guideline points out the importance of consumer knowledge of rate schedules, particularly those pertaining to solar energy and renewable resource customers as a separate class.

Procedures for Termination of Electric Service. Since specific attention to solar energy and renewable resource systems is not necessary when considering this standard, no guideline is proposed.

Advertising. The proposed guideline emphasizes the postive implications of the Residential Conservation Service Program established under the National Energy Conservation Policy Act of 1978 (NECPA), Pub. L. 95–619, 92 Stat. 3206 *et seq.*, for the utilization of solar energy and renewable resource devices by utility customers.

IV. Written Comments and Public Hearing Procedures.

A. Written Comments

The public is invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views or agruments with respect to the proposals set forth in Appendix A to this Notice. Comments should be submitted by 4:30 p.m., e.s.t., December 3, 1979, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside of the envelope and on documents submitted with the designation: "Proposed Voluntary Guideline for Solar Energy and Renewable Resources, Docket No. ERA–R–79–46." Five copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, GA–152, James Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, and the ERA Office of Public Information, Room B–110, 2000 M Street, NW., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy and 15 copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearings

(1) Procedures for request to make oral presentation. The times and places for the hearings are indicated in the "DATES" and "ADDRESSES" sections of this Notice. Any person who has an interest in this proposed guideline or represents a person, group or class of persons that has an interest, may make a written request for an opportunity to speak at the public hearings. Requests to speak must be sent to the address shown in the "ADDRESSES" section and be received by November 15, 1979. The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified on or before November 20, 1979, for the Washington, D.C. and Kansas City, Missouri hearings. Speakers should submit 100 copies of their hearing testimony for distribution at the Washington, D.C. hearing by 4:30 p.m. on December 3, 1979, to the Office of Public Hearings Management, U.S. Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461, and bring 100 copies of their hearing testimony to the Kansas City, Missouri hearing at 8:30 a.m. on November 29, 1979.

(2) Conduct of the hearing. ERA reserves the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. ERA may limit the length of each presentation, based on the number of persons requesting to be heard. ERA encourages groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the group.

ERA will designate officials to preside at the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if time permits, to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked at a hearing should be submitted, in writing, to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer.

The presiding officer will announce any further procedural rules needed for the proper conduct of the hearings.

ERA will have transcripts made of the hearings and will retain the entire record of the hearings, including the transcript. The record will be available for inspection at the DOE Freedom of Information Office, Room GA–152, James Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585 and the ERA Office of Public Information, Room B–110, 2000 M Street, NW, Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. A copy of the transcript may be purchased from the reporter.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); National Energy Conservation Policy Act of 1978, Pub. L. 95–619, 92 Stat. 3206 *et seq.*; Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7101 *et seq.*))

Issued in Washington, D.C. on October 12, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

Appendix A—PURPA Guideline No. 1: Solar Energy and Renewable Resources

A. Introduction

The guideline identifies the implications of each of the ratemaking and regulatory policy standards, established by Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA), for the introduction and use of solar energy and renewable resoures within an electric utility's service area. The guideline sets forth the issues and factors the Department of Energy (DOE) considers pertinent to consideration of the PURPA standards as they apply specifically to solar energy and renewable resources. In particular, it addresses the effect that adoption of these standards might have on the utilization of solar energy and renewable resources by utility customers.

B. Coverage of the Guideline

The guideline covers the 11 ratemaking and regulatory policy standards established in PURPA. The guideline does not in any way modify or condition the rules and regulations which have been promulgated by the Federal Energy Regulatory Commission (FERC) under section 133 of PURPA for cost-of-service information or which will be promulgated by the FERC under section 210 of PURPA for small power producers and cogenerators. DOE's Economic Regulatory Administration (ERA) has in the past submitted its opinions on cost-of-service and "buy-back" rates to the FERC and may continue to submit its opinions on section 210 rules in the future. Consequently, this guideline covers neither the sale of electric energy to qualifying facilities nor the purchase of energy from such facilities if the sale and purchase are subject to the provisions of section 210 and any rules promulgated pursuant thereto.

C. Definitions

As used in this guideline, except as otherwise specifically provided—

"Solar energy and renewable resources" means energy received from the sun directly in the form of radiant energy, including photovoltaics, and energy received from the sun indirectly in the form of stored radiant energy in biomass (i.e., wood, vegetation and organic solid wastes), the atmosphere, heated surface waters, the potential and kinetic energy of water elevated via the hydrological cycle, and the kinetic energy of the wind. The term is further restricted to dispersed (on-site) technologies for which solar energy and renewable resource systems provide only a portion of end-use requirements, the remainder being provided through retail purchases of utility generated electricity.

"Class" means, with respect to electric consumers, any group or such consumers who have similar characteristics of electric energy use.

"Electric consumer" means any person, State agency or Federal agency, to which electric energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency, which sells electric energy.

"Federal agency" means an executive agency (as defined in section 105 of Title 5 of the United States Code).

"Load management technique" means any technique (other than a time-of-day or seasonal rate) to reduce the maximum kilowatt demand on the electric utility, including ripple or radio control mechanisms, and other types of interruptible electric service, energy storage devices, and load-limiting devices.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"Person" means an individual, partnership, corporation, unincorporated association or any other group organization or entity.

"Rate" means (a) any price, rate, charge, or classification made, demanded, observed, or received with respect to sale of electric energy by an electric utility to an electric consumer, (b) any rule, regulation, or practice respecting any such rate, charge, or classification, and (c) any contract pertaining to the sale of electric energy to an electric consumer.

"Ratemaking authority" means authority to fix, modify, approve, or disapprove rates.

"Rate schedule" means the designation of the rates which an electric utility charges for electric energy.

"Secretary" means the Secretary of Energy.

"State" means and State, the District of Columbia, and Puerto Rico.

"State agency" means a State, political Subdivision thereof, and any agency or instrumentality of either.

"State regulated electric utility" means any electric utility with respect to which a State regulatory authority has ratemaking authority.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

D. Table of Contents

1. Cost-of-Service Standard.
2. Rate Design Standards: Declining Block, Time-of-Day, Seasonal, and Interruptible.
3. Load Management Technique Standard.
4. Master Metering Standard.
5. Automatic Adjustment Clauses Standard.
6. Termination-of-Service Standard.
7. Information to Consumers Standard.
8. Advertising Standard.

E. Cost-of-Service Standard

Under section 111(d)(1) of PURPA, the following is established as a Federal standard: rates charged by any electric utility for providing electric service to each class of electric consumers shall be designed, to the maximum extent practicable, to reflect the costs of providing electric service to such class. In addition, section 115(a) of PURPA requires that when a State regulatory authority or nonregulated utility prescribes methods for undertaking cost-of-service studies, it should take into account the extent to which total costs to an electric utility are likely to change if additional capacity is added to meet peak demand relative to base demand and additional kilowatt-hours of electric energy are delivered to electric consumers.

1. Costing procedures. Marginal costing procedures, rather than embedded costing procedures, should be used in determining cost of service for the following reasons:

a. Although Title I of PURPA does not specifically mention marginal costs (nor does it specifically mention accounting methods or embedded costs), DOE interprets section 115(a) as establishing marginal costing principles and requiring that these be taken into account in considering the cost-of-service standard.

b. Marginal costing procedures are more likely to be consistent with the PURPA objectives of coefficient use of facilities and resources and energy conservation than embedded costing procedures. In an economy where resources, and in particular fossil fuels, are scarce, the production of a good or service must be justified by the satisfaction individuals obtain from the consumption of that good or service. Scarce resources should be used to produce a good, only if consumers are willing to pay a price for it which equals or exceeds the value of the resources needed to produce it. If consumers are not willing to pay such a price, scarce resources should not be used to produce that good but should instead be used to produce other goods for which consumers are willing to pay a price equal to the value of the resources used in production.

In order for scarce fuels to be used efficiently, consumers of electricity should face a price which reflects to the maximum extent practicable the real resource cost of producing one more or one less kilowatt-hour or kilowatt. When confronted with such a price consumers can more accurately determine whether they want additional scarce resources to be used to produce more electricity or whether they would prefer that those resources be used to produce other goods. Under average cost pricing consumers' decisions to purchase or not to purchase an additional unit of electricity are frequently not based on adequate information about real resource costs. As a consequence, in any rating period more (if average costs are less than marginal costs) or less (if average costs are more than marginal costs) electricity is consumed than consumers would be willing to pay for if prices reflected marginal costs. As a consequence, scarce resources are not used in that rating period in a manner which will best satisfy consumers' needs.

c. In an economic sense, nondiscriminatory or equitable treatment of both users and nonusers of solar energy and renewable resource systems is more likely to occur if electricity rates for both are based on marginal costs than if rates for both are based on embedded costs. To the extent practicable, marginal costing procedures will result in equal treatment for all customers who impose the same costs (for a kilowatt-hour or a kilowatt of demand) on an electric utility. Customers who impose different levels of cost (for a kilowatt-hour or a kilowatt of demand) will be treated differently but only to the degree indicated by differences in the costs they impose on the utility.

With respect to solar energy and renewable resource systems, rates that reflect marginal cost of service will encourage use of these systems commensurate with the costs of the resources needed to build and operate them, and the costs of alternate approaches to meeting the nation's energy needs. Economic discrimination, whether favorable or unfavorable to solar energy and renewable resource systems, does not occur under marginal cost pricing.

Energy Savings. Solar energy and renewable resource systems will reduce the amount of electric energy consumed by conventional electric end-use devices which they displace in whole or in part. As a consequence, scarce fossil fuels will be conserved. The potential impact of solar energy and renewable resource technologies on customers' demand for electric energy need not, however, delay construction of new nuclear or coal capacity, which would replace existing oil and gas baseload capacity. Replacement of oil and gas baseload capacity should still occur to the extent economically justified.

To determine the savings in scarce fossil fuels that may accrue to the electric utility as a consequence of the use and introduction of solar energy and renewable resource systems, the following should be considered:

a. Local meteorological conditions—how they affect the operation of solar energy and renewable resource systems and thus the utility's load curves;

b. Timing of a utility's peak demand;

c. Storage capacity of solar energy and renewable resource systems;

d. Extent of solar penetration;

e. Reliability of solar energy and renewable resource systems;

f. Utility fuel mix as a function of load range; and

g. Characteristics of the solar energy and renewable resource system load.

F. Rate Design Standards: Declining Block, Time-of-Day, Seasonal, and Interruptible

Section 111(d) (2) through (5) of PURPA establishes Federal standards with respect to declining block rates, time-of-day rates, seasonal rates, and interruptible rates. These standards provide that declining block energy charges that are not cost-based shall be eliminated; time-of-day rates shall be established, if cost-effective, where rates vary by time-of-day; seasonal rates shall be established where costs vary by season; and interruptible rates based on the costs of providing interruptible service shall be offered to commercial and industrial customers.

1. Nondiscriminatory rates. Whether time-of-day, seasonal, interruptible, and declining block rates are discriminatory in an economic sense depends on whether and how well they track marginal costs. Rates that do not reflect marginal costs to the maximum extent practicable are likely to be discriminatory in an economic sense, whereas, rates that do reflect marginal costs to the maximum extent practicable are likely to be nondiscriminatory in an economic sense.

Two consequences may result from the economic discrimination brought about by rates which do not reflect marginal costs. On the one hand, levels of investment in solar energy and renewable resource systems may be lower and, consequently, savings of oil and gas may be smaller than would result with marginal cost-based rates. That is, fewer customers may invest in solar energy and renewable resource systems and those that do may build systems with smaller energy displacement capability, smaller storage capacity, and more limited control capability for the operation of storage systems than they would under marginal cost-based rates. On the other hand, if rates economically discriminate in favor of solar energy and renewable resource customers, more customers may invest in solar energy and renewable resource systems and may build larger systems than would with marginal cost-based rates. In this situation, many of those who do not invest in solar energy and renewable resource systems will pay higher bills and subsidize the consumption of electricity by those who do invest in these systems.

2. Time-of-day and seasonal rates. When time-of-day and seasonal rates are based on marginal costs, a customer is provided with an incentive to shift consumption from times of high marginal cost (peak period) to times of low marginal cost (offpeak period). Solar energy and renewable resource systems permit a customer to maintain consumption during the peak period and yet avoid the high costs of electical energy. Inclusion of chargeable storage capability in these systems will permit further displacement of onpeak electric consumption (if meteorological conditions affect functioning) and may permit displacement of offpeak consumption.

As provided for in section 115 of PURPA, time-of-day rates are determined to be cost-effective if the long-run benefits to the electric utility and its electric customers are likely to exceed metering and other associated costs. Where metering costs for time-of-day rates are not justified by the benefits, seasonal rates which track marginal costs may be an appropriate alternative. Such rates do not require the installation of meters and may permit nondiscriminatory treatment, in an economic sense, of customers.

3. Interruptible rates. Interruptible rates and-or offpeak storage rates which are based on marginal costs may also be effective rate designs for solar energy and renewable resource systems. These rates provide incentives for solar energy and renewable resource investments and provide a means of limiting the effect high levels of market penetration by these systems may have on utility peak demand. In comparison with other rate designs, interruptible rates may produce lower electric bills for solar energy and renewable resource customers. In addition, they can assure peak period capacity savings from these customers.

4. Revenue related rate adjustments. With rate-of-return regulation, it may not be possible to set prices equal to marginal costs without exceeding or falling short of a utility's allowed revenue level. Under these circumstances adjustments to marginal cost-based rates may be required. These adjustments should be made in a manner which minimizes any losses in the efficient use of resources and facilities. DOE recognizes that the adjustments to be made in any instance will also be influenced by equity considerations; however, the adjustments should be reviewed in terms of their discriminatory consequences, for or against, solar energy and renewable resouce customers.

5. Customer class. For ratemaking purposes, a separate class or classes for solar energy and renewable resource customers should be established if the load curves of and costs to serve these customers vary significantly from the load curves and costs to serve customers in the existing rate class of which solar customers would be a part. In general, the creation of a separate tariff class or modification of an existing one for application to customers using solar energy and renewable resource systems should satisfy the following conditions:

a. The costs of serving the solar group load pattern differs substantially from those imposed by the existing customer classes;

b. There is no reasonably available method of reflecting these cost differences within the existing classes;

c. The solar group is discretely identifiable; and

d. The costs of administration (including separate billing or special metering equipment) are not excessive.

Consistent with these criteria, a separate customer class may be established if solar energy and renewable resource systems possess special characteristics which offer unique opportunities in rate design to promote their use as load management devices. Rates offered to customers in this class should reflect marginal costs of service.

6. Fuel adjustment clauses. To the maximum extent practicable, the fuel cost surcharge imposed under a fuel adjustment clause should be time differentiated on a marginal cost basis. A nontime differentiated surcharge raises offpeak electricity rates proportionately more than onpeak electricity rates. As a consequence, the incorporation of chargeable storage capacity in solar energy and renewable resource systems is discouraged.

G. Load Management Techniques Standard

Under section 111(d)(6) of PURPA, electric utilities are required to offer to customers load management techniques which a State regulatory authority or nonregulated electric utility determines are practicable, cost-effective, reliable, and will provide useful energy or capacity management advantages. A load management technique is cost-effective if it is likely to reduce maximum kilowatt demand and the long-run cost savings to the utility of such reduction are likely to exceed the long-run costs to the utility associated with implementation.

With chargeable storage capacity, solar energy and renewable resource systems may provide substantial load management benefits within the definition provided in section 3(8) of PURPA. Utilities should be encouraged to provide information about the load management implications of solar energy and renewable resource systems. In addition, when a utility is assessing alternative load management options, solar energy and renewable resource systems should be considered in that assessment.

Any evaluation of the load management potential of solar energy and renewable resource systems should address the following:

1. Effect on utility load curve, i.e., predictability of solar energy and renewable resource customer demand;
2. Utility fuel mix by load type;
3. Costs associated with load management potential of solar energy and renewable resource systems;
4. Interface with other load management techniques;
5. Levels of penetration necessary to produce a beneficial impact; and
6. Utility system reliability.

H. Master Metering Standard

Section 115(d) of PURPA requires separate metering for any new building

V 44 0 C 1 8 7 9 UMI

if there is more than one unit in the building, the occupant controls a portion of the electric energy used in his unit, and with respect to such portion of electric energy, the long-run benefits to the electric consumers in the building exceed the costs of purchasing and installing separate meters in the building.

In requiring that the master metering standard be considered, Congress sought to encourage conservation of energy. Separate metering of individual units provides consumers with information about the direct costs of their consumption and improves their ability to determine how they would like scarce resources to be used. In making determinations on the master metering standard Congress intended that State utility regulatory authorities and nonregulated utilities be guided not only by potential energy savings but also by the cost of purchasing and installing individual meters. Under section 115(d)(3) of PURPA, separate metering for any new building is appropriate if the long-run benefits of the meters exceed the costs of purchase and installation.

However, cost-effective use of solar energy and renewable resource options in some facilities may not be possible with separate metering, at least for centralized heating and cooling systems. In such instances, master metering in combination with solar energy and renewable resource systems may be appropriate. Such a combination might produce greater conservation of energy and scarce fossil fuels than would separate metering without solar energy and renewable resource systems. To address this possibility the following should be included in the consideration of this standard:

1. Scarce fossil fuel savings with master metering and separate metering;
2. The life expectancy of the building;
3. The most likely heating and cooling system alternatives and their characteristics; and
4. The possibility of separate metering for a portion of total electric consumption.

I. Automatic Adjustment Clauses Standard

As specified in sections 113(b)(2) and 115(e) of PURPA, automatic adjustment clauses may not be allowed unless they provide incentives to utilities for economic purchase and use of fuel and electric energy. It must be determined, in an evidentiary hearing at least once every 4 years, that an automatic adjustment clause provides such incentives. In addition, at least every 2 years, the clause must be reviewed to insure maximum economies in those operations and purchases which affect the rates to which the clause applies.

Although the standard is primarily procedural in nature, the intent of Congress was to encourage the efficient use of resources and the economical purchase of fuel and electric energy by an electric utility. Consistent with this intent is a consideration by electric utilities of centralized (nondispersed) solar energy and renewable resource technologies as nonconventional means to generate electricity. Prior demonstration that these technologies were evaluated for their usefulness to the electric utility in conserving scarce fossil fuels should be made a condition of approval of an automatic adjustment clause.

In considering solar energy and renewable resource technologies as nonconventional sources for the generation of electricity, a utility should give specific attention to the following:

1. Alternative possible technologies such as:
   a. Biomass;
   b. Solar thermal;
   c. Wind;
   d. Low head hydro; and
   e. Photovoltaics.
2. Potential savings in scarce fossil fuel.
3. Alternative means of implementation.

J. Information to Consumers Standard

Section 113(b)(3) of PURPA establishes the information to consumers standard which requires each electric utility to transmit information regarding rate schedules to each of its electric consumers in accordance with the requirements of section 115(f) of PURPA.

Under this standard an electric utility should be required to provide information to customers about the implications of its rate structure for the use of solar energy and renewable resource systems. Possible cost savings a customer with these systems may experience under the utility's rate structure should be identified. In addition, any provision that would allow a solar energy or renewable resource customer to take advantage of a special rate structure or require that he be placed on such a rate structure should be explained.

K. Procedures for Termination of Electric Service Standard

Section 113(b)(4) of PURPA establishes the termination of service standard which requires that electric utilities may not terminate electric service to any electric consumer except pursuant to procedures described in section 115(g). Section 115(g) specifies that no electric service to an electric consumer may be terminated without reasonable prior notice. Also, under certain circumstances, electric service may not be terminated during any period when termination of service to an electric consumer would be especially dangerous to health.

Specific attention to solar energy and renewable resource technologies is not necessary when considering this standard.

L. Advertising Standard

Section 113(b)(5) (for electric) of PURPA established the advertising standard which requires that an electric utility may not recover from any person other than the shareholders (or other owners) of such utility any direct or indirect expenditure by such utility for promotional or political advertising. Among those advertising expenses identified in PURPA as appropriate for inclusion in electricity bills are advertising which informs electric consumers how they can conserve energy or reduce peak demand for electric energy, and advertising which promotes the use of energy efficient appliances, equipment or services.

In considering this standard specific attention should be given to the implications for solar energy and renewable resources of the Residential Conservation Service Program established by the National Energy Conservation Policy Act of 1978. This program, which is mandatory for all utilities whose annual retail sales of electricity exceed 750 million kilowatt-hours, requires that covered utilities provide certain types of information about suggested residential energy conservation and renewable resource measures to all residential customers. The suggested measures may include solar domestic hot water systems, active solar space heating systems, combined active solar space heating and solar domestic hot water system and passive solar space heating and cooling systems, depending on the service territory and the customer's residential building type.

The information provided to consumers must include the following:

1. A list of the suggested measures;
2. A reasonable estimate of the savings in energy costs which are likely to result from installation of each suggested measure in a typical residence;
3. An offer by the utility to assist the residential customer by arranging for a loan or by arranging for the installation of suggested measures;
4. The offer of a list of contractors, suppliers and lenders who provide services in the utility's service territory and meet certain minimum requirements.

[FR Doc. 79-32233 Filed 10-17-79; 8:45 am]
BILLING CODE 6450-01-M

V 4 4 0 C 1 8 7 9 UMI

federal register

Thursday
October 18, 1979

Part V

Department of Health, Education, and Welfare

Human Development Services Office

Administration for Children, Youth, and Families; Revisions to Part II, OHDS Grants Administration Manual

V 4 4 O C 1 8 7 9 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

Administration for Children, Youth, and Families; Revisions to Part II, OHDS Grants Administration Manual

AGENCY: Office of Human Development Services, DHEW.

ACTION: Notice and Request for Comments.

SUMMARY: The Office of Human Development Services (OHDS) announces revisions to Part II of its Grants Administration Manual dealing with programs administered by the Administration for Children, Youth and Families.

DATE: Comments must be received by November 19, 1979.

ADDRESS: In order to be considered, comments must be addressed to: James Robinson, Director, Head Start Bureau Administration for Children, Youth and Families, 400 6th Street, S.W., Washington, DC. 20201.

FOR FURTHER INFORMATION CONTACT: Howard Ledder (202) 245-2897.

SUPPLEMENTARY INFORMATION: Section 517(d) of the "Headstart, Economic Opportunity, and Community Partnership Act of 1974," as amended, requires publication of all guidelines and instructions in the Federal Register to allow Head Start grantees to comment on their provisions prior to the time they become effective. The following revision to Part II of the OHDS Grants Administration Manual is published here to comply with that requirement of the statute.

The revision includes: a. Guidance which distinguishes policies and procedures applicable to a Head Start program (as defined in 45 CFR Part 1301.2) from other activities conducted by grantees administering a Head Start program;

b. Guidance related to the matching requirements for Head Start programs, including the criteria and procedures under which the percentage of Federal financial participation may be increased;

c. Guidance related to delegation of program operations under a Head Start program; and,

d. Guidance related to limitations on costs of development and administration of a Head Start program, including definitions of such costs, method of computation and submission of requests for waiver of the limitation.

(Catalog of Federal Domestic Assistance Nmber 13.600—Administration for Children, Youth and Families—Head Start)

Dated: October 12, 1979.

Herschel Saucier,

Acting Commissioner for Children, Youth and Families.

Approved: October 15, 1979.

Arabella Martinez,

Assistant Secretary for Human Development Services.

Part II—Administration for Children, Youth and Families

Subpart A—Children, Youth and Families—Head Start

Administration for Children, Youth and Families

The policies, procedures and guidelines set forth in this Part apply to grants awarded by the Administration for Children, Youth and Families (ACYF). The Part is further divided into subparts which relate to the individual programs funded by ACYF. These directives relate to specific requirements and provisions included in the various ACYF program regulations or statutes. Therefore, they either supplement or deviate from and take precedence over the administrative policies, procedures and guidelines included in Part I of this Manual. Where an administrative matter is not discussed in the applicable program subpart, the policies contained in Part I shall apply. Therefore, ACYF grantees should be cognizant of both Part I and the applicable ACYF program subpart to have a complete understanding of administrative requirements.

Chapter 1—Application, Review, Award and Amendment of Grants

A. Application Procedures

1. Submission of Applications

a. New and Supplemental Grants

Applications for grants to support new projects may be submitted at any time but generally should be submitted in response to a program announcement published in the **Federal Register.** Applicatons for supplements to existing projects may be submitted at any time.

b. Continuation Grants

Applicaton forms and instructions for grants to continue project support beyond the intitial budget period will be provided to grantees at least six months prior to the beginning date of the next budget period. Applications must be submitted by the grantee at least 90 days prior to the start of the new budget period.

B. Eligibility

1. Head Start Program Grants

Any local public or prviate nonprofit agency is eligible for designation (initial funding) as a Head Start Agency and may apply for funds to provide comprehensive child development services. However, priority will be given to an agency which was receiving funds to operate a Head Start program on January 4, 1975.

2. Other Grant Activities

The eligibility provisions of Chapter 1, Part I of the HDS Grants Administration Manual shall apply to agencies and organizations who may wish to apply for grants to support training and technical assistance or research, demonstration or pilot projects.

C. Project Period System

1. Head Start Programs

Grants to support comprehensive child development services and training and technical assistance by a Head Start agency are awarded for budget periods which are generally twelve (12) months. Ongoing support after the initial funding period is provided in annual non-competitive grants for an indefinite project period. Continuation grants will be awarded based on an approved application which includes a budget for the expenditure of project funds.

2. Other Activities

Training and technical assistance grants awarded to agencies or organizations other than a Head Start agency, and research, demonstration or pilot projects grants, including those to Head Start agencies, are supported for project periods which may be one or more years. The Notice of Grant Awarded will specify the period for which support is intended.

Chapter 2—Cost Sharing, Matching and Payments

A. Matching Requirements for Head Start Programs

1. General Discussion

In accordance with the provisions of 45 CFR Part 1301.20, Federal financial assistance for a Head Start program shall not exceed 80 percent of the approved costs of the project. Specific provisions regarding composition of the non-Federal share, valuation of contributions, and record requirements are included in the "Cost Sharing, Matching and Payment" section of Chapter 2, Part I, of this Manual.

2. Increase in the Federal Share (1301.21)

The Federal share of financial assistance to support a Head Start program may be increased on the basis of a written application, including any supporting evidence, that the Head Start agency has made a reasonable effort to meet its non-Federal share requirement and has been unable to do so, *and* the Head Start agency is located in a county that has a personal per capita income of less than $3,000 per year or that has been involved in a major disaster of such severity that the Head Start program cannot be continued without an increase in the Federal share. Supporting evidence may include copies of correspondence between the Head Start agency and the usual providers of non-Federal share which would otherwise provide cash, space, equipment or services.

An application to have the Federal share increased above 80 percent based on a county income of less than $3,000 per capita shall state:

—The annual per capita personal income of the county as evidenced by an appropriate Federal, State or local government source of income data;

—That because of the level of the annual per capita income of the county the Head Start agency is unable to meet the 20 percent non-Federal share;

—The amount of the non-Federal share the Head Start agency is able to provide; and,

—That a reasonable effort to provide more non-Federal share has been unsuccessful.

An application based upon county annual per capita personal income shall be submitted at the same time as the application for funding or refunding and shall be with respect to the same budget period as the application. Approval shall be only for such budget period.

An application to have the Federal share increased above 80 percent based on the involvement of the county in a major disaster shall state:

—That because of the major disaster the Head Start agency is unable to meet the 20 percent non-Federal share;

—The amount of the non-Federal share the Head Start agency is able to provide; and,

—That a reasonable effort to provide more non-Federal share has been unsuccessful.

An application based on the involvement of the county in a major disaster may be submitted within a reasonable time (generally, 3 months) after the major disaster and shall be for the remainder of the current budget period and all or part of the subsequent budget period if any.

Any application for an increase in the Federal share must include the written concurrence of the Head Start Policy Council, and, where appropriate, the Head Start Policy Committee.

When a Head Start program serves two or more counties, and only one or some of the counties served are eligible for an increase in the Federal share, the Head Start agency may apply for an increase only with respect to those approved costs which relate to the services provided in the eligible counties.

Approval of a request for an increase in the Federal share will be based on a decision by the official who is authorized to award the grant that the community served by the Head Start program has a per capita income of less than $3,000 per year or has been involved in a major disaster and that the community is unable to provide more non-Federal share. The decision to approve or disapprove the request shall be furnished to the applicant in writing and shall include the reasons on which it is based.

The result of an approval to increase the percentage of Federal financial participation will generally be a reduction in the total cost of the program.

3. Allowable Costs

Costs allowable as non-Federal share contributions to Head Start programs are limited to those costs specified in Part I, Chapter 2, of this Manual. Head Start agencies may not use an excess of non-Federal contributions to other Federally assisted projects as matching contributions to Head Start programs.

B. Matching Requirements for Other Activities

Training and technical assistance grants and demonstration and pilot projects are not subject to matching requirements. Research grants are subject to the requirements of Part I, Chapter 2, of this Manual.

Chapter 3—Financial and Administrative Requirements

A. Audits

1. General Discussion

In accordance with the provisions of 45 CFR Part 1301.12, each Head Start grantee shall perform, or cause to have performed, an annual audit of the Head Start program to determine (1) whether the agencies' financial statements are accurate; (2) whether the grantee is complying with the terms and conditions of the grant, including the applicable laws, regulations and directives; and (3) whether appropriate financial and administrative procedures and controls have been installed and are operating effectively. Head Start grantees shall include their delegate agencies' administration of Head Start programs within their own annual audit. Audit and the report of audit will be performed in conformance with the *Guide for Audits of Head Start Program Grants* and/or such other instructions as may be prescribed. The grantee shall furnish the auditor with copies of appropriate project documents, and all applicable ACYF and HDS directives, including this Manual.

2. Auditor Selection

Examinations in the form of audits or internal audits of grantee's financial transactions shall be made by individuals who are sufficiently independent of those who authorize the expenditure of project funds to produce unbiased opinions, conclusions or judgements. Generally, if the grantee is a private agency, the service of an independent certified public accountant, or independent licensed public accountant, certified or licensed by a regulatory authority of a State or other political subdivision of the United States, shall be secured. If the grantee is a local public agency, or if its accounting records are maintained by a State or local public agency, the auditing official or official governmental auditing agency which customarily conducts the agency's audits may be substituted for an independent auditor, provide that the audit is conducted in compliance with the provision of the Audit Guide and other applicable instructions.

3. Period of Audit

The annual audit shall cover the immediate prior budget period of the Head Start program. A Head Start agency may, however, submit a written request for a different coverage period (e.g., a grantee's fiscal year). The granting office, upon consideration of the request, may provide written approval to the grantee.

4. Submission of Audit Report

The annual audit shall commence after the close of the budget or other approved period in time for the audit to be completed and the audit report to be submitted by the grantee within four months after the close of the budget or other period. The grantee shall transmit seven (7) copies of the annual audit report to the appropriate Regional Audit Director, and two (2) copies of each such report to the Grants and Contracts Management Division, Office of Administrative Management, Office of Human Development Services for grants

V 44 0 C 18 79 UMI

awarded by the Central Office, or two (2) copies to the Grants Management and Budget Office in the Regional Offices for grants awarded by the regions.

5. Response to Audit Findings

When requested to do so, grantees shall respond in writing to observations and recommendations in annual audit reports within thirty (30) calendar days from the date the grantee is notified of the findings and recommendations, unless an extension of time is expressly granted. In the response, the grantee may take exception to particular findings and recommendations. The reason for disagreement with any findings should be clearly set out in the response. The response should point out corrections already made and state what action is proposed and the estimated completion date of such action. Although the grantee need not send all documentation supporting corrections unless requested to do so, documentation of actions taken must be available for review during later audits.

The grantee's response and any additional requested information will be considered in determining whether specific expenditures of grant funds or contributions to the non-Federal share should be allowed. In those instances where no adverse findings have been identified, the grantee will be notified that the audit report submitted is acceptable and no further action is required.

6. Audits of Other Activities

Training and technical assistance and research, demonstration and pilot projects are subject to the requirements of Part I, Chapter 3, of this Manual.

7. Appeals

Grantees may appeal determinations to disallow costs resulting from audits in accordance with the appeals procedures set forth in Part I, Chapter 3 of this Manual.

8. Satisfaction of Final Audit Disallowances

Unless the grantee receives written notice granting an extension, all final disallowances shall be satisfied within ninety (90) days of the date on which the disallowance becomes final. Grantees will be instructed in writing how to satisfy final disallowances. Failure by the grantee to satisfy a final disallowance or take corrective action to remedy deficiencies in its accounting system and internal controls, may result in suspension, termination or other remedial action. The United States reserves the right to bring suit or take other appropriate legal action to recover the amounts in question.

B. Accounting System Certification

1. General Discussion

In accordance with the provisions of 45 CFR Part 1301.13, a Head Start agency must comply with the standards for financial management systems set forth in 45 CFR Part 74, Subpart H, in order to receive or continue to receive financial assistance under the Head Start program. In determining whether an applicant can adhere to these standards, the applicant may be requested to submit an accounting system certification. Generally, applicants who have had past experience in administering other Federal grants will not have to further demonstrate that their financial management systems are in compliance. However they may be requested to do so in individual cases.

The accounting system certification states that the applicant and its delegate agencies have established an adequate accounting system with appropriate internal controls to safeguard assets, check the accuracy and reliability of their accounting data, promote operating efficiency and encourage compliance with prescribed management standards set forth in Subpart H of 45 CFR Part 74 and any additional fiscal and accounting requirements established by ACYF and/or HDS.

The certification may be furnished by an independent certified public accountant, an independent State-licensed public accountant, or, in the case of a public agency, the appropriate public financial officer who accepts responsibility for providing required financial services to the applicant. A form which serves as an accounting system certification will be furnished to applicants as appropriate.

2. New Applicants

An applicant for an initial Head Start grant shall submit an accounting system certification to the granting office when requested to do so. Applicants who are unable to obtain the certification should forward a statement of explanation to the granting office. The granting office may process the application without the statement where it can reasonably be expected that the statement will be furnished at or before the beginning of the initial budget period (e.g., when a new organization's accounting system is still in the process of development at the time of application). In no event, however, will the grant be awarded until the proper statement has been submitted.

3. On-Going Grantees

Although accounting system certifications are usually required prior to the initial Head Start grant, there may be instances when a new certification will be required from an on-going grantee (for example, when there has been a significant increase in the amount of Head Start funds provided, or annual audits indicate severe fiscal problems). An on-going grantee will be notified in writing if a new certification must be submitted.

4. Delegate Agencies

Prior to a release or commitment of any project funds to a new delegate agency, a grantee must receive from that agency an adequate accounting system certification. This certification must be retained by the grantee and need not be transmitted to the granting office unless requested. Any funds released in violation of the requirement stated in this paragraph may be disallowed as a charge against the project.

C. Insurance Requirements for Head Start Grantees

1. General

In accordance with the requirements of 45 CFR Part 1301.11, private, nonprofit Head Start agencies and their delegate agencies shall be covered by reasonable student accident insurance, liability insurance for accidents on the agencies' premises, and transportation liability insurance. Student accident insurance shall cover medical costs and death benefits for accidents during program hours and periods immediately preceding and following program hours. It shall also cover official activities, such as field trips away from agency premises and at times other than program hours. Liability insurance shall cover the staff and the agency for liability for accidents to children, staff, volunteers, parents and visitors on the agency's premises.

There shall be reasonable transportation liability insurance covering the agency, owners, and drivers of all vehicles utilized for the provision of transportation services in the Head Start program. When the agency provides the vehicle or vehicles, the cost of transportation liability insurance, including collision, is an allowable item of program costs. Only the amount of the costs of transportation liability insurance attributable to use of the vehicles in the Head Start program is an allowable item of program costs.

2. Limitations of Coverage and Selection of Carrier

The amount of liability coverage carried by a private nonprofit Head Start grantee or delegate agency may vary depending upon the number of children served and the types of services provided. Grantees and delegate agencies should avail themselves of the services of an independent insurance agent or broker for advice and assistance in obtaining the proper coverage. Grantees must comply with all applicable State and local insurance requirements.

D. Personnel Administration Standards for Head Start Grantees

Head Start regulations require grantees to establish personnel administration policies and procedures which must be in writing, approved by the Head Start Policy Council or committee, and issued or made available to all grantee and delegate agency employees (45 CFR Part 1301.31). Therefore, Head Start grantees must develop personnel policies which include all the items identified in the Personnel Administration Guidelines section of Chapter 3, Part I of this manual in order to satisfy ACYF regulatory requirements.

Additionally, the following personnel policies are applicable to a Head Start Program:

1. Conflict of Interest

The personnel policies shall contain provisions designed to assure that officers and employees shall not use their positions for a purpose that is, or gives appearance of being motivated by a desire for private gain for themselves or others particularly those with whom they have family, business or other ties.

2. Nepotism

The personnel policies shall prohibit the hiring of any individual if a member of that individual's immediate family is employed in an administrative capacity in the agency or is a member of the governing board. The term "immediate family" means wife, husband, son, daughter, mother, father, brother, sister, or relative by marriage of comparable degree; the term "administrative capacity" means a position having responsibilities relating to the selection, hiring, or supervising of employees.

When a Head Start agency or delegate agency cannot adequately staff positions without hiring such an individual, the grantee may deviate from the policy. However, employment records must provide evidence that no other individual within the service area is qualified and available for employment.

3. Unlawful Activities

Personnel policies shall provide that: no employee shall, in the performance of duties as an employee of a Head Start or delegate agency, plan, initiate, participate in or otherwise aid or assist in the conduct of any unlawful demonstration, rioting, or civil disturbance, which is in violation of law.

E. Guidelines and Procedures Establishing Wage Comparability

1. General Discussion

Persons employed in carrying out Head Start programs shall not receive compensation at a rate which is (1) in excess of the average rate of compensation paid in the area where the program is carried out to persons providing substantially comparable services, or in excess of the average rate of compensation paid to persons providing substantially comparable services in the area of a person's immediately preceeding employment, whichever is higher or, (2) less than the minimum wage rate prescribed in section 6(a)(1) of the Fair Labor Standards Act of 1938.

The chief purpose of this provision is to assure that grantee salaries and wages are, in all cases, equitably established and comparable to the local community wage structure and economic circumstances. This provision applies to all full and part-time Head Start employees whose salaries are supported by Head Start program funds.

2. Minimum Wage Requirement

All Head Start grantees and delegate agencies are required to pay employees at least the Federal minimum wage.

3. Comparability Exceptions

a. *Previously Employed in Higher Wage Area*

In some instances an employee may be paid a salary which is higher than the local comparable wage. Certain employees may be paid at the average rate of compensation for persons providing substantially comparable services in the area of the employee's immediately preceding employment. This applies to employees who have been previously employed in a higher wage area than that of the grantee. The purpose of this provision is to make it possible for grantees in low wage areas to employ competent employees from higher wage areas. Grantees should exercise caution in using this standard as a basis for establishing salary comparability. If the employee involved leaves the employ of the grantee or delegate agency, the salary for that position or class of positions will have to be determined anew. Also, excessive use of this basis for determining comparability can result in serious inequities in the overall salary structure.

b. *Experts and Consultants Exceptions*

Experts and consultants who are independent contractors or who work for independent firms and who perform services on an intermittent or occasional basis are not covered by the comparability requirement.

c. *Established Civil Service/Merit Systems*

Some grantees or delegate agencies are part of public or private agencies which apply a civil service or other merit system to Head Start supported employees. In these instances, all positions covered under such civil service or merit systems will be deemed comparable and no extensive organizational review, position analyses, or comparability determinations will be necessary—provided that these employees are filling positions or types of positions in existence before the agency or institution received a Head Start program grant and that the salary scale has not been changed as a result of the Head Start grant.

4. Comparability Determination Procedures

Methods for establishing wage comparability will vary among grantee and delegate agencies, although every grantee and delegate agency should already be utilizing a rational system for determining appropriate salaries and wages. The following are a suggested means for undertaking wage comparability determinations.

a. *Organizational Review.* Review organization plan and job descriptions to insure currency and direct relationship to missions and functions. Position descriptions should accurately portray the nature of jobs and the various positions should be clearly related to each other in a rational pattern. Larger agencies may already be utilizing a well-established job classification system.

b. *"Bench Mark" Job Identifications.* Identify "bench mark" jobs at several levels in the organization for which local comparability can be determined and in relationship to which compensation for other jobs may be set. Obviously, the salary of the Director will generally be a bench mark position in setting salary scales for lower level positions. Grantees are cautioned, however, not to

use the Director's position or any other position as a bench mark if the incumbent's salary is not related to local wages, but rather to the area of his immediately preceding employment. At the low end, employees to be compensated at the minimum wage rate will be bench mark positions.

c. *Local Source Data.* In most communities, several local sources are available for consultation in determining comparability.

(1) *Published Wage Surveys.* The Bureau of Labor Statistics (BLS) publishes survey reports which are particularly valuable in establishing wages for office, maintenance and custodial jobs and should be a prime source for information on these jobs in the major metropolitan areas for which such material is available. When such sources of salary data are used, the grantee should remember that the precise salary figure may not be a prime source for information on these jobs in the major metropolitan areas for which such material is available. When published sources of salary data are used, the grantee should also remember that the precise salary figure may not be an exact guide to the salary which should be paid, since adjustments may be needed because of the experience and skills of the particular employee. A salary generally presents an average rate or range for a number of employees occupying a position; thus the entry rate for that position should generally be set lower, and the rate for an employee with long experience and considerable expertise may be higher.

(2) *Local State Employment Offices.* Local offices of the State Employment Service may have unpublished information on local wage scales.

(3) *Local Government.* Local city or county governments will have data on local public pay scales and may know of local wage surveys not obtainable elsewhere. In most instances, local public pay scales should be used as the standard for rates for teachers.

(4) *Other Local Agencies.* Other local agencies may employ persons in substantially comparable jobs. The grantee may wish to make an informal check with a few agencies which employ persons in positions comparable to those of the grantee. The grantee or delegate agency should not use local agency sources when this information is available from sources (1), (2) or (3) above.

d. *State Government Data.* If local data for some positions is not available from any of the above sources or if the only comparable jobs are in the State government, the grantee should look to Statewide sources. Some State Employment offices will have wage analysts, and State governments through their personnel departments will usually be able to provide the salary schedules for State employees.

e. *National Data.* If the grantee can discover neither local nor State data on a certain position or group of positions after exhausting the above sources, or if persons are required with such unusual skills that the labor area for the skill is nationwide, the grantee may then check national data to verify that the salary planned for that position is reasonable. However, any rate based on national comparability should be adusted to relate to a bench mark position for which local comparability has been established, and this may require an adjustment in accordance with the local cost of living.

f. *Fringe Benefit Consideration.* Adjustments may be indicated if employees in comparable positions are paid fringe benefits which significantly exceed the benefits payable to grantee employees, or if the reverse is true. However, information about fringe benefits paid to employees in comparable jobs may not be readily available and in such cases it will not be required that a detailed comparison be made. If the information is obtainable it should be considered when establishing comparability.

5. Documentation

Grantees and delegate agencies are required to document the methods by which wage comparability was established. Such documentation shall be available in the grantee's files for review by HEW audit and inspection personnel and personnel of the General Accounting Office. The documentation maintained shall include:

(1) The procedure used to review the organization plan and position descriptions;

(2) An explanation of how "bench mark" positions were identified;

(3) An explanation of any procedures used to obtain State, local, or National data on non-bench mark positions and the way in which such positions are related to the bench mark positions; and

(4) Copies of any certifications or back-up information—e.g. a statement by a local survey facility.

F. Labor Standards

All laborers and mechanics employed by contractors or subcontractors in the construction, alteration or repair, including painting or decorating, of buildings or other facilities in connection with Head Start projects shall be paid wages at rates no less than those prevailing on similar construction in the locality, as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 USC 276(a)).

G. Appeals Procedures Under Head Start Programs

1. Expenditures Appeals

A disallowed expenditure, a disapproval of a written request to incur an expenditure or determination of an indirect cost rate may be appealed in accordance with the provisions of 45 CFR Part 16. With respect to an appeal from the determination of an indirect cost rate, the grantee must exhaust the informal appeal procedures outlined in the "Financial and Administrative Requirements" Section in Chapter 3, Part I of this Manual prior to instituting the formal appeal process established by Part 16.

2. Appeals of Termination, Suspension and Denial of Refunding

A decision to suspend, terminate or deny refunding of a Head Start Program may be appealed in accordance with the provisions of 45 CFR Part 1303. A decision to terminate a training or technical assistance project or a research, demonstration or pilot project may be appealed in accordance with the procedures outlined in Part I, Chapter 3, of this Manual.

H. Delegation of Program Operations

Delegations of program operations under a Head Start grant must have specific prior approval by the appropriate granting office. A budget for each delegate agency must be submitted as part of the grant application. Approval of the grant application and budget will constitute HDS approval of the delegation of program operations by the applicant. Such arrangements shall be formalized by written agreement between the grantee and delegate agency and must be on file in the grantee's office.

The written agreement shall specify at a minimum:

—The minimum number of children to be served by the delegate agency

—The location of the center(s)

—The hours of operation and length of the operating year

—Reporting requirements, including format and frequency with which the delegate agency must furnish reports to the grantee

—The amount to be paid by the grantee to the delegate agency and the amount of any non-Federal share contribution expected from the delegate agency

—Any services to be provided by the grantee to the delegate agency

—The program options (as defined in 45 CFR Part 1304, "Program Performance Standards for operation of Head Start Programs by Grantees and Delegate Agencies") which will be implemented by the delegate agency.

The agreement shall also include an assurance clause which commits the delegate agency to conform to all rules applicable to a Head Start Program.

I. Limitation on Costs of Development and Administration of a Head Start Program

1. General Provisions

In accordance with the provisions of 45 CFR Part 1301.32, the costs of developing and administering a Head Start program shall not exceed 15 percent of the total costs of the program, unless the official authorized to award the grant approves a higher percentage for periods not to exceed twelve months. Therefore, without a waiver, no grant in connection with a Head Start program will be awarded which will have the effect of causing development and administrative costs to exceed this limit. An application for a Head Start grant must include an assurance that the costs of development and administration will not exceed 15 percent of the total cost.

2. Definitions

a. Development and Administrative Costs

For purposes of this policy, development and administrative costs are all costs included in an approved Head Start budget for a budget period, which are not directly related to the services and parent involvement components set forth and described in 45 CFR Part 1304, "Program Performance Standards for Operation of Head Start Programs by Grantees and Delegate Agencies." These development and administrative costs include but are not limited to, the costs of overall planning, coordination, and general program direction; accounting and auditing; purchasing; the personnel function and payroll; the costs of bonding and insurance; and the allocated costs of occupying, operating, and maintaining the space utilized for these purposes. In determining the cost of utilities attirbutable to development and administration, 10 percent of the total cost of utilities, or such other percentage as may be shown to reflect the actual costs more accurately, may be used. If the Head Start Director, or any assistant Head Start Director, or any other administrative personnel, is employed part-time in that position, and is employed partly in a position which relates directly to a program function, the costs shall be allocated proportionately between the two positions.

b. Program Costs

For purposes of this policy, program costs include the costs of personnel, space, supplies and other nonpersonnel costs associated directly with programmatic functions. These functions may include the following:

Education

Parent Involvement

Social Service

Health—Medical; Dental; Mental Health; Nutrition

Career Development, CDA, HSST (CAN 20)

Volunteers

In addition, program costs may include:

—That portion of Head Start directors' and/or assistant Head Start directors' time directly associated with a programmatic function;

—Ninety percent of total utility costs. For most grantees, this percentage will be an accurate assessment of utility costs assigned to program costs. For those grantees who have reason to believe that their utility costs are higher, or lower, than ninety percent they may perform an analysis of actual utility costs;

—Those fringe benefits that nonadministrative employees receive;

—Training.

c. Total costs

For purposes of this policy, total costs of a Head Start program are the total of grants covered by the "Notices of Grant Awarded" and the non-Federal share, including the cash value of in-kind contributions, and which are included in an approved budget for a budget period.

3. Procedure

In preparing a budget for initial funding, refunding or for supplemental assistance in connection with a Head Start program, the Head Start agency shall calculate the percentage which development and administration costs bear to the total costs of the program.

If the Head Start agency calculates that its costs of development and administration will not exceed 15 percent of total costs, the application or the grant shall include the following statement in the Part IV Narrative:

"The applicant assures that costs of development and administration will not exceed 15 percent of the total costs of the Head Start Program."

4. Waiver

If the Head Start agency calculates that its costs of development and administration will exceed 15 percent of total costs, the application shall explain the reasons for exceeding the limitation and shall include a request for a waiver. Based on the adequacy of the justification, the official authorized to award the grant may waive the limitation for periods not to exceed twelve months. The waiver will be included as part of the Notice of Grant Awarded.

5. Disallowance of Excessive Costs

If, as a result of a financial review or grant audit, it is determined that the costs of developing and administering the Head Start program exceeded 15 percent of total costs and a waiver has not been granted, the excessive costs shall be disallowed. A Head Start agency may, in accordance with the provision of Section G.1 of this Chapter, appeal a determination that a disallowed cost is an excessive development or administrative cost.

J. Access to Records

Head Start grantees shall provide reasonable public access to information and to the agency's records pertaining to the Head Start program. Grantees shall be guided by the provisions of Part I, Chapter 3 of this Manual in determining restrictions on public access. Grantees should consult with the appropriate ACYF official to resolve questions related to public access.

Chapter 4—Reporting Requirements

A. Reporting Requirements for Head Start Grants

1. Financial Reports

In accordance with the requirements of Subpart I, 45 CFR Part 74 and the "Reporting Requirements" Section of Chapter 4, Part I of this manual, Head Start grantees are required to submit the following financial reports:

a. Financial Status Report

b. Report of Federal Cash Transactions

Each of the above reports must be submitted quarterly. The "Financial Status Report" is due not later than 30 days following the end of the quarter. The "Report of Federal Cash Transactions" is due not later than 15 working days following the end of the quarter.

2. Program Information Reports

Program Information Reports are required to be prepared by Head Start grantees operating full year, part day

V 44 OC 18 79 UMI

and full day Head Start programs. This report is not currently required for parent and child centers, experimental programs, summer programs of training and technical assistance, although it may be required for one or more of these activities in the future. Specific instructions related to frequency of report submission and period of coverage is provided by the Head Start program office.

3. Reimbursements from Other Federal Agencies

Head Start grantees who are reimbursed by other Federal agencies for grant supported activities (e.g. Department of Agriculture payments for nutrition activities) should report such reimbursements in the Remarks section (Item 12) of the "Financial Status Report" citing the amount of funds received and the source. If such funds replace Head Start grant funds originally budgeted for the same purpose, and result in an unobligated grant balance at the end of the report period, they should also be included in Item 10–m of the report.

B. Other Activities

Research, Demonstration or Pilot Projects shall submit a "Financial Status Report" semi-annually. A "Report of Cash Transactions" is required quarterly in accordance with the provisions of Chapter 4, of Part I of this Manual. Additionally a Program Progress Report is required. Instructions for completion of this report will be furnished by ACYF.

[FR Doc. 79-32281 Filed 10-17-79; 8:45 am]

BILLING CODE 4110-92-M

V 44 OC 18 79 UMI

Reader Aids

Federal Register

Vol. 44, No. 203

Thursday, October 18, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266 -5282	Public Law Numbers and Dates, Slip Laws, U.S. Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662	1
56663-56918	2
56919-57064	3
57065-57378	4
57379-57906	5
57907-58492	9
58493-58670	10
58671-58888	11
58889-59194	12
59195-59488	15
59489-59894	16
59895-60068	17
60069-60250	18

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) 56673
10900 (Amended by EO 12163) 56673
10973 (Revoked by EO 12163) 56673
11223 (Amended by EO 12163) 56673
11269 (Amended by EO 12164) 56681
11579 (Amended by EO 12163) 56673
11846 (Amended by EO 12163) 56673
11958 (Amended by EO 12163) 56673
12065 (Amended by EO 12163) 56673
12087 (Superseded by EO 12165) 58671
12092 (Amended by EO 12161) 56663
12140 (Amended by EO 12162) 56665
12161 56663
12162 56665
12163 56673
12164 56681
12165 58671
Proclamations:
4693 56669
4694 56671
4695 58493
Administrative Orders:
Memorandums:
October 18, 1961 (Amended by EO 12163) 56673
Presidential Determination:
No. 79-17 of September 28, 1979 56667

5 CFR

Ch. XIV 60069
340 57379
353 56683
451 58889
890 57379

6 CFR

705 ..... 56900, 58891
706 ..... 56910, 58891
Proposed Rules:
702 59166
703 59166
704 59166

7 CFR

2 ..... 57907, 58495, 58679
6 58893
15a 57907
16 ..... 56919, 60069
29 57907
246 59489
282 59052
421 58893
905 59195
906 57909
908 ..... 57065, 58680, 60070
910 ..... 57383, 58893
929 56683
932 58495
944 59195
966 ..... 58894, 59197
979 56684
982 57065
989 60070
1139 57066
1421 ..... 56305, 57383
1464 ..... 57909, 58894
1822 ..... 56919, 59198
1861 56920
1864 59895
1901 59198
1941 58895
1942 ..... 56684, 59895
1944 59198
1951 ..... 56306, 59895
1955 59895
1980 ..... 56920, 58896
Proposed Rules:
6 56943
20 57931
27 57932
272 57414
273 ..... 57414, 58915
318 57415
725 57932
729 57416
981 57417
966 60105
1065 57103
1079 59913
2853 ..... 58916, 59548
2858 58916

8 CFR

100 56311
Proposed Rules:
103 56368

9 CFR

78 57384
91 59498
92 58896
113 58897
309 59498
Proposed Rules:
92 58918

V 4 4 O C 1 8 7 9 UMI

10 CFR

50 ..... 57911, 57912
51 56312
211 ..... 56888, 57067
212 57069
320 58900
476 57370
570 56921

Proposed Rules:

211 ..... 56369, 59240, 59551
212 59914
214 57103
220 56369
375 56953
376 56953

11 CFR

Proposed Rules:

100 59162
110 59162
114 59162

12 CFR

Ch. VII 56691
201 57385
202 57070
204 60071
205 59474
207 56922
217 60076
220 56922
221 56922
224 56922
226 56312
263 56685
265 ..... 56313, 59227
346 57385
545 57386
563 59895
600 60076
601 60076
602 60076
611 60076
704 58496
742 57071

Proposed Rules:

Ch. II 58744
Ch. V 57419
205 59464
545 58744

13 CFR

101 59499
121 ..... 58744, 59504

Proposed Rules:

111 58745
117 60032

14 CFR

39 ..... 56315-56322, 57072, 57073, 58680-58684, 60079
71 ..... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686, 60079
73 57080-57082
75 57082-57084
97 57918
207 58499
208 58499
212 ..... 57386, 58500
214 ..... 57387, 58500
221a 57085
241 ..... 58500, 59505
287 57085
1214 56923

Proposed Rules:

Ch. I 56369, 60107
Ch. V 56377
11 ..... 56370, 59242
21 ..... 56370, 59242
37 ..... 56370, 59242
39 57105
71 ..... 56373-56376, 57106, 57934-57938, 60107
73 58746
93 56376
233 59242
270 59242
302 59242

15 CFR

30 58686
370 59227
371 59227
374 59227
377 59227
377 59227
388 59897

16 CFR

13 ..... 56323, 56923, 57920, 58901-58906, 60080
1700 57920

Proposed Rules:

Ch. I 59552
Ch. II 57352, 60057
13 ..... 58516, 58518, 58747
1201 59914
1404 59557

17 CFR

210 ..... 57030, 57037
211 57038
231 56924
240 57387
241 56924
249 ..... 57374, 57387
270 ..... 58502, 58907

Proposed Rules:

240 56953
270 58521

18 CFR

2 ..... 56926, 60080
154 ..... 57726, 60083
201 57726
204 57726
271 56926
273 59230
274 59230
282 ..... 57726, 57754, 57778, 60084
290 58687

Proposed Rules:

35 60108
282 ..... 57783, 57786, 57788, 58749
292 57107

19 CFR

4 ..... 57086, 57087
101 57088

Proposed Rules:

134 58527
153 ..... 59741, 59762
155 ..... 57044, 59762
159 ..... 57044, 59762
177 56715
201 59392
207 59392

20 CFR

404 56691
675 56866
680 56866

Proposed Rules:

615 56715
665 59889

21 CFR

10 59174
12 59174
13 59174
14 59174
15 59174
16 59174
109 57389
177 59505
178 59506
193 59231
510 ..... 57389, 59507
520 ..... 59507, 59508
558 57389
561 59903
740 59509
1316 56324

Proposed Rules:

166 57422
203 58918
310 58919
312 58919
314 58919
890 ..... 57939, 57940, 58919
1020 57423

22 CFR

515 58708

Proposed Rules:

216 56378

23 CFR

140 59232

Proposed Rules:

771 59438

24 CFR

Ch. XIII 58507
42 56324
203 57089
205 57090
207 57090
213 ..... 56927, 57089, 57090
220 57090
221 57090
232 57090
234 57089
235 57090
236 57090
240 58503
241 57090
242 57090
244 57090
250 57090
290 56608
403 58503
510 58506
570 56325
803 59112
841 57922
880 59408
888 ..... 57925, 59112
891 60085

Proposed Rules:

200 60108
203 58527
208 60109
881 59246
888 58528

25 CFR

31a 58096
31b 58101

Proposed Rules:

252 59559
700 59560

26 CFR

1 ..... 57925, 59523, 60085
7 57390
31 59524

Proposed Rules:

Ch. I 56502
1 ..... 57423, 57427
31 57940
301 56715

27 CFR

9 56692
201 56326

28 CFR

0 ..... 57926, 58908
2 ..... 58507, 59527, 59528
16 59904
50 57926
301 59904

Proposed Rules:

2 58528
16 ..... 58920, 58921

29 CFR

14 57397
1604 58073
2610 58908
2703 57348

Proposed Rules:

1616 59914
1904 59560
1926 59561

30 CFR

Ch. VII 57927
701 58783
741 58783

Proposed Rules:

Ch. VII 60226, 60228
250 60109
732 60233

31 CFR

Proposed Rules:

Ch. II 59246

32 CFR

51 56328
199 58709
231 56328
706 ..... 56929, 57400
853 60090
901 56930

Proposed Rules:

56 58750

33 CFR

110 60091
117 59233
127 ..... 57092, 57927
147 57927

165 ..... 57928, 57929

35 CFR

133 56916
253 56693

Proposed Rules:

133 57941

36 CFR

50 56934
1228 58088

Proposed Rules:

Ch. IX 56954, 58528

38 CFR

1 59905
3 58709

Proposed Rules:

3 58758
36 ..... 56329, 58508

39 CFR

111 58509

40 CFR

52 ..... 56694, 57401
65 ..... 56696, 59528
81 57929
117 ..... 58711, 58909
180 59907
231 58076
257 58910
413 56330
600 57358

Proposed Rules:

40 56955
50 56730
51 ..... 56957, 57107
52 ..... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564
55 ..... 56721, 58759
60 ..... 57792, 58602
61 ..... 58642, 58661
62 ..... 57118, 57948
65 ..... 60109, 60110
81 ..... 57942, 58758, 58922
120 ..... 57428, 59565
122 56957
162 57429
250 ..... 56724, 58923
600 57362
707 56856
713 59106
720 59764
763 60061

41 CFR

Ch. 101 ..... 56699, 59192, 59529
8-4 59529
101-29 58910

Proposed Rules:

Ch. 25 56387
9-7 57119
101-40 59247
109-1 57121
109-60 57121

42 CFR

57 56937
71 58911
456 56333

Proposed Rules:

74 58923
405 58923

43 CFR

221 56339
1821 59530
2880 58126
3400 56339
3410 56339
3420 56339
3422 56339
3430 56339
3440 56339
3450 56339
3460 56339
3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:

4 57948
34 59096
1780 56622
2800 58106
3110 58638

44 CFR

64 ..... 56354, 57092, 57093
65 57094
67 ..... 56366, 56701

Proposed Rules:

67 ..... 56957, 57429-57432

45 CFR

Ch. I 56938
20 58912
55 58912
61 58912
80 ..... 58509, 59908
82 58912
116 59152
116a 59152
161 60022
161a 60022
304 56939
531 59908
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:

Ch. VI 56387
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130
1205 60110

46 CFR

154 59234
154a 59234
503 57411

Proposed Rules:

66 57137
283 58928
355 58928

47 CFR

0 57096
2 ..... 58712, 59530
15 59530
18 56699
61 57096
73 ..... 57097, 58718-58729, 58912, 60091, 60097
74 58729
83 ..... 58712, 58735
87 59546
90 ..... 57098, 58737, 59234
97 58742

Proposed Rules:

0 57636
1 59568
15 ..... 59570, 60112
21 58929
63 59578
73 ..... 57138, 57636, 58762-58764, 59568, 59579, 59580
76 58766
81 59581

49 CFR

192 57100
213 56342
301 59239
571 57100
172 60097
173 60097
174 60097
177 60097
178 60097
801 ..... 56340, 57930
1011 58511
1013 59908
1033 ..... 56343, 56939, 58913, 58914
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:

Ch. X 57139
110-189 58767
172 58767
173 ..... 58767, 60112
178 60112
195 57952
571 ..... 60113, 60120
575 56389
622 59438
1036 59581
1063 60122
1300 60122
1303 60122
1304 60122
1306 60122
1307 60122
1308 60122
1309 60122
1310 60122
1312 60122

50 CFR

13 59080
17 ..... 56862, 58866, 58868, 59080, 60103
32 ..... 56940, 56941, 59910
33 59910
216 57100
230 59911
611 57101
652 ..... 56941, 60103
653 ..... 56700, 56701
810 59086

Proposed Rules:

17 56618
285 57140
611 ..... 59257, 59582
652 60129

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 17, 1979

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

54053 9–18–79 / Approval of Louisiana plan for controlling sulfuric acid mist

HEALTH, EDUCATION AND WELFARE DEPARTMENT

Food and Drug Administration—

54043 9–18–79 / Plasma volume expanders; reassignment of responsibility

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235 or Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202–523–5239.

V 44 OC 18 79 UMI

V 4 4 0 C 1 8 7 9 UMI

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1979)

Quantity	Volume	Price	Amount
_____	Title 29—Labor (Parts 0 to 499)	$8.00	$_____
_____	Title 32—National Defense (Parts 1000 to End)	6.00	_____
_____	Title 36—Parks, Forests, and Public Property	7.00	_____
_____	Title 39—Postal Service	6.00	_____
_____	Title 41—Public Contracts and Property Management (Chapter 8)	4.00	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $..... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name _____

Street address _____

City and State _____ ZIP Code _____

FOR USE OF SUPT. DOCS.

____Enclosed
To be mailed later____
____Subscription
Refund
Postage
Foreign Handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name _____

Street address _____

City and State _____ ZIP Code _____

V 4 4 0 C 1 8 7 9

10-19-79
Vol. 44—No. 204
BOOK 1:
PAGES
60251-60500
BOOK 2:
PAGES
60501-60700

federal register

Book 1 of 2 Books
Friday, October 19, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in **Washington, D.C.**, see announcement in the Reader Aids Section at the end of this issue. **An interpreter for hearing impaired persons will be present for the November 16 briefing.**

60664 **Solar in Federal Building Demonstration Program** DOE establishes rules governing programs to conserve energy use and to promote consumption of renewable energy sources; effective 11-19-79 (Part VII of this issue)

60273 **Banking** FDIC issues regulations making early withdrawal from time deposits without penalty, mandatory under certain conditions; effective 10-19-79

60301 **Child Support or Alimony** OPM proposes to provide uniform procedures throughout the Executive branch of the Government for the garnishment of moneys; comments by 12-18-79

60313 **Flour and Bakery Products** HEW/FDA proposes to change the requirements for enrichment of flour and bread with iron; comments by 12-18-79

60415 **Dental Team Practice** HEW/PHS provides notice announcing acceptance of applications for grants

CONTINUED INSIDE

V 4 4 O C 1 9 7 9 UMI

Highlights

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202–523–5240

60634 **Communications** HEW/Secy solicits applications to carry out the Telecommunications Demonstration Program under the Act; comments by 12–17–79 (Part IV of this issue)

60350 **Minority Businesses** Commerce/MBDA solicits applications for a grant under its consultant services program for one project each for a 12-month period (2 documents)

60450 **Privacy Act** OPM publishes notice of adoption of systems of records

60332 **Human Plasma** HEW/FDA proposes to amend certain storage temperature and labeling requirements; comments by 12–18–79

60638 **Energy** DOE/ERA consolidates and revises its petroleum allocation regulations; effective 1–1–80 (Part V of this issue)

60658 **Energy** DOE/ERA gives notice of voluntary guidelines for termination of electric service and gas service standard; comments by 11–19–79 (Part VI of this issue)

60690 **Powerplants and Boilers** DOE/ERA amends rules on use of oil, natural gas, coal, and alternate fuels in major fuel burning installations; effective 11–30–79 (Part IX of this issue)

60310 **Fair Lending Practices** FHLBB proposes to strengthen antidiscrimination monitoring procedures; comments by 12–18–79

60412 **Medicare Program** HEW/HCFA establishes regulations providing new optional method of target rate reimbursement; effective 4–1–79; comments by 12–18–79

60335 **Federal Insecticide, Fungicide, and Rodenticide** EPA intends to develop regulations to implement a program of assistance for pesticide enforcement for States under the Act; comments by 12–18–79

60273 **Small Businesses** SBA issues final rule implementing programs rendering assistance to small businesses in Federal prime and subcontracting; effective 10–19–79

60467 **Sunshine Act Meetings**

Separate Parts of This Issue

60504 **Part II, Labor/ESA**
60532 **Part III, FCC**
60634 **Part IV, HEW/Secy**
60638 **Part V, DOE/ERA**
60658 **Part VI, DOE/ERA**
60664 **Part VII, DOE**
60676 **Part VIII, CWPS**
60690 **Part IX, DOE/ERA**

Contents

Federal Register
Vol. 44, No. 204
Friday, October 19, 1979

Agricultural Marketing Service
RULES
60256 Lemons grown in Arizona and California

Agricultural Stabilization and Conservation Service
RULES
60255 Cotton; marketing quotas and acreage allotments

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Forest Service.
RULES
Authority delegations by Secretary and General Officers:
60251 Director Science and Education, et al.

Air Quality National Commission
NOTICES
60448 Meetings

Animal and Plant Health Inspection Service
RULES
60261 Agricultural quarantine inspectors; overtime work at border ports, seaports, and airports
Livestock and poultry quarantine:
60257 Contagious equine metritis (CEM)
Overtime services relating to imports and exports:
60255 Hourly rates increases
Viruses, serums, toxins, etc.:
60262 Bursal disease vaccine; safety, purity requirements, etc.
PROPOSED RULES
Viruses, serums, toxins, etc.:
60306 Pasteurella Multocida Bacterin, Avian Isolate, Type 4; purity requirements, etc.
NOTICES
Environmental statements; availability, etc.:
60346 1980 cooperative gypsy moth suppression and regulatory activities

Army Department
See Engineers Corps.

Blind and Other Severely Handicapped, Committee for Purchase From
NOTICES
60352 Procurement list, 1979; additions and deletions (3 documents)

Census Bureau
NOTICES
60349 Population censuses, special; results

Civil Aeronautics Board
NOTICES
Hearings, etc.:
60346 Kansas City-Salt Lake City subpart Q proceeding
60346 Kansas City-Tulsa subpart Q proceeding
60347 Southwest Alaska Service investigation (2 documents)
60467 Meetings; Sunshine Act

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
60347 Colorado et al. (2 documents)
60347 Connecticut
60348 Michigan
60348 Missouri
60348 West Virginia

Commerce Department
See Census Bureau; Economic Development Administration; Industry and Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration.

Comptroller of Currency
NOTICES
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (Regulation Z); enforcement policy, interagency

Consumer Product Safety Commission
NOTICES
Meetings:
60352 Product Safety Advisory Council

Defense Department
See also Engineers Corps.
NOTICES
Meetings:
60367 DIA Advisory Committee
60367 Science Board task forces
60368 Wage Committee

Economic Development Administration
NOTICES
Import determiniation petitions:
60349 Jeri Morton, Inc., et al.

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
60638 Propane, butane, and other natural gas liquid products; deregulation; inquiry
Powerplant and industrial fuel use:
60690 Transitional facilities; classification of powerplants and installations; final rule
PROPOSED RULES
Petroleum allocation and price regulations:
60307 Middle distillates; special allocation for surface passenger mass transportation; van-pooling included; effectiveness extended indefinitely and hearing
NOTICES
Consent orders:
60370 Lingle Standard et al.
60369 Tipperary Oil and Gas Corp.

Natural gas; fuel oil displacement certification applications:
60371 Ford Aerospace & Communications Corp.
Natural gas exportation and importation petitions:
60368 Midwestern Gas Transmission Co. et al.
Public Utility Regulatory Policies Act of 1978:
60658 Termination of electric and gas service standard; voluntary guideline for procedures

Employment Standards Administration
NOTICES
60504 Minimum wages for Federal and federally-assisted construction; general wage determination decisions, modifications, and supersedes decision (Ala., Ariz., D.C., Fla., Ky., La., Mich., Miss., N.J., N.C., Tex.)

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
RULES
Energy management and planning programs, Federal:
60664 Solar; buildings demonstration program
Oil; administrative procedures and sanctions:
60264 Interpretations

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
60366 Greensville, Mecklenburg, or Buckingham Counties, Va.; coal-fired steam electric generating plant construction
60367 Smith Island, Md. and Va.; shore erosion control, flood control, and navigation study

Environmental Protection Agency
RULES
Motor vehicle fuel economy:
60286 Calculation; technical amendment
PROPOSED RULES
Air Quality control regions, criteria, and control techniques:
60341 Attainment status designations
Air quality implementation plans; approval and promulgation; various States, etc.:
60339 Missouri
Grants; State and local assistance:
60335 Pesticide applicator training and certification programs; enforcement
NOTICES
Air quality implementation plans; approval and promulgation:
60401, 60402 Prevention of significant air quality deterioration (PSD); permit approvals (2 documents)

Environmental Quality Council
NOTICES
60353 National Environmental Policy Act; Federal Agencies and Federal-State Agencies with legal jurisdiction or special expertise on environmental quality issues; proposed list; inquiry

Equal Employment Opportunity Commission
NOTICES
60402 Discrimination complaints against Federal agencies; investigations; availability of procedures developed under pilot program

Federal Communications Commission
RULES
Common carrier services:
60532 Domestic public fixed radio services; and public mobile radio services; recodification and addition
Practice and procedures:
60291 Reconsideration petitions and review applications

Federal Deposit Insurance Corporation
RULES
Interest on deposits:
60273 Time deposits; payment before maturity
NOTICES
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (Regulation Z); enforcement policy, interagency

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
60342 Connecticut et al.; correction

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act of 1978:
60284 Maximum ceiling prices; filing procedures; petitions for review; timeliness of filing
Organization, operation, information, etc.:
60282 Director, Enforcement Office; authority delegation
NOTICES
Hearings, etc.:
60371 Arkansas Louisiana Gas Co. et al.
60372 Central Power & Light Co. et al.
60372 Delmarva Power & Light Co.
60373 Florida Power & Light Co.
60372 Gonzales, Tex.
60371 Gulf States Utilities Co. et al.
60373 Iowa Power & Light Co.
60373 Kansas City Power & Light Co.
60374 Montana-Dakota Utilities Co.
60374 Ohio Power Co.
60374 Pacific Gas & Electric Co.
60375 Transcontinental Gas Pipe Line Corp. et al.

Federal Financial Institutions Examinations Council
NOTICES
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (Regulation Z); enforcement policy, interagency

Federal Home Loan Bank Board
PROPOSED RULES
Federal home loan bank system, etc.:
60310 Fair lending practices; monitoring
NOTICES
Applications, etc.:
60406 Beverly Hills Savings & Loan Association
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (Regulation Z); enforcement policy, interagency

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
60407 Paxy's International, Mohammed Reza Paksima Venture Cruise Lines, Inc.

Federal Reserve System
NOTICES
60467 Meetings; Sunshine Act
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (regulation Z); enforcement policy, interagency

Federal Trade Commission
NOTICES
60467 Meetings; Sunshine Act (3 documents)

Food and Drug Administration
PROPOSED RULES
60313 Bakery products and flour; iron fortification; identity standards
Biological products:
60315 Bilberries, quick frozen; standard; advance notice; termination
60333 Antigen E potency test; extension of time
60332 Source plasma (human); storage temperature requirements
Human drugs:
60331 Neomycin sulfate preparations; certification revocation; informal conference and extension of time
60328 Over-the-counter drugs; antacid drug products containing calcium and magnesium; monograph amendment
60316 Over-the-counter drugs; stomach acidifier drug products
60320 Sulfonamide anti-infectives
60314 Olives, table; standard; advance notice; consideration termination
60315 Sugar, soft; standard; advance notice; consideration termination
NOTICES
Human drugs:
60410 Aminophylline oral solution and injection; efficacy study implementation
60411 Parenteral multivitamin products; efficacy study implementation; permission to remain on market; extension of time
Meetings:
60408, 60411 Advisory committees, panels, etc. (2 documents)

Food and Nutrition Service
NOTICES
Child nutrition programs:
60344 School breakfast program, school lunch program, and child care food programs; payment rates for Alaska (July-December 1979)

Forest Service
NOTICES
Environmental statements; availability, etc.:
60346 1980 cooperative gypsy moth suppression and regulatory activities
Land transfer:
60419 Olympic National Park and Olympic National Forest, Wash.; correction

General Accounting Office
NOTICES
60407 Regulatory reports review; proposals, approvals, etc. (SEC)

Geological Survey
NOTICES
Coal resource areas:
60418 Montana
60418 Utah

Health, Education, and Welfare Department
See also, Food and Drug Administration; Health Care Financing Administration; Health Resources Administration.
NOTICES
Meetings:
60414 Federal Education Data Acquisition Council
60415 White House Conference on Families
60634 Telecommunications demonstration program; grant applications solicitation

Health Care Financing Administration
RULES
Medicare:
60287 Home dialysis services, target rate reimbursement
NOTICES
Medicare:
60412 Home dialysis supplies, equipment and support services; target reimbursement rate schedule for institutions
Meetings:
60414 National Professional Standards Review Council

Health Resources Administration
PROPOSED RULES
60342 National Guidelines for Health Planning; availability of draft regulations
NOTICES
Grants; availability:
60415 Dental team practice

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
60375, 60383–60389, 60398 Cases filed (5 documents)
60379, 60382, 60393–60396 Decisions and orders (5 documents)
Remedial orders:
60381, 60396, 60397 Objections filed (3 documents)

Historic Preservation, Advisory Council
NOTICES
60344 Federal surplus property program; programmatic memorandum of agreement with Heritage Conservation Service and Federal Property Resources Service; inquiry

Housing and Urban Development Department
RULES
Low income housing:
60285 Housing assistance applications; review procedures; correction

V 44 0 C 1979 UMI

Industry and Trade Administration
NOTICES
Meetings:
60348 Telecommunications Equipment Technical Advisory Committee

Interior Department
See Land Management Bureau; National Park Service; Surface Mining Office.

Interstate Commerce Commission
RULES
Motor carriers:
60296 Authority application decision standards; policy statement
Organization, functions, and authority delegations:
60295 Review Boards; finance proceedings
NOTICES
60465 Fourth section applications for relief (2 documents)
Motor carriers:
60465 Permanent authority applications
60466 Release rates applications
60465 Temporary authority applications; correction (2 documents)
Railroad car service orders; various companies:
60466 Kansas City Terminal Railway Co.

Labor Department
See also Employment Standards Administration; Mine Safety and Health Administration; Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
60422 Barnes & Tucker Co.
60422 Brewer Dry Dock Co.
60425 Botany 500 et al.
60423 Capricorn Iron Works Co., Inc.
60427 Capricorn Iron Works Co., Inc., et al.
60423 Carter Leather Goods Co., Inc.
60423 Celia's Sportswear Manufacturing Corp.
60424 Cedar Coal Co.
60426 Cohen Brothers Specialties, Inc., et al.
60428 Dell Knitwear, Inc., et al.
60424 Indian Creek Coal Co., Inc., et al.
60425 International Shoe Co.
60428 Keene Wood Heel Co., Inc.
60428 Manes Organization, Inc.
60429 Mountaineer Coal Co.
60429 National Sugar Refining Co.
60429 Perkins Diesel Corp.
60430 Perry Knit, Inc.
60430 Robinson Phillips Coal Co. et al.
60431 Rodermond Industries, Inc.
60431 Sarkes Tarzian, Inc.
60431 Seaare Marine, Inc.
60432 Shortway Products, Inc.
60432 Stucar Manufacturing Corp.
60433 Terry Jane Coal Co., Inc.
60433 Turbine Enterprises, Inc.
60433 Union Dry Dock & Repair Co., Inc.
60434 Union Maintenance Corp.
60434 Union Sugar Co.
60435 Waterville Auto Mart, Inc.

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
60416 Cook Inlet Region, Inc.; correction
Applications, etc.:
60416 Colorado
60417 Utah (2 documents)
60418 Wyoming
Environmental statements; availability, etc.:
60417 South Coast-Curry Timber Management Plan, Oreg.
Meetings:
60417 Salmon District Grazing Advisory Board
Outer Continental Shelf:
60416 Oil and gas lease sales; North Atlantic; correction
60416 Oil and gas lease sales; restricted joint bidders; list
Wildnerness areas; characteristics, inventories, etc.:
60418 Utah

Management and Budget Office
RULES
60286 OMB and Federal management circulars; transfer and redesignation of regulations
60251 OMB and Federal management circulars; transfer and redesignation of regulations; cross reference

Mine Safety and Health Administration
NOTICES
Petitions for mandatory safety standard modifications:
60419, 60420 Kentucky Carbon Corp. (2 documents)
60420 Sunshine Mining Co.

Minority Business Development Agency
NOTICES
60350 Financial assistance application announcements (2 documents)

National Credit Union Administration
NOTICES
60406 Nondiscrimination; policy statement, interagency
60402 Truth in Lending (Regulation Z); enforcement policy, interagency

National Labor Relations Board
NOTICES
60468 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Marine mammal permit applications, etc.:
60351 California Department of Fish and Game
60351 Norris, Dr. Kenneth S.
Meetings:
60351 New England Fishery Management Council
60351 South Atlantic Fishery Management Council

National Park Service
NOTICES
Land transfer:
60419 Olympic National Park and Olympic National Forest, Wash.; correction
Meetings:
60419 Delta Region Preservation Commission; correction
60419 Golden Gate National Recreation Area Advisory Commission

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
60449 Ogle Petroleum, Inc.; Bison Basin Project, Wyo.
Meetings:
60448, 60449 Reactor Safeguards Advisory Committee (3 documents)

Occupational Safety and Health Administration
PROPOSED RULES
Health and safety standards:
60333 Confined spaces, entry and work; advance notice
NOTICES
Meetings:
60421 Occupational Safety and Health Federal Advisory Council
State plans; development, enforcement, etc.:
60420, 60421 Alaska (2 documents)

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans:
60435-60446 Prohibition on transactions; exemption proceedings, applications, hearings, etc. (8 documents)

Personnel Management Office
PROPOSED RULES
60301 Garnishment orders issued against the U.S. for child support or alimony; uniform procedures for processing
NOTICES
60450 Privacy Act; systems of records; annual publication

Securities and Exchange Commission
RULES
60281 National securities exchanges and registered securities associations; recordkeeping and record production obligations; interpretive release
NOTICES
Hearings, etc.:
60452 Appalachian Power Co.
60454 Appalachian Power Co. et al.
60455 Daily Cash Accumulation Fund, Inc.
60458 Eastern Utilities Associates
60459 Fidelity Trend Fund, Inc., et al.
60462 Huffy Corp.
60462 Kentucky Power Co.
60456 Indiana & Michigan Electric Co.
60468 Meetings; Sunshine Act
Self-regulatory organizations; proposed rule changes:
60452 American Stock Exchange, Inc.
60458 Depository Trust Co.
60463, 60465 New York Stock Exchange, Inc. (2 documents)

Small Business Administration
RULES
Procurement and technical assistance:
60273 Small businesses in Federal contracting programs

Surface Mining Office
RULES
60285 Abandoned mines; land reclamation program; recordkeeping and reporting requirements; GAO approval

Treasury Department
See Comptroller of Currency.

Truman, Harry S., Scholarship Foundation
NOTICES
60407 Scholarship program; closing date for nominations

Wage and Price Stability Council
RULES
60676 Data requests; interim rules and inquiry
Wage and price guidance; anti-inflation program:
60251 Questions and answers
NOTICES
Committees; establishment, renewals, terminations, etc.:
60366 Pay Advisory Committee

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
Industry and Trade Administration—
60348 Telecommunications Equipment Technical Advisory Committee, 11–8–79
National Oceanic and Atmospheric Administration—
60351 New England Fishery Management Council's Scientific and Statistical Committee, 11–13–79
60351 South Atlantic Fishery Management Council, 11–27 through 11–29–79

CONSUMER PRODUCT SAFETY COMMISSION
60352 Product Safety Advisory Council, 11–5 and 11–6–79

DEFENSE DEPARTMENT
Office of the Secretary—
60368 Defense Department Wage Committee, 12–4, 12–11, and 12–18–79
60367 Defense Intelligence Agency Advisory Committee, 11–15–79
60367 Defense Science Board Task Force on Cruise Missiles Advisory Committee, 11–13 and 11–14–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Assistant Secretary for Education—
60414 Federal Education Data Acquisition Council, 11–8 and 11–9–79
Food and Drug Administration—
60411 Clinical Chemistry and Hematology Devices Panel, 11–19–79
60408 Various Advisory Committees, November meetings
Office of the Secretary—
60415 White House Conference on Families, October through January hearings

LABOR DEPARTMENT
Occupational Safety and Health Administration—
60421 Occupational Safety and Health Federal Advisory Council, 11–6–79

NATIONAL COMMISSION ON AIR QUALITY
60448 Commission meeting, 11–13–79

NUCLEAR REGULATORY COMMISSION
60448 Reactor Safeguards Advisory Committee Metal Components Subcommittee, 11–5–79
60449 Reactor Safeguards Advisory Committee, the Sequoyah Nuclear Power Station Subcommittee, 11–5–79

RESCHEDULED MEETINGS

NUCLEAR REGULATORY COMMISSION
60448 Reactor Safeguards Advisory Committee, the Three Mile Island Ad Hoc Subcommittee, 11–7–79

V 44 0C 1 9 7 9 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. III 60251
Proposed Rules:
581 60301

6 CFR
705 60251
706 60251
707 60676

7 CFR
2 60251
354 60255
722 60255
910 60256

9 CFR
75 60257
97 60261
113 60262
Proposed Rules:
113 60306

10 CFR
205 (2 documents) 60264, 60638
211 60638
212 60638
436 60664
515 60690
Proposed Rules:
211 60307

12 CFR
329 60273
Proposed Rules:
528 60310

13 CFR
124 60273
125 60273
126 60273
127 60273

17 CFR
240 60281

18 CFR
1 60282
3 60282
154 60284
270 60284
283 60284

21 CFR
Proposed Rules:
136 60313
137 60313
145 60314
148 60315
168 60315
310 60316
320 60320
331 60328
444 60331
640 60332
680 60333

24 CFR
891 60285

29 CFR
Proposed Rules:
1910 60333

30 CFR
872 60285
877 60285
879 60285
882 60285
884 60285
886 60285

34 CFR
Ch. I 60286

40 CFR
600 60286
Proposed Rules:
35 60335
52 60339
81 60341

42 CFR
405 60287
Proposed Rules:
121 60342

44 CFR
Proposed Rules:
67 60342

47 CFR
0 60291
1 60291
21 60532
22 60532

49 CFR
Ch. X 60296
1011 60295

Rules and Regulations

Federal Register
Vol. 44, No. 204
Friday, October 19, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Chapter III

OMB and Federal Management Circulars; Transfer and Redesignation of Regulations

Cross Reference: For the page number of a document transferring regulations in 34 CFR Chapter I to 5 CFR Chapter III, see "Management and Budget Office" in the table of contents of this issue of the **Federal Register.**

BILLING CODE 6820-27-M

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Parts 705 and 706

Questions and Answers on the Anti-Inflationary Pay and Price Standards and Procedural Rules

AGENCY: Council on Wage and Price Stability.

ACTION: Questions and Answers on the Anti-Inflationary Pay and Price Standards and Procedural Rules.

SUMMARY: On October 2, 1979, the council published Anti-Inflationary Pay and Price Standards and Procedural Rules for the Anti-Inflation Program and on October 12, 1979, the Council published a set of Questions and Answers. The Council continues to receive many questions concerning the standards and the procedural rules, particularly with respect to reporting and the availability of adjustments for pay compliance. In response to these questions, and to clarify the standards and the procedural rules in the second program year, the Council is publishing the following Questions and Answers. The Council will publish Questions and Answers on a regular basis as questions of general application arise under the Pay and Price Standards, the Procedural Rules, or the Questions and Answers published today.

EFFECTIVE DATE: October 19, 1979.

ADDRESS: Written comments and/or questions should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street, NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Pay Standard—Daniel Duff, 456–6210; Price Standard—Al Wurglitz, 456–6286; Procedural Rules—Jane Campana, 456–6210.

Dated: October 9, 1979.

R. Robert Russell,
Director, Council on Wage and Price Stability.

Questions and Answers

I. The Price Standard

Q. Should a company with total sales or revenues of $250 million or more but whose domestic operations account for less than $250 million in sales or revenues report its company organization or file Form PM–1's?

A. Not unless specifically requested by the Council to do so.

Q. Should a foreign company whose U.S. business operations account for less than $250 million in sales or revenues report its company organization or file Form PM–1's?

A. Not unless specifically requested by the Council to do so.

Q. Should a foreign company that owns or controls U.S. business operations accounting for $250 million or more in sales or revenues report its company organization or file Form PM–1's?

A. Only the U.S. business operations of the foreign company should do so.

II. The Pay Standard

Q. If a collective-bargaining unit is eligible for the one-percent non-COLA catch-up, are there any restrictions on when it may take the catch-up?

A. No; it may be taken in any year of the agreement.

Q. Is an employee unit eligible for the catch-up if it has received an exception during the first program year, either self-administered or approved by the Council?

A. Yes.

Q. If a company seeks more than a 1-percent non-COLA catch-up should it provide the Council with data showing the actual increases granted the employee unit during the first program year?

A. Yes. The Council will consider the following facts in evaluating such requests: (1) The effect of all exceptions approved by the Council or self-administered; (2) the effect of any ongoing pay plan; and (3) the amount of any other nonchargeable item, except for the excluded portion of the increased cost of maintaining existing benefits.

Q. How should catch-up and carry-over adjustments be computed if a company reorganizes its employee units for the second program year?

A. Companies should compute pay-rate increases for the first program year for the reorganized employee units. Carry-over and catch-up adjustments should be based on the pay-rate computations for the reorganized employee units.

Q. What is the base quarter for the second program year for pay-rate computations?

A. The base quarter is the compliance unit's last quarter in the first program year.

III. Procedures

Q. Under the procedures for the first year, companies were encouraged to report the same organizational structure for pay and price purposes unless this would involve substantial administrative costs. Does this policy continue to apply?

A. No. Under § 706.21(a) a company's organizational structure may be different for pay and price without regard to administrative costs.

Q. Should State and local governments that meet the sales or revenue thresholds in § 706.21(b) report its company organization?

A. Yes.

[FR Doc. 79–32299 Filed 10–18–79; 8:45 am]

BILLING CODE 3175–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Delegation of Authority by the Secretary of Agriculture and General Officers of the Department

AGENCY: Department of Agriculture.

ACTION: Final Rule.

SUMMARY: This document revises the delegations of authority for the Secretary and General Officers to reflect the establishment of the Director, Science and Education, as a General Officer of the Department. This document also reflects the realignment of the Director, Science and Education, from reporting to the Assistant Secretary of Conservation, Research, and Education to reporting directly to the Secretary of Agriculture. It also reflects a title change of the Assistant Secretary for Conservation, Research, and Education to Assistant Secretary for Natural Resources and Environment.

It has been determined that this action will strengthen the Department's leadership in the food and agricultural sciences as called for in the National Agricultural Research, Extension, and Teaching Policy Act of 1977. (7 USC 3101–3316).

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: Leonard V. Covello, Organization and Management Development Staff, Science and Education Administration, U.S. Department of Agriculture, 6505 Belcrest Road, Hyattsville, Maryland 20782 (301–436–8300).

Accordingly, 7 CFR Part 2 is amended as follows:

Subpart A—General

§§ 2.4 and 2.5 [Amended]

1. Section 2.4 is amended by deleting the word "and" before the term, "the Judicial Officer," by changing the period at the end of the section to a semicolon and by adding "and the Director, Science and Education."

2. Section 2.4 and § 2.5(b) are amended by deleting the term "Assistant Secretary for Conservation, Research, and Education" and substituting in lieu thereof "Assistant Secretary for Natural Resources and Environment."

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Governmental and Public Affairs

3. Section 2.19 is amended by revising the heading, by revoking and reserving paragraphs (a) and (g) in their entirety and by revising the preamble to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Natural Resources and Environment.

The following delegations of authority are made by the Secretary of Agriculture to the Assistant Secretary for Natural Resources and Environment:

(a) [Revoked and reserved].

* * * * *

(g) [Revoked and reserved].

* * * * *

4. Section 2.20 is amended by revoking and reserving paragraph (a) and by adding a preamble to read as follows:

§ 2.20 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) [Revoked and reserved].

* * * * *

§ 2.21 [Amended]

5. Section 2.21 is amended by deleting the term "Assistant Secretary for Conservation, Research, and Education" in paragraph (d)(2) and substituting in lieu thereof the term "Director, Science and Education."

Subpart D—Delegations of Authority to Other General Officers and Agency Heads

6. New §§ 2.39 and 2.40 are added as follows:

§ 2.39 Delegations of authority to the Director of Science and Education.

The following delegations of authority are made by the Secretary of Agriculture to the Director, Science and Education.

(a) *Related to science and education.*

(1) Provide national leadership and coordination for agricultural research, extension, and teaching programs in the food and agricultural sciences (includes human nutrition, home economics, consumer services, family life, rural and community development, agricultural energy, agricultural economics, environmental quality, natural and revewable resources, forestry, range management, animal and plant production and protection, aquaculture, and the processing, distribution, marketing and utilization of food and agricultural products) conducted or financed by the Department of Agriculture and, to the maximum extent practicable, by other Federal departments and agencies pursuant to the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3121).

(2) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics under the Smith-Lever Act as amended (7 U.S.C. 341–349).

(3) Cooperate with the States for the purpose of encouraging and assisting them in carrying out research related to the problems of agriculture in its broadest aspects under the Hatch Act as amended (7 U.S.C. 361a–361i).

(4) Support agricultural research at eligible institutions in any State through Federal-grant funds to help finance physical facilities (7 U.S.C. 390–390k).

(5) Conduct research concerning domestic animals and poultry, their protection and use, causes of contagious, infectious, and communicable diseases and means for the prevention and cure of the same (7 U.S.C. 391).

(6) Conduct research related to the dairy industry and dissemination of information for the promotion of the dairy industry (7 U.S.C. 402).

(7) Conduct research and demonstrations at Mandan, ND and Lewisburg, TN, concerning dairy livestock breeding, growing, and feeding, and other problems pertaining to the establishment of dairy and livestock industries (7 U.S.C. 421–422).

(8) Conduct research on new uses for cotton and on cotton ginning and processing (7 U.S.C. 423–424).

(9) Conduct research into the basic problems of agriculture in its broadest aspects, including, but not limited to, production, marketing (other than statistical and economic research but including consumer and food economic research), distribution, processing, utilization of plant and animal commodities, problems of human nutrition, development of markets for agricultural commodities, discovery, introduction, and breeding of new crops, plants, and animals both foreign and native, conservation development, and development of efficient use of farm buildings, homes, and farm machinery, including the application of electricity and other forms of power and research and development related to uses of solar energy with respect to farm buildings, farm homes, and farm machinery (7 U.S.C. 427, 2201, 2204).

(10) Conduct research on varietal improvement of wheat and feed grain to enhance their conservation and environmental qualities (7 U.S.C. 428b).

(11) Advance the livestock and agricultural interests of the United States including the breeding of horses suited to the needs of the United States (7 U.S.C. 437).

(12) Enter into agreements with and receive funds from any State or political subdivision, organization, or person for the purpose of conducting cooperative research projects (7 U.S.C. 450a).

(13) Administer a program of competitive, special, and facilities grants to State agricultural experiment stations, colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations and individuals to promote research in food, agricultural and related areas (7 U.S.C. 450i).

(14) Conduct research related to soil and water conservation, engineering operations and methods of cultivation to provide the control and prevention of soil erosion (7 U.S.C. 1010, 16 U.S.C. 590a).

(15) Maintain four regional research laboratories and conduct research at such laboratories to develop new scientific, chemical, and technical uses and new and extended markets and outlets for farm commodities and products and byproducts (7 U.S.C. 1292).

(16) Conduct a special cotton research program designed to reduce the cost of producing upland cotton in the United States (7 U.S.C. 1441-note).

(17) Conduct research, educational and demonstration work related to the distribution and marketing of agricultural products under the Agricultural Marketing Act of 1946 as amended (7 U.S.C. 1621–1627).

(18) Administer and coordinate a foreign contracts and grants program of market development research in the physical and biological sciences under section 104(b)(1) of the Agricultural Trade, Development, and Assistance Act of 1954, but excluding agricultural economics research; and administer and coordinate a foreign contracts and grants program of agricultural and forestry research under section 104(b)(3) of such act (7 U.S.C. 1704(b)(1), (3)).

(19) Conduct research in tropical and subtropical agriculture for the improvement and development of tropical and subtropical food products for dissemination and cultivation in friendly countries as provided by the Food for Peace Act of 1966 (7 U.S.C. 1736(a)(4)).

(20) Conduct research to develop and determine methods of humane slaughter of livestock (7 U.S.C. 1904).

(21) Accept gifts and order disbursements from the Treasury for the benefit of the National Agricultural Library or for carrying out any of its functions (7 U.S.C. 2264–2265).

(22) Administer in cooperation with the States a cooperative rural development and small farm research and extension program under the Rural Development Act of 1972 as amended (7 U.S.C. 2661–2670).

(23) Administer a cooperative extension program under the Farmer-to-Consumer Direct Marketing Act of 1976 (7 U.S.C. 3004).

(24) Conduct a program of grants to States to establish or expand schools of veterinary medicine (7 U.S.C. 3151).

(25) Conduct a program of (i) competitive grants to colleges and universities and (ii) predoctoral and postdoctoral fellowships, to further education in the food and agricultural sciences (7 U.S.C. 3152).

(26) Administer the National Agricultural Research Award for research or advanced studies in the food and agricultural sciences (7 U.S.C. 3153).

(27) Make grants to colleges and universities for research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products and agricultural chemicals and other products from coal derivatives (7 U.S.C. 3154).

(28) Administer a national food and human nutrition research and extension program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171–3177).

(29) Administer an animal health and disease research program under the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3191–3193, 3195–3201).

(30) Support continuing agricultural and forestry extension and research at 1890 land-grant colleges including Tuskegee Institute (7 U.S.C. 3221, 3222).

(31) Administer in relation to uses of solar energy (i) a competitive research grants program, (ii) a solar energy research information system, (iii) a cooperative program with the States on model farms and demonstration projects, and (iv) a program of research, extension, and demonstration at regional solar energy research and development centers (7 U.S.C. 3241, 3251, 3261–3263, 3271, 3281–3282).

(32) Cooperate and work with national and international institutions and other persons throughout the world in the performance of agricultural research and extension activities (7 U.S.C. 3291).

(33) Conduct educational and demonstration work in cooperative farm forestry programs (16 U.S.C. 568).

(34) Cooperate with the States for the purpose of encouraging and assisting them in carrying out programs of forestry research (16 U.S.C. 582a-582a-7).

(35) Provide for an expanded and comprehensive extension program for forest and rangeland renewable resources (16 U.S.C. 1671).

(36) Authorize the use of the 4–H Club name and emblem (18 U.S.C. 707).

(37) Maintain a National Arboretum for the purpose of research and education concerning tree and plant life; accept and administer gifts or devices of real and personal property for the benefit of the National Arboretum; and order disbursements from the Treasury (20 U.S.C. 191–195).

(38) Conduct research on foot-and-mouth disease and other animal diseases (21 U.S.C. 113a).

(39) Conduct research on control and eradication of cattle grubs (screwworms) (21 U.S.C. 114e).

(40) Conduct research, demonstration, and promotion activities related to farm dwellings and other buildings for the purpose of reducing costs and adapting and developng fixtures and appurtenances for more efficient and economical farm use (42 U.S.C. 1476(b)).

(41) Conduct research on losses of livestock in interstate commerce due to injury or disease (45 U.S.C. 71 note).

(42) Administer the Virgin Islands agricultural research program (48 U.S.C. 1409m-0).

(43) Conduct research related to the use of domestic agricultural commodities for the manufacture of any material determined to be strategic and critical or substitute therefore, under section 7(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98f).

(44) Administer a cooperative agricultural extension program related to agriculture, uses of solar energy with respect to agriculture and home economics in the District of Columbia (D.C. Code Section 31–1719).

(45) Provide leadership and direct assistance to the Cooperative Extension Service in planning, conducting, and evaluating extension programs under a memorandum of agreement with the Bureau of Indian Affairs dated May 1956.

(46) Exercise responsibilities of the Secretary under regulations dealing with Equal Employment Opportunity in the Cooperative Extension Service (pt. 18 of this subtitle).

(47) Represent the Department on the Federal Interagency Council on Education.

(48) Develop and maintain library and information systems and networks and facilitate cooperation and coordination for the agricultural libraries of colleges, universities, Department of Agriculture, and their closely allied information gathering and dissemination units in close conjunction with private industry and other research libraries (7 U.S.C. 2201, 2204, 3126).

(49) Assure the acquisition, preservation and accessibility of all information concerning food and agriculture by providing leadership to and coordination of the acquisition programs and related activities of the library and information system, and the

V 44 0C 1 19 7 9 UMI

agencies of USDA, other Federal departments and agencies, State agricultural experiment stations, colleges and universities, and other research institutions and organizations.

(50) Formulate, write and/or prescribe bibliographic and technically related standards for the library and information service of USDA.

(51) Determine by survey and other appropriate means the information needs of the Department's scientific, professional, technical and administrative staffs, its constituencies and the general public in the areas of food, agriculture, the environment, and solar energy.

(52) Represent the Department on all library and information science matters before Congressional Committees and appropriate commissions, and provide representation to the coordinating committees of the Federal and State governments concerned with library and information science activities.

(53) Represent the Department in international organizational activities and on international technical committees concerned with library and information science activities.

(54) Prepare and disseminate computer bibliographic files, indexes and abstracts, bibliographies, reviews, and other analytical information tools.

(55) Copy and deliver on demand selected articles and other materials from its collections by photographic reproduction or other means within the permissions, constraints and limitations of Sections 106, 107, and 108 of the Copyright Act of October 19, 1976 (Title 17, U.S. Code).

(56) Arrange for the consolidated purchasing and dissemination of indexes, abstracts, journals and other widely used information publications and services.

(57) Provide assistance and support to professional organizations concerned with library and information science matters and issues.

(58) Pursuant to authority delegated by the Administrator of the General Services Administration to the Secretary of Agriculture in 34 FR 6406, 36 FR 1293, 36 FR 18440, and 38 FR 23838, appoint uniformed armed guards as special policemen, make all needful rules and regulations, and annex to such rules and regulations such reasonable penalties, (not to exceed those prescribed in (40 U.S.C. 318c)), as will ensure their enforcement, for the protection of persons, property, buildings, and grounds of the Arboretum, Washington, DC; the U.S. Meat Animal Research Center, Clay Center, NE; the Agricultural Research Center, Beltsville, MD, and the animal Disease Center, Plum Island, NY, over which the United States has exclusive or concurrent criminal jurisdiction, in accordance with the limitations and requirements of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended, the Act of June 1, 1948 (62 Stat. 181) as amended, and policies, procedures and controls prescribed by the General Services Administration. Any rules or regulations promulgated under this authority shall be approved by the Director of the Office of Operations and Finance and the General Counsel prior to issuance.

(59) Control within the Department of Agriculture of the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

(60) Administer teaching funds authorized under section 22 of the Bankhead Jones Act, as amended (7 U.S.C. 329).

(61) Responsible for representing the Department on the Federal Council for Science and Technology.

(b) *Related to committee management.* Establish and reestablish regional, state and local advisory committees for activities authorized. This authority may not be redelegated.

(c) *Related to defense.* Administer responsibilities and functions assigned under the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), and the Federal Civil Defense Act, as amended (50 U.S.C. App. 2251 et seq.) concerning scientific and educational programs.

(d) *Related to rural development activities.* Provide guidance and direction for the accomplishment of activities authorized under the Rural Development Act of 1972 by programs under the control of the Director, Science and Education, coordinating the policy aspects thereof with the Assistant Secretary for Rural Development.

§ 2.40 Reservations of authority.

The following authorities are reserved to the Secretary of Agriculture:

(a) *Related to science and education.* (1) Withholding funds from States and sending notification thereof to the President in accordance with sections 5 and 6 of the Smith-Lever Act, as amended (7 U.S.C. 345–346), section 5 and 7 of the Hatch Act as amended (7 U.S.C. 361 e.g.), section 506 of the Rural Development Act as amended (7 U.S.C. 2666), and sections 1436, 1444, 1445, and 1468 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3198, 3221, 3222 and 3314).

(2) Reapportioning funds under section 4 and apportioning funds under section 5 of the act of October 10, 1962 (16 U.S.C. 582 a–3, a–4).

(3) Appointing an advisory committee under section 6 of the act of October 10, 1962 (16 U.S.C. 582a–5).

(4) Final concurrence of Equal Employment Opportunity programs within the cooperative extension programs submitted under part 16 of this subtitle.

(5) Approving selection of State directors of extension.

(6) Approving the memoranda of understanding between the land-grant universities and the Department of Agriculture related to cooperative extension programs.

7. The heading for Subpart G is amended to read as follows:

Subpart G—Delegations of Authority by the Assistant Secretary for Natural Resources and Environment.

8. The heading and text of § 2.56 is amended to read as follows:

§ 2.56 Deputy Assistant Secretary for Natural Resources and Environment.

(a) *Delegations.* Pursuant to § 2.19, subject to reservations in § 2.20, and subject to policy guidance and direction by the Assistant Secretary, the following delegation of authority is made by the Assistant Secretary for Natural Resources and Environment to the Deputy Assistant Secretary for Natural Resources and Environment, to be exercised only during the absence or unavailability of the Assistant Secretary:

(1) Perform all the duties and exercise all the powers which are now or which may hereafter be delegated to the Assistant Secretary for Natural Resources and Environment.

(b) *Reservations.* The following authority is reserved to the Assistant Secretary for Natural Resources and Environment: (1) Approval or concurrence required by section 1(c) of Executive Order 10355 of May 26, 1952 (17 FR 4831), relating to withdrawal or reservation of lands of the United States.

§ 2.57 [Revoked and reserved]

9. Section 2.57 is revoked and reserved.

§ 2.60 [Amended]

10. Section 2.60 is amended by deleting the terms "Assistant Secretary for Conservation, Research, and Education" and "Assistant Secretary of Agriculture for Conservation, Research, and Education" in paragraphs (a) and (b) respectively and substituting in lieu thereof the term "Assistant Secretary for Natural Resources and Environment".

§ 2.62 [Amended]

11. Section 2.62 is amended by deleting the term "Assistant Secretary for Conservation, Research, and Education" in paragraphs (a) and (b) and substituting in lieu thereof the term "Assistant Secretary for Natural Resources and Environment."

Subpart H—Delegations of Authority by the Under Secretary for International Affairs and Commodity Programs

§ 2.68 [Amended]

12. Section 2.68 is amended by deleting the term "Assistant Secretary for Conservation, Research, and Education" in paragraph (a)(2) and substituting in lieu thereof the term "Director of Science and Education".

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953)

For Subparts A, C and D:

Dated: October 16, 1979.

Bob Bergland,

Secretary of Agriculture.

For Subpart G:

Dated: October 16, 1979.

M. Rupert Cutler,

Assistant Secretary for Natural Resources and Environment.

For Subpart H:

Dated: October 16, 1979.

Dale E. Hathaway,

Under Secretary for International Affairs and Commodity Programs.

[FR Doc. 79-32387 Filed 10-18-79; 8:45 am]

BILLING CODE 3410-01-M

Animal and Plant Health Inspection Service

7 CFR Part 354

Overtime Services Relating to Imports and Exports; Overtime Work at Border Ports, Seaports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which establishes charges for overtime work at border ports, seaports, and airports. Agricultural quarantine inspectors of the U.S. Department of Agriculture are charged with performing inspection duties relating to imports and exports at border ports, seaports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following document amends the regulation entitled, "Overtime Work at Border Ports, Seaports, and Airports," by increasing the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91–656), and Executive Order 12165 dated October 9, 1979.

EFFECTIVE DATE: October 7, 1979.

FOR FURTHER INFORMATION CONTACT: H. V. Autry, (301–436–8247).

Pursuant to the authority conferred by the Act of August 28, 1950, (64 Stat. 561; 7 U.S.C. 2260) and the Airport and Airways Development Act Amendments of July 12, 1976, (90 Stat. 882; 49 U.S.C. 1741), § 354.1 of Part 354 Title 7, Code of Federal Regulations, the first sentence of § 354.1(a) is amended as set forth below:

§ 354.1 Overtime work at border ports, seaports, and airports.

(a) Any person, firm, or corporation having ownership, custody, or control of plants, plant products, animals, animal products, or other commodities or articles subject to inspection, laboratory testing, certification, or quarantine under this chapter and Subchapter D of Chapter I, Title 9 CFR, who requires the services of an employee of the Plant Protection and Quarantine Programs, on a Sunday or holiday, or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of Sunday or holiday or overtime service request the Plant Protection and Quarantine Program inspector in charge to furnish inspection, laboratory testing, certification, or quarantine service during such overtime, or Sunday or holiday period, and shall pay the Government therefor at the rate of $24.20 per man-hour per employee on a Sunday and at the rate of $16.08 per man-hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, or at any time after 5 p.m. or before 8 a.m. or a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture; and except that owners and operators of aircraft will be provided service without reimbursement during regularly established hours of service on a Sunday or holiday; and except that the overtime rate to be charged owners and operators of aircraft at airports of entry or other places of inspection as a consequence of the operation of aircraft, for work performed outside of the regularly established hours of service on a Sunday will be $20.64 and for work performed outside of the regularly established hours of service for holiday or any other period will be $12.52 per hour, which charges exclude administrative overhead costs.

* * * * *

(64 Stat. 561 (7 U.S.C. 2260); (Sec. 15 of P.L. 94–353, 90 Stat. 882) (49 U.S.C. 1741))

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternative to raising the overtime rate. By law, importers and exporters are required to reimburse the Agency for its costs associated with the services rendered. Unless the rate is raised, it will not cover the pay raise which commences October 7, 1979. Accordingly, pursuant to the administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the **Federal Register.**

This final rule has been reviewed under the provisions of Executive Order 12044, "Improving Government Regulations." A determination has been made that this action is a matter related to Agency management and is, therefore, exempt from the provisions of the Order (E.O. 12044, Section 6(b)(3)).

Done at Washington, D.C., this 16th day of October 1979.

James O. Lee, Jr.,

Deputy Administrator, Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service.

[FR Doc. 79-32492 Filed 10-18-79; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 722

1980 Crop of Extra Long Staple Cotton: Acreage Allotments and Marketing Quotas

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

V 44 0 C 1 9 7 9 UMI

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to (1) determine and proclaim a national marketing quota and national acreage allotment for the 1980 crop of extra long staple cotton (referred to as "ELS" cotton), (2) apportion the national acreage allotment to States; and (3) establish the period for holding the national marketing quota referendum in order to find whether farmers are in favor of, or opposed to, the announced marketing quota for ELS cotton. The need for this rule is to satisfy the statutory requirements of the Agricultural Adjustment Act of 1938, as amended (referred to as the "Act"). The latest available statistics of the Federal Government have been used in making determinations under this rule.

EFFECTIVE DATE: October 15, 1979.

ADDRESS: Production Adjustment Division, ASCS, USDA, 3630 South Building, P.O. Box 2415, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham (ASCS) 202–447–7873.

SUPPLEMENTARY INFORMATION: A notice that the Secretary was preparing to make determinations with respect to these provisions of the 1938 Act was published in the Federal Register on August 14, 1979, (44 FR 47543) in accordance with 5 U.S.C. 553. One comment was received recommending that the national acreage allotment be established at 120,000 acres. After considering the comment received, it was determined the national marketing quota for the 1980 crop of ELS cotton should be 137,000 bales and that the national acreage allotment for such crop should be 112,027 acres.

It is essential that these provisions be made effective as soon as possible since the proclamation of the quota and the national allotment is required by statute to be made not later than October 15, 1979. Accordingly, it is hereby found and determined that compliance with the 30-day effective date requirement of 5 U.S.C. 553 is impracticable and contrary to the public interest. Therefore, this amendment to 7 CFR 722.558 to 722.561 shall become effective upon the filing of this document with the Director, Office of the Federal Register, with respect to the 1980 crop of ELS cotton. The material previously appearing in these sections under centerhead "1979 Crop of Extra-Long Staple Cotton; Acreage Allotments and Marketing Quotas" remains in full force and effect with respect to the crop to which it was made applicable.

Final Rule

Accordingly, the provisions of 7 CFR §§ 722.558 through 722.561 are amended to read as follows:

§ 722.558 National marketing quota for the 1980 crop of ELS cotton.

The marketing quota for the 1980 crop of ELS cotton is hereby proclaimed to be an amount of 137,000 standard bales determined in accordance with section 347(b) of the Act. The quota is based on the following data:

(1) Estimated domestic consumption, 1980–81	65,000
(2) Estimated exports, 1980–81	+40,000
(3) Adjustment to assure adequate stocks	+34,000
(4) Estimated imports 1980–81	−2,000
Total	137,000

§ 722.559 National acreage allotment for the 1980 crop of ELS cotton.

It is hereby determined and proclaimed that a national acreage allotment shall be in effect for the 1980 crop of ELS cotton. The amount of such national allotment is 112,027 acres calculated by multiplying the national marketing quota in bales by 480 pounds (net weight of a standard bale) and dividing the result by the national average yield of 587 pounds per planted acre of ELS cotton for the four calendar years 1975, 1976, 1977 and 1978.

§ 722.560 Apportionment of national acreage allotment to the States.

The national acreage allotment of 112,027 acres is apportioned to the States in accordance with section 344(b) of the Act as follows:

State	State Allotment (Acres)
Arizona	48,557
California	488
Florida	136
Georgia	146
New Mexico	22,599
Texas	40,101

§ 722.561 National marketing quota referendum for the 1980 crop of ELS cotton.

The national marketing quota referendum for the 1980 crop of ELS cotton shall be held during the referendum period December 3 to 7, 1979, inclusive, by mail ballot in accordance with Part 717 of this chapter.

(Secs. 301, 343, 344, 347, 375; 52 Stat. 38, as amended; 63 Stat. 670, as amended; 63 Stat. 675, as amended; 52 Stat. 66, as amended; 7 U.S.C. 1301, 1343, 1344, 1347, 1375.)

Note.—This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Charles V. Cunningham, ASCS, 202–447–7873.

Signed at Washington, D.C., on October 15, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79–32197 Filed 10–15–79; 5:10 pm]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 222]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period October 21–27, 1979. Such action is needed to provide for orderly marketing of fresh lemons for this period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 21, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* This regulation is issued under the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handing of lemons grown in California and Arizona. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Lemon Administrative Committee, and upon other information. It is hereby found that this action will tend to effectuate the declared policy of the act.

The Committee met on October 16, 1979, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for lemons is considerably easier.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication without opportunity for further public comment. The regulation has not been classified significant under USDA criteria for implementing the Executive Order. An Impact Analysis is available from Malvin E. McGaha, 202–447–5975.

§ 910.522 Lemon Regulation 222.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 21, 1979, through October 27, 1979, is established at 200,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79–? Filed 10–18–79; ? am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Part 75

Contagious Equine Metritis (CEM); Quarantine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to limit the quarantine of certain equidae to various premises in the Commonwealth of Kentucky because of the existence of contagious equine metritis (CEM). CEM, a communicable disease of equidae has been diagnosed among breeding thoroughbred horses in certain areas of the Commonwealth of Kentucky. In order to protect the equine industry of the United States from this highly contagious communicable disease and the integrity of the export of equidae from the United States, it is necessary to quarantine certain premises in the Commonwealth of Kentucky and to permit the interstate movement of such quarantined animals only in accordance with the provisions established in the regulations. The intended effect of these amendments is to stop the spread of CEM in the United States.

EFFECTIVE DATE: October 12, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph C. Knowles, USDA, APHIS, VS, Federal Building, Room 738, Hyattsville, MD 20782, 301–436–8433.

SUPPLEMENTARY INFORMATION: Contagious equine metritis (CEM), a highly contagious, communicable disease of equidae, has been diagnosed in the Commonwealth of Kentucky among breeding horses of the thoroughbred breed. In order to protect the equine population of the United States from the spread of this highly contagious disease of equidae, it was necessary to quarantine the entire Commonwealth of Kentucky and to regulate the interstate movement of certain animals from and through the Commonwealth.

Section 75.7(a) of the regulations (9 CFR 75.7(a)), is amended to remove the quarantine because of the existence of CEM from the entire Commonwealth of Kentucky and to give notice that horses of the Thoroughbred breed in the areas of Boone, Bourbon, Boyle, Fayette, Graves, Jessamine, Kenton, Oldham, Scott, and Woodford Counties, Kentucky, are affected with or exposed to CEM, and that certain premises therein are quarantined as a result thereof.

This amendment reduces the CEM quarantine from the entire Commonwealth of Kentucky to the described individual premises that contain animals to be affected or exposed to CEM. Epidemiological studies have shown that it is no longer necessary to maintain a Commonwealth-wide CEM quarantine and that the quarantine of the individual premises will be effective to prevent the spread of CEM.

Accordingly, Part 75, Title 9, Code of Federal Regulations, is amended as follows:

1. In § 75.7, paragraph (a) is amended to read:

§ 75.7 Areas quarantined.

(a) * * *

(1) *Kentucky.*

(i) *Boone County.* That portion of the premises of Liberty Hill Farm, located in the northwest corner of the intersection of U.S. 42 and Cleek Lane, with an entrance off the west side of Cleek Lane 300′ north of U.S. 42, described as beginning at a point on the south side of a lake which is 300′ due west of the farm entrance, then along a single fence running west 100′, then south approximately 125′ along a fence line, then east approximately 150′ along a fence line following a ravine and then along an irregular fence approximately 300′ back to the lake approximately 100′ east of the point of beginning, then following the south edge of the lake to the point of beginning containing approximately two acres with an open barn.

(ii) *Bourbon County.* (A) That portion of the premises of Bradyleigh Farm located one mile west of Ruddles Mill on Ardery Pike lying on the north side of Ardery Pike described as beginning at the southwest corner of the metal barn building, then south approximately 60 feet along a fence line, then approximately 500 feet in a northwesterly direction along a fence line, then along an irregular fence line to the northwest corner of the metal barn building, then along the outside wall of the metal building to the point of beginning including the space enclosed in the metal building containing a total area of approximately 4.5 acres.

(B) That portion of the premises of Claiborne Farm located 1.4 miles south of the intersection of U.S. Highway 68 and Kentucky Highway 627 on the east side of Kentucky Highway 627 to the entrance, then travel 0.8 mile due south to the north corner of paddock No. 31, described as beginning at the north corner, then in a southeast direction approximately 300 feet along a fence line; then in a southwest direction approximately 175 feet along a fence line; then in a northwest direction approximately 300 feet along a fence line; then in a northeast direction approximately 175 feet along a fence line to the point of beginning, containing approximately 1.2 acres area with a black barn inside the enclosure.

(C) That portion of the premises of Elmendorf Farm No. 2, located 0.5 mile east of intersection of Bethleham Pike and Iron Works Pike on the north side of Iron Works Pike described as beginning at the northwest corner of barn No. 1, then, north along a double fence approximately 500 feet, then, west along a double fence approximately 200 feet, then south along a double fence approximately 500 feet, then east along a double fence to the point of beginning, containing approximately 4 acres.

(D) That portion of the premises of Miracle Acres located 4.5 miles west of Esconida Road from its intersection with Kentucky State Road 627, lying on the north side of Esconida Road described as beginning at a point on the northeast side of the round pond, then along a

V 4 4 0 C 1 9 7 9 UMI

double fence line north approximately 600 feet, then east approximately 2000 feet along a fence line, then southwest approximately 1800 feet along a fence line, then north approximately 800 feet along a fence line back to the point of beginning, containing approximately 8 acres.

(E) That portion of the premises of Steven's Point Farm located 2.4 miles east of the intersection of Kentucky Highway 627 and Stony Point Road on the south side of Stony Point Road, then proceed 0.6 mile south from farm entrance to the entrance to the paddock with the new fence described as beginning at the entrance gatepost, then, west approximately 200 feet along a double fence; then, southeast approximately 206 feet along a double fence line; then approximately 135 feet southeast along a double fence line; then, north approximately 272 feet along a double fence to the point of beginning, containing approximately one acre.

(F) That portion of the premises of Stonereath Farm located 1.8 miles north of the intersection of U.S. Highway 460 and Clay Kiser Road on the west side of Clay Kiser Road described as beginning at the entrance of the farm from Clay Kiser Road; then, north approximately 1200 feet along a single fence; then, west approximately 1,175 feet along a single fence; then, approximately 1,175 feet south along a single fence; then, southeast along an irregular single fence back to the point of beginning, containing approximately 30 acres including a pump house in the southwest corner, a creek running southeast through the southwest corner and a round pond in the southeast corner of the field.

(G) That portion of the premises of Spring Place Farm located on the west side of Redmon Road, 3.6 miles north of the intersection of Redmon Road and U.S. Highway 68, then proceed northwest approximately 200 feet from the northwest corner of the main house to a fence corner described as beginning at the fence corner; then, north approximately 320 feet along the fence line; then, northeast approximately 240 feet along the fence line; then, east approximately 280 feet along the fence line to the fence along Redmon Road; then, south along this fence approximately 240 feet; then, southwest around the north edge of the pond approximately 180 feet; then, south along the west edge of the pond approximately 180 feet; then, west approximately 280 feet to the point of beginning, containing approximately 3.8 acres.

(H) That portion of the premises of Weathering Farm located on the south side of Ferguson Lane 1.3 miles northwest of the intersection of U.S. Highway 68 and Ferguson Lane, then, from the main entrance to the farm, proceed along the right (south) side of the fence along the lane for approximately 1000 feet to a gate, then south across the field to the north corner of a fence surrounding a pond described as beginning at the north corner; then, southeast approximately 100 feet along a fence line; then, south approximately 400 feet along a fence line; then, northwest approximately 300 feet along a fence line; then, north approximately 400 feet along a fence line to the point of beginning, containing approximately 1.8 acres including a pond in the quarantined area.

(iii) *Boyle County.* That portion of the premises of Happy Valley Farm located on the southwest side of Bluegrass Pike 0.5 mile northwest of the intersection of Kentucky Highway 1915 and Bluegrass Pike, intersection is located 0.9 mile west of U.S. Highway 127, then, proceed from the farm entrance southwest 0.8 mile to a structure known as the concrete barn, then proceed southeast from the southwest corner of the concrete barn approximately 600 feet to the corner post of the paddock, described as beginning at the corner post; then, approximately 400 feet southwest along a double fence line; then, approximately 220 feet southeast along a single fence; then, approximately 400 feet northeast along a single fence; then, approximately 220 feet northwest along a single fence line to the point of beginning, containing approximately 2 acres.

(iv) *Fayette County.* (A) That portion of the premises of Belair Farm, Ltd. located on the west side of Walnut Hill Pike 300 feet south of the intersection of Walnut Hill Pike and Delong Pike, then, proceed west on entrance road 0.2 mile to a house trailer to the entrance of the paddock at the north end of this house trailer described as beginning at entrance gate; then, north approximately 45 feet along a single fence; then, west approximately 375 feet along a single fence; then, south approximately 400 feet along a single fence line; then, east approximately 315 feet along a single fence line; then, north approximately 300 feet back to the point of beginning, containing approximately 4.0 acres including a round pond near the center of the paddock.

(B) That portion of the premises of Bluegrass (Houston) Farm located 0.5 mile south of the intersection of Fort Springs Pinchard Road and Parkers Mill Road on the Fort Springs Pinchard Road lying on the west side of said road described as beginning at the southeast corner of a building known as Fayette Barn #5, then south approximately 1,800 feet along a double fence line, then west approximately 2,400 feet along the fence line, then north paralleling Shannon Run Creek along the fence line approximately 550 feet, then along an irregular fence line which borders a pond in an easterly direction to the point of beginning, containing approximately 14 acres.

(C) That portion of the premises of Crescent Farm located 5.2 miles northeast of New Circle Road on the east side of Bryan Station Pike described as beginning at the northwest corner of a building known as the Five Stall Barn, then north approximately 500 feet along a fence line, then east approximately 500 feet along a fence line, then south approximately 500 feet along a fence line, then west approximately 500 feet along a fence line to the point of beginning, containing approximately 5 acres.

(D) That portion of the premises of the Hagyard Farm located approximately 0.3 mile northwest of the intersection of U.S. 27 and Hughes Lane with entrance on the Northeast side of Hughes Lane. The premises has two quarantined areas consisting of two paddocks. The first quarantined area is described as beginning at a point at the southeast corner of the entrance barn; then approximately 450 feet east along a double fence, then approximately 250 feet south along a double fence and tree line, then approximately 300 feet west along a double fence, then approximately 300 feet along an irregular single fence back to the point of beginning, containing approximately 1.5 acres.

The second quarantined area is described as beginning at a point at the southwest corner of the same entrance barn, then running approximately 200 feet west along a double fence, then approximately 400 feet south along a double fence and tree line, then approximately 300 feet east along a double fence, then in a northerly direction along a single fence to the point of beginning, containing approximately one acre.

(E) That portion of the premises of Heatherway Farm located one mile north of the intersection of Kentucky Highway 418 and Cleveland Pike on the east side of Cleveland Pike described as beginning at the entrance gate to the farm; then, south approximately 200 feet along a single fence line; then, east approximately 1,200 feet along a single fence line; then, north approximately 1,000 feet along a single fence line; then, west approximately 1,100 feet along a single fence line; then, south approximately 700 feet along a single fence line; then, west approximately 90 feet along a single fence line; then, south approximately 100 feet along a single fence line to the point of beginning, containing approximately 30 acres including a hay barn and a round pond near the center of the quarantined area.

(F) That portion of the premises of Mereworth Farm located 1.3 miles north of U.S. Highway 421 on the east side of Bethel Pike where it intersects with Dolan Road, then east from Dolan-Bethel intersection 0.3 mile, then northeast 600 yards to stallion row, then to the southernmost barn described as beginning at the north corner of this barn, then northeast approximately 900 feet along the fence line, then southeast approximately 900 feet along the double fence to the alley way, then southwest approximately 900 feet along the fence line paralleling the alley way, then northwest approximately 900 feet along the double fence line to the point of beginning, containing approximately 3.1 acres.

(G) That portion of the premises of Mill Ridge Farm located 0.7 mile south of Parkers Mill and Bowmans Mill Pike intersection on the east side of Bowmans Mill Pike then, to an area known as the training barn, then approximately 250 yards to the northeast and paddock No. 6, adjacent to stallion barn No. 1 described as beginning at the southeast corner of stallion barn No. 1, then approximately 300 feet in a southeasterly direction along the double fence line, then approximately 200 feet southwest along the fence line, then approximately 300 feet northwest along the fence line, then approximately 200 feet in a northeasterly direction along the fence line to the point of beginning, containing approximately 1.8 acres.

(H) That portion of the premises of North Ridge Farm located in the southeast corner of the intersection of Yarnallton Pike and Interstate Highway 64, then, from the entrance road on Yarnallton Pike east 800 feet to a structure known as the isolation barn described as beginning at the northwest corner of the isolation barn; then north approximately 120 feet to the interstate right-of-way fence; then, along this fence northwest approximately 200 feet; then, along the double fence line south approximately 130 feet; then, along a fence approximately 50 feet southeast around the north edge of a marsh area; then continue south approximately 100 feet along this fence line along a lane; then east approximately 180 feet along a fence line; then, north approximately 80 feet along a fence line to the point of beginning, containing approximately 1.1 acres.

(I) That portion of the premises of Spendthrift Farm No. 2 located north of the Council of State Government Building on Iron Works Pike, four-tenths of a mile east of the entrance of the Kentucky State Horse Park described as beginning at the farm's entrance on Iron Works Pike, then along the fence line in a northwesterly direction approximately 500 feet; then, along the fence line in a northeasterly direction approximately 1,300 feet; then along the fence line in a southwesterly direction approximately 320 feet; then, in a southeasterly direction along the fence line approximately 1,100 feet to and including the horse barn and lot, then from the barn along an irregular fence line paralleling the entrance road to the point of beginning containing approximately 36 acres.

(J) That portion of the premises of Spendthrift Farms known as Hayes Place Farm, that adjoins Spendthrift Farm No. 2 located approximately seven-tenths of a mile east of the entrance to the Kentucky State Horse Park on Iron Works Pike described as beginning at the paved farm entrance to Hayes Place on Iron Works Pike, then in a northeasterly direction along the fence line approximately 400 feet; then, along the fence line approximately 2,000 feet in a northwesterly direction; then, along the fence line approximately 650 feet in a southwesterly direction to a double fence line and follow it approximately 1,650 feet in a southeasterly direction; then along the fence line in a northeasterly direction for approximately 250 feet to a fence line which parallels the entrance road for approximately 400 feet in a southeasterly direction back to the point of beginning, containing approximately 29.4 acres including a barn.

(K) That portion of the premises of Twin Eagles Farm located on the west side of Rice Pike 1.4 miles northeast of the intersection of U.S. Highway 60 and Rice Pike, then west on entrance road 0.5 mile to a trailer labeled office, then to Paddock No. 10 located north of and directly behind the office trailer and connected to barn No. 3, described as beginning at the northeast corner of barn No. 3; then, east approximately 185 feet along a single fence; then, northeast approximately 490 feet along a single fence; then, west approximately 335 feet along a double fence; then, south approximately 490 feet along a single fence to the point of beginning, containing approximately 3.2 acres.

(L) That portion of the premises of the University of Kentucky Experiment Station located on the west side of Newtown Pike 100 yards north of Interstate 75 underpass, then, on entrance road to a barn marked "B" described as beginning at the south corner of the lot of barn "B"; then, north approximately 944 feet along double fence; then, east approximately 1326 feet along a double fence line; then, south approximately 950 feet along a double fence line; then, west approximately 1326 feet along a double fence line to the point of beginning, containing approximately 40 acres including a barn marked "C" which is located on the east end of the enclosed quarantine area.

(M) That portion of the premises of Walmac Farm located 0.6 mile southwest of the U.S. 27 and Iron Works Pike intersection on the northwest side of U.S. 27, then a part of that farm approximately 75 feet southwest of a building known as the tobacco barn described as beginning at a gate, then, south along a fence line approximately 300 feet, then, in a westerly direction along the fence line approximately 500 feet, then, approximately 300 feet north along a fence line, then east approximately 500 feet to the point of beginning, containing approximately one acre.

(N) That portion of the premises of White Horse Acres located on the east side of Newtown Pike 1.6 miles north of the intersection of Interstate 64 and Newtown Pike described as beginning at a corner post at the south side of the main entrance to the farm; then, southeast approximately 240 feet along a fence line paralleling Newtown Pike; then, east approximately 500 feet along a fence line; then, northwest approximately 220 feet along a fence line; then, south approximately 200 feet along a fence line; then, west approximately 300 feet along a fence line; then, north and northwest approximately 200 feet along a fence line to the point of beginning, containing approximately 2.6 acres.

(O) That portion of the premises of Wimbleton Farm No. 2 located on the east side of Walnut Hill Pike 1.1 miles south of the intersection of U.S. Highway 25 and Walnut Hill Pike, then, from the farm entrance, approximately 1,400 feet along the paved road, then, turn right and proceed approximately 2,500 feet on the paved road to a structure known as the training barn, then, proceed southwest approximately 75 feet from the southwest corner of this training barn to the northeast corner of a paddock (paddock No. 2) described as beginning at the northeast corner of this paddock (paddock No. 2); then, south approximately 540 feet along the fence

V 4 4 O C 1 9 7 9 UMI

line; then, west approximately 410 feet along the fence line; then, north approximately 540 feet along the fence line; then, east approximately 410 feet to the point of beginning, containing approximately 5.1 acres.

(v) *Graves County.* That portion of the premises of the Harrison Evans Farm located on the south side of Macedonia Road 1.5 miles east of the intersection of U.S. 45 S. described as beginning at a post on the south side of Macedonia Road, then approximately 700 feet south along a fence line, then approximately 700 feet east along a fence line, then approximately 700 feet north along a fence line, then paralleling Macedonia Road west approximately 700 feet along a fence line back to the point of beginning, containing approximately 8.5 acres.

(vi) *Jessamine County.* That portion of the premises of Taylormade Farm located five miles due east of the intersection of U.S. 27 and State Highway 169 lying on the north side of Highway 169, then, from the southeast corner of the building known as the new barn, proceed southeasterly approximately 300 yards to a paddock consisting of approximately three acres described as beginning at a gate, then approximately 300 yards in a southerly direction along a fence line, then east approximately 200 feet along a fence line, then along an irregular fence line to the point of beginning, containing approximately three acres.

(vii) *Kenton County.* That portion of the premises of Charles Deters Farm located 1.5 miles due South of the intersection of Walton-Nickelson and Green Road on the west side of Green Road, described as beginning at a point on the west side of barn No. 1, then along a fence line running west approximately 200 feet, then south along a fence line approximately 300 feet, then east approximately 250 feet along a fence line running through the center of a lake, then approximately 300 feet north to the point of beginning, containing about three acres.

(viii) *Mercer County.* (A) That portion of the premises of Bellows Mill Farm located on the north side of Bellows Mill Road 2.8 miles east of the intersection of Beaumont Road and Bellows Mill Road then proceed 0.4 mile northwest from the entrance of the farm to the southeast corner of a paddock described as beginning at the entrance to the paddock at the southeast corner; then, north approximately 250 feet along a single fence line; then, west approximately 560 feet along a single fence line; then, south approximately 250 feet along a single fence line; then, east approximately 560 feet along a single fence to the point of beginning, containing approximately 8 acres including a tobacco barn and a stripping building on the north central portion of the paddock.

(B) That portion of the premises of Shawnee Farm located in the northwest corner of the intersection of Chinn Lane and Curry Road located 1.3 miles north on Curry Road from U.S. Highway 68, then from the intersection of Curry Road and Chinn Lane go one-half mile east to farm entrance on the north side of Chinn Lane, then one-half mile north to foaling barn, then approximately 200 feet in the northeast direction to the southwest corner post of a paddock, the quarantined area being described as beginning at the southwest corner post of the paddock, then east approximately 120 feet along a double fence, then north approximately 900 feet along a double fence, then west approximately 150 feet along a single fence, then south approximately 900 feet to the point of beginning and including stall No. 9 in the northeast corner of the foaling barn, containing a total of approximately 2.8 acres.

(ix) *Oldham County.* That portion of the premises of Hermitage Farm located 3 miles northeast of Goshen, on the southeast side of U.S. Highway 42, described as beginning at a post on the southeast side of Circle Drive, then in a southeasterly direction along a single fence approximately 1,000 feet, then in a south direction along a double fence approximately 400 feet, then in a northwestern direction along a single fence approximately 400 feet to corner post, then along an irregular single fence line to the point of beginning, containing approximately 3 acres.

(x) *Scott County.* (A) That portion of the premises of Beaconsfield Farm located in the northwest corner of intersection U.S. Highway 460 and Kentucky Highway 922, then from the entrance barn (barn No. 2), proceed 150 feet due west to the gate of the paddock, described as beginning at the paddock gate; then, north along the fence along the west side of the lane approximately 320 feet; then, west along the double fence approximately 300 feet; then, south approximately 800 feet along the fence bordering the east side of the pond; then, east approximately 300 feet along a fence line; then along the fence line on the west side of the lane approximately 450 feet to the point of beginning, containing approximately 5.5 acres.

(B) That portion of the premises of Elkhorn Stud Farm located in the southwest corner of the intersection of Interstate 75 and U.S. Highway 460, then proceed due west from the northwest corner of the concrete barn approximately 150 feet to the northeast corner of the second paddock on the south side of the lane described as beginning at a corner post; then, west approximately 120 feet along the fence line; then, south approximately 160 feet along the fence line; then, east approximately 120 feet along the fence line; then, north approximately 160 feet along the fence line to the point of beginning, containing approximately 0.35 acre.

(C) That portion of the premises of High View Farm located on the south side of the Rogers Gap Road 0.9 mile east from the intersection of Rogers Gap Road and U.S. Highway 25, then proceed 150 feet southeast from the southeast corner of barn No. 3 to the corner post of a paddock, described as beginning at a corner post; then, east approximately 150 feet along a fence line; then, approximately 450 feet south along a fence line; then, west approximately 150 feet along a fence line; then, north approximately 450 feet along a fence line to the point of beginning, containing approximately 1.5 acres.

(D) That portion of the premises of Hollingsworth Farm on the west side of Kentucky Highway 922 north 4.8 miles from the intersection of Kentucky Highway 1973 and Kentucky Highway 922, then proceed from the farm entrance due west approximately 200 feet to a barn, then proceed northwest approximately 50 feet from the northwest corner of the barn to the northeast corner of a paddock described as beginning at the northeast corner post; then, west approximately 250 feet along a single fence line; then, south approximately 200 feet along a single fence line; then, east approximately 250 feet along a single fence line; then, north approximately 200 feet along a single fence line to the point of beginning, containing approximately 1.2 acres.

(E) That portion of the premises of McMillan Brothers Farm located on the north side of the Leesburg-Newtown Pike 2.9 miles northeast of the intersection of U.S. Highway 460 and Leesburg-Newtown Pike then proceed from the main entrance to the farm due north approximately 1.0 mile to the east corner post of field number 2 at the property line with the closed county lane described as beginning at the east corner post; then, south approximately 1,240 feet along a fence line; then, west approximately 1,150 feet along a fence line; then, north approximately 1,240 feet along a fence line; then, east approximately 1,170 feet along a fence line to the point of beginning, containing approximately 33 acres.

(F) That portion of the premises of Westgrove Farm located at the end of a lane 1.2 miles east of Kentucky Highway 922, then the lane turns off Kentucky Highway 922 south of the intersection of Kentucky Highway 922 and U.S. Highway 62 approximately 1.1 miles, there the yearling barn is located at the end of the entrance lane, then proceed approximately 30 feet southwest from the southwest corner of the yearling barn to the northeast corner post of a paddock described as beginning at the northeast corner post; then, approximately 140 feet south along the fence line; then, west approximately 200 feet along the fence line; then, north approximately 140 feet along the fence line; then, east approximately 200 feet along the fence line to the point of beginning, containing approximately 0.64 acre.

(xi) *Woodford County.* (A) That portion of the premises of Buck Pond Farm located on the west side of Paynes Mill Road 1.1 miles north of intersection of Paynes Mill Road and U.S. 60, then proceed from the farm entrance by the railroad track and along the entrance road to the paddock with a large maple tree by the entrance gate, described as beginning at the entrance gate; then, northeast approximately 200 feet along an irregular fence; then, west approximately 384 feet along a double fence line; then, south approximately 280 feet along a double fence line; then, east approximately 352 feet along a single fence line to the point of beginning, containing approximately 2 acres.

(B) That portion of the premises of Crescent Hill Farm located in the southwest corner of the intersection of U.S. Highway 60 and Shannon Run Road, then proceed approximately 165 feet southwest from the northwest corner of the garage behind the main house to an old barn described as beginning at the south corner of the old barn; then, northeast approximately 575 feet along a fence line to the right-of-way fence line on U.S. Highway 60; then, northwest along this fence line approximately 425 feet; then, southwest approximately 475 feet along a double fence line; then, southeast approximately 425 feet along a fence line to the point of beginning, containing about 5:3 acres with the old barn included in the south corner of the quarantined area.

(C) That portion of the premises of Shadowlawn Farm located in the northwest corner of the intersection of U.S. Highway 62 and Kentucky Highway 1681 then proceed from the U.S. Highway 62 entrance along the paved farm road approximately 1,000 feet northwest to a structure known as the yearling barn; the, proceed along the same road another 800 feet to a corner post on the right side of the road described as beginning at a corner post; then, northeast approximately 680 feet along a double fence line; then, northwest approximately 560 feet along a single fence line; then, southwest approximately 680 feet along a double fence line; then, southeast approximately 560 feet along a fence line paralleling the entrance road to the point of beginning, containing approximately 8.6 acres.

(D) That portion of the premises of Kinirey Stud Farm, a division of Three Chimneys Farms located on the south side of Grassy Spring Road 1.1 miles west of the intersection with U.S. Highway 60 described as beginning at the corner post on the east side of the main entrance to Kinirey Stud Farm from Grassy Spring Road; then, east along a fence line paralleling Grassy Spring Road approximately 264 feet; then, south approximately 720 feet along a fence line; then, west approximately 264 feet along a fence line; then, north approximately 720 feet along a fence line to the point of beginning, containing approximately 4.4 acres.

(Secs. 4–7, 23 Stat. 32, as amended, secs. 1 and 2, 32 Stat. 791–792, as amended, secs. 1–4, 33 Stat. 1264, 1265, as amended; (21 U.S.C. 111–113, 115, 117, 120, 121, 123–126), 37 FR 28464, 28477; 38 FR 19141.)

CEM is a highly contagious and communicable disease of equidae. However, it is believed that the Commonwealth-wide quarantine is too broad and that it is possible to reduce the restrictions and quarantine only certain areas within the Commonwealth without undue threat of disseminating CEM. The reduction of the quarantine would also permit the interstate movement of certain equidae which are presently unnecessarily restricted to Kentucky. Consequently, this amendment must be made effective immediately to accomplish its purpose in the public interest.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less then 30 days after publication of this document in the **Federal Register.**

Further, this final rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. J. K. Atwell, Assistant Deputy Administrator, APHIS, VS, that the emergency nature of this final rule warrants publication without opportunity for public comment and preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 75. It will be scheduled for review in conjunction with the periodic review of the regulations in that Part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 12th day of October 1979.

E. A. Schilf,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79–32158 Filed 10–18–79; 8:45 am]

BILLING CODE 3410–34–M

---

9 CFR Part 97

Overtime Work at Laboratories, Border Ports, Ocean Ports, and Airports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulation which established charges for overtime work at laboratories, border ports, ocean ports, and airports. Veterinary Services inspectors of the United States Department of Agriculture are charged with performing inspection duties relating to imports and exports at laboratories, border ports, ocean ports, and airports. Such services may be performed outside the regular tour of duty of the inspector when requested by a person, firm, or corporation and the charge for such overtime is recoverable from those requesting the services. The following amendment increases the hourly rates for such services performed on a Sunday or holiday, or at any other time outside the regular tour of duty. These increases are commensurate with salary increases provided Federal employees in accordance with the Federal Pay Comparability Act of 1970 (Pub. L. 91–656), and Executive Order 12165 dated October 9, 1979.

EFFECTIVE DATE: October 7, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. E. R. Mackery, USDA, APHIS, VS, Room 870, Federal Building, Hyattsville, Md. 20782, 301–436–8695.

Pursuant to the authority conferred by the Act of August 28, 1950 (64 Stat. 561; 7 U.S.C. 2260), and the Airports and Airways Development Act Amendments

of July 12, 1976 (90 Stat. 882; 49 U.S.C. 1741), the first sentence of § 97.1, Part 97, Title 9, Code of Federal Regulations, is amended to read:

§ 97.1 Overtime work at laboratories, border ports, ocean ports, and airports.[1]

(a) Any person, firm, or corporation having ownership, custody or control of animals, animal byproducts, or other commodities subject to inspection, laboratory testing, certification, or quarantine under this subchapter and subchapter G of this chapter, and who requires the services of an employee of Veterinary Services on a holiday or Sunday or at any other time outside the regular tour of duty of such employee, shall sufficiently in advance of the period of overtime or holiday or Sunday service request the Veterinary Services inspector in charge to furnish inspection, laboratory testing, certification or quarantine service during such overtime or holiday or Sunday period, except as provided in paragraph (b) of this section, shall pay the Administrator of the Animal and Plant Health Inspection Service at a rate of $24.20 per man hour per employee on a Sunday and at a rate of $16.08 per man hour per employee for holiday or any other period; except that for any services performed on a Sunday or holiday, except as provided in paragraph (b) of this section for inspection or quarantine services requested by an owner or operator of an aircraft at an airport on a Sunday or holiday which are performed within regularly established hours of service, or at any time after 5 p.m. or before 8 a.m. on a weekday, in connection with the arrival in or departure from the United States of a private aircraft or vessel, the total amount payable shall not exceed $25 for all inspectional services performed by the Customs Service, Immigration and Naturalization Service, Public Health Service, and the Department of Agriculture.* * *

* * * * *

(64 Stat. 561 (7 U.S.C. 2260))

Determination of the hourly rate for overtime services and of the commuted traveltime allowances depends entirely upon facts within the knowledge of the Department of Agriculture. The Agency has no alternative to raising the overtime rate. By law, importers/exporters are required to reimburse the Agency for its costs associated with the services rendered. Unless the rate is raised, it will not cover the pay raise which commences October 7, 1979.

Note.—Accordingly, pursuant to the Administrative provisions of 5 U.S.C. 553, it is found upon good cause that notice and public procedure on this amendment are impracticable, unnecessary, and contrary to the public interest and good cause is found for making this amendment effective less than 30 days after publication in the **Federal Register**.

This final rule has been reviewed under the provisions of Executive Order 12044, "Improving Government Regulations." A determination has been made that this action is a matter related to Agency management and is therefore exempt from the provisions of the order (E.O. 12044, Section 6(b)(3)).

Done at Washington, D.C., this 16th day of October 1979.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-32186 Filed 10-18-79; 8:45 am]

BILLING CODE 3410-34-M

[1] For designated ports of entry for certain animals, animal semen, poultry, and hatching eggs see 9 CFR 92.1 through 92.3; and for designated ports of entry for certain purebred animals see 9 CFR 151.1 through 151.3.

---

9 CFR Part 113

Standard Requirement for Bursal Disease Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment adds a new section to the regulations under the Virus-Serum-Toxin Act regarding the requirements for purity, safety, potency, and efficacy to be met by all biological products containing Bursal Disease Vaccine. At the present time, such requirements appear in each Outline of Production for these products filed with Veterinary Services. This amendment makes uniform requirements available to all licensees.

EFFECTIVE DATE: This amendment becomes effective November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Dr. R. J. Price, Biologics Licensing and Standards staff, USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782, 301-436-8245.

SUPPLEMENTARY INFORMATION: Standard requirements consist of test methods, procedures, and criteria established by Veterinary Services (VS) for evaluating biological products for purity, safety, potency, and efficacy.

Until such standard requirements are developed by VS and are codified in the regulations (9 CFR Part 113), the test methods, procedures, and criteria to be used in the evaluation of a product are developed by the licensee and are written into the applicable Outline of Production, which is required to be approved and filed with VS.

Codification assures uniformity and general availability of such standard requirements to all licensees and to the general public. This amendment contains the standard requirements for evaluating all licensed products containing Bursal Disease Vaccine.

On November 25, 1977, a notice of the proposed amendment to Part 113 (which appears in this document as final rulemaking) was published in the **Federal Register** at 42 FR 60158.

Comments on the proposal were solicited and three responses were received. One response was favorable to the proposal as published.

Two responses supported the proposed amendment but indicated concern about the application of the requirements to vaccines prepared with all strains of bursal disease virus. This concern was considered to be appropriate and constructive. Further investigation was initiated at the National Veterinary Services Laboratories to determine if the proposed standards could be used with all Bursal Disease Vaccines. These investigations indicated the need for some relaxations in the proposed amendment, which have been incorporated in this final rule and are explained in the discussion of changes below.

After due consideration of all relevant matters, including the proposal set forth in the aforesaid notice and pursuant to the authority contained in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as contained in the aforesaid notice is hereby adopted with the following exceptions:

Paragraph (b)(1)(i) and the introductory portion of paragraphs (b)(2) and (c)(3) have been corrected by changing the word "intraocularly" to "by eye-drop" to clarify the meaning.

Paragraph (d)(1) has been corrected by changing the word "virus" to "serial."

Paragraph (d)(2) has been revised by deleting the requirement that all vaccinates and controls be necropsied and examined for gross lesions of bursal disease, and by providing for new general safety test procedures that are applicable to all Bursal Disease Vaccines, the basis of which is gross clinical observation only. Although the safety test in the proposed amendment would be satisfactory for modified live virus vaccines, it was not considered to be appropriate for live virus vaccines which may cause lesions of the bursa that are evident upon necropsy. Since the proposed amendment provides that the safety of the Master Seed Virus be established, further indepth evaluation was not considered to be appropriate for release of serials of product.

A printing error has been corrected in paragraph (d)(3) by inserting a parenthesis after "ID_{50}'s" in the last sentence.

The first letter of each word in the heading for § 113.166 shall be capitalized. Part 113 is amended by adding a new section § 113.166 to read:

§ 113.166 Bursal disease vaccine.

Bursal Disease Vaccine shall be prepared from virus-bearing cell culture fluids or embryonated chicken eggs. Only Master Seed Virus which has been established as pure, safe, and immunogenic in accordance with the requirements in paragraphs (a), (b), and (c) of this section shall be used for preparing the production seed virus for vaccine production. All serials shall be prepared from the first through the fifth passage from the Master Seed Virus.

(a) The Master Seed Virus shall meet the applicable requirements prescribed in § 113.135 and the requirements prescribed in this section.

(b) Each lot of Master Seed Virus shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the virus judged accordingly. Each lot of Master Seed Virus used in the preparation of modified live virus vaccines shall also be nonpathogenic to chickens as determined by the following procedures:

(1) Each of twenty-five 1-day-old bursal disease susceptible chickens (vaccinates) shall be injected subcutaneously with 10 times the recommended dose of vaccine virus and observed for 21 days. Fifteen chickens of the same source and hatch shall be kept isolated as controls.

(i) Seventeen days postvaccination, each of five controls shall be administered at least $10^{2.0}EID_{50}$ of a virulent bursal disease virus by eye-drop, isolated, and used as positive controls. The remaining controls shall be used as negative controls.

(ii) If the vaccinates do not remain free of clinical signs of bursal disease, the Master Seed Virus is unsatisfactory. If unfavorable reactions which are not attributable to the Master Seed Virus occur in more than two of the vaccinates, the test shall be declared inconclusive and may be repeated.

(iii) Twenty-one days postvaccination, the vaccinates and the controls shall be necropsied and examined for gross lesions of bursal disease. If more than two of the vaccinates have such lesions, the Master Seed Virus is unsatisfactory, except that, if any of the negative controls or less than four of the positive controls have such lesions, the test is inconclusive and may be repeated. For purposes of this test, gross lesions shall include obvious pathological processes and/or obvious reduction in size of the bursa from normal.

(2) Each of thirty-five 3- to 4-week-old bursal disease susceptible chickens (vaccinates) shall be vaccinated with approximately one minimum protective dose of vaccine virus as determined in paragraph (c) of this section. Each of 10 chickens of the same source and hatch shall be administered at least $10^{2.0}EID_{50}$ of a virulent bursal disease virus by eye-drop, isolated, and used as positive controls. Also, each of 20 additional chickens of the same source and hatch shall be isolated and held as negative controls.

(i) Three or four days postvaccination, 10 of the vaccinates, the 10 positive controls, and 10 of the negative controls shall be necropsied and examined for gross lesions of bursal disease. If any of the vaccinates have such lesions, the Master Seed Virus is unsatisfactory, except that, if any of the negative controls or less than 8 of the positive controls have such lesions, the test is inconclusive and may be repeated. For purposes of this test, gross lesions shall include peri-bursal edema and/or edema and/or macroscopic hemorrhage in the bursal tissue.

(ii) Fourteen days postvaccination, the remaining vaccinates and negative controls shall be necropsied and examined for obvious bursal atrophy. If any of the vaccinates have such atrophy, the test is inconclusive and may be repeated.

(c) Each lot of Master Seed Virus shall be tested for immunogenicity and the selected virus dose to be used shall be established as follows:

(1) Bursal Disease susceptible chickens, all of the same age (3 weeks or younger) and from the same source, shall be used. Twenty or more chickens shall be used as vaccinates for each method of administration recommended on the label. Ten additional chickens of the same age and from the same source shall be held as unvaccinated controls.

(2) A geometric mean titer of the vaccine produced from the highest passage of the Master Seed Virus shall be established before the immunogenicity test is conducted. Each vaccinate shall receive a predetermined quantity of vaccine virus. Five replicate virus titrations shall be conducted on an aliquot of the vaccine virus to confirm the amount of virus administered to each chicken used in the test. At least three appropriate (not to exceed tenfold) dilutions shall be used to conduct the titrations by a method acceptable to Veterinary Services.

(3) When the test chickens are 28 to 35 days of age but not less than 14 days postvaccination, each vaccinate and each control shall be challenged by eye-drop with a virulent bursal disease virus provided or approved by Veterinary Services.

(i) Three to five days postchallenge, all vaccinates and controls shall be necropsied and examined for gross lesions of bursal disease as described in paragraph (b)(2)(i) of this section.

(ii) If at least 19 of 20, or 27 of 30, or 36 of 40 vaccinates in each group are not free from such lesions, the Master Seed Virus is unsatisfactory, except that, if less than 90 percent of the controls have such lesions, the test is inconclusive and may be repeated.

(4) The Master Seed Virus shall be retested for immunogenicity in 3 years from the original testing and each 5 years thereafter, unless use of the lot previously tested is discontinued. Only one method of administration recommended on the label need be used in the retest. The vaccinates and the controls shall meet the criteria prescribed in paragraph (c)(3) of this section.

(5) An Outline of Production change shall be made before authority for use of a new lot of Master Seed Virus shall be granted by Veterinary Services.

(d) After a lot of Master Seed Virus has been established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial shall meet the applicable requirements in § 113.135 and the requirements prescribed in this paragraph.

(1) *Tests for pathogens.* Final container samples from each serial shall be tested for pathogens by the chicken embryo inoculation test prescribed in § 113.37, except that, if the test is inconclusive because of a vaccine virus override, the chicken inoculation test prescribed in § 113.36 may be conducted and the serial judged accordingly.

(2) *Safety tests.* (i) Final container samples of completed product from each serial shall be tested to determine whether the vaccine is safe as follows:

(A) For vaccines intended for parenteral administration, each of twenty-five 1-day-old bursal disease susceptible chickens shall be vaccinated with the equivalent of 10 doses by subcutaneous injection.

(B) For vaccines intended for drinking water administration, each of twenty-five 4- to 5-week-old bursal disease

V 4 4 0 C 1 9 7 9 UMI

susceptible chickens shall be vaccinated orally with the equivalent of 10 doses.

(C) Ten chickens of the same source and hatch shall be maintained in isolation as negative controls. The vaccinates and controls shall be observed each day for 21 days.

(ii) If unfavorable reactions which are attributable to the biological product occur during the observation period, the serial is unsatisfactory. If unfavorable reactions occur in more than one of the controls or if unfavorable reactions which are not attributable to the biological product occur in more than two of the vaccinates, the test shall be declared inconclusive and repeated, except that, if the test is not repeated, the serial shall be unsatisfactory.

(3) *Virus titer requirements.* Final container samples of completed product shall be tested for virus titer using the titration method used in paragraph (c)(2) of this section. To be eligible for release, each serial and each subserial shall have a virus titer of log $10^{0.7}$ greater than that used in such immunogenicity test, but not less than log $10^{2.0}$ titration units (PFU or ID_{50}'s) per dose.

(e) Until a lot of Master Seed Virus is established as prescribed in paragraphs (a), (b), and (c) of this section, each serial and subserial prepared with such lot shall meet the applicable requirements prescribed in § 113.135 (except paragraph (c) of that section) and shall meet the requirements prescribed in the filed Outline of Production for the product.

(21 U.S.C. 151 and 154; 37 FR 28477, 28646; 38 FR 19141.)

Done at Washington, D.C., this 15th day of October 1979.

This rule has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Final Impact Analysis Statement has been prepared and is available from USDA, APHIS, VS, Room 827, Federal Building, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-32193 Filed 10-18-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Part 205

Administrative Procedures and Sanctions; 1979 Interpretations of the General Counsel

AGENCY: Department of Energy.

ACTION: Notice of Interpretations.

SUMMARY: Attached are the interpretations issued by the Office of General Counsel of the Department of Energy under 10 CFR Part 205, Subpart F, during the period August 1, 1979, through September 30, 1979.

Appendix B identifies those requests for interpretation which have been dismissed during the same period.

FOR FURTHER INFORMATION CONTACT: Diane Stubbs, Office of General Counsel, Department of Energy, 12th & Pennsylvania Avenue, NW., Room 1121, Washington, D.C. 20461, (202) 633-9070.

SUPPLEMENTARY INFORMATION: Interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the **Federal Register** in accordance with the editorial and classification criteria set forth in 42 FR 7923 (February 8, 1977), as modified in 42 FR 46270 (September 15, 1977).

These interpretations depend for their authority on the accuracy of the factual statement used as a basis for the interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom interpretations are addressed and other persons upon whom interpretations are served are entitled to rely on them (§ 205.85(c)). An interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). The interpretations published below are not subject to appeal.

Issued in Washington, D.C., October 12, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings, Office of General Counsel.

Appendix A.—*Interpretations*

No.	To	Date	Category	File No.
1979-17	L. O. Ward	August 9	Price	A-204
1979-18	Arizona Fuels Corp.	August 13	Allocation	A-385
1979-19	General American Oil Co. of Texas	August 17	Price	A-270
1979-20	Shell Oil Co.	August 17	Allocation	A-309
1979-21	Indiana Farm Bureau Cooperative Association, Inc.	September 6	Price	A-354
1979-22	Monsanto Co.	September 20	Price and allocation	A-343

Interpretation 1979-17

To: L. O. Ward

Regulations and Rulings Interpreted: 10 CFR 212.72; Rulings 1975-15, 1977-1, 1977-2

Code: GCW-PI-Part 212, Subpart D; Definition of Property; Base Production Control Level

Facts

L. O. Ward (Ward) is the lessee under oil and gas leases in Oklahoma and a working interest owner in wells producing crude oil in that state. Ward is, therefore, a "producer" of crude oil subject to the provisions of 10 CFR Part 212, Subpart D.

In June 1972, by assignment in one instrument Ward acquired the oil and gas rights [1] to two contiguous lots, Lots 8 and 9, in Pontotoc County, Oklahoma.[2] In May 1972, prior to this transfer of interests, Ward drilled a crude oil well on Lot 9 and designated it the "Chanute 1-A" well. The Chanute 1-A has been producing crude oil from the Hunton and Misener formations since that date. In October 1972, the Corporation Commission of Oklahoma (the Commission) recognized Lots 8 and 9 as a single drilling and spacing unit (the Chanute Unit), consisting of about 79 acres.

In September 1971, the United Exploration Company (United) drilled a crude oil well known as the "Chandler 1-A" on Lot 1, lying directly south of Lot 8. United acquired the right to produce crude oil on Lot 1 by oil and gas lease from the Oklahoma Basic Economy Corporation (OBEC) and it produced crude oil from the Hunton and Misener formations from 1971 through 1973. In May 1973, the Commission approved an application submitted by the Sun Oil Company to form an enhanced recovery unit to produce crude oil from these formations. The North Steedman Misener-Hunton unit (the Sun Unit) originally included the Chandler 1-A well and all of Lot 1. Subsequently, however, the Commission issued an amended order that without explanation deleted 15 acres of Lot 1 adjacent to Lot 8 from the Sun Unit.[3]

In January 1974, Ward and the owners of the oil and gas rights to the remainder of Lot 1 [4] completed a crude oil producing well called the "Chanute-Chandler 1" on the boundary between Lot 8 and the remainder of Lot 1. Ward acquired the oil and gas rights to the remainder of Lot 1 in February 1974. On April 16, 1974, the Commission recognized Lot 8 and the remainder of Lot 1 together as a single drilling and spacing unit (the Chanute-Chandler Unit), effective December 12, 1973. At the same time, the Commission removed Lot 8 from the Chanute unit. As a result, the amended Chanute Unit consisted of Lot 9 only (the Amended Chanute Unit).

There are numerous working, royalty and overriding royalty interest owners in the crude oil production from the Chanute 1-A well and the Chanute-Chandler 1 well. In general, all of the interest owners in the crude oil production from the Chanute 1-A well share in the production from the Chanute-Chandler 1 well.[5] A number of working and royalty interest owners in the production from the Chanute-Chandler 1 well, however, do not share in the production from the Chanute 1-A well.

For purposes of this Interpretation, we have assumed that Ward's actions were not undertaken in order to frustrate the objectives of the Mandatory Petroleum Price Regulations and to obtain a price for the crude oil produced from the properties in question that is higher than the regulations permit. 10 CFR 210.62.

Issues

1. What "properties," as that term is defined in 10 CFR 212.72, are described by the facts set forth above?

2. What method should be used to compute the "base production control levels" of these properties, as that phrase is defined in 10 CFR 212.72?

Interpretation

I. Summary

For the reasons discussed below, the Department of Energy (DOE) has concluded that Lots 8 and 9 together (the Chanute Unit) constituted a single property under the Mandatory Petroleum Price Regulations until April 16, 1974, in accordance with the definition of the term "property" in 10 CFR 212.72. Inasmuch as the Chanute-Chandler 1 well was located on the boundary line of Lot 8 (part of a property from which crude oil was produced and sold during 1972), and because there is a substantial identity between the interest owners in the Chanute 1-A and Chanute-Chandler 1 wells, we conclude that the Chanute-Chandler 1's crude oil production was attributable to the Chanute Unit prior to April 16, 1974. The DOE has also determined that the withdrawal of Lot 8 from the Chanute Unit and the establishment of the Chanute-Chandler Unit on April 16, 1979, by the Commission created two separate properties on that date, the Amended Chanute Unit and the Chanute-Chandler Unit, in accordance with 10 CFR 212.72 as interpreted by Ruling 1977-1, 42 FR 3628 (January 19, 1977). The property consisting of the Chanute-Chandler Unit has a base production control level (BPCL) of zero, since there was no crude oil produced and sold during 1972 from any well located on that property. The Amended Chanute Unit has a BPCL that equals the BPCL of the Chanute Unit, since the same well—the Chanute 1-A—was the only well from which crude oil was produced and sold in 1972 on either of these properties. In accordance with the definition of BPCL in 10 CFR 212.72, for months commencing after January 31, 1976, and after May 31, 1979, updated BPCL's for the Amended Chanute Unit, based on the appropriate updated production and sale levels, may be computed and used for purposes of determining new crude oil.

II. Property Definition

The term "property" is defined in 10 CFR 212.72 in pertinent part as "the right to produce domestic crude oil, which arises from a lease or from a fee interest." This part of the property definition has remained substantially unchanged since Phase IV of the Economic Stabilization Program.[6]

Applying this definition to the facts of this case, it is clear that the 1972 assignment to Ward by one instrument of certain oil and gas rights on both Lots 8 and 9 established those lots as a single property.[7] Similarly, the 1971 lease to OBEC and the assignment to United of certain oil and gas rights on Lot 1 established this lot as a single property. The term "property" is synonymous with the physical premises described in a lease or fee interest and is not to be interpreted as a reference to a particular lessee's rights under a particular lease. *Rustex Oil, Inc.*, Interpretation 1978-5, 43 FR 12852 (March 28, 1978). *See* Ruling 1977-1, § II E; Ruling 1975-15, § II D; *Meridian Oil Corporation*, Interpretation 1977-46, 43 FR 1481 (January 10, 1978); and *Texaco, Inc.*, Interpretation 1977-42, 42 FR 64104 (December 22, 1977).

However, the DOE has recognized that in certain situations events subsequent to 1972 establish properties different from those in existence in 1972. Ruling 1977-1, § II F, sets forth a number of instances in which segregation, aggregation, and/or recombination of premises subject to a single right to produce would form different properties. Among these situations are:

(2) *Segregation of Premises Subject to a Single Right to Produce.*

* * * * *

c. *Partial unitization or other aggregation of interests.* It is not uncommon for less than the total premises subject to a right to produce to be unitized or otherwise aggregated with all or portions of premises subject to other rights to produce, to form a single "property," leaving the balance of the premises formerly subject to a single right to produce not aggregated with any other such rights. The portion of the premises which is not aggregated is appropriately recognized as a property separate and apart from the portion of the premises which has been aggregated with other rights to produce.

In some cases, FEA understands that the inclusion of the so-called "Pugh" clause in a lease would operate to create a separate and distinct right to produce with respect to the non-unitized portion of the premises subject to that lease, by stating that production from the unitized portion of a lease will not serve to fulfill the lessee's production obligations with respect to the non-unitized portion. Thus, the two portions of the lease including such a clause would become separate properties by the terms of the lease itself. However, even where such a clause is not included, FEA has concluded that treatment of the nonunitized portion of the premises as a separate property is appropriate.

* * * * *

(3) *Aggregation of "Rights to Produce."* The aggregation of separate "rights to produce" pursuant to a unitization agreement was discussed in FEA Ruling 1975-15. There are, however, other circumstances under which separate rights to produce may appropriately be aggregated, pursuant to either voluntary or involuntary arrangements.

Thus, for example, various parties may hold partial undivided interests in the right to produce crude oil from a particular tract. Whether voluntarily through a joint operating agreement or other type of agreement, or pursuant to compulsory state regulations, such undivided interests in the right to produce from a tract must typically be aggregated before production can begin. Under such circumstances, no apparent purpose would be served by requiring property delineations to be carried back to the individual partial undivided interests which have been aggregated in order to perfect the right to produce.

Another instance in which rights to produce may be aggregated occurs where the premises subject to such rights are required to be combined by a state regulatory agency as a condition to the operation of production activities. Thus, for example, in Louisiana the state regulatory agency will compel a "unit" to be formed by the owners of the tracts with respect to the surface area which overlies the portion of a reservoir that may be efficiently drained by a single well, provided the owners of at least 75 percent of the surface area agree to the formation of a unit.

Similarly, in states that maintain spacing requirements for oil wells, individual rights to produce may need to be combined, whether voluntarily or involuntarily, before a single well may be drilled and the right to produce made effective. Such aggregations of rights to produce (sometimes known as "drilling units") are also appropriately recognized as single "properties."

Generally speaking, FEA will follow a liberal policy with respect to the aggregation of rights to produce which will be permitted to be treated as a single "property," as long as a bona fide reason for the aggregation can be demonstrated by the producer.

Prior to April 16, 1974, Ward has only one property, the Chanute Unit. When the Commission established the Chanute-

---

[1] In this and other assignments described in this Interpretation, the assignors reserved for themselves various interests in crude oil production in the assigned acreage's oil and gas rights.

[2] Ward's crude oil and gas rights exclude all oil and gas rights within 300 feet of the Senora lime and in the Gilcrease sand series.

[3] For purposes of this Interpretation, we have assumed that when the Sun Unit was formed it took into account the total monthly production and sale of crude oil from Lot 1 in determining new and released crude oil for the Sun Unit. *E.g.*, Ruling 1975-15, 40 FR 40832 (September 4, 1975); 41 FR 4931, § VII (February 3, 1976).

[4] United transferred its rights to the 15-acre remainder of Lot 1 to other parties in 1973, apparently under a farmout agreement.

[5] The only exceptions to this parallel appear to be the result of transfers of interest among members of the owners' families.

[6] *See* 6 CFR 150.354, 38 FR 22538 (August 17, 1973), effective August 19, 1973; 39 FR 1924 (January 15, 1974); and 39 FR 31622 (August 30, 1974).

[7] This property was in fact coextensive with the Chanute Unit, although the extent of the property was determined by Ward's oil and gas rights, not by the Commission's establishment of Lots 8 and 9 as a single drilling and spacing unit in October 1972.

Chandler Unit and deleted Lot 8 from the old Chanute Unit on April 16, 1974,[8] however, different properties within the scope of the situations described above were formed for the purposes of the Mandatory Petroleum Price Regulations. Lot 8 (less than all of the premises subject to Ward's 1972 right to produce) was aggregated with a portion of Lot 1 (less than all of the premises subject to United's 1972 right to produce) to form a new drilling and spacing unit. This new unit was established by a state regulatory agency, the Corporation Commission of Oklahoma, for the *bona fide* reasons of facilitating additional recovery of crude oil and protecting the correlative rights of Ward under Oklahoma law. Thus, on April 16, 1974, the Chandler Unit and the Amended Chanute Unit each became separate and distinct properties.[9]

III. Base Production Control Level

The term "base production control level" (BPCL) is defined in 10 CFR 212.72 in pertinent part in the following manner: [10]

(a) with respect to months ending prior to February 1, 1976:

(1) if crude oil was produced and sold from the property concerned in every month of 1972, the total number of barrels of domestic crude oil produced and sold from that property in the same month of 1972;

(2) if crude oil was not produced and sold from the property concerned in every month of 1972, the total number of barrels of crude oil produced and sold from that property in 1972, divided by 12;

(b) with respect to months commencing after January 31, 1976, except as provided in § 212.76(a), either:

(1) the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days during the month in 1975 which corresponds to the month concerned; or

(2) if the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during the calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned.

(c) With respect to months commencing after May 31, 1979, except as provided in § 212.76, for properties other than marginal properties, either:

(1) The total number of barrels of old crude oil produced and sold from the property concerned during the six-month period ending March 31, 1979, divided by 182, multiplied by the number of days during the month in 1978 which corresponds to the month concerned; or

(2) If the producer elects to certify crude oil sales for 1975 in accordance with § 212.131(a)(2), the total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days during the month in 1975 which corresponds to the month concerned; or

(3) If the producer elects to certify crude oil sales for 1972 in accordance with § 212.131(a)(2), the total number of barrels of crude oil produced and sold from the property concerned during calendar year 1972, divided by 366, multiplied by the number of days during the month in 1972 which corresponds to the month concerned;

In accordance with this definition, for months commencing prior to January 31, 1976, the BPCL of Ward's property consisting of Lots 8 and 9 (the Chanute Unit) is computed based on the 1972 production and sale of crude oil from the Chanute 1–A well, because this well provided the only crude oil produced and sold from this property in 1972. For purposes of the Mandatory Petroleum Price Regulations, the Chanute-Chandler 1 well was also located on the physical premises of this property. The well was drilled on the border of Lot 8, part of Ward's 1972 property, the Chanute Unit. Ward was the operator of this well, just as Ward operated the well located on Lot 9, the Chanute 1–A. The interest owners in both wells and thus in the crude oil production from both units are substantially the same.[11] Both wells are in close proximity to each other and produce crude oil from the same formations. Thus prior to April 16, 1974, at which time the Chandler Unit and the Amended Chanute Unit each became separate and distinct properties, the total monthly production and sale of crude oil from both the Chanute 1–A and Chanute-Chandler 1 wells must be compared with the BPCL (and any current cumulative deficiency) of the Chanute Unit for purposes of determining new and released crude oil for the Chanute Unit. 10 CFR 212.72, 212.73 and 212.74.

The Commission's April 16, 1974, order created two properties on that date, the Chanute-Chandler Unit and the Amended Chanute Unit. For months commencing prior to January 31, 1976, each of these properties had a BPCL based on the crude oil produced and sold in 1972 from wells located on those properties, as if they had existed as separate properties since the inception of the price regulations. *See* Ruling 1977–2, § III D, 42 FR 4409 (January 25, 1977); 41 FR 36171, § I G(1) (August 26, 1976); *Depco Inc.*, 2 DOE ¶ 80,167 (October 25, 1978). During this time, the BPCL (and any current cumulative deficiency) of the Amended Chanute Unit equaled the BPCL (and any current cumulative deficiency) of the Chanute Unit for purposes of determining new and released crude oil, since the same well, the Chanute 1–A, is located on the physical premises of both these properties and crude oil was produced and sold from this well in 1972. The BPCL of the Chanute-Chandler Unit was zero, since in 1972 there was no well on the physical premises of this property and no crude oil was produced and sold from these physical premises. For months commencing after January 31, 1976, and after May 31, 1979, Ward may compute an updated BPCL for the Amended Chanute Unit as provided in the definition of BPCL in 10 CFR 212.72.

IV. Conclusion

For the reasons set forth above, we have determined that the proper application of the DOE's Mandatory Petroleum Price Regulations to the factual situation presented in Ward's request for interpretation is as follows:

(1) Lots 8 and 9 (the Chanute Unit) constituted a single property prior to April 16, 1974;

(2) The Chanute-Chandler 1 well was located on the physical premises of the Chanute Unit;

(3) Lot 9 (the Amended Chanute Unit) constituted a single property effective April 16, 1974;

(4) Lot 8 together with the 15 acres of Lot 1 adjacent to Lot 8 (collectively designated the Chanute-Chandler Unit) constituted a single property effective April 16, 1974;

(5) For purposes of determining old, new and (prior to February 1, 1976) released crude oil from the Amended Chanute Unit and the Chanute-Chandler Unit as of April 16, 1974, the BPCL of the Amended Chanute Unit equals the BPCL of the Chanute Unit, and the BPCL of the Chanute-Chandler Unit is zero, although the BPCL of the Amended Chanute Unit may be updated in accordance with the BPCL definition of 10 CFR 212.72 for months commencing after January 31, 1976 and May 31, 1979.

Issued in Washington, D.C., on August 9, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–18

To: Arizona Fuels Corporation
Regulation Interpreted: 10 CFR 211.63
Code: GCW—AI—Supplier/Purchaser Relationship

Facts

Arizona Fuels Corporation (Arizona Fuels) is a small, independent refiner, as defined in 10 CFR 211.62, and is therefore subject to the Mandatory Petroleum Allocation Regulations set forth in 10 CFR Part 211. Effective November 21, 1977, Arizona Fuels entered into an agreement with Compton Corporation, a predecessor to Comp-Cal

[8] The Mandatory Petroleum Price Regulations do not recognize any retroactive effect of the Commission's April 16, 1974, order. *E.G., Grigsby v. DOE*, 585 F.2d 1069 (TECA 1978).

[9] *Compare Amax Petroleum Corp.*, 2 DOE ¶ 83,004 (September 18, 1978); *W. E. Shrider*, 1 DOE ¶ 80,111 (October 21, 1977) (the creation of more than one drilling unit on premises subject to a single right to produce does not establish each such unit as a separate property). *See generally Grigsby v. DOE*, 585 F.2d 1069 (TECA 1978).

[10] Since Phase IV of the Economic Stabilization Program, the definition of BPCL has been amended in ways that do not affect this Interpretation. *See* 39 FR 1924 (January 15, 1974); 39 FR 31622 (August 30, 1974); 41 FR 4931 (February 3, 1976); 41 FR 15566 (April 13, 1976); and 44 FR 25160 (April 27, 1979). The last amendment to this definition added a new section (4) by which a property after May 31, 1979 may qualify as a "marginal property." Whether any of Ward's properties in this case in existence after that date qualify as marginal properties is not addressed in this Interpretation.

[11] According to information submitted by Ward, all of the seven royalty, five overriding royalty and seven working interest owners in the Chanute 1–A well are interest owners in the Chanute-Chandler 1 well, although some of these owners appear to have transferred their interests to relatives.

Corporation (Comp-Cal), resellers of crude oil, for the purchase of Sespe field crude oil, which Comp-Cal purchased from Trans World Oil Corporation (Trans World), a wholly owned subsidiary of U.S.A. Petroleum.[1] Trans World is thus part of the U.S.A. Petroleum firm, which is a refiner. According to the submission in this case, the agreement between Arizona Fuels and Compton Corporation contained a clause specifically providing that the agreement was "to continue unless cancelled by either party giving a minimum of sixty-five (65) days prior written notice to the other party." A similar provision was included in the agreement between Compton Corporation and Trans World.

On December 26, 1978, Trans World gave Comp-Cal notice of termination effective March 1, 1979, in accordance with the termination clause in their agreement. Comp-Cal then notified Arizona Fuels of the termination.[2]

In its request for interpretation, Arizona Fuels contended that the sales between it and Comp-Cal and between Comp-Cal and Trans World created supplier/purchaser relationships pursuant to 10 CFR 211.63 and that the termination clause in the agreement between Arizona Fuels and Comp-Cal did not constitute consent by Arizona Fuels to terminate that relationship in accordance with § 211.63. Specifically, Arizona Fuels seeks assurance that Comp-Cal must continue to supply it with crude oil. Trans World contends that no supplier/purchaser relationships within the meaning of 10 CFR 211.63 were created by the sales and, further, that if such relationships were created, they were properly terminated in accordance with the terms of the agreements between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World.[3] In its comments, Comp-Cal contends that if Comp-Cal has continuing obligations to Arizona Fuels pursuant to a supplier/purchaser relationship, then Trans World is similarly obligated to Comp-Cal.

Issues

1. Do the sales of crude oil under the agreements between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World create supplier/purchaser relationships within the meaning of 10 CFR 211.63?

2. If such a supplier/purchaser relationship is created between Arizona Fuels and Comp-Cal, does the termination clause in their agreement constitute consent by Arizona Fuels to terminate that supplier/purchaser relationship in accordance with § 211.63?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that supplier/purchaser relationships within the meaning of § 211.63 were created between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World by the initial sales of crude oil under the agreements and that the termination clause in the agreement between Arizona Fuels and Comp-Cal did not constitute consent by Arizona Fuels to terminate that supplier/purchaser relationship in accordance with § 211.63.

The Mandatory Petroleum Allocation Regulations, 10 CFR Part 211, apply to all crude oil produced in or imported into the United States. 10 CFR 211.1(a). Section 211.63 provides for the establishment of a supplier/purchaser relationship and for its continuation until terminated in a manner specifically set forth in § 211.63(d). Section 211.63(b) provides in pertinent part:

(1) All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 shall remain in effect for the duration of this program; *provided, however,* that any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.

(2) Once any first sale, purchase or exchange of domestic crude oil is made which is exempt from this rule pursuant to paragraph (a)(4) of this section, or *once the sale, purchase or exchange of any domestic crude oil that has at any time been the subject of a supplier/purchaser relationship under subparagraph (1) of this paragraph (b) is made in accordance with this section to a firm that was not the purchaser thereof on January 1, 1976,* or has not continued to purchase that crude oil without interruption since December 31, 1975, *a supplier/purchaser relationship between the seller and purchaser shall be established thereafter under this section as though it had been in effect on January 1, 1976.* (Emphasis added.)

The initial sales of crude oil under the agreements between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World gave rise to supplier/purchaser relationships within the meaning of § 211.63. The Sespe field crude oil subject to the new supplier/purchaser relationships between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World had been the subject of a previous supplier/purchaser relationship. Thus, the supplier/purchaser relationships established between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World are treated as though they had been in effect on January 1, 1976, and can be terminated only as provided in § 211.63(d). *See* § 211.63(b)(1) and (2).

Section 211.63(d) provides the specific manner in which a supplier/purchaser relationship may be terminated.[4] Section 211.63(d)(1) makes clear that a purchaser can consent to the termination of a supplier/purchaser relationship if certain requirements are fulfilled. Section 211.63(d)(1), as amended, reads in pertinent part:

Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(i) at the option of the purchaser, as evidenced by its written consent thereto together with notice of the termination date given to the producer, provided all subsequent purchasers of the crude oil involved have consented to such termination in writing; . . .

The express regulatory requirements for a purchaser to consent to the termination of a supplier/purchaser relationship are, first, that the consent be in writing; second, that all subsequent purchasers consent; and, third, that a specific termination date be indicated at the time the purchaser gives its consent. In order for a purchaser to consent to termination of a supplier/purchaser relationship, it must do so in a manner that satisfies all three of these requirements.

There is no dispute regarding the fact that the termination clause contained in the agreement and relied upon by Trans World did not give notice of a specific termination date. Therefore, this termination clause is insufficient on its face to constitute consent to terminate pursuant to § 211.63(d)(1)(i), and Arizona Fuels has not consented to a termination of its supplier/purchaser relationship with Comp-Cal by reason of the termination clause in their agreement.[5]

This conclusion is consistent with and furthers the underlying policy of § 211.63(d). At the time the current termination provisions set forth in § 211.63(d) were proposed, the Federal Energy Administration, a predecessor to the DOE, stated the purpose of § 211.63(d)(1):

The provisions relating to terminations of crude oil supplier/purchaser relationships are also proposed to be altered to reflect more accurately industry conditions and to be made more workable. Specifically, the proposed modification to paragraph (a)(1) of the present rule (set forth in § 211.63(d)(1) in the proposal) would no longer require that termination of a supplier/purchaser relationship be based on the mutual consent of both parties to the relationship but instead require only the consent of the purchaser (and the consent(s) of that purchaser's

[1] According to the facts presented in this case, U.S.A. Petroleum purchased the Sespe field crude oil from several producers and transported it through U.S.A. Petroleum's pipeline. Prior to November 1977, when the agreements between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World became effective, the Sespe field crude oil was the subject of a different supplier/purchaser relationship. The issue of whether these previous supplier/purchaser relationships were properly terminated was not presented to the Department of Energy (DOE) in this case, and the DOE has made no determination as to the lawfulness of those terminations.

[2] Because of a notice of violation issued to Trans World by the Ventura County Air Pollution Control District, Comp-Cal and, hence, Arizona Fuels did not receive crude oil after December 1978, and were not receiving crude oil at the time this request was filed.

[3] Trans World now seeks to terminate its supplier/purchaser relationship with Comp-Cal so that the crude oil that is the subject of this supplier/purchaser relationship can be transferred to a refining entity of U.S.A. Petroleum.

[4] Prior to its amendment, effective June 11, 1976, 41 FR 24338 (June 16, 1976), § 211.63 provided in paragraph (a)(1) that "any supplier/purchaser relationship may be terminated by the mutual consent of both parties; . . . ." Section 211.63(a), as amended, no longer expressly provides for termination by "mutual consent"; rather § 211.63(b) allows a supplier/purchaser relationship to be terminated at the *purchaser's* option, provided that the requirements of that section are met.

[5] Likewise, the termination clause in the agreement between Comp-Cal and Trans World is not sufficient to terminate their supplier/purchaser relationship. Therefore, Trans World has the same continuing supply obligations to Comp-Cal as Comp-Cal has to Arizona Fuels. It is important to note, however, that either supplier/purchaser relationship could be terminated in any manner expressly permitted by § 211.63(d).

V 44 O C 1 19 7 9 UMI

subsequent purchasers, if any). This would be consistent with *the principal objective of the rule to assure that crude supplies continue to be available to historic purchasers.* (Emphasis added.) 41 FR 16662, 16663 (April 21, 1976).

Clearly, § 211.63(d)(1) was intended to safeguard a crude oil purchaser's rights under the DOE allocation regulations and to insure that the purchaser continues to receive crude oil pursuant to a supplier/purchaser relationship until it affirmatively consents to termination of that relationship in a manner that meets the specific requirements of § 211.63(d)(1)(i).[6]

Accordingly, based upon the preceding discussion, we conclude that supplier/purchaser relationships for the sale of crude oil in this case were created between Arizona Fuels and Comp-Cal and between Comp-Cal and Trans World and that Arizona Fuels has not consented to a termination of its supplier/purchaser relationship in accordance with § 211.63(d).

Issued in Washington, D.C., on August 13, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–19

To: General American Oil Company of Texas
Regulation Interpreted: 10 CFR 212.72
Code: GCW–PI—New Crude Oil, def.; Certification

Facts

The General American Oil Company of Texas (General American) is a domestic crude oil producer and participant in the Johnson Bayou Gas Unit and the H–5 Sand Unit located in Cameron Parish, Louisiana. The Johnson Bayou Gas Unit initially produced only natural gas and condensate and was unitized on May 1, 1964. The H–5 Sand Unit was created from new reservoirs in leases participating in the Johnson Bayou Gas Unit when a productive crude oil sand was discovered in 1972. Each of these units was formed pursuant to the express approval of the Louisiana Department of Conservation.

Prior to the issuance of Ruling 1975–15, 40 FR 40832 (September 4, 1975), by the Federal Energy Administration (FEA), a predecessor of the Department of Energy (DOE), General American calculated a separate base production control level (BPCL) for each lease constituting the Johnson Bayou Gas Unit and the H–5 Sand Unit. In September 1975, when Ruling 1975–15 was issued, General American recalculated a single BPCL each month for each unit, and on the basis of the unit BPCL's recomputed the amounts of new and released crude oil for each month during the period September 1973 through December 1975. When General American provided its purchaser, Scurlock Oil Company (Scurlock), with revised certifications of its first sales of crude oil during this period, Scurlock, relying upon its interpretation of 10 CFR 212.72, refused to accept General American's adjustments in its new and released crude oil certifications for any period preceding the two months prior to the receipt of the recertifications.

General American, however, contends that the recertifications are not only proper, but are required under the circumstances. That contention is based on General American's premise that Ruling 1975–15 requires all units formed during or after 1972 to calculate a BPCL by aggregating the production and sale of crude oil each month from all of the several leases that constitute the unit. Accordingly, General American argues that Ruling 1975–15 fits within the exception (set forth in § 212.72) to the general prohibition against retroactive recertification beyond a two-month period.

Issue

Does the interpretation in Ruling 1975–15 regarding the proper method for determining upper and lower tier crude oil volumes from unitized properties permit General American retroactively to recertify increased volumes of new and released crude oil without regard to the two-month limitation set forth in § 212.72?

Interpretation

For the reasons set forth below, the Department of Energy has concluded that General American must adhere to the two-month limitation in § 212.72 for purposes of retroactively recertifying crude oil produced and sold from its H–5 Sand Unit and Johnson Bayou Gas Unit.

Subpart D of the Mandatory Petroleum Price Regulations contains the provisions applicable to first sales of domestic crude oil. During the period relevant to this interpretation, these provisions generally consisted of a two tier price system which established ceiling prices in first sales of domestic crude oil depending upon whether the crude oil was classified as "new," "old," "released," or "stripper well" crude oil.

The concept of new crude oil originated with the adoption of the two tier price system by the Cost of Living Council (38 FR 22536; August 22, 1973), and was later incorporated by the Federal Energy Office into the Mandatory Petroleum Price Regulations (39 FR 1924; January 15, 1974).[1] As it originally appeared in the CLC Phase IV regulations (at 6 CFR 150.354) and the FEO Mandatory Petroleum Price Regulations (at 10 CFR 212.72), "new crude petroleum" was defined as "the total number of barrels of domestic crude petroleum produced and sold from a property in a specific month less the base production control level for that property." 38 FR at 22538 (August 22, 1973); 39 FR at 1952 (January 15, 1974).[2] The new crude oil concept thus was designed to provide an incentive for producers to increase production above 1972 levels; this was implemented initially by permitting first sales of new crude oil to be made without regard to the ceiling price rule. More recently, this incentive has been preserved in § 212.74(a), which permits first sales of new crude oil at upper tier ceiling prices. Thus, crude oil producers were permitted under these regulations (6 CFR 150.354 and 10 CFR 212.72) to sell at new crude oil prices those volumes of crude oil produced and sold in excess of a particular property's BPCL.[3] An essential element of this pricing scheme has always been the requirement that a producer certify to its purchaser the volumes of a property's crude oil production. Although the certification requirements have changed along with revisions in the pricing regulations for crude oil, they have always required a statement of either the ceiling price of the crude oil or the posted prices from which the ceiling price is derived, and a statement of the volumes of new, old, or released crude oil.[4]

Effective March 23, 1975, the FEA amended the definition of new crude oil in § 212.72 by limiting to two months the extent to which a producer may retroactively recertify any volumes of crude oil as new or released. 40 FR 28447 (July 7, 1975). Prior to this amendment, producers could recertify as new or released any crude oil volumes not previously certified as such, without regulatory limitations on the retroactive effect of the recertifications. To minimize the instability and disruption such retroactive recertifications impose upon the petroleum industry, the FEA amended § 212.72 to provide:

"New crude oil" shall not include any number of barrels not certified as such pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period

[6] It is well established by DOE interpretations that consent to terminate a supplier/purchaser relationship can be given in advance. *See, e.g., State of Alaska*, Interpretation 1977–7, 42 FR 31143 (June 20, 1977); *Alaska Petrochemical Company*, Interpretation 1978–1, 43 FR 5797 (February 10, 1978); and *The Permian Corporation*, Interpretation 1978–45, 43 FR 34436 (August 4, 1978). In *Permian*, the DOE determined that as a condition precedent to the sale of crude oil, a supplier could require a purchaser to agree that any future termination of their supplier/purchaser relationship be deemed to be by mutual consent and that such advance consent, when *express* and *knowing*, did not violate § 211.63(a). The DOE need not address the issue of whether Arizona Fuels expressly and knowingly consented in advance to terminate its supplier/purchaser relationship with Comp-Cal, as the termination clause on its face does not meet the requirements of § 211.63(d)(1).

[1] The Federal Energy Office (FEO) was a predecessor agency of the Department of Energy.

[2] The definition of BPCL remained substantially unaltered from September 1973 through December 1975, the relevant time period under consideration for the purposes of this interpretation. In January 1974, the FEO incorporated into the Mandatory Petroleum Price Regulations the definition of BPCL, which formerly appeared at 6 CFR 150.354 of the CLC Phase IV regulations. That definition as it appeared in 10 CFR 212.72 of the FEO regulations read as follows:

"Base production control level" for a particular month for a particular property means:

(1) if crude petroleum was produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in the same month of 1972;

(2) if domestic crude petroleum was not produced and sold from that property in every month of 1972, the total number of barrels of domestic crude petroleum produced and sold from that property in 1972 divided by 12.

[3] For a more complete discussion of the two tier price system, see Ruling 1977–1, 42 FR 3628 (January 19, 1977).

[4] For a summary of the various changes the certification requirement has undergone, see 41 FR at 36182–83 (August 26, 1976).

immediately succeeding the month in which the crude oil is produced and sold, *except where such recertification is required or permitted by FEA order, interpretation, or ruling.* (Emphasis added.)

Id. at 28448. As emphasized above, an exception to the general two-month limitation on retroactive recertifications is allowed where the recertification is either required or permitted by FEA order, interpretation, or ruling.

The exception to the two-month limitation on retroactive recertification in § 212.72 was discussed in the preamble to the final rulemaking adopting the amended definition of new crude oil. As FEA explained:

The modification to that proposal takes into account and explicitly provides for the possibility that certain volumes of crude oil treated as old oil *may subsequently be eligible* for treatment as new or released crude oil by virtue of a later FEA order, interpretation or ruling. Thus, the regulation issued today expressly permits a recertification in such circumstances after the expiration of the two-month certification period. It is not anticipated that significant volumes will be affected, but inclusion of this provision was determined to be required by considerations of administrative fairness. (Emphasis added.)

40 FR at 28447 (July 7, 1975). Thus, the exception was intended to apply where volumes that had originally been treated as old crude oil subsequently became eligible for treatment as new or released crude oil as a result of later agency action. (Although a subsequent modification of the exception language (see n. 3 *supra*) added the word "explicitly," this change only emphasized the initial agency intention that recertification beyond the two-month limitation be required or permitted by FEA order, interpretation, or ruling.)[5]

On August 31, 1975, the FEA for the first time in the context of an interpretive ruling expressly addressed the pricing of first sales of crude oil produced from a unitized property, and clarified the proper computation of a BPCL for a unitized property. In its request for interpretation, General American asserts that Ruling 1975–15 constitutes a ruling that "requires" or "permits" recertification of crude oil beyond the two-month limitation expressed in § 212.72, and thus brings into play the exception to the two-month rule.

General American's reading of the exception, however, ignores both the language of § 212.72 and the policy underlying the exception as well as the rule. Section 212.72 clearly indicates that the exception applies only where "*such recertification* is required or permitted" by FEA ruling. (Emphasis added.) The policy behind § 212.72 supports this literal reading of the regulation. If General American's view were correct, then every ruling or interpretation of Subpart D would allow retroactive recertification, and the exception would supplant the rule. Nothing in Ruling 1975–15 "requires" or "permits" a producer to recertify volumes of new or released crude oil erroneously certified as old crude oil prior to the issuance of the Ruling. Moreover, the preamble to the final rulemaking adopting the pertinent language in § 212.72 makes clear that its application was intended for volumes of old crude oil that "may *subsequently be eligible* for treatment as new or released crude oil." (Emphasis added.) *Supra*. The exception was therefore not intended to apply to volumes of crude oil that were previously eligible for treatment as new or released crude oil, but were treated otherwise because of an erroneous interpretation of the regulations. General American as a crude oil producer has a duty to be cognizant of the application of relevant regulatory provisions to its operations.[6] Ruling 1975–15 was never intended to provide an additional opportunity for producers, such as General American, who had not been cognizant of the operation of the regulations and thereby failed to avail themselves fully of the benefits of the two tier price system, to obtain the highest possible price permitted under the regulations.

Accordingly, since Ruling 1975–15 does not "require" or "permit" recertification of volumes of old crude oil as new or released crude oil, General American may not retroactively recertify the crude oil produced and sold from the H–5 Sand Unit and the Johnson Bayou Gas Unit beyond the two-month limitation set forth in § 212.72.[7]

Issued in Washington, D.C., on August 17, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–20

To: Shell Oil Company
Regulation Interpreted: 10 CFR 211.13(c)

[5] The definition of new crude oil in § 212.72 containing the two-month limitation on recertifications was amended in 41 FR 4931 (February 3, 1976) to provide in part that new crude oil:

. . . shall not in either period include any number of barrels not certified as new crude oil pursuant to the provisions of § 212.131(a)(1) within the consecutive two-month period immediately succeeding the month in which the crude oil is produced and sold, except where such recertification is *explicitly* required or permitted by FEA order, interpretation, or ruling. (Emphasis added.)

[6] *See, e.g., Dixie Gas, Inc.*, 5 FEA ¶ 83,115 (March 30, 1977); *Warrior Asphalt Co. of Alabama*, 3 FEA ¶ 83,247 (June 24, 1976); *Belco Petroleum Co.*, 3 FEA ¶ 83,186 (May 12, 1976); *New England Petroleum Corp.*, ¶ 83,136 (May 2, 1975); and *Carlos R. Leffler*, 2 FEA ¶ 80,640 (July 16, 1975).

[7] Any prices obtained from volumes recertified as new crude oil during the two-month period, however, must comply with the terms of § 212.74(c) regarding retroactive increases in price. That provision states:

No producer may charge or accept a retroactive increase in price for crude oil, other than crude oil which is exempt from this Subpart pursuant to § 212.54 and is sold on September 1, 1976, or thereafter, or crude oil which is exempt from this Subpart pursuant to § 212.55 and is sold on April 5, 1976, or thereafter. Retroactive increase in price means any price charged or offered after the close of the calendar month in excess of the highest price prevailing for that grade of crude oil, in first sales between the producer and the purchaser of the domestic crude oil, during the calendar month in which it was produced and sold.

Code: GCW—AI—Adjustments to Base Period Use

Facts

Shell Oil Company (Shell) is the sole base period supplier of aviation turbine fuel to Mountain Oil Company (Mountain), a branded Shell jobber. Shell has arranged to supply Mountain through an exchange agreement between Shell and Chevron USA, Inc. (Chevron). Pursuant to that agreement, Mountain obtains the aviation fuel at Chevron's East Pasco, Washington, terminal.

On January 20, 1977, the Region X office of the Federal Energy Administration (FEA), a predecessor agency of the Department of Energy (DOE), assigned Mountain as the base period supplier of Execuair Airlines, Inc. (Execuair), and ordered Mountain to supply 132,000 gallons per year of aviation turbine fuel to Execuair pursuant to 10 CFR Part 205, Subpart C. On September 16, 1977, the Region X office issued an adjustment order to Mountain pursuant to 10 CFR 211.145(b) and 10 CFR Part 205, Subpart B, increasing the total volume of aviation turbine fuel to be supplied by Mountain to Execuair to 732,000 gallons per year, or 183,000 gallons per quarter. The order provided that it was "effective upon issuance." As provided for in 10 CFR 211.13(c), Mountain was then entitled to receive an adjustment to its base period use from Shell for the full amount of the adjustment received by Execuair. Shell was served with a copy of that order by the FEA. Although Mountain obtained from Chevron in its customary manner the portion of its base period volume allocated for the third quarter, as adjusted by the September 16 order, it did not submit written certification to Shell for this supply obligation until October 28, 1977. Shell then notified Mountain that it would offset the purchases Mountain made from Shell in the third quarter of 1977 that were in excess of Mountain's entitlement to an allocation prior to the September 16 order against Mountain's fourth quarter adjusted base period volume. Shell reasoned that Mountain's failure to certify these additional supply obligations to Shell until October 28, 1977, postponed their effectiveness until that date, notwithstanding the terms of FEA's adjustment order which expressly stated that it was effective on September 16.

Issue

Was Shell required to supply Mountain with the adjusted base period volume of aviation turbine fuel commencing September 16, 1977, the effective date of an adjustment order increasing Shell's base period supply obligation to Mountain, even though Mountain did not certify that supply obligation to Shell until October 28, 1977, pursuant to § 211.13(c)?

Interpretation

For the reasons set forth below, the DOE has concluded that commencing on September 16, 1977, Shell was obligated to supply Mountain with the volumes of aviation turbine fuel specified in the adjustment order of FEA's Region X office issued and effective on September 16, 1977. This supply obligation was not postponed by Mountain's delay in certifying this obligation to Shell.

V 44 O C 19 7 9 UMI

Section 211.13(c) provides in relevant part:

(1) . . . [A] wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever . . . (ii) it is notified pursuant to § 205.26(c) of an adjustment granted pursuant to . . . § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements . . . which the wholesale purchaser-reseller is to supply.

(2) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to subparagraph (1) above may certify to and shall receive an adjustment to its base period use from its supplier or suppliers in proportion to that part of its base period use received from each supplier.

In light of the September 16 adjustment order which increased its supply responsibilities to Execuair, Mountain sought a corresponding increase in supply from Shell. In its submission, Shell concedes that Mountain may be "entitled" to the adjustment under § 211.13(c)(1), but contends that subparagraph (1) does not by itself provide the basis for an adjustment to a wholesale purchaser-reseller's base period volume. Rather, according to Shell, Mountain would receive an adjustment from the DOE, and Shell's concurrent obligation to supply the increased allocation would arise only after Mountain actually submits a certification to Shell under § 211.13(c)(2). According to Shell, Mountain failed to submit such an upward certification of its adjusted allocation entitlement to Shell until October 28, 1977. Therefore, Shell asserts that Mountain's third-quarter liftings of aviation fuel in excess of its previous base period rights were unauthorized. Shell concludes that because such excess liftings were unauthorized, it is entitled to offset the volume of product it is obligated to supply Mountain during the fourth quarter by the volume "overlifted" by Mountain in the third quarter.

We do not agree with Shell's view regarding § 211.13(c). Formal certification under § 211.13(c)(2) is not a condition precedent to a firm's right to receive an adjustment under § 211.13(c)(1). Section 211.13(c)(2) does not require that a purchaser must first certify its purchase entitlement to its supplier before it may lawfully receive additional quantities of product pursuant to an adjustment order. Rather, that section provides only that a purchaser shall receive the additional product if it has submitted the certification to its supplier. So long as formal certification by a purchaser to its supplier takes place within a reasonable time after issuance of an adjustment order and after its effective date, the purchaser's right to receive an adjustment will not be postponed or destroyed.

In the present case, where the allocated product was in fact already supplied to Mountain by Shell pursuant to the adjustment order, Mountain's formal certification to Shell in the following month was made within a reasonable time. Mountain's certification to Shell in this case did not violate the Mandatory Petroleum Allocation Regulations and did not postpone its right to the adjusted supply of aviation turbine fuel from Shell effective September 16, 1977.

Thus, Shell's obligation to supply Mountain pursuant to an adjustment to the firm's base period volume under § 211.13(c) arose on September 16, 1977, the effective date of FEA's order.

Issued in Washington, D.C., on August 17, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–21

To: Indiana Farm Bureau Cooperative Association, Inc.

Regulations and Ruling Interpreted: 10 CFR 212.54; 212.72; Ruling 1977–4

Code: GCW—PI—Part 212, Subparts C and D; Definition of Property; Stripper Well Property Exemption

Facts

The Farm Bureau Oil Co., a wholly-owned subsidiary of the Indiana Farm Bureau Cooperative Association, Inc. (the Association), purchases domestic crude oil in first sales from a 240-acre tract in Gibson County, Indiana. The Association has requested an interpretation that the 11 leases that compose the tract constitute a single "property" as that term is used in 10 CFR 212.54 and defined in 10 CFR 212.72. Certain of the producers of crude oil from the leases in question have joined the Association in the requested interpretation.

Each of the 11 leases originally conveyed a partial undivided working interest in the 240 acres and contained the following clause:

If the leased premises are now, or shall hereafter be, owned in severalty or in separate tracts, the premises nevertheless shall be developed and operated as one lease, and all royalties accruing hereunder shall be treated as an entirety and shall be divided among, and paid to, such separate owners in the proportion that the acreage owned by each such separate owner bears to the leased acreage. . . .

During 1965–1966 one operator acquired all 11 leases, nine of which together conveyed a 20 percent undivided working interest, and two of which each conveyed 40 percent undivided working interests. Drilling for and production of crude oil commenced in 1966 on a 50-acre portion of the tract. In 1976 the entire 240-acre tract was certified as a stripper well property pursuant to 10 CFR 212.131, based on production of crude oil from the 50-acre portion during 1975.

In 1977 a dispute arose between the operator and the lessor of a 40 percent undivided working interest concerning the lease which conveyed that part of the working interest. Because this lease (the Kieffer lease) had been the only one of the original 11 to contain a continuous drilling clause, the lessor argued that while the working interest rights conveyed by the other 10 leases might have been held by production from the 50-acre tract, the working interest rights conveyed by the Kieffer lease had not been held by that production and therefore had expired. Inasmuch as the original operator was not successful in negotiating a new lease, the mineral rights were leased to a second operator, who commenced drilling and production of crude oil in 1977.

Issues

1. Is the 240-acre tract the "property" as defined in 10 CFR 212.72?

2. If so, did the property lose its stripper well property status when a portion of the working interest was subsequently obtained by a second operator?

Interpretation

For the reasons discussed below the Department of Energy (DOE) has determined that the 240-acre tract is the property as defined in 10 CFR 212.72, and the property's status as a stripper well property does not change merely because of the substitution of lessees with respect to the Kieffer lease.

First sale prices for domestic crude oil are determined under the Mandatory Petroleum Price Regulations on a property-by-property basis. "Property" is defined in pertinent part in 10 CFR 212.72 as "the right to produce domestic crude oil, which arises from a lease or from a fee interest." In Ruling 1977–1 [1] the Federal Energy Administration (FEA), a predecessor agency of the DOE, reviewed the relevant legislative history and regulatory background to conclude that the term property "is generally to be understood as synonomous [sic] with the physical 'tract' or 'premises' as to which a working interest is established by an oil and gas lease, or by a fee interest." [2] In certain situations, such as the one presented by the Association for our review, the "right to produce crude oil" is held in undivided shares by various parties, who must participate in the aggregation of those shares before production may begin. FEA addressed these situations as follows:

[V]arious parties may hold partial undivided interests in the right to produce crude oil from a particular tract. Whether voluntarily through a joint operating agreement or other type of agreement, or pursuant to compulsory state regulations, such undivided interests in the right to produce from a tract must typically be aggregated before production can begin. Under such circumstances, no apparent purpose would be served by requiring property delineations to be carried back to the individual partial undivided interests which have been aggregated in order to perfect the right to produce.

Accordingly, the acquisition by one operator of all the undivided shares in the working interest "perfected" the working interest in the 240-acre tract, and the working interest, as thus perfected, defined the property. That the acquisition of the entirety of the working interest was accomplished by way of separate discrete instruments, rather than in a single lease, does not alter this conclusion.

The DOE has interpreted the term "property" as "the right to produce crude oil

[1] 42 FR 3628, January 19, 1977; originally published in other form at 41 FR 36172, August 26, 1976.

[2] A discussion of the legislative history and the regulatory background of the property concept appears in section II, B and C, of Ruling 1977–1.

relating to specific leased premises as described in the lease and not to that right only as vested in a particular lessee." [3] Thus, once defined, and so long as there was no change in the totality of the working interest during 1972, the property continued to be the 240-acre tract despite the substitution of one lessee for another. In *Texaco, Inc.*, the DOE stated:

While it it true that the meaning of "lease" is broad enough in ordinary usage to include the instrument of conveyance itself as well as the piece of land or other property leased, it would be wholly irrational, in the context of the definition of "property" in § 212.72, to interpret "lease" as a reference to a particular lessee's rights under a particular lease. If a "new" property (and thus "new" crude oil) could be created merely through the execution of new leasehold agreements between the same lessor and lessee, or through the substitution of a new lessee, the purpose of the two-tier crude oil pricing system as a production incentive would be quickly circumvented and defeated. The price regulations applicable to producers of crude oil require for their effectiveness a concept of "property" which provides a constant frame of reference for measurement of crude oil production between the base level and the current level. As stated in Ruling 1975–15 (40 FR 40832, September 4, 1975), "the need to compare like quantities, today and in 1972, in order to ensure a meaningful application of the new and released provisions," requires that the "property" be defined by reference to the "property" as it existed in 1972. *Thus, the definition of "property" was not made dependent upon* the continued effectiveness of a specific lease agreement or upon *the rights accruing to any specific lessee.* This provision, in virtually identical form, was among the initial Phase IV petroleum price regulations effective August 19, 1973 (6 CFR 150.361(c)(2)). (Emphasis added.)

42 FR at 61275. *See also Meridian Oil Corporation*, Interpretation 1977–46 (December 19, 1977), 43 FR 1481 (January 10, 1978); *Rustex Oil, Inc.*, Interpretation 1978–5 (February 20, 1978), 43 FR 12852 (March 28, 1978). Therefore, the execution of a new lease in 1977 conveying to a second operator an undivided 40 percent of the working interest did not create a separate or a "new" property for any DOE purpose. Notwithstanding that separate rights and liabilities exist with respect to the present operators, the physical premises subject to the right to produce crude oil is coextensive with the 240-acre tract as it existed in 1972:[4]

Prices charged in the first sale of crude oil produced and sold from any "stripper well property" are exempt from the provisions of Part 212. 10 CFR 212.54(a). As defined in § 212.54(c), a "stripper well property" is a "property" whose average daily production of crude oil per well did not exceed 10 barrels per day during any preceding consecutive 12-month period beginning after December 31, 1972. Once a property has qualified, it retains the exemption permanently. *See Rustex Oil, Inc.*, Interpretation 1978–5 *supra*, and *H. H. Weinert Estate*, Interpretation 1978–9 (March 16, 1978), 43 FR 15620 (April 14, 1978). Under the facts presented by the Association, the 240-acre tract qualified as a stripper well property in 1976 based on production of crude oil during 1975. Once qualified, the property retains that exemption for the duration of price controls. Because the execution of a new lease in 1977 did not redefine the property, the 240-acre tract continues to qualify as a stripper well property.

Issued in Washington, D.C. on September 6, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

Interpretation 1979–22

To: Monsanto Company

Regulations Interpreted: 10 CFR 211.51, 211.62, 212.31 and 212.82

Code: GCW—AI and PI—Definitions of Firm, Refiner; Small Refiner Bias

Facts

On October 1, 1977, the Monsanto Company (Monsanto) and the Continental Oil Company (CONOCO) entered into an agreement (the Monsanto-CONOCO Agreement) creating a joint venture for the primary purpose of operating an ethylene production facility that consists of Monsanto's present ethylene facility located on Chocolate Bayou near Alvin, Texas, a new jointly owned ethylene facility to be completed by 1981, and a new jointly owned feedstock preparation unit also to be completed in 1981. Monsanto, by virtue of its existing petrochemical facility that processes lease condensate, which is defined as crude oil under 10 CFR 211.51 and 212.31, and its production of some refined petroleum products, qualifies as a refiner under 10 CFR 211.62 and 212.81 and is therefore subject to the Mandatory Petroleum Allocation and Price Regulations. CONOCO is a refiner as that term is defined in 10 CFR 212.31.

The joint venture will ultimately involve the manufacture of ethylene and related products and the processing of crude oil into feedstock for the ethylene facility. The project will be divided into two phases. During the first, or construction, phase Monsanto will continue to own, operate and control its existing facility at Chocolate Bayou, but share with CONOCO the profits generated at the facility. During the construction phase, CONOCO and Monsanto will oversee the construction of the new jointly owned facility through a joint management committee. As the new ethylene facility is being constructed, a jointly-owned feedstock preparation unit will be started at CONOCO's Lake Charles, Louisiana refinery site. Upon completion of the new ethylene facility (estimated late 1980 or early 1981), the second, or operating, phase will commence. When all the facilities are complete, the existing and new ethylene facilities and the new feedstock preparation unit will be operated under the control of separate management committees, each with an equal number of representatives from each company.

Issue

During the construction phase of the project, is Monsanto the proper "firm" under the Mandatory Petroleum Allocation and Price Regulations with respect to the operations of the existing ethylene facility located at Chocolate Bayou?

Interpretation

For the reasons set forth below, the Department of Energy (DOE) has determined that under the Mandatory Petroleum Allocation and Price Regulations, Monsanto will continue to be the proper "firm" with respect to the operations of the Chocolate Bayou facility during the construction phase implementing the Monsanto-CONOCO Agreement. This determination is based upon our review of the provisions of the agreement, which provides that Monsanto will retain full title to the existing facility (Section 8.1) [1] and that the facility may be operated at Monsanto's discretion (Section 11).

The issue as phrased by the requesting party is whether Monsanto is the proper "firm" to report the operations of the existing ethylene facility. This reporting requirement, imposed upon all refiners, stems from 10 CFR 211.66, [2] and the relevant definitional section for that subpart defines a refiner as "a firm which owns, operates or controls the operations of one or more refineries." 10 CFR 211.62. The definition of "firm" applicable to the Mandatory Petroleum Allocation Regulations, Part 211 reads as follows:

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments. The [DOE] may, in regulations and forms issued in this part, treat as a firm: (a) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls, (b) a parent and its consolidated entities, (c) an unconsolidated entity, or (d) any part of a firm. 10 CFR 211.51.

For general allocation and price control purposes, DOE has selected the first and most expansive of the four meanings listed above, [3] and has implemented that meaning in 10 CFR Part 212, as well as the report forms required to be filed by all refiners. See instructions to Forms FEO–96 and P–110–M–

[3] *Texaco, Inc.*, Interpretation 1977–42, 42 FR 61274, 61275 (November 4, 1977).

[4] *See Sundance Oil Co.*, Interpretation 1977–1 (February 11, 1977), 42 FR 10964 (February 25, 1977).

[1] Section numbers refer to the Monsanto-CONOCO Agreement, a copy of which was submitted with the request for interpretation.

[2] Section 211.66 requires refiners to report each month to DOE crude oil runs to stills and products produced.

[3] The second and third meanings under the general definition of firm in § 212.31 were used by the Cost of Living Council and the Federal Energy Administration primarily in connection with profit margin regulations that are no longer effective. The fourth meaning has been used only in special circumstances, in connection with the consideration of requests for exception. *Ball Marketing Enterprise*, Interpretation 1977–18, 42 FR 39960 (June 13, 1977) at 39961.

V 4 4 0 C 1 9 7 9 UMI

1. *E.g., Northern Natural Gas Co.*, Interpretation 1978–63, 44 FR 3023 (January 15, 1979).

The definition of "firm" found in § 212.31 of the Mandatory Petroleum Price Regulations parallels that in 10 CFR 211.51 and both of these definitions are consistent with the definition of "small refiner" which reads as follows:

"Small refiner" means a refiner, the sum of the capacity of the refineries of which *(including the capacity of any person who controls, or is controlled by, or is under common control with such refiner)* does not exceed 175,000 barrels per day. (Emphasis added.) 10 CFR 211.62.

The element of "control" is therefore a critical factor in any determination of whether Monsanto is the proper firm to report the operations of the existing ethylene facility. Generally, the joint venture established by contract between Monsanto and CONOCO allows each venture party, unless otherwise provided in the agreement, to have a 50 percent interest in the venture, and share equally in the control and direction of, and in the benefits, operating expenses rights and liabilities relating to, the venture (Section 2). Each party must provide one-half of the feedstocks and, in turn, will be entitled to one-half of the products. *Ibid.*

The venture will not hold title to all of the facilities (Section 3.2) and title to inventories of the existing facility must be transferred to the venture as of the date of the agreement (Section 8.3).[4]

The venture will be operated by a management committee to consist of six members, three appointed by and representing Monsanto and three appointed by and representing CONOCO (Section 4). The management committee shall have the power and authority to make major decisions and set policy in regard to the start-up and operation of the new facilities and certain repairs to the facilities and, after first commercial production, the operation of the venture and facilities (Section 4.2). Apparently, the authority of the management committee will be exercised by Monsanto as the operator of the venture and its facilities (Section 10.1). Monsanto will act in that capacity pursuant to either the authority of the management committee or the Agreement (Section 10.1).

Under the terms of the agreement pertaining to the construction phase, Monsanto, contrary to the more general provisions of the Agreement, retains full ownership of the existing facility and the venture will not have any title to or ownership interest in the existing facility, nor any of its capital additions or replacements (Section 8.1). That is, Monsanto may operate the existing facility in the ordinary course of business on behalf of the venture and the venture parties (Section 11). Monsanto's broad discretion in the operation is best described by the language in Section 11 of the Agreement which reads in relevant part as follows:

Monsanto is hereby authorized on behalf of the Venture and the Venture Parties, but in the name of Monsanto, to operate the Existing Business in the ordinary course, to utilize all Existing Business for such purposes, to sell or otherwise consume or use all Products and Inventories, to carry on all manufacturing, purchasing, distribution, administrative and other operations, to provide all Feedstocks, to maintain the Existing Facilities and make repairs thereto, to receive, deposit and give receipts for all payments, to pay all costs and expenses and, in general, to take or cause to be taken any and all actions, make all decisions and otherwise conduct and carry on the Existing Business in such manner and to such extent as Monsanto, in the exercise of reasonable business judgment, may deem necessary or appropriate.

In other words, Monsanto may set operating rates, acquire feedstocks and market all of the products once derived. As a result, CONOCO has none of the prerogatives of control normally associated with ownership. CONOCO has no right to review or have knowledge of the performance of any employee or review customer lists, market studies, or prices (Sections 11.2 and 11.3). Moreover, the agreement specifically states that "Monsanto shall advise and consult with CONOCO's representatives on the Management Committee concerning the major affairs of, or with respect to any material changes in the operation of, the Existing Business . . . but Monsanto shall have the right to make the final decision with respect thereto" (Section 11.3).

Monsanto has in the past and will continue to modernize the existing facility to conserve energy by increasing in natural gas fuel efficiency and improving the utilization of heat from the ethylene cracking process (Section 5). Although Monsanto is to bear and pay all costs for these modernizations (Section 5), with respect to any capital additions to or replacements of the existing facilities, the cost shall be borne in whole or in part by CONOCO, which will then own a proportionate interest in the facility (Section 8.1). This section, as well as Section 14 on capital additions and replacements, are the only two references in the Monsanto-CONOCO agreement to CONOCO's ownership interest in the present facility. Yet the possibility of an interest does not appear to change the management aspect of the venture, as no provision allows for corresponding changes in those operational aspects of the agreement.

As Monsanto accurately points out, the principal cases in which DOE has addressed the issue of "control" and its importance in determining the relevant firm for regulatory purposes are inapposite to the facts presented for our consideration in the present case.[5] CONOCO is not acquiring an ownership interest in the existing ethylene facility and any such interest that arises will result, from later additions to that facility (Section 8.1). Even then CONOCO will not be able to control the operations of the facility as its ownership interest will be limited to any later additions, and Monsanto will retain full authority for the operation of the existing facility (Section 11). CONOCO will not, as in *Enterprise Products*, have veto power over the actions of Monsanto (Section 11.3); CONOCO will not, as in *Tesoro* or *Ball Marketing Enterprise*, have a greater then 50 percent or controlling ownership interest in the facility during the construction phase; and as CONOCO is not able to control the opertions of the existing ethylene facility under the terms of the Agreement, it does not have to report the operations of the facility as one of its refineries. Similarly, CONOCO cannot be considered to have "purchased" the existing ethylene facility in circumstances such as those surrounding transfers of refineries between two firms.[6] Comparing the refinery acquisition situation to the present one, it is clear that CONOCO has not "purchased" the existing ethylene facility. CONOCO does not have an ownership interest in the facility nor does it have the responsibility of operating or controlling its activities.

For the reasons set forth above, we have determined that, consistent with the DOE's Mandatory Petroleum Allocation and Price Regulations, Monsanto is the refiner of the existing ethylene facility during the construction phase and is responsible for reporting its operations as such to DOE.

Issued in Washington, D.C., on September 19, 1979.

Everard A. Marseglia, Jr.,

Assistant General Counsel for Interpretations and Rulings.

[4] [This footnote is exempt from mandatory public disclosure pursuant to the Freedom of Information Act, 5 U.S.C. 552(b)(5).]

[5] *See Tesoro Petroleum Corp.*, Interpretation 1975–32, (42 FR 23743, August 21, 1975) (Tesoro, a refiner, controlled CORCO, a refiner in Puerto Rico, after Tesoro acquired 38 percent of CORCO's outstanding shares due to the widely dispersed ownership of the remaining shares outstanding); *Enterprise Products Co.*, Interpretation 1975–3, 42 FR 23724 (February 12, 1973) (Enterprise, a propane reseller and two retailers affiliated with Enterprise were found to constitute a single firm because the common owners of the firms protected their control by the veto power they held over any attempts the majority of the board might take toward independent action); and *Boll Marketing Enterprise*, Interpretation 1977–18, 42 FR 39960, (June 13, 1977) (a producer of crude oil and a refiner constituted a single firm based on the producer's greater than 50 percent ownership interest in the refinery).

[6] *See, e.g., Funding Systems Refining Corp.*, 1 DOE ¶ 80,250 (May 16, 1978), where Funding Systems Refining Corporation (Funding) was purported to have purchased one of three refineries owned by Crystal Oil Company (Crystal), a small and independent refiner as defined in § 211.62. Prior to the sale, funding had not engaged in any refining activities. DOE determined that Funding was not a "refiner" as defined in 10 CFR 211.62 and therefore did not qualify to receive entitlements under § 211.67. In reaching its determination, DOE concluded that Funding did not satisfy any of the elements of the definition of "refiner"—to own, operate or control a refinery—because Funding had assumed "minimal risks of ownership." Funding had not made a down payment to Crystal on the purchase price of the refinery, and under the operating agreement, Crystal was not to relinquish total operational control of the refinery to Funding until the full purchase price was paid.

Appendix B.—*Cases Dismissed*

File No. and requestor	Category	Date dismissed
A–397—Commonwealth of Pennsylvania.	Price	Aug. 3.
A–381—Winnie Pipeline Co	Price	Aug. 6.
A–418—Basin, Inc	Price	Aug. 23.
A–419—Basin, Inc	Price	Aug. 23.
A–427—Great Southern Oil & Gas Co.	Price	Aug. 28.
A–460—Blex Oil, Inc	Price	Aug. 29.
A–402—Ben Ritmiller d.b.a. Ben's Service and Donald J. Watson d.b.a. Don's Service.	Price	Aug. 29.
A–457—Wright Crowden, Jr	Price	Sept. 10.
A–445—Mountain Fuel Supply Co.	Price	Sept. 11.
A–439—Dalcab Taxi Owners Guild; Cloverdale Two Way Radio Taxi Association; and CAB–CA Two Way Radio, Inc.	Allocation	Sept. 20.

[FR Doc. 79–32402 Filed 10–18–79; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits; Respecting Disclosure of Withdrawal Penalties

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: On July 30, 1979, the Board of Directors of the Federal Deposit Insurance Corporation ("Board", "FDIC") adopted several amendments to FDIC's regulations. Among those were amendments to the withdrawal penalty provisions which will make early withdrawal from time deposits without penalty mandatory in situations where a depositor has either died or become mentally incompetent. This amendment makes conforming changes in FDIC's regulations, requiring the disclosure of withdrawal penalties to depositors.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Senior Attorney, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429 (202–389–4324).

SUPPLEMENTARY INFORMATION: On July 30, 1979, FDIC's Board amended Section 329.4(d) of FDIC's regulations (12 CFR 329.4(d)) effective August 1, 1979. That section provides minimum penalties for early withdrawal of funds held in time deposits. Certain mandatory exceptions have been made to the penalty requirements. By virtue of the July 30th amendments, banks will now be required to honor requests for early withdrawal from time deposits where the owner of time deposit funds has either died or been judicially declared mentally incompetent. Because of these mandatory exceptions, it is necessary to make conforming changes in the penalty disclosure provisions of Part 329 as embodied in § 329.4(f) of the regulations (12 CFR 329.4(f)).

The amendment contains no requirements that depositors with outstanding time deposits be advised of the mandatory nature of the death and incompetency exceptions. It requires notification only when time deposit contracts are first entered into or when they are renewed or extended. Nevertheless, insured nonmember banks should be aware that they have an obligation to disclose the mandatory nature of the death and incompetency exceptions to current depositors because these exceptions are retroactive and apply to existing at well as future time deposit contracts. The bank is free to use whatever form or notice best suits its operations and with due regard for minimizing administrative costs.

Under its authority in Sections 9 and 18 of the Federal Deposit Insurance Act (12 U.S.C. 1819 and 1828), FDIC hereby amends § 329.4(f) of its regulations. The requirements of Sections 553(b) and 553(d) of Title 5 of the United States Code (5 U.S.C. 553(b) and 553(d)) and §§ 302.1, 302.2 and 302.5 of FDIC's regulations (12 CFR 302.1, 302.2, and 302.5) respecting notice, public participation and deferred effective date were not followed in connection with the adoption of this amendment because the amendment is a technical and conforming amendment.

Section 329.4(f) of FDIC's regulations and footnote 11c thereto are revised as follows:

§ 329.4 Payment of time deposits before maturity.

* * * * *

(f) *Disclosure of penalty.* At the time that a bank enters into, renews or extends a time deposit contract with any depositor, unless it has previously done so, it shall provide the depositor with a separate written statement which clearly states that the deposit may not be withdrawn in whole or in part prior to maturity without the consent of the bank except where the depositor has died or has been judicially declared mentally incompetent. The statement shall make clear that in the case of the depositor's death or mental incompetency, the bank will be required to honor a request for withdrawal prior to maturity without penalty. In addition, the statement shall clearly state that in all other cases, withdrawal prior to maturity will be permitted only with the consent of the bank which may be given only at the time withdrawal is sought, and that a penalty will be assessed on the amount withdrawn. In addition, the statement shall clearly describe the penalty, which shall, at a minimum, be the penalty prescribed in paragraph (d) of this section.[11c]

Dated: October 15, 1979.

* * * * *

By Order of the Board of Directors.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 79–32384 Filed 10–17–79; 8:45 am]

BILLING CODE 6714–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 124, 125, 126, and 127

[Part 125—Rev. 1]

Procurement Assistance; Assistance to Small Business in Federal Contracting Programs

AGENCY: Small Business Administration.

ACTION: Final rules.

SUMMARY: These final rules implement the Small Business Act as amended by Pub. L. 95–507 with respect to programs rendering assistance to small businesses in Federal prime and subcontracting. Additionally, they are designed to eliminate obsolete functions and unnecessary regulations while at the same time updating, simplifying and clarifying the activities currently operational in the various programs to assist small businesses pursuing and engaged in Federal contracting other than that covered in Part 124 (The Small Business and Capital Ownership Development Program).

EFFECTIVE DATES: October 19, 1979.

[11c] This paragraph does not apply to "obligations other than deposits" that are otherwise subject to the provisions of this Part 329 (see 12 CFR 329.10(a)).

V 4 4 0 C 1 9 7 9 UMI

FOR FURTHER INFORMATION: Edward N. Odell, Deputy Director, Office of Procurement and Technical Assistance, Small Business Administration, 1441 L St. N.W., Washington, D.C. 20416—(202) 653–6332.

SUPPLEMENTARY INFORMATION:

Comments on the regulation as proposed in 44 FR 33884, June 13, 1979, were invited and considered. Certain editorial changes have been made. For the most part additions recommended were of the type generally promulgated to standardize operating procedures rather than appropriately contained in regulations. Modification of regional processing of Certificates of Competency was adopted as suggested. The duties of the Procurement Center Representative were broadened in response to another recommendation.

Previously 13 CFR Part 124 contained rules and regulations covering programs designed to render management, technical, and procurement assistance. The latter included the business development program for companies owned and controlled by socially or economically disadvantaged individuals. To be in consonance with the organizational changes mandated by Pub. L. 95–507 amending the Small Business Act as well as to reflect internal administrative reorganizations, 13 CFR Part 124 was used to cover the business development program cited above. Management and some technical assistance programs regulatory coverage was designated as 13 CFR Part 129. Procurement Assistance is now being presented as 13 CFR Part 125.

The provisions contained in Part 124.8(b) 1 and 2 are now covered by Part 125.4, 6, 8 and 10. Part 124.8(b)3 has been elminated as obsolete. Part 124.8(b) 4 through 12 (excepting 124.8(b)6) are now contained in Part 125.6 through .9. Part 124.8(b)6 is properly part of the Size Standard Regulation and is covered in Part 121. The matter covered by Part 124.8–3 dealing with management assistance is properly located under Part 129. Part 124–5 and 6 have been eliminated as obsolete while Part 124.8–4, is now to be found under Part 125.6. Part 124.8–7 is covered in Part 129 entitled Management Assistance. Part 124.8–7 through 17 is now contained in Part 125–5 through 10. What was previously entitled "Part 125—Research and Development Assistance" is now covered under Part 125.10. "Part 126—Defense Production Pools" is presented now under 125.7. "Part 127—Joint Set-Asides" is covered in Part 125.6 and .8.

Accordingly, pursuant to authority contained in Section 5(b)(6), of the Small Business Act (72 Stat. 385, 15 U.S.C. 634) as amended, the title of Part 124, Chapter I, Title 13 of the CFR is amended to read: Minority Small Business and Capital Ownership Development Assistance; and Sections 124.8–1 through 124.8–17 of Part 124 are hereby deleted. Additionally, Parts 126 and 127 are hereby deleted in their entirety and the part numbers are reserved for future use.

Title 13—Minority Small Business and Capital Ownership Development Assistance

PART 124—PROCUREMENT AND TECHNICAL ASSISTANCE

§§ 124.8–1 through 124.8–17 [Deleted]

PART 126—DEFENSE PRODUCTION POOLS [Deleted]

PART 127—JOINT SET-ASIDES [Deleted]

Pursuant to authority contained in Sections 8 and 15 of the Small Business Act, as amended by Pub. L. 95–507 (October 24, 1978), notice is hereby given that SBA amends Chapter I, Title 13, Part 125 of the Code of Federal Regulations to read as published below.

Dated: September 28, 1979.

A. Vernon Weaver,
Administrator.

PART 125—PROCUREMENT ASSISTANCE

Sec.
125.1 Policy.
125.2 Definitions.

Procurement Assistance

125.3 Introduction.
125.4 Statutory provisions.

Office of Procurement and Technical Assistance

125.5 Certificate of competency.
125.6 Prime contracts assistance.
125.7 Defense production pools.
125.8 Property sales assistance.
125.9 Subcontracting assistance.
125.10 Technology assistance.

Authority: Secs. 8 and 15 of the Small Business Act, 72 Stat. 384, as amended (15 U.S.C. 631).

§ 125.1 Policy.

It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency. The Small Business Administration will aid, counsel and assist, insofar as is possible, small business concerns to insure that a fair proportion of the total purchases and contracts or subcontracts for property and services for the Government (including but not limited to contracts or subcontracts for equipment, materials and supplies; maintenance, repair, construction and architect-engineer services; research, development, test and evaluation) are placed with small business enterprises; to insure that a fair proportion of the total sales of Government property be made to such enterprises; and to maintain and strengthen the overall economy, well-being and security of the Nation.

§ 125.2 Definitions.

For purposes of this part:

(a) "Administrator" means the Administrator of the Small Business Administration.

(b) "SBA" means the Small Business Administration.

(c) "Small Business" means a business which qualifies as a small business under the small business size standards requirements, Part 121 of this Chapter and includes small concerns owned and controlled by socially and economically disadvantaged individuals under the definition thereof in Part 124 of this chapter.

(d) The terms "procurement" and "acquisition" are used interchangeably throughout.

(e) The term "Federal agency" as used herein does not include the United States Postal Service or the General Accounting Office.

(f) The term "Government procurement contract" means any contract for the procurement of any goods or services by any Federal agency.

Procurement Assistance

§ 125.3 Introduction.

The regulations in this part implement the procurement assistance programs of the Small Business Administration. The Office of the Associate Administrator for Procurement Assistance establishes SBA policy for, and directs the nationwide operation of (currently) five major programs: Certificate of Competency; Prime Contracts Assistance; Property Sales Assistance; Subcontracting Assistance; and Technology Assistance. The five programs are involved in aiding small business firms to obtain a fair share of Federal Government procurement contracts and subcontracts, and Federal Government resources.

§ 125.4 Statutory provisions summarized.

SBA procurement assistance is authorized, as of the date of this

regulation, under Sections 8(b) (15 U.S.C. 637(b)), 8(d) (15 U.S.C. 637(d)), 9 (15 U.S.C. 638), 11 (15 U.S.C. 640), 14 (14 U.S.C. 643), 15 (15 U.S.C. 644), 222 (41 U.S.C. 405(a)) (40 U.S.C. 401 note), and 223(a) (15 U.S.C. 637(b)) of the Small Business Act, as amended.

(a) 8(b) authorizes the SBA—

(1) To provide procurement and technical assistance to small business concerns, by advising and counseling on matters in connection with Government procurement (including certain Federal prime contractor procurement) and property disposal and on policies, principles, and practices of Federal Government acquisition;

(2) To obtain from any Federal department, establishment or agency engaged in procurement or in the financing of procurement or production, or in the disposal of Federal property, such reports concerning the letting of and compliance with contracts and subcontracts, solicitations of bids or proposals, time of sale, or otherwise as it may deem appropriate in carrying out its functions under the Small Business Act, as amended;

(3) To certify to Government procurment officers, and officers engaged in the sale and disposal of Federal property with respect to all elements of responsibility including but not limited to the competency, capability, capacity, credit, integrity, perseverance and tenacity, of any small business concern or group or such concerns to perform a specific Government contract;

(4) To review a Government procurement officer's finding that an otherwise qualified small business concern may be ineligible due to the provisions of Section 35(a) of Title 41, United States Code (the Walsh-Healey Public Contracts Act);

(5) To make a complete inventory of all productive facilities of small business concerns or to arrange for such inventory to be made by any other Governmental agency which has the facilities;

(6) To assist small business concerns to obtain Government contracts for research and development; to assist small business concerns to obtain the benefits of research and development performed under Government contracts or at Government expense; to provide technical assistance to small business concerns to accomplish this purpose; and to insure that a fair proportion of Government contracts for research and development be placed with small business concerns;

(b) Section 8(d) authorizes the SBA—

(1) To review solicitations requiring the submission of subcontracting plans to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and submit findings which shall be advisory in nature to the appropriate Federal agency;

(2) To assist Federal agencies and businesses in complying with their subcontracting responsibilities (sec. 8(d) of the Small Business Act, as amended), including the formulation of subcontracting plans for contracts to be let pursuant to the negotiated method of procurement;

(3) To obtain reports from Federal prime contractors and subcontractors demonstrating the extent of compliance with the contract provisions for small and disadvantaged subcontracting;

(4) To evaluate compliance with subcontracting plans, either on a contract by contract basis or in the case of contractors having multiple contracts, on an aggregate basis;

(c) Section 8(d) provides—

(1) That each Government procurement prime contract and any amendment or modification thereto, and each subcontract let thereunder, which may exceed $1,000,000 in the case of construction projects or $500,000 in every other case, except those which (i) will be performed entirely outside of any State, territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico; (ii) are for personal services; or (iii) are awarded to small business concerns; shall contain a mandatory provision for timely submission by the apparent successful bidder or offeror of an acceptable subcontracting plan that reflects maximum practicable opportunities for participation by and utilization of, to the fullest extent consistent with efficient contract performance, small and small disadvantaged business concerns to perform subcontracts to be let thereunder;

(2) That any contractor or subcontractor who fails to comply in good faith with the mandatory subcontracting provisions of a Government procurement contract or subcontract thereunder shall be found in material breach of such contract or subcontract;

(d) Section 9 authorizes the SBA—

(1) To consult with and make recommendations to all Government agencies for the purpose of providing small business concerns assistance, including technical assistance, to obtain (i) Government contracts for research and development, and (ii) the benefits of research and development performed under Government contracts or at Government expense; and to conduct studies, with the cooperation of Government agencies, of Government procurement or funding of research and development effort;

(2) To assist and encourage small business concerns to jointly undertake programs for research and development through such corporate or other mechanism appropriate for the purpose and to approve, after consultation with the Chairman of the Federal Trade Commission and with prior authorization of the Attorney General, any agreement between small business firms providing for such a joint program.

(e) Section 11 provides—

(1) That small business concerns may be authorized and encouraged, if found to be in the public interest as contributing to the national defense, to enter into voluntary agreements and programs to form Defense Production Pools for the purpose of furthering the objectives of the Small Business Act;

(f) Section 14 authorizes the SBA—

(1) To make a fair charge for the use of Government-owned property, as and to the fullest extent it deems practicable, and to make and let contracts on a basis that will result in recovery of the direct costs which it incurs in so doing;

(g) Section 15 provides—

(1) That small business concerns shall be awarded any Government procurement contract, or any part thereof, and any contract for the sale of Government property, as to which it is determined by the SBA and the procurement or disposal contracting agency to be in the interest of (i) maintaining or mobilizing the Nation's full productive capacity, (ii) war or national defense programs, (iii) assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small business concerns, or (iv) assuring that a fair proportion of the total sales of Government property be made to small business concerns; and, that any failure of the SBA and contracting agency to reach agreement shall cause the SBA Administrator to submit the matter to the Secretary or head of the appropriate department or agency for determination;

(2) That the head of each Federal agency will provide the SBA a report at the conclusion of each fiscal year on the extent of participation by small business concerns, and by small disadvantaged business concerns in procurement contracts, which report shall contain the rationale and justification for any failure by the Federal agency to meet

V 4 4 0 C 1 9 7 9 UMI

established goals, for review, consolidation and submission to the Select Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives;

(3) That separate goals for the participation by small business concerns and small disadvantaged business in Government procurement contracts and subcontracts thereunder shall be established annually by the head of each Federal agency following consultation with the SBA, and that the Administrator of the Office of Federal Procurement Policy shall establish the goal whenever there is disagreement between a Federal agency head and the SBA;

(4) That exclusive small business set-asides are authorized for government procurements of architect and engineering services, and research, development, test and evaluation;

(5) That each Government contract for procurement of goods or services which has an anticipated value of less than $10,000 and is subject to small purchase procedures shall be set aside exclusively for small business concerns unless the contracting officer is unable to obtain competitive offers from at least two small business concerns;

(6) That a method of prompt payment to contractors which also minimizes paperwork shall be employed whenever circumstances permit for Government procurement contracts effected under small purchase procedures;

(7) That an 'Office of Small and Disadvantaged Business Utilization' shall be established in each Federal agency having procurement powers, and that management of such office shall be vested in an employee of each such agency who shall be known as the 'Director of Small and Disadvantaged Business Utilization' and who shall—

(i) Be appointed by the head of such agency, and be responsible only to, and report directly to, the head of such agency or to his deputy,

(ii) Be responsible for implementation and execution of the Federal agency's functions and duties under Sections 8 and 15 of the Small Business Act, as amended, and have supervisory authority over such agency personnel to the extent of their functions and duties thereunder,

(iii) Cooperate and consult on a regular basis with the SBA relative to carrying out the Federal agency's functions and duties under Sections 8 and 15 of the Small Business Act, as amended, and

(iv) Assign to each acquisition activity within such Federal agency, to which the SBA has a procurement center representative assigned, a small business technical adviser (A) who shall be a full-time employee of the activity and well qualified, technically trained and familiar with the supplies or services purchased at the activity, and (B) whose principal duty shall be to assist the assigned SBA procurement center representative in carrying out his duties and functions relating to Sections 8 and 15 of the Small Business Act, as amended;

(h) Section 222 of Pub. L. 95–507 provides—

(1) That, in formulating Federal procurement procedures which govern the acquisition process for all Government procurement requirements, the Administrator of the Office of Federal Procurement Policy shall, in consultation with the SBA, conduct analyses of the impact on small business concerns;

(2) That the forthcoming Federal Acquisition Regulation directed by Pub. L. 93–400 incorporate revised Government procurement regulations which provide for simplified bidding, contract administration, and contract performance procedures for small business concerns;

(i) Section 223(a) of Pub. L. 95–507 provides—

(1) That any small business concern shall be provided upon its request, in connection with any Government procurement contract to be let by any Federal agency, except in the case of contract (i) which will be performed entirely outside any State, territory or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico, or (ii) which is for personal services—

(A) The applicable bid set and specifications,

(B) The name and telephone number of an employee of such agency to answer questions with respect to such contract, and

(C) Adequate citations to each major Federal law or agency rule with which small business concerns must comply in performing such contract.

Office of Procurement and Technical Assistance

§ 125.5 Certificate of competency program.

The Certificate of Competency program is authorized under Section 8(b)(7)(A), (B), and (C) of the Small Business Act. A Certificate of Competency (COC) is a written instrument issued by SBA to a Government contracting officer, certifying that a small concern (or group of such concerns) named therein possesses the responsibility and/or eligibility to perform a specific Government procurement (or sale) contract.

Issuance

(a) Government procurement officers, and officers engaged in the sale and disposal of Federal property, upon determining and documenting that a small business lacks certain elements of responsibility, including but not limited to competency, capability, capacity, credit, integrity, perseverance, and tenacity, notify SBA of such determination. Award is withheld by the contracting officer for a period up to 15 working days following the date of receipt by SBA of notice of such determination (with appropriate documentation) in order to permit SBA to investigate the elements referred and certify as to the bidder's responsibility with respect to the elements referred.

(b) Upon receipt of this notification, SBA personnel then contact the company concerned to inform it of the impending decision, and to offer an opportunity to apply to SBA for a COC. A concern wishing to apply to SBA for a COC advises the SBA regional office for the geographic area within which the concern is located. Upon timely receipt of required documentation, a team of SBA personnel is sent to the firm to investigate the responsibility of the applicant as to the specific elements of responsibility referred to SBA and make recommendations to the Regional Administrator.

(c) If the Regional Administrator's decision is negative, the COC is denied and both the firm and procuring activity are notified. If the Regional Administrator's decision is affirmative and the procurement is less than $500,000, the Regional Administrator issues a COC. Contracting officers will be informed in advance of issuing. For procurements in excess of $500,000, if the Regional Administrator recommends issuance of the Certificate, the Associate Administrator for Procurement Assistance, SBA Central Office, causes a review to be made and either issues or denies the Certificate. If the Associate Administrator's decision is negative, the firm and procuring activity are so informed; if affirmative, a letter, certifying the responsibility of the firm as to the elements of responsibility referred (the Certificate of Competency) is sent to the procuring activity and the applicant informed of such issuance by the regional office. By terms of the Small Business Act, as amended, the COC is conclusive as to responsibility. Contracting officers are directed to award a contract without requiring the firm to meet any other requirement with respect to responsibility.

(d) The notification to an unsuccessful applicant concern will briefly state the reason for denial and inform the applicant that a meeting may be requested with the appropriate SBA regional personnel to discuss the reasons for denial. Upon receipt of a request for such a meeting, the appropriate regional personnel will confer with the applicant and explain fully the reasons for SBA's action. However, such conference will be for the sole purpose of enabling the applicant to improve or correct deficiencies and will not constitute a basis for reopening the case in which the Certificate was denied.

(e) After a COC is awarded for capacity or credit and the contract is let to the applicant, SBA keeps a close watch on the progress. Monthly checks are made by SBA field personnel who report directly to the Central Office on the status of the contract. In this way SBA technical assistance is constantly available to the contractor.

(f) A small business concern shall not be eligible for a COC unless it performs a significant portion of the contract with its own facilities and personnel to assure SBA that the bidder is not simply an agent.

(g) A non-manufacturing concern which submits bids or offers in its own name on a set-aside procurement shall not be eligible for a COC unless the end items to be furnished under the contract will be manufactured by a small business concern in the United States. The product of a large business may only be supplied on a non-set-aside procurement and that product and the responsibility of the manufacturer must be acceptable to the procuring activity. The responsibility of the small non-manufacturer is certified, not the large manufacturer. In the event of a tie bid, preference shall be given to the concern supplying the product of a small business.

(h) A Government procurement officer documenting that a small concern is ineligible due to the provisions of Section 35(a) of Title 41, U.S.C. (the Walsh-Healey Public Contracts Act) notifies SBA of such determination. SBA may certify the concern is eligible for the specific contract or concur with the finding of ineligibility and refer the matter to the Secretary of Labor for final disposition.

(i) SBA by law issues a certification on the basis that officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and shall let the contract to such concern without requiring it to meet any other requirement of responsibility or eligibility.

§ 125.6 Government prime contracts assistance.

In accordance with specific provisions of the Small Business Act, as amended, the Small Business Administration develops, establishes and implements programs to increase the share of Government prime contracts awarded to small business concerns, including small business concerns owned and controlled by socially and economically disadvantaged individuals; to assist those small business firms having procurement and contract administration problems involving the Federal acquisition agencies; and to assist such concerns to form small business production or research and development pools. Federal acquisition regulations and instructions serve as the procedural vehicle for implementation of the Government's small and small disadvantaged business acquisition policy as declared in the Small Business Act. The effort to increase prime contract awards to small and small disadvantaged business concerns is concentrated in the early stages of the procurement cycle. The SBA has procurement center representatives (PCRs) stationed at Federal installations which have major buying programs. SBA PCRs accomplish their mission in coordination with small business specialists, and with small business technical advisers assigned to Federal acquisition activities, whose principal duties include responsibility for assisting SBA PCRs in the performance of all prime contracting assistance duties and functions emanating from the Small Business Act, as amended. The SBA Government Prime Contracts Assistance program is designed to cause the PCRs to carry out the following functions in connection with the acquisition of Federal procurement requirements.

(a) Represent the SBA in all Prime Contracts Assistance matters at Federal acquisition installations;

(b) Screen proposed Government procurements which the acquisition agencies' contracting officials and small business specialists or small business technical advisers do not recommend, including those recommended initially but later withdrawn, for small business set-asides, awards to SBA under Section 8(a), and small business labor surplus area set-asides, as appropriate, for possible set-aside action, either partial or total, by the SBA. In appropriate instances, appeals SBA-initiated set-asides denied by the heads of acquisition activities to the Secretary of the department or head of the agency through the Associate Administrator for Procurement Assistance (AA/PA), SBA Central Office;

(c) Represent the entire small business community to the Federal acquisition agencies and initiates activities necessary to provide an optimum climate for participation in the Government's contracting system;

(d) Review regulations and instructions of Federal acquisition agencies and activities for potential impact on small and small disadvantaged business concerns involved in Government procurement, and make recommendations through the AA/PA for resolutions of provisions deemed prejudicial to small or small disadvantaged business concerns at the highest necessary levels of the acquisition agencies;

(e) Review and evaluate the small business programs of individual Federal acquisition activities, and make recommendations either directly to the activities or through the Office of Procurement and Technical Assistance, SBA Central Office, to the Federal department or agency, which, when implemented, improve program effectiveness and results;

(f) Recommend potential small and small disadvantaged business sources for the contracting agencies' use in their procurement solicitations;

(g) Assist the acquisition agencies and activities in establishment of goals for awards to small business concerns and to small business concerns owned and controlled by socially and economically disadvantaged individuals, and periodically report progress toward attainment thereof to the AA/PA, SBA Central Office;

(h) Sponsor and participate in conferences and training courses, public and Government, designed to provide information and counsel to increase small and small disadvantaged business participation in Government procurement;

(i) Establish local operating procedures at and in conjunction with individual acquisition activities, within policy guidelines and direction of the AA/PA, SBA Central Office, designed to efficiently and effectively utilize Federal agency small business technical advisers in the discharge of their statutory responsibility and performance of their principal duty to assist SBA PCRs in achieving the congressional objective of providing maximum procurement opportunities for small and small disadvantaged business concerns;

V 44 0 C 1 9 7 9 UMI

(j) Advise, counsel and assist small and small disadvantaged business concerns which are having procurement or contracting problems with an acquisition or contract administration activity;

(k) Advise and guide small and small disadvantaged businesses in doing business with the Government;

(l) Counsel small and small disadvantaged businesses on how to prepare and submit bids and proposals, and obtain prime contracts and subcontracts;

(m) Assist small and small disadvantaged businesses in getting their names placed on bidders' lists, and in obtaining drawings and specifications for proposed purchases, and offer related services, which include supplying leads on research and development projects;

(n) Review terms, conditions and specifications of solicitations for bid or proposal offerings to ascertain, insofar as possible, that maximum contract and subcontract opportunities are afforded to small and small disadvantaged business concerns as required by the Small Business Act, as amended;

(o) Coordinate, as possible, with contracting officials in determining acceptability of proposed subcontracting plans to provide maximum practicable opportunities for small and small disadvantaged businesses; and advise the head of the acquisition activity and AA/PA, SBA Central Office, in cases of disagreement with contracting officials.

(p) Identify procurement requirements for potential contracting action by officials of the Associate Administrator for Minority Small Business and Capital Ownership Development as a result of screening Government procurement requisitions.

§ 125.7 Defense production pools.

(a) Defense Production Pools, which involves the voluntary pooling of small business concerns, are authorized for the purpose of furthering the objectives of the Small Business Act. Such pools, if their pooling agreements are approved, enjoy certain immunities from the antitrust laws and the Federal Trade Commission.

(b) An approved pool is treated the same as any other bidder or contractor for procurement purposes. A member of a pool is not precluded from submitting bids or proposals on other procurements but his bid or proposal will not be considered if he has participated in a bid or proposal submitted by his pool. However, the existence of a production pool agreement may affect the responsibility of a pool member in the consideration of his individual bid or proposal.

(c) To qualify as a pool, the group members must:

(1) Associate for the purpose of procuring contracts—or to effectuate the purposes of the Small Business Act;

(2) Enter into a pool agreement controlling their organization, relationship and procedures;

(3) Secure approval under either the Defense Production Act or the Small Business Act.

(d) Bids or proposals of an approved pool may be submitted by the pool in its own name or by an individual member if the bid or proposal specifies that it is made on behalf of the pool. If a bid is not so submitted, it is not eligible for award. Contracting officers may reply upon a copy of the SBA notification of approval as proof of such approval.

(e) Unincorporated pools, before award of a contract, must furnish a certified copy of a Power of Attorney from each member who is to participate in the performance of the contract. The Power of Attorney must designate an agent to execute the bid, proposal, or contract to the member.

(f) Any group of small business concerns which wishes to form a pool should request the SBA district offices to arrange a meeting. The names and addresses of all such concerns which are considering participation in the pool shall be provided to SBA along with information as to the kinds of business in which they are engaged, and the name of a representative of each participant who should be invited to the initial meeting to be held at the SBA district office. The purpose of the meeting is to explore, with the SBA representative, the desirability of forming a pool, the proposed plan of operation, and related matters.

§ 125.8 Government property sales assistance program.

The Property Sales Assistance Program is authorized under Sections 2(a), 8(b); 10(f) and 15 of the Small Business Act.

(a) Pursuant to the statutory requirements of the Small Business Act, the Small Business Administration is charged to insure that small business concerns obtain a fair share of all Federal real and personal property which qualifies for sale or other competitive disposal action. The basic purpose of the program is:

(1) To insure small business concerns obtain a fair share of Government property sales/leases to include, where necessary, small business set-asides.

(2) To provide aid, counsel and other available assistance to small business concerns on all matters pertaining to Government sales/leases.

(b) The Property Sales Assistance Program and its implementation were designed to assure small business the opportunity to bid competitively on Government property being sold or leased. Interagency agreements have been formalized with the Departments of Agriculture, Interior and Defense, and the General Services Administration to provide for cooperative effort in setting aside certain sales of Government property for exclusive bidding of small business concerns.

(c) Specific areas of Government property included in the Property Sales Assistance Program are:

(1) Timber and related forest products

(2) Strategic material from national stockpiles

(3) Royalty oil and leases involving rights to minerals, oil, gas, vegetation

(4) Excess and surplus real and personal property primarily from GSA and DOD sources.

(d) The Property Sales Assistance Program is directed by Central Office staff management and assigned industrial specialists with post of duty at key geographic locations throughout the United States. SBA property sales industrial specialists are charged with the specific, primary responsibility to monitor all Federal timber sales and to require, if necessary, joint set-asides as proposed timber sales to insure a "fair proportion" of sales are offered to small businesses. Specific procedures for determining a "fair proportion" are in accordance with appropriate interagency agreements. Guidelines pertaining to timber sales are further outlined in § 121.3–9 of this chapter. To insure that set-aside timber is processed by small business the provisions of § 121.3–9(b) of this chapter require that the purchasers of preferential Government timber sales agree to the following:

(1) If the timber is being purchased for resale, that it will not sell more than 30 percent (50 percent in Alaska) of the preferential timber to concerns not meeting SBA's small business size standard; and

(2) If the timber is being purchased for manufacture, that it will do so with its own facilities or those of concerns that qualify as small business.

(e) At the time the contract for the sale of Federal timber is executed the selling agency requires execution of SBA Form 723, "Small Business Certification Required on all Preferential Sales of Set-Aside Timber," which becomes a part of the sales contract.

(f) A concern that violates the provisions of a preferential setaside sale agreement may be subject to:

(1) Cancellation of timber sale contract or contracts that have been breached;

(2) Debarment from participating in future Federal timber sales;

(3) Disqualification from participating in future Federal timber sales set aside for small business; and

(4) Criminal proceedings.

(g) When it is brought to the attention of SBA that a purchaser of set-aside timber or logs has appeared to violate the 30 percent (50 percent in Alaska) clause in the size standard for disposal of timber or sawlogs, the industrial specialist, when necessary, shall investigate the circumstances immediately. The purpose of the investigation shall be to ascertain whether said person or concern sold set-aside logs to other than small business in excess of the 30 percent allowable under the size standard regulations.

(h) The program's past efforts have stressed small business involvement primarily in the timber and royalty oil areas. Under the expanded, more fully developed Property Sales Assistance Program, increased emphasis is being placed on the following key areas:

(1) Closer definition of small business constituency which qualify for assistance, and establishment of an inventory of related firms and their capabilities;

(2) Expanded negotiations with various Federal departments and agencies involved to establish specific small business set-aside programs, and to develop mutual operating procedures as necessary to monitor setaside implementation and progress; and

(3) Increased development of energy information relating to mineral leasing and set-asides and access thereto as required for counseling, programming and other assistance to small concerns involved or contemplating involvement in the energy field;

§ 125.9 Subcontracting assistance program.

The Subcontracting Assistance Program is authorized under Sections 2(a), 8(b)(2), 8(b)(3), 8(b)(5), 8(c), 8(d)(1) through 8(d)(11), and 10(f) of the Small Business Act, as amended.

(a) Pursuant to statutory authorities and requirements of the Small Business Act, as amended, it is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals, shall have the maximum practicable opportunity to participate in the performance of contracts let by any Federal agency. Participation in performance is defined to mean subcontracted goods or services under Federal agency prime contracts.

(b) The Small Business Administration has subcontract specialists throughout the Nation who may assist small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals in subcontracing opportunities. Federal prime contracts in excess of $10,000 shall contain the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals."

(c) Federal agency prime contracts in excess of $1,000,000 for construction and $500,000 for all others which offer subcontracting possibilities must contain a subcontracting plan. Small Business prime contractors are excluded. Each subcontracting plan required shall include:

(1) Percentage goals (expressed in terms of total planned subcontracting) for the utilization as subcontractors of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(2) The name of an individual within the employ of the offeror or bidder who will administer the subcontracting program of the offeror or bidder and a description of the duties of such individual;

(3) A description of the efforts the offeror or bidder will take to assure that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals will have an equitable opportunity to compete for subcontracts;

(4) Assurances that the offeror or bidder will include the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" in all subcontracts which offer further subcontracting opportunities, and that the offeror or bidder will require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,000,000, in the case of a contract for construction of any public facility, or in excess of $500,000 in the case of all other contracts, to adopt a plan meeting the basic requirements of the prime contractor's subcontracting plan;

(5) Assurances that the offeror or bidder will submit such periodic reports and cooperate in any studies or surveys as may be required by the Federal agency or the Small Business Administration in order to determine the extent of compliance by the offeror or bidder with the subcontracting plan; and

(6) A recitation of the types of records the successful offeror or bidder will maintain to demonstrate procedures which have been adopted to comply with the requirements and goals set forth in this plan, including the establishment of source lists of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals; and efforts to identify and award subcontracts to such small business concerns.

(d) The failure of contractor or subcontractor to comply in good faith with the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" or any required subcontracting plan in its contract or subcontract shall be a material breach of such contract or subcontract.

(e) The Small Business Administration is authorized to assist Federal agencies and businesses in complying with their responsibilities under subcontracting plans. The SBA may review any solicitation for any contract to be let, which would require a subcontracting plan, to determine the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate as subcontractors in the performance of any contract resulting from any solicitation, and submit its findings, which shall be advisory in nature, to the appropriate Federal agency.

(f) The Small Business Administration will evaluate compliance with subcontracting plans, either on a contract-by-contract basis, or in the case of contractors having multiple contracts on an aggregate basis. In the case of aggregate evaluation of contract plans, a statistical sampling of contracts will be performed to determine compliance or non-compliance. All cases of non-compliance will be referred by SBA regional offices with recommendations for Central Office final decision. Evaluation for compliance will be based upon the complete terms of the contract subcontracting plan. Due to the length of the contract, performance periods and the point of evaluations, compliance or non-compliance may either be interim or final.

V 4 4 O C 1 9 7 9 UMI

(g) At the conclusion of each fiscal year, SBA shall submit to the Senate Select Committee on Small Business and the Committee on Small Business, House of Representatives, a report on subcontracting plans found acceptable by any Federal agency which SBA determines do not contain maximum practicable opportunities to participate in the performance of the contract. In addition, the report will furnish information concerning subcontracting plans found to be in non-compliance.

(h) *Program Operation.* To carry out the Subcontracting Assistance Program, SBA subcontracting specialists are located in regional and district offices throughout the Nation.

(1) Program assistance directly available to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals from SBA personnel is as follows:

(i) Counseling representatives of firms interested in and capable of supplying Government procurement requirements on a subcontract basis;

(ii) Information and assistance on how to develop subcontract opportunities, and in obtaining currently available projects;

(iii) Information concerning subcontract opportunities for selected items, equipment and services being procured by the Government through large business prime contractors and major subcontractors;

(iv) Information and assistance on qualifications required to become eligible for inclusion on potential source listings of large business firms for future subcontract requirements;

(v) Names, addresses and telephone numbers of large business procurement representatives.

(2) SBA subcontract specialists perform the following additional duties:

(i) Assist large business, Government prime contractors and subcontractors, if requested and to the extent of available resources, in the compliance and formulation of contractually required subcontracting plans through the furnishing of potential sources;

(ii) Review subcontracting plans submitted by large business firms to Government contracting officials for approval and inclusion in major prime contracts and subcontracts;

(iii) Evaluate compliance by large business concerns with subcontracting plans incorporated into and made a material part of major prime contracts and subcontracts;

(iv) Evaluation of compliance by all concerns in their adherence to the clause entitled "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals";

(v) Recommend potential small and disadvantaged business sources to large business firms and to Government officials for performance of subcontract requirements under major Government contracts and subcontracts;

(vi) Maintain liaison with and visit large business Government prime contractors and subcontractors to assist, where requested and possible with available resources, in long term procurement plans for the purpose of encouraging increased utilization of small and disadvantaged business concerns as subcontractors;

(vii) Review and evaluate subcontracting regulations, procedures, policies, and instructions for impact on small and disadvantaged business;

(viii) Participate in conferences and training courses, public and Government, which provide information and counsel directed at increased small and disadvantaged business participation in subcontracting for Federal procurement requirement.

(3) The Associate Administrator for Procurement Assistance monitors performance, evaluates effectiveness and issues directives to implement the Subcontracting Assistance Program field operations. Management of the program is accomplished through:

(i) Establishment of program policy and procedural guidance and direction of SBA subcontracting specialists for daily interface with Government and industry officials at the field level to accomplish program objectives;

(ii) Studies and surveys conducted of the methods and practices employed by large business Government prime contractors and subcontractors;

(iii) Review and analysis of subcontracting plan compliance evaluation reports developed by SBA subcontracting specialists and reported to the Associate Administrator for Procurement Assistance; and

(iv) Compile the required reports to Congress.

(i) *Procurement Automated Source System.* The SBA maintains an active Procurement Automated Source System (PASS) the primary basis for recommending potential small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals as sources for both prime and subcontracting. The PASS is a nationwide computerized storage and retrieval bank. Concerns desirous of being included in the PASS should obtain SBA Form 1167, "PASS Company Profile," from the nearest SBA branch, district, or regional office. Instructions for filing are conveniently printed on Form 1167. If assistance should be required, it can be obtained from SBA field offices. The computerized inventory of small and disadvantaged business concerns is used to make referrals for procurements to assist those concerns in being placed on appropriate bidders' lists and for mobilization purposes, if required. Potential procurement opportunities may be local or nationwide. Once registered in the system, the company must update its data once a year to remain in the system. Potential sources may be obtained by small and large business and Government agencies.

§ 125.10 Technology assistance program.

(a) Section 9(a) of the Small Business Act states: "Research and Development are major factors in the growth and progress of industry and the national economy. The expense of carrying on research and development programs is beyond the means of many small business concerns, and such concerns are handicapped in obtaining the benefits of research and development programs conducted at government expense. These small business concerns are thereby placed at a competitive disadvantage. This weakens the competitive free enterprise system and prevents the orderly development of the national economy. It is the policy of the Congress that assistance be given to small business concerns to enable them to undertake and to obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the national economy."

(b) Section 9(b) states: "It shall be the duty of the Administration (SBA), and it is hereby empowered—

(1) To assist small business concerns to obtain Government contracts for research and development;

(2) to assist small business concerns to obtain the benefits of research and development performed under Government contracts or at government expense; and

(3) To provide technical assistance to small business concerns to accomplish the purposes of this section.

(c) Section 9(c) states: "The Administration is authorized to consult and cooperate with all Government agencies and to make studies and recommendations to such agencies, and such agencies are authorized and directed to cooperate with the Administration in order to carry out and to accomplish the purposes of this section."

(d) *Research and Development (R&D) Procurement Assistance.* (1) SBA will identify and register the capabilities of small R&D firms interested in Government contract opportunities. The procedure for cataloging the pertinent information on these firms will be through registration in the PASS. PASS is a computerized system designed to be instantaneously responsive to the requests of government agencies for the profiles of small firms that would be potential bidders on Government contracting opportunities. SBA will publish an annual directory of R&D firms contained in the PASS, and make appropriate distribution of this directory. SBA will periodically convene conferences with small R&D firms and other Federal agencies for the purpose of increasing the share of Government R&D contracts awarded to small business.

(2) *Procedure.* Small business concerns desiring to register in the PASS program should contact the nearest SBA field office and request a PASS Company Profile Form. The completed profile should be forwarded to the cognizant SBA regional office as described in the registration instructions. Registrations in the PASS program is a no-charge service for participating firms.

(e) *Technology Transfer.* (1) SBA, within existing resources, will assist small firms by identifying and transferring applicable and available technology for purposes which may include product development, process improvement, problem-solving, or state-of-the-art information.

(2) *Procedures.* (i) Small business firms may request technology assistance at any SBA district or regional office. The majority of requests come from small business firms as a result of SBA information flyers which describe the services available. The Reader Service portion of the information flyer is completed by the small firm and forwarded to SBA for action.

(ii) SBA will make every effort to respond initially to these requests within 30 days. Whenever possible, this response will be in the form of personal or telephone contact with the appropriate individual at the requesting firm.

(iii) Where necessary, SBA will assist the firm to clearly and adequately define the problem or request for technical information.

(iv) SBA will locate the requisite technology and provide it to the requesting firm.

[FR Doc. 79-32389 Filed 10-18-79; 8:45 am]

BILLING CODE 8025-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-16278]

Interpretive Release Relating to Recordkeeping and Record Production Obligations of National Securities Exchanges and Registered Securities Associations

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive release.

SUMMARY: This release confirms: (1) That it is a violation of section 17 of the Securities Exchange Act of 1934 (the "Act"), and Rule 17a-1 thereunder, for any national securities exchange ("Exchange") or registered securities association ("Association") to refuse to furnish to Commission staff members, upon request, copies of any documents made or received by such exchange or association in the course of its business or the conduct of its self-regulatory activities or, alternatively, to refuse to make such documents available for reproduction by Commission staff members; (2) that record destruction plans submitted by an exchange or association to the Commission pursuant to Securities Exchange Act Rule 17a-6 should list only those documents that the exchange or association proposes to destroy prior to the end of the normal five-year retention period required by Rule 17a-1 and that any documents not included in such a plan are subject to the five year retention requirement.

FOR FURTHER INFORMATION CONTACT: Nancy H. Wojtas, Division of Market Regulation, Securities and Exchange Commission, 500 N. Capitol Street, Washington, D.C. 20549, 202-272-2841.

SUPPLEMENTARY INFORMATION:

Section 17 and Rule 17a-1

On May 17, 1974, the Commission, pursuant to Sections 17(a) and 23(a) of the Act, adopted Securities Exchange Act Rule 17a-1 (17 CFR 240.17a-1), which requires that every exchange and association keep for five years all documents and records made or received by it in the course of its business and in the conduct of its self-regulatory activities.[1]

Rule 17a-1(c) further provides:

> All such documents shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in connection with the exercise of its oversight responsibilities respecting the self-regulatory activities of national securities exchanges and associations. To facilitate the completion of such examinations, such representatives shall be entitled to remove temporarily such documents for reproduction unless a national securities exchange or association makes copies thereof available.[2]

The Commission adopted Rule 17a-1 in order to require exchanges and associations to permit the Commission staff members to examine all documents, which any exchange or association makes or receives respecting its self-regulatory activities, "away from the premises of such an organization" and to "permit the copying of such documents."[3]

The Securities Acts Amendments of 1975 ("1975 Amendments") amended Section 17 of the Act.[4] Section 17(a)(1) of the Act still requires all exchanges and associations, among others,[5] "to make and keep for prescribed periods such records (and) furnish such copies thereof, * * * as the Commission, by rule, prescribes as necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of (the Act)."

Congress, however, added a new subsection (b) to Section 17 which provides that all records of persons enumerated in Section 17(a), including exchanges and associations, are "subject at any time, to * * * reasonable * * * examination by representatives of the Commission * * *." In addition, the legislative history of the 1975 Amendments makes clear that "the authority to examine records would

[1] Securities Exchange Act Release No. 10809 (May 17, 1974), 39 FR 18765 (May 30, 1974).

[2] 17 CFR 240.17a-1(c).

[3] Securities Exchange Act Release No. 10809 (May 17, 1974), 39 FR 18764 (May 30, 1974).

[4] 15 U.S.C. 78q, as amended by Pub. L. No. 94-29 (June 25, 1975).

[5] Section 17(a)(1) applies to "[e]very national securities exchange, member thereof, broker or dealer who transacts a business in securities through the medium of any such member, registered securities association, registered broker or dealer, registered municipal securities dealer, registered securities information processor, registered transfer agent, and registered clearing agency and the Municipal Securities Rulemaking Board * * *."

include the authority to make or require copies of such records."[6]

In recent years there have been instances in which exchanges or associations have refused to provide (or have delayed in providing) copies of documents for Commission staff members without a formal Commission request or subpoena. Because of these instances, the Commission wishes to reconfirm publicly its position that Commission staff members are authorized directly, by Section 17 of the Act, to obtain copies of exchange and association records for examination and for removal from their premises. That statutory authorization is unconditional except for the requirement that any such record examination be "reasonable." Accordingly, the Commission expects any exchange or association, as a person subject to Section 17(b) of the Act, to comply promptly with any reasonable staff request for the production of copies of records, for removal from its premises, without requiring a Commission subpoena.

The Commission understands that certain refusals and delays have resulted from concerns regarding possible exchange or association liability to their members for "publishing" confidential or unverified investigatory material in the event that the material is obtained from the Commission by third parties pursuant to a Freedom of Information Act ("FOIA") request.[7] Whatever the merits, if any, of this concern, the refusal to produce Exchange or Association records for reasonable examination and removal by Commission staff members, or any unreasonable delay in producing such documents, would consitute violations of law. Further, the Commission has the power to take appropriate remedial action against any exchange or association that in the future refuses to comply with a reasonable record request made by the staff of the Commission pursuant to Section 17 of the Act and Rule 17a–1 thereunder.

Rule 17a–6

In order that exchanges and associations need not be required to keep all the records they generate in the course of their business and self-regulatory activities for the full five-year retention period provided in Rule 17a–1, Rule 17a–6 (17 CFR 240.17a–6) provides that specified documents may be destroyed or converted to another recording medium before the end of the usual five-year retention period if provided for by an exchange or association in a record destruction plan filed with and approved by the Commission.

Eight record destruction plans have been submitted formally to the Commission.[8] The Commission has encountered difficulties in processing certain of those plans. Rule 17a–6 is intended to permit an exchange or association to file a plan designating only those classes of documents for which it is requesting early destruction or conversion to another recording medium. All records or documents not so designated would remain subject to the retention requirement of Rule 17a–1, and no plan need be filed if an exchange or association does not wish to destroy any class of documents in less than five years. Only three of the plans received by the Commission conform to the intended scope. The non-conforming plans purport to list the retention period for all classes of documents maintained by the exchange or association (including those to be retained for five years or more). The most troublesome aspect of certain of these plans is the inclusion of an unacceptable "escape clause" designed to exclude from the plan, and from any retention requirement, those records which the exchange or association determines to be "not necessary in furtherance of the Commission's oversight responsibilities or (the exchange's or association's) self-regulatory responsibilities."

The Commission currently is reviewing all record destruction plans which have been formally filed and will contact each exchange or association regarding the status of its plan. Those plans which conform with the requirements of Rule 17a–6, and which designate documents which the Commission believes to be appropriate for early destruction or conversion, will be approved. The Commission's staff will contact those exchanges or associations whose plans (1) contain "escape clauses," (2) list documents other than those which are to be destroyed or converted to another recording medium before five years, (3) list documents inappropriate for early destruction or conversion, or (4) in other ways fail to comport with the requirements of Rules 17a–1 and 17a–6.

By the Commission.

George A. Fitzsimmons,

Secretary.

October 12, 1979.

[FR Doc. 79-32225 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[6] Report of the Committee on Banking, Housing and Urban Affairs, to accompany S. 249, 94th Cong. 1st Sess., Senate Report No. 94–75, at p. 120. The report describes "examination authority" as being "essential to any effort by the Commission to discharge its responsibilities under the Act."

[7] 5 U.S.C. 552 *et seq.* Where an FOIA exemption is applicable, the Commission, in the exercise of its discretion, may withhold the release of such documents to third parties.

[8] The American Stock Exchange, Inc. ("Amex"); the Boston Stock Exchange, Incorporated ("BSE"); the Chicago Board Options Exchange, Incorporated ("CBOE"); the Cincinnati Stock Exchange ("CSE"); the Midwest Stock Exchange, Incorporated ("MSE"); the National Association of Securities Dealers ("NASD"); the Pacific Stock Exchange Incorporated ("PSE"); and the Philadelphia Stock Exchange, Inc. ("Phlx").

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1 and 3

[Docket No. RM79–59]

Rules of Practice and Procedure, and Organization; Operation; Information and Requests; Delegation of Authority

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order denying rehearing of Order No. 38.

SUMMARY: The order denies rehearing of Order No. 38, Delegation of the Commission's Authority to Various Staff Office Directors, issued July 23, 1979, insofar as Order No. 38 delegates to the Director of the Office of Enforcement the authority to deny the request of a witness in a formal investigation for a copy of the transcript of his testimony.

DATES: Issued September 21, 1979.

ADDRESSES: All filings should reference Docket No. RM79–59 and should be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Tom Runge, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–8606.

Delegation of the Commission's authority to various staff office directors; Order denying application for rehearing of Order No. 38 by Tenneco Oil Company, Pennzoil Company, Texasgulf Inc., and General American Oil Company of Texas.

September 21, 1979.

A. *Background*

On July 23, 1979, the Commission issued Order No. 38, Docket No. RM79–59 (44 FR 46449; August 8, 1979) making amendments to the Commission rules relating to internal delegations of the Commission's authority. These amendments transfer to the various Commission office directors increased

authority to make decisions on largely ministerial matters, in order to give the Commission a greater chance to more speedily consider significant issues of major importance.

Among the office directors who were delegated greater authority is the Director of the Office of Enforcement. Under new 18 CFR 3.5(h), the Director is given authority to:

"(h)(1) Designate officers empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements, or other records, in the course of formal investigations conducted by the Office of Enforcement to the extent the Commission's order of investigation expressly provides for the exercise of such investigative powers.

"(2) *Grant or deny requests of persons pursuant to § 1b.12 of this Chapter to procure copies of the transcripts of their testimony taken during non-public investigations* conducted by the Office of Enforcement. [Emphasis added.]

"(3) Terminate any informal non-public investigation conducted by the Office of Enforcement.

"(4) Terminate the authority of officers to administer oaths and affirmations, subpoena witnesses, compel their attendance and testimony, take evidence, compel the filing of special reports and interrogatories, gather information, and require the production of any books, papers, correspondence, memoranda, contracts, agreements or other records in the course of formal investigations conducted by the Office of Enforcement." (18 CFR 3.5(h).)

These amendments became effective immediately upon issuance, but comments were nevertheless requested by the Commission.

Subsequently, on August 22, 1979, comments were received from Tenneco Oil Company, Pennzoil Company, Texas Gulf Inc., and General American Oil Company of Texas, together with an application for rehearing of Order No. 38 "insofar as [the order] delegates to the Director of the Office of Enforcement, or the Director's designee, the authority to deny a person's request for a copy of that person's transcript of testimony."

In their specification of error, the applicants note that:

"In the preamble to Order No. 38, the Commission correctly states that decisions of a 'ministerial nature' and of 'limited discretionary decision-making' should be 'delegated downward.' However, the Commission must take care that important rights of parties before the Commission are not compromised by misdefining substantive decisions as ministerial or as limited discretionary decision-making.

"The right of a person to a [copy of his] transcript is an important right going to the presumption in favor of public proceedings. Accordingly, a person's request for a transcript can be denied only for 'good cause.' In an investigatory proceeding, only the Commission itself can properly apply that standard.

"The Director of the Office of Enforcement, or the Director's designee, is often an adversary party to witnesses and their counsel. Investing the power to deny a transcript to a person assuming an essentially adversary position creates a great potential for abuse. Not only can the power be used by the Director or the Director's designee for leverage over a witness, it can also be used for harassment.

"This is particularly the case since there are no limits on the discretion of the Director of Enforcement to delegate the power. Thus, the designee may turn out to be the investigating officer. Allowing that person to determine who should be granted and who should be denied a transcript only aggravates the inherent potential for abuse."

The applicants also point out that "the only justification given by the Commission for the delegation of the power to deny a person's request for a transcript is found in its statement that the 'proposed delegations are closely modeled after similar delegations of investigational power to the Staff of the Securities and Exchange Commission (SEC).'[1] The SEC has not, however, delegated the power to its staff to deny a person's request for a transcript. Instead, the SEC regulations provide that the SEC staff can *grant* a request,[2] but only the SEC itself can *deny* a request.[3] The SEC has thereby recognized that the denial of a person's request for a transcript is not action of a 'ministerial nature.' The Commission should do the same and retain the power of denial."

In conclusion, the applicants urge that "the Commission should, as the SEC has done, retain exclusively to itself the power to deny a person's request for a transcript."

B. *Discussion*

Initially, to narrow the issues somewhat, the Commission notes that there is no dispute here over the right of any witness in any non-public formal investigation to *inspect* a copy of the official transcript of his testimony, or to have the transcript inspected by his counsel. This is in accord with 5 U.S.C. § 555(c), the Administrative Procedure Act, which specifies that:

"A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a non-public investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony."

The statutory test for denial of a copy of the transcript, i.e., "for good cause", is undefined by the Act, but well articulated by the courts in a number of cases:

"The legislative history of the Administrative Procedure Act shows Congress was aware that investigations by the Commission, like those of a grand jury, might be thwarted in certain cases if not kept secret, and that if witnesses were given a copy of their transcript, suspected violators would be in a better position to tailor their own testimony to that of the previous testimony, and to threaten witnesses about to testify with economic or other reprisals. Therefore Congress added to an earlier draft of Section 6(b) of the Administrative Procedure Act, language giving the agencies the authority to deny *for good cause* a witness' request for a transcript of his testimony in a nonpublic investigation." *Commercial Capital Corp.* v. *Securities and Exchange Com'n*, 360 F. 2d 858 (7th Cir. 1966). [Emphasis added.]

This review of the delegation rule, the applicants' comments, and the applicable law makes it clear that here:

—There is no dispute over the power of the Director of the Office of Enforcement to "grant" requests by witnesses to procure a copy of the transcript of their testimony. Only the Director's power to "deny" such a request is in question.

—There is no dispute over the lawful test for such a denial: the test is "good cause", and its purpose is to prevent suspected law violators from acting in concert to "orchestrate" their testimony and frustrate justice.

—There is no dispute over the right of every witness to *inspect* the transcript of his testimony. Instead, the dispute involves only the additional right of a witness to *obtain* a copy of the transcript.

In particular, the narrow issue raised here is, *who* can deny the witness' request for a copy? The Director of the Office of Enforcement (as provided in Order No. 38), or instead, the Commission itself (as the applicants urge)?

In deciding between these two alternatives, it is helpful to compare the practical differences between them:

Decision by the Office of Enforcement, Under Order No. 38

At present, the investigating officer is the first official to confront the question of whether a copy of the transcript should be denied to the witness. He makes a recommendation on the matter to an Assistant Director of the Office of Enforcement.

[1] Order No. 38, at 9.

[2] 17 C.F.R. § 200.30–4(2).

[3] *Id.* § 203.6.

V 44 0 C 19 79 UMI

If the Assistant Director concurs in the recommendation, he in turn recommends denial to the Director of the Office.

In turn, if the Director concurs in a recommendation for denial, he may deny the transcript request, under 18 CFR 3.5(h)(2).

In that event, the Director's denial is immediately appealable to the Commission, in the same manner as are all other staff determinations made pursuant to delegated authority. Order No. 38 expressly provided for such appeals, by amending 18 CFR 1.7(d), "Appeals from actions of the staff," to permit "any interested *person*," and not merely any *porty*, to gain review of a disputed staff decision. Thus, if a witness is denied a transcript of his testimony, any dispute over the denial can be quickly placed before the full Commission. This is, in large part, all that the applicants seek to insure here.

Decision by the Full Commission

The course here urged by the applicants would operate in this way: First, a recommendation for denial by the investigating officer; second, a similar recommendation by an Assistant Director of the Office; third, a similar recommendation by the Director to the Commission; fourth, a decision by the full Commission.

C. *Conclusion*

In our view, there is little real difference between these two courses. In either event, the final decisionmaking authority rests in the Commission. We also note, though it is not dispositive here, that to date, in no instance has this Commission ever denied a witness a copy of his transcript "for good cause."

Moreover, we note that the issues involved in a determination to deny a transcript are largely factual in nature. The investigative officer, and his immediate superiors, will ordinarily be in the best position to determine the matter. Nevertheless, a right to review by the full Commission remains to protect the rights of any witness, and we believe that is sufficient for the rare instances in which a denial may be appropriate.

In consideration of the foregoing, the Commission hereby denies the application for rehearing of Order No. 38 filed by Tenneco Oil Company, Pennzoil Company, Texasgulf Inc., and General American Oil Company of Texas.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32205 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

---

18 CFR Parts 154, 270, and 283

[Docket No. RM79-22]

Rate Schedules and Tariffs; Rules Generally Applicable to Regulated Sales of Natural Gas; Collection Authority; Refunds; Order Establishing Proceeding Pursuant to Court Order

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order establishing proceeding pursuant to court order.

SUMMARY: The order establishes a proceeding, pursuant to the order of the United States Court of Appeals for the Fifth Circuit, to determine which person filed the first petition seeking judicial review of the Commission's orders in Docket No. RM79-22.

FOR FURTHER INFORMATION CONTACT: J. Paul Douglas, Office of the Solicitor, Federal Energy Regulatory Commission, Room 8010, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4287.

Before Commissioners: Charles B. Curtis, Chairman,; Georgiana Sheldon, Matthew Holden, Jr., and George R. Hall.

Order Establishing Proceeding Pursuant to Court Order

Issued: October 11, 1979.

In the matter of amendment and clarification of Interim Regulations Under the Natural Gas Policy Act of 1978 and Regulations Under the Natural Gas Act, Docket No. RM79-22.

On March 13, 1979, the Commission issued Order No. 23 [44 FR 16895 (March 20, 1979)], and, on May 11, 1979, denied rehearing.[1] Immediately upon the issuance of those orders, various persons endeavored to file the first petitions for review of those orders in the United States Court of Appeals for the District of Columbia Circuit,[2] while others tried to file first in the Fifth Circuit.[3] This order establishes procedures to determine which petitioner filed the first timely petitions pursuant the Fifth Circuit's orders.

It is presently difficult to ascertain whether Associated Gas Distributors or Pennzoil Company filed the first petitions after the issuance of the Commission's orders, or whether either or both petitioners filed prematurely, i.e., prior to the issuance of the orders. To resolve this impass which prevents the review proceedings from going forward,[4] the Fifth Circuit, by order entered July 19, 1979,[5] pursuant to its Rule 11.5,[6] as modified by an order of August 31, 1979,[7] directed the Commission "to make the ultimate factual finding of which party was first to file after [the Commission] issued the [May 11 Order]" (July 19 Order at 1) and "which party was first-to-file after the time stamping of Order No. 23." August 31 Order at 2.[8] Specifically, the Commission is to "find which party actually filed first"[9] and "whether either party filed prematurely, i.e., before [Order No. 23 or] the Order on Rehearing of Order No. 23 was stamped by the Commission." Order at 2 n.3.

The Commission will refer this matter to the Chief Administrative Law Judge, who may designate an Administrative Lay Judge to hear the matter, to conduct such proceedings as he considers necessary to make the findings called for by the Fifth Circuit's orders, prepare a report containing such findings, and transmit that report and record made to the Commission for such further consideration as it finds appropriate. Unless otherwise ordered by the Commission, the parties to this proceeding will not be permitted to file exceptions to the presiding Judge's report.

The purpose of the proceedings conducted pursuant to this order is to determine only which petitioner(s) filed the first petitions for review, not which Court of Appeals should hear these cases. As 28 U.S.C. 2112(a)[10] plainly

[1] This order denying rehearing will be referred to herein as the "May 11 Order."

[2] *Associated Gas Distributors* v. *FERC*, Nos. 79-1276 and 79-1490 (D.C. Cir.).

[3] *Pennzoil Company, et al.* v. *FERC*, Nos. 79-1247 and 79-1602 [5th Cir.].

[4] E.g., *Shell Oil Co.* v. *Federal Power Commission*, 509 F. 2d 176, 177 (5th Cir. 1975).

[5] A copy of this order is attached as Appendix A

[6] Rule 11.5 provides: Any party who raises an issue as to venue shall immediately move for resolution of that issue and serve a supporting memorandum therewith. Within 10 days of service, opposing parties may serve an opposing memorandum. The Court will expedite its decision on this issue. Any dispute as to priority of institution of proceedings in two or more Courts of Appeal will be referred to the Commission for findings of fact.

[7] A copy of this order is attached as Appendix B

[8] Previously, on July 16, 1979, the District of Columbia Circuit transferred the petitions in *Associated Gas Distributors* v. *Federal Energy Regulatory Commission, supra*, "to the Fifth Circuit for resolution of the questions of jurisdiction and venue." A copy of this order is attached as Appendix C.

[9] *Air Products & Chemicals, Inc., et al.* v. *Federal Energy Regulatory Commission*, No. 78-2011, order entered July 19, 1979 at 3. A copy of this order is attached as Appendix D.

[10] Section 2112(a) provides in pertinent part: If proceedings have been instituted in two or more

Footnotes continued on next page

indicates, the record is to be filed in that court of appeals in which the first petition for review, and all other petitions transferred to that court; that court may then transfer all petitions to another court of appeals "[f]or the convenience of the parties in the interest of justice * * *." The proceedings conducted pursuant to this order will resolve only the first step of that two-step process [11] for determining which court should hear the petitions for review of the Commission's orders, viz., which petitions were filed first. Resolution of the second step is a matter for the court.

The Commission orders: (A) Pursuant to the authority contained in, and subject to the jurisdiction conferred on the Commission, by the Natural Gas Act, the Department of Energy Organization Act, the Natural Gas Policy Act, and the Commission's Rules of Practice and Procedure, and in accordance with the order of the United States Court of Appeals for the Fifth Circuit in Pennzoil Company, et al. v. *Federal Energy Regulatory Commission*, Nos. 79-1247 and 79-1602 (July 19, 1979 and August 31, 1979), a public proceeding shall be conducted for purposes of making the factual findings called for by the Fifth Circuit's orders.

(B) An administrative law judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5(d) of the Commission's General Rules (18 CFR 3.5(d)), shall conduct such proceedings as he deems necessary and appropriate, prepare a report as described in the body of this order, and certify that report and the record made to the Commission. Unless otherwise ordered by the Commission, the parties shall not be permitted to file exceptions to the administrative law judge's report.

(C) The presiding administrative law judge designated in accordance with ordering paragraph (B) above shall have authority to establish and change all procedural dates and to rule on all motions, as provided in the Commission's Rules of Practice and Procedure.

(D) The proceeding described in ordering paragraph (B) above shall be conducted as soon as possible following issuance of this order.

(E) The Secretary shall cause this order to be published promptly in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32204 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 891

[Docket No. R-79-529]

Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Correction of final rule.

SUMMARY: This document corrects a final rule relating to the review of applications for housing assistance and allocation of housing assistance funds published at 43 FR 50638, October 30, 1978.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Freedman, Office of Policy and Program Development, Room 9208, U.S. Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C., 20410. Telephone (202) 755-6504. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Part 891, Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds, was published for effect on October 30, 1978 (43 FR 50638). The final rule contained three errors which are being corrected as follows:

1. On page 50645, in the second column, in the second and third lines, in § 891.206(c), substitute "24 CFR, Part 886, Subparts A, B, and C" for "24 CFR, Subparts A, B, and C."

2. On page 50647, in the second column, beginning in the twelfth line, correct § 891.404(c) by substituting "not having a HAP or not participating in an approval AHOP" for "not having a housing opportunity plan."

3. On page 50647, in the second column, beginning in the twenty-third line, correct § 891.404(c)(4) by substituting "shall be proportionate by housing type and household type to the approved Annual Housing Action Programs (which reflect the locality increments to achieve three-year HAP goals), housing needs for non-HAP localities, and goals in AHOPs approved pursuant to Subpart E" for "shall be proportionate by housing type and household type within each tenure type to the three-year goals in the annual housing action program identified in HAPs and goals in AHOPs prepared pursuant to Subpart E and approved by HUD."

Dated: Issued at Washington, D.C. October 15, 1979.

Lawrence B. Simons,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 79-32396 Filed 10-18-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Parts 872, 877, 879, 882, 884, and 886

Abandoned Mine Land Reclamation Program Provisions

AGENCY: Office of Surface Mining, Reclamation and Enforcement (OSM), Interior.

ACTION: Notice to confirm clearance of recordkeeping and reporting requirements.

SUMMARY: This notice confirms clearance by the U.S. General Accounting Office (GAO) of Abandoned Mine Lands Reclamation Program Provisions requiring reporting and recordkeeping issued by the Office of Surface Mining Reclamation and Enforcement (OSM). OSM amends its Abandoned Mine Lands Reclamation Program Provisions to reflect this clearance and announces the effective dates for those sections of the rules for which GAO clearance was obtained.

EFFECTIVE DATE: June 13, 1979.

ADDRESSES:

Assistant Director, Management and Budget, Office of Surface Mining and Enforcement, Room 240, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5106, 441 G Street, N.W., Washington, D.C. 20548.

Administrative Records, Office of Surface Mining Reclamation and Enforcement, Room 135, 1951 Constitution Avenue, N.W., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT: Joan Shaw, (202) 343-5447.

SUPPLEMENTARY INFORMATION: On October 25, 1978, the Secretary of the

Footnotes continued from last page

courts of appeals with respect to the same order the agency, board, commission, or officer concerned shall file the record in that one of such courts in which a proceeding with respect to such order was first instituted. The other courts in which such proceedings are pending shall thereupon transfer them to the court of appeals in which the record has been filed. For the convenience of the parties in the interest of justice such court may thereafter transfer all the proceedings with respect to such order to any other court of appeals.

[11] *BASF Wyandotte Corp.* v. *Costle*, 582 F. 2d 108, 110-111 (1st Cir. 1978).

V 44 O C 19 7 9 9 UMI

Interior promulgated regulations of Title 30, Code of Federal Regulations, Chapter VII (43 FR 49932–49952) under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95–87, (30 U.S.C. 1211, 1242). Those regulations which required collection, submission or retention of information, were promulgated subject to review and clearance by the GAO pursuant to 44 U.S.C. 3512. The GAO solicited comments on these regulations by public notice in the **Federal Register** on June 19, 1979 (44 FR 35290–35292).

OSM is restating paragraphs of its June 13, 1979 clearance notice that relate to 30 CFR Parts 872, 877, 879, 882, 884 and 886. The list of approved clearances follows:

The reporting and recordkeeping requirements contained in 30 CFR 872.11(b)(2) and (3) and 872.12(a) have been approved by the U.S. General Accounting Office under number B–190462 (R0643).

The reporting requirements contained in 30 CFR 877.12(b) and 877.13(b) and (c) have been approved by the U.S. General Accounting Office under number B–190462 (R0644).

The reporting and recordkeeping requirements contained in 30 CFR 879.13 and 879.15 have been approved by the U.S. General Accounting Office under number B–190462 (R0645).

The reporting and recordkeeping requirements contained in 30 CFR 882.12, 882.13(b), and 882.14(b) have been approved by the U.S. General Accounting Office under number B–190462 (R0646).

The reporting requirements contained in 30 CFR 884.13 and 884.15 have been approved by the U.S. General Accounting Office under number B–190462 (R0647).

The reporting requirements contained in 30 CFR 886.14, 886.15, 886.18(c)(2), 886.23, and the recordkeeping requirement contained in 886.24 have been approved by the U.S. General Accounting Office under number B–190462 (R0648).

During GAO's review, three changes were made. First, section 872.13(a) was omitted from clearance because fewer than 10 respondents will be subject to this requirement. However, if there are 10 or more respondents at some future time, this section will be submitted for clearance. Second, § 877.13(b) contains a part of the reporting requirement which is associated with § 877.13(c). Consequently, § 877.13(b) is included in this clearance. Third, § 882.14(b) contains reporting requirements associated with § 882.13(b); therefore, § 882.14(b) is included in this clearance.

Dated: October 12, 1979.

Paul L. Reeves,

Acting Director, Office of Surface Mining Reclamation and Enforcement.

Amendment to Rules:

The following Parts of Chapter VII of Title 30 of the Code of Federal Regulations are amended:

Parts 872, 877, 879, 882, 884 and 886.

PART 872—ABANDONED MINE RECLAMATION FUNDS

Part 872 is herby amended to include at the end of Part 872 the following note:

Note.—The reporting and recordkeeping requirements contained in 30 CFR 872.11(b)(2) and (3) and 872.12(a) have been approved by the U.S. General Accounting Office under number B–190462 (R0643).

PART 877—RIGHTS OF ENTRY

Part 877 is hereby amended to include at the end of Part 877 the following note:

Note.—The reporting requirements contained in 30 CFR 877.12(b) and 877.13(b) and (c) have been approved by the U.S. General Accounting Office under number B–190462 (R0644).

PART 879—AQUISITION, MANAGEMENT AND DISPOSITION OF LANDS AND WATER

Part 879 is hereby amended to include at the end of Part 897 the following note:

Note.—The reporting and recordkeeping requirements contained in 30 CFR 879.13 and 879.15 have been approved by the U.S. General Accounting Office under number B–190462 (R0645).

PART 882—RECLAMATION ON PRIVATE LAND

Part 882 is hereby amended to include at the end of Part 882 the following note:

Note.—The reporting and recordkeeping requirements contained in 30 CFR 882.12, 882.13(b), and 882.14(b) have been aproved by the U.S. General Accounting Office under number B–190462 (R0646).

PART 884—STATE RECLAMATION PLANS

Part 884 is hereby amended to include at the end of Part 884 the following note:

Note.—The reporting requirements contained in 30 CFR 884.13 and 884.15 have been approved by the U.S. General Accounting Office under number B–190462 (R0647).

PART 886—STATE RECLAMATION GRANTS

Part 886 is hereby amended to include at the end of Part 886 the following note:

Note.—The reporting requirements contained in 30 CFR 886.14, 886.15, 886.18(c)(2), 886.23, and the recordkeeping requirement contained in 886.24 have been approved by the U.S. General Accounting Office under number B–190462 (R0648).

[FR Doc. 79–32306 Filed 10–18–79; 8:45 am]

BILLING CODE 4310–05–M

OFFICE OF MANAGEMENT AND BUDGET

34 CFR Ch. I

OMB and Federal Management Circulars; Transfer and Redesignation of Regulations

AGENCY: Office of Management and Budget.

ACTION: Final rule.

SUMMARY: At the request of the Office of the Federal Register, the Office of Management and Budget is transferring and redesignating the regulations in Title 34 to Title 5. This action will consolidate all Office of Management and Budget regulations in a single title of the *Code of Federal Regulations* and aid the Office of the Federal Register in the orderly development of the *Code of Federal Regulations*.

EFFECTIVE DATE: October 19, 1979.

ADDRESS: Office of Management and Budget, Room 5208, New Executive Office Building, 726 Jackson Place, Washington, DC 20503, ATTN: David Leuthold.

FOR FURTHER INFORMATION: David Leuthold, (202) 395–7250.

Accordingly, Part 1, OMB and Federal Management Circulars, of Title 34 (44 FR 37913, June 29, 1979) is transferred and redesignated as 5 CFR Part 1310, under a new "Subchapter B—OMB Directives". The existing regulations in 5 CFR Chapter III, Parts 1300, 1301, 1302 and 1303 are placed in a new "Subchapter A—Administrative Procedures."

Title 34—Chapter I is vacated.

David Leuthold,

Budget and Management Officer.

[FR Doc. 79–32577 Filed 10–18–79; 8:45 am]

BILLING CODE 6820–27–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 600

[FRL–1303–1]

Fuel Economy of Motor Vehicles; Technical Amendment

AGENCY: Environmental Protection Agency.

ACTION: Final Rule.

SUMMARY: This document makes a technical amendment to EPA regulations concerning calculation of the average fuel economy of motor vehicles. The amendment corrects an error brought about through the inadvertent publication of an obsolete regulatory provision.

DATES: This amendment is effective October 19, 1979.

FOR FURTHER INFORMATION CONTACT: Paul A. J. Wilson, Regulatory Management Staff, Office of Mobile Source Air Pollution Control (ANR–455), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Telephone: (202) 755–0596.

SUPPLEMENTARY INFORMATION: EPA began work on a large technical amendment package in the early spring of 1978, which included revisions to 40 CFR 600.510–80 (d) and (e). This rulemaking action was not published until November 14, 1978 (43 FR 52932). However, a different amendment was published September 5, 1978 (43 FR 39375) which deleted sections (d) and (e) from § 600.510–80. The regulation published on November 14 inadvertently was not revised to reflect this change and was published with the amendment to § 600.510–80(d) and (e) intact. Therefore, the amendment published November 14, 1978 revised a section which did not exist. For the purpose of clarity, the text of § 600.510–80 is printed below as it should have appeared on November 14, 1978, with paragraph (d) and (e) deleted.

This technical amendment does not change the stringency of the fuel economy regulations nor does it impose any additional burden on the regulated industry. It simply corrects a clerical error. For these reasons the Agency finds good cause for omitting as unnecessary a notice of proposed rulemaking and an opportunity for public comment. Since vehicle manufacturers are currently in the process of calculating average fuel economy, immediate correction of the clerical error is necessary to avoid possible confusion. Therefore, the amendment will be effective immediately.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

Dated: October 12, 1979.

Douglas M. Costle,

Administrator.

Part 600 of Chapter I, Title 40 of the Code of Federal Regulations is hereby amended as follows:

1. By amending § 600.510–80 to read as follows:

§ 600.510–80 Calculation of average fuel economy.

(a) * * *

(3) An average fuel economy calculation will be made either for all nonpassenger automobiles or for each category of nonpassenger automobile (four-wheel drive general utility vehicles and all other nonpassenger automobiles) in accordance with the preference indicated by the manufacturer in § 600.512.

(b) * * *

(2) * * *

(iii) The fuel economy value of diesel powered model types will be multiplied by the factor 1.0 to correct gallons of diesel fuel to equivalent gallons of gasoline.

* * * * * * *

(vi) If a model type is comprised of some vehicles that are four-wheel drive general utility vehicles and some that are not as defined at 42 CFR 553.4 by the Secretary of Transportation, and if the manufacturer has indicated in § 600.512(c)(8) that average fuel economy will be calculated separately for four-wheel drive general utility vehicles, then separate model type calculations will be made for those vehicles that are not.

* * * * * * *

(d) [Reserved].

(e) [Reserved].

(Title V, Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 et seq.))

[FR Doc. 79–32425 Filed 10–18–79; 8:45 am]

BILLING CODE 6560–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Part 405

Federal Health Insurance for the Aged and Disabled; Target Rate Reimbursement for Institutions Furnishing Home Dialysis Supplies, Equipment, and Support Services

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final rule with comment period.

SUMMARY: This regulation provides a new optional method of Medicare reimbursement for the cost of home dialysis supplies, equipment and support services furnished to self-care home dialysis patients under the direct supervision of an approved provider or facility. Payments will be made on the basis of an annually determined target reimbursement rate per treatment. The regulation implements section 1881(b)(4)–(6) of the Social Security Act, established by the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95–292). This method is intended to encourage the efficient delivery of home dialysis services.

DATES: This regulation is effective as of April 1, 1979. Consideration will be given to written comments or suggestions received by December 18, 1979, with a view to making any necessary changes.

ADDRESS: Address comments to: Administrator, Health Care Financing Administration, Department of Health, Education, and Welfare, P.O. Box 17073, Baltimore, MD 21235. When commenting, please refer to file code MAB–92–RC. Agencies and organizations are requested to submit their comments in duplicate. Comments will be available for public inspection, beginning approximately 2 weeks after publication, in room 5231 of the Department's offices at 330 C Street, SW., Washington, D.C., on Monday through Friday of each week, from 8:30 a.m. to 5:00 p.m. (telephone 202–245–0950).

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Weintraub, telephone: (301) 594–6535.

SUPPLEMENTARY INFORMATION: Section 299I of the Social Security Amendments of 1972 (Pub. L. 92–603) provided Medicare coverage for end-stage renal disease patients who meet certain entitlement requirements. While the end-stage renal disease program has been generally successful in meeting the needs of renal disease patients for protection against the catastrophic costs of obtaining needed care, there is great concern about the high and steadily rising cost of the program and the burden it can place on the Medicare trust funds unless steps are taken to put it on a more cost-effective basis.

The Congress has noted that while the high cost of the program is in part a reflection of the costly technology required for treatment and the need in many cases for lifetime care, it is generally agreed that rising program costs are also a reflection of disincentives in the program to the use of lower cost self-dialysis procedures and settings. Appropriate incentives for more cost-effective use of self-care

V 44 0 C 1979 UMI

dialysis settings can help significantly to contain rising program costs without impairing the quality or availability of needed services. Since 1972, the percentage of the total patients on dialysis dialyzing at home has declined from over 40 percent to less than 10 percent in 1976. While various reasons for this decline have been offered (including changes in the patient population under treatment, professional disinterest in encouraging home dialysis, and increased access to institutional facilities), the Congress concluded that the evidence suggests that one of the major reasons is the existence of financial disincentives for patients to undertake self-care dialysis.

Pub. L. 95-292 (enacted June 13, 1978) addressed this problem through amendments designed to achieve several objectives, including the increased use of self-dialysis and transplantation, and the use of incentive reimbursement methods to encourage economies in the delivery of services.

One such incentive method is addressed in this regulation. It provides for payment on the basis of an annually determined target reimbursement rate for the dialysis services of patients dialyzing at home under the supervision of a facility. It is an optional method for providers and renal dialysis facilities which furnish all necessary home dialysis medical supplies, equipment, and supportive services (including the services of qualified home dialysis aides) that are medically necessary to enable patients to continue dialyzing in the home setting. See section 1881(b)(4)-(6) of the Act, 42 U.S.C. 1395rr.

Major Provisions

1. *Setting Target Rates*

Separate rates for home dialysis, one for each hemodialysis session and one for each peritoneal session (referred to hereafter as a "per treatment rate"), adjusted for regional variations, will be established each calendar year. Once established, the rates shall be utilized, without recomputation, throughout the calendar year for which they are established. Accordingly, there is no appeal available to a provider or renal dialysis facility if the actual costs for covered services exceed the target rates. In establishing the rates, HCFA will allow for the cost of providing medically necessary home dialysis supplies and equipment, the cost of providing personnel to aid in home dialysis, administrative costs, and an incentive to increase home dialysis through more cost-effective and efficient delivery of needed services.

Under Pub. L. 95-292, this statutory amendment became effective as of April 1, 1979. Because of insufficient cost information regarding new services required under this option (e.g., the cost of providing home dialysis aides), as well as the urgency required in publishing the target rates, the target reimbursement rate per treatment established for the remainder of 1979 will be equal to the maximum rate permitted under the statute. The maximum rate permitted shall not exceed 70 percent of the national average payment before application of the coinsurance requirement, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year.

To establish the target rate and the 70 percent limitation for the current calendar year, HCFA has used data from accounting periods ending in the calendar year 1977 to develop combined provider and facility average outpatient maintenance dialysis payments for both hemodialysis and peritoneal dialysis. These average dialysis payments were derived from a summary maintained by HCFA of maintenance dialysis payments made to providers and renal dialysis facilities and were determined for each of the ten regional areas.

The average dialysis payment data were then actuarially adjusted by HCFA to reflect the fiscal year 1978 average dialysis payments which are the bases for the target rate and 70 percent limitation for the current calendar year. Separate rates were then determined for each of the ten regional areas. This is in compliance with the requirement in Pub. L. 95-292 that the target rate established as well as the maximum rate permitted shall be "* * * adjusted for regional variations in the cost of providing home dialysis." The ten regional areas were used as the regional basis because the supporting dialysis payment data is accumulated in that format.

Home dialysis target rates established in succeeding calendar years (commencing with January 1, 1980), will be based on the most recent data available to HCFA at the time, including determination of the actual cost of home dialysis supplies and equipment and related support services furnished under this option. In establishing these rates, HCFA is authorized to utilize a competitive-bid procedure, a prenegotiated rate procedure, or any other procedure it determines is appropriate and feasible in complying with the statute.

By December 1 each year, HCFA will publish a notice in the **Federal Register** announcing the rates developed for the following calendar year. In compliance with the statute, the effective date of the rates set for the calendar year 1979 was April 1. These rates will be published in a separate notice.

2. *Agreements With HCFA*

Under Pub. L. 95-292, any provider or renal dialysis facility that wants to receive payment on the basis of a target reimbursement rate for furnishing home dialysis supplies and equipment and self-care home dialysis support services must file an agreement with HCFA. Section 1881(b)(4) and (5) of the Act discuss these requirements.

The agreement will require that the provider or facility agree to:

A. Assume full responsibility for directly obtaining or arranging for the provision of:

i. Such medically necessary dialysis equipment as is prescribed by the attending physician;

ii. Dialysis equipment maintenance and repair services;

iii. The purchase and delivery of all necessary medical supplies; and

iv. Where necessary, the services of trained home dialysis aides to all patients for which it is furnishing any home dialysis services;

B. Perform all such administrative functions and maintain such information and records as HCFA may require to verify the transactions and arrangements described in A. above;

C. Submit cost reports, data and information as HCFA may require to determine the costs incurred for equipment, supplies, and services furnished to the facility's home dialysis patient population; and

D. Provide HCFA full access to all such records, data, and information required to perform its functions under section 1881 of the Act.

The agreement shall be effective with respect to services rendered on or after the date it is accepted by HCFA. (During the remainder of 1979, HCFA will approve agreements with an effective date of April 1, 1979, for providers and facilities that have been furnishing services in a manner consistent with this regulation.)

Provision is also made in the agreement for the termination of the agreement by either HCFA or the provider or facility.

3. *Incentive.*

The incentive for providers and renal dialysis facilities electing this optional method of reimbursement is the right to retain the difference between their actual cost for covered supplies, equipment and services, and the target rate. We believe that providers and renal dialysis facilities, therefore, have an incentive under this method to exercise additional restraints on home dialysis costs by implementing more effective purchasing procedures for supplies and equipment and by more rigorously assessing the actual need for particular services.

Waiver of Proposed Rulemaking

Pub. L. 95-292 was enacted on June 13, 1978. The provisions being implemented by this action—section 1881(b)(4)-(6) of the Act—became effective April 1, 1979. Because of the need to develop sufficient cost information on which to establish the target rates, the complexity of this rate development process and the relatively brief period between enactment and the effective date of this provision in which to accomplish these complex steps, we were unable to publish these regulations as a notice of proposed rulemaking. Moreover, we believe that it is important to implement these provisions promptly because of the advantages they provide to beneficiaries.

Accordingly, we find that good cause exists to waive the notice of proposed rulemaking. However, recognizing that the target reimbursement method is both new and dissimilar from current Part B payment mechanisms, we invite comments on these regulations, which we will consider in making any future amendments to these regulations.

42 CFR Part 405 is amended as follows:

1. A new § 405.440 is added to read as follows:

§ 405.440 Target rate reimbursement for home dialysis services.

(a) *Purpose.* This section implements section 1881(b)(4) and (6) of the Social Security Act by specifying:

(1) The conditions under which approved renal dialysis facilities and providers may receive payment for home dialysis services (as specified in § 405.231(p)) under an optional target reimbursement rate per treatment; and

(2) How the target rate will be determined and applied.

(b) *Conditions for, and limitotion on, payment.* (1) In order for a provider or renal dialysis facility to receive reimbursement under this section: (i) It must have an agreement with HCFA in accordance with § 405.691; and (ii) the specified services must be furnished to patients whose self-care home dialysis is under the direct supervision of the provider or facility.

(2) The target reimbursement rate per treatment established under this section shall be considered as payment in full for specified services provided in accordance with paragraph (b)(1) of this section.

(3) Payment will be made under Part B of Medicare at 80 percent of the target reimbursement rate per treatment or 80 percent of the balance of the rate after first applying any unmet Part B deductible. The beneficiary is liable for the balance of 20 percent of the target reimbursement rate per treatment or 20 percent of the balance of the rate after first applying any unmet Part B deductible.

(c) *Establishment of rate.* (1) HCFA will establish for each calendar year a separate target reimbursement rate per treatment for hemodialysis and peritoneal dialysis, adjusted for regional variations.

(2) Rates will be computed during the last quarter of each calendar year and will apply to the following calendar year. They will be based upon the most recent data available to HCFA at the time (including the actual cost of supplies, equipment and support services furnished under this section). In establishing the rates, HCFA may utilize a competitive-bid procedure, a prenegotiated rate procedure, or any other procedure it determines is appropriate and feasible in order to carry out the provisions of this section in an effective and efficient manner.

(3) The rates are intended to cover:

(i) The cost of providing medically necessary home dialysis supplies and equipment;

(ii) The cost of providing personnel to aid in home dialysis;

(iii) The administrative cost of providing these services; and

(iv) An allowance to provide an incentive for the efficient delivery of home dialysis services.

(d) *Allowable and excluded costs.* (1) Allowable costs included in the target reimbursement rate will be the reasonable costs of home dialysis services provided to medicare beneficiaries. Reasonable costs include all necessary and proper expenses incurred by the provider or renal dialysis facility in the provision of home dialysis services, such as administrative costs, maintenance costs, supply costs, employee compensation and travel costs, and premium payments for employee health and pension plans. They include both direct and indirect costs, and normal standby costs.

(2) Excluded from reasonable costs are costs which:

(i) Are not related to patient care under this section;

(ii) Are for items or services specifically not reimbursable under the program; or

(iii) Flow from the provision of luxury items or services (items or services substantially in excess of, or more expensive than, those generally considered necessary for the provision of needed health services).

(e) *Reimbursement principles.* (1) Except as specified in paragraph (e)(2) of this section, the cost reimbursement principles specified in Subpart D, beginning with § 405.415, Depreciation, shall also apply in recording and reporting costs of home dialysis services.

(2) The following principles shall not apply:

(i) Section 405.429, Return on equity capital of proprietary providers;

(ii) Section 405.430, Inpatient routine nursing salary cost differential;

(iii) Section 405.436, Reimbursement of organ procurement agencies (OPA) and histocompatibility laboratories;

(iv) Section 405.451, Cost related to patient care;

(v) Section 405.452, Determination of cost of services to beneficiaries; and

(vi) Section 405.454, Payments to providers, through § 405.488, Effect of principles.

(f) *Effect of opting for 100 per cent reimbursement.* If a provider or facility elects the target reimbursement rate method and also elects to enter into an agreement (under § 405.690) for 100 percent reimbursement for installation and maintenance of equipment, the target rate will be adjusted by excluding all costs associated with the purchase, depreciation, installation, maintenance and reconditioning of dialysis equipment and the cost of supportive equipment.

(g) *Limitations on rate.* (1) The target reimbursement rate shall not exceed 70 percent of the national average payment before application of the coinsurance requirement, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year.

(2) In determining the national average, payments for cost components that are not covered for home dialysis services under this section (e.g., physician services rendered to renal dialysis patients (see § 405.542)) shall be excluded.

(h) *Publication and use of rates.* (1) On or before December 1 of each year, HCFA will publish the list of target reimbursement rates, adjusted for regional variations, for the following calendar year.

(2) Once published, those rates shall be used, without recomputation, throughout the calendar year for which they are established.

V 4 4 0 C 1 9 7 9 UMI

2. Section 405.601 is revised to read as follows:

§ 405.601 Scope of subpart.

The provisions of §§ 405.602–405.626 discuss provider agreements which an eligible provider of services must file with the Secretary in order to qualify for participation in the health insurance program for the aged. Sections 405.651–405.663 and §§ 405.670–405.678 discuss agreements under which Part A intermediaries and Part B carriers will perform specified functions necessary in the administration of the hospital insurance and supplementary medical insurance programs. Section 405.685 discusses agreements with the Secretary shall enter into with any State for the purpose of assisting the Secretary in determining whether an institution or agency situated in such State is a hospital, skilled nursing facility, or home health agency, and whether an independent laboratory meets the conditions for coverage of services, or whether a clinic, rehabilitation agency or public health agency meets the requirements of section 1861(p)(4). Section 405.690 discusses agreements that HCFA will enter into with approved providers of services and renal dialysis facilities for full reimbursement of the reasonable cost of purchase, installation, maintenance, and reconditioning of home dialysis equipment. Section 405.691 discusses agreements that HCFA will enter into with approved providers of services and renal dialysis facilities for reimbursement for the cost of home dialysis supplies and equipment and self-care home dialysis support services on the basis of a target reimbursement rate.

3. A new § 405.691 is added to read as follows:

§ 405.691 Agreements with approved providers or ESRD facilities for reimbursement of home dialysis supplies, equipment, and support services on a target reimbursement rate basis.

(a) *General requirement.* As provided by section 1881(b) (4) and (5) of the Act and § 405.440 of this part, HCFA may execute agreements for reimbursement on a target reimbursement rate basis with approved providers or ESRD facilities which demonstrate their ability to furnish efficiently the full scope of services, including, where necessary, the services of trained home dialysis aides as specified in § 405.231(p)(4). The agreement shall be effective with respect to services rendered on or after the date it is accepted by HCFA. (See § 405.440 for conditions for target rate reimbursement.)

(b) *Terms.* The agreement must provide that the provider or facility agrees to:

(1) Assume full responsibility for directly obtaining or arranging for the provision of necessary supplies, equipment, and services specified in § 405.231(p) to all patients for which it is furnishing any home dialysis services.

(2) Perform all administrative functions and maintain information and records as HCFA may require to verify the transactions and arrangements specified in paragraph (b)(1) of this section;

(3) Submit cost reports, data, and information as HCFA may require on costs incurred for equipment, supplies, and services furnished to home dialysis patients; and

(4) Provide HCFA full access to all records, data, and information required to perform its functions.

(c) *Review.* Agreements will not have a fixed expiration date. However, each provider or facility having an agreement under this section will be reviewed by HCFA at least once a year to determine whether it is complying with the terms of the agreement.

(d) *Termination by HCFA.* (1) If HCFA finds that a provider or facility has failed to perform its obligations under paragraph (b) of this section, HCFA may terminate its agreement with the provider or facility. HCFA will notify the provider or facility in writing of its intention to terminate the agreement and state the reasons for the termination. The provider or facility will be given the opportunity to submit a statement and evidence as to why the agreement should not be terminated.

(2) If no statement or evidence is received within 30 days after the date of initial notification, or if HCFA is not persuaded to alter its determination by the statement or evidence, HCFA shall give written notice of termination to the provider or facility at least 15 days before the effective date of termination of the agreement. In addition to giving notice to the provider or facility, HCFA shall also give notice of such termination to the public.

(3) Within 30 days after the effective date of the termination, the provider or facility must make a final accounting for all equipment purchased under the provision for 100 percent reimbursement for installation and maintenance of home dialysis equipment (see § 405.438) and comply with directions from HCFA regarding the disposition of equipment so purchased. HCFA will arrange for continuation of all necessary supplies, equipment, and support services to patients whose self-care home dialysis is under the direct supervision of the provider or facility.

(4) Any provider or facility dissatisfied with a determination terminating the agreement under this section shall be entitled to administrative review in accordance with the procedures set forth in 42 CFR 405.1502–405.1595.

(e) *Termination by provider or facility.* (1) An approved provider or ESRD facility having an agreement under this section may terminate the agreement after giving written notice to HCFA of its intention to terminate such agreement. The notice shall state the effective date of termination of the agreement (preferably the first day of a month).

(2) HCFA may accept the termination date stated in the notice or set a different date. If the notice does not specify the date for the termination of the agreement, HCFA will set a date that is not more than 3 months from the date on the notice filed by the provider or facility.

(3) In addition to giving notice to HCFA, the provider or facility must also give at least 15 days notice to the public by publishing in one or more local newspapers a statement of the date of termination of the provider or facility agreement with HCFA.

(4) Within 30 days after the effective date of termination, the provider or facility must make a final accounting for all equipment purchased under the provision for 100 percent reimbursement for installation and maintenance of home dialysis equipment (see § 405.438) and comply with directions from HCFA regarding disposition of the equipment.

(Secs. 1102, 1814(b), 1833, 1861(v)(1), 1871 and 1881 of the Social Security Act; (42 U.S.C. 1302; 1395(f)(b), 1395, 1395x(v)(1), 1395hh and 1395rr))

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 4, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: October 5, 1979.

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-31994 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-35-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 1

[FCC 79-588]

Revising Rules Concerning Petitions for Reconsideration and Applications for Review

AGENCY: Federal Communications Commission.

ACTION: Amendment of the Commission's rules.

SUMMARY: The Federal Communications Commission amends those sections of its rules dealing with petitions for reconsideration and applications for review. The purpose of these amendments is to correct some shortcomings and inconsistencies in the rules.

EFFECTIVE DATE: October 22, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Lewis J. Paper or Lee J. Peltzman, Office of General Counsel, (202) 254–6530.

Adopted: September 27, 1979.

Released: October 15, 1979.

By the Commission: Commissioner Lee absent.

In the matter of amendment of §§ 0.251, 0.281, 0.371, 1.104, 1.106, 1.115 of the Commission's rules of practices and procedures.

1. The purpose of this Order is to correct some shortcomings and inconsistencies in §§ 0.251, 0.281, 0.371, 1.104, 1.106 and 1.115 of the Commission's Rules. 47 CFR 0.251, 0.281, 0.371, 1.104, 1.106, 1.115.

2. In essence, the changes adopted here are intended to serve three basic purposes. The first purpose concerns our procedures for applications for review. 47 CFR 1.115. Under existing rules, the Commission does not entertain a petition for reconsideration of an order denying an application for review without reasons. At the same time, the rules do allow a petition for reconsideration if the Commission gives reasons for denying an application for review. Upon reexamination, we now believe that equal treatment should be accorded all orders denying an application for review, regardless of whether the Commission gives reasons for the denial. We are therefore changing the rules to allow a petition for reconsideration of any order denying an application for review if—but only if—the petitioner relies on new facts or changed circumstances.

3. The second purpose of our rule changes concerns the scope of Commission options in reviewing petitions for reconsideration and applications for review. The present rules allow the Commission to grant a petition for reconsideration or application for review and, in the same order, affirm the action being appealed. The rules, however, do not distinguish that option from a situation where the Commission proposes to deny the petition or application and affirm the earlier order. In order to avoid confusion, the changed rules state that the Commission may not grant a petition for reconsideration or an application for review and simultaneously affirm the original order.

4. The third purpose of the new rules is to make it clear that the Commission may act on petitions for reconsideration of actions taken on delegated authority. Other minor changes are also adopted.

5. In order to promote a full understanding of our action here, we believe it would be helpful to examine each of the three foregoing purposes and related changes in greater detail.

Petitions for Reconsideration of Orders Denying Applications for Review

6. Section 5(d)(4) of the Communications Act of 1934 [1] provides that a party may ask the Commission to review any action taken on delegated authority. The action further provides that the Commission may deny such applications for review "without specifying any reasons therefor." 47 U.S.C. 155(d)(5). The Commission's present rules state that a petition for reconsideration will not be entertained if an application for review has been denied without reasons. 47 CFR 1.106(b), 1.115(g). The unstated premise of this rule is fairly apparent. Section 405 of the Act [2] requires the Commission to issue a concise statement of reasons if it denies a petition for reconsideration. It would simply make no sense to allow the Commission to deny an application for review *without* specifying reasons and then require the Commission to provide reasons if it then wants to deny a petition for reconsideration of that order.[3]

7. Despite the logic of the Commission's rule, it has been criticized by the courts. It has been stated that the Commission cannot invoke its procedural rules to avoid a petition for reconsideration supported by good cause. In *Eagle Broadcasting Co.* v. *FCC*,[4] for example, the Commission had refused to consider a petition for reconsideration of an order denying review without reasons. The court ultimately affirmed the Commission's decision. In the course of its opinion, however, the court said it was troubled by the Commission's rule:

> Reliance by the Commission on its own rule against reconsideration would in itself be a clearly inadequate reason for the refusal to rehear. The rule may have some justification where the summary denial of review reflects a Commission judgment that the appeal was frivolous and where the request for rehearing is only a rehash of the same frivolous arguments. But the fact that no reasons were thought necessary when the Commission first heard the case is no basis for rejecting a proffer of new evidence. 514 F.2d at 855. *See also WSTE–TV, Inc.* v. *FCC*, 566 F.2d 333, 337 (D.C. Cir. 1977).

8. The court was even more critical of the Commission in *Crosthwait* v. *FCC*, 584 F.2d 550 (D.C. Cir. 1978). In that case, the Review Board denied a construction permit application for Folkways Broadcasting Company because of the applicant's faulty ascertainment effort. Folkways' application for review was later denied without reasons. On the same day, however, the Commission issued a separate decision in which it allowed a different applicant to file an amendment to cure an ascertainment problem. Folkways therefore asked the Commission to reconsider its decision and to provide it with the same opportunity to amend its ascertainment showing. In rejecting Folkways' petition, the Commission said that its rules preclude reconsideration of an application for review denied without reasons.

9. The court reversed the Commission. The court acknowledged that the Commission could refuse a petition that was " 'a rehash of the same, frivolous arguments' " or a " 'belated attempt to repair (a) defective showing made at the hearing,' not involving newly discovered evidence nor otherwise attended by good cause. (Footnote omitted.)" 584 F.2d at 555. At the same time the court said that Folkways offered a new ascertainment survey which, under the circumstances, should have been considered. On this basis the court concluded that "the Commission improperly invoked its procedural regulations as a basis for declining reconsideration." *Id.*

10. The court's message is plain: the Commission must entertain a petition for reconsideration of an order denying an application for review if the petition is supported by good cause. We are

[1] 47 U.S.C. 155(d)(4).

[2] 47 U.S.C. 405.

[3] We feel justified in accepting this logic since laws should be interpreted in a sensible manner to avoid absurd results. *Worthy* v. *United States*, 328 F.2d 386, 391 (5th Cir. 1969).

[4] 514 F.2d 854 (D.C. Cir. 1975).

V 4 4 0 C 1 9 9 7 9 UMI

therefore taking this opportunity to amend §§ 1.106(b) and 1.115(g) of the Commission's rules by adding language to specify that the Commission will allow such petitions if they rely on newly discovered facts or on changed circumstances.[5] If a petition does not satisfy that standard, however, we will not hesitate to dismiss it. Otherwise, the Commission would be forced to spend its limited resources reviewing arguments it has already considered and rejected.

11. The rule change described above will nonetheless increase the opportunities to file petitions for reconsideration. Other rule changes being adopted here will decrease the opportunities for reconsideration. These other changes concern Commission orders that deny applications for review *with* reasons. Under our present rules, such orders are subject to petitions for reconsideration. See 47 CFR 1.106(b), 1.115(g). In adopting those rules, the Commission did not explain how or why it distinguished applications denied with reasons from those applications denied without reasons. *See Amendment of Part 1*, 23 RR 1560 (1962). Clearly, however, the distinction lies in the application of the rehearing requirements of Section 405 of the Act. As explained previously, that section requires the Commission to issue a concise statement of reasons when it disposes of a petition for reconsideration. As also explained previously, it makes no sense to require the Commission to give reasons in denying a petition for reconsideration if the action complained of (an application for review) was denied without reasons. This logic obviously would not apply to situations where the Commission had offered reasons in denying an application for review.

12. The Commission's distinction between two kinds of orders—those denying review without reasons as opposed to those denying review with reasons—has created internal problems for the Commission. On occasion the Commission wishes to deny an application for review but, at the same time, wants to clarify the decision rendered by delegated authority. In these instances the Commission may forego the opportunity for such clarification because it knows that the articulation of reasons in denying an application for review will provide an opportunity for reconsideration. This approach is certainly justified if the Commission feels that no new facts or arguments have been presented or could be presented and that acceptance of such petitions would be a waste of the Commission's limited resources. In other words, the Commission may feel that the benefit of greater clarity may not be worth the cost of another round of pleadings.

13. In retrospect, however, we believe this manner of proceeding is not fair to the public. As a general principle, the public is always entitled to a full and complete explanation of any action taken by the Commission. The public is also entitled to a proper allocation of resources so that the Commission does not spend the public's money rehearing the same arguments for the third and fourth time. Unfortunately, the present rules sometimes require the Commission to make a choice between those two goals. And no matter what the choice, one public interest will have to suffer.

14. Upon reexamination of applicable statutory provisions and their legislative history, we now conclude that there is no reason to place the Commission in this dilemma. We believe that, consistent with the language and purposes of the Communications Act, the Commission can refuse to entertain petitions for reconsideration of all orders denying applications for review—even those which specify reasons—unless the petition relies on new facts or changed circumstances.[6]

15. Initially, it should be noted that section 5 of the Act itself does not subject orders on applications for review to the rehearing requirement of section 405. This is significant because, in adopting the new language in section 5(d) in 1961, Congress obviously recognized the potential relationship between section 405 and section 5(d). See 47 U.S.C. 155(d)(6). If Congress wanted section 405 to apply to Commission actions on applications for review, presumably Congress would have made its intentions clear. It is also noteworthy that the statute does not state or suggest the need for different rules if the Commission chooses to deny an application for review with reasons. Again, if Congress wanted to make that distinction, it presumably would have done so, especially given its apparent recognition of the relationship between section 405 and section 5(d).

16. In providing like treatment for all decisions on applications for review, the new rules adopted here do not undermine the purposes for which Congress enacted section 5(d) of the Communications Act. In considering amendments to that section in 1961, Congress made clear its desire to make the Commission's adjudicatory process more efficient.[7] For example, in proposing new language for that section the Senate Commerce Committee stated as follows:

> The purpose of this legislation is to amend the Communications Act of 1934 so that the Federal Communications Commission will be able, by making better use of its own time and more effective use of experienced and technically qualified personnel, to handle its large workload of adjudication cases with greater speed and efficiency than is presently possible. *Facilitating the Prompt and Orderly Conduct of the Business of the Federal Communications Commission*, Committee on Commerce, United States Senate, 87th Cong., 1st Sess., p. 5 (Report No. 576 1961). *See also Facilitating the Prompt and Orderly Conduct of the Business of the Federal Communications Commission*, Committee on International and Foreign Commerce, House of Representatives, 87th Cong., 1st Sess., p. 1 (Report No. 723 1961).

17. The new section 5 of the Act satisfied this purpose of efficiency in several ways. Among other things, the new provisions allowed the Commission to delegate more of its decision-making authority. The procedures on applications for review were then rewritten only to assure the Commission an opportunity to review a case before it became subject to judicial review. Specifically, the Senate Commerce Committee stated as follows:

> The filing of an application for review is made a condition precedent for judicial review of a delegated decision; and the application cannot rely on questions of fact or law upon which the delegated authority has been afforded no opportunity to pass. In this way, the case will be presented to the Commission (and if the application is denied to the courts) with a ruling on every issue, and the Commission will have an opportunity to review the decision before the matter goes before the courts. . . .
>
> These provisions would give the Commission much needed authority, now withheld under present section 5(d)(1), to employ panels of Commissioners or employee boards to pass on adjudicatory cases . . . With the new authority the Commission would be able to concentrate on the important cases involving major policy or legal issues, and hearing of all cases by some authority within the agency should be substantially expedited. *Senate Report, supra* at 8.

18. In other words, the application for review procedure is simply a means for the Commission to review the work of delegated authority.[8] With this procedure, the Congress obviously hoped that the Commission could expedite the processing of its workload and enable the Commissioners themselves to concentrate on important issues. This purpose would not be served if the Commission had to subject itself to another round of pleadings simply because it wanted to clarify the decision by the delegated authority. This seems especially so since reconsideration of delegated decisions can take place at that lower level. *Id. See also* 47 CFR 1.104. It would therefore frustrate the Congressional hope for efficiency if a party could invoke Section 405's rehearing rights twice: once before the delegated authority, and again before the Commission on an application for review denial. Rather than shorten the adjudicatory process, such an interpretation would lengthen it considerably.

19. Under the rules adopted here, then, every party will still have at least two bites at the apple. Matters decided initially by the Commission will still be subject to section 405 rehearing requirements. Those matters decided by delegated authority will also be subject to that section 405 requirement as well as the application for review procedure (and, if attended by good cause, reconsideration of the order on review). In this way, every party will have more than adequate opportunity to make its case to the Commission.

Options Concerning Applications for Review and Petitions for Reconsideration

20. Our next set of rule changes here concern the Commission's options in disposing of applications for review and petitions for reconsideration. Our present rules indicate that the Commission or delegated authority may grant a petition for reconsideration and, in the same order, affirm the original action. 47 CFR 1.106(k). Our rules with respect to applications for review explicitly state that the Commission may simultaneously grant an application for review and affirm the original order. 47 CFR 1.115(i).

21. In retrospect, these rules are not entirely clear. In denying a petition for reconsideration, for example, the Commission must issue a concise statement explaining its disposition. 47 U.S.C. 405. A denial of such a petition, in effect, amounts to an affirmance of the original action. The rules do not provide any indication as to how that situation differs from one where the Commission grants reconsideration and then affirms the original order. The application for review procedures suffer from the same ambiguity. Because of these ambiguities, there has been a lack of consistency in Commission approaches. Sometimes the Commission grants reconsideration and then affirms the original order; in other cases the Commission simply denies reconsideration and allows the original order to stand. Similar inconsistencies also appear in our decisions disposing of applications for review.

22. We wish to take this opportunity to clarify our rules on this point. Specifically, we are amending §§ 1.106(k) and 1.115(i) to state that the Commission or designated authority will not grant a petition or application and simultaneously affirm the original order. (Under the new rules the Commission will, of course, continue to have the authority to supply additional explanation in an order which denies reconsideration but, through that denial, effectively affirms the prior decision.) If additional proceedings are ordered, however, the Commission or delegated authority may affirm the original order after the completion of those additional proceedings. Affirmance is appropriate in these latter cases because the Commission or delegated authority has done something more than consider the merits of the petition or application; it has engaged in rehearing to allow *de novo* review of the matter.

Minor Clarifications

23. We are making other minor changes to clarify our rules on petitions for reconsideration and applications for review. Thus, the present § 1.104(b) states that all petitions requesting reconsideration of final actions taken pursuant to delegated authority will be acted on by the delegated authority. This provision conflicts with § 1.106(a) of the rules, which explicitly allows the delegated authority to refer the petition to the Commission. We are therefore amending § 1.104(b) to allow that referral to the Commission.[9]

24. In another change, we are amending § 1.104(d) of the Rules, which concerns deadlines for filing applications for review under certain circumstances. The rule specifies that such pleadings should be filed "within 30 days after final action" on petition for reconsideration. Unlike other rules concerning deadlines, this provision does not account for the situation when there is a public announcement of the action but no release of the full text of the Commission order. In these latter situations, the time for filing an application for review should begin to run the day the public notice is released. The new rule makes the appropriate changes so that this provision is consistent with the other provisions of our rules.

25. Finally, other sections of the rules have been renumbered and/or rewritten in the interest of consistency.

Conclusion

26. The changes adopted here concern Commission procedure and practice. Moreover, since the changes primarily only reflect a desire to make our rules consistent with established case law, we find that public comment will not be necessary. For these reasons, the Commission need not comply with the prior public notice, comment and effective date provisions of the

[5] "Changed circumstances" here would include legislative changes in the law or cases decided by a court or other forum after the pleading cycle had ended. We wish to emphasize however, that "changed circumstances" would not include those instances in which a party or parties consciously chose to withhold information or did not take advantage of available information. "We cannot allow [a party] to sit back and hope that a decision will be in its favor, and then, when it isn't, to parry with an offer of more evidence. No judging process in any branch of government could operate efficiently or accurately if such a procedure were allowed." *Colorado Radio Corp. v. FCC*, 118 F 2d 24, 26 (D.C. Cir. 1941). Nor would we allow reconsideration when the Commission on review merely clarified language or offered additional reasoning to support the decision of the delegated authority. Reconsideration would only be warranted where the Commission changed that decision's result.

[6] In order to implement this change, we are amending § 1.106(b) to make clear that where a petition for reconsideration of an order denying an application for review fails to rely on new facts or changed circumstances, it may be dismissed by the staff as repetitious. It is noted, however, that in those cases where the petition does allege new facts or circumstances, the staff shall continue to operate as it presently does in bringing the petition to the Commission.

[7] The Commission already had power to delegate authority in non-adjudicatory matters.

[8] Congress intended that the application for review procedure would be patterned after the procedure used by the United States Supreme Court in reviewing petitions for certiorari. *Senate Report, supra*, at 6. Normally, the Supreme Court does not issue an opinion when it denies a petition for certiorari. That fact does not in any way undermine the right of the Commission to set forth reasons in denying an application for review. To begin with, nothing in section 5(d) of the Communications Act prohibits the Commission from explaining such a denial; in fact, by stating that the Commission may deny an application for review without reasons, the language seems to contemplate that, in some cases at least, the Commission will offer reasons. Moreover, it must be remembered that the Commission's relationship with the delegated authority is different than the Supreme Court's relationship with a lower court. In the Commission's case, any decision by the delegated authority ultimately becomes the decision of the Commission for purposes of judicial appeal (unless of course the Commission changes the decision on review). In contrast, a denial of certiorari by the Supreme Court does not in any way constitute an opinion by that court. Therefore, unlike the Supreme Court, the Commission has a continuing responsibility to correct shortcomings in decisions rendered by delegated authority. Nothing in our re-regulation order on adjudicatory practices is inconsistent with this analysis. *Adjudicatory Re-regulation Proposals*, 58 FCC 2d 865 (1976). The relevant portion of that order only explained why the Commission need not take *de novo* review of every decision made under delegated authority.

[9] We are also changing § 1.104[b] of the rules to require referral to the Commission if reconsideration is requested of a designation order. Since an individual bureau automatically is made a party in hearing cases, it would be inappropriate for the bureau to reconsider the matter on the merits. A similar change is being made for consistency in our delegated authority rules. 47 CFR 0.261.

V 44 OC 1979 UMI

Administrative Procedure Act, 5 U.S.C. 553(b).

27. Authority for adoption of the rule amendments contained herein is set forth in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r).

Accordingly, it is ordered that, effective October 22, 1979, §§ 0.251, 0.281, 0.371, 1.104, 1.106 and 1.115 of the Commission's rules, 47 CFR 0.251, 0.281, 0.371, 1.104, 1.106, and 1.115, are amended as set forth in the attached Appendix.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303).

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 0—COMMISSION ORGANIZATION

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations, is amended as follows:

1. Section 0.251, paragraph (e) is added to read as follows:

§ 0.251 Authority delegated.

* * * * *

(e) The General Counsel is delegated authority to dismiss as repetitious any petition for reconsideration of a Commission order denying an application for review which fails to rely on new facts or changed circumstances.

* * * * *

2. Section 0.281, paragraph (b) is revised to read as follows:

§ 0.281 Authority delegated.

* * * * *

(b) * * *

(2) Petitions and other requests for reconsideration of actions taken by the Chief, Broadcast Bureau, when such petitions or requests contain new or novel arguments not previously considered by the Commission, present facts or arguments which appear to justify a change in Commission policy, or request reconsideration of orders designating cases for hearing.

3. Section 0.371, paragraph (j) is added to read as follows:

§ 0.371 Authority delegated.

* * * * *

(j) To dismiss, as repetitious, any petition for reconsideration of a Commission order denying an application for review which fails to rely on new facts or changed circumstances.

PART 1—PRACTICE AND PROCEDURE

Part 1 of Chapter I of Title 47 is amended as follows:

1. Section 1.104, paragraphs (b) and (d) are revised to read as follows:

§ 1.104 Preserving the right to review; deferred consideration of application for review.

* * * * *

(b) Any person desiring Commission consideration of a final action taken pursuant to delegated authority shall file either a petition for reconsideration or an application for review (but not both) within 30 days from the date of release of the document containing the full text of such action, or in case such document is not released, after release of a public notice announcing the action in question. The petition for reconsideration will be acted on by the designated authority or referred by such authority to the Commission: *Provided,* That a petition for reconsideration of an order designating a matter for hearing will in all cases be referred to the Commission. The application for review will in all cases be acted upon by the Commission.

Note.—In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

* * * * *

(d) Any person who has filed a petition for reconsideration may file an application for review within 30 days from the date of release of the document containing the full text of the final action on his petition, or in case the document is not released, after release of a public notice announcing the final action on his petition. If a petition for reconsideration has been filed, any person who has filed an application for review may: (1) Withdraw his application for review, or (2) substitute an amended application therefor.

Note.—In those cases where the Commission does not intend to release a document containing the full text of its action, it will state that fact in the public notice announcing its action.

2. Section 1.106, paragraph (b), (c), (d) and (k) are revised to read as follows:

§ 1.106 Petitions for reconsideration.

* * * * *

(b)(1) Subject to the limitations set forth in paragraph (b)(2) of this section, any party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission or by the designated authority, may file a petition requesting reconsideration of the action taken. If the petition is filed by a person who is not a party to the proceeding, it shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.

(2) Where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances is present:

(i) The petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or

(ii) The petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity.

(3) A petition for reconsideration of an order denying an application for review which fails to rely on new facts or changed circumstances may be dismissed by the staff as repetitious.

(c) A petition for reconsideration which relies on facts not previously presented to the Commission or to the designated authority may be granted only under the following circumstances:

(1) The facts fall within one or more of the categories set forth in § 1.106(b)(2); or

(2) The Commission or the designated authority determines that consideration of the facts relied on is required in the public interest.

(d)(1) The petition shall state with particularity the respects in which petitioner believes the action taken by the Commission or the designated authority should be changed. The petition shall state specifically the form or relief sought and, subject to this requirement, may contain alternative requests.

(2) The petition for reconsideration shall also, where appropriate, cite the findings of fact and/or conclusions of law which petitioner believes to be erroneous, and shall state with particularity the respects in which he believes such findings and conclusions should be changed. The petition may request that additional findings of fact and conclusions of law be made.

* * * * *

(k)(1) If the Commission or the designated authority grants the petition for reconsideration in whole or in part, it may, in its decision:

(i) Simultaneously reverse or modify the order from which reconsideration is sought;

(ii) Remand the matter to a bureau or other Commission personnel for such further proceedings, including rehearing, as may be appropriate; or

(iii) Order such other proceedings as may be necessary or appropriate.

(2) If the Commission or designated authority initiates further proceedings, a ruling on the merits of the matter will be deferred pending completion of such proceedings. Following completion of such further proceedings, the Commission or designated authority may affirm, reverse, or modify its original order, or it may set aside the order and remand the matter for such further proceedings, including rehearing, as may be appropriate.

(3) Any order disposing of a petition for reconsideration which reverses or modifies the original order is subject to the same provisions with respect to reconsideration as the original order. In no event, however, shall a ruling which denies a petition for reconsideration be considered a modification of the original order. A petition for reconsideration of an order which has been previously denied on reconsideration may be dismissed by the staff as repetitious.

Note.—For purposes of this section, the word "order" refers to that portion of its action wherein the Commission announces its judgment. This should be distinguished from the "memorandum opinion" or other material which often accompany and explain the order.

* * * * *

3. Section 1.115, paragraphs (g), (h) and (i) are revised to read as follows:

§ 1.115 Application for review of action taken pursuant to delegated authority.

* * * * *

(g) The Commission may grant the application for review in whole or in part, or it may deny the application with or without specifying reasons therefor. A petition requesting reconsideration of a ruling which denies an application for review will be entertained only if one or more of the following circumstances is present:

(1) The petition relies on facts which related to events which have occurred or circumstances which have changed since the last opportunity to present such matters; or

(2) The petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not, through the exercise of ordinary diligence, have been learned prior to such opportunity.

(h)(1) If the Commission grants the application for review in whole or in part, it may, in its decision:

(i) Simultaneously reverse or modify the order from which review is sought;

(ii) Remand the matter to the designated authority for reconsideration in accordance with its instructions, and, if an evidentiary hearing has been held, the remand may be to the person(s) who conducted the hearing; or

(iii) Order such other proceedings, including briefs and oral argument, as may be necessary or appropriate.

(2) In the event the Commission orders further proceedings, it may stay the effect of the order from which review is sought. (See § 1.102.) Following the completion of such further proceedings the Commission may affirm, reverse or modify the order from which review is sought, or it may set aside the order and remand the matter to the designated authority for reconsideration in accordance with its instructions. If an evidentiary hearing has been held, the Commission may remand the matter to the person(s) who conducted the hearing for rehearing on such issues and in accordance with such instructions as may be appropriate.

Note.—For purposes of this section, the word "order" refers to that portion of its action wherein the Commission announces its judgment. This should be distinguished from the "memorandum opinion" or other material which often accompany and explain the order.

(i) An order of the Commission which reverses or modifies the action taken pursuant to delegated authority is subject to the same provisions with respect to reconsideration as an original order of the Commission. In no event, however, shall a ruling which denies an application for review be considered a modification of the action taken pursuant to delegated authority.

* * * * *

[FR Doc. 79-32981 Filed 10-18-79; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Commission Organization; Delegations of Authority

AGENCY: Interstate Commerce Commission.

ACTION: Final rule (Administrative rule change).

SUMMARY: New rules and procedures affecting the Commission's internal organization became effective January 1, 1978 (49 FR 65181) and were amended August 1, 1978. This document further amends the rules at 49 CFR 1011 to provide that transfer applications which are filed with directly related operating rights conversion applications and/or directly related securities issuance applications will be decided, where possible, on a consolidated basis, by the Review Board assigned to handle finance proceedings rather than the Commission's Motor Carrier Board. Because this amendment involves the internal organization and procedures of the Commission, it is being issued in final form, and public comments are not being requested.

EFFECTIVE DATE: September 27, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Erenberg, 202-275-7245.

SUPPLEMENTAL INFORMATION: At present, processing of transfer applications filed under 49 U.S.C. 10926 which have directly related securities applications filed under 49 U.S.C. 11301-11302 or directly related conversion applications filed under 49 U.S.C. 10922 or 10923 are handled by three different decisional bodies. The Motor Carrier Board has delegated authority over transfer applications under 49 CFR 1011.6(b)(4); and operating rights review board has authority over conversion applications under 49 CFR 1011.6(g); and the Finance Board has authority over securities application proceedings under 49 CFR 1011.6(c). This separation is caused by the limited jurisdiction of each decisional body.

The handling of this type of finance proceeding (the transfer application) which causes the need for the other two types of directly related proceedings would be greatly facilitated by combining the applications into one proceeding for handling by the employee Review Board handling finance matters. Such consolidated handling will greatly speed up case processing, reduce paper work, free staff time for other work, and reduce the possibility of paper processing errors. To enhance the conformity of decisions on these consolidated, and somewhat more complicated, proceedings, these cases will be assigned to the employee Review Board handling finance matters.

It is ordered:

49 CFR 1011.6(g) is amended by adding subdivision (3) thereto which will read as follows:

§ 1011.6 Employee boards.

* * * * *

(g) * * *

(3) The employee Review Board handling finance matters will determine, in the first instance, and where possible, consolidated applications relating to the transfer of Certificates and permits filed under 49 U.S.C. 10926 which have directly related securities applications filed under 49 U.S.C. 11301-11302 and/or directly related conversion applications filed under 49 U.S.C. 10922 or 10923.

This decision does not affect significantly the quality of the human

environment or energy consumption. These rules are issued under the authority of 49 U.S.C. 10305 and 5 U.S.C. 553.

By the Commission.

Dated: October 12, 1979.

Agatha L. Mergenovich,

Secretary,

[FR Doc. 79-32400 Filed 10-18-79; 8:45 am]

BILLING CODE 7035-01-M

---

49 CFR Ch. X

[Ex Parte No. MC 121]

Policy Statement on Motor Carrier Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Policy statement.

SUMMARY: The Commission adopts a policy statement describing its standards for deciding applications seeking motor carrier authority. Where applicants for authority show that the service proposed is responsive to a useful public purpose, and that they are fit to perform that service, the Commission will grant the application unless those opposing it demonstrate that a grant of authority would endanger their operations, contrary to the public interest.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr. (202) 275-7292.

SUPPLEMENTARY INFORMATION: We instituted this proceeding on December 5, 1978, by the publication of a notice in the **Federal Register** (43 FR 56979) in which we announced that we were considering adoption of a policy statement which would articulate, and if necessary modify, the criteria used in deciding cases involving motor carrier entry and acquisition. In light of the maturity of the motor carrier industry and changing economic conditions, we stated that, in carrying out regulatory responsibilities in the motor carrier area, more emphasis would be given to the benefits of healthy competition than to the protection of existing carriers.

To accomplish this goal in common carrier proceedings, we proposed to alter the three-part test first established in *Pan-American Bus Lines Operation*, 1 M.C.C. 190, 203 (1936). These criteria are:

> . . . [W]hether the new operation or service will serve a useful public purpose, responsive to a public demand or need; whether this purpose can and will be served as well by existing lines or carriers; and whether it can be served by applicant with the new operation or service proposed without endangering or impairing the operations of existing carriers contrary to the public interest.

We proposed eliminating the second part of the test, which concerns existing carriers' ability to meet the demonstrated public purpose as well as applicant. We announced that, in evaluating motor common carrier application, we would follow these standards:

(1) An applicant must demonstrate that the service proposed will serve a useful public purpose, responsive to a public demand or need; and

(2) The Commission will grant common carrier authority commensurate with the demonstrated need unless it is established by those opposing the application that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers contrary to the public interest.

Our proposed standard for evaluting contract carrier applications will be described below.

We also stated that we were considering formulating new rules relating to the issuance of emergency temporary authority and new policy guidelines for handling applications for the merger, acquisition, and consolidation of motor carriers.

Preliminary Matters

Since this proceeding was instituted, we have determined that it was necessary to institute a rulemaking proceeding to formulate new rules pertaining to emergency temporary authority. One proposal in that area is now pending in Ex Parte No. MC-64 (Sub-No. 2), *Special Temporary Authority Procedures*, published in the **Federal Register** on March 20, 1979 (44 FR 16996). Due to the complex issues involved in the establishment of new policies and guidelines in the area of motor finance transactions, we now believe that those issues will require separate consideration. We have, therefore, instituted Ex Parte No. 55 (Sub-No. 38), *Antitrust and Competition Factors in Motor Carrier Finance Cases*, (44 FR 21953).

The motor common carriers of passengers argue that their situation is different from that of motor carriers of property and that a different policy is required for them. Applicants for common carrier authority to transport both passengers and property must bear the burden of proving public convenience and necessity. The support normally relied upon by these two kinds of applicants differs. Property carriers can usually rely upon support from repetitive shippers, often with professionally staffed traffic departments. Passenger carriers, on the other hand, are more likely to serve the occasional user—persons who take intercity bus trips or who charter buses relatively infrequently—whose testimony is harder to obtain and who cannot usually be as firm in describing future service needs. Thus, passenger and most property carriers face different problems in pursuing an application for operating authority. However, it does not necessarily follow that the policies we apply in evaluating the necessarily different kinds of evidence that might be introduced in different kinds of proceedings should themselves be different. The *Pan American* case itself, after all, was a passenger application, and the standards developed there have worked well in evaluating property carrier applications. We believe that we can develop a statement on entry policy that will be applicable both to property and passenger carriers.

Western Pacific Transport Company, a motor common carrier that is a wholly-owned subsidiary of the Western Pacific Railroad, is concerned about Commission policy which requires rail-affiliated motor carriers to show "special circumstances" over and above the normal showing of public convenience and necessity before they can obtain unrestricted motor carrier authority. It requests clarification of that policy here. Any change in the "special circumstances" policy would have a significant impact on the rail and motor carrier industries. Since that issue is beyond the scope of this proceeding, we will not change our policy in that area here. It will be considered in Ex Parte No. 230 (Sub-No. 5), *Improvement of TOFC/COFC Regulation*, in which an advance notice of proposed rulemaking was issued August 21, 1979 (44 FR 49279).

The Comments

Seventy-one initial statements were submitted in response to our proposed policy statement. Thirty-seven separate comments were submitted by individual motor carriers or groups of motor carriers. Those comments are the views of approximately 175 regulated motor carriers, representing almost all the segments of the motor carrier industry. They include both common and contract carriers; established carriers; new entrants; regular-route, general commodities carriers; specialized, irregular-route carriers; and passenger carriers. Six separate comments were submitted by various motor carrier associations: The American Trucking Associations, Inc., on behalf of itself and four specified member conferences; The Common Carrier Conference—Irregular Route of the American Trucking Associations, Inc.; The Regular Common Carrier Conference of The American Trucking Associations, Inc.; The Contract Carrier Conference, Inc.; The Oil Field Haulers Association, Inc.; and National Automobile Transporters Association.

Six Federal agencies—the Department of Transportation, the Department of Justice, the Federal Trade Commission, the General Services Admininstration, the Council on Wage and Price Stability, and the Department of the Army—and the States of New Jersey, Utah, and Illinois submitted comments. The views of the shipping public were represented by comments from a total of 13 manufacturing companies, trade associations, and shipping groups, such as the National Industrial Traffic League, National Small Shipments Traffic Conference, Drug and Toilet Preparation Traffic Conference, and American Paper Institute, Inc. Statements were also filed by the Motor Carrier Lawyers Association; The International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America; Act, Inc.; and two individuals, one a registered ICC practitioner and the other a property and casualty underwriter. We appreciate the time and effort expended by these participants to inform us of their views with respect to the proposed policy statement.

The comments cover the entire spectrum of positions on the subject. The lines are very sharply drawn between the motor carrier industry and the Federal agencies. The regulated carriers and their trade associations (except the Contract Carrier Conference, Inc.) generally oppose adoption of the proposed policy statement and many of the current steps that this Commission has taken to change motor carrier regulation. Some argue that the regulatory changes which the Commission proposes here go to the basic purposes of the statutory scheme itself, that they cannot lawfully be made administratively, and that they would require statutory change. Some point to chaotic conditions which existed prior to regulation and predict that any further loosening of entry controls will destroy the present stability and prosperity of the trucking industry. They do not, however, claim that the industry is comparable to that which existed in 1935. Some point out that not all trucking companies are large and enormously profitable, but none has argued convincingly that the regulated segment of the industry, taken as a whole, is anything but financially healthy.

The Federal agencies applaud the proposed policy change and urge this Commission to go even further to institute an open-entry policy. They rely largely on the application of economic theory, and cite the opinions of professional economists to the effect that the motor carrier industry is naturally competitive, and that freer entry will result in lower prices with no harmful reduction in service quality. One of the government parties—the Federal Trade Commission—in support of its argument that the industry, while it may have needed regulatory protection in 1935 does not need it today, has provided comparisons between the industry as it was then and as it is now.

The views expressed by shipper interests are somewhat varied, but shippers generally take a middle position. They favor increased competition, and they also commend the Commission on its recent actions regarding regulatory reform of the motor carrier industry. Some, however, fear that adoption of this proposal may lead to completely open entry into motor transportation, which they believe might adversely affect the shipping public. Those same respondents favor entry control to guard against overcapacity, and they support continued regulation of such matters as financial responsibility and adequate insurance as necessary to protect the public. Several shippers favor total open entry.

The State agencies are primarily concerned with local issues. The Illinois Department of Revenue believes that the proposed policy could hinder its ability to collect State motor fuel tax from interstate carriers. The New Jersey Department of Transportation is concerned about the effect of the policy on interstate commuter bus operations. The Utah Motor Carrier Committee of the Utah Department of Transportation fears that adoption of the proposed policy statement may have an adverse impact on motor carrier service to small Utah communities.

Motor Carrier Entry Policy

The primary purpose of this proceeding is to appraise our policy relating to motor carrier entry control and to articulate a statement pertaining to the role of competition in applications for motor carrier authority. We are mindful that in *Trans-American Van Service, Inc.* v. *United States*, 421 F. Supp. 308 (N.D. TX, 1969), and *P. C. White Truck Line, Inc.* v. *ICC*, 551 F. 2d 1326 (DC Cir. 1977), the Commission was required to consider "* * * the contribution that increased competition might make to the public weal." *P. C. White, Supra*, 551 F. 2d at 1329. In instituting this proceeding, we suggested that elimination of the second *Pan-American* criterion regarding consideration of the adequacy of existing service might be the proper course to follow to give competition adequate consideration. We noted too, that we believed that in the past the Commission might have relied too heavily on adequacy of existing service, thus impeding the growth of beneficial competition.

The need for Federal regulation of the motor carrier industry followed the Supreme Count's decision in the landmark cases of *Buck* v. *Kuykendall*, 267 U.S. 307 (1925), and *Bush Co.* v. *Maloy*, 267 U.S. 317 (1925). There, the Court declared that it was unconstitutional for States to establish any entry control laws or regulations for interstate motor carriers, because the laws or regulations interfered with the free flow of interstate commerce. For approximately 10 years, Congress debated and considered legislation to create a regulatory system intended to support a coordinated nationwide transportation system involving motor carriers and other modes of transportation.

The culmination of this study and debate was the Motor Carrier Act of 1935, which contained a franchise system modeled after the regulatory programs adopted by a number of States. Included in the 1935 Act was a policy statement which was incorporated into the national transportation policy created by the Transportation Act of 1940. We still follow that policy today, see 49 U.S.C. 10101. That policy statement and the legislative history of the Motor Carrier Act of 1935, see 79 Cong. Rec., 12204-12237 (1935), demonstrate that two of Congress' primary goals were to ensure that the public had safe, efficient, and economic transportation services available and to stabilize the motor carrier industry so it could grow and develop. See *Regulation of Transportation Agencies*, S. Doc. No. 152, 73d Cong., 2nd Sess. (1935).

Congress intended the legislation to protect the interests of many different segments of the public, not just the interstate motor carrier industry. It sought to protect shippers from competitors within their own industries that were willing to make use of carriers engaging in discriminatory and unfair practices to obtain lower rates and other concessions; the general public from unsafe and irresponsible operators; and the railroads regulated by the Federal Government and intrastate carriers regulated by individual States from

V 4 4 0 C 1 9 7 9 UMI

unfair competition by unregulated interstate carriers. Competition, especially competition between the different modes of transportation was to continue to play an important role in the national transportation system. However, competition was to be held within reasonable limits and kept from becoming destructive and wasteful.

The legislation included an entry control system designed to guard against congestion and oversupply of transportation. However, there was never any intention to create monopoly situations. As was stated by a proponent of the legislation:

> There is nothing in the bill to prohibit the Commission from granting two or more certificates over the same route and there are many operators competing over the same route now that will receive certificates under the grandfather clause as a matter of course. The effect of such a provision is to place the authority in the hands of the Commission, a Government body, to determine whenever public convenience and necessity require additional operations on the public highway. 79 Cong. Rec., 12206 (1935).

The statute required new applicants to meet certain criteria before a certificate or permit could be granted. In deciding applications for common carrier authority, the Commission is required to find whether the present or future public convenience and necessity require the service proposed. See 49 U.S.C. 10922. In a contract carrier application, the Commission must find whether a new operation would be consistent with the public interest and the national transportation policy. These statutory standards are not self-limiting, but instead are extremely broad and flexible. They do not suggest that the Commission should be either open-handed or tight-fisted in dealing with applications. This has meant that the task of defining and refining the statutory concepts has necessarily fallen to the Commission, and we must assume that the Congress knew that this would be the case and acted consciously when it adopted such broad criteria.

Contract carriage.—For the sake of convenience, and because it will require relatively brief comment, we shall turn our attention first to contract carriage. The test here is consistency with the public interest and the national transportation policy, and it is usually assumed to entail a lesser standard of proof than is required in common carrier applications. Also, specific statutory criteria (see 49 U.S.C. 10102(12) and 10923) applicable to contract carrier applications serve to make the applicant's task easier, as they have been construed to place evidentiary burdens upon the opposing carriers. *I.C.C. v. J-T Transport Co.*, 368 U.S. 81, 90 (1961). Thus the standard which we announced we would apply in contract carrier applications represents no change from long-standing policy, and it is reaffirmed.

In considering motor contract carrier applications, the Commission's policy will be to find that the effect of a grant of contract carrier authority upon protesting carriers will not be a significant factor unless the protestants themselves can establish that such a grant would endanger or impair their operations to an extent contrary to the public interest.

Common carriage.—Soon after the passage of the Motor Carrier Act of 1935, the Commission, in the *Pan-American* case, articulated tests which it has used since in applying the statutory standard of public convenience and necessity. These tests—the three *Pan-American* criteria—are quoted at the beginning of this decision. The first criterion is directed to whether there is a public demand or need for the proposed service; that is, whether if new authority is granted, it will be used and useful to a prospective customer of the applicant (as is the case in most applications for new authority) or to the applicant and its existing customers (as is the case of applications to use alternate routes or to eliminate gateways). This standard has the effect of placing the overall burden of proof upon the applicant, as required by the Administrative Procedure Act, 5 U.S.C. 556(d). The second *Pan-American* criterion addresses the issue of "adequacy" of existing service. Its effect has been widely construed as placing on the applicant the specific burden of showing that the service it proposes cannot be provided as well by existing carriers. The third criterion goes to the effect which a new competitive service would have on existing carriers' ability to meet the needs of the public they serve.

As we pointed out in the notice initiating this proceeding, the motor carrier industry today is vastly different than it was during the 1930's when the Motor Carrier Act was being considered and enacted by the Congress, and when the standards for its interpretation and application were being formulated by the Commission.[1]

From a struggling industry in 1935, characterized by one-truck operators providing largely short-haul and local drayage service,[2] trucking today is one of the largest businesses in America. According to the American Trucking Associations, Inc., trucking is the nation's largest employer, with over 9 million employees.[3] The trucking industry's share of the available freight traffic increased from 10 percent in 1940, when it handled about 62 billion ton miles, to 24 percent in 1977.[4] The trucks carried some 510 billion ton miles of freight in 1976, with Federally-regulated carriers handling about 44 percent of that amount, or 225 billion ton miles.[5] Operating revenues as reported to the Commission for 1977 by 857 of the largest motor carriers of property and passengers amounted to over 23.2 billion dollars.[6] The average return on equity for the 100 largest trucking companies, which account for half of all industry revenues, was 18.5 percent for the year ending September 30, 1978,[7] as contrasted to a 14 percent average for industry generally.[8]

As the motor carrier industry has developed, and especially in the past two years, the Commission has placed more emphasis on the need for additional competition than on the protection of carriers already in the market. Our statistics bear this out. During the first ten months of fiscal year 1979 (October 1, 1978–July 31, 1979), 98.4 percent of the motor carrier applications which were decided on the merits resulted in full or partial grants of authority. Of these, all but 4.2 percent represented total grants of the authorities ultimately sought by the applicants.

We wish to emphasize that any change that may have occurred in the direction of a more liberal approach to determining application cases did not result from a repudiation of all or any one of the *Pan-American* criteria. In deciding applications, in balancing the need for a new service against the

[1] Comments of the Federal Trade Commission, filed February 5, 1979, pages 18–21. See also *Issues in Regulating Interstate Motor Carriers*, Study of the Staff of the U.S. General Accounting Office, pages 12–14 (June 20, 1978).

[2] Hearings before the Senate Committee on Interstate Commerce on S. 1629, S. 1632, and S. 1635, 74th cong., 1st Sess. 312 (1935). The vast majority of firms at that time had only one vehicle and were either owner-operated or employed by one person. In contrast, the average number of vehicles operated by regulated carriers by 1968 was 43. G.A.O. Study page 12.

[3] American Trucking Associations, Inc., *Trucking '77*, 1977 Annual Report, page 9.

[4] Transportation Association of America, *Transportation Facts and Trends*, 14th edition (July 1978).

[5] Interstate Commerce Commission, *92nd Annual Report*, page 134 (1978).

[6] Ibid., page 133.

[7] Interstate Commerce Commission, Bureau of Accounts, *Large Class I Motor Carriers of Property: Selected Earnings Data*, page 1 (December 1978).

[8] Investigation and Suspension Docket No. M-29772, *General Increase, S.M.C.R.C.*, slip opinion, page 24 (November 27, 1978).

impact which added competition would have on existing carriers' ability to perform service to the public, we have routinely and consistently addressed and resolved three issues. Has the applicant established a public need for the proposed service? Can existing carriers satisfy the demonstrated need? Will the proposed service cause the protestants to be harmed to such extent as to outweigh the benefits to the public? These three questions are no more than articulations of the three *Pan-American* criteria. *Liberty Trucking Co., Ext.—General Commodities*, 131 M.C.C. 573, 574 (1979).

Also working within the framework of the *Pan-American* criteria we have continuously refined the protestant's evidentiary burden. No longer can the mere willingness of an authorized carrier to perform service, or the showing that it has successfully served a supporting shipper, defeat an application. *Superior Trucking Co., Inc., Ext.—Agric. Machinery*, 126 M.C.C. 292 (1977). In the *Liberty* decision on reconsideration, cited above, we reaffirmed our prior finding that a protestant should be required to demonstrate how new competition might materially jeopardize its ability to serve the public, contrary to the public interest. *Liberty*, supra, at 575; *May Trucking Co. v. United States*, 593 F. 2d 1349 (D.C. Cir. 1979).

Today, we take a step further. We adopt a policy statement to the effect that an opposing carrier must bear the evidentiary burden of showing that a grant of authority will adversely affect its operations to the detriment of the public interest, and we expressly eliminate as a factor in making our decision the second *Pan-American* criterion. In addition, we suggest certain non-traditional ways in which an applicant might carry *its* burden of showing that its proposed service will serve a useful public purpose.

Our actions here should not be taken as evidence that we have abdicated our function to determine whether a given proposal is required by the public convenience and necessity. Rather, it means that we are convinced that we have the duty as regulators, charged with administering in today's world a statute that was written and originally construed under vastly different economic and social conditions, to change the standards we use in interpreting and applying the terms and concepts reflected in that statute. See *American Trucking v. A., T. & S.F.R. Co.*, 387 U.S. 397, 416 (1967). Our policy, as stated here, reflects our conviction that today's motor carrier industry is generally financially strong, that many segments of the industry have largely competitive characteristics and are capable of being regulated primarily by the economic forces of the marketplace,[9] and that the artifical protections which strict government regulation of entry can provide are currently unnecessary in those instances.

The first of the *Pan-American* criteria places the burden upon the applicant to come forward with evidence of a public need or demand for its service. Under that standard, applicants must show that the service they propose would serve a useful public purpose, responsive to a public demand or need. The normal way to establish this has been for applicants to submit evidence of those who would use the service proposed. We think that this is still the most satisfactory means for an applicant to proceed, for it provides us with the information we need to frame a grant of authority, and provides a factual framework for dealing with the application and the interests of the parties on both sides.

The second *Pan-American* criterion speaks to the question whether the "useful public purpose" which a proposed new operation would meet "can and will be served as well by existing lines or carriers." Thus it raises the issue of adequacy of existing service. In the early days of entry regulation, the effect of this standard was to place upon the applicant the burden of showing that the service it proposed could not be performed as well by existing carriers. As already discussed above, over the years applicants have still been encouraged to provide evidence of their supporting witnesses' experience with available services, but the lack of a showing by the applicant that the existing service is inadequate has not been fatal to its case. Rather the burden has been thrust upon opposing carriers to bear an ever greater evidentiary burden.

The placing of this burden squarely on the opposing carriers is clearly required by today's conditions in the surface transportation industry. As we stated in the notice instituting this proceeding, it is only the opposing carrier who is in a position to show the impact which a grant of authority will have upon it, and it is logical to place upon it the responsibility for developing the record and bearing the burden of producing the evidence as to this issue. We are convinced that the second of the criteria laid down in the *Pan-American* case has outlived its usefulness, and it will no longer be applied.

In determining applications for motor common carrier authority, we will apply these tests:

(1) The applicant must demonstrate that the operation proposed will serve a useful public purpose responsive to a public demand or need.

(2) The Commission will grant authority commensurate with the demonstrated purpose unless it is established by parties opposing the application that the entry of a new carrier into the field would endanger or impair the operations of existing common carriers to an extent contrary to the public interest.

Evidentiary Guidelines

The public comments have brought to our attention that, in light of our current entry policy, many carriers do not seem to be aware of the means by which they may oppose effectively an application and thus protect what may be legitimate rights. They are uncertain what evidence must be presented to demonstrate that authorization of a new service might have serious adverse effects upon their ability to continue to provide essential services. It is our responsibility to clarify our current policy regarding the evaluation of applications for permanent motor carrier operating rights.

A carrier opposing a motor carrier entry application should present certain basic evidence to allow us to make a determination about its ability to meet the supporting shipper's service needs. The Commission needs specific factual information to evaluate the degree to which an intervenor's existing operations, and consequently its service to the general public, may be impaired or endangered, to an extent contrary to the public interest, if a new competitive service is authorized. This evidence should be presented in the opponent's verified statement under modified procedure or at the presentation of its case at oral hearing.

The information should include:

(1) A precise description of its pertinent operating authority;

(2) A description of the type and amount of equipment and facilities that it has available to meet the avowed purpose of the application;

(3) A discussion of its present operation; including a description of the specific service it is providing those supporting the application;

(4) The amount of traffic which it has handled that would be subject to diversion to the applicant if the authority sought is granted, and the impact of that diversion on its profitability;

(5) A description of the probable impact on operations which are directly competitive

[9] Interstate Commerce Commission, Initial Report of the Motor Carrier Task Force (May 1979).

V 44 O C 19 79 UMI

with the service which the applicant proposes;

(6) A statement concerning other adverse impacts of a grant of authority on its business generally and on the public such as:

(a) Need to close particular terminals or other facilities;

(b) The number of employees that would be furloughed or dismissed;

(c) The imbalance of its operations and other inefficiencies;

(d) Its ability to continue its existing service to the public due to a reduction in total business, loss of particular traffic in a geographic area, or other factors; and

(e) Effects on fuel efficiency.

This decision does not significantly affect the quality of the human environment or energy consumption.

This notice is promulgated under authority contained in 49 U.S.C. 10101, 10321(a), 10921, 10922, 10923, and 5 U.S.C. 553.

Dated: September 26, 1979.

James H. Bayne,

Acting Secretary.

By the Commission. Chairman O'Neal, Vice Chariman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Vice Chairman Stafford and Commissioner Gresham dissenting.

Vice Chairman Stafford, Dissenting

I strongly agree with Commissioner Gresham that this Policy Statement really means quite little in terms of actual impact.

The statement is more symbolic than practical. It evidences the Commission's current attitude toward (or should I say against) regulation in general and entry controls in particular. If anyone needed it, the statement is an indication that things will not be done the way they used to be done. Old theories and old policies will not carry material weight in future deliberations.

Removal of traditional entry barriers is not the only indication of this attitude. Virtual elimination of rate bureaus as ratemaking organizations is about to be realized. Rate flexibility (in terms of no-suspend zones and even no-notice zones) appears not too far away.

The policy statement disturbs me because it implies that what the ICC has been doing for over forty years has not been in the public interest. I have said it before, and it may sound trite, but I believe the ICC has done a surprisingly good job of regulating. Service is generally better than adequate, and prices are reasonable. There is substantial and healthy competition in the trucking industry. Obviously, the industry has matured. But with all the rhetoric, no one has ever shown with any degree of reliability that most of the same problems that existed before the Motor Carrier Act of 1935 will not be visited upon us again when all of these so-called reforms are implemented.

Had all of these changes occurred in one proceeding, I am confident that any reviewing court would have found that they exceed the bounds of what an agency may do toward self-deregulation. The tactic of smaller, individual rulemakings, each with a limited specific change, has proven very effective in achieving major changes without legislation. Unfortunately, no reviewing court has had the big picture before it; and I doubt if any court ever will. This proceeding represents one more minor rulemaking that is part of a major policy overhaul.

Commissioner Gresham, Dissenting:

How does the majority's statement of "new" policy really change the actual policies which currently are followed by the Commission in deciding the fate of operating rights application cases? This is the real question as I see it. The answer seems to be that no real change has been made. Candidly, I must label this policy statement as "window dressing."

Those who are familiar with current Commission policy undoubtedly can accept this label as accurate and must surely wonder why the Commission has expended so much time and effort merely for the sake of telling them what they already know. Frankly, I do not know why.

At one point the majority states "that in the *past* (emphasis added) the Commission might have relied too heavily on adequacy of existing service, thus impeding the growth of beneficial competition." The key words in that quote are "in the past." I believe even extreme critics of regulation would agree that this quoted analysis of the past does not accurately depict the trend of current regulation by this Commission. I believe these critics would even concede that currently, adequacy of existing service is not the decisive factor in final decisions of this Commission. Going a step further, these critics, if objective, would confirm that today the Commission decides application cases by determining whether the public benefits of a grant of new authority outweigh the detriments which would flow from such a grant and by considering the competitive impact of the outcome of application cases. Today these are the decisive factors, not mere adequacy of existing service. So again, I must ask why the majority has taken such pains to bury court approved and time-tested standards which, as presently applied by the Commission, result in the enhancement of effective competition while avoiding the extremes of destructive competition?

I wonder what the majority believes it actually has changed. Does the majority think that this "new" policy will alter the outcome of application cases? I think not. To illustrate, consider a hypothetical, and very simplistic case. A person who wants new operating authority asks a shipper to support his application for this authority. The shipper agrees to do so. This supporting shipper then tells the Commission that it receives wholly adequate service from existing carriers and that carrier competition for its traffic is intense. Assuming that there are no other issues or overriding factors present in the case such as substantial fuel saving which would result from a grant of this new authority, would the fate of this application differ under the "new" policy from its fate under current Commission policy? The answer is no! I believe that the application would be denied irrespective of whether the "new" policy or the current policy of this Commission was in effect. The only real difference would be in the words used in the decision. Under current policy, the Commission's decision might mention that existing service is adequate although its analysis went far beyond that particular aspect of the case to factors such as the effect of a grant on competition. Under the "new" policy the Commission would merely avoid mentioning the fact that existing service is adequate and instead might say that its denial is based on the fact no useful public purpose would be served by a grant of this new authority. Thus, we have a distinction without difference! Here we have another semantic wrestling match, an exercise from which I will refrain and to which I must respectfully dissent.

As a final point, I challenge the majority to count the number of cases in which this Commission has followed the current administrative policy that operating authority may be granted even if an applicant does not prove that existing service is inadequate. Yes, they are too numerous to count! Again, I must ask why so "much ado about nothing?"

[FR Doc. 79-32279 Filed 10-18-79, 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register

Vol. 44, No. 204

Friday, October 19, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders Issued Against the United States for Child Support or Alimony

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: In the matter of proposed uniform procedures for the Executive Branch, including therein, the Territories and Possessions of the United States, the United States Postal Service, the Postal Rate Commission, any Wholly Owned Federal Corporation Created by an Act of Congress, and the Government of the District of Columbia. This proposed rule is published in compliance with Executive Order 12105, December 19, 1978. The purpose of the rule is to provide uniform procedures throughout the executive branch of the Government for the garnishment of moneys (the entitlement to which is based upon remuneration for employment) due and payable by the United States or the District of Columbia, where the garnishment, or similar legal process, is brought to enforce child support or alimony obligations. The executive branch of the Government, for the purpose of this rule, includes the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia.

DATE: Comments will be considered, if received no later than December 18, 1979.

ADDRESS: Send comments to: Office of the General Counsel (Room 6H31), Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Murray Meeker, Attorney, Office of the General Counsel, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C. 20415 (202-632-5530).

SUPPLEMENTARY INFORMATION:

The Social Services Amendments of 1974

On January 4, 1975, Congress amended the Social Security Act with the enactment of Public Law 93-647, cited as the Social Services Amendments of 1974. Public Law 93-647 added a number of new sections to the Social Security Act, including section 459 which waived the sovereign immunity of the United States to allow for the acceptance of garnishment orders. In substance, section 459 provided that moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States, shall be subject to legal process brought for the enforcement of legal obligations to provide child support or make alimony payments, in like manner and to the same extent as if the United States were a private person.

Tax Reduction and Simplification Act of 1977

On May 23, 1977, Congress enacted the Tax Reduction and Simplification Act of 1977, Public Law 95-30. Title V of Public Law 95-30 further amended the Social Security Act by clarifying and supplementing the garnishment provisions contained in section 459. Additionally, Public Law 95-30 authorized the President or his designee to promulgate regulations for the implementation of the Act in the executive branch.

Executive Order 12105

By Executive Order 12105, dated December 19, 1978, the President authorized the United States Civil Service Commission (now the Office of Personnel Management), in consultation with the Attorney General, the Secretary of Defense, and the Mayor of the District of Columbia, to promulgate garnishment regulations for the executive branch.

On April 27, 1979, the Office of Personnel Management submitted advance copies of the proposed regulations to former Attorney General Griffin B. Bell, Secretary of Defense Harold Brown, and Mayor Marion Barry. We shall complete our consultation with these officials during the period for comment on this proposed rule.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

Accordingly, it is proposed that 5 CFR Part 581 be added as follows:

PART 581—PROCESSING GARNISHMENT ORDERS ISSUED AGAINST THE UNITED STATES FOR CHILD SUPPORT OR ALIMONY

Subpart A—Purpose and Definitions

Sec.
581.101 Purpose.
581.102 Definitions.
581.103 Moneys which are subject to garnishment.
581.104 Moneys which are not subject to garnishment.
581.105 Exclusions.
581.106 Future payments.

Subpart B—Service of Process

581.201 Official to receive process.
581.202 Service of process.
581.203 Information minimally required to accompany legal process.

Subpart C—Compliance With Process

581.301 Suspension of payment.
581.302 Notification of obligor.
581.303 Response to legal process or interrogatories.
581.304 Nonliability for disclosure.
581.305 Honoring legal process.
581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.

Subpart D—Consumer Credit Protection Act Restrictions

581.401 Aggregate disposable earnings.
581.402 Maximum garnishment limitations.

Subpart E—Implementation by Governmental Entities

581.501 Rules, regulations, and directives by governmental entities.

Authority: 42 U.S.C. §§ 659, 661-662; 15 U.S.C. § 1673; E.O. 12105.

Subpart A—Purpose and Definitions

§ 581.101 Purpose.

Section 659 of title 42 of the United States Code, as amended, provides that moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia to any individual, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement of such individual's legal obligations to provide child support

and/or make alimony payments. The purpose of this part is to implement the objectives of section 659 as it pertains to the executive branch of the Government of the United States.

§ 581.102 Definitions.

In this part:

(a) "The executive branch of the Government of the United States" means all "governmental entities" as hereinafter defined, including therein the territories and possessions of the United States, the United States Postal Service; the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia.

(b) "Governmental entity" means each and every department (both civilian and military), agency, independent establishment, or instrumentality of the executive branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature of the executive branch, and the governments of the District of Columbia and of the territories and possessions of the United States.

(c) "Private person" means a person who does not have sovereign or other special immunity or privilege which causes such person not to be subject to legal process.

(d) "Child support", when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which the individual has such an obligation, and (subject to and in accordance with State or local law) includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; the term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable pursuant to a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

(e) "Alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of such individual, and (subject to and in accordance with State or local law) includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; the term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to his/her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses of former spouses.

(f) "Legal process" means any writ, order, summons, or other similar process in the nature of garnishment (which may include attachments, writs of execution, and court ordered wage assignments), which—

(1) Is issued by (i) a court of competent jurisdiction within any State, territory, or possession of the United States, or the District of Columbia, (ii) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or (iii) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law, and

(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support and/make alimony payments.

(g) "Legal obligation" means an obligation to pay alimony and/or support which is enforceable under appropriate State or local law.

(h) "Obligor" means an individual having a legal obligation to pay alimony and/or child support.

(i) "Remuneration for employment" means compensation paid or payable for personal services, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes, but is not limited to those items set forth in § 581.103.

§ 581.103 Moneys which are subject to garnishment.

(a) For the personal service of the obligor in the employment of the executive branch of the Government of the United States as a civilian employee:

(1) Saved pay;
(2) Retained pay;
(3) Night differentials;
(4) Sunday and holiday premium pay;
(5) Overtime pay;
(6) Standby pay;
(7) Environmental differentials;
(8) Hazardous duty pay;
(9) Tropical differentials;
(10) Recruitment incentives;
(11) Any payment in consideration of accrued leave;
(12) Severance pay;
(13) Sick pay;
(14) Physicians comparability allowances;
(15) Special pay for physicians and dentists;
(16) Amounts paid pursuant to a personal services contract where the contractor recipient is a Federal employee;
(17) Merit pay;
(18) Incentive pay;
(19) Cash awards;
(20) Agency and Presidential incentive awards (except wher such award is for making a suggestion); and
(21) Senior Executive Service rank and performance awards.

(b) For the personal service of the obligor in the uniformed services of the United States;

(1) Basic pay (including service academy cadet and midshipmen pay);
(2) Special pay (including inlistment and re-enlistment bonuses);
(3) Lump sum reserve bonus;
(4) Continuation pay for physicians and dentists;
(5) Special pay for physicians, dentists, optometrists, and veterinarians;
(6) Incentive pay;
(7) Variable incentive pay;
(8) Inactive duty training pay;
(9) Administrative duty pay;
(10) Academy official pay (other than personal money allowances);
(11) Any payments made in consideration of accrued leave (basic pay portion only);
(12) Readjustment pay;
(13) Disability retired pay; and
(14) Severance pay (including disability severance pay).

(c) For obligors generally:

(1) Periodic benefits (including a periodic benefit as defined in section 428(h)(3) of title 42 of the United States Code) (Social Security Act) or other payments to such individuals under the programs established by subchapter II of chapter 7 of title 42 of the United States Code (Social Security Act) and by chapter 9 of title 45 of the United States Code (Railroad Retirement Act) or any other system or fund established by the United States (as defined in section 662(a) of title 42 of the United States Code) which provides for the payment of:

(i) Pensions;
(ii) Retirement;
(iii) Retired/retainer pay;
(iv) Annuities;
(v) Refunds of retirement contributions where an application has been filed; and
(vi) Dependents' or survivors' benefits when payable to the obligor.

(2) Amounts received under any Federal program for compensation for work injuries; and

(3) Benefits received under the Longshoremen's and Harbor Workers' Compensation Act.

However, remuneration would not include any payment as compensation for death, including any lump sum death benefit under any Federal program, any payment under any Federal program established to provide "black lung" benefits, any payment by the Veterans Administration as pension, or any payments by the Veterans Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his/her retired pay in order to receive such compensation. In such case, only that part of the Veterans Administration payment which is in lieu of the waived retired/retainer pay, is subject to garnishment.

§ 581.104 Moneys which are not subject to garnishment.

(a) Amounts paid by way of reimbursement for expenses incurred by an individual in connection with his/her employment, or allowances in lieu thereof, would not be remuneration for employment, including, but not limited to:

(1) In the case of civilian employees:
(i) Uniform allowances;
(ii) Travel and transportation expenses (including mileage allowances);
(iii) Relocation expenses;
(iv) Storage expenses;
(v) Post differentials;
(vi) Foreign areas allowances;
(vii) Education allowances for dependents;
(viii) Separate maintenance allowances;
(ix) Post allowances and supplementary post allowances;
(x) Home service transfer allowances;
(xi) Quarters allowances;
(xii) Cost-of-living allowances (COLA); and
(xiii) Per diem allowances.

(2) In the case of members of the uniformed services:
(i) Position pay (Navy only);
(ii) Basic allowance for quarters;
(iii) Basic allowance for subsistence;
(iv) Station allowances;
(v) Armed Forces health professions scholarship stipends;
(vi) Travel and transportation allowances;
(vii) Dislocation allowances;
(viii) Family separation allowances;
(ix) ROTC subsistence allowance;
(x) Allowance for recruiting expenses;
(xi) Education allowances for dependents;
(xii) Clothing allowances for enlisted personnel; and
(xiii) Uniform allowances for General and Flag officers and for the Surgeon General of the United States.

(3) In the case of volunteers serving under either the Domestic Volunteer Service Act of the Peace Corps Act, all allowances, including, but not limited to, readjustment allowances, stipends, and reimbursements for our-of-pocket expenses.

(b) Remuneration for employment would not include payments made pursuant to:

(1) The provisions of the Federal Tort Claims Act, as amended, sections 1346(b) and 2671 *et seq.*, of title 28 of the United States Code;

(2) Payments or portions of payments made by the Veterans Administration pursuant to section 501–560 of title 38 of the United States Code, in which the entitlement of the payee is based on non-service-connected, disability or death, age, and need;

(3) Refunds in connection with tax overpayments from the Internal Revenue Service;

(4) Grants;

(5) Fellowships; and

(6) Contracts, except where the contractor recipient is a Federal employee.

§ 581.105 Exclusions.

In determining the amount of any "moneys due from, or payable by, the United States" to any individual, there shall be excluded amounts which—

(a) Are owed by such individual to the United States;

(b) Are required by law to be deducted from the remuneration or other payment involved, including, but not limited to deductions for programs under title II of the Social Security Act, as amended, Federal employment taxes, amounts mandatorily withheld for the U.S. Soldiers' and Airmens' Home, and fines and forfeitures ordered by court-martial or by a commanding officer;

(c) Are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such individual claimed all dependents to which he/she was entitled (the withholding of additional amounts pursuant to section 3402(i) of title 26 of the United States Code may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding);

(d) Are deducted as health insurance premiums, including, but not limited to, amounts deducted from civil service annuities for Medicare where such deductions are requested by the Social Security Administration;

(e) Are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage). (Amounts withheld as Survivor Benefit Plan or Retired Serviceman's Family Protection Plan payments are considered to be normal retirement contributions. Amounts voluntarily contributed toward civil service annuity benefits under section 8343 of title 5 of the United States Code, are considered to be supplementary); or

(f) Are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage). (Both Servicemen's Group Life Insurance and "regular" Federal Employees' Group Life Insurance premiums are considered to be normal life insurance premiums; "optional" Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment, such as National Service Life Insurance, are considered to be supplementary.)

§ 581.196 Future Payments.

Moneys paid by a governmental entity which may be due and payable to an individual at some future date, shall not be considered due such individual unless and until all of the conditions necessary for payment of the moneys to the individual have been met, including, but not limited to, the following conditions which might apply: (a) Retirement; (b) resignation from a position in the Federal service; (c) application for payment of moneys by the individual.

Subpart B—Service of Process

§ 581.201 Official to receive process.

The head of each governmental entity shall designate an official or officials, identified by title of position, mailing address, telephone number, and, if applicable, geographical area or region, upon whom service of legal process against the entity may be accomplished in order to facilitate and expedite the

V 4 4 O C 1 9 7 9 9 UMI

entity's compliance with such legal process.[1]

§ 581.202 Service of process.

(a) A party using this part shall serve on the designated official of the governmental entity which has moneys due and payable to the obligor, legal process which names the governmental entity as the garnishee.

(b) Service of legal process brought for the enforcement of an individual's obligation to provide child support and/or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated in the appendix to this part for receipt of such service of process (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Service upon a United States Attorney is not valaid service of process. The governmental entity shall make every reasonable effort to facilitate proper service of process on the official(s) designated to receive legal process for the governmental entity. If, for example, legal process is not directed to any particular official within the entity, or if it is addressed to the wrong official, the recipient shall, nonetheless, deliver the legal process to the individual who has been designated by the entity to receive service.

(c) Where it does not appear from the face of the process received that it has been brought to enforce the legal obligation(s) authorized in paragraphs (d) and/or (e) of § 581.102, the process must (1) be accompanied by a certified copy of the court order establishing such legal obligation(s), or (2) where the State or local law provides for the issuance of legal process without a support order, such other documentation establishing that it was brought to enforce legal obligation(s) authorized in paragraphs (d) and/or (e) of § 581.102, must be submitted.

(d) In order for the party who caused the legal process to be served to receive the additional five (5) percent provided for in either § 581.402 (a) or (b), it must appear on the face of the legal process that the process was brought for the enforcement of a support order with respect to a period which is twelve (12) weeks in arrears, or a certified copy of the support order (or other evidence acceptable to the head of the governmental entity), establishing this fact, must be submitted.

§ 581.203 Information minimally required to accompany legal process.

(a) Sufficient identifying information must accompany the legal process in order to enable processing by the governmental entity named. Therefore, the following identifying information, if known, is requested:

(1) Full name of the obligor;

(2) Date of birth of the obligor;

(3) Employment number, social security number, or civil service retirement claim number of the obligor;

(4) Component of the governmental entity for which the obligor works, and the official duty station or worksite of the obligor; and

(5) Status of the obligor, e.g., employee, former employee, or annuitant.

(b) In the event that the information submitted is not sufficient to identify the obligor, the legal process shall be returned directly to the court, or other authority, with an explanation of the deficiency. However, prior to returning the legal process, if there is sufficient time, an attempt should be made to inform the party who caused the legal process to be served, or his/her representative, that the legal process will not be honored unless adequate identifying information is supplied. If legal process is returned to the court, or other authority, the governmental entity may wish to send copies of the returned documents to the United States Attorney for the district embracing the jurisdiction from which the legal process issued.

Subpart C—Compliance With Process

§ 581.301 Suspension of payment.

Upon proper service of legal process, together with all supplementary documents and information as required by §§ 581.202 and 581.203, the head of the governmental entity or his/her designee, shall identify the obligor to whom that governmental entity holds moneys due and payable as remuneration for employment, and shall suspend payment of such moneys for the amount necessary to permit compliance with the legal process in accordance with this part and the law of the jurisdiction from which it was issued. However, if the governmental entity receives a subpoena, summons, or other document which merely requests information concerning moneys due an obligor, no suspension action shall be taken.

§ 581.302 Notification of obligor.

(a) As soon as possible, but not later than fifteen (15) calendar days after the date of valid service of legal process, the agent designated to accept legal process shall send to the obligor, at his or her duty station or last known home address, written notice:

(1) That such process has been served, including a copy of the legal process, together with such other documents as may be required by § 581.202;

(2) Of the maximum garnishment limitations set forth in § 581.402, with a request that the obligor submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation; and

(3) Of the percentage that will be deducted if he/she fails to submit the necessary documentation.

(b) The governmental entity may provide the obligor with the following additional information:

(1) Copies of any other documents submitted in support of the legal process;

(2) That the United States does not represent the interests of the obligor in the pending legal proceedings;

(3) That the obligor may wish to consult legal counsel regarding defenses to the legal process that he or she may wish to assert; and

(4) That obligors in the military service may avail themselves of the protections provided in sections 520, 521, and 523 of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 U.S. Code App. §§ 501 *et seq.*).

§ 581.303 Response to legal process or interrogatories.

(a) Except under the circumstances set forth in paragraph 581.305(a), whenever the agent designed to accept service is validly served with legal process, the agent shall respond within thirty (30) calendar days, or within such longer period as may be prescribed by applicable State or local law, after the date valid service is made. Interrogatories which accompany legal process shall also be responded to within this time period.

(b) If State or local law authorizes the issuance of interrogatories prior to or after the issuance of legal process, the agent shall respond to said interrogatories within thirty (30) calendar days after receipt thereof, provided that the document(s) required by § 581.202(c) have been presented.

§ 581.304 Nonliability for disclosure.

No Federal employee whose duties include responding to interrogatories pursuant to § 581.303(b), shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or an account of, any disclosure of information made by him/her in connection with the carrying out of any of his/her duties which pertain (directly or indirectly) to the answering of any such interrogatory.

§ 581.305 Honoring legal process.

(a) The governmental entity shall comply with legal process, except where such legal process cannot be complied with because:

(1) It does not, on its face, conform to the laws of the jurisdiction from which it was issued;

(2) The legal process would require the withholding of funds not deemed moneys due from, or payable by, the United States as remuneration for employment;

(3) The legal process is not brought to enforce legal obligation(s) for alimony and/or child support;

(4) It does not comply with the mandatory provisions of this part;

(5) An order of a court of competent jurisdiction enjoining or suspending the operation of the legal process has been served on the governmental entity; or

(6) The governmental entity has been directed by the Department of Justice not to comply with the legal process.

(b) Under the circumstances set forth in paragraph 581.305(a), the governmental entity shall immediately refer the matter to the United States Attorney for the district embracing the jurisdiction from which the legal process issued, and shall inform the party who caused the legal process to be served, or his/her representative, that the legal process will not be honored. To ensure uniformity in the executive branch, governmental entities which have statutory authority to represent themselves shall coordinate their representation with the United States Attorney. When simple administrative matters are involved concerning undisputed problems such as the lack of sufficient identification of the obligor or the lack of proper authorization for the legal process, the governmental entity may file an answer directly with the court, setting forth its objections to the legal process, without referring the matter to the United States Attorney.

(c) In the event that a governmental entity is served with more than one legal process with respect to the same moneys due or payable to any individual, then such moneys shall be available to satisfy such processes on a first-come, first-served basis, provided that in no event will the total amount garnisheed for any pay or disbursement cycle exceed the applicable limitation set forth in § 581.402.

(d) Neither the United States, any disbursing officer, nor governmental entity shall be liable with respect to any payment made from moneys due from, or payable by, the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this part. However, where a governmental entity negligently fails to comply with legal process, the Federal Government shall be liable to the same extent that a private person would be liable.

(e) Governemental entities affected by legal process served for the enforcement of an individual's child support and/or alimony payment obligations shall not be required to vary their normal pay or disbursement cycles in order to comply with such legal process. However, legal process which is received too late to be honored during the disbursement cycle in which it is received, shall be fully honored to the extent that the legal process may, in compliance with this part, be satisfied from the next payment due the obligor. The fact that the legal process may have expired during this period would not relieve the governmental entity of its obligation to fully comply.

§ 581.306 Lack of moneys due from, or payable by, a governmental entity served with legal process.

(a) When legal process is served on a governmental entity, and the individual identified in the legal process as the obligor is found not to be entitled to moneys due from, or payable by, the governmental entity, the entity shall follow the procedures set forth in the legal process for such contingency or, if no procedures are set forth therein, shall return such legal process to the court, or other authority from which it was issued, and advise such court, or other authority, that no moneys, the entitlement to which is based upon remuneration for employment are due from, or payable by, the governmental entity to the named obligor.

(b) Where it appears that remuneration for employment due the obligor is only temporarily exhausted or otherwise unavailable, the court, or other authority, shall be fully advised as to why, and for how long, said remuneration will be unavailable, if such information is known by the governmental entity.

(c) In instances where an obligor employee separates from his/her employment with a governmental entity which is presently honoring a continuing legal process, the entity shall inform the party who caused the legal process to be served, or his/her representative, and the court, or other authority, that the payments are being discontinued. In cases where the obligor has retired, separated and requested a refund of retirement contributions, transferred, or is receiving benefits under the Federal Employee's Compensation Act, the entity shall state, if known, the new disbursing governmental entity.

Subpart D—Consumer Credit Protection Act Restrictions

§ 581.401 Aggregate disposable earnings.

The "aggregate disposable earnings", when used in reference to the amounts garnishable under the Consumer Credit Protection Act for child support and/or alimony, are the obligor's remuneration for employment less those amounts deducted in accordance with § 581.105.

§ 581.402 Maximum garnishment limitations.

Pursuant to section 1673(b)(2)(A) and (B) of title 15 of the United States Code, as amended, unless a lower maximum garnishment limitation is provided by applicable State or local law, the maximum part of the aggregate disposable earnings subject to garnishment to enforce any support orders shall not exceed:

(a) Fifty (50) percent of such obligor's aggregate disposable earnings for any workweek, where the obligor asserts by affidavit, or by other acceptable evidence (e.g., a marriage license, birth certificate, or adoption order), that he/she is supporting a spouse and/or dependent child (other than the [former] spouse and/or child with respect to whose support such order is issued), except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order with respect to a period which is twelve (12) weeks prior to such workweek.

(b) Sixty (60) percent of such obligor's aggregate disposable earnings for any workweek, where the obligor fails to assert by affidavit, or establishes by other acceptable evidence, that he/she is supporting a spouse and/or dependent child (other than a [former] spouse and/or child with respect to whose support such order is issued), except that an additional five (5) percent will apply if it appears on the face of the legal process, or from other evidence submitted in accordance with § 581.202(d), that such earnings are to enforce a support order with respect to a period which is twelve (12) weeks prior to such workweek.

[1] The head of each governmental entity shall, within 45 days of the publication of these proposed regulations, provide the Office of Personnel Management with the information requested in section 581.201, in order that this information may be included in the appendix of these regulations when they are published as a final rule.

V 4 4 0 C 1 9 7 9 UMI

(c) Where, pursuant to § 581.402(a), an obligor submits evidence that he/she is supporting a second spouse and/or child, copies of such evidence shall be sent by the governmental entity to the garnishor, or his/her representative, together with notification that the obligor's support claim will be honored. If the garnishor disagrees with the obligor's support claim, he/she should immediately refer the matter to the court, or other authority, for resolution.

Supart E—Implementation by Governmental Entities

§ 581.501 Rules, regulations, and directives by governmental entities.

Appropriate officials of all governmental entities shall issue implementing rules, regulations, and directives that are consistent with this part.

[FR Doc. 79-32321 Filed 10-18-79, 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 113

Viruses, Serums, Toxins, and Analogous Products; Standard Requirement for Pasteurella Multocida Bacterin, Avian Isolate, Type 4

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the regulations by adding new standard requirements for purity, safety, potency, and efficacy to be met by all biological products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4. It would also delete the general requirements for Pasteurella Multocida Bacterins, Avian Isolates, that are presently found in the standards. Such general requirements would be incorporated in the introductory paragraphs of the standard requirements for Pasteurella Multocida Bacterin, Avian Isolates, Types 1, 3, and 4. Safety test procedures presently found in the standard requirements for types 1 and 3 isolates would also be revised to be consistent with the proposed new standards for the type 4 isolate.

DATE: Comments must be received on or before December 18, 1979.

ADDRESS: Interested parties are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT:
Dr. R. J. Price, 301–436–8245.

SUPPLEMENTARY INFORMATION: Standard requirements consist of test methods, procedures, and criteria established by Veterinary Services (VS) for evaluating biological products for purity, safety, potency, and efficacy. Until such standard requirements are developed by VS and are codified in the regulations (9 CFR Part 113), test methods, procedures, and criteria to be used in the evaluation of a product are developed by the licensee and are written into an Outline of Production, which is required to be filed with VS.

When standard requirements for a biological product have been developed by VS, they are proposed for codification in the regulations. Such codfication assures uniformity and general applicability of such standard requirements to all licensees and to the general public. This proposed amendment contains the standard requirements for evaluating all licensed products containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

The codification of this new standard requirement would make most of the general requirements for Pasteurella Multocida Bacterins, Avian Isolates, presently found in § 113.101 obsolete. The obsolete general requirements would, therefore, be deleted and those general requirements that remain applicable would be included in the revised § 113.101 and also would be incorporated in the introductory paragraphs of §§ 113.102 and 113.103, which contain standard requirements for Pasteurella Multocida Bacterin, Avian Isolates, Types 1 and 3, respectively.

The safety test contained in §§ 113.102 and 113.103 would be revised to provide flexibility in order to avoid conducting retests when a test bird dies accidentally or shows other unfavorable reactions that are not attributable to the product. This revision will make the present standards for Pasteurella Multocida Bacterin, Avian Isolates, Types 1 and 3, consistent with the proposed new standard for Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

The first letter in each word of the headings for §§ 113.101, 113.102, and 113.103 is to be capitalized.

1. Section 113.101 would be revised to read:

§ 113.101 Pasteurella Multocida Bacterin, Avian Isolate, Type 4.

Pasteurella Multocida Bacterin, Avian Isolate, Type 4, shall be prepared with cultures of *Pasteurella multocida*, avian isolate, type 4 (Little and Lyons classification), which have been inactivated and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian Isolate, Type 4, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency, as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) *Purity test.* Final container samples of completed product shall be tested for viable bacteria and fungi, as provided in 9 CFR 113.26.

(b) *Safety test.* Observation of the vaccinated turkeys during the prechallenge period of the potency test provided in paragraph (c) of this section shall consitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one turkey, test results shall be determined by observing the remaining 20 turkeys. If unfavorable reactions that are not attributable to the product occur in two or more turkets, the test shall be declared inconclusive and repeated; provided that, if the test is not repeated, the serials shall be declared unsatisfactory.

(c) *Potency test.* Bulk or final container samples of completed product shall be tested for potency of the type 4 strain, using the two-stage test provided in this paragraph. Turkeys at least 6 weeks of age obtained from the same source and hatch shall be properly identified and used, as provided in this paragraph.

(1) *Vaccinates.* Each of not more than 21 turkeys shall be injected with the dose and by the route recommended on the label. A second dose shall be injected after 3 weeks and the turkeys observed for an additional 2-week prechallenge period.

(2) *Positive controls.* Each of not more than 21 turkeys shall be injected with two doses of a reference bacterin available from Veterinary Services upon request.

(3) *Unvaccinated controls.* Each of not more than 21 turkeys shall be held as controls.

(4) *Challenge.* Not less than 14 days after the second injection, each of 20 vaccinates, each of 20 positive controls, and each of 20 unvaccinated controls shall be challenged intramuscularly with virulent *Pasteurella multocida* strain P–1662, type 4 (Little and Lyons classification), and observed daily for a 14-day postchallenge period. Only dead birds shall be considered in evaluating the product.

(5) If seven or more positive controls die, the test may be declared inconclusive and repeated.

(6) If 14 or more unvaccinated controls die, the test is valid and stage-one potency test results shall be evaluated according to stage one of the following table:

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of dead vaccinates for—	
			Satisfactory serial	Unsatisfactory serial
1	20	20	4 or less	7 or more.
2	20	40	11 or less	12 or more.

(7) The serial shall pass or fail based on the stage-one results of the potency test; provided that, if five or six vaccinates die in the first stage, the second stage shall be required.

(8) The second stage shall be conducted in a manner identical to the first stage. The serial shall be evaluated according to stage two of the table. On the basis of accumulated results, a serial shall either pass or fail the second stage.

2. Section 113.102 would be amended by revising the introductory paragraph and paragraph (b) to read:

§ 113.102 Pasteurella Multocida Bacterin, Avian Isolate, Type 1.

Pasteurella Multocida Bacterin, Avian Isolate, Type 1, shall be prepared with cultures of *Pasteurella multocida*, avian isolate, type 1 (Little and Lyons classification), which have been inactivated and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian Isolate, Type 1, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) * * *

(b) *Safety test.* Observation of the vaccinated chickens during the prechallenge period of the potency test provided in paragraph (c) of this section shall constitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one chicken, test results shall be determined by observing the remaining 20 chickens. If unfavorable reactions that are not attributable to the product occur in two or more chickens, the test shall be declared inconclusive and repeated; provided that, if the test is not repeated, the serial shall be declared unsatisfactory.

* * * * *

3. Section 113.103 would be amended by revising the introductory paragraph and paragraph (b) to read:

§ 113.103 Pasteurella Multocida Bacterin, Avian Isolate, Type 3.

Pasteurella Multocida Bacterin, Avian Isolate, Type 3, shall be prepared with cultures of *Pasteurella multocida*, avian isolate, type 3 (Little and Lyons classification), which ave been inactivated and are nontoxic. Each serial of biological product containing Pasteurella Multocida Bacterin, Avian Isolate, Type 3, shall meet the applicable requirements in § 113.85 and shall be tested for purity, safety, and potency, as prescribed in this section. A serial found unsatisfactory by any prescribed test shall not be released.

(a) * * *

(b) *Safety test.* Observation of the vaccinated turkeys during the prechallenge period of the potency test provided in paragraph (c) of this section shall constitute the safety test. If unfavorable reactions that are attributable to the product occur, the serial is unsatisfactory. If unfavorable reactions that are not attributable to the product occur in one turkey, test results shall be determined by observing the remaining 20 turkeys. If unfavorable reactions that are not attributable to the product occur in two or more turkeys, the test shall be declared inconclusive and repeated; provided that, if the test is not repeated, the serial shall be declared unsatisfactory.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C. this 15th day of October 1979.

Note.—This proposal has been reviewed under the USDA criteria established to implement E. O. 12044, "Improving Government Regulations." Under those criteria, this action has been designated for Agency oversight. A Draft Impact Analysis Statement has been prepared and is available from Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828–A, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

M. T. Goff,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 79-32194 Filed 10-18-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 211

[Docket No. ERA-R-79-25A]

Amendments to Special Rule No. 9 Providing for the Special Allocation of Middle Distillates and to the Provisions Concerning the Allocation of Motor Gasoline for Priority Uses

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Further Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) is proposing to amend Special Rule No. 9 to Subpart A, Part 211 to extend its effectiveness indefinitely. This action would promote energy efficiency by ensuring the future availability of diesel fuel for surface passenger mass transportation.

ERA also is proposing to amend § 211.51 to revise the definition of passenger transportation services to include van-pooling. This proposal would assist those engaged in van-pooling, an energy-efficient alternative to the private automobile, in obtaining gasoline during periods of tight supplies.

In addition, ERA is proposing to amend § 211.103 to provide for the allocation of gasoline on a first priority basis to a firm which resells gasoline solely to end-users engaged in an activity which § 211.103 establishes as a first priority use. This action would assist end-users which are not bulk purchasers but which nevertheless are engaged in a first priority activity, such as van-pooling or taxi service, in obtaining adequate supplies of gasoline.

DATES: Comments by December 21, 1979, 4:30 p.m.; Requests to speak by December 4, 1979, 4:30 p.m.; Hearing date: December 13, 1979, 9:30 a.m.

ADDRESSES: Comments, requests to speak, copies of oral statements to Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA–R–79–25A, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, Room 2222–A, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, N.W., Washington, D.C. 20461, (202) 634–2170.

William E. Caldwell (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–8034.

Alan T. Lockard (Office of Fuels Regulation), Economic Regulatory Administration, Room 6222, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254–7422.

Ben McRae (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252–6739.

SUPPLEMENTARY INFORMATION:

I. *Background and Proposals*
II. *Comment Procedures*
III. *Other Matters*

I. Background and Proposals

Special Rule No. 9 provides that middle distillates for surface passenger mass transportation shall be supplied on a priority basis. We have adopted a final rule to extend the effectiveness of this Rule through January 31, 1980 (44 FR 56868, October 2, 1980). The discussion of Special Rule No. 9 and its extension which accompanies that final rule is incorporated herein by reference.

We believe that the reasons that supported extending Special Rule No. 9 through January 31, 1980 may also support extending it indefinitely. Accordingly, we are proposing to delete from section (1) of Special Rule No. 9 the provision that specifies a date for its termination.

Several of the comments on Special Rule No. 9 favored DOE's giving regulatory preference to van-pools. The Department of Transportation, in its comments, cited van-pooling as an energy-efficient alternative to the private automobile, particularly for commuting to and from work.

We agree that van-pooling should receive a regulatory preference. Since most vehicles used for van-pooling are gasoline powered, the appropriate regulatory change would be to include van-pooling among those activities that receive gasoline on a first priority basis. Such an action would directly benefit bulk purchasers engaged in van-pooling. In addition, each State would be able to utilize the provisions of § 211.10(d) to provide for preferential treatment of end-users that were engaged in van-pooling but were not bulk purchasers. Moreover, a State could use our definition of van-pooling to establish preferences for such activities in State programs such as odd-even or other allocation plans.

Accordingly, we are proposing to amend the definition of passenger transportation service in § 211.51 to include van-pooling. We also are proposing to include a specific definition of van-pooling in § 211.51. Van-pooling would be defined as eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers.

Section 211.103 does not provide for the allocation of gasoline on a first priority basis to resellers or to end-users which are not bulk purchasers. We have been informed of several situations, particularly with respect to taxi service, in which a firm is a bulk purchaser of gasoline and resells that gasoline solely to end-users which would qualify for an allocation on a first priority basis if such end-users were bulk purchasers. Providing gasoline on a first priority basis in such situations appears appropriate since the gasoline would be used in a first priority activity and would be purchased by a firm to which it would be practicable to supply gasoline on a first priority basis. Accordingly, we are proposing to revise § 211.103(a) to provide that a firm which is a bulk purchaser and which resells gasoline solely to end-users engaged in an activity listed in § 211.103(b) shall be deemed to be a wholesale purchaser-consumer for purposes of determining the allocation level for that firm.

II. Comments Procedures

A. Written Comments

You are invited to participate in this rulemaking by submitting views, data, or arguments with respect to the proposals set forth in this notice. Comments should be submitted to the address set forth in the "ADDRESSES" section of this notice and should be identified on the outside with the docket number and the designation "Special Rule No. 9." Fifteen copies should be submitted. All comments received by December 21, 1979 and all relevant information will be considered before final action is taken on the proposed amendments. All comments received will be available for public inspection in the DOE Reading Room GA–152, 1000 Independence Avenue, SW., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

If you submit any information or data you believe to be confidential, it must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of the information or data and to treat it according to our determination.

B. Public Hearing

1. *Requesting opportunity for oral statement.* The times and places for the hearing are indicated in the "DATES" and "ADDRESSES" sections of this notice. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the first business day following the date therefore shown above.

You may make a written request for an opportunity to make an oral presentation at the hearing. You should be prepared to describe the interest concerned; if appropriate, to state why you are a proper representative of a group or class of persons that has such an interest; and to give a concise summary of the proposed oral presentation and a phone number where you may be contacted through the day before the hearing.

If you are selected to be heard, you will be so notified before 4:30 p.m. December 7, 1979, and must submit 100 copies of your statement before 4:30 p.m., December 11, 1979. Statements for the public hearing should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2313, Docket No. ERA–R–79–25A, 2000 M Street, NW., Washington, D.C. 20461.

2. *Conduct of the hearing.* We reserve the right to select the persons to be heard at the hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An ERA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Questions to be asked of any person making a statement at the hearing may be submitted to the Office of Public Hearings Management at the above address before 4:30 p.m., December 12, 1979. You may also submit any questions, in writing, to the presiding officer at the time of the hearing. The ERA or, if the question is submitted at the hearing, the presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained and made available for inspection at the DOE Freedom of Information Office, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. You may purchase copies of the transcript from the reporter.

IV. Other Matters

In accordance with Section 7(a)(1) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, as amended, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency (EPA) for his comments concerning the impact of this proposal on the quality of the environment. The EPA Administrator has responed that EPA does not foresee this Rule having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of EPA.

We have determined that the proposals contained in this notice will not have a major impact as that term is defined in Section 9 of the DOE Directive issued December 20, 1978, (44 FR 1032, January 3, 1979) to implement Executive Order 12044, and, therefore, no regulatory analysis pursuant to Executive Order 12044 is required.

Pursuant to the requirements of Section 404 of the Department of Energy Organization Act (Pub. L. 95–91), upon issuance of this proposed rule, a copy of this Notice will be referred to the Federal Energy Regulatory Commission for a determination, in its discretion, whether this proposed rule may significantly affect any function within the Commission's jurisdiction pursuant to section 412(a)(1), (b) and (c)(1) of that Act. The Commission will have until December 21, 1979, the date the public comment period closes, to make this determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. , 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing, Part 211 of Chapter II, of Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below, effective February 1, 1980.

Issued in Washington, D.C., October 12, 1979.

David J. Bardin,

Adminstrotor, Economic Regulatory Administration.

1. The Appendix to Subpart A of Part 211 is amended by modifying Special Rule No. 9 to read as follows:

Appendix—Special Rule No. 9

Special Allocation of Middle Distillates for Surface Passenger Mass Transportation

1. *Scope.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 of Part 210 of this chapter and of paragraphs (b)(5) and (b)(6) of § 211.1 of this Part, this Special Rule establishes a special allocation program for middle distillates.

2. *Definitions.* For purposes of this Special Rule, the relevant definitions of § 211.51 of Part 211 of this chapter shall apply, except that the following definitions shall apply:

"Base period" means the first calendar month prior to May 1979 in which a wholesale purchaser purchased or obtained middle distillate volumes.

"Current requirements" means, (a) with respect to a wholesale purchaser-consumer or end-user, the volume of middle distillates needed by the wholesale purchaser-consumer or end-user to meet its present supply requirements for middle distillates for use in surface passenger mass transportation, but does not include any amounts which the wholesale purchaser-consumer or end-user purchases or obtains for resale or accumulates as an inventory in excess of that purchaser's customary inventory maintained in the conduct of its normal business practices; or, (b) with respect to a wholesale purchaser-reseller, the volume of middle distillates needed by the wholesale purchaser-reseller to meet its present requirements to supply middle distillates to wholesale purchaser-consumers, end-users or other wholesale purchaser-resellers for ultimate use in surface passenger mass transportation.

"Middle distillates" means any of the following, as defined in § 212.31 of Part 212 of this chapter: No. 1 heating oil, No. 1–D diesel fuel, No. 2 heating oil, No. 2–D diesel fuel and kerosene.

"Surface passenger mass transportation" means any activity in which passengers are transported by means of a commuter bus or rail system (including a metropolitan mass transit system), a school bus, a charter bus, a commuter ferry, or an intercity passenger bus or train.

3. *General Rule.* Each supplier of middle distillates shall supply all wholesale purchaser-consumers, all end-users, and all wholesale purchaser-resellers with their current requirements for middle distillates which have been certified to that supplier in accordance with the provisions of this Special Rule.

4. *Certification Requirements.*—(a) *End-users.* An end-user may certify to any supplier its current requirements for middle distillates for surface passenger mass transportation.

(b) *Wholesale purchaser-consumers.* A wholesale purchaser-consumer may certify to its base period supplier its current requirements for middle distillates for ultimate use in surface passenger mass transportation.

(c) *Wholesale purchaser-resellers.* A wholesale purchaser-reseller may certify to its base period supplier its current requirements for: (i) Any end user; (ii) any wholesale purchaser-consumer it supplied during the base period (in accordance with paragraph (d) of this section); (iii) any wholesale purchaser-consumer it agrees to supply under section (7); (iv) any assigned purchasers, and (v) any certification for volumes to be supplied pursuant to this Special Rule.

(d) *Purchasers with more than one base period supplier.* A purchaser or supplier which purchased or obtained middle distillates during the base period from more than one supplier may certify to each such supplier a percentage of its current requirements for surface passenger mass transportation which does not exceed the percentage of the total volumes of middle distillates purchased or obtained by the purchaser from that supplier in the base period.

5. *Validation of Certifications.* In the event that a purchaser and its supplier cannot agree on the volume of middle distillates which the supplier is required to supply to the purchaser under this Special Rule, the purchaser may request validation of the required volume from the appropriate ERA Regional Office. From the time the supplier receives certification, the supplier shall supply the purchaser any volumes which are not in dispute. If ERA determines that the purchaser is entitled to volumes in excess of those supplied by the supplier during the period in which certification was in dispute, ERA may order the supplier to supply such increased

V 44 0C 19 79 7 9 UMI

requirements and to supply the purchaser with additional volumes of middle distillates equal to the amount the purchaser would have received if the increased requirements had been supplied during such period.

6. *Assignment of suppliers.* Any purchaser which is unable to purchase or obtain its total current requirements for ultimate use in surface passenger mass transportation may apply to the appropriate ERA Regional Office as provided in Subpart C of Part 205 of this chapter to be assigned a supplier: *Provided*, That, an end-user in a State in which there is a State Office must apply to that State Office as provided in Subpart Q of Part 205 of this chapter for the assignment of a supplier. The purchaser may be assigned one or more suppliers and the amount of its current requirements to be supplied by each supplier may be specified.

7. *Mutual agreements.* As an alternative to the procedures set forth in sections (5) and (6) of this Special Rule, a supplier of middle distillates may agree to supply that portion of the current requirements of a wholesale purchaser-consumer which has been unable to obtain the full amount of its current requirements from its base period suppliers.

8. *Normol business practices; non-discriminatory pricing.* The requirements of paragraphs (a) and (b) of § 210.62 of this chapter shall apply to suppliers to prohibit any practice or any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes and intent of this Special Rule.

* * * * *

§ 211.51 [Amended]

2. Section 211.51 is amended by the revision of the definition of "passenger transportation service" and the addition of a definition of "van-pooling" between the definitions of "utility" and "wholesale purchaser." The definitions shall read as follows:

* * * * *

"Passenger transportation service" means (a) air and surface facilities and services, including water and rail, for carrying passengers whether publicly or privately owned, including tour and charter buses and taxicabs, which serve the general public; (b) bus transportation of pupils to and from school and school sponsored activities; and (c) van-pooling.

* * * * *

"Van-pooling" means eight or more persons commuting on a daily basis to and from work by means of a vehicle with a seating arrangement designed to carry eight to fifteen adult passengers.

* * * * *

3. Paragraph (a) of § 211.103 is amended to read as follows:

§ 211.103 Allocation levels.

(a) *General.* The allocation levels listed in this section only apply to allocations made by suppliers to end-users which are bulk purchasers and to wholesale purchaser-consumers. Suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users which are bulk purchasers and wholesale purchaser-consumers which are entitled to purchase motor gasoline for all uses under an allocation level subject to reduction by application of an allocation fraction shall receive second priority. For purposes of this section, a firm which is a bulk purchaser of gasoline and resells gasoline solely to end-users for a use set forth in paragraph (b) of this section shall be deemed to be a wholesale purchaser-consumer.

* * * * *

[FR Doc. 79-32401 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 528

[No. 79-510]

Monitoring Fair Lending Practices

October 11, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed amendment.

SUMMARY: The Federal Home Loan Bank Board proposes to change the loan application register currently required to be kept by all member institutions. The purpose of the register is to enable the institutions and the Board to monitor compliance with fair lending statutes and regulations, and take corrective action if the data disclose patterns or practices which indicate that lending decisions may be based on characteristics of the borrower or property which are discriminatory when considered in granting or denying a loan. The proposed changes arise from a Board study and field experience which indicate that more information is needed to improve the register's usefulness as a monitoring tool.

DATE: Comments must be received by: December 18, 1979.

ADDRESS: Send comments to the Secretary to the Board, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: Patricia C. Trask, Attorney, Federal Home Loan Bank Board (202-377-6442), at the above address.

SUPPLEMENTARY INFORMATION:

Background. The Federal Home Loan Bank Board has statutory responsibility to enforce compliance by all Federal Home Loan Bank System member institutions with Federal laws which prohibit discrimination in lending. Among these are Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 *et seq.*, and the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. 1691 *et seq.* On May 18, 1978, the Bank Board adopted amendments to its rules and guidelines in 12 CFR Parts 528 and 531 to reflect changes in law and judicial interpretations that expanded the scope of lending practices that are discriminatory *per se* or in effect. These rules, as explained by the guidelines, prohibit, among other things, discrimination in lending on the basis of the age or location of the property securing the loan, and on the basis of a loan applicant's race, sex, marital status, age, receipt of income from a public assistance program, and good faith exercise of rights under the Consumer Credit Protection Act.

In order to monitor member institutions' compliance with statutes and regulations designed to prohibit discriminatory lending practices, the Board designed a loan application register ("register") to be kept by all member institutions. This register and the data analysis to follow were substituted for the monitoring system in Regulation B (12 CFR 202.2(z)) established by the Federal Reserve Board under ECOA. This was done to provide more comprehensive monitoring in the least burdensome and most efficient manner since the Board must regulate compliance with prohibitions contained not only in ECOA but other fair lending statutes. Also, the monitoring system was intended to fulfill the Board's commitment to strengthen its enforcement efforts in this area under the terms of a 1977 Settlement Agreement entered into by the Board with plaintiffs to terminate litigation in *National Urban League, et al.* v. *Comptroller of the Currency, et al.* in the United States District Court for the District of Columbia (C.A. No. 76-0718).

Since September 1, 1978, all Federal Home Loan Bank System member institutions have been required under 12 CFR 528.6 to maintain a loan application register in which is recorded information derived from written applications for dwelling-related loans. Prior to instituting the register now in use, the Board published for public comment a proposed register comprising more information than the register which was later adopted. (42 FR 58182; November 8, 1977).

When the Board adopted final amendment to its fair lending regulations and guidelines on May 18, 1978 (43 FR 11221; May 25, 1978), the amount of information to be compiled was reduced to that which is currently required. The Board concluded that although a shortened register would be appropriate for its initial effort, usefulness of all items would be evaluated. At that time, the Board gave institutions flexibility in choosing their own register formats, but in view of the continuing study by the Board, it was noted that the format would be changed if necessary. Further, the Board decided to initiate a study of data collected on a more detailed register to assess the need for revision of the register or substitution of some alternative monitoring tool.

Proposed chonges. The Board has now completed an extensive analysis of information obtained by Board examiners from every member institution in three SMSAs using an extensive data base, as well as information derived from discussion with examination and supervisory personnel in the field who have been working with the currently available material, and it finds that the existing register's value for monitoring can be markedly improved. Therefore, the Board is proposing to restructure some items in the register and add others, such as information concerning loan applicants' income and debt obligations. Another proposed change is that information would be recorded after disposition of a written loan application, rather than while it is pending. The Board believes that such a step would substantially reduce handling time and expense for the association and facilitate examiners' comparision of loans made during given time periods. The register would be redesignated "Loan-Application Disposition Register" (LADR) to reflect the change.

The data collected on the proposed register is designed to be used by examiners to detect specific instances and general patterns of possibly discriminatory lending. Analysis of the register would be for the purpose of flagging institutions for more extensive review of particular files, thereby reducing examination time and costs.

The Board is proposing that all institutions be required to use the same register format, to be developed by the Board. The format included in this proposal is intended only as an example of the type of format the Board may select, and comment is solicited on other types of formats, changes in codes or additional codes, and inclusion or exclusion of particular items of information. As proposed, the register would contain the items of information set forth below. Comment is specifically solicited on whether an additional item, borrower's net worth, should be included in order to aid in review of loan applications from older persons whose retirement of other income may be low but whose assets may support a requested loan.

1. Loan Purpose (e.g. purchase/owner-occupied, purchase/investment, home improvement)
2. Type of Financing (conventional, conventional/PMI, FHA, VA, and other)
3. Application Number (required; sequential as of filing time (by branch, if applicable) but not recorded until disposition)
4. Date of Application
5. Loan Number
6. Date of Disposition
7. Disposition
   (a) Approved as requested
   (b) Approved with changes; applicant accepts
   (c) Approved with changes; applicant refuses
   (d) Denied, decision based on applicant's income
   (e) Denied, decision based on other credit factors
   (f) Denied, decision based on collateral
   (g) Denied, decision based on other considerations
   (h) Withdrawn by applicant before decision
8. SMSA/County (use name of County only if outside of SMSA)
9. Census Tract
10. Zip Code
11. Applicant(s) Race
12. Applicant(s) Sex
13. Applicant(s) Marital Status
14. Applicant(s) Age
15. Combined Gross Monthly Income
16. Existing Monthly Debt (all installment debt with more than ten (10) remaining payments including monthly housing expenses, alimony, child support or maintenance payments)
17. Property Type (single family, 2-4 family dwellings, combination home and business property, 5 or more unit apartment (indicate the number of units in the parenthesis), land development inclusive of homes)
18. Purchase Price
19. Appraised Value
20. Year Built
21. Loan Amount
22. Loan-to-Value Ratio
23. Interest Rate (contract rate)
24. Maturity Term
25. Fees (pre-paid finance charges (as defined in Regulation Z) excluding interest)
26. Monthly Payment (principal, interest, taxes and insurance, and mortgage insurance if applicable)
27. Ratio Housing Expense to Gross Monthly Income
28. Ratio of Total Monthly Payment to Gross Monthly Income
29. Net Disposable Income (after total monthly expenses)
30. Source of Application (applicant referred by broker, construction firm, etc., or off-the street applicant)

All loan-related items above are based on the loan request if the application is not approved; if the application is approved, they are based on the approved terms whether or not the applicant accepts.

Accordingly, the Board proposes to amend paragraph (d) of 12 CFR 528.6 to read as follows:

§ 528.6 Monitoring information.

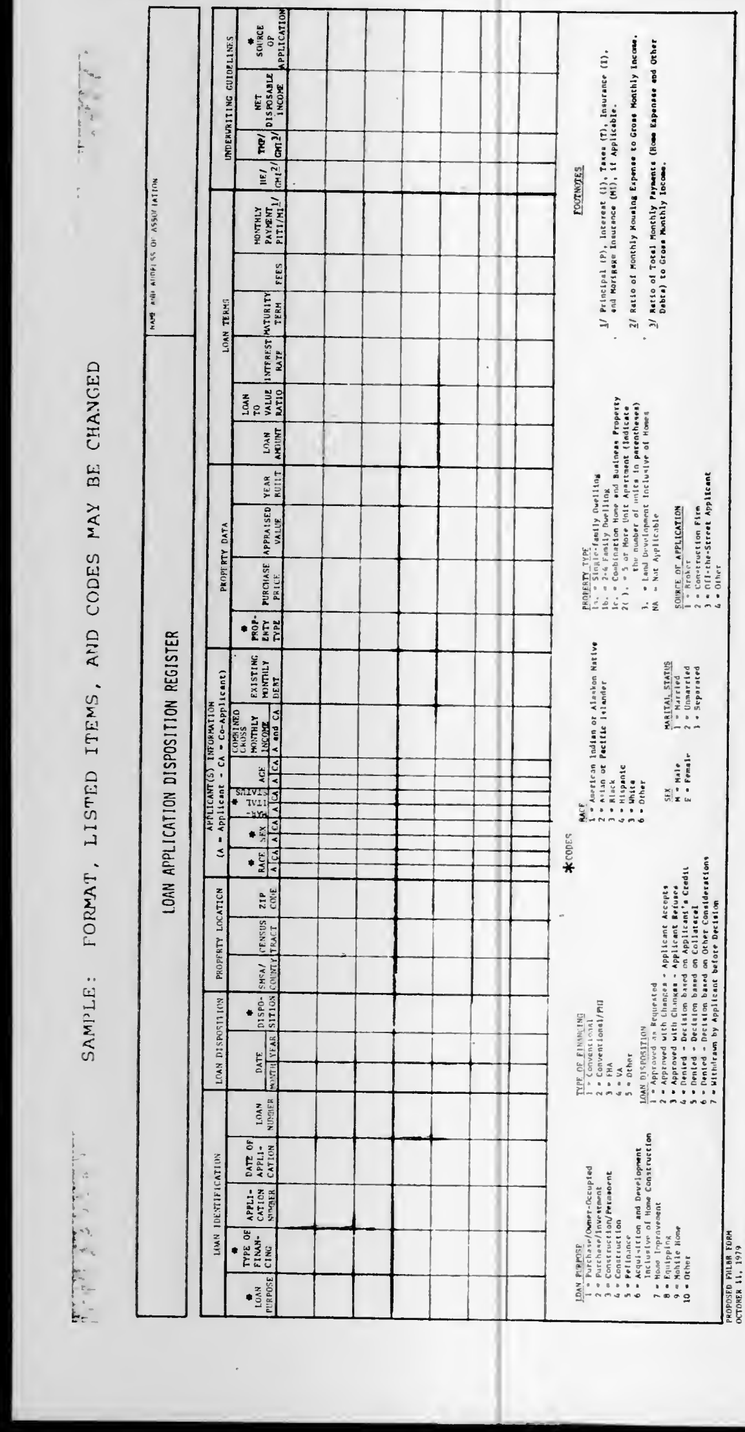
* * * * *

(d) *Loon-Application Disposition Register.* For examination purposes, each member institution shall maintain a current, readily accessible loan-application disposition register containing the information required by the Board on its prescribed form

* * * * *

BILLING CODE 6720-01-M

V 4 4 0 C 1 9 7 9 9 UMI



LOAN APPLICATION DISPOSITION REGISTER

NAME AND ADDRESS OF ASSOCIATION

| LOAN IDENTIFICATION | | | | | LOAN DISPOSITION | | | PROPERTY LOCATION | | | APPLICANT(S) INFORMATION (A = Applicant, C = Co-Applicant) | | | | |

and restoring the former provisions was published in the **Federal Register** of August 29, 1978 (43 FR 38575). In the preamble, the Commissioner agreed with the arguments presented in the exception filed by the Pennwalt Corp. Because the issues raised by the exception were not involved at the hearing, in the final regulation the Commissioner was unable to act on the proposal made in the exception. He said, however, that he expected to issue a separate new proposal along the lines suggested in the exception.

A letter dated October 12, 1978, on behalf of the American Bakers Association, recommended that a single level for iron in enriched bread be set at the current maximum of 12.5 mg per pound. The letter pointed out that the corresponding figure of 20 mg per pound for flour would allow enriched bread to be made from enriched flour. The agency considers it appropriate to propose adoption of the recommendation because it is consistent with the other changes that were made in the nutrient levels of enriched flour and enriched bread. The agency is proposing amendments of the standards to adopt these changes.

FDA has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d)(4) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 136—BAKERY PRODUCTS

1. In Part 136, by revising § 136.115(a)(1), to read as follows:

§ 136.115 Enriched bread, rolls, and buns.

(a) * * *

(1) Each such food contains in each pound 1.8 milligrams of thiamine, 1.1 milligrams of riboflavin, 15 milligrams of niacin, and 12.5 milligrams of iron.

* * * * *

PART 137—CEREAL FLOURS AND RELATED PRODUCTS

2. In Part 137, as follows:

a. By revising § 137.165(a), to read as follows:

§ 137.165 Enriched flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 20 milligrams of iron;

* * * * *

b. By revising § 137.185(a), to read as follows:

§ 137.185 Enriched self-rising flour.

* * * * *

(a) It contains in each pound 2.9 milligrams of thiamine, 1.8 milligrams of riboflavin, 24 milligrams of niacin, and 20 milligrams of iron;

* * * * *

Interested persons may, on or before December 18, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Consistent with the Office of Planning and Evaluation Interim Guidelines for Regulatory Analysis dated August 8, 1978, food standards are exempt from regulatory analysis as required by Executive Order 12044.

Dated: September 14, 1979.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 79–32217 Filed 10–18–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 145

[Docket No. 78N–0355]

Table Olives; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Notice of Termination of Consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International Standard for Table Olives." The response to the Food and Drug Administration (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing U.S. standards for table olives indicates there is neither sufficient interest nor need to warrant proposing U.S. standards for this food. FDA, therefore, has terminated consideration of developing a U.S. standard for table olives based on the Codex standard.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204. 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10724), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Table Olives" and to comment on the desirability and need for U.S. standards for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. At the request of a trade association, a notice extending the comment period to May 24, 1979 was published in the **Federal Register** of May 11, 1979 (44 FR 27691).

Four letters were received, one each from the United States Department of Agriculture (USDA), the U.S. Metric Board, a trade association, and a processor of olives in response to the advance notice of proposed rulemaking.

Two letters, one from a processor and the other from a trade association, stated that there is no need for U.S. standards for table olives. The association stated that domestic manufacturers are opposed to establishment of a standard.

The USDA and the U.S. Metric Board advanced no position on whether U.S. standards for this food are necessary, but, instead, spoke to other considerations. The trade association stated that Codex provisions allow the packing of olives at a much lower quality and flavor level than currently packed in California. It aded that Codex provisions would result in poor quality olives being imported into the United States and would degrade the reputation of olives. Both comments state that Codex would limit many of the ingredients used by both Spanish and United States olive packers and the economic impact would be serious to the olive industry, both domestic and foreign. Also, the processor states that incompatible size ranges would lead to excessive costs for necessary label changes and to confusion of consumers.

No data were submitted to support the allegation that the standard submitted by Codex would allow an inferior product in the marketplace; therefore, it is the agency's opinion that in the absence of support to the contrary, the general provisions of the Federal Food, Drug, and Cosmetic Act are sufficient to protect the American consumer.

Having considered the comments received, FDA has concluded that there is insufficient support to warrant proposing U.S. standards at this time for table olives under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards for table olives based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards for table olives upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard for table olives may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–32117 Filed 10–18–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 148

[Docket No. 78N–0359]

Quick Frozen Bilberries; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Notice of Termination of Consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International Standard for Quick Frozen Bilberries." The response to the Food and Drug Administration's (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing United States standards for quick frozen bilberries indicates there is neither sufficient interest nor need to warrant proposing U.S. standards for this food. FDA, therefore, has terminated consideration of developing U.S. standards for quick frozen bilberries based on the Codex standard.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St., SW., Washington, D.C. 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10733), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Quick Frozen Bilberries" and to comment on the desirability and need for U.S. standards for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Two letters were received in response to the advance notice of proposed rulemaking.

The United States Department of Agriculture (USDA) and the U.S. Metric Board advanced no position on whether U.S. standards are necessary for quick frozen bilberries, but, instead, spoke to other considerations.

Having considered the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing U.S. standards at this time for quick frozen bilberries under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards for quick frozen bilberries based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards for quick frozen bilberries upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food which complies with the requirements of the Codex standard for quick frozen bilberries may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–32115 Filed 10–18–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 168

[Docket No. 78N–0363]

Soft Sugars; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.

ACTION: Notice of Termination of Consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International Standard for Soft Sugars." The response to the Food and Drug Administration's (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing U.S. standards for soft sugars indicates there is neither sufficient interest nor need to warrant proposing U.S. standards for this food. FDA, therefore, has terminated consideration of developing U.S. standards for soft sugars based on the Codex standard.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C ST. SW., Washington, D.C. 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10747), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Soft Sugars" and to comment on the desirability and need for U.S. standards for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission. At the request of a trade organization, a notice extending the comment period to June 25, 1979 was published in the **Federal Register** of May 18, 1979 (44 FR 29106).

Five letters were received from three trade associations, a sugar producer, and the U.S. Metric Board in response to the advance notice of proposed rulemaking.

Four comments stated that there is no need for U.S. standards for soft sugars. The U.S. Metric Board advanced no position on whether U.S. standards for this food are necessary, but, instead, spoke to other considerations. One trade association supported by two comments stated that the consumer can obtain sugar of very high quality without relying on regulatory requirements and a

V 44 0C 1979 UMI

standard would benefit neither the household nor the industrial consumer, or the sugar manufacturer. It pointed out that the terms "soft white" and "soft sugar" are not the common or usual names for any of the sugar products distributed in the United States within the specifications provided by the standard.

Having considered all the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing U.S. standards at this time for soft sugars under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards for soft sugars based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards for soft sugars upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard for soft sugars may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-32116 Filed 10-18-79, 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 310

[Docket No. 79N-0176]

Stomach Acidifier Drug Products for Over-the-Counter Human Use; Proposed Rulemaking

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes that stomach acidifier drug products be classified in Category II as being not generally recognized as safe and effective or as being misbranded for over-the-counter (OTC) use. The document, based on the recommendations of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, is part of the ongoing review of OTC drug products conducted by the Food and Drug Administration (FDA).

DATES: Comments by January 17, 1980, and reply comments by February 18, 1980.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

SUPPLEMENTARY INFORMATION: In accordance with Part 330 (21 CFR Part 330), FDA received on June 23, 1978, a report of the Advisory Review Panel on OTC Miscellaneous Internal Drug Products. Under § 330.10(a)(6) (21 CFR 330.10(a)(6)), the Commissioner of Food and Drugs issues (1) a proposed regulation containing the monograph recommended by the Panel, which establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded (i.e., Category I); (2) a statement of the conditions excluded from the monograph because the Panel determined that they would result in the drugs not being generally recognized as safe and effective or would result in misbranding (i.e., Category II); (3) a statement of the conditions excluded from the monograph because the Panel determined that the available data are insufficient to classify such conditions under either (1) or (2) above (i.e., Category III); and (4) the conclusions and recommendations of the Panel. Because the Panel's recommendations on stomach acidifier drug products for OTC use contain no Category I or Category III conditions, FDA is therefore issuing the Panel's recommendations as a notice proposing Category II classification of stomach acidifier drug products for OTC use.

The unaltered conclusions and recommendations of the Panel are issued to stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations. The report has been prepared independently of FDA, and the agency has not yet fully evaluated the report. This document represents the best scientific judgment of the Panel members but does not necessarily reflect the agency's position on any particular matter contained in it. The Panel's findings appear in this document as a formal notice to propose classification of stomach acidifer drug products as Category II and to obtain public comment before the agency reaches any decision on the Panel's recommendations. Should the agency accept the Panel's recommendation that the ingredients in stomach acidifier drug products be classified as Category II, a regulation declaring the products to be new drugs within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) will be proposed for inclusion in Part 310, Subpart E (21 CFR Part 310, Subpart E). The agency is including the proposed regulation in this notice to obtain full public comment at this time. After FDA has carefully reviewed the comments and reply comments, submitted in response to this notice, the agency will issue a tentative final order on stomach acidifier drug products for OTC use.

Should FDA accept the conclusions and recommendations of the Panel, the agency would propose that stomach acidifier drug products be eliminated from the OTC market, effective 6 months after the date of publication of a final order in the **Federal Register**, regardless of whether further testing is undertaken to justify their future use.

In accordance with § 330.10(a)(2) (21 CFR 330.10(a)(2)), all data and information concerning stomach acidifier drug products for OTC use submitted for consideration by the Advisory Review Panel have been handled as confidential by the Panel and FDA. All such data and information will be put on public display in the office of the Hearing Clerk, Food and Drug Administration, after November 19, 1979, except to the extent that the person submitting it demonstrates that it still falls within the confidentiality provisions of 18 U.S.C. 1905 or section 301(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(j)). Requests for confidentiality should be submitted to William E. Gilbertson, Bureau of Drugs (HFD-510) (address given above).

A proposed review of the safety, effectiveness, and labeling of all OTC drugs by independent advisory review panels was announced in the **Federal Register** of January 5, 1972 (37 FR 85). The final regulations providing for this OTC drug review under § 330.10 were published and made effective in the **Federal Register** of May 11, 1972 (37 FR 9464). In accordance with these regulations, a request for data and information on all active ingredients used in OTC miscellaneous internal drug products was issued in the **Federal Register** of November 16, 1973 (38 FR 31696). In the **Federal Register** of August 27, 1975 (40 FR 38179), a further notice supplemented the initial notice with a detailed list of ingredients which included stomach acidifier ingredients.

The Commissioner appointed the following Panel to review the data and information submitted and to prepare a report under § 330.10(a) (1) and (5) on the safety, effectiveness, and labeling of the ingredients in those products: John W. Norcross, M.D., Chairman, Ruth Eleanor Brown, R.Ph. (resigned May 1976), Elizabeth C. Giblin, Ed.D., Richard D. Harshfield, M.D., Theodore L. Hyde, M.D., Claus A. Rohweder, D.O., Samuel O. Thier, M.D. (resigned November 1975), William R. Arrowsmith, M.D. (appointed March 1976), Diana F. Rodriguez-Calvert, Pharm.D. (appointed July 1976).

Representatives of consumer and industry interests served as nonvoting members of the Panel. Eileen Hoates, nominated by the Consumer Federation of America, served as the consumer liaison until September 1975, followed by Michael Schulman, J.D., Francis J. Hailey, M.D., served as the industry liaison, and in his absence John Parker, Pharm.D., served. Dr. Hailey served until June 1975, followed by James M. Holbert, Sr., Ph.D. All industry liaison members were nominated by the Proprietary Association.

The following FDA employees assisted the Panel: Armond M. Welch, R.Ph., served as the Panel Administrator. Enrique Fefer, Ph.D., served as the Executive Secretary until July 1976, followed by George W. James, Ph.D., until October 1976, followed by Natalia Morgenstern until May 1977, followed by Arthur Auer. Joseph Hussion, R.Ph., served as the Drug Information Analyst until July 1976, followed by Anne Eggers, R.Ph., M.S., until October 1977, followed by John R. Short, R.Ph.

To expand its medical and scientific base, the Panel called upon the following consultant for advice in areas which required particular expertise: Ralph B. D'Agostino, Ph.D. (statistics).

The Advisory Review Panel on OTC Miscellaneous Internal Drug Products was charged with the review of many categories of drugs, but due to the large number of ingredients and varied labeling claims, the Panel decided to review and publish its findings separately for several drug categories and individual drug products. The Panel presents its conclusions and recommendations for stomach acidifier drug products in this document. The review of all other categories of miscellaneous internal drug products will be continued by the Panel, and its findings will be periodically published in the **Federal Register** during the Panel's deliberations.

The Panel was first convened on January 13, 1975 in an organizational meeting. Working meetings were held on the following dates (the dates of those meetings which dealt with the topic of this document are in italics): February 23 and 24, *March 23 and 24, April 27 and 28,* June 22 and 23, September 21 and 22, November 16 and 17, 1975; February 8 and 9, *March 7 and 8,* April 11 and 12, *May 9 and 10,* July 11 and 12, *October 10 and 11,* 1976; *February 20 and 21,* April 3 and 4, May 15 and 16, July 9, 10, and 11, October 15, 16, and 17, December 2, 3, and 4, 1977; *January 28, 29, and 30, March 10, 11, and 12, May 5, 6, and 7,* and *June 23, 24, and 25,* August 4, 5, and 6, September 29, 30, and October 1, November 17, 18, and 19, 1978; January 19 and 20, and *March 2 and 3,* 1979.

The minutes of the Panel meetings are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration (address given above).

The following individuals were given an opportunity to appear before the Panel to express their views on stomach acidifier drug products for OTC use, either at their own or at the Panel's request: C. N. Christensen, M.D., John M. Holt, C. H. Sun, M.D.

No person who so requested was denied an opportunity to appear before the Panel.

The Panel has thoroughly reviewed the literature and data submissions, has listened to additional testimony from interested persons, and has considered all pertinent data and information submitted through June 23, 1978 in arriving at its conclusions and recommendations for OTC stomach acidifier drug products.

In accordance with the OTC drug review regulations (21 CFR 330.10), the Panel considered stomach acidifier drug products for OTC use with respect to the following three categories:

Category I. Conditions under which stomach acidifier drug products are generally recognized as safe and effective and are not misbranded for OTC use.

Category II. Conditions under which stomach acidifier drug products are not generally recognized as safe and effective or are misbranded for OTC use.

Category III. Conditions for which the available data are insufficient to permit final classification at this time.

The Panel concludes that all stomach acidifier active ingredients reviewed are safe, but none is effective for OTC use (Category II) in relieving the conditions of achlorhydria and hypochlorhydria.

A. Ingredients Reviewed by the Panel

Pursuant to the notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179) requesting the submission of data and information on OTC miscellaneous internal drug products, the following firms made submissions related to products used as stomach acidifiers:

1. *Submissions by Firms*

Firms	Marketed products
Eli Lilly & Co., Indianapolis, IN 46206	Acidulin.
Stuart Pharmaceuticals, Wilmington, DE 19899	Normacid.
Wintrhrop Laboratories, New York, NY 10016	Acidol-Pepsin

2. *Labeled ingredients contained in marketed products*—a. *Ingredients in drug products submitted to the Panel for review.*

Betaine hydrochloride
Glutamic acid hydrochloride
Pepsin

b. *Other ingredients reviewed by the Panel.* In addition to those ingredients contained in submitted products, the following ingredient, which was included in the **Federal Register** notice of August 27, 1975 (40 FR 38179) and for which no data were received, was reviewed by this Panel:

Diluted hydrochloric acid.

3. *Classification of ingredients*—a. *Active ingredients.*

Betaine hydrochloride
Glutamic acid hydrochloride
Diluted hydrochloric acid
Betaine hydrochloride and pepsin

b. *Inactive ingredients.*

None.

B. Referenced OTC Volume Submissions

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call for data notices published in the **Federal Register** of November 16, 1973 (38 FR 31696) and August 27, 1975 (40 FR 38179). All of the submitted information included in these volumes, except for those deletions which are made in accordance with the confidentiality provisions set forth in § 330.10(a)(2), will be put on display after November 19, 1979, in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

C. Definition of Terms

For the purposes of this document, the Panel agreed on the following definitions:

1. *Stomach acidifier.* An agent which adds hydrochloric acid to the stomach.

2. *Achlorhydria.* An absence of secretion of hydrochloric acid by the stomach even after suitable stimulation.

3. *Hypochlorhydria.* A subnormal secretion of hydrochloric acid by the stomach even after suitable stimulation.

4. *Diluted hydrochloric acid.* As described in the 19th Edition of the "United States Pharmacopeia."

V 4 4 0 C 1 9 7 9 UMI

V 4 4 0 C 1 9 7 9 UMI

D. General Discussion

The Panel was charged with the review of numerous pharmacologic categories of OTC drug products, including those which are known as stomach acidifiers. The Panel has reviewed the available data and has evaluated the safety and effectiveness of stomach acidifiers for OTC use.

The Panel agrees that in some individuals the stomach secretes a subnormal amount of hydrochloric acid (hypochlorhydria) and that in some other individuals the stomach secretes no hydrochloric acid (achlorhydria). In the past, drug products containing ingredients such as betaine hydrochloride, glutamic acid hydrochloride, and diluted hydrochloric acid have been employed as a means of normalizing the hydorchloric acid content of the stomach. Although the Panel recognizes that each of these ingredients in recommeded doses adds hydrochloric acid to the stomach, the Panel believes that such treatment is not clinically beneficial.

More important, the Panel believes that because the conditions of achlorhydria and hypochlorhydria do not produce any symptoms (i.e., they are asymptomatic), these conditions are not amenable to self-diagnosis. Therefore, the Panel concludes that all ingredients used to treat the conditions of achlorhydria and hypochlorhydria are Category II for OTC use.

E. Physiology Review

To evaluate the ingredients under review, the Panel considered the role of hydrochloric acid in digestion and the regulatory mechanisms that control its secretion. The acidity of the stomach depends in part upon the rate of secretion of hydrochloric acid. The basal rate is almost 30 milliliters (mL) of a dilute solution of hydrochloric acid per hour. The basal secretion rate ranges from 0 to 17 milliequivalents (meq) per hour (Refs. *1* and *2*). Following a meal, there is about a 25 percent increase in the secretion of hydrochloric acid.

The secretion of hydrochloric acid is stimulated by a number of factors, including sight, smell, and taste of food; distention of the stomach; and the release of the hormone gastrin. Gastrin is released by the presence of protein digestive products, caffeine, or alcohol. The secretion of acid is inhibited by a reflex from the duodenum which inhibits both the release of gastrin and the secretion of the gastric glands. Distention of the duodenum and the presence of acid, fats, or a hypertonic solution activate the reflex inhibition of the secretions.

Hydrochloric acid assists digestion by converting pepsinogen to pepsin. Together with pepsin, hydrochloric acid breaks up connective tissue and cell membranes and reduces the size of food particles on the surface of the food mass in the stomach. However, hydrochloric acid is not essential for the digestion and absorption of food.

References

(*1*) Davenport, H., "Physiology of the Digestive Tract," 3d Ed., Year Book Publishers, Inc., Chicago, pp. 143–153, 1971.

(*2*) Vander, S., J. Sherman, and D. Luciano, "Human Physiology, Mechanisms of Body Function," McGraw-Hill, New York, pp. 378–384, 1970.

F. Category II Active Ingredients

The Panel has classified the following stomach acidifier ingredients as not generally recognized as safe and effective or as being misbranded for OTC use in treating self-diagnosed conditions of achlorhydria and hypochlorhydria:

Betaine hydrochloride
Glutamic acid hydrochloride
Diluted hydrochloric acid
Betaine hydrochloride and pepsin

1. *Betaine hydrochloride.* The Panel concludes that betaine hydrochloride is safe in the dose stated below but not generally recognized as effective in treating achlorhydria and hypochlorhydria.

a. *Safety.* The oral dosage range of betaine hydrochloride used as a substitute for hydrochloric acid is 0.5 to 3.0 grams (g) (Ref. *1*) with a dose of 0.5 g equivalent to approximately 1.1 mL of diluted hydrochloric acid (Ref. *2*). The Panel has been unable to find any reports of adverse reactions to betaine hydrochloride in the medical literature.

There is no information, to the Panel's knowledge, to indicate that betaine hydrochloride is unsafe in the usual oral dose of 0.44 g administered three times daily with meals (Ref. *3*).

b. *Effectiveness.* Due to its ease of administration and its lack of erosive effect on tooth enamel, betaine hydrochloride is sometimes given as a substitute for diluted hydrochloric acid. The usual recommended dose of betaine hydrochloride delivers less hydrochloric acid to the stomach than does the usual recommended dose of diluted hydrochloric acid. There are no controlled studies showing that even large amounts of hydrochloric acid are efficacious in aiding digestion (Ref. *4*). Currently marketed products contain an amount of betaine hydrochloride that is equivalent to between 0.67 and 1.0 mL of diluted hydrochloric acid in a single dose.

Betaine hydrochloride is claimed to be beneficial to persons with low or nonexistent gastric acid secretion because it is said to help in providing a more optimal pH for enzymatic activity in the stomach (Refs. *5* and *6*). However, the Panel has not been presented with, nor is it aware of, convincing evidence demonstrating the effectiveness of hydrochloric acid in the treatment of achlorhydria and hypochlorhydria.

c. *Evaluation.* The Panel concludes that betaine hydrochloride is generally recognized as safe in the dose specified, but its effectiveness has not been demonstrated for the treatment of achlorhydria and hypochlorhydria. In fact, the Panel is of the opinion that such conditions are asymptomatic and, therefore, not amenable to self-diagnosis.

References

(*1*) Stecher, P. G., "The Merck Index," 8th Ed., Merck and Co., Inc., Rahway, NJ, p. 145, 1968.

(*2*) Swinyard, E. A., "Gastrointestinal Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Edited by Osol, A., and J. E. Hoover, Mack Publishing Co., Easton, PA, p. 738, 1975.

(*3*) OTC Volume 170011.

(*4*) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, pp. 1082–1083, 1977.

(*5*) OTC Volume 170023.

(*6*) OTC Volume 170049.

2. *Glutamic acid hydrochloride.* The Panel concludes that glutamic acid hydrochloride is safe in the dose stated below but not generally recognized as effective in treating achlorhydria and hypochlorhydria.

a. *Safety.* The oral dosage range of glutamic acid hydrochloride is 0.6 to 1.8 g three times daily (Refs. *1* and *2*). A dose of 0.3 g corresponds to 0.6 mL of diluted hydrochloric acid (Ref. *1*). The Panel has determined that glutamic acid hydrochloride is safe in the usual oral dose of 1.02 g administered three times daily (Ref. *3*). No adverse reactions have been reported in the literature at this dose.

b. *Effectiveness.* Glutamic acid hydrochloride is claimed to increase the amount of hydrochloric acid present in the stomach, thus altering the pH of the gastric environment (Refs. *4* and *5*). Due to its ease of administration and its lack of erosive effect on tooth enamel, glutamic acid hydrochloride is sometimes used as a substitute drug for diluted hydrochloric acid. The usual recommended dose of glutamic acid hydrochloride delivers less hydrochloric acid to the stomach than does the usual recommended dose of diluted hydrochloric acid. There are no controlled studies showing that even large amounts of hydrochloric acid are efficacious in aiding digestion (Ref. *6*). The Panel has not been presented with, nor is it aware of, any convincing evidence demonstrating the effectiveness of hydrochloric acid in the treatment of achlorhydria and hypochlorhydria.

c. *Evaluation.* The Panel concludes that glutamic acid hydrochloride is generally recognized as safe in the dose specified, but its effectiveness has not been demonstrated for the treatment of achlorhydria and hypochlorhydria. In fact, the Panel is of the opinion that such conditions are asymptomatic and, therefore, not amenable to self-diagnosis.

References

(*1*) Osol, A., and R. Pratt, "The United States Dispensatory," 27th Ed., J. B. Lippincott, Philadelphia, pp. 559–560, 1973.

(*2*) Swinyard, E. A., "Gastrointestinal Drugs," *in* "Remington's Pharmaceutical Sciences," 15th Ed., Edited by Osol, A., and J. E. Hoover, Mack Publishing Co., Easton, PA, p. 737, 1975.

(*3*) OTC Volume 170103.

(*4*) OTC Volume 170023.

(*5*) OTC Volume 170049.

(*6*) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, pp. 1082–1083, 1977.

3. *Diluted hydrochloric acid.* The Panel concludes that diluted hydrochloric acid is safe when taken in the dose stated below but not generally recognized as effective for treating achlorhydria and hypochlorhydria.

a. *Safety.* Diluted hydrochloric acid contains 10 percent hydrochloric acid and is usually given in a dose of 5 mL, further diluted with 125 to 250 mL of water (Ref. *1*). This amount of hydrochloric acid is considered safe for oral administration when the solution is sipped through a glass straw to minimize tooth enamel erosion by the acid.

b. *Effectiveness.* While diluted hydrochloric acid does somewhat increase the acidity of the gastric contents, the usual therapeutic dose is generally not sufficient to result in free hydrochloric acid in the stomach in the case of achlorhydria (Refs. *1* and *2*). Instead, most of the acid is bound by the gastric contents (Ref. *1*). There are also no controlled studies showing that even large amounts of hydrochloric acid are efficacious in aiding digestion (Ref. *2*). The Panel was not presented with, nor is it aware of, any convincing evidence demonstrating the effectiveness of diluted hydrochloric acid in treating achlorhydria and hypochlorhydria.

c. *Evaluation.* The Panel concludes that diluted hydrochloric acid is generally recognized as safe in the dose specified, but its effectiveness has not been demonstrated for the treatment of achlorhydria and hypochlorhydria. In fact, the Panel is of the opinion that such conditions are asymptomatic and, therefore, not amenable to self-diagnosis.

References

(*1*) Harvey, S. C., "Gastric Antacids and Digestants," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S., and A. Gilman, The MacMillan Co., New York, pp. 970–971, 1975.

(*2*) "AMA Drug Evaluations," 3d Ed., Publishing Sciences Group, Inc., Littleton, MA, pp. 1082–1083, 1977.

4. *Betaine hydrochloride and pepsin.* Two submissions were received for a product containing betaine hydrochloride and pepsin. This combination was labeled as a stomach acidifier. No data were submitted, nor is the Panel aware of any, which substantiate a claim that pepsin functions as a stomach acidifier or enhances the stomach-acidifying effects of betaine hydrochloride. The Panel concludes that this is a safe combination but not effective in treating the conditions of achlorhydria and hypochlorhydria. Therefore, the Panel recommends that betaine hydrochloride and pepsin be included in Category II. (In a future issue of the **Federal Register**, the Panel will review pepsin as a digestive aid ingredient.)

G. Category II Labeling

The Panel reviewed the labeling claims made for the submitted drug products and concludes that each of the stomach acidifier ingredients reviewed is safe but not effective for the treatment of achlorhydria and hypochlorhydria in the dose specified. In addition, and more important, the Panel believes that these conditions do not produce any symptoms and therefore should not be considered as symptomatic disease states. For these reasons, the Panel has classified the following labeling claims as Category II and not appropriate for OTC use:

1. For hydrochloric acid deficiency.
2. For replacement therapy in deficiencies of hydrochloric acid in gastric secretion.
3. Stomach acid medication.
4. For achlorhydria.
5. For stomach subacidity.
6. Assists digestion in gastric hypoacidity by gradual release of hydrochloric acid and pepsin.
7. Digestant.

The Food and Drug Administration has determined that this document is exempt from the requirement of preparing an Environmental Impact Statement as specified under 21 CFR 25.1(f)(4).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended in Part 310 by adding new § 310.540, to read as follows:

§ 310.540 OTC drug products containing active ingredients offered for use as stomach acidifiers.

(a) Betaine hydrochloride, glutamic acid hydrochloride, diluted hydrochloric acid, and pepsin have been present as ingredients in over-the-counter (OTC) drug products for use as stomach acidifiers. Based upon the lack of adequate data to establish the effectiveness of these or any other ingredients of stomach acidifiers used in treating achlorhydria and hypochlorhydria, and because such conditions are asymptomatic and not amenable to self-diagnosis, any OTC drug product containing ingredients offered for use as stomach acidifiers cannot be considered generally recognized as safe and effective.

(b) Any OTC drug product labeled, represented, or promoted as a stomach acidifer is regarded as a new drug within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act for which an approved new drug application under section 505 of the act and Part 314 of this chapter is required for marketing.

(c) A completed and signed "Notice of Claimed Investigational Exemption for a New Drug" (Form FD–1571), as set forth in § 312.1 of this chapter, is required to cover clinical investigations designed to obtain evidence that any drug product labeled, presented, or promoted as a stomach acidifier for OTC use is safe and effective for the purpose intended.

(d) Any such drug product introduced in interstate commerce after the effective date of a final regulation that is not in compliance with this section is subject to regulatory action.

Interested persons are invited to submit their comments in writing (preferably in four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal on or before January 17, 1980. Comments should be addressed to the Hearing Clerk, Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville.

MD 20857, and may be accompanied by a supporting memorandum or brief. Comments replying to comments may also be submitted on or before February 18, 1980. Comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 10, 1979.

Sherwin Gardner,

Acting Commissioner of Food and Drugs.

[FR Doc. 79-32107 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-03-M

---

21 CFR Part 320

[Docket No. 79N-0133]

Certain Sulfonamide Anti-Infectives; Proposed Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to establish bioequivalence requirements for certain oral sulfonamide drug products used in the treatment of bacterial infections. Available data suggest that the various marketed brands of the same oral sulfonamides may not have comparable therapeutic effects. The proposed regulations would assure the bioequivalence of different brands of such products and batch-to-batch uniformity of the same product by each manufacturer.

DATES: Comments by December 18, 1979; FDA proposes that the final regulation based on this proposal become effective 30 days after the date of its publication in the **Federal Register.**

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

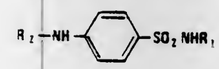
FOR FURTHER INFORMATION CONTACT: Henry J. Malinowski, Bureau of Drugs (HFD-525), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4750.

SUPPLEMENTARY INFORMATION: FDA has promulgated regulations in Subpart C of Part 320 (21 CFR Part 320) setting forth procedures by which the agency may, on its own initiative or in response to a petition from an interested person, propose and promulgate regulations to establish bioequivalence requirements for drug products containing identical amounts of the same active drug ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. The Commissioner of Food and Drugs has delegated authority to issue, amend, or repeal these regulations to the Director and Deputy Director of FDA's Bureau of Drugs (21 CFR 5.79).

Data available to FDA demonstrate that there is well-documented evidence of actual bioequivalence differences in oral formulations of sulfadiazine, trisulfapyrimidines, and sulfaphenazole and potential bioequivalence differences in oral formulations of other drugs in the class of sufonamides among currently marketed brands of the same drug product produced by various manufacturers, based on the criteria set forth in § 320.52 (21 CFR 52). Therefore, the Director of the Bureau of Drugs, on the Director's own initiative, tentatively concludes that a bioequivalence requirement involving both in vivo testing in humans and in vitro dissolution testing should be established for acetyl sulfisoxazole emulsion and for the following oral solid dosage form sulfonamides: Sulfachlorpyridazine, sulfacytine, sulfadiazine,sulfadiazine sodium bicarbonate, sulfadimethoxine, sufaethidole, sulfamerazine, sulfameter, sulfamethazine, sulfamethizole, sulfamethoxazole, sulfamethoxypyridazine,sulfaphenazole, sulfapyridine, sulfasalazine, sulfisomidine, trisulfapyrimidines, and sulfadiazine-sulfamerazine-sulfamethazine-sulfacetamide-sulfamethizole combination. The Director also tentatively concludes that, because existing data demonstrate an in vivo/in vitro correlation, (Refs. 22 and 23), a bioequivalence requirement involving only an in vitro bioequivalence standard should be established for sulfisoxazole tablets and for all sulfonamide suspensions. The evidence on which the Director bases these tentative conclusions and the proposed bioequivalence requirements are discussed below (see also Ref. 1).

Background

Orally administered sulfonamides have a wide range of antimicrobial activity. Essentially, they inhibit the growth or multiplication of bacteria; i.e., they are bacteriostatic agents. Although the importance of the sulfonamides in the treatment of infectious diseases has diminished with the development of more effective antimicrobial agents, these drugs continue to have a prominent place in the treatment of lower urinary tract infections and systemic infections caused by *Nocardia* species. They are also drugs of choice for prophylaxis in rheumatic fever and meningococcal infections that are sensitive to sulfonamides. Although no one oral sulfonamide drug product is equally effective in all types of infections, for purposes of bioequivalence requirements the sulfonamides are considered together because they are members of a class of drugs having close structural commonality and similar physicochemical and pharmacological properties. All of them are derivatives of sulfanilic acid and contain the following general structural formula:

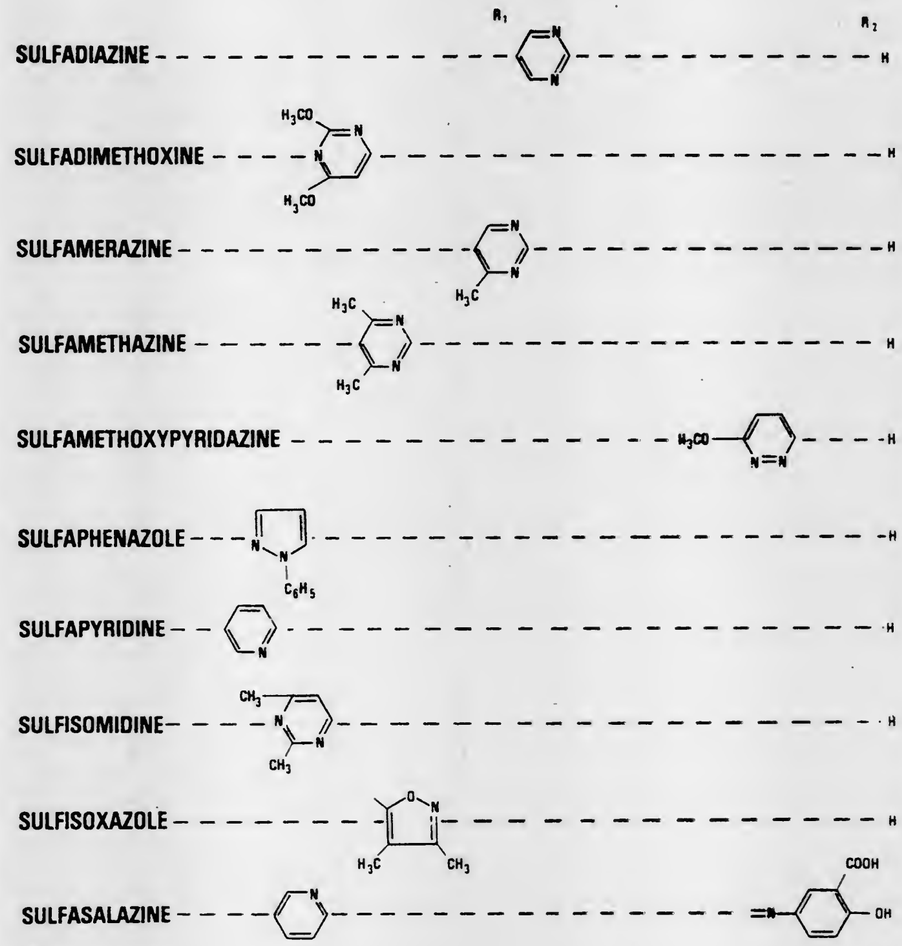


Substituents and R_1 and R_2 for some important sulfonamides are shown in Table 1.

BILLING CODE 4110-03-M

TABLE I

STRUCTURE OF SELECTED SULFONAMIDES



BILLING CODE 4110-03-C

The essential structural prerequisites for antibacterial activity of sulfonamides are: (1) The S atom of the SO_2NH_2 group is directly linked to the benezene ring, and (2) the presence in the para position of the benzene ring of an $-NH_2$ group or a group that can be converted readily in the tissues to a free amino group. Substitution in the benzene ring of sulfonamides usually yields inactive compounds. Substitution of heterocyclic aromatic nuclei on the nitrogen of the SO_2NH_2 group yields highly potent compounds.

All major sulfonamides are white crystalline powders, most of which are relatively insoluble in water. The sodium salts of the sulfonamides are readily soluble. The free sulfonamides are more soluble in plasma than in water (Ref. 2). Tables 2 and 3 present data on the solubility of various sulfonamides and their acetylated derivatives in body fluids at different pH's (Ref. 3).

Table 2—*Solubility Data on Sulfonamides (milligrams/milliliter at 37° C.)*

Drug	Water (pH 5.5)	Serum
Sulfadiazine	0.14	1.60
Sulfamerazine	0.32	[1]
Sulfisomidine	1.88	3.72
Sulfisoxazole	1.50	6.40
Acetyl sulfisoxazole	0.50	12.00

[1] Not available.

Table 3—*Solubility of Sulfonamides at Various pH's in Urine (milligrams/milliliter at 37° C)*

Drug	pH 5.5	pH 7.5	pH 8.0
Sulfadiazine	0.18		4.50
Sulfamerazine	0.35		4.25
Sulfisomidine	2.54 (pH 5.0)	3.97 (pH 7.3)	
Sulfisoxazole	1.50	145.00	
Acetyl sulfisoxazole	0.55	100.00	

The following are general characteristics for most members of the series: Absorption—alimentary or parenteral—is rapid, in minutes; distribution is widespread within the water of the body, including penetration into spinal fluid; metabolism occurs by varying degrees of acetylation (of the para-NH_2 group); and excretion is moderately rapid, in 24 to 48 hours through the kidneys (Refs. 2 and 3).

All sulfonamides, except those designed for their local effects in the bowel, can be absorbed rapidly from the gastrointestinal tract. The small intestine is the major site of absorption, but some of the drug is absorbed from the stomach. The drug can often be found in the urine within 30 minutes after its oral ingestion (Ref. 2). Total sulfonamide blood levels of 12 to 15 milligrams (mg) per 100 milliliters (mL) (120 to 150 micrograms (μg) per mL) have been reported to be optimal; blood levels greater than 20 mg per 100 mL (200 μg per mL) have been associated with an increased incidence of adverse reactions (Ref. 4). The minimum inhibitory concentrations (MIC) of sulfonamides, i.e., the smallest concentration known to inhibit growth or multiplication of bacteria, vary from drug to drug. Table 4 shows MIC for selected sulfonamides:

Table 4—*Minimum Inhibitory Concentrations (MIC) for Some Sulfonamides (Ref. 5)*

Drug	MIC(μg/ml)
Sulfadiazine	100–150
Sulfadimethoxine	1–50
Sulfamerazine	3–20
Sulfamethazine	10–100
Sulfamethoxazole	0.2–50
Sulfamethoxypyridazine	1–20
Sulfisomidine	12.5–50
Sulfamethoxazole	1–20

All sulfonamides are bound in varying degrees to plasma proteins (Table 5). The effective sulfonamide level in body fluids corresponds to the concentration of unbound drug in the plasma.

Sulfonamides are distributed throughout the tissues of the body, and this distribution accounts for their therapeutic efficacy in systemic infections (Ref. 2).

Table 5—*Physicochemical Data on Sulfonamides*

[Refs. 3, 4, 5, and 18]

Drug	pKa	Solubility at pH 5.5 (mg/mL)	Protein binding (percent)	Daily dose (g)
Sulfadiazine	6.4	0.14	45	2–4
Sulfadimethoxine	6.1	0.075	99	0.5–1
Sulfaethidole	5.6	0.25	99	3–4
Sulfamerazine	7.0	0.32	75	2–4
Sulfamethazine	7.4	1.5 (pH 7)	80	
Sulfamethoxazole	6.0		68	1–2
Sulfamethoxypyridazine	6.7	0.37	87	0.5–1.5
Sulfisomidine	7.4	1.88	86	2–4
Sulfisoxazole	4.9	1.50	85	2–4
Sulfisoxazole acetyl	5.0	0.50	85	2–4
Sulfapyridine		0.8	40	0.5–2
Sulfaphenzole	5.91	0.00 (pH 7)	85	1–2
Sulfamethizole		1.54 (pH 5)	90	2–4

Sulfonamides undergo metabolic transformation to a varying extent in tissues, especially in the liver. Both acetylation and oxidation occur. Acetylation is disadvantageous because the resulting product lacks antibaterial activity and yet retains the toxic potentialities of the parent substance (Ref. 2).

Sulfonamides are completely eliminated from the body, partly unchanged and partly as metabolized products. The largest fraction is excreted in the urin. The rate of excretion of some sulfonamides exhibits diurnal variation. Each sulfonamide, free and acetylated, is handled by the kidney in a characteristic manner. In all cases, renal filtration is a major factor (Ref.2).

Untoward effects during sulfonamide therapy represent the major limitation to their clinical use. Most sulfonamides produce mildly toxic effects; they can also produce severe sensitivity phenomena such as dermatitis, rash agranulocytosis, and hepatitis. The most frequently observed side effect is crystalluria and related renal damage (Refs. 2, 4, and 5).

Because of their similiarity of structure and pharmacologic properties, all sulfonamide drug products are considered as a class in establishing bioequivalence requirements.

Evidence To Establish a Bioequivalence Requirement

Among the criteria set forth in § 320.52 to be considered in determining that a bioequivalence requirement should be established, the following are relied upon by the Director in tentatively concluding that these proposed bioequivalence requirements should be imposed upon this class of drugs:

1. *Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products* (§ 320.52(b)). A well-controlled study of eight brands of sulfadiazine tablets demonstrated that two products were 50 percent as bioavailable as the standard, measured in terms of the area under the plasma concentration-time curve (AUC), while a third one was about 75 percent as bioavilable as the reference standard (Ref. 6). Table 6 shows the AUC for the three bioinequivalent products compared to the standard.

Table 6—*Comparision of AUC*

Brand	AUC (free sulfa)
A (Standard)	1327.1, 1192.0
B	651.8
C	504.5
D	880.9

A bioavailability study (Ref. 7) submitted to FDA by a firm in support of its new drug application (NDA) documented a bioequivalence problem regarding the trisulfapyrimidine suspension. The study was a crossover design using 10 healthy male adults to compare the firm's trisulfapyrimidine test suspension with a reference standard suspension. The blood levels of sulfonamide obtained with the test product were almost 50 percent higher at all sampling times than the reference product. Table 7 shows the peak plasma levels (Cmax), time to obtain peak plasma levels (Tmax), and AUC for the test and reference products:

Table 7—*Compansion of Certain Measured Parameters*

	Test product	Reference product	Reference as percentage of test
Cmax (mg %)	10.8	6.1	56.5
Tmax (hour)	4.0	4.0	100.0
AUC	187.7	106.3	56.6

Cmax for the reference product was only 56.5 percent of that for the test product; the AUC value for the reference product was 56.6 percent of that for the test product. These observations demonstrate a clear and significant bioinequivalence between the test and reference products.

Bioequivalence studies (Ref. 8) submitted by two firms in support of their abbreviated new drug applications (ANDA's) compared their suspension formulations of trisulfapyrimidine with the same reference material suspension. The blood levels of the reference product in both studies were about half of those of the test products. AUC's reported in one study were 158 for the test product and 77.4 for the reference product. The results of these studies demonstrated a bioinequivalence problem.

Tablets and two lots of suspension from the same manufacturer whose suspension formulation was used as the reference product in the studies reported in Reference 8 were studied under a contract from FDA (Ref. 9). Table 8 shows the mean Cmax and AUC for the tablet and the two suspension lots used in this study:

Table 8—*Companson of Certain Measured Parameters*

	Tablet	Suspension I	Suspension II
Cmax (mg %)	5.49	3.06	3.01
Tmax (hours)	4–6	4.0	4.0
AUC	94.87	56.14	56.87

The AUC's showed that the two suspension lots were only 59 percent as bioavailable as the tablet, demonstrating a bioinequivalence problem.

A recent study on trisulfapyrimidine suspension conducted under an FDA contract (Ref. 10) revealed that three of seven commercial products differed significantly ($p < .01$) in bioavailability. Using a high-pressure liquid chromatography assay, it was established that the major components leading to the bioinequivalence were sulfadiazine and sulfamerazine, but no difference in serum levels was observed for the sulfamethazine. The sulfadiazine component was the greatest contributor to the bioinequivalence. Table 9 shows the mean values for Tmax, Cmax, and AUC for sulfadiazine in the three products in comparison to a more bioavailable product included in the study (Ref. 10).

Table 9—*Comparison of Certain Measured Parameters*

Product	Tmax (hr)	Cmax (μg/mL)	AUC (μg hr/mL)
A	3.9	12.1	186
B	5.0	9.3	231
C	5.1	9.1	200
D	4.6	6.0	138

The data reveal that one product resulted in significantly lower sulfadiazine peak levels (50 percent) and lower AUC sulfadiazine values (60 percent) in comparison to other products in the study. Two additional products differed significantly in their rate of absorption but not in extent of absorption, resulting in lower peak levels (Ref. 10).

A bioequivalence study (Ref. 11) submitted to FDA by a firm in support of its NDA for a sulfaphenazole product documented a bioequivalence problem with rate of absorption. The study, a two-way crossover design employing 12 subjects, compared the two formulations produced by the same company. The areas under the concentration-time curves (AUC's) showed the products to be equivalent in the extent of bioavailability; however, the rates of absorption demonstrated the two products to be bioinequivalent:

Table 10—*Rates of Absorption of Two Formulations*

	Drug A	Drug B
Rate constant of absorption Kab (hour-1)	0.340	0.767
Half-life of absorption T ½ (abs) hours	2.04	0.90
AUC, 0–24 hours (μg hr/mL)	200.7	211.2

A bioequivalence study (Ref. 12) submitted to FDA by a firm in support of its NDA for sulfasalazine documented a bioequivalence problem with the extent of absorption. New and old enteric-coated tablet formulations of sulfasalazine were compared in a parallel design bioavailability study. The subjects were healthy, male adults. A single oral dose of 2 grams (g) of the old or new formulation was administered to each subject and blood levels determined at various sampling times. The mean peak blood levels (Cmax) were similar but the coefficients of variation (C.V.) were large—83 percent for the new formulation and 102 percent for the old. The AUC for free sulfasalazine showed that the new formulation was 215 percent as bioavailable as the old one (AUC of the new formulation 139.7 μg hr/mL; AUC of the old formulation, 64.8 μg hr/mL). The study thus demonstrated the bioinequivalence of the two formulations of the same drug.

Slow-dissolving sulfisoxazole drug products were shown to have a lower bioavailability when compared to a control solution. Products that required 237, 402, and more than 420 minutes for 50 percent of drug to dissolve were only 71, 74, and 71 percent, respectively, as available as the control solution, as determined by area under the curve from 0 to 4 hours (Ref. 18).

2. *Competent medical determination that a lack of bioequivalence would have a serious adverse effect in the treatment or prevention of a serious disease or condition* (§320.52(d)). Sulfadiazine is the recommended chemoprophylactic agent for persons in close contact with patients having meningococcal disease if the strain of *N. meningitidis* is sensitive to sulfonamides (Ref. 2). Sulfadiazine therapy is also recommended for patients with meningococcal disease if the epidemic is proven to be due to a sulfonamide-sensitive strain of meningococcus (Ref. 2). A lack of bioequivalence among sulfadiazine products would, therefore, have a serious adverse effect in the treatment and prevention of meningitis

V 44 OC 19 79 UMI

3. *Physicochemical evidence that: (a) The active drug ingredient has a low solubility in water, e.g., less than 5 mg per 1 mL, or, if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 mL for adults and prorated for infants and children)* § 320.52(e)(1)). Sulfadiazine, sulfamethoxazole, sulfaphenazole, and sulfasalazine are practically insoluble in water (Refs. 2a, 13, 14, and 15). Sulfamethazine (1.5 mg/mL), sulfasomidine (1.88 mg/mL), and sulfisoxazole (1.5 mg/mL) are slightly soluble in water. Sulfadimethoxine (0.075 mg/mL), sulfamethizole (0.5 mg/mL), sulfaethidole (0.25 mg/mL), sulfamerazine (0.32 mg/mL), and sulfapyridine (0.8 mg/mL) are very slightly soluble in water. Therefore, the amount of fluid required to dissolve any of these oral sulfonamide drugs at the recommended dose level exceeds the volume of fluid present in the stomach. As used here, the term "practically insoluble" is defined as a solubility of less than 0.05 mg/mL. "Very slightly soluble" refers to a solubility from 0.05 mg/mL to 1.0 mg/mL, while "slightly soluble" means a solubility of more than 1.0 mg/mL.

(b) *The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute (rmp) in 900 mL of distilled or deionized water at 37° C or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application* (§ 320.52(e)(2)).

A 1973 Canadian study (Ref. 19) reports dissolution testing of 13 lots of 500-mg tablets of sulfisoxazole by the U.S.P. compendial method. Of 13 lots, 5 failed the U.S.P. dissolution test. The investigators also found that values calculated from six determinations of dissolution time often gave unrealistically high values for the coefficient of variation (indicative of great variability from tablet to tablet). They concluded that 10 determinations appear to be the minimum to preclude undue weight being given to occasional variations.

Under an FDA contract (Ref. 16), 11 lots of 500-mg sulfisoxazole tablets, manufactured by 10 companies, were evaluated in vitro and in vivo. Three of these 11 did not meet the dissolution rate specified in U.S.P. XVIII. The time required, according to compendial specification, for 60 percent of the labeled amount of sulfisoxazole in the tablets to dissolve is not more than 30 minutes with dilute hydrochloric acid (1 in 12.5) being used as the dissolution medium. Table 11 shows the percent sulfisoxazole dissolved in 30 minutes from the three products that failed to meet the U.S.P. XVIII specification.

Table 11—*Sulfisoxazole Dissolution*

Product	Percent dissolved (range)
A	21.4 (18–22.6)
B	50.0 (44–55)
C	10.1 (8.9–12.3)

The in vivo bioavailability testing of these 11 products, however, showed them to be bioequivalent.

Recently the dissolution testing of five brands of 500–mg tablets and one brand of 300–mg tablets of sulfadiazine was conducted in FDA laboratories (Ref. 17). The rates of dissolution of sulfadiazine tablets were determined in 900 mL of 0.1*N* hydrochloric acid as well as in 900 mL of pH 7.5 phosphate buffer using the paddle for stirring at 50 rpm for 60 minutes. Of the five brands of 500–mg tablets, three dissolved less than 20 percent in 40 minutes in 0.1*N* hydrochloric acid, and four dissolved less than 40 percent in 40 minutes in pH 7.5 phosphate buffer solution. (Sulfadiazine is practically insoluble in water and is primarily absorbed in the small intestine. The buffer solution of pH 7.5 was used to see whether improved dissolution rates were possible in this medium.) Table 12 gives the result of testing:

Table 12—*Sulfadiazine Dissolution*

Product	Percent dissolved in 40 minutes	
	pH 7.5 Buffer	0.1*N* HCl
A (500 mg)	30.3	15.4
B (500 mg)	4.7	17.6
C (500 mg)	86.5	76.1
D (500 mg)	4.6	10.8
E (500 mg)	23.0	73.1
F (300 mg)	5.1	3.1

However, in vivo testing involving the same lots of products A, B, and C demonstrated them to be bioequivalent with a solution of sodium sulfadiazine.

The results of the above two studies cited in Reference 17 demonstrate that some sulfa drug products dissolve slowly and, consequently, may have in vivo bioavailability problems.

Recent dissolution testing by FDA laboratories was performed on 13 samples of trisulfapyrimidine tablets from 12 manufacturers. Dissolution testing was conducted using the paddle method at 50 rpm in 900 milliliters of 0.1N hydrochloric acid at 37 ± 0.5° C. Of the 13 samples, 6 of the sulfadiazine component, 3 of the sulfamerazine component, and 2 of the sulfamethazine, dissolved less than 50 percent in 40 minutes (Ref. 21).

The Bioequivalence Requirement

On the basis of these data, the Director tentatively concludes that the evidence meets one or more of the criteria set forth in § 320.52. The Director proposes to establish the following bioequivalence requirements:

1. *For sulfisoxazole tablets.* The Director proposes to establish a bioequivalence standard that would apply to all manufacturers of sulfisoxazole tablets. This proposed standard is an in vitro dissolution test that has been correlated with human in vivo bioavailability data (Ref. 22). The standard specifies that the average amount of labeled sulfisoxazole dissolved in a sample of 12 test tablets is not less than 60 percent in 30 minutes. Manufacturers of sulfisoxazole tablets not marketed on the effective date of this regulation must include the results of the tests in the original full or abbreviated NDA for the drug product submitted to FDA. For products currently marketed, the results of these tests must be submitted to FDA within 60 days following the effective date of the final regulation. The submission must be in the form of a supplement to the approved NDA or ANDA for the drug product. A manufacturer unable to meet this specification would be required to reformulate the drug product to meet the specifications. After approval of an application or supplement, the manufacturer will be required to conduct the in vitro dissolution test on a sample of each batch of its drug product to ensure batch-to-batch uniformity.

Methodology specifications are set forth below in the text of the proposed bioequivalence requirements.

2. *For all sulfonamide suspensions.* The Director proposes to establish a bioequivalence requirement that would apply to all manufacturers of sulfonamide suspensions. This proposed bioequivalence standard is an in vitro dissolution test that has been correlated with human in vivo bioavailability data (Ref. 23). The standard specifies that the average amount of labeled sulfonamide dissolved in 12 test samples is not less than 60 percent in 30 minutes. Manufacturers of sulfonamide suspensions not marketed on the effective date of this regulation must include the results of the tests in the original full or abbreviated NDA for the drug product submitted to FDA. For products currently marketed, the results of these tests must be submitted to FDA within 60 days following the effective date of the final regulation. The submission must be in the form of a supplement to the approved NDA or ANDA for the drug product. A manufacturer unable to meet this specification would be required to reformulate the drug product to meet the specifications. After approval of an application or supplement, the manufacturer will be required to conduct the in vitro dissolution test on a sample of each batch of its drug product to ensure batch-to-batch uniformity.

Methodology specifications are set forth below in the text of the proposed bioequivalence requirements.

3. *For acetyl sulfisoxazole emulsion, single-active-ingredient oral solid dosage form drug products containing sulfachlorpyridazine, sulfacytine, sulfadiazine, sulfadiazine sodium bicarbonate, sulfadimethoxine, sulfaethidole, sulfamerazine, sulfameter, sulfamethazine, sulfamethizole, sulfamethoxazole, sulfamethoxypyridazine, sulfaphenazole, sulfapyridine, sulfasalazine, or sulfisomidine, and the combination sulfonamide drug products trisulfapyrimidines or sulfadiazine-sulfamerazine-sulfamethazine-sulfacetamide-sulfamethizole.* The Director proposes to establish a bioequivalence requirement that would apply to all manufacturers of these products. It would require each manufacturer, except the manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies that fulfill the requirements of this section, to (1) conduct an in vitro dissolution test comparing its drug product to a specified reference product, and (2) conduct an in vivo bioavailability study comparing the same lot of its drug product to a specified reference product.

Under this proposed requirement, the oral solid sulfonamide test drug product would be considered to meet the in vitro portion of the bioequivalence requirement if the in vitro data show that the average dissolution rate for a sample of 12 test drug products is not less than 50 percent in 30 minutes and not less than 80 percent in 60 minutes; in the case of acetyl sulfisoxazole emulsion, however, the test drug product would be considered to meet the bioequivalence requirement if the in vitro data show that the average dissolution rate for a sample of 12 test samples is not less than 60 percent in 30 minutes.

The in vivo portion of the bioequivalence requirement must show that the test drug product meets the following conditions:

(1) The test drug product and the reference material show no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, rate of absorption (measured by Tmax or Ka), peak plasma levels (Cmax), area under the plasma concentration-curves (AUC), and time to obtain peak plasma levels (Tmax).

(2) The test product should be at least 75 percent as bioavailable as the administered reference material using the subjects as their own controls, that is, administering both the reference material and the drug material to each subject sequentially.

In addition, the analytical and statistical techniques used must be of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

Methodology specifications are set forth either in the text of the proposed bioequivalence requirements that appear later in this document, or in guidelines on file in the office of the Hearing Clerk.

It should be noted that FDA dissolution specifications for these oral sulfonamide drug products either differ in certain particulars from their respective compendial dissolution specifications or set dissolution specifications where none currently exist.

If data are submitted, whether by a manufacturer currently marketing the product or by one wanting to enter the market, that differ significantly from valid studies reported in the literature or obtained by FDA using a validated protocol and method, FDA may require further in vivo studies.

The Director further proposes that a manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies that fulfill the requriements of this section be required to conduct an in vivo bioavailability study comparing the reference material with a solution or suspension of an equivalent amount of active ingredient contained in the reference material. All other manufacturers of sulfonamide drug products requiring in vivo bioavailability testing who have previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of their products in accordance with the provisions of the proposed regulation would be required to conduct only in vitro dissolution testing on three consecutive lots or batches of their products to demonstrate consistent dissolution performance, provided their in vivo data are acceptable.

The Director also proposes that the manufacturer of the drug product selected by FDA as the reference material and each manufacturer of a drug product subject to this section who has previously conducted in vivo tests in humans, which tests have been found by FDA to fulfill the requirements of this section, be required to conduct in vitro dissolution testing on three consecutive lots or batches of the product to demonstrate consistent dissolution performance. The reference material must meet the minimum requirements set for the test drug products. A manufacturer of a sulfonamide drug product requiring in vivo bioavailability testing subject to this proposed section who has previously conducted in vivo bioavailability/bioequivalence studies (e.g., to meet requirement for approval of an ANDA for a drug product covered by a drug efficacy study implementation notice) may request FDA to evaluate the studies to determine whether the studies are adequate and conclusive to ensure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To obtain data necessary to correlate in vivo data with in vitro dissolution data, where in vivo testing is required, the Director proposes that the same lot or batch of the test product and one of the three lots or batches of the reference material used in the in vitro tests be used in the in vivo test. This requirement will not apply to a manufacturer who has conducted acceptable in vivo tests in humans to demonstrate bioavailability/bioequivalence before the effective date of this proposed section.

General guidelines for in vivo testing are set forth in § 320.25 (21 CFR 320.25). Specific guidelines for in vivo testing and for in vitro dissolution testing of sulfonamides, developed by the Bureau of Drugs are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and are available for public review between 9 a.m. and 4 p.m., Monday through Friday. Requests for single copies of the guidelines entitled "Guidelines for In Vivo Bioavailabilty Studies for Sulfonamides" and "Guidelines for In Vitro Dissolution Testing for Sulfonamides" may be made in writing

V 44 OCT 19 79 UMI

to the Hearing Clerk. The reference material to be used in the in vivo and in vitro tests of each drug product subject to this proposed regulation is named in the guidelines for in vivo bioavailability studies for sulfonamides.

The prososed effective date of the final regulation is 30 days after its date of publication in the Federal Register.

The Director proposes that the results of the required in vitro dissolution test be submitted to FDA within 60 days after the effective date of the final regulation and that the results of the required in vivo test be submitted to FDA within 180 days after the effective date of the final regulation. The Director believes this will be enough time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and submit them to FDA. The Director advises, however, that for the manufacturer to meet an in vivo bioavailability requirement for some sulfonamides, the agency may require the manufacturer to conduct a pilot study to determine optimal sampling times and volume of sample needed. An additional extension of up to 180 days may be granted by the Director upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for in vivo bioavailability studies. If any manufacturer submits a protocol for evaluation by FDA, the Director will grant an extension of time during the initial review of the protocol.

The Director advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) of the Fedreal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)), that require either an approved full or abbreviated NDA as a condition to market the product lawfully. Marketing of any drug product subject to this proposal must be in accordance with the requirements of § 320.58 (21 CFR 320.58).

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer would be required, under § 320.56 (21 CFR 320.56), to conduct the in vitro dissolution test on a sample of each batch of the oral sulfonamide to ensure batch-to-batch uniformity. Batches that, after appearing in the marketplace, fall below the specifications contained in the final regulation will have to be recalled.

References

Copies of all references cited below are on public display in the office of the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

(1) Shah, V. P., J. P. Skelly, S. V. Dighe, and K. Apone, "Sulfonamide Bioavailability Monograph," with collaborators W. Barr, S. Sarver, K. Stefos, R. Haggerty, L. Perkins, T. Turner, D. Li, W. H. Walker, A. Garner, W. Butler, and R. Robinson.

(2) Weinstein, L., "Antimicrobial Agents," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, pp. 1113-1124, 1975.

(3) Weinstein,. L., "The Sulfonamides," *in* "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by L. S. Goodman and A. Gilman, The MacMillan Co., New York, pp. 1178-1179, 1970.

(4) Cutting, W. C., "Handbook of Pharmacology," 5th Ed., Appleton-Century-Crofts, New York, pp. 1-9, 1972.

(5) Reilly, M. J. (Ed.), "American Hospital Formulary Service," American Society of Hospital Pharmacists, Washington, DC, p. 8:24, 1976.

(6) Ritschel, W. A., "Handbook of Basic Pharmacokinetics," Drug Intelligence Publications, Hamilton, IL, pp. 144, 152, 165, 323-324, 1976.

(7) Van Petten, G. R., G. C. Becking, R. J. Withey, and H. F. Lettau, "Studies on the Physiological Availability and Metabolism of Sulfonamides. I. Sulfadiazine," *Journal of Clinical Pharmacology*, 11(1):27, 1971.

(8) McGuire, J. J. to J. P. Skelly, Internal Memo: NDA Summary (Triple Sulfa), Dec. 21, 1975.

(9) McGuire, J. J. to J. P. Skelly, Internal Memo: ANDA Summary (Triple Sulfa), Dec. 21, 1975.

(10) Murdock, H. R., Memorandum to Division of Anti-Infective Drug Products, Nov. 8, 1972.

(11) Colaizzi, J. L. et al., FDA Contract 223-76-3010, The Development of In Vitro Tests and In Vivo Correlation for Oral Suspensions.

(12) McGuire, J. J. and S. V. Dighe to J. P. Skelly, Internal Memo: NDA Summary (Sulfaphenazole), July 11, 1976.

(13) Apone, K. to J. P. Skelly, Memo: NDA Summary (Salicylazosulfa-pyridine), May 3, 1976.

(14) Nygard, G., J. Olofsson, and M. Sandberg, "Some Physico-Chemical Properties of Salicylazosulphapyridine, Including Its Solubility, Protolytic Constants and General Spectrochemical and Polarographic Behavior." *Acta Pharmacologica Suecica*, 3(5):313, 1966.

(15) "Remington's Pharmaceutical Sciences," 15th Ed., Mack Publishing Co., Easton PA, pp. 1108, 1110, 1111, 1113, 1975.

(16) Wilson, C. O. et al., "Textbook or Organic Medicinal and Pharmaceutical Chemistry," J. B. Lippincott Co., Philadelphia, PA, p. 295, 1971.

(17) Meyer, M. C. et al., "Bioavailability of 11 Sulfisoxazole Products in Humans," Journal of Pharmaceutical Sciences, 65(10):1494, 1976.

(18) Dighe, S. V. to J. P. Skelly, Memo: Dissolution Data on Sulfadiazine Tablets, Nov. 10, 1977.

(19) Van Petten, G. R., G. C. Becking, R. J. Witkey, and H. F. Lettau, "Studies on the Physiological Availability and Metabolism of Sulfonamides. II. Sulfisoxazole," Journal of Clinical Pharmacology, 11:35, 1971.

(20) Hossie, R. D., I. J. McGilveray, G. L Mattok, and C. A. Mainville, "Compendial Dissolution Characteristics of Commercial Formulation," Canadian Journal of Pharmaceutical Sciences, 8:37, 1973.

(21) Shah, V. P. and V. K. Prasad, to H. J. Malinowski, Internal Memo: Triple Sulfapyrimidine Tablet Dissolution Results and Recommendations, March 15, 1979.

(22) Thompson, N. J. to H. Malinowski, Sulfisoxazole—In Vitro/In Vivo Correlation, June 12, 1979, Internal memo.

(23) Mathur, L. K., J. M. Jaffe, R. I. Poust, H. Barry III, T. J. Goehl, V. P. Shah and J. L. Colaizzi, "Bioavailability and Dissolution Behavior of Trisulfapyrimidine Suspensions," *Journal of Pharmaceutical Sciences*, 68(6):699, 1979.

The Director has determined that this document does not contain an agency action covered by § 25.1(b) (21 CFR 25.1(b)) and, therefore, preparation by the agency of an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055 (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1) and redelegated to the Director of the Bureau of Drugs (21 CFR 5.79), it is proposed that Part 320 be amended by adding to Subpart D (proposed in the Federal Register of August 5, 1977 (42 FR 39675)) new § 320.110 to read as follows:

§ 320.110 Certain oral sulfonamides.

(a) *Applicability*—(1) *In vivo and in vitro testing.* The requirements of this section for both in vivo and in vitro testing apply to any acetyl sulfisoxazole emulsion, any oral solid dosage form drug product containing sulfachlorpyridazine, sulfacytine, sulfadiazine, sulfadiazine sodium bicarbonate, sulfadimethoxine, sulfaethidole, sulfamerazine, sulfameter, sulfamethazine, sulfamethizole, sulfamethoxazole, sulfamethoxypyridazine, sulfaphenazole, sulfapyridine, sulfasalazine, sulfisomidine, and the combination sulfonamide drug products sulfadiazine-sulfamethazine-sulfamerazine (trisulfapyrimidines), or sulfadiazine-sulfamerazine-sulfamethazine-sulfacetamide-sulfamethizole.

(2) *In vitro testing only.* The requirements of this section for in vitro testing only, apply to the following drug products for which existing data demonstrate an in vivo/in vitro correlation: Any sulfisoxazole tablet and any sulfonamide suspension containing acetyl sulfamethoxypyridazine, acetyl sulfisoxazole, sulfadiazine, sulfadimethoxine, sulfamethizole, sulfamethoxazole, sulfaphenazole, sulfisomidine, sulfadiazine-sulfamethazine-sulfamerazine (trifulfapyrimidines), or sulfadiazine-sulfamerazine-sulfamethazine-sulfacetamide-sulfamethizole.

(b) *Bioequivalence requirement for in vitro testing.* Any oral solid dosage form drug product containing sulfachlorpyridazine, sulfacytine, sulfadiazine, sulfadiazine sodium bicarbonate, sulfadimethoxine, sulfaethidole, sulfamerazine, sulfameter, sulfamethazine, sulfamethizole, sulfamethoxazole, sulfamethoxypyridazine, sulfaphenazole, sulfapyridine, sulfasalazine, or sulfisomidine, and the combination sulfonamide drug products sulfadiazine-sulfamethazine-sulfamerazine (trisulfapyrimidines), or sulfadiazine-sulfamethazine-sulfamerazine-sulfacetamide-sulfamethizole shall meet the following bioequivalence requirement:

(1) Each manufacture of a drug product subject to this paragraph (b) shall conduct an in vitro dissolution test using U.S.P. Apparatus 2, comparing 12 test samples of its drug product with 12 samples from each of 3 lots or batches of reference product specified by the Food and Drug Administration. Nine hundred milliliters of 0.1*N* hydrochloric acid are to be used as the medium. The temperature of the medium is to be held at 37±0.5° C throughout, with the paddle being rotated at 50 revolutions per minute. The test drug product meets the bioequivalence requirement for in vitro testing if the average amount of the labeled sulfonamide dissolved in the test samples is greater than or equal to the average dissolution of the samples of the reference product and the average dissolution of the test drug products is not less than 50 percent in 30 minutes and not less than 80 percent in 60 minutes.

(2) Each manufacturer of a drug product subject to this section selected by the Food and Drug Administration as a reference material and each manufacturer of a drug product subject to this section who has previously conducted in vivo tests in humans, which tests have been found by the Food and Drug Administration to fulfill the requirements of this section, shall conduct an in vitro test, using U.S.P. Apparatus 2, on 12 sample units from each of 3 consecutive lots or batches of its drug product to demonstrate consistent dissolution performance. Nine hundred milliliters of 0.1*N* hydrochloric acid are to be used as the medium. The temperature of the medium is to be held at 37±0.5° C throughout, with the paddle being rotated at 50 revolutions per minute. The average dissolution of the test drug product must be not less than 50 percent in 30 minutes and not less than 80 percent in 60 minutes.

(c) *In vitro bioequivalence standard for sulfisoxazole tablets.* (1) Each manufacturer of a sulfisoxazole tablet drug product shall conduct an in vitro dissolution test using U.S.P. Apparatus 1. In following U.S.P. Apparatus 1 procedures, 900 milliliters of dilute hydrochloric acid (1 in 12.5) are to be used as the medium. The temperature of the medium is to be held at 37±0.5° C throughout, with the basked rotating at 100 revolutions per minute.

(2) The drug product meets the bioequivalence requirement for the in vitro bioequivalence standard if the average amount of the labeled sulfisoxazole dissolved in a sample of 12 test tablets is not less than 60 percent in 30 minutes.

(d) *In vitro bioequivalence standard for all sulfonamide suspensions and acetyl sulfisoxazole emulsion.* (1) Each manufacturer of a sulfonamide suspension or acetyl sulfisoxazole emulsion drug product shall conduct an in vitro dissolution test using U.S.P. Apparatus 2. In following U.S.P. Apparatus 2 procedures, 900 milliliters, consisting of 899 milliliters of distilled water plus 1.0 milliliter of 0.2*M* hydrochloric acid of pH 3.4, are to be used as the medium. The temperature of this medium is to be held at 37±0.5° C throughout with the paddle being rotated at 25 revolutions per minute.

(2) The test drug product meets the bioequivalence requirement for the in vitro bioequivalence standard, if the average amount of the labeled sulfonamide dissolved in a sample of 12 test suspensions or acetyl sulfisoxazole emulsion is not less than 60 percent in 30 minutes.

(e) *Submission of test results.* Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of the final regulation.

(f) *Inclusion of test results in full or abbreviated new drug application.* Each manufacturer of a drug product subject to this section that is not marketed on (the effective date of the final regulation) shall include the results of the tests in the original full or abbreviated new drug application for the drug product submitted to the Food and Drug Administration. For any drug product that is currently marketed, the results of these tests are to be submitted to the Food and Drug Administration by (60 days after the effective date of the final regulation). The submission is to be in the form of a supplement to the new drug application or abbreviated new drug application for the drug product. A manufacturer unable to meet this specification will be required to reformulate the drug product to meet the specifications. After approval of an application or supplement, the manufacturer will be required to conduct the in vitro dissolution test on a sample of each batch of its drug product to assure batch-to-batch uniformity.

(g) *Bioequivalence requirement for in vivo testing in humans.* Any acetyl sulfisoxazole emulsion, any oral solid dosage form drug product containing sulfachlorpyridazine, sulfacytine, sulfadiazine, sulfadiazine sodium bicarbonate, sulfadimethoxine, sulfaethidole, sulfamerazine, sulfameter, sulfamethazine, sulfamethizole, sulfamethoxazole, sulfamethoxypyridazine, sulfaphenazole, sulfapyridine, sulfasalazine, sulfisomidine, and the combination sulfonamide drug products sulfadiazine-sulfamethazine-sulfamerazine (trisulfapyrimidines) or sulfadiazine-sulfamerazine-sulfamethazine-sulfacetamide-sulfamethizole shall meet the following in vivo bioequivalence requirements:

(1) Each manufacturer of a drug product subject to this paragraph (g) who has not conducted in vivo bioavialability/bioequivalence studies fulfilling the requirements of this section before (the effective date of the final regulation) shall conduct an in vivo bioavailability study in humans comparing its drug product with the reference material.

(2) The test drug product meets the bioequivalence requirement for in vivo testing in humans if the following conditions are met:

(i) The test drug product and the reference material show no more than 20 percent difference in the comparison of means of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), rate of absorption (measured by Tmax or Ka), and area under the plasma concentration-time curves (AUC);

(ii) The test product is at least 75 percent as bioavailable as the administred reference material using subjects as their own controls, that is, administering both the reference material and the test drug material to the same subject sequentially; and

V 44 0 C 19 79 9 UMI

(iii) Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent to absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section before (the effective date of the final regulation) shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with a solution or suspension of an equivalent amount of the sulfonamides contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of the final regulation. The Food and Drug Administration may grant, upon request, an extension of up to 180 days when pilot studies are required before the tests are begun. An extension of time necessary for an initial review of a protocol will be granted by the Food and Drug Administration when a protocol is submitted.

(5) Any manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies before the effective date of this section may request an evaluation of the studies to determine whether the studies are adequate and conclusive to ensure the bioavailability/bioequivalence of the drug product in light of current scientific knowledge and methodology. Any such request must contain the new drug application number, the established (generic) name of the product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) Each manufacturer who holds an approved or pending full new drug application for the drug product and who requests an evaluation of a previously conducted study shall submit the request for evaluation to the Division of Anti-Infective Drug Products (HFD–140), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Each manufacturer who holds an approved or pending abbreviated new drug application for the drug product and who requests an evaluation of a previously conducted study shall submit the request for an evaluation to the Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

(h) *Modifications.* Alternative methods or modifications to the bioequivalence requirement for in vitro testing as set forth in this section may be used if evidence is submitted demonstrating that the modification will assure the bioequivalence of the drug to an extent equal to or greater than the methods set forth in this section. The data should be submitted to the Director, Division of Biopharmaceutics (HFD–520), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, and must be approved before they are used. Any approved modification will be incorporated into the appropriate guidelines for the drug.

(i) *Reference material and guidelines for testing.* (1) The reference materials to be used in the in vivo and in vitro tests are specified in the "Guidelines for In Vivo Bioavailability Studies for Sulfonamides," and "Guidelines for In Vitro Dissolution Testing for Sulfonamides." The same lot or batch of the test drug product used in the in vitro test and the reference lot that has the highest dissolution in the specified time must be used in the in vivo test unless a manufacturer has conducted, before (the effective date of the final regulation), in vivo tests in humans to demonstrate bioavailability/bioequivalence.

(2) Guidelines for in vivo and in vitro tests of sulfonamides are on file in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and are available on request to that office.

Interested persons may, on or before December 18, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 12, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79–32216 Filed 10–18–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 331

[Docket No. 79N–0152]

Antacid Drug Products for Over-the-Counter Human Use; Proposed Amendment of Monograph

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency proposes to amend the antacid monograph to require that antacid drug products containing calcium and magnesium contain a precautionary statement. Current labeling requirements for OTC antacid drug products are that antacids containing aluminum contain the drug interaction precaution "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline." This proposed amendment would require that the labeling of antacids containing calcium and magnesium also contain this same drug interaction precaution for concomitant therapy with tetracycline and its derivatives.

DATE: Comments by December 18, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Bureau of Drugs (HFD–510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4960.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 4, 1974 (39 FR 19862), the Food and Drug Administration (FDA) published the final order for OTC antacid drug products generally recognized as safe and effective and not misbranded (21 CFR Part 331). Section 331.30(c)(i) (21 CFR 331.30(c)(i)) requires OTC antacid drug products containing aluminum to bear the drug interaction precaution "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline."

This precautionary statement is not the same as the statement presently used for orally prescribed tetracycline drug products. Prescription package insert labeling currently approved for

tetracycline and its derivatives provides the following statement for concomitant therapy with antacids containing aluminum, calcium, or magnesium: "Concomitant therapy: Antacids containing aluminum, calcium, or magnesium impair absorption and should not be given to patients taking oral tetracycline," (Refs. *1* through *4.*) FDA has determined that both OTC and prescription drug labeling should be similar in respect to this drug interaction statement. Therefore, in accordance with § 330.10(a)(12), FDA proposes to amend the antacid monograph to require that antacid drug products containing calcium and magnesium also contain the OTC drug interaction precaution set forth in § 331.30(c)(i).

Available evidence indicates that the most rapid absorption of tetracycline and its derivatives takes place by passive diffusion from the duodenum and ileum (Refs. *5, 6,* and *7*). Many studies have determined that this absorption may be altered as the result of two interdependent factors: first, the chelation of tetracycline with polyvalent metallic cations contained in certain drugs or food (Refs. *8,* through *11*); and second, an increase in gastric pH which in turn augments chelation (Refs. *12* and *13*).

The tetracycline molecule contains numerous sites at which chelation with polyvalent metallic cations can occur. This chelation increases with an increase in the concentration of metallic cations. In in vitro studies of three such polyvalent metallic cations, aluminum, calcium, and magnesium, which are present in OTC antacid preparations, all have exhibited an affinity for the tetracycline molecule (Refs. *7, 12, 14, 15,* and *16*).

More specifically, aluminum forms a chelate through the ionized tricarbonyl methane functional group; magnesium and calcium each form a chelate with tetracycline through its phenolic diketone function (Refs. *5* and *12*). Of the three cations, aluminum has been shown to form the most stable complex, while magnesium and calcium form much weaker ones. When such a chelate is formed, the diffusion rate of tetracycline in solution is depressed, even if the chelate formed is water soluble (Refs. *8, 12, 14, 15,* and *16*).

Evidence suggests that chelation is dependent upon the pH of the system. At a low pH there is little chelate formation, while significant chelate formation occurs at high pH levels (Ref. *12*).

Increased gastric pH may also act independently of chelate formation to decrease the absorption of tetracycline. A study by W. H. Barr, et al., (Ref. *13*) showed a 50 percent reduction in tetracycline absorption when gastric pH was increased by administration of sodium bicarbonate as compared to the absorption recorded by the use of tetracycline alone. Sodium is a monovalent cation and cannot form chelates with tetracycline. Information is not available as to the mechanism by which sodium bicarbonate decreased tetracycline absorption, and the question as to whether antacids, in general, interfere with tetracycline absorption warrants further investigation.

Chelation and an increase in gastric pH act concomitantly and apparently reduce the absorption of tetracycline and its derivatives, thereby decreasing the effectiveness of the antibiotic. With antacids containing aluminum, magnesium, and calcium, this reduction is magnified. Not only do the antacids provide the material for chelation (namely, polyvalent metallic cations), but they also facilitate the process by raising the gastric pH.

A number of clinical studies involving products containing these metallic cations demonstrate the results of concomitant therapy with tetracycline. One double-blind study involved giving 15 milliliters (mL) of an antacid product containing aluminum hydroxide to four subjects at the same time as a single 100 milligram (mg) dosage of doxycycline, and to four other subjects at the same time as a single 300-mg dosage of demeclocycline. This study demonstrated that each group of four patients showed significant reductions in antibiotic serum levels compared to controls (Ref. *9*). In each study group, three of the four subjects showed essentially no measurable plasma levels of antibiotic, and one subject in each group had very low levels.

Michel, et al., (Ref. *17*) gave five adults 1 gram (g) of oxytetracycline each morning for 4 days. On the third and fourth days, in addition to the oxytetracycline each subject received either 30 mL of an aluminum gel antacid or a full breakfast. In another treatment the same five subjects received an additional treatment of 1 g chlortetracycline for 4 days and food or 30 mL of an aluminum gel antacid on the second and fourth days. Blood samples were taken 3 hours after administration. Results of the testing showed that simultaneous ingestion of the antacid with either chlortetracycline and oxytetracycline resulted in a marked depression in antibiotic blood levels, compared to antibiotic blood levels without antacid. The simultaneous ingestion of the antibiotics with food caused no significant alteration in blood levels.

In another study, chlortetracycline was administered to five hospitalized patients and six normal male subjects at an oral dosage of 500 mg every 6 hours for 6 consecutive days (Ref. *18*). On the fourth, fifth, and sixth days, all subjects were given 30 mL of aluminum hydroxide suspension immediately following each dose of chlortetracycline. Results showed that in four of the hospitalized patients, there was a decrease in serum levels of chlortetracycline within 24 hours following administration of the aluminum hydroxide solution, compared to chlortetracycline levels recorded in the first 3 days. After 48 hours, four patients had serum levels of antibiotic below 1 microgram/milliliter (μg/mL); the fifth patient maintained a serum level of 5 μg/mL. On the third day of the combined therapy, one patient suffered a recurrence of her urinary tract infection, which promptly subsided when the aluminum hydroxide was discontinued. The six normal males averaged serum levels of 4.2 μg/mL of chlortetracycline after the 3-day administration, but serum levels dropped to 0.49 μg/mL with concurrent administration of the aluminum hydroxide.

Tetracycline was administered to 10 patients in oral doses of 500 to 1,000 mg alone, or concomitantly with 30 mL of a 50-percent magnesium sulfate solution. Results of the testing showed that when the magnesium sulfate was administered concomitantly with tetracycline, the blood level of tetracycline was reduced fourfold, when compared to the blood level produced by the tetracycline used alone (Ref. *19*).

In a comparison of blood serum levels of tetracycline, 12 patients received 4 tetracycline preparations (250 mg tetracycline base with citric acid, 250 mg tetracycline with lactose, 250 mg tetracycline phosphate complex with 22 mg calcium, and 250 mg tetracycline hydrochloride with 40 mg dicalcium phosphate) in a Latin-square pattern as follows: On each of 4 days at 4-day intervals, three patients received a single oral dose of one of the four preparations so that upon completion of the study each patient had received each of the four medications. At the end of the study, it was found that the two tetracycline preparations containing calcium measured 1, 3, 6, and 8 hours after administration resulted in serum levels only half of those found with the tetracycline administered with lactose or citric acid (Ref. *20*).

Sweeney, et al., (Ref. *21*) recorded serum and urine levels of tetracycline

V 4 4 0 C 1 9 7 9 UMI

from 31 healthy subjects after the administration of 3 separate treatments of tetracycline (250 mg tetracycline base with citric acid, 250 mg tetracycline base with lactose, or 250 mg tetracycline phosphate complex containing the equivalent of 22 mg calcium in each dose). A comparison of the serum and urine levels showed that the tetracycline phosphate complex resulted in significantly lower readings at all measurements. The investigators then measured serum and urine levels of tetracycline in 12 healthy patients, each of whom received, in separate tests, samples of 250 mg tetracycline base, 250 mg tetracycline base with sodium hexametaphosphate, or tetracycline hydrochloride with dicalcium phosphate. Results of the study showed that in all 12 patients, serum and urine tetracycline levels recorded after administration of the tetracycline hydrochloride with dicalcium phosphate were significantly lower than after administration of any of the other two preparations.

Research with dairy products has produced similar findings. Dairy products contain a considerable amount of calcium and magnesium. Although the amounts of calcium and magnesium vary with the source of the dairy product, such products generally contain between 118 and 120 mg/100 g calcium and between 13 and 14 mg/100 g magnesium (Refs. *8, 22,* and *23*). When 12 volunteers reviewed 300 mg demeclocycline simultaneously with milk or buttermilk (240 mL) or cottage cheese (240 g), serum antibiotic levels were reduced by as much as 80 percent, when compared with a control group of four, who received 300 mg demeclocycline with water (Ref. *11*).

References

(1) "Physicians' Desk Reference," 32d Ed., Medical Economics Company, Oradell, NJ, p. 723, 1979.

(2) "Physicians' Desk Reference," 32d Ed., Medical Economics Company, Oradell, NJ, p. 943, 1979.

(3) "Physicians' Desk Reference," 32d Ed., Medical Economics Company, Oradell, NJ, p. 971, 1979.

(4) "Physicians' Desk Reference," 32d Ed., Medical Economics Company, Oradell, NJ, p. 1352, 1979.

(5) Kunin, C. M., and M. Finland, "Clinical Pharmacology of the Tetracycline Antibiotics," *Clinical Pharmacology and Therapeutics*, 2:51–69, 1961.

(6) Colaizzi, J. L., and P. R. Klink, "pH—Partition Behavior of Tetracyclines," *Journal of Pharmaceutical Sciences*, 58:1184–1189, 1969.

(7) Pindell, M. H., K. M. Cull, K. M. Doran, and H. L. Dickison, "Absorption and Excretion Studies on Tetracycline," *Journal of Pharmacology and Experimental Therapeutics*, 125:287–294, 1959.

(8) Neuvonen, P. J., "Interactions With the Absorption of Tetracyclines," *Drugs*, 11:45–54, 1976.

(9) Rosenblatt, J. E., "Comparison of In Vitro Activity and Clinical Pharmacology of Doxycycline With Other Tetracyclines," *Antimicrobial Agents and Chemotherapy*, pp. 134–141, 1966.

(10) Weinstein, L., "Antimicrobial Agents," *in* "The Pharmacological Basis of Therapeutics," 5th Ed., Edited by Goodman, L. S. and A. Gilman, The MacMillan Co., New York, pp. 1183–1187, 1975.

(11) Scheiner, J., and W. A. Altemeier, "Experimental Study of Factors Inhibiting Absorption and Effective Therapeutic Levels of Declomycin," *Surgery, Gynecology and Obstetrics*, 114:9–14, 1962.

(12) Chin, T. and J. L. Lach, "Drug Diffusion and Bioavailability: Tetracycline Metallic Chelation," *American Journal of Hospital Pharmacy*, 32:625–629, 1975.

(13) Barr, W. H., J. Adir, and L. Garrettson, "Decrease of Tetracycline Absorption in Man by Sodium Bicarbonate," *Clinical Pharmacology and Therapeutics*, 12:779–784, 1971.

(14) Albert, A., "Avidity of Terramycin and Aureomycin for Metallic Cations," *Nature*, 172:201, 1953.

(15) Albert, A., "Avidity of the Tetracyclines for the Cations of Metals," *Nature*, 177:433–434, 1956.

(16) Kohn, K. W., "Mediation of Divalent Metal Ions in the Binding of Tetracycline to Macromolecules," *Nature*, 191:1156–1158, 1961.

(17) Michel, J. C., R. J. Sayer, and W. M. M. Kirby, "Effect of Food and Antacids on Blood Levels of Aureomycin and Terramycin," *Journal of Laboratory and Clinical Medicine*, 36:632–634, 1950.

(18) Waisbren, B. A. and J. S. Hueckel, "Reduced Absorption of Aureomycin Caused by Aluminum Hydroxide Gel (Amphojel)," *Proceedings Society for Experimental Biology and Medicine*, 73:73–74, 1950.

(19) Harcourt, R. S. and M. Hamburger, "The Effect of Magnesium Sulfate in Lowering Tetracycline Blood Levels," *Journal of Laboratory and Clinical Medicine*, 50:464–468, 1957.

(20) Boger, W. P. and J. J. Gavin, "An Evaluation of Tetracycline Preparations," *New England Journal of Medicine*, 261:827–832, 1959.

(21) Sweeney, W. M., et al., "Absorption of Tetracycline in Human Begins as Affected by Certain Excipients," *Antibiotic Medicine and Clinical Therapy*, 4:642–656, 1957.

(22) Watt, B. K. and A. L. Merrill, "Composition of Foods," Agriculture Handbook No. 8, Agriculture Research Service, United States Department of Agriculture, Washington, DC, p. 39, 1964.

(23) Watt, B. K. and A. L. Merrill, "Composition of Foods," Agriculture Handbook No. 8, Agriculture Research Service, United States Department of Agriculture, Washington, DC, p. 153, 1964.

FDA has reviewed the data relevant to the concomitant administration of antacid drug products containing polyvalent cations and tetracycline and its derivatives, and has determined that sufficient data exist to require that all antacids containing aluminum, magnesium, and calcium bear drug interaction labeling. (In making this decision, FDA has weighed previous statements by the Advisory Review Panel for OTC Antacid Drug Products, and subsequent **Federal Register** statements regarding this possible interaction (38 FR 8718, April 5, 1973; 38 FR 31263 and 31264, November 12, 1973; and 39 FR 19868 and 19880, June 4, 1974). FDA is concerned that the interaction between the polyvalent cations (aluminum, magnesium, and calcium) present in antacid products and tetracycline or its derivatives could result in lower serum levels of tetracycline and thus inadequate therapy to the patient. The agency is also concerned that some patients may not be readily able to determine whether or not the prescription antibiotic drug that they are taking contains a form of tetracycline. Therefore, the proposed precautionary statement urges the patient to ask a physician or pharmacist whether or not the drug contains tetracycline.

The agency is considering the need for a similar precautionary statement for OTC non-antacid internal drug products containing aluminum, magnesium, and calcium, e.g., magnesium salicylate, calcium lactate, and aluminum aspirin. FDA invites comment on this issue.

FDA is unaware of data demonstrating that tetracycline and antacids containing aluminum, magnesium, and calcium may be administered sequentially at a time interval that will ensure that therapeutic levels of antibiotic would not be affected (e.g., administration of the antacid 2 hours before or 2 hours after the antibiotic). FDA invites comment and welcomes any evidence available on this issue.

Where an antacid product contains minimal amounts of aluminum, magnesium, or calcium and blood level data are sufficient to show that the normal dosage of the antacid does not cause interference with the concomitant administration of any form of tetracycline, FDA will grant an exemption from this drug interaction precaution. Anyone seeking such an exemption must submit a petition in accordance with Part 10 (21 CFR Part 10) of the agency's procedural regulations with the supporting data to the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. These petitions will be maintained in a permanent file for public review.

The agency proposes that a final regulation based on this proposal be effective 12 months after the date of its publication in the **Federal Register**. The FDA believes that a 12 month delayed effective date would provide sufficient time for manufacturers to order and begin using revised labeling. On or after the effective date, FDA would regard any drug product that is subject to this regulation and that is initially introduced or initially delivered for introduction into interstate commerce as misbranded unless the labeling of the product complies with the requirements set forth in the regulation. The regulation would also apply to a drug product that is repackaged or relabeled after the effective date, regardless of the date it was initially delivered for introduction into interstate commerce.

The Food and Drug Administration has determined that this document does not contain an agency action covered by 21 CFR 25.1(b) and consideration by the agency of the need for preparing an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321, 352, 355, 371)) and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Part 331 be amended by revising § 331.30(c) to read as follows:

§ 331.30 Labeling of antacid products.

* * * * *

(c) *Drug interaction precautions.* (1) The labeling of the product contains the following drug interaction precautions under the heading "Drug Interaction Precautions":

(i) If the product is an antacid containing aluminum, calcium, or magnesium, "Do not take this product if you are presently taking a prescription antibiotic drug containing any form of tetracycline. If you are not sure whether or not you are taking a tetracycline product, contact your physician or pharmacist."

(ii) [Reserved]

(2) Any person may file a petition under Part 10 of this chapter to exempt an antacid product from the provisions of paragraph (c)(1)(i) of this section. The petition shall be supported by an adequate showing that:

(i) The product contains minimal amounts of aluminum, calcium, or magnesium; and

(ii) Blood level data are sufficient to show that the normal dosage of the antacid does not cause interference with the concomitant administration of any form of tetracycline.

Interested persons may, on or before December 18, 1979 submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fisher Land, Rockville, MD 20857, written comments regarding this proposal. Five copies of any comments are to be submitted, and they may be accompanied by a supporting memorandum or brief. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 11, 1979.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–31971 Filed 10–18–79; 12:00 pm]

BILLING CODE 4110–03–M

---

21 CFR Part 444

[Dockets Nos. 79N–0151 and 79N–0155]

Neomycin Sulfate Preparations; Proposed Revocations of Certification; Informal Conference and Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Notice of Informal Conference and Extension of Comment Period.

SUMMARY: The Food and Drug Administration (FDA) announces that it will hold an informal conference in Rockville, MD, to receive information and views from interested persons on the agency's proposals to revoke provisions for certification of neomycin sulfate for prescription compounding and sterile neomycin sulfate for parenteral use. The agency is also extending the period for submission of written comments on the proposals.

DATES: A written notice of participation should be filed by November 13, 1979. The informal conference will be held on November 20, 1979; written comments by December 20, 1979.

ADDRESSES: Written notice of participation and comments to Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857. The informal conference will be held in Conference Room A, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: T. Greene Reed, Bureau of Drugs (HFD–140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4310.

SUPPLEMENTARY INFORMATION: FDA will hold an informal conference on its proposals to amend the Code of Federal Regulations by revoking provisions for certification of neomycin sulfate for prescription compounding and neomycin sulfate for parenteral use. The proposals were published in the **Federal Register** of July 27, 1979 (44 FR 44178; 44180). The effect of the amendments would be to remove these drug products from the market.

The proposals gave interested persons an opportunity to submit written comments by September 25, 1979. They also announced that interested persons could submit a request by August 27, 1979, for an informal conference on the proposed regulations. Three requests for an informal conference and two requests for an extension of the comment period were received.

The agency has concluded that an informal conference should be held on the proposed regulations. The conference will be on November 20, 1979, at 9:30 a.m. in Conference Room A of the Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. It will be open to the public.

Any persons who wish to present their views at the conference should file a written notice of participation with the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857 by November 13, 1979.

The notice of participation should be prominently marked "INFORMAL CONFERENCE, NEOMYCIN SULFATE" and should contain the following information:

1. Name, address, and telephone number of the person desiring to make a presentation.

2. Business affiliation, if any.

3. A summary of the presentation.

4. The approximate amount of time requested for the presentation (no more than 30 minutes unless more time can be justified).

V 44 0C 19 79 9 UMI

The time available for the conference will be allocated among the persons who file written notices of participation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The agency may require consolidation to facilitate the purposes of the conference or to meet time constraints. At the discretion of the agency, participants and, as time permits, any person who attends may be heard on the issues under consideration.

The agency has also decided to extend the period for submission of written comments for 30 days after the informal conference. Accordingly, interested persons may, on or before December 20, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding these proposals. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with Docket No. 79N–0151 or 79N–0155, as appropriate. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 12, 1979.

J. Richard Crout,

Director, Bureau of Drugs.

[FR Doc. 79–32088 Filed 10–15–79; 11:20 am]

BILLING CODE 4110–03–M

---

21 CFR Part 640

[Docket No. 79N–0117]

Source Plasma (Human); Amendment of Storage Temperature Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the storage temperature requirements for Source Plasma (Human) intended for manufacture into injectable products to permit one inadvertent exposure of the product to a temperature range of −20° to −5° C for no more than 72 hours, without requiring relabeling of the frozen product from "Source Plasma (Human)" to "Source Plasma (Human) Salvaged." Data submitted to the agency demonstrate the satisfactory recovery of clotting factor concentrates from the plasma despite the temporary elevation of storage temperature.

DATE: Comments by December 18, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Donna C. Williams, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: Section 640.69(b) (21 CFR 640.69(b)) of the biologics regulations requires that, immediately after filling, Source Plasma (Human) intended for manufacturing into injectable products be stored at a temperature not warmer than −20° C. Such cold storage assures preservation of the antihemophilic factor in Source Plasma (Human). Source Plasma (Human) is fractionated into injectable plasma derivatives including clotting factors such as Antihemophilic Factor (Human) and Factor IX Complex (Human) used for treatment of patients with clotting factor deficiencies. Section 640.76(a) (21 CFR 640.76(a)) requires that Source Plasma (Human) intended for manufacture into injectable products that is inadvertently exposed to a storage temperature warmer than −20° C but colder than 10° C may be issued only if labeled as "Source Plasma (Human) Salvaged." This revised labeling provides the manufacturer of the fractionated plasma derivatives with important information concerning possible adverse effects on the clotting factors because of the inadvertent storage of the Source Plasma (Human) at temperatures warmer than −20° C.

By letter dated January 5, 1978, the Director of Regulatory Affairs and Clinical Development of Hyland Division Travenol Laboratories, Inc. on behalf of the Biological Section of the Pharmaceutical Manufacturers Association (PMA) requested the amendment of the Source Plasma (Human) regulations to allow for an inadvertent rise in storage temperature to not warmer than −5° C for a time period not to exceed 72 hours during an unforeseen occurrence in spite of compliance with good manufacturing practices (e.g., freezer malfunction or power failure) without requiring such plasma to be relabeled "Source Plasma (Human) Salvaged." Data submitted in support of this request demonstrate that suitable potency levels of Antihemophilic Factor (Human) and Factor IX Complex (Human) were obtained from pools of plasma that contained Source Plasma (Human) Salvaged (stored at temperatures colder than 0° C) and Source Plasma (Human). Copies of the PMA request and supporting data are on file at the office of the Hearing Clerk (HFA–305), Rm. 4–65, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

On the basis of the data submitted to the agency, FDA concludes that a one-time temporary storage of Source Plasma (Human) at a temperature between −20° and −5° C for a period up to 72 hours will not affect the safety, purity, potency, or effectiveness of derivatives prepared from the plasma. Therefore, the PMA recommendation to amend the storage temperature regulations is accepted to the extent set forth in this document. No data have been submitted, however, to support the potency levels of clotting factor derivatives prepared from Source Plasma (Human) exposed to more than one episode of temperature elevation. Therefore, this proposal would amend § 640.76 by designating existing paragraph (a) as (a)(1) and by adding a new paragraph (a)(2) to permit only one inadvertent episode (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practices) of temperature elevation without requiring relabeling of the units as "Source Plasma (Human) Salvaged." The proposed amendment would also require that appropriate records be maintained and copies provided to the plasma derivatives manufacturer, specifying the units involved, that there was no more than one episode of temperature elevation, that the temperature did not rise to warmer than −5° C, and that the period of exposure was no more than 72 hours. In addition, the proposed amendment would define the term, "inadvertently exposed", in paragraphs (a)(1), (2), and (b) by specifying its relationship to the good manufacturing practices standard. Paragraph headings are also proposed for paragraphs (a), (b), and (c).

The Food and Drug Administration has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs proposes to amend Part 640 by revising § 640.76 to read as follows:

§ 640.76 Products stored or shipped at unacceptable temperatures.

(a) *Storage temperature.* (1) Except as provided in paragraph (a)(2) of this section, Source Plasma (Human) intended for manufacture into injectable products that is inadvertently exposed (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practices) to a storage temperature warmer than −20° C and colder than 10° C may be issued only if labeled as "Source Plasma (Human) Salvaged." The label shall be revised before issuance and appropriate records shall be maintained identifying the units involved, their disposition, and fully explaining the conditions that caused the temperature exposure.

(2) Source Plasma (Human) intended for manufacture into injectable products that is inadvertently exposed (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practices) to a one-time storage temperature range of −20° C to −5° C for not more than 72 hours is exempt from the labeling requirements of paragraph (a)(1) of this section, provided that the plasma has been and remains frozen solid. Appropriate records shall be maintained and copies provided to the plasma derivative manufacturer specifying the units involved; and documenting that there was only one episode of temperature elevation for not more than 72 hours, that the temperature did not rise to warmer than −5° C in storage, and that the plasma remained frozen solid throughout the period of raised temperature.

(b) *Shipping temperature.* Source Plasma (Human) for manufacture into injectable products that is inadvertently exposed (i.e., an unforeseen occurrence in spite of compliance with good manufacturing practices) to shipping temperatures warmer than −5° C and colder than 10° C shall be labeled by the plasma derivative manufacturer as "Source Plasma (Human) Salvaged." Appropriate records shall be maintained identifying the units involved, their disposition, and fully explaining the conditions that caused the accidental temperature exposure.

(c) *Relabeling.* Source Plasma (Human) shall be relabeled as "Source Plasma (Human) Salvaged" by covering the original label with either (1) a complete new label containing the appropriate information or (2) a partial label affixed to the original label and containing the appropriate new information, which covers the incorrect information regarding storage temperature.

Interested persons may, on or before December 18, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Dated: October 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–32218 Filed 10–18–79; 8:45 am]

BILLING CODE 4110–03–M

---

21 CFR Part 680

[Docket No. 79N–0097]

Allergenic Products; Antigen E Potency Test; Extension of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Proposed rule: Extension of Comment Period.

SUMMARY: The Food and Drug Administration (FDA) is extending the comment period for submitting written comments on the proposed antigen E potency test for short ragweed pollen extracts and extracts prepared from equal parts of giant and short ragweed pollen.

DATES: Written comments by November 10, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael L. Hooton, Bureau of Biologics (HFB–620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301–443–1306.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 3, 1979 (44 FR 45642), FDA proposed a new potency test to measure the quantity of antigen E in short ragweed pollen extracts and extracts prepared from equal parts of giant and short ragweed pollen. The proposal also included labeling and lot-by-lot release standards for the extract products. Interested persons were given until October 2, 1979, to submit written comments on the proposal. In response to a request from the American Council of Otolaryngology, which will meet to discuss the proposal in October after the comment period has ended, FDA is extending the comment period for all interested persons to November 10, 1979.

Interested persons may, on or before November 10, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 12, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–32090 Filed 10–15–79; 8:45 am]

BILLING CODE 4110–03–M

DEPARTMENT OF LABOR

Occupation Safety and Health Administration

29 CFR Part 1910

[Docket No. S–019]

Entry and Work in Confined Spaces; Advance Notice of Proposed Rulemaking

AGENCY: Occupational Safety and Health Administration, U.S. Department of Labor.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Occupational Safety and Health Administration (OSHA) requests information of value in the development of standards for entry and work in confined spaces in general industry. Continued reports of deaths and injuries to employees working in and rescuing employees from such work areas have been received by the Agency. At this time, OSHA does not contemplate the development or revision of standards for agriculture, construction, longshoring or shipyard industries.

DATES: Comments should be received by December 15, 1979.

ADDRESS: Communications should be mailed to the Docket Officer, Docket S–

V 4 4 O C 1 9 7 9 UMI

019, Occupational Safety and Health Administration, U.S. Department of Labor, Room S-6212, 200 Constitution Avenue, NW., Washington, D.C. 20210 by December 15, 1979. The communications received will be available for public inspection and copying at the above location.

FOR FURTHER INFORMATION CONTACT: Dr. Jerry L. Purswell, Directorate of Safety Standards Programs, Occupational Safety and Health Administration, Room N-3605, U.S. Department of Labor, Washington, D.C. 20210, 202-523-8061.

SUPPLEMENTARY INFORMATION: The Occupational Safety and Health Administration presently is developing a proposal to revise the existing standards covering entry to and work in confined spaces in general industry. OSHA intends that its proposal will cover the hazards connected with all aspects of entry and work in confined spaces in petroleum refineries and other industries covered by the OSHA general industry standards. "Confined spaces" include work areas such as tanks, boilers, pressure vessels, sewer vaults, manholes and trenches.

Information now available to the Agency includes continuing reports of deaths and serious injuries attributable to working in confined spaces, and information submitted by the American National Standards Institute and other interested organizations and persons. In addition, OSHA has also received 107 responses to its previous Advance Notice of Proposed Rulemaking, published on July 24, 1975 (40 FR 30980) which had also requested data and recommendations for revisions to existing OSHA standards covering confined spaces in all industries.

The National Institute for Occupational Safety and Health (NIOSH) has advised OSHA that it is currently developing a criteria document for confined spaces which will recommend relevant standards.

In consideration of both the complexity of the issues and the period of time since the previous Advance Notice, OSHA has decided to again request information of value to the development of its proposal on confined spaces in general industry. At this time, OSHA does not contemplate the development or revision of standards for agriculture, construction, longshoring, or shipyard industries. Standards addressing confined spaces in these industries may be considered at some future date.

Specifically, for consideration in this rulemaking, the Agency is seeking information and answers to the following questions:

1. Do the existing OSHA standards relating to confined spaces in general industry present problems in application? These standards include §§ 1910.194(d)(11), 1910.252, 1910.261(b)(5) and 1910.268(o)(2), as well as provisions in those subparts of Part 1910 which cover areas such as walking and working surfaces, fire protection, protection from hazardous and toxic materials, guarding from mechanical hazards and protection from electrical hazards. Information relating to the effectiveness of these provisions, their clarity of language or format; and any omissions of necessary or appropriate provisions, would be helpful to OSHA in developing its proposal.

2. OSHA does not currently intend to develop or revise standards that apply to confined spaces in maritime, construction or agricultural workplaces. However, OSHA would like to know if there are any problems or difficulties in applying the standards for maritime, construction and agricultural industries including §§ 1915.2(m), 1915.2(n), 1915.11, 1915.23, 1915.24, 1915.31, 1915.32, 1915.33, 1915.54, 1915.82, 1916.2(m), 1916.2(n), 1916.11, 1916.23, 1916.24, 1916.31, 1916.32, 1916.33, 1916.54, 1916.82, 1917.2(m), 1917.2(n), 1917.11, 1917.31, 1917.33, 1917.54, 1917.82, 1918.93, 1926.21(b)(6), 1926.352(g), 1926.353, 1926.354, and 1926.956.

3. What is a suggested definition for a confined space?

4. What is the incidence of injuries or death associated with working in confined spaces or attempting to rescue employees from confined spaces?

5. What is a recommended method for classifying confined spaces based on the degree of risk they pose to employees.

6. Should radiation hazards that may be encountered in confined spaces be addressed in the proposed regulation?

7. Should working in confined spaces that have been rendered inert be addressed in the proposed regulation? If so, what procedures are recommended for entry into confined spaces under inert atmospheric conditions?

8. Should working in confined spaces that are at pressures greater or lesser than atmospheric be addressed?

9. What procedures are recommended to identify and deactivate pyrophoric material, particularly solid pyrophorics?

10. What procedures, methods and instruments are available, in use or recommended for testing and monitoring confined spaces for oxygen content, toxic materials or flammable atmospheres?

11. At what percentage of the lower explosive limit should hot work such as welding be prohibited?

12. When combustible gas analyzers are calibrated using a reference different from the atmosphere to be measured, what errors are introduced and what safety factors should be added to compensate for errors?

13. What are the conditions that require continuous monitoring of a confinded space when persons are working in the space?

14. What is the safe minimum oxygen level for breathing? Should there be adjustments in required oxygen level depending on the elevation?

15. When should personnel be required at the entrance to a confined space to assist persons working within the space?

16. What are recommendations for maintaining communications between personnel within the confined space and attendant personnel on the outside?

17. Under what conditions are confined spaces tested for hazardous atmospheres? What testing methods are used? How often are these tests performed and how much do they cost?

19. When an unsafe atmosphere is encountered, what are the typical problems and costs of ventilation or purification procedures and equipment?

20. What safety procedures and equipment are used when entering or working in confined space (e.g., communication procedures, isolation and lockout procedures, outside monitors, lifelines, safety harnesses, personal protective clothing, spark resistant tools, lockout or tagout procedures)? What are the associated costs?

21. What types of standby rescue equipment are used and what do they cost? What were the associated costs of injuries to the company? Are records kept of accidents?

22. What labor categories are normally employed in confined space work? What are the wage of these employees, and what portion of their time do they spend on confined space work and related safety work practices?

23. What special training do these employees receive and what is the frequency and cost of this training, including the instructor's and trainee's labor costs and material costs?

24. What are the other related issues that should be addressed by OSHA in developing a standard?

This Advance Notice of Proposed Rulemaking is issued under section 6 of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655) and Secretary of Labor's Order No. 8-76 (41 FR 25059).

Signed at Washington, D.C., this 11th day of October 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79-32416 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-26-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL 1313-8]

Assistance for Pesticide Enforcement and Applicator Training and Certification Programs

AGENCY: U.S. Environmental Protection Agency.

ACTION: Proposed Rule.

SUMMARY: On September 21, 1977, the U.S. Environmental Protection Agency (EPA) published in the **Federal Register** (42 FR 47565) a notice of its intent to develop regulations to implement a program of assistance for pesticide enforcement for States interested in entering into cooperative agreements with EPA under section 23(a)(1) of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (Sec. 21, Pub. L. 95-396, 92 Stat. 834 (7 U.S.C. 136u)) (FIFRA). Comments received in response to this notice were considered in developing the following proposed regulations.

The scope of these regulations has been expanded to include programs for training and certifying pesticide applicators and to extend eligibility to Indian tribes as authorized by recent amendments to section 23(a)(2) of FIFRA.

These proposed regulations are designed (1) to incorporate the pesticide enforcement and applicator training and certification assistance programs into the EPA grant regulations and (2) to provide uniform rules for administration of these programs, so that EPA and the recipients of assistance are better informed about such matters as eligibility, conditions, and responsibilities.

In developing the proposed regulation, the Office of Enforcement sought comments from the Agency Steering Committee and the FIFRA Scientific Advisory Panel. The draft was also sent through the OMB Circular A-85 process as well as to the State-Federal FIFRA Implementation Advisory Committee and members of the American Association of Pesticide Control Officials for comment by State governments and agencies. In addition, EPA solicited comments from the Department of Agriculture and the House Committee on Agriculture and Senate Committee on Agriculture and Forestry as required by section 25(a) of FIFRA.

EPA solicits further comment from interested members of the public.

DATES: Comments must be received on or before December 18, 1979.

ADDRESS: SEND COMMENTS TO: Mr. Alexander J. Greene, Director, Grants Administration Division (PM-216), U.S. Environmental Protection Agency, 401 M Street, SW., WSM, Washington, DC 20460, (202) 755-0850.

FOR FURTHER INFORMATION CONTACT: Mr. David Stangel, Policy and Guidance Branch, Pesticides and Toxic Substances Enforcement Division (EN-342), Washington, DC 20460, (202) 755-0997.

SUPPLEMENTAL INFORMATION:

Scope and Purpose

The proposed regulations are designed to allow an applicant to file a single application with EPA for assistance for pesticide enforcement and applicator training and certification functions. If an applicant wishes to apply for assistance in only one of these areas, however, the regulations do not preclude such an application.

The regulations do not specifically preclude an applicant from applying for enforcement assistance if it does not have a certification program in place. However, EPA deems the certification program generally to be critical to the success of an overall pesticide management program. The Regional Administrator will weigh a particular applicant's ability to conduct a viable enforcement program without a certification program as one of the factors in deciding whether to award enforcement assistance.

Eligibility of Indian Tribes

The 1978 amendments to the FIFRA provide that Indian Tribes are eligible for assistance. EPA will work closely with those Indian Tribes wishing to develop enforcement and applicator training and certification programs.

Eligibility of States

EPA recognizes that there are often several State agencies with separate authority for carrying out the various functions in the pesticide regulatory area. To encourage a unified approach to the regulation of pesticides within a State, EPA prefers a single award of assistance to each State covering all aspects of the State's pesticide regulatory program. EPA will award assistance to the State lead agency designated by the Governor. This agency will be responsible for ensuring that all regulatory functions are performed under appropriate legislative authority, if necessary, by other State agencies. The various State agencies should have coordinated their activities and agreed upon specific responsibilities prior to submitting the application to the Agency. With the Regional Administrator's approval, funds may be passed through to other agencies.

EPA is aware that under section 4 of FIFRA, the Governor of each State has designated a lead agency for certification purposes which may not always have primary enforcement authority. These regulations provide that the Governor may consider both certification and enforcement authorities in designating a lead agency for purposes of the combined assistance. It is conceivable, therefore, that for purposes of administering combined assistance, the Governor may deem it more appropriate to designate as lead agency a State agency which does not have primary authority in the area of applicator certification.

Rate of Federal Assistance

The proposed regulations indicate that the Regional Administrator may negotiate a rate of Federal assistance for enforcement activities based on the needs of the recipient. While these regulations stipulate a maximum Federal contribution of 85%, EPA favors a balance of 75% Federal—25% State contributions.

The Federal share of applicator training and certification activities shall not exceed 50 percent of the anticipated program cost. If appropriated funds are not sufficient to pay 50 percent of the program costs, the share of each recipient shall be reduced proportionately.

Economic Impact Analysis Statement

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: October 12, 1979.

Douglas M. Costle,

Administrator.

PART 35—STATE AND LOCAL ASSISTANCE

40 CFR Part 35, Subpart B, is proposed to be amended as follows:

1. By adding new §§ 35.750 though 35.786 to read as follows:

V 4 4 0 C 1 9 7 9 UMI

Assistance for Pesticide Enforcement and Applicator Training and Certification Programs

Sec.
35.750 Scope and purpose.
35.751 Definitions.
35.752 Eligibility.
35.753 A–95 clearinghouse review.
35.755 Application submission.
35.758 Application evaluation.
35.761 Allotments and distribution of funds.
35.761–1 Enforcement funds.
35.761–2 Applicator training and certification funds.
35.764 Amount of assistance and reallocation.
35.767 Rate of Federal assistance.
35.769 Reduction of amount.
35.771 Budget period.
35.775 Program plan.
35.778 Program elements.
35.782 Program evaluation.
35.786 Reporting.

Authority: Secs. 4 and 23, Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Sec. 21, Pub. L. 95–396, 92 Stat. 834 (7 U.S.C. 136u)).

Assistance for Pesticide Enforcement and Applicator Training and Certification Programs

§ 35.750 Scope and purpose.

Sections 35.750 through 35.786 establish policies and procedures for providing financial assistance to States and Indian Tribes for the establishment, development, improvement, and maintenance of pesticide enforcement programs, and for training and certification of pesticide applicators, as authorized by section 23 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended (sec. 21, Pub. L. 95–396, 92 Stat. 834 (7 U.S.C. 136u)). This subpart supplements EPA General Grant Regulations and Procedures in Part 30 of this chapter and regulations governing the certification of pesticide applicators in Part 171 of this chapter.

§ 35.751 Definitions.

As used in this part:

(a) "Act" means the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 95–396, 92 Stat. 819 (7 U.S.C. 136u)).

(b) "Applicant" means a State or Indian Tribe which has filed an application for assistance.

(c) "Indian Tribe" means any Indian tribe, band, pueblo or community, including Native villages and Native groups as defined in the Alaska Native Claims Settlement Act, which is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs.

(d) "Recipient" means a State or Indian Tribe which has been awarded financial assistance.

(e) "State" means one of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Trust Territory of the Pacific Islands, and Northern Mariana Islands.

§ 35.752 Eligibility.

(a) *State agencies.* EPA will award assistance to the State agency designated by the Governor under section 4(a) of the Act and implementing EPA regulations or such other State agency as the Governor may designate and the Regional Administrator approves. Where the designated State agency does not have adequate authority or capability to carry out all requirements of this subpart, the designated State agency shall pass EPA funds on to one or more other State agencies, with approval of the Regional Administrator, for performance of enforcement or other responsibilities of the State under the program plan. No funds will be released by EPA for payment to such other agency unless an authorized representative of such other agency has signed the financial assistance agreement, thereby obligating the agency to all terms and conditions of the agreement and the requirements of this chapter.

(b) *Indian Tribes.* EPA will award assistance to Indian Tribes which the Regional Administrator determines have adequate authority and capability to carry out the requirements of this subpart.

§ 35.75 A–95 clearinghouse review.

Applicants for program assistance shall comply with all applicable requirements of the Office of Management and Budget (OMB) Circular A–95 in accordance with § 30.305 of this chapter.

§ 35.755 Application submission.

An applicant for assistance shall submit an application containing the program plan required by § 35.755 to the appropriate EPA Regional Office in accordance with § 30.315 of this chapter, no later than July 1 of each year.

§ 35.758 Application evaluation.

The Regional Administrator will evaluate each application in accordance with criteria provided in the EPA annual guidance. The Regional Administrator will respond to each applicant within 30 calendar days of EPA receipt of the application. EPA will use the following criteria in application evaluation, as supplemented by the EPA annual guidance:

(a) The extent of an applicant's demonstrated need for establishing, developing, improving, or maintaining a comprehensive pesticide enforcement and applicator training and certification program within applicant's jurisdiction;

(b) The extent to which the applicant's proposed program demonstrates a potential for long-term beneficial impact upon human health and the environment within the applicant's jurisdiction;

(c) The extent of the past level and effectiveness, and the likelihood of future success, of the applicants' pesticides program.

§ 35.761 Allotments and distribution of funds.

(a) The Administrator may provide in the annual guidance that specified portions of available funding will be available only for one or more program elements, as, for example, applicator certification or producer establishment inspections.

(b) The annual guidance will specify program approval criteria which the Regional Administrator will use in distributing funds among the eligible applicants in each region consistent with § 35.764(a).

(c) The Administrator will issue to each Regional Administrator, as a part of the EPA annual guidance, tentative regional allowances for the fiscal year. The tentative regional allowance will be based on the appropriation requested by the President. As soon as practicable after funds are appropriated, the Administrator will issue to each Regional Administrator a final regional allowance.

§ 35.761–1 Enforcement funds.

Enforcement funds which the Administrator determines will be available in each Fiscal Year for allotments among the regions for assistance under section 23(a)(1) of the Act will be allotted on the basis of factors, and appropriate relative weightings, which will be identified each year in the annual guidance. These factors include population; number of farms; number of pesticide producers; number of commercial and private applicators; and incentive factors designed to assure that the Regional Administrator has the ability to encourage and reward highly successful programs.

§ 35.761–2 Applicator training and certification funds.

The Administrator will determine the annual distribution of applicator training and certification funds among the Regions based on the relationship of appropriated funds to the funding needs of each applicant, as determined by the Regional Administrator's review of applications received in the Region as of July 1 of each year. As soon as possible after receipt of applications, the Regional Administrator will advise the Administrator of the estimated funding needs based on applications received in the Region. Based on the cumulative national total, the Administrator will allot funds to each Regional Administrator with guidance concerning the proportionate Federal share (not to exceed 50 percent of allowable costs) attributable to each proposed project.

§ 35.764 Amount of assistance and reallocation.

(a) *Amount of assistance.* The Regional Administrator shall review each application prior to award of assistance to determine its approvability under the requirements of §§ 35.750 through 35.786, and to determine the reasonableness of the estimated costs of carrying out the approved elements of the program. Should the Regional Administrator's evaluation of the applicant's program submission reveal that an output commitment is not consistent with the funding anticipated under § 35.761 or national priorities contained in the EPA annual guidance, the Regional Administrator shall negotiate with the applicant to change the output commitment or to reduce the amount. However, should an applicant propose a different set of outputs from those suggested by the EPA annual guidance due to unique pesticide problems, the Regional Administrator may approve the program provided he or she determines the outputs can and should be produced and the proposed funding is appropriate.

(b) *Reallocation* (1) *Enforcement.* Unobligated funds remaining after negotiations with the recipients within a region may be used for supplementary awards to other recipients within that region. Funds not obligated by the Regional Administrator within three months following the date of the final advance of allowance for that region will revert to the Administrator for reallocation to regions which can demonstrate a need for funds in excess of their final regional allowance.

(2) *Applicator training and certification.* Unobligated funds remaining after negotiations with recipients within a region and funds which are later deobligated will revert to the Administrator. The Administrator will use such funds for either reallotment or accomplishing, under contract or by other appropriate means, objectives of the applicator training and certification program.

§ 35.767 Rate of Federal assistance.

(a) *Enforcement activities.* The Federal share of enforcement activities shall not exceed 85 percent of the total allowable program plan costs.

(b) *Applicator training and certification activities.* The Federal share of applicator training and certification activities shall not exceed 50 percent of the anticipated program plan cost. If appropriated funds are not sufficient to pay 50 percent of such costs, the share shall be determined in accordance with § 35.761–2.

§ 35.769 Reduction of amount.

If the Regional Administrator's program evaluation reveals that the recipient will not achieve or has not achieved the outputs specified in the approved program, an effort should be made to resolve the situation through mutual agreement. If agreement is not reached, the Regional Administrator may reduce the amount in proportion to the estimated program cost to produce such outputs, consistent with § 30.920 of this chapter. This provision does not limit the Regional Administrator's right to take other appropriate actions authorized by §§ 30.915 and 30.920.

§ 35.771 Budget period.

The budget period shall be for the Federal fiscal year.

§ 35.775 Program plan.

An applicant shall submit to the Regional Administrator an application containing a program plan which satisfies the requirements of this subpart and contains planned accomplishments. Unless the Regional Administrator otherwise agrees, the program plan shall include the program elements listed in § 35.778. The purpose of the program plan is to relate the use of available resources (both Federal and non-Federal) to the achievement of planned accomplishments. The program plan shall describe how the planned accomplishments address the pesticide problems in the applicant's jurisdiction and how the planned accomplishments are consistent with the objectives of the Act. Information on the program elements contained in each submission shall be presented in summary form and shall include:

(a) The planned accomplishments;

(b) The resources to be expended to produce the planned accomplishments, including anticipated Federal financial and technical assistance; and

(c) A timetable for the performance of outputs.

§ 35.778 Program elements.

Guidance concerning output requirements of the program elements below will be included in EPA's annual guidance under § 35.404. Under § 35.764(a) the Regional Administrator may approve an applicant's proposal to alter or add to the list of program elements below. The applicant's program plan must be developed so that the program elements are free from redundant or inconsistent outputs. The program plan shall indentify specific outputs (i.e., the planned accomplishments) to be achieved during the year within the following major program elements (common outputs may be developed for overlapping program areas):

(a) *Administration and program development.* Planning, development and coordination of activities for program management, including general program direction and supervision: development of staffing and budget needs; development and evaluation of basic legislation, regulations, policies; and public information.

(b) *Enforcement.* An enforcement program should include the following elements.

(1) *Surveillance.* Collection of samples of pesticides which have been packaged, labeled, and released for shipment; collection of samples of pesticides which are being used or are held for use; and producer establishment, market place, import and pesticide use inspections.

(2) *Laboratory capability.* Provision for the analysis of all samples collected during surveillance activities using Association of Official Analytical Chemists or other test methods approved by EPA. In accordance with Federal Management Circular FMC 74–4, provision may be made for rearrangement and alteration of facilities as specifically required for the program. The cost of constructing new building will not be allowable.

(3) *Training.* Training of inspectors, laboratory personnel or case preparation officers regarding EPA establishment, marketplace and use inspection and sample collection procedures, EPA analytical methods and chain of custody standards, and case-development procedures.

(4) *Enforcement.* Establishment and implementation of procedures for administrative and judicial enforcement of Federal and non-Federal pesticide regulations, including revocation of certification and provision for supplying evidence gathered by the recipient to EPA to support prosecution in

V 44 0 C 19 79 UMI

cooperation with or by Federal authorities.

(c) *Applicator training and certification.* An applicator training and certification program should include the following elements:

(1) *Certification.* Certification and recertification of private and commercial applicators to use and supervise the use of restricted use pesticides, and development of new techniques in pest control and their introduction through the certification process.

(2) *Training.* Training to increase professionalism and awareness of private and commercial applicators, vocational agriculture students, trade association members and others involved with the use of pesticides.

§ 35.782 Program evaluation.

Each Regional Administrator and the recipient shall jointly review and evaluate the recipient's program as follows:

(a) *Mid-year evaluation.* A mid-year on-site evaluation meeting to review and evaluate the program accomplishments of the current budget period under § 35.410.

(b) *End-of-year review.* Generally within 30 days after the end of the budget period, an evaluation meeting to review the accomplishments for the year.

(c) *Evaluation report.* The Regional Administrator shall prepare a written report of each evaluation generally within 10 working days of the meeting. The recipient shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.786 Reporting.

The recipient shall submit to the Regional Administrator quarterly reports which identify (by number where appropriate) specific program activities such as establishment inspections, market place inspections, pesticide use observations, sample collections, chemical analysis of samples, enforcement actions, and the accomplishment of any other outputs. Reports for the second and fourth quarters shall include the information required by § 171.7(d)(1)(i) of this title.

2. By revising §§ 35.400 through 35.425 to read as follows:

Subpart B—Program Grants

Sec.

35.400 Purpose.
35.400–1 Air pollution control agency grant awards.
35.400–2 Water pollution control program grant awards.
35.400–3 Public water system supervision program grant awards.
35.400–4 Solid and hazardous waste management program support grant awards.
35.400–5 Pesticide enforcement and applicator training and certification program grant awards.
35.400–6 Underground water source protection program grant awards.
35.403 Authority.
35.404 Annual guidance.
35.405 Criteria for evaluation of program objectives.
35.410 Evaluation of agency performance.
35.415 Financial status report.
35.420 Payment.
35.425 Federal and grantee program support.

Authority: Authorities cited § 35.403.

§ 35.400 Purpose.

This subpart establishes and codifies policy and procedures for air pollution, water pollution, public water system supervision, solid and hazardous waste management support, pesticide enforcement and applicator training and certification and underground water source protection program grants, and supplements the EPA general grant regulations and procedures (Part 30 of this chapter). These grants are intended to aid programs for air pollution control, water pollution control, public water system supervision, solid and hazardous waste management, pesticide enforcement and applicator training and certification and underground water source protection.

§ 35.400–1 Air pollution control agency grant awards.

Grants may be awarded to air pollution control agencies for the planning, development, establishment, improvement, and maintenance of programs for the prevention and control of air pollution or implementation of national primary and secondary ambient air quality standards in accordance with the applicable implementation plan.

§ 35.400–2 Water pollution control program grant awards.

Grants may be awarded to State and interstate water pollution control agencies to assist them in developing or administering programs for the prevention, reduction, and elimination of water pollution, including enforcement directly or through appropriate State law enforcement officers or agencies.

§ 35.400–3 Public water system supervision program grant awards.

Grants may be awarded to State agencies to assist them in developing or administering public water system supervision programs.

§ 35.400–4 Solid and hazardous waste management program support grant awards.

Grants may be awarded to agencies having responsibility for solid and hazardous waste management to assist them in developing and implementing solid and hazardous waste management work programs.

§ 35.400–5 Pesticide enforcement and applicator training and certification program grant awards.

Grants may be awarded to State agencies or Indian Tribes to assist them in establishing, developing, improving, or maintaining programs relating to the regulation of the production, sale, distribution, and use of pesticides and programs relating to the certification of private and commercial applicators to purchase and apply restricted use pesticides.

§ 35.400–6 Underground water source protection program grant awards.

Grants may be awarded to eligible States to assist them in developing and administering programs to protect underground sources of drinking water by adoption and enforcement of a program which meets the requirements of sections 1421 and 1422(b)(1)(A)(ii) of the Safe Drinking Water Act and regulations promulgated under these sections.

§ 35.403 Authority.

This subpart is issued under sections 105 and 301(b) of the Clean Air Act, as amended (42 U.S.C. 1857(c) and 1857(g)); sections 108 and 501 of the Federal Water Pollution Control Amendments of 1972 (33 U.S.C. 1256 and 1361); sections 1443 and 1450 of the Safe Drinking Water Act (42 U.S.C. 300j–2); sections 3011, 4007, 4008 and 4009 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6931, 6947, 6948 and 6949); and sections 4 and 23 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Sec. 21, Pub. L. 95–396, 92 Stat. 834, 7 U.S.C. 136u)).

§ 35.404 Annual guidance.

The Environmental Protection Agency will develop and disseminate annual guidance to be used by the grantee to structure air pollution, water pollution, public water system supervision, solid and hazardous waste management, pesticide enforcement and applicator training and certification and underground water source protection programs for the coming Federal fiscal year. The guidance will contain a statement of the national strategy, including national objectives and national priorities for the year, together with planning figures for Federal program grant assistance based on the EPA budget approved by the President. The annual guidance will be disseminated each year as soon as practicable during the month of February.

§ 35.405 Criteria for evaluation of program objectives.

(a) Programs set out in the application and submitted in accordance with these regulations shall be evaluated in writing by the Regional Administrator to determine:

(1) Consistency and compatibility of objectives and expected results with EPA national and regional priorities in implementing purposes and policies of the Clean Air Act, the Federal Water Pollution Control Act, the Safe Drinking Water Act, the Resource Conservation and Recovery Act, or the Federal Insecticide, Fungicide, and Rodenticide Act.

(2) Feasibility of achieving objectives and expected results in relation to existing problems, past performance, program authority, organization, resources and procedures.

(b) Approval of the program developed under § 35.526 (air) or § 35.565 (water pollution) or § 35.626 (public water system supervision) or § 35.718 (solid and hazardous waste management) or § 35.775 (pesticide enforcement and applicator training and certification) or 35.650 (underground water source protection) shall be based on the extent to which the applicant's program satisifes the above criteria.

§ 35.410 Evaluation of agency performance.

(a) A performance evaluation shall be conducted at least annually by the Regional Administrator and the grantee to provide a basis for measuring progress toward achievement of the approved objectives and outputs described in the work program. The evaluation shall be consistent with the requirements of § 35.538 for air pollution control agencies, § 35.570 for water pollution control agencies, § 35.626(d) for public water system supervision agencies, § 35.744 for solid and hazardous waste management agencies, § 35.782 for pesticide enforcement and applicator training and certification agencies, and § 35.680 for underground water source protection agencies.

(b) The Regional Administrator shall prepare a written report of the annual evaluation. The grantee shall be allowed 15 working days from the date of receipt to concur with or comment on the findings.

§ 35.415 Financial status report.

Within 90 days after the end of each budget period, the grantee must submit to the Regional Administrator an annual report of all expenditures (Federal and non-Federal) which accrued during the budget period. Beginning in the second quarter of any succeeding budget period, grant payments may be withheld under § 30.615–3 of this chapter until this report is received.

§ 35.420 Payment.

Grant payments will be made in accordance with § 30.615 of this chapter. Notwithstanding the provisions of § 30.345 of this chapter, the first grant payment subsequent to grant award may include reimbursement of all allowable costs incurred from the beginning of the approved budget period, provided that monthly costs incurred from the beginning of the budget period to the date of grant award do not exceed the level of costs incurred in the last month of the prior budget period.

§ 35.425 Federal and grantee program support.

(a) For purposes of establishing the amount of resources which will be committed by the agency to particular budget categories or program elements under §§ 35.527 (air), 35.561(a) (water), § 35.626–1 (public water system supervision), § 35.778 (pesticide enforcement and applicator training and certification), or § 35.670–2 (underground water source protection) Federal and grantee financial contributions shall be considered as combined sums, and shall not be separately identified for each budget category or program element. For purposes of this subpart, and pursuant to § 30.700(a) of this chapter, all project expenditures by the grantee shall be deemed to include the Federal share.

(b) A grantee may not unilaterally reduce the non-Federal share of project costs. In the event of a significant proposed or actual reduction in the non-Federal contribution, the Regional Administrator must consider a reduction in the Federal share or an increase to the Federal percentage.

[FR Doc. 79–32319 Filed 10–18–79; 8:45 am]
BILLING CODE 6560–01–M

---

40 CFR Part 52

[FRL 1242–3]

Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve a revised sulfur dioxide emission regulation as part of the Missouri State Implementation Plan (SIP). This regulatory change relaxes the currently approved generating plants in the St. Louis metropolitan area. Approval means that the regulation will be enforceable by the federal government as well as by the state government. This proposal is published to advise the public of the receipt of this proposed revision and to request comments on the proposal.

DATES: Comments must be received before December 18, 1979.

ADDRESS: Comments should be sent to: William A. Spratlin, Jr., Chief, Air Support Branch, Air and Hazardous Materials Division, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Whitmore, (816) 374–3791.

SUPPLEMENTAL INFORMATION: On March 1, 1979, the Missouri Department of Natural Resources (MDNR) submitted the proposed revision to the Missouri SIP. This regulation was the subject of a public hearing December 15, 1978, in St. Louis, Missouri. The revision was formally adopted by the Missouri Air Conservation Commission (MACC) on January 24, 1979, and became effective on April 12, 1979.

The proposed SIP revision is a revision to Missouri regulation 10 CSR 10–5.110, "Restriction of Emission of Sulfur Dioxide from Use of Fuel." This regulation restricts the sulfur content of fuel and sulfur dioxide emissions from fuel burning installations in the St. Louis Interstate Air Quality Control Region (AQCR). This revision establishes specific allowable emission rates for Union Electric's Labadie and Sioux power plants which are less stringent than the generally effective emission rate. The Sioux plant is located in St. Charles County, Missouri, and the Labadie plant in Franklin County, Missouri, both in the metropolitan St. Louis Interstate AQCR.

Regulation 10 CSR 10–5.110 was effective March 24, 1967, and was approved as part of the original SIP for the St. Louis AQCR on May 31, 1972. This regulation limited allowable emissions of sulfur dioxide to 2.3 pounds per million BTUs heat input for fuel burning installations having heat input of 2,000 million BTUs per hour or greater. The Sioux and Labadie power plants have never met the 2.3 pound emission limit.

V 44 0 C 1 9 7 9 UMI

Union Electric Company obtained one-year variances from the MACC to operate the subject plant at emission rates in excess of the 2.3 pounds per million BTUs limit in regulation 10 CSR 10–5.110. These variances were not submitted to EPA as SIP revisions. On July 22, 1976, the EPA Regional Administrator advised the MACC that the limits of regulation 10 CSR 10–5.110 would have to be enforced. The MACC was further advised that regulation 10 CSR 10–5.110 could be revised to allow a higher emission rate if the demonstration could be made that the relaxation would not interfere with the attainment and maintenance of the national ambient air quality standards (NAAQS).

The MACC, after holding public hearings on March 7 and 8, 1978, granted a variance on July 26, 1978, to allow operation of the Labadie and Sioux plants at emission rates of 6.3 and 7.3 pounds per million BTUs, respectively. The variance was submitted to EPA for approval on July 31, 1978. No action has been taken on approval of the variance and none is required. The variance contained a clause that the variance would automatically terminate upon revision of regulation 10 CSR 10–5.110 setting forth sulfur dioxide limitations in the St. Louis AQCR. Thus, the effect of the variance was terminated as of the April 12, 1979, effective date of the regulation being considered in this notice.

On October 2, 1978, notice was published in the Missouri Register that the MACC was proposing to amend regulation 10 CSR 10–5.110 to make emission limits of 6.3 pounds per million BTUs for Labadie and 7.3 pounds per million BTUs for Sioux part of the regulation. A public hearing to consider this regulation change was held on December 15, 1978.

Detailed dispersion modeling developed subsequent to the October 2, 1978, notice of proposed rulemaking predicted violations of the NAAQS for sulfur dioxide would occur at the proposed emission rates. Based on these analyses, the MDNR at the December 15, 1978, hearing, proposed an emission limit of 4.8 pounds per million BTUs for both Labadie and Sioux. Testimony indicated that emissions at this rate would not interfere with attainment and maintenance of the NAAQS. The amendment was adopted by the MACC on January 14, 1979, and became effective as of April 12, 1979.

The revised regulation 10 CSR 10–5.110 limits emissions to 4.8 pounds per million BTUs on a daily average from both Labadie and Sioux. These emission rates may be exceeded by not more than twenty (20) percent for not more than three (3) days in any month.

The determination to approve or disapprove the revision to 10 CSR 10–5.110 will be based on whether the applicable requirements of Section 110(a)(2) of the Clean Air Act and 40 CFR, Part 51, "Requirements for Preparation, Adoption and Submittal of Implementation Plans" are met.

Areas in which EPA is especially interested in receiving comments are the interstate impact of the proposed revision, public participation in the MACC consideration of the revised regulation, and use of the available air quality increment under the regulations for prevention of significant air quality deterioration (PSD).

EPA review of the interstate impact issue is based on the provisions of Section 110(a)(2)(E)(i), requiring that the implementation plan contain provisions prohibiting a source from emitting pollutants in amounts which would prevent attainment or maintenance of any applicable NAAQS in another state, or interfere with measures required to be included in an implementation plan of another state designed to prevent significant deterioration of air quality or protect visibility (Sections 160 to 169A of the Act). Dispersion modeling analyses indicate that the Union Electric sources, taken alone, will not cause violations of the NAAQS. These same analyses, however, indicate that violations of the NAAQS may occur in Illinois. These analyses indicate that the combination of emissions from the Sioux plant and Illinois sources may cause violations. The vast majority of the predicted violations in Illinois are caused by Illinois sources and would occur in the complete absence of Sioux emissions. These analyses further indicate that if Illinois sources were controlled to attain the NAAQS, considering impact from Illinois sources only, the addition of the Sioux emissions would not cause violations. Thus, although sulfur dioxide is transported into Illinois, and violations of the NAAQS are predicted in Illinois, EPA does not believe that emissions from Union Electric are preventing attainment or maintenance of the NAAQS in Illinois, and thus finds that the requirements of section 110(a)(2)(E) of the Clean Air Act regarding interstate impact are met. In addition, since no prevention of significant deterioration increment would be affected by the proposed revision, as discussed below, EPA does not believe the revision would interfere with measures required for the prevention of significant deterioration in Illinois. Due to the nature of the emissions (sulfur dioxide) and the absence of any prevention of significant deterioration Class I areas listed under Section 169A of the Act as areas where visibility is an important value, EPA also does not believe the revision would interfere with measures required for the protection of visibility of the affected area in Illinois.

As previously discussed the October 2, 1978, notice of public hearing to consider the regulation change indicated that the proposed emission rates were 6.3 pounds per million BTUs for Labadie and 7.3 pounds per million BTUs for Sioux. By the date of the public hearing several events had occurred which made it obvious that these emission rates would not be acceptable and the emission rate of 4.8 pounds per million BTUs was introduced. In order to accommodate any comments which would differ in consideration of the 4.8 pounds per million BTUs limit in lieu of the proposed limit, the hearing record was left open for 30 days after the hearing. EPA believes since, (1) the adopted regulation is more stringent than the proposed emission limits, (2) the public hearing of December 15, 1978, was held after adequate notice, including notice to the State of Illinois, and (3) the hearing record was held open for an additional 30 days, the requirements of Section 110 of the Clean Air Act and 40 CFR 51.4 concerning public participation have been met.

The currently applicable SIP emission rate is 2.3 pounds per million BTUs heat input. This emission limit was approved as part of the SIP on May 31, 1972. As previously noted, neither the Sioux nor the Labadie plant have operated in compliance with this regulation. The actual emissions from these sources have been approximately 6.3 pounds per million BTUs for Labadie and 7.3 pounds per million BTUs for Sioux. Thus, EPA believes that the approval and compliance with the 4.8 pound limit will result in a relaxation of the allowable emission limit but a reduction in actual emissions.

The Clean Air Act, in Part C, provides for the prevention of significant deterioration of air quality in areas where the existing air quality is better than the NAAQS. The Act establishes increments which specify how much air pollution concentrations may be allowed to increase. Once this incremental increase is consumed by new pollution sources no additional new sources may be constructed unless accompanied by a reduction in emissions from existing sources. A relaxation of a SIP emission limit, such as the one discussed here, would consume air quality increment if actual emission were being increased. For the subject SIP revision, since actual emissions will decrease, no air quality increment will be consumed and this regulation will have no adverse effect on any increment which could be used by industrial sources in the future.

Under Executive Order 12044 EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized." EPA has determined that this is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended.

Copies of the proposal and supporting documents are available for public inspection at the office of EPA, Region VII, 324 East 11th Street, Kansas City, Missouri 64106; Public Information Unit, Library Systems Branch (PM–213), 401 M Street, SW., Washington, D.C. 20460; and the Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101, and the Missouri Department of Natural Resources, St. Louis Regional Office, 8460 Watson Road, St. Louis, Missouri 63119.

(42 U.S.C. 1857c–5)

Dated: September 21, 1979.

Kathleen Camin,

Regional Administrator.

[FR Doc. 79–32318 Filed 10–18–79; 8:45 am]

BILLING CODE 6560–01–M

---

40 CFR Part 81

[FRL 1242–4]

Designation of Areas for Air Quality Planning Purpose; Section 107—Attainment Status Designations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The purpose of this rulemaking is to invite public comment on EPA's proposed redesignation of the attainment status of certain areas in the State of Oregon as promulgated on March 3, 1978 (43 FR 9028).

DATE: Comments are due by November 19, 1979.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch (M/S 629), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101.

The proposed revision and supporting documentation may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region 10 (M/S 629), 1200 Sixth Avenue, Seattle, WA 98101.

State of Oregon, Department of Environmental Quality, P.O. Box 1760, Portland, OR 97207.

Environmental Protection Agency, Public Information Reference Unit, Room 2922, 401 M Street S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: George C. Hofer, Chief, Technical Support and Special Projects Section, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, WA 98101, Telephone No. (206) 442–1125, FTS No. 399–1125.

SUPPLEMENTARY INFORMATION: On March 3, 1978, as required by Section 107 of the Clean Air Act amendments of 1977, EPA promulgated the attainment status of the State of Oregon in relation to the National Ambient Air Quality Standards (43 FR 9028). In accordance with the Act, the rulemaking provided that the March 3, 1978, designations may, when appropriate, be revised by the State and resubmitted to the Administrator. Based on that provision, the Oregon Department of Environmental Quality (DEQ), on March 2, 1979, has requested that the following redesignations be made.

1. *Medford-Ashland AQMA—TSP.* The DEQ has requested that the Medford-Ashland AQMA be redesignated as non-attainment for primary TSP standards in addition to secondary standards.

The previous designation of non-attainment for the secondary TSP standard was based on information available at the time the designation was made. This information included (1) that the 24-hour primary standard had not been violated during 1975 through the first half of 1977, (2) that the air quality had fluctuated around the annual standard but was not consistently above the standard, and (3) that a drought occurring during 1976, made the data for that period of time unrepresentative.

Data subsequent to 1977, however, has shown that there was persistent primary annual geometric mean attainment problem. Therefore, EPA is proposing to redesignate the Medford-Ashland AQMA as non-attainment for primary TSP standards. The Medford-TSP redesignation is being made pursuant to the authority of Section 107(d)(5) of the Act, and accordingly, a SIP revision for this area must satisfy the requirements of Part D of Title I of the Act. As the Medford area is being redesignated for TSP subsequent to EPA's initial promulgation of such Part D non-attainment areas (43 FR 8962, March 3, 1978), the July 1, 1979 approval deadline imposed by Sections 110(a)(2)(I) and 172 is not applicable. However, the statutory timeframe for state submittal and EPA action on a SIP revision remains applicable. Therefore the state will have nine (9) months, as specified in Sections 11 and 406 of the Clean Air Act from final action on this proposal to prepare the TSP non-attainment SIP revision. Thereafter, EPA will have six (6) months in which to take action on such proposed revision prior to the imposition of the growth limitations required by Sections 110(a)(2)(I) and 172(a) of the Act.

2. *Eugene-Springfield AQMA—Ozone.* The second request by the DEQ is that Eugene-Springfield AQMA be redesignated attainment for the ozone standard in view of EPA's February 9, 1979 (44 FR 8734) relaxation of the standard from 0.08 ppm to 0.12 ppm. An examination of the monitored ozone data shows non-attainment of the 0.08 ppm standard but shows attainment at the new 0.12 ppm standard. However, these data are from a single air monitoring site located close to Eugene and do not represent the maximum expected down wind concentrations which are more likely to occur from 10 to 15 miles from Eugene. Therefore, EPA is proposing to redesignate this area as "attainment/unclassifiable" and encouraging further monitoring be completed in this area of expected maximum concentrations.

3. *Eugene-Springfield AQMA—TSP.* The third request made by the DEQ is to redesignate the Eugene-Springfield AQMA from non-attainment for primary TSP to non-attainment for secondary TSP standard.

EPA's initial designation of non-attainment of the primary TSP was based on data available at that time within the Eugene-Springfield AQMA. On June 28, 1979 DEQ provided addtional monitoring data and identified an undue influence from sources proximate to the City Shops monitoring site. The data also showed that no monitor, except the City Shops site, would have violated the annual primary TSP standard during the years 1974 through 1978. Because of the undue influence at the City Shops monitor, EPA proposes to redesignate the Eugene-Springfield AQMA as non-attainment for secondary TSP standard. In conjunction with this action, EPA encourages the DEQ to maintain the City Shop monitoring site to assess the adequacy of the localized TSP control

V 4 4 O C T 1 9 7 9 UMI

efforts in the microscale problem area around the City Shops site.

(Sec. 107(d), 171(2), 301(a), of the Clean Air Act, as amended [42 U.S.C. 7407(d), 7501(2), 7601(a)])

Dated: September 21, 1979.

Donald P. Dubois,

Regional Administrator.

[FR Doc. 79-32322 Filed 10-18-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

42 CFR Part 121

National Guidelines for Health Planning; Availability of Draft Regulations

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Availability of Draft Regulations.

SUMMARY: This notice announces that draft regulations concerning National Guidelines for Health Planning setting forth a statement of National Health Planning Goals are available to the public for review.

DATE: Comments must be received by December 3, 1979.

ADDRESS: Any interested individual may obtain a copy of these draft regulations and submit written comments and recommendations by writing to the Office of Planning, Evaluation, and Legislation, Health Resources Administration, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland, 20782. All materials received in response to the draft regulations will be available for public inspection and copying at the above location during business hours.

FOR FURTHER INFORMATION CONTACT: James W. Stockdill, Associate Administrator for Planning, Evaluation, and Legislation, Health Resources Administration, Center Building, Room 10–22, 3700 East-West Highway, Hyattsville, Maryland, 20782, 301–436–7270.

SUPPLEMENTARY INFORMATION: Section 1501 of the Public Health Service Act, as amended by the National Health Planning and Resources Development Act of 1974 (Pub. L. 93–641), requires the Secretary of Health, Education, and Welfare to issue by regulation, guidelines concerning national health planning policy. The guidelines are to include two components:

(1) Standards respecting the appropriate supply, distribution, and organization of health resources, and

(2) A statement of national health planning goals developed after consideration of the priorities set forth in section 1502 of the PHS Act, which goals, to the maximum extent practicable, shall be expressed in quantitative terms.

The Health Resources Administration announces that draft regulations setting forth a statement of National Health Planning Goals pursuant to section 1501(b)(2) of the Act are available to the public. A statement of resource standards with respect to certain acute inpatient resources and services, issued pursuant to section 1501(b)(1), was published as a final regulation on March 28, 1978 (42 CFR Part 121; 43 FR 13040).

The draft statement of national health planning goals is divided into two parts. The first includes goals with respect to institutional and personal resources and systems of care. The second includes goals with respect to disease prevention, health promotion, and health status outcomes. The proposed goals are designed to service two primary purposes. They are set forth in order to help establish, clarify, and coordinate national health policy. Thus, they are to serve as a statement of health goals for national achievement. The second purpose is to assist Health Systems Agencies in setting goals for Health Service Areas during development of the plans required by the Act.

In line with the consultation provisions of section 1501, copies of the draft regulations are being provided to Health Systems Agencies, State Health Planning and Development Agencies, Statewide Health Coordinating Councils, a number of associations and specialty societies representing medical and other health care providers, and the National Council on Health Planning and Development for their review for a 45 day period of comment. The Secretary has not approved these draft regulations.

Dated: October 17, 1979.

Henry A. Foley, Ph.D.,

Administrator.

[FR Doc. 79-32578 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-83-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5702]

National Flood Insurance Program; Proposed Flood Elevation Determinations

Correction

In FR Doc. 79–30561 appearing on page 57432 in the issue of Friday, October 5, 1979, add the following communities:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Michigan	(TWP) South Haven, Van Buren County.	Lake Michigan	Entire reach with Township of South Haven	*584
		Black River	Downstream corporate limits	*584
			Just upstream of Interstate 196	*585
		South Branch Black River	Just upstream of 71½ Street	*586
			Upstream corporate limits	*587
		North Branch Black River	At confluence with Black River	*585
			Upstream corporate limits	*565
	Maps available at: Township Hall, M140 and Blue Star Highway, South Haven, Michigan.			
	Send comments to: Mr. Ray Guntunberg, Township Supervisor, Township of South Haven, R.R. #3, South Haven, Michigan 49090.			
Minnesota	St. Paul Park, Washington County	Mississippi River	At downstream corporate limit	*701
			Approximately 1,000 feet downstream from County—State Route 24/Chicago, Rock Island & Pacific Railroad bridge	*702
			At northern corporate limit	*703
	Maps available at: St. Paul Park City Hall, 639 2nd Street, St. Paul Park, Minnesota.			
	Send Comments to The Honorable Robert S. Mann, Mayor, City of St. Paul Park, City Hall, 639 2nd Street, St. Paul Park, Minnesota 55071.			

BILLING CODE: 1505-01-M

V 4 4 0 C 1 9 7 9 UMI

Notices

Federal Register
Vol. 44, No. 204
Friday, October 19, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Concerning the Federal Surplus Property Program

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to Section 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Heritage Conservation and Recreation Service, Department of the Interior, and the Federal Property Resource Service, General Services Administration, concerning the Federal surplus property program authorized by the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 484(k)(3)). The agreement provides a system that will ensure adequate protection of historic properties transferred to States or municipalities for use as historic monuments.

COMMENTS DUE: November 19, 1979.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005; telephone: 202–254–3495.

SUPPLEMENTARY INFORMATION: This notice of the proposed programmatic memorandum of agreement invites comments from interested parties. Copies of the proposed agreement are available from the Council. The agreement concerns the manner in which the General Services Administration and the Heritage Conservation and Recreation Service will meet their responsibilities under Section 106 of the National Historic Preservation Act and the Council's implementing regulations, 36 CFR Part 800. Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal or federally assisted or licensed undertaking affecting properties in or eligible for the National Register of Historic Places shall afford the Council a reasonable opportunity for comment. The proposed agreement provides that the professional staff (as defined in 36 CFR Part 61) of the Heritage Conservation and Recreation Service shall review each historic monument transfer application and devise appropriate conditions or stipulations to be included in the deed of conveyance by the Federal Property Resource Service to ensure the preservation of the property's significant elements. The Secretary of the Interior's Standards for Historic Preservation Projects are to be observed in the development and execution of all transfer proposals. If the Council, the Heritage Conservation and Recreation Service, the Federal Property Resource Service, or the appropriate State Historic Preservation Officer determines that a proposed transfer will have an adverse effect on a Register property that is not adequately mitigated through the use or the stipulated conditions, the comments of the Council shall be requested in accordance with 36 CFR Part 800.

Robert R. Garvey, Jr.,
Executive Director.

[FR Doc. 79–31383 Filed 10–18–79; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National School Lunch, School Breakfast, and Child Care Food Programs; Payment Rates for the State of Alaska for the Period July 1–December 31, 1979

Pursuant to Sections 11, 12, and 17 of the National School Lunch Act (42 U.S.C. 1759a), as amended, notice is hereby given of adjustments to the national average payment rates and to the maximum rates of payment for meals and supplements served in the State of Alaska during the six-month period July 1–December 31, 1979, to children participating in the National School Lunch, School Breakfast, and Child Care Food Programs. For lunches served during the aforementioned period to children participating in the National School Lunch Program or Child Care Food Program, and for suppers served in the Child Care Food Program in the State of Alaska, payment rates are as follows: (a) 27.50 cents from general cash-for-food assistance funds for each lunch or supper; (b) an additional 113.50 cents from special cash assistance funds for each reduced-price lunch or supper, and (c) an additional 123.50 cents from special cash assistance funds for each free lunch or supper. The reduced-price special assistance payment factor reflects the currently effective 10 cent charge for each reduced-price lunch served in the National School Lunch Program in Alaska. If, in the State of Alaska, the maximum statewide reduced-price charge for a lunch changes from the current 10 cent charge, the special assistance factor prescribed for reduced-price lunches shall be the lesser of (a) the special assistance factor for free lunches minus the maximum reduced-price charge established by the State of Alaska, or (b) the special assistance factor for free lunches minus 10 cents.

The total amount of general cash-for-food assistance payments and special cash assistance payments, to be made to the State of Alaska from the sums appropriated therefor, shall be based upon such factors.

For the six-month period July 1–December 31, 1979, the maximum per lunch rates of payment for lunches served in the National School Lunch Program shall be as follows: (a) 37.25 cents from general cash-for-food assistance funds and (b) from a combination of general cash-for-food assistance and special cash assistance 175.25 cents for a free lunch and 165.25 cents for a reduced-price lunch.

For breakfast served during the aforementioned period to children participating in the School Breakfast Program or Child Care Food Program in the State of Alaska payment rates are as follows: (a) 22.00 cents for all breakfast; (b) an additional 41.25 cents for each reduced-price breakfast; and (c) an additional 54.75 cents for each free breakfast. The total amount of breakfast assistance payments to be made to the State of Alaska from sums appropriated therefor, shall be based upon the aforementioned adjustments to national average payment factors: *Provided, however,* That additional payments shall be made in such amounts as are needed to finance payment rates assigned for schools with severe need under § 220.9 of regulations governing the School Breakfast Program (7 CFR Part 220).

For Schools in the State of Alaska not in severe need, the maximum rates of payment for paid breakfasts, for reduced-price breakfasts, and for free breakfasts shall be equal to the respective factors set out above.

For schools in the State of Alaska in severe need, the maximum rates of payment for breakfasts are established pursuant to Section 4(b) of the Child Nutrition Act of 1966, as amended. This law requires that these rates be computed using two methods and that the method yielding the higher rates be used. Accordingly, for schools in severe need in Alaska, the maximum rate of payment for paid breakfasts shall be equal to the adjusted national average factor for all breakfasts (22.00 cents), and the maximum rate of payment for reduced-price and free breakfasts shall be 88.00 cents and 93.00 cents, respectively.

For supplements served in the Child Care Food Program in the State of Alaska, the payment factors shall be: (a) 11.50 cents for each supplement served to children from families whose incomes do not meet the eligibility criteria for free or reduced-price school meals, (b) 34.25 cents for each supplement served to children whose families meet the eligibility criteria for reduced-price school meals, and (c) 45.25 cents for each supplement served to children from families whose incomes meet the eligibility criteria for free school meals.

The food costs payment factors for meals served under the Child Care Food Program in family and group day care homes in the State of Alaska shall be: (a) 48.50 cents for each breakfast served, (b) 86.75 cents for each lunch or supper served, and (c) 29.50 cents for each supplement served.

Supplementary Information

Pub. L. 95–627 provides the Secretary with discretionary authority to make adjustments in the national average payment factors to Alaska, Hawaii, Guam, American Samoa, Puerto Rico, the Virgin Islands, the Trust Territory of the Pacific Islands and the Northern Mariana Islands. Section 10 of Pub. L. 95–627 amends Section 12 of the National School Lunch Act to read ". . . the Secretary may establish appropriate adjustments for each such State to the national average payments rates . . . to reflect the differences between the costs of providing lunches and breakfasts in those States and the costs of providing lunches and breakfasts in all other States." Similarily, section 17 of the National School Lunch Act, as amended by Pub. L. 95–627, allows the Secretary to prescribe rates for supplements served in institutions participating in the Child Care Food Program. After enactment, the Department undertook to document the existence and degree of higher than average costs in those areas and to determine what additional assistance, if any, should be made available to those States, commonwealths, and territories.

To compare national average costs with those of the outlying areas, an index of food and labor costs was constructed using the U.S. national average of such costs as the base of 100. Food and labor were selected as the two most significant cost items in producing a meal, accounting for over 90 percent of the total costs. (For purposes of this analysis, other costs and donated goods and services were assumed to vary in the same manner as the weighted average of food and labor.) A variety of data sources were examined to construct the index including routine reports received by FNS and various surveys conducted by other Federal Agencies. Data from the September 1976 Thrifty Food Plan (for food) and the 1976 County Business Patterns prepared by the Bureau of the Census, Department of Commerce (for labor) were selected as the best available data sources to construct the indices. To compute a weighted average index to reflect the cost of producing a meal, indices for food and labor were separately constructed, a ratio of food and labor costs to total costs was calculated from FY 1975 FNS–13 Annual Statement of Income and Expenditures data, and the indices were weighted and averaged. Based on these calculations the average cost of producing a meal in Alaska is 62.4 percent greater than the national average cost. Costs are 17.4 percent greater in Hawaii. Appropriate data were not available for the commonwealths and territories.

In this notice, the Department authorizes payment factors for the State of Alaska that are 62 percent greater than corresponding national average payment factors. The costs cited above are well in excess of the national average, and there is ample evidence that the current level of reimbursement presents financial hardships to school food authorities (SFAs) in Alaska. In 1978 there were 219 schools which offered the National School Lunch Program, 22 percent less than the total participating in 1974. Total meals served also declined during that period, from 5.3 million meals in 1974 to 4.6 million in 1978. Many SFAs indicated high costs and financial losses as a factor in their decision to leave the program.

In addition, a number of complaints from SFAs still participating in the NSLP illustrate the proportionate disparity between the Federal contribution to the cost of producing a meal in Alaska compared to the rest of the nation. Most of the SFAs which contacted the Department indicated that the same financial problems exist and potentially threaten their ability to continue to offer the program.

Recognizing that Pub. L. 95–627 gives the Secretary discretion to adjust payment factors for outlying areas other than Alaska, the Department will continue to assess meal costs of Hawaii, the commonwealths and the territories to determine whether further adjustments to the national average payment factors are appropriate. It is noted, however, that States' costs of providing meals vary above or below a national average level. Such variance above and below an average level is to be expected. At this time the Department has not determined the normal variance around the average. It is conceivable that Hawaii, with costs represented as 17 percent above the national average, may be within the normal range of variance of the remaining States. To maintain equity among the States on this issue, the Department plans to develop more information about meal costs in the mainland States before proposing any other changes to the national average payment amounts.

Definitions. The terms used in this notice shall have the meanings ascribed to them in regulations governing the National School Lunch Program (7 CFR Part 210), the School Breakfast Program (7 CFR Part 220), the Child Care Food Program (7 CFR Part 226), and in regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

(Catalog of Federal Domestic Assistance Programs, Nos. 10.553; 10.555; and 10.558)

Effective Date. This notice shall be effective as of July, 1, 1979.

Dated: October 11, 1979.

[FR Doc. 79–31962 Filed 10–18–79; 8:45 am]

BILLING CODE 3410–30–M

V 44 O C 19 79 UMI

V 44 0C 19 79

Animal and Plant Health Inspection Service

1980 Cooperative Gypsy Moth Suppression and Regulatory Activities; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service and the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture in Washington, DC, in cooperation with the Division of Parks and Forestry of the Department of Environmental Protection in the State of New Jersey, the Division of Plant Industry of the Department of Agriculture in the State of New Jersey, the Bureau of Forest Resource Management of the Department of Environmental Conservation in the State of New York, and the Bureau of Forestry of the Department of Environmental Resources of the Commonwealth of Pennsylvania, will prepare an environmental impact statement that outlines the proposed 1980 Gypsy Moth Cooperative Suppression and Regulatory Activities.

The statement will be based on information and data provided by cooperating state agencies and on comments and issues presented by agencies, private organizations, and the general public as expressed at local township, county, or municipal meetings held during the fall and winter of 1979–80. In addition, a scoping meeting will be held at the Ramada Inn in Essington, Pennsylvania, on October 4, 1979, to further clarify the issues, alternatives, and impacts to be addressed in the environmental document.

Insecticides under consideration for treatment of gypsy moth populations are the chemicals carbaryl, trichlorfon, diflubenzuron, acephate, disparlure and the biologicals, Bacillus thuringiensis and the nucleopolyhedrosis virus. These pesticides are registered with the Environmental Protection Agency for use against gypsy moth. Unregistered insecticides used as part of an integrated pest management system will be applied under experimental use permits or exemptions issued by the Environmental Protection Agency.

The proposed USDA Forest Service cooperative suppression projects involve aerial treatment of approximately 15,000 acres on state-forested residential areas in Pennsylvania. The proposed Animal and Plant Health Inspection Service's regulatory program involves intervention against infestations in Michigan, South Carolina, Wisconsin, Maryland, Washington, West Virginia, Virginia, Ohio, and Illinois, which are removed from the generally infested area and applying regulatory treatments to infested campsites and other sites of regulatory significance in New York, New Jersey, Pennsylvania, and the New England States.

The environmental assessment will require about one month to complete. The draft environmental impact statement is due for completion on or before December 31, 1979, and will have a 60-day review period. The final environmental impact statement will be filed with the Environmental Protection Agency on or before March 31, 1980.

The responsible officials are R. Max Peterson, Chief, Forest Service, and Frank J. Mulhern, Administrator, Animal and Plant Health Inspection Service.

Comments on the proposed 1980 Forest Service/State Cooperative Gypsy Moth Suppression Program should be sent to R. Max Peterson, Chief, USDA, Forest Service, P.O. Box 2417, Washington, DC 20013.

Comments on the proposed 1980 Gypsy Moth Regulatory Activities should be sent to Frank J. Mulhern, Administrator, USDA, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, Room 312–E, Administration Building, Washington, DC 20250.

Dated: October 10, 1979.

Jerome A. Miles,

Acting Chief, Forest Service.

Frank J. Mulhern,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 79–32030 Filed 10–18–79; 8:45 am]

BILLING CODE 3410–11–M

CIVIL AERONAUTICS BOARD

[Docket 36897]

Kansas City–Salt Lake City Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–10–84), *Kansas City-Salt Lake City Subpart Q Proceeding*, Docket 36897.

SUMMARY: The Board is instituting the *Kansas City-Salt Lake City Subpart Q Proceeding* and is proposing to grant Kansas City-Salt Lake authority to Ozark Air Lines and Trans World Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than November 16, 1979, a statement of objections, together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 36897, which we have entitled the *Kansas City-Salt Lake City Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Philip J. Reinke, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79–10–84 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–10–84 to that address.

By the Civil Aeronautics Board, October 16, 1979

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–32329 Filed 10–18–79; 8:45 am]

BILLING CODE 6320–01–M

[Docket 36896]

Kansas City-Tulsa Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79–10–83), Kansas City-Tulsa Subpart Q Proceeding, Docket 36896.

SUMMARY: The Board is instituting the *Kansas City-Tulsa Subpart Q Proceeding* and is proposing to grant Kansas City-Tulsa authority to Ozark Air Lines and Trans World Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing the proposed authority shall file, and serve upon all persons listed below, no later than November 16, 1979, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections or additional data should be filed in Docket 36896, which we have entitled the *Kansas City-Tulsa Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

FOR FURTHER INFORMATION CONTACT: Philip J. Reinke, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673–5105.

SUPPLEMENTARY INFORMATION: The complete text of Order 79–10–83 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79–10–83 to that address.

By the Civil Aeronautics Board: October 16, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79–32328 Filed 10–18–79; 8:45 am]

BILLING CODE 6320–01–M

[Docket 36815]

Southwest Alaska Service Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., October 15, 1979.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 79–32237 Filed 10–18–79; 8:45 am]

BILLING CODE 6320–01–M

[Docket 36815]

Southwest Alaska Service Investigation; Assignment of Proceeding

This proceeding is hereby assigned to Administrative Law Judge Alexander N. Argerakis. Future communications should be addressed to Judge Argerakis.

Dated at Washington, D.C., October 15, 1979.

Joseph J. Saunders,

Chief Administrative Law Judge.

[FR Doc. 79–32237 Filed 10–18–79; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Colorado, Utah, Arizona, New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado, Utah, Arizona, New Mexico Advisory Committees (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on November 7, 1979, at the Gold Room, Strater Hotel, 699 North Main Avenue, Durango, Colorado 81301.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colorado 80202; Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012; Southwestern Regional Office of the Commission, 418 South N.W., Washington, D.C., with the undersigned presiding.

The Bureau of Domestic Aviation will serve on all parties on or before October 26, 1979, a statement of proposed issues, proposed stipulations, requests for information, and proposed procedural dates. The other parties to this proceeding will serve on each other and the Bureau of Domestic Aviation on or before November 2, 1979, a proposed statement of issues, proposed stipulations, requests for information, and proposed procedural dates, provided that the submissions of other parties are to be restricted to matters upon which they differ with the Bureau's proposals. The parties are directed to adopt the Bureau's lettering and numbering format to facilitate cross-referencing.

Six copies of all submissions will be served on the administrative law judge promptly.

Dated at Washington, D.C., October 15, 1979.

Alexander N. Argerakis,

Administrative Law Judge.

[FR Doc. 79–32330 Filed 10–18–79; 8:45 am]

BILLING CODE 6320–01–M

COMMISSION ON CIVIL RIGHTS

Colorado, Utah, Arizona, New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Colorado, Utah, Arizona, New Mexico Advisory Committees (SAC) of the Commission will convene at 9:00 a.m. and will end at 5:00 p.m., on November 7, 1979, at the Gold Room, Strater Hotel, 699 North Main Avenue, Durango, Colorado 81301.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colorado 80202; Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012; Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to hear testimony regarding issues of discrimination against women, minorities, elderly and handicapped resulting from current or pending energy development or policies in the Four-Corners Area.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission

Dated at Washington, D.C., October 15, 1979.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 79–32270 Filed 10–18–79; 8:45 am]

BILLING CODE 7035–01–M

Colorado, Utah, Arizona, New Mexico Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the Colorado, Utah, Arizona, New Mexico Advisory Committees (SAC) of the Commission will convene at 8:30 am and will end at 5:00 pm, on November 8, 9, 10, 1979, at the Student Union Building, Fort Lewis College Campus, Durango, Colorado 81301.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colorado 80202; Western Regional Office of the commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012; Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is to hear testimony regarding issues of discrimination against women, minorities, elderly and handicapped resulting from current or pending energy development or policies in the Four-Corners Area.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission

Dated at Washington, D.C., October 15, 1979.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 79–32271 Filed 10–18–79; 8:45 am]

BILLING CODE 7035–01–M

Connecticut Advisory Committe; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provision of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Connecticut Advisory Committee (SAC) of the Commission will convene at 7:00

Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is program planning.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1979

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 79-32273 Filed 10-18-79; 8:45 am]

BILLING CODE 7035-01-M

Michigan Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Michigan Advisory Committee (SAC) of the Commission will convene at 10:30 am and will end at 4:00 pm, on November 8, 1979, at the Howard Johnson Hotel, G3129 Miller Road, Flint, Michigan 48507

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss implementation of housing equality project; also corrections and education issues.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1979

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-32269 Filed 10-18-79; 8:45 am]

BILLING CODE 7035-01-M

Missouri Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 9:00 am and will end at 1:00 pm, on November 16, 1979, at the Missouri Delta Ecumenical Ministries Building, Highway 84, Hayti, Missouri 63851.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Room 3103, Kansas City, Missouri 64106.

The purpose of this meeting is to plan for current and fiscal 1980 program activities.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 16, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[Doc. 79-32274 Filed 10-18-79; 8:45 am]

BILLING CODE 7035-01-M

West Virginia Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a factfinding meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 7:00 pm and will end at 10:00 pm, on November 15, 1979, and will convene at 8:30 pm and will end at 10:30 pm, on November 16, 1979, at the Town House Motel, U.S. Highway 340, Charles Town, West Virginia 85414.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street, N.W., Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within West Virginia, particularly in the eastern pandemic counties of Berkeley and Jefferson.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 15, 1979.

John I. Binkley,

Advisory Committee Management Officer

[FR Doc. 79-32272 Filed 10-18-79; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Telecommunications Equipment Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Thursday, November 8, 1979, at 10:00 a.m. in Room 1851, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975, March 16, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Nomination and election of a new chairman.
4. Discussion of work assignments for the annual report.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5) the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned

with matters listed in 5 U.S.C. 552(c)(1). Such matters are specifically authorized under criteria established by an executive order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriate security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the Federal Register on September 26, 1978 (43 FR 43531).

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, phone 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: October 16, 1979.

Kent Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79-32386 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-25-M

Bureau of the Census

Special Censuses

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. However, because of the need to avoid conflicts with activities involving the conduct of the 1980 census, no additional special censuses will be conducted during the period from August 1, 1979 to January 1, 1981. The Bureau is, therefore, not accepting requests for cost estimates for special censuses at this time. Beginning in the fall of 1980 the Bureau will resume accepting such requests.

The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the decennial census.

Summary results of special censuses are published semiannually in the *Current Population Reports*—Series P-28, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since September 30, 1978, for which tabulations were completed between September 1, 1979 and September 30, 1979.

Dated: October 16, 1979.

Vincent P. Barabba,

Director, Bureau of the Census.

State/place, special area	County	Date of census	Population
Illinois:			
Forsyth Village	Macon	June 11	998
Hawthorn Woods Village	Lake	June 6	1,558
New Mexico: Santa Fe City	Santa Fe	May 15	46,689

[FR Doc. 79-32370 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-07-M

Economic Development Administration

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from fourteen firms: (1) Jeri Morton, Inc., 14 East 32nd Street, New York, New York 10016, a producer of women's sleepwear (accepted October 1, 1979); (2) Paley Associates, Inc., 1235 Adams Street, Dorchester, Massachusetts 02124, a producer of men's and women's coats (accepted October 4, 1979); (3) Elizabeth Fashions, 300 Observer Highway, Hoboken, New Jersey 07030, a producer of men's, women's and children's coats (accepted October 5, 1979); (4) Audio Enclosures, Inc., 8401 Standustrial Avenue, Stanton, California 90680, a producer of speaker cabinets and systems (accepted October 9, 1979); (5) Jafree Shirt Company, Inc., 1200 West Main Street, Wytheville, Virginia 24382, a producer of men's and women's shirts (accepted October 9, 1979); (6) Daedalus Jewelry Corporation, 65 West 36th Street, New York, New York 10018, a producer of jewelry (accepted October 9, 1979); (7) Maguire Brothers Brush Company, Inc., 49 Beech Street, Port Chester, New York 10573, a producer of brushes (accepted October 9, 1979); (8) Bonders, Inc., 200 Bonders Drive, Dunn, North Carolina 28334, producer of women's coats (accepted October 10, 1979); (9) American Durable Products Corporation, 505 Maple Avenue, Carpenteria, California 93013, a producer of leather and nylon bags, wallets, belts and accessories (accepted October 10, 1979); (10) Bait Guard, Inc., 135 East Cuyahoga Falls Avenue, Akron, Ohio 44310, a producer of fishing lures (accepted October 10, 1979); (11) Hardware and Industrial Tool Company, Inc., 2607 River Road, Cinnaminson, New Jersey 08077, a producer of garden and hand tools (accepted October 10, 1979); (12) SJA Industries, Inc., 10023 Canoga Avenue, Chatsworth, California 91311, a producer of loudspeakers (accepted October 11, 1979); (13) Olds Investment, Inc., (doing business as Toms Sports Company), Box 3232, Abilene, Texas 79604, a producer of training weights and other athletic equipment (accepted October 12, 1979); and (14) Breier of Amsterdam, Inc., Edson Street, Amsterdam, New York 12010, a producer of men's and women's leather coats and jackets (accepted October 12, 1979);

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports in to the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development

Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business on October 29, 1979.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-32300 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-24-M

Minority Business Development Agency

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) formerly the Office of Minority Business Enterprise announces that it is seeking applications under its program to operate one project for a 12 month period beginning January 1, 1980 to serve throughout the state of South Carolina. The cost of the project is estimated to be $400,000 and the Project Number is 04-10-30520-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to:

A. To mobilize and apply educational and business information; develop procurement opportunities; develop financial, technical, management, and marketing resources of the private, federal, state and local sectors on behalf of the minority business community, in general, and their client portfolio, specifically.

B. Provide management services and technical assistance to upgrade the construction marketing and performance skills among minority contractors; to provide assistance to minority contractors in the areas of cost accounting, estimating, bidding, bonding and construction management.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Program Support Staff, Room 5713, Box FR 78-2, 14th & Constitution Avenue, N.W., Washington, D.C. 20230 or by calling (202) 377-1714.

In requesting an application kit, the applicant should specify if it is either a State or local Government, Federally recognized Indian Tribunal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is a for-profit firm. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their understanding of minority business problems, approach and program methodology, responsiveness to questions, organizational structure, quality of personnel, experience, capacity, and cost. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a non-competitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of *November 30, 1979.* Detailed submission procedures are outlined in each application kit.

11.800 Minority business Development

(Catalog of Federal Domestic Assistance)

Dated: October 16, 1979.

Allan A. Stephenson,

Acting Director.

[FR Doc. 79-32373 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-21-M

Financial Assistance Application Announcement

The Minority Business Development Agency (MBDA) (formerly the Office of Minority Business Enterprise) is seeking applications under its consultant services program for one project for a 12-month period beginning January 1, 1980 that will serve all of the States of Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Kentucky and Tennessee. The cost of the project will be $274,000 and the Project No. is 04-10-30370-00.

Funding Instrument: It is anticipated that the funding instrument, as defined by the Federal Grant and Cooperative Agreement Act of 1977, will be a grant.

Program Description: Executive Order 11625 authorizes MBDA to fund projects which will provide technical and management assistance to minority business enterprises. This proposed project is specifically designed to provide feasibility studies in all disciplines on an as needed basis. The recipient will be required to evaluate clients so as to determine the feasibility of further in-depth studies and expenditures for specific projects as the need arises. Recipient must also demonstrate the ability to contract specialized projects with proper consultants for final studies of excellence.

Eligibility Requirements: There are no restrictions. Any for-profit firm or not-for-profit institution is eligible to submit an application.

Application Materials: An application kit for each of the projects may either be requested by writing to the following address: U.S. Department of Commerce, Minority Business Development Agency, Program Support Staff, Room 5713, Box FR 78-1, 14th & Constitution Avenue, N.W., Washington, D.C. 20230 or by calling (202) 377-1714.

In requesting an application kit, specify (1) the project number, (2) the city or state the project will serve and (3) if the applicant is either a State or Local Government, Federally recognized Indian Tribunal Unit, Educational Institution, Hospital, other type of nonprofit organization, or if the applicant is a for-profit firm. This information is necessary to enable MBDA to include the appropriate cost principles in the application kit.

Award Process: All applications that are submitted in accordance with the instructions in the application kit will be submitted to a panel for review and ranking. The applications will be ranked as to their prior experience, quality of the referral evaluation system, quality of the sub-contractor assignment system, cost, quality of personnel, ownership, and plan. Specific criteria will be included in the application kit. If an application is approved, an initial award will be made for a period specified for that award. Continuation awards may be made on a noncompetitive basis when determined by the Awards Office to be in the best interest of the Government.

Closing Date: Applicants are encouraged to obtain an application kit as soon as possible in order to allow sufficient time to prepare and submit an application before the closing date of *November 30, 1979.* Detailed submission procedures are outlined in each application kit.

11.800 Minority Business Development

(Catalog of Federal Domestic Assistance)

Dated: October 16, 1979.

Allan A. Stephenson,

Acting Director.

[FR Doc. 79-32372 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England Fishery Management Council's Scientific and Statistical Committee; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), has established a Scientific and Statistical Committee (SSC) which will meet to discuss: Committee review of Northeast Fishery Task Force Overview Document; review of progress on Groundfish Plan development; review of management strategies for the Sea Scallop Fishery Management Plan (FMP); and other Council business.

DATES: The meeting will convene on Tuesday, November 13, 1979, at approximately 9 a.m. and will adjourn at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Children's Museum, Conference Room, 300 Congress Street, Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts, telephone (617) 535-5450.

Dated: October 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32396 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will meet to discuss: (1) Preliminary review of draft Snapper-Grouper Fishery Management Plan (FMP); (2) Review draft Coral FMP; (3) Objective setting—Swordfish FMP; (4) Update status for Calico Scallop FMP; (5) Review foreign fishing permit applications, if any; and (6) Other management business.

DATES: The meeting will convene on Tuesday, November 27, 1979, at 1:30 p.m. and will adjourn on Thursday, November 29, 1979, at approximately 12 noon. The meeting is open to the public.

ADDRESS: The meeting will take place at the Holiday Inn, Highway 1, Islamarada, Florida.

FOR FURTHER INFORMATION CONTACT: The South Atlantic Fishery Management Council 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, telephone (803) 571-4366.

Dated: October 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32397 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-22-M

Modification of Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Permit No. 269 issued to Dr. Kenneth S. Norris, Environmental Field Program, University of California at Santa Cruz, Santa Cruz, California 95064, on June 19, 1979, is modified as follows:

Section A-1 (take authority) is modified by deleting "Sixty-five (65) spinner dolphins (*Stenella longirostris*) . . ." and substituting therefor the following:

"Sixty-two (62) spinner dolphins (*Stenella longirostris*) . . ." and substituting therefor the following:

"Sixty-two (62) spinner dolphins (*Stenella longirostris*) and three (3) spotted dolphins (*Stennella attenuata*). . ."

This modification became effective on October 9, 1979.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Winfred H. Meibohm,

Associate Director, National Marine Fisheries Service.

October 9, 1979.

[FR Doc. 79-32404 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:
   a. Name: California Department of Fish and Game (P191A).
   b. Address: 1416 Ninth Street, Sacramento, California 95814.
2. Type of Permit: Scientific Research.
3. Name and Number of Animals:

California sea lion (*Zalophus californianus*)	015
Steller sea lion (*Eumetopias jubatus*)	105
harbor seal (*Phoca vitulina*)	105
Northern elephant seal (*Mirounga angustirostris*)	15
minke whale (*Balaenoptera acutorostrota*)	6
bottlenose dolphin (*Tursiops truncatus*)	45
common dolphin (*Delphinus delphis*)	6
Pacific white-sided dolphin (*Lagenorhynchus obliquidens*)	45
harbor porpoise (*Phocoena phocoena*)	45
Northern right whale dolphin (*Lissodelphis borealis*)	15
Risso's dolphin (*Grampus griseus*)	15
pilot whale (*Globicephalo macrorhynchus*)	30
Dall's porpoise (*Phocoenoides dalli*)	15
pygmy sperm whale (*Kogia breviceps*)	3
dwarf sperm whate (*Kogio simus*)	3
Baird's beaked whale (*Berardius bairdii*)	6
ginkgo-toothed whale (*Mesoplodon ginkgodens*)	3
Hubbs' beaked whale (*Mesoplodon carlhubbsi*)	3

4. Type of Take: Animals will be retrieved from those killed inadvertently by commercial fishermen who have certificates of inclusion. Additionally, pinniped censusing will be conducted which may potentially harass individuals of California sea lions (pop. estimate 50,000), Steller sea lions (pop. estimate 2,000), harbor seals (pop. estimate 7,500), and Northern elephant seals (pop. estimate 60,000).
5. Location of Activity: California.
6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application

V 44 0C 19 79 9 UMI

should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, Department of Commerce, Washington, D.C., 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, 3300 Whitehaven Street, N.W., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: October 15, 1979.

William Aron,

Director, Office of Marine Mammals and Endangered Species, National Marine Fisheries Service.

[FR Doc. 79-32403 Filed 10-18-79; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1979; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to Procurement List 1979 services to be provided by and commodity to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 19, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 15, 1979, July 27, 1979, and August 10, 1979 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (44 FR 34626, 44 FR 44206, and 44 FR 47134) of proposed additions to Procurement List 1979, November 15, 1978 (43 FR 53151).

After consideration of the relevant matter presented, the Committee has determined that the services and the commodity listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following services and commodity are hereby added to Procurement List 1979:

SIC 7399

Packaging-Canteen, Water, Disposable (8465-01-062-5854), General Services Administration, Region 8, Denver, Colorado.

SIC 7349

Janitorial Service, Federal Building, U.S. Courthouse, Eugene, Oregon.

CLASS 7530

Pad, Writing Paper (Easel) 7530-00-619-8880, For GSA Regions 1, 5, 6, 7, 8, 9, 10.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-32290 Filed 10-18-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1979 commodities to be produced by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 21, 1979.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities to Procurement List 1979, November 15, 1978 (43 FR 53151):

No NSN

Seal, Metal Band
Postal Service Item No. 0816A
Postal Service Item No. 0816B

Class 7210

Insect Bar, Field Type, Nylon Netting, 7210-00-266-9736

Class 8340

Shelter Half, Tent, 8340-00-577-4168

C. W. Fletcher,

Executive Director.

[FR Doc. 79-32291 Filed 10-18-79; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1979; Correction of Proposed Addition

The document published in the Federal Register on September 28, 1979 (44 FR 55920) proposing the addition to Procurement List 1979 is amended to correct the proposal for Pallet, Material Handling as follows:

Class 3990

Pallet, Material Handling, 3990-00-599-5326

The above for requirements of Mechanicsburg, Pennsylvania location only.

Comments on the proposed addition to the Procurement List of the above Pallet must be received on or before November 21, 1979.

C. W. Fletcher,

Executive Director.

[FR Doc. 79-32292 Filed 10-18-79; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Product Safety Advisory Council; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: Product Safety Advisory Council

SUMMARY: This notice announces a meeting of the Product Safety Advisory Council on Monday, November 5, 1979, from 9:30 a.m. to 4:30 p.m. and Tuesday, November 6, 1979, from 9:30 a.m. to 4:00 p.m. The meeting will be held at 1111 18th Street, NW, Washington, DC 20207, Third Floor Conference Room.

FOR FURTHER INFORMATION CONTACT: Catherine Bolger, Office of the Secretary, Suite 300, 1111 18th Street, NW, Washington, DC 20207, 202/634-7700.

SUPPLEMENTAL INFORMATION: The Product Safety Advisory Council was established by section 28 of the Consumer Product Safety Act, which provides that the Commission may consult with the Council before prescribing a consumer product safety rule or taking other action under the Act.

The proposed agenda for the November 5-6 meeting includes an orientation for new members and issues relating to recall effectiveness, the carcinogen policy, identification of developing safety problems, and consumer outreach. For further information on the order of the agenda, contact Ms. Bolger at the address and telephone number noted above.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentation to the Product Safety Advisory Council should notify the Office of the Secretary (see address above) by October 31, 1979. The notification should list the name of the individual who will make the presentation, the person, the company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the Council may be allowed by the presiding officer.

Dated: October 18, 1979.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 79-32612 Filed 10-18-79; 12:00 pm]

BILLING CODE 6355-01-M

COUNCIL ON ENVIRONMENTAL QUALITY

Proposed List of Federal Agencies and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Proposed List of Federal Agencies and Federal-State Agencies with Jurisdiction by Law or Special Expertise on Environmental Quality Issues.

SUMMARY: This proposed list of Federal agencies and Federal-State agencies with jurisdiction by law or special expertise on environmental quality issues is submitted for public comment. This list will serve as a reference guide to facilitate agency compliance with the National Environmental Policy Act (NEPA) and the Regulations of the Council on Environmental Quality.

DATES: Comments must be received on or before December 18, 1979.

ADDRESSES: Comments should be addressed to Nicholas C. Yost, General Counsel, Attention—Proposed List of Federal Agencies, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: Charlotte Bell, Counsel, 202-395-4616, or Foster Knight, Counsel, (202) 395-5750, Council on Environmental Quality (address same as above).

SUPPLEMENTARY INFORMATION: This proposed list will revise Appendix II to the Council on Environmental Quality's Guidelines on the Preparation of Environmental Impact Statements (40 CFR Part 1500, 38 FR 20549, Aug. 1, 1973) which were replaced by the Council's NEPA regulations on July 30, 1979. For further information regarding the content and organization of the list, refer to its introductory paragraph.

The Council will publish in the near future a separate list of federal agency offices responsible for undertaking environmental reviews, including addresses and telephone numbers, in order to facilitate the use of this list.

We invite agencies and the public to comment on this proposed list. We are particularly interested in suggestions for improving the way in which the proposed list organizes and displays federal agencies with jurisdiction by law and special expertise on proposals involving effects on environmental quality. Please submit any comments in writing to Nicholas C. Yost, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006. Comments must be submitted by December 18, 1979 in order to receive timely consideration.

Nicholas C. Yost,

General Counsel.

October 16, 1979.

Proposed List of Federal Agencies and Federal-State Agencies With Jurisdiction by Law or Special Expertise on Environmental Quality Issues [1]

The following list is a compilation of all federal agencies with jurisdiction by law or special expertise on environmental quality issues. Agencies with "jurisdiction by law" are defined in section 1508.15 of the Council's NEPA regulations as federal agencies with authority to approve, veto or finance all or part of a proposal. Federal regulatory approval requirements (including permits and licenses) administered by agencies with jurisdiction by law are listed under the appropriate agency and marked by an asterisk (*).[2]

"Special expertise" is defined in Section 1508.26 of the NEPA regulations as statutory responsibility, agency mission or related program experience. The subject of "special expertise" is listed in parentheses opposite the appropriate agency. These designations are intended to provide examples rather than to define the limits of an agency's expertise.

The Council on Environmental Quality has prepared this list to supplement its National Environmental Policy Act (NEPA) regulations which became effective on July 30, 1979. Both the public and private sectors and governmental agencies may use this list as a reference guide to facilitate their participation in and compliance with the NEPA process. This list will be helpful in the following ways:

First, the Council on Environmental Quality's NEPA regulations require the federal agency having primary responsibility for preparing an environmental impact statement (EIS) under NEPA (the lead agency) to determine whether any other federal agencies have jurisdiction by law or special expertise with respect to any environmental effects involved in a proposal for legislation or other major federal action significantly affecting the human environment. 40 CFR 1501.5(a), 1501.6(a), 1501.7(a). The federal lead agency must, at the earliest possible time in the NEPA process, request the participation of federal cooperating agencies with jurisdiction by law or special expertise concerning the proposal. 40 CFR 1501.6(a), 1501.7(a). The lead agency and those involved in the "scoping process" (See 40 CFR 1501.7.) may use this list to help determine which other federal agencies should be requested to participate as cooperating agencies in the NEPA process.

Second, this compilation will prove useful to those whose activites or proposed actions require federal regulatory approvals by facilitating the identification of those federal agencies with the authority to issue applicable permits, licenses or other federal regulatory approvals.

Furthermore, a major goal of NEPA and the CEQ regulations is to encourage public participation in agency decisionmaking. 40 CFR 1500.2(d). Individuals, citizen groups and state and local governments who are interested in an environmental issue may use the list to help identify those agencies that have jurisdiction by law over or special

[1] River Basin Commissions (Delaware, Great Lakes, Missouri, New England, Ohio, Pacific Northwest, Souris-Red-Rainy, Susquehanna, Upper Mississippi) and similar federal-state agencies should be consulted on actions affecting the environment of their special geographic jurisdictions. In all cases where a proposed action will have significant international environmental effects, the Department of State should be consulted and should be sent a copy of any draft and final impact statement that covers such action.

[2] Because laws are amended or new laws enacted, these responsibilities may change and new ones may be added. Thus, the definitive designation of an agency with jurisdiction by law depends on the law and not on this index.

V 44 OC 19 79 UMI

expertise in a proposal. Those interested may then contact the potentially involved agencies to obtain information on the issues and to participate in the NEPA process.

The list is organized into four broad categories: pollution control, energy, land use, and natural resource management. Because some activities may fall into more than one of these categories, users of the list should consult all pertinent entries.

Index

I. Pollution Control

A. Air Pollution.
B. Water Pollution.
C. Solid Waste.
D. Noise.
E. Radiation.
F. Hazardous Substances.
Toxic Materials.
Food Additives and Contamination of Food Stuff.
Pesticides.

II. Energy

A. Electric Power
B. Petroleum.
C. Natural Gas.
D. Coal and Minerals.

III. Land Use

A. Land Use Changes, Planning, and Regulation of Land Development.
B. Public Land Management.
C. Coastal Areas.
D. Environmentally Critical Areas
E. Community Development.
Built-up or Distressed Areas.
Density and Congestion Mitigation.
Neighborhood Character.
F. Historic, Architectural, and Archeological Preservation.
G. Outdoor Recreation.

IV. Natural Resource Management

A. Weather Modification.
B. Waterway Regulation and Stream Modification.
C. Soil and Plant Conservation and Hydrology.
D. Fish and Wildlife.
E. Renewable Resources.
F. Energy and Natural Resources Conservation.

I. Pollution Control

A. Air Pollution

Department of Agriculture

Forest Service (effects of air pollution on vegetation and visibility; fire smoke management).

Soil Conservation Service (effects of air pollution on vegetation; wind erosion).

Department of Commerce

National Oceanic and Atmospheric Administration (meteorological and climatological research and monitoring; urban pollution).

Department of Defense

Department of the Air Force (pollution from military aircraft).

Department of Energy

Energy Information Administration (emissions from energy sources).

* Approvals of plans for power plants and major fuel-burning facilities:

Federal Energy Administration Act of 1974, 15 U.S.C. 761–790h.

Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289.

Department of Health, Education, and Welfare

Public Health Service:

Center for Disease Control (effects of air pollution on health).

National Institutes of Health (effects of air pollution and health).

Department of Housing and Urban Development (housing and community planning)

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Management (public lands).

Bureau of Mines (air pollution for mining and minerals processing and fossil and gaseous fuel combustion).

Fish and Wildlife Service (effects of air pollution on fish and wildlife).

Geological Survey (emissions from outer-continental shelf lease operations).

Heritage Conservation and Recreation Service (recreation).

National Park Service (visibility in national parks).

Office of Surface Mining Reclamation and Enforcement (surface mining).

Department of Labor

Mining Safety and Health Administration (airborne pollutants in workplace (mines)).

Occupational Safety and Health Administration (airborne pollutants in workplace.

Department of Transportation

Coast Guard (cargo tank venting and vapor recovery systems).

Federal Aviation Administration (aircraft emissions).

Federal Highway Administration (highway related air quality impacts; vehicle emissions).

Federal Railroad Administration (locomotive emissions).

Urban Mass Transportation Administration (urban transportation systems).

Environmental Protection Agency (effects of air pollution on public health and welfare; air quality criteria and standards; vehicle and aircraft emissions)

* Prevention of significant deterioration of air quality. 42 U.S.C. 7470 *et seq.*

* Application for primary non-ferrous smelter order. 42 U.S.C. 7419.

* Assuring that federal projects conform to state implementation plans under Clean Air Act. 42 U.S.C. 7616.

National Aeronautics and Space Administration (advanced technology for remote sensing of air quality parameters and for reduction of aircraft engine emissions)

Nuclear Regulatory Commission (radioactive substances)

Tennessee Valley Authority (Tennessee Valley region)

B. Water Pollution

Water Quality

Department of Agriculture

Agriculture Stabilization and Conservation Service (agricultural lands).

Forest Service (National Forest lands).

Soil Conservation Service (watershed protection)

Department of Commerce

Maritime Administration (marine pollution from ships).

National Oceanic and Atomospheric Administration (management and protection of coastal and marine resources.

Department of Defense

Army Corps of Engineers:

* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 40k, 403 and 419

* Permits for river and harbor improvement projects. 33 U.S.C. 541.

* Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water 33 U.S.C. 407.

* Permits for private projects to improve navigable waters. 33 U.S.C. 565.

* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

* Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413.

Department of Navy (ship pollution control).

Department of Energy (energy programs)

Department of Health, Education, and Welfare

Public Health Service (effects of pollution on health).

Department of the Interior

Bureau or Indian Affairs (Indian lands).

Bureau or Land Management public lands, coastal zone management, outer continental shelf).

Bureau of Mines (mining activities).

Bureau of Reclamation (public works).

Fish and Wildlife Service (effects on fish and wildlife resources).

Geological Survey (hydrology).

Heritage Conservation and Recreation Service (effects on historic or recreational values).

National Park Service (National Parks).

Office of Surface Mining Reclamation and Enforcement (hydrologic balance in surface mining activities).

Office of Water Research and Technology (water resources planning)
Department of Transportation.

Assistant Secretary for Policy and International Affairs (environmental review of departmental programs).

Coast Guard (oil spills, ship sanitation):

* Tanker construction, equipment, manning, operation. 46 U.S.C. 391a.

* Oil and hazardous substances discharge prevention. 33 U.S.C. 1321.

* Pollution prevention (33 CFR 151, 154–6).

* Vessel navigation, waterfront facility regulations. 33 U.S.C. 1221 (50 U.S.C. 191).

* Certification of marine sanitation devices. 33 U.S.C. 1322 (33 CFR 159).

Environmental Protection Agency (treatment works; effluent limitations; oil and hazardous substance discharges)

* Permits for discharge of specific pollutants under aquaculture project. 33 U.S.C. 1328.

* Permits for disposal of sewage sludge. 33 U.S.C. 1345.

* Oil spill prevention, containment and countermeasure plans (prepared by facility owner/operator). 33 U.S.C. 1321, 1361 (40 CFR 1112.7).

* Permits for treatment, storage or disposal of hazardous wastes. 42 U.S.C. 6925.

* Temporary underground injection permits. Safe Drinking Water Act. 41 U.S.C. 300h(C)(1).

* National Pollutant Discharge Elimination System (NPDES) permits. 33 U.S.C. 1342.

Federal Maritime Commission

* Certificates of financial responsibility for water pollution. 33 U.S.C. 1321 (46 CFR Part 542); 42 U.S.C. 1643 (46 CFR Part 543); 43 U.S.C. 1815 (46 CFR Part 544).

National Aeronautics and Space Administration (advanced technology for remote sensing of water quality)

Nuclear Regulatory Commission (radioactive substances)

Tennessee Valley Authority (Tennessee Valley Region)

Water Resources Council (principles and standards)

River Basin Commissions (as geographically appropriate)

Pollution of Marine Resources

Department of Commerce

Maritime Administration (port, coastal and ocean pollution):

* Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101, *et seq.*

* Port operations, polluting discharges, and dumping. 46 U.S.C. 867 (41 Stat. 992).

National Oceanic and Atmospheric Administration (coastal zone management; ocean pollution).

Department of Defense

Army Corps of Engineers:

* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403 and 419.

* Permits for river and harbor improvement projects. 33 U.S.C. 541.

* Permits for private projects to improve navigable waters. 33 U.S.C. 5651.

* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

* Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413.

* Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

* Regulation of artificial islands, installations and devices on the outer continental shelf. 43 U.S.C. 1333(e)

Department of the Navy (oceanography; pollution from ships).

Department of Energy (energy programs)

Department of Health, Education, and Welfare

Public Health Service (effects on health).

Food and Drug Administration (shellfish sanitation; contamination of fish and shellfish with toxics).

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Management (public lands):

* Coral harvesting (outer continental shelf). 43 U.S.C. 1334 (43 CFR 6224).

* Mineral leasing on the outer continental shelf. 43 U.S.C. 1331–1343.

Bureau of Mines (ocean mining).

Fish and Wildlife Service (effects on sport fisheries).

Geological Survey:

* Permits for geological and geophysical exploration on outer continental shelf. 43 U.S.C. 1340 (30 CFR 251).

* Permits for exploration and development activities on federal oil and gas leases on the outer continental shelf. 43 U.S.C. 1331 *et seq.* (30 CFR 250).

* Estuarine Areas Act. 16 U.S.C. 1224.

Heritage Conservation and Recreation Service (effects on historic and recreational values of marine resources).

Ocean Mining Administration (ocean-mining).

Department of State (international marine resource issues)

Department of Transportation

Coast Guard (ocean dumping enforcement, and marine resource protection).

Environmental Protection Agency

* Permits for ocean discharges. 33 U.S.C. 1343.

* Discharge of specific pollutants under aquaculture project. 33 U.S.C. 1328.

* Permits for disposal of sewage sludge. 33 U.S.C. 1345.

* Permits for transportation of ocean discharge materials. 33 U.S.C. 1412, 1414.

National Aeronautics and Space Administration (advance technology for remote sensing of water quality)

Nuclear Regulatory Commission (radioactive substances)

Water Resources Council (principles and standards for water plans)

River Basin Commissions (as geographically appropriate).

C. Solid Waste

Department of Agriculture

Forest Service (National Forests and Grasslands).

Soil Conservation Service (watershed protection).

Department of Commerce

Maritime Administration (marine pollution from ships).

Department of Defense

Army Corps of Engineers:

* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403 and 419.

* Discharge of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

* Transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413

Department of Health, Education, and Welfare

Public Health Service:

Center for Disease Control (effects on health).

Food and Drug Administration (contamination of food resulting from disposal of municipal and industrial waste treatment sludge).

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Management (public lands).

Bureau of Mines (mineral waste, mine acid waste, municipal solid waste, recycling).

Geological Survey (geologic and hydrologic effects).

National Park Service (National Parks).

Office of Surface Mining Reclamation and Enforcement (surface mining wastes).

Department of Transportation

Coast Guard (ship sanitation).

Environmental Protection Agency (solid wastes and recycling—generally)

* Permits for disposal of sewage sludge. 33 U.S.C. 1345.

* Control and disposal of solid waste. —— U.S.C. ————.

* Resource Conservation and Recovery Act. 42 U.S.C. 6964 (40 CFR 3, 33, 255).

* Permits for treatment, storage, or disposal of hazardous wastes. 42 U.S.C. 6925.

* Use of restricted toxic substances—exemptions from rules/regulations. 15 U.S.C. 2601–2629.

* Transportation and handling of hazardous substances.—— U.S.C. ————.

General Services Administration (public buildings)

Nuclear Regulatory Commission (radioactive waste)

* Licensing of radioactive wastes. 42 U.S.C. 2071–2114, 5842 (10 CFR Parts 20, 40).

Tennessee Valley Authority (Tennessee Valley region)

Water Resources Council

River Basin Commissions (as geographically appropriate).

D. Noise

Department of Agriculture

Forest Service (National Forests and Grasslands).

Department of Commerce

National Bureau of Standards (measurements, standards, and methods).

Department of Defense

Department of the Air Force (military aircraft noise).

Department of Health, Education, and Welfare (effects on health)

Department of Housing and Urban Development

Office of Community Planning and Development (environmental criteria and standards for housing and land use).

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Management (public lands):

* Lease of public lands for airports. 49 U.S.C. 211–214 (43 CFR 2640).

* Off-road vehicle noise. (E.O. 11644), —— FR ————.

Bureau of Mines (mine noise, blasting and vibration).

Department of Labor

Mining Safety and Health Administration (noise in the workplace).

Occupational Safety and Health Administration (noise in the workplace).

Department of Transportation

Federal Aviation Administration:

Office of Environment and Energy:

* Airport construction, alteration, etc. 49 U.S.C. 1350, 1354, 1355 (14 CFR 157).

Federal Highway Administration (traffic and motor carrier noise).

Federal Railroad Administration (railroad noise).

Urban Mass Transportation Administration (transit noise).

Environmental Protection Agency

* Noise Control Act of 1972. 42 U.S.C. 4901–4918.

* National Aeronautics and Space Administration (advance technology for reduction of aircraft noise)

E. Radiation

Department of Commerce

National Bureau of Standards (measurements, standards, methods and data).

Department of Energy

Office of Energy Technology (nuclear energy).

Department of Health, Education, and Welfare

Public Health Service:

Food and Drug Administration (health and safety; contamination of food with radioactive materials).

National Institutes of Health (health).

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Management (public lands):

* Leases for phosphate and uranium. —— U.S.C. ————.

* Leases for withdrawal of public lands for radiation waste depository (deep burial). —— U.S.C. ————.

Bureau of Mines (uranium mines).

Geological Survey (waste disposal).

Department of Labor

Mining Safety and Health Administration (uranium mines).

Occupational Safety and Health Administration (worker exposure to sources of radiation not covered by the Department of Energy).

Department of Transportation

Federal Highway Administration:

Bureau of Motor Carrier Safety (enforcement of hazardous materials regulation for highway transportation in interstate commerce).

Environmental Protection Agency (radioactive air emissions)

Nuclear Regulatory Commission (radiation effects—generally)

* Licenses for special nuclear material. 42 U.S.C. 2073–2078 (10 CFR Part 70).

* Licenses for source material. 42 U.S.C. 2091–2099 (10 CFR Part 40).

* Licenses for by-product material. 42 U.S.C. 2111–2114 (10 CFR Parts 30–35).

* Licensing for utilization or production facilities for industrial or commercial purposes. 42 U.S.C. 2131–2133 (10 CFR Part 50).

* Licensing utilization or production facilities for medical therapy and research and development. 42 U.S.C. 2134 (10 CFR Part 50).

* Nuclear power reactor operators license. 42 U.S.C. 2137 (10 CFR Part 55).

* Licensing and regulating Department of Energy demonstration reactors. 42 U.S.C. 5842.

* Licensing Department of Energy facilities for receipt and storage of high-level radioactive wastes. 42 U.S.C. 5842.

F. Hazardous Substances

Toxic Materials

Consumer Product Safety Commission (consumer product safety)

Department of Agriculture

Agricultural Marketing Services (consumer protection).

Animal and Plant Health Inspection Service (disease vectors).

Department of Commerce

Maritime Administration (port, coastal and ocean pollution):

* Merchant vessels, polluting discharges and dumping. 46 U.S.C. 1101 *et seq.*

* Port operations, polluting discharges and dumping. 46 U.S.C. 867 (41 Stat. 992).

National Bureau of Standards (measurements, standards methods and data.)

National Oceanic and Atmospheric Administration (coastal and marine resources management and protection).

Department of Defense (military operations)

Department of Health, Education, and Welfare

Public Health Service:

Center for Disease Control (health issues).

Food and Drug Administration (contamination of food).

National institutes of Health (health issues).

Department of Housing and Urban Development

Office of Policy Development and Research (lead-based paint poisoning prevention research).

Department of the Interior

Bureau of Indian Affairs (Indians and Indian lands).

Bureau of Land Management (public lands).

Bureau of Mines (disposal methods for selected milling and mine wastes).

Fish and Wildlife Service (effects on fish and wildlife resources).

National Park Service (National parks).

Office of Surface Mining Reclamation and Enforcement (surface mining).

Department of Labor

Mining Safety and Health Administration (mining hazards).

Occupational Safety and Health Administration (workplace hazards).

Department of Transportation

Coast Guard:

* Transportation of hazardous materials by vessel. 46 U.S.C. 170, 375, 391a, 416; 49 U.S.C. 1655, 1803, 1804, 1808; 50 U.S.C. 198.

* Navigation and waterfront facility regulation. 33 U.S.C. 1221, 1224, 1321; 50 U.S.C. 191.

* Hazardous substance discharge to navigable waters. 33 U.S.C. 1321.

Federal Highway Administration.

Bureau of Motor Carrier Safety (hazardous material transportation in interstate commerce).

Federal Railroad Administration (railroad transport).

Research and Special Programs Administration (hazardous cargo, pipelines).

Materials Transportation Bureau:

* Transportation of hazardous materials. 42 U.S.C. 1805–1806.

* Permits for facilities to handle hazardous materials. 42 U.S.C. 1805–1806.

Environmental Protection Agency (hazardous air and water pollutants)

* Permits for treatment, storage or disposal of hazardous wastes. 42 U.S.C. 6925.

* Use of restricted toxic substances—exemptions from rules/regulations. 15 U.S.C. 2601–2629.

* Transportation and handling of hazardous substances. —— U.S.C. ————.

Food Additives and Contamination of Foodstuffs

Department of Agriculture

Food Safety and Quality Service (meat and poultry products).

Department of Health, Education, and Welfare

Public Heath Service.

Food and Drug Administration (effects on health).

Environmental Protection Agency (effects of pollution)

Pesticides

Department of Agriculture

Animal Plant Health and Inspection Service (control of animal and plant pests).

Food Safety and Quality Service (consumer protection).

Forest Service (National Forest and Grasslands).

Science and Education Administration (biological controls, food and fiber production).

Soil Conservation Service (watershed protection).

Department of Commerce

Maritime Administration (merchant ship operations).

National Oceanic and Atmospheric Administration (effects on marine life and the coastal zone).

Department of Defense

Armed Forces Pest Management Board (pesticide use on DOD lands, facilities and equipment; control of disease vectors).

Armed Services Explosive Safety Board (control of pests for munitions and explosive devices).

Department of Health, Education, and Welfare

Public Health Service:

Center for Disease Control (effects on health)

Food and Drug Administration (contamination of food)

Department of the Interior

Bureau of Indian Affairs (indian lands).

Bureau of Land Management (public lands).

Bureau of Reclamation (irrigated lands).

Fish and Wildlife Service (effects on fish and wildlife resources).

National Park Service (national Parks).

Department of Labor

Occupational Safety and Health Administration (worker exposures during manufacture of pesticides).

Department of Transportation

* Permits for transportation of hazardous materials. 49 U.S.C. 1805–1806.

* Approval for shipments of Class A explosives. 46 U.S.C. 170(7).

* Permits for facilities to handle hazardous materials. 49 U.S.C. 1805–1806.

Coast Guard:

* Permits for transportation of hazardous substances. 46 U.S.C. 170. 391a.

* Navigation and waterfront facility regulation. 33 U.S.C. 1221, 1321; 50 U.S 191.

Federal Aviation Administration (transport by air).

V 44 OC 19 79 UMI

Federal Highway Administration.
Bureau of Motor Carrier Safety (pesticide transport in interstate commerce).
Federal Railroad Administration (transport by rail).
Research and Special Programs Administration.
Materials Transportation Bureau (transport).

Environmental Protection Agency

* Permits for treatment, storage or disposal of hazardous wastes. 42 U.S.C. 6925.
* Certification of pesticide users. 7 U.S.C. 135–136y (40 C.F.R. Part 171).
* Registration of pesticides. 7 U.S.C. 163a.
* Experimental Use Permits. 7 U.S.C. 163a. (40 C.F R. Part 172).

II. Energy

A. Electric Power Development, Generation and Transmission, and Use

Department of Agriculture

Forest Service (National Forests and Grasslands).
* Rights-of-way for electrical, communication, water facilities and roadways. 16 U.S.C. 522 *et seq.* (CFR 251.50).
Rural Electrification Adminsitration (rural areas)
* Electrical generation and transmission projects. 7 U.S.C. 901 *et seq.*

Department of Defense

Army Corps of Engineers (Hydro):
* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 403.
* Permits for discharges of dredged or fill material into navigable waters. 33 U.S.C. 1344.
* Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333(e).

Department of Energy

Federal Energy Regulatory Commission (hydroelectric power, electric transmission, electric supply, facility siting):
* Regulation of interconnection of electric transmission facilities, and regulation of enlargement of electric transmission facilities for wheeling. 16 U.S.C. 824–825K (18 CFR 32).
* Regulation of the development of water power including the licensing of non-Federal hydroelectric power projects. Federal Power Act. 16 U.S.C. 791–825r (18 CFR 4–25, 36, 131, 141).
Office of Conservation and Solar Applications (transportation industry; public buildings; industrial heating).
Office of Energy Technology (technology development).
Power Marketing Administration (as geographically appropriate).
* Approvals for plans for power plans and major fuel-burning facilities:
Federal Energy Administration Act of 1974, 15 U.S.C. 761–790h.
Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–629, 92 Stat. 3289.

Department of Health, Education, and Welfare

Public Health Service.
National Institutes of Health (radiation effects).

Department of Housing and Urban Development (urban areas)

Department of the Interior

Bureau of Indian Affairs:
* Leases of Indian lands. 25 U.S.C. 392–403b, 415 (25 CFR Part 131).
* Leases, permits, easements of public lands. 43 U.S.C. 931c, 931d (43 CFR Part 9).
* Rights-of-way over Indian lands. 25 U.S.C. 311 *et seq.* (25 CFR Part 161); 25 U.S.C. 15 (25 CFR Parts 231–233).
Bureau of Land Management (public lands):
* Licenses for synthetic liquid fuel facilities. 30 U.S.C. 323.
* Placer mining claims on lands withdrawn or reserved for power development or power sites. 30 U.S.C. 621.
* Geothermal leases. 30 U.S.C. 1002–1011.
* Rights-of-way (various purposes, e.g., power lines and authorities). *See* 43 CFR Parts 2800, 2811, 2820, 2840, 2850, 2870, 2880, 2890.
* Mineral leasing on the outer continental shelf. 43 U.S.C. 1331–1343.
* Uranium leases (acquired lands). —— U.S.C. ——.
* Solar energy facility siting. —— U.S.C. ——.
* Public works—leases, permits, easements. 43 U.S.C. 931c, 931d (43 CFR Part 9).
Bureau of Mines (mining research).
Bureau of Reclamation.
* Public works—leases, permits, easements. 43 U.S.C. 931c, 931d (43 CFR Part 9).
Geological Survey (classification of federal lands as to their water power and water storage values).
* Geothermal lease operations. 30 U.S.C. 1023 (30 CFR 270–271).
Fish and Wildlife Service (effects on fish and wildlife resources).
* Public works—leases, permits, easements. 43 U.S.C. 931c, 931d (43 CFR Part 9).
Heritage Conservation and Recreation Service (effects on historic or recreational values).
National Park Service.
* Rights-of-way through parks or reservations for power and communications facilities. 16 U.S.C. 5.

Department of Transportation

Federal Highway Administration.
* Relocation and accomodation of utility facilities on highway rights-of-way 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).
Environmental Protection Agency (pollution control).

Nuclear Regulatory Commission

* Licensing for utilization or production facilities for industrial or commercial purposes. 42 U.S.C. 2133 (10 CFR 50).
* Nuclear power reactor operator's licneses. 42 U.S.C. 2137 (10 CFR Part 55).
* Licensing uranium milling operations. 42 U.S.C. 2091 *et seq.* (10 CFR Part 40).
* Licensing and regulating demonstration reactors. 42 U.S.C. 2134, 5842 (10 CFR Part 50).

Department of Transportation (transport of sources)

Federal Aviation Administration.

Tennessee Valley Authority (Tennessee Valley Region)

Water Resources Council (water resources planning and data)

River Basin Commissions (as geographically appropriate).

B. Petroleum Development, Extraction, Refining, Transport and Use

Department of Agriculture

Forest Service (National Forests and Grasslands).

Department of Commerce

National Oceanic and Atmospheric Administration (costal and marine resources—management and protection).
Maritime Administration (port, costal and ocean pollution).
* Merchant vessels. 42 U.S.C. 1101 *et seq.*
* Port operations. 42 U.S.C. 867 (41 Stat. 992).

Department of Defense

Army Corps of Engineers.
* Rules governing work or structures in or affecting the navigable waters of the United States. 33 U.S.C. 403.
* Permits for discharges of dredged or fill materials into navigable water. 33 U.S.C.1344.

* Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333 (e).

Department of Energy

Office of Energy Technology (technology development).

Department of the Interior

Bureau of Indian Affairs.
* Rights-of-way over Indian lands. 25 U.S.C. 311, *et seq.* (25 CFR Part 161, 171, 172, 183, 184).
* Leases for mining, oil and gas, farming and other uses on federal lands. 25 U.S.C.393 *et seq.* (25 CFR 171, 172).
Bureau of Land Management (public lands and outer continental shelf).
* Application for patents on phosphate, nitrate, oil and asphaltic mineral deposits. 30 U.S.C. 121, 122, 123.
* Oil and gas leases. 30 U.S.C. 221.
* Lease of oil and gas deposits located in rights-of-way. 30 U.S.C. 301.
* Oil pipeline rights-of-way; leases for oil shale, native asphalt, solid and semi-solid bitumen, and bituminous rock. 30 U.S.C. 241.
Bureau of Mines (environmental effects of oil mining).
Fish and Wildlife Service (effects on fish and wildlife resources).
Geological Survey.
* Oil and gas lease operations:
Public domain. 30 U.S.C. 181, *et seq.* (30 CFR 221).
Acquired land. 30 U.S.C. 351, *et seq.* (30 CFR 221).
Outer continental shelf lands. 43 U.S.C. 1331, *et seq.* (30 CFR 250, 251).
Indian lands. 25 U.S.C. 396a, *et seq.* (25 CFR 171, 172, 174, 183, 184).
* Sale and purchase of government royalty oil application. 30 U.S.C. 189, 192, 359; 43 U.S.C. 1334 (30 CFR Part 225).
Heritage Conservation and Recreation Service (effects on historical or recreational values).
National Park Service.
* Permits and leases for oil and gas. 16 U.S.C. Ch. 1.

Department of State

* Facilities for export/import of petroleum products, coal, minerals, water, sewage permits. Executive Order 14423.

Department of Transportation (transport and pipeline safety)

Coast Guard:
* Tank vessel regulation. 46 U.S.C. 391a.
* Ports and waterways safety. 33 U.S.C. 1221.
* Construction and alteration of bridges over navigable waters (for pipelines). 33 U.S.C. 525; 33 U.S.C. 494, 495; 33 U.S.C. 513–14.
* Outer continental shelf structures. 43 U.S.C. 1331.
Federal Highway Administration.
* Relocation and accommodation of pipelines on highway rights-of-way. 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).
Research and Special Programs Administration
Materials Transportation Bureau (pipeline safety).

Environmental Protection Agency (pollution control)

Federal Maritime Commission

Office of Environmental Analysis (carrier rates or agreements)

Interstate Commerce Commission (regulation of carriers)

C. Natural Gas Development, Production, Transmission, and Use

Department of Agriculture

Forest Service (National Forests and Grasslands).

Department of Commerce

National Oceanic and Atmospheric Administration (coastal and marine resources—management and protection).
Maritime Administration:
* Liquid natural gas vessels. 42 U.S.C. 1101, *et seq.*
* Liquid natural gas terminals. 46 U.S.C. 867 (41 Stat. 992).

Department of Defense

Army Corps of Engineers:
* Rules governing work or structures in or affecting the navigable waters of the United States. 33 U.S.C. 403.
* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.
* Regulation of artificial islands, installations, and devices on the outer continental shelf. 43 U.S.C. 1333(3).

Department of Energy

Federal Energy Regulatory Commission.
* Certificates for natural gas facilities (underground storage fields, LNG facilities, and transmission pipeline facilities); sale, exchange and transportation of gas; abandonment of facilities; and curtailment of natural gas service. Natural Gas Act. 15 U.S.C. 717–717w.

Department of Housing and Urban Development

Office of Community Planning and Development (residential and other lands).

Department of the Interior

Bureau of Indian Affairs.
* Leases for mining, oil and gas, farming and other uses on federal lands. 25 U.S.C. 393 *et seq.* (25 CFR 171, 172).
Bureau of Land Management (public lands):
* Application for patents on phosphate, nitrate, oil and asphaltic mineral deposits. 30 U.S.C. 121, 122, 123.
* Oil and Gas Leases. 30 U.S.C. 221.
* Lease of oil and gas deposits located in rights-of-way. 30 U.S.C. 301.
* Leasing of oil and gas deposits on the outer continental shelf. 43 U.S.C. 1331–1343.
* Gas pipeline rights-of-way. —— U.S.C. ——.
Bureau of Mines (methane; drainage and subsidence problems. Federal Helium Program).
Fish and Wildlife Service (effects on fish and wildlife resources).
Geological Survey:
* Communitization of federal oil and gas leases. 30 U.S.C. 181 *et seq.*, 315 *et seq.*
* Oil and gas lease operations:
Public domain. 30 U.S.C. 181, *et seq.* (30 CFR 221).
Acquired lands. 30 U.S.C. 351 *et seq.* (30 CFR 221).
Outer continental shelf land. 43 U.S.C. 1331 *et seq.* (30 CFR 250, 251).
Indian lands. 25 U.S.C. 3969, *et seq.* (25 CFR 171, 172, 173, 174, 183, 184).
Heritage Conservation and Recreation Service (effects on historical and recreational values).
National Park Service.
* Permits and leases for oil and gas. 16 U.S.C. Ch. 1.

Department of Transportation (transport and safety)

Coast Guard:
* Tank vessel regulation. 46 U.S.C. 391a.
* Navigation and waterfront facility regulation. 33 U.S.C. 1221, 1321; 50 U.S.C. 191.
* Construction and alteration of bridges over navigable waters (for pipelines). 33 U.S.C. 525; 33 U.S.C. 494–95; 33 U.S.C. 513–14.
* Outer continental shelf structures. 43 U.S.C. 1331.
Federal Highway Administration.
* Relocation and accommodation of pipelines on highway rights-of-way. 23 U.S.C. 109(1), 116, 123 (23 CFR Part 645).
Federal Railroad Administration (railroad transport).
Research and Special Programs Administration.
Materials Transportation Bureau (pipeline safety).

V 44 0 C 1 9 7 9 UMI

Environmental Protection Agency (pollution control)

Interstate Commerce Commission (regulation of carriers)

D. Coal and Minerals Development, Mining Conversion, Processing, Transport and Use

Appalachian Regional Commission (Appalachian region)

Department of Agriculture

Forest Service (National Forests and Grasslands):
* Surface use of public domain lands under U.S. mining laws. 16 U.S.C. 478–555 (36 CFR 252).
* Mineral development on acquired lands for solid (hardrock) minerals. 16 U.S.C. 520 (36 CFR 252), and for phosphate, oil, gas, oil shale, sodium, potassium and sulphur. 30 U.S.C. 352.
* Coal leasing. 30 U.S.C. 201–352.
* Surface coal mining operations. 30 U.S.C. 1272.
* Geothermal resource developments. 30 U.S.C. 1014.

Rural Electrification Administration.
* Financial assistance for purchase of coal mines and mining facilities. 7 U.S.C. 901 *et seq.*

Soil Conservation Service (abandoned mined land: transportation).

Department of Commerce (technical and economic information)

Department of Defense

Army Corps of Engineers:
* Rules governing work or structures on or affecting navigable waters of the United States. 33 U.S.C. 403.
* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.
* Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water. 33 U.S.C. 407.

Department of Energy

Federal Energy Regulatory Commission.
* Approvals for plans for powerplants and major fuel-burning facilities:

Federal Energy Administration Act of 1974, 15 U.S.C. 761–790h.

Powerplant and Industrial Fuel Use Act of 1978. Pub. L. 95–620, 92 Stat. 3289.

Department of Housing and Urban Development

Office of Policy development and Research (subsidence).

Department of the Interior

Bureau of Indian Affairs:
* Rights-of-way over Indian lands. 25 U.S.C. 311 *et seq.* (25 CFR Part 161, 171, 172, 177).
* Leases for mining, oil and gas, farming and other uses on federal lands. 25 U.S.C. 392 *et seq.* (25 CFR Part 131, 171, 172, 177).

Bureau of Land Management (public lands):
* Patents on coal deposits. 30 U.S.C. 81, 82.
* Patents on lands with reservation of coal. 30 U.S.C. 85.
* Leases and permits for coal lands. 30 U.S.C. 181.
* Permits to take coal for domestic needs. 30 U.S.C. 208.
* Lease of mineral deposits in acquired lands. 30 U.S.C. 352.
* Lease of partial or future interests in mineral deposits. 30 U.S.C. 354.
* Leases and permits for phosphate, potassium, and sodium. 30 U.S.C. 181 *et seq;* 30 U.S.C. 351–359; Reorganization Act of July 16, 1946.
* Leases and permits for sulpher in Louisiana and New Mexico. 30 U.S.C. 181 *et seq;* 30 U.S.C. 351–359; Reclamation Act of July 16, 1946.
* Determination of unpatented mining claims. 30 U.S.C. 527.
* Mining location for source material. 30 U.S.C. 541.
* Conveyance of title to an unpatented mining claim. 30 U.S.C. 701–709.
* Leases, permits and licenses for mining in wild and scenic rivers system. 16 U.S.C. 1280.

Bureau of Mines (mining activities).

Fish and Wildlife Service (effects on fish and wildlife resources).

Geological Survey:
* Consolidation of coal leases. 30 U.S.C. 202a.
* Coal lease exploration. 30 U.S.C. 201b.
* Exploration and mining operations for leaseable minerals other than coal. 30 U.S.C. 211, 241, 261, 281. (30 CFR 231).

Heritage Conservation and Recreation Service (effects on historical and recreational values).

National Park Service:
* Leases, permits and licenses for mining subject to regulations of Secretary of the Interior on lands involved in Wild and Scenic River Systems. 16 U.S.C. 1280.
* Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908 (36 CFR 9).

Office of Minerals Policy and Research Analysis (research).

Office of Surface Mining Reclamation and Enforcement:
* Permits for surface coal mining. 30 U.S.C. 1256–1262 (30 CFR Ch. VII).
* Permits for underground coal mining. 30 U.S.C. 1266(b) (30 CFR Ch. VII).

Department of Labor

Mine Safety and Health Administration (worker safety).

Occupational and Safety and Health Administration (worker safety in very limited situations).

Department of Transportation

Federal Highway Administration (coal haul roads, effects of railroad coal transport on roads and streets).

Federal Railroad Administration (railroad transport).

Environmental Protection Agency (pollution control)

Interstate Commerce Commission (regulation of carriers)

Tennessee Valley Authority (Tennessee Valley region)

III. Land Use

A. Land Use Changes, Planning, and Regulation of Land Development

Department of Agriculture

Agricultural Stabilization and Conservation Service (agricultural land use programs).

Forest Service (National Forest and Grasslands):
* Special use permits, archaeological permits, leases and easements. 16 U.S.C. 497; 16 U.S.C. 580d; 48 U.S.C. 341 (36 CFR 251), section 261.
* Mineral exploitation of acquired lands. 16 U.S.C. 520 (36 CFR 252).
* Easement and road rights-of-way in National Forests and other lands. 16 U.S.C. 533 (36 CFR 212.10).
* Grazing permits. 16 U.S.C. 580 (K) and (L) (36 CFR 227.1).
* Geothermal resource developments. 30 U.S.C. 1014.
* Multiple-use sustained-yield units. 16 U.S.C. 528 (36 CFR 223).
* Surface use on public domain lands under U.S. mining laws. 16 U.S.C. 478–551 (36 CFR 252).
* Minerals development on acquired lands:

Solid (hardrock) minerals. 16 U.S.C. 520.

Phosphate oil, gas, oil shale, sodium, potassium and sulphur. 30 U.S.C. 352.
* Coal leasing. 30 U.S.C. 201–352.
* Surface coal mining operations. 30 U.S.C. 1272.
* Bankhead-Jones Farm Tenant Act, Title III—Administration of national grasslands. 7 U.S.C. 1010–1012 (36 CFR 213.3).
* Claim of privately owned horses and burros. (36 CFR 222).

Economics, Statistics and Cooperatives Service (data; natural resources).

Science and Education Administration (rural and community development).

Soil Conservation Service (watershed protection).

Department of Defense

Army Corps of Engineers (flood plains).

Department of the Air Force (land use around airfields).

Department of Housing and Urban Development

Office of Interstate Land Sales (land sales).

Office of Community Planning and Development (community development; planning activities).
* Subdivided land sales, registration Interstate Land Sales Full Disclosure Act. 15 U.S.C. 1701.

Department of the Interior

Bureau of Indian Affairs:
* Sale by Secretary of the Interior of land purchased for Indian administrative uses. 25 U.S.C. 293.
* Rights-of-way over Indian lands. 25 U.S.C. 311–328 (25 CFR 161).
* Irrigation lands. 25 U.S.C. 381 (25 CFR 191, 203).
* Leasing for mining, oil and gas, farming and other uses on federal lands. 25 U.S.C. 393 *et seq.* (25 CFR 171, 172).
* Grazing permits (25 CFR 151; 141).

Bureau of Land Management (public lands):
* Disposition of lands in Indian reservations. 30 U.S.C. 86, 87, 88.
* Limitations on entry upon saline lands. 30 U.S.C. 162.
* Securing rights-of-way for pipeline purposes. 30 U.S.C. 185(a).
* Use of surface of public lands withdrawn or reserved for power development or power sites for placer mining. 30 U.S.C. 621.
* Management of outer continental shelf for mineral leasing. 43 U.S.C. 1331–1343.
* Federal Land Policy and Management Act. 43 U.S.C. 1701 *et seq.*
* Grazing permits. Taylor Grazing Act. 43 U.S.C. 315, 315a–r.
* The Act of August 28, 1937. 43 U.S.C. 1181d.
* Mineral leases and permits under the Mineral Leasing Act of 1920, as amended. 30 U.S.C. 181 *et seq.*
* The Acquired Lands Mineral Leasing Act of 1947, as amended. 30 U.S.C. 315–359.
* Permits for underground coal mining 30 U.S.C. 1266(b).
* Leasing lands to government or non-profit groups. 43 U.S.C. 869.
* Lease of public lands for airports. 49 U.S.C. 211–214 (43 CFR 2640).
* Special land use permits. Federal Land Policy and Management Act of 1976 (43 CFR Part 2920).
* Disposal and use of sand, stone and gravel. 30 U.S.C. 601, 602.

Bureau of Mines (minerals).

Bureau of Reclamation (public works).

Fish and Wildlife Service (effects on fish and wildlife resources).
* National Wildlife Refuge use permits. 16 U.S.C. 668dd–668ee (50 CFR 24.41).

Geological Survey (land use, geographic hazards, topographic, and photographic mapping).

Heritage Conservation and Recreation Service (conservation, national trails).

National Park Service (National Parks):
* Leases, permits and licenses for mining subject to regulations of Secretary of the Interior on lands involved in Wild and Scenic River System. 16 U.S.C. 1280.
* Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908 (36 CFR 9).
* Special use permits, archeological permits, grazing permits, leases and easements, rights-of-way. 16 U.S.C. Ch. 1.

Office of Surface Mining Reclamation and Enforcement (surface mining).

Federal Maritime Commission

Office of Environmental Analysis (carrier rates and agreements).

Department of Transportation

Coast Guard:
* Permits for causeways. 33 U.S.C. 401.
* Bridges over navigable waters—33 U.S.C. 401, 491, 525.
* Approval of plans to alter a bridge, 33 U.S.C. 514.

Federal Aviation Administration (airports, land acquisition, release of airport property from surplus property disposal restrictions, construction or alternation of objects affecting navigable airspace, land use compatability).

Federal Highway Administration:
* Approval of highway projects and programs. 23 U.S.C. 101–156, generally, and 23 U.S.C. 204, 208–210, 212–219.
* Regulation of highway-related land use.

Highway beautification. 23 U.S.C. 131 (23 CFR Part 750)

Junkyard control and acqusition. 23 U.S.C. 136, 315 (23 CFR Part 751).

Landscapes and roadsides development. 23 U.S.C. 131, 315, 319 (23 CFR Part 752).

Environmental Protection Agency (pollution effects)

National Aeronautics and Space Administration (advanced technology for remote sensing of land use and land cover)

National Capitol Planning Commission
* Approval of land-use plans and construction in National Capitol D.C. Code 5–428; 40 U.S.C. 74a(DC Code 9–304; D.C. Code 8–104; Pub. L. 90–553, Section 4; 40 U.S.C. 122 (D.C. Code 8–115).

Water Resources Council

River Basin Commissions (as geographically appropriate)

B. Public Land Management

Department of Agriculture

Forest Service (National Forests and Grasslands management):
* Special use permits, archaeological permits, leases and easements. 16 U.S.C. 497, 16 U.S.C. 580d, 48 U.S.C. 341 (36 CFR 251); see also section 261.
* Geothermal resource developments. 30 U.S.C. 1014.
* Surface coal mining operations. 30 U.S.C. 1272.
* Coal leasing. 30 U.S.C. 201–352.
* Mining development on acquired lands.

Solid (hardrock) minerals. 16 U.S.C. 520 (36 CFR 252.

Phosphate, oil, gas, oil shale, sodium, potassium and sulphur. 30 U.S.C. 352.
* Easement and road rights-of-way in National Forests and other lands. 16 U.S.C. 533 (36 CFR 212.10).
* Grazing permits. 16 U.S.C. 580 (K) and (L) (36 CFR 227.1).
* Multiple use sustained-yield units. 16 U.S.C. 528 (36 CFR 223).
* Bankhead-Jones Farm Tenant Act, Title III—Administration of National Grasslands. 7 U.S.C. 1010–12 (36 CFR 213.3).
* Claim of privately owned horses and burros. 36 CFR 222.

Department of Defense (Lands Under Department Control)

Army Corps of Engineers (project recreation lands).

Department of the Air Force (land use around airfields).

Department of the Interior

Bureau of Indian Affairs:
* Sale by Secretary of the Interior of land purchased for Indian administrative uses. 25 U.S.C. 293.
* Leases, permits and easements on public land under the jurisdiction of BIA. 43 U.S.C. 931c, 931d (43 CFR Part 9).
* Irrigation lands. 25 U.S.C. 381 (25 CFR 203.4).

V 4 4 0 C
1 9 7 9
UMI

* Grazing permits. 25 CFR 151.

Bureau of Land Management:

* Placer mining claims on lands withdrawn or reserved for power development of ower sites. 30 U.S.C. 621.

* Federal Land Policy and Management Act. 433 U.S.C. 1701, *et seq.*

* Grazing permits. Taylor Grazing Act. 43 U.S.C. 315, 315a–315r.

* Act of August 28, 1937. 43 U.S.C. 1181d.

* Antiquities permits. —— U.S.C. ——.

* Special Recreation permits. —— U.S.C. ——.

* Mineral leasing on the Outer Continental Shelf. 43 U.S.C. 1331–1343.

* Leases, permits and licenses for mining in Wild and Scenic Rivers Areas. 16 U.S.C. 1280.

* Leasing lands to government or non-profit groups. 43 U.S.C. 869.

* Lease of public lands for airports. 49 U.S.C. 211–214 (43 CFR 2640).

* Rights-of-way (various purposes (e.g., roads, railroads power lines, irrigation, pipelines, mineral leasing) and authorities). *See* 43 CFR Parts 2800, 2811, 2820, 2840, 2850, 2870, 2880, 2890.

* Special land use permits. Federal Land Policy and Management Act of 1976 (43 CFR Part 2920).

* Disposal and use of sand, stone and gravel. 30 U.S.C. 601, 602.

Bureau of Mines (mineral land assessment).

Fish and Wildlife Service (effects on fish and wildlife resources).

Geological Survey:

* Outer Continental Shelf. 43 U.S.C. 1331–1343.

* Onshore oil, gas, mining. 30 U.S.C. 181 *et seq.*

* Onshore oil, gas, mining on Indian lands. 25 U.S.C. 396, 396a–298, 35 Stat. B12.

* Geothermal. 30 U.S.C. 1023.

Heritage Conservation and Recreation Service (conservation, fund state programs).

National Park Service (public lands):

* Leases, permits and licenses for mining subject to regulations of Secretary of the Interior on lands involved in Wild and Scenic River System. 16 U.S.C. 1280.

* Access permits for mining activity within the National Park System. 16 U.S.C. 1902, 1908 (36 CFR 9).

* Special use permits, archeological permits, grazing permits, leases and easements, rights-of-way. 16 U.S.C. Ch. 1.

Office of Surface Mining Reclamation and Enforcement:

* Permits for surface coal mining. 30 U.S.C. 1256–1262.

* Permits for underground coal mining. 30 U.S.C. 1266(b).

Department of Transportation

* Transportation programs with measures to protect land traversed (particularly parks, recreation areas and historic sites). Department of Transportation Act as amended. 49 U.S.C. 1651–1659.

Federal Highway Administration (construction and management of National Park Service roads and forest highways):

* Approval of projects for Indian reservation roads and bridges. 23 U.S.C. 208.

* Construction of public lands highways. 23 U.S.C. 209.

* Approval of projects for public lands development roads and trails. 23 U.S.C. 214.

General Services Administration (public buildings management)

Federal Property Resources Service (excess land disposal).

National Aeronautics and Space Administration (advanced technology remote sensing of land use and land cover)

Tennessee Valley Authority (project lands)

C. Land Use in Coastal Areas

Department of Agriculture

Forest Service (National Forest and Grasslands).

Soil Conservation Service (soil stability, hydrology).

Department of Commerce.

Maritime Administration (ports).

National Oceanic and Atomospheric Administration (coastal and marine resources and protection):

* Permits for activities in designated marine sanctuaries. 16 U.S.C. 143 *et seq.* (15 CFR 922).

* Approval and funding of state coastal management programs. 16 U.S.C. 1451 *et seq.* (15 CFR 923, 930).

* Protection of endangered species and critical habitats. 16 U.S.C. 1531 *et seq.* (50 CFR 222).

* Establishment of estuarine santuaries. 16 U.S.C. 1461 (15 CFR 921).

Department of Defense

Army Corps of Engineers (beaches, dredge and fill permits. Refuse Act permits):

* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403 and 419.

* Authority to enjoin or force removal of refuse placed in or on the banks of a navigable water or tributary of a navigable water 33 U.S.C. 407.

* River and harbor improvement projects. 33 U.S.C. 541.

* Permits for private projects to improve navigable waters. 33 U.S.C. 565.

* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

* Permits for transportation of dredged materials for dumping into ocean waters. 33 U.S.C. 1413.

Department of Housing and Urban Development (development in coastal areas)

Department of the Interior

Bureau or Indian Affairs (Indian lands).

Bureau or Land Management (public lands):

* Cooperation with states in developing coastal zone plans. 86 Stat. 1280.

*Limitations on entry upon saline lands. 30 U.S.C. 162.

*Mineral leasing on the outer continental shelf. 43 U.S.C. 1331–1343.

Fish and Wildlife Service (effects on fish and wildlife resources).

Geological Survey (estuarine areas):

* Permits for geological and geophysical exploration on outer continental shelf. 43 U.S.C. 1340 (30 CFR 251).

* Permits for exploration and development activities on federal oil and gas leases on the outer continental shelf. 43 U.S.C. 1331 *et seq.* (30 CFR 250).

Heritage Conservation and Recreation Service (historical and recreational values).

National Park Service (barrier island ecology and coastal processes).

Department of Transportation

Coast Guard (bridges, navigation and deepwater ports):

* Bridges over navigable waters—permits 33 U.S.C. 525.

* Approval of plans to alter a bridge. 33 U.S.C. 514.

* Permits for causeways. 33 U.S.C. 401.

* Waterfront facilities. 33 U.S.C. 1221. 1321.

* Deepwater port regulation. 33 U.S.C. 1503–1524.

* Vessel operating requirements. —— U.S.C. ——.

* Licensing of persons to engage in the ownership, construction or operation of a deepwater port. 33 U.S.C. 1503–1520.

Environmental Protection Agency (pollution effects):

* Permits for ocean discharges. 33 U.S.C. 1343.

* Permits for disposals of sewage sludge. 33 U.S.C. 1345.

* Oil spills prevention, containment, and countermeasure plans (prepared by facility owner/operator). Sections 3111, 501, 33 U.S.C. 1321, 1361 (40 CFR 112.7).

Federal Maritime Commission. Office of Environmental Analysis (terminal agreements).

National Aeronautics and Space Administration (advanced technology for remote sensing of land use and land cover).

D. Protection of Environmentally Critical Areas—

Floodplains, Wetlands, Beaches and Dunes, Unstable Soils, Steep Slopes, Aquifer Recharge Areas, Tundra, Etc.

Department of Agriculture

* Watershed Protection and Flood Prevention Act. 16 U.S.C. 1001–1009 (7 CFR Parts 15, 23, 600).

Agricultural Stabilization and Conservation Service (commodity and land use programs; Water Bank).

Forest Service (National Forest lands).

Science and Education Administration (soil and water conservation program).

Soil Conservation Service (watershed protection and flood control; soil and water conservation).

Department of Commerce

National Oceanic and Atmospheric Administration (coastal and marine resources, management and protection):

* Protection of endangered species and critical habitats. 16 U.S.C 1531, *et seq.* (50 CFR 222)

* Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR 922).

* Establishment of estuarine sanctuaries. 16 U.S.C. 1461 (15 CFR 921).

* Approval and funding of state coastal management programs. 16 U.S.C. 1451 *et seq.* (15 CFR 923; 930).

Department of Defense

Army Corps of Engineers:

* Permits for discharge of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403, 419.

Department of Health, Education, and Welfare

Public Health Service.

Center for Disease Control (health issues).

Department of Housing and Urban Development

Office of Community Planning and Development (urban and floodplain areas).

Department of the Interior

Bureau of Indian Affairs (Indian lands).

Bureau of Land Managment:

* Limitations on entry upon saline lands. 30 U.S.C. 162.

* Management of areas of critical environmental concern. 43 U.S.C. 1701.

Bureau of Reclamation (public works).

Fish and Wildlife Service (protection of fish and wildlife resource values).

Geological Survey (topography, geology, hydrology).

Heritage Conservation and Recreation Service (historical and recreational values).

National Park Service (National Park lands).

Office of Surface Mining Reclamation and Enforcement (designation of areas unsuitable for surface coal mining).

Office of Water Research and Technology (water resource planning).

Department of Transportation

Coast Guard.

* Establishment of port access routes. 33 U.S.C. 1221.

Federal Highway Administration:

* Approval of federal-aid highway projects. 23 U.S.C. 101–156, generally.

* Approval of highway bridge replacement and rehabilitation. 23 U.S.C. 144 (23 CFR Part 650).

Environmental Protection Agency (pollution effects)

* Temporary underground injection permits. Safe Drinking Water Act. 42 U.S.C. 300h(C)(1).

Water Resources Council (coordination of floodplain and wetland initiatives)

River Basin Commissions (as geographically appropriate).

E. Community Development

Advisory Council on Historic Preservation (historic preservation)

Department of Agriculture

Science and Education Administration (rural and community development program).

Soil Conservation Service (soil survery).

Department of Commerce

Economic Development Administration (designated areas).

Department of Health, Education, and Welfare

Public Health Service.

Center for Disease Control (health).

Office of Human Development Services (problems of handicapped, aged, children and Native Americans).

Department of Housing and Urban Development

Office of Community Planning and Development (community development; effects on low income populations: economic revitalization in distressed areas; density and congestion mitigation; rehabilitation and urban homesteading).

Department of the Interior

Bureau of Indian Affairs (Indian Lands).

Geological Survey (flood, seismic, and geologic hazards).

Heritage Conservation and Recreation Service (landmarks, archeological remains, outdoor recreation, historic preservation).

Department of Transportation

Federal Aviation Administration (airports).

Federal Highway Administration:

* Relocation assistance in connection with highway projects. 42 U.S.C. 4601 *et seq.* (23 CFR Part 740, 49 CFR Part 25).

* Approval of economic growth center development highways. 23 U.S.C. 143.

Urban Mass Transportation Administration.

* Urban Mass Transportation Act. 49 U.S.C. 1610.

Environmental Protection Agency (pollution control)

General Services Administration (building design and construction)

National Capitol Planning Commission (Washington, D.C. area)

* Approval of Land use plans and construction in the National Capitol. D.C. Code 5–428. 40 U.S.C. 74a (D.C. Code 9–304); D.C. Code 8–104; Pub. L. 90–553, section 4; 40 U.S.C. 122 (D.C. Code 8–115).

National Endowment for the Arts (artistic values)

F. Historic, Architectural, and Archeological Preservation

Advisory Council on Historic Preservation (historic preservation)

Department of Agriculture

Forest Service (National Forest and Grasslands).

Department of Housing and Urban Development (in urban areas)

Department of the Interior

* Permits to examine ruins, excavations and gathering of objects on land under jurisdiction of Interior, Agriculture and Army. 16, U.S.C. 432.

Bureau of Indian Affairs (Indian lands).

V 44 OCT 19 79 UMI

* Preservation of antiquities. 16 U.S.C. 432 (25 CFR 132).
Bureau of Land Management (public lands).
* Antiquities search and collection permit. Antiquities Act. 16 U.S.C. 432 (43 CFR 3).
Heritage Conservation and Recreation Service (historic and cultural landmarks):
* Antiquities Act of 1906. 16 U.S.C. 431–433 (43 CFR 3). National Historic Preservation Act of 1966. 16 U.S.C. 470 *et seq.*
* Archaeological and Historic Preservation Act. 16 U.S.C. 469.
National Park Service (National Park lands).

Department of Transportation

* Approval of transportation programs or projects that require the use of an historic site. 42 U.S.C. 1653(f).
Federal Highway Administration.
* Approval of transportation programs or projects that require the use of an historic site. 42 U.S.C. 138.
* Archeological and paleontological salvage on federal and federal-aid highway projects. 23 U.S.C. 305 (23 CFR Part 765).

General Services Administration

(Public Buildings Service (in urban areas).

National Capitol Planning Commission

* Approval of land use plans and construction in National Capitol. D.C. Code 5–428; 40 U.S.C. 74a (D.C. Code 9–304); D.C. Code 8–104; Pub. L. 90–553, section 3; 40 U.S.C. 122 (D.C. Code 8–115).

National Endowment for the Arts

G. Outdoor Recreation

Department of Agriculture

Forest Service (National Forest land).
Soil Conservation Service (watershed protection).

Department of Defense

Army Corps of Engineers (recreation areas on DOD lands).

Department of Health, Education, and Welfare

Public Health Service.
Center for Disease Control (Health).

Department of Housing and Urban Development (urban areas)

Department of the Interior

Bureau of Indian Affairs (Indian lands).
Bureau of Land Management (public lands).
Fish and Wildlife Service (effects on fish and wildlife resources).
Heritage Conservation and Recreation Service.
* Land and Water Conservation Act. 16 U.S.C. 460(L)4–(L)11–(L)22.
National Park Service (National park lands).

Department of Transportation

Coast Guard.
* Recreational boating regulation. 46 U.S.C. 1451.
Federal Highway Administration:
* Preservation of parklands. 23 U.S.C. 138.
* Access highways to public recreation areas on lakes. 23 U.S.C. 155.

Environmental Protection Agency (pollution control)

Water Resources Council (water and related land resources)

River Basin Commission (as geographically appropriate)

IV. Natural Resource Management

A. Weather Modification

Department of Agriculture

Forest Service (National Forests and Grasslands).
Soil Conservation Service (snow survey).
World Food and Agricultural Outlook and Situation Board (data relating to commodities).

Department of Commerce

National Oceanic and Atmospheric Administration (research and development; reports on private activities).

Department of Defense

Department of the Air Force (fog dissipation).

Department of the Interior

Bureau of Reclamation (water resources research).
National Park Service (public lands).

B. Waterway Regulation and Stream Modification

Department of Agriculture

Agricultural Stabilization and Conservation Service (resource conservation; Water Bank).
Forest Service (National Forests and Grasslands).
Science and Education Administration (soil and water conservation).
Soil Conservation Service (watershed protection).

Department of Commerce

Maritime Administration (merchant vessels, barges and inland vessels).

Department of Defense

Army Corps of Engineers:
* Rules governing work or structures in or affecting navigable waters of the United States. 33 U.S.C. 401, 403, and 419.
* Permits for discharges of dredged or fill materials into navigable waters. 33 U.S.C. 1344.

Department of the Interior

Bureau of Indian Affairs (Indian lands).
Bureau of Land Management (Public lands).
Bureau of Reclamation (public works).
Fish and Wildlife Service (effects on fish and wildlife resources).
Geological Survey (hydrology).
National Park Service (National Parks).

Department of Transportation

Coast Guard (vessels, bridge, port, and waterway safety; navigation aids):
* Deepwater port regulation. 33 U.S.C. 1503–1524.
* Tank vessel regulation. 46 U.S.C. 391a.
* Ports and waterways safety. 33 U.S.C. 1221.
* Construction and alterations on bridges and causeways over navigable waters. 33 U.S.C. 401, 491, 525; 33 U.S.C. 494–95; 33 U.S.C. 513–14).
Federal Highway Administration:
* Approval of federal-aid highway and bridge projects involving navigable waters and channel changes. 23 U.S.C. 144 (23 CFR Part 650)
* Approval of toll bridge and ferry projects. 23 U.S.C. 129.

Environmental Protection Agency (pollution control)

Federal Maritime Commission

Office of Environmental Analysis (approval of terminal agreements).

Water Resources Council

* Water Resources Planning Act. 42 U.S.C. 1962 (18 CFR 701–706; 33 CFR 252).
River Basin Commissions (as geographically appropriate).

C. Soil and Plant Conservation and Hydrology

Department of Agriculture

Agricultural Stabilization and Education Service (soil conservation).
Farmers Home Administration (soil erosion).
Forest Service (National Forest lands).
Science and Education Administration (water and soil conservation).
Soil Conservation Service (soil and watershed conservation).

* Grazing Permits. 16 U.S.C. 580 (K) and (L) (36 CFR 227.1).
* Multiple-use sustained-yield units. 16 U.S.C. 528 (36 CFR 223).
* Bankhead-Jones Farm Tenant Act, Title III—Administration of National Grasslands. 7 U.S.C. 1010–1012 (36 CFR 213.3).

Department of Commerce

National Oceanic and Atmospheric Administration (coastal and marine resources-management and protection).

Department of Defense

Army Corps of Engineers (dredging, aquatic plants).

Department of the Interior

Bureau of Indian Affairs (Indian lands):
* Irrigation lands. 25 U.S.C. 381 (25 CFR 203.4).
* Timber cutting permits. 25 CFR 141.19.
* Grazing permits. 25 CFR 151.
Bureau of Land Management (public lands).
* Timber permits for free use. 30 U.S.C. 601 *et seq.*, 189; 43 U.S.C. 315, 1201; 48 U.S.C. 423 (43 CFR Part 5010).
Bureau of Mines (hydraulic effects of mining).
Bureau of Reclamation (public works).
Fish and Wildife Service (effects on fish and wildlife resources).
* Endangered plants—permit. 50 CFR 17.62.
Geological Survey (geology).
National Park Service (National park lands).
* Special use permits, grazing permits, permits to collect soil, rock, water, and plant specimens. 16 U.S.C. Ch. 1, 3.

Department of Transportation

Federal Highway Administration (erosion control in highway projects).

Environmental Protection Agency (pollution control)

National Aeronautics and Space Administration (advanced technology for remote sensing of land covers)

Water Resources Council (floodplain and wetland initiatives)

River Basin Commissions (as geographically appropriate).

D. Fish and Wildlife

Department of Agriculture

Animal and Plant Health Inspection Service (importation of wildlife and birds; endangered species enforcement).
Forest Service (National Forests and Grasslands).
* Claim of privately owned horses and burros. 36 CFR 222.
Soil Conservation Service (habitat, fish ponds, aquaculture).

Department of Commerce

National Oceanic and Atmospheric Administration (coastal and marine resources management and protection):
* Permit for importing marine mammals or products thereof. 16 U.S.C. 1371, 73, 74 (50 CFR 216).
* Scientific research and public display of marine mammals. 50 CFR 618; 50 CFR 216.31, 220.
* Control of fishing by foreign and domestic vessels. 16 U.S.C. 1801, *et seq.* (50 CFR Ch. VI).
* Fish and Wildlife Coordination Act. 16 U.S.C. 1361, *et seq.*
* Permits for activities in designated marine sanctuaries. 16 U.S.C. 1431, *et seq.* (15 CFR 922).
* Approval and funding of state coastal management programs. 16 U.S.C. 1451, *et seq.* (15 CFR 923; 930).
* Protection of endangered species and critical habitats. 16 U.S.C. 1531, *et seq.* (50 CFR 222).
* Protection of marine mammals. 16 U.S.C. 1361, *et seq.* (50 CFR 216).
* Establishment of estuarian sanctuaries. 16 U.S.C. 1461 (15 CFR 921).
* Trustee of natural resources. 43 U.S.C. 1813 (E.O. 12123).
* Scientific, propagation or survival of marine reptile—permits. 50 CFR 227.72.
National Marine Fisheries Service (endangered species).

Department of Defense

Department of the Air Force (bird-aircraft strike hazard reduction).

Department of the Interior

Bureau of Indian Affairs (off-reservation treaty fishing).
Bureau of Land Management (wild horses and burros; public lands).
Fish and Wildlife Service (endangered species; effects on fish and wildlife):
* Bald and golden eagle protection—permits (takings for scientific, agricultural, other uses). 16 U.S.C. 668–668d.
* Permits for endangered species export and import. 16 U.S.C. 1538(d).
* Permits for scientific research involving endangered species. 16 U.S.C. 1539.
* Mitigation/compensation for harm to endangered or threatened species or critical habitat. 16 U.S.C. 1539.
* Permits for taxidermy on migratory birds, nests, or eggs for commercial uses. 16 U.S.C. 704.
* Fish and Wildlife Coordination Act. 16 U.S.C. 661 *et seq.* (43 CFR Part 17).
* Anadromous Fish Conservation Act. 16 U.S.C. 755 *et seq.*
Heritage Conservation and Recreation Service (outdoor recreation).
National Park Service:
* Permits for collecting animal specimens from National Park System areas. 16 U.S.C. Ch. 1, 3.
* Licenses and permits for sport or commercial fishing in certain National Park System areas. 16 U.S.C. Ch. 1, 3.
* Disposition of surplus animals from National Park System areas. 16 U.S.C. Ch. 1, 3.

Department of Health, Education, and Welfare

Public Health Service (health).
Food and Drug Administration (contamination of fish and shellfish with toxics).

Department of Transportation

Federal Highway Administration (highway construction).

Environmental Protection Agency (effects of water pollution)

Department of State (international issues)

E. Renewable Resource Development, Production, Management, Harvest, Transport and Use

Department of Agriculture

Economic Statistical Cooperation Service (data).
Forest Service (timber sale, free use and other timber management activities in National Forests and Grasslands).
Science and Education Administration (forest and range management).
Soil Conservation Service (watershed protection; soil conservation).

Department of Commerce

National Oceanic and Atmoshperic Administration (coastal and marine resources management and development).

Department of Defense

Army Corps of Engineers (hydro).

Department of Energy (hydroelectric power, Office of Conservation and Solar Applications).

Federal Energy Regulatory Commission.
* Regulation of development of water resources. Federal Power Act. 16 U.S.C. 791–825r (18 CFR 4–25, 36, 131, 141).

Department of Housing and Urban Development (building materials)

Department of the Interior

Bureau of Indian Affairs (Indian lands).
* Leases of Indian lands. 25 U.S.C. 392–403b, 415. (25 CFR Parts 131, 141–

V 44 0C 1 979 UMI

142, 144, 151–153, 231–233). 25 U.S.C. 311 *et seq. (25 CFR Part 161).*

* Rights-of-way over Indian lands. 141, 142, 144, 151–153, 231–233.

Bureau of Land Management (public lands).

* Federal Land Policy and Management Act. 43 U.S.C. 1701 *et seq.*

* Grazing permits. Taylor Grazing Act. 43 U.S.C. 315, 315a–4.

* The Act of August 28, 1937. 43 U.S.C. 1181d.

Bureau of Reclamation (public works).

Fish and Wildlife Service (effects on fish and wildlife resources).

Heritage Conservation and Recreation Service (effects on historical and recreational values).

National Park Service (National Park lands).

* Permits for sport fishing, hunting and grazing. 16 U.S.C. Ch. 1, 3.

Department of Transportation

Federal Highway Administration (logging haul roads, access roads).

Environmental Protection Agency (pollution control)

Federal Maritime Commission

Office of Environmental Analysis (carrier rates).

Interstate Commerce Commission (freight rates)

F. Energy and Natural Resources Conservation

Department of Agriculture

Agricultural Stabilization and Conservation Service (resource conservation).

Forest Service (National Forests and Grasslands).

Science and Education Administration (soil and water conservation; forest and range management).

Soil Conservation Service (soil and water conservation).

Department of Energy

* Energy Conservation Standards for New Buildings Act. 42 U.S.C. 6834.

Federal Energy Regulatory Commission (hydroelectric power and natural gas facilities).

Department of Commerce

National Bureau of Standards (energy efficiency).

National Oceanic and Atmospheric Administration (coastal and marine resources—management and protection).

Department of Housing and Urban Development

Office of Housing (previously FHA) (housing standards).

Office of Policy Development and Research (energy, building technology and standards research).

Department of the Interior

Bureau of Indian Affairs (Indian resources).

Bureau of Land Management (public lands).

Bureau of Mines (land reclamation; recycling; and processing and use of materials).

Bureau of Reclamation (water projects).

Geological Survey (oil and gas storage).

* Geothermal lease operations. 30 U.S.C. 1023 (30 CFR 270).

[FR Doc. 79-32331 Filed 10-18-79; 8:45 am]

BILLING CODE 3125-01-M

COUNCIL ON WAGE AND PRICE STABILITY

Amendment to Charter of Pay Advisory Committee

The Council on Wage and Price Stability is revising the Charter of the Pay Advisory Committee (44 FR 56917) to increase the membership from 15 to 18.

Accordingly, subparagraphs (4) and 6(a) of the charter of the Pay Advisory Committee are amended to read as follows:

(4) *Membership*

The Committee shall consist of eighteen members, six each from labor, business, and the public. Alternates may serve in place of the Chairman and members from labor and business with respect to recommendations under Paragraph 3 (b), (c), and (d). The President will select the members and alternates and will designate one of the public members as Chairman. Both the members and the alternates will be appointed by the Chairman of the Council.

* * * * *

(6) *Procedures of the Committee*

(a) *Quorum*

Twelve members of the Committee, four each from labor, business, and the public, shall constitute a quorum. Recommendations of the Committee shall require the affirmative vote of ten or more members.

* * * * *

Dated: October 16, 1979.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 79-32395 Filed 10-18-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Regulatory Permit Action Involving a Coal-Fired Steam Electric Generating Plant by Virginia Electric & Power Co. (VEPCO) in Greensville County, Va.; Mecklenburg County, Va.; or Buckingham County, Va.

AGENCY: US Army Corp of Engineers, Wilmington and Norfolk Districts.

ACTION: Notice of Intent to prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: VEPCO proposes to construct from one to four coal-fired steam electric generating units of 800 to 1000 megawatts each on the selected site. Each unit will require a net withdrawal of approximately 20 CFS of process and cooling water. The Greensville and Mecklenburg County sites will require intake and discharge pipelines from Roanoke Rapids Lake and John H. Kerr Reservoir, respectively. The Buckingham County site will require intake construction of a cooling and process water reservoir and flow skimming from the James River. The three sites were chosen from an original 100 potential sites. The first unit will be scheduled for operation in the late 1980's. The Greensville and Mecklenburg County sites will require approximately 2500 and 2000 acres of land respectively. The Buckingham County site will require approximately 9500 acres of land due to need for construction of a cooling water and process water reservoir. All sites will require from 2.5 to 3 miles of new access roads, from 1.8 to 5.5 miles of widening of existing roads, and from 1.2 to 3 miles of existing highway relocation. From 6.2 to 8.2 miles of new railroad will be necessary and from 1 to 20 miles of upgrading of existing track will be required.

Three (3) scoping meetings will be held jointly by the Wilmington and Norfolk Districts one near each of the potential sites. All affected or concerned Federal, State and local agencies and the general public are encouraged to attend. The purpose of the meetings will also be to identify issues and concerns which should be addressed by the DEIS. Information received will be furnished VEPCO for their use in preparing an Environmental Report and in site selection. The information will be used to prepare the District's scope of work for the DEIS. Written participation in the scoping process is also encouraged and will be accepted before, during and within 10 days after the scoping meeting. Significant issues to be analyzed in depth will be identified as a result of the scoping process.

Scoping meetings will be held as follows:

a. 23 October 1979, 7:30 p.m. Greensville County Learning Center, Cafetorium Halifax Street Emporia, VA.

b. 24 October 1979, 7:30 p.m. Boydton Primary School, Cafetorium Route 58, Bypass Boydton, VA.

c. 25 October 1979, 7:30 p.m. Arvonia Primary School, Cafeteria Route 15 Arvonia, VA.

It is estimated that the DEIS will be available to the public by the summer of 1981.

Questions regarding the proposed action and DEIS should be directed to Dr. G. Wayne Wright, Regulatory Function Branch, US Army Engineer District, PO Box 1890, Wilmington, NC 28402, (919) 343–4630, FTS 674–4630 or Mr. Bob Hume, Regulatory Functions Branch, US Army Engineer District, 803 Front Street, Norfolk, VA 23510, (804) 441–3657, FTS 827–3657.

A. A. Kopcsak,

LTC, Corps of Engineers, Acting District Engineer.

[FR Doc. 79-32250 Filed 10-18-79; 8:45 am]

BILLING CODE 3710-GN-M

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Smith Island, Maryland and Virginia, Shore Erosion Control, Flood Control, and Navigation Study

AGENCY: U.S. Army Corps of Engineers, Baltimore, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. In order to satisfy the study objectives three plans have been identified.

Plan A—Shore erosion control for bayside of barrier island west of Rhodes Point by providing five 200-foot long segments of headland breakwater and six acres of wetland habitat development.

Plan D—Navigation and shore erosion control for bayside by providing five 200-foot long segments of headland breakwater, six acres of wetland habitat development, a channel 50 feet wide, six feet deep, 6,900 feet long from the northern limit of the Federal navigation project at Rhodes Point through Sheep Pen Gut to the six foot depth contour in the Chesapeake Bay. A 400-foot long rubble mound jetty would be constructed north of the channel entrance to the Chesapeake Bay. This channel will be oriented in a southwesterly direction to take advantage of naturally deep water.

Plan E (combined plans A & D)—Bayside navigation channel and shore erosion control by providing ten 100-foot long rubble mound groins and artificial beach nourishment. The groin field will be filled to its capacity of 54,000 CY. A channel 50-feet wide, 6 feet deep, and 6,900 feet long would be dredged from the northern limit of the Federal navigation project at Rhodes Point through Sheep Pen Gut to the six-foot depth contour in the Chesapeake Bay. A 400-foot long rubble mound jetty would be constructed north of the channel entrance to the Chesapeake Bay. This channel will be oriented in a southwesterly direction to take advantage of naturally deep water.

2. The alternatives for shore erosion control include stone revetment, bulkheads, and upland habitat development. Other than the alternatives in Section 1 for navigation, no others were identified.

3.a. This study was authorized in December, 1973 and begun in February, 1977. A public meeting was held in May, 1977. This meeting was organized to give interested parties an opportunity to express views on the investigation and to solicit information as to the direction the study should take. Plan formulation efforts have been directly coordinated with designated representatives of the National Marine Fisheries Service, the U.S. Fish and Wildlife Service, the Environmental Protection Agency, and the Maryland Department of Natural Resources.

3.b. The significant issue to be analyzed in depth in the DEIS are (1) the selection of a structural plan that will have the least damaging impacts to the wetland environment of Smith Island, and (2) the selection of a plan that is the most appropriate with respect to the natural environment, the economy of the Smith Island area, and Federal water resources planning guidelines.

4. A public meeting and workshop are scheduled for November, 1979 on Smith Island to supplement the scoping outlined in Section 3a. Coordination with the various resource agencies providing input to the plan formulation will be maintained. These coordination meetings will likely take place at the Baltimore District Office. Additional site visits to Smith Island may be necessary for resource agencies to document environmental impacts.

5. The DEIS will be available to the public in November, 1980

ADDRESS: Questions about the proposed action and DEIS can be answered by Mr. G. N. Fach, Jr., NABPL–F, Baltimore District, Corps of Engineers, P.O. Box 1715, Baltimore, Maryland 21203 (301) 962–2530.

Dated: 9 October 1979.

James W. Peck,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-32280 Filed 10-18-79; 8:45 am]

BILLING CODE 3710-41-M

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Public Law 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee will be held as follows:

Thursday, 15 November 1979, Pomponio Plaza, Rosslyn, Virginia. The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the United States Code and therefore will be closed to the public. Subject matter will be used in a study on the intelligence data base required for intelligence assessments.

October 16, 1979.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

[FR Doc. 79-32293 Filed 10-18-79; 8:45 am]

BILLING CODE 3810-70-M

Defense Science Board Task Force on Cruise Missiles; Advisory Committee Meeting

The Defense Science Board Task Force on Cruise Missiles will meet in closed session on November 13 and 14, 1979 at the Center for Naval Analyses, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning strategic cruise missile employment, and potential defenses to the U.S. deployment of cruise missile systems.

In accordance with 5 U.S.C. App. I Section 10(d)(1976), it has been

V 44 0C 19 9 7 9 9 UMI

determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 16, 1979.

[FR Doc. 79-32294 Filed 10-18-79; 8:45 am]

BILLING CODE 3810-70-M

Wage Committee; Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 4, 1979; Tuesday, December 11, 1979; and Tuesday, December 18, 1979 at 10:00 a.m. in Room 3D-325, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Public Law 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports, and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Public Law 92-463, the Federal Advisory Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b. (c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b. (c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b. (c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officals of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b. (4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by writing the Chairman, Department of Defense Wage Committee, Room 3D-281, The Pentagon, Washington, D.C.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 16, 1979.

[FR Doc. 79-32295 Filed 10-18-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 79-17-NG, et al.]

Midwestern Gas Transmission Co., et al.; Final Order Authorizing Importation of Natural Gas at Newly Established Canadian Border Price

In the matter of Midwestern Gas Transmission Company (ERA Docket No. 79-17-NG; FERC Docket Nos. G-18314, CP66-121, CP70-25 AND CP77-458); Great Lakes Gas Transmission Company (ERA Docket Nos. 79-18-NG, 79-02-NG; FERC Docket Nos. CP66-110 *et al.*, CP70-19 *et al.*, CP70-100 AND CP71-222, *et al.*); Montana Power Company (ERA Docket No. 79-19-NG; FERC Docket No. CP74-187); Michigan Wisconsin Pipe Line Company (ERA Docket No. 79-20-NG; FERC Docket No. CP70-22); Inter-City Minnesota Pipelines Ltd., Inc., (ERA Docket No. 79-21-NG; FERC Docket No. CP70-289); Northwest Pipeline Corp. (ERA Docket No. 79-22-NG; FERC Docket Nos. CP75-341 AND CP75-342). Final order authorizing the importation of natural gas at the newly established Canadian border price.

On August 10, 1979, the Economic Regulatory Administration (ERA) issued a notice of the receipt of *Applications for Amendment to Import Authorizations to Provide for Increase in Border Price of Gas Imported from Canada, and Invitation to Submit Petitions to Intervene, and of Interim Order Authorizing the Importation of Natural Gas at the Newly Established Canadian Border Price* (44 FR 48323) (Notice).

Applications were received from:

Midwestern Gas Transmission Company (Midwestern) (ERA Docket No. 79-17-NG) on July 16, 1979.

Great Lakes Gas Transmission Company (Great Lakes) (ERA Docket No. 79-18-NG) on July 17, 1979.

Montana Power Company (Montana) (ERA Docket No. 79-19-NG) on July 19, 1979.

Michigan Wisconsin Pipe Line Company (Mich. Wisc.) (ERA Docket No. 79-20-NG) on July 19, 1979.

Northwest Pipeline Corporation (Northwest) (ERA Docket No. 79-22-NG) on July 19, 1979.

Inter-City Minnesota Pipelines Ltd., Inc. (Inter-City) (ERA Docket No. 79-21-NG) on July 23, 1979.

The above named Applicants filed petitions with the ERA requesting an amendment to their existing authorizations to increase the border export price paid to import volumes of natural gas from Canada.

Applicants' requests were in response to an order issued by the Privy Council of the Government of Canada on July 12, 1979, setting the price for gas exported from Canada under existing licenses at $2.80 per million British thermal units (MMBtu) except under License GL-29 where the new price is set at $2.50 per MMBtu (for further details, see Inter-City's application, ERA Docket No. 79-21-NG). These new Canadian export prices were effective August 11, 1979.

Appended to the August 10, 1979, Notice was ERA's *Interim Order Authorizing the Imporation of Natural Gas at the Newly Established Canadian Border Price* (44 FR 48324) (Interim Order). In the Notice, ERA requested comments and petitions for intervention in regard to the applications to be submitted by August 20, 1979.

On August 23, 1979, Northern States Power Company (Minnesota) (NSP Minn), and Northern States Power Company (Wisconsin) (NSP Wisc) filed a joint petition to intervene in the matter of Midwestern Gas Transmission Company, ERA Docket No. 79-17-NG. The joint petition expressed support for the application and did not request a hearing. No other petitions, comments or requests for hearing were received.

Applicants asserts that although they are deeply concerned about the continuous, substantial increases in the export price of Canadian gas, cessation of delivery of all or any part of the existing flow of Canadian gas would critically jeopardize the customers served by gas distribution utilities totally or substantially dependent upon imported Canadian gas.

Conclusion

Based on the information filed with the applications, ERA determined preliminarily, in its Interim Order, with final approval subject to further review and comments, that all previous authorizations to import natural gas from Canada issued to Midwestern, Great Lakes, Northwest Pipeline,

Montana, Inter-City, and Michigan Wisconsin should be amended to permit Applicants to continue to import natural gas at currently authorized volumes at a price of $2.80 per MMBtu ($2.50 per MMBtu under License GL-29), effective August 11, 1979.

ERA continues to find merit in Applicants' assertions and no comments were received in opposition to ERA's interim order. In addition, U.S. Government policies have emphasized the significant role natural gas can play in reducing U.S. reliance on oil imports. The approval of these petitions will ensure the continued availability of natural gas for displacement of fuel oils and will contribute to the overall success of DOE's national program of encouraging end-users with an alternate fuel capability to switch from fuel oils to natural gas.

Accordingly, ERA finds that the increase in the U.S.A-Canadian Border price for natural gas from $2.30 per MMBtu to $2.80 per MMBtu will not be inconsistent with the public interest.

Order

A. Pursuant to the authority under Section 3 of the Natural Gas Act (1) import authorizations previously amended by ERA in its order dated April 30, 1979, and granted to:

Midwestern Gas Transmission Company, ERA Docket No. 77-004-NG

Great Lakes Gas Transmission Company, ERA Docket No. 79-09-NG

Northwest Pipeline Corporation ERA Docket No. 79-10-NG

Montana Power Company ERA Docket No. 79-11-NG

Michigan Wisconsin Pipe Line Company ERA Docket No. 79-13-NG

Inter-City Minnesota Pipelines Ltd., Inc. Under Licenses GL-28 and GL-30 ERA Docket No. 79-12-NG; and

(2) import authorizations previously granted by ERA in its order date August 10, 1979, and granted to:

Great Lakes Gas Transmission Company, ERA Docket No. 79-02-NG [1]

for the importation of natural gas from Canada at $2.30 per million Btu are hereby further amended to permit the import of previously authorized volumes of natural gas from Canada at a price of $2.80 per MMBtu effective August 11, 1979. The new border price for gas to be imported under License GL-29 by Inter-city Minnesota Pipelines Ltd., Inc., is $2.50 per MMBtu.

This amendment to the authorizations to purchase natural gas imported from Canada affects only the price to be paid, and in no manner changes any other condition imposed in the respective existing authorizations to import issued to each Applicant.

NSP Minn. and NSP Wisc. are hereby permitted to intervene in ERA Docket No. 79-17-NG, provided, however that their participation as interveners shall be limited to matters affecting the rights and interests specifically set forth in the petition to intervene; and provided, further, that the admission of such interveners shall not be construed as recognition that petitioners might be aggrieved because of any order or orders issued by DOE/ERA in this proceeding.

Issued in Washington, D.C., on October 5, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-32306 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

[1] ERA's Interim Order of August 10, 1979, stated, at page 4, that Great Lakes' import authorizations previously amended by ERA on July 19, 1979, in ERA Docket No. 79-09-NG to allow natural gas to be imported at $2.30 per MMBtu are futher amended by this order. ERA also issued on August 10, 1979, in ERA Docket No. 79-02-NG its *Order Authorizing Amendment to Existing Import Authorization Permitting Sale of Imported Natural Gas Previously Restricted to Company use and Granting Petitions to Intervene* (44 FR 48322). This order amended a previous import authorization issued by the FPC in its Docket No. CP71-223. To avoid any ambiguity, it is ERA's intention that this amendment authorizing the increased border price of $2.80 per MMBtu include the amendment to the existing authorization granted to Great Lakes in FPC Docket No. CP71-223 by ERA's order of August 10, 1979.

Tipperary Oil & Gas Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

COMMENTS BY: November 21, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235.

FOR FURTHER INFORMATION CONTACT: Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745.

SUPPLEMENTARY INFORMATION: On October 11, 1979, the Office of Enforcement of the ERA executed a Consent Order with Tipperary Oil and Gas Corporation (Tipperary) of Midland, Texas. Under 10 CFR § 205.199J(b), the Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Tipperary, with its office located in Midland, Texas, is a firm engaged in crude oil production, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of crude oil sales, the Office of Enforcement, ERA, and Tipperary, entered into a Consent Order, the significant terms of which are as follows:

1. The period covered by the audit was September 1, 1973 through September 30, 1976, and it included all sales of crude oil which were made during that period.

2. Tipperary improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subpart D, when determining the prices to be charged for crude oil; and as a consequence, charged prices in excess of the maximum lawful sales prices resulting in overcharges to its customers.

3. In order to expedite resolution of the disputes involved, the DOE and Tipperary have agreed to a settlement in the amount of $213,533.00. The negotiated settlement was determined to be in the public interest as well as the best interests of the DOE and Tipperary.

4. Because the sales of crude oil were made to refiners and the ultimate consumers are not readily identifiable, the refund will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Tipperary agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the total sum of $213,533.00 twenty-four (24) months from the date of the execution of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and

will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants:* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments:* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order. You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District, Department of Energy, P.O. Box 35228, Dallas, Texas 75235. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your coments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Tipperary Oil and Gas Corporation Consent Order." We will consider all comments we received by 4:30 p.m., local time, on November 21, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 11th day of October 1979.

Herbert F. Buchanan,

Dep. District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-32315 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of September 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasoline on the face of each pump in numbers and letters not les than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact Bob Jones, Program Manager, Department of Energy, Economic Regulatory Administration, Rocky Mountain District, 1075 South Yukon Street, Lakewood, CO 80226, telephone number 303-234-3195.

Firm Name, Address, and Audit Date

Lingle Standard, Lingle, WY 82228—9/5/79
Interstate Chevron, 1230 N. 7th, Bozeman, MT 59715—9/8/79
Castle Rock Skelly, I-25, Exit 182, Castle Rock, CO 80104—9/5/79
Conners Chevron, Box 345, Aspen, CO 81611—9/8/79
Corner Service Station, P.O. Box 369, Wiggins, CO 80654—9/10/79
Northwest 66, 12401 West 64th, Arvada, CO 80004—9/12/79
R & V Standard, P.O. Box 46, Roggen, CO 80652—9/14/79
Wallace Texaco, 2127 Grand Avenue, Laramie, WY 80270—9/13/79
Orange Street Chevron, 426 North 3rd Street, Missoula, MT 59801—9/10/79
West Glacier Chevron, Box 398, West Glacier, MT 59936—9/11/79
Lee's Texaco, 6727 Wadsworth Boulevard, Arvada, CO 80002—9/13/79
Canyon Texaco, 148 Canyon Boulevard, Boulder, CO 80302—9/14/79
Fred Schlegel, Jr., 2755 Pearl Street, Boulder, CO 80302—9/13/79
Kirk's Westland Texaco 9998 W. Colfax, Lakewood, CO—9/19/79
Green Mountain Texaco, 12380 W. Alameda, Lakewood, CO 80226—9/20/79
Jay Sadler, 3308 W. Russell St., Jct. of Hwy 38 & I-29, Sioux, Falls, SD 57104—9/18/79
Campus Husky, Husky Oil Company, 803 Medary Avenue, Brooking, SD 47104—9/20/79
Teddy Bear Chevron, Rowley Junction, UT, 84029—9/20/79
24th & Central Exxon, 2344 Central Avenue, Billings, MT 59102—9/20/79
Marv's Service Center, 1303 Central Avenue, Billings, MT 59102—9/20/79
Crazy Charlie's Truck Stop, Lusk, WY 82225—9/17/79
Dickinson Husky Travel Center, Dickinson, ND 58601—9/19/79
Bill's Interstate Exxon, Richardton, ND 58652—9/9/79
Lander Husky, Box 429, Lander, WY 82520—9/18/79
Robert E. Way, 51 Coffeen Avenue, Sheridan, WY 82801—9/20/79
Danald L. Manning, 1208 9th Street, Wheatland, WY 82201—9/21/79
George W. Barber, 3590 South 2700 West, Salt Lake City, UT 84117—9/10/79
Central Standard, 202 South Central, Sidney, MT 59270—9/25/79
Al's Interstate Standard, Box 396, Glendive, MT 59330—9/25/79
Consumers Oil Co. of Ruggen, Inc., 33824 Colorado Hwy. 52, Keenesburg, CO 80643—9/27/79
Cass's Texaco, Box 298, Idaho Springs, CO 80452—9/28/79
Top's Truck Stop, Inc., P.O. Box 98, Sterling, ND 58572—9/24/79
Hidden Valley Skelly Flowing Inc., P.O. Box 747, Idaho Springs, CO 80452—9/27/79
Valley View Chevron, 7899 E. Belleview Ave., Englewood, CO—9/28/79
Big D Oil Co. Family Thrift Center, 919 E. St. Pat., Rapid City, SD—9/27/79
Wall Standard Service, 218 S. Boulevard, Wall, SD 57790—9/28/79

Issued in Lakewood, Colorado on this 11th day of October, 1979.

Dated: October 11, 1979.

George C. Brancucci,

Acting District Manager, Rocky Mountain Enforcement District.

Concurrence:

Charles F. Dewey,

Regional Counsel.

[FR Doc. 79-32392 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 79-CERT-089]

Ford Aerospace & Communications Corp.; Certification of Eligible Use of Natural Gas To Displace Fuel Oil

Ford Aerospace and Communications Corporations (Ford) filed an application for certification of an eligible use of natural gas to displace fuel oil at its Lansdale Plant in Lansdale, Pennsylvania, with the Administrator of the Economic Regulatory Administration pursuant to 10 CFR Part 595 on September 10, 1979. Notice of that application was published in the Federal Register (44 FR 55630, September 27, 1979) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Ford's application in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Ford's application satisfies the criteria enumerated in 10 CFR Part 595, and, therefore, has granted the certification and transmitted that certification to the Federal Energy Regulatory Commission. A copy of the transmittal letter and the actual certification are appended to this notice.

Issued in Washington, D.C., October 12, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Department of Energy,
Washington, D.C. 20461.

October 16, 1979.

Mr. Kenneth F. Plumb,
Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

Re: ERA Certification of Eligible Use; ERA Docket No. 79-CERT-089; Ford Aerospace and Communications Corporation.

Dear Mr. Plumb: Pursuant to the provisions of 10 CFR Part 595, I am hereby transmitting to the Commission the enclosed certification of an eligible use of natural gas to displace fuel oil. This certification is required by the Commission as a precondition to interstate transportation of fuel oil displacement gas in accordance with the authorizing procedures in 18 CFR Part 284, Subpart F. As noted in the certificate, it is effective for one year from the date of issuance, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. A copy of the enclosed certification is also being published in the Federal Register and provided to the applicant.

Should the Commission have any further questions, please contact Mr. Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202. All correspondence and inquiries regarding this certification should reference ERA Docket No. 79-CERT-089.

Sincerely,

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration

Enclosure.

Certification by the Economic Regulatory Administration to the Federal Energy Regulatory Commission of the Use of Natural Gas for Fuel Oil Displacement by the Ford Aerospace & Communications Corp.

ERA Docket No. 79-CERT-089

Application for Certification

Pursuant to 10 CFR Part 595, Ford Aerospace and Communications Corporation (Ford) filed an application for certification of an eligible use of 65,000 Mcf of natural gas per year at its Lansdale Plant in Lansdale, Pennsylvania, with the Administrator of the Economic Regulatory Administration (ERA) on September 10, 1979. The application states that the eligible seller of the gas is National Gas and Oil Corporation (National) and that the gas will be transported by the Texas Eastern Gas Transmission Corporation and the Philadelphia Electric Company. The application and supplemental information indicate, among other things, that the use of natural gas will displace approximately 425,000 gallons of No. 2 fuel oil [0.1% sulfur] per year and that neither the gas nor the displaced fuel oil will be used to displace coal in the applicant's facilities.

Certification

Based upon a review of the information contained in the application, as well as other information available to ERA, the ERA hereby certifies, pursuant to 10 CFR Part 595, that the use of approximately 65,000 Mcf of natural gas per year at Ford's Lansdale Plant purchased from National is an eligible use of gas within the meaning of 10 CFR Part 595.

Effective Date

This certification is effective upon the date of issuance, and expires one year from that date, unless a shorter period of time is required by 18 CFR Part 284, Subpart F. It is effective during this period of time for the use of up to the same certified volume of natural gas at the same facility purchased from the same eligible seller.

Issued in Washington, D.C., on October 12, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

[FR Doc. 79-32391 Filed 10-18-79; 8:45 am]

BILLING CODE 6540-01-M

Federal Energy Regulation Commission

[Docket No. RM79-22]

Arkansas Louisiana Gas Co. et al.; Extension of Time

Take notice that by letters dated October 12, 1979, the following interstate pipelines were notified that their evidentiary submissions made pursuant to 18 CFR 154.94(j) were defective and would not be accepted for filing by the Director of the Office of Pipeline and Producer Regulation pursuant to his authority under 18 CFR 3.5(f) until the deficiencies were corrected:

Arkansas Louisiana Gas Company
Colorado Interstate Gas Company
McCulloch Interstate Gas Corporation
Michigan Wisconsin Pipe Line Company
West Texas Gathering Company

Pursuant to "Order Amending Regulations Relating to Evidentiary Submissions and Extending Deadlines for the Filing of Third-Party Protests" issued in Docket No. RM79-22 on October 11, 1979, the period for third party protests made pursuant to 18 CFR 154.94(j)(3) will run for sixty days from the date corrected Evidentiary Submissions are filed with the Commission.

[FR Doc. 79-32268 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RM79-22]

Gulf States Utilities Cos. et al.; Extension of Time

Take notice that on October 12, 1979, the Federal Energy Regulatory Commission's Acting Director of the Office of Pipeline and Producer Regulation (Director) granted relief to the third parties listed on the attached appendix for the filing of protests required to be filed pursuant to 18 CFR 154.94(j). The extensions of time shown on the attached appendix were granted pursuant to the authority delegated to the Director in 18 CFR 3.5(f)(5).

V 4 4 0 C 1 9 7 9 UMI

Appendix

Third party	Filing date	Pipeline	Date requested
Gulf States Utilities Cos	10-5-79	United Gas Pipeline Co	11-12-79
State of Michigan and Michigan PSC	9-19-79	Panhandle Eastern Pipeline Co., and Trunkline Gas Co.	11-5-79
State of California and PUC of California	9-26-79	Transwestern Pipeline Co	10-29-79
Associated Gas Distributors	9-27-79	Columbia Gas Transmission Corp	11-14-79
PSC of New York State		El Paso Natural Gas Co	11-13-79
Kansas Corp. Comm		Zenith Natural Gas	11-13-79
Arizona Corp Comm		Oklahoma Natural Gas Gathering Corp	11-13-79
Gas Consumers Group:			
Winfield, Kans		United Gas Pipe Line Co	11-12-79
Magnum, Okla		Sea Robin Pipeline Co	11-24-79
State of Michigan		Southern Natural Gas Co	11-13-79
Michigan PSC		Northern Natural Gas Co	11-13-79
Congressman Andrew Maguire; South Dakota PUC; Southern California Gas Co.; Memphis Light, Gas, and Water Division; Wisconsin PSC; Minnesota PSC; and PUC of California.			

[FR Doc. 79-32267 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EL79-8]

Central Power & Light Co., Public Service Co. of Oklahoma, Southwestern Electric Power Co., and West Texas Utilities Co.; Informal Conference

October 12, 1979.

Take notice that the Applicants in this proceeding have indicated to Staff a desire to enter into informal discussions pursuant to 18 CFR 1.18. Staff will convene an informal conference at 2:00 p.m. on October 29, 1979, in a meeeting room on the second floor of the Commission's offices at 825 North Capitol Street, N.E., Washington, D.C. 20426. Applicants will circulate to the parties in advance a memorandum outlining a tentative agenda. Parties who plan to attend this conference should be prepared to continue the discussion on October 30, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32257 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Project No. 2960]

City of Gonzales, Tex.; Application for Short-Form License (Minor) for an Unconstructed Project

October 12, 1979.

Take notice that on August 28, 1979, the City of Gonzales, Texas (City) filed an application for license [pursuant to the Federal Power Act, 16 USC, Section 791(a)—825(r)] for redevelopment of an existing water power project to be known as the Gonzales Project No. 2960 located on the Guadalupe River in Gonzales County, near the Town of Gonzales, Texas.

Correspondence with the Applicant should be directed to: City of Gonzales (c/o Calvin Spacek) P.O. Box 547 Gonzales, Texas 78629.

Purpose of the Project—Power from the rehabilitated project would be used in the City's municipal power distribution system.

Project Description—The proposed project would be operated as run-of-river and would consist of: (1) and existing concrete dam approximately 15 feet high, 258 feet long, and 78 feet wide, impounding; (2) a reservoir with a surface area of 300 acres and storage capacity of 1,400 acre-feet at elevation 259.6 feet msl; (3) and existing powerhouse approximately 80 by 20 feet; (4) three new 380-kW vertical shaft open flume propeller type units; (5) two existing substations—one of 69 and one of 12 kV; (6) trash racks; and (7) appurtenant facilities.

All lands to be affected are owned by the State of Texas. Projected annual power generation would be 6.8 million kWh, dropping to 6.4 million kWh as additional river water is diverted in later years by existing hydroelectirc projects upstream. Applicant estimates the cost of redevelopment at $1,923,000.

Agency Comments—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the applicant. If any agency does not file comments within the time set below, it will be presumed to have no comments.

Protests, and Petitions to Intervene—Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR, Section 1.8 or Section 1.10 (1978). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules.

Any protest, petition to intervene, or agency comments must be filed on or before *December 17, 1979.* The Commission's address is: 825 North Capitol Street, N.E., Washington, D.C., 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32258 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. EL80-1]

Delmarva Power & Light Co.; Request for Authority To Sell Certain Facilities

October 12, 1979.

The filing Company submits the following:

Take notice that on October 5, 1979, the Delmarva Power and Light Company (Delmarva) filed a request for authority under Section 203 of the Federal Power Act to sell certain of its facilities to the Mayor and City Council of New Castle, Delaware (New Castle).

Delmarva has agreed to sell, and New Castle has agreed to purchase, Delmarva's New Castle "Local 12470/4160 volt substation for $176,185.27. No other facilities of Delmarva are involved, except those specifically listed and necessary for New Castle to take delivery.

The sale and transfer are scheduled to occur on October 26, 1979. Delmarva requests expedition of processing and such waivers as necessary to comply with the purposed delivery date.

A copy of this filing has been served upon New Castle and the Public Service Commission of Delaware.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32259 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ER80-8]

Florida Power & Light Co.; Filing of Amendment to Transmission Service Agreement

October 12, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL), on October 5, 1979, tendered for filing an Amendment, entitled "Amendment Number Two To Agreement To Provide Specified Transmission Service Between Florida Power & Light Company and New Smyrna Beach Utilities Commission."

FPL states that under the Amendment FPL will transmit power and energy for New Smyrna Beach Utilities Commission (New Smyrna) as is required by New Smyrna in the implementation of its interchange agreement with the Jacksonville Electric Authority. A letter from New Smyrna requesting that the Amendment be filed is attached to the filing. However, New Smyrna does not agree or assent to the rates, terms and conditions of FPL's transmission service, and the Amendment is thus not executed by New Smyrna.

FPL requests that the 60 day filing requirement be waived and that the Amendment take effect immediately. According to FPL, copies of the filing were served on New Smyrna's Director of Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32260 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES79-75]

Iowa Power & Light Co.; Application

October 12, 1979.

Take notice that on September 24, 1979, Iowa Power and Light Company (Applicant) filed an application seeking authority pursuant to Section 204 of the Federal Power Act, to issue on or before December 31, 1981, bank notes maturing not more than one year after date of issue and commercial paper notes maturing not more than nine months after the date of issue in principal amounts not exceeding $125,000,000.

Applicant is incorporated under the laws of the State of Iowa with its principal business office at Des Moines, Iowa, and is engaged in the electric and gas utility business within the State of Iowa.

Any person desiring to be heard or to make any protest with reference to the application should on or before November 1, 1979, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32261 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ES80-1]

Kansas City Power & Light Co.; Application

October 12, 1979.

Take notice that on September 28, 1979, Kansas City Power & Light Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $150,000,000 principal amount of short-term debt, of which $75,000,000 may be in the form of commercial paper, to be issued not later than December 31, 1980, with maturities not later than December 31, 1981. Applicant is incorporated under the laws of the State of Missouri with its principal business office at Kansas City, Missouri, and is engaged primarily in the electric utility business in Kansas.

The proceeds will basically be used to finance in part Applicant's construction program to December 31, 1981, and might be used to finance acquisition and storage, prior to use, of coal and oil. The authorization to issue up to $150,000,000 of said short-term instruments will allow the Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before November 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). The Application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32262 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

V 44 O C 19 79 7 9 UMI

[Docket No. ES80-2]

Montana-Dakota Utilities Co.; Application

October 12, 1979

Take notice that on October 2, 1979, Montana-Dakota Utilities Company (Applicant), a corporation organized under the laws of the State of Delaware and is engaged primarily in the electric and natural gas business in the States of Minnesota, Montana, North Dakota, South Dakota, and Wyoming, with its principal business office at Bismarck, North Dakota, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order for authority to issue up to 500,000 shares of Common Stock, par value $10 per share, pursuant to the Applicant's Automatic Dividend Reinvestment and Stock Purchase Plan.

If approved by the appropriate regulatory agencies, the Common Stock will be reserved for issuance pursuant to the Automatic Dividend Reinvestment and Stock Purchase Plan. The net proceeds from the issuance and sale of the Common Stock are to be used for the Applicant's continuing construction program, which may include the repayment of short-term borrowings incurred for that purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 1, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rule of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary

[FR Doc. 79-32263 Filed 10-18-79, 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-6]

Ohio Power Co.; Agreement

October 12, 1979.

The filing Company submits the following:

Take notice that American Electric Power Service Corporation (AEP) on October 5, 1979, tendered for filing on behalf of its affiliate, Ohio Power Company (Ohio Power), Modification No. 8 dated September 15, 1979 to the facilities and Operating Agreement dated May 1, 1967 between Ohio and Dayton Power and Light Company (Dayton), designated Ohio's Rate Schedule FERC No. 36.

This Modification No. 8 provides that, for the purpose of conserving energy resources during extended fuel shortages Ohio Power or Dayton may arrange to obtain Conservation Energy from the other. When supplied, the charge for Conservation Energy generated on the supplying party's will be 110% of the out-of-pocket replacement cost of generating the energy, plus 5.00 mills per kilowatt-hour. The new Modification No. 8 also provides for a transmission service charge of 1.7 mills per killowatt-hour for deliveries to Dayton of Conservation Energy from systems interconnected with Ohio Power and transmission service charge of 1.3 mills per kilowatt-hour for deliveries to Ohio Power of Conservation Energy from systems interconnected with Dayton.

Because of the current uncertainty of fuel supplies and the possibility that transactions will be required immediately under the proposed Modification No. 8, the parties have requested that the Commission waive its notice requirements and that the proposed Schedule becomes effective as soon as possible.

Copies of the filing were served upon The Dayton Power and Light Company and The Public Utilities Commission of Ohio.

Any person desiring to be heard or to protest with said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32264 Filed 10-18-79, 8:45 am]

BILLING CODE 6450-01-M

[Project No. 1121]

Pacific Gas & Electric Co.; Application for Amendment of License

October 12, 1979.

Take notice that an application for an amendment of license was filed on July 10, 1979, under the Federal Power Act (16 U.S.C. 791(a)—825(r)), by the Pacific Gas and Electric Company (applicant) for the Battle Creek Project No. 1121. The project is located on the Cross Country Canal in Shasta County near Manton, California. Correspondence with applicant regarding the application should be sent to: Mr. W. M. Gallavan, Vice President—Rates and Valuation, Pacific Gas and Electric Company, 77 Beale Street, San Francisco, California 94106.

The applicant seeks to amend the project license to authorize construction of the proposed Volta 2 Hydroelectric Plant, which would consist of: (1) a 4-foot-diameter, 492-foot-long steel penstock to be located parallel to and about 15 feet from a pipe section of the Cross Country Canal, and that would receive water from the canal; (2) a semi-indoor type powerhouse containing a 1,000-kW generating unit that would discharge water back into the canal; and (3) a 1,500-foot-long, 12 kV pole-type transmission line to be located within the penstock-pipeline right-of-way, connecting the powerhouse with the non-project Manton Branch of the Volta 1101 distribution line.

The new unit would develop energy that is now being lost in an energy dissipation device within the conduit system. This energy would enter applicant's distribution system to serve existing and future customers. No land outside the existing project boundary would be occupied by the new facilities.

Anyone desiring to be heard or to make any protests about this application should file a protest or a petition to intervene with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure ("Rules"), 18 CFR § 1.10 or § 1.8 (1979). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before November 23, 1979. The Commission's address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426. The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32265 Filed 10-18-79, 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos. CP79-344 and CP79-405]

Transcontinental Gas Pipe Line Corp. and Tennessee Gas Pipeline Co.; Informal Settlement Conference

October 12, 1979.

Take notice that on October 24, 1979, at 10:00 a.m. an informal conference will be held in the above-captioned cases. Said conference will be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, Washington, D.C. 20426, and will consist of a discussion of the technical aspects of the above-captioned dockets, and the possibility of resolving the same through settlement and compromise. Any interested person may attend, but mere attendance will not serve to make any person formally a party to this proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32266 Filed 10-18-79, 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Cases Filed; Week of July 27, 1979 Through August 3, 1979

Notice is hereby given that during the week of July 27, 1979 through August 3, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

October 12, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Week of July 27, 1979, Through Aug. 3, 1979

Date	Name and location of applicant	Case No.	Type of submission
July 27, 1979	Cini-Grisson Associates, Inc., Potomac, Md	DEE-7518	Exception to Emergency Building Temperature Restrictions. If granted: Cini-Grisson Associates, Inc. would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 27, 1979	Exxon Company U.S.A., Houston, Tex	DEA-0560	Appeal of Assignment Order. If granted: The June 28, 1979 Assignment Order issued by the Economic Regulatory Administration Region III to Exxon Company, U.S.A. regarding its supply obligations to H. L. Mills Petroleum Products would be rescinded.
July 27, 1979	Lilyblad Petroleum, Inc., Tacoma, Wash	DEE-7519	Allocation Exception. If granted: Lilyblad Petroleum, Inc. would receive an exception from the provisions of 10 CFR 211, permitting the firm a supply of unleaded fuel for the purpose of blending gasohol.
July 27, 1979	New York Telephone Co., New York, N.Y.	DFA-0559	Appeal of Information Request Denial. If granted: The July 9, 1979 Information Request Denial issued by the Region V Operations and Regional Office would be rescinded and the New York Telephone Company would be granted access to certain DOE documents.
July 27, 1979	Paradee Oil Co., Dover, Del	DEE-7527	Allocation Exception. If granted: Paradee Oil Company would receive an exception to the provisions of 10 CFR 211, permitting the firm a supply of unleaded fuel to be used in the blending of gasohol.
July 27, 1979	Total Petroleum, Inc., Oklahoma City, Okla	DEA-0561, DES-0561, DST-0561	Appeal of Temporary Assignment Order, Request for Stay and Request for Temporary Stay. If granted: The July 20, 1979 Temporary Assignment Order issued by Economic Regulatory Administraton, Region VII to Total Petroleum Inc. regarding its supply obligations to Midland Energy Corporation would be modified. The firm would receive a Stay and a Temporary Stay pending final determination on its appeal.
July 27, 1979	Union Oil Co. of California, Schaumburg, Ill	DEH-0577	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Proposed Decision and Order issued to Publix Oil Company (Case No. DEE-5462).
July 27, 1979	Union Oil Co. of California, Schaumburg, Ill	DEA-0557, DES-0557	Appeal of Assignment Order, Request for Stay. If granted: The June 21, 1979 Assignment Order issued by Economic Regulatory Administration, Region IV to Union Oil Company of California regarding its supply obligations to Publix Oil Company would be modified. The firm would receive a Stay pending final determination of its appeal.
July 27, 1979	Wayne F. Johnson, Inc., Hobbs, N. Mex	DEE-7540	Allocation Exception. If granted: Wayne F. Johnson, Inc. would be granted exception to the provisions of 10 CFR 211, permitting the firm an allocation of unleaded fuel for the purpose of blending gasohol.
July 30, 1979	Alexanders Department Store, Inc., Wilmington, N.C.	DEE-7571	Exception to the Emergency Building Temperature Restrictions. If granted: Alexanders Department Store, Inc., would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Allied Materials Corp., Oklahoma City, Okla	DEA-0563	Appeal of an Emergency Crude Oil Allocation Order. If granted: The June 29, 1979 Emergency Crude Oil Allocation Order issued by the Economic Regulatory Administration to Allied Materials Corporation regarding re-entry into crude oil Buy/Sell Program would be modified.
July 30, 1979	Associated Master Barbers & Stylists of North Carolina, Charlotte, N.C.	DEE-7572	Exception to the Emergency Building Temperature Restrictions. If granted: Associated Master Barbers & Stylists of North Carolina would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Connie's Great Bend, Kans	DEE-7568	Exception to the Emergency Building Temperature Restrictions. If granted: Connie's would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Continental Construction Corp., Milwaukee, Wis	DEE-7558	Exception to the Emergency Building Temperature Restrictions. If granted: Continental Construction Corporation would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Country Club Apartments, Columbus, Ga	DEE-7546	Exception to the Emergency Building Temperature Restrictions. If granted: Country Club Apartments would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Donna Durbin, Los Angeles, Calif	DEE-7552	Exception to the Emergency Building Temperature Restrictions. If granted: Donna Durbin would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Elaine Powers Figure Salons, Inc., Milwaukee, Wis	DEE-7542	Exception to the Emergency Building Temperature Restrictions. If granted: Elaine Powers Figure Salons, Inc. would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Earl S. Feick, Neche, N. Dak	DEE-7553	Exception to the Emergency Building Temperature Restrictions. If granted: Earl S. Feick would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.

V 44 OCT 19 1979 UMI

Week of July 27, 1979, Through Aug. 3, 1979—Continued

Date	Name and location of applicant	Case No.	Type of submission
July 30, 1979	Fowler State Bank, Fowler, Colo	DEE-7561	Exception to the Emergency Building Temperature Restrictions. If granted: Fowler State Bank would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	The Full Cry Shop, Vienna, Va	DEE-7569	Exception to Emergency Building Temperature Restrictions. If granted: The Full Cry Shop would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	The Funeral Directors Association of Washington, D.C., Inc., Washington, D.C.	DEE-7543	Exception to Emergency Building Temperature Restrictions. If granted: The Funeral Directors Association of Washington, D.C., Inc., would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Gasco, Inc., Washington, D.C	DES-0263	Request for Stay. If granted: Gasco, Inc. would receive a stay of the DOE Decision and Order (Case Nos. DMR-0020 and DMR-0036) dated July 3, 1979 regarding an increase allocation of propane to Oahu Gas Service, Inc.
July 30, 1979	Goodwill Industries of America, Inc	DEE-7549	Exception to Emergency Building Temperature Restrictions. If granted: Goodwill Industries would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Gordon Pacific Supply Co., Los Angeles, Calif	DEE-7547	Exception to Emergency Building Temperature Restrictions. If granted: Gordon Pacific Supply Company would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Edward I. Gorman, Los Angeles, Calif	DEE-7557	Exception to Emergency Building Temperature Restrictions. If granted: Edward I. Gorman would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Grosvenor Properties (Hawaii) Ltd., Honolulu, Hawaii.	DEE-7573 through DEE-7576.	Exception to Emergency Building Temperature Restrictions. If granted: Grosvenor Properties (Hawaii) Ltd. would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	H. J. Unger, Inc., Norfolk, Va	DEE-7544	Exception to Emergency Building Temperature Restrictions. If granted: H. J. Unger, Inc. would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Harbor Island Spa, Miami Beach, Fla	DEE-7570	Exception to Emergency Building Temperature Restrictions. If granted: Harbor Island Spa would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Hayman's Tavern Square, Alexandria, Va	DEE-7565	Exception to Emergency Building Temperature Restrictions. If granted: Hayman's Tavern Square would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Kenner Council on Aging, Kenner, La	DEE-7555	Exception to Emergency Building Temperature Restrictions. If granted: Kenner Council on Aging would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	The Lighthouse, San Antonio, Tex	DEE-7554	Exception to Emergency Building Temperature Restrictions. If granted: The Lighthouse would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Mrs. Harold Mandel, Asbury Park, N.J	DEE-7545	Exception to Emergency Building Temperature Restrictions. If granted: Mrs. Harold Mandel would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Meridan Medical Group, Indianapolis, Ind	DEE-7556	Exception to Emergency Building Temperature Restrictions. If granted: Meridan Medical Group would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Page Boy Maternity Fashions, Dallas, Tex	DEE-7563	Exception to Emergency Building Temperature Restrictions. If granted: Page Boy Maternity Fashions would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Potomac Lung Association, Fairfax, Va	DEE-7577	Exception to Emergency Building Temperature Restrictions. If granted: Potomac Lung Association would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Beatrice Smolen, Los Angeles, Calif	DEE-7548	Exception to Emergency Building Temperature Restrictions. If granted: Beatrice Smolen would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Harvey Strassman, Los Angeles, Calif	DEE-7550	Exception to Emergency Building Temperature Restrictions. If granted: Harvey Strassman would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Tames & Williams Orthopedic Shoes, Los Angeles, Calif.	DEE-7562	Exception to Emergency Building Temperature Restrictions. If granted: Tames & Williams Orthopedic Shoes would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Taylor Burgess Hairstyling Salon, Hampton, Va	DEE-7581	Exception to Emergency Building Temperature Restrictions. If granted: Taylor Burgess Hairstyling Salon would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Restrictions.
July 30, 1979	Thorn Tree, Washington, D.C	DEE-7559	Exception to Emergency Building Temperature Restrictions. If granted: Thorn Tree would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Travis Association for the Blind, Austin, Tex	DEE-7551	Exception to Emergency Building Temperature Restrictions. If granted: Travis Association for the Blind would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Tri, The Rehabilitation Institute, Long Island, N.Y	DEE-7567	Exception to Emergency Building Temperature Restrictions. If granted: Tri, The Rehabilitation Institute would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 30, 1979	Union Oil Co. of California, Los Angeles, Calif	DEA-0562	Appeal of a Decision and Order. If granted: The June 29, 1979, Decision and Order issued by the Economic Regulatory Administration to Union Oil Company of California regarding the use of multiple allocation fractions would be rescinded.
July 30, 1979	Virginia Specialty Stores, Inc., Washington, D.C	DEE-7560	Exception to Emergency Building Temperature Restrictions. If granted: Virginia Specialty Stores, Inc. would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 31, 1979	Atlantic Richfield Co., Los Angeles, Calif	DST-3603	Request for Temporary Stay. If granted: The DOE's July 12, 1979 Interim Decision and Order (Case No. DEN-3603) issued to L. S. Riggins regarding Atlantic Richfield Company's supply of obligation to L. S. Riggins would be stayed.
July 31, 1979	David Marmer, DDS, P.C., Fresh Meadows, N.Y	DEE-7751	Exception to Emergency Building Temperature Restrictions. If granted: David Marmer would receive exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 31, 1979	James M. Forgotson, Shreveport, La	DRW-0031	Proposed Remedial Order for which no objections have been filed. If granted: The Proposed Remedial Order of May 15, 1979 issued to James M. Forgotson by DOE Region VI would be issued as a Remedial Order by the Department of the Energy.
July 31, 1979	Gulf Oil Corp., Tulsa, Okla	DXE-7603	Extension of relief granted in Gulf Oil Corporation. If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the NW Graylin "D" Sand Unit located in Logan County, Colo. at upper tier ceiling prices.

Week of July 27, 1979, Through Aug. 3, 1979—Continued

Date	Name and location of applicant	Case No.	Type of submission
July 31, 1979	Hunt Oil Co., Dallas, Tex	DEE-7604	Allocation Exception. If granted: Hunt Oil Company would receive an exception from the provisions of 10 CFR 211.63 with respect to the firm's obligations to supply crude oil to Ashland Oil, Inc. and Shell Oil Company.
July 31, 1979	Marathon Oil Co., Washington, D.C	DED-3212	Motion for Discovery. If granted: Discovery would be granted to Marathon Oil Company with respect to the Application for Exception submitted by Fortune Oil Company (Case No. DEE-3212).
July 31, 1979	Marathon Oil Co., Findlay, Ohio	DED-5462	Motion for Discovery. If granted: Discovery would be granted with respect to an Application for Exception filed by Publix Oil Co. (Case No. DEE-5462)
July 31, 1979	Mobil Oil Corp., New York N.Y	DEA-0564, DES-0564, DST-0564.	Request for Stay and Request for Temporary Stay, Appeal of Assignment Order. If granted: The June 25, 1979 Assignment Order issued to Cantro Petroleum Corporation by the Economic Regulatory Administration Region I, regarding the supply obligations of Cantro Petroleum Corporation, a branded jobber of Mobil Oil Corporation, to Beshara's Self Service would be rescinded.
July 31, 1979	Mobil Oil Corp., Valley Forge, Pa	DEA-0565, DES-0565.	Request for Stay and Appeal of Assignment Order. If granted: The June 22, 1979 Assignment Order issued to Home Oil Company, by the Economic Regulatory Administration Region III regarding supply obligations to Home Oil Company, a Mobil Oil branded jobber, to B & O Mobil Service, would be rescinded.
July 31, 1979	Mobil Oil Corp., Raleigh, N.C	DEA-0566, DES-0566	Request for Stay, Appeal of Assignment Order. If granted: The June 19, 1979 Assignment Order issued to Home Oil Company by the Economic Regulatory Administration Region III, regarding supply obligations of Home Oil Company, a Mobil Oil jobber, to Joyce Oil Company would be rescinded.
July 31, 1979	Mobil Oil Corp., Valley Forge, Pa	DEA-0567, DEA-0568, DES-0567, DES-0568.	Appeal of Assignment Order; Request for Stay. If granted: The June 21, 1979 Assignment Order issued to Home Oil, Inc. by the Economic Regulatory Administration, Region III regarding the supply obligations of Home Oil, Inc., a branded jobber of Mobil Oil Corporation, to Bobby J. Nicholston would be rescinded.
July 31, 1979	Murphy Oil Corp., El Dorado, Ark	DED-0023	Motion for Discovery. If granted: Discovery would be granted to Murphy Oil Corporation with respect to the June 14, 1979 Proposed Decision and Order (Case No. DEN-5462) issued to Publix Oil Company.
July 31, 1979	North Side Service, Hutchinson, Kans	DEE-7601	Allocation Exception. If granted: North Side Service would receive an exception from the provisions of 10 CFR 211 permitting the firm a supply of unleaded fuel for the purpose of blending gasohol.
July 31, 1979	San Diego County Law Library, San Diego, Calif	DEE-7599	Exception to Emergency Building Temperature Restrictions. If granted: The San Diego County Law Library would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
July 31, 1979	Young Refining Corp., Douglasville, Ga	DEH-3445	Motion for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Statement of Objections of Young Refining Corporation in response to the June 19, 1979 Decision and Order (Case No. DXE-3445).
Aug. 1, 1979	Amdahl Corp., Sunnyvale, Calif	DFA-0569	Appeal of Information Request Denial. If granted: The June 29, 1979 Information Request Denial issued by Oak Ridge Operations Division, Region IX to Amdahl Corporation would be rescinded and the firm would be granted access to certain DOE data.
Aug. 1, 1979	Exxon Co., U.S.A., Houston, Tex	DRA-0570, DRS-0570	Appeal of an Ancillary Order and Request for Stay. If granted: The June 29, 1979 Ancillary Order issued by Economic Regulatory Administration Region VI to Exxon Company, U.S.A. implementing to consent order entered into between R. Lacy, Inc. and Economic Regulatory Administration, would be rescinded.
Aug. 1, 1979	Gas Marketing, Inc., Lafayette, La	DEE-7546	Price Exception. If granted: Gas Marketing, Inc. would be permitted to sell the crude oil produced from the Bayou Boullion 3D Lease, located in St. Martinville Parish, La. at upper tier ceiling prices.
Aug. 1, 1979	Ben Logan, San Antonio, Tex	DEE-7598	Exception to Emergency Building Temperature Restrictions. If granted: Ben Logan would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 1, 1979	Manufacturers Business Forms, Ltd., Springfield, Va	DEE-7632	Exception to Emergency Building Temperature Restrictions. If granted: Manufacturers Business Forms, Ltd. would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 1, 1979	Smith-Cranford Barber Shop, Charlotte, N.C	DEE-7629	Exception to Emergency Building Temperature Restrictions. If granted: Smith-Cranford Barber Shop would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Temperature Restrictions.
Aug. 1, 1979	Texaco, Inc., Denver, Colo	DXE-7602	Extension of relief granted in Texaco, Inc. 4 DOE Par —— (May 18, 1979). If granted: Texaco, Inc. would be permitted to continue to sell a portion of the crude oil produced from the Government T. F. Stroock lease, located in Moffat County, Colo. at upper tier ceiling prices.
Aug. 1, 1979	Texaco Inc. Park County, Wyo	DXE-7634	Extension of relief granted in Texaco, Inc., —— DOE Par. —— (May 5, 1979). If granted: Texaco, Inc. would be permitted to continue to sell the crude produced from the Gwen Knapp Lease, located in Park County, Wyo., at upper tier ceiling prices.
Aug. 1, 1979	Vickers Petroleum, Corp., Wichita, Kans	DES-0573, DEA-0573, and DST-0573.	Appeal to Assignment Order, Request for Stay and Temporary Stay. If granted: The July 20, 1979 Assignment Order issued to Midland Energy Corporation by the Economic Regulatory Administration Region VII, with respect to Vickers Petroleum Corporation's obligation to supply Midland Energy Corporation would be rescinded. Vickers Petroleum Corporation would receive a Stay and a Temporary Stay pending a final determination of the firm's appeal.
Aug. 2, 1979	LaSalle Oil Company, Inc., Nunmore, Pa	DEA-0571	Appeal of Assignment Order. If granted: The May 10, 1979 Assignment Order issued by the Economic Regulatory Administration to LaSalle Oil Company.
Aug. 2, 1979	Limback Construction Co., Pompano Beach, Fla	DEA-0632	Appeal of ERA Determination. If granted: The July 5, 1979 determination issued by the Economic Regulatory Administration Region IV would be rescinded and remanded to the Region for action.
Aug. 2, 1979	State of Alaska, Juneau, Alaska	DEL-7639, DES-7639	Request for Temporary Exception and Request for Stay. If granted: The State of Alaska would receive a Stay and a Temporary Exception from the provisions of 10 CFR 212.93, with respect to the pricing of motor gasoline pending a final determination on the Application for Exception which it intends to file.
Aug. 3, 1979	Louise S. Barge, Tucker, Ga	DEE-6468	Exception to Emergency Building Temperature Restrictions. If granted: Louise S. Barge would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Roller Skating Rink Operators Association, Lincoln, Nebr.	DEE-6400	Exception to Emergency Building Temperature Restrictions. If granted: The Roller Skating Rink Operators Association would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Spruce Oil Corp., Denver, Colo	DMR-0064	Petition for Modification or Rescission. If granted: The June 18, 1979 Decision and Order issued to Diamond Shamrock Corp., regarding its supply obligations to Spruce Oil Co. would be modified.
Aug. 3, 1979	Vickers Petroleum Corp., Wichita, Kans	DSG-0060	Petition for Special Redress. If granted: The June 11, 1979 Decision and Order issued by the DOE Region VII to Vickers Petroleum Corp. regarding supply obligations would be rescinded.

V 44 0 C 1979 UMI

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 27 Through Aug. 3, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

Bullock's Exxon	DEE-7541	07/27/79	Ohio.
City of Ely, Minnesota	DEE-7737	07/27/79	Minnesota.
City of Santa Fe Springs	DEE-7531	07/27/79	California.
Gas N Groceries	DEE-7523	07/27/79	North Carolina.
Gas N Groceries	DEE-7524	07/27/79	North Carolina.
Gas N Groceries	DEE-7525	07/27/79	North Carolina.
Gas N Groceries	DEE-7526	07/27/79	North Carolina.
Hearn Circle Shell	DEE-7522	07/27/79	South Carolina.
Hess Gulf Service Station	DEE-7521	07/27/79	Maryland.
John's Standard Service	DEE-7520	07/27/79	Georgia.
Murphy's Service	DEE-7529	07/27/79	Kansas.
Purser Oil Company	DEE-7530	07/27/79	Georgia.
Ray's Auto Station	DEE-7528	07/27/79	Rhode Island.
Ruscom Big C Stores	DEE-7532	07/27/79	Alabama.
Ruscom Big C Stores #2	DEE-7587	07/27/79	Alabama.
Steamboat Springs Station #1	DEE-7534	07/27/79	Colorado.
Bob's Mini-Mart, Inc.	DEE-7585	07/30/79	Maryland.
City of Holyoke, Massachusetts	DEE-7582	07/30/79	Massachusetts.
Clearview Shell	DEE-7581	07/30/79	Louisiana.
East Campus 66 Service	DEE-7594	07/30/79	Nebraska.
Freeway Autocar Shell Service	DEE-7539	07/30/79	Arizona.
Gelco Courier Services, Inc.	DEE-7595	07/30/79	Oregon.
Hartge Yacht, Inc.	DEE-7566	07/30/79	Maryland.
Hayne's Shell Service	DEE-7589	07/30/79	North Carolina.
Highland Park Exxon	DEE-7583	07/30/79	Louisiana.
Kirschberger Gulf Service	DEE-7593	07/30/79	Arkansas.
New Orleans East, Inc.	DEE-7537	07/30/79	Louisiana.
Northside Country Store	DEE-7538	07/30/79	Pennsylvania.
Rainer Oil Co.	DEE-7595	07/30/79	North Carolina.
Route 40 Amoco	DEE-7538	07/30/79	Pennsylvania.
Virginia City Station	DEE-7586	07/30/79	Nevada.
All-Dade Driveway Maintenance	DEE-7615	07/31/79	Florida.
Bevins Motor Co., Inc.	DEE-7623	07/31/79	Kentucky.
Cosmo Oil Company	DEE-7776	07/31/79	Florida.
Country Mart	DEE-7592	07/31/79	North Carolina.
Days Inns of America	DEE-7609	07/31/79	South Carolina.
Dwyer Motor's, Inc.	DEE-7617	07/31/79	Louisiana.
Gable's Minimarket	DEE-7612	07/31/79	Pennsylvania.
General Gas & Oil Company	DEE-7640	07/31/79	Illinois.
Go-Lo Self/Serve	DEE-7579	07/31/79	California.
Haywood Oil Co., Inc.	DEE-6842	07/31/79	North Carolina.
L. A. Legg & Son	DEE-7616	07/31/79	Illinois.
M G C. Sales	DEE-7607	07/31/79	California.
Marsh, William D	DEE-7584	07/31/79	Pennsylvania.
Metstrand Store	DEE-7606	07/31/79	Minnesota.
Miller Grocery & Service Station	DEE-7622	07/31/79	Louisiana.
Plaza Exxon	DEE-7614	07/31/79	South Carolina.
Shideler Tire Mart	DEE-7605	07/31/79	Indiana.
Spelman Memorial Hospital	DEE-7613	07/31/79	Missouri.
Tony's Gulf	DEE-7597	07/31/79	California.
Virginia Partners, Ltd	DEE-7580	07/31/79	Virginia.
Ward's Service Center	DEE-7611	07/31/79	Ohio.
Weiss Oil Company, Inc.	DEE-7606	07/31/79	Illinois.
Whiting Oil Company	DEE-7598	07/31/79	Oklahoma.
Bayshore Tires & Service	DEE-7761	08/01/79	Florida.
Beacon Oil Company	DEE-7635	08/01/79	Michigan.
Belangar, Roger P.	DEE-7795	08/01/79	New Hampshire.
Brookside Store	DEE-7628	08/01/79	New Hampshire.
Budget Rent-A-Car	DEE-7631	08/01/79	Missouri.
Elliot Rose Co. of Dover, Inc.	DEE-7796	08/01/79	New Hampshire.
Enders & Cooper, Inc.	DEE-7625	08/01/79	New York.
Gold Oil Company	DEE-7734	08/01/79	West Virginia.
Junior's Exxon	DEE-7626	08/01/79	Tennessee.
Monts Texaco	DEE-7610	08/01/79	South Carolina.
R. P. Patnode's Texaco	DEE-7793	08/01/79	New Hampshire.
Rayon's Country Store	DEE-7794	08/01/79	New Hampshire.
Rich's Service Station	DEE-7760	08/01/79	Pennsylvania.
White Mountain Airport	DEE-7797	08/01/79	New Hampshire.
Withem's Service Center	DEE-7630	08/01/79	Arkansas.
Atlantic Richfield Company	DEE-7733	08/02/79	California.
Bohannons Exxon	DEE-7763	08/02/79	Florida.
Farmers Union Oil Company	DEE-7636	08/02/79	Montana.
Kennedy's Garage & Market	DEE-7954	08/02/79	Pennsylvania.
Patnch, Ray	DEE-7874	08/02/79	Louisiana.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline —Continued

Week of July 27 Through Aug. 3, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

Brazoria County of Texas	DEE-7645	08/03/79	Texas.
Charlotte St. Shell	DEE-7661	08/03/79	North Carolina.
D & K Coals, Inc.	DEE-7663	08/03/79	Virginia.
Garrett's Amoco	DEE-7659	08/03/79	West Virginia.
Lake Erie Petrol, Inc.	DEE-7644	08/03/79	Ohio.
Murphy's Chevron Standard	DEE-7670	08/03/79	Florida.
Nursery Park Gulf Service	DEE-7660	08/03/79	Pennsylvania.
Owens, Willie	DEE-7642	08/03/79	South Carolina.
Phil's Mini-Market	DEE-7671	08/03/79	Pennsylvania.
Town of Westport	DEE-6221	08/03/79	Connecticut.
Weaverville Shell	DEE-7662	08/03/79	North Carolina.
Items Retrieved	65		

[FR Doc. 79-32227 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of April 9 Through April 13, 1979

Notice is hereby given that during the week of April 9 through April 13, 1979, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Appeals

Paul R. Duckworth, Los Vegas, Nev., DFA-0318 Freedom of Information

Paul R. Duckworth filed an Appeal from a determination which was issued to him by the Chief Counsel for the DOE Nevada Operations Office in response to a Freedom of Information Act request which sought information concerning drilling and water delivery costs at an underground testing site in Nevada. In considering the Appeal, the DOE determined that the Chief Counsel had failed to provide an adequate statement of his reasons for denying the Duckworth request. Accordingly, the DOE remanded the matter to the DOE Nevada Operations Office for further consideration.

Gardere, Porter & DeHay, Houston, Tex., DFA-0344 Freedom of Information

The law firm of Gardere, Porter & DeHay filed an Appeal from a determination which was issued to it by the Director of the DOE Division of Freedom of Information and Privacy Act Activities in response to a Freedom of Information Act request. In the request for information, Gardere sought documents concerning the allocation of costs of general refinery products. The Director identified five documents as responsive to the firm's request but found that these documents were exempt from mandatory disclosure pursuant to 5 U.S.C. 552(b)(5). In considering the Appeal, the DOE found that Gardere had merely expressed disbelief that there were no documents which could be released. The DOE therefore dismissed the Appeal for failure to raise more specific arguments which could provide a basis for reviewing the Director's determination.

Newport News Shipbuilding and Dry Dock Co., Washington, D.C., DFA-0337 Freedom of Information

Newport News Shipbuilding and Dry Dock Company appealed from a partial denial by the Deputy Director of the DOE Division of Naval Reactors of a request for information that the firm had submitted. In its Appeal, Newport News requested the release of 39 documents that had been withheld pursuant to 5 U.S.C. 552(b)(7)(A). In considering the Appeal, the DOE determined that the Deputy Director had properly withheld 36 documents consisting of investigatory records compiled for law enforcement purposes. However, the DOE directed the release of two other documents on the grounds that disclosure of that material was not likely to interfere with an investigation of Newport News. A third document which had been inadvertently withheld was also required to be released.

Public Citizen, Washington, D.C., DFA-0346, Freedom of Information

Public Citizen filed an Appeal from a denial by the Assistant Administrator for Enforcement of the ERA of a request of information which it had submitted under the Freedom of Information Act. In its initial request, Public Citizen sought information regarding various compliance proceeding. In considering the Appeal, the DOE noted that the Office of Enforcement had agreed to make available to Public Citizen all of the information that it had requested. Accordingly, the Appeal was dismissed.

Remedial Order

King Resources Company, Osage County, Okla., DRO-0101, Crude Oil

King Resources Company filed a Statement of Objections to a Proposed Remedial Order which was issued to the firm on August 11, 1978 by DOE Region VIII. In the PRO, Region VIII concluded that during the period December 1973 through December 1975 King had unlawfully sold crude oil from the Happy Hollow S.E. 10 Lease at stripper well prices. In order to remedy this violation, Region VIII tentatively directed King to refund $97,696 plus interest to the purchasers of the crude oil. In considering King's objection, the DOE held that the firm's alleged reliance on informal oral advice provided by the IRS could not ratify pricing violations. In addition, the DOE found that the record did not support King's contention that Ruling 1974-29 was inconsistent with statements made by agency officials prior to its promulgation. Accordingly, King's Statement of Objections was denied and the PRO was issued as a Remedial Order.

Petition for Special Redress

Tesoro Petroleum Corporation, San Antonio, Tex., DES-0161; DSC-0047, Petroleum Products

Tesoro Petroleum Corporation filed a Petition for Special Redress in which it sought to quash or modify a subpoena which had been issued to it on December 13, 1977 by the DOE Deputy Special Counsel. In considering the firm's Petition, the DOE found that the Special Counsel was sufficiently removed from the earlier stages of the subpoena proceeding to be considered a "disinterested party" within the meaning of 10 CFR 205.8(h)(4). The DOE also determined that the subpoena's statement of purpose was

V 44 0C 1 19 79 9 UMI

appropriate, that the material requested was relevant, and that no legitimate evidentiary privilege would be jeopardized by compliance with the subpoena. The DOE also concluded that the subdelegation of subpoena power to the Deputy Special Counsel was appropriate. The DOE did note that a subpoena must specify the circumstances which warrant its issuance; however, that requirement was determined to have been met by specific findings of the Deputy Special Counsel. Finally, the firm's claim that compliance with the subpoena would constitute an undue financial buden was rejected on the grounds that the firm had failed to engage in negotiations designed to reduce its burden. However, the DOE stated that it would permit reargument of that issue if Tesoro could subsequently demonstrate the precise nature of the alleged burden and its good faith efforts to reduce that burden. The DOE therefore dismissed Tesoro's Petition for Special Redress.

Requests for Exception

Agricultural Products Industrial Utilization Committee of the State of Nebraska, Lincoln, Nebr., DEE—2238, Gasohol

The Agricultural Industrial Utilization Committee of the State of Nebraska filed an Application for Exception on behalf of all marketers in the State of Nebraska who wish to sell Gasohol, a blend of ethyl alcohol and unleaded gasoline. In its Application, Nebraska requested exception relief from the DOE pricing regulations and from the requirement that retailers post the octane levels of the Gasohol which they sell. In consideing the Application, the DOE noted that the pricing regulations had recently been amended to permit sellers of Gasohol to include in their prices the costs associated with the ethyl alcohol portion of the blend. The DOE therefore concluded that price relief was no longer needed. The DOE did find, however, that the octane posting requirement imposes a burden on retailers who are unable to determine the octane level of the Gasohol which they sell. Accordingly, the DOE granted exception relief that relieves sellers of Gasohol in Nebraska from the octane posting requirement.

American Petroleum Refiners Association, Inc., Washington, D.C., FEE–4443, Aviation Fuel

The American Petroleum Refiners Association, Inc. filed an Application for Exception in which it requested retroactive class exception relief which would permit certain refiners and resellers to increase the price charged for aviation fuel supplied to the Defense Fuel Supply Center. In considering the Application, the DOE found that the record did not indicate that the proposed class was so numerous as to make individual applications administratively burdensome or that the proposed class shared issues of fact or law that would justify the maintenance of a class exception proceeding. The Application was therefore dismissed.

Aminoil USA, Inc., Los Angeles, Calif., DXE–2114, Crude Oil

Aminoil USA, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The firm requested an extension of the exception relief previously granted to permit it to continue to sell certain quantities of crude oil which it produces from the California State Lease 392, Lower Main Zone, at upper tier ceiling prices. In considering the request, the DOE found that exception relief was necessary to provide an economic incentive to continue production activities from that property. Accordingly, exception relief was granted.

Energy Cooperative, Inc., Washington, D.C., DPI–0028, Crude Oil

Energy Cooperative, Inc. (ECI) filed an Application for Exception from the provisions of 10 CFR 213.35(c), which, if granted, would permit it to import on a license fee-exempt basis 6,975,000 barrels of crude oil into Districts I–IV during the 1978–79 allocation period. In considering ECI's request, the DOE found that the firm did not have a domestic base period supplier of crude oil and was consequently required to import crude oil and exchange it with other domestic firms in order to obtain crude oil feedstocks for its refinery. The DOE also found that ECI had made a convincing showing that it was experiencing serious financial difficulties which would be exacerbated by the payment of license fees during March and April 1979. Accordingly, the ECI Application for Exception was granted.

Stephens and Cass, Midland, Tex., FEE–4095, Crude Oil

Stephens and Cass (S&C) filed an Application for Exception, which, if granted, would provide the firm with retroactive exception relief permitting it to retain revenues realized from the sale of crude oil from 14 different properties at prices later found to be unlawful in a Remedial Order which was issued to S&C. In considering the Application, the DOE determined that S&C had failed to submit reliable financial information demonstrating that the firm would suffer an irreparable injury in the absence of exception relief. The DOE also found no merit to S&C's argument that exception relief was warranted because the Remedial Order would force the firm to operate the 14 properties at a loss. Accordingly, the Application for Exception was denied.

Wylain, Inc., Dallas, Tex., DEE–2129, Furnaces

Wylain, Inc., a manufacturer of gas and oil boilers, filed an Application for Exception from the provisions of 10 CFR, Part 340, in which the firm sought to modify the DOE testing procedures for measuring the energy efficiency of new furnaces. In considering the request, the DOE found that exception relief was necessary to produce reliable and consistent results on those gas boilers which are equipped with integral diverters. Accordingly, exception relief was granted.

Motion for Evidentiary Hearing

J. R. Parten, Houston, Tex., DRH–0129, Crude Oil

J. R. Parten filed a Motion for Evidentiary Hearing in connection with a Statement of Objections to a Proposed Remedial Order which DOE Region VI issued to him on October 2, 1978. In the PRO, Region VI found that during the period November 1, 1973 through August 31, 1976, Parten sold crude oil produced from the Seven J. Stock Farm, Inc. lease at prices which exceeded the maximum permissible selling prices. In his Motion for Evidentiary Hearing, Parten stated that he intended to present expert testimony in support of his position that two distinct geological formations underlie the Seven J. lease. In considering Parten's Motion, the DOE determined that there was a substantial dispute as to the geology of the Seven J. lease. The DOE also determined that this factual dispute was relevant to the determining the validity of Parten's claim that the "very large tract" provision of Ruling 1977–1 allowed him to treat the Seven J. lease as two separate properties for purposes of the DOE price regulations. Moreover, the DOE concluded that the testimony and cross-examination of knowledgable experts would lead to a better understanding of the issue than the submission of documents and other written memoranda. Accordingly, the Parten Motion for Evidentiary Hearing was granted.

Motion for Discovery

Time Oil Company, Portland, Oreg., DRD–0083, Aviation Fuel

Time Oil Company filed a Motion pursuant to 10 CFR 205.199G for an extension of time to file a Motion for Discovery. In considering the Motion, the DOE found that Time had already been granted considerable procedural flexibility in the proceeding and had not demonstrated that an extension of time was crucial to its case. Accordingly, the Time Motion was denied.

Supplemental Order

Lunday-Thagard Oil Company, South Gate, Calif., DEX–0004, Crude Oil

On three separate occasions, the DOE granted exceptions from the provisions of 10 CFR 211.67 (the Entitlements Program) to Lunday-Thagard Oil Company. These exceptions relieved Lunday-Thagard from a portion of its projected entitlement purchase obligations for the fiscal year ended June 30, 1977. In the Orders, the DOE indicated that it would conduct a review of the exception relief at the completion of the firm's fiscal year to determine whether it had received either excessive or insufficient relief. Based on such a review, the DOE determined that Lunday-Thagard had received excessive relief. Lunday-Thagard was therefore required to purchase additional entitlements with a total value of $20,527 during the period April through September 1979.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay and/or Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be granted:

Company Name, Location, and Case No.

Brook Plaza Exxon Service Center, Brooksville, FL, DES–2938, DST–2938.
Charles & 20th Exxon, Baltimore, MD, DES–3346, DST–3346.
P&W Oil Company, Inc., Athens, AL, DES–2890, DST–2890.
A. A. Grocery #2, Delvalle, TX, DES–3113.
Boulder Valley Oil Company, Lafayette, CO, DES–2495.
Big John's Exxon, Jacksonville, FL, DES–3183, DST–3183.
Big K Oil Company, Inc., Hattiesburg, MS, DST–2494.
Brilad Oil Company, Vidalia, GA, DEX–0150.
Edwards Auto Service, Richmond, VA, DES–2994.
Hannah's Service Station, Florence, AL, DES–3428, DST–3428.
Shoal's Creek Chevron, Florence, AL, DES–2467, DST–2476.
Sumter Oil & Gas Company, Sumter, SC, DES–2725.
Kenny's Food Markets, Richfield, MN, DES–2892, DST–2892.
Brockbridge Exxon, Laurel; MD, DES–3046.
Burnsville Crosstown Mobil, Burnsville, MN, DES–2775.
C. J. Enterprises, Inc., Amherst, MA, DES–2729.
E. Lee Young d/b/a/ Big Quickstop, Ruston, LA, DES–3390.
Emerald Hills Citgo, Hollywood, FL, DES–2940.
Gonzales Truck Stop, Priarieville, LA, DES–3002.
Harry's 66, Ft. Myers, FL, DES–2989.
Hassan & Hassan, N. Miami Beach, FL, DES–2583, DST–2583.
Luvern A. Maricle, W. Concord, MN, DES–2689.
Walkey's Exxon, Nashua, NH, DES–3256, DST–3256.
Bob's Vintage Texaco, Napa, CA, DES–2772.
Browning's Exxon, Hazelwood, NC, DES–3126.
Clary's Auto Service, Vidor, TX, DES–2481.
Dundalk Exxon, Baltimore, MD, DES–3026.
Red Clay Creek Exxon, Wilmington, DE, DES–2720.
Sissie Car Wash, Inc., Phoenix, AR, DES–3135, DST–3135.
Uco Oil Company, Whittier, CA, DES–2487.
Weekly's Exxon Service Center, Montclair, CA, DES–3036.

The following firms filed Applications for Stay and/or Temporary Stay of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be denied:

Company Name, Location, and Case No.

Industrial Petroleum Supply of Evansville, Inc., Evansville, IN, DES–2404.
McManon Oil Company, Inc., Newton, TX, DST–2346.

The following firms filed Applications for Exception and/or Applications for Stay and/or Temporary Stay from the provisions of Standby Regulation Activation Order No. 1. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date:

Company Name and Case No.

Ideal Oil Company, DEE–3097, DST–3097.
Bob's Chevron, DEE–2530; DES–2530; DST–2530.
Tripus Chevron, DEE–2501; DES–2501; DST–2501.
Barry Ivers Chevron, DEE–2196.
Scoville Leasing, DEE–2701.
Jack's C. & E. Service, DEE–2768.
Meadows Chevron, DEE–2877; DES–2877.
Cebula, Edward, DEE–3041.
B. J. Johns, DEE–3102; DES–3102.
Gay's Service Station, DEE–3219.
Stuart Enterprises, DEE–3215.
Enterprise Oil Company, DEE–3134.
Coldwater Oil Company, DEE–2514.
Hood Oil Company, Inc., DEE–3031; DST–3031.
John Cheretis Shell, DEE–3297.
Fazlollah Bazarganan, DEE–3082
Daigle Oil Company, DEE–2647.
Larry McDonnell, DEE–2781.
Sallie L. Nance, DEE–2977.
Manet Shell, Inc., DES–0191.
D & D Shell, DEE–2880; DES–2880.
Merrydale Shell, DEE–3208; DST–3208.
Alpena Oil Company, DEE–2641; DES–2641.
Mr. Noaldo Rebustillo d.b.a. Al's S. Center, DEE–3009.
Pete's Shell, DEE–3246; DES–3246.
Colburns Shell, DEE–2762; DES–2762.
Rasnick's Shell, DEE–0190; DST–0190.
Ole Toll Shell, DEE–2567; DES–2567; DST–2567.
Wayne's Standard Service, DEE–2463.
Village Amoco, DEE–2545.
J. Henricks, DEE–2677.
Clifton American, DEE–2645; DES–2645.
Rusher Oil Company, DEE–2982.
Van's Amoco, DEE–3060.
Millers Standard Service, DEE–2976.
Walworth Standard Carwash, DEE–3165.
Martin Automotive, DEE–3057.
Moe Oil Company, DEE–3163.
Molnar's Standard DEE–3069.
Stanton's Standard, DEE–3129.
Green Bay Standard, DEE–3223.
Oakland Quik Six, DEE–3224.
Northgate Amoco, DEE–3369; DES–3369; DST–3369.
Dzamko's Amoco, DEE–3364.
Shoreline Petroleum Company, DEE–2424; DES–2424; DST–2424.
Schaeffer Oil, Inc., DEE–2332; DES–2332; DST–2332.
Zippy Mart, Inc., DEE–2381; DES–2381.
Riverside Oil Company, DES–2415; DST–2515.

Dismissals

The following submissions were dismissed without prejudice to a refiling at a later date:

Name, Location, and Case No.

Tesoro Petroleum Corporation, Washington, D.C., DES–0153.
Amtel, Inc., Houston, Texas, DES–2573; DST–2573; DEE–2573.
Silver Oil Company, Inc., Cincinnati, Ohio, DEE–2734; DST–2734.
Parker Distributing Company, Inc., Rittendorf, Iowa, DEE–2865.
Commerce & Hiller Shell, West Bloomfield, New York, DEE–3079.
Waddell Oil Company, Delano, Minnesota, DEE–2714.
Pure Water & Gas Company, Inc., Lyons, Georgia, DEE–2747; DES–2747; DST–2747.
Getty Refining & Marketing Company, Tulsa, Oklahoma, DEE–2905.
Evans Oil Company, Lancaster, South Carolina, DEE–3005.
Orlando & Sons Exxon, Ormond Beach, Florida, DEE–3384.
Radcliffe Oil Company, Washington, Indiana, DEE–2593.
Grosskopf Oil, Inc., Shawano, Wisconsin, DEE–3373.

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 12, 1979.

[FR Doc. 79–32228 Filed 10–18–79; 8:45 am]

BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed Week of September 24 Through September 28, 1979

Notice is hereby given that during the week of September 24 through September 28, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before October 29, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before November 19, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy,

V 4 4 O C 1 9 7 9 UMI

Washington, D.C. 20461. Issued in Washington, D.C.

October 12, 1979

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Remedial Orders

Edwards Producing Company, Inc., Jackson, Miss., Crude Oil, DRO-0400

On September 25, 1979, Edwards Producing Company, Inc., 1755 Lelia Dr., Suite 301, Jackson, Mississippi 39216, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southeast Enforcement District issued on September 6, 1979. In the Proposed Remedial Order, the Enforcement Office found that during the time period September 1, 1973 to December 31, 1977, Edwards Producing Company committed pricing violations in the sale of crude oil in the State of Mississippi. According to the Proposed Remedial Order, these pricing violations resulted in overcharges to the firm's customers of approximately $127,000.

JOC Oil, Inc., New York, N.Y., Fuel Oil, DRO-0404

On September 28, 1979, JOC Oil, Inc., 645 Fifth Avenue, New York, New York 10022, filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast Enforcement District, Region 2, issued to JOC on September 7, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period from November 1, 1973 to June 30, 1974, JOC committed pricing violations in connection with the sales of No. 2 heating oil and No. 6 fuel oil. According to the proposed Remedial Order, JOC's violations resulted in overcharges to the firm's customers of $941,517.

[FR Doc. 79-32229 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions And Orders; September 24 Through September 28, 1979

Notice is hereby given that during the period September 24 through September 28, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the Date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m. e.d.t., except federal holidays.

October 12, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Chevron U.S.A. Inc., San Francisco, Calif., Crude Oil, DEE-7939.

Chevron U.S.A. Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Stevens Property located in Kern County, California, at market prices. On September 24, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's exception application.

Fields Field Company, Houston, Tex., Crude Oil, DEE-3706

On April 16, 1979, Fields Field Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart K. The exception request, if granted, would permit the firm to increase the selling price of the natural gas liquids it produces in connection with a natural gas cycling and condensate producing process at the Wilcox B Sand Unit, located in Fields Field, Beauregard Parish, Louisiana. On September 28, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gulf Oil Corporation, St. Martin Parish, La., Crude Oil, DEE-7350

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Gulf to sell at upper tier ceiling prices a portion of the crude oil produced from the Rycade Oil Corporation, *et al.* Lease, located in the Section 28 Field in St. Martin Parish, Louisiana. On September 27, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Longwood Furnace Corp., Gollatin, Mo., Consumer Product, DEE-7840

Longwood Furnace Corporation filed an Application for Exception from the provisions of 10 CFR 430, the Energy Conservation Program for Consumer Products. The exception request, if granted, would permit the firm to market its combination wood and fossil fuel furnaces without regard to the energy efficiency test procedures specified in Appendix N of Part 430. On September 27, 1979, the DOE issued a Proposed Decision and Order which determined that exception relief should be granted.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 24 Through September 28, 1979

The following firms filed Applications for Exception from the provisions of the motor gasoline allocation regulations. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Locotion

Abernathy's Exxon, DEE-4327, LaGrange, GA.
Bolduc Service Centers, DEE-4670, Ludlow, MA.
G & G Oil Co., DEE-4989, Flagstaff, AZ.
Home Oil, Inc., DEE-4544, Washington, DC.
Lyon Oil Co., DEE-2684, Charleston, WV.
Monarch Products, Ltd., DEE-3666, Milwaukee, WI.
Ruscon Big C Stores, DEE-7532, Talladega, AL.
#1 & #2, DEE-7587,
Shaw's Gulf, DEE-4316, Wallingford, VT.
Sparkle Car Wash, DEE-2761, San Bernadino, CA.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 24 Through September 28, 1979

The following firms filed Applications for Exception from the provisions of the motor gasoline allocation regulations. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

A. Abart, Enterprises, DEE-6991, Falls Church, VA.
Arnold Shell, DEE-7478, Arnold, CA.
Cox's Amoco, DEE-6187, Baltimore, MD.
Dan's Getty Station, DEE-4017, Barre, VT.
Diamond Gas & Fuel, DEE-2248, Englewood, CO.
Enka Shell, DEE-7516, Enka, NC.
Gilroy Mobil, DEE-3572, Gilroy, CA.
High Street Exxon, DEE-6762, Danvers, MA.
Hollywood Foreign Auto Repair, DEE-6734, Van Nuys, CA.
Independent Oil & Tire Co., DEE-4273, Elyria, OH.
Jabus W. Breeland, DEE-7077, Shreveport, LA.
Jack's Arco, DEE-6100, Caledonia, NY.
Jurdi's, DEE-5264, Granada Hills, CA.
March Bros., Inc., DEE-6782, Poultney, VT.
Mike's Tire & Super Service, Inc., DEE-4191, Los Angeles, CA.
Nesbit's Service, DEE-5698, Pittsfield, MA.
Nick's Gulf, DEE-7303, Rockland, MA.
Pete & Frank's 66 Service, Inc., DEE-7124, Tampa, FL.
Savory Corporation, DEE-7050, San Francisco, CA.
Sittard Service, DEE-7300, Chicopee, MA.
South Hill, Inc., DEE-7342, Stamford, CT.
Thomas Oil Co., DEE-2312, Gainesville, FL.
Times News, DEE-4955, Kingsport, TN.
Viger's Shell, DEE-6332, Lincoln Park, MI.
Unimed Management Corporation, DEE-7141, New York, NY.
West Texas Gas, Inc., DEE-3521, Midland, TX.
William L. Gibbs, DEE-7473, DEE-7474, Greenville, SC.

[FR Doc. 79-32230 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of September 21, 1979 Through September 28, 1979

Notice is hereby given that during the week of September 21, 1979 through September 28, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

October 12, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of Sept. 21, 1979, through Sept. 28, 1979]

Date	Name and location of applicant	Case no.	Type of submission
Sept. 21, 1979	Cibro Petroleum Products, Inc., Washington, D.C.	DEE-8287	Allocation exception. If granted: Cibro Petroleum Products, Inc. would be granted an exception from the provisions of 10 CFR 211.65 regarding the Buy/Sell Program.
Sept. 21, 1979	Cities Service Co., Tulsa, Okla.	DEA-0657	Appeal of assignment order. If granted: The August 24, 1979 Assignment Order issued by the Economic Regulatory Administration to Kerr-McGee Corp. regarding Cities Service Co.'s supply obligations to Triangle Refinery, Inc., a subsidiary of Kerr-McGee Corp., would be rescinded.
Sept. 21, 1979	Union Carbide Caribe, Inc., New York, N.Y.	DEE-8288	Allocation exception. If granted: Union Carbide Caribe, Inc. would receive additional entitlements equal in value to the cost of the investment required to adapt the firm's petrochemical plant to process LPG feedstock.
Sept. 24, 1979	Chevron U.S.A. Inc., San Francisco, Calif.	DEN-5818	Request for interim order. If granted: Chevron U.S.A. Inc. would be granted exception relief on an interim basis from the provisions of 10 CFR 212, with respect to the crude oil produced from the Colonial Unit and State Lease P.R.C. 735-1, both located in Ventura County, Calif., pending a final determination on the firm's Application for Exception (Case No. DEE-5818).
Sept. 24, 1979	Clean Coal Corp., Glenview, Ill.	DEE-8290	Allocation exception. If granted: Clean Coal Corp. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 24, 1979	Clemco, Wood County, Tex.	DEE-8293	Price exception (section 212.73). If granted: Clemco would be permitted to sell the crude oil produced from the Fouse Lease and the O.M. McCorley Lease, both located in Wood County, Tex., at upper tier ceiling prices.
Sept. 24, 1979	David A. Wheatley Oil Co., Morehead City, N.C.	DEE-8291	Allocation exception. If granted: David A. Wheatley Oil Co. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 24, 1979	H & H Oil Co., Dickson, Tenn.	DEE-5975	Allocation exception. If granted: H & H Oil Co. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 24, 1979	Kern County Refinery, Inc., Los Angeles, Calif.	DRD-0027	Motion for discovery. If granted: Discovery would be granted to Kern County Refinery, Inc. with respect to the May 24, 1979, Interim Remedial Order for Immediate Compliance issued to Tenneco Oil Co.
Sept. 24, 1979	Lone Star Gas Co., Dallas, Tex.	DEE-8285 DES-8285	Exception to the reporting requirements, request for stay. If granted: Lone Star Gas Co would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage." The firm would receive a stay pending a final determination on its Application for Exception.
Sept. 24, 1979	Mobil Gas Service Corp., Mobile, Ala.	DEE-8295	Exception to reporting requirements. If granted: Mobil Gas Service Corp. would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 24, 1979	Monarch Aviation, Inc., Grand Junction, Colo.	DRW-0032	Interim remedial order for immediate compliance for which no objection has been filed. If granted: An Interim Remedial Order for Immediate Compliance issued to Monarch Aviation, Inc. on May 8, 1979, would be issued as a final Remedial Order for Immediate Compliance.
Sept. 24, 1979	Standard Oil Co. of Ohio, Cleveland, Ohio	DEA-0658 DES-0658	Appeal of assignment order, request for stay. If granted: The August 30, 1979, Assignment Order issued by the Economic Regulatory Administration Region I to BP Oil, Inc., a subsidiary of Standard Oil Company of Ohio, regarding BP's supply obligations to F.L. Roberts and Company would be rescinded. The firm would receive a Stay of the Assignment Order pending a final determination on its appeal.
Sept. 24, 1979	United Independent Oil Co., Washington, D.C.	DSG-0067 DRS-0124 DRT-0124	Petition for special redress, request for stay and temporary stay. If granted: The July 13, 1979, Notice of Probable Violation issued by the Office of Enforcement to United Independent Oil Co. and 3 other refiners would be quashed. The firm would receive a stay and temporary stay of the provisions of 10 CFR 205.191 pending a final determination on its Petition for Special Redress.
Sept. 24, 1979	Woods Petroleum Corp., Oklahoma City, Okla.	DEE-8264	Price exception (section 212.73). If granted: Woods Petroleum Corp. would be permitted to sell the crude oil produced from the Johnson State #20-1 unit located in Harding County, S. Dak., at market prices.
Sept. 25, 1979	Anderson Clayton, Phoenix, Ariz.	DEE-8296	Exception to reporting requirements. If granted: Anderson Clayton would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25,1979	Butler County Oil Co., Poplar Bluff, Mo.	DEE-8283	Allocation exception. If granted: Butler County Gas Co. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 25, 1979	City Public Service Board, San Antonio, Tex.	DEE-8297	Exception to reporting requirements. If granted: City Public Service Board of San Antonio, Tex. would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25, 1979	Continental Oil Co., Stamford, Conn.	DEX-0207	Supplemental order. If granted: Continental Oil Co. would be permitted to sign an escrow agreement by October 1, 1979, with Bankers Trust Co., in connection with the implementation of special refund procedures.

V 44 O C 19 7 9 UMI

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 21, 1979, through Sept. 28, 1979]

Date	Name and location of applicant	Case no.	Type of submission
Sept. 25,1979	Feral Little Oil Co., San Augustine, Tex	DMR-0076	Request for modification/rescission. If granted: The August 20, 1979, Decision and Order (Case No. DEE-2627) issued to Feral Little Oil Co. would be modified permitting the firm to receive an increased allocation of motor gasoline.
Sept. 25,1979	Gasco, Inc., Honolulu, Hawaii	DEE-8298	Exception to reporting requirements. If granted: Gasco, Inc. would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25,1979	Gibbons Oil Co., Bath, Maine	DRD-0332	Motion for discovery. If granted: Discovery would be granted to Gibbons Oil Co. with respect to its Statement of Objections submitted in response to the Proposed Remedial Order issued to the firm (Case No. DRO-0332).
Sept. 25,1979	Harper Heights Gas Co., Beckley, W. Va	DEE-8299	Exception to reporting requirements. If granted: Harper Heights Gas Co. would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25,1979	J. M. Huber Corp., Houston, Tex	DEE-8300	Exception to reporting requirements. If granted: J. M. Huber Corp. would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25,1979	Kayo Oil Co., Houston, Tex	DMR-0075	Request for modification/rescission. If granted: The May 7, 1979, Decision and Order issued to Kayo Oil Co. would be modified with respect to the location of a new motor gasoline retail outlet which the firm intends to open.
Sept. 25,1979	Mobil Oil Corp., Washington, D.C	DST-0073	Request for temporary stay. If granted: Mobil Oil Corp. would receive a temporary stay of its crude oil supply obligations to Commonwealth Oil Refining Co. (Corco) pending a determination on Corco's Application for Exception (Case No. DEE-8020) and Petition for Special Redress (Case No. DSG-0063).
Sept. 25,1979	Office of Special Counsel, Washington, D.C	DEX-0208	Supplemental order. If granted: Conoco, Inc. would be permitted to negotiate an escrow agreement with a banking institution of its choice, subject to the approval of the Office of Hearings and Appeals, for the implementation of special refund procedures.
Sept. 25,1979	Pargas, Waldorf, Md	DEE-8301	Exception to reporting requirements. If granted: McCloud Gas Co., a subsidiary of Pargas, would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 25,1979	Simon, Kesner & Simon, Inc., Los Angeles, Calif	DEE-4607	Exception to the emergency temperature restrictions. If granted: Simon, Kesner & Simon, Inc. would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 25,1979	Total Petroleum, Inc., Detroit, Mich	DED-3188	Motion for discovery. If granted: Discovery would be granted to Total Petroleum, Inc. with respect to documents submitted by Midland Energy Corp. (Case No. DEE-3188) regarding Total's Application for Exception.
Sept. 25,1979	True Oil Co., Casper, Wyo	DFA-0317	Appeal of information request denial. If granted: The August 16, 1979, Information Request Denial issued by the Rocky Mountain District, Office of Enforcement, would be rescinded and True Oil Co. would receive access to certain documents.
Sept. 25,1979	UV Industries, Salt Lake City, Utah	DEE-5194	Exception from the reporting requirements. If granted: UV Industries would receive an extension of time in which to file Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves."
Sept. 25,1979	William N. Tipka, Middleburg Heights, Ohio	DEE-6000	Exception to reporting requirements. If granted: William N. Tipka would not be required to file Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves."
Sept. 26, 1979	Commonwealth Oil Refining Co., Inc., San Antonio, Tex.	DMR-0078	Request for modification/rescission. If granted: The determination reached in the Decision and Order issued to Commonwealth Oil Refining Co., Inc. (Corco) on August 15, 1979, would be reversed and Corco would receive additional naptha entitlements.
Sept. 26, 1979	E. I. du Pont de Nemours & Co., Louisville, Ky	DEE-6391	Exception to emergency building temperature restrictions. If granted: E. I. du Pont de Nemours & Co. (Louisville, Ky.) would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 26, 1979	Exxon Nuclear Company, Inc., Washington, D.C	DFA-0659	Appeal of information request denial. If granted: The August 22, 1979, Information Request Denial issued by DOE Oak Ridge Operations would be rescinded and Exxon Nuclear Co. would receive access to information related to DOE's selection of contractors for the manufacture of gas centrifuge machines.
Sept. 26, 1979	Hunter Enterprises Orillia, Orillia, Ont	DEE-5971	Exception to energy conservation program for consumer products. If granted: Hunter Enterprises Orillia would receive an exception permitting the firm to market its dual fuel furnaces without regard to the energy efficiency test procedures specified in 10 CFR 430.
Sept. 26, 1979	Imperial Refineries, Inc., St. Louis, Mo	DSG-0068	Petition for special redress. If granted: An Order would be issued preventing the Economic Regulatory Administration from taking additional action with respect to the Special Report Order issued by the ERA Region VII to Imperial Refineries Corp. on March 13, 1979.
Sept. 25, 1979	Pryor Interprises, Inc., Griffin, Ga	DEE-5441	Allocation exception. If granted: Pryor Interprises would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 27, 1979	C & H Refinery, Inc., Washington, D.C	DSG-0070 DES-0284 DST-0284	Petition for special redress, application for stay and temporary stay. If granted: The July 13, 1979, Notice of Probable Violation issued by the Office of Enforcement to C & H Refinery Inc. and three other refiners would be quashed. The firm would receive a stay and temporary stay of the provisions of 10 CFR 205.191 pending a final determintion on its Petition for Special Redress.
Sept. 27, 1979	Cubbon Lumber Co., Oil City, Pa	DRR-0079	Request for modification/rescission. If granted: The September 14, 1979 Remedial Order issued to Cubbon Lumber Co. (Case No. DRW-0029) regarding a pricing violation would be modified.
Sept. 27, 1979	Golden Gate Petroleum Co., San Francisco, Calif	DRH-0253 DRD-0253	Motion for evidentiary hearing, motion for discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with Golden Gate Petroleum Co.'s Statement of Objections to a Proposed Remedial Order issued to the firm on September 24, 1979.
Sept. 27, 1979	Research Fuels, Inc., Washington, D.C	DEA-0661 DES-0661 DST-0661	Appeal of temporary assignment orders, request for stay and temporary stay. If granted: The August 29, 1979, and September 7, 1979, Temporary Assignment Orders issued by the Economic Regulatory Administration, Region VI, to Champlin Petroleum Co. regarding its supply obligations to Research Fuels, Inc. would be rescinded. The Orders would be stayed pending a final determination on the firm's appeal.
Sept. 27, 1979	Saveway Service Stations, Inc., Washington, D.C	DRD-0288	Motion for discovery. If granted: Discovery would be granted to Saveway Service Stations, Inc. with respect to the Statement of Objections submitted in response to the Proposed Remedial Order (Case No. DRO-0288) issued to the firm on July 19, 1979.
Sept. 27, 1979	Standard Oil Co. of Indiana, Chicago, Ill	DEA-0650	Appeal of ERA decision and order. If granted: The August 23, 1979, Decision and Order issued by the Economic Regulatory Administration to Archer Daniels Midland Co. designating the firm as a producer of Petroleum Substitute entitled to participate in the Domestic Crude Oil Allocation Program would be rescinded.
Sept. 27, 1979	West Gulf Maritime Association, Houston, Tex	DEE-8304	Allocation exception. If granted: West Gulf Maritime Association would be granted an exception to the provisions of 10 CFR 211, granting the Association an allocation of diesel fuel.
Sept. 28, 1979	Borough of Chambersburg, Chambersburg, Pa	DEE-6575	Exception from reporting requirements. If granted: The Borough of Chambersburg would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of Sept. 21, 1979, through Sept. 28, 1979]

Date	Name and location of applicant	Case no.	Type of submission
Sept. 28, 1979	Chevron U.S.A. Inc., San Francisco, Calif	DRD-0196	Motion for discovery. If granted: Discovery would be granted to Chevron U.S.A. Inc. with respect to the Statement of Objections submitted in response to the Proposed Remedial Order issued to the firm (Case No. DRO-0196).
Sept. 28, 1979	Frankfort Fuels, Inc., Frankfort, Ill	DEE-8306	Allocation exception. If granted: Frankfort Fuels, Inc. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 28, 1979	James Allan & Sons, Stockton, Calif	DEE-8201	Exception to reporting requirements. If granted: James Allan & Sons would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 28, 1979	Liberty Hill Oil Corp., Denver, Colo	DEE-6132	Price Exception (section 212.73). If granted: Liberty Hill Oil Corporation would be permitted to sell the crude oil produced from the Spur Ranch "A" Lease located in Chautauque County, Kans., at upper tier ceiling prices.
Sept. 28, 1979	Ohio River Pipeline Corp., Indianapolis, Ind	DEE-8226	Exception to the Reporting Requirements. If granted: Ohio River Pipeline Corp. would not be required to file Form EIA-149, "Natural Gas Supply Distribution, and Usage."
Sept. 28, 1979	Piedmont Water, Gas and Sewer Board, Piedmont, Ala.	DEE-6082	Exception to the reporting requirements. If granted: Piedmont Water, Gas and Sewer Board would not be required to file Form EIA-149, "Natural Gas Supply, Distribution, and Usage."
Sept. 28, 1979	Radiant Oil Co. of Tampa, Inc., Tampa, Fla	DSG-0069	Petition for special redress. If granted: The Assignment Orders issued by the Economic Regulatory Administration Region IV, to Radiant Oil Co. of Tampa, Inc. assigning the firm a base period supply of motor gasoline would be rescinded.
Sept. 28, 1979	Seaview Petroleum Co., Washington, D.C	DEE-8942	Exception to the entitlements program. If granted: Seaview Petroleum Co. would receive an exception from the provisions of 10 CFR 211.67, regarding its entitlement purchase obligations.
Sept. 28, 1979	So. Mo. Gasohol, Inc., Cabool, Mo	DEE-7517	Allocation exception. If granted: So. Mo. Gasohol, Inc. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increased allocation of unleaded gasoline for the purpose of blending gasohol.
Sept. 28, 1979	Texaco, Inc., White Plains, N.Y	DEA-0663	Appeal of ERA decision and order. If granted: The August 23, 1979, Decision and Order issued by the Economic Regulatory Administration Office of Petroleum Operations to Archer Daniels Midland Co. designating the firm as a producer of Petroleum Substitute entitled to participate in the Domestic Crude Oil Allocation Program would be rescinded.
Sept. 28, 1979	Truckstops Corp. of America, Miami, Fla	DFA-0662	Appeal of information request denial. If granted: The August 31, 1979, Information Request Denial issued by the Acting Director, Office of Petroleum Operations, Region V would be rescinded and Truckstop Corp. of America would receive access to certain DOE data.

Notices of Objection Received

Date	Name and location of applicant	Case No.
September 24, 1979	Arlin F. Roat Standard, Wichita, KS	DEO-0392
September 24, 1979	Beer World, Washington, DC	DEE-4371
September 24, 1979	Billykay Service Station, Brooklyn, NY	DEO-0401
September 24, 1979	Bob's Autotorium, Whitaker, PA	DEE-4668
September 24, 1979	Central Auto Service, Oak Park, IL	DEO-0391
September 24, 1979	Lake Erie Patrol, Inc., Put-in-Bay, OH	DEE-7644
September 25, 1979	Alexander's Dept. Store, Inc., Wilmington, NC	DEE-7571
September 25, 1979	Buy-Rite Oil Company, Weseca, MN	DEO-0398
September 25, 1979	Citadel Corporation, Washington, DC	DEE-3870
September 25, 1979	Downtown Exxon, Harrodsburg, KY	DEE-5491
September 25, 1979	John Fries (Gold Key Shell) Sunrise, FL	DEO-0393
September 25, 1979	J&B Car Wash, York, PA	DEO-0396
September 25, 1979	Kremer Bros. Motor & Implement Co., Hampton, IA	DEO-0395
September 25, 1979	Maplewood Auto Service, St. Paul, MN	DEO-0397
September 25, 1979	North River Gulf, Atlanta, GA	DXE-1196
September 25, 1979	Patterson Texaco Service, Harlington, TX	DEO-0394
September 26, 1979	Ramada Inn Texaco, Alexandria, LA	DEO-0402
September 27, 1979	Marine Oil Co., Washington, DC	DEO-0403
September 27, 1979	Ronald Boyle's Amoco, Homestead, PA	DEE-3653
September 28, 1979	Diversified Properties, Inc., Nitro, WV	DEO-0408
September 28, 1979	Memorial Exxon Station, Alexandria, VA	DEO-0405
September 28, 1979	Quality Oil Company, Winston-Salem, NC	DEO-0406
September 28, 1979	Sevell's Automotive, Westfield, NV	DEO-0407
September 28, 1979	T. G. Heinen, Tulsa, OK	DEO-0409
September 28, 1979	William R. Green, Camden, NJ	DEO-0410

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of Sept. 21 through Sept. 28, 1979]

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Autohaus V.I.C	DEE-8277	09/21/79	California.
Bruck's Automotive	DEE-8275	09/21/79	Texas.
Five Star Service Station	DEE-8279	09/21/79	California.
Hampton Park Exxon	DXE-7774	09/21/79	South Carolina
Holiday Foods, Inc	DXE-8273	09/21/79	Washington.
Kim Electric Service	DEE-5830	09/21/79	California.
Morgan Grocery	DEE-8274	09/21/79	Texas.
Service Oil Company	DEE-8286	09/21/79	District of Columbia
State of New Jersey	DXE-8279	09/21/79	New Jersey.
B & T Automotive Service	DEE-8281	09/24/79	Maryland.
E & F Forklift Co	DEE-8289	09/24/79	California.
Mukhar, Jack K	DEE-7771	09/24/79	California.

V 44 O C 19 79 9 UMI

Gums, Lloyd P	DEE-8292	09/25/79	California.
Mountain Oil Company	DXE-8302	09/25/79	North Carolina.
Murray Oil Company	DEE-8264	09/25/79	Missouri.
Robo of Dayton, Inc	DXE-7451	09/25/79	Ohio.
Smithkline Clinical Labs	DEE-5436	09/26/79	Massachusetts.
Warlick, Roy/Warlick's Exxon	DEE-5547	09/26/79	Texas.
Johnson's Arco Mini Market	DXE-8308	09/28/79	California.
M & G Auto Repair	DEE-8313	09/28/79	Massachusetts.
Monument Ford, Inc	DEE-8312	09/28/79	Massachusetts.

Items retrieved—21.

[FR Doc. 79-32231 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of September 7, 1979 Through September 14, 1979

Notice is hereby given that during the week of September 7, 1979 through September 14, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 29461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 12, 1979.

Week of Sept. 7, 1979 Through Sept. 14, 1979

Date	Name and location of applicant	Case No.	Type of submission
Sept. 7, 1979	Golden Eagle Oil Co., Inc., Washington, D.C	DHR-0286, DRD-0266.	Motion for Discovery and Request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to the Statement of Objections submitted in response to a Proposed Remedial Order issued on June 20, 1979 to Golden Eagle Oil Company, Inc.
Sept. 7, 1979	Gulf Oil Corp., Washington, D.C	DRZ-0194	Interlocutory Order. If granted: The DOE's September 6, 1979 Decision and Order issued to *Texaco, Inc. et al.* (DRZ-0004) would be modified with respect to the filing schedule for discovery matters involving Gulf Oil Corporation.
Sept. 7, 1979	J. M. Davis Industries, Inc., Morehead City, N.C	DEE-8081	Allocation Exception. If granted: J. M. Davis Industries, Inc. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded gasoline for the purposes of blending gasohol.
Sept. 7, 1979	Ware Oil Co., Dunnsville, Va	DEE-8086	Allocation Exception. If granted: Ware Oil Company would be granted an exception from the provisions of 10 CFR 211 regarding an increase allocation of No. 2 fuel oil and kerosene.
Sept. 10, 1979	Cities Service Co., Tulsa, Okla	DEE-8088, DEL-8086, DES-8088	Price Exception, Request for Stay, Request for Temporary Exception. If granted: Cities Service Company would receive an exception to the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol. The firm would receive a stay and temporary stay pending a final determination on its Application for Exception.
Sept. 10, 1979	La Costa Refining Corp., Houston, Tex	DEE-8085	Allocation Exception. If granted: La Costa Refining Corporation would receive an exception to the provisions of 10 CFR 211 and 212 with respect to a future refinery acquisition.
Sept. 11, 1979	Exxon Co., U.S.A., Washington, D.C	DEA-0588	Appeal of Temporary Assignment Order. If granted: The August 7, 1979 Temporary Assignment Order issued by the Economic Regulatory Administration Region VI to Exxon Company, U.S.A. regarding the firm's supply obligations to dones & Brown Enterprises, Inc. would be rescinded.
Sept. 11, 1979	Galloway Oil Co., Inc. Methuen, Mass	DEE-8087	Allocation Exception. If granted: Galloway Oil Company, Inc. would receive an increase allocation for the winter months of No. 2 heating oil.
Sept. 11, 1979	Gulf Oil Corp. (E. G. Robinson), Liberty County, Tex	DXE-8084	Extension of Relief granted in *Gulf Oil Corp.*, 3 DOE Par.——(July 31, 1979). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the E. G. Robinson Unit, located in Liberty County, Texas at upper tier ceiling prices.
Sept. 11, 1979	Hunt Oil Co., Dallas, Tex	DEE-6107	Price Exception. If granted: Hunt Oil Company would be permitted to sell the crude oil produced from the Outer Continental Shelf Lease No. 0424 at upper tier ceiling prices.
Sept. 11, 1979	Jack C. Mitchell Oil Co., Anniston, Ala	DEE-8097	Allocation Exception. If granted: Jack C. Mitchell Oil Company would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an increase allocation of unleaded motor gasoline for the purpose of blending gasohol.
Sept. 11, 1979	Rex Monahan (Sandbar "B"), Campbell County, Wyo.	DXE-7950	Extension of Relief granted in *Rex Monahan* 3 DOE Par.——(July 31, 1979). If granted: Rex Monahan would be permitted to sell the crude oil produced from the Sandbar "B" Unit located in Campbell County, Wyoming at upper tier ceiling prices.
Sept. 11, 1979	S & W Engine Supply, Oklahoma City, Okla	DXE-7167	Extension of Relief granted in *S & W Engine Supply*, 3 DOE Par. ——(August 15, 1979). If granted: S & W Engine Supply would be permitted to continue to sell the crude oil produced from the Baker Townsend Lease, located in Oklahoma County, Oklahoma at upper tier ceiling prices.
Sept. 12, 1979	Energy Cooperatives, Inc., Rosemont, Ill	DXE-8112	Extension of Relief granted in *Energy Cooperatives, Inc.*, 3 DOE Par. —— (May 10, 1979). If granted: Energy Cooperatives, Inc. would be granted an exception from the provisions of 10 CFR 211 with respect to the Buy/Sell and Entitlements Programs.
Sept. 12, 1979	Exxon Co., U.S.A., Houston, Tex	DES-0639 through 0642 and DEA-0639 through 0642.	Appeal of ERA Decision and Order; Request for Stay. If granted: The four Economic Regulatory Administration Decisions and Orders issued to Exxon Company U.S.A. by the Region IV Office of Fuels Regulations on August 27, 1979, August 28, 1979, and August 31, 1979 regarding Exxon's supply obligations to Newman Oil Company, Lynch Oil Company, Phillip Sloan Oil Company and Suncoast Oil Company would be rescinded. Exxon Company U.S.A. would receive a stary of the four orders pending a final determination on its Appeal.
Sept. 12, 1979	Gulf Oil Corp., Houston, Tex	DRX-0206	Supplemental Order. If granted: The DOE's May 6, 1977 Decision and Order (Case No. FRA-1171) issued to Gulf Oil Corporation regarding service station rental overcharges would be rescinded.

Week of Sept. 7, 1979 Through Sept. 14, 1979—Continued

Date	Name and location of applicant	Case No.	Type of submission
Sept. 12, 1979	Hawthorne Oil & Gas Corp., Houston, Tex	DRD-0208, DRH-0208.	Motion for Discovery and request for Evidentiary Hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened with respect to the Statement of Objections submitted in response to a Proposed Remedial Order (Case No. DRD-0208) to Hawthorne Oil & Gas Corporation.
Sept. 12, 1979	Koch Industries, Inc., Wichita, Kans	DEA-0633 through DEA-0637.	Appeal of ERA Assignment of Orders. If granted: The five July 30, 1979 Assignment Orders issued by the Economic Regulatory Administration Region II to Koch Industries, Inc. regarding the firm's supply obligations to Green's Gas and Go; Progressive Fuel Oil Co., Inc., Lavari Oil Company; Harry's Gas-N-Go; and Jack's Service Center would be rescinded.
Sept. 12, 1979	Texas Recovery Co., Tyler, Tex	DRH-0267	Request for Evidentiary Hearing. If granted: An evidentiary hearing would be convened with respect to the Statement of Objections submitted in response to a Proposed Remedial Order issued on June 18, 1979 to Texas Recovery Company.
Sept. 12, 1979	L. O. Ward, Enid, Okla	DFA-0636	Appeal for Information Request Denial. If granted: The DOE's August 1979 Information Request Denial issued by the Acting District Manager for the Southwest District of Enforcement would be rescinded and L. O. Ward would receive access to certain DOE documents.
Sept. 13, 1979	Malcolm Harkins, Washington, D.C	DFA-0492	Appeal of Information Request Denial. If granted: The August 2, 1979 Information Request Denial issued by the Economic Regulatory Administration would be rescinded and Malcolm Harkins would receive access to certain DOE documents.
Sept. 13, 1979	Highway Oil Inc., Topeka, Kans	DEE-4833	Allocation Exception. If granted: Highway Oil Inc. would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded gasoline for the purpose of blending gasohol.
Sept. 13, 1979	Reserve Gas Co., Inc., Rochester, N.Y	DEE-8131	Exception to the Reporting Requirements. If granted: Reserve Gas Company, Inc. would not be required to file form EIA-149 "Natural Gas Supply, Distribution and Usage."
Sept. 13, 1979	Standard Oil Co. of Indiana, Chicago, Ill	DES-6160	Request for Stay. If granted: Standard Oil Company of Indiana would receive a stay of its supply obligations of propane, pending a final determination on its Application for Exception.
Sept. 13, 1979	The Gentry, Potomac, Md	DEE-8119	Exception to the Emergency Building Temperature Restrictions. If granted: The Gentry would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 14, 1979	American Solar Corp., Bailey's Crossroads, Va	DFA-0643	Appeal of Information Request Denial. If granted: The Information Request Denial by the manager of the Small Solar Thermal Power Section would be rescinded, and the firm would be granted access to a report entitled "Review of American Solar Corporation Proposal for a Closed Cycle Thermal Hydroelectric Engine Development."
Sept. 14, 1979	Bath Electric, Gas & Water Systems, Bath, N.Y	DEE-8122	Exception to reporting requirements. If granted: Bath Electric, Gas & Water Systems would be granted an extension of time in which to file EIA Form 149 "Natural Gas Supply, Distribution and Usage."
Sept. 14, 1979	Hartford Ballet, Hartford, Conn	DEE-8129	Exception to the Emergency Building Temperature Restrictions. If granted: The Hartford Ballet would receive an exception from the provisions of 10 CFR 490 the Emergency Building Temperature Restrictions.
Sept. 14, 1979	Pennsylvania & Southern Gas Co., Sayre, Pa	DEE-8127	Exception to reporting requirements. If granted: Pennsylvania & Southern Gas Company would not be required to file EIA Form 149 "Natural Gas Supply Distribution and Usage."
Sept. 14, 1979	R.J.P Service Station, Inc., New York, N.Y	DEE-8124	Price Exception. If granted: R.J. P. Service Station, Inc. would be granted an exception from the provisions of 10 CFR 212 permitting the firm to sell motor gasoline above the applicable ceiling price.
Sept. 14, 1979	R.L. Jordan Oil Co., Inc., Spartansburg, S.C	DEE-8132, DEE-8133.	Allocabon Exception. If granted: R. L. Jordan Oil Co., Inc. would receive an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded gasoline for the purpose of blending gasohol.
Sept. 14, 1979	Allen M. Sakler, M.D., Louisville, Ky	DEE-8194	Exception to the Emergency Building Temperature Restrictions. If granted: Allen M. Sakler, M.D. would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperatura Restrictions.
Sept. 14, 1979	South Jersey Gas Co., Folsom, N.J	DEE-3123	Exception to reporting requirements. If granted: South Jersey Gas Company would be granted an extension of time in which to file Form EIA 149 "Natural Gas Supply Distribution and Usage."
Sept. 14, 1979	Terry S. Vincent, M.D., San Antonio, Tex	DEE-8120	Emergency Building Temperatura Restrictions. If granted: Terry S. Vincent, M.D. would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 14, 1979	Willowbrook Service Station, Staten Island, N.Y	DEE-8125	Price Exception. If granted: Willowbrook Service Station would be granted an exception from the provisions of 10 CFR 212, permitting the firm to sell motor gasoline above the applicable ceiling price.

Notices of Objection Received

Date	Name and location of applicant	Case No.
Sept. 7, 1979	Jerry's Exxon, Philadelphia, Pa	DEE-2680
Sept. 11, 1979	Kalbow Service Center, Brenham, Tex	DEO-0372
Sept. 11, 1979	Anderson's Exxon, Baltimore, Md	DEE-2848
Sept. 11, 1979	Bill's Pershing Mobil, Ansonia, Conn	DEE-3349
Sept. 11, 1979	Lantz Texaco, Tucson, Ariz	DEE-4569
Sept. 11, 1979	Chilcote, Inc., El Cajon, Calif	DEE-7784
Sept. 11, 1979	Shaw Shell Service, Los Angeles, Calif	DEO-0373
Sept. 11, 1979	Shelby Arco Station, Madison, Va	DEO-0374
Sept. 12, 1979	Forgione's Service Station, Scranton, Pa	DEO-0369
Sept. 12, 1979	Trinity Arco, Providence, R.I	DEE-4660
Sept. 12, 1979	Highway Oil, Inc., Washington, D.C	DEE-6872
Sept. 12, 1979	Olson's Exxon Service Station, Hot Springs, Ark	DEO-0376
Sept. 13, 1979	Thunderbird Chevron, Phoenix, Ariz	DEO-0378
Sept. 14, 1979	Lite-Ning Auto, Inc., Los Angeles, Calif	DEO-0379

V 44 O C 19 7 9 UMI

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of Sept. 7 Through Sept. 14, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

Amarillo 76 Truck Stop	DEE-8073	09/07/79	Texas.
J. A. Nere Co., Inc	DEE-8091	09/07/79	Virginia.
Manna South Carwash	DXE-8075	09/07/79	California.
Rapid Service Oil Co., Inc	DXE-8078	09/07/79	Wisconsin.
Records Soho Service	DEE-8074	09/07/79	Ohio.
Barrett Cafe	DEE-8107	09/10/79	California.
Brd of County Road Commission	DEE-8077	09/10/79	Michigan.
Cobb's Corner Arco	DEE-8078	09/10/79	Massachusetts.
K & W Oil Company	DEE-8090	09/10/79	Pennsylvania.
Tri-State Amoco, Inc	DEE-8079	09/10/79	West Virginia.
Whitmans Superette	DEE-8080	09/10/79	West Virginia.
Alumimum City of San Diego	DEE-8099	09/11/79	California.
Colesville Exxon	DEE-8083	09/11/79	Maryland.
D&W Markette & Service Station	DEE-8098	09/11/79	Kentucky.
Enders & Cooper, Inc	DEE-8096	09/11/79	New York.
Evans Oil Company	DEE-8089	09/11/79	Georgia.
Jim's Arco Service	DEE-8094	09/11/79	California.
Lopez Trucking, Inc	DEE-8095	09/11/79	Massachusetts.
Northland Texaco	DEE-8092	09/11/79	Kentucky.
Seaway Arco	DEE-8100	09/11/79	Ohio.
Upper Riverdale Chevron	DEE-8093	09/11/79	Georgia.
Auto Clean, Inc	DEE-8104	09/12/79	Maryland.
Avis Rent-A-Car	DEE-8102	09/12/79	Illinois.
Bill's Amoco	DXE-8108	09/12/79	Pennsylvania.
Bonfield Brothers, Inc	DEE-8109	09/12/79	Kentucky.
Irv's Service Center	DXE-8111	09/12/79	Louisiana.
M.F.A. Oil Company	DEE-8101	09/12/79	Missouri.
Melton's Exxon	DEE-5474	09/12/79	South Carolina.
Minshew, Lavon & Jean	DEE-8103	09/12/79	Utah.
Stephens, Tommy	DEE-8110	09/12/79	Texas.
Webco Southern Oil, Inc	DXE-8105	09/12/79	Georgia.
Carr, Anne B	DEE-8116	09/13/79	Mississippi.
Martinis Auto Service	DEE-8118	09/13/79	New York.
Mr. K Exxon Self Service	DXE-8117	09/13/79	South Carolina.
Public Oil Company, Inc	DEE-8115	09/13/79	Tennessee.
Vish Chevron Service	DXE-8114	09/13/79	Kentucky.
Air-Tech Corp	DEE-8159	09/14/79	Maine.
Bishop Mfg. Co., Inc	DEE-8165	09/14/79	Connecticut.
Blue Line Express, Inc	DEE-8190	09/14/79	New Hampshire.
Blue Sun Super Service	DEE-8177	09/14/79	Rhode Island.
Bob's Exxon	DEE-8137	09/14/79	Maine.
Brattle Cab	DEE-8145	09/14/79	Massachusetts.
Browning Exxon	DXE-8193	09/14/79	North Carolina.
Burt's Beverage Co	DEE-8172	09/14/79	Connecticut.
Cape Cod Gas Co	DEE-8173	09/14/79	Massachusetts.
Carl's Garage	DEE-8151	09/14/79	Connecticut.
Central City Shell	DXE-8126	09/14/79	Missouri.
Chittenden, William	DEE-8153	09/14/79	Massachusetts.
Colby's Garage	DEE-8187	09/14/79	Maine.
Corcleino, John L	DEE-8192	09/14/79	Rhode Island.
Dick's Sunoco	DEE-8141	09/14/79	Connecticut.
Don's Cities Service, Inc	DEE-8140	09/14/79	Massachusetts.
Dostie Brothers Inc	DEE-8186	09/14/79	Maine.
Dover News, Inc	DEE-8134	09/14/79	New Hampshire.
Easton Center Store	DEE-8162	09/14/79	Maine.
Finnegan's Shell Station	DEE-8143	09/14/79	Massachusetts.
Gardner, Michael J	DEE-8157	09/14/79	Massachusetts.
Gernor, Charles E., Et Ux	DEE-8169	09/14/79	Massachusetts.
Gervasio's Elm St. Exxon	DEE-8150	09/14/79	Connecticut.
Grant's Arco Service	DEE-8188	09/14/79	Massachusetts.
Hampden Gulf & Tire Service	DEE-8171	09/14/79	Massachusetts.
Henkels & McCoy, Inc	DEE-8108	09/14/79	Connecticut.
Hyanns Gulf & Tire Service	DEE-8154	09/14/79	Massachusetts.
J & S, Inc	DEE-8128	09/14/79	Pennsylvania.
Ledoux, Bertrand J	DEE-8178	09/14/79	Rhode Island.
Marv's Mobil	DEE-8152	09/14/79	Massachusetts.
Menard & Holmberg	DEE-8155	09/14/79	Massachusetts.
Mercury System, Inc	DEE-8189	09/14/79	Massachusetts.
Menden Yellow Cab Co., Inc	DEE-8179	09/14/79	Connecticut.
Middlesex Equipment Co	DEE-8175	09/14/79	Massachusetts.
Mike's Service Station	DEE-8156	09/14/79	Massachusetts.
Minor's Country Store	DEE-8130	09/14/79	Vermont.
Mutti's Service Station, Inc	DEE-8166	09/14/79	Massachusetts.
Norm's Trading Post	DEE-8176	09/14/79	New Hampshire.
Okemo Mountain, Inc	DEE-8182	09/14/79	Vermont.
P & C Food Markets, Inc	DEE-8144	09/14/79	Vermont.
Peabody, Frank	DEE-8181	09/14/79	New York.
Perry, Joseph	DEE-8166	09/14/79	Rhode Island.
Powers Country Store	DEE-8142	09/14/79	New Hampshire.
Practical Mechanics, Inc	DEE-8158	09/14/79	Maine.
Ralph's Getty	DEE-8146	09/14/79	Maine.
Ray's Sandy Lane Arco	DEE-8147	09/14/79	Rhode Island.
Research Park Exxon	DEE-8121	09/14/79	Alabama.
Rich's Gulf Station	DEE-8170	09/14/79	Maine.
Rowe's Gas Station	DEE-8185	09/14/79	New Hampshire.
Stanley Sack Co., Inc	DEE-8139	09/14/79	Connecticut.
Steele's Corners, Inc	DEE-8149	09/14/79	Massachusetts.
The Kaufman Fuel Co	DEE-8187	09/14/79	Connecticut.
Tobey's General Store	DEE-8148	09/14/79	Maine.
Town of Hampton Falls	DEE-8184	09/14/79	New Hampshire.
Town of North Hampton	DEE-8183	09/14/79	New Hampshire.
Town of Plymouth, Mass	DEE-8163	09/14/79	Massachusetts.
Town of Watertown, Connecticut	DEE-8184	09/14/79	Connecticut.
Ward's Service Center	DEE-8161	09/14/79	Massachusetts.
West Hartford Chevron, Inc	DEE-8136	09/14/79	Connecticut.
Whalley Fitch Service, Inc	DEE-8174	09/14/79	Connecticut.
Worchester Quality Foods	DEE-8180	09/14/79	Massachusetts.
Yoney, Paul S. Inc	DEE-8160	09/14/79	Connecticut.

Items Retrieved 98

[FR Doc. 79-32309 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

Cases Filed; Week of August 3 Through August 10, 1979

Notice is hereby given that during the week of August 3, 1979 through August 10, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 12, 1979.

[Week of Aug. 3, 1979, Through Aug. 10, 1979]

Date	Name and location of applicant	Case No.	Type of submission
Aug. 3, 1979	Andre Fantasies Onginals, Fort Lauderdale, Fla	DEE-7657	Exception to Emergency Building Temperature Restrictions. If granted: Andre Fantasies Originals would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Arthur Young & Co., Milwaukee, Wisc	DEE-7658	Exception to Emergency Building Temperature Restrictions. If granted: Arthur Young & Co. would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Katherine Aymond, Hammond, La	DEE-7666	Exception to Emergency Building Temperature Restrictions. If granted: Katherine Aymond would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Brenton Bank & Trust Co., Cedar Rapids, Iowa	DEE-7647	Exception to Emergency Building Temperature Restrictions. If granted: Brenton Bank and Trust Co. would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Conwood Corp., Memphis, Tenn	DEE-7669	Exception to Emergency Building Temperature Restrictions. If granted: Conwood Corp. would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	J. Fleet Cowden, Century City, Calif	DEE-7651	Exception to Emergency Building Temperature Restrictions. If granted: J. Fleet Cowden would receive an exception from the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Crawford County Board of Mental Retardation, Bucyrus, Ohio.	DEE-7650	Exception to Emergency Building Temperature Restrictions. If granted: Crawford County Board of Mental Retardation would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Crown Central Petroleum Corp., Baltimore, Md	DEE-7756, DES-7756, DST-7756.	Allocation Exception, Request for Stay and Temporary Stay. If granted: Crown Central Petroleum Corp. would receive an exception from the provisions of 10 CFR 211, regarding the firms supply obligations of motor gasoline to refiners. The firm would receive a stay and temporary stay pending a final determination on its Application for Exception.
Aug. 3, 1979	Cypress Recreation and Park District, Cypress, Calif.	DEE-7649	Exception to Emergency Building Temperature Restrictions. If granted: Cypress Recreation and Park District would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Lloyd J. Engeran, Hammond, La	DEE-7665	Exception to Emergency Building Temperature Restrictions. If granted: Lloyd J. Engeran would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Febric Corner (Annapolis), Fabric Corner (Glen Burnie), Annapolis, Md., Glen Burnie, Md.	DEE-7667 and DEE-7668.	Exception to Emergency Building Temperature Restrictions. If granted: Fabric Corner (Annapolis) Fabric Corner (Glen Burnie) would receive an exception from the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Highwoods Racquetball Club, Raleigh, N.C	DEE-7654	Exception to Emergency Building Temperature Restrictions. If granted: Highwoods Racquetball Club would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 3, 1979	David H. Krathen, Fort Lauderdale, Fla	DEE-7656	Exception to Emergency Building Temperature Restrictions. If granted: David H. Krathen would receive an exception from the provisions to 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug. 3, 1979	Oasis Oil, Inc., Fort Worth, Tex	DRD-0243	Motion for Discovery. If granted: Discovery would be granted to Oasis Oil Inc. with respect to the Statement of Objections submitted in response to the June 5, 1979, Proposed Remedial Order issued to Hughes & Hughes Oil & Gas (Case No. DRO-0243).
Aug. 3, 1979	TV Guide, Hollywood, Fla	DEE-7655	Exception to Emergency Building Temperature Restrictions. If granted: TV Guide would receive an exception to the provisions of 10 CFR 490, with respect to the Emergency Building Temperature Restrictions.
Aug. 8, 1979	T & V Auto Service Center, Inc., Long Island City, N.Y.	DRS-0268	Request for Stay. If granted: The Interim Remedial Order for Immediate Compliance issued by the Economic Regulatory Administration Region II to T & V Auto Service Center, Inc., would be stayed regarding overcharges on sales of motor gasoline.
Aug. 3, 1979	West Virginia Department of Culture & History, Charleston, W. Va.	DEE-7648	Exception to Emergency Building Temperature Restrictions. If granted: West Virginia Department of Culture & History would be excepted to the provisions of 10 CFR 490 regarding Emergency Building Temperature Restrictions.
Aug. 6, 1979	Exxon Company, USA, Houston, Tex	DEA-0572	Appeal of Assignment Order. If granted: The June 28, 1979, Assignment Order issued by Economic Regulatory Administration, Region III, regarding Exxon Co. USA's supply obligations to H. L. Mills Petroleum Products would be rescinded.
Aug. 6, 1979	Farmland Industries, Inc., Kansas City, Mo	DEE-7731 and DEL-7731.	Allocation Exception and Request for Temporary Exception. If granted: Farmland Industries, Inc., would receive an exception from the provisions of 10 CFR 211.65 regarding its supply obligations of motor gasoline to Mid America Refining Co., Hudson Oil Co.; Phillips Petroleum Co. and Amoco Oil Co.

V 44 OC 1979 UMI

Date	Name and location of applicant	Case No.	Type of submission
Aug 6, 1979	General Aluminum Corp., Carrollton, Tex	DEE-7730	Exception to Emergency Building Temperature Restrictions. If granted: General Aluminum Corp. would receive an exception from the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug 6, 1979	Gulf Oil Corp., Houston, Tex	DXE-7729	Extension of relief granted in Gulf Oil Corporation DOE Par.—— (June 20 1979). If granted: Gulf Oil Corp. would be permitted to continue to sell the crude oil produced from Mirian Partlow *et al.* Unit lease, located in Liberty County, Texas, at upper tier ceiling prices.
Aug 6 1979	Little America Refining Co., Washington, D C	DMR-0065	Request for Modification/Rescission. If granted: The March 19, 1979, Supplemental Order issued to Little America Refining Co. would be modified with respect to the firm's entitlements purchase obligations.
Aug 7 1979	Harry D. Abell, Jr., MD, Paducah, Ky	DEE-7738	Exception to Emergency Building Temperature Restrictions. If granted: Harry D. Abell, Jr., MD, would receive exception to the provisions of 10 CFR 490 with raspect to the Emergency Building Temperature Restrictions.
Aug 7, 1979	Agway Petroleum Corp., Syracuse, N.Y	DED-0090	Motion for Discovery. If granted: Discovery would be granted to Agway Petroleum Corp. with respect to Vantage Petroleum Corp. Applications for Exception.
Aug 7, 1979	Barbizon School, Syracuse, N.Y	DEE-7739	Exception to Emergency Building Temperature Restrictions. If granted: Barbizon School would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 7 1979	Barnosky Oils, Inc., Washington, D C	DEZ-7777	Interlocutory Order. If granted: The DOE's Protective Order issued in reference to Barnosky Oils, Inc. Applications for Exception, Stay and Temporary Stay regarding an increase allocation of motor gasoline would be issued an Order by the DOE.
Aug 7 1979	Croix Oil Co., Stillwater, Minn	DES-0316	Request for Stay. If granted: The July 2, 1979, Interim Decision and Order issued by the Economic Regulatory Administration, Region IV, regarding Mobil Oil Corp.'s supply obligations to Croix Oil Co. would be stayed.
Aug 7, 1979	Grace Cathedral, Akron Ohio	DEE-7757	Exception to Emergency Building Temperature Restrictions. If granted: Grace Cathedral would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 7, 1979	Gulf Oil Corp., Houston, Tex	DRD-0194	Motion for Discovery. If granted: Discovery would be granted to Gulf Oil Corp. with respect to the Statement of Objection submitted in response to the May 1, 1979, Proposed Remedial Order (Case No. DRO-0194).
Aug 7, 1979	Kings Point, Delray Beach, Fla	DEE-7740	Exception to Emergency Building Temperature Restrictions. If granted: Kings Point would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 7, 1979	Martha Kundert, Phoenix, Ariz	DEE-7755	Exception to Emergency Building Temperature Restrictions. If granted: Martha Kundert would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 7 1979	Midwest Solvents Co., Atchison, Kans	DEE-7741	Allocation Exception. If granted: Midwest Solvents Co. would receive an exception to the provisions of 10 CFR 211, permitting the firm to receive increased allocations of unleaded gasoline to be used in the blending of gasohol.
Aug 7 1979	Mobil Oil Corp., New York, N.Y	DED-7009	Motion for Discovery. If granted: Discovery would be granted to Mobil Oil Corp. with respect to the June 28, 1979 Dismissal of the Application Exception filed by Northville Industries Corp.
Aug 7 1979	Town of West Seneca, N.Y., West Seneca, N Y	DEE-7749	Exception to Emergency Building Temperature Restrictions. If granted: Town of West Seneca, New York would receive an exception from the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug 8 1979	American Management Associates, New York, N Y	DEE-7750	Exception to Emergency Building Temperature Restrictions. If granted: American Management Associates would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 8, 1979	Hammermill Paper Co., Erie, Pa	DEE-7747 and DEE-7748.	Exception to Emergency Building Temperature Restrictions. If granted: The Hammermill Paper Co. would receive an exception from the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 8, 1979	Marathon Oil Co., Findlay, Ohio	DED-6865	Motion for Discovery. If granted: Discovery would be granted to Marathon Oil Company regarding Colonial Oil Co.'s Application for Exception (Case No. DEE-6865).
Aug 8 1979	Talbot Perkins Children's Services, New York, N.Y	DEE-7753	Exception to Emergency Building Temperature Restrictions. If granted: Talbot Perkins Children's Services would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 8, 1979	The 341 Tract Unit, Mobile County, Ala	DEE-7746 and DEL-7746.	Request for Temporary Exception and Price Exception. If granted: The 341 Tract Unit of the Citronelle Field would receive an exception from the provisions of 10 CFR 212 and would be permitted to sell the crude oil produced from the 341 Tract Unit at market prices. The 341 Tract Unit would receive a Temporary Exception pending a final determination of its Exception Request.
Aug 8, 1979	United Refining Co., Warren, Pa	DEL-0267 and DES-0267.	Temporary Exception, Request for Stay. If granted: United Refining Co. would receive an exception to the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution and marketing gasohol.
Aug 8, 1979	Weston Richardson Drug Co., Weston, Mass	DEE-7754	Exception to Emergency Building Temperature Restrictions. If granted: Weston Richardson Drug Co. would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug 9, 1979	Amoco Production Co., Chicago, Ill	DRA-0575	Appeal of Ancillary Order. If granted: The June 29, 1979 Ancillary Order issued to Amoco Production Co. by the Economic Regulatory Administration, Region VI, in connection with a Consent Order issued to R. Lacy, Inc., regarding refunds of alleged overcharges would be modified.
Aug 9 1979	Atlantic Richfield Co., Philadelphia, Pa	DEA-0576	Appeal of Assignment Order. If granted: The February 22, 1979 Assignment Order issued by DOE Region II to Atlantic Richfield Co. regarding the firms supply obligations to Croton-Harmon Service, would be modified.
Aug 9 1979	Chevron USA, Inc., San Francisco, Calif	DEN-4508	Motion for Interim Order. If granted: Chevron USA, Inc., would be permitted to sell the crude oil produced from the Vickers 2 Lease, located in Los Angeles County, Calif., at upper tier ceiling prices pending a final determination of the Application for Exception.
Aug 9, 1979	Guzman Enterprises, Inc., Truckee, Calif	DEE-7791	Price Exception. If granted: Guzman Enterprises, Inc., would receive an exception to the provisions of 10 CFR 212, with respect to the 15.4 price margin.
Aug 9, 1979	Joe Maider's Mobil, Plainville, Mass	DEE-7792	Price Exception. If granted: Joe Maider's Mobil would receive an exception price relief to the provisions of 10 CFR 212, with respect to the 15.4 price margin.
Aug 9 1979	Marathon Oil Co., Findley, Ohio	DRD-0195	Motion for Discovery. If granted: Discovery would be granted to Marathon Oil Co. with respect to the Statement of Objections submitted in response to the May 1, 1979, Proposed Remedial Order (Case No. DRO-0195).
Aug 9, 1979	Mobil Oil Corp., Schaumburg, Ill	DEA-0557 and DST-0269.	Appeal of Assignment Order; Request for Temporary Stay. If granted: The July 26, 1979, Assignment Order issued by the Economic Regulatory Administration Region VII Office regarding Mobil Oil Corp. supply obligations to Onyx Corp. would be rescinded. The Mobile Oil Corporation would be granted a Temporary Stay of the Assignment Order pending a final determination of the firm's appeal.
Aug 9, 1979	Peerless Petrochemicals, Inc., Rosslyn, N.Y	DEA-0584; DST-0584 and DES-0584.	Appeal of ERA Decision and Order; Request for Temporary Stay; Request for Stay. If granted: The August 6, 1979 Decision and Order issued to Peerless Petrochemicals, Inc., by the Economic Regulatory Administration denying Peerless' request for an allocation of crude oil under the emergency allocation provisions of the Crude Oil Allocation (Buy/Sell) Program would be rescinded. Peerless Petrochemicals, Inc., would receive a Temporary Stay and Stay of the Decision and Order pending a final determination on its appeal.

Date	Name and location of applicant	Case No.	Type of submission
Aug. 10, 1979	Alpha Fitness Center, Omaha, Nebr	DEE-7779	Exception to Emergency Building Temperature Restrictions. If granted: Alpha Fitness Center would receive an exception to the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug. 10, 1979	Arkansas Big A Truck Stop, Inc., Little Rock, Ark	DEE-7643	Price Exception. If granted: Arkansas Big A Truck Stop, Inc., would receive an exception price relief to the provisions of 10 CFR 212, with respect to the 15.4 price margin.
Aug. 10, 1979	Allan Auslander, Marlow Heights, Md	DEE-7781	Exception to Emergency Building Temperature Restrictions. If granted: Allan Auslander would receive an exception to the provisions of 10 CFR 490 regarding the Emergency Building Temperature Restrictions.
Aug. 10, 1979	Chilcote, Inc., El Cajon, Calif	DEE-7784	Exception to Emergency Building Temperature Restrictions. If granted: Chilcote, Inc., would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 10, 1979	Gulf Oil Co., Philadelphia, Pa	DEA-0578	Appeal of an Assignment Order. If granted: The June 16, 1979, Assignment Order issued by the Economic Regulatory Administration Region I regarding Gulf Oil Company's supply obligations to Rymes Heating Oil, Inc. would be rescinded.
Aug. 10, 1979	Gulf Oil Co., Philadelphia, Pa	DEA-0579	Appeal of Assignment Order. If granted: The June 11, 1979, Assignment Order issued by Economic Regulatory Administration Region I regarding Concord Oil Co., a branded Gulf Oil Corp. jobber would be rescinded.
Aug. 10, 1979	Gulf Oil Co., Philadelphia, Pa	DEA-0580	Appeal of Assignment Order. If granted: The June 11, 1979, Assignment Order issued to Concord Oil Co., Inc., by the Economic Regulatory Administration, Region I, regarding Concord Oil Co.'s a branded Gulf Oil Co. jobber supply obligations to Federal Petroleum would be rescinded.
Aug. 10, 1979	Jerol R. Hodges, Los Angeles, Calif	DEE-7780	Exception to Emergency Building Temperature Restrictions. If granted: Jerol R. Hodges would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 10, 1979	Larry Flynt Publications, Inc., Los Angeles, Calif	DEE-7783	Exception to Emergency Building Temperature Restrictions. If granted: Larry Flynt Publications, Inc., would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 10, 1979	St. Petersburg Times, St. Petersburg, Fla	DFA-0582	Appeal of Information Request Denial. If granted: The July 27, 1979, Information Request Denial issued by the Office of Freedom and Privacy Act Activities.
Aug. 10, 1979	Salon Del Rio, Fort Wayne, Ind	DEE-7775	Exception to Emergency Building Temperature Restrictions. If granted: Salon Del Rio would receive exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.
Aug. 10, 1979	Shell Co. (Puerto Rico), Ltd., San Juan, P.R	DEN-2541	Interim Order. If granted: The DOE Decision and Order would be issued granting the exception relief set forth in the July 13, 1979, Proposed Decision and Order (Case No. DEE-2541) assigning Shell Oil Co. as Shell Puerto Rico's base period supplier of gasoline on an interim basis.
Aug. 10, 1979	Texaco, Inc., Denver, Colo	DXE-7359	Extension of relief granted in Texaco, Inc., DOE Par. —— (June 28, 1979). If granted: Texaco, Inc., would be permitted to continue to sell a portion of the crude oil produced from the Government Graves Lease, located in Campbell County, Wyo., at upper tier ceiling prices.
Aug. 10, 1979	Mary Kay Thompson, Kingwood, W. Va	DEE-7762	Exception to Emergency Building Temperature Restrictions. If granted: Mary Kay Thompson would receive an exception to the provisions of 10 CFR 490 with respect to the Emergency Building Temperature Restrictions.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of Aug. 3 Through Aug. 10, 1979

If granted: The following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Brazoria County of Texas	DEE-7645	08/03/79	Texas.
Charlotte St. Shell	DEE-7661	08/03/79	North Carolina.
D & K Coals, Inc.	DEE-7663	08/03/79	Virginia.
Garrett's Amoco	DEE-7659	08/03/79	West Virginia.
Lake Erie Patrol, Inc.	DEE-7644	08/03/79	Ohio.
Murphy's Chevron Standard	DEE-7670	08/03/79	Florida.
Nursery Park Gulf Service	DEE-7660	08/03/79	Pennsylvania.
Owens, Willie	DEE-7642	08/03/79	South Carolina.
Phil's Mini-Market	DEE-7671	08/03/79	Pennsylvania.
Town of Westport	DEE-6221	08/03/79	Connecticut.
Weaverville Shell	DEE-7662	08/03/79	North Carolina.
A. J. Leblanc Heating Co., Inc	DEE-7687	08/06/79	New Hampshire.
Anderson Gulf	DEE-7727	08/06/79	Connecticut.
Auburn Arco	DEE-7703	08/06/79	Massachusetts.
Benton Bros. Firm Express, Inc	DEE-7732	08/06/79	Florida.
Benton Brothers Firm Express	DEE-7789	08/06/79	Florida.
Bob's Auto & Marine	DEE-7716	08/06/79	New Hampshire.
Brookside Self Service	DEE-7715	08/06/79	New Hampshire.
Carlos Chevron Service	DEE-7676	08/06/79	California.
Carter & Towers Engineering	DEE-7698	08/06/79	Massachusetts.
Charles George Trucking Co.	DEE-7685	08/06/79	Massachusetts.
Christensen's Chubbuck Service	DEE-7633	08/06/79	Idaho.
Connecticut General Life Ins.	DEE-7699	08/06/79	Connecticut.
Dewey's Automotive Service Cen	DEE-7704	08/06/79	Massachusetts.
Duane's Lakeland Shell	DEE-7724	08/06/79	Virginia.
Ed's Garage, Inc.	DEE-7693	08/06/79	Connecticut.
Edward H. Spencer Inc.	DEE-7705	08/06/79	Massachusetts.
Elm Street Arco	DEE-7588	08/06/79	New Hampshire.
Falmouth Exxon	DEE-7719	08/06/79	Maine.
Feldman, Michael	DEE-7697	08/06/79	Maine.
Floreks Dairy Store	DEE-7726	08/06/79	Massachusetts.
Frank's Servicenter, Inc.	DEE-7873	08/06/79	South Carolina.
General Services Administration	DEE-7664	08/06/79	District of Columbia.
George W. Prescott Publishing	DEE-7696	08/06/79	Massachusetts.
Gloenco Newport, Inc.	DEE-7722	08/06/79	New Hampshire.
Hodgdon Sales & Service	DEE-7713	08/06/79	Vermont.
Imperial Service Station	DEE-7700	08/06/79	Massachusetts.
James R. Drummond, Inc.	DEE-7679	08/06/79	Louisiana.
Jim's 41 Shell Station	DEE-7682	08/06/79	Michigan.
John J. Nissen Baking Co., Inc.	DEE-7712	08/06/79	Massachusetts.

V 44 0 C 1979 UMI

Johnson's Garage, Inc	DEE-7708	08/06/79	Maine.
Jones Service Station	DEE-7701	08/06/79	Vermont.
Jordan's Exxon Service Center	DEE-7683	08/06/79	North Carolina.
M & S Family Enterprises	DEE-7876	08/06/79	Massachusetts.
Maiellan's Garage	DEE-7720	08/06/79	Vermont.
Midway Excavators, Inc	DEE-7675	08/06/79	New Hampshire.
Norwalk Cume Tire Co., Inc	DEE-7714	08/06/79	Connecticut.
Paquin's Garage	DEE-7692	08/06/79	Rhode Island.
Paxton Gulf Service	DEE-7702	08/06/79	Massachusetts.
R. W. Mathews & Sons	DEE-7711	08/06/79	Maine.
Randall Memorial Texaco, Inc	DEE-7691	08/06/79	Massachusetts.
Robert Winston Sunoco	DEE-7690	08/06/79	Massachusetts.
Bagamore Amoco	DEE-7695	08/06/79	Massachusetts.
Sanford Oil	DEE-7678	08/06/79	Oklahoma.
Shoppers Choice	DEE-7680	08/06/79	Tennessee.
Springfield Sugar & Products	DEE-7694	08/06/79	Connecticut.
Stowe Machine Company, Inc	DEE-7707	08/06/79	Connecticut.
The Country Mile	DEE-7709	08/06/79	New Hampshire.
The Gellatly Construction Co	DEE-7684	08/06/79	Connecticut.
Tolson Motors	DEE-7718	08/06/79	Massachusetts.
Town of Concord, Utah	DEE-7721	08/06/79	Utah.
Veterans Cab Co. of Newton, inc	DEE-7723	08/06/79	Massachusetts.
Village Mobil	DEE-7759	08/06/79	New Hampshire.
Wade Hampton Shell	DEE-7725	08/06/79	South Carolina.
Walker Oil Company, Inc	DEE-7735	08/06/79	Missouri.
Walls, Grover A	DEE-7681	08/06/79	Georgia.
Waterhouse Country Store	DEE-7717	08/06/79	New Hampshire.
Williams General Store	DEE-7706	08/06/79	Vermont.
Amerada Hess Corporation	DEE-7736	08/07/79	District of Columbia.
Broad & Parham Exxon	DEE-7742	08/07/79	Virginia.
City of Naples, Florida	DEE-7744	08/07/79	Florida.
Davison Dawn Donuts, Inc	DEE-7758	08/07/79	Michigan.
Newark Intermodal Truck Stop	OEE-7745	08/07/79	New Jersey.
Providence Hospital	DEE-7743	08/07/79	District of Columbia.
Spring Creek Stores	DEE-7533	08/07/79	Arizona.
Barnosky Oils, Inc	DEE-7777	08/08/79	District of Columbia.
C&C Service Station	DEE-7770	08/08/79	Rhode Island.
Carlson, Emory L	DEE-7764	08/08/79	Virginia.
Center 66	DEE-7774	08/08/79	Nebraska.
Dale's Shell Service	DEE-7790	08/08/79	Michigan.
Eggars, Oscars	DEE-7955	08/08/79	Kentucky.
Joe Donald's Amoco	DEE-7765	08/08/79	Pennsylvania.
Joe's Amoco	DEE-7767	08/08/79	Pennsylvania.
John C. Resetar Amoco	DEE-7766	08/08/79	Pennsylvania.
Link, Lloyd	DEE-7762	08/08/79	Tennessee.
Mitchell's Exxon	DEE-7768	08/08/79	Georgia.
Tri-Valley School District	DEE-7873	08/08/79	Pennsylvania.
Artemisa Shell Service	DEE-7772	08/09/79	Florida.
Heintz Oil Company, Inc	DEE-7773	08/09/79	North Dakota.
Kanet Corp dba Costa Mesa	DEE-7786	08/08/79	California.
Mid Coast Oil Sales	DEE-7778	08/09/79	Texas.
Town Pump, Inc	DEE-7771	06/09/79	Montana.
Airline Exxon	DEE-7808	08/10/79	Alabama.
Aldrich's Garage & Auto Body	DEE-7809	06/10/79	New Hampshire.
B & J Taxi, Inc	DEE-7815	08/10/79	Massachusetts.
Bob & Roy's Standard	DEE-7785	06/10/79	Minnesota.
Bob's Service Center	DEE-7810	08/10/79	Rhode Island.
Bob's Taxi Company, Inc	DEE-7812	08/10/79	Massachusetts.
Cities Service Company	DEE-7788	08/10/79	Louisiana.
City of Mayfield, Kentucky	DEE-7822	08/10/79	Kentucky.
Crossroads Gulf Service Stat	DEE-7806	08/10/79	Virginia.
Dekalb County School System	DEE-7820	08/10/79	Georgia.
Dennis Wesley Chevron Service	DEE-7807	08/10/79	California.
Draper Fuel Company, Inc	DEE-7710	08/10/79	New Hampshire.
Lake Hemet Muni Water Distrct	DEE-7787	08/10/79	California.
Lazarou Motors, Inc	DEE-7578	08/10/79	Maine.
Midwest City/Del City School	DEE-7819	08/10/79	Oklahoma.
Miller Oil Company	DEE-7818	08/10/79	District of Columbia.
Morgan's Exxon	DEE-7814	08/10/79	Maine.
Sage Creek Refining Company	DEE-7025	08/10/79	Wyoming.
Santa Fuel, Inc	DEE-7811	08/10/79	Connecticut.
Skogen's Standard	DEE-7816	08/10/79	Minnesota.
Tankersley's Service Center	DEE-7817	08/10/79	Alabama.
Village Arco	DEE-7813	08/10/79	Massachusetts.
West Canyon Mobil	DEE-7956	08/10/79	Oregon.

Items retrieved—115.

[FR Doc. 79-32310 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; August 6 Through August 10, 1979

Notice is hereby given that during the period August 6 through August 9, 1979 the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrived person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any filing or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 15, 1979.

Great Southern Oil & Gas Co., Inc., Shreveport, La., crude oil DXE-6729

Great Southern Oil & Gas Co., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the St. Martin Bank & Trust Company Lease for the benefit of the working interest owners at upper tier ceiling prices. On August 9, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's St. Martin Bank & Trust Company Lease.

Keystone Propane Service, Inc., Throop, Pa., propane DEE-2038

Keystone Propane Service, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 211.9. The exception request, if granted, would result in the issuance of an Order by the DOE assigning Keystone a new, lower-priced supplier of propane to replace its base period supplier, Pargas. On August 9, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be denied to Keystone.

Mobil Oil Corp., Ventura County, Calif., DEE-2210 crude oil

Mobil Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Mobil to sell at upper tier ceiling prices a portion of the crude oil produced from the Miley-Top-Intermediate Zone, Ferguson Lease, located in Ventura County, California. On August 6, 1979, the DOE issued a Proposed Decison and Order which determined that the exception request be granted and that Mobil be permitted to sell 78.42 percent of the crude oil produced from the lease at upper tier ceiling prices.

Monsanto Co., Houston, Tex., DXE-7621 crude oil

Monsanto Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which produces from the Hendrick "C" Property for the benefit of the working interest owners at upper tier ceiling prices. On August 9, 1979, the DOE issued a Proposed Decision and Order tentatively determined that an extension of exception relief should be granted with respect to the applicant's Hendrick "C" Property.

Raypak, Inc., Teledyne Laars, Westlake Village, Calif., North Hollywood, Calif., DEE-3439, DEE-3950 consumer products

Raypak, Inc. and Teledyne Laars filed Application for Exception from the provisions of 10 CFR, Part 430, the Energy Conservation Program for Consumer Products. The exception request, if granted, would permit the firms to make specified modifications in the energy efficiency and fuel utilization test procedures applicable to the finned copper tube type boilers which they manufacture. On August 10, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that the firms should be permitted to make certain modifications in the energy efficiency test procedures applicable to the finned copper tube type boilers which they manufacture.

V 44 0C 1979 UMI

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of August 6 Through August 10, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulations Activation Order No. 1. The exception request, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Rainbow Oils of San Angelo, Inc., DEE–5501, San Angelo, Texas.
Brent-West Car Wash, DEE–4531, W. Los Angeles, California.
Cottam Co., DEE–3277, St. George, Utah.
Palm Oil Co., DXE–5897, DXE–7461, DEL–7461, Washington, D.C.
Brown's Service, DEE–4672, Westerly, Rhode Island.
Bruder's Exxon, DXE–6319, Baltimore, Maryland.
Laveen Country Store, DEE–6660, Laveen, Arizona.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of August 6 Through August 10, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulations Activation Order No. 1. The exception request, if granted, would result in an increase in the firms' base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Midway Oil Corp., DEE–4496, Rutland, Vermont.
Tom & Jim's Service, DEE–5285, E. Lakewood, Connecticut.
Baker's Gulf, DEE–6879, Dallas, Texas.
Stemmon's Freeway Mobil Service, DEE–6880, Dallas, Texas.
Doussan Shell, Inc., DEE–6177; New Orleans, Louisiana.
Red Clay Creek Exxon, DXE–7347, Wilmington, Delaware.
Rolling Road Mobil, DEE–6609, Springfield, Virginia.
Seabrook Sunoco, DEE–4830, Seabrook, New Hampshire.
Vogelgesang's Travel Center, DEE–2616, St. Clair, Missouri.
Walker's Service, DEE–6495, Jacksonville, Florida
Bouquet Exxon, DEE–3074, Sangus, California.
Herco, Inc., DEE–3532, Hershey, Pennsylvania.
Joe's Car Wash, DEE–4144, Mesa, Arizona.
McKenney Tire Center, DEE–7290, S. Portland, Maine.

[FR Doc. 79-32311 Filed 10-19-79, 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of May 29 Through June 1, 1979

Notice is hereby given that during the week of May 29 through June 1, 1979, the Decisions and Orders summarized below were issued with respect to appeals and Applications for Exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions which were dismissed by the Office of Hearings and Appeals and the basis for the dismissal.

Requests for Exception

Energy Reserves Group, Inc. Wichita, Kans., DEE–2107 crude oil

Energy Reserves Group, Inc. (ERG) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil production from the Angelina Lumber Company D WIL A SU C Property, which is located in the North Bayou Cocodrie Field in Concordia Parish, Louisiana, at market prices. In considering the exception application, the DOE found that the operating costs incurred by ERG had increased to the point where the firm no longer had all economic incentive to continue production from the Angelina lease. Accordingly, the DOE determined that ERG should be permitted to sell at market prices 100 percent of the crude oil produced from the Angelina lease for the benefit of the working interest owners.

McAlester Fuel Co., Billings, Mont., DEE–2010 crude oil

McAlester Fuel Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the working interest owners to sell the crude oil produced from the Kelly Field Tyler Sand Unit at upper tier ceiling prices. In considering the request the DOE found that exception relief was necessary to provide the working interest owners with an incentive to continue production at the property. Accordingly, exception relief was granted.

Phillips Petroleum Co., Bartlesville, Okla., DEE–2169 crude oil

Phillips Petroleum Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would permit the firm to sell a portion of the crude oil produced from the Crone "C" Lease, located in Columbia County, Arkansas, at market prices. In considering the exception request, the DOE found that Phillips' operating costs had increased to the point where the firm no longer had an economic incentive to continue production from the Crone lease. On the basis of the criteria applied in previous Decisions, the DOE determined that Phillips should be permitted to sell at upper tier ceiling prices 65.18 percent of the crude oil produced from the Crone lease for the benefit of the working interest owners during the period February 13, 1979 through August 31, 1979.

Texaco, Inc., White Plains, N.Y., DEE–2170 crude oil

Texaco, Inc. filed an Application for Exception which, if granted, would permit the firm to sell the crude oil produced from the V. F. Semlek "C" lease, located in Crook County, Wyoming, at prices in excess of those permitted under 10 CFR 212.72. In considering the Application, the DOE found that the operating costs incurred by the working interest owners exceeded the revenues that they could obtain from sales of the crude oil. Accordingly, the DOE granted Texaco's request and permitted the firm to see 82.4 percent of the crude oil produced for the benefit of the working interest owners at upper tier ceiling prices.

Requests for Stay

Diamond Shamrock Corporation, Amarillo, Texas; DES–0420; DST–0420, motor gasoline

Diamond Shamrock Corporation filed an Application for Stay and an Application for Temporary Stay in which it requested that the provisions of a Temporary Assignment Order issued to the firm by the ERA be stayed pending a Decision on the merits of the firm's Appeal of that Order. Under the terms of the Temporary Assignment Order, Diamond was required to supply the Spruce Oil Company with 350,000 gallons of motor gasoline during the month of May 1979. In considering the stay request, the DOE concluded that the Order was procedurally defective because the ERA did not afford Diamond an opportunity to comment and that Diamond had made a very strong showing that it would prevail on the merits of its Appeal. Accordingly, the Diamond Application for Stay was granted.

Exxon Company, U.S.A., Houston, Texas; DST–0410 through DST–0417; DES–0410 through DES–0417, motor gasoline

Exxon Company, U.S.A. filed eight related Applications for Stay and Applications for Temporary Stay of the requirements of eight Redirection Orders issued to the firm by ERA Region VI. In those Orders, the ERA required Exxon to supply motor gasoline to eight wholesale purchaser-resellers located in Arkansas and Texas. In considering the stay requests, the DOE determined that Exxon had made a convincing showing that it would succeed on the merits of its Appeals since the Redirection Orders did not conform to the procedural requirements set forth in 10 CFR 211.107(c). Therefore, the eight Applications for Stay were granted.

Phillips Petroleum company, Bartlesville, Oklahoma; DST–5113; DES–5113, crude oil

Phillips Petroleum company requested a temporary stay and stay of its sales obligations under the Mandatory Crude Oil Buy/Sell Program (10 CFR 211.65). In considering the requests, the DOE concluded that Phillips had not shown that the operation of the Buy/Sell Program directly resulted in a serious hardship or gross inequity to it. The DOE pointed out that it was not clear that Phillips' low motor gasoline allocation fraction during 1979 directly resulted from its Buy/Sell Program obligations. In addition, the DOE noted that the requested relief would adversely affect other participants in the Buy/Sell Program. Accordingly, Phillips' stay requests were denied.

Supplemental Order

New York Petroleum Corporation, New Orleans, Louisiana; DRX–0169, crude oil

On January 19, 1979, the DOE issued a Decision and Order in response to an Appeal from a Remedial Order filed by New York Petroleum Corporation (NYPC). In the January 19 Decision and Order, the DOE found that the overcharge figure presented in the Remedial Order was excessive and that the firm's refund liability should be reduced. The adjustment which was made to NYPC's refund liability was inadvertently applied to the amount due Ashland Oil Inc. rather than to the refund amount due to Koch Oil Company. On its own motion, the DOE therefore issued a Supplemental Order correcting this error.

Petitions Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

The following firms filed Applications for Stay, Temporary Stay, and/or Interim Order of the provisions of Standby Regulation Activation Order No. 1. The stay requests, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Applications for Exception. The DOE issued Decisions and Orders which determined that the stay requests be granted:

Company Name, Location, and Case No.

C & B Exxon, Huntsville, AL; DEN–4520.
Cheatham Oil Co., Inc., Wewoka, OK; DEN–5597.
Clyde Oil Company, Ypsilanti, MI; DEN–3719.
Johnson's Arco Mini Market, Sunnyvale, CA; DES–3939.
Boggs Exxon, Jacksonville, FL; DEN–3105.

The following firm filed an Application for Stay of the provisions of the Motor Gasoline Allocation Regulations. The stay request, if granted, would result in an increase in the base period allocation of motor gasoline pending determination of the Application for Exception. The DOE issued a Decision and Order which determined that the stay request should be denied:

Company Name, Location, and Case No.

Waterbury Petroleum Products, Waterbury, CT; DES–3037.

The following firms filed Applications for Exception and/or Applications for Stay and/or Temporary Stay from the provisions of Standby Regulation Activation Order No. 1. After reviewing the material presented by these firms, the DOE issued Decisions and Orders which determined that each of these petitions should be dismissed without prejudice to a refiling at a later date:

Company Name, Location, and Case No.

Holston Oil Co., Inc., Johnson City, TN; DEE–2856.
Paul Cookson, Mitchellville, MD; DEE–3659.
Herb's Amoco, Washington, D.C.; DEE–3656.
Andrew D. Ramey; DEE–3637.
Terry Hedrick Chevron, Tustin, CA; DEE–3410.
Goldenwestn Chevron, Westminster, CA; DEE–3419.
Haskell Rodger, Tustin, CA; DEE–3978.
Ralphs Auto. Center, Dover, FL; DEE–3994.

Dismissals

The following submissions were dismissed without prejudice to a refiling at a later date:

Company name	Case No
Clyde Oil Company	DES–3719
King Petroleum Co	DEE–3794
OK Service Sales, Inc	DEE–4136
Southgate Oil Co., Inc	DEE–3264
Travelers Petroleum, Inc	DEE–4247; DES–4247
Waggoner Oil Co., Inc	DEE–4053
Desert Horizons, Inc	DEE–4068
Hoyt Oil Company	DEE–3434
Art's Amoco	DEE–3975
Blanco Car Center	DEE–4774
Bobber Auto Truck Plaza	DEE–4758; DST–4758
Bud (Raymond) Root	DEE–5444; DES–5444
C & M Gulf	DEE–4677
Carey's Gulf Service	DEE–4678
Cerroni's Gulf	DEE–5413
Chandler Gulf Service	DEE–4679
Christy's Market, Inc	DEE–5376
Circle R Stores	DEE–4890; DES–4890; DST–4890
Clarke's Amoco	DEE–5422
Crosby's Service Station	DEE–4337
Cut Rate Grocery	DEE–4593
D. R. Delk	DEE–4596
Derry Town Market	DEE–5679
Downtown Chevron	DEE–4695
Driscoll	DEE–4671
Edward J. Gagan	DEE–4693
Enfield Getty Station	DEE–4664
Fullerton Car Wash	DEE–5449; DST–5449
Galen E. Wilson Pet	DEE–3822
Gallagher's Amoco	DEE–5496
George Beall Mobil	DEE–4872
George Johnson	DEE–5548
Gilbert Lebovitz	DEE–4796
Green Field Standard	DEE–4489; DES–4489
Haynes Mobil Service	DEE–4429
Hess of Chicopee	DEE–4695
Industrial Turf, Inc	DEE–5775
James R. Fullerton	DEE–4614
Jeff Lawson Chevron	DEE–4873
John's Place	DEE–4460
K & S Oil Company	DEE–4898
Kansas City-East, Union Auto/Truck Stop	DEE–3622
Kenwood Citgo Station	DEE–2582; DES–2582
Leroy Tanner	DEE–4479
Loxtercamp Oil Co	DEE–2789
M. E. Holmer Arco	DEE–4884; DES–4884
Mel's Gulf	DEE–4902
Navy Exchange Service Station	DEE–4767
Newton's Exxon	DEE–5689
Nick's Arco & Mini-Market	DEE–4654; DES–4654
Northline Service	DEE–4769; DES–4769
Pak's Gas. Station & Grocery Store	DEE–4528; DES–4528
Paul Pasch	DEE–4413
Phil Engel Chevron	DEE–3757
Prather Windsor Village Gulf	DEE–4445
R. F. White Co., Inc	DEE–3119
Raymond E. Taylor	DEE–4766; DES–4766
Razorback Gulf	DEE–4904
Reynolds Exxon	DEE–4905
Roby's West Belt Mobil	DEE–5460
Ron's Shell Service	DEE–5443; DES–5443
Rozema's Standard	DEE–5462
S & S Texaco	DEE–4127
Salathe Oil Company	DEE–3519
Sam E. Crume	DEE–4780
Sanders Kerr McGee	DEE–4818
Saratoga "66"	DEE–4401
Selbyville Arco	DEE–5211; DES–5211
Steve's Amoco	DEE–5416
Tri-Ton, Inc	DEE–2723; DES–2723
Warrington Auto Service	DEE–4324
Wesco, inc	DEE–4747
Apponaug Gulf	DEE–4665
Cliff's Crestline Service	DEE–3935
James Helmuth Union	DEE–4701
Joe Hood's Texaco	DEE–4354
John's Service Center	DEE–3902
Steven's Superette	DEE–4284
Cheatham Oil Company	DST–0043
Concord Oil of Newport Inc	DEE–3203; DES–3203
Exxon Company, U.S.A.	DST–0423; DES–0423; DEA–0423; DST–0424; DES–0424, DEA–0424
Fed-Mart Stores, Inc	DEE–3702; DST–3702
Webber Oil Company	DEE–5164

V 44 0C 1 19 7 9 UMI

Company name	Case No.
A & P Mobil Station	DEE-3547
Columbia Pike Shell	DEE-2434; DES-2434
Comer Oil, Inc.	DEE-2428, DST-2428
Coy Burge Oil Company	DEE-2449
Drummond Oil Company, Inc.	DEE-2453
Fairhaven Sunoco	DEE-5701
Glider Oil Company	DEE-3190
Gov. Francis Mobil	DEE-5697
K & W Petroleum, Inc.	DEE-2778, DES-2778
Maritime Energy	DEE-4369; DST-4369
Morgan's Amoco Service	DEE-4893
Pasadena Shell	DEE-5950
Pfluger Service Station	DEE-3040; DES-3040
Ray Tucker Exxon	DEE-5464
Rockford Oil Company	DEE-2697
Ruffin Oil Company	DEE-2439; DES-2439
Scotland Oil Company	DEE-2441; DES-2441
Self Service	DEE-5688
Weisman, William	DEE-3770; DES-3770; DST-3770

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.s.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published looseleaf reporter system.

October 15, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 79-32312 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Orders; Week of September 4 through September 7, 1979

Notice is hereby given that during the week of September 4 through September 7, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before November 1, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before November 21, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 15, 1979.

Bayside Fuel Oil Depot Corporation, Brooklyn, New York DRO-0361, fuel oil

On September 5, 1979, Bayside Fuel Oil Depot Corporation, 510 Sackett Street, Brooklyn, New York 11231 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on July 26, 1979.

In the Proposed Remedial Order the Northeast District found that during November 1, 1973 through April 30, 1974, Bayside overcharged its customers for purchases of No. 2 heating oil.

According to the Proposed Remedial Order the Bayside Fuel Oil Depot violation resulted in $81,145.66 of overcharges.

Bayside Fuel Oil Corporation, Brooklyn, New York DRO-0362, fuel oil

On September 5, 1979, Bayside Fuel Oil Corporation, 1820 Cropsey Avenue, Brooklyn, New York 11214 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on July 26, 1979.

In the Proposed Remedial Order the Northeast District found that during November 1, 1973 through March 31, 1974, Bayside overcharged its customers for purchases of No. 2 heating oil.

According to the Proposed Remedial Order the Bayside Fuel Oil violation resulted in $112,345.21 of overcharges.

Koch Industries, Inc., Wichita, Kansas, DRO-0411, motor gasoline

On September 6, 1979, Koch Industries, Inc., P.O. Box 2256, Wichita, Kansas 67201 filed a Notice of Objection to an Amended Interim Remedial Order for Immediate Compliance (IROIC) which the DOE Office of Special Counsel, Southwest Refiner District issued to the firm on August 28, 1979.

In the IROIC the Office of Special Counsel found that from May 1, 1979 to July 3, 1979, Koch violated the provisions of 10 CFR 210.62(a) and 10 CFR Part 211 by failing to supply the Saturn Petroleum Company with motor gasoline. The IROIC directs Koch to supply Saturn with its May and June 1979 allocation entitlement of motor gasoline as reduced by the applicable allocation fractions, and to supply Saturn with its allocation entitlement of motor gasoline in subsequent months in accordance with the provisions of 10 CFR Parts 210, 211, and 212.

Memphis Aero Corporation, Memphis, Tennessee DRO-0244, aviation gasoline

On September 5, 1979, Memphis Aero Corporation, Memphis International Airport, Memphis, Tennessee 38116 filed a Notice of Objection to a Proposed Remedial Order that the DOE Region IV Office of Enforcement issued to the firm on August 21, 1979.

In the Proposed Remedial Order the Region IV Office found that during the period November 1, 1973 to September 1, 1976 Memphis Aero Corporation charged prices for aviation gasoline and jet fuel that exceeded its maximum lawful price under the provisions of 10 CFR 212.93.

According to the Proposed Remedial Order the Memphis Aero Corporation violation resulted in $755,301.48 of overcharges.

Wellen Oil, Inc., Jersey City, New Jeresey DRO-0360, fuel oil

On September 4, 1979, Wellen Oil, Inc., located on the Hackensack River, Foot of Howell Street, Jersey City, New Jersey 07306 filed a Notice of Objection to a Proposed Remedial Order which the DOE Northeast District Office of Enforcement issued to the firm on July 31, 1979.

In the Proposed Remedial Order the Northeast District found that during November and December 1973 Wellen failed to calculate its prices for sales of No. 2 heating oil to its barge class purchasers in accordance with 6 CFR § 150.359.

According to the Proposed Remedial Order the Wellen Oil, Inc. violation resulted in $849,713 of overcharges.

[FR Doc. 79-32313 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Decisions and Orders; July 30 through August 3, 1979

Notice is hereby given that during the period July 30 through August 3, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 15, 1979.

Proposed Decisions and Orders

Crystal Oil Co., application for exception, DEE-2206

Crystal Oil Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Shongaloo (West Segment) Petit Sand Unit located in Webster Parish, Louisiana, at upper tier ceiling prices. On July 31, 1979, the DOE issued A Proposed Decision and Order and tentatively determined that exception relief should be granted in part.

J&W Refining, Inc., Dallas, Tex., crude oil, DEX-0010, FEX-0172

In accordance with Decisions and Orders issued to J&W Refining, Inc. which granted the firm exception relief from the provisions of 10 CFR 211.67 (the Entitlements Program), the firm submitted actual financial data for its 1977 and 1978 fiscal years. On July 30, 1979, after reviewing the level of exception relief granted to J&W, the DOE issued a Proposed Decision and Order which determined that J&W should be required to purchase $1,779,371 of entitlements.

Rex Monahan, Sterling, Colo., crude oil, DEE-2161

Rex Monahan filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Basin Unit located in Campbell County, Wyoming, at upper tier ceiling prices. On July 31, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Application for Exception.

Rex Monahan, Sterling, Colo., crude oil DEE-2188

Rex Monahan filed and application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Sandbar Unit located in Campbell County, Wyoming, at upper tier ceiling prices. On July 31, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Application for Exception.

Oneida Heater Co., application for exception, DEE-4101

Oneida Heater Company filed an application for Exception from the provisions of 10 CFR, Part 430, the Energy Conservation Program for Consumer Appliances. The requested relief, if granted, would permit the firm to market its combination wood/gas and wood/oil furnaces without regard to the applicable testing requirements of Part 430, Appendix N. On July 31, 1979, the DOE issued a Proposed Decision and Order in which it tentatively determined that the exception relief be granted.

Peerless Petrochemicals, Inc., Washington, D.C., crude oil, DEE-1422

Peerless Petrochemicals, Inc., filed an Application for Exception from the provisions of 10 CFR 211.67(i)(4) which, if granted, would result in the issuance of an order eliminating the differential for foreign crude oil mandated under that section and thereby increasing the entitlement benefits afforded to the firm. On July 30, 1979 the DOE issued a Proposed Decision and Order in which it tentatively determined to grant the firm's request for the period from November 1978 through July 1979.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 30 through August 3, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Duffy's Car Wash, DEE-4940, Newport, KT.
G. M. Pet. Distributors, DEE-4513, Billings, MT.
State of New Jersey, DEE-7485, DXE-7169, Woodbridge, NJ.
Brian's Auto Service, DEE-3916, Berlin CT.
Gillett Cement Products, Inc., DEE-3548, Gillett, WI.
Strickling Exxon, DEE-3668, Bryn Mawr, PA.
Alvin P. Barrington, DEE-4869, Yucaipa, CA.
Tony's Texaco, Inc., DEE-6341, Miami, FL.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 30 through August 3, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Maplewood Conoco Service, DEE-5448, DST-5448, Arvada, CO.
Munro Pet. & Terminal Corp., DEE-4810, Biloxi, MS.
Rancho Murieta Properties, Inc., DEE-5782, Rancho Murieta, CA.
128 Tire Sales, DEE-5850, Reading, MS.
Ocean, Inc., DEE-4555, Ocean City, MD.
University Drive Service, DEE-5180, Fargo, ND.

[FR Doc. 79-32314 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders Filed; Week of August 27 through August 31, 1979

Notice is hereby given that during the week of August 27 through August 31, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before November 1, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., October 15, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Gulf Energy & Development Corp., Dallas, Tex. DRO-0356, condensate

On August 28, 1979, Gulf Energy & Development Corporation filed a Notice of Objection to a Proposed Remedial Order which the Southwest Enforcement District of the Department of Energy issued to Gulf Energy on August 6, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period September 1, 1973 through December 31, 1975 Gulf Energy violated the DOE price regulations in connection with the firm's sales of condensate. According to the Proposed Remedial Order, Gulf Energy overcharged its customers $86,095.68, which it would be required to refund in the event the Proposed Remedial Order is issued in final form.

Sierra Petroleum Co., Inc., Wichita, Kans., DRO-0351, crude oil

On August 27, 1979, Sierra Petroleum Company, Inc., (Sierra) of Wichita, Kansas filed a Notice of Objection to a Proposed Remedial Order which the DOE Central

Enforcement District issued on August 3, 1979. In the Proposed Remedial Order the Enforcement District found that during the period from November 1973 through January 1976, Sierra committed various pricing violations in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Sierra's violations resulted in overcharges to its customers of $167,475.05.

[FR Doc. 79-32316 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of June 8 through June 15, 1979

Notice is hereby given that during the week of June 8, 1979 through June 15, 1979, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Dated: October 15, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

List of Cases Received by the Office of Hearings and Appeals

[Week of June 8, 1979, through June 15, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 8, 1979	CIBRO Petroleum Products, Inc., Albany, N.Y.	DPI-0038	Exception from base fee requirements. If granted: CIBRO Petroleum Products, Inc., would receive an exception from the provisions of 10 CFR 213.22(a) with regard to two recent sales by the firm of crude oil.
June 8, 1979	Exxon Company, U.S.A., Washington, D.C.	DEA-0452 DES-0452 DST-0452	Appeal of ERA decision and order; request for stay; request for temporary stay. If granted: The Economic Regulatory Administration's May 29, 1979 Decision and Order regarding Exxon Company's supply obligations to E. J. Flemister & Son Oil Company would be rescinded. Exxon Company would receive a temporary stay and stay of the Decision and Order pending a final determination on its Appeal.
June 8, 1979	Hill City Standard, Hill City, S. Dak	DEE-6367	Price exception (section 212.93). If granted: Hill City Standard would receive an exception from the provisions of 10 CFR Part 212.93 which would permit the firm to increase its prices for motor gasoline.
June 11, 1979	Amerada Hess Corp., Williams County, N. Dak	DEE-6417	Price exception (section 212.73). If granted: Amerada Hess Corporation would be permitted to sell the crude oil produced from the Ives-Stenbak Silurian Unit, located in Williams County, North Dakota, at upper tier ceiling prices.
June 11, 1979	Commonwealth Oil Refining Co., Inc., Washington, D.C.	DPI-0039 DES-0216	Exception to the base fee requirement. If granted: Commonwealth Oil Refining Co., Inc., would be permitted to import crude oil on a fee-exempt basis. The firm would receive a stay should the license fees be reimposed.
June 11, 1979	J. S. Eledge Oil Co., Inc. & J. C. Young Oil Co. Sevierville, Tennessee; Dayton, Tennessee, respectively.	DEE-6443 DEE-6454 DES-6443 DES-6454	Exception to change supplier; request for stay. If granted: J. S. Eledge Oil Company, Inc., and J. C. Young Oil Company would be assigned a new base period supplier of motor gasoline to replace their present supplier, Publix Oil Company, Inc. A Stay would be granted pending a final determination on their request for an Exception.
June 11, 1979	Shell Oil Company, Houston, Tex.	DEA-0453 DES-0453 DST-0453	Appeal of DOE temporary assignment order; request for stay; request for temporary stay. If granted: The DOE's June 1, 1979 Temporary Assignment Order regarding Shell Oil Company's supply obligations to Southwest Research Institute for the month of June would be rescinded. Shell Oil Company would receive a temporary stay and stay of the Temporary Assignment Order pending a final determination on its Appeal.
June 12, 1979	Amoco Oil Co., Chicago, Ill.	DES-0217 DST-0217	Request for stay and temporary stay. If granted: Amoco Oil Company would be granted a Stay and Temporary Stay of the provisions of 10 CFR 212.83 regarding the pricing of gasohol.
June 12, 1979	Dashner Gas Service Co., Red Bud, Ill.	DEE-6456	Exception to change supplier. If granted: Dashner Gas Service Company would be assigned to a new base period supplier of propane gas to replace its present supplier, Petrolane, Inc.
June 12, 1979	First Minute Markets, Inc., Rocky Mount, Va.	DEE-6462	Exception to change supplier. If granted: First Minute Markets, Inc. would be granted a new supplier to replace its present base period supplier, Webb Oil Corp.
June 12, 1979	R. W. Tyson Producing, Jackson, Miss.	DEE-6515 through DEE-6517	Price exception (section 212.73). If granted: R. W. Tyson Producing would be permitted to sell crude oil produced from the Stevens' Lease No. 1 (Stevens' wells Nos. 4, 5, 6), Lease No. 2 (Stevens' wells Nos. 1 and 2), and Lease No. 3 (Stevens' well No. 3) located in Perry County, Mississippi, at market price levels.
June 12, 1979	Walker, Laurence C., Nacogdoches, Tex.	DFA-0451	Appeal of information request denial. If granted: The DOE's May 8, 1979 Information Request Denial would be rescinded and Laurence C. Walker would be granted access to certain DOE Documents.
June 13, 1979	Casey Snyder, Cheverly, Md.	DFA-0459	Appeal of an information request denial. If granted: The Department of Energy's June 5, 1979 Information Request Denial would be rescinded and Casey Snyder would receive a statement of the reasons why he was not offered a position as an Outdoor Recreation Planner with the Federal Energy Regulatory Commission.
June 13, 1979	State of Illinois, Chicago, Ill.	DFA-0455	Appeal of information request denial. If granted: The DOE's June 4, Information Request Denial would be rescinded and the State of Illinois would receive access to certain DOE data.
June 13, 1979	Fusion Energy Foundation, New York, N.Y.	DFA-0454	Appeal of information request denial. If granted: The DOE's April 10, 1979 Information Request Denial would be rescinded and the Fusion Energy Foundation would be granted access to certain DOE data.
June 14, 1979	Class exception proceeding governing extension of allocation relief.	DEE-6525	Allocation exception. If granted: A Class Exception would be granted regarding extension of relief previously granted in certain motor gasoline allocation cases.
June 14, 1979	R. W. Tyson Producing Co., Inc., Perry County, Miss.	DXE-6554 through DXE-6557	Extension of relief granted in R. W. Tyson Producing Company, Inc., 5 DOE Par. ——— (April 27, 1979. If granted: R. W. Tyson Producing Company, Inc. would be permitted to continue to sell crude oil from Carter No. 1 Well, Vickers No. 3 Well, Federal Land Bank No. 1 Well, And McCann No. 1 Well located in Perry County, Mississippi at upper tier ceiling prices.
June 15, 1979	Exxon Company, U.S.A., Houston, Tex.	DEA-0456 DES-0456 DST-0456	Appeal of DOE temporary assignment order; request for stay; request for temporary stay. If granted: The DOE's June 6, 1979 Temporary Assignment Order regarding Exxon Company, U.S.A.'s supply obligations to U.S. Oil Company would be rescinded. Exxon Company, U.S.A. would receive a Stay and Temporary Stay of the Region V Temporary Assignment Order of June 6, 1979, pending final determination of its Appeal.
June 15, 1979	Gulf States Oil & Refining Co., Houston, Tex.	DEA-0460	Appeal of ERA allocation decision and order. If granted: The Economic Regulatory Administration's Decision and Order issued on May 16, 1979 to Gulf States Oil & Refining Co. would be modified with respect to the calculation of the relief granted.

List of Cases Received by the Office of Hearings and Appeals—Continued

[Week of June 8, 1979, through June 15, 1979]

Date	Name and location of applicant	Case No.	Type of submission
June 15, 1979	Happy Valley Exxon, Lochgelly, W.Va.	DEA-0483	Appeal of assignment order. If granted: The Economic Regulatory Administration Region III's Assignment Order would be modified.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

[Week of June 8 through June 15, 1979]

If granted: the following firms would receive an exception from the activation of the standby petroleum product allocation regulations with respect to motor gasoline.

Anaheim Car Wash	DEE-6363	06/08/79	California.
Ardell's Mini Mart	DEE-6379	06/08/79	Washington.
Beacon of Sheepshead Bay Inc.	DEE-6370	06/08/79	New York.
Bubble Car Wash (Sacramento)	DEE-6353	06/08/79	California.
Bubble Machine Car Wash (CARMI)	DEE-6354	06/08/79	California.
C & R Riverside Motors	DEE-6785	06/08/79	Connecticut.
Cary Stanley Texaco	DEE-6371	06/08/79	California.
Cornell	DEE-6373	06/08/79	Colorado.
D V Exxon	DEE-6372	06/08/79	Colorado.
Fuel Oil Supply & Terminaling	DEE-6368	06/08/79	District of Columbia.
Gene's Market	DEE-6364	06/08/79	Virginia.
Gunn's Award Tune-up Center	DEE-6385	06/08/79	Ohio.
Interstate Gulf	DEE-6375	06/08/79	Arkansas.
Irvingate Shamrock	DEE-6374	06/08/79	Texas.
Jim Davis Chevron	DEE-6359	06/08/79	California.
Jim's Texaco Service	DEE-6428	06/08/79	Washington.
Kawell Motors, Inc.	DEE-6362	06/08/79	Wisconsin.
Keltner, D. W.	DEE-6386	06/08/79	California.
Linn Co-operative Oil Co.	DEE-6369	06/08/79	Iowa.
Los Osos Petroleum Products	DEE-6376	06/08/79	California.
Marshall's American Service	DEE-6368	06/08/79	Pennsylvania.
Martin, John	DEE-6392	06/08/79	California.
McCann's Texaco	DEE-6378	06/08/79	Texas.
Medical Center Texaco	DEE-6381	06/08/79	Texas.
Meek, William J., Jr.	DEE-6357	06/08/79	Texas.
Mideford Exxon Station	DEE-6384	06/08/79	California.
Midway Exxon Service	DEE-6365	06/08/79	Colorado.
North Eaton Shell	DEE-6382	06/08/79	Michigan.
Otis Jones Oil Company, Inc.	DEE-6355	06/08/79	Georgia.
Pocahontas Fuel Stores-Champion	DEE-6361	06/08/79	Virginia.
Prospect Auto Repair, Inc.	DEE-6383	06/08/79	Massachusetts.
R P Layton's Mobile Service Sta	DEE-6360	06/08/79	Texas.
Reilly's Coin-op Car Wash	DEE-6356	06/08/79	California.
Stetler's Texaco	DEE-6358	06/08/79	Texas.
Thomco #11	DEE-6377	06/08/79	Oklahoma.
U.S. Oil Company	DEE-6387	06/08/79	Wisconsin.
Vic's Shell	DEE-6389	06/08/79	California.
A-1 Exxon	DEE-6405	06/11/79	California.
Allied Oil Co.	DXE-6455	06/11/79	Michigan.
Bay Export Services	DEE-6419	06/11/79	California.
Big Jeff's Car Wash	DEE-6427	06/11/79	California.
Bill McCord's Texaco	DEE-6431	06/11/79	Oregon.
Bill Moore's Exxon	DEE-6399	06/11/79	Louisiana.
Boyd's Texaco	DEE-3436	06/11/79	Texas.
BRD. of Cty. Rd. Coorns. of Ken	DEE-6425	06/11/79	Michigan.
C & J Self Service	DEE-1974	06/11/79	Texas.
C. E. Kerlin Gulf Service	DEE-6410	06/11/79	Louisiana.
Cando Oil & Gas Co.	DEE-6430	06/11/79	Texas.
Champion International Corp	DEE-6453	06/11/79	Montana.
Cloverleaf Gulf	DEE-6308	06/11/79	Arkansas.
Crites Oil Co., Inc.	DEE-6403	06/11/79	Texas.
Cummings Exxon	DEE-6440	06/11/79	Maine.
Dave's Gen. Store	DEE-6437	06/11/79	Maine.
Dollar Rent-A-Car	DEE-6401	06/11/79	California.
Douglas Shell Service	DEE-6421	06/11/79	California.
Downtown Standard	DEE-6415	06/11/79	Mississippi.
E. H. Meiske	DEE-6423	06/11/79	Texas.
Fair, B. D.	DEE-3396	06/11/79	Arkansas.
Farwest Towng. Inc.	DEE-6429	06/11/79	California.
Foster Oil Company	DEE-6414	06/11/79	Wisconsin.
Gabbert Oil Co.	DEE-6422	06/11/79	Michigan.
Giggey's Exxon	DEE-6439	06/11/79	Maine.
Gunther, Francis A.	DEE-6396	06/11/79	California.
Hank's Standard Service Station	DEE-6406	06/11/79	Wisconsin.
Holmes Mobil Service	DEE-6441	06/11/79	California.
Jack's Texaco & U-Haul	DEE-6397	06/11/79	New Jersey.
K & K Pre-cast Mfg. Co.	DEE-6424	06/11/79	California.
Kate's Mini Store	DEE-6436	06/11/79	Maine.
Lander's Chevron	DEE-6432	06/11/79	Kentucky.
Macbean Country Market	DEE-6438	06/11/79	Maine.
McKay's Country Store	DEE-6433	06/11/79	Maine.
Milt's Seafood Plant	DEE-6409	06/11/79	Texas.
Minerva Exxon & Grocery	DEE-6412	06/11/79	Texas.
Mosher Gateway Grocery	DEE-6413	06/11/79	Texas.
P F & E Oil Company	DEE-6411	06/11/79	Texas.
Petroleum Marketing Company	DEE-6407	06/11/79	Oklahoma.
Pittman-Witherington Oil Co.	DEE-6416	06/11/79	Arkansas.

V 44 OC 1 1979 UMI

Pronto Food Stores	DEE-6426	06/11/79	Missouri.
S & J General Store	DEE-6402	06/11/79	North Carolina.
Sarko Equipment, Inc.	DEE-6420	06/11/79	Michigan.
Selbyville Arco Service Station	DEE-6398	06/11/79	Delaware.
Stan-Ann Oil Company	DEE-6408	06/11/79	Texas.
Travaglino, J. A.	DEE-6442	06/11/79	Connecticut.
Treadwell's Exxon	DEE-6434	06/11/79	Maine.
Tupper's Exxon	DEE-6435	06/11/79	Maine.
Turner's Grocery	DEE-3169	06/11/79	Kentucky.
Van Natter, Harry F.	DEE-3159	06/11/79	Texas.
Van Nuys Publishing Co.	DEE-6254	06/11/79	California.
Walters North Bellmore	DXE-6662	06/11/79	New York.
Wright's Phillips 66	DEE-1986	06/11/79	Texas.
Augusta Mall Gulf Service	DEE-6481	06/12/79	Georgia.
B & T Gulf	DEE-6448	06/12/79	Florida.
Belcher Exxon Service Station	DEE-6502	06/12/79	Louisiana.
Bingo Exxon	DXE-6472	06/12/79	Alabama.
Bruce's Service Center	DEE-6481	06/12/79	California.
Burgman Supply Company	DEE-6446	06/12/79	Florida.
Childers Oil Co., Inc.	DEE-6491	06/12/79	West Virginia.
Cotten Service Stations & Rental	DEE-6464	06/12/79	Texas.
Cranford's Groceries	DEE-6493	06/12/79	Arkansas.
D. Hubbard & Son	DEE-6509	06/12/79	Kentucky.
E. W. Massey Gulf Service	DEE-3996	06/12/79	Texas.
Eddie & Mike's Sunoco	DEE-6487	06/12/79	Massachusetts.
Eddie's Auto Truck Plaza	DEE-6480	06/12/79	Pennsylvania.
El Sineritti, Joseph	DEE-6458	06/12/79	California.
Freeman's Mobil Service Center	DEE-6501	06/12/79	Missouri.
Front Range Exxon Service	DEE-6484	06/12/79	Colorado.
Goodrich Oil Co.	DEE-6487	06/12/79	California.
Great Lakes Development Co.	DEE-6465	06/12/79	California.
Gunter's Country Store	DEE-6483	06/12/79	North Carolina.
High Street Amoco	DEE-6444	06/12/79	Virginia.
Highland Gulf	DEE-6476	06/12/79	Louisiana.
Howard Self Service Oil Co.	DEE-6452	06/12/79	Minnesota.
Iacobellis, Sam F.	DEE-6457	06/12/79	California.
Jack Russell Oil Co., Inc.	DEE-6470	06/12/79	Florida.
Johnny's Sunoco Service	DEE-6450	06/12/79	Massachusetts.
Keystone Arco	DEE-6486	06/12/79	Nevada.
Keystops, Inc.	DEE-6475	06/12/79	Kentucky.
Kimball, H. M.	DEE-6489	06/12/79	Louisiana.
Main Street Arco	DEE-6477	06/12/79	Massachusetts.
Mainland Tire & Appliance Co.	DEE-6451	06/12/79	Texas.
Monte Rio Chamber of Commerce	DEE-6459	06/12/79	California.
Montgomery, Lytal, Reiter, Denney	DEE-6445	06/12/79	Florida.
Mutual Gas-A-Rama, Inc.	DEE-6490	06/12/79	Massachusetts.
Norm's Exxon	DEE-6447	06/12/79	California.
Ozarks Petroleum Service	DEE-6488	06/12/79	Missouri.
Parkmont Amoco	DEE-6496	06/12/79	Maryland.
Peacock's Super Kwik Market	DEE-6482	06/12/79	Maryland.
Queen City Car Wash	DEE-6479	06/12/79	California.
R. P. Layton's Mobil	DEE-6494	06/12/79	Texas.
Reece's Exxon	DEE-6460	06/12/79	California.
Robertson Texaco	DEE-6492	06/12/79	Texas.
S & S Mobil	DEE-6449	06/12/79	California.
Sass, James	DEE-6474	06/12/79	California.
Speedy Wash & Gas	DEE-6497	06/12/79	Louisiana.
Spessum Grocery	DEE-6463	06/12/79	Louisiana.
Stern Oil Co., Inc.	DEE-6478	06/12/79	South Dakota.
Stroud's Fuel Oil Co.	DEE-6471	06/12/79	Florida.
Texas Gulf Gas Corp.	DEE-6466	06/12/79	Texas.
Walker's Service Station	DEE-6495	06/12/79	Florida.
Wetherington & Houser Service	DEE-6473	06/12/79	Arkansas.
Wherrell Oil Co., Inc.	DEE-6498	06/12/79	Florida.
Charlie's Amoco Service Station	DEE-6500	06/13/79	Maryland.
Craig, Warren H. Mrs.	DEE-6504	06/13/79	Indiana.
Georgetown Chevron	DEE-6503	06/13/79	Georgia.
Hills Chevron	DEE-6510	06/13/79	Mississippi.
Hyster Company	DEE-6514	06/13/79	California.
J. E. Dewitt, Inc.	DEE-6508	06/13/79	California.
Jarmon's Bridge Texaco Service	DEE-6513	06/13/79	Maryland.
Kiawah Island	DEE-6499	06/13/79	South Carolina.
Mowhirter Distributing Co.	DEE-6506	06/13/79	California.
Polpet, Inc.	DEE-6507	06/13/79	California.
Rocket Rent-A-Car	DEE-6505	06/13/79	California.
Urbano's	DEE-6512	06/13/79	California.
Weatherite	DEE-6511	06/13/79	California.
A. G. Inc. Town Line Service	DEE-6541	06/11/79	Massachusetts.
Allstar Nutrition Center	DEE-6529	06/14/79	Colorado.
Altavista Minute Markets, Inc.	DEE-6523	06/14/79	Virginia.
Amoco Quik-Sic Shoppe (S. Broadway)	DEE-6531	06/14/79	Colorado.
B-B Oil Co., Inc. (Search, Ar.)	DEE-6547	06/14/79	Arkansas.

B-B-F Oil Co., Inc. (Pine Bluff)	DEE-6548	06/14/79	Arkansas.
Ca. Dept. of Transportation	DEE-6527	06/14/79	California.
Clark's Exxon	DEE-6520	06/14/79	Maryland.
Class Exception	DEE-6525	06/14/79	.
Doyle, Leonard	DEE-6542	06/14/79	Massachusetts.
Edwards Gulf Service Station	DEE-6550	06/14/79	Texas.
Emerson, Joe	DEE-6510	06/14/79	Arkansas.
Federal Express Corp.	DEE-6526	06/14/79	Tennessee.
Firestone Test Center	DEE-6518	06/14/79	Texas.
Fowler Texaco	DEE-6524	06/14/79	Texas.
George Adamian Texaco	DEE-6521	06/14/79	California.
Homax Oil Sales, Inc.	DEE-6174	06/14/79	Wyoming.
Jerry's Service & Auto Parts	DEE-7137	06/14/79	California.
Lakewood Sunoco	DEE-6544	06/14/79	North Carolina.
MacArthur Drive Mobil	DEE-6519	06/14/79	Texas.
McDermitt Mine	DEE-6552	06/14/79	Nevada.
Quik-Six #3 (third)	DEE-6536	06/14/79	Colorado.
Quik-Six #9 (Coffman)	DEE-6537	06/14/79	Colorado.
Quik-Six Shoppe (Dayton)	DEE-6533	06/14/79	Colorado.
Quik-Six Shoppe (E. Alameda)	DEE-6533	06/14/79	Colorado.
Quik-Six Shoppe (E. Colfax)	DEE-6534	06/14/79	Colorado.
Quik-Six Shoppe (W. Colfax)	DEE-6540	06/14/79	Colorado.
Quik-Six Shoppe (Wadsworth)	DEE-6538	06/14/79	Colorado.
Quik-Six Shoppe #4(Pecos)	DEE-6530	06/14/79	Colorado.
Quik-Six Shoppe (N. Washington)	DEE-6539	06/14/79	Colorado.
Richards Oil Co.	DXE-6549	06/14/79	North Carolina.
Rose Oil Co.	DEE-6522	06/14/79	Idaho.
Royal Equipment Co., Inc.	DEE-6404	06/14/79	Georgia.
Soukup, Albert V.	DEE-6553	06/14/79	Colorado.
T & D Arco	DEE-6551	06/14/79	Rhode Island.
Trusesdell's Texaco	DEE-6545	06/14/79	New York.
Van's Grocery	DEE-7038	06/14/79	Arkansas.
Wiggin's Standard	DEE-6532	06/14/79	Colorado.
Abraham, Robert S.	DEE-6574	06/15/79	Texas.
Applewood Exxon Service	DEE-6567	06/15/79	Colorado.
Brown Ferns, Inc.	DEE-6571	06/15/79	Louisiana.
Brusly Exxon	DEE-6561	06/15/79	Louisiana.
Chalmette Shell	DEE-6568	06/15/79	Louisiana.
County of Louisa	DEE-6558	06/15/79	Virginia.
Digi-Data Corporation	DEE-6562	06/15/79	Maryland.
Fontana Car Wash	DEE-6564	06/15/79	California.
Lester's "66"	DEE-6573	06/15/79	Oklahoma.
Martinez Exxon Service	DEE-6563	06/15/79	Florida.
Perris Valley Service	DEE-6565	06/15/79	California.
Rockside & 21 Shell	DEE-6559	06/15/79	Ohio.
Stephan Oil Co.	DEE-6546	06/15/79	Kansas.
Stuckey's, Inc.	DEE-6570	06/15/79	District of Columbia.
Surry Lane Service Station	DEE-6566	06/15/79	New York. 195

Items Retrieved—207.

[FR Doc 79-32317 Filed 10-18-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1342-2]

Approval of PSD Permit to Norton Co.

Notice is hereby given that on September 10, 1979 the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to Norton Company for approval to construct a vitrified bond plant and bauxite pellet dryer in Worcester, Massachusetts. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations (40 CFR Part 52.21), subject to certain conditions, including:

1. Construction and operation shall comply with all requirements of approval orders issued by the Massachusetts Department of Environmental Quality Engineering on September 13, 1978, May 16, 1979, and May 25, 1979.

2. This permit may be subject to reevaluation as a result of a final decision to be issued in the case of *Alabama Power Company* vs. *Douglas M. Costle* (78-1006 and consolidated cases).

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before December 18, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Room 1903, JFK Federal Building, Boston, Massachusetts 02203.

Department of Environmental Quality Engineering, Air and Hazardous Waste Division, 600 Washington Street, Boston, Massachusetts 02211.

Dated: October 10, 1979.

William R. Adams, Jr.,

Regional Administrator, Region 1.

[FR Doc. 79-32296 Filed 10-18-79; 8:45 am]

BILLING CODE 6560-01-M

V 44 O C 19 79 UMI

[FRL 1342-1]

Approval of PSD Permit to the City of Cranston, R.I.

Notice is hereby given that on September 10, 1979, the Environmental Protection Agency issued a Prevention of Significant Deterioration (PSD) permit to the City of Cranston, Rhode Island for approval to contruct the sewage sludge incinerators at the Cranston Wastewater Treatment Facility. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations (40 CFR Part 52.21), subject to certain conditions, including:

1. The maximum design capacity of the existing incinerator and incinerator to be purchased shall not exceed a combined maximum dry solids input of 138,000 lbs/day.

2. Manufacturer's design specifications for the sewage sludge incinerator and venturi scrubber shall be submitted to EPA.

3. Construction and operation of the Sewage Sludge Incinerators shall comply with all requirements of the approval order to be issued by the Rhode Island Department of Environmental Management.

4. This permit may be subject to reevaluation as a result of a final decision to be issued in the case of *Alabama Power Company* vs. *Douglas M. Costle* (78-1006 and consolidated cases).

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the First Circuit Court of Appeals. A petition for review must be filed on or before December 18, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Environmental Protection Agency, Region I, Air Branch, Room 1903, JFK Federal Building, Boston, Massachusetts 02203

Department of Environmental Management, Cannon Building, Room 204, 75 Davis Street, Providence, Rhode Island 02908.

Dated: October 10, 1979.

William R. Adams, Jr.,

Regional Administrator, Region I.

[FR Doc. 79-32297 Filed 10-18-79; 8:45 am]

BILLING CODE 6560-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Equal Employment Opportunity in the Federal Government

AGENCY: Equal Employment Opportunity Commission.

ACTION: Notice of Resolution.

Resolution

The Commission, recognizing the value of the investigative procedures developed under the Pilot Program for Investigating Federal EEO Complaints (44 FR 40496, July 11, 1979), resolves that:

The Commission shall offer, to all agencies requesting Commission investigations of complaints which meet the criteria set forth in EEOC Management Directive 401 (June 5, 1979), the utilization of the special investigative procedures developed under the Pilot Program.

The Director of the Technical Guidance Division, Office of Field Services, may execute, with any requesting agency wishing to have the Commission conduct an investigation using the Pilot Program procedures, an agreement which provides, inter alia, that (1) the Commission conduct the investigation using the procedures developed under the Pilot Program, including an investigative hearing; and (2) the agency adopt as its proposed disposition of the complaint the Commission's recommended disposition unless within 30 days after the agency receives the investigative file and recommended disposition the complaint has been informally adjusted in accordance with § 1613.217(a), or the agency has notified the complainant of its own proposed disposition in accordance with § 1613.217(b).

In order to inform complainants and others of agency adoption of the special investigative procedures by agreement with the Commission, the Commission will publish a list of agencies which have agreed to the use of the procedures, on a quarterly basis until the close of the Pilot Program.

FOR FURTHER INFORMATION CONTACT: John Rayburn, Director, Technical Guidance Division, Office of Field Services, EEOC, 2401 E Street, NW., Washington, D.C. 20506, (202) 634-6855.

Signed at Washington, D.C., this 9th day of October 1979.

For the Commission.

Eleanor Holmes Norton,

Chair.

[FR Doc. 79-32214 Filed 10-18-79; 8:45 am]

BILLING CODE 6570-06-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Regulation Z; Joint Notice of Statement of Enforcement Policy on Behalf of Its Constituent Agencies

AGENCIES: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

ACTION: Proposed Amendments to the Statement of Enforcement Policy—Regulation Z.

SUMMARY: The Uniform Guidelines for Enforcement of Regulation Z were adopted, effective January 4, 1979, by the Federal agencies responsible for supervising depository institutions. The agencies believed that Guidelines would promote uniformity in enforcement of the Truth in Lending Act, and that more effective enforcement would be achieved by requiring specific corrective action by financial institutions, including reimbursement to borrowers who had received incorrect disclosures in violation of the Act. After reviewing the application of the Guidelines for nine months, the agencies believe that they are broadly serving the goals for which they were adopted and are significantly increasing awareness among financial institutions of the requirements of the Truth in Lending law. However, certain questions of equity and other problems with the application of the Guidelines have arisen which make amendments desirable. In addition, several questions have been raised on which the agencies desire further information and comment. Recognizing the value of public participation in the promulgation of these Guidelines, the agencies request comments on these proposed changes and questions.

DATES: Comments must be received on or before December 21, 1979.

ADDRESSES: Written comments should be addressed to: Interagency Enforcement Policy—Regulation Z, c/o Federal Deposit Insurance Corporation, 550 Seventeenth Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Glenn Loney, Federal Reserve Board, (202) 452-3585; Alan Dombrow, Comptroller of the Currency, (202) 447-1600; Peter M. Kravitz, Federal Deposit Insurance Corporation, (202) 389-4427; John Price, Federal Home Loan Bank Board, (202) 377-6524; and Harry Blaisdell, National Credit Union Administration, (202) 254-8760.

SUPPEMENTARY INFORMATION: This document sets forth proposed amendments to and questions concerning the Uniform Guidelines for Enforcement of Regulation Z, which were adopted effective January 4, 1979 (44 FR 1222). The Guidelines were adopted because coordination among the agencies is desirable in order to

bring about uniformity in the administrative actions which will be taken when violations of the Truth in Lending Act and Regulation Z are detected.

In issuing the Guidelines, the agencies said, "as new examination data concerning the extent and type of violations are received, the Guidelines will be reviewed and revised as appropriate." The agencies have undertaken a review of the Guidelines because of problems which have arisen with their implementation. During this review period, the agencies are continuing to require full prospective correction of Truth in Lending violations.

The agencies published the corrective action Guidelines in proposal form for public comment on October 18, 1977. More than three hundred comment letters were received and analyzed, and many recommendations were reflected in the final Guidelines published in December, 1978. In general, however, the public comments on the proposed Guidelines did not contain recommendations which, if adopted, would have prevented the problems which have developed since the Enforcement Policy went into effect. The difficulties have surfaced as a result of experience with implementing the policy.

The agencies believe that the problems which have arisen derive primarily from the complexity of the Truth in Lending law and its implementing Regulation Z. The law and regulation went into effect in 1969. Since that time, both the law and the regulation have been amended and expanded. Many staff opinion letters and interpretations have been published, and twelve thousand lawsuits have been brought under the Act.

The agencies strongly support the fundamental disclosure principles of Truth in Lending, and believe that the complexities which have developed result primarily from efforts to apply these broad principles in a highly specific manner to the numerous and complex creditor practices found in the marketplace. The detail and intricacy of the law's current requirements have the effect, in many instances, of confusing rather than assisting the prospective borrower, and of imposing extensive compliance burdens on financial institutions. The agencies strongly believe that statutory simplification of Truth in Lending is now necessary to achieve its purpose of providing borrowers with useful information.

Recent efforts by Congress to enact such simplification have been supported by the agencies, but have not yet been adopted.

In the absence of statutory simplification, the agencies issued corrective action Guidelines which are based on the current law and regulation, and which tend to reflect their continuing difficulties. In light of experience with implementing the Guidelines, the agencies now believe that administrative action is necessary to simplify them and make them more workable.

The agencies' primary concerns revolve around the following areas:

First, the agencies believe that the complexity of the Guidelines has resulted in confusion among creditors, borrowers, and agency examiners regarding their application. Some of the questions which have been raised were addressed through the publication of an interagency Question and Answer Paper on July 5, 1979. However, a large number of new questions and issues continue to arise, which suggests that serious difficulties are still being encountered in implementing the Guidelines.

Part of the reason for the great number of questions about the Guidelines is that they currently permit little agency flexibility and discretion in their interpretation and application. The agencies intentionally limited such discretion, because they believed that intra-and interagency uniformity must be maintained in order to assure equal treatment of all institutions and their customers. While the agencies continue to be committed to the principle of uniformity, experience indicates that greater flexibility is necessary to permit practical implemetation of corrective action. Also the agencies regulate different types of institutions which, to some extent, engage or specialize in different types of lending.

The agencies recognize that a degree of uniformity must be sacrificed in order to permit the flexibility needed for workable implementation of the Guidelines. Nevertheless, the agencies are committed to equal treatment of all parties and intend to use the review period to consider methods of increasing uniformity where it is important and feasible. This commitment to equal treatment of all parties was the reason for the original decision to issue uniform Guidelines.

In addition to recognizing a need for greater flexibility in general implementation, the agencies believe that the current Guidelines are too rigid, specifically in regard to the time period for which retroactive corrective action will be required. The Guidelines currently designate a single date, October 28, 1974, as the start of the period of retroactivity. While the agencies believe the use of this date is valid in principle, they have found that it raises problems in practice. In some instances, the 1974 date appears to impose unduly burdensome requirements on creditors, while in other cases it tends to hinder the appropriate resolution of problems which were in existence prior to 1974. The agencies believe that the Guidelines would operate more effectively if their retroactive application were tailored more precisely to the past performance of the individual institutions.

The agencies are also concerned about the extensive demands which implementation of the Guidelines is placing on their own personnel and resources. Given the current complexity and scope of the program, effective implementation is necessarily drawing resources away from enforcement of other consumer laws and from examination of the institutions for safety and soundness. While the agencies are committed to requiring corrective action for Truth in Lending violations, they believe that their resources could be allocated more effectively if the Guidelines were narrower in scope and focused more on significant problem areas.

In view of the foregoing considerations, the agencies are proposing three amendments to the Guidelines.

1. Tolerance Limits

The tolerance permitted for disclosure of the annual percentage rate would be increased from one-eighth to one-quarter of one percentage point. A tolerance margin is provided under the Guidelines in order to recognize the need for a degree of flexibility, as suggested by the provisions contained in 15 U.S.C. 1606 and 12 CFR 226.5 which permit rounding of APR calculations. The tolerance provision avoids discrimination against creditors attempting to disclose the exact APR as a service to their customers, rather than utilizing the method of rounding permitted by the Truth in Lending Act and Regulation Z to disclose less precise rates.

The agencies are proposing to increase the tolerance level because: (a) Computing precisely accurate annual percentage rates is difficult for many types of credit transactions, due to the need to account for the multiplicity of finance charges, odd days interest, and other complicating factors; (b) a widespread perception exists among creditors that rounding to the "nearest quarter of 1 percent," 12 CFR 226.5(a), implies an error tolerance of one-quarter of a percentage point; and (c) the

agencies believe that the use of a one-eighth percent tolerance frequently produces an administrative burden which is excessive in relation to the corresponding benefit to the customer.

2. Retroactivity

The time period to which the Guidelines apply would be modified. Corrective action would be required as follows: (1) For violations cited in the current examination, corrective action would be required on loans consummated since the date of the immediately preceding examination; or (2) where the creditor had failed to correct practices or procedures resulting in violations cited in previous examinations, corrective action would be required for loans consummated after the date on which notice of the violation was first given to the creditor.

Depending upon the compliance history of the violation, corrective action could be required back to the date of enactment of the Truth in Lending Act.

A "current examination" would be defined as an examination conducted subsequent to January 4, 1979, which was the effective date of the original Guidelines. Revisions in the Guidelines made pursuant to this proposal, however, would also be applied to earlier examinations.

The following table illustrates the periods for which corrective action would be ordered. The dates represent the dates of examinations, with 1979 being the current examination. "V" means that a pattern or practice constituting a given violation was cited in that examination, and "NV" means that the same type of violation was not cited.

In each case, retroactive corrective action would be required from the date of the examination which appears immediately below the horizontal lines shown in the table. This means that corrective action would be ordered on all loans containing the violation which were consummated after that date. No cut-off date is necessary on the corrective action period, because it would automatically terminate at the point at which the institution ceased engaging in the practice which caused the violation.

Examination date	Representative situations				
	1	2	3	4	5
1979	V	V	V	NV	NV
1978	NV	V	V	NV	V
1977	NV	NV	V	V	V
1976	NV	NV	NV	NV	NV

In situations 1 and 2, corrective action would be ordered for loans containing the violation which were consummated since the date of the 1978 examination. Note that the date in these two situations is the same, despite the fact that situation 2 involves a repeat violation and situation 1 does not. This is due to the fact that the proposed amendment would distinguish between past examinations and current ones. For past examinations, prior to January 4, 1979, corrective action would be triggered if an institution failed to respond adequately to notification from its supervisory agency that it was engaging in a practice which constituted a Truth in Lending violation. Thus, institutions would be able to avoid the retroactive requirements of the Guidelines if, upon initial notification that they were in violation of the law, they promptly took action to correct the practice prospectively. For current examinations, in contrast, the proposal would require reimbursement for newly-cited violations, on loans consummated since the date of the previous examination.

In situation 3, corrective action would be ordered for loans containing the violation which were consummated since the date of the 1977 examination. In situation 4, no corrective action would be ordered, because the institution corrected the violation upon initial notification. Situation 5 is similar to situation 2; corrective action would be ordered for loans containing the violation which were consummated since the date of the 1977 examination.

Note that, in determining whether corrective action would apply with respect to past examinations, the key would be whether the same pattern or practice constituting a violation was not corrected by the institution after being cited in the previous examination. Citations for different violations would not be covered for the purposes of retroactive corrective action. However, the agencies maintain the authority, made clear in the current Guidelines, to require corrective action beyond the minimum standard set by the Guidelines in any case where the institution has engaged in a willful or egregious pattern of violations.

The agencies believe that this proposed revision to the Guidelines will result in more equitable treatment of institutions and their customers, and more reasonable administrative costs for implementation and compliance.

3. Flexibility

A phrase would be added to the Guidelines to make it clear that the agencies retain flexibility to respond appropriately to unique circumstances or significant problems. The amendment would place greater reliance on the judgment and discretion of the agencies to deal with unique situations which raise technical questions concerning the application of the Guidelines. This step toward simplification would avoid the costs and administrative burdens of interagency coordination and action in situations which apply to very few institutions. The amendment also recognizes that the agencies may encounter situations which involve significant issues or common creditor practices which may require varying the implementation of the Guidelines. The proposal would permit such variations if they are consistent with the purposes of the Guidelines, after notification by the agency to the Federal Financial Institutions Examination Council. This notification process is intended to give the other agencies an opportunity to make similar rulings, or to ask for a review of variations which appear to depart significantly from uniform treatment of all institutions.

In addition to these three proposed amendments, the agencies wish to invite comment on any other aspects of the Guidelines which have raised problems or questions. For example, a large portion of the Question and Answer Paper which the agencies issued deals with the application of the Guidelines to credit insurance issues. The agencies would welcome recommendations for improving the Guidelines in these and any other areas.

In addition, there are three specific matters on which the agencies wish to solicit public comment and advice.

1. Cost and Benefit Information

The agencies believe that additional information on the costs associated with implementation of the Guidelines would be helpful. Two areas are of particular concern.

First, information is requested on the direct and indirect costs associated with implementation of the Guidelines, both for actual reimbursement and for required administrative processes such as locating and identifying loans requiring corrective action, contacting affected customers, and so forth.

Second, comments are requested on ways in which the Guidelines could be amended to reduce administrative burdens on financial institutions, while assuring benefits to customers entitled to corrective action, including reimbursement. Suggestions regarding the standards the agencies should use in evaluating these cost-benefit considerations are also requested.

2. Treatment of Real Estate Loans

The agencies want to invite comment on the treatment of real estate loans. It has been the experience of the enforcing agencies that long-term real property transactions (e.g., mortgage loans) have presented creditors with particular difficulties in achieving total compliance in the calculation of the Annual Percentage Rate (APR). To some extent, these difficulties result from the requirement that some, but not all of the numerous closing costs associated with the typical mortgage loan are included in the APR calculation. The fact that different rules apply to different types of charges, all of which may be collected together at closing, has often created creditor confusion and resulted in the inadvertent omission of one or more components of the finance charge when computing the APR.

Another prevalent cause for difficulty relates to the various uneven payment schedules encountered with mortgage loan transactions, so-called "irregular transactions." Such uneven schedules most often result from renewal premiums for private or government mortgage guarantee insurance. These renewal premiums, which must be included as part of the finance charge under the regulation, are assessed in a number of ways depending on the insurer. Many common policies compute the premium annually on the declining balance of the loan principal, with one-twelfth of the annual premium collected by the creditor monthly. Because the premium declines each 12-month period, it is necessary to create a loan amortization schedule, derive the anticipated annual renewal premium charge at each anniversary date, and then determine the resultant declining payment schedule. The APR for the payment schedule thus developed may be derived by the Federal Reserve Board's "General Formula" (*Supplement I to Regulation Z*) or the Federal Reserve Board's APR Tables, Volume II, for irregular transactions. Use of the Volume II table is complex and time consuming. Use of the "General Formula" requires, at the least, a financial function or programmable calculator, and if a significant volume of loans is to be achieved, complete automation of the entire computation process is desirable.

The same general process described above would apply to any mortgage loan transaction that involves unequal disbursements or payments over the term of the loan. A typical example would be a common construction loan where funds are disbursed as needed at irregular intervals. In such complex situations, creditors have been prone both to computational errors and to attempting mathematical shortcuts which may result in erroneous APR disclosures.

Because the disclosures given in connection with mortgage loans are often correct except for the final computation of the APR, and because of continuing creditor confusion with respect to (a) differentiating between closing costs which are and are not considered prepaid finance charges and (b) the correct method for calculating the APR on "irregular loan transactions," especially where mortgage guarantee insurance or construction financing is involved, the agencies request comment on the three questions set forth below.

First, comment is requested on the particular aspects of real property transactions that create the most serious problems for creditors attempting to comply with Regulation Z. Comment is requested on feasible solutions to these problems, including, but not limited to, such things as the availability of more extensive technical instructions, better education of creditor staffs and changes in lending practices designed to facilitate easier computation of APRs.

Second, the agencies request comment on how important or useful the APR disclosure is to the borrower's actual selection of a lender in real property credit transactions. In particular, comment is requested on whether borrowers normally have already selected a creditor on the basis of other information by the time APR (and other TIL) disclosures are provided prior to consummation of the loan contract. If creditor selection does take place prior to the receipt of Truth in Lending disclosures, the agencies request comment on: (1) what other comparative information and criteria are used in shopping for mortgage credit, and (2) what effect this situation should have on Truth in Lending enforcement procedures, especially with regard to reimbursement for understated APRs.

Third, comment is requested on whether it would be equitable to limit the minimum corrective action required by the Guidelines for understated APRs, in connection with real property transactions, to informing the affected borrowers of their correct APR and of the civil liability provision of Section 130 of the Truth in Lending Act. If such minimum corrective action requirement were adopted by the agencies, comment is requested on: (1) whether this provision should remain effective for only a limited period of time during which creditors would be expected to seek out expert advice and perfect their computational procedures, after which time understated APRs would require reimbursement, and (2) whether such limited minimum corrective action should apply only to "irregular transactions" such as loans having mortgage guarantee insurance or loans for construction financing.

3. Treatment of Exempt States

The Board of Governors of the Federal Reserve System requests comment on whether states which have received an exemption from the Truth in Lending requirements should be required to adopt enforcement policies substantially similar to the Guidelines in order to maintain their exemption. Currently five states (Maine, Massachusetts, Connecticut, Oklahoma, and Wyoming) have been granted exemptions from most of the Federal Truth in Lending requirements by virtue of their having substantially similar state laws and adequate provisions for enforcing those laws. Thus, state-chartered institutions normally subject to Federal Truth in Lending jurisdiction are instead subject to state jurisdiction. The issue is whether those states, as a condition of maintaining adequate provision for enforcement, and thus their eligibility for exemption, should be required to have provisions for reimbursement similar to those which would be imposed by the Federal agencies if the exemption did not exist.

* * * * *

The following amendments are proposed pursuant to the enforcement authority contained in 15 U.S.C. Section 1607 and 12 U.S.C. Section 1818(b) in the cases of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, pursuant to 15 U.S.C. Section 1607 and 12 U.S.C. Sections 1464(d)(2) and 1730(e) in the case of the Federal Home Loan Bank Board, and pursuant to 15 U.S.C. Section 1607 and 12 U.S.C. Section 1786(e)(1) in the case of the National Credit Union Administration.

1. Definitions. Section 3 is amended by substituting "¼ of 1 percentage point" for "⅛ of 1 percentage point."

2. General Policies. Section 3 is amended deleting the current section and substituting the following:

* * * Corrective action shall be required for all violations within the scope of these Guidelines (1) cited in the current examination, or (2) cited in an earlier examination or supervisory letter when an agency determines that the creditor failed to correct any such practice by the next succeeding examination. Corrective action under (1)

V 4 4 O C 1 9 7 9 UMI

will be required for all loans consummated since the date of the examination immediately preceding the current examination. Corrective action under (2) will be required for all loans consummated after the date of such report or letter in which the practice was first cited. Current examinations shall mean examinations conducted after January 4, 1979.

3. General Policies. Section 1(a) is amended by adding the following at the end of the section:

. . . nor will it preclude any agency from deviating from the Guidelines (1) with regard to an individual creditor when the agency encounters unique situations raising technical questions as to the application of the Guidelines, or (2) after notice to the Federal Financial Institutions Examination Council, when the agency encounters situations which involve significant issues or common creditor practices. Any such deviations shall be consistent with the intent of the Guidelines.

Dated: October 15, 1979.

Theodore E. Allison,

Secretary, Board of Governors of the Federal Reserve System.

Dated: October 15, 1979.

J. J. Finn,

Secretary, Federal Home Loan Bank Board.

Dated: October 15, 1979.

Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Comptroller of the Currency.

Dated: October 15, 1979.

Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

Dated: October 15, 1979.

Rosemary Brady,

Secretary to NCUA Board, National Credit Union Administration.

[FR Doc. 79-32408 Filed 10-18-79; 8:45 am]

BILLING CODE 6722-01-M

Joint Notice of Policy Statement on Discrimination

AGENCIES: The Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the National Credit Union Administration.

ACTION: Policy Statement on Discrimination.

SUMMARY: The five constituent Federal financial regulatory agencies of the Federal Financial Institutions Examination Council have approved a joint statement of policy on discrimination.

EFFECTIVE DATE: October 11, 1979.

FOR FURTHER INFORMATION CONTACT: Samuel H. Talley, Federal Reserve Board (202) 452-3354; Linda Cohen, National Credit Union Administration (202) 254-8760; Louis V. Roy, Federal Home Loan Bank Board (202) 377-6512; Henry Newport, Federal Deposit Insurance Corporation (202) 389-4668; and Dennis Arczynbski, Comptroller of the Currency (202) 447-0111.

SUPPLEMENTARY INFORMATION:

The Policy Statement

The Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Federal Reserve Board, the Federal Home Loan Bank Board and the National Credit Union Administration, as Federal agencies responsible for the regulation and supervision of depository institutions, in cooperation with other responsible authorities, are committed to identifying and eliminating illegal discrimination and to encouraging non-discriminatory practices in the operations of these institutions. Over the years, the attention of the Federal financial regulatory agencies has focused especially on such matters as discrimination on the basis of race, religion, national origin, sex, and marital status in the provision of lending and other financial services and the discriminatory aspects of mortgage and other lending practices which may have a disparate impact on various neighborhoods and communities. The various efforts of the agencies have been directed towards the enforcement of prohibitions against such discrimination, the development by the institutions they supervise of appropriate remedial or affirmative actions to help eradicate the effects of past discrimination, and the sponsorship or support of numerous special-emphasis programs that have the objective of assisting the financial institutions to meet the credit needs of all segments of the communities which they serve.

Within the boundaries of their jurisdiction, the five Federal financial regulatory agencies are committed to effective enforcement of the various civil rights laws of the nation. The agencies believe that illegal discrimination is contrary to the best interests of not only the people discriminated against but also the financial institutions themselves.

The provision of employment opportunity without discrimination on any prohibited basis is first and foremost the legal responsibility of the employer, and it is the policy of the agencies that the financial institutions which they regulate should review periodically their employment practices to ascertain that they are, in fact, nondiscriminatory and, to the extent that any discrimination is found, adopt appropriate remedial policies and practices to eliminate it.

Such an examination of employment practices should include consideration of the institutions' policies regarding the payment of dues on behalf of employees to private clubs which discriminate on the basis of race, sex, religion, color, or national origin. Because business is commonly conducted at such clubs, membership prohibition may have an adverse and discriminatory effect upon the career advancement of employees who are denied equal opportunity to access either as members or guests.

For this reason, the agencies discourage the payment by financial institutions, on behalf of their employees, officers or directors, of fees or dues for membership in private clubs where business is commonly conducted, which so discriminate. Payment by financial institutions of the costs of any business or social function held at any such club or organization which practices discrimination is also discouraged.

Dated: October 15, 1979.

Theodore E. Allison,

Secretary, Board of Governors of the Federal Reserve System.

Dated: October 15, 1979.

J. J. Finn,

Secretary, Federal Home Loan Bank Board.

Dated: October 15, 1979.

Lewis G. Odom, Jr.,

Senior Deputy Comptroller, Comptroller of the Currency.

Dated: October 15, 1979.

Hoyle L. Robinson,

Executive Secretary, Federal Deposit Insurance Corporation.

Dated: October 15, 1979.

Rosemary Brady,

Secretary to NCUA Board, National Credit Union Administration.

[FR Doc. 79-32371 Filed 10-18-79; 8:45 am]

BILLING CODE 6722-01-M

FEDERAL HOME LOAN BANK BOARD

[No. AC-65]

Beverly Hills Savings & Loan Association Beverly Hills, Calif.; Post Approval Amendment of Conversion Application (Notice of final action)

October 16, 1979.

Notice is hereby given that on October 9, 1979, the Federal Home Loan Bank Board, as the operating head of the Federal Savings and Loan Insurance Corporation, by Resolution No. 79-508, approved Post-Approval amendment No. 2 to the application of Beverly Hills Federal Savings and Loan Association Beverly Hills, California, for permission to convert to the stock form of organization. The application to convert was approved on July 21, 1979, by Resolution No. 79-359. Post-approval Amendment No. 1 was approved on August 21, 1979 by Resolution No. 79-451. Copies of the application and the amendment are available for inspection at the Office of the Secretary of said Corporation, 1700 G Street, N.W., Washington, D.C. 20552 and the Office of the Supervisory Agent of said Corporation at the Federal Home Loan Bank of San Francisco, 600 California Street, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-32324 Filed 10-18-79; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1790]

Paxy's International Mohammed Reza Paksima, d.b.a.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Paxy's International, Mohamed Reza Paksima, d.b.a., One Houston Center, Suite 2512, Houston, Texas 77002, FMC No. 1790, was cancelled effective February 7, 1979.

By letter dated January 9, 1979, and sent to its last known address, Paxy's International, Mohammed Reza Paksima, d.b.a. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1790 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission. The letter was returned by the Post Office as undeliverable.

Paxy's International, Mohammed Reza Paksima, d.b.a. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1790 was revoked effective February 7, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1790 issued by Paxy's International, Mohammed Reza Paksima, d.b.a. be returned to the Commission;

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Paxy's International, Mohammed Reza Paksima, d.b.a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32325 Filed 10-18-79; 8:45 a.m.]

BILLING CODE 6730-01-M

Venture Cruise Lines, Inc.; Order of Revocation

In the matter of certificate of financial responsibility for indemnification of passengers for nonperformance of transportation No. P-184 and certificate of financial responsibility to meet liability incurred for death or injury to passengers or other persons on voyages No. C-1,186.

Whereas, Venture Cruise Lines, Inc. has ceased to operate the passenger vessel S.S. AMERICA

It is ordered, that Certificate (Performance) No. P-184 and Certificate (Casualty) No. C-1,186 issued to Venture Cruise Lines, Inc. and Venture Cruise Lines of NY, Inc. be and are hereby revoked effective October 10, 1979.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served on certificants.

By the Commission, October 10, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-32326 Filed 10-18-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 11, 1979. See 44 U.S.C. 3512(c) and (d). The purpose of publishing this notice in the **Federal Register** is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed SEC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 6, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Securities and Exchange Commission

The SEC requests an extension without change clearance of Form R-31, Mandatory Monthly Report of Market Value and Volume of Sales on Exchange. Form R-31 is used in the collection of Market Value and Volume of Sales on all U.S. Stock Exchanges. The form must be filed within one month after the close of business on the last day of each month. The SEC estimates that respondents are the 10 U.S. Stock Exchanges and that reporting burden averages 10 minutes per monthly report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-32323 Filed 10-18-79; 8:45 am]

BILLING CODE 1610-01-M

HARRY S TRUMAN SCHOLARSHIP FOUNDATION

Closing Date for Nominations

Notice is hereby given that, pursuant to the authority contained in the Harry S Truman Memorial Scholarship Act, Pub. L. 93-642 (20 U.S.C. 2001), nominations are being accepted from eligible institutions of higher education for Truman Scholarships. Procedures are prescribed at 45 CFR 1801, and were published in the **Federal Register** on June 19, 1978, (43 FR 26366).

In order to be assured of consideration, all documentation in support of nominations must be received by the Truman Scholarship Review Committee, Box 2838, Princeton, N.J. 08541 postmarked no later than Thursday, December 1, 1979.

Malcolm C. McCormack,
Executive Secretary.
October 11, 1979.

[FR Doc. 79-32298 Filed 10-18-79; 8:45 am]
BILLING CODE 6115-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committes and is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meetings are announced:

Committee name	Date, time, and place	Type of meeting and contact person
1. Device Good Manufacturing Practices Advisory Committee	November 8 and 9, 9 a.m., Plaza Ball Room, Holiday Inn, 8777 Georgia Ave., Silver Spring, Md..	Open public hearing November 8, 9 to 10 a.m.; open committee discussion Nov. 8, 10 a.m. to 4:30 p.m., Nov. 9, 9 a.m. to 4:30 p.m., Lincoln I. Gluscevitch (HFK-132), 8757 Georgia Ave., Silver Spring, Md 20910, 301-427-7194.

General function of the Committee. The Committee reviews proposed regulations for good manufacturing practices governing the methods used in, and the facilities and controls used for, the manufacture, packing, storage, and installation of devices, and makes recommendations on the feasibility and reasonableness of the proposed regulations.

Agenda—Open public hearing. Interested persons are encouraged to present information pertinent to sterile device good manufacturing practices. Those desiring to make formal presentations should notify Lincoln I. Gluscevitch by October 26, 1979, and submit a brief statement of the general nature of the evidence or agruments they wish to present, the names and addresses of proposed partipants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss sterilization of medical devices and additions to the critical device list.

Committee name	Date, time, and place	Type of meeting and contact person
2. Radiopharmaceutical Drugs Advisory Committee	November 8 and 9, 9 a.m., Conference room A, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md..	Open public hearing, November 8, 9 a.m. to 10 a.m.; open committee discussion November 8, 10 a.m. to 4:30 p.m.; November 9, Ermona McGoodwin (HFD-150), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of nuclear medicine.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss manufacturing controls information on radiological products; update on pediatric labeling of radiopharmaceutical drugs; pending investigational new drugs (IND's), new drug applications (NDA's), and Radioactive Drug Research Committee status; and commercialization of drugs under IND's.

Committee name	Date, time, and place	Type of meeting and contact person
3. Miscellaneous Internal Drug Products Panel	November 10 and 11, 9 a.m., Holiday Inn, Bethesda, Md..	Open public hearing November 10, 9 a.m. to 10 a.m.; open committee discussion November 10, 10 a.m. to 4:30 p.m., November 11, 8:30 a.m. to 3:30 p.m., John Short (HFD-510), 5600 Fishers Lane, Rockville, MD 20857, 301-443-6156.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such a presentation should notify the contact person before November 6, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Committee will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
4. Blood and Blood Derivatives Panel	November 15 and 16, 8:30 a.m., Rm. 115, Bldg. 29, 8800 Rockville Pike, Bethesda, Md.	Open public hearing November 15, 8:30 a.m. to 9:30 a.m.; open committee discussion November 15, 9:30 a.m. to 5 p.m.; November 16, 8:30 a.m. to 5 p.m.; Clay Sisk (HFB-5), 8800 Rockville Pike, Bethesda, Md. 20014, 301-443-5455.

General function of the Committee. The committee reviews and evaluates available data on the safety and effectiveness of biological products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will review the research programs of the Bureau of Biologics' Division of Blood and Blood Products, including coagulation products, urokinase, hepatitis, infectivity detection and reduction, albumin and globulin stability, enzyme studies, standardization studies, immune responses to polysaccharide antigens, blood group reagent, platelet and granulocyte testing.

Committee name	Date, time, and place	Type of meeting and contact person
5. Antimicrobial Panel	November 16 and 17, 9 a.m., Conference Rm. K, Parklawn Bldg., Rockville, Md. (November 16); Holiday Inn, Bethesda, MD (November 17).	Open public hearing, November 16, 9 a.m. to 10 a.m.; open committee discussion November 16, 10 a.m. to 4:30 p.m.; November 17, 9 a.m. to 4:30 p.m.; Lee Geismar (HFD-512), 5600 Fishers Lane, Rockville, MD 20857, 301-443-4250.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of nonprescription drug products.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee. Those who desire to make such presentation should notify the contact person before November 13, 1979, and submit a brief statement of the general nature of the data, information, or views they wish to present, the names and addresses of proposed participants, and an indication of the approximate time desired for their presentation.

Open committee discussion. The Committee will review data submitted pursuant to the over-the-counter (OTC) review's call for data for this panel (see also 21 CFR 330.10(a)(2)). The Panel will be reviewing, voting upon, and modifying the content of summary minutes and categorization of ingredients and claims.

Committee name	Date, time, and place	Type of meeting and contact person
6. Cardiovascular and Renal Drugs Advisory Committee	November 19, 20, and 21, 9 a.m. Conference Rm. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md..	Open public hearing November 19, 9 a.m. to 10 a.m.; open committee discussion November 19, 10 a.m. to 5 p.m.; November 20, 9 a.m. to 5 p.m.; November 21, 9 a.m. to 1 p.m.; Joan Standaert (HFD-110), 5600 Fishers Lane, Rockville, MD 20857 301-443-4730.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in cardiovascular and renal disorders.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Committee.

Open committee discussion. The Committee will discuss Anturane (sulfinpyrazone USP, NDA 18-111, Ciba-Geigy Corp.) for treatment of postmyocardial infarction; Tenormin (atenolol, NDA 18-240, ICI Industries) for hypertension; and Midimore-Moduretic (amiloride HC1, NDA 18-200, NDA 198-201, Merck Sharp & Dohme) for use as diuretic and antihypertensive.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1-hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer

V 4 4 O C 1 9 7 9 UMI

period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is a practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 10, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31955 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N-0010; DESI 1626]

Certain Single-Entity Aminophylline Preparations; Drugs for Human Use; Drug Efficacy Study Implementation; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces that certain single-entity oral and parenteral dosage forms of aminophylline are new drugs and that an approved abbreviated new drug application (ANDA) is required for marketing.

DATES: Notice effective October 19, 1979.

ANDA's for single-ingredient products being marketed commercially on October 19, 1979, must be submitted by January 17, 1980.

Submissions in support of a claimed exemption from the new drug provisions of the Federal Food, Drug, and Cosmetic Act must be submitted by December 18, 1979.

ADDRESSES: Communications pursuant to this notice should be identified with the reference number DESI 1626 and FDA Docket number 79N–0010 and directed to the attention of the appropriate office named below.

Original abbreviated new drug applications and supplements thereto: Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Requests for labeling guidelines: Director, Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Submissions concerning exemption from new drug provisions of the act: Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Mary E. Catchings, Bureau of Drugs (HFD–32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3650.

SUPPLEMENTARY INFORMATION: In a notice (DESI 1626) published in the **Federal Register** of July 26, 1972 (37 FR 14895) as amended on September 26, 1974 (39 FR 34593) (Docket No. FDC–678 (now Docket No. 79N–0010)), the Food and Drug Administration announced its conclusions that certain aminophylline preparations in oral form are regarded as new drugs, that they are effective for the relief of acute bronchial asthma and for reversible bronchospasm associated with chronic bronchitis and emphysema, and that bioavailability data will be required for marketing. The September 26, 1974 notice stated that it applied to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named in the notice, as defined in 21 CFR 310.6, It did not include the oral solution or injectable forms of aminophylline. This notice amends the September 26, 1974 notice to include these two additional dosage forms. Although they were not included in the Drug Efficacy Study, they are regarded as related drugs requiring an approved new drug application for marketing.

The legal status and conditions for approval and marketing of aminophylline injection and oral solution are discussed below.

I. *Legal status.* Single-entity aminophylline injection and oral solution are regarded as new drugs as defined in section 201(p) of the act (21 U.S.C. 321(p)) and therefore subject to the requirements of section 505 of the act (21 U.S.C. 355) for the following reasons:

1. The Food and Drug Administration is not aware of a past finding by qualified experts that any such products are generally recognized as safe and effective.

2. The September 26, 1974 notice cited 21 CFR 310.6 concerning drug products which may be identical, related, or similar to aminophylline tablets. The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

> Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice or notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director of the Bureau of Drugs believes that qualified experts would conclude that the finding of effectiveness for aminophylline oral tablets is also applicable to aminophylline oral solution and aminophylline injection. Accordingly, the September 26, 1974 notice concerning aminophylline tablets is amended to include aminophylline injection and oral solution, as follows:

A. *Effectiveness classification.* The Food and Drug Administration has considered all information available and concludes that aminophylline injection and oral solution are effective for indications in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications under the conditions described herein.

1. *Form of drug.* The drug is in sterile aqueous solution form suitable for parenteral administration or in solution form suitable for oral administration.

2 *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

Aminophylline oral solution. For relief and/or prevention of symptoms from asthma and reversible bronchospasm associated with chronic bronchitis and emphysema.

Aminophylline injection. For relief of acute bronchial asthma and for reversible bronchospasm associated with chronic bronchitis and emphysema.

Labeling guidelines are available from the Director, Division of Generic Drug Monographs (HFD–530), (address given above).

3. *Marketing status.* For drug products of the oral solution and injectable dosage forms of aminophylline that were not marketed commercially on October 19, 1979, approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such products. Inasmuch as aminophylline oral solution and aminophylline injection have not been identified by the Food and Drug Administration as drugs with an actual or potential bioequivalence problem, bioavailability data are not required for these dosage forms.

Because FDA has not previously formally declared these products to be new drugs, and because aminophylline is medically necessary for the treatment of asthma, the oral solution and injectable dosage forms of aminophylline that were marketed commercially on October 19, 1979 may continue to be marketed without an approved new drug application until July 16, 1980, provided that (1) on or before January 17, 1980 the sponsor submits an abbreviated new drug application to FDA for the product, and (2) FDA does not issue a nonapprovable letter regarding the application. After July 16, 1980 an approved abbreviated new drug application is required for marketing such products. The Food and Drug Administration believes that this allows a manufacturer adequate time to prepare and submit the required application, and allows FDA sufficient time to review and evaluate the applications as well. This special provision for continuation of marketing, which applies only to products marketed on or before the publication of this notice, is consistent with the District Court's order in *Hoffman-LaRoche, Inc.*, v. *Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the **Federal Register** of September 22, 1975 (40 FR 43531) and March 2, 1976 (41 FR 9001).

II. *"Grandfather status."* The Food and Drug Administration is not aware of any aminophylline products on the market that qualify either for the "grandfather" exemption from the new drug requirements of section 505 of the act contained in section 201(p) of the act for products marketed prior to June 25, 1938, or for the "grandfather" exemption from the effectiveness standards otherwise applicable to new drugs contained in section 107(c) of the Drug Amendments of 1962. Any manufacturer who believes its product is entitled to an exemption from the new drug provisions of the act may file on or before December 18, 1979 documentation in support of the contention. The requirements governing such a submission are contained in 21 CFR 314.200(e)(2). Failure to submit the documentation will constitute a waiver of all claims to "grandfather" status. Submissions must be filed in quintuplicate, and directed to the Hearing Clerk (address given above).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70).

Dated: October 4, 1979.

Jerome A. Halperin,

Acting Director, Bureau of Drugs.

[FR Doc. 79-31956 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 79N–0113; DESI 2847]

Parenteral Multivitamin Products Human Use; Drug Efficacy Study Implementation; Permission for Drugs To Remain on the Market; Amendment

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration announces a 90-day postponement of the date by which manufacturers of parenteral multivitamin products must submit a new drug application or supplemental new drug application.

DATE: New drug applications (or supplemental new drug applications) must be submitted by Janauary 9, 1980.

FOR FURTHER INFORMATION CONTACT: Gloria Troendle, Bureau of Drugs (HFD–130), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3510.

SUPPLEMENTARY INFORMATION: A notice published in the **Federal Register** of July 13, 1979 (44 FR 40933), set forth the conditions under which parenteral multivitamin products may remain on the market pending further study. The notice required that on or before October 11, 1979, the manufacturer of any such product submit a new drug application (or supplemental new drug application) outlining plans to fulfill the requirements of the notice.

Since publication of the July 13, 1979 notice, significant technical questions concerning reformulations and bioavailability studies have arisen that are sufficient to justify postponement of the date by which new drug applications and supplements are required. Accordingly, that date is hereby postponed to January 9, 1980. All other conditions described in the notice are unchanged.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701, 52 Stat. 1052–1053, as amended, 1055–1058, as amended (21 U.S.C. 355, 371)), and the Administrative Procedure Act (5 U.S.C. 553, 554), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1).

Dated: October 11, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-31957 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-03-M

Clinical Chemistry and Hematology Devices Panel, Hematology Devices Section; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Hematology Devices Section of the Clinical Chemistry and Hematology Devices Panel.	November 19, 9 a.m., Room 1813, 200 C St. SW., Washington, DC.	Open public hearing 9 a.m. to 10 a.m.; open committee discussion 10 a.m. to 5 p.m.; Kaiser Aziz (HFK–440), 8757 Georgia Ave., Silver Spring, MD 20910 (301–417–7550).

General function of the Panel. The Panel reviews and evaluates available data concerning the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Any interested persons may present data, information, or views, orally or in writing, on issues pending before the Panel. Those desiring to make formal presentations should notify Kaiser Aziz by November 1, 1979, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Hematology Section of the Panel will discuss general comments received with respect to classification of hematology devices as published in the Federal Register of September 11, 1979 (44 FR 52950–53063).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the appropriate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC–18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

Dated: October 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-32220 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-03-M

Health Care Financing Administration

Medicare Program; Schedule of Target Reimbursement Rates for Institutions Furnishing Home Dialysis Supplies, Equipment, and Support Services

AGENCY: Health Care Financing Administration, HCFA, HEW.

ACTION: Final notice of schedule of target reimbursement rates per treatment for home dialysis.

SUMMARY: This notice sets forth a schedule of rates for Medicare program reimbursement to approved providers and renal dialysis facilities for the cost of home dialysis supplies, equipment and home dialysis support services furnished to self-care home dialysis patients under the direct supervision of the provider or facility. Regionally adjusted target reimbursement rates per treatment are established in this schedule for home hemodialysis and home peritoneal dialysis. This notice is necessary to implement section 1881(b)(6) of the Social Security Act, established by the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95–292).

EFFECTIVE DATE: The schedule of rates is applicable to home dialysis services furnished on or after April 1, 1979, through December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Weintraub, (301) 594–6535.

SUPPLEMENTARY INFORMATION:

Background

Section 1881(b)(6) of the Social Security Act, established by the End-Stage Renal Disease Program Amendments of 1978 (Pub. L. 95–292), requires HCFA to establish for each calendar year commencing with the current year, 1979, a target reimbursement rate, adjusted for regional variations, for the payment of the cost of dialysis services of patients dialyzing at home under the direct supervision of a provider or renal dialysis facility. It is an optional reimbursement method for providers and renal dialysis facilities that execute an agreement with HCFA to furnish all necessary home dialysis medical supplies, equipment, and supportive services (including the services of qualified home dialysis aides) that are medically necessary to enable patients to continue dialyzing in the home setting.

Section 1881(b)(6) further requires that the maximum target rate permitted shall not exceed 70 percent of the national average payment, adjusted for regional variations and before application of the coinsurance requirement, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year. Also, any rate established under this section shall be utilized without recomputation, throughout the calendar year for which it is established. Accordingly, there is no appeal available to a provider or renal dialysis facility if the actual costs for covered services exceed the target reimbursement rate payments. The requirements of the statute are implemented under regulations at 42 CFR 405.440.

Because of insufficeint cost information regarding new services required under this optional method (e.g., the cost of providing home dialysis aides) as well as the urgency required in publishing the target rates, the target reimbursement rate per treatment established for the initial calendar year (1979) is equal to the maximum rate permitted under the statute.

Calculation of Target Rates—1979

1. Development of average maintenance dialysis payment data. As indicated above, the 1979 target rates equal 70 percent of the national average payment before application of the coinsurance requirement, adjusted for regional variations, for maintenance dialysis services furnished in approved providers and facilities during the preceding fiscal year.

Output from the Renal Disease Program Cost Analysis System maintained by the Office of End-Stage Renal Disease, Office of Special Programs, HCFA, was used as the basis for the determination of the target rates. Average maintenance dialysis payments for providers and nonprovider facilities for hemodialysis were developed from Facility Cost Report Profiles maintained by the Office of ESRD for each HEW regional area for the latest available year, which was for accounting periods ending in the calendar year 1977.

The Facility Cost Report Profile is a computerized summarization of the average maintenance dialysis cost per treatment, broken down into the various components of cost per treatment (i.e., supplies, salaries, etc.) for providers and nonprovider facilities on a regional and national basis. The costs and other statistical information (e.g., number of treatments) is derived from the renal dialysis facility cost and statistical questionnaire (form SSA–9734) which is submitted annually based on cost data from a provider's or facility's most recently completed fiscal year.

While the costs as reported by providers would be representative of the program remimbursement received, the same would not be true for the nonprovider facilities since they were reimbursed on a reasonable charge basis. Information developed by the Office of ESRD established that the average reasonable charge payment per dialysis was equivalent to the screen amount; therefore, in developing the average payments for nonprovider facilities, the Medicare payment screen of $150 per treatment (including routine lab services) less $12 for the physician's supervisory services during dialysis, or $138, was used as the average maintenance dialysis payment for nonprovider facilities in all regions.

In developing the average payments, we excluded the portion of the payment applicable to physicians' professional services and any other cost components not covered for home dialysis services specified under this method of reimbursement.

One of the requirements for providers or facilities electing this method of reimbursement is the provision of medically necessary dialysis equipment, including equipment maintenance and repair services. In fulfilling this requirement, it is possible that the equipment could be provided in several ways.

For example, the provider or facility could own the equipment and arrange to furnish it to patients whose self-care home dialysis is it is supervising. Or, the provider or facility could could arrange for the purchase of the equipment for its home dialysis patients under the provision for 100 percent reimbursement for installation and maintenance of home dialysis equipment established under the End-State Renal Disease Program Amendments of 1978 and implemented under regulations 42 CFR 405.438.

Accordingly, it was necessary to determine two average payment amounts for hemodialysis. One amount includes an amount for equipment depreciation and equipment maintenance and repair services and its applicable only when the dialysis equipment provided the home patient is owned by the provider or facility. The other amount excludes such costs, and applies when dialysis equipment either already owned (or leased) by the home patient or being purchased new for the home patient is being procured under the provision for 100 percent reimbnursement for installation and maintenance of equipment (42 CFR 405.438).

The average payment data developed by the Office of ESRD was then used by the Office of Financial and Actuarial Analysis, HCFA, for calculating the fiscal year 1978 average maintenance dialysis payments for providers and nonprovider facilities.

Since the ESRD reporting system could be used only to develop data for accounting periods ending in calendar year 1977, it was difficult to ascertain the precise base period involved. Therefore, in the absence of any other data, a calendar year 1977 base period was assumed.

A. The fiscal year 1978 average maintenance dialysis payments for providers were derived by increasing the average dialysis payments for the 1977 base period by a weighted increase factor adjusted for regional variations. These factors were derived as follows:

i. We calculated the full year national increase (1978 over 1977) for each of the tree major components of the average payment (i.e., salaries, supplies, and overhead). Data were used as appropriate from the Bureau of Labor Statistics' "Employment and Earnings Series" as well as data from the Bureau of Labor Statistics' "Consumer Price Index-Urban Wage Earners and Clerical Workers-Revised."

ii. We multiplied the component increase factors by the corresponding national weights to produce a weighted full year national increase (1978 over 1977).

iii. We adjusted the weighted full year national increase for three fourths of the increase (compounded) to obtain the final adjusted weighted national increase factor.

iv. We multiplied this final national factor by the regional adjustment factors to obtain the regional increase factors. The regional adjustment factors were derived from the ratios of regional "per capita" ESRD reimbursement to the national "per capita" ESRD reimbursement for the most recent years where data were available.

These regional increase factors were then multiplied by the appropriate 1977 base period values for providers to obtain the fiscal year 1978 average maintenance dialysis payment for providers by region.

B. In determining the fiscal year 1978 average dialysis payments for nonprovider facilities, it was not necessary to apply the regional increase factors derived above for providers since the average payment rate to nonprovider facilities (i.e., Medicare payment screen) remained the same over the period in question for each region.

2. *Establishing target reimbursement rates for home hemodialysis.* The following procedure was used to establish the target reimbursement rates per treatment for each region for home hemodialysis for the current year, 1979:

A. We multiplied each regional fiscal year 1978 average dialysis payment for providers calculated in 1A above, by the corresponding number of treatments provided in the 1977 base period by providers only for each region.

B. We added to each value calculated in 2A above the appropriate fiscal year 1978 average dialysis payment rate for nonprovider facilities times the number of treatments provided in the 1977 base period for nonprovider facilities only for each region.

C. We divided each resulting value from 2B above by the total number of treatments provided in the 1977 base period by both providers and nonprovider facilities. The resulting values are the fiscal year 1978 average maintenance dialysis payments weighted between providers and nonprovider facilities by region.

D. The regional average payments calculated in 2C above were then multiplied by 70 percent to derive the target reimbursement rates per treatment for the current year, 1979, which also equal the maximum rates permitted under the statute.

3. *Schedule of target reimbursement rates for home hemodialysis.* Shown below is the schedule of regionally adjusted target reimbursement rates per treatment for home hemodialysis established for the calendar year 1979. Two sets of rates are shown. One set of rates includes an adjustment for costs of equipment depreciation and equipment

V 44 0C 19 79 UMI

maintenance and repair services and applies to patients utilizing dialysis equipment owned by the provider or renal dialysis facility (but not under the provision for 100 per cent reimbursement for installation and maintenance of equipment). The other set excludes such costs and applies to patients utilizing dialysis equipment that is not owned by their supervising provider or renal dialysis facility or which is being procured under the provision for 100 percent reimbursement for installation and maintenance of equipment.

Schedule of Target Reimbursement Rates Per Treatment for Home Hemodialysis.—Calendar Year 1979

Effective for Services Furnished on or after April 1, 1979 through December 31, 1979]

HEW Region	Including equip. costs*	Excluding equip. costs*
Boston—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont	$100	$99
New York—New Jersey, New York, Puerto Rico, Virgin Islands	102	100
Philadelphia—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia	97	95
Atlanta—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee	96	93
Chicago—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	108	105
Dallas—Arkansas, Louisiana, New Mexico, Oklahoma, Texas	95	93
Kansas City—Iowa, Kansas, Missouri, Nebraska	105	103
Denver—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	96	93
San Francisco—American Samoa, Arizona, California, Guam, Hawaii, Nevada	111	109
Seattle—Alaska, Idaho, Oregon, Washington	116	113

*Costs for equipment depreciation and equipment maintenance and repair services

4. *Establishing target reimbursement rates for home peritoneal dialysis.* In view of the limited data available on the cost of peritoneal dialysis, a separate target rate has not been computed for that mode of home dialysis. Rather, the hemodialysis rates as determined above will also be used for reimbursing those providers and facilities whose home patients are on peritoneal dialysis. As more complete cost data for peritoneal dialysis becomes available, specific peritoneal target rates will be developed.

While home peritoneal dialysis is usually accomplished in sessions of 10–12 hours duration, furnished three times per week, it is sometimes accomplished in fewer sessions of longer duration. Accordingly, reimbursement to the provider or facility for home patients on peritoneal dialysis will depend on the length of the dialysis session and the number of sessions furnished per week as described below.

A. *Peritoneol dialysis sessions of less than 20 hours duration.* Where a home peritoneal patient dialyzes once a week for 12 hours, for example, the provider or facility will be reimbursed for one home dialysis treatment. If a home patient dialyzes in two or three 12-hour dialysis sessions in a week, the provider or facility will be reimbursed for two or three home dialysis treatments respectively.

B. *Peritoneol dialysis sessions of less thon 30 hours, but 20 hours or more duration.* Where a home peritoneal patient dialyzes for one 20–29 hour session in a week, the provider or facility will be reimbursed an amount equivalent to one and a half home dialysis treatments. If a home patient has two 20–29 hour dialysis sessions in a week, the provider or facility will be reimbursed for three home dialysis treatments.

C. *Peritoneal dialysis sessions of 30 hours or more duration.* Where a home peritoneal patient dialyzes once a week for 30 hours or more, the provider or facility will be reimbursed for three home dialysis treatments.

5. *Reimbursement for additional dialysis.* If additional dialysis beyond the usual weekly maintenance dialysis (i.e., generally not more than three times per week) is required because of special circumstances, the provider's or facility's claim for these extra services must be accompanied by a medical justification. Under these circumstances reimbursement for additional home dialysis treatments may be made.

(Sections 1102, 1814(b), 1833, 1861(v)(1), 1871 and 1881 of the Social Security Act 42 U.S.C. 1302; 1395(f), 1395, 1395(v)(1), 1395hh and 1395rr)

(Catalog of Federal Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: September 4, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: October 5, 1979

Patricia Roberts Harris,

Secretary.

[FR Doc. 79-31985 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-35-M

National Professional Standards Review Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), announcement is made of the following Council meeting:

Name: National Professional Standards Review Council.

Date and Time: November 5, 1979 (10:00 a.m. to 5:00 p.m.) November 6, 1979 (9:00 a.m. to 1:00 p.m.).

Place: Auditorium (first floor), HEW North Building, 330 Independence Avenue, S.W., Washington, D.C.

Purpose of Meeting: The Council was established to advise the Secretary of Health, Education, and Welfare on the administration of Professional Standards Review (Title XI), Part B, Social Security Act). Professional Standards Review is the procedure to assure that the services for which payment may be made under the Social Security Act are medically necessary and conforms to appropriate professional standards for the provision of quality health care. The Council's agenda will include discussion of a variety of issues relevant to the implementation of the PSRO program. On October 22, 1979 a tentative agenda will be available to the public.

Meeting of the Council is open to the public. Public attendance is limited to space available. Any member of the public may file a written statment with the Council before, during, or after the meeting. To the extent that time permits, the Council Chairman will allow public presentation of oral statements at the meeting.

All communications regarding this Council should be addressed to Cleo E. Hancock, Staff Director, National Professional Standards Review Council, Health Standards and Quality Bureau, Room 5329–S, Switzer Building, 330 "C" Street, S.W., Washington, D.C. 20201, (202) 245–0665.

Dated: October 10, 1979.

Cleo E. Hancock,

Staff Director, National Professional Standards Review Council.

[FR Doc. 79-32332 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-35-M

Assistant Secretary for Education

Federal Education Data Acquisition Council

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Office of the Assistant Secretary for Education announces the following meeting of the Federal Education Data Acquisition Council (FEDAC):

NAME: Federal Education Data Acquistion Council.

DATE: Thursday, November 8, and Friday, November 9, 1979.

TIME AND PLACE: 8:30 a.m. to 5:00 p.m. each day, Room 3000 (Education Division Conference Room), Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C.

CONTACT PERSON: Dr. Francis V. Corrigan, Room 3159, Federal Office Building No. 6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 245–1022.

PURPOSE: This is the second meeting of FEDAC, which advises the Secretary of Health, Education, and Welfare on the improvement, development and coordination of Federal education data acquisition activities. The authority for FEDAC is Section 400A of the General Education Provisions Act, as added by the Education Amendments of 1978 (Pub. L. 95–561; 20 U.S.C. 1221–3).

AGENDA: The agenda will focus on public and agency comments received concerning the interim procedures published in the Federal Register on August 8, 1979 and consideration of revised or final operating procedures for adoption by the Council. On Friday, November 9, time permitting, FEDAC will review policy issues related to paperwork burden reduction, such as the review function performed by FEDAC staff, the use of standard terminology for reporting certain categories of information and other means or reducing respondent burden.

A roster of members and other pertinent information regarding the meeting may be obtained from Dr. Francis V. Corrigan at the address/telephone number given above. This meeting will be open to the public.

Dated: October 15, 1979.

Mary F. Berry,

Assistant Secretary for Education.

[FR Doc. 79-32307 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-89-M

Office of the Secretary

White House Conference on Families; National Hearings

The White House Conference on Families was called by President Carter to "examine the strengths of American families, the difficulties they face, and the ways in which family life is affected by public policies."

The Conference is guided by a 41-person National Advisory Committee, which has adopted an innovative conference process to take the White House Conference on Families to the people. This process includes hearings, state activities, national organization activities, and issue work groups which will lead up to three White House Conferences across the country in the summer of 1980.

The purpose of the hearings is to give families an opportunity to discuss their concerns, ideas, successes and problems relating to contemporary family life. The hearings will help to identify key issues and concerns for the White House Conference on Families. Testimony should identify the most pressing concerns facing American families today and into the 1980's, together with any recommended policies, programs, and strategies for meeting these concerns. Information from the hearings will be available to all the states and will be used as background material for delegates to the National Conferences.

The third of the national hearings will be held in Colorado: October 26—Denver, Colorado, Heritage Center, 1300 Broadway; October 27—West Denver, Colorado, Baker Junior High School, 574 West Sixth Avenue.

Other hearing sites and dates are tentatively scheduled for: Hartford, Connecticut, November 16–17; Washington, D.C., November 30–December 1; Detroit, Michigan, December 7–8; and Seattle, Washington, January 11–12.

The hearings are open to the public. Members of the National Advisory Committee on the White House Conference on Families will serve as the hearing panel and are hoping to hear testimony from family members themselves, as well as from representatives of organizations and agencies that are concerned about families, members of the academic community, leaders in the religious community, public officials, employers, and program administrators.

Requests to testify must be received by the White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201, no later than October 24, 1979, for the Colorado hearings. It is anticipated that more requests to testify will be received than time will permit. Advance registration is, therefore, strongly encouraged to accommodate as many prople as possible. Persons wishing to testify should submit a written request which includes the following information: name; home address; telephone numbers at both home and office; whether or not testimony is on behalf of an agency or organization and, if so, the name of the group and individuals' position title; topic of proposed testimony; preferences of location and day or everning testimony and whether an English translator or other special arrangements will be needed.

Time limits will be strictly enforced on all persons giving testimony. Whenever feasible, participants will be grouped together when dealing with similar topics. Members of the National Advisory Committee will be given an opportunity to question individuals and group members after their presentations.

Each hearing will also have a limited time set aside for individuals who have not signed up in advance. Individuals not wishing to testify at the hearings are welcome to attend.

Written testimony is also strongly encouraged and will be included as part of the record of the hearing. It should be typed and not exceed 1,000 words.

FOR FURTHER INFORMATION CONTACT: HEW Regional Office, (303) 837–2751; WHCF Colorado Coordinator, (303) 491–5889; or White House Conference on Families, 330 Independence Avenue, S.W., Washington, D.C. 20201, (202) 472–4395.

John L. Carr,

Executive Director, White House Conference on Families.

[FR Doc. 79-32304 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-12-M

Public Health Service

Application Announcement for Grants; Dental Team Practice Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Grants for Dental Team Practice are now being accepted under the authority of section 783(a)(3) of the Public Health Service Act.

Section 783(a)(3) authorizes the Secretary to make grants to meet the costs of projects to plan, develop, and operate or maintain programs to train dental students in the organization and management of multiple auxiliary dental team practice.

Any public or nonprofit private school of dentistry or other public or nonprofit private entity located in a State is eligible to apply.

Support for projects under this program may be approved for an initial project period of up to two years. Additional support of up to three years may be obtained by submission of a competing extension application which must present evidence of satisfactory program development and operation as observed during the program evaluations which are conducted annually by regional office and/or central office staff.

Grantee institutions should consider Dental Team Practice grant support as capacity building in nature and should plan eventually to assume the expense of the program's operation. If Federal funds are desired to support the project beyond a total of five years, a competing extension application for three additional years of support may be submitted. Support for these last three years may not exceed a maximum of

V 44 0 C 1 19 79 9 UMI

two-thirds, one-half, and one-third, respectively, of that received during the fifth year. Further, the institution must provide assurance that during this period the program will be operated on at least the same level as during the fifth year; i.e., assurance must be given that there will be no reduction in the number of students trained and that program quality will be maintained.

A funding order will be followed in making grant awards in fiscal year 1980. Approved applications will be funded in the following order: (1) continuation applications, (2) competing extension applications for the second to fifth years, (3) competing extension applications for the sixth to eighth years, (4) supplemental applications for the second to fifth years, and (5) new applications for the first to second years.

Based on the proposed appropriation for the Dental Team Practice program and projected requirements for continuation grants, it is anticipated that grants will be awarded only for the first three categories of the funding order. Approximately $500,000 is expected to be available in fiscal year 1980 for competitive awards.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D-11), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-27, 3700 East-West Highway, Hyattsville, Maryland 20782, phone: 301/436-6058.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than November 15, 1979.

Should additional program information be required, please contact: Education Development Branch, Division of Dentistry, Bureau of Health Manpower, Health Resources Administration, 3700 East-West Highway, Rm. 3-22, Hyattsville, Maryland 20782, phone: 301/436-6514.

Dated: October 16, 1979.

Henry A. Foley, Ph. D.,

Administrator, Health Resources Administration.

[FR Doc. 79-32301 Filed 10-18-79; 8:45 am]

BILLING CODE 4110-83-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Outer Continental Shelf; List of Restricted Joint Bidders

This notice supercedes the List of Restricted Joint Bidders published Friday, October 5, 1979, at 44 FR 57504. Pursuant to the authority vested in the Director of the Bureau of Land Management by the Joint Bidding provisions of 43 CFR 3316.3, the following companies shall be restricted from bidding jointly with any other company on this same list at Outer Continental Shelf oil and gas lease sales held during the bidding period of November 1, 1979, through April 30, 1980. BP Alaska Exploration Inc., and Sohio Natural Resources Company are listed together as one Restricted Joint Bidder; they may bid with each other, but not with any other company on this list:

Amoco Production Company
BP Alaska Exploration Inc., and Sohio Natural Resources Company
Chevron U.S.A. Inc.
Exxon Corporation
Gulf Oil Corporation
Mobil Oil Corporation
Mobil Oil Corporation & Producing Southeast Inc.
Shell Oil Company
Standard Oil Company of California
Texaco Inc.

Ed Hastey,

Associate Director, Bureau of Land Management.

October 15, 1979.

[FR Doc. 79-32201 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf-North Atlantic Oil and Gas Lease Sale No. 42; Correction

In connection with the Notice of Sale appearing in 44 FR Doc. 79-30838 at page 57514 in the issue of Friday, October 5, 1979, this notice calls attention to Table I, Hypothetical Quarterly Royalty Calculations, which contained a typing error. In column (C), Inflation Factor, the bottom 5 items in the column should be 5/3 instead of 4/3.

This example of hypothetical quarterly royalty calculations does not affect the terms and conditions of the sale.

Ed Hastey,

Associate Director, Bureau of Land Management.

October 16, 1979.

[FR Doc. 79-32200 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

[AA-16669]

Alaska Native Claims Selection

Correction

In FR Doc. 79-30181, published at page 56029, on Friday, September 28, 1979 the following corrections should be made:

On page 56030, in the first column, under Seward Meridian, Alaska (Unsurveyed), under T. 8 N., R. 9 W.:

a. "Sec. 32, N½, SW¼, NW¼SE¼;" should be corrected to read "Sec. 32, N½, SW¼, NW¼SE¼;";

b. "Secs. 35 and 16, all." should be corrected to read "Secs. 35 and 36, all.".

BILLING CODE 1505-01-M

[Colorado 25122Z]

Northwest Pipeline Corp.; R/W Applications for Pipeline

October 9, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-of-way additions 78218, 87868, 79088, for the Foundation Creek Gathering Systems of approximately 1.177 miles of pipeline on the following Public Land:

Sixth Principal Meridian, Rio Blanco County, Colorado

T. 3 S., R. 103 W.
Sec. 10: SE¼SW¼, S½SE¼;
Sec. 11: SW¼SW¼;
Sec. 14: W½SW¼, SE¼NW¼.

The above-named gathering systems will enable the applicant to collect natural gas and to convey it to its customers. The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.*

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-32254 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

Oregon, South Coast-Curry Timber Management Plan; Intent To Prepare an Environmental Impact Statement and Conduct Scoping Meeting

The Department of the Interior, Bureau of Land Management, Oregon State Office, will prepare an Environmental Impact Statement (EIS) on proposed timber management for the South Coast-Curry sustained yield unit (SYU) in the Coos Bay District in western Oregon. The final statement is to be completed by December 31, 1980.

This statement will analyze the proposed timber management plan for 326,371 acres of public land and alternatives to the proposal. Portions of the SYU are within Coos, Curry, Douglas and Lane Counties. The proposed timber management plan has been developed using the Bureau's land use planning system. A proposed sustained yield timber harvest level for the next decade has been identified along with management practices required to achieve this level of harvest. Harvest would be predominately by clearcutting. Single tree selection could be used in salvage situations. Additional management practices to be employed include: slash disposal, artificial reforestation (some with genetically improved stock), animal damage control, road construction, thinning, fertilization, and vegetation control (both to release conifers from competing vegetation and to convert some brush and hardwood stands to conifers) with herbicides and manual and mechanical methods.

Discussion of an alternative which is no change from present harvest level and practices is required and will be included in the EIS. Additional alternatives to the proposal which might be discussed in the statement include:

1. Variations in land use allocation in which more or less land is designated for intensive timber production.

2. Different acreages, cycles or types of intensive timber management practices.

3. Change in minimum harvest age which would affect the short-term availability of timber for harvest and the time needed to achieve a regulated forest. Each alternative included in the statement is likely to have a different annual harvest level.

The EIS will identify the impacts that can be expected from implementation of either the proposed timber management plan or any of the alternatives discussed. The statement will be an analytical tool used to assist in making final decisions for managing timber resources in the SYU. The final decisions are expected to guide the operations in the SYU for a 10-year period beginning in October 1981.

Public scoping meetings to identify significant issues and to obtain public comments on the formulation of specific alternatives will be held. Significant environmental issues are those considered to be of particular importance for in-depth analysis in the EIS. The principal meeting will take place at Coos Bay Public Library Auditorium in Coos Bay, Oregon, on November 13, 1979, at 7:30 p.m. Informal meetings as requested by groups or agencies may take place prior to November 30, 1979, on an arranged basis.

Further information may be obtained from the following individuals:

Paul Sanger, District Manager, Bureau of Land Management, P.O. Box 1139, Coos Bay, Oregon 97420, Telephone: (503) 269-5880.

Roland D. Smith, EIS Team Manager, Bureau of Land Management (911.1), P.O. Box 2965, Portland, Oregon 97208, Telephone: (503) 231-6950.

Dated: October 12, 1979.

Murl W. Storms,

State Director.

[FR Doc. 79-32255 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

Salmon District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Public Law 92-463 that a meeting of the Salmon District Grazing Advisory Board will be held on November 29, 1979.

The meeting will begin at 10 a.m. in the conference room of the Bureau of Land Management Office on south Highway 93, Salmon, Idaho.

The agenda for the meeting will include: (1) Consideration and recommendations concerning allotment management plans; (2) consideration and recommendations concerning the expenditure of range betterment and advisory board funds; and (3) discussion of rechartering of the board and election of new board members for the next charter period.

The meeting is open to the public. Anyone may make oral statements to the board or file written statements for the board's consideration. Oral statements may be made beginning at 3 p.m. on November 29, 1979. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, P.O. Box 430, Salmon, Idaho, 83467, by November 23, 1979.

Summary minutes of the board meeting will be maintained in the District Office and will be available for public inspection within 30 days following the meeting.

Harry R. Finlayson,

District Manager.

[FR Doc. 79-32253 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

[U-44043]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

Salt Lake Meridian, Utah

T. 19 S., R. 23 E.,
Secs. 34 and 35.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32251 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

[U-4404]

Utah; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corporation has applied for a 4½-inch natural gas pipeline right-of-way across the following lands:

V 44 0C 1979 UMI

Salt Lake Meridian, Utah

T. 18 S., R. 24 E.,
Secs. 4 and 9.

The needed right-of-way is a portion of applicant's gas gathering system located in Grand County, Utah.

The purpose of this notice is to inform the public that the Bureau will be proceeding with the preparation of environmental and other analyses necessary for determining whether the application should be approved, and if so, under what terms and conditions.

Interested persons should express their interest and views to the Moab District Manager, Bureau of Land Management, P.O. Box 970, Moab, Utah 84532.

Dell T. Waddoups,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32252 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

Announcement of Utah Paria Canyon Instant Study Area Wilderness Inventory Decision in Effect

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: This notice announces that the wilderness inventory decision for contiguous lands to the Paria Canyon Instant Study Area in Utah as announced in the August 31, 1979 **Federal Register**, became effective October 1, 1979. The decision was that 21,470 acres of contiguous public land have wilderness characteristics and 23,668 acres of public land did not have wilderness characteristics. The lands lacking wilderness characteristics are released from the constraints of interim protection as set forth in 603(c) of the Federal Land Policy and Management Act of 1976.

The land which has wilderness characteristics will be included in the ongoing suitability study of the entire Paria Canyon Instant Study Area conducted by the BLM Arizona Strip District.

FOR FURTHER INFORMATION CONTACT: Lawrence Royer, Cedar City BLM Distict office, 801-586-2401.

Dated: October 10, 1979.

Gary J. Wicks,

State Director.

[FR Doc. 79-32258 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69278]

Wyoming; Application

October 9, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct two 4½ inch O. D. buried pipelines and related facilities consisting of a 4' x 6' meter house and dehydrator for the purpose of transporting natural gas across the following described public lands;

Sixth Principal Meridian, Wyoming

T. 18 N., R. 93 W.,
Sec. 4, SW¼;
Sec. 10, W½SW¼.

The proposed pipelines will transport natural gas from the #4-4 Standard Draw Well in the SW¼ of Section 4 and the Champlin 222 Amoco H#1 Well in the SW¼ of Section 5 to a point of connection with Colorado Interstate Gas Company's proposed Wamsutter F80 pipeline at a point located in the SW¼SW¼ of Section 10, all within T. 18 N., R. 93 W., Carbon County, Wyoming. The proposed related facilities to be constructed entirely within a 50' right-of-way width will be located in the SW¼ of Section 4, T. 18 N., R. 93 W., Carbon County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32249 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-84-M

Geological Survey

Known Recoverable Coal Resource Area; Custer Creek, Mont.

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of Montana have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(26) Montana

Custer Creek (Montana) Known Recoverable Coal Resource Area (KRCRA); March 19, 1979; 19,215 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: October 9, 1979.

J. R. Balsley,

Acting Director.

[FR Doc. 79-32302 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-31-M

Known Recoverable Coal Resource Area; Kolob, Utah

Pursuant to authority contained in the Act of March 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1976 (Pub. L. 94-377, August 4, 1976, as amended by Pub. L. 95-554, October 30, 1978), Federal lands within the State of Utah have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(44) Utah

Kolob (Utah) Known Recoverable Coal Resource Area (KRCRA); March 15, 1979; 167,658 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, Stop 609, Box 25046, Federal Center, Denver, Colorado 80225.

Dated: October 9, 1979.

J. R. Balsley,

Acting Director.

[FR Doc. 79-32303 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-31-M

DEPARTMENT OF THE INTERIOR

National Park Service

Olympic National Park

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic National Forest; Transfer of Certain Lands

Correction

In FR Doc. 79-27804, published at page 52046, on Thursday, September 6, 1979, the following changes should be made:

1. In the first column, under the section in heading Jefferson County, Wash.—Willamette Meridian, T. 24½N., R. 9W. (unsurveyed), Sec. 34, delete "of the N½";

2. In the second column, under the section in heading Jefferson County, Wash.—Willamette Meridian, T. 24½N., R. 10W. (unsurveyed), in the second line of Sec. 34, the word "southerly" should be corrected to read "northerly";

3. In the second column, under the section in heading Jefferson County, Wash.—Willamette Meridian, T. 25N., R. 10W., in the second line of Sec. 36, the word "northerly" should be corrected to read "southerly".

BILLING CODE 1505-01-M

DEPARTMENT OF INTERIOR

National Park Service

Delta Region Preservation Commission; Meeting; Correction

In FR Doc. 79-31735 appearing on page 59297 in the issue of Monday, October 15, 1979, under: "The members of the Delta Region Preservation Commission are:" add John Eckerle, West Wago, Louisiana; Frank Ehert, Marrero, Louisiana; Ms Celestine S. Cook, New Orleans, Louisiana.

Date: October 12, 1979.

Lorraine Mintzmyer,

Regional Director, Southwest Region, National Park Service.

[FR Doc. 79-32207 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-70-M

Golden Gate National Recreation Area Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 7:30 p.m. (PDT) on Thursday, November 15, 1979 at Fort Mason Visitor Center, Golden Gate National Recreation Area Headquarters, San Francisco, CA.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service system in Marin and San Francisco counties.

Members of the Commission are as follows:

Mr. Frank Boerger, Chairman, Ms. Amy Meyer, Secretary, Mr. Ernest Ayala, Mr. Richard Bartke, Mr. Fred Blumberg, Ms. Daphne Greene, Mr. Peter Haas, Sr., Mr. Burr Heneman, Mr. John Jacobs, Ms. Gimmy Park Li, Mr. Joseph Mendoza, Mr. John Mitchell, Mr. Merritt Robinson, Mr. Jack Spring, Dr. Edgar Wayburn, Mr. Joseph Williams.

The major agenda items will be the review of public testimony on the General Management Plan for Golden Gate National Recreation Area and Point Reyes National Seashore, and an update from the Education/Recreation Committee.

This meeting is open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing to receive further information on this meeting or who wish to submit written statements may contact Lynn H. Thompson, General Superintendent, Golden Gate National Recreation Area, Fort Mason, San Francisco, CA 94123, telephone (415) 556-2920.

Minutes of the meeting will be available for public inspection by December 15, 1979 in the office of the General Superintendent, Golden Gate National Recration Area, Fort Mason, San Francisco, CA 94123.

Dated: October 11, 1979.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 79-32206 Filed 10-18-79; 8:45 am]

BILLING CODE 4310-70-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-79-147-C]

Kentucky Carbon Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kentucky Carbon Corporation, Box 596, Phelps, Kentucky 41553 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations) to its Kencar No. 1 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. Recent roof falls have made the air intake entry for a specified section of the petitioner's mine unsafe to travel and examine for hazardous conditions on a weekly basis as required by the standard.

2. Mining in the affected section will end in about three months, at which time the intake will be bratticed off from the active workings of the mine. A new section to be opened at that time will be ventilated by another intake.

3. The present intake will insure more than adequate ventilation for the remaining three months of mining in the affected section. Maintenance of adequate ventilation will be further insured by regular air velocity tests at each working face and at the last open crosscut of the section.

4. Methane in measurable amounts has never been detected at the mine.

5. The petitioner believes that its alternative method will achieve the same measure of protection as the standard, and further that the application of the standard to the affected section would result in a diminution of safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 19, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 5, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-32368 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-43-M

V 44 0 C 19 9 UMI

[Docket No. M-79-149-C]

Kentucky Carbon Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kentucky Carbon Corporation, Box 596, Phelps Kentucky 41553 has filed a petition to modify the application of 30 CFR 75.312 (ventilation) to its Kencar No. 1 Mine located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety Health Act of 1977, Public Law 95-164.

The substance of the petition follows:

1. The standard states in part that air passing through an abandoned area which is inaccessible or unsafe for inspection may not be used to ventilate working places in a mine.

2. Several roof falls have occurred in the airway for a working section in the petitioner's mine, making part of the airway inaccessible.

3. Ventilation of the section by the other intake in the area could result in a diminution of safety. Air from this second intake would have to travel a significant distance to reach the section thereby reducing air velocity, would be exposed to numerous possible interruptions along its course, and would have to pass a bleeder system carrying return air.

4. The petitioner has experienced has experienced no difficulty with its current ventilation system using the present intake airway. To further insure adequate ventilation, the petitioner proposes to conduct regular air velocity tests at each working face and at the last open crosscut of the section.

5. Measureable amounts of methane have never been detected in the petitioner's mine.

6. Use of the affected intake airway to ventilate active working areas will cease in about three months.

7. The petitioner believes that its alternative will achieve no less protection than that provided by the standard.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 19, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 5, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-32369 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-79-27-M]

Sunshine Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Sunshine Mining Company, Post Office Box 1080, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19-71 (hoisting procedures) to its Sunshine Mine located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977, Pub. L. 95-164.

The substance of the petition follows:

1. The standard prohibits miners from riding in skips or buckets with materials, supplies or tools.

2. During shaft sinking operations and shaft repair work at the petitioner's mine, it is often necessary to manually guide the sinking bucket onto the shaft guides because of the distance between the timber and shaft guides and the bottom of the shaft.

3. Should an unattended bucket fail to properly mate with the guides, material could spill onto workers below, injuring them. In addition, the conveyance which provides the normal means out of the shaft would be damaged.

4. To avoid such occurrences, workers must ride with a loaded muck bucket up to the timbered section to assure proper alignment of the bucket in the shaft guides.

5. The petitioner has made provisions for the restraining of materials in the bucket and the hoisting of materials at reduced speeds. A removable man deck allows workers to safely ride with materials, tools or supplies.

6. For these reasons, the petitioner requests modification of the application of the standard at its mine to avoid a diminution of safety.

Request for Comments

Persons interested in this petition may furnish written comments on or before November 19, 1979. Comments must be filed with the Office of Standards, Regulations and Variances, Room 627, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

Dated: October 5, 1979.

Robert B. Lagather,

Assistant Secretary for Mine Safety and Health.

[FR Doc. 79-32367 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

Alaska State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated September 27, 1977, from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, a request for an exemption from adopting of State standards comparable to 29 CFR 1910.1044, 1, 2-Dibromo-3-Chloropropane (DBCP), published in the **Federal Register** (42 FR 45536) dated September 9, 1977, as emergency temporary standard. Since it was determined that no employees in Alaska were exposed to DBCP, the Regional Administrator accepted the State's proposal and certificate of intent to adopt the permanent DBCP standards within six months of the effective date of those standards. The State has submitted a letter dated April 10, 1979 from Naomi Kipp, Director of the Division of Occupational Safety and Health, to John A. Granchi, Assistant Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.1044, 1, 2-Dibromo-3-Chloropropane, as published in the **Federal Register** (43 FR 7063) dated March 17, 1978, as permanent standards.

These standards, which are contained in Subchapter 4 Alaska Occupational Safety and Health Code, were promulgated after public notice under authority vested by AS 18.60.020 by Edmund Orbeck, Commissioner on June 8, 1978.

2. *Decision.* Having reviewed the State submission in the comparison with the Federal standards, it has been determined that the State's standards are identical to the Federal standards and accordingly are approved.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 8003, Federal Office Building, 909 First Avenue, Seattle, Washsington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Room N2349R, 3rd and Constitution Avenue NW., Washington, D.C. 20210.

4. *Public participation.* Section 1953.2(c) of this chapter provides that where State standards are identical to or "at least as effective as" comparable Federal standards and have been promulgated in accordance wth State law, approval may be effective upon publication without an opportunity for further public participation. As the standards under consideration are identical to the Federal standards and have been promulgated in accordance with State law including an opportunity for public comment and/or a public hearing, they are approved without an opportunity for further public comment.

This decision is effective October 19, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Seattle, Washington this thirteenth day of September, 1979.

James W. Lake,

Regional Administrator.

[FR Doc. 79-32365 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-26-M

Alaska State Standards; Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the **Federal Register** (38 FR 21628) of the approval of the Subpart R to Part 1952 containing the decision.

The Alaska plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. Section 1953.20 provides that "where any alteration in the Federal program could have an adverse impact on the at least as effective as status of the State program, a program change supplement to a State plan shall be required."

In response to Federal standards changes, the State has submitted by letter dated April 27, 1979 from Edmund N. Orbeck, Commissioner, to James W. Lake, Regional Administrator, and incorporated as part of the plan, State standards comparable to 29 CFR 1910.1018, Occupational Exposure to Inorganic Arsenic, as published in the **Federal Register** on May 5, 1978, with corrections on June 30, 1978.

These State standards which are contained in Article 3, Subchapter 4, Occupational Health and Environmental Control Code, Alaska Occupational Safety and Health Standards, were promulgated after public notice under authority vested by AS 18.60.020 to Edmund N. Orbeck, Commissioner, on May 2, 1979.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are at least as effective as the Federal standards and accordingly are approved. There are no technical differences. The only discernable difference is that the State has omitted the phrase, "the employer shall" in various places in the standard. Under Alaska law, the employer is responsible for assuring compliance with occupational safety and health standards. In addition, the startup dates are approximately six months later than those in the Federal standard.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6003, Federal Office Building, 909 First Avenue, Seattle, Washington 98174; State of Alaska, Department of Labor, Office of the Commissioner, Juneau, Alaska 99801; and the Technical Data Center, Occupational Safety and Health Administration, New Department of Labor Building, Room N2349R, 3rd and Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* Under 29 CFR 1953.2(c) the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Alaska plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective October 19, 1979.

(Sec. 18, Pub. L. 91-596, 84 Stat 1608 (29 U.S.C. 667))

Signed at Seattle, Washington, this 21st day of May 1979.

John A. Granchi,

Acting Regional Administrator, Occupational Safety and Health Administration.

[FR Doc. 79-32366 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-26-M

Federal Advisory Council on Occupational Safety and Health; Meeting

Notice is hereby given that the Federal Advisory Council on Occupational Safety and Health, established under Section 4(a) of Executive Order 11807 of September 28, 1974 (39 FR 35559), Occupational Safety and Health Programs for Federal Employees, will meet on November 6 starting at 10:00 a.m. in Room S4215 ABC, New Department of Labor Building, 200 Constitution Avenue, NW., Washington, D.C. The meeting will be open to the public.

The agenda provides for:

I. Call to order—Kenneth Blaylock, Vice Chairperson
II. Announcements—Clinton M. Wright
III. Election of Vice Chairperson—Kenneth Blaylock

V 44 0 C 19 79 9 UMI

IV. Summation of comments concerning FARS—Robert J. Broderick
V. Relationship between Accident Investigation Methodology and Development of Safety Standards—Dr. Jerry Purswell
VI. Reports:
A. Standing Committee on Federal Safety and Health Conferences—John E. Albertson
B. Standing Committee on Field Councils—Leven Gray
C. Interagency Task Group on Federal Medical Records—Annie W. Asensio
VII. New Business

The Council welcomes written data, views or comments concerning safety and health programs for Federal employees, including comments on the agenda items. All such submissions received by close of business November 2, 1979, will be provided to the members of the Council and included in the record of the meeting.

The Council will consider oral presentations relating to agenda items. Persons wishing to orally address the Council at the meeting should submit a written request to be heard by close of business November 2, 1979. The request must include the name and address of the person wishing to appear, the capacity in which appearance will be made, a short summary of the intended presentation and an estimate of the amount of time needed.

All communications regarding this Advisory Council should be addressed to Ms. Annie Asensio, Executive Secretary, FACOSH, Department of Labor, OSHA, Room N3423, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone (202) 523–8677.

Signed at Washington, D.C., this 15th day of October, 1979.

Eula Bingham,

Assistant Secretary of Labor.

[FR Doc. 79–32364 Filed 10–18–79; 8:45 am]

BILLING CODE 4510–26–M

Office of the Secretary

[TA–W–5801]

Barnes & Tucker Co., Mine #24D; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on July 31, 1979 in response to a worker petition received on July 30, 1979 which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at mine #24D of the Barnes and Tucker Company, Barnesboro, Pennsylvania. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Barnes and Tucker mined metallurgical coal from mine #24D under contract for another company. The investigation revealed that the company does not purchase any imported coal. While the company does purchase imported coke, which may be considered competitive with metallurgical coal, there was no significant change in the company's dependence on imported coke while the company did increase its dependence on domestic coke.

The investigation revealed that no significant declines in employment occurred in 1978 or in the first quarter of 1979.

Conclusion

After careful review, I determine that all workers of mine #24D of the Barnes and Tucker Company, Barnesboro, Pennsylvania are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79–32334 Filed 10–18–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5900]

Brewer Dry Dock Co.; Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Brewer Dry Dock Company, Staten Island, New York, engaged in conversion, repair, overhaul, and maintenance of marine vessels.

Brewer Dry Dock Company was engaged in providing the service of repairing ships.

Thus, workers of Brewer Dry Dock Company did not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Brewer Dry Dock Company by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Brewer Dry Dock Company and its customers had no controlling interest in one another. The subject firm was not corporately affiliated with any other company.

All workers engaged in repairing ships at Brewer Dry Dock Company were employed by that firm. All personnel actions and payroll transactions were controlled by Brewer Dry Dock Company. All employee benefits were provided and maintained by Brewer Dry Dock Company. Workers were not, at any time, under employment or supervision by customers of Brewer Dry Dock Company. Thus, Brewer Dry Dock Company, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Brewer Dry Dock Company, Staten Island, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Reseorch.

[FR Doc. 79–32336 Filed 10–18–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5933]

Capricorn Iron Works Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 30, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine and Shipbuilding Workers of America on behalf of workers and former workers of Capricorn Ironworks, Incorporated, Bronx, New York, a welding contractor for shipbuilding. The investigation revealed that the legal title of the firm is Capricorn Iron Works Company, Incorporated and that the proper location, for identification of the petitioners, is Brooklyn Navy Yard, New York.

Capricorn Iron Works Company, Incorporated is engaged in providing the service of welding ships.

Thus, workers of Capricorn Iron Works Company, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Capricorn Iron Works Company, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Capricorn Iron Works Company, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in welding ships at Capricorn Iron Works Company, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Capricorn Iron Works Company, Incorporated. All employee benefits are provided and maintained by Capricorn Iron Works Company, Incorporated. Workers are not, at any time, under employment of customers of Capricorn Iron Works Company, Incorporated. Thus, Capricorn Iron Works Company, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Capricorn Iron Works Company, Incorporated, Bronx, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79–32337 Filed 10–18–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5849]

Carter Leather Goods Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 13, 1979 in response to a worker petition received on August 6, 1979 which was filed by the International Leather Goods, Plastic, and Novelty Workers on behalf of workers and former workers producing men's and ladies' wallets, check secretaries, billfolds, clutches, french purses, and key cases at Carter Leather Goods Company, Inc., New York, New York. The investigation revealed that Carter Leather also produced desk pads. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that carter had a primary customer for its small personal leather good sales and another primary customer for its desk pad sales. Neither of these customers imported in 1977, 1978, or in the first seven months of 1979.

Conclusion

After careful review, I determine that all workers of Carter Leather Goods Company, Inc., New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79–32338 Filed 10–18–79; 8:45 am]

BILLING CODE 4510–28–M

[TA–W–5854]

Celia's Sportswear Manufacturing Corp.; Peg Sportswear, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 13, 1979, in response to a worker petition received on August 8, 1979, which was filed on behalf of workers formerly producing ladies' sportswear at Celia's Sportswear Manufacturing Corporation in New York City, New York, and on behalf of workers formerly purchasing raw materials, making samples, and shipping finished product to customers for Celia's Sportswear Manufacturing Corporation at Peg Sportswear, Incorporated, in New York City, New York. The investigation revealed that sportswear consisted of blouses, suits, skirts, jackets and slacks. The investigation also revealed that Celia's Sportswear Manufacturing was a contractor that worked exclusively for its parent firm, Peg Sportswear. It is

concluded that all of the requirements have been met.

U.S. imports of women's, misses' and children's blouses and shirts; women's, misses' and children's suits; women's, misses' and children's skirts; women's, misses; and children's coats and jackets; and women's misses' and children's slacks and shorts increased both absolutely and relative to domestic production from 1977 to 1978 and then decreased absolutely in the January through June 1979 period compared to the like period in 1978.

The Department conducted a survey of the customers of Peg Sportswear, Incorporated. The survey revealed that some customers decreased purchases from the subject firm from 1977 to 1978 and in the first seven months of 1979 compared with the first seven months of 1978 and increased their purchases of imported ladies' sportswear either absolutely or relative to total purchases. Furthermore, aggregate demand for imports by survey respondents increased as a percentage of total demand from 1977 to 1978 and in the first seven months of 1979 compared with the first seven months of 1978. Increased imports of ladies' sportswear forced Peg Sportswear to lower their prices and assume losses in order to compete.

Conclusion

After careful review of the facts obtained in the investigation, I concluded that increases of imports of articles like or diectly competive with ladies' blouses, skirts, jackets, suits and slacks produced at Celia's Sportswear Manufacturing Corporation and Peg Sportswear, Incorporated, both of New York City, New York, contributed importantly to the decline in sales or production and to the total or partial separation of workers of those firms. In accordance with the provisions of the Act, I make the following certification:

All workers of Celia's Sportswear Manufacturing Corporation, New York City, New York, and Peg Sportswear, Incorporated, New York City, New York, who became totally or partially separated from employment on or after July 30, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

Hary J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32339 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5950 and 5951]

Cedar Coal Co.; Coal Fork Mine No. 1—TA-W-5950, Coal Fork Mine No. 2—TA-W-5951; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 4, 1979, in response to a worker petition received on August 29, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Cabin Creek Coal Company, Cabin Creek, West Virginia. The investigation revealed that the correct name of the firm is Cedar Coal Company. The investigation further revealed that the plant produces steam coal, exclusively. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Cedar Coal Company, a wholly-owned subsidiary of Appalachian Electric Power, operates a complex of surface and underground coal mines. The United Mine Workers of America filed this petition on behalf of miners at Coal Fork Mines No. 1 and No. 2. All coal extracted from these mines was steam coal used by Appalachian Electric Power to generate electricity in its commercial power plants. All coal consumed by Appalachian Electric Power is produced domestically.

U.S imports of bituminous coal are negligible, being less than one percent of domestic production.

Conclusion

After careful review, I determine that all workers of Cedar Coal Company, Cabin Creek, West Virginia, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32340 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5937]

Indian Creek Coal Co., Inc., d.b.a. M & B Coal Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 30, 1979, in response to a worker petition received on August 20, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Indian Creek Coal Company d.b.a. M & B Coal Company, Welch, West Virginia. The investigation revealed that the correct name of the firm is Indian Creek Coal Company, Incorporated, d.b.a. M & B Coal Company, and that it is located in Wyoming County, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The coal produced at the two mines of M & B Coal Company is sent to a larger, affiliated firm which cleans it, blends it with other coal and then sells the blended coal. Virtually all of the coal sold by that firm in 1978 was exported. Exports continued to account for a preponderance of its sales in the first eight months of 1979. Domestic sales of coal by that firm, although small, have increased from 1977 to 1978 and were higher in the first 8 months of 1979 than in all of 1978.

An analysis of the industry indicated that U.S. exports of metallurgical coal declined from 1975 to 1978 primarily due to the depressed state of the steel industries in developed countries. Major importers of U.S. metallurgical coal have been changing to lower quality, cheaper coal from Australia, Western Canada and Soviet Union. These factors, and not the domestic market for metallurgical coal, have affected production and employment at M & B Coal Company.

Conclusion

After careful review, I determine that all workers of Indian Creek Coal Company, Incorporated, d.b.a. M & B Coal Company, Wyoming County, West Virginia, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32344 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5852]

International Shoe Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 13, 1979, in response to a worker petition received on August 6, 1979, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing women's dress shoes at the Salem, Missouri, plant of International Shoe Company. The workers of the Salem, Missouri, plant of International Shoe Company, were previously certified eligible to apply for trade adjustment assistance (TA-W-2047). The certification expired on August 31, 1979, two years from its date of issuance. It is concluded that all of the requirements have been met.

U.S. imports of women's non-rubber footwear, except athletic increased both absolutely and relative to domestic production and consumption from 1977 to 1978 and continued to increase during the first half of 1979 compared to the first half of 1978.

A survey of customers of International Shoe Company revealed that many customers reduced purchases of women's shoes from International Shoe while increasing purchases of women's shoes from foreign sources. The percentage of imported women's shoes to total demand for women's shoes by the respondents increased from 1977 to 1978 and continued to increase during the first half of 1979 compared to the first half of 1978. This finding is consistent with industry data which shows that the ratios of imported women's shoes to total domestic production and consumption of women's non-rubber footwear have also increased.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes produced at the Salem, Missouri plant of International Shoe Company, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of the Salem, Missouri plant of International Shoe Company, who became totally or partially separated from employment on or after August 31, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-32345 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the worker's firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor,200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of October 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Botany 500 (workers)	Philadelphia, Pa	Oct. 10, 1979	Sept. 25, 1979	TA-W-6,190	Men's suits and sportcoats.
Cedar Coal Co. (UMWA)	Cabin Creek, W. Va.	Oct. 10, 1979	Sept. 29, 1979	TA-W-6,191	Steam coal.
Fairchild, Inc. (workers)	Beckley, W. Va.	Oct. 10, 1979	Oct. 1, 1979	TA-W-6,192	Mining equipment.
Fairmont Coke Works (workers)	Fairmont, W. Va.	Oct. 10, 1979	Sept. 29, 1979	TA-W-6,193	Coke.
Ilex Optical Co., Inc. (IUE)	Rochester, N.Y.	Oct. 10, 1979	Oct. 4, 1979	TA-W-6,194	Electro-optical, optical mechanical components (lenses).
Imagi-Knitting Mills (Knitgoods Workers Union, ILGWU).	Hauppauge, N.Y.	Oct. 10, 1979	Oct. 8, 1979	TA-W-6,195	Knitted fabrics.

Appendix —Continued

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Northeast Shoe Company (workers).	Pittsfield, Maine	Oct. 10, 1979	Oct. 2, 1979	TA-W-6,196	Ladies' casual shoes.
Standard Pyroxoloid Corp (Retail, Wholesale Department Store Union)	Fitchburg, Mass	Oct. 10, 1979	Oct. 4, 1979	TA-W-6,197	Hair brushes, and brush and mirror sets, also combs.
Teledyne Surface Chemicals (USWA)	Forbes Road, Pa	Oct. 10, 1979	Oct. 1, 1979	TA-W-6,198	Stainless steel wire.
U.S. Steel Corp., Joliet-Waukegan Works (USWA).	Joliet, Ill	Oct. 10, 1979	Oct. 1, 1979	TA-W-6,199	Carbon steel products.

[FR Doc. 79-32335 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 15th day of October 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Cohen Brothers Specialbes, Inc. (ACTWU)	New York, N.Y.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,177	Men's formal wear.
Eastern Knitting Mills (ILGWU)	Blemheim, N.J.	Oct. 9, 1979	Oct. 2, 1979	TA-W-6,178	Men's knitted sweaters and shirts.
Farmington Manufacturing Company (ACTWU).	Farmington, Mo.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,179	Men's pants and sportcoats.
Manhattan Cost Corporation (ACTWU)	New York, N.Y.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,180	Men's suitcoats, sportcoats and vests.
Magerman Trousers, Inc. (ACTWU)	Philadelphia, Pa.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,181	Contractor of men's trousers.
Mark Mining, Inc. (UMWA)	Somerset, Pa.	Oct. 3, 1979	Sept. 27, 1979	TA-W-6,182	Metallurgical coal.
New Haven Brass Mill (International Assoc. of Machinists & Aerospace Workers).	New Haven, Conn.	Oct. 9, 1979	Oct. 2, 1979	TA-W-6,183	Brass alloy (sheet and strip).
RCA Corp., Solid State Division (I.E.W.)	Mountaintop, Pa.	Oct. 9, 1979	Oct. 1, 1979	TA-W-6,184	Power solid state devices (transistors rectifiers) also hybrid circuits (heart pacemaker).
Roma Fashions, Inc. (ACTWU)	New York, N.Y.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,185	Contractor of men's pants and vests.
Saint Laurie, Ltd. (ACTWU)	New York, N.Y.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,186	Men's and women's clothing.
Santa Rosa Shoe Corporation (workers)	Santa Rosa, Calif.	Oct. 10, 1979	Oct. 5, 1979	TA-W-6,187	Men's and women's work boots, safety boots and men's casual shoes.
Vincent Formal & Leisure Wear, Inc. (ACTWU)	New York, N.Y.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,188	Contractor of men's suitcoats and overcoats and formal jackets.
E. Weinshel & Brother Company (ACTWU)	Milwaukee, Wis.	Oct. 9, 1979	Oct. 3, 1979	TA-W-6,189	Vests, raincoats and outerwear for men and women.

[FR Doc. 79-32341 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute of relative increases of imports or articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of Interational Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed as Washington, D.C., this 30th day of August 1979.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Capricorn Ironworks, Inc. (I.U.W.S.W.A.).	Bronx, N.Y.	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,933	Welding contractor for shipbuilding.
Commencal Carriers, Inc., Nashville Terminal (Teamsters).	Nashville, Tenn.	Aug. 27, 1979	Aug. 21, 1979	TA-W-5,934	Transport of automobiles.
Congress Textile Printers, Inc. (ACTWU).	Hawthorne, N.J.	Aug. 27, 1979	Aug. 16, 1979	TA-W-5,935	Lacquer duco and flo paint for fabrics.
Dexter Buick GMC Truck Co., Inc. (workers).	Providence, R. I.	Aug. 15, 1979	Aug. 4, 1979	TA-W-5,936	Auto dealership.
Indian Creek Coal Co. D.B.A. M & B Coal Co. (U.M.W.A.).	Welch, W. Va.	Aug. 20, 1979	Aug. 12, 1979	TA-W-5,937	Mining of coal.
Key Chrysler Plymouth (workers)	Madison Tenn.	Aug. 27, 1979	Aug. 20, 1979	TA-W-5,938	Auto dealership.
Lexington Metal Products Co. (workers).	Lexington, Tenn.	Aug. 27, 1979	Aug. 20, 1979	TA-W-5,939	Auto parts, chrysler locks, AMC regulators, chrysler seat recliners.
Philtron Corp. (workers)	Whitman, Mass.	Aug. 27, 1979	Aug. 15, 1979	TA-W-5,940	Light fixtures, wood products.
Robinson Phillips Coal Co., Ace Mine (UMWA).	Pineville, W. Va.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,941	Mining of coal.
Robinson Phillips Coal Co., Carol Mine (UMWA).	Pineville, W. Va.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,942	Mining of coal.
Robinson Phillips Coal Co., Elk Lick Mine #64 (UMWA).	Pineville W. Va.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,943	Mining of coal.
Sarkes Tarzian, Inc., Tuner Div. (workers).	Bloomington, Ind.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,944	T.V. tuners.
Simron Fuel Co., Twin Branch Mine (UMWA).	McDowell County, W. Va.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,945	Mining of coal.
Simron Fuel Co., Lobo Mine #1 (UMWA).	McDowell County W. Va.	Aug. 27, 1979	Aug. 23, 1979	TA-W-5,946	Mining of coal.
Steven Ranson, Inc. (I.U.M.S.W.A.).	Newark, N.J.	Aug. 21, 1979	Aug. 9, 1979	TA-W-5,947	Conversion, repair, overhaul and maintenance of marine vessels.
Winn Branch Coal Company (workers).	Winn Branch, Ky.	Aug. 21, 1979	Aug. 13, 1979	TA-W-5,948	Mining of coal.
York Leather Fashion, Inc. (workers).	New York, N.Y.	Aug. 27, 1979	Aug. 20, 1979	TA-W-5,949	Ladies' and men's garments.

[FR Doc. 79-32342 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible

V 44 0 C 1 9 7 9 UMI

to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 29, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 12th day of September 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Dell Knitwear, Inc. (workers)	Bronx, N.Y.	September 6, 1979.	August 29, 1979.	TA-W-6,015	Children's sweaters.
International Shoe Company (United Shoe Workers of America).	Searcy, Ark.	September 6, 1979.	September 4, 1979.	TA-W-6,016	Women's shoes.
Oliver Tire & Rubber Company (URCLPWA).	Flemington, N.J.	September 6, 1979.	September 1, 1979.	TA-W-6,017	Recapping materials used for recapping tires.
Russell, Burdsall & Ward Corp. (USWA).	Corapolis, Pa.	September 10, 1979.	August 20, 1979.	TA-W-6,018	Industrial fastener.
Salant & Salant (United Garment Workers of America)	Paris, Tenn.	September 6, 1979.	August 30, 1979.	TA-W-6,019	Men's western shirts and misses and juniors blouses.
Santini Corporation (workers)	Woodbury, Tenn.	September 6, 1979.	August 29, 1979.	TA-W-6,020	Ladies' pants and skirts.
Wellman Company (company)	Medford, Mass.	September 10, 1979.	September 4, 1979.	TA-W-6,021	Outsole cutting machines, forms, leaders, and parts for machines, aluminum footwear lasts.

[FR Doc. 79-32343 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5875]

Keene Wood Heel Co., Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 20, 1979 in response to a worker petition received on August 16, 1979 which was filed by Company officials on behalf of workers and former workers producing wooden heels and wedges for shoes at Keene Wood Heel Company, Incorporated, Keene, New Hampshire. The investigation revealed that workers also produce clogs for use as shoes and cut lumber for sale to other firms. It is concluded that all of the requirements have been met.

U.S. imports of non-leather bottom stock materials for footwear in terms of quantity increased both absolutely and relative to domestic production in 1978 from 1977 and in January-June 1979 compared to the same period in 1978.

A customer survey revealed a major customer reduced purchases from Keene Wood Heel and increased purchases of imported wooden heels, wedges, and clogs in 1978 compared to 1977 and in January-August 1979 compared to the same period in 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the wooden heels, wedges, and clogs produced at Keene Wood Heel Company, Incorporated, Keene, New Hampshire contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Keene Wood Heel Company, Incorporated, Keene, New Hampshire who became totally or partially separated from employment on or after August 9, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32346 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5870]

Manes Organization, Inc., Manes Group; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 17, 1979 in response to a worker petition received on August 15, 1979 which was filed on behalf of workers and former workers engaged in the "conversion of textiles" at Manes Organization, Incorporated, New York, New York. The investigation revealed that the petitioners represented workers in the Manes Group of the Manes Organization. In the following determinations, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of finished fabric declined in absolute terms in the first six months of 1979 compared with the like period in 1978. Moreover, imports of finished fabric supply only a small percentage of the domestic market. The ratio of imports to domestic production of finished fabric did not exceed two percent in the period between 1974 and 1978.

Sales of finished fabric by the Manes Group of the Manes Organization, Incorporated increased in value in 1978 compared with 1977 and increased in the first quarter of 1979 compared with the like period in 1978. The decline in sales which occurred in the period April–June 1979 compared with April–June 1978 reflects the fact that the textile industry was one of the first industries to be affected by the general economic recession in the United States. In addition, average employment of workers of the Manes Group of the Manes Organization increased in each of the first two quarters of 1979 compared with the same respective quarter of 1978.

Conclusion

After careful review, I determine that all workers of the Manes Group of the Manes Organization, Incorporated, New York, New York are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32347 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5853]

Mountaineer Coal Co.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 13, 1979, in response to a worker petition received on August 8, 1979, which was filed on behalf of workers and former workers mining coal at the Clear Creek, West Virginia mine of the Mountaineer Coal Company, Charleston, West Virginia.

The Mountaineer Coal Company was in operation for less than three months at the time of the investigation. Due to the short term of operation of the Mountaineer Coal Company, it is not possible to determine trends of sales and production and to statistically measure the impact of imports. In addition, worker qualifying requirements in section 231 of the Act may not be met by any employees of the Mountaineer Coal Company. Consequently the investigation has been terminated.

Signed at Washington, D.C., this 11th day of October, 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-33348 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5836]

National Sugar Refining Co.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 8, 1979 in response to a worker petition received on August 1, 1979 which was filed on behalf of workers and former workers producing refined sugar at the National Sugar Refining Company, Philadelphia, Pennsylvania, and New York, New York. It is concluded that all of the requirements have been met.

U.S. imports of refined sugar increased during the first half of 1979 compared to the first half of 1978.

Surveyed customers of National Sugar Refining Company decreased purchases from National Sugar and increased purchases of imported refined sugar in 1978 compared to 1977 and during January–July 1979 compared to same period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with refined sugar produced at National Sugar Refining Company, Philadelphia, Pennsylvania, and New York, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of National Sugar Refining Company, Philadelphia, Pennsylvania and New York, New York who became totally or partially separated from employment on or after July 25, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32349 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5880]

Perkins Diesel Corp.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 21, 1979 in response to a worker petition received on August 17, 1979 which was filed on behalf of workers and former workers producing 4 and 6 cylinder diesel engines at Perkins Diesel Corporation, Canton, Ohio. The investigation revealed that the plant produces diesel engines for industrial and commercial use. It is concluded that all of the requirements have been met.

U.S. imports of diesel engines for industrial and commercial use increased in quantity and value in the January–July period of 1979 compared with the same period in 1978.

Imports of diesel engines by Perkins Diesel Corporation increased in quantity from 1977 to 1978 and in the January–October period of 1979, compared with the same period in 1978. After October 31, 1979, the diesel engine models which

V 4 4 0 C 1 9 7 9 UMI

the Canton plant had been producing will be supplied from the Perkins plants in Peterborough, England.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with diesel engines produced at Perkins Diesel Corporation, Canton, Ohio contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Perkins Diesel Corporation, Canton, Ohio who became totally or partially separated from employment on or after October 26, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of October 1979.

Harry J. Gilman,

Supervisory Internotional Economist, Office of Foreign Economic Research.

[FR Doc. 79-32350 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5881]

Perry Knit, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibilty to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 21, 1979, in response to a worker petition received on August 20, 1979, which was filed on behalf of workers and former workers producing knitted outerwear for men, women, and children at Perry Knit, Incorporated, Union City, New Jersey. The investigation revealed that Perry Knit produces sweaters for men, women, and children. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

U.S. imports of women's, misses', and children's sweaters declined both absolutely and relative to domestic production from 1976 to 1977. Imports continued to decline in absolute terms from 1977 to 1978 and in the January through June period of 1979 when compared to the same period in 1978.

U.S. imports of men's and boys' sweaters, knit cardigans, and pullovers declined absolutely in the January through June period of 1979 when compared to the same period in 1978.

A Department of Labor investigation revealed that Perry Knit, Incorporated contracts for the production of women's, misses', girls', men's and boys' sweaters.

The Department conducted a survey of the sweater manufacturers from whom Perry receives contract work. This survey revealed that the manufacturers neither utilized foreign contractors for the production of sweaters nor imported any sweaters in 1977, 1978 or in the first seven months of 1979.

In addition, the Department surveyed the retail customers of manufacturers whose sales are declining. The retail customers which decreased purchases of sweaters from the domestic manufacturers, in the first seven months of 1979 compared to the first seven months of 1978, did not increase their purchases of imported sweaters.

Conclusion

After careful review, I determine that all workers of Perry Knit, Incorporated, Union City, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Reseorch.

[FR Doc. 79-32351 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W- 5941-5943, 6142-4; TA-W- 5945 and 5946]

Robinson Phillips Coal Co. and Simron Fuel Co.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on August 30, 1979, and October 2, 1979, in response to a worker petition received on August 27, 1979, which was filed by the United Mine Workers of America on behalf of workers and former workers producing metallurgical coal at the Ace (TA-W-5941), Carol (TA-W-5942), Elk Lick #64 (TA-W-5943), Alpine #1 (TA-W-6142), Alpine #2 (TA-W-6143) mines and the Preparation Plant (TA-W-6144) of the Robinson Phillips Coal Company, Pineville, West Virginia, and the Twin Branch (TA-W-5945) and Lobo (TA-W-5946) mines of the Simron Fuel Company, Pineville, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat therof, and to the absolute decline in sales or production.

Domestic customers purchasing metallurgical coal from Robinson Phillips indicated they have not purchased any imported coal or coke in 1979. Several of the customers indicated that the depressed automobile and steel industries have adversely affected their production and thus their need for metallurgical coal.

In 1978 virtually all of the coal produced by the Robinson Phillips Coal Company and the Simron Fuel Company was exported. Exports remained a significant proportion of total company sales in the first eight months of 1979. An analysis of the industry indicated that U.S. exports of metallurgical coal declined from 1975 to 1978 primarily due to the depressed state of the steel industries in developed countries. Major importers of U.S. metallurgical coal have been changing to lower quality, cheaper coal from Australia, Western Canada and the Soviet Union. The Robinson Phillips Coal Company and the Simron Fuel Company closed four mines on July 31, 1979.

Conclusion

After careful review, I determine that all workers of the Robinson Phillips Coal Company, Pineville, West Virginia, and the Simron Fuel Company, Pineville, West Virginia, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32352 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5909]

Rodermond Industries, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Rodermond Industries, Jersey City, New Jersey, engaged in conversion, repair, overhaul, and maintenance of marine vessels. The investigation revealed that the legal title of the firm is Rodermond Industries, Incorporated.

Rodermond Industries, Incorporated is engaged in providing the service of repairing and altering ships.

Thus, workers of Rodermond Industries, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Rodermond Industries, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Rodermond Industries, Incorporated and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in repairing and altering ships at Rodermond Industries, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Rodermond Industries, Incorporated. All employee benefits are provided and maintained by Rodermond Industries, Incorporated. Workers are not, at any time, under employment or supervision by customers of Rodermond Industries, Incorporated. Thus, Rodermond Industries, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Rodermond Industries, Incorporated, Jersey City, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32353 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5944]

Sarkes Tarzian, Inc., Tuner Division; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 30, 1979, in response to a worker petition received on August 27, 1979, which was filed on behalf of workers and former workers producing T.V. tuners at Sarkes Tarzian, Incorporated, Tuner Division, Bloomington, Indiana. It is concluded that all of the requirements have been met.

U.S. imports of television tuners increased relative to domestic production in 1978 compared to 1977.

Workers at Sarkes Tarzian, Inc., Tuner Division, Bloomington, Indiana, were certified eligible to apply for adjustment assistance benefits on April 20, 1976 (TA-W-573). During 1978, production of television tuner subassemblies—traps and channel sticks—was transferred from Bloomington to a company facility at Zaragosa, Mexico. Discontinuation of trap and channel stick production at the Bloomington plant represented a further transfer of tuner production to Mexico.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the T.V. tuners produced at Sarkes Tarzian, Incorporated, Tuner Division, Bloomington, Indiana, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Sarkes Tarzian, Incorporated, Tuner Division, Bloomington, Indiana, who became totally or partially separated from employment on or after August 23, 1978, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of October 1979.

Harry J. Gilman,

Supervisory Internotional Economist, Office of Foreign Economic Research.

[FR Doc. 79-32354 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5911]

Seaare Marine, Inc., Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Seaare Marine, Incorporated, Brooklyn, New York, engaged in fabricating parts for repairing vessels, conversion, repair, overhaul, and maintenance of marine vessels.

Seaare Marine, Incorporated, is engaged in providing the service of repairing ships and refitting parts for ships.

Thus, workers of Seaare Marine, Incorporated, do not produce an article within the meaning of section 222(3) of

the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Seaare Marine, Incorporated, by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Seaare Marine, Incorporated, and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in repairing ships and refitting parts for ships at Seaare Marine, Incorporated, are employed by that firm. All personnel actions and payroll transactions are controlled by Seaare Marine, Incorporated. All employee benefits are provided and maintained by Seaare Marine, Incorporated. Workers are not, at any time, under employment or supervision by customers of Seaare Marine, Incorporated. Thus, Seaare Marine, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Seaare Marine, Incorporated, Brooklyn, New York, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32355 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5882]

Shortway Products, Inc.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 21, 1979, in response to a worker petition received on August 20, 1979, which was filed on behalf of workers and former workers producting electron receiving tube mounts at Shortway Products, Incorporated, Clearfield, Pennsylvania. It is concluded that all of the requirements have been met.

Electron receiving tubes and electron receiving tube mounts are classified under the same import category, but separate import data for the two products is not available. Industry analysts indicate that during the 1977–79 period tube mounts accounted for an increasing share of the total import category. The dollar value of U.S. imports of electron receiving tubes and tube mounts increased relative to the dollar value of U.S. shipments. The ratio of imports to shipments increased from 33.7 percent in 1977 to 36.0 percent in 1978.

Shortway Products assembles tube mounts on a contract basis exclusively for another manufacturing company. This manufacturer uses domestic and imported tube mounts to produce electron receiving tubes. The manufacturer reduced its tube mount orders with Shortway Products and increased its reliance on imported tube mounts in 1978 from 1977 and in January–July 1979 compared to January–July 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with electron receiving tube mounts produced at Shortway Products, Incorporated, Clearfield, Pennsylvania, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Shortway Products, Incorporated, Clearfield, Pennsylvania, who became totally or partially separated from employment on or after August 2, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32356 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5864]

Stucar Manufacturing Corp.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of investigations regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 14, 1979, in response to a worker petition received on August 8, 1979, which was filed on behalf of workers and former workers producing men's suits and women's coats at Stucar Manufacturing Corporation, New York, New York. The investigation revealed that the plant produces men's suit coats, pants, and vests and women's jackets, slacks and skirts.

Evidence developed in the course of the investigation revealed that workers producing men's pants at Stucar Manufacturing are covered by the existing certification for EAR Pants Manufacturing Corporation (TA–W–2243), which is a predecessor to Stucar Manufacturing with respect to workers producing pants. On November 25, 1977, the Department certified all workers of EAR Pants Manufacturing Corporation, eligible to apply for adjustment assistance. The certification expires November 25, 1979. EAR Pants Manufacturing shared common ownership with Enzel-Arthur Richards until late 1977 when the operations of the two companies were merged. The surviving company, Enzel-Arthur Richards, changed its name to Stucar Manufacturing on October 1, 1978.

Without regard to whether any of the other criteria have been met for workers producing women's jackets, slacks and skirts, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Stucar began producing women's jackets and slacks in May 1978. Sales and production of these garments are seasonal. Due to the short period of production of these products at Stucar it is not possible to discount the seasonal influence on sales, production and employment or to measure the impact of imports except for the May–July 1979 period. Production of these garments at Stucar increased in the May through July 1979 period compared with the like period of the previous year.

Production of skirts at Stucar increased in 1978 compared with 1977 and increased in the first seven months of 1979 compared with the like period of 1978. The production declines that did occur were due to normal business fluctuations.

For workers producing men's suit coats, pants and vests, all of the criteria have been met.

U.S. imports of men's and boys' tailored dress coats and sportcoats and U.S. imports of men's and boys' dress trousers and shorts increased absolutely and relatively from 1977 to 1978. The 1978 levels of U.S. imports of men's and boys' tailored suits, which includes vests, were higher than 1976 levels.

Stucar performs contract work for several garment manufacturers. The Department surveyed major customers of the manufacturers who accounted for most of Stucar's decline in contract work for men's garments. The survey indicated that customers who contributed to the decrease in the sales of these manufacturers increased imports of men's suit coats, pants and vest in 1978 compared with 1977 and in the first half of 1979 compared with the like period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the men's, suit coats, pants and vests produced at Stucar Manufacturing Corporation, contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Stucar Manufacturing Corporation, New York, New York, formerly Enzel-Arthur Richards Manufacturing Corporation, engaged in employment related to the production of men's suit coats and vests who became totally or partially separated from employment on or after July 30, 1978 and all workers of Stucar Manufacturing Corporation, engaged in employment related to the production of men's pants (formerly of E.A.R. Pants Manufacturing Corporation) who became totally or partially separated from employment on or after November 25, 1979 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1975.

Signed at Washington, D.C., this 12th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-32357 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5876]

Terry Jane Coal Co., Inc.; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 20, 1979, in response to a worker petition received on August 10, 1979, which was filed by the United Mine Workers of America on behalf of workers formerly mining metallurgical coal for the Terry Jane Coal Company, Incorporated, of Mingo County, West Virginia. The investigation revealed that the company was based in Logan, West Virginia.

Due to the short term of operation of Terry Jane Coal Company, Incorporated, there is not sufficient information in the case upon which to base a determination. In addition, workers qualifying requirements in section 231 of the Act may not be met at this time. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 12th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-32358 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5913]

Turbine Enterprises, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Turbine Enterprises, Incorporated, Elizabeth, New Jersey, engaged in conversion, repair, overhaul, and maintenance of marine vessels.

Turbine Enterprises, Incorporated, is engaged in providing the service of repairing ships.

Thus, workers of Turbine Enterprises, Incorporated, do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Turbine Enterprises, Incorporated, by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Turbine Enterprises, Incorporated, and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company. Neither the subject firm nor any company with which it shares common ownership produces an article.

All workers engaged in repairing ships at Turbine Enterprises, Incorporated, are employed by that firm. All personnel actions and payroll transactions are controlled by Turbine Enterprises, Incorporated. All employee benefits are provided and maintained by Turbine Enterprises, Incorporated. Workers are not, at any time, under employment or supervision by customers of Turbine Enterprises, Incorporated. Thus, Turbine Enterprises, Incorporated, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Turbine Enterprises, Incorporated, Elizabeth, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32359 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5914]

Union Dry Dock & Repair Co., Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding

V 44 0C 19 79 UMI

certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine & Shipbuilding Workers of America on behalf of workers and former workers of Union Dry Dock & Repair Company, Incorporated, Weehawken, New Jersey, engaged in conversion, repair, overhaul, and maintenance of marine vessels.

Union Dry dock & Repair Company, Incorporated, is engaged in providing the service of repairing ships.

Thus, workers of Union Dry Dock & Repair Company, Incorporated, do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Union Dry Dock & Repair Company, Incorporated, by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Union Dry Dock & Repair Company, Incorporated, and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in repairing ships at Union Dry Dock & Repair Company, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Union Dry Dock & Repair Company, Incorporated. All employee benefits are provided and maintained by Union Dry Dock & Repair Company, Incorporated. Workers are not, at any time, under employment or supervision by customers of Union Dry Dock & Repair Company, Incorporated. Thus, Union Dry Dock & Repair Company, Incorporated, and not any of its customers, must be considered to be the "Workers' firm".

Conclusion

After careful review, I determine that all workers of Union Dry Dock & Repair Company, Incorporated, Weehawken, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32360 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5915]

Union Maintenance Corp.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 27, 1979, in response to a worker petition received on August 21, 1979, which was filed by the Industrial Union of Marine and Shipbuilding Workers of America on behalf of workers and former workers of Union Maintenance Corporation, Hoboken, New Jersey, engaged in sandblasting and painting ships.

Union Maintenance Corporation, is engaged in providing the service of cleaning and painting ships.

Thus, workers of Union Maintenance Corporation, do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Union Maintenance Corporation, by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Union Maintenance Corporation, and its customers have no controlling interest in one another. The subject firm is not corporately affiliated with any other company.

All workers engaged in cleaning and painting ships at Union Maintenance Corporation, are employed by that firm. All personnel actions and payroll transactions are controlled by Union Maintenance Corporation. All employee benefits are provided and maintained by Union Maintenance Corporation. Workers are not, at any time, under employment or supervision by customers of Union Maintenance Corporation. Thus, Union Maintenance Corporation, and not any of its customers, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Union Maintenance Corporation, Hoboken, New Jersey, are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32361 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5865]

Union Sugar Co.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on August 14, 1979 in response to a worker petition received on August 10, 1979 which was filed the United Sugar Workers' Council of California, of the Distillery, Wine and Allied International Union of America on behalf of workers and former workers refining sugar at the Santa Maria, California plant of the Union Sugar Company. The investigation revealed that the plant is located at Betteravia, California (a suburb of Santa Maria). The investigation was expanded to include the additional locations listed in the Appendix to this Notice. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increased imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation indicated that the declines in business and employment at Union Sugar in late 1978 and 1979 were the result of seasonal fluctuations.

The processing of refined beet sugar follows a seasonal pattern. The operating year consists of a fall campaign (Northern California) and a spring campaign (Southern California). A campaign is the period of time in which sugar beets are harvested by growers, shipped to the processing plant and processed into refined beet sugar. Union Sugar hires additional workers during these campaign periods. When a campaign is over, and production declines, the additional workers are laid off. Since the earliest possible certification date, there have been no significant declines in sales, production or employment other than those attributable to seasonablity.

Sales and production of refined sugar at Union Sugar increased in the fourth quarter of 1978 compared to the previous quarter, and in the first half of 1979 compared to the same period in 1978.

Average employment of production workers at the Betteravia plant increased in the fourth quarter of 1978 compared to the previous quarter, and in the first half of 1979 compared to the same period in 1978.

Average employment of workers at the receiving locations increased in the fourth quarter of 1978 compared to the previous quarter, and in the first half of 1979 compared to the same period in 1978.

Conclusion

After careful review, I determine that all workers of the Union Sugar Company at the locations listed in the Appendix are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

Appendix

Locations of Union Sugar (All locations are in California):

1. Headquarters—San Francisco
2. Factory—Betteravia
3. Agricultural Field Offices—(a) El Centro & (b) Salinas
4. Receiving Locations:
   (a) Somis
   (b) Paso Robles
   (c) San Ardo
   (d) King City
   (e) Camphora
   (f) Cooper
   (g) Rosamand
   (h) Meloland
   (i) Seeley
   (j) Calipatria
   (k) Imperial (Pare Laboratory)
   (l) Sergeant
   (m) Los Banos

[FR Doc. 79-32362 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6060]

Waterville Auto Mart, Inc.; Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigation was initiated on September 19, 1979, in response to a worker petition received on September 17, 1979, which was filed on behalf of workers and former workers of Waterville Auto Mart, Incorporated, Waterville, Maine, engaged in the sales and service of passenger cars.

Waterville Auto Mart, Incorporated is engaged in providing the service of selling and servicing passenger cars.

Thus, workers of Waterville Auto Mart, Incorporated do not produce an article within the meaning of section 222(3) of the Act. Therefore, they may be certified only if their separation was caused importantly by a reduced demand for their services from a parent firm, a firm otherwise related to Waterville Auto Mart, Incorporated by ownership, or a firm related by control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and that reduction must directly relate to the product impacted by imports.

Waterville Auto Mart, Incorporated is not corporately affiliated with any other company.

All workers engaged in selling and servicing passenger cars at Waterville Auto Mart, Incorporated are employed by that firm. All personnel actions and payroll transactions are controlled by Waterville Auto Mart, Incorporated. All employee benefits are provided and maintained by Waterville Auto Mart, Incorporated. Workers are not, at any time, under employment or supervision by any firm other than Waterville Auto Mart, Incorporated. Thus, Waterville Auto Mart, Incorporated, and not any other firm, must be considered to be the "workers' firm".

Conclusion

After careful review, I determine that all workers of Waterville Auto Mart, Incorporated, Waterville, Maine are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 12th day of October 1979.

Harry J. Gilman,

Supervisory International Economist, Office of Foreign Economic Research.

[FR Doc. 79-32363 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-28-M

Pension and Welfare Benefit Programs

[Application No. D-1521]

Proposed Exemption for Certain Transactions Involving the Carey Defined Contribution Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the proposed sale by the Carey Defined Contribution Trust (the Plan) of a parcel of real property in Danbury, Connecticut to Carey Industries, Inc. (the Employer), the sponsor of the Plan. The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons participating in the transactions.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 16, 1979.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1521. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and

V 44 0C 1979 UMI

Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Raymond J. Carey, Jr. and Raymond J. Carey, III (the Trustees), the Trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined contribution pension plan with 12 participants. As of May 31, 1979 the Plan had total assets of $359,286. Raymond J. Carey, Jr. is the owner of 77.2% of the stock of the Employer and is President of the Employer. Raymond J. Carey, III is the owner of 17.6% of the stock of the Employer, and is Vice-President and Secretary of the Employer.

2. On January 6, 1971 the Plan purchased 3.099 acres of land on Triangle Street in Danbury, Connecticut (the Triangle Property) for $90,000 from a party unrelated to the Plan. The Triangle Property is located next to the plant of the Employer. The Triangle Property produces no income for the Plan. The Trustees of the Plan have obtained an independent appraisal of the Triangle Property which represents the value of the property to be $100,000.

3. The Trustees are requesting an exemption to permit the Plan to sell the Triangle Property to the Employer without a sales commission for cash of $105,000. The Trustees represent that the criteria of section 408(a) of the Act will be satisfied by the proposed sale because: (1) it will be a one time transaction for cash: (2) it will allow the Plan to sell the property at a profit at a price in excess of the value determined by an independent appraisal; (3) it will not require the Plan to pay any real estate sales commissions; and (4) it will allow the Plan to eliminate an asset which represents a large percentage of Plan assets and which produces no income.

Notice to Interested Persons

Notice of this request for an exemption shall be given to all present participants of the Plan and persons who will become eligible to participate in the Plan as of December 31, 1979 by placing in the mail, within 10 days of its publication the Notice of Pendency published in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply into the cash sale by the Plan of 3.099 acres of land on Triangle Street in Danbury, Connecticut for $105,000 to the Employer provided that this amount is not less than the fair market value of the land.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-32289 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1032]

Proposed Exemption for Certain Transactions Involving Evans Products Co. General Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of proposed exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor of a proposed exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the sale of mortgages by the Evans Products Company General Pension Plan (the Plan) to the Evans Products Company (the Employer). The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 16, 1979.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective on the date granted.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to: Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D-1032. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ronald D. Allen of the Department, (202) 523-7901. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposed exemption from the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains facts and representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. In April 1969, the Employer acquired L. Grossman Sons, Inc. (Grossman), a Massachusetts corporation. Subsequently, pursuant to a resolution adopted by the Board of Directors of the Employer on July 16, 1969, the Plan was amended to include participation in the Plan by certain of the employees of Grossman and its subsidiaries. Concurrently, certain assets of Grossman's pension plan trust fund were transferred to the Plan. Included in these assets were $397,721.78 of real estate mortgages which had been generated by Grossman in the course of its business and subsequently sold to the Grossman pension plan trust fund. On December 15, 1976, the Employer appointed the Bank of America, National Trust and Savings Association (Bank of America) as successor trustee to M. A. Orloff, L. L. Wygal and D. O. Nellis, officers of the Employer. All of the Plan's assets were subsequently transferred to Bank of America with the exception of eleven real estate mortage loans, totaling $397,721.78, which Bank of America did not want to manage.

2. Two of the eleven mortgage loans have been paid in full. The nine remaining mortgage loans, all of which are in default, have balances totaling $57,940 and interest rates varying from 6% to 7%. No foreclosure action was taken on these mortgage loans because of technical problems in qualifying the named mortgagee to do business in the State of New York. These problems have now been resolved and foreclosure action has been instituted or threatened.

3. The Employer proposes to purchase the mortgages still outstanding for cash in an amount equal to the outstanding principal balance plus accrued unpaid interest to the date of purchase. Except for one property, the employers servicing the mortgages believe that sales of foreclosed properties will not produce proceeds in excess of the outstanding balances on such mortgages plus expenses. In the event of a foreclosure where the proceeds from the sale exceeds the loan balance, the Employer will return the excess to the Plan.

4. The applicants represent that this transaction meets the statutory criteria of section 408(a) of the Act for the following reasons: (1) This is a one time sale for cash; (2) the sale would enable the Plan to dispose of mortgages currently in default and recover full value plus accrued unpaid enterest on these mortgages; and (3) the sale will enable the Plan to dispose of non-income producing assets.

Notice to Interested Parties

Notice of the pending exemption will be given to all interested parties including the Trustee of the Plan and all active and retired participants or their beneficiaries, within 10 days of the publication of this notice in the Federal Register, by delivery in person or by first class mail.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of employer maintaining the plan and their beneficiaries;

(2) The prosposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act, and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan, of its participants and beneficiaries and protective of the rights of the participants and beneficiaries of the plan; and

V 4 4 0 C 1 9 7 9 UMI

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Request

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale by the Plan of secured real estate loans which were not transferred to the Bank of America on December 15, 1976, to the Employer for an amount equal to the sum of the outstanding principal balances plus accrued unpaid interest to the date of sale. The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 13th day of October, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-32267 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1198]

Proposed Exemption for Certain Transactions Involving the Iowa Realty Co. Profit Sharing Plan and Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt, retroactively and prospectively, the purchase of land by the Iowa Realty Company, Inc. (the Employer) from the Iowa Realty Company Profit Sharing Plan and Trust (the Plan). The proposed exemption, if granted, would affect the Plan and its participants and beneficiaries, the Employer, and any other persons participating in the transactions described herein.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 16, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1198. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(a)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer is an Iowa corporation engaged in the land development business with its principal place of business located at 3521 Beaver Avenue, Des Moines, Iowa. As of November 30, 1978, the assets of the Employer were $48,613,204 and its gross receipts for the year ended November 30, 1978, were $15,677,468. Its chief executive and controlling shareholder, William C. Knapp, has been involved in all phases of real estate operations for more than thirty years.

2. The Plan became effective in November 1959 and was last amended during 1978. The Internal Revenue Service issued a determination letter on June 27, 1978, which stated that the Plan was qualified and exempt from income taxes under the provisions of sections 401(a) and 501(a) of the Code, respectively. As of November 30, 1978, the Plan has 125 participants; its assets totaled $3,810,318, and its liabilities totaled $1,316,839 of which $1,010,634 consisted of mortgage notes and contracts on real estate. The pledged collateral underlying these mortgage notes and contracts was real estate with a current value of $2,147,027 and with a cost value of $1,775,529. Payments are due the holders of the mortgage notes and contracts in varying amounts until 1994, including annual interest charges of 4 percent to 9 percent. Interest and principal payments totaling $203,416 become due during the year ending November 30, 1979.

3. The investment decisions of the Plan are made by the trustees/administrative committee (the Trustees). The Trustees of the Plan are composed of the following individuals: William C. Knapp who is president of the Employer and who owns 61.9 percent of the Employer; Paul R. Knapp, Vice President and Secretary/Treasurer and 9.5 percent owner of the Employer; Daryl Neumann, Vice President and non-shareholder of the Employer; and Joseph C. Clay, an employee and non-shareholder of the Employer. The Trustees are all participants of the Plan. They are represented to have considerable experience and knowledge in real estate acquisition, development, and management and to have much less sophistication in investments of other types.

4. Desiring to establish a method by which the Plan could benefit from acquiring property located by the Employer and from selling the same property at a guaranteed profit, the Employer and the Plan entered into a written agreement (the Agreement) on October 15, 1971, which is to expire on October 30, 1986. The Agreement provides that the Plan has the right to sell to the Employer and the Employer has the first right to purchase from the Plan, at any time during the term of the Agreement, all real property acquired by the Plan upon the advice and recommendation of the Employer. The purchase price the Employer is to pay for such property is to be the higher of the following: (a) Acquisition cost of the Plan plus 6 percent per year, or (b) the fair market value, to be established by appraisal by an MAI appraiser to be selected by the Plan. If the Employer does not approve of the appraiser so selected, the Plan and the Employer will ask the Des Moines Savings and Loan Association to choose the appraiser, which choice will be binding upon the parties.

5. Relying upon the Agreement and the above-mentioned expertise of the Trustees in real estate matters, the Plan acquired five parcels of land upon the advice and recommendation of the Employer. Two of these parcels were purchased prior to 1974 and three parcels were purchased by the Plan during 1974. All of the parcels were acquired from persons who would not be designated under the Act as parties-in-interest. These acquisitions of the five parcels of land by the Plan involved a total of 425 acres for a total purchase price of $1,675,700. The Plan has incurred additional costs in the sum of $220,994 for the installation of waterlines and sanitary sewers on two of the parcels. The Trustees selected for purchase these five parcels with the belief that a substantial appreciation in their value would occur because of their proximity with land development projects of the Employer. An exemption from the prohibited transaction provisions of the Act, affecting the five parcels of land described below, is sought by the Employer to permit the sales, consummated during 1976, of portions of two of the remaining portions of the two parcels of land as well as the other three parcels of land by the Plan to the Employer.

6. On August 18, 1970, the Plan purchased approximately 94 acres of land (the Oleson Farm or Bondurant Land) for the sum of $140,700. This parcel was acquired from Clarence Oleson under a land contract having a term of 10 years and bearing a 7 percent annual interest charge. On February 12, 1979, Arthur J. Fraham & Associates, qualified and independent appraisers, determined that the Oleson Farm had a market value of $320,000, as of November 30, 1978.

7. On March 26, 1973, the Plan purchased approximately 61 acres of land (the Staples Farm) for the sum of $150,000. There is no outstanding obligation owing on the purchase of this parcel. Additional expenses were incurred by the Plan in the sum of $110,012 for the installation of waterlines and sanitary sewers upon this parcel. On February 7, 1979, Arthur J. Fraham & Associates determined the market value of the Staples Farm to be $241,000, as of November 30, 1978. This appraisal did not include the installation of sanitary sewers which cost $59,500 because the installation had not taken place as of the date of the appraisal.

8. On September 10, 1974, the Plan purchased approximately 57 acres of land (the Life Investors Farm) for the sum of $171,000. This parcel was acquired from Life Investors Development Co. under a land contract having a term of 5 years and bearing a 9 percent annual interest charge. Also, additional expenses were incurred by the Plan in the sum of $110,982 for the installation of waterlines and sanitary sewers upon this parcel. On February 2, 1979, Arthur J. Fraham & Associates determined the market value of the Life Investors Farm to be $272,000, as of November 30, 1978. This appraisal did not include the installation of sanitary sewers which cost $59,500 because the installation had not taken place as of the date of the appraisal.

9. On October 16, 1974, the Plan purchased another parcel of land upon the recommendation of the Employer, containing approximately 69 acres (the Hopkins Farm) for the sum of $550,000. This purchase was made with a loan from the Des Moines Saving and Loan Association under a note and mortgage having a 20-year term and bearing an 8.5 percent annual interest charge. On November 1, 1976, in accordance with the Agreement, the Plan sold 13.65 acres of the Hopkins Farm to the Employer for cash in the sum of $210,000. No commissions were charged the Plan. From this sale, the Plan realized on its original cost for the 13.65 acres a gain of $24,816, or a 13.4 percent return. All additional costs incurred by the Plan on this 13.65 acres of the Hopkins Farm were paid by the Employer at the time of the sale. On August 31, 1979, Harry S. Winegar, MAI, of Winegar Appraisal Company, Inc., Des Moines, Iowa, a qualified and independent appraiser, determined that the 13.65 acres portion of the Hopkins Farm, as of November 30, 1976, had a fair market value of $207,000. On January 30, 1979, Arthur J. Fraham & Associates determined that the remaining 54.35 acres of the Hopkins Farm had a market value of $545, 000 as of November 30, 1978.

10. On November 16, 1974, the Plan acquired approximately 145 acres of land (the Meredith Farm) for the sum of $664,000. This parcel was purchased from the Iowa Des Moines National Bank, Trustee, under a land contract having a 5-year term and a 4 percent annual interest charge. On April 1, 1976, in accordance with the Agreement, the Plan sold 63 acres of the Meredith Farm to the Employer for cash in the sum of $407,745. No commissions were charged the Plan. From this sale, the Plan realized on its original cost for the 63 acres a gain of $105,228, or a 34.78 percent return. All additional costs to the Plan of $2,773.12 which were expended on this 63 acres of the Meredith Farm were reimbursed on August 21, 1979, by the Employer. On June 9, 1976, this 63-acre portion of the Meredith Farm was determined to have a market value of $407,000 by Harry A. Winegar, MAI, of Winegar Appraisal Company, Inc. The Plan has sold another 8 acres of the Meredith Farm to the Zion Lutheran Church, an unrelated party to the Plan or the Employer. The portion of the original cost to the Plan for this 8 acres was $41,084. On February 8, 1979, Arthur Fraham & Associates determined that the remaining 74 acres of the Meredith Farm had a market value of $655,000, as of November 30, 1978.

11. For the remaining 340 acres of the five parcels of land, the Employer will pay the Plan in cash a purchase price which will be the highest sum as determined by one of the following alternatives:

(a) The original cost of each parcel, plus an appreciation of 6 percent per year from the date of acquisition to the date of sale. Added to this amount will be any costs or improvements paid or contracted for by the Plan; or

(b) The appraised value, as of November 30, 1978, as determined by Arthur J. Fraham & Associates without any adjustments for commissions, error factor or other items; or

V 44 OC 19 79 UMI

(c) The higher of two appraised current fair market values for each parcel of land, as determined individually and separately, at or near the date of sale to the Employer, by two qualified and independent appraisers, plus any cost incurred by the Plan which was not included in the appraisals.

12. In summary, the applicant represents that these purchases of land described herein by the Employer from the Plan meet the statutory criteria for an exemption under section 408(a) of the Act because (1) the Trustees believe that these five parcels of land should be developed and sold now to realize the optimum value, (2) listing the parcels of land for sale to an unrelated party would cause delay in finding a buyer, (3) such a listing would result in less proceeds to the Plan because of sales commissions and other selling expenses which could be avoided if the proposed sales to the Employer are permitted, and (4) all sales would be and have been subjected to appraisals by a qualified and independent appraiser.

Notice to Interested Persons

Notice of the pending exemption and a copy of the notice of pendency as published in the Federal Register will be given all participants and beneficiaries of the Plan. Such notice will be provided by first class mail or personal delivery. The notice will be postmarked or hand delivered no later than October 29, 1979. All recipients of the notice will be advised of their repective right to submit written comments or request a hearing within thirty days after the expiration of the ten day period following the date of publication of the notice of pendency in the Federal Register.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest cr disqualifed person from certain other provisions of the Act and the Code, including any prohibited transaction provision to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, be reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, retroactively and prospectively, to the purchase during 1976 of portions of two parcels of land (the Hopkins Farm and the Meredith Farm, respectively) and, within 120 days after the grant of this exemption, to the proposed purchase of five parcels of land (the Oleson Farm or Bondurant Land, the Staples Farm, the Life Investors Farm, and the remainder of the Hopkins Farm and Meredith Farm) by the Employer from the Plan in transactions as described herein.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of October, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-32282 Filed 10-18-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-200]

Proposed Exemption for a Transaction Involving the A. J. Tuck Co. Profit Sharing Trust

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan of $24,000 from the A. J. Tuck Company Profit Sharing Trust (the Trust) to the A. J. Tuck Company (the Employer), which was entered into before the effective date of the Act, but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act. The proposed exemption, if granted, would affect the Employer and participants and beneficiaries of the Trust.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 16, 1979.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective January 1, 1975.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216, Attention: Application No. D-200. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz, of the Department of Labor, telephone (202) 357-0040. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and the Administrative Committee of the Trust, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. Under the terms of the Trust agreement, the A. J. Tuck Company Profit Sharing Committee (the Committee) is entrusted with complete control over the administration of the Trust, with the duties of the bank trustee being confined to the implementation of the Committee's decisions and directives.

2. Being displeased with the Trust's performance for the period March 31, 1973 to March 31, 1974, both as to principal and income, the Committee decided that the trustee should invest $24,000 of the Trust's assets in 3 year notes of the Employer. Accordingly, by letter dated June 7, 1974, the Committee authorized and directed the trustee to invest $24,000 of the Trust's assets in 3 year notes of the Employer, bearing interest at 12 percent per annum payable quarterly. On June 10, 1974, the Employer deposited with the trustee $24,000, the Employer's contribution for the fiscal year ending March 31, 1974. The trustee then invested that sum in short term government notes pending the preparation of the legal documents connected with the investment in the Employer notes. On July 23, 1974, the $24,000 Employer note, together with a loan and security agreement, was executed. The loan amounted to approximately 24 percent of the Trust's total assets.

3. For the year ending March 31, 1975, during which time the Trust held the Employer nearly one percentage point to 4.7 percent. The note was responsible for nearly 27 percent of the Trust's total income.

4. The note was secured by a chattel mortgage on certain Employer machinery and equipment with a salvage value in excess of the face amount of the note. A financing statement was filed with the Secretary of State of Connecticut recording the Trust's security interest in the collateral.

5. The Employer had available financing sources other than the Trust at the time of the transaction. The applicants represent that the Employer could have obtained a similar loan from a local bank at an interest rate below that which it agreed to pay to the Trust.

6. The primary reason for the Employer borrowing from the Trust, as opposed to its bank or another third party, was to attempt to improve the poor investment performance of the Trust and, at the same time, not to impair or risk the stability and safety of the Trust's investments.

7. All interest payments as required under the note were made in accordance with the schedule therein, and the $24,000 loan was paid in full on June 9, 1977, somewhat before its due date.

8. In summary, the applicants represent that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) The interest rate paid to the Trust was higher than that which a local bank would have charged the Employer for a similar loan, (2) the loan was adequately secured at all times by collateral with a higher salvage value than the principal amount of the loan, and (3) all payments on the loan were made on schedule, and the loan has been repaid in full to the Trust.

Finally, the applicants represent that the loan was entered into prior to the effective date of the Act without knowledge that the transaction would become prohibited on January 1, 1975. As soon as the applicants realized that the loan had become a prohibited transaction, the applicants submitted a good faith request for an exemption instead of terminating the loan transaction.

Notice to Interested Persons

Within 10 days from the date of publication of this notice of proposed exemption, the applicants will send a copy of the notice by certified mail to all interested persons.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time

V 44 O C 19 79 UMI

period se forth above. All comments will be made a part of the record. Comments and rquests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1. If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective January 1, 1975, to the transaction entered into on July 23, 1974, in which the Trust loaned $24,000 to the Employer.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transactions which is the subject of this proposed exemption.

Signed at Washington, D.C., this 13th day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-32284 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1279]

Proposed Exemption for Certain Transactions Involving Samaritan Medical Clinic, Inc.; Profit Sharing Plan and Samaritan Medical Clinic, Inc., Pension Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of limited partnership units owned by the Samaritan Medical Clinic, Inc. Profit Sharing Plan and the Samaritan Medical Clinic, Inc. Pension Plan (the Plans) to SRMC Rentals, a party in interest. The proposed exemption, if granted, could affect participants and beneficiaries of the Plans and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 16, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–1279. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas, of the Department of Labor, telephone (202) 523–8884. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code. The proposed exemption was requested in an application filed on behalf of the Plans' trustees, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. On August 8, 1975, the Plans' trustees purchased 20 limited partnership units in the Century Properties Fund X (issued by Fox & Carskadon, a real estate syndicator) at $500 each for a total of $10,000. The trustees were led to believe by their investment adviser that they were purchasing promissory notes issued by Fox & Carskadon rather than the partnership interest they in act purchased. Upon realizing their error, attempts were made, to no avail, to have the investment adviser rescind the purchase. In August 1977, legal counsel for the Plans filed a complaint with the Securities and Exchange Commission, however, litigation efforts were subsequently dropped due to the excessive costs involved in such a course of action..

2. When legal counsel for the Plans contacted Fox & Carskadon regarding sale of the Plans' partnership units and the fair market value of such units, representatives of Fox & Carskadon provided the following information:

(a) No active market exists for the sale of shares of existing real estate syndicates due to the nature of the investment and requirements of regulatory agencies;

(b) Fox & Carskadon cannot determine a fair market value of an interest in a partnership prior to the liquidation of all properties held by the partnership; and

(c) The only valuation Fox & Carskadon can provide for the partnership units is a "resale value." The last resale of Century Properties Fund X limited partnership units occurred on February 28, 1979, at which time the buyer and seller agreed upon a value of $250 per unit and an eight percent commission.

In addition, a broker contacted by legal counsel indicated that, if a buyer could be found, the probable sales price for the Plans' partnership units would be approximately $5,000.

3. The partnership units represent approximately 4.5% of the Plans' assets. Since the date of purchase, the partnership shares have generated a taxable loss every year.

4. The Plans wish to sell their limited partnership interests in Century Properties Fund X to SRMC Rentals, a party in interest, for the sum of $16,500, payable in cash, with no sales commission to be paid. SRMC Rentals is a partnership composed of three individuals, Messrs. James Radcliff, Peter Sabatino and Jeffrey Brown, who are also the trustees of the Plans and stockholders in Samaritan Medical Clinic, Inc.

5. The method of determining the $16,500 purchase price for the shares was arbitrary since there is no reasonable method of determining the fair market value at this time. Century Properties Fund X has a portfolio property mix of two apartment buildings, six shopping centers and two office buildings. Accordingly, the costs involved in obtaining independent appraisals on the underlying assets of Century Properties Fund X would be prohibitive for the Plans. The Plans, however, will receive a reasonable profit on the sale and the price offered by SRMC Rentals is far in excess of the price paid in the February 28, 1979 transaction referred to by Fox & Carskadon.

6. In summary, the applicants represent that the proposed sale of the partnership units meets the statutory criteria for an exemption under section 408(a) of the Act, because (1) it is a one time transaction for cash, (2) it will benefit the Plans because they will be able to dispose of a poor investment, (3) the selling price will provide the Plans with a substantial profit instead of a loss and (4) the shares, if sold to unrelated parties, can only be sold at a loss.

Notice to Interested Parties

Within ten days following publication in the Federal Register, notice of the proposed exemption will be hand delivered to all Plan participants, beneficiaries and other interested persons with a statement advising them of their right to comment and request a public hearing within the period set forth in the notice of proposed exemption. Interested parties who are not available for hand delivery will have the notice mailed to them within the same ten-day period of time.

General Information

The attention of interested persons is directed to the following:

1. The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

2. The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

3. Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

4. The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above and within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the proposed exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the sale for cash of the Plans' limited partnership units in the Century Properties Fund X to SRMC Rentals for the sum of $16,500, provided this price is not less than the fair market value at the time of sale.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C. this 13th day of October, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 79-32286 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–966]

Proposed Exemption for Certain Transactions Involving the W. L. Gordon Co., Inc., Profit Sharing and Thrift Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the donation to the W. L. Gordon Company, Inc. Profit Sharing and Thrift Plan (the Plan) and the lease-back until June 30, 1984, from the Plan of certain real property by the W. L. Gordon Company, Inc. (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Plan, the Employer and its principal shareholders (the Plan Committee), and the National Bank of Commerce of Dallas (the Trustee).

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 16, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–966. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: C. E. Beaver, of the Department of Labor, telephone (202) 523–8882. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. The fiduciaries of the Plan consist of the following: The Employer, the Trustee, and the Plan Committee. The Trustee is sole trustee of the Plan and possesses sole investment responsibility for the current and future assets of the Plan. The Trustee has authority to sell or exchange real property under its control and to enter into lease agreements on terms which are appropriate for and in the best interests of the participants and beneficiaries of the Plan. The Plan Committee is composed of four individuals of whom three are controlling persons of the Employer. The Chairman of the Plan Committee is Mr. Fred L. Arnold, who is President of the Employer and owner of 51 percent of its outstanding shares of stock. The other three members are Mr. John W. Green, Executive Vice President of the Employer and owner of 16.6 percent of its outstanding shares of stock; Mr. Carl B. Moore, Vice President of the Employer and owner of 13.3 percent of its outstanding shares of stock; and Ms. Rosemarie C. Benish, Secretary of the Employer and a non-owner of its stock. The balance of the outstanding shares of stock of the Employer is owned by other employees. The members of the Plan Committee have credited to their respective accounts in the Plan 33.1 percent of the Plan's total account balance.

2. The Employer is a food brokerage company which was incorporated in December 1959 in the State of Texas. It represents national food and consumer product companies in Texas and New Mexico. As of November 30, 1978, the Employer had total assets of $842,586, current liabilities of $131,994, and long term debt of $186,089 of which $30,661 was due within one year. Retained earnings were $491,788 and stockholders' equity was $63,385. For the year ended November 30, 1978, brokerage commissions amounted to $1,754,714 with net earnings of $148,701. This was an increase over the year ended November 30, 1977, when brokerage commissions were $1,659,049 with net earnings of $74,974. An explanation given for higher profits in 1978 was that no customary year-end supplementary contribution was made to the Plan in anticipation of the expenses which would result from the transactions for which the exemption is requested.

3. In 1978, it was estimated that the Plan had fifty participants. As of December 30, 1977, total assets of the Plan were evaluated at cost to be $899,891 and to have a market value of $908,060. As of September 25, 1978, the total assets of the Plan, evaluated at cost, had risen in value to $1,021,119, and had increased in market value to $1,025,957.

4. The Employer's principal place of business is an office site consisting of 5,000 square feet of building, constructed during 1966 upon a 13,808 square foot parcel of land. This real property is owned by the Plan and is leased to the Employer under the aegis of the transitional provisions of section 414(c)(2) of the Act. The Plan indicates that 31.6 percent of its total assets were invested in this real property in 1978. The Plan anticipates that the investment of its total assets in real property will decline in 1979 to 27.1 percent and continue to decline until 1988 when its real property investment will represent 9.1 percent of its total assets.

5. The transactions for which an exemption is requested involves a proposed donation of debt-free land with improvements, from the Employer to the Plan, and a lease-back, until June 30, 1984, of the same real property from the Plan by the Employer. The proposed donation would consist of 17,065 square feet of land with 4,764 square feet of new building constructed thereon. This new building and land would be contiguous to and an addition to the Employer's principal place of business at 4135 Office Parkway, Dallas, Texas.

6. The 17,065 square feet of land, which is proposed to be donated by the Employer to the Plan, has been determined, by an independent and qualified appraiser to have a value of $3.50 per square foot or a total value of $59,727.50. The new construction, which is proposed to be erected thereon, has been evaluated at total cost of $160,000 or $33.585 per square foot. The total value of the donation by the Employer to the Plan is $219,727.50.

7. The term of the proposed lease, from the Plan to the Employer, would run from the date of the grant of the proposed exemption until June 30, 1984, with an initial annual rent of $34,000. It was confirmed on September 7, 1979, by an independent and qualified realtor that this annual rent of $34,000 conforms with the rental market for such a facility. The proposed lease would provide that all taxes, assessments, insurance, maintenance, repairs, rebuilding, and utility expenses would be paid by the Employer. Rental adjustments would be made every 2½ years and such adjustments would be determined by the Trustee after an area analysis of rental rates.

8. In summary, the applicant represents that the proposed transactions of donating certain real property valued at $219,727 to the Plan and leasing-back the same real property by the Employer at a 12.47 percent annual return to the Plan meets the statutory criteria for an exemption under section 408(a) of the Act because (1) the independent Trustee would manage the real property and the leasing of the same to the Employer, (2) the Trustee has determined the proposed lease terms to be in the best interests of the participants and envisions no downward rental adjustments with the demand for office space in this rapidly growing area exerting upward pressures on rental and property values, (3) the Trustee would make future rental adjustments periodically by an area analysis of rental rates from information gained from its real estate staff and other real estate consultants, and (4) the fair market and rental values of the subject real property has been determined by independent and qualified appraisers.

Notice to Interested Persons

On or before October 29, 1979, a copy of the notice and a statement that interested persons have a right to comment or request a hearing on the proposed exemption within the thirty day period set forth in the notice will be provided interested parties. The interested parties to whom notice will be provided include all participants in the Plan, including retired participants, terminated participants who have nonforfeitable interests in the Plan, and beneficiaries of deceased participants, the Trustee, the Plan Committee; and the Employer. The notice to interested parties will be posted in all locations customarily used for employee communications and will be mailed to all other interested parties who are not currently employed by the Employer.

General Information

The attention of interested persons is directed to the following:

1. The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fudiciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fudiciary responsibility provisions of section 404 of the Act, which among other things require a fudiciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

2. The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and Section 4975(c)(1)(F) of the Code;

3. Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

4. The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the donation of certain real property, consisting of 17,065 square feet of land and 4,764 square feet of new building, located at 4135 Office Parkway, Dallas, Texas by the Employer to the Plan and the lease-back, until June 30, 1984, of the same real property by the Employer from the Plan.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of October 1979.

Ian D. Lanoff,

Administrator for Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79–32283 Filed 10–18–79, 8:45 am]

BILLING CODE 4510–29–M

[Application No. D–1359]

Proposed Exemption for a Certain Transaction Involving the Pension Plan for the Employees of Pilot Freight Carriers, Inc.

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a loan made from the Pension Plan for the Employees of Pilot Freight Carriers, Inc. (the Plan) to Terminal Warehouse Corporation (Terminal Warehouse), a party in interest with respect to the Plan, which was entered into before the effective date of the Act, but after July 1, 1974, the date specified in the transition rules contained in sections 414 and 2003 of the Act. The proposed exemption, if granted, would affect Terminal Warehouse and participants and beneficiaries of the Plan.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 16, 1979.

EFFECTIVE DATE: If the proposed exemption is granted, the exemption will be effective January 1, 1975.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216. Attention: Application No. D–1359. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department of Labor, telephone (202) 357–0040. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the department of an application for exemption from the restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by Terminal Warehouse, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed with both the Department and the Internal Revenue

Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicant.

1. Mr. R. Y. Sharpe of Winston-Salem, North Carolina, owns over 50 percent of the stock in Terminal Warehouse. He also owns over 50 percent of the stock in Pilot Freight Carriers, Inc. (the Employer) and is a participant in the Plan. The Plan has approximately 609 participants.

2. On August 1, 1974, the Plan loaned to Terminal Warehouse $500,000. The loan was secured by a duly recorded first lien deed of trust on real property located in Duval County, Florida, with an appraised value upon the date of the transaction of $707,500. The loan was for a period of 15 years, and the interest rate was 10.5 percent per annum. Long-term loans on commercial properties from other loan institutions were requiring interest rates of 10 percent to 10.5 percent at the time the subject loan was instituted.

3. On May 31, 1979, the balance outstanding on the loan was paid in full by Terminal Warehouse. All payments due under the obligation were made on time and in accordance with the terms of the obligation until the balance outstanding was paid.

4. In summary, the applicant represents that the statutory criteria contained in section 408(a) of the Act have been satisfied as follows: (1) The loan was adequately secured at all times by a duly recorded first lien on a parcel of real property appraised at a value far greater than the amount borrowed, (2) the interest rate of 10.5 percent on the loan was equal to or greater than the rates being charged at the time of the loan for similar loans by commercial institutions, and (3) all payments on the loan were made in a timely fashion pursuant to the loan agreement, and the loan has now been repaid in full.

Finally, the applicant represents that the loan was entered into prior to the effective date of the Act without knowledge that the loan would become prohibited on January 1, 1975. As soon as the applicant realized that the loan was a prohibited transaction, the applicant submitted a good faith request for an exemption instead of terminating the loan transaction.

Notice to Interested Persons

Notice of this proposal will be forwarded by the United States mail to the Plan Administrator and Trustee, and notice to all Plan participants will be made by posting on their employee bulletin boards within ten days of the publishing of the pendency of this proposed exemption.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the Plan solely in the interest of the participants and beneficiaries of the Plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the Plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act, and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, effective January 1, 1975, to the loan agreement entered into on August 1, 1974, in which the Plan loaned $500,000 to Terminal Warehouse.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 15th day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-32285 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-1459]

Proposed Exemption for Certain Transactions Involving the Eagle Metals Co. Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt the cash sale of certain real property in Portland, Oregon by the Eagle Metals Company Profit Sharing Plan (the Plan) to Mr. William Anderson a party in interest with respect to the Plan. The proposed exemption, if granted, would affect participants and benficiaries of the Plan and other persons participating in the transaction.

DATES: Written comments and requests for a public hearing must be received by the Department of Labor on or before November 16, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, Attention: Application No. D-1459. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Richard Small, of the Department of Labor, telephone (202) 523-7222. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by J. B. Hissong, P. C. Holden, and J. P. Martin (the Trustees), the Trustees of the Plan, pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Plan is a defined contribution profit sharing plan with 33 participants. Eagle Metals Company (Eagle), the employer which established the Plan, was acquired by Alcan Aluminum Corporation (Alcan) on May 17, 1978. The Plan was terminated by Eagle immediately prior to such acquisition. By reason of this termination, it has become necessary to liquidate promptly all of the assets of the Plan in order to permit the distribution of Plan accounts to the former plan participants. The Trustees, who are designated by Alcan, are responsible for managing the liquidation.

2. Included in the assets of the Plan is certain real property located at 1211 North Loring Street in Portland, Oregon (the Property). Most of the Property was acquired in 1966, with a small additional parcel acquired in 1975. All of the Property was acquired from a party who was unrelated to the Plan. The Property is carried on the books of the Plan at a cost value of $152,476. The Property is located in the industrial zone of Portland, Oregon and the immediate neighborhood is a mixture of heavy industrial and general industrial businesses. By lease dated November 2, 1965 the Plan leased the Property to the Eagle Metals Company, Inc. of Oregon (Eagle Oregon) for a term of 10 years commencing April 1, 1966 and ending March 31, 1976. By agreement of said parties dated November 28, 1975 the lease was extended to March 31, 1981 under the original terms and conditions thereof, adding however the additional parcel acquired in 1975, and increasing the rental thereunder, effective January 1, 1976. The Trustees represent that while the Property was leased to Eagle Oregon, which was related to Eagle by certain common stock ownership, the ownership does not appear to give rise to a party in interest relationship.

3. The Trustees of the Plan are proposing to sell the Property without paying a real estate commission for $380,000 cash to Mr. William Anderson. Mr. William Anderson is the son of Mr. Charles Anderson, who formally was the largest individual shareholder of Eagle (approximately 23%), and who was a fiduciary to the Plan at the time the proposed transaction was negotiated. The sales price for the Property was determined by an independent appraisal.

4. The Trustees represent that the proposed sale of the Property will satisfy section 408(a) of the Act as follows: (1) It will be a one-time transaction for cash; (2) it will allow the plan to sell the Property at a substantial profit based upon a price which was established by an independent appraisal; and (3) it will allow the Plan to sell the Property without paying a real estate sales commission.

Notice to Interested Persons

Notice to interested persons will be provided on or before October 29, 1979. Notification of interested persons will include a copy of the Notice of Pendency and will be delivered by certified mail. Interested persons to whom notice will be provided will be all Plan participants on the termination date of the Plan, all former Plan participants for whom an account balance was maintained under the Plan on the termination date of the Plan and the individuals who previously comprised the Trustee and Administrator of the Plan as identified in the application.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other

V 44 0 C 19 79 UMI

provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in the ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1), and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) the Code shall not apply to the cash sale by the Plan of certain real property located at 1211 North Loring Street in Portland, Oregon for $380,000 to Mr. William Anderson provided that this amount is at least the fair market value of the property.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

Signed at Washington, D.C., this 13th day of October 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-32286 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL COMMISSION ON AIR QUALITY

Meeting Scheduled for November 13

The National Commission on Air Quality hereby gives notice of a meeting scheduled for November 13. The meeting will be held in Room 4200 of the Dirksen Senate Office Building, located at First Street, N.E., and Constitution Avenue, N.E., Washington, D.C., and will begin at 1:00 p.m.

The agenda for the meeting will include the following items:

1. Approval of the minutes of the October 5, 1979 Commission meeting.
2. Discussion of activities of the Commission's Research Committee.
3. Consideration and selection of alternative air pollution control policies to be applied in the Commission's regional studies.

Questions about the meeting should be directed to Mr. Morris A. Ward at (202) 245–6355.

National Commission on Air Quality.

William H. Lewis, Jr.,

Director.

[FR Doc. 79-32305 Filed 10-18-79; 8:45 am]

BILLING CODE 6820-98-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident Implications Re Nuclear Powerplant Design; Meeting

The November 7, 1979 meeting of the ACRS Ad Hoc Subcommittee on the Three Mile Island, Unit 2 Accident—Implications Re Nuclear Power Plant Design has been rescheduled to be held on November 5, 1979 in Room 1046, 1717 H St., NW, Washington, DC 20555. Notice of this meeting was published October 18, 1979.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, November 5, 1979, 8:30 a.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendation to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, the nuclear industry, various utilities, and their consultants, and other interested persons, regarding the implications of the TMI–2 Accident.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Pub. L. 92–463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Mr. Richard K. Major (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., EDT before, and EST after, October 28, 1979.

Background information concerning items to be discussed at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, NW, Washington, DC 20555 and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Street, Harrisburg, PA 17126.

Dated: October 15, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32113 Filed 10-18-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Metal Components; Joint Meeting

The ACRS Subcommittee on Metal Components will hold an open meeting on November 5, 1979, in Room 1167, 1717 H St., NW., Washington, DC 20555.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows:

Monday, November 5, 1979, 8:30 a.m. until the conclusion of business

The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommitee will hear presentations by and hold discussions with representatives of the NRC Staff, the Boiling-Water Reactors (BWR) Owners Group, and their consultants, regarding the matter of BWR pipe cracks. ACRS generic items pertinent to the purview of this Subcommittee such as stress corrosion cracking in BWR piping, and inservice inspection of reactor coolant pressure boundary will also be addressed.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Elpidio G. Igne, (telephone 202/634–3314) between 8:15 a.m. and 5:00 p.m., EDT before, and EST after, October 28, 1979.

Dated: October 15, 1979.

John C. Hoyle

Advisory Committee Management Officer.

[FR Doc. 79-32112 Filed 10-18-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 40-8745]

Availability of Environmental Report and Intent to Prepare a Draft Environmental Impact Statement Concerning Issuance of a Source Material License for the Bison Basin Project To Be Located In Fremont County, Wyo.; Ogle Petroleum, Inc.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Intent to Prepare a Draft Envrionmental Impact Statement.

SUMMARY: 1. Description of the Proposed Action—Ogle Petroleum, Inc., proposes to construct and operate an in-situ uranium extraction facility at the Bison Basin Project site. This project is located in southwestern Wyoming approximately 50 miles south of Riverton, and 30 miles southwest of Jeffrey City. The 400,000 pounds of uranium per year capacity in-situ extraction facility will be located in Sweetwater River Drainage Basin, Section 25, T27N, R97W, Fremont County, Wyoming.

2. The principal alternatives currently planned to be considered include alternatives of siting, waste management methods, energy sources, and the alternative of no licensing action.

3. The scoping process will include a meeting to be held in the Lodge Room of the Elks, 207 E. Main Street, Riverton, Wyoming, on November 1, 1979, at 10 a.m. This meeting will provide for a briefing of interested parties concerning the proposed action and alternatives and opportunity for comment on the scope of the proposed statement. The participation of the public and all interested government agencies is invited. Copies of this notice will be mailed to all affected federal, state, and local agencies, and other interested persons. Written comments concerning the scope of the proposed statement will be accepted until November 9, 1979.

4. The DEIS is expected to be available to the public for review and comment in February, 1980.

5. The applicant's Environmental Report and Appendix and any subsequent documents will be available for inspection and copying at the Public Document Room (PDR), 1717 H Street, N.W., Washington, D.C. 20555. Copies of the Environmental Report and Appendix are also being provided to the State Planning Coordinator, Office of the Governor, 2320 Capitol Avenue, Cheyenne, Wyoming 82002.

Questions about the proposed action, DEIS, or scoping meeting and any written comments should be directed to R. S. Kaufmann, U.S. Nuclear Regulatory Commission, Division of Waste Management, 483–SS, Washington, D.C. 20555, Phone (301) 427–4103.

Dated at Silver Spring, Maryland, this 9th day of October, 1979.

For the U.S. Nuclear Regulatory Commission.

Ross A. Scarano,

Chief, Uranium Recovery Licensing Branch, Division of Waste Management.

[FR Doc. 79-32219 Filed 10-18-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on the Sequoyah Nuclear Power Station; Meeting

The ACRS Subcommittee on the Sequoyah Nuclear Power Station will hold a meeting on November 5, 1979, in Room 1046, 1717 H Street, N.W., Washington, DC 20555 to review the application of the Tennessee Valley Authority (TVA) for a permit to operate Units 1 and 2 of this station.

In accordance with the procedures outlined in the **Federal Register** on October 1, 1979 (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Monday, November 5, 1979, 8:30 a.m. until the conclusion of business.

The Subcommittee may meet in Executive Session, with any of its consultants who may may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, TVA, and their consultants, pertinent to this review.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that, should such sessions be required, it is necessary to

close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Dr. Richard P. Savio, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT (EST after October 28, 1979).

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street, N.W., Washington, DC 20555 and at the Chattanooga-Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, TN 37402.

Dated: October 16, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32570 Filed 10-18-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Adoption of Systems of Records

AGENCY: Office of Personnel Management.

ACTION: Notice: Adoption of Systems of Records.

SUMMARY: The Office of Personnel Management (OPM) has previously published a notice of several proposed Privacy Act systems of records. The purposes of this notice are to: (1) Identify certain of those proposed systems of records, where no comments were received, as being adopted; (2) identify some non-substantive changes to those adopted; and (3) serve in part to meet the Privacy Act requirement for annual publication of notices of systems of records. This action is required by the creation of OPM by the President's Reorganization Plan No. 2 of 1978, and to implement the Privacy Act, and has the effect of establishing systems of records for use by OPM and agencies.

EFFECTIVE DATE: October 19, 1979.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Records Management Branch, Agency Compliance and Evaluation (202) 254-9778.

SUPPLEMENTARY INFORMATION: When the Office of Personnel Management proposed its systems of records (44 FR 30836, May 29, 1979) identified as OPM/INTERNAL-1 through OPM/INTERNAL-22, OPM/CENTRAL-1 through OPM/CENTRAL-14, and OPM/GOVT-1 through OPM/GOVT-5, a Report on New Systems was also filed with OMB and Congress. The required 60-day advance notice period ended on July 30, 1979. Comments were received concerning only some of the proposed systems, which are not being adopted by this notice, and are still under consideration. Adoption of those systems will be announced at a later date. While there were no comments received pertaining to the systems adopted at this time, three notices do require non-substantive text changes based on intra-agency coordination and several systems have received new numerical designations. Where no changes to the text of the notice are required, only the title, new numerical designation, and specific Federal Register page number are cited. Where text changes occur, the title and Federal Register page number will be cited and the text of the changed portion of the notice will be shown. Where the adopted system completely replaces an existing Civil Service Commission system (in some cases the CSC system must remain in effect to cover records maintained by the Merit Systems Protection Board) this is so noted. The systems adopted appear below.

Office of Personnel Management.

Roderick S. Speer,

Assistant Issuance System Manager.

The following systems are adopted as published, with, in some cases, new numerical designations as the only change.

OPM/INTERNAL-1 Defense Mobilization Emergency Cadre Records (44 FR 30836).

OPM/INTERNAL-2 Negotiated Grievance Procedure Records (44 FR 30839, formerly OPM/INTERNAL-3).

OPM/INTERNAL-3 Security Office Control Cards (44 FR 30840, formerly OPM/INTERNAL-4).

OPM/INTERNAL-4 Employee Occupational Health Program Records (44 FR 30841, formerly OPM/INTERNAL-5).

OPM/INTERNAL-5 Pay, Leave, and Travel Records (44 FR 30842, formerly OPM/INTERNAL-6).

OPM/INTERNAL-7 Complaints and Inquiries Records (44 FR 30845, formerly OPM/INTERNAL-8).

OPM/INTERNAL-8 Employee Assistance Program Records (44 FR 30851, formerly OPM/INTERNAL-13).

OPM/INTERNAL-9 Employee Locator Card File (44 FR 30853, formerly OPM/INTERNAL-15).

OPM/INTERNAL-10 Employee Production Records (44 FR 30854, formerly OPM/INTERNAL-16).

OPM/INTERNAL-11 Investigator Performance Records (44 FR 30855, formerly OPM/INTERNAL-17).

OPM/INTERNAL-12 Speaker Resume and Clearance Records (44 FR 30856, formerly OPM/INTERNAL-18).

OPM/INTERNAL-13 Motor Vehicle Operator and Accident Report Records (44 FR 30857, formerly OPM/INTERNAL-19).

OPM/CENTRAL-1 Civil Service Retirement and Insurance Records (44 FR 30865, formerly OPM/CENTRAL-4). The former CSC-4 Civil Service Retirement Records system is completely replaced by this system.

OPM/CENTRAL-5 Intergovernmental Personnel Act Assignment Records (44 FR 30869, formerly OPM/CENTRAL-7).

OPM/CENTRAL-6 Administrative Law Judge Application Records (44 FR 30871, formerly OPM/CENTRAL-8).

OPM/CENTRAL-7 Litigation and Claims Records (44 FR 30872, formerly OPM/CENTRAL-9).

OPM/CENTRAL-8 Privacy Act/Freedom of Information Act (PA/FOIA) Case Records (44 FR 30874, formerly OPM/CENTRAL-10).

OPM/CENTRAL-9 Personnel Investigations Records (44 FR 30876, formerly OPM/CENTRAL-11). The former CSC/GOVT-4 Personnel Investigations Records system is completely replaced by this system.

OPM/CENTRAL-10 Directory of Federal Executive institute Alumni (44 FR 30878, formerly OPM/CENTRAL-12).

OPM/CENTRAL-11 Presidential Management Intern Program Records (44 FR 30879, formerly OPM/CENTRAL-13). The former CSC-9 Presidential Management Intern Program Records system is completely replaced by this system.

OPM/CENTRAL-12 Federal Automated Career System (FACS) Records (44 FR 30880, formerly OPM/CENTRAL-14).

OPM/INTERNAL—6

System name:

Appeal and Administrative Review Records (44 FR 30844, formerly OPM/INTERNAL—7).

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains records relating to various appeal or administrative review procedures available to OPM employees. These appeals or administrative review procedures include adverse action appeals initiated prior to September 9, 1974 which were processed under the Office's internal appeals system; reconsiderations of acceptable level of competence determinations for within-grade increases; impartial reviews of performance ratings; and internal appeals of position classification decisions. The system also contains records and documentation of the action upon which the appeal or review procedure was based (e.g. 90-day notices of warning of unsatisfactory performance rating).

Note.—This system does not include:

a. Appeal records covered by the Merit Systems Protection Board's system of Appeals Records; or

b. Records for grievances processed under the grievance system negotiated by the Office and a recognized labor organizaton, which are covered under OPM/INTERNAL—3 Negotiated Grievance Procedure Records system; or

c. Position classification review and retained rate of pay appeal records, which are covered under the OPM/GOVT—9 Position Classification Review and Retained Rate of Pay Appeal Records.[1]

* * * * *

OPM/CENTRAL—3

System name:

Federal Executive Development Progam Records (44 FR 30867, formerly OPM/CENTRAL—5). The former CSC-4 Federal Executive Development Program Records system is completely replaced by this system.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for Executive Personnel and Management Development, Office of Personnel Management, 1900 E Street, N.W., Washington, D.C., 20415.

* * * * *

OPM/CENTRAL—4

System name:

Executive Assignment System and Executive Inventory Records (44 FR 30868, formerly OPM/CENTRAL—6). The former CSC-3 Executive Assignment and Inventory Records system is completely replaced by this system.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Current and former incumbents of positons at grades GS-16 through GS-18 under the Executive Assignment System or current and former incumbents of positions at equivalent levels over which the OPM exercise at least partial approval authority.

b. Current and former incumbents of positions compensated under the Executive Schedule.

c. Current and former incumbents of positions at grades GS-16 through GS-18, or equivalent levels, when the individual noncompetitively acquires status under Civil Service Rule III.

d. In addition to the individuals indicated in "a" above, other current and former employees in the executive branch currently or formerly in grades 15 through 18 under the General Schedule, or at equivalent pay levels under other salary systems who are not specifically excepted from inventory coverage.

Note.—The principal groups of employees who are excepted from inventory coverage, and thus are not covered by this system, include:

(1) employees in commissioned services systems;

(2) Administrative Law Judges at grade GS-15;

(3) employees of the Panama Canal Company, the Canal Zone Government, the Soldiers' Home, the Federal Reserve Board, TVA, and the White House Office;

(4) employees involved in intelligence matters where the release of personnel information would be detrimental to national security;

(5) Foreign nationals employed outside the United States;

(6) employees hired on a consultant, part-time, or intermittent basis;

(7) Employees of the United States Postal Service; and,

(8) employees in the Department of Medicine and Surgery, Veterans Administration, appointed under title 38 of the United States Code as physicians, dentists, nurses, podiatrists, and optometrists.

CATEGORIES OF RECORDS IN THE SYSTEM:

These records include:

a. Demographic information including minority data and background data on experience, education, publications, awards and career interests of employees in the inventory.

b. A record of referral indicating individuals referred and the position and agencies to which the individuals were referred.

c. Information about the qualifications of appointees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3104, 3301, 3302, 3309, 3313, 3318, 3324, 3325, 3326, 5114, 5311, 5333, 5532, 5723; 10 U.S.C. 1581; P.L. 81-691 and P.L. 85-726; and E.O. 11315 and 9397.

PURPOSE:

These records are used to assist the Office in carrying out its responsibilities under title 5, United States Code, and the Office Rules and Regulations promulgated thereunder, with regard to the establishment and filling of positions at grades 16 through 18 under the General Schedule, positions under the Excutive Schedule, or equivalent levels under the other salary systems; and to provide data used in policy formulation, program planning, research studies, and statistical reports. The Office may use these records to locate individuals for personnel research.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

a. To identify and refer qualified current and former Federal employees to Federal agencies for vacancies at grades GS-16 through GS-18, or equivalent levels.

b. To refer qualified current or former Federal employees or retirees to State and local governments and international organizations for employment considerations.

c. To provide an employing agency with extracts from the records of that agency's employees in the inventory.

d. To provide information required in the annual reports to Congress mandated by 5 U.S.C. 5114 regarding positions at GS-16, GS-17, and GS-18 levels, and the incumbents of these positions and by 5 U.S.C. 3104 regarding incumbents of scientific or professional positions.

e. To provide information to a congressional office from the record of an individual in response to an inquiry from that congressional office made at the request of that individual.

f. By the Office of Personnel Management in the production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related work force studies. While published studies do not contain individual indentifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually indentifiable by inference.

[1] OPM/GOVT—9 will be published at a later date.

V 4 4 0 C 1 9 7 9 UMI

g. To disclose information to the appropriate Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the disclosing agency becomes aware of an indication of a violation or potential violation of civil or criminal law or regulation.

h. To the National Archives and Records Service (General Services Administration) for records managment inspections conducted under authority of 44 U.S.C. 2904 and 2906.

i. To disclose information to another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

j. To disclose, in response to a request for discovery or for appearance of a witness, information that is relevant to the subject matter involved in a pending judicial or administrative proceeding.

k. To disclose information to officials of: the Merit Systems Protection Board, including the Office of the Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, and on magnetic disks and tapes, punched cards, and microfiche.

* * * * *

SAFEGUARDS:

Records are maintained in lockable metal filing cabinets or in a secured room with access limited to those whose official duties requires access and access to the computerized records is limited to those whose official duties requires access. Access to minority data is restricted to specially designated OPM personnel.

RETENTION AND DISPOSAL:

Records are retained so long as the individual continues to occupy a covered position and are destroyed 5 years after the employee leaves a covered position. Manual records are shredded or burned while magnetic disks and tapes are erased.

* * * * *

[FR Doc. 79-32046 Filed 10-18-79 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 16276; SR-Amex-79-13; October 12, 1979]

American Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, New York 10006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is herby given that on October 3, 1979, the American Stock Exchange, Inc. (the "Amex") filed with the Commission copies of a proposed rule change (SR-Amex-79-13) which would amend Amex Rule 114 governing Registered Equity Market Makers ("REMMs") to incorporate certain changes requested by the Commission at the time the Commission approved a nine-month extension of the effectiveness of Rule 114 until April 30, 1980.[1] The proposed changes would add the following paragraphs to the commentary accompanying Amex Rule 114:

.09 No registered Equity Market Maker shall effect proprietary trades on the Floor of the Exchange in his registered securities in any capacity other than as a Registered Equity Market Maker.

.10 All orders of a Registered Equity Market Maker acting in his capacity as such which are given to another member for execution shall be clearly marked by the Registered Equity Market Maker, in a manner prescribed by the Exchange, (i) to indicate that such orders are subject to the provisions of Rule 114, and (ii) to reflect by appropriate notations whether the Registered Equity Market Maker is acquiring or liquidating a position (and, in the latter case, whether the liquidation is at a loss).

.11 The executing floor broker or specialist who is given a properly marked order by a Registered Equity Market Maker shall have the responsibility to ensure, to the extent practicable, that such order is executed in the appropriate manner.

.12 An exchange member holding an order for a Registered Equity Market Maker may not be held to the market at a particular price if the execution of the order at that price would contravene Rule 114.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-Amex-79-13.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of finding thereof, in that the proposed modifications are designed to correct certain deficiencies in Amex Rule 114 as currently written and to enhance the ability of the Amex to monitor the REMM pilot program which is scheduled to expire on April 30, 1980, if the Commission does not approve Rule 107 on a permanent basis. These modifications were specifically requested of the Amex by the Commission at the time it approved a nine-month extension of Amex Rule 114.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32377 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[1] Securities Exchange Act Release No. 16049 (July 27, 1979). This release also approved a nine-month extension of Rule 107 of the New York Stock Exchange governing Registered Competitive Market Makers.

[Rel. No. 21246; 70-6363; October 12, 1979]

Appalachian Power Co.; Proposed Short-Term Borrowing

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009.

Notice is hereby given that Appalachian Power Company ("Appalachian"), a subsidiary electric utility company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transaction.

Appalachian requests that from the date of the granting of this application to January 1, 1981, the exemption from the provisions of Section 6(a) of the Act, afforded by the first sentence of Section 6(b), be increased to the extent necessary to cover the sale of notes to banks and commercial paper to a dealer in commerical paper in an aggregate amount not to exceed $200,000,000, provided that none of such notes to banks and commercial paper shall mature later than June 30, 1981.

Appalachian has credit arrangements with 95 banks which total $352,490,000. For purposes of borrowing, these banks are of three classes. Each note to be issued to a Class I bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable by Appalachian at any time without premium or penalty. Appalachian's credit arrangements with these banks require it to maintain compensating balances equal to a percentage of the line of credit made available by the bank plus a percentage of any amount actually borrowed, generally not in excess of 10% of the line of credit and 10% of the amount borrowed. Borrowings from a Class I bank would generally bear interest at an annual rate not greater than the bank's prime commerical rate in effect from time to time.

Each note to be issued to a Class II bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable by Appalachian at any time without premium or penalty. Appalachian's credit arrangements with these banks require it to maintain compensating balances of 5% of the line of credit and to pay to a fee for the availability of the line of credit, which is equal to 4% of the bank's prime commercial rate then in effect times the size of the line. The combination of a 5% compensating balance and a fee is generally equivalent to a compensating balance not in excess of 10% of the line of credit made available. In addition, Appalachian must pay interest on the borrowing at the rate of up to 108.5% of the bank's prime commercial rate then in effect. The total cost of borrowings from Class II banks would not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line of credit and 10% of the amount borrowed. It is stated that if the balanced maintained and the fees paid by Appalachian with and to the Class I and II banks were maintained and paid solely to fulfill requirements for borrowings by Appalachian, the effective annual interest cost under either such arrangement, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 16.6% on the basis of a prime commercial rate of 13¼%.

With respect to Class III banks, Appalachian has money market facilities at each of two named banks in an aggregate amount of $20,000,000. These money market facilities do not represent a formal commitment or engagement by these banks to Appalachian, but represent merely the ability of Appalachian to request unsecured borrowings in domestic dollars and/or in Eurodollars for periods of up to 180 days after the date of issuance; any such borrowings will be prepayable by Appalachian at any time without premium or penalty. No compensating balances are required. The interest rate, which is presently to be negotiated on a case by case basis (using a 360 day year), is pegged to either the London Interbank Offering Rate plus a designated percent if the borrowings are made in Eurodollars, or to a designated percent of the bank's prime rates, if the borrowings are made in domestic dollars. It is stated that interest rates on these notes will be lower than the effective interest rates for bank borrowings made from Class I and II banks, including the effect of any compensating balances and fees paid.

Appalachian also proposes to issue commercial paper, in the form of promissory notes, in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; such notes will not be prepayable prior to maturity. The commercial paper notes will be sold directly by Appalachian to Lehman Commercial Paper, Incorporated (the "Dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper will be issued having a maturity of more than 90 days if such commercial paper would have an effective interest cost which exceeds the effective interest cost at which Appalachian could borrow from commercial banks. The Dealer will reoffer the commercial paper notes to not more than 200 of the Dealer's customers identified and designated in a nonpublic list prepared by the dealer in advance, at a discount rate of ⅛ of 1% less than the discount rate at which such notes were purchased from Appalachian. It is expected that such customers will bold such commercial paper notes to maturity, but if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper and reoffer it to other customers on its nonpublic list.

The proceeds of the short-term debt incurred by Appalachian will be used to pay the general obligations of Appalachian, including expenses incurred in its various construction projects. The estimated cost of its construction program for 1980 is approximately $340,048,000.

Appalachian claims exemption from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof, and requests exemption from such requirements for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5)(11) therefor.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,000. It is stated that the State Corporation Commission of Virginia has jurisdiction over the proposed transactions and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request than he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personnally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed, with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act.

V 4 4 0 C 1 9 7 9 UMI

or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32374 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21248; 70-6361]

Appalachian Power Co., et al.; Proposed Issuance and Sale of Notes to Banks by Holding Company and Capital Contributions by Holding Company to Subsidiaries

October 12, 1979.

In the matter of Appalachian Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Indiana & Michigan Electric Company, 2101 Spy Run Avenue, Fort Wayne, Indiana 46801; Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101; Kingsport Power Company, 40 Franklin Road, Roanoke, Virginia 24009; Ohio Power Company, 301 Cleveland Avenue, SW., Canton, Ohio 44701; Wheeling Electric Company, 51 Sixteenth St., Wheeling, West Virginia 26003; American Electric Power Company, Inc., 2 Broadway, New York, New York 10004.

Notice is hereby given that American Electric Power Company, Inc. ("AEP"), a registered holding company, and Appalachian Power Company ("Appalachian"), Indiana and Michigan Electric Company ("I&M"), Kentucky Power Company ("KPCO"), Kingsport Power Company ("Kingsport"), Ohio Power Company ("Ohio Power") and Wheeling Electric Company ("Wheeling Electric"), AEP's subsidiary public utility companies, have filed a joint application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) and 12 of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

AEP requests that it be permitted to issue and sell from time to time, prior to January 1, 1981, short-term notes and commercial paper, to banks, and to a dealer in commercial paper, respectively, in an aggregate amount not to exceed $165,000,000 outstanding at any one time. None of such notes or commercial paper shall mature later than June 30, 1981. The notes to be sold to banks will be dated as of the date of the borrowing which it evidences, will mature not more than 270 days after the date of issuance and will be prepayable at any time without premium or penalty. AEP proposes to issue and sell such short-term notes to 10 banks with lines of credit in an aggregate amount of $208,000,000. The banks and the line of credit which AEP has established at each such bank is as follows:

Name	Amount
Chemical Bank, New York, N.Y.	$50,000,000
The Chase Manhattan Bank (National Association), New York, N.Y.	50,000,000
Manufacturers Hanover Trust Company, New York, N.Y.	25,000,000
Morgan Guaranty Trust Company of New York, New York, N.Y.	18,000,000
Bankers Trust Company, New York, N.Y.	9,000,000
The Bank of New York, New York, N.Y.	6,000,000
The Cleveland Trust Company, Cleveland, Ohio	7,000,000
First Pennsylvania Bank and Trust Company, Philadelphia, Pa.	9,000,000
Mellon Bank, N.A., Pittsburgh, Pa.	9,000,000
Credit Lyonnais, New York, N.Y.	25,000,000
Total	208,000,000

AEP will be required to either (1) maintain compensating balances of 10% of the bank lines made available and additional compensating balances of 10% of the amount of any borrowings, or (2) maintain compensating balances and pay an annual fee for the availability of the line of credit, equivalent generally, in combination, to compensating balances not in excess of 10% of the line of credit made available. Where only compensating balances are required, borrowings under such lines will bear interest at an annual rate not greater than the bank's prime commercial rate in effect at the time of issuance. Where a combination of compensating balances and fees are required, borrowings under such lines would bear interest at a specified rate in excess of the bank's prime commercial rate in effect at time of issuance, but such specified rate would not be greater than the equivalent rate of borrowings bearing interest at the prime rate with compensating balance equal to 10% of the amount borrowed. If the full amount were borrowed from the banks, the effective interest cost to AEP would be 16.6%, based on a prime commercial rate of 13¼%.

AEP also has money market facilities at each of two named banks in an aggregate amount of $20,000,000. These money market facilities do not represent a formal commitment or engagement by these banks to AEP but represent merely the ability of AEP to request unsecured borrowings, in the form of promissory notes, on a case-by-case basis. These money market facilities are available for unsecured borrowings in domestic dollars and/or in Eurodollars for periods of up to 180 days after the date of issuance, and any such borrowings will be prepayable by AEP at any time without premium or penalty. No compensating balances are required. The interest rate, which is currently to be negotiated on a case-by-case basis (using a 360 day year), is pegged to either the London Interbank Offering rate plus a designated percent, if the borrowings are made in Eurodollars, or to a designated percent of the bank's prime rate, if the borrowings are made in domestic dollars. It is stated that interest rates on these notes will be lower than the effective interest rates for bank borrowings made from those banks listed above including the effect of any compensating balances and fees paid.

The commercial paper will be in the form of promissory notes in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; none will be prepayable prior to maturity. The commercial paper notes will be sold directly to Lehman Commercial Paper Incorporated (the "Dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper notes will be issued having a maturity of more than 90 days if such commercial paper notes would have an effective interest cost which exceeds the effective interest cost at which AEP could borrow from banks.

The Dealer will reoffer the commercial paper notes to not more than 200 of such Dealer's customers identified and designated in a non-public list prepared by such Dealer in advance, at a discount rate of ⅛ of 1% per annum less than the discount rate at which such commercial paper notes were purchased from AEP. It is expected that the customers of the Dealer will hold such commercial paper notes to maturity, but, if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper sold by it and reoffer it to other customers on the non-public list.

AEP also requests authority to make cash capital contributions from time to time prior to January 1, 1981, to its public utility subsidiary companies in the following aggregate amounts: Appalachian, $100,000,000, I&M, $50,000,000, KPCO, $30,000,000, Kingsport, $1,000,000, Ohio Power, $30,000,000 and Wheeling Electric, $1,000,000.

The proceeds from the sale of the notes to banks and the commercial paper, together with other funds available to AEP, will be invested by AEP in its public utility subsidiaries to assist them in financing the costs of their respective construction programs and to retire their short-term debt. The construction programs of AEP's public utility subsidiary companies for 1980 are estimated as follows: Appalachian, $340,048,000, I&M $199,607,000, KPCO, $134,483,000, Kingsport, $4,824,000, Ohio Power, $231,521,000 and Wheeling Electric, $3,917,000.

AEP claims exemption from the competitive bidding requirements of Rule 50 for the proposed issuance of notes pursuant to paragraph (a)(2) thereof, and requests exemption from such requirements for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5)(ii) thereof.

The fees and expenses to be incurred in connection with this proceeding are estimated at $12,000. It is stated that the State Corporation Commission of Virginia and the Public Service Commission of West Virginia have jurisdiction over the proposed capital contribution by AEP to Appalachian, that the Public Service Commission of West Virginia has jurisdiction over the proposed capital contribution by AEP to Wheeling Electric and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than November 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32225 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 10901; 812-4522]

Daily Cash Accumulation Fund, Inc.; Application

October 12, 1979.

Notice is hereby given that Daily Cash Accumulation Fund, Inc. ("Applicant"), 3600 S. Yosemite Street, Denver, Colorado 80237, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, filed an application on August 20, 1979, and an amendment thereto on October 9, 1979, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to compute its net asset value per share for the purposes of sales and redemptions of its shares to the nearest one cent on a share value of one dollar. Applicant represents that in all other respects its portfolio securities will be valued in accordance with the views of the Commission set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("IC-9786"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund whose investment objective is seeking the maximum current income that is consistent with low capital risk and the maintenance of liquidity. Applicant, as a matter of fundamental policy, invests only in bank or corporate debt obligations, commercial paper, U.S. Treasury bills and other short-term debt instruments issued by the U.S. Government or its agencies, maturing in or called for redemption in one year or less.

Applicant states that it values its portfolio in accordance with the views set forth in IC-9786, in that it will value debt securities with greater than 60 days remaining to maturity based upon current market quotations if readily available in such a manner as to take into account any unrealized appreciation or depreciation due to changes in interest rates and other factors which would influence the current fair value of such securities. For debt securities originally purchased with remaining maturities of 60 days or less, or debt securities originally purchased with maturities of in excess of 60 days but which currently have maturities of 60 days or less, the Applicant will use amortized cost valuation for the 60 days prior to maturity. Such amortization will be based upon the market or fair value of the securities on the 61st day prior to maturity, provided that such valuation is determined to be appropriate by the Board of Directors of the Applicant.

Applicant asserts that because of the short maturities of its portfolio, its net asset value per share has remained constant at $1.00 per share. Applicant states that it expects as a result of rounding the net asset value per share to the nearest $0.01 on a $1.00 price, the Applicant's price per share for the purpose of sales and redemption should remain at $1.00 but that this might not be the case in the absence of such rounding (i.e. if the Applicant is required to value its shares at 1/10 of 1% accuracy under IC-9786) if future investment considerations should dictate an increase in the average life of the Applicant's portfolio.

Applicant represents that its shareholders use its shares for investment of cash reserves or temporary cash balances and that the maintenance of a constant net asset value per share is a crucial factor in their purchase and holding of the Applicant's shares. Applicant asserts that by meeting the conditions set forth below and rounding its shares to the nearest one cent on a share value of one dollar, it can maintain a constant value for its shareholders along with full liquidity and a satisfactory yield. In addition, Applicant states that its adherence to the conditions set forth below will substantially reduce the likelihood of significant variation from a constant share price and the likelihood of any dilution of the assets and returns of incoming and outgoing shareholders.

Rule 22c-1 under the Act provides, in part, that no registered investment company issuing any redeemable security shall sell, redeem, or

V 44 O C 19 79 UMI

repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security. Rule 2a–4 under the Act provides, as here relevant, that "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution and redemption shall be determined with reference to (1) current market value for portfolio securities with respect to which market quotations are readily available and (2) for other securities and assets fair value as determined in good faith by the board of directors of the registered company. In IC–9786 the Commission expressed its view that it is inconsistent with Rule 2a–4 for certain money market funds to "round-off" calculations of their net asset value per share to the nearest one cent on a share value of $1.00, because such a calculation might have the effect of masking the impact of changing values of portfolio securities and therefore might not "reflect" its portfolio valuation as required by Rule 2a–4.

Section 6(c) of the Act provides, in part, that the Commission may, upon application, exempt any person, security, or transaction or any class or classes of persons, securities or transactions from any provision or provisions of the Act and the rules thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant represents that its shareholders who purchased shares with the expectation of realizing Applicant's objective of seeking the maximum current income that is consistent with the stability of principal would be unfairly treated if the net asset value of their shares were to deviate from $1.00 per share. Further, the Applicant contends that a deviation which would cause an increase in the net asset value per share is unlikely, in view of the Applicant's practice of including realized and unrealized capital gains in dividends paid; however, should there be a deviation to below $1.00 per share, redeeming shareholders could lose not only all or part of the dividend income which they have earned but even part of their principal, particularly if a redemption takes place relatively soon after a purchase.

Applicant submits that to maintain the stability of its net asset value per share at $1.00, its Board of Directors, to the extent necessary, will consider the advisability of temporarily suspending the payment of dividends or making a capital gains distribution (if and to the extent that capital gains have not been reflected in prior dividends) to maintain a $1.00 price per share if the net asset value per share declines to a value below $0.997 or rises to a value of above $1.003 respectively. In addition, Applicant states that to maintain the stability of its price per share Applicant will adhere to the following conditions:

1. In supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, Applicant's Board of Directors undertakes—as a particular responsibility within the overall duty of care owed to its shareholders—to assure to the extent reasonably practicable, taking into account current market conditions and Applicant's investment objectives, that the Applicant's price per share as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00.

2. Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and the Applicant will not (i) purchase a portfolio security unless it (a) matures in one year or less; or (b) has been called for redemption in one year or less, provided that the Applicant's investment adviser shall have determined that the risk that such redemption will not take place is minimal; or (c) is subject to a repurchase agreement, the delivery under which does not exceed one year, provided that any such repurchase agreement shall be with a financial institution believed by the Applicant's investment adviser to present minimal credit risks; or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days.

3. Applicant will limit its portfolio investments, including repurchase agreements, to those U.S. dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of "high quality" as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

Notice is further given that any interested person may, not later than November 6, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–32224 Filed 10–18–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21247; 70–6362]

Indiana & Michigan Electric Co.; Proposed Short-Term Borrowing

October 12, 1979.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), 2101 Spy Run Avenue, Fort Wayne, Indiana 46801, an electric utility subsidiary company of American Electric Power Company, Inc. ("AEP"), a registered holding company, has filed with this Commission an application pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rules 50(a)(2) and 50(a)(5) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application, which is summarized below, for a complete description of the proposed transaction.

I&M requests that from the date of the granting of this application to January 1, 1981 the exemption from the provisions of Section 6(a) of the Act, afforded by the first sentence of Section 6(b) of the Act, be increased to the extent necessary to cover the sale of notes to banks and commercial paper to a dealer in commercial paper in an aggregate amount not to exceed $150,000,000, provided that none of such notes to banks and commercial paper shall mature later than June 30, 1981.

I&M has credit arrangements with 42 banks which total $308,655,000. For purposes of borrowing, these banks are of three classes. Each note to be issued to a Class I bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable at any time without premium or penalty. I&M's credit arrangements with these banks require it to maintain compensating balances equal to a percentage of the line of credit made available by the bank plus a percentage of any amount actually borrowed, generally not in excess of 10% of the line of credit and 10% of the amount borrowed. Borrowings from a Class I bank would generally bear interest at an annual rate not greater than the bank's prime commercial rate in effect from time to time.

Each note to be issued to a Class II bank will mature not more than 270 days after the date of issuance or renewal thereof, and will be prepayable by I&M at any time without premium or penalty. I&M's credit arrangements with these banks require it to maintain compensating balances of 5% of the line of credit and to pay a fee, which is equal to 4% of the bank's prime commercial rate then in effect times the size of the line. The combination of 5% compensating balances and the fee is generally equivalent to compensating balances not in excess of 10% of the line of credit made available. In addition, I&M must pay interest on the borrowings at the rate of up to 108.5% of the bank's prime commercial rate then in effect. The total cost of borrowings from Class II banks would not be greater than the effective rate for borrowings bearing interest at the prime rate with compensating balances equal to 10% of the line of credit and 10% of the amount borrowed. It is stated that if the balances maintained and the fees paid by I&M with and to the Class I and II banks were maintained and paid solely to fulfill requirements for borrowings by I&M, the effective annual interest cost under either such arrangement, assuming full use of the line of credit, would not exceed 125% of the prime commercial rate in effect from time to time, or not more than 16.6% on the basis of a prime commercial rate of 13¼%.

With respect to the Class III banks, I&M has money market facilities at each of two named banks in an aggregate amount of $20,000,000. These money market facilities do not represent a formal commitment or engagement by these banks to I&M, but represent merely the ability of I&M to request unsecured borrowings in the form of promissory notes, on a case-by-case basis. These money market facilities are available for unsecured borrowings in domestic dollars and/or in Eurodollars for periods of up to 180 days after the date of issuance, and any such borrowings will be prepayable by I&M at any time without premium or penalty. No compensating balances are required. The interest rate which is presently to be negotiated on a case-by-case basis (using a 360 day year), is pegged to either the London Interbank Offering Rate plus a designated percent, if the borrowings are made in Eurodollars, or to a designated percent of the bank's prime rate, if the borrowings are made in domestic dollars. It is stated that interest rates on these notes will be lower than the effective interest rates for bank borrowings made from Class I and II banks, including the effect of any compensating balances and fees paid.

I&M also proposes to issue commercial paper, in the form of promissory notes, in denominations of not less than $50,000 nor more than $5,000,000, of varying maturities, with no maturity more than 270 days after the date of issue; such notes will not be prepayable prior to maturity. The commercial paper notes will be sold directly by I&M to Lehman Commercial Paper Incorporated (the "Dealer") at a discount rate not in excess of the discount rate per annum prevailing at the time of issuance for commercial paper of comparable quality and maturity. No commercial paper will be issued having a maturity of more than 90 days if such commercial paper would have an effective interest cost which exceeds the effective interest cost at which I&M could borrow from commercial banks. The Dealer will reoffer the commercial paper notes to not more than 200 of the Dealer's customers identified and designated in a nonpublic list prepared by the Dealer in advance, at a discount rate of ⅛ of 1% less than the discount rate at which such notes were purchased from I&M. It is expected that such customers will hold such commercial paper notes to maturity, but if any such customer wishes to resell such commercial paper prior to maturity, the Dealer, pursuant to a verbal repurchase agreement, will repurchase such commercial paper and reoffer it to other customers on its nonpublic list.

The proceeds of the short-term debt incurred by I&M will be used to pay the general obligations of I&M, including expenses incurred in its various construction projects. The estimated cost of I&M's net construction program (adjusted to reflect the proposed acquisition, subject to regulatory approvals, of a portion of the Rockport Plant by an affiliated company) for 1980 is approximately $199,607,000. This figure does not include estimated construction expenditures of approximately $15,000,000 to be incurred in 1980 by I&M's wholly owned subsidiary, Indiana & Michigan Power Company.

I&M claims exemption from the competitive bidding requirements of Rule 50 for the proposed issuance of notes to banks pursuant to paragraph (a)(2) thereof and requests exemption from such requirements for the proposed issue and sale of its commercial paper pursuant to paragraph (a)(5)(ii) thereof.

The fees and expenses to be incurred in connection with the proposed transactions are estimated at $12,000. It is stated that no state or federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than November 6, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

V 44 0C 19 79 9 UMI

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32228 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16275; File No. SR-DTC-79-5]

Depository Trust Co.; Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 9, 1979 the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change establishes a full interface between The Depository Trust Company (DTC) and Philadelphia Depository Trust Company (PHILADEP). This matter requires a determination pursuant to Rules 8c-1(g) and 15c2-1(g) under the Securities Exchange Act of 1934. The proposed rule change consists of the description of the operational procedures and the agreements attached as Exhibits 2(A), 2(B) and 2(C) to DTC's filing on Form 19b-4A, File No. SR-DTC-79-5.

Statement of Basis and Purpose

The basis and purpose of the foregoing proposed rule change are as follows:

The purpose of the proposed rule change is to establish an interface between DTC and PHILADEP through which a participant in either or both depositories may deliver securities eligible in both depositories by book-entry to any participant in the other depository, or to its own account in the other depository. Such book-entry deliveries may be free (without settlement) or for value. The interface will be similar to interfaces currently existing between DTC and Midwest Securities Trust Company, between DTC and Pacific Securities Depository Trust Company, and between DTC and New England Securities Depository Trust Company.

The proposed rule change relates to DTC's carrying out the purposes of Section 17A of the Securities Exchange Act of 1934 (the Act) by increasing DTC's capacity to facilitate the prompt and accurate clearance and settlement of securities transactions in that the proposed rule change will allow participants with security positions in DTC or PHILADEP to deliver securities from DTC to PHILADEP or from PHILADEP to DTC by book-entry instead of by more expensive and less efficient physical delivery.

Comments on the proposed rule change have not been solicited or received.

DTC perceives no burden on competition by reason of the proposed rule change.

On or before November 23, 1979, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the public reference room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 12, 1979.

[FR Doc. 79-32380 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 21252; 70-6364; October 15, 1979]

Eastern Utilities Associates; Proposed Issuance and Sale of Common Shares Pursuant to Dividend Reinvestment Plan and Request for Exemption From Competitive Bidding

In the matter of Eastern Utilities Associates, P.O. Box 2333, Boston, Massachusetts 02107.

Notice is hereby given that Eastern Utilities Associates ("EUA"), a registered holding company, has filed with this Commission an application-declaration pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a) and 7 of the Act and Rule 50(a)(5) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

EUA presently has in effect an Automatic Dividend Reinvestment Service ("Dividend Service"), pursuant to which sharesholders may have cash dividends used to purchase EUA common shares and may make limited additional cash payments for the purchase of such shares, in either case through Citibank, N.A., as agent. EUA also presently has in effect a Payroll Investment Program ("Payroll Program"), pursuant to which eligible employees of EUA and its subsidiaries may authorize payroll deductions to be used for the purchase of EUA common shares through Advest Company as agent. Purchases of shares under both the Dividend Service and the Payroll Program are made by the agent in the open market at 100% of the market price, and all charges, including brokerage commissions, for such purchases are paid by EUA.

EUA proposes to modify and combine the Dividend Service and Payroll Program into a Dividend Reinvestment and Common Share Purchase Plan ("Plan"), in which holders of EUA's common shares and eligible employees of EUA and its subsidiaries may participate. The Plan will be completely separate from EUA's Employee Stock Ownership Plan which was authorized by order dated October 12, 1977 (HCAR No. 20208). Participants in the existing Dividend Service and Payroll Program will automatically become participants in the Plan, and shares held by Citibank, N.A., and Advest Company will be transferred to the Plan. EUA requests authorization to issue and sell from time to time through March 31, 1982, up to 200,000 of its authorized but unissued common shares pursuant to the Plan.

Participants in the Plan may (a) have cash dividends on all of their common shares automatically reinvested at a 5% discount; (b) have cash dividends on a portion of their common shares automatically reinvested at a 5% discount; (c) continue to receive cash dividends on their shares and make optional cash payments as often as monthly for investment (with no discount); or (d) reinvest all or a portion of their cash dividends and make optional cash payments for investment (with no discount). EUA reserves the right to refuse optional cash payments by any participant in excess of $5,000 in any calendar quarter. While it is contemplated that shares purchased under the Plan will generally be original-issue shares, EUA reserves the right to direct the Plan's agent to apply dividends and optional cash payments to the purchase of common shares in the open market. All permanent, full time employees of EUA and its subsidiaries are eligible to join the Plan, and may arrange to make optional cash payments through regular payroll deductions (not to exceed $50 per week or $200 per month).

The price of common shares purchased through the reinvestment of dividends wil be 95% of the average of the closing sales price of EUA's common shares for the five trading days preceding the Investment Date as reported by *The Wall Street Journal* as composite transactions, and the price of shares purchased with optional cash payments will be 100% of said average price. The Investment Date will be the dividend payment date in months in which a dividend is payable, and the 15th of the month (or the next business day if the 15th is a Saturday, Sunday or holiday) in all other months.

A participant may change his option at any time, and may withdraw from the Plan at any time by written notice. Shares credited to a participant's account will be voted in accordance with his instructions.

The Plan will be administered by The First National Bank of Boston, or such successor bank or trust company as EUA shall from time to time designate, as agent. All costs of administration of the Plan will be paid by EUA. There will be no brokerage commissions or service charges to participants in connection with purchases under the Plan; a participant who requests that his shares be sold will be charged a brokerage commission and any transfer tax in connection with such sale.

The proceeds from the sale of common shares issued under the Plan will be used by EUA for investments in its subsidiaries, for the payment of its indebtedness or for other general purposes.

EUA requests an exemption from the competitive bidding requirements of Rule 50 for the proposed issuance and sale of common shares to the Plan pursuant to Rule 50(a)(5).

The fees and expenses to be incurred in connection with the proposed transaction will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may not later than November 9, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact for law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32378 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 10899; 812-4507; October 11, 1979]

Fidelity Trend Fund, Inc., et al.; Applications for Exemption

In the matter of Fidelity Trend fund, Inc., Fidelity Capital Fund, Inc., and Fidelity Management & Research Company, 82 Devonshire Street, Boston, Massachusetts 02109.

Notice of filing of application for an order pursuant to Section 17(B) of the Act exempting proposed transaction from the provisions of Section 17(a) of the Act and for an order pursuant to Section 17(d) of the act and Rule 17d-1 thereunder.

Notice is hereby given that Fidelity Trend Fund, Inc. ("Trend") and Fidelity Capital Fund, Inc. ("Capital") (hereinafter referred to as the "Funds"), each registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, and Fidelity Management & Research Company ("FMR"), the investment adviser to the Funds (all of which are hereinafter referred to as the "Applicants"), have filed an application on July 16, 1979, and amendments thereto on September 20, 1979, and October 3, 1979, for an order of the Commission exempting from the provisions of Section 17(a) of the Act the proposed merger of Capital into Trend through the exchange of shares of Trend at net asset value, for the assets of Capital, and for an order pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder permitting FMR and affiliated persons of FMR to participate in the proposed merger transaction. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Both Funds were organized on December 18, 1957, as Massachusetts corporations and both employ FMR, a Massachusetts corporation, which is a wholly-owned subsidiary of FMR Corporation, as their investment adviser. As of June 30, 1979, Trend had net assets of $426,008,300 and Capital had net assets of $184,131,561. FMR Corporation and its affiliated companies own 9546 shares of Trend and 25,355 shares of Capital. In addition, various retirement plans for employees of FMR Corporation and its affiliated companies own 41,655 shares of Trend and 31,552 shares of Capital. The Boards of Directors of the Funds are identical, and their officers are substantially identical. Accordingly, Applicants state that each Fund may be deemed to be under common control, and thus each Fund may be deemed to be affiliated persons of each within the meaning of Section 2(a)(3) of the Act. The Applicants also state that FMR is an affiliated person of each Fund within the meaning of Section 2(a)(3), and that FMR Corporation may be deemed to be an affiliated person of FMR within the meaning of that section.

Pursuant to approvals granted by their Board of Directors, the funds have entered into an Agreement of Merger ("merger") under which Capital is to be merged into Trend. In accordance with Massachusetts law, Trend shall be the surviving corporation, and the separate existence of Capital shall cease. The proposed merger is contingent, in part, upon (1) the approval of not less than a majority of the outstanding shares of

V 4 4 O C T 1 9 7 9 UMI

each Fund; (2) the receipt of a ruling of the Internal Revenue Service or an opinion of counsel to the effect that the merger will constitute a tax-free reorganization; (3) the granting of the order of the Commission requested by the application, and (4) approval of an amendment of the Trend Advisory and Service Contract with FMR by the shareholders of each Fund.

The number of shares to be issued to the shareholders of Capital will be determined by dividing the aggregate net asset value of Capital by the per share net asset value of Trend, all to be determined as of the close of the New York Stock Exchange on the effective date of the merger. On the effective date of the merger, all of the property and assets of Capital will be transferred to Trend and their outstanding shares will be converted into shares of Trend. Trend will also succeed to all of the liabilities and obligations of Capital. The valuation procedures to be used in determining the net assets of each Fund are the same. Each Fund will pay its respective expenses of consummating the merger, which are estimated to be approximately $100,000 in excess of the normal expenses of holding both Funds' annual meetings. Expenses common to both Funds will be allocated on the basis of respective net assets. Shortly prior to the effective date of the merger, Capital will distribute to its shareholders a dividend taxable to them consisting of substantially all of its then undistributed net taxable income. Such dividends will be paid in additional shares of Capital or, at the election of each shareholder, in cash.

As of May 31, 1979, Trend and Capital had capital loss carryovers of $18,579,000 and $118,875,000 respectively, and unrealized losses of $8,760,000 and $15,666,000, respectively. The Funds have determined that the merger should be consummated on the basis of the relative net asset values of the Funds, and that use of a tax adjustment formula is not appropriate. Applicants state that there is no assurance that the surviving Fund (Trend) will be able to fully utilize any capital loss carryovers of Capital before they expire. In addition, Applicants state that any adjustment would reflect only the potential value of a deferral of tax liability to shareholders of Trend and would be likely to have an uneven impact on individual Fund shareholders in view of their different holding periods and tax bases for Fund shares and the various tax rates to which they are subject.

Applicants state that Capital will retain any net taxable gains it may realize prior to the effective date of the proposed merger to the extent that such gains may be offset by its capital loss carryovers. Trend will retain only net taxable capital gains realized between January 1, 1979, up to the effective date of the merger. The application states that to the extent of such retained net capital gains, and to the extent that additional net capital gains are realized by the surviving Fund (Trend) during the period from the effective date of the merger throuth December 31, 1979, the close of its fiscal year, such gains will be offset by the surviving Fund's capital loss carryovers and will not be distributed. Former shareholders of Capital who will have became shareholders of Trend will therefore not incur any tax consequences with respect to any realized net capital gains which exist on December 31, 1979.

Trend's investment objective is to seek possible growth of capital through interpretation of all factors believed to influence securities prices and fundamental values. Capital's investment objective is to seek growth of capital. While neither Fund places any restrictions on the type of security which may be purchased, both Trend and Capital have historically invested primarily in common stocks. Both Funds consider income return incidental to their capital growth objective. Both Funds also have substantially identical investment restrictions. If the effective date of the proposed merger had been August 31, 1979, each share of Capital's outstanding common stock would have been exchanged for .345 shares of Trend common stock, and Trend would have issued a total of 6,865,890 shares for Capital's net assets. In the opinion of the officers of the Funds the combination of the securities portfolios of Trend and Capital as a result of the proposed merger will not require the sale of any material amount of acquired portofolio securities. At present, the officers of the Funds do not expect that the sale of any acquired portfolio securities will be required. However, such sales may be made in the ordinary course of portfolio management.

The shares of each Fund are the underlying investment for two unit investment trusts registered under the Act, Fidelity Capital Investment Plans and Fidelity Trend Investment Plans. Effective June 18, 1979, the sales charge on purchases of shares of Trend and Capital was eliminated, with investors being able to purchase shares on a no load basis. Since that date, holders of Trend and Capital Plans have been able to make investments under their plans without deduction of sales charges, but with deduction of custodian charges and service fees as provided under the Plans. These policies will remain unchanged with respect to Capital Plans and Trend Plans after the effective date of the merger, with holders of Capital Plans purchasing shares of Trend.

The form of Advisory and Service Contract between each Fund and FMR is identical. Both Contracts were adopted effective January 1, 1979, pursuant to shareholder approval and provide for a fee composed of three elements: a "Group" fee rate based on the assets of all registered investment companies advised by FMR; and individual Fund fee rate; and a performance adjustment based on the comparative investment performance of the Fund and the Standard & Poor's Daily Stock Price Index of 500 Common Stocks ("Index"). Based on the assets of the Funds in the Fidelity Group for the month of June, 1979, the annualized Group fee rate for both Funds was .4774%. The annual individual Fund fee rate for both Funds is .12%. These two elements constitute the basic fee. The Contracts provide that the basic fee rate is to be adjusted by .02% for each percentage point of difference between the performance of the Fund and the record of the Index, up to an annualized maximum of plus or minus .2%

The period for comparing the performance and determining the Fund's average net assets, against which the fee rate is applied, is the prior 36 months. Until the Contracts have been in effect for 36 months, certain interim provisions are made. Under these provisions, (i) for each of the first 11 months the basic fee rate is applied to the Fund's average net assets for that month, (ii) commencing with the twelfth month the Fund's assets are averaged from January 1, 1979, through the month in question, and (iii) no performance adjustment will be made until December, 1979, at which point the performance period will be January 1, 1979, through the end of the month in question. After the Contract has been in effect for 36 months a "rolling 36-month period" will be used.

If the effective date of the proposed merger is November 30, 1979, the first month of the surviving Fund's performance adjustment and "average net assets" would include 11 months of Trend's sole performance and "average net assets" and one month of the combined Fund's performance and "average net assets". In order to generally equalize the performance adjustment of the combined Fund with the performance adjustments which would have been made for the two

Funds separately, the Directors of the Funds have approved for submission to shareholders a proposed amendment to the Trend Advisory and Service Contract. Under this amendment a merger of Trend with another investment company advised by FMR which utilizes a performance adjustment would be treated as follows:

(a) The average net assets of Trend, for purposes of calculating the basic fee, shall include the average net assets of the acquired Fund on the date of the merger transaction (measured over the acquired Fund's performance period through the date of the transaction) as if they had been included in Trend from the first day of Trend's performance period existing on the date of the transaction through the date of the merger transaction, and

(b) For purposes of determining the performance adjustment in any month, the net asset value of Trend on the first day of the applicable performance period shall be adjusted based on the dollar-weighted investment performance of Trend and Capital for the period from the first day of such performance period through the date of the merger transaction.

In addition, under the proposed amendment a merger of Trend with an entity not previously advised by FMR, or if advised by FMR, not utilizing a performance adjustment will be treated as follows:

(a) For purposes of determining the basic fee, the average net assets of Trend shall include the aggregate net asset value of such other entity on the date of the merger transaction as if such value had been included in Trend from the first day of Trend's performance period existing on the date of the transaction through the date of the merger transaction. One-twelfth of the basic fee rate is then applied to this amount of average net assets; and

(b) For purposes of determining the amount of the performance adjustment, Trend shall compute its average net assets as currently provided under its advisory contract (i.e., without the adjustment provided in item (a) above). One-twelfth of the performance fee rate is then applied to such average net assets and the resulting amount is added to or subtracted from the amount of the basic fee.

The Applicants state that the result of the proposed amendment will be to produce a performance adjustment which approximates that which would have resulted if the parties to a merger transaction had not merged.

The Directors also considered the impact of calculating average net assets under the Advisory and Service Contract over the performance period in order to determine a Fund's average net assets against which its fee rate is applied. This averaging of assets provision will result in the average net assets of Trend (the surviving Fund) after the merger being substantially less than the aggregate net assets of the two Funds if they had remained separate. The Applicants state that, assuming the effective date of the proposed merger is November 30, 1979, and the net assets of Trend remained at their approximate level for the month of May, 1979, throughout the 36-month period commencing with December, 1979, the reduction in the advisory fee paid by the combined Funds from that which would have been paid had the Funds not merged (ignoring potential differences in performance) would be $723,000 in the first twelve months, $418,000 in the second twelve months, and $167,000 in the final twelve months. The application states that the disinterested Directors of the Funds have determined as a general matter that the reduction in fee resulting solely from this method of calculating "average net assets" is inconsistent with this type of fee structure in a merger situation and that it would be inequitable in a merger transaction of the type herein contemplated to calculate an advisory fee against an artificially reduced level of average net assets rather than against the level of net assets actually being managed. Accordingly, the Directors have approved submission of the above proposed amendment of the Advisory and Service Contract of Trend to shareholders of each Fund in order to provide a more equitable method for the calculation of average net assets and the performance adjustment in the event of a merger or other business combination.

The Applicants state that the Board of Directors of each Fund, a majority of whom are not interested persons of the Funds or FMR, concluded that the proposed amendment of the Trend Advisory and Service Contract was appropriate and unanimously voted to approve the amendment at a meeting held on September 14, 1979. The application also states that the disinterested Directors are of the opinion that the proposed amendment, as it relates both to the transaction contemplated herein and to business combinations involving Trend in general, does not involve overreaching on the part of any person concerned, does not result in participation by either Fund on a basis different from or less advantageous than that of any other participant, and is in the best interests of each Fund and its shareholders. The application further states that the proposed amendment relating to average net assets merely restores the *status quo* in a merger situation, in that it continues the "average net asset" level of the merged or combined companies at approximately the same level as it would have been had the companies not merged (where both are advised by FMR) or at a level comparable to that which would result if the Trend Advisory and Service Contract looked solely to the current month's average net assets in calculating the advisory fee. With respect to the averaging of performance where both entities are advised by FMR and the acquired entity utilizes a performance adjustment, the Applicants argue that the proposed amendment will produce a performance adjustment which reflects the performance of both entities prior to the merger or combination. Finally, the application states that the proposed amendment will tend to produce compensation to FMR equal to that which it would have received if it served as adviser to the two entities separately.

Section 17(a) of the Act, in pertinent part, provides that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to knowingly sell to or purchase from such registered investment company any security or other property except securities of which the investment company is the issuer. Section 17(b) of the Act provides that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

Rule 17d-1, adopted by the Commission pursuant to Section 17(d) of the Act, provides, in part, that no affiliated person of any registered investment company and no affiliated person of such a person, acting as principal, shall participate in, or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and has been granted by an order. A joint enterprise or other joint arrangement as used in this Rule is any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment

V 44 0 C 1 9 7 9 UMI

company and any affiliated person of such registered investment company, or any affiliated person of such a person, have a joint and several participation, or share in the profits of such enterprise or undertaking. In passing upon such application, the Commission will consider whether the participation of such registered investment company in' such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from or less advantageous than that of other participants. As noted above, FMR is an "affiliated person" of both Trend and Capital within the meaning of Section 2(a)(3) of the Act. Thus, FMR in receiving shares of Trend as a result of the proposed merger transaction, which its officers and employees in their capacity as Fund officers developed and proposed to the Directors of each Fund and on which it will have voted, might be deemed to have a joint participation with Trend and/or Capital and therefore be engaged in a joint enterprise or arrangement prohibited by Section 17(d) of the Act and Rule 17d–1 thereunder without Commission approval.

The Applicants assert that the terms of the proposed transaction are fair and reasonable to all parties, do not involve overreaching and are consistent with the investment objectives of each of the Funds and with the policies of the Act. The Applicants further represent that although FMR's participation in the proposed merger transaction will be on a basis different from the Funds, FMR will be treated no differently than any other shareholder of Trend or Capital and thus the Funds' participation will not be on a basis less advantageous than FMR. The Applicants also note that FMR as an entity has not actively participated in the negotiation of and the preliminary activity with respect to the proposed merger transaction, although FMR's officers and employees in their capacity as officers of each Fund have done so. The Funds assert that the proposed merger is advantageous to the Funds primarily because certain expenses, such as accounting, legal, Directors' and custodian fees, shareholder meetings, preparation of shareholder reports, portfolio accounting and bookkeeping fees, and filing fees will be reduced by reason of the combination of portfolio assets into a single entity. The Applicants state that it is estimated that first year operating expenses of the combined Funds will be approximately $150,000 lower than their anticipated level if the two Funds remained separate.

Notice is further given that any interested person may, not later than November 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–32381 Filed 10–18–79; 8:45 am]

BILLING CODE 8010–01–M

[File No. 1–5325]

Huffy Corp.; Application To Withdraw From Listing and Registration

In the matter of Huffy Corporation, Common Stock, Par Value $1; Securities Exchange Act of 1934 Section 12(d).

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. (Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. Huffy Corporation's (the "Company's") common stock was listed and registered for trading on the Amex on January 1, 1967.

2. The subject issue became listed and registered for trading on the New York Stock Exchange, Inc. ("NYSE") on June 14, 1979. Simultaneously, Amex suspended trading in the issue pursuant to Rule 12d2–1 of the Act.

3. The Company determined that the direct and indirect costs as well as the possibility of market fragmentation did not justify maintaining its common stock listing on both the NYSE and Amex.

This application relates solely to withdrawal of the Company's common stock listing and registration on the Amex and shall have no effect upon the continued listing of such common stock on the NYSE. The Amex has posted no objection in this matter.

Any interested person may, on or before November 15, 1979, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished by the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

October 15, 1979.

[FR Doc. 79–32382 Filed 10–18–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 21251; 70–6366; October 15, 1979]

Kentucky Power Co.; Proposed Issuance and Sale of First Mortgage Bonds

In the matter of Kentucky Power Company, 1701 Central Avenue, Ashland, Kentucky 41101.

Notice is hereby given that Kentucky Power Company ("Kentucky Power"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, has filed with this Commission an application-declaration and an amendment thereto pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6, 7 and 12 of the Act and Rules 42 and 50 promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Kentucky Power proposes to issue and sell two new series of its first mortgage bonds, one such series in a private placement with Metropolitan Life Insurance Company ("Metropolitan") in an aggregate principal amount of $50,000,000 (the "Seventh Series"), and the second such series at competitive bidding in an aggregate principal amount of up to $30,000,000 (the "Sixth Series"). The sale of one series will not be dependent upon the sale of the other.

The Seventh Series will mature December 1, 1989, will bear interest at a rate of 10⅝% per annum, will be sold to Metropolitan at 100% of principal amount, and will be subject to a sinking fund requiring the annual redemption of $2,500,000 principal amount commencing January 1, 1984. The Seventh Series will not be redeemable prior to a date five years from the first day of the month in which they are first authenticated and delivered, if such redemption is for the purpose of refunding them, directly or indirectly, through the use of borrowed funds having an effective interest cost less than the effective interest cost of the Seventh Series. Kentucky Power claims exemption from the competitive bidding requirements of Rule 50 for its sale of the Seventh Series pursuant to Rule 50(a)(2), stating that the bonds will have a maturity of less than 10 years, will be issued to an institutional investor and will not involve the payment of any finder's or other fee to a third person in connection with their sale. Kentucky Power further claims that the terms of the Seventh Series compare favorably with the terms of similarly rated bonds of other electric utilities which have been recently issued and sold.

It is planned that the issuance and sale of the Seventh Series will be completed prior to the end of January 1980, and that as an intermediate step to carry out the refunding described below, Metropolitan will lend Kentucky Power, in December 1979, purusant to an unsecured promissory note bearing interest at 10⅝% per annum and having a maturity of less than one year, at least $20,000,000 (but not more than $50,000,000) such note to be repaid from the proceeds from the sale of the Seventh Series.

Kentucky Power proposes to issue and sell the Sixth Series at competitive bidding, such bonds to have a maturity of not less than five years and not more than thirty years. The interest rate (which will be expressed in a multiple of ⅛ of 1%) and the price to be paid to Kentucky Power for the bonds (which shall not be less than 99% nor more than 102¾%) will be determined by competitive bidding. None of the bonds of the Sixth Series may be redeemed prior to a date five years from the first day of the month in which they are first authenticated and delivered, if such redemption is for the purpose of refunding them, directly or indirectly, through the use, directly or indirectly, through the use of borrowed funds having an effective interest cost less than the effective interest cost of the Sixth Series.

Each new series of bonds will be issued under and secured by Kentucky Power's mortgage and deed of trust, dated as of May 1, 1949, as supplemented and amended and as to be further supplemented by a supplemental indenture.

The proceeds from the sales of the Sixth and Seventh Series will be used to pay at maturity, or to reimburse Kentucky Power's treasury for the payment at maturity of, its $50,000,000 principal amount of first mortgage bonds, 7⅛% Series due January 1, 1980, and to repay its unsecured short-term debt, which was approximately $26,500,000 at August 31, 1979, and is expected to be approximately $30,000,000 at the time of sale of the Sixth Series.

It is stated that authority for the issuance and sale of the Sixth Series is requested due to uncertainties concerning Kentucky Power's ability to borrow under a proposed $100,000,000 bank loan agreement involved with Kentucky Power's proposed acquisition of a 15% undivided interest in the Rockport Plant currently under construction by Indiana & Michigan Electric Company, an affiliate. Said loan agreement and proposed acquisition are the subject of a separate proceeding before this Commission (File No. 70–6198), but the requested authorization from the applicable state regulatory authority for the transactions was denied by the Public Service Commission of Kentucky. Kentucky Power appealed such denial to the state circuit court and obtained an order, on August 7, 1979, authorizing the acquisition and bank loan. On September 4, 1979, the Energy Regulatory Commission of Kentucky (the successor agency to the former Public Service Commission) filed a notice of appeal of the circuit court's order to the Kentucky Court of Appeals. Since the proceedings remain unsettled, Kentucky Power cannot predict when it will obtain the approvals necessary for the bank loan agreement and needs authority to issue up to $30,000,000 principal amount of bonds of the Sixth Series in order to provide an alternative means of repaying outstanding short-term debt.

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may not later than November 9, 1979, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–32379 Filed 10–18–79; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–16279; File No. SR–NYSE–79–43]

New York Stock Exchange, Inc.; Proposed Rule Change; Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94–29, 16 (June 4, 1975), notice is hereby given that on October 4, 1979 the above mentioned self-regulatory

V 44 OC 19 79 UMI

organization filed with the Securities and Exchange Commission a proposed rule change as follows:

Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change, if adopted, would increase from $25,000 to $35,000 per year the dues payable to the Exchange by "annual members" who are entitled to maintain a physical presence on the trading Floor of the Exchange.

Statement of Basis and Purpose

The basis and purpose of the proposed rule change is as follows:

Purpose of Proposed Rule Change

The purpose of the proposed rule change is to increase from $25,000 to $35,000 annually the dues payable to the Exchange by members who are entitled to enter physically upon the trading Floor of the Exchange and to have facilities thereon for the execution of orders, pursuant to the provisions of Article IX, Section 1(b) of the Exchange's Constitution (hereafter referred to as "annual members").

The $35,000 dues will apply to annual members who become such after the effectiveness of this rule change; but, will not be applied to existing annual members except upon renewal of such memberships.

Article X of the Exchange's Constitution provides, in Section 1(b) thereof, that:

"The dues payable by [such annual members], exclusive of fines and of such other charges as may be imposed pursuant to the Constitution, shall be fixed by the Board of Directors [of the Exchange] from time to time, and shall be *not less than* $25,000 annually. * * *" [emphasis added]

In August, 1977 when the Exchange first proposed to amend its Constitution to provide for such annual members (as well as other types of members—see File No. SR-NYSE-77-21 for complete details) the Board of Directors of the Exchange determined to fix the annual dues of such members, initially, at the minimum amount of $25,000. And, the dues of such members have been maintained by the Exchange at the minimum level since that time.

However, the Exchange believes that there is economic justification for increasing, at this time, the dues of annual members (who have physical access to the Floor) to at least $35,000 per year.

The Exchange notes that in its original approval Order relating to annual members of the Exchange (Securities Exchange Act of 1934, Release No. 14535/March 7, 1978), the Commission stated that:

"* * * the dues to be assessed upon annual members [$25,000, at that time] appear, on their face, to be reasonable and equitably allocated in accordance with Section 6(b)(4) of the Act. The Commission believes that the ultimate test of 'reasonableness', however, will be provided by response of the market. Because alternative means of membership in, and access to, the NYSE exist * * * the Commission does not believe it necessary to subject these annual membership dues to a more rigorous *a prior* determination of reasonabless as might otherwise be called for."

The Exchange agrees with these conclusions, and feels that they are equally applicable to the increase in the dues proposed herein.

Nevertheless, the Exchange believes it is appropriate to mention, briefly, the methodology used in arriving at the proposed dues for annual members entitled to physical access to the Floor.

The dues for such members were computed in a manner to achieve an equitable allocation of dues among all members. The dues for such members were determined by linking them to the current replacement value of an Exchange membership. This was done by applying member firms' median 1974-1978 pre-tax rate of return on equity capital (20.4%) to a $154,600 NYSE replacement value per membership. Adding the current membership dues of $1,500 and the additional $1,800 fee paid for each member on the trading Floor (which permanent members will continue to pay) to the return on member equity yielding a total of $34,800. It was determined to round this to an even $35,000.

It is important to note that the methodology used to arrive at the proposed annual dues of $35,000 is the same as that which was used in 1977 to arrive at the original amount of $25,000. The proposed increase in dues is primarily attributable to an increase in member firms' median pre-tax rate of return on equity capital and an increase in NYSE replacement value per membership.

Finally, as a point of information, the Exchange has also reviewed the dues of annual members who are entitled to only "electronic access" to the Exchange, and the Exchange has determined not to change the present level of dues—$13,500 annually—at this time. The rationale for the dues imposed on annual members entitled only to electronic access to the Exchange is unrelated to that of the dues imposed on annual members entitled to maintain a physical presence on the Floor of the Exchange.

Basis Under the Act for Proposed Rule Change

The proposed rule change relates to Section 6(b)(4) of the Act which requires that the rules of the Exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members using its facilities.

Comments Received From Members, Participants, or Others on Proposed Rule Change

The Exchange has not solicited comments regarding the proposed rule change and has received none.

Burden on Competition

The Exchange does not believe that the proposed rule change imposes any burden on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 9, 1979.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons

Secretary.

October 15, 1979.

[FR Doc. 79-32375 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 16277; SR-NYSE-79-42; October 12, 1979]

New York Stock Exchange, Inc.; Filing of Proposed Rule Change and Order Approving Proposed Rule Change

In the matter of New York Stock Exchange, Inc., 11 Wall Street, New York, New York 10005.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on October 1, 1979, the New York Stock Exchange, Inc. (the "NYSE") filed with the Commission copies of a proposed rule change (SR-NYSE-79-42) which would amend NYSE Rule 107 governing Registered Competitive Market Makers ("RCMMs") to incorporate certain changes requested by the Commission at the time the Commission approved a nine-month extension of the effectiveness of Rule 107 until April 30, 1979.[1]

The proposed changes would: (1) Require floor brokers and floor officials to report instances where RCMMs refused to answer a request to participate in a particular security; (2) Require RCMMs to report to the exchange the contra party to each transaction effected under Rule 107; (3) Clarify that an individual registered as both an RCMM and a competitive trader may not refuse to answer a request to participate as a market maker in a particular security by virtue of having placed a limit order on the specialist's book in that security as a competitive trader; (4) Require an individual registered as both an RCMM and a competitive trader to announce the capacity in which he is trading in a particular security immediately before effecting a transaction; (5) Prohibit RCMMs from effecting off-floor market maker transactions; (6) Require RCMMs to mark orders, given to another member for execution, to indicate that Rule 107 applies to such order and whether the transaction involves a liquidation at a loss; (7) Provide that the appropriate execution of a properly marked RCMM order is the responsibility of the executing member; and, (8) Clarify that a member holding an RCMM order cannot be held to the market at a particular price if execution of such order at that price would contravene Rule 107.

Interested persons are invited to submit written data, views and arguments concerning the submission on or before November 9, 1979. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-79-42.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the proposed modifications are designed to correct certain deficiencies in NYSE Rule 107 as currently written and to enhance the ability of the NYSE to monitor the RCMM pilot program which is scheduled to expire on April 30, 1980, if the Commission does not approve Rule 107 on a permanent basis. These modifications were specifically requested of the NYSE by the Commission at the time it approved a nine-month extension of the rule.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79-32376 Filed 10-18-79; 8:45 am]

BILLING CODE 8010-01-M

[1] Securities Exchange Act Release No. 16049 (July 27, 1979). This release also approved a nine-month extension of Rule 114 of the American Stock Exchange governing Registered Equity Market Makers.

INTERSTATE COMMERCE COMMISSION

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-30332, appearing at page 56436 in the issue for Monday, October 1, 1979, make the following corrections:

(1) On page 56438, in the first column, immediately above "MC 1628 (Sub-2TA)", insert: "Notice No. 169".

(2) On page 56447, in the third column, immediately above "MC 24583 (Sub-25TA)", insert: Notice No. 171".

BILLING CODE 1505-01-M

Motor Carrier Temporary Authority Applications

Correction

In FR Doc. 79-30332 appearing at page 56436, in the issue for Monday, October 1, 1979, on page 56443, in the second column, "MC 144468 (Sub-20TA)" should have read "MC 145468 (Sub-20TA)"

BILLING CODE 1505-01-M

[Decision Volume No. 24]

Permanent Authority Decisions; Decision-Notice

Correction

In FR Doc. 79-9505 appearing at page 18797, in the issue for Thursday, March 29, 1979, on page 18798, in the third column, in the paragraph for "MC 25798 (Sub-359F)", in the 13th line, "NS" should have read "MS".

BILLING CODE: 1505-01-M

Fourth Section Application for Relief

October 16, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 5, 1979.

FSA No. 43755, Southwestern Freight Bureau, Agent No. B-24, ashes cotton boll, burr or seed hull, in carloads, from stations in Southwestern Territory to stations in Eastern, Southern, Southwestern, and Western Territories in supp. 171 to its Tariff ICC SWFB 2004-J and two other tariffs, effective November 10, 1979. Grounds for relief—rate relationship, short-line distance formula and grouping.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32275 Filed 10-17-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 15, 1979.

These applications for long-and-short-haul relief have been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 5, 1979.

FSA No. 43754, South African Marine Corporation (NY) No. 2, rates on general commodities in containers, from Ports in South, Southwest and East Africa, to Railroad terminals at U.S. Pacific Coast

Ports, via New York, N.Y., Philadelphia, Pa., Baltimore, Md. and Norfolk, Va., in its Tariff ICC SAMU 301, to become effective November 3, 1979. Grounds for relief-water competition.

FSA No. 43756, Southwestern Freight Bureau, Agent's No. B–29, rates on sheet steel, in coils, carload, from stations in Eastern Territory, to Ft. Smith, Ark., in its Tariff ICC SWFB 4850, to become effective November 9, 1979. Grounds for relief-market competition.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–32277 Filed 10–18–79; 8:45 am]

BILLING CODE 7035–01–M

[Directed Service Order No. 1398; Authorization Order No. 1]

Kansas City Terminal Railway Co. Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: October 12, 1979.

The Chicago, Rock Island & Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI") has acquired numerous freight cars and locomotives under lease arrangements from the owners of such equipment. Most, if not all, such arrangements require quarterly payments, in some cases in advance of the designated time periods and, in other cases, at the end of such time periods. These time periods do not coincide with the period of directed service as determined in Directed Service Order No. 1398 (decided and served September 26, 1979; published in the **Federal Register** on October 1, 1979 at 44 FR 56343). The failure to make timely payments on these lease agreements will result in the recall of the equipment by the owners and the impairment of directed service.

Even in the event that the directed rail carrier (DRC) were able to negotiate new leases for the same equipment, the default of existing lease agreements would present a serious problem for the continuation of directed service operations. We understand that current leasing contracts carry much higher lease payment levels, and almost none are entered into for periods of less than five years.

It is essential to the continued provision of directed service that this equipment be available to the DRC (Kansas City Terminal Railway Company [KCT]). Moreover, the use of such equipment in directed service operations is required both by the public interest and by the necessities of interstate commerce. Accordingly, we are taking the following actions to avoid what could be serious problems in the provision of directed service.

The Commission authorizes KCT, as the directed rail carrier, to make payments on freight car and locomotive leases as they become due during the directed service period. This authorization extends to all payments falling due during the period of directed service, including payments on leases covering the use of equipment for a period not to exceed 30 days beyond the duration of the Directed Service Order. Such payments shall be made directly to the lessors of the involved equipment. The cost of those payments made during the directed service period shall be treated as a reimbursable cost of directed service. This action is necessary to make vital equipment available to the directed service operations.

KCT is also authorized to make payments on freight car and locomotive leases which fell due during the period between the service date and effective date of Directed Service Order No. 1398. These payments shall be made by KCT directly to the lessors of the involved equipment upon the terms and conditions established by the Commission in Supplemental Order No. 2 (decided and served October 3, 1979).

It is ordered—1. KCT is authorized to make lease payments on RI freight cars and locomotives upon the terms and conditions set forth above.

2. The costs of such lease payments shall be treated as a reimbursable cost of directed service, to the extent indicated above.

By the Commission, Railroad Service Board, Members Joel E. Burns, Robert S. Turkington, and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–32278 Filed 10–18–79; 8:45 am]

BILLING CODE 7035–01–M

[Released Rates Application No. FF–450]

Movers' & Warehousemen's Association of America, Inc.

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. FF–450.

SUMMARY: The Movers' & Warehousemen's Association of America, Inc., seeks to further amend Released Rates Order No. FF–249 which applies on used household goods, used automobiles and unaccompanied baggage. This order authorizes specific freight forwarders, party to Movers' & Warehousemen's Tariffs No. 65 and 66, MF–ICC Nos. 92 and 93, as amended, to establish and maintain released value commodity rates on the above named commodities. The applicant now seeks the same authority on behalf of all freight forwarders which are now or may become party to those tariffs insofar as they are authorized to perform the considered transportation.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Carroll F. Genovese, Executive Director, Movers' & Warehousemen's Association of America, Inc., 1001 North Highland St., Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Mr. Howard Rooney, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423: Telephone (202) 275–7390.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly sections 20(11) and 413 of the Interstate Commerce Act for and on behalf of carriers party to Movers' & Warehousemen's tariffs based on released valuation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79–32276 Filed 10–18–79; 8:45 am]

BILLING CODE 7035–01–M

Sunshine Act Meetings

Federal Register

Vol. 44, No. 204

Friday, October 19, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Civil Aeronautics Board	1
Federal Reserve System	2
Federal Trade Commission	3–5
National Labor Relations Board	6
Securities and Exchange Commission	7

1

[M–252, Amdt. 5; Oct. 16, 1979]

CIVIL AERONAUTICS BOARD.

Addition of items to the October 16, 1979, meeting agenda.

TIME AND DATE: 9:30 a.m., October 16, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1a. Motion of the Department of Transportation to terminate the IATA Proceeding, Docket 32851.

1b. Request for Pre-Hearing Conference on IATA Rate Proceeding to consider proposed order scheduling hearing for conference, Docket 32851.

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673–5068.

SUPPLEMENTARY INFORMATION: Items 1a and 1b are being added to the October 16, 1979 agenda because the IATA hearings are next week and the Board will like to discuss these items before the hearings. Accordingly, the following Members have voted that Item 1a and 1b be added to the October 16, 1979 agenda and that no earlier announcement of these additions was possible:

Chairman, Marvin S. Cohen
Member, Richard J. O'Melia
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

[S–2048–79 Filed 10–17–79; 3:37 pm]

BILLING CODE 6320–01–M

2

FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, October 24, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed purchase of computer equipment by the Federal Reserve Bank of Kansas City.

2. Proposed changes to the Board's rules relating to supervision of foreign banking organizations and Edge Corporations.

Discussion Agenda

1. Proposals regarding an Annual Report for Foreign Bank Holding Companies, Foreign Banks, and Foreign Parent Companies (F.R. Y–7).

2. Proposed Report of Intercompany Transactions for Foreign Bank Holding Companies and Their U.S. Bank Subsidiaries (F.R. Y–8f).

3. Proposed regulations to implement section 5 of the International Banking Act of 1978 relating to interstate banking restrictions.

4. Any agenda items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: October 17, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S–2047–79 Filed 10–17–79; 11:20 am]

BILLING CODE 6210–01–M

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 23, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of issuance of proposed policy statement with respect to Corrective Advertising, File No. R 711003.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–2044–79 Filed 10–17–79; 10:19 am]

BILLING CODE 6750–01–M

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, October 24, 1979.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: Consideration of Trade Regulation Rule for the Hearing Aid Industry.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–2045–79 Filed 10–17–79; 10:19 am]

BILLING CODE 6750–01–M

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Thursday, October 25, 1979.

PLACE: Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions Open to Public

(1) Oral Argument in Household Finance Co., Docket 9111.

Portions Closed to the Public

(2) Executive Session to discuss Oral Argument in Household Finance Co., Docket 9111.

CONTACT PERSON FOR MORE INFORMATION: Ira J. Furman, Office of Public Information: (202) 523–3830; Recorded Message: (202) 523–3806.

[S–2046–79 Filed 10–17–79; 10:19 am]

BILLING CODE 6750–01–M

V 44 O C 19 79 UMI

6

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Friday, October 19, 1979.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b (c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE INFORMATION: William A. Lubbers, Executive Secretary, Washington, D.C. 20570, Telephone: (202) 254–9430.

Dated, Washington, D.C., October 16, 1979.

By direction of the Board.

George A. Leet,

Associate Executive Secretary, National Labor Relations Board.

[S-2042-M Filed 10-16-79; 1:30 pm]

BILLING CODE 7545-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of October 22, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

Open meetings will be held on Tuesday, October 23, 1979, at 10 a.m. and on Wednesday, October 24, 1979, at 10 a.m.

A closed meeting will be held on Tuesday, October 23, 1979, immediately following the 10 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402 (a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Evans, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, October 23, 1979, at 10 a.m., will be:

Consideration of whether to amend Regulation S–X to delete Rule 3–17 (disclosure of current replacement cost information) once the disclosure requirements of Statement of Financial Accounting Standards No. 33, "Financial Reporting and Changing Prices," are effective. That Statement requires certain large public enterprises to report constant dollar information in 1979 annual reports and current cost information in 1980 reports. For further information, please contact James L. Russell at (202) 272–2133.

The subject matter of the closed meeting scheduled for Tuesday, October 23, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Settlement of injunctive actions.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Report of investigation.
Litigation matter.

The subject matter of the open meeting scheduled for Wednesday, October 24, 1979, at 10 a.m., will be:

1. Consideration of whether to grant a request for a waiver of certain provisions of the Commission's Conduct Regulation in connection with the temporary employment of Edward V. O'Gara, Jr. For further information, please contact Myrna Siegel at (202) 272–2430.

2. Consideration of whether to adopt Rule 156, as revised, concerning the use of false and misleading investment company sales literature. For further information, please contact Anthony A. Vertuna at (202) 272–2105 or Sarah B. Ackerson at (202) 272–2057.

3. Consideration of whether to issue an order granting the registration of the Philadelphia Depository Trust Company as a clearing agency. For further information, please contact C. Eston Singletary at (202) 272–2902.

4. Consideration of whether to grant the application of the Variable Annuity Marketing Company for an exemption from the confirmation delivery requirements of Securities Exchange Act Rule 10b–10 in connection with certain transactions in variable annuities. For further information, please contact H. Steven Holtzman at (202) 272–2842.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272–2091.

October 16, 1979.

[S-2043-79 Filed 10-16-79; 4:48 pm]

BILLING CODE 8010-01-M

Reader Aids

Federal Register

Vol. 44, No. 204

Friday, October 19, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305–56662 1
56663–56918 2
56919–57064 3
57065–57378 4
57379–57906 5
57907–58492 9
58493–58670 10
58671–58888 11
58889–59194 12
59195–59488 15
59489–59894 16
59895–60068 17
60069–60250 18
60251–60700 19

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) 56673
10900 (Amended by EO 12163) 56673
10973 (Revoked by EO 12163) 56673
11223 (Amended by EO 12163) 56673
11269 (Amended by EO 12164) 56681
11579 (Amended by EO 12163) 56673
11846 (Amended by EO 12163) 56673
11958 (Amended by EO 12163) 56673
12065 (Amended by EO 12163) 56673
12087 (Superseded by EO 12165) 58671
12092 (Amended by EO 12161) 56663
12140 (Amended by EO 12162) 56665
12161 56663
12162 56665
12163 56673
12164 56681
12165 58671

Proclamations:
4693 56669
4694 56671
4695 58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163) 56673

Presidential Determination:
No. 79-17 of September 28, 1979 56667

5 CFR

Ch. III 60251
Ch. XIV 60069
340 57379
353 56683
451 58889
890 57379

Proposed Rules:
581 60301

6 CFR

705 ..... 56900, 58891, 60251
706 ..... 56910, 58891, 60251
707 60676

Proposed Rules:
702 59166
703 59166
704 59166

7 CFR

2 ..... 57907, 58495, 58679, 60251
6 58893
15a 57907
16 ..... 56919, 60069
29 57907
246 59489
282 59052
354 60255
421 58893
722 60255
905 59195
906 57909
908 ..... 57065, 58680, 60070
910 ..... 57383, 58893, 60256
929 56683
932 58495
944 59195
966 ..... 58894, 59197
979 56684
982 57065
989 60070
1139 57066
1421 ..... 56305, 57383
1464 ..... 57909, 58894
1822 ..... 56919, 59198
1861 56920
1864 59895
1901 59198
1941 58895
1942 ..... 56684, 59895
1944 59198
1951 ..... 56306, 59895
1955 59895
1980 ..... 56920, 58896

Proposed Rules:
6 56943
20 57931
27 57932
272 57414
273 ..... 57414, 58915
318 57415
725 57932
729 57416
981 57417
966 60105
1065 57103
1079 59913
2853 ..... 58916, 59548
2858 58916

8 CFR

100 56311

Proposed Rules:
103 56368

9 CFR

75 60257

V 44 OC 1 19 79 9 UMI

78 57384
91 59498
92 58896
97 60261
113 ..... 58897, 60262
309 59498

Proposed Rules:
92 58918
113 60306

10 CFR
50 ..... 57911, 57912
51 56312
205 ..... 60264, 60638
211 ..... 56888, 57067, 60638
212 ..... 57069, 60638
320 58900
436 60664
476 57370
515 60690
570 56921

Proposed Rules:
211 ..... 56369, 59240, 59551, 60307
212 59914
214 57103
220 56369
375 56953
376 56953

11 CFR

Proposed Rules:
100 59182
110 59162
114 59162

12 CFR
Ch. VII 56691
201 57385
202 57070
204 60071
205 59474
207 56922
217 60076
220 56922
221 56922
224 56922
226 56312
263 56685
265 ..... 56313, 59227
329 60273
346 57385
545 57386
563 59895
600 60076
601 60076
602 60076
611 60076
704 58496
742 57071

Proposed Rules:
Ch. II 58744
Ch. V 57419
205 59464
528 60310
545 58744

13 CFR
101 59499
121 ..... 58744, 59504
124 60273
125 60273
126 60273
127 60273

Proposed Rules:
111 58745
117 60032

14 CFR
39 ..... 56315-56322, 57072, 57073, 58680-58684, 60079
71 ..... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686, 60079
73 57080-57082
75 57082-57084
97 57918
207 58499
208 58499
212 ..... 57386, 58500
214 ..... 57387, 58500
221a 57085
241 ..... 58500, 59505
287 57085
1214 56923

Proposed Rules:
Ch. I 56369, 60107
Ch. V 56377
11 ..... 56370, 59242
21 ..... 56370, 59242
37 ..... 56370, 59242
39 57105
71 ..... 56373-56376, 57106, 57934-57938, 60107
73 58746
93 56376
233 59242
270 59242
302 59242

15 CFR
30 58686
370 59227
371 59227
374 59227
377 59227
377 59227
388 59897

16 CFR
13 ..... 56323, 56923, 57920, 58901-58906, 60080
1700 57920

Proposed Rules:
Ch. I 59552
Ch. II 57352, 60057
13 ..... 58516, 58518, 58747
1201 59914
1404 59557

17 CFR
210 ..... 57030, 57037
211 57038
231 56924
240 ..... 57387, 60281
241 56924
249 ..... 57374, 57387
270 ..... 58502, 58907

Proposed Rules:
240 56953
270 58521

18 CFR
1 60282
2 ..... 56926, 60080
3 60282
154 ..... 57726, 60083, 60284
201 57726
204 57726
270 60284
271 56926
273 59230
274 59230
282 ..... 57726, 57754, 57778, 60084
283 60284
290 58687

Proposed Rules:
35 60108
282 ..... 57783, 57786, 57788, 58749
292 57107

19 CFR
4 ..... 57086, 57087
101 57088

Proposed Rules:
134 58527
153 ..... 59741, 59762
155 ..... 57044, 59762
159 ..... 57044, 59762
177 56715
201 59392
207 59392

20 CFR
404 56691
675 56866
680 56866

Proposed Rules:
615 56715
665 59889

21 CFR
10 59174
12 59174
13 59174
14 59174
15 59174
16 59174
109 57389
177 59505
178 59506
193 59231
510 ..... 57389, 59507
520 ..... 59507, 59508
558 57389
561 59903
740 59509
1316 56324

Proposed Rules:
136 60313
137 60313
145 60314
148 60315
166 57422
168 60315
203 58918
310 ..... 58919, 60316
312 58919
314 58919
320 60320
331 60328
444 60331
640 60332
680 60333
890 ..... 57939, 57940, 58919
1020 57423

22 CFR
515 58708

Proposed Rules:
216 56378

23 CFR
140 59232

Proposed Rules:
771 59438

24 CFR
Ch. XIII 58507
42 56324
203 57089
205 57090
207 57090
213 ..... 56927, 57089, 57090
220 57090
221 57090
232 57090
234 57089
235 57090
236 57090
240 58503
241 57090
242 57090
244 57090
250 57090
290 56608
403 58503
510 58506
570 56325
803 59112
841 57922
880 59408
888 ..... 57925, 59112
891 ..... 60085, 60285

Proposed Rules:
200 60108
203 58527
208 60109
881 59246
888 58528

25 CFR
31a 58096
31b 58101

Proposed Rules:
252 59559
700 59560

26 CFR
1 ..... 57925, 59523, 60085
7 57390
31 59524

Proposed Rules:
Ch. I 56502
1 ..... 57423, 57427
31 57940
301 56715

27 CFR
9 56692
201 56326

28 CFR
0 ..... 57926, 58908
2 ..... 58507, 59527, 59528
16 59904
50 57926
301 59904

Proposed Rules:
2 58528
16 ..... 58920, 58921

29 CFR
14 57397
1604 58073
2610 58908

2703 57348

Proposed Rules:
1616 59914
1904 59560
1910 60333
1926 59561

30 CFR
Ch. VII 57927
701 58783
741 58783
672 60285
877 60285
879 60285
882 60285
884 60285
886 60285

Proposed Rules:
Ch. VII 60226, 60228
250 60109
732 60233

31 CFR

Proposed Rules:
Ch. II 59246

32 CFR
51 56328
199 58709
231 56328
706 ..... 56929, 57400
853 60090
901 56930

Proposed Rules:
56 58750

33 CFR
110 60091
117 59233
127 ..... 57092, 57927
147 57927
165 ..... 57928, 57929

34 CFR
Ch. 1 60286

35 CFR
133 56916
253 56693

Proposed Rules:
133 57941

36 CFR
50 56934
1228 58088

Proposed Rules:
Ch. IX 56954, 58528

38 CFR
1 59905
3 58709

Proposed Rules:
3 58758
36 ..... 56329, 58508

39 CFR
111 58509

40 CFR
52 ..... 56694, 57401
65 ..... 56696, 59528
81 57929
117 ..... 58711, 58909
180 59907
231 58076
257 58910
413 56330
600 ..... 57358, 60286

Proposed Rules:
35 60335
40 56955
50 56730
51 ..... 56957, 57107
52 ..... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60389
55 ..... 56721, 58759
60 ..... 57792, 58602
61 ..... 58642, 58661
62 ..... 57118, 57948
65 ..... 60109, 60110
81 ..... 57942, 58758, 58922, 60341
120 ..... 57428, 59565
122 56957
162 57429
250 ..... 56724, 58923
600 57362
707 56856
713 59106
720 59764
763 60061

41 CFR
Ch. 101 ..... 56699, 59192, 59529
8-4 59529
101-29 58910

Proposed Rules:
Ch. 25 56387
9-7 57119
101-40 59247
109-1 57121
109-60 57121

42 CFR
57 56937
71 58911
405 60287
456 56333

Proposed Rules:
74 58923
121 60342
405 58923

43 CFR
221 56339
1821 59530
2880 58126
3400 56339
3410 56339
3420 56339
3422 56339
3430 56339
3440 56339
3450 56339
3460 56339
3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:
4 57948
34 59096
1780 56622
2800 58106
3110 58638

44 CFR
64 ..... 56354, 57092, 57093
65 57094
67 ..... 56366, 56701

Proposed Rules:
67 ..... 56957, 57429-57432, 60342

45 CFR
Ch. I 56928
20 58912
55 58912
61 58912
80 ..... 58509, 59908
82 58912
116 59152
116a 59152
161 60022
161a 60022
304 56939
531 59908
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:
Ch. VI 56387
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130
1205 60110

46 CFR
154 59234
154a 59234
503 57411

Proposed Rules:
66 57137
283 58928
355 58928

47 CFR
0 ..... 57096, 60291
1 60291
2 ..... 58712, 59530
15 59530
18 56699
21 60532
22 60532
61 57096
73 ..... 57097, 58718-58729, 58912, 60091, 60097
74 58729
83 ..... 58712, 58735
87 59546
90 ..... 57098, 58737, 59234
97 58742

Proposed Rules:
0 57636
1 59568
15 ..... 59570, 60112
21 58929
63 59578
73 ..... 57138, 57636, 58762-58764, 59568, 58579, 59580
76 58766
81 59581

49 CFR
Ch. X 60296
192 57100
213 56342
301 59239
571 57100
172 60097
173 60097
174 60097
177 60097
178 60097
801 ..... 56340, 57930
1011 ..... 58511, 60295
1013 59908
1033 ..... 56343, 56939, 58913, 58914
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:
Ch. X 57139
110-189 58767
172 58767
173 ..... 58767, 60112
178 60112
195 57952
571 ..... 60113, 60120
575 56389
622 59438
1036 59581
1063 60122
1300 60122
1303 60122
1304 60122
1306 60122
1307 60122
1308 60122
1309 60122
1310 60122
1312 60122

50 CFR
13 59080
17 ..... 56862, 58866, 58868, 59080, 60103
32 ..... 56940, 56941, 59910
33 59910
216 57100
230 59911
611 57101
652 ..... 56941, 60103
653 ..... 56700, 56701
810 59086

Proposed Rules:
17 56618
285 57140
611 ..... 59257, 59582
652 60129

V 44 O C 19 7 9 UMI

V 44 OC 19 79 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Community Planning and Development, Office of Assistant Secretary—

54432 9–19–79 / Comprehensive Planning Assistance Program; reorientation

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

54467 9–20–79 / Domestic, flag and supplemental air carriers and commercial operators of large aircraft and operations of foreign air carriers radiation surveys of airport X-ray inspection cabinets

Rules Going Into Effect October 21, 1979

FEDERAL TRADE COMMISSION

49966 8–24–79 / Disclosure requirements and prohibitions concerning franchising and business opportunity ventures; promulgation of final interpretive guides

INTERIOR DEPARTMENT

Fish and Wildlife Service—

54922 9–21–79 / Sarrancenia oreophila, determination as an endangered species

List of Public Laws

Last Listing October 17, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

S. 210 / Pub. L. 96–88 "Department of Education Organization Act". (Oct. 17, 1979; 93 Stat. 668) Price $1.50.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235 or Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202–523–5239.

V
4
4

O
C
1
9
7
9

UMI

The authentic text behind the news . . .

The Weekly Compilation of PRESIDENTIAL DOCUMENTS

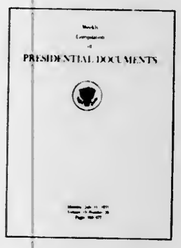
Administration of Jimmy Carter

This unique service provides up-to-date information on Presidential policies and announcements. It contains the full text of the President's public speeches, statements, messages to Congress, news conferences, personnel appointments and nominations, and other Presidential materials released by the White House.

The Weekly Compilation carries a Monday dateline and covers materials released during the preceding week. Each issue contains an Index of Contents and a Cumulative Index to Prior Issues.

Separate indexes are published quarterly, semiannually, and annually. Other features include lists of acts approved by the President and of nominations submitted to the Senate, a checklist of White House press releases, and a digest of other Presidential activities and White House announcements.

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration



SUBSCRIPTION ORDER FORM

ENTER MY SUBSCRIPTION FOR 1 YEAR TO: WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS (PD)

@ $15.00 Domestic; @ $23.50 Foreign.
@ $15.00 additional if Domestic first-class mailing is desired.

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

PLEASE PRINT OR TYPE | (or) COUNTRY

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No. .....

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

10–19–79
Vol. 44—No. 204
BOOK 2:
PAGES
60501–60700

federal register

Book 2 of 2 Books
Friday, October 19, 1979

60504 **Part II—Labor:**
Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

60532 **Part III—FCC:**
Domestic Public Fixed Radio Services and Public Mobile Radio Services

60634 **Part IV—HEW:**
Telecommunications Demonstration Program; Solicitation for Grants

60638 **Part V—ERA:**
Petroleum Allocation Regulations; Revision for Propane and Other Natural Gas Liquids

60658 **Part VI—Energy Department:**
Proposed Guideline for Termination of Electric Service and Gas Service Standard Under the Public Utility Regulatory Policies Act of 1978

60664 **Part VII—Energy Department:**
Solar in Federal Buildings Demonstration Program Rules

60676 **Part VIII—CWPS:**
Data Requests

60690 **Part IX—Energy Department:**
Powerplant and Industrial Fuel Use Act of 1978; Transitional Facilities

V
4
4

O
C

1
9

7
9
UMI

federal register

Friday
October 19, 1979

Part II

Department of Labor

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR
Employment Standards Administration, Wage and Hour Division
Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 224–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the Federal Register without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage & Hour Division, Office of Government Contract Wage Standards, Division of Construction Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

Mississippi.—MS79–1136.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the Federal Register are listed with each State.

Arizona:	
AZ79–5110	Mar. 16, 1979.
Florida:	
FL79–1110	July 20, 1979.
Louisiana:	
LA79–4069	July 20, 1979.
LA79–4070	Aug. 17, 1979.
Michigan:	
MI79–2020	June 1, 1979.
New Jersey:	
NJ77–3092	Oct. 7, 1977.
Texas:	
TX79–4005; TX79–4009	Jan. 5, 1979.
TX79–4036	Aug. 17, 1979.
TX79–4037	June 1, 1979.
TX79–4039	Mar. 16, 1979.
TX79–4086	Oct. 5, 1979.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the Federal Register are listed with each State. Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL78–1069(AL79–1133)	Sept. 8, 1978.
District of Columbia:	
DC78–3098(DC79–3039)	Mar. 17, 1978.
Kentucky:	
KY78–1098(KY79–1138)	Dec. 1, 1979.
KY78–1099(KY79–1135)	
KY78–1100(KY79–1137)	
KY78–1101(KY79–1139)	
North Carolina:	
NC76–1085(NC79–1034)	Aug. 26, 1976.

Cancellation of General Wage Determination Decisions

None.

Signed at Washington, D.C., this 12th day of October 1979.

William G. Blackburn,

Acting Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

MODIFICATIONS P. 1

DECISION #AZ79-5110 - Mod. #1
(44 FR 16306 - March 16, 1979)
Maricopa County, Arizona

Change:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos Workers:	$14.19	.82	$1.30		.03
Zone 1	14.89	.82	1.30		.03
Zone 2	15.09	.82	1.30		.03
Zone 3	15.54	.82	1.30		.03
Zone 4	17.69	.82	1.30		.03
Zone 5	14.36	1.175	1.00	$1.00	.03
Boilermakers					
Bricklayers; Stonemasons	12.52	.65	1.10		.09
Zone A	13.54	.65	1.10		.09
Zone B	14.17	.65	1.10		.09
Zone C	14.81	.65	1.10		.09
Zone D	15.32	.65	1.10		.09
Zone E	16.34	.65	1.10		.09
Zone F					
Carpenters; Drywall Applicator	11.435	1.075	1.085		.05
Pile drivermen; Floor-layers (finish)	11.74	1.075	1.085		.05
Millwrights	11.88	1.075	1.085		.05
Cement Masons:					
Northern portion	13.085	.95	1.30		.05
Southern portion	11.44	.95	1.30		.05
Electricians:					
Zone A	13.86	.96	3%+.88		3/4%
Zone B	15.86	.96	3%+.88		3/4%
Zone C	16.86	.96	3%+.88		3/4%
Laborers:					
Group 1	9.06	.92	1.10		.10
Group 2	9.20	.92	1.10		.10
Group 3	9.35	.92	1.10		.10
Group 4	9.47	.92	1.10		.10
Group 5	9.65	.92	1.10		.10
Group 6	10.055	.92	1.10		.10
Group 7	10.745	.92	1.10		.10
Marble Workers	10.91	.65	1.10		.19
Plasterers' Tenders	10.30	.92	1.10		.10

NEW DECISION

STATE: Mississippi
DECISION NO. MS79-1136
DESCRIPTION OF WORK: Residential Construction, Projects consisting of single family homes and apartments up to and including 4 stories

COUNTIES: See below*
DATE: Date of Publication

*Benton, DeSoto, Marshall, Tate and Tunica Counties

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	5.50				
Bricklayers	5.43				
Carpenters	4.50				
Cement masons	4.25				
Drywall finishers	4.55				
Drywall hangers	4.33				
Electricians	4.25				
Form setters	4.25				
Ironworkers, structural & ornamental	4.25				
Laborers:					
Laborers	3.24				
Asphalt rakers	4.00				
Painters, brush	5.00				
Plumbers & pipefitters	6.00				
Roofers	5.00				
Sheet metal workers	4.51				
Soft floor layers	5.75				
Truck drivers	4.25				
Welders - rate for craft.					
POWER EQUIPMENT OPERATORS:					
Backhoe	4.63				
Bulldozer	6.00				
Scraper	4.80				
Roller	5.83				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)

V 44 0C 19 79 UMI

UMI 7 9 1 9 C O 4 4 7

MODIFICATIONS P. 2

DECISION NO. AZ79-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators: (Except Piledriving and Steel Erection):					
Group 1	$ 9.66	$1.10	$1.10		.08
Group 2	10.06	1.10	1.10		.08
Group 3	10.55	1.10	1.10		.08
Group 4	11.13	1.10	1.10		.08
Group 5	11.70	1.10	1.10		.08
Group 5-A	12.03	1.10	1.10		.08
Group 6	12.39	1.10	1.10		.08
Group 7	13.04	1.10	1.10		.08
Truck Drivers:					
Group 1	9.23	.92	1.10		.08
Group 2	9.37	.92	1.10		.08
Group 3	9.61	.92	1.10		.08
Group 4	9.99	.92	1.10		.08
Group 5	10.16	.92	1.10		.08
Group 5-A	10.36	.92	1.10		.08
Group 6	10.51	.92	1.10		.08
Group 7	10.91	.92	1.10		.08
Group 8	11.505	.92	1.10		.08
Group 8-A	12.21	.92	1.10		.08
Group 8-B	9.84	.92	1.10		.08
Group 8-C	11.88	.92	1.10		.08
Omit:					
Drywall:					
From Courthouse in Phoenix, Mesa, including Williams AFB and Luke AFB:					
Zone A: 0-40 miles	10.21	.59	.50		.07
Zone B: 41-60 miles	11.21	.59	.50		.07
Zone C: 61 miles and over	12.46	.59	.50		.07
Texture Spraymen:					
Zone A: 0-40 miles	9.81	.59	.50		.07
Zone B: 41-60 miles	10.81	.59	.50		.07
Zone C: 61 miles and over	12.06	.59	.50		.07

MODIFICATIONS P. 3

DECISION NO. AZ79-5100 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Zone A: 0-40 miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	$10.19	.60	.40		.08
Spray; Paperhanger	10.44	.60	.40		.08
Creosote Applier	10.52	.60	.40		.08
Swing Stage:					
Brush; Sandblaster	10.59	.60	.40		.08
Spray	10.84	.60	.40		.08
Zone B: 41-60 miles from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	11.19	.60	.40		.08
Spray; Paperhangers	11.44	.60	.40		.08
Creosote Applier	11.52	.60	.40		.08
Swing Stage:					
Brush; Sandblaster	11.59	.60	.40		.08
Spray	11.84	.60	.40		.08
Zone C: 61 miles and over from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.44	.60	.40		.08
Spray; Paperhangers	12.69	.60	.40		.08
Creosote Applier	12.77	.60	.40		.08
Swing Stage:					
Brush; Sandblaster	12.84	.60	.40		.08
Spray	13.09	.60	.40		.08

MODIFICATIONS P. 4

DECISION NO. AZ79-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Zone 1: 0 to 25 radius miles, excluding Luke and Williams Air Force Bases, from the following base points: the intersection of 56th St. and Indian School Road in Phoenix, and the City Hall in Flagstaff, Kingman, Prescott and Yuma	$13.23	$1.00	$1.40		.12
Zone 2: 25 to 50 radius miles from the base points listed in Zone 1; also Luke and Williams Air Force Bases	13.88	1.00	1.40		.12
Zone 3: 50 radius miles and over from the base points listed in Zone 1	15.73	1.00	1.40		.12
Soft Floor Layers	10.87	.69	.12		.12

MODIFICATIONS P. 5

DECISION NO. AZ79-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Lathers:					
Maricopa County north of a line crossing the State drawn thru Ajo, Randolph and Springerville	$12.49	.75			.06
Maricopa County south of a line crossing the State drawn thru Ajo, Randolph and Springerville	14.03	.50			
Painters:					
North of a line drawn east and west thru the Town of Winkelman, Arizona:					
Zone A: 0-40 road miles from Court House in Phoenix, Mesa and including Luke and Williams Air Force Bases:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	10.69	.60	.40		.08
Spray; Paperhangers	10.94	.60	.40		.08
Creosote Applier	11.02	.60	.40		.08
Swing Stage:					
Brush; Sandblaster	11.09	.60	.40		.08
Spray	11.34	.60	.40		.08
Zone B: 41-60 road miles from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	11.69	.60	.40		.08
Spray; Paperhangers	11.94	.60	.40		.08
Creosote Applier	12.02	.60	.40		.08

MODIFICATIONS P. 6

DECISION NO. AZ79-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Swing Stage:					
Brush; Sandblaster	$12.09	.60	.40		.08
Spray	12.34	.60	.40		.08
Zone C: 61 road miles and over from Court House in Phoenix:					
Brush; Roller; Taper; Sandblaster (Nozzleman); Sandblaster (Pot Tender)	12.94	.60	.40		.08
Spray; Paperhangers	13.19	.60	.40		.08
Creosote Applier	13.27	.60	.40		.08
Swing Stage:					
Brush; Sandblaster	13.34	.60	.40		.08
Spray	13.59	.60	.40		.08
South of a line drawn east and west thru the Town of Winkelman, Arizona:					
Brush	11.96	.77	.45		.06
Spray; Sandblasters	12.46	.77	.45		.06
Paperhangers	12.06	.77	.45		.06
Swing Stage (under 40 ft.):					
Brush	12.26	.77	.45		.06
Spray	12.76	.77	.45		.06
Swing Stage (over 40 ft.):					
Brush	12.71	.77	.45		.06
Spray	13.21	.77	.45		.06

MODIFICATIONS P. 7

DECISION NO. AZ79-5110 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sheet Metal Workers:					
Zone 1: 0-25 miles excluding Luke and Williams Air Force Bases	$11.70	.90	$1.30		.10
Zone 2: 25-50 miles including Luke and Williams Air Force Bases	12.35	.90	1.30		.10
Zone 3: 50 miles and over	14.20	.90	1.30		.10
Soft Floor Layers:					
Zone A: 0-40 miles from Court House in Phoenix and including Luke and Williams Air Force Bases	9.21	.59	.12		.12
Zone B: 41-60 miles from Court House in Phoenix	10.21	.59	.12		.12
Zone C: 61 miles and over	10.71	.59	.12		.12

MODIFICATIONS P. 8

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL79-1110-Mod.#1 (44 FR-42858-July 20,1979) Dade County, Florida					
Omit:					
Laborers:					
Air tool operator; Mason tenders; Mortar mixers; and Pipelayers	6.70	1.10	.37		
Plasterers tenders	6.88	1.10	.37		
Unskilled	6.60	1.10	.37		
Permit value up to $350.000:					
Air tool operators; Mason tenders; Mortar mixers; and Pipelayers	5.025	1.10	.37		
Plasterers tenders	5.16	1.10	.37		
Unskilled	4.95	1.10	.37		
Add:					
Laborers (Permit value $500,000 and over):					
Air tool operators; Mason tenders; Mortar mixers; and Pipelayers	7.50	1.02	.40		
Plasterers tenders	7.68	1.02	.40		
Unskilled	7.40	1.02	.40		
Laborers (Permit value up to $500,000):					
Air tool operators; Mason tenders; Mortar mixers; Pipelayers	5.80	1.02	.40		
Plasterers tenders	5.98	1.02	.40		
Unskilled	5.70	1.02	.40		
Change:					
Bricklayers:					
Bricklayers, Cement masons; Marble setters; Plasterers Stonemasons; Tile & Terrazzo workers	10.90	.70	.62		.07
Millwrights	9.70	.80	.55		.06
Painters:					
Brush	9.80	.55	.60		.07
Tapers; Paperhangers	10.05	.55	.60		.07
Spray; Sandblasters	10.30	.55	.60		.07
Roofers:					
Slate; tile; composition; damp & waterproofers	10.88	.83	.35		.02
Kettlemen	7.68	.83	.35		.02
Sheet metal workers	12.41	.75	.74		.11
Power Equipment Operators:					
GROUP A	11.50	.50	.45		.05
GROUP B	10.76	.50	.45		.05
GROUP C	9.77	.50	.45		.05
GROUP D	8.96	.50	.45		.05
GROUP E	7.87	.50	.45		.05

MODIFICATIONS P. 9

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. LA79-4069 - MOD. #3 (44 FR 42860 - July 20,1979) Statewide Louisiana					
CHANGE:					
Asbestos workers - Zone 4	$11.29	.45	.50		
Marble, tile & terrazzo workers & finishers:					
Zone 6 - Marble, tile & terrazzo workers	12.75				
Plumbers & pipefitters:					
Zone 5	12.48	.67	.72		.08
Roofers:					
Zone 2 - Roofers	8.86	.75	.85	.28	.70
Zone 3 - Roofers	9.51	.35	.65		.04
Sprinkler fitters	11.94	.75	1.05		.08
DECISION NO. LA79-4070 - MOD. #1 (44 FR 48564 - August 17, 1979) Bossier, Caddo & Calcasieu Parishes, Louisiana					
CHANGE:					
Plumbers & pipefitters:					
Calcasieu Parish	12.48	.67	.72		.08
Sprinkler fitters	11.94	.75	1.05		.08

UMI 7 9 1 0 0 4 4 V

MODIFICATIONS P. 10

DECISION #MI79-2020 - MOD. #4 (44 FR 31842 - June 1, 1979) Statewide, Michigan	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS:					
ZONE 2E	$11.88	.60	.80		.05
ZONE 2W	11.75	.60	.80		.05
ZONE 3 LP	11.64	.60	.80		.05
ZONE 3 UP	11.59	.60	.80		.05
IRONWORKERS: ZONE 2					
Emmet, Charlevoix, Antrim, Leelanau, Benzie, Grand Traverse, Kalkaska, Mason, Manistee, Wexford, Missaukee, Lake, Osceola, Oceana, Mecosta, Newaygo, Muskegon, Kent, Montcalm, Ottawa, Ionia, Allegan, Barry, Eaton, Van Buren, Kalamazoo, Calhoun, St. Joseph, Branch & Hillsdale Counties	13.08	6%	8%		.10
ZONE 3					
Remainder of State					
Structural	12.59	9%	17%	18%	.09
Reinforcing	11.94	1.33	15%	16%	.07
PAINTERS:					
Kent, Montcalm, Mecosta & the west ½ of Ionia Counties only:					
Brush	9.55	.50	.25		.02
Bridges over Highway or Railroads	9.80	.50	.25		.02
Bridge work over Rivers & Lakes	10.05	.50	.25		.02
Steamcleaning/Sandblasting Spray & Pressure Roller	10.30	.50	.25		.02

MODIFICATIONS P. 11

DECISION NO. NJ77-3092 - MOD. #9 (42 FR 54726 - October 7, 1977) Bergen, Essex, Hudson & Passaic Counties, New Jersey	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BOILERMAKERS	12.76	8%	20%+.25	10%	.02
BOILERMAKER'S HELPERS	12.23	8%	20%+.25	10%	.02
BRICKLAYERS, STONEMASONS, CEMENT MASONS & PLASTERERS:					
Area 4					
Bricklayers and Stonemasons	12.96	.87	.75		
Area 5	11.80	.95	1.00		.02
ELECTRICIANS & CABLE SPLICERS:					
Other residential construction:					
Bergen and Hudson COUNTIES	13.78	10%	9%+.58		1.5%
LABORERS:					
Area 2					
Group 1	8.25	1.10	.75		.07
Area 5					
Unskilled Laborers	8.50	.75	.85		.07
Area 6					
Group 1	8.10	.90	1.10		.07
Area 7					
Unskilled Laborers	8.15	.80	1.20		.07
LINE CONSTRUCTION:					
Essex County:					
Linemen, Cable Splicers, Line Equipment Operator, Line Truck Operators and Groundmen	13.75	9%	12%		3/4%
Passaic County:					
Linemen and Equipment Operators	14.25	7%	10%		3/4%
Cable Splicers	15.32	7%	10%		3/4%
Groundmen	9.975	7%	10%		3/4%

MODIFICATIONS P. 12

DECISION NO. NJ77-3092 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION: (CONT'D)					
Bergen & Hudson Counties:					
Linemen, Cable Splicers, Equipment Operators, & Groundmen	13.78	10%	9%+.58		3/4%
PAINTERS:					
Bergen & Passaic Counties:					
New & Old construction of one & two family houses:					
Painters & Tapers	9.30	1.05	2.15		.06
Other residential construction:					
Painters & Tapers	11.10	1.05	2.15		.06
Steel Outside	12.10	1.05	2.15		.06
Spray	12.65	1.05	2.15		.06
Essex & Hudson (West half ofCounty) Counties:					
Painters on New Construction and Major Alterations	10.75	.70	.60	.35	.05
Painters on Repaint Work	9.80	.70	.60	.35	.05
Spraying or application of hazardous or dangerous materials on repaint work	10.40	.70	.60	.35	.05
Exterior work exceeding 3 stories in height for painting of open structural steel and on interior work which requires painting higher than 20' above the ground or floor	10.90	.70	.60	.35	.05
Repaint work as described above	9.95	.70	.60	.35	.05
Spraying or application of hazardous or dangerous materials	11.35	.70	.60	.35	.05

MODIFICATIONS P. 13

DECISION NO. NJ77-3092 (CONT'D)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (CONT'D)					
Hudson (remainder of county) County:					
Painters, paperhangers, tapers, coverers, spacklers, preparatory and cleaning work	10.30	.90	1.75	.50	
Extension ladder work (36 feet or over), scaffold work (except one or two family homes), and boatswain chair	11.45	.90	1.75	.50	
Spraying and sandblasting	12.00	.90	1.75	.50	
SPRINKLER FITTERS	14.08	.75	1.55		.07
Omit:					
All classifications and wage rates for plumbers, pipefitters, steamfitters, and gasfitters					
Add:					
PIPEFITTERS:					
Bergen County	12.00	1.00	1.90	1.00	.25
Essex County	12.05	.84	1.08	1.21	.06
Hudson County	12.00	1.00	1.90	1.00	.25
Passaic County	12.00	1.00	1.90	1.00	.25
PLUMBERS:					
Bergen County	13.60	1.00	1.35		.25
Essex County	13.905	1.10	1.17		.25
Hudson (East Newark, Harrison, and Kearney only) County	13.905	1.10	1.17		.25
Hudson (Remainder of County) County	13.60	1.00	1.35		.25
Passaic County	13.60	1.00	1.35		.25

UMI 7 9 1 0 0 4 4 7

MODIFICATIONS P. 14

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION NO. TX79-4005 - MOD. #6 (44FR 1675 - January 5, 1979) Bee, Kleberg & Nueces Cos., Texas					
CHANGE: Asbestos workers	$11.44	.55	.65		
DECISION NO. TX79-4009-MOD. #4 (44 FR 1681 - January 5, 1979) Cameron, Hidalgo, Starr & Willacy Cos., Texas					
CHANGE: Asbestos workers	11.44	.55	.65		
Plumbers & pipefitters	9.00	.55	.25		.05
DECISION NO. TX79-4036 - MOD. #3 (44 FR 48594 - August 17, 1979) Galveston & Harris Cos., Texas					
CHANGE: Sheet metal workers: Galveston County	12.86	3%+.45	.74	.42	.10
DECISION NO. TX79-4037 - MOD. #3 (44 FR 31856 - June 1, 1979) Lubbock County, Texas					
CHANGE: Painters: Brush	8.89				
Spray; sandblasters	9.64				

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
DECISION NO. TX79-4039 - MOD. #3 (44 FR 16329 - March 16, 1979) Ector & Midland Cos., Texas					
CHANGE: Electricians - Zone 1	$11.00	.60	3%		1/10%
Zone 2	11.30	.60	3%		1/10%
Zone 3	11.50	.60	3%		1/10%
Painters: Brush	8.35		.35		
Spray & sandblasters	9.225		.35		
DECISION NO. TX79-4086 - MOD. #1 (44 FR 57632 - October 5, 1979) Bexar County, Texas					
CHANGE: Power equipment operators: Group 1	10.27	.45	1.00		
Group 2	9.15	.45	1.00		
Group 3	7.70	.45	1.00		
Group 4	7.40	.45	1.00		

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Tuscaloosa
DECISION NO.: AL79-1133 DATE: Date of Publication
Supersedeas Decision No.: AL78-1069 dated September 8, 1978 in 43 FR-40172
DESCRIPTION OF WORK: Building Construction Projects (does not include single family homes and apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Bricklayers	9.35		.40		.05
Carpenters	8.26				
Cement masons	6.50				
Electricians	12.05	.55	3%+.40		½ of 1%
Glaziers	9.53	.50	.50		
Ironworkers: Structural & Ornamental	10.75	.60	.815		.06
Reinforcing	10.75	.60	.815		.06
Laborers: Laborers	3.85				
Air tool operators	4.45	.25	.15		
Mason tenders	4.35	.25	.15		
Lathers	9.50				
Painters, brush	8.00				
Plumbers & pipefitters	11.70	.37	.35		.08
Roofers	8.90		.20		.10
Sheet metal workers	10.80	.79	1.07		.09
Tile setters	9.60		.40		.05
Welders - rate for craft					
POWER EQUIPMENT OPERATORS:					
Backhoe	6.51				
Crane	8.81				
Front end loader	5.50				
Roller	4.60				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)

SUPERSEDEAS DECISION

STATE: DISTRICT OF COLUMBIA, COUNTIES: DISTRICT OF COLUMBIA; MARYLAND-MONTGOMERY AND PRINCE GEORGES; AND D.C. TRAINING SCHOOL; VIRGINIA-INDEPENDENT CITY OF ALEXANDRIA, ARLINGTON AND FAIRFAX COUNTIES
DECISION NO.: DC79-3039 DATE: DATE OF PUBLICATION
Supersedes Decision No. DC78-3098, dated March 17, 1978, in 43 FR 11464.
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories) and also excluding the Independent City of Alexandria, Heavy Construction (excluding Water and Sewer Lines), Highway Construction (District of Columbia Only), Water and Sewer Lines (District of Columbia, and Montgomery County, Maryland only)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: All Counties					
BUILDING CONSTRUCTION: Excluding Alexandria, Virginia					
ASBESTOS WORKERS	12.20	.75	1.39		.03
BOILERMAKERS - BLACKSMITHS	12.875	1.07	1.00		.04
BRICKLAYERS	12.50	1.10	.85		.10
CARPENTERS	11.28	.80	.65		.05
CARPET LAYERS	7.83	.30			.05
CEMENT MASONS: Cement Masons	11.04	1.055	.70		.11
Grinding Machine	11.29	1.055	.70		.11
DIVERS	21.79	.80	.65		.05
DIVER TENDER	21.43	.80	.65		.05
ELECTRICIANS	12.20	.70	3%+.80		.13
ELEVATOR CONSTRUCTORS	11.72	.895	.69	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.895	.69	a+b	.025
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
GLAZIERS	11.78	.71	.60		.05
IRONWORKERS: Structural, ornamental and chain link fence	11.63	.90	.96		.08
Reinforcing	11.53	.82	1.15		.07
LABORERS (EXCLUDING, HEAVY CONSTRUCTION) Common laborers, landscapers	8.96	.75	.52		.05
Acetylene burners used on wrecking	9.50	.75	.52		.05
Air tool op., scaffold builders, paving breakers, towmasters, buggy mobiles, spaders, mortar men and scootretes	9.12	.75	.52		.05

UMI 7 9 1 0 0 4 4 V

Page 2

DECISION NO. DC79-3039	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (EXCLUDING, HEAVY CONSTRUCTION) CONT'D:					
Pipelayers	9.12	.75	.52		.05
Plasterers' tenders	9.50	.75	.52		.05
Plumbers' laborers	8.31	.65	.45		.05
Powdermen	10.215	.75	.52		.05
Powersaw, well point	9.23	.75	.52		.05
LATHERS	10.66	.65	.50		.025
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, cable splicers, equipment operators	13.16	.60	3%		½ of 1%
Truck with winch, truck pole or steel handling	7.78	.60	3%		½ of 1%
MARBLE SETTERS	12.35	1.02	.65		.06
MARBLE SETTERS' HELPERS	7.35				
MILLWRIGHTS	11.81	.80	.65		.05
MOTOR REPAIRMAN (Removal and reinstalling of elwctrical motors)	9.87	.70	3%+.80	h	
PAINTERS (EXCLUDING FAIRFAX CO.)					
Brush, spray, paperhangers, tapers	11.50	.91	1.10		.08
Steel, sandblasting, swing stage, power brushing	12.00	.91	1.10		.08
PAINTERS (FAIRFAX CO.)	7.13				
PILEDRIVERMEN	11.53	.80	.65		.05
PLASTERERS	11.23	.65	.75		.06
PLUMBERS	12.22	1.05	1.10		.27
ROOFERS:					
Composition	11.49	.74	.40		.10
Slate, tile mopmen, waterproofer, sprayers, sprandrel and ironite	12.05	.74	.40		.10
SHEET METAL WORKER	11.99	g	1.29		.14
SOFT FLOOR LAYERS (EXCLUDING FAIRFAX CO.)	11.28	.80	.65		.05
SOFT FLOOR LAYERS (FAIRFAX CO.)	6.81				
SPRINKLER FITTERS	13.13	.75	1.05		.08
STEAMFITTERS, REFRIGERATION AND AIR CONDITION MECHANIC	12.40	.95	1.00		.16

Page 3

DECISION NO. DC79-3039	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
STONE MASONS	12.35	1.02	.65		.06
STONE CUTTERS:					
Fitters and trimmers	11.65	.18	.40		
Ornamental cravers	10.38	.18	.40	d	
Figure carvers	11.00	.18	.40	d	
TERRAZZO AND MOSAIC WORKERS	12.25	.70	.95		.04
TERRAZZO WORKER' HELPERS	9.95	.70	.70		
TILE SETTERS	11.59	.70	.70		.04
TILE SETTERS' HELPERS	9.95	.70	.70		
TRUCK DRIVERS:					
Boom trucks	8.45	.415	.425	e+f	
Small dump, water sprinkler, grease and oil	8.20	.415	.425	e+f	
Flat, piçk-up hauling materials, small Euclids, dump over 8 wheels	8.30	.415	.425	e+f	
Trailers, low boys, tractor pulls	8.50	.415	.425	e+f	
Helpers	8.05	.415	.425	e+f	
Carryalls, large Euclids, Euclid water sprinkler, tunnel work under ground	8.60	.415	.425	e+f	
Mechanics	8.35	.415	.425	e+f	
RIGGERS AND WELDERS - Receive rates prescribed for crafts performing and welding are incidental.					

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

Page 4

DECISION NO. DC79-3039

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F, plus the Friday after Thanksgiving Day.

b. Employer contributes 8% of basic hourly rate for 5 years or more of service or 6% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Holidays: A through F plus Washington's Birthday, Good Friday and Christmas Eve (provided an employee has worked at least 45 full days during the 120 calendar days prior to the holiday, and the regular scheduled work days immediately preceding and following the holiday).

d. Holidays: A-D-E-F and Veteran's Day.

e. Holidays: A-D-E and F (provided the employee works the regularly scheduled work days immediately preceeding and following the holiday.

f. One weeks paid vacation providing the employee has worked 3 years and and a minimum of 1450 hours during any calendar year.

g. Employer contributes to Health & Welfare $1.09, in District of Columbia, and $1.19, in all other areas.

h. Employer contributes to employee who have worked six (6) months or more, shall be given two and one-half days vacation or equivalent thereof. All men in the employ of the employer three (3) years or more shall be given two (2) week's vacation with pay or the equivalent thereof. All men in the employ of the employer ten (10) years or more shall be given three (3) weeks vacation with pay or the equivalent thereof.

Page 5

DECISION NO. DC79-3039	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES):					
GROUP I	9.06	.65	.52		.05
GROUP II	9.22	.65	.52		.05
GROUP III	9.28	.65	.52		.05
GROUP IV	9.33	.65	.52		.05
GROUP V	9.54	.65	.52		.05
GROUP VI	9.76	.65	.52		.05
GROUP VII	9.895	.65	.52		.05
GROUP VIII	10.315	.65	.52		.05

CLASSIFICATIONS

LABORERS:

GROUP I - Carloader, choker setter, concrete crewman, crushed feeder, demolition laborer (including salvaging all material, loading and cleaning up), wrecking, driller tenders, dumpman, flagman, fence erector and installer (including installation and erection of fence, guard rails, median rails, reference posts, guide posts and right-of-way markers), form stripper, general laborers, railroad track laborer, riprap man, scale man, stake jumper, structure mover (includes foundation, separation, preparation, cribbing, shoring, jacking and unloading of structures), water nozzleman, timber bucker and faller, truck loader, water boys

GROUP II - Combined air and water nozzlemen, cement handler, dope pot fireman (nonmechanical), form cleaning machine, mechanical railroad equipment (includes spiker, puller, tie cleaner, tamper pipe wrapper, power driven wheelbarrow, operators of hand derricks, towmasters, scootcretes, buggymobiles and similar equipment), tamper or rammer operator, trestle scaffold builders over one tier high, power tool operator (gas, electric or pneumatic), sandblast or gunnite tailhose man, scaffold erector (steel or wood), vibrator operator (up to 4'), asphalt cutter, mortar men, shorer and lagger, creosote material handler, corrosice enamel or equal, paving breaker and jackhammer operators

UMI 7 9 1 0 0 7 4 4 7

DECISION NO. DC79-3039

CLASSIFICATION - CONT'D

GROUP III - Multi-section pipe layer, non-mentallic clay and concrete pipe layer (including caulker, collarman, jointer, rigger and jacker) thermite welder and corrugated metal culvert pipe layer

GROUP IV - Asphalt block pneumatic cutter, asphalt roller, walking chain-saw with attachment, concrete saw (walking), high scalers, jackhammer (using over 6' of steel), vibrator (4' and over), well point installers, air-trac operator

GROUP V - Asphalt screeder, big drills, cut of the hole drills (1½ piston or larger) down the hole drills (3½" piston or larger), gunnite or sandblaster nozzleman, asphalt raker, asphalt tamper, for setter, demolition torch operator, shotcrete nozzlemen and potman

GROUP VI - Powderman, master for setters

GROUP VII - Brick paver (asphalt block paver, asphalt block saw man, asphalt block grinder; hasting block or similar type)

GROUP VIII - Miners

DECISION NO. DC79-3039

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (HEAVY CONSTRUCTION):					
GROUP I	9.355	.65	.52		.05
GROUP II	9.675	.65	.52		.05
GROUP III	10.375	.65	.52		.05
GROUP IV	10.645	.65	.52		.05

CLASSIFICATIONS

TUNNELS, RAISES AND SHAFTS - FREE AIR

GROUP I
Brakeman, bull gang, dumper, trackman, concrete man

GROUP II
Chuck tender, powdermen in prime house, form setters and movers, nippers, cableman, hosemen, groutman, bell or signalman, top or bottom vibrator operator, caulkers' tenders

GROUP III
Miners, rodmen, re-bar underground, concrete or gunnite nozzlemen, powderman, timberman and re-timberman, wood steel including liner plate or any other support, material, motorman, caulkers, diamond drill operators, riggers, cement finishers - underground, welders and burners, shield driver, air trac operator, shotcrete nozzleman and potman

GROUP IV
Mucking machine operator (air)

LABORERS - COMPRESSED AIR RATES (EXCLUDING SEWER AND WATER LINES) Gauge Pressure Pounds	Work Period Hours				
1-14	7	91.26	.65	.45	.05
14-18	6	94.60	.65	.45	.05
18-22	5-1/2	97.89	.65	.45	.05
22-26	5	101.28	.65	.45	.05
26-32	4	104.61	.65	.45	.05
32-38	3	107.91	.65	.45	.05
38-44	2-1/2	119.29	.65	.45	.05

DECISION NO. DC79-3039

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION EXCLUDING WATER AND SEWER LINES: BUILDING CONSTRUCTION:					
POWER EQUIPMENT OPERATORS:					
GROUP I	12.46	.70	.65		.12
GROUP II	12.19	.70	.65		.12
GROUP III	12.03	.70	.65		.12
GROUP IV	11.84	.70	.65		.12
GROUP V	11.79	.70	.65		.12
GROUP VI	11.77	.70	.65		.12
GROUP VII	11.76	.70	.65		.12
GROUP VIII	11.57	.70	.65		.12
GROUP IX	11.55	.70	.65		.12
GROUP X	11.34	.70	.65		.12
GROUP XI	10.82	.70	.65		.12
GROUP XII	10.63	.70	.65		.12
GROUP XIII	8.85	.70	.65		.12

POWER EQUIPMENT OPERATORS CLASSIFICATIONS

GROUP I - 35 ton cranes and above, tower anc climbing cranes

GROUP II - Back hoes, boom-cat, cableways, cranes or derricks, draglines, elevating graders, hoists, multiple concrete conveyors, elevators (permanent), paving micers, pile driving engines, power shovels, tunnel shovels, mucking machines, batch plant, concrete pumps, locomotives (standards, narrow guage), power driven wheel scoops and scrapers (50 cu. yd, struck capacity or above), front end loader above 3½ cu. yd., boom trucks, moles, shields, tunnel mining machines, loaders used as muckers in tunnel mining, gradalls, shotcrete machines and grout pumps with discharge of two inches I.D. pr more, drill rigs

GROUP III - Hydraulic back hoes of less than ½ yd. capacity, mounted on tractors, front end loader above 2-3/4 to 3½ cu. yd.

GROUP IV - Air compressor on steel

GROUP V - Mechanic, mechanic-welder, welder

GROUP VI - Front end loader, highlift, fork lift

GROUP VII - Boilers (skeleton), trenching machines, tug boat, well drilling machines

DECISION NO. DC79-3039

POWER EQUIPMENT OPERATORS CLASSIFICATION (CONT'D)

GROUP VIII - Concrete mixer, tunnel motorman

GROUP IX - Power driven wheel scoops and scrapers (below 50 cu. yd. struck capacity), blade graders, motor graders, bulldozers

GROUP X - Rollers, asphalt spreaders, bullfloat finishing machines, concrete finishing machines, concrete spreaders, fine graders

GROUP XI - Air compressors (except steel), welding machines, pumps, generators, space heaters, wellpoints, deepwells, hydraulic pumps

GROUP XII - Firemen

GROUP XIII - Oilers

Page 10

DECISION NO. DC79-3039 (DISTRICT OF COLUMBIA ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAVING AND INCIDENTAL GRADING					
ASPHALT SHOVELER	7.55	.32	.35		
ASPHALT RAKER	7.75	.32	.35		
ASPHALT TAMPER	7.65	.32	.35		
BRICKLAYERS	12.50	1.10	.85		.10
CARPENTERS	11.28	.80	.65		.05
CEMENT MASONS	8.00	.32	.35		
CONCRETE SAW OPERATORS	7.75	.32	.35		
CONCRETE SHOVELER	7.65	.32	.35		
FORM SETTER	8.00	.32	.35		
LABORERS:					
Laborers	7.50	.32	.35		
Jackhammer	7.70	.32	.35		
Hand Burner Operator	7.65	.32	.35		
POWER EQUIPMENT OPERATORS:					
Concrete Spreader Operator, Finishing Machine, Roller (rough), Compressor Rubbertired Loader (1-½ cu. yds., or less), Asphalt Plant Mixer	7.75	.27	.35		
Loader Operator Tracks (2-½ cu. yds. or less), Burner Planer, Bulldozer, Mechanic or Welder, Rubber Tired Loader (over 1-½ cu. yds.)	7.95	.27	.45		
Asphalt Spreader, Hydraulic Backhoe (½ cu. yd., or less), Asphalt Plant Engineer, Asphalt Roller Operator, Concrete Breaker (machine)	8.00	.27	.35		
Crane Operator, Concrete Paving Operator	8.15	.27	.35		
Shovel Operator	8.25	.27	.35		
Gradall Operator (1-½ cu. yds. or less), Motor Grader, Operator Tracks over 2-½ cu. yds.	8.90	.27	.35		

Page 11

DECISION NO. DC79-3039	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: (CONT'D)					
G-1000 Gradall Operator (over 1½ cu. yds.)	9.15	.27	.35		
Power Broom, Oiler	7.65	.27	.35		
Sand Setter	8.00	.27	.35		
TRUCK DRIVERS:					
Truck Drivers (standard)	7.50	.27	.35		
Tandem	7.62	.27	.35		
Tractor trailer (capable of moving heavy equipment	8.00	.27	.35		

Page 12

DECISION NO. DC79-3039 (DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES					
BRICKLAYERS	12.50	1.10	.85		.10
CARPENTERS	11.28	.80	.65		.05
CEMENT MASONS	11.04	1.055	.70		.11
IRONWORKERS: REINFORCING	11.55	.82	1.15		.07
LABORERS:					
Open Cut:					
Laborers, jackhammer, rammers and spaders	5.78	.33	.25		.03
Timberman, sheeting-men, shoring-men, caulkers pipelayers helpers	5.93	.33	.25		.03
Bottom man	5.83	.33	.25		.03
Wagon drillers, air track drillers	6.13	.33	.25		.03
Pipelayers	6.13	.33	.25		.03
Rock drillers	5.88	.33	.25		.03
Tunnel:					
Brakeman, bull gang, dumper, trackmen, concrete man	6.415	.33	.25		.03
Chuck tender, powder in prime house, form setters and movers, nippers, cablemen, hosemen, grout men, bell or signal men, top or bottom, vibrator operator, caulkers' tenders	6.715	.33	.25		.03
Miners, rodmen, re-bar underground, concrete or gunite nozzlemen, powermen, timbermen and re-timberman wood or steel including liner plate or any other support material, motorman, caulkers, diamond drill riggers, cement finishers (underground), welders and burners, shield driver	7.365	.33	.25		.03
Mucking machine operator (air	7.615	.33	.25		.03

Page 13

DECISION NO. DC79-3039 (DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND MARYLAND ONLY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
COMPRESSED AIR: (All rates per day)					
Gauge Pressure Pounds / Work Period					
From 1 to 14 / 7 hours	72.74	.33	.25		.03
From 14 to 18 / 6 hours	76.08	.33	.25		.03
From 18 to 22 / 5½ hours	79.41	.33	.25		.03
From 22 to 26 / 5 hours	82.76	.33	.25		.03
From 26 to 32 / 4 hours	86.09	.33	.25		.03
From 32 to 38 / 3 hours	89.44	.33	.25		.03
From 38 to 44 / 2½ hours	92.77	.33	.25		.03
PILEDRIVERMEN	10.68	.85	.60		.05
PLUMBERS	12.22	1.05	1.10		.27
POWER EQUIPMENT OPERATORS:					
Backhoes, cable ways, cranes, draglines power shovels, tunnel shovels, tunnel mucking machines, derricks, 1 cu. yd. and over	9.39	.35	.45		.05
Backhoes, cableways, cranes derricks, dragline, tunnel shovels, tunnel mucking machines up to 1 cu. yd., boom cats, elevating graders, hoists, paving mixers, piledriving engines, batch plants concrete pumps	9.14	.35	.45		.05
Trenching machines (above 8' 3")	8.94	.35	.45		.05
Backhoes (hydraulic, under ½ c.y.)	9.02	.35	.45		.05
Trenching machines (up to 8' 3"), boilers skeleton, well drilling machines	8.84	.35	.45		.05
Air compress, tunnel	8.81	.35	.45		.05
Front end loaders (high lift), bulldozers	8.79	.35	.45		.05

UMI 47 09 10 00 V 44

DECISION NO. DC79-3039

(DISTRICT OF COLUMBIA AND MONTGOMERY COUNTY, MARYLAND MARYLAND ONLY)

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SEWER AND WATER LINES CONT'D					
POWER EQUIPMENT OPERATORS CONT'D					
Concrete mixers, power wheel scoops and scrapers, motorgraders, tunnel motor men, blade graders, tunnel mechanics	8.69	.35	.45		.05
Mechanics	9.02	.35	.45		.05
Bulldozer, hydraulic tampers	8.59	.35	.45		.05
Roller	8.49	.35	.45		.05
Air compressors, pump, welding machine well points	8.415	.35	.45		.05
TRUCK DRIVERS:					
Dump trucks	6.10	.415	a		
Dump trucks over 8 wheels	6.20	.415	a		
Flat trucks	6.20	.415	a		
Trailers	6.45	.415	a		
Fuel and oil trucks	6.10	.415	a		
Euclids	6.60	.415	a		

FOOTNOTE:

a. $10.00 per week when employee has worked 90 days and work three days in any work week.

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: ALLEN, BALLARD, BUTLER, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, DAVIESS, EDMONSON, FULTON, GRAVES, HANCOCK, HENDERSON, HICKMAN, HOPKINS, LIVINGSTON, LOGAN, LYON, MCCRACKEN, MCLEAN, MARSHALL, MUHLENBERG, OHIO, SIMPSON, TODD, TRIGG, UNION, WARREN, AND WEBSTER.

DECISION NUMBER: KY79-1135 DATE: DATE OF PUBLICATION

Supersedes Decision Number KY78-1099, dated December 1, 1978, in 43 FR 56395.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$ 9.70	.45	.35		
CARPENTERS:					
Heavy Rate of Pay	10.30	.45	.30		.05
Highway Rate of Pay	9.30	.35	.35	.25	
CEMENT MASONS	*9.20	.90	.40		.05
*Cement masons working on a swinging scaffold shall receive an additional 25¢ per hour when working up to 50 ft., and an additional 25¢ per hour for each additional 50 ft. or portion thereof.					
ELECTRICIANS (OUTSIDE):					
Linemen	11.45	.60	1½		½ of 1½
Cable splicers	11.70	.60	1½		½ of 1½
Groundmen	8.36	.60	1½		½ of 1½
IRONWORKERS	11.60	.55	.85		.05
MILLWRIGHTS:					
Heavy Rate of Pay	11.05	.45	.30		.05
Highway Rate of Pay	10.75	.45	.30		.05
PAINTERS:					
Brush & Roller	10.05	.50			
Sandblast & Power tools	10.50	.50			
BRIDGE WORK - Brush, Roller, Spray, & Sandblast	11.05	.50			
When there is a FREE FALL beginning at the point of:					
40' to 80' + 50¢ per hour over the base rate of work classification;					
80' to 120' + 75¢ per hour over the base rate of work classification;					
Over 120' + $1.00 per hour over the base rate of work classification.					
PILEDRIVERMEN:					
Heavy Rate of Pay	10.55	.45	.30		.05
Highway Rate of Pay	10.25	.45	.30		.05
PLUMBER & PIPEFITTERS	13.28	.80	1.24		.15

DECISION NO. KY79-1135

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.35	.60		
GROUP 2	8.87	.35	.60		
GROUP 3	8.92	.35	.60		
GROUP 4	9.52	.35	.60		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping and seeding, planters & tree-trimmers, sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, riprap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill tender, & all hand digging and hand back filling.

GROUP 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & mortar mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine, operator & deckhand scow man, burner & welder.

GROUP 3 - Powderman and blasters, side rail setters - including rail paved ditches, tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt lutemen & rakemen, air tact driller (all types), grout pump operator.

GROUP 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), Caisson workers (free air).

DECISION NO. KY79-1135

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY CONSTRUCTION					
CLASS A	$11.42	.50	.80		.08
CLASS B	8.77	.50	.80		.08
CLASS C	8.02	.50	.80		.08
CLASS D	11.67	.50	.80		.08

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic tender, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill tender (truck mounted).

CLASS C - Bituminous distributor, cement gun coveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill tender (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

UMI 7 9 1 0 0 4 4 V

DECISION NO. KY79-1135

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.07	.50	.80		.08
CLASS B	7.82	.50	.80		.08
CLASS C	8.17	.50	.80		.08
CLASS D	7.58	.50	.80		.08

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic tender, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

DECISION NO. KY79-1135

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck tender	$ 8.55	.35	.35	.25	
Driver - 3 tons & under, tire changer & truck mechanic tender, & greaser on greasing facilities	8.60	.35	.35	.25	
Truck mechanic	8.83	.35	.35	.25	
Driver - over 3 tons, semi - trailer or pole trailer, dump truck, tandem axle, distributor, and mixer trucks (all types)	8.90	.35	.35	.25	
Driver - Euclid and other earth moving equipment, low boy, winch truck and A-frame truck when used in transporting material, and pavement breakers	8.91	.35	.35	.25	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ADAIR, BARREN, BELL, BREATHITT, CASEY, CLAY, CLINTON, CUMBERLAND, ESTILL, FLOYD, GARRARD, GREEN, HARLAN, HART, JACKSON, JOHNSON, KNOTT, KNOX, LAWRENCE, LAUREL, LEE, LESLIE, LETCHER, LINCOLN, MCCREARY, MAGOFFIN, MARTIN, MENIFEE, METCALFE, MONROE, MORGAN, OWSLEY, PERRY, PIKE, POWELL, PULASKI, ROCKCASTLE, RUSSELL, TAYLOR, WAYNE, WHITLEY, AND WOLFE.
DECISION NUMBER: KY79-1137 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY78-1100, dated December 1, 1978, in 43 FR 56328.
DESCRIPTION OF WORK:

HEAVY & HIGHWAY PROJECTS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$10.60	.35	.35	.25	
CARPENTERS	9.10	.35	.35	.25	
CEMENT MASONS	8.95	.35	.35	.25	
ELECTRICIANS:					
Linemen	13.10	.50	3%		½ of 1%
Cable splicers	13.35	.50	3%		½ of 1½
Groundmen	9.825	.50	3%		½ of 1½
IRONWORKERS:					
Reinforcing	9.00	.35	.35	.25	
Structural	9.20	.35	.35	.25	
LABORERS:					
General laborers & flagmen	7.15	.35	.35	.25	
Hand blade operator, batch truck dumper, & deck hand or scow man	7.40	.35	.35	.25	
Power driven tool operator: wagon drill, chain saw, jack hammer, concrete saw, sand blaster, concrete chipper, pavement breaker, vibrator, power wheel barrow, power buggy, sewer pipe layer, bottom man, dry cement handler, concrete rubber, & mason tender	7.50	.35	.35	.25	
Asphalt lute and raker, & side rail setter	7.55	.35	.35	.25	
Gunnite nozzle man; gunnite operator	7.65	.35	.35	.25	
Tunnel laborers (free air)	7.70	.35	.35	.25	
Tunnel mucker (free air)	7.75	.35	.35	.25	
Tunnel miner, blaster, & driller (free air)	8.10	.35	.35	.25	
Drill operator (of percussion type drills which are both powered & propelled by an independent air supply)	8.45	.35	.35	.25	
Caisson workers	8.65	.35	.35	.25	
Powderman	8.75	.35	.35	.25	

DECISION NO. KY79-1137

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MILLWRIGHTS	$ 9.91	.55	.30		.05
PAINTERS	10.80	.35	.35	.25	
PILEDRIVERMEN	8.75	.35	.35	.25	
PLUMBERS & PIPEFITTERS	12.77	.35	.35	.25	
SHEET METAL WORKERS	10.65	.35	.35	.25	
TRUCK DRIVERS:					
Truck tender	7.40	.35	.35	.25	
Driver - winch truck and A-frame truck when used in transporting materials	7.50	.35	.35	.25	
Driver - distributor, dump truck tandem axle, semi-trailer or pole trailer	7.60	.35	.35	.25	
Driver - mixer trucks (all types)	7.65	.35	.35	.25	
Truck mechanic	7.70	.35	.35	.25	
Driver - 3 tons & under, tire changer & mechanic tender	7.73	.35	.35	.25	
Driver - pavement breakers	7.75	.35	.35	.25	
Driver - over 3 tons	7.94	.35	.35	.25	
Driver - Euclid and other earth moving equipment, & low boy	8.51	.35	.35	.25	
Greaser on grease facilities	8.55	.35	.35	.25	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

DECISION NO. KY79-1137

POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.42	.50	.80		.08
CLASS B	8.77	.50	.80		.08
CLASS C	8.02	.50	.80		.08
CLASS D	11.67	.50	.80		.08

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous) scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well pointe, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun coveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

DECISION NO. KY79-1137

POWER EQUIPMENT OPERATORS HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$10.07	.50	.80		.08
CLASS B	7.82	.50	.80		.08
CLASS C	8.17	.50	.80		.08
CLASS D	7.58	.50	.80		.08

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumperete, Ross carrier, side boom, rotary drill (5" and over), mucking machine, rock spreader attached to equipment, scoopmobile, KoCal loader, tower cranes (French, German and other types), hydrocranes, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: ANDERSON, BATH, BOURBON, BOYD, BOYLE, BRACKEN, BRECKINRIDGE, BULLITT, CARROLL, CARTER, CLARK, ELLIOTT, FAYETTE, FLEMING, FRANKLIN, GALLATIN, GRAYSON, GRANT, GREENUP, HARDIN, HARRISON, HENRY, JEFFERSON, JESSAMINE, LARUE, LEWIS, MADISON, MARION, MASON, MEADE, MERCER, MONTGOMERY, NELSON, NICHOLAS, OLDHAM, OWEN, ROBERTSON, ROWAN, SCOTT, SHELBY, SPENCER, TRIMBLE, WASHINGTON, & WOODFORD.
DECISION NUMBER: KY79-1138 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY78-1098, dated December 1, 1978, in 43 FR 56393.
DESCRIPTION OF WORK:

HEAVY & HIGHWAY PROJECTS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS	$11.44	.50	.40		.01
CARPENTERS:					
Heavy Rate of Pay	10.31	.55	.30		.01
Highway Rate of Pay	9.41	.35	.35	.25	
CEMENT MASONS	9.78	1.00	.70		.04
ELECTRICIANS (OUTSIDE):					
Linemen & Cable splicers	13.30	.50	3% + .60		½ of 1%
Groundmen	8.25	.50	3% + .60		½ of 1%
IRONWORKERS	12.00	1.00	1.85		.06
MILLWRIGHTS:					
Heavy Rate of Pay	11.06	.55	.30		.05
Highway Rate of Pay	10.76	.55	.30		.05
PAINTERS:					
Brush	9.83	.35	.20		.03
Spray	10.28	.35	.20		.03
Bridge Work - work on bridges over navigable water shall carry a premium of $2.00 per hour added to the base rate.					
PILEDRIVERMEN:					
Heavy Rate of Pay	10.56	.55	.30		.05
Highway Rate of Pay	10.26	.55	.30		.05
PIPEFITTERS	12.77	.75	1.10		.10
PLUMBERS	13.28	.80	1.24		.15
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY79-1138

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 8.62	.35	.60		
GROUP 2	8.87	.35	.60		
GROUP 3	8.92	.35	.60		
GROUP 4	9.52	.35	.60		

LABORERS' CLASSIFICATIONS DEFINITIONS

GROUP 1 - Asphalt plant laborers, concrete laborers, asphalt laborers, storm & sanitary sewer laborers, carpenter tenders, cement mason tenders, mesh handlers & placers, landscaping and seeding, planters & tree-trimmers, sign guard rail & fence installers, grade checkers, aging & curing of concrete, truck spotters & dumpers, batch truck dumpers, flagmen, rip-rap & grouters, dredging laborers, right of way laborers, wrecking & demolition laborers, drill tender, & all hand digging and hand back filling.

GROUP 2 - Wagon drills, jack hammers, paving breakers, chain saw, concrete saw, paving joint machine, vibrator operator, power driven Georgia buggy or wheel barrow, sand blaster & concrete chippers, green concrete cutting, brickmason tenders & morter mixers, pipe layers, joint maker, batter board man (sanitary & storm sewer), dry cement handlers, concrete rubbers, walk-behind tamper machine, walk-behind trenching machine, surface grinderman, hand operated grouter & grinder machine, operator & deckhand seow man, burner & welder.

GROUP 3 - Powderman and blasters, side rail setters - including rail paved ditches, tunnel laborers (free air), gunnite operators & mixer man, gunnite nozzleman, asphalt luteman & rakeman, air taot driller (all types), grout pump operator.

GROUP 4 - Tunnel blasters, tunnel muckers (free air), miners & drillers (free air), Caisson workers (free air).

Page 3 of 5

DECISION NO. KY79-1138

POWER EQUIPMENT OPERATORS

HEAVY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$11.42	.50	.80		.08
CLASS B	8.77	.50	.80		.08
CLASS C	8.02	.50	.80		.08
CLASS D	11.67	.50	.80		.08

NOTE: Railroad and Highway bridges across commercially navigable rivers; i.e. navigable to loaded barge tow, (including setting of super structure steel on bridges) shall receive the HEAVY rate of pay.

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge engineer, elevator (used for hoisting building materials), elevating grader and all types of loaders, hoe-type machine, hoisting engine, locomotive, LeTourneau or carry-all scoop, bulldozer, mechanic, mechanic welder, Orangepeel bucket, pile driver, power blade, roller (bituminous) scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, tail boom, Rotary drill, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German & other types), hydrocrane, backfiller, gurries, subgrader.

CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. and over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, Whirley oiler, tract-air and road-widening trencher, grout pump, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted).

CLASS C - Bituminous distributor, cement gun coveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seader, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill and caisson drill helper (track or skid mounted).

CLASS D - Operators on cranes with booms one hundred fifty feet (150') and over (including jib).

Page 4 of 5

DECISION NO. KY79-1138

POWER EQUIPMENT OPERATORS

HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions*	Vacation	Education and/or Appr. Tr.
CLASS A	$10.07	.50	.80		.08
CLASS B	7.82	.50	.80		.08
CLASS C	8.17	.50	.80		.08
CLASS D	7.58	.50	.80		.08

CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick boat, ditching and trenching machine, dragline, elevator (when used for hoisting any building material), elevating grader and all types of loaders, hoe-type machine, hoisting engine (two or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, high lift, fork lift (regardless of lift height), all types of boom cats, core drill, tow or push boat, A-frame winch truck, concrete paver, grade-all, hoist (two or more drums), hyster, pumpcrete, Ross carrier, side boom, rotary drill (5" and over), muching machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom and dredge engineer.

CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, grout pump, roller (rock), tractor (50 HP or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, rotary drill (under 5"), throttle valve man, tugger, well points, flexplane, fireman, and hoist (one drum).

CLASS C - Greaser on grease facilities servicing heavy equipment.

CLASS D - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 HP), vibrator, oiler, concrete saw, burlap and curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

Page 5 of 5

DECISION NO. KY79-1038

	Basic Hourly Rates	Fringe Benefits Payments			
TRUCK DRIVERS:		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck tender	$ 8.92	*.5875	*.525		
Mobile batch truck tender	8.94	*.5875	*.525		
Greaser, tire changer, & mechanic tender	9.03	*.5875	*.525		
Driver - single axle dump & flat bed trucks, semi-trailer or pole trailer (when used to pull building materials and equipment), dump truck tandem axle, distributor, & truck mechanic	9.21	*.5875	*.525		
Driver - mixer truck (all types)	9.24	*.5875	*.525		
Driver - Euclid & other heavy earth moving equipment, low boy, winch truck & A-frame truck (when used in transporting materials), Ross Carrier, fork lift truck (when used to transport building materials), & pavement breakers	9.31	*.5875	*.525		

*Fringe Benefits apply to employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY

COUNTIES: BOONE, CAMPBELL, KENTON, & PENDLETON

DECISION NUMBER: KY79-1139

DATE: DATE OF PUBLICATION

Supersedes Decision Number KY78-1101, dated December 1, 1978, in 43 FR 56400.

DESCRIPTION OF WORK: HEAVY & HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS	$12.85	.75	.85		.075
CEMENT MASONS	12.08	.60	.45		.02
ELECTRICIANS (OUTSIDE):					
*Linemen	13.30	.70	3% + .80	.03	½ of 1%
*Groundmen	9.98	.70	3% + .80	.03	½ of 1%
*Any linemen or groundman working 50' or more above impact level performed from a scaffold, boatswain chair, swinging painter's scaffold, or rope or cable supported barrel shall receive an additional $1.00 per hour in addition to the base rate of pay.					
IRONWORKERS:					
Reinforcing	12.18	1.80	1.45		.02
Structural	13.08	1.00	1.45		.03
PAINTERS:					
*Brush	13.35		.25		
*Spray	13.85		.25		
*Sandblast	14.10		.25		
*Painters on Bridges, when when highest point of clearance is 60' or more, shall receive $1.00 per hour in addition to the base rate of work classification.					
PILEDRIVERMEN	12.85	.75	.85		.075
PIPEFITTERS	13.78	1.045	1.60		.08
PLUMBERS	13.67	1.10	1.30		.07
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

UMI 7 9 1 0 0 4 7 V

DECISION NO. KY79-1139

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$ 9.42	.80	.80		.10
GROUP 2	9.545	.80	.80		.10
GROUP 3	9.62	.80	.80		.10
GROUP 4	9.77	.80	.80		.10
GROUP 5	10.07	.80	.80		.10

GROUP 1 - Laborers (construction), plant laborers or yardmen, right-of-way laborers, landscape laborers, utility men or handymen, joint setter, flagmen, carpenter tender, waterproofing laborers, slurry seal, seal coating, surface treatment or road mix laborers, riprap laborers or grouter, asphalt laborers, dump man (batch trucks), guardrail and fence installer, mesh handler and placers, concrete curing applicator, scaffold erector.

GROUP 2 - Asphalt raker, concrete puddler, kettleman (pipeline), all machine driven tools (gas, electric, air), mason tenders, mortar mixer, sheeting and shoring man, surface grinder man, power buggy and wheelbarrow (power).

GROUP 3 - Form setter, bottom man, welder tender (pipeline), concrete saw man, cutting with burning torch, pipe layer, hand spiker (railroad), car pusher (without air), underground man (working in sewer and waterline, cleaning and repairing and reconditioning), tunnel laborer (without air), and caisson, cofferdam (below 25 ft. deep), air track and wagon drill.

GROUP 4 - Blaster and powder man, muckers, wrencher (mechanical joint and utility pipeline), yarner, top lander.

GROUP 5 - Curb setter, and cutter, miner (without air), concrete crew in tunnels, utility pipeline tapper, gunnite nozzleman, waterline caulker.

DECISION NO. KY79-1139

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MASTER MECHANICS	$12.84	.96	1.00		.11
CLASS A	12.59	.96	1.00		.11
CLASS B	12.47	.96	1.00		.11
CLASS C	11.43	.96	1.00		.11
CLASS D	11.00	.96	1.00		.11
CLASS E	8.64	.96	1.00		.11

CLASS A - Air compressor on steel erection, boiler operator on compressor or generator when mounted on a rig, cableways, combination concrete mixer & tower, concrete plants (over 4 yds. capacity), concrete pumps, cranes (all types, including A-frame, boom truck, cherry picker), derricks, draglines, dredge (dipper, clam or suction), elevating grader or euclid loader, floating equipment (all types), helicopter crew (operator hoist or winch), hoes (all types), hoisting engines or shaft or tunnel work, hoisting engines, industrial type tractor, jet engine dryer (D8 or D9) diesel tractor, locomotives (standard gauge), maintenance operator class A mixer, paving (single or double drum), mucking machines, multiple scraper, piledriving machines (all types), power shovels, 6and 9 (double pusher), refrigerating machine (freezer operation), Rotary drill on caisson work, slip-form paver, survey crew party chief, tower derricks, tree shedder, trench machines (over 24" wide), truck mounted concrete pumps tug boat, tunnel machine, wheel excavator.

CLASS B - Asphalt paver, automatic subgrader machine, self-propelled (CMI type), bulldozers, endloader, kolman loader (production type - Dirt), lead grease man, maintenance operators Class B, power grader, power scoops & scrapers, push cat, trench machines (24" wide & under).

CLASS C - Air compressors on tunnel work (low pressure), asphalt plant, locomotive (narrow gauge), mixers, concrete (more than 1 bag capacity), mixers, side loader (1 bag capacity), power boilers over 15 lbs. pressure, pump operator installing and operating well points, pumps (4" and over discharge), rollers (asphalt, utility operator - small equipment), welding machines & generators.

CLASS D - Backfillers, bar, joint & mesh installing machines, batch plant, bull floats, burlap & curing machines, compressors (portable - sewer, heavy & highway), concrete plant (capacity 4 yds. & under), concrete saw (multiple), conveyors (highway), crushers, deckhand, drill (highway with integral power), farm type tractors with attachments (highway), finishing machines, fireman, floating equipment (all types), fork lift (highway), form trenches, hydro seeders, plant mixers, post driver, post hole digger (power auger), power brush burner, power form handling equipment, road widening trencher, rollers (brick, grade, macadam), self-propelled power spreaders, self-propelled subgraders, steam fireman, survey instrument man, tractor (pulling sheepfoot, roller or grader), vibratory compactord (with integral power), Boring machine operators (48" or less), hydro hammer, pavement breaker.

CLASS E - Drum fireman, asphalt plant, tenders - inboard-outboard motor boat-launch, oil heaters (asphalt plants), oilers, power driven heaters, pumps (under 4" discharge), signalmen, survey rodmen or chainmen, tirg repairmen.

DECISION NO. KY79-1139

TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck tender	$ 8.92	*.5875	*.525		
Mobile batch truck tender	8.92	*.5875	*.525		
Greaser, tire changer, & mechanic tender	9.03	*.5875	*.525		
Driver - single axle dump & flat bed trucks, semi-trailer or pole trailer (when used to pull building materials and equipment), dump truck tandem axle, distributor, & truck mechanic	9.21	*.5875	*.525		
Driver - mixer truck (all types)	9.24	*.5875	*.525		
Driver - Euclid & other heavy earth moving equipment, low boy, winch truck & A-frame truck (when used in transporting materials), Hoss Carrier, fork lift truck (when used to transport building materials), & pavement breakers	9.31	*.5875	*.525		

*Fringe Benefits apply to employees who have been employed a minimum of twenty (20) work days within any ninety (90) consecutive day period for that employer.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: North Carolina COUNTIES: See below*
DECISION NUMBER: NC79-1034 DATE: Date of Publication
Supersedes Decision No.: NC76-1085 dated August 26, 1976 in FR-41 35317
DESCRIPTION OF WORK: Residential Construction Projects consisting of single family homes and apartments up to and including 4 stories.

*Counties: Durham, Granville, Orange, Person & Wake

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air conditioning mechanic	6.00				
Bricklayers	6.50				
Carpenters	5.13				
Carpet layers	5.00				
Cement masons	4.82				
Drywall finishers	5.00				
Drywall hanger	5.00				
Electricians	5.50				
Form setters	5.00				
Ironworkers	5.20				
Insulation installer	4.44				
Laborers:					
Laborers, unskilled	3.44				
Asphalt raker	4.00				
Mason tenders	3.49				
Pipelayers	5.02				
Painters, brush	5.00				
Painters, spray	5.50				
Plumbers & pipefitters	5.96				
Roofers	4.50				
Sheet metal workers	5.24				
Soft floor layers	5.00				
Tile setters	7.00				
Truck drivers	3.48				
POWER EQUIPMENT OPERATORS:					
Backhoe	4.86				
Bulldozers	4.93				
Fork lift operator	4.50				
Graders	4.72				
Loaders	5.11				
Pans - scrapers	4.00				
Paving machine	5.00				
Roller	4.10				
Screed	4.08				

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)

[FR Doc. 79-32027 Filed 10-18-79; 8:45 am]

BILLING CODE 4510-27-C

V 44 OC 1979 UMI

federal register

Friday
October 19, 1979

Part III

Federal Communications Commission

Domestic Public Fixed Radio Services and Public Mobile Radio Services

V 44 0C 19 79 UMI

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 21 and 22

[FCC 79-595]

Domestic Public Fixed Radio Services and Public Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; Recodification of Part 21, Adoption of Part 22.

SUMMARY: The Commission is recodifying the regulations contained in Part 21 which concern the domestic public radio service (other than Maritime Mobile). Part 21 presently contained the rules for two distinct radio services, the Domestic Public Fixed Radio Service, and the Public Mobile Radio Service. The effect of this recodification is to create separate rules (Parts 21 and 22) for these two radio services. This action is being taken because of the Commission's intention to update portions of the regulations now in Part 21. Separating the rule sections involved in the update project will avoid duplication of effort and make it more clear to the public the exact nature and extent of the update project.

EFFECTIVE DATE: November 16, 1979.

FOR FURTHER INFORMATION CONTACT: Michael Menius, Common Carrier Bureau, 202-632-6450.

SUPPLEMENTARY INFORMATION:

In the matter of editorial changes to Part 21 of the Commission's rules and regulations.

Adopted: September 27, 1979.

Released: October 4, 1979.

By the Commission: Chairman Ferris issuing a separate statement; Commissioner Lee absent.

1. The Commission is hereby recodifying Part 21 of its Rules and Regulations—"Domestic Public Radio Services (Other than Maritime Mobile)"—47 CFR 21.0 *et seq.*—into two separate Rules Parts, Parts 21 and 22. As a result of the recodification, the Rules structure will clearly relate to the two distinct radio services involved, which are now grouped within a single Rules Part. The recodification will also enable the public to more clearly understand the nature and scope of the Commission's action in an upcoming rule making. The recodification will also fully when we initiate it, subsequent to the recodification announced in this Memorandum Opinion and Order.

2. The Commission is carrying out the recodification at this point because we anticipate undertaking in the near future a complete revision and updating of the rules sections which govern four radio services now found in Part 21: the Domestic Public Land Mobile Radio Service, the Public Aeronautical Mobile Radio Service, the Rural Radio Service, and the Offshore Radio Telecommunications Service. These rules sections in many cases do not, as presently worded, reflect existing technology and/or current Commission policy. The Commission is also in the process of considering the appropriateness of adding rules sections to implement newly developed communications technology.

For example, the Commission is presently examining issues relating to technical standards and new rules sections for cellular mobile radio communications.[1] The recodification announced in this Order will establish the proper framework for inclusion of rules dealing with "cellular" systems. The update project will respond to the problem of outdated language, will add definitions which will more fully explain the meaning of certain Rules sections, and will ensure that the Rules are expressed in plain language. As part of the update project the Commission will also have the opportunity to standardize data elements maintained in the data base for the Domestic Public Radio Services and to conform these data elements with those maintained by the International Frequency Registration Board (IFRB) and by the National Telecommunications and Information Administration (NTIA).

3. The Commission is recodifying Part 21 in order to make it clear to the public exactly which radio services are being revised and which radio services are not involved in the rule making. As presently structured, Part 21 includes two essentially separate radio services, one which is involved in the rule making and one which is not.[2] The recodification will place these two radio services into separate Rules Parts and thereby eliminate confusion as to the scope of the update project. The recodification will also enable the Commission staff to conduct the rule making more efficiently and in less time. Without the recodification the Common Carrier Bureau's Domestic Facilities Branch staff will be required to allocate extensive time to coordinating with the Mobile Services Division concerning a rule making which does not involve the Domestic Public Fixed Radio Services. Moreover, the rule making will be disruptive of the rules sections themselves unless the recodification is carried out. During the course of the revision project the Mobile Services Division, without the recodification, will be required to continually revise its files each time a rules change is announced which relates to the Domestic Public Fixed Radio Services. For all the considerations described above, the Commission finds the recodification to be in the public interest.

4. The recodification separates those rules sections relating to the Domestic Public Fixed Radio Services (Point-to-Point Microwave Radio Service, Local Television Transmission Service, and Multipoint Distribution Service) from the other Radio Services (Domestic Public Land Mobile Radio Service, Public Aeronautical Mobile Radio Service, Rural Radio Service, and Offshore Radio Telecommunications Service) presently included in Part 21. The Rules and Regulations pertaining to these latter Radio Services are hereby recodified into a new Part 22 (47 CFR 22.0 *et seq.*) and will be named the "Public Mobile Radio Services." The remaining Rules and Regulations, which pertain to the Domestic Public Fixed Radio Services, will be unaffected by the recodification (except for editorial changes as indicated) and will remain in Part 21, which will be named the "Domestic Public Fixed Radio Services." (47 CFR 21.0 *et seq.*)

5. After the recodification has been completed, the Commission will then commence work on the update of the new Part 22 and will issue the appropriate Public Notices inviting full public participation in the revision and update project. The recodification announced by this Order is in no way substantive, merely involving the organization and structure of certain

[1] See "Cellular Mobile Systems," released December 6, 1978, 70 FCC 2d 1639.

[2] The Domestic Public Fixed Radio Services (commonly referred to as the Microwave Radio Services) include the Point-to-Point Microwave Radio Service, the Local Television Transmission Service, and the Multipoint Distribution Service.

unnecessary, and contrary to the public interest.

6. Pursuant to section 4 and section 303 of the Communications Act of 1934, 48 Stat. 1066, as amended, 1082, as amended (47 U.S.C. 154, 303), the Commission hereby recodifies Part 21 of its Rules and Regulations (47 CFR 21) as follows: a new Part 22 (47 CFR 22) is created to read as indicated in Appendix B. Those portions of the former Part 21 which appear in the newly created Part 22 are deleted from Part 21 so that after the recodification Part 21 reads as indicated in Appendix A. Appendix C provides a cross-reference list between the Rules sections which appeared in the former Part 21 and the Rules sections in the current Part 21 and Part 22. The recodification of Part 21, and the adoption of a new Part 22 will become effective November 16, 1979.

7. Appendix D lists Commission forms used within the Public Mobile Radio Services. The recodification does not amend these forms, which will remain in use in the same manner as before the recodification. In cases where these forms refer to the Public Mobile Radio Services as Part 21, the public is hereafter to consider these forms as referring to Part 22.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307)

Federal Communications Commission.[3]

William J. Tricarico,

Secretary.

Appendix C.—Former and Current Rules Sections

Former	Current part 21	Current part 22
21.0	21.0	22.0
21.1 [Reserved]	21.1 [Reserved]	22.1 [Reserved]
21.2	21.2	22.2
21.3	21.3	22.3
21.4	21.4	22.4
21.5	21.5	22.5
21.6	21.6	22.6
21.7	21.7	22.7 [Reserved]
21.8 [Reserved]	21.8 [Reserved]	22.8 [Reserved]
21.9	21.9 [Reserved]	22.9
21.10 [Reserved]	21.10 [Reserved]	22.10 [Reserved]
21.11	21.11	22.11
21.12 [Reserved]	21.12 [Reserved]	22.12 [Reserved]
21.13	21.13	22.13
21.14 [Reserved]	21.14 [Reserved]	22.14 [Reserved]
21.15	21.15	22.15
21.16 [Reserved]	21.16 [Reserved]	22.16 [Reserved]
21.17	21.17	22.17
21.18 [Reserved]	21.18 [Reserved]	22.18 [Reserved]
21.19 [Reserved]	21.19 [Reserved]	22.19 [Reserved]
21.20	21.20	22.20
21.21	21.21	22.21
21.22	21.22	22.22
21.23	21.23	22.23
21.24 [Reserved]	21.24 [Reserved]	22.24 [Reserved]
21.25	21.25	22.25
21.26	21.26	22.26
21.27	21.27	22.27
21.28	21.28	22.28
21.29	21.29	22.29
21.30	21.30	22.30
21.31	21.31	22.31
21.32	21.32	22.32
21.33 [Reserved]	21.33 [Reserved]	22.33 [Reserved]
21.34 [Reserved]	21.34 [Reserved]	22.34 [Reserved]
21.35	21.35	22.35
21.36 [Reserved]	21.36 [Reserved]	22.36 [Reserved]
21.37 [Reserved]	21.37 [Reserved]	22.37 [Reserved]
21.38 [Reserved]	21.38 [Reserved]	22.38 [Reserved]
21.39	21.39	22.39
21.40	21.40	22.40
21.41 [Reserved]	21.41 [Reserved]	22.41 [Reserved]
21.42 [Reserved]	21.42 [Reserved]	22.42 [Reserved]
21.43	21.43	22.43
21.44	21.44	22.44
21.45	21.45	22.45
21.100	21.100	22.100
21.101	21.101	22.101
21.102	21.102	22.102
21.103	21.103	22.103
21.104	21.104	22.104
21.105	21.105	22.105
21.106	21.106	22.106
21.107	21.107	22.107
21.108	21.106	22.108
21.109	21.109	22.109
21.110	21.110	22.110
21.111	21.111	22.111
21.112	21.112	22.112
21.113	21.113	22.113
21.114	21.114	22.114
21.115	21.115 [Reserved]	22.115
21.116	21.116	22.116
21.117	21.117	22.117
21.118	21.118	22.118
21.119	21.119	22.119
21.120	21.120	22.120
21.121	21.121	22.121
21.122	21.122	22.122
21.200	21.200	22.200
21.201	21.201	22.201
21.202	21.202 [Reserved]	22.202 [Reserved]
21.203	21.203	22.203
21.204	21.204	22.204
21.205	21.205	22.205
21.206	21.206	22.206
21.207	21.207	22.207
21.208	21.206	22.208
21.209	21.209	22.209
21.210	21.210	22.210
21.211	21.211	22.211
21.212	21.212	22.212
21.213	21.213	22.213
21.214	21.214	22.214
21.215	21.215	22.215
21.216	21.216	22.216
21.217	21.217	22.217
21.218	21.218	22.218
21.219	21.219	22.219
21.220	21.220	22.220
21.221	21.221	22.221
21.222	21.222	22.222
21.223	21.223	22.223
21.224	21.224	22.224
21.225	21.225	22.225
21.226	21.226	22.226
21.227	21.227	22.227
21.228	21.228	22.228
21.229	21.229	22.229
21.230	21.230	22.230
21.231	21.231	22.231
21.232	21.232	22.232
21.233	21.233	22.233
21.234	21.234	22.234
21.235	21.235	22.235
21.236	21.236	22.236
21.237	21.237	22.237
21.238	21.238	22.238
21.239	21.239	22.239
21.240	21.240	22.240
21.241	21.241	22.241
21.242	21.242	22.242
21.243	21.243	22.243
21.244	21.244	22.244
21.245	21.245	22.245
21.246	21.246	22.246
21.247	21.247	22.247
21.248	21.248	22.248
21.249	21.249	22.249
21.250	21.250	22.250
21.251	21.251	22.251
21.252	21.252	22.252
21.253	21.253	22.253
21.254	21.254	22.254
21.255	21.255	22.255
21.256	21.256	22.256
21.257	21.257	22.257
21.258	21.258	22.258
21.259	21.259	22.259
21.260	21.260	22.260
21.261	21.261	22.261
21.262	21.262	22.262
21.263	21.263	22.263
21.264	21.264	22.264
21.265	21.265	22.265
21.266	21.266	22.266
21.267	21.267	22.267
21.268	21.268	22.268
21.269	21.269	22.269
21.270	21.270	22.270
21.271	21.271	22.271
21.272	21.272	22.272
21.273	21.273	22.273
21.274	21.274	22.274
21.275	21.275	22.275
21.276	21.276	22.276
21.277	21.277	22.277
21.278	21.278	22.278
21.279	21.279	22.279
21.280	21.280	22.280
21.281	21.281	22.281
21.282	21.282	22.282
21.283	21.283	22.283
21.284	21.284	22.284
21.285	21.285	22.285
21.286	21.286	22.286
21.287	21.287	22.287
21.288	21.288	22.288
21.289	21.289	22.289
21.290	21.290	22.290
21.291	21.291	22.291
21.292	21.292	22.292
21.293	21.293	22.293
21.294	21.294	22.294
21.295	21.295	22.295
21.296	21.296	22.296
21.297	21.297	22.297
21.298	21.298	22.298
21.299	21.299	22.299
21.300	21.300	22.300
21.301	21.301	22.301
21.302	21.302	22.302
21.303	21.303	22.303
21.304	21.304	22.304
21.305	21.305	22.305
21.306	21.306	22.306
21.307	21.307	22.307
21.400	21.400	22.400
21.401	21.401	22.401
21.402	21.402	22.402
21.403	21.403	22.403
21.404	21.404	22.404
21.405	21.405	22.405
21.406	21.406	22.406
21.500	[Reserved]	22.500
21.501	[Reserved]	22.501
21.502	[Reserved]	22.502
21.503	[Reserved]	22.503
21.504	[Reserved]	22.504
21.505	[Reserved]	22.505
21.506	[Reserved]	22.506
21.507	[Reserved]	22.507
21.508	[Reserved]	22.508
21.509	[Reserved]	22.509
21.510	[Reserved]	22.510
21.511	[Reserved]	22.511
21.512	[Reserved]	22.512
21.513	[Reserved]	22.513
21.514	[Reserved]	22.514
21.515	[Reserved]	22.515
21.516	[Reserved]	22.516
21.517	[Reserved]	22.517
21.518	[Reserved]	22.518
21.519	[Reserved]	22.519
21.520	[Reserved]	22.520
21.521	[Reserved]	22.521
21.522	[Reserved]	22.522
21.523	[Reserved]	22.523
21.600	[Reserved]	22.600
21.601	[Reserved]	22.601
21.602	[Reserved]	22.602
21.603	[Reserved]	22.603
21.604	[Reserved]	22.604
21.605	[Reserved]	22.605
21.606	[Reserved]	22.606
21.607	[Reserved]	22.607
21.608	[Reserved]	22.608
21.609	[Reserved]	22.609
21.610	[Reserved]	22.610
21.611	[Reserved]	22.611
21.700	21.700	[Reserved]
21.701	21.701	[Reserved]
21.702	21.702	[Reserved]
21.703	21.703	[Reserved]
21.704	21.704	[Reserved]
21.705	21.705	[Reserved]
21.706	21.706	[Reserved]
21.707	21.707	[Reserved]
21.800	21.800	[Reserved]
21.801	21.801	[Reserved]
21.802	21.802	[Reserved]
21.803	21.803	[Reserved]
21.804	21.804	[Reserved]
21.805	21.805	[Reserved]
21.806	21.806	[Reserved]
21.807	21.807	[Reserved]
21.808	21.808	[Reserved]
21.809	21.809	[Reserved]
21.900	21.900	[Reserved]
21.901	21.901	[Reserved]
21.902	21.902	[Reserved]
21.903	21.903	[Reserved]
21.904	21.904	[Reserved]
21.905	21.905	[Reserved]
21.906	21.906	[Reserved]
21.907	21.907	[Reserved]
21.908	21.908	[Reserved]

[3] See "Cellular Mobile Systems," released December 6, 1978, 70 FCC 2d 1639.

APPENDIX D—FCC Forms Used Within The Domestic Public Mobile Services[1]

401—Application for New or Modified Common Carrier Radio Station Construction Permit
403—Application for Radio Station License or Modification Thereof
405—Application for Renewal of Radio Station License
409—Application for Individual Mobile Radio Telephone License in the Domestic Public Land Mobile Radio Service
409-R—Individual Mobile Radio Telephone License Renewal Notice
410—Registration of Canadian Radio Station Licensee and Application for Permit to Operate
430—Common Carrier and Satellite Radio Licensee Qualification Report
451—Radio Station Construction Permit
457-B—Continuation of Authorization
459—Radio Station License—Common Carrier
460—Application Deficiency Notification
460-B—Application Deficiency Notice—Individual Radio Station License
461-G—Modificaiton of Common Carrier Authorization
462-A—Construction Permit and Station License
487—Individual Radio Service License
701—Application for Additional Time to Construct Radio Station
702—Application for Consent to Assignment of Radio Station Construction Permit or License
704—Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License
714—Supplement to Application for New or Modified Radio Station Authorization
715—Obstruction Marking and Lighting Specifications for Antenna Structures
726-C—Consent to Assignment of Common Carrier Radio Station Construction Permit or License
727-C—Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License
Form L—Annual Report of Licensee in Domestic Public Land Mobile Radio Service

Separate Statement of Charles D. Ferris, Chairman

Re: Amendment of Sections of Part 21 to Deregulate Licensing of Individual Mobile Radios and Recodification of Part 21 to create a new Part 22 and a revised Part 21.

Our actions today on these two items relating to Part 21 of the Commission's Rules mark another step in our effort to make FCC regulation meaningful by making our regulations more efficient and more understandable to those members of the public that are expected to follow them.

By substantially deregulating the licensing of individuals owning mobile land radios we will eliminate a process that is unnecessarily time consuming for those seeking licenses as well as for the FCC. At the same time we will insure continuing responsibility from those common carrier radio licensees who will become responsible for those individuals with their own equipment operating under the carriers' FCC granted authority. From our perspective this is particularly important, because it will release the energies of staff assigned to these routine processing duties to meet the demands of more pressing efforts underway in our Common Carrier Bureau.

Our second action eliminates the confusion that stems from placing diverse common carrier radio service regulations within the same part of our rules. By separating these functions in the Rules, we will reflect the reality that they are separate functions in fact. Moreover, as we move toward revising and updating both areas of the Rules in the near future, we will by this action greatly simplify the task of commenting on our upcoming proposals.

Together, these two items underscore our commitment to insure that our regulatory efforts will be constantly reevaluated, and that we will change when doing things differently means doing things better.

Part 21 is recodified and revised to read as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICE

Subpart A—General

Sec.
21.0 Scope and authority.
21.1 [Reserved]
21.2 Definitions.

Subpart B—Applications and Licenses

General Filing Requirements

21.3 Station authorization required.
21.4 Eligibility for station license.
21.5 Formal and informal applications.
21.6 Filing of applications, fees, and number of copies
21.7 Standard application forms for point-to-point microwave radio, local television transmission and multi-point distribution services.
21.8 [Reserved]
21.9 [Reserved]
21.10 [Reserved]
21.11 Miscellaneous forms shared by all domestic public radio services.
21.12 [Reserved]
21.13 General application requirements.
21.14 [Reserved]
21.15 Technical content of applications.
21.16 [Reserved]
21.17 Demonstration of financial qualifications.
21.18 [Reserved]
21.19 [Reserved]
21.20 Defective applications.
21.21 Inconsistent or conflicting applications.
21.22 Repetitious applications.
21.23 Amendment of applications.
21.24 [Reserved]
21.25 Application for temporary authorizations.

Processing of Applications

Sec.
21.26 Receipt of application.
21.27 Public notice period.
21.28 Dismissal and return of applications.
21.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
21.30 Opposition to applications.
21.31 Mutually exclusive applications.
21.32 Consideration of applications.
21.33 [Reserved]
21.34 [Reserved]
21.35 Comparative evaluation of mutually exclusive applications.
21.36 [Reserved]
21.37 [Reserved]
21.38 [Reserved]
21.39 Transfer of control or assignment of station authorization.
21.40 Considerations involving transfer or assignment applications.
21.41 [Reserved]
21.42 [Reserved]
21.43 Period of construction.
21.44 Forfeiture of station authorizations.
21.45 License period.

Subpart C—Technical Standards

Sec.
21.100 Frequencies.
21.101 Frequency tolerance.
21.102 Frequency measuring or calibrating apparatus.
21.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.
21.104 Types of emission.
21.105 Bandwidth.
21.106 Emission limitations.
21.107 Transmitter power.
21.108 Directional antennas.
21.109 Antenna and antenna structures.
21.110 Antenna polarization.
21.111 Simultaneous use of common antenna structure.
21.112 Marking of antenna structures.
21.113 Quiet zones.
21.114 Temporary fixed antenna height restrictions.
21.115 [Reserved]
21.116 Topographical data
21.117 Transmitter location.
21.118 Transmitter construction and installation.
21.119 Limitation on use of transmitters for other services.
21.120 Type acceptance of transmitters.
21.121 Replacement of equipment.
21.122 Microwave digital modulation.

Subpart D—Technical Operation

Sec.
21.200 Station inspection.
21.201 [Reserved]
21.202 Transmitter identification.
21.203 Posting of operator licenses.
21.204 FCC publication required for reference.
21.205 Operator requirements.
21.206 Inspection and maintenance of antenna structure marking and lighting, and associated control equipment.
21.207 Transmitter measurements.
21.208 Station records.
21.209 Communications concerning safety of life and property.

[1] In cases where these forms refer to Part 21 as the Domestic Public Mobile Radio Services, such forms will hereafter be considered to refer to Part 22. In cases where these forms refer only to Part 21 but are used by radio services covered in both Part 21 and Part 22, the forms will hereafter be considered to refer to both Part 21 and Part 22.

21.210 Operation during emergency.
21.211 Suspension of transmission.
21.212 Equipment, service and maintenance tests.
21.213 Station identification.
21.214 Operation of stations at temporary fixed locations for communication between the United States and Canada or Mexico.

Subpart E—Miscellaneous

Sec.
21.300 Business records.
21.301 National defense; free service.
21.302 Answers to notices of violation.
21.303 Discontinuance, reduction or impairment of service.
21.304 Tariffs, reports, and other material required to be submitted to the Commission.
21.305 Reports required concerning amendments to charters and partnership agreements.
21.306 Requirement that permittees and licensees respond to official communications.
21.307 Equal employment opportunities.

Subpart F—Developmental Authorizations

Sec.
21.400 Eligibility.
21.401 Scope of service.
21.402 Adherence to program of research and development.
21.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.
21.404 Terms of grant; general limitations.
21.405 Supplementary showing required.
21.406 Developmental report required.

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—Point-to-Point Microwave Radio Service

Sec.
21.700 Eligibility.
21.701 Frequencies.
21.702 Transmitter power.
21.703 Bandwidth and emission limitations.
21.704 Modulation requirements.
21.705 Permissible communications.
21.706 Supplementary showing required with applications.
21.707 Stations at temporary fixed locations.
21.708 Notification of station operation at temporary fixed locations.
21.709 Renewal of station licenses.
21.710 Limitations on path lengths and channel loading.
21.711 Special requirements for operation in the band 38.600–40.000 MHz.
21.713 Applications for authorizations involving relay of television signals to cable television systems.

Subpart J—Local Television Transmission Service

Sec.
21.800 Eligibility.
21.801 Frequencies.
21.802 Assignment of frequencies to mobile stations.
21.803 Transmitter power.
21.804 Bandwidth and emission limitations.
21.805 Modulation requirements.
21.806 Remote control operation of mobile television pickup stations.
21.807 Stations at temporary fixed locations.
21.808 Notification of station operation at temporary locations.
21.809 Stations affected by coordination contour procedures.

Subpart K—Multipoint Distribution Service

Sec.
21.900 Eligibility
21.901 Frequencies.
21.902 Frequency interference.
21.903 Purpose and permissible service.
21.904 Transmitter power.
21.905 Emissions and bandwidth.
21.906 Antennas.
21.907 Transmission standards.
21.908 Television transmitting equipment.

Subpart L—[Reserved]

Authority: Sections 21.0 to 21.908 issued under secs. 4, 303, 48 Stat 1066, as amended, 1082, as amended; 47 U.S.C. 154, 308.

Subpart A—General

§ 21.0 Scope and authority.

(a) The purpose of the rules and regulations in this part is to prescribe the manner in which portions of the radio spectrum may be more available for the use of radio for domestic communication common carrier operations which require transmitting facilities on land or in specified offshore coastal areas within the continental shelf.

(b) The rules in this part are issued pursuant to the authority contained in Titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmissions and issue licenses for radio stations.

(c) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

§ 21.1 [Reserved]

§ 21.2 Definitions.

As used in this part:

Antenna power gain. The square of the ratio of the root-mean-square free space field intensity produced at one mile in the horizontal plane, in millivolts per meter for one kilowatt antenna input power to 137.6 mV/m. This ratio should be expressed in decibels (dB). (If specified for a particular direction, antenna power gain is based on the field strength in that direction only.)

Antenna power input. The radio frequency peak or RMS power, as the case may be, supplied to the antenna from the antenna transmission line and its associated impedance matching network.

Antenna structures. The term antenna structures includes the radiating system, its supporting structures, and any surmounting appurtenances.

Assigned frequency. The frequency coinciding with the center of the radio frequency channel in which the station is authorized to work. This frequency does not necessarily correspond to any frequency in an emission.

Authorized bandwidth. The maximum width of the band of frequencies permitted to be used by a station. This is normally considered to be the necessary or occupied bandwidth, whichever is greater.

Authorized frequency. The frequency assigned to a station by the Commission and specified in the instrument of authorization.

Authorized power. The power assigned to a radio station by the Commission and specified in the instrument of authorization. The authorized power does not necessarily correspond to the power used by the Commission for purposes of its Master Frequency Record (MFR) and notification to the International Telecommunications Union.

Auxiliary test station. A fixed station used for test transmissions only, operating on mobile station frequencies from a specified fixed location, for the purpose of determining the performance of fixed receiving equipment which is remotely located from the base station with which it is associated, or where the receiving equipment is located with the base station and both are remotely located from the control point of the station.

Bandwidth occupied by an emission. The band of frequencies comprising 99 percent of the total radiated power extended to include any discrete frequency on which the power is at least 0.25 percent of the total radiated power.

Note.—In certain cases, also communicates with fixed stations and vessels.

Bit rate. The rate of transmission of information in binary (two state) form in bits per unit time.

Carrier. In a frequency stabilized system, the sinusoidal component of a modulated wave whose frequency is independent of the modulating wave; or the output of a transmitter when the modulating wave is made zero; or a wave generated at a point in the transmitting system and subsequently modulated by the signal; or a wave generated locally at the receiving terminal which when combined with the

side bands in a suitable detector, produces the modulating wave.

Carrier frequency. The frequency of the carrier.

Central office. A landline termination center used for switching and interconnection of public message communication circuits.

Communication common carrier. Any person engaged in rendering communication service for hire to the public.

Control point. A control point is an operating position at which an operator responsible for the operation of the transmitter is stationed and which is under the control and supervision of the licensee.

Control station. A fixed station whose transmissions are used to control automatically the emissions or operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the operation of such station.

Coordination distance. For the purpose of this part, the expression "coordination distance" means the distance from an earth station, within which there is a possibility of the use of a given transmitting frequency at this earth station causing harmful interference to stations in the fixed or mobile service, sharing the same band, or of the use of a given frequency for reception at this earth station receiving harmful interference from such stations in the fixed or mobile service.

Digital modulation. The process by which some characteristic (frequency, phase, amplitude or combinations thereof) of a carrier frequency is varied in accordance with a digital signal, e.g. one consisting of coded pulses or states.

Domestic fixed public service. A fixed service, the stations of which are open to public correspondence, for radiocommunications originating and terminating solely at points all of which lie within: (a) the State of Alaska, or (b) the State of Hawaii, or (c) the contiguous 48 States and the District of Columbia, or (d) a single possession of the United States. Generally, in cases where service is afforded on frequencies above 72 MHz, radiocommunications between the contiguous 48 States (including the District of Columbia) and Canada or Mexico, or radiocommunications between the State of Alaska and Canada, are deemed to be in the domestic fixed public service.

Domestic public radio services. The land mobile and domestic fixed public services the stations which are open to public correspondence.

Note.—Parts 81 and 83 of this chapter are applicable to maritime services. Part 87 is applicable to aeronautical services; and Part 85 is applicable to certain Alaskan services.

Drop point. A term used in the point-to-point microwave radio service to designate a terminal point where service is rendered to a subscriber.

Earth station. A station in the space service located either on the earth's surface, including on board a ship, or on board an aircraft.

Effective radiated power. The product of the antenna power input and the antenna power gain. This product should be expressed in watts. (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only.)

Exchange. A unit of a communication company or companies for the administration of communication service in a specified area, which usually embraces a city, town, or village and its environs, and consisting of one or more central offices, together with the associated plant, used in furnishing communication service in that area.

Exchange area. The geographic area included within the boundaries of an exchange.

Facsimile. A system of telecommunication for the transmission of fixed images with a view to their reception in a permanent form.

Fixed earth station. An earth station intended to be used at a specified fixed point.

Fixed microwave auxiliary station. A fixed station used in connection with (1) the alignment of microwave transmitting and receiving antenna systems and equipment, (2) coordination of microwave radio survey operations, and (3) cue and contact control of television pickup station operations.

Fixed station. A service of radiocommunication between specified fixed points.

Fixed station. A station in the fixed service.

Frequency tolerance. The frequency tolerance, expressed as a percentage or in hertz, is the maximum permissible deviation, with respect to the reference frequency of the corresponding characteristic frequency of an emission.

General communication. Two-way voice communication, through a base station, between (1) a common carrier land mobile or airborne station and a landline telephone station connected to a public message landline telephone system, or (2) two common carrier land mobile stations, or (3) two common carrier airborne stations, or (4) a common carrier land mobile station and a common carrier airborne station.

Harmful interference. Any radiation or any induction which endangers the functioning of a radionavigation service or of a safety service or obstructs or repeatedly interrupts a radio service.

Inter-office station. A fixed station in the domestic fixed public service which is used exclusively for interconnection of telephone central offices.

Landing area. A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

Local television transmission service. A domestic public radio communication service for the transmission of television material and related communications.

Message center. The point at which messages from members of the public are accepted by the carrier for transmission to the addressee.

Microwave frequencies. As used in this part, this term refers to frequencies of 890 MHz and above.

Miscellaneous common carriers. Communications common carriers which are not engaged in the business of providing either a public landline message telephone service or public message telegraph service.

Mobile earth station. An earth station intended to be used while in motion or during halts at unspecified points.

Mobile microwave auxiliary station. A mobile station used in connection with (1) the alignment of microwave transmitting and receiving antenna systems and equipment, (2) coordination of microwave radio survey operations, and (3) cue and contact control of television pickup station operations.

Mobile service. A service of radiocommunication between mobile and land stations or between mobile stations.

Mobile station. A station in a mobile service intended to be used while in motion or during halts at unspecified points.

Multipoint distribution service. A one-way domestic public radio service rendered on microwave frequencies from a fixed station transmitting (usually in an omnidirectional pattern) to multiple receiving facilities located at fixed points determined by the subscribers.

Necessary bandwidth of emission. The necessary bandwidth is the width of the frequency band which is necessary in the over-all system, including both transmitter and receiver, for the proper reproduction at the receiver of the desired information, and does not necessarily indicate the interfering characteristics of an emission.

Note: The necessary bandwidth for an emission may be calculated using the formulas in § 2.202 of this chapter.

Periscope antenna system. An antenna system which involves the use of a passive reflector to deflect radiation from or to a directional transmitting or receiving antenna which is oriented vertically.

Point-to-point microwave radio service. A domestic public radio service rendered on microwave frequencies by fixed stations between points which lie within the United States or between points to its possessions or to points in Canada or Mexico.

Private line service. A service whereby facilities for communication between two or more designated points are set aside for the exclusive use or availability for use of a particular customer and authorized users during stated periods of time.

Public correspondence. Any telecommunication which the offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

Public message service. A service whereby facilities are offered to the public for communication between all points served by a carrier or by interconnected carriers on a non-exclusive message by message basis, contemplating a separate connection for each occasion of use.

Radio station. A separate transmitter or a group of transmitters under simultaneous common control, including the accessory equipment required for carrying on a radiocommunication service.

Radiocommunication. Any telecommunication by means of hertzian waves.

Rated power output. The term "rated power output" of a transmitter means the normal radio frequency power output capability (Peak or Average Power) of a transmitter, under optimum conditions of adjustment and operation, specified by its manufacturer.

Record communication. Any transmission of intelligence which is reduced to visual record form at the point of reception.

Reference frequency. A frequency coinciding with or having a fixed and specified relation to the assigned frequency. This frequency does not necessarily correspond to any frequency in an emission.

Relay station. A fixed station used for the reception and retransmission of the signals of another station or stations.

Repeater station. A fixed station established for the automatic retransmission of radiocommunications received from one or more mobile stations and directed to a specified location.

Standby transmitter. A transmitter installed and maintained for use in lieu of the main transmitter only during periods when the main transmitter is out of service for maintenance or repair.

Symbal rate. Modulation rate in bands. This rate may be higher than the transmitted bit rate as in the case of coded pulses or lower as in the case of multilevel transmission.

Telegraphy. A system of telecommunication for the transmission of written matter by the use of signal code.

Telemetering. Automatic radiocommunication in a fixed or mobile service intended to indicate or record a measurable variable quantity at a distance.

Telephony. A system of telecommunication set up for the transmission of speech, or in some cases, other sounds.

Television. A system of telecommunication for transmission of transient images of fixed or moving objects.

Television non-broadcast pickup station. A mobile, except television pickup, station used for the transmission of television program material and related communications for non-broadcast purposes.

Television pickup station. A land mobile station used for the transmission of television program material and related communications from the scenes of events occurring at points removed from television broadcast station studios to television broadcast stations.

Television STL station (studio transmitter link). A fixed station used for the transmission of television program material and related communications from a studio to the transmitter of a television broadcast station.

Subpart B—Applications and Licenses

General Filing Requirements

§ 21.3 Station authorization required.

(a) No person shall use or operate in the any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with, an appropriate authorization granted by the Federal Communications Commission.

(b) Except when the Commission finds under the rules of this Part that the public interest, convenience, or necessity would be served by waiver of this requirement, no radio license shall be issued for the operation of any station unless a permit for its construction has been granted by the Commission. No construction or modification of a station may be commenced without a construction permit, a modified construction permit, or other authority issued by the Commission for the exact construction or modification to be undertaken, except as may be specifically provided for in other sections of this part.

(c) Upon the completion of construction or continued construction of any station pursuant to the terms of a construction permit and upon the filing of an application for license or modification of license, the Commission shall issue a license or modified license to the lawful holder of the permit for the operation of the station, provided that no cause or circumstance has arisen or first come to the knowledge of the Commission since the granting of the permit which would, in the judgment of the Commission, make the operation of such station against the public interest.

(d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

§ 21.4 Eligibility for station license.

A station license may not be granted to or held by:

(a) Any alien or the representative of any alien.

(b) Any foreign government or the representative thereof.

(c) Any corporation organized under the laws of any foreign government.

(d) Any corporation of which any officer or director is an alien.

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign country.

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(g) Any corporation directly or indirectly controlled by any other

V 44 OC 1979 UMI

corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens or their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 21.5 Formal and informal applications.

(a) Except for an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 [47 U.S.C. 308(a)], the Commission may grant only upon written application received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this Part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

§ 21.6 Filing of applications, fees, and numbers of copies.

(a) As prescribed by §§ 21.7, 21.10, 21.11 of this Part, standard formal application forms applicable to the radio services included in this Part may be obtained from either: (1) Federal Communications Commission, Washington, D.C. 20554; or (2) any of the Commission's field operations offices, the addresses of which are listed in § 0.121.

(b) Applications for radio station authorizations shall be submitted for filing to: Federal Communications Commission, Washington, D.C. 20554.

(c) All correspondence or amendments concerning a submitted application shall clearly identify the radio service, the name of the applicant, station location, and the Commission file number (if known) or station call sign of the application involved, and may be sent directly to the Common Carrier Bureau.

(d) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in duplicate, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743.

(e) Each application shall be accompanied by the appropriate fee prescribed by, and submitted in accordance with, Subpart G of Part 1 of this chapter.

§ 21.7 Standard application forms for point-to-point microwave radio, local television transmission, and multipoint distribution services.

(a) *Authority to construct a new station, to modify an existing construction permit, or to modify licensed facilities.* FCC Form 435 ("Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21") shall be submitted and granted for each station involved prior to commencement of any proposed station construction or modification, except for facility changes for which FCC Form 436 is prescribed in paragraph (c) of this section.

(b) *License to cover facilities constructed in accordance with Construction Permit.* FCC Form 436 ("Application for a New or Modified Common Carrier Microwave Radio Station License Under Part 21") shall be filed:

(1) Prior to the expiration date of the construction permit (See § 21.34(a));

(2) Upon completion of construction or modification of a station in exact accordance with the terms and conditions set forth in the construction permit; and,

(3) Upon satisfactory completion of equipment tests under § 21.212(a).

(c) *Modification of license not requiring a prior construction permit.* Modification of a license may be effected without a prior construction permit by filing FCC Form 436 in the following circumstances:

(1) To request only the following modifications of license prior to the expiration of the license:

(i) The correction of erroneous information on a license which does not involve a major change (i.e., a change which would be classified as a major amendment as defined by § 21.23);

(ii) The deletion of licensed facilities; or

(iii) Changes in the terms or conditions of a license (e.g., changes in the obstruction marking and lighting requirements of an antenna supporting structure); or

(2) To license permissible changes which do not require prior authorization.

(d) *Authorization of temporary fixed stations or block assignment of radio frequencies.* FCC Forms 435 and 436 shall be submitted simultaneously for each mobile or fixed station to be installed and operated at various temporary locations within a specified area, or for block assignment or radio frequencies as set forth hereinafter in the applicable subparts of these rules.

§ 21.8 [Reserved]

§ 21.9 [Reserved]

§ 21.10 [Reserved]

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) *License quolifications.* FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed in both of the following instances for each radio service and shall be kept current under § 1.65:

(1) As required by other application forms; and

(2) Annually no later than January 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during that calendar year.

(b) *Additional time to construct.* FCC Form 701 ("Application for Additional Time to Construct Radio Station") shall be filed in duplicate by a permittee prior to the expiration date of each construction permit to be extended. However, Form 701 need not be filed if a permittee has requested in FCC Form 401 or 435 additional time to construct incidental to a modification of construction permit.

(c) *Renewal of station license.* Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected.

Applicants should note also any special renewal requirements under the rules for each radio service.

(d) *Assignment of permit or license.* FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter of the date of consummation.

(e) *Partial assignment of license or permit.* In the microwave services, authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), may be granted upon an application: (i) by the assignee on FCC Form 435 or 436 as the situation requires; and (ii) by the assignor on FCC Form 436 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing licensed station, the assignee shall only file an FCC Form 436. Where a new station is to be established, FCC Form 435 and 436 shall be submitted by the assignee. The assignment shall be consummated within 60 days from the date of authorization. In the event that consummation does not occur, FCC Form 436 shall be filed to return the assignor's authorization to its original condition.

(f) *Transfer of control of corporation holding a permit or license.* FCC Form 704 ("Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License"), shall be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de facto*) of a corporation holding any construction permits or licenses. In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

§ 21.12 [Reserved]

§ 21.13 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

(1) Disclose fully the real party (or parties) in interest, including (as required) a complete disclosure of the identify and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) Demonstrate the applicant's legal, financial, technical, and other qualifications to be a permittee or licensee;

(3) Submit the information required by the Commission's Rules, requests, and application forms;

(4) State specifically the reasons why a grant of the proposal would serve the public interest, convenience, and necessity;

(5) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this Chapter; and

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g. those required by §§ 21.100(d), 21.103, 21.700, 21.706, 21.900, etc.).

(b) Where documents, exhibits, or other lengthy showings already on file with the Commission contain information which is required by an application form, the application may specifically refer to such information, if:

(1) The information previously filed is over one 8½ by 11" page in length, and all information referenced therein is current and accurate in all significant respects under § 1.65 of this chapter; and

(2) The reference states specifically where the previously filed information can actually be found, including mention of:

(i) The radio service and station call sign or application file number whenever the reference is to stations files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, whenever the reference is to a docketed proceeding.

However, questions on an application form which call for specific technical data, or which can be answered by a "yes" or "no" or other short answer shall be answered as appropriate and shall not be cross-referenced to a previous filing.

(c) In addition to the general application requirements of §§ 21.13 through 21.17 of this Part, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other Parts of the Commission's Rules, and the other subparts of Part 21 (particularly Subpart C and those subparts applicable to the specific radio service involved); and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(d) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment of decisional weight to be accorded the response.

(e) All applicants are required to indicate at the time their application is filed whether or not the application is a "major action" as defined by § 1.1305 of the Commission's Rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.1311 must be filed with the application.

(f)(1) Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application. This subparagraph (1) is not applicable to the Domestic Public Land Mobile Radio Service.

(2) In the Domestic Public Land Mobile Radio Service applicants are not required to file State certificates. Permittees and Licensees are required to abide by all State requirements of certification whether as to construction or operation. In the case of a construction permit grant, the permittee must complete construction in accordance with § 21.43 of the rules. In the case of a license grant, the licensee must have all requisite State authority, and be in operation within 240 days of the date of the license grant, or the license will automatically expire and must be submitted for cancellation.

V 44 0C 19 79 9 UMI

(g) Whenever an individual applicant, or a partner (in the case of a partnership) or a full time manager (in the case of a corporation) will not actively participate in the day-to-day management and operation of proposed facilities, the applicant will submit a statement containing the reasons therefor and disclosing the details of the proposed operation, including a demonstration of how control over the radio facilities will be retained by the applicant.

§ 21.14 [Reserved]

§ 21.15 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional information necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(a) Applicants proposing a new station location (including receive-only stations and passive repeaters) shall indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station shall be demonstrated. Under ordinary circumstances this requirement will be considered satisfied if the site is under lease or under written option to buy or lease, or in the case of land under U.S. Government control, written confirmation of site availability from the appropriate Government agency has been received. Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations) shall be filed with the application.

(b) [Reserved]

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna for a station or receive-only facility must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure above ground (including obstruction lights when required, lightning rods, etc.) and, if mounted on a building, its overall height above the building. All antennas on the structure must be clearly identified and their heights above-ground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating in the Multipoint Distribution Service.

(d) Each application proposing a new or modified antenna structure for a station (including a receive-only facility or passive repeater) so as to change its overall height shall include a statement indicating whether or not notification of the Federal Aeronautics Administration (FAA) is required. If notification is required, the applicant should include with the application a copy of the FAA study regarding potential hazard to aviation. If the applicant has not received the FAA study, the application should include the name used in the FAA notification, the location of the FAA regional office involved and the date of the notification. [Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also § 21.111 if the structure is used by more than one station.]

(e) An applicant proposing construction of one or more new stations or modification of existing stations where substantial changes in the operation or maintenance procedures are involved must submit a showing of the general maintenance procedures involved to insure the rendition of good public communications service. The showing should include but need not be limited to the following:

(1) A general description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities.

(2) Location and telephone number (if known) of the maintenance center for a point to point microwave system. In lieu of providing the location and telephone number of the maintenance on a case by case basis, a carrier may file a complete list for all operational stations with the Commission and the Engineer-In-Charge of the appropriate radio district on an annual basis or at more frequent intervals as necessary to keep the information current.

(3) A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed for non-routine repair during outages. Include a description of the test equipment available.

(4) The manner in which technical personnel are made aware of malfunction at any of the stations and the appropriate time required for them to reach any of the stations in the event of an emergency. If fault alarms are to be used, the items to be alarmed shall be specified as well as the location of the alarm center.

(5) Indicate whether maintenance personnel will be on duty for all hours of station operation. If not, submit information, specifying the method for identifying and correcting system malfunctions when maintenance personnel are not on duty.

(f) If the maintenance for one or more radio stations is to be accomplished by contractural arrangement with an entity unrelated to an applicant, permittee or licensee, the application shall contain a copy of the agreement or contract which shall demonstrate that:

(1) The maintenance is accomplished according to general instructions provided for by the applicant;

(2) The applicant retains effective control over the radio facilities and their operation; and

(3) The applicant assumes full responsibility for both the quality of service and for contractor compliance with the Commission's Rules.

(g) Each application for construction permit for a developmental authorization shall be accompanied by pertinent supplemental information as required by § 21.405 in addition to such information as may be specifically required by this section.

(h) Each application in the Point-to-Point Microwave Radio, Local Television Transmission, and Multipoint Distribution Services which proposes to establish a new permanently located, fixed communication facility (e.g. a transmitting site, receiving site, passive reflector or passive repeater), or to make changes or corrections in the location of such a facility already authorized, shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the location of the proposed facility accurately plotted and identified thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies.

§ 21.16 [Reserved]

§ 21.17 Demonstration of financial qualifications.

(a) Each application for authority to construct a new station or substantially modify an existing station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty of risk. (E.g., the proposal of a new or somewhat speculative service with a higher degree of business uncertainty would require a showing for a longer time period.)

(b) Except as provided in paragraph (c) of this section, each application shall demonstrate an applicant's financial ability, under paragraph (a) of this section by submitting the following financial information, the information required by paragraph (e) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(c) an applicant need not submit the financial information required by paragraph (b)(1) of this section, if paragraph (a) of this section can be clearly satisfied by an exhibit demonstrating that the applicant had operating revenues of $1 million or more for the previous year, has filed annual (or monthly) reports under Part 43 of this chapter and maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's Rating of "BBB" or a Moody's Bond Rating of "Baa."

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

§ 21.18 [Reserved]

§ 21.19 [Reserved]

§ 21.20 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not properly executed;

(2) The submitted filing fee is insufficient under § 1.1113 of this chapter;

(3) The application does not demonstrate how the proposed radio facilities will serve the public need or interest;

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved (e.g. noted in § 21.13(a)(6) of this chapter);

(5) The application does not demonstrate the availability of the proposed site of a new facility;

(6) The application does not include the environmental showing required for a "major action" under § 1.1305 of this chapter;

(7) The application does not include U.S. Forest Service or Bureau of Land Management certification of site availability under § 1.70 of this chapter whenever a proposed new or modified facility is to be located on land under the jurisdiction of these agencies;

(8) The application is filed after the "cut-off" date prescribed in § 21.30 of this part;

(9) The application proposes the use of a frequency not allocated to such use; or

(c) Applications considered defective under paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

§ 21.21 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

§ 21.22 Repetitious applications.

(a) Where an applicant has been afforded an opportunity for a hearing with respect to a particular application for a new station, or for an extension or enlargement of a service or facilities, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station

V 44 0C 1979 UMI

and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until the final disposition of such appeal.

§ 21.23 Amendment of applications.

(a) Any pending application may be amended as a matter of right if the application has not been designated either for hearing, or for comparative evaluation pursuant to § 21.35. *Provided however,* that amendments shall comply with the provisions of § 21.29 as appropriate.

(b) The Commission or the presiding officer may grant requests to amend an application designated for hearing or comparative evaluation only if a written petition demonstrating good cause is submitted and properly served upon the parties of record.

(c) The Commission will classify amendments on a case-by-case basis. Whenever previous amendments have been filed, the most recent amendment will be classified by reference to how the information in question stood as of the latest Public Notice issued which concerned the application. An amendment will be deemed to be a major amendment subject to § 21.27 and § 21.31 under any of the following circumstances:

(1) If in the Point-to-Point Microwave Radio Service and Local Television Transmission Service, the amendment results in a substantial modification of the engineering proposal such as (but not necessarily limited to):

(i) A change in, or an addition of, a radio frequency;

(ii) A change in polarization of the transmitted signal;

(iii) An increase in the transmitter output power of three (3) dB or more;

(iv) A change in type of transmitter emission or an increase in emission bandwidth of more than ten (10) percent;

(v) A change in the geographic coordinates of a station's transmitting antenna of more than ten (10) seconds of latitude or longitude, or both;

(vi) A change of more than one (1) degree in the azimuth of the center of the main lobe of radiation of a point-to-point station's transmitting antenna (including any deflections by repeating devices);

(vii) Any change which increases the antenna height by twenty (20) feet or more; or

(viii) Any changes or combination of changes which would cause harmful electrical interference to an authorized facility or result in a mutually exclusive conflict with another pending application.

(2) If in the Multipoint Distribution Service, the amendment results in a substantial modification of the engineering proposal such as (but not necessarily limited to):

(i) A change in, or addition of, a radio frequency channel;

(ii) A change in polarization of the transmitted signal;

(iii) A change in type of transmitter emission or an increase in emission bandwidth of more than ten (10) percent;

(iv) A change in the geographic coordinates of a station's transmitting antenna of more than ten (10) seconds of latitude or longitude, or both;

(v) Any change which increases the antenna height by ten (10) feet or more;

(vi) any technical change which would increase the effective radiated power in any direction by more than one and one-half (1.5) dB; or

(vii) Any changes or combination of changes which would cause harmful electrical interference to an authorized facility or result in a mutually exclusive conflict with another pending application.

(3) [Reserved]

(4) If the amendment would convert a proposal into a major action under § 1.1305.

(5) If the amendment results in a substantial and material alteration of the proposed service.

(6) If the amendment specifies, a substantial change in beneficial ownership or control *(de jure or de facto)* of an applicant such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application under § 310(d) of the Communications Act of 1934 [47 U.S.C. § 310(d)]. *Provided however,* Such a change would not be considered major where it merely amends an application for modification of an authorized station to reflect a change in ownership or control of such station as previously approved by the Commission.

(7) If the amendment, or the cumulative effect of the amendment, is determined by the Commission otherwise to be substantial pursuant to § 309 of the Communications Act of 1934.

(d) In the Point-to-Point Microwave Radio Service and Local Television Transmission Service, a pending application may be amended by a major amendment to reflect the relocation of a proposed station site and a new application will not be required if:

(1) The geographic coordinates of the new station site are within twenty (20) miles of the coordinates of the original site; and,

(2) The relocated station would serve essentially the same purpose in the system as originally proposed.

(e) If a petition to deny (or other formal objection) has been filed, or if the Commission has published a notice that the application appears to be mutually exclusive with another application (or applications), any amendment (or other written communications) shall be served on the petitioner and on any such mutually exclusive applicant (or applicants), unless waiver of this requirement is granted pursuant to paragraph (f) of this section.

(f) The Commission may waive the service requirements of paragraph (e) of this section and prescribe such alternative procedures as may be appropriate under the circumstances to protect petitioners' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome. Requests for waiver shall be served on petitioners. Oppositions to the petition may be filed within five (5) days after the petition is filed and shall be served on the applicant. Replies to oppositions will not be entertained.

(g) Any amendment to an application shall be signed and shall be submitted in the same manner, and with the same number of copies, as was the original application. Amendments may be made in letter form if they comply in all other respects with the requirements of this Chapter.

§ 21.24 [Reserved]

§ 21.25 Application for temporary authorizations.

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in § 21.5 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, expiration date of the existing temporary authorization. A request received within less than 10 days may be accepted upon due showing of sufficient reasons for the delay in submitting such request.

(b) Special temporary authorizations may be granted without regard to the 30-day public notice requirement of § 21.27(b) when:

(1) The authorization is for a period not to exceed 30 days and no application for regular application is contemplated to be filed;

(2) The authorization is for a period not to exceed 60 days pending the filing of an application for such regular operation;

(3) The authorization is to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) The authorization is made upon a finding that there are extraordinary circumstances requiring emergency operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(c) No special temporary authorization, except as provided for in paragraph (d) of this section, will be granted for a period to exceed 90 days or be extended for more than one additional period not to exceed 90 days.

(d) In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the President or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety or otherwise in furtherance of the war effort, or in cases of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission will grant construction permits and station licenses, or modifications or renewals thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses, only for the period of emergency or war requiring such action, without the filing of formal applications.

Processing of Applications

§ 21.26 Receipt of application.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is merely for administrative convenience and does not indicate the acceptance of the application for filing and processing. Such assignment of a file number will not preclude the subsequent return or dismissal of the application if it is found to be not in accordance with the Commission's rules.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review as to completeness. Such acceptance will not preclude the subsequent return or dismissal of the application if it is found to be defective or not in accordance with the Commission's rules. (See § 21.13 for additional information concerning filing of applications.

§ 21.27 Public notice period.

(a) At regular intervals, the Commission will issue a public notice listing:

(1) The acceptance for filing of all applications and major amendments thereto;

(2) Significant Commission actions concerning applications listed as acceptable for filing;

(3) Information which the Commission in its discretion believes of public significance; and

(4) Special environmental considerations as required by Part I of this Chapter.

(b) The Commission will not grant any application until expiration of a period of thirty (30) days following the issuance date of a public notice listing the application, or any major amendments thereto, as acceptable for filing.

(c) As an exception to paragraphs (a)(1), (a)(2) and (b) of this section, the public notice provisions are not applicable to applications:

(1) For authorization of a minor technical change in the facilities of an authorized station where such a change would not be classified as a major amendment (as defined by § 21.23) were such a change to be submitted as an amendment to a pending application;

(2) For issuance of a license subsequent to a construction permit or, pending application for a grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license;

(3) For extension of time to complete construction of authorized facilities;

(4) For temporary authorization pursuant to § 21.25(b);

(5) For authorization of facilities for remote pickup, temporary studio links and similar facilities which service a broadcast station;

(6) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 [47 U.S.C. 308(a)];

(7) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(8) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

§ 21.28 Dismissal and return of applications.

(a) Except as provided under § 21.29, any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal either prior to designation for hearing, or prior to selection of the comparative evaluation procedure of § 21.35. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the provisions of § 21.29 as appropriate.

(b) A request to dismiss an application without prejudice will be considered either after designation for hearing, or after selection of the comparative evaluation procedure of § 21.35, only if:

(1) A written petition is submitted to the Commission and is properly served upon all parties of record;

(2) The petition is submitted before the issuance date of a public notice of Commission action denying the application; and

(3) The petition complies with the provisions of § 21.29 (whenever applicable) and demonstrates good cause.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice prior to designation for hearing or selection of the comparative evaluation procedure of § 21.35, but may be made with prejudice for unsatisfactory compliance with § 21.29, or after designation for hearing or selection of the comparative evaluation procedure.

§ 21.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) Except as provided in paragraph (b) of this section, applicants or any other parties in interest to pending applications shall comply with the provisions of this section whenever:

(1) They participate in any agreement (or understanding) which involves any consideration promised or received, directly or indirectly, including any agreement (or understanding) for merger of interests or the reciprocal withdrawal of applications; and

V 44 0C 19 79 9 UMI

(2) The agreement (or understanding) may result in either:

(i) A proposed change in the ownership of an applicant which would be classified as a major amendment under § 21.23, and for which an exemption under § 21.31(e) from the "cut-off" rule would be requested; or,

(ii) A proposed withdrawal, amendment or dismissal of any application(s), amendment(s), petition(s), pleading(s), or any combination thereof, which would thereby permit the grant without hearing of an application previously in contested status.

(b) The provisions of this section shall not be applicable to any engineering agreement (or understanding) which:

(1) Resolves frequency conflicts with authorized stations or other pending applications without the creation of new or increased frequency conflicts; and

(2) Does not involve any consideration promised or received, directly or indirectly (including any merger of interests or reciprocal withdrawal of applications), other than the mutual benefit of resolving the engineering conflict.

(c) For any agreement subject to this section, the applicant of an application which would remain pending pursuant to such an agreement will be considered responsible for the compliance by all parties with the procedures of this section. Failure of the parties to comply with the procedures of this section shall constitute a defect in those applications which are involved in the agreement and remain in a pending status.

(d) The principals to any agreement or understanding subject to this section shall comply with the standards of paragraph (e) of this section in accordance with the following procedure:

(1) Within ten (10) days after entering into the agreement, the parties thereto shall jointly notify the Commission in writing of the existence and general terms of such agreement, the identity of all of the participants and the applications involved;

(2) Within thirty (30) days after entering into the agreement, the parties thereto shall file any proposed application amendments, motions, or requests together with a copy of the agreement which clearly sets forth all terms and provisions, and such other facts and information as necessary to satisfy the standards of paragraph (e) of this section. Such submission shall be accompanied by the certification by affidavit of each principal to the agreement declaring that the statements made are true, complete, and correct to the best of their knowledge and belief, and are made in good faith.

(3) The Commission may request any further information which in its judgment it believes is necessary for a determination under paragraph (e) of this section.

(e) The Commission will grant an application (or applications) involved in the agreement (or understanding) only if it finds upon examination of the information submitted, and upon consideration of such other matters as may be officially noticed, that the agreement is consistent with the public interest, and the amount of any monetary consideration and the cash value of any other consideration promised or received is not in excess of those legitimate and prudent costs directly assignable to the engineering, preparation, filling, and advocacy of the withdrawn, dismissed, or amended application(s), amendment(s), petition(s), pleading(s), or any combination thereof. Where such costs represent the applicant's, in-house efforts, these costs shall exclude only directly assignable costs and shall exclude the application of general overhead expenses. [The treatment to be accorded such consideration for interstate rate making purposes will be determined at such time as the question may arise in an appropriate rate proceeding.] An itemized accounting shall be submitted to support the amount of consideration involved except where such consideration (including the fair market value of any non-cash consideration) promised or received does not exceed one thousand dollars ($1,000.00). Where consideration involves a sale of facilities or merger of interests, the accounting shall clearly identify that portion of the consideration allocated for such facilities or interests and a detailed description thereof, including estimated fair market value. The Commission will not presume an agreement (or understanding) to be *prima facie* contrary to the public interest solely because it incorporates a mutual agreement to withdraw pending application(s), amendment(s), petition(s), pleading(s), or any combination thereof.

§ 21.30 Opposition to applications.

(a) Petitions to deny (including petitions for other forms of relief) and responsive pleadings for Commission consideration must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers and radio service involved) with which it is concerned;

(2) Be filed in accordance with the pleading limitations, filing periods, and other applicable provisions of §§ 1.41 through 1.52;

(3) Contain specific allegations of fact (except for those of which official notice may be taken), which shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest;

(4) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of any such application or major amendment thereto (unless the Commission otherwise extends the filing deadline); and

(5) Contains a certificate of service showing that it has been mailed to the applicant no later than the date of filing thereof with the Commission.

(b) The Commission will classify as informal objections:

(1) Any petition to deny not filed in accordance with paragraph (a) of this section;

(2) Any petition to deny (or for other forms of relief) an application to which the thirty (30) day public notice period of § 21.27(b) does not apply; or

(3) Any comments on, or objections to, the grant of an application (other than the issuance of a license pursuant to a construction permit) where the comments or objections do not conform to either paragraph (a) of this section or other Commission rules and requirements.

(c) The Commission will consider informal objections, but will not necessarily discuss them specifically in a formal opinion if:

(1) The informal objection is filed at least one day before Commission action on the application; and

(2) The informal objection is signed by the submitting person (or his representative) and discloses his interest.

§ 21.31 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume "harmful electrical interference" to mean interference which would result in a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) An application will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with the other application; and

(2) The application is received by the Commission in a condition acceptable for filing by whichever "cut-off" date is earlier:

(i) Sixty (60) days after the date of the public notice listing the first of the conflicting applications as accepted for filing; or

(ii) One (1) business day preceding the day on which the Commission takes final action on the previously filed application (should the Commission act upon such application in the interval between thirty (30) and sixty (60) days after the date of its public notice).

(c) Whenever three or more applications are mutually exclusive, but not uniformly so, the earliest filed application established the date prescribed in paragraph (b)(2) of this section, regardless of whether or not subsequently filed applications are directly mutually exclusive with the first filed application. [For example, applications A, B, and C are filed in that order. A and B are directly mutually exclusive, B and C are directly mutually exclusive. In order to be considered comparatively with B, C must be filed within the "cut-off" period established by A even though C is not directly mutually exclusive with A.]

(d) An application otherwise mutually exclusive with one of more previously filed applications, but filed after the appropriate date prescribed in paragraph (b)(2) of this section, will be returned without prejudice and will be eligible for refiling only after final action is taken by the Commission with respect to the previously filed application (or applications).

(e) For the purposes of this section, any application (whether mutually exclusive or not) will be considered to be a newly filed application if it is amended by a major amendment (as defined by § 21.23), except under any of the following circumstances:

(1) The application has been designated for comparative hearing, or for comparative evaluation (pursuant to § 21.35), and the Commission or the presiding officer accepts the amendment pursuant to § 21.23(b);

(2) The amendment resolves frequency conflicts with authorized stations or other pending applications but does not create new or increased frequency conflicts;

(3) The amendment reflects only a change in ownership or control pursuant to an agreement (or understanding) which is found by the Commission to be in the public interest under § 21.29 and from which a requested exemption from the "cut-off" requirements of this section is granted;

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 21.29 whereby two or more applicants entitled to comparative consideration of their applications join in one (or more) of the existing applications and request dismissal of their other application (or applications) to avoid the delay and cost of comparative consideration;

(5) The amendment corrects typographical, transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts; or

(6) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing, such as, for example:

(i) The loss of a transmitter or receiver site by condemnation, natural causes, or loss of lease or option;

(ii) Obstruction of a proposed transmission path caused by the erection of a new building or other structure; or

(iii) The discontinuance or substantial technological obsolescence of specified equipment, whenever the application has been pending before the Commission for two or more years from the date of its filing.

§ 21.32 Consideration of applications.

(a) Applications for an instrument of authorization will be granted if, upon examination of the application and upon consideration of such other matters as it may officially notice, the Commission finds that the grant will serve the public interest, convenience, and necessity.

(b) The grant shall be without a formal hearing if, upon consideration of the application, any pleadings of objections filed, or other matters which may be officially noticed, the Commission finds that:

(1) The application is acceptable for filing, and is in accordance with the Commission's rules, regulations, and other requirements;

(2) The application is not subject to comparative consideration (pursuant to § 21.31) with another application (or applications), except where the competing applicants have chosen the comparative evaluation procedure of § 21.35 and a grant is appropriate under that procedure;

(3) A grant of the application would not cause harmful electrical interference to an authorized station;

(4) There are no substantial and material questions of fact presented; and

(5) The applicant is legally, technically, financially and otherwise qualified, and a grant of the application would serve the public interest.

(c) If the Commission should grant without a formal hearing an application for an instrument of authorization which is subject to a petition to deny filed in accordance with § 21.30, the Commission will deny the petition by the issuance of a Memorandum Opinion and Order which will concisely report the reasons for the denial and dispose of all substantial issues raised by the petition.

(d) Whenever the Commission, without a formal hearing, grants any application in part, or subject to any terms or conditions other than those normally applied to applications of the same type, it shall inform the applicant of the reasons therefor, and the grant shall be considered final unless the Commission should revise its action (either by granting the application as originally requested, or by designating the application for a formal evidentiary hearing) in response to a petition for reconsideration which:

(1) Is filed by the applicant within thirty (30) days from the date of the letter or order giving the reasons for the partial or conditioned grant;

(2) Rejects the grant as made and explains the reasons why the application should be granted as originally requested; and

(3) Returns the instrument of authorization.

(e) The Commission will designate an application for a formal hearing, specifying with particularity the matters and things in issue, if, upon consideration of the application, any pleadings or objections filed, or other matters which may be officially noticed, the Commission determines that:

(1) A substantial and material question of fact is presented;

(2) The Commission is unable for any reason to make the findings specified in paragraph (a) of this section and the application is acceptable for filing, complete, and in accordance with the Commission's rules, regulations, and other requirements.

(3) The application is entitled to comparative consideration (under § 21.31) with another application (or applications); or

V 44 O C 19 79 UMI

(4) The application is entitled to comparative consideration (pursuant to § 21.31) and the applicants have choosen the comparative evaluation procedure of § 21.35 but the Commisison deems such procedure to be inappropriate.

(f) The Commission may grant, deny, or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) of this section after an appropriate hearing conducted in accordance with the provisions of § 21.35 or Part 1 of this chapter.

(g) Whenever the public interest would be served thereby the Commission may grant one or more mutually exclusive applications expressly conditioned upon final action on the applications, and then either designate all of the mutually exclusive applications for a formal evidentiary hearing or (whenever so requested) follow the comparative evaluation procedures of § 21.35, as appropriate, if it appears:

(1) That some or all of the applications were not filed in good faith, but were filed for the purpose of delaying or hindering the grant of another application;

(2) That the public interest requires the prompt establishment of radio service in a particular community or area;

(3) That a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of an international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest in that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or of the provisions of this chapter.

(h) Reconsideration or review of any final action taken by the Commission will be in accordance with subpart A of Part 1 of this chapter.

§§ 21.33–34 [Reserved]

§ 21.35 Comparative evaluation of mutally exclusive applications.

(a) In order to expedite action on mutually exclusive applications, the applicants may request the Commission to consider their applications without a formal hearing in accordance with the summary procedure outlind in paragraph (b) of this section, if:

(1) The applications are entitled to comparative consideration pursuant to § 21.31;

(2) The applications have not been designated for formal evidentiary hearing; and

(3) The Commission determines, initially or at any time during the procedure outlined in paragraph (b) of this section, that such procedure is appropriate, and that, from the information submitted and consideration of such other matters as may be officially noticed, there are no substantial and material questions of fact presented (other than those relating to the comparative merits of the applications) which would preclude a grant under paragraphs (a) and (b) of § 21.32.

(b) Provided that the conditions of paragraph (a) of this section are satisfied, applicants may request the Commission to act upon their mutually exclusive applications without a formal hearing pursuant to the summary procedure outlined below:

(1) To initiate the procedure, each applicant will submit to the Commission a written statement containing:

(i) A waiver of his right to a formal hearing;

(ii) A request and agreement that, in order to avoid the delay and expense of a comparative formal hearing, the Commission should exercise its judgment to select from among the mutually exclusive applications that proposal (or proposals) which would best serve the public interest; and

(iii) The signature of a principal (and his attorney is so represented).

(2) After receipt of the written requests of all of the applicants the Commission (if it deems this procedure appropriate) will issue a notice designating the comparative criteria upon which the applications are to be evaluated and will request each applicant to submit, within a specified period of time, additional information concerning his proposal relative to the comparative criteria.

(3) Within thirty (30) days following the due date for filing this information, the Commission will accept concise and factual argument on the competing proposals from the rival applicants, potential customers, and other knowledgable parties in interest.

(4) Within fifteen (15) days following the due date for the filing of comments, the Commission will accept concise and factual replies from the rival applicants.

(5) From time to time during the course of this procedure the Commission may request additional information from the applicants and hold informal conferences at which all competing applicants shall have the right to be represented.

(6) Upon evaluation of the applications, the information submitted, and such other matters as may be officially noticed the Commission will issue a decision granting one (or more) of the proposals which it concludes would best serve the public interest, convenience and necessity. The decision will report briefly and concisely the reasons for the Commission's selection and will deny the other application(s). This decision shall be considered final.

§§ 21.36–21.38 [Reserved]

§ 21.39 Transfer of control or assignment of station authorizations.

(a) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. The treatment to be accorded acquisition or disposition costs for interstate rate making purposes will be determined at such time as the question may arise in a rate proceeding.

(b) Requests for transfer of control or assignment authority shall be submitted on the application forms prescribed by § 21.11 of this chapter; shall be accompanied by the applicable showings required by §§ 21.13, 21.15, 21.17 and 21.40 of this chapter.

(c) In acting upon applications for transfer and assignment authority the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.

(d) The Commission shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee. Within thirty (30) days after the occurrence of such death or legal disability, and application in accordance with the provisions of paragraph (b) of this section shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

§ 21.40 Considerations involving transfer or assignment applications.

(a) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses or construction permits whenever applications (except those involving a *pro forma* assignment or transfer of control) for consent to assignment of a common carrier construction permit or license, or for transfer of control of a corporate permitee or licensee, involve facilities which have been operated for less than two years by the proposed assignor or transferor. At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee or permittee subsequent to the acquisition of the permit or license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

(b) If a proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests, any showing requested under paragraph (a) of this section shall include an additional exhibit which:

(1) Discloses complete details as to the sale of facilities or merger of interests;

(2) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interests; and

(3) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.

(c) For the purposes of this section, the two year period is calculated using the following dates (as appropriate):

(1) The initial date of grant of the construction permit, excluding subsequent modifications;

(2) The date of consummation of an assignment or transfer, if the station is acquired as the result of an assignment of construction permit or license, or transfer of control of a corporate permittee or licensee; or

(3) The median date of the applicable commencement dates (determined pursuant to paragraphs (c) (1) and (2) of this section) if the transaction involves a system (such as a Point-to-Point Microwave System) of two or more stations. (The median date is that date so selected such that fifty percent of the commencement dates of the total number of stations, when arranged in chronological order, lie below it and fifty percent lie above it. When the number of stations is an even number, the median date will be a value half way between the two dates closest to the theoretical median).

§§ 21.41–21.42 [Reserved]

§ 21.43 Period of construction.

(a) Except for stations in the Point-to-Point Microwave Radio Service, and except as may be limited by § 21.35(b), each construction permit for a radio station in the radio services included in this Part will specify the date of grant as the earliest date of commencement of construction, and a maximum of 8 months from the date of grant as the time within which construction will be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case (see §§ 21.14(d) and 21.34(a)).

(b) For stations in the Point-to-Point Microwave Radio and except as may be limited by § 21.45(b), the construction permit issued by the Commission will specify the date of grant as the earliest date of commencement of construction and a maximum of 18 months thereafter as the time within which construction shall be completed and the station be ready for operation, unless otherwise determined by the Commission upon proper showing in any particular use.

§ 21.44 Forfeiture and termination of station authorization.

(a) A construction permit shall be automatically forfeited if the station is not ready for operation within the term of the construction permit (as evidenced by the commencement of service tests as specified by § 21.212), or within such additional time as may be authorized by the Commission (upon receipt of an appropriate and timely filed application), unless prevented by causes not under the control of the permittee. Where so forfeited, the Commission will consider a petition for reinstatement of a construction permit only where:

(1) It is filed within 30 days of the expiration of the construction permit;

(2) It explains the failure to timely file a renewal application; and

(3) Where it is accompanied by an appropriate application for extension of time to construct or modification of construction permit.

(b) A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

(1) It is filed within 30 days of such expiration date;

(2) It explains the failure to timely file a renewal application is submitted; and

(3) It describes procedures which have been established to insure timely filings in the future.

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the carrier to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

§ 21.45 License period.

(a) Licenses for stations in the Point-to-Point Microwave Radio, Local Television Transmission, Multipoint Distribution Services will be issued for a period not to exceed 5 years; in the case of common carrier Television STL and Television Pickup stations to which are assigned frequencies allocated to the broadcast services, the authorization to use such frequencies shall, in any event, terminate simultaneously with the expiration of the authorization for the broadcast station to which such service is rendered except that licenses for developmental stations will be issued for a period not to exceed one year. Unless otherwise specified by the Commission, the expiration of regular licenses shall be on the following date in the year of expiration:

Point-to-Point Microwave Radio Service	Feb. 1.
Local Television Transmission Service	Do.
Multipoint Distribution Service	May 1.

The expiration date of developmental licenses shall be one year from the date of the grant thereof. When a license is granted subsequent to the last renewal date of the class of license involved, the license shall be issued only for the unexpired period of the current license term of such class.

(b) The Commission reserves the right to grant or renew station licenses in these services for a shorter period of time than that generally prescribed for such stations if, in its judgment, public interest, convenience, or necessity would be served by such action.

(c) Upon the expiration or termination of any station license, any related construction permit, which bears a later expiration date, shall be automatically terminated concurrently with the related station license, unless it shall have been determined by the Commission that the

V 44 OC 1979 UMI

public interest, convenience or necessity would be served by continuing in effect said construction permit.

Subpart C—Technical Standards

§ 21.100 Frequencies.

(a) The frequencies available for use in the services covered by this part of the rules are listed in the applicable subparts of this part. Assignment of frequencies will be made only in such a manner as to facilitate the rendition of communication service on an interference-free basis in each service area. Unless otherwise indicated, each frequency available for use by stations in these services will be assigned exclusively to a single applicant in any service area. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most effective use of the authorized facilities. In the event harmful interference occurs or appears likely to occur between two or more radio systems and such interference cannot be resolved between the licensees thereof, the Commission may specify a time sharing arrangement for the stations involved or may, after notice and opportunity for hearing, require the licensees to make such changes in operating techniques or equipment as it may deem necessary to avoid such interference.

(c) Frequency diversity transmission will not be authorized in these services in the absence of a factual showing that the required communications cannot practically be achieved by other means. Where frequency diversity is deemed to be justified on a protection channel basis, it shall be limited to one protection channel for the band 3,700–4,200 MHz, one protection channel for the band 5,925–6,425 MHz, and a ratio of one protection channel for three working channels for the band 10,700–11,700 MHz. In the bands 3,700–4,200 MHz and 5,925–6,425 MHz no frequency diversity protection channel will be authorized unless there is a minimum of three working channels, except that where a substantial showing is made that a total of three working channels will be required within 3 years, a protection channel may be authorized simultaneously with the first working channel. A protection channel authorized under such exception will be subject to termination if applications for the third working channel are not filed within 3 years of the grant date of the applications for the first working channel. Where equipment employing digital modulation techniques with cross polarized operation on the same frequency is used, the protection channel authorized under the above conditions may be considered to consist of both polarizations of the protection frequency where such is shown to be necessary.

(d) All applicants for regular authorization in the Point-to-Point Microwave Radio and Local Television Transmission Services for use of the bands 2,110–2,130 MHz and 2,160–2,180 MHz shall, before filing an application or major amendment to a pending application, coordinate proposed frequency usage with existing users in the area and other applicants with previously filed applications, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. In coordinating frequency usage with stations in the fixed-satellite service, applicants shall also comply with the requirements of Section 21.706 (c) and (d). In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, antennas and frequencies that will avoid harmful interference to other users. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in the application all entities with which the technical proposal was coordinated. In the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of harmful interference (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof shall be contained in the application. The following guidelines are applicable to the coordination procedure:

(1) Coordination involves two separate elements: Notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The name of the carriers with which coordination was accomplished must be specified.

(2) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Transmitting station name.
Transmitting station coordinates.
Frequencies and polarizations to be added or changed.
Transmitting equipment type, its stability, actual output power, and emission designator.
Transmitting antenna type and model and, if required, a typical pattern and maximum gain.
Transmitting antenna height above ground level and ground elevation above mean sea level.
Receiving station name.
Receiving station coordinates.
Receiving antenna type and model and, if required, a typical pattern and maximum gain.
Receiving antenna height above ground level and ground elevation above mean sea level.
Path azimuth and distance.

(3) For transmitters employing digital modulation techniques at frequencies below 15 GHz, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment shall also be furnished.

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by all carriers to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file his application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the carrier being notified. If notification is by mail, this date may be ascertained by: (i) The return receipt on certified mail, (ii) the enclosure of a card to be dated and returned by the recipient, or (iii) a conservative estimate of the time required for the mail to reach its destination. In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(6) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor.

(7) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(8) Where subsequent changes are not numerous or complex, the carrier receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying carrier believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change could have no impact on some carriers receiving the original notification, it is not necessary to coordinate the change with such carrier. However, these carriers should be advised of the change and of the opinion that coordination is not required for said change.

(10) Carriers should supply to all other carriers, or known carrier applicants, within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating carriers or applicants, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.

(11) Carriers should keep other carriers with which they are coordinating advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, carriers may assume, unless notified otherwise, that such frequency use is no longer desired.

(e) Where frequency conflicts arise between co-pending applications in the Point-to-Point Microwave Radio and Local Television Transmission Services, it shall be the obligation of the later filing applicant to amend his application to remove the conflict, unless he can make a showing that the conflict cannot be reasonably eliminated. Where a frequency conflict is not resolved and no showing is submitted as to why the conflict cannot be resolved, the Commission may grant the first filed application and dismiss the later filed application(s) after giving the later filing applicant(s) 30 days to respond to the proposed action.

§ 21.101 Frequency tolerance.

(a) The carrier frequency of each transmitter authorized in these services shall be maintained within the following percentage of the reference frequency except as otherwise provided in paragraph (b) of this section (unless otherwise specified in the instrument of station authorization the reference frequency shall be deemed to be the assigned frequency):

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less[1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
512 to 1,000[2]	.0005	.0005	.005
2,110 to 2,220	.001		
2,200 to 12,200[3]	.005	.005	.005
12,200 to 40,000	.03	.03	.03

[1] Below 512 MHz transmitter plate power input to the final frequency stage, as specified in the Commission's Radio Equipment List. Above 512 MHz transmitter power output, as specified in the Commission's Radio Equipment List.

[2] Beginning Aug. 9, 1975, this tolerance will govern the marketing of equipment pursuant to §§ 2.803 and 2.805 of this chapter and the issuance of all authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of .03 percent in the frequency range 2,200 to 10,500 MHz and .05 percent in the range 10,500 MHz to 12,200 MHz, and equipment so authorized may continue to be used for its life provided that it does not cause interference to the operation of any other licensee. Equipment authorized in the frequency range 2,450 to 10,500 MHz prior to June 23, 1969, at a tolerance of .05 percent may continue to be used until February 1, 1976 provided it does not cause interference to the operation of any other licensee.

[3] Equipment authorized to be operated on frequencies between 890 and 940 MHz as of Oct. 15, 1956, shall be required to maintain a frequency tolerance within 0.03 percent subject to the condition that no harmful interference is caused to any other radio station.

(b) Heterodyne microwave radio systems may be authorized a somewhat less restrictive frequency tolerance (up to .01 percent) to compensate for frequency shift caused by numerous repeaters between base band signal insertion. Where such relaxation is sought, applicant must provide all calculations and indicate the desired tolerance over each path. In such instances the radio transmitters used shall individually be capable of complying with the tolerance specified in paragraph (a) above:

(c) As an additional requirement in any band where the Commission makes assignments according to a specified channel plan, provisions shall be made to prevent the emission included within the occupied bandwidth from radiating outside the assigned channel at a level greater than that specified in § 21.106.

§ 21.102 Frequency measuring or calibrating apparatus.

The frequency measuring or calibrating device used to determine compliance of transmitting equipment with the station authorization and the applicable rules and regulations shall be independent of the transmitter frequency control elements and shall have an accuracy within one-half of the allowed frequency tolerance of the transmitter being measured.

§ 21.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.

(a) Assignments on frequencies in the band 72–76 MHz will be made only to stations located 10 or more miles from a channel 4 or 5 television station (or from the post office of the city to which such television channels are allocated, in cases where a television station has not been authorized) and shall be subject to the condition that no harmful interference is caused to reception of such television stations. Applications for use of frequencies involving less than 10 miles separation from such television stations will be returned without action.

(b) Assignments on frequencies in the band 72–76 MHz will be made only upon the applicant's affirmative showing that he agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5 and, if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the interfering fixed station will be discontinued.

(c) In cases where it is proposed to locate a 72–76 MHz fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either channel 4 or 5 (or from the post office of a community to which such television channels are allocated, in cases where a television station has not been authorized), the fixed station shall be authorized only if there are fewer than 100 family dwelling units (as defined by the United States Bureau of Census) located within a circle centered at the location of the fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted) the radius of which shall be determined by use of the following charts entitled "Chart For Determining Radius From Fixed Station In 72–76 MHz Band To Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would Be Destroyed":

BILLING CODE 6712-01-M

V 4 4 0 C 1 9 7 9 UMI

FOR CHANNEL 4

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

Effective Radiated Power of TV Station ..... 100 kw.
Television Transmitting Antenna Height ..... 500 ft.

EXPLANATION OF SCALE HEADINGS:

P—effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols:
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space
For a directional antenna use the power in the main lobe

h—height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

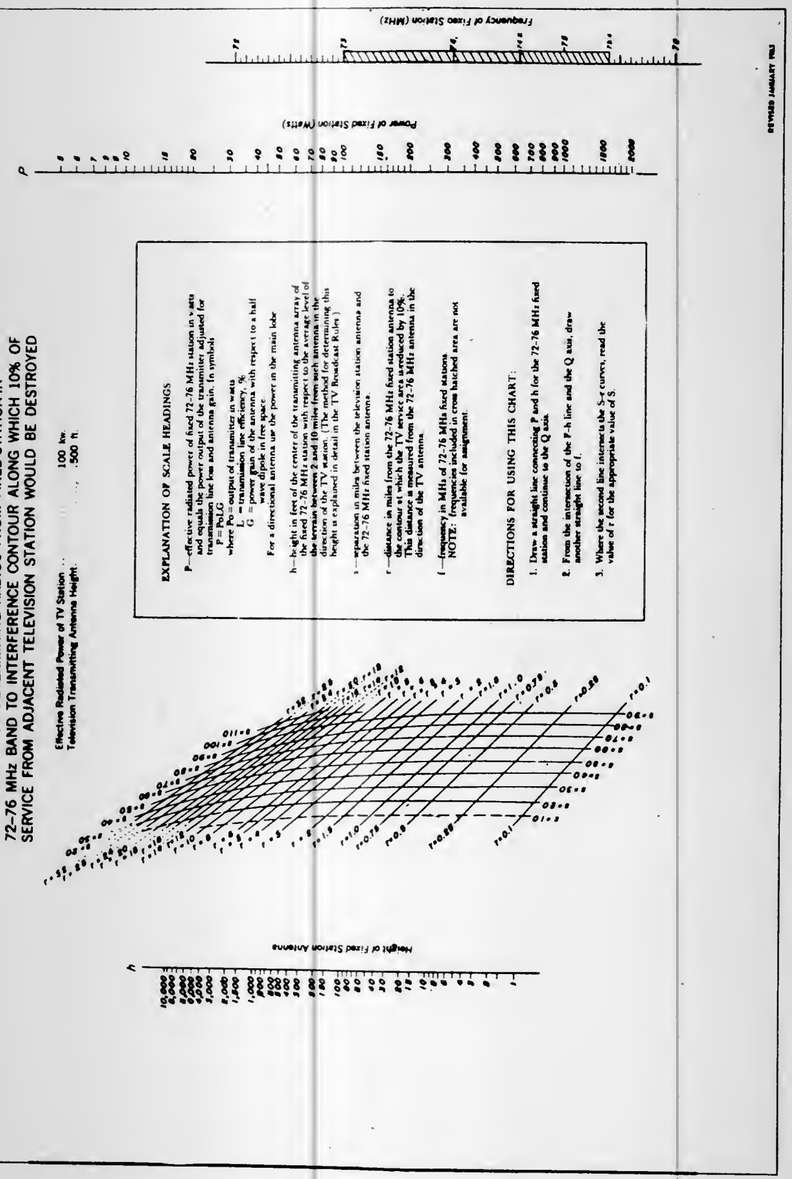
s—separation in miles between the television station antenna and the 72–76 MHz fixed station antenna

r—distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f—frequency in MHz of 72–76 MHz fixed stations
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P–h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curves, read the value of r for the appropriate value of S.



FOR CHANNEL 5

CHART FOR DETERMINING RADIUS FROM FIXED STATION IN 72–76 MHz BAND TO INTERFERENCE CONTOUR ALONG WHICH 10% OF SERVICE FROM ADJACENT TELEVISION STATION WOULD BE DESTROYED

Effective Radiated Power of TV Station ..... 100 kw.
Television Transmitting Antenna Height ..... 500 ft.

EXPLANATION OF SCALE HEADINGS:

P—effective radiated power of fixed 72–76 MHz station in watts and equals the power output of the transmitter adjusted for transmission line loss and antenna gain. In symbols:
P = PoLG
where Po = output of transmitter in watts
L = transmission line efficiency, %
G = power gain of the antenna with respect to a half wave dipole in free space
For a directional antenna use the power in the main lobe.

h—height in feet of the center of the transmitting antenna array of the fixed 72–76 MHz station with respect to the average level of the terrain between 2 and 10 miles in the direction of the TV station. (The method for determining this height is explained in detail in the TV Broadcast Rules.)

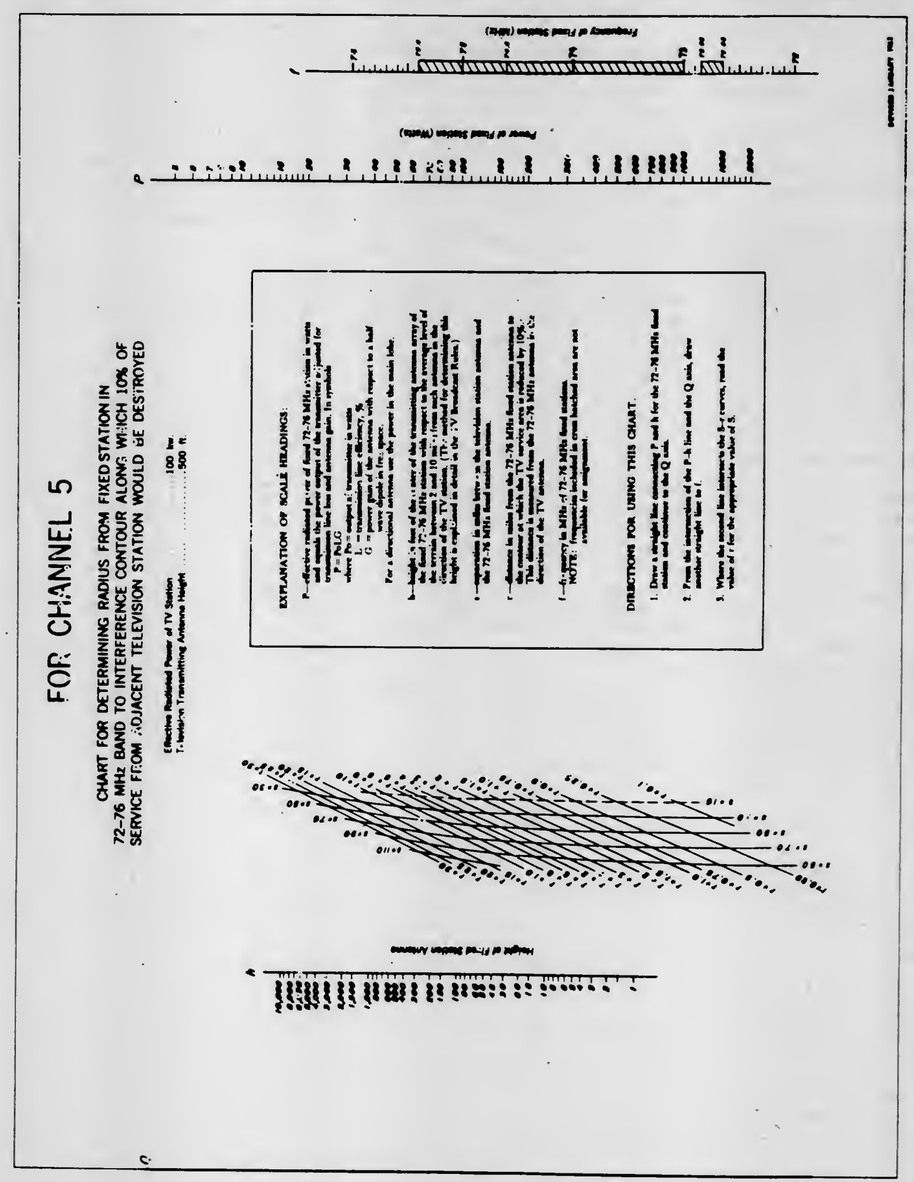
s—separation in miles between the television station antenna and the 72–76 MHz fixed station antenna.

r—distance in miles from the 72–76 MHz fixed station antenna to the contour at which the TV service is reduced by 10%. This distance is measured from the 72–76 MHz antenna in the direction of the TV antenna.

f—frequency in MHz of 72–76 MHz fixed stations
NOTE: frequencies included in cross hatched area are not available for assignment.

DIRECTIONS FOR USING THIS CHART:

1. Draw a straight line connecting P and h for the 72–76 MHz fixed station and continue to the Q axis.
2. From the intersection of the P–h line and the Q axis, draw another straight line to f.
3. Where the second line intersects the S–r curves, read the value of r for the appropriate value of S.



V 4 4 0 C 1 9 7 9 UMI

(d) In cases where more than 100 family dwelling units are contained within the circle (determined according to paragraph (c) of this section), the Commission may, in a particular case, authorize the location of a fixed station upon a factual showing that:

(1) The proposed site is the only suitable location.

(2) It is not feasible, technically or otherwise, to use other available frequencies.

(3) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(4) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

(e) No station assignments shall be made in the frequency range 74.6–75.4 MHz.

(f) No station assignments shall be made in the frequency range 72.65–72.85 MHz within 80 miles from the site of a television transmitter operating on channel 5 (or from the post office of a community to which such television channel is allocated, in cases where a television station has not been authorized).

§ 21.104 Types of emission.

(a) The types of emission which the various stations in the radio services included in this Part may use are specified in the rules in this part governing the particular service. (See § 2.201 of this chapter for information concerning the manner of designating various classes of emission.)

(b) The use of F0 and A0 emission in the 72–76 MHz band will not be authorized, except for temporary or short periods necessary for testing incident to the construction or maintenance of a radio station.

§ 21.105 Bandwidth.

Each authorization issued pursuant to these rules will show, as the emission designator, a symbol representing the class of emission which shall be prefixed by a number specifying the necessary bandwidth in kilohertz. This figure does not necessarily indicate the bandwidth actually occupied by the emission at any instant. In those cases where Part 2 of this chapter does not provide a formula for the computation of the necessary bandwidth, the occupied bandwidth may be used in the emission designator.

§ 21.106 Emission limitations.

(a) The mean power of emissions shall be attenuated below the mean output power of the transmitter in accordance with the following schedule:

(1) When using transmissions other than those employing digital modulation techniques:

(i) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any frequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwidth: At least 35 decibels;

(iii) On any frequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43+10\ \mathrm{Log}_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(2) When using transmissions employing digital modulation techniques. (See § 21.122):

(i) For operating frequencies below 15 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels.

$A=35+0.8(P-50)+10\ \mathrm{Log}_{10}B.$

(Attenuation greater than 80 decibels is not required.)

where:

A = Attenuation (in decibels) below the mean output power level.

P = Percent removed from the carrier frequency.

B = Authorized bandwidth in MHz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels.

$A=11+0.4(P-50)+10\ \mathrm{Log}_{10}B.$

(Attenuation greater than 56 decibels is not required.)

(iii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43+10\ \mathrm{Log}_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in paragraph (a) of this section.

§ 21.107 Transmitter power.

(a) The power which a station will be permitted to use in these services will be the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception. In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the effective radiated power of a station.

(b) The rated power of a transmitter employed in these radio services shall not exceed the values shown in the following tabulation:

Frequency range (MHz):	*Rated power output (watts)*
Below 30	50
30 to 50	350
50 to 76	50
76 to 512	[1]250
512 to 10,000	[2]20
Above 10,000	[2]10

[1] Transmitter rated power output is limited to a maximum of 25 watts on frequencies in the bands 454.6625–455.000 MHz and 459.6625–460.000 MHz.

[2] In the bands, 5.925–6.425 MHz and 27,500–29,500 MHz the maximum effective isotropically radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed +55 dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed satellite service. In the band 2.150–2.162 MHz up to 100 watts may be authorized pursuant to § 21.904.

(c) The power of each transmitter shall be maintained as near as practicable to the power input or output, as the case may be, specified in the instrument of station authorization: *Provided*, That the power of each base station transmitter shall not deviate by more than 20 percent above and 25 percent below the authorized power. In the event it becomes impossible to operate within such limits of the authorized power, the station may be operated with reduced power for a period of 10 days or less, provided that if such operation continues longer than 10 days the Commission and the Engineer in Charge of the radio district in which the station is located shall be notified in writing immediately thereafter and also upon the resumption of normal power.

§ 21.108 Directional antennas.

(a) Unless otherwise authorized upon specific request by the applicant each station authorized under the rules of this part shall employ a directional antenna adjusted with the center of the major lobe of radiation in the horizontal plane directed toward the receiving station with which it communicates: *Provided, however*, Where a station communicates with more than one point, a multi- or omni-directional antenna may be authorized if necessary. New Periscope antenna systems will not, under ordinary circumstances, be authorized.

(b) Stations operating below 2500 MHz (other than stations in the Multipoint Distribution Service) which

are required to use directional antennas shall employ antennas meeting the standards indicated below. (Maximum beamwidth is for the major lobe of radiation at the half power points. Suppression is the minimum attenuation required for any secondary lobe signal and is referenced to the maximum signal in the main lobe.)

Frequency range	Maximum beamwidth (degrees)	Suppression (dB)
Below 512 MHz	80	10
512 to 1000 MHz	20	13
1500 to 2500 MHz	12	13

(c) Fixed stations (other than temporary fixed) operating at 2.500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 21.109(c). Additionally, the main lobe of each antenna operating below 5.000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5.000 MHz the minimum gain shall be 38 dBi. The values indicated represent the suppression required in the horizontal plane without regard for the polarization plane of intended operation.

Angle from center line of main lobe	Minimum radiation suppression	
	Standard A (dB)	Standard B (dB)
Operation below 5,000 MHz:		
5° up to, not including 10°	23	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	32
100° up to, including 180°	55	32
Operation at 5,000 MHz or above:		
5° up to, not including 10°	25	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	35
100° up to, including 180°	55	36

(d) In cases where passive reflectors are employed in conjunction with transmitting antenna systems, the foregoing paragraphs of this section also shall be applicable thereto. However, in such instances, the center of the major lobe of radiation from the antenna normally shall be directed at the passive reflector, and the center of the major lobe of radiation from the passive reflector directed toward the receiving station with which it communicates.

(e) No directional transmitting antenna utilized by a station operating in the band 5925–6425 MHz shall be aimed within 2° of the geostationary satellite orbit, taking into account atmospheric refraction. However, exception may be made in unusual circumstances upon a showing that there is no reasonable alternative to the transmission path proposed. If there is no evidence that such exception would cause possible interference to an authorized satellite system, said transmission path may be authorized on a waiver basis where the maximum value of equivalent isotropically radiated power does not exceed; (1) 47 dBW for any antenna beam directed within 0.5° of the stationary satellite orbit or (2) 47 to 55 dBW, on a linear decibel scale (8 dB per degree) for any antenna beam directed between 0.5° and 1.5° of the stationary orbit. [Methods of calculating azimuths to be avoided may be found in: CCIR Report #393 (Green Books), New Delhi, 1970; in "Radio-Relay Antenna Pointing for Controlled Interference With Geostationary Satellites" by C. W. Lundgren and A. S. May, Bell System Technical Journal, Volume 48, No. 10, pages 3387–3422, December 1969; and in "Geostationary Orbit Avoidance Computer Program" by Richard G. Gould, Common Carrier Bureau Report CC–7201, FCC, Washington, D.C., 1972. This latter report and a card deck of the program itself are available through the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, as report numbers PB–211–500, and PB–211–501.]

§ 21.109 Antenna and antenna structures.

(a) In the event harmful interference is caused to the operation of other stations, the Commission may, after notice and opportunity for hearing, order changes to be made in the height, orientation, gain and radiation pattern of the antenna system.

(b) No replacement or change of antenna or antenna structure shall be effected, except as noted below, without prior authorization from the Commission if after such replacement or change, there would be an increase in the gain of the antenna in any direction or increase in the overall structure height: *Provided, however*, That changes may be made without prior authorization from the Commission where: The power gain in any direction is not decreased by more than 1.5 dB below that specified in the application for which authorization was issued; antenna height changes or corrections do not vary more than 2 feet from the height authorized and do not increase the overall structure height; or antenna directivity changes do not vary more than 1° from the values authorized. Within 30 days after making any changes not requiring prior authorization the licensee shall report the same to the Commission and to the Engineer in Charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information (c.f. §§ 21.15(g) and 21.121(c)).

(c) The Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station operating at 2500 MHz or higher which does not meet performance Standard A specified in § 21.108(c), upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station whereas an antenna meeting performance Standard A is not likely to involve such interference.

(d) No replacement or change of antenna or antenna structure shall be effected without prior authorization from the Commission except as provided for under this section.

§ 21.110 Antenna polarization.

(a) Stations operating in the 72–76 MHz band shall employ an antenna which radiates a signal, the electrical component of which is vertically polarized.

(b) [Reserved]

(c) [Reserved]

(d) Stations operating in the radio services included in this Part above 890 MHz are not limited as to the type of polarization of the radiated signal: *Provided, however*, That in the event harmful interference is caused to the operation of other stations, the Commission may, after notice and opportunity for hearing, order the licensee to change the polarization of the radiated signal. No change in polarization shall be made without prior authorization from the Commission.

§ 21.111 Simultaneous use of common antenna structure.

The simultaneous use of common antenna structures by more than one domestic public radio station, or by one or more domestic public radio stations and one or more stations of any other class or service, may be authorized: *Provided, however*, That each permittee, licensee or user of any such structure is responsible for maintaining the structure, and for painting and illuminating the structure when obstruction marking is required by the Commission. (See § 21.15(d) and § 21.109(b).)

V 44 0 C 19 79 UMI

§ 21.112 Marking of antenna structures.

No permittee or licensee who has been required to paint or light an antenna structure shall discontinue the required painting or lighting without having obtained prior written authorization therefor from the Commission. (For complete regulations relative to antenna marking requirements, see Part 17 of this chapter.)

§ 21.113 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. The areas involved and procedures required are as follows:

(a) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, or temporary fixed seeking authorization for a new station or to modify an existing station in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed operation. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity (if any), proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07′50″ N. latitude, 105°14′40″ W. longitude, resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

	Field strength (mV/m) in authorized bandwidth of service	Power flux density[1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	—65.8
540 to 1600 kHz	20	—59.8
1.6 to 470 MHz	10	2—65.8
470 to 800 MHz	30	2—56.2
Above 800 MHz	1	2—85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of 376.7=120 π ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plan of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder CO 80303; telephone 303–499–1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the reference point in excess of the field strength specified herein.

§ 21.114 Temporary fixed antenna height restrictions.

The overall antenna structure heights employed by mobile stations in the Local Television Transmission Service and by stations authorized to operate at temporary fixed locations shall not exceed the height criteria set forth in § 17.7 of this chapter, unless in each instance, authorization for use of a specific maximum antenna height (above ground and above mean sea level) for each location has been obtained from the Commission prior to erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter.)

§ 21.115 [Reserved]

§ 21.116 Topographical data.

In the preparation of the profile graphs described in § 21.115, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from State and municipal agencies. Data from Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data is available, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site. Ordinarily, the Commission will not require the submission of topographical maps for areas beyond 15 miles from the antenna site, but the maps must include the principal community to be served. If it appears necessary, additional data may be requested. United States Geological Survey Topographic Quadrangle Maps may be obtained from the Department of the Interior, Geological Survey, Washington, D.C., 20242. Sectional Aeronautical Charts are available from the Department of Commerce, Coast and Geodetic Survey, Washington, D.C., 20230.

§ 21.117 Transmitter location.

(a) The applicant shall determine, prior to filing an application for a radio station authorization, that the antenna site specified therein is adequate to render the service proposed. In cases of questionable antenna locations, it is desirable to conduct propagation tests to indicate the field intensity which may be expected in the principal areas or at the fixed points of communication to be served, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site survey tests to be made pursuant to a developmental authorization in the particular service concerned. In such cases, propagation tests should be conducted in accordance with recognized engineering methods and should be made with a transmitting antenna simulating, as near as possible, the proposed antenna installation. Full data obtained from such surveys and its analysis, including a description of the methods used and the name, address and qualifications of the engineer making the survey, must be supplied to the Commission.

(b) Antenna structures should be so located and constructed as to avoid making them hazardous to air navigation. (See Part 17 of this chapter for provisions relating to antenna structures.) Such installation shall be maintained in good structural condition together with any required painting or lighting.

§ 21.118 Transmitter construction and installation.

(a) The equipment at the operating and transmitting positions shall be so installed and protected that it is not accessible to, or capable of being operated by, persons other than those duly authorized by the licensee. In general, each transmitter used in the Domestic Public Radio Services shall be so constructed or installed that all controls thereon which may cause off-frequency operation or result in any unauthorized emission shall be protected from access by other than duly authorized holders of first- or second-class radio operator licenses.

(b) In any case where the maximum modulating frequency of a transmitter is prescribed by the Commission, the transmitter shall be equipped with a low-pass or band-pass modulation filter of suitable performance characteristics. In those cases where a modulation limiter is employed, the modulation filter shall be installed between the transmitter stage in which limiting is effected and the modulated stage of the transmitter. (See also §§ 21.508(e) and 21.605(d)).

(c) Each transmitter, other than a hand-carried or pack-carried transmitter, employed in these services shall be equipped with an appropriately labeled pilot lamp or meter which will provide continuous visual indication at the transmitter when its control circuits have been placed in a condition to activate the transmitter. In addition, facilities shall be provided at each transmitter to permit the transmitter to be turned on and off independently of any remote control circuits associated therewith.

(d) [Reserved]

(e) At each transmitter control point the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating, or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to activate the transmitter: *Provided, however,* That the provisions of this subparagraph shall not apply to hand-carried or pack-carried transmitters.

(2) Facilities which will permit the operator to turn transmitter carrier on and off at will.

(f) Transmitter control circuits from any control point shall be so installed that grounding or shorting any line in the control circuit will not cause the transmitter to radiate: *Provided, however,* That this provision shall not be applicable to control circuits of stations which normally operate with continuous radiation or to control circuits which are under the effective operational control of responsible operating personnel 24 hours per day.

§ 21.119 Limitation on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communication purposes. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

§ 21.120 Type acceptance of transmitters.

(a) Except for transmitters used at developmental stations, each transmitter shall be of a type which has been type accepted by the Commission for use under the applicable rules of this part.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request type acceptance by following the type acceptance procedure set forth in Part 2 of this chapter. Type accepted transmitters are included in the Commission's "Radio Equipment List". Copies of this list are available for inspection at the Commission's Office in Washington, D.C., and at each of its field offices.

(c) Type acceptance for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the type acceptance procedure set forth in Part 2 of this chapter. An individual transmitter will not normally be included in the Radio Equipment List, but will be enumerated on the station authorization.

(d) A transmitter presently shown on an instrument of authorization, which operates on an assigned frequency in the 890–940 MHz band and has not been type accepted, may continue to be used by the licensee without type acceptance provided such transmitter continues otherwise to comply with the applicable rules and regulations of the Commission.

§ 21.121 Replacement of equipment.

(a) The licensee of a station in this service may replace a transmitter without specific authorization by notifying the Commission at Washington, D.C. 20554, and its Engineer in Charge of the radio district wherein operation is to be conducted, at the time of the installation of the transmitter, if the replacement transmitter complies with the following conditions:

(1) Appears on Commission's current type-acceptance list for use under this Part 21 (see § 21.120) and is installed without modification.

(2) Its type-accepted output power is equal to the authorized output power for the transmitter being replaced.

(3) Conforms to the frequency, class of station and emission specified in the current instrument of authorization and all other applicable rules and regulations.

(b) For all transmitter replacements made pursuant to paragraph (a) of this section, any changes in input power, make and type of transmitting

V 44 OC 19 79 UMI

equipment must also be indicated on the next application for renewal of license or in the next application for modification of license, whichever is filed first. Requests for authority to make other changes in equipment shall be submitted to the Commission in appropriate applications and replacements which require applications may not be made until an authorization has been issued by the Commission. Notification is not required for a replacement which conforms in all respects to the authorized transmitter.

(c) The notification required by paragraph (a) of this section shall include:

(1) Radio service and station call sign.

(2) Location of replacement transmitter as shown on current license.

(3) Name of the manufacturer and type number of transmitter installed, as it appears on the current type-acceptance list.

(4) Rated output power of such transmitter.

(5) Identification of the transmitter being replaced (and where applicable, point(s) of communication) and the frequency on which such transmitter operates.

(6) Date of replacement.

(d) The permittee or licensee of a station in this service may replace or change equipment, other than that specified in §§ 21.109(a) and 21.121(a), including the transmission line and other devices between the transmitter and antenna if, after such change or addition the effective radiated power of the station in any direction is not decreased by more than 1.5 dB below that specified in the application for which authorization was issued. Prior authorization from the Commission is required if, after such changes the effective radiated power in any direction would be increased. Within 30 days after making any changes not requiring prior authorization, the permittee or licensee shall report the same to the Commission and to the Engineer in Charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information (c.f. §§ 21.15 and 21.121(c)).

§ 21.122 Microwave digital modulation.

(a) Microwave transmitters employing digital modulation techniques and operating below 15 GHz shall, with appropriate multiplex equipment, comply with the following additional requirements:

(1) The bit rate, in bits per second, shall be equal to or greater than the bandwidth specified by the emission designator in hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth of greater than 20 MHz).

(2) Equipment to be used for voice transmission shall be capable of satisfactory operation within the authorized bandwidth to encode at least the following number of voice channels:

Frequency range:	Number of encoded voice channels
2110 to 2130 MHz	96
2160 to 2180 MHz	96
3700 to 4200 MHz	1,152
5925 to 6425 MHz	1,152
10,700 to 11,700 MHz	1,152

(8) The required minimum number of channels shown in paragraph (a)(2) of this section may be reduced by a factor 1/N provided that N transmitters may be operated satisfactorily within an authorized bandwidth less than, or equal to, to the maximum authorizable bandwidth over the same radio path (e.g. (1) the 1152 channels requirement may be reduced to 576 if two transmitters can be satisfactorily operated over the same path within a 40 MHz maximum bandwidth for the 11 GHz band or (2) reduced to 288 channels if four transmitters can be satisfactorily accommodated within this bandwidth). Applications submitted for equipment type acceptance designed to operate in this mode must include data which will demonstrate successful operation under typical transmission conditions. Where type accepted equipment is designed to operate on the same frequency in a cross-polarized configuration to meet the above capacity requirements, the Commission will require, at the time additional transmitters are authorized, that both polarizations of a frequency be used before a new frequency assignment is made, unless a single transmitter installation was found to be justified by the Commission at the time it authorized the first transmitter.

(b) For purposes of compliance with the emission limitation requirements of § 21.106(a)(2) of this part and the requirements of paragraph (a) of this section, digital modulation techniques are considered as being employed when digital modulation contributes 50 percent or more to the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation shall be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal shall be determined in accordance with § 2.202(f) of Part 2 of this chapter.

(c) Transmitters employing digital modulation techniques shall effectively eliminate carrier spikes or single frequency tones in the output signal to the degree which would be obtained without repetitive patterns occurring in the signal.

(d) Transmitters type accepted for use with digital modulation prior to November 1, 1974 may continue to be used where authorized until December 31, 1976. After the latter date, such equipment will no longer be type accepted for digital modulation unless it is type accepted for such use after November 1, 1974.

Subpart D—Technical Operation

§ 21.200 Station inspection.

The licensee of each station authorized in the radio services included in this part shall make the station and station records available for inspection by representatives of the Commission at any reasonable hour.

§ 21.201 Posting of station authorizations.

(a) The station permit, license or other authorization shall be posted at the authorized control point of the station, or, if none, at the station location. A photocopy may be posted in lieu of the original authorization if it is certified as to authenticity by an officer or duly authorized employee of the licensee or permittee and if it is annotated with the location of the original. If not posted at the station or a control point, the original authorization shall be posted at the licensee's alarm center or maintenance facility responsible for the station. (See also § 1.62 of this chapter.)

(b) If the station is authorized for mobile operation or for operation at temporary fixed locations, the documents specified in paragraph (a) of this section shall be retained as a permanent part of the station record, but need not be posted.

§ 21.202 [Reserved]

§ 21.203 Posting of operator licenses.

(a) Whenever a licensed radio operator is required for the operation of a radio station, the license of each operator, other than an operator exclusively performing service and maintenance duties, shall be posted or kept immediately available at the place where he is on duty as an operator: *Provided, however,* That if an operator who is on duty holds a restricted radiotelephone operator permit of the

card form (as distinguished from such document of the diploma form) or holds a valid license verification card (FCC Form 758–F) attesting to the existence of any other valid commercial radio operator license, he may have such permit or verification card in his personal possession or otherwise immediately available at the place where he is on duty as an operator.

(b) The license of every station operator who performs service and maintenance duties exclusively at that station shall be posted at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed by him or under his immediate supervision and responsibility: *Provided,* That in lieu of posting his license, he may have on his person his license or a valid verification card.

§ 21.204 FCC publication required for reference.

For reference purposes, the permittee or licensee of radio facilities in the radio services included in this Part shall maintain and have available at the principal control point, or alarm center, or at the transmitter location, or maintenance center for the station, a current copy of this Part 21 (available at the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402).

Note.—It is suggested that the following additional documents be obtained from the Government Printing Office and maintained for reference:

(1) Communications Act of 1934, as amended.

(2) Part 1 of this chapter, Practice and Procedure.

(3) Part 2 of this chapter, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

(4) Part 13 of this chapter, Commercial Radio Operators.

(5) Part 17 of this chapter, Construction, Marking, and Lighting of Antenna Structures.

(6) Part 25 of this chapter, Satellite Communications.

(7) Part 42 of this chapter, Preservation of Records of Communication Common Carriers.

(8) Part 61 of this chapter, Tariffs.

(9) Part 63 of this chapter, Extension of Lines and Discontinuance of Service by Carriers.

§ 21.205 Operator requirements.

(a) Any person in charge of a radio station in these services shall be competent to maintain proper radio logs and records relative to such operations where they are required.

(b) When a radio station is radiating, all adjustments or tests during or coincident with the installation and servicing or maintenance of the transmitter and its associated radio equipment which may affect the quality of transmission or possibly cause the station radiation to exceed the limits specified in its instrument of authorization or in the rules pertaining to such station shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license (either radiotelephone or radiotelegraph, or both, as may be appropriate for the type of emission being used), who shall be responsible for the proper functioning of the radio facilities.

(c) When a radio station is not radiating, any person may perform the functions set forth in paragraphs (a) and (b) of this section without direct supervision after having been authorized to do so by the station licensee. The facilities shall thereafter initially be placed in operation and be determined to be operating properly by a first- or second-class licensed commercial radio operator.

(d) In all cases, except where manual radiotelegraph keying is employed, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a first- or second-class commercial radiotelephone or radiotelegraph license issued by the Commission.

(e) Where manual radiotelegraph keying is employed exclusively, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a first- or second-class commercial radiotelegraph operator license issued by the Commission.

(f) In cases where manual radiotelegraph keying and other types of radio transmission are employed, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a commercial radiotelegraph operator license of first- or second-class.

(g) During the course of normal rendition of service, a station employing manual radiotelegraph keying shall be operated only by a person holding a commercial radiotelegraph operator license or radiotelegraph operator permit issued by the Commission. Persons not holding such authorizations are forbidden to manipulate a manually operated telegraph key at such stations during periods of station operation.

(h) [Reserved].

(i) [Reserved]

(j) TV pickup stations, microwave auxiliary stations, and developmental stations shall be operated during the course of normal rendition of service under the effective operational control of a person holding a first- or second-class commercial radiotelephone or radiotelegraph operator license issued by the Commission.

(k) Notwithstanding any other provisions of this section, unless the transmitter and its associated equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, such transmitter shall be operated by a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used.

(l) Except under the circumstances specified in paragraphs (g) through (j) of this section, during the course of normal rendition of service, no person is required to be in attendance at a station installed at a specified fixed location provided (1) licensed radio personnel responsible for the maintenance of the radio station are continuously available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary, and (2) the quality of transmission over such station is subject to the supervision of the licensee's responsible operating personnel for the radio system with which the unattended station is directly associated.

(m) [Reserved]

(n) [Reserved]

(o) A licensee of radio facilities in these services is required to have available on call at all times (either as an employee or through appropriate contractual arrangement with a person holding the requisite class of radio operator license) a licensed first- or second-class commercial radio operator (either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used) to perform necessary technical servicing and maintenance of the radio facilities expeditiously.

§ 21.206 Inspection and maintenance of antenna structure marking and lighting, and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and Part 17 of this chapter, shall perform the inspection and maintain the tower marking and lighting and associated control equipment, in accordance with the requirements set forth in Part 17 of this chapter.

V 44 OC 19 79 UMI

§ 21.207 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter operating in these services is maintained within the tolerance prescribed in § 21.101 or in the instrument of station authorization. The determination shall be made, and the results thereof entered in the technical log of the station, in accordance with the following:

(1) When the transmitter is initially installed.

(2) When any change is made in the transmitting equipment which may affect the carrier frequency or the stability thereof.

(3) At intervals not to exceed one year, for transmitters employing crystal-controlled oscillators, or oscillators regulated by temperature-controlled or temperature-compensated cavities.

(4) At intervals not to exceed one month, for transmitters not employing crystal-controlled oscillators, or oscillators regulated by temperature-controlled or temperature-compensated cavities.

(b) [Reserved]

(c) The permittee or licensee of each station shall employ a suitable procedure to determine that the modulation characteristics of each transmitter and the signal radiated therefrom conform to the terms of the instrument of station authorization and to the applicable rules of this part. This determination shall be made, and the results thereof entered in the technical log of the station in accordance with the following:

(1) When the transmitter is initially installed.

(2) When any change is made in the transmitter which may affect the modulation characteristics.

(3) At intervals not to exceed one year.

(d) [Reserved]

(e) The determinations required by paragraphs (a) and (c) of this section shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial radio operator license who shall authenticate the accuracy of such entries by signing his name in the technical log of the station together with the class, serial number and expiration date of his license: *Provided, however,* That the licensee of the station may optionally have the required determinations made by any qualified engineering measurement service, in which case the required record entries shall also show the name and address of the engineering measurement service.

(f) The use of a frequency monitor in lieu of frequency checks will be recorded in the station log in the same manner and at the same intervals as required in paragraph (a) (3) or (4) of this section. Where automatic frequency monitors are employed which have an accuracy of at least one-half of the required frequency tolerance of the transmitters with which they are associated, their use shall be deemed to meet the frequency checking requirements for the period during which they were so used.

§ 21.208 Station records.

(a) Station records shall be kept in an orderly manner, and in such detail that the data required is readily available. Key letters, abbreviations or symbols may be used if proper meaning or explanation is set forth in the record.

(b) Each entry in the records of a station shall be signed by a person qualified to do so, having actual knowledge of the facts to be recorded.

(c) No record or portion thereof shall be erased, obliterated, or willfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry who shall strike out the erroneous portion, initial the correction made and indicate the date of correction.

(d) The records required by this part shall be retained for a period of at least one year: *Provided,* That:

(1) Records involving communications incident to a disaster or which include communications incident to, or involved in, an investigation by the Commission and concerning which the licensee has knowledge, shall be retained by the licensee until specifically authorized in writing by the Commission to destroy them.

(2) Records incident to or involved in any claim or complaint of which the licensee has knowledge shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for the filing of suits upon such claims.

(e) For each station in these services the licensee shall maintain a technical log of the station operation showing:

(1) The results and dates of the transmitter measurements required by § 21.207, and the information concerning the identity of the person making such measurements as required by § 21.207(e).

(2) Pertinent details concerning any servicing or maintenance performed on a transmitter which may affect its proper operation, including the date thereof, as well as the class, serial number and expiration date of the license of the responsible radio operator who shall authenticate the accuracy of such log by signing his name therein.

(3) Pertinent details concerning time and nature of any failure or erratic transmitter operation, including operation of automatic alarm facilities.

(f) For each station whose antenna structure is required to be illuminated, appropriate entries shall be made in the stations's technical log in conformity with the requirements of Part 17 of this chapter.

(g) For each station which is required to maintain one or more control points, an operation log book shall be kept showing the time and signature, upon entering upon duty at the station and again upon leaving duty, of the person or persons responsible for the operation of the transmitting equipment each day. Where the person responsible for the operation of the station is required to be a licensed radio operator, the log entry shall also show, on each signing in, the class, serial number, and expiration date of his operator license.

(h) The log entries concerning the class, serial number and expiration date of the radio operator licenses of the persons responsible for the technical performance and operation of a station, as required by the rules of this part, are not required to be repeated in the case of persons who are regularly employed as operators on a full-time basis at the station. However, log entries shall be authenticated by the signature of such person.

(i) Each entry in the station log shall be legibly made: *Provided, however,* That in any case where it is impracticable to make such entries in the logs immediately, rough logs may be kept in the form of notes or memoranda which shall be transcribed into the station log as soon as possible by the person qualified to do so who has actual knowledge of such facts recorded. The person so transcribing shall authenticate the entries by signing the transcription.

§ 21.209 Communications concerning safety of life and property.

(a) Handling and transmission of messages concerning the safety of life or property which is in imminent danger shall be afforded priority over other messages.

(b) No person shall knowingly cause to be transmitted any false or fraudulent message concerning the safety of life or property, or refuse upon demand immediately to relinquish the use of a radio circuit to enable the transmission of messages concerning the safety of life or property which is in imminent danger, or knowingly interfere or otherwise obstruct the transmission of such messages.

§ 21.210 Operation during emergency.

The licensee of any station in these services may, during a period of emergency in which normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication service in a manner other than that specified in the instrument of authorization: *Provided,* (a) That as soon as possible after the beginning of such emergency use, notice be sent to the Commission at Washington, D.C., and to the Engineer in Charge of the radio district in which the station is located, stating the nature of the emergency and the use to which the station is being put, and (b) that the emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and (c) that the Commission at Washington, D.C., and the Engineer in Charge shall be notified immediately when such special use of the station is terminated, and (d) that, in no event, shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, or by law, and (e) that the Commission may, at any time, order the discontinuance of any such emergency communication.

§ 21.211 Suspension of transmission.

Transmission shall be suspended immediately upon detection by the station or operator licensee or upon notification by the Commission of a deviation from the technical requirements of the station authorization and shall remain suspended until such deviation is corrected, except for transmission concerning the immediate safety of life or property, in which case transmission shall be suspended immediately after the emergency is terminated.

§ 21.212 Equipment, service and maintenance tests.

(a) When construction and installation or modification of a station has been completed in accordance with the terms of a construction permit, the technical provisions of the application therefor and the applicable provisions of this part, the permittee is authorized, during the term of such construction permit, to test the equipment for a period not to exceed 10 days, except that permittees of point-to-point microwave stations may conduct such tests for a period not to extend beyond the expiration date of the applicable construction permit: *Provided,* That:

(1) The Commission's Engineer in Charge of the radio district in which the station is located is notified not less than 2 days in advance of the date on which the transmitter will first be tested in such manner as to produce radiation, giving the name of the permittee, station location, call sign, frequencies, time and date on which tests are to be conducted.

(2) The Commission reserves the right to cancel, suspend, or change the date of beginning or duration of such tests when such action is in the public interest, convenience or necessity.

(3) All necessary precautions are taken to avoid interference to any other authorized station.

(4) No service to the public may be furnished over the facilities being tested during the equipment test period.

(b) When construction and equipment tests are completed in exact accordance with the terms of the construction permit, the technical provisions of the application therefor, and the other applicable provisions of this part, and after an application for station license has been filed with the Commission showing the station to be in satisfactory operating condition, the permittee is authorized to conduct service tests in exact accordance with the terms of the construction permit until the application for station license is granted or otherwise disposed of in accordance with the Commission's rules: *Provided,* That:

(1) The Commission's Engineer in Charge of the radio district in which the station is located is notified not less than 2 days in advance of the beginning of the tests of the time and date when such tests are scheduled to begin.

(2) The Commission reserves the right to cancel, suspend, or change the date of beginning or duration of such tests when such action is in the public interest, convenience or necessity.

(3) Service tests shall not commence after the expiration date of the construction permit.

(4) Charges for service furnished during the service test period shall be made, pursuant to the provisions of legally applicable tariffs (see § 61.62 of this chapter).

(c) [Reserved]

(d) The licensees of all stations in these services are authorized to make such tests as may be necessary for the proper maintenance of the station provided, that all necessary precautions are taken to avoid interference with other authorized services. The time taken for such tests shall be held to a minimum.

(e) The authorization for tests embodied in paragraphs (a) and (b) of this section shall not be construed as constituting a license to operate but as a necessary part of the construction.

(f) Where a facility is to be constructed and operated pursuant to a temporary authorization, the Commission and the Engineer in Charge of the district in which the facility is located shall be notified upon commencement of operation.

§ 21.213 Station identification.

(a) Each station in these services, except as otherwise provided in this section, shall identify itself by transmitting its assigned call sign in connection with each communication or exchange of communication. In the event of a prolonged series of communications, a station shall identify itself at least every half hour. However, stations engaged in a public telephone message, telegram, radiophoto, or program transmission shall not be required to transmit identifying call signs when such identification would interrupt the continuity of the message, radiophoto, or program that is being transmitted. In any such case, the identifying call sign shall be transmitted immediately following the conclusion of the message, radiophoto or program: *Provided,* That the requirement for transmission of station identification is waived for fixed stations employing continuous radiation with multichannel or video transmission.

(b) [Reserved]

(c) [Reserved]

(d) Where transmission of station identification is required such transmission shall be capable of being received and understood at an appropriate receiver without the use of special channeling or transmission unscrambling devices: *Provided,* That:

(1) Where telephony is employed, station identification shall be by aural transmission or automatic tone signalling.

(2) Where telegraphy, radiophoto or facsimile transmission is employed, the station identification shall be transmitted at a speed not to exceed 25 words per minute at least 3 times in the International Morse Code as "QRA de" followed by the station call sign.

(3) Where television transmission is employed, station identification shall be transmitted either aurally or visually for a period of not less than 5 seconds, or via telegraphic transmission at a speed not to exceed 25 words per minute at least 3 times in the International Morse Code as "QRA de" followed by the station call sign.

V 44 OCT 19 79 UMI

§ 21.214 Operation of stations at temporary fixed locations for communication between the United States and Canada or Mexico.

Stations authorized to operate at temporary fixed locations shall not be used for transmissions between the United States and Canada, or the United States and Mexico, without prior specific notification to, and authorization from, the Commission. Notification of such intended usage of the facilities should include a detailed showing of the operation proposed, including the parties involved, the nature of the communications to be handled, the terms and conditions of such operations, the time and place of operation, such other matters as the applicant deems relevant, and a showing as to how the public interest, convenience and necessity would be served by the proposed operation. Such notification should be given sufficiently in advance of the proposed date of operation to permit any appropriate correlation with the respective foreign government involved (see §§ 21.611, 21.708, 21.806, 21.807, and 21.808).

Subpart E—Miscellaneous

§ 21.300 Business records.

Each licensee of radio facilities authorized under the rules of this part and required to file FCC Form P (see § 1.785 of this chapter) shall keep complete records of all phases of operations covered by such reports distinctly separate and apart from any other business or activity conducted by the licensee.

§ 21.301 National defense; free service.

Any common carrier authorized under the rules of this part may render to any agency of the United States Government free service in connection with the preparation for the national defense. Every such carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st of July and on or before the 31st of January in each year, reports covering the periods of 6 months ending on the 30th of June and the 31st of December, respectively, next prior to said dates. These reports shall show the names of the agencies to which free service was rendered pursuant to this rule, the general character of the communications handled for each agency, and the charges in dollars which would have accrued to the carrier for such service rendered to each agency if charges for such communications had been collected at the published tariff rates.

§ 21.302 Answers to notices of violation.

Any person receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any other Federal statute or Executive Order pertaining to radio or wire communications or any international radio or wire communications treaty or convention, or regulations annexed thereto to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 10 days from such receipt, send a written answer to the office of the Commission originating the official notice. If an answer cannot be sent or an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to some violation that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given or, if a file number has not been assigned by the Commission, such identification as will permit ready reference thereto. If the notice of violation relates to inadequate maintenance resulting in improper operation of the transmitter, the name and license number of the operator performing the maintenance shall be given. If the notice of violation relates to some lack of attention to, or improper operation of, the transmitter by other employees, the reply shall set forth the steps taken to prevent a recurrence of such lack of attention or improper operation.

§ 21.303 Discontinuance, reduction or impairment of service.

(a) If the public communication service provided by a station in the Domestic Public Radio Services is involuntarily discontinued, reduced or impaired for a period exceeding 48 hours, the station licensee shall promptly give notification thereof in writing to the Commission at Washington, D.C. 20554, and the Commission's Engineer in Charge of the radio district in which the station is located. In such cases, the licensee shall furnish full particulars as to the reasons for such discontinuance, reduction or impairment of service, including a statement as to when normal service is expected to be resumed. When normal service is resumed, prompt notification thereof shall be given in writing to the Commission at Washington, D.C. 20554, and the Commission's Engineer in Charge of the radio district in which the station is located.

(b) No station licensee subject to Title II of the Communications Act of 1934, as amended, shall voluntarily discontinue, reduce or impair public communication service to a community or part of community without obtaining prior authorization from the Commission pursuant to the procedures set forth in Part 63 of this chapter. In the event that permanent discontinuance of service is authorized by the Commission, the station licensee shall immediately give notification of the effective date thereof in writing to the Commission's Engineer in Charge of the radio district in which the station is located and shall promptly send the station license to the Commission at Washington, D.C. 20554, for cancellation.

(c) Any station licensee, not subject to title II of the Communications Act of 1934, as amended, who voluntarily discontinues, reduces or impairs public communication service to a community or part of a community shall give written notification to the Commission within 7 days thereof. In the event that service is permanently discontinued, the licensee shall give written notification thereof to the Commission's Engineer in Charge of the radio district in which the station is located and shall promptly send the station license to the Commission at Washington, D.C. 20554, for cancellation.

§ 21.304 Tariffs, reports, and other material required to be submitted to the Commission.

Part 1, of this chapter, beginning with § 1.771, contains a summary of certain material and reports, including, but not limited to schedule of charges and accounting and financial reports, which must be filed with or submitted to the Commission.

§ 21.305 Reports required concerning amendments to charters and partnership agreements.

Any amendments to charters, articles of incorporation or association, or partnership agreements shall promptly be filed at the Commission's main office in Washington, D.C. Such filing shall be directed to the attention of the Chief, Common Carrier Bureau.

§ 21.306 Requirement that permittees and licensees respond to official communications.

All permittees and licensees in these services are required to respond to official communications from the Commission with reasonable dispatch and according to the tenor of such communications. Failure to do so will be given appropriate consideration in connection with any subsequent applications which the offending party may file and may result in the designation of such applications for hearing, or in appropriate cases, the institution of proceedings looking to the modification or revocation of the pertinent authorizations.

§ 21.307 Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded by all common carrier licensees or permittees to all qualified persons, and no personnel shall be discriminated against in employment because of sex, race, color, religion, or national origin.

(b) *Equal employment opportunity program.* Each licensee or permittee shall establish, maintain, and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice. Under the terms of its program, a licensee or permittee shall:

(1) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion, or national origin, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's or permittee's personnel policies and practices and working conditions.

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(c) *Additional information to be furnished to the Commission.* (1) Equal Employment Programs to be filed by common carrier licensees or permittees.

(i) All licensees or permittees will file a statement of their equal employment opportunity program not later than December 17, 1970, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion, or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination.

(A) Any changes or amendments to existing programs should be filed with the Commission on April 1 of each year thereafter.

(B) If a licensee or permittee has fewer than 16 full-time employees, no such statement need be filed.

(2) The program should reasonably address itself to such specific areas as set forth below, to the extent that they are appropriate in terms of licensee size, location, etc.

(i) *To assure nondiscrimination in recruiting.* (A) Posting notices in the licensee's or permittee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans such notice should be posted in Spanish and English.

(B) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibited and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission or other appropriate agency if they believe they have been discriminated against.

(C) Placing employment advertisements in media which have significant circulation among minority-group people in the recruiting area.

(D) Recruiting through schools and colleges with significant minority group enrollments.

(E) Maintaining systematic contacts with minority and human relations organizations, leaders, and spokesmen to encourage referral of qualified minority or female applicants.

(F) Encouraging present employees to refer minority or female applicants.

(G) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) *To assure nondiscrimination in selection and hiring.* (A) Instructing personally those on the staff of the licensee or permittee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(B) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(C) Avoiding use of selection techniques or tests which have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotions.* (A) Instructing personally those of the licensee's or permittee's staff who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(B) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(C) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(D) Avoiding use of selection techniques or tests, which have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (A) Examining rates of pay and fringe benefits for present employees with equivalent duties, and adjusting any inequities found.

(B) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority groups or female employees.

(d) *Report of complaints filed against licensees and permittees.* (1) All licensees or permittees shall submit an annual report to the FCC no later than May 31 of each year indicating whether

V 44 0 C 1979 UMI

any complaints regarding violations by the licensee or permittee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(i) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(ii) Any licensee or permittee who has filed such information with the EEOC need not do so with the Commission, if such previous filing is indicated.

(e) *Complaints of violations of Equal Employment Programs.* (1) Complaints alleging employment discrimination against a common carrier licensee will be considered by the Commission in the following manner:

(i) If a complaint raising an issue of discrimination is received against a licensee or permittee who is within the jurisdiction of the EEOC, it will be submitted to that agency. The Commission will maintain a liaison with that agency which will keep the Commission informed of the disposition of complaints filed against any of the common carrier licensees.

(ii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(iii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC or an appropriate State law, will be accorded appropriate treatment by the FCC.

(iv) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees or permittees with the principles of equal employment as set forth herein.

(2) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee or permittee who is required to file an employment report to the Commission under § 1.815(a) of this chapter, will be investigated by the Commission.

(f) *Records available to public*—(1) *Commission records.* A copy of every annual employment report, equal employment opportunity program, and reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(2) *Records to be maintained locally for public inspection by licensees or permitees*—(i) *Records to be maintained.* Each licensee or permittee required to file annual employment reports, equal employment opportunity programs, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain, for public inspection, in the same manner and in the same locations as required for the keeping and posting of tariffs as set forth in § 61.72 of this chapter, a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference.

(ii) *Period of retention.* The documents specified in paragraph (f)(2)(i) of this section shall be maintained for a period of 2 years.

Subpart F—Developmental Authorizations

§ 21.400 Eligibility.

Developmental authorizations for stations in the radio services included in this part will be issued only to existing and proposed communication common carriers who are legally, financially and otherwise qualified to conduct experimentation utilizing hertzian waves for the development of engineering or operational data, or techniques, directly related to a proposed Part 21 radio service or to a regularly established radio service regulated by the rules of this part.

§ 21.401 Scope of service.

Developmental authorizations may be issued for:

(a) Field strength surveys relative to or precedent to the filing of applications for construction permits, in connection with the selection of suitable locations for stations proposed to be established in any of the regularly established radio services regulated by the rules of this part; or

(b) In the Point-to-Point Microwave and Local Television Services, the testing of existing or authorized antennas, wave guides or transmission paths; or

(c) [Reserved]

§ 21.402 Adherence to program of research and development.

The program of research and development, as stated by an applicant in the application for construction permit or license or stated in the instrument of station authorization, shall be substantially adhered to unless the licensee is otherwise authorized by the Commission.

§ 21.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.

(a) An authorization for the development of a new common carrier service not in accordance with the provisions of the rules in this part may be granted for a limited time, but only after the Commission has made a preliminary determination with respect to the factors set forth in this paragraph, as each case may require. This procedure also applies to any application that involves use of a frequency which is not in accordance with the provisions of the rules in this part, although in accordance with the Table of Frequency Allocations contained in Part 2 of this chapter. (An application which involves use of a frequency which is not in accordance with the Table of Frequency Allocations in Part 2 of this chapter should be filed in accordance with the provisions of Part 5 of this chapter, Experimental Radio Services (other than Broadcast).) The factors with respect to which the Commission will make a preliminary determination before acting on an application filed under this paragraph are as follows:

(1) That the public interest, convenience or necessity warrants consideration of the establishment of the proposed service or the use of the proposed frequency;

(2) That the proposed operation appears to warrant consideration to effect a change in the provisions of the rules in this part; and/or

(3) That some operational data should be developed for consideration in any rule making proceeding which may be initiated.

(b) Applications for construction permits for stations which are intended to be used in the development of a proposed service shall be accompanied by a petition to amend the Commission's rules with respect to frequencies and such other items as may be necessary to provide for the regular establishment of the proposed service.

§ 21.404 Terms of grant; general limitations.

(a) Developmental authorizations normally shall be issued for one year, or such shorter term as the Commission may deem appropriate in any particular case, and shall be subject to cancellation without hearing by the Commission at any time upon notice to the licensee.

(b) Where some phases of the developmental program are not covered by the general rules of the Commission or by the rules of this part, the Commission may specify supplemental or additional requirements or conditions in each case as it may deem necessary in the public interest, convenience or necessity.

(c) Frequencies allocated to the service toward which such development is directed will be assigned for developmental operation on the basis that no interference will be caused to the regular services of stations operating in accordance with the Commission's Table of Frequency Allocations (§ 2.106 of this chapter).

(d) The rendition of communication service for hire is not permitted under any developmental authorizations unless specifically authorized by the Commission.

(c) The grant of a developmental authorization carries with it no assurance that the developmental program, if successful, will be authorized on a permanent basis either as to the service involved or the use of the frequencies assigned or any other frequencies.

§ 21.405 Supplementary showing required.

(a) Authorizations for development of a proposed radio service in the radio services included in this part will be issued only upon a showing that the applicant has a definite program of research and development, the details of which shall be set forth, having reasonable promise of substantial contribution to these services within the term of such authorization. In addition to showing that the applicant is financially qualified or that adequate provision has been made to underwrite the costs of the proposed venture, a specific showing should be made as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose.

(b) Expiring developmental authorizations may be renewed only upon the applicant's compliance with the applicable requirements of § 21.406 (a) and (b) relative to the authorization sought to be renewed and upon a factual showing that further progress in the program of research and development requires further radio transmission and that the public interest, convenience or necessity would be served by renewal of such authorization.

§ 21.406 Developmental report required.

(a) Upon completion of the program of research and development, or, in any event, upon the expiration of the instrument of station authorization under which such investigations were permitted, or at such times during the term of the station authorization as the Commission may deem necessary to evaluate the progress of the developmental program, the licensee shall submit, in duplicate, a comprehensive report on the following items, in the order designated:

(1) Report on the various phases of the project which were investigated.

(2) Total number of hours of operation on each frequency assigned.

(3) Copies of any publication on the project.

(4) A listing of any patents applied for, including copies of any patents issued as a consequence of the activities carried forth under the authorization.

(5) Detailed analysis of the result obtained.

(6) Any other pertinent information.

(b) In addition to the information required by paragraph (a) of this section, the developmental report of a station authorized for the development of a proposed radio service shall include comprehensive information on the following items:

(1) Probable public support and methods of its determination.

(2) Practicability of service operations.

(3) Interference encountered.

(4) Pertinent information relative to merits of the proposed service.

(5) Propagation characteristics of frequencies used, particularly with respect to the service objective.

(6) Frequencies believed to be more suitable and reasons therefor.

(7) Type of signals or communications employed in the experimental work.

(c) Normally, developmental reports will be made a part of the Commission's public records. However, an applicant may request that the Commission withhold from the public certain reports and associated material relative to the accomplishments achieved under developmental authorization, and, if it appears that such information should be withheld, the Commission will so direct.

Subpart G—[Reserved]

Subpart H—[Reserved]

Subpart I—Point-to-Point Microwave Radio Service

§ 21.700 Eligibility.

Authorizations for stations in this service will be issued to existing and proposed communication common carriers. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience or necessity would be served by a grant thereof. In addition, applications for stations to be used to relay television signals to community antenna television systems must include a showing that at least 50 percent of the customers (on the microwave system involved), including customers of any interconnecting carrier(s), receiving applicant's service are unrelated and unaffiliated with the applicant, and that the proposed usage by such customers, in terms of hours of use and channels delivered, constitutes at least 50 percent of the usage of applicant's microwave system. Applications which do not contain the showing required by this section will be returned as unacceptable for filing.

§ 21.701 Frequencies.

(a) Frequencies in the following bands are available for assignment to fixed radio stations in the Point-to-Point Microwave Radio Service:

2,110–2,130 MHz [1 3 7]	17,700–19,700 MHz [3 10]
2,160–2,180 MHz [1 2 5]	21,200–22,000 MHz [4 11 13 12]
3,700–4,200 MHz [3 8]	22,000–23,600 MHz [4 11 12]
5,925–6,425 MHz [3 6 7]	27,500–29,500 MHz [5]
10,700–11,700 MHz [3 9]	31,000–31,200 MHz [4]
13,200–13,250 MHz [4]	38,600–40,000 MHz [4]

[1] Frequencies in this band are shared with control and repeater stations in the Domestic Public Land Mobile Radio Service and with stations in the International Fixed Public Radiocommunication Services located south of 25°30' north latitude in the State of Florida and U.S. possessions in the Caribbean area. Additionally, the band 2160–2162 MHz is shared with stations in the Multipoint Distribution Service.

[2] Except upon a showing that no alternative frequencies are available, no new assignments will be made in the band 2160–2162 MHz for stations

located within fifty (50) miles of the coordinates of the cities listed in § 21.901(c) of this chapter.

[3] Television transmission in this band is not authorized and radio frequency channel widths shall not exceed 3.5 MHz.

[4] Frequencies in this band are shared with fixed and mobile stations licensed in other services.

[5] Frequencies in this band are shared with stations in the fixed-satellite service.

[6] These frequencies are not available for assignment to mobile earth stations.

[7] Frequencies in the band 2110–2120 MHz may be authorized on a case-by-case basis to Government or non-Government space research earth stations for telecommand purposes in connection with deep space research.

[8] This frequency band is shared with station(s) in the Local Television Transmission Service and, in the U.S. Possessions in the Caribbean area, with stations in the International Fixed Public Radiocommunication Services.

[9] The band segments 10.95–11.2 and 11.45–11.7 GHz are shared with space stations (space to earth) in the fixed-satellite service.

[10] The band segment 18,360–19,040 MHz is shared with operational fixed stations.

[11] Frequencies in the band are shared with Government stations.

[12] Assignments to common carriers in this band are normally made in the segments 21.2–21.8 GHz and 22.4–23.0 GHz and to operational fixed users in the segments 21.8–22.4 GHz and 23.0–23.6 GHz. Assignments may be made otherwise only upon a showing that no interference free frequencies are available in the appropriate band segments.

[13] Frequencies in this band are shared with stations in the earth exploration satellite service (space to earth).

(b) Licensees holding a valid authorization on April 16, 1958, to operate in the frequency band 890–942 MHz may continue to be authorized for such operation subject to the following conditions:

(1) Operations will not be protected against any interference received from the emission of industrial, scientific, and medical equipment operating on the frequency 915 MHz or from the emission of radiolocation stations in the 800–942 MHz band.

(2) No harmful interference shall be caused to station(s) operating in the radiolocation service in the 800–942 MHz band.

(c) Stations now authorized in the band 890–942 MHz may be authorized to operate in the band 942–952 MHz on the following conditions:

(1) That such stations can show that harmful interference is being caused by Government radiopositioning stations in the 890–942 MHz band or by ISM equipment operating on 915 MHz.

(2) That an engineering study by the Commission indicates that the proposed frequency assignment in the band 942–952 MHz is likely to eliminate the interference.

(3) That the bandwidth of emission does not exceed 1100 kHz.

(4) That the proposed frequency assignment will not cause interference to existing operations in the band 942–952 MHz.

(d) The following frequencies are allocated for assignment to control stations in this service on a shared basis with other radio services; upon a satisfactory showing that it is impracticable to use wire lines:

72–76 MHz Band [1]

MHz	MHz	MHz	MHz
72.02	72.42	72.82	75.62
72.04		72.84	75.64
72.06	72.46	72.86	75.66
72.08		72.88	75.68
72.10	72.50	72.90	75.70
72.12		72.92	75.72
72.14	72.54	72.94	75.74
72.16		72.96	75.76
72.18	72.58	72.98	75.78
72.20		75.42	75.80
72.22	72.62		75.82
72.24	72.64	75.46	75.84
72.26	72.66		75.86
72.28	72.68	75.50	75.88
72.30	72.70		75.90
72.32	72.72	75.54	75.92
72.34	72.74		75.94
72.36	72.76	75.58	75.96
72.38	72.78		75.98
72.40	72.80		

[1] Assignments made to stations on frequencies in this band are subject to the condition that no harmful interference will be caused to operational fixed stations or reception of television stations on channel 4 or 5 (See § 21.103).

(e) Upon a satisfactory factual showing that it is impracticable to use wireline circuits for control of a specific point-to-point microwave fixed station from its control point or for automatically telemetering information relative to the operation of such station to its attended alarm center, the frequencies listed below may be assigned to a control station for such purposes: *Provided*, That:

(1) The control station and the point to which its radio transmission is directed are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(2) The use of the frequencies requested by the applicant will not cause harmful interference to another station authorized to use such frequencies in the radio services included in this Part or in Part 22.

(3) The effective radiated power of the control station does not exceed 150 watts.

(4) The use of such frequencies for control purposes shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations.

MHz	MHz
454.025 [1]	[1] 459.025
454.050 [1]	[1] 459.050
454.075 [1]	[1] 459.075
454.100 [1]	[1] 459.100
454.125 [1]	[1] 459.125
454.150 [1]	[1] 459.150
454.175 [1]	[1] 459.175
454.200 [1]	[1] 459.200
454.225 [1]	[1] 459.225
454.250 [1]	[1] 459.250
454.275 [1]	[1] 459.275
454.300 [1]	[1] 459.300
454.325 [1]	[1] 459.325
454.350 [1]	[1] 459.350
454.375 [2]	[2] 459.375
454.400 [2]	[2] 459.400
454.425 [2]	[2] 459.425
454.450 [2]	[2] 459.450
454.475 [2]	[2] 459.475
454.500 [2]	[2] 459.500
454.525 [2]	[2] 459.525
454.550 [2]	[2] 459.550
454.575 [2]	[2] 459.575
454.600 [2]	[2] 459.600
454.825 [2]	[2] 459.625
454.650 [2]	[2] 459.650

[1] This frequency is available for assignment only to stations of communication common carriers not also engaged in the business of providing a public landline message telephone service.

[2] This frequency is available for assignment only to stations of communication common carriers also engaged in the business of affording public landline message telephone service.

(f) The frequency 27.255 MHz is available for assignment to microwave auxiliary stations in this service on a shared basis with other radio services. Assignments to stations on such frequency will not be protected from such interference as may be experienced from the emissions of industrial, scientific, and medical equipment operating on the frequency 27.12 MHz.

(g) [Reserved]

(h) Fixed stations in this service in the State of Alaska, south of 56° North Latitude and east of 134° West Longitude, may be authorized to use frequencies in the 800–830 MHz band on the condition that harmful interference will not be caused to the broadcasting service of any country.

(i) Applications for new stations or frequency paths (except for power splits of existing frequency paths) in the bands 3,700–4,200 MHz and 5,925–6,425 MHz which are to be used to relay television signals to community antenna television systems will not be accepted for filing or granted: *Provided, however*, That waivers of this provision may be granted for good cause shown, including a showing that the proposed frequency usage is not likely to affect adversely the developmnent of any major communications route; and *Provided further*, That such waivers will not be granted, absent a showing of compelling and unusual circumstances, for new stations or frequency paths (except for power splits of existing frequency paths) within fifty (50) miles of the coordinates of the principal city, as set forth in the U.S. Department of Commerce publication "Air Line Distance Between Cities in the United States," of one of the top 25 standard metropolitan statistical areas, as ranked by the U.S. Census Bureau.

(j) The band 17,700–19,700 MHz is allocated for both wide band (over 100 MHz) and narrow band (100 MHz or under) users. Assignments for wide band users shall be made on the basis of the following frequency plan consisting of eight two-way channels, each 220 MHz wide:

Channel group A		Channel group B	
Channel No.	Assigned frequency polarized vertically (V) or horizontally (H)	Channel No.	Assigned frequency polarized vertically (V) or horizontally (H)
1–A	17,810 V	1–B	19,590 V
2–A	17,810 H	2–B	19,590 H
3–A	18,030 V	3–B	19,370 V
4–A	18,030 H	4–B	19,370 H
5–A	18,250 V	4–B	19,150 V
6–A	18,250 H	6–B	19,150 H
7–A	18,470 V	7–B	18,930 V
8–A	18,470 H	8–B	18,930 H

Where narrow bandwidths are required, the lowest available frequency shall be selected in the band segment 18,580–18,700 MHz and/or 18,700–18,820 MHz. If frequencies of the desired (narrow) bandwidth cannot be accommodated in these band segments, application may be made for the lowest available frequency in the spectrum assigned to wide band channels 7 or 8 (i.e. 18,360–18,580 MHz or 18,820–19,040 MHz). Channels 7 and 8 may not be assigned for wide band use if any other wide band channels are available. If channels 7 and 8 are proposed for either wide or narrow band use, applicant shall make a statement that no alternative frequencies of the desired bandwidth are available in the band. Polarizations other than those specified above for wide band channels may be assigned if such use will not inhibit full development of all channels in the band.

(k) Assignments in the band 38,600–40,000 MHz shall be according to the following frequency plan:

Channel group A		Channel group B	
Channel No.	Frequency band limits MHz	Channel No.	Frequency band limits MHz
1–A	38,600–38,650	1–B	39,300–39,350
2–A	38,650–38,700	2–B	39,350–39,400
3–A	38,700–38,750	3–B	39,400–39,450
4–A	38,750–38,800	4–B	39,450–39,500
5–A	38,800–38,850	5–B	39,500–39,550
6–A	38,850–38,900	6–B	39,550–39,600
7–A	38,900–38,950	7–B	39,600–39,650
8–A	38,950–39,000	8–B	39,650–39,700
9–A	39,000–39,050	9–B	39,700–39,750
10–A	39,050–39,100	10–B	39,750–39,800
11–A	39,100–39,150	11–B	39,800–39,850
12–A	39,150–39,200	12–B	39,850–39,900
13–A	39,200–39,250	13–B	39,900–39,950
14–A	39,250–39,300	14–B	39,950–40,000

These channels are assigned for use within a rectangular service area to be described in the application by the maximum and minimum latitudes and longitudes. Such service area shall be as small as practicable consistent with the local service requirements of the carrier.

These frequency plans may be subdivided as desired by the licensee and used within the service area as desired without further authorization subject to the terms and conditions set forth in § 21.711. These frequencies shall be assigned only where it is shown that the applicant will have a reasonable projected requirement for a multiplicity of service points or transmission paths within the area.

§ 21.702 Transmitter power.

Stations in this service shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 21.107(b) and a standby transmitter having a rated power output in excess of that of the main transmitter with which it is associated will not be authorized.

§ 21.703 Bandwidth and emission limitations.

(a) Stations in this service operating on frequencies in the 72–76 MHz band shall be authorized to employ only amplitude modulated or frequency modulated emission for radiotelegraphy, radiotelephony and facsimile.

(b) Stations in this service operating on the frequency 27.255 MHz shall be authorized to employ only amplitude modulated or frequency modulated emission for radiotelephony.

(c) Except as limited by § 21.701(f) and by paragraphs (a) and (b) of this section, stations operating in the frequency bands listed in § 21.701 may be authorized to use amplitude modulated, frequency modulated or pulse type emission for radiotelephony, facsimile and television. The use of unmodulated emission may be authorized in appropriate cases upon specific request supported by a justification of the need therefor.

(d) The authorization to employ any of the various types of modulated emission below 890 MHz in this service shall be construed to include authority to employ unmodulated emission only for temporary or short periods necessary for equipment testing incident to the construction and maintenance of a radio station.

(e) The maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emission, the maximum authorized frequency deviation shall be as follows:

Type of emission	50–150MHz		15–500MHz	
	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
A1		1		1
A2		3		3
A3		8		8
F1		3		3
F2		15		15
F3		[2] 40		[1] 20 [2] 15

[1] In the frequency band 450 to 470 MHz, radio facilities using frequency modulated or phase modulated emission, authorized prior to June 1, 1968, will continue to be authorized with bandwidth of 40 kHz until November 1, 1971, provided that the frequency deviation is reduced to 5 kHz by June 1, 1968.

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 MHz, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kHz and maximum frequency deviation of 5 kHz. Radio facilities which were authorized for operation on Dec. 1, 1961, in the frequency band 73.0–74.6 MHz may continue to be authorized without change and with bandwidth of 40 kHz and frequency deviation of 15 kHz. New or modified facilities in the frequency band 73.0–74.6 MHz will not be authorized.

(f) On frequencies in the 890–940 MHz band, the bandwidth authorized shall not exceed 400 kHz for each derived communication channel and may be restricted to lesser bandwidth when appropriate to the type of operation involved in any particular case.

(g) The maximum bandwidth authorized shall not exceed that reasonably necessary to provide the proposed service but in no event shall it exceed the limits set forth below:

Frequency band (MHz):	Maximum authorized bandwidth (MHz)
2,110 to 2,180	3.
2,160 to 2,180	3.5
3,700 to 4,200	20.0
5,925 to 6,425	30.0
10,700 to 11,700	40.0
13,200 to 13,250	25.0
17,700 to 19,700	220.0
21,200 to 22,000	100.0
22,000 to 23,600	100.0
27,500 to 29,500	220.0
31,000 to 31,200	50.0
38,600 to 40,000	50.0

(h) The bandwidths authorized on frequencies above 500 MHz shall be appropriate to the type of operation in any particular case. An application requesting such authorization shall fully describe the modulation, emission, and bandwidth desired and shall specify the bandwidth to be occupied.

§ 21.704 Modulation requirements.

(a) When amplitude modualtion is used, the modulation percentage shall be sufficient to provide efficient commuication and shall normally be maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(b) Transmitters employing type A3 or F3 emission and operating on frequencies below 500 MHz shall conform to the requirements set forth in §§ 21.507 and 21.508.

V 44 OC 19 79 9 UMI

§ 21.705 Permissible communications.

Stations in this service are authorized to render any kind of communication service provided for in the legally applicable tariffs of the carrier, unless otherwise directed in the applicable instrument of authorization or limited by § 21.701 or § 21.703. In authorizations classed as fixed video, the services permissible are limited to the carriage of video signals and their associated audio signals unless otherwise conditioned.

§ 21.706 Supplementary showing required with applications.

(a) Each application for initial installation of a radio station in this service, or for installation of equipment to provide additional service, or for authority to communicate with new points, shall be accompanied by a statement showing how the proposal will serve the public interest, convenience and necessity. Such statement must include information concerning:

(1) The nature and type of services to be rendered (e.g. telephone/telegraph, private line voice/data, television transmission, etc.)

(2) The cities or communities to be served including the number of circuits to be established. Where multiple cities are to be served, specify by diagram or other appropriate means the circuit cross section between service points.

(3) Projected future circuit growth anticipated between service points and indicate the source of such projections.

(4) Where the construction of radio facilities is dependent upon the specific requirements of one or several customers of a limited class (e.g. those desiring television signals), the need for facilities should be supported by an order for service from each such customer.

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplicate information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. The information submitted in connection with paragraph (a) of this section shall not be considered to replace any requirement to acquire authority for channelizing pursuant to Section 214 of the Communications Act.

(c) In those frequency bands shared with the communication-sattellite service and applicant for a new station, for new points of communication, for the initial frequency assignment in a shared band for which coordination has not been previously effected, or for authority to modify the emission or radiation characteristics of an existing station in a manner that may increase the likelihood of harmful interference, shall ascertain in advance whether the station(s) involved lie within the great circle coordination distance contours of an existing Earth station or one for which an application has been accepted for filing, and shall coordinate his proposal with each such Earth station operator or applicant. For each potential interference path, the applicant shall perform the computations required to determine that the expected level of interference to or from the terrestrial station does not exceed the maximum permissible interference power level in accordance with the technical standards and requirements of §§ 25.251–25.256 of this chapter. In those instances where the results of these computations indicate a safety margin of less than 5 dB, the applicant shall submit with the application to the Commission, certain additional information; the gains assumed for both the terrestrial and Earth station antennas in the direction of the other station; the calculated transmission loss; and the resulting margin above the controlling objective. The Commission may, in the course of examining any application, require the submission of additional showings, complete with pertinent data and calculations in accordance with Part 25 of this chapter, showing that harmful interference will not likely result from the proposed operation. (Technical characteristics of the Earth stations on file and coordination contour maps for those Earth stations will be kept on file for public inspection in the offices of the Commission's Common Carrier Bureau in Washington, D.C.)

(d) Each applicant filing pursuant to paragraph (c) of this section shall also ascertain in advance whether the beam of his proposed antenna(s) intersects the beam of any Earth station antenna within the rain scatter coordination distance contour of which the terrestrial antenna is located, below the altitude given in table 1 of § 25.254(b) of this chapter for the rain climate in which the Earth station is located. In general such intersections will not be permitted. For the purposes of this paragraph, the beam of an antenna is to be taken as that portion of the antenna radiation pattern inside of which the gain is within 15 dB of the maximum antenna gain. The concepts of rain climate and rain scatter coordination distance contour are as defined in § 25.254 of this chapter. In certain cases, for good cause shown, intersections may be permitted on an individual waiver basis. In such cases, the applicant shall also submit with his application a showing setting forth (1) the nature of the proposed beam intersection, (2) the Earth station operator or applicant with whom coordination was attempted and the results of the coordination, and (3) the technical basis on which it was concluded that harmful interference will not likely result from this beam intersection.

§ 21.707 Stations at temporary fixed locations.

(a) Authorizations may be issued upon proper application for the use of frequencies listed in § 21.701(a) by stations in the Point-to-Point Microwave Radio Service for rendition of temporary service to subscribers under the following conditions:

(1) When a fixed station is to remain at a single location for less than 6 months, the location is considered to be temporary. Services which are initially known to be of longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

(2) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than six months, applications (FCC Forms 401 and 403) for a station authorization designating that single location as the permanent location shall be filed at least 30 days prior to the expiration of the six-month period.

(3) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable.

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See § 21.114.

(b) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form 401, and may be accompanied by completed FCC Form 403 for simultaneous consideration provided the equipment to be used is of "packaged" design. Blanket applications may be submitted for the required number of transmitters.

§ 21.708 Notification of station operation at temporary fixed locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.707 shall notify the Commission, and its Engineer in Charge of the radio district wherein operation is to be conducted, at least 5 days prior to installation of the facilities, stating:

(1) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(2) The maintenance location for the transmitter.

(3) The location of the transmitting or receiving station with which it will communicate and the identity of the correspondent operating such facilities.

(4) The exact frequency or frequencies to be used.

(5) The public interest, convenience and necessity to be served by operation of the proposed installation.

(6) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission and its Engineer in Charge.

(7) A notification of operations to be conducted within the coordination distance contours of a fixed earth station shall include compliance with the provisions of § 21.706(c).

(8) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(b) Less than 5 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

(c) A copy of this notification shall be posted with the station license. (See § 21.214.)

§ 21.709 Renewal of station licenses.

(a) An application for renewal of a license of a station in the Domestic Public Point-to-Point Microwave Radio Service used to relay television signals to community antenna television systems must include a showing that at least 50 percent of the customers (on the microwave system involved), including customers of any interconnecting carrier(s), receiving applicant's service are unrelated and unaffiliated with the applicant, and that the usage by such customers, in terms of hours of use and channels delivered, constitutes at least 50 percent of the usage of applicant's microwave system. Applications which do not contain the showing required by this section will be returned as unacceptable for filing.

(b) Applicants whose licenses expired on February 1, 1961, or 1963, and who have renewal applications pending before the Commission, or presently authorized common carrier licensees whose licenses will expire on February 1, 1966, who serve affiliated or related customers may become licensees in the Community Antenna Relay Service upon application therein and be granted a waiver of the Commission's rules so that they may be authorized to continue to use common carrier frequencies under the technical standards applicable to such frequencies until February 1, 1971, if they elect to do so. Such election must be made and an application filed in the Community Antenna Relay Service within sixty (60) days after the issuance of a Report and Order on Parts II and IV of Docket No. 15586. Pending such election time, renewal applications which do not comply with the provisions of paragraph (a) of this section will be granted only for such period of time as is necessary to preserve the opportunity for election. The license issued in the Community Antenna Relay Service will not be renewable on the common carrier frequencies. Applications for renewal of such licenses shall be filed for frequencies assigned to the Community Antenna Relay Service.

(c) Any application for renewal of license, for a term commencing January 1, 1975, or after, involving facilities utilizing frequency diversity must contain a statement showing compliance with § 21.100(c) or the exceptions recognized in paragraph 141 of the "First Report and Order" in Docket No. 18920 (FCC 71–547). If not in compliance, a complete statement with the reasons therefor shall be submitted.

(d) Each applicant for renewal of license for a term commencing between January 1, 1976 and January 1, 1981 shall submit with the application all of the technical parameters of the station (as licensed) listed on page 1 of FCC Form 435. If the same information has previously been submitted for the station on a Form 435, this requirement will be waived. Applicants are urged to file this information on punched cards in accordance with the Commission publication *Punched Card Format for Common Carrier Microwave Applicotions.* (Copies of this publication may be obtained through the Common Carrier Bureau.)

§ 21.710 Limitations on path lengths and channel loading.

(a) Frequencies in the following bands may not be used on transmission paths shorter than the indicated distances.

Frequency band (MHz):	Minimum path distances (in kilometers)
2,110 to 2,130	5
2,160 to 2,180	5
3,700 to 4,200	17
5,925 to 6,425	17
10,700 to 11,700	5

(b) Exception to the limits in paragraph (a) may be made by the Commission when a showing (with supporting facts) is made that use of a frequency in conformance with the rule would entail excessive cost in construction or maintenance or would otherwise create substantial difficulties. The alternate frequency proposal must be shown to be consistent with good engineering practice under the circumstances. Stricter adherence to these limitations is expected in areas of general frequency congestion. The distance limitation does not apply to a frequency which is power split if one transmission path utilizing that frequency meets the minimum distance requirement.

(c) Except for video transmission, an application for an initial working channel over a given route will not be accepted for filing where the anticipated loading (within five years or other period subject to reasonable projection) is less than the minimum specified for the following frequency bands. Absent extraordinary circumstances, applications proposing additional frequencies over existing routes will not be granted unless it is shown that the traffic load will shortly exhaust the capacity of the existing equipment.

Frequency band (MHz)	Minimum number voice channels (4 kHz or equivalent)	Minimum original data loading (in Mb/s)
3,700 to 4,200	900	10
5,925 to 6,425	900	10
10,700 to 11,700 (20 MHz bandwidth or less)	240	5
10,700 to 11,700 (bandwidth more than 20 MHz)	900	10

Where transmitters employing digital modulation techniques are designed to be used so that two may simultaneously operate on the same frequency over the same path, the minimum number of voice channels specified above is reduced from 900 to 500 per transmitter for the bands 3,700–4,200 MHz, 5,925–6,425 MHz, and 10,700–11,700 MHz.

§ 21.711 Special requirements for operation in the band 38,600–40,000 MHz.

Assigned frequency channels in the band 38,600–40,000 MHz may be subdivided and used anywhere in the

V 44 0C 19 79 UMI

authorized service area, subject to the following terms and conditions:

(a) No interference shall be caused to a previously existing station operating in another authorized service area.

(b) The Commission's Engineer in Charge of the radio district in which the intended operation is located shall be notified prior to the commencement of operation of each frequency path. Such notice shall include:

(1) The authorized call sign, transmitter station location number (assigned by the carrier in sequence of use beginning with number one) and transmitting station coordinates;

(2) Receiving station location number and coordinates;

(3) The exact frequency or frequencies to be used (which shall be considered the assigned frequency or frequencies); and

(4) Anticipated date of commencement of operation.

(c) The Engineer in Charge shall be notified within 10 days of the termination of any operation. The notice shall contain similar information to that contained in the notice of commencement of operation.

(d) Each operating station shall have posted a copy of the service area authorization and a copy of the notification provided to the Engineer in Charge.

(e) Twice each year, no later than January 31 and July 31, the Commission and the Engineer in Charge shall be provided a complete list (in tabular form) of all operations in each authorized service area (listing information as contained in the notices) current as of the previous January 1 or July 1. If no change has occurred since the previous list was filed, a statement to that effect will be sufficient.

(f) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure for each location has been obtained from the Commission prior to the erection of the antenna.

§ 21.713 Applications for authorizations involving relay of television signals to cable television systems.

An application in this service for authorization to establish new facilities or to modify existing facilities to be used to relay television signals to cable television systems shall contain a statement by the applicant that, to the best of his knowledge, each cable television system to be served has, on or before the filing date of the application, filed any necessary application for certificate of compliance, pursuant to §§ 76.11 and 76.13 of this chapter. Such statement by the applicant shall identify the application for certificate of compliance by the name of the cable television system for which the certificate is sought, the community and area served or to be served, the date on which the application was filed, and the file number (if available).

Subpart J—Local Television Transmission Service

§ 21.800 Eligibility.

Authorizations for stations in this service will be granted to existing and proposed communication common carriers. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience or necessity would be served by a grant thereof.

§ 21.801 Frequencies.

(a) Frequencies in the following bands are available for assignment to television pickup and television nonbroadcast pickup stations in this service:

6,425–6,525 MHz	21,200–22,000 MHz [1 3 4 5]
11,700–12,200 MHz [3]	22,000–23,600 MHz [1 2 5]
13,200–13,250 MHz [1]	

[1] This frequency band is shared with fixed and mobile stations licensed under Part 21 and other Parts of the Commission's Rules.

[2] This frequency band is shared with Government stations.

[3] This frequency band is shared, on a secondary basis, with stations in the broadcasting-satellite and fixed-satellite services.

[4] This frequency band is shared with stations in the earth-exploration satellite service.

[5] Assignments to common carriers in this band are normally made in the segments 21,200–21,800 MHz and 22,400–23,000 MHz and to operational fixed users in the segments 21,800–22,400 MHz and 23,000–23,600 MHz. Assignments may be made otherwise only upon a showing that interference free frequencies are not available in the normally assigned band segments.

(b) In the event that a television broadcast station licensee engages a communication common carrier to provide television pickup or television STL, service, the frequencies listed in § 74.602(a) of this chapter may be assigned to the communication common carrier in the Local Television Transmission Service for the sole purpose of providing such service to the television broadcast station of that licensee. Frequency availability is subject to the provisions of § 74.602(g) of this chapter and the use of the facility is limited to the permissible uses described in § 74.631 of this chapter. All operation on these channels is subject to the technical provisions of Part 74, Subpart F of this chapter.

(c) [Reserved]

(d) Frequencies in the following bands are available for assignment to television STL stations in this service:

3,700– 4,200 MHz [1 6]	13,200–13,250 MHz [2]
5,925– 6,425 MHz [1 5]	21,200–22,000 MHz [2 4 7 8]
10,700–11,700 MHz [1 6]	22,000–23,600– MHz [2 6 8]

[1] This frequency band is shared with stations in the Point to Point Microwave Radio Service and, in United States Possessions in the Caribbean area, with stations in the International Fixed Radiocommunications Services.

[2] This frequency band is shared with fixed and mobile stations licensed under Part 21 and other parts of the Commission's rules.

[3] This frequency band is shared with space stations (space to earth) in the fixed-satellite service.

[4] This frequency band is shared with Government stations.

[5] This frequency band is shared with earth stations (earth to space) in the fixed-satellite services.

[6] The band segments 10.95–11.2 and 11.45–11.7 GHz are shared with space stations (space to earth) in the fixed-satellite service.

[7] This frequency band is shared with space stations (space to earth) in the earth exploration satellite service.

[8] Assignments to common carriers in this band are normally made in the segments 21,200–21,800 MHz and 22,400–23,000 MHz and to operational fixed users in the segments 21,800–22,400 MHz and 23,000–23,600 MHz. Assignments may be made otherwise only upon a showing that interference free frequencies are not available in the appropriate band segments.

(e) [Reserved]

(f) On the condition that harmful interference will not be caused to services operating in accordance with the Table of Frequency Allocations, persons holding valid station authorizations on July 15, 1963, to provide television nonbroadcast pickup service in the 6525–6575 MHz band may be authorized to continue use of the frequencies specified in their authorization for such operations until July 15, 1968.

(g) [Reserved]

(h) The frequency 27.255 MHz in the 27.23–27.28 MHz band is allocated for assignment to microwave auxiliary stations in this service on a shared basis with other radio services. Assignments to stations on this frequency will not be protected from such interference as may be experienced from the emissions of industrial, scientific and medical equipment operating on 27.12 MHz in accordance with § 2106 of this chapter.

§ 21.802 Assignment of frequencies to mobile stations.

The assignment of frequencies to mobile stations in this service shall not be limited to a single licensee within any area. However, geographical limits within which mobile units may operate may be imposed by the Commission.

§ 21.803 Transmitter power.

Stations in this service shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 21.107(b) and a standby transmitter having a rated power output in excess of that of the main transmitter with which it is associated will not be authorized.

§ 21.804 Bandwidth and emission limitations.

(a) Stations in this service operating on frequencies in the 27.23–27.28 MHz band shall be authorized to employ only amplitude modulated or frequency modulated emission for radiotelephony. The authorization to use such emissions shall be construed to include authority to employ unmodulated emission only for temporary or short periods necessary for equipment testing incident to the construction and maintenance of the station.

(b) Stations in the service operating on frequencies above 940 MHz may be authorized to use amplitude modulated, frequency modulated or pulse type of emission for radiotelephony and television. In addition, the use of unmodulated emission may be authorized in appropriate cases.

(c) The maximum bandwidths which will normally be authorized for single channel operation on frequencies below 500 MHz in this service shall not exceed the limits set forth below:

Type of emission:	*Authorized bandwidth kHz*
A3	8
F3	40

(d) Maximum bandwidths in the following frequency bands shall not exceed the limits set forth below:

Frequency band (MHz):	*Maximum authorized bandwidth MHz*
3,700 to 4,200	20
5,925 to 6,575	30
10,700 to 12,200	40
13,200 to 13,250	25
22,000 to 23,600	100

(e) The bandwidths authorized on frequencies above 500 MHz shall be appropriate to the type of operation in any particular case. An application requesting such authorization shall fully describe the modulation, emission, and bandwidth desired and shall specify the bandwidth to be occupied.

§ 21.805 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for single channel radiotelephony or tone signaling on frequencies below 500 MHz is not authorized.

(b) When amplitude modulation is used, the modulation percentage shall be sufficient to provide efficient communication and shall normally be maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) When phase or frequency modulation is used for single channel radiotelephony on frequencies below 500 MHz, the deviation arising from modulation shall not exceed plus or minus 15 kHz from the unmodulated carrier.

(d) Each unmultiplexed radiotelephone transmitter having more than 3 watts plate power input to the final radio frequency stage and initially installed at the station in this service after September 4, 1956, shall be provided with a device which will automatically prevent modulation in excess of that specified in paragraphs (b) and (c) of this section which may be caused by greater than normal audio level.

§ 21.806 Remote control operation of mobile television pickup stations.

(a) Mobile television pickup stations (including nonbroadcast) may be operated by remote control from fixed locations for periods not to exceed 6 months, provided the Commission's Engineer in Charge of the radio district wherein operation is to be conducted shall be notified in writing by the licensee prior to operation of the facilities by remote control. A copy of such notification shall be kept with the station license and shall contain the following information:

(1) The call sign and specific location of the transmitter.

(2) The exact frequencies to be used.

(3) The location of the transmitter control point.

(4) The commencement and termination dates of operation from the specified location.

(b) The Commission may, upon adequate showing by the licensee as to why the television pickup operations should not be conducted under a fixed station authorization, renew the authority granted under the provisions of paragraph (a) of this section.

(c) Reference should be made to § 21.114 concerning mobile station antenna height restrictions and to paragraphs (c) and (f) of § 21.118 concerning control points.

§ 21.807 Stations at temporary fixed locations.

(a) Authorizations may be issued upon proper application for the use of frequencies listed in § 21.801 by stations in the Local Television Transmission Service for rendition of temporary service to subscribers under the following conditions:

(1) When a fixed station is to remain at a single location for less than 6 months, the location is considered to be temporary. Services which are initially known to be of longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

(2) When a fixed station authorized to operate at temporary locations is installed and it subsequently becomes necessary for the station to operate from such location for more than six months, applications (FCC Forms 401 and 403) for a station authorization to specify the permanent location shall be filed at least thirty days prior to the expiration of the six month period.

(3) The station shall be used only for rendition of communication service at a remote point where the provision of wire facilities is not practicable.

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height for each location has been obtained from the Commission prior to erection of the antenna. See § 21.114.

(5) Applications for such stations shall comply with the provisions of § 21.706(c).

(b) Applications for authorizations to operate stations at temporary locations under the provisions of this section shall be made upon FCC Form 401, and may be accompanied by completed FCC Form 403 for simultaneous consideration provided the equipment to be used is of "packaged" design. Blanket applications may be submitted for the required number of transmitters.

§ 21.808 Notification of station operations at temporary locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.807 shall notify the Commission, and its Engineer in Charge of the radio district wherein operation is to be conducted, of each period of operation at least 5 days prior to installation of the facilities. This notification shall include:

(1) The call sign, manufacturer's name, type or model number, output power and specific location of the transmitter(s).

(2) The maintenance location for the transmitter.

(3) The location of the transmitting or receiving station with which it will communicate and the identity of the correspondent operating such facilities.

(4) The exact frequency or frequencies to be used.

(5) The public interest, convenience and necessity to be served by operation of the proposed installation.

(6) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs

V 4 4 0 C 1 9 7 9 UMI

from the previous notification, written notice thereof promptly shall be given to the Commission and its Engineer in Charge.

(7) Where the notification contemplates initially a service which is to be rendered for a period longer than 90 days, the notification shall contain a showing as to why application should not be made for regular authorization.

(b) A copy of the foregoing notification shall be posted with the station license (see § 21.214).

§ 21.809 Stations affected by coordination contour procedures.

In frequency bands shared with the communication-satellite service, applicants shall also comply with the requirements of § 21.706 (c) and (d).

Subpart K—Multipoint Distribution Service

§ 21.900 Eligibility.

Authorizations for stations in this service will be granted to existing and proposed communications common carriers. Applications will be granted only in cases where it can be shown that: (a) the applicant is legally, financially, technically, and otherwise qualified to render the proposed service; (b) there are frequencies available to enable the applicant to render a satisfactory service; and (c) the public interest, convenience and necessity would be served by a grant thereof. In addition, the applicant shall submit a statement indicating whether there is any affiliation or relationship to any intended or likely subscriber or program originator. An applicant will not be eligible for authorization in this service unless it can be shown with reasonable certainty that at least fifty percent of the service rendered will be to subscribers who are not affiliated or related to the applicant.

§ 21.901 Frequencies.

(a) Frequencies in the band 2150–2162 MHz are available for assignment to fixed stations in this service. Frequencies in the band 2150–2160 MHz are shared with non-broadcast omnidirectional radio systems licensed under other parts of the Commission's Rules, and frequencies in the band 2160–2162 MHz are shared with directional radio systems authorized in other common carrier services.

(b) Applicants may be assigned a channel according to one of the following frequency plans:

(1) At 2150–2156 MHz (designated as channel 1),

(2) At 2156–2162 MHz (designated as channel 2), or

(3) At 2156–2160 MHz (designated as channel 2A).

(c) Channels 2 and 2A will be assigned only where there is evidence that no harmful interference will occur either to Channel 1 operation in the same area, or (in the case of Channel 2) to any point-to-point facility in the 2160–2162 MHz band. Also, Channel 2 may be assigned only if the transmitting antenna of the station is to be located within ten (10) miles of the coordinates of the following metropolitan areas:

Principal city	Coordinates
Akron, Ohio	Lat. 41°05'06" N., long. 81°31'06" W.
Albany-Schenectady-Troy, N.Y.	Lat. 42°39'00" N., long. 73°45'24" W.
Anaheim-Santa Ana-Garden Grove, Calif.	Lat. 33°46'30" N., long. 117°54'48" W.
Atlanta, Ga	Lat. 33°45'00" N., long. 84°23'12" W.
Baltimore, Md	Lat. 39°17'18" N., long. 76°37'00" W.
Birmingham, Ala	Lat. 33°30'42" N., long. 86°48'24" W.
Boston, Mass	Lat. 42°21'42" N., long. 71°03'30" W.
Buffalo, N.Y	Lat. 42°53'12" N., long. 78°52'30" W.
Chicago, Ill	Lat. 41°53'00" N., long. 87°37'30" W.
Cincinnati, Ohio	Lat. 39°06'00" N., long. 84°30'48" W.
Cleveland, Ohio	Lat. 41°29'48" N., long. 81°42'00" W.
Columbus, Ohio	Lat. 39°57'42" N., long. 83°00'06" W.
Dallas, Tex	Lat. 32°46'36" N., long. 96°48'42" W.
Dayton, Ohio	Lat. 39°45'24" N., long. 84°11'42" W.
Denver, Colo	Lat. 39°44'24" N., long. 104°59'18" W.
Detroit, Mich	Lat. 42°20'00" N., long. 83°03'00" W.
Fort Worth, Tex	Lat. 32°45'00" N., long. 97°17'42" W.
Gary, Ind	Lat. 41°36'00" N., long. 87°20'00" W.
Hartford, Conn	Lat. 41°46'00" N., long. 72°40'30" W.
Houston, Tex	Lat. 29°45'48" N., long. 95°21'42" W.
Indianapolis, Ind	Lat. 39°46'12" N., long. 86°09'18" W.
Kansas City, Mo	Lat. 39°06'00" N., long. 94°34'42" W.
Los Angeles-Long Beach, Calif.	Lat. 34°03'18" N., long. 118°15'00" W.
Louisville, Ky	Lat. 38°14'48" N., long. 85°45'42" W.
Memphis, Tenn	Lat. 35°07'30" N., long. 90°03'24" W.
Miami, Fla	Lat. 25°46'30" N., long. 80°11'24" W.
Milwaukee, Wis	Lat. 43°02'18" N., long. 87°54'48" W.
Minneapolis-St. Paul, Minn.	Lat. 44°59'00" N., long. 93°15'48" W.
New Orleans, La	Lat. 29°57'48" N., long. 90°03'48" W.
New York City, N.Y.-Newark-Jersey City-Patterson, N.J.	Lat. 40°42'30" N., long. 74°00'00" W.
Norfolk, Va	Lat. 36°50'42" N., long. 76°17'12" W.
Oklahoma City, Okla	Lat. 35°29'30" N., long. 97°30'12" W.
Philadelphia, Pa	Lat. 39°57'00" N., long. 75°09'48" W.
Phoenix, Ariz	Lat. 33°27'18" N., long. 112°04'24" W.
Pittsburgh, Pa	Lat. 40°26'12" N., long. 80°00'30" W.
Portland, Oreg	Lat. 45°32'06" N., long. 122°37'12" W.
Providence, R.I	Lat. 41°49'00" N., long. 71°24'24" W.
Rochester, N.Y	Lat. 43°09'30" N., long. 77°36'30" W.
Sacramento, Calif	Lat. 38°35'06" N., long. 121°29'24" W.
San Antonio, Tex	Lat. 29°25'24" N., long. 98°29'43" W.
San Bernardino-Riverside, Calif.	Lat. 34°06'30" N., long. 117°18'36" W.
San Diego, Calif	Lat. 32°42'48" N., long. 117°09'12" W.
San Francisco-Oakland, Calif.	Lat. 37°46'30" N., long. 122°25'00" W.
San Jose-Palo Alto-Sunnyvale, Calif.	Lat. 37°22'36" N., long. 122°02'00" W.
Seattle-Everett, Wash	Lat. 47°35'48" N., long. 122°19'48" W.
St. Louis, Mo	Lat. 38°37'00" N., long. 90°11'36" W.
Syracuse, N.Y	Lat. 43°03'06" N., long. 76°09'00" W.
Tampa-St. Petersburg, Fla.	Lat. 27°57'06" N., long. 82°27'00" W.
Toledo, Ohio	Lat. 41°38'48" N., long. 83°32'30" W.
Washington, D.C	Lat. 38°53'30" N., long. 77°02'00" W.

(d) An application for a second channel will not be accepted from a licensee or permittee of, or applicant for, another channel in this service (or any entity related thereto) in the same metropolitan area unless the applicant:

(1) Has operated the original channel for a minimum of one year; and

(2) Can demonstrate that there exists a public demand for additional service which is not likely to be satisfied by a competing carrier.

§ 21.902 Frequency interference.

(a) All applicants, permittees, and licensees shall make exceptional efforts to avoid harmful interference to other users and to avoid blocking potential adjacent channel use in the same city and cochannel use in nearby cities. In areas where major cities are in close proximity, careful consideration should be given to minimum power requirements and to the location, height, and radiation pattern of the transmitting antenna. Licensees, permittees and applicants are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(b) As a condition for use of frequencies in this service, each carrier is required to:

(1) Engineer the system to be reasonably compatible with adjacent channel operation in the same city;

(2) Not enter into any lease or contract or otherwise take any action which would unreasonably prohibit location of a competing carrier's transmitting antenna at any given site; and

(3) Cooperate fully and in good faith to resolve whatever potential interference and transmission security problems may be present in adjacent channel operation.

(c) The following interference studies, as appropriate, shall be included with each application:

(1) An analysis of the potential for harmful interference with other stations, if the coordinates of the proposed transmitting antenna are located within fifty (50) miles of the coordinates of any authorized, or previously proposed station(s) which utilizes, or would utilize, the same frequency (*see* §§ 21.701(a) and 21.901(a) of this chapter) or an adjacent potentially interfering frequency (see § 21.901(b); and

(2) In the case of a proposal for use of Channel 2, an analysis of the potential for harmful interference with any authorized point-to-point stations located within fifty (50) miles which utilize the 2160–2162 MHz band;

(3) An analysis concerning possible adverse impact upon Canadian communications if the station's transmitting antenna is to be located within thirty-five (35) miles of the Canadian border.

§ 21.903 Purpose and permissible service.

(a) Multipoint Distribution Service stations are intended to provide one-way radio transmission (usually in an omnidirectional pattern) of subscriber supplied information from a stationary transmitter to multiple receiving facilities located at fixed points designated by the subscriber.

(b) Unless otherwise directed or conditioned in the applicable instrument of authorization, Multipoint Distribution Service stations may render any kind of communications service consistent with the Commission's Rules and the legally applicable tariff of the carrier, provided that:

(1) The carrier is not substantially involved in the production of, the writing of, or the influencing of the content of any information to be transmitted over the facilities;

(2) The carrier does not render service to any entity who is affiliated with or related to the carrier whenever the total hours of service rendered to related subscribers exceeds the total hours of service rendered to unrelated subscribers within any calendar month;

(3) The carrier controls the operation of all receiving facilities (including any equipment necessary to convert the signal to a standard television channel but excluding the television receiver); and

(4) The carrier's tariff allows the subscriber the option of owning the receiving equipment (except for the decoder) so long as: (i) the customer provides the type of equipment as specified in the tariff; (ii) such equipment is in suitable condition for the rendition of satisfactory service; and (iii) such equipment is installed, maintained, and operated pursuant to the carrier's instructions and control.

(c) The carrier's tariff shall fully describe the parameters of the service to be provided, including the degree of privacy of communications a subscriber can expect in ordinary service. If the ordinary service does not provide for complete security of transmission, the tariff shall make provision for service with such added protection upon request.

§ 21.904 Transmitter power.

(a) The output power of the transmitter shall not exceed ten (10) watts, except as provided in paragraph (b) of this section.

(b) As an exception to paragraph (a) of this section, additional transmitter output power may be authorized up to one hundred (100) watts if such higher power is justified by a special showing which contains:

(1) A demonstration that the power requested is the minimum needed to provide adequate, reliable service to a reasonable service area with receiving sites utilizing parabolic antennas having a minimum diameter of two feet;

(2) A thorough and positive demonstration that the requested power will not cause harmful interference with any authorized or previously proposed station operating on co-channel or adjacent channel frequencies;

(3) A demonstration of the reasons why the applicant believes that an authorization of increased power is in, and will directly benefit, the public interest.

(c) The transmitter output power specified in this section is the peak envelope power of the visual signal for television transmitters. For other than television transmitters, the transmitter output power is the peak envelope power of the entire emission.

(d) For television transmission where the authorized bandwidth is 4.0 MHz or more for the visual and accompanying aural signal, the peak power of the accompanying aural signal shall not be more than twenty (20) percent nor less than ten (10) percent of the peak power of the visual signal.

(e) Operating power shall not exceed the authorized power by more than ten (10) percent at any time.

§ 21.905 Emissions and bandwidth.

(a) A station transmitting a television signal shall not exceed a bandwidth of 6 MHz (for both visual signal and accompanying aural signal), and will normally employ vestigial sideband, amplitude modulation (A5C) for the visual signal, and frequency modulation (F3) for the accompanying aural signal.

(b) For purposes other than standard television transmission, different types of emissions may be authorized if the applicant describes fully the modulation and bandwidth desired, and demonstrates that the bandwidth desired is no wider than needed to provide the intended service. However, in no event shall the necessary or occupied bandwidth, whichever is greater, exceed 6 MHz.

§ 21.906 Antennas.

(a) Transmitting antennas shall be omnidirectional, except that a directive antenna with a main beam sufficiently broad to provide adequate service may be used either to avoid possible interference with other users in the frequency band, or to provide coverage more consistent with distribution of potential receiving points.

(b) The use of horizontal or vertical plane wave polarization, or right hand or left hand rotating elliptical polarization may be used to minimize the hazard of harmful interference between systems.

(c) Transmitting antennas located within thirty-five (35) miles of the Canadian border should be directed so as to minimize, to the extent that is practical, emissions toward the border.

(d) Directive receiving antennas shall be used at all points and shall be elevated no higher than necessary to assure adequate service. Receiving antenna height shall not exceed the height criteria of Part 17 of this chapter, unless authorization for use of a specific maximum antenna height (above ground and above mean sea level) for each location has been obtained from the Commission prior to the erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (*See* Part 17 of this chapter concerning the construction, marking and lighting of antenna structures.)

§ 21.907 Transmission standards.

(a) A carrier assigned a 6 MHz channel must be able to provide one type of monochrome and color television service which complies with the VHF transmission standards set forth in § 73.682(a) of this chapter, except that the provision of § 21.906(b) shall replace the requirements of § 73.682(a)(14) of this chapter.

(b) A carrier assigned a 4 MHz channel must be able to provide one type of monochrome and/or color television service which complies with

V 4 4 0 C 1 9 7 9 UMI

VHF transmission standards set forth in § 73.682(a) of this chapter, except that:

(1) The provision of § 21.906(b) shall replace the requirements of § 73.682(a)(14) of this chapter and

(2) The requirements of § 73.682(a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(9), (a)(19), and (a)(20) of this chapter shall not apply.

(c) In addition to the standard television transmission service specified in paragraphs (a) and (b), the carrier may offer a television service not meeting such standards if the tariff clearly describes the type and quality of the service and distinguishes it from the standard service, and if the transmitter is type accepted for such use.

(d) For services other than television, a carrier may provide transmissions as described in the tariff if the authorized bandwidth is not exceeded and the transmitter is type accepted for such use.

(e) In order to insure that transmitting information is not likely to be received in intelligible form by unauthorized subscribers or licensese, a carrier may vary the transmission standards specified in paragraphs (a), (b), and (c) of this section, provided that the encoded information is recoverable without perceptible degradation as compared to the same information transmitted in accordance with paragraphs (a), (b) and (c) of this section.

§ 21.908 Television transmitting equipment.

(a) Except as otherwise provided in this section, the requirements of paragraphs (a), (b), (c), (d), and (e) of § 73.687 of this chapter shall apply to stations in this service transmitting standard television signals.

(b) The average power of radio frequency harmonics of the visual and aural carriers, measured at the output terminals of the transmitter, shall be attenuated no less than sixty (60) decibels below the peak visual output power within the assigned channel. All other emissions appearing on frequencies more than fifty (50) percent of the authorized bandwidth above or below the upper and lower edges, respectively, of the assigned channel shall be attenuated no less than: (i) Thirty (30) decibels for transmitters rated at less than ten (10) watts visual peak power output; or (ii) forty (40) decibels for transmitters rated at ten (10) watts or more visual peak power output. However, should interference occur as the result of emissions outside the assigned channel, greater attenuation may be required.

(c) The provisions of § 21.101 shall apply with respect to the frequency tolerance for the visual carrier in lieu of § 73.687(c)(1) except for the frequency of the aural carrier which shall be maintained in accordance with § 73.687(c)(1) of this chapter.

(d) The requirements of § 73.687(c)(2) will be considered to be satisfied insofar as measurements of operating power are concerned if the transmitter is equipped with instruments for determining the combined visual and aural operating power. However, licensees are expected to maintain the operating powers within the limits specified in § 21.904. Measurements of the separate visual and aural operating powers should be made at sufficiently frequent intervals to insure compliance with the rules and in no event less than once a month.

(e) Television transmitting equipment designed for stations whose authorized bandwidth is 4 MHz or less for the visual and accompanying aural signal is subject to the provisions of § 21.101 with respect to the frequency tolerance of the visual and aural carriers in lieu of paragraph (c) above. Such equipment is also subject to paragraphs (a) and (b) of this section, except that the provisions of § 73.687(a), (b), and (c)(1) of this chapter shall not apply.

(f) As a further exception to the other requirements of this section, transmitting equipment characteristics may vary from these requirements to the extent necessary to insure that transmitted information is not likely to be received in intelligible form by unauthorized subscribers or licensees, provided such variations permit recovery of the transmitted information without perceptible degradation as compared to the same information transmitted without such variations.

Subpart L—[Reserved]

Appendix B

Part 22 is added to read as follows:

PART 22—PUBLIC MOBILE RADIO SERVICES

Subpart A—General

Sec.
22.0 Scope and authority.
22.1 [Reserved]
22.2 Definitions.

Subpart B—Applications and Licenses

General Filing Requirements

22.3 Station authorization required.
22.4 Eligibility for station license.
22.5 Formal and informal applications.
22.6 Filing of applications; fees, and number of copies.
22.7 [Reserved]
22.8 [Reserved]
22.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio Telecommunications Services.
22.10 [Reserved]
22.11 Miscellaneous forms shared by all domestic public radio services.
22.12 [Reserved]
22.13 General application requirements.
22.14 [Reserved]
22.15 Technical content of applications.
22.16 [Reserved]
22.17 Demonstration of financial qualifications.
22.18 [Reserved]
22.19 [Reserved]
22.20 Defective applications.
22.21 Inconsistent or conflicting applications.
22.22 Repetitious applications.
22.23 Amendment of applications.
22.24 [Reserved]
22.25 Application for temporary authorizations.

Processing of Applications

22.26 Receipt of application.
22.27 Public notice period.
22.28 Dismissal and return of applications.
22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.
22.30 Opposition to applications.
22.31 Mutually exclusive applications.
22.32 Consideration of applications.
22.33 [Reserved]
22.34 [Reserved]
22.35 Comparative evaluation of mutually exclusive applications.
22.36 [Reserved]
22.37 [Reserved]
22.38 [Reserved]
22.39 Transfer of control or assignment of station authorization.
22.40 Considerations involving transfer or assignment applications.
22.41 [Reserved]
22.42 [Reserved]
22.43 Period of construction.
22.44 Forfeiture of station authorizations.
22.45 License period.

Subpart C—Technical Standards

22.100 Frequencies.
22.101 Frequency tolerance.
22.102 Frequency measuring or calibrating apparatus.
22.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.
22.104 Types of emission.
22.105 Bandwidth.
22.106 Emission limitations.
22.107 Transmitter power.
22.108 Directional antennas.
22.109 Antenna and antenna structures.
22.110 Antenna polarization.
22.111 Simultaneous use of common antenna structure.
22.112 Marking of antenna structures.
22.113 Quiet zones.
22.114 Temporary fixed antenna height restrictions.
22.115 Method of determining average terrain elevation.
22.116 Topographical data.
22.117 Transmitter location.
22.118 Transmitter construction and installation.
22.119 Limitation on use of transmitters for other services.
22.120 Type acceptance of transmitters.
22.121 Replacement of equipment.
22.122 Microwave digital modulation.

Subpart D—Technical Operation

22.200 Station inspection.
22.201 Posting of station authorizations.
22.202 [Reserved]
22.203 Posting of operator licenses.
22.204 FCC publication required for reference.
22.205 Operator requirements.
22.206 Inspection and maintenance of antenna structure marking and lighting, and associated control equipment.
22.207 Transmitter measurements.
22.208 Station records.
22.209 Communications concerning safety of life and property.
22.210 Operation during emergency.
22.211 Suspension of transmission.
22.212 Equipment, service and maintenance tests.
22.213 Station identification.
22.214 Operation of stations at temporary fixed locations for communication between the United States and Canada or Mexico.

Subpart E—Miscellaneous

22.300 Business records.
22.301 National defense; free service.
22.302 Answers to notices of violation.
22.303 Discontinuance, reduction or impairment of service.
22.304 Tariffs reports, and other material required to be submitted to the Commission.
22.305 Reports required concerning amendments to charters and partnership agreements.
22.306 Requirement that permittees and licensees respond to official communications.
22.307 Equal employment opportunities.

Subpart F—Developmental Authorizations

22.400 Eligibility.
22.401 Scope of service.
22.402 Adherence to program of research and development.
22.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.
22.404 Terms of grant; general limitations.
22.405 Supplementary showing required.
22.406 Developmental report required.

Subpart G—Domestic Public Land Mobile Radio Service

22.500 Eligibility.
22.501 Frequencies.
22.502 Classification of base stations.
22.503 Geographical separation of co-channel stations.
22.504 Service area of base station.
22.505 Antenna height-power limit for base stations.
22.506 Power limitations.
22.507 Bandwidth and emission limitations.
22.508 Modulation requirements.
22.509 Permissible communications.
22.510 Base stations may be authorized only as part of integrated radio system.
22.511 Communication service to own mobile units.
22.512 Priorities for service to subscribers.
22.513 Location of message center.
22.514 Responsibility for operational control and maintenance of mobile units.
22.515 Control points, dispatch points and dispatch stations.
22.516 Additional showing required with application for assignment of additional channel or channels.
22.517 Use of base station as a repeater station.
22.518 Use of mobile station frequency for control station.
22.519 Use of mobile station frequency for dispatch stations.
22.520 Notification of operation of dispatch station without specific authorization.
22.521 Nationwide plan for assignment of frequencies to land mobile systems rendering communication service to airborne stations.
22.522 Base station signaling system requirements for calling airborne stations.
22.523 Airborne station receiver requirements.

Subpart H—Rural Radio Service

22.600 Eligibility.
22.601 Frequencies.
22.602 Transmitter power.
22.603 Types of emission.
22.604 Emission limitations.
22.605 Modulation requirements.
22.606 Permissible communications.
22.607 Priority of service.
22.608 Supplementary showing required with application for interoffice stations.
22.609 Supplementary showing required with applications for central office stations and rural subscriber stations.
22.610 Rural subscriber, interoffice, and central office stations at temporary fixed locations.
22.611 Notification of station operation at temporary locations.

Subpart I—[Reserved]

Subpart J—[Reserved]

Subpart K—[Reserved]

Subpart L—Offshore Radio Telecommunications Service

22.1000 Eligibility.
22.1001 Frequencies.
22.1002 Power Limitations.
22.1003 Bandwidth and Emission Limitations.
22.1004 Modulation Requirements.
22.1005 Permissible Communication.
22.1006 Station at Temporary-Fixed Locations.
22.1007 Modification of Station Operation at Temporary Locations.

Authority: Sections 22.0 to 22.1007 issued under secs. 4, 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303.

Subpart A—General

§ 22.0 Scope and authority.

(a) The purpose of the rules and regulations in this part is to prescribe the manner in which portions of the radio spectrum may be more available for the use of radio for domestic communication common carrier operations which require transmitting facilities on land or in specified offshore coastal areas within the continental shelf.

(b) The rules in this part are issued pursuant to the authority contained in Titles I through III of the Communications Act of 1934, as amended, which vest authority in the Federal Communications Commission to regulate common carriers of interstate and foreign communications and to regulate radio transmissions and issue licenses for radio stations.

(c) Unless otherwise specified, the section numbers referenced in this part are contained in Chapter I, Title 47, of the Code of Federal Regulations.

§ 21.1 [Reserved]

§ 21.2 Definitions.

As used in this part:

Airborne station. A mobile station in the Domestic Public Land Mobile Radio Service or in the Offshore Radio Telecommunications Service aboard an aircraft.

Antenna power gain. The square of the ratio of the root-mean-square free space field intensity produced at one mile in the horizontal plane, in millivolts per meter for one kilowatt antenna input power to 137.6 mV/m. This ratio should be expressed in decibels (dB). (If specified for a particular direction, antenna power gain is based on the field strength in that direction only.)

Antenna power input. The radio frequency peak or RMS power, as the case may be, supplied to the antenna from the antenna transmission line and its associated impedance matching network.

Antenna structures. The term antenna structures includes the radiating system, its supporting structures, and any surmounting appurtenances.

Assigned frequency. The frequency coinciding with the center of the radio frequency channel in which the station is authorized to work. This frequency does not necessarily correspond to any frequency in an emission.

Authorized bandwidth. The maximum width of the band of frequencies permitted to be used by a station. This is normally considered to be the necessary or occupied bandwidth, whichever is greater.

V 4 4 O C 1 9 7 9 UMI

Authorized frequency. The frequency assigned to a station by the Commission and specified in the instrument of authorization.

Authorized power. The power assigned to a radio station by the Commission and specified in the instrument of authorization. The authorized power does not necessarily correspond to the power used by the Commission for purposes of its Master Frequency Record (MFR) and notification to the International Telecommunications Union.

Auxiliary test station. A fixed station used for test transmissions only, operating on mobile station frequencies from a specified fixed location, for the purpose of determining the performance of fixed receiving equipment which is remotely located from the base station with which it is associated, or where the receiving equipment is located with the base station and both are remotely located from the control point of the station.

Bandwidth occupied by an emission. The band of frequencies comprising 99 percent of the total radiated power extended to include any discrete frequency on which the power is at least 0.25 percent of the total radiated power.

Base station. A land station in the land mobile service carrying on a service with land mobile stations.

Note.—In certain cases, also communicates with fixed stations and vessels.

Bit rate. The rate of transmission of information in binary (two state) form in bits per unit time.

Carrier. In a frequency stabilized system, the sinusoidal component of a modulated wave whose frequency is independent of the modulating wave; or the output of a transmitter when the modulating wave is made zero; or a wave generated at a point in the transmitting system and subsequently modulated by the signal; or a wave generated locally at the receiving terminal which when combined with the side bands in a suitable detector, produces the modulating wave.

Carrier frequency. The frequency of the carrier.

Central office. A landline termination center used for switching and interconnection of public message communication circuits.

Central office station. A fixed station used for transmitting communications to rural subscriber stations associated therewith.

Communication common carrier. Any person engaged in rendering communication service for hire to the public.

Control point. A control point is an operating position at which an operator responsible for the operation of the transmitter is stationed and which is under the control and supervision of the licensee.

Control station. A fixed station whose transmissions are used to control automatically the emissions or operations of another radio station at a specified location, or to transmit automatically to an alarm center telemetering information relative to the operation of such station.

Coordination distance. For the purpose of this part, the expression "coordination distance" means the distance from an earth station, within which there is a possibility of the use of a given transmitting frequency at this earth station causing harmful interference to stations in the fixed or mobile service, sharing the same band, or of the use of a given frequency for reception at this earth station receiving harmful interference from such stations in the fixed or mobile service.

Digital modulation. The process by which some characteristic (frequency, phase, amplitude or combinations thereof) of a carrier frequency is varied in accordance with a digital signal, e.g. one consisting of coded pulses or states.

Dispatch communication. Two-way voice communication, normally of not more than one minute's duration, between common carrier base and land mobile stations, or between a common carrier land mobile station and a landline telephone station not connected to a public message telephone system.

Dispatch point. A dispatch point is a base station operating position, operated by a subscriber, which is under the control and supervision of the base station licensee.

Dispatch station. A fixed station, operated by a subscriber, or a group of subscribers, which communicates, under the supervision and control of the base station licensee, through the base station, with the individual subscriber's own mobile station or stations.

Domestic fixed public service. A fixed service, the stations of which are open to public correspondence, for radiocommunications originating and terminating solely at points all of which lie within: (a) the State of Alaska, or (b) the State of Hawaii, or (c) the contiguous 48 States and the District of Columbia, or (d) a single possession of the United States. Generally, in cases where service is afforded on frequencies above 72 MHz, radiocommunications between the contiguous 48 States (including the District of Columbia) and Canada or Mexico, or radiocommunications between the State of Alaska and Canada, are deemed to be in the domestic fixed public service.

Domestic public land mobile radio service. A public communication service for hire between land mobile stations wherever located and their associated base stations which are located within the United States or its possessions, or between land mobile stations in the United States and base stations in Canada.

Domestic public radio services. The land mobile and domestic fixed public services the stations of which are open to public correspondence.

Note.—Parts 81 and 83 of this chapter are applicable to maritime services. Part 87 is applicable to aeronautical services; and Part 85 is applicable to certain Alaskan services.

Drop point. A term used in the point-to-point microwave radio service to designate a terminal point where service is rendered to a subscriber.

Earth station. A station in the space service located either on the earth's surface, including on board a ship, or on board an aircraft.

Effective radiated power. The product of the antenna power input and the antenna power gain. This product should be expressed in watts. (If specified for a particular direction, effective radiated power is based on the antenna power gain in that direction only.)

Exchange. A unit of a communication company or companies for the administration of communication service in a specified area, which usually embraces a city, town, or village and its environs, and consisting of one or more central offices, together with the associated plant, used in furnishing communication service in that area.

Exchange area. The geographic area included within the boundaries of an exchange.

Facsimile. A system of telecommunication for the transmission of fixed images with a view to their reception in a permanent form.

Fixed earth station. An earth station intended to be used at a specified fixed point.

Fixed station. A service of radiocommunication between specified fixed points.

Fixed station. A station in the fixed service.

Frequency tolerance. The frequency tolerance, expressed as a percentage or in hertz, is the maximum permissible deviation, with respect to the reference frequency of the corresponding characteristic frequency of an emission.

General communication. Two-way voice communication, through a base station, between (1) a common carrier land mobile or airborne station and a landline telephone station connected to a public message landline telephone system, or (2) two common carrier land mobile stations, or (3) two common carrier airborne stations, or (4) a common carrier land mobile station and a common carrier airborne station.

Hormful interference. Any radiation or any induction which endangers the functioning of a radionavigation service or of a safety service or obstructs or repeatedly interrupts a radio service.

Inter-office station. A fixed station in the domestic fixed public service which is used exclusively for interconnection of telephone central offices.

Land mobile service. A mobile service between base stations and land mobile stations, or between land mobile stations.

Land mobile station. A mobile station in the land mobile service capable of surface movement within the geographical limits of a country or continent.

Land station. A station in the mobile service not intended for operation while in motion.

Landing area. A landing area means any locality, either of land or water, including airports and intermediate landing fields, which is used, or approved for use for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo.

Local television transmission service. A domestic public radio communication service for the transmission of television material and related communications.

Message center. The point at which messages from members of the public are accepted by the carrier for transmission to the addressee.

Microwave frequencies. As used in this part, this term refers to frequencies of 890 MHz and above.

Miscellaneous common carriers. Communications common carriers which are not engaged in the business of providing either a public landline message telephone service or public message telegraph service.

Mobile earth station. An earth station intended to be used while in motion or during halts at unspecified points.

Mobile microwave auxiliary station. A mobile station used in connection with (1) the alignment of microwave transmitting and receiving antenna systems and equipment, (2) coordination of microwave radio survey operations, and (3) cue and contact control of television pickup station operations.

Mobile service. A service of radiocommunication between mobile and land stations or between mobile stations.

Mobile station. A station in a mobile service intended to be used while in motion or during halts at unspecified points.

Multipoint distribution service. A one-way domestic public radio service rendered on microwave frequencies from a fixed station transmitting (usually in an omnidirectional pattern) to multiple receiving facilities located at fixed points determined by the subscribers.

Necessary bandwidth of emission. The necessary bandwidth is the width of the frequency band which is necessary in the over-all system, including both transmitter and receiver, for the proper reproduction at the receiver of the desired information, and does not necessarily indicate the interfering characteristics of an emission.

Note.—The necessary bandwidth for an emission may be calculated using the formulas in § 2.202 of this chapter.

Offshore central station. A fixed station in the Offshore Radio Telecommunications Service with facilities for interconnection with public correspondence circuits.

Offshore mobile station. A station in the Offshore Radio Telecommunications Service intended to be used while in motion or during halts at unspecified points.

Offshore private line service. A service whereby facilities for communications between an offshore subscriber station and an offshore central station are set aside for exclusive use or availability for use by a particular customer or group of customers and authorized users during stated periods of time.

Offshore radio telecommunications service. A public communications service for hire between stations located in the offshore coastal waters of the United States or its possessions.

Offshore repeater station. A fixed station used for the reception and automatic retransmission of the signals of another station or stations in offshore radio telecommunications service.

Offshore subscriber station. A fixed, temporary fixed or mobile station in the Offshore Radio Telecommunications Service.

Periscope antenna system. An antenna system which involves the use of a passive reflector to deflect radiation from or to a directional transmitting or receiving antenna which is oriented vertically.

Point-to-point microwave radio service. A domestic public radio service rendered on microwave frequencies by fixed stations between points which lie within the United States or between points in its possessions or to points in Canada or Mexico.

Private line service. A service whereby facilities for communication between two or more designated points are set aside for the exclusive use or availability for use of particular customer and authorized users during stated periods of time.

Public correspondence. Any telecommunication which the offices and stations, by reason of their being at the disposal of the public, must accept for transmission.

Public message service. A service whereby facilities are offered to the public for communication between all points served by a carrier or by interconnected carriers on a non-exclusive message by message basis, contemplating a separate connection for each occasion of use.

Radio station. A separate transmitter or a group of transmitters under simultaneous common control, including the accessory equipment required for carrying on a radiocommunication service.

Radiocommunication. Any telecommunication by means of hertzian waves.

Rated power output. The term "rated power output" of a transmitter means the normal radio frequency power output capability (Peak or Average Power) of a transmitter, under optimum conditions of adjustment and operation, specified by its manufacturer.

Record communication. Any transmission of intelligence which is reduced to visual record form at the point of reception.

Reference frequency. A frequency coinciding with or having a fixed and specified relation to the assigned frequency. This frequency does not necessarily correspond to any frequency in an emission.

Relay station. A fixed station used for the reception and retransmission of the signals of another station or stations.

Repeater station. A fixed station established for the automatic retransmission of radiocommunications received from one or more mobile stations and directed to a specified location.

Rural radio service. A domestic public radio service rendered by fixed stations or frequencies below 1000 MHz used to provide (1) public message communication service between a central office and subscribers located in rural areas to which it is impracticable to extend service via landlines, or (2) public message communication service between landline central offices and

V 44 OCT 19 79 UMI

different exchange areas which it is impracticable to interconnect by means, or (3) private line telephone, telegraph, or facsimile service between 2 or more points to which it is impracticable to extend service via landline.

Rural subscriber station. A fixed station in the Rural Radio Service used by a subscriber for communication with a central office station.

Service area of base station. The limits of reliable service area of a base station are considered to be described by the field strength contour within which the reliability of communication service is 90 percent, i.e., within the area circumscribed by such contour, nine out of every ten calls initiated by the base station can be satisfactorily received by the mobile unit.

Signaling communication. One-way communications from a base station to a mobile receiver, or to multipoint mobile and/or fixed locations by subaudible means, for the purpose of actuating a signaling device in the mobile unit, for communicating information to the desired mobile unit or for communicating information for reception at multipoint mobile and/or fixed locations.

Standby transmitter. A transmitter installed and maintained for use in lieu of the main transmitter only during periods when the main transmitter is out of service for maintenance or repair.

Symbol rate. Modulation rate in bauds. This rate may be higher than the transmitted bit rate as in the case of coded pulses or lower as in the case of multilevel transmission.

Telegraphy. A system of telecommunication for the transmission of written matter by the use of signal code.

Telemetering. Automatic radiocommunication in a fixed or mobile service intended to indicate or record a measurable variable quantity at a distance.

Telephony. A system of telecommunication set up for the transmission of speech, or in some cases, other sounds.

Television. A system of telecommunication for transmission of transient images of fixed or moving objects.

Television non-broadcast pickup station. A mobile, except television pickup, station used for the transmission of television program material and related communications for non-broadcast purposes.

Television pickup station. A land mobile station used for the transmission of television program material and related communications from the scenes of events occurring at points removed from television broadcast station studios to television broadcast stations.

Television STL station (studio transmitter link). A fixed station used for the transmission of television program material and related communications from a studio to the transmitter of a television broadcast station.

Temporary fixed offshore subscriber station. A station in the Offshore Radio Telecommunications Service which operates from various fixed locations for periods not exceeding six months.

Subpart B—Applications and Licenses

General Filing Requirements

§ 22.3 Station authorization required.

(a) No person shall use or operate in the Domestic Public Radio Services any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with, an appropriate authorization granted by the Federal Communications Commission.

(b) Except for mobile stations, and except when the Commission finds under the rules of this Part that the public interest, convenience, or necessity would be served by waiver of this requirement, no radio license shall be issued for the operation of any station unless a permit for its construction has been granted by the Commission. No construction or modification of a station may be commenced without a construction permit, a modified construction permit, or other authority issued by the Commission for the exact construction or modification to be undertaken, except as may be specifically provided for in other sections of this part.

(c) Upon the completion of construction or continued construction of any station pursuant to the terms of a construction permit and upon the filing of an application for license or modification of license, the Commission shall issue a license or modified license to the lawful holder of the permit for the operation of the station, provided that no cause or circumstance has arisen or first come to the knowledge of the Commission since the granting of the permit which would, in the judgment of the Commission, make the operation of such station against the public interest.

(d) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby.

§ 22.4 Eligibility for station license.

A station license may not be granted to or held by:

(a) Any alien or the representative of any alien.

(b) Any foreign government or the representative thereof.

(c) Any corporation organized under the laws of any foreign government.

(d) Any corporation of which any officer or director is an alien.

(e) Any corporation of which more than one-fifth of the capital stock is owned of record or voted by: aliens or their representatives; a foreign government or representatives thereof; or any corporation organized under the laws of a foreign country.

(f) Any corporation directly or indirectly controlled by any other corporation of which any officer or more than one-fourth of the directors are aliens, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

(g) Any corporation directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens or their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign government, if the Commission finds that the public interest will be served by the refusal or revocation of such license.

§ 22.5 Formal and informal applications.

(a) Except for an authorization under any of the proviso clauses of Section 308(a) of the Communications Act of 1934 [47 U.S.C. § 308(a)], the Commission may grant only upon written application received by it, the following authorization: construction permits; station licenses; modifications of construction permits or licenses; renewals of licenses; transfers and assignments of construction permits or station licenses, or any right thereunder.

(b) Except as may be otherwise permitted by this Part, a separate written application shall be filed for each instrument of authorization requested. Applications may be:

(1) "Formal applications" where the Commission has prescribed in this Part a standard form; or

(2) "Informal applications" (normally in letter form) where the Commission has not prescribed a standard form.

(c) An informal application will be accepted for filing only if:

(1) A standard form is not prescribed or clearly applicable to the authorization requested;

(2) It is a document submitted, in duplicate, with a caption which indicates clearly the nature of the request, radio service involved, location of the station, and the application file number (if known); and

(3) It contains all the technical details and informational showings required by the rules and states clearly and completely the facts involved and authorization desired.

§ 22.6 Filing of applications, fees, and numbers of copies.

(a) As prescribed by §§ 22.9 and 22.11 of this Part, standard formal application forms applicable to the Domestic Public Radio Services (other than Maritime Mobile and Microwave) may be obtained from either: (1) Federal Communications Commission, Washington, D.C. 20554; or (2) any of the Commission's field operations offices, the addresses of which are listed in § 0.121.

(b) Applications for radio station authorizations shall be submitted for filing to: Federal Communications Commission, Washington, D.C. 20554.

(c) All correspondence or amendments concerning a submitted application shall clearly identify the radio service, the name of the applicant, station location, and the Commission file number (if known) or station call sign of the application involved, and may be sent directly to the Common Carrier Bureau.

(d) Except as otherwise specified, all applications, amendments, and correspondence shall be submitted in duplicate, including exhibits and attachments thereto, and shall be signed as prescribed by § 1.743.

(e) Each application shall be accompanied by the appropriate fee prescribed by, and submitted in accordance with, Subpart G of Part 1 of this chapter.

§ 22.7 [Reserved]

§ 22.8 [Reserved]

§ 22.9 Standard application forms for Domestic Public Land Mobile Radio, Rural Radio and Offshore Radio Telecommunications Services.

(a) *Authority to construct a new base, auxiliary test or fixed station, to modify an existing construction permit or to modify licensed facilities.* Except for facility changes for which FCC Form 403 is prescribed in paragraph (d), FCC Form 401 ("Application for New or Modified Common Carrier Radio Station Construction Permit Under Parts 22 and 25") shall be submitted for each station in the following categories of station construction or modification:

(1) Each base station.

(2) Each auxiliary test station, unless the auxiliary test station is located at the same place as the base station, in which case only one combined application need be filed.

(3) Each fixed station. If the equipment utilized is of such design as to comprise a packaged unit which is ready for installation and use with only nominal construction, FCC Form 403 may be filed together with FCC Form 401 for the simultaneous licensing of the proposed facilities.

(b) *License to cover facilities construction in accordance with construction permit.* FCC Form 403 ("Application for Radio Station License or Modification Thereof Under Parts 22, 23, or 25") shall be filed:

(1) Prior to the expiration date of the construction permit (see also §22.34(a));

(2) Upon completion of construction or installation of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(3) Upon satisfactory completion of equipment tests in accordance with § 22.212(a).

(c) *License for mobile station.* Since no construction permits are issued for mobile stations, applications shall be filed directly for license, subject to the following:

(1) Authority for a base station licensee to serve land mobile or airborne units to be licensed in the name of the carrier may be requested on the FCC Form 401 for the base station construction permit, except that additional mobile units for a licensed station may be applied for on FCC Form 403 as provided for in paragraph (d) of this section. The information should clearly specify the maximum number of mobile units to be placed in operation within the license period.

(2) Applications for a license for land mobile or airborne stations submitted by persons who propose to become subscribers to a common carrier service for public correspondence shall be filed for on FCC Form 409. This form will also be used for the modification and renewal of such licenses. Such applications shall also be accompanied by the supplemental showing set forth in §§ 22.15(i)(2) and 22.15(i)(3).

(d) *Modification of station license not requiring a construction permit.*—Prior to the expiration of a license, an FCC Form 403 may be filed to request authority to make only those categories of changes to an existing station as listed below:

(1) Increase in number of mobile units;

(2) Change of control point (beyond the boundary of the city, borough, town, or community where the control point is authorized);

(3) Additional control points;

(4) New dispatching agreement;

(5) Authority to service vessels;

(6) Certain waiver requests, namely §§ 22.118(d)(2); 22.205(h)(3); 22.208(g)(2);

(7) Change in or additional emission;

(8) Request to delete or change antenna obstruction markings;

(9) Change in points of communications (Rural Radio Service);

(10) Correction of coordinates;

(11) Change of an authorized frequency; or

(12) Addition of frequencies for mobile transmitters.

(e) *Authorization of mobile units of Canadian Registry to operate in the United States.* FCC Form 410 shall be filed. (Copies of this form may also be obtained from the Director, Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.)

(f) *Authorization to operate U.S. mobile units in Canada.* A mobile station with a valid license issued by the Commission may obtain authority to operate in Canada upon filing an application ("Application for Registration for Radio Station Licensee of U.S.A.") with the Director, Telecommunications Regulation Branch, Department of Communications, Ottawa, Ontario, Canada.

§ 22.10 [Reserved]

§ 22.11 Miscellaneous forms shared by all domestic public radio services.

(a) *Licensee qualifications.* FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be filed in both of the following instances for each radio service and shall be kept current under § 1.65:

(1) As required by other application forms; and

(2) Annually no later than January 31 for the end of the preceding calendar year by licensees or permittees (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during that calendar year.

(b) *Additional time to construct.* FCC Form 701 ("Application for Additional Time to Construct Radio Station") shall be filed in duplicate by a permittee prior to the expiration date of each construction permit to be extended. However, Form 701 need not be filed if a permittee has requested in FCC Form 401 or 435 additional time to construct incidental to a modification of construction permit.

V 44 O C 1 19 7 9 9 UMI

(c) *Renewal of station license.* Except for renewal of special temporary authorizations, FCC Form 405 ("Application for Renewal of Station License") must be filed in duplicate by the licensee between thirty (30) and sixty (60) days prior to the expiration date of the license sought to be renewed. Whenever a group of station licenses in the same radio service are to be renewed simultaneously, a single "blanket" application may be filed to cover the entire group, if the application identifies each station by call sign and station location and if two copies are provided for each station affected. Applicants should note also any special renewal requirements under the rules for each radio service.

(d) *Assignment of permit or license.* FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter of the date of consummation.

(e) *Partial assignment of license or permit.* Authorization for assignment from one company to another of only a part or portions of the facilities (transmitters) authorized under an existing construction permit or license (as distinguished from an assignment of the facilities in their entirety), may be granted upon an application: (i) by the assignee on FCC Form 401 or 403 as the situation requires; and (ii) by the assignor on FCC Form 403 for deletion of the assigned facilities, indicating concurrence in the request. Where the assigned facilities are to be incorporated into an existing licensed station, the assignee shall only file an FCC Form 403. Where a new station is to be established, FCC Forms 401 and 403 shall be submitted by the assignee. The assignment shall be consummated within 60 days from the date of authorization. In the event that consummation does not occur, FCC Form 403 shall be filed to return the assignor's authorization to its original condition.

(f) *Transfer of control of corporation holding a permit or license.* FCC Form 704 ("Application for Consent to Transfer of Control of Corporation Holding Common Carrier Radio Station Construction Permit or License"), shall be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de focto*) of a corporation holding any construction permits or licenses. In addition, FCC Form 430 ("Common Carrier Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

§ 22.12 [Reserved]

§ 22.13 General application requirements.

(a) Each application for a construction permit or for consent to assignment or transfer of control shall:

(1) Disclose fully the real party (or parties) in interest, including (as required) a complete disclosure of the identity and relationship of those persons or entities directly or indirectly owning or controlling (or both) the applicant;

(2) Demonstrate the applicant's legal, financial, technical, and other qualifications to be a permittee or licensee;

(3) Submit the information required by the Commission's Rules, requests, and application forms;

(4) State specifically the reasons why a grant of the proposal would serve the public interest, convenience, and necessity;

(5) Be maintained by the applicant substantially accurate and complete in all significant respects in accordance with the provisions of § 1.65 of this Chapter; and

(6) Show compliance with the special requirements applicable to each radio service and make all special showings that may be applicable (e.g. those required by §§ 22.100(d), 22.103, 22.501, 22.505, 22.506, 22.516, 22.608, 22.609, etc.).

(b) Where documents, exhibits, or other lengthy showings already on file with the Commission contain information which is required by an application form, the application may specifically refer to such information, if:

(1) The information previously filed is over one 8½ by 11" page in length, and all information referenced therein is current and accurate in all significant respects under § 1.65 of this chapter; and

(2) The reference states specifically where the previously filed information can actually be found, including mention of:

(i) The radio service and station call sign or application file number whenever the reference is to stations files or previously filed applications;

(ii) The title of the proceeding, the docket number, and any legal citations, whenever the reference is to a docketed proceeding.

However, questions on an application form which call for specific technical data, or which can be answered by a "yes" or "no" or other short answer shall be answered as appropriate and shall not be cross-referenced to a previous filing.

(c) In addition to the general application requirements of §§ 22.13 through 22.17 of this Part, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other Parts of the Commission's Rules, and the other subparts of Part 22 (particularly Subpart C and those subparts applicable to the specific radio service involved); and

(2) As the Commission, at any time after the filing of an application and during the term of any authorization, may require from any applicant, permittee, or licensee to enable it to determine whether a radio authorization should be granted, denied, or revoked.

(d) Except when the Commission has declared explicitly to the contrary, an informational requirement does not in itself imply the processing treatment of decisional weight to be accorded the response.

(e) All applicants are required to indicate at the time their application is filed whether or not the application is a "major action" as defined by § 1.1305 of the Commission's Rules. If answered affirmatively, the requisite environmental statement as prescribed in § 1.1311 must be filed with the application.

(f)(1) Where required by applicable local law, an applicant shall include a copy of the franchise or other authorization issued by appropriate regulatory authorities. If no such local requirement exists, or if Commission authority is a prerequisite for such authorization, a statement to this effect shall be included in the application. This subparagraph (1) is not applicable to the Domestic Public Land Mobile Radio Service.

(2) In the Domestic Public Land Mobile Radio Service applicants are not required to file State certificates. Permittees and Licensees are required to abide by all State requirements of certification whether as to construction or operation. In the case of a construction permit grant, the permittee must complete construction in accordance with § 22.43 of the rules. In the case of a license grant, the licensee must have all requisite State authority, and be in operation within 240 days of the date of the license grant, or the license will automatically expire and must be submitted for cancellation.

(g) Whenever an individual applicant, or a partner (in the case of a partnership) or a full time manager (in the case of a corporation) will not actively participate in the day-to-day management and operation of proposed facilities, the applicant will submit a statement containing the reasons therefor and disclosing the details of the proposed operation, including a demonstration of how control over the radio facilities will be retained by the applicant.

§ 22.14 [Reserved]

§ 22.15 Technical content of applications.

Applications for construction permits shall contain all technical information required by the application form and any additional infomation necessary to fully describe the proposed construction and to demonstrate compliance with all technical requirements of the rules governing the radio service involved (see Subparts C, F, G, H, I, J and K as appropriate). The following paragraphs describe a number of general technical requirements.

(a) Applicants proposing a new station location (including receive-only stations and passive repeaters) shall indicate whether the station site is owned. If it is not owned, its availability for the proposed radio station shall be demonstrated. Under ordinary circumstances this requirement will be considered satisfied if the site is under lease or under written option to buy or lease, or in the case of land under U.S. Government control, written confirmation of site availability from the appropriate Government agency has been received. Where any lease or agreement to use land limits or conditions in any way the applicant's access or use of the site to provide public service, a copy of the lease or agreement (which clearly indicates the limitations) shall be filed with the application.

(b) [Reserved]

(c) Each application involving a new or modified antenna supporting structure or passive facility, the addition or removal of an antenna, or the repositioning of an authorized antenna for a station or receive-only facility must be accompanied by a vertical profile sketch of the total structure depicting its structural nature and clearly indicating the ground elevation (above mean sea level) at the structure site, the overall height of the structure above ground (including obstruction lights when required, lightning rods, etc.) and, if mounted on a building, its overall height above the building. All antennas on the structure must be clearly identified and their heights above-ground (measured to the center of radiation) clearly indicated. In addition, the height to the upper tip of the antenna shall be indicated for those operating in the Domestic Public Land Mobile Radio Service and Rural Radio Service.

(d) Each application proposing a new or modified antenna structure for a station (including a receive-only facility or passive repeater) so as to change its overall height shall include a statement indicating whether or not notification of the Federal Aeronautics Administration (FAA) is required. If notification is required, the applicant should include with the application a copy of the FAA study regarding potential hazard to aviation. If the applicant has not received the FAA study, the application should include the name used in the FAA notification, the location of the FAA regional office involved and the date of the notification. [Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter. See also § 22.111 if the structure is used by more than one station.]

(e) An applicant proposing construction of one or more new stations or modification of existing stations where substantial changes in the operation or maintenance procedures are involved must submit a showing of the general maintenance procedures involved to insure the rendition of good public communications service. The showing should include but need not be limited to the following:

(1) A general description of the technical personnel responsible for the day-to-day operation and maintenance of the facilities.

(2)

(3) A general description of the routine maintenance procedures to be followed and a description of the procedures to be followed for non-routine repair during outages. Include a description of the test equipment available.

(4) The manner in which technical personnel are made aware of malfunction at any of the stations and the appropriate time required for them to reach any of the stations in the event of an emergency. If fault alarms are to be used, the items to be alarmed shall be specified as well as the location of the alarm center.

(5) Indicate whether maintenance personnel will be on duty for all hours of station operation. If not, submit information specifying the method for identifying and correcting system malfunctions when maintenance personnel are not on duty.

(f) If the maintenance for one or more radio stations is to be accomplished by contractural arrangement with an entity unrelated to an applicant, permittee or licensee, the application shall contain a copy of the agreement or contract which shall demonstrate that:

(1) The maintenance is accomplished according to general instructions provided for by the applicant;

(2) The applicant retains effective control over the radio facilities and their operation; and

(3) The applicant assumes full responsibility for both the quality of service and for contractor compliance with the Commission's Rules.

(g) Each application for construction permit for a developmental authorization shall be accompanied by pertinent supplemental information as required by § 22.405 in addition to such information as may be specifically required by this section.

(h) Each application in the Rural Radio Services which proposes to establish a new permanently located, fixed communication facility (e.g. a transmitting site, receiving site, passive reflector or passive repeater), or to make changes or corrections in the location of such a facility already authorized, shall be accompanied by a topographic map (a U.S. Geological Survey Quadrangle or map of comparable detail and accuracy) with the location of the proposed facility accurately plotted and identifed thereon. This map should not be cropped so as to delete pertinent border information and must be submitted in the same number of copies as the application it accompanies. (Map requirements for the Domestic Public Land Mobile Radio Service are specified in the application form.)

(i) In the Domestic Public Land Mobile Radio Service each application shall contain, as appropriate, the following information:

(1) Each application for construction permit for base station which proposes to establish a new communication facility, make changes in area of

V44OC 1979 UMI

coverage of a station already authorized, or install additional transmitters shall described the antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(2) All applications for new or additional facilities shall identify any other pending applications in this service for new or additional facilities for the same general geographic area that applicant, or any principal thereof, may be a party to or have an interest in, either directly or indirectly.

(3) An application for land or airborne mobile units to be licensed in the name of a person who is not the licensee of the base station with which the mobile units will be associated in the Domestic Public Land Mobile Radio Service shall be accompanied by an affirmative showing that:

(i) The mobile units for which authorization is sought are for the applicant's own use;

(ii) Definite arrangements have been made for the requested number of mobile units to obtain communication service, upon the frequencies requested, through the base stations specifically identified in the application;

(iii) Specific arrangements have been made for installation, technical service and maintenance of the mobile units by licensed first- or second-class radio operators and

(iv) The mobile units will be operated primarily in the area or areas, or both, through the base stations specifically identified in the application and more particularly detailed in subparagraph (2) of this paragraph.

(j) Each application for construction permit for a base station in the Domestic Public Land Mobile Radio Service which proposes to establish a new communication facility or make changes in the area of coverage of a station already authorized shall be accompanied by technical engineering information with respect to:

(1) Type of antenna polarization used.

(2) Type of antenna used, including type number and manufacturer thereof.

(3) Antenna power gain expressed in decibels.

(4) Antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels.

(5) Orientation of directional antenna array, expressed in degrees of azimuth, with respect to true north.

(6) Antenna height above average terrain for each of the eight radials specified in paragraph (j)(8)(ii) of this section. (See also § 22.115.)

(7) Antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(8) Topographic maps (see also § 21.116) showing thereon:

(i) Exact station location.

(ii) Location of radials used in determining elevation of average terrain.

(9) Effective radiated power for all eight radials specified in paragraph (j)(8)(ii) of this section.

(k) The location of the transmitting antenna shall be considered to be the station location. Applications for stations at specified fixed locations shall describe the transmitting antenna site and each passive reflector or passive repeater site by their geographical coordinates and also by conventional reference to street number, landmark, etc. In the fixed point-to-point services authorized under this part, the site of each terminal receiving antenna location shall be described by geographical coordinates. All such coordinates shall be specified in terms of degrees, minutes and seconds to the nearest second of latitude and longitude.

(l) Each application for construction permit for an offshore central station or a fixed subscriber station in the Offshore Radio Telecommunications Service which proposes a new station or changes in the frequency, operating power or antenna height of a station already authorized shall be accompanied by technical engineering information with respect to:

(1) Type of antenna polarization used.

(2) Type of antenna used, including type number and manufacturer thereof.

(3) Antenna power gain expressed in decibels.

(4) Antenna radiation pattern (on letter size polar coordinate paper) showing the antenna power gain distribution in the horizontal plane expressed in decibels.

(5) Orientation of directional antenna array, expressed in degrees of azimuth with respect to True North.

(6) Antenna height above mean sea level.

(7) Antenna transmission line type, length and radio frequency power transmission losses, together with a description and power loss of all other devices in addition to the transmission line, between the output of the transmitter and the antenna radiating system expressed in decibels.

(8) Suitable maps or charts showing thereon the exact station location.

(9) Effective radiated power.

§ 22.16 [Reserved]

§ 22.17 Demonstration of financial qualifications.

(a) Each application for authority to construct a new station or substantially modify an existing station shall demonstrate the applicant's financial ability to meet the realistic and prudent:

(1) Estimated costs of proposed construction and other initial expenses; and

(2) Estimated operating expenses for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty or risk. (E.g., the proposal of a new or somewhat speculative service with a higher degree of business uncertainty would require a showing for a longer time period.)

(b) Except as provided in paragraph (c) of this section, each application shall demonstrate an applicant's financial ability, under paragraph (a) of this section by submitting the following financial information, the information required by paragraph (e) of this section, and whatever other information or details the Commission may require:

(1) A balance sheet current within ninety (90) days of the date of the application and copies of any financial commitments (such as, for example, loan agreements and service contracts) in support of the proposed facilities; and

(2) Whenever the submissions of paragraph (b)(1) of this section do not satisfy paragraph (a) of this section, the applicant shall submit additional information (e.g. a current income statement, and, for the period of proposed construction plus an initial year of operation, a statement of projected revenues and expenses, a statement of projected sources and application of funds, etc.) as is necessary to demonstrate financial ability.

(c) An applicant need not submit the financial information required by paragraph (b)(1) of this section, if paragraph (a) of this section can be clearly satisfied by an exhibit demonstrating that the applicant had operating revenues of $1 million or more for the previous year, has filed annual (or monthly) reports under Part 43 of this chapter and maintains as of the date of the application a credit rating equivalent to, or better than, either a Standard & Poor's Rating of "BBB" or a Moody's Bond Rating of "Baa."

(d) Each application for an assignment of a license (or permit), or for the transfer of control of a corporation holding a license (or permit), shall demonstrate the financial ability of the proposed assignee or transferee to acquire and operate the facilities by submitting adequate financial information under the guidelines specified in this section, as appropriate.

(e) The following additional information shall be submitted on any form of intended credit arrangement or equity placement:

(1) The details of any loan or other form of credit arrangement intended to be utilized to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), letters of commitment, terms of the transaction, and a statement that paragraph (f) of this section is complied with; and

(2) The details of any sale or placement of any equity or other form of ownership interest.

(f) In addition to the disclosures required by paragraph (d) of this section, any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed radio station facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

§ 22.18 [Reserved]

§ 22.19 [Reserved]

§ 22.20 Defective applications.

(a) Unless the Commission shall otherwise permit, an application will be unacceptable for filing and will be returned to the applicant with a brief statement as to the omissions or discrepancies if:

(1) The application is defective with respect to completeness of answers to questions, informational showings, execution, or other matters of a formal character; or

(2) The application does not substantially comply with the Commission's rules, regulations, specific requests for additional information, or other requirements.

(b) Some examples of common deficiencies which result in defective applications under paragraph (a) of this section are:

(1) The application is not properly executed;

(2) The submitted filing fee is insufficient under §1.1113 of this chapter;

(3) The application does not demonstrate how the proposed radio facilities will serve the public need or interest;

(4) The application does not demonstrate compliance with the special requirements applicable to the radio service involved (e.g. noted in §21.13(a)(6) of this chapter);

(5) The application does not demonstrate the availability of the proposed site of a new facility;

(6) The application does not include the environmental showing required for a "major action" under § 1.1305 of this chapter;

(7) The application does not include U.S. Forest Service or Bureau of Land Management certification of site availability under § 1.70 of this chapter whenever a proposed new or modified facility is to be located on land under the jurisdiction of these agencies;

(8) The application is filed after the "cut-off" date prescribed in § 22.30 of this part;

(9) The application proposes the use of a frequency not allocated to such use; or

(10) In the Domestic Public Land Mobile Radio Service failure to provide specific answers as required to Items 1, 5, 7, 8, 10, 17, 18, 19, 20, or 26 of FCC Form 401 (answers by cross reference are not acceptable—see § 22.13(b)), or failure to propose type accepted equipment (except for developmental applications).

(c) Applications considered defective under paragraph (a) of this section may be accepted for filing if:

(1) The application is accompanied by a request which sets forth the reasons in support of a waiver of (or an exception to), in whole or in part, any specific rule, regulation, or requirement with which the application is in conflict; or

(2) The Commission, upon its own motion, waives (or allows an exception to), in whole or in part, any rule, regulation or requirement.

(d) If an applicant is requested by the Commission to file any documents or any supplementary or explanatory information not specifically required in the prescribed application form, a failure to comply with such request within a specified time period will be deemed to render the application defective and will subject it to dismissal.

§ 22.21 Inconsistent or conflicting applications.

While an application is pending and undecided, no subsequent inconsistent or conflicting application may be filed by the same applicant, his successor or assignee, or on behalf or for the benefit of the same applicant, his successor or assignee.

§ 22.22 Repetitious applications.

(a) Where an applicant has been afforded an opportunity for a hearing with respect to a particular application for a new station, or for an extension or enlargement of a service or facilities, and the Commission has, after hearing or default, denied the application or dismissed it with prejudice, the Commission will not consider a like application involving service of the same kind to the same area by the same applicant, or by his successor or assignee, or on behalf of or for the benefit of the original parties in interest, until after the lapse of 12 months from the effective date of the Commission's order. The Commission may, for good cause shown, waive the requirements of this section.

(b) Where an appeal has been taken from the action of the Commission denying a particular application, another application for the same class of station and for the same area, in whole or in part, filed by the same applicant or by his successor or assignee, or on behalf or for the benefit of the original parties in interest, will not be considered until the final disposition of such appeal.

§ 22.23 Amendment of applications.

(a) Any pending application may be amended as a matter of right if the application has not been designated either for hearing, or for comparative evaluation pursuant to § 22.35. *Provided however,* that amendments shall comply with the provisions of § 22.29 as appropriate.

(b) The Commission or the presiding officer may grant requests to amend an application designated for hearing or comparative evaluation only if a written petition demonstrating good cause is submitted and properly served upon the parties of record.

(c) The Commission will classify amendments on a case-by-case basis. Whenever previous amendments have been filed, the most recent amendment will be classified by reference to how the information in question stood as of the latest Public Notice issued which concerned the application. An amendment will be deemed to be a major amendment subject to § 22.27 and § 22.31 under any of the following circumstances:

(1) [Reserved]

(2) [Reserved]

(3) If in the Domestic Public Land Mobile Radio Service and Rural Radio Service, the amendment results in a substantial modification of the

V 4 4 0 C 1 9 7 9 UMI

V 4 4 0 C 1 9 7 9 UMI

engineering proposal such as (but not necessarily limited to):

(i) A change in, or an addition of, a radio frequency;

(ii) A change in the class of station (e.g., from control to base);

(iii) A change in the type of emission of a transmitter; or

(iv) The following modifications of base station facilities, unless a complete engineering showing can demonstrate that the resultant increase in the reliable service area contour (as defined by § 22.504) is less than ten (10) percent or one (1) mile as measured in miles along any of eight radials spaced every forty five (45) degrees from zero degree True North:

(A) A change in geographic coordinates of a station's transmitting antenna of more than five (5) seconds of latitude or longitude, or both;

(B) An increase in effective radiated power in any direction which would enlarge the service contour;

(C) A change in the height, or position of a transmitting antenna which would enlarge the service contour;

(D) An increase in the number of transmitter locations on the same frequency.

(4) If the amendment would convert a proposal into a major action under § 1.1305.

(5) If the amendment results in a substantial and material alteration of the proposed service.

(6) If the amendment specifies, a substantial change in beneficial ownership or control (*de jure or de facto*) of an applicant such that the change would require, in the case of an authorized station, the filing of a prior assignment or transfer of control application under § 310 (d) of the Communications Act of 1934 [47 U.S.C. § 310(d)]. *Provided however*, Such a change would not be considered major where it merely amends an application for modification of an authorized station to reflect a change in ownership or control of such station as previously approved by the Commission.

(7) If the amendment, or the cumulative effect of the amendment, is determined by the Commission otherwise to be substantial pursuant to § 309 of the Communications Act of 1934.

(d) [Reserved]

(e) If a petition to deny (or other formal objection) has been filed, or if the Commission has published a notice that the application appears to be mutually exclusive with another application (or applications), any amendment (or other written communications) shall be served on the petitioner and on any such mutually exclusive applicant (or applicants), unless waiver of this requirement is granted pursuant to paragraph (f) of this section.

(f) The Commission may waive the service requirements of paragraph (e) of this section and prescribe such alternative procedures as may be appropriate under the circumstances to protect petitioners' interests and to avoid undue delay in a proceeding, if an applicant submits a request for waiver which demonstrates that the service requirement is unreasonably burdensome. Requests for waiver shall be served on petitioners. Oppositions to the petition may be filed within five (5) days after the petition is filed and shall be served on the applicant. Replies to oppositions will not be entertained.

(g) Any amendment to an application shall be signed and shall be submitted in the same manner, and with the same number of copies, as was the original application. Amendments may be made in letter form if they comply in all other respects with the requirements of this Chapter.

§ 22.24 [Reserved]

§ 22.25 Application for temporary authorizations.

(a) In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment. Any such request may be submitted as an informal application in the manner set forth in § 22.5 and must contain full particulars as to the proposed operation including all facts sufficient to justify the temporary authority sought and the public interest therein. No such request will be considered unless the request is received by the Commission at least 10 days prior to the date of proposed construction or operation or, where an extension is sought, expiration date of the existing temporary authorization. A request received within less than 10 days may be accepted upon due showing of sufficient reasons for the delay in submitting such request.

(b) Special temporary authorizations may be granted without regard to the 30-day public notice requirement of § 22.27(b) when:

(1) The authorization is for a period not to exceed 30 days and no application for regular application is contemplated to be filed;

(2) The authorization is for a period not to exceed 60 days pending the filing of an application for such regular operation;

(3) The authorization is to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as previously authorized; or

(4) The authorization is made upon a finding that there are extraordinary circumstances requiring emergency operation in the public interest and that delay in the institution of such service would seriously prejudice the public interest.

(c) No special temporary authorization, except as provided for in paragraph (d) of this section, will be granted for a period to exceed 90 days or be extended for more than one additional period not to exceed 90 days.

(d) In cases of emergency found by the Commission, involving danger to life or property or due to damage of equipment, or during a national emergency proclaimed by the president or declared by the Congress or during the continuance of any war in which the United States is engaged and when such action is necessary for the national defense or safety or otherwise in furtherance of the war effort, or in cases of emergency where the Commission finds that it would not be feasible to secure renewal applications from existing licensees or otherwise to follow normal licensing procedure, the Commission will grant construction permits and station licenses, or modifications or renewals thereof, during the emergency found by the Commission or during the continuance of any such national emergency or war, as special temporary licenses, only for the period of emergency or war requiring such action, without the filing of formal applications.

Processing of Applications

§ 22.26 Receipt of application.

(a) Applications received for filing are given a file number. The assignment of a file number to an application is merely for administrative convenience and does not indicate the acceptance of the application for filing and processing. Such assignment of a file number will not preclude the subsequent return or dismissal of the application if it is found to be not in accordance with the Commission's rules.

(b) Acceptance of an application for filing merely means that it has been the subject of a preliminary review as to completeness. Such acceptance will not preclude the subsequent return or dismissal of the application if it is found to be defective or not in accordance with the Commission's rules. (See § 22.13 for additional information concerning filing of applications.)

§ 22.27 Public notice period.

(a) At regular intervals, the Commission will issue a public notice listing:

(1) The acceptance for filing of all applications and major amendments thereto;

(2) Significant Commission actions concerning applications listed as acceptable for filing;

(3) Information which the Commission in its discretion believes of public significance; and

(4) Special environmental considerations as required by Part I of this Chapter.

(b) The Commission will not grant any application until expiration of a period of thirty (30) days following the issuance date of a public notice listing the application, or any major amendments thereto, as acceptable for filing.

(c) As an exception to paragraphs (a)(1), (a)(2) and (b) of this section, the public notice provisions are not applicable to applications:

(1) For authorization of a minor technical change in the facilities of an authorized station where such a change would not be classified as a major amendment (as defined by § 22.23) were such a change to be submitted as an amendment to a pending application;

(2) For issuance of a license subsequent to a construction permit or, pending application for a grant of such license, any special or temporary authorization to permit interim operation to facilitate completion of authorized construction or to provide substantially the same service as would be authorized by such license;

(3) For extension of time to complete construction of authorized facilities;

(4) For temporary authorization pursuant to § 22.25(b);

(5) For authorization of facilities for remote pickup, temporary studio links and similar facilities which service a broadcast station;

(6) For an authorization under any of the proviso clauses of section 308(a) of the Communications Act of 1934 [47 U.S.C. 308(a)];

(7) For consent to an involuntary assignment or transfer of control of a radio authorization; or

(8) For consent to a voluntary assignment or transfer of control of a radio authorization, where the assignment or transfer does not involve a substantial change in ownership or control.

§ 22.28 Dismissal and return of applications.

(a) Except as provided under § 22.29, any application may be dismissed without prejudice as a matter of right if the applicant requests its dismissal either prior to designation for hearing, or prior to selection of the comparative evaluation procedure of § 22.35. An applicant's request for the return of his application after it has been accepted for filing will be considered to be a request for dismissal without prejudice. Requests for dismissal shall comply with the provisions of § 22.29 as appropriate.

(b) A request to dismiss an application without prejudice will be considered either after designation for hearing, or after selection of the comparative evaluation procedure of § 22.35, only if:

(1) A written petition is submitted to the Commission and is properly served upon all parties of record;

(2) The petition is submitted before the issuance date of a public notice of Commission action denying the application; and

(3) The petition complies with the provisions of § 22.29 (whenever applicable) and demonstrates good cause.

(c) The Commission will dismiss an application for failure to prosecute or for failure to respond substantially within a specified time period to official correspondence or requests for additional information. Dismissal will be without prejudice prior to designation for hearing or selection of the comparative evaluation procedure of § 22.35, but may be made with prejudice for unsatisfactory compliance with § 22.29, or after designation for hearing or selection of the comparative evaluation procedure.

§ 22.29 Ownership changes and agreements to amend or to dismiss applications or pleadings.

(a) Except as provided in paragraph (b) of this section, applicants or any other parties in interest to pending applications shall comply with the provisions of this section whenever:

(1) They participate in any agreement (or understanding) which involves any consideration promised or received, directly or indirectly, including any agreement (or understanding) for merger of interests or the reciprocal withdrawal of applications; and

(2) The agreement (or understanding) may result in either:

(i) A proposed change in the ownership of an applicant which would be classified as a major amendment under § 22.23, and for which an exemption under § 22.31(e) from the "cut-off" rule would be requested; or,

(ii) A proposed withdrawal, amendment or dismissal of any application(s), amendment(s), petition(s), pleading(s), or any combination thereof, which would thereby permit the grant without hearing of an application previously in contested status.

(b) The provisions of this section shall not be applicable to any engineering agreement (or understanding) which:

(1) Resolves frequency conflicts with authorized stations or other pending applications without the creation of new or increased frequency conflicts; and

(2) Does not involve any consideration promised or received, directly or indirectly (including any merger of interests or reciprocal withdrawal of applications), other than the mutual benefit of resolving the engineering conflict.

(c) For any agreement subject to this section, the applicant of an application which would remain pending pursuant to such an agreement will be considered responsible for the compliance by all parties with the procedures of this section. Failure of the parties to comply with the procedures of this section shall constitute a defect in those applications which are involved in the agreement and remain in a pending status.

(d) The principals to any agreement or understanding subject to this section shall comply with the standards of paragraph (e) of this section in accordance with the following procedure:

(1) Within ten (10) days after entering into the agreement, the parties thereto shall jointly notify the Commission in writing of the existence and general terms of such agreement, the identity of all of the participants and the applications involved;

(2) Within thirty (30) days after entering into the agreement, the parties thereto shall file any proposed application amendments, motions, or requests together with a copy of the agreement which clearly sets forth all terms and provisions, and such other facts and information as necessary to satisfy the standards of paragraph (e) of this section. Such submission shall be accompanied by the certification by affidavit of each principal to the agreement declaring that the statements made are true, complete, and correct to the best of their knowledge and belief, and are made in good faith.

(3) The Commission may request any further information which in its judgment it believes is necessary for a determination under paragraph (e) of this section.

(e) The Commission will grant an application (or applications) involved in the agreement (or understanding) only if it finds upon examination of the information submitted, and upon consideration of such other matters as

V 44 0C 1 9 7 9 UMI

may be officially noticed, that the agreement is consistent with the public interest, and the amount of any monetary consideration and the cash value of any other consideration promised or received is not in excess of those legitimate and prudent costs directly assignable to the engineering, preparation, filing, and advocacy of the withdrawn, dismissed, or amended application(s), amendment(s), petition(s), pleading(s), or any combination thereof. Where such costs represent the applicant's in-house efforts, these costs shall include only directly assignable costs and shall exclude the application of general overhead expenses. [The treatment to be accorded such consideration for interstate rate making purposes will be determined at such time as the question may arise in an appropriate rate proceeding.] An itemized accounting shall be submitted to support the amount of consideration involved except where such consideration (including the fair market value of any non-cash consideration) promised or received does not exceed one thousand dollars ($1.000.00). Where consideration involves a sale of facilities or merger of interests, the accounting shall clearly identify that portion of the consideration allocated for such facilities or interests and a detailed description thereof, including estimated fair market value. The Commission will not presume an agreement (or understanding) to be *prima facie* contrary to the public interest solely because it incorporates a mutual agreement to withdraw pending application(s), amendment(s), petition(s), pleading(s), or any combination thereof.

§ 22.30 Opposition to applications.

(a) Petitions to deny (including petitions for other forms of relief) and responsive pleadings for Commission consideration must:

(1) Identify the application or applications (including applicant's name, station location, Commission file numbers and radio service involved) with which it is concerned;

(2) Be filed in accordance with the pleading limitations, filing periods, and other applicable provisions of §§ 1.41 through 1.52;

(3) Contain specific allegations of fact (except for those of which official notice may be taken), which shall be supported by affidavit of a person or persons with personal knowledge thereof, and which shall be sufficient to demonstrate that the petitioner (or respondent) is a party in interest and that a grant of, or other Commission action regarding, the application would be prima facie inconsistent with the public interest;

(4) Be filed within thirty (30) days after the date of public notice announcing the acceptance for filing of any such application or major amendment thereto (unless the Commission otherwise extends the filing deadline); and

(5) Contains a certificate of service showing that it has been mailed to the applicant no later than the date of filing thereof with the Commission.

(b) The Commission will classify as informal objections:

(1) Any petition to deny not filed in accordance with paragraph (a) of this section;

(2) Any petition to deny (or for other forms of relief) an application to which the thirty (30) day public notice period of § 22.27(b) does not apply; or

(3) Any comments on, or objections to, the grant of an application (other than the issuance of a license pursuant to a construction permit) where the comments or objections do not conform to either paragraph (a) of this section or other Commission rules and requirements.

(c) The Commission will consider informal objections, but will not necessarily discuss them specifically in a formal opinion if:

(1) The informal objection is filed at least one day before Commission action on the application; and

(2) The informal objection is signed by the submitting person (or his representative) and discloses his interest.

§ 22.31 Mutually exclusive applications.

(a) The Commission will consider applications to be mutually exclusive if their conflicts are such that the grant of one application would effectively preclude by reason of harmful electrical interference, or other practical reason, the grant of one or more of the other applications. The Commission will presume "harmful electrical interference" to mean interference which would result in a material impairment to service rendered to the public despite full cooperation in good faith by all applicants or parties to achieve reasonable technical adjustments which would avoid electrical conflict.

(b) An application will be entitled to comparative consideration with one or more conflicting applications only if:

(1) The application is mutually exclusive with the other application; and

(2) The application is received by the Commission in a condition acceptable for filing by whichever "cut-off" date is earlier:

(i) Sixty (60) days after the date of the public notice listing the first of the conflicting applications as accepted for filing; or

(ii) One (1) business day preceding the day on which the Commission takes final action on the previously filed application (should the Commission act upon such application in the interval between thirty (30) and sixty (60) days after the date of its public notice).

(c) Whenever three or more applications are mutually exclusive, but not uniformly so, the earliest filed application establishes the date prescribed in paragraph (b)(2) of this section, regardless of whether or not subsequently filed applications are directly mutually exclusive with the first filed application. [For example, applications A, B, and C are filed in that order. A and B are directly mutually exclusive, B and C are directly mutually exclusive. In order to be considered comparatively with B, C must be filed within the "cut-off" period established by A even though C is not directly mutually exclusive with A.]

(d) An application otherwise mutually exclusive with one or more previously filed applications, but filed after the appropriate date prescribed in paragraph (b)(2) of this section, will be returned without prejudice and will be eligible for refiling only after final action is taken by the Commission with respect to the previously filed application (or applications).

(e) For the purposes of this section, any application (whether mutually exclusive or not) will be considered to be a newly filed application if it is amended by a major amendment (as defined by § 22.23), except under any of the following circumstances:

(1) The application has been designated for comparative hearing, or for comparative evaluation (pursuant to § 22.35), and the Commission or the presiding officer accepts the amendment pursuant to § 22.23(b);

(2) The amendment resolves frequency conflicts with authorized stations or other pending applications but does not create new or increased frequency conflicts;

(3) The amendment reflects only a change in ownership or control pursuant to an agreement (or understanding) which is found by the Commission to be in the public interest under § 22.29 and from which a requested exemption from the "cut-off" requirements of this section is granted;

(4) The amendment reflects only a change in ownership or control which results from an agreement under § 22.29 whereby two or more applicants entitled to comparative consideration of their applications join in one (or more) of the existing applications and request dismissal of their other application (or applications) to avoid the delay and cost of comparative consideration;

(5) The amendment corrects typographical, transcription, or similar clerical errors which are clearly demonstrated to be mistakes by reference to other parts of the application, and whose discovery does not create new or increased frequency conflicts; or

(6) The amendment does not create new or increased frequency conflicts, and is demonstrably necessitated by events which the applicant could not have reasonably foreseen at the time of filing, such as, for example:

(i) The loss of a transmitter or receiver site by condemnation, natural causes, or loss of lease or option;

(ii) Obstruction of a proposed transmission path caused by the erection of a new building or other structure; or

(iii) The discontinuance or substantial technological obsolescence of specified equipment, whenever the application has been pending before the Commission for two or more years from the date of its filing.

§ 22.32 Consideration of applications.

(a) Applications for an instrument of authorization will be granted if, upon examination of the application and upon consideration of such other matters as it may officially notice, the Commission finds that the grant will serve the public interest, convenience, and necessity.

(b) The grant shall be without a formal hearing if, upon consideration of the application, any pleadings or objections filed, or other matters which may be officially noticed, the Commission finds that:

(1) The application is acceptable for filing, and is in accordance with the Commission's rules, regulations, and other requirements;

(2) The application is not subject to comparative consideration (pursuant to § 22.31) with another application (or applications), except where the competing applicants have chosen the comparative evaluation procedure of § 22.35 and a grant is appropriate under that procedure;

(3) A grant of the application would not cause harmful electrical interference to an authorized station;

(4) There are no substantial and material questions of fact presented; and

(5) The applicant is legally, technically, financially and otherwise qualified, and a grant of the application would serve the public interest.

(c) If the Commission should grant without a formal hearing an application for an instrument of authorization which is subject to a petition to deny filed in accordance with § 22.30, the Commission will deny the petition by the issuance of a Memorandum Opinion and Order which will concisely report the reasons for the denial and dispose of all substantial issues raised by the petition.

(d) Whenever the Commission, without a formal hearing, grants any application in part, or subject to any terms or conditions other than those normally applied to applications of the same type, it shall inform the applicant of the reasons therefor, and the grant shall be considered final unless the Commission should revise its action (either by granting the application as originally requested, or by designating the application for a formal evidentiary hearing) in response to a petition for reconsideration which:

(1) Is filed by the applicant within thirty (30) days from the date of the letter or order giving the reasons for the partial or conditioned grant;

(2) Rejects the grant as made and explains the reasons why the application should be granted as originally requested; and,

(3) Returns the instrument of authorization.

(e) The Commission will designate an application for a formal hearing, specifying with particularity the matters and things in issue, if, upon consideration of the application, any pleadings or objections filed, or other matters which may be officially noticed, the Commission determines that:

(1) A substantial and material question of fact is presented;

(2) The Commission is unable for any reason to make the findings specified in paragraph (a) of this section and the application is acceptable for filing, complete, and in accordance with the Commission's rules, regulations, and other requirements;

(3) The application is entitled to comparative consideration (under § 22.31) with another application (or applications); or

(4) The application is entitled to comparative consideration (pursuant to § 22.31) and the applicants have chosen the comparative evaluation procedure of § 22.35 but the Commission deems such procedure to be inappropriate.

(f) The Commission may grant, deny, or take other action with respect to an application designated for a formal hearing pursuant to paragraph (e) of this section after an appropriate hearing conducted in accordance with the provisions of § 22.35 or Part 1 of this chapter.

(g) Whenever the public interest would be served thereby the Commission may grant one or more mutually exclusive applications expressly conditioned upon final action on the applications, and then either designate all of the mutually exclusive applications for a formal evidentiary hearing or (whenever so requested) follow the comparative evaluation procedures of § 22.35, as appropriate, if it appears:

(1) That some or all of the applications were not filed in good faith, but were filed for the purpose of delaying or hindering the grant of another application;

(2) That the public interest requires the prompt establishment of radio service in a particular community or area;

(3) That a delay in making a grant to any applicant until after the conclusion of a hearing on all applications might jeopardize the rights of the United States under the provisions of an international agreement to the use of the frequency in question; or

(4) That a grant of one application would be in the public interest in that it appears from an examination of the remaining applications that they cannot be granted because they are in violation of provisions of the Communications Act, other statutes, or of the provisions of this chapter.

(h) Reconsideration or review of any final action taken by the Commission will be in accordance with subpart A of Part 1 of this chapter.

§§ 22.33–34 [Reserved]

§ 22.35 Comparative evaluation of mutually exclusive applications.

(a) In order to expedite action on mutually exclusive applications, the applicants may request the Commission to consider their applications without a formal hearing in accordance with the summary procedure outlined in paragraph (b) of this section, if:

(1) The applications are entitled to comparative consideration pursuant to § 22.31;

(2) The applications have not been designated for formal evidentiary hearing; and

(3) The Commission determines, initially or at any time during the procedure outlined in paragraph (b) of this section, that such procedure is appropriate, and that, from the information submitted and consideration of such other matters as may be officially noticed, there are no substantial and material questions of

fact presented (other than those relating to the comparative merits of the applications) which would preclude a grant under paragraphs (a) and (b) of § 22.32.

(b) Provided that the conditions of paragraph (a) of this section are satisfied, applicants may request the Commission to act upon their mutually exclusive applications without a formal hearing pursuant to the summary procedure outlined below:

(1) To initiate the procedure, each applicant will submit to the Commission a written statement containing:

(i) A waiver of his right to a formal hearing;

(ii) A request and agreement that, in order to avoid the delay and expense of a comparative formal hearing, the Commission should exercise its judgment to select from among the mutually exclusive applications that proposal (or proposals) which would best serve the public interest; and

(iii) The signature of a principal (and his attorney if so represented).

(2) After receipt of the written requests of all of the applicants the Commission (if it deems this procedure appropriate) will issue a notice designating the comparative criteria upon which the applications are to be evaluated and will request each applicant to submit, within a specified period of time, additional information concerning his proposal relative to the comparative criteria.

(3) Within thirty (30) days following the due date for filing this information, the Commission will accept concise and factual argument on the competing proposals from the rival applicants, potential customers, and other knowledgeable parties in interest.

(4) Within fifteen (15) days following the due date for the filing of comments, the Commission will accept concise and factual replies from the rival applicants.

(5) From time to time during the course of this procedure the Commission may request additional information from the applicants and hold informal conferences at which all competing applicants shall have the right to be represented.

(6) Upon evaluation of the applications, the information submitted, and such other matters as may be officially noticed the Commission will issue a decision granting one (or more) of the proposals which it concludes would best serve the public interest, convenience and necessity. The decision will report briefly and concisely the reasons for the Commission's selection and will deny the other application(s). This decision shall be considered final.

§§ 22.36–22.38 [Reserved]

§ 22.39 Transfer of control or assignment of station authorizations.

(a) No construction permit or station license, or any rights thereunder, shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding such permit or license, to any person except upon application to the Commission and upon finding by the Commission that the public interest, convenience, and necessity will be served thereby. The treatment to be accorded acquisition or disposition costs for interstate rate making purposes will be determined at such time as the question may arise in a rate proceeding.

(b) Requests for transfer of control or assignment authority shall be submitted on the application forms prescribed by § 22.11 of this chapter; shall be accompanied by the applicable showings required by §§ 22.13, 22.15, 22.17 and 22.40 of this chapter.

(c) In acting upon applications for transfer and assignment authority the Commission will not consider whether the public interest, convenience, and necessity might be served by the transfer, assignment, or disposal of the permit or license to a person other than the proposed transferee or assignee.

(d) The Commission shall be notified in writing promptly of the death or legal disability of an individual permittee or licensee, a member of a partnership, or a person directly or indirectly in control of a corporation which is a permittee or licensee. Within thirty (30) days after the occurrence of such death or legal disability, an application in accordance with the provisions of paragraph (b) of this section shall be filed requesting consent to involuntary assignment of such permit or license or for involuntary transfer of control of such corporation to a person or entity legally qualified to succeed to the foregoing interests under the laws of the place having jurisdiction over the estate involved.

§ 22.40 Considerations involving transfer or assignment applications.

(a) The Commission will review a proposed transaction to determine if the circumstances indicate "trafficking" in licenses or construction permits whenever applications (except those involving a *pro forma* assignment or transfer of control) for consent to assignment of a common carrier construction permit or license, or for transfer of control of a corporate permittee or licensee, involve facilities which have been operated for less than two years by the proposed assignor or transferor. At its discretion, the Commission may require the submission of an affirmative, factual showing (supported by affidavits of a person or persons with personal knowledge thereof) to demonstrate that the proposed assignor or transferor has not acquired an authorization or operated a station for the principal purpose of profitable sale rather than public service. This showing may include, for example, a demonstration that the proposed assignment or transfer is due to changed circumstances (described in detail) affecting the licensee or permittee subsequent to the acquisition of the permit or license, or that the proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests.

(b) If a proposed transfer of radio facilities is incidental to a sale of other facilities or merger of interests, any showing requested under paragraph (a) of this section shall include an additional exhibit which:

(1) Discloses complete details as to the sale of facilities or merger of interests;

(2) Segregates clearly by an itemized accounting, the amount of consideration involved in the sale of facilities or merger of interests; and

(3) Demonstrates that the amount of consideration assignable to the facilities or business interests involved represents their fair market value at the time of the transaction.

(c) For the purposes of this section, the two year period is calculated using the following dates (as appropriate):

(1) The initial date of grant of the construction permit, excluding subsequent modifications;

(2) The date of consummation of an assignment or transfer, if the station is acquired as the result of an assignment of construction permit or license, or transfer of control of a corporate permittee or licensee; or

(3) [Reserved]

§§ 22.41–22.42 [Reserved]

§ 22.43 Period of construction.

(a) Except as may be limited by § 22.35(b), each construction permit for a radio station in the Domestic Public Radio Services will specify the date of grant as the earliest date of commencement of construction, and a maximum of 8 months from the date of grant as the time within which construction will be completed and the station ready for operation, unless otherwise determined by the Commission upon proper showing in any particular case.

(b) For stations in the Offshore Radio Telecommunication Services, and except as may be limited by § 27.45(b), the construction permit issued by the Commission will specify the date of grant as the earliest date of commencement of construction and a maximum of 18 months thereafter as the time within which construction shall be completed and the station be ready for operation, unless otherwise determined by the Commission upon proper showing in any particular use.

§ 22.44 Forfeiture and termination of station authorization.

(a) A construction permit shall be automatically forfeited if the station is not ready for operation within the term of the construction permit (as evidenced by the commencement of service tests as specified by § 22.212), or within such additional time as may be authorized by the Commission (upon receipt of an appropriate and timely filed application), unless prevented by causes not under the control of the permittee. Where so forfeited, the Commission will consider a petition for reinstatement of a construction permit only where:

(1) It is filed within 30 days of the expiration of the construction permit;

(2) It explains the failure to timely file a renewal application; and

(3) Where it is accompanied by an appropriate application for extension of time to construct or modification of construction permit.

(b) A license shall be automatically forfeited upon the expiration date specified therein unless prior thereto an application for renewal of such license has been filed with the Commission. An application for renewal filed after the expiration date of the license will be considered only if:

(1) It is filed within 30 days of such expiration date;

(2) It explains the failure to timely file a renewal application is submitted; and

(3) It describes procedures which have been established to insure timely filings in the future.

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the carrier to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

§ 22.45 License period.

(a) Licenses for stations in the Domestic Public Land Mobile Radio, Rural Radio, and Offshore Radio Telecommunications Services will be issued for a period not to exceed 5 years;

Unless otherwise specified by the Commission, the expiration of regular licenses shall be on the following date in the year of expiration:

Domestic Public Land Mobile Radio Service (miscellaneous carriers)	Apr. 1.
Domestic Public Land Mobile Radio Service (telephone carriers)	July 1.
Domestic Public Land Mobile Radio Service (all authorization pursuant to § 21.521—air and ground)	Sept. 1
Rural Radio Service	Nov. 1.
Offshore Radio Telecommunications Service	Aug. 1.

The expiration date of developmental licenses shall be one year from the date of the grant thereof. When a license is granted subsequent to the last renewal date of the class of license involved, the license shall be issued only for the unexpired period of the current license term of such class; *Provided however,* That the license for land and airborne mobile units issued in the Domestic Public Land Mobile Radio Service in the name of the person who is not the licensee of the base station with which the mobile unit will be associated shall be issued for a full five-year term from the date of grant thereof.

(b) The Commission reserves the right to grant or renew station licenses in these services for a shorter period of time than that generally prescribed for such stations if, in its judgment, public interest, convenience, or necessity would be served by such action.

(c) Upon the expiration or termination of any station license, any related construction permit, which bears a later expiration date, shall be automatically terminated concurrently with the related station license, unless it shall have been determined by the Commission that the public interest, convenience or necessity would be served by continuing in effect said construction permit.

Subpart C—Technical Standards

§ 22.100 Frequencies.

(a) The frequencies available for use in the services covered by this part of the rules are listed in the applicable subparts of this part. Assignment of frequencies will be made only in such a manner as to facilitate the rendition of communication service on an interference-free basis in each service area. Unless otherwise indicated, each frequency available for use by stations in these services will be assigned exclusively to a single applicant in any service area. All applicants for, and licensees of, stations in these services shall cooperate in the selection and use of the frequencies assigned in order to minimize interference and thereby obtain the most effective use of the authorized facilities. In the event harmful interference occurs or appears likely to occur between two or more radio systems and such interference cannot be resolved between the licensees thereof, the Commission may specify a time sharing arrangement for the stations involved or may, after notice and opportunity for hearing, require the licensees to make such changes in operating techniques or equipment as it may deem necessary to avoid such interference.

(b) Persons authorized pursuant to this part to operate radio stations on frequencies in the band 25–50 MHz must recognize that the band is shared with various services in other countries; that harmful interference may be caused by tropospheric and ionospheric propagation of signals from distant stations of all services of the United States and other countries operating on frequencies in this band; and that no protection from such harmful interference generally can be expected. Persons desiring to avoid such harmful interference should consider operation on available frequencies higher in the radio spectrum not generally subject to this type of difficulty.

(c) [Reserved]

(d) All applicants for regular authorization for use of the bands 2110–2130 MHz and 2160–2180 MHz shall, before filing an application or major amendment to a pending application, coordinate proposed frequency usage with existing users in the area and other applicants with previously filed applications, in this radio service and in the point-to-point Microwave and Local Television Radio Services, whose facilities could affect or be affected by the new proposal in terms of frequency interference or restricted ultimate system capacity. In coordinating frequency usage with stations in the fixed-satellite service, applicants shall also comply with the requirements of Section 21.706 (c) and (d). In engineering a system or modification thereto, the applicant shall by appropriate studies and analyses select sites, transmitters, antennas and frequencies that will avoid harmful interference to other users. All applicants, permittees and licensees shall cooperate fully and make reasonable efforts to resolve technical problems and conflicts that may inhibit the most effective and efficient use of the radio spectrum; however, the party being coordinated with is not obligated to suggest changes or re-engineer a proposal in cases involving conflicts. Applicants should make every reasonable effort to avoid blocking the growth of systems that are likely to need additional capacity in the foreseeable future. The applicant shall identify in

V 4 4 O C 1 9 7 9 9 UMI

the application all entities with which the technical proposal was coordinated in the event that technical problems are not resolved or if the existing licensee, permittee or applicant does not respond to coordination efforts within 30 days after notification, an explanation shall be submitted with the application. Where technical problems are resolved by an agreement or operating arrangement between the parties that would require special procedures be taken to reduce the likelihood of harmful interference (such as the use of artificial site shielding) or would result in a reduction of quality or capacity of either system, the details thereof shall be contained in the application. The following guidelines are applicable to the coordination procedure:

(1) Coordination involves two separate elements: Notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The name of the carriers with which coordination was accomplished must be specified.

(2) Notification must include relevant technical details of the proposal. At minimum, this should include, as applicable, the following:

Transmitting station name.
Transmitting station coordinates.
Frequencies and polarizations to be added or changed.
Transmitting equipment type, its stability, actual output power, and emission designator.
Transmitting antenna type and model and, if required, a typical pattern and maximum gain.
Transmitting antenna height above ground level and ground elevation above mean sea level.
Receiving station name.
Receiving station coordinates.
Receiving antenna type and model and, if required, a typical pattern and maximum gain.
Receiving antenna height above ground level and ground elevation above mean sea level.
Path azimuth and distance.

(3) For transmitters employing digital modulation techniques at frequencies below 15 GHz, the notification should clearly identify the type of modulation. Upon request, additional details of the operating characteristics of the equipment shall also be furnished.

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by all carriers to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file his application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the carrier being notified. If notification is by mail, this date may be ascertained by: (i) The return receipt on certified mail, (ii) the enclosure of a card to be dated and returned by the recipient, or (iii) a conservative estimate of the time required for the mail to reach its destination. In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

(6) All technical problems that come to light during coordination must be resolved unless a statement is included with the application to the effect that the applicant is unable or unwilling to resolve the conflict and briefly the reason therefor.

(7) Where a number of technical changes become necessary for a system during the course of coordination, an attempt should be made to minimize the number of separate notifications for these changes. Where the changes are incorporated into a completely revised notice, the items that were changed from the previous notice should be identified.

(8) Where subsequent changes are not numerous or complex, the carrier receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying carrier believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change could have no impact on some carriers receiving the original notification, it is not necessary to coordinate the change with such carrier. However, these carriers should be advised of the change and of the opinion that coordination is not required for said change.

(10) Carriers should supply to all other carriers, or known carrier applicants, within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating carriers or applicants, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.

(11) Carriers should keep other carriers with which they are coordinating advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, carriers may assume, unless notified otherwise, that such frequency use is no longer desired.

(e) [Reserved]

§ 22.101 Frequency tolerance.

(a) The carrier frequency of each transmitter authorized in these services shall be maintained within the following percentage of the reference frequency except as otherwise provided in paragraph (b) of this section (unless otherwise specified in the instrument of station authorization the reference frequency shall be deemed to be the assigned frequency):

Frequency range (MHz)	Frequency tolerance (percent)		
	All fixed and base stations	Mobile stations over 3 watts	Mobile stations 3 watts or less [1]
25 to 50	0.002	0.002	0.005
50 to 450	.0005	.0005	.005
450 to 512	.00025	.0005	.0005
512 to 1,000 [2]	.0005	.0005	.005
2,110 to 2,220	.001		
2,220 to 12,200 [2]	.005	.005	.005
12,200 to 40,000	.03	.03	.03

[1] Below 512 MHz transmitter plate power input to the final frequency stage, as specified in the Commission's Radio Equipment List. Above 512 MHz transmitter power output, as specified in the Commission's Radio Equipment List.

[2] Beginning Aug. 9, 1975, this tolerance will govern the marketing of equipment pursuant to §§ 2.803 and 2.805 of this chapter and the issuance of all authorizations for new radio equipment. Until that date new equipment may be authorized with a frequency tolerance of .03 percent in the frequency range 2,200 to 10,500 MHz and .05 percent in the range 10,500 MHz to 12,000 MHz, and equipment so authorized may continue to be used for its life provided that it does not cause interference to the operation of any other licensee. Equipment authorized in the frequency range 2,450 to 10,500 MHz prior to June 23, 1969 at a tolerance of .05 percent may continue to be used until February 1, 1976 provided it does not cause interference to the operation of any other licensee.

[3] Equipment authorized to be operated on frequencies between 890 and 940 MHz as of Oct. 15, 1956, shall be required to maintain a frequency tolerance within 0.03 percent subject to the condition that no harmful interference is caused to any other radio station.

(b) Heterodyne microwave radio systems may be authorized a somewhat less restrictive frequency tolerance (up to .01 percent) to compensate for frequency shift caused by numerous repeaters between base band signal insertion. Where such relaxation is sought, applicant must provide all calculations and indicate the desired tolerance over each path. In such instances the radio transmitters used shall individually be capable of complying with the tolerance specified in paragraph (a) above.

(c) As an additional requirement in any band where the Commission makes assignments according to a specified channel plan, provisions shall be made to prevent the emission included within the occupied bandwidth from radiating outside the assigned channel at a level greater than that specified in § 22.106.

§ 22.102 Frequency measuring or calibrating apparatus.

The frequency measuring or calibrating device used to determine compliance of transmitting equipment with the station authorization and the applicable rules and regulations shall be independent of the transmitter frequency control elements and shall have an accuracy within one-half of the allowed frequency tolerance of the transmitter being measured.

§ 22.103 Standards and limitations governing authorization and use of frequencies in the 72–76 MHz band.

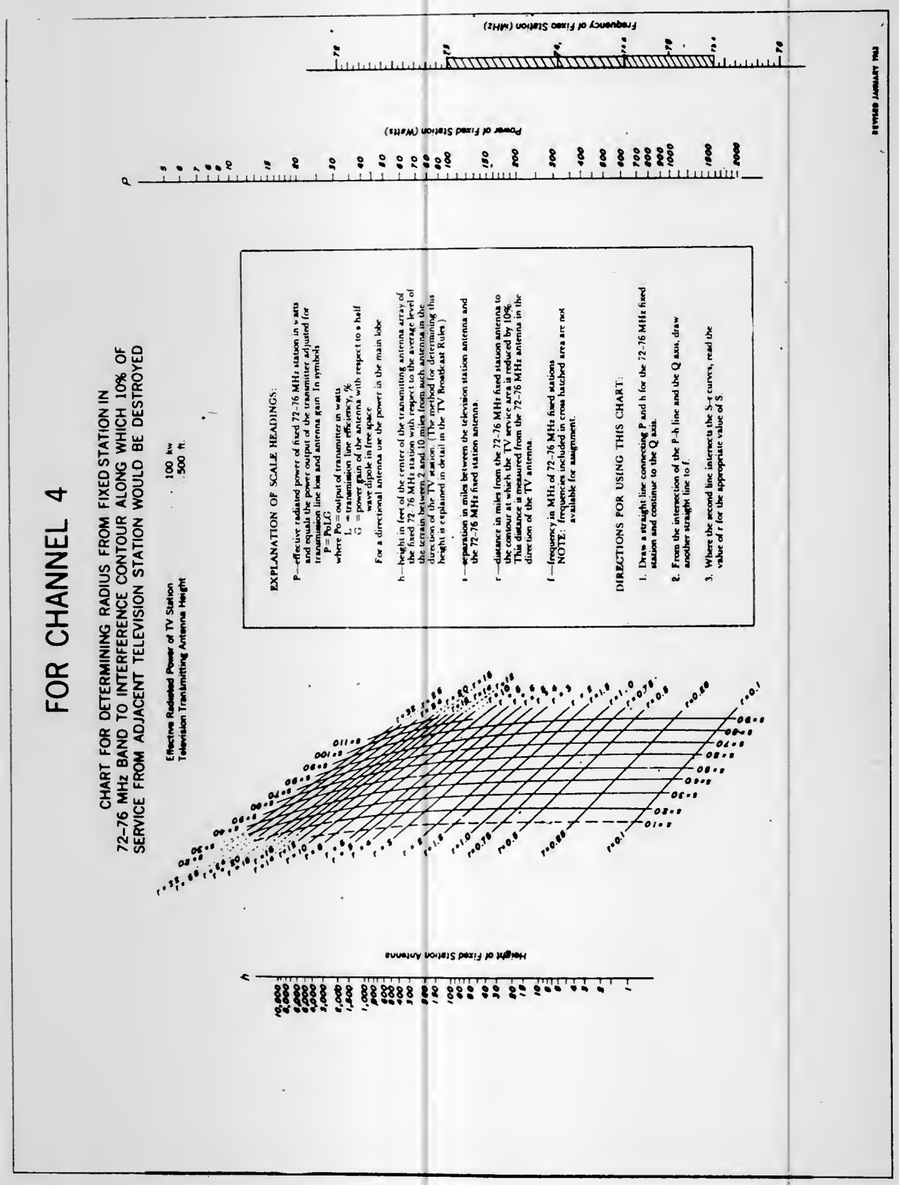
(a) Assignments on frequencies in the band 72–76 MHz will be made only to stations located 10 or more miles from a channel 4 or 5 television station (or from the post office of the city to which such television channels are allocated, in cases where a television station has not been authorized) and shall be subject to the condition that no harmful interference is caused to reception of such television stations. Applications for use of frequencies involving less than 10 miles separation from such television stations will be returned without action.

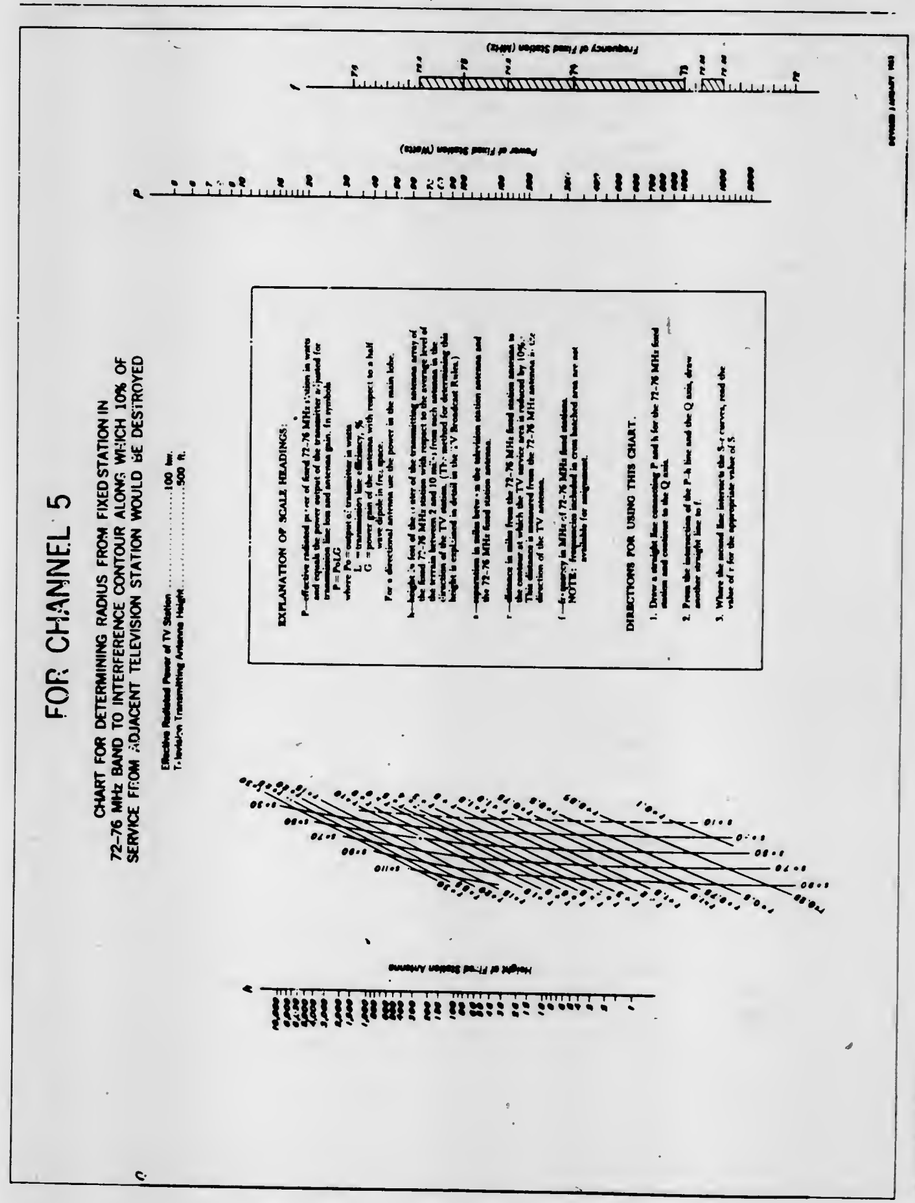
(b) Assignments on frequencies in the band 72–76 MHz will be made only upon the applicant's affirmative showing that he agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5 and, if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the interfering fixed station will be discontinued.

(c) In cases where it is proposed to locate a 72–76 MHz fixed station less than 80, but more than 10, miles from the site of a television transmitter operating on either channel 4 or 5 (or from the post office of a community to which such television channels are allocated, in cases where a television station has not been authorized), the fixed station shall be authorized only if there are fewer than 100 family dwelling units (as defined by the United States Bureau of Census) located within a circle centered at the location of the fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not be counted) the radius of which shall be determined by use of the folowing charts entitled "Chart For Determining Radius From Fixed Station In 72–76 MHz Band To Interference Contour Along Which 10 Percent of Service From Adjacent Channel Television Station Would Be Destroyed":

BILLING CODE 6712-01-M

V 4 4 0 C 1 9 7 9 UMI





BILLING CODE 6712-01-C

V 4 4 0 C 1 9 7 9 UMI

(d) In cases where more than 100 family dwelling units are contained within the circle (determined according to paragraph (c) of this section), the Commission may, in a particular case, authorize the location of a fixed station upon a factual showing that:

(1) The proposed site is the only suitable location.

(2) It is not feasible, technically or otherwise, to use other available frequencies.

(3) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(4) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

(e) No station assignments shall be made in the frequency range 74.6–75.4 MHz.

(f) No station assignments shall be made in the frequency range 72.65–72.85 MHz within 80 miles from the site of a television transmitter operating on channel 5 (or from the post office of a community to which such television channel is allocated, in cases where a television station has not been authorized).

§ 22.104 Types of emission.

(a) The types of emission which may be used by the various stations in the radio services included in this Part are specified in the rules in this Part governing the particular service. (See § 2.201 of this chapter for information concerning the manner of designating various classes of emission.)

(b) The use of F0 and A0 emission in the 72–76 MHz band will not be authorized, except for temporary or short periods necessary for testing incident to the construction or maintenance of a radio station.

§ 22.105 Bandwidth.

Each authorization issued pursuant to these rules will show, as the emission designator, a symbol representing the class of emission which shall be prefixed by a number specifying the necessary bandwidth in kilohertz. This figure does not necessarily indicate the bandwidth actually occupied by the emission at any instant. In those cases where Part 2 of this chapter does not provide a formula for the computation of the necessary bandwidth, the occupied bandwidth may be used in the emission designator.

§ 22.106 Emission limitations.

(a) The mean power of emissions shall be attenuated below the mean output of the transmitter in accordance with the following schedule:

(1) When using transmission other than those employing digital modulation techniques:

(i) On any frequency removed from the assigned frequency by more than 50 percent up to and including 100 percent of the authorized bandwidth: At least 25 decibels;

(ii) On any fequency removed from the assigned frequency by more than 100 percent up to and including 250 percent of the authorized bandwith: At least 35 decibels;

(iii) On any fequency removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least 43 plus 10 Log_{10} (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(2) When using transmissions employing digital modulation techniques (See § 21.122):

(i) For operating frequencies below 15 GHz, in any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 50 decibels.

$A = 35 + 0.8(P50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 80 decibels is not required.)

Where:

A = Attenuation (in decibels) below the mean output power level.

P = Percent removed from the carrier frequency.

B = Authorized bandwidth in MHz.

(ii) For operating frequencies above 15 GHz, in any 1 MHz band, the center frequency of which is removed from the assigned frequency by more than 50 percent up to and including 250 percent of the authorized bandwidth: As specified by the following equation but in no event less than 11 decibels.

$A = 11 + 0.4(P50) + 10 \text{ Log}_{10} B.$

(Attenuation greater than 56 decibels is not required.)

(iii) In any 4 kHz band, the center frequency of which is removed from the assigned frequency by more than 250 percent of the authorized bandwidth: At least $43 + 10 \text{ Log}_{10}$ (mean output power in watts) decibels, or 80 decibels, whichever is the lesser attenuation.

(b) When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in paragraph (a) of this section.

§ 22.107 Transmitter power.

(a) The power which a station will be permitted to use in these services will be the minimum required for satisfactory technical operation commensurate with the size of the area to be served and local conditions which affect radio transmission and reception. In cases of harmful interference, the Commission may, after notice and opportunity for hearing, order a change in the effective radiated power of a station.

(b) The rated power of a transmitter employed in these radio services shall not exceed the values shown in the following tabulation:

Frequency range (MHz):	*Rated power output (watts)*
Below 30	50
30 to 50	350
50 to 76	50
76 to 512	[1]250
512 to 10,000	[2]20
Above 10,000	[2]10

[1] Transmitter rated power output is limited to a maximum of 25 watts on frequencies in the bands 454.6625–455.000 MHz and 459.6625–460.000 MHz.

[2] In the bands 5.925–6.425 MHz and 27.500–29.500 MHz the maximum effective isotropically radiated power of the transmitter and associated antenna of a station in the fixed service shall not exceed—55 dBW. This limitation is necessary to minimize the probability of harmful interference to reception in this band by space stations in the fixed-satellite service. In the band 2.150–2.162 MHz up to 100 watts may be authorized pursuant to § 21.904.

(c) The power of each transmitter shall be maintained as near as practicable to the power input or output, as the case may be, specified in the instrument of station authorization: *Provided,* That the power of each base station transmitter shall not deviate by more than 20 percent above and 25 percent below the authorized power. In the event it becomes impossible to operate within such limits of the authorized power, the station may be operated with reduced power for a period of 10 days or less, provided that if such operation continues longer than 10 days the Commission and the Engineer in Charge of the radio district in which the station is located shall be notified in writing immediately thereafter and also upon the resumption of normal power.

§ 22.108 Directional antennas.

(a) Unless otherwise authorized upon specific request by the applicant, each station authorized under the rules of this part, other than base, mobile and auxiliary test stations operating in the Domestic Public Land Mobile Service and all classes of stations in the Offshore Radio Telecommunications Service, shall employ a directional antenna adjusted with the center of the major lobe of radiation in the horizontal plane directed toward the receiving station with which it communicates: *Provided, however,* Where a station communicates with more than one point, a multi- or omni-directional antenna may be authorized if necessary. New Periscope antenna systems will not, under ordinary circumstances, be authorized.

(b) Stations operating below 2500 MHz (other than base mobile and auxiliary test stations in the Domestic Public Land Mobile Radio Service and all classes of stations in the Offshore Radio Telecommunications Service) which are required to use directional antennas shall employ antennas meeting the standards indicated below. (Maximum beamwidth is for the major lobe of radiation at the half power points. Suppression is the minimum attenuation required for any secondary lobe signal and is referenced to the maximum signal in the main lobe.)

Frequency range	Maximum beam width (degrees)	Suppression (dB)
Below 512 MHz	80	10
512 to 1000 MHz	20	13
1500 to 2500 MHz	12	13

(c) Fixed stations (other than temporary fixed) operating at 2.500 MHz or higher shall employ transmitting and receiving antennas meeting the appropriate performance Standard A indicated below, except that in areas not subjected to frequency congestion, antennas meeting performance Standard B may be used subject to the liability set forth in § 22.109(c). Additionally, the main lobe of each antenna operating below 5.000 MHz shall have minimum power gain of 36 dBi over an isotropic antenna; at or above 5.000 MHz the minimum gain shall be 38 dBi. The values indicated represent the suppression required in the horizontal plane, without regard for the polarization plane of intended operation.

Angle from center line of main lobe	Minimum radiation suppression	
	Standard A (dB)	Standard B (dB)
Operation below 5,000 MHz:		
5° up to, not including 10°	23	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	32
100° up to, including 180°	55	32
Operation at 5,000 MHz or above:		
5° up to, not including 10°	25	20
10° up to, not including 15°	29	24
15° up to, not including 20°	33	28
20° up to, not including 30°	36	32
30° up to, not including 100°	42	35
100° up to, including 180°	55	36

(d) In cases where passive reflectors are employed in conjunction with transmitting antenna systems, the foregoing paragraphs of this section also shall be applicable thereto. However, in such instances, the center of the major lobe of radiation from the antenna normally shall be directed at the passive reflector, and the center of the major lobe of radiation from the passive reflector directed toward the receiving station with which it communicates.

(e) No directional transmitting antenna utilized by a station operating in the band 5925–6425 MHz shall be aimed within 2° of the geostationary satellite orbit, taking into account atmospheric refraction. However, exception may be made in unusual circumstances upon a showing that there is no reasonable alternative to the transmission path proposed. If there is no evidence that such exception would cause possible interference to an authorized satellite system, said transmission path may be authorized on a waiver basis where the maximum value of equivalent isotropically radiated power does not exceed; (1) 47 dBW for any antenna beam directed within 0.5° of the stationary satellite orbit or (2) 47 to 55 dBW, on a linear decibel scale (8 db per degree) for any antenna beam directed between 0.5° and 1.5° of the stationary orbit. [Methods of calculating azimuths to be avoided may be found in: CCIR Report #393 (Green Books), New Delhi, 1970; in "Radio-Relay Antenna Pointing for Controlled Inference With Geostationary Satellites" by C. W. Lundgren and A. S. May, Bell System Technical Journal, Volume 48, No. 10, pages 3387–3422, December 1969; and in "Geostationary Orbit Avoidance Computer Program" by Richard G. Gould, Common Carrier Bureau Report CC–7201, FCC, Washington, D.C., 1972. This latter report and a card deck of the program itself are available through the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151, as report numbers PB–211–500, and PB–211–501.]

§ 22.109 Antenna and antenna structures.

(a) In the event harmful interference is caused to the operation of other stations, the Commission may, after notice and opportunity for hearing, order changes to be made in the height, orientation, gain and radiation pattern of the antenna system.

(b) No replacement or change of antenna or antenna structure shall be effected, except as noted below, without prior authorization from the Commission if after such replacement or change, there would be an increase in the gain of the antenna in any direction or increase in the overall structure height: *Provided, however,* That changes may be made without prior authorization from the Commission where: The power gain in any direction is not decreased by more than 1.5 dB below that specified in the application for which authorization was issued; antenna height changes or corrections do not vary more than 2 feet from the height authorized and do not increase the overall structure height; or antenna directivity changes do not vary more than 1° from the values authorized. Within 30 days after making any changes not requiring prior authorization the licensee shall report the same to the Commission and to the Engineer in Charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information (c.f. §§ 22.15(g) and 22.121(c)).

(c) The Commission may require the replacement, at the licensee's expense, of any antenna or periscope antenna system of a permanent fixed station operating at 2500 MHz or higher which does not meet performance Standard A specified in § 22.108(c), upon a showing that said antenna causes or is likely to cause interference to (or receive interference from) any other authorized or proposed station whereas an antenna meeting performance Standard A is not likely to involve such interference.

(d) No replacement or change of antenna or antenna structure shall be effected without prior authorization from the Commission except as provided for under this section.

§ 22.110 Antenna polarization.

(a) Stations operating in the 72–76 MHz band, each base, mobile dispatch and auxiliary test station operating in the Domestic Public Land Mobile Radio Service and all classes of stations in the Offshore Radio Telecommunications Service shall employ an antenna which radiates a signal, the electrical component of which is vertically polarized.

(b) Unless otherwise authorized, each station operating on frequency below 512 MHz (other than base, mobile, dispatch, and auxiliary test stations in the Domestic, all classes of stations in the Offshore Radio Telecommunications Service, and stations operating in the 72–76 MHz band) shall employ an antenna which radiates a signal, the electrical component of which is horizontally polarized: *Provided, however,* That rural subscriber stations communicating with base stations may employ vertical polarization.

(c) Upon a satisfactory showing in each case that improved transmission will result and potentially harmful interference to other radio installations would be reduced, the Commission may

V 44 0C 19 79 UMI

authorize a station operating on frequencies below 512 MHz (other than base, mobile and auxiliary test stations in the Domestic Public Land Mobile Radio Service, all class of stations in the Offshore Radio Telecommunications Service, and stations in the 72–76 MHz band) to employ an antenna which radiates a signal, the electrical component of which is circularly or otherwise polarized.

(d) Stations operating in the Domestic Public Radio Services above 890 MHz are not limited as to the type of polarization of the radiated signal: *Provided, however,* That in the event harmful interference is caused to the operation of other stations, the Commission may, after notice and oportunity for hearing, order the licensee to change the polarization of the radiated signal. No change in polarization shall be made without prior authorization from the Commission.

§ 22.111 Simultaneous use of common antenna structure.

The simultaneous use of common antenna structures by more than one domestic public radio station, or by one or more domestic public radio stations and one or more stations of any other class or service, may be authorized: *Provided, however,* That each permittee, licensee or user of any such structure is responsible for maintaining the structure, and for painting and illuminating the structure when obstruction marking is required by the Commission. (See § 22.15(d) and § 22.109(b).)

§ 22.112 Marking of antenna structures.

No permittee or licensee who has been required to paint or light an antenna structure shall discontinue the required painting or lighting without having obtained prior written authorization therefor from the Commission. (For complete regulations relative to antenna marking requirements, see Part 17 of this chapter.)

§ 22.113 Quiet zones.

Quiet zones are those areas where it is necessary to restrict radiation so as to minimize possible impact on the operations of radio astronomy or other facilities that are highly sensitive to radio frequency interference. The areas involved and procedures required are as follows:

(a) In order to minimize possible harmful interference at the National Radio Astronomy Observatory site located at Green Bank, Pocahontas County, West Virginia, and at the Naval Radio Research Observatory site at Sugar Grove, Pendleton County, West Virginia, any applicant for a station authorization other than mobile, temporary base, or temporary fixed seeking authorization for a new station or to modify an existing station in a manner which would change either the frequency, power, antenna height or directivity, or location of such a station within the area bounded by 39°15′ N. on the north, 78°30′ W. on the east, 37°30′ N. on the south, and 80°30′ W. on the west shall, at the time of filing such application with the Commission, simultaneously notify the Director, National Radio Astronomy Observatory, Post Office Box No. 2, Green Bank, West Virginia 24944, in writing, of the technical particulars of the proposed operation. Such notification shall include the geographical coordinates of the antenna, antenna height, antenna directivity (if any), proposed frequency, type of emission, and power. In addition, the applicant shall indicate in his application to the Commission the date notification was made to the Observatory. After receipt of such applications, the Commission will allow a period of twenty (20) days for comments or objections in response to the notifications indicated. If an objection to the proposed operation is received during the 20-day period from the National Radio Astronomy Observatory for itself or on behalf of the Naval Radio Research Observatory, the Commission will consider all aspects of the problem and take whatever action is deemed appropriate.

(b) In order to minimize possible harmful interference at the Table Mountain Radio Receiving Zone of the Research Laboratories of the Department of Commerce located in Boulder County, Colorado, applicants for new or modified radio facilities in the vicinity of Boulder County, Colorado are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that field strengths at 40°07′50″ N. latitude, 105°14′40″ W. longitude, resulting from new assignments (other than mobile stations) or from the modification or relocation of existing facilities do not exceed the following values:

	Field strength (mV/m) in authorized bandwidth of service	Power flux density [1] (dBW/m²) in authorized bandwidth of service
Below 540 kHz	10	−65.8
540 to 1600 kHz	20	−59.8
1.6 to 470 MHz	10	2−65.8
470 to 800 MHz	30	2−56.2
Above 800 MHz	1	2−85.8

[1] Equivalent values of power flux density are calculated assuming free space characteristic impedance of $376.7 = 120\pi$ ohms.

[2] Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above levels in any 4 kHz band for all angles of arrival.

(1) Advance consultation is recommended particularly for those applicants who have no reliable data which indicates whether the field strength or power flux density figures in the above table would be exceeded by their proposed radio facilities (except mobile stations). In such instances, the following is a suggested guide for determining whether coordination is recommended:

(i) All stations within 1.5 statute miles;

(ii) Stations within 3 statute miles with 50 watts or more effective radiated power (ERP) in the primary plan of polarization in the azimuthal direction of the Table Mountain Radio Receiving Zone;

(iii) Stations within 10 statute miles with 1 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Radio Receiving Zone;

(iv) Stations within 50 statute miles with 25 kW or more ERP in the primary plan of polarization in the azimuthal direction of Table Mountain Receiving Zone.

(2) Applicants concerned are urged to communicate with the Radio Frequency Management Coordinator, Department of Commerce, Research Support Services, NOAA/R5X3, Boulder Laboratories, Boulder CO 80303; telephone 303–499–1000, extension 6548 or 6549, in advance of filing their applications with the Commission.

(3) The Commission will not screen applications to determine whether advance consultation has taken place. However, applicants are advised that such consultation can avoid objections from the Department of Commerce or proceedings to modify any authorization which may be granted which, in fact, delivers a signal at the reference point in excess of the field strength specified herein.

§ 22.114 Temporary fixed antenna height restrictions.

The overall antenna structure heights employed by stations authorized to operate at temporary fixed locations shall not exceed the height criteria set forth in § 17.7 of this chapter, unless in each instance, authorization for use of a specific maximum antenna height (above ground and above mean sea level) for each location has been obtained from the Commission prior to erection of the antenna. Requests for such authorization shall show the inclusive dates of the proposed operation. (Complete information as to rules concerning the construction, marking and lighting of antenna structures is contained in Part 17 of this chapter.)

§ 22.115 Method of determining average terrain elevation.

In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for 8 radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45 degrees of azimuth starting with True North. At least one radial must include the principal community to be served even though such community may be more than 10 miles from the antenna site. Additionally, where feasible, radials should be drawn in the direction of any co-channel stations which are authorized within 75 miles of the antenna site. However, in the event none of the evenly spaced radials include the principal community to be served, or are in the direction of co-channel stations, such additional radials shall not be employed in computing the elevation of average terrain. Where the 2 to 10 mile portion of a radial extends in whole or in part over large bodies of water (e.g., ocean areas, gulfs, sounds, bays, large lakes, etc., but not rivers) or extends over foreign territory but the field intensity contour defining the limit of the service area in that direction encompasses land area within the United States (or territory under its jurisdiction) beyond the 10 mile portion of the radial, the entire 2 to 10 mile portion of the radial shall be included in the computation of elevation of average terrain. However, where the field intensity contour defining the limit of the service area in that direction does not so encompass United States land area (or territory under its jurisdiction) and (1) the entire 2 to 10 mile portion of the radial extends over large bodies of water or foreign territory, such radial shall be completely omitted from the computation of elevation of average terrain, and (2) where a part of the 2 to 10 mile portion of a radial extends over large bodies of water or over foreign territory, only that part of the radial extending from the 2 mile sector to the outermost portion of land area within the United States (or territory under its jurisdiction) covered by the radial shall be employed in the computation of elevation of average terrain. The profile graph for each radial should be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. In instances of very rugged terrain where the use of contour intervals of 100 feet would result in several points in a short distance, 200 or 400 foot contour intervals may be used for such distances. On the other hand, where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map should be used, although only relatively few points may be available. The profile graphs should indicate the topography accurately for each radial, and the graphs should be plotted with the distance in miles as the abscissa and the elevation in feet above mean sea level as the ordinate. The profile graphs should indicate the source of the topographical data employed. The graph should also show the elevation of the center of the radiating system. The graph may be plotted either on rectangular coordinate paper or on special paper which shows the curvature of the earth. It is not necessary to take the curvature of the earth into consideration in this procedure. The average elevation of the 8 mile distance between 2 and 10 miles from the antenna site should then be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded for 50 percent of the distance) in sectors and averaging those values.

§ 22.116 Topographical data.

In the preparation of the profile graphs described in § 22.115, and in determining the location and height above sea level of the antenna site, the elevation or contour intervals shall be taken from United States Geological Survey Topographic Quadrangle Maps, United States Army Corps of Engineers maps or Tennessee Valley Authority maps, whichever is the latest, for all areas for which such maps are available. If such maps are not published for the area in question, the next best topographic information should be used. Topographic data may sometimes be obtained from State and municipal agencies. Data from Sectional Aeronautical Charts (including bench marks) or railroad depot elevations and highway elevations from road maps may be used where no better information is available. In cases where limited topographic data is available, use may be made of an altimeter in a car driven along roads extending generally radially from the transmitter site. Ordinarily, the Commission will not require the submission of topographical maps for areas beyond 15 miles from the antenna site, but the maps must include the principal community to be served. If it appears necessary, additional data may be requested. United States Geological Survey Topographic Quadrangle Maps may be obtained from the Department of the Interior, Geological Survey, Washington, D.C., 20242. Sectional Aeronautical Charts are available from the Department of Commerce, Coast and Geodetic Survey, Washington, D.C., 20230.

§ 22.117 Transmitter location.

(a) Where appropriate to the kind of service to be afforded, the transmitter location should be as near to the center of the proposed service area as possible, consistent with the applicant's ability to find a site with sufficient elevation to provide reliable service throughout the area. Location of the antenna at a high point of elevation is desirable to reduce to a minimum the transmission shadow effect due to hills, buildings or other obstructions which may reduce materially the intensity of the station's signals in a particular direction. The transmitting site should be selected consistent with the purpose of the station, i.e., whether it is intended to serve a small city, a metropolitan area, a large region, or specified fixed points of communication. In providing the best service to an area, it is usually preferable to use a high antenna with low power rather than a lower antenna with higher power. The location should be so chosen that line-of-sight can be obtained from the antenna over the principal cities or specified fixed points of communication to be served.

(b) The transmitting location of a base station should be selected so that the area of interference-free service encompasses the urban population within the area to be served. It is recognized that topography, shape of the desired service area, and population distribution may make the choice of a transmitter location difficult. In such cases, consideration may be given to the use of a directional antenna system although it is generally preferable to choose a site where a nondirectional antenna may be employed.

(c) The applicant shall determine, prior to filing an application for a radio station authorization, that the antenna site specified therein is adequate to

V 44 0 C 19 79 UMI

render the service proposed. In cases of questionable antenna locations, it is desirable to conduct propagation tests to indicate the field intensity which may be expected in the principal areas or at the fixed points of communication to be served, particularly where severe shadow problems may be expected. In considering applications proposing the use of such locations, the Commission may require site survey tests to be made pursuant to a developmental authorization in the particular service concerned. In such cases, propagation tests should be conducted in accordance with recognized engineering methods and should be made with a transmitting antenna simulating, as near as possible, the proposed antenna installation. Full data obtained from such surveys and its analysis, including a description of the methods used and the name, address and qualifications of the engineer making the survey, must be supplied to the Commission.

(d) Antenna structures should be so located and constructed as to avoid making them hazardous to air navigation. (See Part 17 of this chapter for provisions relating to antenna structures.) Such installation shall be maintained in good structural condition together with any required painting or lighting.

§ 22.118 Transmitter construction and installation.

(a) The equipment at the operating and transmitting positions shall be so installed and protected that it is not accessible to, or capable of being operated by, persons other than those duly authorized by the licensee. In general, each transmitter used in the Domestic Public Radio Services shall be so constructed or installed that all controls thereon which may cause off-frequency operation or result in any unauthorized emission shall be protected from access by other than duly authorized holders of first- or second-class radio operator licenses.

(b) In any case where the maximum modulating frequency of a transmitter is prescribed by the Commission, the transmitter shall be equipped with a low-pass or band-pass modulation filter of suitable performance characteristics. In those cases where a modulation limiter is employed, the modulation filter shall be installed between the transmitter stage in which limiting is effected and the modulated stage of the transmitter. (See also §§ 22.508(e) and 22.605(d).)

(c) Each transmitter, other than a hand-carried or pack-carried transmitter, employed in these services shall be equipped with an appropriately labeled pilot lamp or meter which will provide continuous visual indication at the transmitter when its control circuits have been placed in a condition to activate the transmitter. In addition, facilities shall be provided at each transmitter to permit the transmitter to be turned on and off independently of any remote control circuits associated therewith.

(d) Each base station in these services is required to have:

(1) At least one control point (see § 22.515); and

(2) A person on duty at the control point who is in charge of the station's operations during the normal rendition of service (see § 22.205). The location of an authorized control point may not be moved beyond the boundary of the city, borough, town or community without prior Commission approval. Any associated changes made in the dispatching arrangments should accompany the application for change in such cases.

(e) At each transmitter control point the following facilities shall be installed:

(1) A carrier operated device which will provide continuous visual indication when the transmitter is radiating, or, in lieu thereof, a pilot lamp or meter which will provide continuous visual indication when the transmitter control circuits have been placed in a condition to activate the transmitter: *Provided, however,* That the provisions of this subparagraph shall not apply to hand-carried or pack-carried transmitters.

(2) Facilities which will permit the operator to turn transmitter carrier on and off at will.

(f) Transmitter control circuits from any control point shall be so installed that grounding or shorting any line in the control circuit will not cause the transmitter to radiate: *Provided, however,* That this provision shall not be applicable to control circuits of stations which normally operate with continuous radiation or to control circuits which are under the effective operational control of responsible operating personnel 24 hours per day.

§ 22.119 Limitation on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communication purposes. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

§ 22.120 Type acceptance of transmitters.

(a) Except for transmitters used at developmental stations, each transmitter shall be of a type which has been type accepted by the Commission for use under the applicable rules of this part.

(b) Any manufacturer of a transmitter to be produced for use under the rules of this part may request type acceptance by following the type acceptance procedure set forth in Part 2 of this chapter. Type accepted transmitters are included in the Commission's "Radio Equipment List". Copies of this list are available for inspection at the Commission's Office in Washington, D.C., and at each of its field offices.

(c) Type acceptance for an individual transmitter may also be requested by an applicant for a station authorization, pursuant to the type acceptance procedure set forth in Part 2 of this chapter. An individual transmitter will not normally be included in the Radio Equipment List, but will be enumerated on the station authorization.

(d) A transmitter presently shown on an instrument of authorization, which operates on an assigned frequency in the 890–940 MHz band and has not been type accepted may continue to be used by the licensee without type acceptance provided such transmitter continues otherwise to comply with the applicable rules and regulations of the Commission.

§ 22.121 Replacement of equipment.

(a) The licensee of a station in this service may replace a transmitter without specific authorization by notifying the Commission at Washington, D.C. 20554, and its Engineer in Charge of the radio district wherein operation is to be conducted, at the time of the installation of the transmitter, if the replacement transmitter complies with the following conditions:

(1) Appears on Commission's current type-acceptance list for use under this Part 22 (see § 22.120) and is installed without modification.

(2) Its type-accepted output power is equal to the authorized output power for the transmitter being replaced.

(3) Conforms to the frequency, class of station and emission specified in the current instrument of authorization and all other applicable rules and regulations.

(b) For all transmitter replacements made pursuant to paragraph (a) of this section, any changes in input power, make and type of transmitting equipment must also be indicated on the next application for renewal of license or in the next application for modification of license, whichever is filed first. Requests for authority to make other changes in equipment shall be submitted to the Commission in appropriate applications and replacements which require applications may not be made until an authorization has been issued by the Commission. Notification is not required for a replacement which conforms in all respects to the authorized transmitter.

(c) The notification required by paragraph (a) of this section shall include:

(1) Radio service and station call sign.

(2) Location of replacement transmitter as shown on current license.

(3) Name of the manufacturer and type number of transmitter installed, as it appears on the current type-acceptance list.

(4) Rated output power of such transmitter.

(5) Identification of the transmitter being replaced (and where applicable, point(s) of communication) and the frequency on which such transmitter operates.

(6) Date of replacement.

(d) The permitter or licensee of a station in this service may replace or change equipment, other than that specified in §§ 22.109(a) and 22.121(a), including the transmission line and other devices between the transmitter and antenna if, after such change or addition the effective radiated power of the station in any direction is not decreased by more than 1.5 dB below that specified in the application for which authorization was issued. Prior authorization from the Commission is required if, after such changes the effective radiated power in any direction would be increased. Within 30 days after making any changes not requiring prior authorization, the permittee or licensee shall report the same to the Commission and to the Engineer in Charge of its district with complete technical details including a computation of the effective radiated power and all other pertinent information together with the certification of the person responsible for preparing the information (c.f. §§ 22.15 and 22.121(c)).

§ 22.122 Microwave digital modulation.

(a) Microwave transmitters employing digital modulation techniques and operating below 15 GHz shall, with appropriate multiplex equipment, comply with the following additional requirements:

(1) The bit rate, in bits per second, shall be equal to or greater than the bandwidth specified by the emission designator in hertz (e.g., to be acceptable, equipment transmitting at a 20 MB/s rate must not require a bandwidth of greater than 20 MHz).

(2) Equipment to be used for voice transmission shall be capable of satifactory operation within the authorized bandwidth to encode at least the following number of voice channels:

Frequency range:	Number of encoded voice channels
2110 to 2130 MHz	96
2160 to 2180 MHz	96
3700 to 4200 MHz	1,152
5925 to 6425 MHz	1,152
10,700 to 11,700 MHz	1,152

(3) The required minimum number of channels shown in paragraph (a)(2) of this section may be reduced by a factor 1/N provided that N transmitters may be operated satisfactorily within an authorized bandwidth less than, or equal to, the maximum authorizable bandwidth over the same radio path (e.g. (1) the 1152 channels requirement may be reduced to 576 if two transmitters can be satisfactorily operated over the same path within a 40 MHz maximum bandwidth for the 11 GHz band or (2) reduced to 288 channels if four transmitters can be satisfactorily accommodated within this bandwidth). Applications submitted for equipment type acceptance designed to operate in this mode must include data which will demonstrate successful operation under typical transmission conditions. Where type accepted equipment is designed to operate on the same frequency in a cross-polarized configuration to meet the above capacity requirements, the Commission will require, at the time additional transmitters are authorized, that both polarizations of a frequency be used before a new frequency assignment is made, unless a single transmitter installation was found to be justified by the Commission at the time it authorized the first transmitter.

(b) For purposes of compliance with the emission limitation requirements of Section 22.106(a)(2) of this part and the requirements of paragraph (a) of this section, digital modulation techniques are considered as being employed when digital modulation contributes 50 percent or more to the total peak frequency deviation of a transmitted radio frequency carrier. The total peak frequency deviation shall be determined by adding the deviation produced by the digital modulation signal and the deviation produced by any frequency division multiplex (FDM) modulation used. The deviation (D) produced by the FDM signal shall be determined in accordance with Section 2.202(f) of Part 2 of this chapter.

(c) Transmitters employing digital modulation techniques shall effectively eliminate carrier spikes or single frequency tones in the output signal to the degree which would be obtained without repetitive patterns occurring in the signal.

(d) Transmitters type accepted for use with digital modulation prior to November 1, 1974 may continue to be used where authorized until December 31, 1976. After the latter date, such equipment will no longer be type accepted for digital modulation unless it is type accepted for such use after November 1, 1974.

Subpart D—Technical Operation

§ 22.200 Station inspection.

The licensee of each station authorized in the Domestic Public Radio Services shall make the station and station records available for inspection by representatives of the Commission at any reasonable hour.

§ 22.201 Posting of station authorizations.

(a) The station permit, license or other authorization shall be posted at the authorized control point of the station, or, if none, at the station location. A photocopy may be posted in lieu of the original authorization if it is certified as to authenticity by an officer or duly authorized employee of the licensee or permittee and if it is annotated with the location of the original. If not posted at the station or a control point, the original authorization shall be posted at the licensee's alarm center or maintenance facility responsible for the station. (See also § 1.62 of this chapter.)

(b) If the station is authorized for mobile operation or for operation at temporary fixed locations, the documents specified in paragraph (a) of this section shall be retained as a permanent part of the station record, but need not be posted.

§ 22.202 [Reserved]

§ 22.203 Posting of operator licenses.

(a) Whenever a licensed radio operator is required for the operation of a radio station, the license of each operator, other than an operator exclusively performing service and maintenance duties, shall be posted or kept immediately available at the place where he is on duty as an operator: *Provided, however,* That if an operator who is on duty holds a restricted radiotelephone operator permit of the card form (as distinguished from such document of the diploma form) or holds a valid license verification card (FCC Form 758–F) attesting to the existence of any other valid commercial radio

V 4 4 0 C 1 9 7 9 9 UMI

operator license, he may have such permit or verification card in his personal possession or otherwise immediately available at the place where he is on duty as an operator.

(b) The license of every station operator who performs service and maintenance duties exclusively at that station shall be posted at the transmitter involved whenever the transmitter is in actual operation while service or maintenance work is being performed by him or under his immediate supervision and responsibility: *Provided*, That in lieu of posting his license, he may have on his person his license or a valid verification card.

§ 22.204 FCC publication required for reference.

For reference purposes, the permittee or licensee of radio facilities in the Domestic Public Radio Services shall maintain and have available at the principal control point, or alarm center, or at the transmitter location, or maintenance center for the station, a current copy of this Part 22 (available at the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402).

Note.—It is suggested that the following additional documents be obtained from the Government Printing Office and maintained for reference:

(1) Communications Act of 1934, as amended.

(2) Part 1 of this chapter, Practice and Procedure.

(3) Part 2 of this chapter, Frequency Allocations and Radio Treaty Matters; General Rules and Regulations.

(4) Part 13 of this chapter, Commercial Radio Operators.

(5) Part 17 of this chapter, Construction, Marking, and Lighting of Antenna Structures.

(6) Part 25 of this chapter, Satellite Communications.

(7) Part 42 of this chapter, Preservation of Records of Communication Common Carriers.

(8) Part 61 of this chapter, Tariffs.

(9) Part 63 of this chapter, Extension of Lines and Discontinuance of Service by Carriers.

§ 22.205 Operator requirements.

(a) Any person in charge of a radio station in these services shall be competent to maintain proper radio logs and records relative to such operations where they are required.

(b) When a radio station is radiating all adjustments or tests during or coincident with the installation and servicing or maintenance of the transmitter and its associated radio equipment which may affect the quality of transmission or possibly cause the station radiation to exceed the limits specified in its instrument of authorization or in the rules pertaining to such station shall be made by or under the immediate supervision and responsibility of a person holding a first- or second-class commercial radio operator license (either radiotelephone or radiotelegraph, or both, as may be appropriate for the type of emission being used), who shall be responsible for the proper functioning of the radio facilities.

(c) When a radio station is not radiating any person may perform the functions set forth in paragraphs (a) and (b) of this section without direct supervision after having been authorized to do so by the station licensee. The facilities shall thereafter initially be placed in operation and be determined to be operating properly by a first- or second-class licensed commercial radio operator.

(d) In all cases, except where manual radiotelegraph keying is employed, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a first- or second-class commercial radiotelephone or radiotelegraph license issued by the Commission.

(e) Where manual radiotelegraph keying is employed exclusively, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a first- or second-class commercial radiotelegraph operator license issued by the Commission.

(f) In cases where manual radiotelegraph keying and other types of radio transmission are employed, the person responsible for the technical installation, servicing and maintenance of a radio station in these services shall hold a commercial radiotelegraph operator license of first- or second-class.

(g) During the course of normal rendition of service, a station employing manual radiotelegraph keying shall be operated only by a person holding a commercial radiotelegraph operator license or radiotelegraph operator permit issued by the Commission. Persons not holding such authorizations are forbidden to manipulate a manually operated telegraph key at such stations during periods of station operation.

(h) Any person may, after obtaining permission from the station licensee, operate the following types of stations during the course of normal rendition of service, under the circumstances set forth below:

(1) A mobile station, when communicating with or through a base station in the Domestic Public Land Mobile Radio Service.

(2) A rural subscriber or mobile station in the Rural Radio Service.

(3) Central office stations, inter-office stations, auxiliary test stations, and base stations, including radio stations which may be associated therewith.

(i) [Reserved]

(j) Developmental stations shall be operated during the course of normal rendition of service under the effective operational control of a person holding a first- or second-class commercial radiotelephone or radiotelegraph operator license issued by the Commission.

(k) Notwithstanding any other provisions of this section, unless the transmitter and its associated equipment is so designed that none of the operations necessary to be performed during the course of normal rendition of service may cause off-frequency operation or result in any unauthorized radiation, such transmitter shall be operated by a person holding a first- or second-class commercial radio operator license, either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used.

(l) Except under the circumstances specified in paragraphs (g) through (j) of this section, during the course of normal rendition of service, no person is required to be in attendance at a station installed at a specified fixed location provided (1) licensed radio personnel responsible for the maintenance of the radio station are continuously available on call at a location which will assure expeditious performance of such technical servicing and maintenance as may be necessary, and (2) the quality of transmission over such station is subject to the supervision of the licensee's responsible operating personnel for the radio system with which the unattended station is directly associated.

(m) The provisions of paragraph (h) of this section authorizing certain unlicensed persons to operate radio stations shall not be construed to change or diminish in any respect the responsibility of station licensees to have and to maintain effective operational control over the stations operating under their license (including all transmitter units thereof), or for the proper functioning of those stations in accordance with the terms of the instrument of authorization and applicable rules and regulations.

(n) [Reserved]

(o) A licensee of radio facilities in these services is required to have available on call at all times (either as an employee or through appropriate contractual arrangement with a person holding the requisite class of radio operator license) a licensed first- or second-class commercial radio operator (either radiotelephone or radiotelegraph, as may be appropriate for the type of emission being used) to perform necessary technical servicing and maintenance of the radio facilities expeditiously.

§ 22.206 Inspection and maintenance of antenna structure marking and lighting, and associated control equipment.

The licensee of any radio station which has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and Part 17 of this chapter, shall perform the inspection and maintain the tower marking and lighting and associated control equipment in accordance with the requirements set forth in Part 17 of this chapter.

§ 22.207 Transmitter measurements.

(a) The licensee of each station shall employ a suitable procedure to determine that the carrier frequency of each transmitter operating in these services is maintained within the tolerance prescribed in § 22.101 or in the instrument of station authorization. The determination shall be made, and the results thereof entered in the technical log of the station, in accordance with the following:

(1) When the transmitter is initially installed.

(2) When any change is made in the transmitting equipment which may affect the carrier frequency or the stability thereof.

(3) At intervals not to exceed one year, for transmitters employing crystal-controlled oscillators, or oscillators regulated by temperature-controlled or temperature-compensated cavities.

(4) At intervals not to exceed one month, for transmitters not employing crystal-controlled oscillators, or oscillators regulated by temperature-controlled or temperature-compensated cavities.

(b) The permittee or licensee of each station shall employ a suitable procedure to determine that the power of each transmitter which operates below 512 MHz from a specified fixed location conforms to the requirements of the station authorization and the rules of this part. Where the transmitter is so constructed that a direct measurement of plate current in the final radio stage is not practicable, the power may be determined from a measurement of the cathode current in the final radio stage. When the power is determined from a measurement of the cathode current, the required record entry shall indicate clearly the quantities that were measured, the measured values thereof, and the method of determining the power from the measured values. This determination shall be made, and the results thereof entered in the technical log of the station in accordance with the following:

(1) When the transmitter is initially installed.

(2) When any change is made in the transmitter which may cause the power to deviate by more than 20 percent above and 25 percent below the authorized power specified in the instrument of station authorization.

(3) At intervals not to exceed one year.

(c) The permittee or licensee of each station shall employ a suitable procedure to determine that the modulation characteristics of each transmitter and the signal radiated therefrom conform to the terms of the instrument of station authorization and to the applicable rules of this part. This determination shall be made, and the results thereof entered in the technical log of the station in accordance with the following:

(1) When the transmitter is initially installed.

(2) When any change is made in the transmitter which may affect the modulation characteristics.

(3) At intervals not to exceed one year.

(d) In the case of mobile transmitters, the determinations required by paragraphs (a) and (c) of this section may be made at a test or service bench: *Provided*, That the measurements are made under load conditions equivalent to actual operating conditions: *And provided further*, That after installation in the mobile unit, the transmitter is given a routine check to determine that it is capable of being received satisfactorily by an appropriate receiver.

(e) The determinations required by paragraphs (a), (b), (c), and (d) of this section shall be made by, or under the immediate supervision of, a person holding a first- or second-class commercial radio operator license who shall authenticate the accuracy of such entries by signing his name in the technical log of the station together with the class, serial number and expiration date of his license: *Provided, however*, That the licensee of the station may optionally have the required determinations made by any qualified engineering measurement service, in which case the required record entries shall also show the name and address of the engineering measurement service.

(f) The use of a frequency monitor in lieu of frequency checks will be recorded in the station log in the same manner and at the same intervals as required in paragraph (a) (3) or (4) of this section. Where automatic frequency monitors are employed which have an accuracy of at least one-half of the required frequency tolerance of the transmitters with which they are associated, their use shall be deemed to meet the frequency checking requirements for the period during which they were so used.

§ 22.208 Station records.

(a) Station records shall be kept in an orderly manner, and in such detail that the data required is readily available. Key letters, abbreviations or symbols may be used if proper meaning or explanation is set forth in the record.

(b) Each entry in the records of a station shall be signed by a person qualified to do so, having actual knowledge of the facts to be recorded.

(c) No record or portion thereof shall be erased, obliterated, or willfully destroyed within the required retention period. Any necessary correction may be made only by the person originating the entry who shall strike out the erroneous portion, initial the correction made and indicate the date of correction.

(d) The records required by this part shall be retained for a period of at least one year: *Provided*, That:

(1) Records involving communications incident to a disaster or which include communications incident to, or involved in, an investigation by the Commission and concerning which the licensee has knowledge, shall be retained by the licensee until specifically authorized in writing by the Commission to destroy them.

(2) Records incident to or involved in any claim or complaint of which the licensee has knowledge shall be retained by the licensee until such claim or complaint has been fully satisfied or until the same has been barred by statute limiting the time for the filing of suits upon such claims.

(e) For each station in these services the licensee shall maintain a technical log of the station operation showing:

(1) The results and dates of the transmitter measurements required by § 22.207, and the information concerning the identity of the person making such measurements as required by § 22.207(e).

(2) Pertinent details concerning any servicing or maintenance performed on a transmitter which may affect its proper operation, including the date thereof, as well as the class, serial number and expiration date of the license of the responsible radio operator who shall authenticate the accuracy of such log by signing his name therein.

V 44 O C 1979 UMI

(3) Pertinent details concerning time and nature of any failure or erratic transmitter operation, including operation of automatic alarm facilities.

(f) For each station whose antenna structure is required to be illuminated, appropriate entries shall be made in the station's technical log in conformity with the requirements of Part 17 of this chapter.

(g) For each station which is required to maintain one or more control points, an operation log book shall be kept showing:

(1) The time and signature, upon entering upon duty at the station and again upon leaving duty, of the person or persons responsible for the operation of the transmitting equipment each day. Where the person responsible for the operation of the station is required to be a licensed radio operator, the log entry shall also show, on each signing in, the class, serial number, and expiration date of his operator license.

(2) The time and duration of each transmission and the identity of the station or point to which the transmission was directed: *Provided,* That in lieu thereof, a chronological record of such essential information in the form of traffic tickets, or on a separate sheet, is permissible. When such records are kept in lieu of entries in the operating log book, the minimum retention period shall be as prescribed in paragraph (d) of this section, provision for shorter retention periods in other parts of the Commission's rules notwithstanding.

(h) The log entries concerning the class, serial number and expiration date of the radio operator licenses of the persons responsible for the technical performance and operation of a station, as required by the rules of this part, are not required to be repeated in the case of persons who are regularly employed as operators on a full-time basis at the station. However, log entries shall be authenticated by the signature of such person.

(i) Each entry in the station log shall be legibly made: *Provided, however,* That in any case where it is impracticable to make such entries in the logs immediately, rough logs may be kept in the form of notes or memoranda which shall be transcribed into the station log as soon as possible by the person qualified to do so who has actual knowledge of such facts recorded. The person so transcribing shall authenticate the entries by signing the transcription.

§ 22.209 Communications concerning safety of life and property.

(a) Handling and transmission of messages concerning the safety of life or property which is in imminent danger shall be afforded priority over other messages.

(b) No person shall knowingly cause to be transmitted any false or fraudulent message concerning the safety of life or property, or refuse upon demand immediately to relinquish the use of a radio circuit to enable the transmission of messages concerning the safety of life or property which is in imminent danger, or knowingly interfere or otherwise obstruct the transmission of such messages.

§ 22.210 Operation during emergency.

The licensee of any station in these services may during a period of emergency in which normal communication facilities are disrupted as a result of hurricane, flood, earthquake, or similar disaster, utilize such station for emergency communication service in a manner other than that specified in the instrument of authorization: *Provided,* (a) That as soon as possible after the beginning of such emergency use, notice be sent to the Commission at Washington, D.C., and to the Engineer in Charge of the radio district in which the station is located, stating the nature of the emergency and the use to which the station is being put, and (b) that the emergency use of the station shall be discontinued as soon as substantially normal communication facilities are again available, and (c) that the Commission at Washington, D.C., and the Engineer in Charge shall be notified immediately when such special use of the station is terminated, and (d) that, in no event, shall any station engage in emergency transmission on frequencies other than, or with power in excess of, that specified in the instrument of authorization or as otherwise expressly provided by the Commission, or by law, and (e) that the Commission may, at any time, order the discontinuance of any such emergency communication.

§ 22.211 Suspension of transmission.

Transmission shall be suspended immediately upon detection by the station or operator licensee or upon notification by the Commission of a deviation from the technical requirements of the station authorization and shall remain suspended until such deviation is corrected, except for transmission concerning the immediate safety of life or property, in which case transmission shall be suspended immediately after the emergency is terminated.

§ 22.212 Equipment, service and maintenance tests.

(a) When construction and installation or modification of a station has been completed in accordance with the terms of a construction permit, the technical provisions of the application therefor and the applicable provisions of this part, the permittee is authorized, during the term of such construction permit, to test the equipment for a period not to exceed 10 days, except that permittees of point-to-point microwave stations may conduct such tests for a period not to extend beyond the expiration date of the applicable construction permit: *Provided,* That:

(1) The Commission's Engineer in Charge of the radio district in which the station is located is notified not less than 2 days in advance of the date on which the transmitter will first be tested in such manner as to produce radiation, giving the name of the permittee, station location, call sign, frequencies, time and date on which tests are to be conducted.

(2) The Commission reserves the right to cancel, suspend, or change the date of beginning or duration of such tests when such action is in the public interest, convenience or necessity.

(3) All necessary precautions are taken to avoid interference to any other authorized station.

(4) No service to the public may be furnished over the facilities being tested during the equipment test period.

(b) When construction and equipment tests are completed in exact accordance with the terms of the construction permit, the technical provisions of the application therefor, and the other applicable provisions of this part, and after an application for station license has been filed with the Commission showing the station to be in satisfactory operating condition, the permittee is authorized to conduct service tests in exact accordance with the terms of the construction permit until the application for station license is granted or otherwise disposed of in accordance with the Commission's rules: *Provided,* That:

(1) The Commission's Engineer in Charge of the radio district in which the station is located is notified not less than 2 days in advance of the beginning of the tests of the time and date when such tests are scheduled to begin.

(2) The Commission reserves the right to cancel, suspend, or change the date of beginning or duration of such tests when such action is in the public interest, convenience or necessity.

(3) Service tests shall not commence after the expiration date of the construction permit.

(4) Charges for service furnished during the service test period shall be made, pursuant to the provisions of legally applicable tariffs (see § 61.62 of this chapter).

(c) When a construction permit and license, or a construction permit and modification of license are issued simultaneously for a mobile station, units of such station may be placed in operation without equipment and service test notification to the Commission's Engineer in Charge of the radio district in which the station is located, unless otherwise specifically required.

(d) The licensees of all stations in these services are authorized to make such test as may be necessary for the proper maintenance of the station provided, that all necessary precautions are taken to aviod interference with other authorized services. The time taken for such tests shall be held to a minimum.

(e) The authorization for tests embodied in paragraphs (a) and (b) of this section shall not be construed as constituting a license to operate but as a necessary part of the construction.

(f) Where a facility is to be constructed and operated pursuant to a temporary authorization, the Commission and the Engineer in Charge of the district in which the facility is located shall be notified upon commencement of operation.

§ 22.213 Station identification.

(a) Each station in these services, except as otherwise provided in this section, shall identify itself by transmitting its assigned call sign in connection with each communication or exchange of communication. In the event of a prolonged series of communications, a station shall identify itself at least every half hour. However, stations engaged in a public telephone message, telegram, radiophoto, or program transmission shall not be required to transmit identifying call signs when such identification would interrupt the continuity of the message, radiophoto, or program that is being transmitted. In any such case, the identifying call sign shall be transmitted immediately following the conclusion of the message, radiophoto or program: *Provided,* That the requirement for transmission of station identification is waived for fixed stations employing continuous radiation with multichannel or video transmission and for the exclusive channel common to all base stations which are specifically authorized to communicate with airborne stations in the Domestic Public Land Mobile Radio Service.

(b) In lieu of the use of an offical call sign, as prescribed in paragraph (a) of this section, a station may identify itself as follows:

(1) A mobile station in the Domestic Public Land Mobile Radio Service or Rural Radio Service may identify itself by the special mobile unit designation assigned by the licensee or its assigned telephone number, provided adequate records are maintained by the licensee to permit ready identification of the mobile station.

(2) A rural subscriber station may identify itself by its assigned telephone number, provided adequate records are maintained by the licensee to permit ready identification of the rural subscriber station.

(3) A station at a specified fixed location may identify itself by the nane of the city in which the station is located.

(4) A subscriber station in the Offshore Radio Telecommunications Service may identify itself by the special station designation assigned by the licensee or its assigned telephone number, provided adequate records are maintained by the licensee to permit ready identification of the subscriber station.

(5) An airborne station in the Domestic Public Land Mobile Radio Service may identify itself by either the official FAA registration number of the aircraft; special airborne unit designation assigned by the licensee; the assigned telephone number provided that adequate records are maintained by the licensee to permit ready identification of the airborne stations; or by a word designating the name of the airline followed by the scheduled flight number.

(c) Whenever it appears that the manner of identification used by a licensee in lieu of the official call sign is unsatisfactory, the Commission may require the licensee to change the method of station identification.

(d) Where transmission of station identification is required such transmission shall be capable of being received and understood at an appropriate receiver without the use of special channeling or transmission unscrambling devices: *Provided,* That:

(1) Where telephony is employed, station identification shall be by aural transmission or automatic tone signaling.

(2) Where telegraphy, radiophoto or facsimile transmission is employed, the station identification shall be transmitted at a speed not to exceed 25 words per minute at least 3 times in the International Morse Code as "QRA de" followed by the station call sign.

(3) Where television transmission is employed, station identification shall be transmitted either aurally or visually for a period of not less than 5 seconds, or via telegraphic transmission at a speed not to exceed 25 words per minute at least 3 times in the International Morse Code as "QRA de" followed by the station call sign.

§ 22.214 Operation of stations at temporary fixed locations for communication between the United States and Canada or Mexico.

Stations authorized to operate at temporary fixed locations shall not be used for transmissions between the United States and Canada, or the United States and Mexico, without prior specific notification to, and authorization from, the Commission. Notification of such intended usage of the facilities should include a detailed showing of the operation proposed, including the parties involved, the nature of the communications to be handled, the terms and conditions of such operations, the time and place of operation, such other matters as the applicant deems relevant, and a showing as to how the public interest, convenience and necessity would be served by the proposed operation. Such notification should be given sufficiently in advance of the proposed date of operation to permit any appropriate correlation with the respective foreign government involved (see § 22.611).

Subpart E—Miscellaneous

§ 22.300 Business records.

Each licensee of radio facilities authorized under the rules of this part and required to file FCC Form L shall keep complete records of all phases of operations covered by such reports distinctly separate and apart from any other business or activity conducted by the licensee.

§ 22.301 National defense; free service.

Any common carrier authorized under the rules of this part may render to any agency of the United States Government free service in connection with the preparation for the national defense. Every such carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st of July and on or before the 31st of January in each year, reports covering the periods of 6 months ending on the 30th of June and the 31st of December, respectively, next prior to said dates. These reports shall show the names of the agencies to which free service was rendered pursuant to this rule, the general character of the communications handled for each

V 44 OC 19 79 UMI

agency, and the charges in dollars which would have accrued to the carrier for such service rendered to each agency if charges for such communications had been collected at the published tariff rates.

§ 22.302 Answers to notices of violation.

Any person receiving official notice of a violation of the terms of the Communications Act of 1934, as amended, any other Federal statute or Executive Order pertaining to radio or wire communications or any international radio or wire communications treaty or convention, or regulations annexed thereto to which the United States is a party, or the rules and regulations of the Federal Communications Commission, shall, within 10 days from such receipt, send a written answer to the office of the Commission originating the official notice. If an answer cannot be sent or an acknowledgment made within such 10-day period by reason of illness or other unavoidable circumstances, acknowledgment and answer shall be made at the earliest practicable date with a satisfactory explanation of the delay. The answer to each notice shall be complete in itself and shall not be abbreviated by reference to other communications or answers to other notices. If the notice relates to some violation that may be due to the physical or electrical characteristics of transmitting apparatus, the answer shall state fully what steps have been taken to prevent future violations, and, if any new apparatus is to be installed, the date such apparatus was ordered, the name of the manufacturer, and promised date of delivery. If the installation of such apparatus requires a construction permit, the file number of the application shall be given or, if a file number has not been assigned by the Commission, such identification as will permit ready reference thereto. If the notice of violation relates to inadequate maintenance resulting in improper operation of the transmitter, the name and license number of the operator performing the maintenance shall be given. If the notice of violation relates to some lack of attention to, or improper operation of, the transmitter by other employees, the reply shall set forth the steps taken to prevent a recurrence of such lack of attention or improper operation.

§ 22.303 Discontinuance, reduction or impairment of service.

(a) If the public communication service provided by a station in the Domestic Public Radio Services is involuntarily discontinued, reduced or impaired for a period exceeding 48 hours, the station licensee shall promptly give notification thereof in writing to the Commission at Washington, D.C. 20554, and the Commission's Engineer in Charge of the radio district in which the station is located. In such cases, the licensee shall furnish full particulars as to the reasons for such discontinuance, reduction or impairment of service, including a statement as to when normal service is expected to be resumed. When normal service is resumed, prompt notification thereof shall be given in writing to the Commission at Washington, D.C. 20554, and the Commission's Engineer in Charge of the radio district in which the station is located.

(b) No station licensee subject to Title II of the Communications Act of 1934, as amended, shall voluntarily discontinue, reduce or impair public communication service to a community or part of community without obtaining prior authorization from the Commission pursuant to the procedures set forth in Part 63 of this chapter. In the event that permanent discontinuance of service is authorized by the Commission, the station licensee shall immediately give notification of the effective date thereof in writing to the Commission's Engineer in Charge of the radio district in which the station is located and shall promptly send the station license to the Commission at Washington, D.C., 20554, for cancellation.

(c) Any station licensee, not subject to Title II of the Communications Act of 1934, as amended, who voluntarily discontinues, reduces or impairs public communication service to a community or part of a community shall give written notification to the Commission within 7 days thereof. In the event that service is permanently discontinued, the licensee shall give written notification thereof to the Commission's Engineer in Charge of the radio district in which the station is located and shall promptly send the station license to the Commission at Washington, D.C., 20554, for cancellation.

§ 22.304 Tariffs, reports, and other material required to be submitted to the Commission.

Part 1, of this chapter, beginning with § 1.771, contains a summary of certain material and reports, including, but not limited to schedule of charges and accounting and financial reports, which must be filed with or submitted to the Commission.

§ 22.305 Reports required concerning amendments to charters and partnership agreements.

Any amendments to charters, articles of incorporation or association, or partnership agreements shall promptly be filed at the Commission's main office in Washington, D.C. Such filing shall be directed to the attention of the Chief, Common Carrier Bureau.

§ 22.306 Requirement that permittees and licensees respond to official communications.

All permittees and licensees in these services are required to respond to official communications from the Commission with reasonable dispatch and according to the tenor of such communications. Failure to do so will be given appropriate consideration in connection with any subsequent applications which the offending party may file and may result in the designation of such applications for hearing, or in appropriate cases, the institution of proceedings looking to the modification or revocation of the pertinent authorizations.

§ 22.307 Equal employment opportunities.

(a) *General policy.* Equal opportunity in employment shall be afforded by all common carrier licensees or permittees to all qualified persons, and no personnel shall be discriminated against in employment because of sex, race, color, religion, or national origin.

(b) *Equal employment opportunity program.* Each licensee or permittee shall establish, maintain, and carry out, a positive continuing program of specific practices designed to assure equal opportunity in every aspect of employment policy and practice. Under the terms of its program, a licensee or permittee shall:

(1) Define the responsibility of each level of management to insure a positive application and vigorous enforcement of the policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance.

(2) Inform its employees and recognized employee organizations of the positive equal employment opportunity policy and program and enlist their cooperation.

(3) Communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to sex, race, color, religion, or national origin, and solicit their recruitment assistance on a continuing basis.

(4) Conduct a continuing campaign to exclude every form of prejudice or discrimination based upon sex, race, color, religion, or national origin, from the licensee's or permittee's personnel policies and practices and working conditions.

(5) Conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design and other measures needed in order to insure genuine equality of opportunity to participate fully in all organizational units, occupations and levels of responsibility.

(c) *Additional information to be furnished to the Commission.* (1) Equal Employment Programs to be filed by common carrier licensees or permittees.

(1) All licensees or permittees will file a statement of their equal employment opportunity program not later than December 17, 1970, indicating specific practices to be followed in order to assure equal employment opportunity on the basis of sex, race, color, religion, or national origin in such aspects of employment practices as regards recruitment, selection, training, placement, promotion, pay, working conditions, demotion, layoff, and termination.

(*a*) Any changes or amendments to existing programs should be filed with the Commission on April 1 of each year thereafter.

(*b*) If a licensee or permittee has fewer than 16 full-time employees, no such statement need be filed.

(2) The program should reasonably address itself to such specific areas as set forth below, to the extent that they are appropriate in terms of licensee size, location, etc.

(i) *To assure nondiscrimination in recruiting.* (*a*) Posting notices in the licensee's or permittee's offices informing applicants for employment of their equal employment rights and their right to notify the Equal Employment Opportunity Commission, the Federal Communications Commission, or other appropriate agency. Where a substantial number of applicants are Spanish-surnamed Americans such notice should be posted in Spanish and English.

(*b*) Placing a notice in bold type on the employment application informing prospective employees that discrimination because of sex, race, color, religion, or national origin is prohibited and that they may notify the Equal Employment Opportunity Commission, the Federal Communications Commission or other appropriate agency if they believe they have been discriminated against.

(*c*) Placing employment advertisements in media which have significant circulation among minority-group people in the recruiting area.

(*d*) Recruiting through schools and colleges with significant minority group enrollments.

(*e*) Maintaining systematic contacts with minority and human relations organizations, leaders, and spokesmen to encourage referral of qualified minority or female applicants.

(*f*) Encouraging present employees to refer minority or female applicants.

(*g*) Making known to the appropriate recruitment sources in the employer's immediate area that qualified minority members are being sought for consideration whenever the licensee hires.

(ii) *To assure nondiscrimination in selection and hiring.* (*a*) Instructing personally those on the staff of the licensee or permittee who make hiring decisions that all applicants for all jobs are to be considered without discrimination.

(*b*) Where union agreements exist, cooperating with the union or unions in the development of programs to assure qualified minority persons or females of equal opportunity for employment, and including an effective nondiscrimination clause in new or renegotiated union agreements.

(*c*) Avoiding use of selection techniques or tests which have the effect of discriminating against minority groups or females.

(iii) *To assure nondiscriminatory placement and promotion.* (*a*) Instructing personally those of the licensee's or permittee's staff who make decisions on placement and promotion that minority employees and females are to be considered without discrimination, and that job areas in which there is little or no minority or female representation should be reviewed to determine whether this results from discrimination.

(*b*) Giving minority groups and female employees equal opportunity for positions which lead to higher positions. Inquiring as to the interest and skills of all lower-paid employees with respect to any of the higher-paid positions, followed by assistance, counseling, and effective measures to enable employees with interest and potential to qualify themselves for such positions.

(*c*) Reviewing seniority practices to insure that such practices are nondiscriminatory and do not have a discriminatory effect.

(*d*) Avoiding use of selection techniques or tests, which have the effect of discriminating against minority groups or females.

(iv) *To assure nondiscrimination in other areas of employment practices.* (*a*) Examining rates of pay and fringe benefits for present employees with equivalent duties, and adjusting any inequities found.

(*b*) Providing opportunity to perform overtime work on a basis that does not discriminate against qualified minority groups or female employees.

(d) *Report of complaints filed against licensees and permittees.* (1) All licensees or permittees shall submit an annual report to the FCC no later than May 31 of each year indicating whether any complaints regarding violations by the licensee or permittee or equal employment provisions of Federal, State, Territorial, or local law have been filed before anybody having competent jurisdiction.

(i) The report should state the parties involved, the date filing, the courts or agencies before which the matters have been heard, the appropriate file number (if any), and the respective disposition or current status of any such complaints.

(ii) Any licensee or permittee who has filed such information with the EEOC need not do so with the Commission, if such previous filing is indicated.

(e) *Complaints of violations of Equal Employment Programs.* (1) Complaints alleging employment discrimination against a common carrier licensee will be considered by the Commission in the following manner:

(i) If a complaint raising an issue of discrimination is received against a licensee or permittee who is within the jurisdiction of the EEOC, it will be submitted to that agency. The Commission will maintain a liaison with that agency which will keep the Commission informed of the disposition of complaints filed against any of the common carrier licensees.

(ii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC but is covered by appropriate enforceable State law, to which penalties apply, may be submitted by the Commission to the respective State agency.

(iii) Complaints alleging employment discrimination against a common carrier licensee or permittee who does not fall under the jurisdiction of the EEOC or an appropriate State law, will be accorded appropriate treatment by the FCC.

(iv) The Commission will consult with the EEOC on all matters relating to the evaluation and determination of compliance by the common carrier licensees or permittees with the principles of equal employment as set forth herein.

(2) Complaints indicating a general pattern of disregard of equal employment practices which are received against a licensee or permittee who is required to file an employment

V 44 OC 19 79 UMI

report to the Commission under § 1.815(a) of this chapter, will be investigated by the Commission.

(f) *Records available to public*—(1) *Commission records.* A copy of every annual employment report, equal employment opportunity program, and reports on complaints regarding violation of equal employment provisions of Federal, State, Territorial, or local law, and copies of all exhibits, letters, and other documents filed as part thereof, all amendments thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference, are open for public inspection at the offices of the Commission.

(2) *Records to be maintained locally for public inspection by licensees or permittees*—(i) *Records to be maintained.* Each licensee or permittee required to file annual employment reports, equal employment opportunity programs, and annual reports on complaints regarding violations of equal employment provisions of Federal, State, Territorial, or local law shall maintain, for public inspection, in the same manner and in the same locations as required for the keeping and posting of tariffs as set forth in § 61.72 of this chapter, a file containing a copy of each such report and copies of all exhibits, letters, and other documents filed as part thereto, all correspondence between the permittee or licensee and the Commission pertaining to the reports after they have been filed and all documents incorporated therein by reference.

(ii) *Period of retention.* The documents specified in subdivision (i) of this subparagraph shall be maintained for a period of 2 years.

Subpart F—Developmental Authorizations

§ 22.400 Eligibility.

Developmental authorizations for stations in the Domestic Public Radio Services will be issued only to existing and proposed communication common carriers who are legally, financially and otherwise qualified to conduct experimentation utilizing hertzian waves for the development of engineering or operational data, or techniques, directly related to a proposed Domestic Public Radio Service or to a regularly established radio service regulated by the rules of this part.

§ 22.401 Scope of service.

Developmental authorizations may be issued for:

(a) Field strength surveys relative to or precedent to the filing of applications for construction permits, in connection with the selection of suitable locations for stations proposed to be established in any of the regularly established radio services regulated by the rules of this part; or

(b) [Reserved]

(c) Development of proposed Domestic Public Radio Services to be governed by the rules and regulations of this part.

§ 22.402 Adherence to program of research and development.

The program of research and development, as stated by an applicant in the application for construction permit or license or stated in the instrument of station authorization, shall be substantially adhered to unless the licensee is otherwise authorized by the Commission.

§ 22.403 Special procedure for the development of a new service or for the use of frequencies not in accordance with the provisions of the rules in this part.

(a) An authorization for the development of a new common carrier service not in accordance with the provisions of the rules in this part may be granted for a limited time, but only after the Commission has made a preliminary determination with respect to the factors set forth in this paragraph, as each case may require. This procedure also applies to any application that involves use of a frequency which is not in accordance with the provisions of the rules in this part, although in accordance with the Table of Frequency Allocations contained in Part 2 of this chapter. (An application which involves use of a frequency which is not in accordance with the Table of Frequency Allocations in Part 2 of this chapter should be filed in accordance with the provisions of part 5 of this chapter, Experimental Radio Services (other than Broadcast).) The factors with respect to which the Commission will make a preliminary determination before acting on an application filed under this paragraph are as follows:

(1) That the public interest, convenience or necessity warrants consideration of the establishment of the proposed service or the use of the proposed frequency;

(2) That the proposed operation appears to warrant consideration to effect a change in the provisions of the rules in this part; and/or

(3) That some operational data should be developed for consideration in any rule making proceeding which may be initiated.

(b) Applications for construction permits for stations which are intended to be used in the development of a proposed service shall be accompanied by a petition to amend the Commission's rules with respect to frequencies and such other items as may be necessary to provide for the regular establishment of the proposed service.

§ 22.404 Terms of grant; general limitations.

(a) Developmental authorizations normally shall be issued for one year, or such shorter term as the Commission may deem appropriate in any particular case, and shall be subject to cancellation without hearing by the Commission at any time upon notice to the licensee.

(b) Where some phases of the developmental program are not covered by the general rules of the Commission or by the rules of this part, the Commission may specify supplemental or additional requirements or conditions in each case as it may deem necessary in the public interest, convenience or necessity.

(c) Frequencies allocated to the service toward which such development is directed will be assigned for developmental operation on the basis that no interference will be caused to the regular services of stations operating in accordance with the Commission's Table of Frequency Allocations (§ 2.106 of this chapter).

(d) The rendition of communication service for hire is not permitted under any developmental authorizations unless specifically authorized by the Commission.

(e) The grant of a developmental authorization carries with it no assurance that the developmental program, if successful, will be authorized on a permanent basis either as to the service involved or the use of the frequencies assigned or any other frequencies.

§ 22.405 Supplementary showing required.

(a) Authorizations for development of a proposed radio service in the Domestic Public Radio Services will be issued only upon a showing that the applicant has a definite program of research and development, the details of which shall be set forth, having reasonable promise of substantial contribution to these services within the term of such authorization. In addition to showing that the applicant is financially qualified or that adequate provision has been made to underwrite the costs of the proposed venture, a specific showing should be made as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose.

(b) Expiring developmental authorizations may be renewed only upon the applicant's compliance with the applicable requirements of § 22.406(a) and (b) relative to the authorization sought to be renewed and upon a factual showing that further progress in the program of research and development requires further radio transmission and that the public interest, convenience or necessity would be served by renewal of such authorization.

§ 22.406 Developmental report required.

(a) Upon completion of the program of research and development, or, in any event, upon the expiration of the instrument of station authorization under which such investigations were permitted, or at such times during the term of the station authorization as the Commission may deem necessary to evaluate the progress of the developmental program, the licensee shall submit, in duplicate, a comprehensive report on the following items, in the order designated:

(1) Report on the various phases of the project which were investigated.

(2) Total number of hours of operation on each frequency assigned.

(3) Copies of any publication on the project.

(4) A listing of any patents applied for, including copies of any patents issued as a consequence of the activities carried forth under the authorization.

(5) Detailed analysis of the result obtained.

(6) Any other pertinent information.

(b) In addition to the information required by paragraph (a) of this section, the developmental report of a station authorized for the development of a proposed radio service shall include comprehensive information on the following items:

(1) Probable public support and methods of its determination.

(2) Practicability of service operations.

(3) Interference encountered.

(4) Pertinent information relative to merits of the proposed service.

(5) Propagation characteristics of frequencies used, particularly with respect to the service objective.

(6) Frequencies believed to be more suitable and reasons therefor.

(7) Type of signals or communications employed in the experimental work.

(c) Normally, developmental reports will be made a part of the Commission's public records. However, an applicant may request that the Commission withhold from the public certain reports and associated material relative to the accomplishments achieved under developmental authorization, and, if it appears that such information should be withheld, the Commission will so direct.

Subpart G—Domestic Public Land Mobile Radio Service

§ 22.500 Eligibility.

Authorizations for base stations and auxiliary test stations to be operated in this service will be issued to existing and proposed communication common carriers. Authorizations for mobile stations on land or on board vessels will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience or necessity would be served by a grant thereof.

§ 22.501 Frequencies.

The following frequencies are available to the Domestic Public Land Mobile Radio Service for the use set forth in this section.

(a) For assignment, in accordance with the zone allocation plan, to stations of communications common carriers which are also in the business of affording public landline message telephone service, for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service). The frequencies specified may be used in adjoining zones within moderate distances of the respective zone boundaries to permit continuous service to mobile units transiting such zone boundaries.

Zone I—Base station frequency: 35.66 MHz; Mobile and Auxiliary Test station frequency: 43.66 MHz.

Connecticut	New Jersey
Delaware	New York
District of Columbia	Pennsylvania
Lake Ontario	Rhode Island
Maine	Vermont
Maryland	Virginia
Massachusetts	West Virginia
New Hampshire	

Zone II—Base station frequency: 35.31 MHz; Mobile and Auxiliary Test station frequency: 43.34 MHz.

Alabama	Mississippi
Florida	North Carolina
Georgia	South Carolina
Louisiana	

Zone III—Base station frequency: 35.42 MHz; Mobile and Auxiliary Test station frequency: 43.42 MHz.

Illinois	Lake St. Clair
Indiana	Lake Superior
Kentucky	Michigan
Lake Erie	Ohio
Lake Huron	Tennessee
Lake Michigan	Wisconsin

Zone IV—Base station frequency: 35.54 MHz; Mobile and Auxiliary Test station frequency: 43.54 MHz.

Iowa	North Dakota
Minnesota	South Dakota
Montana	Wyoming
Nebraska	

Zone V—Base station frequency: 35.30 MHz; Mobile and Auxiliary Test station frequency: 43.30 MHz.

Arkansas	Oklahoma
Kansas	Texas
Missouri	

Zone VI—Base station frequency: 35.38 MHz; Mobile and Auxiliary Test station frequency: 43.38 MHz.

Arizona	Nevada
California	New Mexico
Colorado	Utah

Zone VII—Base station frequency: 35.26 MHz; Mobile and Auxiliary Test station frequency: 43.26 MHz.

Idaho	Washington
Oregon	

Zone VIII—Base station frequency: 35.50 MHz; Mobile and Auxiliary Test station frequency: 43.50 MHz.

Indiana	New York
Lake St. Clair	Ohio
Michigan	Pennsylvania
New Jersey	The Great Lakes

Zone IX—Base station frequency: 35.62 MHz; Mobile and Auxiliary Test station frequency: 43.62 MHz.

Arkansas	Texas
Oklahoma	

Zone X—Base station frequency: 35.46 MHz; Mobile and Auxiliary Test station frequency: 43.46 MHz.

California	Washington
Oregon	

(b) For assignment, to stations of communication common carriers engaged also in the business of affording public landline message telephone service, for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service):

V 44 OC 19 79 UMI

Base station frequencies (MHz):	Mobile, dispatch, and auxiliary test station frequencies (MHz)
152.51	157.77
152.54	157.80
152.57	157.83
152.60	157.86
152.63	157.89
152.66	157.92
152.69	157.95
152.72	157.98
152.75	158.01
152.78	158.04
152.81	158.07
454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

(c) For assignment, to stations of communication common carriers not also engaged in the business of providing a public landline message telephone service, for general and dispatch communications (provided that signaling communications may also be furnished on a secondary basis by any facility rendering such general or dispatch service):

Base station frequencies (MHz):	Mobile, dispatch, and auxiliary test station frequencies (MHz)
152.03	158.49
152.06	158.52
152.09	158.55
152.12	158.58
152.15	158.61
152.18	158.64
152.21	158.67
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350

(d) For assignment, to base stations of communication common carriers for use exclusively in providing a one-way signaling service to mobile receivers.

35.22 MHz	43.22 MHz
35.58 MHz	43.58 MHz

(1) Whenever feasible, the frequencies 35.22 MHz and 35.58 MHz shall be assigned for use in any area prior to the assignment of the frequencies 43.22 MHz and 43.58 MHz.

(2) If an applicant for authorization to provide an exclusive one-way signaling service provides, or proposes also to provide, General or Dispatch service in accordance with paragraphs (a), (b) and (c) of this section, the application for a one-way facility should be supported with full information to show why the proposed signaling service could not be provided in connection with the base station facilities used for such General or Dispatch service.

(e) On a shared basis with fixed stations in the Point-to-Point Microwave Radio Service, frequencies in the bands 2110-2130 MHz and 2160–2180 MHz may be authorized for use by control and repeater stations functioning in conjunction with the Domestic Public Land Mobile Radio Service on the condition that the emission bandwidth is limited to the minimum necessary to serve the purpose required; *Provided, however,* no new assignments will be made in the band 2160–2162 MHz for stations located within 50 miles of the coordinates of the sites listed in § 22.901(c), except upon a showing that no alternative frequencies are available. Channel bandwidths in excess of 800 kHz will not be authorized. In each of these bands, the highest frequency which will not cause harmful interference to any other station shall be assigned.

(f)(1) The frequencies listed in this paragraph are available for assignment to control and repeater stations functioning in conjunction with the Domestic Public Land Mobile Radio Service, on a shared basis with certain other radio services. A repeater station normally will not be authorized unless the land mobile radio system with which it is associated is continuously open for public correspondence and the emission of the repeater station are under the operational surveillance of the land mobile system's operating personnel.

72–76 MHz Band [1]

MHz:	MHz	MHz	MHz
72.02	75.42	72.82	75.62
72.04		72.84	75.64
72.06	75.46	72.86	75.66
72.08		72.88	75.68
72.10	75.50	72.90	75.70
72.12		72.92	75.72
72.14	75.54	72.94	75.74
72.16		72.96	75.76
72.18	75.58	72.98	75.78
72.20		75.42	75.80
72.22	72.62		75.82
72.24	72.64	75.46	75.84
72.26	72.66		75.86
72.28	72.68	75.50	75.88
72.30	72.70		75.90
72.32	72.72	75.54	75.92
72.34	72.74		75.94
72.36	72.76	75.58	75.96
72.38	72.78		75.98
72.40	72.80		

72–76 MHz Band [1]—Continued

MHz:	MHz	MHz	MHz

[1] Assignments made to stations on frequencies in this band are subject to the condition that no harmful interference will be caused to operational fixed stations or reception of television stations on channels 4 or 5. (See § 22.103.) Existing stations authorized in the 73 to 74.6 MHz band as of Dec. 1, 1961, may continue to operate, are not required to afford protection to the radio astronomy service and must comply with the following technical specifications:

Frequency Tolerance: .005 percent.
Frequency Deviation: ± 15 kHz.
Authorized Bandwidth: 40 kHz.
Modulation Limiter: Required of transmitter authorized or installed after July 1, 1950.
Audio Low Pass Filter: Not required.

(2) Each application requesting authority to establish operations on frequencies in the 72–76 MHz band shall be accompanied by:

(i) A showing that the applicant agrees to eliminate any harmful interference which may be caused by his operation to television reception on either channel 4 or 5, and if said interference cannot be eliminated within 90 days of the time the matter is first brought to his attention by the Commission, operation of the interfering fixed station will be immediately discontinued.

(ii) In cases where it is proposed to locate a 72–76 fixed station less than 80, but more than 10 miles from the site of a television transmitter operating on either channel 4 or 5, or from the post office of a community in which such channels are assigned but not in operation, a showing shall be made as to the number of family dwelling units (as defined by the U.S. Bureau of Census) located within a circle centered at the location of the proposed fixed station (family dwelling units 70 or more miles distant from the television station antenna site are not to be counted (the radius of which shall be determined by use of charts entitled, "Chart for Determining Radius From Fixed Station in 72–76 MHz Band to Interference Contour Along Which 10 Percent of Service from Adjacent Channel Television Station Would Be Destroyed" (Charts for television channels 4 and 5 are set forth in § 22.103).

(iii) In cases where more than 100 family dwelling units are contained within the circle (determined according to paragraph (f)(2) of this section), the number of dwelling units therein shall be stated and a factual showing made that:

(A) The proposed site is the only suitable location.

(B) It is not feasible, technically or otherwise, to use other available frequencies.

(C) The applicant has a definite plan, which should be disclosed, to control any interference that might develop to television reception from his operations.

(D) The applicant is financially able and agrees to make such adjustments in the television receivers affected as may be necessary to eliminate interference caused by his operations.

(g) New control and repeater stations will not be authorized in the 890–940 MHz band. However, stations which were authorized to operate on such frequencies on April 16, 1958, may be granted renewed licenses subject to the following conditions:

(1) Operations shall not be protected against any interference received from the emission of industrial, scientific, and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890–942 MHz band.

(2) No harmful interference shall be caused to stations operating in the radiolocation service in the 890–942 MHz band.

(h) For assignment to base stations for use exclusively in providing a one-way signaling service to mobile receivers as follows:

(1) Communication common carriers engaged also in the business of affording public landline message telephone service:

152.84 MHz	158.10 MHz

(2) Communication common carriers not also engaged in the business of providing a public landline message telephone service:

152.24 MHz	158.70 MHz

(i) In lieu of a wireline circuit for control of a specific base station transmitter from its required control point or in lieu of wirelines for an audiocircuit to a base station control point from a remotely located fixed receiver used for reception of mobile station transmissions, and upon an affirmative showing that the conditions set forth in subparagraphs (1) through (5) of this paragraph are satisfied, a single control and repeater station may be authorized to miscellaneous common carriers upon the frequencies indicated below:

Control station frequencies MHz:	Repeater station frequencies (MHz)
454.025	459.025
454.050	459.050
454.075	459.075
454.100	459.100
454.125	459.125
454.150	459.150
454.175	459.175
454.200	459.200
454.225	459.225
454.250	459.250
454.275	459.275
454.300	459.300
454.325	459.325
454.350	459.350

(1) The control station, and the base station controlled thereby, are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(2) The repeater station, and the point to which its transmissions are directed, are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(3) The effective radiated power of the control or repeater station does not exceed 150 watts.

(4) The use of the frequencies by a control or repeater station will not cause harmful interference to any other station authorized to use such frequencies and shall be on a secondary basis to the provision of mobile and rural radio service by other classes of stations.

(5) Series operation of more than one control or repeater station is not involved.

Note.—The provisions of subparagraphs (1) and (2) of this paragraph may be waived by the Commission upon a factual showing, supported by such engineering proof as may be necessary, that all of the currently assignable pairs of 152–162 MHz band frequencies listed in paragraph (c) of this section are not assigned or applied for within interference range of existing or possible station assignments within the urbanized area having a population of over 300,000 and, upon a satisfactory showing, that in such area over a substantial period of years the growth of the public land mobile radio service has not been hampered and is not likely to be hampered by a shortage of frequencies allocated to such service in the 152 to 162 MHz band. Facilities authorized under the provisions of such waivers shall be on a secondary basis and subject to the condition that, in the event the frequencies are required for assignment to base and mobile stations in the area, operation thereon shall be terminated within 60 days after notice is received from the Commission.

(j) In lieu of a wire-line circuit for control of a specific base station transmitter from its required control point or in lieu of wirelines for an audio circuit to a base station control point from a remotely located fixed receiver used for reception of mobile station transmissions, and upon an affirmative showing that the conditions set forth in subparagraphs (1) through (5) of this paragraph are satisfied, a single control and repeater station may be authorized to communication common carriers, who are engaged also in the business of affording public landline message telephone service, upon the frequencies indicated below:

MHz	MHz
454.375	459.375
454.400	459.400
454.425	459.425
454.450	459.450
454.475	459.475
454.500	459.500
454.525	459.525
454.550	459.550
454.575	459.575
454.600	459.600
454.625	459.625
454.650	459.650

(1) The control station, and the base station controlled thereby, are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(2) The repeater station, and the point to which its transmissions are directed, are located over 50 airline miles from the nearest geographical boundary of the nearest urbanized area having a population over 300,000 (as determined and defined in the most recent census reports of the U.S. Bureau of the Census).

(3) The effective radiated power of the control or repeater station does not exceed 150 watts.

(4) The use of the frequencies by a control or repeater station will not cause harmful interference to any other station authorized to use such frequencies and shall be on a secondary basis to the provision of Mobile and Rural Radio Service by other classes of stations.

(5) Series operation of more than one control or repeater station is not involved.

Note.—The provisions of subparagraphs (1) and (2) of this paragraph may be waived by the Commission upon a factual showing, supported by such engineering proof as may be necessary, that all of the currently assignable pairs of 152–162 MHz band frequencies listed in paragraph (b) of this section are not assigned or applied for within interference range of existing or possible station assignments within the urbanized area having a population of over 300,000 and, upon a satisfactory showing, that in such area over a substantial period of years the growth of the public land mobile radio service has not been hampered by a shortage of frequencies allocated to such service in the 152–162 MHz band. Facilities authorized under the provisions of such waivers shall be on a secondary basis and subject to the condition that, in the event the frequencies are required for assignment to base and mobile stations in the area, operation thereon shall be terminated within 60 days after notice is received from the Commission.

(k) The following frequencies are available for assignment to stations in the Domestic Public Land Mobile Radio Service operated by miscellaneous

V 44 O C 1979 UMI

common carriers operating in the listed urbanized areas and subject to the limitations contained therein:

Base station frequencies (MHz)	Mobile, dispatch, and auxiliary test frequencies (MHz)
Boston	
Channel 14	*Channel 16*
Group 1	
470.0125	482.0125
470.0375	482.0375
470.0625	482.0625
470.0875	482.0875
470.1125	482.1125
470.1375	482.1375
470.1625	482.1625
470.1875	482.1875
470.2125	482.2125
470.2375	482.2375
470.2625	482.2625
470.2875	482.2875
Group 2:	
473.0125	485.0125
473.0375	485.0375
473.0625	485.0625
473.0875	485.0875
473.1125	485.1125
473.1375	485.1375
473.1625	485.1625
473.1875	485.1875
473.2125	485.2125
473.2375	485.2375
473.2625	485.2625
473.2875	485.2875
Chicago, Cleveland, New York—Northeastern New Jersey	
Channel 14	*Channel 15*
Group 1:	
470.0125	476.0125
470.0375	476.0375
470.0625	476.0625
470.0875	476.0875
470.1125	476.1125
470.1375	476.1375
470.1625	476.1625
470.1875	476.1875
470.2125	476.2125
470.2375	476.2375
470.2625	476.2625
470.2875	476.2875
Group 2:	
473.0125	479.0125
473.0375	479.0375
473.0625	479.0625
473.0875	479.0875
473.1125	479.1125
473.1375	479.1375
473.1625	479.1625
473.1875	479.1875
473.2125	479.2125
473.2375	479.2375
473.2625	479.2625
473.2875	479.2875
Dallas-Fort Worth	
Channel 16	
482.0125	485.0125
482.0375	485.0375
482.0625	485.0625
482.0875	485.0875
482.1125	485.1125
482.1375	485.1375
482.1625	485.1625
482.1875	485.1875
482.2125	485.2125
482.2375	485.2375
482.2625	485.2625
Channel 16	*Channel 15*
482.2875	485.2875
Detroit	
Channel 16	*Channel 15*
Group 1:	
482.0125	476.0125
482.0375	476.0375
482.0625	476.0625
482.0875	476.0875
482.1125	476.1125
482.1375	476.1375
482.1625	476.1625
482.1875	476.1875
482.2125	476.2125
482.2375	476.2375
482.2625	476.2625
482.2875	476.2875
Group 2:	
485.0125	479.0125
485.0375	479.0375
485.0625	479.0625
485.0875	479.0875
485.1125	479.1125
485.1375	479.1375
485.1625	479.1625
485.1875	479.1875
485.2125	479.2125
485.2375	479.2375
485.2625	479.2625
485.2875	479.2875
Houston	
Channel 17	
488.0125	491.0125
488.0375	491.0375
488.0625	491.0625
488.0875	491.0875
488.1125	491.1125
488.1375	491.1375
488.1625	491.1625
488.1875	491.1875
488.2125	491.2125
488.2375	491.2375
488.2625	491.2625
488.2875	491.2875
Los Angeles	
Channel 20	*Channel 14*
Group 1:	
506.0125	470.0125
506.0375	470.0375
506.0625	470.0625
506.0875	470.0875
506.1125	470.1125
506.1375	470.1375
506.1625	470.1625
506.1875	470.1875
506.2125	470.2125
506.2375	470.2375
506.2625	470.2625
506.2875	470.2875
Group 2:	
509.0125	473.0125
509.0375	473.0375
509.0625	473.0625
509.0875	473.0875
509.1125	473.1125
509.1375	473.1375
509.1625	473.1625
509.1875	473.1875
509.2125	473.2125
509.2375	473.2375
509.2625	473.2625
509.2875	473.2875
Miami	
Channel 14	
470.0125	473.0125
470.0375	473.0375
470.0625	473.0625
470.0875	473.0875
470.1125	473.1125
470.1375	473.1375
470.1625	473.1625
470.1875	473.1875
470.2125	473.2125
470.2375	473.2375
Channel 20	*Channel 14*
470.2625	473.2625
470.2875	473.2875
Philadelphia	
Channel 19	*Channel 20*
Group 1:	
500.0125	506.0125
500.0375	506.0375
500.0625	506.0625
500.0875	506.0875
500.1125	506.1125
500.1375	506.1375
500.1625	506.1625
500.1875	506.1875
500.2125	506.2125
500.2375	506.2375
500.2625	506.2625
500.2875	506.2875
Group 2:	
503.0125	509.0125
503.0375	509.0375
503.0625	509.0625
503.0875	509.0875
503.1125	509.1125
503.1375	509.1375
503.1625	509.1625
503.1875	509.1875
503.2125	509.2125
503.2375	509.2375
503.2625	509.2625
503.2875	509.2875
Pittsburgh	
Channel 14	*Channel 18*
Group 1:	
470.0125	494.0125
470.0375	494.0375
470.0625	494.0625
470.0875	494.0875
470.1125	494.1125
470.1375	494.1375
470.1625	494.1625
470.1875	494.1875
470.2125	494.2125
470.2375	494.2375
470.2625	494.2625
470.2875	494.2875
Group 2:	
473.0125	494.0125
473.0375	494.0375
473.0625	494.0625
473.0875	494.0875
473.1125	494.1125
473.1375	494.1375
473.1625	494.1625
473.1875	494.1875
473.2125	494.2125
473.2375	494.2375
473.2625	494.2625
473.2875	494.2875
San Francisco	
Channel 17	*Channel 16*
Group 1:	
488.0125	482.0125
488.0375	482.0375
488.0625	482.0625
488.0875	482.0875
488.1125	482.1125
488.1375	482.1375
488.1625	482.1625
488.1875	482.1875
488.2125	482.2125
488.2375	482.2375
488.2625	482.2625
488.2875	482.2875
Group 2:	
491.0125	485.0125
491.0375	485.0375
491.0625	485.0625
491.0875	485.0875
491.1125	485.1125
491.1375	485.1375
491.1625	485.1625
491.1875	485.1875
491.2125	485.2125
491.2375	485.2135
491.2625	485.2625
Channel 17	*Channel 16*
491.2875	485.2875
Washington, D.C.	
Channel 18	*Channel 17*
Group 1:	
494.0125	488.0125
494.0375	488.0375
494.0625	488.0625
494.0875	488.0875
494.1125	488.1125
494.1375	488.1375
494.1625	488.1625
494.1875	488.1875
494.2125	488.2125
494.2375	488.2375
494.2625	488.2625
494.2875	488.2875
Group 2:	
497.0125	491.0125
497.0375	491.0375
497.0625	491.0625
497.0875	491.0875
497.1125	491.1125
497.1375	491.1375
497.1625	491.1625
497.1875	491.1875
497.2125	491.2125
497.2375	491.2375
497.2625	491.2625
497.2875	491.2675

(1) Frequencies in paragraph (k) of this section are for assignment in, or in the vicinity of, the urbanized areas listed in table A below, subject to the following conditions:

(1) The transmitter site(s) for base stations(s) shall be located not more than 50 miles from the geographic center of an urbanized area as defined in table A.

(2) Mobile stations shall be operated not more than 80 miles from the "Geographic Center" of an urbanized area as defined in table A, below, nor beyond a 30-mile radii of the associated base station or stations.

(3) Base stations operating on the frequencies available for land mobile use in any listed urbanized area shall afford protection to cochannel and adjacent channel television stations in accordance with the values set out in tables B and C, below, except for channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in tables C and F, below.

(i) Base stations shall be located a minimum of one mile from local television stations operating on TV channels separated by 2, 3, 4, 5, 7, and 8 TV channels from the television channel in which the base station will operate.

(ii) Mobile units operating on the frequencies available for land mobile use in any given urbanized area shall afford protection to cochannel and adjacent channel television stations in accordance with the values set out in tables D and G, below, except for channel 15 in New York, N.Y., and Cleveland, Ohio, and channel 16 in Detroit, Mich., where protection will be in accordance with the values set forth in tables E and G, below.

(iii) The television stations to be protected in any given urbanized area, in accordance with the provisions of (i) and (ii) of this paragraph, are identified in the Commission's publication "TV Stations To Be Considered in The Preparation of Applications for Land Mobile Facilities in the Band 470–512 MHz." The publication is available at the offices of the Federal Communications Commission at Washington, D.C. or upon the request of interested persons.

(4) For antenna heights between 500 feet and 3,000 feet above average terrain the effective radiated power must be reduced below 1 kilowatt in accordance with the values shown in the power reduction graph in Figure A, below except for channel 15 in New York, N.Y., and Cleveland, Ohio and channel 16 in Detroit, Mich., where the effective radiated power must be reduced in accordance with figure B. For heights of more than 500 feet above average terrain, the distance to the radio path horizon will be calculated assuming smooth earth. If the distance so determined equals or exceeds the distance to the grade B contour of a cochannel TV station, an authorization will not be granted unless it can be shown that actual terrain considerations are such as to provide the desired protection at the grade B contour, or that the effective radiated power will be further reduced so that, assuming free space attenuation, the desired protection at the grade B contour will be achieved.

(5) Applicants for base stations in the Miami, Fla., urbanized area may, in lieu of calculating the height of average terrain, use 10 feet as average terrain height.

(i) Tables and figures:

Table A.—*Frequency Available for Land Mobile Use*

Urbanized area	Geographic center		Frequencies (MHz)
	N. latitude	W. longitude	
Boston, Mass.	42°21'24"	71°03'24"	Channel 14 476–470. Channel 16 482–488.
Chicago, Ill.	41°52'28"	87°38'22"	Channel 14 470–476. Channel 15 476–482.
Cleveland, Ohio [1].	41°29'54"	81°41'50"	Channel 14 470–476. Channel 15 476–482.
Dallas, Tex.	32°47'51"	96°47'37"	Channel 16 482–488.
Detroit, Mich.[2].	42°19'48"	83°02'57"	Channel 15 476–482. Channel 16 482–488.
Houston, Tex.	29°45'26"	95°21'37"	Channel 17 488–494.

Table A.—*Frequency Available for Land Mobile Use*—Continued

Urbanized area	Geographic center		Frequencies (MHz)
	N. latitude	W. longitude	
Los Angeles, Calif.	34°03'15"	118°14'26"	Channel 14 470–476. Channel 20 506–512
Miami Fla	25°48'37"	80°11'32"	Channel 14 470–476.
New York, Northeastern New Jersey.	40°45'06"	73°59'39"	Channel 15 470–476. Channel 15 476–482.
Philadelphia, Pa.	39°56'56"	75°09'21"	Channel 19 500–506. Channel 20 506–512.
Pittsburgh, Pa.	40°26'19"	80°00'00"	Channel 14 470–476. Channel 18 494–500.
San Francisco-Oakland, Calif.	37°46'39"	122°24'40"	Channel 16 482–488. Channel 17 488–494.
Washington, D.C., Maryland, Virginia.	38°53'51"	77°00'33"	Channel 17 488–494. Channel 18 494–500.

[1] Channels 14 and 15 are not availebe in Cleveland, Ohio, until further order from the Commission.

[2] Channels 15 and 16 are not available in Detroit, Mich., until further order from the Commission.

BILLING CODE 6712-01-M

V 44 OC 1979 UMI

TABLE B.—BASE STATION—COCHANNEL FREQUENCIES

(50 dB Protection)

MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station. →	Distance in miles	Antenna height in feet (AAT) [1]										The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table. ←
		50	100	150	200	250	300	350	400	450	500	
	162	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	160	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000		
	155	1,000	1,000	1,000	1,000	1,000					800	
	150	1,000	1,000				875	775	700	625	575	
	145			950	775	725	625	550	500	450	400	
	140	850	750	650	575	500	440	400	350	320	300	
	135	600	575	465	400	350	300	275	250	230	235	
	130	450	400	335	300	255	240	200	185	165	150	
	125	350	300	245	200	185	160	145	125	120	100	
	120	225	200	170	150	125	110	100	90	80	75	
		175	150	165	105	90	80	70	60	55	50	

*Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:

(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table B, the next lower mileage separation figure is to be used.

(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table B, use the power figure beneath the next greater antenna height.

(3) If the power found to be permitted following this procedure is lower than that determined hereafter from Table C, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graphs for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever are the latest. If such maps are not published for the area in question, the next best topographic information should be used.

TABLE C.—BASE STATION—ADJACENT CHANNEL FREQUENCIES

MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station. →	Distance in miles	Antenna height in feet (AAT)[1]										The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table. ←
		50	100	150	200	250	300	350	400	450	500	
	67	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	66	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	750	
	65	1,000	1,000	1,000	1,000	1,000	1,000	1,000	825	650	600	
	64	1,000	1,000	1,000	1,000	1,000	1,000	775	625	500	400	
	63	1,000	1,000	1,000	1,000	1,000	650	450	325	325	225	
	62	1,000	1,000	1,000	1,000	525	375	250	200	150	125	
	61	1,000	1,000	700	450	250	200	125	100	75	50	
	60	1,000	1,000	425	225	125	100	75	50			

*Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:

(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table C, the next lower mileage separation figure is to be used.

(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table C, use the power figure beneath the next greater antenna height.

(3) If the power found to be permitted following this procedure is lower than that determined heretofore from Table F or B, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used.

TABLE D.—DISTANCE BETWEEN ASSOCIATED BASE STATION AND PROTECTED COCHANNEL TV STATION WHERE MOBILE OPERATES IN THE SAME TELEVISION CHANNEL

(50 dB Protection)

Effective radiated power (watts) of mobile unit	*Distance (miles)*
60	140
50	135
25	125
10	117
5	112

TABLE E.—DISTANCE IN MILES BETWEEN ASSOCIATED LAND MOBILE BASE STATION AND PROTECTED COCHANNEL TELEVISION STATION WHERE MOBILE OPERATORS IN THE SAME TELEVISION CHANNEL

(40 dB Protection)

Effective radiated power (watts) of mobile unit	*Distance (miles)*
60	120
50	115
25	110
10	105
5	100

TABLE F.—BASE STATION—COCHANNEL FREQUENCIES

(40 dB Protection)

MAXIMUM EFFECTIVE RADIATED POWER (ERP)

At this distance from transmitter site of protected UHF television station. →	Distance in miles	Antenna height in feet (AAT) [1]										The effective radiated power (ERP)* and antenna height above average terrain (AAT) shall not exceed the values given in the table. ←
		50	100	150	200	250	300	350	400	450	500	
	130	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	1,000	
	125	1,000	1,000	1,000	1,000	1,000	1,000	1,000				
	120	1,000	1,000	1,000	1,000				850	750	725	
	115	1,000	1,000			900	750	675	600	550	500	
	110			800	725	600	525	475	425	375	350	
	105	850	700	600	500	425	375	325	300	275	235	
	100	600	475	400	325	275	250	225	200	175	150	
	95	400	325	275	225	175	150	140	125	110	100	
	90	275	225	175	125	110	95	80	70	60	50	
		175	125	100	75	50						

*Power levels listed in table are given in watts.

NOTE: To determine the maximum permissible effective radiated power:

(1) Using the method specified in § 73.611 or charts or maps of suitable scale, determine the distance between the proposed land mobile base station and the protected cochannel television station. If the exact mileage does not appear in Table F, the next lower mileage separation figure is to be used.

(2) Entering the table at the mileage figure found in (1) above, find opposite, a selection of powers that may be used for antenna heights ranging from 50 to 500 feet (AAT). If the exact antenna height proposed for the land mobile base station does not appear in Table F, use the power figure beneath the next greater antenna height.

(3) If the power found to be permitted following this procedure is lower than the determined hereafter from Table C, this lower figure is the maximum power that may be employed at the proposed land mobile base station.

[1] In determining the average elevation of the terrain, the elevations between 2 and 10 miles from the antenna site are employed. Profile graphs shall be drawn for eight radials beginning at the antenna site and extending 10 miles therefrom. The radials should be drawn for each 45° of azimuth starting with true north. At least one radial should be constructed in the direction of the nearest cochannel and adjacent channel UHF television stations. The profile graph for each radial shall be plotted by contour intervals of from 40 to 100 feet and, where the data permits, at least 50 points of elevation (generally uniformly spaced) should be used for each radial. For very rugged terrain 200 to 400 feet contour intervals may be used. Where the terrain is uniform or gently sloping, the smallest contour interval indicated on the topographic map may be used. The average elevation of the 8-mile distance between 2 and 10 miles from the antenna site should be determined from the profile graph for each radial. This may be obtained by averaging a large number of equally spaced points, by using a planimeter, or by obtaining the median elevation (that exceeded by 50 percent of the distance) in sectors and averaging those values. In the preparation of the profile graphs the elevation or contour intervals shall be taken from U.S. Geological Survey Topographic Quadrangle Maps, U.S. Army Corps of Engineers Maps, or Tennessee Valley Authority Maps, whichever is the latest. If such maps are not published for the area in question, the next best topographic information should be used

BILLING CODE 6712-01-C

V 44 O C 19 79 9 UMI

Table G.—*Distance in Miles Between Associated Land Mobile Base Station and Protected Adjacent Channel Television Station Where Mobile Operates in Adjacent Television Channel*

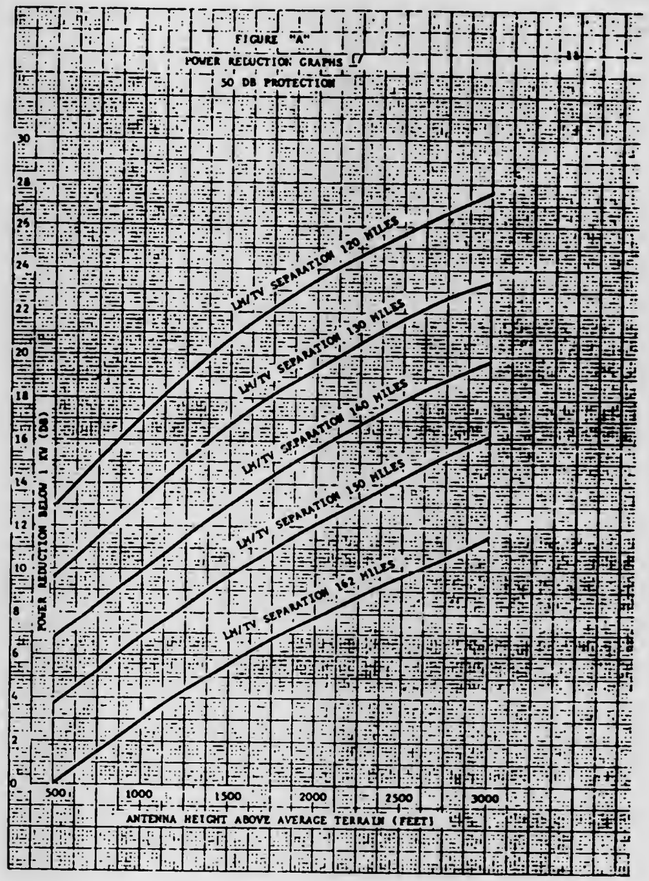
|0.0 dB Protection|

Effective radiated power (watts) of mobile unit:	Distance (miles)
60	90
50	90
25	90
10	90
5	90

Table H.—*Decibel Reduction/Power Equivalents*

Decibel reduction below 1 kW:	E.R.P. permitted (figures rounded)
1	795
2	630
3	500
4	400
5	345
6	250
7	200
8	160
9	125
10	100
11	80
12	65
13	50
14	40
15	30
16	25
17	20
18	15
19	12
20	10
21	8
22	6
23	5
24	4
25	3
26	2.5
27	2
28	1.5
29	1.25
30	1

BILLING CODE 6712-01-M



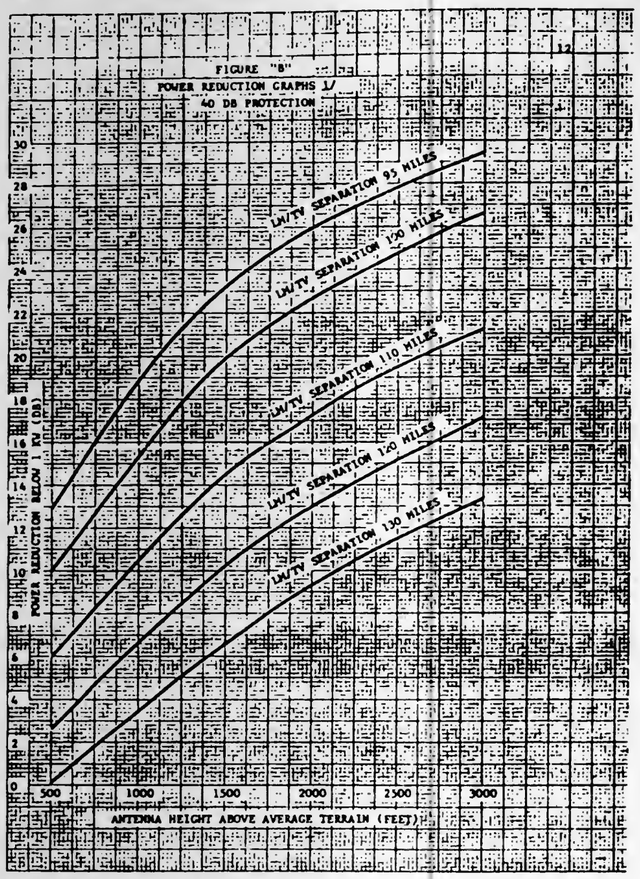
[1] Directions for using this graph.

1. Determine antenna height above average terrain.
2. Locate this value on the antenna height axis.
3. Determine the separation between the LM antenna site and the nearest protected co-channel TV station.
4. Draw a vertical line to intersect the LM/TV separation curve at the distance determined in step 3 above. For distances not shown on the graph, use linear interpolation.
5. From the intersection of the LM/TV separation curve draw a horizontal line to the power reduction scale.
6. The power reduction in dB determines the reduction below 1 kW that must be achieved.
7. See Table H for dB/power equivalents

[2] For stations in the Los Angeles urbanized area with antenna elevations 1,500 or more feet above sea level, the maximum authorized effective radiated power (ERP) shall be in accordance with the following table:

Antenna height (ASL) (feet):	Power (ERP)
1,501–2,000	155 W.
2,001–2,500	100 W.
2,501–3,000	70 W.
3,001–3,500	50 W.
3,501–4,000	40 W.
4,001–4,500	30 W.
4,501–and above	25 W.

V 4 4 0 C 1 9 7 9 UMI



[1] Directions for using this graph.

1. Determine antenna height above average terrain.
2. Locate this value on the antenna height axis.
3. Determine the separation between the LM antenna site and the nearest protected co-channel TV station.
4. Draw a vertical line to intersect the LM/TV separation curve at the distance determined in step 3 above. For distances not shown on the graph, use linear interpolation.
5. From the intersection of the LM/TV separation curve draw a horizontal line to the power reduction scale.
6. The power reduction in dB determines the reduction below 1 kW that must be achieved.
7. See Table H for dB/power equivalents.

BILLING CODE 6712-01-C

(ii) Upon prior coordination with the Broadcast Bureau, departures from the separation distances shown in the tables of this section may be authorized upon a specific engineering showing by an applicant that the protection ratios specified (i.e. 50, 40 or 0.0 dB as may be applicable) will be afforded to the protected television station(s) by the applicant's proposed facilities.

(8) These frequencies are to be employed solely for providing land mobile communication services. Signaling communications will be authorized only when employed for the purposes of establishing and maintaining mobile communications and to "mark" a busy channel in order to prevent interference between two or more licensees.

(7) Assignment of frequencies will be made from pairs listed within a single 12-channel group and, in the event of assignment to more than one applicant, will be available only on a cooperative shared basis. In this event, each licensee will be granted exclusive use of a channel only when the channel is idle and then only for the duration of a call or call attempt, after which the channel must be relinquished.

(8) To facilitate interference free operation between two or more systems assigned the same block of frequencies in the same urbanized area, each permittee shall, prior to commencing operation, submit to the Commission copies of agreements and system diagrams and plans illustrating how interference free operation will be accomplished. Submitted plans must contain as a minimum the following provisions:

(i) A means whereby a base station transmitter will be prevented from being keyed when the frequency is in use by any other base station in the area. If this is to be accomplished by off-the-air monitoring of base station transmit frequencies, then each base station must be equipped with a receiver monitoring base station frequencies which is colocated with the base station transmitter and interconnected with the transmitter in such a way that it is impossible to key the associated transmitter upon detection of a signal by the receiver.

(ii) A means to insure rapid selective calling and station identification. Selective calling will be permitted on any channel in a group but may only take place on one channel at a time by any one licensee, and only on idle channels. No more than one (1) second of channel time may be employed for each call attempt, and no more than three (3) attempts are to be made during a one (1) minute period. High-speed signaling must be used for selective calling and station identification. Each identification code must provide at least 6 decimal digits of unique code capacity. Calling and identification shall take no more than 500 milliseconds at either base or mobile from the time the transmitter has reached 90 percent power output, and the time needed to reach this output should not exceed 50 milliseconds. Likewise, receiver squelch circuits should be fully opened within 10 milliseconds from detection of carrier above threshold.

(iii) A means whereby it will be impossible for the operator of a mobile unit to key his transmitter in such a way as to cause harmful interference or to obstruct the communications of other stations or to transmit when beyond range of its base station. Each mobile unit shall be so configured as to provide automatic station identification when initiating a request for service; that such request can only be transmitted on an idle channel, and further that it shall be impossible to activate the mobile transmitter unless the mobile unit has received an enabling signal from a base station in response to its request for service.

(iv) A means whereby the total number of mobile units, as determined in subsection 10, operating within a metropolitan area on a 12-channel group of frequency pairs, as listed in 21.501(k), does not exceed the total authorized number of mobile units.

(9) Notwithstanding other provisions of this part, applications for any of the frequencies listed in paragraph 21.501(k) hereof will be processed under the following procedure.

(i) All applicants who file within 60 days after the public notice date of the first application that requests assignment of a particular 12-channel group of frequency pairs substantially in the same metropolitan area for which the first application is submitted are jointly responsible for compliance with § 21.501(l)(8).

(ii) Any applicant who files more than 60 days after the public notice date of the first application that requests assignment of the particular 12 channel group of frequency pairs substantially in the same metropolitan area for which the first application is submitted, pursuant to § 21.501(l)(8), must conform its application to be compatible with whatever technical arrangements are implemented pursuant to § 21.501(l)(8) by applicants that file within the 60-day period.

(10) The total number of mobile units for all carriers operating within a metropolitan area on a 12-channel group of frequency pairs, as listed in 21.501(k), will be authorized as follows:

(i) A total of 40 mobile units per channel will initially be authorized. The Commission will authorize additional mobile units if the applicant can demonstrate, as indicated in subsection (b) below, that the average busy-hour channel usage is below 85 percent.

(ii) The licensees in each market shall measure channel usage at least once every 3 months. These measurements shall be reported to the Commission within 30 days. Measurements shall be taken during the busiest 12-hour periods on 3 days (within a 7-day period) having normal usage. This information should be reported separately for each of the 3 days selected, should be reported by dates, and should disclose the following:

(A) The number of mobile units in service during each of the days specified;

(B) The number of calls completed each hour;

(C) The total number of minutes that the channels (base and mobile) were utilized for transmissions between the base station and land mobile units during each hour;

(D) The average channel usage for the busiest hour as defined in subsection (iii) above for the 3 days being measured; and

(E) Such other additional information which may more accurately reflect channel usage.

(iii) If the average busy-hour channel usage of the 12-channel group of frequency pairs is in excess of 85 percent, the Commission may order a reduction in the authorized number of mobile units, provided that a minimum of 40 mobile units per channel are in service for a 12-channel pair system. This reduction shall be implemented by the carriers through normal attrition of system users.

(iv) The carriers utilizing any 12-channel group of frequency pairs in a given metropolitan area may petition the Commission to alter the 85-percent average busy-hour channel usage figure. The Commission shall authorize such a change if good cause is shown.

[*§ 21.501(k) & (l) amended eff. 12-26-78; VII(74)-6*]

§ 22.502 Classification of base stations.

Base stations in the Domestic Public Land Mobile Radio Service shall be classified, as set forth below, according to their transmitting antenna height above average terrain in any particular direction and according to their effective radiated power in the horizontal plane of the antenna in that direction. This classification is not applicable to base stations in the frequency bands

454.6625–455.000 MHz, 459.6625–460.000 MHz, and 570–512 MHz.

Antenna height above average terrain (feet)	Class of station				
400 to 500	C	B	B	A	A
300 to 400	C	C	B	B	A
200 to 300	D	C	C	B	B
100 to 200	D	D	C	C	B
0 to 100	E	D	D	C	C
	30	60	120	250	500

Effective radiated power (watts).

§ 22.503 Geographical separation of co-channel stations.

(a) Base stations engaged in two-way communications, employing frequency modulation or phase modulation and operating cochannel in this service, shall normally be separated by not less than the distances shown below:

Class of station in the band 35–44 MHz	Minimum mileage separation between co-channel stations				
A	105				
B	99	92			
C	93	87	78		
D	88	81	70	58	
E	82	75	65	52	40
	A	B	C	D	E

Class of station

Class of station in the band 152–162 MHz	Minimum mileage separation between co-channel stations				
A	83				
B	78	72			
C	73	67	58		
D	69	62	54	43	
E	65	59	50	39	29
	A	B	C	D	E

Class of station

Class of station in the band 450–460 MHz	Minimum mileage separation between co-channel stations				
A	73				
B	69	59			
C	66	56	43		
D	63	53	41	38	
E	60	51	38	35	27
	A	B	C	D	E

Class of station

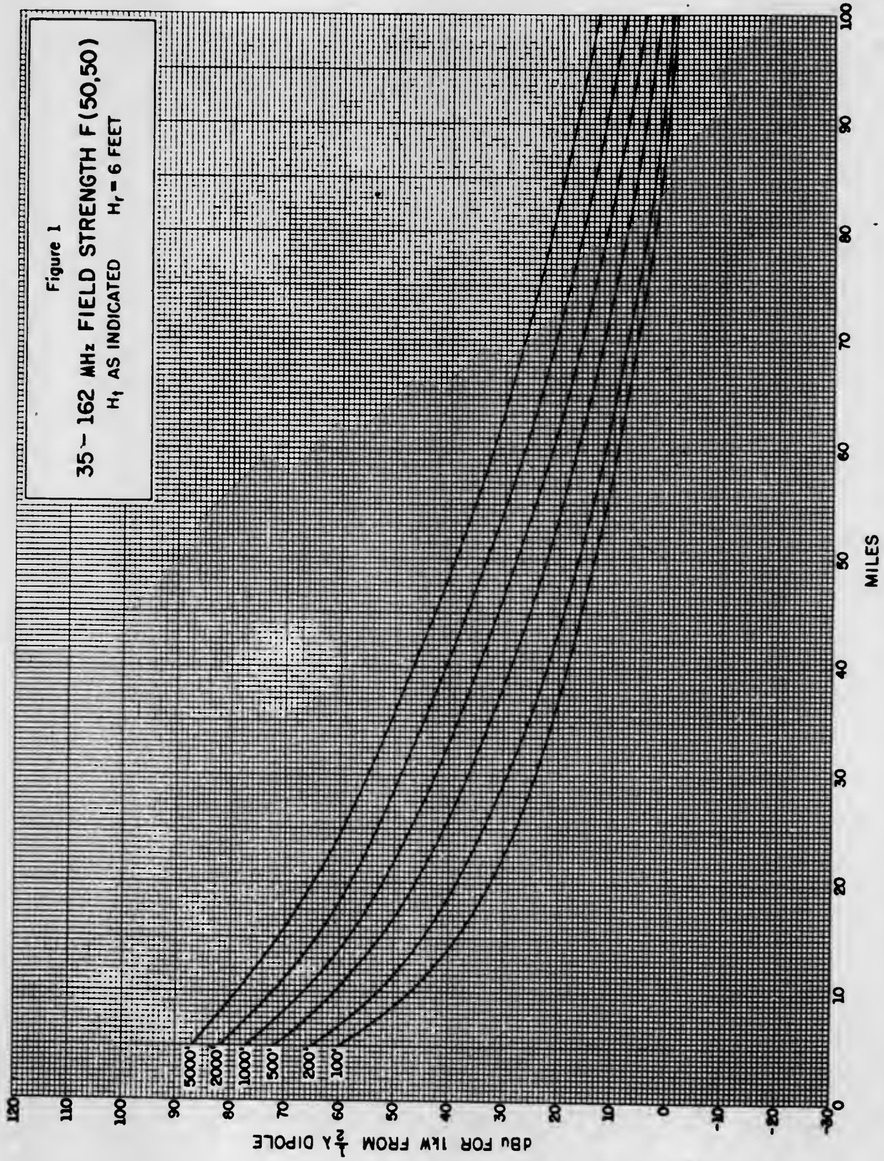
(b) In any particular case, where it appears that unusual radio wave propagation conditions are involved, the Commission may require greater separation than indicated in the tables in paragraph (a) of this section, or make assignments at lesser stations spacing. Reference may be made to § 73.611(d) of this chapter for methods of computing mileage separation between station locations.

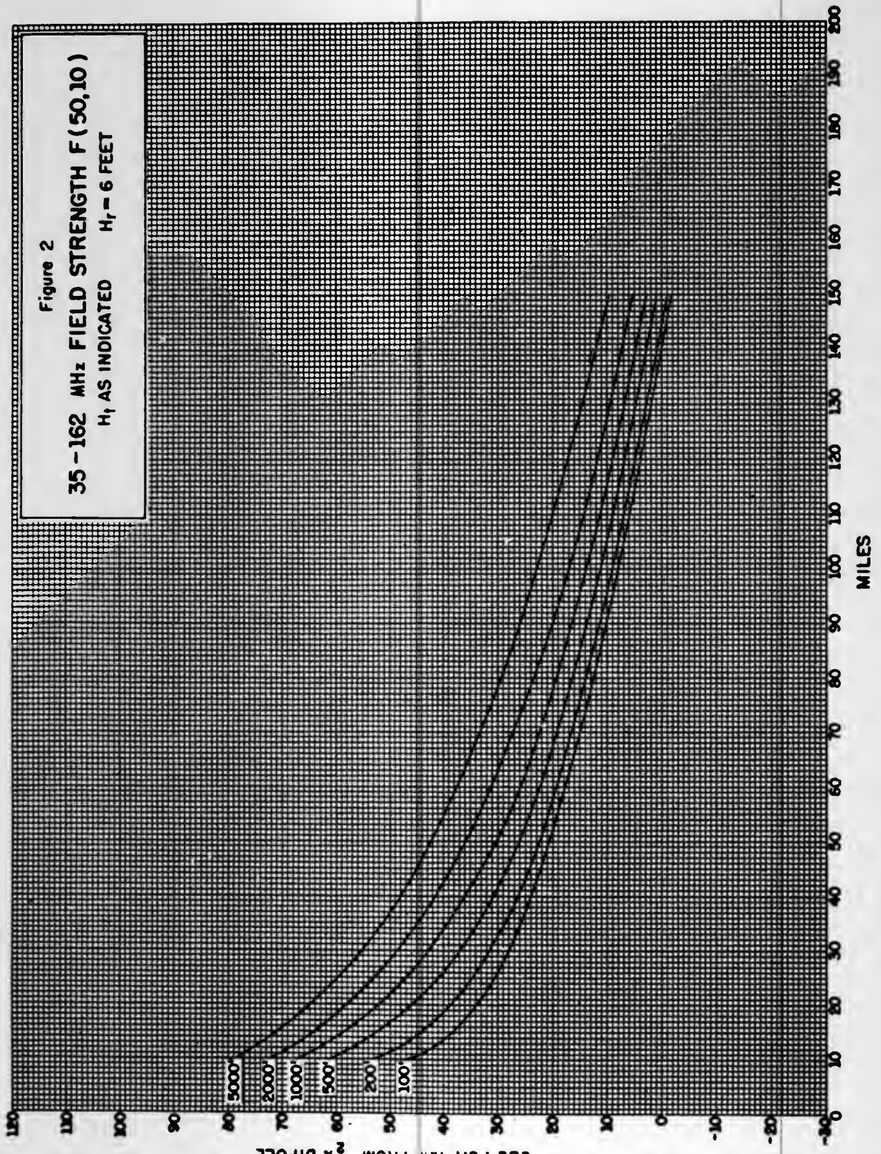
§ 22.504 Service area of base station.

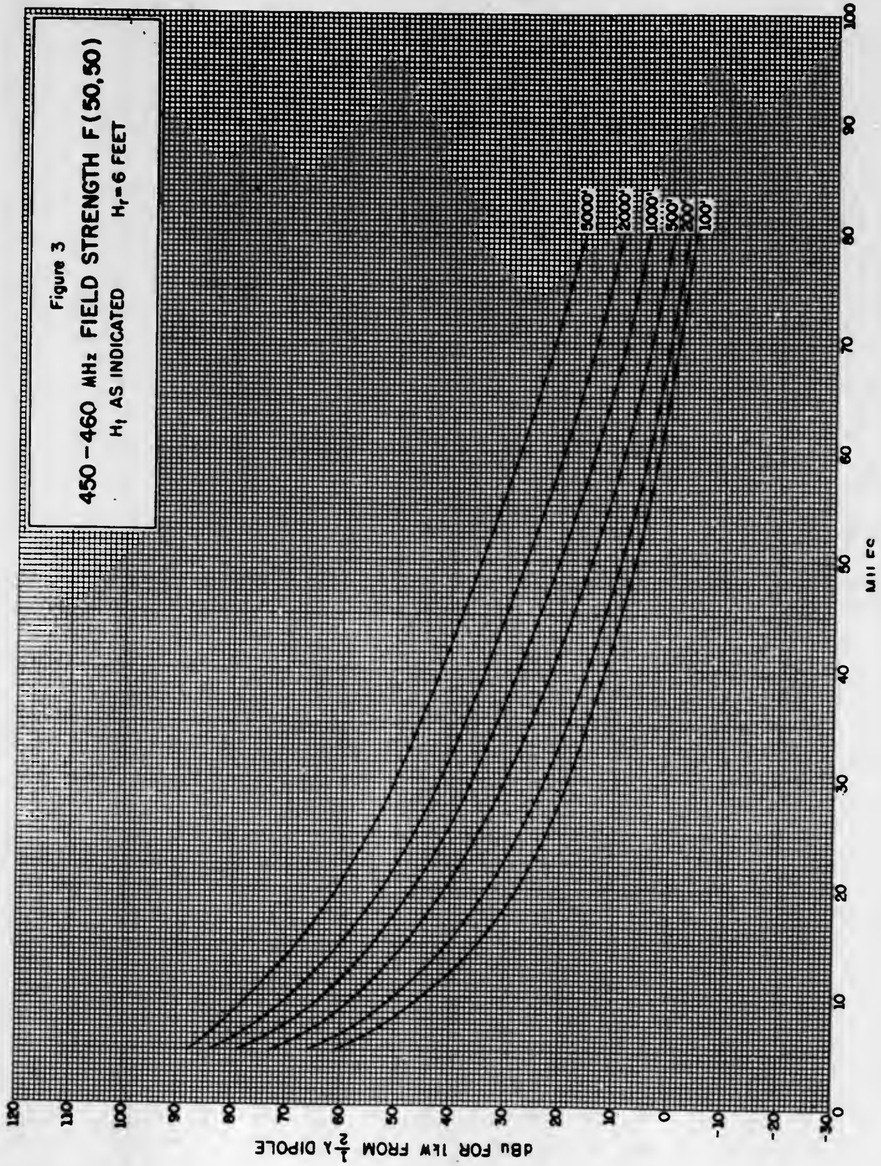
(a) The limits of reliable service area of a base station engaged in two-way communication service with mobile stations are considered to be described by a field strength contour of 31 decibels above 1 microvolt per meter for stations operating on frequencies in the 35.44 MHz band, 37 decibels above 1 microvolt per meter for stations operating on frequencies in the 152–162 MHz band, and 39 decibels above 1 microvolt per meter for stations operating on frequencies in the 450–460 MHz and 470–512 MHz bands. The limits of reliable service area of base station engaged in one-way signaling service is considered to be 43 decibels above 1 microvolt per meter. Service within such areas is generally expected to have an average reliably of not less than 90 percent.

(b) The field strength contours described in paragraph (a) of this section shall be regarded as determining the limits of the reliable service area of the related base stations for the purpose of providing protection to such stations from co-channel electrical harmful interference and defining the area within which consideration will be accorded claims of economic competitive injury. The following F(50,50) radio wave propagation charts shall be used in connection with making such determinations, and shall be used in combination with the following F(50,10) radio wave propagation charts in the determination of areas of harmful interference between co-channel stations.

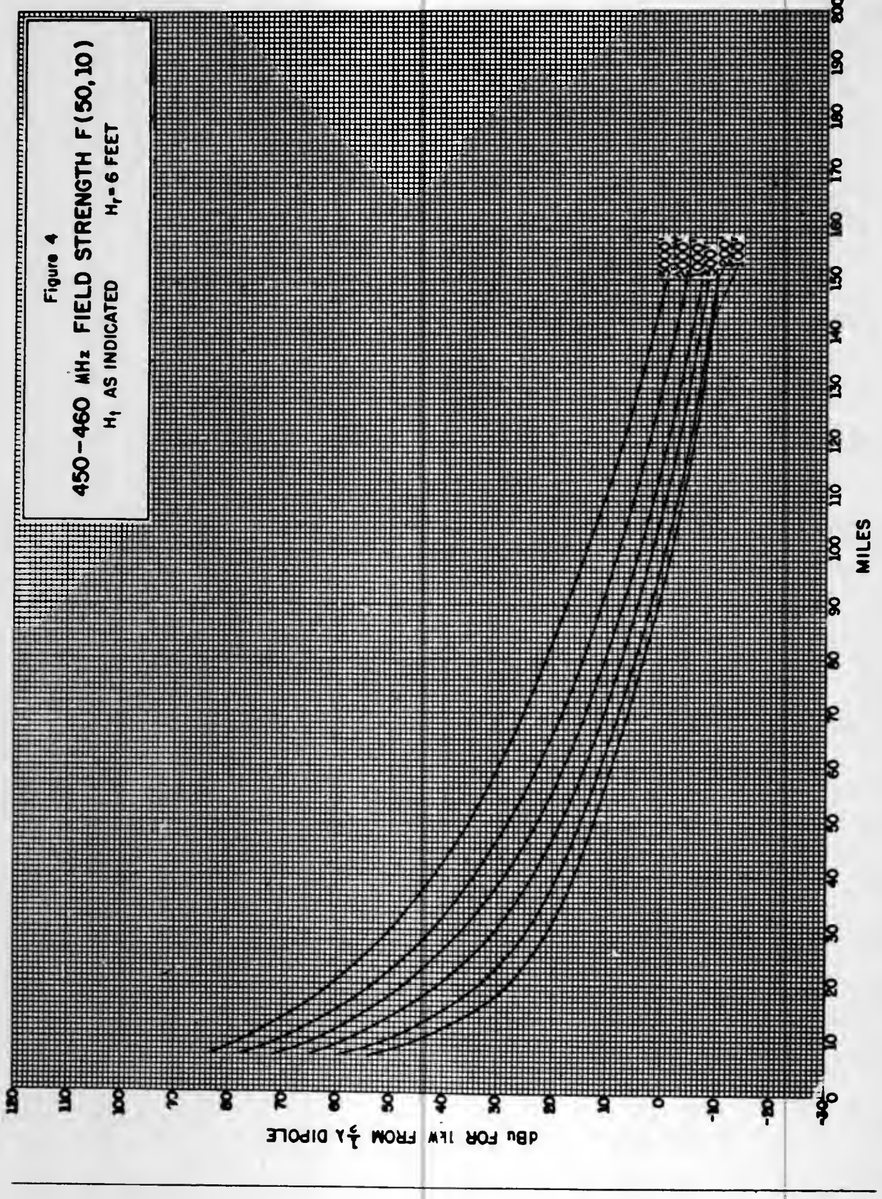
BILLING CODE 6712-01-M







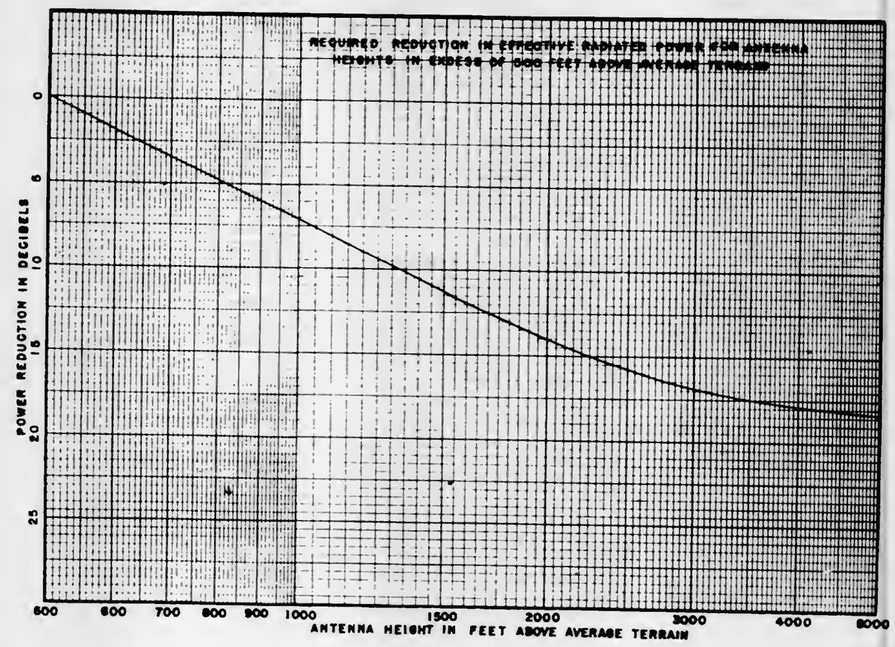
V 44 OC 1979 UMI



BILLING CODE 6712-01-C

§ 22.505 Antenna height-power limit for base stations.

In view of the fact that the predominant need for mobile communication service can usually be met by base stations within the classification set forth in § 22.502, and because widespread coverage is undesirable in areas where no substantial need exists for mobile communication service through a distant base station, base stations will not be authorized to employ transmitting antennas in excess of 500 feet above average terrain unless the effective radiated power of the base station is reduced below 500 watts by not less than the amount as shown in the chart below entitled "Required Reduction in Effective Radiated Power for Antenna Heights in Excess of 500 Feet Above Average Terrain". This antenna height-power limit does not apply to base stations in the frequency band 470–512 MHz.



§ 22.506 Power limitations.

(a) Stations in this service (other than base stations in the frequency band 470–512 MHz) shall not be permitted to exceed 500 watts effective radiated power and shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 22.107(b): *Provided, however,* That the effective radiated power of dispatch stations, and auxiliary test stations and base stations operating on frequencies specified in § 22.521 shall not exceed 100 watts: *Provided, further,* That the rated power output of transmitters used on frequencies specified in § 22.521 shall not exceed 25 watts and that the transmitter output power of airborne stations operating on such frequencies shall not be less than 4 watts. A base station standby transmitter having a rated power output in excess of that of the main transmitter of the base station with which it is associated and will not be authorized. For stations in the 470–512 MHz frequency band see section 22.501(1).

(b) The power output of land mobile station transmitters shall not exceed 60 watts. The power output of airborne station transmitters shall not exceed 25 watts. A transmitter may consist of an exciter plus a radio frequency power amplifier provided that such a combination is type accepted by the Commission.

V 44 O C 19 79 UMI

(c) Under idle traffic conditions, a base station assigned frequencies specified in § 22.521 shall radiate continuously on its working channel(s) a tone modulated carrier reduced in power by at least 10 decibels, but not more than 20 decibels, below its normal power. (See also § 22.508(b).)

§ 22.507 Bandwidth and emission limitations.

(a) Stations in the Domestic Public Land Mobile Radio Service shall normally be authorized to use only type A3 or F3 emission for radiotelephony, and type A1, A2, F1, or F2 emission for selective signaling. The authorization to use type A3 or F3 emission for radiotelephony shall be construed to include the use of tone signals or signaling devices the sole function of which is to establish and maintain communication. Stations providing one-way signaling service by means of selective signaling which is not associated with a voice message are required to be authorized to employ telegraph type emission appropriate to the type of transmission employed. The use of types A0 or F0 emission in the 72–76 MHz band will not be authorized, except for temporary or short periods necessary for testing incident to the construction or maintenance of a radio station. (Further reference should be made to §§ 22.103 to 22.105, inclusive.)

(b) The maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:

Type of emission	25–50 MHz		50–150 MHz		150–512 MHz	
	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth kHz	Frequency deviation (kHz)
A1	1		1		1	
A2	3		3		3	
A3	8		8		8	
F1	3		3		3	
F2	15		15		15	
F3	20	5	[2]40	[2]15	[1]20	[1]5

[1] In the frequency band 450 to 470 MHz, radio facilities using frequency modulated or phase modulated emission, authorized prior to June 1, 1968, will continue to be authorized with bandwidth of 40 kHz until Nov. 1, 1971, provided that the frequency deviation is reduced to 5 kHz by June 1, 1968.

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 MHz, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kHz and maximum frequency deviation of 5 kHz. Radio facilities which were authorized for operation on Dec. 1, 1961, in the frequency band 73.0–74.6 MHz may continue to be authorized without change and with bandwidth of 40 kHz and frequency deviation of 15 kHz. New or modified facilities in the frequency band 73.0–74.6 MHz will not be authorized.

(c) On frequencies above 512 MHz, the bandwidth authorized shall not exceed 400 kHz for each derived communication channel and may be restricted to lesser bandwidth when appropriate to the type of operation involved in any particular case.

(d) Other type of emission or bandwidth in excess of those specified in paragraph (b) of this section may be authorized upon an adequate showing of need therefor. An application requesting such authorization shall fully describe the modulation characteristics (for FM include maximum modulating frequency and maximum frequency deviation) emission and bandwidth desired, shall specify the bandwidth to be occupied, and shall state the reasons why such emission or bandwidth is required.

(e) The authorization to employ any of the various types of modulated emission in this service shall be construed to include authority to employ unmodulated emission only for temporary or short periods necessary for equipment testing incident to the construction and maintenance of a radio station.

§ 22.508 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for radiotelephone or tone signaling is not authorized for frequencies below 512 MHz.

(b) During idle traffic conditions, the working channel carrier of a base station on frequencies specified in § 22.521 shall be modulated continuously with a distinctive tone except during period required for station identification.

(c) When amplitude modulation is used, the modulation percentage shall be sufficient to provide efficient communication and shall normally be maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(d) When phase or frequency modulation is used for single channel operation on frequencies below 512 MHz, the deviation arising from modulation shall not exceed the limits specified in § 22.507(b).

(e) Each transmitter, which has more than 3 watts plate power input to the final radio frequency stage and was initially authorized or installed at the station in this service after July 1, 1950, employing type A3 or F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraphs (c) and (d) of this section.

(f) Each transmitter, which operates on frequencies below 450 MHz and employs type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (e) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 15 kHz, the filter shall have an attenuation greater than the attenuation of 1 kHz by at least:

$40 \log_{10} (f/3)$ decibels

where "f" is the audio frequency in kilohertz. At audio frequencies above 15 kHz, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kHz.

(g) Each transmitter which operates on frequencies between 450 and 512 MHz and employs type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (e) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audiofrequencies between 3 kHz and 20 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$60 \log_{10} (f/3)$ decibels

where "f" is the audiofrequency in kilohertz. At audiofrequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz: *Provided, however,* that in lieu of such filter, transmitters authorized to operate between 450 and 470 prior to June 1, 1968, may continue to operate until November 1, 1971, with a filter meeting the requirements prescribed in paragraph (f) of this section.

(h) Each airborne station shall use suitable means to prevent impairment of transmission by the ambient noise present when the aircraft is in operation. Ambient noise in excess of 95 decibels Reference Acoustical Pressure (flat weighting) shall require use of a noise-cancelling type of microphone, or suitable environmental acoustic treatment to reduce the ambient noise level to 95 decibels RAP or less.

§ 22.509 Permissible communications.

(a) Mobile stations in this service are authorized to communicate with and through base stations only. Such communication between base and mobile stations shall be upon frequencies which are paired in the manner set forth in § 22.501(a), (b), and (c).

(b) Base stations in this service are normally authorized to communicate with associated land mobile stations in the same service: *Provided, however,* That base stations may also render service to properly licensed transient land mobile stations normally associated with another common carrier base station, including mobile units of Canadian registry. Under specific authorization from the Commission, service may be rendered to stations on board vessels. Authority to provide service to vessels may be granted upon a showing that the rendition of service to vessels will not degrade, by kind or extent of usage, the service which would be available, in the absence of service to vessels, to land vehicles receiving or subsequently requesting such services in the area: *Provided,* That any authorization to render service to vessels, other than itinerant vessels requiring service in other areas where VHF public coast service is not available, shall automatically terminate at the expiration of 60 days after inauguration of VHF public coastal service in the area involved. Applications for authority to communicate with vessels shall be accompanied by a showing of the following:

(1) The total number of land mobile units being served through the base station.

(2) The total number of land mobile units to which it is reasonably expected that such service will be furnished at any time in the next 12 months.

(3) The total number of stations on board vessels initially proposed to be served through the base station.

(4) The total number of stations on board vessels to which it is reasonably expected that such service will be furnished at any time in the next 12 months.

(5) Other public radio facilities available in the area providing service to mobile stations on board vessels.

(6) Such other information as may be deemed pertinent, showing that communication with vessels will not degrade or deny service to land vehicles receiving or requesting land vehicular communication service over the radio facilities of the base station, and that such service to vessels is necessary and desirable.

(c) Applications requesting renewal of authority to render service to vessels shall be accompanied by a current showing of information as required in paragraph (b) of this section.

(d) Mobile stations in this service may not be operated aboard aircraft except when licensed for such installation as airborne stations upon frequencies designated in § 22.521.

(e)(1) Base stations in this service which are authorized to render one-way signaling service may also render such service to receivers aboard aircraft and vessels, and may engage in two-way communication with airborne stations upon frequencies designated in § 22.521.

(2) Base stations in this service may also be authorized to render one-way signaling communications service by subaudible means to multipoint mobile and/or fixed locations for purposes of communicating information intended for reception at multipoint mobile and/or fixed locations, provided that this does not interfere with normal communications.

(f) Base stations in this service may communicate with appropriately authorized Rural Subscriber stations in the Rural Radio Service, where the use of wire lines is not practicable or feasible. Authorization for the establishment of a Rural Subscriber station may be granted upon a satisfactory showing that it will not degrade the mobile communication service rendered by the base station and a supplementary showing as set forth in § 22.609. Such showing should be incorporated in the application for construction permit for the fixed point to which communication is to be effected.

(g) The base and mobile station facilities authorized in this service shall not be used in connection with any taxicab operations wherein the licensee is directly or indirectly interested through stock ownership or otherwise.

(h) Pursuant to the provisions of the "Convention Between the United States of America and Canada, Relating to Operation by Citizens of Either Country of Certain Radio Equipment or Stations in the Other Country," United States licensed mobile units in this service which are in Canada may be authorized by the Canadian Government to communicate with or through Canadian licensed common carrier base stations in the land mobile radio service or with base stations licensed under the rules of this part. Canadian licensed mobile units in the common carrier land mobile radio service which are in the United States may communicate with and through United States licensed base stations in this service provided authority for such communication has been granted by the Commission upon proper application therefor.

(i) Unless otherwise prohibited by agreements, laws, rules, regulations, etc. of the foreign country concerned, base stations in this service are not prohibited from rendering trans-border communication service for hire to mobile units in that country which are properly licensed to operate in the common carrier land mobile service of either country.

(j) Auxiliary test stations in this service shall normally be operated upon mobile station frequencies only for the purpose of determining the performance of fixed receiving equipment remotely located from the base station with which it is associated or where the receiving equipment is located with the base station and both are remote from the control point of the station: *Provided, however,* That a transmitter used in an auxiliary test station may be used as a standby transmitter upon the frequency of the base station with which it is associated whenever such base station is out of service for maintenance or repair.

(k) A subscriber's dispatch station in this service is authorized to intercommunicate only with the mobile stations of said subscriber through the base station with which it is associated. Where more than one subscriber jointly operate a dispatch station, each subscriber shall communicate only with his own mobile stations.

§ 22.510 Base stations may be authorized only as part of integrated radio system.

Base stations will be authorized only as a part of an integrated communication system wherein land mobile units assocated therewith are also licensed to the base station licensee. (See also § 22.15(i).)

§ 22.511 Communication service to own mobile units.

(a) Upon filing an application for renewal of station license for a base station in this service, a miscellaneous common carrier applicant shall submit a factual statement to show that, during the preceding license period, at least an average of 50 percent of the mobile units on any channel to which communication service has been rendered by a base station have been used by persons not directly or indirectly controlling or controlled by, or under direct or indirect common control with the applicant. If an applicant is unable to meet such criterion, he shall show what efforts have beem made to achieve use of the service by the public and offer such further showing or explanation as he may deem appropriate.

(b) Wire-line communication common carriers may be authorized to establish land mobile radio facilities under this part of the rules for the purpose of providing communication facilities for their own use incident to construction and maintenace of public communication facilities: *Provided, however,* That the use of the authorized facilities on such frequencies shall be on a secondary basis and subject to use by public subscribers at any time when required for the rendition of public communication service.

V 44 OCT 19 79 UMI

V 4 4 0 C 1 9 7 9 9 UMI

§ 22.512 Priorities for service to subscribers.

(a) Subscriptions to mobile telephone service shall be afforded in the following order of precedence and in chronological order of filing of request for service within each of the following customer categories:

(1) *Category 1: Public safety and health.* Official federal, state, county and municipal government agencies protecting the public safety and health; private organizations and persons engaged primarily in protecting the public safety and health such as physicians, hospitals, ambulance services, volunteer fire departments, American Red Cross, licensed protective patrols and armored cars and similar agencies.

(2) *Category 2: Public service.* Contract carriers, common carriers, and public utilities (exclusive of taxicab and livery service), for communications other than correspondence of the general public.

(3) *Category 3: Quasi public service.* Emergency repair organizations, not included in Category 1, protecting health and property; press assocations, newpapers and broadcasting stations.

(4) *Category 4: Physically handicapped.* Persons who because of physical handicaps, operate specifically equipped vehicles and are unable to leave such vehicles without assistance.

(5) *Category 5: Industrial.* Gas or oil producing or drilling operators; producers and distributors of fuel and lumber and other construction materials and equipment; food processing, distribution and storage organizations; producers of substantial quanities of food; business concerns engaged in construction of housing and industrial or public works; taxicabs and livery service.

(6) *Category 6: Traveling public.* Trains and watercraft where service is made available to passengers.

(7) *Category 7: All others.*

(b) After initial establishment of service in accordance with the table of priorities in paragraph (a) of this section when facilities in a given area are insufficient to furnish service to all who desire mobile radiotelephone service, applications for new or additional mobile units shall be ranked within the categories in order of date of filing and service shall be afforded such applicants as facilities become available, in descending order of precedence.

§ 22.513 Location of message center.

Within the service area encompassed by the field strength contour of each base station as defined in § 22.504, there shall be at least one message center so located that the major portion of subscribers' local exchange landline telephone calls, which originate or terminate in such area in conjuction with messages transmitted or received by said station, cost no more per call than the local message single unit rate. In cases where the control point of a base stations is not so located, a public foreign exchange telephone circuit shall be provided to afford service so that a radio service subscriber may communicate between such points at a cost per call not in excess of the local message single unit rate.

§ 22.514 Responsibility for operational control and maintenance of mobile units.

(a) The licensee of a base station in this service shall be responsible for exercising effective operational control over all mobile units with which it communicates. The proper installation and maintenance of such mobile units shall be the responsibility of the respective licensees thereof.

(b) A mobile unit normally associated with and licensed to a specified base station will be deemed, when communicating with a different base station pursuant to legally effective tariff provisions, to be temporarily associated with and licensed to such different base station and the licensee of such different base station shall, for such temporary period, assume the same licensee responsibility for such mobile unit as if such unit were regularly licensed to it.

§ 22.515 Control points, dispatch points and dispatch stations.

(a) Dispatch stations, other than those installed pursuant to § 21.519(a), may be installed only with specific authorization from the Commission. Upon removal of a specifically licensed dispatch station, the licensee must within 30 days thereafter submit to the Commission in Washington, D.C., the dispatch station license for cancellation. Dispatch points may be installed or removed without authorization. Dispatch point circuit facilities shall be installed in conformance with the requirements of paragraph (c)(2) of this section.

(b) To insure the maintenance of station control, means shall be provided whereby each dispatch station and each dispatch point is maintained under continuous effective operational supervision of one or more control points.

(c) At each control point for a base station or fixed station in this service, the following facilities will be installed:

(1) Equipment to permit the responsible radio operator to monitor aurally at such intervals as may be necessary to insure proper operation of the integrated communication system, all transmissions orginating at dispatch points under his supervision and at stations with which the base station communicates.

(2) Facilities which will permit the responsible radio operator either to disconnect immediately the dispatch point circuits from the transmitter or immediately to render the transmitter inoperative from any dispatch point associated therewith.

Note: Reference should be made to §§ 22.118 and 22.518 for additional control point requirements and also to § 22.205 concerning operator requirements.

§ 22.516 Additional showing required with application for assignment of additional channel or channels.

An application requesting the assignment of an additional channel or channels at an existing Domestic Public Land Mobile radio station (other than control, dispatch or repeater), in addition to the information required by other sections of the rules, shall include a showing of the following:

(a) The number of mobile units for which orders for service are being held.

(b) Data showing the actual traffic loading on each channel assignment of the present radio systems during the busiest 12-hour periods on 3 days (within a 7-day period) having normal message traffic not more than 60 days prior to the date of filing. This information should be reported separately for each of the 3 days selected, which should be identified by dates, and should disclose the following:

(1) The number of mobile units using the service during each of the days specified.

(2) The number of calls compieted each hour.

(3) For systems that provide message relay service, (i) the number of calls held, (ii) the total holding time, and (iii) the maximum holding time for a call, due to busy radio circuit conditions during each hour; or, for systems that do not provide message relay service, the total number of minutes that the channel (base and mobile) was utilized for transmissions between the base station and land mobile units during each hour.

(4) For systems that provide one-way signaling as a primary service, (i) the number of mobile receivers in operation during the study period, (ii) the number of calls held, (iii) the total holding time; or for systems that do not provide message relay service, (iv) the total number of minutes the channel is utilized for transmission between the base station and the mobile receiver during each hour.

(5) Such other additional information which may more accurately reflect channel loading, and any further information which may be applicable and pertinent to the application.

§ 22.517 Use of base station as a repeater station.

On its regularly assigned frequency, a base station may be used to perform the added functions of a repeater station when means are provided whereby the licensee of the radio system is able to turn the base station on and off at will from its control point irrespective of the transmissions of subscriber units on the mobile station frequency associated therewith.

§ 22.518 Use of mobile station frequency for control station.

Upon proper application to the Commission for a construction permit to install a control station, a base station applicant or licensee may be authorized to operate its base station via a control station using the mobile station frequency paired therewith. In order to ensure retention of essential operational control of the radio system by its licensee, it is expected that this method of operation will not be installed where the signals from subscriber operated units are able to override the functions of the control path between the control and base station, or where such operation will cause harmful interference to another radio system. The control station shall be provided with coded signals whose transmission will enable the control station to shut down and reactivate the base station at will, irrespective of the transmissions of subscriber units associated therewith. Additional coded signals may be employed by the controls station for selective signaling of subscriber units or for performing essential functions at the base station, e.g., controlling aeronautical obstruction marking lights on the base station antenna tower. The coded signals used by control stations for shut down and reactivation of the base station, or for any other essential control functions (other than selective signaling incidental to establishment of subscriber communications) connected therewith, shall consist of two or more sequentially transmitted tones whose combined duration shall not exceed one second. Use of tone modulation for selective signaling to and from subscriber radio installations is not required; however, when tone modulation is used for this purpose, the aforementioned limitation on the combined duration of tones is not applicable. Radio installations in the premises of, or in vehicles of, subscribers are not permitted to be equipped with code signaling devices (other than for signaling incidental to establishment of subscriber communications) whereby the user would be able to reactivate the base station after the radio system has been shut down by the licensee. Applications for authority to operate a control station upon the mobile station frequency shall be supported by complete engineering information disclosing, among other things, all particulars of the code signaling system which is to be employed.

§ 22.519 Use of mobile station frequency for dispatch station.

A base station licensee may be authorized to install, for a mobile station subscriber or a group of mobile station subscribers, a dispatch station using the mobile station frequency paired with the associated base station frequency. Authorization for the establishment and operation of any dispatch station will be on the express condition that such station will not cause harmful interference to the mobile or rural radio services and will not inhibit use by the mobile radio service of the frequencies assigned to the dispatch station or degrade the mobile communication service rendered by the base station. No dispatch station shall be installed at any site or under conditions whereby it will be capable of overriding the control functions of a control station using the same frequency.

(a) A licensee may install a dispatch station without authorization for the specific location if the antenna height employed at any such location does not exceed the criteria set forth in § 17.7 of this chapter, the rated power output of the transmitter does not exceed 10 watts and each such installation otherwise complies with the requirements of §§ 22.107, 22.108, 22.110, 22.506, 22.520 and all other pertinent provisions of this part. The number of such dispatch station installations shall not exceed the number stated on the base station license. The operation of any such installation shall be subject to termination by the Commission without a hearing upon notice to the licensee.

(b) Any proposal for the installation of a dispatch station which does not comply with the limitations and requirements of paragraph (a) of this section shall be submitted to the Commission, upon proper application (FCC Form 401) for a construction permit.

§ 22.520 Notification of operation of dispatch station without specific authorization.

(a) The licensee of a base station who proposes to establish a dispatch station pursuant to the provisions of § 22.519(a) shall notify the Commission at Washington, D.C., 20554, and its Engineer in Charge of the radio district wherein operation is to be conducted, at least two days prior to the installation of the facilities. This notification shall include:

(1) The name(s) and address(es) of subscriber(s) and the number of mobile stations assigned to each subscriber.

(2) A description of the transmitting location, including the geographic coordinates to the nearest second of latitude and longitude, and also by conventional reference to street number, landmark, etc.

(3) The name of the manufacturer, type number and rated power output of transmitter to be installed.

(4) The transmitting antenna make, model number and power gain in decibels with respect to a reference half-wave dipole antenna.

(5) The overall height of the transmitting antenna structure in feet above ground and above mean sea level.

(6) The location of the transmitter control point.

(7) The exact frequency or frequencies to be used.

(8) The identity and location of the base station through which it will communicate.

(9) The commencement date of operation.

(b) A copy of the foregoing notification shall be posted with the base station license.

(c) Upon termination of the operation of a dispatch station for which notification was given pursuant to paragraph (a) of this section or, in the event any of the facts alleged in such notification will be changed, written notice thereof shall be given to the Commission and its Engineer in Charge, at least two days prior to the execution of the change.

§ 22.521 Nationwide plan for assignment of frequencies to land mobile systems rendering communication service to airborne stations.

(a) The following frequency pairs designated by the working channel numbers indicated below are designated for assignment only to land mobile radio systems, which are interconnected to the nationwide public landline message telephone system and afford communication service to airborne stations:

Base station frequencies (MHz)	Working channel designations	Mobile and auxiliary test station frequencies (MHz)
454.675 [1]		
454.700 [2]	6	459.700
454.725 [2]	7	459.725
454.750 [2]	5	459.750
454.775 [2]	8	459.775
454.800 [2]	4	459.800
454.825 [2]	9	459.825
454.850 [2]	3	459.850
454.875 [2]	10	459.875
454.900 [2]	2	459.900
454.925 [2]	11	459.925
454.950 [2]	1	459.950
454.975 [2]	12	459.975

[1] This frequency is to be associated with each of the base station channels listed herein and is to be used exclusively as a signaling channel for calling airborne stations.

[2] Use of the frequencies for base stations indicated herein, is limited on a secondary basis to land mobile systems which also provide communication service to airborne stations and upon a showing that mobile service will not adversely affect the availability or adequacy of service to airborne subscribers.

(b) Base stations operating on the frequencies specified in this section shall be situated within 25 statute miles of the location specified below. This distance shall be measured from the intersection of the geographic coordinates shown, or from the main post office where coordinates are not specified herein.

Location	Channel
Alabama:	
Troy	10
Alaska:	
Anchorage	8, 10
Fairbanks	5, 6
Juneau	2, 7
Ketchikan	4, 3
Nome	2, 7
Arizona:	
Grand Canyon	12
Phoenix	2, 8
Arkansas:	
Little Rock	6
California:	
East of Fresno (36°44' N. lat.) (119°17' W. Long.)	3, 11
Northwest of Los Angeles (34°20' N. lat.) (118°36' W. long.)	4, 7, 10
North of Redding (40°55' N. lat.) (122°27' W. long.)	6
Northeast of San Francisco (37°51' N. lat.) (122°11' W. long.)	1, 8
Northwest of Santa Barbara (34°32' N. lat.) (119°58' W. long.)	5
East of San Diego (32°53' N. lat.) (116°25' W. long.)	9
Colorado:	
Denver	2, 7, 8
Grand Junction	4
Trinidad	10
District of Columbia:	
Washington	1, 7, 10
Florida:	
Cocoa	3, 11
Miami	2, 7, 8, 9
Tampa	5, 12
Georgia:	
Atlanta	7, 8, 9
Waycross	1
Hawaii:	
Hilo (Hawaii)	2, 4
Honolulu (Oahu)	1, 3, 5, 7
Kailua-Kona (Hawaii)	6, 8
Kamuela (Hawaii)	9
Kahului (Maui)	10, 12
Lihue (Kauai)	11
Idaho:	
Boise	4
Idaho Falls	10
Illinois:	
Alton	4, 10
Chicago	1, 7, 9
Indiana:	
Vincennes	11
Iowa:	
Waterloo	12
Kansas:	
Colby	9, 11
Salina	1
Kentucky:	
Middlesboro	5
Louisiana:	
New Orleans	3, 11
Maine:	
Shreveport	5
Bangor	1, 7
Massachusetts:	
Boston	2, 3, 4
Michigan:	
Detroit	2, 8
Minnesota:	
Duluth	2
Minneapolis	8, 11
Mississippi:	
Jackson	2
Missouri:	
Kansas City	2, 8
Montana:	
Billings	9
Glendive	8
Great Falls	2, 12
Missoula	7
Nebraska:	
Alliance	5, 12
North Bend	6
Nevada:	
Elko	5
Las Vegas	6
Northwest of Reno (39°35' N. lat.) (119°56' W. long.)	2
New Jersey:	
Newark	6, 8, 9
New Mexico:	
Albuquerque	5
Artesia	1
Silver City	3
New York:	
Elmira	5
Southwest of Albany (42°38' N. lat.) (73°59' W. long.)	11
North Carolina:	
Charlotte	2
Rocky Mount	11
North Dakota:	
Bismarck	1
Fargo	4, 7
Ohio:	
Dayton	6
Oklahoma:	
Oklahoma City	3, 12
Oregon:	
Klamath Falls	12
Pendleton	8
Salem	3, 11
Pennsylvania:	
Pittsburgh	4, 12
Puerto Rico:	
Mayaguez	12
Ponce	11
San Juan	8, 9, 10
South Carolina:	
Charleston	4
South Dakota:	
Pierre	10
Tennessee:	
Columbia	12
Texas:	
Amarillo	6
Dallas	4, 7, 10
El Paso	9, 11
Harlingen	3
Houston	1, 9
San Antonio	8
Sweetwater	2
Utah:	
Ogden	3, 11
Richfield	1, 9
Virgin Islands:	
Charlotte Amalie	7
Fredericksted	6
Washington:	
Seattle	1, 2, 5, 9
Spokane	6
West Virginia:	
Beckley	3
Wisconsin:	
Wausau	5
Wyoming:	
Casper	6

§ 22.522 Base station signaling system requirements for calling airborne stations.

(a) Each base station operating on frequencies specified in § 22.521 shall be equipped for two-tone selective signaling of airborne stations by means of a code comprised of seven basic elements, A through G, as follows:

A	B	C	D	E	F	G
Digit one (1)	Pause	Five digits (e.g., 29035)	Pause	One or more digits (e.g., 3)	Pause	Digit one (1)

A—A clearing pulse to reset selectors to zero

B—An idle period pulse of 0.66 to 1.4 seconds between the transmission of the clearing pulse and the time of start of transmission of the assigned selective signaling code.

C—The selective signaling code or "number" assigned to the airborne station. This always comprises five digits. The digit one is not used. The arithmetic sum of the five digits will be anything from 10 to 50, counting 0 as 10.

D—An idle period. 1.0 second (minimum) between the transmission of the five digit code and element E, the channel designation number.

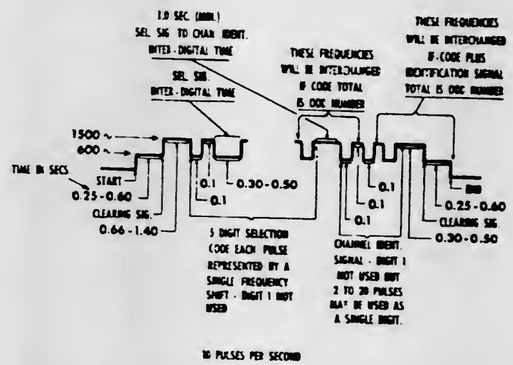
E—The channel designation number to indicate the working channel of the calling base station. This may also be used to activate an audible ringing signal in the aircraft. Two to thirteen pulses are used to select channels 1 to 13 and are sent in a continuous train as a single digit. The digit comprised of one pulse is not used.

F—A 0.30 second period is provided prior to transmission of a clearing pulse.

G—A clearing pulse to enable the airborne station selective signaling receiver equipment to return the selective signaling selector to zero.

(b) The basic elements of the selective signaling system shall conform to the frequencies and time intervals illustrated. The times shown apply to automatic-pulsing selective-signaling equipments using digit counting circuitry at the ground station. If manual dialing is employed, the pauses and interdigit times will be dependent upon the speed of the operator.

Two-tone signal for ground-to-air calling



§ 22.523 Airborne station receiver requirements.

(a) An airborne station desiring to receive calls originated by a base station shall be equipped to receive and respond to its assigned telephone number when transmitted by the selective signaling system prescribed by § 22.522.

(b) Airborne stations desiring to receive calls originated by a base station must employ a receiver designed to automatically revert to the signaling channel frequency upon completion of a call.

Subpart H—Rural Radio Service

§ 22.600 Eligibility.

Authorizations for central office stations and interoffice stations will be issued to existing and proposed communication common carriers. Authorizations for rural subscriber stations will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service and (c) the public interest convenience or necessity would be served by a grant thereof.

§ 22.601 Frequencies.

(a) The following frequencies are available primarily to the Domestic Public Land Mobile Radio Service and, on a secondary basis, to stations in the Rural Radio Service, provided no harmful interference is caused to stations in the Domestic Public Land Mobile Radio Service:

Central office and interoffice station frequencies (MHz)	Rural subscriber and interoffice station—frequencies (MHz)
152.51 [1]	[1] 157.77
152.54 [1]	[1] 157.80
152.57 [1]	[1] 157.83
152.60 [1]	[1] 157.86
152.63 [1]	[1] 157.89
152.66 [1]	[1] 157.92
152.69 [1]	[1] 157.95
152.72 [1]	[1] 157.98
152.75 [1]	[1] 158.01
152.78 [1]	[1] 158.04
152.81 [1]	[1] 158.07
	[2] 158.49
	[2] 158.52
	[2] 158.55
	[2] 158.58
	[2] 158.61
	[2] 158.64
	[2] 158.67
	[2] 459.025
	[2] 459.050
	[2] 459.075
	[2] 459.100
	[2] 459.125
	[2] 459.150
	[2] 459.175
	[2] 459.200
	[2] 459.225
	[2] 459.250
	[2] 459.275
	[2] 459.300
	[2] 459.325
	[2] 459.350
454.375 [1]	[1] 459.375
454.400 [1]	[1] 459.400
454.425 [1]	[1] 459.425
454.450 [1]	[1] 459.450
454.475 [1]	[1] 459.475
454.500 [1]	[1] 459.500
454.525 [1]	[1] 459.525
454.550 [1]	[1] 459.550
454.575 [1]	[1] 459.575
454.600 [1]	[1] 459.600
454.625 [1]	[1] 459.625
454.650 [1]	[1] 459.650

[1] This frequency is available for assignment only to stations of communication common carriers also engaged in the business of affording public landline message telephone service.

[2] This frequency is available for assignment only to stations of communication common carriers not also engaged in the business of providing a public landline message telephone service.

(b) New stations will not be authorized in the 890–940 MHz band. However, stations which were authorized to operate on April 16, 1958, may be granted renewed licenses subject to the following conditions:

(1) Operations shall not be protected against any interference received from the emission of industrial, scientific, and medical equipment operating on 915 MHz or from the emission of radiolocation stations in the 890–942 MHz band.

(2) No harmful interference shall be caused to stations operating in the radiolocation service in the 890–942 MHz band.

(c) In the State of Hawaii, the following frequencies are available for assignment to Inter-Office stations:

76–108 MHz Band

76.02	78.70	81.38	84.06	86.74	99.42	102.10	104.78
76.06	78.74	81.42	84.10	86.78	99.46	102.14	104.82
76.10	78.78	81.46	84.14	86.82	99.50	102.18	104.86
76.14	78.82	81.50	84.18	86.86	99.54	102.22	104.90
76.18	78.86	81.54	84.22	86.90	99.58	102.26	104.94
76.22	78.90	81.58	84.26	86.94	99.62	102.30	104.98
76.26	78.94	81.62	84.30	86.98	99.66	102.34	105.02
76.30	78.98	81.66	84.34	87.02	99.70	102.38	105.06
76.34	79.02	81.70	84.38	87.06	99.74	102.42	105.10
76.38	79.06	81.74	84.42	87.10	99.78	102.46	105.14
76.42	79.10	81.78	84.46	87.14	99.82	102.50	105.18
76.46	79.14	81.82	84.50	87.18	99.86	102.54	105.22
76.50	79.18	81.86	84.54	87.22	99.90	102.58	105.26
76.54	79.22	81.90	84.58	87.26	99.94	102.62	105.30
76.58	79.26	81.94	84.62	87.30	99.98	102.66	105.34
76.62	79.30	81.98	84.66	87.34	100.02	102.70	105.38
76.66	79.34	82.02	84.70	87.38	100.06	102.74	105.42
76.70	79.38	82.06	84.74	87.42	100.10	102.78	105.46
76.74	79.42	82.10	84.78	87.46	100.14	102.82	105.50
76.78	79.46	82.14	84.82	87.50	100.18	102.86	105.54
76.82	79.50	82.18	84.86	87.54	100.22	102.90	105.58
76.86	79.54	82.22	84.90	87.58	100.26	102.94	105.62
76.90	79.58	82.26	84.94	87.62	100.30	102.98	105.66
76.94	79.62	82.30	84.98	87.66	100.34	103.02	105.70
76.98	79.66	82.34	85.02	87.70	100.38	103.06	105.74
77.02	79.70	82.38	85.06	87.74	100.42	103.10	105.78
77.06	79.74	82.42	85.10	87.78	100.46	103.14	105.82
77.10	79.78	82.46	85.14	87.82	100.50	103.18	105.86
77.14	79.82	82.50	85.18	87.86	100.54	103.22	105.90
77.18	79.86	82.54	85.22	87.90	100.58	103.26	105.94
77.22	79.90	82.58	85.26	87.94	100.62	103.30	105.98
77.26	79.94	82.62	85.30	87.98	100.66	103.34	106.02
77.30	79.98	82.66	85.34	98.02	100.70	103.38	106.06
77.34	80.02	82.70	85.38	98.06	100.74	103.42	106.10
77.38	80.06	82.74	85.42	98.10	100.78	103.46	106.14
77.42	80.10	82.78	85.46	98.14	100.82	103.50	106.18
77.46	80.14	82.82	85.50	98.18	100.86	103.54	106.22
77.50	80.18	82.86	85.54	98.22	100.90	103.58	106.26
77.54	80.22	82.90	85.58	98.26	100.94	103.62	106.30
77.58	80.26	82.94	85.62	98.30	100.98	103.66	106.34
77.62	80.30	82.98	85.66	98.34	101.02	103.70	106.38
77.66	80.34	83.02	85.70	98.38	101.06	103.74	106.42
77.70	80.38	83.06	85.74	98.42	101.10	103.78	106.46
77.74	80.42	83.10	85.78	98.46	101.14	103.82	106.50
77.78	80.46	83.14	85.82	98.50	101.18	103.86	106.54
77.82	80.50	83.18	85.86	98.54	101.22	103.90	106.58
77.86	80.54	83.22	85.90	98.58	101.26	103.94	106.62
77.90	80.58	83.26	85.94	98.62	101.30	103.98	106.66
77.94	80.62	83.30	85.98	98.66	101.34	104.02	106.70
77.98	80.66	83.34	86.02	98.70	101.38	104.06	106.74
78.02	80.70	83.38	86.06	98.74	101.42	104.10	106.78
78.06	80.74	83.42	86.10	98.78	101.46	104.14	106.82
78.10	80.78	83.46	86.14	98.82	101.50	104.18	106.86
78.14	80.82	83.50	86.18	98.86	101.54	104.22	106.90
78.18	80.86	83.54	86.22	98.90	101.58	104.26	106.94
78.22	80.90	83.58	86.26	98.94	101.62	104.30	106.98
78.26	80.94	83.62	86.30	98.98	101.66	104.34	107.02
78.30	80.98	83.66	86.34	99.02	101.70	104.38	107.06
78.34	81.02	83.70	86.38	99.06	101.74	104.42	107.10
78.38	81.06	83.74	86.42	99.10	101.78	104.46	107.14
78.42	81.10	83.78	86.46	99.14	101.82	104.50	107.18
78.46	81.14	83.82	86.50	99.18	101.86	104.54	107.22
78.50	81.18	83.86	86.54	99.22	101.90	104.58	107.26
78.54	81.22	83.90	86.58	99.26	101.94	104.62	107.30
78.58	81.26	83.94	86.62	99.30	101.98	104.66	107.34
78.62	81.30	83.98	86.66	99.34	102.02	104.70	107.38
78.66	81.34	84.02	86.70	99.38	102.06	104.74	107.42

V 44 OC 1979 UMI

107.46	107.54	107.62	107.70	107.78	107.86	107.94
107.50	107.58	107.66	107.74	107.82	107.90	107.98

(d) Within the geographic areas in which the frequencies in paragraphs (a) and (b) of this section may be assigned, and under the same limitations of shared usage and reservations concerning interference set forth therein, such frequencies may also be assigned to radio relay stations in the Rural Radio Service upon a satisfactory showing as to why it is impracticable to achieve the requisite communication without the use of radio relay stations operating on such frequencies.

(e) In Puerto Rico and the Virgin Islands only, the bands 154.04 MHz to 154.46 MHz and 161.40 MHz to 161.85 MHz are available for assignment to stations in the Rural Radio Service on a shared basis with stations in the International Fixed Public and Aeronautical Fixed Radio Services. Spacings between assignments in these services are unspecified.

(f) Stations now authorized in the band 890–942 MHz may be authorized to operate in the band 942–952 MHz on the following conditions:

(1) That such stations can show that harmful interference is being caused by Government radiopositioning stations in the 890–942 MHz bands or by ISM equipment operating on 915 MHz.

(2) That an engineering study by the Commission indicates that the proposed frequency assignment in the band 942–952 MHz is likely to eliminate the interference.

(3) That the bandwidth of emission does not exceed 1100 kHz.

(4) That the proposed frequency assignment will not cause interference to existing operations in the band 942–952 MHz.

§ 22.602 Transmitter power.

Stations in this service shall not be authorized to use transmitters having a rated power output in excess of the limits set forth in § 22.107(b). A standby transmitter having a rated power output in excess of that of the main transmitter with which it is associated will not be authorized.

§ 22.603 Types of emission.

(a) Stations in this service within the continental limits of the United States normally shall be authorized to use only types A1, A2, A3, or F1, F2 and F3 emission for radiotelephony. However, multi-channel type of amplitude or frequency modulated emission for radiotelephony may be authorized upon a satisfactory showing of need therefor and provided that the criteria concerning bandwidth of emission set forth in § 22.604(b) are satisfied.

(b) In addition to the types of emission which may be authorized under the provisions of paragraph (a) of this section, stations in this service outside the continental limits of the United States may be authorized to employ A4 and F4.

(c) The authorization for use of A3 and F3 emission shall be construed to include the use of tone signals or signaling devices whose sole function is to establish and maintain communication between stations.

(d) Other types of emission not described in paragraph (a) of this section may be authorized upon a satisfactory showing of need therefor. An application requesting such authorization shall fully describe the emission desired, shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required.

(e) Further reference should be made to §§ 22.103 to 22.105, inclusive.

§ 22.604 Emission limitations.

(a) The maximum authorized bandwidth of emission and, for the cases of frequency or phase modulated emissions, the maximum authorized frequency deviation shall be as follows:

Type of emission	50–150 MHz		150–500 MHz	
	Authorized bandwidth (kHz)	Frequency deviation (kHz)	Authorized bandwidth (kHz)	Frequency deviation (kHz)
A1	1		1	
A2	3		3	
A3	8		8	
A4	12		12	
F1	3		3	
F2	3		3	
F3	[2]140	[2]115	[1]20	[1]5
F4	[2]140	[2]115	[1]20	[1]5

[1] In the frequency band 450 to 470 MHz, radio facilities using frequency modulated or phase modulated emission, authorized prior to June 1, 1968, will continue to be authorized with bandwidth of 40 kHz until November 1, 1971, provided that the frequency deviation is reduced to 5 kHz by June 1, 1968.

[2] In the frequency bands 72.0–73.0 and 75.4–76.0 MHz, radio facilities using frequency modulated or phase modulated emission will be authorized with maximum bandwidth of 20 kHz and maximum frequency deviation of 5 kHz. Radio facilities which were authorized for operation on December 1, 1961, in the frequency band 73.0–74.6 MHz may continue to be authorized without change and with bandwidth of 40 kHz and frequency deviation of 15 kHz. New or modified facilities in the frequency band 73.0–74.6 MHz will not be authorized.

(b) Bandwidths of emission greater than shown in paragraph (a) of this section may be authorized for multichannel operation upon an adequate showing of need therefor and provided a showing is made that the efficiency of frequency utilization per derived communication channel is equivalent to or greater than on a single channel basis. Radio facilities using frequency modulated or phase modulated emission shall not exceed a frequency deviation of 5 kHz due to modulation of the carrier frequency. An application requesting such authorization shall fully describe the modulation, emission and bandwidth desired and shall specify the bandwidth to be occupied.

§ 22.605 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for single channel radiotelephony or tone signaling on frequencies below 500 MHz is not authorized.

(b) When amplitude modulation is used, the modulation percentage shall be sufficient to provide efficient communication and shall be normally maintained above 70 percent on peaks, but shall not exceed 100 percent on negative peaks.

(c) When phase or frequency modulation is used for single channel operation on frequencies below 500 MHz, the deviation arising from modulation shall not exceed the limits specified in § 21.604(a).

(d) Each transmitter, which has more than 3 watts plate power input to the final radio frequency stage and was initially authorized or installed at the station in this service after July 1, 1950, employing type A3 or F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraphs (b) and (c) of this section.

(e) Each transmitter, which operates on frequencies below 450 MHz and employs type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (d) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 15 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$40 \log_{10} (f/3)$ decibels

where "f" is the audio frequency in kilohertz. At audio frequencies above 15 kHz, the attenuation shall be at least 28 decibels greater than the attenuation at 1 kHz.

(f) Each transmitter, which operates on frequencies between 450 MHz and 470 MHz and employs type A3 or F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (c) of this section and also shall be equipped with a low-pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 20 kHz, the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$60 \log_{10} (f/3)$ decibels

where "f" is the audio frequency in kilohertz. At audio frequencies above 40 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz: *Provided, however,* That in lieu of such filter transmitters authorized to operate between 450 MHz and 470 MHz prior to June 1, 1968, may continue to operate until November 1, 1971, with a filter meeting the requirements proscribed in paragraph (f) of this section.

§ 22.606 Permissible communications.

(a) Rural Subscriber stations normally are authorized to communicate with and through the central office station with which they are associated. However, where the establishment of central office station facilities in this service is shown to be impracticable, Rural Subscriber stations may be authorized to communicate with and through a specified base station in the Domestic Public Land Mobile Radio Service pursuant to the provisions of § 22.509(f).

(b) Central Office stations may communicate only with Rural Subscriber stations.

(c) Inter-Office stations may communicate only with other Inter-Office stations.

(d) The foregoing paragraphs of this section shall not be construed to prohibit stations in this service from communicating through radio relay stations authorized pursuant to the provisions of § 22.601(d).

§ 22.607 Priority of service.

Within the Rural Radio Service, the frequencies set forth in § 22.601 are intended primarily for use in rendition of public message service between Rural Subscriber and Central Office stations and to provide radio trunking facilities between central offices. However, the frequencies may also be used for the rendition of private leased line communication service provided that such usage will not reduce or impair the extent or quality of communication service which would be available, in the absence of private leased line service, to the general public receiving or subsequently requesting public message service from a central office.

§ 22.608 Supplementary showing required with application for interoffice stations.

(a) Each application for initial installation of a radio station in this service, or for installation of additional transmitters, or for authority to communicate with new points, shall be accompanied by a statement showing how the proposed construction, etc., will serve the public interest, convenience and necessity. (When a series of related applications is filed for authority to construct a coordinated radio system or additional channels thereon, the supporting data may refer to all of the proposed stations or transmitters in such system.) Among other things, such statement should include information concerning:

(1) The number of communication circuits (telephone, telegraph, etc.) to be derived initially from the radio facilities proposed to be established. In the case of a radio system involving one or more circuit branching points, indicate the number of such circuits to be derived in each section of the system.

(2) The availability, adequacy, and reliability of existing public communication facilities along the route or in the area proposed to be served by the proposed radio facilities, operated by the applicant or any other carrier, indicating:

(i) The type of each communication facility (open wire, cable, radio, etc.).

(ii) The number of communication circuits of each type, listed in paragraph (a)(1) of this section, currently being derived from each of these facilities in the limiting cross-section or cross-sections, as appropriate.

(iii) Current traffic load trends, as indicated by periodic traffic load studies, including an estimate as to future circuit requirements.

(iv) Where more than 24 circuits are to be derived from the proposed construction, list the principal circuit groups currently operated, the number of circuits in each group, and the estimated number of circuits required in each group to meet load demands for the ensuing one year, two year, or five year period, as may be appropriate in order to provide adequate justification for said increases.

(b) Where specific information required by paragraph (a) of this section has been submitted in connection with applications filed under Part 63 of this chapter, duplication of information in support of applications submitted pursuant to this part is not required provided appropriate references are made therein. After an application for the initial establishment of a radio station or for the addition of transmitters on an existing system has been granted, and where the number of communication circuits (i.e., telephone, telegraph, etc.) is to be expanded without otherwise affecting the terms of the applicable radio station authorization, authority to install necessary channelizing equipment shall be secured by an application filed pursuant to section 214(a) of the Communications Act of 1934, as amended, and Part 63 of the Commission's rules and regulations, in those cases where the applicant is subject to the provisions of section 214.

§ 22.609 Supplementary showing required with applications for central office stations and rural subscriber stations.

Each application in this service should be accompanied by a statement showing why it is impracticable to provide the required communication service by means of wire line facilities, including the estimated cost of such facilities as compared with radio facilities, operating or maintenance difficulties, or similar factors which indicate the desirability of providing service by means of radio facilities. Additionally, where it is proposed to provide rural subscriber service through a base station, a showing should be made that the proposed rural subscriber service will not adversely affect the availability or adequacy of service to mobile subscribers.

§ 22.610 Rural subscriber, interoffice, and central office stations at temporary fixed locations.

(a) Authorizations may be issued upon proper application for the use of frequencies listed in § 21.601(a) by rural subscriber stations, interoffice stations, and central office stations for rendition of rural radio service at temporary locations under the following conditions:

(1) When a fixed station is to remain at a single location for less than 6

V 44 OC 19 79 UMI

months and the location is considered to be temporary. Services which are initially known to be for longer than 6 months' duration shall not be provided under a temporary fixed authorization but rendered pursuant to a regular license.

(2) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than six months, applications (FCC Forms 401 and 403) for a station authorization designating that single location as the permanent location shall be filed at least thirty days prior to expiration of the six-month period.

(3) The station shall be used only for rendition of communication service to remote points where the provision of wire telephone facilities is not practicable, or for restoration of communication service disrupted by storms, floods, earthquakes, or other emergencies.

(4) The antenna structure height employed at any location shall not exceed the criteria set forth in § 17.7 of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height has been obtained from the Commission prior to erection of the antenna. Requests for such authorization shall be accompanied by FCC Form 714 and a sketch of the proposed antenna structure.

(b) Applications for authorizations to operate rural subscriber stations, inter-office stations, and central office stations at temporary locations under the provisions of this section shall be made upon FCC Form 401, and may be accompanied by completed FCC Form 403 for simultaneous consideration, provided the equipment to be used is of "packaged" design. Blanket applications may be submitted for the required number of rural subscriber, inter-office and central office transmitters.

§ 22.611 Notification of station operation at temporary locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.610 shall notify the Commission, and its Engineer in Charge of the radio district wherein operation is to be conducted, of each period of operation at least two days prior to installation of the facilities. This notification shall include:

(1) The call sign and specific location of the transmitter.

(2) The location of the transmitter control point.

(3) The identity and location of the station with which it will communicate.

(4) The exact frequency or frequencies to be used.

(5) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission and its Engineer in Charge.

(b) Less than 2 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such shorter notice are stated.

(c) A copy of the foregoing notification shall be posted with the station license (see § 22.214).

Subpart I—[Reserved]

Subpart J—[Reserved]

Subpart K—[Reserved]

Subpart L—Offshore Radio Telecommunications Service

§ 22.1000 Eligibility.

Authorizations for stations to be operated in this service will be issued to existing and proposed communications common carriers. Authorizations for subscriber stations will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, financially, technical and otherwise qualified to render the proposed service and (b) there are frequencies available to enable applicant to render a satisfactory service and (c) the public interest, convenience or necessity would be served by a grant thereof.

§ 22.1001 Frequencies.

(a) On a shared basis with television broadcasting channel 17, the following frequencies are for assignment to stations of communication common carriers in the zone specified in Table A below together with the classes of station(s) to which they are normally assigned and the specific limitations, which are enumerated in paragraph (b) of this section:

Offshore central station frequencies (megahertz)	Offshore subscriber frequencies (megahertz)	Limitations
488.025	491.025	1
488.050	491.050	1
488.075	491.075	1
488.100	491.100	1
488.125	491.125	1
488.150	491.150	1
488.175	491.175	1
488.200	491.200	1
488.225	491.225	1
488.250	491.250	1
488.275	491.275	1
488.300	491.300	1
488.325	491.325	1
488.350	491.350	1
488.375	491.375	1
488.400	491.400	1
488.425	491.425	1,2
488.450	491.450	1,2
488.475	491.475	1,2
488.500	491.500	1,2
488.525	491.525	1,2
488.550	491.550	1,2
488.575	491.575	1,2
488.600	491.600	1,2
488.625	491.625	1,2
488.650	491.650	1,2
488.675	491.675	1,2
488.700	491.700	1,2
488.725	491.725	4
488.750	491.750	4
488.775	491.775	4
488.800	491.800	4
488.825	491.825	3
488.850	491.850	3
488.875	491.875	3
488.900	491.900	3
488.950	491.950	5
489.000	492.000	6
489.025	492.025	6
489.050	492.050	6
489.075	492.075	6
489.100	492.100	6
489.125	492.125	6
489.150	492.150	6
489.175	492.175	6
489.200	492.200	6
489.225	492.225	6
489.250	492.250	6
489.300	492.300	6
489.350	492.350	6
489.400	492.400	2
489.425	492.425	2
489.450	492.450	2
489.475	492.475	2
489.500	492.500	2
489.525	492.525	2
489.550	492.550	2
489.575	492.575	2
489.600	492.600	2
489.625	492.625	2
489.650	492.650	2
489.675	492.675	2
489.700	492.700	2
489.725	492.725	2
489.750	492.750	2
489.775	492.775	2
489.800	492.800	2
489.825	492.825	2
489.850	492.850	2
489.875	492.875	2
489.900	492.900	2
489.925	492.925	2
489.950	492.950	2
489.975	492.975	2
490.000	493.000	2

(b) Explanation of assignment limitations appearing in the frequency list of this section:

(1) These frequencies will be assigned for voice grade general communications.

(2) These frequencies may be assigned for private line service.

(3) These frequencies are available for emergency communication involving protecting of life property.

(4) These frequencies may be assigned to radio relay stations upon a satisfactory showing as to why it is impracticable to achieve the requisite communication without the use of radio relay stations operating on such frequencies.

(5) These frequencies shall be used only for emergency auto alarm and voice transmission pertaining to emergency conditions.

(6) These frequencies may be used for emergency shut-off remote control telemetry, environmental Data Acquisition and Dissemination, or facsimile transmissions.

(c) All frequencies listed in this section are subject to the following condition:

(1) No fixed or temporary-fixed stations shall be located and no mobile stations shall be operated outside the limits of the zone specified in Table A.

(2) All classes of stations in the Offshore Radio Telecommunications Service shall afford protection to cochannel television stations in accordance with the values set out in Table B below.

(3) All classes of stations in the Offshore Radio Telecommunications Service shall afford protection to adjacent channel television stations in accordance with the values set out in Table C below.

(4) No airborne subscriber station shall be operated with an effective radiated power in excess of 1 watt or at heights in excess of 1000 feet above mean sea level and shall not be operated outside the limits of the zone specified in Table A. Further, to provide adjacent channel protection to TV channel 18, no airborne subscriber station shall operate within an 80 mile radial distance to Lake Charles, Louisiana.

(5) Antenna heights in excess of 200 feet above mean sea level will not be authorized, except that, surface mobile stations will be limited to a height of 30 feet above the waterline.

(6) Mobile stations shall not operate with effective radiated power in excess of 25 watts within 20 miles of the 3 mile limit. In all other areas, the effective radiated power shall not exceed 100 watts.

(7) On its regularly assigned frequency, an offshore central station may be used to perform the added functions of a repeater station when means are provided whereby the license of the radio system is able to turn the station on and off at will irrespective of the transmissions of subscriber units on the mobile frequency associated therewith.

Table A.—*Frequency availability for offshore radio telecommunications service use*

Offshore zone	Boundaries of zone	Frequencies (megahertz)
Southern Louisiana Zone	From long 87°45' on the east to long 94°00' on the west and from the 3-mi limit along the Gulf of Mexico shoreline on the north to the limit of the Outer Continental Shelf on the south	Channel 17 488-490 491-493

Table C.—*Protection of adjacent channel television stations by stations in the offshore radio telecommunications service*[1]

(0 db protection)

Distance beyond the 3-mi limit (miles)	Antenna height above sea level: 100 ft ERP (watts)	200 ft ERP (watts)
4	25	6
5	40	10
6	65	15
7	100	25
8	150	35
9	215	50
10	295	70
11	400	100
12	530	130
13	685	170
14	870	215
15	1,000	270
16	1,000	415
17	1,000	505
18	1,000	610
19	1,000	730
20	1,000	865
21	1,000	1,000

[1] Table C applies only within an 80 mi radial distance of adjacent TV stations

§ 22.1002 Power limitations.

Stations in this service will not be permitted to exceed 1000 watts effective radiated power and shall not be authorized to use transmitters which have a rated power output in excess of the limits set forth in Section 22.107(b): *Provided, however,* That the effective radiated power of mobile stations operating within 20 miles of the 3 mile limit shall be 25 watts or less. In all other areas mobile stations may operate with effective radiated power of 100 watts. The effective radiated power of airborne stations is limited to 1 watt.

§ 22.1003 Bandwidth and emission limitations.

(a) Stations in this service normally will be authorized to use only type F3 emission for radiotelephone. The authorization to use type F3 emission will be construed to include the use of tone signals or signaling devices the sole function of which is to establish and maintain communication.

Table B.—*Protection of co-channel television stations by stations in the offshore radio telecommunications service—maximum effective radiated power (watts)*

(65dB protection)

Distance from transmitter to TV channel 17 Bude, Miss	Antenna height above sea level: 100 ft	150 ft	200 ft
Miles	*Watts*	*Watts*	*Watts*
210	1,000	1,000	1,000
205	1,000	900	800
200	800	710	630
195	590	520	450
190	450	400	330
185	320	290	240
180	250	210	175
175	175	150	130
170	180	110	100
165	95	80	70
160	65	55	50
155	50	40	35
150	35	30	25

Note.—To determine the maximum permissible effective radiated power:

(1) Using the method specified in § 73.611, determine the distance between the proposed station and the protected cochannel television station. If the exact mileage does not appear in Table B, the next lower mileage separation figure is to be used.

(2) Entering the table at the mileage figure found in (1) above find opposite, a selection of powers that may be used for antenna height for the proposed station does not appear in Table B, use the power figure above the next greater antenna height.

(3) If the power found to be permitted following this procedure is lower than that determined hereafter from Table C, this lower figure is the maximum power that may be employed at the proposed station.

(b) Other types of emission may be authorized upon a satisfactory showing of need therefor. An application requesting such authorization shall fully describe the emission desired shall indicate the bandwidth required for satisfactory communication, and shall state the purpose for which such emission is required.

(c) The maximum authorized bandwidth of emission and maximum authorized frequency deviation shall be as follows:

Type of emission	Authorized bandwith (kilohertz)	Frequency deviation (±kilohertz)
F3	20	5

(d) Other types of emission of bandwidths in excess of that specified in paragraph (c) of this section may be authorized upon an adequate showing of need therefor. An application requesting such authorization shall fully describe the modulation, emission and bandwidth desired, shall specify the bandwidth to be occupied and shall state the reasons why such emission or bandwidth is required.

V 44 0 C 1 9 7 9 UMI

§ 22.1004 Modulation requirements.

(a) The use of modulating frequencies higher than 3000 hertz for single channel radiotelephony or tone signaling is not authorized.

(b) The frequency deviation arising from modulation shall not exceed 5 kHz.

(c) Each transmitter, which has more than 1 watt power output employing type F3 emission shall be equipped with a device which will automatically prevent greater than normal audio level from modulating in excess of the limits specified in paragraph (b) of this section.

(d) Each transmitter, which employs type F3 emission, shall be equipped with a modulation limiter in accordance with the provisions of paragraph (c) of this section and also shall be equipped with a low pass audio filter installed between the modulation limiter and the modulated stage. At audio frequencies between 3 kHz and 20 kHz the filter shall have an attenuation greater than the attenuation at 1 kHz by at least:

$60 \log_{10} (f/3)$ decibels.

where "f" is the audio frequency in kilohertz. At audio frequencies above 20 kHz, the attenuation shall be at least 50 decibels greater than the attenuation at 1 kHz.

§ 22.1005 Permissible communications.

(a) Offshore Central Station shall communicate only with subscriber stations (fixed, temporary-fixed, mobile and airborne).

(b) Subscriber station normally are authorized to communicate with and through Offshore Central.

(c) The foregoing paragraphs of this section shall not be construed to prohibit stations in this service from communicating through radio relay stations authorized pursuant to the provisions of § 22.1001(b).

§ 22.1006 Station at temporary-fixed locations.

Authorizations may be issued upon proper application for the use of frequencies listed in § 22.1001(a) by stations in the Offshore Telecommunications Service for rendition of temporary service to subscribers under the following conditions:

(a) When a fixed station is to remain at a single location for less than 6 months and the location is considered to be temporary.

(b) When a fixed station, authorized to operate at temporary locations, is to remain at a single location for more than six months, applications (FCC Forms 401 and 403) for a station authorization designating that single location as a permanent location shall be filed at least thirty days prior to the expiration of the six-month period.

(c) The station shall be used only for rendition of communication service at points where regular facilities are not available or for restoration of communication service disrupted by storms or other emergencies.

(d) The antenna structure height employed at any of this chapter unless, in each instance, authorization for use of a specific maximum antenna structure height has been obtained from the Commission prior to erection of the antenna. Request for such authorization shall be accompanied by FCC Form 714 and a sketch of the proposed antenna structure.

(e) Applications for authorizations to operate stations at temporary locations under the provisions of this Section shall be made upon FCC Form 401, and may be accompanied by completed 403 for simultaneous consideration provided the equipment to be used is of packaged design. Blanket applications may be submitted for the required number of transmitters.

§ 22.1007 Notification of station operation at temporary locations.

(a) The licensee of stations which are authorized pursuant to the provisions of § 21.1006 shall notify the Commission, its Engineer in Charge of the radio district wherein operation is to be conducted, of each period of operation at least two days prior to installation of the facilities. This notification shall include:

(1) The call sign and specific location of the transmitter.

(2) The location of the transmitter control point.

(3) The identity and location of the station with which it will communicate.

(4) The exact frequency or frequencies to be used.

(5) The commencement and anticipated termination dates of operation from each location. In the event the actual termination date differs from the previous notification, written notice thereof promptly shall be given to the Commission and its Engineer in Charge.

(b) Less than 2 days advance notice may be given when circumstances require shorter notice provided such notice is promptly given and the reasons in support of such notice are stated.

(c) A copy of the foregoing notification shall be posted with the station license (see § 22.114).

[FR Doc. 79-32026 Filed 10-18-79; 8:45 am]

BILLING CODE 6712-01-M

V 44 0 C 1979 UMI

federal register

Friday
October 19, 1979

Part IV

Department of Health, Education, and Welfare

Office of the Secretary

Telecommunications Demonstration Program; Solicitation for Grants

V 4 4 O C 1 9 7 9 UMI

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Telecommunications Demonstration Program; Solicitation for Grants

Pursuant to Section 395 of the *Communications Act of 1934*, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from public and private non-profit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations using non-broadcast technology for the delivery of health, education, and social services.

This solicitation specifically seeks applications for projects which:

—Add to the Nation's knowledge of ways to improve the delivery of health, education, and social services using non-broadcast telecommunications;

—Show potential for being cost-effective, through sharing hardware facilities and networking among local, State, and/or regional government agencies and service providers;

—Have a strong base of local support, including financial and/or in-kind support;

—Successfully implement the institutional or organizational changes necessary to the new delivery approach.

A. Applicable Regulations

Regulations applicable to the Telecommunications Demonstration Program are:

1. 45 CFR Part 63—Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation, as amended, which includes Final Regulations for the Demonstration Program.

2. 45 CFR Part 74—Administration of Grants.

The regulations define program objectives, limitations, and criteria for evaluation of proposed demonstration projects.

B. Effective Date and Duration

1. This Solicitation is intended for grant applications and awards to be made on or about March 1, 1980. Should this Solicitation remain in effect for any succeeding Fiscal Year or portion thereof, it shall be applied as if issued in said Fiscal year, subject only to those changes in specification of dates necessary to allow it to be read as applying to such year.

2. This Solicitation shall not be construed as limiting or preventing the issuance of additional solicitations by the Department under these authorities in Fiscal Year 1980, even though such additional solicitations would reduce the amount of funds under this Solicitation or might duplicate in part the substantive scope of this Solicitation.

3. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Applications will be accepted no later than 5:30 p.m. December 17, 1979.

C. Statement of Funds Availability

1. The Act, as amended, authorizes $1,000,000 each for the Fiscal Years ending September 30, 1979, and September 30, 1980 for the award of grants and contracts.

2. Since it is desired to explore a variety of innovative and cost effective telecommunications applications which might improve the delivery of health, education, rehabilitation and other social services, it is expected that *about seven new projects may be funded.* However, the proposal review committee will retain flexibility on size and number of grants based on the proposals received. Obviously, this may simultaneously limit the size of individual grants and may require that significant support, in addition to this Program, be available to some projects. The source and degree of support should be substantiated.

Organizations awarded grants in 1977 and 1978 are eligible to apply for second-year or third-year funding, although such funding is not assured.

3. Funds will not be available for acquisition or development of programming materials and content, and/or acquisition of studio production equipment. If such material or equipment is necessary to the project, funding for it will have to be found elsewhere and substantiated in the applications. Generally, acquisition of large amounts of hardware should not be the objective of a project. Rather, an emphasis on services to be provided, utilizing or supplementing available telecommunications systems, is what is sought.

4. Projects should be designed to achieve results which can stand on their own merit during any given year of funding because legislative support for the program cannot be guaranteed.

Applicants may submit projects for up to three years' duration (a three-year "project period"), but funds will be awarded for only one year at a time. That is, awards are made for only a one-year "budget period." Applicants who apply for a multi-year project period, and who subsequently receive a grant, will be eligible for additional funding during the project period on a non-competitive basis. However, future funding is in no way guaranteed. To be considered for a multi-year project period, an application should contain a clear explanation of the need for and the purpose of such a project period. A proposed budget for all three years must be submitted with the initial application, and a plan for gradual transition of the project to self-sustaining operation must be included.

D. Application Processing

1. Grant applications will be reviewed by an inter-governmental panel, including both technical staff and program specialists. Proposals should be written with clarity so as to be understood by both the lay person and the technical reviewer. Adherence to the format prescribed below cannot be overemphasized; failure to respond in this manner may result in disqualification. Ten (10) copies of each application are required.

2. Applicants will be judged as to eligibility *according to the criteria set forth in § 63.6(c) of the Final Regulations*, and discussed in Item 8 below. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. An unacceptable rating on any individual criterion may render an application unacceptable.

4. *Introduction:* The beginning of each proposal should contain a summary of the project, *in five pages or less.* The summary should be designed to quickly orient the reviewers to the essence of the project. It should include a clear statement of the objectives of the proposal; a description of need; the general approach for accomplishing the objectives; and an overview of the evaluation plan. A chart of institutional relationships may be included if appropriate.

5. *Technical Section:* Applications which propose access to specific telecommunications systems in order to carry out a demonstration must show adequate evidence that such access is assured in order to demonstrate the technical feasibility of the project. In the section following the summary statement, technical and regulatory considerations should be described, *in five pages or less.* This section should include a system diagram, and address such questions as: To what extent is the system in place? Is FCC approval required? If so, the applicant must show evidence that a filing for such licensing has been *submitted* to the FCC. (Please identify applications to the FCC as being associated with the Telecommunications Demonstration Program.) The organization which will hold the license must be specified. The technical description must be sufficient to allow the FCC to determine whether the proposal is generally within regulatory and technical feasibility, and should give relevant license and docket information. (Any necessary license must be *granted* by the FCC before actual funds are released to the applicant; however, the final license need not be issued until after the applicant has been *notified* of his selection as a grantee.)

6. *Methodology:* The body of the proposal should address the ten criteria listed in the Regulations, which are discussed under Item 8 below. The tasks related to accomplishing the objectives provided in the summary statement should be defined.

Other items which should be included are: a time chart for accomplishing the tasks; identification of personnel with each task, whenever possible; a description of the organizational and institutional arrangements and relationships; evaluation plans; budget; and other relevant information.

7. The appendices should include such data as:

(a) Resume or vitae—*two pages* maximum

(b) Formal letters of agreement, if applicable

(c) Letters of endorsement—Only those which are substantive and significantly related to the project should be included.

(d) Information on related projects performed by the applicant—include a *brief summary* only.

In the interests of reducing reproduction costs, and conserving resources, *we urge applicants to limit supportive material.*

8. Listed below are the criteria from the Final Regulations (§ 63.6(c)), and their relative weights. Applicants should make certain that the ten criteria are fully addressed in the proposal since failure to satisfy any one criterion could seriously weaken or invalidate a proposal.

"(1) That the project for which application is made demonstrates innovative methods or techniques of utilizing non-broadcast telecommunications equipment or facilities to satisfy the purpose of this authority;" (15 Points)

Discussion: "Innovative methods or techniques" means that the innvoation sought is in the *way in which the technology is used to deliver services.* A "new technology" *per se* does not adequately fulfill this criterion. Wholly new technological systems are not generally what is sought, but rather innovative social applications of what may in some cases be fairly common technologies.

"(2) That the project will have original research value which will demonstrate to other potential users that such methods or techniques are feasible and cost-effective;" (10 Points)

Discussion: "Original research value" means that the project should provide heretofore unavailable information to other potential users in a form that will assist them in making decisions about their own approaches to the delivery of services. Thus "research" is used more in the practical, developmental sense than in the pure scientific sense. In response to this criterion, applicants should include an assessment of the potential of the project to cost-effectively deliver sevices once it achieves full operational status and is no longer a "demonstration."

"(3) That the services provided are responsive to local needs as identified and assessed by the applicant;" (10 Points)

Discussion: "Responsiveness to local needs" means that the applicant should *assess* the needs of the community to be served and present explicit evidence to this effect. The term *local* means specific target populations, as well as geographical location.

"(4) That the applicant has assessed existing telecommunications facilities (if any) in the proposed service area and explored their use of interconnection in conjunction with the project;" (5 Points)

Discussion: "Assessment of existing telecommunications facilities" means that an applicant has identified and evaluated existing telecommunication systems serving the demonstration area. This criterion helps to avoid duplication of facilities or communications capacities that are currently available and perhaps underutilized.

"(5) That there is significant local commitment (e.g., evidence of support, participation, and contribution by local institutions and agencies) to the proposed project, indicating that it fulfills local needs, and gives some promise that operational systems will result from successful demonstrations and will be supported by service recipients or providers;" (15 Points)

Discussion: "Local support or commitment" is important since successful projects supported by this demonstration program will ultimately fail unless they become self-supporting or otherwise subsidized. Early evidence of such support, especially commitment of resources, indicates that long term prospects are good because the project responds to the needs of the community to be served.

"(6) That demonstrations and related activities assisted under this section will remain under the administration and control of the applicant;" (5 Points)

Discussion: Administrative control simply establishes that the grantee will and must be responsible for proper use of grant funds in accordance with the terms of the grants.

"(7) That the applicant has the managerial and technical capability to carry out the project for which the application is made;" (5 Points)

Discussion: The applicant must demonstrate an ability to manage complex service delivery programs they may utilize telecommunications resources from Federal, State, or local agencies. Proposed staff should be identified for each position included in the management plan. Experience with similar projects is desirable.

"(8) That the facilities and equipment acquired or developed pursuant to the applications will be used substantially for the transmission, distribution, and delivery of health, education, or social service information, and that use of such facilities and equipment may be shared among these and additional public or other services;" (5 Points)

Discussion: Projects supported by a demonstration grant must primarily provide services of a health, education, or social service nature. However, projects are encouraged to develop systems that can be shared with other public services so as to ensure maximum use of communications capacity support by public funds.

"(9) That the provision has been made to submit a summary and factual evaluation of the results of the demonstration at least annually for each year in which funds are received, in the form of a report suitable for dissemination to groups representative of national health, education and social services telecommunications interests;" (15 Points)

Discussion: A substantive evaluation plan is vital to the purposes of this Program. Information on the experience transferred to potential users is of great value in any demonstration. Data on cost-effectiveness, barriers, implementation, and the like should be collected systematically, and a detailed plan outlining the evaluation is required. Evaluations will form the basis for annual reports submitted to HEW (which may be distributed through the National Technical Information Service, NTIS), and possibly for publications, presentations to professional groups, or other forms of information dissemination.

"(10) That the project has potential for stimulating cooperation and sharing among institutions and agencies, both within and across disciplines." (15 Points)

Discussion: The institution impact—overcoming institutional resistence, stimulating cooperation, sharing of common facilities among a variety of services, increasing the organizational effectiveness of communities, agencies, and service delivery—may be one of the most difficult

problems and important outcomes of telecommunications applications. The projected effects of the project, and in some cases the institutional achievements in evidence at the time of the proposal, are extremely important considerations in this program.

9. Nothing in this Solicitation should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

E. Reporting Requirements

1) A substantive evaluation, as explained above, is required of each grantee at the end of each budget period.

2) Quarterly progress reports are required from grantees during the term of each budget period.

F. Applications Sent by Mail

Applications sent by mail will be considered to be received on time by the Grants Officer if the application was sent by registered or certified mail and mailed not later than December 17, 1979 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this Solicitation. Hand-delivered applications will be accepted daily between the hours of 9:00 a.m. and 5:30 p.m. (Washington, D.C. time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 5:30 p.m. on the closing date.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as he/she deems necessary or desirable for the completion of the approved project, (b) disapprove the application, or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of Disposition.* The Assistant Secretary will notify the applicants in writing of the disposition of their application. A signed notification of grant award will be issued to notify the applicant of an approved project application.

I. Application Instructions and Forms

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from, or submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation; Department of Health, Education, and Welfare, 200 Independence Avenue, SW, Room 457F, Hubert H. Humphrey Building, Washington, DC 20201.

Dated: October 15, 1979.

John L. Palmer,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 79-32221 Filed 10-18-79; 8:45 am]

BILLING Code 4110-12-M

V 44 0 C 19 7 9 UMI

federal register

Friday
October 19, 1979

Part V

Department of Energy

Economic Regulatory Administration

Petroleum Allocation Regulations; Revision for Propane and Other Natural Gas Liquids

V 4 4 0 C 1 9 7 9 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Parts 205, 211, and 212

[Docket No. ERA-R-77-9]

Petroleum Allocation Regulations; Revision for Propane and Other Natural Gas Liquids

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) consolidates and revises its petroleum allocation regulations with respect to propane, butane and the other allocated natural gas liquid products, including the propane content of ethane-propane mixtures. As part of the revision, the ERA has removed all limitations on the use and inventory accumulation of imported propane and butane, and on ethane-propane mixtures. Other changes include general waivers of the use limitations on domestically produced surplus product.

The ERA also amends its regulations to require separate pricing for sales of imported allocated natural gas liquid products and unfractionated natural gas liquid mixtures designated for industrial use, gas utility use, gas transmission company use, or synthetic natural gas feedstock or enrichment use in excess of the users' base period uses.

DATES: Effective on January 1, 1980.

ADDRESSES: All comments to Public Hearing Management, Docket No. ERA-R-77-9, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street, NW., Room B-110, Washington, D.C. 20461, (202) 634-5170.

Robert A. Reinstein (Regulations and Emergency Planning), Economic Regulatory Administration, 2000 M Street, NW., Room 8222, Washington, D.C. 20461, (202) 632-8494.

Bruce Starnes (Petroleum Operations), Economic Regulatory Administration, 2000 M Street, NW. Room 6318, Washington, D.C. 20461, (202) 254-6030.

Joel M. Yudson (Office of the General Counsel), Department of Energy, 1000 Independence Avenue, SW., Room 6A-127, Washington, D.C. 20585, (202) 252-6744.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background
A. FEA Proposal
B. ERA and FERC Consideration
II. Amendments Adopted
A. New Subpart D
B. Scope and Definitions
Proposal
Separate Products
Unfractionated Mixtures
Ethane-Propane Mixtures
Other Definitions and Exclusion
C. Allocation Levels
Residential Use
Gasoline Blending and Manufacturing and Process Fuel Use
Gas Utility Use
Other Allocation Level Changes
D. Adjustments and Assignments
Petrochemical Feedstock and Process Fuel Gas Utilities
E. Supplier/purchaser Relationships
Changes in Relationships
Underlifting
Gas Processing Plants or Fractionation Facilities
F. Method of Allocation
Producers
Inventory Accumulation
G. Special Limitations
Imports
Ethane-Propane Mixtures
Industrial Use
Gas Utilities
Synthetic Natural Gas Use
Waivers
H. Importers of Allocated Natural Gas Liquid Products
I. Pricing Amendments
J. Reporting Requirements and Subpart A Amendments
K. Gas Utility Guidelines

Abbreviations Used

B-P mixture—butane-propane mixture.
DOE—Department of Energy.
DOE Act—Department of Energy Organization Act, Pub. L. 95-91.
E-P mixture—Ethane-propane mixture.
EPAA—Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended.
EPCA—Energy Policy and Conservation Act, Pub. L. 94-163.
ERA—Economic Regulatory Administration.
FEA—Federal Energy Administration.
FERC—Federal Energy Regulatory Commission.
Gas Utility Guidelines—Guidelines for the Allocation of Propane and Other NGLs for Gas Utility and Gas Transmission Company Use.
GPA—Gas Processors Association.
mcf—thousand cubic feet.
NGL—natural gas liquid.
Secretary—Secretary of Energy.
SNG—synthetic natural gas.

I. Background

A. FEA Proposal

On August 12, 1977, the FEA, a predecessor of the DOE, proposed a revision of 10 CFR Parts 205, 211, and 212 dealing with the allocation of propane, butane and the other natural gas liquid products (42 FR 41242, August 15, 1977). A public hearing was held by FEA in Washington on the proposal on September 12 and 13, 1977. Numerous written comments were received from all segments of the industry, including large and small suppliers, refiners, gas producers and a variety of ultimate users of the affected products, such as petrochemical companies and gas utilities.

The proposal was part of FEA's overall review of its allocation policy toward natural gas liquid products. Written comments were also received and a separate hearing was held on September 6, 1977 regarding FEA's July 26, 1977 Gas Utility Guidelines (42 FR 38553, July 29, 1977) which were adopted on an emergency basis to allow action to be taken on then pending applications.

B. ERA and FERC Consideration

On October 1, 1977, under the DOE Act and Executive Order 12009 (42 FR 46267, September 15, 1977), the Secretary assumed most of the functions of the FEA, including the responsibility for administering the petroleum allocation and price regulations promulgated by FEA under the authority of the EPAA. The Administrator of the ERA has been delegated by the Secretary the authority to promulgate regulations under the EPAA.

The proposal, and, subsequently, a draft of a final rule were sent by ERA to the FERC for its review under section 404(a) of the DOE Act which provides in part:

> If the Commission, in its discretion, determines * * * that the proposed action may significantly affect any function of the Commission pursuant to section 402(a)(1), (b) and (c)(1), the Secretary shall immediately refer the matter to the Commission, which shall provide an opportunity for public comment.

In accordance with section 404(b), following the public comment period and after consultation with the Secretary, the FERC may either: (1) Concur in the adoption of the rule as proposed, (2) concur in the adoption of the rule only with any changes the FERC recommends, or (3) recommend that the rule not be adopted. The FERC's action is required to be published along with an explanation of the reasons for its action. Subsection (c) of section 404 states that the Secretary shall then have the option of: (1) Issuing the rule (if the FERC has concurred), (2) issuing the rule with any changes recommended by the FERC or (3) ordering that the rule not be issued.

On August 9, 1978, the FERC, in the exercise of its discretion under section 404 of the DOE Act, determined that ERA's proposed final rule may significantly affect various of its statutory functions prescribed under section 402 of the DOE Act. In notifying the Secretary of its determination, the FERC stated:

> One of the purposes for the creation of the Department of Energy was "* * * to provide for a mechanism through which a coordinated national energy policy can be formulated and implemented * * *" (section 102(3)). The Commission views its authority to review rules proposed to be promulgated by the Department under section 404 as an important part of that mechanism.
>
> We recognize that a considerable amount of time has passed since the Commission was preliminarily advised of the proposed rule. In the interval, there have been various discussions and drafts exchanged between your staff and ours. Although the Commission is reluctant to delay further a conclusion on the rule, we deem it essential to make use of the mechanism provided by the DOE Act to coordinate more precisely our policies in this area. This is particularly important in view of a variety of sophisticated relationships between the natural gas market and the natural gas liquids markets.
>
> Illustratively, natural gas liquids have been explicitly treated, over a number of years, as an issue in setting producer rates and in setting pipeline rates and charges. There are also considerations in relation to curtailment and synthetic natural gas feedstock. Moreover, the vesting of oil pipeline rate jurisdiction adds new responsibilities to this agency with regard to natural gas liquids.
>
> The regulation of propane and natural gas liquids pursuant to the Emergency Petroleum Allocation Act is very closely related to regulatory responsibilities vested in this Commission by section 402 (a)(1) and (b) of the DOE Act.

The FERC requested public comments (43 FR 36264, August 16, 1978) on whether and in what respect ERA's proposed final rule may affect the FERC's functions under section 402 (a)(1), (b), or (c)(1) of the DOE Act.

Specifically, the FERC requested comments from parties who previously filed comments in response to FEA's proposals and had additional comments due to variations in the proposed final rule (which was published as an appendix to the FERC notice) or as to changed conditions. The FERC also requested that comments focus on the following questions:

> (a) Whether the proposal would be consistent with a proposed regulation which the Commission intends to issue shortly relating to emergency natural gas purchases, as to ERA's proposed:
> (1) Definition of "process use", and
> (2) Method of agency purchase.
> (b) Whether ERA's proposed final rule should provide a revised base period.
> (c) Whether, if the natural gas liquids market is expected to be in a surplus condition, allocation, and pricing regulations should be maintained on other than a standby basis.
> (d) Whether there is a valid distinction that should be made in pricing policies as to Canadian and non-Canadian imports and assuming such a distinction, how the incremental pricing rule would affect distribution companies' ability to serve their customers and State commissions' ability to regulate such service.
> (e) Whether the draft final rule, in the opinion of the management of firms which will have to utilize it, creates a system that is clear, responsive to the comments submitted to FEA, and workable under present and foreseeable conditions.
> (f) What implications the draft final rule may have for the Commission's exercise of its responsibility to set oil pipeline rates under the DOE Act.

The FERC held a public hearing on these and other issues on September 22, 1978 and afterwards the ERA and FERC staffs consulted informally. On May 22, 1979, the ERA Administrator sent a letter to the FERC containing suggested modifications to the proposed final rule that attempted to respond to FERC concerns about the treatment of natural gas utilities.

On June 19, 1979, the FERC notified the ERA that the suggested changes satisfactorily addressed the FERC's concern regarding the treatment of natural gas utilities and that the FERC concurred in the adoption of the proposed final rule with the suggested changes. The formal FERC recommendations have been published (44 FR 40321, July 10, 1979) together with an analysis of the comments received by the FERC and the reasons for its concurrence. That document is incorporated herein by reference.

In accordance with section 404(c) of the DOE Act, the ERA is today issuing a rule with the changes recommended by the FERC. Conforming changes to the proposed final rule have been made where necessary to be consistant with the FERC recommendations.

The remainder of this preamble consist generally of the preamble to the proposed final rule that was published by the FERC on August 16, 1978, together with an updated description of the amendments actually adopted.

II. Amendments Adopted

A. New Subpart D

FEA proposed to replace Subparts D and E of Part 211, pertaining to propane, butane and natural gasoline, with a new Subpart D entitled *Natural Gas Liquids (NGLs)*. It was FEA's belief that allocation rules relating to all "allocated natural gas liquid products," the definition of which is set forth herein, should appear in one subpart that would also contain the use restrictions and provisions regarding imports previously contained in sections 211.10(g) and 211.12(g), respectively. The comments supported this format change. Accordingly, we are adopting a new Subpart D substantially as proposed, containing separate sections as to "Scope" (§ 211.81), "Definitions" (§ 211.82), "Allocation levels" (§ 211.83), "Adjustments and assignments" (§ 211.84), "Supplier/purchaser relationships" (§ 211.85), "Method of allocation" (§ 211.86), "Special limitations" (§ 211.87), "Importers of allocated natural gas liquid products" (§ 211.88), and "Procedures and reporting requirements" (§ 211.89), all of which are subject to the general provisions of Subpart A except where specifically noted. Conforming amendments to Subpart A are also adopted, as explained herein. The guidelines for the allocation of propane and other NGL's for gas utility use in propane-air peak shaving plants are not being republished at this time because the generally improved natural gas supply situation has reduced the expected demand for propane for gas utility use. If circumstances should warrant, ERA will reevaluate the need for guidelines.

B. Scope and Definitions (§ 211.81, § 211.82, and § 211.51) Proposal

As proposed, the new subpart would have provided for the mandatory allocation, as separate products with separate allocation entitlements, of all commercial propane, propane HD-5, commercial butane, normal butane, isobutane, commercial B-P mixture, commercial grade natural gasoline, all unfractionated NGL mixtures, and (if greater than 10 percent by weight) the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States. The exclusions set forth were (1) bottled propane or butane and (2) the propane or butane content of refinery gas used for refinery fuel purposes. Such allocated products would have been defined collectively in § 211.51, by the term "allocated natural gas liquid products." The new subpart was proposed to be applicable to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source, including both refineries and gas processing plants.

The definition of propane set forth in § 211.51 which encompassed mixtures containing ten percent or more of the chemical C_3H_8 by weight was proposed to be amended to mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet GPA specifications for commerical

propane and propane HD–5. Similarly the definition of butane was proposed to be amended to mean a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutane and mixtures of these two isomers, and all products which meet GPA specifications for commerical butane. The proposal went on to define further commerical propane, propane HD–5, normal butane, isobutane, and commerical butane, as well as commercial natural gasoline and commercial butane-propane mixture. In such a manner, FEA proposed to allocate distinct specification grade products recognized by the marketplace. Under FEA's proposal, purchasers of specification grade allocated natural gas liquid products would have been entitled to allocations based on their base period use of each such product. Unfractionated NGL mixtures would also have been allocated as a separate product. Furthermore, FEA indicated that the ethane portion of fractionated mixtures would no longer be indirectly included under the allocation regulations because of the changed definitions of propane and butane.

Separate Products

The comments to FEA supported amending the definitions of propane and butane, but the general consensus among suppliers and purchasers was that, at this late date, it was unnecessary to allocate separately each grade of propane or isomer of butane. It was stated that the NGL industry has been able to function efficiently using the allocation categories of propane and butane. Furthermore, for particular uses certain products, such as commerical propane and propane HD–5, may be interchangeable. In addition to complicating the regulations, it was pointed out that many suppliers did not keep such records and would be unable to determine the volumes of particular grades of product supplied during the base period year. It was further stated that state energy offices could have difficulty administering more than one state set-aside for propane and responding quickly if suppliers had to apportion separate amounts of commerical propane and propane HD–5 in distinct set-asides.

We consider these criticisms to have substantial merit and are adopting revised definitions of propane and butane as proposed, but are not providing for allocation as separate products of each of the various grades of propane or isomers of butane. The new definitions of propane and butane conform to industry usage of these terms.

The new subpart provides for the separate allocation of propane, butane and natural gasoline. If greater than ten percent by weight, the propane, butane or natural gasoline portion of fractionated NGL mixtures will also be allocated as propane, butane or natural gasoline, respectively (except for the propane content of certain ethane-propane mixtures described herein). In this context, the term "allocated natural gas liquid products" is being defined as commerical propane, propane HD–5, commerical butane, normal butane, isobutane, commerical B–P mixture, commerical grade natural gasoline and, if greater than 10 percent by weight, the propane, butane, or natural gasoline content of all fractionated mixtures of natural gas liquids. Although the phrase "natural gas liquid" is used, we clearly intend that allocation extends to such product produced in refineries. The definition of "fractionated" is adopted from the proposal to mean separated into components by partial or complete fractional distillation of natural gas liquid mixtures. Once having been so separated, each component, including the residuum of partially separated mixtures, shall be considered fractionated regardless of subsequent mixing or commingling. The products allocated will be propane, butane and natural gasoline and not the different grades of each.

Unfractionated Mixtures

Comment was also received regarding FEA's proposal to allocate unfractionated mixtures as a separate product. Commenters stated that the proposal did not properly account for the changing composition of unfractionated mixtures. It was also pointed out that the propane and butane content of natural gas liquids has been explicity excluded, in §§ 211.81(b) and 211.91(b) respectively, from mandatory allocation under subparts D and E. While the distinction between fractionated and unfractionated was not expressly enunciated, FEA made clear in the past (at 39 FR 44405, December 24, 1974) that although the propane and butane content of natural gas liquids was subject to use restrictions contained in § 211.10(g)(8), such liquids themselves were not at that time subject to allocation.

We have reevaluated FEA's proposal and have concluded that it is not necessary at this time to allocate unfractionated mixtures. The provisions of subpart D will apply to unfractionated mixtures only in specific situations described herein (see discussion of §§ 211.87 and 211.88(d), *infra*). By excluding unfractionated mixtures from allocation and from the definition of allocated natural gas liquid products, supply obligations and allocation entitlements will not attach to allocated natural gas liquid products until partial or complete fractionation occurs. Once a mixture has been subject to even partial fractionation, the products removed and the residuum will both be subject to mandatory allocation. By adopting this rule we retain sufficient control over the ultimate destinations of products to ensure their equitable distribution.

Ethane-Propane Mixtures

We have received considerable comment, both in connection with this rulemaking and also as the subject of separate petitions for rulemaking, that there is a need to allow increased production of E–P mixtures since the base period to be distributed without regulatory restriction and that the proposal did not adequately account for technical constraints relating to such mixtures.

E–P mixtures are suitable as petrochemical feedstocks, to a limited degree for direct injection into natural gas pipelines, and possibly as synthetic natural gas feedstock. Most traditional users of propane, such as residences, cannot use E–P mixtures containing predominantly ethane.

Historically, the design capability of most fractionators required that some propane be removed when an NGL mixture was deethanized. A number of the older fractionators produce E–P mixtures which typically contain up to thirty percent propane by liquid volume (thirty-seven percent by weight). Economically and technically it is not feasible for the older processes to extract ethane with less accompanying propane. Although newer processes have been developed (e.g., cryogenic) which allow extraction of purer mixtures, containing lower percentages of propane, it still takes significant additional capital expenditure to extract an E–P mixture with less than ten percent propane. In addition, propane volumes of up to approximately twenty percent are needed in E–P mixtures to accommodate most storage and transportation systems. The high vapor pressure of nearly pure ethane makes transportation by pipeline and storage difficult and hazardous.

Large volumes of E–P mixtures, considered propane under the previous regulations and thereby subject to the industrial and other use limitations, have in the past been forced to remain unused, except where the ERA limitations have been explicitly waived. The DOE's Task Force on Winter Energy Emergency Planning and the Senate Subcommittee on Intergovernmental Relations of the Committee on Governmental Affairs (*The Status of the Nation's Preparedness for the Winter of 1977–78*, October 1977) also both supported easing the restrictions on E–P mixtures to augment natural gas supplies during winter months.

The proposal, by retaining a use limitation on the propane content of E–P mixtures containing greater than ten percent propane, would have effectively prohibited the distribution of most available E–P mixtures. The intent of the final rule is to free up possible surplus volumes of E–P mixtures for new use by gas transmission companies and other users, while assuring that historical base period purchasers of these mixtures have allocation entitlements to the propane portion of the mixtures. The rule applies separately to fractionating facilities which produced E–P mixtures prior to January 1, 1979, and to new or refurbished facilities which began operation after January 1, 1979. [In the draft final rule published by the FERC, the cutoff date was January 1, 1978 rather than January 1, 1979. The January 1, 1979 date we have selected in this final rule is consistent with the FERC recommendations and updates the earlier draft.]

For facilities that produced E–P mixtures prior to January 1, 1979, the final rule provides for mandatory allocation of the propane portion of E–P mixtures produced at such facilities as a separate product to which base period purchasers have a separate allocation entitlement, provided the average propane percentage content in 1978 did not exceed 30 percent by liquid volume. By separate allocation we mean that a propane supplier will not be required to include the propane portion of E–P mixes as part of its allocable supply of propane but will be required to maintain a separate allocable supply of the mix to be supplied to historical purchasers, if any, of the E–P mix.

The rule allows the separate allocation (and sale of surplus volumes) for the propane content of any E–P mixture produced at a fractionating facility of up to the 1978 average percentage propane content for such mixtures at that facility, subject to the 30 percent limit. If the propane content of an E–P mixture exceeds the 1978 average percentage content, then those propane volumes corresponding to the excess over the 1978 average shall be considered part of the supplier's general propane supply to be distributed under § 211.10.

For example, if a fractionating facility produced E–P mixtures in 1978 with an average propane content of 25 percent by liquid volume, then any E–P mixtures produced subsequent to the adoption of this rule may be allocated separately only to the extent that their propane content is 25 percent or less. If this facility were to produce 100,000 barrels of an E–P mixture which consisted of 65,000 barrels of ethane and 35,000 barrels of propane, then 10,000 barrels of propane in this mixture, i.e., the excess over 25 percent, would be considered part of the supplier's general propane supply. From a practical point of view, if the supplier sold this stream as is, without further fractionation to remove the excess propane, then a corresponding 10,000 barrels of propane from another source would have to be offered to base period purchasers in accordance with 10 CFR § 211.10(g)(5) before the supplier could release this portion of the E–P mixture as surplus to be purchased by the user of the total mixture.

For new or refurbished fractionating facilities, which did not produce E–P mixtures prior to 1979, current technology for ethane extraction should permit the production of E–P mixtures containing no more than 20 percent propane by liquid volume. Thus, the final rule provides that the volumetric percentage limit for propane to be allocated separately in E–P mixtures from new facilities is 20 percent by liquid volume, rather than 30 percent.

As to E–P mixtures produced prior to January 1, 1979 which currently are in inventory, their propane content may also be separately allocated to the degree that it is less than thirty percent by liquid volume.

Other Definitions and Exclusion

FEA proposed to amend certain other definitions. For instance, "plant protection fuel," would have meant the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. Under the proposal, allocated natural gas liquid products would not have been considered plant protection fuel if an alternate fuel capability is in place for a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis. Comments indicated that, notwithstanding the physical capability of a plant to use an alternate fuel, the alternate fuel may not be available for plant protection purposes. We are broadening the definition of plant protection fuel to apply to situations where an alternate fuel capability is in place but the alternate fuel is not available.

Similarly, we received comments regarding the proposed definition of "process fuel", which in essence would have continued the definition in effect at the time the proposal was issued. The commenters urged removal of the restriction requiring that a process use be one in which a substance is converted from one form to another. It was correctly pointed out that other kinds of processes require precise temperature and flame characteristics. In addition it was asserted that the technical feasibility and availability of natural gas as an alternative should not preclude a use from being classified as one requiring process fuel.

We are adopting a definition which provides that "process fuel" means allocated natural gas liquid products used in applications requiring precise temperature controls or precise flame characteristics. Allocated natural gas liquid products may not be considered process fuel if an alternate fuel (other than natural gas) is available and technically feasible for substitution.

The term "gas service for essential human needs and property protection" is being deleted because it does not appear in the body of the regulations. A comment indicated that the proposed definition of "producer" could be read to include a firm which is only a reseller. A clarifying phrase insures that, as relates to gas fractionating or processing plants, producers include only firms which have an ownership interest in the stream at the time the allocated NGL product is produced. A further conforming change includes importers of unfractionated mixtures as producers.

Finally, in response to comments from aerosol propellant manufacturers, we are expressly excluding from allocation the propane and butane content of hydrocarbon aerosol propellants. The propane and butane content of such propellants were prevously subject to the allocation regulations. However, the total demand for these products is minor compared with the overall NGL demand, and therefore excluding these products from mandatory allocation will cause little, if any, economic disruption and should foster competition in that segment of the industry. The exclusion of these products from the allocation regulations is not intended to affect their treatment under the price regulations.

C. *Allocation Levels*

Residential Use

FEA specifically requested comments as to whether the allocation level for residential use should remain at one hundred percent of current requirements subject to an allocation fraction.

V 4 4 O C 1 9 7 9 UMI

Responses varied depending upon the interests of the commenters. Among those who objected to the current requirements standard, suppliers particularly were concerned about exaggerated and unverifiable increased requirements being certified to them by wholesale purchaser-resellers. To the extent disagreements occur regarding the validity of certifications, the validation provisions of § 211.13(d) will be sufficient to resolve disputes.

We are concerned that in the event of another winter emergency such as occrued during the 1976–77 winter which, among other things, prompted the increase to the current allocation level for residential users, direct residential users will not be adequately protected by the current rules. Accordingly, while retaining the allocation level for residential use at one hundred percent of current requirements subject to an allocation fraction, we are providing that an allocation fraction of less than nine tenths (.90) may not be applied with respect to a firm's entitlement to product intended for residential use. In the event that a supplier's allocation fraction is calculated to be less than .90 for an allocation period, the final rule requires the supplier to distribute product intended for residential use as if the allocation level for such use is ninety (90) percent of current requirements, not subject to an allocation fraction.

We recognize that this provision will protect residential users at the expense of firms using products for other important uses which have an allocation level subject to an allocation fraction, such as for plant protection fuel or small commercial use. We have no information that the 90 percent supply requirement would likely cause serious hardship for such users.

We would welcome additional comment from any person as to whether further amendments to allocation levels of propane are necessary. Particularly we wish to know if we should effect allocation level changes similar to the ones recently adopted for priority users of gasoline, i.e., allowing such users 100 percent of a fixed historical usage *not* subject to an allocation fraction rather than an allocation level based on current requirements. If such an approach were to be adopted, would a more recent period than 1972–1973 accurately reflect current demand? In the alternative, with the possibility of NGL's being decontrolled, should we refrain from making any further regulatory changes unless necessitated by severe problems?

Gasoline Blending and Manufacturing and Process Fuel Use

Under the proposal, the allocation level for the gasoline blending and manufacturing use of butane and natural gasoline would have been raised from ninety to one hundred percent of base period use. Additionally, an adjustment procedure was proposed in § 211.84 to allow refiners to increase their base period use for gasoline blending and manufacturing. Refiners commenting on these provisions asserted that the allocation level for this use should be raised to one hundred percent of current requirements subject to an allocation fraction. They stated that butane and natural gasoline were then in abundant supply. They indicated that their requirements for butane, a high octane blending component, have generally increased since the base period, particularly in light of the Environmental Protection Agency's lead phasedown requirements for motor gasoline and the time needed to introduce additional needed catalytic reforming capacity. They claimed that in the short term at least, without access to 100 percent of their butane requirements, many refiners will not be able to meet the increasing demand for unleaded gasoline. They contended that their allocation level should be the same as for petrochemical feedstock use of butane and natural gasoline, their competitors for available butane supplies. Without access to such product to maintain motor gasoline production, they stated that refinery supplies of other products could be diminished because in most refineries there is a limit to which gasoline production can be reduced without reducing production of other refined products.

Although the removal of industrial use limitations for butane will make available surplus product for gasoline blending and manufacturing use, adjustments to base period uses would have been necessary in many instances to assure refiners continued supplies of product if the allocation level were not raised. We have raised the allocation level for butane and natural gasoline for this use primarily to allow refiners the flexibility to optimize gasoline production, particularly during the current period of inadequate gasoline supplies.

For similar reasons, and also in response to comments, we are also raising the allocation level for process fuel use of butane and natural gasoline to one hundred percent of current requirements, subject to an allocation fraction.

Gas Utility Use

The proposal included an allocation level for gas utility use of one hundred percent of base period use. This was distinct from the previous allocation level for peak shaving, also at one hundred percent of base period use, which contained a use limitation allowing utilities to use volumes of propane contracted for or purchased for delivery during the base period year. The promulgation of the Gas Utility Guidelines which required any usage of propane for gas utilities beyond actual base period use to be from non-Canadian imports, and the further requirement in the proposal that such product be incrementally priced to gas utility users, brought forth a substantial amount of criticism from the gas utility industry.

A large number of utilities commented, both in connection with the proposal and the guidelines, that their appropriate allocation entitlement of propane should be the volume contracted for during the base period year. They asserted that such a volume would be most reflective of their historical pattern of usage which for any particular year would vary depending on the weather. They emphasized that their contractual arrangements in many cases were on a "take or pay" basis for which they paid a premium to have secure supply available. They stated that allowing utilities to continue using supplies of domestic propane which have historically been available to them would not deprive other traditional high priority users of product. On the other hand, requiring utilities to apply individually for adjustments to their base period uses or for waivers of the use limitations to enable them to receive non-Canadian imports equivalent to the volumes which were historically available to them from domestic sources would, they claimed, be unnecessarily disruptive. Setting utilities' base period uses equal to volumes actually acquired in the base period, commenters alleged, was a substitution of agency judgment for that of the technical experts and planners most familiar with the operations of a particular utility. It was further argued that historically the annual overall volume of propane used for injection by utilities amounted to less than approximately five percent of propane consumed in this country. But to the utilities the propane provided a critical margin allowing them to meet high priority requirements in time of peak demand. Commenters urged that if ERA believes imports should be used by gas utilities, such a policy should apply prospectively for new gas utility use only.

We have carefully evaluated all the comments concerning the appropriate allocation level for gas utilities and accept as valid many of the comments critical of the proposal. Therefore, while retaining an allocation level for gas utility use of one hundred percent of base period use subject to an allocation fraction, the base period use for gas utilities has been set as the larger of that volume of an allocated natural gas liquid product which a gas utility contracted for (if a specific maximum volume was designated) or purchased for delivery in each calendar quarter during the period April 1, 1972 through March 31, 1973, regardless of whether that volume was actually obtained during the base period. This change from the proposal will properly protect historical gas utility users of propane and other allocated NGL products.

In those few instances where during the base period gas utilities entered into open-ended contracts which allow unlimited volumes of product to be supplied to meet their "requirements," redefining base period use to correspond to contract volumes would give such firms an advantage over other firms in times of shortage. Accordingly, the base period use for utilities with such open-ended contracts will continue to be the volume purchased for delivery in the base period. To the extent such a firm believes that the volume purchased for delivery during the base period is inadequate to establish a proper base period use, it should apply to ERA for an adjustment to its base period use.

In response to FERC concerns, we have added an allocation level for gas transmission company use of 100 percent of base period use that will be determined in the same manner as allocations for gas utilities.

Other Allocation Level Changes

In response to comments, we recognize that it would be appropriate to include a separate allocation level for transportation of crude oil, NGL's, and refined petroleum products. The level is set at one hundred percent of current requirements subject to an allocation fraction.

Process fuel use of propane is taken from the category of other industrial use and is specifically delineated as having an allocation level of one hundred percent of base period use subject to an allocation fraction. Additionally, an allocation level of one hundred percent of base period use subject to an allocation fraction is being set for boiler fuel use of allocated NGL products for energy production to account for the removal of such use from the energy production allocation level of one hundred percent of current requirements subject to an allocation fraction.

D. Adjustments and Assignments

Petrochemical Feedstock and Process Fuel

Section 211.84 reflects the changes in allocation levels and the scope of the new subpart. Because the allocation levels for gasoline blending and manufacturing and for process fuel use of butane and natural gasoline have been raised to one hundred percent of current requirements subject to an allocation fraction, it is not necessary to adopt the proposed adjustment mechanism for such uses. Similarly because commercial B–P mixture is not to be allocated as a separate product, and unfractionated mixtures are not to be allocated, separate adjustment procedures for these mixtures are not needed.

Although petrochemical firms commenting urged that petrochemical feedstock use of propane be given an allocation level of one hundred percent of current requirements, we have concluded that the needs of such users would adequately be met by retaining the allocation level of one hundred percent of base period use subject to an allocation fraction and, as proposed, providing an adjustment mechanism (not limited to cases of hardship or gross inequity) for which applications may be made, under § 211.86(f), for separate facilities. The proposal requested commenters to suggest criteria to be used in evaluating applications for adjustment by petrochemical feedstock users. We are not enumerating criteria at this time, but if necessary, we will promulgate such standards.

Accordingly, as adopted, § 211.84(a) provides that a wholesale purchaser-consumer may apply (1) to the ERA National Office for adjustments to its base period use for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures) and (2) to the appropriate ERA Regional Office for adjustments to base period use of propane for process fuel.

Gas Utilities

Sections 211.84(b)(1) and (2) pertaining to adjustments, assignments and waivers by gas utilities, are being adopted as proposed, subject to the deletion of the gas utility guidelines. Applications for adjustments and assignment will be considered under the procedures and criteria of Subparts B and C, respectively, of Part 205.

Section 211.84(b)(3) permits gas utilities to act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end-users or wholesale purchaser-consumers separately authorized to purchase such products. Unless otherwise authorized by ERA, such actions will be permitted only in those cases where the wholesale purchaser-consumer or end-user owns the product and bears the entire cost of its storage, gasification, and transmission and where there will be no adverse effects on the gas utility's other customers. As proposed, this provision basically would have codified a procedure already contemplated by the guidelines to 10 CFR 211.12(h). The proposal would have required that the user have no facilities for using a fuel other than pipeline gas but such a requirement is not being adopted.

A sentence is added at the end of the section setting forth that volumes injected by the gas utility will not be counted as part of its use for purposes of the use limitation contained in § 211.87(a)(3). That is, where the use of the allocated NGL product by an end-user or wholesale purchaser-consumer is separately authorized and the other requirements of the section are met, a gas utility may act as an agent without regard to its own base period use of such product.

E. Supplier/Purchaser Relationships

Changes in Relationships

The comments generally supported section 211.85(b) of the proposal, which provided a means for wholesale purchasers to switch base period suppliers. It is being adopted substantially as proposed, and provides as follows, with the changes from the proposal noted:

Any wholesale purchaser of any allocated natural gas liquid product may terminate a supplier/purchaser relationship or adjust downward its allocation entitlement from a supplier for a calendar quarter by providing written notice to its base period supplier of its intent to do so, provided that the affected supply obligation will be assumed by another supplier or the purchaser no longer requires the affected volumes. Wholesale purchasers shall specify in the notice the volume of the supply obligation which shall be reduced or terminated, and shall include the effective date of termination or downward adjustment. Such dates shall correspond to the first day of a calendar quarter. Upon receipt of such notification a supplier shall subtract the volumes so terminated or adjusted

V 44 OC 19 79 UMI

downward from its base period supply obligations, and shall not include such volumes in its base period use from its supplier, unless by the exclusion of such volumes its base period use (after being adjusted upward by the addition of new base period purchasers) would fall below its original unadjusted base period use.

In a change from the proposal suggested by the comments, in those situations where a supplier has historically maintained an allocation fraction of one (1.0) or less by importing directly a volume of product equal or greater than the sum of its base period obligations terminated under this provision, the supplier would not be required to exclude such volumes from its allocation entitlement from its domestic supplier. In such cases, the terminated obligations may be deemed to have been supplied through imports. To provide otherwise could cause wholesale purchaser-resellers to become increasingly reliant upon possibly higher-priced imports with a correspondingly adverse effect on the supplier's remaining base period purchasers.

The provision further provides that any supplier of allocated natural gas liquid products may establish a supplier/purchaser relationship with a wholesale purchaser to the extent that the purchaser has terminated a supplier/purchaser relationship or has adjusted downward its base period use, provided that (i) the supplier's net new obligations for a particular calendar quarter corresponding to a base period would not, if applied in the immediately preceding corresponding calendar quarter, have reduced the supplier's allocation fraction below one (1.0), and (ii) the supplier can demonstrate that its net adjustments to its base period supply obligations for any particular calendar quarter for which supply obligations will be assumed are not reasonably estimated to reduce its allocation fraction below 1.0 for that quarter. The mere ability to certify upward such adjustments to its supplier will not be sufficient to constitute a demonstration by a wholesale purchaser-reseller that its allocation fraction will not be reduced below 1.0. The supplier and wholesale purchaser must notify ERA and obtain approval from the appropriate ERA Regional Office before a new supplier/purchaser relationship and base period use can be established. In certain instances, the ERA Regional Office may approve the shift in suppliers but will not permit the new supplier to certify the new obligation to its suppliier.

A wholesale purchaser-reseller which in its capactiy as a supplier establishes new supplier/purchaser relationships under this provision that increase its base period supply obligations, or which has excluded certain volumes from its base period use pursuant to this provision, shall receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change in its base period obligations. In another change prompted by the comments, the final rule provides that, unless ordered by ERA, a wholesale purchaser-reseller may receive an upward adjustment pursuant to this subparagraph only with the consent of its supplier whose obligations would thereby be increased. This change should insure that wholesale purchaser-resellers which take on increased supply obligations for existing firms will not do so with the expectation of meeting these additional obligations through an upward certification to their suppliers unless there is a reasonable certainty that the additional volumes can be supplied. Of course, an adjustment certifiable under § 211.13(c) on any other basis does not require such approval.

Underlifting

Section 211.85(c) of the proposal, providing a means to facilitate the distribution of underlifted supplies, received criticism, most of it valid, from all segments of the industry. While there was general support for the aim of the provision (with the notable exception of comments from gas utilities), there was also a common criticism that the section was unduly complex, cumbersome and burdensome to administer. Many of the suppliers thought that a minimum of one year was too long before a purchaser's allocation entitlement could be permanently excluded from the supplier's base period supply obligations. Other suppliers thought that the proposal contained so many loopholes that it would provide little protection and ought not be adopted. Still others indicated that the proposal was anti-conservation oriented and encouraged firms to purchase unneeded supplies. Gas utilities strongly asserted that since their requirements for propane and other NGL products were entirely temperature-sensitive, they could lose their allocation entitlements arbitrarily.

While we remain concerend about the underlifting of supplies and the effect of regulations which require suppliers to hold such product as part of their allocable supply until the end of a base period quarter, we do not wish to adopt an underlifting section under which purchasers could too easily lose the protection of the allocation regulations. The allocation regulations do not require consumers to purchase product from their base period suppliers. Allowing purchasers to lose their entitlement to product if they do not purchase product from their base period supplier over a short time period could inhibit competition. Furthermore, in some instances noted earlier, purchasers enter into "take or pay" contracts which already discourage underlifting by providing added incentives to purchase product. The complexities of the problem are such that we believe the prudent course of action is not to adopt a provision on underlifting at this time.

Gas Processing Plants or Fractionation Facilities

In the proposal FEA expressed its concern over protecting the purchasers downstream from operators of gas processing plants or fractionation facilites when the volume of allocated NGL products produced at a facility is reduced. FEA proposed a provision which would have provided that a firm which acquired allocated natural gas liquid products through its ownership interest in or operation of a gas processing plant or fractionating facility during the base period would have an allocation entitlement with respect to the volumes of such products acquired during the base period from the firm that supplied the allocated natural gas liquid products in the base period, regardless of whether such products were purchased or acquired under a processing agreement. The regulation would have applied to the absolute volumes of such products acquired and not to the percentages of production from a particular natural gas stream. Under the proposal, should available volumes of allocated natural gas liquid products have declined at a particular plant due to declining natural gas production in the plant's vicinity, the supplier would have retained a supply obligation equal to its base period volumes subject to imposition of an allocation fraction.

We received a substantial number of comments opposed to this provision. It was pointed out that transfers of natural gas liquids from producers to gas processors represent in-kind fees for services performed under processing agreements and should not be subject to allocation obligations. In many cases, the volumes of NGLs produced at plants decline over time, and it would be unreasonable to require the payment to processors of specified volumes of product when the services also decline. Particularly in the case of isolated gas plants, specified volumes of allocated NGL products often cannot physically be delivered to the processor when gas streams decline. It was also asserted that the proposal overlooked the downstream obligations of the producer at the expense of the processor's purchasers. Commenters stated that the proposal would unnecessarily upset contracts which often were on the basis of a particular percentage of NGLs taken from a stream (or even on an mcf basis) and in the future would control the nature of processing fees. In addition, the regulation would effectively have kept natural gas streams tied to a particular gas plant even though economies of production or other business judgments would dictate movement to other plants.

Under this final rule, allocations will continue to be on a firm-wide volumetric (not proportional) basis. However, in light of the comments received, we have decided not to adopt a specific provision setting forth supply obligations of gas plant operators. Our decision not to allocate unfractionated mixtures means that allocation obligations, which do not attach until the first sale or exchange of an allocated natural gas liquid product, will not occur until after fractionation of the natural gas liquids. Under the final rule, where a processor, in exchange for its services in extracting the liquids from a gas stream or for fractionating the liquids, acquired ownership during the base period of a portion of the NGL products produced, no allocation entitlement to the products will accrue to it. In such a situation, no sale or exchange of an allocated product is deemed to have occurred and such a transaction does not give rise to a mandatory supplier/purchaser relationship under the allocation regulations. For purposes of the allocation regulations, the firm that first owns the fractionated products is considered the initial supplier of the allocated NGL products.

To deal with the problem of declining production of products, a producer may apply to the ERA National Office for permission, under § 211.10(b), to allocate its available supply from an isolated facility on the basis of a separate allocation fraction. The criteria of that section provide that a separate fraction will not be allowed unless the distribution subsystems represented by such fraction are independent and that it would be impracticable to employ a single allocation fraction or it would be inconsistent with the provisions of the allocation program.

One commenter asserted that ERA would receive many petitions for multiple allocation fractions which would reflect declining gas streams across the country. We intend that suppliers make every effort to provide NGLs to base period purchasers and thus we expect to allow the use of separate allocation fractions only in limited situations. An applicant for a separate fraction for an isolated plant will be required to demonstrate that it is unable to meet from any source (including, but not limited to, substitutions or exchanges) its base period supply obligations to its base period purchasers which during the base period acquired products at that facility. The allocations permitted by such a determination will not affect a producer's supply obligations or purchaser's allocation entitlement at any other location.

F. Method of Allocation

Other than paragraph (e) relating to inventory accumulation, § 211.86, pertaining to the method of allocation, is being adopted substantially as proposed.

Producers

As proposed in the notice of rulemaking, the final rule provides that if a producer is the base period supplier to wholesale purchaser-resellers which have certified amounts of propane to be resold for ultimate use under an allocation level of one hundred (100) percent of current requirements whether or not subject to an allocation fraction, that producer may not recertify such amounts to any other producer which may be its base period supplier. DOE received a comment that the latter rule could adversely affect producers which historically have only produced a small fraction of the product they supply. We believe that such situations are anomalies which can be handled on a case-by-case basis if necessary, and that generally such a rule is necessary to prevent overloading of producer-to-producer supplier/purchaser relationships.

Inventory Accumulation

The inventory accumulation section being adopted contains a number of changes from the proposal.

To accord with the differing treatment afforded certain ethane-propane mixtures, the final inventory accumulation regulation provides that the propane content of ethane-propane mixtures separately allocated under § 211.81(b)(2) are not subject to the inventory restrictions adopted.

The inventory accumulation restrictions themselves will conform to the use limitations of § 211.87, discussed *infra*. For example, gas utilities will be able to accumulate 100 percent of their annual base period uses plus the amount in inventory on April 1, 1972. In addition, the provisions specifically limiting inventory accumulation by certain firms to 100 percent of their annual usage will only apply to domestically-produced product.

For the present, the inventory limitations will not be effective because they will be subject to a general waiver. As with the general waiver of the use limitations, the waiver of the inventory restrictions will be effective until terminated by the ERA Administrator by notice in the Federal Register.

G. Special Limitations

The use limitations in § 211.87 for allocated NGL products have been annualized to allow firms greater flexibility than previously. Firms' usage will not be limited to the volumes of product purchased or acquired during any one base period calendar quarter. Instead, the firms to which the limitations will apply will have the flexibility to use the sum of the base period uses for the four calendar quarters in any twelve-month period commencing October 1 and ending September 30 of the following year.

Imports

Use limitations will apply only to NGL's produced in the United States. There will be no restrictions on the use of imports, Canadian or otherwise. Certain pricing provisions will be adopted for passing through separately the costs of imports, but their usage will not be restricted.

Ethane-Propane Mixtures

As stated earlier, the final rule provides that the use restrictions set forth in § 211.87 also will not apply to the propane content of ethane-propane mixtures separately allocated under § 211.81(b)(2). This should allow free movement of and competition for the volumes of these products in excess of historical production levels which are expected to be available as processing plants using newer technology become operational.

Industrial Use

A use limitation has been retained for industrial uses of propane but it will not apply to process fuel use, plant protection fuel use and any other industrial uses which will have an allocation level of 100 percent of current requirements. There will be no use limit applicable to industrial uses of butane.

V 4 4 0 C 1 9 7 9 UMI

Gas Utilities

As previously-described, there were a substantial number of comments in regard to the proposed sections relating to gas utilities. As to that part of the proposal which limited gas utility use of propane to one hundred percent of the base period use for the four base period quarters, most of the critical comments received related to the definition of the "base period use" which included only those volumes actually purchased during the base period. To the extent that the base period use for gas utilities is redefined to include amounts contracted for delivery during the base period, this will increase considerably the amounts of product that can be used without being subject to the use limitation (particularly since the limitation only applies to product produced in the United States).

Commenters indicated that some utilities had purchased propane prior to the base period and had product available for their own use on April 1, 1972. Such product would have been available for use in addition to volumes obtainable under contracts during the base period. We believe that the sum of base period contracted-for volumes (or purchased volumes) and April 1, 1972 inventory volumes is the most appropriate measure of a gas utility's volumetric use constraint. The final rule amends the proposal to include the inventory volume.

The proposal also provided that no wholesale purchaser-consumer would have been permitted to use any quantities of an allocated natural gas liquid product for gas utility use or gas transmission company use as long as gas service would have been continued to industrial or commercial customers which have an alternate fuel capability in place which uses a fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis. Such a provision would have been an easing of the prior use limitation on peak shaving which prohibited propane or butane from being used for peak shaving whenever gas utilities continued service to "interruptible" industrial customers (other than for process fuel, plant protection fuel, or raw material) or to any non-residential customer which can use a fuel other than natural gas, propane or butane. In response to FERC concerns, this qualitative limitation is not being adopted.

Synthetic Natural Gas Use

While the notice did not propose any changes with respect to the volumetric limitation on allocated NGL products used for SNG production pending the completion of the work of the task force studying the SNG regulations, FEA solicited comments as to whether the use restriction should continue to be on a quarterly basis in light of the proposed yearly limitations for industrial and gas utility users. Comments from firms which operated SNG plants preferred an annual to a quarterly limitation.

In the final rule, the SNG use limit is an annual one. A conforming regulatory change is provided in § 211.29(e) in which we are deleting references to allocated natural gas liquid products to avoid duplication or inconsistency with § 211.87(a)(4).

Notwithstanding the exclusion of unfractionated mixtures from mandatory allocation, their explicit inclusion within the SNG use limitations is necessary to prevent extensive use of such mixtures to circumvent the use restrictions on NGL products. Unfractionated mixtures are therefore included in this rule. This provision is consistent with both the proposal, which included unfractionated mixtures in the definition of allocated natural liquid products, and with the provisions of § 211.10(g)(8) which are being replaced.

Since the SNG feedstock use limitation is set forth in terms of the annual "base period use" and unfractionated mixtures will not be allocated (and thus have no base period use), there could be a problem in applying the use limitation to unfractionated mixtures. We intend that the SNG feedstock use limitation apply to unfractionated mixtures in the same manner as it would apply to fractionated mixtures. In other words, the limitation will be determined with reference to the base period use of each component of a mixture as if it were allocated.

Waivers

At the time the FERC was reviewing the draft final rule, NGL supplies appeared to be more than adequate relative to demand. Accordingly, in response to concern that the administrative burdens associated with case-by-case processing of applications for waivers would not be warranted in such a supply environment, we have included general waivers of the use and inventory limitations in the rule. These waivers will be effective until the ERA Administrator terminates them by notice published in the **Federal Register**.

However, recent data on current propane stock levels have raised the possibility of isolated spot shortages if the coming winter is colder than average. Thus, we are considering the possibility of terminating the general waiver provisions to ensure the availability of adequate product to high priority users. We wish to receive your views as to any aspect of the rule about which you may have concerns and particularly with regard to whether circumstances exist which warrant the termination of the general waiver.

H. Importers of Allocated Natural Gas Liquid Products

Section 211.88 is being adopted as proposed, with a few differences. The proposal related only to non-Canadian imports of allocated NGL products. It left unclear the treatment afforded imports of such products from Canada. Therefore, the scope of § 211.88 has been broadened to include Canadian imports. The separate inventory record requirements which trigger the separate cost calculation pricing provisions will apply to Canadian imports. As amended, the final rule applies to all importers of allocated natural gas liquid products and sets forth the method of allocation for imports. It will also apply to domestically produced product exchanged for imports as if they were imports.

As proposed, § 211.88 did not apply to NGL products used for SNG production. We have concluded that to the extent imports of allocated NGL products are permitted to be used for SNG production in excess of their allocation level, such imports should be incrementally priced to the SNG plant operator in the same manner as imports used for gas utility use in excess of allocation levels. Section 211.88 accordingly requires separate inventory records to be maintained for such use.

The final rule provides that separate inventory records (the maintenance of which trigger the incremental price provisions of part 212) are required for allocated NGL products sold for "incrementally priced uses." "Incrementally priced uses" means industrial use (including petrochemical feedstock and refinery fuel), gas utility use, gas transmission company use and SNG feedstock or enrichment use in excess of the intended users' allocation levels. It also includes other uses as specified by ERA.

Paragraph 211.88(b) provides that end users and wholesale purchaser-consumers of allocated natural gas liquid products may import such products for their own use and that acquisition of such imports does not affect a firm's allocation entitlement unless ERA detemines that such imports are inconsistent with the objectives of the EPAA.

In addition, end-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to § 211.88 will not be considered by reason thereof to be prime suppliers or producers of allocated natural gas liquid products.

Suppliers may acquire allocated natural gas liquid poducts imported for distribution to end-users and wholesale purchasers only in accordance with paragraph (c) of § 211.88. Under paragraph (c), any supplier of allocated natural gas liquid products which would have an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period may import (or acquire from suppliers which have so imported) such products for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 will be allocated in accordance with the provisions of § 211.10.

ERA may require separate inventory records to be maintained and incremental pricing for imports sold to meet base period supply obligations for gas utility, gas transmission company or SNG feedstock or enrichment use to new wholesale purchaser-consumers which will establish a base period use, or to meet upward adjustments for existing wholesale purchaser-consumers. The product approved in these delineated instances will be deemed to be for incrementally priced uses.

Any supplier of allocated natural gas liquid products which achieves an allocation fraction of 1.0 or greater for a calendar quarter may import (or acquire from suppliers which have so imported) such products to increase further its allocation fraction above 1.0 and will also distribute such imports in accordance with the provisions of § 211.10, except that distribution of imports (or domestically produced product exchanged for imports) for incrementally priced uses shall be in accordance with the provisions of subparagraph (c)(3) of § 211.88.

Subparagraph (c)(3) requires that all imported surplus allocated natural gas liquid product distributed by suppliers to wholesale purchasers for all incrementally priced uses will have to be accounted for by separate inventory records and will be subject to separate cost computation requirements as described herein. Because such imports are not distributed under § 211.10, they will not first have to be offered as surplus product to the suppliers' base period customers. Thus, purchasers of incrementally priced product should be insured continued access to the imports as long as the supplier maintains an allocation fraction of at least 1.0.

Specifically, the rule provides that suppliers with an allocation fraction of one (1.0) or greater may import (or acquire from suppliers which have so imported) allocated natural gas liquid products for distribution to wholesale purchaser-consumers which certify in writing that they will use such imported products for incrementally priced uses or for distribution to any wholesale purchaser-resellers which certify they will distribute such products for such uses. A mandatory certification requirement is also included requiring all wholesale purchasers which purchase imported allocated natural gas liquid products (or domestically produced NGL's exhanged for imported NGL's) for incrementally priced uses to certify in writing to the suppliers of such products the intended end use of such products.

All suppliers receiving such certifications will be required to maintain inventory records for such allocated natural gas liquid products separate from their inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. Suppliers which do not receive such certifications will also be required to determine to the maximum extent practicable whether their imported allocated natural gas liquid products will be distributed for incrementally priced uses. To the extent their products are intended to be so distributed, separate inventory records will also have to be maintained.

One other change from the proposal is included, and is necessary to account for the exclusion from mandatory allocation of unfractionated mixtures. Such mixtures would have been subject to the provisions of § 211.88 under the proposal by being included as an allocated NGL product.The final rule provides that separate inventory records be maintained for imports of such mixtures in certain circumstances to allow costs of such imports to be traced prior to fractionation in those instances when separate cost computation will be required for all or a portion of the fractionated components.

I. Pricing Amendments

We are adopting amendments to Subparts E and F of Part 212 to incorporate the requirements of § 211.88 pertaining to imported allocated natural gas liquid products (and domestically produced allocated natural gas liquid products exchanged for imported allocated natural gas liquid products) into the special price rules relating to imported propane and butane currently contained in § 212.83(h)(2)(iii) and § 212.93(f)(2). Corresponding changes to subpart K are also being adopted. The purpose of these amendments is to separate the cost computation for imported allocated natural gas liquid products utilized for incrementally priced uses and to insulate and protect other historical users of such products from the higher costs generally associated with such imports.

Under the change to § 212.83(h)(2)(iii), a refiner will be required to apply amounts of increased costs unequally to the weighted avarage May 15, 1973 selling prices of any propane, butane, natural gasoline or natural gas liquids if separate inventory records for such products are kept as required pursuant to § 211.88(c). There is no longer a requirement that unequal cost computation occur only when inventories of such products are physically separate.

Section 212.93(f)(2) pertaining to resellers of imported propane and butane for industrial use is extended to all imported propane, butane, natural gasoline or natural gas liquids (or domestically produced product exchanged for imports) designated for incrementally priced uses. As adopted, § 212.93(f)(2) provides that any seller of imported propane, butane, natural gasoline or natural gas liquids shall determine the price permitted to be charged for such products pursuant to paragraph (a) of § 212.93 by calculating increased product costs as follows:

—With respect to the propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88(c), for each such separate inventory the seller will make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such products pursuant to paragraphs (a) and (b) of § 212.93, with the selling prices for propane included in such products not, however, subject to paragraph (f)(1) of § 212.93.

—With respect to quantities of propane, butane, natural gasoline and natural gas liquids for which separate inventory records are not required to be maintained pursuant to § 211.88(c), the seller will add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records are not maintained pursuant to § 211.88(c), in making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other

V 4 4 0 C 1 9 7 9 UMI

provisions of § 212.93, including paragraph (f)(1).

In subpart K of part 212, a new paragraph 211.167(e) is added to correspond to the changes to subparts E and F for refiners and resellers. Under this paragraph, separate calculations of increased costs are required for each volume of propane, butane, natural gasoline or natural gas liquids which are subject to subpart K and for which separate inventory records will be required under § 211.88(c).

Increased costs so calculated in each of subparts E, F, and K are not available for recovery in the prices charged for other propane, butane, natural gasoline or natural gas liquids.

J. Reporting Requirements and Subpart A Amendments

Conforming amendments to subpart A are being adopted as proposed, as are reporting requirements. The only change from the proposal relates to the borrow-payback provisions of § 211.25(c). The notice proposed permitting borrow-payback of future allocations of allocated natural gas liquid products within total allocations for any twelve month period beginning October 1 and ending September 30 of the following year. The twelve month period for such transactions relating to allocated natural gas liquid products was proposed to be changed from a calendar year basis to allow borrowing during the entire winter season of heavy temperature-related demand, with paybacks in the following summer when demand would be slackened. We also wish to encourage the building of inventories prior to the start of a winter heating season, however, and are therefore adopting a final rule permitting borrow-payback transactions for allocated NGL products within total allocations for any twelve-month period agreed upon by both the supplier and purchaser.

K. Gas Utility Guidelines

Much of the comment received in connection with FEA's Gas Utility Guidelines was addressed to the provision requiring only non-Canadian imports to be used for peak shaving in excess of base period use. For the reasons previously discussed relating to gas utilities' allocation entitlements, most utilities thought it unfair that historical peak shavers should now be forced to acquire higher priced imports. However some gas utility representatives acknowledged that it would be appropriate for new gas utility use to be treated differently from historical volumes.

In light of the current improved natural gas supply situation and the resulting reduced demand for propane by gas utilities, the Gas Utility Guidelines are not being republished.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. § 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267.)

In consideration of the foregoing, Parts 205, 211 and 212 of Chapter II, title 10 of the Code of Federal Regulations, are amended as set forth below, effective January 1, 1980.

Issued in Washington, D.C., October 12, 1979.

David J. Bardin,
Administrator, Economic Regulatory Administration.

PART 205—ADMINISTRATIVE PROCEDURES AND SANCTIONS

1. Section 205.13 is amended by revising subparagraph (3) of paragraph (a) to read as follows:

§ 205.13 Where to file.

(a) Except as otherwise specifically provided in other subparts of this part, all documents to be filed with the ERA pursuant to this part shall be filed with the appropriate ERA Regional Office (unless otherwise specified in Part 211 of this Chapter), except that all documents shall be filed with the ERA National Office that relate to:

* * * * *

(3) The pricing of propane, butane and natural gasoline pursuant to Part 212 of this chapter and the allocation of butane and natural gasoline pursuant to Part 211 of this chapter;

* * * * *

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

2. The Table of Contents to Part 211 is amended by revising the references to Subparts D and E to read as follows:

* * * * *

Subpart D—Natural Gas Liquids (NGLs)

Sec.
211.81 Scope.
211.82 Definitions.
211.83 Allocation levels.
211.84 Adjustments and assignments.
211.85 Supplier/purchaser relationships.
211.86 Method of allocation.
211.87 Special limitations.
211.88 Importers of allocated natural gas liquid products.
211.89 Procedures and reporting requirements.

Subpart E—[Deleted]

* * * * *

3. Section 211.10 is amended by revising subparagraph (1) of paragraph (b), by revising subparagraph (1) of paragraph (g), by adding a sentence at the end of subparagraph (5) of paragraph (g) and by revising subparagraph (8) of paragraph (g) to read as follows:

§ 211.10 Supplier's method of allocation.

* * * * *

(b) *Allocation fraction.* * * *

(1) *Allocable supply.* Each supplier's allocable supply of an allocated product for a period which corresponds to a base period shall be equal to its total supply for that period, which is the sum of its estimated production, including amounts received under processing and exchange agreements, imports (except to the extent imports are excluded pursuant to § 211.88), purchases and any reduction in inventory of that allocated product made pursuant to § 211.22 except as otherwise ordered by ERA; less (i) any amounts designated as a state set-aside for a prime supplier pursuant to § 211.17, (ii) any amounts of allocation requirements supplied directly to end-users or wholesale purchaser-consumers under an allocation level not subject to an allocation fraction, (iii) any amounts supplied to wholesale purchaser-resellers which have certified these amounts to be for ultimate use under an allocation level not subject to an allocation fraction, and (iv) any amounts supplied to customers through exchange agreements. Any existing inventory, production, importation or purchase of an allocated product used to increase that inventory consistent with the provisions of § 211.22 shall not be included in the allocable supply of that product.

* * * * *

(g) *Allocation fractions greater than one.* (1) *General.* In allocating allocable supplies of any allocated product among wholesale purchasers and end-users, no supplier may use an allocation fraction greater than one (1.0) except as provided herein. Allocated natural gas liquid products imported and distributed by suppliers pursuant to § 211.88 shall be subject only to the provisions of that section, except as provided therein.

* * * * *

(5) *Distribution of surplus product.* * * * With respect to the distribution of surplus allocated natural gas liquid products, suppliers which distribute such product pursuant to this paragraph, unless otherwise notified by ERA, may distribute such product upon submission by certified mail of the notification required under paragraph (g)(3) of this section without waiting ten (10) days for an ERA notification.

* * * * *

(8) *Limitations on purchaser's rights.* No supplier shall supply and no end-user or wholesale purchaser-consumer shall accept quantities of an allocated product which exceed one hundred (100) percent of the end-user's or wholesale purchaser-consumer's current requirements, except as provided for purchasers of allocated natural gas liquid products in § 211.87.

* * * * *

4. Section 211.12 is amended in paragraph (g) by revising subparagraphs (g)(1) and (g)(2) to read as follows:

§ 211.12 Purchasers' allocation entitlement.

* * * * *

(g) *End-user and wholesale purchaser-consumer importers.* (1) Except with respect to allocated natural gas liquid products as provided in § 211.88, end-users and wholesale purchaser-consumers which import an allocated product in excess of volumes which they imported in the base period, and end-users and wholesale purchaser-consumers which have not previously imported an allocated product may import that product for their own use, provided that should circumstances warrant, ERA may order suppliers of a firm which imports or purchases an imported allocated product to limit or terminate the allocation entitlement of such firm for any period corresponding to a base period or ERA may order that imports made pursuant to this paragraph (g) be allocated to other end-users, wholesale purchasers, producers or suppliers.

(2) End-users and wholesale purchaser-consumers who import allocated products are required to report to both the ERA National and appropriate Regional offices pursuant to § 211.225.

5. Section 211.13 is amended by revising subparagraph (1) of paragraph (a) and paragraph (c) to read as follows:

§ 211.13 Adjustments to base period volume.

(a) *Scope.* (1) The adjustment procedures under this section are applicable to the allocation of allocated natural gas liquid products, motor gasoline, middle distillate, aviation fuels (except allocations to civil air carriers), and residual fuel oil (except allocations to utilities) and other products subject to Subpart K of this part. Except as provided in §§ 211.84, 211.85, 211.104 and 211.105, this section describes the means by which wholesale purchasers and end-users may receive adjustments to their base period volumes. All adjustments made pursuant to this section are subject to verification by ERA audit.

* * * * *

(c) *Adjustments to a wholesale purchaser-reseller's base period use for new and increased allocation entitlements of purchasers.* (1) A wholesale purchaser-reseller shall be entitled to receive an adjustment to its base period use whenever (i) it is notified pursuant to § 205.36(d) of an assignment to supply a new wholesale purchaser; or (ii) it is notified of an adjustment granted pursuant to § 211.12(h), § 211.13(e), § 211.84, § 211.85, § 211.104, § 211.105, § 211.125(b) or § 211.145(b) to the base period use of a wholesale purchaser entitled to receive an allocation from that wholesale purchaser-reseller, in an amount equal to the increases in the allocation entitlements or new allocation entitlements which the wholesale purchaser-reseller is to supply.

(2) A wholesale purchaser-reseller which is entitled to receive an adjustment to its base period use pursuant to paragraph (c)(1) of this section or § 211.85 may certify to and shall receive an upward or downward adjustment to its base period use from its supplier or suppliers in proportion to that part of its base period use received from each supplier.

(3) All suppliers which receive a certification of an adjustment to base period use made pursuant to this paragraph or § 211.85, or which receive a certification from any other supplier of an adjustment to base period use under this paragraph or § 211.85 which has been certified to that other supplier, may in turn certify to their suppliers the amount of the adjustment and shall receive an adjustment in proportion to that part of their base period use received from each supplier to cover the certified increases granted under this paragraph or § 211.85, or the decreases mandated under § 211.85.

6. Section 211.25 is amended by revising paragraph (c) to read as follows:

§ 211.25 Supplier substitution.

* * * * *

(c) To accommodate seasonal and other fluctuations in both supply and demand, such as requirements for agricultural production, suppliers and wholesale purchasers may agree between and among themselves either to borrow on future allocations or to defer current allocations or both on a volume-for-volume basis within the total allocations for one calendar year as long as such arrangements do not result in an involuntary reduction in allocations to other wholesale purchasers. With respect to allocated natural gas liquid products, such transactions are permitted within the total allocations for any agreed upon 12 month period.

7. Section 211.29 is amended by revising paragraph (e) to read as follows:

§ 211.29 Synthetic natural gas production.

* * * * *

(e) *Special limitations.* Unless directed by DOE upon application pursuant to Subpart G of Part 205 of this chapter or waived upon its own motion, no supplier shall supply and no wholesale purchaser or end-user shall accept or use naphtha for synthetic natural gas feedstock in excess of the sum of one hundred percent of the base period uses for the four calendar quarters.

* * * * *

8. Section 211.51 is amended by deleting the definition of "modified allocation level," and by inserting in the proper alphabetical order the following revised definitions of "butane" and "propane," and the new definitions of "allocated natural gas liquid products," "gas utility use," "gas transmission company use," and "synthetic natural gas enrichment use" to read as follows:

§ 211.51 General definitions.

"Allocated natural gas liquid products" means (regardless of origin) commercial propane, propane HD–5, commercial butane, normal butane, isobutane, commercial B–P mixture, commercial grade natural gasoline and, if greater than 10 percent by weight, the propane, butane, or natural gasoline content of all fractionated mixtures of natural gas liquids.

* * * * *

"Butane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_4H_{10}, including normal and isobutanes and mixtures of these two isomers, and all products which meet Gas Processors Association (GPA) specifications for commercial butane as revised in 1977 and listed in GPA Publication 2140(77), "GPA LPG Specifications and Test Methods."

* * * * *

V 44 0 C 19 79 UMI

"Gas transmission company use" means usage, by firms primarily engaged in the pipeline transmission and sale of natural gas for resale, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

* * * * *

"Gas utility use" means usage, by firms primarily engaged in the distribution of natural gas to ultimate consumers, for the purpose of supplementing, replacing, or displacing pipeline natural gas, other than by the manufacture of synthetic natural gas.

* * * * *

"Propane" means a normally gaseous paraffinic compound whose chemical composition is predominantly C_3H_8, including all products which meet Gas Processors Association (GPA) specifications for commercial propane and propane HD–5 as revised in 1977 and listed in GPA Publication 2140(77), "GPA LPG Specifications and Test Methods."

* * * * *

"Synthetic natural gas enrichment use" means usage by a synthetic natural gas producer to enrich or adjust the Btu value of synthetic natural gas so that the resulting mixture will approximate the Btu value, flame characteristics, and other physical properties of the pipeline natural gas with which it is to be mixed.

* * * * *

9. Subpart D of Part 211 is deleted and replaced with a new Subpart D to read as follows:

Subpart D—Natural Gas Liquids (NGL's)

§ 211.81 Scope.

(a) This subpart applies to all suppliers, including producers, and purchasers of allocated natural gas liquid products, derived from any source.

(b)(1) This subpart provides for the mandatory allocation as separate products with separate allocation entitlements of all propane, butane and natural gasoline. If greater than 10 percent by weight, the propane, butane, and natural gasoline content of all fractionated NGL mixtures produced in or imported into the United States will also be allocated as propane, butane and natural gasoline, respectively, except for the propane content of certain ethane-propane mixtures as described in subparagraph (b)(2) of this section. Excluded are (i) unfractionated NGL mixtures (except as set forth in § 211.88); (ii) bottled propane or butane; (iii) the propane or butane content of refinery gas used for refinery fuel purposes and (iv) the propane and butane content of hydrocarbon aerosol propellants.

(2) This subparagraph applies to the propane content of ethane-propane mixtures.

(i) At a fractionation facility which produced ethane-propane mixtures prior to January 1, 1979, the propane portion of such mixtures produced subsequent to January 1, 1979 which is less than either the 1978 average propane content of E–P mixtures produced at that facility or thirty percent by liquid volume, whichever is smaller, shall be allocated as a separate allocated natural gas liquid product.

(ii) At a fractionation facility which initially produces ethane-propane mixtures subsequent to January 1, 1979, the propane portion of such mixtures produced at that facility which is twenty percent or less by liquid volume shall be allocated as a separate allocated natural gas liquid product.

(iii) The propane portion of ethane-propane mixtures in inventory prior to January 1, 1979 which is thirty percent or less by liquid volume shall be allocated as a separate allocated natural gas liquid product.

(c) This subpart provides for a state set-aside for propane only.

§ 211.82 Definitions.

For purposes of this subpart—"Base period" means each calendar quarter during the period April 1, 1972, through March 31, 1973, which corresponds to the present calendar quarter.

"Bottled propane or butane" means propane or butane or mixtures of propane and butane bottled in cylinders with a capacity of one hundred (100) pounds or less, provided that the cylinders are not manifolded at the time of sale

"Commercial B–P mixture" means any product which meets Gas Processors Association (GPA) specifications for commercial B–P mixture as revised in 1977 and listed in GPA Publication 2140 (77), "GPA LPG Specifications and Test Methods."

"Commercial butane" means all products which meet GPA specifications for commercial butane as revised in 1977 and listed in GPA Publication 2140 (77), "GPA LPG specifications and Test Methods."

"Commercial grade natural gasoline" means any product which meets Gas Processors Association (GPA) specifications for any of the twenty-four (24) grades of natural gasoline as revised in 1974 and listed in GPA Publication 3132 (74), "GPA Natural Gasoline Specifications and Test Methods."

"Commercial propane" means all products which meet Gas Processors Association (GPA) specifications for commercial propane as revised in 1977 and listed in GPA Publication 2140 (77), "GPA LPG Specifications and Test Methods."

"Dispensing station" means those retail sales outlets which sell less than 15,000 gallons per year and sell or fill only bottled propane or butane.

"Fractionated" means separated into components by partial or complete fractional distillation of natural gas liquids mixtures. Once having been so separated, each component shall be considered fractionated regardless of subsequent mixing or commingling.

"Isobutane" means butane which contains 95 percent or more by volume of the saturated branch chain hydrocarbon isomer known as isobutane.

"Merchant storage facility" means any facility which is utilized to store allocated natural gas liquid products for firms other than the owner or operator of such a facility.

"Normal butane" means butane which contains 95 percent or more by volume of the saturated straight-chain hydrocarbon isomer known as normal butane.

"Plant protection fuel" means the use of allocated natural gas liquid products in the minimum volume required to prevent physical harm to the plant facilities or danger to plant personnel. This includes the protection of such material and equipment which would otherwise be damaged, but does not include sufficient quantities of allocated natural gas liquid products required to maintain plant production. Allocated natural gas liquid products may not be considered plant protection fuel if an alternate fuel capability is in place which uses an available fuel other than allocated natural gas liquid products or natural gas and can be operated on a continuing basis.

"Process fuel" means allocated natural gas liquid products used in applications requiring precise temperature controls or precise flame characteristics. Allocated natural gas liquid products may not be considered process fuel if an alternate fuel (other than natural gas) is available and technically feasible for substitution.

"Producer" means a firm which (1) produces an allocated natural gas liquid product in a refinery, (2) maintains an ownership interest in any allocated natural gas liquid product when such product is initially extracted from natural gas in a gas processing plant or separated from an unfractionated natural gas liquid mixture at a fractionating facility or (3) imported into the United States more than 5,000,000 gallons of allocated natural gas liquid products or unfractionated natural gas liquid mixtures during the immediately preceding four calendar quarters.

"Propane HD–5" means all products which meet Gas Processors Association (GPA) specifications for propane HD–5 as revised in 1977 and listed in GPA Publication 2140(77), "GPA LPG Specifications and Test Methods."

§ 211.83 Allocation levels.

(a) *General.* The allocation levels in this paragraph apply only to allocations made by suppliers or producers to wholesale purchaser-consumers and end-users. Except as otherwise provided in this subpart, suppliers shall allocate to all purchasers to which the allocation levels apply in accordance with the provisions of § 211.10. End-users and wholesale purchaser-consumers which are entitled to purchase allocated natural gas liquid products under an allocation level not subject to an allocation fraction shall receive first priority and be supplied sufficient amounts to meet 100 percent of their allocation requirements. End-users and wholesale purchaser-consumers which are entitled to purchase allocated natural gas liquid products under an allocation level subject to reduction by application of an allocation fraction shall receive second priority.

(b) *Allocation levels not subject to an allocation fraction.* One hundred (100) percent of current requirements for the following uses:

(1) Agricultural production;

(2) Department of Defense use as specified in § 211.26.

(c) *Allocation levels subject to an allocation fraction.* (1) One hundred (100) percent of current requirements for the following uses:

(i) Emergency services;

(ii) Energy production (excluding boiler fuel uses);

(iii) Sanitation services;

(iv) Telecommunications services;

(v) Passenger transportation services;

(vi) Transportation of crude oil, natural gas liquids, and refined petroleum products;

(vii) Medical and nursing buildings;

(viii) Aviation ground support vehicles and equipment;

(ix) Start-up, testing, and flame stability of electric utility plants;

(x) Residential use, except that an allocation fraction of less than nine tenths (.90) may not be applied with respect to a firm's entitlement to product intended for residential use; a supplier whose allocation fraction is less than .90 shall allocate product intended for residential use as if the allocation level for such use is ninety (90) percent of current requirements, not subject to an allocation fraction;

(xi) Plant protection fuel use; and

(xii) Petrochemical feedstock and process fuel use of allocated natural gas liquid products other than propane and the propane content of fractionated natural gas liquid mixtures;

(xiii) Gasoline blending and manufacturing use of allocated natural gas liquid products other than propane.

(2) One hundred (100) percent of base period use for:

(i) Petrochemical feedstock and process fuel use of propane (including the propane content of fractionated natural gas liquid mixtures);

(ii) Synthetic natural gas feedstock use;

(iii) Synthetic natural gas enrichment use;

(iv) Other industrial use;

(v) Governmental use;

(vi) Gas utility and gas transmission company use; the base period use for gas utilities and gas transmission companies shall mean the larger of that volume of an allocated natural gas liquid product which a gas utility or gas transmission company either contracted for (if a specific maximum volume was designated) or purchased for delivery in each calendar quarter during the period April 1, 1972 through March 31, 1973, regardless whether that volume was used during the base period;

(vii) Refinery fuel use;

(viii) Commercial use;

(ix) Transportation service other than passenger transportation service or aviation ground support vehicles, for vehicles equipped to use allocated natural gas liquid products as of December 27, 1973;

(x) Schools; and

(xi) Boiler fuel use for energy production.

§ 211.84 Adjustments and assignments.

(a) *Specified industriol use.* Notwithstanding the provisions of § 211.13(e), a wholesale purchaser-consumer may apply (1) to the ERA National Office for adjustments to its base period use, in accordance with the provisions of Subpart B of Part 205 of this chapter, for petrochemical feedstock use of propane (including the propane content of fractionated natural gas liquid mixtures), and (2) to the appropriate ERA Regional Office for adjustments to base period use of propane for process fuel.

(b) *Gas utility use, gas transmission company use and gas utilities as agents.* (1) *Adjustments and assignments.* Wholesale purchaser-consumers shall apply to the ERA National Office for all assignments of a base period use of allocated natural gas liquid products for gas utility or gas transmission company use, and, notwithstanding the provisions of § 211.13(e), may apply to the ERA National Office for an adjustment to base period use, in accordance with Subparts B and C, respectively, of Part 205 of this chapter.

(2) *Waivers.* Applications for waivers of the limitations on gas utility use or gas transmission company use of allocated natural gas liquid products set forth in § 211.87(a)(3) (when such limitations are in effect) shall be filed with the ERA National Office in accordance with the provisons of Subpart G of Part 205 of this chapter.

(3) *Gas utilities as agents for end-users or wholesale purchaser-consumers.* In addition to acquiring product under their own allocation entitlement, gas utilities may act as agents in acquiring and delivering allocated natural gas liquid products through natural gas pipelines to end users or wholesale purchaser-consumers separately authorized to purchase and use such products pursuant to this part. Unless otherwise authorized by ERA, such actions are permitted only in those cases (i) where the wholesale purchaser-consumer or end user owns the product and bears the entire cost of its storage, gasification, and transmission; (ii) where there will be no adverse effects on the gas utility's other customers; and (iii) where this procedure is consistent with all applicable Federal and State laws, regulations, and orders. Actions taken by gas utilities under this subparagraph (b)(3) are not subject to the volumetric limitations contained in § 211.87(a)(3).

§ 211.85 Supplier/purchaser relationships.

(a) *General.* Supplier/purchaser relationships shall be as set forth in §§ 211.9–211.13 unless otherwise specified in this subpart.

(b) *Changes in relationships.* (1) Notwithstanding the provisions of subpart A of this part, any wholesale purchaser of any allocated natural gas liquid product may terminate a supplier/purchaser relationship or adjust downward its allocation entitlement from that supplier for a calendar quarter by providing written notice to its base period supplier of its intent to do so, provided that the affected supply obligation will be assumed by another supplier pursuant to subparagraph (b)(2) of this section or the purchaser certifies that such volumes are no longer required from any supplier. Wholesale purchasers shall specify in the notice the volume of the supply obligation which shall be reduced or terminated, and

V 44 0 C 1 9 7 9 UMI

shall include the effective date of termination or downward adjustment. Such date shall correspond to the first day of a base period. Upon receipt of such notification a supplier shall subtract the volumes so terminated or adjusted downward from its base period supply obligations, and, under the procedures set forth in subparagraph (b)(3), shall not include such volumes in its base period use from its supplier, unless (i) by the exclusion of such volumes its base period use, as adjusted by this paragraph (b), would fall below its original unadjusted base period use or (ii) it has historically maintained an allocation fraction of one (1.0) or less by importing a volume of such product equal to or greater than the sum of its base period obligations terminated under this section.

(2) Any supplier of allocated natural gas liquid products may establish a supplier/purchaser relationship with a wholesale purchaser to the extent such purchaser has terminated a supplier/purchaser relationship or has adjusted downward its base period use pursuant to paragraph (b)(1) of this section, provided that (i) the supplier's net new obligations for a particular calendar quarter corresponding to a base period would not, if applied in the immediately preceding corresponding calendar quarter, have reduced the supplier's allocation fraction below one (1.0), and (ii) the supplier can demonstrate that its net adjustments to its base period supply obligations for any particular calendar quarter for which supply obligations will be assumed are not reasonably estimated to reduce its allocation fraction below 1.0 for that quarter. The mere ability to certify upward such adjustments to its supplier will not be sufficient to constitute a demonstration by a wholesale purchaser-reseller that its allocation fraction will not be reduced below 1.0. The supplier and wholesale purchaser must notify ERA and obtain approval from the appropriate ERA Office before a new supplier/purchaser relationship and base period use can be established under this section.

(3) A wholesale purchaser-reseller, which in its capacity as a supplier establishes new supplier/purchaser relationships under subparagraph (b)(2) of this section that increase its base period supply obligations, or which has excluded certain volumes from its base period use pursuant to subparagraph (b)(1) of this section, shall receive an upward or downward adjustment, respectively, to its base period use in an amount equal to the net change to its base period obligations, except that unless ordered by ERA, a wholesale purchaser-reseller may receive an upward adjustment pursuant to this subparagraph only with the consent of its supplier whose obligations would thereby be increased. Certifications of such adjustments shall be made in accordance with the procedures set forth in § 211.13(c) (2) and (3).

§ 211.86 Method of allocation.

(a) *General.* Except as specifically otherwise provided in this subpart and except with respect to the allocation of such products for synthetic natural gas feedstock use as provided in § 211.29, the allocation of allocated natural gas liquid products shall be as specified in § 211.10. Adjustments to a wholesale purchaser's base period volume specified in §§ 211.13, 211.84 and 211.85 shall apply to this subpart. New wholesale purchasers and end-users are subject to the requirements of § 211.12. Notwithstanding the provisions of § 211.12(c), each supplier or producer which sells allocated natural gas liquid products to a wholesale purchaser-consumer, end-user, or dispensing station shall determine the base period volume of those purchasers but is not required to report that determination to such purchasers except on written request by a purchaser.

(b) *State set-aside.* The initial state set-aside level for propane is three (3) percent of a prime supplier's estimated portion of its total supply for that month which will be sold into the State's distribution system for consumption within the State. Section 211.17 shall control the distribution of propane from the State set-aside.

(c) *Dispensing stations.* Notwithstanding the provisions of § 211.10, dispensing stations which sell or fill only bottled propane or butane to end-users shall be entitled to receive a volume of propane or butane equal to one hundred (100) percent of the volume necessary to supply the current requirements of all end-users purchasing from them, without being subject to an allocation fraction.

(d) *Producers.* Producers shall allocate their total supply in accordance with § 211.10 except as otherwise provided in this subpart. If a producer is the base period supplier to wholesale purchaser-resellers which have certified amounts of propane to be for ultimate use under an allocation level of one hundred (100) percent of current requirements whether or not subject to an allocation fraction, that producer may not recertify such amounts to any other producer which may be its base period supplier.

(e) *Inventory accumulation.* (1) Except as otherwise provided in this paragraph (e), producers, suppliers, wholesale purchasers and end-users may accumulate allocated natural gas liquid products in inventory in quantities which are normal and reasonable for seasonal usage in accordance with their normal business practices. The propane content of those ethane-propane mixtures separately allocated under § 211.81(b)(2) are not subject to the inventory restrictions contained in subparagraphs (e)(2), (e)(3), and (e)(4). [See paragraph (e)(5) for a waiver of the limitations imposed by subparagraphs (e)(2) and (e)(3).]

(2) Unless authorized by the ERA, no end-user or wholesale purchaser-consumer shall accumulate in inventory allocated natural gas liquid products produced in the United States for gas utility use, gas transmission company use or synthetic natural gas feedstock or enrichment use in excess of one hundred (100) percent of the sum of their base period uses for the four base period quarters plus the amount held in inventory for such uses on April 1, 1972.

(3) Unless authorized by the ERA, no end user or wholesale purchaser-consumer shall accumulate in inventory propane (including the propane content of fractionated natural gas liquid mixtures) produced in the United States for industrial use (for other than process fuel use or plant protection fuel use) in excess of one hundred (100) percent of the sum total of such base period use for the four base period quarters.

(4) If a firm controls greater than the above mentioned inventories of allocated natural gas liquid products, it shall not acquire or accept an allocation of such products from a supplier or producer until its inventories are reduced to conform to the limitations imposed by this subsection (e).

(5) The ERA Administrator waives the limitations of subparagraphs (e)(2) and (e)(3) until such time as the Administrator terminates such waiver by notice published in the **Federal Register.**

(f) *Separate facilities.* Notwithstanding the provisions of § 211.11(b), in considering applications for adjustments to or assignments of base period use of an allocated natural gas liquid product filed pursuant to §§ 211.12(h) or 211.84, DOE may consider the requirements for a particular facility separate from the remainder of the firm, and may designate the facility for which such assignments or adjustments may be made.

§ 211.87 Special limitations.

(a) Unless otherwise authorized by the DOE upon application pursuant to subpart G of Part 205 of this chapter or waived upon its own motion, the following limitations shall apply to the acquisition and use of allocated natural gas liquid products produced in the United States (other than the propane content of those ethane-propane mixtures separately allocated under § 211.81(b)(2)) during each twelve month period commencing October 1 and ending September 30 of the following year:

(1) *Industrial use.* For all industrial use (including petrochemical feedstock use and gasoline blending and manufacturing use), except for process fuel use, plant protection fuel use and industrial uses accorded allocation levels of 100 percent of current requirements (and refinery fuel use separately provided for in subparagraph (2) of this paragraph (a)), no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of propane (including the propane content of fractionated natural gas liquids and refinery gas) and unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters, except for the purpose of increasing inventories for such industrial uses to the levels allowed under § 211.86(e).

(2) *Refinery fuel use.* For refinery fuel use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (excluding the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters except for the purpose of increasing inventories for such refinery fuel use to the levels allowed under § 211.86(e).

(3) *Gas utility and gas transmission company use.* For gas utility use or gas transmission company use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) in excess of one hundred (100) percent of the sum of the base period use for the four base period quarters plus the amount in inventory on April 1, 1972, except for the purpose of increasing inventories for such use to the levels allowed under § 211.86(e).

(4) *Synthetic natural gas use.* For synthetic natural gas feedstock use or synthetic natural gas enrichment use, no supplier shall supply and no end-user or wholesale purchaser-consumer shall accept or use quantities of allocated natural gas liquid products (including the propane and butane content of refinery gas) or unfractionated natural gas liquid mixtures in excess of one hundred (100) percent of the sum of the base period uses for the four calendar quarters, except for the purpose of increasing inventories for such uses to the levels allowed under § 211.86(e).

(b) Pursuant to paragraph (a) of this section, the ERA Administrator waives the limitations contained in subparagraph (1) through (4) of paragraph (a) until such time as the Administrator terminates such waiver by notice published in the **Federal Register.**

§ 211.88 Importers of allocated natural gas liquid products.

(a) *General.* This section shall apply to all imports of allocated natural gas liquid products by end-users, wholesale purchaser-consumers, or by suppliers of such products. For purposes of this section, "incrementally priced uses" means industrial use (including petrochemical feedstock and refinery fuel), gas utility use, gas transmission company use or synthetic natural gas feedstock or enrichment use in excess of the intended users' allocation level and, pursuant to subparagraph (c)(2)(ii) of this section, those other specified uses for which separate inventory records are required.

(b) *End-user and wholesale purchaser-consumer importers of allocated natural gas liquid products.*—(1) *Applicability.* Except as specified in subparagraphs (2) and (3) of this paragraph (b), the provisions of § 211.12(g) shall be applicable to all end-users and wholesale purchaser-consumers of imported allocated natural gas liquid products. Such users shall be subject to the provisions of paragraph (c) of this section in acquiring imports of such products from domestic suppliers.

(2) Acquisition of imports of allocated natural gas liquid products will not affect a firm's allocation entitlements unless ERA determines that such imports are inconsistent with the objectives of the Emergency Petroleum Allocation Act of 1973 and pursuant to § 211.12(g)(1) orders a firm's supplier to limit or terminate the firm's allocation entitlement.

(3) End-users and wholesale purchaser-consumers importing allocated natural gas liquid products pursuant to the provisions of this paragraph (b) shall not be considered by reason therof to be prime suppliers or producers of allocated natural gas liquid products.

(c) *Supplier importers of allocated natural gas liquid products.*—(1) *General.* Suppliers may acquire imported allocated natural gas liquid products for distribution to end-users and wholesale purchasers only in accordance with this paragraph (c). Should circumstances warrant, ERA may require that imported allocated natural gas liquid products obtained by a firm pursuant to this paragraph (c) be allocated to other wholesale purchasers, end users, producers or suppliers, in accordance with the provisions of § 211.14.

(2) *Suppliers with allocation fractions less than 1.0.*—(i) Any supplier of allocated natural gas liquid products which has an allocation fraction less than one (1.0) for a calendar quarter corresponding to a base period may import (or acquire from suppliers which have so imported) such products for the purpose of achieving an allocation fraction of 1.0 during the calendar quarter. Imports used to achieve an allocation fraction of 1.0 shall be allocated in accordance with the provisions of § 211.10.

(ii) ERA may by order require separate inventory records to be maintained and separate cost calculations for imports (or domestic product exchanged for imports) sold for industrial use (including petrochemical feedstock use and refinery fuel use), gas utility, gas transmission company or synthetic natural gas feedstock or enrichment use to new wholesale purchaser-consumers which establish a base period use or to existing wholesale purchaser-consumers with respect to upward adjustments to their base period use received after September 1, 1979.

(3) *Suppliers with allocation fractions of 1.0 or greater.*—(i) *Allocation rule.* Any supplier of allocated natural gas liquid products which has achieved an allocation fraction of 1.0 or greater for a calendar quarter may import (or acquire from suppliers which have so imported) such products to increase further its allocation fraction above 1.0 and shall distribute such imports in accordance with the provisions of § 211.10, except that distribution of imports (and domestic product exchanged for imports) to wholesale purchasers for incrementally priced uses shall be in accordance with subparagraph (c)(3)(ii) of this section.

(ii) *Incrementally priced uses.*—(A) *General authorization.* Suppliers with an allocation fraction equal to or greater than 1.0 may import (or acquire from suppliers which have so imported) allocated natural gas liquid products for distribution to wholesale purchaser-consumers which certify in writing that they will use such imported products for incrementally priced uses or for

V44OC 19791 UMI

distribution to any wholesale purchaser-reseller which certifies it will distribute such products for such uses under this subparagraph (c)(3)(ii).

(B) *Certification.* All wholesale purchaser-consumers which purchase imported allocated natural gas liquid products (or purchase domestically produced product exchanged for imported product) for incrementally priced uses and all wholesale purchaser-resellers which purchase such products for distribution for such users shall certify in writing to the suppliers of such products the intended end use of such products.

(C) *Separate inventory records.* A supplier which has allocated natural gas liquid products to be distributed under a certification received pursuant to this subparagraph shall maintain inventory records for such allocated natural gas liquid products separate from its inventory records for allocated natural gas liquid products distributed under the provisions of § 211.10. In the event no certification is received by a supplier pursuant to this subparagraph (c)(3)(ii), a supplier whose allocation fraction is equal to or greater than 1.0 remains obligated to determine to the maximum extent practicable whether its imported allocated natural gas liquid products (or domestic product exchanged for imports) are to be distributed for incrementally priced uses. If the supplier determines that such products are to be so distributed, the supplier shall maintain separate inventory records as if it had received a certification.

(d) *Importers of unfractionated natural gas liquid mixtures.* Any firm which imports unfractionated natural gas liquid mixtures (1) for any portion of which, after fractionation, separate inventory records will be required to be maintained under § 211.88(c) above, or (2), if not to be fractionated, will be distributed for incrementally priced uses, shall maintain separate inventory records for such mixtures or portions thereof.

§ 211.89 Procedures and reporting requirements.

(a) All owners of storage facilities (or operators thereof) which store allocated natural gas liquid products shall report to the DOE National Office on any applicable DOE or ERA form in accordance with the instructions accompanying such form or forms. All owners of allocated natural gas liquid products in a merchant storage facility shall, in accordance with the instructions thereto, file the applicable DOE form with the operator of a merchant storage facility. These reports shall be kept on file by the merchant storage facility operator, and are subject to DOE audit.

(b) Except as provided in § 211.84, all applications for assignment of a base period use of propane shall be filed with the appropriate ERA Regional Office in accordance with the procedures specified in Subparts B and C, respectively, of Part 205 of this chapter and for butane or natural gasoline with the ERA National Office.

(c) The general reporting and recordkeeping requirements contained in Subpart L of this part apply to this subpart except that the requirements of § 211.224 shall not apply and the information required to be kept on DOE forms in § 211.223 may be kept by suppliers or producers in accordance with that firm's customary recordkeeping practices.

(d) An application for an assignment of propane from the state set-aside system, as provided in § 211.17, based on hardship or emergency requirements is to be filed with the appropriate State Office in accordance with the procedures stated in Subpart Q of Part 205 of this chapter.

(e) Producers and specified wholesale purchaser-resellers of allocated natural gas liquid products shall report to DOE in accordance with the instructions accompanying any applicable DOE forms.

Subpart E [Deleted]

10. Subpart E of Part 211 is deleted in its entirety.

11. Subparagraph (2) of paragraph (h) of § 212.83 is amended by revising subparagraph (2)(iii) to read as follows:

§ 212.83 Price Rule.

* * * * *

(h) *Equal application among classes of purchaser.* * * *

(2) *Special Rules.* * * *

(iii) *Certain imports of propane, butone, natural gasoline and natural gas liquids maintained in a separate inventory.* Notwithstanding the provisions of paragraph (1) above with respect to equal application of costs, a refiner shall apply amounts of increased costs unequally to the weighted average May 15, 1973 selling prices of any imported propane, butane, natural gasoline or natural gas liquids (or domestically produced propane, butane, natural gasoline or natural gas liquids exchanged for imported propane, butane, natural gasoline or natural gas liquids), if separate inventory records for such products are maintained pursuant to § 211.88(c) and provided that the increased costs for such products are computed pursuant to the following formula and further provided that the increased costs so computed are subtracted from the amount computed in § 212.83(c)(2)(iii)(D) for B_i when $i = 4$: $I_i^u = B_i$

Where: I^u = The total dollar amount that may be applied in the period "u" (the current month) to the May 15, 1973 selling prices of products "i" to compute maximum allowable prices for these products.

B = The "B" factor as defined in § 212.83(c)(2)(iii)(D).

i = propane, butane, natural gasoline or natural gas liquids maintained in a separate inventory pursuant to § 211.88(c) of part 211 of this chapter.

Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

* * * * *

12. Paragraph (f) of Section 212.93 is amended by changing its title and revising subparagraph (2) to read as follows:

§ 212.93 Price rule.

* * * * *

(f) *Special rules for natural gas liquid products.* * * *

(2) *Separate cost of product in inventory for certain imported propane, butane, natural gasoline or natural gas liquids.* Any seller of imported propane, butane, natural gasoline or natural gas liquids (or domestically produced propane, butane, natural gasoline or natural gas liquids exchanged for imported propane, butane, natural gasoline or natural gas liquids) shall determine the price permitted to be charged for such products pursuant to paragraph (a) of this section by calculating increased product costs as follows:

(i) With respect to such propane, butane, natural gasoline and natural gas liquids for which separate inventory records are required to be maintained pursuant to § 211.88(c), for each such separate inventory the seller shall make a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for such products pursuant to paragraphs (a) and (b) of this section, with the selling prices for propane included in such products not, however, subject to paragraph (f)(1) of this section. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

(ii) With respect to any quantity of propane, butane, natural gasoline and natural gas liquids for which a separate inventory record is not required to be maintained pursuant to § 211.88(c), the seller shall add the cost of such quantities to the cost of all other quantities of the same product for which separate inventory records are not maintained pursuant to § 211.88(c) or pursuant to § 212.92, in making a separate calculation of increased product to § 212.92, in making a separate calculation of increased product costs as defined in § 212.92 to be used in determining its selling price for all sales of products other than those maintained in a separate inventory pursuant to § 211.88(c), subject to all other provisions of this section, including paragraph (f)(1).

* * * * *

13. A new paragraph (e) is added to § 212.167, to read as follows:

§ 212.167 Allocation of increased product costs.

* * * * *

(e) *Separate aggregation and allocation of increased costs of certain imported natural gas liquids and certain imported propane, butane or natural gasoline.* Anything in this subpart to the contrary notwithstanding, if purchased natural gas liquids, or purchased propane, butane or natural gasoline are or have been imported (or are exchanged for imports of such products) and for which separate inventory records are required to be maintained under § 211.88(c), increased costs of such purchased natural gas liquids or such purchased propane, butane or natural gasoline shall be separately calculated for each such separate inventory and shall be allocated to the natural gas liquids or the propane, butane or natural gasoline in such inventory. Increased costs so calculated shall not be available for recovery in the prices of other natural gas liquids or other propane, butane or natural gasoline.

[FR Doc. 79-32234 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

V 4 4 0 C 1 9 7 9 UMI

V 44 OC 1979 UMI

federal register

Friday
October 19, 1979

Part VI

Department of Energy

Economic Regulatory Administration

Proposed Guideline for Termination of Electric Service and Gas Service Standard Under the Public Utility Regulatory Policies Act of 1978

V 4 4 0 C 1 9 7 9 UMI

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-R-79-47]

Voluntary Guideline for Procedures for Termination of Electric Service and Gas Service Standard Under the Public Utility Regulatory Policies Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Proposed Voluntary Guideline.

SUMMARY: Title I of the Public Utility Regulatory Policies Act of 1978 (PURPA) establishes certain Federal purposes and policy standards for the regulation of electric utilities and imposes certain obligations upon State regulatory authorities and certain nonregulated utilities with respect to the standards established by sections 111 and 113.

Under section 131 of PURPA, the Secretary of Energy is authorized to prescribe voluntary guidelines respecting consideration of standards. Appendix A of this Notice is the proposed voluntary guideline for the standard established by section 113(b)(4) of PURPA, Procedures for Termination of Electric Service. Written comments will be received and one public hearing will be held with respect to the proposed guideline.

DATES: Comments by 4:30 p.m., e.s.t., November 19, 1979. Request to speak by November 13, 1979, 4:30 p.m., e.s.t. Public hearing on November 20, 1979, 9:30 a.m., e.s.t.

ADDRESSES:

All comments addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-79-47, 2000 M Street NW., Room 2313, Washington, D.C. 20461.

Requests to speak addressed to: Department of Energy, Office of Public Hearings Management, Docket No. ERA-R-79-47, 2000 M Street NW., Room 2313, Washington, D.C. 20461, telephone (202) 254-5201.

Hearing location: Department of Energy, 2000 M Street NW., Room 2105, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Dr. Stephen S. Skjei, Division of Regulatory Assistance, Office of Utility Systems, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room 4016D, Washington, D.C. 20461, telephone (202) 254-8209.

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street NW., Room B-110, Washington, D.C. 20461, telephone (202) 634-2170.

Mary Ann Masterson, Office of General Counsel, Department of Energy, 20 Massachusetts Avenue, N.W., Room 3228, Washington, D.C. 20585, telephone (202) 376-9469.

I. Background

On, November 8, 1978, the President signed into law the Public Utility Regulatory Policies Act of 1978 (PURPA) Pub. L. 95-617, 92 stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*), as one part of the National Energy Act.

Section 113(b)(4) of PURPA establishes a standard on Procedures for Termination of Electric Service for State regulatory authorities and certain nonregulated electric utilities. The standard applies to those electric utilities whose annual retail sales exceed 500 million kilowatt-hours in any calendar year beginning with 1976 and ending two years before the reporting year. Section 115(g) sets forth certain special rules regarding this standard.

The standard, which must be considered by State regulatory authorites and certain nonregulated utilities in a manner specified by PURPA, provides that

> (1) No electric service to an electric consumer may be terminated unless reasonable prior notice (including notice of rights and remedies) is given to such consumer and such consumer has a reasonable opportunity to dispute the reasons for such termination, and
>
> (2) During any period when termination of service to an electric consumer would be especially dangerous to health as determined by the State regulatory authority (with respect to an electric utility for which it has ratemaking authority) or nonregulated electric utility and such consumer establishes that—
>
> (A) He is unable to pay for such service in accordance with the requirements of the utility's billing, or
>
> (B) He is able to pay for such service but only in installments,
>
> such service may not be terminated.
>
> Special provisions shall be made to take into account the need to include reasonable provisions for elderly and handicapped consumers.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines respecting consideration of the 11 PURPA standards.

II. Guideline on Procedures for Termination of Electric Service

The purpose of this voluntary guideline is to assist State regulatory authorities and nonregulated utilities in their consideration of the Procedures for Termination of Electric Service standard established under Title I of PURPA. The guideline addresses four major issues raised in PURPA section 115(g): Reasonable prior notice, reasonable opportunity to dispute, protection during health emergencies, and special provisions for elderly and handicapped. The guidance set forth herein is advisory in nature and is not legally binding. It does, however, constitute DOE's opinion on the issues that should be addressed when considering the termination standard. Accordingly, the guideline complements, and is fully consistent with, the other activities undertaken by DOE pursuant to PURPA.

Section 131 of PURPA authorizes the Secretary of Energy to prescribe voluntary guidelines for the PURPA standards which relate to electric utilities; however, section 303(b)(1) of PURPA establishes a termination of service standard for natural gas utilities parallel to that established by Title I of PURPA for electric utilities. Because of the importance of this standard for both electric and gas consumers, it is DOE's opinion that State regulatory authorities and nonregulated utilities should consult the proposed guideline when considering the termination of serivce standard for natural gas utilities, as well as when considering the termination of service standard for electric utilities. .

III. Written Comments and Public Hearing Procedures

A. Written Comments

The public is invited to participate in this proceeding by submitting to DOE's Economic Regulatory Administration (ERA) information, views or arguments with respect to the proposals set forth in Appendix A to this Notice. Comments should be submitted by 4:30 p.m., e.s.t., November 19, 1979, to the address indicated in the "ADDRESSES" section of this Notice and should be identified on the outside of the envelope and on documents submitted with the designation: "Proposed Voluntary Guideline on Procedure for Termination of Electric and Gas Service, Docket No. ERA-R-79-47." Five copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, GA-152, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, and the ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461 between the hours of 8:00 a.m. and 4:30 p.m. e.s.t., Monday through Friday.

Pursuant to the provisions of 10 CFR 1004.11 (44 FR 1908, January 8, 1979), any person submitting information which he or she believes to be confidential and which may be exempt by law from public disclosure should submit one complete copy and 15 copies from which information claimed to be confidential has been deleted. In accordance with the procedures established at 10 CFR 1004.11, DOE shall make its own determination with regard to any claim that information submitted be exempt from public disclosure.

B. Public Hearing

(1) Procedures for request to make oral presentation. The times and places for the hearing are indicated in the "DATES" and "ADDRESSES" sections of this Notice. Any person who has an interest in this proposed guideline or represents a person, group or class of persons that has an interest, may make a written request for an opportunity to speak at the public hearing. Request to speak must be sent to the address shown in the "ADDRESSES" section and be received by November 9, 1979. The request should include a telephone number where the speaker may be contacted through the day before the hearing.

All persons participating in the hearing will be so notified on or before November 14, 1979. Speakers should submit 100 copies of their hearing testimony for distribution at the hearing by 4:30 p.m. e.s.t. on November 19, 1979, to the Office of Public Hearings Management, U.S. Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

(2) Conduct of the hearing. ERA reserves the right to schedule participants' presentations and to establish the procedures governing the conduct of the hearing. ERA may limit the length of each presentation based on the number of persons requesting to be heard. ERA encourages groups that have similar interests to choose one appropriate spokesperson qualified to represent the views of the group.

ERA will designate officials to preside at the hearings. These will not be judicial-type hearings. Questions may be asked only by those conducting the hearings. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if time permits, to make a rebuttal statement. Rebuttal statements, will be given in the order in which the intial statements were made and will be subject to time limitations.

Questions to be asked at a hearing should be submitted in writing to the presiding officer. The presiding officer will determine whether the question is relevant, and whether time limitations permit it to be presented for answer. The question will be asked of the witness by the presiding officer. The presiding officer will announce any further procedural rules needed for the proper conduct of the hearings.

ERA will have a transcript made of the hearing and will retain the entire record of the hearing, including the transcript. The record will be available for inspection at the DOE Freedom of Information Office, Room GA-152, James Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585 and the ERA Office of Public Information, Room B-110, 2000 M Street NW., Washington, D.C. 20461, between the hours of 8:00 a.m. and 4:30 p.m., e.s.t., Monday through Friday. A copy of the transcript may be purchased from the reporter.

(Public Utility Regulatory Policies Act of 1978 Pub. L. 95-617, 92 Stat. 3117 *et seq.* (16 U.S.C. 2601 *et seq.*); Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7101 *et seq.*).)

Issued in Washington, D.C., on October 15, 1979.

Jerry L. Pfeffer,

Assistant Administrator for Utility Systems, Economic Regulatory Administration.

Appendix

Title: PURPA Guideline Number 2: Procedures for Termination of Electric Service and Gas Service.

Introduction. This guideline provides general advisory assistance to State regulatory authorities and nonregulated utilities on the issues that the Department of Energy (DOE) believes should be addressed when considering the termination of service standard. It is recognized that implementation of the recommendations in this guideline may require changes in State laws or regulations under which such authorities and utilities now operate.

The intent of this guideline is to suggest and discuss procedural matters pertinent to safeguarding consumer rights and remedies with respect to the termination of electric utility service, and to effectuate the basic purpose of PURPA to prevent endangerment to public health and safety as a result of power cut-offs.

For the elderly, the handicapped, and the ailing, termination of electric service can result in real risks to health and safety. Termination of electric service substantially reduces a consumers ability to keep clean, to cook, to keep warm, and to avoid danger and accidents in darkened areas. DOE believes that the purpose of the Termination of Service Standard was to prevent these causes of endangerment to public health and safety resulting from power cut-offs. Accordingly, DOE believes (a) that electric service should not be terminated, particularly in winter months, when termination would be dangerous to the health and safety of the consumer, (b) that the unique problems of elderly and handicapped consumers should receive reasonable consideration before electric service is terminated, and (c) that all consumers are entitled to due process before service is terminated.

Coverage. This guideline covers the PURPA standard on Procedures for Termination of Electric Service. It is DOE's opinion that the guideline should also apply to the PURPA standard for Procedures for Termination of Natural Gas Service. In this guideline, any reference to electric utilities also applies to gas utilities.

Definitions. As used in this guideline, except as otherwise specifically provided—

"Electric consumer" means any person, State agency or Federal agency to which electric energy is sold other than for purposes of resale.

"Electric utility" means any person, State agency, or Federal agency, which sells electric energy.

"Nonregulated electric utility" means any electric utility other than a State regulated electric utility.

"State" means a State, the District of Columbia and Puerto Rico.

"State agency" means a State, political subdivision thereof, and any agency or instrumentality of either.

"State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electric energy by any electric utility (other than such State agency), and in the case of an electric utility with respect to which the Tennessee Valley Authority has ratemaking authority, such term means the Tennessee Valley Authority.

Organization and Content. The guideline is organized around four major issues surrounding the termination of service standard:

A. Reasonable Prior Notice—What constitutes reasonable prior notice of termination?

B. Reasonable Opportunity to Dispute—What constitutes a reasonable opportunity to dispute the reasons for termination?

C. Protection during Health Emergencies—What provisions are reasonable to protect consumers who are unable to pay their bills or who are only able to pay in installments during a period when termination of service would be especially dangerous to health?

D. Reasonable Provisions for Elderly and Handicapped—What provisions should be made for elderly and handicapped consumers?

Each of these issues and important factors which must be taken into account when addressing them are discussed in turn.

A. Reasonable Prior Notice

Section 115(g)(1) of PURPA requires that reasonable prior notice (including notice of rights and remedies) be given to an electric consumer prior to termination. It is DOE's opinion that reasonable prior notice requires utilities to provide consumers with both a statement of termination policy and a clear and informative notice of proposed termination.

1. *Statement of termination policy.* The current general policy statement should be provided, in clear and understandable language, to all existing consumers and to all new consumers when they initiate service. Where a substantial percentage of a utility's consumers do not speak English, the statement should also be printed in an appropriate second language. The general policy statement should include the following information:

(a) The general starting and ending dates of the payment period,

(b) The time allowed to pay outstanding bills,

(c) The time allowed to make arrangements for payment and the nature of available arrangements,

(d) The contact point (name and telephone number) for inquiries and complaints,

(e) The time allowed to initiate a complaint, and

(f) Instructions for designating (1) a third party (agency or individual) to receive a copy of a termination notice, (2) elderly or handicapped status, and (3) presence of appliances essential for maintenance of health or safety.

2. *Notice of proposed termination.* The following general information should be included in all notices:

(a) Identification of customer and service account affected by proposed termination,

(b) Statement of reasons for termination,

(c) Date of proposed termination,

(d) Amount of reconnection fee if any, and

(e) Notice of rights and remedies.

The last of these, a notice of rights and remedies, should contain information on the following:

(a) Procedures to dispute and appeal the termination notice, including the office address and telephone number of the utility representatives available to handle complaints or inquiries,

(b) Appropriate administrative or other action to take in order to avoid termination,

(c) Provisions relating to elderly and handicapped consumers,

(d) Provisions for consumers who are unable to pay their bills and steps necessary to make a claim of inability to pay, as well as alternative payment arrangement, and

(e) Sources of financial assistance.

The notice of rights and remedies should also state whether and, if so, under what circumstances a consumer must pay that portion of a bill which is in dispute while the dispute process is under way.

In cases where termination is based on failure to pay, each notice of termination should include the following additional information:

(a) Dates of meter readings for period of unpaid service,

(b) Designation of the bill in question as actual or estimated,

(c) Amount owed and time period over which amount was incurred, and

(d) Statement of provisions available to elderly and handicapped consumers, as well as those unable to pay their bills, and procedure for utilizing those provisions.

Notices of proposed termination should be provided, in clear and understandable language, in sufficient number and frequency and with a sufficient number of days advance notice so as to allow a consumer a reasonable opportunity to respond properly. Neither consumers nor the utility benefit by hasty termination. Local practice for overdue bills may provide an indication of the minimum number and frequency of notices and time allowed for consumer response.

The first notice should be sent by first class mail. If the utility receives no response, the second or subsequent notice should be delivered by registered or certified mail, or by personal contact (telephone or visit). Notices should be provided to the account name and address and, if different, to the address where service is provided, as well as any other party previously designated by a consumer to receive a copy of a termination notice. As with the general statement of policy, the notice should be provided in alternate languages where appropriate.

Tenants who pay for electric service as part of their rent (or as part of purchase payments) in master metered buildings should be individually notified of any proposed termination. In addition, tenants should be collectively notified by posting termination notice(s) in conspicuous locations such as near mail boxes, building entrances and exits, and other areas of common usage. In general, termination of service should not occur until after tenants are advised of possible alternatives to termination such as (a) recourse through agencies responsible for enforcing housing codes, (b) paying for continued service individually or collectively, and (c) other possibilities available in the jurisdiction involved.

B. Reasonable Opportunity to Dispute

Section 115(g)(1) of PURPA requires that the consumer be given a reasonable opportunity to dispute the reasons for termination of service prior to termination. It is DOE's opinion that reasonable opportunity to dispute a notice of termination requires that prior notice be given in the manner defined above and that procedures for disputing the reasons for termination with the utility and before the State regulatory authority, or a designated alternate agency, be clearly defined. In general, DOE believes that service should not be terminated while the dispute is being processed in accordance with established procedures.

1. *Utility dispute procedures.* The steps required to file and process a complaint or dispute with the utility, and the required procedures to be adhered to by a utility in handling disputes should be clearly set forth in the rules and regulations of the State regulatory authority and the nonregulated utility. These procedures should include a requirement that the utility involved render in writing to the consumer all decisions concerning a complaint or dispute which are unfavorable to the consumer.

2. *State regulatory authority procedures.* Procedures should be adopted which provide for disputes which cannot be resolved by the utility and the consumer to be brought by either party to the State regulatory authority, or a designated alternate agency, for resolution. An indigent consumer should not be required to pay an advance filing fee.

The steps required to file and process a complaint or dispute with the State regulatory authority, or a designated alternate agency, and the procedures to be followed in hearing disputes between the utility and consumer should be set forth in clear and understandable language in the rules and procedures of the State regulatory authority and should include the following:

(a) Definition of right of representation,

(b) Definition of power of subpoena,

(c) Definition of right to present evidence and testimony, oral and written argument,

(d) Definition of right to confront witnesses,

(e) Location of burden of proof,

(f) Applicable rules of evidence,

(g) Method of recording any proceeding,

(h) Identity of hearing officer,

(i) Findings and decision, and

(j) Appeal.

These procedures should be designed to provide an effective opportunity for the customer to present any opposition or alternatives to the proposed termination.

C. Protection During Health Emergencies

Section 115(g)(2) of PURPA provides that service may not be terminated if a consumer establishes inability to pay for service in accordance with the requirements of the utility's billing, or ability to pay only in installments during any period when termination would be especially dangerous to health, as determined by the State regulatory authority or nonregulated utility.

In DOE's opinion, the following are periods especially dangerous to health: The entire winter season and/or a period when the consumer or party residing at the consumer's address is or is likely to become seriously ill as a result of, or a serious threat to human safety may result from, service termination. To provide reasonable protection during such situations, the State regulatory authority or nonregulated utility should define or establish the following:

(1) Periods when postponement of termination should be granted,

(2) All steps required of a consumer asserting the presence of serious illness or that serious illness may follow termination,

(3) Number of times postponement of termination of service for health related reasons may be granted,

(4) All steps required of a consumer asserting inability to pay or ability to pay only in installments,

(5) All steps required of a utility in responding to assertions of inability to pay or ability to pay only in installments,

(6) Procedure for resolving disputes about assertions of inability to pay or of serious illness,

(7) An installment plan which permits flexibility based on the amount of money owed, consumer's ability to pay, consumer's payment history, time that the debt has been outstanding, reasons why the debt has been outstanding, and any other relevant factors, and

(8) All steps required of a utility in the event a consumer does not meet the requirements of the agreed upon installment plan.

D. Reasonable Provisions for Elderly and Handicapped

According to section 115(g) of PURPA, the procedures for termination of service shall take into account the need to include reasonable provisions which consider unique problems of elderly and handicapped consumers.

The criteria for justification for specific provisions applicable to elderly and handicapped consumers should be set forth clearly within the State regulatory authority's rules and regulations or the nonregulated utility's policy governing termination of service.

Elderly and handicapped consumers should be given at least two notices of proposed termination. The final notice should be made through personal contact.

Prior to terminating service to elderly and handicapped consumers, the utility should be required to notify the State regulatory authority or a designated alternate agency identified by that authortity.

[FR Doc. 79-32232 Filed 10-18-79, 8:45 am]

BILLING CODE 6450-01-M

V 44 0C 1 19 79 UMI

V
4
4

O
C

1
9

7
9

UMI

federal register

Friday
October 19, 1979

Part VII

Department of Energy

Solar in Federal Buildings Demonstration Program Rules

V 44 0C 19 79 UMI

DEPARTMENT OF ENERGY

10 CFR Part 436

[Docket No. CAS-RM-79-401]

Solar in Federal Buildings Demonstration Program Rules

AGENCY: Department of Energy.

ACTION: Notice of Final Rulemaking.

SUMMARY: The Department of Energy today establishes a new Part 436 in Title 10 of the Code of Federal Regulations for rules governing programs to conserve Federal energy use and to promote consumption of renewable energy sources under the Energy Policy and Conservation Act, as amended, Executive Order 11912, as amended, and the National Energy Conservation Policy Act. This notice inaugurates the new Part 436 by finalizing rules for the administration of the Solar in Federal Buildings Demonstration Program under Title V, Part 2, of the National Energy Conservation Policy Act. These rules set forth requirements and procedures for the submission and content of Federal agency proposals, criteria for evaluation and selection of projects to be funded, transfer of funds for approved projects, and periodic reports with respect to the maintenance and operation of active and passive solar heating and solar heating and cooling demonstration projects in Federal buildings.

EFFECTIVE DATE: November 19, 1979.

FOR FURTHER INFORMATION CONTACT:

William A. Lemeshewsky, Office of Conservation and Solar Energy, Department of Energy, Room 2221C, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376-9600.

Neal J. Strauss, Office of the General Counsel, Department of Energy, Room 3228, 20 Massachusetts Avenue, N.W., Washington, D.C. 20585, (202) 376-9472.

SUPPLEMENTARY INFORMATION:

I. Background

In a notice of proposed rulemaking (NOPR) published on April 2, 1979 (44 FR 19328), the Department of Energy (DOE) proposed to establish a new Part 436 in Title 10 of the Code of Federal Regulations for rules governing programs to promote energy conservation and use of renewable energy sources by Federal agencies. Specifically, the NOPR set forth proposed rules to inaugurate Part 436 by implementing the Solar in Federal Buildings Demonstration Program under Title V, Part 2, of the National Energy Conservation Policy Act. These proposed rules included provisions governing procedures for the submission and content of Federal agency proposals, criteria for evaluation and selection of projects to be funded, transfer of funds for approved projects, and periodic reports with respect to the maintenance and operation of active and passive solar hearing and solar heating and cooling demonstration projects in Federal buildings. For the reasons stated in the preamble to the NOPR, DOE concluded that although these rules are significant under Executive Order No. 12044, 43 FR 12661 (March 24, 1978), they do not have the kind of impacts which call for a regulatory analysis or an environmental impact statement under the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et. seq.* A public hearing was held on the NOPR on April 17, 1979, in Washington, D.C. and the record remained open for the submission of written comments until May 31, 1979. A major purpose of this program is to show Federal confidence in and focus public attention on proven applications of solar heating and solar heating and cooling technology which can be used in the private sector.

II. Discussion of Comments

In response to the NOPR, five persons presented oral testimony at the public hearing, and 21 written comments were received. The final rules promulgated today are a revised version of the proposed rules reflecting technical changes and changes in response to public input. The following is a discussion of the relevant issues raised by commentors which call for a DOE response. Important, general issues which arise out of comments are treated first and a discussion of comments directed at specific sections of the proposed rules follows.

A. General Issues

1. *Role of Passive Solar Energy Systems.* Several commentors expressed concern that the proposed rules tended to overemphasize "active solar energy systems" at the expense of "passive solar energy systems" and to overlook the desirability of minimizing buildings loads by using a passive solar energy system in tandem with an active one. Generally speaking, and as defined by § 436.71, "active solar energy systems" are distinguishable from "passive solar energy systems" because they rely on mechanical equipment (pumps or fans) to move heat transfer fluids or air throughout the systems. In contrast, passive solar energy systems rely on a structural design which involves natural convection, conduction and radiation. Since passive solar energy systems are often cost effective in new buildings and should be attractive to the private sector, it is vitally important for the DOE Solar in Federal Buildings Demonstration Program to give them appropriate emphasis, and to achieve this objective, certain substantive changes have been made.

In response to a specific suggestion by one commentor, DOE has revised the definition of the key term—"solar energy equipment" in proposed § 436.71. The proposed definition was: "* * * equipment which is for active or passive solar hot water heating, heating, heating and cooling including but not limited to collectors, storage devices, heat exchangers, south-facing glazing, mountings, piping, valves, gauges and contols." That definition was an elaboration of the same term that appears in the authorizing language of Title V, Part 2, of the NECPA. The words easily connote the mechanical equipment common to active solar energy systems, but do not as readily call to mind specially designed building components and materials such as thermal storage walls. DOE believes that the Congress intended that some or all of the cost of passive systems be fundable. In order to provide more clearly for funding of building components and materials designed to capture solar energy, DOE today promulgates a modified definition of the term "solar energy equipment" which reads: "'Solar energy equipment' means building components, materials, or other items of equipment which are the means for passive or active solar heating, hot water, or heating and cooling including but not limited to collectors, storage devices, heat exchangers, south-facing glazing, mountings, piping, instrumentation, pumps, valves, guages, and controls."

DOE has also revised the selection criteria of § 436.78(c) to emphasize the desirability of taking advantage of passive solar energy systems. As revised, the section gives weight to proposed projects which take account of feasible opportunities to include such a system in the design of a building.

Finally, in response to one of the comments, DOE is also modifying the proposed forms for agency proposals which were made available in the public file. One of these forms, which is to be used by agencies submitting cost data on proposals, contained a statement to the effect that passive and process heat applications were subject to restraints due to funding limitations. The phrase "funding limitations" referred only to the overall program constraint created by limited appropriations, a constraint which applies to the funding of active solar energy systems as well as passive ones. Because the statement in question apparently was ambiguous and is unnecessary, it has been deleted.

2. *Provisions for Energy Conservation Measures.* Some commentors suggested the need for changes to require energy conservation measures to be included as part of a proposal to install "solar energy equipment." One commentor referred to various conservation technologies to reduce consumption of scarce fossil fuel Btu's, technologies which did not involve control of insolation. Another referred to waste heat recovery and biomass. However, none of the persons commenting on this aspect of the program suggested specific language changes.

In response to these comments, DOE has modified the screening criteria of § 436.78(b) so that proposed projects will be rejected if, for the building in question, the application does not show that appropriate energy-saving changes in operation and maintenance practices and cost effective non-solar energy conservation measures to reduce building energy loads have been implemented or are scheduled and budgeted. This criterion should result in smaller, less expensive systems in many cases.

It should be noted that the proposed rules did encourage conservation actions. Proposed § 436.78(d) provided for preference in selection for "innovative and diverse applications" a term which was defined to include combinations of solar energy systems and innovative non-solar energy conservation measures.

3. *Technical Support by Other Federal Agencies.* In the past, DOE has availed itself of technical support by other Federal agencies with expertise to contribute to the administration of solar and other programs. DOE has decided to follow that practice for this program by calling upon the National Aeronautics and Space Administration (NASA) for technical support.

One of the commentors criticized a possible arrangement with NASA, arguing that DOE should be the manager of the program with responsibility for oversight and evaluation. That comment was based on the mistaken assumption that DOE intended to delegate management responsibility to NASA. In fact, DOE will be actively managing all aspects of the program including final evaluation of proposals and oversight. NASA will make recommendations to DOE and provide technical support services which cannot be obtained from any other source in the short term. This arrangement with NASA is essential to make the program operational as soon as possible.

4. *Relationship to Other Conservation and Solar Programs.* Some of the comments received by DOE in response to the NOPR indicated a lack of awareness of other programs involving a broader range of conservation and solar technologies or raised questions about the relationship of the Solar in Federal Buildings Demonstration Program to some of those other programs. As was noted at the outset, this program is primarily a market initiative intended to show Federal confidence in and to focus public attention on applications of solar heating and cooling technology which the private sector can be using. It is also intended to reduce consumption of nonrenewable fossil fuels. Other programs with similar objectives are the Federal Buildings Program to reduce building energy use on a cost effective basis, the Federal Photovoltaic Utilization Program, the Residential Energy Conservation Service Program, the Schools and Hospitals Grant Program, the Solar Heating and Cooling Demonstration Program (under the Solar Heating and Cooling Demonstration Act of 1974), and the Department of Defense Military Construction Program. To ensure that these programs are properly coordinated, DOE has instituted regularly scheduled meetings among representatives of these programs. In addition, meetings are scheduled with Federal agencies involved in significant building construction activities such as the General Services Administration so that all Federal participants can better utilize and be aware of Federal activities related to solar energy. In this manner, DOE and other Federal agencies will exchange information, avoid duplication, and improve efficiency in carrying out their respective programs.

B. Comments on Particular Sections

1. *Section 436.71—Definitions*

"Design Costs". One commentor questioned whether the definition of "design costs" included costs incurred as a result of Federal agency personnel performing the designing activity. DOE considers design costs to be fundable regardless of who specifically performs the actual design so long as it is done by qualified personnel subequent to project selection by DOE and the expenditures can be audited.

Based on DOE experience with solar demonstration programs, DOE recommends that Federal agencies utilize experienced solar design personnel in either formulating their designs or in the review of the design in order to minimize any potential problems and to draw from current solar experiences and accepted practices. In this manner, agencies can attempt to minimize significant design problems.

"Non-Fundable Costs". Several comments were submitted which dealt with the question of whether costs incurred by a Federal agency in the preparation of its proposal (sunk design costs) should be fundable. Two commentors suggested that sunk design costs should be included under the "non-fundable cost" category. However, another took a contrary viewpoint, pointing out that at least one Federal agency normally does not request design funds separate from the request for funds for the entire project. As the NECPA specifically limits financial assistance to the design, acquisition, construction and installation of a solar energy equipment, DOE has specifically placed proposal costs and sunk design costs under non-fundable costs. DOE does not believe that this feature of the program will be especially burdensome since the conduct of a detailed architectural and engineering study is not necessary for a proposal.

"Process Heat Application". The preamble to the proposed rules mentioned the possibility that an application of solar heating technology to provide process heat in a Federal building might be funded. Process heat is energy for production of goods, services, or commodities. A definition for the terms "process heat application" has been added to the rules, and a funding limit of $1,000,000 based on experience has been set for a project involving such an application.

"Passive Solar Energy Systems". One comment raised the question of whether daylighting of buildings is considered a passive solar energy system. Daylighting involves a structural feature such as a special skylight to control exposure to sunlight and to minimize internal heating and cooling loads. DOE considers that daylighting used to supply or control all or part of the heating or space heating and cooling requirements of a building may be a passive solar energy system.

"State". One commentor urged DOE to delete the definition of "State" and provide for demonstrations in foreign countries. DOE did not accept this recommendation because the program is aimed at enhancing the domestic market.

2. *Section 436.72—Procedures for Submitting Proposal.* One commentor asked whether DOE proposal evaluation procedures would be structured so that agencies could submit proposals every 60 days during the program period. The procedures will not be so structured. DOE anticipates publishing a notice

inviting further proposals in the spring of 1980.

3. *Section 436.73—Summary of Content of a Proposal.* Several comments were received regarding the information required in a proposal. A few comments suggested that DOE was creating unnecessarily complex and time consuming requirements for submitting a proposal and thereby discouraging agencies from applying. DOE is aware of the potential burden that any proposal requirement may impose on an agency. In the creation of the proposal requirements in accordance with statutory provisions, DOE attempted to minimize the proposal information required for evaluation. The forms referenced in this rule were carefully reviewed prior to the issuance of the proposed rule and also as a result of comments submittted during the comment period. DOE considers the general project information, the technical project information, and the project cost information required as a result of the statutory provisions establishing this program to be a minor burden on the agency and the minimal amount of information needed by DOE in carrying out its duties assigned by the legislation. The basic information requirements have been summarized on a form to simplify the application process. These forms do not necessitate that a complete solar energy system design be completed at the time of submission. DOE emphasizes that only conceptual information regarding the proposed systems and basic building information is required. DOE's attempt to assess the feasibility of the concept will be aimed at determining the basic validity of the agency's approach and ensuring that major issues have not been overlooked.

In conferences held in the ten DOE regions, DOE has attempted to assist Federal agency personnel in understanding and completing the information required in the forms. DOE hopes that these conferences have assisted agencies in understanding the requirements of the program. Additional technical and solar conferences will be held in the regions to assist Federal agency personnel in solar and program-related activities.

4. *Section 436.74—Required Program Information.* Several comments expressed doubts about some of the proposed agency reporting requirements applicable to the period of construction. Questions were raised as to the need for quarterly status reports, final construction status reports, reproducible drawings, design review results, acceptance testing plans, and the operation and maintenance manual. A few comments stated that these requirements would result in excessive expenses in the operation of the program. DOE is well aware of the potential expense of some of these items and has made every attempt to minimize these requirements consistent with its management responsibility. With the exception of the quarterly status report, DOE believes that anyone properly designing and constructing a solar energy system would require all of the above-mentioned items and that belief is based upon past and on going experience with solar heating and cooling demonstration projects. Insofar as the quarterly design and construction status reports are concerned, DOE considers them to be essential for its management function. DOE estimates that these reports could be done on each project in several pages including one or two charts or tables. Every attempt has been made to minimize reporting burdens, but DOE does not think that further deletions are warranted.

5. *Section 436.75—Required General Project Information.* The information requirements of proposed § 436.75 were reviewed in light of comments criticizing the rules because of burdens entailed in responding. It was decided to eliminate some of these objectionable requirements which would have yielded information of marginal value. The eliminated provisions were items, such as number of buildings in surrounding area, which were somewhat relevant to the "visibility" selection criterion which will not influence decisionmaking as heavily as the other criteria in § 436.78.

6. *Section 436.76—Technical Project Information.* A number of comments were received on particular aspects of technical project information requirements. DOE considered these comments, reviewed the potential burden involved in responding, and modified specific provisions accordingly.

Several comments proposed the introduction of additional design requirements. One comment suggested the use of natural ventilation as a prerequisite to the installation of solar energy cooling equipment. Another comment suggested that a limit be imposed on fossil fuel. Btu's to be consumed in the operation of an active solar energy system to insure that the energy consumed to operate pumps for example is not excessive. These and other specific suggestions for identifying and improving the technical aspects of individual designs are useful, and will be considered, as appropriate, in evaluating the merits of proposed projects.

One comment was received which addressed the problem of potential confusion in evaluating combined active and passive projects if no distinction is made between Btu consumption and cost figures. DOE is aware of the potential difficulty in evaluating certain types of combined solar energy systems. However, the program forms provide for separate calculation of performance and cost of active and passive solar energy systems, respectively, even if combined in a proposed project. The active and passive solar energy systems will be evaluated on their individual merits and then on their combined merits to insure proper integration.

Several commentors suggested revising provisions of the rules incorporating the National Bureau of Standard (NBS) Interim Performance Criteria and HUD Minimum Property Standards. The suggested revisions involved substitution of recent privately developed standards such as the thermal performance certification standard of the Solar Energy Industries Association (SEIA). DOE does not regard the specific standards suggested as final voluntary consensus standards and it would therefore be inappropriate to incorporate them into the rules at this time.

Another comment questions the validity of the standards DOE proposed to use and suggested that they might hamper the use of successful solar energy systems. DOE believes that the standards do in fact promote the use of reliable, commercially-available and environmentally-safe solar energy equipment and that they should not be deleted.

Another comment suggested that certain forthcoming modifications to the NBS standards be included in the final rules. Because the modifications to the standards have not yet been finalized, DOE feels that it would be inappropriate to incorporate the changes at this time.

As SEIA, NBS, and other relevant standards become final, DOE will be examining them, and, at an appropriate time, expects to publish a notice of inquiry seeking public comment on the advisability of using one or more of them in DOE programs such as the Solar in Federal Buildings Demonstration Program. Should the DOE decide to incorporate any of these standards in this program, today's final rule will be revised appropriately.

Several commentors opposed the requirement for a minimum five-year limited warranty on the solar collectors from the manufacturer and suggested that the warranty period be reduced. They pointed out that the five-year limited warranty was inconsistent with three-year warranties usually provided by manufacturers in the heating and cooling industry, that the warranty provisions might impede the growth of the solar collector manufacturing industry, and that the additional costs incurred by solar collector manufacturers to maintain a five-year limited warranty might be passed on to the consumer. Based on the current practices with regard to the period of warranties, DOE determined that a three-year limited warranty on the solar collectors from the manufacturer would be acceptable at present. This change has been incorporated into the final rules. However, in view of the five-year warranties common to conventionally powered energy systems, DOE feels that solar consumers will eventually demand, and solar manufacturers will offer, a five-year limited warranty on the solar collectors.

An additional comment focused on the specific aspect of the warranty requirements providing for reasonable inspections on request, by installers and manufacturers at no cost to the Federal agency, to investigate complaints regarding possible defects in materials, manufacture, or installation and take expeditious corrective action. The commentor felt that the requirement was unfair and that a limit to the complaints should be inserted in the rules. DOE does not agree that a limit is appropriate, but encourages agencies to ensure that complaints are made only when a valid concern or problem exists.

One commentor urged DOE to insert a requirement for consultation with a qualified architectural or engineering firm when a detailed architectural and engineering study seems appropriate. In most instances these kinds of studies will be unnecessary in order to formulate a proposal, and in any event, the desirability of engaging firms with demonstrated qualifications at an appropriate time is obvious. DOE was not persuaded that this suggested insertion was desirable.

Another comment focused on the requirement that Federal agencies describe the method of calculation for determining the optimized solar collector area and on the preamble discussion of possible computer programs usable for this purpose. This comment urged that other acceptable computer programs be acknowledged or that the mention of government-sponsored programs be deleted. It was argued that mention of certain programs represented an implied endorsement of them and should be avoided. DOE recognizes that other solar design calculation programs are available in the public and private sectors and encourages the use of any reasonable technique. The reference to specific computer programs in the preamble was intended only as an example and not as an endorsement of any one program. Furthermore, DOE does not intend to discourage the use of alternate programs and has not specifically named any particular computer program in the rules.

7. *Section 436.78—Evaluation Procedures and Criteria.* Several comments were received on various aspects of the evaluation procedures and criteria. DOE considered these comments and determined that no basic changes in these procedures and criteria are necessary.

One commentor contended that the statement allowing dismissal of proposals if the cost estimates are unrealistic needs further clarification unless each proposal is to be subjected to a varying standard. The commentor offered no specific language changes. Another noted that the evaluators would need to be thoroughly familiar with the best local and agency cost data available. DOE agrees with the latter observation, but has decided that further elaboration on this provision would eliminate essential flexibility.

A number of comments addressed the proposed selection criterion of visibility. One commentor opposed the inclusion of visibility on the basis of experience which indicated that large installations tended to discourage the layman. The commentor argued that consumers would think their homes would require systems as large and as expensive. Another comment commended the provisions regarding selection criteria but expressed concern over the possibility that the visibility criterion would lead to "gold-plated," custom-built solar energy systems. One comment recommended that all Federal Buildings be eligible for DOE selection regardless of their visibility. A final comment urged that DOE accept proposals for Federal facilities not highly visible to the public due to limited access or remote locations. It is doubtful that DOE will approve projects simply because they are visible. The projects likely to be approved are those that score high when all the criteria are applied. Nevertheless, since an object of the program is to illustrate applications of solar heating and cooling technology for the public that they may want to apply to their own circumstances, visibility based on location and public access is an important consideration which should not be deleted.

Another comment suggested that some modification should be allowed in the replication criterion to account for the type of Federal buildings unique to the public sector. This suggestion has been accepted.

One comment recommended that an additional selection criterion be included: The degree to which the project is monitored to show its compatibility with the conventional energy network. The impact of solar energy systems on the conventional energy network and utility rates is a subject being considered by DOE pursuant to the President's direction to issue voluntary guidelines applicable to solar energy for the eleven rate standards established in the Public Utility Regulatory Policies Act of 1978 (Pub. L. 95–617). In light of that effort, DOE sees little to be gained by adding the suggested selection criterion and desires to avoid the drain on the program budget which the instrumentation implied by the criterion would necessitate.

Another comment recommended that some provisions be included to recognize the true value of solar energy to the nation including such benefits as minimal pollution, supplanting the use of fossil fuels, and national security or balance of payments improvements. It was suggested that the use of replacement cost pricing for the displaced conventional energy could help. This issue and others concerning economic evaluation of investments will be addressed in the forthcoming notice of final rulemaking on the life cycle costing methodology which will be applicable to this program.

Several comments were received on the relative importance of the proposed selection criteria. In the preamble of the NOPR, DOE had invited public comment on the desirability of assigning points (weighting factors) to each selection criterion. In general, the comments discussed the merits and, to a lesser degree, the relative importance of the proposed selection criteria. There were, however, no specific suggestions for assigning weights. In order to show its priorities more clearly, DOE has revised § 436.78 to include specific percentages for each selection criteria. The highest percentages have been attached to the factors which correlate best with the program objective of demonstrating proven, cost effective, commercially available solar energy equipment. DOE expects that the application of the weighted selection criteria will result in the following distribution during the first cycle of this program—

V 44 0 C 1979 UMI

V 4 4 0 C 1 9 7 9 UMI

- 50% active solar hot water and space heating applications;
- 30% passive solar hot water and space heating applications;
- 10% active solar space heating and cooling applications; and
- 10% active process heat applications.

Agencies should bear these figures in mind in selecting projects to propose, but should not regard them as inflexible.

Several comments were received which were critical of the provisions for considering estimated simple payback time in evaluating proposed projects. One comment suggested that reliance solely on life cycle costing procedures would avoid unnecessary inconsistency with other building programs. Other comments claimed that estimated simple payback time does not allow for recognition and evaluation of other potential tangible benefits which accrue subsequent to payback. Simple payback is a rough measure of cost effectiveness which the NECPA requires. DOE intends to take the calculation into account in assessing the proposals, but expects to give determinative weight to life cycle costing calculations in making selections of projects for funding.

In the NOPR, DOE discussed the possibility of adding provisions to the final rules regarding cost-sharing with Federal agencies and for attaching additional points in the evaluation criteria as a means of extending program impact. One comment supported cost-sharing, while another comment noted that cost-sharing would only create complications. It was added that cost-sharing with other Federal agencies—unlike cost-sharing with private parties—would not have the advantage of extending Federal funds. Another comment considered cost sharing of questionable merit because it could discriminate against agencies with low budgets or budget problems. Despite these comments, DOE still believes that agency cost-sharing offers tremendous potential for broadening the program impact and has modified § 436.78(c) to include cost-sharing as one of the selection criteria.

One commentor urged that the program be structured to encourage participation by small business, and specifically suggested, without clearly explaining the connection, that the rule be modified to extend the 180-day period for agency submission of proposals to DOE. DOE is sympathetic to the need for special action to ensure participation of small business, but the real opportunities for encouraging that participation belong to the proposing agencies who have the procurement function under this program. A modification of the 180-day period for submitting proposals would probably not significantly advance the interests of small businesses, and in any event is not permissible because Congress established that period by law. However, DOE will advise small businesses who inquire of the names of contact persons in each agency and of developments in the program which may be of interest to them. Furthermore, DOE urges participating agencies to publicize their competitive procurements and take whatever other steps they can to reach solar small businesses and involve them in the program.

DOE requested and received comments on the advisability of rejecting project with costs exceeding the following ceilings: $500,000 for an active solar space heating, cooling, and hot water project; $300,000 for an active solar space heating and hot water project; $200,000 for an active solar hot water project; $100,000 for any passive solar space heating, cooling, or hot water project; and $500,000 for any active or passive solar energy system generating energy for consumption in an industrial-type process. DOE rationalized these proposed ceilings by pointing out that agencies could fund the balance from their own appropriations, and by saying that it was more desirable to maximize the number and diversity of projects without inhibiting proposal of reasonably sized solar energy systems. Although some commentors suggested adjustments to favor one type of system over others, none advanced documented and persuasive arguments for different numbers. Accordingly, with some adjustments based upon historic facility construction cost data, DOE is promulgating the funding ceilings suggested in the preamble to the NOPR.

8. *Section 436.79—Transfer of Funds.* A few comments were received regarding the desirability of provisions dealing with the availability of supplemental funding. One commentor argued that all feasible and/or cost-effective projects experiencing cost overruns should be funded. The criticized provisions were designed to preclude cost overruns and excessive expenditures on any one project. DOE believes that cost overruns must be discouraged, and that relaxation of the rules to provide for such overruns would have the opposite effect.

Several comments criticized proposed § 436.79 for providing for an initial transfer of funding for design costs in the amount of 6–10 percent of construction costs. One commentor argued that tying design costs to percentages of construction costs would result in biased design decisions in favor of expensive equipment, high technology, and high maintenance active solar systems. This commentor also argued that smaller projects costing below $200,000 would be discouraged because they may involve design costs far in excess of the proposed 6–10 percent range. Another commentor expressed the view that the fixing of design fees as a percentage of total system costs might result in escalation of total system costs and suggested soliciting proposals with design fees based on complexity and size of buildings and on simplicity of the solar system.

DOE proposed the 6–10 percent range because it represented an approximation of design costs based upon historic facility construction cost data, and would establish reasonable limits. DOE still believes in the concept of limits, but in order to eliminate possible bias against small projects, the range has been widened to 6–20 percent. To prevent inflated costs, DOE will review each estimate and reduce it if unjustified.

9. *Section 436.80—Reporting Requirements.* Several comments were received regarding the operation and maintenance reporting requirements. One comment argued that recurring reports should be on an annual basis only and should pertain to reliability, availability, maintainability, maintenance requirements, and cost for operating the system. Two comments opposed the reporting requirements and suggested that the requirements should be simplified with the number of reports from each agency held to a minimum. Another comment suggested the inclusion of continuous data on the microclimate surrounding each building as a partial factor governing the heating or cooling data, and the total sun and sky radiation available to the solar collectors at each building. DOE decided not to make any of the suggested changes. In most cases the general operation and maintenance information data required to be collected by the proposed rules is considered to be the minimum information that DOE considers the agencies would generate or collect for their own needs. To require collection of more data not directly related to the maintenance and operation requirements of the solar energy system would lead to excessive and expensive instrumentation which would divert funds better spent on implementing more projects.

III. Forms

In light of revisions of the rules to make technical changes and to respond to comments, DOE has also revised the forms for submitting proposals. Federal agencies may obtain these forms by calling Mr. A. Krupnick at FTS 872–1870.

IV. Effective Date and Initial Application Period.

In the NOPR, DOE indicated that the final rules might be made effective immediately rather than 30 days from publication. DOE has decided not to follow through on this indication because the final life cycle costing rules, which are essential for Solar in Federal Building Demonstration Program, can not be issued simultaneously with today's notice and are scheduled to be published later this summer. The period for submitting applications will begin upon issuance of the final life cycle costing rules. DOE expects to commence evaluation and selection of projects 30 days from the date that the period for submitting applications begins.

(Energy Policy and Conservation Act, (42 U.S.C. 6361 *et seq.* (1970)); E.O. 11912, as amended by E.O. 12003, 42 FR 37523 (July 20, 1977); Title V of the National Energy Conservation Policy Act, (42 U.S.C. 8241 *et seq.*); Department of Energy Organization Act, (42 U.S.C. 7101, *et seq.*))

In consideration of the foregoing Chapter II, Title 10 of the Code of Federal Regulations is hereby amended by establishing Part 436, and Subpart D thereof, as set forth below.

Issued in Washington, D.C., on October 12, 1979.

Omi G. Walden,

Assistant Secretary, Conservation and Solar Energy.

PART 436—FEDERAL ENERGY MANAGEMENT AND PLANNING PROGRAMS

Sec.
436.1 Scope.
436.2 General objectives.

Subparts A–C [Reserved]

436.3–436.69 [Reserved]

Subpart D—Solar in Federal Buildings Demonstration Program

436.70 Purpose and scope.
436.71 Definitions.
436.72 Procedures for submitting a proposal.
436.73 Summary of required content of a proposal.
436.74 Required program information.
436.75 Required general project information.
436.76 Required technical project information.
436.77 Required project cost information.
436.78 Evaluation procedures and criteria.
436.79 Transfer of funds.
436.80 Operation and maintenance reports.

Authority: Energy Policy and Conservation Act, 42 U.S.C. 636.1; Executive Order 11912, as amended, 42 FR 37523 (July 20, 1977); National Energy Conservation Policy Act, Title V, Part 2, 42 U.S.C. 8241.

§ 436.1 Scope.

This part sets forth the rules for Federal energy management and planning programs to reduce Federal energy consumption and to promote cost-effective investments in energy-saving alternative building systems, energy-saving new building designs, and use of solar and other renewable energy sources. These rules are required or authorized under section 381(a)(2) of the Energy Policy and Conservation Act, 42 U.S.C. 6361(a)(2), section 10 of Executive Order 11912 as amended, 42 FR 37523 (July 20, 1977), or Title V of the National Energy Conservation Policy Act, 42 U.S.C. 8241.

§ 436.2 General objectives.

The objectives of Federal energy management and planning programs are—

(a) To promote the design, construction, and operation of buildings to conserve and make more efficient use of fuels and energy;

(b) To shift from use of nonrenewable to renewable energy sources;

(c) To stimulate industries and create new job opportunities for supply and servicing new or improved energy-conserving and energy-supplying systems and equipment;

(d) To promote consideration of the cost of energy consumed over the useful life of a building in addition to initial costs of construction or renovation; and

(e) To place the Federal Government, the largest energy consumer in the United States, in the forefront in implementing energy conservation measures and in promoting use of solar and other renewable energy resources.

§§ 436.3–436.69 Subparts A–C [Reserved]

Subpart D—Solar in Federal Buildings Demonstration Program

§ 436.70 Purpose and scope.

This subpart contains the rules required or authorized to be promulgated under section 523 of Title V, Part 2, of the National Energy Conservation Policy Act, 42 U.S.C. 8241, which provides for a program for Federal agencies to demonstrate the application to Federal buildings of solar heating and solar heating and cooling systems. The rules set forth procedures and requirements for the content and submission of proposals by Federal agencies, for the criteria for evaluation and selection of projects to be funded, and for the periodic reporting of data regarding maintenance and operation of solar energy systems funded under this subpart.

§ 436.71 Definitions.

"Acceptance testing plan" means a test procedure to measure the performance of solar energy system to determine if the system is operating as designed.

"Active solar energy system" means a solar heating or a solar heating and cooling system in which thermal energy from the sun is collected and transferred by pumps or fans that move heat transfer fluids or air throughout the system. (See also "passive solar energy system" in this section)

"Acquisition costs" means project acquisition costs which are fundable by DOE under this subpart, including but not limited to full purchase costs of solar energy equipment to be used exclusively for the solar energy system, and that portion, attributable to the solar energy system, of costs of equipment used as part of that system as well as for other non-solar purposes.

"Building" means any structure with a roof and walls designed for storage or human occupancy which uses energy for hot water, heating, or heating and cooling.

"Building System" means any part of the structure of a building or any energy using system contributing to energy use in a Federal building.

"Btu" means British thermal unit.

"Category" means the characterization of a Federal building in terms of the primary function performed in or by the building, including but not limited to retail, office, health, education, public service, storage, and residential functions.

"Construction costs" means project construction costs which are fundable by DOE under this subpart, including but not limited to that increment of the costs of constructing or modifying a building or site attributable to the installation of the solar energy system.

"Design costs" means project design costs which are fundable by DOE under this subpart, including but not limited to preliminary feasibility design, detailed design, analysis of a solar energy system, and preparation of drawings and specifications.

"Design review" means a meeting or series of meetings held by a Federal agency with the designer of a solar energy system to assess and document the adequacy and accuracy of the mechanical, electrical, and control portions of the solar energy system and to ensure that estimates of acquisition, construction, and installation costs are correct.

"DOE" means the Office of Conservation and Solar Energy of the Department of Energy.

"Energy conservation measure" means energy conservation measure as defined by Subpart C of this part.

"Existing Federal building" means a Federal building for which construction was completed by November 9, 1978, or for which the design cannot be feasibly modified after the effective date of this subpart.

"Federal agency" means an Executive agency as defined in section 105 of Title 5, United States Code; and each entity enumerated in paragraphs (B) through (H) of Subsection (1) of section 5721 of Title 5, United States Code.

"Federal building" means any building or other structure owned by the United States or any Federal agency, including any such structure occupied by a Federal agency under a lease-acquisition agreement under which the United States or a Federal agency will receive fee simple title under the terms of such agreement without further negotiation.

"Innovative and diverse application" means the application to a Federal building of an active or passive solar energy system in combination with a feasible, new or under-utilized energy conservation technology or renewable energy system as defined by Subpart C of this part to reduce consumption of non-renewable energy resources in that building.

"Insolation" means a rate of solar energy received per unit area.

"Installation costs" means project installation costs which are fundable by DOE under this subpart, including but not limited to the emplacement of the solar energy system and conduct of the acceptance testing plan.

"Investment costs" means the initial costs of design, acquisition, construction, and installation.

"Jurisdiction or control" means power or authority to direct, administer, or control the use or operation of a Federal building.

"Memorandum of agreement" means the internal DOE document by which funds are transferred within DOE to install solar heating and solar heating and cooling equipment in a DOE-controlled Federal building.

"New Federal building" means a Federal building for which construction was not completed prior to November 9, 1978, and the design of which can be feasibly modified after the effective date of the rule.

"Non-fundable costs" means project costs which are not fundable by DOE under this subpart, including but not limited to costs of energy conservation investments, cost of a backup system, operation and maintenance costs, administrative and managerial costs, sunk design costs, and proposal costs.

"Optimized collector area" means the collector area for a solar energy system that gives the greatest total (or annualized) net savings where net savings are determined by a life cycle cost comparison of the solar system and an alternative solar energy system.

"Passive solar energy system" means a solar energy system characterized by reliance on natural convection, conduction and radiation, and by heat collection and storage devices that are structurally integrated with the occupied space, such as storage walls, storage roof, greenhouse, atrium or sunspace, thermosyphon hot water system, reflector assemblies, shading devices or reflective surfaces or glazings.

"Process heat application" means the application of solar heating technology in the production of goods, services, or commodities in a Federal building.

"Project" means specific actions to accomplish the design, acquisition, construction and installation of a solar energy system in a Federal building.

"Proposal" means an application by a Federal agency under this subpart requesting funding for one or more projects.

"Replication" means the extent to which a Federal building is representative of a significant number of existing or new buildings in the public or private sector, by category or design.

"Retrofit" means the installation of an alternative building system as defined by Subpart A of this part in an existing Federal building.

"Solar collector" means a device or structure specifically designed for receipt of solar radiation, conversion of the solar radiation to useful heat;

"Solar energy equipment" means building components, materials, or other items of equipment which are the means for active or passive solar hot water heating, heating, or heating and cooling including but not limited to collectors, storage devices, heat exchangers, south-facing glazing, mountings, piping, instrumentation, pumps, valves, gauges and controls.

"Solar energy system" means the assembly or structual integration of solar energy equipment, according to a design, for the purpose of supplying all or part of the hot water, heating, or heating and cooling requirements of a Federal building by the use of solar collectors.

"Solar heating" means, with respect to any Federal building, the use of solar energy to meet all or part of the heating needs of such building (including hot water) or all or part of the needs of such building for hot water.

"Solar heating and cooling" means, with respect to any Federal building, the use of solar energy to provide all or part of the heating needs of such building (including hot water) and all or part of the cooling needs of such building, or all or part of the needs of such building for hot water.

"State" means a State, the District of Columbia, Puerto Rico or any territory or possession of the United States.

§ 436.72 Procedures for submitting a proposal.

(a) Any Federal agency that has or will have jurisdiction or control over a Federal building in a State may submit a proposal under this subpart with respect to such a building. Initial proposals are due on or before 180 days from the date of issuance of subpart A of this part. Subsequent proposals may be submitted only upon notice of invitation by DOE in the **Federal Register.**

(b) An original of each proposal, signed by the head of the submitting Federal agency, or a designated Assistant Secretary or Assistant Administrator, and four copies shall be submitted to the Department of Energy, Office of Conservation and Solar Energy, Attn: Solar in Federal Buildings Program, Washington, D.C. 20585.

§ 436.73 Summary of content of a proposal.

A proposal, with a table of contents and pages numbered consecutively, shall contain the program information required under § 436.74, and for each project—(a) The general project information required under § 436.75;

(b) The technical project information required under § 436.76; and

(c) The project cost information required under § 436.77.

§ 436.74 Required program information.

A proposal shall contain—(a) The address and telephone number of the Assistant Secretary or Assistant Administrator responsible for implementation of a proposal approved under this subpart;

(b) The responsibilities with respect to projects of headquarters, regional, and field offices;

(c) Procedures for monitoring project expenditures;

(d) A plan for quarterly status reports beginning 45 days after transfer of design funds under § 436.79 which—

(1) Identifies individual milestone schedules for each project, including—

(i) Completion of the design, acquisition, construction and installation of each project;

(ii) Design reviews;

(iii) Award of major solar energy system subcontracts;

(iv) Acceptance testing plan; and

(v) Planned publicity, if any;

(2) Describes progress toward completion of each project;

(3) Identifies on a form provided by DOE all costs incurred during the reporting period for each project and any current or projected revisions to estimated investment costs for each project; and

(4) Describes any significant problems or delays in meeting the milestone schedule of any project during the reporting period and actions proposed or implemented to solve the problems, including any necessary revision of the schedule;

(e) An assurance that a final construction status report will be submitted forty-five days after the completion of an acceptance testing plan, which contains the following—

(1) A table of contents;

(2) A description of the completed solar energy system;

(3) Total costs on a DOE form, of the solar energy system, as constructed;

(4) A summary of any significant problems encountered in project completion;

(5) A summary of the acceptance testing plan;

(6) A summary of the results of the acceptance testing plan;

(7) Photographs of the solar energy system;

(8) A set of reproducible design and installation drawings of the solar energy system, as constructed; and

(9) A statement setting forth the extent to which the Federal agency has complied with the criteria and standards set forth in § 436.76(b) (2) and (3);

(f) A statement showing the extent, if any, to which the project represents an innovative and diverse application and identifying its geographic location;

(g) A statement setting forth the location of project records; and

(h) An assurance that complete records maintained for review of project expenditures shall be available for inspection by the DOE at reasonable times.

§ 436.75 Required general project information.

(a) Each proposal submitted under this subpart shall list the Federal buildings in which projects are proposed to be implemented, distinguishing between existing Federal buildings and new Federal buildings;

(b) For each Federal building listed under paragraph (a) of this section, the agency shall provide the following general information—(1) The street address, if known;

(2) The city, county and state;

(3) The name, address and telephone number of the project contact person, located at or adjacent to the building site, who is responsible for a solar energy system proposed for installation under this subpart;

(4) A description of the Federal building in terms of its category;

(5) Photographs taken from the Federal building, or site, looking east, south and west;

(6) Estimated or actual, if available, number of building occupants;

(7) Number of visitors annually, if known;

(8) Type of transportation route from which the Federal building is clearly visible;

(9) Types of planned project publicity;

(10) Size and location of closest city or town;

(11) Planned or implemented energy-saving changes in operation and maintenance procedures and cost effective non-solar energy conservation measures; and

(12) Other relevant location or design factors.

§ 436.76 Required technical project information.

(a) With respect to each active and passive solar energy system proposed for a Federal building listed under § 436.75 and assuming, in the case of an existing Federal building, that energy-saving changes in operation and maintenance procedures and cost effective non-solar energy conservation measures are complete, the following technical information shall be provided—

(1) Either a completed design, ready for construction in an architectural and engineering report or basic building and solar energy system design information on forms provided by DOE, with an attached schematic rendering of the design;

(2) The method of calculation used or to be used in calculating the optimized solar collector area; and

(3) An assurance that the Federal agency will—(i) Perform and record the results of all design reviews prior to construction;

(ii) Maintain a current set of solar energy system design and installation drawings;

(iii) Obtain and implement an operation and maintenance manual suitable for use by maintenance personnel;

(iv) Obtain and implement an acceptance testing plan including data collection requirements to determine that—

(A) Each major component of the solar energy system is installed and operating as designed;

(B) The solar energy system is balanced to conform as closely as practicable to the design performance specifications; and

(C) Solar energy system data is recorded during acceptance testing, along with the date, time and individual(s) performing the test; and

(v) Provide three copies of the information referred to in § 436.76(a)(3) as soon as reasonably possible after it is obtained.

(b) With respect to each active solar energy system proposed for a Federal building, and assuming in the case of an existing Federal building, that energy-saving changes in operation and maintenance procedures and cost effective non-solar energy conservation measures are complete, the following technical information shall be provided—

(1) A statement setting forth whether the proposed solar collector type is flat plate, evacuated tube, concentrator, or other type, as well as any limiting design characteristics;

(2) An assurance that the system will be designed and constructed to comply with the *Interim Performance Criteria for Solar Heating and Cooling Systems in Commercial Buildings* (1187 NBS INT. REP (1976)), or, with the HUD *Intermediate Minimum Property Standards for Solar Heating and Domestic Hot Water Systems*, (in residential buildings) (4930.2, HUD INT. MPS SUPP. (1977)), or an explanation of any reasons for exception from any part of these criteria or standards;

(3) An assurance that solar collectors will be selected taking into account—

(i) Solar collector thermal performance data collected under ASHRAE 93–77; and

(ii) Thirty-day no-flow solar collector degradation test data recorded in accordance with the procedures identified in 1305A (7.2) NBS INT. REP. (1978), or an explanation of any reasons for exception from these procedures; and

(4) An assurance that each proposed project will have—

(i) A one-year warranty from the installer, commencing with the date upon which installation is completed—

(A) Against failure of the solar energy system by a defect in materials, manufacture, or installation;

(B) Covering full costs of parts, labor, and replacement and installation at the site; and

V 4 4 0 C 1 9 7 9 9 UMI

(C) Providing for reasonable inspections on request, at no cost to the Federal agency, to investigation complaints, and take expeditious corrective action; and

(ii) A three-year warranty from the manufacturer, with respect to solar collectors, commencing with the date upon which installation is completed—

(A) Against defects in materials or manufacture and covering at least the costs of all parts delivered to the site; and

(B) Providing for reasonable inspections on request, at no cost to the Federal agency, to investigate complaints, and take expeditious corrective action.

§ 436.77 Required project cost information.

For each Federal building listed under § 436.75, and assuming, in the case of an existing Federal building, that energy-saving changes in operation and maintenance procedures and cost effective non-solar energy conservation measures are complete, the following cost information shall be provided on DOE forms or in architectural and engineering report.

(a) Estimated simple payback time, based on a comparison of the estimated costs of a proposed solar energy system with the estimated costs of a conventional non-solar energy system to determine the number of years required for the cumulative value of net differences in future energy cost savings to equal investment costs without regard to discount rates or future fuel price increases;

(b) Net savings, calculated in accordance with Subpart A of this part, based on a comparison of the estimated costs of a proposed solar energy system with the estimated costs of a conventional non-solar energy system;

(c) Total estimated costs to DOE, as designed; and

(d) Total costs of the solar energy system.

§ 436.78 Evaluation procedures and criteria.

(a) Each project proposal shall be reviewed preliminarily to determine whether it meets the requirements of § 436.72 and §§ 436.74 through 436.77, inclusive. If a proposal does not meet these requirements, the proposal may be returned with a written statement of deficiencies. If deemed appropriate, additional time to cure deficiencies may be allowed.

(b) Any project for which there is complete information under §§ 436.75–436.77 shall be rejected with a written statement of deficiencies if—(1) Adequate energy-saving changes in operation and maintenance procedures and cost effective non-solar energy conservation measures are neither implemented nor scheduled and budgeted;

(2) The design is infeasible;

(3) The cost estimates are unrealistic; or

(4) The project costs to be funded under this subpart exceed the following funding ceilings—

(i) $550,000 for an active solar space heating, cooling and hot water application;

(ii) $350,000 for an active solar space heating and hot water application;

(iii) $240,000 for an active solar hot water application;

(iv) $120,000 for any passive solar space heating, cooling, or hot water application and

(v) $1,000,000 for any solar process heat application; or

(5) The explanations of exceptions proposed under § 436.76(b)(2) and (b)(3) are deemed by DOE to be unreasonable.

(c) Selection among projects, which are not rejected under paragraphs (a) and (b) of this section, shall be based on the following criteria in accordance with the weight assigned to each—

(1) 20 points for cost effectiveness in comparison to other proposed similar projects and excess cost, if any, in comparison to the conventional non-solar energy system which minimizes the estimated life cycle cost of the Federal building;

(2) 20 points for the extent of cost sharing offered by the Federal agency;

(3) 15 points for the extent of replication;

(4) 15 points for the proximity to areas which have potential for development as a private sector market for solar energy equipment;

(5) 15 points for the extent to which the proposed project takes account of feasible opportunities to include passive solar applications;

(6) 5 points for the extent of visibility and accessibility to the public;

(7) 5 points for the extent to which the proposed project represents an innovative and diverse application; and

(8) 5 points for the geographical location in regard to other proposed projects.

(d) Each evaluation under paragraphs (b) and (c) of this section shall be in writing and shall be made available to the proposing Federal agency, or the public upon request.

§ 436.79 Transfer of funds.

(a) When a project is selected under § 436.78, the Federal agency shall be notified in writing of such selection, and funds shall be transferred, pursuant to interagency agreement or a memorandum of agreement, solely for design costs in the amount of approximately 6 to 20 percent of the total estimated solar energy system costs as determined by DOE.

(b) Upon substantial completion of a design review acceptable to DOE, total estimated costs for acquisition, construction, and installation shall be transferred pursuant to interagency agreement or memorandum of agreement.

(c) Prior to transfer of funds under paragraph (b) of this section, projects which are determined to be substantially inconsistent with the data contained in the initial proposal or are determined to be otherwise infeasible are subject ot cancellation by DOE.

(d) Except as provided in paragraphs (e) and (f) of this section, DOE shall not provide any funds for a project in excess of the funds transferred under paragraphs (a) and (b) of this section.

(e) Subsequent to bid opening by a Federal agency, and prior to contract award, DOE may in its discretion commit to transfer or transfer supplemental funds upon notification by the Federal agency that the lowest acceptable bid received by the time of bid opening exceeds the amount of funds transferred under paragraph (b) of this section. In no event shall DOE transfer supplemental funds under this subsection in excess of 25% of the funds transferred under paragraph (b). A complete record of the bid opening shall be maintained by the Federal agency, and made available for review by DOE upon request, prior to the transfer of supplemental funds under this paragraph. If the supplemental funds necessary to award a contract are not provided by the DOE, the Federal agency shall either fund the excess from its budget, or reformulate the design of the project in a manner acceptable to DOE, or cancel the project and transfer back to DOE the funds transferred under paragraph (b) of this section, as well as any unexpended funds transferred under paragraph (a) of this section. Any interagency agreement or memorandum of agreement transferring funds under these rules shall specifically provide for compliance with this subsection.

(f) Subsequent to the award of a construction contract, DOE may in its discretion transfer additional supplemental funds if it has received a timely written application for such funds signed by an assistant secretary, assistant administrator, or other senior policymaking official of the Federal agency and a written report of an audit acceptable to DOE showing that there is a need for additional funding which was caused by extraordinary circumstances beyond the control of the Federal agency and which could not reasonably have been foreseen.

§ 436.80 Operation and maintenance reports.

Commencing within 60 days of completion of the acceptance testing plan, and continuing on a quarterly basis for the first year of operation and on an annual basis thereafter for a total of three operating years, the Federal agency shall submit on a project by project basis, the following information—

(a) Data recorded on a monthly basis from installed instrumentation for—

(1) The total amount of solar generated Btu's transferred into storage, where applicable;

(2) The total amounts of solar generated Btu's consumed in each building for hot water, heating, or cooling, respectively; and

(3) The estimated, or actual, if available, energy savings by fuel type and costs savings for hot water, heating, or heating and cooling; and

(b) Solar energy system data and information for—

(1) All operating and maintenance actions performed which have a potential significant impact on the cost, performance, or safety of the solar energy system or components, or are indicative of operating or maintenance problems which might affect the performance and operation of other solar energy systems. Information submitted must include—

(i) A complete description of the action performed;

(ii) The solar energy equipment and component involved;

(iii) The resulting cost; and

(iv) The corrective action taken; and

(2) Monthly cost estimates of all normal and significant operating and maintenance actions required to keep the solar energy system in operating condition. Specific routine actions need only be reported based on a monthly accumulation of their actual or estimated costs.

[FR Doc. 79-32235 Filed 10-18-79; 8:45 am]
BILLING CODE 6450-01-M

V 44 0 C 19 7 9 UMI

V 44 OC 19 79

federal register

Friday
October 19, 1979

Part VIII

Council on Wage and Price Stability

Data Requests

COUNCIL ON WAGE AND PRICE STABILITY

6 CFR Part 707

Data Requests

AGENCY: Council on Wage and Price Stability.

ACTION: Interim Final Rule on Data Requests, with comments requested.

SUMMARY: The Council is combining all present data requests and specifications, previously included in other parts of this Chapter, into a new Part 707, titled Data Requests. Part 707 relates and refers to Part 705, "Anti-Inflationary Pay and Price Standards," and Part 706, "Procedural Rules," which have recently been published in the Federal Register as interim final standards and rules, with comments requested (44 FR 56900–16). The period for public comment on Parts 705 and 706 does not close until October 17, 1979. Any changes in Parts 705 and 706 as a result of the public comments will result in corresponding changes in this Part.

DATES: The effective date of the Part 707 is October 19, 1979. Comments on this interim final rule on data requests must be received on or before November 12, 1979.

ADDRESS: Written comments should be addressed to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street NW., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: For further information on—Pay, contact: Diane J. Mazur, 456–7100, Price (Subparts A, B, and C), contact:

Industries, Contact Person, and Telephone Number

Metals, Machinery & Equipment, Eugene Roberts, 456–7784.
Food, Agriculture & Trade, Steve Hiemstra, 456–7740.
Energy, Chemicals, Utilities, & Transportation, John Keith, 456–7747.
Construction & Building Materials, Joseph Lackey, 456–7156.
Health Insurance & Other Services, Arthur Corazzini, 456–7730.
Price (Subpart D), contact: Walter Leibowitz or David Wagner, 456–7733.

SUPPLEMENTARY INFORMATION: During the first year of the antiinflation program, data specifications and requests appeared throughout Parts 705 and 706, as well as in published Questions and Answers, and in the Council's Implementation Guide (44 FR 5339 (January 25, 1979)). When the Council published interim final standards and rules for the second program year, the descriptions of data requests were removed. The Council concluded that collecting all such materials in one part would assist the public by clarifying the types of data needed by the Council for its monitoring efforts. Part 707, then, supersedes the data requests and data specifications previously found in Parts 705 and 706 (as well as the Council's practices during the first year) and fills the potential void created by promulgating Parts 705 and 706 as interim final standards and rules.

Subpart A of Part 707, titled "Report of Company Organization and Statement of Assurance," relates to the reports by entities in the private and public sectors of company organization for purposes of compliance with the pay and price standards. Subpart B, titled "Periodic Data Reports," concerns data requested from compliance units, including government entities, for evaluating their compliance with the standards. Subpart C, titled "Data Submissions Supporting Variances from Intermediate and Margin Limitations," specifies the data necessary to justify excesses above the intermediate limits for increases in prices, profit margins, percentage gross margins, and gross margins. Subpart D, titled "Data Submissions Supporting Exception Requests," concerns the submission of data to support specific exception requests.

There are references in Part 707 to various data-collections forms. These forms have been developed by the Council in response to public requests and Council needs for simplicity and conformity of data submissions. Forms PM–1 and PAY–1 have previously been approved by the Office of Management and Budget and are therefore not included in this document, even though the Council has or shortly will request approval for minor revisions of these forms. Two forms not previously approved—Form CO–1 (PAY) and Form CO–1 (Price) for reporting company reorganization—essentially reflect the data requests contained last year in Part 706. Another new form—PAY–2 for compliance reports by State and local governments—is a scaled-down version of Form PAY–1 that is designed for the public sector. All of these forms are attached to this document and included within the Council's request for public comments. These forms will be submitted shortly to the Office of Management and Budget for approval.

The Council is soliciting public comments not only on the language of proposed Part 707 and the attached forms, but also on the general subject of data requests by the Council.

Issued in Washington, D.C., October 15, 1979.

R. Robert Russell,

Director, Council on Wage and Price Stability.

Accordingly, Part 707, Title 6 CFR, is adopted on an interim basis to read as follows:

PART 707—DATA REQUESTS

Subpart A—Report on Company Organization and Statement of Assurance

Sec.
707.1 Company Organization.
707.2 Statement of Assurance of Compliance by State and Local Governments.

Subpart B—Periodic Data Reports

707.10 Pay and Price Data Reports.

Subpart C—Data Submissions Supporting Variances From Intermediate Price and Margin Limitations

707.20 Intermediate Price Limitations.
707.21 Intermediate Profit Limitations.
707.22 Intermediate Percentage-Gross-Margin Limitations.
707.23 Intermediate Gross-Margin Limitations.

Subpart D—Data Submissions Supporting Exception Requests

707.30 General.
707.31 Tandem Pay-Rate Exceptions.
707.32 Productivity-Improving Work-Rule-Change Exceptions.
707.33 Acute-Labor-Shortage Exceptions.
707.34 Undue-Hardship and Gross-Inequity Exceptions.
707.35 Inability-To-Compute Exceptions.
707.36 Uncontrollable-Cost Exceptions.
707.37 Uncontrollable-Cost Exceptions to a Percentage-Gross-Margin Standard.
707.38 Uncontrollable-Cost Exceptions to a Gross-Margin Standard.

Authority: Council on Wage and Price Stability Act, P.L. 93–387 (August 14, 1974), as amended by P.L. 9478 (August 9, 1975), P.L. 95–121 (October 5, 1977), and P.L. 96–10 (May 10, 1979), 12 U.S.C. 1904 note; E.O. 12092 (November 3, 1978), E.O. 12161 (September 28, 1979).

Subpart A—Report of Company Organization and Statement of Assurance

§ 707.1 Company organization.

Companies specified in § 706.21 should furnish to the Council:

(a) A completed Form CO–1 (Price); and/or

(b) A completed Form CO–1 (Pay) for each pay compliance unit, unless the compliance unit is part of a State or local government and elects to file under § 707.02.

§ 707.2 Statement of assurance of compliance by State and local governments.

A State or local government as specified in § 706.23 that does not file under § 707.01(b) should furnish to the Council a statement of assurance from the head of the government entity that the entity intends to comply with the pay standard.

Subpart B—Periodic Data Reports

§ 707.10 Pay and price data reports.

Compliance units specified in § 706.22 should furnish to the Council:

(a) A completed Form PM–1, unless the compliance unit is a provider of medical or dental insurance subject to § 705.48 or a utility subject to § 705.45; and/or

(b) A completed Form PAY–1, unless the compliance unit is part of a State or local government, or

(c) A completed Form PAY–2 if the compliance unit is a State or local government as specified in § 706.23.

Subpart C—Data Submissions Supporting Variances From Intermediate Price and Margin Limitations

§ 707.20 Intermediate price limitations.

A compliance unit that exceeds any of the intermediate price limitations in § 705.3(a) through (c) should prepare and/or furnish to the Council with its Form PM–1 (a) A demonstration that the increase in prices exceeding the intermediate limit(s) is justified because of:

(1) Seasonal variations in economic activity (including an empirical demonstration of the quarterly pattern of price changes over the five years before the first program year),

(2) Historical business practice, or

(3) Unusual business conditions; and

(b) Projected price changes for the second program year, demonstrating that increases in prices exceeding the intermediate limit(s) are consistent with adherence to the two-year price limitation by the end of the program year.

§ 707.21 Intermediate profit limitations.

A compliance unit that exceeds any of the intermediate limits for the profit limitation in § 705.6(a)(1) should prepare and/or furnish to the Council with its Form PM–1 a demonstration that a profit margin in excess of the profit limitation is consistent with an explicit plan, based on reasonable projections of economic conditions, to achieve compliance with the profit limitation by the end of the second program year.

§ 707.22 Intermediate percentage-gross-margin limitations

A compliance unit in the wholesale/retail trade industries that exceeds any of the intermediate percentage-gross-margin limitations in § 705.42(d) should prepare and/or furnish to the Council with its Form PM–1:

(a) A demonstration that any increase in percentage gross margins in excess of the intermediate limit(s) is justified because of:

(1) Seasonal variations in economic activity (including an empirical demonstration of the quarterly pattern of change in gross margins over the five years before the first program year),

(2) Historical business practices, or

(3) Unusual business conditions; and

(b) Projected percentage-gross margins demonstrating that pricing actions are consistent with adherence to the percentage gross-margin standard by the end of the second program year.

§ 707.23 Intermediate gross-margin limitations.

A compliance unit subject to the gross-margin standard that exceeds any of the intermediate gross-margin limitations in § 705.43(d) or § 705.44(d) should prepare and/or furnish to the Council with its Form PM–1.

(a) A demonstration that any increase in gross margins in excess of the intermediate limit(s) is justified because of:

(1) Seasonal variations in economic activity (including an empirical demonstration of the quarterly pattern of change in gross margins over the five years before the first program year),

(2) Historical business practices, or

(3) Unusual business conditions; and

(b) Projected gross margins demonstrating that pricing actions are consistent with adherence to the gross-margin standard by the end of the second program year.

Subpart D—Data Submissions Supporting Exception Requests

§ 707.30 General.

Each request for approval of exception should include: (a) The name and address of the compliance unit making the request, including the name(s), title(s), and phone number(s) of person(s) whom the Council may contact concerning the request, and the name and address of the company of which the unit is a part, if different from that of the compliance unit;

(b) The name(s), address(es), and phone number(s) of union representatives, if the request involves a collective-bargaining situation, or the name(s), address(es), and phone number(s) of relevant company officials if the request is made by an employee unit;

(c) A demonstration that the compliance unit or employee unit requesting the exception satisfies the criteria of § 706.31(a) or, if the request is submitted under § 706.31(b), a demonstration that there is good cause for the Council to entertain the request; and

(d) The particular provisions of the standards that are the subject of the request, a precise description of the exception request, and the pay and/or price action that the entity making the request proposes to take if the exception is granted.

§ 707.31 Tandem pay-rate exceptions.

For an exception to the pay standard based on tandem pay-rate changes (705B–9), a compliance unit should submit:

(a) Documentation of a clear leader/follower relationship between the two employee units;

(b) Documentation of the value and timing of past pay-rate increases of the two employee units over the prior six years; and

(c) An estimate of the effect that the exception would have on the compliance unit's pay rates.

§ 707.32 Productivity-improving work-rule-change exceptions.

For an exception to the pay standard based on pay-rate increases traded for productivity-improving work-rule changes (705B–10), a compliance unit should submit:

(a) An explanation of the work-rule change(s);

(b) An analysis of how the cost reduction will be generated by the work-rule change(s);

(c) An estimate of the effect that the exception would have on the compliance unit's pay rates; and

(d) Documentation that the cost reduction generated by the work-rule change(s) will be equal to or greater than the excess of the pay increase over the pay standard.

§ 707.33 Acute-labor-shortage exceptions.

For an exception to the pay standard based on pay-rate changes needed because of acute labor shortages (705B–11), a compliance unit should submit:

(a) Documentation that, for the particular job categories, the proportion of vacancies relative to the work force and the time or effort required to fill them have increased abnormally during the preceding quarter relative to the two prior years;

(b) Documentation that pay rates for employees in those job categories have

V 44 0 C 1 9 7 9 UMI

increased abnormally over the two prior years and that the requested pay rates for the shortage categories are comparable to pay rates in the relevant labor market;

(c) A statement that the applicant has sought the assistance of the local Employment Service Agency to obtain employees;

(d) Documentation of the proportion of the compliance unit's work force that would be affected; and

(e) An estimate of the effect that the exception would have on the compliance unit's pay rates.

§ 707.34 Undue-hardship and gross-inequity exceptions.

For an exception to the pay or price standard based on undue hardship or gross inequity (§ 705.6(b) or § 705B–12), a compliance unit should submit:

(a) A precise description of the hardship or inequity that would be created by application of the standard (including, with respect to hardship, a demonstration of the effect on the *company's*—as distinquished from the compliance unit's—financial viability);

(b) An explanation of how the requested exception would mitigate the hardship or inequity resulting from application of the standard; and

(c) If the request is for an exception to the pay standard, an estimate of the effect that the exception would have on the compliance unit's pay rates.

§ 707.35 Inability-to-compute exceptions.

For an exception to the price standard based on inability to compute a two-year change (§ 705.6(a)), a compliance unit should demonstrate that sampling is infeasible due to inadequate data or that sampling is unduly onerous or costly.

§ 707.36 Uncontrollable-cost exceptions.

For an exception to the price standard based on uncontrollable cost increases (§ 706.6(a)), a compliance unit should:

(a) Demonstrate that the two-year rate of increase in costs per unit of output since the base quarter exceeded the two-year price limitation and are expected to continue to do so by an amount that would result in a significant erosion of the profit margin of the compliance unit if it were held to the two-year price limitation;

(b) Demonstrate that the cost increases are substantially uncontrollable (this requires, at a minimum, quantification of the shares of total cost increases accounted for by each significant cost increase that is wholly and demonstrably uncontrollable); and

(c) Account for the degree to which such increases are offset by normal gains in the efficiency of using inputs (productivity).

§ 707.37 Uncontrollable-cost exceptions to a percentage-gross-margin standard.

For an exception to the percentage-gross-margin standard (§ 705.42) based on uncontrollable cost increases, a compliance unit should demonstrate that total costs excluding those subtracted from revenues when calculating gross margin, as defined in § 705.42(b)(1), and excluding those items included in the definition of profit, as defined in § 705.77(a), divided by revenues have risen since the base quarter at an annual rate in excess of the percentage-gross-margin trend or zero, whichever is greater, and are expected to continue to do so by an amount that would result in a signficant erosion of the profit margin of the compliance unit if it were held to the gross-margin standard. The compliance unit should also satisfy § 707.36 (b) and (c).

§ 707.38 Uncontrollable-cost exceptions to a gross-margin standard.

For an exception to a gross-margin standard (§ 705.43, § 705.44, or § 705.45) based on uncontrollable cost increases, a compliance unit should demonstrate that total costs excluding those subtracted from revenues when calculating gross margins, as defined in § 705.43(b)(1), §705.44(3), or § 705.45(b), and excluding those items included in the definition of profit, as defined in § 705.77(a), have risen since the base quarter at an annual rate in excess of the sum of 6.5 percent and the annual rate of growth of physical volume and are expected to continue to do so by an amount that would result in a significant erosion of the profit margin of the compliance unit if it were held to the gross-margin standard. The compliance unit should also satisfy § 707.36 (b) and (c).

Form CO–1 (Instructions)
(10–10–79)

PROPOSED

Executive Office of the President, Council on Wage and Price Stability

Instructions for Preparation of Report of Company Organization

Form CO–1 (Price)

A. *Purpose of Form CO–1 (Price).* The Council on Wage and Price Stability has developed a form for reporting on company organization, Form CO–1 (Price), to help the Council monitor compliance with the voluntary price standard. During the first program year, companies were asked to report to the Council on their organization for compliance with the standards, but no form was provided. Most companies submitted lengthy reports. It is expected that Form CO–1 (Price) will greatly reduce the reporting burden on companies. In general, the Council wishes to obtain these data needed to monitor compliance with the voluntary standards while placing a minimum burden on companies.

B. *Authority for Form CO–1 (Price).* The Council on Wage and Price Stability Act, 12 U.S.C., Section 1904, note, authorized the Council to collect data on wages, costs, productivity, prices, sales, profits, imports, and exports by product line or by such other categories as the Council may prescribe.

C. *Publication of the Revised Standards.* The revised price standard was published in the **Federal Register** at 44 FR 56904 to 56910 on October 2, 1979. *Please note:* all of the terms used on Form CO–1 (Price) as well as the referenced Sections are as defined or set forth in the revised standard.

D. *Confidentiality of Information.* All information furnished the council on Form CO–1 (Price) will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act 12 U.S.C. Section 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 2, 1979).

E. *Who Should File*

(1) Any company or compliance unit specifically requested by the Council to do so.

(2) Any other company, as defined in 705.63, with at least $250 million in net sales or revenues (from domestic operations only) in its last complete fiscal year before October 2, 1979, unless the entire company is a financial institution subject to 705.50 or an insurance company subject to 705.48 or 705.49.

F. *Choice of Organization for Compliance.* A company may be divided into two or more compliance units if the conditions in 705.64 are satisfied. Companies need not adopt the same organizational structure as in the first program year. Also, the organizational structure adopted for compliance with the price standard need not be the same structure as that adopted for compliance with the pay standard.

BILLING CODE 3510-22-M

PROPOSED

FORM CO-1
(10-9-79)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF COMPANY ORGANIZATION
FOR THE SECOND PROGRAM YEAR

PARENT COMPANY REPORT

NOTICE – All information furnished to the Council on Form CO-1 will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702 FR 59166 (October 12, 1979)

PLEASE READ THE ENCLOSED INSTRUCTIONS BEFORE COMPLETING THIS REPORT

Send this form with relevant attachments to:
Office of Price Monitoring
Council on Wage and Price Stability
Winder Building
600 17th Street, NW.
Washington, D.C. 20506

NOTE: Please indicate "Submission of Form CO-1 (Price)" in the lower left hand corner of the envelope.

What were the total consolidated net sales or revenues of this company in its last complete fiscal year prior to October 2, 1979?

Bil.	Mil.	Thou.

Certification

a. Name of Chief Executive Officer or authorized designee	Title
b. Name of Company	Telephone (Area code, No., Ext.)
c. Name of person to contact regarding this report	Telephone (Area code, No., Ext.)
d. Address (If different from mailing label)	

To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702 , 44 FR 59166 (October 12, 1979).

e. Signature	Date

PROPOSED

LIST OF COMPLIANCE UNITS

(a) Name of Compliance Unit	(b) Principal Line of Business	(c) SIC No. 1/	(d) Same Compliance Unit as First Program Year?	(e) Standard Followed (Circle Choices) 2/	(f) CWPS Use Only
1.			Yes No	A B C D F I M P U	
2.			Yes No	A B C D F I M P U	
3.			Yes No	A B C D F I M P U	
4.			Yes No	A B C D F I M P U	
5.			Yes No	A B C D F I M P U	
6.			Yes No	A B C D F I M P U	
7.			Yes No	A B C D F I M P U	
8.			Yes No	A B C D F I M P U	
9.			Yes No	A B C D F I M P U	
10.			Yes No	A B C D F I M P U	
Total Company					

1/ Four-digit 1972 Standard Industrial Classification Code
2/ Code for Standards Followed:

A - Price Limitation
B - Percentage-Gross-Margin Standard for Wholesale and Retail Trade
C - Gross-Margin Standard for Food Manufacturing and Processing
D - Gross-Margin Standard for Petroleum-Refinery Operations
F - Standard for Financial Institutions
I - Price Standard for Insurance Providers
M - Price Standard for Medical and Dental Insurance Providers
P - Profit Limitation
U - Gross-Margin Standard for Electric, Gas and Water Utilities

PROPOSED

Attach continuation sheets if necessary

SALES OR REVENUES FOR THE FIRST PROGRAM YEAR

Compliance Unit No.	(g) Total Sales or Revenues			(h) Non-Arms Length Transactions 705.4 (a) (8)			(i) New or Discontinued Products 705.4 (a) (9)			(j) Custom Products 705.4 (a) (10)			(k) Deliveries at Present Prices 705.4 (b)			(l) Covered Sales or Revenues 3/ (after exclusions)		
	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.	Bil.	Mil.	Thou.
1.																		
2.																		
3.																		
4.																		
5.																		
6.																		
7.																		
8.																		
9.																		
10.																		

3/ Show covered sales after all exclusions under 705.4

BILLING CODE 3510-22-C

V44 OC 1979 UMI

Form CO–1 (Instructions)
(10–10–79)
PROPOSED

Executive Office of the President, Council on Wage and Price Stability

Instructions for Preparation of Report of Company Organization

Form CO–1 (Pay)

A. *Purpose of Form CO–1 (Pay).* The Council on Wage and Price Stability has developed a form for reporting on company organization, Form CO–1 (Pay), to help the Council monitor compliance with the voluntary pay standard. Companies with 5,000 or more employees are requested to report their organization for compliance with the pay standard for the second program year. The Council wishes to obtain that information needed to monitor compliance with the voluntary standards while placing a minimum burden on companies. It is expected that Form CO–1 (Pay) will help achieve these objectives.

B. *Authority for Form CO–1 (Pay).* The Council on Wage and Price Stability Act, 12 U.S.C., Section 1904, note, authorized the Council to collect data on wages, costs, productivity, prices, sales, profits, imports, and exports by product line or by such other categories as the Council may prescribe.

C. *Publication of the Pay Standard.* The first-year pay standard, published in the **Federal Register** at 44 FR 60772 (December 28, 1978); 44 FR 9582 (February 13, 1979); and 44 FR 17910 (March 23, 1979) remain in effect during the second program year until the Council acts on the recommendations of the Pay Advisory Committee. All of the terms used on Form CO–1 (Pay) as well as the referenced sections are as defined or set forth in the standard.

D. *Confidentiality of Information.* All information furnished to the Council on Form CO–1 (Pay) will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act 12 U.S.C. Section 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

E. *Who Should File.*

(1) Any company or compliance unit specifically requested by the Council to do so.

(2) Any other company, as defined in 705.63, with 5,000 or more employees during any calendar quarter of its last complete fiscal year before October 2, 1979.

F. *Choice of Organization for Compliance.* A company may be divided into two or more compliance units if the conditions in 705.64 are satisfied. Companies need not adopt the same organizational structure as in the first program year. Also, the organizational structure adopted for compliance with the pay standard need not be the same as that adopted for compliance with the price standard.

BILLING CODE 3510-22-M

PROPOSED

FORM CO-1
(10-10-79)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITY

REPORT OF COMPANY ORGANIZATION
FOR THE SECOND PROGRAM YEAR

PARENT COMPANY REPORT

NOTICE – All information furnished to the Council on Form CO-1 will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702 FR 59166 (October 12, 1979)

PLEASE READ THE ENCLOSED INSTRUCTIONS BEFORE COMPLETING THIS REPORT

Send this form with relevant attachments to:
Office of Pay Monitoring
Council on Wage and Price Stability
Winder Building
600 17th Street, NW.
Washington, D.C. 20506 (PAY)

NOTE: Please indicate "Submission of Form CO-1" in the lower left hand corner of the envelope.

Certification

a. Name of Chief Executive Officer or authorized designee	Title
b. Name of Company	Telephone (Area code, No., Ext.)
c. Name of person to contact regarding this report	Telephone (Area code, No., Ext.)
d. Address (If different from mailing label)	

To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702 , 44 FR 59166 (October 12, 1979).

e. Signature	Date

V 44 0C 1979 UMI

PROPOSED

LIST OF COMPLIANCE UNITS

(a) Name of Compliance Unit	(b) Principal Line of Business	(c) SIC No. 1/	(d) Beginning Date of Second Program Year	(e) Employees 2/	(f) CWPS Use Only
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

1/ Four-digit 1972 Standard Industrial Classification Code

2/ Show the number of employees at the beginning date of the second program year

BILLING CODE 3510-22-C

Form Pay-2 (Instructions)
(10/15/79)
Proposed

Executive Office of the President, Council on Wage and Price Stability

Instructions for the Preparation of Form Pay-2, Report on Compliance With the Pay Standard for State, County and City Governments

I. *General Instructions*

A. *Purpose of Form Pay-2.* Form Pay-2 is used by the Council on Wage and Price Stability as a means for collecting data from State and local governments. The information requested will allow the Council to meet two objectives. First, the data will be used to determine the extent to which governments have complied with the voluntary standard on pay-rate increases. Second, governments are asked to report actual pay-rate increases, as well as those chargeable under the Pay Standard, to enable the Council to determine the effect of the "exclusions" on total pay rates and measure the inflationary impact of actual labor costs. The submission of data on Form Pay-2 is voluntary. However, the Council views the access to timely, uniformly defined data as essential to the effective monitoring of compliance with the standard.

B. *Authority for Form Pay-2.* The Council on Wage and Price Stability Act, 12 U.S.C., Section 1904, note, authorizes the Council to collect data on wages, costs, productivity, prices, sales, profits, imports, and exports by product line or by such other categories as the Council may prescribe.

C. *Confidentiality of Information.* All information furnished to the Council on Form Pay-2 will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C., 1904, note, and 6 CFR Part 702, 44 FR 59166 (October 12, 1979).

D. *Who Should File.* All states, counties, and cities with 5,000 or more employees and any other governments designated by the Council are requested to file.

E. *What to File.* Each reporting government is requested to submit a separate Pay-2 (one copy) for its individual employee units as defined in Section 705B–2 of the Pay Standard. However, regarding collective-bargaining units, governments are requested to file reports only for collective-bargaining contracts negotiated during the program year (and not considered exempt as specified in Section 705B–3(e) of the Pay Standard). Governments should report base-period pay rates (column a) and projected pay rates for the end of the program year (column b).

F. *Where to File.* Form Pay-2 should be sent to: Office of Pay Monitoring, Council on Wage and Price Stability, Winder Building, 600 17th Street, N.W., Washington, D.C. 20506.

II. *Specific Instructions*

A. *Publication of Pay Standard and Definitions of Terms.* All of the terms used on Form Pay-2 as well as the referenced sections are as defined or set forth in the standard. The first year pay standard was published in the **Federal Register** at 44 FR 60772 (December 28, 1978); 44 FR 9582 (February 13, 1979); and 44 FR 17910 (March 23, 1979). The standard is further explained in the "Pay and Price Standards—Implementation Guide" at 44 FR 5339 (January 25, 1979) and by the questions and answers appearing with these publications. Additional questions and answers appear at 44 FR 32338 (June 25, 1979). Special Procedural Rules for complying with the standard appear at 44 FR 1346 (January 4, 1979); 44 FR 5337 (January 25, 1979); 44 FR 9585 (February 13, 1979); 44 FR 17916 (March 23, 1979); and 44 FR 23777 (April 20, 1979).

B. *Note on Calculations of Pay Rates.* For compliance with the standard, pay excludes all wages and benefits to workers earning straight-time wages of four dollars per hour or less as of October 1, 1978, as well as wages and benefits for workers hired during the program year at a straight-time wage of four dollars per hour or less. Also, pay excludes deferred compensation paid in the base period but earned in an earlier period. Pay includes deferred compensation earned in the program period but not paid in the program period.

All pay rates should be calculated as pay per straight-time hour worked. When paid leave hours are incurred irregularly, these hours should be calculated according to the leave practices in effect at the end of the base quarter and at the end of the program year as though they were incurred evenly over time. Governments may use a straight-time hours-paid-for basis (e.g., for salaried workers) where paid leave is included in straight-time wage and salary pay and only changes to paid leave practices are reported as a benefit. Increases/decreases in paid leave hours during the program period affect the straight-time hours and correspondingly will increase/decrease the cost of all benefits. The Council does not expect governments to make inordinate calculations to complete this form; a good faith estimate should be made when data are not available.

C. *Instructions on Some Specific Items on Form Pay-2.*

Item 3—The compliance unit may use either the base quarter (program quarter) or the last pay period within the respective quarter.

Part II—*Pay-Rate Data*

Item A—Straight-time wages should include cost-of-living adjustments (COLAs), longevity/merit increments, and qualification increments. Check the appropriate box indicating the items included in this category. For multi-year agreements, enter the pay rate at the end of the old contract in *column a* and the pay rate at the end of the new contract in *column b.* The projected pay rate to be in effect at the end of each year of the multi-year agreement should be reported in Section G.

Item B—Benefits include, where applicable, employer contributions or costs for the items listed in Section B, (See also 705D definition of "Pay").

Item D—The pay standard provides exceptions, exclusions, and special treatment of some pay. Use this item to enter the amounts of pay which may be subtracted from the actual pay rate to give the chargeable pay rate under the pay standard. All amounts should be calculated as pay divided by straight-time hours.

Item D4—For an unaltered pay-related pension plan, governments may exclude the entire pension costs from both the base period and the program period.

Item D5—Enter on this line the amounts of pay exceptions whether granted by the Council or self-administered. Exceptions are made for tandem pay-rate changes (TA), pay-rate increases traded for productivity-improving work-rule changes in union agreements (WR), pay-rate increases attributable to acute labor shortages (LS), and undue hardship or gross inequity cases (WH). Check each type of exception next to the appropriate exception code.

BILLING CODE 3510-22-M

PROPOSED

Form Pay-2
(10/15/79)

EXECUTIVE OFFICE OF THE PRESIDENT
COUNCIL ON WAGE AND PRICE STABILITY

REPORT ON COMPLIANCE WITH THE PAY STANDARD FOR STATE, COUNTY AND CITY GOVERNMENTS

NOTICE - All information furnished to the Council on Form Pay-2 will be treated as confidential in accordance with Section 4(f) of the Council on Wage and Price Stability Act, 12 U.S.C. 1904, note, and 6 CFR Part 702 (44 FR 59166 October 12, 1979)

PLEASE READ THE ENCLOSED INSTRUCTIONS BEFORE COMPLETING THIS REPORT

Send this form with relevant attachments to:
Office of Pay Monitoring
Council on Wage and Price Stability
Winder Building
600 17th Street, NW.
Washington, D.C. 20506

NOTE: Please indicate "Submission of Form Pay-2" in lower left hand corner of the envelope.

1. Certification

Head of government or authorized designee	Title
b. Name of government	Telephone (Area code, No., Ext.)
c. Name of person to contact regarding this report	Telephone (Area code, No., Ext.)
d. Address (if different from mailing label)	

To the best of my knowledge and belief, the data submitted herewith are factually correct, complete, and prepared in accordance with instructions. It is requested that the information submitted herewith be considered as confidential within the meaning of Section 4(f) of the Council on Wage and Stability Act, 12 U.S.C. 1904, Note, and 6 CFR Part 702 , 44 FR 59166 (October 12, 1979).

e. Signature	Date

2. Total number of employees in unit (low wage employees should be excluded)

Type of employee unit (See 705B-2): (check one)

☐ Collective bargaining ☐ Management ☐ All other

3. Compliance Comparison Periods:

(a) Base quarter (See 705D) or last pay period (mo.,day, yr,)
From: __ / __ / __ To __ / __ / __

(b) Program quarter (see 705D) or last pay period (mo.,day,yr.)
From: __ / __ / __ To __ / __ / __

4. Method of Computation: (Check one)

☐ (CB) Collective bargaining (705B-3) ☐ (UA) Unit average (snapshot) (705B-4a)

☐ (FP) Fixed population (705B-4b) ☐ (WA) Weighted average (705B-4e)

Note this choice determines the method of calculating columns (a) and (b) below

PROPOSED

Part II - Pay-Rate Data (Fill in only those items that apply to the method of calculation chosen).

	(a) Base-Quarter Pay Rate	(b) Program-Quarter Pay Rate
A. Straight-Time Wage and Salary (including cost of living adjustment ☐, longevity increment ☐, and/or qualification increment ☐).		
B. Benefits		
1. Pay for time not worked		
2. Health Benefits		
3. Pension Benefits		
4. Other		
C. Total Pay Rate (Sum of A and B1 through B4)		
D. Adjustments		
1. Amount over the 6% COLA assumption (See 705B-3)		
2. Qualification increments (See Q10, 44 FR 5363,II D,Q10)		
3. Maintenance of health benefits (See 705B-6)		
4. Pension benefits (See 705B-7)		
5. Pay exceptions Type (TA ☐ LS ☐ WR ☐ WH ☐)		
6. Other (Attach description)		
7. Adjustment totals (sum of D1 through D6)		
E. Adjusted Pay Rate (difference between C and D-7)		

F. Summary	Percent
1. Percentage change in actual pay rate from base quarter to program quarter	%
2. Percentage change in adjusted pay rate from base quarter to program quarter	%
G. Yearly Percentage Changes in Adjusted Pay Rates for Multi-Year Agreements (See the Implementation Guide) 1. End of the first year	%
2. End of the second year	%
3. End of the third year	%
4. Over the contract period	%

H. Explain any circumstances that have caused the adjusted pay-rate change in F-2 above to exceed 7 percent

[FR Doc. 79-32403 Filed 10-18-79; 8:45 am]
BILLING CODE 3510-22-C

V 4 4 0 C 1 9 7 9 UMI

V 44 OC 1979 UMI

federal register

Friday
October 19, 1979

Part IX

Department of Energy

Economic Regulatory Administration

Powerplant and Industrial Fuel Use Act of 1978; Transitional Facilities

V 44 0 C 1 9 7 9 UMI

DEPARTMENT OF ENERGY

10 CFR Part 515

[Docket No. ERA-R-78-21]

Powerplant and Industrial Fuel Use Act of 1978; Transitional Facilities

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy is issuing this Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities for purposes of implementing the provisions of Titles II and III of the Powerplant and Industrial Fuel Use Act of 1978 ("FUA" or the "Act"). This Final Rule amends certain provisions of the previously issued Revised Interim Rule (44 FR 17464, March 21, 1979).

The Final Rule automatically classifies powerplants and boilers which are major fuel burning installations ("MFBIs" or "installations") as "existing" if they were "operational" on or before April 20, 1977. In addition, the rule automatically classifies facilities for which a contract was signed prior to November 9, 1978 as "existing" on the basis that they have a design capability of consuming fuel at a fuel heat input rate which is less than 100 million Btu's per hour. The Final Rule also provides for existing facility classification upon certification, and in some cases a minimal reporting requirement, provided certain milestones are met by certain key dates. Moreover, powerplants and MFBIs, for which a contract for construction or acquisition was signed before November 9, 1978, will be classified as "existing" if they can demonstrate that construction or acquisition of their facility can not be cancelled, rescheduled or modified without incurring a substantial financial penalty, an adverse effect on electric system reliability (if a powerplant) or significant operational detriment (if an installation).

DATES: Effective date: November 30, 1979.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, Office of Public Information, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461 (202) 634-2170.

Daniel T. Ruge, Regulations and Emergency Planning, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 2130, Washington, D.C. 20461 (202) 254-3987.

Robert L. Davies, Office of Fuels Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461 (202) 254-7442.

G. Randolph Comstock, Office of General Counsel, Department of Energy, 1000 Independence Avenue, N.W., Room 6G-087, Washington, D.C. 20585 (202) 252-2967.

SUPPLEMENTARY INFORMATION:

I. Background
II. Significant comments
III. Procedural matters

I. Background

Title II of the Act prohibits "new" powerplants and "new" boilers which are installations from using oil or natural gas as a primary energy source unless granted a specific exemption from this prohibition by ERA. It also prohibits "new" powerplants from being constructed without the capability to use coal or any other alternate fuel as a primary energy source. The Act classifies all powerplants and installations for which construction or acquisition began after April 20, 1977, as "new" unless otherwise classified by ERA as "existing" pursuant to ERA regulations. If classified as "existing," a powerplant or installation is subject to the provisions of Title III rather than Title II of the Act.

II. Significant Comments

A. Eligibility

In response to comments ERA received on the Revised Interim Rule concerning the eligibility criteria for both powerplants and major fuel burning installations (MFBI's), ERA has decided to change the Revised Interim Rule and is now issuing this Final Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Final Rule). Powerplants and installations which were "operational" on or before April 20, 1977, are still automatically classified as "existing" and need not request classification under Part 515. In addition, the regulations still provide that a facility which was operational on or before May 8, 1979 shall be automatically classified as "existing" upon proper certification.

In response to comments, ERA has revised the regulations to provide for automatic "existing" facility status, with a minimal filing requirement, for powerplants where the prefabricated packaged boiler or combustion turbine was shipped by the manufacturer by November 9, 1978, or in the case of a field-erected unit, the main steam drum was in place by November 9, 1978. This criteria previously applied solely to MFBI's.

ERA received several comments suggesting that receipt of a so-called "closed-out" letter under the Energy Supply and Environmental Coordination Act (ESECA) should suffice to establish "existing" facility status under FUA. As was previously discussed in the preamble to the Revised Interim Rule, ERA believes that Congress viewed the implementation of FUA separately from the implementation of ESECA, except where it expressly provided otherwise (44 FR at 17465, March 21, 1979). In Section 103 of FUA, Congress established criteria which permit ERA to determine a facility's status as "new" or "existing" that are different than the "early planning process" criteria employed in the ESECA regulations. Therefore, ERA believes that it would contravene the intent of Congress to accord any special consideration to a facility under FUA based on the mere receipt of an ESECA "close-out" letter.

Several of these commenters further stated that recipients of "close-out" letters who placed good faith reliance on these letters and proceeded with their construction plans should be automatically classified as "existing". ERA believes that in those instances where construction proceeded as originally scheduled, the facility will receive equitable treatment under the provisions of these regulations. Nevertheless, transitional facilities which received a "closed-out" letter or did not receive a notice of intention to issue a construction order under ESECA, must file for classification under this part unless they were operational on or before April 20, 1977.

ERA has also amended the Revised Interim Rule to provide that, upon filing the necessary information, a facility which was completed and ownership of the unit was transferred from the manufacturer to a purchaser on or before April 20, 1977 will be classified as existing.

Several commenters stated that ERA's position in the Revised Interim Rule that a facility must be "operational" on or before April 20, 1977, before it will be automatically considered "existing" contravenes the intent of Congress. They stated that under FUA, an "existing" powerplant or MFBI means a facility other than a "new" one, and a "new" facility is one for which construction or acquisition commenced after April 20, 1977. Therefore, the commenters argued that notwithstanding the language in Section 103(a)(13)(B)(ii), in a case where construction or acquisition commenced prior to April 20, 1977, the facility must be considered "existing" regardless of whether it was operational by that date. ERA does not agree with that interpretation of FUA. The term "construction or acquisition began" as used in FUA is a term of art that does not always have precise or identical applicability to all transitional facilities. The legislative history cited by the commenters and the additional history ERA has reviewed fails to provide a precise definition nor do any of the comments ERA has received. Therefore, ERA has, of necessity, resorted to a case-by-case analysis to make this determination. We have established a test which, in general, provides that any facility which was not operational on or before April 20, 1977, but for which a contract had been signed prior to November 9, 1978, must file a written request for classification and ERA will make its determination on a case-by-case basis. Pursuant to Section 103(a)(13)(B)(ii) of FUA, ERA can make a determination whether construction or acquisition which may have been contracted for prior to April 20, 1977, could nevertheless be cancelled, rescheduled or modified without imposing a substantial financial penalty, and in the case of a powerplant without adversely affecting electric system reliability and in the case of an MFBI without incurring a significant operational detriment. Many of the comments received would negate this provision of FUA.

Several comments suggested that if the unit was operational on November 9, 1978, a request for classification need not be filed. ERA recognizes that such a facility is "existing" and has provided for only a minimum reporting requirement which ERA feels is necessary to properly meet its responsibility under the Act.

ERA received one comment suggesting that eligibility should not be limited to an executed contract for the unit itself. Sections 515.3 and 515.10 of the regulations clearly provide that the contract need only be for "the construction or acquisition" of the unit. Section 515.20(c)(6) further provides that the legally binding agreement must be for "substantial onsite construction or reconstruction, or for the purchase or rental of significant equipment or appurtenances required for the construction or operation of a powerplant or MFBI, *including, but not necessarily limited to, the boiler, and its major components,* * * *" (emphasis added). ERA has also amended the regulations to clarify that the contract, which must have been signed by November 9, 1978 to establish eligibility to request classification, need not have been signed by the person requesting classification but may have been signed by a previous purchaser.

B. Substantial Financial Penalty

ERA received several comments that the 25% test established in the Revised Interim Rule was too rigorous and that other factors need to be considered. ERA has established the 25% test because it is confident that in all instances where this criterion is met there will be a "substantial financial penalty". However, ERA clearly provides in §§ 515.6(a) and 515.13(a) that the failure to meet this criterion will not preclude an ultimate classification as "existing" on financial grounds. In this regard ERA received a comment questioning whether ERA is required by the regulation to consider the additional factors submitted in a request for classification. Sections 515.6(a) and 515.13(a) specifically state that "ERA will take into consideration any financially-related factor which you consider appropriate in reaching its determination. . ."

Several comments suggested that ERA should not base its determination on whether a firm is independent or a member of a large corporate family. It is argued that most subsidiaries operate as though they are financially independent from their corporate parent and their economic viability is determined solely by their separate performance. One commenter additionally suggested we were placing too much emphasis on the statement in the Conference Report accompanying the Act that the effect on the parent company should be considered and that this economic test could foreseeably become one of imminent bankruptcy of the parent company. As the commenter correctly pointed out, the Conference Report clearly provides that ERA is to consider the financial impact of cancelling, rescheduling or modifying the project on the parent company (S. Rep. No. 95-988, 95th Cong., 2nd Sess., p. 70, October 10, 1978). The emphasis placed on the parent company in these regulations is identical to the emphasis asserted in the Conference Report. Furthermore, ERA does not intend this to be a "bankruptcy test" for either the parent company or the subsidiary.

ERA received one comment which suggested that ERA should include as a non-recoverable expenditure any expense made after November 9, 1978, which was necessary to preserve or enhance the salvage value of the unit or for health, environmental or safety reasons. ERA believes that there is merit to this suggestion and feels that if the expenses referred to above were of an involuntary nature and not merely spent to complete the project, they should be considered. This assessment will necessarily have to be made on a case-by-case basis, however. Persons submitting requests for classification should identify these expenditures separately and provide justification as to why they should be considered.

C. Adverse Effect on Electric System Reliability

Several persons commented that ERA's focusing on regional reliability as opposed to the utility's or system's reliability is inappropriate. In addition they felt that a reliability evaluation should include an assessment of other factors such as firmness of purchase power contracts, fuel supply reliability and quantity, federal and state input and environmental considerations. Pursuant to Part 515, ERA will evaluate each powerplant's request claiming an adverse impact on reliability on a case-by-case basis and will allow the submission of whatever evidence the requestor deems appropriate. While the 20% reserve margin test pertains to the electric region, the other evidence you may submit which ERA will consider is not limited to evidence which pertains only to the electric region.

D. Definitions

ERA received several comments suggesting that refinery process heaters should be excluded from the regulations since Congress never intended such units to be within the coverage of the Act. As ERA previously stated in the preamble to Part 501 (Definitions), refinery process heaters normally do not fall within the categories statutorily designated as MFBIs, that is, boilers and certain nonboilers, and as such are exempt from the provisions of FUA (44 FR at 28532, May 15, 1979). To the extent that a refinery process heater functions as a boiler, it will be subject to the provisions of the Act.

Several persons commented that ERA improperly excluded the nonboiler categories in the definition of an "MFBI". The commenters felt this leaves owners and operators of nonboiler MFBI's without the opportunity to seek "existing" facility classification. What the commenters failed to recognize was that Section 202(b)(3) of the Act provides that a prohibition to a new nonboiler only applies to an installation for which construction or acquisition began on or after the date of the publication of the proposed rule or order establishing the prohibition. Section 202(b)(3) further provides that any installation not subject to a prohibition due to the previous sentence is

considered to be "existing". Therefore any classification that ERA would provide at this time for a nonboiler MFBI would be premature since no proposed prohibitions have been established with respect to such facilities.

One commenter suggested that ERA's definition of "operational" was too stringent and does not accurately reflect whether a unit is truly operational. ERA has amended this definition to provide that a unit is "operational" if it is "used and useful, has completed its testing phase and is *capable of* producing a product or providing a service on a continuing basis" (emphasis added). ERA believes that to provide any more latitude in this regard would not serve the purposes of the Act.

E. Administrative

ERA received several comments that the administrative procedures established for Part 515 fail to meet the requirements of Section 701 of FUA, the Administrative Procedures Act (APA) and the fundamental protections of the Constitution. The commenters believe ERA must, as a matter of law, provide an opportunity for a public hearing on the record and issue a proposed decision accompanied by specific findings and a statement of the reasons for ERA's determination.

ERA is aware that the administrative procedures contained in Part 515 are not the same as those required by Section 701 of FUA. ERA believes that the informal administrative procedures provided in Part 515 properly advance the purposes of FUA by allowing an expeditious determination with respect to a facility's status under the Act. Moreover, ERA believes that the Part 515 administrative procedures conform to the pertinent provisions of the APA and that they provide the appropriate due process of law protections.

The decisions which ERA expects to reach pursuant to the rules contained in Part 515 are subject to the requirements of Section 553 of the APA unless more formal procedures are otherwise required by statute. ERA does not agree with those comments which assert that the provisions of Section 701 of FUA constitute the statutory requirement for more formal procedures mentioned in the APA.

Section 701(d) of the FUA specifically provides a hearing opportunity for interested persons in the case of any "proposed rule or order . . . imposing a prohibition" or where ERA accepts ". . . any petition for any order granting an exemption. . . ." Although the opportunity for a hearing is mandated by Section 701, the agency actions to which these provisions apply are explicitly restricted to those quoted above. Congress could have applied the provisons of Section 701(d) to all ERA actions taken under FUA, but it did not do so. Indeed, the classification decisions contemplated by Section 103 of FUA are not addressed in Section 701(d).

ERA also disagrees with commenters who assert that denial of a request for classification as an existing unit under the provisions of Part 515 amounts to imposing a prohibition. Denial of a request for classification as an existing unit does not impose any additional prohibition. The Act presumes all powerplants and installations to which Part 515 applies are new unless otherwise classified as existing by ERA pursuant to rules prescribed by ERA. Part 515 describes the manner by which the presumption of status as a new facility may be rebutted. In the event that a requesting person successfully carries the burden of demonstrating the facts required by Part 515, the unit will be classified as existing and thereby relieved of the presumption of "new" status as well as the pertinent prohibitions applicable to new facilities. In the event the requesting person fails to carry his burden, then the statutory presumption and prohibitions remain unaffected.

ERA believes that the public notice and comment provisions of Part 515 are in accord with the requirements of the APA and therefore meet appropriate due process of law requirements without providing an opportunity for oral presentations.

ERA also disagrees with suggestions that the APA and other pertinent provisions of law require ERA to publish a proposed decision in connection with consideration of requests for classification under Part 515.

These final regulations have been amended to provide that requests for classification must be filed within 30 days of the effective date of this Final Rule although § 515.32 provides for an extension of time to file a request upon a showing of good cause. If you file your request before this Final Rule becomes effective, ERA will apply the regulation which results in the more favorable disposition of your request. For requests filed after this Final Rule is effective, ERA will apply the provisions of this Final Rule to your request.

III. Procedural Matters

A regulatory analysis of this Final Rule set forth below, as contemplated by Executive Order No. 12044, is contained within the draft regulatory analysis of the regulation regarding new facilities proposed on November 9, 1978, 43 FR 53974. A final Environmental Impact Statement (FEIS) has been prepared pursuant to the National Environmental Policy Act (NEPA). Both the draft regulatory analysis and the FEIS may be obtained from ERA, 2000 M St., N.W., Washington, D.C. 20461, (202) 634–2170.

This Final Rule has been submitted to the Office of Management and Budget (OMB) for clearance under the provisions of the Federal Reports Act. Any compliance with the data collections provisions of this Final Rule may require revisions or additions as a result of OMB's action.

Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 *et. seq.*); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 *et seq.*); E.O. 12009, (42 FR 46267, September 15, 1977).

In consideration of the foregoing, Part 515, Subchapter E, of Chapter II, Title 10 of the Code of Federal Regulations is amended and adopted as a Final Rule effective November 30, 1979.

Issued in Washington, D.C., October 12, 1979.

David J. Bardin,

Administrator, Economic Regulatory Administration.

Subchapter E—Alternate Fuels

PART 515—TRANSITIONAL FACILITIES

Subpart A—General Provisions

Sec.
515.1 Policy.
515.2 Purpose and scope.

Subpart B—Electric Powerplants

515.3 Eligibility.
515.4 Powerplants automatically classified as "new".
515.5 Powerplants automatically classified as "existing".
515.6 Powerplants which ERA will classify as "existing".
515.7 Evidence required in support of a request for classification.

Subpart C—Major Fuel-Burning Installations

515.10 Eligibility.
515.11 Installations automatically considered to be "new".
515.12 Installations automatically considered to be "existing".
515.13 Installations which ERA will classify as "existing".
515.15 Evidence required in support of a request for classification.

Subpart D—Definitions

515.20 Definitions.

Subpart E—Administrative Provisions

515.25 Purpose and scope.
515.26 Notice and public comment.
515.27 Conferences.
515.28 Appearance before ERA.
515.29 Computation of time.
515.30 Service.
515.31 General filing requirements.
515.32 Extension of time.
515.33 Effective date of decision.
515.34 Order of precedence.
515.35 Addresses for filing documents with the ERA.
515.36 Office of Public Information.

Authority: Department of Energy Organization Act, Pub. L. 95–91, 91 Stat. 565 (42 U.S.C. 7101 et seq); Powerplant and Industrial Fuel Use Act of 1978, Pub. L. 95–620, 92 Stat. 3289 (42 U.S.C. 8301 et seq); E.O. 12009, 42 FR 4267.

Transitional Facilities

Subpart A—General Provisions

§ 515.1 Policy.

(a) The Economic Regulatory Administration (ERA) intends to administer the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) relating to transitional facilities in a firm but fair and practical manner. A transitional facility is one which was not operational on April 20, 1977, but for which a contract for its construction or acquisition was signed prior to November 9, 1978, the date of FUA's enactment. ERA will not classify as "existing," transitional facilities which are in the early stages of planning and construction, and which would not incur a substantial financial penalty, an adverse effect upon electric system reliability (for powerplants), or a significant operational detriment (for major fuel-burning installations). These facilities will therefore be considered to be "new." As new facilities, they will be subject to the statutory prohibitions of Title II of FUA, but will have the opportunity to petition ERA for an exemption from those prohibitions. Where a person requesting classification of a transitional facility as "existing" can demonstrate that the facility is in a more advanced stage of construction and would sustain any of the penalties, adverse effects, or detriments identified above, ERA will classify the facility as "existing" in order to avoid disruptive impacts on the facility as well as on the economy at large.

(b) You are eligible to request that ERA classify your transitional facility as "existing" if a contract for the facility's construction or acquisition was signed prior to November 9, 1978. Moreover, you are also eligible to request that ERA classify your transitional facility as "existing" if a contract was signed prior to November 9, 1978, for the reconstruction of your facility (including refurbishment of or addition to the facility) to the extent that the reconstruction equals or exceeds 50 percent of the price of a replacement unit. We base these criteria for eligibility as a transitional facility on the principle that a contract constitutes a commitment, after which time any cancellation, rescheduling, or modification may result in a substantial financial penalty, a significant operational detriment, or an adverse effect on electric system reliability.

(c) We have established milestones whereby facilities will automatically be considered "new" or "existing" without contacting ERA. Where no contract for construction or acquisition of a facility was signed prior to November 9, 1978, the facility is clearly "new." Facilities which were operational, as defined in these regulations, on or before April 20, 1977, are automatically deemed "existing." Individual transitional facilities with a design capability of consuming any fuel at a heat input rate which does not equal or exceed 100 million BTU's per hour, are automatically deemed "existing."

(d) To further facilitate the processing of requests for classification of transitional facilities and to reduce the administrative burden on persons requesting classification and ERA alike, facilities which were completed and title transferred, operational or at a certain stage of construction by designated dates will be classified as "existing" upon certification to ERA and, in some cases, the submission of minimal documentation. Under this approach, powerplants and MFBIs which were completed on or before April 20, 1977 and for which title was transferred to the purchaser on or before April 20, 1977, will be classified as "existing" by ERA. In addition, units which were operational on May 8, 1979 (the effective date of FUA) will be classified as "existing" by ERA. Moreover, MFBIs which are prefabricated boilers and powerplants which are prefabricated boilers or combustion turbines which had been shipped by the manufacturer, or which had their main steam drum in place (for field-erected boilers) by November 9, 1978, will similarly be classified as "existing."

(e) ERA believes that a powerplant or MFBI will incur a "substantial financial penalty" where 25 percent or more of the total projected project cost has been expended or irrevocably committed as of November 9, 1978. In assessing the expenditures or committed costs, however, ERA will exclude outlays which can be used toward the construction of an alternate fuel-fired facility or which may be cancelled. The limitation to nonrecoverable outlays follows from the definitions of new powerplants and MFBIs in Section 103 of the Act. These definitions recognize the extra costs that are incurred in building an alternate fuel-fired plant by cancelling, rescheduling or modifying a partially completed oil or gas-fired plant.

(f) Where these nonrecoverable outlays do not reach 25 percent of the total projected project cost, ERA may consider other financially-related factors presented on a case-by-case basis. The purpose of these additional case-by-case evaluations, where facilities have not expended beyond 25 percent of their total projected project cost, in to permit persons requesting classification to present ERA with full explanations of the financial penalties they believe they may incur, but which are otherwise not properly included in computing the 25 percent test.

(g) If your transitional facility is a powerplant, one of the considerations ERA will employ in reaching a determination applicable to an adverse effect on electric system reliability is whether the cancellation, rescheduling or modification of your proposed powerplant would result in your electric region's reserve margin falling below 20 percent during the 12-month period after you expect your proposed powerplant to begin operation. You may present whatever evidence you deem appropriate to ERA's reaching a determination on your claim of an adverse effect on electric system reliability.

(h) If your transitional facility is a major fuel-burning installation, your unit will be designated "existing" if you demonstrate to ERA that you would incur a significant operational detriment as a result of cancelling, rescheduling, or modifying your facility. In light of the complexity and variety of operational requirements in the MFBI sector, ERA will review these requests for classification on a case-by-case basis.

§ 515.2 Purpose and scope.

(a) *Purpose.* These rules govern requests for classification of transitional facilities by ERA as "existing" facilities subject to the provisions of Title III of FUA, rather than as "new" facilities subject to the provisions of Title II of FUA.

(b) *Application.* This Part applies to all transitional facilities. You are eligible to submit a request to have your transitional powerplant or major fuel-burning installation classified as an "existing" facility, pursuant to this Part, if a contract for the construction or acquisition of your facility was signed

V 44 0 C 1 9 7 9 UMI

prior to November 9, 1978, the date of enactment of FUA.

(c) *ERA determinations.* Based upon the criteria set forth below, and after thorough consideration of the entire administrative record of your formal request, ERA will publish in the Federal Register a formal decision either: (1) granting the request, having determined that your installation or powerplant is "existing," or (2) denying the request, having determined that your installation or powerplant is "new." ERA determinations on requests that are received by ERA on or before the effective date of this Final Rule, will be made on the basis of the provisions set forth in the Revised Interim Rule or this Final Rule, whichever would result in a more favorable disposition of your request. Determinations on requests received after the effective date of this Final Rule, will be made on the basis of this Final Rule. These determinations are final Departmental actions.

Subpart B—Electric Powerplants

§ 515.3 Eligibility.

You are eligible to submit a request to ERA to have your transitional facility classified as "existing" if you can demonstrate to the satisfaction of ERA that a contract for the construction or acquisition of the powerplant was signed prior to November 9, 1978.

§ 515.4 Powerplants automatically classified as "new."

If a contract for the construction or acquisition of the powerplant was not signed prior to November 9, 1978, the powerplant is automatically classified as "new" and subject to the provisions of Title II of the Act.

§ 515.5 Powerplants automatically classified as "existing."

(a) Any powerplant which was operational on or before April 20, 1977, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(b) Any powerplant for which a contract for construction or acquisition was signed prior to November 9, 1978, and which does not have a design capability to consume any fuel at a fuel heat input of 100 million BTU's per hour or greater, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(c) Any powerplant for which a contract for construction or acquisition was signed before November 9, 1978, and which was operational on or before May 8, 1979, is automatically classified as "existing" and subject to the provisions of Title III of the Act upon filing with ERA of a certification. This certification must be made by a duly authorized officer of the electric utility which owns, operates or controls the powerplant. This filing will not be deemed by ERA to be a formal request for classification under this Part.

(d) Any powerplant which was completed and for which ownership of the unit was transferred from the manufacturer to a purchaser on or before April 20, 1977 shall be automatically classified as "existing" and subject to the provisions of Title III of the Act upon the submission of the evidence required by § 515.7(a)(3).

(e) Any powerplant for which a contract for construction or acquisition was signed prior to November 9, 1978 and which is:

(1) A prefabricated packaged boiler or a combustion turbine that was shipped by the manufacturer to the user by November 9, 1978 is automatically classified as "existing" upon the submission of a certification to such effect by a duly authorized officer of the electric utility that owns, operates or controls your powerplant and the evidence required by § 515.7(a)(4).

(ii) A field-erected unit, the main stream drum of which was in place by November 9, 1978, is automatically classified as existing upon the submission of a certification to such effect by a duly authorized officer of the electric utility that owns, operates or controls your powerplant and the evidence required by § 515.7(a)(5).

§ 515.6 Powerplants which ERA will classify as "existing."

ERA will classify an eligible powerplant as "existing" if you demonstrate to the satisfaction of ERA that the cancellation, rescheduling or modification of the construction or acquisition of your powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability.

(a) *Substantial financial penalty.* (1) ERA will take into consideration any financially-related factor which you consider appropriate in reaching a determination on substantial financial penalty. If you demonstrate to the satisfaction of ERA that, as of November 9, 1978, you have expended at least 25 percent of the total projected project cost, ERA will classify your facility as "existing." In computing the 25 percent expenditure, you must include only nonrecoverable outlays expended as of November 9, 1978.

Example: You are constructing a facility which can use either petroleum or coal, and the following outlays have been made and are projected:

	Outlays	
	As of 11/9/78	Total projected project cost
Oil handling equipment, including storage	$1,000,000	$2,000,000
Boiler and other equipment	4,000,000	7,000,000

In general, ERA would define a maximum of $1,000,000 as a non-recoverable outlay (oil handling equipment, oil storage) and could probably reduce this amount since certain items would be retained in an alternate fuel-firing system which used oil for startup and ignition. Outlays for the boiler are deemed recoverable, since they could be used in a coal facility, even though you would be required to spend an additional amount for pollution control and coal handling and storage facilities. (You may indicate your assessment of the impact of this additional amount by addressing subparagraph (2)(iii) of this section in your request.)

(2) If you have expended at least 25 percent of the total projected project cost, ERA will classify your facility as "existing." If you have expended less than 25 percent under the test set forth above, you may still request classification from ERA. Your request for classification may address, among others, the following factors:

(i) The nonrecoverable outlays you would incur by cancelling, rescheduling, or modifying your current proposed powerplant in order to burn an alternate fuel or fuel mixture;

(ii) The total projected project cost and percentage of completion of the project at November 9, 1978;

(iii) The impact that cancelling, rescheduling, or modifying your present powerplant would have upon your rate base and your ability to continue in business as a sound and financially viable public utility;

(iv) The site at which the facility is located; and

(v) An alternate use for the facility under construction.

(b) *Adversely affecting electric system reliability.*

(1) ERA will make its determination applicable to electric system reliability on a case-by-case basis, after consultation with FERC and the appropriate state authority.

(2) One of the considerations ERA will employ is whether the reserve margin of the electric region in which you propose to locate your powerplant would be reduced to less than 20 percent during the 12-month period after you expect your proposed powerplant to begin operation, assuming your proposed powerplant is not completed. Firm purchases and sales to or from the electric region will be included in ERA's evaluation. The reserve margin percentage is computed by subtracting the normal peak load expected during the 12-month period from the system's total capacity, including the additional capacity that will be available through interconnection, and dividing the result by the projected normal peak load during the delay.

(3) Notwithstanding paragraph (2) above, if you wish to demonstrate that your own electric utility's ability to provide reliable service will be adversely affected during this period, regardless of circumstances pertaining to your electric region, you may present whatever evidence you deem appropriate.

§ 515.7 Evidence required in support of a request for classification.

(a)(1) You must submit a separate request for classification for each facility at a single site. Each request must be in writing, and must be signed by the duly authorized officer of the company that owns, operates or controls the powerplant. Your request must include:

(i) A complete description of the transitional facility;

(ii) A statement of the date on which the contract for the construction or acquisition of the powerplant was signed and a description of the components or services contracted for; and

(iii) A statement of the date on which your powerplant became or is scheduled to become operational.

(2) ERA may request that you submit copies of any contracts concerned with the construction or acquisition of the powerplant.

(3) If your request is made pursuant to § 515.5(d), to document that the unit was completed prior to April 20, 1977, you must submit a certification from a duly authorized officer of the manufacturer to that effect. To document that ownership was transferred prior to April 20, 1977, you must submit evidence which clearly demonstrates the transfer of ownership.

(4) If your request is made pursuant to § 515.5(e)(1), to document that the unit was shipped by November 9, 1978, you must submit a statement of the date it was shipped by the manufacturer and either a copy of the bill of lading from the shipment of the prefabricated boiler or combustion turbine or a dated photograph of the prefabricated boiler or combustion turbine after it has been set in place.

(5) If your request is made pursuant to § 515.5(e)(2), to document that the main steam drum was in place by November 9, 1978, you must submit a statement of the date it was in place and either a copy of the bill of lading for the shipment of the main steam drum or a dated photograph of the main steam drum after it has been set in place.

(b)(1) If you wish to show that you will incur a substantial financial penalty, your request for classification must include the information listed below:

(i) A statement of the total projected project cost of your transitional facility projected as of November 9, 1978;

(ii) An itemized list of the project expenditures as of November 9, 1978;

(iii) An itemized list of any financial penalties you will incur by cancelling or terminating contracts signed as of November 9, 1978, for the project;

(iv) An itemized list of your recoverable expenditures for the project;

(v) An itemized list of the nonrecoverable outlays for the project; and/or

(vi) Any other relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.6(a), above.

(2) You should provide sufficient detail to enable ERA to evaluate your claim of substantial financial penalty. When providing itemized lists, you may aggregate costs of minor items in a reasonable manner, but ERA may require you to specify these costs if the cost categories are too vague or the costs are substantial.

(3) ERA may request that you submit copies of the sections of the engineering design plan and copies of environmental analyses or their summaries which describe in detail the design specifications, the construction schedule and the estimated engineering and contingency costs of the transitional facility.

(c)(1) If you wish to show an adverse effect on electric system reliability, your request for classification must include:

(i) A description of your own service area and its interconnection with other utilities;

(ii) Projections of peakload for your service area during the period of the delay that would be caused by the cancellation or redesign of the transitional facility;

(iii) The net dependable electrical capacity and peak loads for this service area for the 12 months following the expected operational date of the facility, including interconnections (if you are claiming an adverse impact on reliability during a period after the 12 months, you must provide this data for the period commensurate with the time of your anticipated reliability difficulties);

(iv) Your service area's reserve margin during the 1-year period after you expect your proposed powerplant to begin operation; and

(v) Any other relevant information you feel ERA should consider in reaching its determination.

(2) You should provide sufficient detail to enable ERA to evaluate your claim of an adverse effect on electric system reliability.

(3) ERA will conduct the required regional reliability analysis for your electric region. You are invited to assist ERA by providing the additional projected regional load and generation data needed to evaluate the reliability of your electric region. ERA will utilize its own generation and load projection data base if you do not provide the necessary data.

Subpart C—Major Fuel-Burning Installations

§ 515.10 Eligibility.

You are eligible to submit a request to ERA to have your transitional facility classified as "existing" if you can demonstrate to the satisfaction of ERA that a contract for the construction or acquisition of the installation was signed prior to November 9, 1978.

§ 515.11 Installations automatically considered to be "existing."

(a) Any installation which was operational on or before April 20, 1977, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(b) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which does not have a design capability to consume any fuel at a fuel heat input rate of 100 million BTU's per hour, is automatically classified as "existing" and subject to the provisions of Title III of the Act.

(c) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978, and which was operational on or before May 8, 1979, is automatically classified as "existing" and subject to the provisions of Title III of the Act upon filing with ERA of a certification. This certification must be made by a duly authorized officer of the installation. This filing will not be deemed by ERA to be a formal request for classification under this Part.

(d) Any installation which was completed and for which ownership was transferred from the manufacturer to a purchaser prior to April 20, 1977, shall

V 44 0 C 1 9 7 9 UMI

be automatically classified as "existing" and subject to the provisions of Title III of the Act upon the submission of the evidence required by § 515.15(a)(3).

(e) Any installation for which a contract for construction or acquisition was signed prior to November 9, 1978 and which is:

(1) A prefabricated packaged boiler that was shipped by the manufacturer to the user by November 9, 1978, is automatically classified as "existing" upon the submission of a certification to such effect by a duly authorized officer of the company that owns, operates or controls your installation and the evidence required by § 515.15(a)(4).

(2) A field-erected unit, the main steam drum of which was in place by November 9, 1978, is automatically classified as existing upon the submission of a certification to such effect by a duly authorized officer of the company that owns, operates or controls your installation and the evidence required by § 515.15(a)(5).

§ 515.13 Installations which ERA will classify as "existing."

ERA will classify an eligible installation as "existing" if you demonstrate to the satisfaction of ERA that the cancellation, rescheduling, or modification of the construction or acquisition of your installation would result in a substantial financial penalty or a significant operational detriment.

(a) *Substantial financial penalty.* (1) ERA will take into consideration any financially-related factor which you consider appropriate in reaching its determination on substantial financial penalty. If you demonstrate to the satisfaction of ERA that you have expended at least 25 percent of the total projected project cost as of November 9, 1978, ERA will classify your installation as "existing." In computing the 25 percent expenditures, you must include only nonrecoverable outlays expended as of November 9, 1978.

Example: You are constructing a facility which can use either petroleum or coal, and the following outlays have been made and are projected:

	Outlays	
	As of 11/9/78	Total projected project cost
Oil handling equipment, including storage	$1,000,000	$2,000,000
Boiler	4,000,000	7,000,000

In general, ERA would define a maximum of $1,000,000 as a nonrecoverable outlay (oil handling equipment & oil storage) and would probably reduce this amount since certain items would be retained in an alternate fuel-firing system which used oil for startup and ignition. Outlays for the boiler are deemed recoverable, since they could be used in a coal fired facility, even though you would be required to spend an additional amount for pollution control and coal handling and storage facilities. [You may indicate your assessment of the impact of this additional amount by addressing subparagraph (2)(iii) of this section in your request.]

(2) If you have expended at least 25 percent of the total projected project cost, ERA will classify your facility as "existing." If you have expended less than 25 percent under the test set forth above, you may still request classification from ERA. Your request for classification may address, among others, the following factors:

(i) The nonrecoverable outlays you would incur by cancelling, rescheduling or modifying your current proposed installation in order to burn an alternate fuel or fuel mixture;

(ii) The total projected project cost and percentage of completion of the project at November 9, 1978; and

(iii) The impact that cancelling, rescheduling, or modifying your proposed installation would have upon your ability to continue in business as a sound and financially viable entity. (In the case of a subsidiary company, ERA intends to review the financial effect on the parent company unless you can demonstrate to ERA why this would not be justified).

(b) *Significant operational detriment.* ERA will make its determination under this subsection on a case-by-case basis; however, you should indicate the operational detriment you would have incurred if you had cancelled, rescheduled, or modified your installation to burn an alternate fuel or fuel mixture at November 9, 1978. Your request for classification should address the following factors:

(1) The extent of construction and anticipated start-up date;

(2) The potential impact of the loss of production which could not be rescheduled elsewhere;

(3) The potential impact on employment, including the number and type of jobs lost, excluding those that may be absorbed elsewhere within your parent company; and

(4) The anticipated annual capacity utilization factor of the unit, as well as seasonal or other variations in use.

§ 515.15 Evidence required in support of a request for classification.

(a)(1) You must submit a separate request for classification for each facility at a single site. Each request must be in writing and must be signed by the duly authorized officer of the company that owns, operates or controls the installation. Your request for classification must include:

(i) A complete description of the transitional facility;

(ii) A statement of the date on which a contract for the construction or acquisition of the installation was signed, and a description of the components or services contracted for; and

(iii) A statement of the date on which your installation became or is scheduled to become operational.

(2) ERA may request that you submit copies of any contracts concerned with the construction or acquisition of the installation.

(3) If your request is made pursuant to § 515.12(d), to document that the unit was completed prior to April 20, 1977, you must submit a certification from a duly authorized officer of the manufacturer to that effect. To document that ownership was transferred prior to April 20, 1977, you must submit evidence which clearly demonstrates the transfer of ownership.

(4) If your request is made pursuant to § 515.12(e)(1), to document that the unit was shipped by November 9, 1978, you must submit a statement of the date it was shipped by the manufacturer and either a copy of the bill of lading for the shipment of the prefabricated boiler or a dated photograph of the prefabricated boiler after it has been set in place.

(5) If your request is made pursuant to § 515.12(e)(2), to document that the main steam drum was in place by November 9, 1978, you must submit a statement of the date it was in place and either a copy of the bill of lading for the shipment of the main steam drum or a dated photograph of the main steam drum after it has been set in place.

(b)(1) If you wish to show that you will incur a substantial financial penalty, your request for classification must include:

(i) A statement of the total projected project cost of your transitional facility projected as of November 9, 1978;

(ii) An itemized list of the project expenditures as of November 9, 1978;

(iii) An itemized list of any financial penalties you will incur by cancelling or terminating contracts for the project signed as of November 9, 1978;

(iv) An itemized list of your recoverable expenditures for the project;

(v) An itemized list of the nonrecoverable outlays for the project; and/or

(vi) Any other relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.13(a), above.

(2) You should provide sufficient detail to enable ERA to evaluate your claim of substantial financial penalty. When providing itemized lists, you may aggregate costs of minor items in a reasonable manner, but ERA may require you to specify these costs if the cost categories are too vague or the costs are substantial.

(3) ERA may request that you submit copies of the sections of the engineering design plan and copies of environmental analyses or their summaries which describe in detail the design specifications, the construction schedule and the estimated engineering and contingency costs of the transitional facility.

(c) If you wish to show that you will incur a significant operation detriment, your request for classification should include any relevant information you feel ERA should consider in reaching its determination, including information relating to the factors listed in § 515.13(b), above. You should provide sufficient detail to enable ERA to evaluate your claim of significant operational detriment.

(d) ERA may request any additional evidence it deems necessary to adequately review your request for classification.

Subpart D—Definitions

§ 515.20 Definitions.

(a) All terms defined in this subpart shall apply only to Part 515, Transitional Facilities. These definitions are not applicable to and may differ from the definitions promulgated or to be promulgated under other regulations implementing FUA.

(b) Throughout this Part, the "Act" or "FUA" means the Powerplant and Industrial Fuel Use Act of 1978.

(c) Unless otherwise expressly provided; for purposes of this Part of these regulations, the term:

(1) "Alternate fuel" means electricity or any fuel, other than natural gas or petroleum. The term includes—

(i) Coal;

(ii) Solar energy;

(iii) Petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood and renewable and geothermal energy sources;

(iv) Liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality or quantity;

(v) Any fuel derived from an alternate fuel; and

(vi) Waste gases from industrial operations.

(2) "Btu" means British thermal unit.

(3) "Coal" means anthracite, bituminous and sub-bituminous coal, lignite, and any fuel derivative thereof.

(4) "Conference" means an informal meeting, incident to any proceeding, between ERA and any interested person.

(5) "Construction" means substantial construction in terms of an actual and meaningful commitment to building the powerplant or MFBI, and includes more than merely clearing a site or putting in foundation pilings for the unit.

(6) "Contract for construction or acquisition" means a legally-binding agreement or agreements for substantial onsite construction or reconstruction, or for the purchase or rental of significant equipment or appurtenances required for the construction or operation of a powerplant or MFBI, including, but not necessarily limited to, the boiler and its major components, fuel-handling equipment and pollution control equipment. This term shall not include contracts for the purchase of land, site clearance or preparation, or the installation of foundation pilings.

(7) "Duly authorized officer" means the Chief Executive Officer or his designee of a company that owns, operates or controls a facility.

(8) "Duly authorized representative" means a person who has been designated to appear before ERA in connection with a proceeding on behalf of a person interested in or aggrieved by that proceeding. The appearance may consist of the submission of applications, requests, statements, memoranda of law, other documents, or of a personal appearance, oral communication, or any other participation in the proceeding.

(9) "Electric powerplant" means any stationary electric generating unit, consisting of a boiler, a combustion turbine unit, a generator or a combined cycle unit, which produces electric power for purposes of sale or exchange, and—

(i) Has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater.

(ii) As used herein, the term "electric generating unit" does not include—

(A) Any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(B) Any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale.

(10) "Electric region"—The following is a list of electric regions for use with regard to this Part. The regions are identified by FERC Power Supply areas as authorized by section 202(a) of the Federal Power Act except where noted.

(i) Each grouping meets one or more of the following criteria:

A. Existing centrally-dispatched pools and hourly power brokers;

(B) Systems with joint planning and construction agreements;

(C) Systems with coordination agreements in the areas of—

(1) Generation reserve and system reliability criteria

(2) Capacity and energy exchange policies

(3) Maintenance scheduling

(4) Emergency procedures for dealing with Capacity or fuel shortages;

(D) Systems within the same National Electric Council (NERC) region with historical coordination policies.

(ii) The Power Supply Areas (PSA's), referred to in the definition of electric regions, were first defined by the Federal Power Commission in 1936. The most recent reference to them is given in the 1970 National Power Survey, Vol. I, Pg. I–3–16. In cases where you find an ambiguity in a regional assignment, you shall consult with ERA for an official determination.

(iii) *Electric region groupings.*

	DOE (FERC) power supply areas
(A) Allegheny Power System (APS)	7, except Duquesne.
(B) American Electric Power System (AEP).	Entire AEP System.
(C) New England Planning Pool (NEPOOL).	1, 2.
(D) New York Planning Pool (NYPP)	3, 4.
(E) Pennsylvania-New Jersey-Maryland Interconnection (PJM).	5, 6.
(F) Commonwealth Edison Company.	14.
(G) Florida Coordination Group (FCG).	24.
(H) Middle South Utilities	25.
(I) Southern Company	22, 23.
(J) Gulf States Group	35.
(K) Tennessee Valley Authority (TVA).	20.
(L) Virginia-Carolina Group (VACAR)	18, 21.
(M) Central Area Power Coordination Group (CAPCO).	Cleveland Electric Illuminating Company, Toledo Edison Company, Ohio Edison Company, Duquesne Light Company.
(N) Cincinnati, Columbus, Dayton Group (CCD).	Cincinnati Gas and Electric Company, Columbus and Southern Ohio Electric Company, Dayton Power and Light Company.
(O) Kentucky Group	19.
(P) Indiana Group	Indiana Utilities except AEP.

V 4 4 0 C 1 9 7 9 UMI

	DOE (FERC) power supply areas
(O) Illinois-Missouri Group (ILLMO)	15, 40.
(R) Michigan Electric Coordinated Systems (MECS).	11.
(S) Wisconsin-Upper Michigan Group (WUMS).	13.
(T) Mid-Continent Area Power Pool	16, 17, 26, 27, 28.
(U) Missouri-Kansas Group (MOKAN).	29, 24.
(V) Oklahoma Group	33, 36.
(W) Texas Interconnected Systems (TIS).	37, 38.
(X) Rocky Mountain Power Pool (RMPP).	31, 32.
(Y) Northwest Power Pool (NWPP)	30, 42, 43, 44, 45.
(Z) Arizona-New Mexico Group	39, 48 within Arizona.
(AA) Southern California-Nevada	47, 48 in Nevada and California.
(BB) Northern California-Nevada	46.
(CC) Alaska [non-interconnected systems to be considered separately].	49.
(DD) Idaho-Utah Group	41.

(11) "Electric utility" means any person, including any affiliate, or Federal agency, who sells electric power.

(12) "ERA" means the Economic Regulatory Administration of the Department of Energy.

(13) "Facility" means an electric powerplant or major fuel-burning installation.

(14) "FERC" means the Federal Energy Regulatory Commission.

(15) "Installation" means "major fuel-burning installation."

(16) "Fuel heat input rate" means the hourly fuel feed rate multiplied by the gross heating value of the fuel at 60 degrees F. The rate, expressed in millions of BTU's per hour, measures the maximum capacity of the unit and is not related to the rate of actual use. The fuel input rate also reflects the highest rate which can be attained in the unit among the various rates associated with the different fuel capabilities of the unit.

(17) "Main steam drum" means the drum in the boiler where the process of steam separation occurs.

(18) "Main steam drum in place" means that the main steam drum has been lifted to and hung on the field-erected boiler, so that the main steam drum is blocked or braced in place.

(19) "Major fuel-burning installation," means a stationary unit consisting of a boiler, which—

(i) Has a design capability of consuming any fuel, or mixture thereof, at a fuel heat input rate of 100 million BTU's per hour or greater.

(ii) "Major fuel-burning installation" does not include—

(A) Any electric powerplant; or

(B) Any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to ERA of such use.

(C) Steam generators for crude oil recovery.

(20) "MFBI" means "major fuel burning installation."

(21) "Mixture" when used in relation to fuels used in a unit, means a mixture of petroleum or natural gas and an alternate fuel, or a combination of such fuels used simultaneously or alternately in such unit.

(22) "Nonrecoverable outlays" are those expenditures you have made for your transitional facility, as of November 9, 1978, which could not be used in the construction or operation of a facility to burn an alternate fuel, including any expenditures you would be required to make as a result of cancelling contracts signed prior to November 9, 1978. In determining nonrecoverable outlays, you must select the method which results in the least amount of nonrecoverable outlays. The following items are to be excluded from nonrecoverable outlays:

(i) Reimbursements from selling or salvaging equipment or appurtenances associated with the petroleum/gas boiler system; and

(ii) Expenditures for equipment or appurtenances which can be used elsewhere by the owner or operator of the powerplant or installation.

(23) "Operational" means that a unit is used and useful, has completed its testing phase and is capable of producing a product or providing a service on a continuing basis.

(24) "Person" means—

(i) Any individual corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company;

(ii) Any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States;

(iii) Any agency or instrumentality (including any municipality) thereof; or

(iv) A parent and the consolidated and unconsolidated entities (if any) which it directly or indirectly controls.

(25) "Powerplant" means "electric powerplant."

(26) "Reconstruction" means refurbishment or addition to a powerplant or major fuel-burning installation, since April 20, 1977, to the extent that the cost of such refurbishment or addition equals or exceeds 50 percent of the price of a replacement unit.

(27) "Recoverable outlays" are those expenditures you have made for your transitional facility, as of November 9, 1978, which could be used in the construction or operation of a facility to burn an alternate fuel. The following items are to be included as recoverable outlays:

(i) Reimbursements from selling or salvaging equipment or appurtenances associated with the petroleum/gas boiler system; and

(ii) Expenditures for equipment or appurtenances which can be used elsewhere by the owner or operator or the powerplant or installation.

(28) "Request for Classification" means the formal request for classification of a facility as "existing" made to ERA through submission of appropriate forms and other information pertaining to eligibility and evidentiary requirements as stated in these regulations under this Part.

(29) "Total projected project cost" means total expenditures, projected as of November 9, 1978, required to perform the feasibility study, engineering, and labor for the construction of your planned facility, as well as all expenditures required for the purchase of the boiler and/or nonboiler and all of its components, fuel-handling equipment, pollution control equipment, and other appurtenances necessary for the construction and operation of the facility. In calculating the total projected project cost, expenditures for marketing studies and land acquisition must be excluded.

(30) "Transitional Facility" means a facility which was not operational on April 20, 1977, but for which a contract for the construction or acquisition was signed prior to November 9, 1978.

(31) "Turbine generator or combustion turbine generator" means an electric power-generating unit that is a combination of a rotary engine driven by a gas under pressure that is created by the combustion of any fuel, with an electric power generator driven by the engine.

Subpart E—Administrative Provisions

§ 515.25 Purpose and scope.

This subpart establishes the general procedures that are applicable to this Part.

§ 515.26 Notice and public comment.

When ERA receives your properly filed request for classification under this Part, it will publish a notice in the **Federal Register.** ERA will provide in the notice a period of no less than 21 days for interested persons to file written data, views or arguments. ERA will not provide an opportunity for a public hearing.

§ 515.27 Conferences.

(a) You may file a written request for a conference with ERA regarding your request for classification. The request must be filed at the address provided in

§ 515.35. ERA in its discretion will decide whether to hold a conference.

(b) Actual notice of the time, place, and nature of the conference will be provided to the person who requested the conference. ERA will determine who may attend a conference, but a conference will generally include only the representative of the person requesting the conference, government representatives, and other persons requested by the person requesting the conference.

(c) When ERA convenes a conference in accordance with this section, any person invited may present views as to the issue or issues involved. You may submit documentary evidence at the conference. ERA will not normally have a transcript of the conference prepared but may do so at its discretion. However, a summary of major points discussed will be prepared by ERA and placed in the public record with confidential material deleted.

(d) Because a conference is solely for the exchange of views incident to a request for classification, ERA will not prepare a transcript, issue a final report or finding unless ERA in its discretion determines that it would be advisable.

§ 515.28 Appearance before ERA.

(a) A person may participate in any proceeding described in this Part on his own behalf or by a duly authorized representative. Any request for classification filed by a duly authorized representative must contain a statement by such person certifying that he is a duly authorized representative. Falsification of the certification will subject the person to the sanctions stated in 18 U.S.C. 1001.

(b) ERA may deny, temporarily or permanently, the privilege of participating in conferences, including oral presentations, to any individual who is found by ERA:

(1) To have made false or misleading statements, either orally or in writing;

(2) To have filed false or materially altered documents, affidavits or writings;

(3) To lack the specific authority to represent the person seeking an ERA action; or

(4) To have disrupted or to be disrupting a proceeding.

§ 515.29 Computation of time.

(a) *Days.* (1) When ERA computes time in days under these regulations, ERA will not include the day of the act (or default) from which a period of time begins to run. ERA will include the last day of the period, unless it is a Saturday, Sunday or Federal legal holiday, in which case the period runs until the end of the next normal working day that is not a Federal legal holiday.

(2) ERA shall exclude Saturdays, Sundays or intervening Federal legal holidays from its computation of time when the period of time allowed or prescribed in the regulations is 7 days or less.

(b) *Additional time after service by mail.*

Whenever ERA serves by mail decision, notice, interpretation or other document, which may specify a time period for you to perform an act, refrain from performing an act, or commence a proceeding, you may add 3 days to the period prescribed.

§ 515.30 Service.

(a) ERA will serve all decisions personally or by certified mail unless otherwise provided in these regulations. All other documents will be sent by ERA by first class mail.

(b) ERA will consider service upon your duly authorized representative to be service upon you.

(c) Service by mail is effective upon mailing. ERA will consider official United States postal receipts from certified mailing as *prima facie* evidence of service.

§ 515.31 General filing requirements.

(a) *Where to submit.* You must file your request for classification with ERA at the address provided in Section 515.35.

(b) *When to submit.* Submit your request for classification under the provisions of this Part within 30 days after the effective date of this Final Rule.

(c) *Number of copies.* You should submit four copies of your request for classification.

(d) *Completed filing.* (1) Your request for classification is considered to be filed when you have submitted four copies of your request and any required supporting documentation, and it has been accepted by ERA. If for any reason your request for classification is not acceptable, ERA will notify you within 42 days (6 weeks) from the date of receipt of any deficiencies or defects contained in your request.

(2) If ERA requests other documents or additional information from you, these will be considered to be filed upon receipt unless ERA advises you to the contrary within a reasonable time.

(e) *Signing and attestation.* (1) If you file a request for classification under this Part on behalf of a company or corporation, a duly authorized official of that company or corporation must attest in writing as to the accuracy of all of the facts and statements contained in that request.

(2) If you file a request for classification under this Part on behalf of a subsidiary of a company or corporation, a duly authorized official of both the controlling or parent company or corporation and its subordinate or subsidiary company or corporation must attest in writing as to the accuracy of all facts and statements contained in that request.

(3) If you file a request for classification under this Part on behalf of an entity other than a company or corporation, a duly authorized official of that entity must attest in writing as to the accuracy of all of the facts and statements contained in that request.

(4) All requests, comments, attestations or other documents filed under this Part by a duly authorized representative, as defined by § 515.20(c)(8), must contain the written attestation by that person that he is a duly authorized representative and state the basis for his authority.

(f) *Labeling.* You should clearly label any request for classification or other document that you file with ERA, as "Request for Classification as an Existing Facility" both on the document and on the outside of the envelope in which the document is transmitted.

(g) *Obligation to supply information when you file a request for classification, and other documents relevant thereto.* You are under a continuing obligation during the proceeding to provide the ERA with any new or newly discovered information concerning significantly changed circumstances relevant to the facility.

(h) *Request for confidential treatment.*

(1)(i) If you wish to file a document with ERA claiming that some or all of the information contained in the document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act (5 U.S.C. 552 as amended) or is otherwise exempt by law from public disclosure, and if you wish to request ERA not to disclose such information, you must comply with the Department of Energy's Freedom of Information Regulations set forth in 10 CFR Part 1004 (44 FR 1908, January 8, 1979).

(2) ERA retains the right to make its own determination with regard to any claim of confidentiality. Notice of the decision by ERA to deny such claim, in whole or in part, and an opportunity to respond will be given to the person claiming confidentiality of information no less than 7 days prior to the public disclosure of such information.

(3) This subsection does not apply where information is being submitted on an ERA form which contains its own instructions as to requests for

V 4 4 0 C 1 9 7 9 UMI

confidential treatment of information provided.

(4) Each request for ERA action must be submitted as a separate document, even if the request deals with the same or a related issue, act or transaction, or is submitted in connection with the same proceeding.

§ 515.32 Extension of time.

ERA may, in its discretion, provide an extension of time to file a request for classification if you can show good cause for the extension. You should submit your request for an extension within 30 days after the effective date of this rule.

§ 515.33 Effective date of decision.

Any decision issued by ERA under this Part is effective on the date issued against all persons having actual notice of it. Such decision is deemed to be issued on the date it is signed by an authorized representative of ERA, unless the decision or other determination states otherwise.

§ 515.34 Order of precedence.

If there is any conflict or inconsistency between the provisions of this subpart and any other provision of this Part, the provisions of this subpart shall contol as it relates to classifications of Transitional Facilities. ERA determinations on requests for classification that are received by ERA on or before the effective date of this Final Rule shall be made on the basis of the Revised Interim Rule, or upon this Final Rule where the application of the Final Rule would result in a more favorable disposition of your request. For requests made after the effective date of this rule ERA shall apply the provisions of this Final Rule.

§ 515.35 Addresses for filing documents with the ERA.

All requests, reports, ERA forms, written communications or other documents are to be filed with the Assistant Administrator for Fuels Conversion, Economic Regulatory Administration, Attention: Office of Public Hearing Management, 2000 M Street, N.W., Washington, D.C., 20461.

§ 515.36 Office of public information.

The Office of Public Information (2000 M Street, N.W., Washington, D.C., Room B–110) is available for public inspection of documents and copying of the following information:

(a) A list of all persons who have filed a request for classification for designation as existing facilities.

(b) Each decision on a request for classification which will contain a statement setting forth the relevent facts and legal basis of each decision, with confidential information deleted, as well as written comments received from interested persons in connection with a request.

[FR Doc. 79–32399 Filed 10–18–79; 8:45 am]
BILLING CODE 6450–01–M

V 4 4 0 C 1 9 7 9 9 UMI

10-22-79
Vol. 44 No. 205
Pages 60701-60970

Federal Register

Monday
October 22, 1979

Highlights

Briefings on How to Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue. An interpreter for hearing impaired persons will be present for the November 16 briefing.

60934 **Neighborhood Self-Help Development** HUD/NVACP provides an interim rule to set procedures for the award of grants and other forms of assistance under the program; comments by 1-7-80; effective 11-21-79 (Part II of this issue)

60755 **Flammability Standards for Children's Sleepwear** CPSC proposes to reissue an enforcement policy for sizes 0-6X and also proposes to issue the same policy statement for sizes 7-14; comments by 12-21-79

60718 **Loan Moratorium** SBA sets forth conditions of approval for its program; effective 10-22-79

60764 **Federally Funded or Assisted Programs** CSA proposes specific regulations prohibiting age discrimination; comments by 12-21-79

60946 **Federally Funded or Assisted Programs** DOT/Sec'y proposes rules to implement its responsibilities under the Age Discrimination Act of 1975; comments by 1-21-80 (Part IV of this issue)

CONTINUED INSIDE

V 4 4 0 C 2 2 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

Area **Code 202–523–5240**

Highlights

60740 Audiovisual Product GSA/NARS informs agencies of the procedure to be followed in the planning and producing of services; effective 10–22–79

60723 Standard Instrument Approach DOT/FAA establishes, suspends, or revokes procedures for operations at certain airports

60771 Occupant Crash Protection DOT/NHTSA announces publication of an evaluation plan for Federal Motor Vehicle Safety Standard No. 208

60958 Audit Requirements OMB revises circular to insure organization-wide rather than grant-by-grant examinations (Part V of this issue)

60717 Collateralization of Bank Advances FHLBB revises its statement of policy relating to verification under various circumstances; effective 10–22–79

60716 Extension of Credit FRS amends its Regulation A in order to adjust discount rates

60745 Events of Default SBA proposes rule regarding leverage to small business companies; comments by 11–21–79

60726 Claims Copyright Royal Tribunal publishes rule stating acceptance prior to 7–31–79; effective 11–23–79

60715 Antitrust Information NRC amends rules to reduce or eliminate the requirements for submission; effective 10–22–79

60727 Mail PS issues final rule regarding certain classes, presorting destinations, optional sortations and minimum quantities for which a bulk mailer must prepare sacks

60746 Naval Architecture and Marine Engineering SBA proposes size standard; comments by 11–21–79

60764 Coal and Other Minerals Interior/BLM proposes rule requirements for persons who trespass on Federal lands; comments by 11–21–79

60891 Sunshine Act Meetings

Separate Parts of This Issue

60934 Part II, HUD/NVACP
60943 Part III, Interior/HCRS and BIA
60946 Part IV, DOT/Sec'y
60958 Part V, OMB
60962 Part VI, Interior/FWS
60969 Part VII, Interior/SMO

Contents

Federal Register
Vol. 44, No. 205
Monday, October 22, 1979

Agency for International Development
See International Development Corporation Agency.

Agriculture Department
See Federal Crop Insurance Corporation; Federal Grain Inspection Service.

Arts and Humanities, National Foundation
NOTICES
Meetings:
60830 Museum Advisory Panel
60830 Opera-Musical Theater Advisory Panel
60830 Visual Arts Advisory Panel

Civil Aeronautics Board
NOTICES
Hearings, etc.:
60776 Chicago-Madison Subpart Q proceeding
60776 International Air Transport Association
60776 Sky West

Coast Guard
NOTICES
Navigation and vessel inspection laws and regulations; suspension:
60836 M/V Lionheart

Commerce Department
See Industry and Trade Administration; National Oceanic and Atmospheric Administration.

Community Services Administration
PROPOSED RULES
Nondiscrimination:
60764 Age discrimination in federally-assisted programs

Consumer Product Safety Commission
PROPOSED RULES
Flammable fabrics:
60755 Children's sleepwear; sizes 0–6X and 7–14, flammability standards; enforcement policy statements

Copyright Royalty Tribunal
RULES
60726 Cable royalty fees; filing of claims

Economic Regulatory Administration
PROPOSED RULES
Petroleum allocation and price regulations:
60744 Motor gasoline retail sales; equal application rule and increased cost allocation; extension of time
NOTICES
Natural gas exportation and importation; petitions:
60790 El Paso Eastern Co., el al.; conference
Powerplant and industrial fuel use; exemption requests:
60789 Florida Power Corp.
60791, 60792 Portlant General Electric Co. et al. (2 documents)
Powerplant and industrial fuel use; existing powerplant or installation; classification requests:
60791 Montana-Dakota Utilities Co.

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.
NOTICES
Crude oil, domestic; allocation program:
60786 Refiners buy/sell list; October, 1979, through March, 1980
International atomic energy agreements; civil uses; subsequent arrangements:
60789 European Atomic Energy Community: Argentina, and Finland
60788 European Atomic Energy Community and Austria
60788 European Atomic Energy Community and Canada
60789 Japan
60788 Switzerland
Meetings:
60789 National Petroluem Council

Environmental Protection Agency
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
60759 Petroleum refineries, standards review
60761 Portland cement plants
Air quality implementation plans; approval and promulgation; various States, etc.:
60758 California
Toxic substances:
60763 Inventory reporting requirements
60763 Polychlorinated biphenyls (PCBs) and fully halogenated chlorofluoroalkanes; export notification requirements; correction
NOTICES
Air pollution control, new motor vehicles and engines:
60815 Light duty vehicles; carbon monoxide emissions, 1981 and 1982 model years; extension of deadline for determinations on waiver applications
Pesticides; emergency exemption applications:
60816 Chlorpyrifos
60816 Fenvalerate
60812 Komeen
60814 Mesurol
60814 Paraquat
60811 Permethrin
60812 Permethrin and fenvalerate
60812 Pydrin
60818 Sodium chlorate
60817 Toxaphene

Equal Employment Opportunity Commission
NOTICES
60891 Meetings; Sunshine Act

Farm Credit Administration
PROPOSED RULES
60745 District board member elections; nomination and election of directors

Federal Aviation Administration
RULES
Airworthiness directives:
60721 Bendix
60719 Consolidated Aeronautics, Inc.
60720 Detroit Diesel Allison
60721 General Dynamics
60722 General Electric Co.
60723 Control zones
60723 Standard instrument approach procedures
PROPOSED RULES
Air traffic operating and flight rules:
60752 Civil aircraft operating between the United States and Canada or Mexico; elimination of flight plan requirements; withdrawal
60747 Rotorcraft regulatory review program; conference and availability of proposals compilation
60746 Rulemaking petitions; summary and disposition
60748-60752 Transition areas (6 documents)
NOTICES
60837 Exemption petitions; summary and disposition
Meetings:
60837 Aeronautics Radio Technical Commission
Organization and functions:
60837 General Aviation and Air Carrier District Offices, Houston, Tex.; consolidation

Federal Communications Commission
RULES
Radio services; special:
60741 Maritime services; compulsory radiotelephone equipment and qualified radio operator in steering station
Radio stations; table of assignments:
60740 Colorado
NOTICES
Hearings, etc.:
60818 KOTV, Inc., et al.

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
60701 Oats
60709 Rye

Federal Election Commission
NOTICES
60891 Meetings; Sunshine Act

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
60821 Texas

Federal Energy Regulatory Commission
NOTICES
Hearings, etc.:
60803 Alabama Power Co.
60803 Arizona Public Service Co.
60803 Big Sandy Gas Corp.
60793 Canal Electric Co.
60804 Carnegie Natural Gas Co. et al.
60805 Colorado Interstate Gas Co.
60805 Columbia Gulf Transmission Co. et al.
60806 Delmarva Power & Light Co.
60806 Florida Gas Transmission Co.
60794 Indiana & Michigan Power Co.
60807 Kansas City Power & Light Co.
60807 Louisiana-Nevada Transit Co. et al.
60808 Midwestern Gas Transmission Co.
60808, 60809 Minnesota Power & Light Co. (2 documents)
60794 Montana Dakota Utilities Co.
60809 National Fuel Gas Supply Corp.
60794-60796 New Bedford Gas & Edison Light Co. (8 documents)
60810 Northern Natural Gas Co. (2 documents)
60797 Oklahoma Natural Gas Gathering Corp. et al.
60797 Panhandle Eastern Pipe Line Co. et al.
60798 Public Service Co. of Colorado
60799 Southern Natural Gas Co.
60799 Standard Gas Co.
60800 Texas Pacific Oil Co., Inc.
60801, 60802 Transcontinental Gas Pipe Line Corp. (3 documents)
60802 Trunkline Gas Co.
60797 Tucson Electric Power Co.
60797 Wisconsin Electric Power Co.
60803 Zenith Natural Gas Co. et al.

Federal Grain Inspection Service
NOTICES
Grain standards; inspection points:
60775 Colorado

Federal Home Loan Bank Board
RULES
Federal home loan bank system, etc.:
60717 Bank advances; collateralization; policy statement

Federal Home Loan Mortgage Corporation
NOTICES
60891 Meetings; Sunshine Act

Federal Labor Relations Authority
RULES
60701 Case processing; interim regulations; New York Regional Office, geographic jurisdiction over Pennsylvania and Delaware

Federal Maritime Commission
NOTICES
Freight forwarder licenses:
60882 Sullivan & Son, Inc.
60882 Transco International, Inc.
60882 Trio Shipping Co., Inc.
60891 Meetings; Sunshine Act

Federal Mine Safety and Health Review Commission
NOTICES
60891 Meetings; Sunshine Act (2 documents)

Federal Reserve System
RULES
Credit extension by Federal Reserve Banks (Regulation A):
60716 Change in advance and discount rates

NOTICES
Applications, etc.:
60825 Fannin Bancshares, Inc.
60825 Heritage Wisconsin Corp.
60825 Irving Bancorp, Inc.
60825 J. Henry Schroder International Bank
60826 Pacesetter Financial Corporation
60824 Pittsburgh National Corporation et al.
60826 Seafirst Corporation
60823 Shawmut Corporation et al.
60822 South Carolina National Corporation et al.
60826 Upper Midwest Financial Corporaion
60826 Western Bancorporation

Federal Trade Commission
RULES
Prohibited trade practices; cease and desist orders:
60725 Admarketing, Inc.
60726 American Consumer, Inc., et al.

Fish and Wildlife Service
RULES
Endangered and threatened species:
60962 Manatee, West Indian

General Accounting Office
NOTICES
60827 Regulatory reports review; proposals, approvals, etc. (NRC)

General Services Administration
See also National Archives and Records Service
RULES
Property management:
60740 Commercial products; management of specifications, standards, and descriptions; extension of time
NOTICES
Authority delegations:
60827 Defense Department Secretary (2 documents)

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
60785, 60811 Decisions and orders (2 documents)

Heritage Conservation and Recreation Service
NOTICES
60943 Land and Water Conservation Fund program, task force report, availability; workshops schedule

Housing and Urban Development Department
See Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary.

Indian Affairs Bureau
NOTICES
60943 Land and Water Conservation Fund program, task force report, availablility; workshops schedule

Industry and Trade Administration
PROPOSED RULES
Export licensing:
60753 Western red cedar (Thuja plicata) logs, unprocessed; short supply controls; advance notice
NOTICES
Scientific articles; duty free entry:
60776 University of Pennsylvania et al.
60779 University of Rochester

Interior Department
See Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Surface Mining Office.

International Development Corporation Agency
NOTICES
Meetings:
60829 International Food and Agricultural Development Board (2 documents)

Interstate Commerce Commission
NOTICES
Environmental statements; availability, etc.:
60890 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.; abandonment of portions of Pacific Coast Extension in Mont., Idaho, Wash., and Ore.
60892 Meetings, Sunshine Act
Motor carriers:
60869 Temporary authority applications
60841 Petitions, applications, finance matters (including temporary authorities), railroad abandonments, alternate route deviations, and intrastate applications
Railroad operation, acquisition, construction, etc.:
60890 Chicago, Milwaukee, St. Paul & Pacific Railroad Co.

Land Management Bureau
PROPOSED RULES
60764 Trespass; payment for mineral resources damage and reclamation; advance notice
NOTICES
Applications, etc.:
60827 Colorado
Management framework plans review and supplement:
60828 Montana
Meetings:
60828 Mid-Atlantic Technical Working Group Committee

Management and Budget Office
NOTICES
60832 Agency forms under review
60958 State and local governments grants-in-aid; audit requirements (OMB A-102)

National Archives and Records Service
RULES
Property management:
60740 Audiovisual records management; mandatory title check form

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
60771 Occupant crash protection; evaluation plan; inquiry

V 44 OC 22 79 UMI

NOTICES
Motor vehicle safety standards: exemption, petitions, etc.:
60836 Uniroyal Tire Co.: new pneumatic tires for vehicles other than passenger cars; petition denial836

National Oceanic and Atmospheric Administration
NOTICES
60779 National Environmental Policy Act; implementation

National Park Service
NOTICES
Boundary establishment, descriptions, etc.:
60829 Chattahoochee River National Recreation Area, Ga.
Concession permits, etc.:
60829 Statue of Liberty National Monument

National Science Foundation
NOTICES
Meetings:
60831 Physics Advisory Committee
60831 Policy Research and Analysis and Science Resources Studies Advisory Committee

Neighborhood Reinvestment National Corporation
NOTICES
60892 Meetings: Sunshine Act

Neighborhoods, Voluntary Associations and Consumer Protection, Office of Assistant Secretary
RULES
60934 Neighborhood self-help development program; program requirements

Nuclear Regulatory Commission
RULES
Practice rules:
60715 Production and utilization facilities; licensing; antitrust review procedures
PROPOSED RULES
60743 Plants and materials; safeguard events reporting
Radioactive material packaging:
60743 Environmental statement on transportation; extension of time
NOTICES
Abnormal occurrence reports:
60832 Nuclear accident at Three Mile Island
Applications, etc.:
60832 Georgia Power Co.
60832 Sacramento Municipal Utility District
Meetings:
60831 Reactor Safeguards Advisory Committee (2 documents)
60892 Meetings; Sunshine Act

Postal Rate Commission
PROPOSED RULES
Practice rules and procedures:
60757 Experimental proposals by United States Postal Service; conference; list of commenters
NOTICES
60833 Visits to postal facilities

Postal Service
RULES
Domestic Mail Manual:
60727 Bulk mailings preparation

Research and Special Programs Administration, Transportation Department
PROPOSED RULES
60771 Radioactive materials, transportation requirements; extension of time

Science and Technology Policy Office
NOTICES
Meetings:
60832 Science, Engineering, and Technology Intergovernmental Advisory Panel

Securities and Exchange Commission
NOTICES
Hearings, etc.:
60833 First State Capital Fund, Inc.
60834 St. Paul Money Fund, Inc.

Small Business Administration
RULES
60718 Loan moratorium program
PROPOSED RULES
Small business investment companies:
60745 Leverage to unincorporated SBIC's; events of default
Small business size standards:
60746 Naval architecture and marine engineering industry

State Department
NOTICES
Meetings:
60835, 60836 International Radio Consultative Committee (2 documents)
60835 Private International Law Advisory Committee

Surface Mining Office
RULES
Surface coal mining and reclamation enforcement operations:
60969 Permanent regulatory program; postponement of initial submission of State programs

Tennessee Valley Authority
NOTICES
60892 Meetings; Sunshine Act

Transportation Department
See also Coast Guard; Federal Aviation Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration; Transportation Department.
PROPOSED RULES
Nondiscrimination:
60946 Age discrimination in federally-assisted programs

Treasury Department
NOTICES
Antidumping:
60838 Coke from Germany
Notes, Treasury:
60839 Y-1981 series

MEETINGS ANNOUNCED IN THIS ISSUE

ARTS AND HUMANITIES, NATIONAL FOUNDATION
60830 Museum Advisory Panel, 11-13-79
60830 Opera-Musical Theatre Panel, 11-27 through 11-29-79
60830 Visual Arts Panel, 11-8 and 11-9-79

ENERGY DEPARTMENT
60789 National Petroleum Council, Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities, 11-6-79

INTERIOR DEPARTMENT
Bureau of Land Management—
60828 Mid-Atlantic Technical Working Group Committee, 11-14-79
Heritage Conservation and Recreation Service and Bureau of Indian Affairs—
60943 Action to increase Indian tribal accessibility to Land and Water Conservation Fund Program, 11-1 and 11-2, and 11-5 and 11-6-79

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY
60829 Joint Research Committee of the Board for International Food and Agricultural Development, 11-13 and 11-14-79
60829 Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development, 11-13 and 11-14-79

NATIONAL SCIENCE FOUNDATION
60831 Advisory Committee for Physics; Subcommittee for the Review of Elementary Particle Physics, 11-8 and 11-9-79
60831 Advisory Committee for Policy Research and Analysis and Science Resources Studies, 11-8 and 11-9-79

NUCLEAR REGULATORY COMMISSION
60831 Advisory Committee on Reactor Safeguards Reactor Safety Research Subcommittee, 11-6 and 11-7-79
60831 Advisory Committee on Reactor Safeguards Subcommittee on Reliability and Probabilistic Assessment, 11-6 and 11-7-79

OFFICE OF SCIENCE AND TECHNOLOGY POLICY
60832 Intergovernmental Science Engineering, and Technology Advisory Panel, Science and Technology Transfer Task Force, 11-9 and 11-10-79

STATE DEPARTMENT
60835 Secretary's Advisory Committee on Private International Law, 11-16-79
60835 Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR), 11-15-79
60836 Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR), 11-14-79

TRANSPORTATION DEPARTMENT
Federal Aviation Administration—
60837 Radio Technical Commission for Aeronautics (RTCA) Executive Committee, 11-14-79

V 4 4 0 C 2 2 7 9 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

5 CFR
Ch. XIV 60701

7 CFR
401 (2 documents) 60701, 60709
427 60701
429 60709

10 CFR
2 60715
50 60715

Proposed Rules:
71 60743
73 60743
212 60744

12 CFR
201 60716
525 60717
531 60717

Proposed Rules:
618 60745

13 CFR
131 60718

Proposed Rules:
107 60745
121 60746

14 CFR
39 (5 documents) 60719-60722
71 60723
97 60723

Proposed Rules:
Ch. I 60746
1 60747
27 60747
29 60747
33 60747
43 60747
45 60747
61 60747
71 (6 documents) 60748-60752
91 (2 documents) 60747, 60752
121 60747
127 60747
133 60747
135 60747

15 CFR
Proposed Rules:
377 60753

16 CFR
13 (2 documents) 60725, 60726

Proposed Rules:
1615 60755
1616 60755

24 CFR
3810 60934

30 CFR
731 60969

37 CFR
302 60726

39 CFR
111 60727

Proposed Rules:
3001 60757

40 CFR
Proposed Rules:
52 60758
60 (2 documents) 60759, 60761
707 60763
710 60763

41 CFR
Ch. 101 (2 documents) 60740
101-11 60740

43 CFR
Proposed Rules:
9230 60764

45 CFR
Proposed Rules:
Ch. X 60764

47 CFR
73 60740
83 60741

49 CFR
Proposed Rules:
29 60946
127 60771
171 60771
172 60771
173 60771
174 60771
175 60771
176 60771
177 60771
571 60771

50 CFR
17 60962

Rules and Regulations

Federal Register
Vol. 44, No. 205
Monday, October 22, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Chapter XIV

Pennsylvania and Delaware; Geographic Jurisdiction Provisions

AGENCY: Federal Labor Relations Authority (including the General Counsel of the Federal Labor Relations Authority) and Federal Service Impasses Panel.

ACTION: Interim rules and regulations.

SUMMARY: This rule amends Appendix A, paragraph (f) (44 FR 44775) of the interim rules and regulations of the Federal Labor Relations Authority (Authority), General Counsel of the Federal Labor Relations Authority (General Counsel), and Federal Service Impasses Panel (Panel), published at 44 FR 44740, to provide that the States of Pennsylvania and Delaware are within the geographic jurisdiction of the New York Regional Office.

DATES: Effective Date: October 15, 1979.

Comment Date: Written comments on the interim rules and regulations will be considered if received no later than October 31, 1979.

ADDRESS: Send written comments to the Federal Labor Relations Authority, Office of the General Counsel, 200 Constitution Avenue, NW., Room N 5657, Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: S. Jesse Reuben, Deputy General Counsel, (202) 523-7262.

SUPPLEMENTARY INFORMATION: Effective July 30, 1979, the Authority, General Counsel and Panel published, at 44 FR 44740, interim rules and regulations to principally govern the processing of cases by the Authority, General Counsel and Panel under chapter 71 of title 5 of the United States Code. These interim rules and regulations are required by Title VII of the Civil Service Reform Act of 1978 and will continue to be applied until their expiration on January 31, 1980, or upon the effective date of final rules and regulations prior to January 31, 1980. As previously indicated at 44 FR 44740, interested labor organizations, agencies and other persons may comment in writing on the interim rules and regulations and such comments should be submitted no later than October 31, 1979.

Appendix A, paragraph (f) of the interim rules and regulations (44 FR 44775) sets forth the geographic jurisdictions of the Regional Directors of the Authority. Under paragraph (f) of Appendix A, the States of Pennsylvania and Delaware are listed to be within the geographic jurisdiction of the Authority's Washington, D.C. Regional Office. Based upon a careful review of overhead costs, travel costs and the need for effective supervision of field personnel, it has been concluded that it would be in the best interest of optimizing the transaction of Authority business through the most effective and efficient manner by placing the States of Pennsylvania and Delaware within the geographic jurisdiction of the Authority's New York Regional Office. The address of the New York Regional Office, as set forth in Appendix A, paragraph (d)(2) of the interim rules and regulations (44 FR 44775) is as follows:

(2) New York Regional Office—Room 1751, 26 Federal Plaza, New York, New York 10007. Telephone: FTS-264-5640, Commercial—(212) 264-5640.

Accordingly, Appendix A, paragraph (f) of the Authority, General Counsel, and Panel interim rules and regulations (44 FR 44775) is amended, in part, to read as follows:

Appendix A—Authority, General Counsel, Chief Administrative Law Judge, Regional Directors and Panel

Temporary Addresses and Geographic Jurisdictions.

* * * * *

(f) The geographic jurisdictions of the Regional Directors of the Authority are as follows:

State or Other Locality and Regional Office

* * * * *

Delaware—New York.

* * * * *

Pennsylvania—New York.

* * * * *

(5 U.S.C. 7134)

Dated: October 15, 1979.

Ronald W. Haughton,
Chairman.
Henry B. Frazier III,
Member.
Leon B. Applewhaite,
Member.
H. Stephan Gordon,
General Counsel.
Federal Labor Relations Authority.

[FR Doc. 79-32583 Filed 10-19-79; 8:45 am]
BILLING CODE 6325-16-M

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Parts 401, 427

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring oat crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring oats in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the **Federal Register** on July 18, 1979 (44 FR 41821), outlining prescribed procedures for insuring oat crops effective with the 1980 crop year. In the notice, FCIC, under the authority

contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 427 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring oat crops effective with the 1980 crop year to be known as 7 CFR Part 427 Oat Crop Insurance.

All previous regulations applicable to insuring oat crops, as found in 7 CFR 401.101–401.111, and 401.130, are not applicable to 1980 and succeeding oat crops but remain in effect for FCIC oat insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring oat crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 427 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that the production guarantees will now be shown on a harvested basis with a reduction of the lesser of 6 bushels or 20 percent of the guarantee for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR 427.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The Oat Crop Insurance regulations provide a December 31 cancellation date for all oat producing counties.

These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties where oat crop insurance is available in accordance with the provisions of 7 CFR 427.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" below merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this Appendix "B" is issued without compliance with such procedure.

Final Rule

PART 401—FEDERAL CROP INSURANCE

§ 401.130 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.130, with such regulations as are contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 427 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 427) to be known as the Oat Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 427—OAT CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

427.1 Availability of Oat Insurance.
427.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
427.3 Public notice of indemnities paid.
427.4 Creditors.
427.5 Good faith reliance on misrepresentation.
427.6 The contract.
427.7 The applications and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506,1516)

§ 427.1 Availability of oat insurance.

Insurance shall be offered under the provisions of this subpart on oats in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which oat insurance will be offered.

§ 427.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for oats which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 427.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 427.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 427.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the oat insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice or by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured, or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 427.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 427.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the oat crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of an oat contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Oat Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Oat Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years
Oat
Crop Insurance Contract

_____

_____

(Name and Address) (ZIP Code)

(Contract Number)

(Identification Number)

(County)

(State)

Type of entity _____

Applicant is over 18 Yes— No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the oats planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Level election _____
Price Election _____

Example: For the 19— Crop Year Only (100% Share)

Location farm No.	Guarantee per acre *	Premium per acre **	Practice

* Your guarantee will be on a unit basis (acres x per acre guarantee x share).

** Your premium is subject to adjustment in accordance with section 5 of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted application, the following oat insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./witness to signature)

(Signature of applicant)

(Date) ——19——
Address of office for county:

Phone
Location of Farm Headquarters:

Phone

Oat Crop Insurance Policy
Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

V 44 0C 2 2 7 9 UMI

2. *Crop and acreage insured.* (a) The crop insured shall be oats seeded for harvest as grain, oats seeded in the same manner for harvest as silage or hay, and grain mixtures in which oats is the predominant grain, and for which the actuarial table shows a guarantee and premium rate per acre, and which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage seeded to oats on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached as determined by the Corporation to any acreage (1) on which the oats were seeded with flax or vetch, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to oats and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer oats, (7) seeded to a type or variety of oats not established as adapted to the area or shown as noninsurable on the actuarial table.

(c) Insurance may attach only by written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of oats seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share, and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 6 bushels or 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of seeding and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3510-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3510-08-C

V 44 0C 22 79 UMI

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity: *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the oats are seeded and shall cease upon the earliest of (a) final adjustment of a loss, (b) threshing, harvesting for silage or hay, or removal from the field, (c) October 31 of the calendar year in which oats are normally harvested, or (d) total destruction of the insured oat crop.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the oats on any unit are damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, if the insured wants the consent of the Corporation to put the acreage to another use, or if the insured decides to harvest the crop for silage or hay. Pursuant to such notice, the Corporation shall appraise the potential grain production. *However,* if the Corporation is unable to do so prior to harvest, the insured may harvest the crop provided representative areas are left for appraisal purposes. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to oats. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire oat crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of oats on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of oats on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of oats to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 4 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 14.0 percent; and if, due to insurable causes, any oats do not grade No. 4 or better, or are graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged oats (as determined by the Corporation) by the price per bushel of U.S. No. 2 oats and (ii) multiplying the result by the number of bushels of such oats. The applicable price for No. 2 oats shall be the local market price on the earlier of: the day the loss is adjusted or the day the damaged oats were sold.

(2) Any harvested production from volunteer crops growing with the seeded oat crop or small grains seeded in the growing oat crop on acreage which the Corporation has not given consent to be put to another use shall be counted as oats on a weight basis.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation is seeded before oat harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 6 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of oats becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all oats produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be cancelled for such crop year. Thereafter, either party may cancel "the" insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

County	Cancellation date	Termination date for indebtedness
All counties	December 31	March 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. *Meaning of terms.* For the purposes of oat crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding oat insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the oat crop is normally grown and shall be designated by the calendar year in which the oat crop is normally harvested.

(d) "Harvest" means the severance of mature oats from the land for threshing, hay or silage.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured oat crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means the person who rents land from another person for a share of the oat crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of oats in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the oat crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse of child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage insured.* (a) The Corporation reserves the right to limit the insured acreage of oats to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of oats.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and payment of indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured oat acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the oats are seeded for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a

V 4 4 0 C 2 2 7 9 UMI

joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage level and price election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Oat Crop Insurance—7 CFR Part 427

In accordance with the provisions of 7 CFR 427.1, the following counties are designated for oat crop insurance:

California

Modoc

Illinois

Bureau
Carroll
Henry
Jo Daviess
Ogle
Stephenson

Iowa

Adair
Adams
Allamakee
Appanoose
Audubon
Benton
Black Hawk
Boone
Bremer
Buchanan
Buena Vista
Butler
Calhoun
Carroll
Cass
Cedar
Cerro Gordo
Cherokee
Chickasaw
Clarke
Clay
Clayton
Clinton
Crawford
Dallas
Davis
Decatur
Delaware
Des Moines
Dickinson
Dubuque
Emmet
Fayette
Floyd
Franklin
Fremont
Greene
Grundy
Guthrie
Hamilton
Hancock
Hardin
Harrison
Henry
Howard
Humbolt
Ida
Iowa
Jackson
Jasper
Jefferson
Johnson
Jones
Keokuk
Kossuth
Lee
Linn
Louisa
Lucas
Lyon
Madison
Mahaska
Marion
Marshall
Mills
Mitchell
Monona
Monroe
Montgomery
Muscatine
O'Brien
Osceola
Page
Palo Alto
Plymouth
Pocahontas
Polk
Pottawattamie
Poweshiek
Sac
Scott
Shelby
Sioux
Story
Tama
Taylor
Union
Van Buren
Wapello
Warren
Washington
Webster
Winnebago
Winneshiek
Woodbury
Worth
Wright

Minnesota

Anoka
Becker
Benton
Big Stone
Blue Earth
Brown
Carver
Chippewa
Chisago
Clay
Cottonwood
Dakota
Dodge
Douglas
Faribault
Fillmore
Freeborn
Goodhue
Grant
Houston
Isanti
Jackson
Kandiyohi
Kittson
Lac qui Parle
Le Sueur
Lincoln
Lyon
McLeod
Mahnomen
Marshall
Martin
Meeker
Mille Lacs
Morrison
Mower
Murray
Nicollet
Nobles
Norman
Olmsted
Otter Tail
Pennington
Pipestone
Polk
Pope
Red Lake
Redwood
Renville
Rice
Rock
Roseau
Scott
Sherburne
Sibley
Stearns
Steele
Stevens
Swift
Todd
Traverse
Wabasha
Wadena
Waseca
Washington
Watonwan
Wilkin
Winona
Wright
Yellow Medicine

Nebraska

Cedar
Dakota
Dixon
Knox
Pierce
Wayne
Thurston

North Dakota

Adams
Barnes
Benson
Billings
Bottineau
Bowman
Burke
Burleigh
Cass
Cavalier
Dickey
Divide
Dunn
Eddy
Emmons
Foster
Golden Valley
Grand Forks
Grant
Griggs
Hettinger
Kidder
La Moure
Logan
McHenry
McIntosh
McKenzie
McLean
Mercer
Morton
Mountrail
Nelson
Oliver
Pembina
Pierce
Ramsey
Ransom
Renville
Richland
Rolette
Sargent
Sheridan
Sioux
Slope
Stark
Steele
Klamath
Chester
Cumberland
Aurora
Beadle
Bon Homme
Brookings
Brown
Brule
Campbell
Charles Mix
Clark
Clay
Codington
Davison
Day
Deuel
Douglas
Edmunds
Faulk
Grant
Gregory
Hamlin
Hand
Hanson
Hughes
Barron
Brown
Buffalo
Calumet
Chippewa
Clark
Columbia
Crawford
Dane
Dodge
Dunn
Eau Claire
Fond du Lac
Grant
Green
Iowa
Jackson
Jefferson
Kenosha
Kewaunee
La Crosse
Stutsman
Towner
Traill
Walsh
Ward
Wells
Williams

Oregon

Pennsylvania

Dauphin
Perry

South Dakota

Hutchinson
Hyde
Jerauld
Kingsbury
Lake
Lincoln
Lyman
McCook
McPherson
Marshall
Miner
Minnehaha
Moody
Potter
Roberts
Sanborn
Spink
Sully
Tripp
Turner
Union
Walworth
Yankton

Wisconsin

Lafayette
Manitowoc
Marathon
Monroe
Outagamie
Pepin
Pierce
Polk
Portage
Racine
Richland
Rock
St. Croix
Saulk
Sheboygan
Trempealeau
Vernon
Walworth
Waukesha
Winnebago
Wood

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A "Final Impact Statement" has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 15, 1979.

Approved by:

James D. Deal,

Manager.

[FR Doc. 79-32580 Filed 10-19-79; 8:45 am]

BILLING CODE 3510-08-M

7 CFR Parts 401 and 429

Rye Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for insuring rye crops effective with the 1980 crop year. The rule combines provisions from previous regulations for insuring rye in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone 202-447-3325.

SUPPLEMENTARY INFORMATION: The Federal Crop Insurance Corporation (FCIC) published a notice of proposed rulemaking in the Federal Register on July 19, 1979 (44 FR 42206), outlining prescribed procedures for insuring rye crops effective with the 1980 crop year. In the notice, FCIC, under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), proposed that a new Part 429 of Chapter IV in Title 7 of the Code of Federal Regulations be established to prescribe procedures for insuring rye crops effective with the 1980 crop year to be known as 7 CFR Part 429 Rye Crop Insurance.

All previous regulations applicable to insuring rye crops, as found in 7 CFR 401.101-401.111, and 401.133, are not applicable to 1980 and succeeding rye crops but remain in effect for FCIC rye insurance policies issued for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring rye crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, 7 CFR Part 429 provides (1) for a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) that the production guarantees will now be shown on a harvested basis with a reduction of the lesser of 6 bushels or 20 percent of the guarantee for any unharvested acreage, (3) that any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (4) that the time period for submitting a notice of loss be extended from 15 days to 30 days, (5) that the 60-day time period for filing a claim be eliminated, (6) that three coverage level options be offered in each county, (7) that the Actuarial Table shall provide the level which will be applicable to a contract unless a different level is selected by the insured and the conversion level will be the one closest to the present percent level offered in each county, and (8) for an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR 429.5 of these regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The Rye Crop Insurance regulations provide a June 30 cancellation date for all rye producing counties.

These regulations, and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of June 30, 1980, before they become effective for the 1980 crop year.

Under the provisions of Executive Order No. 12044, and the Administrative Procedure Act (5 U.S.C. 553(b) and (c)), the public was given an opportunity to submit written comments, data, and views on the proposed regulations, but none were received.

Therefore, with the exception of minor and nonsubstantive corrections to language, the regulations as contained in the proposed rule are hereby issued as a final rule to be in effect starting with the 1980 crop year.

In addition, there is hereby added to the final rule an Appendix "B", which lists the counties were rye crop insurance is available in accordance with the provisions of 7 CFR 429.1 outlined below which state in part that before insurance is offered in any county there shall be published by appendix to this part the names of the counties in which such insurance shall be offered.

Inasmuch as the publication of the list of counties and crops insured by the Federal Crop Insurance Corporation as contained in Appendix "B" below merely provides guidance for the general public and has no effect on the provisions of the insurance plan, the Corporation has determined that compliance with the procedure for notice and public participation in the proposed rulemaking process would be impracticable, unnecessary, and contrary to the public interest. Therefore, this Appendix "B" is issued without compliance with such procedure.

PART 401—FEDERAL CROP INSURANCE

Final Rule

§ 401.133 [Reserved]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby deletes and reserves 7 CFR 401.133, with such regulations as are contained therein remaining in effect for FCIC insurance policies issued for crop years prior to 1980, and issues a new Part 429 in Chapter IV of Title 7 of the Code of Federal Regulations (7 CFR Part 429) to be known as the Rye Crop Insurance Regulations, which shall remain in effect, until amended or superseded, for the 1980 and succeeding crop years, to read as follows:

PART 429—RYE CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

429.1 Availability of Rye Insurance.
429.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
429.3 Public notice of indemnities paid.
429.4 Creditors.
429.5 Good faith reliance on misrepresentation.
429.6 The contract.
429.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516).

§ 429.1 Availability of rye insurance.

Insurance shall be offered under the provision of this subpart on rye in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as

V 44 OC 22 79 UMI

amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which rye insurance will be offered.

§ 429.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for rye which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 429.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 429.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 429.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the rye insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 429.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the rye crop as provided in the policy. The Contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 429.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the rye crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county by placing the extended date on file in the office for the country and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a rye contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and Rye Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Rye Insurance Policy are as follows:

U.S. Department of Agriculture, Federal Crop Insurance Corporation

Applications for 19— and Succeeding Crop Years; Rye Crop Insurance Contract

_____

_____

_____

(Name and Address) (ZIP Code)

(Contract Number)

(Identification Number)

(County)

(State)

Type of Entity _____

Applicant is over 18 Yes— No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the rye seeded on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level and price at which indemnities shall be computed. THE PREMIUM RATES AND PRODUCTION GUARANTEES SHALL BE THOSE SHOWN ON THE APPLICABLE COUNTY ACTUARIAL TABLE FILED IN THE OFFICE FOR THE COUNTY FOR EACH CROP YEAR.

Level Election _____

Price Election _____

Example: For the 19— Crop Year Only (100% Share)

Location/ farm No.	Guarantee per acre *	Premium per acre **	Practice

* Your guarantee will be on a unit basis (acres x per acre guarantee x share).

** Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. WHEN NOTICE OF ACCEPTANCE OF THIS APPLICATION IS MAILED TO THE APPLICANT BY THE CORPORATION, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, AND SHALL CONTINUE FOR EACH SUCCEEDING CROP YEAR UNTIL CANCELED OR TERMINATED as provided in the contract. This accepted applications, the following rye insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

_____

(Code No./Witness to Signature)

_____

(Signatue of Applicant)

_____

(Date)———, 19—

Address of office for county:

_____

Phone _____

Location of Farm Headquarters:

_____

Phone _____

Rye Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and acreage insured.* (a) The crop insured shall be rye which is seeded for harvest as grain and which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage seeded to rye on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* that insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where rye was seeded with vetch or flax or other small grains, (2) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for whch a premium rate has been established, (3) not reported for insurance as provided in section 3 if such acreage is irrigated and an irrigated practice is not provided for such acreage on the actuarial table, (4) which is destroyed and after such destruction it was practical to reseed to rye and such acreage was not reseeded, (5) initially seeded after the date on file in the office for the county which has been established by the Corporation as being too late to initially seed and expect a normal crop to be produced, (6) of volunteer rye, (7) seeded to a type or variety of rye not established as adapted to the area or shown as noninsurable on the actuarial table, or (8) seeded with another crop, except as otherwise provided herein.

(c) Insurance may attach only be written agreement with the Corporation on acreage which is seeded for the development or production of hybrid seed or for experimental purposes.

3. *Responsibility of insured to report acreage and share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of rye seeded in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of seeding. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production guarantees, coverage levels and prices for computing indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by the lesser of 3 bushels or 20 percent for any unharvested acreage.

5. *Annual premium.* (a) The annual premium is earned and payable at the time of seeding and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of seeding, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3510-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3510-08-C

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *however,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance period.* Insurance on insured acreage shall attach at the time the rye is seeded and shall cease upon the earliest of (a) final adjustment of a loss, (b) combining, threshing, or removal of the rye from the field, (c) October 31 of the calendar year in which rye is normally harvested, or (d) total destruction of the insured rye crop.

7. *Notice of damage or loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the rye on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to reseed to rye. Notice shall also be given when such acreage has been put to another use.

(c) In addition to the notices required in subsection (b) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date harvest is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire rye crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(d) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(e) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of rye on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of rye on the unit by the applicable production guarantee per acre which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of rye to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Mature production which grades No. 3 or better shall be reduced .12 percent for each .1 percentage point of moisture in excess of 16.0 percent; and if, due to insurable causes, any rye does not grade No. 3 or better, or is graded smutty, garlicky, or ergoty, in accordance with the Official U.S. Grain Standards, the production shall be adjusted by (i) dividing the value per bushel of the damaged rye (as determined by the Corporation) by the price per bushel of U.S. No. 2 rye and (ii) multiplying the result by the number of bushels of such rye. The applicable price for No. 2 rye shall be the local market price on the earlier of the day the loss is adjusted or the day the damaged rye was sold.

(2) Any harvested production from volunteer crops growing with the seeded rye crop or small grains seeded in the growing rye crop on acreage which the Corporation has not given consent to be put to another use shall be counted as rye on a weight basis.

(3) Appraised production to be counted shall include: (i) the greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is seeded before rye harvest becomes general in the current crop year to any other crop insurable on such acreage (excluding any crop(s) maturing for harvest in the following calendar year), (ii) any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (iii) not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iv) only the appraisal in excess of the lesser of 3 bushels or 20 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of rye becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Misrepresentation and fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

10. *Transfer of insured share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

11. *Records and access to farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all rye produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

12. *Life of contract: Cancellation and termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

V 44 0C 2 2 7 9 UMI

	Cancellation date	Termination date for indebtedness
All counties	June 30	Sept. 15.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix (Additional Terms and Conditions)

1. *Meaning of terms.* For the purposes of rye crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding rye insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the rye crop is normally grown and shall be designated by the calendar year in which the rye crop is normally harvested.

(d) "Harvest" means the severance of mature rye from the land for combining or threshing.

(e) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(f) "Insured" means the person who submitted the application accepted by the Corporation.

(g) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(h) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(i) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured rye crop at the time of seeding as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(j) "Tenant" means a person who rents land from another person for a share of the rye crop or proceeds therefrom.

(k) "Unit" means all insurable acreage of rye in the county on the date of seeding for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the rye crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage insured.* (a) The Corporation reserves the right to limit the insured acreage of rye to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the seeding of rye.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of seeding.

(b) Where irrigated acreage is insurable, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

4. *Annual premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and payment of indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured rye acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the rye is seeded for any crop year, any indemnity will be paid to the person(s) the corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity

8. *Coverage level and price election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation change the coverage level and price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 12 of the policy.

Appendix "B"

Counties Designated for Rye Crop Insurance—7 CFR Part 420

In accordance with the provisions of 7 CFR 420.1, the following counties are designated for rye crop insurance:

North Dakota

Barnes Richland
Pierce

These regulations have been reviewed under the USDA criteria established to implement Executive Order No. 12044, "Improving Government Regulations." A determination has been made that this action should not be classified as "significant" under those criteria. A "Final" Impact "Statement" has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942, and OMB Circular No. A-40.

Approved by the Board of Directors on July 10, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: October 15, 1979.

Approved by:

James D. Deal,

Manager.

[FR Doc. 79-32581 Filed 10-19-79; 8:45 am]

BILLING CODE 3510-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 2 and 50

Licensing of Production and Utilization Facilities; Antitrust Review Procedures

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is hereby amending current regulations to reduce or eliminate the requirements for submission of antitrust information in certain "de minimis" instances and to clarify requirements for antitrust review of applications for licenses for class 103 facilities (commercial facilities) other than power reactors.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Argil Toalston, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301-492-8339.

SUPPLEMENTAL INFORMATION: Each applicant for a license for a production or utilization facility under section 103 of the Atomic Energy Act of 1954, as amended, is required by § 50.33a of 10 CFR Part 50, Licensing of Production and Utilization Facilities, to respond to a series of questions provided by the Attorney General of the United States in connection with the review of antitrust matters pursuant to section 105c of the Atomic Energy Act of 1954, as amended. In the case of a nuclear power reactor, several utilities may join in a single application for a license. Some of the participants will hold very small shares of the facility and will be entitled to only small percentages of the total output of electricity from the facility.

Generally, participants holding a small share entitling them to a small percentage of the electricity generated by the facility tend to be small entities not normally having a significant competitive impact in their general area. Consequently, on April 26, 1978, the Commission caused to be published in the **Federal Register** (43 FR 17830) a notice of proposed rule making waiving the requirement that "de minimis" participants in nuclear power plants submit antitrust information specified in Part 50, unless specifically requested by the Commission to do so.

The NRC received comments from the law firm of LeBoeuf, Lamb, Leiby & MacRae (LeBoeuf) addressing the **Federal Register** Notice. Based on these comments, the Commission has adopted LeBoeuf's suggestion that threshold levels for determining whether an electric utility may be considered "de minimis" for antitrust purposes should be based on the generating capacity of the applicant at the time of its application rather than its entitlement to electrical output from the facility. Using generating capacity would provide a more direct measurement of the relative size, and thus competitive impact, of an applicant.

Thus, the Commission has concluded that participants whose generating capacity at the time of application is 200 MW(e) or less are not required to submit information specified in Appendix L of Part 50, unless specifically requested by the Commission to do so. The Commission notes that the limit of 200 MW(e) of generating capacity would currently require approximately the 200 largest electric utilities in the United States to respond to all or a portion of NRC's antitrust questions. The Commission believes that utilities smaller than these generally would have a negligible effect on competition. However, under certain circumstances these smaller systems could also be required to submit the information set forth in Appendix L of Part 50 if possible antitrust problems become apparent.

The Commission has also concluded that participants whose generating capacity at the time of application is more than 200 MW(e) but not more than 1400 MW(e) are required to respond only to Question 9 in Appendix L of Part 50. Question 9 deals with neighboring, non-affiliated electric utility systems with peak loads smaller than applicant's. Such applicants could, of course, subsequently be specifically requested by the Commission to submit all the information required by § 50.33a. The Commission notes that the limit of 1400 MW(e) of generating capacity would currently require approximately the 100 largest utilities in the United States to respond to all of the antitrust questions.

These proposed changes would reduce the burden of preparing antitrust-related data on small applicants, while at the same time maintaining an adequate standard of antitrust review. The Antitrust Division of the Department of Justice has concurred in the Commission's proposed action.

Other commercial production and utilization facilities in addition to nuclear power reactors are subject to antitrust review requirements. Amendments are proposed to Parts 2 and 50 in order to clarify that the antitrust review associated with construction permit applications for uranium enrichment facilities and fuel reprocessing plants may also call for

V 44 0C 22 79 UMI

submission of information by the applicant.

Because this rule making action reduces the burden on the resources of both the NRC staff and certain applicants without increasing the burden on anyone else, good cause exists for omitting a value/impact analysis.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974 and section 553 of Title 5 of the United States Code, notice is hereby given that the following amendments to Title 10, Chapter 1, Code of Federal Regulations, Parts 2 and 50, have been adopted.

1. Paragraph 2.101(a)(5) of 10 CFR Part 2 is revised to read as follows:

§ 2.101 Filing of application.

(a) * * *

(5) An applicant for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b)(2) or (3) or 50.22 of this chapter or is a testing facility may submit the information required of applicants by Part 50 of this chapter in three parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, another part shall include any information required by §§ 50.34(a) and, if applicable, § 50.34a of this chapter and a third part shall include any information required by § 50.33a. One part may precede or follow other parts by no longer than six (6) months except that the part including information required by § 50.33a shall be submitted in accordance with time periods specified in § 50.33a. If an applicant for a construction permit for a nuclear power reactor is exempted pursuant to § 50.33a of this chapter from filing the information described by § 50.33a of this chapter, such applicant shall file with the first part of its application an affidavit setting forth facts as to the electrical generating capacity of its system. If it is determined that any one of the parts as described above is incomplete and not acceptable for processing, the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will inform the applicant of this determination and the respects in which the document is deficient. Such a determination of completeness will generally be made within a period of thirty (30) days. Except for the part including information required by § 50.33a, whichever part is filed first shall also include the fee required by § 50.30(e) and 170.21 of this chapter and the information required by §§ 50.33, 50.34(a)(1), and 50.37 of this chapter. The Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, will accept for docketing an application for a construction permit for a production or utilization facility which is subject to § 51.5(a) of this chapter, and is of the type specified in §§ 50.21(b) (2) or (3) or 50.22 of this chapter or is a testing facility where one part of the application as described above is complete and conforms to the requirements of Part 50 of this chapter. Additional parts will be docketed upon a determination by the Director of Nuclear Reactor Regulation or Director of Nuclear Material Safety and Safeguards, as appropriate, that they are complete.

2. In § 50.33a of 10 CFR Part 50, paragraph (a) is revised and a new paragraph (e) is added to read as follows:

§ 50.33a Information requested by the Attorney General for antitrust review.

(a)(1) An applicant for a construction permit for a nuclear power reactor shall submit the information requested by the Attorney General as described in Appendix L, if the application is for a class 103 permit and if the applicant has electrical generating capacity exceeding 1400 MW(e).

(2) An applicant for a construction permit for a nuclear power reactor shall submit the information requested by the Attorney General as described in paragraph 9 of Section II of Appendix L if the applicant has electrical generating capacity exceeding 200 MW(e) but no more than 1400 MW(e). Upon request of the Commission, the applicant shall furnish the other information described in Appendix L.

(3) An applicant for a construction permit for a nuclear power reactor is not required to submit the information described in Appendix L unless specifically requested by the Commission to provide the information, if the applicant has electrical generating capacity of 200 MW(e) or less.

(4) The information described in paragraphs (a)(1) and (2) of this section shall be submitted as a separate document prior to any other part of the license application as provided in paragraph (b) and in accordance with § 2.101 of this chapter.

* * * * *

(e) Any person who applies for a class 103 construction permit for a uranium enrichment or fuel reprocessing plant shall submit such information as may be requested by the Attorney General for antitrust review, as a separate document as soon as possible and in accordance with § 2.101 of this chapter.

3. In Appendix L of 10 CFR Part 50, paragraph I.1. is amended to read as follows:

Appendix L—Information Requested by the Attorney General for Antitrust Review Facility License Applications

* * * * *

I. DEFINITIONS

1. "Applicant" means the entity applying for authority to construct or operate subject unit and each corporate parent, subsidiary and affiliate. Where application is made by two or more electric utilities not under common ownership or control, each utility, subject to the applicable exclusions contained in § 50.33a, should set forth separate responses to each item herein.

(Secs. 103, 105, 161, Pub. L. 83–703, 84–1006, 68 Stat. 939, 938, 948, 70 Stat. 1069, 84 Stat. 1472 (42 U.S.C. 2133, 2135, 2201); Sec. 201, Pub. L. 93–438, 88 Stat. 1242 (42 U.S.C. 5841))

Dated at Washington, D.C., this 15th day of October, 1979.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32241 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of adjusting discount rates with a view to accommodating commerce and business in accordance with other related rates and the general credit situation of the country.

EFFECTIVE DATE: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: Theodore E. Allison, Secretary Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452–3257).

SUPPLEMENTARY INFORMATION: Pursuant to the authority of 5 U.S.C. Sec. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations required that these amendments be adopted immediately.

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS

Pursuant to section 14(d) of the Federal Reserve Act (12 U.S.C. 357), Part 201 is amended as set forth below:

1. Section 201.51 is amended to read as follows:

§ 201.51 Advances and discounts for member banks under section 13 and 13a.

The rates for all advances and discounts under sections 13 and 13a of the Federal Reserve Act (except advances under the last paragraph of section 13 to individuals, partnerships, or corporations other than member banks) are:

Federal Reserve Bank of	Rate	Effective
Boston	12	October 10, 1979
New York	12	October 8, 1979
Philadelphia	12	October 8, 1979
Cleveland	12	October 8, 1979
Richmond	12	October 8, 1979
Atlanta	12	October 9, 1979
Chicago	12	October 9, 1979
St. Louis	12	October 8, 1979
Minneapolis	12	October 8, 1979
Kansas City	12	October 9, 1979
Dallas	12	October 9, 1979
San Francisco	12	October 8, 1979

2. Section 201.52 is amended to read as follows:

§ 201.52 Advances to member banks under section 10(b).

(a) The rates for advances to member banks under section 10(b) of the Federal Reserve Act are:

Federal Reserve Bank of	Rate	Effective
Boston	12½	October 10, 1979
New York	12½	October 8, 1979
Philadelphia	12½	October 8, 1979
Cleveland	12½	October 8, 1979
Richmond	12½	October 8, 1979
Atlanta	12½	October 9, 1979
Chicago	12½	October 9, 1979
St. Louis	12½	October 8, 1979
Minneapolis	12½	October 8, 1979
Kansas City	12½	October 9, 1979
Dallas	12½	October 9, 1979
San Francisco	12½	October 8, 1979

(b) The rates for advances to member banks for prolonged periods and significant amounts under section 10(b) of the Federal Reserve Act and § 201.2(e)(2) of Regulation A are:

Federal Reserve Bank of	Rate	Effective
Boston	13	October 10, 1979
New York	13	October 8, 1979
Philadelphia	13	October 8, 1979
Cleveland	13	October 8, 1979
Richmond	13	October 8, 1979
Atlanta	13	October 9, 1979
Chicago	13	October 9, 1979
St. Louis	13	October 8, 1979
Minneapolis	13	October 8, 1979
Kansas	13	October 9, 1979
Dallas	13	October 9, 1979
San Francisco	13	October 8, 1979

3. Section 210.53 is amended to read as follows:

§ 201.53 Advances to persons other than member banks.

The rates for advances under the last paragraph of section 13 of the Federal Reserve Act to individuals, partnerships, or corporations other than member banks secured by direct obligations of, or obligations fully guaranteed as to principal and interest by, the United States or any agency thereof are:

Federal Reserve Bank of	Rate	Effective
Boston	15	October 10, 1979
New York	15	October 8, 1979
Philadelphia	15	October 8, 1979
Cleveland	15	October 8, 1979
Richmond	15	October 8, 1979
Atlanta	15	October 9, 1979
Chicago	15	October 9, 1979
St. Louis	15	October 8, 1979
Minneapolis	15	October 8, 1979
Kansas City	15	October 9, 1979
Dallas	15	October 9, 1979
San Francisco	15	October 8, 1979

(12 U.S.C. 248(i). Interrets or applied 12 U.S.C. 357.)

By order of the Board of Governors, October 11, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32490 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 525 and 531

[No. 79–524]

Collateralization of Bank Advances

October 11, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rules.

SUMMARY: The changes revise the Board's statement of policy relating to verification of collateral securing Federal Home Loan Bank advances, by: (1) no longer requiring that collateralized mortgages be physically segregated; (2) setting out minimum requirements for collateralization agreements; and (3) providing explicitly that collateralization procedures and verfication procedures shall be prescribed by each Bank for its members. The Board believes that such changes are desirable to increase flexibility and efficiency in such procedures while maintaining protection of Bank security interests.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel P. Chase, Office of the District Banks (202–377–6654), or Nancy L. Feldman, Associate General Counsel (202–377–6440).

SUPPLEMENTARY INFORMATION: Section 10 of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1437), authorizes each Federal Home Loan Bank ("Bank") to make advances upon the security of home mortgages. Pursuant to its authority under the Bank Act, the Board has for many years authorized collateralization procedures permitting borrowing members to retain possession of the collateral, leaving up to individual Banks the particular method by which they would perfect liens and take possession of the collateral should that step become necessary. However, the regulations authorizing collateralization procedures required physical segregation of the collateral assigned as security for advances from other mortgages held by borrowing members.

On June 14, 1979, the Board, by Resolution No. 79–343 (44 FR 36055–36056, dated June 20, 1979), proposed to modernize its collateralization requirements as described in the above summary, by revising 12 CFR 531.4. The public comment period closed on August 20, 1979, with receipt of 30 public responses, all favoring the proposed changes. Therefore, the Board has determined to adopt the amendments as proposed, and to rescind 12 CFR 525.19, providing for reporting requirements on individual collateralized mortgages, as inconsistent with the provisions of amended § 531.4.

Several commenters suggested further amending the advances regulations by allowing uncollateralized advances, reducing overcollaterization requirements, and raising collateral dollar limits. These are statutory requirements imposed by Section 10 of the Bank Act and are not subject to regulatory modification, although it is noted that there are provisions under Section 11(g) of the Bank Act for Banks to make available short term advances with lower or no collateral requirements.

Revised § 531.4 requires an opinion from Bank counsel that a security agreement obtained from the borrowing member is in compliance with applicable law. In response to a commenter's question, the Board notes that such opinion would not have to state that the security agreement provided the Bank with a perfected

security interest in the ascribed collateral, because in many jurisdictions this would require physical possession and recording of the mortgage documents, which procedures are not required by the Board. In response to another commenter's question, Bank counsel would have to render opinions regarding compliance with each State law in the Bank's regional district.

The Board finds that publication of these amendments for a 30-day period before effective date, as specified in 5 U.S.C. § 553(d) and 12 CFR 508.14, is unnecessary because the amendments relieve restriction.

Accordingly, the Federal Home Loan Bank Board hereby amends its Regulations for the Federal Home Loan Bank System by rescinding 12 CFR 525.19 and revising 12 CFR 531.4 thereof, to read as set forth below.

PART 525—ADVANCES

§ 525.19 [Rescinded]

1. Rescind § 525.19.

PART 531—STATEMENTS OF POLICY

2. Revise § 531.4, to read as follows:

§ 531.4 Assigned collateral; verification.

A member may retain documents evidencing home mortgages it has assigned to its Bank to secure advances, if it agrees to hold such documents for the benefit and subject to the direction and control of the Bank. The Bank shall obtain a written security agreement signed by the borrowing member and describing the type of collateral, and an opinion by Bank counsel that such agreement is in compliance with applicable law. The Bank shall periodically verify that such mortgage collateral exists and that appropriate collateralization procedures are maintained. The Bank shall prescribe collateralization procedures for members, and shall establish verification procedures in accordance with generally accepted auditing standards.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-32554 Filed 10-19-79; 8:45 am]

BILLING CODE 6720-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 131

Loan Moratorium Program

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This Part 131 is established to provide the rules and regulations for the loan moratorium program. It implements section 5(e) of the Small Business Act (15 U.S.C. 634(e)) which authorizes the Small Business Administration (SBA) to undertake or suspend a borrower's obligation under any loan made pursuant to the Small Business Act.

This rule sets forth the conditions for the approval of such a moratorium. It specifies that moratoriums on direct or immediate participation loans will be handled as simple deferments under existing administrative guidelines.

The rule then sets forth the terms for a moratorium on a guaranteed loan and lists the criteria which must be met before such a moratorium can be approved. These criteria are specified in the legislation.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Timothy F. O'Leary, Deputy Director, Office of Portfolio Management, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653–6429.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was published in the **Federal Register** (44 FR 21654) on April 11, 1979. Interested parties were invited to submit comments. One public comment was received which supported the proposed regulation. Accordingly, the proposed regulations are adopted without change.

Pursuant to authority contained in Section 5(b)(6) of the Small Business Act, 15 U.S.C. 634(b), notice is hereby given that SBA establishes a new Part 131 of Chapter I, Title 13 of the Code of Federal Regulations as set forth below:

PART 131—LOAN MORATORIUM PROGRAM

Sec.

131.1 Statutory provisions.
131.2 Definitions.
131.3 General.
131.4 Criteria.
131.5 Time Periods.
131.6 Repayment.
131.7 Termination.

Authority.—15 U.S.C. 634(b)(6); and 15 U.S.C. 634(e), Pub. L. 95–89, approved August 4, 1977 (91 Stat. 553).

§ 131.1 Statutory provisions.

The statutory provisions will be found at 15 U.S.C. 634(e).

§ 131.2 Definitions.

As used in this part:

"SBA" means the Small Business Administration.

"Moratorium" means the fulfillment by SBA of a borrower's obligation to a participating lender under an SBA-guaranteed loan by the making of payments to such lender on the borrower's behalf.

"Deferment" means the procedure whereby a lender (participant or SBA) suspends a borrower's obligation to make payments on a loan for a stated period of time.

§ 131.3 General.

(a) SBA may, upon written application by a borrower, suspend or undertake borrower's obligation to repay principal and interest on an SBA direct, immediate participation or guaranteed loan.

(b) When SBA has decided to suspend payment on a direct or immediate participation loan, a deferment will be approved under administrative procedures, and payment by borrower will not be required for a stated time period.

(c) In the case of a guaranteed loan, SBA may undertake a borrower's obligation to a participating lender for a period or aggregate periods not to exceed five (5) years. The loan may be extended beyond the statutory limit for a corresponding period of time to accommodate repayment of the obligation undertaken by SBA.

§ 131.4 Criteria.

(a) Undertaking of the borrower's obligation under a guaranteed loan may only be considered if all the following conditions are met: (a) SBA determines that without such undertaking the business will become or remain insolvent;

(b) SBA determines that with such undertaking the business will become or remain viable;

(c) SBA determines that alternative remedies, such as a simple deferment, are not available;

(d) The lender has granted a deferment(s) to the borrower equivalent to at least six (6) monthly installments immediately prior to moratorium approval and, in the opinion of the lender and SBA, such deferment(s) provided a beneficial result;

(e) All parties concerned execute a "Moratorium Agreement" satisfactory to SBA;

(f) The borrower and all co-makers of the guaranteed loan execute a demand note to repay SBA's moratorium advances, and all guarantors or other obligors of the guaranteed loan execute guarantee agreement(s) or any other instruments required by SBA to protect its interests under the demand note;

(g) The borrower and any other obligors provide such security as SBA deems necessary or appropriate to insure that the rights and interests of the lender (SBA or participant) will be safeguarded adequately during and after the moratorium period; and

(h) Collateral securing the demand note shall include, but need not be limited to, all the collateral securing the guaranteed loan, and the lien positions for the demand note on such collateral shall only be subject to prior liens for the guaranteed loan.

§ 131.5 Time periods.

(a) Moratoriums will be limited to six months of future payments unless the SBA deems it necessary to authorize a maximum term of one year in a particular case. If beneficial results are evident to SBA after such period, the moratorium may be continued for additional periods.

(b) Succeeding moratoriums to a maximum aggregate period of five (5) years will not be authorized unless financial analysis indicates:

(1) A continued need for the undertaking;

(2) A significant benefit to the borrower; and

(3) Eventual viability (anticipated ability to repay from earnings) of the borrower.

§ 131.6 Repayment.

(a) Repayment by the borrower of SBA's moratorium advances shall be made pursuant to the demand note executed by the borrower. SBA shall have the right to demand payment at any time SBA determines repayment is necessary or appropriate. The interest rate for the demand note shall be the same as for the guaranteed loan. SBA may demand payment in full of the principal and interest due under the demand note, or SBA may agree with the borrower on a repayment schedule which can include, but shall not be limited to, periodic repayments not less in amount and frequency than under the guaranteed loan. If SBA does not demand repayment until the borrower has repaid the guaranteed loan in full, SBA shall immediately thereafter demand repayment under the demand note.

(b) Advances made by SBA to the lender on behalf of the borrower during the moratorium period(s) will accrue interest at the note rate from the date of each disbursement by SBA. Repayments to SBA by the borrower will be applied first to payment of accrued interest with the balance, if any, to be applied in reduction of principal.

§ 131.7 Termination.

The "Moratorium Agreement" shall provide that SBA shall have absolute discretion to determine at any time whether to make or to discontinue making payments to the lender on behalf of the borrower.

(Catalog of Federal Domestic Assistance Programs Nos. 59.001 (Displaced Business Loans), 59.002 (Economic Injury Loans), 59.003 (Economic Opportunity Loans), 59.008 (Physical Disaster Loans), 59.010 (Product Disaster Loans), 59.012 (Small Business Loans), 59.014 (Coal Mine Health and Safety Loans), 59.017 (Meat and Poultry Inspection Loans), 59.018 (Occupational Safety and Health Loans), 59.021 (Handicapped Assistance Loans), 59.022 (Emergency Energy Shortage Economic Injury Loans), 59.023 (Strategic Arms Economic Injury Loans), 59.024 (Water Pollution Control Loans), 59.025 (Air Pollution Control Loans), 59.027 (Economic Dislocation Loans), 59.028 (Energy Conservation Loans))

Dated: October 10, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-32483 Filed 10-19-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 79-NE-13, Amdt. No. 39-3589]

Airworthiness Directives; Consolidated Aeronautics, Inc.; Colonial C-1, Colonial C-2, Lake LA-4, Lake LA-4A, Lake LA-4P, and Lake LA-4-200

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the installation of fuses in the anchor light and bilge pump circuits of LA-4-200 airplanes. The AD is needed to prevent the wires in these circuits from burning in the case of an electrical short.

DATES: Effective date—November 21, 1979. Compliance schedule—within 50 hours time in service after the effective date.

ADDRESSES: Send comments in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, New England Region, Attn: Rules Docket No. 79-NE-13, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Ronald L. Vavruska, Electrical/Electronic Staff Engineer, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803; telephone (617) 273-7340.

SUPPLEMENTARY INFORMATION: There has been a report of a burning of the electrical power wire for the bilge pump caused by an electrical short between the battery relay and the bilge pump switch. The fuse for the bilge pump circuit, in this instance, was located at the switch leaving a substantial length of wire between the battery relay and fuse unprotected. This AD will require the installation of a fuse at the battery relay. The same type of circuit is used for the anchor light, and the AD will also apply to the anchor light circuit. This condition is likely to exist in other airplanes of the same type design.

The 50 hour compliance time for the modification has been established by the FAA on the basis of safety considerations. This compliance time provides the lead time for operators to schedule and plan compliance with the AD with a minimum burden. Accomplishment of the modification required by this AD within the time specified makes strict compliance with the notice and public procedure provisions of the Administrative Procedure Act impracticable, and this amendment becomes effective November 21, 1979. However, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the address specified above. All communications received before the effective date will be considered by the Administrator, and the AD may be changed in the light of comments received. All comments will be available both before and after the effective date in the Rules Docket for examination by interested persons. Operators are urged to submit their comments as early as possible to allow for appropriate evaluation before the effective date of the AD.

The substance of this AD has been informally coordinated with the Aircraft Owners and Pilots Association. The AOPA had no objections.

V 44 OC 22 79 UMI

Adoption of Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

Consolidated Aeronautics: Applies to Colonial C–1, Colonial C–2, Lake LA–4, Lake LA–4A, Lake LA–4P, and Lake LA–4–200 airplanes with an anchor light or bilge pump installed.

Compliance required within the next 50 hours time in service unless already accomplished.

To preclude burning of power wires in case of an electrical short, install a Cole-Hersee 3031–D fuse holder and a Buss AG5A 5 ampere fuse, or FAA approved equivalents, within 4 inches of the battery relay, in the power lines for the anchor light and bilge pump.

(Lake Aircraft Division, Consolidated Aeronautics Service Bulletin B–62 pertains to the installation required by this AD.)

Upon request, an equivalent method of compliance with the requirements of this AD may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, New England Region.

This amendment becomes effective November 21, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c); 14 CFR 11.89.)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket.

Issued in Burlington, Massachusetts, on October 9, 1979.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 79–32236 Filed 10–19–79; 8:45 am]

BILLING COOE 4910–13–M

---

14 CFR Part 39

[Docket No. 78–GL–4; Amdt. 39–3592]

Airworthiness Directives; Detroit Diesel Allison Models 250–C18, 250–C18A, 250–C18B, 250–C18C, 250–C20, 250–C20B

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amemdment modifies an existing airworthiness directive (AD) to clarify the compliance time. The airworthiness directive requires that certain engine driven fuel pumps installed in Detroit Diesel Allison 250–C18 and 250–C20 series engines be inspected and modified as specified in the AD. This amendment clarifies that the compliance period for modifying the pumps is based on the time since overhaul, or since new if the pump is new.

DATES: Effective—October 24, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: Copies of Detroit Diesel Allison service information referenced herein may be obtained by contacting: Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: C. Biemond, Engineering and Manufacturing Branch, AGL–217, Flight Standards Divisions, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694–4500, extension 359.

SUPPLEMENTARY INFORMATION: This notice amends Amendment 39–3264, 43 FR 30533, AD 78–14–08 which required the inspection and modification of fuel pumps.

After issuing Amendment 39–3264, 43 FR 30533, AD 78–14–08, the FAA determined that the time in service could be since overhaul or new. Therefore, the FAA is amending Amendment 39–3264. Since this amendment relieves a restriction and imposes no additional burden on the public, notice and public procedure thereon are unnecessary and this amendment may be made effective in less than 30 days.

Adoption of the Amemdment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Amendment 39–3264, 43 FR 30533, AD 78–14–08 by revising it to read:

Detroit Diesel Allison: Applies to 250–C18, 250–C18A, 250–C18B, 250–C18C, 250–C20, and 250–C20B engines equipped with fuel pump P/Ns 6854292, 6856250, 6857548, 6876803, and 6877719, installed in aircraft certificated in all categories.

Compliance required as follows unless previously accomplished. To preclude possible engine flameout resulting from fuel pump drive spline failure: Remove and inspect the fuel pump drive splines in accordance with the procedures specified in Detroit Diesel Allison Commercial Service Letter 61 for the 250–C18 series engines and 1007 for the 250–C20 series engines, revision 3 or later FAA approved revisions and the compliance times specified in (a) and (b) below.

(a) For fuel pumps with 200 or more hours time in service on the effective date of this AD, compliance is required within 25 hours time in service and again each 200 hours time in service thereafter.

(b) For fuel pumps with less than 200 hours time in service on the effective date of this AD, compliance is required prior to reaching 225 hours time in service and again each 200 hours time in service thereafter.

If the pump drive splines exceed the wear criteria specified in the above Commercial Service Letters, the pump shall be removed from service before further flight except that the aircraft may be flown in accordance with FAR 21.197 to a base where the repair can be performed. Unacceptable spline wear may be corrected by replacing worn parts or by modifying the pump in accordance with Detroit Diesel Allison Commercial Engine Bulletins No. 161 for 250–C18 series engines and 1051 for 250–C20 series engines revision 1, or later FAA approved revisions.

All affected fuel pumps shall be modified in accordance with the procedures specified in the above referenced Commercial Engine Bulletins and the compliance times specified in (c) through (e) below. Upon completion of this modification the need and requirement for the above recurring inspection is eliminated. "Time in service" as specified in (c) and (d) below is the time since the last pump overhaul, or since new if the pump has never been overhauled.

(c) For fuel pumps with less than 1475 hours time in service on the effective date of this AD, compliance is required prior to reaching 1500 hours time in service.

(d) For fuel pumps with greater than 1475 hours time in service after the effective date of this AD, compliance is required within 25 hours time in service.

(e) All fuel pumps disassembled for heavy maintenance or overhaul shall be modified regardless of time in service, before being returned to service.

Operators who have not kept time in service records on individual pumps shall substitute engine hours time in service in lieu thereof.

The Detroit Diesel Allison commercial service information identified in this directive is incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). The Detroit Diesel Allison commercial service information incorporated herein may be obtained upon request to Detroit Diesel Allison, Division of General Motors Corporation, P.O. Box 894, Indianapolis, Indiana 46206. This document may also be examined at the FAA Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, and at FAA Headquarters, 800 Independence Avenue, SW., Washington, D.C. 20591. A historical file on this AD, which includes the incorporated material in full, is maintained by the FAA at its headquarters in Washington, D.C. and the Great Lakes Region.

This amendment becomes effective October 24, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Cornelius Biemond, Engineering and Manufacturing Branch, AGL–217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois, on October 2, 1979.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

Louis H. Yates,

Acting Director, Great Lakes Region.

[FR Doc. 79–32238 Filed 10–19–79; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 79–WE–31–AD; Amdt. 39–3590]

Airworthiness Directives; General Dynamics Model 240 Series Airplanes, Including Those Modified for Turbo Propeller Power.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This notice adopts a new airworthiness directive (AD) which requires inspection and replacement, if necessary, of the elevator flight tab spring tube on General Dynamics Model 240 series aircraft. This AD is needed because failure of the elevator flight tab spring tube could result in vibration of the elevator.

DATES: Effective October 25, 1979. Compliance schedule—As prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: General Dynamics, Attention: Larry Hayes, Manager Products Support, Convair Division, P.O. Box 80877, San Diego, California 92138.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591; or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT: Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536–6351.

SUPPLEMENTARY INFORMATION: The FAA has determined that cracks exist in the elevator flight tab spring tube on General Dynamics Model 240 airplanes. This condition, if not corrected, could result in failure of the elevator flight tab spring tube with result of a hazardous vibration of the elevator.

In order to prevent the cracking condition from progressing to failure of the elevator flight tab spring tube, this AD requires an early initial inspection and frequent repetitive inspections on tubes of original configuration identified by part number, and also requires a less rigorous repetitive inspection program on tubes of an improved design.

Since the situation exists that requires the immediate adoption of this regulation, it is found that notice of public procedure hereon is impracticable and good cause exists for making this amendment effective in less than thirty (30) days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive:

General Dynamics: Applies to Model 240 series airplanes including those modified for turbo propeller power, certificated in all categories. Compliance required as indicated, unless already accomplished.

To prevent failure of the elevator flight tab spring tube, accomplish the following:

(a) Within 25 hours' time in service after the effective date of this AD, inspect the elevator flight tab spring tube per procedures set forth in Section 2, Accomplishment Instructions, of General Dynamics Service Bulletin 600 (240D) 27–5, dated July 18, 1979.

(b) If P/N 24–3540305–24 or 240–3540305–39 tube is installed, within 50 hours' time in service from the inspection of paragraph (a) of this AD and thereafter at intervals not to exceed 50 hours' time in service reinspect the tube for cracks per paragraph (a) of this AD.

(c) If a P/N 240–354035–35 tube or P/N 2D3540305–7 tube is installed, within 100 hours' time in service from the inspection of paragraph (a) of this AD and thereafter at intervals not to exceed 100 hours' time in service, reinspect the tube for cracks per paragraph (a) of this AD.

(d) Replace any cracked elevator flight tab spring tube with like serviceable part and revert to the repetitive inspection intervals per paragraph (b) or (c) of this AD, as appropriate.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

(f) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

This amendment becomes effective October 25, 1979.

[Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c) Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89]

Issued in Los Angeles, California on October 5, 1979.

Kenneth C. Patterson,

Acting Director, FAA Western Region.

[FR Doc. 79–32237 Filed 10–19–79; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 79–GL–12–AD; Amdt. 39–3593]

Bendix Energy Controls Division—Fuel Injection Systems; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on all aircraft with certain Bendix fuel injection systems by airmail letter dated August 28, 1979. The AD requires an inspection of the regular section to assure that the lock nut on the fuel regulator valve stem is properly engaged and to provide additional locking means by crimping.

DATES: Effective—October 24, 1979. Compliance schedule—as prescribed in the body of the AD.

Compliance required within the next 25 hours of aircraft time in service, or within 30 calendar days after the effective date, whichever occurs first.

ADDRESSES: The applicable service documents may be obtained from Bendix Energy Controls Division, South Bend, Indiana 46620. Copies of the

service documents are contained in the Rules Docket, Regional Counsel, AGL-7, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Don Eckert, Propulsion Section, AGL-214, Engineering and Manufacturing Branch, Flight Standards Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-4500, extension 308.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on August 28, 1979, and made effective immediately by airmail letter and applicable to all aircraft with certain Bendix fuel injection systems. It was determined that there have been instances in which the fuel regulator stem lock nut has become loose and caused cutoff of the fuel supply to the aircraft engine. This condition has resulted in a fatal accident. Since this condition is likely to occur on other aircraft incorporating these fuel injection systems, an AD was issued to require inspection of the lock nut and crimping of the stem.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

Bendix Energy Controls Division: Applies to the below listed fuel injection systems installed in aircraft certificated in all categories:

Model No. and Parts List No.

RSA-5AB1—2524199-9, 2524216-8, 2524254-7, 2524262-6, 2524378-7, 2524712-3/-5/-6
RSA-5AD1—2524054-7/-8, 2524147-9/-10, 2524171-7/-8, 2524189-7/-8, 2524213-7/-8, 2524242-6/-7, 2524243-7/-8, 2524291-7/-8, 2524297-6/-7, 2524307-6/-7, 2524328-6/-7, 2524341-6/-7, 2524348-7/-8, 2524359-6/-7, 2524450-5/-6, 2524459-5/-6, 2524475-4/-5, 2524550-4/-5, 2524575-4/-5, 2524590-4/-5, 2524592-4/-5, 2524623-4/-5, 2524634-4/-5, 2524640-4/-5, 2524673-4/-5, 2524682-4/-5, 2524723-4/-5, 2524742-4/-5, 2524752-3/-4
RSA-7AA1—2524347-4/-6
RSA-7DA1—2524624-1/-2
RSA-10AD1—2524030-7/-8, 2524152-6/-7, 2524163-10/-11, 2524175-6/-7, 2524255-6/-7, 2524256-8/-9, 2524311-6/-7,2524757-3/-4
RSA-10DB1—2524267-6/-7, 2524275-11/-12, 2524276-7/-8, 2524583-4/-5, 2524649-6/-7
RSA-10DB2—2524501-5/-6, 2524706-4/-5
RSA-10ED1—2524273-8/-9, 2524296-8/-9, 2524366-6/-7, 2524420-7/-8, 2524422-5/-6, 2524477-7/-8, 2524491-5/-6, 2524492-4/-5, 2524500-5/-6, 2524556-5/-6, 2524582-4/-5, 2524601-4/-5, 2524693-4/-5/-6/-7, 2524709-3/-4, 2524733-3/-4
RSA-10ED2—2524791-1/-2/-3

These fuel injection systems are installed on, but not limited to, the engine models listed below:

Lycoming—IO-320 Series, AIO-320 Series, AEIO-320 Series, IO-360 Series, HIO-360 Series, AIO-360 Series, AEIO-360 Series, TIO-360 Series, IGO-480 Series, IO-540 Series, HIO-540 Series, AEIO-540 Series, IGO-540 Series, IVO-540 Series, TIO-540 Series, TIO-541 Series, TIGO-541 Series, IO-720 Series,
Continental—TSIO-520-L, TSIO-520-LB, TSIO-520-WB

Compliance is required within the next twenty-five (25) hours of aircraft time in service, or within the next thirty (30) calendar days from the effective date of this AD, whichever occurs first.

To prevent a fuel flow cutoff to the engine and subsequent loss of power, inspect the lock nut for proper engagement and crimp the stem in accordance with the following Bendix Energy Controls Division Service Bulletins:

1. Service Bulletin No. RS-68 dated August 20, 1979 applicable to the Series RSA-5 and RSA-10 models;

2. Service Bulletin No. RS-69 dated August 20, 1979 applicable to the RSA-7AA1 model; or

3. Service Bulletin No. RS-70 dated August 20, 1979 applicable to the RSA-7DA1 model.

This amendment becomes effective October 24, 1979 as to all persons except those to whom it was made immediately effective by the airmail letter dated August 28, 1979, which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.— The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Don Eckert, Engineering and Manufacturing Branch, AGL-214, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois on October 2, 1979.

Louis H. Yates,
Acting Director, Great Lakes Region.

[FR Doc. 79-32247 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-GL-13-AD; Amdt. 39-3594]

General Electric Co.; Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective on General Electric CF6-45 and CF6-50 series engines installed in McDonnell Douglas DC-10, Boeing 747, and Airbus Industrie A-300 series aircraft by telegram dated September 21, 1979. The AD requires inspection and retorquing of the engine aft centerbody attachment bolts.

DATES: Effective—October 24, 1979. Compliance—within seven days after the effective date.

ADDRESSES: None. No service document is required for compliance with this AD.

FOR FURTHER INFORMATION CONTACT: Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312 694-4500, ext. 359.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by the Administrator, an AD was adopted on September 21, 1979, and made effective immediately by telegram and applicable to all General Electric CF6-45 and CF6-50 series engines installed in McDonnell Douglas DC-10, Boeing 747, and Airbus Industrie A-300 series aircraft. There have been five incidents in which the aft centerbody has been lost from the engine in service. In a subsequent survey of a number of airlines, there were a number of aft centerbody attachment bolts found missing or loose, and a wide range of torque values was reported. Since this condition is likely to occur or exist on other engines of these models, an AD was issued to require inspection and retorquing of these bolts. An explanatory note has been added to clarify the nonapplicability of this AD to an engine with a short fixed core exhaust nozzle with sixteen attachment bolts.

Since it was found that immediate corrective action was required, notice and public procedure thereon was impracticable and contrary to the public interest and good cause existed for making the AD effective immediately. Since the possibility of this condition continues to exist, the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following airworthiness directive:

General Electric: Applies to all General Electric Model CF6-45 and CF6-50 series turbofan engines installed on McDonnell Douglas DC-10, Boeing 747, and Airbus Industrie A-300 series airplanes.

Compliance is required as indicated unless previously accomplished. To preclude the possibility of loss of the aft centerbody of the fixed nozzle/turbine reverser on the CF6-45 and CF6-50 series engines, the following one-time inspection and retorque procedures are required:

Within the next seven days after the effective date, check the torque on the eight bolts that attach the aft centerbody to the forward centerbody of the thrust reverser/fixed nozzle, retorque these bolts to a new torque value of between 110 and 130 inch pounds (old torque value was 55 to 70 inch pounds). If during retorquing any bolt is found with less than 5 inch pounds running torque, or missing, that bolt must be removed or replaced and a thread sealant be applied before reassembly and retorquing. Sermetel W, Alkyd Glyptal 1201, or equivalent may be used as a thread sealant. Alternatively, a new nut may be installed in lieu of the use of sealant.

Note.—This AD does not apply to an engine that incorporates a short, fixed core exhaust nozzle attached with sixteen bolts.

General Electric All Operators Wire No. 79-50-5 dated September 18, 1979 covers this same subject.

This amendment becomes effective October 24, 1979 as to all persons except those to whom it was made immediately effective by the telegram dated September 21, 1979 which contained this amendment.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to Cornelius Biemond, Engineering and Manufacturing Branch, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois on October 2, 1979.

Louis H. Yates,
Acting Director, Great Lakes Region.

[FR Doc. 79-32248 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-ANW-08]

Redesignation of Control Zone, Pocatello, Idaho

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the effective time for the Pocatello, Idaho, control zone from continuous to part-time to establish effective times for this control zone which coincide with the availability of weather reporting service at this location. The National Weather Service has reduced their hours of operation at Pocatello, Idaho, making this amendment necessary.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Robert L. Brown, Airspace Specialist (ANW-534), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Washington, 98108; telephone: (206) 767-2610.

SUPPLEMENTARY INFORMATION: The National Weather Service at Pocatello, Idaho, currently provides weather reporting service supporting the control zone at Pocatello, Idaho. Beginning May 14, 1979, operational hours for the National Weather Service at Pocatello, Idaho, were changed from full time to the period from 0545 to 2225 hours local time daily and weather reporting service is not available for an 8-hour period. Therefore, the present continuous effective period for the Pocatello, Idaho, control zone must be revised to establish effective times for this control zone coincidental with the availability of weather reporting service by the National Weather Service.

Furthermore, it is anticipated that the loss of weather reporting service at Pocatello, Idaho, will be temporary. Therefore, the revised Pocatello, Idaho, control zone designation provides for changes in the effective times for this control zone by Notice to Airmen with continuous publication of these effective periods in the Airport/Facility Directory.

Since this amendment imposes no additional burden on any person and is relieving in nature, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than thirty (30) days.

Drafting Information

The principal authors of this document are Mr. Robert L. Brown, Operations, Procedures, and Airspace Branch, Air Traffic Division, and Mr. Hays V. Hettinger, Office of the Regional Counsel, Northwest Region, Federal Aviation Administration.

Adoption of this Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended effective November 1, 1979, as follows:

Pocatello, Idaho

By amending Subpart F 71.171 by adding the following: "This control zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory."

(Section 107(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c))))

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Seattle, Washington, on October 9, 1979.

C. B. Walk, Jr.,
Director, Northwest Region.

[FR Doc. 79-32239 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 19635; Amdt. No. 1149]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard

Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Information Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.00.

FOR FURTHER INFORMATION CONTACT: Gary W. Wirt, Flight Procedures and Airspace Branch (AFO–730), Aircraft Programs Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4 and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective December 27, 1979*

Crookston, MN—Crookston Muni Kirkwood Fld, VOR Rwy 31, Amdt. 1

* * * *Effective December 13, 1979*

Albia, IA—Albia Muni, VOR/DME–A, Original
Estherville, IA—Estherville Muni, VOR Rwy 18, Original
Estherville, IA—Estherville Muni, VOR Rwy 34, Amdt. 2

* * * *Effective November 29, 1979*

Peoria, IL—Greater Peoria, VOR Rwy 12 (TAC), Amdt. 15
Peoria, IL—Greater Peoria, VOR/DME or TACAN Rwy 30, Amdt. 3
Owensboro, KY—Owensboro-Daviess County, VOR Rwy 5, Amdt. 8
Owensboro, KY—Owensboro-Daviess County, VOR Rwy 17, Amdt. 4
Owensboro, KY—Owensboro-Daviess County, VOR Rwy 35, Amdt. 12
Litchfield, MN—Litchfield Muni, VOR/DME Rwy 15, Amdt. 3
Litchfield, MN—Litchfield Muni, VOR Rwy 33, Amdt. 4
Atlantic City, NJ—NAFEC, Atlantic City, VOR Rwy 4, Amdt. 12
Atlantic City, NJ—NAFEC, Atlantic City, VOR Rwy 13, Amdt. 2
Atlantic City, NJ—NAFEC, Atlantic City, VOR Rwy 31, Amdt. 12
Akron, OH—Akron-Canton Regional, VOR Rwy 23, Amdt. 3
Watonga, OK—Watonga, VOR/DME–A, Original
Burns, OR—Burns Muni, VOR Rwy 29, Original
Shelbyville, TN—Bomar Field-Shelbyville Muni, VOR Rwy 18, Amdt. 1
Brownsville, TX—Brownsville Intl, VOR Rwy 26, Amdt. 17
Danville, VA—Danville Muni, VOR Rwy 2, Amdt. 11
Danville, VA—Danville Muni, VOR Rwy 24, Amdt. 8
Lynchburg, VA—Lynchburg Muni-Preston Glenn Field, VOR Rwy 3, Amdt. 8
Lynchburg, VA—Lynchburg Muni-Preston Glenn Field, VOR/DME Rwy 21, Amdt. 6
Rock Springs, WY—Rock Springs-Sweetwater County, VOR/DME Rwy 7, Original, cancelled
Rock Springs, WY—Rock Springs-Sweetwater County, VOR/DME Rwy 9, Original
Rock Springs, WY—Rock Springs-Sweetwater County, VOR/DME Rwy 25, Amdt. 3, cancelled
Rock Springs, WY—Rock springs-Sweetwater County, VOR/DME Rwy 27, Original
Rock Springs, WY—Rock Springs-Sweetwater County, VOR–B Amdt. 2

2. By amending § 97.25 SDF–LOC–LDA SIAPs identified as follows:

* * * *Effective November 29, 1979*

Birmingham, AL—Birmingham Muni, LOC Rwy 23, Amdt. 1
Akron, OH—Akron-Canton Regional, LOC BC Rwy 19, Amdt. 8
Brownsville, TX—Brownsville Intl, LOC BC Rwy 31L, Amdt. 5
Harlingen, TX—Harlingen Industrial Airpark, LOC BC Rwy 35L, Amdt. 5

* * * *Effective October 1, 1979*

Peoria, IL—Greater Peoria, LOC (BC) Rwy 12, Amdt. 13, cancelled

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective December 27, 1979*

Crookston, MN—Crookston Muni Kirkwood Fld, NDB Rwy 13, Amdt. 3

* * * *Effective November 29, 1979*

Umiat, AK—Umiat, NDB–B, Amdt. 2
Peoria, IL—Greater Peoria, NDB Rwy 30, Amdt. 9
Owensboro, KY—Owensboro-Daviess County, NDB Rwy 35, Amdt. 4
Bar Harbor, ME—Bar Harbor, NDB–A, Amdt. 2, cancelled
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, NDB Rwy 4, Amdt. 13
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, NDB Rwy 29L, Amdt. 21
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, NDB Rwy 29R, Amdt. 9
Marks, MS—Selfs, NDB–A, Original
Brookfield, MO—Brookfield Memorial, NDB Rwy 35, Original
Brookfield, MO—Brookfield memorial, NDB–A, Original
Saranac Lake, NY—Adirondack, NDB Rwy 23, Amdt. 2
Edenton, NC—Edenton Muni, NDB Rwy 5, Amdt. 3
Edenton, NC—Edenton Muni, NDB Rwy 19, Amdt. 3
Burns, OR—Burns Muni, NDB Rwy 29, Original
Redmond, OR—Roberts Field, NDB Rwy 10, Amdt. 5, cancelled
Jasper, TN—Marion County-Brown Field, NDB Rwy 3, Amdt. 1
Brownsville, TX—Brownsville Intl, NDB Rwy 13R, Amdt. 8
Brownsville, TX—Brownsville Intl, NDB Rwy 31L, Amdt. 1
Newport, VT—Newport State, NDB Rwy 23, Amdt. 5, cancelled
Abingdon, VA—Virginia Highlands, NDB–A, Original
Rice Lake, WI—Rice Lake Municipal, NDB Rwy 36, Amdt. 3
Rock Springs, WY—Rock Springs-Sweetwater County, NDB–A, Amdt. 1, cancelled
Rock Springs, WY—Rock Springs-Sweetwater County, NDB–C, Original

* * * *Effective November 1, 1979*

Sioux City, IA—Sioux City Muni, NDB Rwy 31, Amdt. 21
Gulfport, MS—Gulfport-Biloxi Regional, NDB Rwy 13, Amdt. 6

4. By amending § 97.29 ILS–MLS SIAPs identified as follows:

* * * *Effective November 29, 1979*

Dothan, AL—Dothan, ILS Rwy 31, Amdt. 4
Colorado Springs, CO—City of Colorado Springs Muni, ILS Rwy 35, Amdt. 31
Peoria, IL—Greater Peoria, ILS Rwy 30, Original
Peoria, IL—Greater Peoria, ILS Rwy 30, Amdt. 10, cancelled
Owensboro, KY—Owensboro-Daviess County, ILS Rwy 35, Amdt. 6
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, ILS Rwy 4, Amdt. 18
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, ILS Rwy 29L, Amdt. 37
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, ILS Rwy 29R, Amdt. 4
Atlantic City, NJ—NAFEC, Atlantic City, ILS Rwy 13, Amdt. 1
Akron, OH—Akron-Canton Regional, ILS Rwy 1, Amdt. 29
Akron, OH—Akron-Canton Regional, ILS Rwy 23, Amdt. 2
Brownsville, TX—Brownsville Intl, ILS Rwy 13R, Amdt. 5
Harlingen, TX—Harlingen Industrial Airpark, ILS Rwy 17R, Amdt. 6
Lynchburg, VA—Lynchburg Muni-Preston Glenn Field, ILS Rwy 3, Amdt. 9
Rock Springs, WY—Rock Springs-Sweetwater County, ILS/DME Rwy 27, Original

* * * *Effective November 1, 1979*

Sioux City, IA—Sioux City Muni, ILS Rwy, 31, Amdt. 21
Gulfport, MS—Gulfport-Biloxi Regional, ILS Rwy 13, Amdt. 7

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective November 29, 1979*

Burbank, CA—Burbank-Glendale-Pasadena, RADAR–1, Amdt. 10, cancelled
Peoria, IL—Greater Peoria, RADAR–1, Amdt. 4
Atlantic City, NJ—NAFEC, Atlantic City, RADAR–1, Amdt. 12
Akron, OH—Akron-Canton Regional, RADAR–1, Amdt. 13
Ogden, UT—Ogden Municipal, RADAR–1, Amdt. 4, cancelled

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective November 29, 1979*

Peoria, IL—Greater Peoria, RNAV Rwy 22, Amdt. 3
Minneapolis, MN—Minneapolis-St. Paul Intl./Wold-Chamberlain/, RNAV Rwy 29R, Amdt. 6
Shelbyville, TN—Bomar Field-Shelbyville Muni, RNAV Rwy 18, Original

[Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. § 1655(c)); and 14 CFR 11.49(b)(3).]

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Washington, D.C. on October 12, 1979.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

James M. Vines

Chief, Aircraft Programs Division.

[FR Doc. 79-32240 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. C–2992]

Admarketing, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires a Beverly Hills, Calif. advertising agency engaged in the advertising and sale of a product known, among other names, as the G.R. Valve to cease from representing, without reliable substantiation, that installing the G.R. valve or any substantially similar automobile retrofit device in a motor vehicle will result in fuel economy improvement. The firm is further prohibited from misrepresenting the performance, efficacy or usefulness of any energy consumption or energy saving characteristic of an automobile retrofit device; or the purpose, contents or conclusions of tests or surveys relating to such charactistic. The order additionally requires respondent to identify and present to its client, in writing, every representation contained in each advertisement which pertains to an energy consumption or energy saving characteristic of the advertised product.

DATES: Complaint and order issued September 25, 1979.[1]

FOR FURTHER INFORMATION CONTACT: FTC/P. Albert H. Kramer, Washington, D.C. 20580. (202) 523–3727.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

SUPPLEMENTARY INFORMATION: On Monday, July 16, 1979, there was published in the **Federal Register**, 44 FR 41209, a proposed consent agreement with analysis In the Matter of Admarketing, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Advertising Falsely or Misleadingly: § 13.135 Nature of product or service; § 13.170 Qualities or properties of product or service; 13.170–34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart-Corrective Actions and/or Requirements: § 13.533 Corrective Actions and/or requirements; 13.533–20 Disclosures; 13.533–45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1685 Nature; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1870 Nature; § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; (15 U.S.C. 45))

Carol M. Thomas,

Secretary.

[FR Doc. 79-32486 Filed 10-19-79; 8:45 am]

BILLING CODE 6750-01-M

---

16 CFR Part 13

[Docket C-2991]

American Consumer, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, among other things, requires two Philadelphia, Pa. firms engaged in the advertising, sale and distribution of a product known, among other names, as the G. R. Valve, to cease representing, without substantiation, that installing the G. R. Valve or any other air-bleed automobile retrofit device in a motor vehicle will result in fuel economy improvement. Respondents are also barred from using any endorsement or testimonial which has not been properly authorized; and prohibited from misrepresenting a product endorser's expertise in a field of knowledge and the conclusions of tests or surveys pertaining to energy consumption or energy saving characteristics of automobile retrofit devices. Additionally, the order requires that product advertising disclose any material connection that may exist between respondents and a product endorser.

DATES: Complaint and order issued Sept. 24, 1979.[1]

FOR FURTHER INFORMATION CONTACT: Linda Colvard Dorian, Washington, D.C. 20580. (202) 724–1524.

SUPPLEMENTARY INFORMATION: On Monday, July 16, 1979, there was published in the **Federal Register**, 44 FR 41211, a proposed consent agreement with analysis. In the Matter of American Consumer, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows:

Subpart-Advertising Falsely or Misleadingly: § 13.110 Endorsements, approval and testimonials; § 13.135 Nature of product or service; § 13.170 Qualities or properties of product or service; 13.170–34 Economizing or saving; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests; § 13.255 Surveys. Subpart-Claiming or Using Endorsements or Testimonials Falsely or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly. Subpart-Corrective Actions and/or Requirements: § 13.533–20 Disclosures; § 13.533–45 Maintain records. Subpart-Misrepresenting Oneself and Goods—Goods: § 13.1665 Endorsements; § 13.1710 Qualities or properties; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1757 Surveys. Subpart-Neglecting, Unfairly or Deceptively, To Make Material Disclosure: § 13.1885 Qualities or properties; § 13.1895 Scientific or other relevant facts. Subpart-Offering Unfair, Improper and Deceptive Inducements To Purchase or Deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Carol M. Thomas,

Secretary.

[Fr Doc. 79-32485 Filed 10-19-79; 8:45 am]

BILLING CODE 6750-01-M

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Part 302

Final Rule with Respect To Filing of Claims To Cable Royalty Fees

AGENCY: Copyright Royalty Tribunal

ACTION: Final rule.

SUMMARY: This rule amends 37 CFR, Chapter III, Part 302, §§ 302.2 and 302.6 by providing that the CRT shall accept as a valid claim all claims filed prior to July 31, 1979 and further that said claims so filed will be effective for the full calendar year of 1978 and by deleting § 302.5.

EFFECTIVE DATE: This regulation becomes effective November 23, 1979.

FOR FURTHER INFORMATION CONTACT: Douglas Coulter, Chairman, Copyright Royalty Tribunal (202) 653–5175

SUPPLEMENTARY INFORMATION:

Background

The Copyright Revision Act first went into effect in 1978. Because of the complexities surrounding the compulsory licensing provision Congress contemplated that time would be necessary for the parties to adapt. For this reason the Tribunal adopted a rule which required all copyright owners to file "pro forma" claims in July 1978. These "pro forma" claims would later be updated in the July 1979 filing. Thereafter, only one filing would be required each year.

The comments submitted to the Tribunal pursuant to an Advance Notice of Proposed Rulemaking published in the **Federal Register** (43 FR 6283) reflected a difference of opinion among claimants as to whether the copyright statute required the filing of cable claims in July, 1978. The Tribunal did not find it necessary to make a determination of that legal question. Rather, the Tribunal adopted a rule requiring a filing in July, 1978 in order to establish at the earliest possible date the general nature of the claimants. This prompt identification was desirable both for the work of the Tribunal and to assist the efforts for a voluntary agreement as to cable royalty fee distribution. For the same considerations the Tribunal is now amending its cable claim rules.

Because 1978 was the first year in which the compulsory copyright licensing of cable took effect, the Tribunal feels that some leniency with regard to the filing of cable royalty claims for that year is warranted and will not constitute a precedent for the filing of claims in subsequent years. It may have been difficult initially to have had adequate notice of filing requirements.

By issuing the following regulation directly as a final rule, the Tribunal is foregoing the prior issuance of a notice of proposed rulemaking and the opportunity for public comment. Such a curtailed procedure is permitted by 5 U.S.C. 553(b) when such an action would be in the public interest and the opportunity for public comments prior to issuance of the final rule is impracticable.

The Tribunal on September 12, 1979 issued notice of the declaration of a controversy concerning the distribution of cable royalty fees. In the same notice the Tribunal announced that a conference would take place on October 11, 1979 for claimants or their authorized representatives. Many legal, as well as factual issues, will be involved in these proceedings which by statute must be concluded by September 11, 1980, a period of one year after a controversy was declared. The Tribunal published in the **Federal Register** a timetable for the filing of legal briefs and memorandums by November 15, replies by November 28 and oral arguments on December 5, 1979 on just the legal issues.

At this point in the proceeding many claimants, because of the untimeliness of the filing of their claims, the supplemental filing and the incompletion of the supplemental filing, are at a loss as to just what is their legal standing. It would not be in the best interest of the public not to afford them the opportunity to participate in the proceeding. Nor would it be in the public interest to permit them to go to the expense of participating all the way in the proceeding, and at the end, rule they have no valid claim. The Tribunal believes no claimant should be denied the opportunity to participate because the Tribunal earlier was not in a position to specify detailed information regarding individual royalty claims. The Tribunal finds that to hold a rulemaking proceeding simultaneously with and adjudication proceeding is impractical and not in the public interest.

Accordingly, 37 CFR, Part 302, is amended by revising §§ 302.2 and 302.6 to read as follows, and by deleting § 302.5.

§ 302.2 Filing of claims to cable royalty fees for secondary transmissions during the period January 1 through June 30, 1979.

Every person claiming to be entitled to compulsory license fees for secondary transmissions by cable systems during the period January 1 through June 30, 1978, shall file in the office of the Copyright Royalty Tribunal a claim to such fee during the calendar month of July 1978 or July 1979. Any claimant so filing shall be considered as having filed a claim for the period January 1 through June 30, 1978. For purposes of this clause claimants may file claims jointly or as a single claim. A joint claim shall include a concise statement of the authorizations for the filing of the joint claim.

§ 302.5 [Delete]

§ 302.6 Filing of claims to cable royalty fees for secondary transmissions during the period July 1 through December 31, 1978.

(a) During the month of July 1979, every person claiming to be entitled to compulsory license fees for secondary transmissions during the period July 1 through December 31, 1978, shall file in the offices of the Copyright Royalty Tribunal a claim to such fees. Any claimant so filing shall be considered as having filed a claim for the period July 1 through December 31, 1978.

(b) Every person who filed in the office of the Copyright Royalty Tribunal during the calendar month of July, 1979, claiming to be entitled to compulsory license fees for secondary transmissions by cable systems during the period July 1 through December 31, 1978, but who did not file a claim for the period January 1 through June 30, 1978, shall be considered as having filed a claim for the period of January 1 through June 30, 1978.

(c) For the purpose of this clause claimants may file claims jointly or as a single claim.

Douglas Coulter,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-32407 Filed 10-19-79; 8:45 am]

BILLING CODE 1410-01-M

POSTAL SERVICE

39 CFR Part 111

Preparation of Bulk Mailings

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This rule amends regulations governing the preparation of second-class, controlled circulation, third-class, fourth-class bound printed matter, and library rate mailings. In general, the rule revises the destinations to which packages and sacks of mail must be presorted, offers a number of optional sortations, and changes the minimum quantities of mail for which a bulk mailer must prepare sacks. In addition, a number of minor changes have been made to related mail preparation regulations. These changes are optional until February 3, 1980.

EFFECTIVE DATE: The amendments to Domestic Mail Manual sections 462.3, 562.3 and 661.2 concerning the elimination of certain exceptions to the required use of the ZIP Code in the address on mail matter will become effective on February 3, 1980.

The alternate mail preparation regulations set forth in Domestic Mail Manual sections 467, 567, 667, 766 and 767 are effective immediately for those mailers who can comply with the applicable requirements, and will be mandatory for all mailers effective February 3, 1980. These regulations are adopted on an optional basis in order to give mailers a phase-in period during which they can become familiar with the new mail preparation requirements and to make any changes necessary to comply with the new requirements. During the phase-in period, mailers must comply with either all of the current mail preparation requirements or all of the regulations which will become mandatory on February 3, 1980. Mailers may not selectively use parts of the current preparation requirements and parts of the regulations which will become effective on February 3, 1980.

Effective February 3, 1980, Domestic Mail Manual sections 464, 564, 663, 763 and 765 will be rescinded.

FOR FURTHER INFORMATION CONTACT: Ernest J. Collins, 202–245–4749.

[1] Copies of the Complaint and the Decision and Order filed with the original document.

V 44 0C 22 79 UMI

SUPPLEMENTARY INFORMATION: On July 31, 1979, the Postal Service published for comment in the **Federal Register** proposed changes to Parts 462, 464, 562, 564, 661, 663, 763, 764, and 765 of the Domestic Mail Manual (DMM) as described above (44 FR 44895–44904). Interested persons were invited to submit written comments concerning the proposed changes before August 20, 1979. The August 20 date was subsequently extended to August 31 (44 FR 49702) as a result of requests for additional time to file comments.

Written comments were received from 68 individuals and organizations, and oral comments were received from eleven individuals. Fifty-four commenters expressed their support for the proposed modification of the present eligibility requirement that there be at least ⅓ of a sack, 20 pounds, or 1,000 cubic inches of second-class mail for a specific destination to qualify for a lower per piece postage rate.

Ten commenters wanted the proposal modified to permit mailers to put carrier packages inside 5-digit ZIP Code sacks when there are packages of second-class mail for more than one carrier at a delivery unit. Another was concerned that the proposal would aggravate sack shortages within the Postal Service.

The proposal has been modified to permit publishers of second-class publications to put carrier route packages for more than one carrier at a 5-digit ZIP Code delivery unit inside combined carrier route sacks. This modification should reduce the quantity of sacks required for mailings. The Postal Service will, however, monitor the usage of sacks to determine whether this procedure should be changed.

One commenter wanted to pay the second-class level B per piece rate for 5-digit packages if they are placed inside a Sectional Center Facility (SCF) sack. Another suggests that the level B and C per piece rates be charged for carrier route, 5-digit, and 3-digit packages placed in SCF and State Distribution Center (SDC) sacks. The lower presort charges are based on the degree of presort done by the mailer. These suggestions would result in additional handling costs for the Postal Service. Consequently, the comments have not been adopted.

One commenter was under the mistaken impression that the Postal Service wanted to eliminate the provisions in the regulations which allow mailers to sack mail to the lowest ZIP Code for certain multi-ZIP Coded cities. The proposal merely modifies the present provision to require sacking to a 5-digit delivery unit whenever there are four or more packages of mail for a delivery unit. The final rule gives mailers the option to sack mail to the lowest ZIP Code of one of the post offices listed in § 467.114, Domestic Mail Manual, whenever there are less than four packages for a delivery unit of the post office. However, the proposal does require bulk rate mail to bear the correct ZIP Code in the address of each individual piece of mail. The lowest ZIP Code for a multi-ZIP Coded city will not be allowed on all mail for that city.

One commenter suggested that the Postal Service allow the level B or level E per piece rate for six or more copies of a second-class publication addressed to any multi-ZIP Coded city rather than just to the 113 cities listed in § 467.114. One commenter wanted the Postal Service to allow second-class publishers to palletize copies of their publications to all multi-ZIP Coded offices rather than to only cities having a unique 3-digit ZIP Code. The level B and E rates are being extended to most multi-ZIP Coded cities. It should be noted that this list may be revised in the future to reflect population and distribution system changes. Mailers will be allowed to palletize to the cities listed under prescribed conditions.

Two commenters stated that the proposal did not clearly specify that parcels mailed at the special fourth-class level B presort rate can be palletized to BMC's. Another commenter believed the proposed changes for mailing at the special fourth-class level B presort rate imposes more stringent sorting requirements for mailers. The Postal Service has concluded that the proposed changes regarding the preparation of special fourth-class level B presort rate mail deserve further study and therefore that portion of the proposed rule is not being implemented.

Two commenters stated that six copies of a second-class publication should qualify for handling outside sacks. The proposal did not affect the requirement that bundles to be handled outside sacks must weigh at least 20 pounds, or equal at least 1,000 cubic inches. Reducing the size of bundles allowed to be prepared outside of sacks to six copies would significantly add to Postal Service handling costs. When mailers sack mail, they are inclined to fill sacks to reduce their operating costs, as well as to minimize the risk of damage to their mail while being transported. Mailers bundling mail on the other hand, are generally inclined to prepare small bundles to minimize handling costs. Obviously, the number of piece handlings required by the Postal Service to process these bundles will vary with the size of the bundles. For this reason, the Postal Service finds it necessary to retain the minimum size requirements for bundles prepared in lieu of sacks.

Three commenters believe that six or more copies of a second-class publication addressed to a carrier route or 5-digit destination should qualify for the level C or level B per piece rate if placed on a pallet. It is not cost effective for the Postal Service to handle a package of six copies of a publication when the copies are placed on a pallet. Therefore, the Postal Service will retain the requirement that bundles on a pallet must weigh at least 20 pounds or equal at least 1,000 cubic inches.

Three commenters were under the mistaken impression that the proposal authorized a reduced per piece rate for copies of controlled circulation publications. This is not the intent. Presently there is a single per piece rate for copies of controlled circulation publications. To allow mailers of controlled circulation publications multiple per piece rates would require a change in the rate structure.

One commenter believes copies of a controlled circulation publication should be eligible for a reduced per piece rate. To mail copies of a controlled circulation publication at a reduced per piece rate, would require a change in the rate structure.

Two commenters believed the proposed changes should be handled as a rate or classification change through the Postal Rate Commission. The Postal Service believes it has the right to change mail preparation requirements to recognize work sharing by mailers which reduce costs to the Postal Service and improve service to the public.

One commenter requested that the regulations pertaining to the third line of a sack label be changed to allow mailers to put their publication's name on the third line. This, according to the commenter, would help the Postal Service in locating distribution problems. This could be accomplished by substituting "may" for "must." For the sake of uniformity, the Postal Service believes only the office of mailing should be shown on the third line of the sack label. The endorsement, "News" or "Ord P" (meaning Ordinary Publication) on the second line should be sufficient for Postal Service employees to determine whether a sack of second-class mail should be given expeditious treatment.

Four commenters opposed the proposal to require facing slips on carrier route packages of second-class mail. The final rule has been modified to give mailers the option of putting carrier route information in the top line of the address label instead of preparing facing slips when carrier route packages for more than one carrier at a 5-digit delivery unit are put inside carrier routes sacks.

One commenter believes that should be a blank line between the second and third lines of a facing slip because a substitute sorter may mistakenly return the sack to the entry office. In addition, the commenter wants the Postal Service to put the publication's name on the third line of the label. We believe the commenter was actually concerned with sack labels rather than facing slips. The Postal Service does not believe sorters will return sacks of mail to the entry office since the top line of a sack label indicates the sack's destination. The Postal Service does not believe it is essential to put a publication's name or the publisher's name on the third line of a sack label.

One commenter was concerned about how much publishers would have to pay mailing agents to prepare a sack of mail and how much it would cost the Postal Service to handle a sack of mail. The Postal Service believes the proposed changes, which permit sacking closer to destinations, will be cost effective for the Postal Service. However, it appears impractical for the Postal Service to determine within a reasonable period of time the cost to publishers of preparing sacks. This cost would vary from mailer to mailer. For this reason, mailers must rely on their own cost analysis in determining if it would be advantageous to perform the optional sorts.

One commenter believes the proposed changes for copies of second-class publications presorted to carrier routes require further streamlining. The commenter wants the Postal Service to require a minimum of 5 pounds of mail for a carrier route or a minimum of 20 pounds if packages for more than one carrier are placed inside a 5-digit sack. The sack label would be endorsed, "direct carrier route" or "mixed carrier routes" as appropriate. This would appear to run counter to the often expressed opinion of many publishers who have complained that Postal Service requirements expressed in pounds and cubic inches of mail are difficult to apply. The Postal Service believes that requirements expressed in numbers of pieces is preferred by most second-class publishers. It should be noted, however, that a major portion of this comment has been adopted since the proposed rule has been modified to permit mailers to put carrier route packages for more than one carrier inside a single sack.

One commenter believes it would be confusing to sorters if the green label 3 is placed on both 3-digit packages and SCF packages. Also, he believes it would be better to use the yellow label C for packages sorted to cities having a unique 3-digit ZIP Code. The Postal Service does not expect to be significantly inconvenienced by the use of the green label on both types of packages. In addition, the Postal Service believes that use of the green label 3 on a package for a city having a unique 3-digit ZIP Code rather than a yellow label C would minimize the costs for the majority of mailers.

One commenter advocated redefining the term "piece" for bound printed matter to enable a mailer to enter an addressed parcel (containing several catalogs weighing less than one pound each) at the bound printed matter rate. This proposal is not adopted because it would change the definition of bound printed matter and, therefore, does not fall within the scope of the Postal Service's proposal to improve presort requirements.

Two commenters want the Postal Service to give publishers a reduced per piece rate for copies of second-class publications addressed for delivery within the county of publication when the copies are presorted to carrier routes. Presently there is a single per piece rate for copies of second-class publications addressed for delivery within the county of publication. To allow multiple per piece rates for copies addressed within the county of publication would require a change in the rate structure.

Two commenters want the Postal Service to extend the carrier route per piece discount to regular rate second-class publications whose circulation per issue to destinations outside the county of publication is less than 5,000 copies. To allow a carrier route discount for publications whose circulation per issue to destinations outside the county of publication is less than 5,000 copies would require a change in the rate structure.

One commenter wants the Postal Service to establish a label for a carrier package. The Postal Service considers the sacking requirements contained in the final rule and the alternative methods provided for indicating the carrier routes on sacks and packages substantially achieve the objective of this comment. In addition, it is believed that most mailers would object to affixing a package label to each package of mail that is presorted to a carrier route. Consequently, the Postal Service has no plans to establish such a label.

One commenter asked whether carrier packages containing less than six pieces would qualify for the level B rate if placed in a 5-digit sack. No, they would not. It is generally not economical to process small carrier packages at the delivery unit.

One commenter believes that using the lowest ZIP Code to label a mixed city sack may be confusing for sorting clerks. The commenter suggested that the Postal Service adopt four digit codes for the list of cities in § 467.114 since the first three digits of the ZIP Code for several cities are the same. The Postal Service does not believe this to be a practical solution because the four digits do not reflect the current distribution system.

One commenter stated that special rate second- and third-class mailings are not accorded presort discount rates in spite of the fact that many perform presort tasks. The commenter, therefore, believes such mailings should be allowed, or even encouraged, to adhere to the new presort requirements but that they should not be required to do so. The lower per piece rates are applicable only to regular rate second-class publications. The basic presort requirements must be met by all mailers. No publisher is required to presort to the extent required for mail sent at the lower per piece postage rates.

One commenter believes the Postal Service should provide guidance regarding the maximum size package it would like to handle. The Postal Service believes there is no need to specify a maximum size for packages since packages must be securely tied.

Two commenters want the proposal modified to permit mailers of second-class publications to put carrier route packages as well as 5-digit packages in a 5-digit sack. Since copies in a carrier route package are entitled to a lower per piece rate than copies in a 5-digit package, postage verification would be more difficult for the Postal Service. In addition, it could increase the workload for delivery units. Consequently, the Postal Service does not want mailers to put carrier route packages and 5-digit packages together in a 5-digit sack.

No comments were received on the proposal to amend §§ 462.31, 562.31, and 661.2 to eliminate most of the exceptions to the requirement that the address on each piece of second-class, controlled circulation and bulk third-class mail must include the ZIP Code. Therefore, the proposed amendments to those sections are adopted. As noted in the proposed rule, the amended regulations will still continue the exception for pieces bearing a simplified address format in accordance with § 122.41.

Because the new preparation regulations are not to become mandatory until February 3, 1980, the Postal Service has decided to delay the effectiveness of the amendments to §§ 462.31, 562.31 and 661.2 until that date as well.

As a result of the decision to phase-in the new preparation regulations, the section numbers for those regulations and all references to the various sections have been changed from the proposed rule. The proposed changes to 464 are now in 467, those to 564 are now in 567, those to 663 are now in 667, those to 763 are now in 767, and those to 765 are now in 766. Sections 464, 564, 663, 763 and 765 will be retained as postal regulations in their present form until February 3, 1980, when they will be rescinded.

In order to make each of the new sets of mail preparation regulations complete, this rule includes regulations which were not published in the proposed rule, but which have been copied from their counterparts in the present mail preparation regulations. The regulations which have been added in this manner are 467.12, 467.13, 467.14, 467.3 except for 467.32d, 467.41, 467.42a and c, 467.5, 567.12, 567.13, 567.14, 567.3 except for 567.32d, 567.41, 567.42a, and c, 567.5, 667.3, 667.41, 667.5, 767.1, 767.4 and 767.51.

Except for 467.5 and 567.5 no substantive changes were made in adding these regulations to the new preparation requirements sections. Sections 467.5 and 567.5 were changed to eliminate the use of the title of the publication in line 3 of the sack labels in 467.53, 467.54, 567.53 and 567.54. This change conforms to a similar change made in the sack label formats under the rest of 467 and 567.

Furthermore, §§ 467.112b and 567.112b were added to provide an additional option to the mailer permitting him to prepare carrier route packages of second-class or controlled circulation mail without using facing slips if certain information is included in the address on each piece. Sections 467.221b and 567.221b were added to provide for the labeling of sacks which contain carrier route packages of second-class or controlled circulation mail for more than one carrier route.

New exhibits 467, 567 and 667 have not yet been prepared and are not included in the final rule. They will be similar to the exhibits now in 464, 564 and 663 and will be included when these regulations are transmitted as new pages of the Domestic Mail Manual.

In view of the considerations discussed above, the Postal Service hereby adopts new sections 467, 567, 667, 766 and 767 of the Domestic Mail Manual as follows:

(39 U.S.C. 401).

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

PART 462 PREPARATION

In 462.3, revise 462.31 to read as follows:

462.3 Addressing

.31 Each piece including the top copy of a firm package (see 467.111) must bear the name and address of the subscriber. The address must include the ZIP Code. *Exception:* the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

PART 467 ALTERNATE PRESORT REQUIREMENTS

Add new 467 to read as follows:

467 Alternate presort requirements (see exhibit 467)

[The requirements set forth in this section may be used at the option of the mailer instead of those in 464 until February 3, 1980. On that date, these requirements will be mandatory and 464 will be deleted.]

467.1 Packaging Requirements

.11 *Sortation*

.111 *Firm Packages.* When there are two or more copies for the same address they must be made up into one package if only one piece rate is paid for the group. A blue label F must be affixed to the front of the package (see 467.14). When there is more than one package sent to one address, mailers are allowed to include a package identification notice such as *1 of 4, 2 of 4,* etc., on the package wrapper, provided such endorsement does not interfere with the clarity of the address.

.112 *Optional Carrier Packages.* When there are six or more copies for the same carrier route, rural route, lockbox section or general delivery unit, they may, at the mailer's option, be made up into a carrier package of six or more copies. Such packages may qualify for the level C per piece rate. See 467.6. Whenever a carrier route package is not placed in a sack labeled to show that it only contains packages for the same carrier route the mailer must use one of the following procedures:

a. The mailer may prepare packages with a facing slip which must be affixed to the front of the package and marked as shown below:

Line 1: 5-Digit ZIP Code of Address.

Line 2: Contents and Carrier Route, Rural Route, Lockbox Section, or General Delivery Unit.

Line 3: Post Office of Entry.

Sample Carrier Route Facing Slip:

SAN FRANCISCO CA 94133
NEWS RURAL ROUTE 12
PORTLAND OR 972

b. The mailer may prepare packages without facing slips when the following conditions are met:

(1) The carrier route information consisting of a descriptive prefix (or its abbreviation) plus a two-digit route number or four-digit numeric code must be on the top line of the address, either alone (the preferred format) or with other information (addressee, account data, etc.).

(2) The descriptive prefix "carrier route," "rural route," "highway contract route," or "lockbox section" must either be spelled out (the preferred format) or abbreviated as follows:

Carrier Route	CR.
Rural Route	RR.
Highway Contract Route	SR.
Lockbox Section	LS.

(3) The descriptive prefix must be followed by a two-digit route number when the ZIP Code is included in the address. If the ZIP Code is omitted from the address, the descriptive prefix must be followed by a four-digit numeric route code. This four-digit route code must consist of the last two digits of the ZIP Code followed by the two-digit carrier route number.

(4) The carrier route information must be right justified.

(5) The carrier route information must be preceded by at least two asterisks (or another distinctive character). The following are examples of address formats in the order of preference:

```
                                   ** Carrier Route 22
John Doe
1300 Waterford Drive
District Heights, MD 20028

JhnDoe30WA***                      **CR 22
John Doe
1300 Waterford Drive
District Heights, MD 20028

John Doe                           **CR 22
1300 Waterford Drive
District Heights, MD 20028

                                   ** Rural Route 05
John Doe
1602 Country Lane
Burke, VA 22015
```

(6) At least 10 spaces must be allowed for carrier route information if it is included with other information on the top line.

.113 *5-Digit Packages.* When there are six or more copies for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. Mailers are encouraged, but are not required, to affix a red label D to each package. Copies may qualify for the Level B or Level E per piece rate. See 467.6

.114 *Optional City Packages.* When, after making up 5-digit packages, there are six or more copies remaining for one of the following multi-ZIP Coded offices, the mailer is encouraged to prepare a "city" package. A yellow label C must be affixed to each package. Such packages may qualify for the Level B or Level E per piece rate. See 467.6.

Alabama:	
Anniston	36201–05
Decatur	35601–03
Dothan	36301–03
Florence	35630–33
Gadsden	35901–05
Tuscaloosa	35401–06
Alaska:	
Anchorage	99501–49

Arizona:	
Glendale	85301–11
Mesa	85201–08
Scottsdale	85251–69
Sun City	85351–52, 72–75
Tempe	85281–87
Arkansas:	
Fort Smith	72901–16
North Little Rock	72114–19
Pine Bluff	71601–13
California:	
Beverly Hills	90210–15
Buena Park	90620–24
Canoga Park	91303–07
Chula Vista	92010–12
Comptor	90220–24
Goncord	94518–24
Costa Mesa	92626–27
Covina	91722–24
Daly City	94014–17
Downey	90240–42
El Cajon	92020–22
El Monte	91731–34
Escondido	92025–27
Fremont	94536–40
Fullerton	92631–38
Gardena	90247–49
Garden Grove	92640–45
Hayward	94541–46
Huntington Beach	92646–49
Laguna Beach	92651–53
Lakewood	90712–16
La Puenta	91744–49
Modesto	95350–55
Mountain View	94040–43
Newport Beach	92660–63
Northridge	91324–30
Ontario	91761–62
Orange	92665–69
Pomona	91766–69
Redondo Beach	90277–78, 54
Redwood City	94061–65
Salinas	93901–15
San Fernando	91340–49
San Gabriel	91775–78
San Juan Capistrano	92675, 90–93
San Leandro	94577–79
San Pedro	90731–33
San Rafael	94901–11
Santa Clara	95050–54
Santa Cruz	95060–66
Santa Rosa	95401–06
Simi Valley	93063–65
Spring Valley	92077–78
Stockton	95201–12
Sunnyvale	94086–88
Thousand Oaks	91360–63
Ventura	93001–09
Walnut Creek	94595–96
West Covina	91790–93
Whittier	90601–12
Wilmington	90744–49
Woodland Hills	91364–75
Colorado:	
Arvada	80001–09
Aurora	80010–16, 40–41
Englewood	80110–15, 50–54
Fort Collins	80521–26
Littleton	80120–29, 60–81
Pueblo	81001–19
Connecticut:	
New Britain	06050–53
Norwalk	06850–57
Waterbury	06701–24
Delaware:	
Newark	19711–13
Florida:	
Boca Raton	33431–32
Boynton Beach	33435–37
Bradenton	33505–08
Clearwater	33515–20
Daytona Beach	32014–23
Delray Beach	33444–47
Fort Meyers	33901–06
Fort Pierce	33450–52
Gainesville	32601–12
Hialeah	33010–16
Hollywood	33019–29
Homestead	33030–35
Lakeland	33801–03
Lake Worth	33460–64
Largo	33540–42
Melbourne	32901–19
Naples	33940–42
New Port Richey	33552–53
Ocala	32670–73
Opa Locka	33054–56
Panama City	32401–10
Pensacola	32501–22
Pompano Beach	33060–68
Punta Gorda	33950–54
Sarasota	33577–83
Tallahassee	32301–13
Tarpon Springs	33589–90
Venice	33595–96
West Palm Beach	33401–11
Winter Park	32789–93
Georgia:	
Albany	31701–07
Athens	30601–07
Conyers	30207–08
Decatur	30030–38
Douglasville	30133–35
Marietta	30060–67
Newnan	30263–65
Norcross	30071, 91–93
Riverdale	30274, 96
Roswell	30075–77
Stone Mountain	30083, 86–88
Illinois:	
Arlington Heights	60004–08
Aurora	60504–07
Belleville	62220–25
Decatur	62521–26
Des Plaines	60018–18
East St. Louis	62201–08
Joliet	60431–36
Melrose Park	60160–65
Oak Lawn	60453–59
Roselle	60172, 93–96
Skokie	60076–77
Indiana:	
Anderson	46011–17
Hammond	46320–27
Lafayette	47901–07
Muncie	47302–06
Terre Haute	47801–12
Kentucky:	
Covington	41011–19
Newport	41071–78
Louisana:	
Lafeyette	70501–08
Lake Charles	70601–09
Metairie	70001–11
Monroe	71201–09
Maryland:	
Columbia	21044–46
Hyattsville	20780–88
Laurel	20810–11
Rockville	20850–57
Massachusetts:	
Ayer	01432–33
Chicopee	01013–22
Fall River	02720–26
Falmouth	02540–41,43
Lawrence	01840–45
Lowell	01850–54
Lynn	01901–10
New Bedford	02740–48
North Attleboro	02760–63
Michigan:	
Ann Arbor	48103–09
Battle Creek	49014–17
Birmingham	48006–12
Dearborn	48120–26
Farmington	48018, 24
Jackson	49201–04
Kalamazoo	49001–09
Livonia	48150–57
Mount Clemens	48043–45
Muskegon	49440–45
Plymouth	48170, 87–88
Pontiac	48053–59
Royal Oak	48067–73
Saginaw	48601–07
Southfield	48034, 37, 75–76
Saint Clair Shores	48080–83
Troy	48084, 98–99
Utica	48087, 77–78
Warren	48089–93
Mississippi:	
Gulfport	39501–03
Biloxi	39530–34
Missouri:	
Florissant	63031–34
Hazelwood	63042–45
Independence	64050–55
Montana:	
Great Falls	59401–06
New Jersey:	
Cherry Hill	08002–03
Clifton	07011–15
East Orange	07017–19
Englewood	07631–32
Hackensack	07601–11
Montclair	07042–44
Orange	07050–52
Perth Amboy	08861–63
Plainfield	07060–63
Rahway	07065–67
Ridgewood	07450–52
Rutherford	07070–75
Westfield	07090–92
New York:	
Babylon	11702–04
Floral Park	11001–05
Great Neck	11020–24
Hempstead	11550–54
Mount Vernon	10550–59
Troy	12180–83
Valley Stream	11580–83
North Carolina:	
Fayetteville	28301–06
High Point	27260–64
Wilmington	28401–06
Ohio:	
Cuyahoga Falls	44221–24
Elyria	44035–39
Hamilton	45011–26
Lima	45801–09
Lorain	44052–55
Warren	44481–86
Oklahoma:	
Lawton	73501–05
Norman	73069–71
Oregon:	
Eugene	97401–05
Salem	97301–14
Pennsylvania:	
Altoona	16601–02
Bethlehem	18015–18
Chester	19013–16
Johnstown	15901–09
Levittown	19053–59
McKeesport	15130–35
Media	19063–65
New Castle	16101–05
Norristown	19401–09
Pittston	18640–44
Upper Darby	19082–84
Rhode Island:	
Pawtucket	02860–65
Wakefield	02879–83
Warwick	02886–89
South Carolina:	
Anderson	29621–23
Charleston	29401–12
Greenville	29601–15
Spartanburg	29301–04
Tennessee:	
Kingsport	37660–65
Texas:	
Arlington	76010–19
Baytown	77520–21
Brownsville	78520–21
Carrollton	75006–07
Conroe	77301–02
Duncanville	75116, 37
Galveston	77550–53
Garland	75040–43
Grand Prairie	75050–52
Humble	77338–39
Irving	75060–63, 39
Lancaster	75146, 34
Laredo	78040–41
Lewisville	75028, 56, 67
Longview	75601–05
Mesquite	75149–50, 80–82
Midland	79701–03
Odessa	79760–63
Pasadena	77501–07
Plano	75023–24, 74–75
Richardson	75080–81
San Angelo	76901–03
Spring	77373–79, 80
Texarkana	75501–03
Tyler	75701–12
Waco	76701–11
Wichita Falls	76301–11
Virginia:	
Charlottesville	22901–09
Chesapeake	23320–25
Fairfax	22030–39
Falls Church	22040–46
Hampton	23660–70

V 44 0C 2 2 7 9 UMI

Virginia:		
	Herndon	22070, 99-95
	Lynchburg	24501-15
	McLean	22101-02
	Newport News	23601-30
	Roanoke	24001-50
	Springfield	22150-61
	Suffolk	23434-38
	Virginia Beach	23450-63
	Woodbridge	22191-94
Washington:		
	Bellevue	98004-07
	Everett	98201-07
	Olympia	98501-07
	Vancouver	98660-67
	Yakima	98901-09
Wisconsin:		
	Kenosha	53140-43

.115 *3-Digit Packages.* When there are six or more copies for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages have been made, they must be made up into 3-digit packages. A green label 3 must be affixed to each package. Copies in packages of six or more addressed to multi-ZIP Coded cities having a unique 3-digit ZIP Code may qualify for the level B or E per piece rate. See 467.6. These cities are listed in Publication 65, *National ZIP Code and Post Office Directory.*

.116 *Optional SCF Packages.* When there are six or more copies for post offices in the same Sectional Center Facility (SCF) service area remaining after the required 5-digit and 3-digit packages have been made, the mailer is encouraged to prepare an SCF package. A green label 3 must be affixed to each package. A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory.*

.117 *Optional SDC Packages.* When there are six or more copies for post offices in the same State Distribution Center (SDC) service area remaining after the 5-digit, optional city, 3-digit and optional SCF packages have been made, the mailer is encouraged to prepare an SDC package. In those instances where this SDC makeup is finer than the mandatory state makeup, a facing slip must be used on SDC packages. Individual copies in SDC packages must be wrapped.

.118 *State Packages.* When there are six or more copies for a State remaining after the 5-digit, optional city, 3-digit, optional SCF and optional SDC packages have been made, they must be made up into state packages. An orange label S must be affixed to each package. Individual copies in state packages must be wrapped.

.119 *Mixed States Packages.* Copies remaining after packages have been made, as outlined above, must be made up into mixed state packages. A mixed states white facing slip must be attached to each package. Individual copies in mixed states packages must be wrapped.

.12 *Loose Packing.* Management sectional center (MSC) managers may authorize loose packing of copies in full No. 3 sacks without bundling when all material in a sack goes to the same 5-digit ZIP Code.

Copies must be placed to maintain orientation of the copies while in transit. Mailers desiring to loose pack copies must make requests through the post office of mailing.

Note.—The terms *loose pack* or *loose packing* refer to the placement of unbundled, unbound mail pieces in a receptacle such as a mail sack.

.13 *Facing.* All copies in a package must be faced the same way with an address visible on the top copy.

.14 *Package Labels.* Pressure sensitive package labels must be applied to the lower left corner of the address side of the top copy on letter size packages and next to the address on larger packages. Facing slips must be placed on the address side of the top copy in mixed state and foreign packages. Pressure sensitive labels and facing slips are available from post offices.

467.2 Sacking Requirements

.21 *General.* Except where bundling or palletizing is authorized (see 467.3 and 467.4), packages must be sorted and sacked to destinations as outlined below. No more than 70 pounds of mail may be placed in any sack.

.22 Sortation

.221 *Carrier Sacks.* Mailers who wish to qualify for the level C piece rate (see 467.6), must prepare carrier route sacks in one of the following ways:

a. Carrier route sacks which contain at least one package of six or more copies for the same carrier route must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD P or NEWS), Carrier Route and Route Number.
Line 3: Office of Mailing.
Sample Carrier Sack Label:

SAN FRANCISCO CA 94133
NEWS-CARRIER ROUTE 18
PORTLAND OR 972

b. Sacks containing qualifying carrier route packages for more than one carrier route must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD P or NEWS), Carrier Routes.
Line 3: Office of Mailing.
Sample Carrier Routes Sack Label:

SAN FRANCISCO CA 94133
NEWS-CARRIER ROUTES
PORTLAND OR 972

.222 *5-Digit Sacks.* When, after preparing optional carrier sacks, there are four or more packages addressed to the same 5-digit ZIP Code destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages may be prepared. Each sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD P or NEWS).
Line 3: Office of Mailing.
Sample 5-Digit Sack Label:

PHILADELPHIA PA 19118
ORD P
BOSTON MA 021

.223 *Optional City Sacks.* After preparing 5-digit sacks, mailers are encouraged to make up packages addressed to the multi-ZIP Code cities listed in 467.114 into city sacks. Each sack must be labeled in the following manner:

Line 1: City, State, and Lowest ZIP Code
Line 2: Contents.
Line 3: Office of Mailing.
Sample City Sack Label:

AURORA IL 60504
NEWS
BOSTON MA 021

.224 *3-Digit Sacks.* When, after preparing optional carrier, 5-digit and optional city sacks, there are four or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-digit sacks. Sacks containing fewer than four packages may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State, and 3-Digit Prefix.
Line 2: Contents.
Line 3: Office of Mailing.
Sample 3-digit Sack Label:

PHILADELPHIA PA 191
ORD P
BOSTON MA 121

.225 *Optional SCF Sacks.* After preparing optional carrier, 5-digit, optional city and 3-digit sacks, the mailer is encouraged to make up packages addressed to post offices in the same Sectional Center Facility (SCF) service area into SCF sacks. Each sack must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-Digit ZIP Code for that SCF.
Line 2: Contents.
Line 3: Office of Mailing.
Sample SCF Sack Label:

SCF PHILADELPHIA PA 190
ORD P
BOSTON MA 021

Note.—A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the principal 3-digit ZIP Code prefixes that are to be used on SCF sack labels is contained in Publication 65, *National ZIP Code and Post Office Directory.*

.226 *Optional SDC Sacks.* After preparing optional carrier, 5-digit, optional city, 3-digit and optional SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center (SDC) service area into SDC sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for Destination Area.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample Sack Label:

DIS PITTSBURGH PA 150
ORD P PA
SAN FRANCISCO CA 941

.227 *State Sacks.* When, after making up optional carrier, 5-digit, optional city, 3-digit, optional SCF, and optional SDC sacks, there are four or more packages addressed to the same State, the packages must be made up into state sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for State of Destination.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample State Sack Label:

DIS KANSAS CITY MO 640
ORD P MO
SAN FRANCISCO CA 941

.228 *Mixed States Sacks.* Packages remaining after state sacks have been prepared must be made up into mixed states sacks. Each sack must be labeled in the following manner:

Line 1: Mixed States Distribution Location.
Line 2: Contents.
Line 3: Office of Mailing.
Sample Mixed States Sack Label:

DIS CHICAGO IL 606
ORD P MIXED STATES
CHICAGO IL 606

467.3 Bundling Instead of Sacking

.31 *Regional Authorization.*

.311 The Regional Postmaster General for the post office of mailing may authorize dispatch of second-class mail in bundles outside of mail sacks if such preparation is beneficial to the Postal Service. The publisher must submit an application to the postmaster where the mail is to be deposited. The following information must be furnished with the application:

a. Name of publication and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

.312 The postmaster will forward the application to the Regional Postmaster General with a detailed explanation of the transportation and processing arrangements. The application will be reviewed by the General Manager, Logistics Division and by others concerned in that region and in any other region which will process the mail in order to determine whether intermediate or destination offices are capable of receiving and processing the bundles without increasing overall processing costs. The Regional Postmaster General will notify the postmaster at the office where the mail is to be entered whether the application has been approved or, if not, the reason for denial. The postmaster will send notice of the decision to the mailer.

.32 *Bundling Requirements.* Mailers bundling instead of sacking publications must observe the following procedures:

a. Presort by ZIP Code. Mailers must presort publications by ZIP Code separations as required by 467.1.

b. Prepared Lake Sacks. Bundles must be prepared on the same basis as sacks (see 467.2) and individual separations within a bundle must be appropriately wrapped or tied to maintain the identity of the separation. The number of bundles should not exceed the number of sacks which would otherwise be used in a mailing, except when those bundles are used in an approved palletized mailing. This may require bundling up to the 40 pound maximum when volume warrants and the mailing is not palletized.

c. Weight and Numbers. The weight of a bundle must not exceed 40 pounds. A bundle should weigh at least 20 pounds or be of at least 1,000 cubic inches of volume. Lesser quantities must be included in bundles for the next lower level of sortation.

d. Labeling. All bundles must be appropriately labeled on top to show destination and contents as required with sacks. Similarly, each separation within a bundle must be identified by labels in accordance with 467.14.

e. Machinable Mailings. Mailings must be machinable by Postal Service sack-sorting equipment unless they consist of publications intended only for local area delivery (same 3-digit ZIP Code prefix). It is the responsibility of the mailer to satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more production bundles on two or more passes through a bulk mail center (BMC). Ordinarily, bundles require cross strapping and heavy-gauge shrink or stretch wrap to insure their integrity in the mailstream.

f. Local Processing and Delivery. When second-class publications are entered for local processing and delivery (i.e. without being routed through a BMC), they need not meet the requirements of 467.32c. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. If wire is used, it must have rounded edges and flat ends. Binding material must be applied at least once around the length and girth. The use of metal strapping is discouraged because of its possible hazards.

467.4 Palletizing Instead of Sacking

.41 *Regional Authorization.* The Regional Postmaster General for the post office of mailing may authorize the dispatch of second-class mail on pallets without mail sacks, if such preparation is beneficial to the Postal Service. Applications for palletizing instead of sacking must be made and processed as prescribed for bundling in 467.31.

.42 *Palletizing Requirements.* Mailers palletizing instead of sacking publications must observe the following procedures:

a. Mailers must presort publications and prepare packages as prescribed in 467.1. The Regional Postmaster General may waive packaging requirements for 5-digit ZIP Code pallets when mailers effectively demonstrate that they will prepare pallets to remain intact to the destination.

b. Pallets must be made up to the destinations required in 467.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 467.2. Pallets must not contain more than 2,000 pounds of mail or mail addressed to more than one zone.

c. Pallets must be labeled in the format described in 467.2. These labels must be at least five inches by nine inches in size with characters at least one inch high.

467.5 Copies for Military Post Offices Overseas

.51 *Direct Packages.* When more than one copy is addressed to one unit, APO, or Navy or Marine Corps address (see 122.8), the copies must be securely wrapped in packages or tied in bundles labeled for the military address.

.52 *Mixed Packages.* After all direct packages have been made, if there are more than five copies remaining for dispatch through any postal concentration center, they must be wrapped in packages or tied in bundles and labeled for the center.

.53 *Direct Sacks.* When there are a sufficient number of packages and bundles for one unit, APO, or Navy or Marine Corps address to fill approximately one-half of a No. 2 sack, a direct sack must be made. Direct sacks will not be opened at postal concentration centers. The sack should be labeled in the following manner:

Line 1: Postal Concentration Center Designation, City, State, 3-digit ZIP Code Prefix.
Line 2: Contents, APO or FPO Designation and 5-digit ZIP Code.
Line 3: Office of Mailer.
Sample:

PCC NEW YORK NY 110
ORD P APO 09360
NEW YORK NY

.54 *Mixed Sacks.* When the quantity is insufficient for a direct sack, but there are enough bundles or packages for dispatch through one postal concentration center to fill approximately one-half of a No. 2 sack, a sack must be made up for that center and labeled in the following manner:

Line 1: Postal Concentration Center Designation, City, State, 3-digit ZIP Code Prefix.
Line 2: Contents, APO or FPO Designation for MAIL.
Line 3: Office of Mailing.
Sample:

PCC SAN FRANCISCO CA 962
ORD P APO MAIL
NEW YORK NY

467.6 Preparing Out-Of-County Rated Pieces (Levels B, C, and E).

There are several different piece rates provided for regular rate and science of agriculture publications which reflect the level of presort. Presort levels A, B and C are provided for mailings of 5,000 or more copies of regular rate and science of agriculture publications being sent to destinations outside the county of publication. Presort levels D and E are provided for mailings of less than 5,000 pieces of regular rate and science of agriculture publications being sent to destinations outside the county of publication. Mailers using out-of-county per piece rates (regular rate and science of agriculture publications, see 411) must adhere to the following:

a. To qualify for the Level B or Level E piece rate, a piece must be: (1) In a 5-digit package of six or more pieces and the package must be inside a 5-digit sack, or (2) in a city package (see 467.114) or 3-digit package of six or more pieces addressed to a city having a unique 3-digit ZIP Code prefix. The package must be inside a city sack or a 3-digit sack for a city with a unique 3-digit ZIP Code prefix.

b. To qualify for the level C piece rate, a piece must be in a carrier route package of six or more pieces and the package must be inside a carrier route sack or carrier routes sack.

c. Pieces presented in bundles instead of sacks (see 467.3) are eligible for presort rates providing they meet all other requirements for the presort rates.

d. Mailers must be prepared to document or otherwise confirm the number of pieces mailed and paid for at levels B, C, and E piece rates. *Note.* This may be done in any of the following ways:

V 44 0 C 2 2 7 9 9 UMI

(1) By separating sacks paid at the various piece rates when they are presented for mailing, or

(2) By attaching to the mailing statement a list of the number of copies (and pieces) to each 5-digit ZIP Code, to each city having a unique 3-digit ZIP Code prefix, to each city listed in 467.114, and to each carrier route for which level B, C, or E piece rates are being paid, or

(3) By maintaining records for each mailing which will confirm the number of pieces in qualifying 3-digit city, 5-digit, carrier route sacks and carrier routes sacks. The records must document the number of copies (and pieces) to each qualifying 3-digit city, 5-digit, and carrier route destination for which sacks are made up. A printout must be presented prior to the first mailing made under this arrangement. These records must be retained for at least two months.

e. The mailer must provide a copy of the record for a particular mailing, or portions of it, within 30 days of a request by the postmaster of the office of entry. Postmasters will advise the Region's Revenue Protection Program Manager of all publications being mailed under this arrangement. Acceptance units will maintain a list of publications authorized to mail under this arrangement.

f. More than one second-class publication may be combined to meet the volume per sack or bundle requirement for the Levels B, C, and E, piece rates. To qualify for Levels B and C piece rates, at least 5,000 copies of each issue in the combined mailing must be mailed to destinations outside the county of publication. Listings and records provided by publishers in accordance with 467.6d must also document the number of combined pieces and copies of each publication mailed to each unique 3-digit city, 5-digit ZIP Code destination, and carrier route. The total number of consolidated mailing pieces for each level of presort is to be reported on the Form 3541 for one publication or on a separate Form 3541.

A notation such as "per piece charge for consolidated copies of (*title*), (*title*), etc." must be included on the Form 3541 on which the piece rates are computed. The Forms 3541 used to compute pound-rate postage for the individual publications must include a notation as to the number of copies included in the consolidated mailing pieces, and where the piece rate computations can be found (i.e., (number) copies sent in consolidated bundles and reported on the Form 3541 for (*title*).

PART 562 PREPARATION

In 562 revise 562.31 to read as follows:

562.3 Addressing

.31 Each piece including the top copy of a firm package (see 567.12) must bear the name and address of the addressee. The address must include the ZIP Code. Exception: the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

PART 567 ALTERNATE PRESORT REQUIREMENTS

Add new 567 to read as follows:

567 Alternate Presort Requirements (See Exhibit 567)

[The requirements set forth in this section may be used at the option of the mailer instead of those in 564 until February 3, 1980, on that date, these requirements will be mandatory and 564 will be deleted.]

567.1 Packaging Requirements

.11 *Sortation.*

.111 *Firm Packages.* When there are two or more copies for the same address they must be made up into one package if only one piece rate is paid for the group. A blue label F must be affixed to the front of the package (see 567.14). When there is more than one package sent to one address, mailers are allowed to include a package identification notice such as 1 of 4, 2 of 4, etc., on the package wrapper, provided such endorsement does not interfere with the clarity of the address.

.112 *Optional Carrier Packages.* When there are six or more copies for the same carrier route, rural route, lockbox section or general delivery unit, they may, at the mailer's option, be made up into carrier packages of six or more copies. Whenever a carrier route package is not placed in a sack labeled to show that it only contains packages for the same carrier route, the mailer must use one of the following procedures;

a. The mailer may prepare packages with a facing slip which must be affixed to the front of the package end marked as shown below:

Line 1: 5-Digit ZIP Code of Address.
Line 2: Contents and Carrier Route, Rural Route, Lockbox Section, or General Delivery Unit.
Line 3: Post Office of Entry.
Sample Carrier Route Facing Slip:

SAN FRANCISCO CA 94133
ORD P RURAL ROUTE 12
PORTLAND OR 972

b. The mailer may prepare packages without facing slips when the following conditions are met:

(1) The carrier route information consisting of a descriptive prefix (or its abbreviation) plus a two-digit route number or four-digit numeric code must be on the top line of the address, either alone (the preferred format) or with other information (addressee, account data, etc.).

(2) The descriptive prefix "carrier route," "rural route," "highway contract route," or "lockbox section" must either be spelled out (the preferred format) or abbreviated as follows:

Carrier Route	CR.
Rural Route	RR.
Highway Contract Route	SR.
Lockbox Section	LS.

(3) The descriptive prefix must be followed by a two-digit route number when the ZIP Code is included in the address. If the ZIP Code is omitted from the address, the descriptive prefix must be followed by a four-digit numeric route code. This four-digit route code must consist of the last two digits of the ZIP Code followed by the two-digit carrier route number.

(4) The carrier route information must be right justified.

(5) The carrier route information must be preceded by at least two asterisks (or another distinctive character). The following are examples of address formats in the order of preference:

```
                                          * * Carrier Route 22
John Doe
1300 Waterford Drive
District Heights, MD 20028

John Doe 30WA * * *                       * * CR 22
John Doe
1300 Waterford Drive
District Heights, MD 20028

John Doe                                  * * CR 22
1300 Waterford Drive
District Heights, MD 20028

                                          * * Rural Route 05
John Doe
1602 Country Lane
Burke, VA 22015
```

(6) At least 10 spaces must be allowed for carrier route information if it is included with other information on the top line.

.113 *5-Digit Packages.* When there are six or more copies for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. Mailers are encouraged to, but are not required to affix a red label to each package.

.114 *Optional City Packages.* When, after making up 5-digit packages, there are six or more copies remaining for one of the multi-ZIP Coded offices listed in 467.114, the mailer is encouraged to prepare a "city" package. A yellow label C must be affixed to each package.

.115 *3-Digit Packages.* When there are six or more copies for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages have been made, they must be made up into 3-digit packages. A green label 3 must be affixed to each package.

.116 *Optional SCF Packages.* When there are six or more copies for post offices in the same Sectional Center Facility service area remaining after the required 5-digit and 3-digit packages have been made, the mailer is encouraged to prepare an SCF package. A green label 3 must be affixed to each package. A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory.*

.117 *Optional SDC Packages.* When there are six or more copies for post offices in the same State Distribution Center (SDC) service area remaining after the 5-digit, optional city, 3-digit and optional SCF packages have been made, the mailer is encouraged to prepare an SDC package. In those instances where this SDC makeup is finer than the mandatory state makeup, a facing slip must be used on SDC packages. Individual copies in SDC packages must be wrapped.

.118 *State Packages.* When there are six or more copies for a State remaining after the 5-digit, optional city, 3-digit, optional SCF and optional SDC packages have been made, they must be made up into state-packages. An orange label S must be affixed to each package. Individual copies in state packages must be wrapped.

.119 *Mixed States Packages.* Copies remaining after packages have been made, as outlined above, must be made up into mixed states packages. A mixed states white facing slip must be attached to each package. Individual copies in mixed states packages must be wrapped.

.12 *Loose Packing.* Management sectional center (MSC) managers may authorize *loose packing* of copies in full No. 3 sacks without bundling when all material in a sack goes to the same 5-digit ZIP Code. Copies must be placed to maintain orientation of the pieces while in transit. Mailers desiring to loose pack copies must make requests through the post office of mailing.

Note.—The terms *loose pack* or *loose packing* refer to the placement of unbundled, unbound mail pieces in a receptacle such as a mail sack.

.13 *Facing.* All copies in a package must be faced the same way with an address visible on the top copy.

.14 *Package Labels.* Pressure sensitive package labels must be applied to the lower left corner of the address side of the top copy on letter size packages and next to the address on larger packages. Facing slips must be placed on the address side of the top copy in mixed state and foreign packages. Pressure sensitive labels and facing slips are available from post offices.

567.2 Sacking Requirements

.21 *General.* Except where bundling or palletizing is authorized (see 567.3 and 567.4), packages must be sorted and sacked to destinations as outlined below. No more than 70 pounds of mail may be placed in any sack.

.22 *Sortation*

.221 *Carrier Sacks.* Mailers are encouraged to prepare carrier route sacks in one of the following ways:

a. Carrier route sacks which contain at least one package of six or more copies for the same carrier route must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD P), Carrier Route and Route Number.
Line 3: Office of Mailing.
Sample Carrier Sack Label:

SAN FRANCISCO CA 94133
ORD P CARRIER ROUTE 18
PORTLAND OR 972

b. Sacks containing qualifying carrier route packages for more than one carrier route must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD–P), Carrier Routes.
Line 3: Office of Mailing.
Sample Carrier Routes Sack Label:

SAN FRANCISCO CA 94133
ORD P—CARRIER ROUTES
PORTLAND OR 972

.222 *5-Digit Sacks.* When, after preparing optional carrier sacks, there are four or more packages addressed to the same 5-digit ZIP Code destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages mey be prepared. Each sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents (ORD P).
Line 3: Office of Mailing.
Sample 5-Digit Sack Label:

PHILADELPHIA PA 19118
ORD P
BOSTON MA 021

.223. *Optional City Sacks.* After preparing 5-digit sacks, mailers are encouraged to make up packages addressed to the multi-ZIP Coded cities listed in 467.114 into city sacks. Each sack must be labeled in the following manner:

Line 1: City, State, and Lowest ZIP Code.
Line 2: Contents.
Line 3: Office of Mailing.
Sample City Sack Label:

AURORA IL 60504
ORD P
BOSTON MA 021

.224 *3-Digit Sacks.* When, after preparing optional carrier, 5-digit and optional city sacks, there are four or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-Digit sacks. Sacks containing fewer than four packages may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State and 3-digit Prefix.
Line 2: Contents.
Line 3: Office of Mailing.
Sample 3-Digit Sack Label:

PHILADELPHIA PA 191
ORD P
BOSTON MA 021

.225 *Optional SCF Sacks.* After preparing optional carrier, 5-digit, optional city and 3-digit sacks, the mailer is encouraged to make up packages addressed to post offices in the same Sectional Center Facility (SCF) service area into SCF sacks. Each sack must be labeled in the following manner:

Line 1: Name and State of SCF Lowest 3-digit ZIP Code for that SCF.
Line 2: Contents.
Line 3: Office of Mailing.
Sample SCF Sack Label:

SCF PHILADELPHIA PA 190
ORD P
BOSTON MA 0121

Note.—A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the principal 3-digit ZIP Code prefixes that are to be used on SCF sack labels is contained in Publication 65, *National ZIP Code and Post Office Directory.*

.226 *Optional SDC Sacks.* After preparing optional carrier, 5-digit, optional city, 3-digit, and optional SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center (SDC) service area into SDC sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for Destination Area.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample Sack Label:

DIS PITTSBURGH PA 150
ORD P PA
SAN FRANCISCO CA 940

.227 *State Sacks.* When, after making up optional carrier, 5-digit, optional city, 3-digit, optional SCF and optional SDC sacks, there are four or more packages addressed to the same State, the packages must be made up into state sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for State of Destination.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample State Sack Label:

DIS KANSAS CITY MO 640
ORD P MO
SAN FRANCISCO CA 940

.228 *Mixed States Sacks.* Packages remaining after state sacks have been prepared must be made up into mixed states sacks. Each sack must be labeled in the following manner:

Line 1: Mixed States Distribution Location.
Line 2: Contents.
Line 3: Office of Mailing.
Sample Mixed States Sack Label:

DIS CHICAGO IL 606
ORD P MIXED STATES
CHICAGO, IL 606

567.3 Bundling Instead of Sacking

.31 *Regional Authorization.*

.311 The Regional Postmaster General for the post office of mailing may authorize dispatch of controlled circulation mail in bundles outside of mail sacks if such separation is beneficial to the Postal Service. The publisher must submit an application to the postmaster where the mail is to be deposited. The following information must be furnished with the application:

a. Name of publication and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

d. Mode of transportation to be used.

.312 The postmaster will forward the application to the Regional Postmaster General with a detailed explanation of the transportation and processing arrangements. The application will be reviewed by the General Manager, Logistics Division, and by others concerned in that region and in any other region which will process the mail in order to determine whether intermediate or destination offices are capable of receiving and processing the bundles without increasing overall processing costs. The Regional Postmaster General will notify the postmaster at the office where the mail is to be entered whether the application has been approved or, if not, the reason for denial. The postmaster will send a notice of the decision to the mailer.

.32 *Bundling Requirements.* Mailers bundling instead of sacking publications must observe the following procedures:

a. Presort by ZIP Code. Mailers must presort publications by ZIP Code separations as required by 567.1.

b. Prepared Like Sacks. Bundles must be prepared on the same basis as sacks (see 567.2) and individual separations within a

V 44 0 C 2 2 7 9 UMI

bundle must be appropriately wrapped or tied to maintain the identity of the separation. The number of bundles should not exceed the number of sacks which would otherwise be used in a mailing, except when those bundles are used in an approved palletizing mailing. This may require bundling up to the 40 pound maximum when volume warrants and the mailing is not palletized.

c. Weight and Numbers. The weight of a bundle must not exceed 40 pounds and the minimum number of copies in a bundle may not be less than 20 pounds or 1,000 cubic inches in volume. Lesser quantities must be included in bundles for the next lower level of sortation.

d. Labeling. All bundles must be appropriately labeled on top to show destination and contents as required with sacks. Similarly, each separation within a bundle must be identified by labels in accordance with 567.14.

e. Machinable Mailings. Mailings must be machinable by Postal Service sack-sorting equipment unless they consist of publications intended only for local delivery area (same 3-digit ZIP Code prefix). It is the responsibility of the mailer to satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more production bundles on two or more passes through a Bulk Mail Center (BMC). Ordinarily, bundles require cross strapping and heavy-gauge shrink or stretch wrap to insure their integrity in the mailstream.

f. Local Processing and Delivery. When controlled circulation publications are entered for local processing and delivery (i.e. without being routed through a BMC) they need not meet the requirements of 567.32e. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. If wire is used it must have rounded edges and flat ends. Binding material must be applied at least once around the length and girth. The use of metal strapping is discouraged because of its possible hazards.

567.4 Palletizing Instead of Sacking

.41 *Regional Authorization.* The Regional Postmaster General for the post office of mailing may authorize the dispatch of controlled circulation mail on pallets without mail sacks, if such preparation is beneficial to the Postal Service. Applications for palletizing instead of sacking must be made and processed as prescribed for bundling in 567.31.

.42 *Palletizing Requirements.* Mailers palletizing instead of sacking publications must observe the following procedures:

a. Mailers must presort publications and prepare packages as prescribed by 567.1. The Regional Postmaster General may waive packaging requirements for 5-digit ZIP Code pallets when mailers effectively demonstrate that they will prepare pallets to remain intact to destination.

b. Pallets must be made up to the destinations required in 567.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 567.2. Pallets must not contain more than 2,000 pounds of mail.

c. Pallets must be labeled in the format described in 567.2. These labels must be at least five inches by nine inches in size with characters at least one inch high.

567.5 Copies for Military Post Offices Overseas

.51 *Direct Packages.* When more than one copy is addressed to one unit, APO, or Navy or Marine Corps address (sec 122.8), the copies must be securely wrapped in packages or tied in bundles labeled for the military address.

.52 *Mixed Packages.* After all direct packages have been made, if there are more than five copies remaining for dispatch through any postal concentration center, they must be wrapped in packages or tied in bundles and labeled for the center.

.53 *Direct Sacks.* When there are a sufficient number of packages and bundles for one unit, APO or Navy or Marine Corps address to fill approximately one-half of a No. 2 sack, a direct sack must be made up. Direct sacks will not be opened at postal concentration centers. The sack should be labeled in the following manner:

Line 1: Postal Concentration Center Designation, City, State, 3-digit ZIP Code Prefix.
Line 2: Contents, APO or FPO Designation and 5-digit ZIP Code.
Line 3: Office of Mailer.
Sample:

PCC NEW YORK NY 110
ORD P APO 09360
NEW YORK NY

.54 *Mixed Sacks.* When the quantity is insufficient for a direct sack but there are enough bundles or packages for dispatch through one postal concentration center to fill approximately one-half of a No. 2 sack, a sack must be made up for that center and labeled in the following manner:

Line 1: Postal Concentration Center Designation, City, State, 3-digit ZIP Code Prefix.
Line 2: Contents, APO or FPO Designation for MAIL.
Line 3: Office of Mailing.
Sample:

PCC SAN FRANCISCO CA 962
ORD P APO MAIL
NEW YORK NY

PART 661 ADDRESSING

In 661, revise 661.2 to read as follows: 661.2 ZIP Code. Each piece including the top copy of a firm package (see 667.121a) must bear the name and address of the addressee. The address must include the ZIP Code.
Exception: the ZIP Code may be omitted from pieces bearing a simplified address in accordance with 122.41.

PART 667 ALTERNATE PREPARATION OF BULK RATE MAILINGS (THIRD-CLASS)

Add new 667 to read as follows:

667 Alternate Preparation of Bulk Rate Mailings (See Exhibit 667)

The requirements set forth in this section may be used at the option of the mailer instead of those in 663 until February 3, 1980. On that date, these requirements will be mandatory and 663 will be deleted.

667.1 Standard Preparation Requirements

.11 *General.* All bulk third-class mailings other than machinable parcels, as defined in 128, must be prepared in accordance with the following standard preparation requirements.

.12 Packaging Requirements

.121 Sortation—

a. *Firm Packages.* When all mail in a package is for an individual firm, a blue label F must be affixed to the front of the package.

b. *5-Digit Packages.* When there are ten or more pieces for the same 5-digit ZIP Code destination, they must be made up into 5-digit packages. The mailer may package less than 10 pieces in the same manner. Mailers are encouraged, but are not required, to affix a red label D to each package.

c. *Optional City Packages.* When, after making up 5-digit packages, there are pieces for one of the multi-ZIP Coded offices listed in 467.114, the mailer is encouraged to prepare e "city" package. A yellow label C must be affixed to each package.

d. *3-Digit Packages.* When there are ten or more pieces for a 3-digit ZIP Code prefix, after the required 5-digit packages and optional city packages have been made, they must be made up into 3-digit packages. The mailer may package less than 10 pieces in the same manner. A green label 3 must be affixed to each package.

e. *Optional SCF Packages.* When there are pieces for post offices in the same Sectional Center Facility (SCF) service area remaining after the required 5-digit and 3-digit packages have been made, the mailer is encouraged to prepare an SCF package. A green label 3 must be affixed to each package. A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels in shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory.*

f. *Optional SDC Packages.* When there are pieces for post offices in the same State Distribution Center (SDC) service area remaining after the 5-digit, optional city, 3-digit and optional SCF packages have been made, the mailer is encouraged to prepare an SDC package. In those instances where this SDC makeup is finer than the mandatory state makeup, a facing slip must be used on SDC packages.

g. *State Packages.* When there are ten or more copies for a State remaining after the 5-digit, optional city, 3-digit, optional SCF and optional SDC packages have been made, they must be made up into state packages. The mailer may package less than 10 pieces in the same manner. An orange lable S must be affixed to each package.

h. *Mixed States Packages.* Pieces remaining after packages have been made, as outlined above, must be made up into mixed states packages. A mixed states white facing slip must be attached to each package.

667.122 Facing

All pieces in a package must be faced the same way with an address visible on the top piece.

667.123 Package Labels

Pressure sensitive package labels must be applied to the lower left corner of the address side of the top piece on letter size packages and next to the address on larger packages. Facing slips must be placed on the address side of the top piece in mixed state and foreign packages. Pressure sensitive labels and facing slips are available from post offices.

667.124 Loose Packing

Management Sectional Center (MSC) managers may authorize *loose packing* of pieces in full No. 3 sacks without bundling when all material in a sack goes to the same 5-digit ZIP Code. Pieces must be placed to maintain orientation of the pieces while in transit. Mailers desiring to loose pack pieces must make requests through the post office of mailing.

Note.—The terms *loose pack* or *loose packing* refer to the placement of unbundled, unbound mail pieces in a receptacle such as a mail sack.

.13 *Sacking Requirements*

.131 General. Except where bundling or palletizing is authorized (see 667.3 and 667.4), packages must be sorted and sacked to destinations as outlines below. No more than 70 pounds of mail may be placed in any sack.

.132 Sortation

a. *5-Digit Sacks.* When there are twelve or more packages addressed to the same 5-digit ZIP Code destination, packages must be made up into 5-digit sacks. Sacks containing fewer packages may be prepared. Each sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination.
Line 2: Contents.
Line 3: Office of Mailing.
Sample 5-Digit Sack Label:

PHILADELPHIA PA 19118
3C FLATS
BOSTON MA 021

b. *Optional City Sacks.* After preparing 5-digit sacks, mailers are encouraged to make up packages addressed to the multi-ZIP Coded cities listed in 467.114 into city sacks. Each sack must be labeled in the following manner:

Line 1: City, State and Lowest ZIP Code.
Line 2: Contents.
Line 3: Office of Mailing.
Sample City Sack Label:

AURORA IL 60504
3C LTRS
BOSTON MA 021

c. *3-Digit Sacks.* When, after preparing 5-digit and optional city sacks, there are twelve or more packages for the same 3-digit ZIP Code destination, the packages must be made up into 3-digit sacks. Sacks containing fewer than twelve packages may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State and 3-Digit Prefix.
Line 2: Contents.
Line 3: Office of Mailing.
Sample 3-Digit Sack Label:

PHILADELPHIA PA 191
3C FLATS
BOSTON MA 021

d. *Optional SCF Sacks.* After preparing 5-digit, optional city, and 3-digit sacks, the mailer is encouraged to make up packages addressed to post offices in the same Sectional Center Facility (SCF) service area, into SCF sacks. Each sack must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-Digit ZIP Code for that SCF.
Line 2: Contents.
Line 3: Office of Mailing.
Sample SCF Sack Label:

SCF PHILADELPHIA PA 190
3C FLATS
BOSTON MA 021

Note.—A list of all SCF's, the first three digits of all ZIP Codes served by these facilities, and the principal 3-digit ZIP Code prefixes that are to be used on SCF sack labels is contained in Publication 65, *National ZIP Code and Post Office Directory.*

e. *Optional SDC Sacks.* After preparing 5-digit, optional city, 3-digit and optional SCF sacks, the mailer is encouraged to make up packages addressed to the same State Distribution Center (SDC) service area into SDC sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for Destination Area.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample Sack Label:

DIS PITTSBURGH PA 150
ORD P PA
SAN FRANCISCO CA 941

f. *State Sacks.* When after making up 5-digit, optional city, 3-digit and optional SCF, and optional SDC sacks, there are twelve or more packages addressed to the same State, the packages must be made up into state sacks. Sacks containing fewer than twelve packages may be prepared. Each sack must be labeled in the following manner:

Line 1: Name of SDC for State of Destination.
Line 2: Contents and State.
Line 3: Office of Mailing.
Sample Sack Label:

DIS KANSAS CITY MO 640
3C LTRS
SAN FRANCISCO CA 941

g. *Mixed States Sacks.* Packages remaining after state sacks have been prepared must be made up into mixed state sacks. Each sack must be labeled in the following manner:

Line 1: Mixed States Distribution Location.
Line 2: Contents.
Line 3: Office of Mailing.
Sample Mixed States Sack Label:

DIS CHICAGO IL 606
3C LTRS MX STATES
CHICAGO IL 606

h. *Loose Pack Sack.* The term "loose pack sack" refers to the placement of unbundled, unbound mail pieces in a receptacle such as a mail sack. Management Sectional Center [MSC] managers may authorize mailers to "loose pack" pieces in full No. 3 sacks without bundling when all material in a sack would normally be "worked" at the point where the sack is opened, e.g., if a 3-digit sack contains no more than nine pieces for any one 5-digit destination. Pieces must be placed to maintain orientation of the pieces while in transit. Mailers desiring to loose pack pieces must request authorization through the post office of mailing.

667.2 Machinable Parcel Preparation Requirements

.21 *General.* Machinable parcels as defined in 128 must be prepared in accordance with the following preparation requirements.

.22 *Sacking Requirements*

.221 *5-Digit Sacks.* When there are 20 pounds or 1,000 cubic inches of material addressed to the same 5-digit ZIP Code destination, they must be placed in 5-digit sacks. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit Destination.
Line 2: Contents.
Line 3: Mailer, Office of Mailing.
Sample 5-Digit Sack Label:

PHILADELPHIA PA 19118
3C MACH P
BOSTON MA 021

.222 *Destination Bulk Mail Center (BMC) Sacks.* After the required 5-digit sacks have been prepared, the remaining pieces must be placed in sacks labeled to destination BMC delivery areas, when there are 20 pounds or 1,000 cubic inches of material to a BMC delivery area. Each sack must be labeled in the following manner:

Line 1: Destination BMC.
Line 2: Contents.
Line 3: Mailer, Office of Mailing.
Sample BMC Sack Label:

BMC CHICAGO IL 608
3C MACH P
ATLANTA GA 303

.223 *Origin BMC Sacks.* After the required 5-digit and destination BMC sacks have been prepared, the remaining pieces must be placed in sacks labeled to the origin BMC in the following manner:

Line 1: Origin BMC.
Line 2: Contents.
Line 3: Mailer, Office of Mailing.
Sample Origin BMC Sack Label:;

BMC KANSAS CITY MO 643
3C MACH P
TOPEKA KS 666

667.3 Bundling Instead of Sacking

.31 *Regional Authorization.*

.311 The Regional Postmaster General for the post office of mailing may authorize dispatch of third-class mail in bundles outside of mail sacks if such preparation is beneficial to the Postal Service. The mailer must submit an application to the postmaster where the mail is to be deposited. The following information must be furnished with the application:

a. Name of publication and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of copies and number of bundles to each office.

.312 The postmaster will forward the application to the Regional Postmaster General with a detailed explanation of the transportation and processing arrangements.

V 44 OC 22 79 UMI

The application will be reviewed by the General Manager, Logistics Division, and by others concerned, in his region and in any other region which will process the mail in order to determine whether intermediate or destination offices are capable of receiving and processing the bundles without increasing overall processing costs. The Regional Postmaster General will notify the postmaster at the office where the mail is to be entered whether the application has been approved or, if not, the reason for denial. The postmaster will send notice of the decision to the mailer.

.32 *Bundling Requirements.* Mailers bundling instead of sacking mailings must observe the following procedures:

a. *Presort by ZIP Code.* Mailers must presort mail by ZIP Code separations as required by 667.1

b. *Prepared Like Sacks.* Bundles must be prepared on the same basis as sacks (see 667.12) and individual separations within a bundle must be appropriately wrapped or tied to maintain the identity of the separation. The number of bundles should not exceed the number of sacks which would otherwise be used in a mailing, except when those bundles are used in an approved palletized mailing. This may require bundling up to the 40 pound maximum when volume warrants and the mailing is not palletized.

c. *Weight and Numbers.* The weight of a bundle must not exceed 40 pounds. A bundle must weigh at least 20 pounds or be of at least 1,000 cubic inches in volume. Lesser quantities must be included in bundles for the next lower level of sortation.

d. Labeling. All bundles must be appropriately labeled on top to show destination and contents as required with sacks. Similarly, each separation within a bundle must be identified by labels in accordance with 663.118.

e. Machinable Mailings. Mailings must be machinable by Postal Service sack-sorting equipment unless they consist of matter intended only for local area delivery (same 3-digit ZIP Code prefix). It is the responsibility of the mailer to satisfy the Postal Service that mailings are machinable. This can be verified by having the mailing post office test process ten or more production bundles on two or more passes through a bulk mail center (BMC). Ordinarily, bundles require cross strapping and heavy-gauge shrink or stretch wrap to insure their integrity in the mailstream.

f. Local Processing and Delivery. Third-class pieces entered for local processing and delivery (i.e. without being routed through a BMC) need not meet the requirements of 667.32e. However, bundles must be securely bound to withstand handling without breakage or damage and to prevent injury to postal personnel or damage to mechanized sorting systems. If wire is used, it must have rounded edges and flat ends. Binding material must be applied at least once around the length and girth. The use of metal strapping is discouraged because of its possible hazards.

667.4 Palletizing Instead of Sacking

.41 *Regional Authorization.* The Regional Postmaster General for the post office of mailing may authorize the dispatch of third-class mail on pallets without mail sacks, if such preparation is beneficial to the Postal Service. Applications for palletizing instead of sacking must be made and processed as prescribed in 667.31.

.42 *Palletizing Requirements.*

.421 *Standard Preparation Requirements.*

a. *General.*

All palletized bulk third-class mailings other than machinable parcels, as defined in 128, must be prepared in accordance with the following standard preparation requirements.

b. *Packages.*

Mailers must presort pieces and prepare packages as prescribed in 667.1. The Regional Postmaster General may waive packaging requirements for 5-digit pallets when mailers effectively demonstrate they will prepare pallets to remain intact to their destinations.

c. *Pallets.*

Pallets must be made up to the required destinations in 667.1 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations described in 667.1. Pallets must not contain more than 2,000 pounds of mail.

.422 Machinable Parcel Preparation Requirements. Pallets must be made up to the required destinations described in 667.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets must not contain more than 2,000 pounds of mail.

667.5 Irregular Parcels (SPR's)

.51 *Exemptions From Packaging Requirements*

.511 Irregular parcels one-half inch or more in thickness need not be made up into packages (as required by 667.11) if the packages would be made up to the same destination as the sacks in which they would be placed. For example, ten or more such irregular parcels which are addressed to the same 5-digit destination need not be packaged if placed in a 5-digit sack; but they must be packaged if placed in a mixed city, SCF, state, or mixed state sack. Likewise, if there are ten pieces for the same SCF, but not to the same 5-digit or mixed city, they need not be packaged if placed in an SCF sack, but must be packaged if placed in a state or mixed state sack. Each separate bulk mailing which is commingled must meet the minimum piece or minimum weight requirements for bulk rates.

.512 Items which are so large that ten or less pieces fill a sack need not be packaged.

.52 *Authorizing Commingling.* Regional directors of finance may authorize the commingling of several permit mailings of irregular parcels in order to achieve a finer presort provided adequate means are available to ensure that proper postage is paid. This normally will require that the mailings be made under the provisions of 145.8 or 145.9.

.53 *Waiving Bundling Requirements.* When authorizing commingling, regions may waive the requirements for bundling to 5-digit and 3-digit destinations if doing so results in a finer make-up of at least 50% of the mail.

.54 *Labeling Sacks.* Sack labels for commingled irregular parcels must be identified with the words *3C COMM IRREG* on the second (contents) line.

PART 766—ALTERNATE PREPARATION OF LIBRARY RATE MATERIALS

Add new 766 to read as follows:

766 Alternate Preparation of Library Rate Materials.

[The requirements set forth in this section may be used at the option of the mailer instead of those in 765 until February 3, 1980. On that date, these requirements will be mandatory and 765 will be deleted.]

When 1,000 or more pieces of identical weight are mailed at the library rates (see 711.4) during a single day, they must be presorted and placed in sacks under the instructions contained 767.2 and 767.3.

PART 767—ALTERNATE PREPARATION OF BOUND PRINTED MATTER

Add new 767 to read as follows:

767 Alternate Preparation of Bound Printed Matter.

[The requirements set forth in this section may be used at the option of the mailer instead of those in 763 until February 3, 1980. On that date, these requirements will be mandatory and 763 will be deleted.]

767.1 Markings Required. The words *Bound Printed Matter* must be incorporated as part of the permit indicia or be printed or rubber stamped above the address and to the left or below the permit indicia. Mailings under the bulk rates in 711.2 must also be marked Bulk Rate or Blk. Rt.

767.2 Standard Preparation Requirements

.21 *General.* All bulk rate bound printed matter other than machinable parcels, as defined in 128, must be prepared in accordance with the following standard preparation requirements. Except where bundling or palletizing is authorized (see 767.4 and 767.5), pieces must be sorted and sacked to destinations as outlined below. No more than one zone or 70 pounds of mail may be placed in any sack.

.22 *Sortation.*

.221 5-Digit Sacks. When there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the same 5-digit ZIP Code destination, those pieces must be made up into 5-digit sacks. Sacks containing smaller quantities may be prepared. Each sack must be labeled in the following manner:

Line 1: City and State and 5-Digit Destination
Line 2: Contents:
Line 3: Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19116
4C FLATS
BOSTON MA 021

.222 *Optional City Sacks.* When after preparing 5-digit sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the multi-ZIP Coded cities listed in section 467.114, the mailer is encouraged to make up the pieces into city sacks. Sacks containing smaller quantities may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State and Lowest ZIP Code
Line 2: Contents
Line 3: Office of Mailing
Sample City Sack Label:
AURORA IL 60504
4C IRREG
BOSTON MA 021

.223 3-Digit Sacks. When, after preparing 5-digit and optional city sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material for the same 3-digit ZIP Code prefix destination, the pieces must be made up into 3-digit sacks. Sacks containing smaller quantities may be prepared. Each sack must be labeled in the following manner:

Line 1: City, State and 3-Digit Prefix
Line 2: Contents
Line 3: Office of Mailing
Sample 3-digit Sack Label:
PHILADELPHIA PA 191
4C IRREG
BOSTON MA 021

.224 *Optional SCF Sacks.* When after preparing 3-digit sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to post offices in the same Sectional Center Facility (SCF) service area, the mailer is encouraged to make up pieces into SCF sacks. Each sack must be labeled in the following manner:

Line 1: Name and State of SCF, Lowest 3-Digit ZIP Code for that SCF
Line 2: Contents
Line 3: Office of Mailing
Sample SCF Sack Label:
SCF PHILADELPHIA PA 190
4C FLATS
BOSTON MA 021

Note.—A list of all Sectional Center Facilities, the first three digits of all ZIP Codes served by these facilities, and the lowest 3-digit ZIP Codes that are to be used on SCF sack labels, is shown in the "Sectional Center Facilities" table contained in Publication 65, *National ZIP Code and Post Office Directory.*

.225 *Optional SDC Sacks.* After preparing 5-digit, optional city, 3-digit and optional SCF sacks, the mailer is encouraged to make up pieces addressed to the same State Distribution Center (SDC) service area into SDC sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for Destination Area
Line 2: Contents and State
Line 3: Office of Mailing
Sample Sack Label:
DIS PITTSBURGH PA 150
4C FLATS
SAN FRANCISCO CA 941

.226 *State Sacks.* When after making up 5-digit optional city, 3-digit, optional SCF and optional SDC sacks, there are 10 pieces, 20 pounds or 1,000 cubic inches of material addressed to the same State, those pieces must be made up into state sacks. Each sack must be labeled in the following manner:

Line 1: Name of SDC for State of Destination
Line 2: Contents and State
Line 3: Office of Mailing
Sample of Sack Label:
DIS KANSAS CITY MO 640
4C IRREG
SAN FRANCISCO CA 941

.227 *Mixed States Sacks.* Pieces remaining after state sacks have been prepared must be made up into mixed states sacks. Each sack must be labeled in the following manner:

Line 1: Mixed States Distribution Location
Line 2: Contents
Line 3: Office of Mailing
Sample Mixed States Sack Label:
DIS CHICAGO IL 606
4C IRREG
CHICAGO IL 606

767.3 Machinable Parcel Preparation Requirements

.31 *General.* Machinable parcels, as defined in 128, must be prepared in accordance with the following sacking requirements. No more than one zone of 70 pounds of mail may be placed in any sack.

.32 *Sortation.*

.321 *5-Digit Sacks.* When there are 10 pieces, 20 pounds, or 1,000 cubic inches of material addressed to the same 5-digit ZIP Code destination, they must be placed in 5-digit sacks. Each sack must be labeled in the following manner:

Line 1: City, State and 5-Digit Destination
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample 5-Digit Sack Label:
PHILADELPHIA PA 19118
4C MACH
BOSTON MA 021

.322 *Destination Bulk Mail Center (BMC) Sacks.* After the required 5-digit sacks have been prepared, the remaining pieces must be placed in sacks labeled to destination BMC delivery areas, when there are 10 pieces, 20 pounds, or 1,000 cubic inches of material to a BMC delivery area. Each sack must be labeled in the following manner:

Line 1: Destination BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample BMC Sack Label:
BMC CHICAGO IL 608
4C MACH
ATLANTA GA 303

.323 *Origin BMC Sacks.* After the required 5-digit and destination BMC sacks have been prepared, the remaining pieces must be placed in sacks labeled to the origin BMC in the following manner:

Line 1: Origin BMC
Line 2: Contents
Line 3: Mailer, Office of Mailing
Sample Origin BMC Sack Label:
BMC KANSAS CITY MO 643
4C MACH
TOPEKA KS 666

767.4 Bundling Instead of Sacking

.41 *Regional Authorization*

.411 The Regional Postmaster General for the post office of mailing may authorize the preparation of bound printed matter in bundles outside of mail sacks if such preparation is beneficial to the Postal Service. The mailer must submit an appliction to prepare mail in bundles instead of sacks to the postmaster where the mail is to be deposited. The following information must be furnished with the application:

a. Name and frequency of mailing;

b. Identity of post offices to which shipments will be made; and

c. Approximate quantity of pieces and number of bundles to each office.

.412 The postmaster will forward the application to the Regional Postmaster General with a detailed explanation of the transportation and processing arrangements. The application will be reviewed by the General Manager, Logistics Division and by others concerned, in his region and in any other region which will process the mail in order to determine whether intermediate or destination offices are capable of receiving and processing the bundles without increasing overall processing costs. The Regional Postmaster General will notify the postmaster whether the application has been approved or, if not, the reason for denial. The postmaster will send notice of the decision to the mailer.

.42 *Bundling Requirements.* Mailers bundling instead of sacking pieces must observe the following procedures:

a. Presorted by ZIP Code. Bound printed matter must be presorted in 5-digit ZIP-Coded bundles. When there are insufficient pieces for a direct 5-digit bundle, the pieces must be presorted in 3-digit ZIP Coded bundles. All pieces which are not made up into 5-digit and 3-digit ZIP Coded bundles must be sacked and appropriately labeled.

b. Securing and Labeling. All bundles must be secured with a two-way tie (plastic straps or other strong tying material). The bundles must have red label D, yellow label C, or green label 3 affixed to appropriately identify them as either 5-digit ZIP Code delivery unit, mixed city, or SCF bundles.

c. Loaded Sequentially. Trailers of 5-digit and 3-digit ZIP Coded bundles must be sequentially loaded with dividers (plastic or paper) placed between each different 3-digit ZIP Coded destination.

d. Loading Diagram. Each trailer must carry a loading diagram detailing the ZIP Codes and destinations abroad and the sequence in which they are to be unloaded.

767.5 Palletizing Instead of Sacking

.51 *Regional Authorization.* The Regional Postmaster General for the post office of mailing may authorize the dispatch of bound printed matter on pallets without mail sacks, if such preparation is beneficial to the Postal Service. Applications for palletizing instead of sacking will be made and processed as prescribed in 767.41.

767.52 Palletizing Requirements

.521 *Standard Preparation Requirements*

a. General. All palletized bulk rate bound printed matter, other than machinable pracels as defined in 128, must be prepared in accordance with the following preparation requirements:

b. Bundles—Bundles must be made up to the required destinstions in 767.2 when there are at least 20 pounds for a destination. The mailer is encouraged to prepare bundles for the optional destinations described in 767.2. The Regional Postmaster General may waive bundling requirements for 5-digit pallets when mailers effectively demonstrate they will prepare pallets to remain intact to the destination.

c. Pallets—Pallets must be made up to the mandatory destinations in 767.2 when the mail load to a destination is either 650 pounds or three feet high. Pallets may also be prepared for the optional destinations in 767.2. Pallets must not contain more than or

V 44 0C 2 2 7 9 UMI

2,000 pounds of mail or mail addressed to more than one zone.

.522 Machine Parcel Preparation Requirements

Pallets must be made up to the required destinations in 767.3 when the mail load to a destination is either 650 pounds or three feet high. Pallets must not contain more than one zone or 2,000 pounds of mail.

[FR Doc. 79-32569 Filed 10-17-79; 4:27 pm]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. E-59, Supp. 1]

Commercial Products; Temporary Regulation

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This regulation extends the expiration date of an FPMR temporary regulation on the management of specifications, standards, and descriptions for commercial products. Additional time is needed to develop and issue a revised temporary regulation on commercial products that will reflect program changes that have been developed since FPMR Temporary Regulation E-59 was issued. The regulation will avoid unnecessary costs in Government procurement.

DATES: Effective date: September 30, 1979. Expiration date: December 31, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Agin, Acquisition Management and Review Directorate (202-566-1867).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

October 9, 1979.

Commercial products

1. *Purpose.* This supplement extends the expiration date of FPMR Temporary Regulation E-59 to December 31, 1979.

2. *Effective date.* This regulation is effective September 30, 1979.

3. *Expiration date.* This regulation expires December 31, 1979.

4. *Explanation of change.* The expiration date shown in paragraph 3 of FPMR Temporary Regulation E-59 is revised to read December 31, 1979. Additional time is required to develop and issue a revised temporary regulation on commercial products that will reflect program changes that have been developed since FPMR Temporary Regulation E-59 was issued.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32418 Filed 10-19-79; 8:45 am]

BILLING CODE 6820-82-M

National Archives and Records Service

41 CFR Part 101-11

[FPMR Amdt. B-43]

Records Management; Centralized Audiovisual Services

AGENCY: National Archives and Records Service, General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation informs agencies of the procedure to be followed in planning and producing any audiovisual product. Federal agencies are required by OMB Circular A-114 to supply the National Audiovisual Center (NAC) with the necessary information needed for NAC to meet its Government-wide responsibilities relating to audiovisual services. The intent of this regulation is to simplify the procedure for requesting mandatory title checks for both NARS and the requesting agency.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: John H. McLean, Director, National Audiovisual Center (301-763-1872).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

The table of contents for Part 101-11 is amended by adding the following entry:

Sec.
101-11.4930-282 Standard Form 282, Mandatory Title Check.

Subpart 101-11.13—Audiovisual Records Management

Section 101-11.1304(b)(1) is revised to read as follows:

§ 101-11.1304 Centralized audiovisual services.

* * * * *

(b) *Agency requirements.*—

(1) *Mandatory title check.* Prior to authorizing the production of any type of audiovisual product, all agencies, except as noted in OMB circular A-114, shall submit to NAC a completed Standard Form 282, Mandatory Title Check, to request information about the availability of similar products. Submit two copies of SF 282 to the National Audiovisual Center (NAC), General Services Administration, Attn: Mandatory Title Check, Washington, DC 20409.

* * * * *

Subpart 101-11.49—Forms and Reports

Section 101-11.4930-282 is added as follows:

§ 101-11.4930-282 Standard Form 282, Mandatory Title Check.

Note.—The form illustrated in this § 101-11.4930-282 is filed with the original document and does not appear in this volume.

(Sec. 205(c), 63 Stat. 390; [40 U.S.C. 486(c)])

Dated: October 9, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32417 Filed 10-19-79; 8:45 am]

BILLING CODE 6820-26-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No 79-133; Rm-3291]

Radio Broadcast Services; FM Assignment to Brush, Colo.

AGENCY: Federal Communication Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a first Class A FM assignment to Brush, Colorado, in response to a petition filed by Ranchland Broadcasting, Inc. The channel can be used to bring a first fulltime local aural broadcast service to the community.

DATE: Effective November 23, 1979.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: October 9, 1979.

Released: October 15, 1979.

By the Chief, Broadcast Bureau.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Brush, Colorado): Report and Order (Proceeding Terminated).

1. The Commission has under consideration its *Notice of Proposed Rule Making*, adopted May 29, 1979, 44 Fed. Reg. 32419, instituted in response to a petition filed by Ranchland Broadcasting, Inc. ("petitioner"), licensee of daytime-only AM Station KCMP, Brush, Colorado. Petitioner proposed the assignment of FM Channel 296A to Brush, Colorado, as its first FM assignment. No responses to the petition were received.

2. Brush (pop. 3,377), in Morgan County (pop 20,105), [1] is located 126 kilometers (78 miles) northeast of Denver. It is served locally by daytime-only AM Station KCMP, licensed to petitioner. Channel 296A can be assigned to Brush in conformity with the minimum distance separation requirements. Petitioner reaffirmed its intention to file for the channel, if assigned.

3. Sufficient information with respect to the need for an FM assignment to Brush was set forth in the *Notice* and need not be repeated here.

4. We believe that the public interest would be served by the assignment of Channel 296A to Brush, Colorado. An interest has been expressed for its use and such an assignment would provide the community with a first fulltime local aural broadcast service.

5. Accordingly, IT IS ORDERED, That effective November 23, 1979, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, IS AMENDED with respect to the community listed below:

City	Channel No.
Brush, Colorado	296A

6. Authority for the adoption of the amendment is contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

7. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

8. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Federal Communications Commission.

Richard J. Shiben,

Chief, Broadcast Bureau.

[FR Doc. 79-32493 Filed 10-19-79; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1970 U.S. Census.

47 CFR Part 83

[PR Docket No. 79-101; FCC 79-626]

Ensuring the Availability of Certain Compulsory Radio Equipment to the Operator of the Vessel's Steering Station In Use

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule amendment is in two parts. The first requires that a crew member who is to stand watch at the vessel's steering station must have been instructed in radio operation and voice procedure by the radio operator. The second requires that the VHF radio capability of the vessel be available at whatever steering station is actually in use (except where the station is auxiliary in nature and used only during short periods for docking or close-in maneuvering).

EFFECTIVE DATE: November 23, 1979.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Irvin Hurwitz, Private Radio Bureau, (202) 632-7175.

SUPPLEMENTARY INFORMATION:

Report and Order—Proceeding Terminated, 44 FR 30134, May 24, 1979.

Adopted: October 10, 1979.

Released: October 16, 1979.

By the Commission: Commissioner Jones absent.

In the matter of amendment of Part 83 of the rules to ensure the availability of certain compulsory radio equipment to the operator of the vessel's steering station in use, PR Docket No. 79-101.

Background

1. Following in the wake of two marine disasters, the National Transportation Safety Board (NTSB) requested the Commission to extend its present requirement for a radio capability aboard vessels taking passengers for hire, to whatever steering station aboard the vessel was actually being used. On May 2, 1979, the Commission adopted a Notice of Proposed Rule Making that would amend Part 83 of its rules in that particular.

The Commenters

2. Seven commenters submitted eight comments as follows:

a. Offshore Marine Service Association (OMSA).
b. Jekyll Towing and Marine Services—2 comments (Jekyll).
c. Marine Transportation Service (TRANS).
d. State Boat Corporation (State).
e. Crowley Maritime Corp. (CROW).
f. National Transportation Safety Board (NTSB).
g. Northern California Marine Radio Council (NCMRC).

3. One reply comment was filed by NTSB.

The Comments

4. All the commenters supported the intent of the rulemaking. NCMRC believes, however, that a reasonable period of time should be allowed for all vessels to come into compliance. They suggest a period of one year beginning with the release date of this Report and Order. It is felt this is a reasonable request and the proposed rule has been modified accordingly.

5. OMSA, TRANS, State, CROW, suggest that the proposal not be made applicable to auxiliary steering stations which are used only for brief docking periods or for close-in maneuvering of vessels. In its reply comment, NTSB goes along with this exception. The Commission, too, is in agreement that there would be much expense and little gain in not recognizing the distinction between true conning positions and auxiliary steering stations used over short periods of time for special purposes such as docking and close-in work. The regulations have been amended to make clear this distinction and exempt these auxiliary stations from the proposed regulatory requirements.

6. NCMRC points out that "many present radiotelephone sets are highly portable. Therefore, consideration should be given to permitting the use of mounting arrangements for such portable equipment, together with appropriate power and antenna feed lines, at the steering control stations as an alternative method of complying with the proposed radio-telephone requirements." The Commission agrees and has modified the language of § 83.514(d) accordingly.

7. Jekyll is concerned about application of the proposed requirements to what they refer to as "after steering stations" which "almost always take place within very close proximity to other stations," and suggests the use of 1 watt portable sets for such purposes. Insofar as such "after steering stations" are intended to mean those which would be used for docking or brief maneuvering, it is not our intention, as explained above, to require any installation for their use. If however, the stations they refer to are intended for long-term navigation purposes, they should meet the present day power requirements with provision for portable

V 4 4 0 C 2 2 7 9 UMI

installations as suggested above by NPMRC.

8. Jekyll agrees with the proposed new requirement of a radio capability at all conning stations § 83.514(d) insofar as it applies to charter fishing vessels; it also approves this proposed section for use on all other subject vessels which meet the requirement by utilizing VHF radios. They write, "It is perfectly feasible to have these radios, in their entirety, at the steering station."

9. Thus, there is no objection on the part of any commenter to the present rulemaking insofar as it applies to VHF installations. Since there is no present intention to require any but VHF equipment at the several conning stations, Jekyll's comments concerning MF installations become moot. The rationale for restricting this rulemaking to VHF installations is based on the following arguments, that: all vessels involved in the current rulemaking are or soon will be required to carry VHF equipment; the rulemaking was initiated by an NTSB Recommendation based on two experiences with a situation in which VHF equipment was required to be installed, and does not extend to situations necessitating longer range equipment; it is intended, in the present action, to require only an additional VHF capability at the separate subsidiary conning stations.

Conclusion

10. The Commission is therefore requiring a radiotelephone capability at all true operator steering stations with the exceptions, limitations and interpretations referred to in the preceding paragraphs of this Report and Order, and written into the attached Appendix.

11. Any questions concerning the contents of this Report and Order may be referred to Irvin Hurwitz at telephone number (202) 632-7175 or care of the Federal Communications Commission, Washington, D.C. 20554.

12. Accordingly, it is ordered, that, pursuant to the authority contained in Sections 4(i), 303(f) and 303(r) of the Communications Act of 1934, as amended, the Commission's rules are amended, as set forth in the attached Appendix below, effective November 23, 1979.

13. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended 1066, 1082 (47 U.S.C. 154, 303))

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended to read as follows:

1. Section 83.202, paragraph (c) is amended to read as follows:

§ 83.202 Watch required on vessels subject to the Communications Act.

* * * * *

(c) Each vessel of the United States transporting more than six passengers for hire, which is equipped with a radiotelephone installation for compliance with Part III of Title III of the Communications Act shall, while being navigated in the open sea or any tidewater within the jurisdiction of the United States adjacent or contiguous to the open sea, keep a continuous and efficient watch on 2182 kHz while the vessel is beyond VHF communication range of the nearest VHF coast station, whenever such installation is not being used for authorized traffic. While the vessel is within VHF communication range of the nearest coast station, the watch shall be kept on 156.8 MHz whenever such installation is not being used for authorized traffic. The VHF watch shall be maintained at the vessel's steering station actually in use by the qualified operator as defined by § 83.155(e) of this part, or by a designated member of the crew who has been instructed in radio operation and voice procedure by the radio operator. The crew member so designated may simultaneously perform other duties relating to the operation or navigation of the vessel, provided such other duties do not interfere with the effectiveness of the watch.

2. In § 83.514, paragraph (d) is amended to read as follows:

§ 83.514 Radiotelephone installation.

* * * * *

(d) After October 1, 1980, a VHF radiotelephone installation or a remote unit with all controls necessary to ensure reliable communications, shall be located at each operator steering station aboard the vessel, except those auxiliary steering stations which are used only during brief periods for docking or for close-in maneuvering. A single portable radiotelephone set shall be considered capable of meeting the requirements of this paragraph provided adequate permanent mounting arrangements with suitable power provision and antenna feed are installed at each operator steering station intended for all such use as is not excepted in this paragraph. Additionally, for vessels of more than 100 gross tons, the radiotelephone installation and all necessary controls shall be located at the level of the main wheelhouse or at least one deck above the vessel's main deck.

[FR Doc. 79-32494 Filed 10-19-79; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 44, No. 205
Monday, October 22, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Packaging of Radioactive Material for Transportation and Transportation of Radioactive Material Under Certain Conditions; Compatibility With IAEA Regulations.

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Extension of Public Comment Period.

SUMMARY: The Nuclear Regulatory Commission is extending, for 60 days, the public comment period on its proposed revision of 10 CFR Part 71. The proposed rule was published on August 17, 1979 (44 FR 48234), for the purpose of making NRC transportation rules compatible with those of the International Atomic Energy Agency. The comment period expired October 16, 1979.

DATES: New comment period expires December 17, 1979.

ADDRESSES: Written comments or suggestions concerning the proposed amendment should be submitted to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention, Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Donald R. Hopkins, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: 301/443-5946.

Dated at Washington, D.C. this 17th day of October 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32574 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 73

Physical Protection of Plants and Materials; Reporting of Safeguards Events

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is considering amendments to its regulations to require that licensees report events which significantly threaten or lessen the effectiveness of their safeguards system. Events to be reported would focus on situations that threaten or lessen the effectiveness of their safeguards system as established by safeguards regulations or an approved safeguards plan or by both. Concurrently with the issuance of the proposed rule the NRC is also issuing a guide for comment which provides a procedure that may be used to determine whether an event is reportable along with a partial list of the kinds of events that a licensee should consider reporting in any case.

DATES: Comments must be received on or before December 21, 1979.

ADDRESSEES: Comments or suggestions for consideration in connection with the proposed amendments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Copies of comments received may be examined at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. For copies of the Regulatory Guide write to Edward L. Hill, Office of Standards Development, Nuclear Regulatory Commission, Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Mr. T. S. Michaels, Safeguards Standards Branch, Office of Standards Development, NRC 301-443-5903.

SUPPLEMENTARY INFORMATION: The Commission is considering amendments to its regulations to require that licensees report to the Commission events which significantly threaten or lessen the effectiveness of their safeguards system as established by safeguards regulations or by an approved safeguards plan or by both. A safeguards plan includes either one or more of the following plans, programs and procedures approved pursuant to 10 CFR Parts 50, 70 and 73: physical security, contingency, and security personnel qualification and training plans, and fundamental nuclear material control programs and procedures. Also, as drafted, the revisions to Section 73.71 would cover events that may occur in the shipment of irradiated fuel for which safeguards requirements were recently issued on an interim basis, June 15, 1979 (44 FR 34466). Such events need to be assessed by the Commission to determine their significance, to determine whether a change in the safeguards plan is needed and to decision on whether a report to Congress is necessary as required by Section 208 of the Energy Reorganization Act of 1974.

Other regulations dealing with safety and safeguards reporting require that certain events by reported to the Commission, but these regulations are not sufficiently explicit with regard to the events of interest. Reporting of actual or attempted thefts or loss of material are covered under §§ 20.402(a), 70.52, and 73.71 of 10 CFR Parts 20, 70, and 73 respectively. These sections, however, do not require reporting of events which could be indicative of a loss of safeguards capability or circumstances which could be part of an overall plan to commit theft or sabotage.

The safeguards events of interest can prsently be reported under 10 CFR Part 21 if a determination is made that the event could lead to a substantial safety hazard. This topic was addressed at a series of meetings[1] held to discuss 10 CFR Part 21 wherein a question was raised as follows:

"Is the site security system to be deemed 'safety related' in accordance with this regulation (in 10 CFR Part 21)?"

The response to this question was given as follows:

"As stated in item (5) of the Preamble to Part 21, 'To the extent that failures to comply or defects in a security system can contribute to a substantial safety hazard, such failures and defects are within the scope of Part 21.'

"In the case of a power reactor, the rationale is that an act of sabotage or terrorism could result in potential offsite exposure comparable to that which could occur as a result of an accident. An example

[1] Remarks Presented (Questions/Answers Discussed) at Public Regional Meetings to Discuss Regulations (10 CFR Part 21) for Reporting of Defects and Noncompliance, July 12-26, 1977—NUREG-0302, Rev. 1, page P-8—question 15.

V 4 4 0 C 2 2 7 9 UMI

of a defect or noncompliance in a security system is one which could allow access of an unauthorized individual to a vital area without being detected by the security system. Detection of the unauthorized individual by random visual surveillance or by remote visual electronic surveillance does not provide a continuous capability for initial detection and therefore is not considered to be a detection by the security system. The staff view is that this represents a major reduction in the degree of protection to public health and safety and is therefore a substantial safety hazard and would require notification to the NRC."

In order to narrow the interpretative determinations that may have to be made under 10 CFR Part 21 and to more explicitly define what needs to be reported, it is proposed to amend § 73.71 of 10 CFR Part 73, to (1) require that licensees immediately notify the NRC by telephone of any event which significantly threatens or lessens the effectiveness of their safeguards system as established by safeguards regulations or their NRC approved safeguards plan or by both, (2) that their investigation of the event be documented by a written report to the NRC within five days of the occurrence, and (3) that such reports and notifications will satisfy reporting requirements of 10 CFR Part 21 with regard to reporting of safeguards system failures.

Concurrently with the publication of the proposed revision to § 73.71 the NRC is issuing a Regulatory Guide for comment which provides a procedure acceptable to the staff that may be used to determine whether an event is reportable along with a partial list of the kinds of events that a licensee should consider reporting in any case.

The proposed revision to the regulation and the accompanying guide will provide the following improvement over what presently exists. First, it bounds the determination of the reportability of an event to an established safeguards regulation, safeguards plan, program or procedure and eliminates the need to go beyond the safeguards system to determine whether a substantial safety hazard could occur as a result of a deficiency in the safeguards system. This enables the licensee to judge the severity of an event against an existing framework which is documented and consequently simplifies the decision process involving the reportability of an event. Second, the guide provides a method whereby a licensee can make a determination as to whether an event should be reported. Third, the guide identifies certain events that the Commission believes if taken through the logic in the guide would be reported, thus providing a set of events that the licensee should always consider reportable.

The amendment, if approved, would become effective 75 days after publication in the **Federal Register.**

The promulgation of the amendment will not result in any activity that affects the environment. Accordingly, the Commission has determined under the National Environmental Policy Act, the Council of Environmental Quality guidelines, and the criteria of 10 CFR Part 51.5(d)(3), that neither an environmental impact statement nor an environmental impact appraisal to support a negative declaration for the proposed amendments to 10 CFR Part 73 is required.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of title 5 of the United States Code, notice is hereby given that adoption of the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 70 is contemplated.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

1. Section 73.71 of 10 CFR Part 73 is amended by adding a new paragraph (c) to read as follows:

§ 73.71 Reports of unaccounted for shipments, suspected thefts, unlawful diversion, industrial sabotage or events which significantly threaten or lessen the effectiveness of safeguards.

* * * * *

(c) Each licensee either under a specific or general license shall report to the Director of the appropriate Nuclear Regulatory Commission Inspection and Enforcement Regional Office listed in Appendix A of this part, by telephone, immediately and in no case later than one hour after an authorized individual knows of its occurrence, any event which significantly threatens or lessens the effectiveness of a safeguards system as established by regulations in this Chapter, or by the licensee's approved physical security, contingency, security personnel qualification and training plans and fundamental nuclear material control programs and procedures or by both. The licensee shall submit a written report to the appropriate NRC Regional Office listed in Appendix A of this Part describing the event in detail within 5 days after an authorized individual knows of its occurrence. A copy of such written report shall be sent to the Director of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washigton, D.C. 20555. Such notification and reports satisfy the notification requirements of Part 21 of this chapter if the event is also reportable under Part 21.

(Sec. 161o, Pub. L. 83–703, 68 Stat. 50, as amended, Pub. L. 85–507, 72 Stat. 327; sec. 201, Pub. L. 93–438, 88 Stat. 1242–1243 (42 U.S.C. 2073, 2201, 5841))

Dated at Washington, D.C. this 15th day of October 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32684 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32-C]

Equal Application Rule and Allocation of Increased Cost at Retail Level; Mandatory Petroleum Price Regulations

AGENCY: Economy Regulatory Administration, Department of Energy.

ACTION: Notice to Extend Comment Period.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends the time period parties may comment on the above captioned notice of proposed rulemaking published September 21, 1979 (44 FR 54902) until November 23, 1979.

Pursuant to Executive Order 12044 the DOE "shall give the public at least 60 days to comment on proposed significant regulations." Due to an inadvertent error, the comment period on the above captioned notice of proposed rulemaking did not permit a full 60 day comment period. Accordingly, DOE is extending the comment period until November 23, 1979, in order to meet the 60 day requirement.

DATE: Comments by November 23, 1979, 4:30 p.m.

ADDRESS: All comments to Public Hearing Management, Docket No. ERA–R–79–32–C, Department of Energy, Room 2313, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION:

Robert C. Gillette (Hearing Procedures), Economic Regulatory Administration, Room 2222–A, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street, NW., Washington, D.C. 20461, (202) 634–2170.

Ed Mampe (Regulations and Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street, NW., Washington, D.C. 20461, (202) 254–7200.

William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6754.

Issued in Washington, D.C. October 16, 1979.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 79-32431 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 618

Federal Farm Credit Board; Nomination and Election of Directors

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, has under consideration proposed amendments to its regulations pertaining to the nomination and election of directors. The proposed amendments intend to assure, to the extent possible, that association boards are free of undue influence by other persons, including employees, when voting in district board election polls or polls to designate nominees for the Federal Farm Credit Board.

DATES: Written comments must be received on or before December 17, 1979.

ADDRESSES: Submit any comments or suggestions in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, Washington, DC 20578. Copies of all communications received will be available for examination by interested persons in the Office of Director, Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Sanford A. Belden, Deputy Governor, Office of Administration, Farm Credit Administration, 490 L'Enfant Plaza, S.W., Washington, DC 20578 (202–755–2181).

Part 618 is proposed to be amended to read as follows:

PART 618—GENERAL PROVISIONS

1. Section 618.8150(f) is revised to read as follows:

§ 618.8150 Federal Farm Credit Board.

* * * * *

(f) For both the nomination poll and the final designation poll, the directors of a Federal land bank association or production credit association at a lawful board meeting will vote by the adoption of resolutions as prescribed on the ballots. A majority of the number of directors provided for in the association's bylaws must be present at each meeting, and the vote of the majority of the directors present will control. The final designation resolution may not be adopted until after the ballot is received by the association. No person other than directors of the association may be present during voting. Ballots shall be signed by the director in the chair at the time of voting and shall be attested by a second director present at the time of voting.

* * * * *

2. Section 618.8160(f) is revised to read as follows:

§ 618.8160 District boards of directors.

* * * * *

(f) For both the nomination poll and the election poll, the directors of a Federal land bank association or production credit association at a lawful board meeting will vote by the adoption of resolutions as prescribed on the ballots. A majority of the number of directors provided for in the association's bylaws must be present at each meeting, and the vote of the majority of the directors present will control. The election resolution may not be adopted until after the election ballot is received by the association. No person other than directors of the association may be present during voting. Ballots shall be signed by the director in the chair at the time of voting and shall be attested by a second director present at the time of voting.

(Sec. 5.9, 5.12, 5.16, 85 Stat. 619, 620, 621).

C. T. Fredrickson,

Senior Deputy Governor.

[FR Doc. 79-32506 Filed 10-19-79; 8:45 am]

BILLING CODE 6705-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

Leverage to Small Business Investment Companies; Events of Default

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: This change would bring the language of section 107.203(b)(2)(iii) into conformity with the revised Bankruptcy Act, Pub. L. 95–598, which revised and codified the Bankruptcy Laws, effective October 1, 1979.

DATES: Written comments should be submitted to Arthur P. Cyr, Acting Director, Office of Investment, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, on or before November 21, 1979.

FOR FURTHER INFORMATION CONTACT:

Arthur P. Cyr, 202–653–6584.

SUPPLEMENTARY INFORMATION: Among the events of default enumerated in § 107.203(b)(2) that automatically accelerate the maturity of debentures issued by a Small Business Investment Company is the commission of "an act of bankruptcy as defined in 11 U.S.C. section 21." The new Bankruptcy Code contains neither a section 21 nor the concept of an act of bankruptcy. However, it is considered desirable to continue to assert the principle that any fraudulent conveyance or the incurring of any fraudulent obligation shall continue to accelerate automatically the maturity of any debenture issued by a Small Business Investment Company. An amendment number was omitted from the Final Rule captioned "Leverage to Unincorporated Small Business Investment Companies" published on August 27, 1979 (44 FR 50028). That rule is Amendment 18 to Revision 5 of Part 107.

Pursuant to the authority contained in section 308 of the Small Business Investment Act, as amended, 15 U.S.C. 661, *et. seq.*, § 107.203(b)(2)(iii) would be amended to read as follows:

§ 107.203 SBA purchase, sale or guaranty of securities evidencing leverage; events of default.

* * * * *

(b) * * *

(2) The entire indebtedness of the Licensee issued to, held or guaranteed by SBA shall immediately become due and payable to SBA without notice, presentation or demand, whenever:

* * * * *

(iii) Licensee makes any transfer or incurs any obligation that is fraudulent under the terms of 11 U.S.C. 548.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: October 3, 1979.

William H. Mauk,

Acting Administrator.

[FR Doc. 79-32568 Filed 10-19-79; 8:45 am]

BILLING CODE 8025-01-M

V 4 4 0 C 2 2 7 9 UMI

13 CFR Part 121

Small Business Size Standards; Naval Architecture and Marine Engineering Size Standard Proposal

AGENCY: Small Business Administration.
ACTION: Proposed Rule.

SUMMARY: This proposal would change the present size standard for naval architecture and marine engineering from $9.0 million in average annual receipts to 1,000 employees or less. This change is necessary to maintain the competitive viability of the small business segment of this industry. The 1,000-employee standard will provide a better measurement of the small business segment of this industry and will be less affected by the dollar fluctuation.

DATE: Written comments must be submitted by November 21, 1979.

ADDRESS ALL COMMENTS TO: Kaleel C. Skeirik, Chief, Size Standards Division, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: John D. Whitmore, (202) 653-6373.

SUPPLEMENTAL INFORMATION: In early 1978, this office received requests from several firms and procurement officials to review the existing size standards for naval architecture and marine engineering industry. They contend that the naval architecture and marine engineering industries are uniquely structured as compared to most other industries. It is their contention that the independent naval architects and marine engineers are in competition with engineering divisions of very large companies and also major shipbuilders. Because of this unique situation, these independent firms are at a constant disadvantage in competing for Government contracts.

Further, it is pointed out that the market for these services is basically restricted to the Federal Government, and that any change in the competitive field in the small business set-aside program is extremely detrimental to those firms no longer qualified and thus forces them to compete with firms many times larger in size and strength.

Private commercial markets for these types of services are quite limited. Thus, when companies exceed the size standards, if even only because of inflation, their competitive viability is seriously jeopardized.

Lastly, firms within this industry have presented arguments that employees are a much better indication of company size than sales figures. It is their contention that the number of employees would give a significantly better reading as to company's strength and position within the industry and would be less subject to inflation.

This proposed change will have the effect of maintaining within the marine architecture and naval engineering industry the same number of firms as was included by the original standard set in 1964. It is not expected that any additional firms will be added or excluded from the set-aside program because of this rule change.

Therefore, we propose to amend 13 CFR 121.3-8(e)(6) to read as follows:

§ 121.3-8 Definition of small business for Government procurement.

* * * * *

(e) Services. * * *

(6) Any concern bidding on a contract for naval architectural or marine engineering services is classified as small if its number of employees does not exceed 1,000 persons.

* * * * *

Dated: October 10, 1979.

A. Vernon Weaver,
Administrator.

[FR Doc. 79-32484 Filed 10-19-79; 8:45 am]
BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Ch. I

[Docket No. 19469; Petition Notice No. PR 79-11]

Petition for Rulemaking of the Air Line Pilots Association, International

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of petition for rulemaking request for comments.

SUMMARY: This notice publishes for public comment the petition of the Air Line Pilots Association, International (ALPAI), dated July 25, 1979, to amend § 97.3 of the Federal Aviation Regulations (FAR), 14 CFR Part 97. In particular, the ALPAI asks that § 97.3(b), Aircraft approach category speeds, be based on 1.4 V_{so}, at maximum certificated landing weight, instead of the current aircraft approach speeds based on 1.3 V_{so}. This notice does not propose regulations for adoption or represent an FAA position on the merits of the petition.

DATES: Comments must be received on or before December 21, 1979.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 19469, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Raymond E. Ramakis, Regulatory Projects Branch (AVS-24), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 755-8716.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to submit such written data, views, or arguments on the petition for rulemaking as they desire. Communications should identify the regulatory docket or petition notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before December 21, 1979, will be considered by the Administrator before taking action on the petition for rulemaking. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the petition notice number of this document.

Background Information

On July 25, 1979, the ALPAI submitted a petition for rulemaking, in accordance with Part 11 of the FAR, to amend § 97.3(b) of the FAR. This petition is published in its entirety as part of this notice.

The substantive FAR section cited in the ALPAI petition is § 97.3(b). Section 97.3(b) sets forth the conditions under which aircraft approach speeds would be based on 1.3 V_{so}, at maximum certificated landing weight. Section 97.3(b) states that "Aircraft Approach Category" means a grouping of aircraft based on a speed of 1.3 V_{so} (at maximum certificated landing weight) or on maximum certificated landing weight.

V_{so} and the maximum certificated landing weight are those values as established for the aircraft by the country of registry. If an aircraft falls into two categories, it is placed in the higher of the two. The categories are as follows:

(1) Category A: Speed less than 91 knots, weight less than 30,001 pounds.

(2) Category B: Speed 91 knots or more but less than 121 knots; weight 30,001 pounds or more but less than 60,001 pounds.

(3) Category C: Speed 121 knots or more but less than 141 knots; weight 60,001 pounds or more but less than 150,001 pounds.

(4) Category D: Speed 141 knots or more but less than 166 knots; weight 150,001 pounds or more.

(5) Category E: Speed 166 knots or more; any weight.

The petitioner contends that: (1) the current rule employing 1.3 V_{so} to determine aircraft approach categories is no longer valid for today's generation of large jet aircraft; (2) the rule prior to the recent amendment of § 97.3 on March 15, 1979, protected large aircraft by considering weight as well as speed; (3) the 1.3 V_{so} as it pertains to the certification process is not a real-world speed that is used operationally when conducting instrument approaches; and (4) that the true 1 g stall speed is always much higher than the stall speed established by the aircraft manufacturer, which is in reality the FAR minimum speed.

Although this notice sets forth the contents of the ALPAI petition as received by the FAA without changes, it should be understood that its publication to receive public comment is in accordance with FAA procedurs governing the processing of petitions for rulemaking. It does not propose a regulatory rule for adoption, represent an FAA position, or otherwise commit the agency on the merits of the petition. The FAA intends to proceed to consider the petition under the applicable procedures of Part 11 and to reach a conclusion on the merits of the ALPAI proposal after it has had an opportunity to carefully evaluate it in light of the comments received and other relevant matters presented. If the FAA concludes that it should initiate public rulemaking procedures on the ALPAI petition, the appropriate rulemaking action will be proposed by the FAA, including its evaluation of the proposal.

The ALPAI Petition

Accordingly, the Federal Aviation Administration publishes verbatim for public comment the following petition for rulemaking of the Air Line Pilots Association, International, dated June 25, 1979.

Issued in Washington, D.C., on October 11, 1979.

Edward P. Faberman,
Acting Assistant Chief Counsel, Regulations and Enforcement Division,

[FR Doc. 79-32245 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Parts 1, 27, 29, 33, 43, 45, 61, 91, 121, 127, 133, and 135

[Docket No. 18689; Notice No. 79-1B]

Rotorcraft Regulatory Review; Notice of Conference and Availability of Compilation of Proposals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of Agenda, Compilation of Proposals and Announcement of Conference.

SUMMARY: This notice announces the availability of the Compilation of FAA and Public Proposals, availability of the Conference Agenda book, and the location, dates, and schedule of the Rotorcraft Regulatory Review Conference.

DATES: The Rotorcraft Regulatory Review Conference will be held on December 10-14, 1979.

ADDRESSES: The Rotorcraft Regulatory Review Conference will be held at the Monteleone Hotel, 214 Rue Royale, New Orleans, LA 70140 (telephone 504-523-3341). Copies of the Compilation of Public and FAA Proposals, to be discussed at the Conference, are available after October 10, 1979, and may be requested from: Federal Aviation Administration, Safety Regulations Staff, Regulatory Review Branch, (AVS-22), 800 Independence Avenue, SW., Washington, D.C. 20591

FOR FURTHER INFORMATION CONTACT: Roger E. Riviere, Federal Aviation Administration, Safety Regulations Branch, (AVS-22), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

Background

Information relating to the objectives of this review and additional information relating to this conference are contained in Notice 79-1, which announced the Rotorcraft Regulatory Review Program (44 FR 3250; January 15, 1979), and Notice 79-1A, which extended the period during which the public could submit proposals from March 31, 1979 to May 31, 1979, (49 FR 12685; March 8, 1979).

A compilation of FAA and public proposals and an Agenda book containing Conference and hotel preregistration forms will be distributed to known interested persons after October 10, 1979. Interested persons who have not received this material may request it at the above address.

Following Notice 79-1 announcing the Rotorcraft Regulatory Review Program, proposals pertaining to FAR Parts 1, 33, and 45 were received. Since these proposals were extensions of existing proposals and clarifying in nature to proposals already submitted in response to Notice 79-1, they have been included in the agenda for discussion at the conference.

Conference Procedures

Persons who plan to attend the conference should complete both the conference and hotel preregistration forms and mail them so that they are received by November 9, 1979. This will ensure a room at the conference hotel site. In addition, those who plan to attend the conference should be aware of the following procedures which are established to facilitate the working of the conference:

(a) There will be no admission fee or other charge to attend and participate. All conference sessions will be open, on a space-available basis, to all persons who register to attend. If necessary to complete the conference agenda, sessions may be extended to evenings. If practicable, the conference may be accelerated to enable adjournment in less than the time scheduled.

(b) The conference will be chaired by the FAA. It will convene and remain in plenary or committee sessions to discuss the proposals forming the conference agenda. If the need arises to resolve a specific issue, the conference chairpersons may form a special committee, identifying its various members. The chairperson of this committee will be an FAA employee, who will report the committee's recommendation to the conference chairpersons.

(c) All conference sessisons will be recorded by a court reporter. Anyone interested in purchasing a copy of the transcript of proceedings should contact the court reporter directly. A copy of the transcript will be docketed. In addition, the sessions will be tape recorded.

(d) The FAA will not consider material presented at the conference by participants on any issue that is not contained in the compilation of FAA and public proposals. Position papers or other handout material may be accepted at the discretion of the chairpersons. However, enough copies must be

V 44 0C 2 27 79 UMI

provided for distribution to all conference participants.

(e) Proposals appearing in the compilation of proposals will not necessarily be included in a notice of proposed rule making. The FAA will decide, in postconference analysis, which proposals will be revised, expanded, or accepted without change and which will be deferred or rejected. Statements made by FAA participants at the conference should not be taken as expressing a final FAA position.

(f) The proposals in the compilation on of proposals and related conference discussions will be used by the FAA as a basis for developing a notice (or notices), of proposed rule making which will be published in the Federal Register. The notice (or notices), when published, will provide interested persons with an opportunity to comment on specific proposed amendments to the Federal Aviation Regulations. Final rules adopted pursuant to such notice will be issued after consideration of all comments received.

Conference schedule: The major Conference proceedings will be conducted through four committees identified with their areas of coverage as:

I Sections 29.1–29.615, 27.1–27.615, and 1.1

II Sections 27.621–27.997 and 29.621–29.997.

III Sections 27.1019–27.1587 including Appendix A and 29.1001–29.1587 including Appendix A.

IV Parts 33, 43, 45, 61, 91, 121, 127, 133 and 135.

A detailed schedule each committee is contained in the Agenda book.

(Secs. 313(a), 601 and 603, Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423), Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).

Issued in Washington, D.C. on October 9, 1979.

Charles R. Foster,

Associate Administrator for Aviation Standards.

[FR Doc. 79-32305 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-GL-53]

Glenwood, Minn.; Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate controlled airspace near Glenwood, Minnesota to accommodate a new instrument approach into Glenwood Municipal Airport, Glenwood, Minnesota established on the basis of a request from the Glenwood Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before November 19, 1979.

ADDRESSES: Send comments on the porposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-53, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minumum decent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-53, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before November 19, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for furture NRPMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Glenwood, Minnesota. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

Glenwood, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Glenwood Municipal Airport, Glenwood, Minnesota (Lat. 45°38'41"N; Long. 95°19'14"W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by wirting to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-53, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on September 20, 1979.

John Turhan,

Acting Director, Great Lakes Region.

[FR Doc. 79-32211 Filed 10-18-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-GL-54]

Hutchinson, Minn.; Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate controlled airspace near Hutchinson, Minnesota to accommodate a new instrument approach into Hutchinson Municipal Airport, Hutchinson, Minnesota established on the basis of a request from the local airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be recieved on or before November 19, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-54, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-54, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before November 19, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700 foot controlled airspace transition area near Hutchinson, Minnesota. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

Hutchinson, Minn.

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Hutchinson Municipal Airport, Hutchinson, MN. (Lat. 44°52' N.; Long. 94°23' W.), excluding that portion which overlaps the Litchfield, Minnesota transition area.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-54, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on September 20, 1979.

John Truhan,

Acting Director, Great Lakes Region.

[FR Doc. 79-32212 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-GL-52]

Proposed Alteration of Transition Area, Houghton Lake, Mich.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Houghton Lake, Michigan to accommodate new Very High Frequency Omnidirectional Range (VOR) Runway 9 and Runway 27 instrument approach procedures into the Roscommon County Airport, Houghton Lake, Michigan, established on the basis of a request from the County Airport officials to provide that airport with additional instrument approach procedures. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before November 19, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket NO. 79-GL-52, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace will be

lowered from 1200 feet above the surface to 700 feet for a distance of approximately three miles beyond that now depicted. The development of the proposed procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitudes for these procedures may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views on arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-52, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before November 19, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability on NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11.2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace near Houghton Lake, Michigan. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In §71.181 (44 FR 442) the following transition area is amended to read:

Houghton Lake, Michigan

That airspace extending upward from 700 feet above the surface within an 8.5 statute mile radius of the Roscommon County Airport, Houghton Lake, Michigan (Lat. 44°21'N; Long. 84°40'W).

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-52, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on September 20, 1979.

Wayne J. Barlow,
Director,
Great Lakes Region.

[FR Doc. 79-32244 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-SO-62]

Designation of Federal Airways, Area Low Routes, Controlled Airspace, and Reporting Points; Proposed Alteration of Transition Area, Marks, Mississippi

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This proposed rule will redesignate an extension, add an extension, and correct the geographical location of the Marks RBN in the Marks, Mississippi, Transition Area. This action will provide controlled airspace required to protect instrument flight operations at the Selfs Airport.

DATES: Comments must be received on or before: November 24, 1979.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT: Carl F. Stokoe, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta Georgia 30320; telephone 404-763-7646.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. All communications received on or before November 24, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) to alter the Marks, Mississippi, Transition Area. An extension was designated on the 197° bearing from the Marks RBN. The final approach course in the NDB Runway 2 standard instrument approach procedure at the Selfs Airport has been changed to the 195° bearing. A new instrument approach procedure, NDB-A, has been developed to the airport. The geographic position of the Marks RBN has been changed. These proposed changes to the transition area and correction of the RBN location are necessary to provide the required controlled airspace to protect aircraft executing the instrument approach procedures.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Subpart G, § 71.181 (44 FR 442), of Part 71 of the Federal Aviation Regulations (14 CFR 71) by amending the following:

Marks, Mississippi

All after "within 3 miles" is deleted and ". . . each side of the 195° bearing from the Marks, Mississippi, RBN (latitude 34°13'53"N., longitude 90°17'25" W.), extending from the 6.5-mile radius area to 6.5 miles south of the RBN; within 3 miles each side of the 006° bearing from the Marks, Mississippi, RBN extending from the 6.5 mile radius area to 6.5 miles north of the RBN," is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

Note.—The Federal Aviation Administration has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipatd impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in East Point, Georgia, on October 9, 1979.

George R. LaCaille,
Acting Director, Southern Region.

[FR Doc. 79-32246 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 79-GL-50]

Proposed Designation to Transition Area; Shell Lake, Wis.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this federal action is to designate controlled airspace near Shell Lake, Wisconsin to accommodate a new Non-Directional Radio Beacon (NDB) Runway 31 instrument approach into Shell Lake Municipal Airport, Shell Lake, Wisconsin established on the basis of a request from the Municipal Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual conditions.

DATES: Comments must be received on or before November 19, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-50, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700 foot controlled airspace. In addition, aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-50, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before November 19, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71 to establish a 700 foot controlled airspace transition area near Shell Lake, Wisconsin. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (44 FR 442) the following addition should be made:

Shell Lake, Wis.

That airspace extending upward from 700 feet above the surface within a 6.5 statute mile radius of the Shell Lake Municipal Airport, Shell Lake, Wisconsin, (Lat. 45°45'N; Long. 91°55'W) and 3.0 miles each side of the 325° true bearing to the Shell lake (SSQ) NDB (Lat. 45°43'55"N; Long. 91°55'05"W) extending from the 6.5 mile radius area out to 8.5 miles.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-50, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on September 20, 1979.

Wayne J. Barlow,
Director, Great Lakes Region.

[FR Doc. 79-32242 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-13-M

V 44 OC 22 79 UMI

V 4 4 0 C 2 2 7 9 UMI

14 CFR Part 71

[Airspace Docket No. 79-GL-51]

Proposed Alteration to Transition Area; Worthington, Minn.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The nature of this federal action is to designate additional controlled airspace near Worthington, Minnesota to accommodate a new Very High Frequency Omnidirectional Range/Distance Measuring Equipment (VOR/DME) Runway 29 instrument approach procedure into the Worthington Municipal Airport, Minnesota, established on the basis of a request from Airport officials to provide that airport with an additional instrument approach procedure to serve a newly constructed Runway 11/29. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions and other aircraft operating under visual weather conditions.

DATES: Comments must be received on or before November 19, 1979.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 79-GL-51, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Doyle W. Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (312) 694-4500, Extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace within the transition area will be lowered from 1200 feet above the surface to 700 feet for a distance of approximately one-half mile beyond that now depicted. The control zone airspace will not be altered. The development of the proposed procedures necessitates the FAA to alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitudes for this procedure may be established below the floor of the 700 foot controlled airspace at times when the control zone is not effective. In addition, aeronautical maps and charts will reflect the area of the instrument procedures which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 79-GL-51, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018. All communications received on or before November 19, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

The Proposal

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area airspace. Subpart G of Part 71 was republished in the Federal Register on January 2, 1979 (44 FR 442).

The Proposed Amendment

Accordingly, the FAA proposes to amend Subsection 71.181 of Part 71 of the Federal Aviation Regulations as follows:

In § 71.181 (44 FR 442) the following transition area is amended to read:

Worthington, Minn.

That airspace extending upward from 700 feet above the surface within an 8½ mile radius of the Worthington Municipal Airport (Lat. 43°39'17"N, Long. 95°35'01"W).

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); § 11.61 of the Federal Aviation Regulations (14 CFR 11.61).)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the Federal Aviation Administration, Attention: Rules Docket Clerk (AGL-7), Docket No. 79-GL-51, 2300 East Devon Avenue, Des Plaines, Illinois.

Issued in Des Plaines, Illinois, on September 20, 1979.

John Truhan,

Acting Director, Great Lakes Region.

[FR Doc. 79-32243 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 91

[Docket No. 17235; Reference Notice No. 77-21]

Proposed Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating Between The United States and Canada or Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rule making.

SUMMARY: This notice withdraws Notice No. 77-21 (42 FR 53632, October 3, 1977) in which the Federal Aviation Administration proposed to revoke the regulation prohibiting operation of civil aircraft between Canada or Mexico and the United States without prior Air Traffic Control (ATC) authorization or filing an IFR or VFR flight plan. This notice terminates rule-making procedures on Notice No. 77-21 in light of convincing arguments by some of the commenters to the notice stressing the value of the present regulation for search and rescue purposes and law enforcement purposes.

DATES: Effective immediately.

FOR FURTHER INFORMATION CONTACT: Cathy Carroll, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

Background

Section 91.84 of Part 91 of the Federl Aviation Regulations (FARs) entitled, "Flights Between Mexico or Canada and the United States," states:

Unless authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

Early in 1976, the FAA identified a potential problem in the application of § 91.84 concerning a hardship experienced by certain charter operators serving hunting and fishing camps in remote areas just over the Canadian border. Lack of communications in those areas caused the operators to fly many miles out of the way in order to file or close out a flight plan. Twenty-one operators requested and were granted waivers by the FAA during 1976.

In June of 1976, the FAA discussed the matter of authorization to waive the requirements of § 91.84 with U.S. Customs Service in Washington, D.C., who agreed with such a deviation.

A staff study was conducted to determine if an NPRM should be issued proposing to revoke § 91.84. The study revealed no problem under the rule other than that previously recognized by the FAA concerning operations into remote areas in Canada, but concluded there was an indication that the existing rule may not be needed.

Discussion of Comments

On September 19, 1977, Notice No. 77-21 was issued proposing to eliminate § 91.84. The period for comments closed January 3, 1978. A total of thirty-four comments were received in response to the notice, twenty-one were in favor of the proposal, eleven were opposed and two were noncommittal.

The group in favor consisted primarily of general aviation pilots, but also included two commercial operators and four aeronautical organizations. Their comments centered on the unnecessary burden imposed by the rule, the value of removing unnecessary regulations, and the belief that piolts engaged in illicit activity would not concern themselves with filing the required flight plan. The Drug Enforcement Administration of the Department of Justice did not object to the change proposed by the notice.

Eleven commenters opposed the proposal, including an aviation trade association, the National Transportation Safety Board, the Department of Justice, Immigration and Naturalization Service, and a number of corporate pilots.

Those opposed to the revocation of the rule addressed their comments to three general areas:

(1) The need for flight plans for the purpose of search and rescue;

(2) The need for flight plans to support the law enforcement efforts of other government agencies; and

(3) The need to retain the rule because both Canada and Mexico have a similar rule, and if the FAA were to revoke § 91.84, some pilots might be misled into thinking they were no longer required by those countries to file a flight plan when crossing their borders.

The FAA has given serious consideration to the adverse effects that the revocation of § 91.84 would have, as suggested by those comments. Based on its analysis of those comments and the purposes of the rule, the FAA has determined that rule-making action on the proposed amendment would not be appropriate or in the public interest at this time and that the proposal contained in Notice No. 77-21 should be withdrawn.

The withdrawal of that proposal, however, neither precludes the FAA from issuing similar proposals in the future nor commits the FAA to any subsequent course of action.

Accordingly, pursuant to the authority delegated to me by the Administrator, Notice No. 77-21, published in the **Federal Register** (42 FR 53632) on October 3, 1977, entitled "Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating between the United States and Canada or Mexico," is hereby withdrawn.

(Secs. 307(c), 313(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(c), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.45.)

Issued in Washington, D.C. on October 10, 1979.

Charles H. Newpol,

Acting Director, Air Traffic Service.

[FR Doc. 79-32433 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 377

Short Supply Controls; Restriction on the Export of Unprocessed Western Red Cedar Logs

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Advance Notice of Rulemaking and Request for Comments.

SUMMARY: On October 1, 1979, the Export Administration Act of 1969 as amended, was superseded by a new law, the Export Administration Act of 1979. This notice outlines the procedures the Department intends to follow and requests public comment in developing and promulgating regulations concerning a provision in the new Act which requires the Secretary of Commerce to impose quantitative restrictions upon the export of unprocesed western red cedar (Thuja plicata) logs harvested from State or Federal lands.

DATES: Comments by November 9, 1979

ADDRESS: Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

FOR FURTHER INFORMATION CONTACT: Mr. Converse Hettinger, Director, Short Supply Division, Office of Export Administration, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044, 202-377-3984.

SUPPLEMENTARY INFORMATION: On October 1, 1979 the Export Administation Act of 1969 as amended, was superseded by a new law, the Export Administration Act of 1979 (Pub L. 96-72; to be codified at 50 U.S.C. App 2401 *et seq.*) (the "Act"). Among the provisions of the new Act is a manadatory restriction on the export of unprocessed western red cedar (Thuja plicata) logs harvested from State or Federal lands. Specifically, section 7 of the Act, in pertinent part, provides the following:

Short Supply Controls

Sec. 7. (a) Authority.—(1) In order to carry out the policy set forth in section 3(2)(C) of this Act, the President may prohibit or curtail the export of any goods subject to the jurisdiction of the United States or exported by any person subject to the jurisdiction of the United States, in curtailing exports to carry out the policy set forth in section 3(2)(C) of this Act, the President shall allocate a portion of export licenses on the basis of factors other than a prior history of exportation. Such factors shall include the extent to which a country engages in equitable trade practices with respect to United States goods and treats the United States equitably in times of short supply.

(2) Upon imposing quantitative restrictions on exports of any goods to carry out the policy set forth in section 3(2)(C) of this Act, the Secretary shall include in a notice published in the **Federal Register**, with respect to such restrictions an invitation to all interested parties to submit written comments within 15 days from the date of publication on the impact of such restrictions and the method of licensing used to implement them.

(3) In imposing export controls under this section, the President's authority shall include, but not be limited to, the imposition of export license fees.

* * * *

(i) Unprocessed Red Cedar. (1) The Secretary shall require a validated license, under the authority contained in subsection (a) of this section, for the export of unprocessed western red cedar (Thuja plicata) logs, harvested from State or Federal land. The Secretary shall impose quantitative restrictions upon export of unprocessed

western red cedar logs during the 3-year period beginning on the effective date of this Act as follows:

(A) Not more than thirty million board feet scribner of such logs may be exported during the first year of such 3-year period.

(B) Not more than fifteen million board feet scribner of such logs may be exported during the second year of such period.

(C) Not more than five million board feet scribner of such logs may be exported during the third year of such period.

After the end of such 3-year period, no unprocessed western red cedar logs may be exported from the United States.

(2) The Secretary shall allocate export licenses to exporters pursuant to this subsection on the basis of a prior history of exportation by such exporters and such other factors as the Secretary considers necessary and appropriate to minimize any hardship to the producers of western red cedar and to further the foreign policy of the United States.

(3) Unprocessed western red cedar logs shall not be considered to be an agricultural commodity for purposes of subsection (g) of this section.

(4) As used in this subsection, the term "unprocessed western red cedar" means red cedar timber which as not been processed into—

(A) lumber without wane;

(B) chips, pulp, and pulp products;

(C) veneer and plywood;

(D) poles, posts, or pilings cut or treated with preservative for use as such and not intended to be further processed; or

(E) shakes and shingles.

* * * *

Since the Secretary of Commerce has the responsibility for isuing regulations to implement the restriction contained in section 7(i), this notice outlines the procedures the Department intends to follow in developing and promulgating these regulations.

The promulgation of these regulations is exempt from Administrative Procedure Act rulemaking procedures. Furthermore, it has been determined that the regulations are not subject to the provisions of Department of Commerce Administrative Order 218–7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instruction 1–6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations." Prusuant to section 2.02(e) of Administrative Order 218–7 and section 2.02(e) of Industry and Trade Administration Instruction 1–6, regulations issued in response to short-term statutory deadlines are exempted from these provisions. Because the Act provided no grace period after its effective date for the implementation of the relevant provisions of section 7, it has been determined that these regulations are subject to the foregoing exemption. However, because of the importance and complexity of the issues involved in these regulations, the Department is inviting public participation in their development. All persons who desire to comment are encouraged to do so at the earliest possible time so as to permit the fullest consideration of their views. Comments should be received by C.O.B. November 9, 1979. Comments may take the form of proposed regulatory language, narrative discussion, hypothetical case situations, or any other appropriate format.

In addition the Department intends to consult with Federal and State officials, as well as industry representatives, in connection with the development of the regulations.

The statutory mandate contained in section 7(i) clearly requires that export levels be restricted at the ceilings stated therein. Accordingly, comments provided to the Department should not address the statutory restriction, but rather the method used to implement the restriction. Of particular interest to the Department are the following:

(a) The quantity of western red cedar logs exported historically from "State or Federal"lands and from private lands.

(b) Prevailing industry practices, including harvesting and processing practices, export procedures, identification of logs as to lands from which harvested, typical contractual arrangements regarding harvesting, domestic sales and export sales, sales price for domestic use and for export, etc.

(c) The system of allocating quotas, including the class of persons to whom the quotas are to be allocated, the method of allocating such quotas and the method of establishing the level of individual quotas.

(d) Criteria which might be used for providing quotas on other than a historical basis, including hardship exception criteria.

Because the regulations implementing section 7(i) of the Act must be issued and become effective as soon as possible, they will not be published in proposed form. The Department expects to publish the regulations in interim form shortly after the close of the comment period. At that time, a further opportunity will be provided interested persons to comment on the regulations and such comments will be considered by the Department of Commerce in adopting the regulations in final form.

Because of the need to implement the restrictions required by the Act as soon as possible, the Department reserves the option to issue interim regulations before the end of the comment period. Accordingly, interested persons are encouraged to submit comments at the earliest possible time. Should the Department issue regulations before November 9, 1979, any comments received up to that time will be considered in developing such interim regulations. Comments received after the regulations are issued will be considered in adopting the regulations in final form, together with any additional comments made with regard to the interim regulations.

Written public comments which are accompanied by a request that part or all of the material be treated confidentially, because of its business proprietary nature or for any other reason, will not be accepted. Such comments and materials will be returned to the submitter and will not be considered in the development of the regulations.

All public comments to be considered in the development of these regulations will be a matter of public record and will be available for public inspection and copying. This procedure shall not, however, apply to communications from agencies of the United States or foreign governments.

Written comments concerning the regulations should be addressed to: Office of Export Administration, Attention: Short Supply Division, U.S. Department of Commerce, P.O. Box 7138, Ben Franklin Station, Washington, D.C. 20044.

The public record concerning these regulations will be maintained in the Industry and Trade Administration, Freedom of Information Records Inspection Facility, Room 3012 Main Building, U.S. Department of Commerce, 14th & Constitution Avenue, NW., Washington, D.C. 20230. Records in this facility may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information regarding the inspection and copying of records at the facility may be obtained from Mrs. Patricia L. Mann, the Industry and Trade Administration Freedom of Information Officer; at the above address or by calling 202/377–3031.

Dated: October 17, 1979.

Robin B. Schwartzman,

Acting Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79–32446 Filed 10–18–79; 9:52 am]

BILLING CODE 3510–25–M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Parts 1615 and 1616

Flammability Standards for Children's Sleepwear; Proposed Statements of Enforcement Policy

AGENCY: Consumer Product Safety Commission

ACTION: Proposed statements of policy.

SUMMARY: The Commission proposes to reissue an enforcement policy statement concerning children's sleepwear in sizes 0–6X originally published by the Federal Trade Commission in 1972, and proposes to issue the same enforcement policy statement for children's sleepwear in sizes 7–14. The two statements set forth the factors that the CPSC will consider in deciding whether particular fabrics or garments are covered by its two standards for the flammability of children's sleepwear. The purpose of this action is to clarify how the CPSC determines which items are children's sleepwear garments of fabrics for use in children's sleepwear.

DATES: Interested persons are invited to submit, on or before December 21, 1979, written comments regarding the proposed policy statements.

ADDRESS: Comments and any accompanying material should be sumitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207 and titled "Children's Sleepwear Enforcement Policy.'"

EFFECTIVE DATE: The policy statement for children's sleepwear in sizes 0–6X has been in effect since the FTC issued it in 1972 and it remains in effect. The CPSC proposes that the policy statement continue in effect. The CPSC proposes that the policy statement for sleepwear in sizes 7–14 take effect 30 days after it is issued in final form.

FOR FURTHER INFORMATION CONTACT: H. Elizabeth Jones, Compliance Officer, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, (301) 492–6400.

SUPPLEMENTARY INFORMATION: The Standard for the Flammability of Children's Sleepwear, sizes 0–6X was promulgated by the Department of Commerce under the Flammable Fabrics Act (FFA)(15 U.S.C. 1191 *et seq.*) on July 29, 1971, with an effective date of July 29, 1972. This standard, as amended, is set forth at 16 CFR 1615. The standard applies to any item of children's sleepwear in sizes 0–6X, which is defined as a product of children's sleepwear or any fabic or related material intended or promoted for use in children's sleepwear. 16 CFR 1615.1(c). The term children's sleepwear is defined as "any product of wearing apparel up to and including size 6X, such as nightgowns, pajamas, or similar or related items, such as robes, intended to be worn primarrily for sleeping or activities related to sleeping. Diapers and underwear are excluded from this definition." 16 CFR 1615.1(a).

Before the effective date of the standard certain questions were raised concerning the interpretation of the phrase "intended or promoted" in the definition of the term "item", (16 CFR 1615.1(c)), and the phrase "intended to be worn primarly for sleeping or activities related to sleeping" in the definition of the term "children's sleepwear" (16 CFR 1615.1(a)). As a result, on March 23, 1972, the Federal Trade Commission (FTC), the agency responsible for the enforcement of the FFA at that time, published an enforcement policy statement in the **Federal Register** (37 FR 5982). That statement in essence provides that whether a particular fabric or garment falls within the scope of the standard is dependent upon (1) the nature of the product and its suitability for children's sleepwear, (2) the manner in which the product is distributed and promoted, and (3) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. The policy also states that if there is substanital question as to the applicability of these factors to a particular product, it would be advisable for the manufacturer to place a prominent warning on labels and tags attached to such product to warn the consumer that the product does not meet the flammability standard for children's sleepwear.

On May 14, 1973, all functions under the FFA were transferred to the Consumer Product Safety Commission by section 30(b) of the Consumer Product Safety Act (15 U.S.C. 2079(b)). Section 30(e)(2) of the Consumer Product Safety Act, 15 U.S.C. 2079(e)(2), specifies in part that all determinations rules and regulations issued in the exercise of functions transferred under section 30 of the act continue in effect according to their terms until modified, Terminated, superseded, set aside, or repealed by the Commission. Thus, under the provisions of section 30(e)(2) of the CPSA, that enforcement policy statement remains in effect.

On May 1, 1975, the Standard for the Flammability of Children's Sleepwear, Sizes 7 through 14, (FF 5–74) became effective. This standard is set forth at 16 CFR 1616. The standard defines the terms "item" (16 CFR 1616.2(c)) and "children's sleepwear" (16 CFR 1616.2(a)) in the same manner as they are defined in the Standard for the Flammability of Children's Sleepwear, Sizes 0 through 6X, except for the reference to size.

Most children's garments fall clearly into a category of sleepwear or non-sleepwear. However, there are a number of borderline garments that may or may not be primarily intended for sleeping or activities related to sleeping. Many of the garments that fall into this borderline category are infant garments. Another area of concern that has recently come to the Commission's attention involves children's "thermal" garments. The policy statement issued by the FTC for sleepwear garments in sizes 0–6X and fabric intended for use in those garments generally addresses those concerns. Therefore, the Commission proposes to apply the factors set forth in that statement of policy to determine which children's garments in sizes 0–6X and 7–14 or fabric intended for use in such children's garments are subject to the standards. This will include, but is not limited to, a decision as to whether particular infant items are "sleepwear" or "nonsleepwear" and whether particular items of thermal underwear are "underwear" or "sleepwear".

The policy statement issued by the FTC for sleepwear garments in sizes 0–6X and fabric intended for use in those garments advises a manufacturer to place a prominent warning on labels and tags that a particular product does not meet the flammability standard for children's sleepwear, if after applying the factors set forth in the policy, there is still a substantial question as to whether or not the product falls within the scope of the standard. In the policy statements currently being proposed for issuance by the Commission, this advice has been retained; however, the Commission further advises that such a disclaimer will not bind the Commission if in its opinion, the item in question falls within the scope of the standards.

The Commission has been petitioned (FP 70–2) under the Flammable Fabrics Act (FFA) to issue a rule requiring that thermal wear which is or potentially might be marketed as children's sleepwear be labeled to indicate that the garment does not meet the children's sleepwear flammability standards and is not intended for and is not suitable for use as sleepwear. The petition is currently being evaluated by the

V 44 0C 22 79 UMI

Commission staff and no decision has been made on the merits of the petition.

If the staff, after applying the factors in the policy statements, concludes that a particular fabric or garment that has not been manufactured to comply with the applicable standard is sleepwear within the scope of the standard, the responsible firm will be advised of the staff decision. The longstanding practice of the Commission staff has been to send the firm a "letter of advice" that its products are subject to the sleepwear standard and that enforcement action might be necessary. The firm then has 10 days to present its views to the staff. During this 10 day period no enforcement action is initiated. At the expiration of the 10 day period, the staff, if appropriate, may begin legal action. This procedure is contained in staff enforcement guidelines, "Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, May 1979". The procedure contained in the staff enforcement guidelines has been incorporated into the children's sleepwear enforcement policy at §§ 1615.64(d) and 1616.65(d) below and will be followed; except that where the public health and safety require it, the Commission may use more expeditious alternatives to protect the public safety. In determining whether the public health and safety may necessitate acting before the 10 day period ends, the Commission will take into account the nature of the hazard presented by the item in question and whether the firm continues to sell the item during the ten-day period. A copy of the enforcement guidelines is available from the Office of the Secretary, 1111 18th Street, N.W., Washington, D.C. 20207 or from the Directorate for Compliance and Enforcement, 5401 Westbard Avenue, Bethesda, Maryland 20207.

To the extent that Commission resources are available, the Commission staff will, upon request, assist manufacturers or importers in their assessment of the suitability of certain fabric or garments for use as children's sleepwear items.

Therefore, in accordance with provisions of the Flammable Fabrics Act (Pub. L. 90–189, sec. 5, 81 Stat. 569 (15 U.S.C. 1194) and the Consumer Product Safety Act, sec. 30, Pub. L. 92–573, (15 U.S.C. 2079)), the Consumer Product Safety Commission proposes to amend the Code of Federal Regulations, Title 16, Chapter II, Subchapter D as follows:

PART 1615—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 0 THROUGH 6X (FF 3–71)

Part 1615, Subpart C is proposed to be amended by adding a new section as follows:

§ 1615.64 Policy to clarify scope of the standard.

(a) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1615.1(c) and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" in the definition of "children's sleepwear" in § 1615.1(a).

(b) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission according to the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in childen's sleepwear depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the fabric and its suitability for use in children's sleepwear, (ii) the extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments and (iii) the likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases. Wherever there is a substantial question as to the applicability of these factors to a particular fabric, it would be advisable for the fabric manufacturer or importer to place a prominent warning on labels, shipping invoices, packages, etc., that the fabric in question does not meet the flammability standards for childen's sleepwear, and is not intended for, and is not suitable for, use in children's sleepwear. However, any such disclaimer will not bind the Commission if in its opinion the fabric was in fact intended or promoted for use in children's sleepwear garments.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping, (ii) the manner in which the product is distributed and promoted, and (iii) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. Wherever there is a substantial question as to the applicability of these factors to a particular product, it would be advisable for the manufacturer or importer to place a prominent warning on labels or tags attached to such product adequate to warn the consumer that the product of wearing apparel in question does not meet the flammability standard for children's sleepwear, and is not intended for, and is not suitable for use as children's sleepwear. However, any such disclaimer will not bind the Commission if in its opinion the product of wearing apparel was in fact intended or promoted primarily for sleeping or activities related to sleeping.

(c) The foregoing principles are primarily directed to the obligations of manufacturers and importers, but they are also relevant to the obligations of retailers to avoid sales in commerce of "items" of "children's sleepwear" in violation of this standard. Retailers are advised to segregate fabrics and/or garments covered by the standard from fabirc and/or garments beyond the scope of the standard, and to utilize store display signs indicating the distinction.

(d) The Commission, except as noted below, will apply this policy in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, issued in May 1979 and available from the CPSC's Office of the Secretary or from the Directorate for Compliance and Enforcement. Under the procedure described in this chapter, firms will be informed by letter before they or their products may be the subject of enforcement action. Before any such action is taken, the firms will have 10 days within which to provide information, evidence or arguments indicating that the products are not violative or not covered by the standard. However, the Commission may take enforcement action without providing firms 10 days to provide information if it determines that the public health and safety so requires. In determining whether the public health and safety may necessitate acting before the 10-day period ends the Commission will take into account the nature of the hazard presented by the item in question and whether the firm continues to sell the item during the 10-day period.

PART 1616—STANDARD FOR THE FLAMMABILITY OF CHILDREN'S SLEEPWEAR: SIZES 7 THROUGH 14 (FF 5–74).

2. Part 1616, is proposed to be amended by adding a new section as follows:

§ 1616.65 Policy to clarify scope of the standard.

(a) The Commission makes the following statement of policy regarding (1) the phrase "intended or promoted" as used in the definition of "item" in § 1616.2(c) and (2) the phrase "intended to be worn primarily for sleeping or activities related to sleeping" in the definition of "children's sleepwear" in § 1616.2(a).

(b) For enforcement purposes, the meaning of these phrases will be interpreted by the Commission according to the following principles:

(1) *Sleepwear fabrics and related materials.* Whether fabric or related material is "intended or promoted" for use in children's sleepwear depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the fabric and its suitability for use in children's sleepwear, (ii) the extent to which the fabric or a comparable fabric has been sold to manufacturers of children's sleepwear for use in the manufacture of children's sleepwear garments, and (iii) the likelihood that the fabric will be used primarily for children's sleepwear in a substantial number of cases. Wherever there is a substantial question as to the applicability of these factors to a particular fabric, it would be advisable for the fabric manufacturer or importer to place a prominent warning on labels, shipping invoices, packages, etc., that the fabric in question does not meet the flammability standards for children's sleepwear, and is not intended for, and is not suitable for, use in children's sleepwear. However, any such disclaimer will not bind the Commission if in its opinion the fabric was in fact intended or promoted for use in children's sleepwear garments.

(2) *Sleepwear garments.* Whether a product of wearing apparel is "intended to be worn primarily for sleeping or activities related to sleeping" depends on the facts and circumstances present in each case. Relevant factors include (i) the nature of the product and its suitability for use by children for sleeping or activities related to sleeping, (ii) the manner in which the product is distributed and promoted, and (iii) the likelihood that the product will be used by children primarily for sleeping or activities related to sleeping in a substantial number of cases. Wherever there is a substantial question as to the applicability of these factors to a particular product, it would be advisable for the manufacturer or importer to place a prominent warning on labels or tags attached to such product adequate to warn the consumer that the product of wearing apparel in question does not meet the flammability standard for children's sleepwear, and is not intended for, and is not suitable for use as children's sleepwear. However, any such disclaimer will not bind the Commission if in its opinion the product of wearing apparel was in fact intended or promoted primarily for sleeping or activities related to sleeping.

(c) The foregoing principles are primarily directed to the obligations of manufacturers and importers, but they are also relevant to the obligations of retailers to avoid sales in commerce of "items" or of "children's sleepwear" in violation of this standard. Retailers are advised to segregate fabrics and/or garments covered by the standard from fabric and/or garments beyond the scope of the standard, and to utilize store display signs indicating the distinction.

(d) The Commission, except as noted below, will apply this policy in accordance with Chapter 2C—Letters of Advice/Notices of Noncompliance of the CPSC Enforcement Policy and Procedural Guides, issued in May 1979 and available from the CPSC's Office of the Secretary or from the Directorate for Compliance and Enforcement. Under the procedure described in this chapter, firms will be informed by letter before they or their products may be the subject of enforcement action. Before any such action is taken, the firms will have 10 days within which to provide information, evidence or arguments indicating that the products are not violative or not covered by the standard. However, the Commission may take enforcement action without providing firms 10 days to provide information if it determines that the public health and safety so requires. In determining whether the public health and safety may necessitate acting before the 10-day period ends the Commission will take into account the nature of the hazard presented by the item in question and whether the firm continues to sell the item during the 10-day period.

Request for Comments:

The enforcement policy statement originally issued by the FTC for sleepwear in sizes 0–6X remains in effect under provisions of the CPSA. Since no new requirements would be added by the reissuance of the enforcement policy, notice and public procedure are not prerequisites to this reissuance. The proposed enforcement policy for children's sleepwear in sizes 7–14 (as well as the proposed reissuance of the policy for sleepwear in sizes 0–6X) are generally statements of policy and therefore are exempt from the notice and public procedure requirements of the Administrative Procedure Act (5 U.S.C. 553(b)). The Commission, nevertheless, has decided to propose the reissuance of the 0–6X policy statement and the issuance of the 7–14 policy statement for public comment.

Therefore, interested persons are invited to submit written comments by December 21, 1979. Comments may be accompanied by written data, views and arguments and should be addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Received comments may be seen in the Office of the Secretary, third floor, 1111 18th Street, NW., Washington, D.C. between 8:30 am and 5:00 pm Monday through Friday.

(Sec. 5, Pub. L. 90–189, 81 Stat. 569, 15 U.S.C. 1194; Sec. 30(b), Pub. L. 92–573, 86 Stat. 1231, 15 U.S.C. 2079(b).)

Dated: October 16, 1979.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 79–32505 Filed 10–19–79; 8:45 am]
BILLING CODE 6355–01–M

POSTAL RATE COMMISSION

39 CFR Part 3001

Written Comments on Possible Rulemaking on Experimental Proposals by United States Postal Service

October 16, 1979.

AGENCY: Postal Rate Commission.

ACTION: Notice of Written Comments on Possible Rulemaking.

SUMMARY: Notice is hereby given that the following parties have submitted written comments to the Commission regarding possible rulemaking:

American Bankers Association
National Association of Greeting Car Publishers
Officer of the Commission
Purolator Courier Corporation, *et al.*
Time, Inc.
United States Postal Service

These comments are available for review at the Postal Rate Commission Docket Section. Written comments filed during the September 26, 1979 conference on this subject were

V 4 4 0 C
2 2
7 9
UMI

included as appendices to the transcript of that conference.

FOR FURTHER INFORMATION CONTACT:
David F. Stover, General Counsel, (202) 254–3830

David F. Harris,

Secretary.

[FR Doc. 79–32410 Filed 10–19–79; 8:45 am]

BILLING CODE 7715–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1344–1]

California Plan Revision; SIP Chapter 4–California Air Quality Control Strategies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Rulemaking.

SUMMARY: On May 23, 1979, the California Air Resources Board (ARB) submitted to the EPA a revision to the State Implementation Plan (SIP). This revision consists of Chapter 4, *California Air Quality Control Strategies*, which outlines the control measures currently being implemented in California as well as those measures which the ARB proposes to adopt as part of the nonattainment plans already adopted by local districts. The intended effects of this revision are to address certain requirements of the Clean Air Act as amended (CAA), and 40 CFR Part 51, to update the SIP, and to inform the public on these matters. The EPA invites public comments on this revision, especially as to its consistency with the CAA.

DATES: Comments may be submitted on or before December 21, 1979.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air & Hazardous Materials Division, Air Technical Branch, Regulatory Section (A–4–2), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco CA 94105.

Copies of the revision and the evaluation report are available for public inspection during normal business hours at the EPA Region IX Office at the above address and at the following locations:

Californian Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA. 95814.

Environmental Protection Agency, Los Angeles Contact Office, 300 North Los Angeles Street, Los Angeles CA 90012.

Public Information Reference Unit, Room 2922 (EPA Library), 401 "M" Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:
Douglas Grano, Chief, Regulatory Section Air Technical Branch, Air & Hazardous Materials Division, Environmental Protection Agency, Region IX, (415) 556–2938.

SUPPLEMENTARY INFORMATION:

Background

The CAA was enacted by Congress in 1963 and amended several times thereafter. Under the CAA, the EPA established National Ambient Air Quality Standards (NAAQS) for certain pollutants. Each State was required to adopt a plan (the SIP) to attain and maintain the NAAQS throughout the State.

The State of California adopted an SIP and submitted it to the EPA in 1972. That plan was partly approved and partly disapproved. Since 1972, the SIP has been amended in part many times, becoming somewhat fragmented in the process. For this reason, the ARB is in the process of revising and updating its overall plan. The chapter now being considered in this notice is part of that task.

Under section 107(d) of the CAA the State of California submitted to the EPA on December 2, 1977 a list of the NAAQS attainment status of all areas in the State. The list was published in the **Federal Register** on March 3, 1978 (43 FR 8962). After review of public comments, including changes recommended by the State, a revised list was published as final rulemaking on March 19, 1979 (44 FR 16388). Additional changes have been requested by the State and are now being considered by the EPA.

The CAA requires the submission of a revised SIP for nonattainment areas, in which one or more of the NAAQS are exceeded. These nonattainment area plans (NAP's) must demonstrate attainment of the NAAQS by 1982 or, under certain conditions, by 1987.

In California, the NAP's are prepared by local and regional agencies and submitted to the ARB. The ARB may take steps to correct any deficiencies a NAP may have. If and when approved by the ARB, a NAP would be submitted to the EPA as a revision to the SIP.

The CAA generally requires that ozone NAP's include regulations reflecting reasonably available control technology (RACT) for major stationary sources (and, in urban areas with attainment dates beyond 1982, minor stationary sources) of volatile organic compounds (VOC) for which the EPA has issued a Control Techniques Guideline (CTG) by January 1978.

For VOC sources covered by CTG's issued after January 1978, NAP's must include schedules to adopt and submit additional legally enforceable RACT regulations on an annual basis, for those CTG's that have been published by January of the preceding year.

The CAA also generally requires that NAP's include RACT for stationary sources of nitrogen oxides, sulfur dioxide, and particulate matter in areas which are in a nonattainment status for those pollutants.

In addition, plans for nonattainment areas must require permits for the construction and operation of new or modified stationary sources in accordance with section 173 of the CAA (relating to permit requirements).

In an effort to ensure that the NAP's for California meet the foregoing requirements, the ARB has been engaged in the Statewide development of uniform rules, known as model rules, for the control of emissions from certain stationary sources. These rules are intended to represent RACT and to encourage as much uniformity among air pollution control district (APCD) rules as is practicable.

The model rules contained in Appendix 4–B have been submitted to the EPA for informational purposes, and are not now legally enforceable regulations. These model rules may be submitted as part of an APCD's NAP in the future. The EPA will review those rules in relation to the respective CTG for each type of emission source. The CTG's provide information on available air pollution control techniques and contain recommendations of what the EPA calls the "presumptive norm" for RACT.

Description

Chapter 4 outlines California's overall control strategy, including control measures being implemented at both state and local levels.

Part I, "Vehicular Sources", discusses vehicular control measures in two categories, technical control measures and transportation control measures. Existing and future control measures are described in each category.

Part II, "Non-vehicular (Stationary Source) Controls", describes and lists regulations now in effect which are applicable to stationary sources in each air pollution control district. The second half of Part II describes model rules and the process by which they are developed, as well as the ARB's Schedule for Adoption of Rules, either by the districts or by the ARB for the districts. Anticipated dates for ARB development of additional model rules are also indicated.

Appendix 4–A is a list of the air pollution control districts in California, with their addresses and telephone numbers.

Appendices 4–C, 4–D, 4–E, and 4–F are portions of the California Administrative Code.

Appendix 4–B, "Category I Model Rules for Stationary Sources", contains model rules developed by the ARB and considered by the ARB to be "reasonably available" for adoption by air pollution control districts which have applicable sources. "Category I" is defined in Chapter 4 as those rules "to be adopted by local air pollution control district before 5/31/79, or by ARB for district before 6/30/79, if necessary." Model rules included in Appendix 4–B are as follows:

1. New Source Review
2. Architectural Coatings
3. Automotive Assemblyline Coatings
4. Can and Coil Coatings
5. Dry Cleaning (Petroleum)
6. Solvent Metal Cleaning (Degreasing)
7. Gasoline Vapor Recovery
8. Manufactured Metal Parts and Products Coatings
9. Marine Lightering Operations
10. Paper and Fabric Coating Operations
11. Storage of Organic Liquids
12. Valves and Flanges at Oil Refineries
13. Electric Utility Boilers
14. Gas-fired, Fan-type Central Furnaces
15. Coke Calcining (SCAQMD only)
16. Marine Lightering Operations (SOx) (see =9)
17. Oil Field Steam Generators (Kern Co.)
18. Coke Ovens

Discussion

As a revision to the SIP, this chapter appears to be approvable. It provides an outline of the control strategies currently being implemented in California as well as the direction in which the ARB and local agencies are moving to develop and implement future control measures. The EPA proposes to approve this chapter and incorporate it into the SIP as an informational document, consistent with 40 CFR Part 51.

With respect to the model rules described in Appendix 4–B, it should be noted that final rules similar to these model rules may be submitted to the EPA in the future as legally enforceable rules to fulfill EPA requirements for nonattainment area plans pursuant to Part D of the CAA.

In the event that such a rule is submitted in legally enforceable form, the EPA will propose action on the specific rule for a specific District. In this notice and in any future notice of proposed rulemaking on this subject, the EPA invites comment as to whether the ARB's general control strategy is consistent with the requirements of 40 CFR §§ 51.12, 51.13, and 51.14, dealing with control strategy.

Public Comments

Under Section 110 of the CAA, and 40 CFR Part 51, the Administrator is required to approve or disapprove revisions to the SIP submitted by the State. The Regional Administrator hereby issues this notice setting forth the above described revision as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office during the specified comment period. Comments received will be available for public inspection at the EPA Region IX Office, the EPA Public Information Reference Unit, and the ARB Office in Sacramento.

The Administrator's decision to approve or disapprove the proposed revision will be based on the comments received and on a determination whether the revision meets the requirements of the CAA and 40 CFR Part 51 (especially §§ 51.12, 51.13, and 51.14), Requirements for Preparation, Adoption, and Submittal of State Implementation Plans.

Under Executive Order 12044 the EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order or whether it may follow other specialized development procedures. The EPA labels these other regulations "specialized". The EPA has reviewed the revision being acted upon in this notice and determined that it is a specialized revision not subject to the procedural requirements of Executive Order 12044.

Authority: Sections 110 and 301(a) of the Clean Air Act, as amended [42 U.S.C. §§ 7410 and 7601(a)].

Dated: October 11, 1979.

Paul De Falco, Jr.

Regional Administrator.

[FR Doc. 79–32488 Filed 10–19–79; 8:45 am]

BILLING CODE 6560–01–M

---

40 CFR Part 60

[FRL 1295–1]

Standards of Performance for New Stationary Sources: Petroleum Refineries Review of Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of Standards.

SUMMARY: EPA has reviewed its standard of performance for petroleum refineries (40 CFR 60.100, Subpart J). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce EPA's intent to undertake the development of a revised standard which would limit SO_2 emissions from catalyst regenerators.

DATE: Comments must be received by December 21, 1979.

ADDRESS: Send comments to: Central Docket Section (A–130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket A–79–09.

The document "A Review of Standards of Performance for New Stationary Sources—Petroleum Refineries" (EPA–450/3–79–008) is available upon request from Mr. Robert Ajax (MD–13), Emission Standards and Engineering Division, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT:
Mr. Robert Ajax, Telephone: (919) 541–5271.

SUPPLEMENTARY INFORMATION:

Background

New Source Performance Standards (NSPS) for petroleum refineries were promulgated by the Environmental Protection Agency on March 8, 1974. (40 CFR 60.100, Subpart J). These standards regulate the emission of particulate matter and carbon monoxide, and the opacity of flue gases from fluid catalytic cracking unit (FCCU) catalyst regenerators and FCCU regenerator incinerator-waste heat boilers. They also regulate the emission of sulfur dioxide from fuel gas combustion devices. These regulations apply to any affected facility which commenced construction or modification after June 11, 1973.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. This notice announces that EPA has completed a review of the standard of performance for petroleum refineries and invites comment on the results of this review.

Findings

On the basis of a review of compliance data available in EPA's Regional Offices and a review of literature describing recent control technology applicable to catalyst regenerators and fuel gas combustion devices, EPA has made the following conclusions regarding the need to revise the existing standard.

V 44 0C 2 2 7 9 UMI

Particulate Matter

The available data indicate that the current limitation on particulate matter emissions accurately reflects the performance capability of best available control systems. It is, therefore, concluded that no revision should be made to the particulate standard. New technologies such as high efficiency separators, high temperature regenerators, and new catalysts have reduced the total quantity of uncontrolled particulate matter emitted. However, the method established in the standard for calculating the allowable emissions effectively corrects for the reduction due to changes in catalysts and operating procedures.

While it is concluded that the particulate matter standard should not be revised, a question has been raised as to the validity of Reference Method 5 when high concentrations of condensible sulfur compounds are present. This test method, which is used to measure compliance with the particulate standard, operates at a nominal temperature of 120°C and, as such, is capable of collecting condensible matter which exists in gaseous form at stack temperature. If significant quantities of such condensible material exist which are not controllable by the best systems of emission reduction, then a facility employing such systems could be found to be in non-compliance with the standard. An analysis of data available when the standard was established indicated this was not a problem at that time. However, with high sulfur content feed, there is evidence that condensible sulfur oxides may exist at concentrations sufficient to affect compliance.

EPA is currently studying this question. Depending on the results of this study, EPA may revise the standard or the test method.

Carbon Monoxide

The present standard for carbon monoxide emissions was established at a level which would permit regenerator in situ combustion. This method of controlling carbon monoxide emissions offers production and energy efficiencies but is recognized to be less effective than a carbon monoxide boiler. No new data were obtained during this review to alter the original finding that it is not practical to control CO emissions to less than 500 ppm by in situ regeneration and, therefore, no revision in the standard is planned at this time. However, it should be noted that the recent advent and increased use of CO oxidation catalysts and additives may provide data showing that concentrations lower than 500 ppm are achievable. If such data become available, the Agency will consider revision of the standard. It should be further noted that for the purpose of attaining and maintaining the national ambient air quality standards, State Implementation Plan new source reviews may, in some cases, require greater CO emission reductions than those required by the standards of performance for new sources.

At the time the standard was established, EPA concluded that CO emissions should be continuously monitored. A requirement for such monitoring was, therefore, included in the standard. This requirement is applicable to all catalyst regenerators subject to the standard. However, the effective date of the monitoring requirement was deferred until EPA develops performance specifications for CO monitoring systems. EPA has found no basis for revising this monitoring requirement and performance specifications are currently under development and evaluation. It is planned to issue an advanced notice of proposed rulemaking in 1979 setting forth the specifications which have been developed and which will be assessed in field studies.

Sulfur Dioxide

The present standard currently limits SO_2 emissions resulting from the combustion of fuel gas. The catalyst regenerator is also a significant source of SO_2 emissions but is not subject to the standard. The review considered both the need to revise the current limitation and the need to include limitations on SO_2 emissions from the catalyst regenerator..

Available compliance test data indicate that the current standard limiting sulfur to 230 mg H_2S/dscm from combustion of fuel gas is being met and, in some cases, exceeded by a wide margin. Six tests showed an average of 107 mg H_2S/dscm and a range of 7 to 229 mg H_2S/dscm. While these data indicate that a reduction in the present limitation is possible, the range exhibited is consistent with the control device performance documented at the time the standard was established. On the basis of this, along with the increased sulfur content of feedstock expected with increased imports and the variable crude oil supply conditions now existing, it is concluded that the fuel gas sulfur limitation is appropriate and that no revision is needed.

A deficiency in the current standard limiting sulfur in fuel gas relates to the lack of a continuous monitoring method. EPA recognized the need for continuous monitoring at the time the standard was adopted. However, at that time, no monitoring systems had been demonstrated to be adequate for this purpose and EPA had not established performance specifications for such systems. Consequently, application of the monitoring requirement was deferred until performance specifications could be adopted. Since the adoption of the standard, EPA has pursued a program to develop and assess the performance of an H_2S monitoring system. On this basis, performance specifications are now being developed. It is planned to issue an advanced notice of proposed rulemaking in 1979 setting forth the specifications which have been developed and which will be assessed in field studies.

During the review of the standard, an ambiguity was identifed in the current limitation on sulfur in fuel gas concerning the applicability of this limitation to fuel gas burned in waste-heat boilers. To clarify this, an amendment was prepared which was published in the **Federal Register** on March 12, 1979. This amendment makes clear that fuel gas fired in waste-heat boilers is not exempt from the standard.

Sulfur dioxide emissions from fluid catalytic cracking unit (FCCU) catalyst regenerators are not regulated by the standard. However, sulfur dioxide scrubber technology is available and being used to control steam generator emissions and a limited number of FCCU regenerators. Also, Amoco Oil Company has developed a new cracking process which reduces sulfur oxide emissions from FCCU regenerators. The process uses a new catalyst that retains sulfur oxides and returns them to the reactor where they are removed with the product stream. If a low sulfur product is required, the sulfur will be removed by amine stripping or hydrotreating and eventually recovered in a sulfur recovery unit. Pilot tests indicate that the new catalyst is capable of reducing sulfur oxide emissions 80 to 90 percent and commercial tests are planned to confirm these data.

The potential uncontrolled emissions from new, modified, or reconstructed catalyst regenerators are significant. Uncontrolled emission rates from catalyst regenerators are typically 5 to 10 Mg/day and range up to 100 Mg/day from the largest units. The growth rate in terms of new catalyst regenerators is uncertain due to the present uncertainty of petroleum supplies and demand. However, for perspective a growth rate of 0.5 percent in capacity from 1979 through 1985 would result in additional emissions from uncontrolled new sources of 23 Mg per day in 1986; a growth rate of 0.75 percent would result in additional uncontrolled emissions of 58 Mg SO_x/day. Emissions from modified or reconstructed sources would add to this total.

Based on the existence of these SO_2 control technologies, EPA plans to initiate a program later this year to assess the applicability, cost, performance, and non-air environmental impacts of these technologies. If supported by the findings of this program EPA will propose a limit on FCCU SO_2 emissions.

Volatile Organic Compounds

The emission of volatile organic compounds (VOC) from FCC unit regenerators is not limited in the present NSPS. These are, however, of concern, both because of their role as oxidant precursors and as potentially hazardous compounds. Of particular concern are the polynuclear aromatic compounds (PNA) because of their potential carcinogenic effects. The most abundant PNA measured in regenerator flue gas is benzo-a-pyrene (BAP) with a concentration of 0.218 kg BAP/1,000 barrels of feed. The concentration of BAP can effectively be reduced in a carbon monoxide boiler to 1.41×10^{-5} kg BAP/1,000 barrels of feed. However, there are no data indicating the concentration of BAP in the flue gas from high temperature (in situ) regeneration nor from regenerators using CO oxidation promoting catalyst. This, therefore, has been identified as an area for future study by EPA's Office of Research and Development.

Public Participation

All interested persons are invited to comment on this review, the conclusions, and EPA's planned action.

Douglas M. Costle,

Administrator.

Dated: October 15, 1979.

[FR Doc. 79-32567 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 60

Standards of Performance for New Stationary Sources: Portland Cement Plants; Review of Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Review of Standards.

SUMMARY: EPA has reviewed the standards of performance for portland cement plants (40 CFR 60.60). The review is required under the Clean Air Act, as amended August 1977. The purpose of this notice is to announce that, based on an assessment of the industry, applicable control technology, and results of performance tests conducted pursuant to the standard, EPA has determined that no revision to the particulate emission limitation is needed but that the standard should be revised to require continuous opacity monitoring.

DATES: Comments must be received by December 21, 1979.

ADDRESS: Comments should be submitted to the Central Docket Section (A-130), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Attention: Docket No. A-79-19.

The document, "A Review of Standards of Performance for New Stationary Sources—Portland Cement Industry" (EPA-450/3-79-012), is available upon request from Mr. Robert Ajax (MD-13), Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Ajax, telephone: (919) 541-5271.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1971, the Environmental Protection Agency proposed a standard under Section 111 of the Clean Air Act to control particulate matter emissions from portland cement plants. The standard, promulgated on December 23, 1971, applies to any facility constructed or modified after August 17, 1971, which manufactures portland cement by either the wet or dry process. Specific affected facilities are the: kiln, clinker cooler, raw mill system, finish mill system, raw mill dryer, raw material storage, clinker storage, finished product storage, conveyor transfer points, bagging, and bulk loading and unloading and unloading systems.

The standard prohibits the discharge into the atmosphere from any kiln any gases which:

1. Contain particulate matter in excess of 0.15 kg/Mg (0.30 lb/ton) feed to the kiln, or

2. Exhibit greater than 20 percent opacity.

The standard prohibits the discharge into the atmosphere from any clinker cooler any gases which:

1. Contain particulate matter in excess of 0.050 kg/Mg (0.10 li/ton) feed (dry basis) to the kiln, or

2. Exhibit 10 percent opacity or greater.

The standard prohibits the discharge into the atmosphere from any affected facility other than the kiln and clinker cooler any gases which exhibit 10 percent opacity, or greater.

The Clean Air Act Amendments of 1977 require that the Administrator of the EPA review and, if appropriate, revise established standards of performance for new stationary sources at least every 4 years [Section 111(b)(1)(B)]. This notice announces that EPA has undertaken a review of the standard of performance for portland cement plants. As a result of this review, EPA has concluded that the present particulate emission limit is appropriate, and does not need revision. However, a provision to require opacity monitoring should be added. In addition, EPA is, however, planning to undertake a program, in its Office of Research and Development, to investigate and demonstrate methods such as combustion modifications which could reduce NO_x emissions from combustion used in process sources such as cement plants. Positive results from this program would form the basis for a possible revision to the standard in 1982 or 1983. Comments on these findings and plans are invited.

Findings

Industry Status

Capacity. There are currently 53 cement companies producing portland cement in the U.S. The 53 companies operate 158 cement plants throughout the U.S. with single plant capacity ranging from 50,000 Mg to 2,161,000 Mg per year. The industry also includes 8 plants with only clinker grinding facilities which use either an imported or domestic clinker as feed material. Cement plants are found in nearly every State because of the high cost of transportation. The actual clinker capacity of these plants is also distributed throughout the U.S., although some regions have little capacity due to a lack of demand; and although many areas of the Country are presently experiencing cement shortages and delays, announced capacity increases in these areas are still small.

Energy Considerations. The portland cement industry is very energy intensive with energy costs accounting for approximately 40 percent of the cost of cement. Accordingly, significant emphasis in the industry is on increasing energy efficiency. For this reason, almost all new and planned construction will use the dry process which can be twice as energy efficient as the wet process. Additional savings can be

V 4 4 0 C 2 2 7 9 UMI

realized by using preheaters, especially suspension preheaters.

These process changes have both positive and negative effects on particulate emissions. The replacement of wet process units with dry process units increases potential emissions, particularly in the grinding, mixing, blending, storage, and feeding of raw materials to the kiln. The suspension preheater, on the other hand, tends to decrease particulate emissions due to its multicyclone construction. It also ensures more thorough contact of the kiln exhaust gases with the feed material which may increase sorption of sulfur oxide from the exhaust on the feed.

Economic Considerations. Almost all cement produced is utilized by the construction industry. As a result, the production of cement follows the cyclical pattern of the construction industry. Relatively high cement production has occurred during periods of growth in new home and other construction markets, and production has decreased in such periods of recession as occurred in 1973–1975.

In contrast, over the short term, production capacity has not closely paralleled actual production. This is due apparently to the lead time required to add capacity, to the difficulty in accurately predicting future demand, and to economic and other factors including the effect of pollution control requirements on the closure of old, marginal plants.

An examination of production and capacity over the past 10 years suggests the difficulty which the industry has experienced in attempting to meet demand while avoiding excess capacity. In the early 1970's, utilization of production capacity was greater than 90 percent. However, wage and price controls were in effect from 1971 to 1973 during which time the industry experienced its lowest profit margin since the 1930's. New plant construction was postponed while some older plants were being closed. As a result, regional cement shortages occurred in 1972–1973. When price controls were removed in 1973, the price of cement jumped 14 percent and some new capacity construction was begun. Shortly thereafter, the Country entered a recession and cement production fell to 70 percent of capacity.

The cyclic occurrence of high demand exceeding capacity has been evidenced again in the past several years. The rapid growth in the construction industry since 1975 has increased the demand for cement and parts of the U.S. have seen shortages, particularly in the West. At the same time, the industry has not rapidly added new capacity, although the Bureau of Mines projects high demand in the early 1980's.

In considering whether pollution control costs influenced the recent lag in capacity, the Council on Wage and Price Stability concluded that:

> . . . the added pollution control costs do change the way a firm would consider a new investment decision by making larger price increases necessary for the expenditures to be committed. this does not mean that the imposition of these controls has necessarily cause any reduction in new capacity expenditures in the cement industry. However, this analysis does leave open the possibility that an investment decision could be changed for a marginal plant because of pollution control costs (particularly a plant selling cement for $40 per ton and using a 12 percent rate of return). (*Prices and Capacity Expansion in the Cement Industry*, Council on Wage and Price Stability, Washington, D.C., 1977.)

Since cement is already selling for as high as $53 per ton on the West Coast, it is very likely that capital investment will not be stifled by pollution control expenditures.

Emission Control Status

Fifty-one cement kilns and clinker coolers have been identified which are operating and are subject to the new source performance standard. Of these, 49 are in compliance with 0.15 kg/Mg kiln feed (kiln) and 0.05 kg/Mg kiln feed, (cooler) emission limits. One completed kiln has only recently been tested and data are not available; and one facility has notified its State authority that it cannot meet the standards. Also, five cement kilns potentially subject to the standard were identified for which data were not available. The number of sources with other NSPS-affected facilities was not determined, although there are none reported that are not in compliance with the applicable 10 percent opacity standard.

For the 29 kilns and 20 clinker coolers which were in compliance, the kiln test results averaged 0.073 kg/Mg and ranged from a high of 0.142kg/Mg feed to a low of 0.013kg/Mg feed. The range for kilns with emissions controlled by ESP is 0.142 to 0.020 kg/Mg, and for kilns with fabric filter baghouses the range is 0.132 to 0.013 kg/Mg dry kiln feed. The data indicate that neither the ESP nor the baghouse is significantly better at controlling cement kiln particulate matter emissions.

Cement plant clinker coolers have been tested at emission levels ranging from a high of 0.061 kg/Mg to a low of 0.005 kg/Mg dry kiln feed with a mean of 0.024 kg/Mg. Compliance test data on a single wet scrubber show emissions near the mean emission level for fabric filter baghouse controls (0.022 kg/Mg). Data for affected facilities using gravel bed filters indicate a mean emission level of 0.034 kg/Mg dry feed (0.023–0.045kg/Mg).

The compliance test data were analyzed to determine if the type of control technology, the process type (i.e., wet or dry), or interaction of process type and control technology affected the ability to control the emission of particulate matter from portland cement kilns or clinker coolers. This analysis indicates that no control technology in use today is more effective for controlling particulate matter emissions. Although comparison of mean values indicates that the possibility that emissions from dry process kilns are controlled slightly more effectively than wet process kilns, the difference is not statistically significant.

Nitrogen Oxide Emissions

Cement kilns are a very large and presently unregulated source of nitrogen oxides (NO_x) emissions. Based upon estimated NO_x emissions of 1.3 kg/Mg of cement produced and 71.4 million Mg of portland cement produced in 1977, an estimated 93,000 Mg of NO_x were emitted by portland cement plants that year. The main factors that result in the production of NO_x are the flame and kiln temperature, the residence time that combustion gases remain at this temperature, the rate of cooling of these gases, and the quantity of excess air in the flame. Control of these factors may permit the operator to sharply reduce the emission of NO_x, but such practices have not been demonstrated in cement plants for NO_x emissions.

Opacity Monitoring

When the NSPS for portland cement plants was established in 1971 no provisions were included to require continuous monitoring of opacity. This was, in part, because the presence of water vapor in the exhaust gases from wet-process facilities would affect monitor accuracy. In addition, monitoring systems had not been demonstrated at baghouse controlled facilities where stack gases are emitted from roof monitors or multiple stub stacks. However, since the standard was adopted, a monitoring system has been demonstrated at a steel plant utilizing baghouse controls and stub stacks.

Conclusions

On the basis of the findings which are summarized above, EPA has concluded that the current particulate matter standards are appropriate and effective and that no revision is needed. While the compliance test data do show that the mean results are well below the standards, the range of data suggest that the standard is set at a level which reflects the performance of the best systems of emission reduction.

However, it is concluded that the standard should be revised to include provisions requiring the continuous monitoring of opacity. This conclusion is based upon the demonstration of opacity monitors on baghouse stub stacks and on the shift in the portland cement industry toward the dry process, as well as EPA's belief that continuous monitoring represents an important and effective means for assuring proper operation and maintenance of particulate matter control equipment. Adoption of any opacity monitoring requirement will be preceded by a proposal and the opportunity for public comment. The Agency expects to undertake development and to propose this revision during 1980.

It is also concluded that the lack of demonstrated control technology and an emission limitation for NO_x is an important deficiency. The Agency is therefore planning to evaluate, develop, and demonstrate means for limiting NO_x emissions. This program, which will include other industrial process fuel users, will be aimed at transferring technology being employed to control NO_x emissions from steam generators. If this proves successful, the results will be used as a basis for development of NO_x standards.

Public Participation

All interested persons are invited to comment on this review, the conclusions, and EPA's planned action.

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

[FR Doc. 79-32566 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 707

[OTS-120001; FRL 980-8]

Exports of Toxic Substances; Notification of Export under Section 12(b)

Correction

In FR Doc. 79-30526, published at page 56856, on Tuesday, October 2, 1979. The subject heading at the beginning of the document "Notification of Export for Polychlorinated Biphenyls and Fully Halogenated Chlorofluoralkanes" was incorrect and should read as set forth above.

BILLING CODE 1505-01-M

---

40 CFR Part 710

[OTS-80006; FRL 1337-4]

Toxic Substances Control Act; Proposed Amendment to Inventory Reporting Requirements

AGENCY: Environmental Protection Agency.

ACTION: Proposed amendment; notice of opportunity for comment.

SUMMARY: The Administrator proposes to amend 40 CFR 710.1(c) of the "Inventory Reporting Requirements" to specify January 1, 1983, as the date after which records, required to be kept to document information reported for the inventory, need not be retained.

DATES: Written comments must be received on or before December 21, 1979.

ADDRESS: Written comments should bear the document control number OTS-80006 and should be submitted to the U.S. Environmental Protection Agency, Office of Toxic Substances, Chemical Information Division (TS-793), 401 M Street, SW, Washington, DC 20460, Attention: Document Control Officer. All written comments concerning this notice will be available for public inspection in the Office of Toxic Substances, Room 447 East Tower from 9 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Industry Assistance Office, Office of Toxic Substances (TS-799), Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; or call 800-424-9065, or, in Washington, call 554-1404.

SUPPLEMENTARY INFORMATION:

Authority and General Purpose

On December 23, 1977, EPA published the Inventory Reporting Requirements (40 CFR Part 710, 42 FR 64572), under section 8(a) of the Toxic Substances Control Act, (15 U.S.C. Section 2601 *et seq.*). Persons who report under these regulations must maintain records that document information reported for the inventory. However, the regulations fail to specify the length of time for which the required records must be kept. This omission has been the subject of some concern in the regulated community. This amendment clarifies this issue by specifying January 1, 1983, as the final date after which these records need not be kept.

The purpose of the recordkeeping requirement is to aid the Agency in monitoring compliance with the Inventory reporting requirements. The effect of the Janaury 1, 1983 deadline is to provide a five-year retention period for those persons who reported for the initial inventory beginning on January 1, 1978, and a shorter retention period of not less than three years for those processors and importers who report additional substances for the revised inventory. The Janaury 1, 1983 date was selected because the resulting retention periods were found by the Office of Enforcement to represent an adequate time for pursuing both affirmative and responsive enforcement of the Inventory Reporting Requirements. The date is also consistent with the intent expressed in the March 6, 1978, Federal Register (43 FR 9254) to provide for such a retention period.

Specialized Regulation Notice

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and therefore subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized". I have reviewed this regulation and have determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

The above classification is based upon a determination that the regulation is a minor amendment to an existing regulation.

It is therefore proposed to amend 40 CFR 710.1(c) to read as set forth below.

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

Section 710.1(c) is amended to read as follows:

§ 710.1 Scope and compliance.

* * * * *

(c) Each person who reports under these regulations shall maintain records that document information reported under these regulations and, in accordance with the Act, permit access to, and the copying of, such records by EPA officials. Records required to be maintained under these regulations must be kept until January 1, 1983.

(Sec. 8(a), Pub. L. 94-469, 90 Stat. 2027 (15 U.S.C. 2607(a)))

[FR Doc. 79-32487 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

V 4 4 0 C 2 2 7 9 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 9230

Proposed Trespass Penalties

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent to propose rulemaking.

SUMMARY: This is to give public notice that the Bureau of Land Management is considering a proposed rulemaking to amend 43 CFR Part 9230—Trespass, to require that persons who trespass for coal and other minerals on Federal lands pay for damages to the mineral estate and reclaim the lands affected or pay for such reclamation. The Bureau of Land Management solicits any comments and suggestions from the public on the form and content of such regulations.

DATE: Comments by November 21, 1979.

ADDRESS: Send comments to: Director (650), Bureau of Land Management, 1800 C Street, N.W., Washington, D.C. 20240. Comments will be available for public review in Room 5555 of the above address during regular working hours (7:45 a.m.–4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Walter Rewinski, 202/343–6821 or Ann Vance, 202/343–4803.

SUPPLEMENTARY INFORMATION: Mineral trespass is defined in 43 CFR Part 9230 as the extraction, severance, injury, or removal of mineral materials from public lands under the jurisdiction of the Department of the Interior. This definition and the regulations in 43 CFR Part 9230 apply to all federally owned mineral resources under the jurisdiction of the Department, including Federal mineral resources underlying surface administered by another Federal agency or surface not in Federal ownership.

The Bureau of Land Management is presently investigating numerous cases of Federal coal trespass in Alabama. Current 43 CFR Part 9230 regulations do not address several situations identified during these investigations. The current trespass regulations require trespassers to pay for federally owned mineral resources that are actually removed in trespass. However, the current regulations do not require trespassers to pay for mineral or other resources damaged during the illegal removal of federally owned resources. Moreover, although other regulations promulgated by the Department and State agencies require the reclamation of lands disturbed by mining operations, current trespass regulations do not address the reclamation of land mined in trespass.

The Bureau of Land Management is considering drafting proposed rulemaking to update the current 43 CFR Part 9230 regulations to require trespassers to pay for damage to the mineral estate and to reclaim the lands affected or pay for such reclamation. Comments and suggestions should address the merits or deficiencies of the current regulations and the form and content of any proposed revisions.

Dated: October 11, 1979.

Guy. R. Martin,

Assistant Secretary of the Interior.

[FR Doc. 79-32489 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-84-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Chapter X

Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance From the Community Services Administration

AGENCY: Community Services Administration.

ACTION: Proposed Rules.

SUMMARY: The Community Services Administration proposes specific regulations to carry out its responsibilities under the Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, and the recently published final general government-wide regulations published by HEW in the **Federal Register** on June 12, 1979 (44 FR 33768). The Age Discrimination Act of 1975 prohibits discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act also contains certain exceptions which permit age distinctions and factors other than age to continue in use under certain circumstances. The Act applies to persons of all ages.

DATES: Comments must be received on or before December 21, 1979.

ADDRESS: Send comments to: Ms. Mosina Jordan, Associate Director for Human Rights, Community Services Administration, 1200 19th Street, NW., Room 500, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Diamond, Office of Human Rights, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Phone No. (202) 653–5675.

SUPPLEMENTARY INFORMATION:

Basic Policy Statement

As an agency whose mission is to combat poverty, CSA is acutely aware of the need for meaningful civil rights legislation and effective Federal regulations to ensure that the various groups of individuals who have been denied the benefits of Federal programs in the past are given an equal opportunity to participate in those same programs today. There is, indeed, a direct correlation between discrimination on the one hand and poverty on the other. As long as people are denied the right to participate in Federally assisted programs designed for the general population because of their race, sex, age, national origin or any other protected status, this nation will be unable to eliminate its poverty and CSA will continue to fight an uphill battle. CSA is committed to ending discrimination in Federally assisted programs on account of age—especially on account of advancing age and where possible, will subject age distinctions to strict scrutiny.

Proposed CSA Regulation

CSA is proposing minimal regulations to implement the above procedures. CSA's proposed regulations are divided into five subparts: Subpart A—General; Subpart B—Standards for Determining Age Discrimination; Subpart C—Duties of CSA Grantees; Subpart D—Compliance Review, Complaint Process and Investigation; Subpart E—Procedure for Effecting Compliance.

The next sections of this preamble summarize the contents of each of those subparts.

Subpart A—General

Subpart A explains the purpose of CSA age discrimination regulations, which is to set out CSA policies and procedures under the Act and the government-wide regulations. The regulations apply to any program or activity receiving Federal financial assistance from CSA. Subpart A also defines terms used in the proposed CSA regulations which were not defined in the government-wide regulations.

Subpart B—Standards for Determining Age Discrimination

Subpart B sets standards for CSA grantees which reflect the standards set out in the government-wide regulations (primarily Subpart B). CSA will use the standards in the government-wide regulations to determine whether an age distinction is prohibited. The government-wide regulations permit a grantee to provide special benefits to the elderly or to children as part of a program serving persons of all ages, provided the action does not have the effect of excluding otherwise eligible persons from participation. A grantee may also take voluntary affirmative action to overcome the effect of conditions that have resulted in limited participation in the grantee's program on the basis of age.

Subpart C—Duties of CSA Grantees

CSA grantees have primary responsibility to ensure that their programs and activities are in compliance with the Act, the government-wide regulations and these regulations. Where a CSA grantee passes on financial assistance to delegates, the grantee must notify delegates of their obligations under the proposed CSA regulations.

Each grantee (and each delegate where appropriate) employing the equivalent of 15 or more full-time employees must complete a written self-evaluation of its compliance with the proposed CSA regulations. The self-evaluation must identify and justify each age distinction the grantee imposes on the program receiving Federal financial assistance from CSA. If the self-evaluation reveals a violation of the Act, the government-wide regulations and these regulations, the grantee must take corrective action. The grantee must keep the self-evaluation and make it available upon request to CSA and the public. Each CSA grantee must make available upon request to CSA information necessary to determine whether the grantee is in compliance with these regulations. Grantees must also permit reasonable access by CSA to books and records to the extent necessary to determine compliance with this part.

Subpart D—Compliance Review, Complaint Process and Investigation

Subpart D of the proposed regulations establishes the procedures CSA will use for compliance reviews, complaint processing and investigations of complaints.

CSA may conduct compliance and pre-award reviews of grantees, even in the absence of a complaint against the grantee. The review may be as comprehensive as necessary to determine whether a violation has occurred.

Complaints of age discrimination may be filed with CSA by an individual or a class or by a third party. A complainant must file a complaint within 180 days from the date the complainant first knew of the alleged act of discrimination although CSA may extend this time limit for good cause. A complaint must identify the parties involved, describe generally the practice complained of, and be signed by the complainant. CSA will distribute information regarding the obligations of grantees under these regulations. The information will include a complaint form that a person may use when alleging a violation. CSA will permit a complainant to add information to a complaint when necessary to meet the requirements of a sufficient complaint. CSA will return to the complainant any complaint that does not fall within the jurisdiction of this part.

CSA will use the procedures for the mediation of age discrimination complaints set out in Subpart D of the government-wide regulations.

CSA will investigate complaints that are unresolved after mediation or are reopened because the mediation agreement is violated. If mediation does not bring about a resolution of the complaint, CSA will begin to develop formal findings through further investigation of the complaint.

A grantee may not intimidate or retaliate against any person who attempts to exercise a right protected by this part or who participates in any aspect of the proceedings to resolve allegations of age discrimination.

Subpart E—Procedure for Effecting Compliance

The procedures for securing compliance with the Act and these regulations are taken from the government-wide regulations, including fund termination after an opportunity for a hearing on the record and referral to the Department of Justice or the use of any Federal, State or local government agency requirement which has the effect of correcting a violation. These regulations include a provision for the limited deferral of new Federal financial assistance from CSA when termination proceedings are initiated.

Where the Director finds that a grantee has discriminated on the basis of age, he or she may require the grantee to take necessary remedial action to overcome the effects of the discrimination. When CSA withholds funds from a grantee, the Director may disburse those funds to an alternate grantee. The alternate grantee must demonstrate the ability to comply with Part 1011.80 and to achieve the goals of the Federal statute which authorizes the financial assistance.

Complainants may file civil actions when administrative remedies are exhausted. Administrative remedies are exhausted if either 180 days have elapsed since the complainant filed the complaint and CSA has made no finding, or if CSA issues a finding in favor of the complainant. The proposed regulations repeat the requirements of the Act concerning the private right of action.

These proposed regulations are based on the government-wide age discrimination regulations (published at 44 FR 33767; June 12, 1979). The government-wide regulations set out definitions and the standards for determining what is age discrimination and what CSA must include in their specific regulations. CSA may not change the definitions and standards set forth in the government-wide regulations. Therefore, CSA asks reviewers not to comment on those definitions or standards, but to direct any comments to the new material in CSA's specific regulations. CSA will not respond to comments on requirements in the final, government-wide regulations.

Graciela (Grace) Olivarez,

Director, Community Services Administration.

45 CFR Chapter X is amended by adding a new Part 1011 to read as follows:

PART 1011—NONDISCRIMINATION ON THE BASIS OF AGE IN CSA PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.
1011.1 Purpose.
1011.2 Applicability.
1011.3 Definitions.

Subpart B—Standards for Determining Age Discrimination

1011.11 Rules against discrimination.
1011.12 Exceptons to the rules against age discrimination. Normal operation or statutory objective of any program or activity.
1011.13 Exceptions to the rules against age discrimination. Reasonale factors other than age.

Subpart C—Duties of CSA Grantees

1011.31 General responsibilities.
1011.32 Self-evaluation.
1011.33 Information requirements.

Subpart D—Compliance Review, Complaint Process and Investigation

1011.41 Compliance reviews.
1011.42 Complaint Process—Local Complaint Procedures.
1011.43 Compliant Process—CSA Complaint Procedures.
1011.44 Complaint Process—Mediation.
1011.45 Investigation.
1011.46 Prohibition against intimidation and retaliation.

Subpart E—Procedure for Effecting Compliance

1011.51 General.
1011.52 Termination of or refusal to grant or to continue financial assistance.

Sec.
1011.53 Remedial and affirmative action.
1011.54 Alternate funds disbursal procedure.
1011.55 Hearings.
1011.56 Decisions and notices.
1011.57 Exhaustion of administrative remedies.
Appendix A—Federal Financial Assistance to Which This Part Applies—Funding Authorities Under the Economic Opportunity Act of 1964, as Amended
Appendix B—CSA Activities

Authority: The provisions of this part are proposed under the Age Discrimination Act of 1975, 42 U.S.C. 6101 *et seq.*, and the government-wide regulations implementing this Act found at 45 CFR Part 90.

Subpart A—General

§ 1011.1 Purpose.

The purpose of these regulations is to set out CSA's policies and procedures under the Age Discrimination Act of 1975 and the government-wide age discrimination regulations prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance. The Act and the government-wide regulations permit recipients of Federal funds to continue to use age distinctions and factors other than age which meet the requirements of the Act and the government-wide regulations.

§ 1011.2 Applicability.

(a) This part applies to all grantees and their delegate agencies receiving financial asssistance from CSA.

(b) The Age Discrimination Act of 1975 applies to any program or activity receiving Federal financial assistance, including programs or activities receiving funds under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221 *et seq.*).

(c) The Age Discrimination Act of 1975 does not apply to:

(1) An age distinction contained in that part of a Federal, State or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons based on age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practice of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving Federal financial assistance for public service employment under the Comprehensive Employment and Training Act of 1974 (CETA), (29 U.S.C. 801 *et seq.*).

§ 1011.3 Definitions.

(a) The following terms in these regulations are defined in the government-wide regulations:

"Act" means the Age Discrimination Act of 1975, as amended, (Title III of Public Law 94–135). "Action" means any act, activity, policy, rule, standard, or method of administration; or the use of any policy, rule, standard, or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily imply a particular age or range of age (for example, "children," "adult," "older persons," but not "student").

"Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objectives.

"Statutory objective" means any purpose of a program or activity expressly stated in any Federal statute, State statute, or local statute or ordinance adopted by an elected, general purpose legislative body.

(b) As used in these regulations, the definitions are:

"CSA" means the Community Services Administration and includes all of its organizational units.

"Director" meand the Director of the Community Services Administration.

"Associate Director for Human Rights" means the CSA official responsible for implementing and enforcing CSA's Civil Rights program.

"Responsible CSA official" with respect to any program receiving Federal financial assistance means the Director or other official of CSA who by law or by delegation has the principle responsibility within CSA for the administration of the law extending such assistance.

"United States" means the states of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and the Territories and possessions of the United States, and the term "State" means any one of the foregoing.

"Federal financial assistance" includes: (1) Grants, loans, or donation of Federal funds, (2) The grant or donation of Federal property and interest in property,

(3) The detail of Federal personnel, (4) The sale or lease of, or the permission to use (on other than a casual or transient basis) Federal property or any interest in such property without consideration, at a normal consideration, or at a consideration which is reduced for the purpose of assisting the grantee, and

(5) Any Federal agreement, arrangement, or other contract which has as one of its purposes, the provison of assistance.

"Program" includes any program, project, or activity for the provision of services, financial aid, or other benefits to individuals (including education or training, health, welfare, rehabilitation, housing, or other services, whether provided through an employee of the grantee or provided by others through contracts or other arrangements with the grantee, and including work opportunities and cash or loan or other assistance to individuals), or for the provision of facilities for furnishing services, financial aid or other benefits to individuals. The services, financial aid, or other benefits provided under a program receiving Federal financial assistance shall be deemed to include any services, financial aid, or other benefits provided with the aid of Federal financial assistance or with the aid of any non-Federal funds, property, or other resources required to be expended or made available for the program to meet matching requirements or other conditions which must be met in order to receive the Federal financial assistance, and to include any services, financial aid, or other benefits provided in or through a facility provided with the aid of Federal resources or such non-Federal resources.

"Facility" includes all or any portion of structures, equipment, or other real or personal property or interests therein. The provision of facilities includes the construction, expansion, renovation, remodeling, alteration or acquisition of facilities.

"Grantee" means any state, political subdivision, instrumentality of any state or political subdivision, any public or private agency, institution, organization, or other entity, or any individual, in any state, to whom Federal financial assistance is extended directly or through another grantee. Such term does not include any ultimate beneficiary under a federally assisted program.

"Grantee Board" means the entity responsible for the administration of funds received pursuant to the Economic Opportunity Act of 1964, as amended.

"Applicant" means one who submits an application, request, or plan required to be approved by CSA or by a grantee as a condition of eligibility for Federal financial assistance. The term "application" means any such application, request or plan.

"Delegate" means any of the entities in the definition of "grantee" to which a grantee extends or passes on Federal financial assistance. A delegate is generally regarded as a recipient of Federal financial assistance and has all the duties of a grantee under these regulations.

Subpart B—Standards for Determining Age Discrimination

§ 1011.11 Rules against discrimination.

(a) The rules stated in this section are limited by the exceptions contained in §§ 1011.12 and 1011.13 of these regulations.

(b) General rule: No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving Federal financial assistance.

(c) Specific rules: A grantee may not, in any program or activity receiving Federal financial assistance, directly or through contractual, licensing, or other arrangements use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving Federal financial assistance, or

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving Federal financial assistance.

(d) The specific forms of age discrimination listed in paragraph (c) of this section do not necessarily constitute a complete list.

§ 1011.12 Exceptions to the rules against age discrimination, normal operation or statutory objective of any program or activity.

(a) A grantee is permitted to take an action, otherwise prohibited by § 1011.11, if the action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity. An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of any statutory objective of a program or activity, if:

(1) Age is used as a measure or approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

§ 1011.13 Exceptions to the rules against age discrimination reasonable factors other than age.

A grantee is permitted to take an action otherwise prohibited by § 1011.11 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation of the program or activity or to the achievement of a statutory objective.

Subpart C—Duties of CSA Grantees

§ 1011.31 General responsibilities.

(a) Each CSA grantee has primary responsibility to ensure that its programs and activities are in compliance with the Act, the government-wide regulations and these regulations. A grantee also has responsibility to maintain records, provide information, and to afford access to its records to CSA, to the extent required to determine whether it is in compliance with the Act and these regulations.

(b) Where a CSA grantee passes on financial assistance to a delegate agency, the grantee must notify the delegate of its obligations under the CSA regulations.

§ 1011.32 Self-evaluation.

(a) Each grantee employing the equivalent of 15 or more full-time employees shall complete a written self-evaluation of its compliance under the Act within 18 months of the effective date of these regulations and at each application thereafter for financial assistance under the Economic Opportunity Act of 1964, as amended.

(b) In its self-evaluation, each grantee shall identify and justify each age distinction imposed by the grantee receiving Federal financial assistance from CSA.

(c) Each grantee shall take corrective action whenever a self-evaluation indicates a violation of the Act or these regulations.

(d) Each grantee shall make the self-evaluation available on request to CSA and to the public.

§ 1011.33 Information requirements.

(a) Each grantee shall:

(1) Make available upon request to CSA information necessary to determine whether the grantee is complying with the Act and these regulations.

(2) Permit reasonable access by CSA to the books, records, accounts, and other grantee facilities and sources of information to the extent necessary to determine whether the grantee is in compliance with the Act and these regulations.

Subpart D—Compliance Reviews, Complaint Process and Investigation

§ 1011.41 Compliance reviews.

(a) CSA may conduct compliance reviews and pre-award reviews of grantees or use other similar procedures that will permit it to investigate and correct violations of the Act and these regulations. CSA may conduct these reviews even in the absence of a complaint against a grantee. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of the Act or these regulations, CSA will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, CSA will arrange for enforcement as described in § 1011.51.

§ 1011.42 Complaint process—local complaint procedures.

(a) *Submission of an Equal Opportunity Complaint.* Any person, individually or as a member of a class or on behalf of others, may file a complaint alleging discrimination prohibited by the Act or these regulations based on an action occurring on or after July 1, 1979 with the Equal Opportunity Officer (EOO) of the grantee not more than 180 calendar days from the date the complainant first had knowledge of the alleged act of discrimination. A copy of the complaint shall be immediately mailed to the Associate Director for Human Rights or his/her designee by the Equal Opportunity Officer.

(b) *Resolution and decision by the grantee. AT* (1) The EOO shall make every effort to resolve the complaint informally. The EOO shall, if requested by the complainant, assist in discussions with any party to the complaint and may take other steps which may assist in the resolution of the complaint.

(2) The aggrieved person has the right to be accompanied, represented and advised by a representative or attorney of his/her choice. If the aggrieved person or the representative is an employee of the agency, he/she shall be given a reasonable amount of working time to prepare and present his/her

V 44 0C 22 79 UMI

request for a resolution of the complaint. These procedures shall be included in the grantee's personnel policies and must be approved by the appropriate CSA official.

(3) The EOO shall have 21 days to attempt to resolve the complaint before CSA will begin processing the complaint, if it has been filed with CSA or CSA otherwise assumes jurisdiction.

(4) The EOO shall be given access within the grantee to any information necessary for resolving the complaint.

(5) The EOO shall inform the complainant of the right to file a formal complaint with CSA and any other appropriate Federal, State and local civil rights agencies.

(6) Nothing in this subpart should be construed to mean that a complainant cannot file a complaint directly with CSA at any time. However, the complaint will be referred to the grantee for resolution if the complainant cannot justify why he/she by-passed the grantee process.

(c) *Reports on Grantee Efforts at Resolution.* (1) When the EOO has completed attempts to resolve the complaint, a report shall be prepared, setting out a summary of the complaint, the preliminary inquiry and the disposition of the complaint, indicating the basis for the disposition.

(2) Copies of the report shall be given to the grantee's board, the complainant and to the Office of Human Rights. A report shall be forwarded within 21 days of the filing of a complaint, regardless of the disposition of the complaint.

§ 1011.43 Complaint process—CSA Complaint procedures.

(a) *Filing of Complaint with CSA.* (1) If the result of the procedures outlined in Section 1011.42 is unsatisfactory to the complainant, a formal complaint may be filed within 10 calendar days of receipt of the report of the EOO.

(2) A complainant may file a complaint directly with CSA. However, no complaint will be investigated if not received by CSA or the local EOO within 180 days of the date of the alleged discrimination, unless the time for filing is extended for good cause by the Associate Director for Human Rights or his/her designee. If a complaint is filed with the local EOO and CSA, CSA shall not begin processing the complaint until the 21 days set forth § 1011.43(b)(3) have expired.

(3) CSA will attempt to facilitate the filing of complaints wherever possible, including taking the following measures:

(i) Accepting as a sufficient complaint, any written statement which identifies the parties involved and the date the complainant first had knowledge of the alleged violation, describes generally the action or practice complained of, and is signed by the complainant.

(ii) Freely permitting a complainant to add information to the complainant to meet the requirements of a sufficient complaint.

§ 1011.44 Complaint process—Mediation.

(a) Within 10 days of receipt of a complaint, the Associate Director for Human Rights or his/her designee shall refer to the Federal Mediation and Conciliation Service (FMCS) all complaints that:

(1) Fall within the jurisdiction of the Act and these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the grantee shall participate in the mediation process to the extent necessary to reach an agreement or make an informal judgment that an agreement is not possible. There must be at least one meeting with the mediator before CSA will accept a judgment that an agreement is not possible. However, the grantee and the complainant need not meet with the mediator at the same time.

(c) If the complainant and the grantee reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and grantee sign it. The mediator shall send a copy of the agreement to CSA. CSA will take no further action on the complaint unless the complainant or the grantee fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of the mediation process without prior approval of the head of the mediation agency.

(e) CSA will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapse from the time CSA receives the complaint; or

(2) Prior to the end of that 60 day period, an agreement is reached; or

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

(f) The mediator shall return unresolved complaints to CSA.

(g) In the event that CSA receives a complaint alleging discrimination on account of age and another protected class (e.g. race, color, national origin, sex, creed, political affiliation, or beliefs), CSA will submit the entire complaint to the FMCS to allow for an expeditious resolution of the entire complaint.

§ 1011.45 Investigation.

(a) The Associate Director from Human Rights or his/her designee shall initiate the investigation of complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement.

(b) The grantee shall be notified that it may at any time prior to CSA's findings make a documentary submission responding to, rebutting, or denying allegations raised in the course of the complaint investigation.

(c) Within 180 days of the initiation of a complaint investigation, the Associate Director for Human Rights or his/her designee shall notify the grantee in writing of:

(1) The preliminary findings;

(2) Recommendations for achieving voluntary compliance, where appropriate; and

(3) The opportunity to engage in voluntary compliance negotiations, where appropriate.

(d) If within 50 days of CSA's recommendation for achieving voluntary compliance, the recommendations have not been agreed to, voluntary compliance has not been secured, or the preliminary findings have not been shown to be false, the Associate Director for Human Rights shall make a formal written determination of noncompliance. This determination shall be made no later than 14 days after the conclusion of the 50-day negotiation period.

(e) If the Associate Director for Human Rights makes a formal determination of noncompliance, the grantee will be allowed an additional 10 days in which to come into voluntary compliance. If voluntary compliance has not been secured within the 10-day period, the Director shall institute proceedings under Subpart E.

(f) All agreements to come into voluntary compliance shall be in writing, shall set forth the specific steps the grantee has agreed to take, and shall be signed by the Associate Director for Human Rights and an official of the grantee with authority to legally bind the grantee.

§ 1011.46 Prohibition against intimidation or retaliation.

No grantee shall intimidate, retaliate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by the Age Discrimination Act, 42 U.S.C. 6101 *et seq.*, the government-wide regulations implementing this Act,

45 CFR Part 90, or this part, or because he/she has made a complaint, testified, assisted, or participated in any manner in any investigation, proceeding or hearing under this part. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any preliminary inquiries thereunder.

Subpart E—Procedure for Effecting Compliance

§ 1011.51 General.

(a) If there appears to be a failure or threatened failure to comply with this part, and if the noncompliance or threatened noncompliance cannot be corrected by informal means, compliance with this part may be effected by the suspension or termination of or refusal to grant or to continue Federal financial assistance or by any other means authorized by law. Such other means may include, but are not limited to, a referral to the Department of Justice with a recommendation that appropriate proceedings be brought to enforce any rights of the United States under any applicable law of the United States or any assurance or other contractual undertaking.

(b) If an applicant fails or refuses to furnish an assurance required under Subpart C or otherwise fails or refuses to comply with a requirement imposed by or pursuant to that subpart, Federal financial assistance may be refused in accordance with the procedures of this subpart.

(c) The Agency may defer action on applications for assistance to the grantee or applicant during the pendency of enforcement proceedings under this subpart.

§ 1011.52 Termination of or refusal to grant or to continue financial assistance.

(a) No order suspending, terminating or refusing to grant or continue Federal financial assistance for failure to comply with this part shall become effective until:

(1) The Associate Director for Human Rights or his/her designee has advised the applicant or grantee of its failure to comply and has determined that compliance cannot be secured by voluntary means;

(2) There has been an express finding on the record, after opportunity for a hearing, of a failure by the applicant or grantee to comply with a requirement imposed by or pursuant to this subpart;

(3) The action has been reviewed by the Director of CSA pursuant to § 1011.56 or he/she has had the opportunity to review and did not do so; and

(4) The expiration of 30 days after the Director of CSA has filed with the committee of the House and the committee of the Senate having legislative jurisdiction over the program involved a full written report of the circumstances and the grounds for such action. Any action to suspend or terminate or to refuse to grant or to continue Federal financial assistance shall be limited to the particular political entity, or part thereof, or other applicant or grantee as to whom such finding has been made and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been found.

(b) Voluntary compliance will be determined as not being available, if a voluntary compliance agreement is not arrived at during the period for voluntary compliance negotiations set forth by this part.

§ 1011.53 Remedial and affirmative action by grantees.

(a) Where a grantee is found to have discriminated on the basis of age, the grantee shall take any remedial action which the agency may require to overcome the effects of the discrimination. If another grantee exercises control over the grantee that has discriminated, both grantees may be required to take remedial action.

(b) Even in the absence of a finding of discrimination, a grantee may take affirmative action to overcome the effects of conditions that resulted in limited participation in the grantee's program or activity on the basis of age.

(c) If a grantee operating a program which serves the elderly or children in addition to persons of other ages provided special benefits to the elderly or to children, the provision of those benefits shall be presumed to be voluntary affirmative action provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.

§ 1011.54 Alternate funds disbursal procedure.

(a) When CSA withholds funds from a grantee under these regulations, the Director may disburse the withheld funds directly to an alternate grantee, any public or non-profit private organization or agency, or State or political subdivision of the State.

(b) The Director will require any alternate grantee to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the Federal statute authorizing the program or activity.

§ 1011.55 Hearings.

(a) *Opportunity of hearing.* Whenever an opportunity for a hearing is required by this part, reasonable notice of such hearing shall be given by registered or certified mail, return receipt requested. This notice shall advise the applicant or grantee of the action proposed to be taken, the specific provision under which the proposed action against it is to be taken, and either (1) fix a date less than 20 days after the date of such notice within which the applicant or grantee may request of the responsible CSA official that the matter be scheduled for hearing, or (2) advise the applicant or grantee that the matter in question has been set for hearing at a stated place and time. The complainant shall be advised of the time and place of the hearing. An applicant or grantee may waive a hearing and submit written information and argument for the record. The failure of an applicant or grantee to request a hearing under this section or to appear at a hearing for which a date has been set shall be deemed to be a waiver of the right to a hearing under the Act and this subpart and consent to the making of a decision on the basis of such information as is available.

(b) *Time and place of hearing.* Hearings shall be at a time and place in Washington, D.C. fixed by the responsible CSA official or his/her designee unless he/she determines for cause that another location should be selected. Hearings shall be held before a hearing officer who shall be referred to hereinafter as the hearing examiner.

(c) *Right to counsel.* In all proceedings under this section, the applicant or grantee and CSA shall have the right to be represented by counsel.

(d) *Procedures, evidence and record.* (1) The hearing, decision, and any review thereof shall be conducted in conformity with 5 U.S.C. 554–557 (Section S5–8 of the Administrative Procedure Act) and in accordance with such rules of procedure as are proper, including but not limited to giving of notices subsequent to those provided for in § 1011.52 of this section; taking of testimony, exhibits, arguments and briefs; requests for findings and other related matters. Both CSA and the applicant or grantee shall be entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the hearing examiner.

(2) Technical rules of evidence shall not apply to hearings conducted pursuant to this section, but rules or

V 44 0C 2 2 7 9 UMI

principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by the hearing examiner. The hearing examiner may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence unless dispensed with by stipulation. All decisions shall be based upon the hearing record and written findings shall be made.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with this part and the regulations of one or more other Federal departments or agencies issued under the Act, the Director may, by agreement with such other departments or agencies, provide for consolidated or joint hearings, and for the application to such hearings of rules of procedure consistent with this part. Final decisions in such cases, insofar as this subpart is concerned, shall be made in accordance with § 1011.56.

§ 1011.56 Decisions and notices.

(a) *Initial decisions.* The hearing examiner shall make an initial decision. A copy of such initial decision shall be mailed to the applicant or grantee. The applicant or grantee may within 30 days of the mailing of the intial decision file with the Director of CSA its exceptions to the inital decision. In the absence of exceptions, the Director of CSA may, on his/her own motion, within 45 days after the initial decision, serve on the applicant or grantee a notice that he/she will review the decision. Upon the filing of such exceptions or of such notice of review, the Director of CSA shall review the administrative record and initial decision, and issue his/her own decision thereon. In the absence of either exceptions or a notice of review, the initial decision shall constitute the final decision of CSA.

(b) *Final decision.* Whenever the Director of CSA makes the initial decision pursuant to paragraph (c) of this section, or whenever the hearing examiner issues an initial decision, the applicant or grantee and complainant shall be given a copy of the decision. A copy of the final decision of the Director of CSA shall be given to the applicant or grantee and the complainant.

(c) *Waived hearings.* Whenever a hearing is waived pursuant to § 1011.55(a), a decision shall be made by the Director of CSA on the record and a copy of such decision shall be given to the applicant or grantee and to the complainant.

(d) *Rulings required.* The decision of a hearing examiner shall set forth each of his/her findings, conclusions, or exceptions presented, and shall identify the requirement or requirements imposed by or pursuant to this part that the applicant or grantee has failed to comply with.

(e) *Content of orders.* The final decision may provide for suspension or termination of, or refusal to grant or continue Federal financial assistance, in whole or in part, under the program involved, and may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purpose of the Act and this part, including provisions designed to assure that no Federal financial assistance will thereafter be extended under such program to the applicant or grantee determined to have failed to comply with this part, unless and until it corrects its noncompliance and satisfies the Associate Director for Human Rights that it will fully comply with this part.

(f) *Post-termination proceedings.* (1) An applicant or grantee adversely affected by an order issued under paragraph (e) of this section shall be restored to full eligibility to receive Federal financial assistance if it satisfies the terms and conditions of that order for such eligibility or if it brings itself into compliance with this part and provides reasonable assurance that it will fully comply with this part.

(2) Any applicant or grantee adversely affected by an order issued pursuant to paragraph (e) of this section may at any time request the Associate Director for Human Rights to restore fully its eligibility to receive Federal financial assistance. Any such request shall be supported by information showing that the applicant or grantee has met the requirements of paragraph (f)(1) of this section. If the Associate Director for Human Rights determines that those requirements have been satisfied, he/she shall restore such eligibility.

(3) If the Associate Director for Human Rights denies any such request, the applicant or grantee may submit a written request for a hearing to the Director of CSA specifying why it believes such denial to have been in error. The applicant or grantee shall thereupon be given an expeditious hearing, with a decision on the record, in accordance with such rules of procedure as issued by the Director of CSA. The applicant or grantee will be restored to eligibility if it proves at a hearing that it satisfied the requirements of paragraph (f)(1) of this section. While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§ 1011.57 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint and CSA has made no finding with regard to the complaint; or

(2) CSA issues any finding in favor of the grantee.

(b) If CSA fails to make a finding within 180 days or issues a finding in favor of the grantee, CSA will:

(1) Promptly advise the complainant of this fact; and

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief; and

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States District Court for the district in which the grantee is located or transacts business;

(ii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary of Health, Education and Welfare, the Director, the Attorney General of the United States, and the grantees;

That the notice must state: The alleged violation of the Act; The relief requested; The court in which the complainant is bringing the action; and Whether or not attorney's fees are demanded in the event the complainant prevails; and

That the complainant may not bring an action if the same alleged violation of the Act by the same grantee is the subject of a pending action in any court of the United States.

Appendix A to Part 1011—Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Community Services Administration.

Appendix A—Federal Financial Assistance To Which This Part Applies Funding Authorities Under the Economic Opportunity Act of 1964, as Amended

EOA section	42 U.S.C. section	Federal financial assistance
101	2712	Research, Demonstration & Pilot Projects.
221	2808	Community Action.
222(a)(1)	2809	Community Food and Nutrition.
222(a)(2)	2809	Senior Opportunity and Services.
222(a)(3)	2809	Environmental Action.
222(a)(4)	2809	Rural Housing Development and Rehabilitation.
222(a)(5)	2809	Emergency Energy Conservation Services.
222(a)(6)	2809	Summer Youth Recreation.
222(a)(7)	2809	Demonstration Employment and Training Opportunities.
226	2813	Design and Planning Assistance Programs.
227	2814	National Youth Sports Programs.
228	2815	Consumer Action and Cooperative Programs.
230	2823	Technical Assistance and Training.
231	2824	State Agency Assistance.
232	2825	Research and Pilot Programs.
234	2827	Special Assistance.
235	2828	Demonstration Community Partnerships.
302(a)	2851	Loans to Low Income Families (Rural Loan Programs).
402	2862	Assistance for Migrant, and Other Seasonally Employed, Farmworkers and their Families.
712	2982a	Community Development Corp.
746(b)	2985e	Research and Planning (Community Economic Development).
901(a)	2995	Program and Project Evaluation.

Appendix B to Part 1011—Nondiscrimination on the Basis of Age in Program or Activities Receiving Federal Financial Assistance from the Community Services Administration.

Appendix B—CSA Activities

For the information of grantees and other reviewers, the following is a summary of activities that the government-wide regulations require of CSA. The citation in brackets is to the section of the government-wide regulations which CSA is summarizing.

(1) Review age distinctions CSA imposes on its grantees to determine whether they are permissible under the Act. CSA will publish the results of that review for public comment 12 months after CSA publishes its final regulations. [§ 90.32]

(2) Cooperate for all compliance and enforcement purposes with other Federal agencies which provide Federal financial assistance to the same grantee or class of grantees. [§ 90.33]

(3) Make annual reports to Congress describing CSA's efforts to carry out the Act. [§ 90.34]

(4) Attempt to ensure that CSA grantees comply voluntarily with the Act. [§ 90.42]

(5) Provide notice and technical assistance to CSA grantees and make available educational materials. [§ 90.43(a)]

(6) Review the effectiveness of these regulations 30 months after they become effective. [§ 90.62]

[FR Doc. 79-32585 Filed 10-19-79; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

49 CFR Parts 127, 171, 172, 173, 174, 175, 176, 177

[Docket No. HM-169; Notice No. 79-1]

Requirements for Transportation of Radioactive Materials; Extension of Comment Period

AGENCY: Materials Transporation Bureau, Research and Special Programs Administration, DOT.

ACTION: Extension of time to file comments.

SUMMARY: On January 8, 1979, the Materials Transportation Bureau (MTB) published a notice of proposed rulemaking under Docket HM-169 (44 FR 1852) pertaining to requirements for the transportation of radioactive materials. The changes were proposed to make them compatable with the latest revised international standards for transport of radioactive materials as promulgated by the International Atomic Energy Agency (IAEA). By this notice, the MTB is extending the comment period of Docket HM-169 to coincide with the extension of comment period being taken by the U.S. Nuclear Regulatory Commission (NRC), of its parallel proposal to ammend Title 10 CFR, Part 71, "Packaging of Radioactive Materials for Transport and Transportation of Radioactive Materials Under Certain Conditions" published elsewhere in this issue.

DATE: The time for filing comments is extended from October 16, 1979 to December 17, 1979.

FOR FURTHER INFORMATION CONTACT: R.R. Rawl, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Research and Special Programs Administration, DOT, Washington, D.C. 20590, phone 202-426-2311.

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy filed a petition with the NRC requesting a 90-day extension of time to file comments on the notice of proposed rulemaking dealing with standards for transport of radioactive materials. The NRC has determined that a 90-day extension is not necessary and has extended the comment period for 60-days. Since the MTB and NRC notices contain parallel proposals, the MTB believes an extension of time to file comments to Docket HM-169 is appropriate and hereby extends the comment period of this docket from October 16, 1979 to December 17, 1979.

(49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53; 49 CFR Part 1 App. A, and paragraph (a)(4) of App. A to Part 106)

Issued in Washington, D.C., on October 16, 1979.

Douglas A. Crockett,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-32573 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74-14; Notice 15]

Evaluation Plan for Federal Motor Vehicle Safety Standard No. 208, Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Announcement of NHTSA publication and request for comments.

SUMMARY: This notice announces the publication by the NHTSA of an Evaluation Plan for Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*. Safety Standard No. 208 was amended on June 30, 1977 (42 FR 34289) to require the provision of automatic restraint protection (protection that requires no action by vehicle occupants) in passenger cars, on a phased-in basis beginning September 1, 1981. The Evaluation Plan consists of a series of research and informational gathering projects scheduled for 1980-1988. The plan states that the NHTSA will analyze the actual road experience of vehicles equipped with automatic restraints (automatic seat belts, air bags or other automatic devices) to refine current measurements of the effectiveness of automatic restraints in reducing fatalities and injuries. This Evaluation Plan is in response to a commitment made by the Secretary of Transportation at the time of issuance of the standard.

to Executive Order 12044, "Improving Government Regulations," and to recommendations of the National Transportation Safety Board and the General Accounting Office. Public review and comment on the Evaluation Plan are welcomed by the NHTSA.

ADDRESS: Interested persons may obtain a copy of the Evaluation Plan free of charge by contacting Ms. Kitts, Office of Management Services, National Highway Traffic Safety Administration, Room 4423, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–0874).

All comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5108, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Ephraim, Director, Office of Program Evaluation, Plans and Programs, National Highway Traffic Safety Administration, Room 5212, 400 Seventh Street, S.W., Washington, D.C. 20590 (202–426–1574)

SUPPLEMENTARY INFORMATION: As amended, Safety Standard No. 208 will require automatic restraint protection for front seat occupants in passenger cars with wheelbases greater than 114 inches manufactured on and after September 1, 1981, in passenger cars with wheelbases greater than 100 inches on and after September 1, 1982, and in all passenger cars manufactured on or after September 1, 1983. Most manufacturers will install either automatic seat belts (belts that are attached to the vehicle door and automatically move into place when the vehicle occupant enters the car and closes the door) or air bags to meet the new requirements of the standard, although other automatic devices may also be used. When automatic restraints are installed on all passenger cars, the agency estimates that at least 9,000 fatalities and hundreds of thousands of injuries will be prevented each year.

The NHTSA has completed its Evaluation Plan for Safety Standard No. 208 and invites public review and comment. The Evaluation Plan describes NHTSA's goals for evaluating automatic restraint systems and Standard No. 208 during the period 1980–1986. The planned evaluation includes vehicles equipped with automatic protection both before and after the standard becomes effective, since some manufacturers plan to offer the devices on an optional basis before they are required. The primary objectives of the evaluation are as follows:

- To refine measurements of the overall fatality and injury reducing effectiveness of automatic restraints in highway accidents.
- To observe the operational characteristics of restraint systems on the road and their effectiveness in specific crash situations.
- To assess the public acceptance and utilization of various automatic restrain designs and the impact of the standard on the industry.
- To refine estimates of all major consumer expenses or savings as a result of the standard.

These general objectives are expanded in the Plan into a variety of specific questions that will be addressed by the agency during its evaluation. The Plan discusses in detail the various research projects, surveys and other methodologies that will be used to obtain the needed information.

The NHTSA intends to issue evaluation program reports on a semi-annual basis during 1980–1986. These reports will summarize the results of the evaluation projects and present additional pertinent statistical, engineering and economic analyses.

The NHTSA welcomes public review of the Evaluation Plan for Standard No. 208 and invites all public comments. Following is a reprint of the Executive Summary of the Plan:

Executive Summary

Federal Motor Vehicle Safety Standard 208 will requiure automatic crash protection for front seat occupants in full-sized automobiles beginning in model year 1982. Automatic crash protection will be required for intermediate and compact passenger automobiles in model year 1983, and for subcompacts in 1984. Automatic restraints have been available as optional equipment on a few makes and models since 1974. There were over 150,000 such automobiles on the highway by mid-1979 and more are expected to be sold prior to the Standard's effective date. Standard 208 is one of the National Highway Traffic Safety Administration's (NHTSA) most significant regulations.

This is NHTSA's proposed plan for evaluating automatic restraint systems and Standard 208 during the period 1980–86. The plan covers passenger automobiles equipped with automatic crash protection both prior to and after the Standard's effective dates. The development of an evaluation plan prior to the effective date of a major regulation is a requirement based on the President's Executive Order 12044 and the Department of Transportation's "Statement of Regulatory Policies and Procedures." The Department stated that it would evaluate the Standard in the preamble of the Standard issued in June 1977.

The National Transportation Safety Board (NTSB) and the General Accounting Office (GAO) both reviewed Standard 208 and, in view of the exceptional significance of the regulation, they also recommended that NHTSA prepare a complete evaluation plan. The NTSB further recommended that the plan be published for public comment by October 1979.

The evaluation plan, as can be seen below, addresses an extensive list of specific questions. Most of the questions are not new: NHTSA has developed, to date, answers to most of them as a result of an extensive program of testing, data collection and analysis of automatic restraints. NHTSA has, for example, published estimates of the effectiveness of restraints, their cost, and the likely usage rates of automatic belts and has refined the estimates as additional information became available. Since 1978, and throughout the period of the implementation of Standard 208, NHTSA will publish Occupant Protection Program Progress Reports.

The purpose of this evaluation plan is to make further refinements in the assessment of the actual, on-the-road experience of automobiles with automatic restraints as the Standard takes effect. Also, should unexpected problems occur with particular cars equipped with automatic restraints, the evaluation plan will enable NHTSA and the auto makers to become aware of them promptly and to take remedial action. This could also encourage foreign car manufacturers to increase the variety of automatic restraint system designs available to the American public. If consumers have a choice of restraint systems, and have the information developed in the evaluation available, they are more likely to make a choice of systems that will give them the best protection. The primary objectives of this evaluation are:

- To measure the actual overall effectiveness of automatic restraints in reducing fatalities and injuries in highway crashes.
- To observe the operational characteristics of restraint systems on the road and their effectiveness in specific crash situations.
- To assess the public acceptance and utilization of automatic restraints.
- To assess the industrial consequences of the Standard.
- To perform a cost analysis of the Standard, including manufacturing, repair, and replacement, and to analyze insurance savings, etc.

These 5 general objectives subsume a larger number of specific questions. NHTSA formulated 30 individual evaluation questions and ranked them by priority. The questions that have the highest priority are:

- What is the fatality reducing effectiveness of the various production automatic restreint systems?
- What is the injury reducing effectiveness of the various production automatic restraint systems?
- What are the attitudes of the general public and of new car buyers toward the Standard?
- What injuries do people in crashes receive with automatic restraints? How do they compare with injuries that would have occurred if the occupants had been unrestrained?
- Are there any instances of automatic restraint malfunctions in crashes?
- Are there any instances of automatic restraint malfunctions during normal vehicle operations?
- What other automatic restraint system malfunctions occur? How frequent are the malfunctions and what are their causes?
- What is the sales mix of air bags and automatic belts?
- What is the automatic belt usage rate?
- How effective are automatic restraints as a function of automobile size?

The questions next in priority are the following:

- What is the frequency of air bag deployment in crashes? What types of crashes cause deployments?
- What is the casualty reducing effectiveness of automatic restraints at various levels of crash severity? At various directions of crash force?
- How effective are restraints in exceptional crash situations, such as with occupants of unusual size, with occupants who are not in the normal seating position, or under extreme operating conditions?
- How are undeployed air bags disposed of when vehicles are scrapped? Do vehicle disposal techniques pose any health or environmental hazards?
- How comfortable and convenient are various production automatic belt systems relative to one another?
- What is the cost of automatic restraints?
- What is the cost of replacing automatic belts or air bags deployed in crashes? To what extent is it paid by insurance companies?
- What is the effect of the Standard on insurance costs?
- What product liability claims are made relating to automatic restraints? Are product liability claims generally reduced as a result of automatic restraints?

The remaining questions are lower in priority, but should be addressed to the extent that resources permit:

- What crash injuries do users of the various automatic restraint systems experience?
- Is there a difference in the effectiveness of automatic restraints by seating position (i.e., driver, right front, center front)?
- How are various production automatic belts disconnected or otherwise not used? What are the reasons for disconnecting or not using them?
- How often are deployed air bags not replaced in cars that are crashed and later repaired?
- How often are malfunctioning restraint systems left unrepaired?
- How does the standard affect consumers' car buying habits?
- How does the Standard affect manufacturers' decisions on automotive design, production and marketing?
- What is the effect of NHSTA public information programs on restraint purchase and usage?
- What, if any, is the cost of routine maintenance of restraints?
- What is the cost of repairing malfunctioning restraint systems?
- What is the economic impact of the Standard on restraint system suppliers?

The NHTSA evaluation plan consists of 14 projects that will be scheduled to provide timely and reliable results on each of the evaluation questions, especially on the high-priority questions. The projects involve such disciplines as accident investigation and analysis, economic analysis and consumer surveys. NHTSA considers the plan to be feasible and consistent with potentially available resources. The specific projects are:

- National Accident Sampling System data collection and analysis
- Fatal Accident Reporting System data analysis
- State accident data analysis
- In-depth accident investigation and clinical analysis
- Analysis of reports to NHTSA's "Auto Safety Hotline"
- Analysis of information from auto manufacturers and restraint system suppliers
- Analysis of new car registration data
- Analysis of on-the-road belt usage observations
- New car owner survey
- Public survey
- Controlled tests of automatic belt comfort and convenience
- Cost and weight study based on component teardown of production restraint systems
- Analysis of auto repair manual data to determine the number of restraint system replacements, and repair jobs
- Analysis of insurance cost data

In addition to these specific evaluation projects, NHTSA has six ongoing programs that pertain to Standard 208:

- Industry monitoring activities
- Research, development and testing of occupant crash protection
- Safety belt usage stimulation
- Automobile crashworthiness ratings
- Defects investigation
- Standards enforcement

While these programs are not part of the evaluation plan per se, they will contribute useful data to the evaluation effort. In turn, the evaluation findings will play a role in shaping the future course of these programs.

The anticipated completion milestones—the dates when interim or summary reports dealing with an evaluation question can be prepared—are sensitive, to some extent, to factors outside of NHTSA's control, such as the auto makers' production plans and the sales mix of air bags and automatic belts. These factors could advance or delay the completion of some of the analyses by as much as a year. The following, however, is a year-by-year list of likely evaluation accomplishments during the period from calendar year 1980 through year 1986:

1980

- Initial estimates of automatic belt fatality and injury reduction
- Continuing in-depth investigation of selected accidents involving cars with automatic restraints
- Collection of production and sales information

1981

- Initial estimate of manufacturing cost of automatic restraint systems
- Collection of initial insurance cost information

1982

- Initial estimates of air bag fatality and injury reduction
- Initial public survey on consumer attitudes towards the Standard
- First study of on-the-road usage of automatic belts in post-Standard cars
- Refinement of estimates of the manufacturing cost of automatic restraints
- First report on product liability claims experience

V 4 4 0 C 2 2 7 9 UMI

1983

- Refined estimates of injury and fatality reduction
- Report on restraint-malfunctions and types of injuries with automatic restraints
- Estimate of air bag deployment rate
- Initial report of owner survey results—restraint malfunction and repair, restraint disconnection, public attitude toward automatic restraints
- Initial estimate of automatic restraint replacement rate

1984

- Updated estimates of effectiveness
- Summary report on manufacturing cost of automatic restraints
- Summary report on product liability claims experience
- Summary report on belt comfort and convenience

1985

- Summary report on effectiveness—overall, by car size, and in specific crash modes
- Summary report on restraint malfunctions and types of injuries with automatic restraints
- Summary report on automatic belt usage
- Summary report on owner survey results

1986

- Summary report on insurance cost reduction due to the Standard

NHTSA proposes to issue evaluation progress reports on an approximately semi-annual basis during 1980–86. The reports will summarize the results of the evaluation projects and present additional pertinent statistical, engineering and economic analyses.

The NHTSA plan should make it possible to obtain major results on most of the evaluation questions in 1982 or 1983—i.e., within one or two years of the effective date of the Standard.

NHTSA's preliminary projection is that the evaluation may cost a total of $11 to $17 million, spread over a 6-year period (1981–86). The higher cost figure includes a major modification of State accident data systems that may be needed to measure injury reduction adequately. The evaluation will also require an in-house effort totalling approximately 50 person-years, spread over a 6-year period.

NHTSA welcomes public review and comments on the proposed plan. We look forward to public, governmental and industry participation in the evaluation projects.

(Secs. 103, 112, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1401, 1407); delegation of authority at 49 CFR 1.50)

Issued on October 16, 1979.

Joan Claybrook,

Administrator.

[FR Doc. 79-32556 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-59-M

V 4 4 0 C 2 2 7 9 UMI

Notices

Federal Register

Vol. 44, No. 205

Monday, October 22, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Official Agency Designation of the Denver Grain Exchange Association, Inc., Commerce City, Colo., and Proposal of Geographic Area

AGENCY: Federal Grain Inspection Service.

ACTION: Notice and Request for Comments.

SUMMARY: This notice announces the designation of the Denver Grain Exchange Association, Inc., Commerce City, Colorado, as an official agency to perform official inspection services under the authority of the United States Grain Standards Act, as amended. This notice also proposes a geographic area within which that agency will operate.

DATE: Comments to be postmarked on or before December 6, 1979.

FOR FURTHER INFORMATION CONTACT: J. T. Abshier, Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8262.

SUPPLEMENTARY INFORMATION: Denver Grain Exchange Association, Inc. (the "Agency"), 620 Brighton Boulevard, Commerce City, Colorado 80022, made application pursuant to Section 7 of the United States Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (the "Act"), to be officially designated under the Act, to perform official inspection services, not including official weighing.

The Federal Grain Inspection Service (FGIS) has conducted the required investigation of the Agency which included an onsite review of its inspection point (hereinafter "specified service point") and the Agency was deemed eligible for designation to perform official inspection services (other than appeal inspection), not including official weighing. A document designating the Agency as an official agency was signed on February 1, 1979. The Agency is responsible for providing official grain inspection functions under the Act, replacing those official grain inspection functions previously provided by the Denver Grain Exchange, Commerce City, Colorado. The designation also included an interim assignment of geographic area within which the official Agency will provide official inspection services.

Note.—Section 7(f)(2) of the Act provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

The geographic area assigned on an interim basis pending final determination in this matter is:

The entire State of Colorado.

In Nebraska, the area shall be:

Bounded: On the North by the northern Scotts Bluff County line and the northern Morrill County line east to Highway 385;

Bounded: On the East from the northern Morrill County line south along Highway 385 to the northern Cheyenne County line; the northern and eastern Cheyenne County lines; the northern and eastern Deuel County lines;

Bounded: On the South by the southern Deuel, Cheyenne, and Kimball County lines; and

Bounded: On the West by the western Kimball, Banner, and Scotts Bluff County lines.

In Wyoming, the counties of Goshen and Platte.

In addition, the following locations which are outside of the foregoing contiguous geographic area and are to be serviced by the Agency shall be considered as part of the Agency's geographic area: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine Bluffs Feed & Grain, Pine Bluffs, all in Laramie County, Wyoming.

Exceptions to this geographic area are the following locations situated inside the Agency's area which have been and will continue to be serviced by Hastings Grain Inspection, Inc., Hastings, Nebraska: Farmers Coop and Dayton Dorn Grain Company, Big Springs, Nebraska, in Deuel County.

A specified service point for the purpose of this notice is a city, town, or other location specified by an agency for the conduct of official inspections and where the agency or one or more of its licensed inspectors is located.

In addition to the specified service point within the geographic area, the Agency will provide official inspection services not requiring a licensed inspector to all other areas within its geographic area.

Interested persons may obtain the address of the specified service point and a map of the proposed geographic area for the Agency from the Delegation and Designation Branch, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447–8525.

Publications of this notice does not preclude future amendment of this designation consistent with the provisions and objectives of the Act.

This Agency has been performing official inspection services within the proposed geographic area since February 1979. The boundaries thereof are known by persons affected, do not impose significant new restrictions or obligations, and have limited public effect. Therefore, the comment period shall be limited to 45 days.

Interested persons are hereby given opportunity to submit written views or comments with respect to the geographic area proposed for assignment to this Agency. All views and comments should be submitted in writing to the Office of the Director, Compliance Division, Federal Grain Inspection Service, United States Department of Agriculture, Washington, D.C. 20250. All materials must be postmarked not later than December 6, 1979. All materials submitted pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (7 CFR 127(b)). Consideration will be given to the views and comments so filed with the Director and to all other information available to the U.S. Department of Agriculture before final determination of the assignment of geographic area is made.

(Secs. 8, 9, 27, Pub. L. 94–582, 90 Stat. 2870, 2875, 2889 (7 U.S.C. 79, 79a, 74 note).)

Done in Washington, D.C., on October 17, 1979.

L. E. Bartelt,

Administrator.

[FR Doc. 79-32450 Filed 10-19-79; 8:45 am]

BILLING CODE 3410-02-M

V 4 4 0 C 2 2 7 9 UMI

CIVIL AERONAUTICS BOARD

[Docket No. 32851; Agreement CAB 1175, as amended; Order 79-10-87]

Agreements Adopted by the International Air Transport Association Relating to the Traffic Conferences; Procedural Order

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1979.

The International Air Transport Association (IATA) and other parties, have requested that the staff or Board members hold a pre-hearing conference to discuss the procedural format for the legislative hearing.[1] We accede to their requests, and will hold a pre-hearing conference at the Board, in Room 1027, on Thursday, October 18, at 2:00 p.m.[2] The prehearing conference will be conducted by Chairman Cohen. Representatives of any party to this proceeding may attend the conference and raise relevant questions concerning the rules which we have adopted to govern the hearing. It would be helpful for those attending to submit written statements of the questions they wish to raise.

We are altering the witness panels listed in Appendix A to Order 79-10-63 to this extent: Mr. Claude Taylor and Mr. John deWolf of Air Canada will now testify on October 23 rather than October 24, and Dr. Nawal Taneja will testify on October 24 instead of October 23.

Accordingly,

1. We will hold a pre-hearing conference to discuss procedural isses at the Board on Thursday, October 18, at 2:00 p.m., in Room 1027;[3]

2. Any party to this proceeding may participate in the pre-hearing conference; and

3. Mr. Claude Taylor and Mr. John deWolf of Air Canada will now testify on October 23, and Dr. Nawal Taneja will now testify on October 24.

4. The Chairman is authorized on behalf of the Board to rule on the procedural issues raised at the conference.

This Order shall be served on all parties who have previously filed in this docket and shall be published in the Federal Register.

[1] On September 25, 1979, IATA filed a motion for a procedural conference. Air Canada has filed an answer in support of that motion.

[2] 1825 Connecticut Avenue, NW. Washington, D.C.

[3] Because the legislative hearing is being held next week, we have had to announce this conference on less than seven days notice.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[4]

Secretary.

[FR Doc. 79-32552 Filed 10-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Docket No. 36442]

Chicago-Madison Subpart Q Proceeding

AGENCY: Civil Aeronautics Board.

ACTION: Notice of Order to Show Cause (79-10-88), Chicago-Madison Subpart Q Proceeding, Docket 36442.

SUMMARY: The Board is proposing to award nonstop air route authority between Chicago and Madison to Ozark Airlines under the expedited procedures of Subpart Q of its Procedural Regulations. The application involves the removal of a certificate restriction in the market. The tentative findings and conclusions will become final if no objections are filed.

The complete text of this order is available as noted below.

DATES: Objections: All interested persons having objections to the Board issuing an order making final the tentative findings and conclusions shall file, by November 19, 1979, a statement of objections together with a summary of the testimony, statistical data, and other material expected to be relied upon to support the stated objections. Such filings should be served upon all parties listed below.

ADDRESSES: Objections to the issuance of a final order should be filed in Docket 36442, which we have entitled the *Chicago-Madison Subpart Q Proceeding*. They should be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

In addition, copies of such filings should be served on Ozark Air Lines; Dept. of Aviation, Chicago, Ill.; Manager Dane County Regional Airport; Greater Rockford Airport Authority; Illinois Division of Aeronautics; Wisconsin Bureau of Aeronautics; Mayors of Chicago, Rockford and Madison, and Governors of Illinois and Wisconsin.

FOR FURTHER INFORMATION CONTACT: Gerard N. Boller, Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428, (202) 673-5330.

SUPPLEMENTARY INFORMATION: The complete text of Order 79-10-88 is available from our Distribution Section, Room 516, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. Persons outside the metropolitan area may send a postcard request for Order 79-10-88 to that address.

[4] All Members concurred.

By the Civil Aeronautics Board: October 16, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32551 Filed 10-19-79; 8:45 am]

BILLING CODE 6320-01-M

[Order 79-10-92; Docket No. 36243]

Sky West's Temporary Subsidy Rate

AGENCY: Civil Aeronautics Board.

ACTION: Summary of Order 79-10-92 which proposes to establish Sky West's temporary subsidy rate at $197,345 annually from June 1, 1979, through May 31, 1982, inclusive, Docket 36243.

SUMMARY: On July 31, 1979, Sky West petitioned the Board to establish its subsidy rates on both a temporary and final basis. In support of its request, Sky West stated that subsidy was necessary to provide adequate service to its two eligible points—Cedar City, Utah, and Page, Arizona. The adopted order tentatively provides Sky West with some relief, pending the setting of a final rate at a later date.

FOR FURTHER INFORMATION CONTACT: John R. Hokanson or James M. Craun, Jr., Bureau of Domestic Aviation, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5368.

The complete text of Order 79-10-92 is available from our Distribution Section, Room 516, 1825 Connecticut Avenue, NW, Washington, D.C. Persons outside the metropolitan area may send a postcard request for Order 79-10-92 to the Distribution Section, Civil Aeronautics Board, Washington, D.C. 20428.

By the Civil Aeronautics Board: October 16, 1979.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32553 Filed 10-19-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

University of Pennsylvania School of Medicine, et al.; Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Statutory Import Programs Staff, Bureau of Trade Regulation, U.S. Department of Commerce, Washington, D.C. 20230, on or before November 13, 1979.

Regulations (15 CFR 301.9) issued under the cited Act prescribe the requirements for comments.

A copy of each application is on file, and may be examined between 8:30 A.M. and 5:00 P.M., Monday through Friday, in Room 735 at 666-11th Street N.W. Washington, D.C.

Docket No. 79-00417. Applicant: University of Pennsylvania School of Medicine, 454 Johnson Pavilion/G2, 36th and Hamilton Walk, Philadelphia, Pennsylvania 19104. Article: LKB 2128-010 Ultrotone IV Ultramicrotome and Accessories. Manufacture: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning biological materials that have been embedded in epoxy. Especially import are studies using monolayers of normal and neoplastic cells. These studies will be conducted to further basic knowledge of the cellular pathways of toxins and growth factors. The article will also be used to teach electron microscopy techniques to pre- and post-doctoral students in Neuropatholoy and physicians who specialize in neuropathology. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00418. Applicant: U.S. Department of Health, Education, and Welfare Public Health Service, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20205. Article: Calibrator, 20 microvolts. Manufacturer: Covington Computer Systems, Canada. Intended use of article: The article is intended to be used for studies of human patients with neurological diseases affecting the movements of their eyes (patients who have such diseases as Parkinson's disease, Progressive supranuclear palsy, Gaucher's disease). The objectives of the investigations is to provide information which may be useful in the diagnosis of certain diseases, and in the study of the mechanisms of action of these diseases. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00419. Applicant: The Pennsylvania State University, Department of Chemistry, Whitmore Laboratory, University Park, PA 16802. Article: NMR Spectrometer System, Model WP-200 with Aspect 2000-I Data System and Accessories. Manufacturer: Bruker Instruments Inc., West Germany. Intended use of article: The article is intended to be used for the measurement of ^{13}C spin lattice relaxation times. For example, determination of the relaxation times of fully substituted carbon atoms in organic molecules provides a means of determining certain atoms in organic molecules provides a means of determining certain internuclear distances. In addition, the article will be used in the direct study of ^{13}C labelled substrates, inhibitors, cofactors, and effectors bound to enzymes in low concentrations. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00420. Applicant: Purdue University, FREH Bldg., W. Lafayette, IN 47907. Article: Electron Microscope Accessories consisting of Specimen Cooling Holder, Heating Holder and Power Control Unit. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for a wide range of research projects including: the study of crystallographic aspects in solid eletrolytes of beta alumina-type compounds, a study related to the understanding and control of the polytypical behavior in silicon carbide and related materials, studies involving multiply periodic structures of compounds of Magneli phases and materials such as TaS_2, $TaSe_2$, $NbSe_2$, $TiSe_2$, and $LaGe_2$. Other studies involving geological samples include research on sulfide minerals for which transmission electron microscopy would allow the identification of inversion mechanism, twinning faults, analysis of small grain inclusions, and the ability to have sufficient resolution to observe effects of ion omission in minerals. Further geological studies will include the mechanism and kinetics of exsolution in pyroxenes where high analytical capabilities are needed to determine coherent phase boundaries. Application received by Commissioner of Customs: September 27, 1979.

Docket No. 79-00422. Applicant: Sidney Farber Cancer Institute, 44 Binney Street, Boston, Mass. 02115. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used in research involving the study of the structure of various molecules such as nucleic acids (DNA and RNA), proteins, and ultrastructural features of eucaryotic cells like mitochondria, chloroplasts, centrioles virus particles etc. The objectives of the research are to investigate various aspects of the metabolism and growth of viruses, macromolecular aspects of genetic processes and factors involved in the control of cellular growth. All of this research is cancer related. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00423. Applicant: University of California, UCD Nuclear Magnetic Resonance Facility, Davis, California 95616. Article: 8.5 Telsa Superconducting NMR Magnet and Accessories. Manufacturer: Oxford Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to conduct high resolution nuclear magnetic resonance (NMR) studies, with the emphasis to be on proton NMR of molecules of biological importance. Studies to be pursued include molecule identification, molecular structure and conformation investigations, studies of molecular motion, and investigations of tertiary structure of peptides and proteins. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00424. Applicant: Electric Power Research Institute, Inc., 3412 Hillview Avenue, P.O. Box 10412, Palo Alto, CA 94303. Article: UNIWEMA 400 Machine and Accessories. Manufacturer: Kabelmetal of Hanover, West Germany. Intended use of article: The article will be used in the project "Flexible Ga-Insulated Metal-Enclosed Transmission System Design" in which new areas of research and development of gas-insulated transmission lines will be undertaken. If successful the use and economic impact of gas-insulated transmission lines will be broadened. The project will involve the study of manufacturing procedures, metal properties and raw material availability for a corrugated metal enclosure. Other work will be directed at the design of a flexible conductor and insulated spacers to support the conductor in the corrugated enclosure. Corrosion, gas dielectric and installation studies will conclude the analytical and designed portion of the development program. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79-00427. Applicant: Mallory Institute of Pathology Foundation, 784 Massachusetts Ave., Boston, Mass. 02118. Article: LKB 14800-3 Cryokit complete. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of radioactive lung samples from experimental animals. Samples 1mm cube will be frozen and

sectioned very thinly for examination in the electron microscope. Experiments will consist of instillation of radioactive drugs into the trachea of hamster to discover the route of drug absorption and clearance in the trachea and lung. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79–00428. Applicant: University of Notre Dame, South Bend Center for Medical Education, 22 Hagger Hall, Notre Dame, IN 46556. Article: Ultramicrotome, Model LKB 2128–010 and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrastructural studies on normal and pathological animal central nervous system tissues as well as normal and pathological fish gills. Investigations will also include studies of the development and regeneration of the nervous system and the localization of biochemical events by means of ultrastructual autoradiography. The subcellular changes in cells of the nervous system induced by changes in their biochemical and physical environments will also be studied. In addition, the article will be used from time to time in the training of graduate and medical students in the use and application of electron microscopy and ultramicrotomy to anatomical and biochemical research problems. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79–00429. Applicant: University of Iowa, Iowa City, Iowa 52242. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of the replication of yeast DNA molecules, and the binding of RNA polymerase to bacteriophage DNA and cell-to-cell interactions in the formation of embryonic tissues in both insects and vertebrates. The experiments to be conducted will include the following:

(1) Promoter function in bacteriophage.

(2) Eucaryotic chromosomal and mitochondrial DNA replication.

(3) Vertebrate limb chondrogenesis and neural fold defects.

(4) Control of insect reproduction and development.

In addition, the article will be used in a course entitled "Introduction to Electron Optical Research Techniques" to provide hands on training in electron microscopy for graduate students and professional staff who plan to use electron microscopy in their research. Application received by Commissioner of Custom: September 19, 1979.

Docket No. 79–00430. Applicant: HEW, PHS, Center for Disease Control, 255 East Paces Ferry Road, NE., Atlanta, GA 30305. Article: Scanning Microdensitometer, Model M85. Manufacturer: Vickers Instruments Ltd., United Kingdom. Intended use of article: The article is intended to be used to quantitate histochemical reactions, biochemical products, and physical characterics of single fixed cells. Specifically, the article will be used in several hemotology studies including the following:

1. Determination of the DNA content of Feulgen stained cells,
2. Determinations of the Hb content per red cell,
3. Autoradiographic analyses,
4. Histochemical techniques, and
5. Accurate cell size determinations.

Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79–00431. Applicant: Uniformed Services University of the Health Sciences, School of Medicine, 4301 Jones Bridge Rd., Bethesda, Md. 20014. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for high resolution studies of negatively stained preparations, analysis of intramembranous particles in freeze preparations, and high resolution studies of thin sections of biological materials embedded in plastic. The research projects will include the following:

1. Analysis of interaction of glial cells around surface of cell body of injured neurons during postnatal development.
2. Visualization of both single and double stranded DNA and RNA molecules.
3. Visualization of nucleic acid-protein interactions in bacterial and animal virus systems.
4. Direct genetic mapping of the Herpex simple virus genome using "R-loop" DNA-mRNA hybridization techniques.
5. Quantitative and qualitative studies of cells of connective tissue origin in the brain ventricular system.
6. Analysis of synaptic distribution in developing and mature CNS.
7. Basal membrane biosynthesis in the lens.

The article will also be used extensively in graduate school courses which include an interdepartmental laboratory course on electron microscopic techniques, a course on ultrastructure of the central nervous system and elective tutorial courses in special projects in transmission electron microscopy. Application received by Commissioner of Customs: September 18, 1979.

Docket No. 79–00432. Applicant: Solar Energy Research Institute, 1536 Cole Boulevard, Golden, CO 80401. Article: Surface Analysis System, Model LHS–10. Manufacturer: Leybold-Heraeus GmbH&Co., West Germany. Intended use of article: The article is intended to be used to determine the elemental composition and structural arrangements of the surface layers of surfaces, thin films, and interfaces of various elements and organic and inorganic compounds as part of a program to improve the lifetime and reliability of solar energy materials. Experiments to be conducted include preparation and reaction of materials in selected atmospheres followed by study using four different surface analysis techniques. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79–00433. Applicant: University of Alabama in Birmingham, University Station, Birmingham, Alabama 35294. Article: LKB 2088 Ultrotome V Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to section human and animal tissues such as enamel, dentin, bone, tumors and soft tissues of oral cavity which have been embedded in hardened epoxy resins for examination by electron microscopy. One research project will involve the investigation of ultrastructure and cytochemistry of leukocyte growth and division in normal and pathological conditions with the following objectives: 1) to determine the location and function of complex carbohydrates in leukocyte lysosomal granules; 2) to characterize dysgranulopoietic conditions in congenital neutropenia and 3) to identify abnormalities of granulogenesis in leukemia granulocytes. Another project is the investigation of the ultrastructure and cytochemistry of iron and lead metabolism with the following objectives: 1) to develop cytochemical and autoradiographic techniques for the ultrastructural identification of iron and lead; 2) to identify mechanisms for normal and pathologic deposition of tissue iron and lead; 3) to determine the subcellular location of iron release from transferrin and 4) to determine the pathway and mechanism of iron and lead uptake in duodenal absorptive cells. The article is also to be used in the courses entitled "Selected topics in Physiology related to dental research" and "Special topics in Biomaterials" and post-doctoral training programs in Caries Research and applicants in Pathology. The course will involve a study of general principles of techniques and the use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. Application received by Commissioner of Customs: September 19, 1979.

Docket No. 79–00437. Applicant: Baltimore City Hospital, 4940 Eastern Avenue, Baltimore, Maryland 21224. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: The article is intended to be used for studies of renal biopsies at the ultrastructural level with two interrelated purposes in mind: 1) immediate clinical diagnosis of the renal disease responsible for the clinical symtomatology; 2) long term correlation of ultrastructural studied of a series of cases with light, immunofluorescence and clinical data to determine which ultrastructural criteria are best correlated with diagnosis and prognosis. Poorly differentiated tumors will be studies by electron microscopy for the prescence of such subcellular organelles as neurosecretory granules, melanosomes, tonofibrils and tight junctions, etc. which allow accurate clinical diagnosis to be made. Studies will also be conducted on surgical specimens of tumors with the interest of identifying subcellular markers for prediction of response to therapy and selection of drugs for maximum therapeutic effect. Application received by Commissioner of Customs: September 19, 1979.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–32422 Filed 10–19–79; 8:45 am]

BILLING CODE 3510–22–M

University of Rochester; Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review between 8:30 A.M. and 5:00 P.M. at 666—11th Street, N.W. (Room 735) Washington, D.C.

Docket No. 79–00278.

Applicant: University of Rochester, 250 East River Road, Rochester, New York 14623. Article: S–1 Streak Image Tube. Manufacturer: Hadland Photonics Ltd., United Kingdom. Intended use of article: The article is intended to be used to study the feasibility of hearing targets with a pulsed high laser to produce thermonuclear reactions.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The application relates to a warranty replacement part for an instrument that had been previously imported for the use of the applicant institution. The article is being furnished by the manufacturer which produced the instrument with which the article is intended to be used and is pertinent to the applicant's purposes.

The Department of Commerce knows of no similar part being manufactured in the United States, which is interchangeable with or can be readily adapted to the instrument with which the foreign article is intended to be used.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Richard M. Seppa,

Director, Statutory Import Programs Staff.

[FR Doc. 79–32423 Filed 10–19–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Revised NOAA Directive Implementing the National Environmental Policy Act and Executive Order No. 12114

AGENCY: National Oceanic and Atmospheric Administration U.S. Department of Commerce.

ACTION: Notice of revised NOAA Directive.

SUMMARY: This notice presents for public review revised NOAA Directive 02–10 implementing the National Environmental Policy Act (NEPA), in compliance with § 1507.3 of the regulations of the Council on Environmental Quality (CEQ) promulgated November 29, 1978 in 43 FR 55978. The revised directive is also intended to implement the provisions of Executive Order No. 12114, signed by the President on January 4, 1979. This revised directive will be effective for all NOAA components upon publication of this notice. The revised directive is, however, subject to change before final adoption, based on comments received during the review period. Subsequent to public review of the revised directive, a final directive will be filed with CEQ and published in the **Federal Register**. Since the final directive will be an internal directive in the NOAA Directives Manual, the criteria and procedures established by NOAA to implement Executive Order No. 12044, "Improving Government Regulations," are not applicable.

COMMENT DATE: Comments should be in written form and be received no later than November 21, 1979, by: Dr. Richard L. Lehman, Director, Ecology and Conservation Office, National Oceanic and Atmospheric Administration, Room 5813, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC 20230, Attention: Environmental procedures.

FURTHER INFORMATION: For further information, contact Dr. Richard L. Lehman, same address as above, telephone: (202) 377–5181.

Dated: October 11, 1979.

M. P. Snidero,

Acting Deputy Assistant Administrator for Administration.

02–10 Environmental Review Procedures

Section

1. Purpose
2. Effect on Other Instructions
3. References and Background
4. Applying Procedures Early in the Process
5. When to Prepare an Environmental Assessment
6. Whether to Prepare an Environmental Impact Statement (EIS)
7. Scoping
8. EIS Preparation
9. Comments on Other Agencies' EIS's
10. Integration of NEPA and E.O. 12114 into the NOAA Decisionmaking Process
11. Predecision Referrals to CEQ
12. International Scope of Environmental Reviews
13. Public Involvement

Appendices: NOAA Decision Process Outlines I through IX

1. *Purpose*—This directive establishes policies and procedures for environmental review processes conducted by NOAA, to implement the National Environmental Policy Act, to further its purpose with respect to the environment outside the United States, and to conform to the regulations issued by the Council on Environmental Quality (CEQ), 43 FR 55978 (November 29, 1978), the Department of Commerce, Department Administrative Order 216–6 (Proposed), 44 FR 54392 (September 19, 1979) (DOA 216–6), and Executive Order No. 12114 on Environmental Effects

Abroad of Major Federal Actions, 44 FR 1957 (January 9, 1979).

The CEQ Regulations and DAO 216–6 are hereby incorporated into the NOAA Directives Manual; section citations, except as otherwise noted, are to the CEQ regulations. This directive outlines the procedures contained in the CEQ regulations and DAO 216–6, emphasizes those sections new to our operations, and contains procedures and policies specific to NOAA.

2. *Effect on Other Instructions*—This directive supersedes NOAA Directives Manual 02–10 dated 1/17/79.

3. *References and Background*

a. National Environmental Policy Act of 1969, 42 U.S.C. 4321–4347 (NEPA).

b. CEQ, Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, 40 CFR Parts 1500–1508, November 1978 (CEQ Regulations).

c. Executive Order No. 12114, Environmental Effects Abroad of Major Federal Actions, 44 FR 1957 (January 9, 1979).

d. Department Administrative Order 216–6 (Proposed), 44 FR 54329 (September 19, 1979).

e. NOAA Administrator's Letter No. (April 3, 1978).

f. Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 *et seq.* (CZMA).

g. Fishery Conservation and Management Act of 1976, as amended 16 U.S.C. 1801 *et seq.* (FCMA).

h. Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1361 *et seq.*, (MMPA).

i. Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*, (ESA).

4. Applying Procedures Eorly in the Process

a. A review of the potential environmental consequences of any proposed action shall be undertaken by the responsible program manager of a NOAA Major Line Component (MLC) as soon as possible in the planning process. Early consultation with the Office of Policy and Planning through the Director of the Ecology and Conservation Office (EC) will enable MLC's to determine whether and at what time an environmental document should be prepared. Offices proposing to conduct research should also consult with the Director, EC, on the necessity of preparing an environmental document when it appears that such research may itself have environmental impacts or predetermine the nature of future actions that would have such impacts.

The term "environmental document" includes those documents listed in section 1508.10, and those documents listed in Sec. 12.b(2) of this directive.

b. In those cases where actions are planned by Federal or non-Federal agency applicants prior to NOAA involvement, the NEPA coordinator for the appropriate MLC will, upon request, supply potential applicants with written guidance on the scope, timing and content of environmental documents required by NOAA. Types of actions initiated by private applicants or other governmental entites for which NOAA involvement is foreseeable include:

Program	Applicant	NOAA contact
Coastal Zone Management Programs (Sec. 306, CZMA)	Coastal States, Territories and Commonwealths.	NEPA Compliance Unit, OCZM.
Marine Sanctuaries (Title III, MPRSA)	States, private individuals and organizations.	NEPA Compliance Unit, OCZM.
Estuarine Sanctuaries and Beach Access Acquisition (Sec. 315, CZMA).	States	NEPA Compliance Unit, OCZM.
Fishery Management Plans (Sec. 305, FCMA)	Regional Fishery Management Councils.	NEPA Coordinator, NMFS.
Regulations, Permits and Waivers under the MMPA (Secs. 101(a)(2), 101(a)(3), 103, and 104, MMPA).	Private parties, scientific institutions and commercial fishermen.	Office of Marine Mammals and Endangered Species, NMFS.
Coastal Energy Impact Program (Sec. 308, CZMA)	Coastal States and local governments.	NEPA Compliance Unit, OCZM.

c. MLC's should inform the Director, EC, when their involvement in a proposal initiated by State and local agencies and Indian tribes is reasonably foreseeable. The Director, EC, will inform MLC's of any such proposals that come to his or her attention.

d. MLC's shall consult with the Director, EC, before communicating with other Federal agencies or governmental entities regarding whether and to what extent NOAA will foreseeably become engaged in actions proposed by such agencies or in the preparation of environmental documents initiated by such agencies.

e. MLC's, in consultation with the Director, EC, shall determine which MLC will be responsible for the preparation of any environmental document required by this directive and to what extent other MLC's should participate in developing such documents.

5. When To Prepare an Environmental Assessment

a. Program managers are encouraged to prepare an Environmental Assessment (EA) any time such a formulation of environmental concerns would advance NOAA planning. If an EA is prepared, it should accompany the proposal through all stages in the decisionmaking process.

b. An EA "shall include brief discussions of the need for the proposal, of alternatives * * *, of the environmental impacts of the proposed action and alternatives, and a listing of agencies and persons consulted". (Sec. 1508.9(b).)

c. EA's are normally required for actions classified in Section 6(b) of this directive. An EA need not be prepared for proposed actions which require the preparation of an environmental impact statement (Sec. 6(a)), or those categorically excluded from the NEPA process (Sec. 6(c)).

6. Whether To Prepare an Environmental Impact Statement

a. Actions Which Normally Require an Environmental Impact Statement

Preparation of an Environmental Impact Statement (EIS) is normally required for any major action that will have a significant impact on the quality of the human environment. These actions include, but are not restricted to:

(1) Actions initially adopting and implementing natural resource management plans, programs or policies, such as Coastal Zone Management Programs; Designations of Marine Sanctuaries; Fishery Management Plans; waivers of the moratorium on taking of marine mammals issued pursuant to Sec. 101(a)(3) of the MMPA; and issuance of regulations for the incidental taking of marine mammals in commercial fishing under Secs. 101(a)(2) and 103 of the MMPA.

(2) Research projects and activities when:

a. Research is to be conducted in the natural environment on a scale at which substantial air masses are manipulated (e.g., cloud seeding experiments), substantial amounts of mineral resources are disturbed (e.g., experiments to improve ocean sand mining technology), or substantial volumes of water are moved (e.g., artificial upwelling studies), or substantial amounts of wildlife habitats are disturbed;

b. Either the conduct of or the reasonably foreseeable consequences of a research activity would have a significant impact on the quality of the human environment;

c. Research is intended to form the basis for development of future project which would be considered major actions significantly affecting the environment under this directive; or

d. Research involves the use of highly toxic agents, pathogens, or non-native species in open systems.

(3) Federal plans, studies or reports prepared by NOAA that would likely determine the nature of future major actions to be undertaken by NOAA or other Federal agencies that would significantly affect the quality of the human environment.

(4) Proposals for legislation, as defined in Sec. 1508.17, which require the preparation of a legislative EIS in accordance with Sec. 1506.8 and section 4.02(j) of DAO 216–6.

b. Actions Which Normally Require EA's But Not Necessarily EIS's

The following actions will normally require preparation of an EA. If the EA reveals that the action will have significant environmental impacts, preparation of an EIS is required. Otherwise, a finding of no significant impact may be prepared and attached to or integrated with the EA, as specified below.

(1) Major amendments to actions for which an EIS has already been published, such as amendments to Coastal Zone Management Programs and Fishery Management Plans, where the amendment will result in impacts which differ significantly in context or intensity form those described in the EIS previously published on the action.

(2) Awards of grants, loans, and loan guarantees for land acquisition or construction, such as those administered under the Coastal Energy Impact Program (CEIP), where such actions may result in significant direct or cumulative environmental impacts.

(3) Listing a species and designating a critical habitat under the ESA, designating a species as depleted under the MMPA, and adopting protective regulations under the ESA or MMPA.

(4) Acquisition, construction, or modification of new facilities budgeted by NOAA or major relocations of NOAA personnel undertaken for programmatic reasons.

(5) Other actions, including research, that may have significant environmental impacts.

(6) Proposals for Legislation, as defined in Section 1508.17.

If the appropriate Assistant Administrator determines, based upon the EA, that the proposal will not significantly affect the quality of the human environment, a finding of no significant impact shall be prepared, briefly stating the reasons for this finding. This document shall be attached to or incorporated with the EA and, accompanied by a public distribution list, will be forwarded to the Director, EC, for NOAA concurrence. The Director, EC, will transmit the combined documents to the Deputy Assistant Secretary of Commerce for Environmental Affairs (DAS), EPA (Office of Environmental Review), other interested Government agencies, and the public.

The EA and the finding of no significant impact must be made available to the public before the actions described therein may begin. In certain circumstances, the Director, EC, in consultation with the affected MLC, may require that the proposed action not be taken until 30 days after the finding of no significant impact has been made available for public review. These circumstances include those mentioned in Sec. 1501.4(e)(2) (*i.e.*, that the action is similar to one that would normally require an EIS, or is without precedent), as well as circumstances where significant reservations based on environmental concerns have been expressed by consulting agencies or the public.

c. Categorical Exclusions

The following categories of actions do not normally have a significant effect on the human environment that would require preparation of an environmental document. Neither an EA nor an EIS is required for these actions, except as specified in paragraph 7 below.

(1) Amendments to actions within the scope of the major action described in a previously published EIS. Such actions may not alter the context or intensity of impacts described in the original EIS. These actions include but are not limited to:

(a) Extension of the time in effect of the major action, e.g., a Preliminary Fishery Management Plan, when there would not be a change in the environmental consequences of its implementation;

(b) Incorporation into a Coastal Zone Management Plan of State-proposed additional provisions that are consistent with the management objectives and are within the scope of the program for which an EIS or EA has already been issued (as, for example, amendments to implementing regulations or approval of local coastal programs);

(c) Funding of a proposal for which an EIS has already been prepared by another Federal agency; and

(d) Funding of a proposal conditioned upon obtaining required permits issued pursuant to the requirements of NEPA.

(2) Preproposal actions. A "proposal" exists at that stage in the development of an action when an agency subject to NEPA has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. (Sec. 1508.23.)

(3) Programmatic functions with no potential for significant environmental impacts. The following NOAA programmatic functions are generally exempt from the environmental documentation requirements of NEPA: routine experimental procedures; minor adjustments to program plans and budgets; mapping, charting and surveying services; ship support; fisheries financial support services; basic research in ocean engineering, including development and calibrations of oceanographic instrumentation; grants to educational institutions under the Sea Grant program unless they provide for research of the type described in Sec. 6(a)(2) above; enforcement operations; basic environmental services, such as weather observation, communications, analysis and predictions; environmental satellite services; environmental data and information services; air quality observations and analysis; support of international global atmospheric and Great Lakes research programs; disbursements under the Fishing Vessel and Gear Damage Compensation Fund and the Fishermen's Contingency Fund; executive direction; administrative services; and administrative support of the National Advisory Committee on Oceans and Atmosphere.

(4) Promulgation of regulations regarding procedures and criteria for adoption of natural resource management plans, programs, or policies and related implementing regulations, including but not limited to, Coastal Zone Management Programs; Fishery Management Plans; regulations and waivers issued pursuant to Secs. 101(a)(2), 101(a)(3) and 103 of the MMPA; and the listing of species and designation of critical habitat pursuant to the ESA, when an EA or EIS will be prepared for specific actions to be taken pursuant to such regulations.

V 44 OC 22 79 UMI

(5) Permits for scientific research and public display under the MMPA, grants under the MMPA, return of management of marine mammals to States under the MMPA where no waiver of the moratorium is involved, permits for scientific research propagation and hardship under the ESA, and comments and opinions made on other agencies' activities under authority of the ESA, NEPA, the Fish and Wildlife Coordination Act and any other provision of law.

(6) Other categories of actions which, as determined in consultation with the Director, EC, would not have significant environmental impacts, including claims brought for recovery of damages for injuries to natural resources within NOAA jurisdiction.

(7) *Exceptions.* The preparation of an EA or EIS is required for actions described in subsections (1)–(6) above if they:

(a) Are likely to result in significant environmental impacts as defined in Sec. 1508.27, or

(b) Involve a geographic area with unique characteristics, are the subject of public controversy based on potential environmental consequences, have uncertain environmental impacts or unique or unknown risks, establish a precedent or a decision in principle about future proposals, may result in cumulatively significant impacts, or may have any adverse effects upon endangered or threatened species or their habitats.

7. Scoping

a. General

Scoping is "an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action" (Sec. 1501.7). The fullest practicable public participation and interagency consultation should be sought in the early identification and determination of significant environmental issues related to a proposed action.

b. Notice of Intent

As a part of the scoping process, a notice of intent to prepare an EIS shall be published in the **Federal Register** as soon as practicable after a decision has been reached to prepare an EIS. See Sec. 1501.7. The notice of intent is described in Sec. 1508.22 as follows.

"Notice of Intent" means a notice that an environmental impact statement will be prepared and considered. The notice shall briefly:

(a) Describe the proposed action and possible alternatives.

(b) Describe the agency's proposed scoping process including whether, when, and where any scoping meeting will be held.

(c) State the name and address of a person within the agency who can answer questions about the proposed action and the environmental impact statement.

When there is likely to be a lengthy period between the decision to prepare an EIS and actual preparation of the Draft EIS (DEIS), a notice of intent may be published at a reasonable time in advance of preparation of a DEIS, upon consultation with the Director, EC.

c. Scoping Process

As part of the scoping process, MLC's in consultation with the Director, EC, shall perform the actions described in Section 1501.7(a) and may, in addition, perform the actions described in Section 1501.7(b).

8. EIS Preparation

a. Should a finding be made that significant environmental impacts will result from a proposed NOAA action, a Discussion Paper will be prepared in the format of an EIS (Sec. 1502.10) and coordinated with EC and other appropriate NOAA elements.

b. The Discussion Paper, modified as necessary by the responsible MLC in response to comments received from other MLC's and EC, constitutes the DEIS. Three copies of the DEIS and two letters, one submitting the DEIS to the Environmental Protection Agency (EPA) and one transmitting it to all other reviewers, shall be prepared for the signature of the Director, EC, who shall provide the DAS with one copy. Copies of letter formats and procedures are available from EC. Following receipt of copies of these letters as signed by the Director, EC, the originating MLC will take all further actions.

c. Five copies of the DEIS, plus the signed transmittal letter, shalll be sent to EPA in Washington, D.C., and five copies shall also go to the appropriate EPA regional office. On the same day that the DEIS is sent to EPA, copies of the document, accompanied by copies of the general transmittal letter, shall be sent to all Federal, State and local government agencies, public groups and individuals who may have an interest in the proposal.

d. The dealine for EPA receipt of EIS's is 3:00 p.m. each Friday. A public notice of availability will be published by EPA in the **Federal Register**. The required 45-day public review period for DEIS's begins on the date this notice is published.

e. The Final EIS (FEIS), reflecting comments received on the DEIS (Sec. 1503.4), is prepared after the 45-day period. Three copies of the FEIS shall be sent to the Director, EC, for final NOAA approval in the same manner as previously described in subsection b of this section for DEIS's. The Director, EC, shall furnish one copy to the DAS. After approval, five copies of the FEIS shall be sent to EPA in Washington, D.C., and five copies to the appropriate EPA regional office. Copies shall also be sent to all parties who commented on the DEIS, as well as others who have requested them. Thre is a 30-day review period for FEIS's, beginning with the date of publication of EPA's notice of availability, before the proposed action can begin. Copies of any comments received on FEIS's shall be sent to the Director, EC, and EPA.

f. A supplemental DEIS of FEIS may be required in certain cases, pursuant to Sec. 1502.9(c)(1)–(2). Supplemental EIS's shall be prepared, circulated, and filed as prescribed by Sec. 1502.9(c)(4) and in accordance with this directive. If a supplemental EIS is prepared, it shall be introduced into any existing formal administrative record on the proposal and distributed as described above.

9. Comments on Other Agencies' Environmental Impact Statements

NEPA requires that EIS's on proposed programs and projects having a significant environmental impact be submitted for review to any Federal agency which has jurisdiction by law or special expertise over the resources potentially affected. The DAS is responsible for Departmental EIS review. The Director, EC, is responsible for coordinating NOAA review and comments on these EIS's and will forward NOAA comments to the DAS for transmittal to the originating agency. Copies of the EIS and a deadline for receipt of comments will be sent to appropriate NOAA elements by EC. Guidance in the preparation of these comments is available in Sec. 1503.3, Administrator's Letter No. 17, and from EC.

10. Integration of NEPA and E.O. 12114 Into the NOAA Decisionmaking Process

a. Inclusion of Environmental Documents in the Decisionmaking Process

Any environmental document prepared in accordance with this directive shall accompany any other decisional document in the NOAA decisionmaking process, and the alternatives identified in such documents shall correspond. Any environmental document prepared on a proposal shall be part of the administrative record of any formal rulemaking or adjudicatory proceedings which may be held on that proposal.

b. Production of Environmental Documents for NOAA Programs

Environmental documents should be prepared at the earliest practicable time so that the environmental review process will run concurrently with and be integrated into NOAA decisionmaking. The NOAA decisionmaking process and the environmental review process for those actions likely to have a significant impact on the quality of the human environment shall be fully integrated. Decisionmaking charts for major NOAA programs, in Appendices I through IX of this Directive, identify major NOAA decision points, the corresponding decisionmakers, and the environmental documents which must be available to them.

c. Record of Decision

A FEIS will clearly present NOAA's proposed action for public review and comment. The FEIS will contain a proposed record of decision which will become final upon expiration of the 30-day review period on the FEIS. The review period for the FEIS will coincide with the review period under the Administrative Procedure Act, and any period for appeal otherwise available. The record of decision shall contain the elements enumerated in Sec. 1505.2.

11. Predecision Referrals to CEQ of Proposed Actions Determined To Be Environmentally Unsatisfactory (Sec. 1504.3)

MLC's shall notify the Dirctor, EC, of Federal actions believed to be environmentally unsatisfactory pursuant to Sec. 1504.3. In appropriate cases, the Director, EC, shall request the DAS to make predecision referrals to CEQ for such actions.

12. International Scope of Environmental Reviews

a. Generally

The provisions of this directive shall apply to NOAA activities, or impacts thereof, which occur outside the territory of the United States, or which may affect resources not subject to the management authority of the United States. Specifically, except as provided in subsection b of this section, the provisions of this directive will be followed with respect to the following categories of NOAA actions.

(1) Major Federal actions significantly affecting the environment of the global commons outside the jurisdiction of any nation (e.g., the oceans or Antarctica);

(2) Major Federal actions significantly affecting the environment of a foreign nation not participating with the United States and not otherwise involved in the action;

(3) All other major Federal actions significantly affecting the environment of a foreign nation, including, but not limited to, those which provide to that nation:

(a) A product, or physical project producing a principal product or an emission or effluent, which is prohibited or strictly regulated by Federal law in the United States because its toxic effects on the environment create a serious public health risk; or

(b) A physical project which in the United States is prohibited or strictly regulated by Federal law to protect the environment against radioactive substances; and

(4) Major Federal actions outside the United States, its territories and possessions which significantly affect natural or ecological resources of global importance designated for protection by the President under the provisions of Executive Order No. 12114, or, in the case of such a resource protected by international agreement binding on the United States, by the Secretary of State.

b. Constraints

(1) EIS's on actions subject to this section should be as complete and detailed as possible under the circumstances. In undertaking an environmental analysis of activities or impacts which occur outside the United States, it may, on occasion, be necessary to limit the circulation, timing, review period, or the detail of an EIS for one or more of the following reasons:

(a) Diplomatic considerations;

(b) National security considerations;

(c) Relative unavailability of information;

(d) Commercial confidentiality; and

(e) The extent of NOAA's role in the proposed activity.

(2) Except with respect to those actions described in subsection (a)(1) of this section when the above factors indicate that full compliance with the substantive and procedural requirements applicable to the publication of EIS's would not be possible for the reasons specified in subparagraphs b., c. and d. of paragraph (1), consideration may be given to the preparation of:

(a) Bilateral or multilateral environmental studies, relevant or related to the proposed actions, by the United States and one or more foreign nations, or by an international body or organization in which the United States is a member or participant; or

(b) Concise reviews of the environmental issues involved, including environmental assessments, summary environmental analyses, or other appropriate documents.

(3) NOAA MLC's, in consultation with the Director, EC, and the General Counsel (GC) will decide whether an EIS should not be prepared on an action pursuant to this subsection.

c. Special Efforts

Certain activities having environmental impacts outside the United States require special efforts because of their international environmental significance. These include activities which:

(1) Involve products either prohibited or strictly regulated under Federal law for reasons pertaining to public health or safety;

(2) Threaten natural or ecological resources of global importance or which threaten the survival of any species;

(3) May have a significant impact on any historic, cultural, or national heritage or resource of global importance; or

(4) Involve environmental obligations set forth in an international treaty, convention, or agreement to which the United States is a party.

d. Consultation

In preparing an environmental document for an activity which may affect another country or is undertaken in cooperation with another country and will have environmental effects abroad, NOAA staff shall consult with their counterparts in that other country both in the early stages of preparation of environmental documents (in order to determine the scope and nature of the environmental issues involved), and in connection with the results and significance of such documents, except when the factors listed in subsection b.(1)(a), (b), and (d) of this section would indicate otherwise. MLC's shall advise the Director, EC, when such consultations are likely to involve substantial policy considerations regarding the proposed action or its environmental consequences. The Director, EC, and General Counsel shall coordinate such consultations with the DAS and with the Department of State. In the process of consulting with foreign officials, every effort must be made to take into account foreign sensitivities and to understand that one of NOAA's objectives in the preparation of environmental documents in cases involving environmental effects abroad is to provide environmental information

V 44 O C 22 79 UMI

to foreign decisionmakers, as well as to responsible NOAA officials. Finally, NOAA's efforts in preparing environmental documents pursuant to this section shall be directed, in part, toward strengthening the ability of other countries to carry out their own analyses of the likely environmental effects of proposed actions.

13. Public Involvement

MLC's, in cooperation with the Office of Public Affairs (PA), shall make every effort to involve the public in the implementation of NEPA and preparation of environmental documents pursuant to NEPA. Interested persons may obtain information and status reports on EIS's and other elements of the environmental review process from the Director, EC.

MLC's should seek the assistance of their respective Public Affairs officers in providing to the public notice and information pursuant to NEPA and these procedures. MLC's shall be guided by Section 1506.6 and by NOAA Directive 21-25 (June 13, 1977) in providing, in consultation with EC and PA, for adequate public involvement in the environmental review process.

Appendix I

The Fishery Management Plan/ Environmental Impact Statement—(FMP/ EIS) Process

I. Preplanning.
A. Identify the fishery management unit (Council).
B. Decision by Council to prepare an FMP/ EIS.
C. Notice of intent to prepare an EIS to appear in **Federal Register** (NMFS).
D. Conduct scoping meeting (Council and NMFS).
E. Prepare work plan under Executive Order No. 12044 (Council).
F. Decision by Administrator to approve work plan.

II. Draft FMP/DEIS Development (FMP/DEIS includes Regulatory Analysis and Draft Proposed Regulations).
A. Preparation of draft FMP/DEIS (Council).
B. Approval of draft FMP/DEIS by Council.
C. NOAA review and processing of draft FMP/DEIS as "discussion paper" (NMFS, EC).
D. Transmittal of draft FMP/DEIS (EC).

III. Public Participation.
A. Notice of availability of draft FMP/DEIS **Federal Register** (NMFS).
B. Publication of notice of public hearings in **Federal Register** (NMFS).
C. Public review (45 day minimum) and public hearings.
D. Incorporation of comments into draft FMP/DEIS (NMFS).
E. Adoption of FMP by Council and submission to Secretary.

IV. Secretarial Review: Secretary of Commerce.
A. Secretarial review (NMFS).
B. Secretarial approval for publication in **Federal Register** (NMFS).[1]

V. Promulgation of Regulations.
A. Publish approved FMP and proposed regulations (PR) in **Federal Register** (NMFS).
B. Public review of FMP and PR (45 days; 60 days if significant under E.O. 12044).
C. Assess and incorporate comments on the FMP and PR (NMFS).
D. Prepare FEIS/final regulations (NMFS).
E. Approve FMP, final regulations and RA (NMFS-NOAA).
F. Process and approve final FMP/EIS and log with EPA (EC).
G. Publish final regulations in **Federal Register** (NMFS).
H. Publish FMP/FEIS notice of availability in **Federal Register** (EPA).
I. 30-day FEIS public review period and 30-day APA "cooling-off" period on final regulations run concurrently.

VI. Continuing Fishery Management.
A. Monitoring effectiveness of regulations.
B. Refinements to regulations—through formal interpretation and regulatory changes.
C. Research and assessment activities.

VII. Amendments to FMP.
A. Council decision to amend.
B. Restart all or part of FMP process as shown in I–V above.

Appendix II

Coastal Zone Management Program/EIS Process OCZM

I. State development and adoption of coastal program.
A. Development of State coastal program.
B. Submission of State coastal program and environmental assessment to OCZM.

II. Evaluation and approval of State coastal program.
A. Internal OCZM review of State program.
B. Publication of Notice of Intent to Prepare EIS.
C. Scoping process.
D. Preparation of Discussion Paper (Pre-DEIS).
E. NOAA review of Discussion Paper.
F. Preparation of DEIS.
G. Publication of DEIS.
H. DEIS review period (45 days).
I. Preparation of FEIS.
J. Publication of FEIS and Proposed Record of Decision.
K. Public review period (30 days).

Approval of State Coastal Zone Management Program by Assistant Administrator, OCZM.

Appendix III

Coastal Zone Management Program/ Amendment Process, OCZM

I. State development of and request for amendment.
A. State develops amendment and submits to Assistant Administrator.
B. State announces public hearing.
C. State holds at least one public hearing.
D. State transmittal of hearing record to Assistant Administrator.

II. Evaluation by Assistant Administrator, OCZM.
A. CZMA tests—(1) review public hearing record (I–D, above); (2) determine if CZMP as amended is still approvable.
B. Preparation of EA or decision to prepare EIS.
C. Publication of finding of no significant impact or preparation of EIS.

Assistant administrator approves requested amendment.

Appendix IV

Coastal Energy Impact Program—OCZM

I. Applicant requests financial assistance.
A. Assistant Administrator for OCZM determines eligibility pursuant to regulations promulgated pursuant to CZMA Sec. 308.
B. An environmental assessment is required for each application pursuant to 44 Fed. Reg. 29580 (May 21, 1979).
C. Assistant Administrator makes determination according to provisions of Section 6 of this directive as to appropriate NEPA procedure.

II. EIS Procedures.
See Appendix II, Part II.
Assistant Administrator approves assistance.

Appendix V

Marine Sanctuaries Designations—OCZM

I. Processing of Sanctuary Proposals by OCZM.
A. Sites are recommended to OCZM.
B. Publication of recommended sites in **Federal Register**.
C. Analysis and initiation of consultation.
D. List of active candidates published in **Federal Register**.
E. Review of active candidates.
1. Public workshops.
2. OCZM review and decision whether site should continue to be an active candidate.

II. Development of Sanctuaries Designations and Implementing Regulations by OCZM.
A. Preparation of EIS. See Appendix II, Part II.
B. Submission of Proposed Designation to Secretary of Commerce by Administrator.
C. Submission of Proposed Designation to President by Secretary of Commerce.

Approval by President.

Approval by Secretary of Commerce.

Designation of Sanctuary by Secretary or Administrator; Adoption of Implementing Regulations by Assistant Administrator.

Appendix VI

Estuarine Sanctuaries and Beach Access Acquisition—OCZM

I. Applicant state requests financial assistance.

II. OCZM Determination of Eligibility.
Assistant Administrator for CZM determines eligibility pursuant to federal regulations.

III. EIS Procedures are applied to eligible proposals.
See Appendix II, Part II.

[1] Under appropriate circumstances, emergency regulations having immediate effect may be published as interim final regulations and maintained for two 45-day periods or until superseded by final regulations.

Assistant Administrator Approves Estuarine Sanctuary or Beach Access Grant Application.

Appendix VII

Major Actions Under the Marine Mammal Protection Act and the Endangered Species Act, NMFS

I. Actions requiring informal rulemaking.
A. Identification of the proposed action.
B. Preparation of EA or publication of Notice of Intent to prepare an EIS.
C. Scoping process.
D. Preparation of Discussion Paper.
E. NOAA Review of Discussion Paper.
F. Preparation of DEIS and Proposed Regulations.
G. Publication of DEIS and Proposed Regulations.
H. Notice of informal hearing on proposed regulations and/or DEIS.
I. Public Hearings: Assessment of written and oral comments.
K. Preparation of FEIS and Final Regulations.

Approval by Administrator.

J. Publication of FEIS and Final Regulations; 30-day Public Review Period.

Implementation of Action.

II. Actions requiring formal rulemaking.
A. Identification of the proposed action.
B. Publication of Notice of Intent to prepare an EIS on the proposed action.
C. Scoping process.
D. Preparation of Discussion Paper.
E. NOAA review of Discussion Paper.
F. Preparation of DEIS and MMPA 103(d) statement.
G. Publication of DEIS and MMPA 103(d) statement; 45 Day Review.
H. Informal Hearing on DEIS.
I. Assessment of Public Record and comments.
J. Publication of FEIS and Proposed Regulations.
K. Formal Public Hearings on rulemaking.
L. Assessment of Public Record.
M. Preparation of FEIS, Administrator's Decision and Final Regulations.

Approval by the Administrator.

N. Publication of FEIS, Administrator's Decision and Final Regulations; 30 Day Public Review Period.

Implementation of Action.

Appendix VIII

Legislative Proposal Process—Office of Generol Counsel (GC)

1. GC, in consultation with the Office of Congressional Affairs ("CA") and affected MLC's, determines need for legislative proposal.
2. GC, in consultation with affected MLC, assigns staff to develop a legislative proposal and establishes a timetable for development of proposal.
3. Preparation of descriptive entry for submission to Department Legislative Program. Copy of entry together with recommendation for preparation of environmental document furnished to DAS.
4. Environmental Document required by DAS prepared by designated staff together with draft bill and statement of purpose and need.
5. Review and approval by Assistant Administrator for responsible MLC, CA specialist and Assistant General Counsel assigned to responsible MLC.
6. Review by GC and EC based on materials prepared in (4) and decision memorandum.
7. GC transmits draft bill, statement of purpose and need, and appropriate environmental document to Departmental Assistant General Counsel for Legislation and DAS.
8. GC undertakes further actions required on legislative proposal, including consultations with Department and Office of Management and Budget.

Appendix IX

Major Acquisition, Construction, or Modification of Facilities, Major Relocations of Personnel/Office of Administration

1. Identification of need for new facilities or relocation.
2. Development of preliminary options.
3. Preparation of Environmental Assessment.
4. Review and comment on options and EA by Assistant Administrator for Administration, Director, Office of Ecology and Conservation, and Assistant Administrator(s) of MLC(s) involved.
5. Decision whether to prepare EIS by AA for Administration.
6. Public review of EIS and selection of agency's preferred alternative.

Approval by Administrator.

[FR Doc. 79-32550 Filed 10-19-79; 8:45 am]
BILLING CODE 3510-12

DEPARTMENT OF ENERGY

Issuance of Proposed Decisions and Orders; September 10 Through September 14, 1979

Notice is hereby given that during the period September 10 through September 14, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 105, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,
Director, Office of Hearings and Appeals.
October 15, 1979.

Proposed Decisions and Orders

Altex Oil Corporation, Denver, Colo., DXE-6625, crude oil

Altex Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the UPRR Anschutz Ranch No. 1 Well for the benefit of the working interest owners at upper tier ceiling prices. On September 11, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's request.

Gulf Oil Corporation, Houston, Tex., DXE-7729, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Miriam Partlow, *et al.*, Unit for the benefit of the working interest owners at upper tier ceiling prices. On September 14, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Miriam Partlow, *et al.*, Unit.

Koch Industries, Inc., Wichita, Kans., DXE-7272, crude oil

Koch Industries, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Sink Draw No. 1 Lease for the benefit of the

V 4 4 0 C 2 2 7 9 UMI

working interest owners at upper tier ceiling prices. On September 11, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Sink Draw No. 1 Lease.

Standard Oil Company (Indiana), Chicago, Ill., DEA-0226, DEE-0075, crude oil

The Standard Oil Company (Indiana) filed an Application for Exception from the provisions of 10 CFR 212.84(e)(6). The firm also filed an Appeal from the Decision of the Office of Petroleum Operations to dismiss a related Petition for Adjustment which the firm had filed. The exception request, if granted, would permit the firm to determine its intra-affiliate transfer price for crude oil produced in Trinidad by reference to a crude oil not necessarily produced in the environs of Trinidad. On September 10, 1979, the DOE issued a Proposed Decision and Order in which it determined that the exception request be granted.

Hammermill Paper Company, Erie, Pa., DEE-7747, DEE-7748, temperature restrictions

Hammermill Paper Company filed an Application for Exception from the provisions of 10 CFR 490.14. The request, if granted, would permit Hammermill to utilize its air cooling systems in two of its buildings during their unoccupied periods. On September 13, 1979, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Texaco, Inc., Denver, Colo., DXE-6874, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the V. F. Semlek "C" Lease for the benefit of the working interest owners at upper tier ceiling prices. On September 11, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's V. F. Semlek "C" Lease.

Texaco, Inc., Denver, Colo., DXE-7166, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the A. S. Wisness Lease for the benefit of the working interest owners at upper tier ceiling prices. On September 11, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be denied with respect to the applicant's A. S. Wisness Lease.

Texaco, Inc., Denver, Colo., DXE-7602, crude oil

Texaco, Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the Government T. F. Stroock NCT-1 Lease for the benefit of the working interest owners at market price levels and the remaining crude oil production at upper tier ceiling prices. On September 11, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted with respect to the applicant's Government T. F. Stroock NCT-1 Lease.

Texaco, Inc., Park County, Wyo., DXE-7634, crude oil

Texaco, Inc. filed an Application for Extension of Exception Relief from the provisions of 10 CFR, Part 212, Subpart D. The request, if granted, would result in an extension of the relief already granted to Texaco, allowing it to sell at upper tier ceiling prices all of the crude oil produced from the Government Gwen Knapp Lease, located in Park County, Wyoming. In addition, Texaco requested that it be permitted to sell a portion of that same product at market prices. On September 12, 1979, the DOE issued a Proposed Decision and Order which determined that the extension request be granted and also that Texaco be permitted to sell 77.49 percent of the crude oil produced from the lease at market prices.

Union Oil Company of California, Los Angeles, Calif., DEE-7357, crude oil

Union Oil Company of California filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Pacific Electric Pool located in Los Angeles County, California at upper tier ceiling prices. On September 14, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Pacific Electric Pool.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 10 through September 14, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Berwyn Fuel, Inc., DEE-3061, Laurel, MD.
Flowers Grocery, DEE-4785, Louisville, MS.
Amerada Hess, DEE-7974, Washington, DC.
Amerada Hess, DEE-7999, Washington, DC.
Howie Oil, DEE-2549, Pensacola, FL.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 10 through September 14, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firms' base period allocation of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Don's Shell, DEE-3616, Culver City, CA.
Eagle's Chevron, DEE-7233, W. Yellowstone, MT.
Lake Erie Patrol, DEE-7644, Put-in-Bay, OH.
Amoco Service Sta., DEE-3653, Folsom, CA.
Farina Auto Service, DEE-5824, N. Bellmore, NY.
Garrett's Amoco, DEE-7659, Clarksburg, WV.
Gray Bros. Oil Co., DEE-5237, Ashland, MS.
Jack's Amoco, DEE-4930, Stoystown, PA.
Kwik Six No. 3, DEE-6536, Longmont, CO.
Kwik Six No. 9, DEE-6537, Longmont, CO.
Lawson's Gulf, DEE-3861, Orangeburg, SC.
Louie B. Bolin, DEE-7472, Greenville, SC.
Marty's Amoco, DEE-7354, Laurel, MD.
R. P. & J. L. Overstreet, DEE-6701, Bedford, VA.
Robert E. Pleasant, DEE-3723, Phila., PA.
Roxy Mini Market, DEE-5220, Phila., PA.
Webb's Service, DEE-6631, Redondo Bch., CA.
Woodbrook Amoco, DEE-4934, Baltimore, MD.
Zanowic's Sunoco, DEE-6929, Brielle, NJ.

[FR Doc. 79-32428 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

Refiners Crude Oil Allocation Program; Supplemental Notice for Allocation Period and Notice of Issuance of Emergency Allocation

The notice specified in 10 CFR 211.65(g) of the refiners' crude oil allocation (buy/sell) program for the allocation period of October 1, 1979, through March 31, 1980, was issued September 21, 1979 (44 FR 55943, September 28, 1979). As part of the publication of that Notice, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) assigned emergency allocations for the month of October 1979, pursuant to 10 CFR 211.65(c)(2) and 10 CFR 211.65(a)(5) to a number of small refiners. The ERA hereby issues a supplemental buy/sell list for the allocation period of October 1, 1979, through March 31, 1980, which sets forth new emergency allocations for the months of October, November, and December 1979, assigned pursuant to 10 CFR 211.65(c)(2), as amended on April 27, 1979 (44 FR 26060, May 4, 1979).

The supplemental buy/sell list for the allocation period October 1, 1979, through March 31, 1980, is set forth as an appendix to this notice. The list includes the names of the small refiners granted emergency allocations for the months of October, November and December 1979, and their eligible refineries; the quantity of crude oil each refiner is eligible to purchase; the fixed percentage share for each refiner-seller; and the additional sales obligation of each refiner-seller, which reflects each refiner-seller's sales obligation for the emergency allocations listed herein.

The allocations for the small refiners on the supplemental buy/sell list were determined in accordance with 10 CFR 211.65(c)(2). Sales obligations for refiner-sellers were determined in accordance with 10 CFR 211.65 (e) and (f).

The buy/sell list covers PAD Districts I through V, and amounts shown are in barrels of 42 gallons each, for the specified period. Pursuant to 10 CFR 211.65(f), each refiner-seller shall offer for sale during an allocation period, directly or through exchanges to refiner-buyers, a quantity of crude oil equal to that refiner-seller's sales obligation plus any volume that the ERA directs the refiner-seller to sell pursuant to 10 CFR 211.65(j).

Pursuant ot 10 CFR 211.65(h), each refiner-buyer and refiner-seller is required to report to ERA in writing or by telegram the details of each transaction under the buy/sell list within forty-eight hours of the completion of arrangements therefor. Each report must identify the refiner-seller, the refiner-buyer, the refineries to which the crude oil is to be delivered, the volumes of crude oil sold or purchased, and the period over which the delivery is expected to take place.

The procedures of 10 CFR 211.65(j) provide that if a sale is not agreed upon subsequent to the date of publication of this notice, a refiner-buyer that has not been able to negotiate a contract to purchase crude oil may request that the ERA direct one or more refiner-sellers to sell a suitable type of crude oil to such refiner-buyer. Such request must be received by the ERA no later than 20 days after the publication date of this supplemental buy/sell notice. Upon such request, the ERA may direct one or more refiner-sellers that have not completed their required sales to sell crude oil to the refiner-buyer.

In directing refiner-sellers to make such sales, ERA will consider the percentage of each refiner-seller's sales obligation for the allocation period that has been sold as reported pursuant to § 211.65(h), as well as the refiner-seller or sellers that can best be expected to consummate a particular directed sale. If, in ERA's opinion, a valid directed sale request cannot reasonably be expected to be consummated by a refiner-seller that has not completed all or substantially all of its sales obligation for the allocation period, the ERA may issue one or more directed sales orders that would result in one or more refiner-sellers selling more than their published sales obligations for that allocation period. In such cases, the refiner-seller or sellers will receive a barrel-for-barrel reduction in their sales obligations for the next allocation period pursuant to 10 CFR 211.65(f)(3)(ii).

If the refiner-buyer declines to purchase the crude oil specified by ERA, the rights of that refiner-buyer to purchase that volume of crude oil are forfeited during this allocation period, provided that the refiner-seller or refiner-sellers have fully complied with the provision of 10 CFR 211.65.

Refiner-buyers making request for directed sales must document their inability to purchase crude oil from refiner-sellers by supplying the following information to ERA:

(i) Name of the refiner-buyer and of the person authorized to act for the refiner-buyer in buy/sell program transactions.

(ii) Name and location of the refineries for which crude oil has been sought, the amount of crude oil sought for each refinery, and the technical specifications of crude oils that have historically been processed in each refinery.

(iii) Statement of any restrictions, limitations, or constraints on the refiner-buyer's purchases of crude oil, particularly concerning the manner or time of deliveries.

(iv) Names and locations of all refiner-sellers from which crude oil has been sought under the buy/sell notice, the refineries for which crude oil has been sought, and the volume and specifications of the crude oil sought from each refiner-seller.

(v) The response of each refiner-seller to which a request to purchase crude oil has been made, and the name and telephone number of the individual contacted at each such refiner-seller.

(vi) Such other pertinent information as ERA may request.

All reports and applications made under this notice should be addressed to: Chief, Crude Oil Allocation Branch, 20th Street Postal Station, P.O. Box 19028, Washington, D.C. 20036.

Copies of the decisions and orders assigning the emergency allocations listed herein may be obtained from: Economic Regulatory Administration, Public Information Office, 2000 M Street, N.W., Rm. B110, Washington, D.C. 20461, (202) 634-2170.

ERA requires each applicant for an emergency allocation to serve all refiner-sellers with a copy of its application and any amendments thereto simultaneously with the applicant's filing the application with ERA. The application must be received by all refiner-sellers by the filing deadline set forth in § 211.65(c)(2). If the applicant claims confidentiality for any of the information contained in its application, the basis for the claim must be clearly stated. ERA does not consider the names of potential suppliers contacted in unsuccessful attempts to obtain crude oil or offers of crude oil that the applicant has rejected to be proprietary.

Comments on each application will be accepted by ERA if received within eight days of service of the application.

This notice is issued pursuant to Subpart G of DOE's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with DOE's Office of Hearings and Appeals in accordance with Subpart H of 10 CFR Part 205. Any such appeal shall be filed on or before November 21, 1979.

Issued in Washington, D.C., October 17, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

Appendix

The Buy/Sell list for the period October 1, 1979, through March 31, 1980, is hereby amended to reflect emergency allocations for the months of October, November, and December 1979, and the resulting changes in sales obligations of refiner-sellers. The amended list sets forth the name of each refiner-seller, the additional volumes of crude oil that each such refiner-seller is required to offer for sale to small refiners, and emergency allocations for the months of October, November and December 1979.

Office of Hearings and Appeals Decision

By decision and Order dated September 5, 1979, the Office of Hearings and Appeals of the Department of Energy granted an appeal filed by Energy Cooperatives, Inc., which operates a refinery in East Chicago, Indiana. The Decision and Order (Case Number DEL-8112) specified in part that:

(2) Notwithstanding any contrary provisions of 10 CFR 211.65(a), ECI shall be regarded as a refiner-buyer for the allocation period October 1 through December 31, 1979, and its right to purchase crude oil pursuant to 10 CFR 211.65 is hereby established at 3,034,896 barrels.

(3) The Administrator of the Economic Regulatory Administration or his designee shall immediately issue a Supplemental

V 4 4 0 C 2 2 7 9 UMI

Notice for the Refiners Crude Oil Allocation Program which designates ECI as an eligible refiner-buyer that is entitled to purchase 3,034,896 barrels of crude oil during the October 1 through December 31, 1979 period.

Crude Oil Allocation Program Additional Sales Obligations Resulting From Emergency Allocations for the Period October 1, 1979–March 31, 1980

Refiner-sellers	Share	Additional sales obligation
Amoco Oil Co	.105	850,369
Atlantic Richfield Co	.077	624,466
Chevron U.S.A., Inc	.101	824,584
Cities Service Co	.025	199,704
Continental Oil Co	.004	32,475
Exxon Co., U.S.A	.089	722,565
Getty Refining & Marketing Co	.021	172,238
Gulf Refining & Marketing Co	.091	739,711
Marathon Oil Co	.022	185,553
Mobil Oil Corp	.094	763,840
Phillips Petroleum Co	.041	335,912
Shell Oil Co	.113	922,431
Sun Co	.055	450,564
Texaco Inc	.114	923,186
Union Oil Co. of California	.046	371,106
Total additional sales obligation		8,118,704

[1] All Refiner-Sellers' percentage shares have been changed to reflect the Continental Oil Company and Exxon Company, U.S.A. Decision and Order dated March 20, 1979. Case numbers are FEX-0184 and FEX-0185.

Emergency Allocations for October, November, and December 1979

Refiner	Refinery location	October 1979 allocation (barrels)	November 1979 allocation (barrels)
Clark Oil and Refining Corp	Blue Island, Ill	654,131	633,030
CRA, Inc	Coffeyville, Kans	644,273	985,290
Hunt Oil Co	Tuscaloosa, Ala	274,102	265,710
Laketon Asphalt Refining Co	Laketon, Ind	51,832	65,160
Murphy Oil Corp	Superior, Wis		201,330
Saber Refining Co	Corpus Christi, Tex	86,847	123,720
Seaview Petroleum Co	Paulsboro, N.J	374,325	362,250
Tipperary Refining Co	Ingleside, Tex	62,257	60,510
		2,147,767	2,697,000

December 1979 allocation: Murphy Oil (Superior, Wis.) 239,041 barrels

Additional Allocations for the October 1, 1979–March 31, 1980, Allocation Period

Emergency allocations (October)	2,147,767
Emergency allocations (November)	2,697,000
Emergency allocations (December)	239,041
Plus F C I allocation	3,034,896
Total allocations	8,118,704

[FR Doc. 79-32565 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreements; Civil Uses; Proposed Subsequent Arrangement; Canada

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sales:

Contract S-EU-601, sale to Italy of 190.8 grams of normal uranium in the form of U_3O_8, to be used for reference material in medical laboratories in the development of analytical standards for nuclear fuels and metal impurities.

Contract S-CA-280, sale to Canada of 7.7 grams of normal uranium as pitchblende ore, and 1.1 grams of thorium as monazite sand, to be used for standardization of gamma-ray spectrometer.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 6, 1979.

Dated: October 16, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32472 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Proposed Subsequent Arrangement; Switzerland

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Switzerland.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following shipment:

WC-SD-11, United States to Switzerland, 200 grams of Uranium, 99.78% U-238, to be used to produce single crystals for research at the Lab fur Festkerperphysik at Zurich.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 6, 1979.

Dated: October 16, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32473 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Austria; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is herby given of a proposed "subsequent arrangement" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of Austria.

RTD/AT(EU)-54, transfer from West Germany to Austria of 70.82 grams Uranium, containing 7.26 grams of U-235 (10.251%), 1.031 grams Plutonium, and 25 grams Thorium, for destructive post-irradiation examination.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that approval of this retransfer will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 6, 1979.

For the Department of Energy.

Dated: October 16, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32474 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Proposed Subsequent Arrangement

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

S-JA-267, sale of 10,000 kilograms of heavy water to the Power Reactor and Nuclear Fuel Development Company, for use as moderator in the FUGEN reactor, Tsuruga, Japan.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 6, 1979.

Dated: October 16, 1979.

For the Department of Energy.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32475 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

International Atomic Energy Agreement; Civil Uses; Argentina and Finland; Proposed Subsequent Arrangements

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of proposed "subsequent arrangements" under the Additional Agreement Between the Government of the United States of America and the European Atomic Energy Community (EURATOM) Concerning the Peaceful Uses of Atomic Energy, and the Agreements for Cooperation Between the Government of the United States of America and the Governments of Argentina and Finland.

The subsequent arrangements to be carried out under the above mentioned agreements involve approval of the following shipments:

Contract Number	United States to	Description
WC-NE-5	Netherlands	7.3 grams plutonium oxide.
WC-EU-89	West Germany.	3.8 grams plutonium oxide.
WC-EU-79	Belgium	7.3 grams plutonium oxide.
WC-EU-85	West Germany.	3.5 grams plutonium oxide.
WC-EU-84	France	7.3 grams plutonium oxide.
WC-FI-1	Finland	3.8 grams plutonium oxide.
WC-AR-2	Argentina	7.3 grams plutonium oxide.

The materials listed above are to be used in the IAEA's Safeguard Analytical Laboratory Evaluation (SALE) program, which is designed to evaluate the capability of participating laboratories to analyze materials to be safeguarded in the nuclear fuel cycle and to provide the means by which measurement capability may be improved through the interchange of measurement technology.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than November 6, 1979.

For the Department of Energy.

Dated: October 16, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32480 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

National Petroleum Council; Subcommittee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92-463, 86 Stat. 770), notice is hereby given of the following meeting of the National Petroleum Council, Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities:

DATE: Tuesday, November 6, 1979.
TIME: 9:00 a.m.
PLACE: Pan American Room, Capital Hilton Hotel, 16th & K Streets, NW, Washington, DC.
CONTACT: Georgia Hildreth, Director, Advisory Committee Management, Department of Energy, Rm 8G-031, 1000 Independence Avenue, SW, Washington, DC 20585, telephone: 202/252-5187.
PURPOSE OF COMMITTEE: The parent Committee was established to provide advice, information and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.
TENTATIVE AGENDA: The Subcommittee will review a draft report on U.S. Petroleum Inventories, and Storage and Transportation Capacities, and subsequently will report its findings to the parent Committee.
PUBLIC PARTICIPATION: The meeting is open to the public. The Chairperson of the Subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to the meeting should inform the Advisory Committee Management Office, 202/252-5187, at least 5 days prior to the meeting and reasonable provision will be made to include their presentation on the agenda.
TRANSCRIPTS: Available for public review and copying at the Freedom of Information Public Reading Room, Room GA-152 Forrestal Building, 1000 Independence Avenue, SW, Washington, DC, between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays.

Issued at Washington, D.C., on October 16, 1979.

Georgia Hildreth,

Director, Advisory Committee Management.

[FR Doc. 79-32432 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-FC-79-007; ERA Case No. 51007-0638-21-22; ERA Case No. 51007-0638-22-22; ERA Case No. 51007-0638-23-22; and ERA Case No. 51007-0638-24-22]

Acceptance of Exemption Request Pursuant to the Interim Rules of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Exemption Request Pursuant to the Interim Rules of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On June 14, 1979, Florida Power Corporation (FPC) petitioned the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for a permanent peakload powerplant exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA) (42 U.S.C. 8301 *et seq.*) which prohibits the use of petroleum and natural gas in

new powerplants. Criteria for petitioning for a peakload exemption from the provisions of FUA are published at 10 CFR 501.3 and 503.41. FPC proposes to install four 63,000 KW oil-fired combustion turbine units and certifies for each unit that it will be operated solely as a peakload powerplant and will be operated only to meet peakload for the life of the plant.

FUA imposes statutory prohibitions against the use of natural gas and petroleum by new powerplants. ERA's decisions in this matter will determine whether any of the proposed units qualify for the requested peakload powerplant exemptions.

ERA has accepted this petition pursuant to 10 CFR 501.3 and 501.64. In accordance with the provisions of Sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this matter, and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before December 6, 1979. A request for a public hearing must be made by any interested person within this same 45 day period.

ADDRESSES: Fifteen copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461. Docket Number ERA-FC-79-007 should be printed clearly on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

William L. Webb, (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, phone (202) 634-2170.

James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, phone (202) 254-7450.

G. Randolph Comstock, Deputy Assistant General Counsel for Coal Regulations, Room 6G-087, 1000 Independence Ave., S.W., Washington, D.C. 20585, phone (202) 252-2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, phone (202) 254-7442.

SUPPLEMENTARY INFORMATION: The Economic Regulatory Administration (ERA), on May 15 and 17, 1979, published in the **Federal Register** interim rules to implement provisions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act). The Act prohibits the use of natural gas and petroleum in certain new major fuel burning installations and powerplants unless an exemption to do so has been issued by ERA.

Florida Power Corporation (FPC) submitted a sworn statement as Exhibit A to each of the four petitions by Mr. Ned B. Spake, Vice President, Environment and New Technology of FPC as required by 10 CFR 503.41(b)(1). In his statements, Mr. Spake certifies that the oil-fired combustion turbines (Suwannee River CT-1 through CT-4) will be operated solely as peakload powerplants and will be operated only to meet peakload for the life of each plant. He also certifies that the design capacity of each unit is 63,000 KW and that the maximum generation that will be allowed during any 12 month period is the design capacity times 1,500 hours or 94,500,000 Kwh.

FPC also furnished the information required by 10 CFR 502.11 (Petroleum and natural gas consumption), 502.12 (Conservation measures), and 502.13 (Environmental impact analysis). A prepetition conference was held at FPC's request on June 8, 1979.

ERA retains the right to request additional relevant information from FPC at any time during the pendency of these proceedings where circumstances or procedural requirements may so require.

The public file, containing documents on these proceedings, a copy of the prepetition conference transcript and supporting materials is available for inspection upon request at: ERA, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.—4:30 p.m.

Issued in Washington, D.C., on October 12, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-32430 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 77-006-LNG, FPC Docket Nos. CP77-330, et al.]

El Paso Eastern Co., et al.; Conference To Define Issues Relating to Rehearing

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of conference.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued the order attached as an appendix to this notice calling a conference on October 25, 1979 in Houston, Texas, to define issues to be addressed in the rehearing of El Paso Eastern Company, *et al.*, ERA Docket No. 77-006-LNG. The proceeding involves applications for authority to import liquefied natural gas (LNG) from Algeria into the United States, authority to construct and operate an LNG terminal and other facilities on Matagorda Bay, Texas, and authority to sell the imported LNG for resale in interstate commerce.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254-8202.

Martin S. Kaufman, Office of General Counsel, 12th and Pennsylvania Avenue, N.W., Room 5118, Washington, D.C. 20461, telephone (202) 566-9380.

Issued in Washington, D.C., October 16, 1979.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

Order Convening a Conference To Define Issues Relating to Rehearing

On December 21, 1978, in Opinion Number Four, DOE/ERA denied an application to import LNG from Algeria through a facility located at Matagorda Bay, Texas.

On January 19, 1979, El Paso, *et al.*, the People of the State of California and the Public Utilities Commission of the Sate of California filed petitions for rehearing of Opinion Number Four. On January 22, 1979, United Gas Pipe Line Company and United LNG Company filed a petition for Rehearing and Request to Reopen in the same proceeding. On January 19, 1979, the American Gas Association (AGA) filed a brief in support of El Paso Eastern Company's petition for rehearing. All but the AGA are parties to the proceeding.

The petitioners for rehearing (petitioners) stated that they had no notice of the criteria used to evaluate the issues upon which the application was decided, and no opportunity to adduce evidence addressed to those issues, principally the issues of national need for the gas, regional need for the gas and the presumption in favor of direct sales to gas utility distributors. The petitioners also argued that ERA relied on material not in the record in reaching its decision, especially with respect to the issue of national need.

On February 20, 1979, DOE/ERA issued an order which granted rehearing. The order stated that DOE/ERA would issue a subsequent order at a later date setting forth its views on rehearing.

In order to afford the DOE/ERA a better opportunity to understand the nature of the issues upon which petitioners seek rehearing and the type of further proceedings that would best allow these issues to be addressed, DOE/ERA will hold a conference on October 25, 1979, at 10:00 a.m., in Court Room #6, 11th floor, Federal Building, 515 Rusk Street, Houston, Texas. At this conference, the following questions shall be considered: If the record is to be reopened, (1) which of the issues involved in the formulation of the final decision do the petitioners contend they were not given adequate opportunity to address; (2) if petitioners and other parties are provided opportunity to address those issues, which would require the presentation of additional evidence, and which would require only the opportunity to make new arguments based on the present record; (3) what is the nature of the evidence the petitioners would submit in support of their contentions; and (4) what procedures should be followed by DOE/ERA in order to reach a final decision in this proceeding?

The petitioners will initially be asked at the conference to address the enumerated questions. Other parties will then be given the opportunity to comment upon the presentations made by those seeking rehearing.

Issued in Washington, D.C., on October 16, 1979.

Douglas G. Robinson,

Deputy Administrator for Policy, Economic Regulatory Administration.

[FR Doc. 79-32427 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[ERA Case No. 51913-2176-21-77]

Montana-Dakota Utilities Co.; Request for Classification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of request for classification.

SUMMARY: On May 31, 1979, Montana-Dakota Utilities Company (MDU) requested the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) to classify Glendive Combustion Turbine Unit No. 1 (Glendive 1) as an existing facility pursuant to § 515.6 of the Revised Interim Rule to Permit Classification of Certain Powerplants and Installations as Existing Facilities (Revised Interim Rule), 10 CFR 515.6, issued by ERA on March 15, 1979 (44 FR 17464) and pursuant to the provisions of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* (FUA). FUA imposes certain statutory prohibitions against the use of natural gas and petroleum by new and existing electric powerplants. ERA's decision in this matter will determine whether Glendive 1 is a new or existing powerplant. The prohibitions which apply to existing powerplants are different from those which apply to new powerplants.

The purpose of this Notice is to invite interested persons to submit written comments on this matter prior to the issuance of a final decision by ERA. In accordance with 10 CFR 515.26, no public hearings will be held.

DATES: Written comments are due on or before November 13, 1979.

ADDRESSES: Ten copies of written comments will be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room B-110, Washington, D.C. 20461, Phone (202) 634-2170.

James W. Workman, Acting Director, Division of Existing Facilities Conversion, Economic Regulatory Administration, Department of Energy, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone (202) 254-7450.

G. Randolph Comstock (Office of the General Counsel), Room 6G-087, 1000 Independence Ave., S.W., Washington, D.C. 20461, Phone (202) 252-2967.

Robert L. Davies, Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, N.W., Room 3128, Washington, D.C. 20461, Phone: (202) 254-7442.

SUPPLEMENTARY INFORMATION: Montana-Dakota Utilities Company (MDU) is a corporation organized under the laws of the State of Delaware. MDU supplies electric service in a 168,100 square mile area contained in North Dakota, South Dakota, Montana and Wyoming.

MDU stated that it executed a contract in March 1978, for the construction of 28 MW, No. 2 fuel oil-fired combustion turbine, to be known as Glendive Combustion Turbine Unit No. 1 (Glendive 1) in Dawson County, Montana, and that commercial operation is scheduled for June 1979.

On May 31, 1979, pursuant to ERA's Revised Interim Rule, 10 CFR Part 515, issued by ERA on March 15, 1979, MDU requested that ERA classify Glendive Combustion Turbine Unit No. 1 (Glendive 1) as an "existing facility." In accordance with 10 CFR 515.6 a powerplant will be classified as existing if the cancellation, rescheduling or modification of the construction or acquisition of a powerplant would result in a substantial financial penalty or an adverse effect on the electric system reliability. MDU supported its request for classification by providing evidence in support of their claim that MDU would suffer a substantial financial penalty if Glendive 1 were not permitted to proceed as an oil-burning facility. A summary of the evidence requirements and MDU's response to those requirements follow:

Substantial financial penalty—Pursuant to 10 CFR 515.6(a), ERA will classify a facility as existing upon a demonstration that at least 25 percent of the total projected project cost as of November 9, 1978, was expended in nonrecoverable outlays as of November 9, 1979.

In response to the evidence requirement of 10 CFR 515.7(b)(1), MDU provided the following information:

Total projected project costs as of 11/9/78	$4,532,000
Total project expenditures, including obligation and cancellation charges as of 11/9/78	$4,238,661
Total recoverable expenditures	$301,864
Total nonrecoverable outlays including penalty charges for obligations and cancellations	$3,936,797
Nonrecoverable outlays percentage of total project expenditures as of 11/9/78	87%

ERA hereby invites all interested persons to submit written comments on this matter.

The public file, containing MDU's request for classification and supporting materials is available for inspection upon request at:

ERA, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461, Monday-Friday, 8:00 a.m.-4:30 p.m.

Issued in Washington, D.C., on October 12, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-32429 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Order Granting Special Temporary Public Interest Exemptions

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby sets forth its Order proposing to grant a special temporary public interest exemption from the prohibitions of Section 301(a)(2) and (3) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act), 42 U.S.C. 8301 et seq., pursuant to Section 311(e) of FUA, 10 CFR 501.68, and 10 CFR 508, to the following powerplants:

V 44 0C 22 79 UMI

Case control No.	Petitioner	Generating station	Unit identification	Location
52370-3043-21-41	Portland General Electric Co.	Bethel	CT 1	Salem, Oreg.
66004—9117-01-41	Rochester Public Utilities.	Cascade Creek	No. 1	Rochester, Minn.
51988-2275-01-41	Nebraska Public Power District.	Ogallala	No. 1	Ogallala, Nebr.
51988-2276-02-41		Bluffs	No. 2	Scotts Bluff, Nebr.
52588-0733-21-41	Savannah Electric & Power Co.	Port Wentworth	CT 1	Chatham County, Ga.
52588-0732-21-41		Boulevard	CT 1	Chatham County, Ga.
52588-0732-22-41			CT 2	
52588-0732-23-41			CT 3	
51817-1304-21-41	Board of Public Utilities, City of McPherson.	Municipal Plant	GT 1	McPherson, Kans.
51817-1304-22-41			GT 2	
51817-1304-23-41			GT 3	
53195-6210-01-41	The Washington Water Power Co.	Northeast Combustion Turbine.	CT 1	Mead, Wash.
52958-6203-21-41	Tri-State Generation & Transmission Assoc., Inc.	Republic River	CT 1	Wray, Colo.
52958-6203-22-41			CT 2	
52958-6203-23-41			CT 3	
52958-6619-21-41		Burlington	CT 1	
52958-6619-22-41			CT 2	Burlington, Colo.
50703-2231-01-41	City of Crete Utilities Department.	Crete	No. 1	Crete, Nebr.

I. Statutory Prohibitions

The above listed powerplants are prohibited by Section 301(a)(2) of FUA from using natural gas as a primary energy source, or are prohibited from using natural gas as a primary energy source in excess of the average base year proportions allowed in Section 301(a)(3) of the Act.

II. Eligibility for Exemption

The existing powerplants listed above have submitted petitions to ERA for a Special Temporary Public Interest Exemption and have asserted that:

a. Each existing powerplant is:

1. Prohibited on May 8, 1979 from using natural gas as a primary energy source by Section 301(a)(2) of FUA, or

2. Prohibited from using natural gas in excess of the average base year proportions allowed in Section 301(a)(3) of FUA.

b. The proposed use of natural gas as a primary energy source, to the extent that such use would be prohibited by Section 301(a)(2) or (3) of FUA:

1. Will displace consumption of middle distillate or residual fuel oil; and

2. Will not displace the use of coal or any other alternate fuel in any facility of the owner/operator utility system, including the powerplant for which the exemption was submitted.

III. Rationale

To the extent that the near-term choice of fuels for certain existing powerplants is limited to petroleum or natural gas, the use of natural gas is preferred over petroleum. The expanded use of natural gas in these powerplants will be a significant step toward reducing our short-term oil consumption. This increased use of natural gas will help the United States meet its commitment to reduce its demand for imported petroleum products, protect the Nation from the effects of any oil shortages, and will cushion the impact of increasing world oil prices, which have had a detrimental effect on the Nation's balance of payments and domestic inflation rate.

To the extent that this increased use of natural gas will accomplish these goals, it will reduce the importation of petroleum and further the goal of national energy selfsufficiency. This is in keeping with purposes of FUA and is in the public interest.

Since the increased use of natural gas is in keeping with the purposes of FUA and is in the public interest, and since the petitioners have demonstrated that they have met the eligibility criteria established in § 508.2 of the Special Rule (April 9, 1979, 44 FR 21230), ERA proposes to grant the exemptions.

IV. Duration

ERA proposes to grant these temporary public interest exemptions generally for a period of two years and may extend them from one to three additional years. Certain petitioners have requested that they be granted exemptions for a period of greater than two years but less than five years, the maximum period allowed under FUA, and to the extent that these requests are in the public interest ERA will consider them.

These proposed exemptions are subject to termination by ERA, upon six months written notice, if ERA determines such termination to be in the public interest.

V. Terms and Conditions

Pursuant to the authority of Section 314 of FUA and 10 CFR 508.6, ERA will require the order recipient upon issuance of a final order to: 1) Complete a Form ERA 316 (Temporary Public Interest Exemption for Use of Natural Gas by Existing Powerplants Form), 2) Report the actual monthly volumes of natural gas used in each exempted powerplant and the estimated number of barrels of each type of fuel oil displaced during the exemption period, 3) Submit a system-wide fuel conservation plan to include the two-year period covered by the temporary exemption, and 4) Submit annually to ERA a report on progress achieved in implementing the system-wide fuel conservation plan.

Issued in Washington, D.C., on October 16, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-32564 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

Receipt of Petitions for Temporary Public Interest Exemptions for Use of Natural Gas by Existing Powerplants Under the Powerplant and Industrial Fuel Use Act of 1978 and Proposed Order Granting the Temporary Exemptions.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Petitions and Proposed Orders.

SUMMARY: A number of petitions have been received and filed with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for temporary public interest exemptions for the use of natural gas as a primary energy source. Such exemptions are authorized by Section 311(e) of the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.*, November 9, 1978, (FUA or the Act). The owners/operators of the powerplants have provided the following information:

Petitioner generating station	Unit identification	Maximum quantity of oil displaced barrels/per day	Type of oil displaced	Coal displaced
Portland General Electric Co. (Bethel)	CT 1	18,000	Distillate	No.
Rochester Public Utilities (Cascade Creek).	No. 1	21,000	Distillate	No.
Nebraska Public Power District (Ogallala).	No. 1	19,000	Distillate	No.
(Bluffs)	No. 2	1,000	Distillate	No.
Sevannah Electric & Power Co. (Port Wentworth).	CT 1	20,000	Distillate	No.
(Boulevard)	CT 1	78,000	Distillate	No.
	CT 2			
	CT 3			
Board of Public Utilities, City of McPherson (Municipal Plant).	CT 1	171,000	Distillate	No.
	CT 2			
	CT 3			
The Washington Water Power Co. (Northeast Combustion Turbine).	CT 1	24,000	Distillate	No.
Tri-State Generation & Transmission Assoc., Inc. (Republican River).	CT 1	125,000	Distillate	No.
	CT 2			
	CT 3			
(Burlington)	CT 1	89,000	Distillate	No.
	CT 2			
City of Crete Utilities Department (Crete).	No. 1	12,000	Distillate	No.

FUA became effective on May 8, 1979. The Act prohibits the use of natural gas as a primary energy source in certain existing powerplants and also authorizes an exemptions procedure in regard to that and other prohibitions.

ERA is proposing to issue orders which would grant temporary public interest exemptions to all of the petitioners enumerated above, pursuant to the authority of Section 311(e) of FUA and 10 CFR 508, published by ERA on April 9, 1979 (44 FR 21230). These proposed orders, when finalized, would grant a temporary exemption to the subject powerplants from the prohibition against natural gas use, contained in Section 301(a) (2) and (3) of FUA.

ERA is publishing this notice of petitions filed and its proposed order to grant these exemptions, to invite interested persons to submit written comments pursuant to the requirements of FUA. In addition, any interested person may request that a public hearing be convened in regard to these petitions under the provisions of Section 701(d) of FUA.

DATES: Written comments relating to these petitions and the proposed order are due on or before November 28, 1979. Requests for a public hearing are also due on or before November 28, 1979.

ADDRESSES: Requests for a public hearing and/or 10 copies of written comments shall be submitted to: Department of Energy, Case Control Unit, Box 4629, Room 3214, 2000 M Street, NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

William L. Webb (Office of Public Information), Economic Regulatory Administration, Deparment of Energy, Room B-110, 2000 M Street, NW., Washington, D.C. 20461 (202) 634-2170.

Robert L. Davies (Office of Fuels Conversion), Economic Regulatory Administration, Department of Energy, Room 3128, 2000 M Street, NW., Washington, D.C. 20461 (202) 254-7442.

G. Randolph Comstock (Office of General Counsel), Department of Energy, Room 6G-087, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2967.

SUPPLEMENTARY INFORMATION: On April 9, 1979, ERA issued a final rule implementing the authority granted to DOE by Section 311(e) of FUA. This final rule, set forth in 10 CFR Part 508, established the policy ERA has adopted in implementing its authority under Section 311(e) of FUA and the eligibility criteria, which petitioners for the temporary exemption must demonstrate. This temporary exemption will allow certain existing electric powerplants to use natural gas as a primary energy source in excess of the amounts which are mandated by Section 301(a) (2) and (3) of FUA.

The use of natural gas, permitted under the temporary exemptions, will allow existing electric powerplants to displace distillate and residual fuel oils as their primary energy source.

This expanded use of natural gas in these powerplants will be a significant step toward reducing our short term oil consumption and will help the United States in meeting its goals to reduce its demand for imported oil, protect the Nation from the effects of any oil shortages, and will serve to cushion the impact of increasing world oil prices.

The above listed owners/operators have filed petitions with ERA to request a temporary public interest exemption for their existing electric powerplants. ERA has reviewed their petitions and has found that the powerplants meet the eligibility criteria established in § 508.2 of the final rule (44 FR 21230).

ERA, in its proposed order, is granting temporary public interest exemptions for the above listed powerplants.

This is not the final notice of petitions and proposed orders under the special rule. ERA will continue to comply with the requirements of Section 701(c) of FUA and will publish further notices as petitions are received.

Issued in Washington, D.C., on October 16, 1979.

Robert L. Davies,

Acting Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 79-32555 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER80-15]

Canal Electric Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 Canal Electric Company ("Canal") tendered for filing a Notice of Termination for its currently effective Rate Schedule FERC No. 19. Said Rate Schedule consists of a unit power sales agreement effective February 1, 1976 between Canal and Vermont Electric Power Company, Inc. ("Vermont") for the sale of unit power purchased by Vermont from Canal Electric Company's Unit No. 2.

Rate Schedule No. 19 was accepted for filing by Federal Power Commission order issued June 21, 1976 in Docket No. ER76-477 and by Federal Power Commission letter order dated October 1, 1976 in Docket No. ER76-856 and will terminate by its own provisions on October 31, 1979. Canal has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service was rendered under Rate Schedule No. 19.

A copy of this filing has been mailed to Vermont.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

V 4 4 0 2 2 7 9 UMI

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32523 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-5]

Indiana & Michigan Power Co.; Notice of Compliance Filing

October 16, 1979.

The filing Company submits the following:

Take notice that on September 28, 1979, the Indiana and Michigan Power Company (I&M) filed "Settlement No. 1 to Rate Schedule FERC No. 1 for Electric Service to Indiana and Michigan Electric Company.

This filing is in compliance with the letter order dated March 20, 1979, in the above case.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such protests should be filed on or before November 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken. Protests will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32524 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP76-91]

Montana Dakota Utilities Co.; Order Denying Motion for Shortening Time for Comments

October 16, 1979.

Montana Dakota Utilities Company (MDU) has moved to shorten the time for filing comments on the settlement proposal filed October 10, 1979. The stated ground is to permit Commission decision in time to allow the settlement to be put into effect December 1, 1979. It does not appear, however, that shortening the time for comments would allow sufficient time to put into effect the necessary procedural safeguards. Accordingly, the motion is denied.

If, upon examining the filed comments, it appears that responses to comments are unnecessary, the filing of responses will be dispensed with.

MDU is directed to serve notice of the settlement proposal and time for comments upon all persons who have presented their views at the hearings held in Billings, Montana or in writing. It is further ordered that notice of the proposed settlement and date for comments be published in the Federal Register as soon as possible.

Thomas L. Howe,

Presiding Administrative Law Judge.

[FR Doc. 79-32525 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-19]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 30. Said Rate Schedule consists of a unit power sales agreement dated May 3, 1978, between New Bedford Gas and Edison Light Company and the Westfield Gas and Electric Light Department for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

FERC Rate Schedule No. 30 was originally accepted for filing by FERC letter order dated October 4, 1978 in Docket No. ER78-545. FERC Rate Schedule No. 30 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 30.

A copy of this filing has been mailed to Westfield Gas and Electric Light Department.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32526 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-17]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 27. Said Rate Schedule consists of a unit power sales agreement dated May 2, 1978, between New Bedford Gas and Edison Company and The Electric Light Department of the Town of Danvers for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

FERC Rate Schedule No. 27 was originally accepted for filing by FERC letter order dated July 21, 1978 in Docket No. ER78-372. FERC Rate Schedule No. 27 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 27.

A copy of this filing has been mailed to The Electric Light Department of the Town of Danvers

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32527 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-21]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October, 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 32. Said Rate Schedule consists of a unit power sales agreement dated May 3, 1978, between New Bedford Gas and Edison Light Company and the Holden Municipal Light Department for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2

FERC Rate Schedule No. 32 was originally accepted for filing by FERC letter dated order October 27, 1978 in Docket No. ER78-621. FERC Rate Schedule No. 32 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 32.

A copy of this filing has been mailed to Holden Municipal Light Department.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32528 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-16]

New Beford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") tendered for filing a Notice of Termination for its currently effective Rate Schedule FERC No. 24. Said Rate Schedule consists of a transmission agreement effective February 1, 1976 between New Bedford and Vermont Electric Power Company, Inc. ("Vermont") for the transmission of unit power purchased by Vermont from Canal Electric Company's Unit No. 2 from its point of delivery at the Canal Electric Company 345 KV bus to Boston Edison Company's West Medway Substation.

Rate Schedule No. 24 was accepted for filing by Federal Power Commission letter order dated May 6, 1976, in Docket No. ER76-482 and has been once amended by Federal Energy Regulatory Commission letter order issued August 4, 1978 in Docket No. ER78-434. Rate Schedule FERC No. 24 will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 24.

A copy of this filing has been mailed to Vermont.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32529 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-20]

New Bedford Gas & Edison Light Co.; Notice of Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 31. Said Rate Schedule consists of a unit power sales agreement dated May 3, 1978, between New Bedford Gas and Edison Light Company and the Templeton Municipal Lighting Plant for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

FERC Rate Schedule No. 31 was originally accepted for filing by FERC letter order dated October 4, 1978 in Docket No. ER78-546. FERC Rate Schedule No. 31 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 31.

A copy of this filing has been mailed to Templeton Municipal Lighting Plant.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

V 4 4 0 C
2 2
7 9
UMI

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32530 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-18]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 29. Said Rate Schedule consists of a unit power sales agreement dated May 3, 1978, between New Bedford Gas and Edison Light Company and the Mansfield Municipal Electric Department for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

FERC Rate Schedule No. 29 was originally accepted for filing by FERC letter order dated October 4, 1978 in Docket No. ER78-544. FERC Rate Schedule No. 29 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 29.

A copy of this filing has been mailed to Mansfield Municipal Electric Department.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32531 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-23]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") tendered for filing a Notice of Termination for its currently effective Rate Schedule FERC No. 35. Said Rate Schedule consists of a unit power sales agreement dated October 23, 1978, by and between New Bedford Gas and Edison Light Company and the Electric Light Department of the Town of Braintree, Massachusetts for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

Rate Schedule FERC No. 35 was originally accepted for filing in Docket No. ER79-95 and has been once amended by Commission letter order dated June 20, 1979 in Docket No. ER79-345. Rate Schedule FERC No. 35 will terminate by its own provisions on October 31, 1979.

New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 35.

A copy of this filing has been mailed to Braintree.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32532 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-22]

New Bedford Gas & Edison Light Co.; Termination of Rate Schedule

October 16, 1979.

The filing company submits the following:

Take notice that on October 9, 1979 New Bedford Gas and Edison Light Company ("New Bedford") filed a Notice of Termination for its currently effective Federal Energy Regulatory Commission Rate Schedule No. 33. Said Rate Schedule consists of a unit power sales agreement dated May 3, 1978, between New Bedford Gas and Edison Light Company and the Hingham Municipal Lighting Plant for the sale by New Bedford of a portion of its entitlement to the capacity and related energy produced by Canal Electric Company's Unit No. 2.

FERC Rate Schedule No. 33 was originally accepted for filing by FERC in Docket No. ER79-1. FERC Rate Schedule No. 33 became effective November 1, 1978 and will terminate by its own provisions on October 31, 1979. New Bedford has requested the Commission to waive its notice requirements pursuant to § 35.15 of its Regulations and to permit the tendered Notice of Termination to become effective as of October 31, 1979, the final day upon which service will be rendered under Rate Schedule No. 33.

A copy of this filing has been mailed to Hingham Municipal Lighting Plant.

Any person desiring to be heard or to protest said filing should file a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32534 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-10]

Tucson Electric Power Co.; Notice of Cancellation

October 16, 1979.

The filing Company submits the following:

Take notice that on October 4, 1979, the Tucson Electric Power Company filed a notice that its Rate Schedule FERC No. 21, effective March 27, 1978 is to be cancelled as of midnight, September 30, 1979.

This cancellation does not apply to Supplement No. 1 to Rate Schedule FERC No. 21.

A copy of this filing has been served upon Platte River Power Authority.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on on before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32535 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-11]

Wisconsin Electric Power Co.; Proposed Rate Schedule

October 16, 1979.

The filing Company submits the following:

Take notice that on October 4, 1979, Wisconsin Electric Power Company filed a proposed Rate Schedule A to supersede Rate Schedule FPC No. 39 as Supplemented.

Because Rate Schedule A will supersede Rate Schedule FPC No. 39, the company submits that notice of cancellation is not required to be filed.

The Company requests that the notice rules under § 35.0 of the Commission's regulations be waived.

A copy of this filing has been served upon the Town of Florence, Wisconsin and the Public Service Commission of Wisconsin.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 79-32535 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. GP79-138 and GP79-141]

Oklahoma Natural Gas Gathering Corp. v. Sun Oil Co. et al.; Protests

October 15, 1979.

Take notice that on August 30, 1979, Oklahoma Natural Gas Gathering Corporation (Oklahoma) filed with the Federal Energy Regulatory Commission (Commission), pursuant to 18 CFR 154.94, protests to the blanket affidavits, interim collection filings, or rate changes of four producers insofar as they relate to the following contracts and the contractual authority thereunder to charge and collect maximum lawful prices under section 108 of the Natural Gas Policy Act of 1978 (NGPA):

Sun Oil Company—Rate Schedule No. 402
Sun Oil Company—Rate Schedule No. 450
Tenneco Oil Company—Rate Schedule No. 22
Texaco, Inc.—Rate Schedule No. 253
Entex Petroleum, Inc.—contract dated April 17, 1962
Entex Petroleum, Inc.—contract dated June 1, 1966

Oklahoma asserts that the above listed producers have claimed contractual authority to collect the maximum lawful price under section 108 of the NGPA, but that the above listed contracts do not authorize the collection of those prices.

These contracts are on file with the Commission and are open to public inspection.

Any person desiring to be heard or to make any protest concerning the protest filed in this docket should on or before November 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules. After that date, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order 23-B (44 FR 36834, July 3, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32514 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-489]

Panhandle Eastern Pipe Line Co. and Trunkline Gas Co.; Application

October 17, 1979.

Take notice that on September 17, 1979, Panhandle Eastern Pipe Line Company (Panhandle) and Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, (Applicants) filed in Docket No. CP79-489 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for United Gas Pipe Line Company (United) and the construction and operation of certain facilities necessary to render such transportation service, all as more fully set forth in the application on file with the Commission and open to public inspection.

United has contracted to purchase natural gas from Transok Pipeline Company (Transok), an interstate pipeline.[1] In order to receive such gas into its system, United has entered into a transportation agreement dated August 27, 1979, with Applicants providing for the transportation of up to 75,000 Mcf of natural gas per day by Applicants for United's account. By the terms of such agreement, Panhandle would receive from Transok for United's account up to 45,000 Mcf of natural gas

[1] Transok will sell the gas to United pursuant to Section 311(b) of the Natural Gas Policy Act (NGPA) and Part 284 of the Commission's Interim Regulations implementing the NGPA.

V 44 OC 22 79 UMI

per day at a proposed point of interconnection with Transok on Panhandle's system in Garfield County, Oklahoma, and up to 30,000 Mcf of natural gas per day from Oklahoma Natural Gas Company (ONG) for United's account at an existing point of interconnection with ONG on Panhandle's system in Dewey County, Oklahoma. From said points, Applicants propose to transport and exchange the gas with redelivery of the gas by Trunkline to United at either a proposed interconnection between the facilities of Trunkline and United in St. Mary Parish, near Garden City, Louisiana, or an existing interconnection between facilities of Trunkline and United in Lasalle Parish, Louisiana.

The application states that United would pay Panhandle for the proposed transportation service a monthly charge of $414,750, subject to adjustment, based on the firm quantity of 75,000 Mcf per day. Applicants indicate that an upward or downward adjustment of 18.17 cents per Mcf would be applied to any excess or deficiency in quantities taken. Panhandle would pay Trunkline for its *pro rata* share of the transportation service from the amounts paid by United, it is stated. Panhandle indicates that it would retain 6 percent of the volumes of gas received for fuel usage.

Panhandle also requests authorization to construct an interconnection for the receipt and measurement of gas at the Garfield County point of receipt. The cost of such facilities is estimated to be $181,000, which cost United would reimburse Panhandle.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32544 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-507]

Public Service Co. of Colorado; Order Approving Settlement

October 9, 1979.

On June 25, 1979, the Public Service Company of Colorado (PSCC) filed two proposed settlements with the Administrative Law Judge in Docket No. ER78-507, one with Colorado-Ute Electric Association, Inc., and one with all other wholesale customers. The settlement proposal applicable to Colorado-Ute included an offer of settlement at the filed rate and an alternative offer of settlement at rates commensurate with the settlement rates offered to the other wholesale customers. PSCC accompanied these filings with a motion that the Commission approve the originally filed rate, while Colorado-Ute and the Commission staff recommend approval of the rate commensurate with that being offered the other customers.

The Law Judge denied the motion, and certified both settlements to the Commission recommending approval of both settlements and that the alternate rate approved for Colorado-Ute be that which is comparable with the other customers' proposed rate.

The issue concerning the rates for Colorado-Ute resolves around the contract between Public Service Company of Colorado and Colorado-Ute, which provides, *inter alia:*

> Public Service will not initiate, seek or request from any authority having jurisdiction an increase or decrease in such rates for power purchases or transmission service in any proportion different from any general adjustment to the balance of its wholesale and transmission service rates.

PSCC contends this contract clause applies only to the initial rate filing. However, the ALJ upheld the staff and Colorado-Ute position that the clause is of the type which falls within the *Mobile-Sierra* doctrine,[1] is applicable to settlements, and requires that all fixed rate customers be offered the same rates, so as to avoid a unilateral change in contract rate vis-a-vis like customers.

The Commission agrees and observes the following points in support of this view:

(1) This issue arose with PSCC in Docket No. E-8882 which was resolved by the Federal Power Commission in an order upholding the staff position that the filed rate contract would "be meaningless if PSCC were permitted to file one set of new rates in accordance with the contract only to be permitted to turn around and negotiate and file in the form of a settlement agreement another set of new rates as to any and all of the customers." Order Approving Settlement, (issued November 17, 1975), at 3.

(2) In *City of Richmond* v. *F.P.C.*, 481 F.2d 490, 495 (D.C. Cir. 1973), the United States Court of Appeals interpreted *Mobile-Sierra* to mean that a contract stating sales of electric energy at wholesale would be at rates similar to others filed with a public service commission requires that the rate remain proportional throughout the term of the contract, not just at time of the initial filing.

(3) PSCC alleges that applying the filed rate to Colorado-Ute would produce a return on equity of 6.7%, which is lower than that produced under the settlement rates agreed upon for PSCC's other customers, and that providing the same reduced rate for Colorado-Ute would then yield a return on equity of 4.86%, which PSCC characterizes as "confiscatory." Assuming, *arguendo*, this is true, PSCC has failed to allege, much less demonstrate, that it meets the standard set by *Sierra*, 350 U.S. 348, 355 (1956) which states:

> • • • the sole concern of the Commission would seem to be whether the rate is so low as to adversely affect the public interest—as where it might impair the financial ability of the public utility to continue its service, cast upon other consumers an excessive burden, or be unduly discriminatory.

PSCC seems to be arguing that the rate should not be made proportional for Colorado-Ute because this will not be profitable. This line of reasoning is specifically rejected in *Sierra*, at 355, wherein the Supreme Court states "it is clear that a contract may not be said to be either 'unjust' or 'unreasonable' simply because it is unprofitable to the public utility."

(4) The contract clause on its face clearly relates to the filing of settlement rates as well as originally filed proposed rates. It prohibits PSCC from requesting "an increase or decrease in such rates • • • in any proportion different from any general adjustment to the balance of its wholesale and transmission service rates." A rate reduction from PSCC's proposed rate level to its other wholesale customers must also be reflected in PSCC's rate to Colorado-Ute. Therefore, we approve the alternative "adjusted rate" submitted by PSCC for Colorado-Ute in this proceeding.

Based on the staff's analysis, the earned rate of return under the proposed settlements will not exceed the staff's recommended 9.0% rate of return with 12.50% on common equity and a common equity of 38.04%.

The Commission orders: (A) The Settlement Agreement with Colorado-Ute, adopting the alternative proportional rates, and the Settlement Agreement with all other wholesale customers are in the public interest and are hereby accepted and approved.

(B) This order is without prejudice to any findings or orders which have been made or which will hereinafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereinafter instituted by or against Public Service Company of Colorado, or any other person or party.

(C) The tariff sheets attached to the settlement agreements are accepted for filing effective February 5, 1979 as designated on the enclosure. All amounts collected in excess of the settlement rates must be refunded within 30 days of the issuance of this order with interest computed in accordance with Commission Order No. 47. Within 15 days after the refunds have been made, the Company shall file with this Commission a compliance report showing monthly billing determinants and revenues under prior, present and settlement rates; the monthly revenue refund; and the monthly revenue interest computed together with a summary of such information for the total refund period. In addition, the Company shall furnish a copy of such report to each wholesale customer and to each State Commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail. Upon satisfactory completion of the above filing requirement, this docket is terminated.

(D) The Secretary shall cause prompt publication of this order to be made in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32515 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-493]

Southern Natural Gas Co.; Application

October 17, 1979.

Take notice that on September 20, 1979, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-493 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline and appurtenant facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Southern requests authorization to construct and operate approximately 7.8 miles of 8⅝-inch O.D. steel pipeline and necessary appurtenances, including a receiving/measurement station, to connect Gulf Oil Exploration and Production Company's (Gulf Oil) well in Block 51, Chandeleur Sound Area, St. Bernard Parish, Louisiana, to Southern's existing 6⅝-inch Eloi Bay Pipeline at M.P. 10.725 in St. Bernard Parish, Louisiana. Southern proposes to construct facilities in order to take delivery of volumes of natural gas which Southern has contracted to purchase from Gulf Oil under a gas purchase agreement, dated March 30, 1979. It is indicated that the sale of gas to Applicant by Gulf Oil would be made pursuant to the Natural Gas Policy Act of 1978 for resale in interstate commerce.

The estimated cost of construction of the proposed pipeline and appurtenant facilities is $1,559,460, which cost Southern expects to finance initially by short-term financing and/or cash from current operations, and ultimately from permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determing the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Southern to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32545 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-113]

Standard Gas Co.; Protest To Charge and Collect NGPA Prices

October 15, 1979.

Take notice that on August 7, 1979, the Standard Gas Company (Standard) filed in Docket No. GP79-113 a petition protesting the right of Cecil Pruitt, Jr. (Pruitt) to charge and collect from Standard the maximum lawful prices for natural gas established by the Natural Gas Policy Act of 1978 (NGPA) and the right to make any interim or retroactive collection of such prices, pursuant to § 154.94(h)(8) of the Commission's regulations 918 CFR 154.94(h)(8)). Standard is a corporation organized and operating under the laws of the State of West Virginia, with its principal offices in Jane Lew, West Virginia.

As stated in the petition, Pruitt is a small producer and is seeking to charge and collect from Standard maximum lawful prices set under section 108 of the NGPA for natural gas produced from

[1] *United Gas Co.* v. *Mobile Gas Corp.*, 350 U.S. 332 (1956); *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

V44 OC 22 79 UMI

wells designated as Alkire No. 1 (047–041–1636) and Alkire No. 2 (047–041–1716).

In order to collect up to the maximum lawful price under section 106, contractual authority to collect and charge the price authorized by the NGPA must exist. The contract between Pruitt and Standard contains the following clause:

(7) For the gas so furnished, supplied and delivered into the pipeline of Buyer, at the point as above described, by Seller, the Buyer agrees and binds itself to pay unto the Seller at the rate of Thirty ($.30) cents per thousand cubic feet.

Standard contends in its protest that the contract does not, in the price clause set forth above or in any other part, give Pruitt the necessary authority to collect section 108 prices, or to file for interim collections. Standard further protests that no part of the contract was intended to operate as a price escalator clause within the meaning of Order No. 23, issued by the Commission in Docket No. RM79–22 on March 13, 1979. A copy of the entire contract is in the Commission's public files and available for inspection by any member of the public.

Any person desiring to be heard or to make any response concerning Standard's protest filed in this docket should, on or before November 5, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein, but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's rules. After the period for protests and interventions has expired, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order No. 23–B (44 FR 38834, July 3, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32516 Filed 10–19–79; 8:45 am]

BILLING CODE 6450–01–M

[FERC Gas Rate Schedules Nos. 10 and 95; Docket No. GP79–90]

Texas Pacific Oil Co., Inc., and Texas Pacific Oil Co., Inc. (Blanket Affidavit Filing of December 6, 1978); Order Providing for Hearing, Setting Pre-Hearing Conference Consolidating Proceedings and Granting Intervention

October 10, 1979.

On September 11, 1978, Texas Pacific Oil Company, Inc. (Texas Pacific) filed notices of change in rate from the minimum rate of 18.0 cent to the 29.5 cent base rate established in Opinion No. 749 for sales under its Rate Schedule Nos. 10 and 95 to Arkansas Louisiana Gas Company (Arkla). Texas Pacific maintains that these filings are contractually authorized.

Texas Pacific's predecessor in interest, Joseph E. Seagram & Sons, Inc. (Seagram), entered into a contract on January 29, 1962, with Arkla for the sale of natural gas from acreage in the Arkoma Area, Oklahoma.[1] By letter agreement dated March 20, 1962,[2] the parties agreed that:

"• • • [S]hould Arkansas Louisiana, subsequent to the date of the Gas Purchase Agreement dated January 29, 1962, hereinabove referred to, contract with Sellers other than Seagram for gas to be delivered into the trunkline to be built to service the dedicated area under the above referred to Gas Purchase Contract, Seagram shall have at its option the right to be included as a contract member under such subsequent contracts or to amend its existing contract to include those leases which Seagram owns within such area dedicated by the Sellers in any such subsequent contracts."

Pursuant to the March 13th agreement, Seagram and Arkla executed a contract on December 31, 1963, adopting the terms and conditions of a contract dated March 15, 1962, as previously amended, between Arkla and Sinclair Oil and Gas Company (Sinclair) for certain leases owned by Seagram in the area covered by the Sinclair contract. The December 31, 1963, contract is on file as Texas Pacific's Rate Schedule No. 95.

By letter agreement dated November 12, 1975, between Arkla and Atlantic Richfield Company (Arco), successor in interest to Sinclair, an area rate clause was added to the 1962 Sinclair contract (presently Arco's Rate Schedule No. 481).

Texas Pacific maintains that the composite legal effect of the March 13, 1962, letter agreement between Seagram and Arkla and the November 12, 1975, letter agreement between Arkla and and Arco, constitutes the requisite contractual authority for the subject rate increase filings.

Texas Pacific also filed a blanket affidavit on December 6, 1978, whereby it seeks to charge the NGPA section 104 rate for flowing gas sold to Arkla under texas Pacific's Rate Schedule Nos. 10 and 95.

Arkla has requested that the Commisison reject Texas Pacific's September 11 rate increase filings. Arkla objects to the rate changes on the grounds that the filings lack contractural authorization and that, even if contractually authorized, the contractual authorization would be premised on an indefinite price escalation clause which is prohibited by §154.93 of the Commission's Regulation.[3] Arkla also filed a protest in Docket No. GP79–90 on August 15, 1979, to Texas Pacific's December 6, 1978, blanket affidavit filing whereby Texas Pacific seeks to charge the NGPA section 104 rate for flowing gas sold to Arkla under Rate Schedule Nos. 10 and 95.[4] Arkla is objecting to the December 6, 1978, blanket affidavit filing on the same grounds that it opposes the September 11, 1978, rate increase filings, *i.e.*, that the filing lacks contractual authorizations and, in the alternaitive, the filing violates § 154.93 of the Commission's regulations.[5]

The Commission finds that both the rate increase filings of September 11, 1978, relating to Texas Pacific's Rate Schedule Nos. 10 and 95 and the protest, filed by Arkla to Texas Pacific's December 6, 1978, blanket affidavit filing in Docket No. GP79–90 raise common issues of law and fact and should be consolidated for disposition.

The Commission also finds that it is necessary and in the public interest that a hearing be held to determine the lawfulness of the proposed rate increases in this consolidated proceeding.

The Commission orders: (A) Texas Pacific's rate increase filings of September 11, 1978, relating to its Rate Schedule Nos. 10 and 95, and Arkla's protest to Texas Pacific's December 6, 1978 blanket affidavit filing in Docket No. GP79–90 are hereby consolidated for the purpose of hearing and decision.

(B) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 14, 15 and 16 thereof, the Natural Gas Policy Act of 1978, the Commission's rules of practice and procedure and Regulations under the Natural Gas Act and Natural Gas Policy Act of 1978 (18 CFR Chapter I), a public hearing shall be held in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, for the purpose of hearing and disposition of the issues herein.

(C) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss as provided for in the rules of practice and procedure).

(D) The Presiding Administrative Law Judge shall preside at a prehearing conference to be held in this proceeding on October 23, 1979, at 10:00 a.m., EDT in a hearing room at the address noted in Ordering Paragrah (B).

(E) All parties to this proceeding shall file their proposed direct testimony and evidence on or before October 17, 1979. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(F) Arkla's petitions to intervene are hereby granted subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervenor shall be limited to matters specifically set forth in its petitions to intervene; *And provided further,* That the admission of such intevenor shall not be construed as recognition by the Commission that it might be aggrieved by any order issued in this proceeding.

By the Commission.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79–32517 Filed 10–19–79; 8:45 am]

BILLING CODE 6450–01–M

[1] On file as Texas Pacific's Rate Schedule No. 10.

[2] The letter agreement is written on letterhead stationery of Frankfort Oil Company, which company negotiated the various agreements involved herein on behalf of Seagram. Arkla states that Seagram and Frankfort were affiliated companies and that Texas Pacific is the successor to both companies.

[3] Arkla filed a protest, petition to intervene and motion to reject the rate increases on October 10, 1978. Arkla also filed a motion to consolidate Texas Pacific's September 11, 1978, rate filings relating to Rate Schedule Nos. 10 and 95.

[4] The Commission has given notice of the protest filed by Arkla in Docket No. GP79–90 and interested parties are allowed to respond on or before October 3, 1979.

[5] Arkla does not object, however, to Texas Pacific's attempt to charge the NGPA section 104 minimum rate for gas sold to Arkla under Rate Schedule Nos. 10 and 95.

[Dockets Nos. RM79–15 and RP72–99]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

October 15, 1979.

Take notice that on October 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing pursuant to Section 401 of the Natural Gas Policy Act of 1978 (NGPA) the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

First Revised Sheet No. 233A
First Revised Sheet No. 233B
First Revised Sheet No. 233C

The sheets are proposed to be effective November 1, 1979.

Transco states the purpose of the tariff sheets is to implement procedures for relief from curtailment on Transco's system pursuant to Section 401 of the NGPA and in accordance with the Commission's "Order Granting Transcontinental Gas Pipeline Corporation's Application for Rehearing" issued August 2, 1979, in Docket No. RM79–15. The tendered tariff sheets continue the effectiveness of Transco's currently effective relief procedures beyond the October 31, 1979 termination date. Transco States the relief procedures of § 13.4 to the General Terms and Conditions are consistent with the "Settlement Agreement As To Curtailment Rules of Transcontinental Gas Pipe Line Corporation Commencing November 1, 1978" approved by the Commission's orders issued January 19, 1979, and August 2, 1979, in Docket No. RP72–99.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers, interested state commissions and parties to Transco's curtailment proceeding in Docket No. RP72–99.

Any person desiring to be heard or to make any protest with reference to said filing should on or before October 28, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party must file a petition to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32518 Filed 10–19–79; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. RP72–99]

Transcontinental Gas Pipe Line Corp.; Tariff Filing

October 15, 1979.

Take notice that on October 1, 1979, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing, pursuant to § 13.2(b)(ii)(5) of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet:

Second Revised Sheet No. 229

This tariff sheet, which is proposed to be effective November 1, 1979, provides for increases in Annual Quantity Entitlements totalling 1,351,442 dekatherms (dt) for fourteen small volume customers which requested such increases in accordance with Article VI of Transco's "Settlement Agreement as to Curtailment Rules" as approved and adopted by the Commission by orders issued January 19, 1979, and August 2, 1979, in the above captioned docket.

Transco states that the foregoing increases in entitlements for customers which purchase under Transco's Rate Schedule G and OG are being proposed in accordance with the provisions set forth in § 13.2(b)(ii) of the General Terms and Conditions of Transco's FERC Gas Tariff, Second Revised Volume No. 1.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions and to parties to Transco's curtailment proceeding in Docket No. RP72–99.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before October 26, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file

V 4 4 O C 2 2 7 9 UMI

with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32519 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP78-328]

Transcontinental Gas Pipe Line Corp.; Petition To Amend

October 17, 1979.

Take notice that on September 19, 1979, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP78-328 a petition to amend the Commission's order of August 8, 1978, issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act so as to authorized Transco to increase the volume of gas that it is now transporting for Consolidated Gas Supply Corporation (Consolidated), from a particular point on Transco's system, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Pursuant to the order of August 8, 1979, Transco was granted authorization to provide a firm and interruptible transportation service for Consolidated from sixteen points on the Transco system, onshore and offshore Louisiana, to a point of redelivery on Consolidated's system at Leidy, Clinton County, Pennsylvania. Transco indicates that it is now providing such firm and interruptible transportation service for Consolidated from the authorized sixteen points on its system, onshore and offshore Louisiana, and that one of the authorized points of delivery to Transco for firm transportation is the point of interconnection of Transco's Southwest Louisiana Gathering System (SW System) and the tailgate of U-T Offshore System's Johnson's Bayou Plant in Cameron Parish, Louisiana (U-TOS delivery point), where the maximum delivery obligation is presently 25,000 dekatherms (dt) per day.

Transco states that Consolidated now desires it to increase the maximum delivery obligation at the U-TOS delivery point from 25,000 dt to 55,000 dt per day. Consequently, Transco requests authorization to increase the maximum delivery obligation at the U-TOS delivery point to 55,000 dt per day. Consolidated and Trasco have entered into an amendatory agreement dated April 12, 1978, providing for such increase.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32546 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-504]

Trunkline Gas Co.; Application

October 17, 1979.

Take notice that on September 26, 1979, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP79-504 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for Amoco Production Company (Amoco) 50 percent of Amoco's interest in the natural gas to be produced from South Timbalier Block 156, offshore Louisiana, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a transportation contract between Trunkline and Amoco, dated August 1, 1979, Trunkline would transport up to 3,000 Mcf of natural gas on a firm basis for Amoco from a point of receipt on Amoco's production platform located in South Timbalier Block 156 and redeliver the subject gas to Amoco for its further delivery to Florida Gas Transmission Corporation (Florida Gas). Redelivery of the gas to Amoco would occur at an existing point of the interconnection of the facilities of Trunkline and Amoco in Calcasieu Parish, Louisiana. The gas transported for Amoco would assist Amoco in fulfilling its warranty agreements with Florida Gas and Florida Power and Light Company (FP & L), it is asserted.

For the transportation service Amoco would pay Trunkline a monthly charge of $13,500 based on the maximum daily quantity of 3,000 Mcf per day. In the event Trunkline fails or is unable to take natural gas up to the daily contract demand level, the monthly charge shall be reduced 14.80 cents for each Mcf of deficiency on such day or days. If Amoco delivers or causes to be delivered to Trunkline natural gas at the point of receipt for Amoco's account in excess of the transportation quantity, the charge would be increased 14.80 cents for each Mcf of excess gas taken on such day or days.

The transportation contract further provides that Trunkline would retain a volume equal to 0.7 percent of the volume received for transportation fuel.

Trunkline states that the rates are subject to increases and decreases based upon Trunline's rate proceedings, installation of facilities by Trunkline required to maintain the capacity to transport said gas for Amoco or decreases in Amoco's transportation quantities.

Trunkline has purchased Amoco's remaining interest in South Timbalier Block 156 and Mobil Oil Exploration and Producing Southeast Incorporated's 50 percent interest in the natural gas to be produced from South Timbalier Block 156.[1]

Trunkline asserts that the requested authorization would enable Amoco to move its South Timbalier Block 156 gas supplies to the interstate market and facilitate sales of such gas by Amoco to FP & L. Trunkline states that it has sufficient capacity in its existing and to be constructed facilities to transport Amoco's gas as well as the other volumes connected to Trunkline's system.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commision's rules.

[1] Pursuant to budget authority granted in Docket No. CP78-536, Trunkline would construct 1.09 miles of 8-inch pipeline and appurtenant facilities to connect South Timbalier Block 156 into Trunkline's existing Terrebonnne System.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene if filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trunkline to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32547 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. GP79-142]

Zenith Natural Gas Co. v. Gulf Oil Corp.; Protest To Charge and Collect NGPA Prices

October 15, 1979.

Take notice that on August 30, 1979, Zenith Natural Gas Company (Zenith) filed with the Federal Energy Regulatory Commission (Commission), pursuant to 18 CFR 154.94, a protest to the interim collection filing of Gulf Oil Corporation (Gulf), insofar as it relates to the Gas Purchase Contract dated March 14, 1929, as amended, between Zenith Natural Gas Company (successor to Zenith Gas System, Inc.), as Buyer and Gulf Oil Corporation (successor in turn to Barbara Oil Company and Kewanee Oil Company), as seller, covering certain properties in the Medicine Lodge Field, Barber County, Kansas.

Zenith asserts that Gulf claims to have the contractual authority to collect the maximum lawful price under section 108 of the NGPA, but that the above mentioned contract does not authorize the collection of this price.

These contracts are on file with the Commission and are open to public inspection.

Any person desiring to be heard or to make any response with respect to this protest should file with the Commission on or before November 5, 1979 a petition to intervene in accordance with 18 CFR 1.8. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's rules.

After the time for protests and interventions has elapsed, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order 23-B (44 FR 38834, July 3, 1979).

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32520 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-14]

Alabama Power Co.; Proposed Rate Schedule

October 16, 1979.

The filing Company submits the following:

Take notice that Alabama Power Company on October 9, 1979 tendered for filing an Agreement with Central Alabama Electric Cooperative, Inc., intended as an initial rate schedule. The filing is for the proposed East Chilton and Titus delivery points. This agreement provides for a capacity of 10,000 kva at 115 kv at each delivery point. The delivery points will be served at the Company's applicable revision to Rate Schedule REA-1 incorporated in FERC Electric Tariff, Original Volume 1 of Alabama Power Company as allowed to become effective by Commission Order in FERC Docket 78-77.

Copies of the filing were served upon Central Alabama Electric Cooperative, Inc.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32521 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-24]

Arizona Public Service Co.; Filing of a Wholesale Power Agreement

October 16, 1979.

The filing company submits the following:

Take notice that on October 10, 1979, the Arizona Public Service Company (APS) tendered for filing a Wholesale Power Agreement, dated July 17, 1979, between APS and the Town of Wickenburg (Wickenburg).

The rates set forth in the Agreement are those rates which the Commission permitted APS to charge Wickenburg in Docket No. ER78-145. However, the Agreement provides that if, as a result of Commission decisions in pending APS rate cases, the Commission permits APS to charge rates different from those provide in the Agreement, appropriate adjustments shall be made.

APS requests that the formal requirements of Section 35.13 be waived.

A copy of this filing has been sent to Wickenburg and the Arizona Corporation Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 7, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a pary must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32522 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-507]

Big Sandy Gas Corp.; Application

October 17, 1979.

Take notice that on September 28, 1979, Big Sandy Gas Corporation (Big

V 44 0C 22 79 UMI

Sandy), P.O. Box 1473, Charleston, West Virginia 25325, filed in Docket No. CP79–507 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee Gas), the construction and operation of certain compressor and related pipeline facilities necessary to implement the transportation for Tennessee Gas and further, the continuation of its existing operations which have previously been performed on an intrastate basis, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Pursuant to a contract, dated August 17, 1979, Big Sandy has agreed to transport for Tennessee Gas such volumes as Tennessee Gas may purchase from Tug Fork Corporation (Tug Fork) and Appalachian Exploration and Development, Inc. (AED). The initial volumes transported for Tennessee Gas would be approximately 2,200 Mcf per day and when all proposed compressors are installed, delivery capacity would be approximately 8,000 Mcf to 10,000 Mcf per day. Should transportation volumes become available in the future which exceed Big Sandy's then existing transportation capacity, Big Sandy has agreed, on a best efforts basis, to expand and upgrade its system, Big Sandy asserts.

The transportation agreement between Tennessee Gas and Big Sandy provides that Tennessee Gas would pay Big Sandy at a rate of 60.0 cents per Mcf for the transportation service, comprised of two rate components: 40.0 cents per Mcf for transporting the gas, plus 20.0 cents per Mcf for compressing the gas in order to deliver it into Tennessee Gas' system.

The application indicates that the gas to be transported on behalf of Tennessee Gas would initially come from existing wells which are owned by Tug Fork and which are located throughout Big Sandy's pipeline system. In the future, it is anticipated that additional transportation gas would be derived from new wells which are to be filled by AED.

Big Sandy asserts that it would then collect the gas and transport it through its pipeline system to a point where the pipeline systems of Tennessee Gas and Big Sandy cross in Wayne County, West Virginia. Near such point, Big Sandy proposes to install and operate a compressor station which would consist of 3 compressors totalling 1,800 horsepower. In addition, Big Sandy proposes to install approximately 3,900 feet of 8.58-inch O.D. pipeline and other related facilities to connect with Tennessee Gas.

The cost of the proposed new compressors and related pipeline facilities is estimated to total approximately $1,500,000 and would be financed through a cash contribution from Big Sandy's corporate parent, Industrial Gas Corporation.

Big Sandy states that its pipeline system is "U" shaped and extends generally from east to west through Kanawha, Boone, Lincoln, Wayne, and Logan Counties, West Virginia and that it has been engaged in the business of transporting gas for others with West Virginia. Big Sandy states that it is presently exempt from Commission jurisdiction.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Big Sandy to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32536 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. GP79-124 (formerly GP79-109, 110[1])]

Carnegie Natural Gas Co. v. Allegheny Land & Mineral Co.; Protest To Charge and Collect NGPA prices

October 17, 1979.

Take note that on September 7, 1979, Carnegie filed, pursuant to §§ 154.94(h)(8) and (i)(3) of the Commission's Regulations (18 C.F.R. §§ 154.94(h)(8) and (i)(3)) a petition protesting the alleged contractural right of the Allegheny Land & Mineral Company (Allegheny) to charge Carnegie the applicable, maximum lawful prices established by the Natural Gas Policy Act of 1978 (NGPA).

Carnegie is located at 3904 Main St., Munhall, PA. 15120.

According to Carnegie, Allegheny is asserting that the indefinite price escalation clause contained in the settlement agreement in Docket No. RI74–188 applies to the sale of natural gas by Allegheny to Carnegie from wells numbered A–280 and A–290. Carnegie asserts that Allegheny is maintaining that the escalation clause consitutes the contractural authority for Allegheny to charge Carnegie the maximum lawful prices of the NGPA applicable to the gas from the two wells.[2] Carnegie alleges that the West Virginia Department of Mines, Oil and Gas Division has already found that the gas qualifies for the price of section 108 of the NGPA, as gas from stripper wells. Carnegie alleges that the gas would otherwise qualify for the price of section 104 of the NGPA.

Carnegie protests the asserted right of Allegheny to charge and collect the applicable NGPA prices and to make interim and retroactive collection of the NGPA rates under Part 273 of the Commission's Regulations. Carnegie asserts that the escalation clause in Docket No. RI74–188, if applicable to the sales made by Allegheny to Carnegie, is not triggered by "new and unforeseen [higher] statutory ceiling rates where the pre-existing contracts did not contemplate such rate increases." Carnegie maintains that the (pre-existing) contracts involved here are fixed rate contracts and thus do not contemplate rate increases up to the maximum lawful prices of the NGPA.

The actual language of the contracts at issue in this docket is contained in Carnegie's protest, a copy of which is contained in the Commission's public files and available for inspection by any member of the public.

Any person desiring to be heard or to make any protest concerning Carnegie's protest filed in this docket should on or before November 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein, but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party to this proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules. After the period for protests and interventions has expired, these protests will be forwarded to the Commission's Chief Administrative Law Judge for disposition in accordance with Order No. 23–B (44 FR 38834, July 3, 1979.)

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32537 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP79-491]

Colorado Interstate Gas Co.; Application

October 15, 1979.

Take notice that on September 18, 1979, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79–491 and application pursuant to Section 7(c) of the Natural Gas Act, and Section 157.7(c) of the Regulations thereunder, for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1980, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment CIG's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by CIG.

CIG states that the total cost of construction of the facilities to make miscellaneous arrangements on its system would not exceed $300,000, which cost would be financed from current working funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32508 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CP78-544]

Columbia Gulf Transmission Co. and Transcontinental Gas Pipe Line Corp.; Petition To Amend

October 17, 1979.

Take notice that on October 1, 1979, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP78–544 a petition to amend the order of March 21, 1978 issuing a certificate of public convenience and necessity in the instant docket pursuant to Section 7(c) of the Natural Gas Act by authorizing an additional delivery point in Jefferson Davis County, Mississippi to be included in the transportation and exchange arrangement between Columbia Gulf and Transco, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Pursuant to the order of March 21, 1978, Columbia Gulf is authorized to transport up to 50,000 Mcf of natural gas per day from the terminus of a pipeline system owned by Sea Robin Pipeline Company near Erath, Louisiana to Columbia Gulf's Rayne, Louisiana compressor station at which point Columbia Gulf retains such gas as exchange gas. Columbia Gulf redelivers to Transco at a point of interconnection in Terrebonne Parish, Louisiana, the thermal equivalent of the gas received by Columbia Gulf.

The petition indicates that Columbia Gas Transmission Corporation, an affiliate of Columbia Gulf, has contracted to purchase natural gas to be produced from Carson Dome Field, Jefferson Davis County, Mississippi from Forest Oil Corporation by an agreement dated August 8, 1979. In order to effect delivery of this gas to Transco, Columbia Gulf would construct, Transco would operate and they would jointly own 9.89 miles of 12-inch pipeline and related metering facilities connecting Carson Dome Field to Transco's existing 42-inch pipeline in Jefferson County, Mississippi, it is asserted.

By an amendment dated September 5, 1979, Columbia Gulf and Transco have agreed to modify their said agreement to add the Carson Dome point of delivery as a delivery point to Transco. The amendment further provides that thermally equivalent volumes of the gas received by Columbia Gulf at the point of receipt, less adjustments, would be redelivered to Transco first at the Carson Dome point of delivery and

---

[1] Carnegie Natural Gas Company (Carnegie) originally filed separate protests of the two contracts covered by this docket, on August 13, 1979. These two protests were assigned respectively to Docket No. GP79–109 for the contract covering well No. A–280 and to Docket No. GP79–110 for the contract covering well No. A–290. Since Carnegie consolidated these two protests in its instant filing assigned to this docket, the protests will be considered under this docket.

[2] The issue of whether the price escalation clause in the settlement agreement is triggered by the maximum lawful prices of the NGPA is presently before the Commission in Independent Oil & Gas Association of West Virginia, Docket Nos. RI74–188 and RI75–21.

V 44 0C 22 79 UMI

second at the Terrebonne point of delivery.

The contract demand of 50,000 Mcf per day remains unchanged; however, with the express written consent of Columbia Gulf, Transco may tender daily volumes in excess of the contract demand for transportation and exchange.

Transco would pay Columbia Gulf 60.0 cents per Mcf of contract demand for the transportation portion of the service. The amendment provides that the monthly demand charge would be reduced by allowing an underrun credit to Transco for volumes received by Transco at the Carson Dome point of redelivery.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before November 8, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32538 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER80-7]

Delmarva Power & Light Co.; Filing of Service Agreement

October 15, 1979.

The Filing Company submits the following:

Take notice that on October 5, 1979, the Delmarva Power & Light Company (Delmarva) filed a new service agreement with the Mayor and Council of New Castle, Delaware (New Castle).

The New agreement is to become effective October 26, 1979. It represeents a change in service to an existing wholesale for resale customer and makes no change in rates, terms, or conditions of Delmarva's FERC Electric Tariff Volume No. 8.

Since such service is the only rate of Delmarva for wholesale for resale service of a customer of the class of New Castle, no comparison of the proposed rate can be provided.

Delmarva further requests expedition of processing and such waivers as necessary to comply with the proposed effective date.

A copy of this filing has been served upon New Castle and the Public Service Commission of Delaware.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32509 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-494]

Florida Gas Transmission Co.; Application

October 17, 1979.

Take notice that on September 20, 1979, Florida Gas Transmission Company (Florida Gas), P.O. Box 44, Winter Park, Florida 32790, filed in Docket No. CP79-494 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 3.5 billion Btu's of natural gas per day for Mid Louisiana Gas Company (Mid Louisiana), all as more fully set forth in the application on file with the Commission and open to public inspection.

It is indicated that Mid Louisiana has arranged to purchase certain volumes of natural gas produced in the Bayou Bleu Field Area, Iberville Parish, Louisiana. In order to receive this gas into its system, Mid Louisiana has entered into a transportation agreement dated July 30, 1979, with Florida Gas, which agreement provides for the transportation of up to 3.5 billion Btu of natural gas per day [1] by Florida Gas for Mid Louisiana's account. Florida Gas states that it would receive such gas from Mid Louisiana at a new point of interconnection to be established on Florida Gas's 8-inch Bayou Bleu lateral and proposes to transport and redeliver the gas to Mid Louisiana at a new point of interconnection on Florida Gas's mainline in East Baton Rouge Parish, Louisiana, near the point where Mid Louisiana's and Florida Gas's mainlines cross. Florida Gas states that it would retain 0.5 percent of the million Btu delivery quantity to offset compressor fuel, unaccounted for losses, etc., attributable to the proposed transportation service.

Florida Gas proposes to charge Mid Louisiana for the proposed transportation service a transportation rate of 11.0 cents per million Btu's redelivered at the point of redelivery or a minimum charge of $500 per month. It is indicated that the proposed transportation rate (11.0 cents per million Btu) is composed of a facility charge (10.3 cents per million Btu's), and a service charge (0.7 cents per million Btu's), it is said. The proposed transportation charge is said to reflect a rate which is based 50 percent on mileage and 50 percent on fixed costs.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32539 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[1] The transportation agreement provides that Florida Gas may accept a greater or lesser quantity of natural gas depending upon the operation and transmission conditions of its pipeline facilities and its own operating requirements, it is stated.

[Docket No. ER80-9]

Kansas City Power & Light Co.; Filing

October 15, 1979.

The filing Company submits the following:

Take notice that on October 5, 1979, Kansas City Power & Light Company (KCPL) tendered for filing Service Schedules C-MPA-5 for Firm Power Service under the Municipal Participation Agreements between KCPL and the following Municipalities:

Customer—Superseding and Replacing

Baldwin City, Kansas—Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 85
Garnett, Kansas—Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 78
Osawatomie, Kansas—Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 77
Carrollton, Missouri—Schedule C-MPA-4, Supplement No. 7 to KCPL's Rate Schedule FERC No. 86

KCPL states that the purpose of this filing is to bring Firm Power rate levels for these customers up to those rate levels for similar service deemed to be effective August 31, 1979 by an Order of the Commission issued on August 30, 1979, in Docket No. ER79-166. KCPL requests an effective date of August 31, 1979 for these filings. The filing of these rate schedules (i) is in no way to be deemed a concurrence by KCPL in the purported lawfulness, justness, or reasonableness of the FERC August 30 Order, and (ii) is expressly without prejudice to KCPL's right and intention to file with FERC an application for rehearing challenging the August 30 Order.

Copies of this filing have been served on the City of Baldwin City, Kansas, City of Garnett, Kansas, City of Osawatomie, Kansas, City of Carrollton, Missouri, the Kansas State Corporation Commission, and the Missouri Public Service Commission.

Any person desiring to be heard or to protest and filings should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 5, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32510 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Dockets Nos: GP79-85, GP79-86, GP79-87, and GP79-130]

Louisiana-Nevada Transit Co. v. Phillips Petroleum Co., Hunt Oil Co., Exxon Corp., Cotton Valley Operators Committee; Protest To Charge and Collect NGPA Prices

October 17, 1979.

Take notice that on August 1, 1979, the Louisiana-Nevada Transit Company (LNT) filed pursuant to 154.94(h)(8) of the Commission's Regulations (18 CFR 154.94(h)(8)) petitions protesting blanket affidavits of the following producers to charge the maximum lawful prices insofar as those affidavits relate to the following contracts:

1. Phillips Petroleum Company (Phillips) Rate Schedule No. 584
2. Hunt Oil Company (Hunt) Rate Schedule No. 30
3. Exxon Corporation (Exxon) Rate Schedule No. 195
4. Cotton Valley Operators Committee (Cotton Valley) Rate Schedule No. 1

As stated in the petition, Phillips, pursuant to Rate Schedule No. 584, sells natural gas to LNT and seeks to charge the applicable NGPA rate. According to LNT, Phillips asserts that the contract between Phillips and LNT permits the price payable thereunder to escalate to the applicable NGPA rate. However, LNT in its petition alleges that under its contract with Phillips, Phillips has contractual entitlement to charge and collect the NGPA rates only as long as that rate does not exceed the rate set forth in Article VII of the January 1, 1976, contract between LNT and Phillips. LNT in its petition protests on the grounds that the escalation clause in the contract limits the right of Phillips to collect only certain NGPA rates.

Hunt, pursuant to Rate Schedule No. 30, sells natural gas to LNT and seeks to charge the applicable NGPA rate. LNT protests on the grounds that the provisions of the contract between Hunt and LNT dated December 2, 1955, as amended by agreements dated January 12, 1956, August 30, 1956, December 21, 1965, and January 1, 1976, particuarly paragraph 2 of the agreement dated January 1, 1976, do not permit escalation of the contract "to Congressionally or legislatively authorized prices."

Exxon, pursuant to Rate Schedule No. 195 sells natural gas to LNT and seeks to charge the applicable NGPA rate. LNT protests on the grounds that Article VIII of the contract between Exxon and LNT dated December 30, 1955, and amended January 21, 1976, does not permit escalation of the contract to "Congressionally or legislatively authorized prices."

Cotton Valley, pursuant to Rate Schedule No. 1 sells natural gas to LNT. LNT protests on the grounds that CVOC has the authority to charge and collect the filed for NGPA rate as long as that rate does not exceed the rate set forth in the June 9, 1977, agreement to price redetermination which is, in effect an amendment to the LNT-CVOC contract dated October 24, 1940.

Any person desiring to be heard or to make response with respect to this protest should file with the Federal Energy Regulatory Commission on or before November 8, 1979, a petition to intervene or a protest in accordance with 18 CFR 1.8 or 1.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken herein, but will not serve to make the protestants parties to this proceeding. Any party wishing to become a party to this proceeding or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's rules. This protest will be forwarded to the Commission's Chief Administrative Law Jugde for disposition in accordance with Order No. 23-B (44 FR 38834, July 3, 1979) at the end of the notice period.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32540 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

V 44 OC 22 79 UMI

[Docket Nos. CP66-121, CP66-110, et al. CP79-161]

Midwestern Gas Transmission Co.; Petition To Amend

October 17, 1979

Take notice that on October 2, 1979,[1] Midwestern Gas Transmission Company (Midwestern), 1100 Milam Building, Houston, Texas 77002, filed in Docket Nos. CP66-121 and CP66-110, *et al.*, a petition to amend the order of September 25, 1979, issued in said docket pursuant to Section 3 of the Natural Gas Act so as to authorize Midwestern to import additional volumes of natural gas to be purchased from TransCanada Gas Pipelines Limited (TransCanada), at an existing interconnection of the facilities of TransCanada and the facilities of Tennessee Gas Pipeline Company, a Division of Tenneco, Inc. (Tennessee) near Niagara Falls, New York (Niagara Interconnection), and in Docket No. CP79-161, a petition to amend the order issued September 25, 1979, in CP79-161 pursuant to Section 7(c) of the Natural Gas Act by authorizing the sale of such volumes of gas imported at the Niagara Interconnection to Tennessee, all as more fully set forth in the petitions to amend which are on file with the Commission and open to public inspection.

Midwestern states that by order issued by the Economic Regulatory Administration on August 9, 1979, at Docket No. 79-04-NG and by order of the Commission on September 25, 1979, at Docket Nos. CP66-110, *et al.*, Midwestern is authorized to import an additional 114,000,000 Mcf of natural gas from Canada at a point on the United States-Canadian boundary near Emerson Manitoba until and including October 31, 1980. Midwestern also received authorization in Docket No. CP79-161, to resell the total volumes imported by Midwestern to Tennessee, Northern Natural Gas Company and Natural Gas Pipeline Company of America.

It is indicated that the gas to be sold by Midwestern to Tennessee is to be transported by Great Lakes Gas Transmission Company (Great Lakes) for Midwestern from Emerson to Farwell, Michigan where the gas would be received by Michigan Wisconsin Pipe Line Company (Mich Wisc) for the account of Tennessee and then transported for Tennessee by Mich Wisc to Will County, Illinois, where gas would be delivered into the facilities of Midwestern for the account of Tennessee. Midwestern would make concurrent reductions in its purchases of gas from Tennessee at Portland, Tennessee, thus effecting ultimate delivery of the gas into Tennessee's system.

Midwestern states that it has been advised that Tennessee is experiencing an emergency on its system in that Tennessee would be unable to fill its top storage capacity before commencement of the winter withdrawal season unless it either obtains additional supplies of gas in its gas storage area, located in New York and Pennsylvania, or reduces gas available to its customers through increased curtailments during the remaining summer period of normal storage injection. In order to alleviate such condition and to maximize top storage inventories prior to the winter heating season, Tennessee has requested assistance from TransCanada by having TransCanada make gas available to Tennessee at the Niagara Interconnection for a period of up to sixty days. It is stated that subsequent to such request for assistance from TransCanada, Tennessee was advised by TransCanada that gas could be made available for sale at the Niagara Interconnection for a limited period of time. Tennessee then requested TransCanada to seek the necessary authorization to allow gas to be exported from Canada and sold to Midwestern at the Niagara Interconnection in daily volumes as TransCanada may have available and Tennessee can receive at the Niagara Interconnection as a purchase from Midwestern during the next sixty day period.

Tennessee has requested Midwestern to also seek necessary authorization to allow up to 120,000 Mcf per day of gas to be imported by Midwestern and sold to Tennessee at the Niagara Interconnection for a term of sixty days following initial delivery by TransCanada at the Niagara Interconnection, it is stated. It is further stated that receipt of such gas at such point would allow Tennessee to inject volumes of gas into its storage fields which would make a substantial contribution toward Tennessee's ability to enter the winter withdrawal period with full top storage.

Midwestern specifically requests that Docket No. CP66-121 be further amended to allow Midwestern to import up to 120,000 Mcf of natural gas per day at the Niagara Interconnection for a period of sixty days following commencement of deliveries at that point, such volumes to be a part of the 114,000,000 Mcf of gas previously authorized. In Docket No. CP79-161, Midwestern requests that the certificate be amended to allow Midwestern to sell up to 120,000 Mcf per day of gas to Tennessee at the Niagara Interconnection for a period of sixty days following commencement of deliveries at that point, such volumes to be a part of the gas to which Tennessee would otherwise be entitled to buy if imported at Emerson, Manitoba.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32541 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[1] The application was initially tendered for filing on October 2, 1979; however, the fee required by Section 159.1 of the Regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 10, 1979.

[Docket No. ER80-5]

Minnesota Power & Light Co.; Proposed Changes in Rates and Charges

October 15, 1979.

The filing Company submits the following:

Take notice that Minnesota Power & Light Company on October 3, 1979, tendered for filing proposed changes in its rates and charges for sales-for-resale service to seventeen municipal customers, one privately-owned electric system customer and one electric cooperative customer, as embodied in MP&L's proposed Rate Schedule Nos. 04 and 05. In addition, MP&L has filed for an increase in the transmission service rate applicable to the City of Wadena, Minnesota and the distribution wheeling rate applicable to United Power Association. The proposed changes would increase revenues from jurisdictional sales and service by $5,388,658 based on the twelve-month period ending December 31, 1980.

MP&L states that the proposed increases in sale-for-resale rates are intended primarily to increase the rate of return to an adequate level and reflect the inclusion in rate base of a new 500 MW coal-fired generating unit at MP&L's Clay Boswell steam electric station. MP&L requests that the rate increases become effective on April 1, 1980 in accordance with approved settlement agreements in prior proceedings.

Copies of the applicable portions of the filing have been served upon MP&L's jurisdictional customers. Copies have also been mailed to the Minnesota Public Service Commission and the Public Service Commission of Wisconsin.

Any ge person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All such petitions or protests should be filed on or before November 2, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32511 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. E-8494]

Minnesota Power & Light Co.; Order Directing Compliance

October 15, 1979.

On April 6, 1979, Minnesota Power & Light Company (MP&L) filed a revised compliance pursuant to a letter from the Director of the Commission's Office of Electric Power Regulation (OEPR), dated March 7, 1979. Notice of the revised compliance filing was issued on April 30, 1979, with protests due on or before May 18, 1979. No protests were received. The revised compliance filing was accepted for filing on May 24, 1979, by a letter from the Secretary of the Commission upon the direction of the director, OEPR.

On June 22, 1979, the Intervenors [1] filed an application for rehearing of the acceptance of the revised compliance filing on the grounds that neither the Secretary nor the Director, OEPR, had been delegated the authority by the Commission to accept compliance filings required by Commission rate orders. In addition, Intervenors allege that even if the acceptance letter represents the exercise of lawfully delegated authority the letter was unlawful because it failed to consider Intervenors' protest and objection to the original compliance filing. Intervenors note that they filed a response to MP&L's original compliance filing that, among other things, objected to MP&L's determination of billing demands for the firm portion of partial requirements service [2] for the purpose of computing refunds in a manner different from the method MP&L used to determine its billing demands for billing purposes. As MP&L did not change its method of determining billing demands in the revised compliance filing and as MP&L did not respond to objections raised by Intervenors, they allege that their objections have continued application to the revised filing.

We hold that Intervenors were obligated to file comments with respect to the revised filing and that the Secretary was authorized to accept the compliance filing. In addition, we have reviewed the objections raised by Intervenors with respect to the billing demands. In MP&L's initial rate filing, it had included a rider for standby service in its proposed schedule 92 that modified the manner of determining firm power billing demands for partial requirement municipals. The rider contained a provision, captioned "Modification," that provided that "Annual System Demand" as defined therein was to be substituted for "Estimated Annual System Demand" in MP&L's previously filed municipal service agreements for purposes of determining firm power billing demands. MP&L believes that the rider was voided by Commission action in Opinion No. 12; thereby reinstating the old method of calculating the firm power billing demands of MP&L's municipals customers on the basis of Estimated Annual System Demand. Intervenors assert that the rider was rejected by the Commission in its order of April 29, 1974, and even though the rates were not effective until July 18, 1974, MP&L continued to bill on the basis of Annual System Demand. Additionally, Intervenors contend that MP&L has not argued that the billing methodology proposed in the compliance filing is required by the provisions of the contracts with Hibbing and Aitkin and that the continued billing on the basis of Annual System Demand served to effect a modification of terms of the written contract.

In addition, we find that our order of April 29, 1974 rejected the rider as it applied to MP&L's partial requirements municipal customers and that Opinion No. 12 rejected only the standby demand charge as it applied to Superior Water, Light and Power Company. Further, our review indicates that MP&L continued to determine firm service billing demands for the municipalities on the basis of the modification contained in the rider even though the rider had been rejected by the Commission. In fact, MP&L billed under this procedure for four subsequent rate filings after the rider was rejected by us in 1974.[3] We order MP&L to refile its compliance filing by calculating the firm power billing demand for partial requirement municipalities customers on the basis of the Annual System Demand. We further order MP&L to develop demand charges using such billing demands, and to make refunds in accordance with such changes.

The Commission orders: (A) MP&L is hereby ordered to develop billing demands for the partial requirements municipal customer using Annual System Demand.

(B) MP&L is hereby directed to develop the demand charge for schedule 90R Alternative using such billing demands.

(C) MP&L is hereby ordered to change the monthly rate for the Demand Charge in Alternative Schedule 90R to reflect such computations.

(D) MP&L is hereby ordered to make refunds in accordance with the above ordered changes.

By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32512 Filed 10-19-79; 8:45 am]
BILLING CODE 6450-01-M

[1] Cities of Biwabik, Brainerd, Ely, Gilbert, Staples, Two Harbors and Virginia; Villages of Aitkin, Buhl, Grand Rapids, Hibbing, Keewatin, McKinley, Mt. Iron, Nashwauk, Pierz, Proctor and Randall, and Stuntz Cooperative Light and Power Association.

[2] Villages of Hibbing and Aitkin.

[3] The Commission order was affirmed by the United States Court of Apeals for the D.C. Circuit, 527 F.2d 1368 (1976), without opinion.

[Docket No. CP79-486]

National Fuel Gas Supply Corp.; Application

October 17, 1979.

Take notice that on September 12, 1979, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in Docket No. CP79-486 an application

V 44 O C 2 2 7 9 UMI

pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the installation and operation of a meter and regulator station in order to provide a new delivery point for delivery of gas to Northeast Heat and Light Company (Northeast), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant seeks authorization to install and operate a meter and regulator station on its line in northwest Pennsylvania for the purpose of providing an additional delivery point for delivery of gas to Northeast. Applicant states that the facilities proposed to be installed would consist of a 2-inch orifice meter and recorder, a 2-inch regulator, three 2-inch valves, a 2-inch relief valve, and a 10¾-inch x 36-inch drip. These facilities would supply 200 Mcf of gas per day to Northeast, it is stated.

The estimated total cost of installation of the proposed facilities is $3,500, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be fully given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32542 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-396]

Northern Natural Gas Co.; Amendment

October 17, 1979.

Take notice that on September 18, 1979, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP79-396 an amendment to its application filed in said docket pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity to include in such application the border price of natural gas imported from Canada and transported through the Alaskan Natural Gas Transportation System (ANGTS) in the Purchase Gas Adjustment Clause of its FERC Gas Tariff, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.[1]

In its application herein, Northern proposes to receive into its system, at points near Aberdeen, South Dakota, Welcome, Minnesota, and Ventura, Iowa, up to 800,000 Mcf per day of natural gas from the Northern Border Pipeline Company (Northern Border) segment of ANGTS. It is stated that of this volume of gas, Northern would purchase 200,000 Mcf per day of gas from Northwest Alaskan Pipeline Company (Northwest Alaskan), which is importing such gas from the Province of Alberta, Canada. In its original application, Applicant noted the magnitude of the cost to be incurred for both the purchase and transportation of the Canadian gas involved herein and indicated that it was essential that it be provided with a means of recovering such costs on a current basis. Applicant requests that the Commission approve Applicant's specific proposed method of assuring automatic cost recovery. Applicant also requests that the border price of gas imported from Canada and transported through ANGTS be included in the Purchase Gas Adjustment Clause of its FERC Gas Tariff. Additionally, Applicant seeks approval of an additional provision in its Tariff which would permit the "tracking" of transportation charges incurred for the shipment of the Canadian gas through ANGTS.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before November 7, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary

[FR Doc. 79-32543 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA79-31]

Northern Natural Gas Co.; Application for Adjustment

October 15, 1979.

Take notice that on September 28, 1979, the Northern Natural Gas Company (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. SA79-31 an application for an adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) wherein Northern seeks exemption from the tariff filing requirements of section 281.204 of the Commission's Regulations under the NGPA, all as more fully set forth in the application for adjustment.

Section 281.204 of the Commission's Regulations requires the filing of tariff sheets regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users, the attribution of natural gas, and the establishment of a Data Verification Committee. Northern requests that it be exempted from the filing requirements of section 281.204, insofar as it may apply to the jurisdictional sales of its Peoples Natural Gas Division (Peoples) in the Texas Panhandle area. Northern states that its Peoples Texas Panhandle System sells gas to only two jurisdictional customers, Southern Union Gas Company and Felt Water Development Company, and that such sales are made in accordance with tariffs on file with the Commission, which is part of Northern's original volume no. 4. Nonjurisdictional sales are also made in rural sales areas in the town of Texline, Texas. These sales of gas to the ultimate consumers are regulated by various state and local authorities and are made in order of the priorities set forth in curtailment plans on file with said authorities. Northern (operating as Peoples) currently has no curtailment plan on file with the Commission for the two jurisdictional sales on its Texas Panhandle System.

The entire supply for People's Texas Panhandle System is purchased from the Colorado Interstate Gas Company (CIG). During the approximately nine years that Peoples has operated the Texas Panhandle System, its supplies of gas for its jurisdictional customers have never been curtailed by CIG, and it does not anticipate any curtailment of gas to these customers in the foreseeable future.

Northern further requests that, in the event its application for an adjustment cannot be granted prior to October 31, 1979, it be granted interim relief pending final determination of this proceeding.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of section 1.41 of the Commission's Rules of Practice and Procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 6, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32513 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

[1] The application was initially tendered for filing on September 18, 1979; however, the fee required by Section 159.1 of the regulations under the Natural Gas Act (18 CFR 159.1) was not paid until October 9, 1979; thus, filing was not completed until the latter date.

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; September 4 Through September 7, 1979

Notice is hereby given that during the period September 4 through September 7, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 15, 1979.

Farmland Industries, Inc., Kansas City, Mo., DEE-7731, motor gasoline

On August 6, 1979, Farmland Industries, Inc. filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. The exception request, if granted, would relieve the firm of its obligation under 10 CFR, Part 211, to sell more motor gasoline to four refiners. In a Proposed Decision and Order issued on September 7, 1979, the Office of Hearings and Appeals determined that the exception request should be denied.

Louise S. Barge, Decatur, Ga., DEE-6468, temperature restrictions

Louise S. Barge filed an Application for Exception from the provisions of 10 CFR, Part 490. The Application, if granted, would permit Mrs. Barge to lower the temperature below 78°F in her office. On September 7, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

David H. Krathen, Fort Lauderdale, Fla., DEE-7656, temperature restrictions

David H. Krathen filed an Application for Exception from the provisions of 10 CFR, Part 490. The Application, if granted, would permit Mr. Krathen to lower the temperature below 78°F in his office. On September 7, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 4 through September 7, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case Number, and Location

Ballance Oil Co., DEE-2571, Russellville, KY.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 4 through September 7, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case Number, and Location

Gary's Service Station, DEE-5799, Herminie, PA.
Gordon's Chevron, DEE-6598, Banning, CA.
Kirshberger Gulf, DEE-7593, Clarksville, AR.
Pete's Gulf, DEE-7178, Findlay, OH.
Arnie's Truck Plaza, DEE-6001, Jamestown, ND.
Beer World, DEE-4371, Washington, D.C.
Bill's Mobil, DEE-5135, Hyattsville, MD.
Collins Chevron, DEE-5903, Plantation, FL.
Downtown Exxon, DEE-5491, Harrodsburg, KY.
Frank's Auto Service, DEE-7093, E. Longmeadow, MA.
Main Street Gulf, DEE-4713, Westerly, RI.

[FR Doc. 79-32426 Filed 10-19-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180276A; FRL 1343-1]

Arizona Commission of Agriculture and Horticulture; Amendment to Specific Exemption To Use Permethrin To Control Heliothis Species on Lettuce

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of amendment to specific exemption.

SUMMARY: EPA has granted an amendment to the specific exemption granted to the Arizona Commission of Agriculture and Horticulture (hereafter referred to as the "Applicant") to use permethrin (Ambush and Pounce) to control *heliothis* species on 40,000 acres of lettuce in Arizona. The amendment permits the use of fenvalerate if a sufficient quantity of permethrin is not available for this use. The specific exemption expires on December 31, 1979.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On Wednesday, April 11, 1979 (44 FR 21702), EPA published a notice in the Federal Register which announced the granting of a specific exemption to the Applicant to use 40,000 pounds of permethrin to control *Heliothis* spp. on lettuce. Since then, the Applicant has requested permission to use fenvalerate (manufactured by Shell Chemical Company as Pydrin, EPA Reg. No. 201–401) in the event that a sufficient quantity of permethrin is not available for this use. Fenvalerate will be applied in the same manner and at the same rate as permethrin. No additional quantity was requested.

After reviewing the application and other available information, EPA has determined that the requested amendment would not significantly change the original specific exemption and should not present an undue hazard to man or the environment. Accordingly, EPA has amended the specific exemption to permit the use of Pydrin on lettuce to control *Heliothis* spp. in Arizona. The specific exemption is revised by the addition in item 1 of the April 11, 1979 notice that in the event a sufficient quantity of permethrin is not available for this use, Pydrin may be used at a maximum dosage rate of 0.2 pound active ingredient (a.i.) per acre. This revision is subject to the following restrictions:

1. Available data indicate that the 0.1 pound a.i. rate should provide as good a control as the 0.2 pound a.i. rate in most situations. Therefore, in most instances th 0.1 pound a.i. rate should be recommended;

2. Lettuce will be field-trimmed to remove wrapper leaves;

3. These pesticides are extremely toxic to fish and aquatic vertebrates and invertebrates. They must be used with care when application is made in areas adjacent to any body of water. They may not be applied when weather conditions favor run-off or drift. They must be kept out of lakes, streams, and ponds. Care must be taken not to contaminate water by cleaning of equipment or disposal of wastes;

4. Permethrin or fenvalerate should not be applied any closer to fish-bearing waters than indicated in the chart below:

Application method and height	Aerial (10 feet)			Ground (2 feet)		
Application rate (lbs. a.i. fenvalerate)	.05	0.1	0.2	0.05	0.1	0.2
Freshwater (distance in feet)	1,847	2,779	3,950	369	556	790
Application rate (lbs. a.i. permethrin)	.05	0.1	0.2	0.05	0.1	0.2
Freshwater (distance in feet)	585	990	1,600	117	198	320

The Applicant is warned that applications closer than those allowed in the above chart may result in fish and/or aquatic organism kills;

5. These products are highly toxic to bees exposed to direct treatment or residues on crops or weeds. The pesticides may not be applied or allowed to drift to weeds in bloom on which an economically significant number of bees are actively foraging. Protective information may be obtained from the State Cooperative Extension Service;

6. A 60-day crop rotation restriction is imposed for permethrin. For fenvalerate: Root crops may not be planted for 12 months after the last application. No other crop may be planted for 60 days after the last application;

7. The EPA shall be immediately informed of any adverse effects resulting from the use of these pesticides in connection with this exemption;

8. Lettuce with residue levels of fenvalerate not exceeding 1 part per million (ppm) may enter into interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

9. All other terms and conditions of the specific exemption granted on March 1, 1979, still apply.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Progroms.

[FR Doc. 79–32463 Filed 10–19–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP 180377; FRL 1343–3]

California Department of Food and Agriculture; Crisis Exemption To Use Komeen To Control Hydrilla Verticillata In Water

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") has availed itself of a crisis exemption to use Komeen Aquatic Herbicide (copper (metallic) 8%) to control *Hydrilla verticillata* in potable water systems, irrigation canals, and reservoirs in California. California had applied for a specific exemption in April, 1979.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On August 6, 1979, California notified EPA that it was implementing a crisis exemption to use Komeen to control *Hydrilla verticillata* infestations throughout the State. According to California, since the submission of a request for a specific exemption for this use of Komeen, severe water delivery and maintenance problems arose and immediate treatment was necessary.

California has been using Komeen at a rate of not more than four applications per year, using ground or air equipment.

Komeen is being applied at a rate of 8 to 16 gallons in 4 to 44 gallons of water per acre by air or in 84 to 384 gallons of water per acre by ground. All applications are being made by, or under the supervision of, an applicator who is State-certified for this category of pest control. All applications are being made in accordance with California closed mixing system regulations. Prior to use, a permit must be obtained from the county agricultural commissioner. The permit gives details of the use of and the dealer from whom the product may be purchased. The dealer verifies the permit and maintains a record of each sale. The county agricultural commissioner, under the auspices of California, monitors the use of the product under this exemption and will prepare a written report describing any unusual or adverse effects attributable to this use. California had already requested a specific exemption for this use until June 30, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136).)

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32461 Filed 10–19–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP 180374; FRL 1343–5]

California Department of Food and Agriculture; Crisis Exemption To Use Permethrin and Fenvalerate on Sweet Corn To Control Heliothis Species

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") has availed itself of a crisis exemption to use permethrin and fenvalerate on a maximum of 9,000 acres of sweet corn to control *Heliothis* species (tobacco budworm and corn earworm) in California. Since treatment was expected to exceed 15 days, California submitted a request for a specific exemption for continuation of this use of permethrin and fenvalerate.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On April 25, 1979, California informed EPA that the State was initiating a crisis exemption to use a maximum of 16,000 pounds of either permethrin or fenvalerate on a total of 9,000 acres of sweet corn in Imperial and Riverside Counties, California. California stated that this use was necessary to prevent destruction of the corn crop by severe and widespread infestations of *Heliothis* spp. According to California, there was insufficient time to request a specific exemption because of the extent and severity of the infestation and the nature of the damage that was occurring. California reported that losses from this newly developing pest problem could reach more than $1.5 million if the *Heliothis* spp. were not controlled. California claimed that the pesticides registered for this use did not give adequate control.

Permethrin (Ambush) and fenvalerate (Pydrin) were applied at a rate of 0.1–0.2 pound active ingredient in not less than 30 gallons of water per acre if application was made by ground, or in not less than 5 gallons of water per acre if application was made by aircraft. A maximum of 10 applications were to be made at 3- to 7-day intervals. Workers were not to reenter the fields until the spray dried, and a 2-day pre-harvest interval was observed. All applications were made by or under the supervision of an applicator State-certified for this category of pest control. Applications were made in accordance with California closed mixing system regulations. Application was limited to those fields with at least 5 percent infestation after tasseling. Crop refuse from treated fields was not to be fed to livestock. A 60-day crop rotation period was imposed. Because of permethrin's and fenvalerate's toxicity to fish and aquatic invertebrates and to bees, appropriate restrictions were imposed.

Since treatment was to exceed fifteen days, California submitted a request for a specific exemption for continuation of this program until December 31, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79–32456 Filed 10–19–79; 8:45 am]

BILLING CODE 6560–01–M

[OPP 180379; FRL 1343–2]

California Department of Food and Agriculture; Crisis Exemption To Use Pydrin To Control Pear Psylla on Pears

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of temporary crisis exemption.

SUMMARY: EPA gives notice that the California Department of Food and Agriculture (hereafter referred to as "California") has availed itself of a crisis exemption to use Pydrin 2.4 EC (fenvalerate) on 37,000 acres of pears in California for the control of pear psylla. California had requested a specific exemption for this use on June 12, 1979.

FOR FURTHER INFORMATION CONTACT:

Emergency Response Section, Registration Division (TS–767), Office of Pesticide Programs, EPA, 401 M Street, SW., Room: E–124, Washington, D.C. 20460, Telephone: 202/426–0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to California, this use of Pydrin 2.4 EC is necessary to prevent severe damage and large product losses due to pear psylla. California reports that the rapid increase in the pest population and the severity of damage made immediate treatment necessary and did not permit additional time for EPA review of the specific exemption requested earlier.

California is using ½ to ⅔ quart of Pydrin 2.4 EC in 10 to 20 gallons of water per acre, when applied by air, or in 50 to 400 gallons of water per acre when applied by ground. No more than two applications will be made from post-harvest to bloom. A 24-hour re-entry interval and 3-month pre-harvest interval will be observed. Prior to application for a permit, actual field counts of pear psylla will be taken. Orchard floors may not be grazed nor may treated fruit be fed to livestock. Pydrin will not be used or allowed to drift to weeds on which an economically significant number of bees are actively foraging. All applications will be made by, or under the supervision of, an

V 44 OC 22 79 UMI

applicator State-certified for this category of pest control. All applications will be made in accordance with California closed mixing system regulations. The county agricultural commissioner, under California's auspices, will monitor the use of the product. Prior to use, a permit, which will give details of the use of Pydrin and the dealer from whom the product may be purchased, must be obtained from the county agricultural commissioner. The dealer must obtain a copy of the permit and maintain a record of each sale. California has asked permission to continue this program until March 31, 1980.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32462 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP 180368; FRL 1343-8]

Colorado Department of Agriculture; Issuance of Specific Exemption To Use Paraquat as a Desiccant on Faba Beans

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the Colorado Department of Agriculture (hereafter referred to as the "Applicant") to use paraquat as a desiccant on 200 acres of faba beans in San Luis Valley, Colorado. The specific exemption expires on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: The Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: Due to adverse growing conditions which typify the San Luis Valley of Colorado, only two crops of economic significance are grown in that area—potatoes and barley. A legume crop which can tolerate the cold weather is required for rotation purposes. Faba beans can serve as an excellent rotation crop while at the same time producing a valuable hog food. According to the Applicant, however, without a harvesting aid, the crop continues to grow and the beans shatter and fall to the ground. In the past, alfalfa has been used as the rotation crop. However, the Applicant indicates that it is a poor yielding rotation legume crop and that growers anticipate a loss while it occupies the field. No desiccant is presently registered for use on faba beans. Paraquat CL is currently registered as a harvest aid of soybeans and potatoes. Aerial application of paraquat is currently approved for desiccation of soybeans. The Applicant is unable to estimate the economic loss which could be incurred by farmers without the use of paraquat.

The Applicant proposed a single aerial application of paraquat to be made ten days before harvest. Harvested beans will be fed to hogs.

EPA has determined that residues of paraquat from the proposed use are not expected to exceed 0.4 parts per million (ppm) in dried faba beans, providing a 10-day pre-harvest interval is observed. The currently established tolerance for residues of paraquat in meat, fat, and meat byproducts of hogs is adequate to support the feed use of these faba beans. EPA has also determined that the proposed use should not pose an unreasonable adverse hazard to the environment.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation does exist in Colorado; (b) there is no pesticide currently registered and available to desiccate faba beans in Colorado; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the faba beans are not desiccated; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Paraquat CL, EPA Reg. No. 239-2186-AA, manufactured by Chevron Chemical Company, is authorized;

2. A single aerial application of paraquat, at the rate of 0.5 pound active ingredient in 12 gallons of water per acre, will be made;

3. A maximum of 200 acres may be treated;

4. A maximum of 100 pounds active ingredient may be applied;

5. All applications will be made by State-certified commercial applicators;

6. A pre-harvest interval of 10 days will be observed;

7. Treated beans may be used only for animal feed. The use of dried bean vines as animal feed is prohibited;

8. Applications should not be made when weather conditions favor drift from the application site;

9. All applicable directions, precautions, and restrictions on the product label must be followed;

10. Faba beans with residues of paraquat not exceeding 0.4 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. A full report summarizing the results of the program must be submitted to EPA by March 30, 1980;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat in connection with this exemption; and

13. The Applicant shall be responsible for assuring that all of the provisions of this specific exemption are met.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 892; 7 U.S.C. 136).)

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32456 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180371; FRL 1343-7]

Minnesota Department of Agriculture; Issuance of Specific Exemption To Use Mesurol To Control Blackbirds on Wild Rice

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted a specific exemption to the Minnesota Department of Agriculture (hereafter referred to as the "Applicant") to use Mesurol on 10,000 acres of wild rice to control blackbirds which are causing grain losses. The specific exemption expires on September 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street SW., Room: E-124, Washington, D.C. 20460, Telephone: 202-426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, blackbirds attack cultivated wild rice paddies every year. If not controlled, blackbird damage may cause well over 50 percent of the wild rice grain to be lost to harvest, and as a result, economic losses of from 1.5 to 3.0 million dollars may occur. There are no alternative registered means of control for this use.

The areas to be treated cover approximately 10,000 acres of commercial wild rice located in the following counties: Aitkin, Beltrami, Cass, Clearwater, Crow Wing, East Polk, Hubbard, Itasca, Koochiching, Lake of the Woods, Pennington, Red Lake, and Wadena. The Applicant will apply Mesurol aerially at a dosage rate of 1.5 to 3.0 pounds active ingredient per acre. At the lower rate, two applications may be made. The 75% WP formulation of Mesurol will be used. A 14-day pre-harvest interval will be observed.

Mesurol (3,5-dimethyl-4-(methylthio)phenyl methyl carbamate) is currently registered as a seed treatment on corn for repelling blackbirds. Tolerances for the Mesurol active ingredient residues have been established on cherries at 25 parts per million (ppm), peaches at 15 ppm, and corn at 0.03 ppm. A temporary tolerance for Mesurol active ingredient residues on domestic rice has been established at 0.2 ppm. EPA has determined that residues greater than that level should not occur in the human food, processed wild rice. Since neither wild rice hulls not straw is used for animal feed, residues of Mesurol should not appear in meat, milk, poultry, and eggs. Also, since rice paddies will be drained prior to application, residues of the active ingredient should not be present in either irrigation or drinking water. In addition, wild rice constitutes a very small fraction of the human diet. Therefore, a 0.2 ppm residue level of this pesticide in or on processed wild rice grain should be adequate to safeguard the public health.

The Fish and Wildlife Service, U.S. Department of the Interior (USDI), has informed EPA that two endangered species, the peregrine falcon (*Falco peregrinus*) and the wolf (*Canis lupus*) may be present in the Minnesota counties where the pesticide is to be applied; however, since neither species is known to frequent rice paddies, it is believed that Mesurol will not cause any adverse effects in this respect. Both the USDI and EPA agree that Mesurol is acutely toxic to fish and aquatic invertebrates; accidental contamination of aquatic areas near these rice paddies will result in fish kills. Therefore, the Applicant is required to use the utmost caution with this pesticide to avoid such contamination.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation concerning blackbird damage to commercial wild rice crops has occurred; (b) there is no pesticide presently registered and available for this use to control blackbirds in Minnesota; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the blackbirds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until September 30, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The Chemagro product, Mesurol 75% WP, is authorized;

2. The dosage rate shall be 1.5 to 3.0 pounds active ingredient per acre. Two applications may be made at the 1.5 pound rate. Total amount applied per acre must not exceed 3.0 pounds active ingredient;

3. Application of Mesurol is restricted to those wild rice fields where damage from depredation will cause significant economic losses, as determined by State Cooperative Extension or authorized State personnel.

4. Up to 10,000 acres in the thirteen counties listed in this notice may be treated;

5. Only State-certified and licensed commercial applicators may apply Mesurol;

6. Aerial applications are authorized;

7. Applications are limited to drained rice fields only;

8. Applicators must take careful measures to avoid contamination of adjacent aquatic areas or fish kills will occur;

9. Residues of the Mesurol active ingredient in or on processed wild rice grain should not exceed 0.2 ppm. Wild rice grain with residues not exceeding that level may be shipped in interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education and Welfare, has been advised of this action;

10. There will be a pre-harvest interval of 14 days;

11. The University of Minnesota should continue to monitor residue levels of Mesurol in soil and wild rice in cooperation with Chemagro. In addition, efficacy data should be collected so that a registration of this pesticide for use on wild rice may be obtained;

12. Any adverse effects of this pesticide in connection with this specific exemption must be reported to the EPA immediately. In particular, the peregrine falcon and the wolf, endangered species that occur in north central Minnesota, must be protected by cautious application to avoid contamination of areas frequented by these species;

13. Mesurol is highly toxic to bees exposed to direct treatment. It may not be applied or allowed to drift to crops or weeds when bees are actively visiting the area;

14. Mesurol is toxic to fish and other aquatic organisms. Precautions must be taken to avoid or minimize spray drift to aquatic areas; and

15. The Applicant is responsible for assuring that all the provisions of this specific exemption are followed and must submit a report summarizing the results of this program to EPA by January 15, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32457 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1344-2]

Motor Vehicle Pollution Control; Waiver of Carbon Monoxide Emission Standards; Extension of Deadline for Determinations on Waiver Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of deadline for determinations on applications for waiver of 1981 and 1982 model year light-duty vehicle emission standard for carbon monoxide (CO).

SUMMARY: Toyo Kogyo Company (Toyo Kogyo) and Nissan Motor Company (Nissan) have assented to EPA's proposal to delay until October 25, 1979, the determinations on these automobile manufacturers' respective applications for waiver of the effective date of the 3.4 gram per mile (gpm) CO emission standard scheduled to become operative

V 44 0C 22 79 UMI

for 1981 model year light-duty motor vehicles.

FOR FURTHER INFORMATION CONTACT: Glenn Unterberger, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9417.

PUBLIC DOCKET: Information relevant to these waiver determinations is contained in Public Docket EN-79-17 at the Central Docket Section of the Environmental Protection Agency (EPA), Room 2903B, 401 M Street, S.W., Washington, D.C. 20460 and are available for review between the hours of 8:00 a.m. and 4:00 p.m. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

SUPPLEMENTARY INFORMATION: Section 202(b)(5) of the Clean Air Act ("the Act"), 42 U.S.C. 7521(b)(5), permits a manufacturer of light-duty motor vehicles to apply to EPA's Administrator for waiver of the 3.4 gpm CO standard scheduled to apply to 1981 and 1982 model year vehicles. EPA received CO waiver applications from Toyo Kogyo on August 3, 1979, and from Nissan on August 14, 1979.

Section 202(b)(5)(A) of the Act requires the Administrator to make a determination on a CO waiver application within 60 days of the date of filing. Determinations on the Toyo Kogyo and Nissan waiver applications, however, have been delayed while the Administrator considered a group of waiver applications filed by other automobile manufacturers approximately one month before Toyo Kogyo submitted its consolidated waiver request. Both Toyo Kogyo and Nissan have given EPA their assent to a delay in the Administrator's determinations on their respective CO waiver applications. EPA has assured both of these manufacturers of the Administrator's intent to decide on their respective waiver applications by October 25, 1979.

Dated: October 14, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-32498 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180375; FRL 1343-4]

New York State Department of Environmental Conservation; Crisis Exemption To Use Fenvalerate To Control Periodical Cicadas on Non-bearing Fruit trees

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of a temporary crisis exemption.

SUMMARY: EPA gives notice that the New York State Department of Environmental Conservation (hereafter referred to as "New York") availed itself of a crisis exemption to use fenvalerate (Pydrin) on 3,000 acres of non-bearing apple, pear, and stone fruit trees in the Hudson Valley, New York, for the control of periodical cicadas.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: New York reported that the periodical cicada and two other magicicada species, found in lesser numbers, occur in the fruit tree-growing areas of the Hudson Valley. Every 17 years nymphs emerge from the soil, molt, and become adults. After mating, the females lay their eggs in the wood of small branches. The eggs hatch in July, and the nymphs drop to the ground and enter the soil where they feed on tree roots for 17 years.

New York reported that injury caused by these insects is two-fold: Limb damage due to ovipositing females; and root-feeding by nymphs. Cicadas prefer to lay their eggs in small trees in open areas, that is, new or as yet non-bearing trees. Ovipositional damage can set back tree training and fruit production three years, according to New York. New York estimated a one-year set back in production would cost a grower $1,157 per acre; in addition, there is added time and cost of pruning and reshaping the trees to overcome this damage. New York did not give an estimate of losses due to nymphal feeding on roots.

New York claimed that with the emergence of the cicadas this May, it became apparent that carbaryl, the best available material 17 years ago, had not given adequate control. It had killed the adult cicadas, but knockdown was not quick enough to prevent ovipositing and infestation by the resulting nymphs. With the start of ovipositing in June, 1979, a crisis situation requiring immediate attention was determined to exist. According to New York, although other materials such as oxamyl and methomyl provide quick knockdown properties, they are slower than Pydrin and have poor residual effectiveness, necessitating daily applications.

New York reported that a maximum of 500 gallons of Pydrin 2.4 EC were used on a maximum of 500 acres of non-bearing apple, pear, and stone fruit trees. Pydrin was used at a rate of 0.1 to 0.2 pound active ingredient per acre in no more than two applications. Application was made only by, or under the supervision of, State-certified applicators. The crisis exemption has expired.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32460 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180363; FRL 1342-8]

Oregon and Washington State Departments of Agriculture; Issuance of Specific Exemptions To Use Chlorpyrifos To Control Mint Root Borer on Mint

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemptions.

SUMMARY: EPA has granted specific exemptions to the Oregon and Washington State Departments of Agriculture (hereafter referred to as "Oregon," "Washington," or the "Applicants") to use chlorpyrifos to control the mint root borer on 20,000 acres of peppermint in Oregon and 4,000 acres of peppermint in Washington. The specific exemptions expire on November 30, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: The mint root borer *(Fumibotys fumalis* (Guenee)) causes damage to the rhizomes of the peppermint. The main damage occurs after the harvesting of the peppermint (August, September, October). Larvae feed in the rhizomes for 70 to 80 days and then emerge to form prepupa in the soil. The following spring pupation occurs and the adults emerge from early to mid-June. Eggs are then deposited on the peppermint and upon hatching, the larvae enter the rhizomes. Larvae leave damaged rhizomes and seek fresh ones. Damage to the rhizomes severely weakens the peppermint plants and renders them extremely susceptible to winter injury, resulting in reduced stands the following season. Oregon estimates that the production lifetime of a peppermint field infested with mint root borer is reduced by one-half (4-5 years compared with 8-10 years). The mint root borer has become a serious pest of peppermint in the United States. Oregon reports that it was discovered in that State in 1971 and that now approximately 24,000 acres are infested. Washington reports it was first detected in that State in 1976 and is now established in 4,000 acres of peppermint. No pesticide is currently registered for the control of the mint root borer. Oregon estimates that an annual loss of $10 million could occur, if there is not effective control of the mint root borer; Washington estimates a loss of $1.2 million.

The Applicants propose to make a single post-harvest application of Lorsban 4 EC, EPA Reg. No. 464-448 which contains the active ingredient (a.i.) chlorpyrifos. Oregon will treat 20,000 acres of peppermint in north central Oregon, western Oregon (Willamette Valley), and southwestern Oregon (Josephine County). Washington will treat 4,000 acres in Yakima County. The proposed dosage rate is four pints product (2 pounds a.i.) in no less than ten gallons of water per acre per season.

EPA has determined that residues of chlorpyrifos and its metabolite, 3, 5, 6-trichloro-2 pyridinol, are not likely to exceed 0.1 part per million (ppm) in or on fresh or spent peppermint hay, and 0.35 ppm in mint oil from the proposed use. There levels have been judged adequate by EPA to protect the public health. EPA has imposed a restriction against feeding either the fresh or spent hay to livestock to avoid possible secondary chlorpyrifos residues in meat and milk. EPA anticipates no unreasonable adverse effect on the environment as a result of this program.

After reviewing the applications and other available information, EPA has determined that (a) pest outbreaks of mint root borer have occured or are likely to occur; (b) there is no pesticide presently registered and available for use to control the mint root borer in Oregon and Washington; (c) there are no alternative means of control, taking into account the efficacy and harzard; (d) significant economic problems may result if the mint root borer is not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicants have been granted specific exemptions to use the pesticide noted above until November 30, 1979, to the extent and in the manner set forth in the applications. The specific exemptions are also subject to the following conditions:

1. The Dow Chemical U.S.A. insecticide, Lorsban 4 EC, is authorized at a dosage rate of four pints of product (2 pounds a.i.) per acre. A total of 10,000 gallons of product (40,000 pounds a.i.) are authorized in Oregon; a total of 2,000 gallons of product (8,000 pounds a.i.) are authorized in Washington;

2. Applications are to be made by ground application at the volumes specified in the applications. The pesticide must be incorporated into the soil by application of 0.5-1.0 inch of irrigation water immediately after treatment;

3. Only one post-harvest application/acre/season is to be made. Either growers or commercial State-licensed applicators may apply chlorpyrifos. State University extension specialists and agents shall provide information about rates and procedures;

4. Up to 20,000 acres of peppermint in Oregon and up to 4,000 acres of peppermint in Washington, in the areas indicated above, may be treated with chlorpyrifos;

5. Fresh or spent peppermint hay is not to be used as a livestock feed item;

6. Mint oil with a residue level of chlorpyrifos and its metabolite, 3, 5, 6-trichloro-2-pyridinol, not exceeding 0.35 ppm may enter interstate commerce. Fresh or spent hay with residues of chlorpyrifos and its metabolite not exceeding 0.1 ppm may also enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action.

7. All applicable label directions, precautions, and restrictions must be adhered to;

8. Any adverse effects resulting from the use of chlorpyrifos under this specific exemption must be immediately reported to the EPA;

9. There must be a 400-foot buffer zone between peppermint fields and any fish-bearing area; and

10. Oregon and Washington must each submit a report to EPA summarizing the results of that State's program by the end of March, 1980.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32464 Filed 10-19-79; 8:30 am]

BILLING CODE 6560-01-M

[OPP-180372; FRL 1343-6]

South Dakota Department of Agriculture; Issuance and Revocation of Specific Exemption To Use Toxaphene To Control Grasshoppers on Rangeland

AGENCY: Environmental Protection Agency (EPA) Office of Pesticide Programs.

ACTION: Issuance and revocation of specific exemption.

SUMMARY: EPA granted a specific exemption to the South Dakota Department of Agriculture to use toxaphene on 600,000 acres of rangeland in South Dakota to control grasshoppers. The specific exemption was to have expired on September 30, 1979. The specific exemption was revoked on July 19, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-125, Washington, D.C. 20460, Telephone: 202-426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: On June 28, 1979, EPA granted a specific exemption to the south Dakota Department of Agriculture to use toxaphene to control grasshoppers on rangeland. Use of toxaphene was deemed necessary because of the dense canopy present on the rangeland; registered insecticides did not have the penetrating and residual killing properties which toxaphene possess; and if the grasshopper eggs and young insects were not controlled in those areas, they would later reinfest adjoining range and cropland.

V 44 0 C 2 2 7 9 UMI

On July 5, 1979, the National Audubon Society and the Missouri Breaks Chapter of that Society filed suit against EPA and the Governor of South Dakota in the U.S. District Court of South Dakota to prevent the spraying of toxaphene. On July 6, 1979, the court entered a Temporary Restraining Order which halted the toxaphene spray program. EPA suspended the specific exemption temporarily.

EPA and the Governor of South Dakota determined that it would be pointless to pursue the issue further, since the critical time period for completion of the toxaphene program would have already elapsed. Accordingly, EPA revoked the specific exemption on July 19, 1979.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32459 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

[OPP-180376; FRL 1342-7]

Texas Department of Agriculture; Crisis Exemption To Use Sodium Chlorate at a Harvest Aid on Cowpeas

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notice of a temporary crisis exemption.

SUMMARY: EPA gives notice that the Texas Department of Agriculture (hereafter referred to as "Texas") availed itself of a crisis exemption to use sodium chlorate as a harvest aid on a maximum of 4,000 acres of cowpeas in Frio and LaSalle Counties, Texas.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460. Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to Texas, farmers were unable to cultivate their cowpeas properly in Frio and LaSalle Counties because of an extended period of wet weather. Texas stated that this lack of proper cultivation resulted in heavy infestations of Johnsongrass and careless weeds which interfere with harvest operations and lower the quality of the peas which can be harvested. Since the peas had to be harvested within two weeks, Texas claimed, to prevent their ruin in the fields, and there was no EPA-registered product available as a harvest aid, Texas initiated a crisis exemption. According to Texas, farmers stood to lose $240,000 without an effective harvest aid material.

A maximum of 24,000 pounds of the active ingredient sodium chlorate was used on 4,000 acres of cowpeas in Frio and LaSalle Counties. Sodium chlorate was applied at a rate not in excess of 6 pounds per acre. Application was made by State-licensed aerial applicators. Applicators were to take proper precautions to see that the spray did not drift into non-target areas. Texas imposed a pre-harvest interval of 7 days. Fields were not to be grazed within 14 days of application. Texas claimed that sodium chlorate is exempt from residue tolerance requirements under the Food, Drug, and Cosmetic Act for other crops including soybeans, a crop similar to cowpeas. The crisis exemption has expired.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136)).

Dated: October 12, 1979.

James M. Conlon,

Associate Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32465 Filed 10-19-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[BC Dockets Nos. 79-254 and 79-255; Files Nos. BPCT-5068 and BPCT-5078; FCC 79-607]

KOTV, Inc. (KOTV (TV)) and Scripps-Howard Broadcasting Co. (KTEW (TV)); Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 27, 1979.

Released: October 16, 1979.

In re applications of KOTV, INC. (KOTV(TV)) Tulsa, Oklahoma, BC Docket No. 79-254, File No. BPCT-5068; Scripps-Howard Broadcasting Co. (KTEW(TV)), Tulsa, Oklahoma, BC Docket No. 79-255, File No. BPCT-5078; For Construction Permits.

1. The Commission has before it for consideration the above-captioned applications of KOTV, Inc., licensee of Station KOTV(TV), channel 6, Tulsa, Oklahoma (CBS) and Scripps-Howard Broadcasting Co., licensee of Station KTEW(TV), channel 2, Tulsa, Oklahoma (NBC), each requesting a construction permit to make changes in the facilities of its respective station. KOTV(TV) seeks authority to move the transmitter site from a location 7 miles northwest of Tulsa to a point 1.8 miles east of Oneta, Oklahoma (25 miles southeast of Tulsa), a move of approximately 26.3 miles toward Arkansas, and increase antenna height above average terrain from 1,310 feet to 1,867 feet. No change in effective radiated visual power is proposed (100 kW). KTEW(TV) proposed to change the transmitter site to the same location as that proposed by KOTV(TV). This would entail a move from a site 6½ miles north northwest of the center of Tulsa to the new site which is about 26.5 miles southeast of the present site. Antenna height above average terrain would be increased from 1,330 feet to 1,857 feet; no change in effective radiated visual power (100 kW) is proposed.

2. Also before the Commission are petitions to deny filed against both applications by George T. Hernreich, doing business as KFPW Broadcasting Co., licensee of Station KFPW-TV, channel 40, Fort Smith, Arkansas; Noark Investment Company (controlled by Hernreich), licensee of KFPW-TV's satellite Station KTVP(TV), channel 29, Fayetteville, Arkansas (hereinafter collectively referred to as "Hernreich"); and Mid-America Broadcasting, Inc., licensee of Station KTVJ(TV), channel 16, Joplin, Missouri (CBS).[1] Informal objections were filed against both applications by MCM Broadcasting, Inc., licensee of Station KLMN(TV), channel 24, Fort Smith, Arkansas. Various other pleadings filed in this proceeding are listed in the Appendix.[2] KOTV claims that the petition to deny filed against its application by Mid-America was late-filed because the KOTV application was "cut-off" September 12, 1977 and the petition to deny was not filed until December 27, 1977, which was the "cut-off" date for the Scripps-Howard application (hereinafter KTEW). Mid-America concedes that the petition was late-filed as to KOTV, but requests: (1) A waiver of § 1.580(i) of the rules, or (2) that the Commission consider the petition as timely filed because the KTEW and KOTV applications are, in effect, a joint proposal, or (3) that the Commission consider the petition as an informal objection filed pursuant to § 1.587 of the Commission's rules. Since, for the reasons to be discussed subsequently, a hearing is necessary and Mid-America will be made a party as to KOTV, logic requires that we make Mid-America a party as to KTEW as well, for we are considering a joint proposal. It is immaterial, therefore, whether we accept Mid-America as a petitioner or as an informal objector.

3. Petitioners claim standing on the grounds that there would be overlap of the predicted Grade B contours of KOTV and KTEW and petitioners' stations (the Hernreich stations for the first time and increased overlap with Mid-America's Station KTVJ), resulting in diversion of viewership and advertising revenues. We find that petitioners have standing. *Federal Communications Commission* v. *Sanders Brothers Radio Station*, 309 U.S. 470, 60 S. Ct. 693, 9 RR 2008 (1940).

4. Petitioners raise three basic questions with respect to the applications: (1) UHF impact; (2) ascertainment; and (3) KOTV's environmental narrative statement. We shall consider these in reverse sequence. Petitioners alleged that the environmental narrative statement filed by KOTV [3] was insufficient in that the statement failed to consider and discuss wildlife, residential development, land use plans, transportation plans, outdoor recreation plans, waste disposal, surface drainage and so forth. The KOTV application was amended on November 11, 1977 to supplement the environmental statement, and the amendment represents a rather exhaustive consideration and discussion of all of the environmental factors mentioned by the petitioners. We are satisfied that the applicants have complied fully with the various requirements of § 1.1311 of the Commission's rules and have demonstrated that there will be no significant adverse environmental effects as the result of the construction as proposed.[3]

5. Petitioners alleged that, although Washington County, Arkansas, contains 45% of the population of the six-county gain area, the applicants have conducted no ascertainment survey in that county, which includes the city of Fayetteville (1970 population 30,729). It is further alleged that no programming changes are proposed to meet the problems and needs of the gain area and the applicants have not specified the problems to which existing programs would be responsive. On November 11, 1977, KOTV amended its application to list eight major perceived problems in the gain area and programs fashioned to respond to those problems. In its opposition to the petitions to deny, KOTV stated that Fayetteville would be outside of KOTV's proposed Grade B contour and that it is not, therefore necessary for it to survey that community. Moreover, KOTV asserts, it does not undertake to serve Fayetteville, explaining that Fayetteville is already within the predicted Grade B contour of Station KTVP, Mid-America's CBS station in Joplin. KTEW responded that it conducted an ascertainment in the gain area which fully complies with the requirements of the Commission's *Primer on Ascertainment of Community Problems by Broadcast Applicants*, 27 FCC 2d 650, 21 RR 2d 1507 (1971). KTEW stated that it did determine significant problems in the gain area and that most of these were identical to those found as the result of the ascertainment surveys it made in connection with its 1977 renewal application. Consequently, it proposes no significant changes in its present programming. Finally, KTEW joins KOTV in the observation that most of Washington County is outside of the proposed Grade B contour and that Fayetteville is about 80 miles from the KTEW/KOTV site and outside both proposed Grade B contours.

6. Our review of the ascertainment efforts persuades us that the applicants have satisfied the requirements of the *Primer* insofar as the gain areas are concerned. The opposing parties did not dispute the applicants' arguments in responsive pleadings. Consequently, we hold that, with respect to the ascertainment question, petitioners have raised no meritorious claims.

7. The central question which is raised in this proceeding is the effect, if any, of the proposed changes on the ability of the Fort Smith/Fayetteville and Joplin UHF stations to survive and to compete effectively, i.e., UHF impact, and it is on this question that issue is joined. The contending parties have submitted a prodigious amount of facts and figures, the petitioners seeking to prove that the UHF stations have been in precarious financial positions and that their existence would be in jeopardy if the KOTV and KTEW proposals were granted and implemented; the applicants, using petitioners' figures as well as their own, interpret the data to show that the UHF stations are doing very well indeed. With these preliminary observations, we proceed to an examination of the situation as we understand it.

8. There are three television stations licensed to Fort Smith, Arkansas: KFSM-TV, channel 5 (NBC), KLMN(TV), channel 24 (CBS), and KFPW-TV, channel 40 (ABC).[4] Stations KAFT(TV), channel *13 (ETV) and KTVP(TV), channel 29 (ABC) are licensed to Fayetteville, Arkansas, the former being a noncommercial educational station and the latter operating as a "satellite" of Station KFPW-TV, Fort Smith. There are two television stations licensed to Joplin, Missouri: KODE-TV, channel 12 (ABC), and KTVJ(TV), channel 16 (CBS).

9. Hernreich alleges that KTVP sustained losses of about $250,000 between 1970 and 1973, prior to his ownership of the station, and it went dark in 1973. Hernreich acquired control of KTVP in 1975. The present authorization of KOTV involves no overlap with the Grade B contours of the Hernreich stations, but the proposal would result in overlap of the KOTV Grade B contour with the city grade contours of Stations KTVP and KFPW. Hernreich alleges that the present Grade B contour of Tulsa Station KTUL-TV, channel 8, penetrates the Fort Smith Area of Dominant Influence (ADI) and that if KOTV and KTEW are permitted to expand their service areas into the Fort Smith ADI, two of the six counties in the Fort Smith ADI will shift to the Tulsa ADI. If this happens, it is stated, the Fort Smith market will drop from 165th to 181st, substantially reducing its attractiveness to advertisers and further eroding the economic base upon which the Hernreich stations depend for survival. Hernreich states that Fort Smith is already dominated by VHF Station KFSM-TV, the Fort Smith NBC affiliate.

10. The joint move, it is alleged, will create an unserved area of 985 square miles containing 35,000 people and an underserved area of 50 square miles

---

[1] For convenience, the parties who filed petitions to deny are referred to collectively as "petitioners" although not all may have made each allegation attributed to "petitioners."

[2] All pleadings filed in this proceeding which relate to the application (BPET-564) of Arkansas Educational Television Commission for a construction permit for a new noncommercial educational television station to operate on channel 6, Mountain View, Arkansas, were disposed of in our memorandum Opinion and Order in *Arkansas Educational Television Commission*, FCC 79-167, released March 23, 1979. Several pleadings were filed in this proceeding which are not authorized under our rules. They have not been listed in the Appendix and will not be considered. *Central Alabama Broadcasters, Inc. (WSLA-TV)*, 68 FCC 2d 1339 (1978).

[3] The statement, of course, pertains to both applications since the facilities are to be co-located.

[3] Hernreich did not file a reply to the applicants' opposition nor did he pursue the environmental question in any manner following the amendment. Mid-America filed a reply, but did not mention the environmental question. We presume, therefore, that this question has been abandoned by petitioners.

[4] The network affiliations shown are the current ones, having changed since the beginning of this case. The change in network affiliations is the subject of the supplement which KOTV filed to its opposition pleading on June 2, 1978.

V 44 0C 22 79 UMI

containing 410 people. There is no unserved area within the area which would receive the KOTV/KTEW signals for the first time (the gain area). The only benefit, Hernreich continues, would be a second and third television service to 2,700 people in a 250 square mile area. Over 70 percent of the gain area now has two or more television services. Mid-America states that the KOTV Grade B contour will overlap the KTVJ (Joplin) city grade contour for the first time and that the overlap of the KOTV and KTVJ Grade B contours would increase from 249 square miles containing 3,448 people to 1,420 square miles containing 41,899 people. KTVJ, Mid-America says, is not financially sound and the Joplin, Missouri-Pittsburg, Kansas, market is not a growth market. There would be, Mid-America asserts, a loss of the only Grade B service to 35,414 people in a 985 square mile area with no offsetting first Grade B service to anyone. Hernreich further asserts that KFPW is just beginning to break even and that Station KTUL–TV, the Tulsa VHF ABC affiliate, already has a substantial share of the Fort Smith ADI. Hernreich also points out that Station KLMN(TV), the new Fort Smith UHF CBS affiliate, recently was activated and that the proposed KOTV/KTEW move would seriously hamper the opportunities for this new station to survive and compete. It also, of course, represents additional competition for Station KFPW–TV. In general, the petitioners argue that the net effect of the proposed move would be to reduce the market shares of the Fort Smith, Fayetteville and Joplin UHF stations, would cause a shift of counties to the Tulsa ADI, reducing the market ranking of Fort Smith, seriously impact the new Fort Smith UHF station, create substantial loss areas (including creation of an unserved area) without any offsetting significant gains, and generally upset the climate in which the UHF stations must compete.

11. In response to these allegations, the applicants generally contend that, contrary to the assertions of the UHF stations, they have not made a *prima facie* case of adverse impact as required by our decision in *WFMY Television Corp.*, 59 FCC 2d 1010 (1976); that the basis for the claims of adverse impact, e.g., the shift of counties from the Fort Smith ADI to the Tulsa ADI, is purely speculative; and that the UHF stations are not in precarious straits. Part of KFPW–TV's problems, KOTV says, is unrelated to its status as a UHF station, but is attributable to the fact that KFPW–TV operated at substantially reduced power for more than four years because of a defective transmitter and a defective antenna. With respect to the loss area, KTEW states that it does not now serve the theoretical loss area because of co-channel interference caused by Station KCKT, Great Bend, Kansas, adding that 96 percent of the area which would receive no predicted Grade B service is not now served. Moreover, KTEW says, the unserved area to be created looks to the Oklahoma City stations for service and not to KTEW. The actual unserved area which would be created by the recession of both the KTEW and KOTV interference-free contours would be, therefore, about 49 square miles containing 1,481 people. KTEW further contends that its gain area is not as extensive as would appear upon superficial examination because of interference in the eastern and southeastern portions from co-channel Station KETS, Little Rock, Arkansas, and adjacent channel interference from Station KOET, channel 3, Eufaula, Oklahoma. KTEW supports KOTV's contentions that Hernreich's losses are attributable to factors other than his UHF status, such as operation with reduced power from September 1973 to July 1977 and the nationwide economic recession of 1974 and 1975.

12. Insofar as the creation of an unserved area is concerned, the applicants concede that such an event would occur, but they contend that there are offsetting factors which would justify grants under the doctrine of *Hall* v. *Federal Communications Commission*, 99 U.S. App. D.C. 86, 237 F. 2d, 567, 14 RR 2009 (1956). They argue that there would be a first predicted Grade B service (i.e., elimination of an unserved area) to 189 persons; an additional predicted Grade B service to 3,942 persons in a 414 square mile area which is now within the predicted Grade B contour of only one station; improved service in the Tulsa market area; greatly improved service to Muskogee, Oklahoma, the second largest city in the Tulsa service area; a first off-air CBS network service to more than 24,000 persons; concentration of tall television towers; and correction of an alleged competitive and service imbalance in the Tulsa market. In addition, KOTV has stated that it intends to provide translator service to the loss area to replace the service which would be lost by the move. It has already filed applications to implement that plan.

13. It is an undisputed principle that the loss of service and, particularly, the withdrawal of the only existing service to an area, is *prima facie* against the public interest, absent a substantial showing of offsetting factors. *Hall* v. *Federal Communications Commission, supra.* The weighing process in which we engage to determine whether the projected loss of service will be counterbalanced by other factors involves more than a mere comparison of numbers. *KTOV, Inc.*, 39 RR 2d 1551 (Rev. Bd. 1977). This case is not totally dissimilar to that which we had before us in *West Michigan Telecasters, Inc.*, 22 FCC 2d 943 (1970), reconsideration denied, 26 FCC 2d 668 (1970), affirmed *sub nom West Michigan Telecasters, Inc.* v. *Federal Communications Commission*, 460 F. 2d 883, 23 RR 2d 2123 (1972). There, the applicant proposed to exchange a gain of 385,116 people for a loss of 89,182 of whom 49,718 received Grade B service from two other television stations. We examined all factors, not just numbers, and concluded that the gains, despite their size, did not outweigh the losses. There, as here, there was an offer to provide translator service to the loss area and, consistent with long-standing policy, we ruled that translators could not compensate for the loss of primary service. Translators may only be used to compensate for such loss where special circumstances exist, such as terrain obstructions, that are substantially beyond the control of the licensee. See, e.g., *Arkansas Educational Television Commission, supra.* We reiterate that principle in this case.[5] See also *KTVO, Inc., supra.* Cf. *WSTE–TV, Inc.* v. *Federal Communications Commission*, 185 U.S. App. D.C. 13, 566 F. 2d 333, 41 RR 2d 1117 (1977). The loss of service and, clearly, the creation of an unserved area are serious matters, particularly to those viewers who will suffer the loss. We think that the question of whether the losses will be offset by gains is one which, under the circumstances of this case, is best resolved in hearing. Although KTEW contends that the area which would receive no interference-free television service is minimal, KTEW has not dealt with the fact, shown by KTEW's own figures, that the proposed KTEW move would result in the loss of interference-free service from KTEW to an area of 1,517 square miles containing 26,495 people. Whether this loss will be offset by gains is, as in the case of KOTV, a question best resolved in hearing. In addition, the question of whether the area in which interference from KCKT, Great Bend, Kansas, is claimed actually suffers from interference is a question which we feel is best resolved in a hearing. The presence of directional receiving antennas and other factors make it unclear as to the extent to which co-channel interference makes reception in that area unsatisfactory.

[5] We are currently re-evaluating our policies with respect to translators in the *Notice of Inquiry* in BC Docket 78–253, 68 FCC 2d 1525 (1978) [An Inquiry into the Future role of Low-Power Television Broadcasting and Television Translators in the National Telecommunications System]. Until we have completed our inquiry, there will be no change in this policy.

14. The UHF impact question presents a somewhat different problem. The parties have submitted a welter of information, some of which is speculative. They have reached opposite conclusions from the same set of facts. For example, Hernreich has disclosed, for the six years since Station KFPW–TV went on the air in 1971, its annual losses, indicating that only in 1976 did the station make a profit. KOTV, expanding on these same figures by showing depreciation and amortization as well as payments to principals, concludes that the station has generally shown a positive cash flow and is by no means in financial trouble. KOTV also points out that, because of the operation of KFPW–TV at reduced power for a number of years, its past performance is not a reliable indicator of future performance. Hernreich did not deal with the effect of the operation of KFPW–TV at reduced power. It is, nevertheless, a fact that the proposals entail deep penetration, for the first time, into areas upon which the UHF stations must depend for their economic bases. Additionally, the concern for the ability of newly-activated Station KLMN(TV) to survive and compete is a valid one, based on a wealth of past experience. In our view, sufficient data has been furnished by the petitioners to warrant a closer look at the entire situation to determine whether the effect of the proposed moves would be to so injure the UHF stations as to require the curtailment of existing service. Petitioners have provided far more than unsupported allegations of economic injury. We are not convinced that we are in a position to decide this dispute in its present posture and we believe, therefore, that an informed judgment can only be made on the basis of a hearing record. In brief, we think that the petitioners have met the test which we laid down in *WFMY Television Corp., supra.* Consequently, we have concluded that an issue must be specified to determine the impact, if any, of the proposals on the ability of the Fort Smith, Fayetteville and Joplin UHF stations to survive and to compete effectively and the effect, if any, upon the public interest.

15. For the reasons stated, we are unable to make the statutory finding that grant of the applications, or either of them, would serve the public interest, convenience and necessity and we have concluded that the applications must be designated for hearing in a consolidated proceeding.

16. Accordingly, it is ordered, that the petitions to deny and the informal objections filed herein are granted to the extent indicated and otherwise are denied.

17. It is further ordered, that, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications of KOTV, Inc. and Scripps-Howard Broadcasting Company are designated for hearing in a consolidated proceeding at a time and place and before an Administrative Law Judge to be specified in a subsequent Order, upon the following issues:

(1) To determine whether grant of the applications, or either of them, would impair the ability of authorized UHF television stations in the area to compete effectively or would jeopardize, in whole or in part, the continuation of existing UHF television service.

(2) To determine the areas and populations which will gain or lose television service in the event of grant of the applications, or either of them, and the number of other television broadcast services available to such areas and populations.

(3) To determine, in the light of the evidence adduced pursuant to Issue (2), above, the extent of areas and populations which would lose the only predicted Grade B television service in the event of grant of the applications, or either of them, and whether factors exist which would offset such deprivation of service.

(4) To determine, in light of the evidence adduced pursuant to the foregoing issues, whether grant of the applications, or either of them, would serve the public interest, convenience and necessity.

18. It is further ordered, that George T. Hernreich, doing business as KFPW Broadcasting Company, licensee of Station KFPW–TV, Fort Smith, Arkansas; Noark Investment Company, licensee of Station KTVP(TV), Fayetteville, Arkansas; Mid-America Broadcasting, Inc., licensee of Station KTVJ(TV), Joplin, Missouri; and MCM Broadcasting Company, licensee of Station KLMN(TV), Fort Smith, Arkansas, are made parties respondent in this proceeding.

19. It is further ordered, that the burden of proceeding with the introduction of evidence with respect to Issue 1 shall be upon the parties respondent and the burden of proceeding with the introduction of evidence on all other issues and the burden of proof on all issues shall be upon the applicants.

20. It is further ordered, That, to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for the hearing and present evidence on the issues specified in this Order.

21. It is futher ordered, That the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594(a) of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice, as required by § 1.594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32447 Filed 10-19-79; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-603-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FEMA–603–DR), dated September 25, 1979.

DATED: October 9, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634–7825.

NOTICE: The Notice of a major disaster for the State of Texas dated September 25, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 25, 1979.

The following County for Individual Assistance only: Nueces.

V 44 0C 2 2 7 9 UMI

(Catalog of Federal Domestic Assistance No. 14.701. Disaster Assistance.)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-32449 Filed 10-19-79; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 806R]

Sullivan & Son, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Sullivan & Son, Inc., 220 Myra Street, Neptune Beach, Florida 32233, FMC No. 806R, was cancelled effective August 15, 1979.

By letter dated July 17, 1979, Sullivan & Son, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 806R would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Sullivan & Son, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977:

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 806R was revoked effective August 15, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 806R, issued to Sullivan & Son, Inc., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Sullivan & Son, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32558 Filed 10-19-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 430]

Trio Shipping Co., Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Trio Shipping Company, Inc., 160 Broadway, Suite 905, New York, New York 10038, FMC No. 430, was cancelled effective July 20, 1979.

By letter dated June 21, 1979, Trio Shipping Company, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 430 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Trio Shipping Company, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 430 was revoked effective July 20, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 430, issued to Trio Shipping Company, Inc., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Trio Shipping Company, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32557 Filed 10-19-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1124]

Transco International, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4 further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Transco International, Inc., 109 West 27th Street, New York, New York 10001, FMC No. 1124, was canceled effective August 1, 1979.

By letter dated July 3, 1979, Transco International, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1124 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission.

Transco International, Inc. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.2 (Revised), section 5.01(d) dated August 8, 1977;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 1124 was revoked effective August 1, 1979; and

It is ordered, that Independent Ocean Freight Forwarder License No. 1124, issued to Transco International, Inc., be returned to the Commission;

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Transco International, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-32559 Filed 10-19-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than November 13, 1979.

A. *Federal Reserve Bank of Richmond*, 701 East Byrd Street, Richmond, Virginia 23261:

SOUTH CAROLINA NATIONAL CORPORATION, Columbia, South Carolina (finance, loan servicing, and insurance activities; South Carolina): to engage, through its subsidiary, Provident Finance Company of South Carolina, Inc., in making or acquiring loans or other extensions of credit for its own account such as would be made by a consumer finance company; servicing loans and other extensions of credit for the account of others; and offering life, accident and health and property insurance directly related to its extensions of credit. These activities would be conducted from an office in Anderson, South Carolina and the geographic area to be served is Anderson County, South Carolina.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

FIRST NATIONAL CHARTER CORPORATION, Kansas City, Missouri (mortgage banking activities; Kansas, Missouri): To engage, through its subsidiary, Charter Bankers Mortgage Company, in making residential and commercial mortgage and construction loans. These activities would be conducted from an office in Kansas City, Missouri, serving southwestern Jackson County, and northwestern Cass County, Missouri, and Johnson County, Kansas; and from an office in Lee's Summit, Missouri, serving the eastern two thirds of Jackson County and northeastern Cass County, Missouri.

C. *Federal Reserve Bank of Dallas*, 400 South Akard Street, Dallas, Texas 75222:

FIRST UNITED BANCORPORATION, INC., Fort Worth, Texas (bookkeeping and data processing activities; Texas): To engage, through its subsidiary, First United Services, Inc. (formerly First United Systems, Inc.), in providing bookkeeping and data processing services for the internal operations of the holding company and its subsidiaries and affiliates, and storing and processing other banking, financial or related economic data.

Such activities will be conducted at an office in Fort Worth, Texas, serving Tarrant, Dallas, Johnson, Bell, Factor, and Erath Counties, Texas.

D. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

SEAFIRST CORPORATION, Seattle, Washington (finance and leasing activities; Colorado, Wyoming, Utah, Arizona, New Mexico, Kansas, Nebraska, Oklahoma and Texas): To engage through its subsidiary, Seafirst Commercial Finance Corporation, in making or acquiring loans and other extensions of credit, including commercial loans secured by a borrower's inventory, accounts receivable, capital equipment, or other assets; servicing loans; leasing personal property; and acting as an agent or broker for the sale of life, accident and health insurance directly related to its extensions of credit. Comments on this application must be received by November 9, 1979.

E. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32443 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than November 13, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

1. SHAWMUT CORPORATION, Boston, Massachusetts, and TEXAS AMERICAN BANCSHARES, INC., Fort Worth, Texas, (agricultural financing: Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and Wisconsin): To continue to engage, through their joint venture subsidiary, American AgCredit Corporation (formerly American Cattle & Crop Services Corporation), in agricultural commodity financing, and servicing such financing, and related and incidental activities, and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities. These activities would be conducted from offices in Amarillo, Texas, and Denver, Colorado, and will be expanded to serve the twenty-six States listed in the caption to this notice.

2. FIRST NATIONAL BOSTON CORPORATION, Boston, Massachusetts, (data processing activities; Massachusetts): To engage, through its indirect subsidiary, First of Boston Computeristics, Inc., in providing bookkeeping and data processing services for the internal operations of Peoples Savings Bank, Worcester, Massachusetts, and the storing and processing of other banking, financial or related data, including performing such data processing services and preparing such reports as are typically performed or prepared by or for banks. These activities would be conducted at an

V44 OC2 79 UMI

office to be located in Worcester, Massachusetts, serving Worcester, Massachusetts.

B. *Federal Reserve Bank of New York*, 33 Liberty Street, New York, New York 10045:

1. CHEMICAL NEW YORK CORPORATION, New York, New York, (financing and insurance activities; Winston-Salem, North Carolina): To engage through its subsidiary, Sunamerica Corporation, in making or acquiring for its own account loans and other extensions of credit and servicing loans and other extensions of credit, including but not be limited to, making or acquiring loans to consumers; making or acquiring loans and other extensions of credit to businesses (including inventory financing); making or acquiring extensions of credit secured by personal property lease contracts; acting as agent or broker for the sale of, credit life, credit accident and health, mortgage life, mortgage disability, and property and casualty insurances, all directly related to such extensions of credit. These activities will be an expansion of activities presently conducted from an existing office in Winston-Salem, North Carolina. In addition, the service area of this office will be expanded to serve the whole State of North Carolina. Any credit life and credit accident and health insurance sold in connection with the proposed activities will be reinsured through Sun States Life and/or Great Lakes Insurance Companies, indirect subsidiaries of the applicant.

2. CITICORP, New York, (financing and insurance activities; Florida): To engage, through its subsidiary Citicorp Person-to-Person Financial Center of Florida, Inc. in making loans to individuals (for personal, family or household usage) and businesses to finance the purchase of mobile home, modular units or related housing, together with the real property to which such housing will be permanently affixed, such property being used as the security for loans, sale of credit-related life and accident and health insurance to cover the outstanding balances of credit transactions in the event of the obligor's disability. These activities would be conducted from an office in Tampa, Florida, and would serve the entire State of Florida. This is an application to expand the activities and the service area of an already existing office.

C. *Federal Reserve Bank of Philadelphia*, 100 North 6th Street, Philadelphia, Pennsylvania 19105:

NATIONAL CENTRAL FINANCIAL CORPORATION, Lancaster, Pennsylvania, (mortgage banking activities; Pennsylvania): To engage, through it subsidiary, Hartzler Mortgage Company, in the following activities: for its own account or for the account of others making construction and development construction loans and originating, acquiring and servicing residential, commercial and industrial mortgage loans, selling credit life and accident and health insurance on such extensions of credit by Hartzler Mortgage Company. These activities would be conducted from an office located in Lancaster, Pennsylvania, and will service the State of Pennsylvania.

D. *Federal Reserve Bank of Dallas*, 400 South Akard Street, Dallas, Texas 75222:

SHAWMUT CORPORATION, Boston, Massachusetts, and TEXAS AMERICAN BANCSHARES, INC., Fort Worth, Texas (agricultural financing: Alabama, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia and Wisconsin): to continue to engage, through their joint venture subsidiary, American AgCredit Corporation (formerly American Cattle & Crop Services Corporation), in agricultural commodity financing, and servicing such financing, and related and incidental activities, and in general, making, servicing, or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities. These activities would be conducted from offices in Amarillo, Texas, and Denver, Colorado, and will be expanded to serve the twenty-six States listed in the caption to this notice.

Board of Governors of the Federal Reserve System, October 11, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32444 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and, except as noted, received by the appropriate Federal Reserve Bank not later than November 15, 1979.

A. *Federal Reserve Bank of Cleveland*, 1455 East Sixth Street, Cleveland, Ohio 44101:

1. PITTSBURGH NATIONAL CORPORATION, Pittsburgh, Pennsylvania (financing activities; Arkansas, Nevada, Ohio): To engage, through a wholly-owned subsidiary, The Kissell Company, Springfield, Ohio, in making or acquiring and servicing for its own account and/or the accounts of others, loans and other extensions of credit. These activities will be conducted from offices located in Henderson, Nevada; South Dayton, Ohio; and Hot Springs, Arkansas. The geographic areas to be served are, respectively, the Metropolitan area of Henderson and Boulder City, Nevada (Clark County); Montgomery, Greene, Butler, Warren and Preble Counties, Ohio; and Hot Springs, Garland, Saline, Pulaski, Clark, and Montgomery Counties, Arkansas.

B. *Federal Reserve Bank of Kansas City*, 925 Grand Avenue, Kansas City, Missouri 64198:

1. JEFFERSON BANKSHARES OF COLORADO, INC., Lakewood, Colorado (insurance activities; Colorado): Doing business as Lakewood Insurance Agency, to continue to act as agent or broker for the sale of credit life, credit accident and health insurance, property and casualty insurance on property serving as collateral for loans, and liability insurance as part of a package with the foregoing coverages or any particular one of them. These activities were earlier commenced *de novo* and all such insurance would be related to extensions of credit by Applicant's subsidiary bank. These activities are conducted from the premises of Applicant's subsidiary bank in Lakewood, serving the Denver-Boulder SMSA.

C. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

1. SANDY HOLDING COMPANY, Sandy, Utah (industrial banking and insurance activities; Utah): To engage, through its subsidiary, Alta First Thrift, in operating a thrift and loan as authorized by Utah law, including the acceptance of time and savings deposits; making, acquiring, and servicing loans and other extensions of credit; and selling life, accident and health insurance directly related to extensions of credit. These activities would be conducted from an office located in Sandy, Utah, and the geographic areas to be served are Sandy City and the southern part of Salt Lake County. Comments on this application must be received by November 14, 1979.

Board of Governors of the Federal Reserve System, October 15, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32445 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Fannin Bancshares, Inc.; Formation of Bank Holding Company

Fannin Bancshares, Inc., Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 per cent of the voting shares, less directors' qualifying shares, of Fannin Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-32435 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Irving Bancorp, Inc.; Formation of Bank Holding Company

Irving Bancorp, Inc., Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Irving Bank, Chicago, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-32436 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

J. Henry Schroder International Bank; Corporation To Do Business Under Section 25(a) of the Federal Reserve Act

An application has been submitted for the Board's approval of the organization of a corporation to do business under section 25(a) of the Federal Reserve Act ("Edge Corporation"), to be known as J. Henry Schroder International Bank, Miami, Florida. J. Henry Schroder International Bank would operate as a subsidiary of J. Henry Schroder Bank & Trust Company, New York, New York. The factors that are considered in acting on this application are set forth in § 211.4(a) of the Board's Regulation K (12 CFR 211.4(a)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than November 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identify specifically any questions of fact that are in dispute and summarize the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32442 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Heritage Wisconsin Corp.; Proposed Retention of Heritage Insurance Agency

Heritage Wisconsin Corporation, Wauwatosa, Wisconsin, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to retain voting shares of Heritage Insurance Agency, Wauwatosa, Wisconsin.

Applicant states that the proposed subsidiary would continue to engage in the activity of selling homeowners insurance directly related to extensions of credit by subsidiaries of Applicant. Heritage Insurance Agency also proposes to engage in the sale of lenders dual interest insurance that is directly related to extensions of credit by Applicant's subsidiaries. These activities would be performed from offices of Applicant's subsidiary in Wauwatosa, Wisconsin, and the geographic areas to be served are the greater Milwaukee area, Racine and Beloit, Wisconsin, and areas in their vicinity. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any

V 44 OC 22 79 UMI

request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 15, 1979.

Board of Governors of the Federal Reserve System, October 15, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-32440 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Pacesetter Financial Corp.; Acquisition of Bank

Pacesetter Financial Corporation, Grand Rapids, Michigan, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 per cent of the voting shares of the successor by consolidation to The Almont Savings Bank, Almont, Michigan. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[FR Doc. 79-32439 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Seafirst Corp.; Proposed Acquisition of Sutter Trust Co.

Seafirst Corporation, Seattle, Washington, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Sutter Trust Company, Phoenix, Arizona.

Applicant states that the proposed subsidiary would engage in the activity of mortgage banking including the origination and servicing of mortgage loans. These activities would be performed from offices of Applicant's subsidiary in Phoenix, Arizona, and the geographic area to be served is the State of Arizona. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 13, 1979.

Board of Governors of the Federal Reserve System, October 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32441 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Upper Midwest Financial Corp.; Formation of Bank Holding Company

Upper Midwest Financial Corporation, Garretson, South Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 93 per cent or more of the voting shares of First National Bank in Garretson, Garretson, South Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 7, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32437 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

Western Bancorporation; Formation of Bank Holding Company

Western Bancorporation, Houston, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of Western Bank, Houston, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 13, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 12, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32438 Filed 10-19-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL ACCOUNTING OFFICE

Regulatory Reports Review; Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 15, 1979. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the Federal Register is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed NRC request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before November 9, 1979, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, United States General Accounting Office, Room 5106, 441 G Street, NW, Washington, DC 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

Nuclear Regulatory Commission

The NRC requests an extension without change clearance of the reporting requirements contained in 10 CFR Part 150. Exemptions and Continued Regulatory Authority in Agreement States Under Section 274; specifically §§ 150.16(b), 150.17(b), 150.17(c), 150.19(b) and 150.19(c). These sections require certain licensees of Agreement States to report to the NRC thefts or attempted thefts of special nuclear material, source material, or tritium; to file with the NRC an annual statement of source material inventory; and also to file with the NRC a semi-annual statement of tritium inventory. Respondents are certain firms possessing special nuclear material, source material, or tritium under licenses issued by Agreement States. NRC states that no respondent burden is estimated for §§ 150.16(b), 150.17(c) and 150.19(c) since the number of reports of thefts is expected to be insignificant. NRC estimates for the remaining reporting requirements are as follows: § 150.17(b), 60 respondents and 2 hours per report, and § 150.19(b), 10 respondents and 2 hours per report.

Norman F. Heyl,

Regulatory Reports Review Officer.

[FR Doc. 79-32507 Filed 10-19-79; 8:45 am]

BILLING CODE 1610-01-M

GENERAL SERVICES ADMINISTRATION

[E-79-17]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the consumer interests of the executive agencies of the Federal Government in proceedings before the Arizona Corporation Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Arizona Corporation Commission involving the application of the Tucson Electric Power Company for an increase in its electric rates. The authority delegated to the Secretary of Defense shall be exercised concurrently with the Administrator of General Services.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: October 12, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32412 Filed 10-19-79; 8:45 am]

BILLING CODE 6820-AM-M

[E-79-16]

Delegation of Authority to the Secretary of Defense

1. *Purpose.* This delegation authorizes the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government in proceedings before the Hawaii Public Utilities Commission involving electric utility rates.

2. *Effective date.* This delegation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d) (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the Federal executive agencies before the Hawaii Public Utilities Commission involving the application of the Hawaiian Electric Company for an increase in its electric rates.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

Dated: October 12, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32413 Filed 10-19-79; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16488A]

Colorado; Application for Pipeline

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185), Western Slope Gas Co., P.O. Box 840, Denver, Colorado 80201, has applied for a right-of-way for approximately 0.38 miles of natural gas pipeline to collect natural gas in the West Douglas Gathering System on the following public lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 2 S., R. 101 W.
Section 18: SW¼.
T. 2 S., R. 102W.
Section 13: SE¼.

The purposes for this notice are: (1) To inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports necessary for determining whether or not the application should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Western Slope Gas Co.

Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

Andrew W. Heard, Jr.,

Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79-32495 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-84-M

Decker-Birney, South Rosebud, and Coalwood Management Framework Plans; Intent

This notice is to advise you that the Miles City, Montana District Office is proceeding to review and amend portions of the Decker-Birney, South Rosebud, and Coalwood Management Framework Plans (MFPs) to make certain that those portions of the MFPs reflect, as completely as possible, existing statutory requirements and policies and to continue to carry out the requirements of the Federal Lands Review mandated by Section 522(c) of the Surface Mining Control and Reclamation Act (SMCRA).

Background standards and procedures for this MFP review and amendment preparation are contained in Federal Register Notice FR Vol. 44, No. 140, 42584–42652 of July 19, 1979, and FR Vol. 44, No. 153, 46386–46401 of August 7, 1979. The standards for this review are also discussed in a final environmental statement describing the Secretary of Interior's preferred coal program and alternatives, which was released in April 1979.

The subject area is within the Powder River Coal Region and covers portions of Big Horn, Rosebud, Custer, and Powder River Counties in Montana. It is adjacent to the Ashland Division of the Custer National Forest, the Northern Cheyenne and Crow Indian Reservations, and the State of Wyoming.

The completed plan amendments will identify areas acceptable for further consideration for coal leasing as well as identifying areas which are unsuitable for surface mining. The amendments will *not* include decisions to lease any area for coal, but may recommend preferred leasing areas to minimize environmental or socio-economic impacts or suggest leasing schedules or environmental quality standards (thresholds) to minimize cumulative impacts. Any federal coal identified as acceptable for further consideration for leasing may be included in the first Powder River Coal Region (Montana and Wyoming) activity plan and environmental impact statement. The Secretary of Interior has announced a preliminary Powder River Coal Regional leasing target of 776 million tons for 1982. To achieve this goal, preliminary lease tract delineation and ranking procedures will start in the summer of 1980 and the subject MFP amendments must be completed by July 1980.

The plan amendments and environmental assessment record (EAR) will be prepared by an interdisciplinary team and in consultation with appropriate state and federal agencies as well as qualified surface owners over federally reserved coal.

A public meeting will be held in early December 1979. The purpose of the meeting is to give interested people the opportunity to help the Bureau to identify issues, concerns, and those coal areas within the existing MFPs where the Federal Lands Review Process will be applied. Coal companies, state government, and members of the public are encouraged to submit nonconfidential coal geology and economic data through December 1, 1979, concerning the evaluation areas. Information leading to a decision to include any other coal areas, beyond those identified in the existing MFPs, will be carefully evaluated to insure that further consideration is warranted at this time. After the December public meeting, additional time will be provided to the public for submission of (non-coal) resource data which should be considered in the remaining steps or screens in the Federal Lands Review Process (43 CFR 3420.2–3).

In addition, all information will be used in the 1984 Powder River Resource Management Plan/Environmental Impact Statement—a comprehensive plan for the entire Powder River Resource Area scheduled for completion in 1984. This plan will follow all requirements of the Federal Land Policy and Management Act, the Surface Mining Control and Reclamation Act, BLM planning and coal management regulations pursuant to these, and recent Council on Environmental Quality regulations.

Data should be sent to the Bureau of Land Management State Office in Billings, Montana, or the Miles City District Office. Subsequently, a public hearing on the draft amendments and EAR will be held in the spring of 1980 to allow public comment by persons who may be adversely affected by the proposed plan amendments.

Documents relevant to the planning process are available in the Montana State Office and Miles City District Office. To submit data or for further information on the areas being reviewed, please contact: District Manager, Bureau of Land Management, West of Miles City, P.O. Box 940, Miles City, Montana 59301, (406) 232–4331.

Kannon Richards,

Acting Director, State of Montana.

[FR Doc. 79-32496 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-84-M

Outer Continental Shelf Advisory Board, Mid-Atlantic Technical Working Group Committee; Meeting

Notice of this meeting is issued in accordance with the Federal Advisory Committee Act (Pub. L. 92–463).

Name: Mid-Atlantic Technical Working Group Committee.

Date: November 14, 1979.

Place: 26 Federal Plaza, Room 1–102, New York, New York.

Time: 9:00 a.m. to 4:30 p.m.

Committee membership consists of representatives from federal agencies, the coastal states from New York through Virginia, the petroleum industry, and other private interests.

Agenda: Proposed Lease Sale 59 tract selection recommendations; the Regional Studies Plan for the North and Mid-Atlantic Regions.

The meeting will be open to the public. Public attendance may be limited by the space available. Persons wishing to make oral presentations to the Committee regarding matters on the agenda should contact Dick Wildermann of the New York OCS Office (212–264–2960) by November 7. Written statements should be submitted by November 21 to the New York OCS Office, Bureau of Land Management, 26 Federal Plaza, Suite 32–120, New York, New York 10007.

Minutes of the meeting will be available for public inspection and copying by January 11, 1980 at the above address.

Frank Basile,

Manager, New York OCS Office.

[FR Doc. 79-32497 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-84-M

National Park Service

Chattahoochee River National Recreation Area; Boundary Revisions

In accordance with section 101 of Pub. L. 95–344, which authorized the Chattahoochee River National Recreation Area in the State of Georgia, notice of boundary revisions are to be published. Notice is hereby given that boundary revisions have been made in the Sope Creek/Powers Ferry, Johnson Ferry, Morgan Falls and Suwanee Creek segments of the national recreation area.

Copies of maps depicting the boundary revisions are on file and available for inspection at the following addresses:

Director, National Park Service, Department of Interior, Washington, D.C. 20240.

Regional Director, Southeast Region, National Park Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

Superintendent, Chattahoochee River, National Recreation Area, P.O. Box 1396, Smyrna, Georgia 30080.

Dated: August 27, 1979.

Joe Brown,

Regional Director, Southeast Region.

[FR Doc. 79-32400 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-70-M

Circle Line-Statue of Liberty Ferry, Inc.; Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that on or before November 21, 1979, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Circle Line-Statue of Liberty Ferry, Inc., authorizing it to continue to provide boat transportation facilities and services for the public at Statue of Liberty Monument for a period of approximately ten (10) years from date of execution through March 31, 1990.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on September 30, 1982, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Circle Line-Statue of Liberty Ferry, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive proposals for the proposed new contract and a preference in the award of the contract, if, thereafter, the proposal of Circle Line-Statue of Liberty Ferry, Inc., is substantially equal to others received. In the event a responsive proposal superior to that of Circle Line-Statue of Liberty Ferry, Inc., (as determined by the Secretary) is submitted, Circle Line-Statue of Liberty Ferry, Inc., will be given the opportunity to meet the terms and conditions of the superior proposal the Secretary considers desirable, and, if it does so, the new contract will be negotiated with Circle Line-Statue of Liberty Ferry, Inc. The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be post marked or hand delivered on or before November 21, 1979, to be considered and evaluated.

Interested parties should contact the Regional Director, North Atlantic Regional Office, National Park Service, 15 State Street, Boston, Massachusetts 02109, for information as to the requirements of the proposed contract.

Dated: September 11, 1979.

Larry J. Hovig,

Action Regional Director, North Atlantic Region.

[FR Doc. 79-32434 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COORDINATION AGENCY

Joint Committee for Agricultural Development of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a)(2), Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on November 13 and 14, 1979.

The purpose of the meeting is to: Review and coordinate the reports from Regional Work Groups (RWGs) and their recent consultations with A.I.D. Missions; discuss the JCAD role in the involvement of Private Volunteer Organizations (PVOs) in Title XII Country Programs; discuss how and the desirability of RWGs to monitor the Strengthening Grants; discuss future Regional Workshops on Strengthening Grant Reports and Audits; and discuss new responsibilities of the RWGs and future meeting dates.

The meeting on November 13, 1979, will convene in Regional Work Groups: Africa RWG at 9:00 a.m. in Room 2941, New State Department Bldg. (Mr. William Johnson, A.I.D. Federal Designee for this meeting, can be contacted at (703)–632–0196); Latin America RWG at 10:00 a.m. in Room 2242 New State Department Bldg. (Mr. Blair Allen, A.I.D. Federal Designee for this meeting can be contacted at (202)–632–8279); Near East RWG at 9:30 a.m. in Room 6484 New State Department Bldg. (Mr. Keith Sharper, A.I.D. Federal Designee for this meeting, can be contacted at (202)–632–9256); and the Asia RWG at 9:00 a.m. in Room 216, Rosslyn Plaza Bldg., 1601 North Kent Street, Rosslyn, Virginia, (Mr. David Lundberg, A.I.D. Federal Designee for this meeting can be contacted at (703)–235–8870). The meeting on November 14, 1979 will convene from 9:00 a.m. to 4:30 p.m. in Room 1406 of the State Department Building, 22nd and C St. NW., Washington, D.C. 20523. These meetings are open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Frank H. Madden, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the November 14 meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703)–235–9085.

Dated: October 10, 1979.

Frank H. Madden,

A.I.D Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 79-32420 Filed 10-19-79; 8:45 am]

BILLING CODE 4710-02-M

Joint Research Committee of the Board for International Food and Agricultural Development; Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2),

Pub. L. 92–463, Federal Advisory Committee Act, notice is hereby given of the twenty-eighth meeting of the Joint Research Committee (JRC) of the Board for International Food and Agricultural Development (BIFAD) on November 13 and 14, 1979.

The purpose of the meeting is to review and discuss progress of Collaborative Research Support Programs (CRSPs) being planned and implemented, and to further consider changes in composition and roles of JRC to relate to the Institute for Scientific and Technological Cooperation upon its establishment. Planning CRSPs which will be discussed include Human Nutrition, Integrated Crop Protection, Peanuts, and Soil Management. Ongoing CRSPs which will be discussed include Small Ruminants and Sorghum and Millet.

The meeting will convene at 9:00 a.m. and adjourn at 5:00 p.m. on November 13 and 14, 1979. The meeting on November 13 will be held at the State Department, Room 5951, 22nd and C St. N.W., Washington, D.C. 20523. The meeting on November 14 will be held in Room 5941 of the State Department Building. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory Committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703–235–8929).

Dated: October 15, 1979.

Erven J. Long,

AID Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc. 79-32421 Filed 10-19-79; 8:45 am]

BILLING CODE 4710-02-M

NATIONAL ENDOWMENT FOR THE ARTS

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel to the National Council on the Arts will be held November 13, 1979, from 9 a.m. to 5:30 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street, N.W., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of March 17, 1977, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9 (B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 17, 1979.

[FR Doc. 79-32542 Filed 10-19-79; 8:45 am]

BILLING CODE 7537-01-M

Opera-Musical Theatre Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Opera-Musical Theatre Advisory Panel to the National Council on the Arts will be held November 27, 1979, from 9:00 a.m.–6:00 p.m.; November 28, 1979, from 9:00 a.m.–6:00 p.m.; and November 29, 1979, from 9:00 a.m.–5:00 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on November 27, 1979, from 9:00 a.m.–6:00 p.m.; November 28, 1979, from 9:00 a.m.–6:00 p.m.; and November 29, 1979, from 9:00 a.m.–2:00 p.m. Policy and Guidelines will be discussed.

The remaining sessions of this meeting on November 29, 1979, from 2:00 p.m.–5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

October 17, 1979.

[FR Doc. 79-32455 Filed 10-19-79; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Panel Craftsmen's Apprenticeships; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the (Craftsmen's Apprenticeships) Visual Arts Advisory Panel to the National Council on the Arts will be held on November 8, 1979, from 9:00 a.m.–5:30 p.m. and November 9, 1979, from 9:00 a.m.–5:30 p.m., in Room 1422, Columbia Plaza Office Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on November 9, 1979, from 9:00 a.m.–5:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting on November 8, 1979, from 9:00 a.m.–5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

October 17, 1979.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 79-32453 Filed 10-19-79; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Policy Research and Analysis and Science Resources Studies.

Date and Time:

November 8, 1979—9:00 a.m. to 4:30 p.m.
November 9, 1979—9:00 a.m. to 1:00 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Type of Meeting: Open.

Contact Person: Mrs. Sharon Lemon, Division of Policy Research and Analysis, Directorate for Scientific, Technological, and International Affairs, Room 1233, National Science Foundation, Washington, D.C. 20550. Telephone (202) 632–5990. Anyone who plans to attend should contact Mrs. Lemon by November 5, 1979.

Summary Minutes: May be obtained from the contact person, Mrs. Lemon, at the above address.

Purpose of Committee: To provide advice, recommendations, and oversight concerning program emphases and directions of the Divisions of PRA and SRS.

Agenda:

Thursday, November 8, 1979

9:00 a.m.—Plenary Session.
10:00 a.m.—General Session.
1:15 p.m.—Subcommittee Meetings—Scientific and Technical Personnel, Output Indicators, Public Sector Innovation, Industrial Innovation.

Friday, November 9, 1979

9:00 a.m.—Subcommittee Meetings—Environment, Energy and Resources and Technology Assessment and Risk Analysis.
10:45 a.m.—Presentation of Committee Report.
1:00 p.m.—Adjournment.

M. Rebecca Winkler,

Committee Management Coordinator.

October 16, 1979.

[FR Doc. 79-32562 Filed 10-19-79; 8:45 am]

BILLING CODE 7555-01-M

Subcommittee for the Review of Elementary Particle Physics; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics; Subcommittee for the Review of Elementary Particle Physics.

Date and Time: November 8–9, 1979, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 341, National Science Foundation, 1800 G St., N.W., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Laura P. Bautz, Deputy Director, Division of Physics, Room 341, National Science Foundation, Washington, D.C. 20550, Telephone (202) 632–4175.

Purpose of Subcommittee: To provide oversight concerning NSF support for research in elementary particle physics.

Agenda: To review NSF Elementary Particle Physics Program documentation as part of the program oversight function.

Reason for Closing: The meeting will deal with a review of grants and declinations in which the Subcommittee will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 16, 1979.

[FR Doc. 79-32563 Filed 10-19-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Reactor Safety Research Subcommittee; Meeting

The ACRS Reactor Safety Research Subcommittee will hold a meeting on November 6–7, 1979, in Room 1046, 1717 H St., NW., Washington, DC 20555 to discuss preparation of the ACRS Annual Report to Congress on the NRC Reactor Safety Research Program. Notice of this meeting was published September 20, 1979 (44 FR 54559). This meeting will be closed to the public.

The agenda for subject meeting shall be as follows:

Tuesday, November 6, 1979—8:30 a.m. to 12:00 noon.
Wednesday, November 7, 1979—1:00 p.m. until conclusion of business.

The Subcommittee will meet in closed sessions to hold discussions with representatives of the NRC Staff, and their consultants, regarding items pertinent to the ACRS review.

In addition the Subcommittee will meet in closed Executive Session to exchange their preliminary opinions regarding preparation of a draft report to be submitted to the ACRS.

I have determined, in accordance with Subsection 10(d) of Public Law 92–463, that it is necessary to close these sessions to protect information, the premature disclosure of which might significantly frustrate implementation of proposed action (5 U.S.C. 552b(c)(9)).

Dated: October 15, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32119 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Reliability and Probabilistic Assessment; Meeting

In accordance with the purposes of Sections 29 and 182 b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.) the ACRS Subcommittee on Reliability and Probabilistic Assessment will meet on November 6–7, 1979 in Room 1046, 1717 H St., N.W., Washington, DC. This meeting will be closed to the public at the request of foreign governments to insure the security of information considered confidential and provided only on the basis that it will be protected from public disclosure.

The agenda for this meeting will be as follows:

Tuesday, November 6, 1979: 8:30 a.m.—12:00 noon.
Wednesday, November 7, 1979: 1:00 p.m. until conclusion of business.

The Subcommittee will meet in closed sessions with its consultants and representatives of the Federal Republic of Germany Reactor Safety Committee (FRGRSK), the Federal Republic of France Groupe Permanent Reactors (FRFGPR), the Electricite de France (EDF), and the United Kingdom Atomic Energy Authority (UKAEA) to discuss the development and use of possible quantitative risk assessment criteria for nuclear power reactors.

I have determined in accordance with Subsection 10(d) of Public Law 92–463 that it is necessary to close this meeting to insure the security of information identified and supplied by foreign governments as confidential (5 U.S.C. 552b(c)(1)).

Dated: October 15, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32120 Filed 10-19-79; 8:30 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-424 and 50-425]

Georgia Power Co. (Alvin W. Vogtle Nuclear Plant, Unit Nos. 1 and 2); Director's Denial of Request Under 10 CFR 2.206

By petition dated May 1, 1979, Georgians Against Nuclear Power (GANE) requested that the Director of Nuclear Reactor Regulation reconsider his April 13, 1979, denial of an earlier petition filed by GANE to suspend the construction permits for the Alvin W. Vogtle Nuclear Plant, Unit Nos. 1 and 2, and to hold hearings to re-evaluate the need for power from the Vogtle facility. GANE's May 1st petition has been treated as a request for action under 10 CFR 2.206 of the Commission's regulations. Notice of receipt of GANE's May 1st petition was published in the Federal Register 44 FR 33985 (June 13, 1979).

After consideration of the information submitted by GANE in its May 1st petition and in its supplementary letters of July 17 and August 2, 1979, I have determined that this information does not represent a change in circumstances which would significantly alter the cost-benefit balance for the facility as originally determined in the construction permit proceeding. Consequently, this request to suspend the license and institute a new proceeding is denied.

A copy of the decision will be placed in the Commission's Public Document Room at 1717 H Street, Washington, D.C. 20555 and in the local public document room for the Alvin W. Vogtle Plant, Unit Nos. 1 and 2, located at the Burke County Library, 4th Street, Waynesboro, Georgia 30830.

Dated at Bethesda, Md., this 12th day of October 1979.

Edson G. Case,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-32575 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-312]

Sacramento Municipal Utility District (Rancho Seco Nuclear Generating Station); Supplemental Notice of Hearing

Please take notice that the prehearing conference scheduled in this proceeding for November 7, 1979, and the evidentiary hearing in this proceeding scheduled for November 27, 1979, will be held at:

Conference Room, West 1140, U.S. Federal Building, 2800 Cottage Way, Sacramento, California.

So ordered: Atomic Safety and Licensing Board.

Dated at Bethesda, Md., on October 10, 1979.

Michael L. Glaser,

Chairman.

[FR Doc. 79-32576 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

Determination of Extraordinary Nuclear Occurrence

By Federal Register notice on July 23, 1979, (44 FR 43128), the Commission initiated a determination as to whether the March 28 accident at Three Mile Island constitutes an "extraordinary nuclear occurrence". Section 140.83 of the Commission's regulations (10 CFR 140.83) may be read to imply that such a determination must be made within 90 days, subject to extension by the Commission. The Commission hereby extends the time in which this determination is to be made until January 31, 1980. This extension is made necessary to complefe staff review of information, allow for public comment on the report to be filed by the staff, and for Commission review and decision.

Dated at Washington, D.C., this 16th day of October, 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32564 Filed 10-19-79; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Intergovenmental Science, Engineering, and Technology Advisory Panel—Science and Technology Transfer Task Force.

Place: Quality Inn, Arlington, Virginia, Jefferson Room.

Date: Friday, November 9, 9 a.m. to 5 p.m. Saturday, November 10, 9 a.m. to 12 noon.

Contact Person: Mr. Robert Goldman, Office of Science and Technology Policy, Executive Office of the President; Telephone: 202-395-4596. Anyone who plans to attend should contact Mr. Goldman by November 7, 1979.

The purpose of the meeting is to set priorities for Task Force efforts and to consider what further steps are needed to foster the appropriate application of science and technology by State and local governments.

Minutes of the meeting: Summary minutes of the meeting will be available from Mr. Goldman.

Tentative Agenda

Friday, November 9, 1979

I. New Task Force Responsibilities-
The Future of the Problem Identification Process
NSF's Intergovenmental Programs
II. An Action Program to Strengthen Intergovernmental Scientific and Technological Cooperation—
Key Propositions
Types of Scientific Information and Technology of Concern
The Federal Interest
Functions and Institutions

Saturday, November 10, 1979

Task Force Recommendations

William J. Montgomery,

Executive Officer, Office of Science and Technology Policy.

October 15, 1979.

[FR Doc. 79-32549 Filed 10-19-79; 8:45 am]

Billing Code 3170-01-M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 U.S.C., Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;
The office of the agency issuing this form;
The title of the form;
The agency form number, if applicable;
How often the form must be filled out;
Who will be required or asked to report;
An estimate of the number of forms that will be filled out;
An estimate of the total number of hours needed to fill our the form; and
The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose names and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447-620.

Revisions

Rural Electrification Administration
Borrowers' operating report
REA 12A-H
Annually
REA electric borrowers (power supply), 1,237 responses; 9,244 hours
Charles A. Filett, 395-5080

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195.

Extensions

Department of the Navy
*Academic certification form
NAVMC10469
On occasion
Accredited colleges and universities, 3,000 responses; 750 hours
Richard Sheppard, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488.

Revisions

Office of the Secretary
Income survey development program 1979 research panel
WAVE 5
OS-20-79
Quarterly
Household members in national probability sample, 72,012 responses; 25,204 hours
Office of Federal Statistical Policy and Standard, 673-7974

DEPARTMENT OF LABOR

Agency Clearance Officer—Philip M. Oliver—523-6341.

New Forms

Employment and Training Administration
Use of non-profit institutions for public service employment expansion and transition
MT-301
Single time
CETA prime sponsor staff, 125 responses; 94 hours
Arnold Strasser, 395-5080

ENVIRONMENTAL PROTECTION AGENCY

Agency Clearance Officer—John J. Stanton—245-3064.

New Forms

An exploratory study of fuel switching
Single time
Auto owners in 6 cities, 160 responses; 320 hours
Edward H. Clarke, 395-5867

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282.

Extensions

*Request to mortgage company for amount of unpaid mortgage
FL 29-712
On occasion
Lenders, 1,000 responses; 167 hours
Richard Eisinger, 395-3214

Stanley E. Morris,

Deputy Associate Director for Regulatory Policy and Reports Management.

October 17, 1979.

[FR Doc. 79-32560 Filed 10-19-79; 8:45 am]

BILLING CODE 3110-01-M

POSTAL RATE COMMISSION

Visit to Boston, Mass., Post Office

October 16, 1979.

Notice is hereby given that a member of the Commission will visit the Boston (MA) Post Office on Friday afternoon, October 19, for the purpose of acquiring general knowledge of postal operations. A report of the visit will be on file in the Commission's docket room.

David F. Harris,

Secretary.

[FR Doc. 79-32406 Filed 10-19-79; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 10900; 811-2347]

First State Capital Fund, Inc.; Application

October 11, 1979.

Notice is hereby given that First State Capital Fund, Inc. ("Applicant"), 5507 South Lewis Street, Tulsa, Oklahoma 74105, registered under the Investment Company Act of 1940 ("Act") as a diversified, open-end, management investment company, filed an application on June 23, 1977, and amendments thereto on April 16, 1979, and September 24, 1979, for an order of the Commission, pursuant to Section 8(f) of the Act, declaring that Applicant has ceased to be an investment company as defined by the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is incorporated under the laws of the State of Delaware, and that it registered under the Act on February 25, 1972. Applicant further states that on January 8, 1973, it filed a registration statement under the Securities Act of 1933 ("Securities Act") registering for sale to the public 1,000,000 shares of its common stock. According to the application, such registration statement under the Securities Act was declared effective, and the public offering of Applicant's shares commenced, on May 23, 1973.

Applicant states that on April 18, 1977, there were 38,691,238 shares of its common stock outstanding with a net asset value of $8.027 per share, and that between April 18, 1977, and May 6, 1977, Applicant redeemed all of its outstanding common stock held by shareholders, except such stock held by its investment adviser and principal underwriter, First State Financial, Inc.

("FSF"). Applicant further states that shares were redeemed at net asset value per share upon the request of the redeeming shareholders. The application states that (i) at the time of its filing, Applicant's assets consisted of cash in the amount of $3,040 and securities having the market value of $41,945, and (ii) Applicant has no debt or other liabilities outstanding.

In pertinent part, Section 3(c)(1) of the Act excludes from the definition of "investment company" any issuer whose outstanding securities are beneficially owned by not more than one hundred persons and which is not making and does not presently propose to make a public offering of its securities. Applicant represents that all of its outstanding securities are owned by FSF and that FSF has fewer than one hundred shareholders. Applicant further represents that (i) it is not making and does not presently propose to make a public offering of its securities; (ii) it does not propose to engage in any business activity other than that necessary to wind-up its affairs and (iii) if its application for an order pursuant to Section 8(f) of the Act is granted, it will distribute all of its remaining assets to FSF.

Section 8(f) of the Act provides, in part, that when the Commission, upon application, finds that a registered investment company has ceased to be an investment company it shall so declare by order and, upon the taking effect of such order, the registration of such company under the Act shall cease to be in effect.

Notice is further given that any interested person may, not later than November 5, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–32499 Filed 10–19–79; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. 10898; 812–4514]

St. Paul Money Fund, Inc.; Application

October 11, 1979.

Notice is hereby given that St. Paul Money Fund, Inc. ("Applicant"), 500 Bielenberg Drive, P.O. Box 43284, St. Paul, Minnesota 55164, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on August 6, 1979, and an amendment thereto on September 17, 1979, requesting an order, pursuant to Section 6(c) of the Act, exempting Applicant from the provisions of Rules 2a–4 and 22c–1 under the Act to the extent necessary to permit Applicant to compute its net asset value per shares, for the purposes of effecting sales, redemptions and repurchases of its share, to the nearest one cent on a share value of one dollar ("penny rounding"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a "money market" fund designed as an investment vehicle for individuals, fiduciaries and institutions with temporary cash balances or reserves, and that it has not yet commenced the distribution of its shares to the public. It further states that its investment objective will be to provide maximum current income to the extent consistent with stability of principal through investment in money market instruments maturing in twelve months or less.

As stated in the application, in all respects other than its proposed use of penny rounding, Applicant proposes to value its portfolio securities in accordance with the views set forth in Investment Company Act Release No. 9786 (May 31, 1977) ("Release No. 9786"). In Release No. 9786 the Commission, among other things, expressed its view that it would be inconsistent with the provisions of Rule 2a–4 for "money market" funds to "round off" calculations of their net asset values per share to the nearest one cent on share values of $1.00, because the calculation of net asset value per share in such a manner might have the effect of masking the impact of changing values of portfolio securities and, therefore, might not "reflect" properly the values of the underlying portfolio instruments.

Applicant states that while its net asset value per share could ordinarily be expected to remain $1.00 (rounded to the nearest cent) under its proposed pricing method, the net asset value per share could fluctuate based on changes in the values of portfolio securities. To maximize the likelihood of maintaining the stability of its net asset value per share, Applicant further states that its board of directors may reduce or suspend the payment of dividends if net asset value per share should decline below $.997 and may supplement such dividends with other distributions if the net asset value per share should rise above $1.003.

Rule 22c–1 adopted under the Act provides, in part, that no registered investment company or principal underwriter thereof issuing any redeemable security shall sell, redeem or repurchase any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or to sell such security. Rule 2a–4 adopted under the Act provides, *inter alia,* that the "current net asset value" of a redeemable security issued by a registered investment company used in computing its price for the purposes of distribution, redemption and repurchase shall be an amount which reflects calculations made substantially in accordance with the provisions of that rule, with estimates used where necessary or appropriate. Rule 2a–4 further states that portfolio securities with respect to which market quotations are readily available shall be valued at current market value, and that other securities and assets shall be valued at fair value as determined in good faith by the board of directors of the registered company. Applicant submits that without an exemption from the provisions of Rules 2a–4 and 22c–1 under the Act, it would be prohibited from determining its net asset value in the manner set forth above. Accordingly, it has requested exemptive relief.

Section 6(c) of the Act provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

In support of the relief requested, Applicant submits that: (1) it believes that potential investors are vitally concerned that the net asset value of their shares remain stable and that such investors are not concerned with the differences in yield that may result depending upon whether Applicant's net asset value per share is calculated by rounding to the nearest one cent, as opposed to rounding to the nearest one-tenth of a cent; (2) granting the relief requested would provide shareholders of Applicant with the convenience of being able to determine the value of their shares simply by knowing the number of shares they own and would thus make the task of maintaining an investment record easier; (3) computing net asset value per share to the nearest one cent on a share value of one dollar will allow Applicant to maintain a constant net asset value per share under ordinary circumstances and thereby permit Applicant to serve the interests and requirements of its shareholders; and (4) its board of directors has determined in good faith that this method of calculating net asset value per share, under such circumstances, is appropriate and in the best interests of Applicant's shareholders.

Applicant submits that the exemptions from the provisions of Rules 2a–4 and 22c–1 under the Act which it has requested are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. It states that the following conditions may be imposed in an order granting such exemptive relief:

(1) That Applicant's Board of Directors, in supervising Applicant's operations and delegating special responsibilities involving portfolio management to Applicant's investment adviser, undertakes—as a particular responsibility within its overall duty of care owed to shareholders—to assure to the extent reasonably practicable, taking into account current market conditions affecting Applicant's investment objective, that Applicant's price per share, as computed for the purpose of distribution, redemption and repurchase, rounded to the nearest one cent, will not deviate from $1.00.

(2) That Applicant will maintain a dollar-weighted average portfolio maturity appropriate to its objective of maintaining a stable price per share, and that Applicant will not (i) purchase an instrument with a remaining maturity of greater than one year, or (ii) maintain a dollar-weighted average portfolio maturity in excess of 120 days; and

(3) That Applicant's purchases of portfolio instruments, including repurchase agreements, will be limited to those United States dollar denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality as determined by any major rating service or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

Notice is further given that any interested person may, not later than October 31, 1979, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–32500 Filed 10–19–79; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[CMI 8/243]

Secretary of State's Advisory Committee on Private International Law; Meeting

A meeting of the Secretary of State's Advisory Committee on Private International Law will be held at 10:00 a.m. on Friday, November 16, 1979, in Room 5519 of the Department of State in Washington, D.C. Members of the general public may attend and participate in the discussion subject to instructions of the Chairman.

The principal purpose of the meeting is to review proposed positions of the United States Government on issues of private international law under international negotiation. Suggestions for the future work program of the Hague Conference on Private International Law and the U.N. Commission on International Trade Law will also be considered.

Members of the general public wishing to attend the meeting will be admitted up to the capacity of the meeting room. Entry to the Department of State building is controlled and will be facilitated if members of the general public who plan to attend the meeting provide their name, affiliation and address to Mrs. Mary Marshall, Office of the Legal Adviser, Department of State; telephone number (202) 632–8134. All non-government attendees at the meeting should use the main entrance to the Department at 22nd and C Street N.W.

Stephen M. Schwebel,

Vice-Chairman.

[FR Doc. 79–32504 Filed 10–19–79; 8:45 am]

Billing Code 4710–07–M

[CM 8/242]

Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group CMTT of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 15, 1979, at the ComSat Headquarters Building, 950 L'Enfant Plaza, Washington, D.C., Room 4071. The meeting will begin at 10 a.m.

Study Group CMTT deals with the specifications to be satisfied in the transmission of telecommunication programs over long distances. The main purpose of the meeting will be a review of the work underway in preparation for

V 4 4 0 C 2 2 7 9 UMI

the international meeting of CMTT in 1980.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

October 15, 1979.

[FR Doc. 79–32503 Filed 10–19–79; 8:45 am]

BILLING CODE 4710–07–M

[CM 8/241]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on November 14, 1979, in Room 521J at the National Aeronautics and Space Administration, 600 Independence Avenue, S.W., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic), and to interference problems concerning the radioastronomy and radar astronomy services. The purpose of the meeting will be review of draft documents being considered for submission to the international meeting of Study Group 2 in 1980.

Members of the general public may attend the meeting and join in the discussions subject to instruction of the Chairman.

Requests for further information should be directed to Mr. Gordon Huffcutt, State Department, Washington, D.C. 20520, telephone (202) 632–2592.

Dated: October 15, 1979.

Gordon L. Huffcutt,

Chairman, U.S. CCIR National Committee.

[FR Doc. 79–32502 Filed 10–19–79; 8:45 am]

BILLING CODE 4710–07–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78–135a]

Waiver of Navigation and Vessel Inspection Laws and Regulations; Suspension of Requirements for Survey, Inspections, and Measurement of M/V Lionheart

AGENCY: Coast Guard, DOT.

ACTION: Notice of extension of order.

SUMMARY: The Coast Guard has extended the order suspending the provisions of law requiring survey, inspection, and measurement of the *M/V Lionheart* until September 30, 1980, or until a replacement vessel for the *M/V Lionheart* is placed in operation, whichever occurs first. The order was due to expire on October 31, 1979. The extension has been granted to allow the *M/V Lionheart* to continue in present service pending the availability of a replacement vessel.

EFFECTIVE DATE: This extension became effective on October 11, 1979.

ADDRESS: The materials referenced in this notice will be available for examination and copying between 7:30 a.m. and 4:30 p.m., Monday through Thursday, at the Marine Safety Council (G–CMC/TP24), Room 2418, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593 (202–426–1477).

FOR FURTHER INFORMATION CONTACT: Commander Lloyd C. Burger, c/o Commandant CG–MVI/TP24), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202–426–2178).

SUPPLEMENTARY INFORMATION: 1. The original order was issued on October 24, 1978, and notice of the order was published in the **Federal Register** of November 2, 1978 (43 FR 51161). Thereafter, on June 28, 1979, the order was extended until October 31, 1979, and notice of the extension was published in the **Federal Register** of July 26, 1979 (44 FR 43833). The background and rationale for issuing the original order and the extension are explained in detail in the **Federal Register** notices of November 2, 1978, and July 26, 1979, and, accordingly, are not repeated here.

2. Comments on the extension order were requested from interested members of the public in the July 26, 1979 notice. No comments have been received.

3. On September 12, 1979, a request for an additional extension was submitted to the Coast Guard. As stated in the request, a new RO–RO vessel, to be built in West Germany, has been contracted for with delivery scheduled for September 1, 1980, and the Artubar barge that was started at Seatrain Shipyard will be completed at Norfolk Shipbuilding and Drydock, Co., with completion scheduled for March 1, 1980. Based upon these facts, and upon the fact that the considerations leading to the original order and first extension remain unchanged, a determination has been made to extend the order for a further period to allow the *M/V Lionheart* to continue in service pending the availability of a replacement vessel. The terms of the additional extension make the original order effective through September 30, 1980, or until a replacement vessel for the *M/V Lionheart is placed in operation, whichever occurs first.*

4. This notice was drafted by CDR Lloyd C. Burger, Office of Merchant Marine Safety, and William R. Register, Office of the Chief Counsel.

(46 USC 82; 49 USC 1655(b); E.O. 10289; and 49 CFR 1.45(a))

Dated: October 11, 1979.

J. B. Hayes,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 79–32582 Filed 10–18–79; 8:45 am]

BILLING CODE 4910–14–M

National Highway Traffic Safety Administration

[Docket No. IP79–5; Notice 2]

Uniroyal Tire Co.; Denial of Petition for Determination of Inconsequential Noncompliance

This notice denies the petition by Uniroyal Tire Company of Detroit, Michigan, to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for a noncompliance with 49 CFR 571.119, Motor Vehicle Safety Standard No. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published in the **Federal Register** on May 17, 1979 (44 FR 28907) and an opportunity afforded for comment.

Paragraph S6.5 requires that the information specified in cash of its subparagraphs be marked on each sidewall. Among this information is the maximum load rating and corresponding inflation pressure (subparagraph (d)), the word "tubeless" or "tube type" as applicable (subparagraph (g)), and the letter designating the tire load range (subparagraph (j)). A labeling mold plate containing this information fell out of the mold and went unnoticed during the curing of 200 tires. Instead of the above information the words "10 Ply Rating" were molded in. Uniroyal would like to buff off the words "10 Ply Rating" and brand in "Load Range F", to minimize the possibility that some would be misled into using a lower inflation pressure suitable for 10 ply rating tire (The correct rating is "10 Ply Sidewall 8 Ply/12 Ply Rating.")

Uniroyal argued that its noncompliance was inconsequential for the following reasons: the error occurred on the sidewall of the tire that does not contain the tire's serial number, and all required information does appear on the serial number side. Omission of "tube type" on one sidewall would not create a hazard as there is no tubeless rim in this size and the tube type rim has a slot that is too large for a tubeless valve to fill. Finally, omission of the inflation pressure is not important since it appears on the other side of the tires in question.

No comments wre received on the petition.

The NHTSA has decided to deny the petition by Uniroyal. Section 201 of the National Traffic and Motor Vehicle Safety Act requires that tire labeling shall include the composition of the material used in the ply of the tire, the actual number of plies, and the tire's maximum permissible load, emphasizing the concern of Congress for proper tire labeling. The proposal to brand "Load Range F" addresses only one of the four missing labeling requirements. The argument that the information is on the serial side is without merit, as there is no assurance that the tires will be mounted on the vehicle with the required labeling information on an outward facing sidewall. On the basis of owner surveys, NHTSA knows that as a general rule owners are reluctant to crawl under vehicles to read information off tires. Inflation pressure is especially critical to insure that tires are not overloaded. In addition, the labeling information would be vital for any future retreading operation on these 9.00–20 vehicle tires.

A denial will also encourage Uniroyal to improve its inspection procedures. The petitioner claimed that the error "went unnoticed during the curing of 200 tires." Each of these tires takes from 45 to 60 minutes to cure in a tire press. Assuming a 24-hour production schedule, the tires went through initial and final inspection "unnoticed" for approximately 8 days.

Accordingly, petitioner has not met its burden of persuasion that its noncompliance with Standard No. 119 herein described is inconsequential as it relates to motor vehicle safety, and its petition is hereby denied.

(Sec. 102, Pub. L. 93–492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8).

Issued on October 16, 1979.

Michael M. Finkelstein,

Associate Administrator for Rulemaking.

[FR Doc. 79–32424 Filed 10–19–79; 8:45 am]

BILLING CODE 4910–59–M

Federal Aviation Administration

General Aviation District Office at Houston, Tex., and Air Carrier District Office at Houston, Tex.; Notice of Consolidation

Notice is hereby given that on or about October 21, 1979, the General Aviation District Office at Houston, Texas, and the Air Carrier District Office at Houston, Texas, will be consolidated. The consolidated office will be listed as the Flight Standards District Office, Houston, Texas. All services to the public formerly provided by the individual offices will be provided by the consolidated office. This information will be reflected in the FAA Organization Statement the next time it is reissued.

Issued in Fort Worth, Texas, on October 10, 1979.

C. R. Melugin, Jr.,

Director, Southwest Region.

[FR Doc. 79–32210 Filed 10–19–79; 8:45 am]

BILLING CODE 4910–13–M

Radio Technical Commission for Aeronautics (RTCA) Executive Committee; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the RTCA Executive Committee to be held November 14, 1979 at the Sheraton National Motor Hotel, South Ball Room, Columbia Pike and Washington Boulevard, Arlington, Virginia commencing at 2:00 p.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Report of Special Committee Activities for the Past Year; (3) Status of RTCA SC–135 and European Organization for Civil Aviation Electronics (EUROCAE) Working Group 14 Report on Environmental Conditions and Test Procedures for Electronic/Electrical Equipment and Instruments; (4) Status of RTCA SC–142 Report on Air Traffic Control Radar Beacon/Discrete Address Beacon System (ATCRBS/DABS) and EUROCAE Working Group 20 Report on Address Select/Discrete Address Beacon System (ADSEL/DABS); (5) FAA Briefing on Proposed New Technical Standard Order (TSO) Procedures; (6) FAA Briefing on Future (1980–1982) Activities of Interest to RTCA International Associates; (7) Summary Commentary by International Associates' Representatives; and (8) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements or obtain information should contact the RTCA Secretariat, 1717 H Street, N.W., Washington, D.C. 20006; (202) 296–0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on October 11, 1979.

Karl F. Bierach,

Designated Officer.

[FR Doc. 79–32208 Filed 10–19–79; 8:45 am]

BILLING CODE 4910–13–M

[Summary Notice No. PE–79–25]

Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 12, 1979.

ADDRESSES: Send comments on any petition in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Petition Docket No. ———, 800

Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 11, 1979.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19634	Douglas Aircraft Company	14 CFR 121.310(d)(4)	To permit Part 121 operation of McDonnell Douglas DC-8 aircraft with an emergency light system without a cockpit control device that has an "on," "off," and "armed" position.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19422	Continental Airlines Inc. (CAL)	14 CFR 61.39(b)	To allow certain CAL pilots who were involved in a 25-day work stoppage in 1976 to count the time as continuous employment for CAL in order to allow those pilots to take the flight test for an airline transport pilot certificate (ATPC). The exemption is required to allow those pilots to qualify for the exception which allows the flight test to be taken although the 24-month period has elapsed since the written test was passed. Granted 9/28/79.
19443	Air Atlantic Airlines	14 CFR 135.10 and 135.243(a)	To allow the petitioner an extension of time for compliance with the pilot-in-command requirement to possess an Airline Transport Pilot Certificate while operating their commuter air line. Withdrawn 9/28/79.

[FR Doc. 79-32209 Filed 10-19-79; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

Coke From the Federal Republic of Germany; Antidumping Proceeding Notice

AGENCY: U.S. Treasury Department.

ACTION: Initiation of Antidumping Investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether imports of coke from the Federal Republic of Germany are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. There is substantial doubt that imports of the subject merchandise, allegedly at less than fair value, are causing, or are likely to cause, injury to an industry in the United States. Therefore, the case is being referred to the U.S. International Trade Commission for a determination as to whether there is no reasonable indication of injury by reason of such imports.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, NW, Washington, DC 20229, (202) 566-5492.

SUPPLEMENTARY INFORMATION: On September 7, 1979, a petition was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel representing Alabama By-Products Corporation, Birmingham, Alabama; Drummond Coal Company, Jasper, Alabama; and Island Creek Coal Company, Lexington, Kentucky, alleging that coke from the Federal Republic of Germany is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended (19 U.S.C. 160 *et seq.*) (hereinafter referrred to as "the Act").

For purposes of this investigation, the term "coke" means coke and compositions of coke, provided for in items 521.340, and 521.3160, Tariff Schedules of the United States Annotated.

Pricing information was supplied by petitioners for coke sold to the United States and to the West German home market which indicates that there may be less than fair value margins of as much as 70 percent.

Petitioners have presented information in support of their allegation that certain home market sales of West German coke are occurring at slightly less than the cost of production, within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)). Further clarifying information has been sought pertaining to this point. Once that information is received a determination will expeditiously be made whether a full-scale investigation under section 205(b) is appropriate.

Petitioners have presented information in support of their allegation that U.S. coking coal producers and/or U.S. coke producers are being, or are likely to be, injured by reason of the alleged less than fair value imports from West Germany.

The petitioners cite increased West German penetration of the U.S. coke market, and declines in U.S. production of both coke and coking coal over the period 1976-78. Also cited are decreases in the sales, production, capacity utilization and profits of domestic producers of coking coal. However, the evidence presented by petitioners, together with data otherwise obtained, is ambiguous on the point whether domestically-produced coke is being under sold by West German coke imports. The information also indicates, *inter alia*, that the high level of 1978 coke imports may have been due to an extended UMW strike, and the inability of the domestic coke industy to produce enough coke for domestic needs due to environmental constraints on U.S. production. Further, the information indicates that real domestic blast furnace coke capacity may be so low as to have made impossible the displacement of U.S. coke and/or coking coal by West German imports.

Therefore, on the basis of the information currently available, there is substantial doubt of injury or likelihood of injury to an industry in the United States by reason of such imports from the Federal Republic of Germany. Accordingly, the U.S. International Trade Commission is being advised of such doubt pursuant to section 201(c)(2) of the Act (19 U.S.C. 160(c)(2)).

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29), and having determined as a result thereof that there are grounds for so doing, the U.S. Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value. Should the U.S. International Trade Commission, within 30 days of receipt of this referral, advise the Secretary that there is no reasonable indication that an industry in the United States is being, or is likely to be, injured by reason of the importation of such merchandise into the United States, this investigation will be terminated. Otherwise, the investigation will continue to conclusion.

This notice is published pursuant to § 153.30, Customs Regulations (19 CFR 153.30).

Robert H. Mundheim,

General Counsel of the Treasury.

October 15, 1979.

[FR Doc. 79-32501 Filed 10-19-79; 8:45 am]

BILLING CODE 4810-22-M

[Public Debt Series No. 24-79]

Series Y-1981; Treasury Notes of October 31, 1981

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately $3,900,000,000 of United States securities, designated Treasury Notes of October 31, 1981, Series Y-1981 (CUSIP No. 912827 KA 9). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the price equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the new securities may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities, to the extent that the aggregate amount of tenders for such accounts exceeds the aggregate amount of maturing securities held by them.

2. Description of Securities

2.1. The securities will be dated October 31, 1979, and will bear interest from that date, payable on a semiannual basis on April 30, 1980, and each subsequent 6 months on October 31 and April 30, until the principal becomes payable. They will mature October 31, 1981, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Tuesday, October 23, 1979. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, October 22, 1979.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is $5,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed $1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowings on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury

securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full, or when the price is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for allotted securities must be made or completed on or before Wednesday, October 31, 1979, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Friday, October 26, 1979, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Friday, October 26, 1979, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secetary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted securities are not required to be assigned if the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (securities offered by this circular) in the name of (name and taxpayer identifiying number)." If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue, when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5 Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

Paul H. Taylor,

Fiscal Assistant Secretary.

October 17, 1979.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 79-32639 Filed 10-19-79; 8:45 am]

BILLING CODE 4810-40-M

INTERSTATE COMMENCE COMMISSION

[Volume No. 37]

Petitions, Applications, Finance Matters (Including Temporary Authorities), Alternate Route Deviations, Intrastate Applications, Gateways, and Pack and Crate

Dated: October 10, 1979.

Republications of Grants of Operating Rights Authority Prior to Certification

Notice

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the Federal Register.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before December 21, 1979. Such pleading shall comply with Special Rule 247(e) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

MC 111812 (Sub-583F) (Republication), filed August 7, 1978, published in the Federal Register issue of November 24, 1978, and republished this issue: Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as above). A Decision of the Commission, *Review Board No. 3*, decided July 25, 1979, and served August 9, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *cigarette lighters, portable appliances, writing instruments, stationery products, and personal care products*, (1) from Andover, MA, to Kent, WA, Atlanta, Morrow, Forest Park, and Newnan, GA, Sparks, NV, Lawrence, KS, Arlington and Dallas, TX, and points in CA and Florida, and (2) from Santa Monica and La Mirada, CA, to Andover, MA, La Grange Park, IL, Lawrence, KS, Arlington and Dallas, TX, and Newnan, GA, restricted to the transportation of traffic originating at the facilities of the Gillette Company and further restricted in (1) and (2) against the transportation of commodities in bulk; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to change the commodity description, territorial description and the restriction.

MC 119493 (Sub-223F) (Republication), filed July 17, 1978, published in the Federal Register issue of September 5, 1978, and republished this issue: Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Lawrence F. Kloeppel (same address as above). A Decision of the Commission, *Review Board No. 2*, decided July 24, 1979, and served August 15, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, transporting (1) *wood pallets and wood boxes*, from Independence, KS, to points in Arkansas, Missouri, Nebraska, Oklahoma, and Texas, and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above from points in Arkansas, Missouri, Nebraska, Oklahoma, and Texas to Independence, KS, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to change the commodity and territorial description and add a restriction.

MC 135033 (Sub-5F) (Republication), filed March 30, 1978, published in the Federal Register issue of June 8, 1978, and republished this issue: Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Bruce A. Bullock, Suite 530, Univac Building, 7100 West Center Road, Omaha, NE 68106. A Decision of the Commission, *Review Board No. 3*, decided August 7, 1979, and served June 8, 1978, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting *alcoholic beverages and non-alcoholic beverages* (except in bulk), and *bottled cherries, olives, and onions*, from New York and Hammondsport, NY, Philadelphia and Schenley, PA, Lawrenceburg, IN, Frankfort, Louisville, and Owensboro, KY, Chicago Plainfield, and Pekin, IL, and Hillside and Jersey City, NJ, to Omaha, NE, under contract with Nebraska Wine and Liquors, Inc., of Omaha, NE; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to change the commodity description.

MC 138553 (Sub-1F) (Republication), filed August 29, 1978, published in the Federal Register issue of October 26, 1978, and republished this issue: Applicant: M & N GRAIN COMPANY, a corporation, Box P, Business 71 South, Nevada, MO 64772. Applicant's representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. A Decision of the Commission, *Review Board No. 2*, decided June 20, 1979, and served August 14, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting *hides and pelts*, (1) from Little Rock and Searcy, AR, Belmond and Waterloo, IA, McCook and Norfolk, NE, Columbus, OH, Texarkana and Tyler, TX, and Muskego, WI, to Butler, MO, (2) from Butler, MO, to Phoenix, AZ, Woburn, MA, Hartland, ME, St. Paul, MN, Manchester and Penacook, NH, Buffalo, Gloversville, and Johnstown, NY, and Memphis, TN, (3) from Columbus, OH, to Danversport, MA, Hartland, ME, and Milwaukee, WI, and (4) from Great Bend, KS, to Los Angeles, CA, Manchester, NH, and Laredo, TX, and (5) from Muskego, WI, to Danversport, MA, and Laredo, TX; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to correct "Danversport, MN" to read as "Danversport, MA".

MC 143983 (Republication), filed November 4, 1977, published in the Federal Register issue of January 26, 1978, and republished in this issue: Applicant: MEL-KRIS TRUCKING CORPORATION, 803 East 27th Street, Paterson, NJ 07513. Representative: Meyer Stein, 400 Madison Avenue, New York, NY 10017. A Decision of the Commission, *Review Board No. 2*,

decided July 5, 1979, and served August 20, 1979, finds that the present and future public convenience and necessity require operations by applicant in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, transporting (1) textiles and textile products, and (2) *materials, equipment, and supplies* used in the manufacture and sale of the commodities in (1) above (except commodities in bulk), between New York, NY, on the one hand, and, on the other, Glens Falls, NY, under continuiing contract(s) with Native Textiles, Division of Carisbrook Industries, Inc., of New York, NY; that applicant is fit, willing and able to properly perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations and rules. The purpose of this republication is to change the commodity description.

Petitions for Modification, Interpretation or Reinstatement of Motor Carrier Operating Rights Authority

Notice

The following petitions seek modification or interpretation of existing motor carrier operating rights authority, or reinstatement of terminated motor carrier operating rights authority.

All pleadings and documents must clearly specify the suffix numbers (e.g., M1 F, M2 F) where the docket is so identified in this notice.

The following petitions, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a *petition to intervene either with or without leave* must be filed with the Commission within 30 days after the date of publication in the Federal Register, with a copy being furnished the applicant. Protests to these applications will be *rejected*.

A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that if (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l). In deciding whether to grant leave to intervene, the Commission considers, among other things, whether petitioner has (a) solicited the traffic or business of those persons supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. Another factor considered is the effects of any decision on petitioner's interests.

Samples of petitions and the text and explanation of the intervention rules can be found at 43 FR 50908, as modified at 43 FR 60277. Petitions not in reasonable compliance with these rules may be rejected. Note that Rule 247(e), where not inconsistent with the intervention rules, still applies. Especially refer to Rule 247(e) for requirements as to supplying a copy of conflicting authority, serving the petition on applicant's representative, and oral hearing requests.

MC 57778 (Sub-4 (M1F)) (Sub-16 (M1F)) (Notice of filing of petition to modify Certificate filed April 24, 1979. Petitioner: MICHIGAN REFRIGERATED TRUCKING SERVICE, INC., 6134 W. Jefferson Ave., Detroit, MI 48209. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Petitioner holds motor common carrier Certificate in MC 57778 Subs 4 and 16 issued July 18, 1966, and November 3, 1976, respectively. MC 57778 Sub 4 authorizes transportation of *frozen foods, meats, meat products, meat by-products, articles distributed by meat-packing houses, table sauces, specialty food items, and fresh and frozen fish*, in vehicles equipped with mechanical refrigeration, between points in MI. MC 57778 Sub 16 authorizes the transportation of *candy*, in vehicles equipped with mechanical refrigeration, from the facilities of E. J. Brach & Sons, Inc., at Carol Stream, and Chicago, IL, to points in named counties in MI. By the instant petition, petitioner seeks to modify the authority as follows: Delete the vehicle restriction in both the Sub 4 and Sub 16 certificates.

MC 130293 (M1F), filed May 24, 1979. (Notice of filing of petition to modify license.) Applicant: GOODMAN TOURS, INC., 7277 Big Creek Parkway, Middleburg Heights, OH 44130. Representative: S. Harrison Kahn, Suite 733 Investment Bldg., 1511 K Street, NW., Washington, DC 20005. Petitioner holds motor common carrier License in MC 130293, issued January 7, 1977, which authorizes transportation, over irregular routes, of *passengers and their baggage*, in special and charter operations, in round trip tours, beginning and ending at points in Cuyahoga, Lake, Medina, Wayne, and Holmes Counties, OH, and extending to points in the United States (including AK, but excluding HI). Applicant is authorized to engage in the above-specified operations as a broker at Middleburg Heights, OH. By the instant petition, petitioner seeks to modify the authority so it reads as follows: To engage in operations, in interstate or foreign commerce, as a *broker*, at Middleburg Heights, OH, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, in round-trip tours, between points in the United States (including AK and HI).

Broker, Water Carrier and Freight Forwarder Operating Rights Applications; Notice

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the **Federal Register**. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(e)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such an authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues of allegations phrased generally, protests not in reasonable compliance with the requirements of the rules may be rejected.

Permanent Authority Decisions Decision–Notice

Decided: October 10, 1979.

The following broker, freight forwarder or water carrier applications are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the

granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest within 30 days will be considered as a waiver of opposition to the applicant. A protest under these rules shall comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, as specifically noted below), and specify with particularity the facts, matters, and things relied upon. The protest shall not include issues or allegations phrased generally. A protestant shall include a copy of the specific portion of its authority which it believes to be in conflict with that sought in the application, and describe in detail the method whether by joinder, interline, or other means—by which protestant would use this authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission. A copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, the request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exceptions of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is either (a) required by the public convenience and necessity, or, (b) will be consistent with the public interest and the transportation policy of 49 U.S.C § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand deneid.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

Brokers

MC 130519 (Sub-1F), filed June 13, 1979. Applicant: SUMMIT TRAVEL, INC., 601 Business Loop 70 West, Suite 11, Columbia, MO 65201. Representative: Charles J. Fain, 333 Madison Street, Jefferson City, MO 65101. To engage in operations, in interstate or foreign commerce, as a *broker*, at Columbia, MO, in arranging for the transportation by motor vehicle, of *passengers and their baggage*, in special and charter operations, by motor common carrier, between points in the United States (including AK and HI). (Hearing site: Columbia or Kansas City, MO.)

MC 130572F, filed May 10, 1979. Applicant: DISCOVERY TOURS COMPANY, d.b.a. RENO RECREATIONAL TOURS, 133 North Sierra St., Suite 205, Reno, NV 89501. Representative: William C. Thornton (same address as applicant). To engage in operations, in interstate or foreign committee, as a *broker*, at Reno, NV, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in Washoe County, NV, and points in CA. (Hearing site: Reno, NV.)

MC 130580F, filed June 8, 1979. Applicant: FUGAZY TRAVEL & INCENTIVE CORP., 645 Madison Avenue, New York, NY 10022. Representative: Arthur Wagner, 600 Madison Avenue, New York, NY 10022. To engage in operations, in interstate or foreign commerce, as a *broker*, at New York, NY, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the United States (including AK and HI). (Hearing site: New York, NY, or New Haven, CT.)

MC 130592F, filed July 20, 1979. Applicant: EXPERT FREIGHT BROKERAGE, INC., 1913 Crimson, Troy, MI 48084. Representative: Steven J. Kalish, 1750 Pennsylvania Avenue, NW., Washington, DC 20006. To engage in operations, in interstate or foreign commerce, as a *broker*, at Troy, MI, in arranging for the transportation, by motor vehicle, of *general commodities* (except household goods as defined by the commission), between points in the United States (including AK and HI). (Hearing site: Detroit, MI, or Washington, DC.)

MC 130593F, filed May 29, 1979. Applicant: DON M. DRUM, d.b.a. BACKHAUL LOCATORS, Suite 507, Irving Bank Tower, Irving, TX 75060. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. To engage in operations, in interstate or foreign commerce, as a *broker*, at Irving, TX, in arranging for the transportation, by motor vehicle, of *heavy construction equipment and off-highway machinery*, between points in the United States (except AK and HI). (Hearing site: Dallas, TX.)

MC 130602F, filed August 14, 1979. Applicant: THE JOURNEY ASSOCIATES, A Corporation, 140 North Center, Mesa, AZ 85201. Representative: Fred J. Ash, 8 West Pepper Pl., Mesa, AZ 85201. To engage in operations, in interstate or foreign commerce, as a *broker*, at Mesa, AZ, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in round-trip special and charter operations, beginning and ending at points in Maricopa County, AZ, and extending to points in the United States (including AK and HI). (Hearing site: Phoenix or Tuscon, AZ)

Permanent Authority Decisions—Decision-Notice Substitution Applications: Single-Line Service for Existing Joint-Line Service

Decided: October 10, 1979.

V 44 0C 22 79 UMI

The following applications, filed on or after April 1, 1979, are governed by the special procedures set forth in Part 1062.2 of Title 49 of the Code of Federal Regulations (49 CFR 1062.2).

The rules provide, in part, that carriers may file petitions with this Commission for the purpose of seeking intervention in these proceedings. Such petition may seek intervention either with or without leave as discussed below. However, all such petitions must be filed in the form of verified statements, and contain all of the information offered by the submitting party in opposition. Petitions must be filed with the Commission on or before November 21, 1979.

Petitions for intervention without leave (i.e. automatic intervention), may be filed only by carriers which are, or have been, participating in the joint-line service sought to be replaced by applicant's single-line proposal, and then only if such participation has occured within the one-year period immediately proceeding the application's filing. Only carriers which fall within this filing category can base their opposition upon the issue of the public need for the proposed service.

Petitions for intervention with leave may be filed by an carrier. The nature of the opposition; however, must be limited to issues other than the public need for the proposed service. The appropriate basis for opposition, i.e. applicant's fitness, may include challenges concering the veracity of the applicant's supporting information, and the bona-fides of the joint-line service sought to be replaced (including the issue of its substantiality). Petitions containing only unsupported and undocumented allegations will be rejected.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930 (a) (formerly section 210 of the Interstate Commerce Act).

In absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 1, Members Carlton, Joyce, and Jones.

MC 1745 (Sub-9F), filed May 8, 1979. Applicant: INTERSTATE VAN LINES, INC., 5801 Rolling Rd., West Springfield, VA 22152. Representative: Marshall Kragen, 1835 K St., NW, Suite 600, Washington, DC 20006. Transporting *household goods* as defined by the Commission, between points in CA and AZ, on the one hand, and, on the other, points in AL, GA, TN, NC, SC, VA, FL, LA, MS, AR, KY, OH, MI, WV, MD, PA, NY, NJ, DE, IL, IN, CT, MA, NH, RI, VT, ME, and DC. (Hearing site: Washington, DC).

Note.—The sole purpose of this application is to substitute single-line for joint-line operations.

MC 13569 (Sub-51F), filed May 14, 1979. Applicant: THE LAKE SHORE MOTOR FREIGHT COMPANY, INC., 1200 South State Street, Girard, OH 44420. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Chicago, IL, to points in MI, NJ, NY, OH, and PA. (Hearing site: Columbus, OH).

Note.—The sole purpose of this application is to substitute the proposed single-line operation in lieu of existing joint-line services.

Finance Applications

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, of rail carriers or motor carriers pursuant to Sections 11343 (formerly Section 5(2)) or 11349 (formerly Section 210a(b)) of the Interstate Commerce Act.

An original and one copy of protests against the granting of the requested authority must be filed with the Commission on or before November 21, 1979. Such protest shall comply with Special Rules 240(c) or 240(d) of the Commission's *General Rules of Practice* (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

Each applicant states that approval of its application will not significantly affect the quality of the human environment nor involve a major regulatory action under the Energy Policy and Conservation Act of 1975.

MC-F-14082F. Authority sought for purchase by CHIPPEWA MOTOR FREIGHT, INC., 100 East 41st Street, Sioux Falls, SD 57105, to purchase a portion of the operating rights of WESTERN TRANSPORATION COMPANY, 1300 West 35th Street, Chicago, IL 60609, and for acquisition of control of such rights by Lewis Industries, Inc., 510 Northwestern Bank Building, Sioux Falls, SD 57102, through the purchase. Applicant's attorney: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Operating rights

sought to be transferred are as a common carrier, over regular routes, as follows: General Commodities, with the usual exceptions between (1) Chicago, IL and South Haven, MI, as follows: From Chicago over U.S. Highway 12 to St. Joseph, MI, thence over U.S. Highway 31 to South Haven; From Chicago over U.S. Highway 20 to junction Indiana Highway 212, thence over Indiana Highway 212 to junction U.S. Highway 12, thence over U.S. Highway 12 to St. Joseph, and thence to South Haven as specified above; and return over the above-specified routes to Chicago. Service is authorized to and from all intermediate points; and the off-route points of Baroda, Derby and Three Oaks, MI. (2) Between South Bend, IN and Kalamazoo, MI, as follows: From South Bend over U.S. Highway 31 to Benton Harbor, MI, thence over U.S. Highway 12 to Kalamazoo, and return over the same route. Service is authorized to and from all intermediate points; and off-route points as follows: Berrien Center, Mattawan, Lawton, Keeler, and Milburg, MI. (3) Between Benton Harbor, MI and Kalamazoo, MI, as follows: From Benton Harbor over unnumbered highway via Sodus, MI to Eau Claire, MI, thence over Michigan Highway 62 to Dowagiac, MI, thence over Michigan Highway 40 to junction U.S. Highway 12, and thence over U.S. Highway 12 to Kalamazoo, and return over the same route. Service is authorized to and from all intermediate points. (4) Between South Bend, IN and Gary, IN, for operating conveniences only: From South Bend over U.S. Highway 20 to Gary, and return over the same route. Service is not authorized between termini or to or from intermediate points. (5) General Commodities over irregular routes between points and places in the Chicago Commercial Zone; and (6) Alternate routes with-in the State of Michigan. Application has been filed for temporary authority under Section 210a(b).

MC-F14172F. Authority sought for purchase by GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518, of the operating rights of DAVID STEINMAN d.b.a. STEINMAN TRUCKING COMPANY, River Street at South Washington Avenue, Scranton, PA 18503, and for acquisition by John Gilchrist and Diane Gilchrist, both of 105 North Keyser Avenue, Old Forge, PA 18518, of control of such rights through the transaction. Applicant's Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Operating rights to be transferred are Regular Routes: General commodities (except Classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), between Carbondale, PA, and Scranton, PA, serving all intermediate points; from Carbondale over U.S. Highway 6 to Scranton, and return over the same route. From Carbondale over county highways known as Montdale Road and O'Neill Highway to Scranton, and return over the same route.

MC 9071 (Sub-4F). To operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting general commodities (except classes A and B explosives, household goods as defined by the Commission, and commodities in bulk), serving Wilkes Barre, PA, as an off-route point in connection with applicant's authorized regular routes. Vendee is authorized to operate as a common carrier within all the states of the United States (except Alaska and Hawaii). Application has been filed for temporary authority under Section 210a(b). (Hearing Site: Scranton, PA.)

MC-F14173F. Authority sought for control by AUSTIN LEASING CORP., and A. L. C. TRANSPORTATION, INC., of Phillipp Transit Lines, Inc., which holds authority from the Commission in MC 2002. Applicant's Attorney: Joseph R. Siegelbaum, Esq., Kalb, Friedman and Siegelbaum, 17 Academy Street, Newark, New Jersey 07102. Application has been filed for Temporary Authority.

MC-F14174F. Authority sought for purchase by AUSTIN LEASING CORP., and A. L. C. TRANSPORTATION, INC., of the operating rights of Secon Service System, Inc., f.k.a. Yale Transport Corp., Debtor-in-Possession. Applicant's Attorney: Joseph R. Siegelbaum, Esq., Kalb, Friedman and Siegelbaum, 17 Academy Street, Newark, New Jersey 07102. Operating Rights to be transferred: The non-bulk operating authority contained in Certificate MC-17778 and sub-numbers thereto, generally including general commodity operating authority in the Middle Atlantic and Lower New England Areas. Application has been filed for Temporary Authority.

MC-F14175F. Authority sought for purchase by WALSH BROS., INC., 33 Brill Street, Newark, NJ 07105 of the operating authorities of TIGER TRANSPORT, INC., INTERNAL REVENUE SERVICE, Successor in Interest, 313 State Street, Perth Amboy, NJ 08861. Applicant's representative Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. Operating rights to be purchased: Docket No. 138418 Sub 4, irregular routes, Pipe and pipe fittings, from Phillipsburg, Burlington, and Florence, NJ to New York, NY, and points in Nassau and Suffolk Counties, NY, with no transportation for compensation on return except as otherwise authorized: Cotton softener and bleach and muriates and chlorates of potassium, from New York, NY to Perth Amboy, NJ and points in Essex, Bergen, Hudson, Passaic, and Union Counties, NJ, with no transportation for compensation on return except as otherwise authorized: Ingredients used in the manufacture of brewery products, from points on Staten Island, NY to Newark, Paterson, Elizabeth, and Trenton, NJ, Wilkes-Barre, Easton, Norristown, and Philadelphia, PA, and Bridgeport and New Haven, CT; and Empty containers for brewery products ingredients, from the destination points specified immediately above, to points on Staten Island, NY: (a) Commodities, the transportation of which because of size or weight require the use of special equipment or special handling, and (b) self-propelled articles, each weighing 15,000 pounds or more, and related machinery tools, parts and supplies moving in connection therewith, (restricted to commodities which are transported on trailers), Between New York, NY and points in Philadelphia, Delaware, Montgomery, and Bucks Counties, PA, those in NJ, and those in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, NY: Storage tanks, capacity of 5,000 gallons or over, Between New York, NY, and points in Fairfield County, CT, those in Philadelphia, Delaware, Montgomery, and Bucks Counties, PA, those in NJ, and those in Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, NY. Transferee is authorized to operate as a common carrier in the states of CT, MA, NJ, NY, PA and RI. An application has been for temporary application under Section 210a(b).

Caption Summary

MC-F14176F. Authority sought by CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077, for purchase of a portion of the operating rights of COOPER-JARRETT, INC., Hanover Plaza, Morristown, NJ 07960, and control of such rights through the purchase by Centra, Inc. and T. J. Maroun and M. J. Maroun, 34200 Mound Road, Sterling Heights, MI 48077. Applicants' attorneys: Irving Klein, Southgate Tower, 371 Seventh Avenue, New York, NY 10001, and Jack Goodman, Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, IL 60603. Operating rights

V 44 0C 22 79 UMI

sought to be transferred are contained in Certificate of Public Convenience And Necessity No. MC 35334 (Sub-No. 65), authorizing the transportation, over *regular routes*, by motor vehicle, as a *common carrier, general commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Cincinnati, OH, and Manchester, OH, serving the intermediate points between Manchester and Aberdeen, OH: from Cincinnati over U.S. Hwy 52 to Manchester and return over the same route. Between Cincinnati, OH, and Vanceburg, KY, serving the intermediate points between Sandy Springs and Aberdeen, OH: from Cincinnati over U.S. Hwy. 52 to Sandy Springs, OH, and then across the Ohio River to Vanceburg, KY, and return over the same route. Between Vanceburg, KY, and Cincinnati, OH, serving the intermediate points between Vanceburg and Maysville, KY: from Vanceburg over KY Hwy. 10 to Maysville KY, then across the Ohio River to junction U.S. Hwy. 52, then over U.S. Hwy. 52 to Cincinnati, and return over the same route, and over *irregular routes*, by motor vehicle, as a *common carrier*, (a) *general commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, between Amelia, OH, and points in OH within 10 miles of Amelia, OH, on the one hand, and, on the other, Cincinnati, OH, and points in that part of OH south of a line beginning at junction U.S. Hwy. 68 and OH Hwy. 32, and extending along OH Hwy. 32 to junction unnumbered highway (formerly portion OH Hwy. 74), then along unnumbered highway through Glen Este and Mt. Carmel, OH, to junction OH Hwy. 32, then along OH Hwy. 32 to Cincinnati, OH, and west of U.S. Hwy. 68, including points on the indicated portions of the highways specified, and (b) *general commodities*, except livestock, Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, between Sardinia, OH, and points within 5 miles thereof, on the one hand, and, on the other, points in KY. Vendee proposes to tack the separate irregular-route authorities sought to be purchased to the end that a single-line service may be rendered to points in KY, on the one hand, and, on the other, Amelia, OH and points in OH within 10 miles thereof, and to tack at Cincinnati the combined irregular-route authorities proposed to be purchased so as to render a single-line service between points in KY, on the one hand, and, on the other, points on the irregular and regular routes of transferee so as to permit the rendition of a single-line service between points in KY, on the one hand, and, on the other, points authorized to be served by transferee in IL, IN, WI, MI, PA, NY, WV, KY, and OH. A gateway elimination application will be filed. No temporary authority application will be filed.

MC–F14177F. Transferee: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Transferor: S. L. HARRIS, d.b.a. P.B.I., 1711 Lake Harris Road, White Oak, TX, 75693. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX, 78701. Operating right which are the subject of this transaction: Certificate No. MC 135982, Sub-8, issued 12–4–75 as follows: *Malt beverages* from Ft Worth, TX to points in LA; and materials, supplies and equipment, used in the manufacture, sale and distribution of malt beverages from points in LA to Ft Worth, TX. Present operating rights of transferee: MC 123993 and subs (certificate) and MC 41116 and subs (permit). Application for temporary authority has been filed.

MC–F14179F. Authority sought for control by CROWLEY MARITIME CORPORATION, One Market Plaza, San Francisco, CA 94105 and THOMAS B. CROWLEY of same address of NORTHWESTERN CONSTRUCTION, INC., 3812 Spenard Road, AK 99503 through stock ownership. Applicant's Attorney: Leo C. Franey, 700 World Center Building, 918—16th Street, N.W., Washington, D.C. 20006. Operating Rights to be controlled: *General Commmodities*, except household goods and commodities in bulk, as a *contract carrier*, over irregular routes, between points in Alaska within 50 miles of the U.S. Post Office at Deadhorse, AK in seasonal operations extending from July 1, to October 15, restricted to the transportation of traffic having a prior or subsequent movement by water under contract with Artic Marine Freighters. Crowley Maritime Corporation presently owns the stock of Northwestern Construction, Inc. The purpose of this application is to obtain approval of control upon issuance of authority in MC 145929. Applicant also controls Gulf Caribbean Marine Lines, Inc., Arctic Lighterage Company and Mukluk Freight Lines, Inc., motor common carriers authorized to transport general commodities between specified points in Florida and Alaska; as set forth in detail in MC 141323, MC 141642 and MC 118518, respectively and North Star Forwarding Co. in FF–308 and FF–308 (Sub-1), and water common carriers, Arctic Lighterage Company, Drummond Lighterage, Columbia Common Carriers, Inc. and Bay Cities Transportation Company authorized to operate in self-propelled and non-self-propelled vehicles between points on the Atlantic Coast, the Gulf of Mexico, Pacific Coast and Alaska as specified in W–1229, W–586, W–580, and W–379. No duplicating authority sought. Dual operations approved in MC 145929. No temporary authority application filed.

MC–F14180F. Authority sought for the amalgamation of KINGSWAY TRANSPORTS LIMITED, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3 and JOHN N. BROCKLESEY TRANSPORT LIMITED, 123 Rexdale Boulevard, Rexdale, Ontario, Canada M9W 1P3, with KINGSWAY TRANSPORTS LIMITED being the surviving corporation. Applicants' attorney: S. Harrison Kahn, Kahn and Kahn, Suite 733 Investment Building, Washington, D.C. 20005. John N. Brocklesby Transport Limited is a motor common carrier of commodities, the transportation of which because of size or weight require the use of special equipment (except motor vehicles), between ports of entry on the U.S.-Canada boundary line at or near Morses Line, West Berkshire, Richford, East Richford, North Troy, Beebe Plain, Derby Line, High Gate Springs, and Norton, VT., Beecher Falls and Scott Bog, NH, and Fort Covington, Trout River, Mooers Forks, Champlain and Rouses Point, NY, on the one hand, and, on the other, points in Maine, New Hampshire, Vermont, Connecticut, Rhode Island, and New York. This authority is set forth in Docket MC 126672. Kingsway Transports Limited is a motor common carrier of general commodities, with the usual exceptions, authorized in Certificates of Public Convenience and Necessity issued in Docket MC 112908, Sub-1, Sub-3, Sub-4, Sub-5, and Sub-7 to operate between New York, NY and ports of entry on the U.S.-Canada boundary line near Rouses Point, NY, serving intermediate and off-route points in New York and New Jersey within 15 miles of New York City; between points in the Detroit, Michigan Commercial Zone, on the one hand, and, on the other, the port of entry at the U.S.-Canada boundary line at Detroit, Michigan; between the plantsite of Kelsey-Hayes Company located at Romulus Township, Wayne County, Michigan, on the one hand, and, on the other, the port of entry at the U.S.-Canada boundary line at Detroit, Michigan; between the junction of New York Highways 9 and 9b near Chazy, NY and the U.S.-Canada boundary line at or near Champlain, NY; between Buffalo, NY and Niagara Falls, NY; between Niagara Falls, NY and Fort Niagara, NY; between Niagara Falls, NY and Youngstown, NY; between St. Johnsbury, NY and Lockport, NY; between junction U.S. Highway 384 and 429 at Lockport, NY; between Martinsville, NY and Lockport, NY; between the plantsite and facilities of Ford Motor Company at Romeo, Michigan, on the one hand, and, on the other, U.S.-Canada boundary line at Detroit, Michigan. Operations through the Champlain, NY and Detroit ports of entry are restricted to traffic moving in foreign commerce only. No application for temporary authority has been filed. Washington, D.C. has been requested as the hearing site.

MC–F14181. Applicants: Vendees: DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA 94621. DELTA CALIFORNIA INDUSTRIES, 333 Hegenberger Road, Oakland, CA 94621. Vendor: ARKANSAS BEST FREIGHT SYSTEM, INC., Post Office Box 48, Fort Smith, AR 72902. Representatives: For Vendees: Andrew J. Skaff, Esquire, Delta California Industries, 333 Hegenberger Road, Oakland, CA 94621. Russell R. Sage, Esquire, Major, Sage & King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA 22312. For Vendor: Thomas Harper, Esquire, Harper, Young & Smith, Post Office Box 43, 510 N. Greenwood, Fort Smith, AR 72902. Authority sought for purchase by DELTA LINES, INC., 333 Hegenberger Road, Oakland, CA, of a portion of the operating rights of ARKANSAS BEST FREIGHT SYSTEM, INC., Post Office Box 48, Fort Smith, AR, and for acquisition by Delta California Industries and Thomas R. Dwyer, both of 333 Hegenberger Road, Oakland, CA, and Peter G. and Frances H. Dwyer, both of 42 Grover, Colusa, CA, of control of such rights sought to be acquired through the purchase. Vendees' attorneys: Andrew J. Skaff, 333 Hegenberger Road, Oakland, CA, and Russell R. Sage, Major, Sage & King, Suite 400, Overlook Bldg., 6121 Lincolnia Road, Alexandria, VA; Vendor's representative: Thomas Harper, Harper, Young & Smith, Post Office Box 43, 510 N. Greenwood, Fort Smith, AR. Operating rights sought to be purchased: *general commodities*, with exceptions, as a *common carrier* over *regular routes* between Phoenix, AZ and Kingman, AZ, and between Kingman, AZ and Alunite, NV; *general commodities*, with exceptions, over *regular routes* between Phoenix, AZ and Alamogordo, NM, serving no intermediate points, and between Alamogordo, NM and Fort Worth, TX, serving no intermediate points, restricted against the transportation of traffic moving from, to or through El Paso, TX, as more fully described in Certificate MC 29910, and Sub——. Vendee is authorized, pursuant to Certificate MC 56640, as a *common carrier* in the States of WA, OR, CA, NV and AZ. Application has not been filed for temporary authority under Section 210a(b).

Transfer Proceedings

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include request for oral hearing, must be filed with the Commission on or before November 21, 1979. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

Finance Docket 29113F, By decision of the Motor Carrier Board approved the transfer to YELLOW FORWARDING CO. (a Delaware Corporation), Shawnee Mission, KS, of Eighth Amended Permit FF–148, issued March 10, 1969, to REPUBLIC FREIGHT SYSTEM, INC. (A New York Corporation), Shawnee Mission, KS, authorizing the forwarding of general commodities, (a) between all pointed in the United States, except between points in CA, on the one hand, and, on the other, points in ID, OR, and WA; and (b) from points in KS, and points in the United States in and east of MN, IA, MO, AR, and LA, to points in AK and HI. Any interested person may file a petition for reconsideration within 20 days of the date of this publication. John M. Records, P.O. Box 7270, Shawnee Mission, KS 66207, representative for applicants.

MC–F–C78035, filed September 5, 1979. Transferee: JAMES J. McCABE, Jr., d.b.a. J. McCABE & SON, 38 Greenhalge Ave., Everett, MA 02149. Transferor: BERNARD M. McCABE, JOHN L. McCABE and JAMES J. McCABE, d.b.a. B. McCABE and SONS, 25 Bow St., Somerville, MA 02143. Representatives: James L. Sullivan, 23 Bow Street, Somerville, MA 02143. Authority sought for the purchase by transferee of transferors' operating rights in Certificate MC 61943 issued October 5, 1953, as follows: Household goods between Somerville, MA and points in MA within ten miles of Somerville to MA, NH, ME, RI, CT, NY, and NJ; and merchandise as is dealt in by retail home furnishing stores, when transported on delivery instructions of such stores from Somerville MA and points within 10 miles of Somerville to points in CT and RI with no transportation for compensation on return except as otherwise authorized. Transferee holds no authority from the Commission. An application for temporary lease authority has not been filed.

MC–F–C78225, filed June 26, 1979. Representative: Timothy Mashburn, P.O. Box 2207, Austin, Texas 78768. Transferor: G. P. BOURROUS TRUCKING COMPANY, INC., Route 1, Box 380, Diboll, TX 75941. Transferee: BLACKMON TRUCKING COMPANY, INC., Merryville Highway, De Ridder, Louisiana 70634. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC 140681 (Sub-1), as follows: Veneer, from Starks, LA, to Houston, TX, and wood chips, bark, wood waste, and sawdust (except in bulk, in tank vehicles), from points in Calcasieu Parish, LA, to Silsbee, TX, and from Starks, LA, to points in Newton, Jasper, Hardin and Orange Counties, TX. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. § 11349.

V 44 NO 205 22 79 UMI

MC–F–C78294, filed September 10, 1979. Transferee: CHANDLER MOTOR FREIGHT, INC., 27 Ocean Street, Beverly MA 01915. Transferor: CHANDLER'S EXPRESS, INC., 23 Beacon Boulevard, Peabody, MA 01960. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate of Registration MC 54779 (Sub-1), issued April 7, 1964, as follows: *general commodities,* over regular and irregular routes, between points in Massachusetts. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC–F–C78298, filed September 12, 1979. Transferee: DELTA MOTOR FREIGHT, INC., 1616 Rowe Blvd., Poplar Bluff, MO 63901. Transferor: DODDS TRUCK LINE, INC., U.S. Hwy 63 North, West Plains, MO 65775. Representatives: Ron Dodds, P.O. Box 1083, Poplar Bluff, MO 63901 (For Transferee). Frank W. Taylor, Jr., 1221 Baltimore Ave., Suite 600, Kansas City, MO 64105 (For Transferor). Authority sought for the purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificates MC 99793 (Sub-1, 10, 12, and 15), issued November 6, 1964, March 1, 1968, November 6, 1968, May 10, 1971, respectively, and those rights acquired in MC–F–10802, to be designated MC 99798 (Sub-16), as follows: *General commodities,* with the usual exceptions, over specified regular routes, between St. Louis and Doniphan, MO; between Fremont and St. Louis, MO; between junction MO Hwy 72 and MO Hwy 21 and Grandin, MO; between St. Louis, MO and junction MO Hwys 21 and 72; between Patterson, MO and East St. Louis, IL; between the MO–AR State line and national Stock Yards, IL; between Doniphan, MO and Poplar Bluff, MO. *General commodities,* with the usual exceptions, over irregular routes, between St. Louis and Springfield, on the one hand, and, on the other, points in Iron and Arcadia Townships, Iron County, MO. *Livestock,* from Patterson, MO, to National Stock Yards, IL, over a specified route. *Livestock, fertilizer, and feed,* between Piedmont, MO and points within 20 miles of Piedmont, on the one hand, and, on the other, East St. Louis, Il. *Petroleum lubricating oils and greases,* from Roxana, IL to Doniphan, MO, over a specified regular route. *Empty containers,* from Doniphan, Mo to Roxana, IL, over a specified regular route. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC–F–C78300, filed August 27, 1979. Transferee: LILLIAN COLON, d.b.a. SHAPIRO'S VAN LINES, 2970 Nostrad Ave., Brooklyn, NY 11229. Transferor: COASTAL VAN & STORAGE, INC., 215 Wilson Ave., Newark, NJ 07105. Representative: Ronald I. Shapss, 450 Seventh Ave., New York, NY 10001. Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate MC–139808, issued October 7, 1974, as follows: *Household goods,* as defined by the Commission, between points in Brooklyn, NY, on the one hand, and, on the other, points in NY, NJ, PA, DE, MD, VA, NC, SC, GA, FL, and DC. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under 49 U.S.C. 11349.

MC–F–C78306, filed September 25, 1979. Transferee: HULL J. HOLTRY AND CHARLES, M. KNOUSE, d.b.a. BRENEMAN MOVING & STORAGE, R.D. #3, Waynesboro, PA 17268. Transferor: William F. Breneman, R.D. 3, Waynesboro, PA 17268. Representative: Frederic G. Antoun, Jr., 247 Lincoln Way E., Chambersburg, PA 17201. Authority sought for the purchase by transferee of the entire operating rights of transferor, as set forth in Certificate MC–102288, issued April 10, 1961, as follows: *Household* goods, as defined by the Commission, between Waynesboro, PA, and points in Franklin County, PA within 15 miles of Waynesboro, on the one hand, and, on the other, points in MD, VA, WV, DE, NJ, and DC. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC–F–C78316, filed September 17, 1979. Applicant: HENRY R. BLONDELL, JR., d.b.a BLONDELL TRUCKING, Box 416, Cornell, WI 54732. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to purchase authority of Eugene Stennett, d.b.a. Gene's Trucking, No. MC–1424. Sub 2, 903 York Avenue, St Paul, MN 55106, to transport, over irregular routes, *Solidified Carbon Dioxide,* in containers, from Chicago and Morris, IL, to St. Paul, Lake City, Red Wing, and Winona, MN, and Eau Claire and La Crosse, WI, under a continuing contract or contracts with Jasons Dry Ice, Inc., of St. Paul, MN. (Hearing Site: Minneapolis or St. Paul, MN.) Transferee holds no I.C.C. authority. Temporary lease is not sought.

MC–F–C78322, filed September 18, 1979. Transferee: ARTHUR T. BROWN, JR., Rt. 40 R.D. 2, Monroeville, NJ 08343. Transferor: GEORGE F. HEPNER, R.D. 3, Elmer, NJ 08318. Representative: Alan W. Newkirk, 115 S. Main St. Elmer, NJ 08318. Authority sought for the purchase by transferee of the operating rights of transferor as set forth in Certificate MC–15638, issued October 24, 1949, as follows: *Agricultural commodities,* from points in Gloucester, Salem, and Cumberland Counties, NJ, to New York, NY, Philadelphia, PA, Baltimore, MD, and DC. *Agricultural supplies,* from Philadelphia, PA, New York, NY, and Baltimore, MD, to points in Gloucester, Salem, and Cumberland Counties, NJ. *Lime,* from West Chester, PA, to points in Gloucester, Salem, and Cumberland Counties, NJ. *Fertilizer and fertilizer materials,* from Philadelphia, PA, to Bridgeton, NJ. Transferee presently holds no authority from this Commission. Application for temporary authority has not been filed under 49 U.S.C. 11349.

MC–F–C 78328, filed September 24, 1979. Applicants: D. A. EXPRESS, INC., 1570 Van Drunen, South Holland, IL 60473 (Transferee); and AMERICAN CARTAGE, INC., 10831 S. 76th Court, Worth, IL 60482 (Transferor). Representative: Daniel C. Sullivan, Esq., Sullivan & Associates, Ltd., 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Application in proceedings under Section 10926(1) of the Interstate Commerce Act for Transfer of Motor Carrier Operating Rights of American Cartage, Inc., transferor, a common and contract carrier operating over irregular routes pursuant to authority granted by the Interestate Commerce Commission in Docket Nos. MC–52927 and MC–78670, to D.A. Express, Inc., transferee, an Illinois Corporation and non-carrier located at 1570 Van Drunen, South Holland, Illinois 60473. Temporary lease authority is not sought.

MC–F–C 78297, filed September 12, 1979. Transferee: ASTRO MOTOR FREIGHT SYSTEMS, INC., 6th & Iron, Salem, MO 65560. Transferor: DODDS TRUCK LINE, INC., U.S. Hwy 63 North, West Plains, MO 65775. Representatives: Dean Stagner, 6th & Iron, Salem, MO 65560 (for Transferee); Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105 (for Transferor). Authority sought for the purchase by transferee of a portion of the operating rights of transferor as set forth in Certificates MC–99798 (Sub-Nos. 1, 5, 6, 7, 10, 11, and 12), issued November 6, 1964, September 9, 1965, February 11, 1966, February 11, 1966, March 1, 1968, October 4, 1967, and November 6, 1968,

respectively, as follows: *General commodities,* with the usual exceptions, over specified regular routes, between St. Louis, MO, Salem, Ava, and Hartville, MO; between St. Louis and Mountain View, MO; between Birch Tree, MO and St. Louis, MO; between Rolla, Mo and East St. Louis, IL; between National Stock Yards, IL and Dixon and Stoutland, MO; between Cuba, MO and National Stock Yards, IL; between Salem, MO and junction MO Hwys 72 and 21; between St. Louis, MO and junction MO Hwys 21 and 72; and between Salem, MO and National Stockyards, IL. *General commodities,* with the usual exceptions, between points in Phelps, Dent, Crawford, Shannon, Texas, and Reynolds Counties, MO; between the Plant or mine site of Ozark Lead Co., near Ellington, MO, on the one hand, and, on the other. Piedmont, Van Buren, West Plains, Springfield, and St. Louis, MO; between St. Louis, Springfield, on the one hand, and, on the other, points in Meramec, Courtois, Osage and Union Townships, Crawford County, MO, points in Dent, Kaolin Townships, Iron County, MO, points in Concord, Bellevue, Belgrade, Harmony, Breton, and Walton Townships, Washington County, MO, points in Dent County, MO, on and east of MO Hwy 19 and points in Reynolds County, MO on and north of Reynolds County Hwy K; between junction U.S. Hwy 66 and MO Hwy 17 and Fort Leonard A. Wood, MO and points within 4 miles of Fort Leonard A. Wood. *Such commodities* as are dealt in by meatpacking and food processing houses, over specified route, from National Stockyards, IL to Newburg, Mo. *Prepared roofing and roofing material,* from Madison, IL to Richland, MO. *Petroleum products,* in containers, and *empty oil barrels and drums,* between Roxana, IL, on the one hand, and, on the other, Richland and Cabool, MO. *Livestock,* between points in Dent, Texas, Shannon and Reynolds Counties, MO, on the one hand, and, on the other, National Stock Yards, IL. *Household goods* and *emigrant movables,* between points in Dent, Texas, Shannon, and Reynolds Counties, Mo, on the one hand, and, on the other, points in IL. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under 49 U.S.C. 11349.

MC–F–C 78318, filed September 5, 1979. Transferee: RAY CUNNINGHAM d.b.a: ALASKA MOBILE HOME MOVERS, S.R.A. Box 1588C, Anchorage, AK 99507. Transferor: MOBILE HOME MOVERS AND SERVICES, INC., P.O. Box 919, Moorhead, MN 56560. Representative: George Benesch, 213 W. 6th Ave. Suite 1, Anchorage, AK 99501. Authority sought for the purchase by transferee of the operating rights of transferor, as set forth in Certificates MC–119558 (Sub-Nos. 1 and 5), issued September 13, 1973 and August 24, 1973, as follows: *Mobile homes,* between ports of entry in AK on the United States-Canada Boundary Line, on the one hand, and, on the other, points in AK (except that area southeast of Yakutat Bay), restricted to traffic originating at or destined to points in Canada; between points in AK (except points in that area southeast of Yakutat Bay), on the one hand, and, on the other, points in CO, ID, IN, KS, MI, MN, MT, NE, OK, SD, WA, and WI; between points in AK; between points in that part of AK west of an imaginary line constituting a southbound extension of the Alaska-Canada (Yukon) Boundary Line, on the one hand, and, on the other, Haines, AK. *Buildings,* in sections mounted on wheeled undercarriages with hitch-ball connector, between points in AK. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under 49 U.S.C. 11349.

MC–F–C 78319, filed: September 10, 1979. Transferee: ABC TRANSFER, INC., 4500 Hollins Ferry Road, Baltimore, MD 21227. Transferor: SOUTHERN MARYLAND TRANSPORTATION CO., INC., 4112 Dewmar Court, Kensington, MD 20795. Representative: Thomas M. Auchincloss, Jr., 918–16th Street, N.W., Washington, D.C. 20006. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC–96818 (Sub-Nos. 1 and 2) issued February 3, 1969 and June 10, 1971, authorizing general commodities, with exceptions, (1) between Baltimore, MD and Point Lookout, MD serving certain specified intermediate and off-route points from Baltimore over MD Hwy 3 to junction US Hwy 301, thence over US Hwy 301 to Waldorf, MD thence over MD Hwy 5 to Point Lookout, and return over the same route; between Baltimore, MD and Rock Point, MD serving certain specific intermediates and off-route points from Baltimore over MD Hwy 3 to junction US Hwy 301, thence over US Hwy 301 to junction MD Hwy 257, thence over MD Hwy 257 to Rock Point, and return over the same route; between Baltimore, MD and Solomons, MD serving certain specified intermediate and off-route points from Baltimore over MD Hwy 2 to Solomons and return over the same route; and (2) between Baltimore, MD and Riverside, MD, serving all intermediate points from Baltimore over MD Hwy 3 to junction US Hwy 301, thence over US Hwy 301 to junction MD Hwy 373 at or near T.B., MD, thence over MD Hwy 373 to junction MD Hwy 210, thence over MD Hwy 210 to junction MD Hwy 227, thence over MD Hwy 227 to junction MD Hwy 224, thence over MD Hwy 224 to junction MD Hwy 225, thence over MD Hwy 225 to junction MD Hwy 224, thence of MD Hwy 224 to Riverside, and return over the same route; between Riverside, MD and La Plata, MD serving all intermediate points from Riverside over MD Hwy 6 to La Plata and return over the same route; between Baltimore, MD and Newburg, MD serving all intermediate points from Baltimore over MD Hwy 3 to junction US Hwy 301, thence over US Hwy 301 to Newburg and return over same route. Transferee holds no ICC authority. A temporary authority application has been filed.

Motor Carrier Alternate Route Deviations

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4(c)(11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this **Federal Register** notice.

Each applicant states that there will be no significant effect on either the quality of the human environment or energy policy and conservation.

Motor Carriers of Property

MC 11220 (Deviation No. 52). GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, TN 38101, filed September 25, 1979. Carrier proposes to operate as a *common carrier,* by motor vehicle, of *general commodities,* with certain exceptions, over a deviation route as follows: From New Orleans, LA over Interstate Hwy 59 to Meridian, MS, then over US Hwy 45 to junction Alt. US Hwy 45, then over Alt. US Hwy 45 to junction US Hwy 45, then over US Hwy 45 to Corinth, MS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From New Orleans, LA over US Hwy 51 to Memphis, TN, then over US Hwy 64 to Selmer, TN, then

V 44 0C 22 79 UMI

over US Hwy 45 to Corinth, MS, and return over the same route, restricted against the movement of traffic between Memphis, TN, Corinth, MS, and Athens, AL.

MC 11220 (Deviation No. 53), GORDONS TRANSPORTS, INC., 185 W. McLemore Ave., Memphis, TN 38101, filed September 28, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Birmingham, AL over Interstate Hwy 20 to Tuscaloosa, AL, then over US Hwy 82 to Greenwood, MS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, AL over US Hwy 31 to Decatur, AL, then over Alternate US Hwy 72 to junction US Hwy 72, then over US Hwy 72 to Memphis, TN, then over US Hwy 51 to Grenada, MS, then over Mississippi Hwy 7 to Greenwood, MS and return over the same route.

MC 30605 (Deviation No. 33), THE SANTA FE TRAIL TRANSPORTATION COMPANY, 433 E. Waterman, P.O. Box 56, Wichita, KS 67201, filed September 25, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Kansas City, KS, over US Hwy 71 to junction Interstate Hwy 44, then over Interstate Hwy 44 to junction US Hwy 66, then over US Hwy 66 to Joplin, MO, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Kansas City, KS over US Hwy 50 to junction US Hwy 69, then over US Hwy 69 to junction Kansas Hwy 57, then over Kansas Hwy 57 to the Kansas-Missouri State line, and then over Missouri Hwy 57 to Joplin, MO, and return over the same route.

MC 43421 (Deviation No. 37), DOHRN TRANSFER COMPANY, 4016 9th St., Rock Island, IL 61201, filed September 18, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Waterloo, IA over US Hwy 63 to junction US Hwy 52 at or near Stewartville, MN, then over US Hwy 52 to St. Paul, MN, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Waterloo, IA over US Hwy 218 to Owatonna, MN, then over US Hwy 65 to Minneapolis, MN, and then over city streets to St. Paul, MN and return over the same route.

MC 60430 (Deviation No. 23), GATEWAY TRANSPORTATION CO., INC., La Crosse, WI 54601, filed September 18, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: From Cincinnati, OH over Interstate Hwy 71 to Louisville, KY, then over Interstate Hwy 65 to Nashville, TN, then over Interstate Hwy 40 to the junction of Tennessee Hwy 22, then over Tennessee Hwy 22 to the junction of US Hwy 64, then over US Hwy 64 to its junction with US Hwy 45, then over US Hwy 45 to Tupelo, MS and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, OH over US Hwy 50 to St. Louis, MO, then across the Mississippi River to East St. Louis, IL, then over Illinois Hwy 3 to Illinois Hwy 146, then over Illinois Hwy 146 to Cape Girardeau, MO, then over US Hwy 61 to US Highway 60, then over US Hwy 60 to Dexter, MO, then over Missouri Hwy 25 to Missouri Hwy 84, then over Missouri Hwy 84 to Missouri County Hwy EE, then over Missouri County Hwy EE to Missouri Hwy 25, then over Missouri Hwy 25, to the Arkansas State line then over Arkansas Hwy 25 to Arkansas Hwy 1, then over Arkansas Hwy 1 to US Hwy 63, then over US Hwy 63 and unnumbered highways to West Memphis, AR, then over US Hwy 70 to Memphis, TN, then over US Hwy 78 to Tupelo, MS, and return over the same route.

MC 108835 (Deviation No. 13), (republication) HYMAN FREIGHTWAYS, INC., 1745 University Ave., St. Paul, MN 55104, filed August 14, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Chicago, IL, over Interstate Hwy 55 to St. Louis, MO, then over Interstate Hwy 70 to Kansas City, MO, and return over the same route for operating covenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Chicago, IL, over Interstate Hwy 55, to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction Interstate Hwy 280, then over Interstate Hwy 280 to junction US Hwy 92, then over US Hwy 92 to junction IA Hwy 163, then over IA Hwy 163 to junction US Hwy 69, then over US Hwy 69 to junction US Hwy 34, then over US Hwy 34 to junction US Hwy 169, then over US Hwy 169 to junction IA Hwy 2, then over IA Hwy 2 to junction IA Hwy 148, then over IA Hwy 148 to junction US Hwy 71, then over US Hwy 71 to junction US Hwy 59, then over US Hwy 59 to junction US Hwy 73, then over US Hwy 73 to Kansas City, MO, and return over the same route.

Note.—The purpose of this republication is to complete a portion of the proposed route which was inadvertently omitted from the prior publication in the Federal Register issue of September 11, 1979.

MC 110325 (Deviation No. 36), TRANSCON LINES, P.O. Box 92220, Los Angeles, CA 90009, filed September 17, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities* with certain exceptions, over a deviation route as follows: From junction US Hwys 36 and 59 over US Hwy 36 to junction Interstate Hwy 29, then over Interstate Hwy 29 to junction Iowa Hwy 2, then over Iowa Hwy 2 across the MO River to Nebraska City, NE, then over NE Hwy 2 to junction US Hwy 77, then over US Hwy 77 to junction US Hwy 6, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From junction US Hwys 36 and 59 over US Hwy 59 to junction IA Hwy 2, then over IA Hwy 2 across the MO River to Nebraska City, NE, then over US Hwy 75 to junction US Hwy 6, then over US Hwy 6 to junction US Hwy 77, and return over the same route. Restriction: The authority between the junction of US Hwys 36 and 59 and the junction of US Hwys 75 and 6 is restricted against the transportation of local traffic originating and terminating in the said authority.

MC 11220 (Deviation No. 51) (correction) GORDONS TRANSPORTS, INC., 185 West McLemore Ave., Memphis, TN 38101, filed August 27, 1979. Carrier proposes to operate as a *common carrier*, by motor vehicle, of *general commodities*, with certain exceptions, over a deviation route as follows: from Little Rock, AR, over U.S. Hwy 65 to junction U.S. Hwy 82, then over U.S. Hwy 82 to Greenville, MS, and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: from Little Rock, AR, over U.S. Hwy 70 to Memphis, TN, then over U.S. Hwy 61 to Leland, MS, then over U.S. Hwy 82 to Greensville, MS, and return over the same route.

Note.—The purpose of this republication is to correctly identify two of the routes previously published in the Federal Register issue of September 20, 1979.

Motor Carrier Intrastate Application(s)

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 10931 (formerly Section 206(a)(6)) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's *General Rules of Practice* (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall *not* be addressed to or filed with the Interstate Commerce Commission.

Alaska Docket 79-237-MF/0, filed July 24, 1979. Applicant: AAMODT CONSTRUCTION, INC., Box 68—15 Transit St., Barrow, AK 99723. Representative: Michael W. Aamodt, Box 68—15 Transit St., Barrow, AK 99272. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: Commodities upon the connecting road system in the Barrow, AK, area, except bulk in dump type equipment, loose household goods, explosives, articles of unusual value and articles requiring special equipment to handle. Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to Alaska Transportation Commission, 1000 MacKay Building, 338 Denali Street, Anchorage, AK 99501, and should not be directed to the Interstate Commerce Commission.

North Carolina Docket T-1536, Sub-4, filed September 26, 1979. Applicant: EZZELL TRUCKING, INC., Post Office Box 67, Harrells, NC. Representative: Vaughan S. Winborne, 1108 Capital Club Bldg., Raleigh, NC 27601. Certificate of Public Convenience and Necessity sought to operate a freight service, as follows: Transportation of: *Irregular Route Common Carrier Authority*. (1) Transportation of general commodities except those requiring special equipment, over irregular routes, between all points and places within the State of North Carolina. Limitation: Truckloads only. (2) Transportation of Group 7, Cotton in Bales, as described in Rule 10 of the Commission's Rules and Regulations for the Administration and Enforcement of the North Carolina Truck Act of 1947, between points and places throughout the State of North Carolina. (3) Transportation, over irregular routes as common carrier, of Group 8, fertilizer and fertilizer materials, Group 9, forest products, Group 10, building materials limited to lumber rough or dressed, flooring, weatherboarding, sheeting, roofing, cut stone, slats, tile, brick, cement and cinder blocks, Group 11, livestock; and the transportation of personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling; furniture, fixtures, equipment and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and articles, including objects of art, displays and exhibits, which because of their unusual nature or value require specialized handling and equipment usually employed in moving household goods. This authority does not include materials used in the manufacture of furniture and the manufactured products hauled to or from such manufacturing plants: (1) Between points and places in Duplin, Sampson and Pender Counties. (2) From points and places in Duplin, Sampson and Pendar Counties to points and places within the State of North Carolina. (3) From points and places within the State of North Carolina to points and places in Pender, Sampson and Duplin Counties. (4) Group 2, Heavy Commodities, between points and places on and east of U.S. Highway 1, and between points and places on and east of U.S. Highay 1 on the one hand and points and places west of U.S. Highway 1 on the other.

Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to North Carolina Utilities Commission, P.O. Box 991, Raleigh, NC 27602, and should not be directed to the Interstate Commerce Commission.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's *Gateway Elimination Rules* (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules. An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before November 1, 1979. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will *not* operate to stay commencement of the proposed operation. Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number. The following applicants seek to operate as a *common carrier*, by motor vehicles, over irregular routes.

MC 106644 (Sub-E50) (Correction), filed February 10, 1975, published in the Federal Register June 28, 1978, republished September 27, 1978. Applicant: SUPERIOR TRUCKING CO., INC., 2770 Peyton Road, N.W., Atlanta, GA 30318. Representative: Guy H. Postell, Suite 713, 3384 Peachtree Road, N.E., Atlanta, GA 30326. (1)(2)(b) between points in OK (except points east and south of a line beginning at the OK-AR State line extending west along OK Hwy 9 to junction U.S. Hwy 81, then south along U.S. Hwy 81 to the TX-OK State line), on the one hand, and, on the other, points in FL east of the Apalachicola River. Purpose of correction set forth correct territorial description in OK.

MC 107012 (Sub-E689), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist, (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated*. (1) From points in MD, to points in AZ, AR, CA, NV, NM, OK, OR, TX and UT. (2) From points in Anne Arundel, Calvert, Cerolina, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys and Talbot Counties, MD, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautaugua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis,

V 4 4 0 C 2 2 7 9 UMI

Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (3) From points in Baltimore, Baltimore City, Carroll, Cecil, Frederick, Hartford, Howard and Kent Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. From points in Allegany, Garrett and Washington Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Whkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (5) From points in Dorchester, Somerset, Wicomico and Worcester Counties, MD, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E690), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. BOX 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist, (same as above). *Commercial and Institutional Fixture and Store and Office Equipment, Crated.* (1) From points in MD, to points in AZ, AR, CA, NV, NM, OK, TX and UT. (2) From points in Anne Arundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys and Talbot Counties, MD, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (3) From points in Baltimore, Baltimore City, Carroll, Cecil, Frederick, Hartford, Howard and Kent Counties, MD, to points in Garfield Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (4) From points in Allegany, Garrett and Washington Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Cama, Canyon, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (4) From points in Allegany, Garrett and Washington Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Cama, Canyon, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (4) From points in Allegany, Garrett and Washington Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Cama, Canyon, Elmore, Gem, Gooding, Lemhi, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (4) From points in Allegany, Garrett and Washington Counties, MD, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Cama, Canyon, Elmore, Gem, Gooding, Lemhi, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermillion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Clark,

V 44 OC 22 79 UMI

V 44 OC 22 79 UMI

Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (5) From points in Dorchester, Somerset, Wicomico and Worcester Counties, MD, to points in CO; points in ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acaia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine and Webster Parishes, LA; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, and Yazoo Counties, MS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Albany, Carbon, Converse, Goshen, Laramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. (Gateway eliminated: Greene County, AR).

MC 107012 (Sub-E691), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in ME, to points in AZ, AR, CA, LA, MS, NV, NM, OK, OR, TX and UT. 2. From points in Aroostook, Penobscot, Piscataquis and Somerset Counties, ME, to points in CO; points in ID; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; points in KS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO: Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Albany, Carbon, Converse, Goshen, Caramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. 3. From points in Hancock, Knox, Waldo and Washington Counties, ME, to points in CO; points in ID; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; points in KS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Mongomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. 4. From points in Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc and York Counties, ME. to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Gooding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Fork, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thruston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotim, Benton, Columbia, Franklin, Garfield, Walla Walla and Whitman Counties, WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E682), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in LA, to points in ID, IL, IN, ME, MI, MN, MT, NH, ND, OR, SD, VT, WA and WI. 2. From points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry and Vernon Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in CT; points in DC; points in DE; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott, Wolfe, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; points in OH; points in PA; points in RI; Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch, Weber, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince Williams, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Albermarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro; Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenadoah and Warren Counties and Independent Cities of: Harrisonburg and Winchester, VA; points in WV; points in WY. 3. From points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette and Vermilion Counties, LA, to points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; points in CT; points in DC; points in DE; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NJ; points in NY; points in OH; points in PA; points in RI; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in VA; points in WV; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY. 4. From points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll and Winn Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams,

Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CA; points in CT; points in DC; points in DE; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC; points in OH; points in PA; points in RI; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in VA; points in WV; points in WY. 5. From points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; points in CO; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Essex, Middlesex, Norfolk, Suffolk, Barnstable, Bristol, Dukes, Plymouth, Berkshire, Franklin, Hampden and Hampshire Counties, MA; points in MO; points in NV; Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schuyler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscaraws, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton, Washington, Allen, Auglaize, Defiance, Fulton, Hancock, Hardon, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner and Washington Counties, OK; Cameron, Clarion, Crawford, Elk, Eries, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA; Bristol, Newport and Washington Counties, RI; points UT; Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood, Brooke, Hancock, Marshall and Ohio Counties, WV; points in WY. 6. From points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; to points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; to points in CT; to points in DC; to points in DC; to points in DE; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC; points in OH; points in PA; points in RI; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in VA; points in WV; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E693), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in LA, to points in ID, IL, IN, ME, MI, MN, MT, NH, ND, OR, SD, VT, WA and WI. 2. From points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry and Vernon Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in CT; points in DC; points in DE; points in IA; Atchison, Brown Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer,

Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren and Washington Counties, MO; Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; points in NC; points in OH; points in PA; points in RI; Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch and Weber Counties, UT; points in VA; points in WV; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E693), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in LA, to points in ID, IL, IN, ME, MI, MN, MT, NH, ND, OR, SD, VT, WA and WI. 2. From points in Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry and Vernon Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CO; points in CT; points in DC; points in DE; points in IA; Atchison, Brown Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble, Warren, Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne, Woodford, Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Poweli, Robertson, Rowan, Scott, Wolfe, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; points in OH; points in PA; points in RI; Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch, Weber, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Albemarle, Amelia, Brunswick, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Prince Edward and Prince George Counties and Independent Cities of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro; Clarke, Frederick, Greene, Loudoun, Madison, Page, Rappahannock, Rockingham, Shenandoah and Warren Counties and Independent Cities of: Harrisonburg and Winchester, VA; points in WV; points in WY. 3. From points in Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette and Vermilion Counties, LA, to points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity Counties, CA; points in CT; points in DC; points in DE; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in NJ; points in NY; points in OH; points in PA; points in RI; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson,

V 44 OC 22 79 UMI

Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; points in VA; points in WV; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY. 4. From points in Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll and Winn Parishes, LA. to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Kit Carson, Logan, Morgan, Phillips, Sedgwick, Washington, Weld and Yuma Counties, CA; points in CT; points in DC; points in DE; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; Elko, Whitepine, Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; Beaufort, Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax, Hertford, Hyde, Martin, Nash, Northampton, Pamlico, Pasquotank, Per Quimans, Pitt, Tyrrell, Washington, Wilson, Alexander, Alleghany, Ashe, Avery, Burke, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Surry, Watauga, Wilkes and Yadkin Counties, NC; points in OH; points in PA; points in RI; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union and Washington Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah, Wasatch, Weber, Carbon, Daggett, Duchesne, Emery, Grand, San Juan, Uimtah, Garfield, Juab, Kane, Millard, Piute, Sanpete, Sevier and Wayne Counties, UT; points in VA; points in WV; points in WY. 5. From points in Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA, to points in Butte, Lassen, Modoc, Nevada, Plumas, Shasta, Sierra, Siskiyou, Yuba, Inyo, Fresno, Kings, Tulare, Glenn, Humboldt, Lake, Mendicino, Tehama, Trinity, Alameda, Alpine, Amador, Calaveras, Colusa, Contra Costa, Eldorado, Madera, Marin, Mariposa, Merced, Mono, Monterey, Napa, Placer, San Benito, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Stanislaus, Sutter, Tuolumne and Yolo Counties, CA; points in CO; points in IA; Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee, Wyandotte, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Essex, Middlesex, Norfolk, Suffolk, Barnstable, Bristol, Dukes, Plymouth, Berkshire, Franklin, Hampden and Hampshire Counties, MA; points in MO; points in NV; Broome, Cayuga, Chemung, Chenango, Courtland, Delaware, Madison, Onondaga, Ontario, Otsego, Schoharie, Schyuler, Seneca, Tioga, Tompkins, Wayne, Yates, Allegany, Cattaraugus, Chatauqua, Erie, Genesee, Livingston, Monroe, Niagara, Orleans, Steuben, Wyoming, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren and Washington Counties, NY; Ashland, Ashtabula, Carroll, Columbiana, Cuyahoga, Erie, Geauga, Harrison, Holmes, Huron, Jefferson, Lake, Lorain, Mahoning, Medina, Portage, Stark, Summit, Trumbull, Tuscarawas, Wayne, Coshocton, Crawford, Delaware, Fairfield, Fayette, Franklin, Knox, Licking, Logan, Madison, Marion, Morrow, Pickaway, Richland, Union, Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, ross, Scioto, Vinton, Washington, Allen, Auglaize, Defiance, Fulton, Hancock, Hardin, Henry, Lucas, Mercer, Ottawa, Paulding, Putnam, Sandusky, Seneca, Van Wert, Williams, Wood and Wyandot Counties, OH; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner and Washington Counties, OK; Cameron, Clarion, Crawford, Elk, Erie, Forest, Jefferson, McKean, Mercer, Potter, Venango, Warren, Allegheny, Armstrong, Beaver, Butler, Fayette, Greene, Indiana, Lawrence, Somerset, Washington and Westmoreland Counties, PA; Bristol, Newport and Washington Counties, RI; points in UT; Calhoun, Gilmer, Jackson, Mason, Pleasants, Ritchie, Roane, Wirt, Wood Brooke, Hancock, Marshall and Ohio Counties, WV; points in WY. 6. From points in Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA, to points in Glenn, Humboldt, Lake, Mendicino, Tehama and Trinity

Counties, CA; to points in CT; to points in DC; to points in DE; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, Wright, Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello, Washington, Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; points in KY; points in MD; points in MA; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Adair, Audrain, Clarke, Knox, Lewis, Linn, Macon, Marion, Monroe, Pike, Putnam, Ralls, Randolph, Schuyler, Scotland, Shelby, Sullivan, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Lousi City, Warren and Washington Counties, MO; Churchill, Douglas, Humboldt, Lyon, Mineral, Ormsby, Pershing, Storey and Washoe Counties, NV; points in NJ; points in NY; points in NC; points in OH; points in PA; points in RI; Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Scott, Sevier, Sullivan, Unicoi, Union, Washington, Cannon, Cheatham, Clay, Davidson, DeKalb, Dickson, Jackson, Macon, Montgomery, Overton, Pickett, Putnam, Robertson, Rutherford, Smith, Sumner, Trousdale, Williamson, Wilson, Benton, Carroll, Decatur, Giles, Hardin, Henderson, Henry, Hickman, Houston, Humphreys, Lawrence, Lewis, Maury, Perry, Stewart, Wayne and Weakley Counties, TN; Box Elder, Cache, Davis, Morgan, Rich, Salt Lake, Summit, Tooele, Utah Wasatch and Weber Counties, UT; points in VA; points in WV; Park, Teton, Yellowstone National Park, Big Horn, Campbell, Crook, Johnson, Sheridan, Washakie and Weston Counties, WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E894), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in ME, to points in AZ, AR, CA, LA, MS, NV, NM, OK, OR, TX and UT. 2. From points in Aroostook, Penobscot, Piscataquis and Somerset Counties, ME, to points in CO; points in ID; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; points in KS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Albany, Carbon Converse, Goshen, Laramie, Niobrara, Platte, Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater and Uinta Counties, WY. 3. From points in Hancock, Know, Waldo and Washington Counties, ME, to points in CO; points in ID; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; points in KS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard, Wayne, Boone, Callaway, Cole, Crawford, Dent, Franklin, Gasconade, Jefferson, Lincoln, Maries, Miller, Moniteau, Montgomery, Osage, Phelps, Pulaski, Saint Charles, Saint Louis, St. Louis City, Warren, Washington, Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; points in WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. 4. From points in Androscoggin, Cumberland, Franklin, Kennebec, Lincoln, Oxford, Sagadahoc and York Counties, ME, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma; Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Godding, Lemhi, Owyhee, Payette, Twin Falls, Valley, Washington, Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Caribou, Cassia, Clark, Franklin, Fremont, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida and Power Counties, ID; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Clark, Cowlitz, Klickitat, Lewis, Pacific, Pierce, Skamania, Thurston, Wahkiakum, Yakima, Clallam, Grays Harbor, Jefferson, Kitsap, Mason, San Juan, Adams, Asotim, Benton, Columbia,

V44 OC 22 79 UMI

Franklin, Garfield, Wall Walla and Whitman Counties, WA; Lincoln, Sublette, Sweetwater and Uinta Counties, WY. (Gateway Eliminated: Greene County, AR.)

MC 107012 (Sub-E695), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in KY, to points in AZ, AR, CA, ID, NV, NM, OK, OR, TX, UT and WA. 2. From points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble and Warren Counties, KY, to points in CO; Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, LA; Clark, Comanche, Edwards, Finney, Ford, Grant, Gary, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; points in MT; Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND; points in SD; points in WY. 3. From points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne and Woodford Counties, KY, to points in CO; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh and Ziebach Counties, SD; points in WY. 4. From points in Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant, Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott and Wolfe Counties, KY, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo Counties, CO; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Park, Teton, Yellowstone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. 5. From points in Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike and Whitley Counties, KY, to points in CO; points in KS; Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita,

Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Charlton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd and Tripp Counties, SD; points in WY. 6. From points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY, to points in CO; Broward, Collier, Dade, Martin, Monroe, Palm Beach and Saint Lucie Counties, FL; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumneer and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; points in MT; Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND; points in SD; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E696), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in KY, to points in AZ, AR, CA, ID, NV, NM, OK, OR, TX, UT and WA. 2. From points in Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble and Warren Counties, KY, to points in CO; Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; points in MT; Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Mountrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND; points in SD; points in WY. 3. From points in Adair, Anderson, Boyle, Casey, Clinton, Cumberland, Fayette, Gerrard, Green, Jessamine, Lincoln, Madison, Marion, Mercer, Metcalfe, Monroe, Pulaski, Rockcastle, Russell, Taylor, Washington, Wayne and Woodford Counties, KY, to points in CO; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Blaine, Cascade, Chouteau, Fergus, Golden Valley, Hill, Judith Basin, Lewis and Clark, Liberty, Meagher, Petroleum, Pondera, Teton, Toole, Wheatland, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell, Sanders, Bighorn, Carbon, Carter, Custer, Fallon, Musselshell, Powder River, Prairie, Rosebud, Treasure, Wibaux and Yellowstone Counties, MT; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh and Ziebach Counties, SD; points in WY. 4. From points in Bath, Boone, Bourbon, Boyd, Bracken, Campbell, Carroll, Carter, Clark, Elliott, Fleming, Franklin, Gallatin, Grant,

Greenup, Harrison, Johnson, Kenton, Lawrence, Lewis, Magoffin, Martin, Mason, Menifee, Montgomery, Morgan, Nicholas, Owen, Pendleton, Powell, Robertson, Rowan, Scott and Wolfe Counties, KY, to points in Garfield, Mesa, Moffat, Rio Blanco, Routt, Adams, Arapahoe, Boulder, Cedar Creek, Chaffee, Denver, Douglas, Eagle, Elbert, El Paso, Fremont, Gilpin, Grand, Jackson, Jefferson, Lake, Larimer, Park, Pitkin, Summit, Teller, Alamosa, Archuleta, Conejos, Delta, Dolores, Gunnison, Hinsdale, La Plata, Mineral, Montezuma, Montrose, Quray, Rio Grande, Saguache, San Juan, San Miguel, Baca, Bent, Cheyenne, Costilla, Crowley, Custer, Huerfano, Kiowa, Las Animas, Lincoln, Otero, Prowers and Pueblo counties, CO; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; Beaverhead, Broadwater, Deerlodge, Gallatin, Granite, Jefferson, Madison, Park, Ravalli, Silver Bow, Stillwater, Sweet Grass, Flathead, Glacier, Lake, Lincoln, Mineral, Missoula, Powell and Sanders Counties, MT; Park, Teton, Yellowshone National Park, Lincoln, Sublette, Sweetwater, Uinta, Fremont, Hot Springs and Natrona Counties, WY. 5. From points in Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike and Whitley Counties, KY, to points in CO; points in KS; Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Bienville, Boosier, Caddo, Claiborne, DeSoto, Natchitoches, Reo River, Sabine and Webster Parishes, LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon, Webster, Andrew, Atchison, Bates, Benton, Buchanan, Caldwell, Carroll, Cass, Chariton, Clay, Clinton, Cooper, Daviess, DeKalb, Gentry, Grundy, Harrison, Henry, Holt, Howard, Jackson, Johnson, Lafayette, Livingston, Mercer, Morgan, Nodaway, Pettis, Platte, Ray, Saint Claire, Saline and Worth Counties, MO; points in MT; Bennett, Butte, Custer, Fall River, Haakon, Jackson, Lawrence, Meade, Pennington, Shannon, Washabaugh, Ziebach, Campbell, Corson, Dewey, Edmunda, Faulk, Harding, McPherson, Perkins, Potter, Walworth, Brule, Buffalo, Hand, Hughes, Hyde, Jones, Lyman, Mellette, Stanley, Sully, Todd and Tripp Counties, SD; points in WY. 6. From points in Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY, to points in CO; Broward, Collier, Dade, Martin, Monroe, Palm Beach and Saint Lucie Counties, FL; Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton, Stevens, Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace, Wichita, Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson, Woodson, Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS; points in LA; Barry, Barton, Camden, Cedar, Christian, Dade, Dallas, Douglas, Greene, Hickory, Howell, Jasper, Laclede, Lawrence, McDonald, Newton, Ozark, Polk, Stone, Taney, Texas, Vernon and Webster Counties, MO; points in MT; Adams, Billings, Bowman, Burleigh, Dunn, Emmons, Golden Valley, Grant, Hettinger, Mercer, Morton, Oliver, Sioux, Slope, Stark, Benson, Cavalier, Pembina, Pierce, Ramsey, Rolette, Sheridan, Towner, Walsh, Wells, Bottineau, Burke, McHenry, McLean, Montrail, Renville, Ward, Divide, McKenzie and Williams Counties, ND; points in SD; points in WY. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E697), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Uncrated:* 1. From points in IA to points in FL and MS. 2. From points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth and Wright Counties, IA, to points in AL; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; points in LA; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper and Orangeburg Counties, SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 3. From points in Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne and Webster Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; points in LA; Bladen, Bruswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland and Wayne Counties, NC; points in SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 4. From points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johnson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA, to points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marshall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, Imperial, Riverside and San Diego Counties, CA; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randloph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty and Screven Counties, GA; point in LA; Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM; Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kelberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 5. From points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor and Union Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry,

V 44 0C 22 79 UMI

Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in NC; points in SC; points in TN; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and the Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsbury, VA. 6. From points in Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble and Warren Counties, KY; points in LA; points in NC; points in SC; points in TN; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton, VA. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E698), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop and Gary M. Crist (same as above). *Commercial and Institutional Fixtures and Store and Office Equipment, Crated:* 1. From points in IA to points in FL and MS. 2. From points in Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth and Wright Counties, IA, to points in AL; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; points in LA; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper and Orangeburg Counties, SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 3. From points in Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne and Webster Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; points in LA; Bladen, Brunswick, Carteret, Columbus, Craven, Cumberland, Duplin, Greene, Harnett, Hoke, Johnston, Jones, Lenoir, New Hanover, Onslow, Pender, Robeson, Sampson, Scotland and Wayne Counties, NC; points in SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison, Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 4. From points in Benton, Cedar, Clinton, Davis, Des Moines, Dubuque, Henry, Iowa, Jackson, Jefferson, Johson, Jones, Keokuk, Lee, Linn, Louisa, Muscatine, Scott, Van Buren, Wapello and Washington Counties, IA; points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, Tallapoosa, Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, Russell, De Kalb, Jackson, Limestone, Madison, Marhsall, Morgan, Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Marengo, Mobile, Monroe, Perry, Sumter, Washington and Wilcox Counties, AL; Clark, Hempstead,, Howard, Lafayette, Little River, Miller, Montgomery, Nevada, Pike, Polk, Scott, Sevier, Yell, Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; Kern, Los Angeles, Orange, San Luis Obispo, Santa Barbara, Ventura, Imperial, Riverside, and San Diego Counties, CA; Atkinson, Baker, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Chattahoochee, Clay, Clinch, Coffee, Colquitt, Cook, Crawford, Crisp, Decatur, Dodge, Dooly, Dougherty, Early, Echols, Grady, Harris, Houston, Irwin, Jones, Lamar, Lanier, Lee, Lowndes, Macon, Marion, Meriwether, Miller, Mitchell, Monroe, Muscogee, Peach, Pike, Pulaski, Quitman, Randolph, Schley, Seminole, Stewart, Sumter, Talbot, Taylor, Telfair, Terrell, Thomas, Tift, Troup, Turner, Twiggs, Upson, Webster, Wilcox, Worth, Banks, Barrow, Butts, Cherokee, Clarke, Clayton, Cobb, Coweta, Dawson, DeKalb, Elbert, Fannin, Fayette, Forsyth, Franklin, Fulton, Gilmer, Gwinnett, Habersham, Hall, Hart, Henry, Jackson, Jasper, Lumpkin, Madison, Morgan, Newton, Oconee, Pickens, Rabun, Rockdale, Spalding, Stephens, Towns, Union, Walton, White, Baldwin, Burke, Columbia, Emanuel, Glascock, Greene, Hancock, Jefferson, Jenkins, Johnson, Laurens, Lincoln, McDuffie, Oglethorpe, Putnam, Richmond, Taliaferro, Treutlen, Warren, Washington, Wilkes, Wilkinson, Appling, Bacon, Brantley, Camden, Charlton, Glynn, Jeff Davis, Long, McIntosh, Montgomery, Pierce, Tattnall, Toombs, Ware, Wayne, Wheeler, Bryan, Bullock, Candler, Chatham, Effingham, Evans, Liberty and Screven Counties, GA; points in LA; Chaves, Curry, DeBaca, Eddy, Lea, Lincoln, Quay and Roosevelt Counties, NM; Atoka, Bryan, Choctaw, Coal, Haskell, Latimer, LeFlore, McCurtain, Pittsburg and Pushmataha Counties, OK; Allendale, Bamberg, Barnwell, Beaufort, Berkely, Charleston, Colleton, Dorchester, Hampton, Jasper, Orangeburg, Aiken, Calhoun, Chesterfield, Darlington, Fairfield, Keeshaw, Lancaster, Lee, Lexington, Marlboro, Richland, Sumter, Clarendon, Dillon, Florence, Georgetown, Horry, Marion and Williamsburg Counties, SC; Chester, Crockett, Dyer, Fayette, Gibson, Hardeman, Haywood, Lake, Lauderdale, McNairy, Madison, Obion, Shelby and Tipton Counties, TN; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burent, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasas, Llamo, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young, Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kenedy, Kinney, Kleberg, LaSalle, Live Oak, McMullen, Maverick, Medina, Nueces, Real, Refugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, Zavala, Austin, Bastrop, Bell, Brazoria, Brazos, Burleson, Caldwell, Calhoun, Chambers, Colorado, Comal, DeWitt, Falls, Fayette, Fort Bend, Galveston, Gonzales, Grimes, Guadalupe, Hardin, Harris, Hays, Houston, Jackson, Jasper, Jefferson, Lavaca, Lee, Leon, Liberty, Limestone, Madison; Matagorda, Milam, Montgomery, Newton, Orange, Polk, Robertson, San Jacinto, Travis, Trinity, Tyler, Victoria, Walker, Waller, Washington, Wharton, Williamson, Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt and Wood Counties, TX. 5. From points in Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vermilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in NC; points in SC; points in TN; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and the Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamsburg, VA. 6. From points in Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, Sioux and Woodbury Counties, IA, to points in AL; Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita, Union, Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in GA; Allen, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Sheleby, Simpson, Spencer, Todd, Trimble and Warren Counties,

V 44 OC 22 79 UMI

KY; points in LA; points in NC; points in SC; points in TN; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and the Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton, VA. (Gateway eliminated: Greene County, AR.)

MC 107012 (Sub-E699), filed May 13, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representatives: David D. Bishop and Gary M. Crist (same as above). *Commerical and Institutional Fixtures and Store and Office Equipment, Uncrated;* 1. From points in KS to points in AL, FL, GA, NC, SC and TN. 2. From points in Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Johnson, Leavenworth, Marshall, Miami, Nemaha, Osage, Pottawatomie, Shawnee, Wabaunsee and Wyandotte Counties, KS, to points in Ashley, Bradley, Calhoun, Chicot, Cleveland, Columbia, Dallas, Desha, Drew, Lincoln, Quachita and Union Counties, AR; Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike and Whitley Counties, KY; Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Rapids, Saint Landry, Vernon, Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis, Lafayette, Vemilion, Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; Aroostook, Penobscot, Piscataquis, Somerset, Hancock, Knox, Waldo and Washington Counties, ME; points in MS; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Fredericksburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Symth, Tazewell, Washington, Wise and Wythe Counties and Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach and Williamburg; Albemarle, Amelia, Brunswich, Buckingham, Charles City, Chesterfield, Cumberland, Dinwiddie, Fluvanna, Goochland, Hanover, Henrico, James City, King and Queen, King William, Louisa, Lunenburg, Mecklenburg, New Kent, Nottoway, Powhatan, Price Edward and Prince George Counties and Independent Cites of: Charlottesville, Colonial Heights, Hopewell, Petersburg, Richmond and Waynesboro, VA; Greenbriar, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers and Wyoming Counties, WV. 3. From points in Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Meade, Morton, Pawnee, Seward, Stanton and Stevens Counties, KS, to points to CT; points in DC; points in DE; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vemillion, Vigo and Warrick Counties, IN; points in KY; points in ME; points in MD; points in MA; Bay, Clinton, Genesee, Gratiot, Hillsdale, Huron, Ingham, Jackson, Lapeer, Lenawee, Livingston, Macomb, Midland, Monroe, Oakland, Saginaw, Saint Clair, Sanilac, Shiawassee, Tuscola, Washtenaw and Wayne Counties, MI; Bolivar, Carrol, Coahoma, Grenada, Holmes, Humphreys, Issaquena, Leflore, Montgomery, Quitman, Sharkey, Sunflower, Tallahatchie, Warren, Washington, Yazoo, Covington, Forrest, George, Greene, Hancok, Harrison, Jackson, Jones, Lamar, Pearl River, Perry, Stone, Wayne, Attala, Claiborne, Clarke, Copiah, Hinds, Jasper, Kemper, Lauderdale, Leake, Madison, Neshoba, Newton, Noxubee, Rankin, Scott, Simpson, Smith, Winston, Alcorn, Benton, Calhoun, Chickasaw, Choctaw, Clay, Desoto, Itawamba, Lafayette, Lee, Lowndes, Marshall, Monroe, Oktibbeha, Panola, Pontotoc, Prentiss, Tate, Tippah, Tishomingo, Tunila, Union, Webster and Yalobusha Counties, MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; points in NY; points in OH; points in PA; points in RI; points in VT; points in VA; points in WV. 4. From points in Cheyenne, Decatur, Ellis, Graham, Greeley, Gove, Lane, Logan, Ness, Norton, Phillips, Rawlins, Rooks, Rush, Scott, Sheridan, Sherman, Thomas, Trego, Wallace and Wichita Counties, KS, to points in Arkansas, Cleburne, Conway, Faulkner, Garland, Grant, Hot Springs, Jefferson, Lee, Lonoke, Monroe, Perry, Phillips, Prairie, Pulaski, Saline and White Counties, AR; points in CT; points in DC; points in DE; Alexander, Clay, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Randolph, Saline, Union, Washington, Wayne, White and Williamson Counties, IL; points in KY; Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Quachita, Richland, Tensas, Union, West Carroll, Winn, Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; Anne Arrundel, Calvert, Caroline, Charles, Montgomery, Prince Georges, Queen Annes, St. Marys, Talbot, Baltimore, Baltimore City, Carroll, Cecil, Frederick, Hartford, Howard, Kent, Dorchester, Somerset, Wicomico and Worcester Counties, MD; points in MA; points in MS; Bollinger, Butler, Cape Girardeau, Carter, Dunklin, Iron, Madison, Mississippi, New Madrid, Oregon, Pemiscot, Perry, Reynolds, Ripley, St. Francois, Ste. Genevieve, Scott, Shannon, Stoddard and Wayne Counties, MO; points in NH; points in NJ; Albany, Bronx, Columbia, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselar, Richmond, Rockland, Sullivan, Ulster, Westchester, Herkimer, Jefferson, Lewis, Oneida, Oswego, St. Lawrence, Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, Saratoga, Schenectady, Warren, Washington and Suffolk Counties, NY; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; Berks, Bucks, Chester, Delaware, Lancaster, Lebanon, Lehigh, Montgomery, Northampton, Philadelphia, Schuylkill, York, Bradford, Carbon, Columbia, Lackawanna, Luzerne, Monroe, Pike, Sullivan, Susquehanna, Wayne, and Wyoming Counties, PA; points in RI; points in VA; Greenbrier, McDowell, Mercer, Monroe, Pocohontas, Raleigh, Summers, Wyoming, Braxton, Clay, Fayette, Kanawha, Nicholas, Webster, Boone, Cabell, Lincoln, Logan, Mingo, Putnam and Wayne Counties, WV. 5. From points in Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Crawford, Elk, Greenwood, Labette, Linn, Lyon, Montgomery, Neosho, Wilson and Woodson Counties, KS, to points in CT; points in DC; points in DE; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; points in MS; points in NH; points in NJ; points in NY; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; points in PA; points in RI; points in VT; points in VA; points in WV. 6. From points in Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS, to points in CT; points in DC; points in DE; Crawford, Clay, Daviess, Dubois, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spender, Sullivan, Vanderburgh, Vermillion, Vigo and Warrick Counties, IN; points in KY; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Feliciana Parishes, LA; points in ME; points in MD; points in MA; points in MS; points in NH; points in NJ; points in NY; Athens, Belmont, Gallia, Guernsey, Hocking, Jackson, Lawrence, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Pike, Ross, Scioto, Vinton and Washington Counties, OH; points in PA; points in RI; points in VT; points in VA; points in WV. 6. From points in Barber, Barton, Chase, Clay, Cloud, Dickinson, Ellsworth, Geary, Harper, Harvey, Jewell, Kingman, Lincoln, Marion, McPherson, Mitchell, Morris, Osborne, Ottawa, Pratt, Reno, Republic, Rice, Riley, Russell, Saline, Sedgwick, Smith, Stafford, Sumner and Washington Counties, KS, to points in Hartford, New London, Tolland and Windham Counties, CT; Kent and Sussex Counties, DE; points in DC; Allan, Barren, Breckinridge, Bullitt, Butler, Christian, Edmonson, Grayson, Hardin, Hart, Henry, Jefferson, LaRue, Logan, Meade, Muhlenberg, Nelson, Ohio, Oldham, Shelby, Simpson, Spencer, Todd, Trimble, Warren, Bell, Breathitt, Clay, Estill, Floyd, Harlan, Jackson, Knott, Knox, Laurel, Lee, Leslie, Letcher, McCreary, Owsley, Perry, Pike, Whitley, Ballard, Caldwell, Calloway, Carlisle, Crittenden, Daviess, Fulton, Graves, Hancock, Henderson, Hickman, Hopkins, Livingston, Lyon, Marshall, McCracken, McLean, Trigg, Union and Webster Counties, KY; Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Helena, Saint James, Saint John the Baptist, Saint Martin, Saint Mary, Saint Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge and West Felician Parishes, LA; points in ME; Dorchester, Somerset, Wicomico and Worcester Counties, MD; Essex, Middlesex, Norfolk, Suffolk, Barnstable, Bristol, Dukes, Plymouth and Worcester Counties, MA; points in MS; Coos, Carroll, Grafton, Belknap, Merrimack, Rockingham, and Strafford Counties, NH; points in RI; Arlington, Caroline, Culpeper, Essex, Fairfax, Fauquier, King, George, Orange, Prince William, Spotsylvania, Stafford and Westmoreland Counties and Independent Cities of: Alexandria, Fairfax, Falls Church and Frederickburg; Alleghany, Amherst, Appomattox, Augusta, Bath, Bedford, Bland, Botetourt, Buchanan, Campbell, Carroll, Charlotte, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Halifax, Henry, Highland, Lee, Montgomery, Nelson, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise and Wythe Counties and Independent Cities of: Bedford, Bristol, Buena Vista, Clifton Forge, Covington, Danville, Galax, Lexington, Lynchburg, Martinsville, Norton, Radford, Roanoke, Salem, So. Boston and Staunton; Accomack, Gloucester, Greensville, Isle of Wight, Lancaster, Mathews, Middlesex, Nansemond, Northampton, Northumberland, Richmond, Southampton, Surry, Sussex and York Counties and Independent Cities of: Chesapeake, Emporia, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virgina Beach and Williamsburg, VA; Addison, Orange, Washington, Caledonia, Essex and Orleans Counties; VT; Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers and Wyoming Counties, WV. (Gateway eliminated: Greene County, AR.)

MC 107403 (E-letter notices) (correction), filed March 22, 1979. Applicant: MATLACK, INC., 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as above).

The following are corrections to typographical errors published in various letter-notices.

Published August 14, 1979:
E750—destination—IN should be ID
E749—destination—IN should be ID
E748—destination—IN should be ID and OK included
Published August 8, 1979:
E745—destination—OK should be OR
E744—destination—OK should be OR
E743—destination—NC should be NV and OK should be OR
E740—destination—OK should be OR
E739—destination—OK should be OR
E737—origin—Salvay should be Solvay and destination OK should be OR
E736—destination—OK should be OR
E735—destination—OK should be OR and NC should be NV
E732—destination—OK should be OR
E730—destination—OK should be OR
E729—destination—NC should be NV
Published August 29, 1979
E765—destination—ID should be IN
E772—destination—10 miles should be 100 miles

MC 118831 (Sub-E62), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Helsley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid chemicals* (except petrochemicals), in bulk, from points SC to points in OH on and north of a line beginning at Chesapeake extending along U.S. Hwy 52 to New Boston, then along OH Hwy 335 to junction OH Hwy 124, then along OH Hwy 124 to junction U.S. Hwy 23, then along U.S. Hwy 23 to Chillicothe, then along U.S. Hwy 35 to Frankfort, then along unnumbered hwy to Clarksburg, then along OH Hwy 207 to junction U.S. Hwy 62, then along U.S. Hwy 62 to junction unnumbered hwy, then along unnumbered hwy through Big Plain and Chapel to West Jefferson, then along U.S. Hwy 40 to junction OH Hwy 29, then along OH Hwy 29 to Mechaniesburg, then along OH Hwy 559 to junction OH Hwy 287, then along OH Hwy 287 to junction U.S. Hwy 33, then along U.S. Hwy 33 to junction OH Hwy 347, then along OH Hwy 347 to junction

V 44 OC 22 79 UMI

OH Hwy 292, then along OH Hwy 292 to Kenton, then along U.S. Hwy

MC 118831 (Sub-E62), filed April 19, 1976 O–S to junction OH Hwy 235, then along OH Hwy 235 through Ada to junction OH Hwy 18, then along OH Hwy 18 to junction OH Hwy 108, then along OH Hwy 108 to Napoleon, then along OH Hwy 34 to junction OH Hwy 49, then along OH Hwy 49 to the OH–MI State line; points in MI on, east and north of a line beginning at the MI–OH State line extending along MI Hwy 49 to junction MI Hwy 99, then along MI Hwy 99 to Eaton Rapids, then along MI Hwy 50 to Lake Odessa, then along MI Hwy 37 to junction MI Hwy 11, then along MI Hwy 11 to junction MI Hwy 21, then along MI Hwy 21 to Holland; and points in WI and IL on, north and west of a line beginning at Milwaukee, WI, extending along WI Hwy 24 to junction WI Hwy 15, then along WI Hwy 15 to Beloit, then along IL Hwy 75 to junction IL Hwy 26, then along IL Hwy 26 to junction U.S. Hwy 52, then along U.S. Hwy 52 to Faranna, IL. (Gateway eliminated: Charlotte, NC.)

MC 118831 (Sub-E63), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington DC 20001. *Liquid Chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on and east of a line beginning at the GA-SC State line extending along U.S. Hwy 29 to junction SC Hwy 14, then along SC Hwy 14 to the NC-SC State line, to points in OH on, north and east of a line beginning at Chesapeake extending along OH Hwy 7 to junction OH Hwy 243, then along OH Hyw 243 to junction OH Hwy 376, then along OH Hwy 376 to junction OH Hwy 141, then along OH Hwy 141 to junction OH Hwy 233, then along OH Hwy 233 to junction OH Hwy 93, then along OH Hwy 93 to Jackson, then along U.S. Hwy 35 through Chillicothe to Washington Court House, then along OH Hwy 41 to Springfield, then along U.S. Hwy 68 to Bellefontaine, then along U.S. Hwy 33 to the IN–OH State line; points in IN on and north of a line beginning at the IN–OH State line extending along U.S. Hwy 33 to Fort Wayne, then along U.S. Hwy 30 to Valparaiso, then along IN Hwy 2 to the IN–IL State line; to points in IL on and north of a line beginning at the IN-IL State line extending along IL Hwy 17 to Kankakee, then along U.S. Hwy 45 to Champaign, then along U.S. Hwy 150 to junction IL Hwy 10, then along IL Hwy 10 to junction U.S. Hwy 136, then along U.S. Hwy 136 to Havana, then along IL Hwy 78 to Virginia, IL, then along IL Hwy 125 to Beardstown, then along U.S. Hwy 67 to junction IL Hwy 104, then along IL Hwy 104 to Merdosia, then allong IL Hwy 99 to junction U.S. Hwy 136, then along U.S. Hwy 136 to the IL-IA State line; points in MO on, north and west of a line beginning at the Mississippi River extending along U.S. Hwy 136 to Memphis, then along MO Hwy 15 to Edina, then along MO Hwy 6 to junction MO Hwy 11, than along MO Hwy 11 to junction MO Hwy 3, then along MO Hwy 3 to junction U.S. Hwy 36, then along U.S. Hwy 36 to junction MO Hwy 5, then along MO Hwy 5 to Keytesville, then along U.S. Hwy 24 to junction MO Hwy 41, then along MO Hwy 41 to Marshall, then along U.S. (BR) Hwy 65 through Sedalia to junction MO Hwy 83 then along MO Hwy 83 to Bolivar, then along MO Hwy 32 to junction MO Hwy 39, then along MO Hwy 39 to junction U.S. Hwy 160, then along U.S. Hwy 160 to junction MO Hwy 126, then along MO Hwy 126 to the KS-MO State line; and points in MI and WI. (Gateway eliminated: Charlotte, NC)

MC 118831 (Sub-E64), filed April 19, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington DC 20001. *Liquid Chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on, south and east of a line beginning at the NC-SC State line extending along U.S. Hwy 21 to junction SC Hwy 34, then along SC Hwy 34 to junction U.S. Hwy 601, then along U.S. Hwy 601 to junction SC Hwy 267, then along SC Hwy 267 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 176, then along U.S. Hwy 176 to junction SC Hwy 27 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction unnumbered hwy for a distance of one mile to Summerville, then along U.S. Alt. Hwy 17 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction I Hwy 26, then along I Hwy 26 to Charleston, to points in IL (except the East St. Louis, IL, commercial zone); IN; KY; MI; MO (except the St. Louis, MO, commercial zone); OH; WI; and points in TN and, west and north of a line beginning at the AL-TN State line extending along U.S. Hwy 231 through Fayetteville to Murfreesboro, then along U.S. Hwy 70S to McMinnville, then along TN. Hwy 30 to Athens, then along TN Hwy 39 to junction U.S. Hwy 411, then along U.S. Hwy 441 to junction TN Hwy 107, then along TN Hwy 107 to junction TN Hwy 81, then along TN Hwy 81 to Erwin, then along U.S. Hwy 23 to the NC-TN State line. (Gateway eliminated: Charlotte, NC)

MC 118831 (Sub. E65), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid Chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on, south and east and south of a line beginning at the NC-SC State line extending along SC Hwy 72–121 to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 178, then along U.S. Hwy 178 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction unnumbered hwy to Summerville, then along Alt. U.S. Hwy 17 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction I Hwy 26, then along I Hwy 26 to Charleston to points in IL (except points in the St. Louis, IL commercial zone); IN; KY; MI; MO (except points in the St. Louis, MO commerical zone); OH; WI; and points in TN on, west and north of a line beginning at the TN-AL State line extending along TN Hwy 13 to junction Natchez Trace Hwy, then along Natchez Trace Hwy to junction TN Hwy 99, then along TN Hwy 99 to Hampshire, then along unnumbered hwy to Kettle Mills, then along unnumbered highway to Williamsport, then along unnumbered hwy to Theta, then along unnumbered hwy to Burwood, then along unnumbered hwy to Franklin, then along TN Hwy 96 to junction U.S. Hwy 70S, then along U.S. Hwy 70S to junction TN Hwy 30, then along TN Hwy 30 to junction TN Hwy 58, then along TN Hwy 58 to junction U.S. Hwy 411, then along U.S. Hwy 411 to junction TN Hwy 68, then along TN Hwy 68 to junction TN Hwy 107, then along an imaginary road from Salem north to Mohawk Crossroads, then northeast to Cedarline, then south to Mount Carmel, then northeastward along TN Hwy 107 to the TN-NC State line. (Gateway eliminated: Charlotte, NC)

MC 118831 (Sub. E65), filed April 2, 1976. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 5388, Uwharrie Road, High Point, NC 27263. Representative: E. Stephen Heisley, Suite 805, 666 Eleventh St., N.W., Washington, DC 20001. *Liquid Chemicals* (except petrochemicals), in bulk, in tank vehicles, from points in SC on, south and east and south of a line beginning at the NC-SC State line extending along SC Hwy 72–121 to junction U.S. Hwy 321, then along U.S. Hwy 321 to junction U.S. Hwy 21, then along U.S. Hwy 21 to junction U.S. Hwy 178, then along U.S. Hwy 178 to junction U.S. Hwy 15, then along U.S. Hwy 15 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction unnumbered hwy to Summerville, then along Alt. U.S. Hwy 17 to junction U.S. Hwy 78, then along U.S. Hwy 78 to junction I Hwy 26, then along I Hwy 26 to Charleston to points in IL (except points in the St. Louis, IL commercial zone); IN; KY; MI; MO (except points in the St. Louis, MO commerical zone); OH; WI; and points in TN on, west and north of a line beginning at the TN-AL State line extending along TN Hwy 13 to junction Natchez Trace Hwy, then along Natchez Trace Hwy to junction TN Hwy 99, then along TN Hwy 99 to Hampshire, then along unnumbered hwy to Kettle Mills, then along unnumbered highway to Williamsport, then along unnumbered hwy to Theta, then along unnumbered hwy to Burwood, then along unnumbered hwy to Franklin, then along TN Hwy 96 to junction U.S. Hwy 70S, then along U.S. Hwy 70S to junction TN Hwy 30, then along TN Hwy 30 to junction TN Hwy 58, then along TN Hwy 58 to junction U.S. Hwy 411, then along U.S. Hwy 411 to junction TN Hwy 68, then along TN Hwy 68 to junction TN Hwy 107, then along an imaginary road from Salem north to Mohawk Crossroads, then northeast to Cedarline, then south to Mount Carmel, then northeastward along TN Hwy 107 to the TN-NC State line. (Gateway eliminated: Charlotte, NC)

MC 11977 (Sub. E250) (Correction) filed June 19, 1979, published in the Federal Register August 6, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 42431. Representative: James P. Barnett (same as above). The destination points of AR should be AZ.

MC 119777 (Sub. E253) (correction), filed June 19, 1979, published in the Federal Register August 6, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., P.O. Drawer L, Madisonville, KY 4231. Representative: James P. Barnett (same as above).

(A)(4)—AR–MI State line should be AR-MO State line

(A)(6)—all reference to MI should be MO

(A)(7)—AR–MS State line should be AR-MO State line

(A)(8)—insert after AR Hwy 51, then along AR Hwy 51

(A)(17)—destination States should read AZ, CA, CO, ID, NV, NM, OK, OR, UT, WA and WY

By the Commission.

James H. Bayne,

Acting Secretary.

[FR Doc. 79-32478 Filed 10-19-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register, publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertenence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 176

MC 107912 (Sub-28TA), filed August 21, 1979. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood Drive, Memphis, TN 38118. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *(1) Agricultural chemicals and (2) products used in the manufacture, distribution and sales therof, except in bulk,* between Helena and West Helena, AR, on the one hand, and on the other, Tunica, Grenada, Belzoni, Cleveland, Inianola, Yazoo City, Clarksdale and Vicksburg, MS. Supporting shipper(s): Helena Chemical Company, 5100 Poplar Avenue Suite 3200, Memphis, TN 38137. Send protests to: Floyd A. Johnson, 100 North Main Street-Suite 2006, Memphis, TN 38103.

MC 108633 (Sub-19TA), filed August 8, 1979. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 800, Carrollton, GA 30117. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd. NE., Atlanta, GA 30326. *Common carrier:* regular route: General commodities, except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require special equipment, over regular routes, (1) Between Memphis, TN, and Florence, AL, serving no intermediate points, for operating convenience only, from Memphis over US Hwy. 72 to junction US Hwy. 43 at or near Tuscumbia, AL, then over Alternate US Hwy. 72 to Florence, AL, and return over the same route; (2) Between Memphis, TN, and Huntsville, AL, serving no intermediate points, for operating convenience only, from Memphis over US Hwy. 72 to junction Alternate US Hwy. 72, then over US Hwy. 43, US Hwy. 72, and Alternate US Hwy. 72, to Huntsville, AL, and return over the same route; (3) Between Tupelo, MS, and Florence, AL, serving no intermediate points, for operating convenience only, from Tupelo over US Hwy. 78 to junction US Hwy. 43 at or near Hamilton, AL, then over US Hwy. 43 to Florence, and return over the same route; (4) Between Tupelo, MS, and Huntsville, AL, serving no intermediate points, for operating convenience only, from Tupelo over US Hwy. 78 to junction US Hwy. 43 at or near Hamilton, AL, then over US Hwy. 43 to junction US Hwy. 72 and Alternate US Hwy. 72 at or near Tuscumbia, AL, then over US Hwy. 72 and Alternate US Hwy. 72 to Hunstville, and return over the same route; and (5) Applicant also seek authority to tack the authority sought with its present authority under Docket No. MC-108633 and sub numbers thereunder and to interline with other carriers at Florence and Huntsville, AL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 23 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St. NW., Atlanta, GA 30309.

Note.—Applicant presently holds authority to provide all of the proposed service under authority presently held in Docket No. MC-108633 (Sub Nos. 12TA and 13TA), *Barnes Freight Line, Inc.* The authority sought by this application is for the purpose of operating convenience only via shorter routes for operating economics and conservation of fuel.

MC 112223 (Sub-124TA), filed August 30, 1979. Applicant: QUICKIE TRANSPORT COMPANY, 1700 Northeast New Brighton Boulevard, Minneapolis, MN 55413. Representative: Earl Hacking (same address as applicant). *Liquified petroleum gas, in bulk,* from Mankato and Vernon Center, MN to points in NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Land-O'Lakes, 2827 8th Avenue South, Ft. Dodge, IA 50501. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, Minneapolis, MN 55401.

MC 113843 (Sub-271TA), filed August 29, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). *Printed matter* from Canton, OH to points in NY, NJ, MA, CT, RI, PA, MD, VA. Restricted to traffic originating at the facilities of Danner Press Corporation. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Danner Press Corporation, 1250 Canden Avenue SW., Canton, OH 44711. Send protests to: John B. Thomas, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 114632 (Sub-258TA), filed August 27, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Wrought iron pipe* from the facilities of Unarco Leavitt, Division of Unarco, Ind. Inc., located at Chicago, IL and Chicago Commercial zone to points in AR, KY, LA, MI, MO, OK, TN and TX. Supporting shipper(s): Unarco Leavitt Division of Unarco Industries, Inc., 1717 W. 115th St., Chicago, IL 60643. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-259TA), filed August 28, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042.

Representative: David E. Peterson (same address as applicant). *Steel* from Granite City and Sterling, IL to Richardton, ND. Supporting shipper(s): Richardton Manufacturing Co., P.O. Box 290, Richardton, ND 58652. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-260TA), filed August 13, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042.

Representative: David E. Peterson (same address as applicant). *Steel* from Granite City and Sterling, IL to Richardton, ND. Supporting shipper(s): Richardton Manufacturing Co., P.O. Box 290, Richardton, ND 58652. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 114632 (Sub-260TA), filed August 13, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). *Foodstuffs* (1) from the facilities of Vlasic Foods, Inc. located at Bridgeport, Memphis, and Imlay City, MI to points in CO, IL, IN, IA, MN, NE, ND, NY, OH, PA, SD and WI; (2) Between the facilities of Vlasic Foods, Inc. located at Imlay City, Memphis and Bridgeport, MI; Millsboro, DE and Greenville, MS; (3) from the facilities of Vlasic Foods, Inc. located at Greenville, MS to points in AR, CO, GA, IA, IL, KS, MN, MO, ND, NE, OK, SD, TN, TX and WI; (4) from the facilities of Vlasic Foods, Inc. located at Millsboro, DE to points in CT, GA, MA, NY, NJ, OH, PA, VA and WV. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlasic Food, Inc., 33200 West 14 Mile Road, West Bloomfield, MI 48033. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 135082 (Sub-90TA), filed August 14, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE, P.O. Box 26748, Albuquerque, NM 87125. Representative: Randall R. Sain (same address as applicant). *Scrap car bodies:* from CO and NM to Eagle Pass, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Milford S. Pepper Enterprises, P.O. Box 6552, Denver, CO 80206. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 135082 (Sub-93TA), filed August 31, 1979. Applicant: ROADRUNNER TRUCKING, INC., 4100 Edith Blvd. NE, P.O. Box 26748, Albuquerque, NM 87125. Representative: J. B. Martin (same address as applicant). *Construction materials*, from the facilities of Reservco at Ft. Morgan, CO and Denver, CO to the facilities of Cordero Mine in Gilette, WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reservco, Inc., 1414 22nd Street NW, Suite 206, Washington, DC 20037. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW., Albuquerque NM 87101.

MC 136512 (Sub-18TA), filed August 20, 1979. Applicant: SPACE CARRIERS, INC., 444 Lafayette Road, St. Paul, MN 55101. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment because of size or weight)* between the facilities of the Minnesota Mining & Manufacturing Company at Webster City, IA, on the one hand, and, on the other, the facilities of Minnesota Mining & Manufacturing Company at Cordova Siding (near Cordova), IL, Ames and Knoxville, IA, Alexandria, Chemolite, Fairmont, Hutchinson, Lindstrom, Mankato, New Ulm, Minneapolis and Pine City, MN, Cumberland and Prairie du Chien, WI, Nevada, Springfield and Columbia, MO, Weatherford, OK, Brownwood, TX, Wahpeton, ND, Brookings, Mitchell and Aberdeen, SD and Norfolk, NE, for 180 days. Supporting shipper(s): Minnesota Mining & Manufacturing Co., 3M Center, St. Paul, MN 55101. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 138322 (Sub-13TA), filed August 27, 1979. Applicant: BHY TRUCKING, INC., 9231 Whitmore Street, El Monte, California 91733. Representative: Robert Fuller, 13215 E. Penn Street, Suite 310, Whittier, California 90602. *Plastic pipe and fittings for plastic pipe*, from Lindsay, Santa Ana and Stockton, CA and Phoenix, AZ to points in NM, NV and UT, for 180 days, and underlyng ETA seeks up to 90 days operating authority. Supporting shipper(s): Apache Plastics, Inc., Vice-President, Sales, 2050 E. Fremont Street, Stockton, California 95205. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 142672 (Sub-79TA), filed August 20, 1979. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F, Mulberry, AR 72947. Representative: Don Garrison, P.O. Box 159, Rogers, AR 72756. *Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses* (except frozen and in bulk), (1) from facilities of Clorox Company, at or near Houston, TX, to points in AR, LA, NM and OK; and (2) from facilities of Clorox Company, at or near Forest Park, GA to points in KY, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 143812 (Sub-16TA), filed August 16, 1979. Applicant: Martin E. Van Diest, d.b.a. M. VAN DIEST COMPANY, 8087 Victoria Avenue, Riverside, California 92504. Representative: William J. Monheim, P.O. Box 1756, Whittier, California 90609. *Alcohol, in bulk*, from Bellingham, WA to points in CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): State of California Department of General Services, Chief—Fleet Administration Division, State Garage, 2nd Floor, 1416 Tenth Street, Sacramento, California 95814. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 143853 (Sub-9TA), filed August 22, 1979. Applicant: S.M.E. EXPRESS, INC., 101 E. Washington St., Upland, IN 46989. Representative: Alki E. Scopelitis, Scopelitis & Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Contract Carrier. Irregular routes: *Such commodities as are sold, used or distributed by the Amway Corporation.* Between Dayton, NJ, on the one hand, and, on the other, Portland, ME, Cambridge and Hudson, MA, Penacook, NH, Perry and Syracuse, NY, and Butler and Fayette City, PA for 180 days, under a contract or continuing contracts with the Amway Corporation. Supporting shipper: The Amway Corporation, Box 900, Monmouth Junction Road, Dayton, NJ 08810. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144162 (Sub-12TA), filed August 17, 1979. Applicant: TIME CONTRACT CARRIER, INC., 17734 Sierra Hwy, Canyon Country, California 91351. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, California 90010. *Printing ink and printing ink materials* (except in bulk), from the facilities of J. M. Huber Corporation, located at Edison, NJ, to the facilities of J. M. Huber Corporation located at Compton, CA, under a continuing contract with J. M. Huber Corporation of Edison, NJ. An underlying ETA seeks authority for 90 days. Supporting shipper(s): J. M. Huber Corporation, Domestic Transportation Manager, Thornall Street, Edison, New Jersey 08817. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 144572 (Sub-25TA), filed August 31, 1979. Applicant: MONFORT TRANSPORTATION COMPANY, P.O. Box G, Greeley, CO 80631. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *Malt Beverages (except in bulk) and related advertising materials*, from facilities utilized by Van Munching and Co. located at Secaucus, NJ to points in CO, IL, IA and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Van Munching & Co., Inc., 51 W. 51st Street, New York, NY 10019. Send protests to: District Supervisor R. L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver CO 80202.

MC 144612 (Sub-3TA), filed August 14, 1979. Applicant: THOMAS GARY WEBB, d.b.a. T. G. WEBB CO., P.O. Box 414, Wingate, NC 28174. Representative: W. G. Reese, III, P.O. Box 3004, Charlotte, NC 28203. *Contract* Carrier-Irregular routes: *Soybean meal in dump trailers* from the facilities of Producers Cooperative Feed Mill, Inc., located at Cameron, SC to Producers Cooperative Feed Mill, Inc., Monroe, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Producers Cooperative Feed Mill, Inc., Rt. 5, Box 505A, Monroe, NC 28110. Send Protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 144622 (Sub-92TA), filed August 22, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *Animal feed and feed ingredients, additives, supplements, materials and supplies* used in the manufacture and promotion of animal feed (except in bulk), from Vernon, CA to AZ, MA, NM, OH, OR, TX and WA, and from Columbus, OH to AL, CA, GA, IL, MD, NJ, NY, PA, TN and TX, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Kal-Kan, Inc., 3386 E 44 St., Vernon, CA 90058. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144622 (Sub-93TA), filed August 22, 1979. Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72219. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. *General Commodities* (except commodities in bulk, class A & B explosives, commodities of unusual value, household goods, foodstuffs, and articles because of size and weight require special equipment), from Berlin, CT to LaMirada, Oakland, Fresno and San Diego, CA; Denver, CO; Dallas, Houston, and San Antonio, TX; Salt Lake City, UT; Phoenix, AZ; Reno, NV; Portland, OR and Seattle, WA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): The Charter Oak Shippers Coop Assn., 1 Parkland Dr., Darien, CT 06820. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144672 (Sub-17TA), filed August 23, 1979. Applicant: VICTORY EXPRESS, INC., 2600 Willowburn Ave., Trotwood, OH 45426. Representative: Richard Schaefer, P.O. Box 26189, Trotwood, OH 45426. *Lampblack, plastic materials and synthetic resins*, from Dayton, OH; Deer Park, TX; and Xenia, OH. to pts in states of AL, AR, CT, CO, DE, CA, FL, GA, IL, IN, IA, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NH, NJ, NY, OH, OK, PA, RI, TN, TX and WI, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): U.S. Industrial chemicals Co., 99 Park Ave., New York, NY 10016. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 145072 (Sub-22TA), filed August 15, 1979. Applicant: M.S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud, Jr., 2008 Clark Tower, 5100 Poplar Ave., Memphis, TN 38137. *(1) Paper and textile bags* from Memphis, TN and its commercial zone to points in AL, AR, FL, GA, IL, IN, IA, KS, KY, LA, MI, MS, NM, NC, OH, OK, SC, TX and VA; *(2) Materials, equipment, and supplies (except in bulk) used in the manufacture, processing or distribution of the above named commodities* from AL, AR, FL, GA, LA, MS, SC, TX and VA to Flintstone, GA; Sumter, SC; and Memphis, TN. Restricted in (1) and (2) above to shipments originating at or destined to the facilities utilized by McDowell Industries, Inc. Underlying 30+2 ETA granted. Supporting shipper(s): McDowell Industries, Inc., 241 East Industrial, Memphis, TN. Send protests to: Floyd A. Johnson, 100 North Main, Suite 2006, Memphis, TN 38103.

MC 145072 (Sub-23TA), filed August 29, 1979. Applicant: M.S. CARRIERS, INC., 7372 Eastern Avenue, Germantown, TN 38138. Representative: A. Doyle Cloud Jr., 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38138. *Salt*, except in bulk, from points in Ft. Bend and Harris Counties, TX to points in AR, LA, MS and TN. An underlying ETA seeks 90 days authority. Supporting shipper(s): United Salt Corporation, 2000 West Loop South, Houston, TX 77027. Send protests to: Floyd A. Johnson, 100 North Main, Suite 2006, Memphis, TN 38103.

MC 145492 (Sub-2TA), filed August 21, 1979. Applicant: RICCIONI CORPORATION, 130 Cedar Grove Road, Somerville, NJ 08876. Representative: Martin M. Geffon, 155 Canterbury Road, Mt. Laurel, NJ 08054. *Contract carrier*, irregular routes for 180 days. *(1) Pharmaceuticals and chemicals, (2) Laminated plastic sheets, (3) Animal feed, (4) materials, equipment and supplies for (1)–(3) above* (except commodities in bulk) in (1) from Pearl River, NY to Cincinnati, OH; in (2) from Cincinnati, OH to Piscataway, NJ; in (3) from Pearl River, NY to Cincinnati, OH; in (4) between Cincinnati, OH and Piscataway, NJ and between Pearl River, NY and Cincinnati, OH. Service is to be performed under a continuing contract with American Cyanamid Company and Formica Corporation, a subsidiary of American Cyanamid Company. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Cyanamid Company, Wayne, NJ 07470. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 146293 (Sub-31TA), filed August 13, 1979. Applicant: REGAL TRUCKING CO., INC., 95 Industrial Park Circle, Lawrenceville, GA 30245. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., N.E., Atlanta, GA 30326. *Foodstuffs, except in bulk*, from the facilities of American Home Foods Division of American Home Products Corporation at or near Milton, Northumberland County, PA to points in AL, FL, GA, MS, NC, SC, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): American Home Foods Division, 685 3rd Ave., New York, NY 10017. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 146402 (Sub-6TA), filed August 6, 1979. Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. Representative: Charles W. Teske, (same as above). Copper and copper products (except commodities in bulk in tank or hopper vehicles from the facilities of Cerro Copper Co. at Sauget, IL to points in DE, MD, NJ, NY, OH, PA, and WV, for 180 days. An underlying 30+2 ETA seeks 90 Day Authority. Supporting shipper(s): Cerro Copper Products Co., P.O. Box 681, East St. Louis, IL 62202. Send protest to: Floyd A. Johnson, 100 North Main, Suite 2006, Memphis, TN 38103.

MC 147622 (Sub-1TA), filed August 24, 1979. Applicant: Louis J. Barbaglia d.b.a. L J B FREIGHT TRANSPORT, 1535 Industrial Ave., San Jose, CA 95112. Representative: L. J. Barbaglia, (same address as above). Contract carrier; irregular routes: Freight all kinds in containers with or without chassis or highway trailers, having a prior or subsequent movement by ocean carriers between CA, WA, & OR for 180 days. An underlying ETA seeks 90 days

authority. Supporting shipper(s): American President Lines, Ltd., 1950 Franklin St., Oakland, CA 94612. Send protest to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 147632 (Sub-2TA), filed August 20, 1979. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Thomas F. Kilroy, Suite

Hill, NJ 08002. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 26377 (Sub-27TA), filed September 19, 1979. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., Atty., 419 N.W.

MC 41116 (Sub-63TA), filed September 10, 1979. Applicant: FOGLEMAN

vehicles, from Denver, CO to points in AZ, CA, OR, UT, TX and WA for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 5 supporting shippers. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 147962 (Sub-2TA), filed August 23,

gravel, from Clinton, IN to Edgar, County, IL for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Robertson Gravel Co., P.O. Box 176, Clinton, IL 47842. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

Supporting shipper(s): Westvaco, 1400 Annunciation St., New Orleans, LA 70160. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

shipper(s): Applicant's statement of facts. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila. PA 19106.

MC 67646 (Sub-88TA), filed September 4, 1979. Applicant: HALL's MOTOR TRANSIT CO., 6060 Carlisle Pike, Mechanicsburg, PA 17055.

authority. Supporting shipper(s): American President Lines, Ltd., 1950 Franklin St., Oakland, CA 94612. Send protest to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 147632 (Sub-2TA), filed August 20, 1979. Applicant: M & M FARM LINES, INC., Route 1, Bertrand, MO 63823. Representative: Thomas F. Kilroy, Suite 406, 6901 Old Keen Mill Rd., Springfield, VA 22150. *Flurorescent lighting fixtures and parts and accessories* therefor, from points in Bucks and Philadelphia Counties, PA to all points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keystone Lighting Corporation, U.S. Route 13 and Beaver St., Bristol, PA 19007. Send protest to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th, St. Louis, MO 63101.

MC 147712 (Sub-1TA), filed August 14, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. Representative: Joseph Fazio, 10506 South Shoemaker Avenue, Santa Fe Springs, CA 90670. *Alcoholic beverages*, from Chicago, IL and Lawrenceburg, KY to Los Angeles, Orange and San Diego Counties, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Bohemian Distributing Co., Inc., 11428 Sherman Way, North Hollywood, CA 91605. Send protest to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147802 (Sub-1TA), filed August 7, 1979. Applicant: DON OWENS & DARLENE OWENS d.b.a. DIAMOND 'O' RANCH, Rural Route, Howe, ID 83244. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. *Beet pulp and beet pulp pellets*, from Twin Falls, Rupert and Nampa, ID and the commercial zones thereof, to San Bernardino County, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pleasant Feed Co., 7000 Merrill Ave., Chino, CA 91710. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 147832 (Sub-1TA), filed August 15, 1979. Applicant: JIM EDDLEMAN d.b.a., J & J CATTLE COMPANY, 3395 Wright St., Wheat Ridge, CO 80033. Representative: Jim Eddleman, Same address as applicant. *Meat, meat products, and meat by-products, and articles distributed by meat packing houses, as described in Sections A and C of Appendix I to the report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank vehicles*, from Denver, CO to points in AZ, CA, OR, UT, TX and WA for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): 5 supporting shippers. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 147962 (Sub-2TA), filed August 23, 1979. Applicant: DONDO TRUCKING, INC., 9020 S. Ridgeland, Oak Lawn, IL 60453. Representative: Joseph Winter, 29 S. LaSalle St., Chicago, IL 60603. *Canned goods*, from the facilities of Campbell Soup Co. at Chicago, IL to Davenport, IA and points in IN and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Campbell Soup Company, 2550 W. 35th St., Chicago, IL. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 147972 (Sub-1TA), filed August 14, 1979. Applicant: DAVE BARSTOW TRUCKING, Route 1, St. Croix Falls, WI 54024. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. *Sand, gravel, rock, stone, and aggregate*, from Dresser, WI, to points in the Minneapolis-St. Paul, MN commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bryan Dresser Trap Rock, Inc., Director of Sales and Marketing, 856–66th Avenue North, Minneapolis, MN 55430. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 147982 (Sub-1TA), filed August 15, 1979. Applicant: BEAVER TRUCKING, INC., Box 86, 1181 Hwy. 175, Richfield, WI 53076. Representative: James A. Spiegel, 6425 Odana Rd., Madison, WI 53719. Contract carrier; irregular routes; *Crushed stone and limestone, rough stone, stone products, and gravel* from points in Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties, WI, to points in Cook, Lake, and McHenry Counties, IL. Restricted to transportation to be performed under a continuing contract(s) with Lannon Stone Products, Inc. and R. & T. Quality Stone, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): R. & T. Quality Stone, Inc., 19567 W. Good Hope Rd., Lannon, WI 53046. Lannon Stone Products, Inc., 19567 W. Good Hope Rd., Lannon, WI 53046. Send protests to: John E. Ryden, DS, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 147992 (Sub-1TA), filed August 30, 1979. Applicant: MAGGERT & FUGUA, Partnership—Lloyd Maggert and Robert Fugua, Rural Route 3, Paris, IL 61944. Representative: Edward McNamara, 907 S. 4th St., Springfield, IL 62703. *Rock and gravel*, from Clinton, IN to Edgar, County, IL for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Robertson Gravel Co., P.O. Box 176, Clinton, IL 47842. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 148023 (Sub-1TA), filed August 23, 1979. Applicant: Ray Hacke, d.b.a. HACKE TRUCKING, 3742 Wadsworth Rd., Waukegan, IL 60085. Representative: Joel Steiner, 39 S. LaSalle St., Chicago, IL 60603. (1) *Radioactive waste moving in shipper-owned containers, transported in shipper-owned trailers*, from Zion, Morris and Cordova, IL, Palo, IA, and Bridgeman, MI to Branwell, SC; and (2) *Empty radioactive waste shipping containers*, from Barnwell, SC to Zion, Morris, and Cordova, IL, Palo, IA, and Bridgeman, MI for 180 days, under a contract or contracts with Hittman Nuclear and Development Corp. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Hittman Nuclear and Development Corp., 2700 Keslinger Rd., Geneva, IL 60134. Send protests to: Cheryl Livington, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 148152 (Sub-1TA), filed August 17, 1979. Applicant: K & H TRUCKING, INC., 3301 South Lamar, Dallas, TX 75215. Representative: Joe Hester, (same address as above). *(1) Ground gypsum and (2) Iron oxide pigment* from (1) Southard, OK, and (2) East St. Louis, IL to the facilities of Cron Chemical Co., Dallas, TX (except in bulk, in tank vehicles) for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Cron Chemical Corp., 2400 Vinson St., Dallas, TX 75212. Send protests to: Opal M. Jones, TCS, ICC, 815 Taylor St., 9A27 Federal Bldg., Ft. Worth, TX 76102.

Notice No. 182

MC 21866 (Sub-133TA), filed August 30, 1979. Applicant: WEST MOTOR FREIGHT, INC., 740 S. Reading Ave., Boyertown, PA 19512. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. *Television tubes, and parts and materials* used in the manufacture and distribution of television tubes (except commodities in bulk), (1) from Circleville and Columbus, OH, to Scranton, PA; (2) from Marion, IN, to Santa Ana, CA, and Lebanon and Nashville, TN, for 180 days. Restriction: The service authorized herein is restricted to traffic originating at or destined to the facilities owned or utilized by RCA Corporation. Supporting shipper(s): RCA Corp., Route 38, Cherry Hill, NJ 08002. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 26377 (Sub-27TA), filed September 19, 1979. Applicant: LEONARDO TRUCK LINES, INC., 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., Atty., 419 N.W. 23rd Avenue, Portland, OR 97210. *Insulating materials* from the facilities of Johns-Manville Sales Corp. at or near Willows, CA to points in OR, WA and ID, for 180 days. A corresponding ETA has been filed and a permanent will be filed within 30 days. Supporting shipper(s): Johns-Manaville Sales Corp., 2600 Campus Drive, San Mateo, CA 94403. Send protests to: R. V. Dubay, 114 Pioneer Courthouse, Portland, OR 97204.

MC 26396 (Sub-299TA), filed September 20, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 62028, Lincoln, NE 68501. *Canned and preserved foodstuffs* from the facilities of Heinz, U.S.A. at Iowa City and Muscatine, IA to the facilities of Heinz, U.S.A at Grand Prairie, TX, for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Heinz U.S.A., a Division of H. J. Heinz Company, P.O. Box 57, Pittsburgh, PA 15230. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 35807 (Sub-103TA), filed August 29, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher, P.O. Box 4313, Atlanta, GA 30302. *Contract carrier:* irregular routes: *coin and currency* between New York, NY and points in Fairfield and New Haven Counties, CT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Federal Reserve Bank of New York, 33 Liberty St., New York, NY 10045. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 41116 (Sub-62TA), filed August 30, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Contact, irregular routes, *(1) Paper and paper products (except in bulk); (2) materials and supplies used in the manufacture and distribution of the above commodities (except in bulk)* between the plantsite of Westvaco at or near New Orleans, LA on the one hand, and on the other, points in TX, AR, MS, OK, KS, MO, AL, TN, KY, IL, IN, IA, NE, and MI, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Westvaco, 1400 Annunciation St., New Orleans, LA 70160. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 41116 (Sub-63TA), filed September 10, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA 70526. Representative: Byron Fogleman (same address as applicant). Applicant is seeking authority to operate as a *contract carrier* over irregular routes transporting *(1) paper and paper products (except in bulk) and (2) materials and supplies used in the manufacture and distribution of the commodities named in (1) above (except in bulk)* between the facilities of Temple-Eastex, Inc., located at or near Evadale, TX on the one hand, and on the other, points in the U.S. (except AK and HI), for 180 days. This will be under a continuing contract or contracts with Temple-Eastex, Inc. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Temple-Eastex, Inc., Eastex Division, P.O. Box 816, Silsbee, TX 77656. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 55896 (Sub-123 TA), filed September 7, 1979. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Michigan 48180. Representative: George E. Batty, 20225 Goddard Road, Taylor, Michigan 48180. *Aluminum scrap for remelt purpose only*, from Wheeling, WV to Cleveland, Gnadenhutten, Sandusky and Holgate, OH, IL, IN, KY and MI for 180 days. An underlying ETA seeks 90 day authority. Supporting shipper(s): Monarch Metals, 4349 Talmadge, Toledo, OH. Send protests to: Annie Booker, TA, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 59957 (Sub-63TA), filed September 7, 1979. Applicant: MOTOR FREIGHT EXPRESS, Arsenal Road and Toronita St. York, PA 17402. Representative: William A. Chestnutt, 1333 New Hampshire Ave. NW., Suite 960, Wasington, DC 20036. *Common; regular: General commodities, except Class A & B explosives, household goods as defined by the Commission, articles of unusual value, those requiring the use of special equipment, commodities in bulk* to all points in CT, as off-route points in connection with existing regular route operations for 180 days. Applicant intends to tack authority sought herein with authority held under docket number MC 59957 and subs thereto. Applicant intends to interline at all terminal points listed. Supporting shipper(s): Applicant's statement of facts. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila. PA 19106.

MC 67646 (Sub-88TA), filed September 4, 1979. Applicant: HALL's MOTOR TRANSIT CO., 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. *Paper and paper products of natural and/or synthetic fiber* from Dover, DE to Chicago, IL; Detroit, MI; Cincinnati, Cleveland, Columbus, Dayton and Toledo, OH; serving the commercial zones of all of the named points for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Co., Scott Plaza, Philadelphia, PA 19113. Send protests to: I.C.C., Fed. Res, Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 75406 (Sub-47TA), filed September 3, 1979. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 S. 4th St., St. Louis, MO 63118. Representative: James M. Duckett, 927 Pyramid Life Bldg., Little Rock, AR 72201. *General commodities*, usual exceptions, between Newport, AR and Newark, AR. From Newport, AR over AR Hwy. 69, or AR Hwy. 14, to their intersection with AR Hwy. 122, then over AR Hwy. 122 to Newark, AR and return over the same route, serving all intermediate points and the off-route facility of Arkansas Power and Light Company's Independence Steam Electric Station, in connection with carrier's presently authorized regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 28 supporting shippers. Send protests to: P. E. Binder, TS. ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 75406 (Sub-48TA), filed September 12, 1979. Applicant: SUPERIOR FORWARDING COMPANY, INC., 2600 S. 4th St., St. Louis, MO 63118. Representative: Joseph E. Rebman, 314 N. Broadway, Suite 1330, St. Louis, MO 63102. General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those commodities requiring special equipment) (1) between jct. U.S. Hwys 67/167 and U.S. Hwy. 64 on the one hand, and, on the other, Conway, AR and points in its commercial zone, over U.S. Hwy. 64 serving no intermediate points; and (2) between N. Little Rock, AR and Conway, AR, and its commercial zone, over U.S. Hwy. 65 and Interstate Hwy. 40, serving all intermediate points, for 180 days. Supporting shipper(s): There are 20

supporting shippers. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 78786 (Sub-81TA), filed September 13, 1979. Applicant: PACIFIC MOTOR TRUCKING COMPANY, 1766 El Camino Real, Burlingame, CA 94010. Representative: L. M. Roach, 7600 So. Central Expressway, P.O. Box 226187, Dallas, TX 75266. *Glass and glass products* from the facilities of Libbey-Owens-Ford Co., at or near Toledo, OH to points in AL, AR, GA, KS, MS, OK, and TN, for 180 days. Supporting shipper(s): Libbey-Owens-Ford Co., 811 Madison Ave., Toledo, OH 43695. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 100666 (Sub-492TA), filed August 29, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Glass and glass products* from the facilities of Libbey-Owens-Ford Co., at or near Toledo, OH to points in AL, AR, GA, KS, MS, OK, and TN, for 180 days. Supporting shipper(s): Libbey-Owens-Ford Co., 811 Madison Ave., Toledo, OH 43695. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 106676 (Sub-147TA), filed August 15, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Electrical appliances, fixtures and goods*, from Denver, CO to points in CO. Restriction: For the account of General Electric Company and further restricted to shipments having prior rail or intermodal movements to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 4811 South Zero St., Ft. Smith, AR 72903. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 106676 (Sub-147TA), filed August 15, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Electrical appliances, fixtures and goods*, from Denver, CO to points in CO. Restriction: For the account of General Electric Company and further restricted to shipments having prior rail or intermodal movements to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, 4811 South Zero St., Ft. Smith, AR 72903. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111397 (Sub-132TA), filed September 10, 1979. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, KY

MC 111967 (Sub-7TA), filed September 7, 1979. Applicant: CADDELL TRANSIT CORPORATION, P.O. Box 146, Lawton, OK 73501. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Residual fuel oil* from Arkansas City, Coffeyville and El Dorado, KS to Port of Catoosa, OK for

supporting shippers. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 78786 (Sub-81TA), filed September 13, 1979. Applicant: PACIFIC MOTOR TRUCKING COMPANY, 1766 El Camino Real, Burlingame, CA 94010. Representative: L. M. Roach, 7600 So. Central Expressway, P.O. Box 226187, Dallas, TX 75266. Common carrier; regular routes: *General Commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment: Between Portland, OR, and Seattle, WA, serving the intermediate points of Olympia and Tacoma, WA, and points in their respective commercial zones: From Portland over Interstate Hwy 5, to Seattle and return over the same route, for 180 days. Applicant proposed to tack authority here applied for to MC 78786: Applicant proposes to interline at Seattle, WA to points not served. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 34 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C., or copies of which may be examined in the field office named below. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 95876 (Sub-307TA), filed September 20, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: William L. Libby (same as Applicant). *Iron and steel articles,* from Van Wert, OH, to points in IA, MN, NE, ND, SD, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Republic Building Corporation, President, 1202 Industrial Drive, Van Wert, OH 45891. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 96607 (Sub-18TA), filed July 11, 1979. Applicant: RUCKER BROTHERS TRUCKING, INC., 1820 Stewart E., Tacoma, WA 98421. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. *Crushed cars and scrap metal for recycling,* from points in MT and ID to Tacoma, WA and McMinnville, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shippers(s): A.A. Auto Salvage, S. 3500 Inland Empire Way, Spokane, WA. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 100666 (Sub-492TA), filed August 29, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Paul L. Caplinger (same address as applicant). *Glass and glass products* from the facilities of Libbey-Owens-Ford Co., at or near Toledo, OH to points in AL, AR, GA, KS, MS, OK, and TN, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Libbey-Owens-Ford Co., 811 Madison Ave., Toledo, OH 43695. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 102567 (Sub-241TA), filed August 30, 1979. Applicant: MCNAIR TRANSPORT, INC., P.O. Drawer 5357, Bossier City, LA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. *Chemicals, in bulk, in tank vehicles,* from Marshall, TX to all points in the U.S. (except AK and HI), for 180 days. Applicant has filed an underlying ETA seeking 30 days. Supporting shipper(s): ICI Americas, Inc., P.O. Box 751, Wilmington, DL 19897. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 147906 (Sub-1TA), filed August 23, 1979. Applicant: KOHN BEVERAGES, INC., d.b.a. KOHN TRANSPORT, 4850 Southway, SW., Canton, OH 44706. Representative: David A. Turano, 100 E. Broad St., Columbus, OH 43215. *Malt beverage and alcoholic beverage containers* (except commodities in bulk) between points in OH, on the one hand, and, on the other, points in IL, MI, NY, PA, WI, for 180 days. Supporting shipper(s): Goodman Beverage Co., d.b.a. Tri-City Distributing Co., 1930 W. 19th St., Lorain, OH 40052; Paramount Distillers, Inc., 3116 Berea Rd., Cleveland, OH 44111; Kohn Beverage Co., 1065 Jenkins Blvd., Akaron, OH 44308; Stark Distributing Co., 1911 Quimby SW, Canton, OH 44706; Peoples Beverage, 1077 Central Ave., Zanesville, OH 43701. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 108676 (Sub-146TA), filed August 31, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Ave., Knoxville, TN 37917. Representative: Mark S. Roach (same address as applicant). *Air conditioners, crated and uncrated, with or without skids, and parts and accessories used in the installation of air conditioners,* from the facilities of General Electric Company at Ft. Smith, AR to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): General Electric Company, 4811 South Zero St., Ft. Smith, AR 72903. Send protests to: Glenda Kuss, TA, ICC, A-422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 108676 (Sub-147TA), filed August 15, 1979. Applicant: A. J. METLER HAULING & RIGGING, INC., 117 Chicamauga Avenue, Knoxville, TN 37917. Representative: Mark S. Roach (same address as applicant). *Component parts used in conjunction with ecological and environmental control systems, sewage disposal units, water treatment units, tertiary filters, flow splitter boxes, and accessories and parts therefor,* from Nashville and Tullahoma, TN to points in the United States, for 180 days. Supporting shipper(s): Pollution Control, Inc., 10360 Wayne Avenue, Cincinnati, OH 45215. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 108937 (Sub-57TA), filed September 5, 1979. Applicant: MURPHY MOTOR FREIGHT LINES, INC., 2323 Terminal Road, St. Paul, MN 55113. Representative: Jerry E. Hess, P.O. Box 43640. *Common carrier:* regular routes: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)* serving the facilities of the Toro Company at or near Tomah, WI as an off-route point in conjunction with applicant's regular route operations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Toro Company, 8111 Lyndale Avenue South, Minneapolis, MN 55420. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 109376 (Sub-17TA), filed September 14, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 284, Reedsburg, WI 53959. Representative: Nancy Johnson, P.O. Box 218, 103 E. Washington St., Crandon, WI 54520. (1) *Waferboard* from The Township of Hayward, Sawyer County, WI to points in MI, IN, IL, MN, IA, NE, KS, KY, MO, OH, & PA; and (2) *Materials, equipment and supplies used in the manufacture and/or distribution of waferboard* from points in MI, IN, IL, MN, IA, NE, KS, KY, MO, OH, & PA to the Township of Hayward, Sawyer County, WI, restricted to both Items (1) and (2) above to traffic originating at or destined to facilities of Louisiana-Pacific Corp., Seaway Div., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Louisiana-Pacific Corp., Seaway Div., P.O. Box 756, Escanaba, MI 49829.Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 111397 (Sub-132TA), filed September 10, 1979. Applicant: DAVIS TRANSPORT, INC., 1345 South 4th Street, Paducah, KY 42001.Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. *Natural uranium oxide,* from the facilities of Allied Chemical Corp. at Metropolis, IL to facilities of Babcock and Wilcox Company at Parks Township, Leechburg, PA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Babcock & Wilcox Company, 20 S. Van Buren Ave., Barberton, OH 44203. Send protests to: Floyd A. Johnson, Suite 2006—100 N. Main St., Memphis, TN 38103.

MC 111856 (Sub-10TA), filed September 17, 1979. Applicant: CHOCTAW TRANSPORT, INC., 800 Bay Bridge Road, Prichard, AL 36610. Representative: George M. Boles, 727 Frank Nelson Building, Birmingham, AL 35203. *General Commodities* (except dangerous explosives, household goods as defined in Practices of Motor Common Carriers of Household Goods, 17 MCC 467, commodities in bulk, and those requiring special equipment.) Between Ft. Walton Beach, FL, and Prichard, AL (a) from Ft. Walton Beach over U.S. Hwy. 98 to intersection of U.S. Hwys. 98 & 90 at or near Pensacola, FL, then over U.S. Hwy. 90 to intersection of U.S. Hwys. 90 & 43, at or near Mobile, AL, then over U.S. Hwy. 43 to Prichard, AL, and return over the same route, serving Mobile, AL and all intermediate points in FL, (b) from Ft. Walton Beach over U.S. Hwy. 98 to intersection of U.S. Hwys. 98 & 29, then over U.S. Hwy. 29 to intersection of U.S. Hwys. 29 and Interstate 10, then over Interstate 10 to intersection thereof with U.S. Hwy. 43 at or near Mobile, AL, then over U.S. Hwy. 43 to Prichard, AL, and return over the same route, serving Mobile, AL and all intermediate points in FL, Serving Century and Cantonment, FL as off-route points in conjunction with routes (a) and (b) above. *Applicant intends to tack the authority sought here with its existing regular route authority at Mobile, Al, and intends to interline with other carriers, for 180 days. Supporting shipper(s): There are 45 Supporting Shippers all of which may be examined in the Washington, DC Office or Birmingham, Alabama Field Office.Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 111967 (Sub-7TA), filed September 7, 1979. Applicant: CADDELL TRANSIT CORPORATION, P.O. Box 146, Lawton, OK 73501. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Residual fuel oil* from Arkansas City, Coffeyville and El Dorado, KS to Port of Catoosa, OK for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mid-Region Petroleum, Inc., P.O. Box 35365, Tulsa, OK. Send protests to: Martha Powell, TCS, Rm. 9A27 Federal Bldg., 619 Taylor St., Fort Worth, TX 76102.

MC 112617 (Sub-452TA), filed August 22, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as above). *Sand,* in bulk, from Elizabeth, IN, to Carrollton and Louisville, KY and Cincinnati, OH. Supporting shipper(s): Glen Allen, M.E.G., Inc., P.O. Box 76, New Albany, IN 47150. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 112617 (Sub-453TA), filed September 10, 1979. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as above). Synthetic Fuel Oils (Coal-Oil Dispersion), in bulk, in tank vehicles, from the plantsite of CoaLiquid at Shelbyville, KY, to points in AL, DE, GA, IL, IN, KS, MI, MO, NC, OH, PA, SC, TN, VA, WI, and WV. Supporting shipper(s): G. T. Hawkins, Exec. VP, CoaLiquid, 1215 Citizens Plaza, Louisville, KY 40202. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 115357 (Sub-13TA), filed September 6, 1979. Applicant: TAT, Inc., 800 Wyoming Street, P.O. Box 4013, Kansas City, MO 64101. Representative: Peter Gearin & Marvin Handler, Attorney, 3900 N.W. Yeon Ave., Portland, OR 97510. *Automobiles and trucks (weighing less than 15,000 pounds),* in secondary movements, in truckaway service, between Kansas City, MO and points in the State of MO including St. Louis, MO commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Volvo of America Corporation, 1955 190th Street, Torrance, CA. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 115716 (Sub-27TA), filed September 20, 1979. Applicant: DENVER-LIMON-BURLINGTON TRANSFER COMPANY, 3650 Chestnut Place, Denver, CO 80216. Representative: Edward C. Hastings, 666 Sherman Street, Denver, CO 80203. *Electrical appliances, fixtures and goods,* from Denver, CO to points in CO. Restriction: For the account of General Electric Company and further restricted to shipments having prior rail or intermodal movements to Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Co., Denver, CO 80239. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-540TA), filed September 4, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of APP. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from the facilities of Farmland Foods, Inc., Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln, and Omaha, NE to points in AL, DC, DE, FL, GA, KY, MD, MS, NC, SC, TN, VA and WV, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-541TA), filed September 4, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-542TA), filed September 7, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO. Representative: Howard Gore, (same address as above). *Drugs, chemicals, medicine and toilet preparations* (except commodities in bulk), (A) between Elkhart, IN and New Haven CT, (B) from Elkhart, IN to points in CA, CO, CT, GA, MO, OR, PA, TN and TX, for 180 days. Supporting

shipper(s): Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46515. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-543TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-544TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-545TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-546TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-547TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-548TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-549TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-550TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-551TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-552TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-553TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-554TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-555TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-556TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-557TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-558TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-559TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-560TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-561TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-562TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-563TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-564TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-565TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-566TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, Fort Dodge and Sioux City, IA and Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, MT, NM, NV, OR, UT, WA and WY, for 180 days. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-567TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). *Meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sec. A and C of App. I to the report in Descriptions in MCC, 61 M.C.C. 209 and 766 (except commodities in bulk) from facilities of Farmland Foods, Inc. at Denison, Iowa Falls, Carroll, Des Moines, F

shipper(s): Miles Laboratories, Inc., 1127 Myrtle St., Elkhart, IN 46515. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 115826 (Sub-543TA), filed September 17, 1979. Applicant: W.J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore, (same address as above). (1) *Such commodities as are dealt in by drug, variety and food stores,* (2) *Materials, supplies and equipment* (except commodities in bulk) used by manufacturer of commodities in (1) between Los Angeles, CA and La Grange Park, Il and their respective commercial zones, for 180 days. Supporting shipper(s): The Gillettee Company, Prudential Tower Building, Boston, MA 02199. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 116947 (Sub-76TA), filed August 8, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., S.W., Atlanta, GA 30310. Representative: William Addams, Ste 212, 5299 Roswell Rd., N.E., Atlanta, GA 30342. *Contract carrier:* irregular routes: *Bread-making ingredients, cooking oil, and flour, in contoiners* between the facilities of Anderson Sales Co., Inc., at or near Atlanta, GA on the one hand and, on the other, points in AL, AR, AZ, CA, IL, IN, LA, MD, MA, MI, MN, MS, NE, NM, NY, OK, PA, WA, WV, and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anderson Sales Co., Inc., 3515 Zip Industrial Blvd., S.W., Atlanta, GA 30354. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 116947 (Sub-77TA), filed August 16, 1979. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby St., S.W., Atlanta, GA 30310. Representative: William Addams, P.O. Box 720434, Atlanta, GA 30328. *Contract carrier:* irregular routes: (1) *Salad dressings, peanut butter, preserves and jellies, and* (2) *materials and supplies (except commodities in bulk)* used in the manufacture and distribution of the commodities named in (1); from the facilities of Atlantic Preserving Company, Inc., at Atlanta, GA to all points in AR, IN, NC, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Atlantic Preserving Company, Inc., 929 Lee St., Atlanta, GA 30310. Sent protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 119726 (Sub-168TA), filed August 21, 1979. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, 130 E. Washington St., Suite 1000, Indianapolis, IN 46204. *Malt beverages in containers, related advertising materials and supplies used in the sale and distribution of malt beverages,* from the facilities of Anheuser-Busch, Inc. at Jacksonville, FL to LaGrange, GA and Lanett, AL for 180 days. Supporting Shipper: Royal Beverage Company, 711 North Lanier Avenue, Lanett, AL 36863. Send protest to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119726 (Sub-169TA), filed August 10, 1979. Applicant: N.A.B. TRUCKING, INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, IN 46204. (1) *Containers, container closures, glassware, paper, packaging products, container components, scrap materials and absorbents,* and (2) *such commodities as are dealt in or used by manufacturers and distributors of the commodities named in (1),* (except commodities in bulk in tank vehicles and those which because of size or weight require the use of special equipment), between points in the United States (except AK and HI), for 180 days. Supporting shippers: There are fourteen (14) supporting shippers to the application. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119726 (Sub-165TA), filed July 18, 1979. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, IN 46204. *Glass containers with or without lids,* (1) from Gas City, IN to Lake Wales, FL, and (2) from Palestine, TX to Little Rock, AR, for 180 days. Supporting Shipper: Glass Container Corporation, 1301 S. Keystone Ave., Indianapolis, IN 46227. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119726 (Sub-166TA), filed July 18, 1979. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, IN 46204. *Glass containers and materials, equipment and supplies* used in the manufacture and distribution thereof, from Knox, Parker, Marienville and Clarion, PA to Rock Hill, Chester and Cel River, SC, Atlanta, GA, Jacksonville and Greenville, MS and Hendersonville, NC, for 180 days. Supporting Shipper: Glass Containers Corporation, 1301 South Keystone Avenue, Indianapolis, IN 46203. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119726 (Sub-167TA), filed July 13, 1979. Applicant: N.A.B. TRUCKING CO., INC., 1644 W. Edgewood Ave., Indianapolis, IN 46217. Representative: James L. Beattey, Suite 1000, 130 E. Washington St., Indianapolis, IN 46204. *Malt beverages, related advertising materials, equipment and supplies used in the manufacture of malt beverages* (except commodities in bulk in tank vehicles, between Albany, GA, on the one hand, and, on the other, points in the United States (except AK & HI), for 180 days. Supporting shipper: Miller Brewing Company, 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 119767 (Sub-365TA), filed September 14, 1979. Applicant: BEAVER TRANSPORT CO., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW, Washington, DC 20004. *Frozen bakery goods* from facilities of Lloyd J. Harriss Pie Co. at or near Holland and Saugatuck, MI to points in IL, IN, MN, MO, OH & WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lloyd J. Harriss Pie Co., 350 Culver St. Saugatuck, MI 49453. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 121787 (Sub-1TA), filed July 25, 1979. Applicant: SIDNEY R. CAMPBELL d.b.a. DRILLING MUD HAULERS, Star Route A, Box 1349, Anchorage, AK 99502. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Common carrier:* irregular routes: *Drilling mud products and compounds and well logging units,* between Seattle, WA, on the one hand, and, on the other, points in AK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Imco Services, Division of Halliburton Co., 4684 Business Park Road, Anchorage, AK 99503. Dresser Magcobar, Div of Dresser Industries, 721 W. 1st Ave., Anchorage, AK 99501. N. L. Baroid/N. L. Industries, Inc. P.O. Box 2492, Anchorage, AK 99510. Send protests to: Roy S. Ehrhart II, D/S, ICC, 701 C Street, Box 7, Anchorage, AK 99513.

MC 123056 (Sub-9TA), filed September 7, 1979. Applicant: FREDONIA TRUCK LINE, INC., Hwy 96 & Jackson, Fredonia, KS 66736. Representative: Laurel D. McClellan, 401 No. 6th, P.O. Box 478, Fredonia, KS 66736. *CONTRACT, Irregular, Wheat middlings* from facilities of Conagra, Inc., Parsons, Kansas to Beebe, Ft. Smith, Little Rock, Russelville, Springdale, Van Buren, Fayetteville, Mena and Siloam Springs, AR; Springfield, Rolla, Webb City, Crane, Aurora, Carthage, Lebanon, Mt. Grove, Ozark, Thayer, West Plains, Hollister, Neosho and Joplin, MO; Afton, Muskogee, Stillwater, Westville, Keota, Pawnee, Vinita and El Reno, OK; Parison, Sherman, Amarillo, Mt. Pleasant, Dallas, Ft. Worth, Minneola, Pittsburgh and Sulphur Springs, TX; for 180 days. Supporting shipper: Conagra, Inc., 3801 Harney, Omaha, NE 68131; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 123476 (Sub-47TA), filed September 13, 1979. Applicant: CURTIS TRANSPORT, Inc., 23 Grandview Ind. Ct. Arnold, MO 63010. Representative: David G. Dimit (same as above). Plastic and expanded plastic products, except in bulk in tank vehicles, from Stevens Point, WI to all points in the U.S. on and east of U.S. Hwy. 85, with return of refused or rejected materials to Stevens Point, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Praco Services, P.O. Box 555, Stevens Point, WI 54481. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 123517 (Sub-45TA), filed September 21, 1979. Applicant: CTI, P.O. Box 397, Rillito, AZ 85246. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Coal,* from the Peabody Black Mesa Coal Mine located approximately 30 to 40 miles south of Kayenta, AZ to the facilities of Hazen Laboratories near Golden, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Mono Power Company, P.O. Box 800, Rosemead, CA. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Mono Power Company, P.O. Box 800, Rosemead, CA. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 124306 (Sub-71TA), filed September 11, 1979. Applicant: KENAN TRANSPORT COMPANY, INCORPORATED, P.O. Box 2729, Chapel Hill, NC 27514. Representative: W. David Fesperman, P.O. Box 2729, Chapel Hill, NC 27514. *Polyester chips, in bulk, in tank vehicles,* from facilities of Rohm and Haas Company near Fayetteville, NC to Hopewell, VA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rohm and Haas Company/Caroldel Plant, P.O. Box 630, Fayetteville, NC 28302. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 128527 (Sub-136TA), filed September 13, 1979. Applicant: MAY TRUCKING COMPANY, P.O. Box 400, Payette, ID 83661. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Iron or steel, iron or steel articles, tanks, hoppers, mining equipment and pre-fabricated steel articles,* from Portland, OR and points in Ada and Canyon Counties, ID to points in the United States in and west of WI, IL, MO, AR, and LA, except AK, HI and ID. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B & K Fabrications, Inc., 2269 S. Liberty, P.O. Box 9472, Boise, ID 83705. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreham Dr., Boise, ID 83702.

MC 129026 (Sub-9TA), filed September 13, 1979. Applicant: J.C.D. TRANSPORTATION CORP., P.O. Box 487, 5950 Fisher Rd., East Syracuse, NY 13057. Representative: Michael R. Werner, P.O. Box 1409, 167 Fairfield Rd., Fairfield, NJ 07006. Contract carrier-irregular routes. *Foodstuffs, except commodities in bulk, in vehicles equipped with temperature control devices,* between the facilities of The Nestle' Company, Inc. located in Gloucester County, NJ, on the one hand, and, on the other, points in DE, MD, PA, VA and DC, under continuing contract(s) with The Nestle' Company, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Nestle' Company, Inc., 100 Bloomingdale Rd., White Plains, NY 10605. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 134286 (Sub-128TA), filed August 27, 1979. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Representative: Julie Humbert (same address as applicant). *(1) Chemicals (except in bulk) in vehicles equipped with mechanical refrigeration* from the facilities of Franklin Chemical Industries, Inc. at or near Columbus, OH to Springfield, MA; North Bergen, NJ; Atlanta, GA; Memphis, TN; Fort Smith, AR; Denver, CO; Salt Lake City, UT; Anaheim and Hayward, CA; Portland, OR; Seattle, WA; Kansas City, KS; and St. Louis, MO and all points in their commercial zones; and *(2) Limestone (except in bulk)* from Hunt Valley, MD to the facilities of Franklin Chemical Industries, Inc. at or near Columbus, OH for 180 days. An underlying ETA seeks 90 days authority. Restricted to traffic originating at the named origins and destined to the named destinations. Supporting shipper(s): Franklin Chemical Industries, Inc., 2020 Bruck Street, P.O. Box 07802, Columbus, OH 43207. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 134467 (Sub-51TA), filed August 28, 1979. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman St. Denver, CO 80203. *Foodstuffs,* except in bulk, in temperature controlled vehicles, from facilities of J. H. Filbert, Inc. at or near Baltimore, MD and Anne Arundel, Baltimore, Howard, and Prince Georges Counties, MD, to points in PA, OH, WV, GA, IN, and MI, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock AR 72201.

MC 134477 (Sub-364TA), filed September 18, 1979. Applicant SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Thomas D. Fischbach, P.O. Box 43496, St. Paul, MN 55164. *(1) Toilet preparations and soap products and (2) materials, equipment, and supplies used in the manufacture and distribution of toilet preparations and soap products (except commodities in bulk),* between the facilities of Minnetonka, Inc., at or near Chaska, MN, on the one hand, and, on the other, points in the United States (except AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minnetonka, Inc., Traffic Manager, Jonathan Industrial Center, Chaska, MN 55318. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 135797 (Sub-257TA), filed August 23, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130 Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant), *Foodstuffs* (except in bulk), from Oconto, WI; Denver, CO and Lewisville, TX, to points in AZ, AR, CA, CO, KS, LA, NM, OK and TX, restricted to traffic originating at or destined to the facilities of American Nut Corp. or Choice Products, Inc., for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Choice Products, Inc., P.O. Box 485, Lewisville, TX 75067. American Nut Corporation, P.O. Box 398, Lewisville, TX 75067. Send protests to:

V 44 0C 22 79 UMI

William H. Land, DS, 3108 Federal Bldg. Little Rock, AR 72201.

MC 135797 (Sub-257TA), filed September 11, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Animal feed ingredients* from Moscow, Rupert and Shelley, ID to the facilities of Ralston Purina Company at or near Clinton, IA; Oklahoma City, OK and Union City, GA, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, Checkerboard Square, St. Louis, MO 63188. Send protests to: William H. Land, DS, 3108 Federal Bldg. Little Rock, AR 72201.

MC 135797 (Sub-259), filed September 14, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). *Soil and feed additives* from Florence, CO to points in AR, KS and OK for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Colar Compounds, Inc., P.O. Box 490, Lowell, AR 72745. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 138157 (Sub-184TA), filed September 7, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). (1) *Foodstuffs, pet foods, and animal feeds, and (2) Such commodities that are used in the processing, milling, packaging, manufacturing or sale of foodstuffs, pet foods and animal feeds (except commodities in bulk, and in vehicles),* between points in the United States in and east of ND, SD, NE, CO, OK, and TX, for 180 days. Restrictions: Restricted to traffic originating at or destined to the facilities of Carnation Company. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 136157 (Sub-185TA), filed September 7, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *Foodstuffs and animal feeds,* from Ft. Wayne, IN; St. Joseph, MO, Elwood, KS, Rochelle, IL; Jefferson, WI, Okonomowoc, WI; Milwaukee, WI; Jacksonvill, IL; Ft. Dodge, IA; Waverly, IA; Kokomo, IN; Chattanooga, TN; Jacksonville, FL; Mechanicsburg, PA, and Garland, TX, to points in and east of ND, SD, NE, CO, OK & TX, for 180 days. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 136157 (Sub-186TA), filed August 31, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn (same address as applicant). *General Commodities, (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those which because of size or weight require the use of special equipment),* from Los Angeles, CA on the one hand, and on the other points in AL, MS, FL, GA, TN, KY, NC, SC, LA, & VA, for 180 days. Restrictions: Restricted to traffic originating at or destined to the facilities of Streamline Shippers Association. Supporting shipper(s): Streamline Shippers Association, Inc., 365 South Santa Fe Ave., Los Angeles, CA 90013. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 139207 (Sub-12TA), filed August 30, 1979. Applicant: McNABB-WADSWORTH TRUCKING CO., INC., 305 S. Wilcox Dr., Kingsport, TN 37665. Representative: Henry E. Seaton, 929 Pennsylvania Bldg, 13th Street, N.W. Washington, D.C. 20004. *Petroleum products, lubricating oil and such automative accessories and other articles used in or consumed in service station operations (except in bulk),* from the facilities of Exxon Company U.S.A. at or near Baton Rouge, LA to points in TN, for 180 days. Supporting shipper(s): Exxon Company, U.S.A., P.O. Box 2180, Houston, TX 77001. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 139587 (Sub-21TA), filed September 7, 1979. Applicant: BROWN REFRIGERATED EXPRESS, INC., P.O. Box 603, Fort Scott, KS 66701. Representative: Wilburn L. Williamson, Suite 615–East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Malt beverages* (except commodities in bulk) from St. Louis, MO to Ft. Scott, KS: for 90 days, common, irregular; Supporting shipper: Fort Scott Beverages, 16 So. Hill, Ft. Scott, KS 66701; Send protests to: M.E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 139966 (Sub-2TA), filed August 29, 1979. Applicant: FAIRPORT TRUCKING CO., P.O. Box 217, Williams St., Grand River, OH 44045. Representative: Richard H. Brandon, P.O. Box 97, 220 W. Bridge St., Dublin, OH 43017. *Cement, in bulk,* from Bessemer, PA to Cleveland, Newberry, Brunswick, Mentor, Grand River and Warrensville Heights, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Osborne, Inc., Route 306 & 20, Mentor, OH 44060. Send protests to: I.C.C., Fed. Res. Bank Bldg, 101 N. 7th St, Rm. 620, Phila, PA 19106.

MC 140016 (Sub-7TA), filed September 18, 1979. Applicant: TRANSPORTATION SERVICE, INC., 1320 E. Glendale Ave. Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. *Malt beverages and related advertising materials,* in vehicles equipped with mechanical refrigeration, from the plant sites of Anheuser-Busch, Inc. at Van Nuys, CA, Miller Brewing Co. at Azusa, CA and Pabst Brewing Co. at Los Angeles, CA to points in that part of NV on and north of U.S. Hwy. 6, with no transportation for compensation on retrun except as otherwise authorized, for 180 days. Supporting shipper(s); Capitol Beverage, 2333 Fairview, Carson City, NV 89701 L.W. Peraldo Co., P.O. Box 272, Winnemucca, NV 89445 Morrey Distributors, 1250 Terminal Way, Reno, NV 89502 Blach Distributors, P.O. Box 269, Elko, NV 89801. Send protests to: DS W.J. Huetig, ICC 705 N. Plaza, Carson City, NV 89701.

MC 140176 (Sub-20TA), filed September 13, 1979. Applicant: POWELL TRUCKING COMPANY, INC., Rt. 3, Box 13, Sumrall, MS 39482. Representative: John A. Crawford, P.O. Box 22567, Jackson, MS 39205. *Contract carrier;* irregular route; *lumber from the facilities* of Masonite Corp. at or near Quitman, MS and Melvin, AL to points in AL, IL, IN, LA, MI, MO, MS, OH, TN, TX and WI, for the account of Masonite Corp., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Masonite Corp., Southern Lumber Div., P.O. Box 4875, Jackson, MS 39216. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

MC 141597 (Sub-10TA), filed August 14, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919—4th Avenue South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract carrier; irregular routes: *(1) Meat, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of*

Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766 from the facilities of Farmland Foods, Inc. located at Denison, Iowa Falls, Carroll, Fort Dodge, Cherokee, and Des Moines, IA; and Crete, Lincoln and Omaha, NE to points in AL, FL, GA, LA, MS, NC, SC AND TN; (2) *Returned shipments and materials, equipment and supplies utilized in the manufacture, sale and distribution of the commodities specified in (1) above* from points in the territory indicated in (1) above to the facilities of Farmland Foods, Inc. located at or near Denison, Iowa Falls and Carroll, IA and Crete, NE for 180 days. Restriction: Restricted in Parts (1) and (2) above against the transportation of hides, commodities in bulk, and commodities the transportation of which require the use of special equipment, under continuing contract(s) with Farmland Foods, Inc. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141597 (Sub-11TA), filed August 15, 1979. Applicant: RIVERSIDE TRUCK LINE, INC., 919—4th Avenue South, Denison, IA 51442. Representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 50309. Contract carrier; irregular routes: *(1) Meat, meat products and meat by-products and articles distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766* from the facilities of Farmland Foods, Inc. located at Denison, Iowa Falls, Carroll, Fort Dodge, Cherokee, and Des Moines, IA; and Crete, Lincoln and Omaha, NE to points in AR, IA, IL, KS, MN, MO, ND, NE, MN, OK, SD, TX, WI and WY; (2) *Returned shipments and meteriols, equipment and supplies utilized in the manufacture, sale and distribution of the commodities specified in (1) above* from points in the territory indicated in (1) to the facilities of Farmland Foods, Inc. located at or near Denison, Iowa Falls and Carroll, IA and Crete, NE for 180 days. Restriction: Restricted in Parts (1) and (2) above against the transportation of hides, commodities in bulk, and commodities the transportation of which require the use of special equipment, under continuing contract(s) with Farmland Foods, Inc. Supporting shipper(s): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 142106 (Sub-2TA), filed August 23, 1979. Applicant: VIP COMMUTER CORP., 14810 Danville Rd., Dale City, VA 22193. Representative: Sylvanus G. Bent (same address as applicant). *Passengers and their baggage, in the same vehicle with passengers, in round-trip special operations,* from Manassas, Manassas Park, Centreville, and Camp Washington, to pts. in Washington, DC, from Dale City, Lake Ridge, Occoquan, and Woodbridge, VA to pts. in Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Applicant statement of fact. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142686 (Sub-25TA), filed September 14, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker Avenue, Santa Fe Springs, California 90670. Representative: Joseph Fazio (same address as above). *Contract;* Irregular; *mixing machines and cement pumps; parts and supplies used in the manufacture, installation and maintenance thereof,* from Industry, California to Seattle, WA, Spokane, WA, Baltimore, MD, Portland, OR, Calhound, GA, Missoula, MO, Denver, CO, Tulsa, OK, Houston, TX, International Boundary points of the United States and Canada located within the State of Washington, (2) Between Industry, California, on the one hand, and, on the other, Bryan, Ohio, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): Challenge-Cook Bros., Inc., Vice Pres. Construction Machinery, 15421 East Gale Avenue, Industry, California 91745. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, California 90053.

MC 143127 (Sub-53TA), filed September 14, 1979. Applicant: K. J. TRANSPORTATION, INC., 6070 Collett Road, Victor, NY 14564. Representative: Linda A. Calvo, Traffic Mgr. (same address as above). *Adhesives,* from Paxton, IL to Tucker, GA; Dedham, MA; Columbus, OH; and Philadelphia, PA, for 180 days. Supporting shipper(s): Krause Milling Company, 611 East Wisconsin Avenue, Milwaukee, WI 53201. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 W. Huron Street, Buffalo, NY 14202.

MC 143276 (Sub-21TA), filed August 9, 1979. Applicant: WEAVER TRANSPORTATION COMPANY, 5452 Oakdale Rd., Smyrna, GA 30080. Representative: James L. Brazee, Jr., 3355 Lenox Rd. Suite 795, Atlanta, GA 30326. *Limestone and limestone products* from Luttrell, Union County, Tennessee to all points in the States of AL, NC, SC, GA, FL, and MS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Luttrell Mining Co., P.O. Box 11705, Knoxville, TN 37919. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 143436 (Sub-34TA), filed August 10, 1979. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Road, Indianapolis, IN 46227. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. *Nuts, edible,* from the facilities of Flavor House Corporation, a division of Borden Food Company, at or near Des Plaines, IL to Indianapolis, IN for 180 days. Supporting shipper: Flavor House Corporation, 1665 E. Birchwood Drive. Des Plaines, IL 60618. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429 Indianapolis, IN 46204.

MC 143607 (Sub-14TA), filed August 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Route 6, Waco, TX 76706. Representative: David C. Venable, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. *Contract carrier,* irregular routes: *Plastic articles* (except in bulk) from the facilities of Rubbermaid Commerical Products, Inc., at or near Cleburne, TX, to points in CA, NV, UT, AZ, NM, OK, and LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rubbermaid Commercial Products, Inc., 3124 Valley Ave., Winchester, VA 22601. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 143607 (Sub-15TA), filed August 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Route 6, Waco,TX 76706. Representative: David C. Venable, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. *Contract carrier,* irregular routes: *Plastic articles* (except in bulk) between the facilities of Rubbermaid Commercial Products, Inc. (1) at or near Cleburne, TX, and (2) at Winchester, VA, for 180 days. an underlying ETA seeks 90 days authority. Supporting shipper(s): Rubbermaid Commerical Products, Inc., 3124 Valley Ave., Winchester, VA 22601. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 143928 (Sub-1TA), filed September 17, 1979. Applicant: CONSOLIDATED CARRIERS CORPORATION, Box 5624, Charlotte, NC 28212. Representative: Robert B. Walker, 915 Pennsylvania Bldg., 425 13th St., NW, Washington, 20004. *Contract carrier*—irregular routes; *Synthetic fiber, textile waste,*

V 44 OC 22 79 UMI

plastic pellets, plastic waste, wool, wool waste, and materials used in the manufacture thereof between points in the US (except AK and HI) pursuant to continuing contract(s) with Wellman, Inc., For 180 days. An underlying ETA seeks 90 days, authority. Supporting shipper(s): Wellman, Inc., 75 Federal St., Boston, MA 02110. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 144496 (Sub-2TA), filed August 28, 1979. Applicant: ECKS TRUCKING, INC., 659 Pleasant Street, Norwood, MA 02062. Representative: James F. Martin, Jr., 8 W. Morse Road, Bellingham, MA 02019. *Contract carrier;* irregular route; *(1) Plastic articles (except in bulk) cushioned envelopes, and packaging machinery,* from Hyannis, MA to points in the United States (except AK, HI, and MA) and *(2) equipment, materials and supplies used in the manufacture and distribution of plastic articles, cushioned enveloped and packaging machinery (except in bulk)* from the destinations named in (1) above to Hyannis, MA under continuing contracts with Sentinel Foam Products Inc. and Packaging Industries, Inc., Airport Road, Hyannis, MA 02601, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sentinel Foam Products, Inc., Packaging Industries, Inc., Both at Airport Road, Hyannis, MA 02601. Send protests to: John B. Thomas, 150 Causeway Street, Boston, MA 02114.

MC 144747 (Sub-4TA), filed September 5, 1979. Applicant: INTERSTATE EQUIPMENT CO., INC., 22821 N. 81st Ave., Peoria, AZ 85345. Representative: Phil B. Hammond, Evans, Hammond & Milliken, Suite 1705, 3003 N. Central Ave., Phoenix, AZ 85012. Contract. *Meat, meat products and meat by-products,* from Minden, NE, to points in CT, NJ, NY and PA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Minden Beef Co., Box 70, Minden, NE 68959. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 144827 (Sub-34TA), filed August 20, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Memphis, TN 38118. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Building, 100 North Main Street, Memphis, TN 38103. *Bakery goods,* from Pulaski, TN to points in TX. Supporting shipper(s): Lester Brokerage Co., Inc., 11106 Morrison Lane, Dallas, TX 75229. Send protests to: Floyd A. Johnson, 100 North Main Street, Suite 2006, Memphis, TN 38103.

MC 144927 (Sub-23TA), filed August 24, 1979. Applicant: REMINGTON FREIGHT LINES, INC., Box 315, U.S. 24 West, Remington, IN 47977. Representative: Warren C. Moberly, 320 N. Meridian St., Indianapolis, IN 46204. *Paper and printed matter,* (1) between points in CA and MN, IA, MO, AR, and LA, and all states east thereof; (2) and between points within the states of MN, IA, MO, AR and LA and states east thereof; and (3) from the destination states mentioned in (1) above to points in CA, for 180 days. An underlying ETA seeks 90 days. Supporting shipper(s): Five. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 144956 (Sub-6TA), filed September 14, 1979. Applicant: TRANS-MUTUAL TRUCK LINES, LTD., 7034—30th Southeast, Calgary, AB, Canada T2C 1N9. Representative: Grant J. Merritt, 4444 IDS Center, 80 South 8th Street, Minneapolis, MN 55402. *Bentonite, drilling mud and additives (except commodities in bulk)* from Missoula, MT to the port of entry on the U.S.-Canada International Boundary line located at Sweetgrass, MT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wyo-Ben, Inc., 1242 No. 28th Street, Billings, MT 59101. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 145026 (Sub-8TA), filed August 23, 1979. Applicant: NORTHEAST CORRIDOR EXPRESS, INC., Railroad Ave., Federalsburg, MD 21632. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. *Foodstuffs* (except in bulk, in vehicles with mechanical refrigeration), from the facilities of J. H. Filbert, Inc. at or near Baltimore, MD; Anne Arundel, Baltimore, Howard and Prince Georges Counties, MD to points in CT, MA, RI, NH, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. H. Filbert, Inc., 3701 Southwestern Blvd., Baltimore, MD 21229. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Room 620, Phila., PA 19106.

MC 145577 (Sub-16TA), filed August 1, 1979. Applicant: GULLETT-GOULD, LTD., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, Muldoon, Pemberton and Ferris, 50 West Broad St., Columbus, OH 43215. *Pet vitamins,* from Bowling Green, OH to points in CA, for 180 days. Supporting shipper: Flea-tab, Inc., 1011 South Main Street, Bowling Green, OH 43402. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 145577 (Sub-17TA), filed September 4, 1979. Applicant: GULLETT-GOULD, INC., P.O. Box 406, Union City, IN 47390. Representative: Jerry B. Sellman, Muldoon, Pemberton & Ferris, 50 W. Broad St., Columbus, OH 43215. *Grape juice and concentrate,* from Lodi, CA to points in the United States in and east of WI, IL, KY, TN and MS for 180 days. Supporting shipper: M&R Company, 505 S. Main St., Lodi, CA 95240. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 145636 (Sub-11TA), filed September 27, 1979. Applicant: BOB BRINK, INC., 165 Steuben Street, Winona, MN 55987. Representative: Edward H. Instenes, P.O. Box 676, Winona, MN 55987. *Candy or confectionery requiring protection from heat* from Winona, MN to points in CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Schuler Chocolates, Inc., 1000 West Fifth Street, Winona, MN 55987. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 145726 (Sub-8TA), filed August 17, 1979. Applicant: G. P. THOMPSON ENTERPRISES, INC., P.O. Box 146, Midway, AL 36053. Representative: Terry P. Wilson, 420 South Lawrence Street, Montgomery, AL 36104. *Meats, meat products, meat byproducts, and articles distributed by meat packing houses* as described in Sections A & C of Appendix 1 to the report in descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and skins and commodities in bulk), from the facilities utilized by John Morrell & Co. at or near Memphis, TN, to points in AL and FL, restricted to the transportation of traffic originating at the facilities of John Morrell & Co., for 180 days. Supporting shipper(s): John Morrell & Co. Hollywood Station, P.O. Box 8157, Memphis, TN 38108. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 146006 (Sub-3TA), filed September 10, 1979. Applicant: RODCO LEASING, INC., 380 Union Street, P.O. Box 285, West Springfield, Massachusetts 01089. Representative: James M. Burns, 1383 Main Street—Suite 413, Springfield, MA 01103. Contract carrier: irregular routes: *Engine brakes and related parts* from West Hartford, CT, on the one hand, and, on the other, Seattle, WA; Portland, OR, Hayward and Los Angeles, CA; Salt Lake City, UT, Denver, CO; and Phoenix, AZ, for 180 days. An underlying ETA seeks 90 days authority.

Supporting shipper(s): The Jacobs Manufacturing Company, West Hartford, CT 06110. Send protests to: David M. Miller, DS, ICC, 436 Dwight Street, Springfield, MA, 01103.

MC 146326 (Sub-5TA), filed August 29, 1979. Applicant: JOHN ALGER SR., d.b.a., ALGER TRANSPORTATION, 14625 Grover Street, Omaha, NE 68144. Representative: Marshall D. Becker, 7171 Mercy Road, Omaha, NE 68106. *Retail store fixtures and equipment, materials and supplies used in the manufacture thereof* (1) between the facilities of Lozier Corporation located at or near Omaha, NE; Cucamonga, CA; Scottsboro, LA; McClure, PA; and Kansas City, MO and (2) between the facilities of Lozier Corporation located at or near Omaha, NE; Cucamonga, CA; Scottsboro, AL and McClure, PA on the one hand, and on the other, points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lozier Corporation, 4401 N. 21st Street, Omaha, NE. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 No. 14th St., Omaha, NE 68102.

MC 146386 (Sub-5TA), filed August 22, 1979. Applicant: NATIONAL RETAIL TRANSPORTATION, INC. Bldg. A, 10 E., Oregon Ave., Philadelphia, PA 19148. Representative: Richard Rueda, 133 N. 4th St., Philadelphia, PA 19106. *Paper, other than newsprint, (except in tank vehicles)* from (1) Wisconsin Rapids, Port Edwards, Neekoosa, and Appleton, WI; Chicago, IL, Kingsport, TN; Texarkana and Ashdown, AR; Bastrop, LA; and Chillicothe and West Carrollton, OH and their respective commercial zones to the facilities of Majestic Paper Corp. at New York, NY and Farmingdale, NY and to points in the New York, NY commercial zone; from (2) West Carrollton, OH to Albany, NY and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Majestic Paper Corporation, 161 Hudson St., New York, NY 10013. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Philadelphia, PA 19106.

MC 146646 (Sub-26TA), filed September 4, 1979. Applicant: BRISTOW TRUCKING CO., P.O. Box 6355 A, Birmingham, AL 35217. Representative: Henry Bristow, Jr., P.O. Box, same as applicant. *Moulded pulp paper products* from the facilities of the Packaging Corporation of America located at or near Macon, GA to points in AR, IN, KY, MI, MO, NJ, OK, PA and TX, for 180 days. Supporting shipper(s): Packaging Corporation of America, 7670 Airport Drive, Macon, GA 31201. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 146646 (Sub-27TA), filed September 17, 1979. Applicant: BRISTOW TRUCKING CO., INC., P.O. Box 63558, Birmingham, AL 35217. Representative: John R. Frawley, Jr., 5506 Crestwood Blvd., Birmingham, AL 35212. *Containers, and the materials and supplies used in the manfacture, sale and distribution of containers* (except commodities in bulk). Between the facilities of National Can Corporation located in or near Pascagoula, MS; Birmingham, AL; Bishopville, SC; Memphis, TN; Winston-Salem, NC; Baltimore, MD; Cambridge, MD; Sparrows Point, MD; on the one hand, and, on the other, all points in LA, MS, AL, FL, GA, NC, SC, TN, KY and VA, for 180 days. Supporting shipper(s): National Can Corporation, Route 287 South Randolphville Rd, Piscataway, NJ 08854. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35023.

MC 147136 (Sub-1TA), filed July 30, 1979. Applicant: TOMORROW TRANSPORTS, INC., 1257 Central Ave., Hamilton, OH 45011. Representative: Jerry B. Sellman, 50 W. Broad St., Columbus, OH 43215. *General commodities* (except those of unusual value, Class A or B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Ohio Valley Shippers Association located at Cincinnati, OH to points in FL and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ohio Valley Shippers Association, 1428 Dalton St., Cincinnati, OH 45214. Send protests to: I.C.C., Fed. Res. Bank Bldg., Room 620, 101 N. 7th St., Philadelphia, PA 19106.

MC 147186 (Sub-TA), filed ———— Applicant: TEUFEL BROTHERS, INC., Inman Avenue Avenel, NJ 07001. Applicant's representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Contract carrier,* by motor vehicle, over irregular routes, transporting: Asphalt and asphalt emulsion in bulk, in tank vehicles from Bayonne, Kearny, Linden, Perth Amboy and Whippany, NJ to points in Connecticut west of the Connecticut River, points in Dutchess, Orange, Putnam, Rockland, Suffolk, Sullivan, Ulster and Westchester Counties, NY, and Bradford, Lackawanna, Luzerne, Pike, Susquehanna, Wayne, and Wyoming Counties, PA for 180 days under a continuing contract or contracts with Dorsch-King Emulsions, Inc. Supporting shipper: Dorsch-King Emulsions, Inc., 16 Troy Hill Road, Whippany, NJ 07891. Send protest(s) to Mr. Robert E. Johnston, DS, I.C.C., 9 Clinton St., Newark, NJ 07102.

MC 147297 (Sub-6TA), filed September 5, 1979. Applicant: DA-RON CORPORATION, 3305 North Broadway, Muncie, IN 47303. Representative: David O. Foreman (same address as applicant). *Contract carrier:* irregular routes: *Steel shelving and bins, unassembled pallet racks, storage racks, screw cases, and storage cabinets and accessories for such commodities* from the facilities of Frick-Gallagher Mfg. Co. located at Wellston, OH, to points in AL; Flagstaff, Kingman, Phoenix and Tucson, AZ; Fresno, Los Angeles, Oakland, Sacramento, San Diego, and San Francisco, CA; Denver, Lamar and Pueblo, Co; points in FL; points in LA; Minneapolis and St. Paul, MN; points in MS; Billings, Butte, and Great Falls, MT; Baker, Newport and Portland, OR; Amarillo, Dallas, El Paso, Houston, and San Antonio, TX; Salt Lake City, UT; Seattle, Spokane and Tacoma, WA for 180 days. Supporting shipper: Frick-Gallagher Mfg. Co., 201 South Michigan Ave., Wellston, OH 45692. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204.

MC 147297 (Sub-4TA), filed August 6, 1979. Applicant: DA-RON CORPORATION, 3305 North Broadway, Muncie, IN 47303. Representative: David Foreman (same address and applicant). Contract Carrier: Irregular routes: *Carpeting,* from the facilities of Seaway Carpets, Inc. located in Calhoun, Chatsworth, Dalton, Eden, Ellijay, Ringgold and Titusville, GA; Norfolk, VA; and Liberty, IL to Toledo, OH and Muncie, IN. Supporting shipper: Seaway Carpets, Inc., 5040 Enterprise Blvd., Toledo, OH 43612. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 147297 (Sub-5TA), filed August 10, 1979. Applicant: DA-RON CORPORATION, 3305 North Broadway, Muncie, IN 47303. Representative: David O. Foreman, (same address as applicant). Contract carrier. Irregular routes: *pillows,* from the facilities of James Liebhardt Mills, Inc. at Middletown, IN, to Denver, CO, Chicago, IL, Des Moines, IA, Lexington and Louisville, KY, Grand Rapids and Warren, MI, St. Paul, MN, St. Louis, MO, Omaha, NB, Secaucus, NJ, Buffalo, Rochester and Syracuse, NY, Akron, Cincinnati, Cleveland, Columbus, Dayton and Toledo, OH, Tulsa, OK, Philadelphia, Pittsburgh and Windber.

V 44 0C 22 79 UMI

PA, Dallas and Houston, TX, Nitro, WV, Greenfield and Milwaukee, WI, for 180 days. Supporting shipper: James Liebhardt Mills, Inc., SR 236, PO Box 121, Middletown, IN. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 147347 (Sub-2TA), filed September 4, 1979. Applicant: MICHAEL'S CARTAGE, INC., Route #3, Bedford Rd., Cumberland, MD 21502. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. (1) *Glass in containers* from Cumberland, MD, and its commercial zone, to Phila, PA, and its commercial zone, and (2) *empty containers* from Phila., PA, and its commercial zone, to Cumberland, MD, and its Commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): PPG Industries, Inc., One Gateway Center, Pittsburgh, PA 15222. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147697 (Sub-2TA), filed August 27, 1979. Applicant: KEN-G TRANSPORT, INC., 1920 Riverdale Drive, Pfafftown, NC 27040. Representative: George W. Clapp, PO Box 836, Taylors, SC 29687. *Contract carrier*—irregular routes; Food and food products, in containers, not frozen, from Cambridge, MD to Tampa, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RJR Foods, Inc., PO Box 3037, Winston-Salem, NC 27102. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 147806 (Sub-1TA), filed July 23, 1979. Applicant: SOUTHERN HEAVY HAUL, INC., 5202 Industry Avenue, Pico Rivera, CA 90660. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract:* Irregular: *Steel billets, coil, sheet and strip steel, stainless steel pipe and tubing,* from the facilities of Sharon Steel Corp., and Damascus Tube, a Division of Sharon Steel Corp., located at or near Farrell and Greenville, PA, to Lake Havasu, AZ; points within the Los Angeles, CA Commercial Zone; Verdi, NV; and Beaumont and Houston, TX, under a continuing contract with The Steel Corporation of Texas of City of Commerce, CA, for 180 days. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): The Steel Corp. of Texas, 6440 Fleet, City of Commerce, CA 90040. Send protests to: Irene Carlos, TA, ICC, P.O. Box 1551, Los Angeles, CA 90053.

MC 147807 (Sub-4TA), filed September 17, 1979. Applicant: TERESI TRUCKING, INC., 900½ Victor Road, Lodi, CA 95240. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, (415) 986–8696, San Francisco, CA 94108. *Steel Pipe,* from Kaiser, CA to the Pittman Lateral Pipe Project in Clark County (between Las Vegas and Henderson), NV, for 90 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaiser Steel Corp., P.O. Box 58, Oakland, CA 94604. Send protests to: A. J. Rodriguez, 211 Main Street, Suite 500; San Francisco, CA 94105.

MC 147897 (Sub-1TA), filed Sept. 24, 1979. Applicant: J. C. ROSS d.b.a. ROSS TRUCKING CO.,an individual, Route 3, John Hall Road, Knoxville, TN 37920. Representative: John J. Duncan, Jr., Suite 350, City & County Bank, One Regency Square, Knoxville, TN 37915. *Lumber, wood chips, and cross ties,* from the facilities utilized by Tenn-land Wolf, Inc. near Knoxville, TN to points in AL, GA, KY, NC, SC, and VA. *Lumber and wood chips* from the facilities utilized by East Tennessee Stave & Heading Co. at Knoxville, TN to points in AL, GA, KY, NC, SC, and VA. *Lumber* from the facilities utilized by Stewart Lumber Co., Inc., Emmert Vaughn Lumber Co., and Arthur Wright Lumber Co. at or near Knoxville, TN to points in AL, GA, KY, NC, SC, and VA, for 180 days. Supporting shipper(s): "There are (5) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 147957 (Sub-1TA), filed August 7, 1979. Applicant: ROGERS MOTOR EXPRESS, 2928 Yosemite, Modesto, CA 95352. Representative: R. Fuller, 13215 E. Penn Street, Suite 310, Whittier, CA 90602. *General Commodities* having prior or subsequent movement by freight forwarder or moving on the bills of lading of freight forwarders (except explosives, household goods as defined by the Commission, commodities in bulk, and those which require special equipment), between Freight Forwarder Assembly and Distribution Terminals in Sacramento and Alameda Counties, CA on the one hand, and, on the other hand, points in Stanislaus, San Joaquin, Napa, Sonoma, Solano, Sacramento, Placer, El Dorado, Nevada, Yuba, Sutter, Butte, Yolo, Colusa, Glenn, Tehama and Shasta Counties, CA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Clipper Express Co., 3871 San Pablo Ave., Emeryville, CA 94608. Westransco Freight Co., P.O. Box 54810, Los Angeles, CA 90054. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, GA 94105.

MC 147966 (Sub-1TA), filed August 28, 1979. Applicant: WILLIAM A. KING & DANIEL I. DONOHO d.b.a. GEM TRUCKING (a partnership), P.O. Box 567, Newport, OR 97365. Representative: Daniel I. Donoho, 715 S.W. Bay Street, Newport, OR 97365, 503–265–7642. *Beer and Wine Beverages* from points in California and Seattle, WA to Newport, OR, for 180 days. Supporting shipper(s): Tri-Pac Distributors d.b.a. Pacific Distributors, 626 N.E. 1st, Newport, OR 97365, Wiles Distributing Co., Inc., 119 N.W. 3rd, Box 70, Newport, OR 97365. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland OR 97204.

MC 147977 (Sub-1TA), filed August 29, 1979. Applicant: Riggle Trucking Co. Inc., Box 81, Brooks, KY 40109. Representative: Bruce Zalman, Attorney, 440 So. 7th Street, Louisville, KY 40202. *Contract:* Irregular; *Bricks, Building supplies and ties,* between all points in KY, IN, and IL. (Under continuing contracts with 2 supporting shippers) Supporting shipper(s): American Builders Supply Co., 1044 East Chestnut Street, Louisville, KY 40204. Atlas Plaster & Supply Co., 742 W. Oak Street, Louisville, KY 40203. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Building, Louisville, KY 40202.

MC 148017 (Sub-1), filed August 27, 1979. Applicant: MR. AIR FREIGHT OF ORLANDO, INC., 1009 La Quinta Trail, Orlando, FL 32809. Representative: Kim G. Meyer, 235 Peachtree Street, N.E. Suite 1200, Atlanta, GA 30303. *Merchandise, equipment and supplies sold, used or distributed by a manufacturer of cosmetics and other toilet preparations,* From points in Orange County, FL to Brevard, Citrus, Flagler, Hernando, Indian River, Lake Okeechobee, Osceola, Orange, Polk, Seminole, St. Lucie, Sumter and Volusia Counties, FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Avon Products, Inc., 2200 Cotillion Drive, Atlanta, GA 30302. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 148037 (Sub-1TA), filed September 13, 1979. Applicant: NORMAN O. STEWART d.b.a. KING FOREST PRODUCTS, individual, 15010 S.E. McLoughlin Boulevard, No. 20, Milwaukie, OR 97222. Representative: Norman O. Stewart, 206 Harding Boulevard, Oregon City, OR 97045, 503–655–3951. *Contract:* Irregular: *Sheet Rock/Gypsum Board Building Material* from the facilities of Domtar and Flintkote at or near Fremont and Antioch, CA, to the warehouses of Tri City Building Center, Inc. at or near

Clackamas and Hillsboro, OR for 180 days. Supporting shipper(s): Allan Loney, Tri City Building Center, Inc., 15877 S.E. 98th, Clackamas, OR 97015. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 148116 (Sub-1TA), filed September 13, 1979. Applicant: H. DERBY TRANSPORT, Grenfell, SK, Canada S0G 2B0. Representative: Peter W. Glendinning, 2042 Cornwall Street, Regina, SK, Canada S4P 2K5. *Contract carrier:* Irregular routes: *Soy bean meal,* in bulk in tank vehicles, from Mankato, MN to port of entry on the International Boundary between the United States and Canada located at or near Portal, ND, for the account of Federated Cooperatives, Ltd., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Federated Cooperatives, Ltd., Box 1050, Saskatoon, SK, Canada. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Building, 657 2d Avenue North, Fargo, ND 58102.

MC 148137 (Sub-1TA), filed August 21, 1979. Applicant: STANTON SALES & TRANSPORTATION CO., 11135 S. W. Industrial Way, Tualatin, OR 97602. Representative: Thomas Y. Higashi, 2075 S. W. First Avenue, Suite 2N, Portland, OR 97201, (503) 222–1886. *Furniture and Furniture Parts* (as a *contract carrier* over irregular routes) from the facilities of Stanton Industries Inc. at or near Tualatin, OR to points and places in WA, CA, NV, AZ, CO, NM, TX, OK, and UT, under continuing contracts with *Stanton Industries;* from points and places in CA to the facilities of Stanton Industries at or near Tualatin, OR under continuing contracts with *Stanton Industries;* and from points and places in CA to points and places in OR, NV, and WA and form points and places in TX to points and places in OK, NM, AZ, CO, UT, CA, OR, WA, and NV and from points and places in MS to points and places in OK, TX, NM, AZ, CO, UT, NV, CA, OR, WA, all under continuing contracts with *Grantree Furniture Rental Corporation,* for 180 days. Supporting Shipper(s): Grantree Furniture Rental Corp., 201 S. W., Arthur, Portland, OR 97201. Stanton Industries, Inc., 11135 Industrial Way, Tualatin, OR 97062. Send protests to: A. E. Odoms, District Supervisor, ICC, 114 Pioneer Courthouse, 555 S. W. Yamhill Street, Portland, OR 97204.

MC 148167 (Sub-1TA), filed August 31, 1979. Applicant: ATLANTIC & GULF STEVEDORES, INC., 601 Louisiana Avenue, New Orleans, LA 70115. Representative: Edward N. Malusa (same address as applicant). *Pentonite clay in 1½ ton bags on flatbed trucks,* from Lockport, LA to Galliano, LA, for 180 days. Restricted to traffic having a prior movement in interstate traffic. Applicant has filed an underlying ETA seeking 90 days. Supporting Shipper(s): L. A. Salomon & Bros., P.O. Box 828, Pt. Washington, NY 11050. Send protests to: Robert J. Kirspel, DS, ICC, T–9038 Federal Building, 701 Loyola Aenue, New Orleans, LA 70113.

MC 148197 (Sub-1TA), filed September 7, 1979. Applicant: GOLD LABEL FEEDS, Division of Goldberg Feed & Grain Co., Box 427, West Fargo, ND 58078. Representative: Kip B. H. Erickson, 502 First National Bank Building, Fargo, ND 58126. *Contract carrier:* Irregular routes: (1) *Liquid animal feed,* in bulk, in tank vehicles, from Bismarck and Fargo, ND, to points in SD, MN and MT; and (2) *Liquid animal feed ingredients,* in bulk, in tank vehicles, from points in MN and MT to Bismarck and Fargo, ND, for the account of Cargill, Incorporated, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, MN 55440. Send protests to: H. E. Farsdale, DS, ICC, Room 268, 657 2d Avenue North, Fargo, ND 58102.

MC 148186 (Sub-1TA), filed September 7, 1979. Applicant: K. K. & T., INC., 2464 S. Scenic, Springfield, MO 65807. Representative: Lavern R. Holdeman, Peterson, Bowman & Johanns, 521 S. 14th Street, Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Contract,* irregular, *such commodities as are dealt in by automotive repair shops and wholesale, retail and chain automotive parts, accessories and supplies business houses (except in bulk),* between points in the states of AL, AR, GA, IL, IN, IA, KS, KY, LA, MI, MS, MO, NE, OH, OK, PA, TN, TX and WV, under contract with Keltner Enterprises, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Keltner Enterprises, Inc., 2410 South Scenic, Springfield, MO 65807. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

MC 148206 (Sub-2TA), filed September 13, 1979. Applicant: BRUGGER & McDOWELL, INC., Highway 25 South, Jackson, MO 63755. Representative: Donald B. Levine, 39 S. LaSalle Street, Chicago, IL 60603. *Used automobiles* in truckaway service (1) between points in AR, IA, IL, IN, KY, MI, MO, NE and TN, and (2) between points in the states listed in (1), on the one hand, and, on the other, points in AZ, CA, CO, KS, NM, OK, TX, MN and WY, for 180 days. Supporting shipper(s): There are 8 supporting shippers. Send protests to: P. E. Binder, TS, ICC, Room 1465, 210 N. 12th Street, St. Louis, MO 63101.

MC 148256 (Sub-TA), filed July 27, 1979. Applicant: BLUE ROCK TRANS, INC., 2910 Bernice Road, Lansing, IL 60438. Representative: Terrance Berwanger, 3224 Ridge Road, Lansing, IL 60438. *Bottled water, bottling supplies,* from Lansing, IL to Columbus, OH, Louisville, KY, Knoxville, TN, Fort Wayne, South Bend, IN, Kenosha, Racine, Milwaukee, Waukesha, WI, Port Huron, Kalamazoo, Jackson, Detroit, Flint, Lansing, MI, Davenport, IA for 180 days. Supporting shipper(s): Blue Rock Water, Inc., 16145 Lorenz, Lansing, IL 60438. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Room 1386, Chicago, IL 60604.

MC 148257 (Sub-TA), filed July 31, 1979. Applicant: GEORGE J. WEBB, JR. AND GEORGE J. WEBB, III, d.b.a. WEBB TRUCKING, Route No. 2, McLeansboro, IL 62859. Representative: Robert T. Lawley, 300 Reisch Building, Springfield, IL 62701. *Wood pallets, wood skids, wood boxes, wood blocking,* from McLeansboro, IL to points in AR, IN, IA, KY, LA, MO, MI, MN, OH, TN, WI, and from Poplar Bluff, MO to points in AR, IN, IA, IL, KY, LA, MI, MN, OH, TN, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Joseph G. Baldwin Co., P.O. Box 276, McLeansboro, IL 62859. Send protests to: David Hunt, TA, Room 1386, 219 S. Dearborn Street, Chicago, IL 60604.

MC 148287 (Sub-TA), filed September 24, 1979. Applicant: ALL-AMERICAN TRANSPORT CORP., 5770 N. Military Trail, West Palm Beach, FL 33407. Representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. *Frozen citrus concentrate* from points at or near Indiantown, FL to points in CA, AZ, CO, OR, WA, and NV for 180 days. Supporting Shipper(s): Caulkins Indiantown Citrus Co., P.O. Box 458, Indiantown, FL 33456. Send protests to: Donna M. Jones, T/A, ICC–BOp, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 148306 (Sub-1TA), filed September 17, 1979. Applicant: DAROLD R. TABOR, INC., P.O. Box 11354, Pueblo, CO 81001. Representative: John H. Lewis, The 1650 Grant Street Building, Denver, CO 80203. *Sodium sulfate,* from Farmington, NM and Seagraves, TX to points in CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Public Service Co. of Colorado, P.O. Box 840, Room 560, Denver, CO 80201. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

V 44 0C 22 79 UMI

MC 148307 (Sub-1TA), filed September 17, 1979. Applicant: ED H. BURGENER, a sole proprietorship, P.O. Box 386, LaPorte, CO 80535. Representative: Richard S. Mandelson, Jones, Meiklejohn, Kehl & Lyons, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. *Limestone crushed rock*, in bulk, from Larimer County, CO to Albany, Carbon and Goshen Counties, WY for 180 days. Underlying ERA filed seeking 90 days authority. Supporting Shipper(s): Holly Sugar Corp., P.O. Box 1052, Colorado Springs, CO 80901. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 138157 (Sub-171TA), filed July 25, 1979 and previously published in the Federal Register and republished as corrected this issue. Applicant's Name: SOUTHWEST EQUIPMENT RENTAL, INC. d.b.a. SOUTHWEST MOTOR FREIGHT. Applicant's Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Acids, chemicals and chemical compounds* in packages and materials, equipment and supplies used in the application of the commodities named above, from Waterloo, NY, to points in the United States (except AK and HI). (2) *Acids, chemicals, plastics and plastic and rubber articles, and materials, equipment and supplies used in the application of the commodities named above*, from Canton, MA and Gardena, CA to points in the United States (except AK and HI). (3) *Materials, equipment and supplies used in the manufacture, production and distribution of the commodities nomed in (1) and (2) above*, from points in the United States (except AK and HI) to Waterloo, NY; Canton, MA and Gardena, CA. Restrictions: Restricted in (1), (2) and (3) above against the transportation of commodities in bulk and commodities which by reason of size or weight require the use of special equipment. Further restricted to traffic originating at or destined to the facilities of W. R. Grace & Co. Supporting Shipper: W. R. Grace & Co., 55 Hayden Avenue, Lexington, MA 02173. Send protests to: Joe J. Tate, Interstate Commerce Commission, 801 Broadway, Suite A–422, Federal Building, Nashville, TN 37203. The purpose of this republication is to indicate the proper territorial scope of the application.

Note.—Applicant holds contract carrier authority in MC 134150 and subs thereunder, therefore dual operations may be involved.

MC 146887 (Sub-2TA), filed July 6, 1979 and previously published in the Federal Register and corrected in this issue.

MC 146887 (Sub-2TA), filed July 6, 1979. Applicant: RINALDI MOTOR TRANSPORT, INC., P.O. Box 879, 216 W. Harris Court, So. San Francisco, CA 94080. Representative: R. C. Chauvel, 100 Pine Street, Suite 2550, San Francisco, CA 94111. (1) *Electrical appliances, equipment and parts*, as described in Appendix VII of Ex Parte No. MC–45, Descriptions in Motor Carrier Certificates, 61 M.C.C. 209, (2) *Air Conditioning units, parts and supplies* and (3) *construction materials*; from Alameda, Santa Clara, San Mateo and San Francisco Counties, CA to points in the Reno Commercial Zone, NV., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 10 statements in support attached to this application which may be examined at the I.C.C. in Washington, D.C. or copies of which may be examined in the field office named below. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105. The purpose of this publication is to properly indicate the territorial scope of this application.

MC 115826 (Sub-482TA), filed June 1, 1979 and published in the Federal Register issue of July 16, 1979 and republished as corrected in this issue. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as above). *Chemicals, NOI, cleaning, defoaming and paint removing compounds, solvents, plastic liquid, ink, plastic sheeting, machinery, machinery parts, paint, lacquer, varnish and paint thinner*, between facilities of Thiokol/Dynachem Corporation, Orange County, CA. on the one hand, and on the other hand, Indianapolis and Terre Haute, IN, Elmhurst, IL, Herndon, VA, Charlotte and Matthews, NC, Moss Point, MS, Kearney, NJ, Farmingdale, NY, Woburn and South Hadley Falls, MA; and from Moss Point, MS to Charlotte and Matthews, NC and South Hadley Falls, MA, for 180 days. Supporting shipper(s): Thiokol/Dynachem Corp., P.O. Box 12047, Santa Ana, CA 92711. Send protests to: Herbert C. Ruoff, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202. The purpose of this republication is to add a destination point to the second territory described above.

MC 1977 (Sub-37TA), filed July 31, 1979 and previously published in the Federal Register and republished as corrected this issue. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe Street, Denver, CO 80216. Representative: Leslie R. Kehl, 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Authority sought to operate as a *common carrier*, over regular routes transporting: *general commodities (except those of unusal value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities, which because of size or weight, require special handling or the use of special equipment)*; regular routes: (1) between Pasco, WA and Olympia, WA, serving the intermediate points of Seattle and Tacoma, WA, and points between Pasco and Ellensburg, WA (including the designated termini), together with off-route points within a 50 mile radius of Tacoma and those within 10 miles of the designated highway between Pasco and Ellensburg; from Pasco over WA Highway 14 to Kennewick, WA, then via U.S. Highway 12 and I–82 (as now existing or as hereinafter completed) to the junction of I–90, then over I–90 via Ellensburg to Seattle, then via I–5 to Olympia and return over the same route; (2) between Pasco, WA and Eugene, OR, serving as intermediate points Kennewick, WA, and intermediate points between Portland, OR and Eugene, OR (including the designated termini), and as off-route points Corvallis, OR and those points within a 50 mile radius of Portland; from Pasco over WA Highway 14 to Kennewick, then via Highway 14 and unumbered OR highway to Umatilla, OR, then via U.S. Highway 730 to junction I–80 N, then via I–80 N to a destination in the states of WA and OR. ALTERNATE ROUTES: (for joinder and operating convenience only) (1) between Boise, ID and Albany, OR; from Boise over I–80 N to junction U.S. Highway 20, then via U.S. Highway 20 to Albany and return over the same route; (2) between Boise, ID and Portland, OR; from Boise over I–80 to junction U.S. Highway 26, then via U.S. Highway 26 to Portland and return over the same route; (3) between Spokane, WA and Seattle, WA; from Spokane over I–90 to Seattle and return; (4) between Boise, ID and Kennewick, WA; from Boise over I–80 N to junction U.S. Highway 395, then via U.S. Highway 395 to junction U.S. Highway 730, then over U.S. Highway 730 to Umatilla, OR, then over unnumbered highway to junction WA Highway 14, then via WA highway 14 to Kennewick and return over the same route; (5) between Boise, ID and Portland, OR; from Boise over I–80 N to Portland and return over the same route; (6) between Portland, OR and Olympia, WA; from Portland over I–5 to Olympia and return over the same route for 180 days. Restricted in (1) through (6) inclusive above against any traffic having both an origin and a destination in the states of WA and OR. An underlying ETA seeks up to 90 days operating authority. Supporting shipper(s): 800 supporting statements can be examined at the address below, or at Headquarters in Washington, D.C. Send protests to: Roger L. Buchanan, ICC, 492 U.S. Customs House, Denver, CO 80202. The purpose of this republication is to properly indicate the territorial scope of this application.

MC 147897 (Sub-TA), filed July 23, 1979 and published in the Federal Register of September 17, 1979, and republished as corrected in this issue. Applicant: J. C. ROSS, d.b.a. ROSS TRUCKING CO., Route 3, John Hall Road, Knoxville, TN 37920. Representative: John J. Duncan, Jr., Suite 350, City & County Bank, One Regency Square, Knoxville, TN 37915. *(1) Industrial and agricultural lime, limestone, and limestone products* from the facilities utilized by Tennessee Luttrell Lime Company and Luttrell Mining Company at or near Luttrell, TN to points in NC, SC, KY, OH, VA, GA, IN, AL, IL, and WV, and (2) *Industrial and agricultural lime* from the facilities utilized by Williams Lime Mfg Co., Inc. at or near Knoxville, TN to points in NC, SC, KY, OH, VA, GA, IN, AL, IL and WV, for 180 days. Supporting shipper(s): Tennessee Luttrell Lime Co. and Luttrell Mining Co., P.O. Box 11705, Knoxville, TN 37919. Williams Lime Mfg. Co. Inc., P.O. Box 2286, Knoxville, TN 37901. Send protests to: Glenda Kuss, TA, ICC, A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203. The purpose of this republication is to indicate where protests must be sent.

Notice No. 183

MC 2202 (Sub-606TA), filed August 17, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* serving the plantsite of AMP, Inc. at or near Shrewsbury, PA as an off-route point in connection with applicant's present authority for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): AMP, Inc., P.O. Box 3608, Harrisburg, PA 17105. Send protests to: I.C.C., Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 2202 (Sub-604TA), filed August 7, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment.* 1. Between Amarillo, TX and Holbrook, AZ serving all intermediate points and points in their commercial zones: From Amarillo over US Highway 66 to Holbrook, and return over the same route. 2. Between Amarillo, TX and Las Cruces, NM serving all intermediate points and points in their commercial zones: From Amarillo over US Highway 60 to junction US Highway 70 to Las Cruces, and return over the same route. 3. Between Las Cruces and Albuquerque, NM serving no intermediate points: From Las Cruces over Interstate Highway 25 to Albuquerque, and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 21 supporting shippers. Send protests to: I.C.C., Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 2202 (Sub-605TA), filed August 16, 1979. Applicant: ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. *Common, regular; General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment* 1. Between El Paso, TX and Hobbs, NM, serving the intermediate point of Carlsbad, NM and points in their commercial zones and serving El Paso for joinder only: From El Paso over U.S. Hwy 180 to Hobbs, and return over the same route. 2. Between Carlsbad, NM and Roswell, NM, serving all intermediate points and points in their commercial zones and serving Roswell for joinder only: From Carlsbad over U.S. Hwy 285 to Roswell, and return over the same route. 3. Between Tucumcari, NM and Albuquerque, NM, serving all intermediate points and the off-route points of Espanola and Los Alamos, and points in their commercial zones and serving Tucumcari for joinder only: From Tucumcari over NM Hwy 104 to Las Vegas, then U.S. Hwy 85 to Albuquerque, and return over the same route for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack authority sought herein with authority held under MC 2202 and interline at all points of interchange. Supporting shipper(s): There are 10 supporting shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: I.C.C., Federal Reserve Bank Building, 101 N. 7th Street, Room 620, Philadelphia, PA 19106.

MC 2202 (Sub-68TA), filed July 27, 1979. Applicant: A & H TRUCK LINE, INC., 1111 East Louisiana Street, Evansville, IN 47711. Representative: George M. Catlett, Suite 708, McClure Building, Frankfort, KY 40601. *General commodities, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment*, serving Calvert City, KY and its Commercial Zone as defined by the Commission as an off route point in connection with carriers presently authorized regular-route operations for 180 days. 49 supporting shippers. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio Street, Room 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 15242 (Sub-6TA), filed August 21, 1979. Applicant: CAUTHEN GIN & BAG CO., INC., Rt. 4, Box 550, Monroe, NC 28110. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. (a) *Textile products, materials and supplies used in the manufacture thereof (except in bulk)*, (1) from Philadelphia, PA and points in its commercial zone; Fairfield, NJ and points in its commercial zone; and Baltimore, MD and points in its commercial zone, to points in TX, MN and in and east of MS, TN, KY, IL, WI and MI; (2) from points in TX, MN and in and east of MS, TN, KY, IL, WI and MI to Philadelphia and York, PA and points in their commercial zones; Jersey City and Elizabeth, NJ and points in their commercial zones; and Baltimore, MD and points in its commercial zone; (b) *vinyl film and sheeting, materials and supplies used in the manufacture thereof (except in bulk)*, (1) from Philadelphia, PA and points in its commercial zone, to points in TX and in and east of MS, TN, KY, IL, WI and MI; (2) from points in NC, SC, GA and AL, to Philadelphia, PA and points in its commercial zone; (c) *liquid detergents and abrasives, materials and supplies used in the manufacture thereof (except in bulk)*, (1) from Philadelphia, PA and points in its commercial zone, to points in TX, AR, MO and in and east of MS, TN, KY, IL, WI and MI; (2) from points in GA and NY, to Philadelphia, PA and

V 44 0C 22 79 UMI

points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 12 supporting shippers in this application. Their statements may be examined at the office listed below or Headquarters. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 15242 (Sub-7TA), filed August 9, 1979. Applicant: CAUTHEN GIN & BAG CO., INC., Rt. 4, Box 550, Monroe, NC 28110. Representative: Eric Meierhoefer, Suite 423, 1511 K Street NW., Washington, DC 20005. *Textile products and equipment, materials and supplies used in the manufacture thereof (except in bulk),* (1) from Gaffney and Greenville, SC, and points in their commercial zones; Charlotte, Roanoke Rapids, Salisbury, Pineville, Monroe and Lumberton, NC, and points in their commercial zones, to points in TX, OK, MN and in and east of MS, TN, KY, IL, WI and MI; (2) from points in TX, OK and in and east of MS, TN, KY, IL, WI, and MI, to Charlotte, Monroe and Lumberton, NC, and points in their commercial zones for 180 days. A corresponding ETA seeks 90 days authority. Supporting shipper(s): There are 11 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Terrell Price, 800 Briar Creek Rd.—Rm. CC516, Charlotte, NC 28205.

MC 32122 (Sub-3TA), filed August 2, 1979. Applicant: PAZEN TRANSFER LINES, INC., P.O. Box 243, Waukau, WI 54980. Representative: James Spiegel, 6425 Odana Rd., Madison, WI 53719. *Baked goods and materials, equipment and supplies used in the manufacture, storage or distribution of baked goods,* between Ripon, WI and points in IA, IL, IN, MI, and MN, restricted to transportation originating from or terminating at facilities of Ripon Foods, Inc. and Heritage Wafers, Ltd., Ripon, WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ripon Foods, Inc., Oshkosh St., Ripon, WI 54971. Send protests to: Cail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 47583 (Sub-107TA), filed August 21, 1979. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, KS 66115. Representative: D. S. Hults, P.O. Box 225, Lawrence, KS 66044. *(1) Plastic articles, and such equipment, materials and supplies used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk and those which because of size or weight require the use of special equipment);* between the facilities of Fort Howard Paper Company, at or near Muskogee, OK, on the one hand, and, on the other, points in AZ, AR, CA, CO, ID, IL, KS, LA, MO, MT, NE, NV, NM, OK, OR, TX, UT, WA, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Fort Howard Paper Co., 1919 S. Broadway, Green Bay, WI 54301. Send protests to: Vernon V. Coble, DS, ICC—600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 56082 (Sub-76TA), filed August 23, 1979. Applicant: DAVIS & RANDALL, INC., 52 E. Main Street, Fredonia, NY 14063. Representative: Harold L. Furness (same address as above). *Such merchandise as is dealt in by wholesale, retail and chain grocery and feed houses in containers, being cereals, soft moist pet food and feed animal, except bulk and frozen,* from Dunkirk NY to points in OH, PA, WV, MI and New York and Long Island, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 3800 Middle Rd., Dunkirk NY 14048. Send protests to: Anne C. Siler, TA, ICC, 910 Federal Bldg., 111 West Huron St., Buffalo, NY 14202.

MC 61403 (Sub-27TA), filed August 13, 1979. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11W, Kingsport, TN 37662. Representative: James P. Ray (same address as applicant). *White Oil and Sulfonates, in bulk, in tank vehicles,* from plant site of Marathon Morco Co., Dickinson, TX to FL, GA, IL, KS, IA, MD, MS, MO, NE, NJ, NY NC, OH, & TN, for 180 days. Supporting shipper(s): Marathon Morco Company, 4151 Southwest Fwy., Suite 508, Houston, TX 77027. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 61592 (Sub-469TA), filed June 25, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Donald W. Smith, 9000 Keystone Crossing, Indianapolis, IN 46240. *Panel and panel sections* from Louisville, KY to Beverly, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Lisco, Inc., 725 Bean Blossom, Louisville, KY 40213. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 East Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 69052 (Sub-38TA), filed July 2, 1979. Applicant: REED TRUCKING COMPANY, INC., P.O. Box 216, Milton, DE 19968. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Washington, DC 20004. *Dry chemicals,* except in bulk, from Syracuse, Buffalo, Niagara Falls, and Seneca Falls, NY to the facilities of Robinson Chemical Company, Inc. at Cambridge, MD for 90 days. An Underlying ETA seeks 90 days. Supporting shipper(s): George H. Robinson III, President, Robinson Chemical Company, Inc., P.O. Box 264, Cambridge, MD 21613. Send protests to: W.L. Hughes, DS, ICC, 1025 Federal Bldg., Baltimore, MD 21201.

MC 69833 (Sub-148TA), filed August 28, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW, 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad, 200 Monroe Avenue NW, 6th Floor, Grand Rapids, MI 49503. *Glass Containers and accessories;* from the facilities of Anchor Hocking Glass Company, Gurnee, IL to Memphis, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Anchor Hocking Corporation, 109 North Broad Street, Lancaster, OH 43130. Send protests to: C. R. Flemming, D/S I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 75302 (Sub-14TA), filed August 27, 1979. Applicant: DOUDELL TRUCKING COMPANY, 555 E. Capitol Avenue, Milpitas, CA 95305. Representative: R. C. Chauvel, 100 Pine St., Suite 2550, San Francisco, CA 94111. Common carrier; irregular routes: *Ammonium Perchlorate,* in bins from Henderson, NV to Nimbus, CA and return shipments of empty bins from Nimbus CA to Henderson, NV, between the facilities of Aerojet Tactical Systems at Nimbus, CA and Henderson, NV restricted to shipments moving for the amount of Aerojet Tactical Systems, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Aerojet Tactical Systems, P.O. Box 13400, Sacramento, CA 95813. Send protests to: D/S N. C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 75302 (Sub-15TA), filed August 27, 1979. Applicant: DOUDELL TRUCKING COMPANY, 555 E. Capitol Avenue, Milpitas, CA 95305. Representative: M. Handler & R. Chauvel, 100 Pine St., San Francisco, CA 94111. Common carrier; irregular routes: *Alcoholic Beverages,* between points in California and the Plantsites of Southern Wine and Spirits of Nevada, Inc., located in Las Vegas and Sparks, Nevada: Restricted to shipments moving for the account of Southern Wine and Spirits of Nevada, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Southern Wine and Spirits of Nevada, Inc., 4500 Wynn Rd., Las Vegas, NV 89103. Send protests to: D/S Neil C. Foster, 211 Main, Suite 500, San Francisco, CA 94105.

MC 81133 (Sub-5TA), filed August 6, 1979. Applicant: CORKERY FUEL & MATERIALS COMPANY, 1017 Mary Candace Lane, St. Louis, MO 63125. Representative: Michael W. O'Hara, Atty., 300 Reisch Bldg., Springfield, IL 62701. *Coal,* for the account of River Cement Co., from Ava, DuQuoin, West Frankfort and Sparta, IL to Festus, MO, for 180 days. Supporting shipper(s): River Cement Company, P.O. Box 14545, St. Louis, MO 63178. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 103993 (Sub-991TA), filed July 5, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani and/or James B. Buda (same address as applicant). (1) *Iron and steel articles,* from the plantsite and warehouse facilities of Magnum, Inc., at or near Buffalo, NY to points in the United States in and east of the States of ND, SD, NE, KS, OK and TX. (2) Return shipments of materials, equipment and supplies used in the manufacture, sale and distribution of iron and steel articles, (except commodities in bulk), from points in the United States in and east of the States of ND, SD, NE, KS, OK and TX to the plantsite and facilities of Magnum, Inc., at or near Buffalo, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Magnum, Inc., 20100 Civic Center Drive, Suite 313, Southfield, MI 48076. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 103993 (Sub-992TA), filed July 5, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda and/or Paul D. Borghesani (same address as applicant). *Trailers (except those designed to be drawn by passenger automobiles) in initial movements,* from the plantsite of Swan, Inc., at or near Powhatan, VA, to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Swan, Inc., P.O. Box 29540, Richmond, VA 23229. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 103993 (Sub-993TA), filed July 5, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani and/or James B. Buda (same address as applicant). (1) *Hardwood systems and hardwood flooring,* (2) *materials and supplies used in the installation thereof,* and (3) *wood products, lumber and millwork,* from Iron County, MI to points in the United States in and east of ND, SD, NE, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: AGA, Inc., P.O. Box 25, Amasa, MI 49903. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 103993 (Sub-994TA), filed July 9, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda and/or Paul D. Borghesani (same address as applicant). *Buildings in section mounted on wheeled undercarriages,* from the plantsite of Grizzly Manufacturing at or near Hamilton, MT to points in ID, NV, WY, UT, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Grizzly Manufacturing, P.O. Box 1070, Hamilton, MT 59840. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 103993 (Sub-995TA), filed August 24, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda and/or Paul D. Borghesani (same address as applicant). *Iron and steel articles,* between points in the United States in and east of the States of ND, SD, NE, KS, OK and TX. Restricted to traffic which originates at or is destined to the facilities of Gregory Galvanizing, Inc. at Canton, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper: Gregory Galvanizing, Inc., 1723 Cleveland Avenue SW, Canton, OH 44706. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Room 429, Idianapolis, IN 46204.

MC 103993 (Sub-996TA), filed July 2, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: Paul D. Borghesani and/or James B. Buda (same address as applicant). *Ferrous and non-ferrous metal scrap and battery scrap,* (1) from the facilities of Commercial Metals Company at Dallas, Lubbock, Beaumont, Houston, Ft. Worth, San Antonio, Odessa and Corpus Christi, TX; Atlanta, GA; Jacksonville, FL; and Mobile AL; and, (2) from the facilities of Newell Salvage in San Antonio, TX; and, (3) from the facilities of Glow Metals in Lancaster, TX to all points in the United States (except AK and HI) for 180 days. Supporting Shipper: Commercial Metals Company, 3000 Diamond Park Drive, Dallas, TX 75221. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Room 429, Indianapolis, IN 46204.

MC 105782 (Sub-17TA), filed August 9, 1979. Applicant: HUGHES REFRIGERATED EXPRESS, INC., P.O. Box 2106, Haines City, FL 33844. Representative: James E. Wharton, Suite 811, Metcalf Bldg., 100 South Orange Ave., Orlando, FL 32801. *Bananas* from Tampa, FL to IL, WI, MI, IN, OH, PA, NC, SC, and NY for 180 days. Supporting Shipper(s): Turbana Banana Corp., 2701 LeJeune Rd., Coral Gables, FL 33134. Send protests to: Donna M. Jones, T/A, ICC—BOp:, Monterey Bldg., Suite 101, 8410 N.W. 53rd Ter., Miami, FL 33166.

MC 106523 (Sub-6TA), filed August 1, 1979. Applicant: CARLSON TRANSPORT, INC., P.O. Box 20214, Billings, MT 59104. Representative: Donald L. Sand (same address as applicant). *Salt, in bulk,* from Lake Point, UT to points in MT for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Leslie Salt Co., 866 W. 2600 S., Salt Lake City, Ut 84119. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 106603 (Sub-206TA), filed August 17, 1979. Applicant: DIRECT TRANSIT LINES, INC., 200 Colrain Street SW., P.O. Box 8099, Grand Rapids, MI 49508. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. *(1) Metal roofing and roofing materials* from the facilities of Roof Systems, Inc. located at or near Grand Rapids, MI to points in IL, IN, OH, KY, PA, NJ, NY, DE, MD, WV, MO, IA, WI and VA. (2) *Materials, equipment and supplies* used in the manufacturing and distribution of metal roofing and roofing materials from Middletown, OH to the facilities of Roof Systems, Inc. located at or near Grand Rapids, MI. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Roof Systems, Inc., 5380 36th Street SE., Grand Rapids, MI 49508. Send protests to: C. R. Flemming, D/S, I.C.C., 225 Federal Building, Lansing, MI 48933.

MC 107012 (Sub-426TA), filed July 16, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Furnaces and air conditioning units,* from the facilities of Friedrich Group-Wylain, Inc. located at or near Utica, NY to points in FL and Lawrenceville, GA for 180 days. Supporting shipper(s): Friedrich Group-Wylain, Inc., 2007 Beechgrove Pl., Utica, NY 13501. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E.

V 44 O 22 79 UMI

Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 107012 (Sub-427TA), filed July 18, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Paper and paper products,* from the facilities of Scott Paper Co. located at or near Dover, DE, Philadelphia, PA and the commercial zone of Philadelphia, PA, Fort Edward and Albany, NY and Winslow, ME, to points in OH, IN, IL, MI, MO, WI, NC, SC, GA, AL, KY and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Scott Paper Company, Scott Plaza, Philadelphia, PA 19113. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 107012 (Sub-428TA), filed July 19, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Carpet tile* from the facilities of Armstrong Cork Company at or near Marietta, PA to points in IL, IN, IA, KS, KY, MI, MO, NE, OH, and WI for 180 days. Supporting shipper(s): Armstrong Cork Company, P.O. Box 3001, Lancaster, PA 17604. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 107012 (Sub-429TA), filed July 19, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). *Plastic and steel containers, pails, covers, caps and handles,* from the facilities of Bennett Industries located at or near Peotone, IL, to points in IN, MI, OH, KY, WI, MO, IA and MN, for 180 days. Supporting Shipper: Bennett Industries, Division of Growth International Industries Corporation, Peotone, IL 60468. Send Protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107012 (Sub-430TA), filed July 26, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: Stephen C. Clifford (Same address as applicant). *Floral foam and floral supplies,* from the facilities of S. S. Pennock Company at Finderne, NJ to points in NE, KS, CO, TX and OK for 180 days. Supporting Shipper: S. S. Pennock Company, Stokley Street, Philadelphia, PA 19129. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107012 (Sub-431TA), filed July 30, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (Same address as applicant). *Artificial Christmas trees,* from the facilities of Marathon Carey-McFall Company, at or near Montgomery, Avis, Jersey Shore and Harrisburg, PA and Longview, TX to points in the United States (except AK and HI) for 180 days. Supporting Shipper: Marathon Carey-McFall Company, P.O. Box 98, Montoursville, PA 17754. Send protests to: Beverly J. Williams, Transportation Assistant, ICC 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107012 (Sub-432TA), filed August 30, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, IN 46801. Representative: Gerald A. Burns (Same address as applicant). *Carpet padding,* from Shelbyville, TN to points in AR, KS, MN, ND and OK for 180 days. Supporting Shipper: General Felt Industires, Inc. Park 80 Plaza, West-one, Saddle Brook, NY 07662. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St. Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 107403 (Sub-1261TA), filed June 21, 1979. Applicant: MATLOCK, INC. 10 W. Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). *Pulverized talc, in bulk, in tank vehicles,* from Gassetts, VT to Royston, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Johnson & Johnson Baby Products Company, 240 Centennial Ave., Piscataway, NJ 08854. Send protests to: I.C.C., Fed. Res. Bank Bldg. 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 107403 (Sub-1282TA), filed July 18, 1979. Applicant: MATLACK, INC., 10 West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). *Petroleum and petroleum products,* in bulk, in tank vehicles, from all pts, in Jefferson County, TX to all pts in the US (except AK & HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco Inc., 111 Rusk, Houston, TX 77002. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 110012 (Sub-61TA), filed August 20, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr. or Robert B. Walker, 915 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *Canned goods,* from Moorhead, MS to points in TN, VA, NC, SC, GA and KY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allen Canning Co., P.O. Box 250—305 E. Main St., Siloam Springs, AR 72761. Send protests to: Glenda Kuss, TA, ICC, 801 Broadway, U.S. Courthouse, Suite A-422, Nashville, TN 37203.

MC 113362 (Sub-363TA), filed August 6, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, P.O. Box 429, Austin, MN 55912. *Candy and confectionery (except commodities in bulk)* from the facilities used by Confectionary Consolidators, Inc. at New York, NY, and its commercial zone and Philadelphia, PA, and its commercial zone to Dallas, Garland, Houston, and San Antonio, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Confectionary Consolidators, Inc., 797 Hillside Rd., Rahway, NJ 07065. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114273 (Sub-646TA), filed August 3, 1979. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Representative: Kenneth L. Core (same address as applicant). (See attached appendix A) . . . for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): There are 13 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 114562 (Sub-10TA), filed August 1, 1979. Applicant: WENDELL TRANSPORT CORP., 500 Industrial Dr., Wendell, NC 27591. Representative: Same as applicant. *Anhydrous ammonia, in bulk, in tank vehicles,* from Wilmington, NC to points in SC, for 180 days. Supporting shipper(s): W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, NC 28402. Send protests to: Terrell Price, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 115162 (Sub-499TA), filed August 24, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (P.O. Box same as applicant). *Paper and paper articles, bags, and wrapping paper* from the facilities of International Paper Company at or near Jackson, TN to points in the United States in and east of ND, SD, NE, KS, OK, and TX for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): International Paper Company, 220 East 42nd Street, New York, NY 10017. Send protests to: Mabel E. Holston, T/A ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 115162 (Sub-500TA), filed July 17, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Box 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *(1) Tractors (except those with vehicle beds, bed frames and fifth wheels, (2) equipment designed for use in conjunction with tractors, (3) agricultural, industrial and construction equipment, and (4) attachments for the commodities in (2) and (3) above;* from the facilities of J. I. Case Company at or near Burlington and Bettendorf, IA to points in the States of AL, AR, FL, GA, LA, MS, TN and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): J. I. Case Company, 700 State Street, Racine, WI 53404. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 115162 (Sub-501TA), filed August 2, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). *Industrial weights and counterweights, castings, plastic reels and plastic containers* from points in Lee County, AL to points in the United States in and east of ND, SD, NE, KA, OK and TX; and *Materials and supplies used in the manufacture and distribution of industrial weights and counterweights, castings, plastic reels and plastic containers* (except commodities in bulk, in tank vehicles), from points in the United States in and east of ND, SD, NE, KA, OK, and TX to points in Lee County, AL. Supporting shipper(s): Castone Corporation, P.O. Box 747, Opelika, AL 36801; Data Technology Corp., 420 Williamson Avenue, Opelika, AL 36801. Send protests to Mabel E. Holston, T/A, ICC, Room 1616—2121 Building, Birmingham, AL 35203.

MC 116913 (Sub-8TA), filed May 7, 1979. Applicant: RAYMOND BUIS, d.b.a. BUIS TRUCKING, 110 Tandy Ave., Somerset KY 42501. Representative: Robert H. Kinker, 314 W. Main St., P.O. Box 464, Frankfort, KY 40602. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *dry fertilizer,* in bulk, from the plantsite of C. F. Industries, Inc., Terre Haute Nitrogen Complex, near Terre Haute, IN, to points in KY for 180 days. Supporting shipper(s): O. J. Adams, Area Rep.—Ky., Southern States Cooperative, Inc., P.O. Box 13065, Louisville, KY 40213. Send protests to: Mrs. Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Bldg., Louisville, KY 40202.

MC 118202 (Sub-132TA), filed July 16, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge St., Winona, MN 55987. Representative: John Rhodes, P.O. Box 5000, Waterloo, IA 50704. *General commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment* (1) from facilities of West Coast Shipper's Assoc., Inc. at Philadelphia, PA and Jersey City, NJ to points in IL, MN, MO and WI, and (2) between Chicago, IL and Marinette, WI and Part 2 from the facilities of East West Shipper's Assoc. at Chicago, IL to Philadelphia, PA and Jersey City, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): West Coast Shipper's Assoc., Inc. and East West Shipper's Assoc., 2000 S. 71 St., Philadelphia, PA 19145. Send protests to: Judy Olson, TA, ICC, 414 Federal Bldg., and U.S. Courthouse, 110 S. 4th St., Minneapolis, MN 55401.

MC 118202 (Sub-130TA), filed July 3, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Plastic containers* from Port Clinton, OH, Prescott, Tucson and Scottsdale, AZ, Oakland, TN, Omaha, NE, and Ft. Lauderdale, FL, to Winona, MN, for 180 days. Supporting shipper(s): Technigraph Corporation, 850 West Third Street, Winona, MN 55987. Send protests to: District Supervisor, ICC, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, MN 55401.

MC 118263 (Sub-91TA), filed July 17, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. *Frozen foodstuffs, except in bulk, moving in vehicles equipped with mechanical refrigeration,* from the facilities of Freezer Queen Foods, Inc., a Division of Nabisco, Inc. at Buffalo, NY, to points in the United States east of MN, IA, MO, AR and LA, for 180 days. Supporting shipper: Freezer Queen Foods, Inc., Division of Nabisco, Inc., 975 Fuhrman Boulevard, Buffalo, NY 14203. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 118263 (Sub-92TA), filed July 17, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. *Photographic paper and materials requiring refrigeration,* from Baltimore, MD, Charleston, SC, Newark, NJ, New York, NY, Norfolk, VA and Philadelphia, PA to points in IL, IN, KY, MI, MN, MO and OH for 180 days. Supporting shipper: Mitsubishi International Corporation, 2100 John Hancock Center, 875 N. Michigan Ave., Chicago, IL 60611. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 118263 (Sub-93TA), filed July 26, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William P. Whitney, Jr., 708 McClure Building, Frankfort, KY 40601. *Bakery products, pastry and dough, moving in vehicles equipped with mechanical refrigeration,* from the facilities of the Eckel Baking Company at Clearwater, FL to La Porte, IN; Bristol, VA; Goldsboro, NC; Orangeburg, SC and Baltimore, MD for 180 days. Supporting shipper: Eckel Baking Company, 2141 Logan St., Clearwater, FL 33515. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 118263 (Sub-94TA), filed August 6, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. *Candy,* from the facilities of M&M/MARS at Hackettstown, NJ, Elizabethtown, PA and Elizabeth, NJ to points in OH, MI, IN, IL and KY and from the facilities of M&M/MARS at Chicago, IL to points in MA, for 180 days. Supporting Shipper: M&M/MARS—Division of Mars, Incorporated, High Street, Hackettstown, NJ 07840. Supporting Shipper: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 123872 (Sub-110TA), filed July 12, 1979. Applicant: W & L MOTOR LINES, INC., P.O. Box 3467, Hickory, NC 28601. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. *New furniture and furniture parts* (1) from Rutherford County, NC to points in CA, CO, IL, IA, KS, MN, NE, NM, OK, TX

V 44 OC 22 79 UMI

and WI and (2) from Caldwell County, NC to points in OK, TX and MN, for 180 days. Supporting Shipper(s): G. F. Business Equipment, Inc., Forest City, NC 28645; Broyhill Furniture Industries, Inc., Broyhill Park, Lenoir, NC 28633. Send protests to Terrell Price, 800 Briar Creek Rd—Rm CC516, Mart Office Building, Charlotte, NC 28205.

MC 124873 (Sub-40TA), filed August 16, 1979. Applicant: FEED TRANSPORTS, INC., P.O. Box 2167, Amarillo, TX 79105. Representative: Gail Johnson (same address as applicant). *Liquid fertilizer*, from Moore and Hutchinson Counties, TX, to points in CO, KS, NE, and OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Texas Sulphur Products Company, 204 Bryan Street, Borger, TX 79007. Supporting Shipper: Martha A. Powell, TCS, I.C.C., Room 9A27 Federal Building, Fort Worth, TX 76102.

Notice No. 190

W-976 (Sub-4TA). Applicant: LYKES BROS. STEAMSHIP CO., INC., 300 Poydras Street, New Orleans, LA 70130. Applicant's representative: A. F. Babin, Chief of Intermodal Pricing, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, LA. By decision of September 9, 1979, the Motor Carrier Board granted Lykes Bros. Steamship Co., Inc., 180-day temporary authority to transport nuclear reactor components, by self-propelled vessel from the port of New Orleans, LA., to the port of Portland, OR, via the Panama Canal, under contract with the Babcock & Wilcox Co. Any interested person may file a petition for reconsideration with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, within 20 days of the date of this publication. Within 20 days of the filing of such petition, any interested person may file and serve a reply.

W-406 (Sub-14TA), filed September 8, 1979. Applicant: OHIO BARGE LINE, INC., 600 Grant Street, Pittsburgh, PA 15219. Applicant's representative: Henry M. Wick, Jr., Attorney at Law, 2310 Grant Building, Pittsburgh, PA 15219. By decision of September 19, 1979, the Motor Carrier Board granted applicant 150-day temporary authority commencing no sooner than October 1, 1979, to engage in the business of transportation by non-self propelled vessels with the use of separate towing service, in interstate or foreign commerce, in the transportation of iron and steel articles, from the facilities of United States Steel Corporation, at or near South Chicago, IL, and the facility of Central Wharf of Homestead District Works, at or near Munhall, PA, to lock and dam number one (mile 42.6) on the Red River in Louisiana. Any interested person may file a petition for reconsideration with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, within 20 days of the date of this publication. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32478 Filed 10-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 28640 (Sub-5)]

Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Reorganization; Trustee's Plan of Reorganization

October 16, 1979.

Richard B. Ogilvie, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Company, represented by John W. Rowe, of Isham, Lincoln & Beale, One First National Plaza, Chicago, IL 60603, on September 28, 1979, filed with this Commission a plan of reorganization for the Chicago, Milwaukee, St. Paul & Pacific Railroad Company. The United States District Court for the Northern District of Illinois, Eastern Division, by Order No. 210, dated August 10, 1979, directed that the Trustee's plan of reorganization be submitted to the Commission, pursuant to section 77(d) of the Bankruptcy Act, 11 U.S.C. § 205(d). The plan is available for public inspection at the offices of the Interstate Commerce Commission during normal business hours.

Interested persons may participate as parties in the hearing to be held before the Commission required by section 77(d) of the Bankruptcy Act. In order to be considered a party, a written statement should be submitted which shall include the person's position, e.g., party protestant, or party in support, of the reorganization proceeding, and a request for oral hearing, if one is desired. Plans of reorganization may likewise be filed at any time before, or with the consent of the Commission, during the hearings by or on behalf of creditors being not less than 10 per centum in amount of any class of creditors, or by or on behalf of any class of stockholders being not less than 10 per centum in amount of any such class, or with the consent of the Commission, by any party of interest. Such submissions shall indicate the proceeding designation Finance Docket No. 28640 (Sub-No. 5) and an original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, on or before November 21, 1979. Persons submitting written statements to the Commission shall, at the same time serve copies of such statements upon the applicant and upon the Clerk, United States District Court for the Northern District of Illinois, Eastern Division, 209 South Dearborn Street, Chicago, IL 60606.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32477 Filed 10-19-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7; Sub-86F]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul & Pacific Railroad Co.—Abandonment—Portions of Pacific Coast Extension in Montana, Idaho, Washington, and Oregon

AGENCY: Interstate Commerce Commission, Office of Policy and Analysis, Energy and Environment Branch.

ACTION: Notice of availability of draft environmental impact statement prepared in above-entitled proceeding.

SUMMARY: On or about October 23, 1979 the Energy and Environment Branch will serve on the public and the Environmental Protection Agency (EPA) a copy of the draft environmental impact statement prepared in the above-entitled proceeding. This notice is intended as a supplement to that which will be published by EPA (approximately one week later), if upon review it finds the subject document to be acceptable for filing. Because of the need to expedite issuance of a decision in this proceeding, the period during which interested persons may file comments on the draft statement will extend only 30 days from the date that this notice is published in the Federal Register, (November 21, 1979).

FOR FURTHER INFORMATION CONTACT: Paul Mushovic or David Rector, Energy and Environment Branch, Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C. 20423, Tel. (202) 275-7916.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32476 Filed 10-19-79; 8:45 am]

BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 205
Monday, October 22, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Equal Employment Opportunity Commission	1
Federal Election Commission	2
Federal Home Loan Mortgage Corporation	3
Federal Maritime Commission	4
Federal Mine Safety and Health Review Commission	5, 6
Interstate Commerce Commission	7
Neighborhood Reinvestment Corporation	8
Nuclear Regulatory Commission	9
Tennessee Valley Authority	10

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 23, 1979.

PLACE: Commission Conference Room 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

MATTERS TO BE CONSIDERED:

1. Proposed Deferral of opening of ten area offices.
2. State and Local Program: Proposed FY-80 Backlog Charge Contract with the St. Louis Civil Rights Enforcement Agency.
3. Federal Instructions for Federal Affirmative Programs.
4. Freedom of Information Act Appeal No. 79-7-FOIA-237, concerning a request by a charging party for the contents of his charge file.
5. Proposed questionnaire requesting information on the impact of Federal employment opportunity programs and activities, to be sent to employers.
6. Proposed section 17 to the EEOC Compliance Manual; request for systemic investigation.
7. Report on Commission Operations by the Executive Director.

Closed

1. Litigation authorization: General Counsel Recommendations.

Note.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 16, 1979.

[FR Doc. S-2049-79 Filed 10-17-79; 4:10 pm]

BILLING CODE 6570-06-M

2

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 25, 1979 at 10:00 a.m.

CHANGE IN MEETING: The following items have been added to the agenda:

1. Proposed, Revised Regulations Governing Presidential Primary Matching Fund Eligibility.
2. Final Audit Report on the Federal Campaign Committee of Nevada.
3. Supplemental Outreach Program.
4. Executive Session (Closed to the Public) for the discussion of the Primary Matching Program.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2054-79 Filed 10-18-79; 3:23 pm]

BILLING CODE 6715-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION.

TIME AND DATE: 2:30 p.m., October 25, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Henry Judy (202-789-4734).

MATTERS TO BE CONSIDERED: Privacy Act Publication.

No. 282, October 18, 1979.

J. Finn,

Secretary.

[S-2057-79 Filed 10-18-79; 3:23 pm]

BILLING CODE 6720-02-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 60001, October 17, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., October 22, 1979.

CHANGE IN THE MEETING: Addition of the following item to the closed session:

2. Activities of Italia di Navigazione, S.p.A.

[S-2056-79 Filed 10-18-79; 3:23 pm]

BILLING CODE 6730-01-M

5

October 17, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10:00 a.m., October 16, 1979.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Closed (pursuant to 5 U.S.C. 552(c)(10)).

MATTER CONSIDERED:

1. *Helen Mining Company*, PITT 79-11-P.
2. *Kentland-Elkhorn Coal Corporation*, PIKE 78-399.

VOTE: Voting to close the meeting: Commissioners Waldie (Chairman), Backley, Jestrab, Lawson, and Nease. It was determined by this vote that Commission business required that this meeting be closed.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2053-79 Filed 10-18-79; 3:01 pm]

BILLING CODE 6820-12-M

6

October 18, 1979.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, October 25, 1979.

PLACE: Room 600, 1730 K Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Jim Walter Resources, Inc., BARB 77-266-P, and Cowin and Company, BARB 76X465-P.
2. Beckley Coal Mining Company, HOPE 77-92-P, IBMA 77-52.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, 202-653-5632.

[S-2055-79 Filed 10-18-79; 3:23 pm]

BILLING CODE 6820-12-M

7

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 10:00 a.m., Wednesday, October 31, 1979.

PLACE: Sheraton O'Hare Hotel, 6810 North Mannheim Road, Rosemont (Chicago), Illinois.

STATUS: This meeting is open to the public.

MATTERS TO BE CONSIDERED: Discussions of plans to minimize interruptions to rail operations this winter if severe weather conditions occur.

ADDITIONAL INFORMATION: The Informal Public Conference will be jointly held by the Interstate Commerce Commission's Bureau of Operations and the Association of American Railroads (AAR).

Last winter the Bureau of operations, Interstate Commerce Commission, in cooperation with the Association of American Railroads inaugurated a program of gathering and disseminating a daily report covering the new and accumulated snow levels for over one-hundred cities as well as the rail operational delays that were occurring at specific locations because of weather interference. The program has been evaluated and a conclusion reached that it should be continued for the coming winter with an emphasis on rail operational delays and reduced weather information. The Association of American Railroads will have the lead in developing a plan for this winter and will gather and disseminate the rail operational information on a daily basis. The October 31st informal public conference will provide an opportunity for the railroads, shippers and any other interested person to offer comments on what should be included in the plan for the coming winter.

FOR FURTHER INFORMATION CONTACT: William J. Love (202) 275-7614.

[S-2051-79 Filed 10-18-79; 11:42 am]

BILLING CODE 7035-01-M

8

NEIGHBORHOOD REINVESTMENT CORPORATION.

TIME AND DATE: 2:00 p.m., October 24, 1979.

PLACE: Board Room, Sixth Floor, 1700 G Street, N.W., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Donnie L. Bryant, 202-377-6480.

MATTERS TO BE CONSIDERED:

Call to Order and remarks of Chairman.
Approval of minutes:
a. Urban Reinvestment Task Force: November 7, 1978;
b. July 25, 1979, Regular Meeting;
c. September 5, 1979, Special Meeting.
Executive Director's Report.
Executive Committee Appointment.
Election of Officer: Director, Neighborhood Preservation Projects.
Directors' and Officers' Liability Insurance.
Treasurer's Report.
No. 8, October 17, 1979.

Donnie L. Bryant,

Secretary.

[S-2050-79 Filed 10-17-79; 4:10 pm]

BILLING CODE 0000-00-M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 22 (changes), and October 23, 1979.

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Monday, October 22; 9:30 a.m.

1. Continuation of discussion of improving Commission Procedures and Full Access Provision (continued from 10/15, approximately 1½ hours, public meeting). Replaces discussion of fiscal year 1980 Domestic Safeguards Technical Assistance and Research Contractual Projects, which will be held on 10/23.
2. Discussion of Hearing Board Report in Clearance Rule Proceeding (RM 50-7) (approximately 1 hour public meeting) as announced.

Monday, October 22; 1:30 p.m.

1. Discussion of extension of Pat Down Search (if required) (approximately 1 hour public meeting) as announced.
2. Discussion of Personnel Matter (approximately 1½ hours, closed—exemption 6) as announced.

Tuesday, October 23; 9:30 a.m.

1. Briefing on EEO (approximately 1 hour, public meeting).
2. Affirmation Session (approximately 5 minutes, public meeting) items are tentative: a. Export of certain minor quantities of nuclear material.
3. Discussion of proposed agreement between the State of Rhode Island and NRC (approximately 1 hour, public meeting).

Tuesday, October 23; 1:30 p.m.

1. Discussion of fiscal year 1980 Domestic Safeguards Technical Assistance and Research Contractual Projects (approximately 1½ hours, public meeting) rescheduled from 10/22.
2. Discussing of Personnel Matter (approximately 1½ hours, closed—exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

Walter Magee,

Office of the Secretary.

[S-2052-79 Filed 10-18-79; 3:01 pm]

BILLING CODE 7590-01-M

10

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 9:30 a.m., Thursday, October 25, 1979. (Meeting No. 1229).

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tennessee.

STATUS: Open.

MATTERS FOR ACTION:

Personnel Actions

1. Revised pay plan and salary schedule for management schedule employees.

Consulting and Personal Services Contracts

1. Renewal of consulting contract with Richard H. Stroud, Washington, D.C., for advice and assistance in the field of fish conservation, requested by the Office of Natural Resources.
2. Renewal of consulting contract with Robert H. Park, Brewster, Massachusetts, for services in connection with the improvement of stability of large generators and reliability of bulk power supply at TVA power plants, requested by the Office of Power.

Purchase Awards

1. Req. No. 825385—Thermal reflective metal insulation for piping inside and outside containment for Bellefonte Nuclear Plant, Units 1 and 2.
2. Req. No. 824920—600-volt power cable, insulated conductor, for Hartsville and Phipps Bend Nuclear Plants.
3. Req. No. 163119—Turbine repair parts for Colbert Steam Plant.
4. Rejection of bids received in response in Invitation No. 823678 for station service transformers for Yellow Creek Nuclear Plant.
5. Req. No. 574480—Indifinite quantity term contract for crushed stone for Phipps Bend Nuclear Plant.
6. Req. No. 825510—Water chillers for Yellow Creek Nuclear Plant.
7. Req. No. 160927—Indefinite quantity term contract for genuine Diamond Power soot blower parts for any TVA project or warehouse.
8. Req. No. 585383—Indefinite quantity term contract for contemporary steel office furniture for any TVA project.
9. Amendment to Contract No. 73060-75210 with General Electric Company for nuclear steam supply systems and standard reactor island design for Hartsville Nuclear Plants A and B.

Project Authorizations

1. No. 3480—Field test of load management residential energy use display meters.
2. No. 3481—Replace variable speed induced-draft fan drives at Widows Creek Steam Plant Unit 8.

3. No. 3479—Implementation of a voluntary air-conditioning cycling program for the TVA power system.

Power Items

1. Bill of sale and quitclaim deed conveying to Warren Rural Electric Cooperative Corporation certain substations and transmission lines located in Edmonson, Logan, Simpson, and Warren Counties, Kentucky.
2. Deed conveying to Marshall-DeKalb Electric Cooperative a 2.62-acre substation site owned by TVA in the vicinity of Horton, Alabama.
3. First supplemental agreement to Interconnection Agreement with Louisville Gas and Electric Company to increase the demand charge for short-term power.
4. General agreement between Electric Power Research Insitutue and TVA covering arrangements for research and development with respect to production, transmission, distribution, and utilization of electric energy (Contract No. TV-50942A).
5. Contract No. TV-52301A between Electric Power Research Institute, UOP Inc., and TVA for construction, operation, and evaluation of the Dowa process for SO_2 control.
6. Supplement to Contract TV-36914A with Battelle-Columbus Laboratories, Columbus, Ohio, for technical assistance in nuclear technology and other evaluations.
7. Supplement to Memorandum of Understanding with Department of Energy for Oak Ridge National Laboratory to conduct fluidized bed combustion studies for TVA (Contract No. TV-48296A, Subagreement 5).
8. Interagency agreement with the Department of Energy for the demonstration of the use of electric and hybrid vehicles (Contract No. TV-48296A, Sugagreement 12).
9. Modification of arrangements for proposed nuclear fuel lease.

Real Property Transactions

1. Lease agreement with Roland E. Knapp for operation of a commercial recreation area (Cottonport Marina) affecting 15.8 acres of Chickamauga Reservoir land in Meigs County, Tennesee—Tract XTCR-1671.
2. Grant and conveyance of easements and highway rights of way to Franklin County, Alabama, for relocation of a county road located in Upper Bear Creek Reservoir.
3. Filing of condemnation suits.

Unclassified

1. TVA code on recognition of differing staff opinion on public health and safety.
2. Adoption of supplemental resolution authorizing 1979 Series D Power Bonds.
3. Resolution authorizing the Chairman and other Executive Officers to take further action relating to issuance and sale of 1979 Series D Power Bonds.
4. Watts Bar Nuclear Plant—Rhea County socioeconomic mitigation.

Dated: October 18, 1979.

CONTACT PERSON FOR MORE INFORMATION: Lee C. Sheppeard, Acting Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-3257, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

[S-2058-79 Filed 10-18-79; 3:44 pm]

BILLING CODE 8120-01-M

V 4 4 0 C 2 2 7 9 UMI

V 44 OCT 22 1979 UMI

federal register

Monday
October 22, 1979

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection

Neighborhood Self-Help Development Program; Requirements; Interim Rule

V 4 4 0 C 2 2 7 9 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Neighborhoods, Voluntary Associations, and Consumer Protection

24 CFR Part 3610

[Docket No. R-79-715]

Neighborhood Self-Help Development Program; Program Requirements

AGENCY: Department of Housing and Urban Development (HUD).

ACTION: Interim Rule.

SUMMARY: The Neighborhood Self-Help Development Act of 1978 (42 U.S.C. *8123*) authorizes the Secretary to make grants and provide other forms of assistance to neighborhood organizations to prepare and implement neighborhood revitalization projects in low-and moderate-income neighborhoods. These interim regulations set the procedures for the award of grants and other forms of assistance under the Neighborhood Self-help Development Program. The purpose of this document is (1) to make effective the interim regulations which will govern the Neighborhood Self/Help Development Program until the regulations are finalized (2) solicit advice and comments from interested persons on the interim regulations prior to the issuance of final rules.

DATES: Effective date: November 21, 1979.

Comment due date: Comments received by January 7, 1980, will be considered prior to the publication of final regulations.

ADDRESS: Send comments to: Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451-Seventh St., SW., Washington, D.C. 20410. Each person submitting a comment should include his/her name and address, refer to the document by the docket number indicated by the heading, and give reasons for any recommedation. Copies of all written comments received will be available for examination by interested persons in the Office of the Rules Docket Clerk, at the address listed above.

FOR FURTHER INFORMATION, CONTACT: Joseph B. McNeely, Office of Neighborhood Development, Room 4232, HUD, 451 Seventh Street, S.W., Washington, D.C. 20410. Telephone: 202-755-8227.

SUPPLEMENTARY INFORMATION: The Neighborhood Self-Help Development Act was passed by Congress as Title VII of Pub. L. 95-557 of the Housing and Community Development Amendments of 1978. This Act authorizes the Secretary to make grants and provide other forms of assistance to neighborhood organizations to prepare and implement neighborhood revitalization projects in low- and moderate-income neighborhoods. These neighborhood-based projects include support to housing, economic and community development and other appropriate neighborhood revitalization activities. The Act also specifies that assistance will be provided to these neighborhood organizations to implement such projects in partnership with local government and other public and private entities. The Neighborhood Self-Help Development Act was a component of the President's Urban Policy announced in March 1978 and authorized by Congress in August 1978. Since that time, the Department has received hundreds of letters of interest from neighborhood organizations which are planning to use this program for important neighborhood revitalization projects. Many of these organizations have commitments of matching funding contingent on the availability of Self-Help funds before the end of 1979. Those matching funding commitments may be lost if the organizations are not able to apply for, or receive, funding under this program expeditiously.

Furthermore, the Department has been operating a pilot program which includes funding to neighborhood organizations and technical assistance providers. Funding to both types of organizations lapses between October and December 1979. No other Department funds have been reserved to continue the activities of these organizations because it expected that the Self-Help program would be operational before the end of 1979. Without immediate availability of funds before the end of 1979, these neighborhood organizations and technical assistance providers will be left without any support to carry out their neighborhood revitalization activities.

For the foregoing reasons, the Secretary has determined that these regulations are needed to implement the program as quickly as possible. The Department, therefore, finds it impracticable and unnecessary to provide for public comment in advance of the effective date because there is an urgent need for the Neighborhood Self-Help Development funds to be made available immediately.

Therefore, these regulations are published as interim regulations because of the importance of immediate implementation. However, the Department recognizes the need for public comment, and a 75-day public comment period is being provided. The interim regulations may be changed in the light of comments received.

To ensure maximum involvement of interested persons during the public comment period, the Department will hold regional public meetings on the interim regulations. Final regulations reflecting consideration of the comments received will be adopted after the comment period closes.

The remainder of the Supplementary Information section describes what is included in the interim regulations and for what purpose. This information is to provide a clear understanding of what the Department is attempting to achieve through the Neighborhood Self-Help Development program.

Section 3610.101 states the purpose of the Neighborhood Self-Help Development Program. The intent to encourage and support neighborhood-initiated projects stems from the experience that programs conceived in Washington, D.C., are not always the most responsive methods of extending resources for neighborhood-based activities. Capacity-building is an important element in the Neighborhood Self-Help Development Program. Capacity-building either through grants, other forms of assistance or a combination of both, has been identified by neighborhood organizations as necessary to ensure their successful role in revitalization projects. In accordance with the intent of the Act, the interim regulations have defined capacity-building to mean grants which support preparation of projects; partial support for implementation costs; and other forms of assistance such as training, consultant services, brokering resources and information exchange. Capacity-building, under the interim regulations, also includes assistance for an encouragement of partnerships between neighborhood organizations and the local public and private sectors.

Section 3610.102 defines three terms: "Act", "neighborhood", and "low- and moderate-income".

HUD has determined that it is difficult to have a universally applicable definition of "neighborhood". Therefore, the term is defined in the interim regulations rather flexibly and several characteristics of a neighborhood are given in the regulation. This flexibility enables applicant organizations to define their own neighborhoods. This flexibility is particularly supportive of neighborhoods as defined in small cities and rural areas.

The use of the term "low- and moderate-income" is HUD's newly revised standard definition for its Housing and Community Development programs.

Section 3610.103 describes the eligibility criteria for neighborhood organizations applying under this program. The first phrase of each criteria in the interim regulations quotes the criterion from the Act *verbatim*. Each criterion must be met by all organizations. The interim regulations state that HUD will select a mix of organizations. Groups including neighborhood non-profit rehabilitation sponsors, non-profit community development corporations, multi-service neighborhood centers and neighborhood economic development organizations will be eligible if they meet all of the criteria stated in the proposed regulations.

(a) The Act requires that the neighborhood organizations be broadly representative of the neighborhood where the project is located. The intent of the Act is to insure that the organization provides for the involvement of all income, racial, ethnic and age groups present within the neighborhood. The interim regulations require the organization to document that the general membership and the membership on each of its official boards and decision making bodies is comparable to the racial, ethnic, economic, age and sex distribution in the population of the neighborhood served.

(b) The Act requires that each applicant neighborhood organization be accountable to neighborhood residents with respect to the project being proposed. The interim regulations state that each applicant organization must have some structure for accountability since HUD has observed many different but successful decision-making processes involving neighborhood residents in planning and implementing projects. The interim regulations call for a structural requirement which ensures the broad representation of residents in the neighborhood where the project is being proposed. This interim regulation will enable city-wide neighborhood coalitions or multi-county organizations in rural areas to propose specific neighborhood projects if a board is organized primarily with residents of the proposed neighborhood project area.

The Act requires that applicant organizations have either a proven record or a demonstrable capacity to implement effectively neighborhood revitalization projects. The proposed regulations interpret a difference between "proven record" and "demonstrable capacity". "Proven record" means that the organization has a history of implementing projects of the same type and scale as those being proposed under the program. "Demonstrable capacity" enables organizations to propose projects in an acitivity area in which the organization has no history if the organization has been successful in preparing and/or implementing other types of revitalization or neighborhood-related projects, or a similar project on a smaller scale than that proposed. For each applicant, the organization's capacity will be reviewed according to the information provided.

The Act does not specify, but the interim regulations add other criteria for eligible applicants including existence of a Board of Directors and auditable records. Organizations must be non-profit, i.e., an organization which prohibits any of its net earnings from being distributed to its members, shareholders or other individuals. The requirement of the Board of Directors independent from the staff is to provide an "internal management check" for the purpose of accountability. Organizations are required to be incorporated as non-profit under applicable state law. These requirements also place the organization in a better position to receive other resources, particularly from the private sector.

Section 3610.104 describes eligible projects and defines eligible activities.

Little limitation has been placed on the types of *projects* which are eligible, so as to encourage a high level of local creativity by neighborhood organizations to meet their specific housing, community and economic development and neighborhood revitalization needs. The interim regulations also state that HUD will select a balance of different types of projects. Consistent with the intent of the Act, the interim regulations have no specific project categories and consider all housing, community and economic development projects to be eligible which are not excluded under § 3610.105. The examples cited in the interim regulations are those stated in the legislation. However, all projects which are consistent with HUD's overall objectives will be considered under this program. All proposed projects must directly benefit the residents of the low- or moderate-income neighborhood where the proposed project will be located (see § 3610.106(c) below).

The second part of § 3610.104 describes what *activities* are considered eligible under this program. The interim regulations clarify that the preparation of specific neighborhood projects must be directly tied to the project's implementation. A distinction between "project planning" and "project preparation" is suggested. The interim regulation does not allow support for the early stages of planning for a project (e.g., preliminary needs analysis to determine whether any new retail facility is needed in a neighborhood). Project preparation begins at the stage where the organization has idnetified the specific project, has completed the early stages of planning and has clear project structures, a financial projection and estimated timetable for the implementation of the project. In applying, the organization is expected to document the planning already accomplished.

The interim regulations also state that the program will not pay the full costs of implementation. Since the entire budget for the national program is rather small, it is essential that other public and private resources also support the implementation of projects.

Section 3610.105 describes activities which are ineligible under the program. The interim regulations state verbatim what is in the legislation. The Secretary has the discretion to determine other ineligible activities if they are inconsistent with the purposes of the Neighborhood Self-Help Development Program.

Section 3610.106 describes the criteria which must be met for each project being proposed for selection. The interim regulations state each of the criteria cited in the legislation and provide guidelines as to how an applicant organization may demonstrate how these project criteria are addressed. Each project must meet all seven criteria to some extent. The degree of accomplishment of each criterion will be the basis of project selection. Projects will not, however, be evaluated against one another, but rather on their own merit. This method of review and selection will be conducted through a "factors for award" process after the applications are submitted.

Section 3610.107 describes eligibility for the "other forms of assistance" stated in the Act. The interim regulations interpret this section to mean that assistance in preparing specific projects will be available to those organizations which apply to the program, whether they were successful or unsuccessful in receiving a grant. The assistance offered to these organizations will be either through HUD directly, or

through contracts and cooperative agreements. The interim regulations also define other forms of assistance to include assistance provided to neighborhood organizations to increase their capacity to engage in local partnerships with local public officials and private sector representatives.

Section 3610.108 states that each organization must submit, as a part of its application, certification from the chief elected official of the unit of general local government. The interim regulation directly reflects language in the Act.

Section 3610.109 states the requirements for the A–95 clearinghouse and review process which is required by most HUD programs which award grants.

Section 3610.110 describes the application procedures under this program.

Section 3610.111 describes the administration of the program. The Secretary has delegated the authority to develop and administer the program to the Office of Neighborhoods, Voluntary Associations and Consumer Protection (NVACP). The interim regulations state how grants will be available.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of the Finding of Inapplicability is available for public inspection in the Office of the Rules Docket Clerk at the above address.

Accordingly, 24 CFR is amended by adding a new Part 3610 to read as follows:

PART 3610—NEIGHBORHOOD SELF-HELP DEVELOPMENT PROGRAM

Sec.

3610.101 Purpose.
3610.102 Definitions.
3610.103 Eligible applicants.
3610.104 Eligible projects and activities.
3610.105 Ineligible activities.
3610.106 Project selection criteria.
3610.107 Eligibility for other forms of assistance.
3610.108 Local Government certification.
3610.109 A–95 Clearinghouse review and comment.
3610.110 Application requirements.
3610.111 Program administration
3610.112 Other program requirements.

Authority: Title VII of the Housing and Community Development Amendments of 1978 (42 U.S.C. 8123)

§ 3610.101 Purpose.

The purpose of this program is to assist neighborhood organizations, through grants and other forms of assistance, to increase their capacity to effectively plan, finance, package and manage various housing, community and economic development projects which result in the revitalization of low- and moderate-income neighborhoods and which directly benefit the residents of those neighborhoods. The intent of the program is to encourage and support such projects as identified and developed by neighborhood organizations which are in the best position to determine the most appropriate ways to satisfy their neighborhoods' revitalization needs. The program will also provide assistance to neighborhood organizations to work in partnership with the public and private sectors to prepare and implement projects. Certification by the unit of general local government is required for each project being proposed by neighborhood organizations.

§ 3610.102 Definitions.

(a) "Act" means the Neighborhood Self-Help Development Act of 1978, Title VII of the Housing and Community Development Amendment of 1978.

(b) "Neighborhood" means, for the purpose of this program, a distinct geographical area which has a readily identifiable residential population. Ordinarily in urban and suburban areas, in cities with over 10,000 in population, a neighborhood is an area smaller than a city. Some of the factors which could be demonstrated in defining a neighborhood include:

(1) A sense of belonging or identity that ties residents to a given area;

(2) Social, cultural, political, or economic activities around which people organize themselves;

(3) The existence of cohesive organizations formed by residents;

(4) A history of acting or being treated as a distinct or cohesive unit.

Examples of this definition include: An area which is geographically separated from the rest of the city by a river and two highways and is known as the "South End" neighborhood; an area of several blocks of multi-family buildings where tenants have worked on several projects and which is identified by name; one, two or more adjacent public housing projects which have become identified as the "Joseph" project or area or community; a commercial area with residential areas adjacent to the main retail street which is known by both residents and business owners as the "Loeste" neighborhood.

In rural areas and in small cities with under 10,000 in population, there are active, community-based organizations which share all of the characteristics and carry out the functions of neighborhood development organizations in more populous areas. However, the target areas served are small cities or regions within a rural area.

Projects proposed by such organizations will be considered neighborhood projects if they meet the other requirements of this Act (§§ 3610.103 and 3610.104). Wherever the word "neighborhood" appears in the following regulations, it should be read as applying also to the target area, or areas, designated by an organization in a small city or rural area.

(c) "Low- and moderate-income" for the purpose of this program, means the following: Moderate-income is defined as persons whose income does not exceed 80 percent of the median income of all residents in the county; low-income is defined as persons whose income does not exceed 50 percent of the median income of all residents in the county.

§ 3610.103 Eligible applicants.

To be eligible, the applicant must be a voluntary, non-profit organization which meets each of the following criteria. The applicant must provide evidence which documents how each criterion has been met.

(a) The organization must be broadly representative of the neighborhood in which the project will be located. This may include representation from local businesses, financial, governmental and non-governmental entities. The applicant organization must provide evidence that its membership, its board of directors or the structure governing the project being proposed (see § 3610.103 (b) below) has an economic, racial, ethnic, age and sexual composition appropriate to the neighborhood where the proposed project will be located;

(b) The organization must be accountable to neighborhood residents with respect to the project being proposed. The applicant organization must provide and must describe a structure through which it is accountable to neighborhood residents for the proposed project. That structure may be the permanent corporate structure of the applicant organization or may be a structure of the applicant created specifically for the project being proposed.

(c) The organization must have as one of its objectives the preservation and revitalization of such neighborhoods. The applicant organization may submit its charter, by-laws, articles of incorporation, mission statements, minutes from board meetings, or other organizational documents which state this objective or may describe its past activities which demonstrate that it embraces this objective;

(d) The organization must be found by the Secretary to have a proven record or demonstrable capacity for developing resources for, and effectively implementing, neighborhood conservation and revitalization projects. In order for the Secretary to make such a determination, the applicant organization must provide evidence of:

(1) Successful past or present neighborhood revitalization activities or activities comparable to the neighborhood revitalization project being proposed; and

(2) Existing management expertise for development and administration of the neighborhood projects proposed.

The applicant organization will be responsible for documenting either its proven record or demonstrable capacity.

Both in the program area and in management ability applicant organizations may either have a *proven record* in the same type project as that which they propose, or they may have *demonstrated a capacity* for the project they propose by their success in a different type of project but one which required comparable program development and management skill.

Some examples of groups with a sufficient "proven record" are: A non-profit housing sponsor which has purchased and successfully managed several multi-family buildings now proposes to purchase, rehabilitate and manage several new properties; a neighborhood development organization which has done several improvement projects on a commercial strip now proposes to develop a vacant piece of property on the strip for a new supermarket. Some examples of groups with a "demonstrable capacity" for the programs they propose are: A tenants' organization with experience in housing management which now proposes to purchase the building for conversion to a cooperative; a multi-service neighborhood center with experience in running programs (i.e., food stamps, youth employment, social services) now proposes to design, finance and build a neighborhood retail project which results in job creation. The track record or capability of the applicant will be evaluated with respect to the scale and type of project being proposed;

All applicants must demonstrate their management capacity for the project they propose by documenting the skills and experience of their staff; the fiscal, personnel and program monitoring systems they are using; and their ability to retain and control the type of consultants needed for the project.

(e) The organization must be incorporated as a non-profit organization. The applicant organization must submit a copy of its Articles of Incorporation.

(f) The organization must have a Board of Directors, composed chiefly of elected persons who are other than paid staff of the organization, though a small number of paid corporate officers may be part of the Board. The applicant organization must submit a list of the names, occupations and addresses of the Board of Directors.

(g) The organization must have financial records in an auditable form, or must have had an audit of its financial records within the year prior to application.

HUD will endeavor to select a variety of applicant organizations by size, type and term of existence. Special attention will be given to applicants in non-metropolitan areas and in cities under 10,000 in population so that they receive a reasonable amount of funding available under this Act.

§ 3610.104 Eligible projects and activities.

Any housing, community and economic development projects which are not excluded under § 3610.105 and which contribute to the revitalization of low- and moderate-income neighborhoods and directly benefit the residents of those neighborhoods, will be eligible under this program. Examples include:

(a) Neighborhood-initiated housing rehabilitation;

(b) Creative reuse of existing buildings;

(c) Neighborhood commercial revitalization;

(d) Neighborhood economic development;

(e) Energy conservation and weatherization projects.

HUD will select projects to create a balance between the variety of types and sizes of eligible projects.

Grants and other forms of assistance under this program may support any activities necessary to prepare and implement specific neighborhood housing, economic and community development projects.

Preparation activities eligible under this program include, but are not limited to: Architectural services including services for making buildings and facilities accessible to and usable by the physically handicapped; rehabilitation specifications; financial planning and packaging; and land acquisition.

While implementation costs are eligible, the intent of the program is to fund only a small portion of the full costs of implementation. Especially where part of the capital or construction costs is requested, the program will require maximum use of other public and private financing. Examples of acceptable implementation costs are: A portion of the equity infusion in a local development corporation commercial project; or construction management costs of a housing or economic development project whose capital cost is funded by other sources.

§ 3610.105 Ineligible activities.

The following activities will not be eligible for assistance under this program:

(a) Planning functions which are not directly combined with project implementation;

(b) Public works such as street repairs which are not associated with the specific project being funded;

(c) Operating social services which are not associated with the specific project to be funded;

(d) Economic development which will not primarily benefit the residents of the neighborhood in which it will be located; and

(e) Operating costs of a community group which are not associated with the specific projects being funded;

§ 3610.106 Project selection criteria.

Any project being proposed by applicant organizations must meet each of the following criteria to some extent and provide evidence which documents the extent to which each of these criteria will be met:

(a) Projects must be related to and supportive of a conservation or revitalization strategy for the neighborhood in which the project is located. The applicant organization will be expected to document the needs and opportunities of the neighborhood; how the organization has planned to address those needs and opportunities over time; and how the proposed project fits into that strategy. The revitalization needs statement may include such factors as: Level of disinvestment, abandoned properties and other unused facilities; unemployment and income data; housing deterioration; lack of business providing essential goods and services; special levels of need of low- and moderate-income residents in portions of the neighborhood; the existence of architectural barriers to the physically handicapped.

(b) Projects must, to the extent feasible, include a self-help component which may involve a contribution of time or resources by neighborhood residents. The self-help component may include resources involved in project planning, preparation, implementation and/or evaluation. The level of self-help will be evaluated in comparison to the

V 44 0C 22 79 UMI

type of project being proposed by the applicant;

(c) Projects must directly benefit the residents of a low- or moderate-income neighborhood. The applicant will be expected to address this requirement in the proposal. Examples of projects which directly benefit low- and moderate-income residents may include:

(1) A project where eligibility is based on income criteria limiting the benefits to low- or moderate-income persons;

(2) Rehabilitation of multi-family buildings, or other facilities, for low- or moderate-income residents which results in their management or ownership of the building;

(3) Non-profit organization sponsorship of single family housing acquisition and rehabilitation to preserve neighborhood housing resources for low income residents;

(4) Establishment of neighborhood-based housing trusts or cooperatives to own and manage multi-family properties for low- and moderate-income residents;

(5) Acquisition by a neighborhood development organization representing low- and moderate-income people of a capital asset essential to accomplishment of the organization's strategy for revitalization of the community;

(6) Neighborhood non-profit sponsorship of congregate housing programs including health, homemaker and other essential services to prevent displacement of senior citizens in revitalizing neighborhoods;

(7) Neighborhood stabilization projects which are directed toward preventing or minimizing the displacement of current residents.

In evaluating how the proposed project directly benefits low- and moderate-income residents, HUD will consider the extent to which the proposed project eliminates or reduces the magnitude of the special problems of low- and moderate-income persons and minorities (e.g., the relative levels of unemployment and underemployment, discrimination in housing and employment, locational impaction, and lack of sufficient supportive services and facilities).

(d) Projects must, to the extent feasible, involve leveraging of resources available from the private sector. The level of private support will be evaluated relative to the level of risk in the project and the likelihood of the private sector to support the specific type of project. Private sector resources may include other than direct financial support of projects; for example, technical assistance and voluntary involvement of representatives from the private sector;

(e) Projects must, to the extent feasible, involve the coordination of resources available from the local, state or Federal Government. Applicant organizations will be expected to indicate those public programs which will be supportive of the implementation of proposed projects including: The Community Development Block Grant (CDBG), Urban Development Action Grants (UDAG), Section 8, Section 202 and/or programs from other agencies.

(f) The applicant organization must demonstrate that the residents of the neighborhood where the project will be located, and particularly residents who will be directly affected by the project, have been and will continue to be actively involved in, and supportive of, the selection of the project, and will continue to be involved in project development, implementation, and evaluation through an effective and continuing participation mechanism. The applicant organization must describe its method of resident participation in each stage of project development including those stages of project completed prior to submitting an application; and

(g) The applicant organization must provide evidence that funding sources identified in accordance with criteria (d) and (e) above support the project and can make funds available contingent on the progress of the project. For organizations which propose implementation projects, written documentation must be provided, to demonstrate the interest, commitment and level of involvement of other funding sources for the project. Funding sources may include public, private and self-help organizations.

§ 3610.107 Eligibility for other forms of assistance.

(a) Under this program, neighborhood organizations may apply for grants and/or other forms of assistance for the development of specific neighborhood revitalization projects. Assistance to applicant organizations will include training, on-site consultants and other forms of information exchange directed at organizational and financial management, project coordination, development of comprehensive neighborhood revitalization strategies, and techniques in proposal writing and project packaging. Assistance in preparing specific projects will be offered, as long as the proposal contains the local government certification (§ 3610.108).

(b) Assistance directly through HUD or through contracts and cooperative agreements will be provided to neighborhood organizations which request capacity-building technical assistance to enable them to engage in local partnerships with government and the private sector. This assistance will always include support to neighborhood organizations to plan, prepare and implement specific revitalization projects.

§ 3610.108 Local Government certification.

An applicant organization must submit, as a part of its proposal, a letter from the chief elected official of the most immediate jurisdiction of general local government. The letter must state that he or she has reviewed the proposal prepared by the neighborhood organization and that the proposed project(s) is(are) consistent with, and supportive of the specific objectives of that unit of local government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by that unit of general local government.

§ 3610.109 A-95 Clearinghouse review and comment.

Applicants must comply with the procedures set forth in Part I of OMB Circular No. A-95. In addition to rules governing applications, these procedures also require that program amendments submitted to HUD shall be submitted to appropriate clearinghouses for a 30-day review and comment period.

(a) *Clearinghouse review of application.* (1) Unless the requirement is waived by the clearinghouse, the applicant shall provide the clearinghouse a period of 30 calendar days to review the completed application and to transmit to the applicant any comments or recommendations.

(2) Clearinghouses will be of assistance to both the applicant and HUD if their reviews address the application approval criteria contained in Section 109(5) as well as the "subject matter of comments and recommendations" in Part I, Attachment A of OMB Circular No. A-95, item 5. Emphasis should be placed on consistency among state, area-wide and local plans, compliance with environmental laws, and the provision of equal opportunity.

(b) *Applicant actions after clearinghouse review.* The applicant shall transmit all comments with the application to HUD. In instances where no comments are received, the applicant shall include a statement indicating that the state and area-wide clearinghouses were notified and no comments were received. If the A-95 review comments contain any findings of inconsistency with state, area-wide or local plans or noncompliance with environmental laws or failure to provide equal opportunity, the applicant must state how it proposes to resolve the finding or state its justification for proposing to proceed with the project despite the findings developed through the A-95 review process.

(c) *Application modification during clearinghouse or HUD review.* An applicant which revises its application while it is under review by a clearinghouse or by HUD shall inform the clearinghouse of the revisions and, if the application has been submitted to HUD, the number of days remaining within the review period for HUD to complete its review of the application.

§ 3610.110 Application requirements.

Neighborhood organizations which intend to apply to this program must satisfactorily meet all the application requirements. The requirements must include all documentation stated in previous sections of the regulations. In addition to this documentation, applications will also be required to contain other materials including:

(a) A brief letter of transmittal containing the signature of the Executive Director of the applicant organization and President or Chairperson of the Board of Directors who will be primarily responsible for execution of the project;

(b) A one page abstract of the project summarizing the proposal;

(c) A proposed budget clearly showing the proposed expenditure of HUD funds, as well as other resources necessary to complete the project;

(c) A project narrative statement describing the nature of the problem, the proposed solution, the goals and objectives of the project, the resources to be used, the management plan, the tasks to be carried out, the plan for evaluation and such other elements as are necessary to describe applicant responsibilities for the project;

(e) A summary of the operating costs, and the finanical resources supporting them of the applicant organization;

(f) Affirmative action statements from the organization if the staff intends to hire staff through the grant, or work with other persons or firms on a sub-contract basis.

(g) Letters of support or other attachments which may strengthen the overall proposal.

Complete information on all the application requirements will be included in the periodic "Notices of Availability of Grants" (refer to § 3610.111). Application kits will be available from the HUD office upon request at the time of the notices.

§ 3610.111 Program administration.

(a) The Neighborhood Self-Help Development Program shall be adminstered by the Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

(b) Grants and other forms of assistance under this program will be announced through "Notices of Availability of Grants" periodically published in the **Federal Register.** The factors for award which HUD will use in selecting projects will be a part of the program announcement.

(c) All organizations which receive support under this program must conform to reporting and record maintenance requirements determined appropriate by the administering office. Standards for monitoring the grants will be established by the Office of the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. These standards will include terms by which HUD may recapture funds if the organizations receiving the grants do not conform to these requirements.

(d) An organization may request support for more than one project but will be required to submit a proposal clarifying each project with a separate local government certification, and budgets for each project.

(e) HUD will reserve the right to decline to fund any proposals received under each program announcement if they do not satisfactorily meet the criteria for eligibility based on the factors for award. Applicant organizations which do not meet these requirements will receive such notification from HUD after selections are made. These organizations will, at that time, be notified of the availability of other forms of assistance. These organizations will also be eligible to submit proposals in response to future program announcements.

§ 3610.112 Other Program requirements.

The requirements of Title VI of the Civil Rights Act. 42 U.S.C. 2000 & *et. sec.* Second, the regulations issued pursuant thereto, 24 CFR Part I that no person in the United States shall on the ground of race, color, or national origin, be excluded from participation and be denied the benefits of, or be otherwise subjected to discrimination under any program or activity receiving Federal Financial Assistance are applicable to grants and assistance provided and contracts entered into under the Act.

Participation in this program requires compliance with Title VIII of the Civil Rights Act of 1968, 42 U.S.C. 3601 *et seq.*, Executive order 11063, and Section 3 of the Housing and Urban Development Act of 1968 12 U.S.C. 1701u, and all rules, regulations, and requirements issued pursuant thereto.

Issued at Washington, D.C. October 17, 1979.

Geno C. Baroni,

Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

[FR Doc. 79-32548 Filed 10-17-79; 4:05 pm]

BILLING CODE 4210-01-M

V 4 4 0 C 2 2 7 9 UMI

V 44 OC 22 79 UMI

federal register

Monday
October 22, 1979

Part III

Department of the Interior

Heritage Conservation and Recreation Service

Bureau of Indian Affairs

Land and Water Conservation Fund Program; Availability of Task Force Report and Schedule of Workshops

V 4 4 O C 2 2 7 9 UMI

DEPARTMENT OF THE INTERIOR

Heritage Conservation and Recreation Service

Bureau of Indian Affairs

Land and Water Conservation Fund Program; Availability of Task Force Report and Schedule of Workshops

The Heritage Conservation and Recreation Service (HCRS) is considering taking action to increase Indian tribal accessibility to the Land and Water Conservation Fund (L&WCF) program. The Bureau of Indian Affairs (BIA) and the Heritage Conservation and Recreation Service are cooperating in this effort. In May 1978 a joint HCRS–BIA task force was appointed to identify problems which inhibit participation by Indian tribes in the L&WCF and to develop options to overcome these problems.

The report of this task force, entitled "Increasing Participation by Indian Tribes in the Land and Water Conservation Fund," is now available for public review and comment. A copy of the task force report has previously been mailed directly to all tribal governing bodies (including Alaska regional corporations and Native organizations) and to State officials who administer the L&WCF program. Any person wishing to obtain a copy of the report may write or call HCRS or BIA at the address given below:

U.S. Department of the Interior, Heritage Conservation and Recreation Service, Division of State Programs, 440 G Street N.W., Washington, D.C. 20243, (202) 343–7801.

U.S. Department of the Interior, Office of Bureau of Indian Affairs, Office of Trust Responsibility—Room 4525, 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343–5473.

Because some of the issues which the task force identified are rather complex, the task force recommended that an educational program for tribal, State and Federal officials should be a first step to any long term resolution of the problems. As a first phase in such an educational program, HCRS together with BIA, has scheduled two regional workshops for tribal, State, and Federal officials. The primary purposes of these workshops are to assist tribal and State officials in reviewing the task force report and to receive preliminary responses to the Task Force Report. Tribal and State officials have previously been given direct notice of the locations and dates of these workshops. These locations and dates are as follows:

Minneapolis, Minnesota, November 1–2, 9:00 a.m. Workshop location: Downtown Holiday Inn, 1313 Nicolet Avenue, Minneapolis, MN.

Albuquerque, New Mexico, November 5–6, 9:00 a.m. Workshop locations: Holiday Inn, 2020 Menaul Street, N.E., Albuquerque, NM.

For further information contact:

Randolph J. Clement, Heritage Conservation and Recreation Service, Division of State Programs, 440 G Street N.W., Washington, D.C. 20243, (202) 343–7801.

Dean Suagee, Bureau of Indian Affairs, Office of Trust Responsibility, Room 4525, 18th and C Streets, N.W., Washington, D.C. 20240, (202) 343–5473.

Paul C. Pritchard,

Acting Director, Heritage Conservation and Recreation Service.

Sidney L. Mills,

Acting Deputy Commissioner of Indian Affairs.

[FR Doc. 79–32320 Filed 10–19–79; 8:45 am]

BILLING CODE 4310–03–M

V 44 OC 22 79 UMI

federal register

Monday
October 22, 1979

Part IV

Department of Transportation

Office of the Secretary

Nondiscrimination on the Basis of Age in Programs and Activities Receiving or Benefitting From Federal Financial Assistance

V 4 4 0C 22 7 9 UMI

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 29

[OST Docket No. 65; Notice No. 79-21]

Nondiscrimination on the Basis of Age in Programs and Activities Receiving or Benefitting From Federal Financial Assistance

AGENCY: Department of Transportation.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Transportation (DOT) proposes specific regulations to carry out its responsibilities under the Age Discrimination Act of 1975, as amended ("the Act"). The Act prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance. The Act applies to persons of all ages, and permits some age distinctions meeting certain specific criteria in federally-assisted programs. The Act does not apply to the employment practices of any employer. These proposed regulations apply to programs and activities which receive federal financial assistance from this Department. An Appendix to the regulation lists all programs and activities of DOT in which age distinctions are used.

DATE: COMMENT CLOSING DATE: January 21, 1980.

ADDRESS: Written comments should be addressed to: Docket Clerk, Docket No. 65, Office of General Counsel (C-50), U.S. Department of Transportation, Washingon, D.C. 20590

FOR FURTHER INFORMATION CONTACT: Leslie Baldwin, Office of Environment and Safety (P-20), U.S. Department of Transportation, Washington, D.C. 20590. Telephone: (202) 426-4388.

SUPPLEMENTARY INFORMATION:

Background

In November 1975, Congress enacted the Age Discrimination Act (42 U.S.C. 6101, *et seq.*) as part of the Amendments to the Older Americans Act (P.L. 94-135). At that time, the express purpose of the Act was to prohibit unreasonable discrimination based on age in programs and activities receiving federal financial assistance, including the State and Local Fiscal Assistance Act of 1972. The Act also permitted federally assisted programs and activities, and recipients of federal funds, to continue to use: (1) some age distinctions, and (2) "reasonable factors other than age". The Act applied to persons of all ages.

Prior to the enactment of any regulations, the Act required the Commission on Civil Rights to conduct a study of age discrimination in federally funded programs and activities. The Commission transmitted its study to the President and the Congress on January 10, 1978. The Commission published the second part of its study in January 1979. The Act also required each affected federal agency to respond to the Commission's findings and recommendations.

After the receipt of the report of the Commission of Civil Rights and the federal agency responses to that report, the Congress considered amendments to the Age Discrimination Act of 1975. In October 1978, Congress amended the Act (P.L. 95-478). Congress struck the word "unreasonable" from the statement of purpose clause, so that the purpose of the Act is to prohibit discrimination based on age in programs and activities receiving federal financial assistance. However, the Congress retained the exceptions to the prohibition against age discrimination. Thus, the Act still permits the use of: (1) some age distinctions, and (2) "reasonable factors other than age." The Act continues to apply to persons of all ages.

According to the language of the Act, the prohibition against age discrimination will become effective when regulations are issued to enforce the Act. The Act required the Secretary of HEW to publish proposed and then final general regulations. HEW issued proposed general regulations on December 1, 1978, and final regulations on June 12, 1979. The HEW regulations set standards for other federal agencies to follow in the development of agency specific regulations. The Act also requires each agency which provides federal financial assistance to issue proposed and then final specific regulations. These specific regulations must conform to the HEW general regulations, and must be submitted for approval to the Secretary of HEW.

Rulemaking History

As the first step in the development of agency regulations to implement the Act, HEW published in the **Federal Register** (43 FR 8756) a Notice of Intent (NOI) to issue age discrimination regulations on March 2, 1978. Following publication of the NOI, HEW created an Interagency Task Force on Age Discrimiantion to coordinate development of HEW's government-wide regulations, and to assist other agencies in developing specific implementing regulations. DOT has participated in all meetings of the Task Force since its inception.

On December 1, 1978, HEW published in the **Federal Register** (43 FR 56428) its proposed government-wide regulations on age discrimination. Hearings on the NPRM were held in January and February of 1979. The final HEW regulations, reflecting comments received from the general public and other agencies, were published in the **Federal Register** on June 12, 1979 (44 FR 33768). The HEW rule requires each agency that provides federal financial assistance to issue its own proposed rules within 90 days of publication of the HEW final rule (by September 12, 1979). HEW also requires that each agency submit its proposed final rule to HEW within 120 days of publication of the agency's specific proposed rules.

The HEW regulations provide for each agency which publishes age discrimination regulations to conduct its own assessment of the effectiveness of its age discrimination regulations after they have been in effect for 30 months, and to publish the report in the **Federal Register** for comment. HEW will also examine implementation of the government-wide age discrimination guidance after 30 months time, and will amend the guidelines as necessary.

Overview of the Regulations

The following paragraphs summarize the text of the proposed regulations. The last section of the preamble contains a discussion of the major issues which were raised in the development of HEW's government-wide regulations and their resolution, and the relationship of the issues to the programs and activities of the Department of Transportation.

Subpart A—General.—Subpart A of the proposed regulations explains the purpose of the Age Discrimination Act, the purpose of these age discrimination regulations, the programs and activities covered by the Act, and the meaning of important terms.

Subpart A specifies that the Act applies to programs and activities receiving federal financial assistance. The Act and these regulations do not apply to employment practices, except for programs funded under the public service employment titles of the Comprehensive Employment and Training Act (CETA). The Age Discrimination in Employment Act (ADEA), which is administered by the Equal Employment Opportunity Commission (EEOC), continues to be the federal statute that prohibits employment discrimination for persons between the ages of 40 and 70. Individuals in this age range who experience employment discrimination, other than in CETA public service employment programs, must write to the EEOC and look to the ADEA for relief, and not to the Age Discrimination Act or these regulations.

HEW indicated during the development of its government-wide regulations that recipients should not be burdened with additional paperwork requirements as a result of the Act, and therefore has not required in its regulations that recipients submit assurances of compliance with the Act. These DOT regulations, therefore, do not include a requirement for assurances in their grant agreements. However, even without an assurance of compliance, the legal obligation of a recipient to comply with these regulations remains unchanged.

Subpart B—Standards for Determining Discriminatory Practices.—Subpart B of these regulations sets out the rules against age discrimination and the conditions under which the statutory exceptions apply.

The rules generally provide that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity receiving DOT financial assistance.

The Act contains several exceptions which limit the general prohibition against age discrimination. Section 304(b)(1) of the Act permits the use of age distinctions which are necessary to the normal operation of a program or to the achievement of a statutory objective. It also permits actions which are based on reasonable factors other than age. HEW's government-wide regulations define "normal operation" and "statutory objective." These definitions have been included in these regulations in § 29.17(a).

HEW's regulations also establish a four-part test, all parts of which must be met for an explicit age distinction to satisfy one of the statutory exceptions and to continue in use in a federally assisted program. DOT will use this four-part test, set forth in § 29.17(b), to scrutinize age distinctions which are imposed in the administration of its federally assisted programs, but which are not explicitly authorized by a federal, state or local state or ordinance adopted by an elected, general purpose legislative body.

The Act also permits recipients of federal funds to take actions which may have the indirect effect of discriminating on the basis of age, if the action is based on "reasonable factors other than age." The action may be taken even though it has a disproportionate effect on persons of different ages. However, HEW specifies in its guidelines that the factor other than age must bear a "direct and substantial" relationship to the program's normal operation or to the achievement of a statutory objective. This provision is contained in § 29.17(c) of these regulations.

DOT does not have the authority to change the definitions, standards, and basic procedures which were set forth in HEW's government-wide regulations. Therefore DOT asks reviewers not comment on these definitions, standards, and procedures but to direct comments to other substantive issues and to questions specific to the programs and activities of this Department.

These regulations include, in § 29.19, HEW's provision that the burden of proof of compliance with the Act rest with the recipient of federal financial assistance.

Subpart C—Specific Responsibilities of this Department.—The HEW guidelines require all agencies to take certain actions to ensure compliance with the Act. Subpart C sets forth the five steps specified by HEW.

Section 29.31 requires the Department to review its existing age distinctions and to publish the results of this review in the **Federal Register** within 12 months after publication of the final DOT regulations. The report must indicate which age distinctions meet the requirements of the Act and will be continued and which will be eliminated. New age distinctions may not be imposed by the Department after the effective date of these regulations, unless they are adopted by regulation under the Administrative Procedure Act. One year after the effective date of these regulations, the Department may not continue an existing age distinction unless it has already been adopted by regulation or it is thereafter adopted by regulation.

Section 29.33 requires the Department to cooperate with other agencies which grant financial assistance to a DOT recipient, in assuring compliance with the Act. To avoid or minimize conflicting actions by different federal agencies which deal with the same recipient, the HEW guidelines permit the Secretary of HEW to designate one of the agencies to coordinate all compliance and enforcement activities for that recipient or class of recipients. Interagency cooperation may extend to all compliance and enforcement activities except for the actual termination of funds and the notification to Congress of that termination.

The Act requires each agency to report annually to Congress, through HEW, on its progress in complying with the Act. Section 29.35 provides that the Department will submit such reports to HEW by December 31 of each year, as required by the HEW guidelines, containing the information specified by HEW.

The HEW regulations are intended to permit a targeted approach to data collection and analysis, to measure and analyze actual progress in complying with the Act while minimizing the burden on recipients. The Department will use data on complaints and will collect other data directly relevant to particular patterns or practices of discrimination revealed by complaints, compliance reviews or other compliance activities. The HEW guidelines permit each agency to tailor its own data collection to the characteristics of its programs, rather than establishing specific reporting requirements for each of its federally assisted programs.

Section 29.37 specifies actions that the Department must take, in accordance with the HEW regulations, in order to provide information to recipients to assist them in understanding their obligations under the Act.

Section 29.39 requires that the Department invite public comment, after 30 months time, on the success of its regulation in implementing the Age Discrimination Act, and publish the results of that review in the **Federal Register**. HEW will also invite comment on the effectiveness of its government-wide regulations after 30 months, and publish the results in the **Federal Register**. HEW may revise its regulations as a result of that review, which would require comparable revisions to these regulations.

Subpart D—Responsibilities of DOT Recipients.—This subpart sets out actions required of recipients of DOT financial assistance to ensure compliance with the Act.

Section 29.53 states that recipients have primary responsibility to ensure that their programs and activities are in compliance with the Act and these regulations. Section 29.55 requires recipients to give notice to any subrecipients of their responsibilties under the Act.

The major obligation of recipients under these regulations is set forth in § 29.57. Each recipient having the equivalent of 15 or more full-time employees must complete a written self-evaluation within 18 months of the effective date of these regulations, identifying and justifying each age distinction it imposes in its federally-assisted programs and activities. Following self-evaluation, recipients must take action to ensure that any

violations identified in the self-evaluation are corrected. HEW intends the self-evaluation to be a one-time requirement.

HEW does not require in its general regulations that the self-evaluation be conducted with the participation of the interested public; for example, users of the recipient's programs or activities, or members of age-related groups. The Department has therefore not required public participation in the preparation of its recipients's self-evaluations. We welcome comments, however, on whether public participation should be an element of this requirement.

The general HEW regulations require that each recipient's self-evaluation be made available to the agency and the public for three years following its completion, but do not require that recipients submit the self-evaluation to the grantor agency for review. Accordingly, this Department proposes not to require recipients to submit the self-evaluation for its review. The Department intends, however, to review the self-evaluation of any recipient alleged to have violated these regulations within the three-year period.

Section 29.59 sets forth the requirement that recipients generally make available information the Department might request in order to determine the recipient's compliance with the Act.

Subpart E—Investigation, Conciliation and Enforcement Procedures.—Subpart E of the proposed regulations established the procedures the Department will use in its investigation, conciliation, and enforcement activities.

Section 29.71 states that the Department may make use of other agencies or organizations in order to ensure compliance with the Act. The Department shall make every effort to ensure compliance with the Act when a compliance review indicates a violation.

Section 29.73 authorizes the Department to conduct compliance reviews of recipients, even in the absence of complaints.

Section 29.75 sets forth the specific procedures to be followed in the handling of complaints which allege age discrimination in a program or activity receiving DOT financial assistance. Complaints may be filed with DOT by an individual or a class or by a third party, within 180 days from the date the alleged violation occurred, unless an extension is granted. Section 29.75(b)(1) describes the information that must be included in the complaint.

Paragraph (c) of this section requires the Department to return to the complainant any complaint that falls outside the scope of these regulations. Although the HEW regulations do not specify a time period in which this must occur, this Department proposes a requirement that such complaints be returned within 14 days, in order that the complainant may seek other recourse in the shortest time possible. Because HEW has established a maximum time period of 60 days for the mediation process, and because the Department anticipates that most complaints received will be from elderly persons, we believe that all efforts should be made to return complaints outside our jurisdiction to the complainants quickly. Comments on the reasonableness and desirability of such a time limit would be helpful.

Procedures for the resolution of complaints are set forth in § 29.77, which describes the proposed mediation process. (A detailed discussion of HEW's decision to require formal mediation to resolve age discrimination complaints is contained in the next section, "Critical Issues.") Section 29.77 requires that complaints which fall under jurisdiction of these regulations and which contain sufficient information be forwarded to the mediation agency (which HEW has designated as the Federal Conciliation and Mediation Service). The Department proposes the same 14-day deadline for forwarding such complaints as set forth in § 29.75, although HEW did not specify such a time limit. We believe that the time period for processing of complaints should be consistent, whether complaints are forwarded to FMCS or returned to the complainant.

The mediation process shall be used for a period of up to 60 days, during which time the parties reach a settlement, or the mediator determines, after at least one meeting with the parties, that a settlement is not possible. The mediator will send a copy of any settlement agreement to the Department, or will notify the Department that mediation has not been successful.

When mediation ends without an agreement between the parites, the Department will begin its own informal investigation, as described in § 29.79(a). Whenever possible, informal fact finding will be used to determine whether a violation has occurred. In the event informal investigation does not lead to resolution of a complaint, the Department may conduct a formal investigation, as provided in § 29.79(b). Section 29.79(b) provides that in such investigations and other proceedings, complainants may request that their identity be kept confidential, unless such confidentiality is likely to hinder the investigation.

Section 29.81 prohibits recipients from taking any retaliatory measures against persons who have attempted to assert a right protected by these regulations or cooperated in the investigation of complaints.

Section 29.83 describes the procedures the Department may take against recipients found to be in violation of these regulations. Enforcement measures may include termination of the Department's financial assistance of a program or activity; referral to the Department of Justice; and referral to another federal, state or local agency which may obtain compliance. These enforcement procedures are closely modeled on those incorporated in the HEW regulations, which were in turn taken from the procedural provisions for enforcing Title VI of the Civil Rights Act of 1954.

Section 29.85, regarding procedures for hearings on proposed terminations of federal financial assistance, is also modeled on the Title VI hearing procedures. The procedures in these regulations are modified slightly from the Title VI procedures, and reflect changes that the Department made in developing hearing procedures for enforcement of its regulations implement section 504 of the Rehabilitation Act of 1973.

Section 29.87 describes procedures for reaching final determinations by the Secretary, which are also similar to those contained in this Department's section 504 regulations. The major change from the Title VI procedures which were adopted by the HEW regulation is that the "responsible Departmental official" oversees the entire investigation and enforcement effort, while final authority to determine noncompliance and imposed administrative sanctions is reserved to the Secretary. These procedures also provide that an administrative law judge make a recommended decision, upon which the responsible Departmental official and applicant or recipient may comment, before the Secretary makes the final decision. The Department believes it is likely that any matters that are unable to be settled informally will be sufficiently important and controversial to merit direct decision by the Secretary.

Section 29.89 requires that recipients take any actions necessary to overcome the effects of proven discrimination. This language is required by the HEW regulations.

Section 29.91 gives the Department the discretion to transfer funds designated for a particular recipient to another recipient in the event a finding of violation results in a termination or withholding of funds. The alternate recipient would have to demonstrate that it is able to comply with these regulations and that it can achieve the goals of the program for which the funds were originally intended.

Section 29.93 permits a complainant to file a civil action if his or her complaint has not been acted upon within 180 days of submission to the agency, or if the Department issues a finding in favor of the recipient. This section requires that the Department, in such cases, notify the complainant that he or she may bring a civil suit in a district court in which the recipient is located or transacts business; that the complainant may demand attorney's fees; and that the complainant must notify the Secretary, the Attorney General, and the recipient of the proposed action. The Department must notify the complainant that a civil suit may not be filed if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Appendix

The appendix to these regulations contains a list of the age distinctions used in DOT-assisted programs and activities.

The HEW regulations require each agency to provide such an appendix as part of its final regulations, but do not require the appendix to be included in each agency's draft regulations. The Department believes that the public should have the opportunity to review and comment on these distinctions, and therefore has included the appendix in these draft regulations.

Critical Issues

Exceptions to the Prohibition Against Age Discrimination.—In enacting the Age Discrimination Act, Congress expressed concern that some programs and activities receiving federal financial assistance may be discriminating against persons on the basis of age. There were indications, confirmed by the findings of the Civil Rights Commission Study, that some age distinctions which denied persons over or under a certain age access to federally-assisted programs and activities were based on stereotypes and misconceptions about the abilities and needs of persons of different ages.

Congress recognized, however, that many age distinctions are rational and necessary in many activities; for example, compulsory school attendance requirements, and special benefits such as reduced fares and fees for elderly persons and children. Congress thus provided in the Act that age distinctions established under the authority of "any law", and which are necessary to a program's normal operation or statutory objectives, were not to be prohibited. The Act also permits actions which are based on "reasonable factors other than age" which have the effect of limiting participation of different age groups, if those factors are directly related to the normal operation or statutory objective of a program. Other than these statutory exceptions, however, the Act and its legislative history provide little guidance on congressional intent regarding which age distinctions are permissible.

There was extensive comment during development of the HEW regulations on how "any law" should be interpreted. HEW had proposed a number of options: that the definition include only federal statutes; federal and state statutes; federal, state and local statutes; and federal, state, and local statutes and regulations. Many commentors had recommended that "any law" be interpreted to mean federal statute only, for the reason that any other interpretation would seriously weaken the Act, and that state and local legislative bodies would exempt many age distinctions from coverage of the Act. Many other commentors had argued that states should be permitted to exercise their traditional authority in areas such as establishing minimum/maximum ages for school attendance, but that extending the exemption to local statutes would result in the establishment of numerous age distinctions in the administration of federally-assisted programs.

HEW concluded, however, that there is no clear basis for limiting the definition of "any law" to federal statutes. Congress rejected an amendment to the Act in 1978 that would have defined "any law" to mean federal statute. HEW also determined that there would be no basis for permitting state statutes to contain age distinctions if local statutes were excluded from the definition. HEW concluded that no case has been made that age discrimination occurs as a result of age distinctions in state and local statutes, and that beneficial age distinctions are enacted by state and local legislative bodies.

There was little support for including regulations in the definition of "any law" during the development of the HEW guidance. The inclusion of regulations would have permitted administrators of federally funded programs to impose age distinctions which are not authorized by a legislative body.

HEW's regulations therefore define "any law" as any federal, state or local statute or ordinance enacted by an elected, general purpose legislative body. The HEW regulations also define the other conditions under which age distinctions not established under authority of law *are* permissible. The DOT regulations adopt these exceptions.

Applicability of the Act to DOT Programs.—A major concern of this Department during the development of the HEW general regulations was the possible effect of the HEW rule on programs of the Department which permit recipients to set special fares for different age groups. In developing its regulations, HEW determined that special benefits, such as reduced fares for children and elderly persons on public transportation, should be continued. This provision is set forth in § 90.49(c) of the HEW regulations, and § 29.47(d) of these regulations. Under that section, recipients may provide special benefits to various age groups, provided that they do not result in the exclusion of other eligible persons from the recipient's general program.

The special benefits provision resulted from HEW's belief that Congress did not intend to disturb the practices of recipients which provide special benefits to children or the elderly in programs that are also available to a wider age range of the population. The HEW regulations leave to the recipient the definition of "children" or "elderly" for the purpose of receiving a special benefit. However, HEW has stated that it does not intend this provision to be used to justify a general program which provides services *only* to children or to the elderly.

The programs of this Department that provide such special benefits are, for the most part, based in federal statute. Section 5(m) of the Urban Mass Transportation Act of 1964, as amended (the "UMT Act") requires that recipients of UMTA financial assistance charge elderly and handicapped persons riding at non-peak hours no more than half the fare generally charged other persons during peak hours. The statute uses the "term" elderly rather than a specific age. UMTA guidelines set 65 as the age over which benefits must be conferred, but allow recipients to set a lower age. (Some operators have established lower ages for the half-fare benefit, or permit the elderly and handicapped to ride at half fare at all hours.) Because the provision for this benefit has a statutory basis, UMTA's action would appear to be exempt from coverage of the Act, and therefore is not prohibited by these

V 4 4 0 C 2 2 7 9 UMI

regulations. HEW has also explicitly stated in its general regulations that recipients may continue to allow school children to travel on public transit at reduced fares, a benefit provided in many cities.

Section 18(a) of the UMT Act requires special efforts on behalf of "elderly and handicapped persons." Again, the term elderly is not defined. Many transit authorities operate special transportation services for elderly and handicapped persons, sometimes in the form of vans that provide door-to-door transportation service for these individuals in lieu of fixed-route bus or rail service. The Department believes that this statutorily-based benefit is not prohibited by the Act.

Section 16(b)(2) of the UMT Act permits UMTA to provide grants and loans to private non-profit organizations for the specific purpose of assisting them in providing transportation services for elderly and handicapped persons. These organizations may use UMTA funds to purchase vehicles such as vans which provide transportation for these individuals. The Department believes that such recipients may continue to set age requirements for participation in the program since this serves the statutory objective of the program. Because the 16(b)(2) program does *not* also serve the general public, the Department believes that the exclusion of persons of other ages from the special service does not constitute a violation of these regulations.

The other major area in which the Department uses age distinctions are in the grant programs of the National Highway Traffic Safety Administration (NHTSA). Under section 402 of the Highway Safety Act of 1966, as amended, NHTSA provides funds to each of the fifty states for the purpose of improving highway safety. States funnel these funds to cities, counties, and state agencies, including motor vehicle departments which administer driver licensing programs, and education agencies which authorize driver training programs in public schools. States generally establish, by statute, minimum age requirements for driver licensing, and certain re-testing requirements for persons of certain ages. Because the Act does not cover age distinctions authorized by state statute, such requirements are not prohibited by these regulations.

NHTSA also supports various training and education programs not based specifically in statute, but which support the statutory goals of the Highway Safety Act. Many of these programs are targeted for various age groups based on accident statistics. The Department believes that targeting accident-prevention activities to such groups (such as elementary school children) bears a necessary relationship to the statutory objective of the Department's highway safety program, and therefore should not be prohibited.

There is one other grant program of the Department in which age distinctions are used. Amtrak, which receives federal financial assistance from the Federal Railroad Administration (FRA), imposes several age distinctions in the area of fares and ridership requirements in the operation of passenger rail service. Several distinctions provide fare discounts for families, children, or senior citizens, and are therefore not prohibited by these regulations. Two of the distinctions, however, do not provide benefits: Amtrak requires children under the age of 8 to be accompanied by a person over the age of 12; and permits passengers between the ages of 8 and 12 to travel alone only at the discretion of Amtrak. The Department would be interested in comments on whether these distinctions would meet the four-part test, set forth in § 29.17(b) of these regulations, required of age distinctions that are not authorized by statute.

Mediation

These regulations, in accordance with the HEW general regulations, require that complaints of age discrimination be subject to mediation after initial screening by the Department. Participation in mediation is mandatory for both the complainant and the recipient. HEW has decided to centralize the mediation process in one government agency, the Federal Mediation and Conciliation Service (FMCS).

There was considerable controversy on the issue of mediation during development of the HEW general regulations. Some commentors thought it was inappropriate to introduce bargaining into the civil rights enforcement process and to impose this new and different step in the complaint resolution process. There was concern that the requirement would be confusing to complainants and recipients.

HEW and this Department believe that the mediation process is an important innovation in resolution of age discrimination complaints. Mediation is an effort to provide faster and more creative resolution of complaints through informal methods of dispute resolution. Attempts to reach a mediated settlement must be completed in the first 60 days after the complaint is received. While mediation does represent a new step in the complaint resolution process, the experience in resolving complaints under other civil rights statutes has been that the 60 days set aside for mediation will not significantly delay the enforcement process.

HEW provided that all complaints be mediated, based on experience that even the most intransigent parties can arrive at a mutually satisfactory resolution of their dispute. Mediation does not necessarily mean that the two parties must meet face to face; each may meet separately with the mediator. Since the mediated settlement must be satisfactory to both parties, neither the complainant nor the recipient is compelled to settle the complaint. Since the cost of the mediator will be paid by the federal government, the financial burden on complainants and recipients will be minimal.

The HEW regulations provide that the management of the mediation process be centralized in the FMCS. Although there were comments critical of HEW's decisions, HEW and this Department believe that the benefits to be realized by centralizing the management of the mediation process are substantial and that the FMCS is the appropriate agency for the job. The use of a single agency to manage the mediation process assures that uniform standards will be used in the recruitment and training of mediators, that consistent procedures will be followed during mediation, and there can be a comprehensive and coherent evaluation of the process as part of the 30-month review of the effectiveness of both HEW's and this Department's regulations.

Regulatory Evaluation

It has been determined that the following proposed regulations are not "significant" under the Department's regulatory procedures and policies. A draft Regulatory Evaluation has been prepared which describes the anticipated costs and benefits of the proposed rule. A copy of the draft Regulatory Evaluation has been placed in the docket for this rulemaking, and is available for public inspection.

Issued at Washington, D.C. October 16, 1979.

Neil E. Goldschmidt,

Secretary of Transportation.

The Department of Transportation proposes to add Part 29 of Title 49 of the Code of Federal Regulations, as set forth below:

PART 29—NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Subpart A—General

Sec.
29.1 Purpose.
29.3 Applicability.
29.5 Definitions.

Subpart B—Standards for Determining Discriminatory Practices

29.11 Purpose of this subpart.
29.13 Rules against age discrimination.
29.15 Coverage of the Act.
29.17 Exceptions to the rules against age discrimination.
29.19 Burden of proof.

Subpart C—Specific Responsibilities of This Department

29.31 Review of policies and administrative practices.
29.33 Interagency cooperation.
29.35 Reports.
29.37 Written notice, technical assistance and educational materials.
29.39 Review of regulations.

Subpart D—Responsibilities of DOT Recipients

29.51 General responsibilities.
29.53 Notice to sub-recipients.
29.55 Self-evaluation.
29.57 Information requirements.

Subpart E—Investigation, Conciliation, and Enforcement Procedures

29.71 General.
29.73 Compliance reviews.
29.75 Complaints.
29.77 Mediation.
29.79 Investigation.
29.81 Prohibition against intimidation or retaliation.
29.83 Compliance procedure.
29.85 Hearings.
29.87 Decisions and notices.
29.89 Remedial action by recipients.
29.91 Alternate funds disbursal procedure.
29.93 Exhaustion of administrative remedies.
Appendix—Age Distinctions in Programs and Activities Receiving DOT Financial Assistance.

Authority: Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*); 45 CFR Part 90.

Subpart A—General

§ 29.1 Purpose.

The purpose of these regulations is to set forth DOT's policies and procedures under the Age Discrimination Act of 1975, as amended, and general regulations promulgated by the Department of Health, Education, and Welfare (45 CFR 90) The Act and Part 90 prohibit discrimination on the basis of age in programs and activities receiving federal financial assistance. The Act and Part 90 also permit federally-assisted programs and activities, and recipients of federal funds, to continue to use certain age distinctions and factors other than age which meet the requirements of the Act and Part 90.

§ 29.3 Applicability.

These regulations apply to each recipient of federal financial assistance from the Department of Transportation, and to each program or activity operated by the recipient that receives or benefits from such assistance.

§ 29.5 Definitions.

As used in these regulations:

"Act" means the Age Discrimination Act of 1975, as amended (Title III of Pub. L. 94–135).

"Action" means any act, activity, policy, rule, standard, or method of administration, or the use of any policy, rule, standard or method of administration.

"Age" means how old a person is, or the number of elapsed years from the date of a person's birth.

"Age distinction" means any action using age or an age-related term.

"Age-related term" means a word or words which necessarily implies a particular age or range of age (for example, "children," "adult," "elderly," but not "student").

"Agency" means a federal department or agency that is empowered to extend federal financial assistance.

"Applicant" means one who submits an application, request, or plan to be approved by the Department or by a primary recipient as a condition to eligibility for federal financial assistance.

"Department" means the Department of Transportation.

"Discrimination" means the denial, on the basis of a person's age, of the opportunity to participate in or benefit from any program or activity receiving federal financial assistance.

"Federal financial assistance" means any grant, entitlement, loan, cooperative agreement, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(a) Funds;

(b) Services of federal personnel; or

(c) Real or personal property or any interest in or use of property, including:

(1) Transfers or leases of property for less than fair market value or for reduced consideration; and

(2) Proceeds from a subsequent transfer or lease of property if the federal share of its fair market value is not returned to the federal government.

"HEW" means the Department of Health, Education, and Welfare.

"HEW guidelines" means the government-wide regulations on age discrimination, published on June 12, 1979.

"Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended, directly or through another recipient. Recipient includes any successor, assignee, or transferee, but excludes the ultimate beneficiary of the assistance.

"Secretary" means the Secretary of Transportation.

"Sub-recipient" means any of the entities in the definition of "recipient" to which a recipient extends or passes on federal financial assistance. A sub-recipient is generally regarded as a recipient of federal financial assistance and has all the duties of a recipient in these regulations.

"United States" means the fifty states, District of Columbia, Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, the Trust Territory of the Pacific Islands, the Northern Marianas, and the territories and possessions of the United States.

Subpart B—Standards for Determining Discriminatory Practices

§ 29.11 Purpose of this subpart.

The purpose of this subpart is to set forth the prohibitions against age discrimination and the exceptions to those prohibitions.

§ 29.13 Rules against age discrimination.

The rule stated in this section are limited by the exceptions contained in §§ 29.15 and 29.17 of these regulations.

(a) *General rule.* No person in the United States shall, on the basis of age, be excluded from participation in, be denied, the beneifits of, or be subjected to discrimination under, any program or activity receiving federal financial assistance.

(b) *Specific rules.* A recipient may not, in any program or activity receiving financial assistance from this Department, directly or through contractual, licensing, or other arrangements, use age distinctions or take any other actions which have the effect, on the basis of age, of:

(1) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under, a program or activity receiving federal financial assistance from the Department; or

V 4 4 O C 2 2 7 9 UMI

(2) Denying or limiting individuals in their opportunity to participate in any program or activity receiving federal financial assistance from this Department; or

(3) Otherwise limiting persons in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by other receiving an aid, benefit, or service.

(c) The specific forms of age discrimination listed in paragraph (b) of this section do not necessarily constitute a complete list.

§ 29.15 Coverage of the Act.

(a) The Act applies to any program or activity receiving federal financial assistance.

(b) The Act and these regulations do not apply to:

(1) An age distinction contained in that part of a federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body which:

(i) Provides any benefits or assistance to persons on the basis of age; or

(ii) Establishes criteria for participation in age-related terms; or

(iii) Describes intended beneficiaries or target groups in age-related terms.

(2) Any employment practic of any employer, employment agency, labor organization, or any labor-management joint apprenticeship training program, except for any program or activity receiving federal financial assistance for public service employment under the Comprehenisve Employment and Training act of 1974 (CDTA). The Age Discrimination in Employment Act, adminstered by the Equal Employment Opportunity Commission, protects persons between the ages of 40 and 70 from discrimination in most phases of employment.

§ 29.17 Exceptions to the rules against age discrimination.

(a) A recipient is permitted to use age distinctions or take actions otherwise prohibited by § 29.13 which have the indirect effect, on the basis of age, of excluding individuals from benefits or denying or limiting their opportunity to participate in any program or activity, if the distinction or other action is necessary to the normal operation or the achievement of any statutory objective of the program or activity.

(1) "Normal operation" means the operation of a program or activity without significant changes that would impair its ability to meet its objective.

(2) "Statutory objective" means any purpose of a program or activity expressly stated in any federal, state, or local statute or ordinance adopted by an elected, general purpose legislative body.

(b) An action reasonably takes into account age as a factor necessary to the normal operation or the achievement of a statutory objective, if:

(1) Age is used as a measure or approximation of one or more other characteristics; and

(2) The other characteristic(s) must be measured or approximated in order for the normal operation of the program or activity to continue, or to achieve any statutory objective of the program or activity; and

(3) The other characteristic(s) can be reasonably measured or approximated by the use of age; and

(4) The other characteristic(s) are impractical to measure directly on an individual basis.

(c) A recipient is permitted to take an action otherwise prohibited by § 29.13 which is based on a factor other than age, even though that action may have a disproportionate effect on persons of different ages. An action may be based on a factor other than age only if the factor bears a direct and substantial relationship to the normal operation or the program or activity, or to the achievement of its statutory objective.

(d) A recipient may provide special benefits to the elderly or to children as part of a program serving persons of others ages, provided it does not have the effect of excluding otherwise eligible persons from participation in the overall program.

§ 29.19 Burden of proof.

The burden of proving that an age distinction or other action falls with the exceptions outlined in § 29.17 is on the recipient of federal financial assistance.

Subpart C—Specific Responsibilities of This Department

§ 29.31 Review of policies and administrative practices.

(a) The Department shall conduct a review of age distinctions it imposes on its recipients by regulations, policies, and administrative practices. The purpose of this review is to identify how age distinctions are used by the Department and whether those age distinctons are permissible under the Act and the HEW guidelines.

(b) No later than 12 months from the date of publication of the Department's final regulations, the Department shall publish, for publish comment, a report in the Federal Register containing:

(1) The results of the review conducted under paragraph (a) of this section;

(2) A list of the age distinctions contained in regulations that are to be continued;

(3) The justification under the requirements of the Act and the HEW guidelines for each age distinction to be continued;

(4) A list of the age distinctions not contained in regulations but which will be adopted by regulation under the Administrative Procedure Act using the notice and comment procedures specified in 5 U.S.C. 553; and

(5) A list of the age distinctions to be eliminated.

(c) Beginning with the effective date of this Department's final regulations, the Department may not impose a new age distinction unless the age distinction is adopted by regulation under the Administrative Procedure Act using the notice and comment procedures specified in 5 U.S.C. 553.

(d) Beginning 12 months after the publication of this Department's final regulations, the Department may not continue to use an existing age distinction, unless the age distinction has already been adopted by regulation or is thereafter adopted by regulation under the Administrative Procedure Act using the notice and comment procedures specified in 5 U.S.C. 553.

§ 29.33 Interagency cooperation.

The Department shall cooperate with other federal agencies which provide federal financial assistance to the same recipient or class of recipients. The Secretary of HEW may designate one of the agencies as the sole agency for all compliance and enforcement purposes with respect to those recipients, except for the ordering of termination of funds and the notification of the appropriate committees of Congress.

§ 29.35 Reports.

The Department shall submit to the Secretary of HEW not later than December 31 of each year, beginning in 1979, a report which:

(a) Describes in detail the steps taken during the preceding fiscal year to carry out the Act; and

(b) Contains data on the frequency, type and resolution of complaints and on any compliance reviews, sufficient to permit analysis of the agency's progress in reducing age discrimination in programs receiving federal financial assistance from the agency; and

(c) Contains data directly relevant to the extent of any pattern or practice of age discrimination which the agency has identified in any programs receiving federal financial assistance from the agency; and to progress towards eliminating it; and

(d) Contains evaluative or interpretive information which the Department determines is useful in analyzing the Department's progress in reducing age discrimination in programs receiving DOT financial assistance; and

(e) Contains other data as requested by the Secretary of HEW.

§ 29.37 Written notice, technical assistance, and educational materials.

The Department shall:

(a) Provide written notice to each recipient of its obligations under the Act. The notice shall include a requirement that where a recipient initially receiving funds makes the funds available to a sub-recipient, the recipient must notify the sub-recipient of its obligations under the Act.

(b) Provide technical assistance, where necessry, to recipients to aid them in complying with the Act.

(c) Make available educational materials setting forth the rights and obligations of beneficiaries and recipients under the Act.

§ 29.39 Review of regulations.

(a) Within 30 months after the effective date of these regulations, the Department shall publish in the Federal Register a notice inviting public comment on the effectiveness of these regulations.

(b) The Department shall assess the comments and publish the results of the review in the Federal Register.

Subpart D—Responsibilities of DOT recipients

§ 29.51 General responsibilities.

Recipients of DOT financial assistance have primary responsibility to ensure that their programs and activities are in compliance with the Act and these regulations.

§ 29.53 Notice to subrecipients.

Where a recipient passes on federal financial assistance from DOT to sub-recipient the recipient shall provide the sub-recipients written notice of their obligations under these regulations.

§ 29.55 Self-evaluation.

(a) Each recipient (including sub-recipients) employing the equivalent of 15 or more full time employees shall complete a written self-evaluation of its compliance under the Act and these regulations within 18 months of the effective date of these regulations.

(b) Each recipient (including sub-recipients) in its self-evaluation shall identify and justify each age distinction it imposes in its programs or activities receiving federal finanacial assistance from the Department.

(c) Each recipient (including sub-recipients) shall take corrective action whenever a self-evaluation indicates a violation of these regulations.

(d) Each recipient (including sub-recipients) shall make the self-evaluation available on request to the Department and to the public for a period of 3 years following its completion.

§ 29.57 Information requirements.

Each recipient shall:

(a) Make available upon request to the Department information necessary to determine whether the recipient is complying with these regulations.

(b) Permit reasonable access by the Department to the books, records, accounts, and other recipient facilities and source of information to the extent necessary to determine whether a recipient is in compliance with these regulations.

Subpart E—Investigation, Conciliation, and Enforcement Procedures

§ 29.71 General.

The Department has responsibility to attempt to secure recipient compliance with the Act by voluntary means. This may include the use of the services of appropriate federal, state, local or private organizations. The Department also has the responsibility to enforce the Act when a recipient fails to eliminate violations of the Act.

§ 29.73 Compliance reviews.

(a) The Department may conduct compliance reviews and pre-award reviews of recipients that will permit it to investigate and correct violations of these regulations. The Department may conduct these reviews even in the absence of a complaint against a recipient. The review may be as comprehensive as necessary to determine whether a violation of these regulations has occurred.

(b) If a compliance review or pre-award review indicates a violation of these regulations, the Department will attempt to achieve voluntary compliance with the Act. If voluntary compliance cannot be achieved, the Department will arrange for enforcement as described in § 29.83.

§ 29.75 Complaints.

(a) Any person, individually or as a member of a class or on behalf of others, may file a complaint with the Department, alleging discrimination prohibited by these regulations. A complainant shall file a complaint within 180 days from the date of the alleged discrimination, unless the time for filing is extended by the responsible Department official or his/her designee.

(b) The Department will attempt to facilitate the filing of complaints wherever possible, in particular by, but not limited to, taking the following measures:

(1) Accepting as a sufficient complaint, any written statement which identifies the parties involved, describes generally the action or practice complained of, and is signed by the complainant.

(2) Freely permitting a complainant to add information to the complaint to meet the requirements of a sufficient complaint.

(3) Widely disseminating information regarding the obligations of recipients under the Act and these regulations, including a complaint form that a person may use to allege violations of these regulations.

(c) Within 14 days of receiving a complaint, the Department will return to the complainant any complaint outside the jurisdiction of these regulations, and will state the reasons(s) why it is outside the jurisdiction of these regulations.

§ 29.77 Mediation.

(a) Within 14 days of receipt of a complaint by the responsible Departmental official, the Department will refer to a mediation agency designated by HEW, all complaints that:

(1) Fall within the jurisdiction of these regulations; and

(2) Contain all information necessary for further processing.

(b) Both the complainant and the recipient shall participate in the mediation process to the extent necessary to reach an agreement or make an informed judgment that an agreement is not possible. The Department will not accept a judgment that an agreement is not possible unless the judgment is made after at least one meeting with the mediator.

(c) If the complainant and the recipient reach an agreement, the mediator shall prepare a written statement of the agreement and have the complainant and recipient sign it. The mediator shall send a copy of the agreement to the Department. The Department shall take no further action on the complaint unless the complainant or the recipient fails to comply with the agreement.

(d) The mediator shall protect the confidentiality of all information obtained in the course of the mediation process. No mediator shall testify in any adjudicative proceeding, produce any document, or otherwise disclose any information obtained in the course of

V 4 4 0 C 2 2 7 9 UMI

the mediation process without prior approval of the head of the mediation agency.

(e) The Department will use the mediation process for a maximum of 60 days after receiving a complaint. Mediation ends if:

(1) 60 days elapses from the time the Department receives the complaint; *or*

(2) Prior to the end of that 60 day period, an agreement is reached; *or*

(3) Prior to the end of that 60 day period, the mediator determines that an agreement cannot be reached.

§ 29.79 Investigation.

(a) *Informal investigation.* The Department will investigate complaints that are unresolved after mediation or are reopened because of a violation of a mediation agreement. The investigation may include, where appropriate, a review of the pertinent practices and policies of a recipient or applicant, and the circumstances under which the possible noncompliance with these regulations occurred. The Department will use informal fact finding methods, including joint or separate discussions with the complainant and recipient or applicant to establish the facts, and, if possible, settle the complaint on terms that are mutually agreeable. The Department will put any agreement in writing and have it signed by the parties and an authorized official of the Department. The settlement shall not affect the operation of any other enforcement efforts of the Department including compliance reviews and other individual complaints which may involve the recipient. The settlement is not necessarily a finding of discrimination against the recipient.

(b) *Formal investigation.* If the Department cannot resolve the complaint through informal investigation, it will begin to develop formal findings through further investigation of the complaint. If the investigation indicates a violation of these regulations, the Department will attempt to obtain voluntary compliance. If the Department cannot obtain voluntary compliance, it will begin enforcement as described in § 29.83.

(c) *Confidentiality.* The Department shall keep the identity of complainants confidential, at their election, during the conduct of any investigation, hearing or proceeding under these regulations. However, when such confidentiality is likely to hinder the investigation, the complainant will be advised for the purpose of waiving the privelege.

§ 29.81 Prohibition against intimidation or retaliation.

A recipient may not engage in acts of intimidation or retaliation against any person who:

(a) Attempts to assert a right protected by these regulations; or

(b) Cooperates in any mediation, investigation, hearing, or other part of the Department's investigation, concilation, and enforcement procedures.

§ 29.83 Compliance procedure.

(a) The Department may enforce these regulations through:

(1) Termination of a recipient's federal financial assistance from the Department under the program or activity involved where the recipient has violated these regulations. The determination of a recipient's violation may be made only after a hearing on the record before an administrative law judge. Therefore, cases which are settled in the mediation process, or prior to a hearing, will not involve termination of a recipient's federal financial assistance from the Department.

(2) Any other means authorized by law including but not limited to:

(i) Referral to the Department of Justice for proceedings to enforce any rights of the United States or obligations under these regulations.

(ii) Use of any requirement of or referral to any federal, state, or local government agency which will have the effect of correcting a violation of the Act or these regulations.

(b) The Department will limit any termination under § 29.83(a)(1) to the particular recipient and particular program found to be in violation of these regulations. The Department will not base any part of a termination on a finding with respect to any program or activity of the recipient which does not receive federal financial assistance from the Department.

(c) The Department will take no action suspend, terminate, or refuse to grant or continue federal financial assistance until:

(1) The responsible Departmental official has determined that voluntary compliance cannot be obtained.

(2) The responsible Departmental official has notified the recipient or applicant of its failure to comply with these regulations, and of the proposed action.

(3) Thirty days have elapsed after the responsible Departmental official has sent a written report of the circumstances and grounds of the action to the committees of the Congress having legislative jurisdiction over the federal program or activity involved. The Secretary shall file a report whenever any action is taken under paragraph (a) of this section.

(d) The responsible Departmental official may defer granting new federal financial assistance from the Department to a recipient when termination proceedings under § 29.83(a)(1) are initiated.

(1) New federal financial assistance from the Department includes all assistance for which the Department requires an application or approval, including renewal or continuation of existing activities, or authorization of new activities, during the deferral period. New federal financial assistance from the Department does not include assistance approved prior to the beginning of termination proceedings or increases in funding as a result of changed computation of formula awards.

(2) A deferral may not begin until the recipient has received a notice of opportunity for a hearing under § 29.83(a)(1). A deferral may not continue for more than 60 days unless a hearing has begun within that time or the time for beginning the hearing has been extended by mutual consent of the recipient and the responsible Departmental official. A deferral may not continue for more than 30 days after the close of the hearing unless the hearing results in a finding against the recipient or applicant.

§ 29.85 Hearings.

(a) *Opportunity for hearing.* Whenever an opportunity for a hearing is required by § 29.83(a)(1), reasonable notice is given by the responsible Departmental official by registered or certified mail, return receipt requests, to the affected applicant or recipient. This notice advises the applicant or recipient of the action proposed to be taken, the specific provision under which the proposed action is to be taken, and the matters of fact or law asserted as the basis for this action, and either:

(1) Fixes a date not less than 20 days after the date of such notice within which the applicant or recipient may request a hearing; or

(2) Advises the applicant or recipient that the matter in question has been set for hearing at a stated place and time. The time and place shall be reasonable and subject to change for cause. The complainant, if any, also is advised of the time and place of the hearing. An applicant or recipient may waive a hearing and submit written information and argument for the record. The failure of an applicant or recipient to request a hearing constitutes a waiver of the right to a hearing under the Act and

§ 29.83(a)(1), and consent to the making of a decision on the basis of such information as may be part of the record.

(b) If the applicant or recipient waives its opportunity for a hearing, the responsible Departmental official shall notify the applicant or recipient that it has the opportunity to submit written information and argument for the record. The responsible Departmental official may also place written information and argument into the record.

(c) *Time and place of hearing.* Hearings are held at the office of the Department in Washington, D.C., at a time fixed by the responsible Departmental official unless he/she determines that the convenience of the applicant or recipient or of the Department requires that another place be selected. Hearings are held before an administrative law judge designated in accordance with 5 U.S.C. 3105 and 3344 (section 11 of the Administrative Procedure Act).

(d) *Right to counsel.* In all proceedings under this section, the applicant or recipient and the responsible Departmental official have the right to be represented by counsel.

(e) *Consolidated or joint hearings.* In cases in which the same or related facts are asserted to constitute noncompliance with these regulations with respect to two or more programs to which these regulations apply, or noncompliance with these regulations and the regulations of one or more other federal departments or agencies issued under the Act, the responsible Departmental official may, in agreement with such other departments or agencies, where applicable, provide for consolidated or joint hearings. Final decisions in such cases, insofar as these regulations are concerned, are made in accordance with § 29.87.

§ 29.87 Decisions and notices.

(a) *Decisions by administrative law judge.* After the hearing, the administrative law judge certifies the entire record including his/her recommended findings and proposed decisions to the Secretary for a final decision. A copy of the certification is mailed to the applicant or recipient and to the complainant, if any. The responsible Departmental official and the applicant or recipient may submit written arguments to the Secretary concerning the Administrative law judge's recommended findings and proposed decision.

(b) *Final decision by the Secretary.* When the record is certified to the Secretary by the administrative law judge, the Secretary reviews the record and accepts, rejects, or modifies the administrative law judge's recommended findings and proposed decision, stating the reasons therefor.

(c) *Decision if hearing is waived.* Whenever a hearing pursuant to § 29.83(a)(1) is waived, the Secretary makes his/her final decision on the record, stating the reasons therefor.

(d) *Rulings required.* Each decision of the administrative law judge or the Secretary contains a ruling on each finding or conclusion presented and specifies any failures to comply with these regulations.

(e) *Content of orders.* The final decision may provide for suspension or termination, or refusal to grant or continue federal financial assistance, in whole or in part, under the program involved. The decision may contain such terms, conditions, and other provisions as are consistent with and will effectuate the purposes of the Act and these regulations including provisions designed to assure that no federal financial assistance will thereafter be extended unless and until the recipient corrects its noncompliance and satisfies the Secretary that it will fully comply with these regulations.

(f) *Subsequent proceedings.* (1) An applicant or recipient adversely affected by an order issued under paragraph (e) of this section is restored to full eligibility to receive federal financial assistance if it satisfies the terms and conditions of that order or if it brings itself into compliance with these regulations and provides reasonable assurance that it will fully comply with these regulations.

(2) Any applicant or recipient adversely affected by an order entered pursuant to paragraph (e) of this section may, at any time, request the responsible Departmental official to restore its eligibility, to receive federal financial assistance. Any request must be supported by information showing that the applicant or recipient has met the requirements of subparagraph (1) of this paragraph. If the responsible Departmental official determines that those requirements have been satisfied he/she may restore such eligibility, subject to the approval of the Secretary.

(3) If the responsible Departmental official denies any such request, the applicant or recipient may submit a request in writing, for a hearing specifying why it believes the responsible Departmental official should restore it to full eligibility. It is thereupon given a prompt hearing, with a decision on the record. The applicant or recipient is restored to eligibility if it demonstrates to the satisfaction of the Secretary at the hearing that it satisfies the requirements of paragraph (f)(1) of this section.

(4) The hearing procedures of § 29.85 (b) and (c) and paragraphs (a)–(d) of this section apply to hearings held under subparagraph (3) of this paragraph.

(5) While proceedings under this paragraph are pending, the sanctions imposed by the order issued under paragraph (e) of this section shall remain in effect.

§ 29. 89 Remedial action by recipients.

Where the responsible Departmental official finds a recipient has discriminated on the basis of age, the recipient shall take any remedial action that the Secretary may require to overcome the effects of discrimination. If another recipient exercises control over the recipient that has discriminated, the responsible Departmental official may require both recipients to take remedial action.

§ 29.91 Alternate funds disbursal procedure.

(a) When the Department withholds funds from a recipient under these regulations, the responsible Departmental official may disburse the withheld funds directly to an alternate recipient. That alternate recipient may be any public or non-profit organization or agency, or state or political subdivision of the state.

(b) The responsible Departmental official will require any alternate recipient to demonstrate:

(1) The ability to comply with these regulations; and

(2) The ability to achieve the goals of the federal statute authorizing the program or activity.

§ 29.93 Exhaustion of administrative remedies.

(a) A complainant may file a civil action following the exhaustion of administrative remedies under the Act. Administrative remedies are exhausted if:

(1) 180 days have elapsed since the complainant filed the complaint, and the Department has made no finding with regard to the complaint; *or*

(2) The Department issues any finding in favor of the recipient.

(b) If the Department fails to make a finding within 180 days as described in paragraph (a)(1) of this section, or issues a finding in favor of the recipient as described in paragraph (a)(2) of this section, the Department will:

(1) Promptly advise the complainant of this fact;

(2) Advise the complainant of his or her right to bring a civil action for injunctive relief that will effect the purposes of these regulations; and

V 4 4 0 C 2 2 7 9 UMI

(3) Inform the complainant:

(i) That the complainant may bring a civil action only in a United States district court for the district in which the recipient is located or transacts business;

(iii) That a complainant prevailing in a civil action has the right to be awarded the costs of the action, including reasonable attorney's fees, but that the complainant must demand these costs in the complaint;

(iii) That before commencing the action the complainant shall give 30 days notice by registered mail to the Secretary, the Attorney General of the United States, and the recipient;

(iv) That the notice must state: the alleged violation of the Act; the relief requested; the court in which the complainant is bringing the action; and, whether or not attorney's fees are demanded in the event the complainant prevails; and

(v) That the complainant may not bring an action if the same alleged violation of the Act by the same recipient is the subject of a pending action in any court of the United States.

Appendix.—*Age Distinctions in Programs and Activities Receiving DOT Financial Assistance*

Common name of program	Statutory basis	Other basis	Age distinction
Urban mass transit programs	Section 19 of the Urban Mass Tranportation Act of 1964, as amended (49 U.S.C. 1601, *et seq.*) (UMT Act).		General prohibition against discrimination on the basis of age in UMTA-assisted programs.
"Half-fare program"	Section 5(m) of the UMT Act		Recipients may not charge elderly persons during non-peak hours more than half the fare generally charged other persons at peak hours.
Special efforts	Section 16(a) of the UMT Act		Recipients must take special efforts in the planning, design and operation of mass transit facilities and services so that they are usable by the elderly (and handicapped). Transit operators may operate specialized services exclusively for the elderly to comply with this requirement.
16(b)(2) program	Section 16(b)(2) of the UMT Act		Provides capital assistance to private, non-profit organizations to provide transportation for the elderly (and handicapped). Some recipients of funds under this program serve only an elderly clientele.
State and Community Highway Safety Program.	Section 402 of the Highway Safety Act of 1966, as amended (P.L. 89-564); state statutes.		States and localities establish age limits for participation in driver training and safety education programs, and for obtaining driver's licenses.
Federal-aid highway program	Section 165(b) of the Federal-Aid Highway Act of 1973, as amended (P.L. 93-87; 23 U.S.C. 103)		Certain categories of federally-funded highway facilities must be planned, constructed and operated so as to be usable by the elderly (e.g., inclusion of curb cuts).
Rail passenger service (Amtrak)	None for age distinction	Administratively imposed	Children under the age of 8 must be accompanied by a person over the age of 12; persons between the ages of 8 and 12 travel alone only at the discretion of Amtrak.

[FR Doc. 79-32482 Filed 10-19-79; 8:45 am]
BILLING CODE 4910-62-M

V 44 O 22 79 UMI

federal register

Monday
October 22, 1979

Part V

Office of Management and Budget

Circular A-102; Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments

V 4 4 0C 2 2 7 9 UMI

OFFICE OF MANAGEMENT AND BUDGET

Circular A-102, "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments"

AGENCY: Office of Management and Budget.

ACTION: Final Policy.

SUMMARY: This notice revises OMB Circular A-102 by replacing paragraph 2h, Attachment G, with a new Attachment P entitled, "Audit Requirements." The revision originated from a Presidential initiative to streamline Federal aid, and is another part of OMB's system of guidance for federally assisted programs.

One area the President highlighted as having a substantial need for improvement was audit of federally assisted programs. He directed Federal departments and agencies to improve audit coordination, and to increase their reliance on audits made by State or local governments. This revision sets forth the audit requirements for State and local governments and Indian tribal governments receiving Federal assistance. It provides for independent audits of financial operations including compliance with certain provisions of Federal law and regulation. The requirements are established to insure that audits are made on an organization-wide basis rather than a grant-by-grant basis.

EFFECTIVE DATE: This revision becomes effective October 22, 1979.

FOR FURTHER INFORMATION CONTACT: John J. Lordan, Chief, Financial Management Branch, Office of Management of Budget, Washington, D.C. 20503, (202) 395-6823.

SUPPLEMENTARY INFORMATION: On July 11, 1979, a notice was published in the Federal Register (44 FR 40624-25) to amend Circular A-102. Interested persons were invited to submit written comments by September 11, 1979. About fifty comments were received from Federal agencies, State and local governments, professional associations, and others. The comments were considered in developing these final regulations. Although almost all commenters agreed with the concept of a single audit, some raised questions or made suggestions for clarifying changes. The more significant comments received, and OMB's responses to them are discussed below.

Changes in Final Regulation

Set forth below are changes that have been adopted in the final regulations. The paragraphs are keyed to the propsed regulations published on July 11, 1979.

1. Paragraph 1 has been amended to make the Attachment applicable to Indian tribal governments. This paragraph was also changed to make it clear that one of the objectives of the audit was to determine if financial reports to the Federal Government contain accurate and reliable data.

2. Paragraph 2. The definition of "cognizant agency" was added to this paragraph, and is now used uniformly throughout the Attachment.

3. Paragraph 3 was amended to provide that contracts awarded by recipients for audit services shall include a reference to this Attachment. Also, the paragraph was further divided into two separate paragraphs for clarity.

4. Paragraph 5. A clause was added to make it clear that the auditor should make a determination that the financial statements are presented fairly and in accordance with generally accepted accounting principles.

5. Paragraph 7. The phrase "at scheduled intervals" was deleted for clarity.

6. Paragraph 8 was changed to make it clear that, in the event irregularities are found, management officials above the level of involvement should be notified.

7. Paragraph 9 was restructured and reworded to clarify its intent. Also, a change was made to make it clear that auditors need express a positive assurance only with respect to items tested.

8. Paragraph 10 was amended to require cognizant agencies to notify auditors in writing when the three-year retention period for workpapers needs to be extended.

9. Paragraph 13. A sentence was added to make it clear that auditors are responsible for distributing audit reports to their program officials.

10. Paragraph 14. Changes were made to make it clear that this paragraph covered only State and local governments and Indian tribal governments. Also, the recipient's responsibilities with respect to subrecipient audits are more clearly delineated.

Suggested Changes Not Considered Necessary

Comment. Several commenters felt that there were conflicts between Attachment P and audit guidelines issued by the General Accounting Office.

Response. The GAO guidelines are currently being reviewed to assure consistence of policy.

Comment. Several commenters were concerned with the provisions of the Attachment requiring comments on the accuracy of financial reports. This requirement, they said, would require the examination of every transaction processed by a governmental entity.

Response. It was never intended that a hundred per cent examination would be routinely required. We believe this is clear from other provisions of the Attachment.

Comment. One commenter said it was not clear whether an auditor should automatically expand the scope of audit and secure additional data to support the disclosure of irregularities in the audit report.

Response. The Attachment does not provide for automatically expanding the scope of audit work. This is a matter that would have to be worked out between the auditor, the cognizant agency, and the recipient.

Comment. Several commenters recommended that the Attachment contain a definition of the term "independent."

Response. The Attachment incorporates by reference the *Standards for Audit of Governmental Organizations, Programs, Acitivities, and Functions* published by the General Accounting Office. Chapter 3 of these standards discusses the standard of independence in some detail.

Comment. Several commenters said that additional audit costs would be incurred to achieve full compliance with the Circular. They suggested that the mechanism for funding these audits be addressed in the Attachment.

Response. Circular 74-4, "Cost principles for grants to State and local governments," establishes rules for determining allowable costs. This Circular provides that the cost of audits is allowable.

Comment. One commenter suggested that each grant application should contain a certification that arrangements will be made for the audits prescribed by the Circular. Failure to furnish an acceptable audit as determined by the cognizant agency could be a basis for denial of Federal funds.

Response. The grant application forms prescribed by Circular A-102 now contain an assurance that the applicant will comply with all the provisions of the Circular. We do not believe it is necessary to single out the audit requirements for a separate certification.

Comment. One commenter said the Attachment requires an audit every two years, and asked whether that meant that only every other year's transactions should be audited.

Response. It is the intent of the Circular that audits cover the period since the previous audit. If this is a two-year period, the audit should cover both years.

James T. McIntyre, Jr.,
Director.

Circular A-102

Attachment P—Audit Requirements

1. This Attachment establishes audit requirements for State and local governments, and Indian tribal governments that receive Federal assistance. It provides for independent audits of financial operations, including compliance with certain provisions of Federal law and regulation. The requirements are established to insue that audits are made on an organization-wide basis, rather than on a grant-by-grant basis. Such audits are to determine whether (a) financial operations are conducted properly, (b) the financial statements are presented fairly, (c) the organization has complied with laws and regulations affecting the expenditure of Federal funds, (d) internal procedures have been established to meet the objectives of federally assisted programs, and (e) financial reports to the Federal Government contain accurate and reliable information. Except where specifically required by law, no additional requirements for audit will be imposed unless approved by the Office of Management and Budget.

2. Definitions: "Cognizant agency" means the Federal agency that is assigned audit responsibility for a particular recipient organization by the Office of Management and Budget.

"Recipient organization" means a State department, a local government, an Indian tribal government, or a subdivision of such entities, that receives Federal assistance. It does not include State and local institutions of higher education or hospitals, which are covered by Circular A-110.

3. State and local governments and Indian tribal governments shall use their own procedures to arrange for independent audits, and to prescribe the scope of audits, provided that the audits comply with the requirements set forth below. Where contracts are awarded for audit services, the contracts shall include a reference to this Attachment.

4. The provisions of this Attachment do not limit the authority of Federal agencies to make audits of recipient organizations. However, if independent audits arranged for by recipients meet the requirements prescribed below, all Federal agencies shall rely on them, and any additional audit work shall build upon the work already done.

5. Audits shall be made in accordance with the General Accounting Office *Standards for Audit of Governmental Organizations, Programs, Activities & Functions*, the *Guidelines for Financial and Compliance Audits of Federally Assisted Programs*, any compliance supplements approved by OMB, and generally accepted auditing standards established by the American Institute of Certified Public Accountants.

6. Audits will include, at a minimum, an examination of the systems of internal control, systems established to ensure compliance with laws and regulations affecting the expenditure of Federal funds, financial transactions and accounts, and financial statements and reports of recipient organizations.

These examinations are to determine whether:

a. There is effective control over and proper accounting for revenues, expenditures, assets, and liabilities.

b. The financial statements are presented fairly in accordance with generally accepted accounting principles.

c. The Federal financial reports (including Financial Status Reports, Cash Reports, and claims for advances and reimbursements) contain accurate and reliable financial data; and are presented in accordance with the terms of applicable agreements, and in accordance with Attachment H of this Circular.

d. Federal funds are being expended in accordance with the terms of applicable agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements or on the awards tested.

7. In order to accomplish the purposes set forth above, a representative number of charges to Federal awards shall be tested. The test shall be representative of (1) the universe of Federal awards received, and (2) all cost categories that materially affect the award. The test is to determine whether the charges:

a. Are necessary and reasonable for the proper administration of the program.

b. Conform to any limitations or exclusions in the award.

c. Were given consistent accounting treatment and applied uniformly to both federally assisted and other activities of the recipient.

d. Were net of applicable credits.

e. Did not include costs properly chargeable to other federally assisted programs.

f. Were properly recorded (i.e., correct amount, date) and supported by source documentation.

g. Were approved in advance, if subject to prior approval in accordance with Circular 74-4.

h. Were incurred in accordance with competitive purchasing procedures, if covered by Attachment O of this Circular.

i. Were allocated equitably to benefiting activities, including non-Federal activities.

8. Audits usually will be made annually, but not less frequently than every two years.

9. If the auditor becomes aware of irregularities in the recipient organization, the auditor shall promptly notify the cognizant agency and recipient management officials above the level of involvement. Irregularities include such matters as conflicts of interest, falsification of records or reports, and misappropriation of funds or other assets.

10. The audit report shall include:

a. Financial statements, including footnotes, of the recipient organization.

b. The auditors' comments on the financial statements which should:

(1) Identify the statements examined, and the period covered.

(2) Identify the various programs under which the organization received Federal funds, and the amount of the awards received.

(3) State that the audit was done in accordance with the standards in paragraph 5.

(4) Express an opinion as to whether the financial statements are fairly presented in accordance with generally accepted accounting principles. If an unqualified opinion cannot be expressed, state the nature of the qualification.

c. The auditors' comments on compliance and internal control which should:

(1) Include comments on weaknesses in and noncompliance with the systems of internal control, separately identifying material weaknesses.

(2) Identify the nature and impact of any noted instances of noncompliance with the terms of agreements and those provisions of Federal law or regulations that could have a material effect on the financial statements and reports.

(3) Contain an expression of positive assurance with respect to compliance with requirements for tested items, and negative assurance for untested items.

d. Comments on the accuracy and completeness of financial reports and claims for advances or reimbursement to Federal agencies.

e. Comments on corrective action taken or planned by the recipient.

11. Work papers and reports shall be retained for a minimum of three years from the date of the audit report unless the auditor is notified in writing by the cognizant agency of the need to extend the retention period. The audit workpapers shall be made available upon request to the cognizant agency or its designees and the General Accounting Office or its designees.

12. The Office of Management and Budget will work with Federal agencies and State and local governments to assure that recipient audits are made in accordance with the standards set forth in paragraph 5.

13. The Office of Management and Budget will designate cognizant agencies for major recipient organizations.

14. The cognizant agency shall have the following responsibilities:

a. Obtain or make quality assessment reviews of the work of non-Federal audit organizations, and provide the results to other interested audit agencies. (If a non-Federal audit organization is responsible for audits of recipients that have different cognizant audit agencies, a single quality assessment review should be arranged.)

b. Assure that all audit reports of recipients that affect federally assisted programs are received, reviewed, and distributed to appropriate Federal audit officials. These officials will be responsible for distributing audit reports to their program officials.

c. Whenever significant inadequacies in an audit are disclosed, the recipient organization will be advised and the auditor will be called upon to take corrective action. If corrective action is not taken, the cognizant agency shall notify the recipient organization and Federal awarding agencies of the facts and its recommendation. Major inadequacies or repetitive substandard performance of independent auditors shall be referred to appropriate professional bodies.

d. Assure that satisfactory audit coverage is provided in a timely manner and in accordance with the provisions of this attachment.

e. Provide technical advice and act as a liaison between Federal agencies, independent auditors, and recipient organizations.

f. Maintain a followup system on audit findings and investigative matters to assure that audit findings are resolved.

g. Inform other affected audit agencies of irregularities uncovered. The audit agencies, in turn, shall inform all appropriate officials in their agencies. State or local government law enforcement and prosecuting authorities shall also be informed of irregularities within their jurisdiction.

15. Recipients shall require subrecipients that are State and local governments or Indian tribal governments to adopt the requirements in paragraph 1. through 11. above. The recipient shall ensure that the subrecipient audit reports are received as required, and shall submit the reports to the cognizant agency. The cognizant agency will have the responsibility for these reports described in paragraph 14.

[FR Doc. 79-32579 Filed 10-19-79; 8:45 am]
BILLING CODE 3110-01-M

V 44 O C 22 79 UMI

federal register

Monday
October 22, 1979

Part VI

Department of the Interior

Fish and Wildlife Service

Establishment of Manatee Protection Areas

V 4 4 0 C 2 2 7 9 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rulemaking Providing for the Establishment of Manatee Protection Areas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final Rulemaking.

SUMMARY: The Fish and Wildlife Service issues a final rule providing for the establishment of manatee protection areas.

The West Indian Manatee, *Trichechus manatus*, is a protected marine mammal which has also been listed as an Endangered species. The only sizeable manatee population in the United States inhabits inland and coastal waters of the State of Florida, although in warmer months some of the animals move into the waters of neighboring States. Research indicates that the manatee population is undergoing a serious decline, and that a major factor in this decline is mortality caused by human activity, particularly the operation of motor boats. The regulation provides a procedure for the Director to establish manatee protection areas. Within these areas, certain activities would be prohibited or restricted.

EFFECTIVE DATE: November 21, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Marshall L. Stinnett, Special Agent in Charge, Branch of Regulations and Penalties, Division of Law Enforcement, U.S. Fish and Wildlife Service, P.O. Box 19183, Washington, D.C., telephone: 202–343–9242.

SUPPLEMENTARY INFORMATION: On January 23, 1979, the Service published a proposed rulemaking at 44 FR 4745. The proposal provided a procedure for the Director to establish manatee protection areas. Within these areas, certain activities would be prohibited or restricted. The proposal invited public comment, and on March 23, 1979, the comment period was extended until April 24, 1979 (44 FR 17762).

The Service has received a total of 37 comments. Of these, ten were submitted by Federal agencies, one was submitted by a State agency, one was submitted by a commercial interest, nine were submitted by wildlife and conservation groups, and sixteen were submitted by individuals with no apparent affiliations. The Service wishes to express its appreciation to all who submitted comments. Some of the comments contained specific recommendations for changes in the rule, and where appropriate, those recommendations have been adopted.

The Marine Mammal Commission, a governmental body created by the Marine Mammal Protection Act of 1972, suggested that the terms "act" and "harass" be defined in the rulemaking. The term "acts", meaning the Endangered Species Act of 1973 and the Marine Mammal Protection Act of 1972, is now defined in § 17.102. The term "harass" is already defined in § 17.3 of Part 17. Because several comments questioned the meaning of the word "take", § 17.102 has been clarified to indicate that the definitions found in the acts, in Part 10 of Title 50, and in § 17.3 of Part 17 are applicable to the new subpart.

The Commission also suggested that the rule make clear that the term "States" includes Puerto Rico and the Virgin Islands, both of which are areas where manatees might be found. Because the Endangered Species Act includes both of these jurisdictions within the definition of "State" (16 U.S.C. 1532 (17)), further definition of the term here is unnecessary.

The Commission was concerned that § 17.104(c), which makes it unlawful to violate State laws which protect manatees, would be inappropriate if the State laws had not been found consistent with the provisions of the Marine Mammal Protection Act of 1972. The service agrees that State laws which may be otherwise pre-empted by Federal law should not be adopted by these regulations. Section 17.104(c) has been changed to make it unlawful to violate State laws only if those laws have been approved as consistent with the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379) or are determined to be in accordance with the State cooperation provisions of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)).

The Commission suggested that the Service maintain a library of State laws affecting manatees, and provide copies of these laws to the public. While it would be convenient to have all State laws affecting manatees available from a central source, the Service is concerned that because of changes in State laws the information the Service would be providing would not be current. This would create problems if the State tried to prosecute for the violation of its laws and the defendant claimed he acted on information provided by the Service. For this reason, the Service believes that the best sources of State laws are the States themselves.

Finally, the Commission suggested that permit and exemption provisions be discussed in the same section, and that the permit provisions specify the types of permits that can be issued. Section 17.105 now incorporates these suggestions.

The United States Coast Guard suggested that the rule include procedures to aid in the enforcement of the regulations. Section 17.107 of the proposal has been renumbered § 17.108, and a new § 17.107 adopting the Coast Guard's recommendations has been included. The section requires persons operating water vehicles in sanctuaries and refuges to cooperate with officers enforcing the regulations, and to allow boarding and inspection of their vehicles.

The Department of the Navy, in written comment and in discussions with the Service, expressed its concern that naval operations might be hampered by the designation of a protection area. Several naval operating stations are located near manatee habitats. Patrick Air Force base in Florida expressed similar concerns.

The Service is fully cognizant of the hardship the designation of a protection area could place on military operations. On the other hand, the Service believes that the purpose of the Endangered Species Act is not to be taken lightly. The final regulations provide for an exception for activities necessary for reasons of national security, but only if the Secretary of Defense makes a finding that the activities are necessary for that reason, as provided in the 1978 amendments to section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536(j)). Other Federal agencies, including the National Aeronautics and Space Administration, expressed concern that the designation of manatee protection areas would interfere with their operations. The Service will take the needs of these agencies into account, but in the end under its statutory obligations must put the welfare of manatees first. If a Federal agency proposes an activity which may affect the manatee or its critical habitat, either in the designated areas or otherwise, section 7 of the Endangered Species Act would be applicable.

The U.S. Army Corps of Engineers submitted an extensive comment to the proposal. The Crops first questioned the meaning of the term "substantial evidence" in sections 17.103 and 17.106. It considered the term vague and ambiguous, and suggested that more specific criteria be provided. The Service believes the term is an appropriate one. It is found in both the Endangered Species Act (16 U.S.C. 1540) and the Administrative Procedure Act (5 U.S.C. 556(d)) and has been the subject of judicial interpretation "fleshing out" its meaning. It would be impossible to draft completely objective criteria that would be appropriate for every situation requiring the establishment of a protection area. The requirement of, "substantial evidence that the establishment of a protection area is necessary to prevent a taking", is a strong enough requirement to prevent the Service from acting arbitrarily and capriciously.

The Corps suggests that a hearing be held prior to the establishment of a protection area. The Service did not include this as a provision of the regulations for two reasons. First, there may be instances where a hearing would be inappropriate, such as the designation of an area not normally subject to waterborne activity. Second, § 17.103 provides that the Director shall act in accordance with 43 CFR Part 14. That Part requires the Director to provide for adequate public participation, including the holding of hearings if considered appropriate.

The Corps commented that § 17.105 was unclear as to the basis for issuing permits. As discussed above, § 17.105 has been rewritten to indicate for what purposes permits may be issued.

The comment questioned the provision allowing for the emergency establishment of protection areas as permitting the arbitrary exercise of government power. Again, the requirement that substantial evidence be found, and for emergency establishment, that the feared taking be imminent, will prevent the abuse of governmental authority. Further, § 17.106 has been amended to require the Director to begin regular designation procedures within 10 days after the emergency establishment of a protection area.

The Corps of Engineers considers this regulation premature. It believes the Service should wait for State experience in the field. The Service agrees that State experience would be helpful. These regulations, however, are not establishing any protection areas. They are procedural regulations with no effect until areas are designated. Thus, State experience is being gained, but in the meanwhile Federal regulations will be ready to implement if necessary. Additionally, considering the decline in the manatee population, no protective regulation could be premature.

Finally, the Corps challenged the Service's determination that the proposal did not require the preparation of an environmental impact statement and that it is not a significant rulemaking. As discussed above, until an area is designated, these regulations will have no effect. It would be impossible to predict the environmental impact of a designated area until the location and size of a proposed area is determined. Likewise, because no areas have been proposed, at this time there would not be any effects on the criteria set forth in 43 CFR 14.3. As areas are proposed, the Service will determine whether environmental impact statements are required for each of them and the Department will determine whether each proposal is a significant rulemaking.

The Southeast Regional Office of the National Park Service submitted comments from several of the National Parks in its region. All of the comments supported the proposal. One comment questioned whether the language "water under the jurisdiction of the United States" in § 17.100 meant only waters controlled by the Federal government or all waters within the physical boundaries of the United States. The Office of the Solicitor in the Department of the Interior has rendered an opinion construing the latter definition as correct. The Service is thus adding language to § 17.100 specifying that "waters under the jurisdiction of the United States" includes coastal and inland waters.

The Florida Game and Fresh Water Fish Commission submitted a comment in which it stated its opposition to the proposal. The Commission believes that Federal action in this area is unnecessary, and that the proposal will result in an anti-regulatory backlash, doing harm to manatees rather than protecting them. The Commission believes the statutory protection Florida allows manatees is sufficient, and requests the Service to continue to act through its cooperative agreement with the State.

The Service disagrees with the Commission's opinion. The existence of a Federal mechanism for protecting manatees will not duplicate the State provisions. The Federal regulation will be made effective only if it appears that the State regulations are not doing enough to protect the manatees. The existence of Federal regulations will put more enforcement tools at the disposal of Federally deputized State Fish and Game Agents. Federal regulations will allow the invocation of the criminal and civil sanctions of both the Marine Mammal Protection Act of 1972 and the Endangered Species Act of 1973. The sactions of these Acts can be more severe than the penalty under the Florida manatee protection law, which provides for a maximum 1-year prison term and/or $100.00 fine (Fla. Stat. §§ 370.12(2)(b), 775.082, 775.083). The Service must also point out that although manatees primarily occur in Florida, it would be possible that manatee protection areas might be necessary in other States, Puerto Rico, or the Virgin Islands. Federal regulations might be the only protective regulations in these areas.

Among wildlife and conservation groups, Defenders of Wildlife submitted the lengthiest comment. The comment suggested that there be only one type of protection area—sanctuaries. Defenders believes that all areas where manatees are found should be completely closed to people. The Service feels that there will be areas where restriction of activities, as opposed to complete closure, will be sufficient to protect the manatees. The Service believes that allowing the Director some discretion in issuing the restrictions placed in manatee refuges will provide more enforceable rules than will closing all waters which have manatees. Similar suggestions were made by the Florida Wildlife Rescue Team and the Committee for Humane Legislation.

Defenders suggested that standards were necessary to establish what kind of activities would be allowed, and that the types of activities to be allowed by permit should be spelled out. Again, the Service believes that the use of the term "substantial evidence that it is necessary to prevent the taking of one or more manatees" (§ 17.103) provides a sufficient standard by which the Director may determine what kind of activities will be allowed in manatee refuges. Section 17.105 now provides that permits may be issued only for scientific purposes or for the enhancement of survival or propagation.

Finally, Defenders suggests that after the Director makes an emergency establishment of a protection area, the establishment should continue for more than 120 days if regular establishment procedures are commenced. The Endangered Species Act of 1973 states that emergency regulations shall expire after 120 days, unless regular rulemaking procedures are complied with. The Service interprets this to mean that the final rulemaking would have to be issued before the close of the 120-day period for the rulemaking to be effective beyond that time (16 U.S.C. 1533(f)(2)(B)(ii)). Thus, there is no statutory authority for Defenders' suggestion. A requirement that the Director begin regular designation

proceedings within 10 days after an emergency designation has been added to § 17.106, however.

The Environmental Defense Fund, in its comment, recommended that the rule require the Director to establish areas, rather than allow the Director to do so. The Service believes, as stated above, that the retention of some discretion on the part of the Director will result in the most enforceable regulations.

The Miami Marine Institute, Incorporated, questioned some of the definitions used in the rule, including that of the word "take." The question of definitions has been resolved as discussed above.

Aware Incorporated and the Florida Audubon Society went on record in favor of the proposal, as did the Miami Seaquarium.

Sixteen individuals submitted comments on the proposal. Fifteen of them support it, and several of them made suggestions as to where areas should be established. One of the sixteen opposed the proposal.

The Service has determined that this rulemaking is not a major Federal action affecting the quality of the human environment, and does not require the preparation of an environmental impact statement. The Department of Interior has determined that this document is not a significant rule under Executive Order 12044 and 43 CFR Part 14 and does not require the preparation of a regulatory analysis.

The primary author of this final rulemaking is Kenneth J. Hirsh, Legal Specialist, Division of Law Enforcement, U.S. Fish and Wildlife Service, telephone: 202–343–9242.

Regulation Promulgation

Accordingly, Title 50, Chapter I, Subchapter B, Part 17, is amended in the following manner:

1. The table of sections for Part 17 is amended by adding the following, after Subpart I.

* * * * *

Subpart J—Manatee Protection Areas

17.100 Purpose.
17.101 Scope.
17.102 Definitions.
17.103 Establishment of protection areas.
17.104 Prohibitions.
17.105 Permits and exceptions.
17.106 Emergency establishment of protection areas.
17.107 Facilitating enforcement.
17.108 List of designated manatee protection areas [Reserved].

Authority: Marine Mammal Protection Act of 1972, 86 Stat. 1027, as amended, §§ 101(a), 102(a)(2), 104, 105, 112(a) [16 U.S.C. §§ 1371(a), 1372(a)(2), 1374, 1375, and 1382(a)]; Endangered Species Act of 1973, 87 Stat. 884, as amended, §§ 4 (d) and (f), 9(a)(1)(G), and 11(a)(1) [16 U.S.C. §§ 1533 (d) and (f), 1538(a)(1)(G), and 1540(a)(1)].

2. Part 17 is amended by adding the following new subpart immediately after § 17.95:

* * * * *

Subpart J—Manatee Protection Areas

§ 17.100 Purpose.

This subpart provides a means for establishing manatee protection areas without waters under the jurisdiction of the United States, including coastal waters adjacent to and inland waters within the several States, within which certain waterborne activities will be restricted or prohibited for the purpose of preventing the taking of manatees.

§ 17.101 Scope.

This subpart applies to the West Indian manatee (*Trichechus manatus*), also known as the Florida manatee and as the sea cow. The provisions of this subpart are in addition to, and not in lieu of, other regulations contained in this Chapter I which may require a permit or prescribe additional restrictions on the importation, exportation, transportation, or taking of wildlife, and the regulations contained in Title 33, Code of Federal Regulations, which regulate the use of navigable waters.

§ 17.102 Definitions.

In addition to definitions contained in the Acts, Part 10 of this subchapter, and § 17.3 of this part, and unless the context otherwise requires, in this subpart:

"Acts" means the Endangered Species Act of 1973, as amended (87 Stat. 884, 16 U.S.C. 1531–1543) and the Marine Mammal Protection Act of 1972, as amended (86 Stat. 1027, 16 U.S.C. 1361–1407);

"Authorized officer" means any commissioned, warrant, or petty officer of the United States Coast Guard, or any officer or agent designated by the Director of the U.S. Fish and Wildlife Service, the Secretary of the Interior, the Secretary of Commerce, or the Secretary of the Treasury, or any officer designated by the head of a Federal or State agency which has entered into an agreement with the Secretary of the Interior, Secretary of Commerce, Secretary of the Treasury, or Secretary of Transportation to enforce the Acts, or any Coast Guard personnel accompanying and acting under the direction of a person included above in this definition;

"Manatee protection area" means a manatee refuge or a manatee sanctuary;

"Manatee refuge" means an area in which the Director has determined that certain waterborne activity would result in the taking of one or more manatees, or that certain waterborne activity must be restricted to prevent the taking of one or more manatees, including but not limited to a taking by harassment;

"Manatee sanctuary" means an area in which the Director has determined that any waterborne activity would result in a taking of one or more manatees, including but not limited to a taking by harassment;

"Waterborne activity" includes, but is not limited to, swimming, diving (including skin and scuba diving), snorkeling, water skiing, surfing, fishing, the use of water vehicles, and dredging and filling operations;

"Water vehicle" includes, but is not limited to, boats (whether powered by engine, wind, or other means), ships (whether powered by engine, wind, or other means), barges, surfboards, water skis, or any other device or mechanism the primary or an incidental purpose of which is locomotion on, across, or underneath the surface of the water.

§ 17.103 Establishment of protection areas.

The Director may, by regulation issued in accordance with 5 U.S.C. 553 and 43 CFR Part 14, establish manatee protection areas whenever there is substantial evidence showing such establishment is necessary to prevent the taking of one or more manatees. Any regulation establishing a manatee protection area shall state the following information:

(a) Whether the area is to be a manatee sanctuary or refuge.

(1) If the area is to be a manatee sanctuary, the regulation shall state that all waterborne activities are prohibited.

(2) If the area is to be a manatee refuge, the regulation shall state which, is any, waterborne activities are prohibited, and it shall state the applicable restrictions, if any, on permitted waterborne activities.

(b) A description of the area sufficient enough so that its location and dimensions can be readily ascertained without resort to means other than published maps, natural or man-made physical reference points, and posted signs.

(c) Whether the designation is to remain in effect year-round, and if not, the time of year it is to remain in effect.

§ 17.104 Prohibitions.

Except as provided in § 17.105,

(a) *Manatee sanctuary.* It is unlawful for any person to engage in any waterborne activity within a manatee sanctuary.

(b) *Manatee refuge.* It is unlawful for any person within a particular manatee refuge to engage in any waterborne activity which has been specifically prohibited within that refuge, or to engage in any waterborne activity in a manner contrary to that permitted by regulation within that area.

(c) *State law.* It is unlawful for any person to engage in any waterborne activity prohibited by, or to engage in any waterborne activity in a manner contrary to that permitted by, any State law or regulation the primary purpose of which is the protection of manatees: *Provided:* that such State law or regulation has been issued as part of a program which is determined to be in accordance with the Endangered Species Act of 1973, pursuant to section 6(c) of that Act (16 U.S.C. 1535(c)) or has been approved as consistent with the Marine Mammal Protection Act of 1972 in accordance with section 109 of that Act (16 U.S.C. 1379) and 50 CFR 18.53.

§ 17.105 Permits and exceptions.

(a) The Director may issue permits allowing the permittee to engage in any activity otherwise prohibited by this subpart. Such permits shall be issued in accordance with the provisions of § 17.22 of this part. Such permits shall be issued only for scientific purposes or for the enhancement of propagation or survival. All of the provisions of section 17.22 shall apply to the issuance of such permits, including those provisions which incorporate other sections by reference. Compliance with this paragraph does not by itself constitute compliance with any applicable requirements of Part 18.

(b) Any authorized officer may engage in any activity otherwise prohibited by this subpart if:

(1) The officer is acting in the performance of his or her official duties; and

(2) The activity is being conducted to directly protect any manatees, to enhance the propagation or survival of manatees, or is reasonably required to enforce the other provisions of this subpart.

(c) Any person may engage in any activity otherwise prohibited by this subpart if such activity is reasonably necessary to prevent the loss of life or property due to weather conditions or other reasonably unforeseen circumstances, or to render necessary assistance to persons or property.

(d) Any waterborne activity which would otherwise be prohibited by this subpart may be engaged in if it is conducted by or under a contract with a Federal agency and if the Secretary of Defense, in accordance with section 7(j) of the Endangered Species Act of 1973 (16 U.S.C. 1536(j)) makes a finding that such activity is necessary for reasons of national security. Such a finding must be made prior to the beginning of the activity or the designation of the protection area, whichever occurs later; except that in the case of an emergency establishment of a protection area under § 17.106, the finding must be made within 10 days after the beginning of the activity or the designation of the protection area, whichever occurs later.

§ 17.106 Emergency establishment of protection areas.

(a) The Director may establish a manatee protection area under the provisions of subsections (b) and (c) below at any time he determines there is substantial evidence that there is imminent danger of a taking of one or more manatees, and that such establishment is necessary to prevent such a taking.

(b) The establishment of a manatee protection area under this section shall become effective immediately upon completion of the following requirements:

(1) Publication of a notice containing the information required by § 17.103 above in a newspaper of general circulation in each county, if any, in which the protection area lies; and

(2) Posting of the protection area with signs clearly marking its boundaries.

(c) Simultaneously with the publication required by paragraph (b) of this section, the Director shall publish the same notice in the **Federal Register**. If simultaneous publication is impractical, because of the time involved or the nature of a particular emergency situation, failure to publish notice in the **Federal Register** simultaneously shall not delay the effective date of the emergency establishment. In such a case, notice shall be published in the **Federal Register** as soon as possible.

(d) No emergency establishment of a protection area shall be effective for more than 120 days. Termination of an emergency establishment of a protection area shall be accomplished by publishing notice of the termination in the **Federal Register** and in a newspaper of general circulation in each county, if any, in which the protection area lies.

(e) Within 10 days after establishing a protection area in accordance with this section, the Director shall commence proceedings to establish the area in accordance with § 17.103.

§ 17.107 Facilitating enforcement.

Water vehicles operating in manatee sanctuary or refuge waters are subject to boarding and inspection for the purpose of enforcing the Acts and these regulations.

(a) The operator of a water vehicle shall immediately comply with instructions issued by authorized officers to facilitate boarding and inspection of the water vehicle.

(b) Upon being approached by an authorized officer, the operator of a water vehicle shall be alert for signals conveying enforcement instructions.

(c) A water vehicle signaled for boarding shall:

(1) Guard channel 16, VHF–FM, if equipped with a VHF–FM radio;

(2) Stop immediately and lay to or maneuver in such a manner as to facilitate boarding by the authorized officer and his or her party;

(3) When necessary to facilitate the boarding, provide a safe ladder, manrope, safety line and illumination of the ladder; and

(4) Take such other actions as may be necessary to ensure the safety of the authorized officer and his or her party and to facilitate the boarding and inspection.

(d) It is unlawful for any person to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or member of his or her party.

§ 17.108 List of designated manatee protection areas [Reserved].

Dated: October 11, 1979.

Lynn A. Greenwalt,

Director.

[FR Doc. 79-32586 Filed 10-19-79; 8:45 am]
BILLING CODE 4310-55-M

V 44 OC 22 79 UMI

federal register

Monday
October 22, 1979

Part VII

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Proposed State Programs, Extension of Time for Initial Submission

V 4 4 0 C 2 2 7 9 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 731

Coal Mining and Reclamation Operations; State Programs

AGENCY: Office of Surface Mining, Reclamation and Enforcement (OSM), Department of the Interior.

ACTION: Final rules.

SUMMARY: Section 731.12 of OSM's permanent rules is amended to provide an extension of time until March 3, 1980, for the initial submission of a proposed State program for implementing the permanent regulatory program under the Surface Mining Control and Reclamation Act. This action is being taken to implement orders of the U.S. District Court for the District of Columbia.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Carl Close, Assistant Director, State and Federal Programs, Office of Surface Mining, Room 224, South Interior Building, 1951 Constitution Avenue, Washington, D.C. 20240, (202) 343-4221.

SUPPLEMENTARY INFORMATION: On March 13, 1979, the Secretary of the Interior promulgated the final rules for the permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act). The rules repeat the requirement of Section 503(a) of the Act that, for a State to assume primary jurisdiction under the Act for the regulation of coal mining and reclamation operations on non-Federal lands within its borders, it must submit its proposed permanent program to OSM by August 3, 1979. Section 504(a) of the Act further provides that if no State submission is made by that date, a Federal program, will be implemented for surface coal mining and reclamation operations within the State. The rules also require a final decision on program submission by the Secretary no later than June 3, 1980. OSM's rules relating to State program submission are found in 30 CFR Parts 730–736, 44 FR 15323 *et seq.* (March 13, 1979).

On July 25, 1979 the U.S. District Court for the District of Columbia, in response to a suit filed by the State of Illinois, enjoined the Department of the Interior from requiring the submission of State programs under section 503(a) of the Act until March 3, 1980. On August 21, 1979, the court ordered that its injunction would remain in effect. The court's orders do not alter the requirement of section 504(a) of the Act that a final decision by the Secretary on a State program must be made by June 3, 1980. As a result the time period between the court ordered deadline for program submission and the required date for final decision by the Secretary is just 3 months, which may preclude adherence to the review schedule contained in 30 CFR 732.11, 732.12 and 732.13 of the permanent program regulations.

Prior to the Court ordered extension to the date for program submission, the Secretary requested that Congress enact a seven-month extension of the statutory dates. On June 25, 1979, a bill (S. 1403) was introduced in the Senate to extend both the August 3, 1979, and the June 3, 1980, dates by seven months. 125 Cong. Rec. S. 8411, June 25, 1979. On September 11, 1979, the Senate passed a bill including provisions extending the dates twelve months. To this date the House has not passed the extension of the August 3, 1979, or June 3, 1980, dates.

The amendment being promulgated today to implement the July 25, 1979, and August 21, 1979, U.S. District Court orders amends § 731.12(a) to provide for the State to submit a State program no later than March 3, 1980, and adds new § 731.12(e) specifying that the review schedule of §§ 732.11, 731.12 and 732.13 will not apply to programs submitted after August 3, 1979. Programs submitted by the States for formal review prior to August 3, 1979, will be processed under the schedule set forth in the regulations. Only Texas and Mississippi submitted programs prior to August 3, 1979. There will be insufficient time to utilize this schedule for programs submitted later. Accordingly, adjusted review schedules will be established by the Regional Director on a case-by-case basis for programs submitted after August 3, 1979.

In regard to public notice and comment on this rulemaking, the Department finds that ordinary procedures as provided in 5 USC 553(b)(B) are impracticable, unnecessary and contrary to the public interest. There are several reasons for this expedited procedure. First, the former August 3 deadline has been changed by the court, making the notice and comment period both impracticable and useless. Second, this change in the regulations is necessary to implement a Court-ordered change in the required date of a State program submission.

Third, the public interest in assisting the States to develop a regulatory program which achieves the purposes of the Act, declared by Congress in Section 102(g), far outweighs any individual's interest in having an opportunity to be heard before this extension takes effect. The Department is therefore acting in the best interest of the public by providing this extension.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14, 43 FR 58292, *et seq.* (December 12, 1978).

The Department of the Interior has determined that this action will not have a significant effect on the human environment and an environmental impact statement will therefore not be prepared. These amendments are effective immediately.

Primary author of this document is James Fulton, State Programs Division, Office of Surface Mining.

Text of Amendment

30 CFR § 731.12(a) is amended by changing the date, August 3, 1979, to March 3, 1980, and new 30 CFR § 731.12(e) is added to read as set forth below. The language of revised § 731.12(a) and new § 731.12(e) is as follows:

§ 731.12 Submission of State programs.

(a) Not later than March 3, 1980, each State that wishes to regulate coal exploration and surface coal mining and reclamation operations on non-Federal and non-Indian lands within its boundaries shall submit 3 copies of a proposed program to the Regional director for the region in which that State is located.

* * * * *

(e) If a State does not submit a State program on or before August 3, 1979, the review schedule of Sections 732.11, 732.12 and 732.13 will not apply to the submission. Appropriate adjustments in the timing of the review by the Regional Director, notice and public hearings and decision by the Secretary will be established by the Regional Director for any State program submitted after August 3, 1979, and will apply in lieu of the time schedule of Sections 732.11, 732.12 and 732.13.

(Sections 102, 201(c), 501(b) and 503(a) of Pub. L. 95–87.)

Dated: October 16, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

[FR Doc. 79-32587 Filed 10-19-79; 8:45 am]

BILLING CODE 4310-05-M

V 4 4 O C 2 2 7 9 UMI

Reader Aids

Federal Register

Vol. 44, No. 205

Monday, October 22, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662	1
56663-56918	2
56919-57064	3
57065-57378	4
57379-57906	5
57907-58492	9
58493-58670	10
58671-58888	11
58889-59194	12
59195-59488	15
59489-59894	16
59895-60068	17
60069-60250	18
60251-60700	19
60701-60970	22

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) ... 56673
10900 (Amended by EO 12163) ... 56673
10973 (Revoked by EO 12163) ... 56673
11223 (Amended by EO 12163) ... 56673
11269 (Amended by EO 12164) ... 56681
11579 (Amended by EO 12163) ... 56673
11846 (Amended by EO 12163) ... 56673
11958 (Amended by EO 12163) ... 56673
12065 (Amended by EO 12163) ... 56673
12087 (Superseded by EO 12165 ... 58671
12092 (Amended by EO 12161) ... 56663
12140 (Amended by EO 12162) ... 56665
12161 ... 56663
12162 ... 56665
12163 ... 56673
12164 ... 56681
12165 ... 58671

Proclamations:
4693 ... 56669
4694 ... 56671
4695 ... 58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163) ... 56673

Presidential Determination:
No. 79-17 of September 28, 1979 ... 56667

5 CFR

Ch. III ... 60251
Ch. XIV ... 60069, 60701
340 ... 57379
353 ... 56683
451 ... 58889
890 ... 57379

Proposed Rules:
581 ... 60301

6 CFR

705 ... 56900, 58891, 60251
706 ... 56910, 58891, 60251
707 ... 60676

Proposed Rules:
702 ... 59166
703 ... 59166
704 ... 59166

7 CFR

2 ... 57907, 58495, 58679 60251
6 ... 58893
15a ... 57907
16 ... 56919, 60069
29 ... 57907
246 ... 59489
282 ... 59052
354 ... 60255
401 ... 60701, 60709
421 ... 58893
427 ... 60701, 60709
429 ... 60709
722 ... 60255
905 ... 59195
906 ... 57909
908 ... 57065, 58680, 60070
910 ... 57383, 58893, 60256
929 ... 56683
932 ... 58495
944 ... 59195
966 ... 58894, 59197
979 ... 56684
982 ... 57065
989 ... 60070
1139 ... 57066
1421 ... 56305, 57383
1464 ... 57909, 58894
1822 ... 56919, 59198
1861 ... 56920
1864 ... 59895
1901 ... 59198
1941 ... 58895
1942 ... 56684, 59895
1944 ... 59198
1951 ... 56306, 59895
1955 ... 59895
1980 ... 56920, 58896

Proposed Rules:
6 ... 56943
20 ... 57931
27 ... 57932
272 ... 57414
273 ... 57414, 58915
318 ... 57415
725 ... 57932
729 ... 57416
981 ... 57417
966 ... 60105
1065 ... 57103
1079 ... 59913
2853 ... 58916, 59548
2858 ... 58916

8 CFR

100 ... 56311

Proposed Rules:
103 ... 56368

V 4 4 O C 2 2 7 9 UMI

9 CFR

75 ... 60257
78 ... 57384
91 ... 59498
92 ... 58896
97 ... 60261
113 ... 58897, 60262
309 ... 59498

Proposed Rules:

92 ... 58918
113 ... 60306

10 CFR

2 ... 60715
50 ... 57911, 57912, 60715
51 ... 56312
205 ... 60264, 60638
211 ... 56888, 57067, 60638
212 ... 57069, 60638
320 ... 58900
436 ... 60664
476 ... 57370
515 ... 60690
570 ... 56921

Proposed Rules:

71 ... 60743
73 ... 60743
211 ... 56369, 59240, 59551, 60307
212 ... 59914, 60744
214 ... 57103
220 ... 56369
375 ... 56953
376 ... 56953

11 CFR

Proposed Rules:

100 ... 59162
110 ... 59162
114 ... 59162

12 CFR

Ch. VII ... 56691
201 ... 57385, 60716
202 ... 57070
204 ... 60071
205 ... 59474
207 ... 56922
217 ... 60076
220 ... 56922
221 ... 56922
224 ... 56922
226 ... 56312
263 ... 56685
265 ... 56313, 59227
329 ... 60273
346 ... 57385
525 ... 60717
531 ... 60717
545 ... 57386
563 ... 59895
600 ... 60076
601 ... 60076
602 ... 60076
611 ... 60076
704 ... 58496
742 ... 57071

Proposed Rules:

Ch. II ... 58744
Ch. V ... 57419
205 ... 59464
528 ... 60310
545 ... 58744
618 ... 60745

13 CFR

101 ... 59499
121 ... 58744, 59504
124 ... 60273
125 ... 60273
126 ... 60273
127 ... 60273
131 ... 60718

Proposed Rules:

107 ... 60745
111 ... 58745
117 ... 60032
121 ... 60746

14 CFR

39 ... 56315-56322, 57072, 57073, 58680-58684, 60079, 60719-60722
71 ... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686, 60079, 60723
73 ... 57080-57082
75 ... 57082-57084
97 ... 57918, 60723
207 ... 58499
208 ... 58499
212 ... 57386, 58500
214 ... 57387, 58500
221a ... 57085
241 ... 58500, 59505
287 ... 57085
1214 ... 56923

Proposed Rules:

Ch. I ... 56369, 60107, 60746
Ch. V ... 56377
1 ... 60747
11 ... 56370, 59242
21 ... 56370, 59242
27 ... 60747
29 ... 60747
33 ... 60747
37 ... 56370, 59242
39 ... 57105
43 ... 60747
45 ... 60747
61 ... 60747
71 ... 56373-56376, 57106, 57934-57938, 60107, 60748-60752
73 ... 58746
91 ... 60747, 60752
93 ... 56376
121 ... 60747
127 ... 60747
133 ... 60747
135 ... 60747
233 ... 59242
270 ... 59242
302 ... 59242

15 CFR

30 ... 58686
370 ... 59227
371 ... 59227
374 ... 59227
377 ... 59227
377 ... 59227
388 ... 59897

Proposed Rules:

377 ... 60753

16 CFR

13 ... 56323, 56923, 57920, 58901-58906, 60080, 60725, 60726
1700 ... 57920

Proposed Rules:

Ch. I ... 59552
Ch. II ... 57352, 60057
13 ... 58516, 58518, 58747
1201 ... 59914
1404 ... 59557
1615 ... 60755
1616 ... 60755

17 CFR

210 ... 57030, 57037
211 ... 57038
231 ... 56924
240 ... 57387, 60281
241 ... 56924
249 ... 57374, 57387
270 ... 58502, 58907

Proposed Rules:

240 ... 56953
270 ... 58521

18 CFR

1 ... 60282
2 ... 56926, 60080
3 ... 60282
154 ... 57726, 60083, 60284
201 ... 57726
204 ... 57726
270 ... 60284
271 ... 56926
273 ... 59230
274 ... 59230
282 ... 57726, 57754, 57778, 60084
283 ... 60284
290 ... 58687

Proposed Rules:

35 ... 60108
282 ... 57783, 57786, 57788 58749
292 ... 57107

19 CFR

4 ... 57086, 57087
101 ... 57088

Proposed Rules:

134 ... 58527
153 ... 59741, 59762
155 ... 57044, 59762
159 ... 57044, 59762
177 ... 56715
201 ... 59392
207 ... 59392

20 CFR

404 ... 56691
675 ... 56866
680 ... 56866

Proposed Rules:

615 ... 56715
665 ... 59889

21 CFR

10 ... 59174
12 ... 59174
13 ... 59174
14 ... 59174
15 ... 59174
16 ... 59174
109 ... 57389
177 ... 59505
178 ... 59506
193 ... 59231
510 ... 57389, 59507
520 ... 59507, 59508
558 ... 57389
561 ... 59903
740 ... 59509
1316 ... 56324

Proposed Rules:

136 ... 60313
137 ... 60313
145 ... 60314
148 ... 60315
166 ... 57422
168 ... 60315
203 ... 58918
310 ... 58919, 60316
312 ... 58919
314 ... 58919
320 ... 60320
331 ... 60328
444 ... 60331
640 ... 60332
680 ... 60333
890 ... 57939, 57940, 58919
1020 ... 57423

22 CFR

515 ... 58708

Proposed Rules:

216 ... 56378

23 CFR

140 ... 59232

Proposed Rules:

771 ... 59438

24 CFR

Ch. XIII ... 58507
42 ... 56324
203 ... 57089
205 ... 57090
207 ... 57090
213 ... 56927, 57089, 57090
220 ... 57090
221 ... 57090
232 ... 57090
234 ... 57089
235 ... 57090
236 ... 57090
240 ... 58503
241 ... 57090
242 ... 57090
244 ... 57090
250 ... 57090
290 ... 56608
403 ... 58503
510 ... 58506
570 ... 56325
803 ... 59112
841 ... 57922
880 ... 59408
888 ... 57925, 59112
891 ... 60085, 60285
3610 ... 60834

Proposed Rules:

200 ... 60108
203 ... 58527
208 ... 60109
881 ... 59246
888 ... 58528

25 CFR

31a ... 58096
31b ... 58101

Proposed Rules:

252 ... 59559
700 ... 59560

26 CFR

1 ... 57925, 59523, 60085
7 ... 57390
31 ... 59524

Proposed Rules:

Ch. I ... 56502
1 ... 57423, 57427
31 ... 57940
301 ... 56715

27 CFR

9 ... 56692
201 ... 56326

28 CFR

0 ... 57926, 58908
2 ... 58507, 59527, 59528
16 ... 59904
50 ... 57926
301 ... 59904

Proposed Rules:

2 ... 58528
16 ... 58920, 58921

29 CFR

14 ... 57397
1604 ... 58073
2610 ... 58908
2703 ... 57348

Proposed Rules:

1616 ... 59914
1904 ... 59560
1910 ... 60333
1926 ... 59561

30 CFR

Ch. VII ... 57927
701 ... 58783
731 ... 60869
741 ... 58783
872 ... 60285
877 ... 60285
879 ... 60285
882 ... 60285
884 ... 60285
886 ... 60285

Proposed Rules:

Ch. VII ... 60226, 60228
250 ... 60109
732 ... 60233

31 CFR

Proposed Rules:

Ch. II ... 59246

32 CFR

51 ... 56328
199 ... 58709
231 ... 56328
706 ... 56929, 57400
853 ... 60090
901 ... 56930

Proposed Rules:

56 ... 58750

33 CFR

110 ... 60091
117 ... 59233
127 ... 57092, 57927
147 ... 57927
165 ... 57928, 57929

34 CFR

Ch. 1 ... 60286

35 CFR

133 ... 56916
253 ... 56693

Proposed Rules:

133 ... 57941

36 CFR

50 ... 56934
1228 ... 58088

Proposed Rules:

Ch. IX ... 56954, 58528

37 CFR

302 ... 60726

38 CFR

1 ... 59905
3 ... 58709

Proposed Rules:

3 ... 58758
36 ... 56329, 58508

39 CFR

111 ... 58509, 60727

Proposed Rules:

3001 ... 60757

40 CFR

52 ... 56694, 57401
65 ... 56696, 59528
81 ... 57929
117 ... 58711, 58909
180 ... 59907
231 ... 58076
257 ... 58910
413 ... 56330
600 ... 57358, 60286

Proposed Rules:

35 ... 60335
40 ... 56955
50 ... 56730
51 ... 56957, 57107
52 ... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60389, 60758
55 ... 56721, 58759
60 ... 57792, 58602, 60759, 60761
61 ... 58642, 58661
62 ... 57118, 57948
65 ... 60109, 60110
81 ... 57942, 58758, 58922, 60341
120 ... 57428, 59565
122 ... 56957
162 ... 57429
250 ... 56724, 58923
600 ... 57362
707 ... 56856, 60763
710 ... 60763
713 ... 59106
720 ... 59764
763 ... 60061

41 CFR

Ch. 101 ... 56699, 59192, 59529, 60740
8-4 ... 59529
101-11 ... 60740
101-29 ... 58910

Proposed Rules:

Ch. 25 ... 56387
9-7 ... 57119
101-40 ... 59247
109-1 ... 57121
109-60 ... 57121

42 CFR

57 ... 56937
71 ... 58911
405 ... 60287
456 ... 56333

Proposed Rules:

74 ... 58923
121 ... 60342
405 ... 58923

43 CFR

221 ... 56339
1821 ... 59530
2880 ... 58126
3400 ... 56339
3410 ... 56339
3420 ... 56339
3422 ... 56339
3430 ... 56339
3440 ... 56339
3450 ... 56339
3460 ... 56339
3470 ... 56339
3500 ... 56339
3501 ... 56339
3502 ... 56339
3503 ... 56339
3504 ... 56339
3507 ... 56339
3511 ... 56339
3520 ... 56339
3521 ... 56339
3524 ... 56339
3525 ... 56339
3526 ... 56339
3550 ... 56339
3564 ... 56339
3565 ... 56339
3566 ... 56339
3568 ... 56339

Proposed Rules:

4 ... 57948
34 ... 59096
1780 ... 56622
2800 ... 58106
3110 ... 58638
9230 ... 60764

44 CFR

64 ... 56354, 57092, 57093
65 ... 57094
67 ... 56366, 56701

Proposed Rules:

67 ... 56957, 57429-57432 60342

45 CFR

Ch. I ... 56938
20 ... 58912
55 ... 58912
61 ... 58912
80 ... 58509, 59908
82 ... 58912
116 ... 59152
116a ... 59152
161 ... 60022
181a ... 60022
304 ... 56939
531 ... 59908
1010 ... 56548
1012 ... 56548
1050 ... 56548
1060 ... 56548
1061 ... 56548, 58876
1062 ... 56548
1063 ... 56548
1064 ... 56548
1067 ... 56548
1068 ... 56548
1069 ... 56548
1070 ... 56548
1075 ... 56548
1076 ... 56548
1624 ... 58712

Proposed Rules:

Ch. VI ... 56387
Ch. X ... 60764
Ch. XI ... 56389
234 ... 56389
236 ... 56389
617 ... 57127
1152 ... 56725
1172 ... 57130
1205 ... 60110

46 CFR

154 ... 59234
154a ... 59234
503 ... 57411

Proposed Rules:

66 ... 57137
283 ... 58928
355 ... 58928

47 CFR

0 ... 57096, 60291
1 ... 60291
2 ... 58712, 59530
15 ... 59530
18 ... 56699
21 ... 60532
22 ... 60532
61 ... 57096
73 ... 57097, 58718-58729, 58912, 60091, 60097, 60740
74 ... 58729
83 ... 58712, 58735, 60741
87 ... 59546
90 ... 57098, 58737, 59234
97 ... 58742

Proposed Rules:

0 ... 57636
1 ... 59568
15 ... 59570, 60112
21 ... 58929
63 ... 59578
73 ... 57138, 57636, 58762-58764, 59568, 58579, 59580
76 ... 58766
81 ... 59581

49 CFR

Ch. X ... 60296
192 ... 57100
213 ... 56342
301 ... 59239
571 ... 57100
172 ... 60097
173 ... 60097

174.....60097
177.....60097
178.....60097
801.....56340, 57930
1011.....58511, 60295
1013.....59908
1033.....56343, 56939, 58913, 58914
1100.....58511
1307.....57413
1310.....57413
1322.....57930

Proposed Rules:

Ch. X.....57139
29.....60946
110–189.....58767
127.....60771
171.....60771
172.....58767, 60771
173.....58767, 60112, 60771
174.....60771
175.....60771
176.....60771
177.....60771
178.....60112
195.....57952
571.....60113, 60120, 60771
575.....56389
622.....59438
1036.....59581
1063.....60122
1300.....60122
1303.....60122
1304.....60122
1306.....60122
1307.....60122
1308.....60122
1309.....60122
1310.....60122
1312.....60122

50 CFR

13.....59080
17.....56862, 58866, 58868, 59080, 60103, 60862
32.....56940, 56941, 59910
33.....59910
216.....57100
230.....59911
611.....57101
652.....56941, 60103
653.....56700, 56701
810.....59086

Proposed Rules:

17.....56618
285.....57140
611.....59257, 59582
652.....60129

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last Listing October 17, 1979

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

54707 9–21–79 / Approval and promlgation of implementation plans, South Carolina plan revision: emission offset

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

54478 9–20–79 / List of attorneys-in-fact

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

54478 9–20–79 / Processing requests for declassification and release of classified material

Office of the Assistant Secretary for Housing—Federal Housing Commissioner—

54659 9–20–79 / Administrator qualifications and procedures for HUD building products certification programs

INTERSTATE COMMERCE COMMISSION

36389 6–22–79 / Transfer of motor carrier operating rights: list of forms

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202–523–5235 or Gwendolyn Henderson, Assistant Coordinator, 202–523–5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202–523–5239.

V 4 4 0C 22 79 UMI

V 4 4 0 C 2 2 2 7 9 UMI

V 4 4 0 C 2 2 7 9 UMI

Public Papers of the Presidents of the United States

Annual volumes containing the public messages and statements, news conferences, and other selected papers released by the White House.

Volumes for the following years are now available:

HERBERT HOOVER

1929	$13.30	1931	$14.00
1930	$16.60	1932–33	$17.25

HARRY S. TRUMAN

1945	$11.75	1949	$11.80
1946	$10.80	1950	$13.85
1947	$11.15	1951	$12.65
1948	$15.95	1952–53	$18.45

DWIGHT D. EISENHOWER

1953	$14.60	1957	$14.50
1954	$17.20	1958	$14.70
1955	$14.50	1959	$14.95
1956	$17.30	1960–61	$16.85

JOHN F. KENNEDY

1961	$14.35	1962	$15.55
		1963	$15.35

LYNDON B. JOHNSON

1963–64 (Book I)	$15.00	1966 (Book II)	$14.35
1963–64 (Book II)	$15.25	1967 (Book I)	$12.85
1965 (Book I)	$12.25	1967 (Book II)	$11.60
1965 (Book II)	$12.35	1968–69 (Book I)	$14.05
1966 (Book I)	$13.30	1968–69 (Book II)	$12.80

RICHARD NIXON

1969	$17.15	1972	$18.55
1970	$18.30	1973	$16.50
1971	$18.85	1974	$12.30

GERALD R. FORD

1974	$16.00	1975 (Book I)	$13.50
		1975 (Book II)	$13.75

JIMMY CARTER

1977 (Book I)	$16.00	1977 (Book II)	$15.25

Published by Office of the Federal Register, National Archives and Records Service, General Services Administration

Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

10-23-79
Vol. 44 No. 206
Pages 60971-61156

Federal Register

Tuesday
October 23, 1979

Highlights

60971 **Export-Import Bank** Executive order

61109 **Elementary and Secondary Education** HEW/OE issues a notice of procedures for resolving complaints; effective 10–23–79; comments by 11–23–79

61107 **Health Maintenance Organizations** HEW/PHS provides a notice to allow the exclusion of certain unusual operations from basic health services

61127 **Recovery of Fuel Costs** ICC authorizes 9.5 percent surcharge on all owner-operator truck traffic to remain in effect; effective 10–19–79

60975 **Career and Career-Conditional Appointment** OPM issues interim regulations to provide for the noncompetitive appointment of Peace Corps personnel; effective 10–1–79; comments by 12–20–79

61104 **Federal Radiation Protection Guidance** EPA issues notice of dose limits for persons exposed to transuranium elements in the general environment

61085 **Canadian Crude Oil Allocation Program** DOE/ERA issues supplemental allocation notice for October 1 through December 31, 1979; appeals by 11–23–79

CONTINUED INSIDE

Federal Register

V 4 4 0 C 2 3 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The Federal Register will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the Federal Register.

Area Code 202-523-5240

Highlights

61123 **Radiological Emergency Response Plans** NCR provides notice of planning basis for emergency responses to nuclear power reactor accidents

61053 **Citrus Marmalade** HEW/FDA terminates consideration of Codex standard; effective 10-23-79

61081 **Privacy Act** DOD/Marine Corps publishes a document affecting systems of records

61080 **Privacy Act** Copyright Royalty Tribunal issues annual publication of systems of records

60995 **Disclosure Statements** GSA issues temporary rules regarding waiver of use of Form CASB-DS-1 by Canadian concerns; effective 7-5-79

60980 **Occupational Exposure to Lead** Labor/OSHA issues appendices to standards; effective by 12-24-79

61047 **1980 Rice Program** USDA/ASCS proposes to issue regulations to support the price program, rice-aside program, and land diversion payment program; comments by 12-24-79

61048 **Poultry, Game Birds, or Other Birds** USDA/APHIS proposes to allow importation of thoroughly cooked carcasses, parts or products; comments by 12-24-79

61152 **Sunshine Act Meetings**

Contents

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

The President
EXECUTIVE ORDERS
60971 Export-Import Bank (EO 12166)

Executive Agencies

Agricultural Marketing Service
RULES
60976 Cranberries grown in Mass. et al.
60977 Potatoes (Irish) grown in Colo.
60975 Walnuts grown in Calif.

Agricultural Stabilization and Conservation Service
PROPOSED RULES
61047 Rice; marketing quotas and acreage allotments

Agriculture Department
See also Agricultural Marketing Service; Agricultural Stabilization and Conservation Service; Animal and Plant Health Inspection Service; Food and Nutrition Service; Food Safety and Quality Service; Forest Service; Rural Electrification Administration; Soil Conservation Service.
NOTICES
Import quotas and fees:
61076 Sugar; quarterly determination

Animal and Plant Health Inspection Service
PROPOSED RULES
Animal and poultry import restrictions:
61048 Viscerotropic velogenic Newcastle disease; cooked carcasses

Army Department
NOTICES
Meetings:
61081 Medical Research and Development Advisory Panel

Center for Disease Control
PROPOSED RULES
61059 Clinical laboratories; personnel standards; correction

Civil Aeronautics Board
NOTICES
61077 All-cargo air service certificate application
Hearings, etc.:
61077 Albuquerque show cause investigation

Commerce Department
See Industry and Trade Administration; National Oceanic and Atmospheric Administration; National Technical Information Service.

Copyright Royalty Tribunal
NOTICES
61080 Privacy Act; systems of records; annual publication

Defense Department
See also Navy Department.
NOTICES
Meetings:
61081 Electron Devices Advisory Group

Economic Regulatory Administration
NOTICES
Canadian allocation program:
61085 Crude oil, October through December, 1979 allocation period
Consent orders:
61084 Exxon Company, U.S.A.
61090 Rocky Petroleum Corp.

Education Office
NOTICES
Elementary and secondary education:
61109 Educationally deprived children in low-income areas; financial assistance to local and State agencies; complaint resolving procedures
Meetings:
61109 Indian Education National Advisory Council
61108 Women's Educational Programs National Advisory Council

Energy Department
See also Economic Regulatory Administration; Hearings and Appeals Office, Energy Department.
NOTICES
International atomic energy agreements; civil uses; subsequent arrangements:
61084 International Atomic Energy Agency
Meetings:
61083 National Petroleum Council
Remedial orders:
61095 Gulf Oil Corp.

Environmental Protection Agency
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
61055 North Carolina
NOTICES
Air pollution control, new motor vehicles and engines:
61096 California
Meetings:
61105 Science Advisory Board (2 documents)
Radiation protection guidance, Federal:
61104 Dose limits for persons exposed to transuranium; technical report

Equal Employment Opportunity Commission
NOTICES
61152 Meetings; Sunshine Act

Federal Communications Commission
NOTICES
61152, 61153 Meetings; Sunshine Act (2 documents)

Federal Deposit Insurance Corporation
NOTICES
61154 Meetings; Sunshine Act

Federal Election Commission
NOTICES
61154 Meetings; Sunshine Act

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
61000 Alabama et al.
Flood insurance; special hazard areas:
61005 Connecticut et al.
60999 Louisiana et al.
61003 Kansas et al.
PROPOSED RULES
Flood elevation determinations:
61060 Alabama et al.
61073 Texas et al.
NOTICES
Disaster and emergency areas:
61106 Texas

Federal Energy Regulatory Commission
NOTICES
61154 Meetings; Sunshine Act (4 documents)

Federal Maritime Commission
RULES
Practice and procedure:
60996 Intervention in Commission proceedings; standards, etc.
NOTICES
61106 Agreements filed, etc.
Freight forwarder licenses:
61107 Ibertresa, U.S.A., Inc.

Federal Property Resources Service
NOTICES
Land transfers:
61107 Oregon; transfer to Oregon Department of Fish and Wildlife

Federal Reserve System
NOTICES
61154 Meetings; Sunshine Act

Federal Trade Commission
PROPOSED RULES
Prohibited trade practices; consent orders:
61050 Hair Extension of Beverly Hills, Inc., et al.

Food and Drug Administration
PROPOSED RULES
61053 Citrus marmalade; standard; advance notice; consideration termination
GRAS or prior-sanctioned ingredients:
61053 Rennet
NOTICES
Committees; establishment, renewals, terminations, etc.:
61108 Device Good Manufacturing Practice Advisory Committee; extension of due date for nominations

Food and Nutrition Service
NOTICES
Meetings:
61075 Child Nutrition National Advisory Council

Food Safety and Quality Service
RULES
Meat and poultry inspection, mandatory:
60979 Inspection service rate increase
60979 Peaches, standards governing damage; interpretation

Forest Service
NOTICES
Environmental statements; availability, etc.:
61075 Los Padres National Forest, Calif.
61076 Manistee Wild and Scenic River Draft Study Report, Michigan; hearings
61076 Ozark National Forest, Richland Creek Study Area and Addition, Ark.
Meetings:
61075 Gospel-Hump Advisory Committee

General Services Administration
See also Federal Property Resources Service
RULES
Procurement:
60995 Cost Accounting Standards Board waiver of use of Form CASB-DS-1 by Canadian concerns for disclosure statement
Property management:
60995 Buildings and grounds management; self-protection program standards

Health Care Financing Administration
PROPOSED RULES
61059 Clinical laboratories; personnel standards; correction

Health, Education, and Welfare Department
See also Center for Disease Control; Education Office; Food and Drug Administration; Health Care Financing Administration; Public Health Service.
NOTICES
Committees; establishment, renewals, terminations, etc.:
61111 Vital and Health Statistics National Committee

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
61092 Cases filed
61095 Cases filed; correction
61090 Decisions and orders
Remedial orders:
61095 Objections filed

Heritage Conservation and Recreation Service
NOTICES
Historic Places National Register; additions, deletions, etc.:
61113 Alabama et al.

Industry and Trade Administration
PROPOSED RULES
61049 Foreign excess property; Assistant Secretary for Industry and Trade; appeals

Interior Department
See Heritage Conservation and Recreation Service; Land Management Bureau; Reclamation Bureau.

International Communication Agency
NOTICES
Meetings:
61114 Public Diplomacy Advisory Commission; correction

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
60999 Chicago, Rock Island & Pacific Railroad Co.
PROPOSED RULES
Intermodal transportation:
61074 Trailer on flatcar and container on flatcar (TOFC/COFC) service improvement; extension of time
NOTICES
61127 Fourth section applications for relief
Motor carriers:
61127 Fuel costs recovery, expedited procedures
61128 Permanent authority applications
Railroad car service orders; various companies:
61127 Kansas City Terminal Railway Co.

Labor Department
See also Occupational Safety and Health Administration; Pension and Welfare Benefit Programs Office.
NOTICES
Adjustment assistance:
61115 Ala Knitwear, Ltd.
61115 Apollo Dye et al.
61116 Auerback & Co.
61116 Avenue Fashions, Inc., et al.
61117 Clinchfield Coal Co.; correction
61117 P.G.H. Inc. (2 documents)
61117 Precept, Inc.
Meetings:
61118 Steel Tripartite Committee (2 documents)

Land Management Bureau
NOTICES
Applications, etc.:
61111 California
61112 Wyoming
Coal leases:
61112 Colorado and Wyoming; correction

National Credit Union Administration
NOTICES
61155 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Environmental statements; availability, etc.:
61078 Point Reyes and Farallon Islands, Calif.; marine sanctuary
Marine mammal permit applications, etc.:
61079 Marine Animal Productions/Marine Life, Inc.
61079 National Bank of Public Works & Services, Inc.
Meetings:
61079 Mid-Atlantic Fishery Management Council
61078 New England Fishery Management Council
61078 South Atlantic Fishery Management Council

National Railroad Passenger Corporation
NOTICES
61155 Meetings; Sunshine Act

National Technical Information Service
NOTICES
61079 Inventions, Government-owned; availability for licensing

Navy Department
NOTICES
61081 Privacy Act; systems of records

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
61121 Georgia Power Co. et al.
61122 Levine, Samuel H.
61122 Metropolitan Edison Co. et al.
61122 Omaha Public Power District
61123 Pacific Gas and Electric Co.
61123 Lightning flashes; topical report; availability
Meetings:
61120 Reactor Safeguards Advisory Committee (3 documents)
61123 Nuclear power reactor accidents; planning basis for emergency responses; policy statement

Occupational Safety and Health Administration
RULES
Health and safety standards:
60980 Lead, exposure; appendices to standard

Pension and Welfare Benefit Programs Office
NOTICES
Employee benefit plans:
61118 Prohibition on transactions; exemption proceedings, applications, hearings, etc.
Meetings:
61118 Employee Welfare and Pension Benefit Plans Advisory Council

Pension Policy, President's Commission
NOTICES
61124 Staff contacts, reports

Personnel Management Office
RULES
Career and career-conditional employment:
60975 Peace Corps personnel, present and former; interim rule and inquiry
Excepted service:
60973- Energy Department (6 documents)
60975
60974 Small Business Administration (2 documents)

Public Health Service
NOTICES
61107 Health maintenance organizations, qualified; exclusion of sex change operations and reversal of voluntary induced infertility
Organization, functions, and authority delegations:
61111 Assistant Secretary for Health; health information and health promotion programs

V 44 OC 23 79 UMI

Reclamation Bureau
NOTICES
Contract negotiations:
61112 Shoshone Extensions Units; Pick-Sloan Missouri Basin Program, Wyo.; repayment and water service

Rural Electrification Administration
PROPOSED RULES
Telephone borrowers:
61048 Carbon arrester assemblies for use in protectors (Bulletin 345-78)

Securities and Exchange Commission
NOTICES
61155 Meetings; Sunshine Act

Small Business Administration
NOTICES
Applications, etc.:
61125 California Partners
61124 Quidnet Capital Corp.
Meetings; advisory councils:
61125 Baltimore
61125 Casper
61125 Des Moines
61126 Detroit
61124 Hato Rey
61126 Indianapolis
61126 Kansas City
61126 Las Vegas
61126 Minneapolis
61126 Montpelier
61125 New Orleans
61126 St. Louis
61125 Wichita

Soil Conservation Service
NOTICES
Environmental statements; availability, etc.:
61077 Donahoe Creek Watershed, Tex.

Wage and Price Stability Council
NOTICES
Meetings:
61081 Pay Advisory Committee; cancellation and rescheduling

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
61075 Gospel-Hump Advisory Committee, 11-30-79
61076 Manistee Wild and Scenic River, 11-7 and 11-10-79

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
61078 Inter-Council Swordfish Management Committee and Inter-Council Swordfish Advisory Panels, 11-5 and 11-6-79
61079 Mid-Atlantic Fishery Management Council, Sea Scallop Resources Subpanel, 11-9-79
61078 New England Fishery Management Council, 11-7 and 11-8-79

DEFENSE DEPARTMENT
Army Department—
61081 U.S. Army Medical Research and Development Advisory Panel; Ad Hoc Study Group on Pharmacology, 11-8-79
Office of the Secretary—
61081 Department of Defense Advisory Group on Electron Devices, 11-15 and 11-16-79

ENERGY DEPARTMENT
61083 National Petroleum Council, Materials and Manpower Requirements Committee, Government Subcommittee, 10-31-79

ENVIRONMENTAL PROTECTION AGENCY
61105 Science Advisory Board, Economic Analysis Subcommittee, 11-20-79
61105 Science Advisory Board, Study Group on Cadmium in Sludges, 11-7-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
61109 Indian Education National Advisory Council, 10-25 and 10-26-79
61108 Women's Educational Programs National Advisory Council, 11-13 through 11-16-79

INTERNATIONAL COMMUNICATION AGENCY
61114 Public Diplomacy United States Advisory Commission, 11-1 and 11-2-79

LABOR DEPARTMENT
Office of the Secretary—
61118 Steel Tripartite Committee's Working Group on Environmental Protection, 11-14-79
61118 Steel Tripartite Committee's Working Group on Technological Research and Development, 11-8-79
Pension and Welfare Benefit Programs-
61118 Employee Welfare and Pension Benefit Plans Advisory Council, 11-7-79

NUCLEAR REGULATORY COMMISSION
61120 Reactor Safeguards Advisory Committee, 11-8 through 11-10-79
61120 Reactor Safeguards Advisory Committee, Procedures and Administration Subcommittee, 11-7-79
61120 Reactor Safeguards Advisory Committee, Regulatory Activites Subcommittee, 11-7-79

SMALL BUSINESS ADMINISTRATION
61126 Region I, V, VII, IX Advisory Councils, 11-13, 11-14, 11-15, and 11-27-79
61124, 61125 Region II, III, VI, VII, VIII Advisory Councils, 10-30, 11-2, 11-5, 11-7, and 11-9-79

CHANGED MEETINGS

COUNCIL ON WAGE AND PRICE STABILITY
61081 Pay Advisory Committee, 10-29-79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12166 60971

5 CFR
213 (8 documents) 60973-60975
315 60975

7 CFR
929 60976
948 60977
984 60975
2851 60979
Proposed Rules:
730 61047
1701 61048

9 CFR
307 60979
350 60979
351 60979
354 60979
355 60979
362 60979
381 60979
Proposed Rules:
94 61048

15 CFR
Proposed Rules:
302 61049

16 CFR
Proposed Rules:
13 61050

21 CFR
Proposed Rules:
150 61053
182 61053
184 61053

29 CFR
1910 60980

40 CFR
Proposed Rules:
52 61055

41 CFR
Ch. 1 60995
101-20 60995

42 CFR
Proposed Rules:
74 61059
405 61059

44 CFR
64 (2 documents) 60999, 61000
65 (2 documents) 61003, 61005
Proposed Rules:
67 (2 documents) 61059, 61073

46 CFR
502 60996

49 CFR
1033 60999
Proposed Rules:
1090 61074

V 44 OC 23 79 UMI

V 4 4 0 C 2 3 7 9 UMI

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

Presidential Documents

Title 3—

The President

Executive Order 12166 of October 19, 1979

Export-Import Bank

By the authority vested in me as President of the United States of America by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), and by Section 301 of Title 3 of the United States Code, it is hereby ordered as follows:

1–101. The function vested in the President by Section 2(b)(1)(B) of the Export-Import Bank Act of 1945, as amended (12 U.S.C. 635(b)(1)(B)), is delegated to the Secretary of State. That function is the authority to determine that a denial by the Export-Import Bank of an application for credit would be in the national interest, where such action could clearly and importantly advance United States policy in such areas as international terrorism, nuclear proliferation, environmental protection and human rights.

1–102. Before making such a determination, the Secretary of State shall consult with the Secretary of Commerce and the heads of other interested Executive agencies.

1–103. In accord with Section 2(b)(1)(B) of that Act, only in those cases where the Secretary of State has made such a determination should the Export-Import Bank deny an application for credit for nonfinancial or noncommercial considerations.

Jimmy Carter

THE WHITE HOUSE,
October 19, 1979.

[FR Doc. 79–32795
Filed 10–19–79; 4:08 pm]
Billing code 3195–01–M

V 4 4 OC 23 79 UMI

Rules and Regulations

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment reflects an organizational transfer of the position Special Assistant to the Executive Director, from the Office of the Secretary to the Federal Energy Regulatory Commission. This position formerly existed at the Federal Power Commission and was transferred to the Department of Energy on September 30, 1977. It has not been listed in the **Federal Register** under the Department of Energy prior to this time.

EFFECTIVE DATE: May 1, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Lois Winslow, Department of Energy, 633–8900.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(5) is amended as set out below:

§ 213.3331 Department of Energy

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(5) One Private Secretary and one Special Assistant to the Executive Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32620 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Staff Assistant to the Director, Office of Congressional and Public Affairs, Federal Energy Regulatory Commission because the position is confidential in nature. Appointments may be made to these positions without examination by the Office of Personnel Management.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.
On position content: Lois Winslow, Department of Energy, 633–8900.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(c)(10) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.* * * *

(10) One Staff Assistant to the Director, Office of Congressional and Public Affairs.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32622 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment chages the title of a position at the Department of Energy from Staff Assistant to the Director, Office of Energy Research to Executive Assistant to the Director, Office of Energy Research to more appropriately reflect the duties of the position.

EFFECTIVE DATE: June 21, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 202–632–4533.
On position content: Eduardo E. Gautier, Department of Energy, 633–8225.

Office of Personnel management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, 5 CFR 213.3331(g)(2) is amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(g) *Office of the Director of Energy Research.* * * *

(2) One Executive Assistant to the Director.

(5. U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32623 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment revokes certain positions at the Department of Energy because the need for these jobs no longer exists. They are as follows: one Confidential Assistant (Secretary) to the Deputy Assistant Secretary for Environment; one Confidential Secretary to the Assistant Secretary for Resource Applications; one Confidential Assistant (Secretary) to the Director of Public Affairs; one Staff Assistant, State Relations, Office of Intergovernmental and Institutional Relations; one Staff Assistant, Hispanic Relations, Office of Intergovernmental and Institutional Relations; one Confidential Secretary to the Assistant Secretary for Policy and Evaluation; one Executive Assistant to the Assistant Secretary for Policy and Evaluation; one Confidential Assistant for Legislation, Office of Policy and Evaluation; and one Staff Assistant to the Director, Executive Secretariat.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632–4533.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(i)(3), (j)(1), (m)(3), (m)(7) and (o)(1)(2)(3) are revoked and (m)(5) and (s)(1) are amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(i) *Office of the Assistant Secretary for Environment.* * * *

(3) [Revoked].

* * * * *

(j) *Office of the Assistant Secretary for Resource Applications.*

(1) [Revoked].

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(3) [Revoked].* * *

(5) One Staff Assistant, City and County Relations to the Director, Office of Intergovernmental Affairs.* * *

(7) [Revoked].

* * * * *

(o) *Office of the Assistant Secretary for Policy and Evaluation.*

(1) [Revoked].

(2) [Revoked].

(3) [Revoked].

* * * * *

(s) *Office of the Director, Executive Secretariat.*

(1) One Staff Assistant to the Director.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218).

[FR Doc. 79-32624 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Program Liaison Specialist in the Department of Energy because it is confidential in nature. Appointments may be made to this position without examination by the Office of Personnel Management.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Robert Willyerd, Department of Energy, 633–8900.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331(m)(8) is added as set out below:

§ 213.3331 Department of Energy.

* * * * *

(m) *Office of the Assistant Secretary for Intergovernmental and Institutional Relations.* * * *

(8) One Program Liaison Specialist.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32625 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Small Business Administration

AGENCY: Office of Personnel Management.

ACTION: Final rules.

SUMMARY: This amendment changes the title of certain positions at the Small Business Administration (1) from Confidential Assistant to the Associate Administrator for Operations to Confidential Assistant to the Associate Deputy Administrator for Programs; (2) from Confidential to the Assistant Administrator for Management Assistance to Confidential Assistant to the Associate Administrator for Management Assistance to reflect the current title of the superior and to reflect an organizational redesignation; and (3) from Special Assistant to the Director, Office of Public Communications to Special Assistant to the Assistant Administrator for Public Communications to reflect an organizational redesignation.

EFFECTIVE DATE: June 5, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Diane Jenkins, Small Business Administration, 653–6504.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3332(j), (l) and (v) are amended as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(j) One Special Assistant to the Assistant Administrator for Public Communications.

* * * * *

(l) One Confidential Assistant to the Associate Deputy Administrator for programs.

* * * * *

(v) One Confidential Assistant to the Associate Administrator for Management Assistance.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32626 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Small Business Administration

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of four positions at the Small Business Administration (1) from two Special Assistants to the Associate Administrator for Minority Small Business to two Special Assistants to the Associate Administrator for Minority Small Business and Capital Ownership Development to reflect the current title of the superior, (2) from Confidential Assistant to the Associate Administrator for Minority Small Business to Confidential Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development to reflect the current title of the superior and (3) from Advisory Councils Officer to the Associate Administrator for Advocacy and Public Communications to Advisory Councils Officer to the Administrator to reflect an organizational redesignation. Also one Special Assistant to the Associate Administrator for Minority Small Business is revoked because it has been vacant for more than 60 days.

EFFECTIVE DATE: May 25, 1979.

FOR FURTHER INFORMATION CONTACT:

On position authority: William Bohling, Office of Personnel Management, 632–4533.
On position content: Diane Jenkins, SBA, 653–6504.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3332(g) and (p) are amended as set out below:

§ 213.3332 Small Business Administration.

* * * * *

(g) Advisory Councils Officer to the Administrator.

* * * * *

(p) Two Special Assistants and one Confidential Assistant to the Associate Administrator for Minority Small Business and Capital Ownership Development.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32627 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 213

Excepted Service; Department of Energy

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: This amendment changes the titles of two Private Secretaries to the Chairman, Federal Power Commission to two Private Secretaries to the Chairman of the Federal Energy Regulatory Commission to reflect the current title of the superior. These positions formerly existed at the Federal Power Commission and were subsequently transferred to the Department of Energy on September 30, 1977.

EFFECTIVE DATE: June 28, 1979 (Position No. 1); June 28, 1979 (Position No. 2).

FOR FURTHER INFORMATION CONTACT:
On position authority: William Bohling, Office of Personnel Management, 632–4533.—On position content: Robert Willyerd, Department of Energy, 633–8234.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, 5 CFR 213.3331 (c)(1) is amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(c) *Federal Energy Regulatory Commission.*

(1) One Confidential Secretary, two Private Secretaries and one Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954–1958 Comp., p. 218)

[FR Doc. 79-32711 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 315

Career and Career-Conditional Appointment

AGENCY: Office of Personnel Management.

ACTION: Interim regulations with comments invited for consideration in final rulemaking.

SUMMARY: As required by the International Development Cooperation Act of 1979, the Office of Personnel Management (OPM) is amending its regulations to provide for the noncompetitive appointment of present and former Peace Corps personnel who have completed at least 36 months of satisfactory service under a Foreign Service Reserve or staff appointment, or assignment governed by section 7(a) of the Peace Corps Act.

DATE: Effective date: October 1, 1979, and until final regulations are issued. Comment date: Written comments on both format and content will be considered if received no later than December 20, 1979.

ADDRESS: Send written comments to Chief, Office of Policy Analysis and Development, Staffing Services, Office of Personnel Management, 1900 E Street, N.W., Room 6526, Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:
Maribeth Zankowski, 202–632–6817.

SUPPLEMENTARY INFORMATION: Pursuant to section 553(d)(3) of title 5, U.S.C. the Director of OPM finds that good cause exist for making this regulation effective in less than 30 days, in order to give immediate and timely effect to section 302 of the International Cooperation Act of 1979, effective October 1, 1979. These regulations will be supplemented by further guidance developed by the Office of Personnel Management and issued through the Federal Personnel Manual System. The Department of State is responsible for issuing regulations governing noncompetitive appointment of such persons to the Foreign Service.

Office of Personnel Management.
Beverly M. Jones,
Issuance System Manager.

Accordingly, the Office of Personnel Management is adding § 315.607 to Title 5, Code of Federal Regulations, to read as follows:

§ 315.607 Noncompetitive appointment of present and former Peace Corps personnel.

(a) An agency in the Executive branch may appoint noncompetitively, for other than a temporary appointment, an individual—

(1) Who has completed no less than 36 months of substantially continuous service under section 7(a) of the Peace Corps Act (22 U.S.C. 2506);

(2) Whom the Director of the Peace Corps certifies as having satisfactorily served under such an appointment; and

(3) Who meets OPM qualification standards—including any written test requirements—for the position in question.

(b) Time limitations.

(1) An agency in the Executive branch may make an appointment under this section until such time as the Congress enacts Foreign Service personnel reform legislation which amends or otherwise supersedes section 7(a)(4) of the Peace Corps Act.

(2) An individual's eligibility under this section extends until October 1, 1982 or until 3 years after separation from qualifying service with the Peace Corps, whichever is later.

(3) An agency may not extend this period.

(c) Conditions. Any law, Executive order, or regulation which disqualifies an applicant for appointment in the competitive service also disqualifies an applicant for appointment under this section.

(d) Acquisition of competitive status. A person appointed under paragraph (a) of this section acquires competitive status automatically upon completion of probation.

(e) Tenure on appointment.

(1) Except as provided in paragraph (e)(2) of this section, a person appointed under paragraph (a) of this section becomes a career-conditional employee.

(2) A person appointed under paragraph (a) of this section becomes a career employee if excepted from the service requirement for career tenure by § 315.201(c).

(22 U.S.C. 2506, 93 Stat. 371, EO 12137).

[FR Doc. 79-32644 Filed 10-22-79; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 984

Walnuts Grown in California; Expenses of the Walnut Marketing Board and Rate of Assessment for the 1979–80 Marketing Year

AGENCY: Agricultural Marketing Service.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1979–80 marketing year, to be collected from handlers to support activities of the Board which locally administers the Federal marketing order covering walnuts grown in California.

DATES: Effective August 1, 1979, through July 31, 1980.

FOR FURTHER INFORMATION CONTACT:
William J. Higgins, (202) 447–5053.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to Marketing Order No. 984, as amended (7 CFR Part 984), regulating the handling of walnuts grown in California,

effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of the recommendations and information submitted by the Board, established under this marketing order, and upon other information, it is found that the expenses and rate of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking, and that good cause exists for not postponing the effective time until 30 days after publication in the Federal Register (5 U.S.C. 553), as the order requires that the rate of assessment for a particular marketing year shall apply to all assessible walnuts from the beginning of such year which began August 1, 1979. To enable the Board to meet marketing year obligations, approval of the expenses and assessment rate is necessary without delay. Handlers and other interested persons were given an opportunity to submit information and views on the expenses and assessment rate at an open meeting of the Board. To effectuate the declared purposes of the act, it is necessary to make these provisions effective as specified.

Further, in accordance with procedures in Executive Order 12044, the emergency nature of this regulation warrants publication, without opportunity for further comments. The regulation has not been classified significant under USDA criteria for implementing the Executive order. An Impact Analysis is available from William J. Higgins, (202) 447–5053.

Section 984.331 is added to read as follows:

§ 984.331 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Board during the 1979–80 marketing year, will amount to $324,600.

(b) The rate of assessment for said year payable by each handler in accordance with § 984.69 is fixed at 0.25 cent per kernelweight pound for certified merchantable walnuts.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 17, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 79-32672 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 929

Cranberries Grown in States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This amendment revises the procedures governing the allocation of base quantity to cranberry producers from the reserve established under the order. This action is necessary to simplify the procedure for computing each existing producer's share of reserve base quantity.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

SUPPLEMENTARY INFORMATION: Notice was published in the September 19, 1979, issue of the Federal Register (44 F.R. 54302) that consideration was being given to a proposal by the Cranberry Marketing Committee, established under the marketing agreement and Order No. 929, both as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. This is a regulatory program effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The notice provided that all written data, views, or arguments in connection with the proposal be submitted not later than October 4, 1979. No comments were received.

Section 929.153 of the regulations established under the order prescribes procedures governing the allocation of reserve base quantity to cranberry producers. The establishment of an annual base quantity reserve equal to two percent of the aggregate base quantities of cranberry producers is mandated by § 929.48(b) of the order. This reserve quantity is to be allocated 75 percent to existing producers and 25 percent to new producers.

The modification of § 929.153, as hereafter set forth, provides that the reserve base quantity share of each eligible existing producer applicant shall be determined by subtracting the applicant's present base quantity from such applicant's average annual sales from all acreage. Currently, the base quantity computed for an existing producer is the sum of base quantity shares determined on the basis of sales of cranberries from established cranberry acreage together with sales of cranberries from new acreage. The rule presently provides for a potential base quantity for an existing producer's new cranberry acreage determined by multiplying the producer's average sales of cranberries from established acreage by the number of new acres planted. It also provides for an adjustment of such base quantity based on actual production and sales of cranberries from new acreage. The amendment recognizes that new cranberry acreage can be planted in close proximity to established cranberry acreage, rendering identification of cranberries produced and sold from new acreage impractical. The amendment would facilitate the allocation of reserve base quantity to existing cranberry producers by determining each existing producer's share of reserve base quantity on the basis of producer's sales of cranberries irrespective of whether the cranberries sold were produced on the producer's established acreage or new acreage.

The amendment distinguishes between applicants with at least four years of sales and applicants with less than four years of sales in computing each eligible applicant's base quantity share. This change recognizes that an existing grower applicant could have less than four years of sales such as a grower who has recently acquired cranberry acreage.

The amendment revises the definition of "existing grower" and "new grower" to clarify the basis of eligibility in each grower category. One change requires a determination by the committee that the person applying under the "new grower" classification has made firm and substantial commitments for the production of cranberries. This change is necessary to enable the committee to evaluate an applicant's intention to produce cranberries and eligibility for base quantity from the portion of the reserve set aside for new growers. The amendment provides that base quantity issued to new growers is conditional on the grower's ability to produce and sell cranberries and is not transferable to other growers until such condition is fulfilled.

After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice, the recommendation by the Cranberry Marketing Committee, and other available information, it is hereby found that amendment of the rules and regulations (Subpart—Rules and Regulations; 7 CFR Part 929.101 *et seq.*) as hereafter set forth, is in accordance with the provisions of the order and will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date hereof until 30 days after publication in the Federal Register (5 U.S.C. 553) in that (1) the Cranberry Marketing Committee recommended the rule prescribing modified procedures to govern the allocation of reserve base quantity to cranberry producers and this recommendation was contained in a notice of proposed rulemaking published in the September 19, 1979, issue of the Federal Register to which no adverse comments were received, and (2) cranberry producers should be notified as soon as practical as to the allocation procedure prescribed herein and the basis on which the committee will make its determination on grower requests for reserve base quantity.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant". An Impact Analysis is available from Malvin E. McGaha, Fruit Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5975.

Therefore, paragraphs (b) and (c) of § 929.153 are revised to read as follows:

§ 929.153 Base quantity reserve.

(a) * * *

(b) *Application.* Each grower who wishes to be considered for base quantity from the reserve shall file an application with the committee on a form provided by the committee not later than February 1 of the crop year. Such application shall identify the grower as either an existing grower (an "existing grower" shall mean any person who is engaged in producing cranberries on established cranberry acreage or now holds a base quantity certificate) or a new grower (a "new grower" shall mean any person who does not hold a base quantity certificate nor any interest in a base quantity certificate, financial or otherwise and shall include any grower who in the judgment of the committee has made firm and substantial commitments for the production of cranberries or any grower whose acreage did not previously qualify as established cranberry acreage). The application shall include the following information:

(1) Location of acreage,

(2) Acreage planted,

(3) Production and sales of cranberries for the preceding six-year period,

(4) Prospective production and such other information as may be required by the committee, including such information as may be deemed necessary for the committee to determine whether applicants who apply on the basis of firm and substantial commitments to produce cranberries are qualified.

(c) *Disposition.* Following the closing date for filing applications, a meeting or meetings of the committee shall be held for the purpose of reviewing applications, if any, and making a determination on each request. Such meeting or meetings shall be scheduled to begin no later than March 1 of the crop year.

(1) *Existing grower.* There shall be set aside for allocation to existing growers 75 percent of the amount determined under paragraph (a) of this section. The committee shall compute a base quantity share for each eligible applicant as follows:

(i) *Applicants With At Least Four Years Sales.* A share of reserve base quantity for each applicant who has at least four years sales shall be computed by the committee by subtracting the applicant's present base quantity from such applicant's average annual sales (from all of such applicant's acreage) for the four years, within the immediately preceding six-year period, in which such applicant's greatest sales were made.

(ii) *Applicants With Less Than Four Years Sales.* A share of reserve base quantity for each applicant who has less than four years of sales shall be computed by the committee by subtracting the applicant's present base quantity, if any, from the applicant's average annual sales (from all such applicant's acreage) for the years in which such sales were made.

(iii) If the total amount computed for all existing grower applicants exceeds the amount of reserve base quantity available, then each applicant's share shall be adjusted by multiplying each such share by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all existing grower applicants.

(2) *New grower.* There shall be set aside for allocation to new growers 25 percent of the amount determined under paragraph (a) of this section. Base quantity share shall be determined by multiplying the grower's cranberry acreage by the State average base quantity per acre. If the total amount computed for all new grower applicants exceeds the amount of reserve base quantity available, then each applicant's share shall be adjusted by multiplying each such share by a factor obtained by dividing the amount of reserve base quantity available by the total amount computed for all new grower applicants. Base quantity shall be issued to each approved applicant from such applicant's base quantity share in an amount equal to the estimated production for that crop year. No base quantity share based on estimated production or allotment based on such share shall be transferred to another grower. Successive increment allocations based upon an annual application by the new grower shall be made until the balance of the base quantity share for that grower is exhausted. Thereafter, the new grower may apply to the committee for additional base quantity from the proportion of the reserve allocated to existing growers. Any producer who does not reach the State average base quantity per acre within six years from the time the application is approved by the committee shall lose the "new grower" status and receive a base quantity equal to the average of the producer's two best crops during this six-year period. All or any part of the base quantity reserved for new growers not needed to fill new grower requests, may be allocated by the committee to eligible existing growers.

* * * * *

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674)

Dated: October 18, 1979.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-32670 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 948

Irish Potatoes Grown in Colorado, Area No. 2; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of potatoes grown in Colorado—Area No. 2 to be inspected and meet minimum grade, size and maturity requirements. The regulation will promote orderly marketing of such potatoes and keep less desirable qualities and sizes from being shipped to consumers.

EFFECTIVE DATE: November 1, 1979.

FOR FURTHER INFORMATION CONTACT: Peter G. Chapogas (202) 447–5432.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 97 and Order

No. 948, both as amended, regulate the handling of potatoes grown in designated counties of Colorado Area No. 2. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Colorado Area No. 2 Potato Committee, established under the order, is responsible for its local administration.

Notice of proposed rulemaking was published in the September 10, 1979, Federal Register (44 FR 52690) inviting comments by October 10, 1979. None was received.

This regulation is based upon recommendations for a regulation through October 31, 1980, made by the committee at its public meeting in Monte Vista, Colorado, on August 16, 1979.

The grade, size, maturity and inspection requirements specified herein are similar to those issued during past seasons. They are necessary to prevent potatoes of low quality or less desirable sizes from being distributed to fresh market outlets. They will benefit consumers and producers by standardizing and improving the quality of the potatoes shipped from the production area in order to provide the consumer with a more acceptable product.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements would be inappropriate or unreasonable.

Shipments are permitted to certain special purpose outlets without regard to the grade, size, maturity and inspection requirements, provided that safeguards are met to prevent such potatoes from reaching unauthorized outlets. Certified seed is exempt because requirements for this outlet differ greatly from those for fresh market. Shipments for use as livestock feed likewise are exempt. Since no purpose would be served by regulating potatoes used for charity purposes, such shipments are exempt. Potatoes for most processing uses are exempt under the legislative authority for this part.

Findings. After consideration of all relevant matter presented, including the proposal set forth in the aforesaid notice which was recommended by the Colorado Area No. 2 Potato Committee, it is hereby found that the following handling regulation will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after its publication in the Federal Register (5 U.S.C. 553) in that (1) shipments of potatoes grown in the production area will already have begun by the effective date specified herein, (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season, and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date hereof.

This regulation has been reviewed under USDA criteria for implementing Executive Order 12044. A determination has been made that this action should not be classified "significant." An Impact Analysis is available from Peter G. Chapogas (202) 447–5432.

7 CFR Part 948 is amended by adding a new § 948.382 as follows:

§ 948.382 Handling regulation.

During the period November 1, 1979, through October 31, 1980, no person shall handle any lot of potatoes grown in Area No. 2 unless such potatoes meet the requirements of paragraphs (a), (b), and (c) of this section, or unless such potatoes are handled in accordance with paragraphs (d) and (e), or (f) of this section.

(a) *Minimum grade and size requirements.*

(1) *Round varieties.* U.S. No. 2, or better grade, 2 inches minimum diameter.

(2) *Russet Burbank.* U.S. No. 2, or better grade, 1⅞ inches minimum diameter.

(3) *All other long varieties except Russet Burbank.* U.S. Commercial, or better grade, 2 inches minimum diameter or 4 ounces minimum weight, or U.S. No. 2 grade, 1⅞ inches minimum diameter.

(4) *All varieties.* Size B, if U.S. No. 1.

(5) *All varieties for export.* 1½ inches minimum diameter.

(b) *Maturity (skinning) requirements.* During September and October minimum maturity requirements shall be:

(1) *For U.S. No. 2 grade.* Not more than "moderately skinned."

(2) *All other grades.* Not more than "slightly skinned."

(c) *Inspection.*

(1) No handler shall handle any potatoes for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment. For purposes of operation under this part it is hereby determined pursuant to § 948.40(d) that each inspection certificate shall be valid for a period not to exceed five days following the date of inspection as shown on the inspection certificate.

(2) No handler may transport or cause the transportation by motor vehicle of any shipment of potatoes for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto and the copy is made available for examination at any time upon request.

(d) *Special purpose shipments.*

(1) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section and the assessment requirements of this part shall not be applicable to shipments of potatoes for:

(i) Livestock feed;

(ii) Relief or charity; or

(iii) Canning, freezing, and "other processing" as hereinafter defined.

(2) The grade, size, maturity and inspection requirements of paragraphs (a), (b) and (c) of this section shall not be applicable to shipments of seed pursuant to § 948.6 but such shipments shall be subject to assessments.

(e) *Safeguards.*

Each handler of potatoes which do not meet the grade, size, and maturity requirements of paragraphs (a) and (b) of this section and which are handled pursuant to paragraph (d) for any of the special purposes set forth therein shall:

(1) Prior to handling, apply for and obtain a Certificate of Privilege from the committee;

(2) Furnish the committee such reports and documents as requested, including certification by the buyer or receiver as to the use of such potatoes; and

(3) Bill each shipment directly to the applicable processor or receiver.

(f) *Minimum quantity.*

For purposes of regulation under this part, each person may handle up to but not to exceed 1,000 pounds of potatoes without regard to the requirements of paragraphs (a), (b) and (c) of this section, but this exception shall not apply to any shipment which exceeds 1,000 pounds of potatoes.

(g) *Definitions.*

The terms "U.S. No. 1," "U.S. Commercial," "U.S. No. 2," "Size B," "slightly skinned," and "moderately skinned" shall have the same meaning as when used in the U.S. Standards for Potatoes (7 CFR 2851.1540–2851.1566), including the tolerances set forth therein. The term "other processing" has the same meaning as the term appearing in the act and includes, but is not restricted to, potatoes for dehydration, chips, shoestrings, starch, and flour. It includes only that preparation of potatoes for market which involves the application of heat or cold to such an extent that the natural form or stability of the commodity undergoes a substantial change. The act of peeling, cooling, slicing, dicing, or applying material to prevent oxidation does not constitute "other processing." Other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 97, as amended, and this part.

(h) *Applicability to imports.*

Pursuant to § 8e of the act and § 980.1, *Import regulations* (7 CFR 980.1), Irish potatoes of the red skinned round type, except certified seed potatoes, imported into the United States during the periods November 1, 1979, through June 30, 1980, and September 1, 1980, through October 31, 1980, shall meet the minimum grade, size, quality and maturity requirements specified in paragraphs (a) and (b) of this section.

(Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674).

Dated: October 17, 1979, to become effective November 1, 1979.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 79-32671 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Quality Service

7 CFR Part 2851

U.S. Standards for Peaches

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Notice of interpretation of peach standards.

SUMMARY: The peach standards defining U.S. Grades (7 CFR 2851.1210 *et seq.*), require peaches to be "free from (serious) damage caused by [specific factors and] * * * other means." Damage is further defined generally and specifically, and includes "any injury or defect which materially affects the appearance, or the edible or shipping quality of the peach." This publication will serve as notice to the public that it is the interpretation of the Department of Agriculture that peaches with internal damage, including damage in the form of broken or shattered pits, or internal gum spots associated therewith, will be considered damaged, or seriously damaged in applying the United States Standards for Grades of Peaches.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Torline, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4560.

SUPPLEMENTARY INFORMATION: During this season, and last season, routine shipping point inspection of fresh peaches has revealed an increasing and serious problem with broken or shattered pits, and adjacent gum spots, especially in certain early varieties.

Peach pits commonly split in half, along the seed seam, and are scored against grade as specifically described in the standards. Broken or shattered pits, and internal gum spots, represent a recently developing pit disorder which became particularly prevalent this year, especially in early variety peaches harvested from older trees. Cultural practices, such as thinning, irrigation, and fertilization, in addition to weather conditions, may contribute to the problem.

Like other defects which affect grade but are not specifically listed in the standards—such as moldy seed cavities (which is another pit disorder), cold damage, and sunburn—damage in the form of broken pits and gum spots should be scored against grade to the extent such defects materially affect the appearance, or the edible or shipping quality of the peach, as contemplated by the standards. In addition to materially affecting the appearance and edible quality by damage to the interior flesh, a fragment from a broken pit may even result in possible harm to the unwary consumer if accidentally chewed or ingested. Such peaches, though by external examination may appear to be U.S. No. 1, do not represent the high quality product required by the standards for a superior U.S. grade designation.

The Department has issued instructions to inspectors detailing the maximum aggregate size gum spots, and number of broken pit fragments allowed under the U.S. grade standards. In order to determine the percentage of defect present without excessive cutting of fruit, inspectors have also been isued a sampling plan to be implemented when they verify, by internal inspection of suspicious samples, that these internal defects are present in a given lot.

Apparent misunderstanding by the peach industry as to how these internal defects would be interpreted and applied under the standards, led certain growers and handlers to bring a lawsuit against the Secretary. On June 2, 1979, a Federal District Court issued a preliminary injunction which prohibits use of the instructions for inspection of the 1979 peach crop. As a result, the Department is not applying its interpretation with respect to broken pits and internal gum spots during 1979.

It may be helpful for producers to have certain and early notice of the manner in which the Agency intends to interpret and apply the peach standards next season and in future years. This publication, which will be widely disseminated throughout the peach industry, will serve as notice that it is the interpretation of the Department of Agriculture that peaches with internal damage, including damage in the form of broken or shattered pits, or internal gum spots associated therewith, will be considered damaged or seriously damaged in applying the United States Standards for Grades of Peaches, and recommencing with the 1980 peach crop, it is the intention of the Inspection Service to score such damage against grade.

Done at Washington, DC, on: October 17, 1979.

Jacob J. Vollman,

Director (Acting), Fruit and Vegetable Quality Division, Food Safety and Quality Service.

[FR Doc. 79-32556 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-DM-M

9 CFR Parts 307, 350, 351, 354, 355, 362 and 381

Meat and Poultry Products Inspection; Rate Increase for Inspection Service

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: The rates for overtime inspection, identification, certification, or laboratory service are changed to reflect increased costs associated with these programs in the upcoming fiscal year.

EFFECTIVE DATE: October 7, 1979.

FOR FURTHER INFORMATION CONTACT: June P. Blair, Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–6653.

SUPPLEMENTARY INFORMATION: The fees relating to overtime and holiday inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, are hereby amended retroactively to October 7, 1979, to reflect increased costs associated with these programs in the upcoming fiscal year in conformity with the requirements of the Federal Pay Comparability Act of 1970.

Accordingly, the meat and poultry inspection regulations are amended as set forth below:

V 44 NO 203 1979 UMI

PART 307—FACILITIES FOR INSPECTION

PART 381—POULTRY PRODUCTS INSPECTION REGULATIONS

§§ 307.5 and 381.38 [Amended]

1. The rate for overtime or holiday inspection, identification, or certification service rendered, as the case may be in accordance with the provisions of this chapter, is changed from $14.72 per hour to $15.44 per hour in §§ 307.5(a) and 381.38(a).

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

2. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $13.48 per hour for base time, $15.44 per hour for overtime including Saturdays, Sundays, and holidays, and $24.04 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—CERTIFICATION OF TECHNICAL ANIMAL FATS FOR EXPORT

3. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys of plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $13.48 per hour for base time, $15.44 per hour for overtime, travel and per diem allowances at rates currently allowed by the Government Travel Regulations, and other expenses incidental to the initial survey of the rendering plants or storage facilities for which certification service is requested.

4. Section 351.9(a) is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examinations shall be $13.48 per hour for base time and $15.44 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14, and $24.04 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

5. Section 354.101 (b) and (c) are revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $13.48 for base time and $15.44 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this Part related to the inspection service shall be $24.04 per hour.

PART 355—RULES OF PRACTICE GOVERNING PROCEEDINGS UNDER THE FEDERAL MEAT INSPECTION ACT.

6. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $13.48 per hour for base time, $15.44 per hour for overtime, including Saturdays, Sundays, and holidays, and $24.04 per hour for laboratory service to reimburse the Service for the cost of the inspection service furnished.

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

7. Section 362.5(c) is amended to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this Part shall be at the rate of $13.48 per hour for base time, $15.44 per hour for overtime including Saturdays, Sundays, and holidays, and $24.04 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

It has been determined that in order to cover these increased costs of the services, to comply with the requirements of the Federal Pay Comparability Act of 1970, the hourly fees charged in connection with the performance of the services must be increased effective upon the date these increases became effective for USDA personnel. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Food Safety and Quality Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective retroactive to October 7, 1979.

Done at Washington, D.C., on: October 18, 1979.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 79-32707 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standard; Occupational Exposure To Lead; Appendices to Standard

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The new standard for occupational exposure to lead (29 CFR 1910.1025) published in the **Federal Register** on November 14, 1978 (43 FR 52952), included provisions for appendices to the final regulations. These appendices are now available for publication and for public use. The information provided by these appendices includes substance identification, health hazard information, an employee standard summary, and medical surveillance guidelines which contain detailed discussions of the medical surveillance requirements of the standard, the clinical toxicities of lead, enzymatic pathways in the synthesis of hemoglobin, the adverse health effects on male and female reproductive capacity and on the fetus, and recommended procedures as to medical history, physical examination and laboratory tests.

The appendices are intended to provide information and are not intended by themselves to create any additional obligations not otherwise imposed by the standard, nor detract from any obligations in the standard.

DATES: Use of these appendices as required by the standard shall commence by December 24, 1979.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Labor, Room N3112, Washington, D.C. 20210, Telephone: (202) 523-8034.

For additional copies of this regulation contact: OSHA Office of Publications, U.S. Department of Labor, Room S1212, Washington, D.C. 20210, telephone 202-523-6138.

SUPPLEMENTARY INFORMATION: The delayed publication of these appendices does not defer employers' obligations to complete training and medical surveillance programs by the dates required in the standard, except insofar as the availability of these appendices is necessary to fully comply with 29 CFR 1910.1025(j)(3)(iv)(A)(*1*); (l)(1)(i); (l)(1)(v)(A); and (l)(2)(i). Sixty (60) days from today's publication will be permitted for adequate copies of these appendices to be obtained and complete compliance with 1910.1025(j)(3)(iv)(A)(*1*) and (l)(2)(i) achieved. Sixty days from today's publication will be permitted for employees exposed below the action level to be informed of the content of appendices A and B as required by § 1910.1025(l)(1)(i). The training program described in § 1910.1025(l)(1)(v) for all other exposed employees must be updated so that any training given after 60 days from today's publication includes information on the content of these appendices as required by § 1910.1025(l)(1)(v)(A). If the employer has already fulfilled initial training requirements, the employer need only inform employees of the Content of the appendices A and B to the extent not covered in earlier training; or alternatively the employer may provide copies of the appendices to covered employees and give them an opportunity to read the appendices.

§ 1910.1025 [Amended]

Accordingly, pursuant to sections 4(b), 6(b) and 8(c) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 8-76 (41 FR 25059) and 29 CFR Part 1911, § 1910.1025 of Title 29 of the Code of Federal Regulations is amended by adding the following appendices A, B and C at the end of § 1910.1025.

Signed at Washington, D.C. this 18th day of October 1979.

Eula Bingham,

Assistant Secretary of Labor.

CONTENTS

Appendix A to Section 1910.1025—Substance Data Sheet for Occupational Exposure to Lead

I. Substance Identification
- A. Substance
- B. Compounds Covered by the Standard
- C. Uses
- D. Permissible Exposure
- E. Action Level

II. Basic Health Hazard Data
- A. Ways in which lead enters your body
- B. Effects of overexposure to lead
  1. Short-term (acute) overexposure
  2. Long-term (chronic) overexposure
  3. Health Protection Goals of the Standard
  4. Reporting signs and symptoms of health problems

Appendix B to Section 1910.1025—Employee Standard Summary

I. Permissible Exposure Limit—paragraph (c)
II. Exposure Monitoring—paragraph (d)
III. Methods of Compliance—paragraph (e)
IV. Respiratory Protection—paragraph (f)
V. Protective Work Clothing & Equipment—paragraph (g)
VI. Housekeeping—paragraph (h)
VII. Hygiene Facilities & Practices—paragraph (i)
VIII. Medical Surveillance—paragraph (j)
IX. Medical Removal Protection—paragraph (k)
X. Employee Information & Training—paragraph (l)
XI. Signs—paragraph (m)
XII. Recordkeeping—paragraph (n)
XIII. Observation of Monitoring—paragraph (o)
XIV. Effective Date—paragraph (p)
XV. For additional information

Appendix C to Section 1910.1025—Medical Surveillance Guidelines

I. Medical Surveillance and monitoring requirements for workers exposed to inorganic lead
II. Adverse health effects of inorganic lead
III. Medical evaluation
IV. Laboratory evaluation

Appendix A to Section 1910.1025—Substance Data Sheet For Occupational Exposure to Lead

I. Substance Identification

A. *Substance:* Pure lead (Pb) is a heavy metal at room temperature and pressure and is a basic chemical element. It can combine with various other substances to form numerous lead compounds.

B. *Compounds Covered by the Standard:* The word "lead" when used in this standard means elemental lead, all inorganic lead compounds and a class of organic lead compounds called lead soaps. This standard does not apply to other organic lead compounds.

C. *Uses:* Exposure to lead occurs in at least 120 different occupations, including primary and secondary lead smelting, lead storage battery manufacturing, lead pigment manufacturing and use, solder manufacturing and use, shipbuilding and ship repairing, auto manufacturing, and printing.

D. *Permissible Exposure:* The Permissible Exposure Limit (PEL) set by the standard is 50 micrograms of lead per cubic meter of air (50 $\mu g/m^3$), averaged over an 8-hour work-day.

E. *Action Level:* The standard establishes an action level of 30 micrograms per cubic meter of air (30 $\mu g/m^3$), time weighted average, based on an 8-hour work-day. The action level initiates several requirements of the standard, such as exposure monitoring, medical surveillance, and training and education.

II. Health Hazard Data

A. *Ways in which lead enters your body.* When absorbed into your body in certain doses lead is a toxic substance. The object of the lead standard is to prevent absorption of harmful quantities of lead. The standard is intended to protect you not only from the immediate toxic effects of lead, but also from the serious toxic effects that may not become apparent until years of exposure have passed.

Lead can be absorbed into your body by inhalation (breathing) and ingestion (eating). Lead (except for certain organic lead compounds not covered by the standard, such as tetraethyl lead) is not absorbed through your skin. When lead is scattered in the air as a dust, fume or mist it can be inhaled and absorbed through you lungs and upper respiratory tract. Inhalation of airborne lead is generally the most important source of occupational lead absorption. You can also absorb lead through your digestive system if lead gets into you mouth and is swallowed. If you handle food, cigarettes, chewing tobacco, or make-up which have lead on them or handle them with hands contaminated with lead, this will contribute to ingestion.

A significant portion of the lead that you inhale or ingest gets into your blood stream. Once in your blood stream, lead is circulated throughout your body and stored in various organs and body tissues. Some of this lead is quickly filtered out of your body and excreted, but some remains in the blood and other tissues. As exposure to lead continues, the amount stored in your body will increase if you are absorbing more lead than your body is excreting. Even though you may not be aware of any immediate symptoms of disease, this lead stored in your tissues can be slowly

V 44 0C 23 79 UMI

causing irreversible damage, first to individual cells, then to your organs and whole body systems.

B. *Effects of overexposure to lead*—(1) *Short term (acute) overexposure.* Lead is a potent, systemic poison that serves no known useful function once absorbed by your body. Taken in large enough doses, lead can kill you in a matter of days. A condition affecting the brain called acute encephalopathy may arise which develops quickly to seizures, coma, and death from cardiorespiratory arrest. A short term dose of lead can lead to acute encephalopathy. Short term occupational exposures of this magnitude are highly unusual, but not impossible. Similar forms of encephalopathy may, however, arise from extended, chronic exposure to lower doses of lead. There is no sharp dividing line between rapidly developing acute effects of lead, and chronic efects which take longer to acquire. Lead adversely affects numerous body systems, and causes forms of health impairment and disease which arise after periods of exposure as short as days or an long as several years.

(2) *Long-term (chronic) overexposure.* Chronic overexposure to lead may result in severe damage to your blood-forming, nervous, urinary and reproductive systems. Some common symtoms of chronic overexposure include loss of appetite, metallic tast in the mouth, anxiety, constipation, nausea, pallor, excessive tiredness, weakness, insomina, headeache, nervous irritability, muscle and joint pain or soreness, fine tremors, numbness, dizziness, hyperactivity and colic. In lead colic there may be severe abdominal pain.

Damage to the central nervous system in general and the brain (encephalopathy) in particular is one of the most severe forms of lead poisoning. The most severe, often fatal, form of encephalopathy may be preceded by vomiting, a feeling of dullness progressing to drowsiness and stupor, poor memory, restlessness, irritability, tremor, and convulsions. It may arise suddenly with the onset of seizures, followed by coma, and death. There is a tendency for muscular weakness to develop at the same time. This weakness may progress to paralysis often observed as a characteristic "wrist drop" or "foot drop" and is a manifestation of a disease to the nervous system called peripheral neuropathy.

Chronic overexposure to lead also results in kidney disease with few, if any, symptoms appearing until extensive and most likely permanent kidney damage has occurred. Routine laboratory tests reveal the presence of this kidney disease only after about two-thirds of kidney function is lost. When overt symptoms of urinary dysfunction arise, it is often too late to correct or prevent worsening conditions, and progression to kidney dialysis or death is possible.

Chronic overexposure to lead impairs the reproductive systems of both men and women. Overexposure to lead may result in decreased sex drive, impotence and sterility in men. Lead can alter the structure of sperm cells raising the risk of birth defects. There is evidence of miscarriage and stillbirth in women whose husbands were exposed to lead or who were exposed to lead themselves. Lead exposure also may result in decreased fertility, and abnormal menstrual cycles in women. The course of pregnancy may be adversely affected by exposure to lead since lead crosses the placental barrier and poses risks to developing fetuses. Children born of parents either one of whom were exposed to excess lead levels are more likely to have birth defects, mental retardation, behavioral disorders or die during the first year of childhood.

Overexposure to lead also disrupts the blood-forming system resulting in decreased hemoglobin (the substance in the blood that carries oxygen to the cells) and ultimately anemia. Anemia is characterized by weakness, pallor and fatigability as a result of decreased oxygen carrying capacity in the blood.

(3) *Health protection goals of the standard.* Prevention of adverse health effects for most workers from exposure to lead throughout a working lifetime requires that worker blood lead (PbB) levels be maintained at or below forty micrograms per one hundred grams of whole blood (40 μg/100g). The blood lead levels of workers (both male and female workers) who intend to have children should be maintained below 30 μg/100g to minimize adverse reproductive health effects to the parents and to the developing fetus.

The measurement of your blood lead level is the most useful indicator of the amount of lead being absorbed by your body. Blood lead levels (PbB) are most often reported in units of milligrams (mg) or micrograms (μg) of lead (1 mg=1000 μg) per 100 grams (100g), 100 milliters (100 ml) or deciliter (dl) of blood. These three units are essentially the same. Sometime PbB's are expressed in the form of mg% or μg%. This is a shorthand notation for 100g, 100 ml, or dl.

PbB measurements show the amount of lead circulating in your blood stream, but do not give any information about the amount of lead stored in your various tissues. PbB measurements merely show current absorption of lead, not the effect that lead is having on your body or the effects that past lead exposure may have already caused. Past research into lead-related diseases, however, has focused heavily on associations between PbBs and various diseases. As a result, your PbB is an important indicator of the likelihood that you will gradually acquire a lead-related health impairment or disease.

Once your blood lead level climbs above 40 μg/100g, your risk of disease increases. There is a wide variability of individual response to lead, thus it is difficult to say that a particular PbB in a given person will cause a particular effect. Studies have associated fatal encephalopathy with PbBs as low as 150 μg/100g. Other studies have shown other forms of diseases in some workers with PbBs well below 80 μg/100g. Your PbB is a crucial indicator of the risks to your health, but one other factor is also extremely important. This factor is the length of time you have had elevated PbBs. The longer you have an elevated PbB, the greater the risk that large quantities of lead are being gradually stored in your organs and tissues (body burden). The greater your overall body burden, the greater the chances of substantial permanent damage.

The best way to prevent all forms of lead-related impairments and diseases— both short term and long term- is to maintain your PbB below 40 μg/100g. The provisions of the standard are designed with this end in mind. Your employer has prime responsibility to assure that the provisions of the standard are complied with both by the company and by individual workers. You as a worker, however, also have a responsibility to assist your employer in complying with the standard. You can play a key role in protecting your own health by learning about the lead hazards and their control, learning what the standard requires, following the standard where it governs your own actions, and seeing that your employer complies with provisions governing his actions.

(4) *Reporting signs and symptoms of health problems.* You should immediately notify your employer if you develop signs or symptoms associated with lead poisoning or if you desire medical advice concerning the effects of current or past exposure to lead on your ability to have a healthy child. You should also notify your employer if you have difficulty breathing during a respirator fit test or while wearing a respirator. In each of these cases your employer must make available to you appropriate medical examinations or consultations. These must be provided at no cost to you and at a reasonable time and place.

The standard contains a procedure whereby you can obtain a second opinion by a physician of your choice if the employer selected the initial physician. This procedure, however, was delayed by the Court of Appeals in March of 1979, and will not go into effect until after the Court's decision on the overall validity of the standard.

Appendix B to Section 1910.1025— Employee Standard Summary

This appendix summarizes key provisions of the standard that you as a worker should become familiar with.

The appendix discuses the entire standard, but some portions of the standard were temporarily postponed (stayed) by federal court on March 1, 1979. This litigation concerns the validity of the entire lead standard, and a final decision is expected in 1980. Most of the lead standard is currently legally in effect, however. The following discussion in the Appendix notes those few provisions of the standard which have been temporarily stayed.

I. Permissible Exposure Limit (PEL)-parograph (c)

The standards sets a permissible exposure limit (PEL) of fifty micrograms of lead per cubic meter of air (50 μg/m^3), averaged over an 8-hour work-day. This is the highest level of lead in air to which you may be permissibly exposed over an 8-hour workday. Since it is an 8-hour average it permits short exposures above the PEL so long as for each 8-hour work day your average exposure does not exceed the PEL.

This standard recognizes that your daily exposure to lead can extend beyond a typical 8-hour workday as the result of overtime or other alterations in your work schedule. To deal with this, the standard contains a formula which reduces your permissible exposure when you are exposed more than 8 hours. For example, if you are exposed to lead for 10 hours a day, the maximum permitted average exposure would be 40 μg/m^3.

II. Exposure Monitoring-paragraph (d)

If lead is present in the workplace where you work in any quantity, your employer is required to make an initial determination of whether the action level is exceeded for any employee. This initial determination must include instrument monitoring of the air for the presence of lead and must cover the exposure of a representative number of employees who are reasonably believed to have the highest exposure levels. If your employer has conducted appropriate air sampling for lead in the past year he may use these results. If there have been any employee complaints of symptoms which may be attributable to exposure to lead or if there is any other information or observations which would indicate employee exposure to lead, this must also be considered as part of the initial determination. This initial determination must have been completed by March 31, 1979. If this initial determination shows that a reasonable possibility exists that *ony* employee may be exposed, without regard to respirators, over the action level (30 μg/m^3) your employer must set up an air monitoring program to determine the exposure level of every employee exposed to lead at your workplace.

In carrying out this air monitoring program, your employer is not required to monitor the exposure of every employee, but he must monitor a representative number of employees and job types. Enough sampling must be done to enable each employee's exposure level to be reasonably represented by at least one full shift (at least 7 hours) air sample. In addition, these air samples must be taken under conditions which represent each employee's *regular*, daily exposure to lead. All initial exposure monitoring must have been completed by May 30, 1979.

If you are exposed to lead and air sampling is performed, your employer is required to quickly notify you in writing of air monitoring results which represent your exposure. If the results indicate your exposure exceeds the PEL (without regard to your use of respirators), then your employer must also notify you of this in writing, and provide you with a description of the corrective action that will be taken to reduce your exposure.

Your exposure must be rechecked by monitoring every six months if your exposure is over the action level but below the PEL. Air monitoring must be repeated every three months if you are exposed over the PEL. Your employer may discontinue monitoring for you if 2 consecutive measurements, taken at least two weeks apart, are below the action level. However, whenever there is a production, process, control, or personnel change at your workplace which may result in new or additional exposure to lead, or whenever there is any other reason to suspect a change which may result in new or additional exposure to lead, your employer must perform additional monitoring.

III. Methods of Compliance—paragraph (e)

Your employer is required to assure that no employee is exposed to lead in excess of the PEL. The standard establishes a priority of methods to be used to meet the PEL. Due to the temporary ruling by the United States Circuit Court of Appeals, your employer will not be legally required to use the preferred engineering and work practice controls. Until the litigation is completed, your employer may meet the PEL by requiring you to wear respirators. Alternatively, the employer may choose to implement engineering and work practice controls even though they are not legally required. Also, OSHA's previous lead standard is still in effect. This does require your employer to use feasible engineering and administrative controls to reduce employee exposure levels, but only to a level of 200 micrograms of lead per cubic meter of air (200 μg/m^3).

IV. Respiratory Protection—paragraph (f)

Your employer is required to provide and assure your use of respirators when your exposure to lead is not controlled below the PEL by other means. The employer must pay the cost of the respirator. Whenever you request one, your employer is also required to provide you a respirator even if your air exposure level does not exceed the PEL. You might desire a respirator when, for example, you have received medical advice that your lead absorption should be decreased. Or, you may intend to have children in the near future, and want to reduce the level of lead in your body to minimize adverse reproductive effects. While respirators are the least satisfactory means of controlling your exposure, they are capable of providing significant protection if properly chosen, fitted, worn, cleaned, maintained, and replaced when they stop providing adequate protection.

Your employer is required to select respirators from the seven types listed in Table II of the Respiratory Protection section of the standard. Any respirator chosen must be approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH). This respirator selection table will enable your employer to choose a type of respirator which will give you a proper amount of protection based on your airborne lead exposure. Your employer may select a type of respirator that provides greater protection than that required by the standard; that is, one recommended for a higher

V 4 4 0 C 2 3 7 9 UMI

concentration of lead than is present in your workplace. For example, a powered air purifying respirator (PAPR) is much more protective than a typical negative pressure respirator, and may also be more comfortable to wear. A PAPR has a filter, cartridge or canister to clean the air, and a power source which continuously blows filtered air into your breathing zone. Your employer might make a PAPR available to you to ease the burden of having to wear a respirator for long periods of time. The standard provides that you can obtain a PAPR upon request, but this requirement has been stayed as a part of the pending litigation.

Your employer must also start a Respiratory Protection Program. This program must include written procedures for the proper selection, use, cleaning, storage, and maintenance of respirators.

Your employer must assure that your respirator facepiece fits properly. Proper fit of a respirator facepiece is critical. Obtaining a proper fit on each employee may require your employer to make available two or three different mask types. In order to assure that your respirator fits properly and that facepiece leakage is minimized, beginning on March 1, 1980 your employer must give you a "quantitative fit test" if you use a negative pressure respirator. Any respirator which has a filter, cartridge or canister which cleans the work room air before you breathe it and which requires the force of your inhalation to draw air thru the filtering element is a negative pressure respirator. A positive pressure respirator supplies air to you directly. A quantitative fit test uses a sophisticated machine to measure the amount, if any, of test material that leaks into the facepiece of your respirator.

You must also receive from your employer proper training in the use of respirators. Your employer is required to teach you how to wear a respirator, to know why it is needed, and to understand its limitations.

Until March 1, 1980, your employer must test the effectiveness of your negative pressure respirator initially and at least every six months thereafter with a "qualitative fit test." In this test, the fit of the facepiece is checked by seeing if you can smell a substance placed outside the respirator. If you can, there is appreciable leakage where the facepiece meets your face.

The standard provides that if your respirator uses filter elements, you must be given an opportunity to change the filter elements whenever an increase in breathing resistance is detected. You also must be permitted to periodically leave your work area to wash your face and respirator facepiece whenever necessary to prevent skin irritation. If you ever have difficulty in breathing during a fit test or while using a respirator, your employer must make a medical examination available to you to determine whether you can safely wear a respirator. The result of this examination may be to give you a positive pressure respirator (which reduces breathing resistance) or to provide alternative means of protection.

V. Protective Work Clothing and Equipment-paragraph (g)

If you are exposed to lead above the PEL, or if you are exposed to lead compounds such as lead arsenate or lead azide which can cause skin and eye irritation, your employer must provide you with protective work clothing and equipment appropriate for the hazard. If work clothing is provided, it must be provided in a clean and dry condition at least weekly, and daily if your airborne exposure to lead is greater than 200 $\mu g/m^3$. Appropriate protective work clothing and equipment can include coveralls or similar full-body work clothing, gloves, hats, shoes or disposable shoes coverlets, and face shields or vented goggles. Your employer is required to provide all such equipment at no cost to you. He is responsible for providing repairs and replacement as necessary, and also is responsible for the cleaning, laundering or disposal of protective clothing and equipment. Contaminated work clothing or equipment must be removed in change rooms and not worn home or you will extend your exposure and expose your family since lead from your clothing can accumulate in your house, car, etc. Contaminated clothing which is to be cleaned, laundered or disposed of must be placed in closed containers in the change room. At no time may lead be removed from protective clothing or equipment by any means which disperses lead into the workroom air.

VI. Housekeeping-paragraph (h)

Your employer must establish a housekeeping program sufficient to maintain all surfaces as free as practicable of accumulations of lead dust. Vacuuming is the preferred method of meeting this requirement, and the use of compressed air to clean floors and other surfaces is absolutely prohibited. Dry or wet sweeping, shoveling, or brushing may not be used except where vaccuming or other equally effective methods have been tried and do not work. Vacuums must be used and emptied in a manner which minimizes the reentry of lead into the workplace.

VII. Hygiene Facilities and Practices-paragraph (i)

The standard requires that change rooms, showers, and filtered air lunchrooms be constructed and made available to workers exposed to lead above the PEL. These requirements have temporarily been delayed by the court of appeals in situations where new facilities must be constructed, or where substantial renovations must be made to existing facilities. When the PEL is exceeded and these facilities are available, however, the employer must assure that food and beverage is not present or consumed, tobacco products are not present or used, and cosmetics are not applied, except in these facilities. Change rooms, showers, and lunchrooms, if available, must be used by workers exposed in excess of the PEL. After showering, *no* clothing or equipment worn during the shift may be worn home, and this includes shoes and underwear. Your own clothing worn during the shift should be carried home and cleaned carefully so that it does not contaminate your home. Lunchrooms may not be entered with protective clothing or equipment unless surface dust has been removed by vacuuming, downdraft booth, or other cleaning method. Finally, workers exposed above the PEL must wash both their hands and faces prior to eating, drinking, smoking or applying cosmetics.

All of the facilities and hygiene practices just discussed are essential to minimize additional sources of lead absorption from inhalation or ingestion of lead that may accumulate on you, your clothes, or your possessions. Strict compliance with these provisions can virtually eliminate several sources of lead exposure which significantly contribute to excessive lead absorption.

VIII. Medical Surveillance-paragraph (j)

The medical surveillance program is part of the standard's comprehensive approach to the prevention of lead-related disease. Its purpose is to supplement the main thrust of the standard which is aimed at minimizing airborne concentrations of lead and sources of ingestion. Only medical surveillance can determine if the other provisions of the standard have affectively protected you as an individual. Compliance with the standard's provision will protect most workers from the adverse effects of lead exposure, but may not be satisfactory to protect individual workers (1) who have high body burdens of lead acquired over past years, (2) who have additional uncontrolled sources of non-occupational lead exposure, (3) who exhibit unusual variations in lead absorption rates, or (4) who have specific non-work related medical conditions which could be aggravated by lead exposure (e.g., renal disease, anemia). In addition, control systems may fail, or hygiene and respirator programs may be inadequate. Periodic medical surveillance of individual workers will help detect those failures. Medical surveillance will also be important to protect your reproductive ability—regardless of whether you are a man or woman.

All medical surveillance required by the standard must be performed by or under the supervision of a licensed physician. The employer must provide required medical surveillance without cost to employees and at a reasonable time and place. The standard's medical surveillance program has two parts-periodic biological monitoring and medical examinations.

Your employer's obligation to offer you medical surveillance is triggered by the results of the air monitoring program. Medical surveillance must be made available to all employees who are exposed in excess of the action level for more than 30 days a year. The initial phase of the medical surveillance program, which includes blood lead level tests and medical examinations, must be completed for all covered employees no later than August 28, 1979. Priority within this first round of medical surveillance must be given to employees whom the employer believes to be at greatest risk from continued exposure (for example, those with the longest prior exposure to lead, or those with the highest current exposure). Thereafter, the employer must periodically make medical surveillance—both biological monitoring and medical examinations—available to all covered employees.

Biological monitoring under the standard consists of blood lead level (PbB) and zinc protoporphyrin tests at least every 6 months after the initial PbB test. A zinc protoporphyrin (ZPP) test is a very useful blood test which measures an effect of lead on your body, but this test has been temporarily stayed by the Court. Thus biological monitoring under the standard is currently limited to PbB testing. If a worker's PbB exceeds 40 μg/100g the monitoring frequency must be increased from every 6 months to at least every 2 months and not reduced until two consecutive PbBs indicate a blood lead level below 40 μg/100g. Each time your PbB is determined to be over 40 μg/100g, your employer must notify you of this in writing within five working days of his receipt of the test results. The employer must also inform you that the standard requires temporary medical removal with economic protection when your PbB exceeds certain criteria (See Discussion of Medical Removal Protection—Paragraph (k)). During the first year of the standard, this removal criterion is 80 μg/100g. Anytime your PbB exceeds 80 μg/100g your employer must make available to you a prompt follow-up PbB test to ascertain your PbB. If the two tests both exceed 80 μg/100g and you are temporarily removed, then your employer must make successive PbB tests available to you on a monthly basis during the period of your removal.

Medical examinations beyond the initial one must be made available on an annual basis if your blood lead level exceeds 40 μg/100g at any time during the preceding year. The initial examination will provide information to establish a baseline to which subsequent data can be compared. An initial medical examination must also be made available (prior to assignment) for each employee being assigned for the first time to an area where the airborne concentration of lead equals or exceeds the action level. In addition, a medical examination or consultation must be made available as soon as possible if you notify your employer that you are experiencing signs or symptoms commonly associated with lead poisoning or that you have difficulty breathing while wearing a respirator or during a respirator fit test. You must also be provided a medical examination or consultation if you notify your employer that you desire medical advice concerning the effects of current or past exposure to lead on your ability to procreate a healthy child.

Finally, appropriate follow-up medical examinations or consultations may also be provided for employees who have been temporarily removed from exposure under the medical removal protection provisions of the standard (See Part IX, below).

The standard specifies the minimum content of pre-assignment and annual medical examinations. The content of other types medical examinations and consultations is left up to the sound discretion of the examining physician. Pre-assignment and annual medical examinations must include (1) a detailed work history and medical history, (2) a thorough physical examination, and (3) a series of laboratory tests designed to check your blood chemistry and your kidney function. In addition, at any time upon your request, a laboratory evaluation of male fertility will be made (microscopic examination of a sperm sample), or a pregnancy test will be given.

The standard does not require that you participate in any of the medical procedures, tests, etc. which your employer is required to make available to you. Medical surveillance can, however, play a very important role in protecting your health. You are strongly encouraged, therefore, to participate in a meaningful fashion. The standard contains a multiple physician review mechanism which would give you a chance to have a physician of your choice directly participate in the medical surveillance program. If you were dissatisfied with an examination by a physician chosen by your employer, you could select a second physician to conduct an independent analysis. The two doctors would attempt to resolve any differences of opinion, and select a third physician to resolve any firm dispute. This multiple physician review mechanism, however, has been temporarily delayed by the Court of Appeals. As a result, generally your employer will choose the physician who conducts medical surveillance under the lead standard—unless you and your employer can agree on the choice of a physician or physicians. Some companies and unions have agreed in advance, for example, to use certain independent medical laboratories or panels of physicians. Any of these arrangements are acceptable so long as required medical surveillance is made available to workers.

The standard requires your employer to provide certain information to a physician to aid in his or her examination of you. This information includes (1) the standard and its appendices, (2) a description of your duties as they relate to lead exposure, (3) your exposure level, (4) a description of personal protective equipment you wear, (5) prior blood lead level results, and (6) prior written medical opinions concerning you that the employer has. After a medical examination or consultation the physician must prepare a written report which must contain (1) the physician's opinion as to whether you have any medical condition which places you at increased risk of material impairment to health from exposure to lead, (2) any recommended special protective measures to be provided to you, (3) any blood lead level determinations, and (4) any recommended limitation on your use of respirators. This last element must include a determination of whether you can wear a powered air purifying respirator (PAPR) if you are found

V 44 OC 23 79 UMI

unable to wear a negative pressure respirator.

The medical surveillance program of the lead standard may at some point in time serve to notify certain workers that they have acquired a disease or other adverse medical condition as a result of occupational lead exposure. If this is true, these workers might have legal rights to compensation from public agencies, their employers, firms that supply hazardous products to their employers, or other persons. Some states have laws, including worker compensation laws, that disallow a worker who learns of a job-related health impairment to sue, unless the worker sues within a short period of time after learning of the impairment. (This period of time may be a matter of months or years.) An attorney can be consulted about these possibilities. It should be stressed that OSHA is in no way trying to either encourage or discourage claims or lawsuits. However, since results of the standard's medical surveillance program can significantly affect the legal remedies of a worker who has acquired a job-related disease or impairment, it is proper for OSHA to make you aware of this.

The medical surveillance section of the standard also contains provisions dealing with chelation. Chelation is the use of certain drugs (administered in pill form or injected into the body) to reduce the amount of lead absorbed in body tissues. Experience accumulated by the medical and scientific communities has largely confirmed the effectiveness of this type of therapy for the treatment of very severe lead poisoning. On the other hand, it has also been established that there can be a long list of extremely harmful side effects associated with the use of chelating agents. The medical community has balanced the advantages and disadvantages resulting from the use of chelating agents in various circumstances and has established when the use of these agents is acceptable. The standard includes these accepted imitations due to a history of abuse of chelation therapy by some lead companies. The most widely used chelating agents are calcium disodium EDTA, ($Ca\ Na_2$ EDTA), Calcium Disodium Versenate (Versenate), and d-penicillamine (pencillamine or Cupramine).

The standard prohibits "prophylactic chelation" of any employee by any person the employer retains, supervises or controls. "Prophylactic chelation" is the routine use of chelating or similarly acting drugs to *prevent* elevated blood levels in workers who are occupationally exposed to lead, or the use of these drugs to *routinely* lower blood lead levels to predesignated concentrations believed to be 'safe'. It should be emphasized that where an employer takes a worker who has no symptoms of lead poisoning and has chelation carried out by a physician (either inside or outside of a hospital) solely to reduce the worker's blood lead level, that will generally be considered prophylactic chelation. The use of a hospital and a physician does not mean that prophylactic chelation is not being performed. Routine chelation to prevent increased or reduce current blood lead levels is unacceptable whatever the setting.

The standard allows the use of "therapeutic" or "diagnostic" chelation if administered under the supervision of a licensed physician in a clinical setting with thorough and appropriate medical monitoring. Therapeutic chelation responds to severe lead poisoning where there are marked symptoms. Diagnostic chelation involved giving a patient a dose of the drug then collecting all urine excreted for some period of time as an aid to the diagnosis of lead poisoning.

In cases where the examining physician determines that chelation is appropriate, you must be notified in writing of this fact before such treatment. This will inform you of a potentially harmful treatment, and allow you to obtain a second opinion.

IX. Medical Removal Protection Paragraph (k)

Excessive lead absorption subjects you to increased risk of disease. Medical removal protection (MRP) is a means of protecting you when, for whatever reasons, other methods, such as engineering controls, work practices, and respirators, have failed to provide the protection you need. MRP involves the temproary removal of a worker from his or her regular job to a place of significantly lower exposure without any loss of earnings, seniority, or other employment rights or benefits. The purpose of this program is to cease further lead absorption and allow your body to naturally excrete lead which has previously been absorbed. Temporary medical removal can result from an elevated blood lead level, or a medical opinion. Up to eighteen months of protection is provided as a result of either form of removal. The vast majority of removed workers, however, will return to their former jobs long before this eighteen month period expires. The standard contains special provisions to deal with the extraordinary but possible case where a longterm worker's blood lead level does not adequately decline during eighteen months of removal.

During the first year of the standard, if your blood lead level is 80 $\mu g/100g$ or above you must be removed from any exposure where your air lead level without a respirator would be 100 $\mu g/m^3$ or above. If you are removed from your normal job you may not be returned until your blood lead level declines to at least 60 $\mu g/100g$. These criteria for removal and return will change according to the following schedule:

	Removal blood lead ($\mu g/100$ g)	Air lead ($\mu g/m^3$)	Return blood lead ($\mu g/100$ g)
After Mar. 1, 1980	70 and above	50 and above	At or below 50.
After Mar. 1, 1981	60 and above	30 and above	At or below 40.
After Mar. 1, 1983	50 and above averaged over six months.	30 and above	At or below 40.

You may also be removed from exposure even if your blood lead levels are below these criteria if a final medical determination indicates that you temporarily need reduced lead exposure for medical reasons. If the physician who is implementing your employers medical program makes a final written opinion recommending your removal or other special protective measures, your employer must implement the physician's recommendation. If you are removed in this manner, you may only be returned when the doctor indicates that it is safe for you to do so.

The standard does not give specific instructions dealing with what an employer must do with a removed worker. Your job assignment upon removal is a matter for you, your employer and your union (if any) to work out consistent with existing procedures for job assignments. Each removal must be accomplished in a manner consistent with existing collective bargaining relationships. Your employer is given broad discretion to implement temporary removals so long as no attempt is made to override existing agreements. Similarly, a removed worker is provided no right to veto an employer's choice which satisfies the standard.

In most cases, employers will likely transfer removed employees to other jobs with sufficiently low lead exposure. Alternatively, a worker's hours may be reduced so that the time weighted average exposure is reduced, or he or she may be temporarily laid off if no other alternative is feasible.

In all of these situation, MRP benefits must be provided during the period of removal—i.e., you continue to receive the same earnings, seniority, and other rights and benefits you would have had if you had not been removed. Earnings includes more than just your base wage; it includes overtime, shift differentials, incentives, and other compensation you would have earned if you had not been removed. During the period of removal you must also be provided with appropriate follow-up medical surveillance. If you were removed because your blood lead level was too high, you must be provided with a monthly blood test. If a medical opinion caused your removal, you must be provided medical tests or examinations that the doctor believes to be appropriate. If you do not participate in this follow up medical surveillance, you may lose your eligibility for MRP benefits.

When you are medically eligible to return to your former job, your employer must return you to your "former job status." This means that you are entitled to the position, wages, benefits, etc., you would have had if you had not been removed. If you would still be in your old job if no removal had occurred that is where you go back. If not, you are returned consistent with whatever job assignment discretion your employer would have had if no removal had occurred. MRP only seeks to maintain your rights, not expand them or diminish them.

If you are removed under MRP and you are also eligible for worker compensation or other compensation for lost wages, your employer's MRP benefits obligation is reduced by the amount that you *actually* receive from these other sources. This is also true if you obtain other employment during the time you are laid off with MRP benefits.

The standard also covers situations where an employer *voluntarily* removes a worker from exposure to lead due to the effects of lead on the employee's medical condition, even though the standard does not require removal. In these situations MRP benefits must still be provided as though the standard required removal. Finally, it is important to note that in all cases where removal is required, respirators cannot be used as a substitute. Respirators may be used before removal becomes necessary, but not as an alternative to a transfer to a low exposure job, or to a lay-off with MRP benefits.

X. Employee Information and Training—Paragraph (l)

Your employer is required to provide an information and training program for all employees exposed to lead above the action level or who may suffer skin or eye irritation from lead. This program must inform these employees of the specific hazards associated with their work environment, protective measures which can be taken, the danger of lead to their bodies (including their reproductive systems), and their rights under the standard. In addition your employer must make readily available to all employees, including those exposed below the action level, a copy of the standard and its appendices and must distribute to all employees any materials provided to the employer by the Occupational Safety and Health Administration (OSHA).

Your employer is required to complete this training program for all employees by August 28, 1979. After this date, all new employees must be trained prior to initial assignment to areas where there is a possibility of exposure over the action level.

This training program must also be provided at least annually thereafter.

XI. Signs—Paragraph (m)

The standard requires that the following warning sign be posted in work areas where the exposure to lead exceeds the PEL:

WARNING

LEAD WORK AREA

NO SMOKING OR EATING

This requirement, however, has been stayed by the Court of Appeals.

XI. Recordkeeping—Paragraph (n)

Your employer is required to keep all records of exposure monitoring for airborne lead. These records must include the name and job classification of employees measured, details of the sampling and analytic techniques, the results of this sampling, and the type of respiratory protection being worn by the person sampled. Your employer is also required to keep all records of biological monitoring and medical examination results. These must include the names of the employees, the physician's written opinion, and a copy of the results of the examination. All of the above kinds of records must be kept for 40 years, or for at least 20 years after your termination of employment, whichever is longer.

Recordkeeping is also required if you are temporarily removed from your job under the medical removal protection program. This record must include your name and social security number, the date of your removal and return, how the removal was or is being accomplished, and whether or not the reason for the removal was an elevated blood lead level. Your employer is required to keep each medical removal record only for as long as the duration of an employee's employment.

The standard requires that if you request to see or copy environmental monitoring, blood lead level monitoring, or medical removal records, they must be made available to you or to a representative that you authorize. Your union also has access to these records. Medical records other than PbB's must also be provided upon request to you, to your physician or to any other person whom you may specifically designate. Your union does not have access to your personnel medical records unless you authorize their access.

XIII. Observations of Monitoring—Paragraph (o)

When air monitoring for lead is performed at your workplace as required by this standard, your employer must allow you or someone you designate to act as an observer of the monitoring. Observers are entitled to an explanation of the measurement procedure, and to record the results obtained. Since results will not normally be available at the time of the monitoring, observers are entitled to record or receive the results of the monitoring when returned by the laboratory. Your employer is required to provide the observer with any personal protective devices required to be worn by employees working in the area that is being monitored. The employer must require the observer to wear all such equipment and to comply with all other applicable safety and health procedures.

XIV. Effective Date—Paragraph (p)

The standard's effective data is March 1, 1979, and employer obligations under the standard begin to come into effect as of that date.

XV. For Additional Information

A. Copies of the Standard and explanatory materials can be obtained free of charge by calling or writing the OSHA Office of Publications, Room S–1212, United States Department of Labor, Washington, D.C. 20210.

V 44 OC 23 79 UMI

Telephone (202) 523–6138. The following publications are available:

1. The standard and summary of the statement of reasons (preamble), Federal Register, Volume 43, pp. 52952–53014, November 14, 1978.

2. The full statement of reasons (preamble) Federal Register, vol. 43, pp. 54354–54509, November 21, 1978.

3. Partial Administrative Stay and Corrections to the standard, (44 FR 5446–5448) January 26, 1979.

4. Notice of the Partial Judicial Stay (44 FR 14554–14555) March 13, 1979.

5. Corrections to the preamble, Federal Register, vol. 44, pp. 20680–20681, April 6, 1979.

6. Additional correction to the preamble concerning the construction industry, Federal Register, vol. 44, p. 50338, August 28, 1979.

7. Appendices to the standard, Federal Register, vol. 44, pp. ————, October ——, (1979).

B. Additional information about the standard, its enforcement, and your employer's compliance can be obtained from the nearest OSHA Area Office listed in your telephone directory under United States Government/Department of Labor.

Appendix C to Section 1910.1025—Medical Surveillance Guidelines

Introduction

The primary purpose of the Occupational Safety and Health Act of 1970 is to assure, so far as possible, safe and healthful working conditions for every working man and woman. The occupationsl health standard for inorganic lead was promulgated to protect workers exposed to inorganic lead including metallic lead, all inorganic lead compounds and organic lead soaps.

Under this final standard in effect as of March 1, 1979, occupational exposure to inorganic lead is to be limited to 50 $\mu g/m^3$ (micrograms per cubic meter) based on an 8 hour time-weighted average (TWA). This level of exposure eventually must be achieved through a combination of engineering, work practice and other administrative controls. Periods of time ranging from 1 to 10 years are provided for different industries to implement these controls. The schedule which is based on individual industry considerations is given in Table 1. Until these controls are in place, respirators must be used to meet the 50 $\mu g/m^3$ exposure limit.

The standard also provides for a program of biological monitoring and medical surveillance for all employees exposed to levels of inorganic lead above the action level of 30 $\mu g/m^3$ (TWA) for more than 30 days per year.

The purpose of this document is to outline the medical surveillance provisions of the standard for inorganic lead, and to provide further information to the physician regarding the examination and evaluation of workers exposed to inorganic lead.

Section 1 provides a detailed description of the monitoring procedure including the required frequency of blood testing for exposed workers, provisions for medical removal protection (MRP), the recommended right of the employee to a second medical opinion, and notification and recordkeeping requirements of the employer. A discussion of the requirements for respirator use and respirator monitoring and OSHA's position on prophlactic chelation therapy are also included in this section.

Section 2 discusses the toxic effects and clinical manifestations of lead poisoning and effects of lead intoxication on enzymatic pathways in heme synethesis. The adverse effects on both male and female reproductive capacity and on the fetus are also discussed.

Section 3 outlines the recommended medical evaluation of the worker exposed to inorganic lead including details of the medical history, physical examination, and recommended laboratory tests, which are based on the toxic effects of lead as discussed in Section 2.

Section 4 provides detailed information concerning the laboratory tests available for the monitoring of exposed workers. Included also is a discussion of the relative value of each test and the limitations and precautions which are necessary in the interpretation of the laboratory results.

Table 1

Permissible airborne lead levels by industry ($\mu g/m^3$)*	Effective date					
	Mar. 1, 1979	Mar. 1, 1980	Mar. 1, 1981	Mar. 1, 1982	Mar. 1, 1984	Mar. 1, 1989 (final)
1. Primary lead production	200	200	200	100	100	50
2. Secondary lead production	200	200	200	100	50	50
3. Lead-acid battery manufacturing	200	200	100	100	50	50
4. Nonferrous foundries	200	100	100	100	50	50
5. Lead pigment manufacturing	200	200	200	100	50	50
6. All other industries	200	50	50	50	50	50

*Airborne levels to be achieved without reliance or respirator protection through a combination of engineering, work practice and other administrative controls. While these controls are being implemented respirators must be used to meet the 50 $\mu g/m^3$ exposure limit.

I. Medical surveillance and monitoring requirements for workers exposed to inorganic lead

Under the occupational health standard for inorganic lead, a program of biological monitoring and medical surveillance is to be made available to all employees exposed to lead above the action level of 30 $\mu g/m^3$ TWA for more than 30 days each year. This program consists of periodic blood sampling and medical evaluation to be performed on a schedule which is defined by previous laboratory results, worker complaints or concerns, and the clinical assessment of the examining physician.

Under this program, the blood lead level of all employees who are exposed to lead above the action level of 30 $\mu g/m^3$ is to be determined at least every six months. The frequency is increased to every two months for employees whose last blood lead level was between 40 $\mu g/100$ g whole blood and the level requiring employee medical removal to be discussed below. For employees who are removed from exposure to lead due to an elevated blood lead, a new blood lead level must be measured monthly. A zinc protoporphyrin (ZPP) measurement is strongly recommended on each occasion that a blood lead level measurement is made. ZPP monitoring is one of several requirements of the standard that has been temporarily stayed by pending litigation over the lead standard. Unless otherwise noted in this document, all provisions of the standard pertaining to medical surveillance and medical removal protection are currently in effect.

An annual medical examination and consultation performed under the guidelines discussed in Section 3 is to be made available to each employee for whom a blood test conducted at any time during the preceding 12 months indicated a blood lead level at or above 40 $\mu g/100$ g. Also, an examination is to be given to all employees prior to their assignment to an area in which airborne

lead concentrations reach or exceed the action level. In addition, a medical examination must be provided as soon as possible after notification by an employee that the employee has developed signs or symptoms commonly associated with lead intoxication, that the employee desires medical advice regarding lead exposure and the ability to procreate a healthy child, or that the employee has demonstrated difficulty in breathing during a respirator fitting test or during respirator use. An examination is also to be made available to each employee removed from exposure to lead due to a risk of sustaining material impairment to health, or otherwise limited or specially protected pursuant to medical recommendations.

Results of biological monitoring or the recommendations of an examining physician may necessitate removal of an employee from further lead exposure pursuant to the standard's medical removal protection (MRP) program. The object of the MRP program is to provide temporary medical removal to workers either with substantially elevated blood lead levels or otherwise at risk of sustaining material health impairment from continued substantial exposure to lead. The following guidelines which are summarized in Table 2 were created under the standard for the temporary removal of an exposed employee and his or her subsequent return to work in an exposure area.

Table 2

	Effective date				
	Mar. 1, 1979	Mar. 1, 1980	Mar. 1, 1981	Mar. 1, 1982	Mar. 1, 1983 (final)
A. Blood lead level requiring employee medical removal. (Level must be confirmed with second follow-up blood lead level within two weeks of first report.)	≥80 $\mu g/100$ g..	>70$\mu g/100$ g...	>60 $\mu g/100$ g..	>60 $\mu g/100$ g..	>60$\mu g/100$ g or average of last three blood samples or all blood samples over previous 6 months (whichever is over a longer time period) is 50 $\mu g/100$ g or greater unless last blood sample is 40 $\mu g/100$ g or less.
B. Frequency which employees exposed to action level of lead (30 $\mu g/m^3$ TWA) must have blood lead level checked (ZPP is also strongly recommended in each occasion that a blood lead is obtained.):					
1. Last blood lead level less than 40 $\mu g/100$ g	Every 6 months	Every 6 months	Every 6 months	Every 6 months	Every 6 months
2. Last blood lead level between 40 $\mu g/100$ g and level requiring medical removal (see A above).	Every 2 months.	Every 2 months.	Every 2 months	Every 2 months.	Every 2 months
3. Employees removed from exposure to lead because of an elevated blood lead level.	Every 1 month..	Every 1 month..	Every 1 month ..	Every 1 month ..	Every 1 month
C. Permissible airborne exposure limit for workers removed from work due to an elevated blood lead level (without regard to respirator protection)..	< 0 $\mu g/m^3$ 8 hr TWA.	<50 $\mu g/m^3$ 8 hr TWA.	<30 $\mu g/m^3$ 8 hr TWA.	<30 $\mu g/m^3$ 8 hr TWA.	<30 $\mu g/m^3$ 8 hr TWA.
D. Blood lead level confirmed with a second blood analysis, at which employee may return to work. Permissible exposure without regard to respirator protection is listed by industry in Table I.	<60 $\mu g/100$ g.....	<50 $\mu g/100$ g.....	<40 $\mu g/100$ g.....	<40 $\mu g/100$ g.....	<40 $\mu g/100$ g

NOTE.—When medical opinion indicates that an employee is at risk of material impairment from exposure to lead, the physician can remove an employee from exposures exceeding the action level (or less) or recommend special protective measures as deemed appropriate and necessary. Medical monitoring during the medical removal period can be more stringent than noted in the table above if the physician so specifies. Return to work or removal of limitations and special protections is permitted when the physician indicates that the worker is no longer at risk of material impairment.

Under the standard's ultimate worker removal criteria, a worker is to be removed from any work having any eight hour TWA exposure to lead of 30 $\mu g/m^3$ or more whenever either of the following circumstances apply: (1) a blood lead level of 60 $\mu g/100$ g or greater is obtained and confirmed by a second follow-up blood lead level performed within two weeks after the employer receives the results of the first blood sampling test, or (2) the average of the previous three blood lead determinations or the average of all blood lead determinations conducted during the previous six months, whichever encompasses the longest time period, equals or exceeds 50 $\mu g/100$ g, unless the last blood sample indicates a blood lead level at or below 40 $\mu g/100$ g in which case the employee need not be removed. Medical removal is to continue until two consecutive blood lead levels are 40 $\mu g/100$ g or less.

During the first two years that the ultimate removal criteria are being phased in, the return criteria have been set to assure that a worker's blood lead level has substantially declined during the period of removal. From March 1, 1979 to March 1, 1980, the blood lead level requiring employee medical removal is 80 $\mu g/100$ g. Workers found to have a confirmed blood lead at this level or greater need only be removed from work having a daily 8 hour TWA exposure to lead at or above 100 $\mu g/m^3$. Workers so removed are to be returned to work when their blood lead levels are at or below 60 $\mu g/100$ g of whole blood. From March 1, 1980 to March 1, 1981, the blood lead level requiring medical removal is 70 $\mu g/100$ g. During this period workers need only be removed from jobs having a daily 8 hour TWA exposure to lead at or above 50 $\mu g/m^3$ and are to be returned to work when a level of 50 $\mu g/100$ g is achieved. Beginning March 1, 1981, return depends on a worker's blood lead level declining to 40 $\mu g/100$ g of whole blood.

As part of the standard, the employer is required to notify in writing each employee whose blood lead level exceeds 40 $\mu g/100$ g. In addition each such employee is to be informed that the standard requires medical removal with MRP benefits, discussed below, when an employee's blood lead level exceeds the above defined limits.

In addition to the above blood lead level criteria, temporary worker removal may also take place as a result of medical determinations and recommendations. Written medical opinions must be prepared after each examination pursuant to the standard. If the examining physician includes a medical finding, determination or opinion that the employee has a medical condition which places the employee at increased risk of material health impairment from exposure to lead, then the employee must be removed from exposure to lead at or above the action level. Alternatively, if the examining physician recommends special protective measures for an employee

V 44 0C 23 79 UMI

V 4 4 0 C 2 3 7 9 UMI

(e.g., use of a powered air purifying respirator) or recommends limitations on an employee's exposure to lead, then the employer must implement these recommendations. Recommendations may be more stringent than the specific provisions of the standard. The examining physician, therefore, is given broad flexibility to tailor special protective procedures to the needs of individual employees. This flexibility extends to the evaluation and management of pregnant workers and male and female workers who are planning to raise children. Based on the history, physical examination, and laboratory studies, the physician might recommend special protective measures or medical removal for an employee who is pregnant or who is planning to conceive a child when, in the physician's judgment, continued exposure to lead at the current job would pose a significant risk. The return of the employee to his or her former job status, or the removal of special protections or limitations, depends upon the examining physician determining that the employee is no longer at increased risk of material impairment or that special measures are no longer needed.

During the period of any form of special protection or removal, the employer must maintain the worker's earnings, seniority, and other employment rights and benefits (as though the worker had not been removed) for a period of up to 18 months. This economic protection will maximize meaningful worker participation in the medical surveillance program, and is appropriate as part of the employer's overall obligation to provide a safe and healthful workplace. The provisions of MRP benefits during the employee's removal period may, however, be conditioned upon participation in medical surveillance.

On rare occasions, an employee's blood lead level may not acceptably decline within 18 months of removal. This situation will arise only in unusual circumstances, thus the standard relies on an individual medical examination to determine how to protect such an employee. This medical determination is to be based on both laboratory values, including lead levels, zinc protoporphyrin levels, blood counts, and other tests felt to be warranted, as well as the physician's judgment that any symptoms or findings on physical examination are a result of lead toxicity. The medical determination may be that the employee is incapable of ever safely returning to his or her former job status. The medical determination may provide additional removal time past 18 months for some employees or specify special protective measures to be implemented.

The lead standard provides for a multiple physician review in cases where the employee wishes a second opinion concerning potential lead poisoning or toxicity. If an employee wishes a second opinion, he or she can make an appointment with a physician of his or her choice. This second physician will review the findings, recommendations or determinations of the first physician and conduct any examinations, consultations or tests deemed necessary in an attempt to make a final medical determination. If the first and second physicians do not agree in their assessment they must try to resolve their differences. If they cannot reach an agreement then they must designate a third physician to resolve the dispute. This multiple physician review mechanism has been temporarily stayed during the pending litigation, but OSHA recommends that it be used if disputes arise over medical determinations.

The employer must provide examining and consulting physicians with the following specific information: a copy of the lead regulations and all appendices, a description of the employee's duties as related to exposure, the exposure level to lead and any other toxic substances (if applicable), a description of personal protective equipment used, blood lead levels, and all prior written medical opinions regarding the employee in the employer's possession or control. The employer must also obtain from the physician and provide the employee with a written medical opinion containing blood lead levels, the physicians's opinion as to whether the employee is at risk of material impairment to health, any recommended protective measures for the employee if further exposure is permitted, as well as any recommended limitations upon an employee's use of respirators.

Employers must instruct each physician not to reveal to the employee in writing or in any other way his or her findings, laboratory results, or diagnoses which are felt to be unrelated to occupational lead exposure. They must also instruct each physician to advise the employee of any occupationally or non-occupationally related medical condition requiring further treatment or evaluation.

The standard provides for the use of respirators where engineering and other primary controls have not been fully implemented. However, the use of respirator protection shall not be used in lieu of temporary medical removal due to elevated blood lead levels or findings that an employee is at risk of material health impairment. This is based on the numerous inadequacies of respirators including skin rash where the facepiece makes contact with the skin, unacceptable stress to breathing in some workers with underlying cardiopulmonary impairment, difficulty in providing adequate fit, the tendency for respirators to create additional hazards by interfering with vision, hearing, and mobility, and the difficulties of assuring the maximum effectiveness of a complicated work practice program involving respirators. Respirators do, however, serve a useful function where engineering and work practice controls are inadequate by providing supplementary, interim, or short-term protection, provided they are properly selected for the environment in which the employee will be working, properly fitted to the employee, maintained and cleaned periodically, and worn by the employee when required.

In its final standard on occupational exposure to inorganic lead, OSHA has prohibited prophylactic chelation. Diagnostic and therapeutic chelation are permitted only under the supervision of a licensed physician with appropriate medical monitoring in an acceptable clinical setting. The decision to initiate chelation therapy must be made on an individual basis and take into account the severity of symptoms felt to be a result of lead toxicity along with blood lead levels, ZPP levels, and other laboratory tests as appropriate. EDTA and penicillamine which are the primary chelating agents used in the therapy of occupational lead poisoning have significant potential side effects and their use must be justified on the basis of expected benefits to the worker. Unless frank and severe symptoms are present, therapeutic chelation is not recommended given the opportunity to remove a worker from exposure and allow the body to naturally excrete accumulated lead. As a diagnostic aid, the chelation mobilization test using CA-EDTA has limited applicability. According to some investigators, the test can differentiate between lead-induced and other nephropathies. The test may also provide an estimation of the mobile fraction of the total body lead burden.

Employers are required to assure that accurate records are maintained on exposure monitoring, medical surveillance, and medical removal for each employee. Exposure monitoring and medical surveillance records must be kept for 40 years or the duration of employment plus 20 years, whichever is longer, while medical removal records must be maintained for the duration of employment. All records required under the standard must be available upon request to the Assistant Secretary of Labor for Occupational Safety and Health and the Director of the National Institute for Occupational Safety and Health. Employers must also make environmental and biological monitoring and medical removal records available to affected employees and to former employees or their authorized employee representatives. Employees or their specifically designated representatives have access to their entire medical surveillance records.

In addition, the standard requires that the employer inform all workers exposed to lead at or above the action level of the provisions of the standard and all its appendices, the purpose and description of medical surveillance and provisions for medical removal protection if temporary removal is required. An understanding of the potential health effects of lead exposure by all exposed employees along with full understanding of their rights under the lead standard is essential for an effective monitoring program.

II. Adverse health effects of inorganic lead

Although the toxicity of lead has been known for 2,000 years, the knowledge of the complex relationship between lead exposure and human response is still being refined. Significant research into the toxic properties of lead continues throughout the world, and it should be anticipated that our understanding of thresholds of effects and margins of safety will be improved in future years. The provisions of the lead standard are founded on two prime medical judgments: first, the prevention of adverse health effects from exposure to lead throughout a working lifetime requires that worker blood lead levels be maintained at or below 40 μg/100 g and second, the blood lead levels of workers, male or female, who intend to parent in the near future should be maintained below 30 μg/100 g to minimize adverse reproductive health effects to the parents and developing fetus. The adverse effects of lead on reproduction are being actively researched and OSHA encourages the physician to remain abreast of recent developments in the area to best advise pregnant workers or workers planning to conceive children.

The spectrum of health effects caused by lead exposure can be subdivided into five developmental stages: normal, physiological changes of uncertain significance, pathophysiological changes, overt symptoms (morbidity), and mortality. Within this process there are no sharp distinctions, but rather a continuum of effects. Boundaries between categories overlap due to the wide variation of individual responses and exposures in the working population. OSHA's development of the lead standard focused on pathophysiological changes as well as later stages of disease.

1. *Heme Synthesis Inhibition.* The earliest demonstrated effect of lead involves its ability to inhibit at least two enzymes of the heme synthesis pathway at very low blood levels. Inhibition of delta aminolevulinic acid dehydrase (ALA-D) which catalyzes the conversion of delta-aminolevulinic acid (ALA) to protoporphyrin is observed at a blood lead level below 20 μg/100 g whole blood. At a blood lead level of 40 ug/100 g, more than 20% of the population would have 70% inhibition of ALA-D. There is an exponential increase in ALA excretion at blood lead levels greater than 40 μg/100 g.

Another enzyme, ferrochelatase, is also inhibited at low blood lead levels. Inhibition of ferrochelatase leads to increased free erythrocyte protoporphyrin (FEP) in the blood which can then bind to zinc to yield zinc protoporphyrin. At a blood lead level of 50 μg/100 g or greater, nearly 100% of the population will have an increase in FEP. There is also an exponential relationship between blood lead levels greater than 40 μg/100 g and the associated ZPP level, which has led to the development of the ZPP screening test for lead exposure.

While the significance of these effects is subject to debate, it is OSHA's position that these enzyme disturbances are early stages of a disease process which may eventually result in the clinical symptoms of lead poisoning. Whether or not the effects do progress to the later stages of clinical disease, disruption of these enzyme processes over a working lifetime is considered to be a material impairment of health.

One of the eventual results of lead-induced inhibition of enzymes in the heme synthesis pathway is anemia which can be asymptomatic if mild but associated with a wide array of symptoms including dizziness, fatigue, and tachycardia when more severe. Studies have indicated that lead levels as low as 50 μg/100 g can be associated with a definite decreased hemoglobin, although most cases of lead-induced anemia, as well as shortened red-cell survival times, occur at lead levels exceeding 80 μg/100 g. Inhibited hemoglobin synthesis is more common in chronic cases whereas shortened erythrocyte life span is more common in acute cases.

In lead-induced anemias, there is usually a reticulocytosis along with the presence of basophilic stippling, and ringed sideroblasts, although none of the above are pathognomonic for lead-induced anemia.

2. *Neurological Effects.* Inorganic lead has been found to have toxic effects on both the central and peripheral nervous systems. The earliest stages of lead-induced central nervous system effects first manifest themselves in the form of behavioral disturbances and central nervous system symptoms including irritability, restlessness, insomnia and other sleep disturbances, fatigue, vertigo, headache, poor memory, tremor, depression, and apathy. With more severe exposure, symptoms can progress to drowsiness, stupor, hallucinations, delerium, convulsions and coma.

The most severe and acute form of lead poisoning which usually follows ingestion or inhalation of large amounts of lead is acute encephalopathy which may arise precipitously with the onset of intractable seizures, coma, cardiorespiratory arrest, and death within 48 hours.

While there is disagreement about what exposure levels are needed to produce the earliest symptoms, most experts agree that symptoms definitely can occur at blood lead levels of 60 μg/100 g whole blood and therefore recommend a 40 μg/100 g maximum. The central nervous system effects frequently are not reversible following discontinued exposure or chelation therapy and when improvement does occur, it is almost always only partial.

The peripheral neuropathy resulting from lead exposure characteristically involves only motor function with minimal sensory damage and has a marked predilection for the extensor muscles of the most active extremity. The peripheral neuropathy can occur with varying degrees of severity. The earliest and mildest form which can be detected in workers with blood lead levels as low as 50 μg/100 g is manifested by slowing of motor nerve conduction velocity often without clinical symptoms. With progression of the neuropathy there is development of painless extensor muscle weakness usually involving the extensor muscles of the fingers and hand in the most active upper extremity, followed in severe cases by wrist drop or, much less commonly, foot drop.

In addition to slowing of nerve conduction, electromyographical studies in patients with blood lead levels greater than 50 μg/100 g have demonstrated a decrease in the number

of acting motor unit potentials, an increase in the duration of motor unit potentials, and spontaneous pathological activity including fibrillations and fasciculations. Whether these effects occur at levels of 40 μg/100 g is undetermined.

While the peripheral neuropathies can occasionally be reversed with therapy, again such recovery is not assured particularly in the more severe neuropathies and often improvement is only partial. The lack of reversibility is felt to be due in part to segmental demyelination.

3. *Gastrointestinal.* Lead may also affect the gastrointestinal system producing abdominal colic or diffuse abdominal pain, constipation, obstipation, diarrhea, anorexia, nausea and vomiting. Lead colic rarely develops at blood lead levels below 80 μg/100 g.

4. *Renal.* Renal toxicity represents one of the most serious health effects of lead poisoning. In the early stages of disease nuclear inclusion bodies can frequently be identified in proximal renal tubular cells. Renal function remains normal and the changes in this stage are probably reversible. With more advanced disease there is progressive interstitial fibrosis and impaired renal function. Eventually extensive interstitial fibrosis ensues with sclerotic glomeruli and dilated and atrophied proximal tubules; all represent end stage kidney disease. Azotemia can be progressive, eventually resulting in frank uremia necessitating dialysis. There is occasionally associated hypertension and hyperuricemia with or without gout.

Early kidney disease is difficult to detect. The urinalysis is normal in early lead nephropathy and the blood urea nitrogen and serum creatinine increase only when two-thirds of kidney function is lost. Measurement of creatinine clearance can often detect earlier disease as can other methods of measurement of glomerular filtration rate. An abnormal Ca-EDTA mobilization test has been used to differentiate between lead-induced and other nephropathies, but this procedure is not widely accepted. A form of Fanconi syndrome with aminoaciduria, glycosuria, and hyperphosphaturia indicating severe injury to the proximal renal tubules is occasionally seen in children.

5. *Reproductive effects.* Exposure to lead can have serious effects on reproductive function in both males and females. In male workers exposed to lead there can be a decrease in sexual drive, impotence, decreased ability to produce healthy sperm, and sterility. Malformed sperm (teratospermia), decreased number of sperm (hypospermia), and sperm with decreased motility (asthenospermia) can all occur. Teratospermia has been noted at mean blood lead levels of 53 μg/100 g and hypospermia and asthenospermia at 41 μg/100 g. Furthermore, there appears to be a dose-response relationship for teratospermia in lead exposed workers.

Women exposed to lead may experience menstrual disturbances including dysmenorrhea, menorrhagia and amenorrhea. Following exposure to lead, women have a higher frequency of sterility, premature births, spontaneous miscarriages, and stillbirths.

Germ cells can be affected by lead and cause genetic damage in the egg or sperm cells before conception and result in failure to implant, miscarriage, stillbirth, or birth defects.

Infants of mothers with lead poisoning have a higher mortality during the first year and suffer from lowered birth weights, slower growth, and nervous system disorders.

Lead can pass through the placental barrier and lead levels in the mother's blood are comparable to concentrations of lead in the umbilical cord at birth. Transplacental passage becomes detectable at 12–14 weeks of gestation and increases until birth.

There is little direct data on damage to the fetus from exposure to lead but it is generally assumed that the fetus and newborn would be at least as susceptible to neurological damage as young children. Blood lead levels of 50–60 μg/100 g in children can cause significant neurobehavioral impairments and there is evidence of hyperactivity at blood levels as low as 25 μg/100 g. Given the overall body of literature concerning the adverse health effects of lead in children, OSHA feels that the blood lead level in children should be maintained below 30 μg/100 g with a population mean of 15 μg/100 g. Blood lead levels in the fetus and newborn likewise should not exceed 30 μg/100 g.

Because of lead's ability to pass through the placental barrier and also because of the demonstrated adverse effects of lead on reproductive function in both the male and female as well as the risk of genetic damage of lead on both the ovum and sperm, OSHA recommends a 30 μg/100 g maximum permissible blood lead level in both males and females who wish to bear children.

6. *Other toxic effects.* Debate and research continue on the effects of lead on the human body. Hypertension has frequently been noted in occupationally exposed individuals although it is difficult to assess whether this is due to lead's adverse effects on the kidney or if some other mechanism is involved. Vascular and electrocardiogarphic changes have been detected but have not been well characterized. Lead is thought to impair thyroid function and interfere with the pituitary-adrenal axis, but again these effects have not been well defined.

III. Medical Evaluation

The most important principle in evaluating a worker for any occupational disease including lead poisoning is a high index of suspicion on the part of the examining physician. As discussed in Section 2, lead can affect numerous organ systems and produce a wide array of signs and symptoms, most of which are non-specific and subtle in nature at least in the early stages of disease. Unless serious concern for lead toxicity is present, many of the early clues to diagnosis may easily be overlooked.

The crucial initial step in the medical evaluation is recognizing that a worker's employment can result in exposure to lead. The worker will frequently be able to define exposures to lead and lead containing materials but often will not volunteer this information unless specifically asked. In other situations the worker may not know of any exposures to lead but the suspicion might be raised on the part of the physician because of the industry or occupation of the worker. Potential occupational exposure to lead and its compounds occur in at least 120 occupations, including lead smelting, the manufacture of lead storage batteries, the manufacture of lead pigments and products containing pigments, solder manufacture, shipbuilding and ship repair, auto manufacturing, construction, and painting.

Once the possibility for lead exposure is raised, the focus can then be directed toward eliciting information from the medical history, physical exam, and finally from laboratory data to evaluate the worker for potential lead toxicity.

A complete and detailed work history is important in the initial evaluation. A listing of all previous employment with information on work processes, exposure to fumes or dust, known exposures to lead or other toxic substances, respiratory protection used, and previous medical surveillance should all be included in the worker's record. Where exposure to lead is suspected, information concerning on-the-job personal hygiene, smoking or eating habits in work areas, laundry procedures, and use of any protective clothing or respiratory protection equipment should be noted. A complete work history is essential in the medical evaluation of a worker with suspected lead toxicity, especially when long term effects such as neurotoxicity and nephrotoxicity are considered.

The medical history is also of fundamental importance and should include a listing of all past and current medical conditions, current medications including proprietary drug intake, previous surgeries and hospitalizations, allergies, smoking history, alcohol consumption, and also non-occupational lead exposures such as hobbies (hunting, riflery). Also known childhood exposures should be elicited. Any previous history of hematological, neurological, gastrointestinal, renal, psychological, gynecological, genetic, or reproductive problems should be specifically noted.

A careful and complete review of systems must be performed to assess both recognized complaints and subtle or slowly acquired symptoms which the worker might not appreciate as being significant. The review of symptoms should include the following:

General—weight loss, fatigue, decreased appetite.

Head, Eyes, Ears, Nose, Throat (HEENT)—headaches, visual disturbances or decreased visual acuity, hearing deficits or tinnitus, pigmentation of the oral mucosa, or metallic taste in mouth.

Cardio-pulmonary—shortness of breath, cough, chest pains, palpitations, or orthopnea.

Gastrointestinal—nausea, vomiting, heartburn, abdominal pain, constipation or diarrhea.

Neurologic—irritability, insomnia, weakness (fatigue), dizziness, loss of memory, confusion, hallucinations, incoordination, ataxia, decreased strength in hands or feet, disturbances in gait, difficulty in climbing stairs, or seizures.

Hematologic—pallor, easy fatigability, abnormal blood loss, melena.

Reproductive (male and female and spouse where relevant)—history of infertility, impotence, loss of libido, abnormal menstrual periods, history of miscarriages, stillbirths, or children with birth defects.

Musculo-skeletal—muscle and joint pains.

The physical examination should emphasize the neurological, gastrointestinal, and cardiovascular systems. The worker's weight and blood pressure should be recorded and the oral mucosa checked for pigmentation characteristic of a possible Burtonian or lead line on the gingiva. It should be noted, however, that the lead line may not be present even in severe lead poisioning if good oral hygiene is practiced.

The presence of pallor on skin examination may indicate an anemia, which if severe might also be associated with a tachycardia. If an anemia is suspected, an active search for blood loss should be undertaken including potential blood loss through the gastrointestinal tract.

A complete neurological examination should include an adequate mental status evaluation including a search for behavioral and psychological disturbances, memory testing, evaluation for irritability, insomnia, hallucinations, and mental clouding. Gait and coordination should be examined along with close observation for tremor. A detailed evaluation of peripheral nerve function including careful sensory and motor function testing is warranted. Strength testing particularly of extensor muscle groups of all extremities is of fundamental importance.

Cranial nerve evaluation should also be included in the routine examination.

The abdominal examination should include auscultation for bowel sounds and abdominal bruits and palpation for organomegaly, masses, and diffuse abdominal tenderness.

Cardiovascular examination should evaluate possible early signs of congestive heart failure. Pulmonary status should be addressed particularly if respirator protection is contemplated.

As part of the medical evaluation, the lead standard requires the following laboratory studies:

1. Blood lead level
2. Hemoglobin and hematocrit determinations, red cell indices, and examination of the peripheral blood smear to evaluate red blood cell morphology
3. Blood urea nitrogen
4. Serum creatinine
5. Routine urinalysis with microscopic examination.
6. A zinc protoporphyrin level (This requirement is currently not in effect due to the pending litigation, but is recommended nonetheless).

In addition to the above, the physician is authorized to order any further laboratory or other tests which he or she deems necessary in accordance with sound medical practice. The evaluation must also include pregnancy testing or laboratory evaluation of male fertility if requested by the employee.

Additional tests which are probably not warranted on a routine basis but may be appropriate when blood lead and ZPP levels are equivocal include delta aminolevulinic acid and coproporphyrin concentrations in the urine, and dark-field illumination for detection of basophilic stippling in red blood cells.

If an anemia is detected further studies including a careful examination of the peripheral smear, reticulocyte count, stool for occult blood, serum iron, total iron binding capacity, bilirubin, and, if appropriate, vitamin B12 and folate may be of value in attempting to identify the cause of the anemia.

If a peripheral neuropathy is suspected, nerve conduction studies are warranted both for diagnosis and as a basis to monitor any therapy.

If renal disease is questioned, a 24 hour urine collection for creatinine clearance, protein, and electrolytes may be indicated. Elevated uric acid levels may result from lead-induced renal disease and a serum uric acid level might be performed.

An electrocardiogram and chest x-ray may be obtained as deemed appropriate.

Sophisticated and highly specialized testing should not be done routinely and where indicated should be under the direction of a specialist.

IV. Laboratory Evaluation

The blood lead level at present remains the single most important test to monitor lead exposure and is the test used in the medical surveillance program under the lead standard to guide employee medical removal. The ZPP which has several advantages over the blood lead level is, due to the pending litigation, not required under the standard. Because of its relatively recent development and the lack of extensive data concerning its interpretation, the ZPP currently remains an ancillary test.

This section will discuss the blood lead level and ZPP in detail and will outline their relative advantages and disadvantages. Other blood tests currently available to evaluate lead exposure will also be reviewed.

The blood lead level is a good index of current or recent lead absorption when there is no anemia present and when the worker has not taken any chelating agents. However, blood lead levels along with urinary lead levels do not necessarily indicate the total body burden of lead and are not adequate measures of past exposure. One reason for this is that lead has a high affinity for bone and up to 90% of the body's total lead is deposited there. A very important component of the total lead body burden is lead in soft tissue (liver, kidney, and brain). This fraction of the lead body burden, the biologically active lead, is not entirely reflected by blood lead levels since it is a function of the dynamics of lead absorption, distribution, deposition in bone and

V 44 OC 23 79 UMI

excretion. Following discontinuation of exposure to lead, the excess body burden is only slowly mobilized from bone and other relatively stable body stores and excreted. Consequently, a high blood lead level may only represent recent heavy exposure to lead without a significant total body excess and likewise a low blood lead level does not exclude an elevated total body burden of lead.

Also due to its correlation with recent exposures, the blood lead level may vary considerably over short time intervals.

To minimize laboratory error and erroneous results due to contamination, blood specimens must be carefully collected after thorough cleaning of the skin with appropriate methods using lead-free blood containers and analyzed by a reliable laboratory. Under the standard, samples must be analyzed in laboratories which are approved by the Center for Disease Control (CDC) or which have received satisfactory grades in proficiency testing by the CDC in the previous year. Under CDC standards, 75% of blood lead determinations are not to vary from reference values by more than 15% or 6 μg/100 ml, whichever is greater. Analysis is to be made using atomic absorption spectrophotometry.

The determination of lead in urine is generally considered a less reliable monitoring technique than analysis of whole blood primarily due to individual variability in urinary excretion capacity as well as the technical difficulty of obtaining accurate 24 hour urine collections. In addition, workers with renal insufficiency, whether due to lead or some other cause, may have decreased lead clearance and consequently urine lead levels may underestimate the true lead burden. Therefore, urine lead levels should not be used as a routine test.

The zinc protoporphyrin test, unlike the blood lead determination, measures an adverse metabolic effect of lead and as such is a better indicator of lead toxicity than the level of blood lead itself. The level of ZPP reflects lead absorption over the preceding 3 to 4 months, and therefore is a better indicator of lead body burden. The ZPP requires more time than the blood lead to read significantly elevated levels; the return to normal after discontinuing lead exposure is also slower. Furthermore, the ZPP test is simpler, faster, and less expensive to perform and no contamination is possible. Many investigators believe it is the most reliable means of monitoring chronic lead absorption.

Zinc protoporphyrin results from the inhibition of the enzyme ferrochelatase which catalyzes the insertion of an iron molecule into the protoporphyrin molecule, which then becomes heme. If iron is not inserted into the molecule then zinc, having a greater affinity for protoporphyrin, takes the place of the iron, forming ZPP.

An elevation in the level of circulating ZPP may occur at blood lead levels as low as 20–30 μg/100 g in some workers. Once the blood lead level has reached 40 μg/100 g there is more marked rise in the ZPP value from its normal range of less than 100 μg/100 ml. Increases in blood lead levels beyond 40 μg/100 g are associated with exponential increases in ZPP.

Whereas blood lead levels fluctuate over short time spans, ZPP levels remain relatively stable. ZPP is measured directly in red blood cells and is present for the cell's entire 120 day life-span. Therefore, the ZPP level in blood reflects the average ZPP production over the previous 3–4 months and consequently the average lead exposure during that time interval.

It is recommended that a hematocrit be determined whenever a confirmed ZPP or 50 μg/100 ml whole blood is obtained to rule out a significant underlying anemia. If the ZPP is in excess of 100 μg/100 ml and not associated with abnormal elevations in blood lead levels, the laboratory should be checked to be sure that blood leads were determined using atomic absorption spectrophotometry by a CDC certified laboratory which is experienced in lead level determinations. Repeat periodic blood lead studies should be obtained in all individuals with elevated ZPP levels to be certain that an associated elevated blood lead level has not been missed due to transient fluctuations in blood leads.

ZPP has a characteristic fluorescence spectrum with a peak at 594 nm which is detectable with a hematofluorimeter. The hematofluorimeter is accurate and portable and can provide on-site, instantaneous results for workers who can be frequently tested via a finger prick.

However, careful attention must be given to calibration and quality control procedures. Limited data on blood lead—ZPP correlations and the ZPP levels which are associated with the adverse health effects discussed in Section 2 are the major limitations of the test. Also it is difficult to correlate ZPP levels with environmental exposure and there is some variation of response with age and sex. Nevertheless, the ZPP promises to be an important diagnostic test for the early detection of lead toxicity and its value will increase as more data is collected regarding its relationship to other manifestations of lead poisoning.

Levels of delta-aminolevulinic acid (ALA) in the urine are also used as a measure of lead exposure. Increasing concentrations of ALA are believed to result from the inhibition of the enzyme delta-aminolevulinic acid dehydrase (ALA-D). Although the test is relatively easy to perform, inexpensive, and rapid, the disadvantages include variability in results, the necessity to collect a complete 24 hour urine sample which has a specific gravity greater than 1.010, and also the fact that ALA decomposes in the presence of light.

The pattern of porphyrin excretion in the urine can also be helpful in identifying lead intoxication. With lead poisoning, the urine concentrations of coproporphyrins I and II, porphobilinogen and uroporphyrin I rise. The most important increase, however, is that of coproporphyrin III; levels may exceed 5,000 μg/1 in the urine in lead poisoned individuals, but its correlation with blood lead levels and ZPP are not as good as those of ALA. Increases in urinary porphyrins are not diagnostic of lead toxicity and may be seen in porphyria, some liver diseases, and in patients with high reticulocyte counts.

Summary. The Occupational Safety and Health Administration's standard for inorganic lead places significant emphasis on the medical surveillance of all workers exposed to levels of inorganic lead above the action level of 30 $\mu g/m^3$ TWA. The physician has a fundamental role in this surveillance program, and in the operation of the medical removal protection program.

Even with adequate worker education on the adverse health effects of lead and appropriate training in work practices, personal hygiene and other control measures, the physician has a primary responsibility for evaluating potential lead toxicity in the worker. It is only through a careful and detailed medical and work history, a complete physical examination and appropriate laboratory testing that an accurate assessment can be made. Many of the adverse health effects of lead toxicity are either irreversible or only partially reversible and therefore early detection of disease is very important.

This document outlines the medical monitoring program as defined by the occupational safety and health standard for inorganic lead. It reviews the adverse health effects of lead poisoning and describes the important elements of the history and physical examinations as they relate to these adverse effects. Finally, the appropriate laboratory testing for evaluating lead exposure and toxicity is presented.

It is hoped that this review and discussion will give the physician a better understanding of the OSHA standard with the ultimate goal of protecting the health and well-being of the worker exposed to lead under his or her care.

[FR Doc. 79-32637 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-26-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 1

[FPR Temporary Reg. 52]

Waiver by Cost Accounting Standards Board of Use of Form CASB-DS-1 by Canadian Concerns for Disclosure Statement Purposes; Temporary Regulations

AGENCY: General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This temporary regulation implements a waiver granted by the Cost Accounting Standards Board (CASB) regarding the required use of Form CASB-DS-1 by Canadian concerns.

DATES: Effective date: July 5, 1979. Expiration date: This regulation expires on July 5, 1981, unless superseded sooner by a revision to 4 CFR 351.60.

FOR FURTHER INFORMATION CONTACT: Philip G. Read, Federal Procurement Regulations Directorate, Office of Acquisition and Supply Policy, 703-557-8947.

(Sec. 205(c), 63 Stat. 390;(40 U.S.C. 486(c))

In 41 CFR Chapter I, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

October 10, 1979.

[Federal Procurement Regs.; Temporary Reg. 52]

Waiver by Cost Accounting Standards Board of Use of Form CASB-DS-1 by Canadian Concerns for Disclosure Statement Purposes.

1. *Purpose.* This regulation implements a waiver granted by the Cost Accounting Standards Board (CASB) regarding the required use of Form CASB-DS-1.

2. *Effective date.* This regulation became effective July 5, 1979.

3. *Expiration date.* This regulation expires on July 5, 1981, unless superseded sooner by a revision to 4 CFR 351.60.

4. *Background.* a. The CASB, at the request of the Canadian Government, approved a waiver of requirements in its regulations regarding the mandatory use of Form CASB-DS-1 by companies to disclose their cost accounting practices. In lieu of using the CASB Form, the Board authorized the use of the Canadian "Statement of Cost Accounting Practices (3/79)" by Canadian concerns which are required to disclose their costs accounting practices.

b. New coverage proposed by the CASB on June 1, 1979, for inclusion in 4 CFR 351.60(b) states:

"Foreign contractors and subcontractors who are required to submit a disclosure statement may in lieu of filing a Form No. CASB-DS-1 make disclosure by use of a disclosure form prescribed by an agency of its Government, provided that the Cost Accounting Standards Board determines that the information disclosed by that means will satisfy the objectives of Pub. L. 91-379."

The authorization for Canadian firms to use the Canadian disclosure form is expected to continue in effect when the new regulation is promulgated.

5. *Agency action.* Agencies are authorized to accept disclosure statements from Canadian concerns on a Canadian "Statement of Cost Accounting Practices (3/79)." Copies of this form must be obtained from the Canadian Government by concerns desiring to use the form.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32595 Filed 10-22-79; 8:45 am]

BILLING CODE 6820-61-M

41 CFR Part 101-20

[FPMR Amdt. D-74]

Management of Buildings and Grounds; Physical Protection

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) is amending its regulations regarding the standards pertaining to the self-protection program by making it more adaptable for GSA occupant agency use. These changes are expected to provide a more efficient and effective program to safeguard life and property during facility/occupant specific emergencies for all Federal agencies.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John DeMarco, Chief, Crime Prevention Branch (202-566-1429).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this regulation will not impose unnecessary burdens on the economy or on individuals and, therefore, is not significant for the purposes of Executive Order 12044.

The table of contents for Part 101-20 is amended by adding the following entries:

Sec.
101-20.504-3 Definitions.
101-20.504-4 Responsibilities.
101-20.504-5 Initiating action.

Subpart 101-20.5—Physical Protection

Section 101-20.500 is revised to read as follows:

§ 101-20.500 Scope of subpart.

This subpart prescribes policies and methods for the physical protection of persons, buildings, grounds, and equipment under the charge and control of GSA; requires active participation of occupant and user agencies in accomplishing certain aspects of crime prevention; requires that occupant and user agencies report any crime on GSA property to the nearest Federal Protective Service Office; and requires the establishment of occupant emergency plans and organizations to deal with emergency measures for the facility.

Section 101-20.504-1 is revised to read as follows:

§ 101-20.504-1 General.

Occupants of GSA-assigned space shall (a) cooperate to the fullest extent possible with all pertinent facility regulations and procedures, (b) make recommendations for improving protection, (c) report promptly unlawful acts committed on or against property under the charge and control of GSA to the nearest office of the Federal Protective Service, and (d) provide planning and training guidance to employees on matters relating to protection and emergency response situations.

Section 101-20.504-2 is revised to read as follows:

§ 101-20.504-2 Occupant Emergency Program.

With the exception of civil defense and enemy attacks, this section prescribes the scope and method for occupant agencies responsible for immediate positive and orderly action to safeguard life and property during facility/occupant specific emergencies.

V 44 OC 23 79 UMI

Section 101-20.504-3 is added as follows:

§ 101-20.504-3 Definitions.

(a) Occupant Emergency Program is a short-term facility/occupant specific emergency response program involving occupants to minimize injury and loss of life and property in a specific facility or building.

(b) Occupant Emergency Plan is a method devised to provide emergency situations to protect life and property in a specific federally occupied space.

(c) Occupant Emergency Organization is the emergency response organization comprised of tenant employees of a Federal agency(ies) in a building designated to perform the requirements established by the Occupant Emergency Plan.

(d) Emergency is a term which involves bombings, bomb threats, civil disturbances, fires, explosions, evacuations, floods, electrical power failure, medical emergencies, hurricanes, tornadoes and earthquakes or other natural disasters or accidental human-caused disasters. The term does not include emergency preparedness as it applies to civil defense matters, such as potential or actual enemy attack.

(e) Primary Occupant Agency is the Federal agency having the largest number of employees working in a building or facility. This determination is usually based upon each agency's space requirements.

(f) Designated Official is the highest ranking official of the primary occupant agency or the alternate highest ranking official or designee selected by mutual agreement by other occupant agency officials.

(g) Occupants is a term to describe both visitors and resident Federal employees working in a building or facility.

(h) Occupant agency is another term to describe resident Federal agencies assigned to a building or facility.

Section 101-20.504-4 is added as follows:

§ 101-20.504-4 Responsibilities.

(a) The Designated official is responsible for developing, implementing, and maintaining a current Occupant Emergency Plan with the assistance of GSA; and for establishing, staffing, and maintaining the occupant emergency organization with personnel of tenant agencies. This official shall ensure that designees of the organization are trained to perform the functions of the plan.

(b) All Federal occupant agencies shall fully cooperate with the Designated Official in developing, maintaining, and implementing the plan; and staffing the organization making employees available for training.

(c) The Office of Federal Protective Service Management is responsible for providing national policy program guidance and ensuring that regional offices of GSA are properly administering the program. FPS regional offices are responsible for annual review of the plans and organizations to ensure that they are current and adequate; and are also responsible for providing training guidance information when requested by Designated Officials.

(d) In accordance with established criteria, the GSA buildings manager shall provide assistance to the Occupant Emergency Organization with personnel who are technically qualified in the operation of utility systems and the installation and maintenance of protective equipment, such as warning devices and firefighting apparatus, and shall promote training for buildings occupants, and others as required.

(e) The GSA representative (buildings manager and Federal Protective Service Official, as appropriate) shall assist the Designated Official and appropriate officials of the occupant agency(ies), and shall cooperate with the local authorities in achieving the objectives of the plan. In this connection, the buildings manager and Federal Protective Service Official shall be available to provide information and guidance as required.

(f) In leased space GSA will solicit the assistance of the lessor in establishing and maintaining an Occupant Emergency Plan for that space. Where appropriate, the Designated Official may invite the participation of non-Federal occupants to become part of the plan.

Section 101-20.504-5 is added as follows:

§ 101-20.504-5 Initiating action.

The decision to activate the organization shall be based upon the best available information; an understanding of local tensions; sensitivity of target agency(ies); previous experience; and the advice of the buildings manager, Federal Protective Service Official, and State and Federal law enforcement agencies. When there is an immediate danger to persons, such as fire, explosions, or the discovery of an actual explosive device (not a bomb threat), the occupants shall be evacuated or relocated in accordance with the plan, without consultation, by sounding the fire alarm system or through other acceptable means. When there is advance information of any emergency during normal duty hours, the Designated Official shall initiate action according to the plan, including evacuation or relocation of occupants. After normal duty hours, the senior Federal official present shall represent the Designated Official and initate action to cope with emergencies, including evacuation or relocation in accordance with the plan. As soon as practical, the Designated Official shall be apprised of the situation and consequent action.

(Sec. 205(c), 63 Stat. 390; (40 U.S.C. 486(c))

Dated: September 28, 1979.

R. G. Freeman III,

Administrator of General Services.

[FR Doc. 79-32596 Filed 10-22-79; 8:45 am]

BILLING CODE 6820-23-M

FEDERAL MARITIME COMMISSION

46 CFR Part 502

[General Order No. 16, Amdt. 31; Docket No. 79-49]

Rules of Practice and Procedure; Petition For Intervention

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This amends the rule governing intervention in Commission proceedings to: (1) Specify applicable standards for intervention; and (2) allow for limitation of intervenors' participation in Commission proceedings. Rule 24 of the Federal Rules of Civil Procedure has been used as a model for the Commission rule.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT: Francis C. Hurney, Secretary, Federal Maritime Commission, Room 11101, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: This proceeding was instituted by Notice of Proposed Rulemaking, 44 FR 28694-28696, to amend Rule 72 of the Commission's rules of practice and procedure (46 CFR 502.72) to conform to the intervention standards in Rule 24 of the Federal rules of practice and procedure to the extent appropriate in Commission proceedings.

As proposed to be amended, Rule 72 would:

(1) Incorporate the requirements contained in the existing Commission rule as to the form and procedure for submitting petitions for intervention. (Paragraph (a))

(2) Establish the standards under which petitions for intervention would be considered. This provision would require petitioners to indicate whether they seek intervention as a matter of right or in the discretion of the Commission and the extent of participation sought. Intervention as a matter of right would require a showing of either specific statutory authority or an interest relating to the matter which is the subject of the proceeding and that the proceeding may materially affect that interest, and that such interest is not adequately represented by existing parties to the proceeding.

Permissive intervention requires a showing that the petitioner's interest involves a common issue of law or fact with the matter being litigated, its intervention will not unduly broaden or delay the proceeding, duplicate the positions of, or prejudice existing parties and its participation will contribute to the proceeding in some significant way. The timeliness of the petition would also be considered in determining whether intervention should be granted. (Paragraph (b))

(3) Provide the mechanism for limited intervention, *i.e.*, the presentation of evidence on specific factual issues and/or the submission of amicus curiae briefs on selected legal issues, and would allow for continuing control over such participation. (Paragraph (c))

(4) Incorporate the existing Commission rule on the limitation of discovery right for later intervenors. (Paragraph (d))

(5) Provide that discovery may be limited in the same manner as petitioners' participation. (Paragraph (e))

(6) Allow for Commission review of intervention rulings made by the presiding officer. (Paragraph (f))

Comments to the proposed rule were received from nine parties in six submissions. Commentators consist of six conferences, one shipper, one shipowners' association, and one government agency.

The Pacific Westbound Conference, the Pacific-Straits Conference and the Pacific-Indonesian Conference suggest that those seeking permissive intervention be allowed to intervene even if their position may be duplicative of another party. It is allegedly difficult to have a common question of law or fact which is not duplicative of another party's. These commentators further point out that it may also not be possible to determine at the very early stages of a proceeding if a given party's position is in fact duplicative.

The Council of European & Japanese National Shipowners' Association proposes three areas of clarification: (1) That the rule expressly not be made applicable to rulemaking proceedings; (2) that it not preclude the intervention of trade associations; and (3) that the prohibition against a permissive intervention prejudicing the rights of an existing party be made applicable only to the *adjudication* of the rights of *original* parties.

The Japan/Korea-Atlantic and Gulf Freight Conference and Trans-Pacific Freight Conference of Japan/Korea suggest that: (1) Either the requirement that the petition be served on all parties or the requirement that the Commission be provided copies for distribution be deleted; and (2) the rule be amended to allow for replies to appeals to the Commission on intervention rulings.

Outboard Marine Corporation is of the opinion that the participation of Hearing counsel as a party representing the "public interest" should not preclude the intervention of appropriate private interests even though such intervention may arguably be duplicative. To this end, it is suggested that the term "party" as used in the rule be defined to expressly exclude Hearing Counsel.

Interamerican Freight Conference takes the position that: (1) Discovery procedures not be available to intervenors filing only amicus briefs and restricted to those factual issues to which the participation was limited; (2) the provision allowing for a statutory right of intervention be deleted as no such statute exists; (3) the requirement that an intervenor show that its interests will not be adequately represented by existing parties be deleted as such a provision would require adverse representations as to the abilities of counsel for existing parties in situations where only legal issues are being argued; and (4) the rule be amended to make clear whether copies of the petition for intervention are to be served on existing parties by the party seeking intervention or the Commission, with the latter alternative being urged.

The Department of Justice (DOJ) views the proposed revised rule as making two fundamental changes to the existing rule: (1) Establishing categories of intervenor petitions with different requisite showings; and (2) limiting and controlling the extent of intervenor participation. No objection is made to the establishment of categories but limitations on the extent of participation of intervening parties is objected to as "clearly inconsistent with court precedent as well as practice in other regulatory agencies."

Each of the specific proposals advanced by the commentators will now be discussed.

1. *Duplication Of Positions By Permissive Intervenors Should Not Be Prohibited.*—The requirement that the petitioner's position not be duplicative of another party is not as stringent as it is apparently perceived. Clearly, one can have a common issue of fact or law at stake but take a different position on that issue. Even if the position taken is similar this does not necessarily mean it is duplicative. Moreover, even when a position taken on a common issue is close to being duplicative of another party, if the petitioner can show that it will make a significant contribution to the proceeding, the Commission may, in its discretion nevertheless grant intervention. No amendment to the rule appears to be required under the circumstances.

2. *The Proposed Rule Should Not Apply To Rulemaking Proceedings.*—The proposed rule would apply to formal rulemaking proceedings.[1] Such proceedings involve hearings almost identical in nature to adjudicatory proceedings. Therefore, the reasons for controlling intervention in adjudicatory proceedings applies with equal force to formal rulemaking proceedings. Accordingly, the rule will not be narrowed in scope as suggested by this proposal.

3. *Associations Should Be Allowed To Intervene.*—This proposal is already accommodated by the Commission's Rules of Practice and Procedure. Rule 41 (46 CFR 502.41) permits intervention by associations.[2] Whether the interest of an "association" is one which will, in any given proceeding, warrant intervention in the discretion of the Commission is a matter that can only be determined on an *ad hoc* basis, and is not subject to special treatment in the rule.

4. *"Prejudice The Rights Of An Existing Party" Should Be Changed To "Prejudice The Adjudication Of The Rights Of Original Parties" In Paragraph (b)(2)(ii) Of the Rule.*—Because there appears to be some uncertainty as to what "rights" of existing parties this provision was intended to protect, the language of paragraph (b)(2)(ii) will be revised to more accurately reflect its true intent, *i.e.*, that of protecting the rights of existing parties to a fair and speedy *adjudication* of the controversy. However, the prohibition against prejudice should extend to the adjudicative rights of prior intervenors as well as those of original parties. Accordingly, paragraph (b)(2)(ii) will

[1] 46 CFR 502.53 (Rule 53) governs participation in rulemaking and makes applicable the formal hearing requirements to rules "required by statute to be made on the record after opportunity for a hearing." As to those types of formal rulemakings, Rule 53 expressly provides that: "In those proceedings in which respondents are named, interested parties who wish to participate therein shall file a petition to intervene in accordance with the provisions of § 502.72 (Rule 72)."

[2] Rule 41 defines the term "party" to specifically include *inter alia*, an "association."

only be modified by the insertion of the words "the adjudication of" after the word "prejudice" in paragraph (b)(2)(ii) of the rule.

5. *The Commission Should Serve Copies Of Petitions To Intervene.*—While service copies of the petition for intervention required by the rule are for the existing parties to the proceeding, the 15 copies required to be filed with the petition are for the internal use of the Commission. The Commission will not undertake to serve copies of petitions on existing parties. Because the language of paragraph (a)(1) of the rule appears to be ambiguous on this point it will be amended to make clear that a petitioner must: (1) serve all the existing parties to the proceeding with copies of its petition, and (2) file an additional 15 copies of the petition with the Commission Secretary.

6. *The Rule Should Provide For Replies To Appeal From Intervention Rulings.*—Replies to appeals to the Commission from intervention determinations by the presiding officer are provided for by Rule 74(a) (46 CFR 502.74(a)).[3] No change in the rule is required in response to this comment.

Furthermore, while the Commission originally contemplated broadening the scope of review of such determination to allow non-petitioner appeals and *sua sponte* Commission review, upon reflection it has determined that such expanded procedures may in fact result in delaying proceedings contrary to the underlying purpose of the rule. The existing appeal mechanism contained in Rule 227 (46 CFR 502.227) appears to be adequate for purposes of this rule. Accordingly, paragraph (f) of the proposed rule will be deleted.

7. *Hearing Counsel Should Not Be Included In The Term "Party".*—Irrespective of Hearing Counsel's participation, private interests with a general interest in a proceeding will not necessarily be precluded from intervening. Normally, a general public interest position will not displace a specific private interest. As has been discussed, a duplicative position should not be confused with a similar position and in close cases a showing of a potential significant contribution should militate in favor of the grant of intervention. In complaint proceedings, Hearing Counsel should be treated as any other petitioner seeking intervention. Therefore, under either situation, Hearing Counsel should be included within the meaning of the term "party" as used in the rule. No change in the language of the proposed rule is necessary in this regard.

8. *Discovery Should Be Restricted For Intervenors.*—This is a matter that can be addressed under paragraph (c) of the proposed rule by the presiding officer. In order to protect the due process rights of intervenors the extent to which such discovery procedures will be available to them is a matter best left to the sound discretion of the presiding officer under the facts of the particular proceeding. This is not a matter that can readily be reduced to a rule of general applicability.

9. *A Statutory Right Of Intervention In FMC Proceedings Does Not Exist And Should Be Deleted From The Rule.*—A statutory right of intervention is provided for in the Federal Rule and was therefore incorporated into the proposed rule. However, because the Commission is itself not aware of any provision of law granting a right of intervention in its proceedings, nor has any such provision been cited by a commenting party, the phrase "in the absence of an absolute statutory right of intervention" will be deleted from paragraph (b)(1) in the final rule.

10. *The Adequacy Of Representation Of A Petitioner's Interests By Existing Parties Should Not Be An Issue.*—The critical issue under paragraph (b) (l) (iii) is whether the existing party has such similar interest, position, perspective and resources that its participation in the proceeding will necessarily include anything that the petitioner is able to offer. The Commission will not presume that counsel for existing parties in Commission proceedings are incompetent nor will it make rules based on that presumption. The requirement in paragraph (b)(1)(iii) is a fundamental aspect of the rule and will be retained as proposed.

11. *The Participation Of Intervenors May Not Be Limited.*—The objection to one of the fundamental aspects of the proposed rule, that of limiting the participation of intervenors in proceedings to the extent necessary to protect their interests, is rejected. The Commission, however, has no intention of depriving any petitioner of its due process rights. Nor does the rule prevent a petitioner from participating in a proceeding if it has something worthwhile to offer.

In *PepsiCo., Inc. v. F.T.C.*, 472 F.2d 179 (2d Cir. 1972), *cert. den.* 414 U.S. 876, the court found the intervention standards of the Federal Rules of Civil Procedure applicable to intervention in agency proceedings. That decision clearly contemplates limitations on the participation of intervenors in agency proceedings beyond that normally utilized in formal court proceedings. 472 F.2d at 184. The Commission finds no legal impediment to such procedures and will not reverse its policy determinations as to this fundamental aspect of the proposed rule.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553) and section 43 of the Shipping Act, 1916 (46 U.S.C. 841(a)) § 502.72 of Title 46, Code of Federal Regulations, is amended as follows.

§ 502.72 Petition for intervention.

(a) A petition for leave to intervene may be filed in any proceeding and shall be served on existing parties by the petitioner pursuant to § 502.114. An additional fifteen (15) copies of the petition shall be filed with the Secretary for the use of the Commission. Upon request, the Commission will furnish a service list to any member of the public pursuant to Part 503 of these rules. The petition shall set forth the grounds for the proposed intervention and the interest and position of the petitioner in the proceeding and shall comply with the other applicable provisions of Subpart H of this part, and if affirmative relief is sought, the basis for such relief. Such petition shall also indicate the nature and extent of the participation sought, *e.g.*, the use of discovery, presentation of evidence and examination of witnesses.

(b)(1) Petitions for intervention as a matter of right will only be granted upon a clear and convincing showing that:

(i) The petitioner has a substantial interest relating to the matter which is the subject of the proceeding warranting intervention; and

(ii) The proceeding may, as a practical matter, materially affect the petitioner's interest; and

(iii) The interest is not adequately represented by existing parties to the proceeding.

(2) Petitions for intervention as a matter of Commission discretion may be granted only upon a showing that:

(i) A common issue of law or fact exists between the petitioner's interests and the subject matter of the proceeding; and

(ii) Petitioner's intervention will not unduly delay or broaden the scope of the proceeding, prejudice the adjudication of the rights of or be duplicative of positions of any existing party; and

(iii) The petitioner's participation may reasonably be expected to assist in the development of a sound record.

(3) The timeliness of the petition will also be considered in determining whether a petition will be granted under paragraphs (b) (1) or (2) of this section. If filed after hearings have been closed, a petition will not ordinarily be granted.

(c) In the interests of: (1) Restricting irrelevant, duplicative, or repetitive discovery, evidence or arguments; (2) having common interests represented by a spokesperson; and (3) retaining authority to determine priorities and control the course of the proceeding, the presiding officer, in his discretion, may impose reasonable limitations on an intervenor's participation, *e.g.*, the filing of amicus curiae briefs, presentation of evidence on selected factual issues, or oral argument on some or all of the issues.

(d) Absent good cause shown, any intervenor desiring to utilize the procedures provided by Subpart L must commence doing so no later that 15 days after its petition for leave to intervene has been granted. If the petition is filed later than 30 days after the date of publication in the Federal Register of the Commission's Order instituting the proceeding or notice of complaint filed, petitioner will be deemed to have waived its right to utilize such procedures, unless good cause is shown for the failure to file the petition within the 30-day period. The use of Subpart L procedures by an intervenor whose petition was filed beyond the 30-day period described above will in no event be allowed, if, in the opinion of the presiding officer, such use will result in delaying the proceeding unduly.

(e) If intervention is granted before or at a prehearing conference convened for the purpose of considering matters relating to discovery, the intervenor's discovery matters may also be considered at that time, and may be limited under the provisions of paragraph (c) of this section.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-32710 Filed 10-22-79; 8:45 am]

BILLING CODE 6730-01-M

[3] Rule 74 provides in pertinent part, "* * * any party may file a reply to any * * * petition * * * permitted under the rules in this part within fifteen (15) days after date of service thereof * * *."

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1401]

The Burlington Northern, Inc. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company at Burlington, Iowa

Decided: October 12, 1979.

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1401.

SUMMARY: Authorizes the Burlington Northern Inc., (BN) to operate over the tracks of the Chicago, Rock Island and Pacific Railroad Company at Burlington, Iowa, due to track embargoes north of Burlington, in order to serve industries which would otherwise be deprived of railroad service.

EFFECTIVE DATE: 12:01 a.m., October 13, 1979, and continuing in effect until December 3, 1979.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

SUPPLEMENTARY INFORMATION:

The line of the Chicago, Rock Island and Pacific Railroad Company (RI) north of Burlington, Iowa, is embargoed due to track conditions depriving shippers located adjacent to these tracks in Burlington of essential railroad service. The Burlington Northern, Inc. (BN) connects with the RI at Burlington and has consented to operate over the tracks of the RI in Burlington to serve these industries. The Kansas City Terminal Railway (KCT), the directed operator of the RI, has consented to the use of these tracks by the BN.

It is the opinion of the Commission that an emergency exists requiring the operation of BN trains over these tracks of the RI in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

§ 1033.1401 The Burlington, Northern, Inc. Authorized to Operate Over Tracks of Chicago, Rock Island and Pacific Railroad Company at Burlington, Iowa.

(a) The Burlington Northern, Inc. (BN) is authorized to operate over tracks of the Chicago, Rock Island and Pacific Railroad Company (RI) at Burlington, Iowa, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the BN over tracks of the RI is deemed to be due to carrier's disability, the rates applicable to traffic moved by the BN over the tracks of the RI shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 13, 1979.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., December 3, 1979, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32645 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5717]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communites have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

V 44 0C 23 79 UMI

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Louisiana	Beauregard	Unincorporated areas	220026-A	Sept. 25, 1979, emergency.	
New York	Greene	Athens, town of	361117-A	do	Aug. 13, 1976 and June 3, 1977.
Nebraska	Johnson	Elk Creek, village of	310125-A	do	Nov. 1, 1974 and Nov. 21, 1975.
North Carolina	Moore	Pinebluff, town of	370337	do	July 11, 1975.
Wyoming	Sheridan	Unincorporated areas	560047-A	do	July 4, 1978.
Pennsylvania	Mercer	New Lebanon, borough of	422484	Sept. 27, 1979, emergency.	Jan. 24, 1975.
North Dakota	Ward	Donnybrook, city of	380143	do	Oct. 29, 1976.
Georgia	Tift	Unincorporated areas	130404	Oct. 1, 1979, emergency.	Feb. 17, 1976
Wisconsin	Brown	Ashwaubenon, village of	550600	Sept. 28, 1979, emergency.	Oct. 27, 1978.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 9, 1979.

Gloria M. Jimenez,
Federal Insurance Administrator.

[FR Doc. 79-32466 Filed 10-22-79; 8:45 am]
BILLING CODE 6718-03-M

---

44 CFR Part 64

[Docket No. FEMA 5715]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638–6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755–5581 or Toll Free Line 800–424–8872, Room 5270, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, Section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Alabama	Limestone	Athens, city of	010146-B	Sept. 28, 1979, suspension withdrawn.	Mar. 8, 1974 and Aug. 20, 1976.
Do	Marion	Guin, town of	010162-B	do	June 14, 1974 and Jan. 2, 1976.
Alaska		Anchorage, municipality	020005-A	do	Sept. 28, 1979.
Arkansas	Chicot	Dermott, city of	050026-B	do	Mar. 22, 1974 and Oct. 24, 1975.
Arizona	Gila	Winkiman, town of	040031-B	do	Jan. 23, 1974 and Dec. 26, 1975.
California	Napa	Calistoga, city of	060206-B	do	May 10, 1974 and Sept. 12, 1975.
Do	Riverside	Indian Wells, city of	060254-C	do	June 28, 1974 and Dec. 5, 1975.
Do	Orange	Laguna Beach, city of	060223-B	do	June 21, 1974 and July 9, 1976.
Do	do	Unincorporated areas	060212-A	do	Jan. 10, 1975.
Do	Riverside	Rancho Mirage, city of	060259-A	do	June 26, 1975.
Do	Orange	Santa Ana, city of	060232-B	do	June 21, 1974 and Apr. 9, 1976.
Colorado	Boulder	Superior, town of	080203-A	do	June 4, 1976.
Florida	Brevard	Malabar, town of	120024-B	do	Mar. 1, 1974 and Dec. 19, 1975.
Do	Seminole	Oviedo, city of	120293-B	do	Jan. 23, 1974 and Feb. 13, 1976.
Georgia	Catoosa	Unincorporated areas	130028-B	do	Aug. 11, 1978.
Do	Fulton	Fairburn, city of	130314-A	do	Aug. 19, 1977.
Do	Walker	Rossville, city of	130183-B	do	Mar. 22, 1974 and July 23, 1976.
Do	Dade	Trenton, city of	130063-B	do	Mar. 8, 1974 and July 23, 1976.
Do	Chattooga	Trion, town of	130038-B	do	May 3, 1974 and Mar. 26, 1976.
Do	Fulton	Union City, city of	130316-A	do	April 4, 1975.
Do	Walker	Unincorporated areas	130180-A	do	Mar. 3, 1978.
Illinois	Cook	Buffalo Grove, village of	170068-B	do	June 28, 1974 and July 11, 1975.
Indiana				do	
Do	Morgan	Mooresville, town of	180334-B	do	Feb. 1, 1974.
Kansas	Lyons	Emporia, city of	200203-B	do	May 10, 1977.
Kentucky	Fayette	Lexington, city of	210067-B	do	Feb. 15, 1974 and Mar. 26, 1976.
Do	Kenton	Ludlow, city of	210266-B	do	Feb. 1, 1974 and Feb. 27, 1976.
Maine	Androscoggin	Lewiston, city of	230004-B	do	Apr. 5, 1974 and Apr. 1, 1977.
Maine	Kennebec	Randolph, town of	230244-A	do	Jan. 24, 1975.
Maryland	Allegany	Barton, town of	240002-A	do	Feb. 13, 1976.
Massachusetts	Bristol	North Attleborough, town of	250059-B	do	Mar. 15, 1974 and Aug. 27, 1976.
Do	Norfolk	Wellesley, town of	250255-B	do	June 21, 1974 and Feb. 11, 1977.
Do	Franklin	Whately, town of	250132-C	do	Sept. 6, 1974, Oct. 22, 1976, and June 14, 1977.
Minnesota	Cottonwood	Windom, city of	270090-B	do	Nov. 9, 1973 and May 28, 1976.
Mississippi	Marion	Columbia, city of	280111-B	do	May 31, 1974 and Jan. 16, 1976.
Do	Panola	Crenshaw, town of	280127-A	do	June 7, 1974.
Do	Coahoma	Jonestown, town of	280041-A	do	Mar. 3, 1976.
Do	Marion	Unincorporated areas	280230-A	do	Dec. 23, 1977.
Do	Madison	Ridgeland, city of	280110-B	do	June 28, 1974 and Sept. 26, 1975.
Do	Yazoo	Unincorporated areas	280199-B	do	Sept. 13, 1974 and March 3, 1978.
Missouri	Cass	Belton, city of	290062-B	do	May 24, 1974 and Feb 27, 1976.
Do	Pemiscot	Steel, city of	290279-B	do	March 29, 1974 and Jan. 2, 1976.
New Hampshire	Hillsborough	Amherst, town of	330081-B	do	March 22, 1974 and Dec. 10, 1976.
Do	Merrimack	Boscawen, town of	330105-B	do	March 15, 1974 and Dec. 24, 1976.
Do	do	Franklin, city of	330113-B	do	March 8, 1974 and Aug. 20, 1976.

V 44 NO 203 7 9 UMI

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
New Jersey	Essex	Belleville, town of	340177-B	do	Jan. 9, 1974.
Do	Burlington	Delanco, township of	340093-B	do	June 21, 1974 and June 11, 1976.
Do	do	Eastampton, township of	340095-B	do	Oct. 5, 1973 and Feb. 7, 1975.
Do	Morris	Florham Park, borough of	340342-B	do	June 28, 1974 and June 4, 1976.
Do	Passaic	Passaic, city of	340403-B	do	Aug. 31, 1973.
Do	Ocean	Stafford, township of	340393-A	do	Sept. 2, 1970.
New York	Dutchess	La Grange, town of	361011-B	do	Nov. 1, 1974 and April 16, 1976.
Do	Westchester	Rye, town of	360930-B	do	Dec. 28, 1973 and Dec. 26, 1975.
North Carolina	Watauga	Boone, town of	370253-B	do	June 21, 1974 and Feb. 21, 1975.
Do	Gaston	Mount Holly, city of	370102-B	do	Jan 9, 1974 and June 25, 1976.
Do	Carteret	Pine Knoll Shores, town of	370267-A	do	July 11, 1975.
Do	Iredell	Statesville, city of	370135-A	do	Aug. 1, 1975.
Do	Davidson	Thomasville, city of	370082-B	do	Mar. 22, 1974 and July 2, 1976.
North Dakota	Ward	Sawyer, city of	380145-A	do	Jan. 31, 1975.
Ohio	Cuyahoga	North Olmstead, city of	390120-A	do	Apr. 5, 1974.
Oklahoma	Tulsa and Wagoner	Bixby, town of	400207-B	do	June 28, 1974 and July 19, 1977.
Do	Muskogee	Boynton, town of	400120-A	do	Apr 23, 1976
Do	Canadian	Yukon, city of	400028-B	do	May 24,1974 and June 18, 1976.
Pennsylvania	Beaver	Baden, borough of	420103-B	do	Mar. 22, 1974 and May 28, 1976.
Do	Columbia	Catawissa, borough of	420341-B	do	Oct. 12, 1973 and Jan. 23, 1976.
Do	do	Catawissa, township of	420342-B	do	Feb. 1, 1974 and June 24, 1977.
Do	Lycoming	Clinton, township of	420637-B	do	Sept. 14, 1973 and Dec. 31, 1976.
Do	Lackawanna	Dunmore, borough of	420529-B	do	Feb. 1, 1974 and May 7, 1976.
Do	Allegheny	Duquesne, city of	420028-B	do	Apr. 12, 1974 and Apr. 16, 1976.
Do	Lancaster	East Hempfield, township of	420548-B	do	July 19, 1974 and May 7, 1976.
Do	do	Lancaster, city of	420552-A	do	Aug. 31, 1973 and Nov. 25, 1977.
Do	Northampton	Lower Saucon, township of	420982-B	do	June 28, 1974 and Sept. 10, 1976.
Do	Lebanon	North Londonderry, township of	420577-B	do	Jan. 23, 1974 and Jan. 28, 1977.
Do	Lackawanna	Olyphant, borough of	420536-B	do	Sept. 7, 1973 and Jan. 21, 1977.
Do	Allegheny	Port Vue, borough of	420066-B	do	Jan. 19, 1974 and May 21, 1976.
Do	Lebanon	North Annville, township of	420970-B	do	Jan. 9, 1974 and Nov. 19, 1976.
Do	Lacakawanna	Roaring Brook, township of	420999-B	do	June 28, 1974 and July 30, 1976.
Do	Allegheny	Sewickley, borough of	420070-B	do	Jan. 9, 1974 and May 28, 1975.
Do	Lacakawanna	Throop, borough of	420540-B	do	May 31, 1974 and April 30, 1976.
Do	Allegheny and Westmoreland	Trafford, borough of	420903-B	do	August 30, 1974 and Dec. 19, 1975.
Do	Union	White Deer, township of	421034-B	do	October 18, 1974 and June 4, 1976.
Do	Allegheny	White Oak, borough of	420089-B	do	Jan. 16, 1974 and Sept. 10, 1976.
Do	Northampton	Williams, township of	421036-B	do	Jan. 16, 1974 and Sept. 10, 1976.
Do	Lycoming	Woodward, township of	420664-A	do	Mar. 15, 1974 and July 1, 1977.
South Carolina	Horry	Conway, town of	450106-B	do	May 17, 1974 and April 30, 1976.
Do	Greenville	Greer, city of	450200-B	do	May 17, 1974 and Aug. 8, 1975.
Do	Lexington	South Congaree, town of	450137-B	do	May 17, 1974 and June 11, 1976.
Texas	Jackson	Ganado, city of	480381-B	do	April 12, 1974 and Feb. 20, 1976.
Do	Kimble	Junction, city of	480421-B	do	Mar. 22, 1974 and Aug. 27, 1976.
Utah	Utah	Lehi, city of	490209-A	do	Feb. 7, 1975
Vermont	Winsdor	Windsor, town of	500159-B	do	Aug.18, 1974 and Nov.21, 1975.
West Virginia	Brooke and Hancock	Weirton, city of	540014-C	do	Feb. 1, 1974 and Sept. 12, 1975.
Wisconsin	Crawford	Unincorporated areas	555551-B	do	April 20, 1973.
Mississippi	Sunflower	Unincorporated areas	280195-A	do	Nov. 11, 1977.
Louisiana	Allen	Oberlin, town of	220012-A	Sept. 28, 1979, emergency.	June 21, 1974 and Nov. 14, 1979.
Colorado	Conejos	Manassa, town of	080253A	Oct. 4, 1979, emergency	August 8, 1975 and July 16, 1976.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified
Iowa	Webster	Lehigh, city of	190310	Oct. 3, 1979, emergency	Sept. 19, 1975.
New York	Suffolk	Head of the Harbor, village of	361513A	do	Nov. 15, 1974 and July 2, 1976.
North Carolina	Madison	Mars Hill, town of	370385	Oct. 4, 1979, emergency	July 2, 1976.
Ohio	Cuyahoga	Unincorporated areas	390766	do	
Texas	Montgomery	Oak Ridge North, town of	481560—New	do	
Louisiana	Rapides	McNary, town of	220299-A	Oct. 3, 1979, emergency	
Washington	Kittitas	Unincorporated areas	530095A	Feb. 2, 1974, emergency, Oct. 5, 1979, regular, June 1, 1979, suspended, Oct. 5, 1979, reinstated.	June 21, 1974 and July 2, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 10, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-32467 Filed 10-22-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA 5711]

List of Communities with Special Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule identifies communities with areas of special flood, mudslide, or erosion hazards as authorized by the National Flood Insurance Program. The identification of such areas is to provide guidance to communities on the reduction of property losses by the adoption of appropriate flood plain management or other measures to minimize damage. It will enable communities to guide future construction, where practicable, away from locations which are threatened by flood or other hazards.

EFFECTIVE DATES: The date listed in the eighth column of the table or 30 days after the date of this Federal Register publication (November 23, 1979), whichever is later.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The Flood Disaster Protection Act of 1973 (Pub. L. 93–234) requires the purchase of flood insurance on and after March 2, 1974, as a condition of receiving any form of Federal or federally related financial assistance for acquisition or construction purposes in a identified flood plain area having special flood hazards that is located within any community participating in the National Flood Insurance Program.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction in these areas unless the community has entered the program. The prohibition, however, does not apply to loans by federally regulated, insured, supervised, or approved lending institutions (1) to finance the acquisition of a residential dwelling occupied as a residence prior to March 1, 1976, or one year following identification of the area within which such dwelling is located as an area containing special flood hazards, whichever is later, or made to extend, renew, or increase the financing or refinancing in connection with such a dwelling, (2) to finance the acquisition of a building or structure completed and occupied by a small business concern, as defined by the Director, prior to January 1, 1976, (3) any loan or loans, which in the aggregate do not exceed $5,000, to finance improvements to or rehabilitation of a building or structure occupied as a residence prior to January 1, 1976, or (4) any loan or loans, which in the aggregate do not exceed an amount prescribed by the Director, to finance nonresidential additions or improvements to be used solely for agricultural purposes on a farm.

This 30 day period does not supersede the statutory requirement that a community, whether or not participating in the program, be given the opportunity for a period of six months to establish that it is not seriously flood prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The six months period shall be considered to begin 30 days after the date of publication in the Federal Register or th effective date of the Flood Hazard Boundary Map, whichever is later. Similarly, the one year period a community has to enter the program under section 201(d) of the Flood Disaster Protection Act of 1973 shall be considered to begin 30 days after publication in the Federal Register or the effective date of the Flood Hazard Boundary Map, whichever is later.

This identification is made in accordance with Part 64 of Title 44 of the Code of Federal Regulations as authorized by the National Flood Insurance Program (42 U.S.C. 4001–4128).

Section 65.3 is amended by adding in alphabetical sequence a new entry to the table:

V 44 OC 23 79 UMI

§ 65.3 List of communities with special hazard areas (FHBM's in effect).

State, county, community name, and number of panels	Community number and suffix	Program and change code	Inland or coastal	Hazard F/M/E	Identification date(s)	Effective date of this map action	Local map repository
Kansas, Hamilton, city of Syracuse, 0001B	200124B	E-8, 12	I	F	Jan. 9, 1974, Nov. 14, 1975.	Oct. 2, 1979	Honorable Magadalene Haslett, Mayor, City Hall, P.O. Box 148, 112 E. Avenue "A", Syracuse, KS 67878, (316) 384-7818.
New York, Rockland, town of Orangetown, 0001, 0002, 0003.	360686B	E-11, 12	I	F	May 10, 1974, Nov. 26, 1975.	Oct. 5, 1979	Town Hall, Town of Orangetown, 26 Orangeburg Road, Orangeburg, NY 10962, (914) 359-5100.
New Hampshire, Grafton, town of Grafton, 0001, 0003, 0004.	330054A	E-12	I	F	Jan. 17, 1975	Oct. 5, 1979	Town of Grafton, Town Hall, Grafton, NH 03240, (603) 744-8849.
Indiana, Wabash, city of Wabash, 0001B	180271	E-8, 11, 12, 14	I	F	June 7, 1974, July 30, 1976.	Oct. 12, 1979	Michael L. Davis, Mayor, 115 South Wabash Street, Wabash, IN 46992, Phone: (219) 563-4171.
Pennsylvania, Crawford, township of Pine, 0001A.	422392	E-11, 12, 14	I	F	Apr. 11, 1975	Oct. 12, 1979	James R. Stewart, Chairman, Township Supervisors, R.D. No. 2, Linneville, PA 16424, Phone: (814) 963-4363.
Pennsylvania, Venango, township of Rockland, 0001A-0005A.	422113	E-11, 12, 14	I	F	Jan. 10, 1975	Oct. 12, 1979	James D. Stranford, Chairman, R.D. No. 1, Kennerdell, PA 16374, Phone: (814) 498-2348.
Vermont, Essex, town of Brunswick, 0001-0002.	500206A	E-5	I	F	Oct. 12, 1979	Oct. 12, 1979	Mrs. Muriel Mason, Town Clerk, Town of Brunswick, RFD, North Stratford, VT 03590.
Arkansas, unincorporated area, Phillips County, 0001B-0008B, 0010B.	0501668	N-11, 12	I	F	Aug. 9, 1977	Oct. 23, 1979	Honorable A. Y. Gordon, County Judge, County Courthouse, Phillips County, Helena, AR 72342, (501) 338-3486.
Louisiana, Rapides Parish, town of Ball, 0001B.	220373B	E-8, 11, 12	I	F	Apr. 8, 1977	Oct. 23, 1979	Honorable Lawrence L. Mahoney, Mayor, Town of Ball, P.O. Box 456, Ball, LA 71405, (318) 640-9605.
Alabama, Choctaw, city of Butler, 00001	010033A	E-9	I	F	Sept. 24, 1976	Oct. 26, 1979	City Clerk, City of Butler, Butler, AL 36904, (205) 459-3793.
Georgia, Decatur, city of Bainbridge, 0001, 0002.	130204B	E-12	I	F	May 24, 1974, Feb. 13, 1976.	Oct. 26, 1979	Mr. Shelton Smith, City Manager, City of Bainbridge, P.O. Box 158, Bainbridge, GA 31717, (912) 246-0924.
Florida, Jackson, city of Campbellton, 0001	120126B	E-8, 12	I	F	Sept. 8, 1974, Jan. 30, 1976.	Oct. 26, 1979	City of Campbellton, General Delivery, City Hall, Campbellton, FL 32426, (904) 263-4535.
Alabama, De Kalb, town of Powell, 0001	010398A	E-5	I	F	Oct. 26, 1979	Oct. 26, 1979	James O. Powell, Mayor, Town of Powell, Route 2, Fyffe, AL 35971, (205) 638-4283.
Minnesota, Winona, Winona County,[1] 0004B only.	270525	E-12	I	F	Oct. 18, 1974, Apr. 21, 1978.	Oct. 26, 1979	Leo Borkowski, Ch. Co. Bd. Comm., Courthouse, Winona, MN 55987, Phone: (507) 452-3337.
Ohio, Washington, city of Marietta, 0001B	390572	E-11, 12, 14	I	F	Dec. 7, 1973, July 11, 1975.	Oct. 26, 1979	Geoff Brunton, Mayor, 304 Putnam Street, Marietta, OH 45750, Phone: (614) 373-5495.
Pennsylvania, Cambria, township of Cresson, 0001A only.	422605	E-11, 12, 14	I	F	Jan. 3, 1975	Oct. 26, 1979	C. E. Eger, Ch. Twp. Suprs., 740 Portage Road, Cresson, PA 16630, Phone: (814) 886-2793.
Pennsylvania, Venango, township of Plum, 0001A-0003A.	422539	E-11, 12, 14	I	F	Jan. 24, 1975	Oct. 26, 1979	Hunter Wright, Ch., R.D. No. 1, Cooperstown, PA 16317, Phone: (814) 374-4406.
Pennsylvania, Crawford, township of Troy, 0001B-0003B.	421572	E-11, 12, 14	I	F	Nov. 1, 1974, Oct. 10, 1975.	Oct. 26, 1979	Melvin Proper, Ch. Twp. Suprs., R.D. No. 4, Titusville, PA 16354, Phone: (814) 827-6654.
Virginia, Essex, Essex County,[1] 0001A-0007A	510048	E-11, 12, 14	I	F	Nov. 29, 1974	Oct. 26, 1979	Winton Sisson, Jr., Co. Admn., P.O. Box 1079, Tappahannock, VA 22560, Phone: (804) 443-4331.
Wisconsin, Sauk, city of Reedsburg, 0001B	550402	E-8, 11, 12, 14	I	F	Dec. 17, 1973, May 28, 1976.	Oct. 26, 1979	John W. Bermen, Mayor, 134 South Locust Street, Reedsburg, WI 53959, Phone: (608) 524-6404.
California, unincorporated area, Santa Clara County, 0001B-0011B, 0013B-0016B.	060337B	E-11, 12	I	F	June 20, 1978	Oct. 30, 1979	Mr. Raffi Sarkisian, Land Development Coordinator, County Government Center, East Wing, 70 West Hedding Street, San Jose, CA 95110, (408) 299-2454.

[1] Unincorporated area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: September 27, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-32168 Filed 10-22-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

[Docket No. FEMA-5712]

Identification and Mapping of Special Hazard Areas

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to provide a cumulative list of communities through August 31, 1979 for which the Federal Insurance Administrator has recently issued a new or revised Flood Insurance Rate Map (FIRM) or a letter of notification of final flood hazard determination. The FIRM(s) usually provide water surface elevations for Special Flood Hazard Areas. The engineering data on the FIRM is used by local community officials as the basis for flood plain management measures to reduce future flood losses; it is also the basis for actuarial rates for flood insurance. The letter of notification is the basis for a community's participation in the regular phase of the National Flood Insurance Program.

EFFECTIVE DATES: The effective date of the most recent Map or program action is listed in the last column.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Lines 800–424–8872, Room 5150, 451 Seventh Street, SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: This cumulative list supplements the one previously published at 42 FR 33203–33237 on June 29, 1977 under 44 CFR 65.4 (formerly 24 CFR 1915.4). This regulation also provides a cumulative list of communities with minimal flood hazard areas (44 CFR 65.7) and communities with no special flood hazard areas (44 CFR 65.8). The effective date of the most recent program action or revision for the communities listed will not appear in the Code of Federal Regulations except for the page number of this entry in the Federal Register. The entry reads as follows:

§ 65.4 List of Communities with detailed engineering data (FIRM's).

§ 65.7 List of Communities with minimal hazard areas.

§ 65.8 List of Communities with no special flood hazard areas.

Region 1.—*Connecticut*

§65.4 List of communities with detailed engineering data (firms)]

County name	Community name	Community ID No.	Effective date of latest revision
Hartford County	Avon, town of	090021	05/16/77
New Haven County	Beacon Falls, town of	090072	03/01/79
Hartford County	Bloomfield, town of	090122	06/15/77
New Haven County	Branford, town of	090073	12/15/77
Fairfield County	Brookfield, town of	090003	06/15/78
Hartford County	Canton, town of	090135	08/01/79
Middlesex County	Cromwell, town of	090123	06/15/78
Fairfield County	Danbury, city of	090004	05/02/77
New Haven County	Derby, city of	090075	09/15/77
Hartford County	East Hartford, town of	090026	07/02/79
New Haven County	East Haven, town of	090076	02/01/78
Hartford County	East Windsor, town of	090027	04/03/78
Fairfield County	Fairfield, town of	090007	08/15/78
Hartford County	Farmington, town of	090029	06/15/77
Hartford County	Glastonbury, town of	090124	06/15/78
Fairfield County	Greenwich, town of	090008	06/30/77
New London County	Groton, town of	090097	06/19/77
New Haven County	Guilford, town of	090077	05/01/78
New Haven County	Hamden, town of	090078	06/15/79
Hartford County	Hartford, city of	095080	09/29/78
New London County	Lyme, town of	090127	01/03/79
New Haven County	Madison, town of	090079	09/15/78
New Haven County	Milford, city of	090082	09/29/78
New Haven County	Naugatuck, borough of	090137	06/15/78
Fairfield County	New Canaan, town of	090010	05/18/77
New London County	New London, city of	090100	05/02/77
Fairfield County	Newtown, town of	090011	06/15/79
New Haven County	North Branford, town of	090085	07/03/78
Fairfield County	Norwalk, city of	090012	04/03/78
New London County	Norwich, city of	090102	06/15/79
Middlesex County	Old Saybrook, town of	090089	07/03/78
Middlesex County	Portland, town of	090130	07/03/78
New Haven County	Seymour, town of	090088	07/03/78
Fairfield County	Shelton, city of	090014	09/29/78
Hartford County	Simsbury, town of	090035	05/16/77
Fairfield County	Stratford, town of	090018	06/01/78
Hartford County	Suffield, town of	090038	08/15/79
Litchfield County	Torrington, city of	095081	03/05/76
New Haven County	Wallingford, town of	090090	09/15/78
Hartford County	West Hartford, town of	095082	07/01/74
New Haven County	West Haven, city of	090092	01/17/79
Fairfield County	Weston, town of	090018	10/17/78
Hartford County	Wethersfield, town of	090040	05/02/77
Litchfield County	Winchester, town of	090132	07/17/78
Hartford County	Windsor Locks, town of	090042	01/03/79
Hartford County	Windsor, town of	090041	09/29/78
Litchfield County	Woodbury, town of	090133	10/20/78

Total communities reported in State: 47.

Region 1.—*Maine*

County name	Community name	Community ID No.	Effective date of latest revision
Piscataquis County	Abbot, town of	230406	09/15/78
Penobscot County	Bangor, city of	230102	06/15/78
Penobscot County	Bradley, town of	230103	05/01/78
Penobscot County	Brewer, city of	230104	06/01/78
Piscataquis County	Dover-Foxcroft, town of	230116	07/02/79
Penobscot County	Eddington, town of	230382	07/03/78
Piscataquis County	Guilford, town of	230117	07/16/79
Oxford County	Mexico, town of	230095	06/15/77
Penobscot County	Milford, town of	230110	04/17/78
Penobscot County	Old Town, city of	230112	04/17/78
Penobscot County	Orono, town of	230113	07/03/78
Penobscot County	Veazie, town of	230403	05/01/78

Total communities reported in State: 12.

Region 1.—*Massachusetts*

County name	Community name	Community ID No.	Effective date of latest revision
Plymouth County	Abington, town of	25059	09/30/77
Middlesex County	Action, town of	250176	06/15/78
Hampden County	Agawam, town of	250133	02/01/78
Berkshire County	Alford, town of	250017	12/01/77
Essex County	Andover, town of	250076	06/01/78
Bristol County	Attleboro, city of	250049	09/29/78
Worcester County	Auburn, town of	250292	05/01/78
Barnstable County	Barnstable, town of	250001	04/03/78
Middlesex County	Bedford, town of	255209	02/27/76
Bristol County	Berkley, town of	250050	07/03/78
Worcester County	Blackstone, town of	250295	09/30/77
Barnstable County	Bourne, town of	255210	05/07/76
Middlesex County	Boxborough, town of	250184	09/15/78
Norfolk County	Braintree, town of	250233	06/01/78
Plymouth County	Brockton, city of	250261	03/01/79
Norfolk County	Brookline, town of	250234	05/02/77
Norfolk County	Canton, town of	250235	04/03/78
Hampden County	Chicopee, city of	250137	09/29/78
Middlesex County	Concord, town of	250186	06/15/79
Bristol County	Dartmouth, town of	250051	06/15/77
Norfolk County	Dedham, town of	250237	12/01/78
Barnstable County	Dennis, town of	250005	10/05/78
Plymouth County	Duxbury, town of	250263	05/02/77
Hampshire County	East Hampton, town of	250160	06/15/78
Hampden County	East Longmeadow, town of	250138	09/15/78
Bristol County	Fairhaven, town of	250054	03/16/78
Barnstable County	Falmouth, town of	255211	09/30/77
Hampshire County	Hadley, town of	250183	06/01/78
Hampden County	Hampden, town of	250140	11/15/78
Norfolk County	Holbrook, town of	255212	01/02/76
Hampden County	Holyoke, city of	250142	08/15/79
Middlesex County	Lexington, town of	250196	06/01/78
Middlesex County	Lincoln, town of	250199	06/01/78
Hampden County	Longmeadow, town of	250143	09/01/78
Middlesex County	Lowell, city of	250201	04/16/79
Bristol County	Mansfield, town of	250057	04/01/77
Plymouth County	Manon, town of	255213	01/02/76
Plymouth County	Marshfield, town of	250273	10/14/77

County name	Community name	Community ID No.	Effective date of latest revision
Region 1.—*Massachusetts —Continued*			
Barnstable County	Mashpee, town of	250009	09/15/78
Plymouth County	Mattapoisett, town of	255214	01/09/76
Middlesex County	Maynard, town of	250204	06/15/79
Norfolk County	Medfield, town of	250242	07/16/79
Worcester County	Millbury, town of	250318	07/02/79
Norfolk County	Milton, town of	250245	04/03/78
Franklin County	Montague, town of	250122	06/15/79
Essex County	Nahant, town of	250095	07/19/78
Norfolk County	Needham, town of	255215	06/20/76
Bristol County	New Bedford, city of	255216	07/09/78
Essex County	Newburyport, city of	250097	02/15/78
Essex County	Newbury, town of	250096	03/15/77
Middlesex County	Newton, city of	250208	06/01/78
Norfolk County	Norfolk, town of	255217	10/29/76
Middlesex County	North Reading, town of	250209	04/03/78
Hampshire County	Northampton, city of	250167	04/03/78
Bristol County	Norton, town of	250060	06/01/79
Berkshire County	Pittsfield, city of	250037	03/01/78
Barnstable County	Provincetown, town of	255218	04/09/78
Norfolk County	Quincy, city of	255219	07/30/76
Norfolk County	Randolph, town of	250251	05/01/78
Bristol County	Rehoboth, town of	250062	09/01/77
Essex County	Salem, city of	250102	03/15/77
Essex County	Salisbury, town of	250103	06/24/77
Plymouth County	Scituate, town of	250282	09/30/77
Norfolk County	Sharon, town of	250252	09/29/78
Bristol County	Somerset, town of	255220	04/23/76
Hampshire County	South Hadley, town of	250170	06/15/79
Middlesex County	Stow, town of	250218	08/01/79
Essex County	Swampscott, town of	250105	05/24/74
Bristol County	Swansea, town of	255221	07/30/76
Middlesex County	Tewksbury, town of	250218	07/18/77
Barnstable County	Truro, town of	255222	12/12/75
Middlesex County	Wakefield, town of	250221	10/17/78
Norfolk County	Walpole, town of	250254	03/24/78
Plymouth County	Wareham, town of	255223	05/21/76
Essex County	West Newbury, town of	250108	06/15/78
Hampden County	West Springfield, town of	250155	09/30/77
Hampden County	Westfield, town of	250153	05/01/78
Hampshire County	Westhampton, town of	250173	07/02/79
Bristol County	Westport, town of	255224	05/14/78
Norfolk County	Westwood, town of	255225	01/30/76
Hampden County	Wilbraham, town of	250154	03/01/79
Berkshire County	Williamstown, town of	250048	07/05/77
Suffolk County	Winthrop, town of	250269	10/08/76
Barnstable County	Yarmouth, town of	250015	05/02/77
Total communities reported in State: 84.			
Region 1.—*New Hampshire*			
Merrimack County	Allenstown, town of	330103	04/02/79
Hillsborough County	Amherst, town of	330081	07/02/79
Carroll County	Bartlett, town of	330010	05/01/79
Hillsborough County	Bedford, town of	330083	04/16/79
Merrimack County	Boscawen, town of	330105	07/16/79
Merrimack County	Bow, town of	330107	04/16/79
Merrimack County	Canterbury, town of	330108	05/15/79
Merrimack County	Chichester, town of	330109	09/01/78
Sullivan County	Claremont, city of	330154	04/17/78
Carroll County	Conway, town of	330011	04/16/79
Hillsborough County	Deering, town of	330085	08/01/79
Merrimack County	Epsom, town of	330112	07/03/78
Hillsborough County	Goffstown, town of	330087	06/15/79
Grafton County	Hanover, town of	330056	07/03/78
Merrimack County	Henniker, town of	330114	05/01/78
Hillsborough County	Hillsborough, town of	330090	06/15/79
Hillsborough County	Hollis, town of	330091	04/16/79
Sullivan County	Hookset, town of	330115	04/02/79
Hillsborough County	Hudson, town of	330092	01/03/79
Carroll County	Jackson, town of	330014	07/02/79
Coos County	Lancaster, town of	335277	12/12/75
Hillsborough County	Litchfield, town of	330093	07/16/79
Hillsborough County	Merrimack, town of	330095	07/16/79
Hillsborough County	Nashua, city of	330097	06/15/79
Merrimack County	Northfield, town of	330118	06/15/79
Merrimack County	Pembroke, town of	330119	04/02/79
Merrimack County	Pittsfield, town of	330120	07/03/78
Rockingham County	Salem, town of	330142	06/15/79
Belknap County	Sanbornton, town of	330008	06/15/79
Belknap County	Tilton, town of	330009	05/01/79
Total communities reported in State: 30.			
Region 1.—*Rhode Island*			
Bristol County	Barrington, town of	445392	01/17/78
Bristol County	Bristol, town of	445393	10/17/75
Providence County	Burrillville, town of	440013	07/02/79
Providence County	Central Falls, city of	445394	06/22/75
Washington County	Charlestown, town of	445395	06/20/76
Kent County	Coventry, town of	440004	09/01/78
Providence County	Cranston, city of	445396	05/21/76
Kent County	East Greenwich, town of	445397	06/18/78
Providence County	East Providence, city of	445398	11/14/75
Providence County	Glocester, town of	440034	08/15/79
Newport County	Jamestown, town of	445399	02/27/78
Providence County	Johnston, town of	440018	09/01/78
Providence County	Lincoln, town of	445400	10/10/75
Newport County	Middletown, town of	445401	-1/16/78
Washington County	Narragansett, town of	445402	12/03/78
Newport County	Newport, city of	445403	11/21/75
Washington County	North Kingstown, town of	445404	01/09/78
Providence County	North Providence, town of	440020	12/15/77
Providence County	North Smithfield, town of	440021	08/01/78
Providence County	Pawtucket, city of	440022	06/11/76
Newport County	Portsmouth, town of	445405	09/10/78
Providence County	Providence, city of	445406	07/23/76
Providence County	Smithfield, town of	440025	03/01/77
Washington County	South Kingstown, town of	445407	02/04/77
Newport County	Tiverton, town of	440012	05/02/77
Bristol County	Warren, town of	445408	10/31/75
Kent County	Warwick, city of	445409	06/18/76
Kent County	West Warwick, town of	440007	02/01/78
Washington County	Westerly, town of	445410	12/26/75
Providence County	Woonsocket, city of	445411	01/16/78
Total communities reported in State: 30.			
Region 1.—*Vermont*			
Washington County	Barre, town of	500273	06/15/78
Orleans County	Barton, town of	500081	04/03/78
Orleans County	Barton, village of	500082	04/03/78
Windham County	Bellows Falls, village of	500125	07/16/79
Rutland County	Brandon, town of	500090	05/15/78
Addison County	Bridport, town of	500184	08/15/79
Orange County	Brookfield, town of	500236	09/29/78
Chittenden County	Burlington, city of	500032	11/15/78
Windsor County	Hartford, town of	500148	07/02/79
Chittenden County	Huntington, town of	500036	07/17/78
Lamoille County	Johnson, town of	500063	02/01/79
Lamoille County	Johnson, village of	500232	02/01/79
Windsor County	Ludlow, town of	500150	09/01/78
Windsor County	Ludlow, village of	500294	09/01/78
Bennington County	Manchester, town of	500015	04/03/78
Washington County	Montpelier, city of	505518	07/01/74
Washington County	Moretown, town of	500116	09/29/78
Lamoille County	Morristown, town of	500064	01/03/79
Lamoille County	Morrisville, village of	500065	05/15/78
Addison County	New Haven, town of	500009	04/03/78
Washington County	Northfield, town of	500118	05/15/78
Washington County	Northfield, village of	500117	05/15/78
Orleans County	Orleans, village of	500088	03/15/78
Rutland County	Pawlet, town of	500097	09/01/78
Rutland County	Proctor, town of	500265	12/01/78
Rutland County	Ruthland, city of	500101	04/17/78
Rutland County	Rutland, town of	500267	09/29/78
Addison County	Shoreham, town of	500171	08/01/79
Rutland County	Shrewsbury, town of	500102	09/01/78
Grand Isle County	South Hero, town of	500226	06/15/78
Bennington County	Stamford, town of	500020	07/03/78
Franklin County	St. Albans, city of	500058	06/15/78
Washington County	Waitsfield, town of	500120	08/01/78

County name	Community name	Community ID No.	Effective date of latest revision
Washington County	Warren, town of	500121	09/01/77
Orange County	Williamstown, town of	500080	07/17/78
Windham County	Wilmington, town of	500142	05/01/78
Chittenden County	Winooski, city of	500044	08/01/78
Windsor County	Woodstock, town of	500160	12/15/78
Windsor County	Woodstock, village of	500161	02/15/79
Washington County	Worcester, town of	500278	04/03/78
Total communities reported in state: 40.			
Region 2.—*New Jersey*			
Atlantic County	Absecon, city of	340001	04/23/76
Bergen County	Allendale, borough of	340019	07/02/79
Monmouth County	Allenhurst, borough of	340283	03/15/79
Monmouth County	Asbury Park, city of	340285	02/15/79
Atlantic County	Atlantic City, city of	345278	01/09/76
Cape May County	Avalon, borough of	345279	10/31/75
Monmouth County	Avon-by-the-Sea, borough of	340287	03/15/79
Ocean County	Barnegat Light, borough of	345280	05/14/76
Ocean County	Bay Head, borough of	345281	03/19/76
Ocean County	Beach Haven, borough of	345282	03/18/77
Ocean County	Beachwood, borough of	340368	05/01/79
Monmouth County	Belmar, borough of	345283	02/27/76
Bergen County	Bergenfield, borough of	340020	06/01/77
Union County	Berkeley Heights, township of	340459	03/01/78
Somerset County	Bernardsville, borough of	340429	03/01/78
Somerset County	Bernards, township of	340428	09/01/76
Essex County	Bloomfield, town of	340178	08/15/77
Passaic County	Bloomingdale, borough of	345284	07/09/76
Morris County	Boonton, township of	340336	08/01/78
Monmouth County	Bradley Beach, borough of	340289	08/01/79
Somerset County	Branchburg, township of	340431	06/01/78
Ocean County	Brick, township of	345285	06/10/77
Somerset County	Bridgewater, township of	340432	12/01/78
Monmouth County	Brielle, borough of	340290	04/02/79
Atlantic County	Brigantine, city of	345286	01/26/77
Burlington County	Burlington, city of	345287	07/29/77
Cape May County	Cape May City, city of	345288	02/13/76
Cape May County	Cape May Point, borough of	345288	02/13/76
Middlesex County	Carteret, borough of	340257	11/15/78
Morris County	Chatham, borough of	340336	02/14/76
Camden County	Cherry Hill, township of	340129	08/15/76
Burlington County	Cinnaminson, township of	340092	05/15/78
Union County	Clark, township of	345290	05/14/76
Hunterdon County	Clinton, town of	340233	02/02/77
Camden County	Collingswood, borough of	340131	07/17/76
Union County	Cranford, township of	345291	01/30/76
Monmouth County	Deal, borough of	340292	06/24/77
Burlington County	Delran, township of	340094	05/02/77
Morris County	Denville, township of	345292	12/05/75
Ocean County	Dover, township of	345293	04/23/76
Cumberland County	Downe, township of	340167	02/15/78
Bergen County	Dumont, borough of	340026	05/05/78
Middlesex County	Dunellen, borough of	340259	04/01/77
Morris County	East Hanover, township of	340341	04/16/78
Hudson County	East Newark, borough of	340219	09/30/77
Essex County	East Orange, city of	340181	02/02/77
Union County	Elizabeth, city of	345523	06/27/78
Mercer County	Ewing, township of	345294	01/30/76
Essex County	Fairfield, borough of	345295	07/16/76
Somerset County	Far Hills, borough of	340433	07/03/78
Union County	Garwood, borough of	340484	02/01/77
Somerset County	Green Brook, township of	340435	03/15/77
Camden County	Haddonfield, borough of	340501	12/23/77
Burlington County	Hainesport, township of	340099	07/16/79
Atlantic County	Hamilton, township of	340009	03/15/77
Morris County	Hanover, township of	340343	12/01/77
Hudson County	Harrison, town of	340221	09/30/77
Ocean County	Harvey Cedars, borough of	345296	02/13/76
Middlesex County	Highland Park, borough of	340263	09/16/77
Monmouth County	Highlands, borough of	345297	06/30/76
Mercer County	Hightstown, borough of	340247	03/15/77
Mercer County	Hopewell, borough of	340248	02/15/78
Mercer County	Hopewell, township of	345298	11/13/78
Bergen County	Ho-Ho-Kus, borough of	340044	06/01/77
Ocean County	Island Heights, borough of	340374	06/15/79
Hudson County	Kearny, town of	340224	12/01/77
Monmouth County	Keyport, borough of	340304	07/02/79
Ocean County	Lacey, township of	340376	09/01/77
Ocean County	Lakewood, township of	340378	03/15/77
Ocean County	Lavallette, borough of	340379	04/16/76
Camden County	Lawnside, borough of	340502	09/01/78
Mercer County	Lawrence, township of	340250	12/01/77
Hunterdon County	Lebanon, borough of	345298	04/16/76
Morris County	Lincoln Park, borough of	345300	06/06/76
Union County	Linden, city of	340467	11/24/76
Monmouth County	Little Silver, borough of	340305	02/01/78
Essex County	Livingston, township of	340185	07/14/78
Monmouth County	Lock Arbour, village of	340306	03/15/79
Bergen County	Lodi, borough of	340047	02/15/78
Ocean County	Long Beach, township of	345301	03/05/76
Monmouth County	Long Branch, city of	340307	01/13/78
Atlantic County	Longport, borough of	345302	08/22/75
Bergen County	Lyndhurst, township of	340048	06/15/78
Morris County	Madison, borough of	340347	07/16/79
Monmouth County	Manalapan, township of	340308	09/15/77
Monmouth County	Manasquan, borough of	345303	01/16/76
Ocean County	Mantoloking, borough of	340363	08/30/77
Somerset County	Manville, borough of	340437	02/15/78
Essex County	Maplewood, township of	340186	09/15/77
Atlantic County	Margate City, city of	345304	02/13/76
Monmouth County	Marlboro, township of	340310	06/15/78
Cumberland County	Maurice River, township of	340172	01/19/78
Bergen County	Maywood, borough of	340050	12/30/77
Middlesex County	Metuchen, borough of	345305	01/09/76
Cape May County	Middle, township of	340154	05/16/77
Bergen County	Midland Park, borough of	340051	09/30/77
Essex County	Millburn, township of	340187	08/01/79
Somerset County	Millstone, borough of	340436	04/03/78
Monmouth County	Monmouth Beach, borough of	340315	05/16/77
Essex County	Montclair, town of	340188	09/15/77
Burlington County	Moorestown, township of	340105	09/15/78
Burlington County	Mount Holly, township of	340106	08/01/79
Union County	Mountainside, borough of	340466	02/16/77
Monmouth County	Neptune, township of	340317	02/16/77
Bergen County	New Milford, borough of	340054	06/09/78
Union County	New Providence, borough of	345306	09/03/76
Bergen County	North Arlington, borough of	340055	04/03/78
Somerset County	North Plainfield, City of	345307	02/13/76
Cape May County	North Wildwood, city of	345308	12/19/75
Essex County	Nutley, town of	340191	05/16/77
Bergen County	Oakland, borough of	345309	07/23/78
Cape May County	Ocean City, city of	345310	12/26/75
Monmouth County	Oceanport, borough of	340320	02/16/77
Monmouth County	Ocean, township of	340319	10/14/77
Bergen County	Old Tappan, borough of	340059	04/15/77
Bergen County	Oradell, borough of	340060	03/15/77
Burlington County	Palmyra, borough of	340110	06/01/78
Morris County	Passaic, township of	340356	10/14/77
Passaic County	Paterson, city of	340404	02/16/77
Somerset County	Peapack and Gladstone, borough of	340441	12/15/77
Camden County	Peninsauken, township of	340142	04/15/77
Morris County	Pequannock, township of	345311	09/03/76
Union County	Plainfield, city of	345312	06/13/75
Monmouth County	Point Pleasant Beach, borough of	340388	06/15/79
Ocean County	Point Pleasant, borough of	345313	04/09/76
Passaic County	Pompton Lakes, borough of	345528	10/15/76
Passaic County	Prospect Park, borough of	340406	04/03/78
Union County	Rahway, city of	345314	08/05/75
Bergen County	Ridgefield, borough of	340065	03/15/77
Burlington County	Riverside, township of	340113	07/02/79

V 44 O C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 2.—*New Jersey*—*Continued*			
Burlington County	Riverton, borough of	340114	04/15/77
Morris County	Rockaway, borough of	345315	09/26/75
Union County	Roselle, borough of	340472	07/17/78
Monmouth County	Rumson, borough of	345316	04/23/76
Bergen County	Rutherford, borough of	340072	08/01/78
Bergen County	Saddle River, borough of	340073	05/16/77
Union County	Scotch Plains, township of	340474	09/30/77
Monmouth County	Sea Bright, borough of	345317	04/23/78
Monmouth County	Sea Girt, borough of	340325	04/16/76
Cape May County	Sea Isle City, city of	345318	12/26/75
Ocean County	Seaside Heights, borough of	340389	07/16/79
Ocean County	Seaside park, borough of	345319	03/19/78
Ocean County	Ship Bottom, borough of	345320	08/29/75
Monmouth County	Shrewsbury, borough of	340326	08/01/79
Camden County	Somerdale, borough of	340145	02/01/79
Essex County	South Orange, village of	340194	07/18/77
Monmouth County	Spring Lake, borough of	340329	03/05/76
Union County	Springfield, township of	345321	01/09/78
Hunterdon County	Stockton, borough of	345322	11/14/75
Cape May County	Stone Harbor, borough of	345323	11/14/75
Union County	Summit, city of	340476	02/02/76
Ocean County	Surf city, borough of	345324	11/07/75
Mercer County	Trenton, city of	345325	01/02/76
Union County	Union, township of	340477	06/01/78
Bergen County	Upper Saddle River, borough of	340077	02/10/78
Cape May County	Upper, township of	340159	12/10/76
Atlantic County	Ventnor, city of	345326	12/26/75
Camden County	Voorhees, township of	340538	09/01/78
Bergen County	Waldwich, borough of	340078	03/01/79
Monmouth County	Wall, township of	340333	02/16/77
Somerset County	Warren, township of	340446	01/05/78
Mercer County	Washington, township of	340255	09/29/78
Passaic County	Wayne, township of	345327	11/19/76
Essex County	West Caldwell, borough of	340196	04/16/79
Essex County	West Orange, town of	340197	05/02/77
Cape May County	West Wildwood, borough of	345328	10/17/75
Cape May County	Wildwood Crest, borough of	345330	12/26/75
Cape May County	Wildwood, city of	345329	12/19/75
Burlington County	Willingboro, township of	340119	07/02/79
Middlesex County	Woodbridge, township of	345331	04/30/76
Bergen County	Wyckoff, township of	340084	08/01/77
Total communities reported in State: 171			
Region 2.—*New York*			
Jefferson County	Alexandria Bay, village of	360327	04/03/78
Cattaraugus County	Allegany, town of	360061	11/15/78
Cattaraugus County	Allegany, village of	360967	04/17/78
Suffolk County	Amityville, village of	360788	09/01/77
Allegany County	Andover, village of	360022	04/02/79
Wayne County	Arcadia, town of	360972	11/02/77
Westchester County	Ardsley, village of	360902	09/29/78
Suffolk County	Asharoken, village of	365333	10/10/75
Erie County	Aurora, town of	360227	04/16/79
Livingston County	Avon, town of	360380	05/15/78
Livingston County	Avon, village of	360379	08/01/78
Suffolk County	Babylon, town of	360790	07/16/79
Suffolk County	Babylon, village of	360791	08/01/77
Steuben County	Bath, village of	360767	05/19/78
Chautauqua County	Bemus Point, village of	360133	11/02/77
Broome County	Binghamton, city of	360038	06/01/77
Bronx County	Bolivar, village of	360026	11/01/78
Westchester County	Briarcliff Manor, village of	360904	02/01/78
Westchester County	Bronxville, village of	360905	03/01/79
Suffolk County	Brookhaven, town of	365334	06/11/76
Cayuga County	Brutus, town of	360104	04/16/79
Ontario County	Canandaigua, town of	360598	04/17/78
Orleans County	Carlton, town of	360642	11/01/78
Chautauqua County	Cassadaga, village of	361053	12/01/77
Cayuga County	Cayuga, village of	360107	07/05/77
Erie County	Cheektowaga, town of	360231	06/18/78
Chautauqua County	Cherry Creek, village of	360136	02/15/78
Monroe County	Chili, town of	360412	02/01/79
Jefferson County	Clayton, village of	360331	12/01/77
Cattaraugus County	Cold Spring, town of	360064	03/01/78
Erie County	Colden, town of	360233	07/02/79
Erie County	Collins, town of	360234	05/16/77
Livingston County	Conesus, town of	360382	10/14/77
Broome County	Conklin, town of	360042	05/16/77
Steuben County	Corning, city of	360772	12/01/77
Allegany County	Cuba, village of	360029	04/17/78
Livingston County	Dansville, village of	360383	11/01/78
Broome County	Deposit, village of	360043	02/01/79
Onondaga County	Dewitt, town of	360873	03/01/79
Broome County	Dickinson, town of	360044	04/15/77
Westchester County	Dobbs Ferry, village of	360908	04/16/79
Tompkins County	Dryden, village of	360647	01/03/79
Erie County	East Aurora, village of	365335	12/05/75
Suffolk County	East Hampton, town of	360794	09/30/76
Cattaraugus County	East Randolph, village of	360068	02/01/78
Nassau County	East Rockaway, village of	360463	12/01/78
Cattaraugus County	Ellicottville, town of	360069	05/15/78
Cattaraugus County	Ellicottville, village of	360070	02/01/79
Jefferson County	Ellisburg, town of	360334	08/15/78
Erie County	Elma, town of	360239	06/01/77
Westchester County	Elmsford, village of	360910	06/15/79
Broome County	Endicott, village of	360045	05/15/78
Erie County	Evans, town of	360240	09/30/77
Cayuga County	Fair Haven, village of	360109	02/01/78
Chautauqua County	Falconer, village of	360138	01/05/78
Washington County	Fort Edward, village of	361536	06/15/78
Cattaraugus County	Franklinville, town of	360072	07/17/78
Cattaraugus County	Franklinville, village of	360073	07/03/78
Nassau County	Freeport, village of	360464	02/14/76
Livingston County	Geneseo, town of	360384	08/01/78
Ontario County	Geneva, town of	360600	02/15/78
Nassau County	Glen Cove, city of	360465	03/01/78
Ontario County	Gorham, town of	360601	01/05/78
Cattaraugus County	Gowanda, village of	360075	08/01/77
Cattaraugus County	Great Valley, town of	360076	07/17/78
Orange County	Greenwood Lake, village of	360616	06/15/79
Livingston County	Groveland, town of	360385	12/15/78
Monroe County	Hamlin, town of	360418	02/01/78
Steuben County	Hammondsport, village of	360775	04/17/78
Chautauqua County	Hanover, town of	365336	10/31/75
Westchester County	Hastings-on-Hudson, village of	360913	04/02/79
Nassau County	Hempstead, town of	360467	04/16/79
Herkimer County	Herkimor, village of	360307	08/01/78
Nassau County	Hewlett, Harbor, village of	360469	06/15/79
Cattaraugus County	Hinsdale, town of	360077	01/17/79
Erie County	Holland, town of	360245	05/01/79
Monroe County	Honeoye Falls, village of	360421	09/30/77
Suffolk County	Huntington, town of	360796	11/01/78
Monroe County	Irondequoit, town of	360422	11/15/78
Westchester County	Irvington, village of	360814	03/15/79
Cattaraugus County	Ischua, town of	360079	08/15/78
Nassau County	Island Park, village of	360471	02/14/78
Suffolk County	Islip, town of	365337	03/26/78
Chautauqua County	Jamestown, city of	360141	06/01/78
Broome County	Johnson City, village of	360047	09/30/77
Orleans County	Kendall, town of	360643	05/01/78
Broome County	Kirkwood, town of	360048	06/01/77
Chautauqua County	Lakewood, village of	360142	11/02/77
Erie County	Lancaster, village of	360248	07/02/79
Westchester County	Larchmont, village of	360915	09/01/77
Sullivan County	Liberty, village of	360824	09/30/77
Cattaraugus County	Limestone, village of	360081	04/17/78
Suffolk County	Lindenhurst, village of	360798	06/15/77
Cattaraugus County	Little Valley, village of	360082	02/01/78
Livingston County	Livonia, town of	360366	02/01/78

County name	Community name	Community ID No.	Effective date of latest revision
Suffolk County	Lloyd Harbor, village of	360799	02/15/78
Nassau County	Long Beach, city of	365338	10/31/75
Franklin County	Malone, village of	360272	04/03/78
Westchester County	Mamaroneck, town of	360917	06/15/79
Westchester County	Mamaroneck, village of	360916	12/01/77
Onondaga County	Manlius, village of	360977	09/29/78
Erie County	Marilla, town of	360250	09/29/78
Chautauqua County	Mayville, village of	361059	01/05/78
Cayuga County	Mentz, town of	360115	07/17/78
Herkimer County	Mohawk, village of	360314	04/17/78
Livingston County	Mount Morris, town of	360387	08/01/78
Livingston County	Mount Morris, village of	360969	08/01/78
Westchester County	Mount Vernon, city of	360920	10/17/78
Ontario County	Naples, village of	360603	09/30/77
Orange County	New Windsor, town of	360628	12/15/78
Wayne County	Ontario, town of	360885	06/01/78
Suffolk County	North Haven, village of	360800	05/26/78
Nassau County	North Hempstead, town of	360482	04/15/77
Suffolk County	Ocean Beach, village of	365339	10/17/75
Monroe County	Ogden, town of	360424	04/16/79
Cattaraugus County	Olean, city of	360088	11/01/78
Cattaraugus County	Olean, town of	360089	02/01/79
Otsego County	Oneonta, city of	360667	09/29/78
Schenectady County	Nickayuna, town of	360739	03/01/78
Jefferson County	Orleans, town of	360345	03/01/78
Oswego County	Oswego, city of	360656	05/16/77
Tioga County	Owego, town of	360839	06/15/77
Tioga County	Owego, village of	360840	05/16/77
Nassau County	Oyster Bay, town of	360483	08/01/78
Steuben County	Painted Post, village of	360779	09/30/77
Wayne County	Palmyra, town of	360974	03/01/78
Chautauqua County	Panama, village of	360143	03/01/78
Monroe County	Parma, town of	360425	08/01/78
Westchester County	Pelham Manor, village of	360926	01/03/79
Westchester County	Pelham, village of	360925	04/02/79
Monroe County	Pennton, town of	360428	09/29/78
Monroe County	Pittsford, town of	360429	09/29/78
Clinton County	Plattsburgh, city of	360168	04/17/78
Westchester County	Pleasantville, village of	360927	02/15/79
Onondaga County	Pompey, town of	360590	01/03/79
Broome County	Port Dickinson, village of	360053	05/02/77
Orange County	Port Jervis, city of	360976	06/01/78
Cattaraugus County	Portville, town of	360093	04/17/78
Cattaraugus County	Portville, village of	360094	04/17/78
Dutchess County	Poughkeepsie, town of	361142	11/15/78
Steuben County	Pulteney, town of	360780	09/30/77
Suffolk County	Quogue, village of	360806	05/16/77
Rockland County	Ramapo, town of	365340	05/14/76
Cattaraugus County	Randolph, village of	360096	08/01/78
Allegany County	Richburg, village of	360032	01/05/78
Oswego County	Richland, town of	360660	02/15/78
Suffolk County	Riverhead, town of	360805	03/01/78
Monroe County	Rochester, city of	360431	11/01/78
Suffolk County	Sag Harbor, village of	360807	01/05/78
Cattaraugus County	Salamanca, city of	360097	04/17/78
Suffolk County	Saltaira, village of	365341	02/06/78
Nassau County	Sea Cliff, village of	360493	02/01/78
Suffolk County	Shelter Island, town of	360809	02/01/78
Chautauqua County	Sherman, village of	361502	03/01/78
Chautauqua County	Sinclairville, village of	360145	12/01/77
Suffolk County	Smithtown, town of	360810	12/01/78
Wayne County	Sodus Point, village of	360899	11/02/77
Wayne County	Sodus, town of	360898	02/01/78
Steuben County	South Corning, village of	360782	03/01/78
Cattaraugus County	South Dayton, village of	360099	01/05/78
Suffolk County	Southampton, town of	365342	09/03/76
Suffolk County	Southampton, village of	365343	09/12/75
Monroe County	Spencerport, village of	360433	08/15/78
Rockland County	Spring Valley, village of	365344	09/26/75
Erie County	Tonawanda, city of	360259	08/01/79
Westchester County	Tuckahoe, village of	360934	02/15/79
Broome County	Union, town of	360056	03/01/78
Steuben County	Urbana, town of	360783	01/19/78
Onondaga County	Van Buren, town of	360596	07/17/78
Broome County	Vestal, town of	360057	07/05/77
Erie County	Wales, town of	360261	06/15/79
Dutchess County	Wappingers Falls, village of	360223	09/01/78
Dutchess County	Wappinger, town of	361387	06/15/79
Schuyler County	Watkins Glen, village of	360750	07/17/78
Steuben County	Wayne, town of	360785	11/02/77
Allegany County	Wellsville, village of	360036	07/17/78
Ontario County	West Bloomfield, town of	360607	06/01/78
Erie County	West Seneca, town of	360262	02/02/77
Suffolk County	Westhampton Beach, village of	365345	02/06/78
Monroe County	Wheatland, town of	360436	09/15/78
Oneida County	Whitesboro, village of	360566	02/01/78
Wayne County	Williamson Town	360900	10/17/78
Niagara County	Wilson, town of	360514	02/01/78
Niagara County	Wilson, village of	360978	04/17/78
Orleans County	Yates, town of	360645	09/29/78
Total communities reported in State: 185.			
Region 2.—*Puerto Rico*			
Total communities reported in State: 1.			
Region 3.—*Delaware*			
Sussex County	Bethany Beach, town of	105083	03/10/78
Kent County	Clayton, town of	100005	06/01/77
New Castle County	Delaware City, city of	100022	02/16/77
New Castle County	Elsmere, town of	100023	12/31/76
Sussex County	Fenwick Island, town of	105084	09/26/75
Kent County	Harrington, city of	100010	06/01/77
Sussex County	Henlopen Acres, town of	100053	08/15/78
Kent County	Kent County*	100001	03/15/78
Kent County	Leipsic, town of	100014	09/29/78
Sussex County	Lewes, city of	100041	03/15/77
Kent County	Little Creek, town of	100015	01/17/78
Kent County	Milford, city of	100042	07/14/78
Sussex County	Millsboro, town of	100043	09/01/78
Sussex County	Milton, town of	100045	08/01/78
New Castle County	New Castle County	105085	12/26/75
New Castle County	New Castle, city of	100026	12/26/75
New Castle County	Newark, city of	100025	12/26/75
New Castle County	Newport, town of	100054	08/15/78
Sussex County	Rehoboth Beach, city of	105086	03/12/78
Sussex County	Seaford, city of	100048	02/01/79
Kent County	Smyrna, town of	100017	03/10/78
Sussex County	South Bethany, town of	100051	10/06/78
Sussex County	Sussex County*	100029	10/06/77
New Castle County	Wilmington, city of	100028	05/02/77
Total communities reported in State: 24.			
Region 3.—*Maryland*			
Independent city	Baltimore, city of	240087	03/15/78
Carroll County	Carroll County*	240015	08/01/78
Allegany County	Cumberland, city of	240003	09/01/78
Dorchester County	Federalsburg, town of	240013	03/15/77
Frederick County	Frederick County*	240027	06/01/78
Frederick County	Frederick, city of	240030	06/15/78
Washington County	Funkstown, town of	240073	02/01/78
Washington County	Hagerstown, city of	240074	04/17/78
Harford County	Harve De Grace, city of	240043	03/15/77

V 44 0 C 23 7 9 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 3.—*Maryland*—*Continued*			
Howard County	Howard County*	240044	03/15/77
Prince Georges County	Laurel, city of	240053	11/01/76
Garrett County	Loch Lynn Heights, town of	240037	06/15/79
Allegany County	Luke, town of	240114	07/16/79
Allegany County	Midland, town of	240006	08/15/79
Montgomery County	Montgomery County*	240049	07/02/79
Garrett County	Oakland, town of	240039	07/16/79
Worcester County	Ocean City, town of	245207	02/06/78
Cecil County	Perryville, town of	240024	03/01/77
Cecil County	Port Deposit, town of	240025	02/16/77
Prince Georges County	Prince Georges County	245208	08/28/76
Montgomery County	Rockville, city of	240051	01/05/78
Carroll County	Sykesville, town of	240016	09/30/77
Carroll County	Union Bridge, town of	240017	08/01/77
Washington County	Washington County*	240070	05/01/78
Allegany County	Westernport, city of	240007	07/16/79
Carroll County	Westminster, city of	240018	12/01/77
Worcester County	Worcester County*	240083	02/15/78
Total communities reported in State: 27			
Region 3.—*Pennsylvania*			
Montgomery County	Abington, township of	420695	09/30/77
Westmoreland County	Allegheny, township of	420869	09/29/78
Montgomery County	Ambler, borough of	420947	11/02/77
Berks County	Amity, township of	420124	07/18/77
Lebanon County	Annville, township of	420570	04/15/77
Bradford County	Athens, borough of	420167	03/15/77
Allegheny County	Baldwin, borough of	420007	08/15/78
Northampton County	Bangor, borough of	420716	02/02/77
Luzerne County	Baer Creek, township of	421136	09/29/78
Centre County	Bellefonte, borough of	420257	02/02/77
Bucks County	Bensalem, township of	420181	07/17/78
Columbia County	Benton, township of	421037	08/01/78
Northampton County	Bethlehem, city of	420718	07/03/78
Perry County	Bloomfield, borough of	420746	03/01/78
Schuylkill County	Blythe, township of	420767	06/15/77
Lycoming County	Brady, township of	421169	07/18/79
Columbia County	Briar Creek, borough of	420340	08/15/79
Montgomery County	Bridgeport, borough of	420948	01/03/79
Bucks County	Bridgeton, township of	420182	08/30/77
Bucks County	Bristol, township of	420984	09/29/78
Delaware County	Brookhaven, borough of	420403	02/14/78
Bucks County	Buckingham, township of	420985	03/15/79
Union County	Buffalo, township of	421237	04/01/77
Mifflin County	Burnham, borough of	420684	02/15/78
Butler County	Butler, city of	420212	04/17/78
Butler County	Butler, township of	421138	07/03/78
Cumberland County	Camp Hill, borough of	420357	03/15/77
Cumberland County	Carlisle, borough of	425382	10/10/75
Allegheny County	Carnegie, borough of	420019	05/01/78
Clinton County	Castanea, township of	420322	02/02/77
Indiana County	Center, township of	420496	02/15/78
Bucks County	Chalfont, borough of	420184	12/28/76
Franklin County	Chambersburg, borough of	420469	07/17/78
Montgomery County	Cheltenham, township of	420696	11/22/78
Delaware County	Chester, city of	420404	08/01/79
Lebanon County	Cleona, borough of	420571	04/01/77
Columbia County	Cleveland, township of	421000	08/01/79
Delaware County	Clifton Heights, borough of	420407	09/30/77
Indiana County	Clymer, borough of	420498	09/15/77
Delaware County	Collingdale, borough of	420408	02/02/77
Delaware County	Colwyn, borough of	420409	05/02/77
Delaware County	Concord, township of	420410	01/05/78
Fayette County	Connellsville, city of	420459	03/01/78
Montgomery County	Conshohocken, borough of	420949	12/15/77
Luzerne County	Conyngham, township of	420600	02/16/77
Allegheny County	Coraopolis, borough of	420025	06/15/79
Erie County	Corry, city of	420447	02/15/78
Potter County	Coudersport, borough of	420761	08/15/79
Schuylkill County	Cressona, borough of	420769	08/01/77
Berks County	Cumru_township of	420130	01/03/79
Lackawanna County	Dalton, borough of	420998	11/01/78
Montour County	Danville, borough of	420714	05/02/77
Delaware County	Darby, borough of	420411	07/18/77
Dauphin County	Dauphin, borough of	420375	03/01/77
Westmoreland County	Derry, borough of	420674	06/01/78
Mifflin County	Derry, township of	421168	09/01/78
Dauphin County	Derry, township of	420376	09/30/77
Montour County	Derry, township of	421135	08/01/78
Westmoreland County	Derry, township of	421205	06/01/78
Berks County	Douglass, township of	420131	08/15/77
Chester County	Downingtown, borough of	420275	04/15/77
Bucks County	Doylestown, township of	420185	09/29/78
Allegheny County	Dravosburg, borough of	420027	06/15/79
Cameron County	Driftwood, borough of	420245	07/16/79
Lycoming County	Duboistown, borough of	420639	03/01/77
Clearfield County	Dubois, city of	420303	12/01/78
Clinton County	Dunnstable, township of	420325	03/01/77
Bucks County	Durham, township of	420186	08/15/78
Berks County	Earl, township of	420132	07/18/77
Chester County	East Bradford, township of	420276	04/15/77
Union County	East Buffalo, township of	421011	02/02/77
Chester County	East Goshen, township of	420277	07/05/77
Lebanon County	East Hanover, township of	421012	08/15/79
Montgomery County	East Norriston, township of	420950	09/30/77
Cumberland County	East Pennsboro, township of	420359	04/15/77
Clinton County	East Penn, township of	421013	06/15/77
Bucks County	East Rockhill, township of	420187	06/01/77
Monroe County	East Stroudsburg, borough of	420691	09/29/78
Chester County	East Vincent, township of	420278	12/01/77
Northampton County	Easton, city of	425383	02/06/78
Delaware County	Eddystone, borough of	420413	02/02/77
Delaware County	Edgmont, township of	420414	09/01/77
Luzerne County	Edwardsville, borough of	420604	04/15/77
Lancaster County	Elizabethtown, borough of	420550	04/17/78
Allegheny County	Elizabeth, township of	420033	03/15/77
Lehigh County	Emmaus, borough of	420588	09/01/77
Cameron County	Emporium, borough of	420246	02/01/78
Erie County	Erie, city of	420449	03/01/79
Allegheny County	Etna, borough of	421062	09/01/78
Fayette County	Everson, borough of	420462	08/01/79
Luzerne County	Exeter, borough of	420605	05/16/77
Erie County	Fairview, township of	420450	09/29/78
York County	Fairview, township of	420923	02/15/78
Mercer County	Farrell, city of	420673	04/17/78
Juniata County	Fermanagh, township of	420517	02/01/78
Clinton County	Flemington, borough of	420326	02/02/77
Delaware County	Folcroft, borough of	420415	06/01/77
Luzerne County	Forty Fort, borough of	420607	04/01/77
Allegheny County	Fox Chapel, Borough of	420036	04/15/77
Venango County	Franklin, city of	420835	09/29/78
Columbia County	Franklin, township of	420343	08/01/79
Carbon County	Franklin, township of	421014	06/01/77
Northampton County	Freemansburg, borough of	420721	09/01/77
Tioga County	Gaines, township of	421005	09/01/78
Cameron County	Gibson, township of	421130	09/01/77
Schuylkill County	Gilberton, borough of	421007	05/02/77
Allegheny County	Glassport, borough of	420038	06/15/79
Schuylkill County	Gordon, borough of	420773	11/15/78
Mifflin County	Granville, township of	421134	08/15/78
Westmoreland County	Greensburg, city of	420877	10/17/78
Mercer County	Grove City, borough of	420675	09/30/77
Cameron County	Grove, township of	421128	07/18/77
Centre County	Haines township of	420261	08/01/78
Cumberland County	Hampden, township of	420360	02/15/78
Allegheny County	Hampton, township of	420978	05/01/78
Luzerne County	Hanover, township of	420608	09/15/78
Northampton County	Hanover, township of	420722	08/01/77
Beaver County	Harmony, township of	421038	01/03/79
Dauphin County	Harrisburg, city of	420380	05/02/77
Allegheny County	Harrison, township of	420041	09/29/78

County name	Community name	Community ID No.	Effective date of latest revision
Montgomery County	Hatboro, borough of	420697	06/15/77
Montgomery County	Hatfield, borough of	420698	08/15/78
Delaware County	Haverford, township of	420417	07/05/77
Columbia County	Hemlock township of	420344	08/01/79
Westmoreland County	Hempfield, township of	420678	09/29/78
Northumberland County	Herndon, borough of	420735	08/01/79
Dauphin County	Highspire, borough of	420381	04/15/77
Indiana County	Homer City, borough of	420500	09/30/77
Wayne County	Honesdale, borough of	420864	11/30/73
Montgomery County	Horsham, township of	420700	11/16/77
Perry County	Howe, township of	421145	08/15/79
Bucks County	Hulmeville borough of	420190	09/30/77
Dauphin County	Hummelstown, borough of	420382	03/15/77
Huntingdon County	Huntingdon, borough of	420486	09/29/78
Northumberland County	Jackson, township of	421938	08/15/79
Tioga County	Jackson, township of	420820	09/01/78
Westmoreland County	Jeannette, city of	420882	04/17/78
Luzerne County	Jenkins, township of	420611	05/16/77
Lycoming County	Jersey Shore, borough of	420642	03/05/76
Carbon County	Jim Thorpe, borough of	420249	08/15/77
Elk County	Johnsonburg, borough of	420443	09/29/78
Cambria County	Johnstown, city of	420231	04/15/77
Perry County	Juniata, township of	421140	05/01/78
McKean County	Keating, township of	420667	06/01/78
Union County	Kelly, township of	422103	03/01/77
Berks County	Kenhorst, borough of	420135	02/15/78
Luzerne County	Kingston, borough of	420612	06/01/77
Mifflin County	Kistler, borough of	420686	09/15/77
Northumberland County	Kulpmont, borough of	420736	05/01/78
Berks County	Kutztown, borough of	420138	05/02/77
Schuylkill County	Landingville, borough of	420774	08/15/77
Montgomery County	Lansdale, borough of	420951	05/01/78
Luzerne County	Larksville, borough of	420614	04/01/77
Erie County	Lawrence Park, township of	420451	09/29/78
Lancaster County	Leacock, township of	420958	03/01/78
Berks County	Leesport, borough of	420138	05/18/77
Carbon County	Lehighton, borough of	420251	09/15/77
Union County	Lewisburg, borough of	420831	02/02/77
Mifflin County	Lewistown, borough of	420687	08/15/78
McKean County	Liberty, township of	420668	09/01/77
Westmoreland County	Ligonier, township of	420884	09/01/78
Perry County	Liverpool, borough of	420750	08/15/79
Clinton County	Lock Haven, city of	420328	02/02/77
Columbia County	Locust, township of	421001	08/01/78
Cumberland County	Lower Allen, township of	421016	09/30/77
Berks County	Lower Alsace, township of	420140	07/05/77
Montgomery County	Lower Frederick, township of	420952	09/30/77
Montgomery County	Lower Gwynedd, township of	420953	10/14/77
Lehigh County	Lower Macungie, township of	420589	02/02/77
Bucks County	Lower Makefield, township of	420191	09/30/77
Montgomery County	Lower Merion, township of	420701	02/01/78
Lehigh County	Lower Milford, township of	421039	04/17/78
Montgomery County	Lower Moreland, township of	420702	03/01/78
Northampton County	Lower Mount Bethel, township of	420724	03/01/77
Montgomery County	Lower Providence, township of	420703	07/02/79
Bucks County	Lower Southampton, township of	420192	03/15/77
Dauphin County	Lower Swatara, township of	420385	04/15/77
Cambria County	Lower Yoder, township of	420233	02/01/78
Lycoming County	Loyalsock, township of	421040	05/16/77
Cameron County	Lumber, township of	421129	01/05/78
Luzerne County	Luzerne, borough of	420616	04/15/77
Montour County	Mahoning, township of	421234	04/15/77
Carbon County	Mahoning, township of	421041	09/29/78
Lancaster County	Manheim, township of	420556	08/15/78
Westmoreland County	Manor, borough of	420886	09/01/77
Huntingdon County	Mapleton, borough of	420487	07/05/77
Delaware County	Marple, township of	420420	09/01/77
Perry County	Marysville, borough of	420751	05/16/77
Schuylkill County	McAdoo, borough of	420778	04/17/78
Erie County	McKean, borough of	422418	09/30/77
Allegheny County	McKees Rocks, borough of	420052	05/16/77
Allegheny County	McKeesport, city of	420051	01/03/79
Crawford County	Meadville, city of	420351	06/01/77
Mercer County	Mercer, borough of	420676	03/15/77
Dauphin County	Middle Paxton, township of	420387	08/15/79
Dauphin County	Middletown, borough of	420388	12/28/76
Northumberland County	Lower Augusta, township of	421017	06/01/79
Delaware County	Middletown, township of	420422	02/15/79
Juniata County	Mifflin, borough of	420518	02/01/78
Columbia County	Mifflin, township of	421167	08/15/79
Centre County	Milesburg, borough of	420264	02/02/77
Clinton County	Mill Hall, borough of	420330	02/16/77
Erie County	Millcreek, township of	420452	04/16/79
Allegheny County	Millvale, borough of	420053	07/16/79
Northumberland County	Milton, borough of	425384	11/28/75
Allegheny County	Monroeville, borough of	420054	06/01/79
Snyder County	Monroe, Township of	421020	02/02/77
Lycoming County	Montgomery, borough of	420646	06/15/78
Lycoming County	Montoursville, borough of	420648	06/15/77
Columbia County	Montour, township of	421002	06/01/79
Allegheny County	Moon, township of	421062	08/15/79
Northampton County	Moore, TWP	420983	10/17/78
Bucks County	Morrisville, borough of	420194	09/30/77
Northumberland County	Mount Carmel, borough of	420738	07/17/78
Westmoreland County	Mount Pleasant, township of	420888	07/18/77
Huntingdon County	Mount Union, borough of	420489	07/18/77
Berks County	Muhlenberg, township of	420144	09/01/77
Lycoming County	Muncy, borough of	420649	02/16/77
Lebanon County	Myerstown, borough of	420575	07/05/77
Luzerne County	Nanticoke, city of	420617	04/15/77
Delaware County	Nether Providence, township of	420424	12/01/78
Allegheny County	Neville, township of	425385	09/05/75
Bucks County	New Britain, borough of	420986	04/02/79
Bucks County	New Britain, township of	420987	09/30/77
Perry County	New Buffalo, borough of	420753	04/02/79
Lawrence County	New Castle, city of	420568	08/15/78
Cumberland County	New Cumberland, borough of	420366	02/16/77
Bucks County	New Hope, borough of	420195	12/15/77
Westmoreland County	New Kensington, city of	420691	09/29/78
Schuylkill County	New Philadelphia, borough of	420779	08/15/77
Perry County	Newport, borough of	420754	08/15/79
Mifflin County	Newton Hamilton, borough of	420689	02/15/78
Bucks County	Nockamixon, township of	420197	11/02/77
Montgomery County	Norristown, borough of	425386	12/05/75
Chester County	North Coventry, township of	420283	08/15/78
Westmoreland County	North Huntingdon, township of	420893	09/29/78
Montgomery County	North Wales, borough of	420704	08/30/77
York County	North York, borough of	420933	05/02/77
Northumberland County	Northumberland, borough of	420739	02/02/77
Venango County	Oil City, city of	420837	07/05/77
Lycoming County	Old Lycoming, township of	420652	04/15/77
Perry County	Oliver, township of	421022	08/15/78
Berks County	Ontelaunee, township of	420986	06/01/77
Columbia County	Orangeville, borough of	420345	08/01/79
Columbia County	Orange, township of	421003	08/01/79
Carbon County	Palmerton, borough of	420253	09/15/78
Northampton County	Palmer, township of	420728	03/10/78
Wayne County	Palmyra, township of	420885	03/15/77
Delaware County	Parkside, borough of	420426	07/05/77
Carbon County	Parryville, borough of	420254	03/01/78
Wayne County	Paupack, township of	421023	03/01/77
Chester County	Pennsbury, township of	420285	12/28/76
Bucks County	Perkasie, borough of	420198	03/01/77
Philadelphia County	Philadelphia, city of	420757	08/15/79
Clinton County	Pine Creek, township of	420332	04/01/77
Luzerne County	Pittston, city of	420620	05/02/77
Luzerne County	Plains, township of	420621	05/16/77
Bucks County	Plumstead, township of	420199	09/29/78
Luzerne County	Plymouth, borough of	420622	04/01/77
Montgomery County	Plymouth, township of	420955	02/15/78
Luzerne County	Plymouth, township of	420623	04/15/77
Chester County	Pocopson, township of	420286	04/15/77
Northumberland County	Point, township of	421026	05/02/77
McKean County	Port Allegany, borough of	420671	08/15/78

V 44 0 C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 3.—*Pennsylvania —Continued*			
Schuylkill County	Port Carbon, borough of	420783	01/19/78
Juniata County	Port Royal, borough of	420520	01/05/78
Cameron County	Portage, township of	421132	08/15/78
Lycoming County	Porter, township of	420656	01/14/77
Montgomery County	Pottstown, borough of	420705	09/30/77
Schuylkill County	Pottsville, city of	420785	07/05/77
Luzerne County	Pringle, borough of	420624	05/02/77
Jefferson County	Punxsutawney, borough of	420512	02/15/79
Bucks County	Quakertown, borough of	420200	07/05/77
Delaware County	Radnor, township of	420428	08/01/77
Northumberland County	Ralpho, township of	421027	02/15/79
Berks County	Reading, city of	420145	09/29/78
Clinton County	Renovo, borough of	420334	12/28/76
Allegheny County	Reserve, township of	420066	04/15/77
Jefferson County	Reynoldsville, borough of	420513	04/17/78
Elk County	Ridgway, township of	420445	09/29/78
Bucks County	Riegelsville, borough of	420201	04/17/78
Northumberland County	Riverside, borough of	420740	04/15/77
Blair County	Roaring Spring, borough of	420163	09/01/77
Delaware County	Rose Valley, borough of	420431	02/02/77
Dauphin County	Royalton, borough of	420394	04/15/77
Perry County	Rye, township of	421028	08/15/79
Lehigh County	Salisbury, township of	420591	01/03/79
Bradford County	Sayre, borough of	420175	04/15/77
Schuylkill County	Schuylkill Haven, borough of	420787	12/01/77
Snyder County	Selinsgrove, borough of	425387	10/31/75
Bucks County	Sellersville, borough of	420203	02/15/78
Westmoreland County	Sewickley, township of	422193	06/01/78
Snyder County	Shamokin Dam, borough of	420809	03/01/77
Delaware County	Sharon Hill, borough of	420432	08/15/79
Mercer County	Sharon, city of	420678	10/17/78
Allegheny County	Sharpsburg, borough of	420073	09/29/78
Lawrence County	Shenango, township of	421028	04/03/78
Luzerne County	Shickshinny, borough of	420626	12/31/76
Berks County	Shillington, borough of	420148	08/01/77
Cumberland County	Shippensburg, borough of	420368	03/15/79
Cameron County	Shippen, township of	421103	04/17/78
Berks County	Shoemakersville, borough of	420149	06/15/79
McKean County	Smethport, borough of	420672	04/17/78
Huntingdon County	Smithfield, township of	420494	03/15/77
Bucks County	Solebury, township of	420202	04/15/77
Somerset County	Somerset, borough of	420803	11/29/76
Dauphin County	South Hanover, township of	420395	05/02/77
Clinton County	South Renovo, borough of	420335	02/02/77
Allegheny County	South Versailles, township of	421281	08/01/79
Lehigh County	South Whitehall, township of	420593	02/01/78
Lycoming County	South Williamsport, borough of	420658	04/15/77
York County	Spring Garden, township of	420937	06/15/77
York County	Springettsbury, township of	421031	12/15/77
Montgomery County	Springfield, township of	425388	01/02/76
Delaware County	Springfield, township of	420434	01/19/78
Bucks County	Springfield, township of	420204	01/03/79
Centre County	Spring, township of	420269	04/15/77
Dauphin County	Steelton, borough of	420396	04/15/77
Cambria County	Stonycreek, township of	420241	02/15/78
Monroe County	Stroudsburg, borough of	420694	12/31/76
Monroe County	Stroud, township of	420693	04/15/77
Schuylkill County	St. Clair, borough of	420786	03/15/77
Northumberland County	Sunbury, city of	420743	07/18/77
Dauphin County	Susquehanna, township of	420397	04/15/77
Westmoreland County	Sutersville, borough of	420902	08/01/77
Delaware County	Swarthmore, borough of	420435	05/15/77
Luzerne County	Swoyersville, borough of	420627	06/15/77
Bradford County	Sylvania, borough of	420177	04/03/78
Schuylkill County	Tamaqua, borough of	425389	10/31/75
Berks County	Temple, borough of	420153	07/18/77
Chester County	Thornbury, township of	420290	03/01/77
Delaware County	Thornbury, township of	425390	10/17/75
Bucks County	Tinicum, township of	420205	02/01/79
Crawford County	Titusville, city of	420354	02/15/78
Delaware County	Trainer, borough of	420437	09/30/77
Chester County	Tredyffrin, township of	420291	04/17/78
Juniata County	Turbett, township of	420522	03/01/78
Northumberland County	Turbot, township of	420744	08/15/79
Fayette County	Uniontown, city of	420466	05/01/78
Berks County	Union, township of	420155	08/15/77
Union County	Union, township of	420634	08/01/79
Washington County	Union, township of	420660	02/02/77
Westmoreland County	Unity, township of	420964	07/17/78
Delaware County	Upland, borough of	420438	12/10/76
Northumberland County	Upper Augusta, township of	420745	05/18/77
Delaware County	Upper Chichester, township of	420439	05/16/77
Delawara Country	Upper Darby, township of	420440	03/01/78
Montgomery County	Upper Dublin, township of	420708	01/03/79
Montgomery County	Upper Gwynedd, township of	420956	03/01/78
Lehigh County	Upper Macungie, township of	421044	04/02/79
Bucks County	Upper Makefield, township of	420207	10/17/78
Montgomery County	Upper Merion, township of	420957	11/16/77
Montgomery County	Upper Providence, township of	420709	07/03/78
Delaware County	Upper Providence, township of	420441	06/15/77
Bucks County	Upper Southampton, township of	420989	04/03/78
Fayette County	Upper Tyrone, township of	420487	03/15/79
Juniata County	Walker, township of	420523	08/01/78
Northampton County	Walnutport, borough of	420732	06/01/78
Bucks County	Warminster, township of	420990	03/01/78
Bucks County	Warrington, township of	420208	09/29/78
Bucks County	Warwick, township of	420209	09/29/78
Perry County	Watts, township of	420756	08/15/79
Washington County	West Brownsville, borough of	425391	08/22/75
Chester County	West Chester, borough of	420292	07/05/77
Northumberland County	West Chillisquaque, township of	421033	04/15/77
Montgomery County	West Conshohocken, borough of	420710	11/02/77
Northampton County	West Easton, borough of	420733	03/01/79
Allegheny County	West Elizabeth, borough of	420083	09/29/78
Cumberland County	West Fairview, borough of	420373	02/16/77
Chester County	West Goshen, township of	420293	11/02/77
Lebanon County	West Lebanon, township of	421166	04/15/77
Crawford County	West Mead, township of	420356	06/15/77
Westmoreland County	West Newton, borough of	420906	07/18/77
Montgomery County	West Norriton, township of	420711	09/30/77
Luzerne County	West Pittston, borough of	420628	04/15/77
Berks County	West Reading, borough of	420156	03/16/78
Chester County	West Whiteland, township of	420295	05/02/77
Luzerne County	West Wyoming, borough of	420629	07/22/77
Chester County	Westtown, township of	420294	03/10/78
Mercer County	Wheatland, borough of	420681	02/15/78
Luzerne County	White Haven, borough of	420630	08/01/77
Lehigh County	Whitehall, township of	420595	03/01/78
Montgomery County	Whitemarsh, township of	420712	12/01/77
Montgomery County	Whitpain, township of	420713	01/05/78
Luzerne County	Wilkes-Barre, city of	420631	09/30/77
Allegheny County	Wilkins, township of	420090	09/29/78
Blair County	Williamsburg, borough of	420165	03/01/78
Lycoming County	Williamsport, city of	420662	12/01/77
Allegheny County	Wilmerding, borough of	420091	08/01/79
Cumberland County	Wormleysburg, borough of	420374	02/12/77
Bucks County	Wrightstown, township of	421045	08/15/78
Luzerne County	Wyoming, borough of	420633	11/16/77
Bradford County	Wysox, township of	420977	02/01/78
Bucks County	Yardley, borough of	420210	08/01/77
York County	York, city of	420945	06/15/77

Total communities reported in State: 395.

Region 3.—*Virginia*

Independent city	Alexandria, city of	515519	10/22/76
Campbell County	Altavista, town of	510029	08/01/78
Amherst County	Amherst County*	510010	07/17/78
Amherst County	Amherst, town of	510193	11/02/77
Appomattox County	Appomattox County*	510011	07/17/78
Arlington County	Arlington County	515520	12/31/76
Bedford County	Bedford County*	510016	09/29/78
Independent city	Bedford, city of	510015	08/01/78
Wise County	Big Stone Gap, town of	515521	10/22/76
Tazewell County	Bluefield, town of	510161	07/17/78
Franklin County	Boones Mill, town of	510062	09/01/78
Botetourt County	Botetourt County*	510018	06/15/78
Campbell County	Brookneal, town of	510030	03/01/78
Botetourt County	Buchanan, town of	510019	11/02/77
Buckingham County	Buckingham County*	510026	07/17/78
Independent city	Buena Vista, city of	510027	06/01/78
Campbell County	Campbell County*	510028	10/17/78
Independent city	Charlottsville, city of	510033	06/15/79
Pittsylvania County	Chatham, town of	510114	02/01/79
Independent city	Chesapeake, city of	510034	02/02/77
Smyth County	Chilhowie, town of	510185	06/15/78
Accomack County	Chincoteague, town of	510002	03/01/77
Russell County	Cleveland, town of	515522	05/14/76
Independent city	Clifton Forge, city of	510036	08/01/78
Fairfax County	Clifton, town of	510186	05/02/77
Scott County	Clinchport, town of	510143	09/29/78
Fluvanna County	Columbia, town of	510059	09/29/78
Independent city	Covington, city of	510040	01/03/79
Cumberland County	Cumberland County*	510043	02/15/79
Dinwiddie County	Dinwiddie County*	510187	01/17/79
Scott County	Dungannon, town of	510144	07/16/79
Rockingham County	Elkton, town of	510137	06/15/78
Independent city	Emporia, city of	510047	09/30/77
Fairfax County	Fairfax County*	515525	05/14/78
Independent city	Fairfax, city of	515524	10/31/75
Cumberland County	Farmville, town of	510118	09/01/78
Botetourt County	Fincastle, town of	510020	05/15/78
Fluvanna County	Fluvanna County*	510058	08/15/78
Frederick County	Frederick County*	510063	07/17/78
Independent city	Fredericksburg, city of	510065	07/02/79
Independent city	Galax, city of	510066	09/29/78
Scott County	Gate City, town of	510145	03/15/79
Rockbridge County	Glasgow, town of	515526	12/12/75
Giles County	Glen Lyn, town of	510269	03/15/79
Goochland County	Goochland County*	510072	03/01/79
Rockbridge County	Goshen, town of	510217	06/15/78
Greensville County	Greensville County*	510073	06/29/78
Rockingham County	Grottoes, town of	510138	09/15/78
Halifax County	Halifax County*	510188	08/01/78
Independent city	Hampton, city of	515527	06/11/76
Dickerson County	Hayse, town of	510046	01/17/79
Fairfax County	Herdon, town of	510052	08/01/79
Pittsylvania County	Hurt, town of	510219	04/02/79
Brunswick County	Lawrenceville, town of	510023	07/17/78
Independent City	Lexington, city of	510089	08/01/78
Loudoun County	Loudoun County*	510090	01/05/78
Independent County	Lynchburg, city of	510093	09/01/78
Prince William County	Manassas Park, city of	510123	09/29/78
Prince William County	Manassas, city of	510122	01/03/79
Mecklenburg County	Mecklenburg county*	510189	08/15/78
Montgomery County	Montgomery County*	510099	10/17/78
Giles County	Narrows, town of	510068	09/15/78
Nelson County	Nelson county*	510102	08/01/78
Independent City	Newport News, city of	510103	05/02/77
Independent City	Norfolk, city of	510104	08/01/79
Northampton County	Northampton County*	510105	08/11/76
Independent City	Norton, city of	510108	02/16/77
Prince William County	Occoquan, town of	510124	09/01/78
Giles County	Pembroke, town of	510069	06/01/78
York County	Poquoson, city of (independent city)	510183	05/16/77
Independent City	Portsmouth, city of	515529	11/21/75
Powhatan County	Powhatan County*	510117	09/15/78
Prince Edward County	Prince Edward County*	510239	09/01/78
Pulaski County	Pulaski County*	510125	09/29/78
Pulaski County	Pulaski, town of	510126	06/01/78
Prince William Count	Quantico, town of	510232	08/15/78
Independent City	Radford, city of	510127	08/01/78
Giles County	Rich Creek, town of	510070	06/15/79
Independent City	Richmond, city of	510190	10/17/78
Roanoke County	Roanoke County*	510190	10/17/78
Rockbridge County	Rockbridge County*	510205	01/03/79
Smyth County	Saltville, town of	510191	03/01/78
Shenandoah County	Shenandoah County*	510147	08/01/78
Independent City	South Boston, city of	510153	03/15/78
Independent City	Staunton, city of	510155	12/01/78
Patrick County	Stuart, town of	510111	09/01/78
Wise County	St. Paul, town of	515530	07/23/78
Botetourt County	Troutville, town of	510021	10/14/77
Roanoke County	Vinton, town of	510191	03/15/78
Independent City	Virginia Beach, city of	515531	10/06/76
Fauquier County	Warrenton, town of	510057	08/01/79
Independent City	Waynesboro, city of	515532	12/05/75
Scott County	Weber City, town of	510148	11/15/78
Independent City	Winchester, city of	510173	11/15/78
Wythe County	Wythe County*	510180	02/01/79
Wythe County	Wytheville, town of	510181	04/03/78

Total communities reported in State: 96.

Region 3.—*West Virginia*

Barbour County	Belington, town of	540002	06/01/79
Logan County	Chapmanville, town of	540092	06/20/76
Harrison County	Clarksburg, city ofof	540056	02/15/78
Wingo County	Delbarton, town of	540134	03/15/77
Wayne County	Fort Gay, town of	540202	01/03/79
Mingo County	Gilbert, town of	540135	05/02/77
Mason County	Hartford, town of	540247	02/15/78
Mason County	Henderson, town of	540251	05/15/78
Summers County	Kinton, city of	540187	08/01/79
Mingo County	Kermit, town of	540136	03/01/78
Mason County	Leon, town of	540119	06/15/78
Logan County	Logan County*	545536	02/16/78
Logan County	Logan, city of	545535	12/19/75
Logan County	Man, town of	545537	12/26/75
Mason County	Mason, town of	540248	02/15/78
Mingo County	Matewan, town of	545538	12/26/75
Logan County	Mitchell Heights, town of	540095	06/27/76
Monongalia County	Morgantown, city of	540141	06/01/79
Wyoming County	Mullens, city of	540218	06/01/79
Mason County	New Haven, town of	540249	07/03/78
Tucker County	Parsons, town of	540194	06/15/79
Monroe County	Peterstown, town of	540143	08/01/79
Mason County	Point Pleasant, city of	540250	05/15/78
Jefferson County	Ranson, city of	540066	06/15/79
Roane County	Reedy, town of	540184	12/01/78
Jackson County	Ripley, city of	540064	09/01/77
Preston County	Rowlesburg, town of	540163	06/01/79
Roane County	Spencer, city of	540185	01/03/79
Monongalia County	Star City, town of	540273	06/01/78
Logan County	West Logan, town of	545539	11/01/75
Monongalia County	Westover, city of	540274	06/01/78
Greenbrier County	White Sulphur Springs, city of	540045	06/01/78

Total communities reported in State: 32.

Region 4.—*Alabama*

Pickens County	Aliceville, city of	010180	07/17/78
Baldwin County	Baldwin, county* of	015000	10/06/76
Mobile County	Bayou La Batre, city of	015001	04/02/76
Lowndes County	Benton, town of	015002	10/15/78
Pickens County	Carrollton, town of	010181	10/24/75
Mobile County	Chickasaw, town of	015003	10/17/78
Lawrence County	Courtland, town of	010141	04/17/78
Coffee County	Elba, city of	015004	01/05/78
Baldwin County	Fairhope, city of	010006	01/05/78
Morgan County	Falkville, town of	010140	05/02/77
Lauderdale County	Florence, city of	010140	05/02/77
Lauderdal County	Gordo, town of	010220	08/15/78

V44OC2379 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 4.—*Alabama*—Continued			
Baldwin County	Gulf Shores, town of	015005	05/14/76
Cullman County	Hanceville, town of	010059	09/15/78
Morgan County	Hartselle, city of	010178	07/17/78
Jefferson County	Homewood, city of	015006	08/06/76
Mobile County	Mobile, county*	015008	06/03/77
Mobile County	Mobile, city of	015007	10/20/78
Colbert County	Muscle Shoals, city of	010047	12/15/77
Autauga County	Prattville, city of	010002	08/15/78
Pickens County	Reform, town of	010221	07/03/78
Franklin County	Russellville, city of	010216	08/01/79
Mobile County	Satsuma, city of	010172	09/29/78
Colbert County	Sheffield, city of	010048	12/15/77
Tuscaloosa County	Tuscaloosa, city of	010203	02/01/79
Colbert County	Tuscumbia, city of	010049	12/01/77
Total communities reported in State: 26.			
Region 4.—*Florida*			
Manatee County	Anna Maria, city of	125087	02/20/76
Orange County	Apopka, city of	120160	09/29/78
Duval County	Atlantic Beach, city of	120075	03/15/77
Palm Beach County	Atlantis, city of	120183	11/01/78
Palm Beach County	Belle Glade, city of	120194	05/15/78
Orange County	Belle Isle, city of	120181	09/15/78
Pinellas County	Belleair Beach, city of	125089	11/28/75
Pinellas County	Belleair Bluffs, city of	120239	06/15/77
Pinellas County	Belleair Shore, town of	125090	10/17/75
Pinellas County	Belleair, town of	125088	08/13/76
Palm Beach County	Boca Raton, city of	120195	06/01/78
Palm Beach County	Boynton Beach, city of	120196	01/03/79
Manatee County	Bradenton Beach, city of	125091	02/20/76
Brevard County	Brevard County*	125092	08/06/76
Palm Beach County	Briny Breezes, town of	120197	05/15/78
Broward County	Broward County*	125093	05/26/78
Brevard County	Cape Canaveral, city of	125094	05/20/77
Charlotte County	Charlotte County*	120061	08/05/77
Pinellas County	Clearwater, city of	125095	07/08/77
Hendry County	Clewiston, city of	120108	03/15/77
Palm Beach County	Cloud Lake, town of	120198	05/15/78
Brevard County	Cocoa Beach, city of	125097	05/20/77
Broward County	Coconut Creek, city of	120031	04/02/79
Broward County	Cooper City, city of	120032	06/01/77
Broward County	Coral Springs, city of	120033	01/17/78
Dade County	Dade County	125098	08/25/78
Broward County	Dania, city of	120034	02/15/78
Broward County	Davie, town of	120035	07/13/76
Volusia County	Daytona Beach Shores, city of	125100	05/27/77
Volusia County	Daytona Beach, city of	125099	07/01/74
Broward County	Deerfield Beach, city of	125101	04/30/76
Palm Beach County	Delray Beach, city of	125102	07/16/76
Pinellas County	Dunedin, city of	125103	10/22/76
Orange County	Eatonville, town of	120182	12/01/78
Orange County	Edgewood, town of	120183	09/29/78
Escambia County	Escambia County*	120080	09/30/77
Collier County	Everglades, city of	125104	11/28/75
Nassau County	Fernandina Beach, city of	120172	01/14/77
Broward County	Fort Lauderdale, city of	125105	05/26/78
Lee County	Fort Myers, city of	125106	07/01/74
St. Lucie County	Fort Pierce, city of	120286	12/01/77
Okaloosa County	Fort Walton Beach, city of	120174	04/01/77
Alachua County	Gainesville, city of	125107	03/19/76
Palm Beach County	Glen Ridge, town of	120200	05/15/78
Clay County	Green Cove Springs, city of	120065	03/01/79
Santa Rosa County	Gulf Breeze, city of	120275	09/01/77
Palm Beach County	Gulf Stream, town of	125109	09/26/75
Pinellas County	Gulfport, city of	125108	12/17/76
Broward County	Hacienda, village of	120038	06/01/78
Broward County	Hallandale, city of	125110	05/26/78
Palm Beach County	Highland Beach, town of	125111	01/09/76
Broward County	Hillsboro Beach, town of	120040	04/17/78
Volusia County	Holly Hill, city of	125112	04/22/77
Broward County	Hollywood, city of	125113	05/26/78
Manatee County	Holmes Beach, city of	125114	08/13/78
Palm Beach County	Hypoluxo, town of	120207	05/15/78
Brevard County	Indialantic, town of	125115	05/07/76
Brevard County	Indian Harbor Beach, city of	125116	09/26/75
Indian River County	Indian River County*	120119	07/03/78
Pinellas County	Indian Rocks Beach, city of	125117	06/13/76
Pinellas County	Indian Shores, town of	125118	06/06/75
Duval County	Jacksonville Beach, city of	120078	03/15/77
Duval County	Jacksonville, city of	120077	12/01/77
Palm Beach County	Juno Beach, town of	120208	12/01/78
Palm Beach County	Jupiter Inlet Colony, town of	125120	04/16/76
Martin County	Jupiter Island, town of	120162	02/02/77
Palm Beach County	Jupiter, town of	125119	05/14/76
Monroe County	Key Colony Beach, city of	125121	01/05/76
Monroe County	Key West, city of	120188	10/29/76
Palm Beach County	Lake Clarke Shores, town of	120211	11/01/78
Palm Beach County	Lake Park, town of	120212	09/15/78
Palm Beach County	Lake Worth, city of	120213	12/01/78
Palm Beach County	Lantana, town of	120214	10/01/76
Pinellas County	Largo, city of	125122	04/07/78
Broward County	Lauderdale by the Sea, city of	125123	04/30/76
Broward County	Lauderhill, city of	120044	06/15/78
Monroe County	Layton, city of	120189	01/23/76
Broward County	Lighthouse Point, city of	125125	04/30/76
Manatee County	Longboat Key, town of	125126	02/20/76
Bay County	Lynn Haven, city of	120009	06/01/77
Pinellas County	Madeira Beach, city of	125127	10/17/75
Palm Beach County	Manalapan, town of	120215	10/01/76
Manatee County	Manatee County*	120153	02/20/76
Palm Beach County	Mangonia Park, town of	120216	03/01/78
Broward County	Margate, city of	120047	01/19/78
Brevard County	Melbourne Beach, town of	125128	10/03/75
Brevard County	Melbourne, city of	120025	07/01/79
Bay County	Mexico Beach, town of	120010	07/18/77
Santa Rosa County	Milton, city of	120276	06/01/77
Broward County	Miramar, city of	120048	12/01/77
Monroe County	Monroe County*	125129	07/02/76
Collier County	Naples, city of	125130	02/13/76
Escambia County	Navarre Beach	125131	04/22/77
Duval County	Neptune Beach, city of	120079	03/15/77
Volusia County	New Smyrna Beach, city of	125132	05/27/77
Broward County	North Lauderdale, city of	120049	04/02/79
Palm Beach County	North Palm Beach, village of	120217	06/15/78
Pinellas County	North Redington Beach, town of	125133	01/07/77
Broward County	Oakland Park, city of	120050	12/01/77
Palm Beach County	Ocean Ridge, town of	125134	12/05/75
Orange County	Ocoee, city of	120185	11/01/78
Okaloosa County	Okaloosa County*	120173	07/01/77
Pinellas County	Oldsmar, city of	120250	11/12/76
Volusia County	Ormond Beach, city of	125136	05/27/77
Palm Beach County	Pahokee, city of	120219	05/15/78
Palm Beach County	Palm Beach County*	120192	02/01/79
Palm Beach County	Palm Beach Gardens, city of	120221	01/03/79
Palm Beach County	Palm Beach Shores, town of	125137	12/30/77
Palm Beach County	Palm Beach, town of	120220	05/15/78
Palm Beach County	Palm Springs, village of	120223	03/01/78
Bay County	Panama City Beach, city of	120013	06/01/77
Bay County	Panama City, city of	120012	07/18/77
Broward County	Parkland, city of	120051	04/02/79
Broward County	Pembroke Park, town of	120052	05/01/79
Broward County	Pembroke Pines, city of	120053	12/15/77
Escambia County	Pensacola Beach, city of	125138	07/01/74
Escambia County	Pensacola, city of	120082	09/15/77
Pinellas County	Pinellas County*	125139	07/08/77
Pinellas County	Pinellas Park, city of	120251	08/15/77
Broward County	Plantation, city of	120054	09/15/77
Volusia County	Ponce Inlet, town of	120312	10/08/76
Volusia County	Port Orange, city of	120313	05/16/77
Charlotte County	Punta Gorda, city of	120062	09/19/75
Pinellas County	Redington Beach, town of	125140	09/26/75
Pinellas County	Redington Shores, town of	125141	10/17/75
Palm Beach County	Riviera Beach, city of	125142	10/24/75
Pinellas County	Safety Harbor, city of	125143	10/22/76
Lee County	Sanibel, city of	120402	04/16/79
Santa Rosa County	Santa Rosa County*	120274	10/14/77
Sarasota County	Sarasota County*	125144	04/02/78
Sarasota County	Sarasota, city of	125150	02/20/76
Brevard County	Satellite Beach, city of	120029	04/23/76
Broward County	Sea Ranch Lakes, village of	120056	02/16/77
Martin County	Sewalls Point, town of	120164	08/15/78
Volusia County	South Daytona, city of	120314	10/06/76
Palm Beach County	South Palm Beach, town of	120227	05/15/78
Pinellas County	South Pasadena, city of	125151	10/31/75
Martin County	Stuart, city of	120165	08/15/78
St. Johns County	St. Augustine Beach, town of	125146	10/31/75
St. Johns County	St. Augustine, city of	125145	11/28/75
St. Johns County	St. Johns County*	125147	05/28/76
Pinellas County	St. Petersburg Beach, city of	125149	10/17/75
Pinellas County	St. Petersburg, city of	125148	06/10/77
Broward County	Sunrise, city of	120328	03/15/79
Leon County	Tallahassee, city of	120144	12/06/76
Broward County	Tamarac, city of	120058	02/15/78
Pinellas County	Tarpon Springs, city of	120259	01/07/77
Hillsborough County	Temple Terrace, city of	120115	07/08/77
Palm Beach County	Tequesta, village of	120228	10/06/76
Brevard County	Titusville, city of	125152	04/30/78
Pinellas County	Treasure Island, city of	125153	09/26/75
Okaloosa County	Valparaiso, city of	120178	04/01/77
Sarasota County	Venice, city of	125154	02/20/76
Indian River County	Vero Beach, city of	120124	09/30/77
Volusia County	Volusia County*	125155	07/01/77
Walton County	Walton County*	120317	11/18/77
Palm Beach County	West Palm Beach, city of	120229	03/01/79
Broward County	Wilton Manors, city of	125156	05/26/78
Orange County	Winter Garden, city of	120187	09/29/78
Levy County	Yankeetown, town of	120147	02/27/78
Total communities reported in State: 160.			

County name	Community name	Community ID No.	Effective date of latest revision
Region 4.—*Georgia*			
Cobb County	Acworth, city of	130053	02/15/78
Cook County	Adel, city of	130060	09/01/77
Dougherty County	Albany, city of	130075	08/15/77
Fulton County	Alpharetta, city of	130084	02/15/78
Clarke County	Athens, city of	130040	09/15/78
Fulton County	Atlanta, city of	135157	11/12/76
Richmond County	Augusta, city of	130159	02/15/78
Cobb County	Austell, city of	130054	12/01/77
Gordon County	Calhoun, city of	130095	04/01/77
Mitchell County	Camilla, city of	130137	05/01/78
Carroll County	Carrollton, city of	130208	04/03/78
Polk County	Cedartown, city of	130153	05/15/78
De Kalb County	Chamblee, city of	130066	09/15/77
Clarke County	Clarke County*	130243	12/15/78
Clayton County	Clayton County*	130041	08/15/78
Cobb County	Cobb County	130052	01/03/79
Fulton County	College Park, city of	130086	09/15/78
Muscogee County	Columbus, city of	135158	07/01/77
Rockdale County	Conyers, city of	130213	12/01/78
De Kalb County	Decatur, city of	135159	11/28/75
De Kalb County	Doraville, city of	130069	09/01/77
Dougherty County	Dougherty County*	130074	04/17/78
Coffee County	Douglas, city of	130216	07/16/79
Fulton County	East Point, city of	130087	03/15/77
Fulton County	Forest Park, city of	130042	05/18/77
Fulton County	Fulton County*	135160	09/03/78
Chatham County	Garden City, city of	135161	03/19/76
Jeff Davis County	Hazlehurst, city of	130114	08/01/79
Troup County	La Grange, city of	130177	12/01/78
Walker County	Lafayette, city of	130182	02/15/78
Cobb County	Marietta, city of	130226	02/15/78
Baldwin County	Milledgeville, city of	130006	06/01/79
Colquitt County	Moultrie, city of	130199	05/15/79
Coweta County	Newnan, city of	130082	11/15/78
Paulding County	Paulding County*	130147	04/02/79
Fayette County	Peachtree City, city of	130078	12/01/77
Houston County	Perry, city of	130110	01/19/78
Chatham County	Port Wentworth, city of	135162	12/26/75
Berrien County	Ray City, city of	130009	04/01/77
Catoosa County	Ringgold, city of	130029	06/15/78
Clayton County	Riverdale, city of	130047	02/15/78
Rockdale County	Rockdale County*	130384	02/15/79
Floyd County	Rome, city of	130081	09/15/78
Fulton County	Roswell, city of	130088	12/15/77
Chatham County	Savannah Beach, town of	135164	09/05/75
Chatham County	Savannah, city of	135163	07/01/74
Cobb County	Smyrna, city of	130057	12/15/77
Cook County	Sparks, town of	130061	11/16/77
Thomas County	Thomasville, city of	130170	05/16/77
Tift County	Tifton, city of	130171	05/01/78
Lowndes County	Valdosta, city of	130200	01/19/78
Chatham County	Vernonburg, town of	135165	10/31/75
Houston County	Warner Robins, city of	130111	12/01/78
Total communities reported in State: 53.			
Region 4.—*Kentucky*			
Boyd County	Ashland, city of	210017	09/29/78
Knox County	Barbourville, city of	210132	12/01/77
Lee County	Beattyville, city of	210136	07/03/78
Marshall County	Benton, city of	210163	03/15/77
Campbell County	California, city of	210036	04/03/78
Boyd County	Catlettsburg, city of	210018	01/03/79
Kenton County	Covington, city of	210129	06/15/79
Harlan County	Cumberland, city of	210100	03/15/77
Harlan County	Harlan County*	210098	06/15/78
Harlan County	Harlan, city of	210102	01/17/79
Perry County	Hazard, city of	215188	02/20/78
Henderson County	Henderson, city of	210109	06/15/78
Jefferson County	Jefferson County*	210120	04/18/79
Jefferson County	Jeffersontown, city of	210121	03/05/76
Jessamine County	Jessamine County	210125	08/01/78
Jefferson County	Louisville, city of	210122	07/17/78
Harlan County	Loyall, city of	215189	11/07/75
Harlan County	Lynch, city of	210104	07/02/79
Bell County	Middlesboro, city of	215190	11/14/75
Perry County	Perry County*	215191	08/13/78
Bell County	Pineville, city of	210012	06/01/78
Jefferson County	Shively, city of	210124	08/01/78
Jefferson County	St. Matthews, city of	210123	03/05/76
Harlan County	Wallins Creek, city of	215192	05/23/75
Hardin County	West Point, city of	210097	11/02/77
Woodford County	Woodford County*	210230	06/01/78
Total communities reported in State: 26.			
Region 4.—*Mississippi*			
Monroe County	Aberdeen, city of	280115	02/01/78
Monroe County	Amory, city of	280118	04/17/78
Hancock County	Bay St. Louis, city of	295251	10/31/75
Harrison County	Biloxi, city of	285252	04/16/76
Hinds County	Bolton, town of	280216	04/03/78
Lincoln County	Brookhaven, city of	280107	07/16/77
Carroll County	Carroll County*	280191	07/03/78
Claiborne County	Claiborne County*	280201	05/01/78
Bolivar County	Cleveland, city of	280018	09/01/78
Lowdnes County	Columbus, city of	280106	07/13/76

V 44 0C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 4.—*Mississippi —Continued*			
Sunflower County	Drew, city of	280163	05/01/78
Jones County	Ellisville, city of	280091	09/30/77
Washington County	Greenville, city of	280179	08/01/79
Grenada County	Grenada County*	280060	12/01/78
Grenada County	Grenada, city of	280061	03/01/79
Harrison County	Gulfport, city of	285253	02/20/78
Hancock County	Hancock County*	285254	04/03/78
Harrison County	Harrison County*	285255	06/15/78
Forrest County	Hattiesburg, city of	280053	11/12/76
Hinds County	Hinds County*	280070	07/02/79
Sunflower County	Indianola, city of	280164	01/03/79
Sunflower County	Inverness, town of	280165	05/15/78
Humphreys County	Isola, town of	280190	07/03/78
Leflore County	Itta Bena, city of	280103	04/03/78
Jackson County	Jackson County*	285256	04/03/78
Attala County	Kosciusko, city of	280007	07/02/79
Jones County	Laurel, city of	280092	10/13/78
Washington County	Leland, city of	280181	02/15/79
Harrison County	Long Beach, city of	285257	10/17/75
Humphreys County	Louise, town of	280206	05/01/79
Winston County	Louisville, city of	280185	06/15/78
Pike County	McComb, city of	280132	08/01/79
Lauderdale County	Meridian, city of	280096	12/15/77
Sunflower County	Moorhead, city of	280166	04/17/78
Leflore County	Morgan City, town of	280104	04/03/78
Jackson County	Moss Point, city of	285258	04/09/76
Adams County	Natchez, city of	280001	06/01/78
Carroll County	North Carrollton, town of	290026	04/03/78
Jackson County	Ocean Springs, city of	285259	07/01/74
Lafayette County	Oxford, city of	280094	09/29/78
Jackson County	Pascagoula, city of	285260	05/14/76
Harrison County	Pass Christian, city of	285261	10/17/75
Claiborne County	Port Gibson, town of	280033	06/15/78
Sunflower County	Ruleville, town of	280167	05/01/78
Tate County	Senatobia, city of	280171	09/29/78
Leflore County	Sidon, town of	280106	03/15/78
Sunflower County	Sunflower, town of	280168	07/17/78
Hinds County	Terry, town of	280073	04/03/78
Tunica County	Tunica, town of	280196	01/05/78
Lee County	Tupelo, city of	280100	04/03/78
Carroll County	Vaiden, town of	280029	03/15/78
Hancock County	Waveland, city of	285262	04/16/76
Clay County	West Point, city of	280037	01/05/78

Total communities reported in State: 53.

Region 4.—*North Carolina*

Carteret County	Atlantic Beach, town of	370044	03/15/77
Carteret County	Beaufort, town of	375346	06/12/77
Beaufort County	Belhaven, town of	370015	05/16/77
Henderson County	Blowing Rock, town of	370252	06/01/78
Transylvania County	Brevard, city of	370231	09/29/78
Haywood County	Canton, town of	370121	02/02/77
Carteret County	Cape Carteret, town of	370046	04/01/77
New Hanover County	Carolina Beach, town of	375347	05/02/75
Wake County	Cary, town of	370238	07/17/78
Durham County	Chapel Hill, town of	370180	04/17/78
Mecklenburg County	Charlotte, city of	370159	08/15/78
Rowan County	China Grove, town of	370210	09/29/78
Dare County	Dare, County*	375348	10/06/78
Durham County	Durham, County*	370085	02/15/79
Durham County	Durham, city of	370086	01/17/79
Rowan County	East Spencer, town of	370211	07/03/78
Chowan County	Edenton, town of	370062	09/15/77
Rockingham County	Eden, city of	370206	01/05/78
Pasquotank County	Elizabeth City, city of	370185	04/03/78
Surry County	Elkin, town of	370225	08/15/78
Carteret County	Emerald Isle, town of	370047	04/01/77
Rowan County	Faith, town	370352	07/03/78
Cumberland County	Fayetteville, city of	370077	10/17/78
Forsyth County	Forsyth, County*	375349	05/14/76
Macon County	Franklin, town of	375350	08/13/76
Wake County	Fuquay-Varina, town of	370239	11/01/78
Wake County	Garner, town of	370240	07/03/78
Gaston County	Gastonia, city of	370100	02/01/78
Rowan County	Granite Quarry, town of	370212	09/15/78
Guilford County	Greensboro, city of	375351	05/21/76
Pitt County	Greenville, city of	370191	07/03/78
Brunswick County	Holden Beach, town of	375352	04/16/76
Dare County	Kill Devil Hills, town of	375353	03/05/76
Wake County	Knightdale, town of	370241	08/01/78
Rowan County	Landis, town of	370213	07/03/78
Brunswick County	Long Beach, town of	375354	12/26/75
Rockingham County	Madison, town of	370207	11/16/77
Dare County	Manteo, town of	375355	09/06/78
Madison County	Marshall, town of	370154	05/15/78
Rockingham County	Mayodan, town of	370208	07/18/77
Carteret County	Morehead City, town of	370048	02/16/77
Wake County	Morrisville, town of	370242	11/01/76
Dare County	Nags Head, town of	375356	10/17/75
Nash County	Nash, County*	370278	06/01/78
Craven County	New Bern, city of	370074	06/01/78
New Hanover County	New Hanover, County*	370168	07/17/78
Carteret County	Newport, town of	370049	05/15/78
Wilkes County	North Wilkesboro, city of	370257	02/15/78
Brunswick County	Ocean Isle Beach, town of	375357	12/05/75
Wake County	Raleigh, city of	370243	06/16/78
Rockingham County	Reidsville, city of	370209	09/29/78
Halifax County	Roanoke Rapids, city of	370117	04/17/78
Rowan County	Rockwell, town of	370214	06/15/78
Edgecombe County	Rocky Mount, city of	370092	05/01/78
Transylvania County	Rosman, town of	375358	03/18/78
Cleveland County	Shelby, city of	370084	04/03/78
Brunswick County	Southport, city of	370028	04/15/77
Rowan County	Spencer, town of	370216	09/29/78
Brunswick County	Sunset Beach, town of	375359	02/20/76
Pender County	Surf City, town of	370186	05/02/77
Edgecombe County	Tarboro, town of	370094	01/05/78
Pender County	Topsail Beach, town of	370187	09/30/77
Wake County	Wake County*	370368	11/15/78
Wake County	Wake Forest, town of	370244	07/03/78
Beaufort County	Washington, Park, town of	370268	11/22/76
Beaufort County	Washington, city of	370017	02/02/77
Wake County	Wendell, town of	370245	06/01/78
New Hanover County	Wilmington, city of	370171	04/17/78
Bertie County	Windsor, town of	370019	07/18/77
Forsyth County	Winston-Salem, city of	375360	07/09/76
New Hanover County	Wrightsville Beach, town of	375361	09/05/75
Brunswick County	Yaupon Beach, town of	370030	02/16/77
Wake County	Zebulon, town of	370246	07/03/78

Total communities reported in State: 73.

Region 4.—*South Carolina*

Aiken County	Aiken, city of	450003	04/16/79
Horry County	Atlantic Beach, town of	450222	05/15/78
Beaufort County	Beaufort County*	450025	09/30/77
Beaufort County	Beaufort, city of	450026	05/02/77
Horry County	Briarcliff Acres, town of	450232	06/15/79
Charleston County	Charleston County*	455413	11/12/76
Charleston County	Charleston, city of	455412	09/03/78
Chesterfield County	Cheraw, town of	450050	09/29/78
Colleton County	Edisto Beach, town of	455414	06/17/77
Charleston County	Folly Beach, township of	455415	10/03/75
Georgetown County	Georgetown, city of	450087	09/29/78
Horry County	Grand Strand flood district	450107	07/03/78
Charleston County	Isle of Palms, city of	455416	10/03/75
Greenville County	Mauldin, city of	450196	09/29/78
Charleston County	Mount Pleasant, town of	455417	09/03/78
Horry County	Myrtle Beach, city of	450109	10/27/78

County name	Community name	Community ID No.	Effective date of latest revision
Charleston County	North Charleston, city of	450042	10/06/78
Horry County	North Myrtle Beach, town of	450110	10/14/77
Beaufort County	Port Royal, town of	450028	04/15/77
Spartanburg County	Simpsonville, city of	450092	09/29/78
Spartanburg County	Spartanburg, city of	450181	06/01/78
Charleston County	Sullivan's Island, township of	455418	10/31/75
Sumter County	Sumter, city of	450184	03/01/78
Horry County	Surfside Beach, town of	450111	12/17/76
Georgetown County	Waccamaw Neck flood district	450088	03/01/78
Lexington County	West Columbia, city of	450140	02/15/79

Total communities reported in State: 26.

Region 4.—*Tennessee*

Blount County	Alcoa, city of	475421	04/15/77
McMinn County	Athens, city of	470211	06/15/78
Williamson County	Brentwood, city of	470205	02/01/78
Anderson County	Clinton, town of	470001	07/18/77
Hamilton County	Collegedale, city of	475422	08/27/76
Maury County	Columbia, city of	475423	04/30/78
Hamilton County	East Ridge, city of	475424	09/15/78
Carter County	Elizabethton, city of	475425	05/20/77
Sevier County	Gatlinburg, city of	475426	02/18/77
Hamilton County	Hamilton County*	470071	08/01/79
Roane County	Harriman, city of	475427	09/03/76
Campbell County	Jacksboro, town of	475428	05/28/76
Marion County	Jasper, town of	475429	06/10/77
Jefferson County	Jefferson City, town of	475430	09/24/78
Campbell County	Jellico, city of	475431	10/03/75
Washington County	Johnson City, city of	475432	07/01/74
Knox County	Knox County	475433	03/18/77
Knox County	Knoxville, city of	475434	02/11/77
Campbell County	Lafollette, city of	475435	11/12/76
Anderson County	Lake City, town of	475436	11/26/76
Lawrence County	Lawrenceburg, city of	475437	03/05/76
Loudon County	Lenoir City, city of	475438	06/11/76
Loudon County	Loudon County*	470107	08/15/76
Loudon County	Loudon, city of	470110	04/03/78
Coffee County	Manchester, city of	470035	10/17/78
Blount County	Maryville, city of	475439	08/06/76
Warren County	McMinnville, city of	470195	12/01/77
Hamblen County	Morristown, city of	470070	06/15/78
Cocke County	Newport, town of	475440	07/23/76
Anderson County	Oak Ridge, city of	475441	07/23/76
Sevier County	Pigeon Forge, city of	475442	10/01/76
Hamilton County	Red Bank, city of	470076	03/15/79
Roane County	Rockwood, city of	475443	01/14/77
Sevier County	Sevierville, town of	475444	08/27/76
Hamilton County	Soddy-Daisy, city of	475445	02/11/77
Obion County	South Fulton, city of	475446	12/19/75
Marion County	South Pittsburg, city of	475447	02/18/77
White County	Sparta, city of	470203	11/02/77
Rhea County	Spring City, town of	475448	11/12/76
Claiborne County	Tazewell, city of	475449	07/23/76
Coffee County	Tullahoma, city of	470036	04/16/79
Cannon County	Woodbury, town of	470021	09/01/77

Total communities reported in State: 42.

Region 5.—*Illinois*

Du Page County	Addison, village of	170198	03/15/79
Cook County	Arlington Heights, village of	170056	05/01/78
Kankakee County	Aroma Park, village of	170740	11/02/77
Kane County	Aurora, city of	170320	06/15/79
Lake County	Bannockburn, village of	170359	06/15/79
Kankakee County	Bourbonnais, village of	170337	09/29/78
Kankakee County	Bradley, village of	170338	03/01/78
St. Clair County	Cahokia, village of	170620	10/17/78
Alexander County	Cairo, city of	170004	02/01/78
Peoria County	Chillicothe, city of	170535	02/02/77
Will County	Crest Hill, city of	170699	07/16/79
Macon County	Decatur, city of	170429	06/01/79
Lake County	Deerfield, village of	170361	09/30/77
De Kalb County	De Kalb, city of	170182	09/29/78
Cook County	East Chicago Heights, village of	170084	09/29/78
Cook County	Elk Grove Village, village of	170088	06/15/78
St. Clair County	Fairview Heights, city of	170695	07/03/78
Lake County	Fox Lake, village of	170362	09/29/78
Cook County	Franklin Park, village of	170094	09/15/78
Stephenson County	Freeport, city of	170640	05/16/77
Jo Daviess County	Galena, city of	175168	09/05/75
Henry County	Geneseo, city of	170284	05/16/77
Du Page County	Glen Ellyn, village of	170207	01/17/79
Du Page County	Glendale Heights, village of	170206	06/01/78
Cook County	Glenview, village of	170096	06/15/79
Cook County	Glenwood, village of	170097	06/15/78
Jersey County	Grafton, city of	170314	09/30/77
Madison County	Granite City, city of	170443	06/01/78
Cook County	Hanover Park, village of	170099	11/15/78
Madison County	Hartford, village of	170444	05/01/79
Cook County	Harvey, city of	170100	04/17/78
Cook County	Homewood, village of	170109	08/15/77
Du Page County	Itasca, village of	170210	11/02/77
Morgan County	Jacksonville, city of	170516	06/15/79
Kankakee County	Kankakee County*	170336	07/02/79
Kankakee County	Kankakee, city of	170339	04/17/78
Cook County	La Grange Park, village of	170115	11/15/78
Du Page County	Lombard, village of	170212	10/17/78
Winnebago County	Loves Park, city of	170722	10/17/78
Kankakee County	Manteno, village of	170678	11/02/77
McHenry County	Marengo, city of	170482	06/01/79
Cook County	Markham, city of	175189	09/12/75
Cook County	Midlothian, village of	170127	06/01/79
Will County	Mokena, village of	170705	06/01/79
Kankakee County	Momence, city of	170340	11/02/77
Kane County	Montgomery, village of	170326	06/15/79
Cook County	Morton Grove, village of	170126	06/15/79
Jackson County	Murphysboro, city of	170302	09/29/78
Du Page County	Naperville, city of	170213	03/01/79
Cook County	Niles, village of	170130	06/15/79
Cook County	Northbrook, village of	170132	01/17/79
Cook County	Palatine, village of	175170	03/19/76
Cook County	Prospect Heights, city of	170919	06/01/79
Cook County	Riverdale, village of	170150	09/29/78
Cook County	Robbins, village of	170154	09/29/78
Rock Island County	Rock Island, city of	175171	09/12/75
Cook County	Rolling Meadows, city of	170155	10/17/78
Madison County	Roxana, village of	170448	05/01/79
Marion County	Salem, city of	170454	05/01/79
Cook County	Schaumberg, village of	170158	02/15/79
Cook County	Schiller Park, village of	170159	09/15/78
Stephenson County	Stephenson County*	170639	02/15/78
Madison County	Venice, city of	170450	01/05/78
Douglas County	Villa Grove, city of	170196	02/01/79
Du Page County	Warrenville, city of	170218	09/29/78
St. Clair County	Washington Park, village of	170638	06/15/79
Iroquois County	Watseka, city of	170297	06/15/79
Du Page County	Wheaton, city of	170221	06/15/79
Cook County	Wheeling, village of	170173	09/15/78
Cook County	Willow Springs, village of	170174	07/16/79
Du Page County	Winfield, village of	170223	02/15/79
Du Page County	Wood Dale, city of	170224	09/30/77
Madison County	Wood River, city of	170451	05/01/79
Du Page County	Woodridge, village of	170737	06/15/79
McHenry County	Woodstock, city of	170488	06/15/79

Total communities reported in State: 75.

Region 5.—*Indiana*

Delaware County	Albany, town of	180314	06/15/79
Dearborn County	Aurora, city of	185172	12/26/75
Porte County	Beverly shores, town of	185173	10/17/75
Monroe County	Bloomington, city of	180169	06/15/78
Elkhart County	Bristol, town of	180060	04/16/79
Brown County	Brown County*	185174	01/18/76
Delaware County	Eaton, town of	180052	06/15/79
Elkhart County	Elkhart, city of	180057	08/01/79
Elkhart County	Goshen, city of	180058	08/01/79
Lake County	Griffith, town of	185175	05/30/75
Lake County	Highland, town of	185176	10/10/75
Clark County	Jeffersonville, city of	180027	08/01/79
La Porte County	Long Beach, town of	185177	11/21/75
Jefferson County	Madison, city of	180107	09/30/77
Brown County	Nashville, town of	180018	09/23/77

V44 O C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 5.—*Indiana—Continued*			
Floyd County	New Albany, city of	180062	12/17/76
Noble County	Noble County*	180183	08/15/78
Hendricks County	Plainfield, town of	180089	03/01/79
Marshall County	Plymouth, city of	180164	09/15/77
Jay County	Portland, city of	185178	11/07/75
St. Joseph County	Roseland, town of	185179	08/15/78
Washington County	Salem, city of	180279	08/15/78
St. Joseph County	South Bend, city of	180231	02/01/78
Spencer County	Spencer County*	180237	05/01/78
St. Joseph County	St. Joseph County*	180224	08/15/78
Perry County	Tell City, city of	180197	03/01/77
Total communities reported in State: 26.			
Region 5.—*Michigan*			
St. Clair County	Algonac, city of	260191	01/05/78
Genesee County	Atlas, township of	260393	06/15/79
Bay County	Bangor, township of	260019	07/02/79
Bay County	Bay City, city of	260020	09/01/78
Berrien County	Benton Harbor, city of	260032	05/15/78
Berrien County	Benton, township of	260031	04/03/78
Oakland County	Beverly Hills, village of	260256	08/15/79
Delta County	Brampton, township of	260366	04/17/78
Huron County	Caseville, township of	260257	12/01/77
Macomb County	Chesterfield, township of	260120	07/03/78
Berrien County	Chikaming, township of	260258	06/01/78
St. Clair County	China, township of	260203	08/01/78
St. Clair County	Clay, township of	260194	08/01/78
Macomb County	Clinton, township of	260121	08/01/79
Van Buren County	Covert, township of	260259	04/03/78
Genesee County	Davison, city of	260074	09/29/78
Genesee County	Davison, township of	260664	06/15/79
St. Clair County	East China, township of	260197	07/03/78
Iosco County	East Tawas, city of	260100	09/30/77
Wayne County	Ecorse, city of	260223	05/01/78
Monroe County	Erie, township of	260145	09/01/78
Delta County	Escanaba, city of	260061	09/01/77
Bay County	Essexville, city of	260021	09/01/78
Ottawa County	Ferrysburg, city of	260184	03/01/78
Genesee County	Flushing, city of	260077	08/15/79
Delta County	Ford River, township of	260662	04/03/78
St. Clair County	Fort Gratiot, township of	260196	12/15/78
Macomb County	Fraser, city of	260122	04/02/79
Monroe County	Frenchtown, township of	260146	01/19/78
Wayne County	Gibraltar, city of	260226	06/15/79
Delta County	Gladstone, city of	260267	09/15/77
Genesee County	Goodrich, village of	260397	09/29/78
Berrien County	Grand Beach, village of	260268	02/15/78
Ottawa County	Grand Haven, city of	260269	02/15/78
Kent County	Grand Rapids, city of	260108	01/17/79
Wayne County	Grosse Pointe Park, city of	260230	01/03/79
Wayne County	Grosse Pointe Shores, village of	260250	01/03/79
Berrien County	Hagar, township of	260035	12/01/77
Bay County	Hampton, township of	260023	08/01/78
Emmet County	Harbor Springs, city of	260272	05/16/77
Ottawa County	Holland, city of	260036	11/15/78
Gogebic County	Ironwood, city of	260081	07/17/78
Jackson County	Jackson, city of	260273	12/15/77
Bay County	Kawkawlin, township of	260658	02/01/79
Muskegon County	Laketon, township of	260159	04/03/78
Huron County	Lake, township of	260254	04/03/78
Lapeer County	Lapeer, city of	260112	06/15/79
Monroe County	Lasalle, township of	260148	08/15/77
Berrien County	Lincoln, township of	260037	03/01/78
St. Clair County	Marine City, city of	260200	08/01/79
Delta County	Masonville, township of	260687	03/01/79
Menominee County	Menominee, city of	260138	08/01/78
Ingham County	Meridian, charter township of	260093	02/02/77
Bay County	Merritt, township of	260024	08/15/78
Berrien County	Michiana, village of	260275	05/01/78
Monroe County	Monroe, city of	260153	08/15/77
Monroe County	Monroe, township of	260154	04/03/78
Muskegon County	Montague, city of	260160	05/01/78
Muskegon County	Muskegon, city of	260161	08/01/77
Muskegon County	Muskegon, township of	260163	08/01/77
Macomb County	New Baltimore, city of	260125	09/01/78
Muskegon County	North Muskegon, city of	260164	05/18/77
Muskegon County	Norton Shores, city of	260165	11/17/77
Oakland County	Novi, city of	260175	04/03/78
Manistee County	Onekama, township of	260278	05/01/78
Iosco County	Oscoda, township of	260101	09/01/78
Ottawa County	Park, township of	260185	05/15/78
Oceana County	Pentwater, township of	260183	03/01/78
Oceana County	Pentwater, village of	260277	05/15/78
Bay County	Pinconning, township of	200025	09/01/78
Oakland County	Pontiac, city of	260177	08/15/79
Oakland County	Pontiac, township of	260263	07/18/79
St. Clair County	Port Huron, city of	260204	12/01/78
Ottawa County	Port Sheldon, township of	260278	05/15/78
Wayne County	River Rouge, city of	260239	01/05/78
Wayne County	Rockwood, city of	260241	06/15/79
Berrien County	Royalton, township of	260043	12/01/77
Saginaw County	Saginaw, township of	260190	07/02/79
Arenac County	Sims, township of	260015	06/01/78
Berrien County	Sodus, township of	260046	04/03/78
Wayne County	Southgate, city of	260242	09/15/78
Saginaw County	Spaulding, township of	260303	06/15/79
Ottawa County	Spring Lake, township of	260261	02/15/78
Menominee County	Stephenson, city of	260139	05/16/77
Macomb County	St. Clair Shores, city of	260127	08/01/79
St. Clair County	St. Clair, city of	260279	06/15/78
St. Clair County	St. Clair, township of	260205	06/01/78
Berrien County	St. Joseph, city of	260044	02/01/78
Leelanau County	Suttons Bay, village of	260283	06/01/77
Iosco County	Tawas City, city of	260102	02/15/78
Tuscola County	Vassar, city of	260208	04/01/77
Macomb County	Warren, city of	260129	05/01/79
Arenac County	Whitney, township of	260018	06/01/78
Tuscola County	Wisner, township of	260209	05/15/78
Wayne County	Wyandotte, city of	260246	05/01/78
Saginaw County	Zilwaukee, city of	260285	07/02/79
Saginaw County	Zilwaukee, township of	260286	01/17/79
Total communities reported in State: 97.			
Region 5.—*Minnesota*			
Mower County	Adams, city of	270308	08/15/79
Washington County	Afton, city of	275226	01/02/76
Anoka County	Anoka, city of	275227	02/27/76
Mower County	Austin, city of	275228	11/28/75
Washington County	Bayport, city of	275229	02/13/76
Hennepin County	Bloomington, city of	275230	03/12/76
Blue Earth County	Blue Earth County*	275231	05/07/76
Wilkin County	Breckenridge, city of	275232	02/20/76
Brown County	Brown County*	270034	08/15/77
Dakota County	Burnsville, city of	270102	09/01/77
Carver County	Carver County*	270049	02/01/78
Carver County	Carver, city of	275233	03/26/76
Hennepin County	Champlin, city of	270153	07/18/77
Carver County	Chanhassen, city of	270051	07/02/79
Carver County	Chaska, city of	275234	04/22/77
Anoka County	Circle Pines, city of	270009	09/15/78
Clay County	Clay County*	275235	06/11/76
Stearns County	Cold Spring, city of	270444	08/01/77
Anoka County	Columbia Heights, city of	270010	09/29/78
St. Louis County	Cook, city of	270420	03/01/77
Anoka County	Coon Rapids, city of	270011	03/15/77
Washington County	Cottage Grove, city of	270502	04/30/78
Polk County	Crookston, city of	270364	09/01/77
Hennepin County	Crystal, city of	270156	06/01/78

County name	Community name	Community ID No.	Effective date of latest revision
Hennepin County	Dayton, city of	270157	02/01/78
Polk County	East Grand Forks, city of	275236	09/15/77
Winona County	Elba, city of	270527	11/01/78
Sherburne County	Elk River, city of	270436	05/02/77
Hennepin County	Excelsior, city of	270161	12/01/77
Rice County	Faribault, city of	270404	11/01/78
Dakota County	Farmington, city of	270104	03/01/79
St. Louis County	Floodwood, city of	270423	07/17/78
Goodhue County	Goodhue County*	270140	04/17/78
Chippewa County	Granite Falls, city of	270068	04/01/77
Norman County	Halstad, city of	270324	06/15/79
Houston County	Houston, city of	270193	07/16/79
Washington County	Hugo, city of	270504	09/29/78
Itasca County	Itasca County*	270200	11/01/78
Kanabec County	Kanabec County*	270214	11/01/78
Houston County	LaCrescent, city of	275237	11/26/75
Washington County	Lake Elmo, city of	270505	07/02/79
Washington County	Lake St. Croix Beach, city of	275240	09/05/75
Washington County	Lakeland Shores, city of	275239	09/05/75
Washington County	Lakeland, city of	275238	06/06/75
Dakota County	Lakesville, city of	270107	05/01/79
Le Sueur County	Le Sueur, city of	270248	09/29/78
Dakota County	Lilydale, city of	275241	11/14/75
Blue Earth County	Mankato, city of	275242	03/12/76
Hennepin County	Maple Grove, city of	270169	04/17/78
Lyon County	Marshall, city of	270258	09/30/77
Chippewa County	Montevido, city of	275243	08/29/75
Clay County	Moorhead, city of	275244	05/27/77
Kanabec County	Mora, city of	270216	09/01/77
Hennepin County	Mound, city of	270176	09/29/78
Mower County	Mower County*	270307	07/16/79
Ramsey County	New Brighton, city of	270380	09/01/78
Scott County	New Prague, city of	270249	11/01/78
Nicollet County	North Mankato, city of	275245	06/17/77
Ramsey County	North St. Paul, city of	270382	09/15/78
Hennepin County	Orono, city of	270178	10/17/78
Norman County	Perley, city of	270326	06/15/79
Hennepin County	Plymouth, city of	270179	05/15/78
Fillmore County	Preston, city of	270129	06/01/79
Scott County	Prior Lake, city of	278432	09/29/78
Goodhue County	Red Wing, city of	270146	09/29/78
Hennepin County	Robbinsdale, city of	270181	08/01/77
Olmstead County	Rochester, city of	275246	02/13/76
Stearns County	Rockville, city of	270454	07/16/79
Mower County	Rose Creek, city of	270598	07/16/79
Roseau County	Roseau, city of	270414	09/29/78
Benton County	Sauk Rapids, city of	270023	10/14/77
Scott County	Scott County*	270428	04/03/78
Scott County	Shakopee, city of	270434	09/29/78
Hennepin County	Spring Park, city of	270186	05/01/79
Brown County	Springfield, city of	270038	07/02/79
Stearns County	Stearns County*	270546	03/01/79
Washington County	Stillwater, city of	275249	11/21/75
Stearns County	St. Cloud, city of	270456	04/01/77
Hennepin County	St. Louis Park, city of	270184	08/01/77
Washington County	St. Mary's Point, city of	275247	09/26/75
Ramsey County	St. Paul, city of	275248	02/27/76
Nicollet County	St. Peter, city of	270317	04/17/78
Hennepin County	Tonka Bay, city of	270187	05/01/79
Wabasha County	Wabasha, city of	270490	09/29/78
Carver County	Waconia, city of	270055	01/05/78
Carver County	Watertown, city of	270056	11/01/78
Wilkin County	Wilkin County*	270519	09/29/78
Winona County	Winona, city of	275250	02/13/76
Hennepin County	Woodland, city of	270189	08/01/79
Wright County	Wright County*	270534	05/01/78
Yellow Medicine County	Yellow Medicine County*	270544	11/15/78
Total communities reported in State: 91.			
Region 5.—*Ohio*			
Lorain County	Avon Lake, city of	390602	11/02/77
Erie County	Bay View, village of	390595	09/15/77
Cuyahoga County	Bay Village, city	390093	12/01/77
Greene County	Bellbrook, city of	390194	06/01/77
Sandusky County	Bellevue, city of	390487	10/17/78
Franklin County	Bexley, city of	390168	11/15/78
Belmont County	Bridgeport, village of	390026	02/01/79
Lorain County	Brownhelm, Township of	395371	11/14/75
Mahoning County	Canfield, city of	390369	11/01/78
Cuyahoga County	Cleveland, city of	390104	08/01/78
Sandusky County	Clyde, city of	390489	04/02/79
Mahoning County	Craig Beach, village of	390745	04/17/78
Butler County	Fairfield, city of	390038	03/15/79
Lake County	Fairport Harbor, village of	390314	08/01/79
Cuyahoga County	Garfield Heights, city of	390109	01/16/76
Cuyahoga County	Gates Mills, village of	390593	04/03/78
Lake County	Grand River, village of	390315	07/16/79
Franklin County	Hilliard, city of	390175	08/01/79
Trumbull County	Hubbard, city of	390537	06/15/78
Cuyahoga County	Hunting Valley, village of	390594	01/05/78
Erie County	Huron, city of	390154	04/03/78
Ashtabula County	Jefferson, village of	390014	08/01/79
Portage County	Kent, city of	390458	03/15/78
Cuyahoga County	Lakewood, city of	390112	02/01/78
Warren County	Lebanon, city of	390557	03/15/79
Allen County	Lima, city of	390006	02/15/79
Lorain County	Lorain, city of	390351	06/15/78
Trumbull County	Lordstown, village of	390812	03/01/79
Stark County	Louisville, city of	390516	06/15/78
Clermont County	Loveland, city of	390068	09/01/78
Mahoning County	Mahoning County*	390367	02/15/79
Adams County	Manchester, village of	390002	06/01/78
Warren County	Mason, city of	390559	03/15/79
Cuyahoga County	Mayfield, village of	390118	02/03/78
Lake County	Mentor-on-the-Lake, city of	390318	08/01/79
Lake County	Mentor, city of	390317	12/01/77
Meigs County	Middleport, village of	390388	09/29/78
Warren County	Morrow, village of	390561	08/01/78
Clermont County	Moscow, village of	390070	03/15/77
Hocking County	Murray City, village of	390275	11/15/78
Clermont County	Neville, village of	390641	09/29/78
Clermont County	New Richmond, village of	390071	05/01/79
Licking County	Newark, city of	390335	04/15/77
Trumbull County	Newton Falls, city of	390539	08/01/78
Trumbull County	Niles, city of	390540	08/01/78
Lake County	North Perry, village of	390742	07/16/79
Huron County	Norwalk, city of	390286	02/15/79
Lucas County	Oregon, city of	390361	03/15/78
Ottawa County	Ottawa County*	390432	10/17/78
Putnam County	Ottawa, village of	390472	02/15/79
Lake County	Painesville, city of	390319	02/02/77
Putnam County	Pandora, village of	390474	11/01/78
Ottawa County	Port Clinton, city of	390434	08/30/77
Ottawa County	Put-in-Bay, village of	390600	09/30/77
Franklin County	Reynoldsburg, city of	390177	09/01/78
Wayne County	Rittman, city of	390578	12/31/78
Cuyahoga County	Rocky River, city of	395372	10/31/75
Sandusky County	Sandusky County*	390486	01/17/79
Erie County	Sandusky, city of	390156	07/05/77
Lorain County	Sheffield Lake, city of	390355	03/01/78
Pickaway County	South Bloomfield, village of	390449	08/15/79
Warren County	South Lebanon, village of	390563	09/01/78
Summit County	Stow, city of	390532	07/17/78
Cuyahoga County	Strongsville, city of	390132	01/03/79
Lucas County	Sylvania, city of	390364	07/05/77
Trumbull County	Trumbull County*	390535	09/29/78
Franklin County	Valleyview, village of	390689	08/15/79
Erie County	Vermilion, city of	395374	10/03/75
Lake County	Waite Hill, village of	390649	08/01/79
Trumbull County	Warren, city of	390541	08/01/77

V 44 O C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 5.—*Ohio—Continued*			
Fayette County	Washington Courthouse, city of	390166	08/15/78
Columbiana County	Wellsville, city of	390088	09/29/78
Franklin County	Westerville, city of	390179	09/29/78
Clinton County	Wilmington, city of	390075	09/29/78
Wayne County	Wooster, city of	390579	02/02/77
Mahoning County	Youngstown, city of	390373	07/18/77
Total communities reported in State: 76.			
Region 5.—*Wisconsin*			
Kewaunee County	Algoma, city of	550213	06/15/79
Buffalo County	Alma, city of	555540	03/12/76
Langlade County	Antigo, city of	555541	10/31/75
Outagamie County	Appleton, city of	555542	12/26/75
Lafayette County	Argyle, village of	550224	08/15/79
Ashland County	Ashland, County*	550004	02/15/78
Ashland County	Ashland, city of	550005	09/30/77
Sauk County	Baraboo, city of	550392	08/01/79
Pierce County	Bay City, village of	555543	10/17/75
Milwaukee County	Bayside, village of	550270	06/16/77
Rock County	Beloit, city of	555544	04/23/76
Green Lake County	Berlin, city of	550166	09/30/77
Wood County	Biron, village of	555545	05/27/77
Lafayette County	Blanchardville, village of	550227	08/15/79
Brown County	Brown County*	550020	04/17/78
Buffalo County	Buffalo County*	555547	03/19/76
Buffalo County	Buffalo, city of	555546	10/17/75
Racine County	Burlington, city of	550348	05/15/78
Waukesha County	Butler, village of	550536	06/15/78
Fond du Lac County	Campbellsport, village of	550133	05/15/78
Kewaunee County	Casco, village of	550214	08/15/78
Grant County	Cassville, village of	555548	11/28/75
Chippewa County	Chippewa Falls, city of	550044	09/01/77
Chippewa County	Chippewa County*	555549	09/03/76
Manitowoc County	Cleveland, village of	550237	05/15/78
Buffalo County	Cochrane, village of	555550	05/23/75
Crawford County	Crawford County*	555551	01/23/76
Dane County	Dane County*	550077	09/29/78
Lafayette County	Darlington, city of	550228	09/15/78
Dane County	De Forest, village of	550082	09/01/78
Door County	Door County*	550109	04/03/78
Pepin County	Duran, city of	550320	06/01/77
Eau Claire County	Eau Claire County*	555552	05/14/76
Eau Claire County	Eau Claire, city of	550128	06/01/77
Crawford County	Ferryville, village of	555553	10/31/75
Florence County	Florence County*	550521	05/01/78
Fond du Lac County	Fond du Lac, city of	550136	01/03/79
Jefferson County	Fort Atkinson, city of	555554	03/12/76
Buffalo County	Fountain City, city of	555555	08/05/77
Milwaukee County	Fox Point, village of	550274	06/17/77
Milwaukee County	Franklin, city of	550273	09/30/77
Waupaca County	Fremont, village of	550496	06/15/77
Crawford County	Gays Mills, village of	550071	06/15/78
Vernon County	Genoa, village of	555556	10/10/75
Milwaukee County	Glendale, city of	550275	06/01/78
Grant County	Grant County*	555557	08/20/76
Brown County	Green Bay, city of	550022	09/30/77
Green Lake County	Green Lake County*	550165	03/01/78
Milwaukee County	Greenfield, city of	550277	06/01/78
Milwaukee County	Hales Corners, village of	550524	8/15/79
St. Croix County	Hudson, city of	555558	10/3/75
Iron County	Hurley, city of	555559	11/14/75
Iowa County	Iowa County*	550522	01/17/79
Rock County	Janesville, city of	555560	12/19/77
Jefferson County	Jefferson County*	550191	09/29/78
Jefferson County	Jefferson, city of	555561	09/05/75
La Crosse County	La Crosse, city of	555562	05/14/78
Rusk County	Ladysmith, city of	550375	09/01/78
Lafayette County	Lafayette County*	550223	09/15/78
Douglas County	Lake Nebagamon, village of	550112	08/15/78
Crawford County	Lynxville, village of	555563	11/26/75
Manitowoc County	Manitowoc County*	550236	09/15/78
Manitowoc County	Manitowoc, city of	550240	04/15/77
Marathon County	Marathon County*	550245	02/01/79
Marinette County	Marinette, city of	550261	03/15/78
Dane County	McFarland, village of	550086	06/15/78
Taylor County	Medford, city of	550435	09/01/78
Winnebago County	Menasha, city of	550510	04/03/78
Waukesha County	Menomonee Falls, village of	550483	09/15/78
Ozaukee County	Mequon, city of	555564	03/26/78
Lincoln County	Merrill, city of	555565	11/28/75
Manitowoc County	Mishicot, village of	555566	10/17/75
Dane County	Monona, city of	550088	06/15/78
Marathon County	Mosinee, city of	555567	11/14/75
Clark County	Neillsville, city of	550053	07/17/78
Waupaca County	New London, city of	550308	03/15/77
Marinette County	Niagara, village of	550262	04/03/78
St. Croix County	North Hudson, village of	555568	08/22/75
Milwaukee County	Oak Creek, city of	550279	09/29/78
Winnebago County	Oshkosh, city of	550511	05/16/77
Outagamie County	Outagamie County*	550302	09/30/77
Ozaukee County	Ozaukee County*	550310	05/18/77
Pepin County	Pepin County*	555570	01/02/76
Pepin County	Pepin Village of	555570	01/02/78
Pierce County	Pierce County*	555571	01/09/76
Wood County	Port Edwards, village of	555572	02/25/77
Crawford County	Prairie Du Chien, city of	555573	11/28/75
Pierce County	Prescott, city of	555574	02/27/78
Racine County	Racine, city of	555575	01/02/78
Vernon County	Readstown, village of	550458	03/16/78
Richland County	Richland Center, city of	555576	02/27/76
Marathon County	Rothschild, village of	555577	03/31/78
Marathon County	Schofield, city of	555579	03/12/78
Shawano County	Shawano County*	550412	10/14/77
Sheboygan County	Sheboygan County*	550424	07/17/78
Sheboygan County	Sheboygan, city of	550430	03/15/77
Kenosha County	Silver Lake, village of	550210	09/01/78
Douglas County	Solon Springs, village of	550115	08/15/78
Washburn County	Spooner, city of	550470	04/02/79
Crawford County	Steuben, village of	555580	03/05/78
Pepin County	Stockholm, village of	555581	03/28/75
Vernon County	Stoddard, village of	555582	01/23/78
Dane County	Stoughton, city of	550091	06/15/78
Trempealeau County	Strum, village of	555583	08/29/75
St. Croix County	St. Croix County*	555578	03/26/78
Douglas County	Superior, city of	550116	04/03/78
Ozaukee County	Thiensville, city of	550318	08/01/78
Trempealeau County	Trempealeau County*	555585	03/26/78
Trempealeau County	Trempealeau, village of	555584	11/07/75
Manitowoc County	Two Rivers, city of	550243	04/03/78
Vernon County	Vernon County*	550450	09/29/78
Dane County	Waunakee, village of	550093	05/01/78
Waupaca County	Waupaca County*	550492	08/15/77
Marathon County	Wausau, city of	550258	01/05/78
Milwaukee County	Wauwatosa, city of	550284	12/01/78
Crawford County	Wauzeka, village of	555586	03/05/78
Wood County	Wisconsin Rapids, city of	555587	07/22/77
Wood County	Wood County*	550513	03/15/78
Total communities reported in State: 118.			
Region 6.—*Arkansas*			
Yell County	Dardanelle, city of	050233	11/07/75
Sebastian County	Fort Smith, city of	055013	05/07/76
Phillips County	Helena, city of	050168	07/16/79
Pulaski County	Jacksonsville, city of	050180	09/29/78
Greene County	Paragould, city of	050085	06/15/78
Pope County	Russellville, city of	050178	11/21/75
Pulaski County	Sherwood, city of	050235	10/17/78
Miller County	Texarkana, city of	050137	12/31/76
Crawford County	Van Buren, city of	050053	11/16/77
Phillips County	West Helena, city of	050171	05/15/78
Total communities reported in State: 10.			
Region 6.—*Louisiana*			
West Baton Rouge Parish	Addis, village of	220240	08/15/77
Rapides Parish county	Alexandria, city of	220146	07/17/78
East Baton Rouge Parish	Baker, city of	225193	01/02/76
St. Mary Parish	Baldwin, town of	220193	12/15/78
West Baton Rouge Parish	Brusly, town of	220241	08/15/77
Calcasieu Parish	Calcasieu Parish*	220037	09/29/78
Caldwell Parish	Caldwell Parish*	220044	04/03/78
Cameron Parish	Cameron Parish*	225194	07/01/74
Concordia Parish	Clayton, village of	220054	08/01/78
Caldwell Parish	Columbia, town of	220045	05/01/78
Concordia Parish	Concordia Parish*	220053	04/03/78
Acadia Parish	Crowley, city of	225195	04/04/75
Calcasieu Parish	De Quincy, city of	220038	04/02/79
East Baton Rouge Parish	East Baton Rouge Parish	220058	07/02/79
Concordia Parish	Ferriday, town of	220055	12/15/77
St. Mary Parish	Franklin, city of	220195	09/15/78
Lafourche Parish	Golden Meadow, town of	225196	07/11/75
Jefferson Parish	Grand Isle, town of	225197	04/18/75
Jefferson Parish	Gretna, city of	225198	02/13/76
Iberville Parish	Grosse Tete, village of	220084	03/01/78
Jefferson Parish	Harahan, city of	225200	07/11/75
Iberia Parish	Iberia Parish*	220076	07/03/78
Iberville Parish	Iberville Parish*	220083	06/01/78
Jefferson Parish	Jean Lafitte, village of	220371	09/26/78
Jefferson Parish	Jefferson Parish*	225199	07/09/78
Catahoula Parish	Jonesville, town of	220049	03/01/78
Jefferson Parish	Kenner, city of	225201	08/22/75
St. Landry Parish	Melville, town of	220172	07/03/78
St. Mary Parish	Morgan City, city of	220196	08/15/78
Orleans Parish	Orleans Parish*	225203	01/06/78
St. Mary Parish	Patterson, town of	220197	07/03/78
Concordia Parish	Ridgecrest, town of	220056	04/03/78
Iberville Parish	Rosedale, village of	220087	02/15/78
Ascension Parish	Sorrento, town of	220016	06/01/78
St. Bernard Parish	St. Bernard Parish	225204	02/06/75
West Feliciana Parish	St. Francisville, town of	220246	05/02/77
St. Tammany Parish	St. Tammany Parish*	225205	09/17/78
Tensas Parish	Tensas Parish*	220215	04/03/78
Terrebonne Parish	Terrebonne Parish*	225206	11/19/76
Concordia Parish	Vidalia, town of	220057	06/15/78
West Baton Rouge Parish	West Baton Rouge Parish*	220239	04/03/78
Ouachita Parish	West Monroe, town city of	220136	12/01/78
Jefferson Parish	Westwego, city of	220094	03/11/77
Franklin Parish	Winnsboro, town of	220074	09/01/78
East Baton Rouge Parish	Zachary, town of	220061	11/18/77
Total communities reported in State: 45.			
Region 6.—*New Mexico*			
Eddy County	Carlsbad, city of	350017	03/15/78
San Juan County	Farmington, city of	350067	09/29/78
McKinley County	Gallup, city of	350042	03/01/78
Dona Ana County	Las Cruces, city of	355332	05/08/77
Hidalgo County	Lordsburg, city of	350026	09/01/78
Quay County	Tucumcari, city of	350048	08/15/78
Total communities reported in State: 6.			

County name	Community name	Community ID No.	Effective date of latest revision
Region 6.—*Oklahoma*			
Rogers County	Claremore, city of	405375	10/03/75
Stephens County	Comanche, city of	405376	09/26/75
Stephens County	Duncan, city of	400202	08/01/79
Canadian County	El Reno, city of	405377	10/08/76
Garfield County	Enid, city of	400062	03/15/79
Kingfisher County	Kingfisher, city of	400082	09/30/76
Comanche County	Lawton, city of	400049	12/01/78
Pittsburg County	McAlester, city of	400170	02/15/79
Canadian County	Oklahoma City, city of	405378	07/01/74
Rogers County	Rogers County*	405379	09/10/76
Creek County	Sapulpa, city of	400053	12/01/77
Payne County	Stillwater, city of	405380	01/09/76
Tulsa County	Tulsa, city of	405381	07/30/76
Le Flore County	Wister, town of	400085	04/14/78
Total communities reported in State: 14.			
Region 6.—*Texas*			
Taylor County	Abilene, city of	485450	01/10/78
Nueces County	Agua Dulce, city of	480504	12/12/75
Bexar County	Alamo Heights, city of	480096	08/15/78
Collin County	Allen, city of	480131	06/01/78
Brazoria County	Alvin, city of	485451	06/11/78
Brazoria County	Angleton, city of	480064	01/27/78
Aransas County	Aransas County*	485452	09/26/75
San Patricio County	Aransas Pass, city of	485453	11/07/75
Tarrant County	Arlington, city of	485454	05/19/78
Bandera County	Bandera County*	480020	11/01/78
Bandera County	Bandera, city of	480021	12/01/77
Matagorda County	Bay City, city of	485455	03/05/78
Harris County	Baytown, city of	485456	11/14/75
Jefferson County	Beaumont, city of	485457	11/14/75
Tarrant County	Bedford, city of	480585	07/18/77
McLennan County	Bellmead, city of	480457	09/15/78
Tarrant County	Benbrook, city of	480586	07/02/79
McLennan County	Beverly Hills, city of	480925	09/15/78
Brazoria County	Bonney, town of	481300	06/10/77
Brazoria County	Brazoria County*	485458	10/27/78
Cameron County	Brownsville, city of	480103	12/01/78
Johnson County	Burleson, city of	485459	06/24/77
Calhoun County	Calhoun County*	480097	12/02/77
Cameron County	Cameron County*	480101	06/15/79
Medina County	Castroville, city of	480932	05/01/79
Galveston County	Clear Lake Shores, city of	485461	04/18/75
Johnson County	Cleburne, city of	485462	09/12/75
Brazoria County	Clute, city of	480088	12/07/78
Comal County	Comal County*	485463	05/14/76
Montgomery County	Conroe, city of	480484	05/18/77
Nueces County	Corpus Christi, city of	485464	10/31/75
Galveston County	Crystal Beach, town of	480243	09/30/76
Val Verde County	Del Rio, city of	480631	06/15/79
Denton County	Denton, city of	480194	06/01/78
Medina County	Devine, city of	480690	04/15/77
Hidalgo County	Edinburg, city of	480338	05/02/77
Jackson County	Edna, city of	485465	04/18/75
Harris County	El Lago, city of	485466	07/11/75
Dallas County	Farmers Branch, city of	480174	02/15/78
Wilson County	Floresville, city of	480671	11/16/77
Tarrant County	Forest Hill, city of	480595	08/01/78
Brazoria County	Freeport, city of	485467	10/31/75
Galveston County	Friendswood, city of	485468	12/19/75
Galveston County	Galveston County*	485470	08/24/77
Galveston County	Galveston, city of	485469	10/03/75
Dallas County	Garland, city of	485471	10/03/75
Gonzales County	Gonzales County*	480253	08/15/78
Gonzales County	Gonzales, city of	480254	06/15/79
Dallas County	Grand Prairie, city of	485472	09/10/76

V 44 0C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 6.—*Texas —Continued*			
Hunt County	Greenville, city of	485473	04/11/75
Jefferson County	Griffing Park, town of	485474	05/14/76
Jefferson County	Groves, city of	485475	04/14/76
Guadalupe County	Guadalupe County*	480266	03/01/79
Lavaca County	Halletsville, city of	485476	12/05/75
Tarrant County	Haltom City, city of	480599	02/01/78
Hardin County	Hardin County*	480284	09/29/78
Cameron County	Harlingen, city of	485477	10/17/75
Harris County	Harris County*	480287	07/30/76
McLennan County	Hewitt, city of	480458	05/01/78
Dallas County	Highland Park, town of	480178	07/16/79
Brazoria County	Hillcrest Village, city of	485478	04/11/75
Galveston County	Hitchcock, city of	485479	10/31/75
Medina County	Hondo, city of	480474	12/01/78
San Patricio County	Ingleside, city of	485480	05/02/75
Jackson County	Jackson County*	480379	08/15/78
Galveston County	Jamaica Beach, village of	481271	06/24/77
Galveston County	Kemah, city of	485481	08/22/75
Karnes County	Kenedy, city of	485482	09/12/75
Kerr County	Kerr County*	480419	05/01/79
Kerr County	Kerrville, city of	480420	09/29/78
Kleberg County	Kingsville, city of	480424	12/08/76
Kleberg County	Kleberg County*	480423	12/17/76
Hidalgo County	La Joya, city of	480341	07/16/79
Galveston County	La Marque, city of	485486	10/06/78
Harris County	La Porte, city of	485487	08/22/75
Wilson County	La Vernia, city of	481050	05/01/78
Hidalgo County	La Villa, city of	480342	06/15/78
Medina County	Lacoste, city of	480475	05/01/79
Cameron County	Laguna Vista, city of	485483	06/11/78
Brazoria County	Lake Jackson	485484	03/18/77
Jefferson County	Lakeview, town of	485485	05/14/76
Dawson County	Lamesa, city of	480181	04/30/76
Galveston County	League City, city of	485488	06/17/77
Bexar County	Leon Valley, city of	480042	06/01/77
Bexar County	Live Oak, city of	480043	06/16/77
Gregg County	Longview, city of	480264	12/15/77
McLennan County	Lorena, town of	480628	02/01/79
Hardin County	Lumberton, city of	481111	12/15/77
Atascosa County	Lytle, city of	480692	02/02/77
McLennan County	Mart, city of	480929	07/16/79
Mason County	Mason, city of	480457	07/02/79
Matagorda County	Matagorda County*	485489	03/05/76
McLennan County	McGregor, city of	480459	02/01/79
Hidalgo County	Mercedes, city of	480344	07/16/79
Dallas County	Mesquite, city of	485490	09/10/76
Palo Pinto County	Mineral Wells, city of	480517	12/01/77
Hidalgo County	Mission, city of	480345	08/15/79
Harris County	Nassau Bay, city of	485491	07/23/76
Jefferson County	Nederland, city of	485492	05/14/76
Comal County	New Braunfels, city of	485493	05/07/76
Nueces County	Nueces County*	485494	09/03/76
Brazoria County	Oyster Creek, village of	481255	11/19/76
Matagorda County	Palacios, city of	485495	07/11/75
Collin County	Parker, city of	480139	08/15/79
Harris County	Pasadena, city of	480307	04/23/76
Jefferson County	Pear Ridge, city of	485497	05/14/76
Travis County	Pflugerville, city of	481026	05/01/78
Hidalgo County	Pharr, city of	480347	07/16/79
Nueces County	Port Aransas, city of	485498	12/08/76
Jefferson County	Port Arthur, city of	485499	10/08/76
Cameron County	Port Isabel, city of	480109	10/06/76
Calhoun County	Port Lavaca, city of	480099	09/05/75
Jefferson County	Port Neches, city of	485500	11/12/76
Wilson County	Poth, city of	480672	12/01/77
Brazoria County	Quintana, village of	481301	06/10/77
Refugio County	Refugio County*	485501	09/17/76
Refugio County	Refugio, town of	480540	10/06/76
Tarrant County	Richland Hills, city of	480608	02/16/77
Brazoria County	Richwood, city of	485502	01/16/76
McLennan County	Robinson, city of	480460	01/17/79
Nueces County	Robstown, city of	485503	04/18/75
Aransas County	Rockport, city of	485504	09/09/77
Travis County	Rollingwood, city of	481029	09/29/78
Hardin County	Rose Hill Acres, city of	480846	04/15/77
Dallas County	Rowlett, city of	480185	09/01/78
Dallas County	Sachse, city of	480186	09/01/78
Tom Green County	San Angelo, city of	480623	05/18/77
Hays County	San Marcos, city of	485505	11/05/78
San Patricio County	San Patricio County*	485506	09/03/76
Guadalupe County	Schertz, city of	480269	09/15/77
Harris County	Seabrook, city of	485507	08/22/75
Calhoun County	Seadrift, city of	480100	05/02/75
Guadalupe County	Seguin, city of	485508	06/25/78
Grayson County	Sherman, city of	485509	12/05/75
Harris County	Shoreacres, city of	485510	09/12/75
Hardin County	Silsbee city of	480285	05/01/78
San Patricio County	Sinton, city of	485511	07/09/78
Erath County	Stephenville, city of	480220	07/05/77
Wilson County	Stockdale, city of	480673	03/01/78
Travis County	Sunset Valley, city of	481127	03/01/79
Brazoria County	Surfside Beach, village of	481266	06/10/77
Brazoria County	Sweeny, city of	485512	08/22/75
Harris County	Taylor Lake, city of	485513	09/05/75
Bowie County	Texarkana, city of	480060	03/01/79
Galveston County	Texas City, city of	485514	11/05/78
Live Oak County	Three Rivers, city of	485515	09/26/75
Throckmorton County	Throckmorton, city of	480693	04/15/77
Bexar County	Universal City, city of	480049	05/16/77
Victoria County	Victoria, city of	480638	08/12/77
McLennan County	Waco, city of	480461	11/02/77
Gonzales County	Waelder, city of	480255	12/01/77
Harris County	Webster, city of	485516	06/10/77
Travis County	West Lake Hills, city of	481030	07/17/78
Wilson County	Wilson County*	480230	03/15/78
Bexar County	Windcrest, city of	480689	08/15/77
McLennan County	Woodway, city of	480462	06/01/79

Total communities reported in State: 156.

Region 7.—*Iowa*

Audubon County	Audubon, city of	190011	06/15/79
Scott County	Bettendorf, city of	190240	06/01/78
Dubuque County	Cascade, city of	190117	04/02/79
Floyd County	Charles City, city of	190128	02/02/77
Johnson County	Coralville, city of	190169	09/29/78
Pottawattamie County	Council Bluffs, city of	190235	06/15/78
Scott County	Davenport, city of	190242	03/01/78
Dubuque County	Dubuque, city of	195180	10/31/75
Dubuque County	Dyersville, city of	190120	12/01/77
Clayton County	Elkader, city of	190073	09/29/78
Emmet County	Estherville, city of	190124	10/14/77
Black Hawk County	Evansdale, city of	190020	11/02/77
Webster County	Fort Dodge, city of	195181	01/02/76
Franklin County	Hampton, city of	190131	05/01/79
Buchanan County	Independence, city of	190031	05/16/77
Johnson County	Iowa City, city of	190171	05/02/77
Lee County	Keokuk, city of	190165	03/01/78
Plymouth County	Le Mars, city of	190225	05/01/78
Clayton County	Marquette, city of	195182	10/03/75
Clayton County	Mc Gregor, city of	195183	10/17/75
Harrison County	Missoun Valley, city of	190147	06/01/77
Jones County	Monticello, city of	190175	04/02/79
Muscatine County	Muscatine, city of	190213	01/05/78
Chickasaw County	Nashua, city of	190068	09/29/78
Scott County	Penorama Park, city of	190506	06/15/78
Scott County	Riverdale, city of	190245	01/05/78
Scott County	Scott County*	190239	06/01/77
Woodbury County	Sioux City, city of	190298	08/01/79
Polk County	Urbandale, city of	190230	06/15/79
Hamilton County	Webster City, city of	190137	08/01/78
Polk County	Windsor Heights, city of	190687	06/15/79

Total communities reported in State: 31.

County name	Community name	Community ID No.	Effective date of latest revision
Region 7.—*Kansas*			
Dickinson County	Abilene, city of	200074	09/29/78
Atchison County	Atchison, city of	200010	06/01/78
Sumner County	Belle Plaine, city of	200466	07/17/78
Wyandotte County	Bonner Springs, city of	200361	01/03/79
Neosho County	Chanute, city of	200241	01/03/79
Dickinson County	Chapman, city of	200075	02/15/79
Montgomery County	Coffeyville, city of	200232	03/12/78
Thomas County	Colby, city of	200350	09/29/78
Johnson County	Desoto, city of	200161	08/01/79
Ford County	Dodge City, city of	205184	11/25/77
Doniphan County	Doniphan County*	200078	08/01/78
Johnson County	Edgerton, city of	200162	08/01/79
Wyandotte County	Edwardsville, city of	200362	09/29/78
Butler County	El Dorado, city of	200039	04/30/78
Barton County	Ellinwood, city of	200018	09/01/78
Neosho County	Erie, city of	200242	07/17/78
Johnson County	Fairway, city of	205185	01/09/78
Bourbon County	Fort Scott, city of	200023	09/01/78
Finney County	Garden City, city of	205186	04/11/75
Harvey County	Halstead, city of	200131	09/01/78
Allen County	Humboldt, city of	200002	09/01/78
Montgomery County	Independence, city of	200233	08/15/78
Allen County	Iola, city of	200003	09/15/78
Geary County	Junction City, city of	200112	09/29/78
Edwards County	Kinsley, city of	200092	03/01/78
Pawnee County	Larned, city of	200259	09/29/78
Leavenworth County	Leavenworth, city of	200190	01/05/78
Johnson County	Leawood, city of	200167	09/30/77
Douglas County	Lecompton, city of	200091	03/15/79
Johnson County	Lenexa, city of	200166	08/01/77
McPherson County	Lindsborg, city of	200215	05/15/78
Leavenworth County	Linwood, city of	200191	08/01/79
McPherson County	Marquette, city of	200218	06/01/78
Marshall County	Marysville, city of	200212	12/01/77
Johnson County	Merriam, city of	200168	05/15/78
Johnson County	Mission Hills, city of	200171	09/29/78
Johnson County	Mission, city of	200170	05/15/78
Sedgwick County	Mulvane, city of	200326	09/29/78
Wilson County	Neodesha, city of	200359	08/15/78
Reno County	Nickerson, city of	200284	01/03/79
Harvey County	North Newton, city of	200542	08/15/79
Johnson County	Olathe, city of	200173	11/15/78
Johnson County	Overland Park, city of	200174	09/30/77
Miami County	Paola, city of	200224	04/17/78
Labette County	Parsons, city of	200184	07/16/79
Crawford County	Pittsburg, city of	200072	05/01/79
Johnson County	Prairie Village, city of	200175	09/29/78
Pratt County	Pratt, city of	200278	11/01/78
Republic County	Scandia, city of	200289	07/18/79
Harvey County	Sedgwick, city of	200134	09/15/78
Johnson County	Shawnee, city of	200177	11/15/78
Dickinson County	Solomon, city of	200077	03/01/79
Rice County	Sterling, city of	200297	06/01/78
Shawnee County	Topeka, city of	205187	12/18/77

Total communities reported in State: 54.

Region 7.—*Missouri*

Stoddard County	Advance, city of	290420	06/15/78
Clark County	Alexandria, city of	290080	05/02/77
Lawrence County	Aurora, city of	290199	09/15/78
Clay County	Avondale, city of	290087	10/26/78
St. Louis County	Bella Villa, city of	290329	07/16/79
St. Louis County	Bellefontaine Neighbors, city of	290330	09/29/78
St. Louis County	Berkeley, city of	290335	08/01/79
Clay County	Birmingham, village of	295272	03/01/79
Jackson County	Blue Springs, city of	290169	09/15/78
Pike County	Bowling Green, city of	290288	05/02/77
Pemiscot County	Bragg City, city of	290274	08/01/78
Taney County	Branson, city of	290436	10/26/78
St. Louis County	Brentwood, city of	290338	05/18/77
St. Louis County	Bridgeton, city of	290339	09/01/78
Buchanan County	Buchannanan Co,	290040	08/01/78
Jackson County	Buckner, city of	290170	09/15/78
Texas County	Cabool, city of	290439	06/01/78
Lewis County	Canton, city of	290204	02/02/77
Dunklin County	Cardwell, city of	290125	03/01/79
Barry County	Cassville, city of	290022	04/15/77
Callaway County	Cedar City, city of	290050	02/02/77
Pike County	Clarksville, city of	290289	04/01/77
Clay County	Claycomo, village of	290069	08/01/77
St. Louis County	Clayton, city of	290341	07/22/77
Boone County	Columbia, city of	290036	01/18/78
Scott County	Commerce, city of	290410	08/01/78
St. Louis County	Cool Valley, village of	290342	05/18/77
St. Louis County	Crestwood, city of	290343	05/02/77
St. Louis County	Creve Coeur, city of	290344	08/01/78
Jefferson County	Crystal City, city of	290189	09/01/77
Jefferson County	De Soto, city of	295263	07/18/75
Platte County	Dearborn, city of	290504	06/15/79
St. Louis County	Des Peres, city of	290347	08/15/78
Lincoln County	Elsberry, city of	290209	05/02/77
Shannon County	Eminence, city of	290418	07/16/77
St. Louis County	Eureka, city of	290349	07/05/77
Clay County	Excelsior Springs, city of	290090	03/15/77
St. Louis County	Fenton, city of	290350	01/19/78
St. Louis County	Ferguson, city of	290351	09/01/78
Jefferson County	Festus, city of	290191	02/14/78
St. Francois County	Flat River, city of	295264	09/05/75
Lincoln County	Foley, city of	290210	03/01/78
Madison County	Fredericktown, city of	290221	01/03/79
New Madrid County	Gideon, city of	290250	09/15/78
Clay County	Gladstone, city of	290091	01/05/78
Clay County	Glenaire, village of	290092	08/15/77
Jackson County	Grain Valley, city of	290737	08/15/79
Jackson County	Grandview, city of	290171	08/15/78
Jackson County	Greenwood, city of	290711	01/03/79
Marion County	Hannibal, city of	290223	08/01/78
Pemiscot County	Hayti, city of	290278	09/29/78
Jefferson County	Herculaneum, city of	290192	05/15/78
Gasconade County	Hermann, city of	290141	04/23/78
Pemiscot County	Holland, city of	290574	08/01/78
Texas County	Houston, city of	290440	07/18/77
Jackson County	Independence, city of	290172	02/01/79
Jackson County	Jackson, county of	290492	09/29/78
Cape Girardeau County	Jackson, city of	295265	01/02/78
St. Louis County	Jennings, city of	290360	06/15/79
Jasper County	Joplin, city of	290183	12/06/78
Jackson County	Kansas City, city of	290173	09/29/78
Clay County	Kearney, city of	290095	07/17/78
St. Louis County	Ladue, city of	290363	03/18/78
Lewis County	Lagrange, city of	290205	07/13/78
Jackson County	Lee's, city of	290174	04/03/78
Jackson County	Levasy, city of	290175	09/29/78
Buchanan County	Lewis and Clark, village of	290481	09/29/78
Clay County	Liberty, city of	290096	03/15/78
Pike County	Louisiana, city of	290290	04/03/78
St. Louis County	Mackenzie, village of	290365	09/29/78
Macon County	Magon, city of	290220	01/19/78
St. Louis County	Maplewood, city of	295266	05/02/75
Marion County	Marion, county	290222	05/16/77
Adrain County	Mexico, city of	295267	05/14/78
Clay County	Missoun City, city of	290097	08/15/79
Randolph County	Moberly, city of	290305	08/01/77
Clay County	Mosby, city of	290098	09/01/78
New Madrid County	New Madrid, city of	290256	08/15/79
Phelps County	Newburg, city of	295268	02/20/78
Clay County	North Kansas City, city of	290099	04/30/78

V44 0C23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 7.—*Missouri —Continued*			
Platt County	Northmoor, city of	290293	05/15/78
Lincoln County	Old Monroe, city of	290211	06/15/78
St. Louis County	Olivette, city of	290374	07/03/78
Franklin County	Pacific, city of	290134	03/15/77
St. Louis County	Pagedale, city of	290377	06/01/78
Monroe County	Paris, city of	290241	03/05/76
Platte County	Parkville, city of	290294	05/15/78
Platte County	Platte City, city of	290295	05/15/78
Cass County	Pleasant Hill, city of	295269	12/26/75
Clay County	Pleasant Valley, city of	290100	07/18/77
St. Charles County	Portage Des Sioux, city of	290317	04/01/77
Clay County	Prathersville, village of	290101	11/15/78
Mercer County	Princeton, city of	290225	05/14/76
Clay County	Randolph, village of	290102	07/18/77
Jackson County	Raytown, city of	290176	09/15/78
St. Louis County	Richmond Heights, city of	290380	05/15/77
Platte County	Riverside, city of	290296	09/30/77
St. Louis County	Rock Hill, city of	290382	05/16/77
Phelps County	Rolla, city of	290285	09/30/77
Dent County	Salem, city of	290120	08/01/79
Jasper County	Sarcoxie, city of	290186	07/16/79
Newton County	Seneca, city of	290269	03/15/77
Scott County	Sikeston, city of	295270	04/29/77
Clay County	Smithville, city of	295271	08/12/77
Greene County	Springfield, city of	290149	07/03/78
Crawford County	Steelville, city of	290114	11/25/77
Ste. Genevieve County	Ste. Genevieve, city of	290325	09/30/77
St. Louis County	St. Ann, city of	290383	07/16/79
St. Charles County	St. Charles County*	290315	09/15/78
St. Charles County	St. Charles, city of	290316	03/31/78
Buchanan County	St. Joseph, city of	290043	09/30/77
St. Louis County	St. Louis County*	290327	09/15/78
Independent City	St. Louis, city of	290385	07/16/79
Ste. Genevieve County	St. Mary's, city of	290326	09/15/77
St. Charles County	St. Peters, city of	290319	05/01/79
Jackson County	Sugar Creek, city of	290178	01/03/79
St. Louis County	Sunset Hills, city of	290367	09/01/77
St. Louis County	Times Beach, city of	290388	09/15/77
Platte County	Tracy, city of	290297	06/15/79
St. Louis County	University City, city of	290390	06/01/78
Pulaski County	Waynesville, city of	290300	10/06/76
St. Louis County	Webster Groves, city of	290394	09/29/78
Platte County	Weston, city of	290298	06/15/79
Howell County	Willow Springs, city of	290167	08/15/79
Total communities reported in State: 124.			
Region 7.—*Nebraska*			
Cass County	Avoca, village	310247	05/01/78
Gage County	Beatrice, city of	310091	09/30/77
Custer County	Broken Bow, city of	310051	09/29/78
Cass County	Cedar Creek, village of	310030	09/15/78
Merrick County	Central City, city of	310148	08/15/79
Platte County	Columbus, city of	310272	02/27/76
Douglas County	Elkhorn, city of	310075	08/15/79
Dodge County	Fremont, city of	310069	02/01/79
Scotts Bluff County	Gering, city of	310371	02/15/79
Lancaster County	Lincoln, city of	315273	09/03/76
Cass County	Murray, village of	310305	01/05/78
Cass County	Nehawka, village of	310032	02/15/78
Douglas County	Omaha, city of	315274	05/21/76
Sarpy County	Papillion, city of	315275	10/10/75
Thurston County	Pender, village of	310221	05/12/78
Cass County	Plattsmouth, city of	310033	03/01/78
Saunders County	Saunders County*	310195	12/01/78
Scotts Bluff County	Scottsbluff, city of	310206	06/15/79
Dakota County	South Sioux City, city of	310054	08/15/79
Lincoln County	Springfield, city of	310194	02/15/78
Burt County	Tekamah, city of	310024	08/01/79
Cass County	Union, village of	310035	04/03/78
Saunders County	Wahoo, city of	310204	12/01/77
Cass County	Weeping Water, city of	310036	12/01/77
Hall County	Wood River, city of	310104	12/01/78
York County	York, city of	310237	09/29/78
Total communities reported in State: 26.			
Region 8.—*Colorado*			
Adams County	Adams County*	080001	02/01/79
Alamosa County	Alamosa County*	080009	01/19/78
Alamosa County	Alamosa, city of	080010	09/01/77
Arapahoe County	Arapahoe County*	080011	08/15/77
Archuleta County	Archuleta County*	080273	01/03/79
Jefferson County	Arvada, city of	085072	04/23/76
Arapahoe County	Aurora, city of	080002	06/01/78
La Plata County	Bayfield, town of	080098	09/29/76
Boulder County	Boulder County*	080023	02/01/79
Boulder County	Boulder, city of	080024	07/17/78
Adams County	Brighton, city of	080004	11/16/77
Boulder County	Broomfield, city of	085073	08/22/75
Morgan County	Brush, city of	080130	12/01/77
Douglas County	Castle Rock, town of	080050	08/15/78
Arapahoe County	Cherry Hill Village, city of	080013	08/01/78
Arapahoe County	Columbine Valley, town of	080014	08/15/78
Adams County	Commerce City, city of	080006	10/06/78
Weld County	Dacona, town of	080236	07/18/79
La Plata County	Durango, city of	080099	01/17/79
Arapahoe County	Englewood, city of	085074	07/28/78
Weld County	Erie, town of	080181	10/17/78
Larimer County	Estes Park, town of	080193	01/17/79
Weld County	Evans, city of	080182	04/02/79
Larimer County	Fort Collins, city of	080102	07/18/79
Weld County	Fort Lupton, city of	080183	04/02/79
Weld County	Frederick, town of	080244	07/16/79
Garfield County	Garfield County*	080205	12/15/77
Garfield County	Glenwood Springs, city of	080071	07/18/79
Weld County	Greeley, city of	080184	07/16/79
Arapahoe County	Greenwood Village, city of	080195	01/05/78
Routt County	Hayden, town of	080157	08/01/78
Clear Creek County	Idaho Springs, city of	080036	11/16/78
Jefferson County	Lakewood, city of	085075	07/01/77
Larimer County	Larimer County*	080101	04/02/79
Las Animas County	Las Animas County*	080106	09/01/77
Arapahoe County	Littleton, city of	080017	12/01/78
Boulder County	Longmont, city of	080027	07/05/77
Boulder County	Louisville, city of	085076	07/25/76
Larimer County	Loveland, city of	080103	09/01/78
Mesa County	Mesa County*	080115	07/03/78
Weld County	Milliken, town of	080187	08/01/79
Boulder County	Nederland, town of	080255	08/01/79
Adams County	Northglenn, city of	080257	09/15/78
Weld County	Nunn, town of	080188	02/01/79
Archuleta County	Pagosa Springs, town of	080019	12/01/76
El Paso County	Palmer Lake, town of	080065	07/03/78
Pueblo County	Pueblo, city of	085077	04/02/76
Rio Blanco County	Rangely, town of	080152	12/01/77
Garfield County	Rifle, city of	085078	09/01/76
San Miguel County	San Miguel County*	080166	09/29/78
San Juan County	San Juan County*	080267	09/01/76
Arapahoe County	Sheridan, city of	080018	07/13/76
Clear Creek County	Silver Plume, town of	080200	01/17/79
San Juan County	Silverton, town of	080165	09/01/78
Routt County	Steamboat Springs, town of	080159	01/19/78
San Miguel County	Telluride, town of	080168	09/15/78
Adams County	Thornton, city of	080007	06/15/78
Las Animas County	Trinidad, city of	080107	07/03/78
Larimer County	Wellington, town of	080104	02/15/79
Jefferson County	Wheat Ridge, city of	085079	07/22/77

County name	Community name	Community ID No.	Effective date of latest revision
Morgan County	Wiggins, city of	080204	02/15/79
Total communities reported in State: 61.			
Region 8.—*Montana*			
Lincoln County	Eureka, town of	300112	07/02/79
Cascade County	Great Falls, city of	300010	09/30/77
Lincoln County	Libby, city of	300042	07/02/79
Flathead County	Whitefish, city of	300026	07/16/79
Total communities reported in State: 4.			
Region 8.—*North Dakota*			
Mercer County	Beulah, city of	380066	01/05/78
Ward County	Burlington, city of	380141	09/15/78
Stark County	Dickinson, city of	380117	06/01/78
Ransom County	Enderlin, city of	385363	07/11/75
Cass County	Fargo, city of	385364	04/23/76
Grand Forks County	Grand Forks City	385365	09/30/77
Mercer County	Hazen, city of	380067	12/15/77
Stutsman County	Jamestown, city of	385366	02/17/78
Ward County	Minot, city of	385367	11/14/75
Hettinger County	Mott, North Dakota	380038	12/08/78
Pembina County	Pembina, city of	385368	06/30/78
Cass County	Riverside, city of	380318	01/05/78
Pierce County	Rugby, city of	380088	07/18/79
Stark County	Stark County*	385369	07/30/78
McHenry County	Velva, city of	380051	08/15/77
Ward County	Ward County*	385370	10/15/78
Cass County	West Fargo, city of	380024	04/17/78
Mercer County	Zap, city of	380068	07/16/79
Total communities reported in State: 18.			
Region 8.—*South Dakota*			
Brown County	Aberdeen, city of	460007	06/01/78
Butte County	Belle Fourche, city of	460012	06/01/77
Brookings County	Brookings, city of	460004	10/17/78
Brown County	Columbia, city of	460008	07/17/78
Stanley County	Fort Pierre, city of	465419	10/22/76
Brown County	Frederick, town of	460009	03/01/78
Brown County	Groton, city of	460179	03/01/78
Meade County	Meade County*	460054	08/01/78
Davison County	Mitchell, city of	460021	02/01/79
Union County	North Sioux City, city of	460087	12/01/77
Pennington County	Rapid City, city of	465420	09/03/76
Minnehaha County	Sioux Falls, city of	460060	01/17/79
Meade County	Sturgis, city of	460055	06/01/77
Total communities reported in State: 13.			
Region 8.—*Utah*			
Davis County	Bountiful, city of	490039	09/29/78
Carbon County	Helper, city of	490034	03/01/79
Emery County	Orangeville, city of	490064	03/01/79
Utah County	Payson, city of	490157	11/15/78
Carbon County	Price, city of	490036	03/01/79
Utah County	Provo, city of	490159	02/01/79
Utah County	Salem, city of	490160	07/16/79
Utah County	Springville, city of	490163	09/29/78
Carbon County	Sunnyside, city of	490205	09/29/78
Total communities reported in State: 9.			
Region 8.—*Wyoming*			
Johnson County	Buffalo, city of	560027	05/15/78
Natrona County	Casper, city of	560037	09/15/77
Laramie County	Cheyenne, city of	560030	09/30/77
Lincoln County	Diamondville, town of	560034	09/29/78
Converse County	Douglas, town of	560013	10/17/78
Natrona County	Evansville, town of	560071	07/17/78
Fremont County	Fremont County*	560080	02/01/79
Campbell County	Gillette, city of	560007	05/15/78
Sweetwater County	Green River, town of	560050	07/17/78
Fremont County	Hudson, town of	560018	07/17/78
Lincoln County	Kemmerer, town of	560035	08/15/78
Fremont County	Lander, city of	560020	09/01/78
Albany County	Laramie, city of	560002	07/16/79
Big Horn County	Manderson, town of	560006	04/16/79
Natrona County	Natrona County*	560036	08/15/78
Sweetwater County	Rock Springs, city of	560051	07/16/79
Sheridan County	Sheridan, city of	560044	09/01/78
Hot Springs County	Thermopolis, town of	560026	07/17/78
Uinta County	Uinta County*	560053	12/15/78
Platte County	Wheatland, town of	560043	04/16/79
Washakie County	Worland, city of	560056	09/15/78
Total communities reported in State: 21.			
Region 9.—*Arizona*			
Maricopa County	Avondale, city of	040038	06/15/79
Cochise County	Bisbee, city of	040014	01/03/79
Pinal County	Casa Grande, city of	040080	08/01/77
Cochise County	Douglas, city of	040015	09/29/78
Maricopa County	El Mirage, town of	040041	12/01/78
Maricopa County	Glendale, city of	040045	04/16/79
Maricopa County	Goodyear, town of	040046	07/16/79
Cochise County	Huachuca City, city of	040016	05/14/79
Mohave County	Kingman, city of	040060	08/15/77
Maricopa County	Maricopa County*	040037	07/02/79
Yavapai County	Prescott, city of	040096	02/02/77
Maricopa County	Scottsdale, city of	045012	01/09/76
Maricopa County	Wickenburg, town of	040056	01/05/76
Cochise County	Willcox, city of	040018	07/17/78
Maricopa County	Youngtown, town of	040057	11/15/78
Total communities reported in State: 15.			
Region 9.—*California*			
Shasta County	Anderson, city of	060359	09/01/77
Los Angeles County	Avalon, city of	060096	09/29/78
Riverside County	Banning, city of	060246	10/17/78
Riverside County	Beaumont, city of	060247	10/17/78
Marin County	Belverdere, city of	060429	05/02/77
Alameda County	Berkeley, city of	060004	09/01/78
Orange County	Buena Park, city of	060215	02/01/79
Santa Barbara County	Carpinteria, city of	060332	07/07/78
Riverside County	Corona, city of	060250	05/15/78
Marin County	Corte Madera, town of	065023	12/15/77
Riverside County	Desert Hot Springs, city of	060251	04/02/79
San Diego County	El Cajon, city of	060289	09/15/77
Contra Costa County	El Cerrito, city of	065027	06/01/77
Marin County	Fairfax, town of	060175	01/05/78

V 44 OC 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
Region 9.—*California—Continued*			
Ventura County	Fillmore, city of	060415	10/17/76
Orange County	Fullerton, city of	060219	07/18/77
Riverside County	Hemet, city of	060253	09/29/78
San Diego County	Imperial Beach, city of	060291	06/01/78
Sacramento County	Isleton, city of	060265	12/01/78
Lake County	Lake County*	060090	10/17/78
Lake County	Lakeport, city of	065036	09/01/78
Alameda County	Livermore, city of	060006	07/05/77
San Joaquin County	Lodi, city of	060300	03/01/78
Santa clara County	Los Gatos, town of	060343	01/17/79
Contra Costa County	Martinez, city of	065044	03/15/78
Yuba County	Marysville, city of	060428	01/19/78
Merced County	Merced County*	060196	01/03/79
Merced County	Merced, city of	060191	07/16/79
Marin County	Mill Valley, city of	060177	01/03/79
Santa Clara County	Monte Sereno, city of	060345	01/03/79
San Diego County	National City, city of	060293	02/15/79
San Bernardino County	Needles, city of	060277	07/16/79
Alameda County	Newark, city of	060009	12/01/78
Stanislaus County	Newman, city of	060388	09/29/78
Orange County	Newport Beach, city of	060227	09/01/78
Riverside County	Norco, city of	060256	02/15/79
Marin County	Novato, city of	060178	01/19/78
Ventura County	Ojai, city of	060416	10/17/78
Ventura County	Oxnard, city of	060417	03/01/79
Stanislaus County	Patterson, city of	060390	06/01/79
Riverside County	Perris, city of	060258	04/16/79
San Mateo County	Portola Valley, town of	065052	10/17/78
San Bernardino County	Redlands, city of	060279	01/03/79
Contra Costa County	Richmond, city of	060035	03/01/79
Sacramento County	Sacramento County*	060262	03/15/79
Sacramento County	Sacramento, city of	060266	09/15/78
Marin County	San Anselmo, city of	060180	12/01/77
San Bernardino County	San Bernardino County*	060270	09/29/78
San Bernardino County	San Bernardino, city of	060281	07/16/79
San Mateo County	San Carlos, city of	060327	09/01/77
Los Angeles County	San Dimas, city of	060154	06/02/78
Los Angeles County	San Gabriel, city of	065055	04/16/76
Riverside County	San Jacinto, city of	065056	11/25/77
San Luis Obispo County	San Luis Obispo, city of	060310	04/16/79
San Diego County	San Marcos, city of	060296	08/01/78
Contra Costa County	San Pablo, city of	060036	08/01/77
Santa Barbara County	Santa Barbara County*	060331	03/15/79
Santa Barbara County	Santa Barbara, city of	060335	12/15/78
Santa Clara County	Saratoga, city of	060351	01/17/79
Orange County	Seal Beach, city of	060233	07/03/78
Sonoma County	Sonoma, city of	060383	01/17/79
El Dorado County	South Lake Tahoe, city of	065060	07/03/78
San Joaquin County	Stockton, city of	060302	01/03/79
Santa Clara County	Sunnyvale, city of	060352	05/15/78
Ventura County	Thousand Oaks, city of	060422	09/29/78
Marin County	Tiburon, city of	060430	05/16/77
Alameda County	Union City, city of	060014	12/01/78
Solano County	Vallejo, city of	060374	10/17/78
San Bernardino County	Victorville, city of	065068	08/05/77
Stanislaus County	Waterford, city of	060393	07/16/79
Yolo County	Winters, city of	060425	12/01/78
Total communities reported in State: 71.			
Region 9.—*Hawaii*			
Hawaii County	Hawaii County (Hilo and Vic.)	155166	07/01/74
Total communities reported in State: 1.			

County name	Community name	Community ID No.	Effective date of latest revision
Region 10.—*Alaska*			
Bethel Division	Bethel, city of	020104	03/16/76
Cordovia-McCarthy division	Cordova, city of	020037	04/02/79
Fairbanks Division	Fairbanks-North Star Borough	025009	12/09/77
Lynn Canal	Hoonah, city of	020049	04/02/79
Yukon-Koyukuk division	Nenana, city of	025010	04/09/78
Skagway-Yakutat division	Skagway, city of	025011	03/01/77
Total communities reported in State: 6.			
Region 10.—*Idaho*			
Bingham County	Aberdeen, city of	160158	08/15/79
Blaine County	Bellvue, city of	160021	08/01/78
Benewah County	Benewah County	160014	07/16/79
Gem County	Gem County*	160127	04/17/78
Blaine County	Hailey, city of	160022	04/17/78
Bannock County	Inkom, city of	160010	09/15/78
Shoshone County	Kellogg, city of	160131	07/02/79
Blaine County	Ketchum, city of	160023	06/15/78
Bannock County	Lava Hot Springs, city of	160011	08/01/79
Bannock County	McCammon City	160176	09/15/78
Shoshone County	Mullan, city of	160115	08/01/79
Shoshone County	Pinehurst, city of	160200	07/02/79
Blaine County	Sun Valley, city of	160024	04/17/78
Shoshone County	Wallace, city of	160118	07/02/79
Total communities reported in State: 14.			
Region 10.—*Oregon*			
Clatsop County	Astoria, city of	410028	06/01/78
Marion County	Aumsville, city of	410155	03/01/79
Tillamook County	Bay City, city of	410197	06/01/78
Clatsop County	Cannon Beach, city of	410029	09/01/78
Douglas County	Canyonville, city of	410060	11/01/78
Clackamas County	Clackamas County*	415586	03/01/78
Clatsop County	Clatsop County*	410027	07/03/78
Curry County	Curry County*	410052	04/03/78
Douglas County	Douglas County*	410059	12/15/78
Douglas County	Drain, city of	410061	08/01/79
Union County	Elgin, city of	410218	11/15/78
Tillamook County	Garibaldi, City of	410280	04/17/78
Clatsop County	Gearhart, city of	410030	05/15/78
Clackamas County	Gladstone, city of	410017	03/15/77
Douglas County	Glendale, city of	410063	09/29/78
Grant County	Grant County*	410074	02/15/79
Multnomah County	Gresham, city of	410181	07/16/79
Clatsop County	Hammond, town of	410031	04/17/78
Linn County	Idanha, city of	410182	03/01/79
Union County	Island City, city of	410220	09/29/78
Marion County	Jefferson, city of	410163	03/01/79
Grant County	John Day, city	410077	09/15/77
Lincoln County	Lincoln City, city of	410130	04/17/78
Tillamook County	Manzanita, city of	410199	05/01/78
Marion County	Marion County*	410154	08/15/79
Marion County	Mill City, city of	410143	03/01/79
Douglas County	Myrtle Creek, city of	410064	02/15/78
Tillamook County	Nehalem, city of	410200	04/03/78
Union County	North Powder, city of	410221	09/29/78
Umatilla County	Pendleton, city of	410211	11/03/78
Polk County	Polk County*	410186	02/15/78
Douglas County	Riddle, city of	410066	08/01/79
Tillamook County	Rockaway, city of	410201	09/29/78
Douglas County	Roseburg, city of	410067	06/01/77
Marion County	Salem, city of	410167	06/15/79

County name	Community name	Community ID No.	Effective date of latest revision
Marion County	Scotts Mills, city of	410168	03/01/79
Lincoln County	Siletz, city of	410132	03/01/79
Marion County	Silverton, city of	410169	03/01/79
Marion County	Stayton, city of	410170	03/01/79
Tillamook County	Tillamook County*	410198	08/01/78
Tillamook County	Tillamook, city of	410202	05/01/78
Lincoln County	Toledo, city of	410133	03/01/79
Marion County	Turner, city of	410171	04/02/79
Umatilla County	Umatilla County*	410204	06/15/78
Union County	Union, city of	410223	12/15/78
Lincoln County	Waldport, city of	410134	03/15/79
Clatsop County	Warrenton, city of	410033	05/15/78
Clackamas County	West Linn, city of	410024	03/15/77
Tillamook County	Wheeler, city of	410203	11/16/77
Douglas County	Winston, city of	415593	06/22/75
Marion County	Woodburn, city of	410172	03/01/79
Lincoln County	Yachats, city of	410135	03/01/79
Total communities reported in State: 52.			
Region 10.—*Washington*			
Whitman County	Albion, town of	530206	08/01/78
King County	Bellevue, city of	530074	12/01/78
Benton County	Benton City, town of	530010	07/16/79
Whatcom County	Blaine, city of	530273	07/16/79
Kitsap County	Bremerton, city of	530093	08/15/79
Okanogan County	Brewster, town of	530275	08/01/77
Chelan County	Cashmere, city of	530016	12/01/77
Chelan County	Chelan, city of	530017	01/05/78
Whitman County	Colton, town of	530244	07/02/79
Okanogan County	Conconully, town of	530118	08/30/77
Douglas County	Douglas County*	530036	07/17/78
Whitman County	Endicott, town of	530208	07/17/78
Snohomish County	Everett, city of	530164	04/03/78
Clallam County	Forks, town of	530022	08/01/79
Whitman County	Garfield, town of	530209	06/01/78
Grays Harbor County	Hoquiam, city of	530061	06/15/79
Pacific County	Ilwaco, town of	530127	02/01/78
Franklin County	Kahlotus, town of	530045	08/01/79
Benton County	Kennewick, city of	530011	08/15/79
King County	King County*	530071	09/29/78
Chelan County	Leavenworth, city of	530019	01/05/78
Pacific County	Long Beach, town of	530128	08/01/79
King County	Normandy Park, city of	530084	11/02/77
Whitman County	Oakesdale, town of	530210	09/29/78
Grays Harbor County	Ocean Shores, city of	530065	03/01/78
Okanogan County	Okanogan County*	530117	03/15/79
Okanogan County	Okanogan, city of	530119	09/30/77
Okanogan County	Omak, city of	530120	03/01/78
Okanogan County	Oroville, town of	530121	09/30/77
Pacific County	Pacific County*	530126	01/05/78
Whitman County	Palouse, city of	530211	07/17/78
Garfield County	Pomeroy, city of	530048	07/17/78
Kitsap County	Poulsbo, city of	530241	07/02/79
Whitman County	Pullman, city of	530212	07/02/79
Pacific County	Raymond, city of	530129	07/16/79
King County	Redmond, city of	530087	02/01/79
Benton County	Richland, city of	535533	11/14/75
Okanogan County	Riverside, town of	530122	03/01/78
Whitman County	Rosalia, town of	530213	07/17/78
Whitman County	Tekoa, city of	530215	08/01/79
Okanogan County	Tonasket, town of	530123	01/05/78
Yakima County	Toppenish, city of	530228	07/17/78
Okanogan County	Twisp, town of	530124	07/16/77
Whitman County	Uniontown, town of	530216	08/01/78
Yakima County	Wapato, city of	530230	07/17/78
Grays Harbor County	Westport, city of	530067	07/16/79
Whatcom County	Whatcom County*	530198	08/30/77
Okanogan County	Winthrop, town of	530125	11/02/77
Cowlitz County	Woodland, city of	530035	02/01/78

Total communities reported in State: 49.

(Flems) with detailed engineering data.

Total communities reported: 2,916.

State of Alabama

65.7 List of communities with minimal flood hazard areas.

County	Community name	Community ID No.	Effective date of firm
Escambia County	Atmore, city of	010071	77/06/24
Mobile County	Citronelle, city of	010277	77/06/17
Cullman County	Cullman, city of	010209	77/01/14
Butler County	Georgiana, city of	010018	77/07/15
Winston County	Haleyville, city of	010303	76/06/25
Geneva County	Hartford, city of	010086	77/07/22
Coffee County	Kineton, town of	010297	77/12/30
Colbert County	Littleville, town of	010330	78/11/24
Crenshaw County	Luverne, city of	010058	77/06/24
Madison County	Madison, city of	010308	78/12/15
Geneva County	Malvern, town of	010087	78/02/24
Mobile County	Mount Vernon, town of	010169	77/12/16
Coffee County	New Brockton, town of	010238	77/07/22
Madison County	New Hope, town of	010154	78/11/24
Macon County	Notasulga, town of	010149	78/11/24
Covington County	River Falls, town of	010054	77/07/06
Geneva County	Slocomb, city of	010089	77/12/16
Lamar County	Sulligent, town of	010136	76/06/25
Morgan County	Trinity, town of	010309	78/11/24
Total number of minimal flooding communities for the State: 19.			

State of Arizona

Cochise County	Benson, town of	040013	76/06/25
Apache County	Springerville, town of	040011	76/06/25
Total number of minimal flooding communities for the State: 2.			

State of Arkansas

Ouachita County	Bearden, city of	050162	78/06/20
Jackson County	Beedeville, city of	050096	79/01/23
Logan County	Booneville, city of	050472	76/06/25
Lafayette County	Bradley, city of	050114	77/06/28
Selma County	Bryant, city of	050306	77/06/28
Lafayette County	Buckner, city of	050115	76/06/25
Jackson County	Campbell Station, city of	050099	79/01/09
Dallas County	Carthage, city of	050062	78/06/22
Lawrence County	College City, city of	050316	76/06/30
Baxter County	Cotter, city of	050011	76/06/30
Nevada County	Emmet, city of	050411	76/06/25
Baxter County	Gassville, city of	050243	78/10/31
Clay County	Knobel, town of	050032	78/06/25
Chicot County	Lake Village, city of	050026	78/06/08
Mississippi County	Leachville, city of	050147	76/06/25
White County	Mc Rae, city of	050228	76/06/25
Mississippi County	Osceola, city of	050151	76/06/30
Crawford County	Rudy, town of	050052	76/06/25
Jefferson County	Sherrill, town of	050110	76/06/30

V44 OC 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of Arkansas—Continued			
Jackson County	Swifton, city of	050104	79/01/02
Jackson County	Tupelo, city of	050106	79/01/23
Lonoke County	Ward, city of	050372	78/09/05
Bradley County	Warren, city of	050022	77/08/09
Mississippi County	Wilson, city of	050153	76/06/25
Total number of minimal flooding communities for the State: 25.			
State of California			
Alameda County	Alameda, city of	060002	78/08/01
Placer County	Auburn, city of	060240	76/06/30
Solano County	Benicia, city of	060368	77/05/31
Santa Clara County	Campbell, city of	060338	78/06/30
San Diego County	Carlsbad, city of	060285	77/06/14
Colusa County	Colusa, city of	060023	76/06/30
San Mateo County	Foster City, city of	060318	77/01/07
San Diego County	La Mesa, city of	060292	76/06/25
Orange County	Westminister, city of	060237	78/08/08
Orange County	Yorba Linda, city of	060238	78/08/01
Total number of minimal flooding communities for the State: 10.			
Colorado			
Montezuma County	Cortez, city of	080121	77/04/01
Ouray County	Ridgway, town of	080138	77/03/18
Total number of minimal flooding communities for the State: 2.			
Connecticut			
New Haven County	Bethany, town of	090144	77/06/23
New Haven County	Prospect, town of	090151	77/02/04
Total number of minimal flooding communities for the state: 2.			
State of Delaware			
Sussex County	Bridgeville, town of	100032	77/01/07
Kent County	Cheswold, town of	100004	77/01/07
Kent County	Felton, town of	100008	77/01/07
Sussex County	Greenwood, town of	100039	78/02/24
New Castle County	Middletown, town of	100024	77/01/07
Total number of minimal flooding communities for the State: 5.			
State of Florida			
Polk County	Auburndale, city of	120262	79/05/11
Sumter County	Bushnell, town of	120297	76/06/25
Marion County	Ocala, city of	120330	78/09/22
Hardee County	Wauchula, city of	120105	76/06/25
Total number of minimal flooding communities for the State: 4.			
State of Georgia			
Peach County	Fort Valley, city of	130148	76/06/25
Columbia County	Grovetown, city of	130265	77/01/28
Columbia County	Harlem, city of	130266	77/01/28
Richmond County	Hephzibah, town of	130442	76/06/25
Dooly County	Pinehurst, city of	130071	76/06/25
Talbot County	Woodland, city of	130397	76/06/25
Total number of minimal flooding communities for the State: 6.			
State of Idaho			
Power County	American Falls, city of	160109	76/06/30
Boundary County	Bonners Ferry, city of	160031	77/04/22
Valley County	Donnelly, city of	160121	77/04/15
Clearwater County	Pierce, city of	160048	78/06/29
Power County	Rockland, city ofol	160110	77/04/01
Benewah County	Tensed, city of	160017	78/08/15
Kootenai County	Worley, city of	160085	76/06/30
Total number of minimal flooding communities for the State: 7.			
State of Illinois			
Iroquois County	Ashkum, village of	170287	79/04/20
Cook County	Barrington Hills, village of	170058	79/08/10
Cook County	Calumet Park, village of	170073	79/02/16
Cook County	East Hazel Crest, village of	170085	78/09/22
Cook County	Forest Park, village of	170092	78/09/22
Cook County	Maywood, village of	170124	78/08/11
Cook County	River Forest, village of	170151	78/08/11
La Salle County	Sheridan, village of	170802	79/08/10
St. Clair County	Smithton, village of	170892	76/06/25
St. Clair County	Summerfield, village of	170636	79/08/10
Cook County	Worth, village of	170177	78/07/07
Total number of minimal flooding communities for the State: 11.			
State of Indiana			
Whitley County	Columbia City, city of	180300	79/01/05
Hamilton County	Fishers, town of	180423	76/06/30
Howard County	Russiaville, town of	180427	79/06/01
Porter County	Valparaiso, city of	180204	79/03/02
Total number of minimal flooding communities for the State: 4.			
State of Iowa			
Pottawattamie County	Carter Lake, city of	190492	78/08/08
Dubuque County	Epworth, city of	190576	77/07/12
Black Hawk County	Gilbertville, city of	190021	78/08/01
Black Hawk County	Raymond, city of	190024	78/07/11
Total number of minimal flooding communities for the State: 4.			
State of Kansas			
Harvey County	Burrton, city of	200130	77/04/22
Sedgwick County	Colwich, city of	200484	78/07/11
Johnson County	Countryside, city of	200160	76/06/30
Johnson County	Gardner, city of	200164	77/04/15
Elk County	Howard, city of	200507	77/04/06
Reno County	Hutchinson, city of	200283	78/09/05
Ellsworth County	Kanopolis, city of	200511	77/04/08
Johnson County	Lake Quivira, city of	200166	77/07/28

County name	Community name	Community ID No.	Effective date of latest revision
Doniphan County	Leona, city of	200082	77/01/07
Sedgwick County	Mount Hope, city of	200325	76/06/27
Barton County	Pawnee Rock, city of	200021	77/01/14
Johnson County	Roeland Park, city of	200176	76/06/30
Sedgwick County	Valley Center, city of	200327	77/01/14
Johnson County	Westwood, city of	200179	76/06/25
Total number of minimal flooding communities for the State: 14.			
State of Kentucky			
Logan County	Auburn, city of	210148	78/11/03
Russell County	Jamestown, city of	210206	76/06/25
Logan County	Lewisburg, city of	210149	77/05/17
Mason County	Maysville, city of	210168	76/06/30
Total number of minimal flooding communities for the State: 4.			
State of Louisiana			
Bossier Parish	Benton, town of	220032	77/07/26
St. Landry Parish	Carkton, village of	220167	76/06/25
St. James Parish	Gramercy, town of	220162	78/01/24
St. Landry Parish	Grand Coteau, town of	220169	76/06/30
Tangipahoa Parish	Independence, town of	220209	77/07/05
Iberia Parish	Jeanerette, town of	220080	76/06/30
St. James Parish	Lutcher, town of	220248	79/04/24
Avoyelles Parish	Mansura, town of	220255	76/06/25
Vermilion Parish	Maurice, village of	220227	76/06/30
Morehouse Parish	Mer Rouge, village of	220128	78/06/27
St. Helena Parish	Montpelier, village of	220300	78/03/20
Avoyelles Parish	Moreauville, village of	220023	01/31/78
Madison Parish	Mound, village of	220124	07/12/77
Iberia Parish	New Iberia, city of	220082	06/22/78
Evangeline Parish	Pine Prairie, village	220068	06/25/76
Tangipahoa Parish	Ponchatoula, city of	220211	04/17/79
West Baton Rouge Par	Port Allen, city of	220242	01/24/78
LaFourche Parish	Thibodaux, city of	220111	02/07/76
Tangipahoa Parish	Tickfaw, city of	220214	06/26/77
Tensas Parish	Waterproof, town of	220218	06/21/77
West Feliciana	West Feliciana Parish*	220245	02/15/79
Total number of minimal flooding communities for the State: 21.			
State of Maine			
Penobscot County	Bradford, town of	230373	07/04/78
Oxford County	Hebron, town of	230335	12/31/76
Penobscot County	Holden, town of	230390	11/07/78
Aroostook County	Mars Hill, town of	230026	10/24/78
Aroostook County	New Sweden, town of	230433	10/24/78
Oxford County	Stow, town of	230186	11/14/78
Oxford County	Sweden, town of	230341	10/31/78
Piscataquis County	Wellington, town of	230416	11/21/78
Total number of minimal flooding communities for the State: 8.			
State of Maryland			
Garrett County	Accident, town of	240093	09/01/78
Montgomery County	Barnesville, town of	240094	08/10/79
Dorchester County	Brookview, town of	240097	01/07/77
Frederick County	Brunswick, city of	240028	01/07/77
Dorchester County	Eldorado, town of	240105	12/15/78
Frederick County	Myersville, town of	240116	12/15/78
Carroll County	New Windsor, town of	240149	02/16/79
Somerset County	Princess Anne, town of	240063	04/20/79
Dorchester County	Vienna, town of	240127	12/15/78
Washington County	Williamsport, town of	240077	06/10/77
Frederick County	Woodsboro, town of	240033	12/15/78
Total number of minimal flooding communities for the State: 11.			
State of Massachusetts			
Hampshire County	Goshen, town of	250161	78/10/17
Worcester County	Petersham, town of	250327	79/01/23
Total number of minimal flooding communities for the State: 2.			
Michigan			
Cass County	Casscopolis, Village of	260363	79/06/01
Alger County	Chatham, Village of	260343	79/06/10
Wayne County	Dearborn, city of	260220	79/04/20
Cass County	Edwardsburg, Village of	260364	79/04/20
Newaygo County	Fremont, city of	260187	79/06/10
Wayne County	Inkster, city of	260232	79/03/02
Ingham County	Leslie, city of	260091	78/06/10
Ingham County	Locke, township of	260571	78/06/10
Van Buren County	Paw Paw, Village of	260596	79/01/05
Monroe County	Petersburg, City	260286	76/06/25
Ingham County	Webberville, Village of	260416	79/06/10
Total number of minimal flooding communities for the State: 11.			
State of Minnesota			
Dakota County	Eagan, city of	270105	76/06/11
Clay County	Felton, city of	270081	75/06/10
Ramsey County	Vadnais Heights, city of	270365	76/06/30
Total number of minimal flooding communities for the State: 3.			
State of Mississippi			
Bolivar County	Beulah, town of	280014	76/06/25
Bolivar County	Gunnison, town of	280018	76/06/25
Coahoma County	Lyon, town of	280043	76/06/25
Total number of minimal flooding communities for the State: 3.			
State of Missouri			
Cass County	Archie, city of	290061	76/09/12
Boone County	Centralia, city of	290035	77/04/15
St. Louis County	Clarkson Valley, village of	290340	77/04/06
St. Louis County	Dellwood, city of	290346	76/06/27
Cass County	Drexel, city of	290064	77/04/06
Miller County	Eldon, town of	290227	78/12/12
Saline County	Emma, city of	290587	77/09/25
Cass County	Garden City, city of	290067	77/04/06
Pemiscot County	Homestown, city of	290278	79/04/17
New Madrid County	Howardville, city of	290251	79/07/10
Harrison County	Ridgeway, city of	290543	77/03/25
St. Louis County	Riverview, village of	290381	79/04/17
St. Louis County	St. John, city of	290384	77/04/15
Pemiscot County	Wardell, city of	290632	76/06/30
Mississippi County	Wyatt, city of	290236	76/06/25
Total number of minimal flooding communities for the State: 15.			

V 44 NO 207 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of Nebraska			
Hall County	Alda, village of	310242	78/06/20
Hall County	Cairo, village of	310101	78/06/20
Hall County	Doniphan, village of	310102	78/08/01
Richardson County	Salem, village of	310185	77/04/18
Douglas County	Waterloo, village of	310079	77/01/14
Total number of minimal flooding communities for the State: 5.			
State of New Hampshire			
Carroll County	Brookfield, town of	330179	77/05/17
Hillsborough County	Francestown, town of	330086	77/05/17
Merrimack County	Sutton, town of	330122	77/05/17
Total number of minimal flooding communities for the State: 3.			
State of New Jersey			
Salem County	Alloway, township of	340413	790615
Warren County	Alpha, borough of	340576	771223
Camden County	Audubon, borough of	340121	781013
Camden County	Berlin, borough of	340125	770513
Camden County	Berlin, township of	340126	780224
Burlington County	Beverly, city of	340086	771223
Atlantic County	Buena Vista, township of	340525	790622
Atlantic County	Estell Manor, city of	340573	781103
Bergen County	Hasbrouck Heights, borough of	340041	760630
Cumberland County	Hopewell, township of	340170	781215
Camden County	Laurel Springs, borough of	340547	770513
Camden County	Magnolia, borough of	340138	781124
Camden County	Mount Ephraim, borough of	340140	780901
Monmouth County	Neptune City, borough of	340316	780811
Burlington County	New Hanover, township of	340108	790511
Burlington County	North Hanover, township of	340109	790803
Camden County	Oaklyn, borough of	340141	781103
Mercer County	Pennington, borough of	340251	760625
Ocean County	Pine Beach, borough of	340385	780811
Camden County	Pine Hill, borough of	340143	780224
Mercer County	Princeton, borough of	340253	770520
Burlington County	Shamong, township of	340534	790615
Cumberland County	Stow Creek, township of	340174	790615
Gloucester County	Wenonah, borough of	340503	790511
Atlantic County	Weymouth, township of	340536	790810
Cape May County	Woodbine, borough of	340164	790518
Gloucester County	Woodbury Heights, borough of	340550	790518
Gloucester County	Woodbury, city of	340216	790511
Salem County	Woodstown, borough of	340426	790511
Bergen County	Wood-Ridge, borough of	340083	780811
Burlington County	Wrightstown, borough of	340120	790511
Total number of minimal flooding communities for the State: 31.			
New Mexico			
San Juan County	Bloomfield, city of	350066	780808
Lea County	Eunice, city of	350028	780822
Total number of minimal flooding communities for the State: 2.			
State of New York			
Erie County	Angola, village of	360982	79/05/18
Washington County	Argyle, town of	361222	79/08/24
Washington County	Argyle, village of	361559	79/05/18
Genesee County	Bergen, village of	361497	79/06/08
Rensselaer County	Berlin, town of	360672	79/08/17
Erie County	Blasdell, village of	361489	76/06/25
Westchester County	Buchanan, village of	361534	79/07/27
Steuben County	Canisteo, village of	360770	79/05/18
Cayuga County	Cato, town of	360105	79/06/22
Suffolk County	Dering Harbor, village of	361524	78/08/11
Erie County	Eden, town of	360238	79/08/24
Columbia County	Germantown, town of	361317	79/05/11
Rensselaer County	Grafton, town of	361150	78/10/13
Orange County	Highland Falls, village of	361453	76/06/25
Oswego County	Lacona, village of	361350	79/05/11
Nassau County	Lattingtown, village of	360474	78/09/01
Columbia County	Livingston, town of	360175	79/05/11
Cayuga County	Meridian, village of	361520	79/05/11
Dutchess County	Milan, town of	361339	79/08/10
Orange County	Minisink, town of	360620	79/07/27
Rensselaer County	Nassau, village of	360675	78/08/11
Rockland County	New Square, village of	360884	78/09/22
Wayne County	Newark, village of	360894	78/06/30
Essex County	North Elba, town of	361156	79/07/20
Lewis County	Osceola, town of	360374	76/06/30
Wyoming County	Perry, village of	361025	77/07/15
Rensselaer County	Petersburg, town of	361165	78/09/01
Nassau County	Plandome Heights, village of	360485	78/08/11
Niagara County	Royalton, town of	360511	79/07/02
Oswego County	Sandy Creek, village of	361358	79/05/11
Cayuga County	Sennett, town of	360124	79/06/22
Cayuga County	Throop, town of	360128	79/06/03
Lewis County	Turin, village of	361355	77/07/01
Seneca County	Tyre, town of	381206	79/08/31
St. Lawrence County	Waddington, village of	361468	79/05/11
Dutchess County	Washington, town of	361147	79/08/17
Sullivan County	Woodridge, village of	361475	78/06/25
Total number of minimal flooding communities for the State: 37.			
State of North Carolina			
Orange County	Carrboro, town of	370275	76/06/25
Granville County	Creedmoor, city of	370107	76/06/25
Halifax County	Enfield, town of	370115	76/06/25
Gates County	Gatesville, town of	370104	77/05/13
Halifax County	Hobgood, town of	370118	77/07/01
Pitt County	Winterville, town of	370193	78/02/24
Total number of minimal flooding communities for the State: 6.			
State of Ohio			
Cuyahoga County	Beachwood, city of	390094	79/04/20
Cuyahoga County	Berea, city of	390097	79/06/01
Cuyahoga County	Broadview Heights, city of	390099	79/03/02
Cuyahoga County	Brook Park, city of	390102	79/06/01
Cuyahoga County	Brooklyn, city of	390100	79/06/01
Cuyahoga County	Cleveland Heights, city of	390105	76/06/25
Stark County	East Canton, village of	390513	79/02/18
Butler County	Hamilton, city of	390039	77/07/15
Licking County	Hartford, village of	390331	79/08/10
Cuyahoga County	Highland Heights, city of	390110	79/06/01
Lucas County	Holland, village of	390659	78/09/22
Lorain County	Kipton, village of	390743	78/09/22
Sandusky County	Lindsey, village of	390494	78/09/01
Butler County	Middletown, city of	390040	79/03/02
Erie County	Milan, village of	390155	78/09/01
Hamilton County	Montgomery, city of	390228	76/06/25
Cuyahoga County	Moreland Hills, city of	390118	79/06/01
Hamilton County	Mount Healthy, city of	390229	78/12/15
Cuyahoga County	Newburgh Heights, village of	390119	79/06/01
Cuyahoga County	Oakwood, village of	390122	79/03/02
Cuyahoga County	Olmsted Falls, city of	390672	76/06/01
Butler County	Oxford, city of	390731	79/02/16
Summit County	Peninsula, village of	390530	79/03/02
Lake County	Perry, village of	390203	79/12/15
Guernsey County	Pleasant City, village of	390665	78/01/05
Ashtabula County	Rock Creek, village of	390371	78/07/07
Mahoning County	Sebring, village of	390128	78/06/11
Cuyahoga County	Seven Hills, city of	390305	79/06/01
Jefferson County	Wintersville, village of	390240	79/01/05
Hamilton County	Wyoming, city of		79/03/02
Total number of minimal flooding communities for the State: 30.			
State of Oklahoma			
Okmulgee County	Beggs, city of	400345	78/09/19
Craig County	Bluejacket, town of	400262	78/10/24
Leflore County	Bokoshe, town of	400350	79/04/17
Coal County	Coalgate, city of	400047	78/03/08
Washington County	Copan, town of	400361	77/07/26
Lincoln County	Davenport, town of	400365	78/10/31
Hughes County	Dustin, town of	400371	77/06/26
Ellis County	Gage, town of	400060	76/06/25
Hughes County	Holdenville, city of	400244	78/06/15
Kiowa County	Mountain View, town of	400067	78/12/12
Noble County	Perry, city of	400134	78/10/10
Cotton County	Randlett, town of	400318	78/09/12
Muskogee County	Wainwright, town of	400129	78/06/03
Latimer County	Wilburton, city of	400250	79/04/24
Total number of minimal flooding communities for the State: 14.			
State of Oregon			
Jackson County	Butte Falls, town of	410091	76/06/30
Yamhill County	Carlton, city of	410251	76/06/30
Marion County	Detroit, city of	410157	76/06/30
Clackamas County	Estacada, city of	410018	76/06/30
Marion County	Gervais, city of	410160	76/06/30
Umatilla County	Milton-Freewater, city of	410210	78/09/12
Marion County	Mt. Angel, city of	410165	76/06/30
Coos County	Powers, city of	410049	76/06/30
Total number of minimal flooding communities for the State: 8.			
State of Pennsylvania			
Lehigh County	Alburtis, borough of	420584	78/12/15
Armstrong County	Apollo, borough of	420092	79/06/10
Allegheny County	Avalon, borough of	420006	78/12/15
Allegheny County	Bellevue, borough of of	420009	78/12/15
Blair County	Bellwood, borough of	420160	79/06/01
Adams County	Bendersville, borough of	422293	79/04/20
Delaware County	Bethel, township of	421606	79/06/10
Perry County	Blain, borough of	420747	77/06/24
Westmoreland County	Bolivar, borough of	420873	79/06/10
Berks County	Boyertown, borough of	420128	76/06/25
Allegheny County	Braddock Hills, borough of	420018	79/06/10
Mifflin County	Bratton, township of	421153	78/12/15
Butler County	Chicora, borough of	420214	79/06/10
Allegheny County	Churchill, borough of	420023	78/12/15
Lackawanna County	Clarks Green, borough of	422454	76/06/25
Crawford County	Conneaut Lake, borough of	422386	79/06/10
Lehigh County	Coplay, borough of	421807	76/06/25
Luzerne County	Courtdale, borough of	420601	79/06/01
York County	Cross Roads, borough of	422209	79/06/01
Cumberland County	Dickinson, township of	421580	79/04/20
Montgomery County	East Greenville, borough of	421901	76/06/25
Cambria County	Ebensburg, borough of	422260	76/06/30
Dauphin County	Elizabethville, borough of	420378	76/06/25
Warren County	Elk, township of	422119	76/06/30
Venango County	Emlenton, borough of	422107	76/06/30
Adams County	Fairfield, borough of	422295	79/01/06
Luzerne County	Fairview, township of	420993	79/06/01
York County	Fawn Grove, borough of	422570	76/06/25
Beaver County	Georgetown, borough of	422316	78/02/24
Erie County	Girard, borough of	422413	76/06/30
Erie County	Girard, township of	421363	76/06/30
Mercer County	Greens, township of	422478	76/06/30
Centre County	Halfmoon, township of	421463	78/10/13
Lehigh County	Hanover, township of	422261	76/06/25
Butler County	Harrisville, borough of	422351	76/06/30
Cambria County	Jackson, township of	421442	76/06/30
York County	Jacobus, borough of	420928	76/06/30
Washington County	Jefferson, township of	422557	76/06/30
Fayette County	Jefferson, township of	421629	79/06/01
Bedford County	Juniata, township of	421340	77/12/18
Clearfield County	Knox, township of	421527	76/06/30
Mercer County	Lackawannock, township of	422482	76/06/30
McKean County	Lafayette, township of	421858	76/06/30
Erie County	Lake City, borough of	422414	76/06/30
Adams County	Latimore, township of	421162	79/06/01
Armstrong County	Leechburg, borough of	420067	77/05/20
Adams County	Littlestown, borough of	421244	76/06/25
Delaware County	Lower Chichester, township of	421604	78/09/22
Franklin County	Lurgan, township of	421852	78/09/01
Bedford County	Mann, township of	421348	78/09/01
Blair County	Martinsburg, borough of	421384	79/04/20
Dauphin County	Mifflin, township of	421596	78/06/25
Lycoming County	Mill Creek, township of	421845	79/03/02
Delaware County	Millbourne, borough of	422408	78/09/22
Lancaster County	Millersville, borough of	420559	78/12/15
Susquehanna County	Montrose, borough of	422070	76/06/25
Allegheny County	Mt. Lebanon, township of	421272	76/06/30
York County	New Freedom, borough of	420932	79/03/02
Cumberland County	Newburg, borough of	422405	77/06/24
Lackawanna County	North Abington, township of	422460	78/06/10
Allegheny County	North Braddock, borough of	420058	78/02/16
Northampton County	Pen Argyl, borough of	421926	76/06/25
Allegheny County	Pine, township of	421094	78/09/22
Bedford County	Rainsburg, borough of	420122	77/05/27
Allegheny County	Richland, township of	421198	78/09/21
Schuylkill County	Ringtown, borough of	422505	76/06/25
Northumberland County	Rush, township of	421943	77/01/28
Lycoming County	Salladasburg, borough of	420657	79/01/05
Cumberland County	Shiremanstown, borough of	420369	79/01/05
Centre County	Snow Shoe, borough of	421459	79/06/10
Westmoreland County	Southwest Greensburg, borough of	420901	76/06/30
Lackawanna County	Springbrook, township of	421759	79/06/10
Centre County	State College, borough of	420270	76/06/30
Cambria County	Susquehanna, township of	421447	78/11/24
Allegheny County	Swissvale, borough of	420075	76/06/30
Susquehanna County	Thompson, borough of	422582	76/06/30
Lancaster County	Upper Leacock, township of	421785	78/11/03
Lehigh County	Upper Saucon, township of	420594	77/07/15
Luzerne County	Warrior Run, borough of	422270	76/06/25
Montour County	Washingtonville, borough of	420715	79/06/10
Northumberland County	Washington, township of	421945	78/12/15
Allegheny County	West View, borough of	420086	76/06/30
Cambria County	Westmont, borough of	421139	78/10/13
Adams County	York Springs, borough of	421239	79/06/01
Westmoreland County	Youngstown, borough of	420907	79/04/20
Total number of minimal flooding communities for the State: 85.			

V44 OC 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of South Carolina			
Lexington County	Batesburg, town of	450130	77/06/10
Spartanburg County	Campobello, town of	450216	78/11/24
Laurens County	Clinton, city of	450123	77/06/17
Bamberg County	Denmark, town of	450021	76/06/25
Spartanburg County	Duncan, town of	450177	77/05/27
Chester County	Great Falls, town of	450049	76/06/25
Williamsburg County	Greeleyville, town of	450188	76/06/25
Spartanburg County	Inman, town of	450217	78/11/24
Florence County	Johnsonville, city of	450208	76/06/25
Pickens County	Liberty, town of	450186	76/06/25
Spartanburg County	Lyman, town of	450219	77/05/27
McCormick County	McCormick, town of	450152	76/06/25
Charleston County	Meggett, town of	450040	79/05/11
Aiken County	New Ellenton, city of	450006	76/06/30
Orangeburg County	Norway, town of	450213	77/05/27
Spartanburg County	Pacolet Mills, town of	450180	78/11/24
Pickens County	Pickens, town of	450159	76/06/25
Florence County	Quinby, town of	450082	78/11/24
Florence County	Scranton, town of	450083	78/06/01
Oconee County	Seneca, city of	450156	77/12/16
Lexington County	Swansea, town of	450130	77/06/10
Spartanburg County	Woodruff, town of	450214	78/11/24
Total number of minimal flooding communities for the State: 22.			
State of South Dakota			
Minnehaha County	Brandon, city of	460296	79/07/10
Total number of minimal flooding communities for the State: 1.			
State of Tennessee			
Roane County	Kingston, city of	470274	78/12/15
Anderson County	Norris, city of	470003	76/06/25
Total number of minimal flooding communities for the State: 2.			
State of Texas			
Hidalgo County	Alamo, city of	480335	79/01/30
Navarro County	Blooming Grove, city of	480952	78/10/24
Montague County	Bowie, city of	480481	77/06/02
Cherokee County	Bullard, city of	480568	78/04/24
Harris County	Bunker Hill Village, city of	480290	79/04/17
Panola County	Carthage, city of	480519	79/01/23
Henderson County	Chandler, city of	480326	78/10/24
Eastland County	Cisco, city of	480203	79/01/23
Coryell County	Copperas Cove, city of	480155	79/11/21
Denton County	Corinth, town of	481143	79/05/15
Navarro County	Dawson, city of	480953	78/06/22
Wise County	Decatur, city of	480678	77/08/16
Erath County	Dublin, city of	480219	78/06/08
Anderson County	Elkhart, city of	480002	76/06/25
Ellis County	Ferris, city of	481078	78/08/22
Kaufman County	Forney, city of	480410	78/06/06
Navarro County	Frost, city of	480954	78/06/06
Kaufman County	Kaufman, city of	480407	78/06/06
Hays County	Kyle, city of	481108	78/12/12
Caldwell County	Luling, city of	480096	79/01/16
Kaufman County	Mabank, city of	480414	78/08/08
Henderson County	Malakoff, city of	480329	79/01/23
Bowie County	Maud, city of	480057	78/12/12
Morris County	Naples, city of	480494	78/11/21
Bowie County	Nash, city of	480058	77/06/21
Bowie County	New Boston, city of	480059	78/11/21
Montague County	Nocona, city of	480482	78/11/21
Eastland County	Rising Star, city of	480785	78/10/31
Lamar County	Roxton, city of	480426	79/01/02
Denton County	Sanger, town of	480786	79/04/24
Bastrop County	Smithville, city of	480024	79/01/16
Henderson County	Trinidad, city of	480333	79/01/16
Smith County	Troup, city of	480570	78/01/23
Austin County	Wallis, city of	480018	78/10/24
Smith County	Whitehouse, city of	480572	79/02/12
Total number of minimal flooding communities for the State: 35.			
State of Utah			
Davis County	Clearfield, city of	490041	79/02/20
Sevier County	Elsinore, town of	490125	79/08/04
Garfield County	Escalante, town of	490067	79/06/28
Garfield County	Hatch, town of	490068	78/07/24
Sevier County	Joseph, town of	490127	79/08/24
Sevier County	Monroe City, city of	490129	79/07/24
Davis County	North Salt Lake City, city of	490048	79/08/29
Garfield County	Panguitch, city of	490070	79/08/28
Weber County	Roy, city of	490223	78/10/24
Davis County	South Weber, city of	490049	78/06/12
Davis County	Sunset, city of	490050	78/11/21
Davis County	Woods Cross, city of	490054	78/08/29
Total number of minimal flooding communities for the State: 12.			
State of Vermont			
Orange County	Corinth, town of	500071	76/07/25
Addison County	Waltham, town of	500173	78/07/25
Total number of minimal flooding communities for the State: 2.			
State of Washington			
Whitman County	Colfax, city of	530207	78/06/01
Snohomish County	Edmonds, city of	530163	78/06/06
Grays Harbor County	Montesano, city of	530063	77/05/10
Pend Oreille County	Newport, city of	530137	76/06/30
Franklin County	Pasco, city of	530046	77/05/10
Benton County	Prosser, city of	530012	76/06/30
King County	Seattle, city of	530069	77/07/19
Yakima County	Sunnyside, city of	530227	78/07/04
Yakima County	Zillah, city of	530232	76/06/30
Total number of minimal flooding communities for the State: 9.			
State of West Virginia			
Grant County	Bayard, town of	540240	79/08/10
Fayette County	Mount Hope, city of	540260	79/08/10
Fayette County	Pax, town of	540032	79/08/10
Total number of minimal flooding communities for the State: 3.			
State of Wisconsin			
Iowa County	Cobb, village of	550178	79/01/05
La Crosse County	Holmen, village of	550219	79/04/20

County name	Community name	Community ID No.	Effective date of latest revision
Iowa County	Linden, village of	550179	79/01/05
Iowa County	Ridgeway, village of	550181	79/01/05
Milwaukee County	Shorewood, village of	550282	78/06/11
Taylor County	Stetsonville, village of	550437	79/06/10
Milwaukee County	St. Francis, city of	550261	78/07/07
Total number of minimal flooding communities for the State: 7.			
Total number of minimal flooding communities is 507.			
State of Arizona			
[65.8 List of communities with no special flood hazard areas.]			
Yuma County	Parker, town of	040100	76/12/17
Maricopa County	Peoria, city of	040050	78/11/17
Pima County	South Tucson, town of	040075	79/01/31
Maricopa County	Surprise, town of	040053	78/12/15
State total of NSFHA communities: 4.			
State of Arkansas			
Craighead County	Black Oak, city of	050389	79/04/15
Ashley County	Crossett, city of	050471	76/06/11
Mississippi County	Gosnell, city of	050144	76/06/11
Jefferson County	Redfield, city of	050282	77/08/26
Logan County	Subiaco, town of	050288	78/07/05
Columbia County	Taylor, city of	050042	76/09/30
Poinsett County	Trumann, city of	050176	79/04/15
State total of NSFHA communities: 7.			
State of California			
Los Angeles County	Artesia, city of	060097	79/03/30
San Mateo County	Atherton, town of	060312	77/10/28
Los Angeles County	Baldwin Park, city of	060100	78/05/26
Los Angeles County	Bellflower, city of	060102	79/04/30
Riverside County	Blythe, city of	060248	78/06/30
Imperial County	Brawley, city of	060066	78/06/04
Contra Costa County	Brentwood, city of	060499	79/04/15
Los Angeles County	Carson, city of	060107	78/09/29
Los Angeles County	Cerritos, city of	060108	79/02/20
San Bernardino County	Chino, city of	060272	76/06/30
Los Angeles County	Commerce, city of	060110	79/04/15
Los Angeles County	Compton, city of	060111	79/03/30
Los Angeles County	Covina, city of	065024	78/05/25
Orange County	Cypress, city of	060217	79/02/09
San Mateo County	Daly City, city of	060317	78/07/31
Merced County	Dos Palos, city of	060443	78/05/25
Imperial County	El Centro, city of	06067o	78/08/04
Los Angeles County	El Segundo, city of	060118	78/05/25
Alameda County	Emeryville, city of	060005	78/04/21
Los Angeles County	Gardena, city of	060119	78/04/21
Los Angeles County	Glendora, city of	065031	75/11/18
San Mateo County	Half Moon Bay, city of	060319	79/08/08
Los Angeles County	Hawaiian Gardens, city of	065032	76/09/01
Imperial County	Imperial, city of	060071	76/06/30
Los Angeles County	Inglewood, city of	065036	79/02/20
Los Angeles County	Irwindale, city of	060129	79/02/12
Orange County	La Palma, city of	060225	78/07/21
Los Angeles County	La Puente, city of	065039	78/05/25
Los Angeles County	Lakewood, city of	060130	79/04/15
Los Angeles County	Lawndale, city of	060134	78/10/30
Merced County	Livingston, city of	060450	78/05/25
Orange County	Los Alamitos, city of	060226	79/03/16
Los Angeles County	Manhattan Beach, city of	060138	78/05/08
Los Angeles County	Norwalk, city of	060652	79/02/19
Los Angeles County	Pico Rivera, city of	060148	79/04/15
San Bernardino County	Rialto, city of	060280	79/02/12
Los Angeles County	Rolling Hills, city of	060151	78/05/26
Los Angeles County	Rosemead, city of	060153	79/04/15
Los Angeles County	San Fernando, city of	060626	78/02/11
Los Angeles County	San Marino, city of	065057	79/04/30
Los Angeles County	Signal Hill, city of	060161	79/03/30
Monterey County	Soledad, city of	060204	78/11/30
Tuolumne County	Sonora, city of	060412	78/05/25
Los Angeles County	South El Monte, city of	060162	75/11/14
Los Angeles County	South Gate, city of	060163	79/04/15
Los Angeles County	South Pasadena, city of	065061	75/11/14
Orange County	Stanton, city of	060234	79/03/16
Imperial County	Westmorland, city of	060072	78/06/30
Los Angeles County	Hawthorne, city of	060123	70/08/13
Los Angeles County	Paramount, city of	065049	79/02/20
State total of NSFHA communities: 50.			
State of Colorado			
Larimer County	Berthoud, town of	080296	78/05/26
Conejos County	La Jara, town of	080033	76/06/30
Weld County	La Salle, town of	080186	78/05/25
Otero County	Manzanola, town of	080134	76/06/30
Baca County	Walsh, town of	080021	76/06/30
State total of NSFHA communities: 5.			
State of Florida			
Duval County	Baldwin, town of	120076	76/06/30
Palm Beach County	Golf, village of	120201	77/08/26
Palm Beach County	Greenacres, town of	120203	77/08/26
Palm Beach County	Haverhill, town of	120205	77/08/26
Okeechobee County	Okeechobee, city of	120178	77/08/26
Palm Beach County	Royal Palm Beach, village of	120225	77/08/26
Palm Beach County	South Bay, city of	120226	77/08/26
State total of NSFHA communities: 7.			
State of Idaho			
Bonneville County	Ammon, city of	160028	76/06/30
Gem County	Emmett, city of	160063	76/06/28
Bonneville County	Iona, city of	160030	76/06/30
Ada County	Kuna, city of	160174	78/02/11
Minidoka County	Paul, city of	160100	76/06/20
Kootenai County	Spirit Lake, city of	160084	78/05/26
Bonneville County	Ucon, city of	160194	77/08/26
State total of NSFHA communities: 7.			

V 44 O C 23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of Illinois			
Douglas County	Atwood, village of	170543	78/05/25
Cook County	Burbank, city of	170069	79/02/09
Kankakee County	Chebanse, village of	170288	78/05/25
McLean County	Chenoa, city of	170492	78/06/11
Grundy County	Coal City, village of	170258	78/05/25
McLean County	Cooksville, village of	170494	76/06/11
Moultrie County	Dalton City, village of	170522	76/06/30
Grundy County	Diamond, village of	170259	78/05/25
Cook County	Evergreen Park, village of	170733	78/05/25
Vermilion County	Fairmount, village of	170663	78/05/25
Vermilion County	Georgetown, city of	170665	76/02/11
Cook County	Hillside, village of	170104	76/06/11
McLean County	Hudson, village of	170498	76/06/11
Pike County	Hull, village of	170553	76/06/11
Fulton County	Ipava, village of	170756	76/06/30
Cook County	Lemont, village of	170117	76/06/30
Cook County	Lincolnwood, village of	171001	79/04/24
McLean County	McLean, village of	170501	76/09/30
Cook County	Norridge, village of	170131	78/05/25
Vermilion County	Oakwood, village of	170796	78/05/25
Iroquois County	Onarga, village of	170295	78/05/25
Cook County	Park Ridge, city of	170146	79/01/31
Kendall County	Plano, city of	170346	76/09/30
Ogle County	Polo, city of	170531	76/09/30
Franklin County	Sesser, city of	170666	78/05/25
Cook County	Skokie, village of	171000	79/02/14
Kane County	Sugar Grove, village of	170333	76/09/30
Will County	Symerton, village of	170714	76/06/30
Menard County	Tallula, village of	170803	78/05/25
Grundy County	Verona, village of	170264	78/05/25
Macoupin County	Virden, city of	170435	78/05/25
Franklin County	West City, village of	170872	78/05/25
State total of NSFHA communities: 32.			
State of Indiana			
Johnson County	Bargersville, town of	180112	78/07/21
White County	Chalmers, town of	180297	78/05/25
Whitley County	Churubusco, town of	180299	78/05/25
Vermillion County	Dana, town of	180260	76/06/11
Montgomery County	Darlington, town of	180321	78/05/25
Jasper County	Demotte, town of	180100	76/09/01
Knox County	Edwardsport, town of	180324	76/09/30
Clinton County	Frankfort, city of	180030	76/06/11
Cass County	Galveston, town of	180356	78/11/08
De Kalb County	Garrett, city of	180048	76/02/11
Posey County	Griffin, town of	180305	78/02/11
Jefferson County	Hanover, town of	180326	76/09/30
Bartholomew County	Jonesville, town of	180354	78/05/25
La Porte County	Lacrosse, town of	180145	78/05/25
St. Joseph County	Lakeville, town of	180226	76/09/30
White County	Monon, town of	180295	78/07/05
White County	Monticello, city of	180294	78/05/25
Morgan County	Morgantown, town of	180178	78/05/25
Shelby County	Morristown, town of	180393	78/07/21
Wells County	Ossian, town of	180290	76/05/25
Daviess County	Plainville, town of	180359	78/06/01
Wells County	Poneto, town of	180291	78/05/25
Vigo County	Seelyville, town of	180310	78/05/25
Madison County	Summitville, town of	180157	78/07/21
Boone County	Thornton, town of	180014	78/07/21
Wells County	Uniondale, town of	180292	76/05/25
Cass County	Walton, town of	180024	78/11/08
Daviess County	Washington, city of	180037	79/08/08
White County	Wolcott, town of	180296	78/05/25
State total of NSFHA communities: 29			
State of Iowa			
Cedar County	Durant, city of	190922	78/08/11
Warren County	Indianola, city of	190275	79/07/31
Marion County	Knoxville, city of	190603	77/12/18
Cass County	Lewis, city of	190347	77/08/26
Lee County	West Point, city of	190683	79/04/15
State total of NSFHA communities: 5.			
State of Kansas			
Sedgwick County	Andale, city of	200322	76/06/11
Harper County	Attica, city of	200127	79/04/15
Doniphan County	Elwood, city of	200080	78/07/28
Jackson County	Hoyt, city of	200142	79/03/30
Kearny County	Lakin, city of	200182	76/06/11
Jackson County	Mayetta, city of	200143	78/05/25
Doniphan County	Wathena, city of	200085	77/10/28
State total of NSFHA communities: 7.			
State of Kentucky			
Hopkins County	Mortons Gap, city of	210116	76/09/30
State total of NSFHA communities: 1.			
State of Louisiana			
Tangipahoa Parish	Amite City, town of	220207	76/06/30
Avoyelles Parish	Cottonport, town of	220021	76/06/19
Webster Parish	Cullen, town of	220235	79/02/12
Pointe Coupe Parish	Fordoche, village of	220141	78/05/25
Vermillion Parish	Gueydan, town of	220225	77/12/18
Livingston Parish	Livingston, town of	220118	79/04/15
Pointe Coupee Parish	Livonia, village of	220142	78/05/25
Iberia Parish	Loreauville, village of	220081	78/05/25
Pointe Coupee Parish	Morganza, town of	220143	78/05/25
Assumption Parish	Napoleonville, town of	220018	76/06/20
Iberville Parish	Plaquemine, city of	220086	77/08/26
Caddo Parish	Rodessa, town of	220308	77/08/26
Tensas Parish	St. Joseph, town of	220217	77/08/26
Iberville Parish	White Castle, town of	220088	77/12/18
La Salle Parish	Olla, town of	220343	79/08/08
State total of NSFHA communities: 15.			
State of Maryland			
Cecil County	Cecilton, town of	240020	77/10/26
Caroline County	Preston, town of	240163	77/10/26
State total of NSFHA communities: 2.			
State of Massachusetts			
Franklin County	Heath, town of	250350	76/09/30
State total of NSFHA communities: 1.			

County name	Community name	Community ID No.	Effective date of latest revision
State of Michigan			
Eaton County	Carmel, township of	260682	79/01/31
Oakland County	Clawson, city of	260170	76/06/19
Cass County	Dowagiac, city of	260055	78/06/25
Genesee County	Gaines, village of	260296	78/07/21
Wayne County	Garden City, city of	260225	78/12/29
Wayne County	Grosse Pointe Woods, city of	260231	76/06/30
Oakland County	Hazel Park, city of	260269	78/11/30
Oakland County	Lathrup Village, city of	260297	78/06/19
Oakland County	Madison Heights, city of	260174	78/05/25
Oakland County	Oak Park, city of	260323	78/09/28
Oakland County	Pleasant Ridge, city of	260606	78/11/30
Oakland County	Royal Oak, city of	260178	78/05/25
State total of NSFHA communities: 12.			
State of Minnesota			
Lac Qui Parle County	Bellingham, city of	270679	79/03/30
Sherburne County	Big Lake, city of	270663	78/12/26
Carlton County	Cromwell, city of	270043	78/06/01
Hennepin County	Deephaven, city of	270158	78/12/26
Washington County	Dellwood, city of	270694	78/12/26
Dodge County	Dodge County*	270548	79/04/15
Hennepin County	Greenwood, city of	270164	78/12/26
Ramsey County	Lauderdale, city of	270376	78/12/26
Anoka County	Lexington, city of	270014	79/02/12
Dakota County	Miesville, city of	270111	78/12/21
Washington County	Oakdale, city of	270511	78/12/26
Hennepin County	Osseo, city of	270658	78/12/07
Hennepin County	St. Bonifacius, city of	270183	78/12/26
Carver County	Young America, city of	270656	78/12/26
State total of NSFHA communities: 14.			
State of Mississippi			
Panola County	Batesville, township of	280126	78/06/30
State total of NSFHA communities: 1.			
State of Missouri			
St. Louis County	Bel-Nor, village of	290332	77/08/26
Lafayette County	Concordia, city of	290745	79/02/09
Pemiscot County	Cooter, town of	290608	76/06/30
St. Louis County	Country Club Hills, city of	290746	78/05/25
Scott County	Haywood City, city of	290598	76/02/11
Stone County	Kimberling, city of	290432	78/04/15
St. Louis County	Normandy, city of	290371	78/05/25
Lafayette County	Odessa, city of	290669	79/04/11
Gasconade County	Owensville, city of	290143	76/06/03
Andrew County	Savannah, city of	290664	78/12/21
St. Charles County	Wentzville, city of	290320	78/07/26
St. Louis County	Winchester, city of	290397	76/09/30
St. Louis County	Woodson Terrace, city of	290398	76/06/20
State total of NSFHA communities: 13.			
State of Nebraska			
Gage County	Cortland, village of	310264	77/08/26
Dawson County	Cozad, city of	310059	76/06/30
Cass County	Eagle, village of	310274	77/08/26
Cheyenne County	Gurley, village of	310490	78/07/14
Burt County	Oakland, city of	310023	79/05/07
Merrick County	Silver Creek, village of	310150	77/08/26
State total of NSFHA communities: 6.			
State of New Hampshire			
Cheshire County	Rindge, town of	330189	78/07/21
State total of NSFHA communities: 1.			
State of New Jersey			
Burlington County	Edgewater Park, township of	340096	78/05/25
Union County	Fanwood, borough of	340463	77/10/28
Bergen County	Fort Lee, borough of	340035	77/10/28
Camden County	Haddon Heights, borough of	340136	77/08/26
Camden County	Merchantville, borough of	340569	78/05/25
Monmouth County	Roosevelt, borough of	340322	78/05/25
State total of NSFHA communities: 6.			
State of New Mexico			
Luna County	Deming, city of	350038	79/06/15
Grant County	Hurley, town of	350021	77/10/26
Quay County	Logan, village of	350105	79/06/26
State total of NSFHA communities: 3.			
State of New York			
Lewis County	Castorland, village of	360859	76/09/30
Erie County	Farnham, village of	361586	78/05/26
Erie County	Kenmore, village of	361590	78/05/26
Essex County	Lake Placid, village of	361492	76/06/30
Nassau County	Lake Success, village of	361582	78/05/26
Fulton County	Northville, village of	361484	76/06/30
Rockland County	Nyack, village of	360685	78/05/25
Nassau County	Plandome, village of	360484	78/05/25
Ulster County	Plattekill, town of	361221	78/09/29
Schuyler County	Reading, town of	361205	76/09/30
Suffolk County	Shoreham, village of	361506	78/05/25
Erie County	Sloan, village of	361589	78/05/26
Rockland County	Upper Nyack, village of	360695	77/10/28
State total of NSFHA communities: 13.			

V 44 0C 2 3 7 9 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of North Carolina			
Cabarrus County	Harrisburg, town of	370038	76/06/30
Halifax County	Scotland Neck, town of	370118	77/10/28
Rutherford County	Spindale, town of	370356	79/06/04
State total of NSFHA communities: 3.			
State of North Dakota			
Benson County	Esmond, city of	380167	78/08/01
Burke County	Powers Lake, city of	380016	76/06/30
State total of NSFHA communities: 2.			
State of Ohio			
Ross County	Bainbridge, village of	390481	78/09/29
Shelby County	Botkins, village of	390504	78/09/29
Hamson County	Cadiz, village of	390258	78/05/25
Erie County	Castalia, village of	390653	78/05/25
Ross County	Clarksburg, village of	390483	78/05/25
Brown County	Hamersville, village of	390676	78/11/17
Lucas County	Harborview, village of	390702	78/05/25
Highland County	Highland, village of	390268	78/09/29
Henry County	Holgate, village of	390265	79/05/29
Summit County	Lakemore, village of	390527	78/05/25
Hamilton County	Lincoln Heights, city of	390222	78/05/25
Trumbull County	McDonald, village of	390538	79/08/08
Franklin County	Minerva Park, village of	390791	79/06/15
Mahoning County	Poland, village of	390370	78/07/21
Van Wert County	Scott, village of	390857	78/07/28
Delaware County	Shawnee Hills, village of	390151	78/09/29
Jefferson County	Smithfield, village of	390725	78/05/25
Champaign County	St. Paris, village of	390059	79/05/29
Miami County	Troy, city of	390402	79/06/15
Cuyahoga County	University Heights, city of	390133	79/07/31
Logan County	West Mansfield, village of	390344	78/09/29
Miami County	West Milton, village of	390403	79/06/15
Monroe County	Woodsfield, village of	390406	78/05/25
Logan County	Zanesfield, village of	390345	79/06/11
State total of NSFHA communities: 24.			
State of Oklahoma			
Woods County	Alva, city of	400341	79/03/30
Oklahoma County	Bethany, city of	400254	79/07/31
Muskogee County	Braggs, town of	400121	78/05/25
Bryan County	Caddo, town of	400353	78/05/25
Tillman County	Frederick, city of	400205	78/05/25
Greer County	Granite, town of	400066	78/05/25
Choctaw County	Hugo, city of	400040	79/02/12
Garfield County	Hunter, town of	400286	78/05/25
Rogers County	Inola, town of	400456	78/05/25
Delaware County	Jay, town of	400057	78/07/05
Garfield County	Kremlin, city of	400293	78/05/25
Harper County	Laverne, town of	400069	78/07/05
Mayes County	Locust Grove, town of	400116	78/09/11
Greer County	Mangum, city of	400067	79/05/29
Noble County	Morrison, town of	400133	76/06/30
Muskogee County	Oktaha, town of	400126	78/05/25
Noble County	Red Rock, city of	400135	78/05/25
Comanche County	Sterling, town of	400414	78/07/05
Dewey County	Taloga, town of	400059	78/05/26
Sequoyah County	Vian, town of	400200	78/05/25
Muskogee County	Warner, town of	400130	78/05/25
State total of NSFHA communities: 21.			
State of Oregon			
Marion County	Aurora, city of	410156	78/06/30
Morrow County	Boardman, city of	410174	78/05/25
Linn County	Halsey, city of	410139	78/07/21
Umatilla County	Hermiston, city of	410209	77/10/28
Morrow County	Irrigon, city of	410177	77/08/26
Washington County	King City, city of	410269	76/02/11
Clackamas County	Molalla, city of	410020	79/06/15
Malheur County	Vale, city of	410153	77/08/26
Linn County	Waterloo, town of	410148	78/05/25
Douglas County	Yoncalla, city of	410069	78/08/21
State total of NSFHA communities: 10.			
State of Pennsylvania			
Allegheny County	Baldwin, township of	422650	78/10/30
Allegheny County	Ben Avon Heights, borough of	420011	78/09/29
Adams County	Biglerville, borough of	422649	78/09/28
Crawford County	Blooming Valley, borough of	421559	78/11/17
Huntingdon County	Broad Top City, borough of	420483	78/07/21
Cambria County	Brownstown, borough of	422654	78/10/30
Cambria County	Carrolltown, borough of	422267	76/06/30
Allegheny County	Castle Shannon, borough of	420020	79/03/30
Allegheny County	Chalfant, borough of	420021	78/10/30
Schuylkill County	Coaldale, borough of	420768	78/12/26
Cambria County	Cresson, borough of	422644	78/05/26
Westmoreland County	Delmont, borough of	422177	78/09/29
Allegheny County	Dormont, borough of	422630	79/03/30
Clarion County	East Brady, borough of	421501	76/06/30
Westmoreland County	East Vandergrift, borough of	420875	79/05/29
Washington County	East Washington, borough of	422134	78/10/30
Lawrence County	Ellport, borough of	422482	78/11/17
Mercer County	Fredonia, borough of	422477	78/11/17
Luzerne County	Freeland, borough of	422637	78/05/26
Franklin County	Greencastle, borough of	420470	76/09/30
Luzerne County	Hazleton, city of	421203	78/07/31
Allegheny County	Homestead, borough of	420044	78/05/25
Luzerne County	Hughestown, borough of	422626	78/07/31
Allegheny County	Ingram, borough of	420045	79/03/30
Luzerne County	Jeddo, borough of	422269	78/07/31
Berks County	Laureldale, borough of	422646	78/11/30
Cambria County	Loretto, borough of	421431	78/07/21
Lebanon County	Mount Gretna, borough of	421851	78/11/30
McKean County	Mount Jewett, borough of	420670	76/06/30
Allegheny County	Mount Oliver, borough of	420055	78/05/26
Berks County	Mt. Penn, borough of	420143	78/07/31

County name	Community name	Community ID No.	Effective date of latest revision
Somerset County	New Centerville, borough of	422653	79/02/20
Bedford County	New Paris, borough of	421326	78/07/21
Westmoreland County	North Irwin, borough of	422641	78/11/17
Lebanon County	Palmyra, borough of	420578	78/05/26
Dauphin County	Penbrook, borough of	420391	78/07/21
Allegheny County	Pleasant Hills, borough of	420064	78/09/29
Lebanon County	Richland, borough of	420579	77/10/28
Montgomery County	Rockledge, borough of	420706	77/10/26
Bedford County	Schellsburg, borough of	421329	78/06/30
Mercer County	Sharpsville, borough of	420682	78/05/25
Butler County	Slippery Rock, borough of	421414	78/11/30
Montgomery County	Souderton, borough of	421906	78/05/25
Lawrence County	South New Castle, borough of	422467	78/07/31
Luzerne County	Sugar Notch, borough of	421820	76/06/30
Luzerne County	West Hazleton, borough of	421821	78/07/31
York County	West York, borough of	420941	79/07/31
Allegheny County	Whitaker, borough of	420087	78/05/25
Allegheny County	Whitehall, borough of	420088	77/10/28
Luzerne County	Yatesville, borough of	420634	78/07/31
State total of NSFHA communities: 50.			
State of South Carolina			
Georgetown County	Andrews, town of	450086	76/09/30
Kershaw County	Kershaw, town of	450119	78/09/30
Oconee County	Westminster, town of	450223	79/07/31
State total of NSFHA communities: 3.			
State of South Dakota			
Fall River County	Hot Springs, city of	460027	76/06/30
Davison County	Mount Vernon, city of	460022	76/06/11
State total of NSFHA communities: 2.			
State of Tennessee			
Gibson County	Dyer, town of	470058	76/09/30
Lake County	Ridgely, town of	470338	77/10/28
Hamilton County	Signal Mountain, town of	470078	79/06/28
State total of NSFHA communities: 3.			
State of Texas			
Jones County	Anson, city of	480401	78/05/25
Reagan County	Big Lake, city of	480534	78/07/21
Callahan County	Clyde, city of	480721	78/05/25
Hidalgo County	Edcouch, city of	480337	78/05/25
Hidalgo County	Elsa, city of	480339	78/05/25
Fort Bend County	Fort Bend County water containment and improvement District 4.	481298	79/03/30
Eastland County	Gorman, city of	481103	78/05/25
Harris County	Hedwig Village, city of	480294	78/05/26
Harris County	Hilshire Village, city of	480295	79/06/28
Navarro County	Kerens, city of	480955	78/05/25
Collins County	Lucas, city of	481545	79/07/03
Travis County	Manor, city of	481027	78/05/25
Presidio County	Marfa, city of	481493	78/05/26
Gonzales County	Nixon, city of	481114	77/08/26
Jim Wells County	Orange Grove, city of	480395	79/03/30
Montague County	Saint Jo, city of	480940	78/05/25
Hidalgo County	San Juan, city of	480346	78/07/21
Fannin County	Savoy, city of	480813	77/08/26
Montgomery County	Shenandoah, town of	481256	78/05/26
Hardin County	Sour Lake, city of	480286	77/10/26
Harris County	Southside Place, city of	480312	76/02/11
Jones County	Stamford, city of	480403	78/05/25
Freestone County	Teague, city of	480236	77/10/28
Harris County	West University Place, city of	480318	78/05/26
Runnels County	Winters, city of	480550	78/05/25
Harrison County	Uncertain, city of	481559	79/08/21
State total of NSFHA communities: 26.			
State of Utah			
Utah County	Alpine, city of	490228	76/02/11
Davis County	Clinton, city of	490042	78/07/21
Emery County	Emery, town of	490060	78/09/11
Davis County	Syracuse, city of	490051	78/06/01
State total of NSFHA communities: 4.			
State of Virginia			
Hanover County	Ashland, town of	510075	78/05/26
Southampton County	Branchville, town of	510296	79/03/30
Scott County	Duffield, town of	510240	78/05/25
Appomattox County	Pamplin, town of	510228	76/02/12
Greene County	Standardsville, town of	510251	78/12/26
Shenandoah County	Strasburg, town of	510149	78/12/26
State total of NSFHA communities: 8.			
State of Washington			
Walla Walla County	College Place, city of	530195	78/05/26
Grant County	Coulee City, town of	530050	79/06/15
King County	Medina, city of	530315	79/03/16
Spokane County	Millwood, town of	530180	79/06/15
Okanogan County	Pateros, town of	530258	76/02/12
Grant County	Quincy, city of	530054	76/06/30
Clallam County	Sequim, city of	530301	76/02/11
Grant County	Warden, town of	530304	79/05/29
State total of NSFHA communities: 8.			

V44O23 79 UMI

County name	Community name	Community ID No.	Effective date of latest revision
State of West Virginia			
Ohio County	Bethlehem, village of	540275	77/08/26
Monongalia County	Blacksville, city of	540140	78/12/26
Mercer County	Bluefield, city of	540285	78/05/26
Braxton County	Flatwoods, town of	540235	78/09/29
Taylor County	Flemington, town of	540189	78/12/26
Greenbrier County	Lewisburg, city of	540281	78/09/29
State total of NSFHA communities: 6.			
Total number of no special flood hazard area communities is: 415.			

County name	Community name	Community ID No.	Effective date of latest revision
State of Wisconsin			
Price County	Catawba, village of	550527	79/06/28
Milwaukee County	Cudahy, city of	550272	78/12/15
Price County	Kennan, village of	550531	79/06/28
Grant County	Livingston, village of	550151	78/05/25
Fond Du Lac County	Mt. Calvary, village of	560137	78/09/30
Milwaukee County	West Milwaukee, village of	550561	78/09/28
State total of NSFHA communities: 6.			

(National Flood Insurance Act of 1968 (Title XII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended: U.S.C. 4001- 4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)

Issued: October 1, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-32471 Filed 10-22-79; 8:45 am]

BILLING CODE 6718-03-M

V 4 4 0 C 2 3 7 9 UMI

Proposed Rules

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 730

1980 Rice Program, Proposed Determinations Regarding the 1980-Crop Rice Price Support Program, Rice Set-Aside Program and Land Diversion Payment Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed Determination.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations and issue regulations relative to the 1980-crop rice: (a) The loan and purchase rate for 1980-crop rice; (b) commodity eligibility and storage requirements; (c) premiums and discounts for grades, classes, other qualities and location differentials; (d) the established (target) price; (e) other related provisions necessary to carry out the programs; (f) whether there should be a set-aside program and if so, the extent of such program; and (g) whether there should be provisions for land diversion payments and if so, the extent of such diversion and the payment therefor. These determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977, as amended. This notice invites written comments on the proposed determinations.

DATES: In order to be assured of consideration, comments must be received on or before December 24, 1979.

ADDRESSES: Jeffress A. Wells, Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: George H. Schaefer (ASCS) (202)447-8480.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1980 crop of rice are to be made pursuant to the Agricultural Act of 1949, as amended, and Section 1001 of the Food and Agriculture Act of 1977, as amended.

a. *Loan and purchase level.* Section 101 of the Agricultural Act of 1949, as amended, provides that the Secretary shall make available to cooperators, loans and purchases for 1980-crop rice at such level as bears the same ratio to the 1979-crop rice loan and purchase rate as the 1980-crop rice established (target) price bears to the 1979-crop established (target) price. If the Secretary determines that such loan and purchase level would substantially discourage the exportation of rice and result in excessive stocks of rice in the United States, the Secretary may establish a loan and purchase rate for the crop at such level, not less than $6.31 per hundredweight nor more than the rice parity price as the Secretary determines necessary to avoid such consequences.

The 1979-crop rice loan and purchase rate is $6.79 per hundredweight. The 1980 loan and purchase rate could range from $7.00 per hundredweight to $7.50 per hundredweight with a likely loan and purchase rate at $7.23 per hundredweight.

Comments on the appropriate level of loans and purchases with respect to the 1980 crop of rice are requested.

b. *Established (target) price level.* Section 101 of the Agricultural Act of 1949, as amended, provides that the established (target) price for 1980-crop rice will be the established (target) price for the 1979-crop rice adjusted to reflect any change in (i) the average adjusted cost of production for the 1978 and 1979 crop years from (ii) the average adjusted cost of production for the 1977 and 1978 crop years. The adjusted cost of production for each such year shall be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and shall be limited to (i) variable costs, (ii) machinery ownership costs, and (iii) general farm overhead costs, allocated to the crop involved on the basis of the proportion of the value of the total production derived from the crop. Section 1001 of the 1977 Act, as amended, provides that whenever a set-aside is in effect the Secretary may increase the established (target) price for rice by an amount which he determines to be appropriate to compensate cooperators for participation in such set-aside.

The 1979-crop rice established (target) price is $9.05 per hundredweight. Based on the estimated changes in the two-year moving average adjusted cost of rice production (variable costs, machinery ownership costs and general farm overhead costs), as described above, the 1980 established (target) price could range from $9.35 per hundredweight to $10.00 per hundredweight with a likely established (target) price of $9.64 per hundredweight.

c. *Whether there should be a set-aside program and if so, the extent of such program.* Section 101(h)(5) of the Agricultural Act of 1949, as amended, provides that the Secretary shall provide for a set-aside of cropland if he determines that the total supply of rice will, in the absence of a set-aside likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside is in effect, then as condition of eligibility for loans, purchases and payments, cooperators on a farm must set-aside and devote to conservation uses an acreage of cropland equal to such percentage of the farm acreage allotment as may be specified by the Secretary (but not to exceed 30 percentum of the farm acreage allotment) plus, if required by the Secretary, the acreage of cropland devoted in preceding years to soil conserving uses, as determined by the Secretary.

The need for a rice set-aside in 1980 depends on several factors. Current estimates indicate that August 1, 1980 rice stocks could be about 33 million hundredweights. Assuming that the 1980 crop production could range from 134 million hundredweights to 146 million hundredweights, total supply could range from 167 million hundredweights to 179 million hundredweights. Utilization in 1980 could be as high as 146 million hundredweights and as low as 130 million hundredweights, depending principally on fluctuation in the level of exports. The combination of the lower supply and higher utilization would result in ending stocks of 21

million hundredweights; the higher supply and the lower utilization would result in ending stocks of 49 million hundredweights. Interested persons are encouraged to advise the Secretary on the need for a 1980-crop rice set-aside program and the appropriate percentage of acreage to be set-aside if deemed necessary taking into consideration the above factors.

d. *Whether there should be provisions for land diversion payments and if so, the extent of such diversion and the payment therefor.* Section 101(h)(6) of the Agricultural Act of 1949, as amended, provides that the Secretary may make land diversion payments to cooperators whether or not a set-aside for rice is in effect, if he determines that such land diversion payments are necessary to assist in adjusting the total national acreage of rice to desirable goals. Land diversion payments shall be made to cooperators on a farm who devote to approved conservation uses an acreage of cropland on the farm on the basis of land diversion contracts. Amounts payable to cooperators under land diversion contracts may be determined through submission of bids for such contracts by cooperators in such manner as prescribed by the Secretary or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the cooperators and the productivity of the acreage diverted.

The Secretary shall limit the total acreage to be diverted under contracts in any county or local community so as not to affect adversely the economy of the county or local community. Interested persons are encouraged to address the appropriate terms and conditions and the advantages and disadvantages of a land diversion program, either in lieu of or in combination with, a set-aside program for 1980.

e. *Other related provisions.* The Act also requires a number of other determinations in order to carry out the 1980-crop rice loan and purchase program such as (1) commodity eligibility, (2) storage requirements, (3) premiums and discounts for grades, classes, and other qualities and location differentials, and (4) other related provisions necessary to carry out the program. Prior to determining the provisions of the 1980 rice program, consideration will be given to any data, views, and recommendations that may be received relating to the above items, submitted in writing to the Director, Production Adjustment Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, Washington, D.C. 20013.

Comments will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.). This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations," and has been classified "significant."

An approved Draft Impact Analysis is available from George H. Schaefer, (202) 447–8480.

Signed at Washington, D.C., on October 18, 1979.

John W. Goodwin,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 79-32720 Filed 10-19-79; 10:42 am]

BILLING CODE 3410-05-M

Rural Electrification Administration

7 CFR Part 1701

Specification for Carbon Arrester Assemblies for Use in Protectors; Proposed Revision of REA Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345–78, Specification for Carbon Arrester Assemblies for Use in Protectors to clarify the intent of this document and to introduce improved test procedures.

DATE: Public comment must be received by REA on or before December 24, 1979.

ADDRESS: Submit written comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Harry Hutson, telephone (202) 447–3827.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 345–78.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

General Summary of Changes

This revision will clarify the intent of this specification and introduce improved test procedures which should provide better correlation of test results from laboratory to laboratory.

On issuance of revised Bulletin 345–78, Appendix A to Part 1701 will be modified accordingly.

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under the criteria. A draft Impact Analysis has been prepared and is available from the Director, Telephone Operations and Standards Divsion, Rural Electrification Administration, Room 1355–S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: October 16, 1979.

John H. Arnesen,

Assistant Administrator.

[FR Doc. 79-32667 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-15-M

Animal and Plant Health Inspection Service

9 CFR Part 94

Importation of Carcasses, Parts or Products of Poultry, Game Birds and Other Birds; Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of the proposed amendment is to provide for the importation of carcasses, or parts or products of carcasses, of poultry, game birds, and other birds into the United States when such carcasses have been thoroughly cooked. This action is being taken because it appears that such cooking would prevent the risk of the introduction and spread of viscerotropic velogenic Newcastle disease (VVND). The intended effect of this proposal is to facilitate the importation of carcasses, or parts or products of carcasses of poultry, game birds, and other birds into the United States by providing another manner by which such carcasses could be imported without risk of the introduction and spread of VVND.

DATE: Comments on or before December 24, 1979.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 823, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. J. D. Roswurm, USDA, APHIS, VS, Federal Building, Room 823, Hyattsville, MD 20782. (301) 436–8499.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to Sec. 306, 46 Stat. 689, as amended; sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (19 U.S.C. 1306; 21 U.S.C. 111, 134a, 134b, 134c, 134f), the Animal and Plant Health Inspection Service is considering amending Part 94, Title 9, Code of Federal Regulations.

This proposed amendment would provide for the importation of carcasses, or parts or products of carcasses, of poultry, game birds, and other birds into the United States if such carcasses or parts thereof are heated sufficiently to be thoroughly cooked, and if, upon inspection at the port of entry, a representative of the United States Department of Agriculture finds that such products have a thoroughly cooked appearance throughout. It is believed that such cooking is necessary to inactivate VVND virus which could be present in such products. It is proposed that such products be inspected at the port of entry by a representative of the United States Department of Agriculture to ensure that a qualified individual has observed such products being imported and has determined that such products have been thoroughly cooked.

Under the present regulations, carcasses or parts or products of carcasses, of poultry, game birds, and other birds which originate in or transit any country infected with VVND may be imported into the United States only in accordance with specified requirements. This proposal would add another manner by which such products could be imported.

This proposal would define the term "thoroughly cooked" as a carcass or any part or product thereof which has been heated so that its flesh and juices have lost all red or pink color.

This definition would be made necessary by the use of such term in the present proposal. It is believed that such definition would provide a standard by which prospective importers would know the temperature and the amount of time at such temperature which would be required to cook such products so that they could be imported in accordance with this proposal.

Based upon a review of scientific studies concerning the effect of heat on VVND virus, it appears that when thoroughly cooked, poultry, game birds, and other bird carcasses, and parts and products thereof, would not constitute any risk of introduction and spread of VVND.

Accordingly, Part 94, Title 9, Code of Federal Regulations, would be amended in the following respects:

In § 94.6, new paragraphs (b)(5) and (d)(4) would be added to read:

§ 94.6 Carcasses of poultry, game birds, and other birds, parts or products thereof, and eggs other than hatching eggs; restrictions, exceptions.

* * * * *

(b) * * *

(5) *Thoroughly cooked.* A carcass or any part or product thereof which has been heated so that its flesh and juices have lost all red or pink color.

* * * * *

(d) * * *

(4) Carcasses, or parts or products of carcasses, of poultry, game birds, and other birds may be imported if thoroughly cooked, and if, upon inspection by a representative of the United States Department of Agriculture at the port of entry, the carcasses or parts or products thereof have a thoroughly cooked appearance throughout.

* * * * *

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 823, Hyattsville, MD, during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the **Federal Register.**

Done at Washington, D.C., this 12th day of October 1979.

Note.—This proposal has been reviewed under the USDA criteria established to implement E.O. 12044, "Improving Government Regulations." While this action has not been designated "significant" under those criteria, an approved Draft Impact Analysis Statement has been prepared and is available from Program Services Staff, Room 870, Federal Building, 6505 Belcrest Road, Hyattsville, Maryland 20782. 301–436–8695.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 79-32491 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 302

Foreign Excess Property; Amendment of Foreign Excess Property Regulations

AGENCY: Industry and Trade Administration, U.S. Department of Commerce.

ACTION: Proposed Amendment of Foreign Excess Property (FEP) Regulations.

SUMMARY: It is proposed to change the FEP regulations by designating the Assistant Secretary for Industry and Trade as the Department of Commerce official to receive and act on appeals on FEP matters, in lieu of the Department of Commerce Appeals Board. The purpose is to conform the FEP appeal procedures with the procedures being established for the agency as a whole.

DATE: Comments must be received on or by December 17, 1979.

FOR FURTHER INFORMATION CONTACT: R. M. Seppa, who can be reached by telephone on (202) 724–3526.

SUPPLEMENTARY INFORMATION: The Department of Commerce is reorganizing its procedures for hearing appeals taken from its decisions and actions in export administration and trade regulatory areas. To accomplish this purpose with respect to the FEP regulations, it is proposed to delete references to the Department of Commerce Appearls Board, to designate the Assistant Secretary for Industry and Trade as the official to hear FEP appeals, to provide for the designation of another Commerce official, if, for any reason, the Assistant Secretary cannot act on an appeal and to establish a time frame for the decision-making process. The changes proposed are as set forth below.

Dated: October 17, 1979.

Robin B. Schwartzman,

Acting Deputy Assistant, Secretary for Trade Regulation.

§ 302.2 [Amended]

In § 302.2, it is proposed to:

1. Delete existing paragraph (d), and
2. Redesignate paragraphs (e) through (j) as paragraphs (d) through (i).

§ 302.12 [Amended]

In § 302.12, it is proposed to change (a) and (b) as follows:

(a) The Assistant Secretary for Industry and Trade, U.S. Department of Commerce, shall consider appeals * * *

(b) Appeals from actions of the FEPO must be filed within 30 days of the date of such action. Appeals shall be made by letter addressed to the Assistant Secretary for Industry and Trade, Room 3850, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, reference: FEP Appeal. If the applicant so requests, the Assistant Secretary may grant a hearing at the Department of Commerce in Washington, D.C. If the Assistant Secretary for Industry and Trade cannot act on an appeal for any reason, the

V 44 O C 23 79 UMI

Secretary of Commerce may designate another Department of Commerce official to receive and act on the appeal.

(c) *Decisions.* The Assistant Secretary shall decide the appeal within 60 days following the date of the receipt of the appeal or any other date fixed by action of the Assistant Secretary for the filing of a reply or other submission. The decision shall be in writing and shall be accompanied by an order signed by the Assistant Secretary giving effect to the decision. The order either may dispose of the case by confirming, modifying or reversing the decision of the FEPO or may refer the case back to the FEPO for further proceedings.

[FR Doc. 79-32836 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-25-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 792 3114]

Hair Extension of Beverly Hills, Inc., Et Al.; Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order, accepted subject to final Commission approval, among other things, would require two California firms and two individuals engaged in the sale of hair replacement services to cease soliciting, selling or performing hair implants; and/or misrepresenting, in advertising or otherwise, the safety or effectiveness of the hair implant process in the treatment of baldness. Should the parties engage in any future hair replacement business, they would be required to expend at least $8,000 on corrective advertising warning consumers that "Hair Implants Are Unsafe." The order would also require that the Commission notify past hair implant customers that the process is unsafe and that they should seek prompt medical attention.

DATE: Comments must be received on or before December 24, 1979.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th St. and Pennsylvania Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Harvey Saferstein, Director, 7R, Los Angeles Regional Office, Federal Trade Commission, 11000 Wilshire Blvd., Los Angeles, Calif. 90024. (213) 824-7575.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

[File No. 792 3114, Agreement Containing Consent Order to Cease and Desist]

In the Matter of Hair Extension of Beverly Hills, Inc., a corporation, also trading and doing business as Hair Transcenter, Hair Extension, Inc., a corporation, also trading and doing business as Hair Transcenter, Lee Marlow, individually and as and officer of said corporations, and Ann Marlow, individually and as an officer of said corporations.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., corporations, and Lee Marlow and Ann Marlow, individuals and officers of said corporations, and it now appearing that Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., corporations, and Lee Marlow and Ann Marlow, individuals and officers of said corporations, hereinafter sometimes referred to as "respondents," are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

It is hereby agreed by and and between Hair Extension of Beverly Hills, Inc., by its duly authorized officer, Hair Exension, Inc., by its duly authorized officer, and Lee Marlow and Ann Marlow, individually and as officers of said corporations, and counsel for the Federal Trade Commission that:

1. Proposed respondent Hair Extension of Beverly Hills, Inc., also trading and doing business as Hair TransCenter, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal office and place of business is at 8383 Wilshire Boulevard, Beverly Hills, California.

Proposed respondent Hair Extension, Inc., also trading and doing business as Hair TransCenter, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California. Its principal office and place of business is at 16152 Beach Boulevard, Huntington Beach, California.

Proposed respondents Lee Marlow and Ann Marlow are officers, directors and stockholders of said corporations. They formulate, direct and control the policies, acts and practices of said corporations and their address is 16152 Beach Boulevard, Huntington Beach, California. They are husband and wife.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby and related material pursuant to Rule 2.34, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by Commission's rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information

public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to-order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. They understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

8. Proposed respondents agree to provide to the Commission the names and addresses of their customers who underwent or paid money to undergo the Hair Implant Process. Proposed respondents agree that the Commission may notify each said customer regarding the risks and problems involved in the Hair Implant Process and the fact that this order has been accepted by the Commission. Such notice shall be substantially similar to the following letter:

"Dear ————:

Hair Extension told us that you came to their office for hair implants. The FTC has reason to believe that the hair implant process is not safe or effective at the present time. There is no medically safe way to do hair implants. Therefore, many of their customers have developed scalp infections.

Hair Extension has promised the Federal Trade Commission that they will not do any more hair implants until the Food and Drug Administration approves a safe and effective procedure that protects future customers. However, we thought we should contact former customers to let them know the problems they could have with their implants.

Some people get infections right away. For others, an infection may develop months later. A few may never have a problem. Many people report severe symptoms—pain, noticeable scarring, hairs breaking off, scalp soreness, redness and swelling. However, others may have only a minor problem. A problem may not be too noticeable now but could develop into a more serious problem if not treated.

Therefore, for your own safety, you may want to see a doctor for an examination of your scalp and implants. If you do have any of these symptoms, you should go see a doctor immediately. The agreement which Hair Extension signed does not provide refunds or money for your doctor bills. However, you might want to contact an attorney to find out whether Hair Extension may be liable for any costs or injury you have suffered.

Sincerely yours,

George E. Schulman

Attorney

Anne B. Roberts

Attorney.

Order

For the purpose of this order, the following definition shall apply:

The "Hair Implant Process" refers to any hair replacement product, process, operation or surgical procedure which involves the insertion or placement of (1) synthetic fibers or filaments which simulate hair or (2) non-living human hairs, into or under the scalp of a patient.

I

It is ordered that Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., corporations, and Lee Marlow and Ann Marlow, individuals, their successors and assigns, their officers, agents, representatives, employees and persons under respondents' control, directly or through any corporation, subsidiary, division or other device, in connection with the advertising, offering for sale and sale of the Hair Implant Process, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Disseminating, or causing or permitting the dissemination of any advertisement or other representation or claim, express or implied, that the Hair Implant Process is safe or effective in the treatment of baldness, thinning hair or loss of hair, or for the replacement of lost hair.

2. Soliciting, recommending, promoting, offering for sale, selling, arranging for or performing the Hair Implant Process.

Provided, however, that nothing shall prevent respondents from filing with the Commission a petition to modify this order, provided that respondents are able to demonstrate to the satisfaction of the Commission by competent and reliable scientific tests that:

1. The Hair Implant Process is safe and effective (and affirmative approval by the Food and Drug Administration that the process is safe and effective shall be deemed sufficient proof of compliance with this provision), and

2. The Hair Implant Process will be performed by respondents (or by persons recommended by or under the control of respondents) in a safe and effective manner (and affirmative approval by the Food and Drug Administration that named respondents will perform the Hair Implant Process in a safe and effective manner shall be deemed sufficient proof of compliance with this provision.)

Provided, however, that if the Commission determines, upon proper application of respondents, that the Hair Implant Process is safe and effective and that the Hair Implant Process will be performed by respondents (or by persons recommended by or under the control of respondents) in a safe and effective manner, and such determination shall be based upon respondents' proof of compliance with the provisions set forth in the preceding paragraph, and if the Commission determines that further relief is necessary in the public interest, the Commission may require respondents to provide further relief. Said further relief may include, but is not limited to: (1) affirmative disclosures that there is a high probability of discomfort and pain and a high risk of infection, skin disease and scarring; that continuing special care is necessary to minimize the probabilities and risks referred to herein; and that such care may involve additional costs for medications and assistance; (2) a cooling-off period, following execution of contracts for services; and (3) a recommended consultation with an independent duly-licensed physician before undergoing the Hair Implant Process.

II

It is further ordered that if Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., corporations and Lee Marlow and Ann Marlow, individuals, their successors and assigns, their officers, agents, representatives, employees and persons under respondents' control, directly or through any corporation, subsidiary, division or other device, are engaged in or affiliated with any business which offers methods of treating baldness, loss of hair or thinning hair, or the replacement of lost hair, and if such business advertises in any media during a one year period commencing thirty (30) days after this order becomes final, then respondents shall disclose in such advertising during that one year period, clearly and conspicuously, in type no smaller than the smallest type otherwise in the

V 44 NO 203 UMI

advertising or 10 point type, whichever is larger, the following notice:

"Warning

Hair implants, using artifical hair or human hair, are medically unsafe. We do not use this procedure."

III

It is further ordered that if Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., corporations, and Lee Marlow and Ann Marlow, individuals, their successors and assigns, their officers, agents, representatives, employees and persons under respondents' control, directly or through any corporation, subsidiary, division or other device, are engaged in any business which offers methods of treating baldness, loss of hair or thinning hair, or the replacement of lost hair, respondents shall place the following advertisement in the *Los Angeles Times*, the *Santa Ana Register*, the *Los Angeles Herald Examiner* and *Los Angeles Magazine*.

"Hair Implants Are Unsafe

Hair implants, the inserting of synthetic hairs or human hairs into the scalp, are medically unsafe.

Many hair implant patients have developed scalp infections, noticeable scarring *and* have lost the implanted hair.

The *Federal Trade Commission* advises anyone considering a hair implant—or any other "cure" for baldness—to see a doctor. If you had a hair implant and have developed any problems, you should go see a doctor immediately.

This notice was prepared by the FTC and placed at the expense of Hair Extension, Inc., as part of a recent consent agreement between it and the FTC.

Federal Trade Commission
Los Angeles Regional Office"

A. The placement of the advertisement in the newspapers shall be as follows:

1. Said advertisements shall appear at least once per month in each and every newspaper and magazine identified above, for six consecutive months commencing thirty (30) days after the date this order becomes final.
2. Said advertisement shall appear in the Sunday edition of each above-identified newspaper.
3. Respondents shall request placement of the advertisements in the Sports section of each newspaper.

B. The size of the advertisement shall be as follows:

1. The advertisement to be placed in the *Los Angeles Magazine* shall be equal to or larger than one column in width and the full length of the page.
2. The advertisement to be placed in the *Los Angeles times, Santa Ana Register* and *Herald Examiner* shall be equal to or larger than two columns in width and four inches in length.

C. Respondents shall endeavor to obtain bulk rates for placing said advertisements at the lowest possible rates. Respondents shall spend no less than $8,000.00 for placing the advertisement required by this section.

D. The format, type size and type face of the advertisement shall be subject to the approval by the Commission or its representative prior to its use by respondents.

IV .

It is further ordered that respondents shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, voluntary bankruptcy, assignment of sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of this order.

It is further ordered that for a period of five (5) years from the effective date of this order, each individual respondent shall promptly notify the Commission of the discontinuance of his/her present business or employment and of his/her affiliation with a new business or employment which is engaged, during the time of such employment or affiliation, in methods of treating baldness, thinning hair, loss of hair or the replacement of lost hair. Such notice shall contain respondent's current business address, a statement of the nature of the business or employment in which the respondent is newly engaged and a description of the respondent's duties and responsibilities in connection with the business or employment. The expiration of the notice provision of this paragraph shall not affect any other obligation arising under this order.

It is further ordered that respondents shall, within sixty (60) days after service upon them of this order, and within thirty (30) days after termination of the advertising required by Section III of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed order from Hair Extension of Beverly Hills, Inc., Hair Extension, Inc., both corporations, and Lee Marlow and Ann Marlow, individuals and officers of the corporations.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that respondents represented that hair implants are safe and effective treatment for baldness, are approved by doctors, and will not lead to infection or other medical complications.

In fact, the complaint alleges, hair implants both in general and as performed by respondents, are not safe and effective treatment for baldness. In addition the complaint alleges:

- Patients receiving hair implants run a high risk of infection and other medical complications. Those complications endanger the health of the patient.
- Hair implants are recognized by the medical profession as unsafe and ineffective in the treatment of baldness.

In addition to prohibiting the firm from advertising or arranging for hair implants, the FTC's order also requires that:

- If respondents advertise any other hair replacement treatment, they must place a warning notice in their advertisements stating that hair implants are medically unsafe.
- If respondents engage in any hair replacement business, they must place at least $8,000 worth of corrective advertising in print advertisements in the Los Angeles area. The corrective ads will warn consumers that "Hair Implants Are Unsafe."
- The FTC will notify all of respondents' past customers that hair implants are unsafe and recommend that customers seek prompt medical attention.

The order does provide that respondents may apply to the FTC for permission to advertise and perform implants if the Food and Drug Administration finds that the hair implant process is safe and effective and that respondents will perform hair implants in a safe and effective manner.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Carol M. Thomas,
Secretary.

[FR Doc. 79-32709 Filed 10-22-79; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 150

[Docket No. 78N-0358]

Citrus Marmalade; Termination of Consideration of Codex Standard

AGENCY: Food and Drug Administration.
ACTION: Notice of termination of consideration.

SUMMARY: This notice terminates the review by the United States of the Codex Alimentarius Commission (Codex) "Recommended International Standard for Citrus Marmalade." The response to the Food and Drug Administration's (FDA's) request for comments on the provisions of the Codex standard and on the desirability of establishing U.S. standards for citrus marmalade indicates there is neither sufficient interest nor need to warrant proposing U.S. standards for this food. FDA, therefore, has terminated consideration of developing U.S. standards for citrus marmalade based on the Codex standard.

EFFECTIVE DATE: October 23, 1979.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF-414), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-245-1164.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 23, 1979 (44 FR 10736), FDA published an advance notice of proposed rulemaking that offered interested persons an opportunity to review the Codex "Recommended International Standard for Citrus Marmalade" and to comment on the desirability and need for U.S. standards for this food. The Codex standard was submitted to the United States for consideration for acceptance by the Joint Food and Agriculture Organization/World Health Organization Codex Alimentarius Commission.

Three letters were received, one each from the United States Department of Agriculture (USDA), the U.S. Metric Board, and a chemical manufacturer in response to the advance notice of proposed rulemaking. Only the last one was responsive to the question concernig the need for a standard.

The chemical manufacturer stated that there is no need for U.S. standards for citrus marmalade. The USDA and the U.S. Metric Board advanced no position on whether U.S. standards for this food are necessary, but, instead, spoke to other considerations.

Having considered the comments received, FDA has concluded that there is neither sufficient interest nor need to warrant proposing U.S. standards at this time for citrus marmalade under the authority of section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341).

Therefore, under the procedures in 21 CFR 130.6, notice is given that the Commissioner of Food and Drugs has terminated consideration of developing U.S. standards for citrus marmalade based on the Codex standard. This action is without prejudice to further consideration of the development of U.S. standards for citrus marmalade upon appropriate justification.

The Codex Alimentarius Commission will be informed that an imported food that complies with the requirements of the Codex standard for citrus marmalade may move freely in interstate commerce in this country, providing it complies with applicable U.S. laws and regulations.

Dated: October 15, 1979.

William F. Randolph,
Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-32415 Filed 10-22-79; 8:45 am]
BILLING CODE 4110-03-M

21 CFR Parts 182, 184

[Docket No. 79N-0140]

Rennet; Proposed Affirmation of GRAS Status as A Direct Human Food Ingredient

AGENCY: Food and Drug Administration.
ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) proposes to affirm rennet as a generally recognized as safe (GRAS) human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review being conducted by the agency. The proposal would list calf-stomach and bovine (except ox) rennet extracts as direct food substances affirmed as GRAS.

DATE: Comments by December 24, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFA-305), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Gorbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: FDA is conducting a comprehensive safety review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the **Federal Register** of July 26, 1973 (38 FR 20040)) initiating this review. Under this review, the safety of rennet has been evaluated. Under the provisions of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Rennin is a proteolytic enzyme obtained from the true stomach of the bovine or suckling calf; it is not present in the human stomach. The enzyme occurs in the mucosa in an inactive form, prorennin, this is converted to rennin in the presence of hydrogen ions. Rennin attacks one specific peptide bond in kappa-casein of milk to cleave it to para-kappa-casein and nondialyzable glucopeptide. The stablizing action of kappa-casein on the caseinate micelles in milk is thus destroyed. A precipitate of calcium paracaseinate forms and results in the coagulation of milk. The enzyme has a molecular weight of about 31,000 and an isoelectric point at pH 4.5. Rennet is the commerical extract containing rennin and is available as a powder, liquid, or paste.

In the preparation of rennet extracts, the bovine or calf stomachs are opend at slaughter, washed, and packed in salt. The stomachs are further cleaned and dried, shredded, mixed with an inert filler such as excelsior, and extracted with sodium chloride solutions. The crude extract is activated by acidifying to pH 5.0. It may be filtered before or after clarification with alumina. Rennet extract is preserved as a high salt (14 to 20 percent) solution that contains preservatives such as propylene gylcol, sodium propionate, sodium benzoate, potassium sorbate, or methyl and propyl paraben. Rennet powders are prepared from precipitates obtained by acidification of activiated extracts or by saturation with sodium chloride or by employing both procedures. Edible gelatin is often added to assist in precipitation of rennet.

The liquid preparations of the extract are used almost entirely for cheesemaking, while the powders are

V 44 OC 23 79 UMI

V 4 4 0 C 2 3 7 9 UMI

also used for making junket or rennet custards and dietary foods.

Rennet is listed in § 182.1685 (21 CFR 182.1685) as a mutiple purpose GRAS food substance, under a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). It is also listed as an optional ingredient in the standards of identity for most cheeses and related cheese products in Part 133 (21 CFR Part 133) and for sour cream and similar related products in §§ 131.160, 131.162, 131.185, and 131.187 (21 CFR 131.160, 131.162, 131.185, and 131.187).

A representative cross-section of food manufacturers was surveyed to determine the specific foods in which rennet was used and the levels of usage. Information obtained from consumer consumption surveys was combined with the manufacturing information to estimate consumer exposure to this ingredient. In 1970, the use of rennet in food was estimated to be about 469,000 pounds. However, it is believed that a more reliable estimate of rennet usage can be obtained from cheese production figures. On this basis, with the assumption that the same level of addition of rennet to milk applies to both domestic and imported cheesemaking procedures, it can be calculated that about 3 million pounds of the extract were consumed during 1970 in the United States.

An increased demand for use of rennet extract in the past decade, accompanied by a decrease in the number of bovine animals or calves slaughtered, has led to the development of rennet substitutes. These include fungal and bacterial enzymes produced by pure culture fermentations of specified microorganisms (microbial rennets) and enzymes from plant sources (plant rennets). In 1974, about 60 percent of all milk coagulants used in the cheese industry were microbially derived; 25 percent were rennet and porcine pepsin blends, and 15 percent were rennet extracts. About 75 percent of the rennet extract was bovine pepsin rather than calf rennet. Safe uses of milk-clotting enzyme produced by pure-culture fermentation processes are addressed in § 173.150 (21 CFR 173.150). Hereafter, only extracts obtained from calves or bovine animals (except ox) will be referred to as "rennet" because the term has been historically applied to these products. Extracts derived from animals of the genera *Ovis* and *Capra* as well as from ox are not addressed in this proposal.

Rennet has been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) any reported carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 357 abstracts on rennet was reviewed, and 16 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

The scientific literature review shows, among other studies, the following information as summarized in the report of the Select Committee on GRAS Substances (the Select Committee), chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology:

Very few studies on the biological properties of rennet were available to the Select Committee.

Effect of rennin on the digestion of milk was studied in five patients by determining the ratio of soluble to insoluble nitrogen at several intervals after gastric intubation of 200 mL milk containing 10 g of dextrose and 1 g of commercial rennin (junket). Three to five such experiments were conducted on each patient; on alternative days rennin was omitted from the milk to provide the control. Samples taken over a period of two hours showed rennin had no effect on rate or extent of the gastric digestion of milk. No adverse effects of rennin were reported.

Driver investigated the effect of several proteolytic enzymes, including rennin, on the production of ulcers in the intestines of dogs. Intestinal loops were exposed to 0.1 percent solutions of rennin (Armour rennet, N.F.) and pepsin in 0.1 N HCl under a pressure of 90 cm of water. Perforation occurred in 114 minutes in the rennin solution and 82 minutes in the pepsin solution, whereas in HCl alone perforation resulted after 174 minutes. No information was given on the purity of the rennin preparation with respect to content of pepsin, a common rennet component.

Favorable results were observed in 130 hospitalized infants suffering from dystrophy, atrophy, loss of appetite, pylorospasm and certain forms of milk dyspepsia when fed sweetened cow's milk curdled with a rennin preparation called "pegnin." Improvements noted were weight gain and tolerance of the diet. The infants received the curdled milk for periods varying from a few days up to six weeks.

Rennet powder was tested for teratogenicity in the developing chick embryo. It was administered in water via the air cell and the yolk at preincubation (10 to 200 mg per kg of egg) and at 96 hours incubation (5 to 100 mg per kg of egg). Air cell treatment at 0 hour showed no toxicity above background; at 96 hours, the LD_{50} was 85 mg per kg of egg. Scattered abnormalities were observed for all four conditions of test but in no instances were these significantly higher than or different from those observed in solvent-treated or untreated control eggs. The author concluded that rennet displayed no teratogenicity under the test conditions employed. It should be noted that 1 g of the rennet powder tested contained three and a third to five times the rennin activity of 1 mL of rennet extract used to cheese making.

No short or long-term animal toxicity studies on rennet were available to the Select Committee nor were there any reports relating to carcinogenicity or mutagenicity of rennet preparations.

Qualified scientists of the Select Committee have carefully evaluated all the available safety information on rennet. In the Select Committee's opinion:

Rennet is an extract containing the milk-clotting enzyme, rennin, that is obtained from edible tissues of animals commonly used for food. It has been used for centuries in the production of cheese. Consumption of cheese, the major source of rennet in the diet, adds to the diet an insignificant amount of rennet protein (0.06 mg of which 0.003 mg is rennin) and very small amounts (0.1 mg or less per person per day) of preservatives such as sodium benzoate or methyl and propyl parabens, levels at which the Select Committee found no evidence of hazard in previous evaluations. Although rennin is a protease, it is unlikely to exert significant proteolytic activity on the mucosa of the alimentary tract since it is ingested at very low concentrations in the presence of large amounts of substrate and would be rapidly inactivated by digestion. No adverse effects have been reported in infants fed milk coagulated with rennin preparations. Teratogenicity tests on rennet by the chick embryo method have given negative results.

The Select Committee concludes that there is no evidence in the available information on rennet that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when used at levels that are now current and in the manner now practiced, or that might reasonably be expected in the future. Based on its own evaluation of all available information, FDA concurs with this conclusion. FDA therefore concludes that no change in the current GRAS status of this ingredient is justified.

Copies of the scientific literature review on rennet and the report of the Select Committee are available for review at the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price[1]
Rennet (scientific literature review).	PB-228-541/AS	AO3	$4.50
Rennet (Select Committee report).	PB-274-668/AS	AO2	$4.00

[1] Price subject to change.

This proposed action does not affect the current use of rennet for pet food or animal feed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), it is proposed that Parts 182 and 184 be amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§ 182.1685 [Deleted]

1. Part 182 is amended by deleting § 182.1685 *Rennet.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding a new § 184.1685 to read as follows:

§ 184.1685 Rennet.

(a) Rennet is the commercial extract containing rennin (CAS Reg. No. 9001–98–3). The active extract is prepared by extracting cleaned, dried, and shredded bovine (except ox) and calf abomasa with sodium chloride solutions followed by acidification to pH 5.0. Rennet powders may be prepared from precipitates obtained by acidification of activated extracts or by saturation with sodium chloride or by employing both procedures (edible gelatin may also be added to assist precipitation).

(b) The ingredient meets the specifications for animal-derived enzyme preparations of calf rennet and bovine (except ox) rennet of the Food Chemicals Codex, 2d Ed., First Supplement (1974),[1] which is incorporated by reference, and conforms to the representation of the vendor.

(c) The ingredient is used as an enzyme as defined in § 170.3(o)(9) of this chapter, processing aid as defined in § 170.3(o)(24) of this chapter, and stabilizer and thickener as defined in § 170.3(o)(28) of this chapter.

(d) The ingredient is used in food at levels not to exceed good manufacturing practice, in accordance with § 184.1(b)(1). Current good manufacturing practice results in a maximum level, as served, of 0.02 percent for cheeses as defined in § 170.3(n)(5) of this chapter, 0.0001 percent for frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter, 0.004 percent for gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter, and 0.0003 percent for milk products as defined in § 170.3(n)(31) of this chapter.

The agency is unaware of any prior sanction for the use of this ingredient in food under conditions different from those proposed in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The regulation proposed above will constitute a determination that excluded prior sanction uses would result in adulteration of the food in violation of section 402 of the act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on the sanction later. This notice also constitutes a proposal to establish a prior sanction regulation under Part 181 (21 CFR Part 181), incorporating the same provisions, if such a regulation is determined to be appropriate as a result of submission of proof of an applicable prior sanction in response to this proposal.

Interested persons may, on or before December 24, 1979, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments. The comments are to be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12044, the economic effects of this proposal have been carefully analyzed, and it has been determined that the proposed rulemaking does not involve major economic consequences as defined by that order. A copy of the regulatory analysis assessment supporting this determination is on file with the Hearing Clerk, Food and Drug Administration.

Note.—Incorporation by reference was approved by the Director of the Office of the Federal Register on June 27, 1977, and is on file in the Federal Register Library.

Dated: October 16, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79–32589 Filed 10–22–79; 8:45 am]

BILLING CODE 4110–03–M

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Ave. NW., Washington, D.C. 20037.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1344–3]

Approval and Promulgation of Implementation Plans; North Carolina: 1979 Plan Revisions

AGENCY: U.S. Environmental Protection Agency, Region IV.

ACTION: Proposed rule.

SUMMARY: EPA today proposes approval action on the State Implementation Plan (SIP) revisions which the North Carolina Division of Environmental Management submitted pursuant to the requirements of Part D of Title I of the Clean Air Act, as amended 1977, with regard to nonattainment areas. EPA has found the revisions to be approvable except for certain portions of the transportation control plans which are needed to attain the air quality standards for carbon monoxide (CO) in Charlotte and certain features of two regulations dealing with emissions of volatile organic compounds. It is proposed to approve the revisions on condition that the deficiencies noted by corrected by February 15, 1980, or, in the case of the added detail and specific commitments needed on the inspection/maintenance program, by June 30, 1980. If these deficiencies are not corrected by these dates, EPA will disapprove these portions. It is proposed to approve all other portions of the revisions.

The public is invited to submit written comments on these proposed actions and on the amount of time being allowed the State to correct the deficiencies noted.

DATE: To be considered, comments must be submitted on or before November 23, 1979. A thirty-day comment period is being allowed on the SIP revisions since the July 1, 1979, statutory deadline in section 172 of the Clean Air Act has

already passed. Moreover, the issues involved are straightforward and have been fully examined through the public hearing process at the state level.

ADDRESSES: Written comments should be addressed to Walter Bishop of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

Library, Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30308.

Air Planning and Environmental Standards, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, Archdale Building, 512 North Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT:

Walter Bishop, Region IV, Air Programs Branch, 345 Courtland Street, N.E., Atlanta, Georgia, 30308, 404/881-3286 (FTS 257-3286).

SUPPLEMENTAL INFORMATION:

Background

In the March 3, 1978, **Federal Register** (43 FR 8962 at 9019) a number of areas within the State of North Carolina were designated as not attaining certain national ambient air quality standards. One area was designated nonattainment for the primary secondary standards for total suspended particulate matter (TSP):

Certain portions of Mitchell, Avery, and Yancey Counties within and around Spruce Pine.

On May 21, 1979 (44 FR 29500), the Agency announced proposal to make this area unclassifiable for the primary standards on the basis of 1978 data showing no violations of these standards. The State has requested an 18-month extension of the deadline for submitting a revision assuring attainment of the secondary standard.

Durham and Mecklenburg Counties were designated nonattainment for carbon monoxide (CO). Buncombe, Durham and Mecklenburg Counties were designated nonattainment for ozone.

Because of questions raised over the validity of some of the air quality data on which these designations were based, Durham County was redesignated unclassifiable for both pollutants on September 11, 1978 (43 FR 40412), and Buncombe County was redesignated unclassifiable for ozone on April 27, 1979 (44 FR 24845).

Implementation plan revisions required under Part D, Title I, of the Clean Air Act were developed by the State for all the foregoing areas except Durham. Revisions for the Mecklenburg County CO/ozone nonattainment area were adopted and submitted for EPA's approval on June 15, 1979.

The North Carolina revisions have been reviewed by EPA in light of the Clean Air Act Amendments 1977, EPA regulations, and additional guidance materials. The criteria utilized in this review were detailed in the **Federal Register** on April 4, 1979 (44 FR 20372) and need not be repeated in detail here.

General Discussion:

Section 172(b) of the Clean Air Act, as amended 1977, contains the requirements for nonattainment State Implementation Plans. The following is a listing of these requirements accompanied by a discussion of the contents and adequacies of the North Carolina submittal.

172(b)(1) [SIP provisions shall] be adopted by the State (or promulgated by the Administrator) under section (c) after reasonable notice and public hearing;

Public hearings on regulations representing RACT for sources of volatile organic compounds were held in Asheville, Charlotte and Wilmington on September 20–22, 1978. Hearings on the attainment plans for Mecklenburg County were held in Charlotte on November 10, 1978, and in Asheville on November 14, 1978. Hearings on redrafted versions of the VOC regulations and attainment plans for Mecklenburg County were held in Charlotte on March 22, 1979 and in Raleigh on April 12, 1979. These hearings satisfy the requirements of 40 CFR 51.4.

172(b)(2) [SIP provisions shall] provide for the implementation of all reasonably available control measures as expeditiously as practicable.

For a discussion of reasonably available control measures, including Reasonably Available Control Technology (RACT), see 172(b)(3).

172(b)(3 [SIP provisions shall] require, in the interim, reasonable further progress (as defined in section 171(1) including such reduction in emissions from existing sources in the area as may be obtained through the adoption, at a minimum, of reasonably available control technology.

Reasonable further progress (RFP) calculations accompany the explanation of progress toward attainment of standards in Mecklenburg County. The revisions call for meeting national ambient air quality standards for ozone by the end of 1982. The State requested and EPA proposes to grant an extension to the end of 1987 for meeting the carbon monoxide standard.

As a requirement for the extension to 1987, with regard to an adequate inspection and maintenance program, the SIP must include:

(1) Certification of adequate legal authority for a mandatory inspection and maintenance (I/M) program;

(2) Commitments from the proper agency(s) to the implementation and enforcement of the I/M program;

(3) An adequate implementation Schedule as defined in the July 17, 1978 policy memorandum from Assistant Administrator Hawkins; and

(4) Commitments from the proper agency(s) to obtaining at least a 25% emissions reduction from light-duty vehicles for hydrocarbons and/or carbon monoxide by December 31, 1987, as also stated in the July 17th Hawkins memorandum. The requirement for the 25% reduction would apply only to the pollutant(s) for which the extension is requested.

Ozone. On the basis of a control strategy design value of 0.19 ppm, the State has calculated that a 37% reduction in hydrocarbon emissions is needed to attain the 0.12 ppm standard in Mecklenburg County. Reductions are to be obtained through the Federal Motor Vehicle Control Program, (FMVCP) and regulations representing Reasonably Available Control Technology (RACT) for stationary sources with potential emissions of 100 tons or more per year. It is calculated that a 40% reduction in hydrocarbon emissions will occur by 1983, even though a margin of growth in stationary sources is allowed. Reductions used in this calculation are from added controls on petroleum marketing, surface coating, paper and film coating, tire manufacture, textile finishing and drum painting (listed in order of decreasing magnitude). Although the State adopted regulations for eleven categories of VOC sources (see 172(b)(8)), only the categories just listed contribute significantly to the ozone problem in Mecklenburg County. EPA concurs that the emission reductions calculated by the State should suffice to assure attainment of the ozone standard by 1982.

CO. For the Mecklenburg County nonattainment area, the control strategy design value is 20.9 mg/m^3 (8-hour). With EPA concurrence, the State used computer dispersion modeling to determine an attainment date for CO of early 1986. The modeling input included

reductions from the FMVCP, various transportation control measures, and an inspection/maintenance program for motor vehicles. Since the 8-hour CO standard cannot be met by 1982, the State has requested an extension to 1987. Accordingly, the State must implement a mandatory inspection/maintenance (I/M) program for motor vehicles, transportation control measures and a new source review program consistent with the requirements of § 172(b)(11)(A) of the Clean Air Act.

Section 172(b)(10) requires a demonstration of legal authority to implement and enforce an I/M program. EPA has received from the State Attorney General an opinion that the Department of Natural Resources and Community Development has the authority to prescribe a vehicle compliance sticker requirement as an enforcement mechanism and has authority to set I/M emissions standards. This authority is based upon State statutes N.C.G.S. 143.215.107(a)(6), 132.214.108, and 143.213(2)–(4). Further, a study commission has been established by the 1979 General Assembly to provide by February 1980 further guidance on the details of the I/M program to be implemented.

EPA has also received commitments of endorsement from local officials, comprising the Charlotte Metropolitan Planning Organization, Charlotte City Council, and Mechlenburg County Commission, to assist in implementing and enforcing the program "to the greatest extent allowed by law in order to prevent motor vehicles failing to obtain an inspection certificate from operating within the jurisdiction of (these bodies)."

The SIP also contains a schedule to implement I/M as required by Section 172(b)(11)(B). The schedule contains all the elements contained in EPA's policy guidance, including separate schedule milestones for each possible program type (contractor-run centralized program, State-run centralized program, or a garage-based decentralized program) that may be implemented. The SIP also contains a commitment to obtain at least a 25% emissions reduction from light-duty vehicles for carbon monoxide by December 31, 1987.

The State I/M submission generally commits the State to implement an I/M program, and the State has submitted substantial evidence in support of that commitment. However, because the State has not yet identified the exact type of program it expects to implement, the State will have to provide more details on the implementation of the I/M program and describe in more detail the procedures which will be used to enforce the program, along with more specific commitments to the program. Any changes regarding implementation or enforcement of the I/M program recommended by the legislative study commission and adopted by the State will have to be submitted as revisions to the SIP. EPA is proposing to approve the I/M portions of the North Carolina SIP upon the condition that by June 30, 1980, North Carolina provide more details on the implementation of program, describe enforcement procedures which would prohibit registration or be equally effective in preventing non-complying vehicles from operating on public roads, and provide specific mechanisms and commitments to carry out these implementation and enforcement details.

EPA's review of the Charlotte transportation control plan has revealed a number of deficiencies. These deficiencies include:

(A) The memorandum of agreement required under Section 174 is inadequate with respect to commitments by the appropriate agency (agencies) to the implementation of the mobile source transportation control measures.

(B) The current 1979 Transportation Improvement Program/Annual Element (TIP/AE) must be reviewed for projects that have a positive air quality impact. Measures that are found to have benefits and are feasible must be submitted with implementation dates. The implementation dates should correspond to the dates shown in the TIP/AE. Those measures selected from the 1979 TIP/AE for incorporating into the State Implementation Plan must also include a commitment to the implementation and enforcement of such measures by the responsible agencies.

(C) Section 108(f) requires EPA to publish and make available information documents on transportation control measures that are reasonably available for implementation in order to reduce emissions from transportation sources. EPA considers all Section 108(f) measures to be reasonably available. However, if through analysis some measures are found to be infeasible, EPA will allow these measures to be withdrawn. The submittal does not contain a commitment to justify the decision not to implement these measures if found infeasible. Also, the State and/or responsible agencies must commit to implement as expeditiously as practicable those measures found feasible for implementation. The schedule for the analysis of the 108(f) measures does not include a deadline date of July 1980. The analysis must be completed by July 1980 with implementation of measures found feasible before December 1982.

(D) The submittal does not identify the financial and manpower allocations to accomplish the tasks required under Section 108(e) of the CAAA and other transportation system management elements and air quality related projects which are or will be incorporated into the Unified Planning Work Program (UPWP) and the Transportation Improvement Program/Annual Element (TIP/AE). The UPWP must also be modified to include provisions for progress reporting as required by the "Transportation/Air Quality Planning Guidelines", issued pursuant to Section 108(e) of the CAAA. The SIP must contain only those measures from the modified UPWP and TIP/AE that are related to transportation air quality planning under Section 108(e) of the CAAA.

The transportation control plan is not fully approvable without these additions.

172(b)(4) [SIP provisions shall] include a comprehensive, accurate, current inventory of actual emissions from all sources (as provided by rule of the Administrator) of each such pollutant for each such area which is revised and resubmitted as frequently as may be necessary to assure that the requirements of paragraph (3) are met and to assess the need for additional reductions to assure attainment of each standard by the date required under subsection (a);

Appropriate emissions inventories for ozone (the inventory is for hydrocarbons which react with sunlight to form ozone) and CO have been submitted. Future reporting requirements for updating inventories are included.

172(b)(5) [SIP provisions shall] expressly identify and quantify the emissions, if any, of any such pollutant which will be allowed to result from the construction and operation of major new or modified stationary sources for each such area;

The Mecklenburg County ozone plan is an accommodative one and quantifies emission growth expected in each category of major new or modified sources of volatile organic compounds.

It is not clear if stationary source emissions of carbon monoxide have been included in inventory projections.

172(b)(6) [SIP provisions shall] require permits for the construction and

V 4 4 0 C 2 3 7 9 UMI

operation of new or modified stationary sources in accordance with Section 173 (relating to permit requirements);

The State will require permits for the construction and operation of new or modified major stationary sources in accordance with Section 173 (15 NCAC 2H .0608, Permits for Sources Impacting Nonattainment Areas).

172(b)(7) [SIP provisions shall] identify and commit the financial and manpower resources necessary to carry out the plan provisions required by this subsection;

All parties involved in the development of the revisions have committed the resources needed for their implementation and any further analysis and plan development except as noted under 172(b)(3). Lead agency for overall air quality planning and implementation is the local 3–C planning body, the Transportation Advisory Committee of Charlotte-Mecklenburg County, composed of representatives of local, State, and Federal transportation planning agencies.

Analysis of Reasonable Transportation Control Measures (RTCM's) is the responsibility of the Charlotte-Mecklenburg Planning Commission and the North Carolina Department of Transportation.

Enforcement of the VOC regulations and the permit regulations for nonattainment areas, new source review, emission inventory updates, and RFP reporting as well as general responsibility for the attainment and maintenance of the national ambient air quality standards will be responsibilities shared jointly by the North Carolina Department of Natural Resources and Community Development and the Mecklenburg County Health Department.

The Office of the Charlotte City Manager, as agent of the Transportation Advisory Committee, is responsible for securing and administering Federal grants awarded under Section 175 of the Act.

Details of the inspection and maintenance program required because of the seriousness of the CO problem are still to be decided upon.

172(b)(8) [SIP provisions shall] contain emission limitations, schedules of compliance and other such measures as may be necessary to meet the requirements of this section.

With respect to Volatile Organic Compound (VOC) regulations, the State has adopted regulations providing emission limitations and process and equipment specifications necessary to meet the requirement that RACT be applied to these sources in ozone nonattainment areas. Categorical compliance schedules are included. These regulations are for sources with potential emissions which equal or exceed 100 tons per year.

Categories of sources controlled by presently adopted VOC regulations include: (1) surface coating including (a) auto and light duty truck manufacturing, (b) can coating, (c) coil coating, (d) paper coating, (e) fabric and vinyl coating; (2) metal furniture coating; (3) large appliance surface coating; (4) magnet wire coating; (5) petroleum liquid storage; (6) bulk gasoline plants; (7) bulk gasoline terminals; (8) gasoline service stations, Stage I; (9) petroleum refinery sources; (10) solvent metal cleaning; and (11) cutback asphalt (15 NCAC 2D .0901 through .0931).

In addition the State is committed to adopt VOC regulations for additional source categories annually as CTGs for those sources they are developed by EPA. Emission reductions from two such categories are used in the demonstration of attainment (tire manufacture, surface coating of miscellaneous metal parts and products).

Several comments on the VOC regulations are now made:

1. The definition of VOC in regulation .0901 includes organic compounds (except those excluded) with a true vapor pressure of 1.5 psia under actual storage conditions. This definition is superseded when applicable by the test procedures in regulation .0913, Determination of Volatile Content of Surface Coatings. EPA anticipates that the State's VOC definition will be superseded in certain cases by the test procedures. The governing factor will be the ability of the VOC to be detected using the test procedures, thereby making this definition as stringent or more stringent than a definition based on a true vapor pressure of 0.1 millimeters of mercury.
2. Regulation .0902(c) exempts trichlorotrifluoroethane (freon 113) from control. This compound may be subject to control in the future because of its deleterious effect on the stratosphere ozone layer, which shields the earth's surface from some ultraviolet solar radiation. Depletion of the layer is linked to increased incidence of skin cancer.
3. Regulation .0903, Recordkeeping, Reporting, Monitoring, applies only to sources with *actual* emissions of 100 tons per year. This must be revised to apply to sources with *potential* emissions of that figure.
4. Regulation .0931, Cutback Asphalt, applies to Mecklenburg County, but no emission reduction from this source category figure in the ozone control strategy. This needs to be explained. Also, since the regulation exempts applications made at temperature below 50° F, an authoritative temperature reference source must be specified.

172(b)(9) [SIP provision shall] contain evidence of public, local government, and State legislative involvement and consultation in accordance with Section 174 (relating to planning procedures) and include (A) an identification and analysis of the air quality, health, welfare, economic, energy, and social effects of the plan provisions required by this subsection and of the alternatives considered by the State, and (B) a summary of the public comment on such analysis;

Consultation with the public and local governments described, with regard to the origin and development of the Charlotte-Mecklenburg attainment plan, in the preface and in chapter II of that document, as well as in Appendix C of the document. Appendix C contains the resolution adopted by the Charlotte-Mecklenburg Transportation Advisory Committee establishing itself, as the basis of intergovernmental (State and local) agreement, as the lead organization for developing the needed SIP revisions, and setting forth the responsibilities of the various parties to be involved in the development. State legislative involvement is evidenced by the resolution of the 1979 General Assembly establishing a study commission to recommend any additional guidance needed to support the I/M program (Resolution 72).

The State's analysis of the air quality, health, and welfare effects determine that the impact of the SIP will be beneficial. The portion of the analysis that addressed the economic, energy, and social effects has been completed through an EPA contract. The State has received no public comments on any of the above aspects of the analysis.

172(b)(10) [SIP provisions shall] include written evidence that the State, the general purpose local government or governments, or a regional agency designated by general purpose local governments for such purpose, have adopted by statute, regulation, ordinance, or other legally enforceable documents, the necessary requirements and schedules and timetables for compliance, and are committed to implement and enforce the appropriate elements of the plan;

In the State of North Carolina, the Division of Environmental Management of the Department of Natural Resources and Community Development has full statutory authority for enforcing the SIP revisions. The Environmental Management Commission adopted on June 14, 1979, the necessary regulatory portion of the SIP. Timetables for compliance are addressed under 172(b)(8). Commitments to implement mobile source transportation control measures are deficient, as noted under 172(b)(3) above. Commitments to implement and enforce I/M are also discussed under 172(b)(3).

172(b)(11) [SIP provisions shall], in the case of plans which make a demonstration pursuant to paragraph (2) of subsection (a),

(A) establish a program which requires, prior to issuance of any permit for construction or modification of a major emitting facility, an analysis of alternative sites, sizes, production processes, and environmental control techniques for such proposed source which demonstrates that benefits of the proposed source significantly outweigh the environmental and social costs imposed as a result of its location, construction, or modification;

(B) establish a specific schedule for implementation of a vehicle emission control inspection and maintenance program; and

(C) identify other measures necessary to provide for attainment of the applicable national ambient air quality standard not later than December 31, 1987.

Paragraph 11 of subsection 172(b) applies only to the Charlotte nonattainment area for carbon monoxide.

Legal authority to require the alternatives analysis for new sources required by subparagraph (A) above was provided by the 1979 General Assembly in SB 64. The State has not yet adopted regulations governing this analysis, however. This must be done before the revisions can be fully approved.

The schedule for the implementation of inspection and maintenance (I/M) program included in the SIP has been determined to contain all the elements set forth in EPA's policy guidance.

The control measures identified in the SIP are adequate to attain the CO standard by 1987. No other measures have been identified. (See number 3).

Proposed action:

Based on the foregoing, EPA is proposing to conditionally approve the North Carolina SIP revision submittal, made pursuant to Part D of Title I of the Clean Air Act, to attain the ozone standards in Mecklenburg County; the deficiencies in the cutback asphalt regulation and the VOC regulation dealing with recordkeeping, etc., must be corrected before full approval can be given. EPA proposes conditional approval of the plan to attain the 8-hour carbon monoxide standard in Mecklenburg County; it is proposed to approve the CO plan on condition that deficiencies in transportation related commitments be corrected and that regulations providing for alternative analysis be adopted as required by § 172(b)(11)(A). If the corrections have not been submitted by February 15, 1980, or by June 30, 1980, in the case of the added detail and specific commitments needed in I/M. EPA will disapprove the affected portions of the revisions.

(Sections 110 and 172 of the Clean Air Act [42 U.S.C. 7410 and 7502]).

Dated: September 7, 1979.

John C. White,

Regional Administrator.

[FR Doc 79-32679 Filed 10-22-79; 8:45 am]

BILLING CODE 6560-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

Center for Disease Control

42 CFR Parts 74 and 405

Clinical Laboratories; Personnel Standards

Correction

In FR Doc. 79-31647 appearing at page 58923 in the issue for Friday, October 12, 1979, on page 58925, in the second paragraph, on the fourth line, after the word "items", "104" should read "1–4". Appearing at page 58928, in the first column, in the last paragraph, clause (b) in paragraph (c)(1) should read as follows: * * * (b) 6 months of formal training in such a school and 6 months of acceptable full-time training in diagnostic cytology under a board-certified (anatomical) pathologist may serve as a cytotechnologist. Also, in the second paragraph, under paragraph (c)(2), on the fifth line, "qualifies" should read "qualified".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA 5713]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or toll free line (800) 424–8872 (in Alaska and Hawaii call toll free line (800) 424–9080), Room 5150, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR 67.4(a) (formerly 24 CFR Part 1917.4(a)).

These elevations, together with the flood plain management measures required by § 60.3 of the program

regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Alabama	City of Enterprise, Coffee County	Blanket Creek	Just upstream of College Street	*268
			Approximately 200 feet upstream of Damascus Road (Alabama State Highway 134).	*298
		Blanket Creek Tributary 2	Just upstream of Glenn Street	*294
		Blanket Creek Tributary 2A	Just upstream of Lakeview Drive	*294
		Blanket Creek Tributary 2B	Approximately 50 feet downstream of College Street	*309
			Just upstream of College Street	*314
		Blanket Creek Tributary 2C	Just downstream of Simmons Street	*285
			Just upstream of West Adams Street	*311
		Blanket Creek Tributary 3	Confluence of Blanket Creek Tributary 3 with Blanket Creek	*299
		Cowpen Creek	Just upstream of US Highway 84	*275
			Approximately 125 feet downstream of George C. Wallace Drive	*305
			Just upstream of George C. Wallace Drive	*314
		Cowpen Creek Tributary 1	Just upstream of Eastern Corporate Limits	*227
			Just upstream of Field Road	*266
		Cowpen Creek Tributary 2	Approximately 75 feet downstream of Bellwood Road	*307
		Little Cowpen Creek	Approximately 50 feet downstream of Alabama State Highway 134	*288
		Little Cowpen Creek Tributary 1	Just downstream of US Highway 84 Bypass (Affected by backwater flooding from Little Cowpen Creek).	*286
			Just upstream of US Highway 84 Bypass	*293
		Harrand Creek	Just downstream of Alabama State Highway 27 (East Lee Street)	*255
			Just upstream of Brentwood Drive	*291
		Harrand Creek Tributary 1	Just upstream of Dixie Drive	*257
			Just upstream of Edgewood Drive	*306
			Just upstream of Circle Drive	*326
		Harrand Creek Tributary 1A	Approximately 50 feet downstream of Pinehurst Drive	*289
			Just upstream of Pinehurst Drive	*309
		Harrand Creek Tributary 1A1	Approximately 30 feet downstream of Pinehurst Drive	*290
			Just upstream of Pinehurst Drive	*297
		Harrand Creek Tributary 1B	Approximately 50 feet downstream of Alberta Street	*296
			Just upstream of Alberta Street	*302
		Harrand Creek Tributary 1C	Search Street (Extended)	*331
		Harrand Creek Tributary 1D	Approximately 40 feet downstream of Clover Street	*338
			Just upstream of Clover Street	*342
		Harrand Creek Tributary 2	Just downstream of Dam (Breached)	*314
			Just upstream of Dam (Breached)	*316
	Maps available at: City Engineering Office, 711 Crawford Street, Enterprise, Alabama 36330.			
	Send comments to: Mayor G. Donaldson or Mr. Carl Griffin, City Clerk, City Hall, P.O. Box 1160, Enterprise, Alabama 36330.			
Alabama	City of Geneva, Geneva County	Choctawhatchee River	At confluence of Double Bridges Creek	*100
			Approximately 400 feet upstream of State Highway 52	*102
		Pea River	150 feet upstream of Highway 27	*101
			At confluence of Benson Branch	*102
		Line Branch	Approximately 200 feet upstream of Skyline Avenue	*104
			100 feet downstream of Lake Dam	*135
		Three Mile Branch	150 feet downstream of corporate limits	*112
		Benson Branch	Just upstream of Highway 52	*118
			Just downstream of Woodland Street	*133
		Carter Mill Creek	At Bellwood Highway	*103
			At the corporate limits	*119
	Maps available at: City Hall, Geneva, Alabama 36340			
	Send comments to: Mayor Hugh Herring, Jr., or Gene Andrew, City Clerk, City Hall, P.O. Box 37, Geneva, Alabama 36340			
Alabama	Unincorporated areas of Talladega County.	Griffin Branch	Just downstream of U.S. Highways 231 and 280	*469
			Just downstream of Southern Railway	*441
		Choccolocco Creek	Just upstream of Highway 21	*599
			Just downstream of County Road 103	*583
			Just upstream of Louisville and Nashville Railroad	*576
			Just upstream of County Road 93	*510
			Just downstream of County Road 79	*490
		Eastaboga Creek	Just downstream of Interstate 20	*533
			Just downstream of County Road 114	*528
	Maps available at: The County Commison Office, Talladega County Courthouse, North Street, Talladega, Alabama 35160.			
	Send comments to: Judge W. Forrest Keelough, Talladega County Commission, P.O. Drawer 755, Talladega, Alabama 35160			
Arkansas	City of Bentonville, Benton County.	McKisick Creek Tributary (Tributary 1).	Just upstream of Trails End Drive (extended)	*1,226
		Osage Creek Tributary (Tributary 2).	Just upstream of State Highway 102	*1,277
			Just upstream of US Highway 71	*1,281
	Maps available at: City Clerk's Office, City Hall, 115 West Central Street, Bentonville, Arkansas 71712.			
	Send comments to: Mayor Richard Hoback or Ms. Brenda Ward, City Clerk, City Hall, 115 West Central Street, Bentonville, Arkansas 72712.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arkansas	Town of Calion, Union County	Ouachita River	Just downstream of the Chicago-Rock Island and Pacific Railroad, East of the Protection Works.	*100
		Calion Lake	At the intersection of Epps Street and Landing Street	*95
	Maps available at: Mayor's Office, Town Hall, Calion, Arkansas.			
	Send comments to: Mayor James B. Staples, Town Hall, Calion, Arkansas 71724.			
Arkansas	City of Clarendon, Monroe County	White River	Just upstream of US Highway 79	*181
		Shallow Flooding Areas (Ponding)	Intersection of Washington Street and Fifth Street	*173
			Intersection of Carter Street and US Highway 79 (Ewan Street)	*173
			Intersection of Walker Street and College Street	*173
			Intersection of Oak Street and Main Street	*175
	Maps available at: City Hall, 270 Madison Street, Clarendon, Arkansas 72029.			
	Send comments to: Mayor Newton Meredith or Ms Billie Hasty, City Hall, 270 Madison Street, Clarendon, Arkansas 72029.			
Arkansas	City of Corning, Clay County	Cypress Creek Ditch	Just upstream of West Main Street (US Highway 61)	*285
		Corning Lake	Just upstream of East Elm Street (US Highway 62)	*281
	Maps available at: City Hall, P.O. Box 538, Corning, Arkansas 72422.			
	Send comments to: Mayor Jeffe E. Pulliam or Ms. Caroyln S. Williams, City Hall, P.O. Box 538, Corning, Arkansas 72422.			
Arkansas	City of Eureka Springs, Carroll County.	Leatherwood Creek	Just upstream of Magnetic Road	*1,146
			Just downstream of Mill Road	*1,160
	Maps available at: City Clerk's Office, City Hall, 44 South Main Street, Eureka Springs, Arkansas 72632.			
	Send comments to: Mayor Marcile Davis or Ms. Karen Grulkey, City Clerk, City Hall, 44 South Main Street, Eureka Springs, Arkansas 72632.			
Arkansas	Town of Huttig, Union County	Ouachita River	Intersection of Fourth Street Eastern corporate limits	*91
	Maps available at: Mayor's Office, City Hall, Huttig, Arkansas 71747.			
	Send comments to: Mayor Thomas Cain, City Hall, Huttig, Arkansas 71747.			
Arkansas	City of Jacksonport, Jackson County.	White River	Intersection of State Highway 69 Extended and the Western Corporate Limits.	*230
	Maps available at: The home of Mayor William Smart, 1 block from Highway 69, Jacksonport, Arkansas 72075.			
	Send comments to: Mayor William Smart, P.O. Box 113, Jacksonport, Arkansas 72075.			
Arkansas	City of Johnson, Washington	Clear Creek	Just upstream of St. Louis-San Francisco Railway	*1,178
			Just upstream of Wilkerson Street	*1,180
			Just downstream of Eastern Corporate Limits	*1,195
		Mud Creek	Just downstream of Johnson Road	*1,181
	Maps available at: City Clerk's Office, City Hall, Main Street, Johnson, Arkansas 72741.			
	Send comments to: Mayor Raymond Slope or Ms. Ann Adams, City Clerk, City Hall, P.O. Box 386, Johnson, Arkansas 72741.			
Arkansas	City of Marked Tree, Poinsett County.	St. Francis River	Just upstream of U.S. Highway 63 (Business)	*211
			Just upstream of Second Street extended	*212
		Left Hand Chute of Little River	Just upstream of Burch Avenue extended	*213
			Just upstream of Sneed Avenue extended	*214
	Maps available at: City Hall, 106 Frisco Street, Marked Tree, Arkansas 72365.			
	Send comments to: Mayor Wylie G. Key, P.O. Box 591, Marked Tree, Arkansas 72365.			
Arkansas	City of North Little Rock, Pulaski County.	Arkansas River	Just downstream of U.S. Highways 65 and 167 and Interstate Highway 30	*253
			Just upstream of Broadway	*255
		Shillcutt Bayou	Just upstream of West 37th Street	*275
			Just Upstream of West 47th Street	*301
			Approximately 160 feet upstream West 52nd Street	*320
			Just upstream of Camp Robinson Road	*328
		Shillcutt Bayou Tributary	Just upstream of State Highway 365	*268
		Lake No. 1 Tributary	Just upstream of Avondale Road	*271
		Farman Ditch	Just downstream of Bethany Road	*250
		Glenview Ditch	Just downstream of State Highway 161	*248
		Five Mile Creek	Just upstream of U.S. Highways 67 and 167	*256
			Just upstream of State Highway 107 (J.F. Kennedy Boulevard)	*375
		Five Mile Creek West Tributary	Just upstream of Osage Drive	*446
		Five Mile Creek McCain Fork	Just downstream of U.S. Highways 67 and 167	*300
		Five Mile Creek East Tributary	Just upstream of U.S. Highways 67 and 167 Service Road (North Bound).	*257
		Ponding Areas	Intersection of East 9th Street and Oliver Street	*254
			Intersection of East 9th Street and Locust	*254
			Intersection of East 17th Street and Hazel	*252
			Intersection of East 2th Street and Gretory	*252
			Intersection of East 11th Street and I Street	*252
			Intersection of Healy Avenue and Rojeclair Drive	*246
			Intersection of Healy Avenue and Graham Avenue	*246
			Intersection of Faulkner Lake Road and Saunders	*245
	Maps available at: the Public Works Office, City Hall, Third and Main Streets, North Little Rock, Arkansas 72114.			
	Send comments to: Mayor William F. Layman or Mr. Charles Miller, Acting Public Works Director, P.O. Box 5757, North Little Rock, Arkansass 72114.			

V 44 0C 23 79 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
Arkansas	City of Smackover, Union County	Smackover Creek	Just downstream of Old Camden Road	*111
			Just downstream of Northwest Corporate Limits	*113
	Maps available at: Office of Superintendent of Public Works, City Hall, P.O. 146, Smackover, Arkansas 71762.			
	Send comments to: Mr. J. R. Jameson, Superintendent of Public Works, City Hall, P.O. Box 146, Smackover, Arkansas 71762.			
	Send comments to: Mr. J. R. Jameson, Superintendent of Public Works, City Hall, P.O. Box 146, Smckover, Arkansas 71762.			
Arkansas	City of Waldron, Scott County	Poteau River	Just Upstream of Main Street (US Highway 71 Business)	*656
			Just upstream of State Highway 80	*677
	Maps available at: City Clerk's Office, City Hall, Waldron, Arkansas 72958.			
	Send comments to: Mayor Tom Sawyer or Ms. Pat Davenport, City Clerk, City Hall, P.O. Box 310, Waldron, Arkansas 72958.			
Arkansas	City of West Fork, Washington County	West Fork of White River	Just downstream of Arkansas State Highway 170	*1,316
	Maps available at: City Hall, Main Street, West Fork, Arkansas 72774.			
	Send comments to: Mayor Alexander P. Stikkers, City Hall, P.O. Box 339, West Fork, Arkansas 72774.			
Arkansas	City of West Memphis, Crittenden County	Mississippi River	Eight Street (Extended)	*227
		Fifteen Mile Bayou	Approximately 300 feet downstram of U.S. Highway 70	*209
		Ten Mile Bayou Diversion Ditch	Just upstream of Interstate Highway 40 Eastbound	*211
			Just upstream of Ingram Boulevard	*214
		Ten Mile Bayou	Just Upstream of U.S. Highway 70 (Broadway Avenue)	*210
			Just upstream of North Fourteenth Street	*212
			Just Upstream of Ingram Boulevard	*215
	Maps available at: City of Clerk's Office, City Hall, 205 S. Redding, West Memphis, Arkansas 72301.			
	Send comments to: Mayor Joyce T. Ferguson or Mr. Jay Woods, Administrative Asst., City Hall, P.O. Box 1728, West Memphis, Arkansas 72301.			
Florida	City of Casselberry, Seminole County.	Grassy Lake Drainage Channel to Triplet Lake.	Approx. 70 feet downstream of Sunset Drive	*65
			Approx. 100 feet upstream Southcot Road	*77
		Grassy Lake Drainage Channel to Queens Mirror Lake.	Approximately 100 feet downstream of Winter Park Drive	*56
			Approx. 200 feet upstream of confluence with Triplet Lake Drainage Channel.	*79
		Gee Creek	Approx. 300 feet upstream of Winter Park Drive	*51
		Howell Creek	Approx. 60 feet downstream of U.S. Highways 17 & 92 (southbound)	*58
		Lake Kathryn	Entire shoreline	*55
		Lake Howell	Entire shoreline	*57
		Lost Lake	Entire shoreline	*55
		Lake Ann	Entire shoreline	*63
		Queen's Mirror Lake	Entire shoreline	*56
		Duck Pond	Entire shoreline	*58
		Crystal Bowl	Entire shoreline	*65
		Lake Triplet	Entire shoreline	*55
		Grassy Lake	Entire shoreline	*86
		Quail Pond	Entire shoreline	*65
		Secret Lake	Entire shoreline	*55
		Lake Concord	Entire shoreline	*60
		Lake Lotus	Entire shoreline	*82
		Trout Lake	Entire shoreline	*81
		Lake Griffin	Entire shoreline	*76
		Dewdrop Pool	Entire shoreline	*70
		Lake Ellen	Entire shoreline	*70
		Dionne Lakes	Entire shoreline	*56
		Red Bug Lake	Entire shoreline	*68
		Deer Run	Eagle Circle Road	*69
	Maps available at: City of Casselberry Engineering Department, 95 Lake Triplet Drive, Casselberry, Florida 32707.			
	Send comments to: Mayor Bill Grier, 95 Lake Triplet Drive, Casselberry, Florida 32707.			
Florida	City of Palatak, Putnam County	St. Johns River	Just downstream of US Highway 27	*6
			Golf Road extended	*6
	Maps available at: City Hall, Palatka, Florida 32077.			
	Send comments to: Mayor Eugene L. Walker or Robert H. Fisk, City Manager, P.O. Box 1100, City Hall, Palatka, Florida 32077.			
Georgia	City of Snellville, Gwinnett County	Big Haynes Creek	50 feet upstream of Summit Chase Drive	*888
		No Business Creek	At Green Valley Road	*965
			Just downstream of Georgia Route 124	*996
		No Business Creek Tributary No. 1.	50 feet downstream of Hickory Lane (extended)	*901
		Watson Creek	Just upstream of Mornington Lane (extended)	*979
	Maps available at: City Clerk's Office, City Hall, 2460 Main Street East, Snellville, Georgia 30278.			
	Send comments to: Mayor Emmett Clower or Ms. Betty McMichael, City Clerk, City Hall, P.O. Box F, Snellville, Georgia 30278.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
Kentucky	City of Prestonsburg, Floyd County.	Levisa Fork	Just upstream of U.S. Highway 23 and 460	*632
			At the confluence of Middle Creek	*633
			Just upstream of South First St	*634
			Approximately 500 feet upstream from State Highway 304	*638
	Maps available at: City Hall, North Lake Drive, Presonsburg, Kentucky 41653.			
	Send comments to: Mayor Harold W. Cooley or City Manager Jack Hyden, P.O. Box 31, Prestonsburg, Kentucky 41653.			
Lousiana	City of Lafayette, Lafayette Parish	Coulee Mine	Just downstream of West Congress Street	*26
			Just upstream of Eraste Landry Road	*31
		Lateral No. 1	Just downstream of Dulles Boulevard	*30
			Just downstream of U.S. Highway 90	*36
		Coulee Mine Branch	Just upstream of Johnson Street	*22
			Just upstream of Jeanne Street	*33
			Just upstream of Walker Road	*37
		St. John Coulee	Just upstream of University Avenue	*29
			Just upstream of West Congress Street	*31
		Breaux Bridge	At Dawn Street	*31
			Just downstream of Champagne Street	*33
		Jupiter Street Coulee	Just upstream of Center Street	*37
			Just downstream of Southern Pacific Railroad	*40
		Grand Avenue Coulee	Just upstream of Johnston Street	*28
			Just downstream of Lionel Drive	*30
		Vermilion River	At Pinhook Street	*16
			At U.S. Highway 90	*16
			Just downstream of Interstate 10	*17
		Francois Coulee	Just downstream of Interstate 10	*17
		Old Coulee Mine	At Eastern downstream crossing of South College Road	*16
	Maps available at: The Planning Commission Office, City Hall, 733 Jefferson, Lafayette, Lousiana 70502.			
	Send comments to: Mayor Kenneth F. Bowen, P.O. Box 1470-C, Lafayette, Louisiana 70502.			
Louisiana	Town of Marksvile, Avoyelles Parish.	Bayou Blanc	Just upstream of Spring Bayou Road	*76
			Just downstream of Oak Street	*81
		Bayou Perit	Just upstream of State Highway 1	*61
			Just upstream of Tarifton Street	*67
			Just upstream of North Main Street	*70
		Bayou Jauvage	Just upstream of Texas & Pacific Railroad	*64
			Just upstream of South Washington Street	*75
		Stream A	Downstream of South Preston Street	*67
		Stream B	Approximately 75 feet downstream of Legion Drive	*77
		Stream C	Just downstream of Legion Drive	*68
		Stream D	Just downstream of Bomrel Street	*67
			Just upstream of North Lee Street	*70
	Maps available at: Town Hall, 503 North Main Street, Marksville, Louisiana 71351.			
	Send comments to: Mayor Richard R. Michel or Town Secretary-Treasurer Hunter Dauzat, Town Hall, 503 North Main Street, Marksville, Louisiana 71351.			
Louisiana	Town of Oil City, Caddo Parish	Caddo Lake	At the Intersection of State Highway 1 and the Southern Corporata Limits.	*184
			Entire Shoreline	*184
	Maps available at: Town Hall, Furman Street, Oil City, Louisiana 71061.			
	Send comments to: Mayor Roy M. Hopkins, P.O. Box 116, Oil City, Louisiana 71061.			
Louisiana	Unincorporated areas of Ouachita Pansh.	Young's Bayou	Just upstream of Moore Road	*67
			Just upstream of Nutland Road	*68
			Just upstream of Interstate Highway 20	*69
		Pine Bayou	Just upstream of Tichelli Road	*69
		Zoo Branch	Just downstream of Standifer Avenue	*70
		Swayze School Canal	Just upstream of Louisiana Highway 15	*70
			Just upstream of McGee Street	*71
		Oliver Road Canal	Just upstream of Illinois Central Gulf Railroad	*71
		Chauvin Bayou Canal L-11	Just upstream of Lakewood Drive	*71
			Just upstream of Louisiana Highway 553	*72
			Just upstream of Keystone Road	*72
		Black Bayou	Just upstream of Central Street	*72
			Just downstream of Hilton Street	*101
		Levee Ditch	Just upstream of Bancroft Boulevard	*72
			Just upstream of Valley Road	*73
		Golf Course Creek (Flooding Source is Black Boyou).	Just upstream of Drago Street	*72
		Tupawek Bayou	Just upstream of Louisiana Highway 143	*85
			Just downstream of Kiroli Road	*85
		North Tupawek Bayou	Just upstream of D'Arbonne Road	*85
		North Tupawek Bayou	Just upstream of Goodhope Road	*86
		West Prong Youngs Bayou	Just upstream of Illinois Central Gulf Railroad	*71
		Ouachita River	Approximately one mile upstream of the southern corporate limits of the City of Monroe.	*83
	Maps available at: Director of Public Works Office, City Hall, P.O. Box 637, West Monroe, Louisiana 71291.			
	Send comments to: Mr. Marvin Bell, Parish Engineer for the Highway Department, Ouachita Pansh, Highway Department, P.O. Box 637, West Monroe, Louisiana 71291.			

V 4 4 O C 2 3 7 9 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Louisiana	Village of Parks, St. Martin Parish.	Bayou Teche	Just upstream of Bridge Street	*17
	Maps available at: The Village Hall, Martin and Bridge Streets, Parks, Louisiana 70582.			
	Sends comments to: Mayor Earl J. Guidroz, P.O. Box 594, Parks, Louisiana 70582.			
Louisiana	City of Richmond, Madison Parish	Ditch L7-CC2	Just upstream of Louisiana State Highway 601	*75
			Just downstream of Burnside Road	*79
	Maps available at: The home of Mayor Billy B. Eaker, Route 2, Box 19, Richmond, Louisiana 71282.			
	Send comments to: Mayor Billy Eaker, Route 2, Box 19, Richmond, Louisiana 71282.			
Louisiana	Town of Simmesport, Avoyelles Parish.	Atchafalaya River	At southern corporate limits	*56
		Bayou Des Glaises (backwater from Atchafalaya River).	At Old Louisiana Highway 1	*57
			Laurel Street (extended)	*57
	Maps available at: Town Hall, Mission Drive, Simmesport, Louisiana 71369.			
	Send comments to: Mayor George L. Mayeaux, P.O. Box 142, Simmesport, Louisiana 71369.			
Louisiana	Unincorporated areas of St. John the Baptist Parish.	Mississippi River	Just upstream of Blackberry Road extended	*27
			Just upstream of State Route 53 extended	*26
			Just upstream of State Route 636 extended	*25
		Lake Pontchartrain	Entire Shoreline	*12
	Maps available at: The Office of St. John the Baptist Police Jury Secretary/Treasurer, Room 112, Percy D. Herbert Building, Airline Highway, LaPlace, Louisiana 70068.			
	Send comments to: St. John the Baptist Police Jury President, Mr. Brent Tregre, or Secretary/Treasurer, Mr. Robert Becnel, P.O. Box 359, LaPlace, Louisiana 70068.			
Louisiana	Town of Wisner, Franklin Parish	Batey Bayou	Approximately 100 feet downstream of Pine Street	*65
			Just upstream of State Highway 15	*71
		Cypress Slough	Approximately 200 feet downstream of Missouri Pacific Railroad	*71
			Just upstream of State Highway 15	*72
	Maps available at: Town Hall, Fort Scott and Hope Streets, Wisner, Louisiana 71378.			
	Send comments to: Mayor Charles Watson, P.O. Drawer K, Wisner, Louisiana 71378.			
New Mexico	Village of San Jon, Quay County	San Jon Creek	At intersection of 4th Street and South Avenue	*4,028
			Approximately 1320 feet east of 4th Street and South Avenue intersection along South Avenue.	*4,022
	Maps available at: the Village Hall, San Jon, New Mexico 88431.			
	Send comments to: Mayor Newell Rose or Ms. Cheryl Masters, Village Clerk, Village Hall, San Jon, New Mexico 88431.			
New Mexico	City of Santa Fe, Santa Fe County.	Santa Fe River	Just upstream of Camino Alire	*6,828
			Just upstream of Saint Francis Drive	*6,899
			Just upstream of Guadalupe Street	*6,952
			Just upstream of Delgado Street	*7,033
			Just upstream of Camino Cabra Road	*7,132
			Just upstream of Cerro Gordo Road	*7,310
		Arroyo De Los Chamisos (Main Stem).	Just upstream of Rodeo Road (Corporate Limits)	*6,556
			Just upstream of Avenida De Las Campanas	*6,654
			Just upstream of Camino Carlo Rey	*6,690
			Just upstream of East Vo-Tech School Road	*,6796
			Just upstream of Saint Francis Drive	*6,855
			Just upstream of Old Pecos Trail	*7,013
			Just upstream of Old Santa Fe Trail	*7,237
		Arroyo De Los Chamisos (North Fork).	Just upstream of Avenida De Los Campanas	*6,670
			Just upstream of Camino Carlo Rey	*6,702
			Just upstream of Siringo Road	*6,761
		Arroyo De Los Chamisos (South Fork).	Just upstream of Zia Road	*6,955
		Arroyo Torreon	Just downstream of West Alameda Street	*6,822
		Canada Rincon	Upstream of Camino De Las Crucitas	*6,899
			Just upstream of Rosario Street	*6,951
		Arroyo Ranchito	Just upstream of Murales Road	*7,040
		Arroyo Mascaras	Just downstream of West San Francisco Street	*6,904
			Just upstream of Old Taos Highway	*6,998
		Arroyo De La Piedra	Just upstream of Bishop Lodge Road	*7,050
		Canada Ancha	Just downstream of Corenzo Road	*7,151
		Arroyo Saiz	Just upstream of East Palace Avenue	*7,044
	Maps available at: City Hall, Lincoln and Marcy Streets, Santa Fe, New Mexico 87501.			
	Send comments to: Mayor Arthur E. Trujillo, P.O. Box 909, Santa Fe, New Mexico 87501.			
North Carolina	City of Asheville, Buncombe County.	French Broad River	Approximately 250 feet upstream of Bingham Road	*1,971
			Intersection of Haywood Road and Riverside Drive	*1,984
			Intersection of Almy Street and Michigan Avenue	*1,994
		Swannanoa River	Approximately 300 feet upstream of Biltmore Avenue	*1,997
			Approximately 200 feet upstream of Cheeseboro Bridge	*2,006
			Approximately 250 feet downstream of Blue Ridge Parkway	*2,051

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Hominy Creek	Approximately 150 feet upstream of State Highway 191	*2,000
			Approximately 200 feet downstream of Interstate 40 Eastbound (Extraterritorial Limits).	*2,019
		Ragsdale Creek	Just upstream of Sand Hill Road	*2,064
		Smith Mill Creek	Just upstream of Louisiana Avenue	*2,034
			Just upstream of Druid Drive	*2,046
			Just upstream of Bear Creek Road	*2,113
		McKinnish Branch	Just upstream of Bear Creek Road	*2,114
			Just downstream of Secondary Road At Extraterritorial Limits	*2,156
		Beaverdam Creek	Just upstream of Elkwood Road	*2,059
			Just upstream of U.S. Highway 25, 70, 19 and 23	*2,108
			Just downstream of Pine Croft Road	*2,190
		Reed Creek	Just upstream of Barnard Avenue	*2,032
			Just downstream of Murdock Avenue	*2,087
		Ross Creek	Just upstream of Lake Kenilworth Dam	*2,060
			Just upstream of U.S. Highway 70 and 74	*2,090
			Just upstream of Churns Cove Road	*2,190
		Haw Creek	Approximately 100 feet upstream of U.S. Highway 74	*2,007
			Approximately 100 feet upstream of Mountain View Road	*2,062
			Approximately 100 feet upstream of Bell Road	*2,160
		Sweeten Creek	Approximately 100 feet upstream of Sweeten Creek Road (Downstream Crossing).	*2,002
			Just upstream of Sweeten Creek Road (Upstream Crossing)	*2,013
			Just upstream of Interstate 40	*2,044
		Tributary to Sweeten Creek	Just upstream of Buena Vista Road	*2,116
		Gashes Creek	Just downstream of Interstate 40 Culvert	*2,033
			Just upstream of Entrance Ramp to Blue Ridge Parkway	*2,059
	Maps available at: City Clerk's Office, City Hall, City-County Plaza, College Street, Asheville, North Carolina 28807.			
	Send comments to: Mayor Roy M. Trantham, or Mr. Verl Emrick, Jr., Planning Director, City Hall, College Street, Asheville, North Carolina 28807.			
Oklahoma	City of Ada, Pontotoc County	Little Sandy Creek	Just upstream of Country Club Road	*925
			Approximately 150 feet upstream of Mississippi Avenue	*966
			Just downstream of St. Louis and San Francisco Railroad	*980
		Clear Boggy Creek	Approximately 200 feet upstream of State Highways 3 and 99	*819
			Approximately 150 feet upstream of Pine Street	*858
			Just upstream of Kerr Research Road	*896
		Lake Creek	Approximately 100 feet upstream of Wintersmith Road	*865
			Just upstream of Twenty-Fourth Street Extended	*865
	Maps available at: the City Clerk's Office, City Hall, 13th and Toronsend Streets, Ada, Oklahoma 74820.			
	Send comments to: Mayor Louise Robbins or Mr. Leonard Briley, City Manager, City Hall, Ada, Oklahoma 74820.			
Oklahoma	City of Altus, Jackson County	Stinking Creek Tributary 1	75 feet downstream of the Saint Louis and San Francisco Railroad Spur Line.	*1,345
			Just upstream of Falcon Road	*1,356
		Stinking Creek Tributary 2	Just upstream of the Saint Louis and San Francisco Railroad Spur Line.	*1,345
			Approximately 300 feet downstream of Skyline Drive	*1,349
		Stinking Creek Tributary 3	Approximately 900 feet upstream of the Confluence with Tributary 1	*1,365
		Stinking Creek Tributary 4	Approximately 450 feet downstream of Park Lane	*1,375
	Maps available at: City Clerk's Office, City Hall, 220 Commerce Street, Altus, Oklahoma 73521.			
	Send comments to: Mayor Lonnie Bevers or Mr. Ron Bourbeau, City Administrator, City Hall P.O. Box 914, Altus, Oklahoma 73521.			
Oklahoma	Town of Avant, Osage County	Bird Creek	Just downstream of Oklahome State Highway 97	*686
	Maps available at: The home of Mayor Charles B. Thomas, Avant and Gravel Streets, Avant, Oklahoma 74001.			
	Send comments to: Mayor Charles B. Thomas, P.O. Box 231, Avant, Oklahoma 74001.			
Oklahoma	City of Barnsdall, Osage County	Bird Creek	Approximately 220 feet downstream of Cedar Street	*731
			Just downstream of Pine Street	*733
	Maps available at: City Hall, 412 South Fifth Street, Barnsdall, Oklahoma 74002.			
	Send comments to: Mayor Bert Lewis or City Manager Chuck Witkerson, P.O. Box T, Barnsdall, Oklahoma 74002.			
Oklahoma	City of Bartlesville, Washington County	Caney River	Upstream of Fifth Street	*673
			At State Highway 123	*675
			Just downstream of Atchison, Topeka, Santa Fe Railroad	*675
		Rice Creek	Upstream of Highway 75	*694
			Just downstream of Madison Boulevard	*733
		Rice Creek Tributary	Downstream of Dorchester Drive	*678
		Sand Creek	At Atchison, Topeka and Santa Fe Railroad	*670
			Downstream of State Highway 123	*672
		Eliza Creek	Just upstream of Missoun-Kansas-Texas Railroad	*678
			At U.S. Highway 60	*715
		Turkey Creek	Just downstream of Frank Phillips Boulevard	*686
			Approximately 150 feet downstream of Bison Road	*726
		Turkey Creek Tributary	Downstream of Brookline Drive	*695
		Coon Creek	At U.S. Highway 75	*678
		Butler Creek	Approximately 75 feet downstream of Limit of Detailed Study	*707

V 44 NO 206 1979 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
Maps available at: Engineering Department, City Hall, Bartlesville, Oklahoma 74003.				
Send comments to: Mr. Thomas J. Mikulecky, City Manager, or Mr. Tom Kuntz, City Planner, P.O. Box 699, Bartlesville, Oklahoma 74003.				
Oklahoma	City of Clinton, Custer County	Washita River	Just downstream of US Highway 66	*1,484
			Just upstream of US Highway 183	*1,493
		Tributary No. 1	Just upstream of Glenn Smith Road	*1,501
			Just upstream of Highway 66	*1,537
		Tributary No. 2	Just upstream of Glenn Smith Road	*1,497
			Just upstream of Terrace Avenue	*1,523
Maps available at: City Hall, Clinton, Oklahoma 73601.				
Send comments to: Mayor Charles Goodwin, 110 South Seventh Street, or Mr. James Luckett, City Manager, P.O. Box 1177, Clinton, Oklahoma 73601.				
Oklahoma	City of Cushing, Payne County	Skull Creek	Just upstream of Little Avenue	*869
		Cottonwood Creek	Just downstream of Linwood Avenue	*860
			Just downstream of Ninth Street	*875
			Just upstream of Wilson Avenue	*885
		Bell Creek	Just upstream of Linwood Avenue	*860
			Just downstream of Little Avenue	*905
		Jones Creek	Just downstream of Ninth Street	*860
Maps available at: City Clerk's Office, City Hall, 100 Judy Adam Blvd., Cushing, Oklahoma 74023.				
Send comments to: Mayor Roy Kemp or Robert Annis, City Manager, City Hall, P.O. Box 31, Cushing, Oklahoma 74023.				
Oklahoma	City of Drumright, Creek County	Tiger Creek	Just upstream of Cemetery Road	*777
			Just upstream of East Wood Street	*799
		Little Tiger Creek	Appoximately 200 feet downstream of State Highway 99	*784
Maps available at: City Clerk's Office, City Hall, West Broadway, Drumright, Oklahoma.				
Send comments to: Mr. James S. Palone, City Manager, City Hall, West Broadway, Drumright, Oklahoma 74030.				
Oklahoma	City of Durant, Bryan County	Mineral Bayou	Just downstream of South Ninth Ave	*623
			Just upstream of Southeast First Avenue	*612
			Just upstream of U.S. 70	*600
		Tributary 1	Just downstream of Northeast Second Avenue	*598
		Tributary 4	Just downstream of U.S. Hwy 69-75	*644
		Chuckwa Creek	Just upstream of Washington Avenue	*623
			Just downstream of Briarwood Avenue	*611
Maps available at: the Office of the City Clerk, City Hall, Third and Evergreen Street, Durant, Oklahoma 74701.				
Send comments to: Mayor Robert Davis or Ms. Frances Malvahn, City Clerk, P.O. Box 578, Durant, Oklahoma 74701.				
Oklahoma	Township of Fort Gibson, Muskogee County.	Grand River (backwater from the Arkansas River).	Western corporate limits	*516
		Grand River	Approximately 100 feet downstream of Missouri Pacific Railroad	*516
Maps available at: Town Hall, 200 West Poplar Street, Fort Gibson, Oklahoma 74434.				
Send comments to: Mayor Don Branscum, P.O. Box 218, Fort Gibson, Oklahoma 74434.				
Oklahoma	Town of Harrah, Oklahoma County.	North Canadian River	Just downstream of U.S. Highway 62	*1,072
			Just upstream of Access Road to Power Plant	*1,081
		"A" Creek	Just upstream of U.S. Highways 62 and 270 (Northeast 23rd Street)	*1,084
			Just downstream of Lynch Road	*1,092
		"B" Creek	Just downstream of U.S. Highway 270	*1,071
			Just upstream of U.S. Highway 270	*1,077
			Just upstream of Timhalt Drive	*1,082
Maps available at: the City Clerk's Office, City Hall, 309 Harrah Road, Harrah, Oklahoma 73405.				
Send comments to: Mayor Kenneth Aynes or Mr. Wes Devero, Town Manager, City Hall, 309 Harrah Road, Harrah, Oklahoma 73405.				
Oklahoma	City of Idabel, McCurtain County	Mud Creek	Just downstream of U.S. Highway 70	*454
			Just upstream of Madison Street	*464
			Just upstream of 5th Street	*472
		North Branch of Mud Creek	Just upstream of Sixth Street	*473
Maps available at: Mayor's Office, City Hall, Idabel, Oklahoma 74745.				
Send comments to: Mayor Rex Helms or Rosolyn Holman, City Clerk, 207 South Central, Idabel, Oklahoma 74745.				
Oklahoma	City of Midwest City, Oklahoma County.	Soldier Creek	Just downstream of N.E. 10th Street	*1,173
			Just downstream of East Reno Ave	*1,184
			Just downstream of S.E. 15th Street	*1,199
			Approximately 100 feet downstream of Douglas Blvd	*1,212
		Soldier Creek Tributary 4	Approximately 100 feet upstream of Woodside Drive	*1,191
			Just downstream of Douglas Blvd	*1,207
		Soldier Creek Tributary 6	Approximately 100 feet upstream of Douglas Blvd	*1,202
			Approximately 100 feet downstream of S.E. 15th Street	*1,221
			Just downstream of Post Road	*1,230
		Crutcho Creek	Just downstream of N.E. 36th Street	*1,157
			Approximately 100 feet upstream of N.E. 23rd Street	*1,167
			Just upstream of N.E. 10th Street	*1,170
			Just downstream of Sooner Rd. (downstream crossing)	*1,171
		Crutcho Creek Tributary D	Approximately 40 feet downstream of East Reno Avenue	*1,180
		Choctaw Creek	Approximately 250 feet upstream of East Reno Avenue	*1,182

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
		Silver Creek	Approximately 50 feet downstream of N.E. 30th Street	*1,183
			Approximately 50 feet downstream of N.E. 23rd Street	*1,199
			Just upstream of Chicago Rock Island & Pacific Railroad	*1,211
Maps available at: Planning and Engineering Department, City Hall, Midwest City, Oklahoma 73140.				
Send comments to: Ms. Louanna Munkress, Director of Community Development and Planning and Mr. Alton Nolen, Engineering Technician, City Hall, P.O. Box 10570, Midwest City, Oklahoma 73140.				
Oklahoma	City of Mustang, Canadian County.	Tributary 1	Approximately 100 feet upstream of Southwest 59th Street	*1,290
			Just downstream of Oklahoma State Highway 152	*1,328
		East Branch of Tributary 1	Just downstream of Morgan Road	*1,295
		West Branch of Tributary 1	Just upstream of Southwest 59th Street	*1,292
		South Branch of Tributary 2	Just upstream of Southwest 59th Street	*1,267
			Just downstream of Southwest 74th Street (Oklahoma State Highway 152).	*1,319
Maps available at: Office of Public Works, City Hall, Mustang, Oklahoma.				
Send comments to: Mayor Al Tesio or Mr. Mitchell Eaton, Director of Public Works, City Hall, P.O. Box 337, Mustang, Oklahoma 73064.				
Oklahoma	Town of Nicoma Park, Oklahoma County.	Choctaw Creek	Just upstream of Dixon Road (extended)	*1,131
		Choctaw Creek Tributary 5	Just upstream of Northeast 26th Street extension	*1,145
		Choctaw Creek Tributary 6	Just downstream of Northeast 23rd Street	*1,144
			Just upstream of Northeast 23rd Street	*1,151
			Just downstream of Anderson Road	*1,154
			Just upstream of Anderson Road	*1,161
		Choctaw Creek Tributary 6 West Branch.	Just upstream of Nichols Drive	*1,168
Maps available at: City Clerk's Office, City Hall, 2301 Nichols Street, Nicoma Park, Oklahoma 73066.				
Send comments to: Mayor Leland Fox or Mary Sparks, City Clerk, City Hall, P.O. 545, Nicoma Part, Oklahoma 73066.				
Oklahoma	City of Pawhuska, Osage County	Bird Creek	Just upstream of State Highway 99 and 11	*811
			Approximately 400 feet downstream of Main Street	*817
		Clear Creek (Backwater from Bird Creek).	Just upstream of Main Street	*819
Maps available at: City Hall, Main and Grandview, Pawhuska, Oklahoma 74056.				
Send comments to: City Manager Morgan Hayes, P.O. Box 539, Pawhuska, Oklahoma 74056.				
Oklahoma	City of Ponca City, Kay County	Bois d'Arc Creek	Approximately 200 feet downstream of Prospect Street (Corporate Limits).	*974
		Tributary L	Just upstream of Irvin Street	*970
			Just upstream of Olympia Street	*974
		Tributary M	Just upstream of Waverly Street	*975
			75 feet downstream of Liberty Avenue	*995
		Tributary N	65 feet downstream of Prospect Avenue	*1,043
		Tributary O	Just downstream of Atchison, Topeka and Sante Fe Railway Spur	*987
			At Hartford Avenue	*1,002
		Tributary O Left Branch	Just downstream of Hartford Avenue	*1,004
		Tributary B	Just downstream of Canterbury Avenue	*1,032
			Just downstream of Hartford Avenue	*1,040
		Tributary C	Just upstream of Lake Road	*938
			Just upstream of East Woodland Road	*1,001
		Tributary D	150 feet downstream of Monument Street	*945
			Just upstream of Pioneer Road	968
		Tributary E	Just downstream of Fourteenth Street	*949
			Just upstream of Gray Avenue	*981
		Tributary G	Approximately 50 feet downstream of Fifth Street	*977
			Approximately 50 feet upstream of Summit Avenue	*986
		Tributary H	At Twelfth Street	*933
			Just downstream of South Avenue	*956
		Tributary I	150 feet downstrem of Sixth Street	*941
		Lake Ponca	Entire Shoreline inside Corporate Limits	*990
Maps available at: The office of the City Clerk, 516 East Grand Street, Ponca City, Oklahoma 74601.				
Send comments to: Mayor John Robinson, P.O. Box 1450, Ponca City, Oklahoma 74601.				
Oklahoma	City of Shawnee, Pottawatomie County.	North Canadian River	Just downstream of Beard Street	*991
			Just upstream of U.S. Highways 177 and 270	*993
			Just downstream of West Highland Street	*1,000
		Tributary No. 1	Just upstream of Milstead Street	*1,003
			Just upstream of 10th Street	*1,013
			Just upstream of Highland Street	*1,020
		Tributary No. 2	Approximately 900 feet downstream of the Chicago Rock Island & Pacific Railroad.	*1,005
		Tributary No. 3	Approximately 1400 feet downstream of Leo Road	*1,015
		Tributary No. 4	Just upstream of 45th Street	*1,015
		Rock Creek	Just downstream of the Atchison Topeka and Santa Fe Railway	*968
		Tributary No. 5	Just downstream of 45th Street	*993
		Tributary No. 6	Just upstream of 45th Street	*983
Maps available at: Community Development Office, City Hall, Shawnee, Oklahoma 74801.				
Send comments to: Mayor Wayne Marshall or Mr. Randy Swinson, Assistant City Manager, City Hall, P.O. Drawer 1448, Shawnee, Oklahoma 74801.				

V 4 4 O C 2 3 7 9 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	Town of Skiatook, Tulsa and Osage Counties.	Bird Creek	Just upstream of State Highways 20 and 11 (East Main Street)	*635
	Maps available at: Skiatook Municipal Building, 200 South Broadway, Skiatook, Oklahoma 74070.			
	Send comments to: Mayor Bob Kehler or Mr. Monte Gordies, Administrative Assistant, Municipal Building, 200 South Broadway, Skiatook, Oklahoma 74070.			
Oklahoma	City of Spencer, Oklahoma County.	North Canadian River Tributary 9	Just upstream of Shady Nook Way	*1,170
			Just downstream of Sunset Terrace	*1,181
		Silver Spring	Approximately 100 feet upstream of Spencer Road	*1,154
			Just upstream of NE 36th Street	*1,170
			Just upstream of NE 34th Street	*1,176
		Crutcho Creek	Approximately 500 feet upstream of St. Louis and San Francisco Railway (corporate limits).	*1,149
	Maps available at: City Manager's Office, City Hall, Spencer, Oklahoma 73049.			
	Send comments to: Mr. Kenneth Beal, City Manager, City Hall, Spencer, Oklahoma 73049.			
Oklahoma	City of Tecumseh, Pottawatomie County.	Tributary 1	Just upstream of Beason Park Road	*1,000
			Just downstream of Bob Couch Road	*1,015
			Just upstream of 5th Street	*1,032
		Tributary 2 (Backwater flooding from Tributary 1).	Just upstream of Bob Couch Road	*1,015
		Tributary 3	Just downstream of Dam	*1,008
			Just upstream of Dam	*1,028
	Maps available at: The City Clerk's Office, City Hall, 114 North Broadway, Tecumseh, Oklahoma 74873.			
	Send comments to: Mayor Newton Copeland or Mr. Charles Martin, City Manager, City Hall, 114 North Broadway, Tecumseh, Oklahoma 74873.			
Oklahoma	City of The Village, Oklahoma County.	Chisholm Creek	Just downstream of Cavanaugh Road	*1,171
			Approximately 125 feet downstream of Carlton Way	*1,182
		Chisholm Tributary 9	Just downstream of Hefner Road	*1,170
	Maps available at: City Clerk's Office, City Hall, 2201 W. Britton Street, The Village, Oklahoma 73120.			
	Send comments to: Mayor Robert Blakeley or Stephen Reel, City Manager, City Hall, 2201 W. Briton Street, The Village, Oklahoma 73120.			
South Carolina	Town of Bowman, Orangeburg County.	Even Branch	Just downstrem of Main Street (US Hwy 178)	*131
			Just downstream of Ann Street	*137
	Maps available at: City Hall, Bowman, South Carolina 29018.			
	Send comments to: Mayor Julian Boland or Mr. Irvin Benjamin, Mayor Pro-Tem, Town Hall, P.O. Box 37, Bowman, South Carolina 29018.			
South Carolina	Town of Holly Hill, Orangeburg County.	Home Branch	Upstream of southwestern corporate limits	*95
			Upstream of State Street	*103
			Upstream of McCoy Street	*107
			Downstream of Bunches Ford Road	*109
	Maps available at: City Hall, Holly Hill, South Carolina 29059.			
	Send comments to: Mayor George W. Meyer or City Clerk Gayle Austin, P.O. Box 515, Holly Hill, South Carolina 29059.			
South Carolina	City of Orangeburg, Orangeburg County.	Northview Branch	Just upstream of Thomas Street	*190
			Just upstream of Hillcrest Road	*193
		Caw Caw Creek	Just upstream of Riverside Street	*168
			Caw Caw Street (extended)	*172
		Middele Pen Branch	Just downstream of Goff Street	*288
		Edisto River	Just upstream of Glover Street	*162
			Just upstream of Highway 301 and 601	*164
		Prusner Branch	Just upstream of Stonewall Jackson Drive	*164
			Just upstream of Robert E. Lee Street	*174
	Maps available at: City Hall, 222 Middleton Street, Orangeburg, South Carolina 29115.			
	Send comments to: Mayor E. O. Pendarvis, P.O. Drawer 387, Orangeburg, South Carolina 29115.			
Tennessee	City of Franklin, Williamson County.	Harpeth River	Confluence of Unnamed Tributary at mile 87.4	*638
			Just upstream of State Highway 96	*642
		Unnamed Tributary to Harpeth River.	Just upstream of Porter Daniels Road	*638
			Just upstream of Drive to R.L. Vaughn, Inc.	*642
		Sharps Branch	Confluence with Harpeth River	*635
			Just upstream of State Highway 96	*638
	Maps available at: The City Planner's Office, 505 Fair Street, Franklin, Tennessee 37065.			
	Send comments to: Mayor Jeff Bethurum, 604 West Main Street, or Mr. Bob Martin, City Planner, 505 Fair Street, Franklin, Tennessee 37064.			
Tennessee	City of Winchester, Franklin County.	Wagner Creek	Just upstream of Spring Road	*890

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Approx. 100 feet downstream of U.S. Highway 41A	*907
			Approx. 100 feet downstream of Petty Lane	*918
	Maps available at: City Hall, Business Office, 7 South High Street, Winchester, Tennessee 37398.			
	Send comments to: Mayor Howard Hall, or Mr. Sam M. Hall, City Clerk, City Hall, 7 South High Street, Winchester, Tennessee 37398.			
Texas	City of Addison, Dallas County	Farmer's Branch	Approximately 130 feet upstream of Farmbrook Court	*556
	Maps available at: City Manager's Office, City Hall, 4500 Beltline Road, Addison, Texas 75001.			
	Send comments to: Mayor Jerry Redding or Mr. C. J. Webster, City Manager, City Hall, P.O. Box 144, Addison, Texas 75001.			
Texas	City of Blue Mound, Tarrant County.	Little Fossil Creek	Globe Street (extended approximately 50 feet)	*654
			Downstream of Blue Mound Road	*666
	Maps available at: City Hall, 1600 Bell Avenue, Blue Mound, Texas 76131.			
	Send comments to: Honorable Dale Jensen, Mayor of the City of Blue Mound, 1600 Bell Avenue, Fort Worth, Texas 76131.			
Texas	City of Carrollton, Dallas County	Elm Fork of Trinity River	Confluence of Cooks Branch	*435
			Confluence of Hutton Branch	*438
		Cooks Branch	Just downstream of Wallace Road	*438
			Just upstream of Spring Valley Lane	*478
		Hutton Branch	Just downstream from Denton Road	*454
			Just downstream from Josey Lane	*481
		Stream 6D1	Just downstream of Jackson Road	*495
		Stream 6D3	Just downstream from Kelly Springfield Road	*536
			Just upstream from Wentwood Drive	*601
		Stream 6D4	Just upstream from first crossing of Scott Mill Road	*508
			Just upstream from second crossing of Scott Mill Road	*516
		Stream 6D5	Just upstream of Kelly Springfield	*496
			Just downstream of Keller Springs Road	*508
		Stream 6D8	Just upstream of Keller Springs Road	*583
			Just upstream of Fineley Lane	*599
		Furneaux Creek	Just downstream of Josey Lane	*500
			Just downstream of Rosemead Parkway	*525
		Stream 6E1	Just upstream of Josey Lane	*496
			Just upstream of Frankfort Road	*518
		Dudley Branch	Just upstream of Denton Road (FM 2281)	*481
		Stream 6F1	Confluence with Dudley Branch	*481
		Indian Creek	Downstream of corporate limits	*452
			Just upstream of Denton Road (FM 2281)	*476
	Maps available at: The City Manager's Office, City Hall, 1004 South Broadway, Carrollton, Texas 75006.			
	Send comments to: Mayor Ward Steenson or Mr. Clovis Luallen, City Manager, City Hall, P.O. Box 535, Carrollton, Texas 75006.			
Texas	City of Coppell, Dallas and Denton Counties.	Elm Fork Trinity River	Just downstream of Beltline Road (FM 1380)	*439
		Grapevine Creek	Approximately 100 feet upstream of Sandy Lake Road	*444
			Approximately 250 feet downstream of Beltline Road (FM 1380)	*457
			Approximately 120 feet downstream of Moore Road	*466
			Approximately 180 feet upstream of Denton Tab Road	*489
			Approximately 290 feet upstream of Coppell Road	*508
		Denton Creek	At confluence with Elm Fork	*445
			Approximately 200 feet downstream of Denton Tab Road	*462
			Approximately 200 feet downstream of Hwy 121	*468
		Cottonwood Branch	Approximately 170 feet upstream of Sandy Lake Road	*482
			Approximately 140 feet downstream of State Road	*491
	Maps available at: City Hall, 616 South Coppell Street, Coppell, Texas 75019.			
	Send comments to: Mayor Andrew Brown, P.O. Box 478, Coppell, Texas 75019.			
Texas	City of Crockett, Houston County	Spring Creek	Just downstream of State Highway 287	*286
			Just upstream of Loop 304	*295
		Town Branch Creek Main	Just upstream of Loop 304	*288
			Approximately 120 feet upstream of the Missouri and Pacific Railroad	*305
		Town Branch Creek Tributary	Approximately 60 feet downstream of F. M. 229	*290
			Just downstream of upstream (Western) Corporate Limits	*300
	Maps available at: City Clerk's Office, City Hall, South Fifth Street, Crockett, Texas 75835.			
	Send comments to: Mayor Tommy Driskell or Mr. Jimmy Freeman, City Manager, City Hall, P.O. Box 550, Crockett, Texas 75835.			
Texas	City of El Campo, Wharton County.	Tres Palacios Creek	Just upstream of Pinchot Street	*101
			Just downstream of West Norn's Street	*106
		Tres Palacios Tributary	Just downstream of South Meadow Street	*102
		Stage Stand Creek	Just upstream of US Highway 71	*100
		Blue Creek	Just upstream of Oliva Street	*108
			Just upstream of Earl Street	*112
	Maps available at: City Hall, El Campo, Texas 77437.			
	Send comments to: Mayor Charles Martin, or H.R. Macomber, City Manager, Route 3, P.O. Box 829, El Campo, Texas 77437.			

V 44 O C 23 79 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
Texas	City of Elmendorf, Bexar County...	Ponding Area (northwest of Southern Pacific Railroad).	Intersection of First Avenue and Fourth Street	*503
			Intersection of Fifth Street and First Avenue	*503
		Shallow Flooding Area 1	Intersection of Second Street and Fifth Avenue	2
			Intersection of Fourth Avenue and Second Street	2
		Shallow Flooding Area 2	Intersection of Briar Road and Old Corpus Christi Highway	2
		Shallow Flooding Area 3	Intersection of Fourth Avenue and Seventh Street	3
	Maps available at: the City Clerk's Office, City Hall, 16919 North Third Avenue, Elmendorf, Texas 78112.			
	Send comments to: Mayor Simon Tarin or Mr. Raymond Ball, City Manager, City Hall, P.O. Box 247, Elmendorf, Texas 78112.			
Texas	City of Frisco, Collin County	Stewart Creek Main Stream	Just upstream of State Highway 423	*529
			Approximately 500 feet upstream of St. Louis-San Francisco Railroad	*631
			Approximately 100 feet upstream of South Fifth St.	*642
		Stewart Creek Tributary One	At confluence of Tributary 2	*551
			Approximately 300 feet upstream of St. Louis-San Francisco Railroad	*593
		Stewart Creek Tributary Three	Approximately 50 feet upstream of St. Louis-San Francisco Railroad	*609
		Stewart Creek Tributary Four	Approximately 50 feet downstream of South Fifth St.	*645
			Just upstream of South Fifth St.	*647
		Cottonwood Branch	Just upstream of State Highway 423	*551
			Confluence with Cottonwood Branch Tributary 1	*559
			Just upstream of St. Louis-San Francisco Railroad	*647
		Panther Creek Main Stream	Just upstream of St. Louis-San Francisco RR	*621
			Just upstream of U.S. Highway 289	*655
		Panther Creek Tributary One	Just upstream of U.S. Highway 289	*656
		West Rowlett Creek	Approximately 200 feet upstream of State Highway 121	*644
			Approximately 150 feet downstream of Farm to Market Road	*720
		White Rock Creek	Just upstream of State Highway 121	*707
	Maps available at: City Secretary's Office, City Hall, Frisco, Texas 75034.			
	Send comments to: Mayor John Clanton or Mr. Tommie McBaryer, City Secretary, City Hall, P.O. Box 177, Frisco, Texas 75034			
Texas	City of Gladewater, Upshur and Gregg Counties.	Victory Branch	Just upstream of East Lake Drive	*290
			Just upstream of Phillips Spring Road	*301
		Sabine River	Approximately 230 feet upstream of US 271	*287
			At the Confluence of Glade Creek	*288
		Moody Creek	Just upstream of U.S. Highway 80	*290
			Just upstream of Shell Camp road	*298
	Maps available at: City Secretary's Office, City Hall, P.O. Box 551, Gladewater, Texas 75647.			
	Send comments to: Mayor James Walker or Tony Williams, City Manager, City Hall, P.O. Box 551, Gladewater, Texas 75647.			
Texas	City of Glenn Heights, Dallas and Ellis Counties.	Little Creek	Just downstream of Westmoreland Road	*629
			Just downstream of Cockrell Hill Road	*662
		Glenn Branch	Approximately 160 feet upstream of the downstream corporate limits	*642
			Just downstream of upstream corporate limits	*650
		Bear Creek	Approximately 1500 feet upstream of Uhl Road	*653
	Maps available at: City Hall, Bear Creek Drive, Glenn Heights, Texas 75115.			
	Send comments to: Honorable Charles Eastwood, Mayor of the City of Glenn Heights, Route 1, Box 418 A, DeSoto, Texas 75115.			
Texas	City of Grey Forest, Bexar County	Helotes Creek	Just upstream of Hillside Drive	*1,135
			Just downstream of Grey Forest Drive	*1,136
		Lee Creek	Just upstream of Hilltop Drive	*1,105
			Just upstream of Lake Shore Drive	*1,113
	Maps available at: The Mayor's Office, City Hall, 18502 Scenic Loop Road, Grey Forest, Texas 78023.			
	Send comments to: Mayor Virginia Springer, Grey Forest City Hall, P.O. Box 577, Helotes, Texas 78023.			
Texas	City of Hillsboro, Hill County	Hackberry Creek	Abernathy Street (Extended)	*560
			Downstream of Corporate Limits	*557
		Tritutary of Hackberry Creek	Just downstream of Church Street	*592
			Approximately 100 feet downstream of Covington Street	*587
			Just upstream of Hawkins Street	*581
			Just upstream of Morgan Street	*576
		Little Hackberry Creek	Upstream of Corporate Limits	*568
		Pecan Creek	Approximately 70 feet downstream of Milford Road	*594
			Just downstream of State Highway 81 and 77	*588
			Just upstream of State Highway 171	*579
		Bond Creek	Approximately 200 feet downstream of Missouri-Kansas Texas Railroad	*584
			Just upstream of State Highway 171	*579
		Tributary of Pecan Creek	Just upstream of Old Brandon Road	*616
	Maps available at: City Hall, 115 S. Wico Street, Hillsboro, Texas 76645.			
	Send comments to: Mayor Harry Blount or City Manager Joe Edward, P.O. Box 568, Hillsboro, Texas 76645.			

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. * Elevation in feet (NGVD)
Texas	City of Jasper, Jasper County	Sandy Creek	Just downstream of South Peachtree Street	*208
			Just downstream of North Wheeler Street	*211
			Just upstream of Mandel St.	*213
			Approximately 80 feet upstream of Gulf, Colorado and Santa Fe Railroad.	*214
		Sandy Creek Tributary	Approximately 35 feet downstream of Mayo Street	*221
			Approximately 40 feet upstream of Burch Street (extended)	*243
		Trotti Creek	Approximately 30 feet downstream of Woodland Park Avenue	*219
			Approximately 80 feet upstream of Morris Ferry Road	*228
			Approximately 40 feet downstream of FM 2800 (Munson Street)	*239
	Maps available at: City Clerk's Office, City Hall, 272 East Lamar Street, Jasper, Texas 75951.			
	Send comments to: Mayor W. L. Neal or Mr. Weyne DuBose, City Manager, City Hall, 272 East Lamar Street, Jasper, Texas 75951.			
Texas	City of McKinney, Collin County	Wilson Creek	Just downstream of Highway 121	*545
			Just upstream of Interstate 75	*558
		East Fork of the Trinity River	Just upstream of Greenville Road	*530
			Just upstream of U.S. Highway 380	*531
		Jeans Creek	Just downstream of Rockhill Road	*574
	Maps available at: Office of Director of Public Works, City Hall, McKinney, Texas 75069.			
	Send comments to: Harold Clary, Director of Public Works, City Hall, McKinney, Texas 75069.			
Texas	Unincorporated areas of McLennan County.	Brazos River	At the confluence of Flat Creek	*380
			Approximately 140 feet downstream of the confluence of Cottonwood Creek.	*383
		West Fork of Deer Creek	Just downstream of County Road 149	*688
			Just upstream of Farm-to-Market 107	*760
		Harris Creek Stream	Just upstream of St. Louis Southwestern Railroad	*532
			Just downstream of the West bound lane of Highway 84	*551
			Just upstream of U.S. Highway 84	*726
		Tributary to Harris Creek Stream	Just downstream of North Harrison Road	*706
			Just downstream of St. Louis Southwestern Railroad	*731
		North Cow Bayou	Just downstream of County Road 147	*473
			At the confluence of Tributary 4 to North Cow Bayou	*565
		Tributary 2 to North Cow Bayou	Just downstream of the western corporate limits of Lorena	*570
		Tributary 3 to North Cow Bayou	Just downstream of County Road 120A	*564
		Tributary 4 to North Cow Bayou	Just upstream of County Road 120A	*580
		Shaw Creek	Just upstream of Old Marlin Road	*394
			Just upstream of Harrison Road	*425
			Just upstream of Halisburg Road	*481
		Tributary 1 to Shaw Creek	Just upstream of Farm-to-Market 1860	*395
		Tributary 2 to Shaw Creek	Just upstream of Farm-to-Market 1860	*403
		Branch to Tehuacana Creek	Just downstream of County Road 209	*399
		Tributary thru Elk, Texas	Just upstream of County Road 236	*511
		Tributary to White Rock Creek	Just upstream of Audrey Road	*463
			Just downstream of Farm-to-Market 933	*502
		Tributary to Middle Bosque River	Just downstream of County Road 426	*540
		Tributary to South Bosque	Just upstream of County Road 469	*600
		Speegleville Creek	Just upstream of Highway G	*518
			Just upstream of County Road 439B	*554
			Just downstream of Western Drive	*557
		Tributary to Speegleville Creek	Just upstream of County Road 420	*529
			Just upstream of County Road 439B	*551
		West Fork of Williams Creek	Just downstream of Highway 84	*444
			Approximately 150 feet downstream of County Road 209	*484
		Bullhide Creek	Just upstream of County Road 2837	*508
			Approximately 170 feet upstream of Farm-to-Market 2113	*616
		Tributary to Bullhide Creek	Approximately 300 feet downstream of County Road 105	*647
		Big Creek	Just upstream of the confluence of Tributary 1 to Big Creek	*471
			Approximately 100 feet downstream of county Road 225	*488
		Tributary 1 to Big Creek	Approximately 100 feet downstream of County Road 246	*476
			Approximately 100 feet upstream of County Road 246	*485
			Just upstream of County Road 229A	*494
		Tributary 2 to Big Creek	Approximately 80 feet downstream of State Highway 164	*502
			Just upstream of County Road 246A	*516
		Flat Creek	Just upstream of Farm-to-Market 434	*395
			Approximately 100 feet downstream of County Road 102	*422
		Willow Creek	Just upstream of Farm-to-Market 2416	*681
			Just downstream of Atchinson Topeka and Santa Fe RR	*697
		Tributary O to North Bosque River.	Northern corporate limits of McLennan County, Texas	*622
		Tributary I to North Bosque River	Northern Corporate limits of McLennan County, Texas	*589
		Rice Creek	Just downstream of Farm-to-Market 308	*472
			Just upstream of County Road 317	*487
		Luch Branch	Just downstream of Concord Road	*451
			Just downstream of Myers Lane	*457
		Marlin Branch	Just upstream of the Missouri Pacific Railroad (Spur Line)	*413
	Maps available at: County Engineer's Office, McLennan County Courthouse, Waco, Texas 76703.			
	Send comments to: Honorable Bob L. Thomas, County Judge or Jim McDermitt, Administrative Assistant to the Judge, McLennan County Courthouse, Waco, Texas 76703.			

V 44 0C 23 79 UMI

Proposed Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	City of Mexia, Limestone County	Salt Creek	Just upstream of Southern Pacific Railroad	*480
		Unnamed Tributary of Plummers Creek.	Just upstream of Fortworth Denver Railroad	*473
			Just upstream of State Highway 39 (Shiloh Road)	*480
	Maps available at: The Office of the City Clerk, 101 S. McKinney Street, Mexia, Texas 76667.			
	Send comments to: Mayor James Stanford or City Manager Walter Van de Weghe, P.O. Box 207, Mexia, Texas 76667.			
Texas	City of Palestine, Anderson County.	Wells Creek Northwest	Just upstream of Moody Street	*386
			Just upstream of U.S. Highway 79	*401
		Wells Creek Tributary South	Just downstream of the Northern Corporate Limits	*421
			Just Upstream of Highway Loop 256	*396
			Just upstream of Old Rusk Road	*405
			Approximately 50 feet downstream of East-Park Avenue	*406
			Just upstream of East-Park Avenue	*418
		Basset Creek	Just upstream of Farm to Market Road 2394	*347
	Maps available at: City Secretary's Office, City Hall, 504 North Queen Street, Palestine, Texas 75801.			
	Send comments to: Mayor Jack Rogers or Mr. Ken Berry, City Manager, City Hall, P. O. Drawer Z, Palestine, Texas 75801.			
Texas	Town of Pantego, Tarrant County.	Pantego Branch	Just downstream of Wagonwheel Drive	*548
			Approximately 70 feet downstream of Smith Barry Road	*557
	Maps available at: Town Hall, 1614 South Bowen Road, Pantego, Texas 76013.			
	Send comments to: Mayor W.A. Rohne or Town Secretary Elfriede M. Voltsberger, P.O. Box 13210, Pantego, Texas 76013.			
Texas	City of Royse City, Rockwall County.	Sabine Creek	Just upstream of Southern Corporate Limits	* 514
			Just upstream of Greenville Road (F.M. 35)	* 523
			Just upstream of County Line Road	* 530
		Bois D'Arc Creek	Just upstream of westbound access road Interstate 30	* 530
			Just upstream of Main Street (Texas State Highway 66)	* 534
		Pond Branch	Just upstream of FM 548 (Elm St.)	* 528
			Just upstream of Main Street (Texas Highway 66)	* 536
	Maps available at: City Hall, Royse City, Texas 75089.			
	Send comments to: Mayor Norman Prince or Mr. Joe Golden, City Manager, City Hall, Royse City, Texas 75089.			
Texas	City of Selma, Bexar County	North-East Tributary	Just upstream of Live Oak Blvd	* 748
		Cibolo Creek	Just upstream of Interstate Highway 35	* 753
			Just upstream of Lookout Road	* 759
		Selma Creek	Just upstream of Interstate Highway 35	* 757
			Just upstream of Lookout Road	* 770
	Maps available at: City Hall, Selma, Texas 78218.			
	Send comments to: Mayor Francis Friesenhahn of City Manager, Tom Holland, Route 20, Box 181B, San Antonio, Texas 78218.			
Texas	City of Terrel, Kaufman County	Bachelor Creek	Just upstream of Interstate Highway 1-20	* 470
			Just upstream of US Highway 80	* 489
			Just upsteam of Farm Market Road 205	* 493
			Just upstream of Farm Market Road 986	* 506
		Kings Creek	Just upstream of College Mound Road	* 459
			Just upstream of Texas and Pacific Railroad	* 463
			Just upstream of US Highway 80 (E. Moore Street)	* 471
	Maps available at: The Office of the City Manager, 201 E. Nash Street, Terrell, Texas 75160.			
	Send comments to: Mayor Douglas Norton or City Manager Paul Henderson, P.O. Box 310, Terrell, Texas 75160.			
Texas	City of Wilmer, Dallas County	Cottonwood Creek	Just upstream of the Confluence of Stream 4A4	* 394
			Just upstream of Kissel College Road	* 446
			Just upstream of Millers Ferry Road	* 454
			Just upstream of Pleasant Run Road	* 479
		Stream 4A1	Just upstream of Goode Road	* 446
		Stream 4A2	Just upstream of Corporate Limits	* 469
		Stream 4A5	Just upstream of West Frontage Road	* 457
			Just downstream of Channel Dam	* 465
			Just upstream of Channel Dam	* 469
	Maps available at: City Secretary's Office, City Hall, 219 East Beltline Street, Wilmer, Texas 75172.			
	Send comments to: Mayor A. Eugene Blackwell, or Hazen Davenport, City Secretary, City Hall, P.O. Box 248, Wilmer, Texas 75172.			

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001—4128; Executive Order 12127, 44 Fr 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Gloria M. Jimenez

Federal Insurance Administrator.

September 28, 1979.

[FR Doc. 79-32470 Filed 10-22-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR PART 67

[Docket No. FEMA-5714]

National Flood Insurance Program; Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below and proposed changes to base flood elevations for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program (202) 426-1460 or Toll Free Line (800) 424-8872 (In Alaska and Hawaii call Toll Free Line (800) 424-9080), Room 5150, 451 Seventh Street, SW, Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for selected locations in the nation, in accordance with Section 110 and Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 400-4128, and 44 CFR 67.4(a) (presently appearing at its former Title 24, Chapter 10, Part 1917.4(a) in the Code of Federal Regulations)).

These elevations, together with the flood plain management measures required by § 60.3 (formerly 1910.3) of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Proposed Base (100-year) Flood Elevations

State	City/Town/County	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Texas	Pasadena, Harris County	Clear Lake	Lake Shore inland to northern shore of Lake Pasadena	*16
		Galveston Bay	Bay shore inland to Bay Area Boulevard	*16
		Big Island Slough	Between north side of Bayport Industrial District and Corporate Limits	*17
		Armand Bayou	Olson Lane—700' Downstream Denkman Street Downstream	*25
			Morning Glory Drive Upstream	*34
			Paney Street Downstream	*37
		Vince Bayou	Northwestern Corporate Limit to 900' Downstream of West Harris Avenue.	*17
			West Southmore Avenue 200' Downstream	*20
			Allendale Road Downstream	*23
			West Avenue Upstream	*25
			Queens Road Upstream	*27
			Shaver Street 1,100' Upstream	*30
			Spencer Highway	*34
			Pampa Street Upstream	*38
			Crenshaw Road 1,400' Upstream	*40
		Little Vince Bayou	Northwestern Corporate Limit to Shaw Avenue Upstream	*17
			Broadway Avenue Downstream	*22
			Jackson Avenue 150' Downstream	*25
			Jenkins Road Upstream	*30
			Burke Road 250' Downstream	*33
			Cherrybrook Land Upstream	*36
			Pansy Street Downstream	*39
		Cotton Patch Bayou	Northwestern Corporate Limit to 1,450' Downstream of Davidson Road.	*17
			Davidson Road Upstream	*22
			Southern Pacific Railroad Upstream	*25
			Bearle Street Downstream	*27
		Glenmore Drive	Ethyl Road Downstream	*20
			Southern Pacific Railroad	*26
			Albemarle Drive Downstream	*31
			Truxton Drive Downstream	*32
		East Belt Ditch	Pasadena Freeway Upstream	*30
			San Augustine Avenue	*32
		Boggy Bayou	Pasadena Freeway to 900' upstream of San Augustine Avenue	*30
		Shallow Flooding	Reminder of Community	*#2.0
	Maps available at City Hall, 1211 East Southmore Avenue, Pasadena, Texas.			
	Send comments to the Honorable John Ray Harrison, Mayor of the City of Pasadena, Post Office Box 672, Pasadena, Texas 77501.			
Texas	Taylor Lake Village, Harris County	Mud Lake (also known as Lake Pesadena).	Area north and west of Baronridge Drive previously outside Corporate Limits.	*16
		Taylor Lake	Area east of Kirby Road previously outside Corporate Limits	*16
			Area northeast of Wendy Land previously outside Corporate Limits	*16
	Maps available at: City Hall, 1202 Kirby Road Seabrook, Texas.			
	Send comments to: The Honorable Albert C. Richmond, Mayor of the City of Taylor Lake Village, 1202 Kirby Road, Seabrook, Texas 77586.			

V 44 O C 23 79 UMI

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001–4128); Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963).

Issued: September 6, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-32469 Filed 10-22-79; 8:45 am]

BILLING CODE 5718-03-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1090

[Ex Parte No. 230 (Sub.-No. 5)]

Practices of Carriers Involved in the Intermodal Movement of Containerized Freight; Improvement of TOFC/COFC Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Extension of deadline for filing comments from October 22, 1979 to December 21, 1979.

SUMMARY: Because of the complexity of the issues and in order to allow the parties sufficient time to address properly the issues an extension of time for filing comments is warranted in the matter of the proposed rules relating to the use of trailer on flatcar and container on flatcar (TOFC/COFC) service.

DATES: Comments must be filed by December 21, 1979.

FOR FURTHER INFORMATION CONTACT: Harvey Gobetz (202) 275–7656.

SUPPLEMENTARY INFORMATION: By Notice served August 21, 1979, the Commission published at 44 FR 49279 an Advance Notice of Proposed Rules concerning the improvement of TOFC/COFC regulations, and invited comments to be filed by October 22, 1979.

A motion for extension of time for filing comments was filed by the Bureau of Investigations and Enforcement (Bureau) of the Interstate Commerce Commission on October 3, 1979.[1] The Bureau indicates that it is compiling data and pertinent statistics which will be vital for the Commission to have so that the Commission may reach a proper decision on the proposed rules. The American Trucking Association has written a letter in support of the extension of the comment period. The National Industrial Traffic League has requested a 45-day extension. A committee of eight railroads has requested a 90-day extension for filing comments. Because of the importance of this proceeding and extension of 60 days for filing comments is warranted. Accordingly, the time period for filing comments is extended for all parties to December 21, 1979.

Dated October 16, 1979.

By the Commission, Acting Chairman Gresham.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32655 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

[1] Petitions for a 60-day extension were also filed by the New Orleans Traffic and Transportation Bureau and the Gulf Ports Association. These petitioners' concerns were resolved by order served October 11, 1979.

Notices

Federal Register

Vol. 44, No. 206

Tuesday, October 23, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Child Nutrition; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given that the National Advisory Council on Child Nutrition, which was established to make a continuing study of the child nutrition programs of the U.S. Department of Agriculture, has scheduled a three-day meeting in San Antonio, Texas on November 15–17, 1979, from 8:30 a.m. to 4:30 p.m. on November 15 and 16, and from 8:30 a.m. to 3:00 p.m. on November 17. The sessions will be held in the Lanai Room of the El Tropicano Hotel, 110 Lexington Avenue, San Antonio, Texas 78205. The meeting will be open to the general public and participants will be allowed to participate as time permits.

The final agenda for the meeting, which will include preparation of the 1979 Annual Report to the President and discussions on current issues relating to the National School Lunch, School Breakfast, Food Distribution, Child Care Food, and Summer Food Service Programs, will be available 15 days prior to the meeting from Ms. Jennifer R. Nelson, Acting Executive Secretary, National Advisory Council on Child Nutrition, U.S. Department of Agriculture, Food and Nutrition Service, 500 12th Street S.W., Washington, D.C. 20250. Telephone: (202) 447–5548. Comments on the agenda should also be addressed to the Acting Executive Secretary.

Dated: October 17, 1979.

Carol Tucker Foreman,

Assistant Secretary and Chairperson, National Advisory Council on Child Nutrition.

[FR Doc. 79-32561 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-30-M

Forest Service

Land and Resource Management Plan, Los Padres National Forest, Monterey, San Louis Obispo, Santa Barbara, Kern, Ventura, and Los Angeles Counties, Calif.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture will prepare an environmental impact statement for the forest plan for the Los Padres National Forest.

This forest plan is one of eighteen currently being developed in the Pacific Southwest Pacific Region. The development of these several forest plans and the regional plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resource of Los Padres National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction.

(b) One or more alternatives formulated to respond to major public issues and management concerns.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of the Forest Plan.

To accomplished this, public meetings will be held in November in the following cities:

Salinas, Carmel, San Luis Obispo, Santa Maria, Santa Barbara, Ventura, Ojai, and Frazier Park.

Written comments and suggestions about these items encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meeting listed above.

The estimated date for distribution of the draft environmental impact statement is September 1982. Following a three month public review period, a final environmental impact statement will be prepared and distributed in June 1983.

Zane G. Smith, Regional Forester, is the responsible official for approval of the plan. For further information about the planning project, or the av ilability of the environmental impact statement, or other documents relevant to the planning process, contact:

Gerald Little, Los Padres National Forest, 42 Aero Camino, Goleta, California 93017, 805–968–1578, ext. 775.

Dated: October 15, 1979.

Robert W. Cermak,

Acting Regional Forester, Pacific Southwest Region.

[FR Doc. 79-32593 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-16-M

Gospel-Hump Advisory Committee; Meeting

The Gospel-Hump Advisory Committee will meet at 7 p.m., November 30, 1979, at the Washington Water Power Company meeting room, 803 Main Street, Lewiston, Idaho. The

purpose of this meeting will be to review the recent field trip, updating of research accomplishment and planning, and review of final NFMA regulations and their effect on Gospel-Hump.

The meeting will be open to the public. Persons who wish to attend should notify Ed Laven, 319 East Main, Grangeville, Idaho; Telephone 208/983-1950. Written statements may be filed with the committee before or after the meeting.

Don Biddison,

Forest Supervisor.

October 15, 1979

[FR Doc. 79-32673 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-11-M

Manistee Wild and Scenic River Draft Study Report and Environmental Impact Statement; Public Hearing

Notice is hereby given that four public hearings will be held on a proposal to include 188 miles of the Manistee River into the National Wild and Scenic Rivers System. The proposed River area, comprised of approximately 41,160 acres, lies partially within the Manistee National Forest and the Counties of Kalkaska, Missaukee, Wexford, Manistee, Lake and Osceola in the State of Michigan. The hearings will be held according to the following schedule:

November 7, 1979—7:30 p.m., Holiday Inn-East, 28 Street & East Beltline Intersection, Grand Rapids, Michigan.

November 8, 1979—7:30 p.m., Holiday Inn-Farmington, Interstate 96 and Grand River Road Intersection, Farmington, Michigan.

November 9, 1979—7:30 p.m., Kaleva, Norman, Dickinson Elementary School Gymnasium, 6th Street, Wellston, Michigan.

November 10, 1979—10:00 a.m., Kalkaska, High School Auditorium, 109 North Birch Street, Kalkaska, Michigan.

Information about the proposal may be obtained either by writing to the Forest Supervisor, Huron-Manistee National Forests, 421 South Mitchell Street, Cadillac, Michigan 49601, or by phoning Carl F. Gebhardt, U.S. Forest Service, at 616-775-2421.

Individuals and organizations may express their views by appearing at the hearings or may submit written comments for inclusion in the official record to the Forest Supervisor by January 10, 1980. Those persons wishing to present oral testimony at the hearing should notify the Forest Supervisor prior to October 30, 1979.

Dated: October 17, 1979.

Jerome A. Miles,

Acting Chief, Forest Service.

[FR Doc. 79-32893 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-11-M

Richland Creek Study Area and Addition Proposed Wilderness Area; Ozark National Forest, Newton County, Ark.; Intent To Prepare an Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an environmental impact statement for determining the suitability or non-suitability for the preservation as wilderness of the Richland Creek Study Area and Addition thereto.

Preparation of an environmental impact statement is a required part of the process in determining the suitability of Congressionally designated wilderness study areas. The Richland Creek area was so designated by Congress on January 3, 1975.

The Richland Creek Wilderness Study Area was included for study in Public Law 93-622. The Act identified the area as 2,100 acres. The Richland Creek Addition is the area identified in the RARE II Final Environmental Statement issued January 4, 1979. It contains about 10,143 acres. The two adjacent areas will be studied concurrently.

It is anticipated that the environmental impact statement will require about 3 months to prepare. This statement will be prepared by an interdisciplinary team after scoping sessions with other governmental agencies, and after receiving input from concerned citizens' groups and organizations, individuals and other interested persons.

An informal public meeting will be held at Jasper, Arkansas in the early stages of the analysis to inform the public of the analysis process and to provide for public participation and involvement. Federal, State, and local agencies, user groups and other organizations who may be interested in the decision will be invited to participate in scoping the issues that should be considered.

Some data were collected during the process for Roadless Area Review and Evaluation (RARE II), compartment prescription examinations, and the preparation of the Ozark National Forest Timber Management Plan.

R. Max Peterson, Chief, USDA Forest Service, is the responsible official and Don Hurlbut, Forester, will be the team leader for the environmental impact statement.

The draft environmental impact statement is scheduled for completion in January 1980, with a 60-day review period. The final environmental impact statement is scheduled for filing in June 1980.

Comments on the Notice of Intent, or the Wilderness Study Area and Addition, should be sent to James R. Crouch, Forest Supervisor, Ozark National Forest, P.O. Box 1008, Russellville, Arkansas 72801. To be of assistance they should be received by November 15, 1979.

Dated: October 15, 1979.

Jerome A. Miles,

Acting Chief, Forest Service.

[FR Doc. 79-32646 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Section 22 Import Fees; Adjustment of Import fees On Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to decrease by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average of the daily spot price quotations for raw sugar for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, exceeds 16.0 cents. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 AM (local time at point of entry) October 19, 1979. (See supplementary information.)

FOR FURTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250 (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less than 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent, or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. However, the fee may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus 0.52 cents per pound.

The average of the daily spot price quotations for raw sugar (item 956.15) for the 10 consecutive market day period October 1-October 12, inclusive, within the fourth calendar quarter of 1979, adjusted as provided in headnote 4(c) to a United States delivered basis, plus the fee of 1.76 cents per pound now in effect for item 956.15 [14.90+1.76=16.66] exceeds 16 cents per pound. Accordingly, the fee of 1.76 cents per pound for item 956.15 is required to be decreased by one cent, resulting in a fee for item 956.15 of 0.76 cents per pound and a fee for items 956.05 and 957.15 of 1.28 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjusted fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4 (c)(v) of part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fee made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in section 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) for the remainder of the fourth calendar quarter of 1979, unless subsequently adjusted pursuant to headnote 4(c), shall be as follows:

Item and fee

956.05, 1.28 cents per lb.;
956.15, 0.76 cents per lb.;
957.15, 1.28 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of headnote 4.

Signed at Washington, D.C. on October 17, 1979.

Jim Williams,

Acting Secretary of Agriculture

[FR Doc. 79-32635 Filed 10-18-79; 1:35 pm]

BILLING CODE 3410-10-M

Soil Conservation Service

Donahoe Creek Watershed, Texas; Finding of No Significant Impact

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the deauthorization of Federal funding of the Donahoe Creek Watershed, Bell, Milam, and Williamson Counties, Texas.

The environmental assessment of this action indicates that deauthorization of Federal Funding of the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this action.

The project or measure concerns a plan for stabilizing critical sediment source areas. The planned work includes land treatment measures such as clearing, shaping, preparation for vegetation, mulching, fertilizing, vegetating, fencing and construction of appurtenant grade stabilization structures needed to stabilize about 300 acres.

The finding of no significant impact has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, Temple, Texas 76501, 817-774-1255. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until December 24, 1979.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008))

Dated: October 11, 1979.

Victor H. Barry, Jr.,

Deputy Administrator for Programs.

[FR Doc. 79-32592 Filed 10-22-79; 8:45 am]

BILLING CODE 3410-16-M

CIVIL AERONAUTICS BOARD

[Dockets Nos. 35466 and 36621; Order 79-10-85]

Albuquerque Show-Cause Investigation and National Airlines, Inc.; Order Establishing Further Procedures[1]

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of October 1979.

On September 18, 1979, National Airlines filed an application to amend its certificate of public convenience and necessity for Route 39 to authorize nonstop scheduled air transportation between Albuquerque, on the one hand, and Dallas/El Paso/Phoenix/San Diego/San Francisco/San Jose/Tucson, on the other hand. The carrier requested that its application be processed by show-cause procedures under § 302.1750(a)(4) of our Rules of Practice governing expedited procedures for licensing cases (Subpart Q).

By order to show cause, Order 79-5-30, May 3, 1979, we instituted the *Albuquerque Show-Cause Investigation* in Docket 35466. In response to that order, several carriers have filed

[1] *See* § 302.1720(f) of our Procedural Rules, 14 CFR 302.1720(f).

applications for authority in the same Albuquerque city-pair markets. We tentatively concluded in the show-cause order that it is consistent with the public convenience and necessity to grant, on a Category II subsidy-ineligible basis, the applications in issue, and that no oral evidentiary hearing is required.

We find no useful purpose would be served in issuing a separate show-cause order covering National's application. We can accomplish the same purpose by consolidating National's application in the pending *Albuquerque Show-Cause Investigation*, Docket 35466, and act on National's application along with the other applications for Albuquerque authority. The issues to be considered are those set forth in Order 79–5–30 and, particularly, the potential award of nonstop authority between Albuquerque and Dallas/El Paso/Phoenix/San Diego/San Francisco/San Jose/Tucson.

Accordingly, we consolidate the application of National Airlines, Inc., in Docket 36621 with the *Albuquerque Show-Cause Investigation* in Docket 35466.

This order will be published in the **Federal Register.**

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[2]

Secretary.

[FR Doc. 79-32678 Filed 10-22-79; 8:45 am]

BILLING CODE 6320-01-M

Application for an All-Cargo Air Service Certificate

October 15, 1979.

In accordance with Part 291 (14 CFR 291) of the Board's Economic Regulations (effective November 8, 1978), notice is hereby given that the Civil Aeronautics Board has received an application, Docket 36611, from Frontier Airlines, Inc., 8250 Smith Road, Denver, Colorado 60207 for an all-cargo air service certificate to provide domestic cargo transportation.

Under the provisions of section 291.12(c) of Part 291, interested persons may file an answer in opposition to this application within twenty-one (21) days after publication of this notice in the Federal Register. An executed original and six copies of such answer shall be addressed to the Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. It shall set forth in detail the reasons for the position taken and must relate to the fitness, willingness, or ability of the applicant to provide all-cargo air service or to comply with the Act or the Board's orders and regulations. The answer shall be served upon the applicant and state the date of such service.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32877 Filed 10-22-79; 8:45 am]

BILLING CODE 6320-01-M

[2] All members concurred.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of a Proposed Marine Sanctuary Site Offshore Point Reyes and the Farallon Islands, Calif.—Notice of Intent To Publish a Draft Environment Impact Statement (DEIS) and of a Public Meeting and the Availability of Preliminary Draft Chapters for the DEIS

AGENCY: Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: Pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431–1434, NOAA is evaluating the possibility of a marine sanctuary designation in the waters off Point Reyes and the Farallon Islands, California. NOAA is currently preparing a draft environmental impact statement (DEIS) on this proposal.

In order to update interested persons regarding this proposal and in order to gather comments and any additional information, NOAA is distributing material in the form of preliminary draft chapters from the DEIS currently being prepared describing the area and the actions being considered. NOAA will hold a public meeting to receive comments and answer questions on November 5, 1979, at 6:30 p.m. at the Red Barn on Mesa Road near Lorraine Avenue, Point Reyes Station, California. Written comments will be received until November 19, 1979.

DATES: Public meeting will be held on Monday, November 5, 1979 at 6:30 p.m.

FOR FURTHER INFORMATION CONTACT: Jo Ann Chandler, Director, or Diane Mayerfeld, Sanctuary Programs Office, Office of Coastal Zone Management, 3300 Whitehaven St., NW., Washington, D.C. 20235, (202) 634–4236.

SUPPLEMENTAL INFORMATION: Copies of the preliminary draft chapters of the DEIS may be obtained by writing to Diane Mayerfeld, Sanctuary Programs Office, OCZM, 3300 Whitehaven St., NW., Washington, D.C. 20235.

Dated: October 12, 1979.

Mirco P. Snidero,

Acting Deputy Assistant Administrator for Administration.

[FR Doc. 79-32591 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-08-M

New England Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The New England Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss: Groundfish, Lobster, and Scallop Oversight (O/S) Committee Reports; Fishery Conservation and Management Act (FCMA) O/S Hearings; and other Council business.

DATES: The meeting will convene on Wednesday, November 7, 1979, at approximately 10 a.m. and will adjourn on Thursday, November 8, 1979, at approximately 5 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at Howard Johnson's Motor Lodge, 65 Newbury Street, Danvers, Massachusetts.

FOR FURTHER INFORMATION CONTACT: New England Fishery Management Council, Peabody Office Building, One Newbury Street, Peabody, Massachusetts 01960, Telephone: (617) 535–5450.

Dated: October 16, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32695 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-22-M

South Atlantic Fishery Management Council's Inter-Council Swordfish Management Committee and Inter-Council Swordfish Advisory Subpanels; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Inter-Council Swordfish Management Committee and the Inter-Council Swordfish Advisory Panels, established under Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to decide on issues and problems in the swordfish fishery and begin discussion on management strategies and solutions.

DATES: The meeting will convene on Monday, November 5, 1979, at 10 a.m., and will adjourn on Tuesday, November 6, 1979, at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Ramada Inn, 225 McClellan Highway, East Boston, Massachusetts.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 571–4366.

Dated: October 18, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32898 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-22-M

Marine Animal Production/Marine Life, Inc.; Issuance of Permit

On August 1, 1979, Notice was published in the **Federal Register** (44 FR 45234), that an application had been filed with the National Marine Fisheries Service by Marine Animal Production/Marine Life, Inc., 150 Debuys Road, Biloxi, Miss. 39521, for a permit to take five (5) Atlantic bottlenose dolphins (*Tursiops truncatus*) and two (2) California sea lions (*Zalophus californianus*). Also to transport these animals, or any of the Holder's pre-Act or permitted animals to Acapulco, Mexico, for public display at the Center of Spectacles, Conventions and Exhibitions of Acapulco, and to transport these animals back into the United States.

Notice is hereby given that on October 17, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a public display Permit for the above taking to Marine Animal Productions/Marine Life, Inc., subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, Calif. 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Winfred H. Meibohm,

Associate Director, National Marine Fisheries Service.

October 17, 1979.

[FR Doc. 79-32694 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Bank of Public Works and Services, Inc.; Issuance of Permit

On August 1, 1979, Notice was published in the **Federal Register** (44 FR 45233), that an application had been filed with the National Marine Fisheries Service by the National Bank of Public Works and Services, Inc., of Acapulco, Mexico, for a permit to take five (5) Atlantic bottlenose dolphins (*Tursiops truncatus*) and two (2) California sea lions (*Zalophus californianus*) from Marine Animal Productions, Inc., of the United States for public display at the Center of Spectacles, Conventions and Exhibitions of Acapulco, Mexico.

Notice is hereby given that on October 17, 1979, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the National Marine Fisheries Service issued a public display Permit for the above taking to the National Bank of Public Works and Services, subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Mid-Atlantic Fishery Management Council's Sea Scallop Resources Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Sea Scallop Resources Subpanel, which will meet to discuss a report on the New England Council Scallop Oversight Committee meeting.

DATES: The meeting will convene on Friday, November 9, 1979, at approximately 10 a.m., and will adjourn at approximately 4 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Best Western Airport Motel, Philadelphia International Airport, Route 291, Philadelphia, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, Telephone: (302) 674–2331.

Dated: October 17, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32896 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-22-M

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Southeast Region, Duval Building, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Winfred H. Meibohm,

Associate Director, National Marine Fisheries Service.

October 17, 1979.

[FR Doc. 79-32697 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service

Intent To Grant Foreign Limited Exclusive Patent License

Notice is hereby given that the National Technical Information Service (NTIS) proposes to grant to Collaborative Research, Inc. of 1365 Main street, Waltham, Massachusetts, 02154, USA, a limited exclusive right in the United States and in some or all of a group of foreign countries including Australia, Austria, Belgium, Canada, Czechoslovakia, Denmark, France, West Germany, Great Britain, Hungary, Japan, The Netherlands, Norway, Poland, Rumania, Sweden, Switzerland and Yugoslavia for the manufacture, use and sale, and to grant sublicenses for the manufacture, use and sale of the products and processes embodied in the following three U.S. government-owned inventions covered by the following U.S. patents and foreign patent and patent application counterparts in the countries listed herein of: (1) U.S. Patent 3,856,959 for "Inhibition of Leukemia Utilizing 5-Methyltetrahydrohomofolate" issed on December 24, 1974; (2) U.S. Patent 3,879,719 for "Synthesis of N^5-Methyl-tetrahydrohomofolic Acid and Related Reduced Derivatives of Homofolic Acid" issued on March 11, 1975; and (3) U.S. Patent 3,983,118 for "Production of N^5-Methyltetrahydrohomofolic Acid and Related Reduced Derivatives of Homofolic Acid" issued on September 28, 1976, all three patents being assigned to the United States of America as represented by the Secretary of the Department of Health, Education and Welfare. Custody of rights to each of these inventions has been assigned to the Secretary, U.S. Department of Commerce.

Copies of the U.S. patents listed herein can be purchased from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, at a cost of $0.50 per copy.

With respect to each U.S. government-owned invention identified herein a public announcement stating that the invention was available for licensing in the United States and perhaps also in foreign countries was published in the Federal Register (FR) shortly after each U.S. patent application was filed and after each U.S. patent was issued. These announcements were made more than six months prior to this notice. The application for USP 3,870,719 was announced in the FR of August 21, 1974, p. 30321; the application for USP 3,856, 959 was announced in the FR of August 21, 1974, p. 30322; and the application for USP 3,983,118 was announced in the FR of January 8, 1975, p.1532. In addition, with respect to each invention identified herein, NTIS has undertaken promotional efforts designed to encourage applications for licenses from U.S. companies to practice these inventions. To date, these promotional efforts have not resulted in the request for, or granting of, any licenses under these patents. It has been determined therefore, in accordance with the Federal Property Management Regulations for Licensing of Government-owned Inventions 41 C.F.R. 101–4.103.3 that these inventions are available for limited exclusive license.

Co-inventors of inventions (2) and (3) herein are employees of Collaborative Research, Inc. (CRI), and CRI has subsequently invested considerable funds on their own account in improved process and product research and in non-cancer pharmaceutical applications for the products covered by the inventions. If licensed, CRI will devote substantial resources to obtain approvals and market the products as antineoplastic drugs.

The proposed limited exlusive license to be granted by NTIS to CRI will be a royalty-bearing license for a term of five years from the date of New Drug Approval in the United States as to the U.S. license and five years from first commercial sale in any licensed foreign country as to each foreign country licensed, but no longer than eight years from the effective date of the license agreement as to any country. The license may be cancelled or revoked by NTIS in accordance with title 41 C.F.R. 101–4.1.

The proposed limited exclusive license granted to CRI and all sublicenses issued thereunder will be subject to a irrevocable, nonexclusive, nontransferrable, royalty-free right in the U.S. Government to make, use or sell the licensed invention throughout the world by or through contract on behalf of the U.S. Government or any foreign government pursuant to a treaty or agreement with the United States.

The proposed limited exclusive license will be granted by NTIS to CRI unless on or before December 24, 1979, NTIS receives (1) an application for a nonexclusive license from a responsible U.S. applicant to practice the invention identified herein in the United States or the foreign countries listed herein and NTIS determines that such applicant has already brought or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or (2) written evidence and argument which establishes that it would not be in the public interest to grant the proposed limited exclusive license to CRI.

Written data, inquiries, comments or objections concerning this proposed limited exclusive license should be submitted to the Office of Government Inventions and Patents, National Technical Information Service, Springfield, Va. 22161. NTIS shall maintain and make available for public inspection a record of all decisions made in this matter and the basis therefor. This record shall contain copies of all written data, inquiries, comments, or objections received by NTIS and pertaining to the proposed limited exclusive license.

Dated: April 30, 1979.

Melvin S. Day,

Director, National Technical Information Service.

[FR Doc. 79-32669 Filed 10-22-79; 8:45 am]

BILLING CODE 3510-04-M

COPYRIGHT ROYALTY TRIBUNAL

Privacy Act of 1974; System of Records Annual Publications

The Copyright Royalty Tribunal is an independent agency in the legislative branch which reviews compulsory copyright royalty rates for cable television, records, jukeboxes, and public broadcasting, and distribute compulsory royalties in the areas of cable television and jukeboxes. The system of records being maintained concerns the location of coin-operated phonorecord players (jukeboxes) and is to enable the claimants to royalty fees from jukeboxes to determine the proportional contribution of their musical works. This report is made pursuant to 5 U.S.C. 552a(e)(4). From date of publication there will be a thirty day period for comments on routine use of the records referred to. These systems of records will be effective thirty days after publication unless the Tribunal publishes notice to the contrary.

SYSTEM NAME:

Location Lists of Coin-operated Phonorecord Players (Jukeboxes).

SYSTEM LOCATION:

Copyright Royalty Tribunal, 1111 20th Street, NW., Washington, D.C. 20036.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Operators of Coin-Operated Phonorecord Players (Jukeboxes).

CATEGORIES OF RECORDS IN THE SYSTEM:

Location of coin-operated phonorecord players.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

17 U.S.C. 116(c)(5).

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

To establish location records so that persons who can reasonably be expected to have a royalty claim to the license fees paid by coin-operated phonorecord players may have access to establishments and to jukeboxes to detemine the proportion of contribution of their musical works to the earnings of jukeboxes by survey or otherwise.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders in locked metal cabinets.

RETRIEVABILITY:

By jukebox location.

SAFEGUARDS:

Locked in metal cabinets, access only for operators who have submitted such records, through Tribunal personnel.

RETENTION AND DISPOSAL:

Such records will be retained until they are no longer considered necessary by the Tribunal and then shredded.

SYSTEMS MANAGERS AND ADDRESS:

Chairman, Copyright Royalty Tribunal.

NOTIFICATION PROCEDURE:

Contact Systems Manager.

RECORD ACCESS PROCEDURE:

Contact System Manager.

Douglas Coulter,

Chairman, Copyright Royalty Tribunal.

[FR Doc. 79-32481 Filed 10-22-79; 8:45 am]

BILLING CODE 1410-01-M

COUNCIL ON WAGE AND PRICE STABILITY

Pay Advisory Committee; Cancellation of Meeting and Specification of Room for Subsequent Meeting

TIME AND PLACE OF MEETING: The Pay Advisory Committee meeting scheduled for October 22, 1979 (44 FR 59583) has been canceled. The meeting scheduled to begin at 10:00 a.m. October 29, 1979, will be held in Room 2010 in the New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20506. This meeting may be recessed at 12:00 noon to be reconvened at 2:00 p.m. the same day and/or to be recessed at the end of the day to be reconvened the following day.

PURPOSE OF MEETING: The purpose of this meeting is to finish unfinished business from the October 17 meeting. (See 44 FR 59583).

PUBLIC PARTICIPATION: The October 29 meeting of the Pay Advisory Committee will be open to the public. Public attendance may be limited by available space; persons will be seated on a first-come, first-served basis. Persons attending the meeting will not be permitted to speak or participate in the Committee's deliberations. Any interested persons will be permitted to file written statements with the Committee by mail or personal delivery to the Office of General Counsel, Council on Wage and Price Stability, 600 17th Street N.W., Washington, D.C. 20506.

ADDITIONAL INFORMATION: For additional information, please telephone the Office of Public Affairs at (202) 456–6756.

Dated: October 18, 1979.

Sally Katzen,

Advisory Committee Management Officer.

[FR Doc. 79-32683 Filed 10-22-79; 8:45 am]

BILLING CODE 3175-01-M

DEPARTMENT OF THE DEFENSE

Department of the Army

Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Pharmacology; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), announcement is made of the following Committee meeting:

NAME OF COMMITTEE: United States Army Medical Research and Development Advisory Panel Ad Hoc Study Group on Pharmacology.

DATE OF MEETING: 8 November 1979.

TIME AND PLACE: 0845 hours, Walter Reed Army Institute of Research, Building 40, Room 3092, Washington, DC 20012.

PROPOSED AGENDA: This meeting will be open to the public on 8 November 1979, from 0845–1150 to discuss the scientific research program of the Pharmacology Branch, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(8), Title 5, U.S. Code and Section 10(d) of P.L. 92–463, the meeting will be closed to the public on 8 November 1979 from 1300–1630 for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director, Walter Reed Army Institute of Research, Building 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20012 (202/576–3061) will furnish summary minutes, roster of Committee members, and substantive program information.

Garrison Rapmund,

Brigadier General, MC Commanding.

[FR Doc. 79-32643 Filed 10-22-79; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DoD Advisory Group on Electron Devices (AGED) will meet in closed session 15–16 November 1979 at 201 Varick Street, 9th Floor, New York, NY 10014.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include details of classified defense programs throughout.

In accordance with 5 U.S.C. App. 1, section 10(d)(1976), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

October 17, 1979.

[FR Doc. 79-32647 Filed 10-22-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF DEFENSE

Marine Corps

Privacy Act; Amendments to Systems of Records

AGENCY: Department of the Navy (U.S. Marine Corps).

ACTION: Notice of amendments to systems of records.

SUMMARY: The U.S. Marine Corps proposes to amend two existing systems of records subject to the Privacy Act of 1974. The specific changes to the systems being amended are set forth below followed by the systems published in their entirety, as amended.

DATES: The systems shall be amended as proposed without further notice on November 22, 1979, unless comments are received on or before November 22, 1979, which would result in a contrary determination.

ADDRESS: Send comments to the system manager identified in the records system notice.

FOR FURTHER INFORMATION CONTACT: Mrs. B. L. Thompson, Privacy Act Coordinator, Headquarters, U.S. Marine Corps, Washington, D.C. 20380, telephone: 202–694–1122.

SUPPLEMENTARY INFORMATION: The Marine Corps' record systems notices as prescribed by the Privacy Act of 1974, PL. 93–579 (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR DOC 77–28255 (42 FR 51177) September 28, 1977.

FR DOC 77–31445 (42 FR 56978) October 31, 1977.

V 44 0C 23 79 UMI

FR DOC 78-3002 (43 FR 5472) February 8, 1978.
FR DOC 78-21010 (43 FR 33878) August 1, 1978.
FR DOC 79-28470 (44 FR 53284) September 13, 1979.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(O) of the Act which requires the submission of a new or altered system report.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Services Department of Defense.

October 18, 1979.

MMN00004

System name:

Marine Corps Club and Mess Membership (42 FR 51210) 28 Sep 77.

Changes:

System name:

Delete the entire entry and substitute "Marine Corps Club Records."

System location:

Delete the entire entry and substitute the following: "Decentralized Segments—Records maintained by Marine Corps Clubs at organizational elements of the Marine Corps as listed in the Directory of the Department of the Navy Mailing Addresses."

Categories of individuals covered by the system:

Delete the entire entry and substitute the following: "Officer personnel who elect officer club membership, staff noncommissioned officer personnel who elect staff noncommissioned officer club membership and patrons of consolidated package stores who purchase alcoholic beverages."

Categories of records in the system:

Delete the entire paragraph and substitute the following: "File contains nonstandardized, locally produced record listing name, grade, social security number, military address, duty telephone number and dependent information.

Alcoholic purchase records contain name, grade, social security number, and the alcoholic beverage purchased by type, name brand and quantity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Retrievability:

Delete the words "service number" and substitute "social security number."

Retention and disposal:

Delete the entire entry and substitute the following paragraph: "Data on club membership is retained as along as the member is active and disposed of when membership is terminated. Data on alcoholic purchases is retained for a period as specified by the local command, but in no case for a period in excess of two years from date of purchase."

Record source categories:

Delete the entire entry and substitute the following: "Data collected from each applicable individual."

MTE00001

System name:

Telephone Billing/Accounting File (42 FR 51228) 28 Sep 77.

Changes:

Categories of records in the system:

In line two after words "security number" delete "rank, military or civilian address, business telephone number" and substitute the following: "grade, military address, telephone number assigned to individuals in the system, civilian contractor's business address and business telephone numbers."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete the entire entry and substitute the following: "Information in the system is used by Marine Corps activities to show amounts owed and paid for telephone service on a monthly basis. Information is also used by Marine Corps activities to provide telephone directory service for residents of government quarters to include printing and distribution of a quarters telephone directory and allow telephone operators/base locator to provide quarters telephone numbers upon request except for unlisted numbers. Other uses include management of telephone number assignments, and a listing of delinquent accounts."

Retention and disposal:

Delete the entire entry and substitute the following: "Records remain active until individual leaves the Marine Corps activity concerned. Records are then transferred to an inactive file for four years and then destroyed.

MMN00004

SYSTEM NAME:

Marine Corps Club Records

SYSTEM LOCATION:

Decentralized Segments—Records maintained by Marine Corps Clubs at organizational elements of the Marine Corps as listed in the Directory of Department of the Navy Mailing Addresses.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Officer personnel who elect officer club membership, staff noncommissioned officer personnel who elect staff noncommissioned officer personnel who elect staff noncommissioned officer club membership and patrons of consolidated package stores who purchase alcoholic beverages.

CATEGORIES OF RECORDS IN THE SYSTEM:

File contains nonstandardized, locally produced record listing name, grade, social security number, military address, duty telephone number and dependent information.

Alcoholic purchase records contain name, grade, social security number, and the alcoholic beverage purchased by type, name, brand and quantity.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code 301.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Marine Corps clubs and management personnel routinely use personal information for billing of customers and forwarding of club related material to its members.

Alcohol purchase records are made available to military, local, state, federal and foreign law enforcement authorities, to determine abuse of alcohol purchase privileges.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information of a personal nature is recorded and stored in cabinet drawers or other record keeping devices.

RETRIEVABILITY:

Is by name and/or social security number.

RETENTION AND DISPOSAL:

Data on club membership is retained as long as the member is active and disposed of when membership is terminated. Data on alcoholic purchases is retained for a period as specified by the local commander, but in no case for a period in excess of two years from date of purchase.

SYSTEM MANAGER(S) AND ADDRESS:

Decentralized—The local commanding officer is responsible for the operation of clubs aboard his base/activity.

NOTIFICATION PROCEDURE:

Request by correspondence should be addressed to the commanding officer of the activity having custody of the records.

RECORD ACCESS PROCEDURES:

Rules of access may be obtained from the system manager.

CONTESTING RECORD PROCEDURES:

The agency's rules for access to records and for contesting contents and appealing initial determination by the individual concerned may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Data collected from each applicable individual.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

MTE00001

SYSTEM NAME:

Telephone Billing/Accounting File.

SYSTEM LOCATION:

All Marine Corps activities maintaining telephone accounts.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All military personnel, civilian contractors, concessions, and Marine Corps sponsored activities that are provided unofficial government telephone service.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files contain name, social security number, grade, military address, telephone number assigned to individuals in system, civilian contractor's business address and business telephone, ledger of itemized telepone service charges and payments, receipted bills, requests for service, account number, addressograph plate, cash collection vouchers for telephone deposits, and routine correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, U.S. Code 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information in the system is used by Marine Corps activities to show amounts owed and paid for telephone service on a monthly basis. Information is also used by Marine Corps activities to provide telephone directory service for residents of government quarters to include printing and distribution of a quarters telephone directory and to allow telephone operator/base locator to provide quarters telephone numbers upon request except for unlisted numbers. Other uses include management of telephone number assignments, and a listing of delinquent accounts.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper cards are maintained in filing cabinets and KARDEX files or in file folders.

RETRIEVABILITY:

Information accessed and retrieved by name, address or telephone number.

SAFEGUARDS:

Records are maintained in an area accessible only to authorized personnel and are under constant supervision. The building is locked during non-working hours and someone is on duty 24 hours a day.

RETENTION AND DISPOSAL:

Records remain active until individual leaves the Marine Corps activity concerned. Records are then transferred to an inactive file for four years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Commanding Officer of activity concerned. See Directory of Department of the Navy Mailing Addresses.

NOTIFICATION PROCEDURE:

Information may be obtained from the individual command to which an individual is assigned for duty. Addresses of individual commands are listed in the Navy Standard Distribution List (OPNAV PO9B-107).

RECORD ACCESS PROCEDURES:

Written requests from individuals should be addressed to the Commanding Officer of the activity concerned. Activity addresses are as reported in the Navy Standard Distribution List.

Written requests should include name and social security number and address.

For personal visits, the individual should be able to provide the proper military or civilian identification.

CONTESTING RECORD PROCEDURES:

The rules for access to records and for contesting contents and appealing initial determination by the individual may be obtained from the SYSMANAGER.

RECORD SOURCE CATEGORIES:

Application of the individual desiring telephone service in government housing aboard the activity.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 79-32834 Filed 10-22-79; 8:45 am]
BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

National Petroleum Council, Subcommittee of the Committee on Materials and Manpower Requirements; Meeting

Notice is hereby given that a subcommittee of the Committee on Materials and Manpower Requirements has scheduled a meeting in October 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on Materials and Manpower Requirements will analyze the potential constraints in these areas which may inhibit future production and will report its findings to the National Petroleum Council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The subcommittee scheduling a meeting is the Government Subcommittee. The time, location and agernda of the meeting follows:

The second meeting of the Coordinating Subcommittee is scheduled for Wednesday, October 31, 1979, starting at 10:00 a.m., Conference Room, Halliburton Company, 2600 Southland Center, Dallas, Texas.

The tentative agenda for the meeting follows:

1. Introductory remarks by Chairman and Government Cochairman.
2. Review of the draft report on Materials and Manpower Requirements.
3. Discussion of the timetable for completion of this study.
4. Discussion of any other matters pertinent to the overall assignment of the Coordinating Subcommittee.

The meeting is open to the public. The chairman of the subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meeting.

V 44 0C 23 79 UMI

Members of the public who wish to make oral statements should inform James R. Hemphill, Office of Resource Applications, 202/633–8383, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room GA 152, DOE, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on October 12, 1979.

R. Dobie Langenkamp,

Deputy Assistant Secretary, Oil, Natural Gas and Shale Resources, Resource Applications.

October 12, 1979.

[FR Doc. 79-32599 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

[Case No. 630R00190]

Exxon Company, U.S.A.; Consent Order

I. Introduction

Pursuant to 10 CFR 205.199J, the Office of Special Counsel of the Department of Energy (DOE) hereby gives Notice of a Consent Order which was executed between Exxon Company, U.S.A. (Exxon) and the DOE on November 2, 1978. In accordance with that Section, DOE will receive comments with respect to this Consent Order. Although DOE has signed and tentatively accepted this Consent Order, DOE may, after consideration of comments received, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

II. The Consent Order

Exxon is a refiner engaged in the production of crude oil, in refining, and in the marketing of petroleum products subject to DOE regulations.

1. During the period covered by this Consent Order, Exxon sold propane to a group of purchasers which it designated as class of trade, code #627530. This class of trade included subsets designated Chemical Process Consumers and Regular Customers.

2. No recoupment of increased costs was reported from sales to both regular customers and chemical processors from September 1973 to June 1974. During this same period, sales to "regular customers" within this class were made at prices in excess of the May 15, 1973 price on which recoupment should properly have been calculated and reported.

3. Between June 1, 1974 and August 24, 1974, some costs were recovered on all sales within the class based on the prices charged to "Chemical Process Consumers" despite the fact that prices charged to the two separate subsets of customers were not the same; as a result, recoupment from sales to regular customers were improperly calculated for this period. The price increases for both chemical processor consumers and regular customers became equal effective August 24, 1974.

4. For the period covered by this Consent Order, these described errors and omissions in the reporting of propane sales recoveries have resulted in an excessive propane bank of $508,000.

5. The incorrect reporting of the aforementioned cost recoupment was brought to Exxon's attention, and the company has acknowledged its incorrect computation of recoupment for propane sales and also that recoupment for certain customers had not been accounted for on Form FEO–96. The company also indicated that it would make the appropriate adjustment to the propane bank to correct this error.

6. The corrective action was taken when Exxon decreased its January 1976 frozen banks for General Refinery Products and Turbo Fuel in its July 1977 Form P–110 by an amount which included the $508,000 representing under-reported propane recoupment.

7. Upon completion of the adjustment described in paragraph 6., Exxon furnished the Office of Special Counsel evidence demonstrating that this particular adjustment had been made and that the original understatement which occurred during the period covered by this Consent Order was corrected.

In resolution of the issue raised, DOE and Exxon executed a Consent Order on November 2, 1978, the significant terms of which are as follows:

1. In consideration of Exxon's actions regarding the aforementioned adjustments, DOE agrees that Exxon will be deemed to be presently in compliance with 10 CFR 212.83 regarding the facts set forth herein; and that it would not be in the public interest to take any additional remedial action against Exxon with respect to this matter. Provided, however, that DOE reserves the right to take further remedial action with respect to the above mentioned understatement of recoveries if DOE determines that any of the information used to compute the same is not in accordance with the aforementioned terms and conditions of this agreement, or with applicable DOE regulations or rulings. Provided further that Exxon may be required to resubmit FEO–96's or P–110–M–1's where appropriate to reflect all "bank adjustments" including the adjustment described herein, whether those adjustments are required by DOE orders or are unilaterally initiated by Exxon upon resolution of the issues raised during DOE's audit of Exxon through December 31, 1976.

2. This Consent Order shall be a final order by the DOE having the same force and effect as a Remedial Order issued pursuant to 10 CFR 205.199B, 43 FR 1930 (January 13, 1978).

3. The provisions of 10 CFR 205.199J including the publication of this Notice, are applicable to the Consent Order.

III. Submission of Written Comments

Interested persons are invited to comment in writing to Mr. Bill Eaton, Branch Manager, Southwest District, Office of Special Counsel, Department of Energy, One Allen Center, Suite 660, 500 Dallas Avenue, Houston, Texas 77002. Copies of this Consent Order may be received free of charge by written request to this same address or by calling (713) 226–5421.

Comments should be identified on the outside of the envelope and on documents submitted with the designation, "Comments on Exxon Consent Order." All comments received by 4:30 p.m. CDT, on or before November 23, 1979, will be considered by DOE in evaluating the Consent Order.

Any information or data which, in the opinion of the person furnishing it, is confidential must be identified as such and submitted in accordance with the procedures outlined in 10 CFR 205.9(f).

Issued in Washington, D.C., October 10, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-32601 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

Proposed Subsequent Arrangement Between United States and International Atomic Energy Agency

Pursuant to Section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA).

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following shipment:

WC–IA–107, to IAEA, Vienna, Austria, 6 ion chambers each containing 329 milligrams of Uranium 235, for a total of 1,974 milligrams to be used for measurements of irradiated light water reactor fuel assemblies for safeguards purposes.

In accordance with Section 131 of the Atomic Energy Act of 1954, as amended it has been determined that the furnishing of the nuclear material will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than November 7, 1979.

For the Department of Energy.

Dated: October 17, 1979.

Harold D. Bengelsdorf,

Director for Nuclear Affairs, International Nuclear and Technical Programs.

[FR Doc. 79-32609 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Canadian Crude Oil Allocation Program Supplemental Allocation Notice for the October 1 Through December 31, 1979, Allocation Period

In accordance with § 214.32(c) of the Mandatory Canadian Crude Oil Allocation Regulations, 10 CFR Part 214, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby issues a supplemental allocation notice to reflect an increase in the export level of Canadian heavy crude oil for the month of October 1979.

The Canadian National Energy Board (NEB) recently announced that, beginning in October 1979, exports of crude oil from Canada would be authorized on a monthly basis, instead of a quarterly basis. Consequently, the volumes listed in the Allocation Notice issued on September 21, 1979 (44 FR 55927, September 28, 1979) and in this Supplemental Notice represent only volumes which must be exported in October. Pursuant to § 214.32(c), this notice will be revised with the publication of additional supplemental notices when the NEB notifies the ERA of export levels for November and December.

The revised issuance of Canadian crude oil rights for October 1979 to refiners and other firms is set forth in the Appendix to this notice. As to this allocation period, the Appendix lists: (1) The name of each refiner and other firm to which rights have been issued; (2) the base period volume [1] of Canadian crude oil for each refiner's first or second priority refinery; (3) the base period volume of Canadian light and heavy crude oil, respectively, for each refiner's first or second priority refinery; (4) the nominations to ERA for Canadian light and heavy crude oil, respectively, of each refinery or other firm; (5) the number of rights for Canadian light and heavy crude oil, respectively, expressed in barrels per day, issued to each such refiner or other firm; and (6) the specific first or second priority refineries for which rights are applicable.

Murphy Oil Corporation and Ashland Oil, Inc. have requested permission pursuant to § 205.6 of the DOE Procedural Regulations to increase their nominations for Canadian heavy crude oil for their Priority I refineries at Superior, Wisconsin, and St. Paul Park, Minnesota, respectively, from 8,000 B/D and 25,050 B/D to 11,000 B/D and 31,000 B/D, respectively, after the deadline established by § 214.31(h) for nominations. In support of their requests, both firms represent that at the time of submitting their original nominations for the allocation period, they expected to receive 10,000 B/D and 6,500 B/D, respectively, of Canadian light crude oil under the CAP for the allocation period commencing October 1, 1979, and therefore did not need additional Canadian heavy crude oil. Both firms claim that they could not have reasonably anticipated the substantial loss of Canadian light crude oil availability for the allocation period prior to the deadline for nominations. Further, both forms contend that in the absence of additional heavy crude oil, they face serious disruptions of their refinery operations and losses of petroleum products and markets. The ERA has determined that the sudden, unanticipated cut-off of light crude oil exports by the Canadian National Energy Board after the deadline for nominations constitutes good cause under § 205.6 to extend the deadline for nominations for Canadian heavy crude oil for these firms. Therefore, ERA will accept the requests of Murphy and Ashland for acceptance of amended nominations for the current allocation period, and the amended nominations of Murphy and Ashland will be used in the determination of heavy crude oil allocations for this Supplemental Allocation Notice.

The total volume of Canadian light crude oil authorized for export to the United States, and therefore subject to allocation under Part 214, remains at the average level of 13,939 B/D for the month of October. The average export level for Canadian heavy crude oil for October has been increased from 94,393 B/D to 113,272 B/D.

Pursuant at 10 CFR 214.35, ERA is continuing to give effect to the operational constraint regarding the Thunderbird refinery specified in the Allocation Notice published September 28, 1979, in the revised issuance of Canadian crude oil rights for the month of October set forth in the Appendix. The Canadian light and heavy crude oil rights were computed in accordance with the formulas set forth in the Allocation Notice issued on September 21, 1979 (44 FR 55927, September 28, 1979).

This notice issued pursuant to Subpart G of ERA's regulations governing its administrative procedures and sanctions, 10 CFR Part 205. Any person aggrieved hereby may file an appeal with the Office of Hearings and Appeals in accordance with Subpart H of the 10 CFR Part 205. Any such appeal shall be filed on or before November 23, 1979.

Issued in Washington, D.C. on October 17, 1979.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operations, Economic Regulatory Administration.

BILLING CODE 6450-01-M

---

[1] Base period volume for the purposes of this notice means average number of barrels of Canadian crude oil included in a refinery's crude oil runs to stills or consumed or otherwise utilized by a facility other than a refinery during the based period (November 1, 1974, through October 31, 1975) on a barrels per day basis.

V 44 0 C 23 79 UMI

UMI 7 9 3 2 C O 4 4 V

APPENDIX

CANADIAN ALLOCATION PROGRAM

RIGHTS - October 1979
(Barrels Per Day)

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation 1/: Light	Allocation 1/: Heavy
	AMOCO							
II	Whiting, Ind.	26,751	25,560	1,191	0	0	0	0
II	Casper, Wyo.	2,991	2,991	0	0	0	0	0
II	Mandan, N.D.	8,995	8,995	0	0	0	0	0
II	Sugar Creek, Mo.	317	317	0	0	0	0	0
	ARCO							
II	Cherry Point, Wash.	34,225	34,225	0	0	0	0	0
	ASHLAND							
II	Buffalo, N.Y.	36,752	32,033	4,719	0	0	0	0
II	Findlay, Ohio	2,198	33	2,165	0	0	0	0
I	St. Paul Park, Minn.	14,707 2/	13,127 2/	1,580 2/	40,000	31,000	0	29,988 3/
	CLARK							
II	Blue Island, Ill.	18,764	18,764	0	0	0	0	0
	CONSUMERS POWER							
I	Essexville, Mich.	13,872	13,872	0	0	0	0	0
I	Marysville, Mich.	27,306	27,306	0	17,500	0	0	0
	CONOCO							
I	Billings, Mont.	25,994	25,994	0	25,994	0	6,524 4/	0
II	Denver, Colo.	4,639	4,639	0	4,638	0	0	0
II	Ponca City, Ok.	1,188	1,188	0	1,188	0	0	0
I	Wrenshall, Minn.	20,651	20,651	0	20,651	0	0	0
	CRA							
II	Coffeyville, Kan.	318	318	0	0	0	0	0
II	Phillipsburg, Kan.	173	173	0	0	0	0	0
II	Scottsbluff, Neb.	401	401	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation 1/: Light	Allocation 1/: Heavy
II	CRYSTAL Carson City, Mich.	1,104	1,104	0	0	0	0	0
II	DOW CHEMICAL, U.S.A. Bay City, Mich.	2,767	2,767	0	0	0	0	0
II	ENERGY COOPERATIVE East Chicago, Ind.	10,804	10,267	537	0	0	0	0
I	EXXON Billings, Mont.	15,908	15,908	0	16,000	0	3,992 4/	0
I	FARMERS UNION Laurel, Mont.	13,439	13,439	0	13,500	0	3,373 4/	0
II	GLADIEUX Fort Wayne, Ind.	774	774	0	0	0	0	0
II	GULF Toledo, Ohio	13,253	13,253	0	0	0	0	0
	HUSKY							
II	Cheyenne, Wyo.	4,865	4,865	0	0	0	0	0
II	Cody, Wyo.	806	806	0	0	0	0	0
I	KOCH Pine Bend, Minn.	44,383 2/	3,396 2/	40,987 2/	0	95,000	0	72,284 3/
I	LAKE SUPERIOR D.P. Ashland, Wisc.	125	125	0	0	0	0	0
II	LAKESIDE Kalamazoo, Mich.	1,240	1,240	0	0	0	0	0
II	LAKETON Laketon, Ind.	141	10	131	0	5,000	0	0
	LITTLE AMERICA							
II	Casper, Wyo.	2,248	2,248	0	0	0	0	0
II	Sinclair, Wyo.	709	709	0	0	0	0	0

UMI 7 9 3 2 C O 4 4 V

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation 1/: Light	Allocation 1/: Heavy
	MARATHON							
II	Detroit, Mich.	10,301	10,159	142	19,522	10,000	0	0
	MOBIL							
II	Buffalo, N.Y.	24,995	24,995	0	0	6,036	0	0
II	Ferndale, Wash.	45,444	45,444	0	0	10,975	0	0
II	Joliet, Ill.	14,606	2,132	12,474	0	12,989	0	0
	MURPHY							
I	Superior, Wisc.	25,625	20,253	5,372	10,000	11,000	0	11,000
	NCRA							
II	McPherson, Kan.	836	836	0	0	0	0	0
	PESTER REFINING CO.							
II	El Dorado, Kan.	196	196	0	0	0	0	0
	PHILLIPS							
II	Great Falls, Mont.	1,222	1,222	0	0	0	0	0
II	Kansas City, Kan.	3,352	3,105	247	0	0	0	0
	ROCK ISLAND							
II	Indianapolis, Ind.	1,063	1,063	0	0	0	0	0
	SHELL							
II	Anacortes, Wash.	55,919	55,919	0	0	0	0	0
II	Wood River, Ill.	8,673	8,673	0	0	0	0	0
	SOHIO							
II	Toledo, Ohio	29,182	29,182	0	15,000	10,000	0	0
	SUN							
II	Toledo, Ohio	16,427	16,427	0	0	0	0	0
	TENNECO							
II	Chalmette, La.	1,767	1,767	0	0	0	0	0

Priority	Refiner/Refinery	Base Period Volumes: Total Canadian Runs	Base Period Volumes: Canadian Light Crude Oil	Base Period Volumes: Canadian Heavy Crude Oil	Nominations: Light	Nominations: Heavy	Allocation 1/: Light	Allocation 1/: Heavy
	TEXACO							
II	Anacortes, Wash.	41,229	41,229	0	0	0	0	0
II	Casper, Wyo.	1,380	1,380	0	0	0	0	0
II	Lockport, Ill.	1,244	1,244	0				
	TEXAS AMERICAN							
II	West Branch, Mich.	2,011	2,011	0	0	0	0	0
	THE REFINERY CORP.							
II	Commerce City, Colo.	174	174	0	0	0	0	0
	THUNDERBIRD							
II	Cut Bank, Mont.	554	554	0	50	0	50 4/	0
	TOTAL PETROLEUM							
II	Alma, Mich.	9,727	3,020	6,707	0	8,000	0	0
	UNION OIL OF CALIF.							
II	Lemont, Ill.	11,711	11,711	0	10,000	20,000	0	0
	UNITED REFINING							
II	Warren, Pa.	9,917	9,789	128	0	0	0	0
	WYOMING REFINING CO.							
II	New Castle, Wyo.	676	676	0	0	0	0	0
	TOTAL PRIORITY I	202,010	154,071	47,939	143,645	137,000	13,889	113,272
	TOTAL PRIORITY II	469,029	440,588	28,441	50,398	83,000	50	0
	TOTAL I&II	671,039	594,659	76,380	194,043	220,000	13,939	113,272

1/ Although nominations were made on a quarterly basis, allocations reflect the volumes of crude oil which must be exported from Canada only during the month of October.
2/ Adjusted.
3/ Adjustments to base period volumes not given effect in allocation of Canadian heavy crude oil.
4/ Operational constraint.

[FR Doc. 79-32603 Filed 10-22-79; 8:45 am]
BILLING CODE 6450-01-C

Rocky Petroleum Corp.; Action Taken on Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken and opportunity for comment on Consent Order.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE announces action taken to execute a Consent Order and provides an opportunity for public comment on the Consent Order and on potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: October 10, 1979.

COMMENTS BY: November 23, 1979.

ADDRESS: Send to Alan L. Wehmeyer, Chief, Crude Products Program Management Branch, 324 East 11th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Alan L. Wehmeyer, Chief, Crude Products Management Branch, 324 East 11th Street, Kansas City, Missouri 64106. Phone 816(374–5932).

SUPPLEMENTARY INFORMATION: On October 10, 1979, the Office of Enforcement of the ERA executed a Consent Order with Rocky Petroleum Corporation of Logan, Ohio. Under 10 CFR 205.199J(b), a Consent Order which involves a sum of less than $500,000 in the aggregate, excluding penalties and interest, becomes effective upon its execution.

I. The Consent Order

Rocky Petroleum Corporation with its home office located in Logan, Ohio, is a firm engaged in the production and sale of domestic crude oil, and is subject to the Mandatory Petroleum and Allocation Regulations at 10 CFR Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of Rocky Petroleum Corporation the Office of Enforcement, ERA, and Rocky Petroleum Corporation enetered into a Consent Order, the significant terms of which are as follows:

1. This Consent Order covers the production and sales of domestic crude oil by Rocky Petroleum Corporation during the period September 1, 1973 through December 31, 1976, from the V. A. Wills lease, such sales being made to Permian Oil Company.

2. The reason for the overcharges was Rocky Petroleum Corporation's erroneous characterization of each of said properties as a stripper well lease, as defined at 6 CFR 150.54(s) and at 10 CFR 210.32.

3. It is understood that Rocky Petroleum Corporation does not, by entering into the Consent Order, admit that it has violated any regulations of the DOE.

4. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, Rocky Petroleum Corporation agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the transactions specified in I.1. above, the sum of $32,000.00, as specified in Paragraphs 1 and 2 of the Consent Order. The refunds shall be made in monthly installments, with the refund completed by the twenty fifth (25th) calendar month from the effective date of the Consent Order. Such refunds will be made to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential Claimants.* Interested persons who believe that they have a claim to all or a portion of the refund amount should provide written notificaton of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other Comments.* The ERA invites interested persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Alan L. Wehmeyer; Chief, Crude Products Program Management Branch; Central Enforcement District; 324 East 11th Street; Kansas City, Missouri 64106. You may obtain a free copy of this Consent Order by writing to the same address or by calling (816) 374–5932.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on Rocky Petroleum Corporation Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 23, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR § 205.9(f).

Dated: October 10, 1979.

William D. Miller,

Acting District Manager, Central Enforcement District, Economic Regulatory Administration.

[FR Doc. 79–32600 Filed 10–22–79; 8:45 am]

BILLING CODE 6450–01–M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; July 23 through July 27, 1979

Notice is hereby given that during the period July 23 through July 27, 1979, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice

shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B–120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 16, 1979.

Amoco Production Company, Chicago, Illinois; DEE–4755, crude oil

Amoco Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Fourbear SRA Unit located in Park County, Wyoming, at upper tier ceiling prices. On July 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Fourberar SRA Unit.

Amoco Production Company, Chicago, Illinois; DEE–4754, crude oil

Amoco Production Company filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Cottonwood Creek Phosphoria Unit located in Washakie County, Wyoming, at upper tier ceiling prices. On July 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Cottonwood Creek Phosphoria Unit.

Automotive Testing Laboratories, Inc., Aurora, Colorado; DEE–4530, motor gasoline

Automotive Testing Laboratories, Inc. filed an Application for Exception from the provisions of 10 CFR Part 211. The exception request, if granted, would permit Automotive Testing Laboratories to purchase 100 percent of its current requirements of motor gasoline for the automobiles used for testing pollutant emmission levels and fuel economy performance which it conducts for the Environmental Protection Agency. On July 23, 1979, the DOE issued a Proposed Decision and Order which determined that the exception request be denied.

Chevron U.S.A., Inc., San Francisco, California; DEE–4506, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Marlow Burns Lease, Bradna Pool located in Los Angeles County, California, at upper tier ceiling prices. On July 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Marlow Burns Lease, Bradna Pool.

Chevron U.S.A., Inc., San Francisco, California; DEE–4508, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Vickers 2–Aggregated VR located in Los Angeles County, California, at upper tier ceiling prices. On July 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Vickers 2–Aggregated VR.

Chevron U.S.A., Inc., San Francisco, California; DEE–4507, crude oil

Chevron U.S.A., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Vickers 1-Moynier Pool located in Los Angeles County, California, at upper tier ceiling prices. On July 23, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Vickers 1-Moynier Pool.

Gustafson Oil Company of California, Washington, D.C.; DEE–2106, refined petroleum products

Gustafson Oil Company of California filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Gustafson to sell residual fuel oil during the period October 1, 1973 through May 31, 1976 at prices which are $1.218 per barrel higher than the firm's maximum permissible selling prices under the Mandatory Petroleum Price Regulations. On July 27, 1979 the DOE issued a Proposed Decision and Order which determined that the exception request should be granted.

Amerada Hess Corporation, New York, New York; DEE–6417, crude oil

Amerada Hess Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit the firm to sell a certain portion of the crude oil produced for the benefit of the working interest owners from the Ives-Stenbak Silurian Unit located in Williams County, North Dakota, at upper tier ceiling prices. On July 25, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, in part, with respect to the applicant's Ives-Stenbak Silurian Unit.

Heil-Quaker Corporation, Washville, Tennessee; DEE–5955, energy efficiency test procedures

Heil-Quaker Corporation filed an Application for Exception from the provisions of 10 CFR, Part 430, Appendix N. The exception request, if granted, would permit the firm to make a specified modification in the energy efficiency test procedures applicable to the induced draft gas furnace which the firm manufactures. On July 25, 1979, the DOE issued a Proposed Decision and Order and tentatively determined that exception relief should be granted, permitting the firm to modify the applicable test procedures.

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 23 Through July 27, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Chevron Island Car Wash, DEE–3018; Albuquerque, N. Mex.
Jerry Porter Oil Co., DEE–5315; Beaumont, Tex.
Martin Pet Corporation, DEE–2935; Port Everglades, Fla.
Dumfries Texaco, DEE–6331; Dumfries, Va.
Ron L. Decker, DEE–5881; Powell, Wyo.
Thermon Duvall, Jr., DEE–5825; McLain, Miss.
Westwood Mohawk, DEE–6089; Westwood, Calif.
Paul Mayo, DEE–4486; Monroe, La.

V 44 OC 23 79 UMI

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of July 23 Through July 27, 1979

The following firms filed Applications for Exception from the provisions of Standby Regulation Activation Order No. 1. The exception requests, if granted, would result in an increase in the firm's base period allocation of motor gasoline.

The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

McCann's Arco Mini-Market, DEE–3762; Sacramento, Calif.
Dean Oil Company, DEE–4072; Luray, Va.
Garotte Garage, DEE–5181; Groveland, Calif.
George's Mobil, DEE–6294; Los Angeles, Calif.
Hunters Exxon, DEE–4470; Newington, Va.
McLean Mobil Service, DEE–5456; McLean, Va.
Drake Shell Service, DEE–6689; St. Petersburg, Fla.
Basic Properties, DEE–4259; Bakersfield, Calif.
Holmes Amoco, DEE–3640; Portsmouth, Va.
Roy's Service Center, DEE–5356; Fairfield, Conn.
Trueblood Oil Company, DEE–2282; DEE–2282; Kansas City, Mo.

[FR Doc. 79–32606 Filed 10–22–79; 8:45 am]

BILLING CODE 6450–01–M

Cases Filed; Week of September 14, 1979 through September 21, 1979

Notice is hereby given that during the week of September 14, 1979 through September 21, 1979 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Week of Sept. 14 Through Sept. 21, 1979

Date	Name and location of applicant	Case No.	Type of submission
Sept. 14, 1979	Champlin Petroleum Company, Fort Worth, Tex	DEA, DES, DST–0644, DEA, DES, DST–0645, DFA, DES, DST–0646.	Appeal of Assignment Order, Request for Stay and Temporary Stay. If granted: The August 28, 1979, and September 7, 1979, Temporary Assignment Orders issued by the Economic Regulatory Administration regarding Champlin Petroleum Company's supply requirements to BLT and Trans Texas would be rescinded. The firm would receive a stay and temporary stay pending the final decision of the Appeal.
Sept. 14, 1979	Pacific Resources, Inc., Washington, D.C	DEL–0008	Application for Temporary Exception. If granted: Pacific Resources, Inc., would receive a temporary exception to the provisions of 10 CFR 212.83 permitting the firm to pass through incremental expenses relating to the blending, storage, distribution, and marketing of gasohol.
Sept. 17, 1979	C&H Gas & Oil, Maury City, Tenn	DEE–8221 and DST–8221.	Request for Temporary Stay and Exception to Change Suppliers. If granted: C&H Gas and Oil would be assigned a new supplier of diesel fuel and motor gasoline to replace its base period supplier, Hamilton Oil Company. The firm would receive a temporary stay pending a final determination on their application for exception.
Sept. 17, 1979	Chevron U.S.A., Inc., San Francisco, Calif	DXE–8223	Extension of the relief granted in *Chevron U.S.A., Inc.*, 2 DOE Par. (June 25, 1979). If granted: Chevron U.S.A., Inc., would be permitted to continue to sell the crude oil produced from the State Lease PRC 1824, South Flank Pool (Summerland Field, Offshore, Santa Barbara), at upper tier ceiling prices.
Sept. 17, 1979	Common Cause, Washington, D.C	DFA–0647	Appeal of an Information Request Denial. If granted: Common Cause's would receive access to DOE data from the Division of Personnel Policies and Programs.
Sept. 17, 1979	Fuelgas Company, Inc., Flint, Mich	DEE–6000 and DEN–6000.	Price Exception. If granted: Fuelgas Company, Inc., would receive price exception under the provisions of 10 CFR 212, with respect to the pricing of propane gas, pending a final determination of the firm's application for exception.
Sept. 17, 1979	Highway Oil Company, Topeka, Kans	DEN–0005	Request for Interim Order. If granted: Highway Oil Company would be granted an exception on an interim basis under the provisions of 10 CFR 211 permitting the firm to receive an allocation of motor gasoline for the purpose of blending gasohol, on en interim basis.
Sept. 17, 1979	Laketon Asphalt Refining, Inc., Evansville, Ind	DEX–0204	Supplemental Order. If granted: A portion of the entitlement purchase obligation of the firm would be stayed pending the issuance of a final Decision and order on the firm's Application for Exception.
Sept. 17, 1979	Lehigh Oil Company, Norwich, Conn	DES–0284	Request for Stay. If granted: The August 22, 1979, Assignment Order issued by the Office of Petroleum Operations, Region I to Lehigh Oil Company would be stayed with respect to the firm's supply obligations to Bolduc Service Centers, Inc.
Sept. 17, 1979	Little America Refining Company, Englewood, Colo	DEX–0203	Supplemental Order. If granted: A portion of the entitlement purchase obligation of the firm woiuld be stayed pending the issuance of a final Decision and Order on the firm's Application for Exception.
Sept. 17, 1979	Mallard Resources, Inc., Washington, D.C	DSG–0065	Request for Special Redress. If granted: Mallard Resources, Inc., would be permitted to participate in the DOI's and DOE's programs regarding the sale of royalty oil sold to eligible refiners.
Sept. 17, 1979	United Specialties Company, Houston, Tex	DXE–8222	Extension of the relief granted in *United Specialties Co.*, 2 DOE Par. (July 6, 1979). If granted: United Specialties Company would be permitted to continue to sell the crude oil produced from the State of Texas Tract No. 723–A lease located in Nueces County, Texas, at upper tier ceiling prices.
Sept. 18, 1979	City of Long Beach, California, Long Beach, Calif	DXE–8240	Extension of relief granted in *City of Long Beach, California*, 3 DOE Par. (May 23, 1979). If granted: The City of Long Beach, California, would be permitted to continue to sell the crude oil produced from the Fault Block III Unit site located in Los Angeles County, California, at upper tier ceiling prices.
Sept. 18, 1979	Dunaway, McCarthy, Dye & Steward, Washington, D.C.	DFA–0588	Appeal of Information Request Denial. If granted: The August 21, 1979, Information Request Denial issued by the Office of Conservation and Solar Applications to Dunaway, McCarthy, Dye & Stewart would be rescinded, and the firm would be granted access to certain DOE documents.
Sept. 18, 1979	Energy Cooperative, Inc., Rosemont, Ill	DEL–8112 and DES–8112.	Application for Temporary Exception and Stay. If granted: Energy Cooperative, Inc., would receive a stay and temporary exception with respect to an allocation of crude oil, pending final determination on the Application for Exception.
Sept. 18, 1979	Exxon Company, U.S.A., Houston, Tex	DEA–0652	Appeal of Assignment Order. If granted: The August 24, 1979, Assignment Order issued by the Economic Regulatory Administration to Exxon Co., U.S.A., regarding the firm's obligations to supply Triangle Refineries, Inc., a subsidiary of Kerr-McGee Corporation, would be rescinded.

Under the DOE's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the DOE action sought in such cases may file with the DOE written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 16, 1979

Week of Sept. 14 Through Sept. 21, 1979—Continued

Date	Name and location of applicant	Case No.	Type of submission
Sept. 18, 1979	Gilbert C. Gremmel, M.D., San Antonio, Tex	DEE–8228	Exception to Emergency Building Temperature Restrictions. If granted: Gilbert C. Gremmel, M.D., would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 18, 1979	Grace Petroleum Corporation, Oklahoma City, Okla.	DXE–8238	Extension of relief granted in *Grace Petroleum Company*, 3 DOE Par. (July 31, 1979). If granted: Grace Petroleum Corporation would be permitted to continue to sell the crude oil produced from the C. I. Lovett Lease located in San Patricia County, Texas, at upper tier ceiling prices.
Sept. 18, 1979	Los Angeles County, California, Los Angeles, Calif	DEE–8224	Exception to Emergency Building Temperature Restrictions. If granted: Los Angeles County would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 18, 1979	Newmac Manufacturing, Inc., Woodstock, Ontario	DEE–8237	Exception to Energy Conservation Program for Consumer Products. If granted: Newmac Manufacturing, Inc. would receive an exception from the provisions of 10 CFR 430, permitting the firm to modify the energy efficiency test procedure applicable to furnaces.
Sept. 18, 1979	Sean C. O'Meara, New Orleans, La	DXE–8226	Extension of relief Granted in *Robert W. O'Meara*, 2 DOE Par. 81,089 (September 27, 1979). If granted: Sean C. O'Meara would be permitted to continue to sell the crude oil produced from the Louisiana Fruit No. 2 site located in Plaquemines Parish, Louisiana, at upper tier ceiling prices.
Sept. 18, 1979	Powrmatic, Inc., Finsburg, Md	DEE–8225	Exception to Energy Conservation Program for Consumer Products. If granted: Powrmatic, Inc., would receive an exception from the provision of 10 CFR 430 permitting the firm to modify the energy efficiency test procedures applicable to Powrmatic, Inc.
Sept. 18, 1979	Riteway Manufacturing Company, Harrisonburg, Va	DEE–8236	Exception to Energy Conservation Program for Consumer Products. If granted: Riteway Manufacturing Company would receive an exception from the provisions of 10 CFR 430 permitting the firm to modify the energy efficency test procedural applicable to furnaces and boilers.
Sept. 18, 1979	Surface Technology Inc., Princeton, N.J	DFA–0648	Appeal of an Information Request Denial. If granted: The August 28, 1979, Information Request Denial issued by the DOE Region V to Surface Technology Inc., would be rescinded, and the firm would be granted access to certain DOE documents.
Sept. 18, 1979	Winan Avenue Missionary Baptist Church, Hot Springs, Ark.	DEE–8229	Exception to Emergency Building Temperature Restrictions. If granted: The Winan Avenue Missionary Baptist Church would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 19, 1979	Gulf Oil Corporation, Tulsa, Okla	DXE–8239	Extension of relief granted in *Gulf Oil Corporation*, 3 DOE Par. (June 20, 1979). If granted: Gulf Oil Corporation would be permitted to continue to sell the crude oil produced from the Kiefer Unit site location in Creek County, Oklahoma, at upper tier ceiling prices.
Sept. 19, 1979	IBM Rochester, Rochester, Minn	DEE–8254 and DES–8254.	Exception to Emergency Building Temperature Restrictions and Request for Stay. If granted: IBM Rochester would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions. The firm would be granted a Stay pending a final determination on its application for exception.
Sept. 19, 1979	Pioneer Logging Machinery, Inc., Lexington, S.C	DEA–0651	Appeal of Assignment Order. If granted: The August 13, 1979, Assignment Order issued by the Economic Regulatory Administration Region IV, to Pioneer Logging Machinery, Inc., regarding the firms supply obligations would be rescinded.
Sept. 19, 1979	Texaco, Inc., Houston, Tex	DEA–0649	Appeal of Assignment Order. If granted: The August 23, 1979, Assignment Order issued by the North Carolina Department of Commerce to Texaco, Inc., regarding the firm's supply obligations of diesel fuel to Carolina Oil Company, Inc., would be rescinded.
Sept. 19, 1979	Texaco, Inc., Houston, Tex	DEA–0650	Appeal of Assignment Order. If granted: The August 23, 1979, Assignment Order issued by the North Carolina Department of Commerce to Texaco, Inc., regarding the firm's supply obligations of diesel fuel to M. L. Hatcher would be rescinded.
Sept 20, 1979	Armour Oil Company, Washington, D.C	DSG–0066	Petition for Special Redress. If granted: The DOE would disburse funds in an escrow account established in a July 8, 1976, Decision and Order issued to General Crude Oil Company (Case No. FES–0042).
Sept. 20, 1979	Belco Petroleum Corporation, Houston, Tex	DXE–8263	Extension of Relief Granted in *Belco Petroleum Corporation*, 3 DOE Par. (June 5, 1979). If granted: Belco Petroleum Corporation would be permitted to continue to sell the crude oil produced from the White River Unit located in Uintah County, Utah, at upper tier ceiling prices.
Sept. 20, 1979	Chevron, U.S.A., Washington, D.C	DEE–8269 and DEL–8269.	Application for Exception and Application for Temporary Exception. If granted: Chevron, U.S.A., Inc., would not be required to file a response to a Notice of Probable Violation issued by the Economic Regulatory Administration Region IX.
Sept. 20, 1979	Chevron, U.S.A., Inc., San Francisco, Calif	DEZ–0537	Interlocutory Order. If granted: A Protective Order entered into by Chevron, U.S.A., Inc., and Publix Oil Company would be finalized in a DOE Decision and Order.
Sept. 20, 1979	Coleman Company, Inc., Wichita, Kans	DEE–8264	Exception to Energy Conservation Program for Consumer Products. If granted: Coleman Company, Inc., would receive an exception from the provisions of 10 CFR 430 permitting the firm to modify the energy efficiency test procedures applicable to furnaces.
Sept. 20, 1979	Keystone Propane Service, Inc., Throop, Pa	DMR–0077	Request for Modification/Rescession. If granted: The DOE's September 12, 1979, Decision and Order (Case No. DEE–2038) would be modified.
Sept. 20, 1979	Petroleum, Inc., Wichita, Kans	DXE–8262	Extension of Relief Granted in *Petroleum, Inc.*, 3 DOE Par. (June 20, 1979). If granted: Petroleum, Inc., would be permitted to continue to sell the crude oil produced from the Crowder #2 W.W.D.S. well at upper tier ceiling prices.
Sept. 20, 1979	Texaco, Inc., Los Angeles, Calif	DEX–0121	Supplemental Order. If granted: Texaco, Inc., would be permitted to include certain expenditures that it incurs in performing an emergency well workover as an operating expense in calculating the level of exception relief.
Sept. 21, 1979	City of Crystal City, Crystal City, Tex	DEE–8267	Exception to Reporting Requirements. If granted: City of Crystal City would not be required to file Form EIA–149 "Natural Gas Supply, Distribution and Usage."
Sept. 21, 1979	City of Morganfield, Morganfield, Ky	DEE–8265	Exception to Reporting Requirements. If granted: City of Morganfield would not be required to file Form EIA–149 "Natural Gas Supply, Distribution and Usage."
Sept. 21, 1979	City of Sanborn, Sanborn, Iowa	DEE–8620 and DES–8620.	Exception to Reporting Requirements. If granted: City of Sanborn would not be required to file Form EIA–149. The firm would receive a Stay pending final determination on its Application for Exception.
Sept. 21, 1979	Class Exception, Washington, D.C	DXE–8261	Extension of Relief Granted in Certain Motor Gasoline Allocation. If granted: Exception Relief previously granted would be extended.
Sept. 21, 1979	Barry L. Fisher, San Antonio, Tex	DEE–8271	Exception to Emergency Building Temperature Restrictions. If granted: Barry L. Fisher would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 21, 1979	Foeman Shelton Distributor, Inc., Morganfield, Ky	DEE–8268	Allocation Exception. If granted: Foeman Shelton Distributor, Inc., would be granted an exception from the provisions of 10 CFR 211 permitting the firm to receive an allocation of unleaded gasoline for the purposes of blending gasohol.
Sept. 21, 1979	Greenbrier Hotel, White Sulphur Springs, W. Va	DEE–8272	Exception to Emergency Building Temperature Restrictions. If granted: Greenbrier Hotel would receive an exception to the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.

V 44 OC 23 79 UMI

Week of Sept. 14 Through Sept. 21, 1979—Continued

Date	Name and location of applicant	Case No.	Type of submission
Sept. 21, 1979	Ann L. Krumboltz, Washington, D.C.	DFA-0655	Appeal of Information Request Denial. If granted: Ann L. Krumboltz would receive access to a copy of the Wheelabrator Frye/DOE Report regarding feasibility of wood fired power plants.
Sept. 21, 1979	Murray Natural Gas System, Murray, Ky.	DEE-8266	Exception to Reporting Requirements. If granted: Murray Natural Gas System would not be required to file Form EIA-149 "Natural Gas Supply, Distribution and Usage."
Sept. 21, 1979	Oakdell Medical Center, San Antonio, Tex.	DEE-8270	Exception to Emergency Building Temperature Restrictions. If granted: Oakdell Medical Center would receive an exception from the provisions of 10 CFR 490, the Emergency Building Temperature Restrictions.
Sept. 21, 1979	Price Waterhouse & Company, Washington, D.C.	DFA-0654	Appeal of Information Request Denial. If granted: The DOE's Information Request Denial issued by Economic Regulatory Administration would be rescinded and Price Waterhouse & Company would receive access to certain DOE documents.
Sept. 21, 1979	Steptoe & Johnson, Washington, D.C.	DFA-0656	Appeal of Information Request Denial. If granted: The DOE's September 14, 1979, Information Request Denial issued by the Office of Competition would be rescinded and Steptoe & Johnson would be granted access to certain DOE documents.
Sept. 21, 1979	Adams' Exxon, et al., Washington, D.C	DRZ-0013 thru DRZ-0024, DRZ-0026 thru DRZ-0057.	Interlocutory Orders. If granted: The Interim Remedial Orders for Immediate Compliance would be modified in such a manner that they would pertain to the period prior to July 16, 1979.

Notices of Objection Received

[Week of Sept. 14, to Sept. 21, 1979

Date	Name and Location of Applicant	Case No.
9/14/79	Buck's Exxon, Upper Marlboro, Md.	DEO-0381
9/14/79	Arnie's Arco Mini Market, Boulder City, Nev.	DEE-3003
9/14/79	Pinecrest Texaco, Alexandria, Va	DEO-0380
9/14/79	Dave's Exxon Service, Spartanburg, S.C.	DEE-3778
9/18/79	East End Arco Market, Wilkes Barre, Pa.	DEE-6130
9/18/79	Hanks Arco Mini Market, Phoenix, Ariz.	DEE-3787
9/18/79	Martin Petroleum Corporation, Port Everglades, Fla.	DEE-2935
9/18/79	Standard Oil Co. of Indiana, Chicago, Ill.	DEE-8244
9/20/79	Zachary Gulf Service, Zachary, La	DEO-0387
9/19/79	Sparta's Gulf Station, Bryn Mawr, Pa.	DEO-0386
9/19/79	E. W. Massey Gulf Service Station, Sulphur Springs, Tex.	DEO-0385
9/19/79	Robertson Texaco, Garland, Tex	DEO-0384
9/20/79	Union Petrochemical, Corpus Christi, Tex.	DEE-4286
9/20/79	Keystone Propane Service, Inc., Throop Pa.	DEE-2038
9/20/79	Lake Wright Texaco, Richmond, Va.	DEE-2685
9/20/79	Kojic's Sell Serve, Phoenix, Ariz	DEE-4899
9/20/79	Slavson Carwash, Los Angeles, La	DEO-0387
9/21/79	Krathen, David H., Fort Lauderdale, Fla.	DEE-7656
9/21/79	Barge, Louise S., Tucker, Ga	DEE-6448
9/20/79	Bob Webb's Arco Service, Long Beach, Calif..	DEO-0399

List of Cases Involving the Standby Petroleum Product Allocation Regulations for Motor Gasoline

Week of September 14 Through September 21, 1979

If granted: The following firms would receive an exception from the activation of the Standby Petroleum Product Allocation Regulations with respect to motor gasoline.

September 14, 1979.

Air-Tech Corp., DEE–8159, Maine.
Bishop Mfg. Co., Inc., DEE–8165, Connecticut.
Blue Line Express, Inc., DEE–8190, New Hampshire.
Blue Sun Super Service, DEE–8177, Rhode Island.
Bob's Exxon, DEE–8137, Maine.
Brattle Cab, DEE–8145, Massachusetts.
Browning Exxon, DXE–8193, North Carolina.
Burt's Beverage Co., DEE–8172, Connecticut.
Cape Cod Gas Co., DEE–8173, Massachusetts.
Carl's Garage, DEE–8151, Connecticut.
Central City Shell, DXE–8126, Missouri.
Chittenden, William, DEE–8153, Massachusetts.
Colby's Garage, DEE–8167, Maine.
Corcleino, John L., DEE–8192, Rhode Island.
Dick's Sunoco, DEE–8141, Connecticut.
Don's Cities Service, Inc., DEE–8140, Massachusetts.
Dostie Brothers Inc., DEE–8186, Maine.
Dover News, Inc., DEE–8134, New Hampshire.
Easton Center Store, DEE–8162, Maine.
Finnegan's Shell Station, DEE–8143, Massachusetts.
Gardner, Michael J., DEE–8157, Massachusetts.
Gerrior, Charles E., Et Ox, DEE–8169, Massachusetts.
Gervasio's Elm St. Exxon, DEE–8150, Connecticut.
Grant's Arco Service, DEE–8186, Massachusetts.
Hampden Gulf & Tire Service, DEE–8171, Massachusetts.
Henkels & McCoy, Inc., DEE–8108, Connecticut.
Hyannis Gulf & Tire Service, DEE–8154, Massachusetts.
J. & S., Inc., DEE–8128, Pennsylvania
Ledoux, Bertrand J., DEE–8178, Rhode Island.
Marv's Mobil, DEE–8152, Massachusetts.
Menard & Holmberg, DEE–8155, Massachusetts.
Mercury System, Inc., DEE–8189, Massachusetts.
Meriden Yellow Cab Co., Inc., DEE–8179, Connecticut.
Middlesex Equipment Co., DEE–8175, Massachusetts.
Mike's Service Station, DEE–8156, Massachusetts.
Minor's Country Store, DEE–8130, Vermont.
Mutti's Service Station, Inc., DEE–8168, Massachusetts.
Norm's Trading Post, DEE–8176, New Hampshire.
Okemo Mountain, Inc., DEE–8182, Vermont.
P. & C. Food Markets, Inc., DEE–8144, Vermont.
Peabody, Frank, DEE–8181, New York.
Perry, Joseph, DEE–8166, Rhode Island.
Powers Country Store, DEE–8142, New Hampshire.
Practical Mechanics, Inc., DEE–8158, Maine.
Ralph's Getty, DEE–8146, Maine.
Ray's Sandy Lane Arco, DEE–8147, Rhode Island.
Research Park Exxon, DEE–8121, Alabama.
Rich's Gulf Station, DEE–8170, Maine.
Rowe's Gas Station, DEE–8185, New Hampshire.
Stanley Sack Co., DEE–8139, Connecticut.
Steele's Corners, Inc., DEE–8149, Massachusetts.
The Kaufman Fuel Co., DEE–8167, Connecticut.
Tobey's General Store, DEE–8148, Maine.
Town of Hampton Falls, DEE–8184, New Hampshire.
Town of North Hampton, DEE–8183, New Hampshire.
Town of Plymouth, Mass., DEE–8163, Massachusetts.
Town of Watertown, Connecticut, DEE–8164, Connecticut.
Ward's Service Center, DEE–8161, Massachusetts.
West Hartford Chevron, Inc., DEE–8138, Connecticut.
Whalley Fitch Service Inc., DEE–8174, Connecticut.
Worchester Quality Foods, DEE–8180, Massachusetts.
Yoney, Paul S. Inc., DEE–8160, Connecticut.

September 17, 1979.

Adams Brothers, DEE–8195, Massachusetts.
Breaker Sunoco, DEE–8196, Massachusetts.
Childs Rockingham Exxon, DEE–8197, New Hampshire.
Country Mart, Inc., DEE–8198, Vermont.
Don's Diagnostic Service Center, DEE–8199, Massachusetts.
Dupont Exxon, DEE–8200, New Hampshire.
Falkowski & Jurkowski, DEE–8201, Massachusetts.
Gus's Sunoco Service Station, DEE–8202, Massachusetts.
Hogan Road Exxon, DEE–8204, Maine.
Kickapoo Oil Co., Inc., DEE–8220, Wisconsin.
Mike's Auto & Truck Service, DEE–8205, Connecticut.
Parkway Sunoco Service, DEE–8206, Massachusetts.
Poole, Glenn P., DEE–8207, Maine.
Procopio Brothers Sunoco, DEE–8208, Massachusetts.
Ray's Sunoco Service, DEE–8209, Connecticut.
Rintone Enterprises, DEE–8210, Massachusetts.
Rippowam Sunoco, DEE–8211, Connecticut.
Rite Way, Inc., DEE–8212, Connecticut.
Riverside Sunoco, DEE–8213, New Hampshire.
Robert Winston Sunoco, DEE–8214, Massachusetts.
Ron's Plaza Sunoco, DEE–8215, Massachusetts.
Speen & Central Service, DEE–8216, Massachusetts.
Teddy's Service Station, Inc., DEE–8217, Massachusetts.
Valley Sunoco, DEE–8218, Connecticut.
Waltham Truck Equipment, DEE–8219, Massachusetts.

September 18, 1979.

Alamo Expressway Service Station, DXE–8234, Texas.
Auto Row Texaco, DXE–8233, California.
Bassett's 66 Service, DXE–8242, Illinois.
C & B Exxon, DXE–8243, Alabama.
Diprizio's Garage, Inc., DEE–8231, New Hampshire.
Hillsgrove Servicenter, DEE–8203, Rhode Island.
Hondo Oil Company, DXE–8227, California.
Key City Oil Company, DEE–8230, Minnesota.
Lathan Oil Company, Inc., DEE–8291, District of Columbia.
Louder's Sunoco, DEE–8232, Kentucky.
Marcel's Sugar Market, Inc., DEE–8235, Louisiana.
Weatherford Service Station, DEE–8241, Kentucky.

September 19, 1979.

Brown's 66 Service, DEE–8249, Kentucky.
Ghost Town Mini Market, DEE–8253, California.
Maetex Supply Company, DEE–8245, Utah.
Middlebrook Exxon, DXE–8255, New Jersey.
Ritter, Lloyd, DEE–8252, Florida.
Stonewall County, DEE–8246, Texas

September 20, 1979.

Advanced Sales Corp., DEE–8251, Florida.
Hofman's Garage, Inc., DEE–8256, Wisconsin.
M.F.A. Oil Co., DEE–8258, Missouri.
Pee Dee Oil Company, DEE–8259, South Carolina.
Spring Valley Gulf, DEE–8247, District of Columbia.
Tippetts Shell Service, DEE–8246, Florida.
Treasure Island Chevron Food, DEE–8257, Florida.

September 21, 1979

Autohaus V.I.C., DEE–8277, California.
Brock's Automotive, DEE–8275, Texas.
Five Star Service Station, DEE–8278, California.
Hampton Park Exxon, DXE–7774, South Carolina.
Holiday Foods, Inc., DXE–8273, Washington.
Kim Electric Service, DEE–5830, California.
Morgan Grocery, DEE–8274, Texas.
Service Oil Company, DEE–8286, District of Columbia.
State of New Jersey, DXE–8279, New Jersey.

Items Retrieved 121.

[FR Doc. 79-32607 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

Objection To Proposed Remedial Orders Filed; Week of October 1 through October 5, 1979

Notice is hereby given that during the week of October 1 through October 5, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Until November 12, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

October 16, 1979.

Proposed Remedial Orders

Richome Oil and Gas Co., Amarillo, Texas. BRO–0008, crude oil

On October 4, 1979, Richome Oil and Gas Co., (Richome), 310 Amarillo Building, Amarillo, Texas 79101, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District of the Economic Regulatory Administration issued to the firm on August 3, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period November 27, 1973 through December 31, 1974, Richome committed pricing violations in its sales of crude oil. According to the Proposed Remedial Order, Richome's violations resulted in overcharges to its customers of $137,030.20.

Power Management, Inc., Ardmore, Oklahoma: BRO–0010, crude oil

On October 4, 1979, Power Management, Inc. (PMI), 301 W. Boradway, Ardmore, Oklahoma 73401, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest Enforcement District of the Economic Regulatory Administration issued to the firm on August 30, 1979. In the Proposed Remedial Order, the Enforcement District found that during the period September 1, 1973 through January 31, 1976, PMI committed pricing violations in its sales of crude oil in the States of Texas and Oklahoma. According to the Proposed Remedial Order, PMI's violations resulted in overcharges to its customers of $193,065.84. The Proposed Remedial Order directs PMI to refund these overcharges, plus interest, to the purchasers of the crude oil.

[FR Doc. 79-32606 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

Application for Exception Filed by Union Oil Company of California; Public Hearing; Correction

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Public Hearing and Request for Written Comments; Correction Notice.

SUMMARY: On October 17, 1979, a Federal Register Notice was published concerning an Application for Exception filed by Union Oil Company of California (Union) on August 31, 1979. *See* 44 FR 55932. In the Notice, the Office of Hearings and Appeals of the Department of Energy gave notice of a public hearing to be held on October 29, 1979 in Washington, D.C. to receive comments concerning Union's Application. On page 55,933 of the October 17, 1979 Notice, an incorrect hearing date was inadvertently indicated. The sentence which reads "It is to be emphasized that the hearing that will be convened on October 30, 1979 is for the purpose of oral argument." should read "It should be emphasized that the hearing that will be convened on October 29, 1979 is for the purpose of oral argument." All other information and deadlines contained in the October 17, 1979 Notice are correct and remain in effect. For further information, contact Richard T. Tedrow, Deputy Director, Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, telephone (202) 254–8606.

Issued in Washington, D.C. October 17, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

[FR Doc. 79-32596 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Special Council for Compliance

Gulf Oil Corp.; Proposed Remedial Order

AGENCY: Department of Energy.

ACTION: Notice of Proposed Remedial Order to Gulf Oil Corporation and Opportunity for Objection.

Pursuant to 10 CFR 205.192(c), the Office of Special Counsel for Compliance of the Economic Regulatory Administration (ERA), Department of Energy, hereby gives notice that a Proposed Remedial Order was issued to Gulf Oil Corporation (Gulf), P.O. Box 20001, Houston, Texas 77001. The Proposed Remedial Order sets forth findings of fact and conclusions of law concerning Gulf's failure to properly allocate increased product costs and calculate its cost recoveries, pursuant to the terms of 10 CFR 212.83 of the Mandatory Petroleum Price Regulations. The violation, in the amount of at least $2,951,451, resulted from Gulf's failure to allocate increased product costs to all volumes of product refined by Gulf and either internally consumed or transferred to affiliates for further processing and sale as exempted products, and Gulf's failure to properly calculate recoveries of covered products refined and so used. The violation occurred from December 1973 through December 1974, in the geographical area of the United States.

In accordance with 10 CFR 205.192(c), any person may obtain a copy of the Proposed Remedial Order, with confidential information, if any, deleted from the ERA.

On or before November 7, 1979, any aggrieved person may file a Notice of Objection in accordance with 10 CFR 205.193. Such Notice should be filed with: Office of Hearings and Appeals, Department of Energy, Room 8014, 2000 M Street NW., Washington, D.C. 20461.

Copies of the Proposed Remedial order may be obtained by written request addressed to: Milton Jordan, Director, Division of Freedom of Information and Privacy Act Activities, Forrestal Building, Room GB-145, 1000 Independence Avenue SE., Washington, D.C. 20585.

Attention: George W. Young, Jr.

Copies of the Proposed Remedial Order may be obtained in person from: Office of Freedom of Information, Reading Room, Forrestal Building, Room GA-152, 1000 Independence Avenue SW., Washington, D.C. 20585.

Issued in Washington, D.C., October 10, 1979.

Paul L. Bloom,

Special Counsel for Compliance.

[FR Doc. 79-32602 Filed 10-22-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

(FRL 1344-6)

California Motor Vehicle Pollution Control; Emission Control System Warranty Regulations; Waiver of Federal Preemption

I. Introduction

By letter dated March 12, 1979, California requested concurrence by the Administrator of the Environmental Protection Agency (EPA) that California's emission control system warranty regulations [1] fall within the scope of previous waivers of Federal preemption, and that California need not receive a separate waiver of Federal preemption to enforce the regulations.[2] The regulations apply to all California certified 1973 and subsequent model year motorcycles, light-duty, medium-duty and heavy-duty motor vehicles and motor vehicle engines.[3]

California's regulations ordinarily would be preempted by section 209(a) of the Clean Air Act, as amended ("Act").[4] That section prohibits any state or political subdivision thereof from regulating emissions from new motor vehicles or engines and specifically prohibits any state from requiring any approval relating to the control of emissions from such vehicles or engines as a condition precedent to the initial retail sale, titling or registration of a new motor vehicle. However, subsection (b) authorizes the Administrator to waive Federal preemption for California to adopt and enforce motor vehicle emission control regulations unless he makes certain findings that a waiver is inappropriate.[5] Once California receives a waiver for the standards and accompanying enforcement procedures applicable to a certain class of motor vehicles, it may adopt any other conditions precedent to the initial retail sale, titling or registration of those vehicles in California without the necessity of receiving a further waiver of Federal preemption. However, California's regulations must independently meet the waiver criteria of section 209(b) if they constitute new or different standards or accompanying enforcement procedures,[6] or if they change the basis for statutory determinations in previous waiver decisions.

California's warranty regulations are neither an emission standard nor an accompanying enforcement procedure. They do not limit the quantity or rate of emissions of air pollutants from new vehicles as do standards. Although manufacturers must submit certain documents to the Executive Officer in their certification applications as a precondition to sale in California,[7] California and the manufacturers have stated that they do not affect the manufacturers' ability to certify vehicles which conform to the applicable emission standards.[8]

To the extent that the regulations require pre-certification approvals, they are a condition precedent to initial retail sale which falls within the purview of section 209(a). However, waivers previously granted to California for the underlying standards and enforcement procedures [9] operate to remove the

[1] Article 6, Subchapter 1, Chapter 3, Title 13, California Administrative Code (Cal. Admin. Code) §§ 2035-2042 (1979) (hereinafter "CARB Warranty Regulations").

[2] Letter from Thomas C. Austin, Excutive Officer, California Air Resources Board (CARB), to Douglas M. Costle, Administrator, Environmental Protection Agency (EPA), March 12, 1979 [hereinafter "CARB March 12, 1979, letter"].

[3] CARB Warranty Regulations, § 2035.

[4] 42 U.S.C. § 7543(a) (Supp. I 1977) provides that:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection, or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

[5] 42 U.S.C. § 7543(b) (Supp. I 1977) provides that:

(1) The Administrator shall, after notice and opportunity for public hearing, waive application of this section to any State which has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor vehicle engines prior to March 30, 1966, if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. No such waiver shall be granted if the Administrator finds that—

(A) the determination of the State is arbitrary and capricious,

(B) such State does not need such State standards to meet compelling and extraordinary conditions, or

(C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of this part.

(2) If each State standard is at least as stringent as the comparable applicable Federal standard, such State standard shall be deemed to be at least as protective of health and welfare as such Federal standards for purposes of paragraph (1).

(3) In the case of any new motor vehicle or new motor vehicle engine to which State standards apply pursuant to a waiver granted under paragraph (1), compliance with such State standards shall be treated as compliance with applicable Federal standards for purposes of this title.

[6] This has historically been EPA's interpretation of section 209(b). *See* Fed. Reg. 36679 (1976); 37 Fed. Reg. 14831 (1972).

[7] CARB Warranty Regulations, § 2036(b)-(c).

[8] CARB March 12, 1979, letter at 3.

[9] *See* 43 Fed. Reg. 25729 (June 14, 1978) pertaining to 1980 and subsequent model year passenger cars; 43 Fed. Reg. 1829 (January 12, 1978) pertaining to 1979-1982 light-duty trucks and medium-duty vehicles; 43 Fed. Reg. 15490 (April 13, 1978)

Footnotes continued on next page

prohibitions of section 209(a) with respect to other emission-related approvals such as the warranty regulations.[10] Since the warranty regulations do not change the basis of the statutory determinations made in previous waiver decisions, they are included within these waivers.

To the extent that the warranty regulations affect the in-use operation of vehicles, they are not preempted by section 209(a). Therefore, a waiver of Federal preemption is not required for California to enforce the in-use portions of the regulations.[11]

Even if the warranty regulations were deemed to be an enforcement procedure accompanying the underlying standards, I could not make the requisite finding under section 209(b)(1)(C) in order to deny a waiver of Federal preemption.[12]

II. Background

On December 14, 1978, CARB adopted regulations on emission control system warranties for motor vehicles and motor vehicle engines sold in California.[13] The regulations were adopted to clarify and define the rights and responsibilities of manufacturers and consumers under California's statutory requirement that the manufacturer warrant to the ultimate and each subsequent Purchaser that the vehicle or engine:

(1) Is designed, built, and equipped to conform, at the time of sale, with applicable emission standards specified in this part; and

(2) Is free from defects in materials and workmanship which cause such motor vehicle or motor vehicle engine to fail to conform with applicable regulations for its useful life.[14]

The regulations require vehicle or engine manufacturers to repair or replace all "warranted parts" on each vehicle or engine which fail to function properly due to defect for either the replacement period of the part or the vehicle's useful life.[15] A "warranted part" is any emissions related original equipment manufacturer (OEM) part which is installed on the vehicle or engine by the manufacturer and included on the manufacturer's "emissions warranty parts list".[16] The extent of the warranty and the replacement period of parts are ascertained through the manufacturer's submission of required maintenance instructions, warranted parts list, and statements describing the manufacturer's and consumer's rights and obligations under the warranty. Submission and approval of these documents is required only for 1980 models sold on or after September 1, 1979, while the in-use provisions apply to all California-certified 1973 and later model year vehicle classes.[17]

The regulations require manufacturers to repair or replace any "warranted part" that fails during the useful life period of the vehicle or engine [18] if the part is not scheduled for replacement in the manufacturer's written instructions. The time period or mileage for which a part is warranted is defined by another set of regulations for which CARB already has received a waiver of Federal preemption.[19] CARB's "allowable maintenance" regulations restrict the emissions-related maintenance which can be performed on certification vehicles during durability testing and prohibit manufacturers from requiring customers to perform any emissions-related maintenance beyond that allowed during certification.[20] Although manufacturers may recommend such additional maintenance as the manufacturer determines may be reasonable and necessary for the proper functioning of the vehicle, a manufacturer may not condition warranty coverage on customers following the recommended maintenance instructions.[21] California's in-use maintenance regulations specify the maintenance intervals for all parts covered by the warranty regulations.[22] Therefore, the warranty regulations merely define the responsibility of the customer and liability of the manufacturer if a part failure occurs before the specified maintenance interval.

Pursuant to a notice published in the **Federal Register**,[23] EPA held a public hearing in San Francisco, California on May 17, 1979, in order to provide a fair opportunity to interested parties to present testimony and to allow manufacturers to address potential problems of technological feasibility, lead time and cost of compliance. Accordingly, EPA asked for comments on the following issues: (1) whether the warranty regulations were subject to waiver, (2) whether they must independently meet the section 209(b) criteria, and if so, (3) whether they meet those criteria.[24]

Representatives of the five domestic automobile manufacturers and the aftermarket parts and service industries (hereinafter "manufacturers") presented arguments both during and after the hearing on why California should not be able to enforce the regulations.[25] Based

Footnotes continued from last page

pertaining to 1983 and subsequent model year light-duty trucks and medium-duty vehicles; 42 Fed. Reg. 31637 (June 22, 1977) for the 1980-82 and 1983 and subsequent model year heavy-duty motor vehicles and engines; 43 Fed. Reg. 998 (January 5, 1978) for 1978 and later model year motorcyles.

[10] This approach is consistent with EPA's earlier waiver decision on California's new vehicle emission control system warranty statute (Health and Safety Code Section 43204; Stats. 1971, Ch. 862). In that decision, the Administrator held that the warranty fell within the scope of section 209(a) but did not need to independently meet the requirements of section 209(b) because previous waivers granted for California's emission control program extended to the warranty provisions. *See* 37 Fed. Reg. 14831 (1972); 43 Fed. Reg. 36679 (1978).

[11] For 1973-79 model year vehicles, there is no applicable "condition precedent" since these vehicles already have been sold. The in-use portions of the warranty regulations are the post-sale obligations imposed upon manufacturers.

[12] In order to deny waiver of Federal preemption for an enforcement procedure, I must find that California's procedure is inconsistent with section 202(a) of the Act. 42 U.S.C. § 7543(b)(1)(C) (Supp. I 1977).

[13] Sections 2035-2042, Title 13, Cal. Admin. Code, filed January 16, 1979, effective February 16, 1979.

[14] Health and Safety Code § 43204, formerly Health and Safety Code §§ 39156, 39157.

[15] CARB Warranty Regulations, §§2035, 2036(a).

[16] CARB Warranty Regulations, §§2035(c)(2).

[17] CARB Warranty Regulations, §§2035, 2036 (b)-(e).

[18] "Useful life" is defined in § 2035(c)(1) (A)-(F) of the CARB Warranty Regulations.

[19] 43 Fed. Reg. 32182 (1978). The manufacturers had challenged the Administrator's waiver of Federal preemption for California to enforce its in-use maintenance regulations by filing petitions for review in the United States Court of Appeals for the District of Columbia, which the Court disposed of in its opinion of August 3, 1979. *Motor & Equipment Manufacturers Assn. v. EPA*, —— F.2d —— (D.C. Cir. Docket No. 78-1794 decided August 3, 1979). The petitions filed by the Motor & Equipment Manufacturers Association (MEMA), the Automotive Service Industry Association (ASIA), the Motor Vehicle Manufacturers Association of the United States (MVMA), the Chrysler Corporation, and the General Motors Corporation (GM) (Docket Nos. 78-1896, 78-1931, 78-1943 and 78-1944) jointly raised the issues discussed in this waiver decision concerning the Administrator's waiver authority under section 209 of the Act (except for those relating to the Administrator's obligation to consider the antitrust implications of the waiver). The ASIA and the MEMA raised the antitrust arguments in the petition filed in Docket No. 78-1901. The court disposed of all issues raised in those petitions in its August 3 decision.

[20] "California Exhaust Emission Standards and Test Procedures for 1980, and for 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles", as amended September 7, 1978 (hereinafter "1980 Test Procedures").

[21] *See* Amendments to California Exhaust Emission Standards & Test Procedures for 1980 and 1981 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles, adopted February 9, 1979.

[22] If there is no maintenance interval specified for a particular component in 1980 and later model year vehicle classes, the warranty coverage is automatically for the useful life of the vehicle. CARB Warranty Regulations, § 2035.

[23] 44 Fed. Reg. 22807 (1979); 44 Fed. Reg. 23575 (1979) (amended notice of hearing).

[24] 44 Fed. Reg. 22808 (1979).

[25] Testimony was presented at the EPA Hearing on California's Emission Control System Warranty Regulations, May 17, 1979 [hereinafter "May 17 Waiver Hearing"] on behalf of the Chrysler

Footnotes continued on next page

V 44 N 206 OCT 23 1979 UMI

upon the evidence presented by CARB and the manufacturers, I have determined that California's warranty regulations are included within the scope of previous waivers, and are neither standards nor enforcement procedures requiring a separate waiver determination. I also have determined that even if the regulation were deemed to be an enforcement procedure, I could not make the findings required for a denial of waiver of Federal preemption for California to enforce its warranty regulations.

III. Discussion

A. California's Warranty Regulations Are Properly a Subject of Waiver of Federal Preemption

The manufacturers' first argument was that the warranty regulations were not a proper subject for waiver of Federal preemption. The Motor Vehicle Manufacturers Association (MVMA), the Motor and Equipment Manufacturers Association (MEMA), the Automotive Service Industry Association (ASIA), Chrysler Corporation (Chrysler), General Motors Corporation (GM), and American Motors Corporation (AMC) based this argument on the preemption language of section 209(a) of the Act and on the assertion that emission control warranties are implicitly preempted under section 207 of the Act.[26] They argued that the Administrator could waive Federal preemption under section 209(b) for California to enforce only standards and accompanying enforcement procedures, and consequently the section 209(a) prohibitions operate to preempt any other regulation relating to vehicle emission control that is a precondition to sale. The manufacturers contended that to the extent the warranty regulations required approvals for certification, they were deemed to be prohibited by section 209(a) because they established pre-sale approvals relating to control of emissions, and to the extent they would regulate the in-use maintenance of vehicles, they were preempted by section 207 of the Act, in which Congress established an exclusive sphere of Federal regulation regarding warranties. Finally, they argued that California's regulation is inconsistent with Federal warranty requirements under section 207, and therefore, Federal law preempts the California regulation.[27]

The Automotive Parts and Accessories Association (APAA) argued that the regulations could not be the subject of a section 209(b) waiver because they do not relate to control of emissions from new motor vehicles, and therefore do not fall within the scope of section 209(a).[28]

The manufacturers' interpretation of section 209 as preempting any post-sale obligations of manufacturers without opportunity for waiver is inconsistent with the plain language of the Act and has been rejected by the Circuit Court of Appeals for the District of Columbia in the context of the manufacturers' challenge to California's allowable maintenance regulations.[29] My authority to waive Federal preemption, defined by section 209(a), is set forth in subsection (b). Unless I make certain findings under subsection (b), I am required to waive application "of this section" to California, meaning waiver of the prohibitions contained in subsection (a). Therefore, my waiver power under subsection (b) is coextensive with the subsection (a) preemption provision.[30]

Because section 209(a) makes no distinction among different types of in-use performance regulations which operate as enforcement procedures and conditions precedent,[31] the warranty regulations are preempted by subsection (a) to the extent that compliance with certain provisions is a condition for approval to sell the subject vehicles in California. Since the scope of subsections (a) and (b) are coextensive, the regulations may be included within a waiver under subsection (b).[32]

If I were to accept the APPA's argument that the regulations are not covered by subsection (a) because they are not aimed at controlling emissions from new motor vehicles, then a waiver of Federal preemption is not necessary for California in this regard. Section 209(d) of the Act makes clear that the preemption provision is not intended to preempt state regulation other than as expressed in subsection (a).[33] Therefore, regulation of motor vehicles in-use has been left to state control *ab initio*, and to the extent the warranty regulations regulate the in-use performance of motor vehicle emission control systems, California is free to enforce the regulations.[34]

The manufacturers' argument that section 207 of the Act was intended to preempt the field of in-use regulation contravenes the text of the statute, the legislative history and Congress' underlying intent. The language and legislative history of the Act suggest that Congress intended California to regulate in the post-sale warranty area as an incident to its power to adopt and enforce its own emission standards.[35]

For example, section 209(c) preempts states from certifying automotive parts, but specifically excepts a State for which a waiver is in effect under subsection (b) from the preemption.[36] Since the Federal parts certification program was intended to lessen the anticompetitive consequences of warranty obligations, this provision allowing California to adopt or enforce such a program shows that Congress also anticipated that California would adopt the warranty obligations which would necessarily accompany such a program.

The relevant legislative history supports my interpretation that the waiver provision was intended to apply to California's entire program of emissions control.[37] Although the manufacturers bear the burden of demonstrating my interpretation to be unreasonable, they have presented nothing to show that Congress intended section 207 to qualify the broad discretion left to California to adopt a complete emission control program.[38]

Footnotes continued from last page

Corporation (Chrysler), GM, Ford Motor Company (Ford), American Motors Corporation (AMC), Volkswagen of America, Inc. (VW), Saltnes Volkswagen-Subaru, MVMA, MEMA, ASIA, the Aftermarket Parts and Accessories Association (APAA), the Maremont Research and Engineering Corporation (Maremont), the California Automotive Task Force (CATF), Automotive Importers of America (AIA), and CARB. A written statement was submitted by Champion Parts Rebuilders, Inc.

[26] Transcript of May 17 Waiver Hearing [T], 135–137 (MVMA); T 31–32 (MEMA); T 127–130 (ASIA); T 169–171 (Chrysler); T 207, 238 (AMC and GM endorsing MVMA statement). VW conceded that the regulations could be waived because they are emission control measures preempted by section 209 of the Act. T 149.

[27] T 78 (MEMA); T 217 (AMC); T 172 (Chrysler); T 124 (CATF). 42 U.S.C. § 7541(a), (b), (Supp. I. 1977).

[28] T 82–83.

[29] *Motor & Equipment Manufacturers Assn. v. EPA*, *supra* at 19–28.

[30] *Id.* at 19–20.

[31] *Id.* at 21

[32] *See id.* at 20.

[33] 42 U.S.C. § 7543(d) (Supp. I 1977) provides that:

> Nothing in this part shall preclude or deny to any State or political subdivision thereof the right otherwise to control, regulate, or restrict the use, operation, or movement of registered or licensed motor vehicles.

[34] *See Motor & Equipment Manufacturers Assn v. EPA*, *supra* at 19, note 19.

[35] *See id.* at 19–28.

[36] 42 U.S.C. 7543(c) (Supp. I 1977) provides that:

> Whenever a regulation with respect to any motor vehicle part or motor vehicle engine part is in effect under section 207(a)(2), no State or political subdivision thereof shall adopt or attempt to enforce any standard or any equipment of certification, inspection, or approval which relates to motor vehicle emissions and is applicable to the same aspect of such part. The preceding sentence shall not apply in the case of a State with respect to which a waiver is in effect under subsection (b).

[37] *See* H.R. Rep. No. 294, 95th Cong., 1st Sess. 293–94 (1977); S. Rep. No. 403, 90th Cong., 1st Sess. 33–34 (1967); H.R. Rep. No. 294, 95th Cong., 1st Sess. 301–02 (1977); 113 Cong. Rec. 30946–50 (1967).

[38] *See Motor & Equipment Manufacturers Assn. v. EPA*, *supra* at 22, note 22. There, the court indicated

Footnotes continued on next page

This burden is not met by a mere statement of the comprehensive nature of the Federal warranty provisions under section 207, especially when an express preemption provision (section 209(a)) applies.[39]

The manufacturers' assertion also is inconsistent with the purpose of the Clean Air Act, i.e., to regulate pollution from motor vehicles on the road.[40] Congress clearly intended to make manufacturers' warranty obligations a basic part of the Federal motor vehicle emission control program, as shown by its adoption of the warranties under sections 207(a) and 207(b) of the Act. Similarly, California's warranty regulations are a necessary component of the state's emission control program, as they are designed to ensure that vehicle manufacturers are held accountable to vehicle owners for failure of components that cause vehicles to fail to conform to applicable regulations. There is no indication that congress had intended to qualify its support of California's discretion in adopting a complete emission control program by allowing it to adopt standards, certification procedures and test processes, but forbidding adoption of the in-use mechanisms to ensure that pre-sale emission levels continue during vehicle use.[41]

Therefore, I have determined that my waiver authority under section 209(b) extends to California's emission-related warranty to the extent that compliance is a condition precedent to initial retail sale in California.

B. A Separate Waiver Determination Is Not Required

The manufacturers contended that, even if the warranty regulations are subject to waiver, they require a separate waiver determination under section 209(b).

Chrysler, MEMA, APAA and MVMA argued that the regulations could not be included within EPA's previous waiver of California's warranty statute because that waiver decision was made before the 1977 amendments to section 207 of the Act and did not take into account the "new" and "different" requirements from existing warranties, such as coverage of various routine maintenance parts, which are imposed by the regulations.[42] MVMA and VW contended that the warranty regulations raise issues which have never been considered by EPA in prior waiver proceedings.[43] VW cited the costs added by the warranty if a manufacturer elects to certify its vehicles under California's 100,000 mile certification procedure, which EPA did not consider in granting waivers for the underlying standards and enforcement procedures.[44] MVMA and MEMA argued that EPA's waiver for California to enforce its allowable maintenance regulations would not cover the warranty regulations because that waiver was invalid.[45]

Every prempted regulation adopted by California which is relevant to a manufacturer's ability to certify motor vehicles is reviewed by EPA for consideration of whether it would affect the stringency of California's standards or whether it is consistent with section 202(a). If the requirement has no effect on the stringency of the standards or the technological feasibility of meeting the standards and is not an accompanying enforcement procedure, the requirement is deemed to be included within previous waivers for the standards and accompanying enforcement procedures. However, if a requirement, such as the warranty regulations, could not be met in light of technological developments affecting manufacturers' ability to certify motor vehicles that will control pollution for their useful lives, the regulations would affect the basis upon which previous waivers for underlying standards and enforcement procedures were granted, and I would reassess the technological feasibility, lead time, and cost issues, as well as the consistency of Federal and California certification test procedures.[46]

The warranty regulations are not accompanying enforcement procedures. They do not raise new issues relevant to the protectiveness of California's standards or consistency with section 202(a). These issues were addressed in previous waivers for California's standards and accompanying enforcement procedures,[47] and the manufacturers have not presented evidence of how the basis for those waivers would be changed by the warranty regulations.

1. *The Protectiveness Of Standards for Which Waivers Have Been Granted.* California has determined that the warranty regulations will have a significant air quality benefit from repair of many emissions-related defects which do not cause severe driveability problems and which vehicle owners would not be likely to repair unless they were covered by a warranty.[48]

The California Automotive Task Force (CATF) contended that enforcement of the regulations would be detrimental to air quality in California because less maintenance would be performed on vehicles in-use.[49] GM similarly argued California must reexamine its "protectiveness" determination in light of EPA's recent regulatory proposal for an emission performance warranty, since the State had based its determination on the "lack of equivalent [Federal] regulations to implement the corresponding Federal emissions warranty."[50]

The CATF, GM, and other manufacturers assert that California must adequately support its "protectiveness" determination in order to be granted a waiver.[51] However, EPA and the courts have interpreted the Act

---

Footnotes continued from last page

that although the legislative history of the waiver provision contained no direct reference to the issue of waiving in-use maintenance regulations, there were overwhelming indications that Congress intended California to enjoy broad discretion in selecting a complete emission control program. The Administrator need not support his use of the waiver power in view of the opponents' burden to show his interpretation to be unreasonable.

[39] *See id.* at 20, note 20. This argument about section 207 circumscribing the waiver power was fairly characterized as an "implied preemption" argument by respondents and the reviewing court in the maintenance suit, and the court concluded that section 209(b) contained no implied restrictions on the Administrator's waiver power. *See id.*

[40] *See id.* at 21–22.

[41] *See id.* at 21.

[42] T 137 (MVMA); T 33–35 (MEMA); T 87 (APAA); T 171–173 (Chrysler); *see also* T 124 (CATF). *See, e.g.* T 63 (MEMA citing lengthy parts list in California's regulations and "broad" Federal 207(a) warranty with no parts list or minimum maintenance intervals); T 171 (Chrysler citing lack of requirement in existing warranties to repair routine maintenance items).

[43] T 139 (MVMA); T 150–151 (VW).

[44] T 150–151.

[45] T 138 (MVMA); T 35 (MEMA) (referring to waiver decisions of July 17, 1978 and March 8, 1979 on California's allowable maintenance regulations).

[46] If the Federal and California test procedures impose inconsistent certification requirements, the California procedures are deemed not to be consistent with section 202(a). I could not make such a finding with regard to California's limitations on allowable maintenance. 43 Fed. Reg. 32183 (1978). Because the warranty regulations do not add any testing requirements but merely reference the allowable maintenance restrictions and add document-related approval requirements, I cannot make such a finding with regard to California's warranty regulations.

[47] 43 Fed. Reg. 32182 (1978). For those classes of vehicles covered by the warranty regulations and not covered by the allowable maintenance regulations, the maintenance schedules followed during Federal certification define the limitations on maintenance which may be required of the vehicle owner (i.e., 1973–79 model years). *See* note 91 and accompanying text; CARB Warranty Regulations §§ 2035. Waivers granted for the 1980 and later model year standards and test procedures addressed the technological feasibility of certifying the vehicles to meet the applicable standards for their useful lives. See *supra* note. 9.

[48] State of California, Air Resources Board, *Staff Report 78–24–2*, November 13, 1978 at 10.

[49] T 118, 123. I must reject the CATF's argument that CARB must show a demonstrable improvement in air quality (T 118) since it is the manufacturers' burden to show the CARB protectiveness determination is arbitrary and capricious. *See Motor and Equipment Manufacturers Association v. EPA*, *supra* at 48–50.

[50] T 240–43.

[51] T 239–40 (GM); T 124 (CATF); T 140 (MVMA).

V 44 OC 23 79 UMI

to require the waiver *opponents* to present clear and compelling evidence that California's proposed regulations undermine the protectiveness of its standards.[52]

I cannot find sufficient evidence to support the argument that the warranty regulations would cause California's underlying standards to be less protective. The manufacturers' objections are based on a comparison of the protectiveness of California and Federal warranties, which is not relevant to my review of the State's adoption of an enforcement procedure.[53] Rather, my consideration of the warranty regulations goes to whether they would cause California's standards, for which a waiver already has been granted, to be less protective. The only arguments presented by the manufacturers that would go to support such a finding is their allusion to data indicating that vehicle emission performance improves with performance of more frequent maintenance operations,[54] in combination with their unsupported predictions that the warranty will cause vehicle owners to perform less in-use maintenance.[55] However, this argument ignores the intended effect of the warranty regulations when operating in combination with the limited maintenance intervals of the in-use maintenance regulations—to force the manufacture of more durable components that will not require maintenance for extended periods.

Therefore, my determination that the in-use maintenance regulations would not undermine California's "protectiveness" determination for its underlying standards applies as well to the warrantly regulations, since they embody the maintenance regulations.[56]

2. *Consistency with Section 202(a).* Similarly, the only "consistency" issues raised by the manufacturers with regard to the warranty regulations was their alleged inability to produce components that will last for the required maintenance intervals during normal vehicle use and the associated costs.[57] California's allowable maintenance regulations established the requirement that manufacturers produce emission control components that would last for either the allowable maintenance interval or the vehicle's useful life by restricting the maintenance manufacturers could require of vehicle owners.[58] The warranty regulations incorporate the intervals by reference, and do not modify them in any way.[59] There merely provide an economic incentive for manufacturers to design components to be as durable as required under the in-use maintenance regulations. However, it was argued that, due to California's allegedly unreasonable in-use maintenance intervals and the manufacturers' inability to produce components that will not wear out before the required maintenance interval, significant quantities of warranted parts will fail even though they are not defective. Chrysler contended that, since California's warranty will cover parts such as belts and hoses that will wear out during normal use, the manufacturers will have to bear unreasonable costs asociated with their warranty liability.[60]

VW argued that, although it cannot state that it is technologically infeasible to certify vehicles under California's optional 100,000 mile certification procedure, VW is unwilling to warrant the vehicles for 10 years or 100,000 miles when it does not know what the costs will be.[61] VW also stated that its assessment of the costs associated with warranties covering post-1976 model year vehicles will determine whether 1980 model year California vehicles will be certified and warranted.[62]

However, no manufacturer was able to submit data on the expected component failure rates or on the increased costs imposed by California's warranty regulation.[63] Some manufacturers claimed that they will not have any specific data on the incremental costs of compliance until they are able to gain field experience under the regulations.[64] While the maufacturers cannot be expected to present in advance the precise cost impacts, I do not deem general and conclusory statements on increased costs to be sufficient evidence that the regulations would change the basis for my previous findings with respect to the costs of compliance with the allowable maintenance regulations. In addition, VW's use of a cost assessment under existing warranties as a basis for its decision to warrant its vehicles under California's regulations indicates that existing warranties impose similar liabilities upon the manufacturers that the warranty regulations would impose. In view of the manufacturers' burden to establish by a "preponderance of the evidence" that the regulations are inconsistent with section 202(a),[65] there is no basis upon which to change my previous findings.

One manufacturer complained that there was insufficient lead time to develop and print owners manuals to comply with the regulations.[66] However, CARB has stated that all vehicle manufacturers planning to certify 1980 models in California have submitted warranty statements to CARB, and CARB does not foresee any problems in approving them in time for use with 1980 models.[67]

Only one manufacturer raised the problem of inadequate lead time remaining within which to develop the requisite technology. AMC claimed that it has not been able to upgrade the durability of fuel filters and rubber parts, such as belts and hoses, to last 5 years or 50,000 miles, without the need for inspection or replacement.[68] Again, this issue has been addressed in the context of California's allowable maintenance regulations, and AMC has not presented any evidence to show why the basis for my lead time determination with regard to those regulations has been changed.

In summary, the issues of whether it is technologically feasible to design parts for longer maintenance intervals and of what it will cost to do this under the assumption that the intervals would be enforced through a warranty program have been reviewed in connection with the waiver requests for the maintenance regulations.[69] The manufacturers have not presented evidence on why the warranty regulations would make it more infeasible or costly for them to certify and produce vehicles under the maintenance limitations.[70]

Therefore, there is no basis for me to readdress the findings made in previous waivers for California standards and accompanying enforcement procedures, and I must deem California's warranty regulations to be a condition precedent to initial retail sale for which Federal preemption already has been waived.

C. The Waiver Criterio Are Met

In conjunction with their argument that the warranty regulations require a separate waiver determination, the manufacturers contended that I must make all the statutory findings under section 209(b) since the regulations are "standards", or at least "enforcement procedures". Further, they argued that because the regulations do not independently meet the waiver criteria, I may not grant a waiver of Federal preemption.

If California's regulations were deemed to be "standards", I would be required to grant a waiver unless I could find that: (1) California's determination that its standard will be, in the aggregate, at least as protective of public heaith and welfare as applicable Federal standards is arbitrary and capricious, (2) that the State does not need such standards to meet compelling and extraordinary conditions, or (3) the standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.[71] If I deemed the regulations to be "accompanying enforcement procedures," I would be required to grant a waiver unless I could find that the regulations may cause California's standards, in the aggregate, to be less protective of public health and welfare than applicable Federal standards or that the regulations are not consistent with section 202(a) of the Act.[72]

I must reject the manufacturers' argument that the regulations are "standards". MEMA's reasoning that they are standards because they were designed to affect the amount of pollutants emitted from vehicles,[73] and because the Act defines "standard" as a method to assure continuous emission reduction, [74] already was rejected in my waiver of Federal preemption for California's maintenance regulations,[75] and also was rejected by the court reviewing that waiver decision.[76] Because the warranty regulations do not allocate the relative risks involved with various pollutants by establishing numerical values on allowable emissions of the described pollutants, they are not standards under section 209(b).[77]

Having determined that the warranty regulations are not standards, I must reject the manfacturer's argument that I must apply all section 209(b) waiver criteria.[78] I need not address the first two waiver criteria of section 209(b) because the protectiveness determination California must make to request a waiver and the need finding I must make to deny one are both expressly by statute and logically associated only with standards.[79]

Some manufacturers argued, in the alternative, that the warranty regulations are enforcement procedures because they are relevant to a manufacturer's ability to certify motor vehicles.[80] They argued that the regulations do not meet the waiver criteria applicable to enforcement procedures because they are inconsistent with section 202(a) of the Act.[81]

The manufacturers argued that the warranty regulations are inconsistent with section 202(a) because it is not technologically possible to manufacture components that will not wear out during the prescribed maintenance interval or useful life of the vehicle under normal conditions of use.[82] Because the maintenance intervals define warranty coverage, the manufacturers cite the cost added by the warranty regulations as the principal basis for technological infeasibility.[83]

The warranty regulations are not accompanying enforcement procedures since they present no new issues relevant to the protectiveness of California's standards or consistency with section 202(a). Even if I were to treat California's warranty regulations as accompanying enforcement procedures, I would be required to grant California a waiver of Federal preemption because, as previously stated, the relevant issues were addressed in a previous waiver decision, and there is insufficient evidence for me to find that the regulations would undermine California's determination that the underlying standards, in the aggregate, will be as protective of public health and welfare as the applicable Federal standards, or that the regulations are inconsistent with section 202(a) of the Act.[84]

D. Constitutional Considerations

EPA traditionally has regarded constitutional issues to be beyond its scope of review under Section 209 of the Act, and this view has been upheld by reviewing courts.[85] Although I cannot base a waiver denial on these grounds, I will address several constitutional claims raised by the manufacturers.

Several manufacturers challenged the regulations on the ground that retroactive application of certain portions of the regulations would violate due process of law. Because the regulations apply to 1973 and later model year vehicles, the manufacturers contend that the regulations will retroactively change their warranty agreements with customers already in effect for the earlier models.[86]

---

[52] The manufacturer's argument that CARB bears the burden of showing its regulations to be "as protective" has been argued and rejected in the context of the allowable maintenance waiver decisions. *See Motor and Equipment Manufacturers Association v. EPA, supra* at 48–53.

[53] T 243 (GM); T 198 (Chrysler); T 150 (MVMA).

[54] T 243 (GM).

[55] *See, e.g.*, T 118 (CATF).

[56] 43 FR 32182, 32183 (1978); CARB Warranty Regulations, §§ 2036(b), 2037(c).

[57] *See* T 44, 52 (MEMA opinion that technological feasibility has not been shown); T 91 (APAA incorporating by reference other manufacturers' arguments); T 141 (MVMA stating there was no demonstration by CARB that regulations were technologically feasible). These arguments merely raised the issue of who bears the burden of proof on technological infeasibility which was subsequently resolved against the manufacturers in *Motor Vehicle Manufacturers Association v. EPA, supra* at 48–50. The manufacturers who argued cost-related technological infeasibility were unable to support their claims. *See* T 154, 155, 158–161 (VW); T 185, 199–201 (Chrysler citing unreasonable maintenance interval as cause of expected parts failures and resulting cost increase); T 221–22, 223–27 (AMC citing design changes necessary to comply with extended in-use maintenance intervals); note 64 *infra*, and accompanying text.

[58] *See* 1980 Test Procedures ¶¶ 3e, 3f, 3g, and 3h.

[59] *See* CARB Warranty Regulations §§ 2036(b), 2037(c).

[60] T 199–201.

[61] T 158. VW emphasized that its objections related only to the post-50,000 mile useful life requirement under the optional 100,000 mile certification procedure for the alternate standard for oxides of nitrogen.

[62] T 164. VW qualified its statement with the condition that certification be technologically possible. T 163.

[63] *See supra* note 55 and accompanying text.

[64] T 221 (AMC); T 161 (VW); letter from Michael W. Grice. Chrysler, to Benjamin R. Jackson, EPA. June 15, 1979, at 2.

[65] *See Motor and Equipment Manufacturers Association v. EPA, supra* at 53.

[66] T 180 (Chrysler).

[67] Letter from Kathleen Kahn, Staff Attorney, CARB, To Charles Freed, Mobile Source Enforcement Division, EPA, June 13, 1979 [hereinafter "CARB June 13, 1979 letter"] at 3.

[68] Letter from William C. Jones, AMC, to Benjamin R. Jackson, EPA, and attachment (supplemental response), June 13, 1979 [hereinafter "AMC Post-Hearing Submission"].

[69] *See* 43 Fed. Reg. 32182 (1978).

[70] *See* T 158–168 (WV); T 201 (Chrysler); Chrysler Post-Hearing Submission at 2; T 221 (AMC); T 111 (Maremont); T 144 (MVMA).

[71] 42 U.S.C. § 7543(b)(1) (A), (B) (Supp. I 1977).

[72] *Id.* § 7543(b)(1)(C). *See* 43 Fed. Reg. 32183 (1978); *Motor and Equipment Manufacturers Association v. EPA, Supra* at 34.

[73] T 38.

[74] T 35.

[75] 43 Fed. Reg. 32183 (1978).

[76] *See Motor and Equipment Manufacturers Association v. EPA, supra* at 32–33 (upholding the Administrator's distinction between "standards" and "enforcement procedures" in definition and in the context of a waiver proceeding).

[77] *See id.* at 31–32.

[78] T 153 (VW); T 42 (MEMA); T 89 (APAA); T 140 (MVMA) T 207 (AMC); T 239 (GM).

[79] *See Motor and Equipment Manufacturers Association v. EPA, supra* at 32, 33.

[80] *See, e.g.* T 37 (MEMA).

[81] T 140 (MVMA); T 179–80 (Chrysler). One manufacturer argued that the regulations are not enforcement procedures because they are not designed to monitor or determine compliance with standards. T 88 (APAA).

[82] *See, e.g.*, T 185–86, 299–201 (Chrysler).

[83] T 199, 201 (Chrysler); T 158–161 (VW).

[84] See notes 42–80 and accompanying text.

[85] See *Motor and Equipment Manufacturers Association v. EPA, supra* at 35–37.

[86] T 175 (Chrysler); T 141–145 (MVMA).

V 4 4 0 C 2 3 7 9 UMI

California's regulations do not change vehicle manufacturers' existing warranty obligations. CARB has stated that because the allowable maintenance intervals do not apply to the 1973–79 model years, a manufacturer may hold a customer to performance of whatever maintenance was reasonably required by the instructions issued when the car was sold initially.[87] Although Chrysler contended that this may result in unequal treatment among manufacturers,[88] no manufacturer was able to state that California's 1972 warranty statute and existing Federal warranties did not already impose such a condition of manufacturer liability.[89] CARB contended that its existing warranty statute has already imposed all obligations now specifically defined under the warranty regulations.[90]

Three manufacturers attempted to show that California's regulations cover more parts than do existing Federal or State statutes. Although other manufacturers were unable or unwilling to differentiate between parts covered by the Federal defect warranty under section 207(a) of the Act and California's warranty,[91] GM, Chrysler and AMC cited their company policies under current Federal warranty obligations as support for their argument that the Federal defect warranty is not as broad as California's regulations.[92]

Although the manufacturers were able to cite discrepancies between existing warranty policies and California's regulatory requirements,[93] the extent of coverage under their existing warranties is not conclusive evidence of the extent of coverage under the Federal section 207(a) defect warranty. Federal warranty coverage under section 207(a), which premises coverage on defects causing a vehicle to exceed standards, is to be defined by EPA in future rulemaking, and may result in broader coverage than California's regulations.

Chrysler claimed that CARB's "reasonably required maintenance" standard for 1973–79 models will result in unequal treatment among vehicle manufacturers.[94] I cannot determine at this time whether CARB will treat manufacturers unequally in applying the "reasonably required maintenance" standard to 1973–79 models. In any case, the manufacturers may challenge CARB's application of the standard to particular manufacturers or circumstances in the California courts.

In summary, I cannot refuse to allow California to enforce its warranty regulations on the grounds that they are constitutionally defective. However, the manufacturers are assured a forum for their contentions in the courts through a petition for review of this decision.[95]

E. Antitrust Considerations

The manufacturers have argued that I should not grant California a waiver to enforce its warranty regulations because the regulations would have serious anticompetitive effects on consumers, independent service establishments and the aftermarket industry.[96] MEMA contends that I cannot grant a waiver because I must consider the anticompetitive effects in determining whether the regulations are consistent with the "public health and welfare" clause of section 202(a), since that phrase includes economic values.[97] APAA contends that EPA may not substitute its own or California's judgment in an area where Congress explicitly addressed the potential anticompetitive effects of emission control warranties.[98] Both the APAA and the Federal Trade Commission (FTC) cited Congress' treatment of allocation of responsibilities and burdens under section 207 of the Act to show that California has not properly addressed the potential anticompetitive effects.[99]

There is no express provision in section 209 or elsewhere in the Act requiring me to assess general claims of anticompetitiveness in my consideration of waivers.[100] Although I must be sensitive to section 207 concerns in approaching a waiver decision, I have no duty beyond that to consider claims of anticompetitiveness in a waiver proceeding.[101]

The APAA and the FTC objected to California's failure to adopt provisions comparable to those adopted by Congress in section 207 to address anticompetitive concerns.[102] For example, they argued that the regulations would adversely impact the aftermarket parts and service industry because they lacked a provision, such as the Federal certified parts provision of section 207(a)(2), to assure the owner that using any certified replacement part would not affect warranty coverage.[103] The FTC also cited the protective procedural provisions for consumers that EPA has proposed in its regulations to implement section 207(b) of the Act as evidence that California's regulations fail to protect the vehicle owner from warranty station's efforts to avoid liability by claiming abuse, neglect or improper maintenance by the vehicle owner.[104] The APAA and FTC cited other deviations from the Federal 207(b) warranty, such as the broader scope and longer duration of coverage under California's regulations.[105]

Both the APAA and the FTC have assumed incorrectly that California's regulations would displace completely all related Federal warrantly provisions. They also apparently have confused two warranty concepts, defect and performance warranties, to which different procedures apply in determining warranty coverage.

Section 207(a) of the Act imposes a "defect" warranty obligation on manufacturers under which they must warrant to purchasers that each new vehicle is designed, built and equipped to conform to Federal emission standards, and is free from defects in materials and workmanship which cause the vehicle to fail to conform to standards for its useful life (5 years or 50,000 miles).[106] Section 207(b) imposes emission "performance" warranty obligations, requiring a vehicle manufacturer to repair the emission control device or system of each vehicle which fails an EPA-approved emissions short test during its useful life if the owner is subject to a penalty or sanction because of the short test failure and if the owner has maintained and operated the vehicle in accordance with the manufacturer's written instructions.[107] EPA has proposed regulations under section 207(b) establishing procedures for the warranty covering emission control system performance,[108] as well as regulations for a voluntary aftermarket parts certification program.[109]

California has characterized its warranty statute as authorizing establishment of both defect and performance warranties,[110] and has concluded that it has utilized the defect warranty concept in its warranty regulations since there must be a finding of defect, i.e., failure of a specific part during the first scheduled replacement period, in order for the manufacturer to be liable for any repair costs.[111] The APAA contends that the regulations establish a performance warranty because the "failure" means that the part failed to meet a specific level of performance (the applicable emission standard) required by the idle emissions test under California's Motor Vehicle Inspection Program (MVIP).[112] However, failure of the MVIP test does not determine warranty coverage, although it may detect part failures which may be warrantable.[113] Under California's scheme, a warranty station must identify whether the test failure was caused by failure or malfunction of a warranted part before the manufacturer is liable for diagnostic or repair costs.[114] On the other hand, the section 207(b) performance warranty is triggered by failure of a short test correlatable with the Federal Test Procedure (FTP), and I have not yet established these tests or identified California's MVIP test to be correlatable with the FTP.[115] Therefore, under the warranty regulations the MVIP test serves to detect part failures which may be warrantable defects rather than to determine whether a vehicle meets the applicable emission standards.[116]

Because a condition for recovery under the emission performance warranty is that the vehicle be maintained and operated in accordance with the written instructions for the proper maintenance and use of the vehicle, EPA's proposed section 207(b) regulations include procedures for determination of proper maintenance.[117] Under California's regulations, the manufacturer must demonstrate abuse, neglect or improper maintenance in order to disallow a warranty claim.[118] Therefore, use of the procedures proposed by EPA, as suggested by the FTC, would be inappropriate under California's warranty.

All Federal regulations adopted under section 207(b) which are not inconsistent with California's warranty regulations are operative in California, regardless of waiver of Federal preemption.[119] The "certified parts" provision, as well as the Federal emission performance warranty, are not displaced in California by its warranty regulations because the only inconsistency between California and existing or proposed Federal regulations under section 207 concerns the manufacturers' maintenance instructions. Therefore, California's failure to adopt provisions comparable to those proposed by EPA under its emission performance warranty regulations does not undermine Congress' efforts to mitigate the anticompetitive effects of emission control system warranties.

The FTC's objection to California's warranty extending to parts not installed primarily to reduce emissions, and for a period of 5 years or 50,000 miles (whichever first occurs), stems from an apparent confusion between the intended difference in scope and duration of warranty coverage under defect and performance warranties.[120] Under the Federal scheme, section 207(a) defect warranty obligations may extend to any part which causes the vehicle to exceed emission standards for the useful life of the vehicle, defined as 5 years or 50,000 miles, whichever first occurs.[121] The number of parts required to be covered by the defect warranty has not yet been prescribed by regulation. On the other hand, the Federal performance warranty is limited under section 207(b) to the "emission control device or system,"[122] which also may be those parts covered by section 207(a) for the first 24 months or 24,000 miles. However, after the first 24 months or 24,000 miles, the Act specifically limits "emission control devices or systems" under the section 207(b) warranty to a catalytic converter, thermal reactor, or other components installed for the sole or primary purpose of reducing emissions, which were not in general use prior to the 1968 model year.[123]

California's warranty regulations are not similar to the section 207(b) performance warranty because coverage is not triggered by failure of a short test for which sanctions may be imposed, assuming owner compliance with maintenance instructions. In California, there must be a finding of defect in the components covered, in addition to a failure of the MVIP test; therefore, limiting the warranty to parallel the scope and duration of the Federal section 207(b) performance warranty would have been inconsistent with the Federal scheme.

The FTC and several manufacturers also objected to the CARB provision requiring that repair or replacement of any "warranted part" be performed at a service establishment authorized by the vehicle or engine manufacturer to perform warranty repairs ("warranty station"), except in the case of an emergency.[124] They argued that vehicle manufacturers would be likely to designate their franchised dealerships as the exclusive warranty stations, and that consumers would have routine maintenance and repairs unrelated to the warranty performed y the dealerships to protect the warranty, and for convenience. It was argued that such reliance on dealer service and original equipment parts would result in loss of business by independent repair facilities and their suppliers.[125] Statistics on owner's use of dealer versus independent facilities in the course of a vehicle's life were presented as support for their argument that dealers would

---

[87] CARB June 13, 1979 letter, at 4.

[88] T 176.

[89] *See, e.g.*, T 146 (MVMA).

[90] CARB March 12, 1979, letter at 1–2; CARB June 13, 1979, letter at 4.

[91] *See, e.g.* T 65–66 (MEMA).

[92] AMC Post-Hearing Submission; letter from Michael W. Grice, Chrysler, to Benjamin R. Jackson, EPA, and attached Warranty Policy and Procedure Manual, June 15, 1979; letter from T. M. Fischer, GM, to Benjamin R. Jackson, EPA, & Attachments I–IV, June 18, 1979.

[93] Letter from Marc L. Fleischacker to Benjamin R. Jackson, EPA, Attachments 4, 5 (June 5, 1979).

[94] T 176–177.

[95] *See Motor and Equipment Manufacturers Association v. EPA, supra* at 36–37.

[96] T 43–44 (MEMA); T 84–88 (APAA); Comments of APAA Regarding EPA Waiver for California Emissions Warranty Regulations, [hereinafter "APAA Statement"] 6–16; T 114–15 (Maremount); T 118–119 (CATF); ASIA Statement submitted for May 17, 1979 Hearing on Warranty Regulations.

[97] T 48–49. This argument was rejected in the court's review of the allowable maintenance waiver decision. *Motor and Equipment Manufacturers Association v. EPA, supra*, at 42–46.

[98] APAA Statement, 13–16.

[99] APAA Statement, 6–18; Comments of the Federal Trade Commission Regarding California's Automobile Emission Control System Regulations, June 15, 1979 [hereinafter "FTC Comments"].

[100] *See Motor and Equipment Manufacturers Association v. EPA, supra*, at 39.

[101] *See id.*

[102] FTC Comments, 10–11, 13–14; APAA Statement 6–16.

[103] FTC Comments, 9; APAA Statement 8.

[104] FTC Comments, 14–18.

[105] FTC Comments, 10–11; APAA Statement 6–16.

[106] 42 U.S.C. 7541(a) (Supp. I 1977). Section 207 refers to section 202 for its definition of "useful life," which section 202 defines as five years or fifty thousand miles, whichever first occurs, for light-duty vehicles and engines. *Id.* § 7521(d).

[107] 42 U.S.C. 7541(a) (Supp. I 1977). Before imposing a performance warranty, I am required to find that there are methods and procedures which accord with good engineering practices and which are capable of correlation to the certification process that can ascertain whether new motor vehicles in actual use comply with the section 202 standards for their useful life.

[108] 44 Fed. Reg. 23784 (1979).

[109] 44 Fed. Reg. 46686 (1979).

[110] *See* State of California, Air Resources Board, *Staff Report 78–3–1*, February 22, 1978, 6.

[111] *See id.* at 7–8.

[112] APAA Statement 3–5, Post-Hearing Comments of the APAA Regarding EPA Waiver for California Emissions Warranty Regulations, June 15, 1979, at 3–4; *See* State of California Air Resources Board, *Staff Report 78–24–2*, November 13, 1978–9; CARB Warranty Regulations § 2039. Under this program, each vehicle which changes ownership will be required, beginning in 1979, to undergo an inspection at a state-operated inspection center. Emission control components that become inoperative due to a defect and not to neglect, abuse, improper maintenance or tampering, would be covered by the warranty.

[113] State of California Air Resources Board, *Staff Report 78–3–1*, February 22, 1978, 8.

[114] *See* California Warranty Regulations § 2039(a)(1).

[115] *See* 44 Fed. Reg. 23784, 23785, 23788 (1979).

[116] State of California Air Resources Board, *Staff Report 78–3–1*, 5.

[117] *See* 44 Fed. Reg. 23784, 23788–23790, 23796 (1979).

[118] CARB Warranty Regulations §§ 2039(a), 2041(a), 2031(b).

[119] *Cf. Confederated tribes of Colville Indian Reservation* v. *State of Washington* 412 F. Supp. 651 (D.C. Wash. 1976).

[120] *See* FTC Comments 10–11; APAA Statement, 6–7, APAA Statement 37–48.

[121] 42 U.S.C. § 7541(a)(1) (Supp. I 1977); *See generally* 44 Fed. Reg. 46686 (1979).

[122] 42 U.S.C. § 7541(b) (Supp. I 1977).

[123] *Id.* § 7541(b)(2)(C).

[124] FTC Comments 6–7, APAA Statement 37–48.

[125] *Id; See* Statement of the Maremont Corporation, 1–2.

V 44 OC 23 79 UMI

gain a disproportionate share of the market for maintenance work and replacement parts.[126]

These arguments previously were raised in CARB proceedings,[127] and CARB has stated that the regulations may, to a limited extent, increase the share of the aftermarket business performed by dealers, adding that this potential effect was accepted and endorsed by the California legislature in choosing to have emission-related defects repaired under warranty.[128] In addition, although CARB viewed the economic concerns of the aftermarket industry to be somewhat exaggerated,[129] it has attempted to mitigate the potential impacts where possible. For example, it has provided that scheduled maintenance may be performed at any repair facility without limiting the warranty, and that any replacement part may be used in the performance of any maintenance or repairs without reducing the manufacturer's warranty obligations.[130] The regulations also provide that warranty repairs may be performed at any service facility, using any replacement part, when a "warranty station" or "warranty part" is not reasonably available to the owner.[131]

CARB's approach to the manufacturers' designation of who may perform warranty repairs is reasonable and consistent with EPA's position on this issue.[132] CARB had considered the request of the independent service industry and aftermarket parts manufacturers to provide for their participation in the warranty repair business; however, CARB believed that such an allowance would be prohibited by Federal[133] and State[134] consumer laws which set forth the right of a warrantor to reasonably specify where and in what manner a warranty claim may be honored.[135] Also, while the regulations permit manufacturers to designate warranty stations, they do not grant manufacturers the right to designate warranty stations in an anticompetitive manner, nor do they exempt manufacturers from applicable antitrust laws.[136]

Some manufacturers argued that the regulations would result in increased costs in new vehicle prices, due to additional engineering and manufacturing expenses, and increased repair costs as business is diverted to dealers, and as expensive component replacement is performed where minor repairs presently are appropriate.[137] Other manufacturers argued that adequate assessment of the anticompetitive and cost impacts of the regulations should be completed before the regulations are enforced.[138]

CARB has disagreed with the bases for some manufacturers' particular cost increase projections,[139] and has presented other data to support its view that the potential cost impacts would be lower than those projected by manufacturers.[140]

While there may be some anticompetitive impacts from CARB's regulations, and while there is disagreement on the potential economic impacts on businesses and consumers, it appears that CARB has taken reasonable steps to address the manufacturers' concerns. In addition to modifying the regulations in certain instances,[141] it has directed the Executive Officer to establish an advisory group to study the economic impact of the regulation.[142] The advisory group is expected to issue its findings in the near future,[143] and CARB may choose to take appropriate action.

In summary, the above objections do not constitute grounds for denying California a waiver, and also fall within the EPA practice of leaving the decision on controversial matters of public policy to California's judgment.[144]

[125] APAA Statement 38–48; Letter to Douglas Costle, EPA, from John Goodman, CATF, June 14, 1979, & Attachment.

[127] CARB *Staff Report 78–3–1*, January 23, 1978, at 84–94.

[128] *Id.* 84–85.

[129] *Id.* 86.

[130] CARB Warranty Regulations § 2037(i)

[131] *Id.* § 2037(d).

[132] 44 Fed. Reg. 23784, 23792 (1979).

[133] 15 U.S.C. 2302(c) (Magnuson-Moss Warranty Act)

[134] California Civ. Code § 1793.2 (Song-Beverly Consumer Warranty Act).

[135] CARB *Staff Report 78–3–1*, January 23, 1978, 85–86

[136] *See* CARB Warranty Regulations § 2037(d).

[137] Statement of Champion Parts Rebuilders, Inc., May 18, 1979, at 1; Statement of Maremont Corporation, May 17, 1979, at 2; APAA Statement 40–45; Letter from Dennis D. Brown, KEM Manufacturing Company, Inc., to Benjamin R. Jackson, EPA, June 14, 1979.

[138] Letter from Walter M. Miller, Automotive Controls Corporation, to Benjamin R. Jackson, EPA, June 4, 1979, at 2–3.

[139] State of California, Air Resources Board, *Staff Report 78–3–1*, January 23, 1978, at 91–93.

[140] Letter from Lois Erskine, CARB, To Maureen Smith, EPA, June 13, 1979 (requesting study by Center for Auto Safety, "Consumer Benefits of 5 year/50,000 Mile Emission Control Warranty," Feb 15, 1977, to be entered in record); CARB June 13, 1979, letter at 3.

[141] *See* State of California, Air Resources Board, *Staff Report 78–24–2*, November 13, 1978, 3–8.

[142] State of California, Air Resources Board, *Resolution 78–55*, December 14, 1978.

[143] CARB June 13, 1979, letter at 3–4.

[144] *See, e.g.*, 43 Fed. Reg. 25729, 25736 (1978).

IV. Findings and Decisions

Having given due consideration to the record of the public hearing of May 18, 1979, all material submitted for this record and other relevant information, I find that the regulations adopted by CARB with regard to new motor vehicle warranties fall within the scope of waivers currently in effect, and therefore, do not require a separate waiver. In addition, I find that I am unable to make the determinations required for a denial of a waiver under section 209(b) of the Act, and therefore deem Federal preemption under section 209(a) of the Act to be waived with respect to the following sections of Title 13 of the California Administrative Code:

Sections 2035–2042, adopted on December 14, 1978, filed January 16, 1979, and effective February 16, 1979, applicable to 1973 and later model year motorcycles, light-duty, medium-duty and heavy-duty motor vehicles and motor vehicle engines.

My decision will affect not only persons in California but also manufacturers and industries located outside the State who must comply with California's regulations in order to sell the subject vehicles in California. For this reason, I hereby determine that this decision is of nationwide scope and effect.

A copy of the above regulations, as well as the record of the hearing and the documents used in arriving at the decision, is available for public inspection during normal working hours (8:00 a.m. to 4:30 p.m.) at the U.S Environmental Protection Agency, Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street, S.W., Washington, D.C. 20460. Copies of the warranty regulations also are available upon request from the California Air Resourses Board, 1102 Q Street, Sacramento, California 95812.

Dated: October 15, 1979.

Douglas M. Costle,
Administrator.

[FR Doc. 79-32829 Filed 10-22-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1344-7]

Federal Radiation Protection Guidance on Dose Limits for Persons Exposed to Transuranium Elements in the General Environment

AGENCY: Environmental Protection Agency.

ACTION: Federal Radiation Protection Guidance on Dose Limits for Persons Exposed to Transuranium Elements in the General Environment—Publication of Technical Report entitled "Response to Comments."

DESCRIPTION: The Environmental Protection Agency (EPA) published a notice and text of the proposed Federal Radiation Guidance in the Federal Register on November 30, 1977 (42 FR 60956–9). Comments were invited from all interested persons, organizations, and other parties.

EPA has prepared detailed responses to all comments received on the proposed action. These are given in Technical Report EPA 520/4–78–010. The document also contains additional technical materials related to Guidance implementation, costs of remedial actions, risk due to inhalation of soluble transuranium elements, a technical assessment of the impact of contamination at the Rocky Flats Plant, and an evaluation of various soil sampling and analysis methods.

Single copies of this document are available on request from the address below or from any EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: Dr. Gordon Burley, Chief, Environmental Standards Branch, Criteria and Standards Division, Office of Radiation Programs (ANR–460), U.S. Environmental Protection Agency, Washington, D.C. 20460, Telephone Number 703–557–8610.

SUPPLEMENTARY INFORMATION: Persons and organizations who responded to the request for comments on the proposed Guidance primarily questioned specific technical details, pointed out inadequacies as they saw them, asked for more detailed information on the basis for the numerical recommendations, or recommended alternative implementation procedures. All comments were evaluated, technical experts were consulted as appropriate, and detailed responses were prepared. As a result, the technical justification for the Guidance was greatly expanded, and the text of the Guidance was modified for purposes of clarification.

The Agency responded as follows to the major points raised:

1. In response to comments questioning both the validity of data and the assumptions used to derive the maximum risk to which members of the public could be subjected as a result of lifetime exposure at the Guidance limits, the Agency noted that the dose-risk relationships used were based on the 1972 report of the National Academy of Sciences Advisory Committee on the Biological Effects of Ionizing Radiation, as well as on more recent reports in the technical literature, and that the calculation performed represented a consensus judgment of the best available information. In response to comments questioning the use of calculations based on insoluble compounds in assessing the hazard for inhalation exposures, the Agency evaluated the effect of the soluble (Class W) compounds and found that the estimated overall risks to an individual are similar for the two assumptions.

2. In response to many comments concerned with the very limited economic evaluation, the Agency prepared a much more detailed analysis of the impact of the Guidance for both existing contaminated areas and possible future incidents. The Department of Energy provided much useful information which was included in the new analyses.

3. In response to comments related to the possible inequity of applying the same maximum individual dose limits to contamination in all parts of the country without a detailed consideration of population densities in each case, the Agency further evaluated the impact of such a conclusion. It concluded that the cumulative risk to the population at all existing contaminated areas is small, and that, therefore, protection of the individual is of much greater importance. It also concluded that the requirement that control actions be taken for all future incidents of contamination to ". . . minimize . . . exposure of the general public" provided adequate assurance that population impacts would be given proper consideration in that case.

4. In response to several comments concerned with the possibility that the Agency was initiating a policy of "dose allocation," or apportionment of fractions of applicable radiation protection limits established by national and international bodies, the Agency stated its position that the dose rate recommendations were based on considerations specific to only the particular situation and did not represent an intent to provide "allocation" for specific sources and/or activities.

5. In response to comments advocating a sampling and analysis procedure which considers only the "respirable particle" portion of soils in the evaluation of a possible inhalation hazard, the Agency rejected the proposed method and prepared a detailed discussion on the merits of certain soil sampling and analysis procedures. This was included in the "Response to Comments" document.

6. In response to comments expressing divergent views on whether very specific or only generalized guidance should be provided on implementation, the Agency concluded that flexibility in applying the recommendations is desirable and in the best interest of the public.

Dated: August 17, 1979.

David G. Hawkins,
Assistant Administrator for Air, Noise, and Radiation (ANR–443).

[FR Doc. 79-32828 Filed 10-22-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1334-5]

Science Advisory Board, Economic Analysis Subcommittee; Open Meeting

As required by Public Law 92–463, notice is hereby given that a meeting of the Economic Analysis Subcommittee of the Science Advisory Board will be held beginning at 9:00 a.m., November 20, 1979 at the Agency's Headquarters in Waterside Mall, 401 M Street., S.W., Washington, D.C. 20460 in the Administrator's Conference Room, which is number 1101 in the West Tower. The Subcommittee is meeting to work on a report to the Administrator and Assistant Administrators on "The Potential Role of Economic Analysis in Environmental Policy."

The meeting is open to the public. Any individual wishing to attend, participate, or obtain information should contact Dr. Douglas B. Seba, Executive Secretary, Economic Analysis Subcommittee, (202) 472–9444 by November 16, 1979.

Ernst Linde,
Acting Staff Director, Science Advisory Board.

October 15, 1979.

[FR Doc. 79-32832 Filed 10-22-79; 8:45 am]
BILLING CODE 6560-01-M

[FRL 1344-4]

Science Advisory Board, Study Group on Cadmium in Sludges; Open Meeting

Under Public Law 92–463, notice is herein given for a meeting of the Study Group on Cadmium in Sludges of the Science Advisory Board of the U.S. Environmental Protection Agency to be held on November 7, 1979 starting at 9:00 a.m. The meeting location is Room 2117 of Waterside Mall, 401 M Street, S.W., Washington, D.C. Access to the building is either through Mall entrances or the West Tower. Visitors will be directed to the meeting room by the guard.

The purpose of the meeting is to provide a review of a draft document on the human health effects of cadmium with emphasis on cadmium in sewage sludges. This document, prepared by the Office of Research and Development, is in support of proposed interim

V 44 NO 203 79 UMI

regulations on disposal on land of sludges from various treatment plants. The proposed regulations appeared in the Federal Register on September 13, 1979. The Office of Research and Development has requested that the review of a group from the Science Advisory Board be within the period of public comment on the proposed regulations. The public comment period for the proposed regulations ends on November 12, 1979. Also, in accordance with the Environmental Research Development and Demonstration Act of 1978 and procedures of the U.S.E.P.A., the Science Advisory Board may examine the scientific basis of any proposed criteria or regulation during the public comment period, or at any other time when requested by the Administrator or appropriate officials. Therefore, part of the meeting of the Study Group may consider selected aspects of the proposed regulation as the Study Group members choose.

The meeting is open to the public. Because of limited seating capacity, members of the public desiring to attend should preregister by close of business November 5, 1979. Please call Ms. Osborne or Dr. Fisher of the Science Advisory Board at 202–472–9444 to preregister or obtain information about the meeting. Also note that copies of the document to be reviewed are not available from the Science Advisory Board. Persons desiring copies should contact Dr. Richard Marland, Office of Research and Development at 202–755–2532, to determine availability.

Ernst Linde,

Acting Staff Director, Science Advisory Board.

October 17, 1979.

[FR Doc. 79-32680 Filed 10-22-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

(FEMA-603-DR)

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of a major disaster for the State of Texas (FEMA–603–DR), dated September 25, 1979.

DATED: October 11, 1979.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Response and Recovery, Federal Emergency Management Agency, Washington, D.C. 20472 (202) 634–7825.

NOTICE: The Notice of a major disaster for the State of Texas dated September 25, 1979, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of September 25, 1979.

Previously designated for Individual Assistance, now designated for Public Assistance limited to restoration of publicly owned and or maintained utility systems:

Precinct 4 of San Patricio County.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

William H. Wilcox,

Acting Director, Disaster Response and Recovery, Federal Emergency Management Agency.

[FR Doc. 79-32617 Filed 10-22-79; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10423 or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 12, 1979.

Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreement No.: T–2640–13.

Filing Party: H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Summary: Agreement No. T–2640–13, between the Port of Seattle (Port) and American President Lines, Ltd. (APL), amends the basic agreement which provides for the 20-year lease to APL of certain premises and for activities by APL at Terminals 25 and 26, Seattle, Washington. The purpose of this amendment is to amortize the Port's reimbursement to APL for costs incurred in the movement of a container crane from Terminal 46 to Terminal 25, as well as for costs of certain improvements and modifications to the yard area. The amendment also provides for the amortization of the book value of the crane over its remaining life.

Agreement No.: 2846–45.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 2846–45 amends the basic agreement of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference to raise the maximum level of the self-policing fines to $100,000 and to increase the maximum level of fines for non-cooperation with the Enforcement Authority to $15,000 per week subject to a maximum of $100,000.

Agreement No.: T–3760–1.

Filing Party: Gerald F. Swan, Deputy City Attorney, City of Los Angeles, Harbor Division, P.O. Box 151, San Pedro, California 90733.

Summary: Agreement No. T–3760–1, between the City of Los Angeles (City) and Seatrain Pacific Services, Inc. (Seatrain) modifies the basic agreement which is a 5-year nonexclusive preferential permit where by Seatrain is granted the right to utilize certain terminal facilities located at Berth 129–131 of the Port of Los Angeles. The purpose of the modification is to add a land parcel containing 1,770 square feet to the leased premises, and to provide for the construction by the City of a new terminal entrance. Annual compensation by Seatrain to City will be increased accordingly.

Agreement No. 7680–39.

Filing Party: Dominick J. Manfredi, Chairman, American West African Freight Conference, 67 Broad Street, New York, New York 10004.

Summary: Agreement No. 7680–39, among the member lines of the American West African Freight Conference, would extend the conference's intermodal authority for an additional period of two (2) years to November 6, 1981, beyond its present expiration date of November 6, 1979.

Agreement Nos. 8770–9 and 9988–10.

Filing Party: Howard A. Levy, Esq., Attorney at Law, Suite 727, 17 Battery Place, New York, New York 10004.

Summary: Agreements Nos. 8770–9 and 9988–10 amend the basic agreements of the U.K./U.S.A. Gulf Westbound Rate Agreement and the Continental/U.S. Gulf Freight Association, respectively, by adding the following new provision:

The parties shall provide for such office space, supporting administrative facilities, staff personnel and other housekeeping necessities as may be required to conduct their affairs and may arrange to procure such facilities and services from Canadian Atlantic Freight Secretariat Ltd., a not for profit limited company established under the Law of England.

Agreement No. 8900–11.

Filing Party: Stanley O. Sher, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 8900–11 modifies the basic agreement of the 8900 Rate Agreement to provide that the Members may agree upon and publish uniform credit rules.

Agreement No. 9522–41.

Filing Party: Stanley O. Sher, Esquire, Billig, Sher & Jones, P. C., 2033 K Street, N.W., Suite 300, Washington, D.C. 20006.

Summary: Agreement No. 9522–41 amends the basic agreement of the Med-Gulf Conference by (1) raising the maximum level of self-policing fines to $100,000, (2) increasing the maximum level of fines for non-cooperation with the Enforcement Authority to $15,000 per week subject to a $100,000 maximum, and (3) providing that if the fine exceeds $25,000 arbitration may be sought outside of Genoa, Italy.

Agreement No. 9615–29.

Filing Party: John R. Attanasio, Esq., Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9615–29 amends Article 11.3 of the Iberian/U.S. North Atlantic Westbound Freight Conference basic agreement to provide that the Conference office may make distribution of cargo statistics of individual carriers to the members.

By Order of the Federal Maritime Commission.

Dated: October 17, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-32668 Filed 10-22-79; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 1873]

Ibertresa, U.S.A., Inc.; Notice Vacating Revocation

By Decision served July 24, 1978, in Docket No. 77–53, *Licensing of Independent Ocean Freight Forwarders,* (Federal Register Vol. 43, No. 146, P. 32776, July 28, 1978), the Federal Maritime Commission amended its General Order 4 (46 CFR 510) to require all licensed independent ocean freight forwarders to file with the Commission a surety bond in the amount of $30,000. Previously, a bond in the amount of $10,000 was required. The Order stated that if a licensee failed to file a bond in the increased amount on or before December 1, 1978, its license would be revoked in accordance with Rule 510.9 of General Order 4.

On January 3, 1979, the Commission published a Notice of Revocation in the Federal Register identifying various licensees who failed to file the required surety bond within the specified time and whose licenses were therefore revoked. Ibertresa, U.S.A., Inc. was named in that Notice.

In November of 1978 Ibertresa, U.S.A., Inc. requested its insurance agent to issue the bond in the increased amount, and paid the appropriate premium. However, due to an apparent clerical error the bond was not actually issued and submitted to the Commission prior to December 1, 1978.

Ibertresa, U.S.A., Inc. has now submitted a valid surety bond in the amount of $30,000 with an effective date of December 1, 1978, evidencing coverage since that date. Therefore, the revocation and the Notice of Revocation as it pertains to Ibertresa, U.S.A., Inc. (FMC 1873) is vacated.

A copy of this Notice Vacating Revocation shall be published in the Federal Register and served upon the licensee.

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 79-32708 Filed 10-22-79; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Federal Property Resources Service

[Wildlife Order 140; D-Ore-636]

The Dalles Lock and Dam Project (Lake Celilo), Sherman County, Oreg.; Transfer of Property

Pursuant to section 2 of Pub. L. 537, 80th Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By deed from the United States of America dated August 22, 1979, and recorded September 18, 1979, the property comprising approximately 22.5 acres of unimproved land identified as a portion of The Dalles Lock and Dam Project (Lake Celilo), Sherman County, Oregon, has been conveyed to the Oregon Department of Fish and Wildlife.

2. The above described property was conveyed for wildlife conservation purposes in accordance with the provisions of section 1 of said Pub. L. 80–537 (16 U.S.C. 667b), as amended by Pub. L. 92–432.

Dated: October 16, 1979.

Roy Markon,

Commissioner, Federal Property Resources Service.

[FR Doc. 79-32674 Filed 10-22-79; 8:45 am]

BILLING CODE 6820-96-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice: Exclusion from Basic Health Services Provided by Health Maintenance Organizations.

SUMMARY: This notice is of a decision by the Director, Office of Health Maintenance Organizations (OHMO), to allow federally qualified HMOs the option of excluding sex change operations and reversal of voluntarily induced infertility from the basic health services they are required to provide their members.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Section 1302(1) of the Public Health Service Act (42 U.S.C. 300e-1(1)) gives the Secretary (or her designee) authority to exclude

from the basic health services a qualified HMO is required to provide those health services which she (or her designee) determines are unusual and infrequently provided and not necessary for the protection of health. As a result of several applications from HMOs under 42 CFR 110.102(d)(16), the Director, OHMO, has determined that federally qualified HMOs may exclude sex change operations and reversal of voluntarily induced infertility from the basic health services they are required to provide their members.

HMOs electing to exclude these procedures from their basic health services are, of course, required to disclose this decision to their members in accordance with 42 CFR 110.108(c).

Dated: October 15, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-32594 Filed 10-22-79; 8:45 am]

BILLING CODE 4110-85-M

Food and Drug Administration

Device Good Manufacturing Practice Advisory Committee; Request for Nomination of Members; Extension of Due Date

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice extends the due date for receipt of nominations of industry, general public, and Federal, State, or local Government representatives on the Device Good Manufacturing Practice Advisory Committee.

DATE: Nominations should be received by December 31, 1979, for vacancies indicated in the previous notice.

ADDRESS: All nominations for membership to the Device Good Manufacturing Practice Advisory Committee must be submitted in writing to: Lincoln Gluscevich, Bureau of Medical Devices, HFK-132, Food and Drug Administration, Department of health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Lincoln Gluscevich (address above) 301-427-7194.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 31, 1979 (44 FR 51334), the Food and Drug Administration published a notice soliciting nominations for voting representatives of industry, general public, and Federal, State and local government interests and established a due date of October 1, 1979 for receipt of nominations. To date, the agency has received several nominations for industry representatives; however, none have been received for public citizens or Federal, State, or local government representatives.

Therefore, under the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees, the agency extends particular encouragement for nominations from public citizens and Federal, State or local government representatives.

Dated: October 15, 1979.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 79-32414 Filed 10-22-79; 8:45 am]

BILLING CODE 4110-03-M

Office of Education

National Advisory Council on Women's Educational Programs; Meeting

AGENCY: Office of Education, National Advisory Council on Women's Educational Programs.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Women's Educational Programs and its Executive, Federal Policy, Practices and Programs, Civil Rights, and WEEA Program Committees. It also describes the functions of the Council. Notice of the meeting is required pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463). This document is intended to notify the general public of their opportunity to attend.

DATE: November 13, 1979, 7:30 p.m. to 10:00 p.m.; November 14-November 15, 8:30 a.m. to 5:00 p.m.; November 16, 1979, 8:30 a.m. to 12:00 noon.

ADDRESS: The Downtowner Motor Inn, 225 East Capitol, Jackson, Mississippi 39205. A Public Hearing will be held at the Jackson State University, Administration Tower Building, 6th floor, 1400 J. R. Lynch Street, Jackson, Mississippi 39217.

FOR FURTHER INFORMATION CONTACT: Laura R. Summers, National Advisory Council on Women's Eductional Programs, 1832 M Street, NW., No. 821, Washington, D.C. 20036, (202) 653-5846.

The National Advisory Council on Women's Educational Programs is established pursuant to Pub. L. 95-561. The Council is mandated to (a) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal education opportunities for women and policy matters relating to the administration of the Women's Educational Equity Act of 1978; (b) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to the Act, including criteria developed to insure an appropriate geographical distribution of approved programs and projects throughout the Nation; (c) recommend criteria for the establishment of program priorities; (d) make such reports as the Council determines appropriate to the President and Congress on the activities of the Council; and (e) disseminate information concerning the activities of the Council.

The meeting of the Executive Committee will take place on November 13, 1979 from 7:00 p.m. to 10:00 p.m. The agenda will include plans for the Council meeting as well as discussion of current activities and future plans.

The meeting of the Federal Policy, Practices and Programs Committee, the Civil Rights Committee, and the WEEA Program Committee will take place on November 14, 1979 from 8:30 to 5:00 p.m.

The agenda for the Federal Policy, Practices, and Programs Committee will include discussion on the vocational education study, the Higher Education Act and the Department of Education.

The agenda for the Civil Rights Committee will include discussion of matters concerning Title IX of the Education Amendments of 1972 and Title IV of the 1964 Civil Rights Act and other Civil Rights provisions.

The agenda for the WEEA Program Committee will include discussion of the evaluation of the FY 1979 Women's Educational Equity Act Program, status report on WEEAP contracts and Program Committee activities for FY 1980.

The meeting of the National Advisory Council on Women's Educational Programs will take place from 8:30 a.m. to 12:00 p.m. November 15; from 8:30 a.m. to 12:00 p.m. on November 16, 1979. The agenda will include plans for the Women's Educational Equity Act Program for FY 1980, discussion on the Office for Women Concerns, implication of the new Department of Education and Committee reports. A public hearing on the special educational needs of female minority heads of households, rural women and sex discrimination in education and training will be held from 1:30 p.m. to 5:00 p.m. November 15, 1979 at the Jackson State University, Administration Tower Building, 6th floor, 1400 J. R. Lynch Street, Jackson, Mississippi 39217.

Records will be kept of the proceedings and will be available for public inspection at the Council offices at 1832 M Street, NW., Suite 821, Washington, D.C.

Joy R. Simonson,

Executive Director.

[FR Doc. 79-32597 Filed 10-22-79; 8:45 am]

BILLING CODE 4110-02-M

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the Executive Committee of the National Advisory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings are required under the Federal Advisory Committee Act (5 U.S.C. Appendix I, Section 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Executive Committee Meetings: October 25, 1979, 9 a.m. to 5 p.m., OPEN and October 26, 1979, 9 a.m. to 5 p.m., OPEN.

ADDRESS: 425 13th Street, N.W., Room 326, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Educaiton, Suite 326, 425 13th Street, N.W., Washington, D.C. 20004 (202) 376-8882.

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92-318 (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner of Education in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81-874) as added by Title IV, Part A, of Pub. L. 92-318;

(7) Submit to Congress not later than June 30 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such program; and,

(8) Be consulted by the Commissioner of Education regarding the definition of the term "Indian," as follows:

Sec. 453 [Title IV, Pub. L. 92-318]. For the purposes of this title, the term "Indian" means any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those bands, tribes, or groups terminated since 1940 and those recognized now or in the future by the State in which they reside, or who is a descendant, in the first or second degree, of any such member, or (2) is considered by the Secretary of the Interior to be an Indian for any purpose, or (3) is an Eskimo or Aleut or other Alaska Native, or (4) is determined to be an Indian under regulations promulgated by the Commissioner, after consultation with the National Advisory Council on Indian Education which regulations shall further define the term "Indian."

The meeting on October 25, 26, 1979, will be open to the public. This meeting will be held at Suite 326, 425 13th Street, N.W., Washington, D.C.

The proposed agenda includes:

(1) Discussion of the Department of Education Organization Act

(2) Executive Director's Report

(3) Committee Report

(4) Review of NACIE FY'80 budget

(5) Plans for future NACIE activities

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street, N.W., Suite 326, Washington, D.C. 20004.

For further information call Dr. Michael P. Doss, Executive Director, National Advisory Council on Indian Education, (202) 376-8882.

Date: October 5, 1979.

Signed at Washington, D.C.

Michael P. Doss,

Executive Director National Advisory Council on Indian Education.

[FR Doc. 79-32680 Filed 10-22-79; 8:45 am]

BILLING CODE 4110-02-M

Title I, Elementary and Secondary Education Act; Procedures for Resolving Complaints

AGENCY: Office of Education, HEW.

ACTION: Notice of Commissioner's Procedures for Resolving Complaints.

SUMMARY: Notice is given that, in accordance with Section 184 of Title I of the Elementary and Secondary Education Act of 1965 (as amended by the Education Amendments of 1978), the Commissioner is establishing procedures for resolving complaints on appeals from State educational agencies, and complaints received directly by the U.S. Commissioner of Education from complainants.

EFFECTIVE DATE: October 23, 1979.

DATE FOR END OF COMMENT PERIOD: November 23, 1979.

ADDRESSES: Division of Education for the Disadvantaged, 400 Maryland Avenue, S.W. (Room 3642, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Dr. John F. Staehle, (202) 245-2720.

BACKGROUND INFORMATION: Title I, ESEA, authorizes grants for projects to meet the special educational needs of educationally deprived children residing in low-income areas, of handicapped and of neglected and delinquent children who are in State institutions, and of migratory children. Title I as reenacted by the Education Amendments of 1978, Pub. L. 95-561, provides for the resolution of complaints by local educational agencies (LEAs), State agencies, operating agencies, State educational agencies (SEAs) and by the Commissioner. (See sections 128, 168, and 184 respectively.) This notice provides the Commissioner's complaint resolution procedures.

Section 184 of title I requires the Commissioner to "* * * develop and implement written procedures for receiving and resolving appeals from final resolutions of State educational agencies * * * for receiving such complaints directly from parent advisory councils, parents, teachers, or other concerned organizations or individuals, and for conducting independent onsite investigations of complaints if the Commissioner deems necessary."

V 4 4 O C 2 3 7 9 UMI

This notice should be read in conjunction with the complaint resolution procedures contained in the title I notice of proposed rulemaking, published in 44 FR 38400–38413 (June 29, 1979) and the final regulations for title I.

A. General Information

1. *Contents of a Complaint.* A complaint is a signed statement that includes—

(a) One or more allegations that the LEA, operating agency, State agency, or SEA has violated a title I requirement. That requirement may be in the title I statute, regulations, or interpretive rules, the General Education Provisions Act, or the Education Division General Administrative Regulations.

(b) Information that, if true, indicates in sufficient detail that there has been a violation. It is recommended that the complaint cite each specific Title I requirement alleged to have been violated. If State or local laws, regulations, or guidelines are relevant, then citations for them should also be included.

(c) All documents supporting the allegations.

2. *The SEA's Final Resolution of a Complaint.*

The SEA's final resolution of a complaint must include—

(a) A summary of the facts upon which the complaint is based;

(b) The requirements that are alleged to have been violated;

(c) The SEA's findings of fact, including a summary of the evidence which the SEA considered in formulating its factual findings;

(d) The SEA's conclusions with respect to each allegation of the complaint, including the reasons supporting each conclusion; and

(e) The SEA's directives of corrective action that the LEA, operating agency, or State agency must take to resolve the complaint, if any were necessary, and how much time that agency has to take the action.

B. Appeal From a Final Resolution by a State Educational Agency

1. *An Appeal.* Any agency, person, or organization that filed a complaint and any LEA, operating agency, or State agency defending against a complaint may appeal the SEA's final resolution to the Deputy Commissioner of the Bureau of Elementary and Secondary Education (Deputy Commissioner).

2. *Request for Appeal.*

(a) A request for appeal must be requested in writing within 30 days of the issuance of the SEA's final resolution and must—

(i) Specify the parts of the SEA's final resolution with which the appellant disagrees, and the reasons why the appellant disagrees; and

(ii) Specify any allegations in the complaint that the SEA's final resolution failed to address.

(b) A request for appeal must be sent to Deputy Commissioner of the Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 4115C, FOB–6), Washington, D.C. 20202.

3. *Preliminary Review of A Request for Appeal.*

(a) If a request for appeal is accepted, the Deputy Commissioner—

(i) Notifies the complaint, the complaint's representative, the LEA, operating agency, or State agency and the SEA that each of them has 15 days from the date of the receipt of this notification to submit any additional evidence concerning the appeal;

(ii) Notifies the SEA to forward a copy of its final resolution of the complaint within 15 days from the date of receipt of this notification; and

(iii) Notifies the SEA to submit the names and addresses of all district and school advisory councils in areas where a violation is alleged.

(b) The Deputy Commissioner may also conduct an onsite investigation in accordance with the provision for onsite investigations in this notice.

(c) If a request for appeal is not accepted, the Deputy Commissioner notifies the complainant, the complainant's representative, the LEA, operating agency, or State agency, and the SEA that the request for appeal has not been accepted, and the reasons why the appeal is unacceptable.

C. Direct Complaint

1. *A Direct Complaint.* A direct complaint is a complaint filed with the Deputy Commissioner, or the Commissioner which has not been submitted to the LEA, operating agency, State agency, or SEA. Any complaint filed directly with the Commissioner will be referred to the Deputy Commissioner.

2. *Standards for Direct Resolution.*

The Deputy Commissioner resolves a direct complaint without first referring it to the appropriate SEA if—

(a) Delayed resolution will result in serious and immediate harm to the complainant;

(b) The allegations and supporting information which the complainant has provided show that the complainant will probably succeed on the merits of the complaint; and

(c) The Deputy Commissioner determines that Federal resolution is appropriate for any other reasons. One such reason may be that the LEA, operating agency, State agency, and SEA knew of the alleged violation in the complaint and failed to resolve it in sufficient time.

3. *Referral.*

(a) If the Deputy Commissioner determines that a direct complaint does not satisfy the standards above for direct resolution, the Deputy Commissioner refers the complaint to the SEA, for resolution by the LEA, operating agency, or State agency. Upon referral, these agencies must resolve the complaint in accordance with sections 128 and 168 of title I.

(b) If the LEA, operating agency, or State agency already knew of the alleged violation in the complaint and failed to resolve it in sufficient time, the SEA shall proceed to resolve the complaint.

D. Resolution by the Deputy Commissioner

(a) The Deputy Commissioner issues a written resolution of each appeal or direct complaint in writing within 60 days from the date of the receipt of that appeal or direct complaint unless exceptional circumstances preclude a resolution within that 60 day period.

(b) The Deputy Commissioner's resolution includes a notice of the right of the complainant, SEA, operating agency, or State agency to appeal that resolution to the Commissioner of Education.

(c) The Deputy Commissioner's resolution of an appeal shall be sent to the complainant, the complainant's representative, the LEA, operating agency, or State agency, the SEA, the district advisory council, and appropriate school advisory councils.

E. Administrative Appeal

1. *Request for Appeal.*

(a) An administrative appeal of the Deputy Commissioner's resolution must be requested in writing within 30 days of receipt of the notice of the resolution by the Deputy Commissioner.

(b) A request for administrative appeal must—

(i) Specify the parts of the Deputy Commissioner's resolution with which the appellant disagrees, including the reasons why the appellant disagrees; and

(ii) Specify any allegations that the Deputy Commissioner's resolution failed to address.

(c) Requests for an administrative appeal must be sent to the U.S. Commissioner of Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

2. *Review of A Request for Administrative Appeal.* (a) If an administrative appeal is accepted, the Commissioner may—

(i) Request further information from the parties; or

(ii) Conduct an onsite investigation in accordance with the provision for onsite investigations in this notice.

(b) If an administrative appeal is not accepted, the Commissioner notifies the complainant, the complainant's representative, the LEA, operating agency, or State agency, and the SEA that the request for an administrative appeal has not been accepted, and the reasons why the appeal is unacceptable.

3. *Resolution of an Administrative Appeal by the Commissioner.*

(a) The Commissioner shall resolve an administrative appeal in writing within 60 days from the date of receipt of the appeal unless exceptional circumstances exist.

(b) The resolution of an administrative appeal by the Commissioner is sent to the complainant, the complainant's representative, the LEA, operating agency, or State agency, the SEA, the district parent advisory council, and the appropriate school advisory councils.

4. *Final Resolution of An Appeal.*

(a) If no administrative appeal is requested, the resolution by the Deputy Commissioner shall be the final agency action.

(b) If an administrative appeal is requested and accepted, the resolution by the Commissioner shall be the final agency action.

F. Onsite Investigation

Office of Education personnel will conduct an onsite investigation if the Commissioner or the Deputy Commissioner determines that—

1. Additional information is needed to resolve the complaint; and

2. The necessary information cannot be obtained in any other way.

G. Information Dissemination

1. Copies of this notice shall be distributed by each SEA to all LEAs, operating agencies, and State agencies operating title I programs in the State.

2. Local educational agencies shall distribute copies of this notice to each district advisory council, to each school in the district serving title I participating students, and to the parent advisory council serving each title I participating school.

3. Each school receiving this notice shall post a copy on the school bulletin board or at a similarly conspicuous place in the school.

4. Each LEA, operating agency, or State agency shall take appropriate steps to distribute this notice to the general public.

H. Opportunity for Public Comment

The Commissioner invites public comments on this notice. Since related material is contained in § 116.61 of the title I notice of proposed rulemaking (NPRM), published in 44 FR 38407 (June 29, 1979), this notice should be read in conjunction with the NPRM and the appropriate sections of the statute. Although a separate opportunity to comment on the NPRM has been provided for in the NPRM, comments on this notice can also include comments on § 116.61 of the NPRM. These comments will be considered in drafting final title I regulations and in determining whether amendments to this notice will be necessary.

Interested persons may send written comments to Dr. John Staehle, at the address given at the beginning of this notice. All comments must be received on or before November 23, 1979.

(Catalog of Federal Domestic Assistance No. 13.428; Educationally Deprived Children—Local Educational Agencies; 13.430, Educationally Deprived Children: State Administration)

Dated: October 18, 1979.

John Ellis,

Executive Deputy Commissioner for Education Programs.

[FR Doc. 79–32411 Filed 10–22–79; 8:45 am]

BILLING CODE 4110–02–M

Office of the Assistant Secretary for Health

National Committee on Vital and Health Statistics; Solicitation of Nominations

Announcement is made that the Office of the Assistant Secretary for Health is soliciting nominations for candidates to serve on the National Committee on Vital and Health Statistics. The Committee, mandated by Pub. L. 93–353, provides advise and assistance to the Secretary on matters pertaining to national and international statistics.

There will be four (4) vacancies occuring on the Committee beginning March 1, 1980, representing such diversified subject areas as epidemiology, biostatistics, health services, and pulic health.

Especially sought is the candidacy of women and minority group members who have distinguised themselves in the above-mentioned disciplines.

Please forward nominations by November 9, 1979, to Mr. James A. Smith, Chief, Conference Management Branch, Office of Health Research, Statistics and Technology, Room 2–12 Federal Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782. Tel: 301–436–7122.

Dated: October 17, 1979.

Marilyn McCarroll,

Acting Executive Secretary, Office of Health Research, Statistics, and Technology.

[FR Doc. 79–32604 Filed 10–22–79; 8:45 am]

BILLING CODE 4110–85–M

Public Health Service

Health Information and Health Promotion; Delegation of Authority

Notice is hereby given that effective September 28, 1979, the Secretary of Health, Education, and Welfare, delegated to the Assistant Secretary for Health, with authority to redelegate, the authorities vested in the Secretary under Title XVII of the Public Health Service Act, as amended, (42 U.S.C. 300u *et seq.*) for health information and health promotion programs.

The delegation excluded the authority to select all SES, supergrade and equivalent, and Schedule C (GS 12 and above) positions, to promulgate regulations, submit reports to the President, and establish an Office of Health Information, Health Promotion, and Physical Fitness and Sports Medicine within the Office of the Assistant Secretary for Health.

Dated: October 10, 1979.

Wilford J. Forbush,

Acting Assistant Secretary for Management Budget.

[FR Doc. 79–32605 Filed 10–22–79; 8:45 am]

BILLING CODE 4110–85–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 5644]

California; Right-of-Way Application for Pipeline

October 15, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), Southern California Gas Company has filed right-of-way application CA 5644 for a 30-inch natural gas pipeline from Topock to Needles, California, across the following described public lands:

San Bernardino Meridian

T. 8 N., R. 22 E., S.B.M.,
Sec. 2, E½E½;
Sec. 11, E½E½;
Sec. 14, E½E½;
Sec. 23, E½E½;
Sec. 26, E½NE¼.

T. 9 N., R. 22 E., S.B.M.,
Sec. 2, E½E½;
Sec. 11, E½E½;
Sec. 13, W½W½;
Sec. 14, E½E½;
Sec. 23, E½E½;
Sec. 26, E½E½;
Sec. 35, E½E½.
T. 7 N., R. 23 E., S.B.M.,
Sec. 6, SW¼SW¼;
Sec. 7, W½, SW¼SE¼;
Sec. 10, S½SE¼;
Sec. 11, S½;
Sec. 12, NE¼, S½NW¼, NW¼SW¼,
Sec. 18, NE¼, NE¼SE¼.
T. 7 N., R. 24 E., S.B.M.,
Sec. 6, SE¼SE¼;
Sec. 7, N½N½;
Sec. 8, N½N½.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their comments, names, and addresses to the Bureau of Land Management, State Office, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif 95825.

Joan B. Russell,

Chief, Lands Section Branch of Lands and Minerals Operations.

[FR Doc. 79-32675 Filed 10-22-79; 8:45 am]

BILLING CODE 4310-84-M

Colorado and Wyoming; Correction to Announcement of Intent To Hold Public Hearings and the Opening of a 30-day Comment Period on the Federal Coal Leasing Target for the Green River-Hams Fork Region

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Correction Notice

SUMMARY: An announcement of public hearings and the opening of a 30-day comment period was published in the Friday, October 5, 1979, **Federal Register** [44 FR 57506]. This notice is being published to make certain corrections to that announcement.

FOR FURHTER INFORMATION CONTACT: Gary J. Wicks (801) 524-5311.

SUPPLEMENTAL INFORMATION: Under this heading, the first paragraph, last sentence is corrected to read: This difference in annual tonnage is converted to tons in-place using estimates of mine life, the Federal share of coal ownership in the region and the expected percentage recovery of in-place coal. Also, the third paragraph under this same heading is corrected and amended to read: The medium DOE projections for Colorado are 24.7 million tons in 1985 and 30.3 million tons in 1990.

Because Colorado encompasses parts of four production regions, the DOE projections for the State had to be disaggregated into four regions. The disaggregation to these regions was based on the proportion of reserves within the counties defining those regions.

Lastly, that portion of the heading of the first able on FR 57507 which lists mine production estimates is corrected to show the units of these figures in thousands of tons per year (1,000 tons/yr.).

All other information published Friday, October 5, Federal Register (44 FR 57506) remains the same.

Date: October 18, 1979.

Ed Hastey,

Associate Director, Bureau of Land Management.

[FR Doc. 79-32631 Filed 10-22-79; 8:45 am]

BILLING CODE 4310-84-M

[W-69517]

Wyoming; Application

October 15, 1979.

Notice is hereby given that pursuant to Sec. 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Burton/Hawks, Inc., of Casper, Wyoming filed an application for a right-of-way to construct a 4" buried pipeline for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 27 N. R. 93 W.,
Sec. 25, SW¼NW¼ and SW¼;
Sec. 26, S½NE¼ and NW¼NE¼.

The proposed pipeline will transport natural gas from a well located in the SE¼SW¼ of Section 25, to a point of connection with an existing pipeline located in the NW¼NE¼ of Section 26, all within T. 27 N., R. 93 W., Fremont County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Marla B. Bohl,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-32676 Filed 10-22-79; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Reclamation

Contract Negotiations With Polecat Bench Irrigation District—Shoshone Extensions Unit—Pick-Sloan Missouri Basin Program, Wyoming; Intent To Negotiate a Repayment and Water Service Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment negotiations, the Bureau of Reclamation intends to begin contract negotiations with the Polecat Bench Irrigation District covering water service and repayment of reimbursable costs of construction of features of the Polecat Bench Area, Shoshone Extensions Unit, Park County, Wyoming.

The proposed program would provide irrigation water for 19,200 acres of irrigable land, municipal and industrial water supplies, fish and wildlife conservation and development, public outdoor recreation, and other purposes. The principal features will include Holden Reservoir, canals, pumping plants, laterals, drains, and necessary facilities to effect the purposes of the program. Polecat Bench Irrigation District is located in the northeastern corner of Park County, Wyoming, immediately south of the Montana-Wyoming State line.

The contract with Polecat Bench Irrigation District will be negotiated pursuant to the Reclamation Authorization Act of 1975 (90 Stat. 205) and in accordance with Federal Reclamation law (Act of June 17, 1902 (32 Stat. 388), and acts amendatory thereof and supplementary thereto). The contract will provide for repayment of costs within the water users' ability to pay as determined by the Secretary of the Interior.

The public may observe any contract negotiation sessions. Advance notice of such sessions, if any, will be furnished on request. Requests must be in writing and must identify the contract in which the requesting party is interested. Request should be addressed to Regional Director, Bureau of Reclamation, Attention: Code 440, P.O. Box 2553, Billings, Montana 59103.

A proposed draft contract will be made available for public review following completion of contract negotiations. Requests must be in writing and must identify the contract in which the requesting party is interested. Thereafter, a public hearing may be held, if necessary, and a 30-day period will be allowed for receipt of written comments from the public.

For further information on scheduled contract negotiating sessions and copies of the proposed contract form, please contact Ms. Elaine Ellingson, Repayment Technician, Division of Water and Land, at the address stated above or by telephone (406) 657-6455. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

Dated: October 16, 1979.

Clifford I. Barrett,

Assistant Commissioner of Reclamation.

[FR Doc. 79-32448 Filed 10-22-79; 8:45 am]

BILLING CODE 4310-09-M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before October 12, 1979. Pursuant to § 60.13 of 36 CFR Part 60, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservatioin and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by November 2, 1979.

Carol Shull,

Acting Chief, Registration Branch.

ALABAMA

Montgomery County

Montgomery, *Brittan, Patrick Henry, House*, 507 Columbus St.

ALASKA

Seward Division

Seward, *Government Calbe Office*, 218 8th Ave.

ARKANSAS

Polk County

Mena, *Jonssen Park*, Off AR 8

Sebastian County

Fort Smith, *Atkinson-Williams Warehouse*, 320 Rogers Ave.

CALIFORNIA

Los Angeles County

Los Angeles, *Miller and Herriott House*, 1163 W. 27th St.
Los Angeles, *Engine Company No. 28*, 644-646 S. Figuora St.

Orange County

Anaheim, *Pickwick Hotel*, 225 S. Anaheim Blvd.

Sonoma County

Santa Rosa, *Old Post Office*, 425 7th St.

FLORIDA

Escambia County

Pensacola, *Thiesen Building*, 40 S. Palafox

Lee County

Boca Grande, *Charlotte Harbor and Northern Railway Depot*, Park and 4th Sts.

Marion County

Ocala, *Mount Zion A.M.E. Church*, 623 S. Magnolia Ave.

Pinellos County

Clearwater, *Belleview-Biltmore Hotel*, Off FL 967
Clearwater, *Roebling, Donald, Estate*, 700 Orange Ave.

Volusio County

Daytona Beach, *Old Daytona Beach News-Journal Building*, 1281 Orange Ave.

GUAM

Merizo, *Cook, Merlyn G., School*, GU 4

IDAHO

Ada County

Boise, *Harrison Boulevard Historic District*, an irregular pattern along Harrison Blvd.

Benewoh County

St. Maries, *Kootenai Inn*, 130 N. 9th St.

Blaine County

Bellevue, *Bellevue Historic District*, Roughly bounded by U.S. 93, Cedar, 4th and Oak Sts.

Latah County

Moscow, *Davids' Building*, 3rd and Main Sts.

INDIANA

Bartholomew County

Columbus, *Bartholomew County Courthouse*, 3rd and Washington Sts.
Columbus, *Columbus City Hall*, 5th and Franklin Sts.

Marion County

Indianapolis, *Morrison Block (M. O'Connor Grocery Wholesalers)*, 47 S. Meridian St.

KENTUCKY

Jefferson County

Louisville, *Building at 117 West Main Street*
Louisville, *Building at 119 West Main Street*

Scott County

Georgetown vicinity, *Herndon, Dr. H. C., House*, W of Georgetown of KY 227

LOUISIANA

Washington County

Franklinton, *Babington, Robert H., House*, 608 Main St.

NEW HAMPSHIRE

Grafton County

Ashland, *Ashland Gristmill and Dam*, Main St.

NEW JERSEY

Monmouth County

Fort Hancock and vicinity, *Fort Hancock and the Sandy Hook Proving Ground Historic District*, NJ 36

NEW YORK

Erie County

Buffalo, *Allentown Historic District*, Off NY 384

Fulton County

Ephratah vicinity, *Garoga Site*
Ephratah vicinity, *Klock Site*
Ephratah vicinity, *Pagerie, Smith, Site*

Kings County

Brooklyn, *Bennett, Floyd, Field Historic District*, Flatbush Ave.

Orange County

Montgomery, *Montgomery Village Multiple Resource Area*. This area includes: *Bridge Street Historic District; Union Street-Academy Hill Historic District; Crabtree-Potchett House*, 232 Ward St.; *Miller, Johannes, House*, 272 Union St.; *Montgomery Worsted Mills*, Factory St.

Queens County

Rockaway Point vicinity, *Fort Tilden Historic District*, Rockaway Beach Blvd.
Rockaway Point vicinity, *Riis, Jacob, Park Historic District*, Rockaway Beach Blvd.

Richmond County

Staten Island, *Miller Army Air Field Historic District*, New Dorp Lane

NORTH CAROLINA

Forsyth County

Winston-Salem, *Single Brothers Industrial Complex Site*, Academy St.

NORTH DAKOTA

Ransom County

Fort Ransom, *Walker, T. J., Historic District*, At Sheyenne River

OHIO

Montgomery County

Dayton, *Southern Ohio Lunatic Asylum*, 2335 Wayne Ave.

Ross County

Chillicothe, *Chillicothe Water and Power Company Pumping Station*, Enderlin Circle.

Scioto County

Portsmount, *Peck, Judge William V., House*, 601 Market St.

OREGON

Clatsop County

Astoria, *Astor, John Jacob, Hotel*, 342 14th St.

Klamath County

Klamath Falls vicinity, *Point Comfort Lodge*, SW of Klamath Falls.

Linn County

Albany, *Methodist Episcopal Church South*, 238 E. 3rd St.

Marion County

Salem, *Jarman, Daniel B., House and Garden*, 567 High St., SE.
Salem, *Smith-Ohmart House*, 2655 E. Nobb Hill, SE.

Wasco County

The Dallas, *Anderson, Lewis, House, Barn and Granary*, 508 W. 16th St.

PENNSYLVANIA

Bucks County

Doylestown, *Shaw Historic District*, bounded by S. Main, W. Ashland, Bridge and S. Clinton Sts.
Newtown, *Newtown Historic district, PA 413 and PA 332.*

Centre County

Coburn, *Coburn Historic District*, Main St., SR 499 and SR 514.
Millheim, *Millheim Historic District*, PA 45 and PA 445.
State College, *Centre Furnace*, 1001 E. College Ave.

Chester County

Chester Springs vicinity, *Clinger-Moses Mill Complex*, S of Chester Springs on Pine Creek Lane.
Downingtown, *East Lancaster Avenue Historic District*, an irregular pattern along E. Lancaster Ave.
Downington, *Hunt, Roger, Mill*, Race St.
Glen Moore vicinity, *Ferguson, William, Farm*, E of Glen Moore on Marshall Rd.
Valley Vorge vicinity, *Federal Barn*, off PA 252

Erie County

Erie, *Hill, John, House*, 230 W. 6th St.

Franklin County

Chambersburg, *Zion Reformed Church*, S. Main and W. Liberty Sts.

Lebanon County

Lebanon, *Funck, Josiah, Mansion*, 450 Cumberland St.

Lehigh County

Allentown, *Zollinger-Harned Company Building*, 606–613 Hamilton Mall and 14016 N. 6th St.

Luzerne County

Ashley and vicinity, *Ashley Planes*, off PA 309.

Northampton County

Bethlehem and vicinity, *Lehigh Canal: Allentown to Hopeville Section*, along Lehigh River.

Philadelphia County

Philadelphia, *Wissahickon Inn*, 500 W. Willow Grove Ave.

Westmoreland County

West Newton, *Plumer House*, Vine and S. Water Sts.

TENNESSEE

Davidson County

Nashville, *Fall School*, 1116 8th Ave. S.

Rutherford County

Christiana vicinity, *Morgan House*, SW of Christiana.

TEXAS

Bandera County

Bandera, *Jureczki House*, 607 Cypress St.

Bexar County

San Antonio, *Clegg, L. B., House*, 123 W. Park Ave.

Brazoria County

Sweeny vicinity, *Sweeny Plantation Site*, N of Sweeny.
West Columbia, Varner-Hogg Plantation, 2 mi. NE of West C.
West Columbia vicinity, *Varner-Hogg Plantation*, 2 mi. NE of West Columbia off SR 2852.

Hardin County

Batson vicinity, *Ada Belle Oil Well*, N of Batson.

Harrison County

Marshall, *Starr House*, 407 W. Travis St.

Kinney County

Brackettville, *Fort Clark Historic District*, Off U.S. 90.

Montgomery County

Montgomery, *Arnold-Simonton House*, Rankin St.

Morris County

Daingerfield, *Old Morris County Courthouse*, 101 Linda Dr.

Newton County

Salem vicinity, *West Log House*, NE of Salem.

Waller County

Prairie View, *Foster Hall*, Prairie View A and M University campus.

Wilson County

Sutherland Springs vicinity, *Whitehall*, N of Sutherland Springs on SR 539.

VERMONT

Caledonia County

St. Johnsbury, *St. Johnsbury Historic District, U.S. 5 and U.S. 2 (boundary increase).*

Chittenden County

Williston, *Williston Village Historic District*, U.S. 2.
Winooski, *Porter Screen Company*, 110 E. Spring St.

Windham County

Grafton, *Grafton Congregational Church and Chapel*, Main St.

WEST VIRGINIA

Hardy County

Moorefield, *Old Stone Tavern*, 117 Main St.

Kanawha County

Charleston, *MacFarland House*, 1310 Kanawha Blvd.

Putnam County

Winfield, *Red House Schools*, 1 Ferry St.

Randolph County

Elkins, *Pinecrest (Richard C. Kerens House)* Kerens Hill.

Wood County

Parkersburg, *Parkersburg City Hall*, 5th and Markets Sts.

The following is a list of corrections to properties previously listed in the Notification of Pending Nominations.

MASSACHUSETTS

Worcester County

Worcester, *Worcester Multiple Resource Area*. (Main Street Railway Office, 99–109 Main St. should be deleted and Holy Cross College added.)

[FR Doc. 79-32222 Filed 10-22-79; 8:45 am]

BILLING CODE 4310-03-M

INTERNATIONAL COMMUNICATION AGENCY

U.S. Advisory Commission on Public Diplomacy (Formerly U.S. Advisory Commission on International Communication, Cultural and Educational Affairs); Meeting; Change of Location

The meeting announced in the issue of Tuesday, October 16, 1979, scheduled to be held November 1–2, 1979 has been changed to Room 600, 1750 Pennsylvania Avenue, N.W., Washington, D.C. 20547.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulations Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 79-32588 Filed 10-22-79; 8:45 am]

BILLING CODE 8230-01-M

DEPARTMENT OF LABOR

Office of the Secretary

[TA-W-5916]

Ala Knitwear, Ltd., Richmond Hill, N.Y.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was initiated on August 27, 1979 in response to a worker petition received on August 16, 1979 which was filed on behalf of workers and former workers producing ladies' sweaters at Ala Knitwear Ltd., Richmond Hill, New York. It is concluded that all of the requirements have been met.

U.S. imports of Women's, Misses' and Children's sweaters increased relative to domestic production in 1978 compared to 1977.

The Office of Trade Adjustment Assistance conducted a survey of manufacturers for which Ala did contract work. The survey revealed that manufacturers representing a significant proportion of Ala's business in 1977 reduced purchases of ladies' sweaters from Ala and increased reliance on foreign sources in 1978 compared to 1977.

A survey was also conducted with the retailing customers of those maufacturers which reported decreasing sales and decreasing business with Ala Knitwear. This survey indicated that several retail customers increased their purchases of imported ladies' sweaters and decreased purchases from domestic sweater manufacturers in 1978 compared to 1977 or in the January-June period of 1979 compared to the corresponding period of 1978.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' sweaters produced at Ala Knitwear Ltd., Richmond Hill, New York contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Ala Knitwear Ltd., Richmond Hill, New York who became totally or partially separated from employment on or after July 23, 1978 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1979.

C. Michael Aho,

Director, Office of Foreign Economic Research.

[FR Doc. 79-32659 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

Apollo Dye, et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 17th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Apollo Dye (ACTWU)	Paterson, N.J	10/10/79	10/3/79	TA-W-6,216	Commission printer of fabrics.
Best Ever Fashions (company)	Springfield Gardens, N.Y	10/15/79	10/11/79	TA-W-6,217	Ladies' sportswear.
Gaiety Sportswear, Inc. (company)	Springfield Gardens, N.Y	10/15/79	10/11/79	TA-W-6,218	Ladies' sportswear
Kay Windsor, Inc. (ILGWU)	Hohenwald, Tenn	10/16/79	10/10/79	TA-W-6,219	Blouses, skirts, and dresses
Kay Windsor, Inc. (ILGWU)	Lawrenceburg, Tenn	10/16/79	10/10/79	TA-W-6,220	Blouses, skirts, and dresses.
Kay Windsor, Inc. (ILGWU)	Savannah, Tenn	10/16/79	10/10/79	TA-W-6,221	Dresses, sportswear, and blouses
Publix Shirt Corp. (ACTWU)	Huntingdon, Tenn	10/10/79	10/1/79	TA-W-6,222	Men's and boy's shirts.
Riviera Fashions, Inc. (company)	Springfield Gardens, N.Y	10/15/79	10/11/79	TA-W-6,223	Ladies' sportswear.

V44OC23791 UMI

Avenue Fashions, Inc., et al.; Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1979.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 2, 1979.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Signed at Washington, D.C. this 16th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

Appendix

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Avenue Fashions, Inc (workers)	Wyoming, Pa	10/9/79	9/28/79	TA-W-6,200	Dresses, pantsuits, and sportswear.
Conaway Winter, Inc. (U.F.C.W.)	Mountain View, Mo	10/2/79	9/27/79	TA-W-6,201	Infants shoes and shoe pattern designing.
Corcol Energy, Inc., Preparation Plant #102 (UMWA).	Jewell Valley, Va	10/9/79	10/2/79	TA-W-6,202	Metallurgical coal.
Cowden Manufacturing Company (teamsters)	Springfield, Ky	10/10/79	9/29/79	TA-W-6,203	Ladies' jeans.
Cowden Manufacturing Company (workers)	Mount Sterling, Ky	10/10/79	9/24/79	TA-W-6,204	Men's, boy's, and ladies' jeans.
Famous State Fair Meat Products (Amalgamated Meat Cutters & Butcher Workmen of North America)	Philadelphia, Pa	10/9/79	10/1/79	TA-W-6,205	Ham, sausages, and meats.
J F McElwain Co., E Factory (The New Hampshire Shoe Workers Union).	Manchester, N.H	10/10/79	9/24/79	TA-W-6,206	Soles, heels, and insoles.
J F McElwain Co., B Factory (The New Hampshire Shoe Workers' Union).	Manchester, N.H	10/10/79	9/24/79	TA-W-6,207	Men's welt shoes.
Palm Beach Company (workers)	Roanoke, Ala	10/10/79	9/29/79	TA-W-6,208	Ladies' coats and vests.
Singer Company, Controls Division (Allied Industrial Workers of America).	Wauwatosa, Wis	10/10/79	10/4/79	TA-W-6,209	A/C valves for auto.
Sportwhirl, Inc. (ILGWU)	New York, N.Y	10/10/79	10/4/79	TA-W-6,210	Ladies' sportswear.
The Anderson Co of Indiana (workers)	Valparaiso, Ind	10/2/79	9/27/79	TA-W-6,211	Auto windshield wipers.
The Anderson Co. of Indiana (workers)	Burns Harbor, Ind	10/2/79	9/27/79	TA-W-6,212	Auto windshield wipers.
Wheeling-Pittsburgh Steel Corporation (USWA)	Beach Bottom, W. Va	10/10/79	10/1/79	TA-W-6,213	Roof deck and painted coils, tensil form (corrugated sheets), mesh (expanded metal), lath and miscellaneous other products.
Wheeling-Pittsburgh Steel Corporation (USWA)	Benwood, W Va	10/10/79	10/1/79	TA-W-6,214	Welded tubular products.
Wheeling-Pittsburgh Steel Corporation (USWA)	Martins Ferry, Ohio	10/10/79	10/1/79	TA-W-6,215	Galvanized sheets and coils.

[FR Doc. 79-32685 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5972]

Auerbach & Co. d.b.a. La Jolla Sportswear, Los Angeles, Calif.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance: Correction

In Federal Register Doc. 79-28668 appearing on Page 53590-91 in the Federal Register of September 14, 1979, the date of petition in the Appendix under petitioner Auerbach and Company, d.b.a. La Jolla Sportswear. Los Angeles, California should be corrected to read "August 29, 1979."

Signed at Washington, D.C. this 16th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-32660 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-6053]

Clinchfield Coal Co., Lebanon, Va.; Investigation Regarding Certification of Eligibility To Apply for Worker Adjustment Assistance; Correction

In Federal Register Doc. 79-30233 appearing on pages 56059 & 60 in the Federal Register of September 28, 1979, the following location in the Appendix under petitioner Clinchfield Coal Company, TA-W-6053 is corrected to read as follows: "Lebanon, Virginia."

Signed at Washington, D.C. this 16th day of October 1979.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-32661 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5963 and 5965-6]

P.G.H. Inc., Mine No. 1, Mine No. 3, Mine No. 4, Dry Branch, W. Va.; Termination of Investigations

Pursuant to section 221 of the Trade Act of 1974, investigations were initiated on September 5, 1979 in response to worker petitions received on August 14, 1979, which were filed by the United Mine Workers of America on behalf of workers and former workers mining coal at Mine #1 (TA-W-5963) and Mines #3 and 4 (TA-W-5965-6) of P.G.H., Incorporated, Wet Branch, West Virginia. The investigation revealed that P.G.H., Incorporated is located in Dry Branch, West Virginia.

P.G.H., Incorporated Mine #1 never opened even though it was licensed. P.G.H., Incorporated Mines #3 and 4 were in operation for less than six months at the time of the investigation. Due to the short term of operation of P.G.H., Incorporated, Mines #1, 3, and 4, it is not possible to determine trends of sales and production and to statistically measure the impact of imports. In addition, worker qualifying requirements in section 231 of the Act may not be met by any employees of P.G.H., Incorporated, Mines #1, 3 and 4. Consequently, the investigations have been terminated.

Signed at Washington, D.C., this 17th day of October 1979.

Harold A. Bratt,

Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 79-32662 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5964, 5967-8]

P.G.H., Inc., Mine #2; Mine #5; Preparation Plant, Dry Branch, W. Va.; Negative Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met.

The investigations were initiated on September 5, 1979 in response to worker petitions received on August 14, 1979 which were filed by the United Mine Workers of America on behalf of workers and former workers mining metallurgical coal at Mines 2, 5 and the Preparation Plant of P.G.H. Incorporated, Wet Branch, West Virginia. The investigation revealed that P.G.H., Incorporated is located at Dry Branch, West Virginia. In the following determination, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

A very large majority of the coal mined by P.G.H., Incorporated was shipped to a user who then exported the coal. The mines and preparation plant were closed at the end of May, 1979 for business reasons unrelated to imports. There were still open orders to the large exporter to be filled if the coal had been available.

Conclusion

After careful review, I determine that all workers of P.G.H., Incorporated, Mines 2, 5 and the Preparation Plant, Dry Branch, West Virginia are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 17th day of October 1979.

James F. Taylor,

Director, Office of Management, Administration and Planning.

[FR Doc. 79-32663 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-28-M

[TA-W-5871]

Precept, Inc. Fort Worth, Tex.; Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents the results of an investigation regarding certification of eligibility to apply for worker adjustment assistance.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

The investigation was intitiated on August 17, 1979 in response to a worker petition received on August 10, 1979 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing disposable hospital garments at Precept, Incorporated, Fort Worth, Texas. It is concluded that all of the requirements have been met.

U.S. imports of disposable hospital garments and accessories increased both absolutely and relative to domestic production from 1976 to 1977, from 1977 to 1978 and during the January-June period of 1979 compared to the corresponding period of 1978. The ratio of U.S. imports to domestic production was 265.2 percent in the January-June period of 1979.

The Department of Labor conducted a survey from a random sample of the universe of customers of Precept, Incorported. Results indicated that, in aggregate customers responding to the survey increased their reliance on foreign sources for their purchase of disposable hospital garments in 1978 compared to 1977 and in the first seven months of 1979 compared with the first seven months of 1978. Many of the survey respondents who purchased disposable hospital garments from domestic sources indicated that the production of these garments was completed in plants located outside of the United States.

The increased import penetration of disposal hospital garments into the U.S. market and the high level of import activity by Precept's customers contributed to the declining production and employment at Precept, Incorporated.

Conclusion

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with disposable hospital garments produced at Precept,

V 44 NO 206 10-23-79 UMI

Incorporated, Fort Worth, Texas contributed importantly to the decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

Steel Tripartite Committee, Working Group on Environmental Protection; Meeting

The Steel Tripartite Committee was established under the Federal Advisory Committee Act, 5 U.S.C. App. (1976), to advise the Secretary of Labor and the Secretary of Commerce on international and domestic issues affecting the U.S. steel industry, labor and the public.

Notice is hereby given that the Steel Tripartite Committee's Working Group on Environmental Protection will meet at 10:00 a.m. on November 14, 1979, in room 3305, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, D.C.

Items to be discussed are the status of environmental issues and the future work of the Working Group on Environmental Protection. The public is invited to attend. A limited number of seats will be available to the public on a first-come basis.

FOR ADDITIONAL INFORMATION CONTACT:
Mr. David L. Mallino, Executive Secretary, Steel Tripartite Committee, Bureau of International Labor Affairs, U.S. Department of Labor, Washington, D.C. 20210, telephone (202) 523–7481; or
Mr. A. M. Brueckmann, Director, Iron and Steel Division, Office of Basic Industries and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4412.

Official records of the meeting will be available for public inspection at Room N 5651, U.S. Department of Labor, Washington, D.C. 20210.

Signed at Washington, D.C. this 22nd day of October 1979.

Herbert N. Blackman,
Deputy Under Secretary for International Affairs (Acting), U.S. Department of Labor.

[FR Doc. 79-32786 Filed 10-22-79; 8:45 am]
BILLING CODE 4510-23-M

Steel Tripartite Committee, Working Group on Technological Research and Development; Rescheduled Meeting

On October 12, 1979, the Notice of Meeting was published in the Federal Register (44 FR 59011) for a meeting of the Steel Tripartite Committee's Working Group on Technological Research and Development, to be held on November 8, 1979, at 2:00 p.m., in room 4830, Main Commerce Building, U.S. Department of Commerce, Washington, D.C.

The meeting has been rescheduled for November 7, 1979, at 2:00 p.m., in room 4830 Main Commerce Building, U.S. Department of Commerce, Washington, D.C.

There are no other changes to the notice.

Signed at Washington, D.C. this 19th day of October 1979.

Herbert N. Blackman,
Deputy Under Secretary for International Affairs (Acting), U.S. Department of Labor.

[FR Doc. 79-32787 Filed 10-22-79; 8:45 am]
BILLING CODE 4510-23-M

Pension and Welfare Benefit Programs

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 10:30 a.m. on Wednesday, November 7, 1979, in the Federal Ballroom North, Quality Inn-Capitol Hill, 415 New Jersey Avenue, N.W., Washington, D.C.

The purpose of the meeting is to discuss the items listed below and to invite public comment on any aspect of the administration of ERISA.

1. Department of Labor Progress Report
2. Council Work Group Reports:

Communications, Portability, Seasonal Industries, Prohibited Transactions, Collective Bargaining, Investment and Fiduciary, Reporting, Disclosure and Recordkeeping, Legislation

3. Statements from the Public

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA, by submitting 30 copies on or before November 6, 1979, to the Administrator, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room S–4522, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

Persons desiring to address the Council should notify Edward F. Lysczek, Executive Secretary of the Advisory Council, in care of the above address or by calling (202) 523–8753.

Signed at Washington, D.C. this 15th day of October 1979.

Ian D. Lanoff,
Administrator of Pension and Welfare Benefit Programs.

[FR Doc. 79-32851 Filed 10-22-79; 8:45 am]
BILLING CODE 4510-29-M

[Application No. D-1011]

Proposed Exemption for Certain Transactions Involving the Automation Gages, Inc., Profit Sharing Plan

AGENCY: Department of Labor.

ACTION: Notice of Proposed Exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and from certain taxes imposed by the Internal Revenue Code of 1954 (the Code). The proposed exemption would exempt a proposed loan of $156,800 from the Automation Gages, Inc, Profit Sharing Plan (the Plan) to Automation Gages, Inc. (the Employer). The proposed exemption, if granted, would affect participants and beneficiaries of the Plan, the Employer, and other persons participating in the proposed transaction.

DATES: Written comments and requests for a public hearing must be received by the Department on or before November 23, 1979.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20216, ATTENTION: Application No. D–1011. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, N.W., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, of the Department, telephone (202) 523–7462. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of an application for exemption from the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The proposed exemption was requested in an application filed by the Employer and the trustees of the Plan pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). The application was filed

with both the Department and the Internal Revenue Service. However, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, this notice of pendency is issued solely by the Department.

Summary of Facts and Representations

The application contains representations with regard to the proposed exemption which are summarized below. Interested persons are referred to the application on file with the Department for the complete representations of the applicants.

1. The Employer purchased a numerically controlled CNC Machine and accessories, model HTC–325 (CNC Machine) from the Burgmaster Machine Tool Co., Inc., Los Angeles, California, an independent third party. The Employer is paying for the CNC Machine on an interim basis utilizing Employer reserves. The Employer proposes to borrow $156,800 from the Plan to pay for the CNC Machine. This represents approximately 26% of Plan assets as of March 31, 1978. In consideration for the loan, the Employer will pay interest annually at the greater of 13.14% or 1% over prime. The term of the loan will be for 36 months.

2. The trustees of the Plan, Edward Polidor, President of the Employer, Edward T. Polidor, Vice President of the Employer, and Charles W. Rogers, attorney for the Employer, make all of the investment decisions for the Plan and have concluded that under the circumstances the proposed transaction is in the best interest of the Plan.

3. The loan will be secured by a promissory note from the Employer to the Plan. In addition, the Employer will provide to the Plan collateral security mortgages on the CNC Machine and a Ramburg Versa Mill Machine Tool valued at $60,000, which is free of all liens and/or encumbrances and a personal guarantee from Edward C. Polidor, President and major stockholder of the Employer whose net worth exceeds $1.2 million. The CNC Machine and the Ramburg Versa Mill Machine Tool are insured by an insurance contract with Aetna Casualty and Surety Co. with the benefits payable to the Plan. The security instruments will be recorded at the Monroe County Clerk's Office in Rochester, New York.

4. An independent bank, the Central Trust Company of Rochester, New York, is willing to extend credit to the extent of $156,800 to the Employer for the purchase of the CNC Machine. The loan would be payable over a five year period at an interest rate of 1% over prime.

5. An independent party, Joseph M. O'Connell, Jr., of O'Connell Machinery Company, Inc., Buffalo, New York, has appraised the value of the CNC Machine to be currently $180,000. It is Mr. O'Connell's opinion that if the CNC Machine is maintained properly, its value will be between $144,000 and $135,000 for the next three years; $135,000 and $125,000 for the next three years; and $125,000 and $115,000 for the next three years.

6. The applicants represent that the proposed transaction meets the criteria of section 408(a) of the Act because (1) it is a transaction of limited duration (2) the terms and conditions of the transaction are superior to that which could be obtained from an independent third party, and (3) the Plan will be protected by personal guarantees of the Employer's top executive and controlling stockholder and security interests on the CNC Machine and Ramburg Versa Mill Machine Tool.

Notice to Interested Persons

Within ten days after publication in the Federal Register, a copy of this notice of proposed exemption will be mailed to the Plan participants and beneficiaries.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(4) The proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time period set forth above. All comments will be made a part of the record. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption. Comments received will be available for public inspection with the application for exemption at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to a proposed loan of $156,800 by the Plan to the Employer for the purchase of a CNC machine pursuant to the terms and conditions described above.

The proposed exemption, if granted, will be subject to the express conditions that the material facts and representations contained in the application are true and complete, and that the application accurately describes all material terms of the transaction to be consummated pursuant to the exemption.

V 44 O C 23 7 9 UMI

Signed at Washington, D.C., this 15th day of October, 1979.

Ian D. Lanoff,

Administrator, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 79-32658 Filed 10-22-79; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Procedures and Administration Subcommittee; Meeting

The ACRS Procedures and Administration Subcommittee will hold an open meeting on November 7, 1979 in Room 1010, 1717 H St., NW, Washington, DC 20555.

In accordance with the procedures outlined in the Federal Register on October 1, 1979, (44 FR 56408), oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangemens can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, November 7, 1979; 5:15 p.m. until the conclusion of business.

The Subcommittee will discuss the scope and procedures for conduct of ACRS business, including ACRS involvement in consideration of differing professional opinions among NRC Staff members.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Raymond F. Fraley, (telephone 202/634-3265) between 8:15 a.m. and 5:00 p.m., EDT before, and EST after, October 28, 1979.

Dated: October 15, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32571 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Regulatory Activities; Meeting

The ACRS Subcommittee on Regulatory Activities will hold an open meeting on November 7, 1979, in Room 1167, 1717 H St. NW., Washington, DC 20555. Notice of this meeting was published in the Federal Register October 18, 1979.

In accordance with the procedures outlined in the Federal Register on October 1, 1979 (44 FR 56408) oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the Designated Federal Employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements.

The agenda for subject meeting shall be as follows: Wednesday, November 7, 1979. The meeting will commence at 8:45 a.m.

The Subcommittee will hear presentations from the NRC Staff and will hold discussions with this group pertinent to the following:

(1) Proposed Regulatory Guide, "Qualification and Production Tests for Safety-Related Snubbers."

(2) Proposed Regulatory Guide 1.97, Revision 2, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant and Environs Conditions During and Following an Accident."

(3) Regulatory Guide 1.141, Revision 1, "Containment Isolation Provisions for Fluid Systems."

Other matters which may be of a predecisional nature relevant to reactor operation or licensing activities may be discussed following this session.

Persons wishing to submit written statements regarding Regulatory Guide 1.141, Revision 1, may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. However, to insure that adequate time is available for full consideration of these comments at the meeting, it is desirable to send a readily reproducible copy of the comments as far in advance of the meeting as practicable to Mr. Sam Duraiswamy (ACRS), the Designated Federal Employee for the meeting, in care of ACRS, Nuclear Regulatory Commission, Washington, D.C. 20555 or telecopy them to the Designated Federal Employee (202)-634-3319) as far in advance of the meeting as practicable. Such comments shall be based upon documents on file and available for public inspection at the NRC Public Document Room, 1717 H St., NW., Washington, DC 20555.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the Designated Federal Employee for this meeting, Mr. Sam Duraiswamy, (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m., EDT before, and EST after, October 28, 1979.

Dated: October 16, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32572 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the Advisory Committee on Reactor Safeguards will hold a meeting on November 8-10, 1979, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published on September 20, 1979 (44 FR 54558).

The agenda for the subject meeting will be as follows:

Thursday, November 8, 1979

8:30 a.m.-12:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of the ACRS Chairman regarding miscellaneous matters relating to ACRS activities.

The Committee will discuss proposed ACRS comments and recommendations regarding the NRC regulatory process.

1:30 p.m.-4:30 p.m.: Diablo Canyon Nuclear Power Station Units 1 and 2 (Open)—The Committee will hear and discuss reports from representatives of NRC Staff, and the Pacific Gas and Electric Company and their consultants/contractors, as necessary, regarding proposed application of experience gained at the Three Mile Island Nuclear Station Unit 2 to the Diablo Canyon Nuclear Power Station.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

4:30 p.m.-6:30 p.m.: Westinghouse Nuclear Steam Supply System with Ice-Condenser Containment/Sequoyah-McGuire Nuclear Plants (Open)—The Committee will hear and discuss reports from representatives of the NRC Staff, and the Applicants and their consultants and contractors, as necessary, regarding proposed application of experience gained at the Three Mile Island Nuclear Station Unit 2 to nuclear plants which make use of Westinghouse NSSS with ice-condenser containment of the Sequoyah and McGuire type.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to this matter.

6:30 p.m.-7:30 p.m.: Executive Session (Open)—The Committee will hear and discuss the reports of ACRS Subcommittee Chairmen regarding proposed evaluation and plans for resolution of generic safety matters applicable to light-water reactors. Members of the NRC Staff will participate as necessary.

Friday, November 9, 1979

8:30 a.m.-12:30 p.m.: Executive Session (Open)—The Committee will discuss proposed ACRS comments and recommendations regarding the NRC regulatory process.

1:30 p.m.-6:45 p.m.: Meeting with NRC Staff (Open)—The Committee will hear and discuss a presentation regarding the anticipated schedule and proposed procedures for ACRS review of action to resolve NRC unresolved safety issues (NUREG-0606).

The Committee will hear and discuss a presentation regarding system interactions which could result from a steamline break outside containment in nuclear plants using Westinghouse Nuclear Steam Supply Systems.

The Committee will hear and discuss a presentation regarding proposed revision of Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following an Accident."

The Committee will hear and discuss a report regarding NUREG-0600, "Investigation Into the March 28, 1979 Three Mile Island Accident" by the Office of Inspection and Enforcement.

6:45 p.m.-7:15 p.m.: Executive Session (Open)—The Committee will hear and discuss the report of its Subcommittee on the NRC report NUREG-0625, "Report of the Siting Policy Task Force."

Saturday, November 10, 1979

8:30 a.m.-4:00 p.m.: Executive Session (Open)—The Committee will continue its discussion of proposed ACRS comments and recommendations regarding the NRC Regulatory process.

The Committee will discuss proposed reports to the NRC on the Diablo Canyon Nuclear Power Station Units 1 and 2; Westinghouse Nuclear Steam Supply Systems with Ice-Condenser Containment of the Sequoyah-McGuire type; NUREG-0600, "Investigation Into the March 28, 1979 TMI Accident"; and proposed changes to Regulatory Guide 1.97, "Instrumentation for Light-Water-Cooled Nuclear Power Plants to Assess Plant Conditions During and Following An Accident".

The Committee will discuss proposed replies to NRC Commissioners regarding follow-up and implementation of ACRS recommendations.

The Committee will hear and discuss reports of its Subcommittees on Three Mile Island Accident Implications and the implementation of recommendations resulting from this accident.

The Committee will also hear and discuss reports of its Subcommittees on the Wolf Creek Nuclear Power Station (seismic design), and anticipated transients without scram.

The Committee will discuss the proposed schedule for future ACRS activities, nominees for ACRS Officers for CY 1980, and will complete discussion of miscellaneous items considered during this meeting.

Portions of this session may be closed as necessary to protect information, the release of which would represent an unwarranted invasion of personal privacy. Portions will also be closed as necessary to discuss Proprietary Information applicable to matters noted above.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 1, 1979 (44 FR 56408). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a telephone call to the ACRS Executive Director (R. F. Fraley) prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92-463 that it is necessary to close portions of this meeting as noted above to protect Proprietary Information (5 U.S.C. 552b(c)(4)) and to protect information the release of which would represent an unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634-3265), between 8:15 a.m. and 5:00 p.m. EDT. (EST after October 28, 1979).

Dated: October 18, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 79-32685 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-321-SP and 50-366-SP]

Georgia Power Company, et al. (Edwin I. Hatch Nuclear Plant, Units 1 and 2) (Spend Fuel Expansion); Order Setting Special Prehearing Conference

On August 15, 1979, the Nuclear Regulatory Commission published in the Federal Register a notice of a proposed issuance of an amendment to Facility Operating License Nos. DPR-57 and NPF-5 that had been issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia, and City of Dalton, Georgia (the licensee) for the operation of Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2 (the facilities) located in Appling County, Georgia. 44 FR 47820. The proposed amendment would allow an increase in storage capacities of the spent fuel pools of from 840 to 3,181 fuel assemblies in Hatch No. 1 pool and from 1,120 to 2,845 fuel assemblies in Hatch No. 2 pool.

The notice provided that the licensee might file a request for a hearing and that any person whose interests might be affected by the proceeding might file a request for a hearing in the form of petition for leave to intervene pursuant to 10 CFR 2.714 by September 14, 1979. On that date, a petition to intervene was received from Georgians Against Nuclear Energy (GANE), which was amended on October 4, 1979 to include an affidavit of a member claiming to reside approximately 44 miles from the facilities. The petition has been opposed

V 44 0C 23 79 UMI

by the licensee. An Atomic Safety and Licensing Board (Board) was designated to rule upon intervention petitions and requests for hearings. The members of the Board are Mr. Glenn O. Bright, Dr. Richard F. Cole and Mr. Herbert Grossman, who will serve as Chairman of the Board.

Pursuant to the provisions of 10 CFR 2.751(a) the Board will conduct a special prehearing conference beginning at 9:30 a.m. on November 20, 1979, at Richard B. Russell Federal Building, L. D. Strom Auditorium, Lower Plaza, 75 Spring Street, S.W., Atlanta, Georgia 30303. The parties to this proceeding, or their respective counsel, are directed to attend. At the special prehearing conference, in addition to considering the intervention petition, the parties should be prepared to discuss specific issues that might be considered at an evidentiary hearing and possible further scheduling in the proceeding.

The petitioner shall file a supplement to the petition not later than 15 days prior to the special prehearing conference which shall include a list of specific contentions sought to be litigated in this proceeding. Petitioner, the licensee, and the staff are directed to consult with each other prior to that time in order to attempt to arrive at some agreement with regard to the licensee's asserted deficiencies in the petition and the contentions to be framed by petitioner.

The public is invited to attend the prehearing conference. No oral limited appearance statements will be permitted at this conference. If a hearing is granted, opportunity for limited appearance statements will be afforded at subsequent evidentiary hearings near the site of the facilities. Written limited appearance statements may be mailed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 or presented to the Board at the special prehearing conference or at any subsequent sessions of the evidentiary hearing.

By order of the Board; Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland this 17th day of October, 1979.

Herbert Grossman,

Chairman.

[FR Doc. 79-32689 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM-73-4]

Samuel H. Levine; Withdrawal of Petition of Rule Making

Notice is hereby given that the Nuclear Regulatory Commission has received a letter from Dr. Samuel H. Levine, College of Engineering, the Pennsylvania State University, withdrawing his petition for rule making PRM-73-4.

By letter dated February 2, 1979, Dr. Levine filed with the Commission a petition for rule making to amend its regulation "Physical Protection of Plants and Materials," 10 CFR Part 73. The petitioner requested that special nuclear material fuel in a fuel element which is not readily separable from other radioactive material and which has a total external radiation dose rate in excess of 0.4 rems per hour per gram of U-235 at a distance of three feet be exempt from the requirements of Part 73. The petitioner also proposed that the external dose rate requirement of 100 rems per hour at three feet in air be reduced to 10 rems per hour at three feet in air.

By letter dated August 30, 1979, the petitioner withdrew his petition for rule making PRM-73-4 from further consideration by the Nuclear Regulatory Commission and stated that ". . . I understand that the NRC staff and members of the reactor research community are investigating this problem and therefore there is no need to hold a formal hearing. It is hoped that the efforts of the research reactor community will be integrated into the final rules regarding this problem."

The Nuclear Regulatory Commission intends to continue an evaluation of the radiation level needed for special nuclear material to be considered "self-protecting." Public comments on this matter are welcome even though the petition for rule making has been formally withdrawn. All persons who desire to submit written comments or suggestions on this subject may mail their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Attention: Docketing and Service Branch.

Copies of the petition and the letter withdrawing the petition are available for public inspection and copying at the Commission's Public Document Room.

Dated at Washington, DC this 18th day of October, 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32690 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2); Reconstitution of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license proceeding to consist of the following members:

Alan S. Rosenthal, Chairman; Dr. John H. Buck, and Dr. W. Reed Johnson.

Dated: October 17, 1979.

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 79-32692 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-285 SP]

Omaha Public Power District; Establishment of Atomic Safety and Licensing Board To Preside in Proceeding

Pursuant to delegation by the Commission dated December 29, 1972, published in the Federal Register (37 FR 28710) and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established in the following proceeding to rule on petitions for leave to intervene and/or requests for hearing and to preside over the proceeding in the event that a hearing is ordered.

Omaha Public Power District

(Fort Calhoun Station, Unit No. 1) Facility Operating License No. DPR-40

This action is in reference to an Order published by the Commission on September 7, 1979, in the Federal Register (44 FR 52388-90) entitled "Omaha Public Power District; Proposed Issuance of Amendment to Facility Operating License."

The Chairman of this Board and her address is as follows:

Elizabeth S. Bowers, Esq., Atomic Safety and Licensing Board Panel, Nuclear Regulatory Commission, Washington, D.C. 20555.

The other members of the Board and their addresses are as follows:

Mr. Ernest E. Hill, Lawrence Livermore Laboratory, University of California, P.O. Box 808, L-123, Livermore, California 94550.

Dr. Quentin J. Stober, Fisheries Research Institute, University of Washington, Seattle, Washington 98195.

Dated at Bethesda, Md. this 17th day of October 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-32688 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-133]

Pacific Gas & Electric Co.; (Humboldt Bay Power Plant, Unit No. 3), Facility Operating License No. DPR-7; Reconstitution of Board

Edward Luton, Esq., was Chairman of the Atomic Safety and Licensing Board for the above proceeding. Mr. Luton has transferred to another federal agency.

Accordingly, Robert M. Lazo, Esq., whose address is Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, is appointed Chairman of this Board. Reconstitution of the Board in this manner is in accordance with § 2.721 of the Commission's rules of practice, as amended.

Dated at Bethesda, Md., this 17th day of October 1979.

Robert M. Lazo,

Acting Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc. 79-32687 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

Planning Basis for Emergency Responses to Nuclear Power Reactor Accidents

AGENCY: Nuclear Regulatory Commission.

ACTION: NRC Policy Statement.

Purpose

This is a statement of policy with regard to an Environmental Protection Agency (EPA) and Nuclear Regulatory Commission (NRC) task force report on guidance for use in state and local radiological emergency response plans at nuclear power plants.

Background

The NRC received a request from the Conference of Radiation Control Program Directors, an organization of State officials, to "make a determination of the most servere accident basis for which radiological emergency response plans should be developed by offsite agencies." In response, an EPA and NRC task force was established which prepared a report entitled "Planning Basis for the Development of State and Local Government Radiological Emergency Response Plans in Support of Light Water Nuclear Power Plants." NUREG-0396, EPA 520/1-78-016, dated December 1978. Single copies of the report can be obtained by writing to the Director, Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, D.C. 20555. The task force report was published for public comment in the Federal Register on December 15, 1978 and the comment period was extended to May 15, 1979 to allow additional comments resulting from the accident at Three Mile Island. A synopsis of the comments received and the task force consideration of these comments is available from the Assistant Director for Emergency Preparedness, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Planning Basis

The major recommendation of the report is that two Emergency Planning Zones (EPZs) should be established around light water nuclear power plants. The EPZ for airborne exposure has a radius of about 10 miles; the EPZ for contaminated food has a radius of about 50 miles. Predetermined protective action plans are needed for the EPZs. The exact size and shape of each EPZ will be decided by emergency planning officials after they consider the specific conditions at each site. These distances are considered large enough to provide a response base which would support activity outside the planning zone should this ever be needed.

The report also provides planning basis guidance in the form of a range of time values in which emergency response officials should be prepared to implement protective action. The report indicates that, depending on such factors as the specific sequence of events during an accident which results in the release of radioactivity to the atmoshpere and the prevailing meteorological conditions, protective action may be required from perhaps one-half hour to one day after the intiation of the accident. Development and periodic testing of procedures for rapid notification of emergency response officials is encouraged, since the time available for action is strongly affected by the time consumed in notification.

The chemical and physical characteristics of those radionuclides which contribute most significantly to human exposure are presented.

NRC Policy

NRC concurs in and endorses for use the guidance contained in the task force report. In endorsing this guidance, the Commission recognizes that it is appropriate and prudent for emergency planning guidance to take into consideration the principal characteristics (such as nuclides released and distances likely to be involved) of a spectrum of design basis and core melt accidents. While the Commission recognizes that the guidance may have significant response impacts for many local jurisdictions, it believes that implementation of the guidance is nevetheless needed to improve emergency response planning and preparedness around nuclear power reactors.

The Commission is direction its staff to incorporate the planning basis guidance into existing documents used in the evaluation of state an local emergency response plans to the extent practicable. The NRC has recently published and Advance Notice of Proposed Rulemaking concerning additional regulations on emergency plans, 44 FR 41484, Tuesday, July 17, 1979. Additional guidance will be provided following this rulemaking. This additional guidance can be expected to consider how local conditions such as demography, land use, and meteorology can influence the size an shape of the EPZs and to address other issues, such as evacuation planning.

Specific implementation dates for full implementation of the task force recommendations and any others that are developed will be established as part of the ongoing rulemaking effort. The Commission also expects the staff to assist state and local governments in improving their emergency response capabilities at existing sites in the immediate future.

Dated at Washington, D.C. this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32681 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

Topical Report; Notice of Issuance and Availability

The Nuclear Regulatory Commission staff has released a topical report on the characteristics of lightning flashes. The report was prepared by the National Hurricane and Experimental Meteorology Laboratory of the National Oceanic and Atmospheric Administration for the NRC.

The report, NUREG/CR-1024, "An Initial Assessment of Flash Density and Peak Current Characteristics of Lightning Flashes to Ground in South Florida," presents information concerning the frequency and intensity

of lightning flashes to ground observed during a three-month period in southern Florida. The data are presented in the context of estimating the probability of lightning strikes of various current intensities to structures on the earth's surface.

NUREG/CR-1024 is available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. Copies may be purchased at current rates from the National Technical Information Service, Springfield, Virginia 22161. (Paper copy: $4.50; Microfiche: $3.00)

A single copy of NUREG/CR-1024 will be provided free of charge, while the supply lasts, upon written request of a full participant in an ongoing NRC proceeding. The request must identify the requester as a participant and should be addressed to Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 16th day of October 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-32691 Filed 10-22-79; 8:45 am]

BILLING CODE 7590-01-M

PRESIDENT'S COMMISSION ON PENSION POLICY

Report of Staff Contacts

The President's Commission on Pension Policy has directed its staff to maintain and publish for the public record a listing of contacts of a substantive nature made with individuals, organizations, and groups interested in the activities of the Commission.

The following is the staff report of such contacts for the month of September.

John Valiente, Dave Kennell, Collin Blaydon, and David Lintz of Inner City Funding
Steven Sacher, staff director of the Senate Committee on Education and Labor
Thea Marshall, Prime Time Radio
John Abraham, associate director, Communications Workers of America
Chester Salkind, executive director, American Society of Pension Actuaries
Walter Kolodrubetz and Peter Guerrero, U.S. Department of Labor
Mike Mahoney and Syl Scheiber, Universal Coverage Study Group
Mike Schneider, U.S. Department of Housing and Urban Development
George Peterson and Hal Hovey, Urban Institute
Ken Glass, Office of Personnel Management
David Mandel, National Institute of Education
Anna Mae Sokusky, CBS Radio
Representatives of the National Association of Manufacturers
Representatives of the National Symposium on Public Employee Retirement Systems
Representatives of the Citizens' Commission on Pension Policy
Gary Gilliam, actuary, U.S. Department of the Treasury
Gene Sullivan, Massachusetts Retirement Law Commission
Gene Littleford, Office of Personnel Management
Dick Ross and Darlene Ferguson, Market Facts, Inc.
Ron Schalleck, Lyman Hanson and Mark Nixon of Peat, Marwick & Mitchell
Dave McCarthy and Malcolm Morrison of the U.S. Department of Labor
Robert Spiegelman and Allen Frieden, Stanford Research Institute
Dave Hunter, Philadelphia Chamber of Commerce
John McCart, Public Employee Department, AFL-CIO
Virgil Day, ERISA Industry Committee
Bruce Marcus, writer
Shelley Metzenbaum, Technical Development Corporation
Mike Leibig, Zwerdling and Maurer
Dallis Salisbury, executive director, Employee Benefit Research Institute.
Ten Bower, Sears, Roebuck & Company
Roy Schotland, professor of law, Georgetown University Law Center
Bonnie Cohen, United Mine Workers Health & Retirement Funds
George Pantos, ERISA Industry Committee
Martin Danziger, U.M.W.A. Health & Retirement Funds
Bill Morgan, publisher
Howard Winklevoss, Winklevoss & Associates
Don Hedgman, Chase Econometrics
Judy Wolfson, Connecticut General Representatives of ICF
Darwin Johnson, Brookings Institution
Kathy Westlock, U.S. Chamber of Commerce
Virginia Decker, William M. Mercer, Inc.
Bruce Poliquin, Evaluation Associates, Inc.

Signed at Washington, D.C. this 17th day of October 1979.

Thomas G. Woodruff,

Executive Director.

[FR Doc. 79-32642 Filed 10-22-79; 8:45 am]

BILLING CODE 8820-99-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-0350]

Quidnet Capital Corp.; Filing of Application for Approval of Conflict of Interest Transaction

Notice is hereby given that Quidnet Capital Corporation (Quidnet Corp.), 32 Nassau Street, Princeton, New Jersey 08540, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application pursuant to § 107.1004 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.1004 (1979)), for approval of conflict of interest transaction.

Quidnet Corp., desires to provide additional financing in an amount up to $200,000 to Mercer County Racquetball Associates (MCRA), a portfolio concern, for the purpose of financing the construction of additional racquetball courts. Quidnet Corp., asserts that the necessary funds are not available from other sources on reasonable terms.

The managing general partner of MCRA is Courtworks Associates, a limited partnership in which Quidnet Company which is a partnership that should not be confused with Quidnet Corp., the Licensee, owns a fifty (50) percent interest. Quidnet Company is considered to be an "Associate" of Quidnet Corp., as that term is defined under § 107.3 of the SBA Regulations since its general partners Messrs. Stephen Fillo and Reid White, are also the officers and shareholders in Quidnet Corp. Therefore, MCRA is also deemed to be an "Associate" of the Licensee. Consequently, the proposed transaction comes within the purview of § 107.1004(b)(1) of the Regulations which prohibits a licensee from providing financing to any of its Associates, except where a written exemption is granted by the SBA.

Notice is hereby given that any person may, on or before November 7, 1979, submit written comments on the proposed transaction. Any such comments should be addressed to the Acting Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, N.W., Washington, D.C. 20416.

A copy of this Notice shall be published in a newspaper of general circulation in Princeton, New Jersey.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 18, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-32648 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council Meeting

The Small Business Administration Region II Advisory Council, located in the geographical area of Hato Rey, Puerto Rico, will hold a public meeting at 9:30 a.m., Wednesday, November 7, 1979, at the Federico Degetau Federal Building, Room 756, (7th Floor), Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Wilfred Benitez-Robles, Acting District Director, U.S. Small Business Administration, Federico Degetau Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico 00918, (809) 753-4218.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32649 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Baltimore, Maryland, will hold a public meeting at 10:00 a.m., Friday, November 9, 1979, at the Airport Holiday Inn—Airport & Elkridge Landing Roads, Linthicum, Maryland, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Gerard J. Lang, District Director, U.S. Small Business Administration, Oxford Building, Room 630, 8600 LaSalle Road, Towson, Maryland 21204—(301) 922-2054.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32650 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region VI Advisory Council Meeting

The Small Business Administration Region VI Advisory Council, located in the geographical area of New Orleans, Louisiana, will hold a public meeting at 9:00 a.m., Friday, November 2, 1979, at the International Trade Mart Building, Number 2 Canal Street, New Orleans, Louisiana, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert J. Crochet, U.S. Small Business Administration, 1001 Howard Avenue, New Orleans, Louisiana 70113 — (504) 589-2354.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32651 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Wichita, Kansas, will hold a public meeting from 10:00 a.m. to 3:00 p.m., Friday, November 2, 1979, in the Conference Room, Wichita District Office, U.S. Small Business Administration, 110 East Waterman, Wichita, Kansas, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Clayton Hunter, District Director, U.S. Small Business Administration, 110 East Waterman, Wichita, Kansas 67202, (316) 267-6311, Ext. 566.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32652 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Des Moines, Iowa, will hold a public meeting at 11:00 a.m., Monday, November 5, 1979, on the 33rd floor of the Ruan Building in the Des Moines Room, Des Moines, Iowa, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call J. Harold Sears, District Director, U.S. Small Business Administration, 210 Walnut Street, Des Moines, Iowa 50309, (515) 284-4567.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32654 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 09/09-0242]

California Partners; Filing of Application for Approval of Conflict of Interest Transaction Between Associates

Notice is hereby given that California Partners, Two Palo Alto Square, Suite 700, Palo Alto, California 94304, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration pursuant to Section 107.1004 of the regulations governing small business investment companies (13 CFR 107.1004 (1979)) for approval of a conflict of interest transaction.

California Partners proposes to make an investment in Priam Corporation (Priam) 3096 Orchard Drive, San Jose, California 95134. The proposed financing will be used to purchase 15,151 shares of Priam's Series B Preferred Stock at a price of $6.60 per share, for a total purchase price of $99,996.00.

California Partners is a California partnership. Its corporate general partner is Draper Associates, Inc., of which Mr. William H. Draper III is an officer, director, and its sole shareholder. The limited partners of California Partners are members of Mr. Draper's immediate family. Mr. Draper also is one of the general partners of Sutter Hill Ventures (Sutter Hill), a California partnership, and has more than a 10 percent interest. SBA deems Sutter Hill and its other general partners as Associates of California Partners. Sutter Hill, its general partners and associates of general partners have been investors in Priam since July 19, 1978. As a group, these investors currently hold approximately 32 percent of the voting power in Priam. Because Sutter Hill, its partners and their associates own more than 10 percent of the voting powers of Priam, Priam is defined as an Associate of California Partners. Therefore, the proposed investment of California Partners in Priam falls within the purview of Section 107.1004(b)(1) of SBA Rules and Regulations and requires SBA prior written approval.

Notice is hereby given that any person may not later than (15 days from the date of publication of this Notice) submit written comments to the Acting

Region VIII Advisory Council Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Casper, Wyoming, will hold a public meeting at 9:00 a.m., Tuesday, October 30, 1979, in the Conference Room of the Federal Building, Room 4116, 100 East B Street, Casper, Wyoming, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Frank T. Stroud, Acting District Director, U.S. Small Business Administration, P.O. Box 2839, Casper, Wyoming 82602, (307) 265-5550.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32654 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

A similar Notice shall be published in a newspaper of general circulation in the Palo Alto and San Jose, California areas.

(Catalog of Federal Assistance Programs No. 95.011, Small Business Investment Companies)

Dated: October 16, 1979.

Peter F. McNeish,

Acting Associate Administrator for Finance and Investment.

[FR Doc. 79-32699 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m., Thursday, November 15, 1979, at the Federal Building, 87 State Street, Room 216, (2nd Floor), Montpelier, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602—(802) 229-0538.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32700 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Detroit, Michigan, will hold a public meeting at 8:30 a.m., Thursday, November 15, 1979, at the Radisson Cadillac Hotel, Detroit, Michigan, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Raymond L. Harshman, District Director, U.S. Small Business Administration, 515 Patrick V. McNamara Building, 477 Michigan Avenue, Detroit, Michigan 48226—(313) 226-7240.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32701 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region IX Advisory Council; Public Meeting

The Small Business Administration Region IX Advisory Council, located in the geographical area of Las Vegas, Nevada, will hold a public meeting from 9:00 a.m. to 12:00 noon, Thursday, November 27, 1979, at the Environmental Protection Agency, Auditorium, 944 E. Harmon, University of Nevada, Las Vegas Campus, Las Vegas, Neveda, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert S. Garrett, District Director, U.S. Small Business Administration, 301 E. Stewart, Las Vegas, Nevada 89101—(702) 598-6611.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32702 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Indianapolis, Indiana, will hold a public meeting at 10:00 a.m., Tuesday, November 27, 1979, in the Marten House, 1801 West 86th Street, Indianapolis, Indiana, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, Federal Building, 5th Floor, 575 North Pennsylvania Street, Indianapolis, Indiana 46204—(317) 331-7275.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32703 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of St. Louis, Missouri, will hold a public meeting at 9:00 a.m., Tuesday, November 13, 1979, in the Palladium Room of the Cheshire Inn & Lodge, 6306 Clayton Road, St. Louis, Missouri, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Thomas L. Holling, District Director, U.S. Small Business Administration, One Mercantile Center, Suite 2500, St. Louis, Missouri 63101—(314) 425-4191.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32704 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The Small Business Administration Region V Advisory Council, located in the geographical area of Minneapolis, Minnesota, will hold a public meeting from 10:00 a.m. to 2:00 p.m., Tuesday, November 13, 1979, at the Federal Reserve Bank, 250 Marquette Avenue, Minneapolis, Minnesota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Paul W. Jansen, District Director, U.S. Small Business Administration, Plymouth Building, Room 530, 12 South Sixth Street, Minneapolis, Minnesota 55402—(612) 725-2928.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32705 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

Region VII Advisory Council; Public Meeting

The Small Business Administration Region VII Advisory Council, located in the geographical area of Kansas City, Missouri, will hold a public meeting at 9:00 a.m. Wednesday, November 14, 1979, at the Stadium Club, I-70 and Blue Ridge Cutoff, Kansas City, Missouri, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Gerald D. Jepson, District Director, U.S. Small Business Administration, 1150 Grand Avenue, 5th Floor, Kansas City, Missouri—(816) 374-5557.

Dated: October 17, 1979.

K. Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-32706 Filed 10-22-79; 8:45 am]

BILLING CODE 8025-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 311]

Expedited Procedures for Recovery of Fuel Costs

Decided: October 16, 1979.

In our decisions of September 11, 18, 25, and October 2 and 9, 1979, a 9.5-percent surcharge was authorized on all owner-operator traffic, and on all truckload traffic whether or not owner-operators were employed. We ordered that all owner-operators were to receive compensation at this level.

Athough the weekly figures set forth in the appendix for transportation performed by owner-operators and for truckload traffic is 9.8 percent, we are authorizing that the 9.5-percent surcharge on this traffic remain in effect. All owner-operators are to continue to receive compensation at the 9.5-percent level. In addition, no change will be made in the existing authorization of a 1.7-percent surcharge on less-than-truckload traffic performed by carriers not utilizing owner-operators.

Further, by virtue of our decision in Ex Parte No. 311 (Sub-No. 2B), served October 12, 1979, motor carriers of passengers are permitted to file for a maximum 3.6-percent surcharge in accordance with the provisions of Special Permission No. 79-2800. According to the index, no change will be made in the existing 3.6-percent surcharge on this traffic.

Notice shall be given to the general public by mailing a copy of this decision to the Governor of each State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation, by depositing a copy in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Office of the Federal Register, for publication therein.

It is ordered: This decision shall become effective Friday, 12:01 a.m., October 19, 1979.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Chairman O'Neal, Vice Chairman Stafford and Commissioner Christian were absent and did not participate in the disposition of this proceeding.

Agatha L. Mergenovich,

Secretary.

Appendix.—*Fuel Surcharge*

Based Date and Price Per Gallon (Including Tax)
January 1, 1979 ..... 63.5¢

Date of Current Price Measurement and Price Per Gallon (Including Tax)
October 15, 1979 ..... 100.3

Average Percent: Fuel Expenses (Including Taxes) of Total Revenue

(1) From Transportation Performed by Owner Operators (Apply to All Truckload Rated Traffic)	(2) Other (Including Less-Truckload Traffic)	(3) Bus Carriers
16.9%	2.9%	6.3%
Percent Surcharge Developed		
9.8%	1.7%	3.6%
Percent Surcharge Allowed		
9.5%	1.7%	

[FR Doc. 79-32615 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 17, 1979

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 7, 1979. FSA No. 43757, Southwestern Freight Bureau, Agent's No. B-34, rates on rice and rice products, from Otwell, Ark., to stations in Central-Eastern, Southern and Western Trunk Line (including Illinois) Territories, in Supplement 141 to its Tariff ICC SWFB 4390, to become effective November 12, 1979. Grounds for relief—market competition.

By the Commission

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32616 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398; Supplemental Order No. 4]

Kansas City Terminal Railway Co.—Directed To Operate Over Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee)

Decided: October 12, 1979.

This decision is being issued to amend two provisions of the initial Directed Service Order (decided and served September 26, 1979; published in the **Federal Register** on October 1, 1979 at 44 FR 56343).

The first amendment regards the monetary threshold for distinguishing between major and minor rehabilitation for rail cars and other nonlocomotive equipment. The second amendment concerns the matter of approval for continuation of preexisting arrangements and agreements by the directed rail carrier (DRC).

Equipment Maintenance

At present, the Directed Service Order requires the DRC to obtain prior Commission approval for all rehabilitation for car and other nonlocomotive equipment which exceeds $250 per unit. *See* page 25 (44 FR 56348 columns 1 and 2). Upon further consideration, we believe this figure to be too low.

In the original order, we differentiated between "major" and "minor" equipment repairs, and expressed our belief that advance Commission approval should only be required for the former. We initially set the upper threshold for "minor" at $250 for cars and other nonlocomotive equipment. However, after more thorough review, we believe an upper limit of $1,200 per unit to be a more realistic gauge of normal equipment maintenance. Accordingly, we shall amend the language of the original Directed Service Order to read as follows:

Page 25 (¶4) [44 FR 56348, 2nd column, 1st paragraph)—In line 3 of paragraph 4, change the phrase "$250 per unit" to read: "$1,200 per unit".

Page 25 (¶4) [44 FR 56348, 2nd column, 1st paragraph)—Insert before the last sentence in the "Minor Rehabilitation" section the following sentence: "No repairs of this type should be initiated unless they can be completed well within the 60-day statutory time frame."

Continuation of Existing RI Arrangements

At present, the DRC is required to obtain Commission approval in order to continue any existing Rock Island (RI) arrangements or agreements essential to its operation of the directed lines. *See* pages 33-35 [44 FR 56349, 3rd column through 56350, 1st column] and ordering paragraph 10 (page 40) [44 FR 56351, 1st column].

Substantial time and money would be spent in submitting, reviewing, and passing upon the hundreds of existing RI arrangements covering routine operational matters which the DRC must assume in order to provide directed service. This would result in a needless burden on both Commission and DRC resources. Moreover, continuation of essential prior arrangements would in no way alter the preexisting status quo, but would simply maintain conditions to the extent necessary for the provision of directed service. Thus, we do not believe it necessary to consider individually each continuation of an existing RI agreement or arrangement. Rather, we shall permit the DRC to continue those RI agreements or

V 44 OC 23 79 UMI

arrangements which are essential to the provision of directed service without or advance approval.

Accordingly, we shall amend the language of the original Directed Service Order to read as follows:

Page 33 (¶3) [44 FR 56349, 3rd column]—End sentence 2 of paragraph 3 after the word "operations". Also, delete the rest of the sentence.

Page 33 (¶3) [44 FR 56349, 3rd column]—Add the following sentence to paragraph 3 after the word "operations."

The DRC need not seek our prior approval to continue preexisting RI agreements or arrangements, even where such agreements or arrangements require the expenditure of funds. Any funds expended by the DRC according to the terms of any RI agreements or arrangements continued by the DRC shall be deemed reimbursable costs of directed service.

Page 34 (¶1) [44 FR 56349, 3rd column]—In sentence 2, insert the word "and" between clauses (3) and (4); end the sentence after clause (4); and delete clause (5).

Page 34 (¶3) [44 FR 56350, 1st column]—In the title to this paragraph, insert the word "and" between the words "Trustee," and "KCT's". Also, delete the words "and Continuation of RI Arrangements".

Page 34 (¶3) [44 FR 56350, 1st column]—In line 5, change the word "four" to "three".

Page 34 (¶3) [44 FR 56350, 1st column]—In sentence 1, insert the word "and" between clauses "(b)" and "(c)"; end the sentence after clause "(c)"; and delete clause "(d)".

Page 34 (¶3) [44 FR 56350, 1st column]—In line 10, change the word "four" to "three".

Page 35 (¶1) [44 FR 56350, 1st column]—In line 1, change the word "three" to "two".

Page 35 (¶1) [44 FR 56350, 1st column]—In line 2, delete the words "and continuations of arrangements".

Page 35 (¶3) [44 FR 56350, 1st column]—In line 7, change the word "four" to "three".

Page 40 (ordering ¶10) [44 FR 56351, 1st column]—Delete the second sentence.

It is ordered: (1) Directed Service Order No. 1398 is amended as indicated above.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins and Alexis. Commissioner Gresham concurring.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32638 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions, Decision-Notice

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisidictional problems) we fund, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

Volume No. 178

Decided: Sept. 26, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2900 (Sub-372F), filed May 14, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, CT, FL, GA, IA, IL, IN, KS, KY, MA, MD, MI, MN, MO, MS, NC, NE, NY, NJ, OH, PA, SC, TN, TX, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 35320 (Sub-318F), filed May 11, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except articles of unusual value, classes A and B explosives, ammunition, parts of ammunition, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Modene Mfg. Co., at or near Lawrenceburg, TN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Nashville, TN, or Washington, DC.)

MC 70151 (Sub-53F), filed May 16, 1979. Applicant: UNITED TRUCKING SERVICE INC., 8505 West Warren Ave., Dearborn, MI 48126. Representative: LaVergne L. Adsit (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Honda of America Manufacturing, Inc., located about 7 miles northwest of Marysville, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Columbus, OH.)

MC 75840 (Sub-123F), filed May 14, 1979. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Frank D. Hall, Suite 713, 3384 Peachtree Rd., N.E., Atlanta, GA 30326. Transporting *paper products,* from the facilities of Moore Business Forms, Inc., at or near Heflin, AL, to Houston, TX. (Hearing site: Birmingham, AL.)

MC 108461 (Sub-134F), filed April 19, 1979. Applicant: SYSTEM 99, 8201 Edgewater Drive, Oakland, CA 94621. Representative: William S. Richards, 48 P.O. Place, P.O. Box 2465, Salt Lake City, UT 84110. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment), (1) between Tucson, AZ, and Lordsburg, NM, over Interstate Hwy 10, serving no intermediate points, and (2) between Phoenix, AZ, and Albuquerque, NM, from Phoenix over Interstate Hwy 17 to Flagstaff, AZ, then over Interstate Hwy 40 to Albuquerque, NM, and return over the same route, serving no intermediate points. (Hearing site: Albuquerque, NM, or Phoenix, AZ.)

Note.—Applicant proposes to tack the above-described authority.

MC 110420 (Sub-817F), filed May 14, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *liquid chemicals,* in bulk, in tank vehicles, from Cleveland, OH, to points in IL, IN, IA, MN, and WI. (Hearing site: Washington, DC.)

MC 110420 (Sub-818F), filed May 16, 1979. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. Transporting *animal oils and vegetable oils,* in bulk, in tank vehicles, between Louisville, KY, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 115331 (Sub-508F), filed May 11, 1979. Applicant: TRUCK TRANSPORT INC., 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Transporting *sand,* from points in LaSalle County, IL, and Berrien County, MI, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 117730 (Sub-58F), filed May 16, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route No. 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz, USA, at or near Fremont and Toledo, OH, to points in IA, IL, and MO, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 117940 (Sub-337F), filed May 16, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Transporting *such commodities* as are dealt in by retail stores (except commodities in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Gamble Skogmo Inc. (Hearing site: Minneapolis or St. Paul, MN.)

MC 121470 (Sub-23F), filed May 16, 1979. Applicant: TANKSLEY TRANSFER CO., a corporation, 801 Cowan St., Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting *steel footwalks, aluminum footwalks,* and *fiberglass footwalks,* from the facilities of IKG Industries, at or near (1) Charlotte, NC, (2) Gulfport, MS, (3) Kansas City, KS, (4) Nashville, TN, (5) Easton, PA, and (6) Long Island City, NY, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Nashville, TN.)

MC 123061 (Sub-125F), filed May 15, 1979. Applicant: LEATHAM BROTHERS INC., 46 Orange St., P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple #501, Salt Lake City, UT 84102. Transporting *potash,* from Potash, UT, to points in CO, WY, MT, ID, NV, CA, OR, and WA. (Hearing site: Salt Lake City, UT, or Portland, OR.)

MC 124170 (Sub-130F), filed May 1, 1979. Applicant: FROSTWAYS, INC., 3000 Chrysler Service Drive, Detroit, MI 48207. Representative: William J. Boyd, 600 Enterprise Drive, Suite 222, Oak Brook, IL 60521. Transporting *bakery products,* from Livonia, MI, to points in AL, AR, CT, DE, FL, GA, IL, IN, KY, LA, ME, MD, MA, MS, MO, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the facilities of Awrey Bakeries, Inc., at

V 44 OC 23 79 UMI

Livonai, MI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 127610 (Sub-4F), filed May 16, 1979. Applicant: J. P. NOONAN TRANSPORTATION, INC., 436 West Street, West Bridgewater, MA 02379. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *slag*, from Bow, NH, to points in ME, VT, MA, CT, RI, and NY. (Hearing site: Boston, MA.)

Note.—Dual operations may be involved.

MC 135070 (Sub-60F), filed May 15, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, CT, GA, IA, IL, IN, KS, KY, MD, MA, MI, MN, MO, MS, NC, NE, NY, NJ, OH, PA, TN, TX, VA, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

Note.—Dual operations may be involved.

MC 135070 (Sub-61F), filed May 17, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816. Lincoln, NE 68501. Transporting: (1) *motorcycles and recreational vehicles*, and *parts, components, and accessories* for motorcycles and recreational vehicles, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of motorcycles and recreational vehicles, from the facilities of AMF, York Division, at or near York and Middletown, PA, to points in AR, LA, OK, and TX. (Hearing site: Harrisburg, PA, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135070 (Sub-62F), filed May 17, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln NE 68501. Transporting: (1) *paper and paper articles*, and *plastic* and *plastic articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (a) from Shelbyville and Chicago, IL, to points in IA, NE, CO, KS, OK, MO, and TX, (b) from Fort Worth, TX, to points in CO, NM, NE, KS, OK, IA, MO, AR, LA, TN, MS, AL, GA, FL, NC, SC, and NJ, (c) from Los Angeles, CA, to points in NM, AZ, NV, UT, WA, OR, ID, and MT, and (d) from Norcross, GA, to Fort Worth, TX. (Hearing site: Chicago, IL, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135070 (Sub-63F), filed May 17, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting: *confectionery*, from Boston, MA, to points in KS, NE, IA, MO, OK, AR, LA, TX, NM, AZ, CA, OR, WA, CO, UT, and NC. (Hearing site: Boston, MA, and Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135410 (Sub-62F), filed May 16, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting: *corrugated boxes*, from the facilities of MacMillan Bloedel Containers, Inc., at Chicago, IL, to points in IA and MN, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 135410 (Sub-74F), filed May 16, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy, Park Ridge, IL 60068. Transporting: *ferrosilicon*, (except in bulk), from Keokuk, IA, to New York, NY, and Baltimore, MD. (Hearing site: New York, NY, or Washington, DC.)

MC 136511 (Sub-54F), filed May 16, 1979. Applicant: VIRGINIA APPALACHIAN LUMBER CORP., 9640 Timberlake Road, Lynchburg, VA 24502. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh St., NW., Washington, DC 20001. Transporting *processed peanuts*, from Gorman, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 142431 (Sub-9F), filed May 16, 1979. Applicant: WAYMAR TRANSPORT CORP., 1755 S.E. 108th St., Runnells, IA 50237. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. Transporting *foodstuffs* (except commodities in bulk), from the facilities of Campbell Soup Company, at Chicago, IL, to Cherokee, Des Moines, Chariton, Spencer, Sioux City, and Laurens, IA, and Omaha, Lincoln, Grand Island, Scottsbluff, and North Platte, NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 143621 (Sub-18F), filed May 16, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting *iron and steel articles*, from Chicago, IL, to Decatur, AL, Owensboro, KY, and points in TN. (Hearing site: Chicago, IL or Nashville, TN.)

MC 144330 (Sub-60F), filed May 14, 1979. Applicant: UTAH CARRIERS, INC., P.O. Box 1218, Freeport Center, Clearfield, UT 84016. Representative: Charles D. Midkiff (same address as applicant). Transporting *iron and steel articles* (except in bulk), from the facilities of Lithro Strip Corp., at or near Chicago, IL, to points in KS and OK, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 145360 (Sub-2F), filed May 14, 1979. Applicant: THOM'S TRANSPORT COMPANY, INC., Box 405, Blackshear, GA 31516. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. Transporting *lumber*, from Thomasville, GA, to points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MO, MS, NC, OH, SC, TN, VA, and WV. (Hearing site: Jacksonville, FL, or Atlanta, GA.)

MC 147161 (Sub-1F), filed May 14, 1979. Applicant: MASS TRANSIT, INC., 2450 Orange Avenue, Signal Hill, CA 90806. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting steel fasteners, from the facilities of Truswal Systems Corporation—Western Division, at Anaheim, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Truswal Systems Corporation—Western Division, of Anaheim, CA. (Hearing site: Los Angeles, CA.)

MC 147340F, filed May 16, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: H. Barney Firesone, 10 South LaSalle St., Suite #1600, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicles in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), from the facilities of Kraft, Inc., at or near Los Angeles and Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Chicago, IL, or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 147430F, filed May 14, 1979. Applicant: GRAPHIC ARTS EXPRESS, LTD., 144 Barrow St., New York, NY 10014. Representative: Roy A. Jacobs, 550 Mamaroneck Ave., Harrison, NY 10528. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over *irregular* routes, transporting *printed matter*, from New York, NY, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT, under continuing contract(s) with Charles Offset Co., of New York, NY. (Hearing site: New York, NY.)

Volume No. 180

Decided: Sept. 25, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2202 (Sub-594F), filed May 22, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Blvd., Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., NW., Washington, DC 20014. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Capital-Mercury Shirt Corp., at or near Yellville, AR, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Washington, DC.)

MC 2392 (Sub-125F), filed May 22, 1979. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, DC 20036. Transporting (1) *anhydrous ammonia*, in bulk, in tank vehicles, from points in Hamilton County, NE, to points in CO, IA, KS, SD, and WY, and (2) *fertilizer*, in bulk, in tank vehicles, from the facilities of United Suppliers, Inc., at Council Bluffs and Eldora, IA, to points in NE, and (3) *liquid fertilizer*, in bulk, in tank vehicles, from Columbus, NE, to points in IA, KS, and SD. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 3753 (Sub-19F), filed May 25, 1979. Applicant: AAA TRUCKING CORPORATION, 3630 Quaker Bridge Road, Trenton, NJ 08619. Representative: Herbert Burstein, One World Trade Center, Suite 2373, New York, NY 10048. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between those points in PA on the east of U.S. Hwy 11, on the one hand, and, on the other, New York, NY, points in Suffolk, Orange, Rockland, Westchester Counties, NY, points in MA, MD, CT, RI, NJ, and DC, and those in DE on the north of a line beginning at the DE–MD State line and extending along U.S. Hwy 40 to junction DE Hwy 273, then along DE Hwy 273 to the Delaware River. (Hearing site: New York, NY, or Washington, DC.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 1134(a) (formerly Section 5(2) of the Interstate Commerce Act) or submit an affidavit within 30 days from date of publication indicating why such approval is unnecessary.

MC 14252 (Sub-62F), filed May 23, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Albion and West Salem, IL, as off-route points in connection with carriers otherwise authorized regular-route operations. (Hearing site: Washington, DC, or Columbus, OH.)

MC 33513 (Sub-2F), filed May 25, 1979. Applicant: PADULA BROS., INC., 2400 69th Street, North Bergen, NJ 07047. Representative: Alvin Altman, 868 Seventh Avenue, New York, NY 10019. Transporting *office furniture and office equipment*, between New York, NY, Boston, MA, Philadelphia, PA, Baltimore, MD, and DC, on the one hand, and, on the other, points in CT, DE, MA, MD, NC, NJ, NY, PA, RI, VA, and VT. (Hearing site: New York, NY, or Washington, DC.)

MC 36222 (Sub-15F), filed May 25, 1979. Applicant: CREWE TRANSFER, INC., Route 1, Box 209, Crewe, VA 23930. Representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Transporting (1) *tobacco and tobacco products*, and *materials, equipment, and supplies* used in the maufacture, distribution, sale, and storage of tobacco and tobacco products, (except commodities in bulk, in tank vehicles), and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. Section 10526(a)(6) formerly Section 203(b)(6) of the Interstate Commerce Act, in mixed shipments with the commodities in (1) above, between points in Cabarrus County, NC on the one hand, and, on the other, Richmond, VA, and points in Chesterfield County, VA. (Hearing site: Richmond, VA, or Washington, DC.)

MC 61592 (Sub-452F), filed May 25, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1)(a) *agricultural machinery, implements, and equipment*, and (b) *parts and accessories* for the commodities in (1)(a) above, from Kaukauna, WI, to those points in the United States in and east of MT, WY, CO, and NM; and (2) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) above, in the reverse direction. (Hearing site: Milwaukee, WI.)

MC 64932 (Sub-599F), filed May 25, 1979. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Avenue, Oak Lawn, IL 60453. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *refrigerant and propellant goses*, in bulk, in tank vehicles, from the facilities of E. I. duPont de Nemours & Co., at or near Montague, MI, to points in MO (except St. Louis and points in its commerical zone), and those in OH on and west of a line beginning at the MI–OH State line and extending along Interstate Hwy 475 to junction Interstate Hwy 75, then along Interstate Hwy 75 to junction U.S. Hwy 68, then along U.S. Hwy 68 to the OH–KY State line. (Hearing site: Chicago, IL.)

MC 65802 (Sub-71F), filed May 16, 1979. Applicant: LYNDEN TRANSPORT, INC., 5615 W. Marginal Way, SW, Seattle, WA 98106. Representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Transporting (1) *fertilizer* between points in CA, ID, MT, NV, OR, UT, and WA; and (2) *clay and clay products*, between the ports of entry on the international boundary line between the United States and Canada at or near Sumas, WA, on the one hand, and, on the other, points in ID, OR, and WA. Condition.—Issuance of a certificate is subject to the prior or coincidental cancellation, at applicant's written request, of the outstanding certificate in MC 65802 (Sub-36), issued October 14, 1969. (Hearing site: Seattle, WA.)

Note.—Dual operations may be involved.

MC 71593 (Sub-33F), filed May 25, 1979. Applicant: FORWARDERS TRANSPORT, INC., 1608 E. 2d Street, Scotch Plains, NJ 07076. Representative: Peter Wolff, P.O. Box 116, Scranton, PA

16504. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, on the one hand, and, on the other, Phoenix, AZ, Oklahoma City, OK, and points in CA, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. 10102(8) (formerly Section 402(a)(5) of the Interstate Commerce Act). (Hearing site: New York, NY.)

MC 80443 (Sub-23F), filed May 25, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *lumber and lumber products*, from points in AL, AR, CA, GA, ID, LA, MS, MT, OR, and WA, to points in IA, MN, ND, SD, and WI. (Hearing site: Minneapolis or St. Paul, MN.)

MC 87103 (Sub-36F), filed May 23, 1979. Applicant: MILLER TRANSFER & RIGGING CO., P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). Transporting (1)(a) *Machinery, and quarry and mining drills*, and (b) *air compressors, and parts, attachments and accessories for air compressors*, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Gardner-Denver Company Drill Carrier Division, at Salem, VA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Gardner-Denver Company Drill Carrier Division. (Hearing site: Richmond, VA, or Washington, DC.)

MC 87103 (Sub-37F), filed May 25, 1979. Applicant: MILLER TRANSFER & RIGGING CO., a corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). Transporting *tractors* (except truck tractors), from the facilities of Ford Motor Company, at or near Romeo, MI, to points in CT, DE, KY, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, restricted to the transportation of traffic (a) originating at the named origin and (b) destined to the indicated destinations, except that restriction (b) shall not apply to traffic moving in foreign commerce. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 87103 (Sub-38F), filed May 25, 1979. Applicant: MILLER TRANSFER & RIGGING CO., a corporation, P.O. Box 6077, Akron, OH 44312. Representative: Edward P. Bocko (same address as applicant). Transporting (1) *boilers, boiler accessories, and boiler parts*, and (2) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between East Stroudsburg, PA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of International Boiler Works Co. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 103993 (Sub-964F), filed May 23, 1979. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, IN 46515. Representative: James B. Buda (same address as applicant). Transporting *materials, equipment and supplies* used in the manufacture, sale and distribution of metal buildings and metal building parts (except commodities in bulk), from points in the United States, in and east of ND, SD, NE, KS, OK, and TX, to the facilities of Star Manufacturing at or near Homer City, PA. (Hearing site: Oklahoma City, OK.)

MC 107403 (Sub-1216F), filed May 24, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *dicalcium phosphate*, in bulk, in tank vehicles, from Peabody, MA, to points in OH and IL. (Hearing site: Washington, DC.)

MC 107403 (Sub-1219F), filed May 25, 1979. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *spent catalyst*, in bulk, in tank vehicles, between points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 110683 (Sub-142F), filed May 22, 1979. Applicant: SMITH'S TRANSFER CORP., Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, Esq., 1000 16th Street, NW., Suite 502, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, classes A and B explosives, commodities in bulk, and those requiring special equipment), between Birmingham, AL, and points within 15 miles thereof, on the one hand, and, on the other, Tuscumbia and Sheffield, AL. (Hearing site: Washington, DC.)

MC 112713 (Sub-274F), filed May 23, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: Robert E. DeLand (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those requiring special equipment), serving the facilities of Amoco Chemicals Corporation, at Chocolate Bayou, TX, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Houston, TX, or Kansas City, MO.)

MC 113362 (Sub-353F), filed May 24, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eight Avenue, NE, P.O. Box 429, Austin, MN 55912. Transporting (1) *household, laundry, and kitchen appliances, and air conditioners*, and (2) *parts* for the commodities in (1) above, from the facilities of Gibson Appliances, Greenville Products, and Belding Products, Divisions of White Consolidated Industries, Inc., at or near Greenville, Belding, Grand Rapids, and Muskegon, MI, to points in AL, AR, CT, GA, IA, KS, KY, LA, ME, MD, MA, MN, MS, MO, NE, NH, NJ, NY, OK, PA, RI, TN, TX, VA, VT, WV, WI, and DC. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 113642 (Sub-17F), filed May 24, 1979. Applicant: WINN TRUCKING SERVICE, INC., Route 2, Horse Cave, KY 42749. Representative: William P. Whitney, Jr., 708 McClure Bldg., Frankfort, KY 40601. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles and* (except those which because of size or weight require the use of special equipment), from Horse Cave, KY, to points in WV, under continuing contract(s) with Armco, Inc., of Middletown, OH. (Hearing site: Cincinnati, OH, or Louisville, KY.)

MC 114632 (Sub-222F), filed May 29, 1979. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Representative: David E. Peterson (same address as applicant). Transporting *meats, packing-house products, and commodities used by packing houses* (except dairy products and commodities in bulk), as described in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, between the facilities of (1) Lauridsen Foods at Britt, IA, and (2) Armour & Co. at Mason City, IA, on the one hand, and, on the other, points in AR, CO, CT, DE, GA, ID, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, MT, NE, NH, NJ, NY, ND, OH, OK, PA, RI, SD, TN, TX, UT, VT, VA, WV, WI, WY, and DC. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 115322 (Sub-181F), filed May 22, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: L. W. Fincher, P.O. Box 426, Tampa, FL 33601. Transporting *malt beverages* from Latrobe, PA, to points in FL. (Hearing site: Washington, DC.)

MC 115322 (Sub-186F), filed May 25, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Lawrence E. Lindeman, 425 13th Street, NW., Suite 1032, Washington, DC. 20004. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in AL, CT, DE, FL, GA, KY, LA, ME, MD, MA, MS, NH, NJ, NY, NC, PA, RI, SC, TN, VA, VT, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Borden, Inc. (Hearing site: Columbus, OH, or Washington, DC.)

MC 115663 (Sub-7F), filed May 25, 1979. Applicant: HULL AND SMITH HORSE VANS, INC., Route 1, Box 12, Ashland, NE 68003. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. Transporting *horses, other than ordinary, and, in the same vehicle with such horses, stable supplies and equipment used in their care and exhibition, mascots, and the personal effects of their attendants, trainers and exhibitors*, between points in AZ, CA, CO, IL, KY, NE, and NM, on the one hand, and, on the other, points in DE, FL, MD, NJ, NY, and PA. (Hearing site: Omaha, NE.)

MC 116763 (Sub-519F), filed May 10, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers, converters, and distributors of (a) paper and paper products, and (b) cellulose or synthetic materials and products, (except commodities in bulk), between the facilities of Kimberly-Clark Corporation, at or near Corinth, MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Kimberly-Clark Corporation, at or near Corinth, MS. (Hearing site: Milwaukee, WI.)

MC 117823 (Sub-59F), filed May 24, 1979. Applicant: DUNKLEY REFRIGERATED TRANSPORT, INC., 1915 South 900 West, Salt Lake City, UT 84104. Representative: Don Bryce, 5565 East 52nd Avenue, Commerce City, CO 80022. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Los Angeles and Ontario, CA, to points in AZ, CO, ID, MT, NV, NM, OR, UT, WA, and WY, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Denver, CO.)

MC 123272 (Sub-31F), filed May 24, 1979. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 N. LaSalle Street, Chicago, IL 60602. Transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk), between the facilities of The Kroger Co., at or near Cincinnati, Springdale, Woodlawn, Blue Ash, Columbus, and Whitehall, OH, on the one hand, and, on the other, points in AR, FL, GA, IL, IN, KU, MI, MO, PA, TN, TX, VA, and WV. (Hearing site: Chicago, IL.)

MC 124813 (Sub-205F), filed May 29, 1979. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *iron and steel articles* from Milwaukee, WI, to Moline, IL, and points in IA. (Hearing site: Chicago, IL or Milwaukee, WI.)

Note.—Dual Operations may be involved.

MC 124813 (Sub-206F), filed May 29, 1979. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagel Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *iron and steel articles*, from the facilities of Inland Steel Company at East Chicago, IN, to points in IL and IA, restricted to the transportation of traffic originating at the named origins. (Hearing site: Chicago, IL.)

Note.—Dual Operations may be involved.

MC 125433 (Sub-269F), filed May 18, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *derricks, booms, and parts for derricks and booms*, and (2) *equipment, materials, and supplies* used in the manufacture and installation of the commodities named in (1) above, (except commodities in bulk), between the facilities of Telelect, Inc., at or near Watertown, SD, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Denver, CO, or Salt Lake City, UT.)

MC 125433 (Sub-270F), filed May 18, 1979. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *glass and glass products*, from the facilities of PPG Industries, (1) at or near Cumberland, Mt. Holly Springs, and Meadville, PA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) at or near Crystal City, MO, to points in the United States (except AK and HI). (Hearing site: Chicago, IL, or Salt Lake City, UT.)

MC 126273 (Sub-348F), filed May 16, 1979. Applicant: MIDWESTERN DISTRIBUTION, INC., P.O. Box 189, Fort Scott, KS 66701. Representative: Elden Corban (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers, converters, and distributors of (a) paper and paper products, and (b) cellulose or synthetic materials and products, (except commodities in bulk, in tank vehicles), between the facilities of Kimberly-Clark Corporation, at or near Corinth, MS, on the one hand, and, on the other, points in the United States (except AK, HI, and MS), restricted to the transportation or traffic orginating at or destined to the facilities of Kimberly-Clark Corporation, at or near Corinth, MS. (Hearing site: Milwaukee, WI, or Washington, DC.)

MC 128343 (Sub-47F), filed May 21, 1979. Applicant: C-LINE, INC., Tourtellot Hill Road, Chepachet, RI 02814. Representative: Ronald N. Corbett, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, Transporting (1) *Copper rod and Cathodes*, from Baltimore, MD, to points in AR, CT, GA, IL, IN, IA, KS, KY, LA, ME, MA, MI, MO, NE, NH, NJ, NY, NC, OH, PA, SC, TN, TX, VT, and VA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, under continuing contract(s) in (1) and (2) above with Kennecott Copper

V 44 NO 206 10 23 79 UMI

Corporation of Salt Lake City, UT. (Hearing site: Washington, DC, or Boston, MA.)

Note.—Dual operations may be involved.

MC 134922 (Sub-294F), filed May 21, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *pulpboard* (except corrugated), from Oppelo, AR, to Kalamazoo, MI, Fremont, OH, and Green Bay, Cedarburg, and Wausau, WI. (Hearing site: Chicago, IL, or Little Rock, AR.)

Note.—Applicant states the purpose of this application is to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC-109 which govern the filing and processing of applications for substitution f single-line service for existing joint-line service.

MC 136553 (Sub-74F), filed May 21, 1979. Applicant: ART PAPE TRANSFER, INC., 1080 East 12th Street, Dubuque, IA 52001. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *coolant filters, metal chip conveyors, and parts for washing machines*, from Dubuque, IA, to points in IL, IN, MI, and WI; and (2) *materials and supplies* used in the manufacture of the commodities in (1) abvove, (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 138572 (Sub-7F), filed May 21, 1979. Applicant: BRUNSWICK PETROLEUM TRANSPORT LTD., McAllister Industrial Park, P.O. Box 132, Saint John, NB, Canada E2L 3X8. Representative: J. P. Vermette, 7887 Grenache Street, Ville d'Anjou, PQ, Canada H1J 1C4. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *fuel oil additives*, in bulk, in tank vehicles, from Bridgeport, CT, to the ports of entry on the international boundary line between the United States and Canada. (Hearing site: Washington, DC.)

MC 139193 (Sub-106F), filed May 21, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Boulevard, Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrance D. Jones, 2033 K Street, NW., Suite 300, Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, CT, FL, GA, IA, IL, IN, KS, KY, MA, MI, MD, MN, MO, MS, NC, ND, NJ, NE, NY, OH, PA, TN, TX, SC, SD, VT, VA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc., under continuing contract(s) with Kraft, Inc., of Chicago, IL. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140193 (Sub-5F), filed May 21, 1979. Applicant: RICH GRANT, INC., 910 West 24th Street, Ogden, UT 84401. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts*, and *articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides, inedible tallow, and commodities in bulk), between the facilities of Parke Meats, Inc., at or near Ogden, UT, on the one hand, and, on the other, points in CA, NV, ID, CO, NE, SD, ND, IA, MN, WI, IL, AZ, OR, and WA, under continuing contract(s) with Parke Meats, Inc., of Ogden, UT. (Hearing site: Salt Lake City, UT.)

MC 140563 (Sub-35F), filed May 22, 1979. Applicant: W. T. MYLES TRANSPORTATION CO., P.O. Box 321, Conley, GA 30027. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *fiberglas mineral wool insulation*, (except commodities in bulk), from the facilities of CertainTeed Corporation at or near Memphis, TN, to points in AL, FL, GA, KY, LA, MS, NC, OH and SC, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 141533 (Sub-10F), filed May 21, 1979. Applicant: LYN TRANSPORT, INC., 37 North Central Avenue, Elmsford, NY 10532. Representative: Bruce J. Robbins, 118–21 Queens Boulevard, Forest Hills, NY 11375. Transporting (1) *bananas and plantains*, and (2) *agricultural commodities* which are otherwise exempt from economic regulation under 49 U.S.C. Section 10526(a)(6) formerly Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) above, from Albany, NY, Newark, NJ, and Baltimore, MD, to points in CT, NJ, NY, OH, and PA. (Hearing site: New York, NY.)

MC 141652 (Sub-34F), filed May 21, 1979. Applicant: ZIP TRUCKING, INC., P.O. Box 5717, Jackson, MS 39207. Representative: K. Edward Wolcott, P.O. Box 56387, Atlanta, GA 30343. Transporting *steel doors, steel door frames, and brass, copper, and steel hardware*, from the facilities of The CECO Corporation, at or near Oklahoma City, OK, to points in AZ, CA, CO, ID, MT, NE, NM, OR, UT, WA, and WY. (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 141832 (Sub-2F), filed May 21, 1979. Applicant: K.I.T. MOTOR EXPRESS, INC., 1228 Highland Avenue, Louisville, KY 40204. Representative: Edward J. Kiley, 1730 M Street NW., Suite 501, Washington, DC 20036. Transporting (1) *electrical transformers, transformer parts, pole line hardware, pole line material, electrical appliances, and electrical equipment*, and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, (except commodities in bulk), between the facilities of McGraw Edison Company, at or near (a) Zanesville, OH, (b) Canonsburg and East Stroudsburg, PA, (c) Bloomfield, NJ, (d) Olean, NY, (e) Macomb, IL, (f) Vicksburg, MS, (g) Nacogdoches, TX, and (h) Visalia, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Lousiville, KY, or Washington, DC.)

MC 142062 (Sub-28F), filed May 23, 1979. Applicant: VICTORY FREIGHTWAY SYSTEM, INC., P.O. Drawer P, Sellersburg, IN 47172. Representative: William P. Jackson, Jr., 3426 N. Washington Boulevard, P.O. Box 1240, Arlington, VA 22210. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *varnish and synthetic resin plastic liquids* (except commodities in bulk), from the facilities of Celanese Polymer Specialties Company, Inc., at or near Los Angeles, CA, to points in OR, WA, CO and AZ, and (2) *materials, equipment and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), in the reverse direction, under a continuing contract(s) with Celanese Polymer Specialties Company, Inc., of Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

MC 142603 (Sub-11F), filed May 21, 1979. Applicant: CONTRACT CARRIERS OF AMERICA, INC., P.O. Box 1968, Springfield, MA 01101. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning compounds* (except in bulk), from Manchester, CT, to points in the United States (except AK and HI), under continuing contract(s) with Syndet Products, Inc., of Manchester, CT. (Hearing site: Hartford, CT, or Springfield, MA.)

MC 143032 (Sub-19F), filed May 29, 1979. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. Transporting *iron and steel articles*, from Duluth, MN, to points in AL, AZ, AR, CA, CO, CT, DE, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NM, NY, ND, OH, OK, PA, RI, TN, TX, VT, WV, and WI. (Hearing site: Duluth, MN or Minneapolis, MN.)

MC 143032 (Sub-21F), filed May 28, 1979. Applicant: THOMAS J. WALCZYNSKI, d.b.a. WALCO TRANSPORT, 3112 Truck Center Drive, Duluth, MN 55806. Representative: James B. Hovland, Gate City Building, P.O. Box 1680, Fargo, ND 58107. Transporting *crushed stone*, in bulk, from the facilities of GAF Corporation, at or near Pembine, WI, to Chicago and Joliet, IL, Franklin, OH, and Minneapolis, MN. (Hearing site: New York, NY, or Minneapolis, MN.)

MC 143083 (Sub-7F), filed May 23, 1979. Applicant: C.T.S. LINES, INC., 602 Airport Road, Greenville, SC 29615. Representative: Robert E. Born, Suite 508, 1447 Peachtree Street, NE, Atlanta, GA 30309. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from Rome, GA, to points in FL, IL, KS, LA, MO, OK, and TX, under continuing contract(s) with Fox Manufacturing Company, Inc., of Rome, GA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 143433 (Sub-10F), filed April 16, 1979. Applicant: B. L. GILBERT d.b.a. GILBERT TRUCKING CO., 310 South First Avenue, Stroud, OK 74079. Representative: Greg E. Summy, P.O. Box 1540, Edmond, OK 73034. Transporting, *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in the United States, (except AK and HI). (Hearing site: Chicago, IL or Oklahoma City, OK.)

MC 144513 (Sub-10F), filed May 21, 1979. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *paddle fans, and accessories for paddle fans*, from Rogers, AR, and Pasadena, CA, to points in the United States (except AK and HI); (2) *materials, equipment, and supplies* used in the manufacture and distributions of the commodities in (1) above, in the reverse direction; and (3) *flooring materials*, and *materials and supplies* used in the installation and distribution of flooring materials, and *carpet*, from Trenton, NJ, Norwood, MA, Nashville and Chattanooga, TN, Center, TX, Columbus, GA, and those points in GA on and north of Interstate Hwy 85, to points in CA, restricted in (1), (2), and (3) above against the transportation of commodities in bulk, and those which by reason or size or weight require the use of special equipment. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 146323 (Sub-2F), filed May 18, 1979. Applicant: WILLIAM J. WIMETT AND LUCILLE A WIMETT, a partnership, d.b.a. WIMETT TRUCKING, 3325 Revenwood Lane, Missoula, MT 59801. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *Barite*, in bulk, from the facilities of Montana Barite Co., Inc., at or near Missoula, MT, to points in ID, UT, and WY. (Hearing site: Billings, MT, or Boise, ID.)

MC 146813 (Sub-3F), filed May 23, 1979. Applicant: A. M. DELIVERY, INC., 2756 Plano Drive, Rowland Heights, CA 91748. Representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cleaning compounds, petroleum and petroleum products, and corrosive products* (except commodities in bulk) from the facilities of DuBois Chemicals Division of Chemed Corporation, at the City of Industry, CA, to Phoenix, AZ, Billings, MT, Las Vegas, NV, Portland, OR, Salt Lake City, UT, Seattle and Spokane, WA, under a continuing contract(s) with DuBois Chemicals, Division of Chemed Corporation, of the City of Industry, CA. (Hearing site: Los Angeles, CA.)

MC 146873 (Sub-2F), filed May 21, 1979. Applicant: SPRINKLE ELEVATORS, INC., P.O. Box 177, Lyons, IN 47443. Representative: William H. Towle, 180 N. LaSalle Street, Chicago, IL 60601. Transporting *anhydrous ammonia*, in bulk, in tank vehicles, from points in IL to points in IN. (Hearing site: Chicago, IL.)

MC 146892 (Sub-2F), filed May 21, 1979. Applicant: R & L TRANSFER, INC., P.O. Box 271, Wilmington, OH 45177. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. Transporting *such commodities* as are dealt in by retail hardware stores and department stores (except commodities in bulk), from Louisville, KY, and Wilmington and Cincinnati, OH, to points in WV, PA, OH, and NY. (Hearing site: Columbus or Cincinnati, OH.)

MC 147122F, filed May 1, 1979. Applicant: SCOTHOLM TRANSPORTATION CORP., 5950 Fisher Road, P.O. Box 487, East Syracuse, NY 13057. Representative: Martin Werner, 15th Floor, 888 Seventh Avenue, New York, NY 10019. Transporting (1) *frozen foodstuffs*, and (2) *commodities*, the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. 10526(a)(6), formerly Section 203(b)(6) of the Interstate Commerce Act, in mixed loads with the commodities in (1) above, between the facilities of Empire Freezers of Syracuse, Inc., at Syracuse, NY, on the one hand, and, on the other, points in ME, NH, VT, RI, MA, CT, NY, NJ, PA, DE, MD, VA, WV, OH, MI, and DC. (Hearing site: Syracuse, NY.)

Note.—Dual operations may be involved.

MC 147193F, filed May 6, 1979. Applicant: MARTIN RUITER d.b.a. MARTIN'S FEED CO., P.O. Box 189, Custer, WA 98240. Representative: James T. Johnson, 1610 IBM Building, Seattle, WA 98101. Transporting *feed, feed ingredients, and seed* between ports of entry on the international boundary line between the United States and Canada, on the one hand, and, on the other, points in OR and WA. (Hearing site: Seattle, WA.)

MC 147242 (Sub-1F), filed May 23, 1979. Applicant: 12–90 PLAZA CORP., T/A PLAZA FREIGHT TRANSPORT, 12–90 Plaza Road, Fairlawn, NJ 07410. Representative: Arthur Liberstein, Esq., 888 Seventh Avenue, New York, NY 10019. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs* between Rockville Centre, NY, on the one hand, and, on the other, Fort Lauderdale, FL, Atlanta, GA, Chicago, IL, and Los Angeles, CA, under continuing contracts(s) with Darby Drug Co., Inc., of Rockville Centre, NY. (Hearing site: New York, NY.)

MC 147293 (S-1F), filed May 21, 1979. Applicant: JAMES LEWIS d/b/a AJ

V 44 O C 23 7 9 UMI

TRUCKING CO., 11800 Brookpark Road, Cleveland, OH 44130. Representative: Richard A. Zellner, 800 National City—E. 6th Bldg. Cleveland, OH 44114. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *conveyor belt systems*, (2) *parts and attachments* for conveyor belt systems, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above (except commodities in bulk), (a) between the facilities of Mayfran Conveyor, Division of Fischer Industries, Inc., at Plant City, FL, and the facilities of Mayfran Conveyor, Division of Fischer Industries, Inc., at Mayfield Village, OH, and (b) from McDonald and Massillon, OH, Newport, KY, Alabama City, AL, Pittsburgh and Irwin, PA, and points in Cuyahoga County, OH, to the facilities of Mayfran Conveyor, Division of Fischer Industries, Inc., at Plant City, FL, under continuing contract(s) with Mayfran Conveyor, Division of Fischer Industries, Inc., of Mayfield village, OH. (Hearing site: Cleveland, OH.)

MC 147442F, filed May 23, 1979. Applicant: LAVIERO TRUCKING, INC., 70 Maureen Drive, Bristol, CT 06010. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 06117. Transporting *banded steel*, from the facilities of Wallace Barnes Steel Division, The Barnes Group, at Bristol, CT, to points in NY, NJ, MA, and RI, restricted to the transportation of traffic originating at the named origin. (Hearing site: Hartford or New Haven, CT.)

MC 147442 (Sub-2F), filed May 23, 1979. Applicant: LAVIERO TRUCKING, INC., 70 Maureen Drive, Bristol, CT 06010. Representative: Thomas W. Murrett, 342 North Main Street, West Hartford, CT 97116. Transporting *liquid sugar*, in bulk, in shipper-owned tank vehicles, (1) *carbonated beverages*, in containers, and (2) *glass and plastic containers, fiberboard shipping containers, knocked down, bottle tops, labels, syrups*, and *mixes*, from points in NY, NJ, MA, and RI to the facilities of Elco Beverage Company, at Bristol, CT, restricted to the transportation of traffic destined to the indicated destination facilities. (Hearing site: Hartford, CT, or New Haven, CT.)

Volume No. 181

Decided: Oct. 2, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 2392 (Sub-126F), filed May 31, 1979. Applicant: WHEELER TRANSPORT SERVICE, INC., P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. Transporting *alcohol*, from Decatur, IL, and Atchison, KS, to points in IA, KS, NE, and MO. (Hearing site: Omaha, NE.)

MC 16513 (Sub-15F), filed May 30, 1979. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 819 Union Avenue, Pennsauken, NJ 08110. Representative: Jeffrey A. Vogelman, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Transporting (1) *coffee, coffee beans, and coffee extract*, (a) from New York, NY, and Philadelphia, PA, to the facilities of Nestle Company, Inc., at or near Columbus, Marysville, and Sunbury, OH, (b) between the facilities of Nestle Company, Inc., at or near Sunbury, OH, on the one hand, and, on the other, Burlington, Deptford Township, Edison, Freehold, Pennsauken, and Secaucus, NJ, Fulton, Liverpool, and Oswego, NY, Danbury, Hartford, and New Milford, CT, and Springfield, MA, and (c) from Freehold, NJ, to the facilities of Nestle Company, Inc., at or near Columbus, OH; (2) *foodstuffs* (except commodities in bulk), from the facilities of Nestle Company, Inc., at or near Columbus and Marysville, OH, to Burlington, Deptford Township, Edison, Freehold, Pennsauken, and Secaucus, NJ, Fulton, Liverpool, and Oswego, NY, Danbury, Hartford, and New Milford, CT, and Springfield, MA; and (3) *cocktail sauce*, from Leipsic, OH, to Deptford Township and Edison, NJ, Liverpool, NY, and Springfield, MA. (Hearing site: Washington, DC.)

MC 16903 (Sub-70F), filed May 31, 1979. Applicant: MOON FREIGHT LINES, INC., P.O. Box 1275, Bloomington, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting (1) *road and street signs, posts, and brackets*, and (2) *materials* used in the manufacture of road and street signs, between the facilities of Hall Signs, Inc., at or near Bloomington, IN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Washington, DC.)

MC 24583 (Sub-23F), filed May 29, 1979. Applicant: FRED STEWART COMPANY, a corporation, P.O. Box 665, Magnolia, AR 71753. Representative: James M. Duckett, 927 Pyramid Life Building, Little Rock, AR 72201. Transporting *expanded plastic products*, from the facilities of Dow Chemical U.S.A., at (1) Pevely, MO, and (2) Magnolia, AR, to those points in the United States on and east of U.S. Hwy 85. (Hearing site: Magnolia or Little Rock, AR.)

MC 69292 (Sub-7F), filed May 22, 1979. Applicant: ATLAS TRANSPORTATION, INC., 8100 Stansbury Road, Baltimore, MD 21222. Representative: Chester A Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation at (a) Sparrows Point, MD, (b) Bethlehem, Steelton, and Johnstown, PA, (c) Lackawanna, NY, and (d) Woodbridge, VA, to points in DC, NC, NJ, NY, PA, MD, VA, and DC, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Washington, DC.)

MC 60492 (Sub-72F), filed May 31, 1979. Applicant: HENRY EDWARDS, d.b.a. HENRY EDWARDS TRUCKING COMPANY, P.O. Box 97, Clinton, KY 42301. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tennessee 37219. Transporting (1) *Scrap paper and scrap cardboard*, from Hopkinsville, KY, to St. Louis, MO; and (2) *malt beverages*, and *materials, equipment, and supplies* used in the manufacture and distribution of malt beverages, (a) between Hopkinsville and Owensboro, KY, on the one hand, and, on the other, St. Louis, MO, (b) between Paducah, KY, and Memphis, TN, (c) between Paris, TN, and Milwaukee, WI, and (d) between Woodland Mills, TN, and Eden, NC. (Hearing site: Hopkinsville or Owensboro, KY.)

MC 106373 (Sub-45F), filed May 30, 1979. Applicant: THE SERVICE TRANSPORT COMPANY, a corporation, 114½ East Main Street, Ravenna, OH 44310. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Lackawanna, NY, to points in IN and IL. (Hearing site: Akron, OH, or Washington, DC.)

MC 107403 (Sub-1217F), filed May 28, 1979.. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *ammonium sulfate*, in bulk, in dump vehicles, from Bethlehem, PA, to points in NY and NJ. (Hearing site: Washington, DC.)

MC 107403 (Sub-1225F), filed May 31, 1979. Applicant: MATLACK, INC., Ten West Baltimore Ave., Lansdowne, PA 19050. Representative: Martin C. Hynes, Jr. (same address as applicant). Transporting *soda ash*, from points in Sweetwater County, WY, to points in

the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 111143 (Sub-8F), filed May 30, 1979. Applicant: J. I. DeNURE (CHATHAM) LIMITED, P.O. Box 248, Chatham, Ontario, Canada N7M 5K4. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. To operate as a *common carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter operations, beginning and ending at the ports of entry on the international boundary line between the United States and Canada, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Detroit, MI, or Washington, DC.)

MC 111812 (Sub-643F), filed May 29, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., 1600 East Benson Road, P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting (1) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in CT, DE, MA, MD, NH, NJ, NY, OH, PA, RI, VT and WV, to points in IL, IN, IA, MN, MO, NE, ND, SD and WI; (2) *zinc oxide* (except in bulk), from Palmerton, PA, to White City, OR, Little Rock, AR, and Brownwood, TX; (3) *wrapping paper and printing paper*, from Fitchburg, MA, to White City, OR, Brownwood, TX, and Guin, AL; (4) *unexposed dry plates and film*, from points in NJ and NY, to Weatherford, OK; (5) *plastic materials* (except expanded and commodities in bulk), from Ludlow and Indian Orchard, MA, to White City, OR, Brownwood, TX, and Guin, AL; (6) *pulpboard and fiberboard*, from Sheldon Springs, VT, to Newark, NJ; (7) *plastic articles* (except commodities in bulk), from Pekin, IN, to Hutchinson, MN; (8) *latex and resins* (except commodities in bulk), from Louisville, KY, to St. Paul, Hutchinson, and New Ulm, MN; and (9) *cotton piece goods*, from Louisville, KY, to Alexandria and St. Paul, MN, restricted in (1) through (9) to the transportation of traffic destined to the facilities used by Minnesota Mining and Manufacturing Co. (Hearing site: St. Paul, MN.)

MC 111812 (Sub-645F), filed May 28, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses* as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), (1) from the facilities of John Morrell & Co., at or near (a) Ft. Smith, AR, (b) Arkansas City, KS, (c) Memphis, TN, and (d) Amarillo and Lubbock, TX, to points in AL, CT, DE, FL, GA, IL, IN, LA, ME, MA, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC; (2) from the facilities of John Morrell & Co., at or near Montgomery, AL, to points in CT, DE, FL, GA, IL, IN, LA, ME, MA, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC; and (3) from the facilities of John Morrell & Co., at or near Shreveport, LA, to points in AL, CT, DE, FL, GA, IL, IN, ME, MA, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, and (4) from the facilities of John Morrell & Co., at or near El Paso, TX, to points in AL, FL, GA, LA, WV, and WI, restricted in (1), (2), (3), (4) above to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 111812 (Sub-647F), filed May 29, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks (same address as applicant). Transporting *meats, meat products and meat byproducts, dairy products, and articles distributed by meat-packing houses*, as described in Sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of John Morrell & Co., (1) at or near St. Louis, MO, to points in AZ, CA, CT, DE, FL, GA, LA, ME, MA, MD, MI, NH, NJ, NY, OH, PA, RI, VT, VA, and DC, and (2) at or near Sioux City, IA, to Chicago, IL, and points in MO, restricted in (1) and (2) to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 112822 (Sub-470F), filed May 31, 1979. Applicant: BRAY LINES INC., P.O. Box 1191, 1401 North Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). Transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, AZ, GA, IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MT, NY, NJ, OH, PA, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 113362 (Sub-354F), filed May 29, 1979. Applicant: ELLSWORTH FREIGHT LINES, INC., 310 East Broadway, Eagle Grove, IA 50533. Representative: Milton D. Adams, 1105½ Eighth Avenue Northeast, P.O. Box 429, Austin, MN 55912. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Briggs & Co., a subsidiary of Wilson Foods Corporation, at Landover, MD, to points in IA, KS, MN, MO, NE, and WI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations.

MC 115092 (Sub-82F), filed May 31, 1979. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box 0, Vernal, UT 84078. Representative: Walter Kobos, 1016, Kehoe Drive, St. Charles, IL 60174. Transporting *plastic articles*, and *materials, equipment and supplies* used in the manufacture and installation of plastic articles, (except commodities in bulk, in tank vehicles), between Wichita Falls, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Dallas, TX, or Salt Lake City, UT.)

MC 115322 (Sub-182F), filed May 31, 1979. Applicant: REDWING REFRIGERATED, INC., P.O. Box 10177, Taft, FL 32809. Representative: Jimmy Fischer (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in RI, CT, NY, NJ, PA, MD, VA, and FL, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. Section 10102(8) (formerly Section 402(A)(5) of the Interstate Commerce Act). (Hearing site: Washington, DC.)

MC 115703 (Sub-17F), filed May 25, 1979. Applicant: KREITZ MOTOR EXPRESS, INC., P.O. Box 375, 220 Park Road North, Wyomissing, PA 19610. Representative: Robert D. Gunderman, suite 710, Statler Building, Buffalo, NY 14202. Transporting *commodities* the transportation of which because of size or weight requires the use of special equipment, between those points in the United States in and east of MN, IA.

MO, AR, and LA, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 117883 (Sub-246F), filed May 30, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Transporting: *foodstuffs*, and *materials and supplies* used in the manufacture of foodstuffs, (except commodities in bulk), between Wapakoneta, OH, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, TN, and WI. (Hearing site: Chicago, IL.)

MC 118202 (Sub-57F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Lackawanna, NY, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-58F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Burns Harbor, IN, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-59F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Sparrows Point, MD, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-60F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Steelton, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-61F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Johnstown, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-62F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Bethlehem, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-63F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Lackawanna, NY, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-64F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Burns Harbor, IN, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-65F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Sparrows Point, MD, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-66F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Steelton, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-67F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Johnstown, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-68F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Bethlehem, PA, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

MC 118202 (Sub-69F), filed May 31, 1979. Applicant: SCHERER TRUCK LINES, INC., 1941 Commercial Street, Waterloo, IA 50704. Representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, IA 52501. Transporting *iron and steel articles*, from the facilities of Bethlehem Steel Corporation, at or near Lackawanna, NY, to points in IA, KS, MN, MO, NE, and WI. (Hearing site: Washington, DC.)

(same address as applicant). Transporting (1) *malt beverages*, from points in Jefferson County, CO, to points in MO and WA, and (2) *empty used beverage containers, and materials and supplies* used in the manufacture of malt beverages, in the reverse direction restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 134922 (Sub-296F), filed May 31, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting (1) *ladders, scaffolding, and work and lift platforms* (except commodities the transportation of which because of size or weight requires the use of special equipment), between points in RI, CT, NY, NJ, PA, MD, VA, and FL, restricted to the transportation of traffic moving on bills of lading of freight forwarders as defined in 49 U.S.C. Section 10102(8) (formerly Section 402(A)(5) of the Interstate Commerce Act). (Hearing site: Washington, DC.)

MC 138882 (Sub-252F), filed May 30, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds*, (except

MO, AR, and LA, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 117883 (Sub-246F), filed May 30, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Neil E. Hannan, P.O. Box 62, Versailles, OH 45380. Transporting *meats, meat products and meat byproducts, dairy products,* and *articles distributed by meat-packing houses,* as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Swift & Company, at or near (a) Kansas City, KS, and (b) Kansas City, MO, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VA, VT, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 118142 (Sub-226F), filed May 28, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting: *meats, meat products and meat byproducts, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as defined in Sections A, C, and D of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, and Armour & Co., at Mason City, IA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Mason City, IA, or Washington, DC.)

MC 119493 (Sub-297F), filed May 30, 1979. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same address as applicant). Transporting: *scrap paper* and *paper products,* between Indianapolis, IN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 123272 (Sub-32F), filed May 25, 1979. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Transporting: *foodstuffs,* and *materials and supplies* used in the manufacture of foodstuffs, (except commodities in bulk), between Wapakoneta, OH, on the one hand, and, on the other, points in AL, AR, CA, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, TN, and WI. (Hearing site: Chicago, IL.)

MC 123272 (Sub-33F), filed May 31, 1979. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Transporting: (1) *cheese* and *cheese products,* and (2) *materials and supplies* used in the manufacture of the commodities in (1) above between the facilities of Pace Dairy, at or near Rochester, MN, on the one hand, and, on the other, points in GA, WV, OH, TX, MI, IN, AR, KY, TN, IL, PA, VA, MO, IA, WI, NC, and SC. (Hearing site: Chicago, IL.)

MC 123272 (Sub-34F), filed May 24, 1979. Applicant: FAST FREIGHT, INC., 9651 South Ewing Avenue, Chicago, IL 60617. Representative: James C. Hardman, 33 North LaSalle Street, Chicago, IL 60602. Transporting *baking powder,* from Terre Haute, IN, to points in AL, AZ, AR, CA, CO, ID, KS, LA, MS, NE, NM, MT, OK, OR, TN, TX, UT, and WA. (Hearing site: Chicago, IL.)

MC 124333 (Sub-27F), filed May 24, 1979. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington, Building, Washington, DC 20005. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *gasoline, distillates, and fuel oil,* in bulk, in tank vehicles, from Philadelphia, PA, to Marshallton, DE, under continuing contract(s) with Atlantic Richfield Company, of Thorofare, NJ. (Hearing site: Washington, DC.)

MC 124333 (Sub-28F), filed May 24, 1979. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20005. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products,* in bulk, in tank vehicles from Paulsboro, NJ, to points in DE, under continuing contract(s) with Exxon Company, U.S.A., of King of Prussia, PA. (Hearing site: Washington, DC.)

MC 124333 (Sub-29F), filed May 24, 1979. Applicant: BAKER PETROLEUM TRANSPORTATION CO., INC., Pyles Lane, New Castle, DE 19720. Representative: Samuel W. Earnshaw, 833 Washington Building, Washington, DC 20005. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fuel oil,* in bulk, in tank vehicles, from Paulsboro, NJ, to Dover, DE, under continuing contract(s) with The City of Dover, DE.(Hearing site: Washington, DC.)

MC 125433 (Sub-266F), filed May 30, 1979. Applicant: F–B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *flat glass* and *glass products,* from the facilities of Buchmin Industries, at or near Reedley, CA, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

MC 125433 (Sub-268F), filed May 30, 1979. Applicant: F–B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *air-conditioning units and furnaces,* and (2) *parts, attachments, and accessories* for the commodities in (1) above, from the facilities of BDP Company, Division of Carrier, at or near City of Industry, CA, to points in the United States (except AK and HI) (Hearing site: Los Angeles, CA.)

MC 127303 (Sub-63F), filed May 25, 1979. Applicant: ZELLMER TRUCK LINES, INC., P.O. Box 343, Granville, IL 61326. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, DC 20001. Transporting *glass containers,* from Dolton, IL, to points in IA, MO, NE, NV, ND, SD, and WI. (Hearing site: Washington, DC.)

MC 129282 (Sub-47F), filed May 28, 1979. Applicant: BERRY TRANSPORTATION, INC., P.O. Box 2147, Longview, TX 75601. Representative: Fred S. Berry (same address as applicant). Transporting (1) *paper and paper products,* and (2) *materials, equipment and supplies* used in the distribution of the commodities in (1) above, (except commodities in bulk), between the facilities of Union Camp Corporation at or near Lafayette, LA, on the one hand, and, on the other, points in AL, AR, CO, IA, KS, LA, MS, MO, NE, OK, and TX. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 129032 (Sub-83F), filed May 1, 1979. Applicant: TOM INMAN TRUCKING, INC., 6015 South 49th West Avenue, Tulsa, OK 74107. Representative: David R. Worthington (same address as applicant). Transporting (1) *malt beverages,* from points in Jefferson County, CO, to points in MO and WA, and (2) *empty used beverage containers, and materials and supplies* used in the manufacture of malt beverages, in the reverse direction restricted in (1) and (2) above to the transportaion of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Denver, CO, or St. Louis, MO.)

MC 129563 (Sub-8F), filed May 28, 1979. Applicant: ONANDAGA BEVERAGE TRANSPORT, INC., 345 Spencer Street, Syracuse, NY 13204. Representative: Freeda Harvey (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *beer,* in containers, (1) from South Volney, NY, to the facilities of Portage Distributing Co., at Ravenna, OH, (2) from South Volney, NY, to the facilities of Forest Distributing Co., at Lorain, OH, and (3) from South Volney, NY to the facilities of Glen Distributors, Inc., at Painesville, OH, under continuing contract(s) in (1) above with Portage Distributing Co., of Ravenna, OH, in (2) above with Forest Distributing Co., of Lorain, OH, and in (3) above with Glen Distributors, Inc., of Painesville, OH. (Hearing site: Buffalo, NY.)

MC 134783 (Sub-54F), filed May 29, 1979. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, P.O. Box 2491, Lubbock, TX 79408. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *foodstuffs,* (except commodities in bulk), from the facilities of Knouse Foods, Inc., at or near Peach Glen, Ortanna, and Chambersburg, PA, to points in AR, LA, MN, OK, and TX. (Hearing site: Philadelphia, PA, or Dallas, TX.)

MC 134922 (Sub-295F), filed May 31, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting *paper and paper products,* from Hodge and Monroe, LA, to those points in the United States in and east of MI, IN, KY, TN, and MS. (Hearing site: Little Rock, AR, or Memphis, TN.)

Note.—Applicant states the purpose of this application is to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC–109 which govern the filing and processing of applications for substitution of single-line service for existing joint-line service.

MC 134922 (Sub-296F), filed May 31, 1979. Applicant: B. J. McADAMS, INC., Route 6, Box 15, North Little Rock, AR 72118. Representative: Bob McAdams (same address as applicant). Transporting (1) *ladders, scaffolding, and work and lift platforms* (except commodities the transportation of which because of size or weight requires the use of special equipment), and (2) *parts and accessories* for the commodities in (1) above (except commodities in bulk), between Wooster, OH, on the one hand, and, on the other, points in GA, FL, NC, SC, AL, MS, TN, KY, VA, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 136782 (Sub-17F), filed May 24, 1979. Applicant: R.A.N. TRUCKING CO., a corporation, P.O. Box 128, Eau Claire, PA 16030. Representative: Warren W. Wallin, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. Transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (a) from Cleveland, Defiance, Archbold, and Troy, OH, to points in CT, DE, GA, MD, MA, NJ, NY, NC, PA, RI, VT, WV, and DC, and (b) from Logansport, IN, to Cleveland, OH. (Hearing site: Pittsburgh, PA, or Cleveland, OH.)

Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act) for approval of the common control, or submit an affidavit indicating why such approval is unnecessary.

MC 138882 (Sub-250F), filed May 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting *plastic pipe and pipe fittings,* from Henderson, KY, to points in IL, SC, and NC. (Hearing site: Evansville, IN, or Birmingham, AL.)

MC 138882 (Sub-251F), filed May 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting *intravenous solutions, drugs, rubber gloves, and administration sets* for intravenous solutions and drugs from the facilities of Abbott Laboratories, at or near Rocky Mount, NC, to North Chicago, IL, Dedham, MA, Albany and Buffalo, NY, Cincinnati, Toledo, and Cleveland, OH, Pittsburgh, PA, and Jersey City, NJ. (Hearing site: Chicago, IL, or Birmingham, AL.)

MC 138882 (Sub-252F), filed May 30, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting (1) *petroleum, petroleum products, vehicle body sealer, and sound deadener compounds,* (except commodities in bulk, in tank vehicles), and *filters,* from points in Warren County, MS, to points in AR, IL, IN, KS, MI, MO, OH, and TX; and (2) (a) and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities named in (1) above, (except commodities in bulk, in tank vehicles), from points in IL, IN, and OH, to points in Warren County, MS, restricted in (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Pittsburgh, PA, or Birmingham, AL.)

MC 138882 (Sub-254F), filed May 31, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Box 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting *lead,* and *materials, equipment, and supplies* used in the processing of lead, between the facilities of Cedartown Industries, Inc., at or near Cedartown, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Birmingham or Montgomery, AL.)

MC 138882 (Sub-255F), filed May 30, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting *precast concrete products, modular mausoleum crypt systems,* and *concrete forming systems,* from Oshkosh, WI, Laurel, MD, St. Louis, MO, Dade City, FL, and Denver, CO, to points in the United States (except AK and HI). (Hearing site: Oshkosh, WI, or Birmingham, AL.)

MC 139193 (Sub-107F), filed May 24, 1979. Applicant: ROBERTS & OAKE, INC., 4240 Blue Ridge Blvd., Blue Ridge Tower, Suite 820, Kansas City, MO 64133. Representative: Terrence D. Jones, 2033 K Street, NW, Suite 300, Washington, DC 20006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts,* and *articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides, and liquid commodities, in bulk), from Miami and Tampa, FL, to

V 44 OC 23 79 UMI

those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with John Morrell & Co., of Chicago, IL. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142592 (Sub-2F), filed March 6, 1979. Applicant: H. L. STANSELL, INC., 1015 Illinois Avenue, Palm Harbor, FL 33563. Representative: David C. Venable, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, DC 20001. Transporting *insulating materials,* and *materials, equipment, and supplies* used in the installation of insulating materials, (except commodities in bulk, in tank vehicles), from points in the United States (except AK and HI), to points in FL. (Hearing site: Tampa or Orlando, FL.)

Note.—Dual operations may be involved.

MC 143662 (Sub-3F), filed May 30, 1979. Applicant: GENE VOIGT TRUCKING, INC., Route 1, P.O. Box 138, Marathon, WI 54458. Representative: Michael J. Collins, 150 E. Gilman St., Madison, WI 53703. Transporting *Lumber, lumber products, and ties,* from points in Iron, Price, Taylor, Chippewa, Eau Claire, Clark, Wood, Portage, Juneau, Adams, Waushara, Marquette, Green Lake, Fond du Lac, Sheboygan, Maintowoc, Kewaunee, Door, Brown, Calumet, Winnebago, Outagamie, Waupaca, Shawano, Menominee, Oconto, Marinette, Florence, Forest, Langlade, Lincoln, Oneida, and Vilas Counties, WI, to points in IL, IN, IA, MI, and MN. (Hearing site: Wausau, WI or Madison, WI.)

MC 143713 (Sub-6F), filed May 25, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, a corporation, R.F.D. 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting (1) *animal and poultry feed ingredients,* from Rhinelander, WI, to points in IL, IN, KY, MI, OH, and PA; (2)(a) *feed and feed ingredients,* in bags, from Fairbury, IL, to points in MI, TX, MN, IN, and KY, and (b) *equipment and supplies* used in the manufacture of feed and feed ingredients, from points in KY, NM, TX, MN, and IN, to Fairbury, IL; (3) *feed and feed ingredients,* (except commodities in bulk, in tank vehicles), (a) from the facilities of Kane Molass Labs, Inc., at Mt. Pulaski, IL, to points in MN, MO, TN, MI, and NE, and (b) from the facilities of Wells, at Monmouth, IL, to points in KY and SD; (4) *liquid fertilizer,* from points in IA to Aledo, IL; (5)(a) *feed ingredients, and animal and poultry health care products,* and (b) *equipment, materials, and supplies* used in the manufacturer and distribution of the commodities named in (5)(a) above between the facilities of Diamond Shamrock Corporation, at Van Buren, AR, Fresno, CA, Cherry Hills and Harrison, NJ Louisville, KY, and Franklin Park, IL, on the one hand, and, on the other, points in the United States (except AK and HI); (6) *chemical fertilizer,* from Ashkum, IL, to West Des Moines, IA; and (7)(a) *animal, poultry, and fish feed,* in bags, from Peoria, IL, to points in MI, IN, OH, PA, KY, TN, MS, AL, GA, FL, WI, MN, SD, IA, NE, MO, KS, OK, TX, NM, CO, UT, AZ, NV, CA, OR, and WA, and (b) *equipment and supplies* used in the manufacture of the commodities in (7)(a) above in the reverse direction. (Hearing site: Springfield or Chicago, IL.)

MC 143713 (Sub-7F), filed May 29, 1979. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, a Corporation, R.F.D. 8, 37 Forest Ridge, Springfield, IL 62707. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting (1) *dairy products, starch, cheese casings, and cartons,* from Wapakoneta, OH, to points in AZ, FL, ID, IN, KS, KY, MT, NV, OK, OR and WA; (2) *barrels,* from Wapakoneta, OH, to points in AZ, FL, ID, IN, KS, KY, MT, NV, OK, OR WA, IL, WI, IA, MN, SD, and ND; (3)(a) *dairy products, and milk cartons,* from Forest, IL, to points in MI, WI, IN, IA, RI, and PA, and (b) *materials* used in the manufacture of dairy products, from points in KS, MI, WI, IN, OH, MN, and IA to Forest, IL, (4) *food seasoning, flour, meat binders, and food processing ingredients,* from Fargo, ND, Minneapolis, MN, Kansas City, MO, New Orleans, LA, Portsmouth, VA, and Charlotte, NC, to the facilities of B. Heller & Co., at Chicago, IL. (Hearing site: Springfield or Chicago, IL.)

MC 143853 (Sub-7F), filed May 28, 1979. Applicant: S.M.E. EXPRESS, INC., 101 E. Washington Street, Upland, IN 46989. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed matter,* and (2) *materials, equipment and supplies* used in the manufacture and distributions of the commodities in (1) above (except commodities in bulk), between the facilities of W. F. Hall Printing Company at (a) Augusta, GA, (b) Chicago, IL, (c) Corinth, MS, and (d) Dresden, TN, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with W. F. Hall Printing Company of Chicago, IL. (Hearing site: Indianapolis, IN or Chicago, IL.)

MC 144293 (Sub-9F), filed May 7, 1979, and previously published in the **Federal Register** on September 7, 1979. Applicant: DUANE McFARLAND, P.O. Box 21, Oakland, MN 56076. Representative: Duane McFarland, Box 1008, Austin, MN 55912. Transporting *meats, meat products and meat byproducts, articles distributed by meat-packing houses,* and *such commodities as are used by meat packers in the conduct of their business when destined to and for use by meat packers,* as described in sections A, C, and D of Appendix I to the report in *Descriptions of Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), between the facilities used by Lauridsen Foods, Inc., at or near Britt, IA, and the facilities used by Armour & Co., at Mason City, IA, on the one hand, and, on the other, points in IL, IN, MI, MN, ND, OH, SD, and WI, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Paul, MN, or Washington, DC.)

Note.—The purpose of this republication is to add Section D to the commodity description and to add MI to the territorial description.

MC 144883 (Sub-4F), filed May 31, 1979. Applicant: EARL MOORE, d.b.a.S & M MARKETING, 836 Willow Street, Redwood City, CA 94063. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting (1) *bananas,* and (2) *agricultural commodities* the transportation of which is otherwise exempt from economic regulation under 49 U.S.C. Section 10526(a)(6) (formerly Section 203(b)(6) of the Interstate Commerce Act), in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in OR, UT, and WA, restricted in (1) and (2) above to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

MC 145192 (Sub-1F), filed May 30, 1979. Applicant: AUTO EXPRESS MEXICANO DIV. PACIFICO, S.A. De C.V., Arroyo De Guadalupe No. 86, Fraccionamiento La Escalera, Mexico 14, D.F. Representative: Paul F. Sullivan, 711 Washington Bldg., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the ports of entry on the international boundary line between the United States and the Republic of Mexico, in CA, on the one hand, and, on the other, San Diego, Los Angeles, and San Francisco, CA. (Hearing site: San Diego or Los Angeles, CA.)

MC 146032 (Sub-3F), filed May 24, 1979. Applicant: SKYCAB, INC., 137 North 4th Street, Philadelphia, PA 19106. Representative: Steven M. Tannenbaum, 133 North 4th Street, Philadelphia, PA 19106. Transporting (1) *pharmaceuticals and radioactive medicines,* and (2) *materials and supplies* used in the distribution and use of the commodities in (1) above, (except commodities in bulk, in tank vehicles), from the facilities of (a) Skycab, Inc., at East Brunswick, NJ, and (b) E.R. Squibb & Sons, Inc., at New Brunswick, NJ, to Charlotte, NC, Atlanta, GA, Orlando, FL, Columbus and Toledo, OH, Charleston, WV, Philadelphia and Pittsburgh, PA, and Chicago, IL. Condition: To the extent any certificate to be issued in this proceeding authorizes the transportation of radioactive materials it will expire 5 years from its date of issuance. (Hearing site: Philadelphia, PA.)

MC 147343F, filed May 30, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). Transporting (1) *games and toys,* and (2) *materials* used in the manufacture of games and toys, between New York, NY, on the one hand, and, on the other, points in IL, IN, MI, and OH. Condition: The person or persons who appear to be engaged in common-control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 30 days from date of publication indicating why such approval is unnecessary. (Hearing site: Indianapolis, IN, or New York, NY.)

Note.—Dual operations may be involved.

MC 147343 (Sub-1F), filed May 30, 1979. Applicant: TREADWAY CARRIERS, INC., P.O. Box 364, Westfield, IN 46074. Representative: Orville G. Lynch (same address as applicant). Transporting (1) *new furniture and loudspeakers,* and (2) *materials* used in the manufacture of the commodities in (1) above between Newcomertown, OH, on the one hand, and, on the other, points in CA, IL, IN, MA, NJ, NY, PA and TN. Condition: The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. Section 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit within 30 days from date of publication indicating why such approval is unnecessary. (Hearing site: Indianapolis, IN.)

Note.—Dual operations may be involved.

MC 147362 (Sub-2F), filed May 25, 1979. Applicant: BISHOP MOTOR FREIGHT, INC., R.R. 1, Laclede, MO 64651. Representative: Donald J. Quinn, Suite 900, 1012 Baltimore, Kansas City, MO 64105. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles,* between Gardner, KS, on the one hand, and, on the other, points in CT, IL, IN, and TX, under continuing contract(s) with Allied Molding of Gardner, KS. (Hearing site: Kansas City, MO.)

MC 147423F, filed May 24, 1979. Applicant: BOND TRANSFER, INC., 1831 Mills Avenue, P.O. Box 10756, El Paso, TX 79997. Representative: Kenneth R. Hoffman, 801 Vaughn Bldg., 807 Brazos Street, Austin, TX 78701. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), in vehicles equipped with mechanical refrigeration, between El Paso, TX, on the one hand, and, on the other, points in Grant, Hidalgo, Luna, Dona Ana, Otero, Lincoln, Chaves, Eddy, and Lea Counties, NM. (Hearing site: El Paso, TX.)

MC 147432F, filed May 24, 1979. Applicant: MARINE TRANSIT, INC., P.O. Box 170, Highway 28, Plum Branch, SC 29845. Representative: Neal W. Dickert, P.O. Box 1564, Augusta GA 30903. Transporting (1) *boats,* and (2) *boat parts, equipment and supplies,* between points in the United States (except AK and HI). (Hearing site: Columbia, SC or Atlanta, GA.)

Volume No. 184

Decided: Oct. 5, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton, and Liberman.

MC 2934 (Sub-21F), filed May 11, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, suite 1000, Indianapolis, IN 46024. Transporting (1) *fireplace air heaters and fireplace ventilators* and (2) *parts and accessories for the commodities named in* (1) *above,* from the facilities of Superior Fireplace Company at or near (a) Baltimore, MD and (b) Union City, TN, to points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 2934 (Sub-23F), filed May 14, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Carmel, IN 46032. Representative: James L. Beattey, 130 East Washington Street, suite 1000, Indianapolis, IN 46024. Transporting *car seats,* and *juvenile products,* from the facilities of Strolee of CA, at or near Compton, CA, to points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Los Angeles, CA.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 2934 (Sub-25F), filed May 16, 1979. Applicant: AERO MAYFLOWER TRANSIT CO., INC., 9998 North Michigan Road, Indianapolis, IN 46032. Representative: James L. Beattey, 130 East Washington Street, suite 1000, Indianapolis, IN 46204. Transporting *new furniture,* from the facilities of Hiebert Incorporated, at or near Torrance, CA, to points in the United States (except AK and HI). (Hearing site: Indianapolis, IN, or Torrance, CA.)

MC 4405 (Sub-604F), filed May 15, 1979. Applicant: DEALERS TRANSIT, INC., a corporation, P.O. Box 236, Tulsa, OK 74101. Representative: Alan Foss, 502 First National Bank Building, Fargo, ND 58126. Transporting *internal combustion engine parts,* from Albuquerque, NM, to points in the United States (except AK and HI). (Hearing site: Albuquerque, NM.)

MC 15975 (Sub-17F), filed May 13, 1979. Applicant: BUSKE LINES, INC., 123 West Tyler Avenue, Litchfield, IL 62056 Representative: Howard Buske (same address as applicant). Transporting: (1) *air conditioners, washers,* and *dryers,* and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and repair of the commodities in (1) above (except commodities in bulk), between the facilities of Fedders Corp., at (a) Edison, NJ, (b) Buffalo, NY, (c) Frederick and Elkton, MD, and (d) Effingham and

V 44 OC 23 79 UMI

Herrin, IL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Springfield, IL, or St. Louis, MO.)

MC 15975 (Sub-18F), filed May 15, 1979. Applicant: BUSKE LINES, INC., 123 West Tyler Avenue, Litchfield, IL 62056. Representative: Howard H. Buske (same address as applicant). Transporting: *automobile parts* and *automotive accessories*, from Alma, Grand Rapids, Holland, Kalamazoo, Mendon, Niles, and Zeeland, MI, to St. Louis, MO. (Hearing site: Detroit, MI, or St. Louis, MO.)

MC 24784 (Sub-28F), filed May 14, 1979. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting: *iron and steel articles*, from the facilities of Roll Steel Corp., at Skokie, IL, to points in AR, CO, IA, KS, LA, NE, OK, and TX. (Hearing site: Kansas City, MO.)

MC 40494 (Sub-15F), filed May 11, 1979. Applicant: HILBURN TRUCKING, INC., 19401 East 39th Street, Independence, MO 64057. Representative: S. Harrison Kahn, suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Transporting: *such commodities* as are dealt in or used by manufacturers and dealers of (a) agricultural equipment and machinery, (b) industrial equipment and machinery, and (c) lawn care and leisure products, (except commodities in bulk) (1) between the facilities of Deere & Company in Rock Island County, IL, on the one hand, and, on the other, points in CO, KS, MO, NE, OK, WY, and TX, restricted to the transportation of traffic originating at or destined to the above named facilities of Deere & Company and (b) between points in CO, KS, MO, NE, OK, WY, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL or St. Paul, MN.)

MC 41404 (Sub-158F), filed May 16, 1979. Applicant: ARGO–COLLIER TRUCK LINES CORP., P.O. Box 440, Martin, TN 38237. Representative: Mark L. Horne (same address as applicant). Transporting *confectionary* (except in bulk), from Covington, TN, to points in AL, AR, FL, GA, IL, IN, KY, LA, MI, MO, MS, MN, NC, OH, SC, TX, and WI. (Hearing site: Memphis, TN, or Washington, DC.)

MC 52704 (Sub-222F), filed May 8, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2209 Century Parkway, Atlanta, GA 30345. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Midland Glass Company, Inc. (Hearing site: Atlanta, GA.)

MC 52704 (Sub-225F), filed May 10, 1979. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Box Drawer "H", Lafayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2209 Century Parkway, Atlanta, GA 30345. Transporting *malt beverages* (except in bulk), from the facilities of Pabst Brewing Co., in Houston County, GA, to points in the United States in and east of WI, IL, MO, AR, and TX (except CT, ME, MA, NH, NY, PA, RI, and VT). (Hearing site: Atlanta, GA.)

MC 53965 (Sub-154F), filed May 20, 1979. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock (same address as applicant). Transporting *meats, meat products*, and *meat by-products, articles distributed by meat-packinghouses*, and *such commodities as are used by meat packers in the conduct of their business*, as described in Sections A, C, and D of Appendix I to the Report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, and the facilities of Armour and Company, at or near Mason City, IA, on the one hand, and, on the other, points in CO, NE, MO, IL, OH, IN, KY, TN, AR, LA, TX, NM, AZ, OK, and KS, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Omaha, NE, or Phoenix, AZ.)

MC 53965 (Sub-155F), filed May 14, 1979. Applicant: GRAVES TRUCK LINE, INC., 2130 South Ohio, Salina, KS 67401. Representative: John E. Jandera, 641 Harrison Street, Topeka, IS 66603. Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk), from the facilities of MBPXL Corporation, at or near Dodge City, KS, to points in AL, CO, GA, IN, KY, LA, MI, MN, ND, OH, TN and WI, restricted to the transportation of traffic originating at the above named facilities. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 59655 (Sub-26F), filed May 16, 1979. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901.Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *malt beverages*, and *materials, equipment, and supplies* used in the manufacture and sale of malt beverages, between points in Onondaga and Oswego Counties, NY, on the one hand, and, on the other, points in CT, ME, MA, NH, VT, VA, RI, OH, PA, MD, DE, NJ, and NY. (Hearing site: Milwaukee, WI or Washington, DC.)

MC 60014 (Sub-119F), filed May 13, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *Lumber products, machinery, tractors, and commodities* the transportation of which by reason of size or weight requires the use of special equipment, from Gulfport, MS, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA.)

MC 60014 (Sub-121F), filed May 14, 1979. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, PA 15146. Representative: A. Charles Tell, 100 East Broad Street, Columbus, OH 43215. Transporting *Iron and steel articles*, from the facilities of Nucor Steel, at or near Darlington, SC, to points in AL, AR, FL, GA, KY, LA, MI, MS, NC, OK, TN, and TX. (Hearing site: Washington, DC.)

MC 65895 (Sub-10F), filed May 11, 1979. Applicant: REDDAWAY'S TRUCK LINE, 1721 Northwest Northrup Street, Portland, OR 97209. Representative: Lawrence V. Smart, Jr., 419 Northwest 23rd Avenue, Portland, OR 97210. Transporting *paper mill machinery* and *paper mill machinery parts*, between Oregon City, OR, on the one hand, and, on the other, Kelso, Longview, Tacoma, and Seattle, WA. (Hearing site: Portland, OR.)

MC 67234 (Sub-22F), filed May 11, 1979. Applicant: UNITED VAN LINES, INC., One United Drive, Fenton, MO 63026. Representative: B. W. LaTourette, Jr., 11 South Meramec, suite 1400, St. Louis, MO 63105. Transporting (1) *new furniture*, and (2) *commercial institutional fixtures*, between points in AZ, on the one hand, and, on the other, points in the United States (including AK, but excluding HI). (Hearing site: Tuscon or Phoenix, AZ.)

MC 73165 (Sub-479F), filed May 16, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd Street, North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting, *iron and steel articles, aluminum articles, commodities*, the transportation of which, because of size or weight, requires the use of special equipment, and *self-propelled articles*, between points in IN, MI, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, MO, NC, SC, TH, and TX. (Hearing site: Chicago, IL, or Pittsburgh, PA; Columbus, OH.)

MC 83835 (Sub-158F), filed May 16, 1979. Applicant: WALES TRANSPORTATION, INC., P.O. Box 6186, Dallas, TX 75222. Representative: James W. Hightower, First Continental Bank Building, suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting (1) *concrete mixer barrels*, (2) *parts and accessories* for concrete mixer barrels, and (3) *materials, equipment, and supplies* used in the manufacture of the commodities named in (1) and (2) above (except commodities in bulk), between the facilities of Challenge-Cook Bros., Inc., at or near (a) Bryan, OH, (b) Industry, CA, and (c) Calhoun, GA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco or Sacramento, CA.)

MC 94265 (Sub-301F), filed May 14, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. Transporting *foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Commercial Cold Storage, Inc., in Cobb, DeKalb, Fulton, Clayton, and Gwinnett Counties, GA, to points in KY, MD, NC, OH, PA, TN, VA, WV, and DC, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 95084 (Sub-140F), filed May 15, 1979. Applicant: HOVE TRUCK LINE, a corporation, Stanhope, IA 50246. Representative: Kenneth F. Dudley, 1501 East Main Street, P.O. Box 279, Ottumwa, IA 52501. Transporting (1)(a) *agricultural equipment*, and *industrial equipment, parts, attachments and accessories* for the commodities in (1)(a) above, from Allenton, WI, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture, and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Chicago, IL, or Madison, WI.)

MC 105045 (Sub-107F), filed May 14, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Transporting *tanks* and *tank accessories*, between points in AR, DE, IL, IN, IA, KY, MD, MI, MN, MO, NE, NJ, NY, ND, OH, OK, PA, SD, TN, TX, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Northern Propane Gas Company. (Hearing site: Chicago, IL.)

MC 106674 (Sub-395F), filed May 16, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Transporting *petroleum coke*, from Chicago, Joilet, and Pekin, IL, to points in IN, OH, and KY. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 107515 (Sub-1232F), filed May 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, Northeast, fifth floor, Lenox Towers South, Atlanta, GA 30326. Transporting: *sugar* (except in bulk), from the facilities of Godchaux-Henderson Sugar Co., Inc. at Reserve and Kenner, LA, to points in AL, AR, FL, GA, IL, IA, KY, MS, MO, NC, OH, OK, SC, TN, TX, VA, WA, WV, IN, KS, MI, and NE. (Hearing site: New Orleans, LA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1233), filed May 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, Northeast, fifth floor, Lenox Towers South, Atlants, GA 30326. Transporting: *fluorescent lighting fixtures*, and *discharge lighting fixtures*, from Americus, GA, to points in the United States (except AK and HI). (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1234F), filed May 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, Northeast, fifth floor, Lenox Towers South, Atlanta, GA 30326. Transporting: *such commodities* as are dealt in or used by chemical manufacturers and chemical distributors (except commodities in bulk), from Chamblee, GA, to Indianapolis, IN. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1235F), filed May 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, Northeast fifth floor, Lenox Towers South, Atlanta, GA 30326. Transporting: (1) *such commodities* as are dealt in or used by chain grocery stores, food business houses, and animal, fish, and poultry feed dealers, (2) soy products, and (3) paste, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Ralston Purina Company. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1236F), filed May 11, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Rd., NE., 5th Floor, Lenox Towers South, Atlanta, GA 30326. Transporting *such commodities* as are dealt in by chain grocery stores and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AR, AZ, CT, FL, GA, IA, ID, IL, IN, KS, KY, MA, MD, MI, MN, MO, MS, MT, NC, ND, NE, NY, NJ, OH, PA, SC, SD, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

Note: Dual Operations may be involved.

MC 109584 (Sub-197F), filed May 16, 1979. Applicant: ARIZONA-PACIFIC TANK LINES, a corporation, 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (same address as applicant). Transporting *cottonseed oil*, in bulk, in tank vehicles, from Phoenix, AZ, to Houston and Bayport, TX. (Hearing site: Phoenix, AZ.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 USC 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 110325 (Sub-101F), filed May 11, 1979. Applicant: TRANSCON LINES, a corporation, P.O. Box 92220, Los Angeles, CA 90009. Representative: Wentworth E. Griffin, Midland Bldg., 1221 Baltimore Ave., Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Tucson, AZ and Nogales, AZ, over U.S. Hwy 89, serving all intermediate points and serving the

facilities of ASARCO Mission Mine, Pima Mine, Anamax Mine, and Duval Mine, all in Pima County, AZ, as off-route points, and (2) serving Casa Grande and Eloy, AZ as off-route points in connection with carrier's otherwise-authorized regular-route operations. (Hearing site: Tucson, AZ.)

MC 113855 (Sub-486F), filed May 13, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Michael E. Miller, 502 First National Bank Bldg., Fargo ND 58126. Transporting (1) *lift trucks, platforms,* and *hydraulic lifts,* (2) *parts and attachments* for the commodities named in (1) above, (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, between points in Sonoma County, CA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

MC 113855 (Sub-487F), filed May 14, 1979. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, MN 55901. Representative: Thomas J. Van Osdel, 502 First National Bank Bldg., Fargo, ND 58126. Transporting *such commodities as are dealt in or used by manufacturers and distributors of (i) agricultural equipment, (ii) industrial equipment, (iii) lawn care products, and (iv) leisure products,* (except commodities in bulk), (a) between the facilities of Deere & Company, in Black Hawk County, IA, on the one hand, and, on the other, points in AZ, CA, ID, MN, MT, NV, NM, ND, OR, SD, UT, WA, and WY; (b) between the facilities of Deere & Company, in (1) Dubuque, Polk and Wapello Counties, IA and (2) Dodge County, WI, on the one hand, and, on the other, points in AZ, CA, CT, DE, ID, ME, MD, MA, MN, MT, NV, NH, NJ, NM, NY, ND, OR, PA, RI, SD, VT, UT, VA, WA, and WY; (c) between the facilities of Deere & Company in Dodge County, WI, on the one hand, and, on the other, points in CO and NE; (d) between the facilities of Deere & Company in Dubuque County, IA, on the one hand, and, on the other, points in WV; (e) between the facilities of Deere & Company in (1) Scott County, IA and (2) Rock Island County, IL, on the one hand, and, on the other, points in AZ, CA, DE, ID, MD, MN, MT, NV, NJ, NM, ND, OR, PA, SD, UT, VA, WA, and WY, and (f) between points in AZ, CA, CO, CT, DE, ID, ME, MD, MA, MN, MT, NE, NV, NH, NJ, NM, NY, ND, OR, PA, RI, SD, VT, UT, VA, WA, WV, and WY, restricted in parts (a), (b), (c), (d) and (e) to the transportation of traffic originating at or destined to facilities of Deere & Company in the named counties and restricted in part (f) to the transportation of traffic originating at or destined to the facilities of Deere & Company dealers. (Hearing site: Chicago, IL, or St. Paul, MN.)

MC 114045 (Sub-542F), filed May 14, 1979. Applicant: TRANS-COLD EXPRESS, INC., P.O. Box 61228, D/FW Airport, TX 75261. Representative: Arnold L. Burke, 180 North LaSalle St., Chicago, IL 60601. Transporting *such commodities* as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, AZ, MS, and TX, on the one hand, and, on the other, points in AL, GA, IL, IN, IA, KS, KY, MA, MI, MO, NY, NC, NE, OH, PA, TN, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Chicago, IL.)

MC 114274 (Sub-64F), filed May 17, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Transporting *beverages,* from Lenexa, KS, to Omaha, NE, and Cedar Rapids, and Davenport, IA. (Hearing site: Kansas City, KS.)

MC 115215 (Sub-37F), filed May 16, 1979. Applicant: NEW TRUCK LINES, INC., P.O. Box 639, Perry, FL 32347. Representative: Sol H. Proctor, 1101 Blackstone Bldg., Jacksonville, FL 32202. Transporting *sheet rock,* from points in AL, to points in FL. (Hearing site: Jacksonville or Tallahassee, FL.)

MC 115654 (Sub-146F), filed May 14, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, DC 20004. Transporting *foodstuffs,* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities used by Welch Foods, Inc., at or near (a) Atlanta, GA and (b) Nashville, TN, to points in AL. (Hearing site: Nashville, TN.)

MC 115654 (Sub-147F), filed May 14, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry Seaton, 929 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, DC 20004. Transporting *confectionery* and *confectionery products except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Noshville, TN, to Columbus, OH, points in WV, and those in AL on and south of U.S. Hwy 80.* (Hearing site: Nashville, TN.)

MC 115654 (Sub-150F), filed May 14, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth St., N.W., Washington, DC 20004. Transporting *canned goods,* from the facilities used by Libby, McNeil, and Libby, at or near (a) Leipsic, OH, and (b) Kokomo, IN, to points in AL, AR, GA, KY, LA, MS, and TN. (Hearing site: Chicago, IL.)

MC 115654 (Sub-151F), filed May 14, 1979. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 23193, Nashville, TN 37202. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 Thirteenth Street, NW., Washington, DC 20004. Transporting *heating equipment, air conditioning equipment,* and *parts and accessories* for heating and air-condidioning equipment (except commodities the transportation of which because of size and weight require the use of special equipment, and commodities in bulk, in tank vehicles), from points in Davidson County, TN, to points in IL, IN, KY, MO, OH,and those points in MI on and south of U.S. Hwy 10. (Hearing site: Nashville, TN.)

MC 116915 (Sub-81F), filed May 14, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., Route 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles,* from the facilities of Connors Steel Co. at or near Huntington, WV, to those points in the United States in and east of WI, IL, MO, OK, and TX. (except WV). (Hearing site: Huntington, WV, or Pittsburgh, PA.)

MC 116915 (Sub-82F), filed May 14, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., ROUTE 1, Box 248, Rockport, IN 47655. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *general commodities,* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility in Henderson County, KY, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Louisville, KY, or Evansville, IN.)

Condition: The certificate to be issued in this proceeding, to the extent it authorizes the transportation of classes A and B explosives, shall be limited in point of time to a period expiring 5 years from its date of issue.

MC 116915 (Sub-83F), filed May 14, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., Route 1, Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron and steel articles,* between the facilities of Atlantic Steel Co., at or near Atlanta and Cartersville, GA, on the one hand, and, on the other, points in MO, IL, WI, IN, MI, OH, WV, PA, KY, and TN, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Atlanta, GA.)

MC 123405 (Sub-69F), filed May 10, 1979. Applicant: FOOD TRANSPORT, INC., R.D. 1, Thomasville, PA 17364. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting *petroleum, petroleum products, vehicle body sealer, sound deadener compounds, and filters,* from the facilities of Quaker State Oil Refining Corp., at or near (1) Congo and St. Marys, WV, to points in AL, and (2) St. Marys, WV, to points in GA and FL, restricted in (1) and (2) above, to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 123744 (Sub-52F), filed May 11, 1979. Applicant: BUTLER TRUCKING CO., a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Transporting *iron and steel articles* from the facilities of Jones & Laughlin Steel Corporation, at (a) Aliquippa and Pittsburgh, PA, and (b) Youngstown, OH, to points in NJ, DE, MD, VA, and MO, those points in NY east of NY Hwy 12, and those points in IL within the East St. Louis, IL-St. Louis, MO commercial zone. (Hearing site: Pittsburgh, PA, Washington, D.C. (alternate).)

MC 124775 (Sub-12F), filed May 13, 1979. Applicant: HRIBAR TRUCKING, INC., 1521 Waukesha Road, Caledonia, WI 53108. Representative: Frank M. Coyne, 25 West Main Street, Madison, WI 53703. Transporting *crushed stone,* in dump vehicles, from Wausau, WI, to points in IL and ID. (Hearing site: Chicago, IL.)

MC 125335 (Sub-66F), filed May 14, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *frozen foods,* from the facilities of Rich Products Corp., at or near Appleton, WI, to Murfreesboro, TN, and Atlanta, GA. (Hearing site: Buffalo, NY, or Harrisburg, PA.)

MC 126375 (Sub-19F), filed May 16, 1979. Applicant: CEL TRUCKING CO., a corporation, P.O. Box 447, Latrobe, PA 15650. Representative: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fluorspar and lime,* in bulk, in tank vehicles, from East Liverpool, OH, to Latrobe, PA, under continuing contract(s) with Latrobe Steel Company, of Latrobe, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 127705 (Sub-81F), filed May 11, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Pittsburgh, PA, to points in KY and MI, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Washington, DC.)

MC 134134 (Sub-45F), filed May 14, 1979. Applicant: MAINLINER MOTOR EXPRESS, INC., 4202 Dahlman Avenue, P.O. Box 7439, Omaha, NE 68107. Representative: A. J. Swanson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *steel flooring, and floor coverings,* and (2) *materials and supplies* used in the installation of the commodities in (1), from Red Lion, PA and Baltimore, MD, to points in MI, OH, IN, IL, IA, NE, KS, MO, WI, MN, and CO. (Hearing site: York, PA, or Omaha, NE.)

MC 134755 (Sub-189F), filed May 16, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *petroleum and petroleum products, in containers,* from Maryland Heights, MO, to points in AR, CO, IL, KS, LA, MS, NE, OK, and TX. (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 135834 (Sub-9F), filed May 15, 1979. Applicant: JOSEPH M. HANEY, SR., d.b.a. J. M. HANEY TRUCKING CO., 4754 Mahoning Avenue, Youngstown, OH 44515. Representative: Robert J. Gill, 29 South LaSalle Street, suite 740, Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *automotive parts, accessories, equipment and supplies,* (except commodities in bulk and those which require special equipment), between the facilities of Midas International Corporation, at or near Chicago, IL, and points in IN, KY, MD, NJ, and VA, under continuing contracts with Midas International Corporation, of Chicago, IL. (Hearing site: Chicago, IL.)

MC 135874 (Sub-172F), filed May 10, 1979. Applicant: LTL PERISHABLES, INC., 550 East Fifth Street South, South St. Paul, MN 55075. Representative: Paul Nelson (same address as applicant). Transporting *frozen foods* (except in bulk), from the facilities of Pet, Inc., Frozen Foods Division, at or near Frankfort, MI, to points in CO, IL, IA, KS, MN, MO, NE, ND, OK, SD, and WI. (Hearing site: St. Paul, MN.)

MC 135895 (Sub-41F), filed May 11, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. Transporting (1) *paper, paper articles, fiberboard, plastic containers, and metal containers,* (2) *fittings and closures* for plastic containers, and metal containers, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities described in (1) and (2) above (except commodities in bulk, and those requiring special equipment), between the facilities of Container Corporation of America, at or near (a) Kenner, LA, and (b) Dallas, Fort Worth, and Houston, TX, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, OK, TN, and TX. (Hearing site: Ft. Worth, TX, or Jackson, MS.)

MC 135904 (Sub-4F), filed May 16, 1979. Applicant: ALLTRANS EXPRESS, LTD., 4878 Manor Street, Burnaby, British Columbia, Canada V5G 1B3. Representative: Jack R. Davis, 1100 IBM Building, Seattle, WA 98101. To operate as a *common carrier,* by motor vehicle, in foreign commerce only, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Portland, OR, and the port of entry on the international boundary line between the United States and Canada, at Blaine, WA, over Interstate Hwy 5, serving Vancouver, WA, as an intermediate point, and serving Bellingham, WA, for purposes of joinder only, and (2) between Bellingham, WA, and the port of entry on the international boundary line between the United States and Canada, at Sumas, WA, from Bellingham over WA Hwy 539 to junction WA Hwy 544, then over WA Hwy 544 to junction WA Hwy 9, and then over WA Hwy 9 to Sumas, and return over the same route, serving no

V 44 0C 23 79 UMI

intermediate points, and serving Bellingham, WA for purposes of joinder only. (Hearing site: Portland, OR, or Seattle, WA.)

Note.—Applicant intends to tack the above authorities at Tacoma and Seattle, WA, and Portland, OR with its existing authority in No. MC–135904 Sub 2.

MC 135924 (Sub-12F), filed May 16, 1979. Applicant: SIMONS TRUCKING CO., INC., 3851 River Road, Grand Rapids MN 55744. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *wrought steel pipe*, from Chicago, IL, to Hoyt Lakes, Mt. Iron, Hibbing, Nashwauk, Keewatin, and Grand Rapids, MN. (Hearing site: Chicago, IL, or Minneapolis, MN.)

MC 136605 (Sub-112F), filed May 10, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *iron and steel articles*, from the facilities of Jones and Laughlin Steel Corporation, in the Chicago, IL commercial zone, to points in WA, OR, and CA, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Chicago, IL.)

MC 136605 (Sub-113F), filed May 10, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *iron and steel articles and aluminum articles*, from the facilities of A. M. Castle & Co., at or near Franklin Park, IL, to the facilities of A. M. Castle & Co., at or near (a) Los Angeles, San Francisco and Fresno, CA, and (b) Salt Lake City, UT. (Hearing site: Chicago, IL.)

MC 136605 (Sub-117F), filed May 16, 1979. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, MT 59807. Representative: Allen P. Felton (same address as applicant). Transporting *poles and piling*, from points in OR and WA, to points in MT, WY, ND, and SD. (Hearing site: Portland, OR, or Seattle, WA.)

MC 136644 (Sub-8F), filed May 14, 1979. Applicant: WESTERN DRYWALL TRANSPORT, INC., 2001 Broadway, Vallejo, CA 94590. Representative: R. D. Davis (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate foreign commerce, over irregular routes, transporting *fiberglass ceiling tile*, from the facilities of Owens-Corning Fiberglas Corporation, at or near St. Helens, OR, to points in CA, under continuing contract(s) with Owens-Corning Fiberglas Corporation, of Toledo, OH. (Hearing site: San Francisco, CA, or Portland, OR.)

MC 138104 (Sub-77F), filed April 23, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, TX 76106. Representative: James W. Hightower, First Continental Bank Building, suite 301, 5801 Marvin D. Love Freeway, Dallas, TX 75237. Transporting (1) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, containers, and truck bodies*, in initial movements, in truckaway service, from the facilities of Fruehauf Corporation, at or near (a) Ft. Wayne, IN, (b) Middletown and Uniontown, PA, and (c) Waverly, OH, to points in the United States (except AK and HI), and (2) *trailers and trailer chassis* (except those designed to be drawn by passenger automobiles), *trailer converter dollies, containers, and truck bodies*, in secondary movements, in truckaway service, between points in the United States (except AK and HI). (Hearing site: Dallas or Forth Worth, TX.)

MC 138875 (Sub-187F), filed May 11, 1979. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *Metal tool boxes and tanks*, from points in AR to points in AZ, CA, CO, ID, OR, UT, WA, WI and WY. (Hearing site: Boise, ID, or Washington, DC.)

MC 138875 (Sub-188F), filed May 11, 1979. Applicant: SHOEMAKER TRUCKING CO., a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting (1) *feed, and feed ingredients*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, and (3) *commodities* the transportation of which is otherwise exempt from economic regulation under the provisions of 49 U.S.C. 10526 (a)(6) [formerly section 203 (b)(6) of the Interstate Commerce Act] in mixed loads with the commodities in (1) and (2) above, (except commodities in bulk, in tank vehicles), from points in CO, IA, KS, MN, ND, NE, SD, and WY, to those points in ID, in and south of Idaho County, and points in Malheur, Baker, Union, Harney, and Umatilla Counties, OR. (Hearing site: Portland, OR, or Washington, DC.)

MC 138875 (Sub-189F), filed May 11, 1979. Applicant: SHOEMAKER TRUCKING CO., an Idaho Corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F.L. Sigloh (same address as applicant). Transporting *Materials and supplies used in the manufacture of (a) mobile homes, (b) campers, and (c) recreational vehicles (except iron and steel, lumber, aluminum, and floor, wall, and roof sections)*, from (1) points in CA, to points in Ada and Canyon Counties, ID, and (2) between points in Multnomah, Clackamas, Washington, Yamhill, Polk, Marion, Benton, Lane, Linn, Umatilla and Union Counties, OR, and Yakima County, WA, on the one hand, and, on the other, points in Ada and Canyon Counties, ID. (Hearing site: Portland, OR, or Boise, ID.)

MC 139495 (Sub-450F), filed May 10, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in by discount and variety stores, from the facilities of McCrory Stores at or near York, PA, to points in TX and CA. (Hearing site: Washington, DC.)

MC 140475 (Sub-6F), filed May 14, 1979. Applicant: HOLCOMB TRUCKING CO., INC., 313 North Campbell Street, Holcomb, MO 63852. Representative: Thomas P. Rose, P.O. Box 205, Jefferson City, MO 65102. Transporting *Dry fertilizer* and *dry fertilizer ingredients*, from Memphis and Nashville, TN, to points in MO. (Hearing site: Jefferson City or St. Louis, MO.)

MC 140615 (Sub-44F), filed May 14, 1979. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Representative: Terrence D. Jones, 2033 "K" Street NW., Washington, DC 20006. Transporting *cheese*, from Cabot, VT, to Wisconsin Rapids, WI. (Hearing site: Washington, DC.)

MC 141205 (Sub-17F), filed May 16, 1979. Applicant: HUSKY OIL TRANSPORTATION CO., a Corporation, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crude oil, scrubber oil* and *condensates*, from points in Richland, Roosevelt, McCone, Prairie and Wibaux Counties, MT, to the Reserve Station of Portal Pipeline, at or near, Plentywood, MT, under continuing contract(s) with Husky Oil Company, of Denver, CO. (Hearing site: Denver, CO.)

MC 141205 (Sub-18F), filed May 16, 1979. Applicant: HUSKY OIL TRANSPORTATION CO., a corporation, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crude oil, scrubber oil* and *condensates*, from points in Grand County, UT, to the Chevron Pipeline Injection Station, at Rangely, CO, and the Gary Western Refinery, at Fruita, CO, under continuing contract(s) with the Husky Oil Company, of Denver, CO. (Hearing site: Denver, CO.)

MC 141764 (Sub-16F), filed May 11, 1979. Applicant: BLACKHAWK ENTERPRISES, a corporation, 3149 Depot Road, Hayward, CA 94545. Representative: William D. Taylor, 100 Pine Street, suite 2550, San Francisco, CA 94111. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in the United States (except AK and HI), under continuing contract(s) with Shaklee Corporation, of Oakland, CA. (Hearing site: San Francisco or Hayward, CA.)

MC 141804 (Sub-220F), filed May 14, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting: Transporting *foodstuffs*, from points in CA to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142484 (Sub-7F), filed May 15, 1979. Applicant: STRINGFELLOW TRANSPORTATION CO., INC., 724 3rd Avenue, North, Birmingham, AL 35203. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *forest products, lumber mill products, and lumber* between the facilities of Walker Williams Lumber Company, Inc., at Hatchechubbee, AL, on the one hand, and, on the other, points in IN, IL, OH, IA, WI, MO, and MI, under continuing contract(s) with Walker Williams Lumber Company, of Hatchechubbee, AL. (Hearing site: Birmingham or Mobile, AL.)

MC 142715 (Sub-56F), filed May 14, 1979. Applicant: LENERTZ, INC., P.O. Box 141, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Edgar, WI, to New York, NY, restricted to the transportation of traffic originating at the named origin and destined to the named destination. (Hearing site: St. Paul, MN.)

MC 142864 (Sub-17F), filed May 11, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. Transporting *canned and preserved foodstuffs*, from the facilities of Heinz USA, Division of H. J. Heinz Company, at or near Holland, MI, to points in NJ, NY, and PA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Columbus, OH, or Washington, DC.)

MC 142864 (Sub-20F), filed May 11, 1979. Applicant: RAY E. BROWN TRUCKING, INC., P.O. Box 501, Massillon, OH 44646. Representative: Jerry B. Sellman, 50 West Broad St., Columbus, OH 43215. Transporting *paper and paper products*, between the facilities of Central Coated Products, Inc., at or near Alliance, OH, on the one hand, those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Columbus, OH, or Washington, DC.)

MC 143605 (Sub-6F), filed May 16, 1979. Applicant: B & M EXPRESS, INC., 500 S. Western, Oklahoma City, OK 73109. Representative: C. L. Phillips, Room 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pulpboard cartons*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of pulpboard cartons (except commodities in bulk, and those which require special equipment), between Conway and Harrison, AR, and Greenville, TX, on the one hand, and, on the other, points in AL, CO, IA, IL, KY, LA, MS, MO, NM, and TN, under continuing contract(s) with Rock-Tenn Company of Norcross, GA. (Hearing site: Oklahoma City, OK.)

MC 144345 (Sub-14F), filed May 16, 1979. Applicant: DON'S FROZEN EXPRESS, INC., 3820 Airport Way, Caldwell, ID 38605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. Transporting *cleaning compounds, scouring compounds, washing compounds, buffing compounds, polishing compounds, sodium hypochlorite solution, soap base compounds, fabric softeners, plastic bags, and filters*, from the facilities of Economics Laboratory, Inc., at San Jose, CA, to points in OR, ID, UT, and WA. (Hearing site: Boise, ID, or Portland, OR.)

MC 144605 (Sub-8F), filed May 10, 1979. Applicant: HOPPY LINES, INC., 420 Devonshire Dr., Brea, CA 92521. Representative: Miles L. Kavaller, 315 South Beverly Dr., Suite 315, Beverly Hills, CA 90212. Transporting (1) *fire extinguishers*, from the facilities of Amerex Corporation, at Trussville, AL, to Seattle, WA, and points in Los Angeles County, CA, and (2) *materials and supplies* used in the manufacture of fire extinguishers, (except commodities in bulk), from points in Riverside and Los Angeles Counties, CA, to the facilities of Amerex Corporation, in Trussville, AL. (Hearing site: Birmingham, AL, or Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 144695 (Sub-1F), filed May 16, 1979. Applicant: N. & S. TRUCKING, INC., Route 1, Francisco, IN 47649. Representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *rubber caster wheels and* (2) *materials used in the manufacture of rubber products*, (except commodities in bulk), between the facilities of Mid-States Rubber Products, Inc., at (a) Princeton, IN and (b) Flora, IL, on the one hand, and, on the other, points in TX, LA, IL, TN, KY, IN, MI, OH and PA, under continuing contract(s) with Mid-States Rubber Products, Inc., of Princeton, IN. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 145014 (Sub-2F), filed May 11, 1979. Applicant: PARENT TRUCKING, INC., 4653 Turtle Rd., Turner, MI 48765. Representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastics and plastic products* (except commodities in bulk), between points in MI, IL, OH, IN, and KY, on the one hand, and, on the other, points in PA, NY, AL, TN, GA, FL, WV, WI, MO, and IA, under continuing contract(s) with Robinson Industries, Inc. (Hearing site: Lansing, MI.)

MC 145235 (Sub-4F), filed May 14, 1979. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44890. Representative: David A. Turano.

V 44 0C 23 79 UMI

100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paints* (except commodities in bulk), from the facilities of United Coatings, Inc., at or near Chicago, IL, to points in OH, and IN (except Indianapolis) and points in the lower peninsula of MI; (2) *materials, equipment and supplies used in the manufacture of paints* (except commodities in bulk), from points in GA, MO, and NC, to the facilities of United Coatings, Inc., at or near Chicago, IL; (3) *paints*, (except commodities in bulk) between the facilities of United Coatings, Inc., at or near (a) Chicago, IL, and (b) Charlotte, NC; (4) *paints* (except commodities in bulk), from the facilities of United Coatings, Inc., at or near Charlotte, NC, to Pittsburgh, PA, and points in OH; and (5) *materials, equipment and supplies used in the manufacture of paints* (except commodities in bulk), from points in GA, to the facilities of United Coatings, Inc., at or near Charlotte, NC, under continuing contract(s) with United Coatings, Inc., of Chicago, IL. (Hearing site: Columbus, OH.)

MC 145235 (Sub-5F), filed May 15, 1979. Applicant: DUTCH MAID PRODUCE, INC., Route 2, Willard, OH 44890. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paint and paint products* (except commodities in bulk), and (2) *materials, equipment, and supplies used in the manufacture and distribution of the commodities in (1) above* (except commodities in bulk), between the facilities of SCM Corporation, at or near Chicago, IL, on the one hand, and, on the other, points in AR, CT, GA, IN, IA, KY, MD, MA, MI, MN, MO, NE, NJ, NC, ND, OH, PA, RI, TN, TX, VA and WI, under continuing contract(s) with SCM Corporation, of Cleveland, OH. (Hearing site: Columbus, OH.)

MC 145715 (Sub-4F), filed May 10, 1979. Applicant: BELL TRUCKING, INC., 2504 Industrial Park Rd., Van Buren, AR 72956. Representative: Elaine M. Conway, 10 South LaSalle St., Suite 1600, Chicago, IL 60603. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Land O'Frost, Inc., at or near Searcy, AR, to points in the United States (except AK, AR, and HI). (Hearing site: Chicago, IL.)

MC 145595 (Sub-6F), filed May 11, 1979. Applicant: WARREN G. GORMLEY, d.b.a. GORMLEY TRUCKING, 1607 W. Swan, Springfield, MO 65807. Representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting (1) *charcoal, charcoal briquets, fireplace logs, wood chips, and lighter fluid*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from Branson, MO, to points in AR, LA, MS, IN, TN, IL, OH, TX, OK, KY, NE, IA, WV, VA, PA, CA, CO, KS, UT, and NV. (Hearing site: Kansas City, MO.)

MC 146315 (Sub-2F), filed May 16, 1979. Applicant: GILBERT BROS., INC., 103 West Illinois, Mansfield, IL 61854. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. Transporting *crushed stone, sand, and gravel*, from points in Fountain, Parke, and Warren Counties, IN, to points in Piatt County, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 146414 (Sub-2F), filed May 18, 1979. Applicant: COOL TRANSPORTS, INC., 6300 Alondra Blvd., Paramount, CA 90723. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *petroleum and petroleum products*, in bulk, from points in CA, to points in AZ. (Hearing site: Los Angeles, CA.)

MC 146555 (Sub-2F), filed May 10, 1979. Applicant: GARY A. VOSIKA, Route 1, Moorland, IA 50566. Representative: Richard D. Howe, 600 Hubbell Bldg., Des Moines, IA 50309. Transporting *animal feed and animal ingredients*, in bags, between the facilities of Dr. McDonald's Vitamized Feed Co., Inc., at or near Moorland, IA, on the one hand, and, on the other, points in MN and WI. (Hearing site: Omaha, NE, or Des Moines, IA.)

MC 146814 (Sub-3F), filed May 10, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting *meats, meat products, meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), from the facilities of Dubuque Packing Co., at Le Mars, IA, to points in IL, IN, KS, MN, NE, ND, SD, and WI, restricted (except for traffic moving in foreign commerce) to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 146814 (Sub-4F), filed May 10, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting (1) *such commodities* as are used in the agricultural, bakery, food processing, grocery, water treatment, and institutional supply industries (except containers, canned goods and commodities in bulk), between points in IA, on, north and west of a line beginning at the Iowa-Nebraska State boundary line and extending along Interstate Hwy. 80 to junction Interstate Hwy. 35, and then along Interstate Hwy. 35 to the Iowa-Missouri State boundary line, to points in MN, on and south of U.S. Hwy. 12, and points in SD on and east of U.S. Hwy. 281; (2)(a) *salt and salt products*, and (b) *materials and supplies* used in the agricultural, water treatment, food processing, grocery, and institutional supply industries, in mixed loads with salt and salt products, from points in Box Elder, Davis, Salt Lake, Toole, and Weber Counties, UT, to points in (1) above, restricted to the transportation of traffic originating at or destined to the facilities of Henning Distribution Co.; and (3) *meats, meat products, mead by-products and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk, in tank vehicles), (a) from the facilities of Smit & Son Packing Co., at Boyden, IA, to points in IA, IL, MN, NE, ND, SD, and WI, and (b) from the facilities of Hawarden of Iowa, Inc., at Hawarden, IA, to points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC, restricted in 3 (a) and (b) (except for traffic moving in foreign commerce) to the transportation of traffic originating at the named facilities and destined to the indicated destination. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 146814 (Sub-5F), filed May 10, 1979. Applicant: VAN WYK, INC., C Street, Box 433, Sheldon, IA 51201. Representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. Transporting *meats, meat, meat products, meat byproducts and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the facilities of Spencer Foods, Inc., at Ft. Dodge and Spencer, IA, to points in IL, IN, MN, NE, SD, and WI, restricted (except for traffic moving in foreign commerce) to the transportation of traffic originating at the named facilites and destined to the indicated destinations. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

Passengers

MC 7914 (Sub-6F), filed May 16, 1979. Applicant: UTICA ROME BUS CO., INC., Kirkland Ave., Clinton, NY 13323. Representative: Harwood Jones, Paris Rd., Clinton, NY 13323. Transporting *passengers and their baggage*, in round trip special and charter operations, beginning and ending at Rome and Utica, NY, and extending to points in OH, MI, IN, KY, AR, MO, IA, MN, ND, SD, NE, KS, OK, TX, NM, CO, WY, MT, ID, WA, UT, AZ, CA, OR, NV, IL, and WI. (Hearing site: Utica or Rome, NY.)

MC 112805 (Sub-4F), filed May 8, 1979. Applicant: ST. CLOUD CHARTER SERVICE, INC., 427 Lincoln Ave., NE., St. Cloud, MN 56301. Representative: Bruce E. Mitchell, 3390 Peachtree Rd., NE., Atlanta, GA 30326. Transporting (1) *passengers and their baggage*, in the same vehicle with passengers, in special and charter operations, and (2) *used snowmobiles and used motorcycles*, at the same time as the passengers in (1) above, from points in Stearns, Sherburne, Morrison, and Douglas Counties, MN, to points in the United States (except AK and HI), and return.

Volume No. 190

Decided: Oct. 3, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 42487 (Sub-916F), filed May 3, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Drive, Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Omaha, NE, and Lincoln, NE, over U.S. Hwy 6, serving the intermediate point of Greenwood and points in Douglas, Lancaster, and Sarpy Counties, NE, (2) between Lincoln, NE, and Beatrice, NE, over U.S. Hwy 77, serving all intermediate points, (3) between Lincoln, NE, and Hastings, NE; from Lincoln over U.S. Hwy 6 to junction U.S. Hwy 281, then over U.S. Hwy 281 to Hastings, and return over the same route, serving all intermediate points in Adams, Lancaster, and Saline Counties, NE, (4) between Lincoln, NE, and Lexington, NE; from Lincoln over U.S. Hwy 34 to junction U.S. Hwy 281, then over U.S. Hwy 281 to junction U.S. Hwy 30, then over U.S. Hwy 30 to Lexington, and return over the same route, serving all intermediate points in Buffalo, Dawson, Hall, Hamilton, Lancaster, Seward, and York Counties, NE, (5) between Hastings, NE, and junction U.S. Hwy 281 and U.S. Hwy 34 near Grand Island, NE, over U.S. Hwy 281, serving all intermediate points, (6) between Omaha, NE, and Beatrice, NE; from Omaha over U.S. Hwy 275 to junction U.S. Hwy 136 near Rockport, MO, then over U.S. Hwy 136 to Beatrice and return over the same route, serving all intermediate points in Gage County, NE, (7) between Lexington, NE, and Cheyenne, WY, over U.S. Hwy 30, serving all intermediate points in Buffalo and Dawson Counties, NE, and serving the junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala, NE, for purposes of joinder only, and (8) between junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala, NE, and Casper, WY; from junction U.S. Hwy 30 and U.S. Hwy 26 at Ogallala over U.S. Hwy 26 to junction NE Hwy 92, then over NE Hwy 92 to junction NE Hwy 79E, then over NE Hwy 79E to junction U.S. Hwy 26 near Minatare, NE, then over U.S. Hwy 26 to Casper, and return over the same route, serving no intermediate points, serving all other points in (1)—(8) above in Adams, Dawson, Douglas, Gage, Hall, Hamilton, Jefferson, Kearney, Lancaster, Saline, Sarpy, Seward, and York Counties, NE, as off route points in connection with applicants regular route operations. (Hearing site: Omaha, NE, or San Francisco, CA.)

Note.—Applicant indicates intention to lack.

MC 51146 (Sub-689F), filed May 4, 1979. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Representative: Neil A. DuJardin (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers and distributors of heating, cooling, ventilating, and air conditioning systems, between Philadelphia, PA, on the one hand, and, on the other, points in IL, IN, IA, KY, MI, MN, MO, NE, OH, TN, and WI. (Hearing site: Chicago, IL.)

MC 100666 (Sub-463F), filed May 4, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, the Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *building and construction materials* and (2) *metal and metal articles*, from points in AL, FL, GA, NC, SC, and VA, to points in IL, IN, IA, MI, MN, NE, OH and WI. (Hearing site: Birmingham, AL or Charlotte, NC.)

MC 100666 (Sub-464F), filed May 4, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *drilling mud, clay, gilsonite, lignite, and bentonite* (except commodities in bulk), from Battle Mountain, NV, Greybull, WY, and Gascoyne, ND, to points in IL, IN, KY, MI, OH, VA, WV, and WI. (Hearing site: Dallas, TX.)

MC 100666 (Sub-465F), filed May 4, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting (1) *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation at points in Putnam County, IL, to points in TN and TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Dallas, TX.)

MC 100666 (Sub-472F), filed May 9, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *wood products, veneer, and plywood*, from the facilities of Kearse Manufacturing Company at or near Olar, SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Charleston, SC.)

MC 107496 (Sub-1212F), filed May 4, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *sand*, in builk, in tank vehicles, from Chicago, IL, to points in WI. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 108207 (Sub-508F), filed May 10, 1979. Applicant: FROZEN FOOD EXPRESS, INC., P.O. Box 225888, Dallas, TX 75265. Representative: M. W. Smith (same address as applicant). Transporting (a) *such commodities* as

V 44 OC 23 79 UMI

are dealt in by grocery and food business houses (except in bulk), and (b) *meats, meat products,* and *meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between points in AZ, AR, CA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, TN, TX, and WI. (Hearing site: Dallas, TX, or Chicago, IL.)

MC 111397 (Sub-128F), filed May 8, 1979. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. Transporting *such commodities* as are dealt in and used by producers and distributors of alcoholic beverages (except commodities in bulk), between the facilities of Heublein, Inc., at or near Paducah, KY, on the one hand, and, on the other, points in the United Sates (except AK and HI), restricted to the transportation of traffic originating or destined to the named facilities. (Hearing site: Paducah, KY, or Washington, DC.)

MC 111397 (Sub-129F), filed May 8, 1979. Applicant: DAVIS TRANSPORT, INC., 1345 South Fourth St., Paducah, KY 42001. Representative: H. S. Melton, Jr., P.O. Box 1407, Paducah, KY 42001. Transporting *cement,* from the facilities of Marquette Company, at Cape Girardeau, MO, to points in AR, IL, IN, KS, KY, MS, MO, OK, and TN. (Hearing site: Nashville, TN, or Washington, DC.)

MC 114457 (Sub-502F), filed May 4, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Avenue, St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting *such commodities* as are dealt in by grocery and food business houses in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), between points in AL, AR, AZ, GA, IA, ID, IL, IN, KS, KY, MI, MN, MO, MS, MT, NC, ND, NE, NY, OH, PA, SD, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 115826 (Sub-462F), filed May 7, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Avenue, Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *frozen foodstuffs,* from the facilities of Green Giant Co., at or near Belvidere, IL, to Watsonville, CA, and points in CO, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 117676 (Sub-9F), filed May 9, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear St., Trenton, NJ 08648. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting *parafin wax,* (except in bulk), (1) from New York, NY, and Philadelphia, PA, to Trenton, NJ, and (2) from Trenton, NJ, to points in MI, OH, PA, and VA, restricted in (1) above to the transportation of traffic having a prior movement by water in foreign commerce. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 121496 (Sub-24F), filed May 4, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Building, Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *liquid chemicals,* in bulk, in tank vehicles, from the facilities of Celanese Chemical Company at points in Harris County, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 123407 (Sub-575F), filed May 8, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Rt. 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting (1) *Wallboard, fiberboard, pulpboard,* and *strawboard,* and (2) *paper and paper products,* from the facilities of Boise Cascade Corporation, near Cicero, IL, to points in the United States, in and east of MI, IN, KY, TN, and MS. (Hearing site: Portland, OR.)

MC 123407 (Sub-576F), filed May 8, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting *iron and steel articles,* from Schaumburg and Chicago, IL, Detroit, MI, Cleveland and Youngstown, OH, Pittsburgh, PA, and Andrews, SC, to points in the United States, in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

MC 128927 (Sub-4F), filed May 8, 1979. Applicant: MARTIN TRUCKING COMPANY, INC., P.O. Box 118, Wilton, WI 54670. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting *malt beverages,* from St. Paul, MN, to points in Monroe and Waukesha Counties, WI. (Hearing site: Madison or Milwaukee, WI.)

MC 133566 (Sub-134F), filed May 8, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *foodstuffs* (except in bulk), from the facilities of Globe Products Company, Inc., at Clifton, NJ, to points in NY, MA, CT, VT, NH, ME, PA, OK, CO, MD, OH, IN, IL, WI, MI, MN, IA, MO, TN, KY, WV, VA, NC, SC, GA, FL, AL, KS, NE, and SD, restricted to the transportation of traffic originating at the named facilities. (Hearing site: New York, NY)

MC 134477 (Sub-346F), filed May 8, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Rd., West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *plastic articles* (except commodities in bulk), from the facilities of National Polymers, Inc., at or near Lakeville, MN, to points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

MC 142686 (Sub-13F), filed May 8, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *food stuffs and food products* between the facilities of Hain Pure Foods Company, at Los Angeles, CA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, CO, IN, IA, IL, KS, KY, LA, ME, MD, MI, MA, MN, MO, MS, NB, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TX, TN, VT, VA, WV, WI, and DC, under a continuing contract(s) with Hain Pure Foods Company, of Los Angeles, CA. (Hearing site: Los Angeles and San Diego, CA.)

MC 143267 (Sub-65F), filed May 4, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. Transporting (1) *plywood, hardboard, particleboard, gypsumboard, and molding,* and (2) *accessories* used in the installation of the commodities named in (1) above, from the facilities of Weyerhaeuser Company, at Chesapeake, VA, to points in OH, WV, and those in PA on and west of PA Hwy 219. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 145016 (Sub-2F), filed April 9, 1979. Applicant: DAVIS TRUCKING COMPANY, INC., P.O. Box 550, Darlington, SC 29532. Representative: John H. Lumpkin, Jr., 1250 SCN Center, Columbia, SC 29201. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *steel mill bag house dust,* from the facilities of Nucor Steel at points in Darlington County, SC, to the facilities of Royster Company at Chesapeake, VA, under continuing contract(s) with Royster Co., of Chesapeake, VA. (Hearing site: Columbia, SC, or Atlanta, GA.)

MC 145406 (Sub-40F), filed May 4, 1979. Applicant: MIDWEST EXPRESS, INC., 380 East Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705.Transporting *meats, meat products and meat byproducts,* and *articles* distributed by meat-packing houses, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc., at or near Dakota City, NE, and Ft. Dodge, IA, to points in IA, IL, IN, MI, MN, OH, and WI. (Hearing site: Omaha, NE, or Kansas City, KS.)

MC 146377 (Sub-2F), filed May 8, 1979. Applicant: EDWARD McGILL, 1200 North Fifth Avenue, Rome GA 30161. Representative: Gary Hamilton, Box 746, 237 N. 5th Ave., Rome, GA 30161. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *perishable bakery products,* from Rome, GA, to points in GA, AL, FL, TN, SC, and NC, under a continuing contract(s) with ITT Continental Baking Company, Inc., of Rome, GA. (Hearing site: Atlanta, GA.)

MC 146687 (Sub-1F), filed May 3, 1979. Applicant: MARV'S PICK-UP & DELIVERY, INC., 2040 South Lynhurst, Suite O, Indianapolis, IN 46241. Representative: Stephen M. Gentry, 1500 Main Street, Speedway, IN 46224. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Indianapolis International Airport at or near Indianapolis, IN, on the one hand, and, on the other, points in Bartholomew, Blackford, Cass, Daviess, Delaware, Dubois, Gibson, Grant, Henry, Howard, Jackson, Jefferson, Jennings, Knox, Lawrence, Madison, Miami, Monroe, Montgomery, Orange, Owen, Posey, Putnam, Tipton, Vanderburgh, and Wayne Counties, IN, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Indianapolis, IN, or Chicago, IL.)

Volume No. 194

Decided: Oct. 5, 1979.

By the Commission, Review Board Number 2. Members Boyle, Eaton and Liberman.

The following twelve (12) applications involves authority to transport *such commodities* as are dealt in or used by manufacturers and converters of paper and paper products (except commodities in bulk), from the facilities of Nekoosa Papers Inc., in Little River County, OR. All applications were filed June 14, 1979. (1) MC 70557 (Sub-14F*). Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. To points in FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. (2) MC 71593 (Sub-37F). Applicant: FORWARDERS TRANSPORT, INC., 1608 E. Second St., Scotch Plains, NJ 07076. To points in AZ, CA, CO, CT, DE, IL, IA, IN, MD, ME, MA, MI, MN, NV, NH, NJ, NY, OH, OR, PA, RI, UT, VA, VT, WA, WI, and DC. (3) MC 114274 (Sub-66F). Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. To points in CT, DE, IA, IL, IN, MA, MD, MI, MN, NE, NH, NJ, NY, OH, PA, RI, VA, and WV. (4) MC 140665 (Sub-57F). Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, MO 65767. To points in AZ, CA, CO, IA, ID, IL, IN, KY, MI, MN, MO, MT, NE, NV, OH, OR, UT, WA, WI, and WY. (5) MC 142364 (Sub-16F). Applicant: KENNETH SAGELY, d/b/a/ SAGELY PRODUCE, 2802 Kibler Rd., Van Buren, AR 72956. To points in AZ, CA, ID, IL, IN, IA, KY, MI, MN, MO, MD, NM, OH, PA, SD, TN, and WI. (6) MC 144622 (Sub-84F*). Applicant: GLENN BROS. TRUCKING, INC., P.O. Box 9343, Little Rock, AR 72209. To points in AZ, CA, CO, FL, ID, IL, IN, MO, OH, OR, TX, and WA. (7) MC 144858 (Sub-10F*). Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72219. To points in AL, AZ, CA, CT, IL, IN, IA, MD, MI, MO, NJ, NY, OH, OR, PA, RI, WV, and WI. (8) MC 145152 (Sub-89F). Applicant: BIG THREE TRANSPORTATION, INC., P.O. Box 706, Springdale, AR 72764. To points in CA, CO, DE, FL, GA, IL, IN, IA, KY, MI, MD, MO, NC, NJ, NY, OH, PA, SC, TN, TX, VA, WV, and WI. (9) MC 145441 (Sub-42F). Applicant: ACB TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. To points in AZ, CA, OR, and WA. (10) MC 146078 (Sub-7F*). Applicant: CAL-ARK, INC., P.O. Box 394, Malvern, AR, 72104. To points in AZ, CA, CT, ID, MA, ME, NH, NJ, NY, OH, OR, PA, RI, VT, and VA. (11) MC 146402 (Sub-4F*). Applicant: CONALCO CONTRACT CARRIER, INC., P.O. Box 968, Jackson, TN 38301. To points in DE, IL, IN, KY, MD, NJ, NY, OH, PA, WV, WI, those in AL and MS on and north of U.S. Hwy 80, those in IA and MO on and east of U.S. Hwy 61, those in MI on and south of MI Hwy 21, and those in TN on and west of Interstate Hwy 24. (12) MC 146890 (Sub-11F*). Applicant: C & E TRANSPORT, INC., d/b/a C. E. ZUMSTEIN CO., P.O. Box 27, Lewisburgh, OH 45338. To points in CT, IL, IN, KY, MA, MD, MI, NJ, NY, OH, PA, and RI. Representative: John Duncan Varda for all applicants above: 121 South Pinckney St., Madison, WI 53703 (Hearing site: Chicago, IL, or Washington, DC.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32619 Filed 10-22-79; 8:45 am]

BILLING CODE 7035-01-M

* Dual operations may be involved.

V 44 0C 23 79 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Item
Equal Employment Opportunity Commission	1
Federal Communications Commission	2, 3
Federal Deposit Insurance Corporation	4
Federal Election Commission	5
Federal Energy Regulatory Commission	6–9
Federal Reserve System (Board of Governors)	10
National Credit Union Administration	11
National Railraod Passenger Corporation	12
Securities and Exchange Commission	13

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-2049-79.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m. (Eastern Time), Tuesday, October 23, 1979.

CHANGE IN THE MEETING: The following matter was added to the agenda for the open portion of the meeting:

HEW's equal employment regulations for public broadcasting entities.

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

In favor of Change: Eleanor Holmes Norton, Chair; Daniel E. Leach, Vice Chair; Ethel Bent Walsh, Commissioner; Armando M. Rodriguez, Commissioner; J. Clay Smith, Jr., Commissioner.

CONTACT PERSON FOR MORE INFORMATION: Marie D. Wilson, Executive Officer, Executive Secretariat, at (202) 634-6748.

This notice issued October 18, 1979.

[S-2070-79 Filed 10-19-79; 3:13 pm]

BILLING CODE 6570-06-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 25, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Commission Open Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Petition to terminate proceeding designated against J.B. Broadcasting of Baltimore, Ltd., which is now in receivership, and to approve an assignment of the Receiver's authorization to operate standard broadcast station WEBB, Baltimore, Maryland, to Brunson Broadcasting Co. of Maryland, Inc., (Docket No. 21012).

Private Radio—1—Title: Rulemaking petitions RM-3207, and RM-3313 to amend Part 97 of the Amateur Radio Service to allow frequency modulation telephony (F3) operation with more than 6 kHz over a greater segment of the 50 to 54 MHz (6 meter) amateur radio band. Summary: The FCC will consider whether to adopt or deny a rulemaking petition (RM-3207 and 3313). The rulemaking petition proposes that the FCC allow frequency modulation telephony (F3) operation with more than 6 kHz over a greater segment of the 50 to 54 MHz (6 meter) amateur radio band.

Private Radio—2—Title: Rule revisions to implement changes in frequencies common to the aeronautical mobile (R) and (OR) services for search and rescue scene-of-action communications adopted at the ITU World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978, which entered into force on 1 September 1979. Summary: International provision for the common aeronautical mobile (R) and (OR) services frequencies 3023 kHz and 5680 kHz for search and rescue scene-of-action communications between mobile stations and participation land stations entered into force on 1 September 1979. The Commission will consider rule amendments to implement the changes adopted at the ITU World Administrative Radio Conference on the Aeronautical Mobile (R) Service, Geneva, 1978.

Private Radio—3—Title: Review of the aeronautical enroute service (RM 3113). Summary: The FCC is reviewing certain of its rules concerning aeronautical enroute communications which provide for the operational control (flight management) of aircraft in flight by aircraft owners or operators. A petition for rulemaking raised fundamental questions regarding these rules. Among the issues to be considered are the adequacy of the present rules, the alternative regulatory policies available, and the role of Aeronautical Radio, Inc. (ARINC) which currently is the licensee of nearly all aeronautical enroute ground stations.

Private Radio—4—Title: Inquiry into the need for a radio service to transmit to spectators in sports events a running account of the progress of the game (Docket No. 20661). Summary: The FCC will consider whether to adopt a Memorandum Opinion and Order in Docket No. 20661 that would decline to make available Business Radio Service frequencies to accommodate a new radio service for the transmission to spectators in sports events a running account of the progress of the game.

Common Carrier—1—Application for Review filed by Maureen L. Smith of the grant of the application of Tel-Page Corporation of Wisconsin in the Domestic Public Land Mobile Radio Service. Summary: The Commission will consider an Application for Review filed by Maureen L Smith of the action of the Common Carrier Bureau which granted the application of Tel-Page. Among the issues to be considered are (1) the Smith argument that the Bureau did not have sufficient information to make the finding that Tel-Page was financially qualified and (2) whether the Commission should relax the financial qualification standard for applicants in the Domestic Public Land Mobile Radio Service.

Common Carrier—2—Title: Lincoln Telephone and Telegraph Company's Application for Review of NCCC's Section 214 Supplemental Facilities Application to lease additional channels between Lincoln and Omaha, Nebraska. Summary: In March, 1978 NCCC filed a Section 214 Application requesting authority to supplement existing facilities. On July 10, 1978 LT&T filed a Petition to Deny the grant. The Common Carrier Bureau declared the Petition moot. On August 30, 1978 LT&T filed its Application for Review. The Commission is considering the following: (1) when the application was effective; (2) whether the Petition to Deny was properly dismissed; (3) whether the application was difficult; and (4) whether economic harm would result to LT&T if the grant is allowed.

Common Carrier—3—Title: Disconnection of Service to a Cable Television Customer in Oregon by Pacific Telatronics, Inc.—Petition by Teleprompter, Inc. for Partial Reconsideration of *Memorandum Opinion and Order*, 68 FCC 2d 67 (1978). Summary: Consideration of whether disconnection of Teleprompter's Service in Eugene, Oregon by Pacific Telatronics, Inc., constituted a discontinuance of service in violation of Section 214(a) of the Communications Act.

Common Carrier—4—Title: Order on Reconsideration re Commission's Report and Order in Docket 21230 dated May 4, 1978. Summary: Petitions for Reconsideration of the above mentioned Docket were filed by AT&T and the Public Service Commission of the State of New York. The Commission has to decide if its accounting for Property Held for Future Use exceeds the requirements of Docket 19129. In the area of Plant Under Construction and Interest During Construction, the question is whether the Commission's establishment of accounting requirements for short-term and long-term plant under construction infringes upon the regulatory prerogatives of the states.

Common Carrier—5—Title: Petition for Reconsideration of the Commission's decision in Docket No. 20598 that All America Cables and Radio, Inc., is an "appropriate local carrier" to own and operate the Cayey, Puerto Rico earth station. Summary: This item considers whether the Commission's decision in 70 FCC 2d 824 (1979), should be modified insofar as it does not require completion of rate integration prior to authorization of transfer of the Cayey earth station for use with the domestic satellite system and whether *ex parte* communications occurred during consideration of the original decision, and, if so, whether the outcome of the proceeding was prejudiced by the *ex parte* presentations.

Common Carrier—6—Title: Applications of All America Cables and Radio, Inc., American Telephone & Telegraph Co., and various international record carriers to provide service to puerto Rico via the COMSTAR domestic satellite system and terrestrial facilities. Summary: This item considers the carriers' applications to transfer ownership and use of the Cayey, Puerto Rico earth station from the international to the domestic satellite system.

Cable Television—1—Applications for construction permits for new stations in the Cable TV Relay Service filed by Tele-Media Company of Key West. Applications for construction permits for six new stations in the Cable Television Relay Service and request for waiver of Sections 78.18 and 21.100 of the Commission's Rules to permit operation on common carrier frequencies.

Renewal—1—Title: By Direction letters imposing appropriate EEO sanctions on certain broadcast stations and requiring them to submit periodic progress reports. Summary: After routinely evaluating the EEO Programs submitted by various stations with their applications for renewal of licenses, the Bureau is recommending that the Commission impose various sanctions on the following stations largely because of insufficient EEO effort: KADL/KADL-FM, KBJT, KCLA, KLEB/KZZQ(FM), KLOU, KPAL, KTHV(TV), WBAM/WBAM-FM, WBSJ(FM), WDAK, WDMG, WFMH/WFMH—FM, WFPM WFPR/WHMD(FM), WHGI/WAUG-FM, WKOG/WKOG-FM, WLAU, WOOF/WOOF-FM, WVNA/WVNA-FM, and WYOK.

Renewal—2—Title: Amaturo Group, Inc.'s application for renewal of license for station KMJQ-FM, Clear Lake City, Texas. Summary: Licensee has filed an application for the renewal of its license for station KMJQ-FM which is located in Clear Lake City, Texas. [Houston has attempted to annex Clear Lake. However, that annexation has been challenged and as of the present time the status of Clear Lake City is unclear.] That application has been challenged by three parties, the National Black Media Coalition, a group of concerned citizens from Clear Lake, and an individual, Gerald R. Proctor. NBMC and the licensee reached an agreement and NBMC has now withdrawn its petition to deny. The Agenda Item considers the allegations made by the petitioners, the licensee's response, the above-mentioned agreement, and additional information requested from the licensee by the Broadcast Bureau, and resolves the issues raised.

Television—1—Subject: Applications of Central Texas Broadcasting Company, Business Communications, Inc., Blake-Potash Corporation and Heart O' Texas Broadcasting, Inc., for a construction permit for a new commercial television broadcast station on channel 25, Waco, Tx. Summary: This designation order is before the Commission because it involves an applicant controlled by a party which pleaded *nolo contendere* to a criminal antitrust indictment and because it involves a clarification of the financial standards for new broadcast applicants.

Television—2—Application tendered by the Denton Channel Two Foundation for authority to construct a new television broadcast station at Denton, Texas. Request for waiver of Commission Cut-Off Rule and acceptance of late-filed application. Bureau recommends granting waiver request and accepting late-filed application.

Broadcast—1—Title: Petitions for Waiver of Sections 73.35, 73.240 and 73.636 of the Commission's Rules, filed by Owosso Broadcasting Company, Johnson Newspaper Corporation, Lee Enterprises, Inc., WALB-TV, Inc., and Anniston Broadcasting Company. Summary: In the Second Report and Order in Docket No. 18110, the Commission adopted rules which required licensees in certain egregious situations, to divest themselves of either a daily newspaper or a broadcast facility. The situations in which this was required were those where the only daily newspaper in a community was commonly owned with the only television station, or radio station, encompassing the city with a city-grade signal. The divestiture was required by January 1, 1980. The above-named licensees all applied for waiver of that requirement. The item considers and disposes of the arguments raised in support of the waiver requests.

Complaints and Compliance—1—Title: Handling of public issues under the Fairness Doctrine and the public interest standards of the Communications Act. Summary: The Commission has before it, on remand from the United States Court of Appeals for the District of Columbia Circuit, consideration of two proposals regarding licensee compliance with the Fairness Doctrine. The Committee for Open Media suggests that access serve as a substitute means of compliance, while Mr. Henry Geller has proposed television licensee maintenance of a list of controversial issue programming. The Commission must assess the impact of acceptance of either or both of the proposals.

This meeting may be continued the following day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: October 19, 1979.

[S-2060-79 Filed 10-19-79; 11:16 am]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 25, 1979.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting following the Open Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No. and Subject

Private Radio—1—Inquiry into Alleged Improper Issuance of Licenses and Call Signs in the Amateur Radio Service (Docket No. 21418).

Hearing—1—Requests for issuance of an order granting immunity to certain witnesses in the Joplin, Missouri/Pittsburg, Kansas renewal proceeding (BC Docket Nos. 78-81, 82 and 83).

Hearing—2—Requests that a Memorandum Opinion and Order issued pursuant to delegated authority by the Chief, Broadcast Bureau in the Avon Park, Florida, FM radio proceeding be set aside and that an Application for Review of the aforementioned action be stricken (Docket Nos. BC-78-84 and 85).

Hearing—3—Broadcast Bureau's request to withdraw its exceptions to the Initial Decision in the consolidated proceeding involving the application of United Television Company of New Hamsphire for renewal of license of station WMUR, Manchester, New Hamsphire, and the application of KECC Television Corporation for license to cover construction permit of station KECC-TV, El Centro, California, (Docket Nos. 19336 and 19338).

Hearing—4—Remand from the D.C. Circuit Court of Appeals of Crosthwait v. FCC, 584 F. 2d 550, 44 FR 2d 107, (D.D. Cir. August 29, 1978) in the Harriman, Tenn. new FM proceeding (Docket No. 18912).

Hearing—5—Application for Review Board order denying an extension of a construction permit for an FM station in Hampton, Iowa and related pleadings concerning reimbursement of expenses (Docket No. 21420).

Executive—1—Adjudicatory Matter.

This meeting may be continued the following workday to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: October 19, 1979.

[S-2061-79 Filed 10-19-79; 11:16 am]

BILLING CODE 6712-01-M

V 44 OC 23 79 UMI

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Agency Meeting:

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at 2:00 p.m. on Thursday, October 18, 1979, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider a recommendation of the Legal Division with respect to the liquidation of Bank of Woodmoor, Woodmoor (P.O. Monument), Colorado.

In calling the meeting, the Board determined, on motion of Chairman Irvine H. Sprague, seconded by Mr. H. Joe Selby, acting in the place and stead of Director John G. Heimann (Comptroller of the Currency), that Corporation business required its consideration of the matter on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matter in a meeting open to public observation; and that the matter could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), and (c)(9)(B)).

Dated: October 18, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-2062-79, Filed 10-19-79; 12:09 pm]

BILLING CODE 6714-01-M

5

FEDERAL ELECTION COMMISSION.

"FEDERAL REGISTER" NO. 2041.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 25, 1979 at 10 a.m.

CHANGE IN MEETING: The following item has been removed from the agenda:

Draft AO 1979-45, Robert Moore, Executive Director, National Republican Senatorial Committee.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, Telephone: 202-523-4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S-2059-79 Filed 10-19-79; 11:11 am]

BILLING CODE 6715-01-M

6

FEDERAL ENERGY REGULATORY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: (44 FR 59336, Oct. 15, 1979).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 17, 1979, 10 a.m.

CHANGE IN THE MEETING: The following have been added:

Item No., Docket No., and Company

CAP-8, ER79-166, Kansas City Power & Light Company.

CAP-9, ER79-478 and ER79-479, Public Service Company of New Mexico.

CAG-19, RP73-35 (PGA No. 79-3), Trunkline Gas Company. RP73-3 (PGA No. 79-2), Transcontinental Gas Pipe Line Corporation. RP72-149 (PGA No. 79-5a), Mississippi River Transmission Corporation. RP73-65 (PGA No. 79-2), Columbia Gas Transmission Corporation.

ER-6, ER79-121, Utah Power & Light Company.

M-17(A), GP79-40, State of Tennessee Section 102 NGPA Determination Energy Resources Corporation Nineteen Wells JD79-5843 through 5861. Tartan Oil Company—One Well JD79-5862.

M-17(B), GP79-39, State of Tennessee Section 102 NGPA Determination Cumberland Oil Producing Co., Dixie Oil Co. JD79-5805 thru 5836 and 5842.

M-17(C), GP79-38, State of Montana Section 102 NGPA Determination True Oil Company Consolidated State 42-20 (JD79-4818), Burlington Northern 42-1 (JD79-4821).

P-2, Project No. 2904, Cities of Anaheim and Riverside, California, Project No. 2868, Southern California Edison Company.

M-16(A), GP80-00, State of Ohio Section 108 NGPA Determination Nucorp Energy Company Luckay #1 Well JD79-20491.

M-16(B), GP80-00, Onshore Reservoir Determination made by the Industrial Commission of North Dakota under Section 102(c)(1)(C).

CP-7, CP78-381, Great Plains Gasification Associates, Successor to ANR Gasification Properties Company and PGC Coal Gasification Company. CP75-278 and CP77-556, Columbia Gas Transmission, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Transcontinental Gas Pipe Line Corporation. CP75-283, Great Lakes Gas Transmission Company.

CP-6, CP79-456, Owens-Corning Fiberglas Corporation.

M-15, RM79-75, Final Part 284 Regulations Under the Natural Gas Policy Act of 1978.

M-14, RM80-00, Publication of Prescribed Maximum Lawful Prices Under the NGPA of 1978.

Kenneth F. Plumb,

Secretary.

[S-2067-79 Filed 10-19-79; 2:37 pm]

BILLING CODE 6450-01-M

7

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 15, 1979, 10 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Columbia LNG Plant at Cove Point, Maryland.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

[S-2071-79 Filed 10-19-79; 3:26 pm]

BILLING CODE 6450-01-M

8

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 15, 1979, 11 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Proposed disposition of administrative and investigative proceedings.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

[S-2068-79 Filed 10-19-79; 2:40 pm]

BILLING CODE 6450-01-M

9

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 16, 1979, 9 a.m.

PLACE: 825 North Capitol Street, NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Columbia LNG Plant at Cove Point, Maryland.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

[S-2069-79 Filed 10-19-79; 2:41 pm]

BILLING CODE 6450-01-M

10

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS.

TIME AND DATE: 11 a.m., Friday, October 26, 1979.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: CLOSED.

MATTERS TO BE CONSIDERED:

1. Personnel policies and procedures with respect to the Federal Reserve Bank examiners.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452-3204.

Dated: October 19, 1979.

Griffith L. Garwood,

Deputy Secretary of the Board.

[S-2064-79 Filed 10-19-79; 12:44 am]

BILLING CODE 6210-01-M

11

NATIONAL CREDIT UNION ADMINISTRATION.

TIME AND DATE: 10 a.m., October 25, 1979.

PLACE: 2025 M Street NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of Central Liquidity Facility lending rates.

2. Applications for charters, amendments to charters, bylaw amendments, mergers, conversions and insurance as may be pending at that time.

RECESS: 10:30 a.m.

TIME AND DATE: 11 a.m., October 25, 1979.

PLACE: 2025 M Street NW., Washington, D.C., 4th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Contract for purchase of computer equipment. Closed pursuant to exemptions (4) and (9)(B).

2. Personnel Actions. Closed pursuant to exemption (2).

3. Requests from federally insured credit unions for special assistance under Section 208 of the Federal Credit Union Act in order to prevent their closing. Closed pursuant to exemptions (8) and (9)(A)(ii).

4. Administrative Actions. Closed pursuant to exemptions (8), (9)(A)(ii), and (10).

5. Rejection of insurance applications of state chartered credit unions. Closed pursuant to exemptions (8) and (9)(A)(ii).

CONTACT PERSON FOR MORE INFORMATION: Rosemary Brady, Secretary of the Board, telephone (202) 254-9800.

[S-2066-79 Filed 10-19-79; 2:12 pm]

BILLING CODE 7535-01-M

12

NATIONAL RAILROAD PASSENGER CORPORATION (Board of Directors Meeting)

In accordance with Rule 4a. of Appendix A of the Bylaws of the National Railroad Passenger Corporation notice is given that the Board of Directors will meet on October 31, 1979.

A. The meeting will be held on Wednesday, October 31, 1979, in the National Guard Association Building, 3rd Floor, One Massachusetts Avenue, Northwest, Washington, D.C., beginning at 9:30 a.m.

B. The meeting will be open to the public at 10:15 a.m. beginning with agenda item No. 3, as described below.

C. The agenda items to be discussed at the meeting follow:

Agenda—National Railroad Passenger Corporation; Meeting of the Board of Directors, October 31, 1979

Closed Session (9:30)

1. Internal Personnel Matters.
2. Litigation Matters.

Open Session (10:15)

3. Approval of Minutes of Regular Meeting of September 26, 1979
4. Commitment Approval Requests:

77-242-S4 Chicago, Illinois Phase IIIB Modernization. 12th and 16th Street Yards, Construct. Commissary/Warehouse.

78-76-S1 Grade Crossing Improvements—Florida—Phase II.

79-113-R1 Revision of CAR 79-113 to Modify Station Trackage at Temple, Texas.

79-133 Improvements to New Haven Mechanical Facility.

80-09 Grade Crossing Improvements—New York State Empire Service.

80-10 California/Amtrak Joint Station Rehabilitation Program.

79-67 Retirement and Sale of Motive Power—Twenty-Three (23) Units.

79-78-S1 Installation of On-Board Service Crew Accommodations on 36 HEP Hi-Level Transition Coaches.

79-131 Handicapped On-Board Accessibility Modifications-HEP Program.

80-11 Conversion of Passenger Cars to Head-end Power.

80-12 Acquisition of HEP Diesel-Electric Locomotives.

5. Approval for Consulting Services to NECIP.
6. Delegation of Authority for NECIP Contracts.
7. Board Committee Reports: Equipment, Finance, Northeast Corridor Improvement Project, ad hoc By-Laws Revision.
8. Presentation of FY 80/81 Capital Plan.
9. President's Report.
10. Board Meeting Dates for 1980.
11. New Business.
12. Adjournment.

D. Inquiries regarding the information required to be made available pursuant to Appendix A of the Corporation's Bylaws should be directed to the Corporate Secretary at (202) 383-3973.

Dated: October 18, 1979.

Elyse G. Wander,

Corporate Secretary.

[S-2065-79 Filed 10-19-79; 1:08 pm]

BILLING CODE 0000-00-M

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published]

STATUS: Closed Meeting; Open Meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: Tuesday, October 16, 1979.

CHANGES IN THE MEETING: Additional items/meeting.

The following additional items will be considered at a closed meeting scheduled for Wednesday, October 24, 1979, immediately following the 10 a.m. open meeting.

Institution of injunctive actions.

An open meeting will be held on Friday, October 26, 1979, at 9:30 a.m., to consider the following item:

Meeting with Professor Louis Loss of Harvard Law School to discuss the American Law Institute Proposed Federal Securities Code.

Chairman Williams and Commissioners Loomis and Evans determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

October 19, 1979.

[S-2063-79; Filed 10-19-79; 12:17 pm]

BILLING CODE 8010-01-M

V 44 0 C 2 3 7 9 UMI

V 44 OC 23 79 UMI

Reader Aids

Federal Register
Vol. 44, No. 206
Tuesday, October 23, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662.....1
56663-56918.....2
56919-57064.....3
57065-57378.....4
57379-57906.....5
57907-58492.....9
58493-58670.....10
58671-58888.....11
58889-59194.....12
59195-59488.....15
59489-59894.....16
59895-60068.....17
60069-60250.....18
60251-60700.....19

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163).....56673
10900 (Amended by EO 12163).....56673
10973 (Revoked by EO 12163).....56673
11223 (Amended by EO 12163).....56673
11269 (Amended by EO 12164).....56681
11579 (Amended by EO 12163).....56673
11846 (Amended by EO 12163).....56673
11958 (Amended by EO 12163).....56673
12065 (Amended by EO 12163).....56673
12087 (Superseded by EO 12165.....58671
12092 (Amended by EO 12161).....56663
12140 (Amended by EO 12162).....56665
12161.....56663
12162.....56665
12163.....56673
12164.....56681
12165.....58671
12166.....60971

Proclamations:
4693.....56669
4694.....56671
4695.....58493

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163).....56673

Presidential Determination:
No. 79-17 of September 28, 1979.....56667

5 CFR

Ch. III.....60251
Ch. XIV.....60069, 60701
213.....60973-60975
315.....60975
340.....57379
353.....56683
451.....58889
890.....57379
707.....60676

Proposed Rules:
702.....59166
703.....59166
704.....59166

7 CFR

2.....57907, 58495, 58679 60251
6.....58893
15a.....57907
16.....56919, 60069
29.....57907
246.....59489
282.....59052
354.....60255
401.....60701, 60709
421.....58893
427.....60701, 60709
429.....60709
722.....60255
905.....59195
906.....57909
908.....57065, 58680, 60070
910.....57383, 58893, 60256
929.....56683, 60976
932.....58495
944.....59195
948.....60977
966.....58894, 59197
979.....56684
982.....57065
984.....60975
989.....60070
1139.....57066
1421.....56305, 57383
1464.....57909, 58894
1822.....56919, 59198
1861.....56920
1864.....59895
1901.....59198
1941.....58895
1942.....56684, 59895
1944.....59198
1951.....56306, 59895
1955.....59895
1980.....56920, 58896
2851.....60979

Proposed Rules:
8.....56943
20.....57931
27.....57932
272.....57414
273.....57414, 58915
318.....57415
725.....57932

1701 61048
2853 ..... 58916, 59548
2858 58916

8 CFR

100 56311

Proposed Rules:

103 56368

9 CFR

75 60257
78 57384
91 59498
92 58896
97 60261
113 ..... 58897, 60262
307 60979
309 59498
350 60979
351 60979
354 60979
355 60979
362 60979
381 60979

Proposed Rules:

92 58918
94 61048
113 60306

10 CFR

2 60715
50 ..... 57911, 57912, 60715
51 56312
205 ..... 60264, 60638
211 ..... 56888, 57067, 60638
212 ..... 57069, 60638
320 58900
436 60664
476 57370
515 60690
570 56921

Proposed Rules:

71 60743
73 60743
211 ..... 56369, 59240, 59551 60307
212 ..... 59914, 60744
214 57103
220 56369
375 56953
376 56953

11 CFR

Proposed Rules:

100 59162
110 59162
114 59162

12 CFR

Ch. VII 56691
201 ..... 57385, 60716
202 57070
204 60071
205 59474
207 56922
217 60076
220 56922
221 56922
224 56922
226 56312
263 56685
265 ..... 56313, 59227
329 60273
346 57385
525 60717
531 60717
545 57386
563 59895
600 60076
601 60076
602 60076
611 60076
704 58496
742 57071

Proposed Rules:

Ch. II 58744
Ch. V 57419
205 59464
528 60310
545 58744
618 60745

13 CFR

101 59499
121 ..... 58744, 59504
124 60273
125 60273
126 60273
127 60273
131 60718

Proposed Rules:

107 60745
111 58745
117 60032
121 60746

14 CFR

39 ..... 56315-56322, 57072, 57073, 58680-58684, 60079, 60719-60722
71 ..... 56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686, 60079, 60723
73 57080-57082
75 57082-57084
97 ..... 57918, 60723
207 58499
208 58499
212 ..... 57386, 58500
214 ..... 57387, 58500
221a 57085
241 ..... 58500, 59505
287 57085
1214 56923

Proposed Rules:

Ch. I 56369, 60107, 60746
Ch. V 56377
1 60747
11 ..... 56370, 59242
21 ..... 56370, 59242
27 60747
29 60747
33 60747
37 ..... 56370, 59242
39 57105
43 60747
45 60747
61 60747
71 ..... 56373-56376, 57106, 57934-57938, 60107, 60748-60752
73 58746
91 ..... 60747, 60752
93 56376
121 60747
127 60747
133 60747
135 60747
233 59242
270 59242
302 59242

15 CFR

30 58686
370 59227
371 59227
374 59227
377 59227
377 59227
388 59897

Proposed Rules:

302 61049
377 60753

16 CFR

13 ..... 56323, 56923, 57920, 58901-58906, 60080, 60725, 60726
1700 57920

Proposed Rules:

Ch. I 59552
Ch. II 57352, 60057
13 ..... 58516, 58518, 58747, 61050
1201 59914
1404 59557
1615 60755
1616 60755

17 CFR

210 ..... 57030, 57037
211 57038
231 56924
240 ..... 57387, 60281
241 56924
249 ..... 57374, 57387
270 ..... 58502, 58907

Proposed Rules:

240 56953
270 58521

18 CFR

1 60282
2 ..... 56926, 60080
3 60282
154 ..... 57726, 60083, 60284
201 57726
204 57726
270 60284
271 56926
273 59230
274 59230
282 ..... 57726, 57754, 57778, 60084
283 60284
290 58687

Proposed Rules:

35 60108
282 ..... 57783, 57786, 57788 58749
292 57107

19 CFR

4 ..... 57086, 57087
101 57088

Proposed Rules:

134 58527
153 ..... 59741, 59762
155 ..... 57044, 59762
159 ..... 57044, 59762
177 56715
201 59392
207 59392

20 CFR

404 56691
675 56866
680 56866

Proposed Rules:

615 56715
665 59889

21 CFR

10 59174
12 59174
13 59174
14 59174
15 59174
16 59174
109 57389
177 59505
178 59506
193 59231
510 ..... 57389, 59507
520 ..... 59507, 59508
558 57389
561 59903
740 59509
1316 56324

Proposed Rules:

136 60313
137 60313
145 60314
148 60315
150 61053
166 57422
168 60315
182 61053
184 61053
203 58918
310 ..... 58919, 60316
312 58919
314 58919
320 60320
331 60328
444 60331
640 60332
680 60333
890 ..... 57939, 57940, 58919
1020 57423

22 CFR

515 58708

Proposed Rules:

216 56378

23 CFR

140 59232

Proposed Rules:

771 59438

24 CFR

Ch. XIII 58507
42 56324
203 57089
205 57090
207 57090
213 ..... 56927, 57089, 57090
220 57090
221 57090
232 57090
234 57089
235 57090
236 57090
240 58503
241 57090
242 57090
244 57090

250 57090
290 56608
403 58503
510 58506
570 56325
803 59112
841 57922
880 59408
888 ..... 57925, 59112
891 ..... 60085, 60285
3610 60834

Proposed Rules:

200 60108
203 58527
208 60109
881 59246
888 58528

25 CFR

31a 58096
31b 58101

Proposed Rules:

252 59559
700 59560

26 CFR

1 ..... 57925, 59523, 60085
7 57390
31 59524

Proposed Rules:

Ch. I 56502
1 ..... 57423, 57427
31 57940
301 56715

27 CFR

9 56692
201 56326

28 CFR

0 ..... 57926, 58908
2 ..... 58507, 59527, 59528
16 59904
50 57926
301 59904

Proposed Rules:

2 58528
16 ..... 58920, 58921

29 CFR

14 57397
1604 58073
1910 60980
2610 58908
2703 57348

Proposed Rules:

1616 59914
1904 59560
1910 60333
1926 59561

30 CFR

Ch. VII 57927
701 58783
731 60869
741 58783
872 60285
877 60285
879 60285
882 60285
884 60285
886 60285

Proposed Rules:

Ch. VII 60226, 60228
250 60109
732 60233

31 CFR

Proposed Rules:

Ch. II 59246

32 CFR

51 56328
199 58709
231 56326
706 ..... 56929, 57400
853 60090
901 56930

Proposed Rules:

56 58750

33 CFR

110 60091
117 59233
127 ..... 57092, 57927
147 57927
165 ..... 57928, 57929

34 CFR

Ch. I 60286

35 CFR

133 56916
253 56693

Proposed Rules:

133 57941

36 CFR

50 56934
1226 58088

Proposed Rules:

Ch. IX 56954, 58528

37 CFR

302 60726

38 CFR

1 59905
3 58709

Proposed Rules:

3 58758
36 ..... 56329, 58508

39 CFR

111 ..... 58509, 60727

Proposed Rules:

3001 60757

40 CFR

52 ..... 56694, 57401
65 ..... 56696, 59528
81 57929
117 ..... 58711, 58909
180 59907
231 58078
257 58910
413 56330
600 ..... 57358, 60286

Proposed Rules:

35 60335
40 56955
50 56730
51 ..... 56957, 57107
52 ..... 56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60389, 60758, 61055
55 ..... 56721, 58759
60 ..... 57792, 58602, 60759, 60761
61 ..... 58642, 58661
62 ..... 57118, 57948
65 ..... 60109, 60110
81 ..... 57942, 58758, 58922, 60341
120 ..... 57428, 59565
122 56957
162 57429
250 ..... 56724, 58923
600 57362
707 ..... 56856, 60763
710 60763
713 59106
720 59764
763 60061

41 CFR

Ch. 1 60995
Ch. 101 ..... 56699, 59192, 59529, 60740
8-4 59529
101-11 60740
101-20 60995
101-29 58910

Proposed Rules:

Ch. 25 56387
9-7 57119
101-40 59247
109-1 57121
109-60 57121

42 CFR

57 56937
71 58911
405 60287
456 56333

Proposed Rules:

74 ..... 58923, 61059
121 60342
405 ..... 58923, 61059

43 CFR

221 56339
1821 59530
2880 58126
3400 56339
3410 56339
3420 56339
3422 56339
3430 56339
3440 56339
3450 56339
3460 56339
3470 56339
3500 56339
3501 56339
3502 56339
3503 56339
3504 56339
3507 56339
3511 56339
3520 56339
3521 56339
3524 56339
3525 56339
3526 56339
3550 56339
3564 56339
3565 56339
3566 56339
3568 56339

Proposed Rules:

4 57948
34 59096
1780 56622
2800 58106
3110 58638
9230 60764

44 CFR

64 ..... 56354, 57092, 57093
64 ..... 60999, 61000
65 ..... 57094, 61003, 61005
67 ..... 56366, 56701

Proposed Rules:

67 ..... 56957, 57429-57432 60342, 61059, 61073

45 CFR

Ch. I 56938
20 58912
55 58912
61 58912
80 ..... 58509, 59908
82 58912
116 59152
116a 59152
161 60022
161a 60022
304 56939
531 59908
1010 56548
1012 56548
1050 56548
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 56548
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:

Ch. VI 56387
Ch. X 60764
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130
1205 60110

46 CFR

154 59234
154a 59234
502 60996
503 57411

Proposed Rules:

66 57137
283 58928
355 58928

47 CFR

0 ..... 57096, 60291
1 60291
2 ..... 58712, 59530
15 59530
18 56699
21 60532
22 60532
61 57096

V 44 O C 23 7 9 UMI

73.....57097, 58718-58729, 58912, 60091, 60097, 60740
74.....58729
83.....58712, 58735, 60741
87.....59546
90.....57098, 58737, 59234
97.....58742

Proposed Rules:
0.....57636
1.....59568
15.....59570, 60112
21.....58929
63.....59578
73.....57138, 57636, 58762-58764, 59568, 58579, 59580
76.....58766
81.....59581

49 CFR

Ch. X.....60296
192.....57100
213.....56342
301.....59239
571.....57100
172.....60097
173.....60097
174.....60097
177.....60097
178.....60097
801.....56340, 57930
1011.....58511, 60295
1013.....59908
1033.....56343, 56939, 58913, 58914, 60999
1100.....58511
1307.....57413
1310.....57413
1322.....57930

Proposed Rules:
Ch. X.....57139
29.....60946
110-189.....58767
127.....60771
171.....60771
172.....58767, 60771
173.....58767, 60112, 60771
174.....60771
175.....60771
176.....60771
177.....60771
178.....60112
195.....57952
571.....60113, 60120, 60771
575.....56389
622.....59438
1036.....59581
1063.....60122
1090.....61074
1300.....60122
1303.....60122
1304.....60122
1306.....60122
1307.....60122
1308.....60122
1309.....60122
1310.....60122
1312.....60122

50 CFR

13.....59080
17.....56862, 58866, 58868, 59080, 60103, 60862
32.....56940, 56941, 59910
33.....59910
216.....57100
230.....59911
611.....57101
652.....56941, 60103
653.....56700, 56701
810.....59086

Proposed Rules:
17.....56618
285.....57140
611.....59257, 59582
652.....60129

V 44 OC 23 79 UMI

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

51554 9-4-79 / Recovery of certain production related costs incurred by transporters and shippers of natural gas produced at Prudhoe Bay, Alaska

List of Public Laws

Last Listing October 19, 1979

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202-275-3030).

S. 817 / Pub. L. 96-89 To amend the Act of July 2, 1940, as amended, to increase the amount authorized to be appropriated for the Canal Zone Biological Area. (Oct. 19, 1979; 93 Stat. 697) Price $.75.

V 4 4 0 C 2 3 7 9 UMI

Just Released

CODE OF FEDERAL REGULATIONS

(Revised as of July 1, 1979)

Quantity	Volume	Price	Amount
_____	Title 28—Judicial Administration	$6.50	$_____
_____	Title 32A—National Defense, Appendix	5.50	_____
_____	Title 41—Public Contracts and Property Management (Chapters 10 to 17)	6.50	_____
		Total Order	$_____

[A Cumulative checklist of CFR issuances for 1979 appears in the first issue of the Federal Register each month under Title 1. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected)]

PLEASE DO NOT DETACH

MAIL ORDER FORM To:

Superintendent of Documents, Government Printing Office, Washington, D.C. 20402

Enclosed find $..... ... (check or money order) or charge to my Deposit Account No. .....

Please send me ..... copies of:

PLEASE FILL IN MAILING LABEL BELOW

Name .....

Street address .....

City and State ..... ZIP Code .....

FOR USE OF SUPT. DOCS.

----Enclosed

To be mailed later

----Subscription

Refund

Postage

Foreign Handling

FOR PROMPT SHIPMENT, PLEASE PRINT OR TYPE ADDRESS ON LABEL BELOW, INCLUDING YOUR ZIP CODE

SUPERINTENDENT OF DOCUMENTS
U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON, D.C. 20402

OFFICIAL BUSINESS

POSTAGE AND FEES PAID
U.S. GOVERNMENT PRINTING OFFICE
375
SPECIAL FOURTH-CLASS RATE BOOK

Name .....

Street address .....

City and State ..... ZIP Code .....

10-24-79
Vol. 44 No. 207
Pages 61157-61318

Federal Register

Wednesday
October 24, 1979

Highlights

Briefings on How To Use the Federal Register—For details on briefings in Washington, D.C., see announcement in the Reader Aids Section at the end of this issue. **An interpreter for hearing impaired persons will be present for the November 16 briefing.**

61167 **US-China trade relations agreement** Presidential proclamation

61161 **US-China trade relations agreement** Executive order

61159 **National Farm-City Week, 1979** Presidential proclamation

61157 **Energy Emergency in Florida, Extension** Presidential memorandum

61171 **Technical Assistance and Energy Conservation Measures** DOE changes closing date of first grant program cycle for schools, hospitals, and buildings owned by units of local government and public care institutions; applications by 3–15–80

61259 **National Demonstration Projects** HEW/OE invites applications for projects under the Upward Bound and Special Services for Disadvantaged Students; applications by 3–14–80

CONTINUED INSIDE

V 4 4 O C 2 4 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code 202-523-5240

Highlights

61208 **Community Development Block Grants** HUD transmits interim rule to Congress

61176 **Mortgage and Loan Insurance** HUD increases maximum allowable finance charge on property improvement, mobile home loans and combination and mobile home lot loans for programs under National Housing Act; effective 10-15-79

61178 **Mobile Home Loans** VA increases maximum permissible interest rate; effective 10-22-79

61230 **Commercial Television Network Practices** FCC solicits comments on preliminary reports; comments by 1-14-80, reply comments by 1-29-80

61169 **Motor Gasoline** DOE/ERA amends retailer price information and posting rules; effective 10-24-79, comments by 12-11-79

61243 **Natural Gas Authorities** DOE/ERA increases coal and non-petroleum fuel usage and heavy oil production; comments by 12-21-79

61188 **Alternative Fuel Demonstration Facilities** DOE holds hearing and requests comments on proposed rule regarding Federal loan guarantees; comments by 12-12-79, hearing 11-28-79, requests to speak by 11-19-79

61312 **Mined Land in Steep Slope Areas** Interior/OSM proposes rules regarding backfilling and grading to achieve approximate original contour; comments by 11-23-79, hearing 11-16-79 (Part III of this issue)

61190, 61205 **Small Power Production and Cogeneration** DOE/FERC proposes rates for sale of electric energy, and requests further comments on proposed rules regarding qualifying status; comments by 12-1-79 (2 documents)

61317 **Energy Audits, Technical Assistance and Energy Conservation Measures Grants** DOE/Conservation and Solar Energy Office issues technical and editorial corrections for programs for schools, hospitals, and buildings owned by units of local government and public care institutions; effective 10-24-79 (Part IV of this issue)

61304 **Sunshine Act Meetings**

Separate Parts of This Issue

61308 **Part II, DOD/EC**
61312 **Part III, Interior/OSM**
61317 **Part IV, DOE/Conservation and Solar Energy Office**

Contents

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

The President
ADMINISTRATIVE ORDERS
61157 Florida, energy emergency, extension (Memorandum of October 19, 1979)
EXECUTIVE ORDERS
61167 U.S.-People's Republic of China trade relations agreement (EO 12167)
PROCLAMATIONS
61159 Farm-City Week, 1979, National (Proc. 4696)
61161 U.S.-People's Republic of China trade relations agreement (Proc. 4697)

Executive Agencies

Administrative Conference of United States
NOTICES
Meetings:
61236 Judicial Review Committee; location change

Agricultural Marketing Service
RULES
Stockyards:
61169 Rates and charges schedule increase; data filing requirement elimination

Agriculture Department
See also Agricultural Marketing Service; Forest Service.
NOTICES
Meetings:
61237 Structure of Agriculture Dialogue

Alcohol Fuels, National Commission
NOTICES
61272 Meetings

Arms Control and Disarmament Agency
NOTICES
Meetings:
61236 General Advisory Committee

Army Department
See also Engineers Corps.
RULES
61178 Conduct standards for Army Department personnel; deletion of regulations
NOTICES
Environmental statements; availability, etc.:
61242 Fort Sam Houston, Tex.

Civil Aeronautics Board
NOTICES
Hearings, etc.:
61238 International Air Transport Association

Commerce Department
See Foreign-Trade Zones Board; National Oceanic and Atmospheric Administration.

Commodity Future Trading Commission
NOTICES
61304 Meetings; Sunshine Act

Self-regulatory organizations; proposed rule changes:
61241 Amex Commodities Exchange, Inc.
Self-regulatory organizations:
61239 "Joint Audit Plan"; compliance supervision of member merchants with financial requirements

Community Planning and Development, Office of Assistant Secretary
PROPOSED RULES
Community development block grants:
61208 Corrective and remedial actions, reduction or withdrawal of grant, etc.; interim rule; transmittal to Congress

Customs Service
NOTICES
Countervailing duty petitions and preliminary determinations:
61279 Valves and parts thereof from Italy
Tariff reclassification petitions:
61280 Laser glass

Defense Department
See Army Department; Engineers Corps; Navy Department.

Economic Regulatory Administration
RULES
Petroleum allocation and price regulations:
61169 Motor gasoline; retailer price information and posting rules; final rule and inquiry
NOTICES
Consent orders:
61242 PGP Gas Products, Inc.
Natural gas:
61243 Coal and other non-petroleum fuel usage and heavy oil production; increase inquiry

Education Office
NOTICES
Grant applications and proposals, closing dates:
61258 National Diffussion Network Program; application preparation workshop
61259 Special services for disadvantaged students

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission.
RULES
Energy conservation:
61171 Grants for schools, hospitals, etc.; correction
61317 Schools, hospitals, and buildings owned by local government, etc.; energy conservation grant programs; first grant program cycle closing date
PROPOSED RULES
61188 Fuel demonstration facilities, alternative; Federal loan guarantees; hearing and deadline date for comments

Engineers Corps
PROPOSED RULES
Water resources policies and authorities:
61308 Wetlands establishment

Environmental Protection Agency
RULES
Air quality implementation plans; delayed compliance orders:
61182, 61183 West Virginia (2 documents)
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
61211 Kansas; correction
NOTICES
Air quality criteria:
61247 Oxides of nitrogen: extension of time
Meetings:
61248 Science Advisory Board
Pesticides; tolerances in animal feeds and human food:
61247 E.I. du Pont de Nemours & Co.
61248 Merck & Co., Inc.
61248 Mobay Chemical Corp

Federal Communications Commission
PROPOSED RULES
Common carrier services:
61214 Overseas telecommunications traffic data; eliminating semi-annual reports and providing revised and corrected data in annual reports; inquiry
61216 Telephone private line rate structure and volume discount practices; American Telephone & Telegraph Co.; inquiry
Radio services, special:
61214 Digital termination systems; frequency reallocations in 10.55–10.68 GHz band; correction
Television broadcasting:
61230 Commercial television network practices, preliminary reports; inquiry
NOTICES
61248 FM and TV translator applications ready and available for processing
Hearings, etc.:
61250 KBMR Radio, Inc.
61252 South Central Bell Telephone Co.

Federal Emergency Management Agency
RULES
Flood insurance; communities eligible for sale:
61185 Alabama et al.
61184 Iowa et al.
PROPOSED RULES
61211 Disaster preparedness assistance; reorganization and revision of regulations

Federal Energy Regulatory Commission
RULES
Natural Gas Policy Act:
61174 Incremental pricing regulations; estimates and submetering requirements; technical conference
61174 Incremental pricing regulations; question and answer session; change of location
PROPOSED RULES
Public Utility Regulatory Policies Act:
61205 Small power production and cogeneration facilities; qualification certification; further inquiry
61190 Small power production and cogeneration facilities; rates and exemptions
NOTICES
61247 Federal Power Commission Reports, Volume 48; availability
Hearings, etc.:
61246 Northwest Alaskan Pipeline Co.
61304 Meetings; Sunshine Act

Federal Home Loan Bank Board
NOTICES
61304 Meetings; Sunshine Act

Federal Housing Commissioner—Office of Assistant Secretary for Housing
RULES
Mortgage and loan insurance programs:
61176 Property improvement and mobile home loans; finance charges
61177 Rental assistance payments (RAP); Section 236 projects eligibility; interim rule

Federal Maritime Commission
NOTICES
61304 Meetings; Sunshine Act

Federal Reserve System
RULES
Interest on deposits (Regulation Q):
61171 Early withdrawal penalty; temporary suspension; Connecticut
PROPOSED RULES
Credit by brokers and dealers (Regulation T):
61188 Credit to exchange specialists; extension of time
NOTICES
Applications, etc.:
61256 Banco Union, C.A.
61256 Caddo Holding Co., Inc.
61257 Eagle Bancshares, Inc.
61257 Financial Services Corp. of the Midwest
61257 Maitland Bancshares, Inc.
61257 Moore Bancshares Corp.
61256 Old Stone Corp. et al.
61257 Quad County Bancshares, Inc.
61258 Steelville Community Banc-Shares, Inc.
61258 Texas Security Bancshares, Inc.

Fish and Wildlife Service
PROPOSED RULES
61231 Archeological and historic properties; identification and protection procedures

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
61239 Oakland, Calif.

Forest Service
NOTICES
Environmental statements; availability, etc.:
61237 Nezperce National Forest, Idaho, et al.
Meetings:
61236 Modoc National Forest Grazing Advisory Board

General Services Administration
NOTICES
Meetings:
61258 Architectural and Engineering Services Regional Public Advisory Panel

Health, Education, and Welfare Department
See Education Office.

Heritage Conservation and Recreation Service
NOTICES
Environmental statements; availability, etc.:
61265 Patapsco Valley State Park, Md.

Historic Preservation, Advisory Council
NOTICES
61236 Urban initiatives program; programmatic memorandum of agreement with UMTA

Housing and Urban Development Department
See also Community Planning and Development, Office of Assistant Secretary; Federal Housing Commissioner—Office of Assistant Secretary for Housing.
NOTICES
Environmental statements; availability, etc.:
61260 Hickory Creek subdivision et al., Tex.

Indian Affairs Bureau
PROPOSED RULES
Irrigation projects, operation and maintenance charges:
61208 San Carlos, Ariz.
NOTICES
Meetings:
61261 Exceptional Children Advisory Committee

Interior Department
See also Fish and Wildlife Service; Heritage Conservation and Recreation Service; Indian Affairs Bureau; Land Management Bureau; National Park Service; Reclamation Bureau; Surface Mining Office.
NOTICES
61267 Truckee and Carson River Basins, Newlands, Truckee Storage, and Washoe projects, Calif., and Nev.; operating criteria and procedures

International Communication Agency
NOTICES
Meetings:
61269 Public Diplomacy Advisory Commission; correction

International Trade Commission
NOTICES
Import investigations:
61269 Air-tight cast-iron stoves
61269 Anhydrous ammonia from Union of Soviet Socialist Republics
61270 Compact cyclotrons with a pre-septum
61269 Leather wearing apparel
61272 Sodium acetate from Canada
61271 Turning machines and components thereof

Interstate Commerce Commission
RULES
Railroad car service orders; various companies:
61184 Chicago, Rock Island & Pacific Railroad Co.
NOTICES
61282 Fourth section applications for relief
61281 Hearing assignments
Motor carriers:
61285 Temporary authority applications
Railroad car service orders; various companies:
61283, 61284 Kansas City Terminal Railway Co. (2 documents)
Railroad services abandonment:
61282 Burlington Northern, Inc.
61282 Illinois Central Gulf Railroad Co.
61283 Oregon-Washington Railroad & Navigation Co.

Land Management Bureau
NOTICES
Alaska native claims selections; applications, etc.:
61262 Kavilco Inc.
Applications, etc.:
61261 Illinois
Meetings:
61262 Winnemucca District Grazing Advisory Board
Outer Continental Shelf:
61264 Oil and gas lease sales; restricted joint bidders; list; correction
Withdrawal and reservation of lands, proposed, etc.:
61262 Oregon; correction

National Credit Union Administration
RULES
61172 Liquidity reserves of insured credit unions
PROPOSED RULES
61189 Mergers of credit unions; approval

National Oceanic and Atmospheric Administration
NOTICES
Meetings:
61239 Caribbean Fishery Management Council

National Park Service
NOTICES
Environmental statements; availability, etc.:
61266 Gunnison Wild and Scenic River Study, Colo.
61266 Owyhee River, Idaho and Oreg., National Wild and Scenic Rivers System
Meetings:
61266 Upper Delaware Citizens Advisory Council

Navy Department
NOTICES
Meetings:
61242 Navy Resale Service and Support Activity Advisory Committee

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
61273 Maine Yankee Atomic Power Co.
61276 Metropolitan Edison Co., et al.
Environmental statements; availability, etc.:
61279 Three Mile Island radioactive waste water decontamination

V 44 OC 24 79 UMI

Meetings:
61273 Reactor Safeguards Advisory Committee
61304 Meetings; Sunshine Act
61276 Regulatory guides; issuance and availability
Rulemaking petitions:
61274 Nondestructive Testing Management Association, et al.
61276 Rulemaking petitions; issuance of quarterly report; availability

Parole Commission
NOTICES
61304 Meetings; Sunshine Act

Postal Service
RULES
Private carriage of letters restrictions:
61178 Private express statutes; extremely urgent letters; suspension

Reclamation Bureau
NOTICES
Contract negotiations:
61265 Georgetown Divide Public Utility District, Calif.
61264 Water service contract; Yuma Proving Grounds, Ariz.
Environmental statements; availability, etc.:
61264 Apple Creek Unit, Pick-Sloan Missouri Basin Program, N. Dak.

Securities and Exchange Commission
NOTICES
61305 Meetings; Sunshine Act

Surface Mining Office
PROPOSED RULES
Initial regulatory program:
61312 Backfilling and grading to achieve original contour; interim program variances
NOTICES
Permanent regulatory programs submissions:
61266 Wyoming

Treasury Department
See Customs Service.

Veterans Administration
RULES
Loan guaranty:
61178 Mobile homes; maximum permissible interest rate
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
61210 Veterans benefits; definition of child

MEETINGS ANNOUNCED IN THIS ISSUE

AGRICULTURE DEPARTMENT
Forest Service—
61236 Modoc National Forest Grazing Advisory Board, 11–9–79
Office of the Secretary—
61237 Structure of Agriculture, November and December 1979

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration—
61239 Caribbean Fishery Management Council, 11–8–79

DEFENSE DEPARTMENT
Navy Department—
61242 Navy Resale Service and Support Activity Advisory Committee, 11–12–79

ENERGY DEPARTMENT
Federal Energy Regulatory Commission—
61174 Technical Conference on incremental pricing regulations, conference 11–15–79, requests to participate 11–9–79

ENVIRONMENTAL PROTECTION AGENCY
61248 Science Advisory Board, Water Quality Criteria Subcommittee, 10–31–79

GENERAL SERVICES ADMINISTRATION
61258 Regional Public Advisory Panel on Architectural and Engineering Services, 11–14–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
Education Office—
61258 National Diffusion Network Program Application Preparation Workshops, November 1979

INTERIOR DEPARTMENT
Indian Affairs Bureau—
61261 Advisory Committee for Exceptional Children, 10–26 and 10–27–79
Land Management Bureau—
61262 Winnemucca District Grazing Advisory Board, 12–6–79

NATIONAL ALCOHOL FUELS COMMISSION
61272 Meetings, 11–10–79

UPPER DELAWARE CITIZENS ADVISORY COUNCIL
61266 Meeting, 11–23–79

U.S. ARMS CONTROL AND DISARMAMENT AGENCY
61236 General Advisory Committee, 11–8 and 11–9–79

CHANGED MEETINGS

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES
61236 Committee on Judicial Review, location change, 10–31–79

NUCLEAR REGULATORY COMMISSION
61273 Advisory Committee on Reactor Safeguards, Subcommittee on Waste Management, status change, 10–31–79

HEARINGS

INTERNATIONAL TRADE COMMISSION
61269 Leather Wearing Apparel, 11–6–79, requests to appear by 11–1–79
61272 Sodium acetate from Canada, 11–27–79, requests to appear by 11–21–79

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Executive Orders:
12167 61167
Proclamations:
4696 61161
4697 61161
Administrative Orders:
Memorandums:
October 19, 1979 61157

9 CFR
201 61169

10 CFR
212 61169
450 61317
455 (2 documents) 61171, 61317
Proposed Rules:
796 61188

12 CFR
217 61171
742 61172
Proposed Rules:
220 61188
708 61189

18 CFR
282 (2 documents) 61174
Proposed Rules:
292 (2 documents) 61190, 61205

24 CFR
201 61176
236 61177
Proposed Rules:
570 61208

25 CFR
Proposed Rules:
233 61208

30 CFR
Proposed Rules:
716 61312

32 CFR
579 61178

33 CFR
Proposed Rules:
232 61308

38 CFR
36 61178
Proposed Rules:
3 61210

39 CFR
320 61178

40 CFR
65 (2 documents) 61182, 61183
Proposed Rules:
52 61211

44 CFR
64 (2 documents) 61184, 61185
Proposed Rules:
205 61211
300 61211

47 CFR
Proposed Rules:
2 61214
21 61214
43 61214
61 61216
73 61230
87 61214
90 61214

49 CFR
1033 61184

50 CFR
Proposed Rules:
4 61231

V 4 4 O C 2 4 7 9 UMI

V 4 4 0 C 2 4 7 9 UMI

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

Presidential Documents

Title 3—

The President

Memorandum of October 19, 1979

Determination Under Section 110(f) of the Clean Air Act—Florida
Memorandum for the Administrator, Environmental Protection Agency

Based on a request submitted to me by the Governor of the State of Florida to extend my July 6, 1979 determination that a regional energy emergency continues to exist in the State of Florida of such severity that a temporary suspension of certain air pollution control regulations which apply to fossil-fuel fired electric generating plants under the Florida Air Quality Implementation Plan may be necessary, and that other means of responding to the energy emergency may be inadequate, I hereby extend that determination from October 15, 1979, to and including December 31, 1979. This extension is limited by the same conditions as my July 6, 1979 determination.

If, during the extension, I find that a regional energy emergency no longer exists in Florida, I will direct that this extension be rescinded, and that all suspension orders issued by the Governor be terminated on the day of that rescission. Please continue to work with State officials to monitor carefully the residual oil supply in Florida and to inform me if the emergency should cease to exist. You will continue to retain full authority to disapprove temporary suspension of regulations in Florida and to exercise your emergency powers authority under Section 303 of the Clean Air Act, when and if necessary. It is important to keep suspensions to an absolute minimum since Section 110(f) of the Clean Air Act limits each suspension to a maximum duration of 120 days.

While my determination permits the temporary suspension of certain emission limiting requirements, it in no way permits the suspension of any national ambient primary or secondary air quality standard. Protection of these national health and welfare protective standards is consistent with Governor Graham's petition, and I commend him for his past restraint in using the authority to suspend some air pollution requirements.

This determination shall be published in the **Federal Register.**

Jimmy Carter

THE WHITE HOUSE,
Washington, October 19, 1979.

[FR Doc. 79-32909
Filed 10-22-79; 3:08 pm]
Billing code 3195-01-M

V
4
4

O
C

2
4

7
9
UMI

Presidential Documents

Proclamation 4696 of October 22, 1979

National Farm-City Week, 1979

By the President of the United States of America

A Proclamation

All too often we take for granted the close working relationship between our farms and cities. On this 25th anniversary of National Farm-City Week, we can again reflect with pride on this unique interdependence.

It is a crucial interdependence that requires our constant attention. It determines whether our food and fiber supply will meet the needs of our citizens, our trading partners and our international humanitarian commitments. In short, it determines our future.

National Farm-City Week is a time for our rededication to cooperation, so we as a Nation can successfully meet the challenges that lie before us.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the period, November 16 through November 22, 1979, as National Farm-City Week.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of October, in the year of our Lord nineteen hundred seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

[FR Doc. 79-32949
Filed 10-22-79; 4:41 pm]
Billing code 3195-01-M

V 4 4 OC 24 79 UMI

Presidential Documents

Proclamation 4697 of October 23, 1979

Agreement on Trade Relations Between the United States of America and the People's Republic of China

By the President of the United States of America

A Proclamation

As President of the United States of America, acting through my representatives, I entered into the negotiation of an agreement on trade relations between the United States of America and the People's Republic of China with representatives of the People's Republic of China;

The negotiations were conducted in accordance with the requirements of the Trade Act of 1974 (P.L. 93–618, January 3, 1975; 88 Stat. 1978) ("the Act");

An "Agreement on Trade Relations between the United States of America and the People's Republic of China", in English and Chinese, was signed on July 7, 1979, by representatives of the two Governments, and is annexed to this Proclamation;

The Agreement conforms to the requirements relating to bilateral commercial agreements specified in section 405(b) of the Act;

Article X of the Agreement provides that it shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose; and

Section 405(c) of the Act provides that a bilateral commercial agreement and a proclamation implementing such agreement shall take effect only if approved by the Congress;

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, proclaim as follows:

(1) This Proclamation shall become effective, said Agreement shall enter into force according to its terms, and nondiscriminatory treatment shall be extended to the products of the People's Republic of China in accordance with the terms of the said Agreement, on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose in accordance with Article X of the said Agreement.

(2) General Headnote 3(e) of the Tariff Schedules of the United States is amended by deleting therefrom "China (any part of which may be under Communist domination or control)" and "Tibet" as of the effective date of this proclamation and a notice thereof shall be published in the **Federal Register** promptly thereafter.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of October, in the year of our Lord nineteen hundred and seventy-nine, and of the Independence of the United States of America the two hundred and fourth.

Jimmy Carter

AGREEMENT ON TRADE RELATIONS BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA

The Government of the United States of America and the Government of the People's Republic of China;

Acting in the spirit of the Joint Communique on the Establishment of Diplomatic Relations between the United States of America and the People's Republic of China;

Desiring to enhance friendship between both peoples;

Wishing to develop further economic and trade relations between both countries on the basis of the principles of equality and mutual benefit as well as nondiscriminatory treatment;

Have agreed as follows:

ARTICLE I

1. The Contracting Parties undertake to adopt all appropriate measures to create the most favorable conditions for strengthening, in all aspects, economic and trade relations between the two countries so as to promote the continuous, long-term development of trade between the two countries.

2. In order to strive for a balance in their economic interests, the Contracting Parties shall make every effort to foster the mutual expansion of their reciprocal trade and to contribute, each by its own means, to attaining the harmonious development of such trade.

3. Commercial transactions will be effected on the basis of contracts between firms, companies and corporations, and trading organizations of the two countries. They will be concluded on the basis of customary international trade practice and commercial considerations such as price, quality, delivery and terms of payment.

ARTICLE II

1. With a view to establishing their trade relations on a nondiscriminatory basis, the Contracting Parties shall accord each other most-favored-nation treatment with respect to products originating in or destined for the other Contracting Party, i.e., any advantage, favor, privilege, or immunity they grant to like products originating in or destined for any other country or region, in all matters regarding:

(A) Customs duties and charges of all kinds applied to the import, export, re-export or transit of products, including the rules, formalities and procedures for collection of such duties and charges;

(B) Rules, formalities and procedures concerning customs clearance, transit, warehousing and transshipment of imported and exported products,

(C) Taxes and other internal charges levied directly or indirectly on imported or exported products or services;

(D) All laws, regulations and requirements affecting all aspects of internal sale, purchase, transportation, distribution or use of imported products; and

(E) Administrative formalities for the issuance of import and export licenses.

2. In the event either Contracting Party applies quantitative restrictions to certain products originating in or exported to any third country or region, it shall afford to all like products originating in or exported to the other country treatment which is equitable to that afforded to such third country or region.

3. The Contracting Parties note, and shall take into consideration in the handling of their bilateral trade relations, that, at its current state of economic development, China is a developing country.

4. The principles of Paragraph 1 of this Article will be applied by the Contracting Parties in the same way as they are applied under similar circumstances under any multilateral trade agreement to which either Contracting Party is a party on the date of entry into force of this Agreement.

5. The Contracting Parties agree to reciprocate satisfactorily concessions with regard to trade and services, particularly tariff and non-tariff barriers to trade, during the term of this Agreement.

ARTICLE III

For the purpose of promoting economic and trade relations between their two countries, the Contracting Parties agree to:

A. Accord firms, companies and corporations, and trading organizations of the other Party treatment no less favorable than is afforded to any third country or region;

B. Promote visits by personnel, groups and delegations from economic, trade and industrial circles; encourage commercial exchanges and contacts; and support the holding of fairs, exhibitions and technical seminars in each other's country;

C. Permit and facilitate, subject to their respective laws and regulations and in accordance with physical possibilities, the stationing of representatives, or the establishment of business offices, by firms, companies and corporations, and trading organizations of the other Party in its own territory; and

D. Subject to their respective laws and regulations and physical possibilities, further support trade promotions and improve all conveniences, facilities and related services for the favorable conduct of business activities by firms, companies and corporations, and trading organizations of the two countries, including various facilities in respect of office space and residential housing, telecommunications, visa issuance, internal business travel, customs formalities for entry and re-export of personal effects, office articles and commercial samples, and observance of contracts.

ARTICLE IV

The Contracting Parties affirm that government trade offices contribute importantly to the development of their trade and economic relations. They agree to encourage and support the trade promotion activities of these offices. Each Party undertakes to provide facilities as favorable as possible for the operation of these offices in accordance with their respective physical possibilities.

ARTICLE V

1. Payments for transactions between the United States of America and the People's Republic of China shall either be effected in freely convertible currencies mutually accepted by firms, companies and corporations, and trading organizations of the two countries, or made otherwise in accordance with agreements signed by and between the two parties to the transaction. Neither Contracting Party may impose restrictions on such payments except in time of declared national emergency.

2. The Contracting Parties agree, in accordance with their respective laws, regulations and procedures, to facilitate the availability of official export credits on the most favorable terms appropriate under the circumstances for transactions in support of economic and technological projects and products between firms, companies and corporations, and trading organizations of the two countries. Such credits will be the subject of separate arrangements by the concerned authorities of the two Contracting Parties.

3. Each Contracting Party shall provide, on the basis of most-favored-nation treatment, and subject to its respective laws and regulations, all necessary facilities for financial, currency and banking transactions by nationals, firms, companies and corporations, and trading organizations of the other Contracting Party on terms as favorable as possible. Such facilities shall include all required authorizations for international payments, remittances and transfers, and uniform application of rates of exchange.

4. Each Contracting Party will look with favor towards participation by financial institutions of the other country in appropriate aspects of banking services related to international trade and financial relations. Each Contracting Party will permit those financial institutions of the other country established in its territory to provide such services on a basis no less favorable than that accorded to financial institutions of other countries.

ARTICLE VI

1. Both Contracting Parties in their trade relations recognize the importance of effective protection of patents, trademarks and copyrights.

2. Both Contracting Parties agree that on the basis of reciprocity legal or natural persons of either Party may apply for registration of trademarks and acquire exclusive rights thereto in the territory of the other Party in accordance with its laws and regulations.

V 44 OC 24 79 UMI

3. Both Contracting Parties agree that each Party shall seek, under its laws and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of patents and trademarks equivalent to the patent and trademark protection correspondingly accorded by the other Party.

4. Both Contracting Parties shall permit and facilitate enforcement of provisions concerning protection of industrial property in contracts between firms, companies and corporations, and trading organizations of their respective countries, and shall provide means, in accordance with their respective laws, to restrict unfair competition involving unauthorized use of such rights.

5. Both Contracting Parties agree that each Party shall take appropriate measures, under its laws and regulations and with due regard to international practice, to ensure to legal or natural persons of the other Party protection of copyrights equivalent to the copyright protection correspondingly accorded by the other Party.

ARTICLE VII

1. The Contracting Parties shall exchange information on any problems that may arise from their bilateral trade, and shall promptly hold friendly consultations to seek mutually satisfactory solutions to such problems. No action shall be taken by either Contracting Party before such consultations are held.

2. However, if consultations do not result in a mutually satisfactory solution within a reasonable period of time, either Contracting Party may take such measures as it deems appropriate. In an exceptional case where a situation does not admit any delay, either Contracting Party may take preventive or remedial action provisionally, on the condition that consultation shall be effected immediately after taking such action.

3. When either Contracting Party takes measures under this Article, it shall ensure that the general objectives of this Agreement are not prejudiced.

ARTICLE VIII

1. The Contracting Parties encourage the prompt and equitable settlement of any disputes arising from or in relation to contracts between their respective firms, companies and corporations, and trading organizations, through friendly consultations, conciliation or other mutually acceptable means.

2. If such disputes cannot be settled promptly by any one of the above-mentioned means, the parties to the dispute may have recourse to arbitration for settlement in accordance with provisions specified in their contracts or other agreements to submit to arbitration. Such arbitration may be conducted by an arbitration institution in the People's Republic of China, the United States of America, or a third country. The arbitration rules of procedure of the relevant arbitration institution are applicable, and the arbitration rules of the United Nations Commission on International Trade Law recommended by the United Nations, or other international arbitration rules, may also be used where acceptable to the parties to the dispute and to the arbitration institution.

3. Each Contracting Party shall seek to ensure that arbitration awards are recognized and enforced by their competent authorities where enforcement is sought, in accordance with applicable laws and regulations.

ARTICLE IX

The provisions of this Agreement shall not limit the right of either Contracting Party to take any action for the protection of its security interests.

ARTICLE X

1. This Agreement shall come into force on the date on which the Contracting Parties have exchanged notifications that each has completed the legal procedures necessary for this purpose, and shall remain in force for three years.

2. This Agreement shall be extended for successive terms of three years if neither Contracting Party notifies the other of its intent to terminate this Agreement at least 30 days before the end of a term.

3. If either Contracting Party does not have domestic legal authority to carry out its obligations under this Agreement, either Contracting Party may suspend application of this Agreement, or, with the agreement of the other Contracting Party, any part of this Agreement. In that event, the Parties will seek, to the fullest extent practicable in accordance with domestic law, to minimize unfavorable effects on existing trade relations between the two countries.

4. The Contracting Parties agree to consult at the request of either Contracting Party to review the operation of this Agreement and other relevant aspects of the relations between the two Parties.

IN WITNESS WHEREOF, the authorized representatives of the Contracting Parties have signed this Agreement.

Done at Beijing in two original copies this seventh day of July, 1979, in English and Chinese, both texts being equally authentic.

LEONARD WOODCOCK
For The United States of America

LI XIANG
For The People's Republic of China

[FR Doc. 79-33030
Filed 10-23-79; 12:39 pm]
Billing code 3195-01-M

V 4 4 OC 2 4 7 9 UMI

V 4 4 OC 24 79 UMI

Presidential Documents

Executive Order 12167 of October 23, 1979

Waiver Under the Trade Act of 1974 With Respect to the People's Republic of China

By virtue of the authority vested in me as President of the United States of America by section 402(c)(2) of the Trade Act of 1974 (Public Law 93-618, January 3, 1975; 88 Stat. 1978), which continues to apply to the People's Republic of China pursuant to section 402(d), and having made the report to the Congress required by section 402(c)(2), I waive the application of subsections (a) and (b) of section 402 of said Act with respect to the People's Republic of China.

Jimmy Carter

THE WHITE HOUSE,
October 23, 1979.

[FR Doc. 79-33031
Filed 10-23-79; 12:40 pm]
Billing code 3195-01-M

V 4 4 0 C 2 4 7 9 UMI

Rules and Regulations

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

9 CFR Part 201

Schedule of Rates and Charges; Filing Specific Data, Elimination

AGENCY: Packers and Stockyards, Agricultural Marketing Service, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule eliminates the requirement of filing specific data to support the reasons for proposing an increase in the schedule of rates and charges. The change is made to bring the regulations in conformity with the Department's policy of not reviewing the level of rates and charges filed by stockyard owners and market agencies. The rule will reduce the paperwork required by the public to obtain an increase in rates and charges.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT:
Jack W. Brinckmeyer, Livestock Marketing Division—P&S, Agricultural Marketing Service—USDA, Washington, D.C. 20250, 202–447–4366.

SUPPLEMENTARY INFORMATION:
Published notice of the proposed amendment to section 201.25 of the regulations elicited one filed response which contained essentially three objections: (1) The proposed regulation as amended would not address cases where rates will decrease or cases where changes will cause neither an increase nor a decrease; (2) The proposed amendment would create ambiguous filing deadlines; and (3) The proposed amendment would not make it clear that no supporting data need accompany a proposed increase in rates.

Objection 1. Section 201.25 of the regulations is designed *only* to address cases where rates will increase. All other cases are regulated by the statute and section 201.22 of the regulations.

Objections 2 and 3 have merit, and the amendment has been changed to reflect the suggestions. Accordingly, § 201.25 [9 CFR. 201.25] is amended to read as follows:

§ 201.25 Information required with proposed increases in existing charges.

Each stockyard owner and market agency proposing an increase in existing charges shall file with the Administrator not less than ten (10) days before the effective date thereof the supplement, amendment, or tariff containing the proposed increase. No supporting data need accompany such supplement, amendment, or tariff upon the filing thereof. However, if a valid complaint is filed or for other compelling reasons, the Administrator may require the furnishing of specific and detailed data on which the proposed increase is based.

This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Analysis has been prepared and is available from: Jack W. Brinckmeyer, Livestock Marketing Division—P&S, Agricultural Marketing Service—USDA, Washington, D.C. 20250, 202–447–4366.

Done this 18th day of October, 1979.

Paschal O. Drake,
Acting Deputy Administrator, Packers and Stockyards.

[FR Doc. 79-32741 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-02-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32D]

Amendments to the Retailer Price Information and Posting Rules for Motor Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Final rule and request for comments.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby adopts the following technical amendments to the price information and posting rules which apply to retail sales of gasoline. These amendments modify the size and location specifications of the posting rule, which requires retail sellers to post either the maximum lawful selling price for each grade of gasoline or at the seller's election, a certification that the maximum lawful selling price has been calculated and that the actual selling price does not exceed the lawful maximum.

DATES: Effective date: October 24, 1979. Comment Date: Comments on final rules adopted today by December 11, 1979.

FOR FURTHER INFORMATION:
Robert C. Gillette (Comment Procedures), Economic Regulatory Administration, Room 2214–B, 2000 M Street NW., Washington, D.C. 20461, (202) 254–5201.
William Webb (Office of Public Information), Economic Regulatory Administration, Room B–110, 2000 M Street NW., Washington, D.C. 20461, (202) 634–2170.
Maurice Boehl (Regulations & Emergency Planning), Economic Regulatory Administration, Room 2304, 2000 M Street NW., Washington, D.C. 20461, (202) 254–7200.
Sue D. Sheridan (Office of General Counsel), Department of Energy, Room 6A–127, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6754.

SUPPLEMENTARY INFORMATION:
I. Background.
II. Amendment Adopted.
III. Procedural Requirements.

I. Background

On July 15, 1979, the DOE issued final rules regarding the retailer price regulations for motor gasoline (44 FR 42541, July 19, 1979). On July 30, 1979, we adopted an amendment changing the posting requirements, which requires retail sellers to adopt one of two specified methods of posting price information (44 FR 45352, August 1, 1979). The first alternative requires sellers to post the maximum lawful selling price for each grade of gasoline sold at the outlet. The second alternative permits the retail seller to post a certification that it has computed its maximum lawful selling price for each grade, and that its actual selling prices are equal to or less than the maximum lawful selling price allowed

V 4 4 0 C 2 4 7 9 UMI

by DOE regulations for the particular grade of gasoline concerned.

During the written comment period which followed adoption of the July 15 rule, we received comments from retail sellers who experienced difficulty in meeting the size and location aspects of the posting requirements. The rule requires that the price statement or dealer certification be posted either on the face of each pump in numbers at least one-half (½) inch high, or at a prominent location easily visible to customers in letters not less than four (4) inches high. Comments which the DOE received from retail sellers revealed that compliance with these technical size and location requirements might result in covering up essential information on the face of the pump, and that the regulations were therefore not adaptable to the physical layout of the average retail outlet.

The DOE also received comments from retail sellers who expressed confusion as to what language constitutes a legally sufficient "certification" under section 212.129(b)(2) that the seller has calculated the maximum lawful selling price for each grade of gasoline, and that the actual selling price does not exceed the lawful price. We offer the following examples of valid certification statements, although they are by no means the only acceptable formulations under the rule:

When posted on pump—

We have calculated the highest legal price for this gasoline and our price is at or below that price.

When posted in a prominent location—

We have calculated the highest legal price for each of our grades of gasoline and our prices are at or below those prices.

Any similar language which states (1) that the firm has calculated the lawful selling price for each grade of gasoline, and (2) that the prices at the station displaying the certification do not exceed the lawful price, will satisfy the requirements of the rule.

II. Amendment Adopted

This amendment changes the current size and location requirements in two respects. First, while the amendment retains the requirement that the maximum price or certification be posted on each gasoline pump in letters not less than one-half (½) inch high, it no longer requires that the information be posted on each face of each pump. Instead, the amended rule specifies only that the information be posted somewhere on each pump, facing each direction from which the pump is generally viewed by customers. For instance, if the pump is on an island served from both sides, then the information should face those two directions. The amended rule thus leaves to the seller's discretion the determination of exactly how to affix or mount the statement or certification on each pump, a change which should ease the burden of compliance for station owners. The second amendment to the rule changes the size specification for letters in statements or certifications posted at locations other than on the pumps themselves. This rule changes the requirement that such information be posted in letters not less than four (4) inches high, by reducing the specified height to not less than one and one half (1½) inches.

III. Procedural Requirements

A. Section 404 of the DOE Act

Pursuant to the requirements of Section 404(a) of the Department of Energy Act, we have referred this rule to the Federal Energy Regulatory Commission (FERC) for a determination whether the proposed rule would significantly affect any matter within the Commission's jurisdiction. Following an opportunity to review this rule, the FERC has declined to determine that it may significantly affect any of its functions.

B. Section 7 of the FEA Act

Under section 7(a) of the Federal Energy Administration Act of 1974 (15 U.S.C. § 787 *et seq.*, Pub. L. 93–275 as amended), the requirements of which remain in effect under section 501(a) of the DOE Act, the delegate of the Secretary of Energy shall, before promulgating proposed rules, regulations, or policies affecting the quality of the environment, provide a period of not less than five working days during which the Administrator of the Environmental Protection Agency (EPA) may provide written comments concerning the impact of such rules, regulations, or policies on the quality of the environment.

A copy of this rule was sent to the EPA Administrator. The Administrator commented that he does not foresee these actions having an unfavorable impact on the quality of the environment as related to the duties and responsibilities of the EPA.

C. National Environmental Policy Act

It has been determined that this rule does not constitute a "major Federal action significantly affecting the quality of the human environment" within the meaning of the National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.* These amendments to the posting requirements are technical in nature, and have no effect on the environment. Therefore, an environmental assessment or an environmental impact statement is not required by NEPA or the applicable DOE regulations for compliance with NEPA.

D. Section 501 of the DOE Act

Under section 501(c) of the DOE Act we are not bound by the prior notice and hearing requirements of subsections (b)–(d) with respect to a rule upon our determination that no substantial issue of fact or law exists and that the rule is unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Where no such substantial issue or impact is foreseen, the proposed rule may be promulgated in accordance with section 553 of Title 5, United States Code.

These amendments to the posting requirements of § 212.129 are technical in nature, and do not raise substantial issues of fact or law. Nor is the rule likely to have a substantial impact on the Nation's economy since it merely alters the exact specifications of the existing size and location requirements of the posting rules. For the same reason, the amendments are not likely to have a substantial impact on large numbers of individuals or businesses. Therefore, the amendment shall be promulgated in accordance with section 553 of Title 5 U.S.C., pursuant to section 501(c) of the DOE Act.

E. Section 553 of the Administrative Procedure Act

Section 553(b) of the Administrative Procedure Act requires that general notice of a proposed rulemaking be published in the **Federal Register,** except when the agency for good cause finds that notice and public procedure thereon is impracticable, unnecessary, or contrary to the public interest. We find that the advance notice and public comment procedures of section 553(b) are unnecessary in this case, since these amendments to the location and size requirements of the posting rule are technical in nature. Public comment was sought and received after the adoption of § 212.129 and has been considered in formulating these amendments.

Subsections (d) (1) and (3) of section 553 require that the publication of a rule be made at least 30 days before the effective date of the rule, unless the rule relieves a restriction or it is otherwise provided by the agency for good cause. This rule relieves certain technical restrictions in the posting requirements, and therefore fits the exemption in section 553(d)(1). Moreover, we find the immediate issuance of these technical amendments in final form to be in the best interests of the public as well as the retail sellers who serve them. In order to ensure the practicability of the price information rule, it is essential that the posting requirements be adaptable to the physical layout of the average retail outlet. The swift issuance of these technical amendments to the posting rule serves the best interests of not only the retail seller who faces the immediate necessity of compliance, but also of the gasoline purchasing public whom the price information and posting rules are designed to protect. Hence, this rule also fits the good cause exemption in section 553(d)(3).

F. Executive Order 12044

Executive Order 12044 (43 FR 12661, March 23, 1978) requires the agencies subject to it to publish all proposed "significant" regulations for advance public comment for a minimum of 60 days. Section 2(e) of the Executive Order directs the agencies to establish criteria to identify which regulations are significant. DOE's implementing procedures are contained in DOE Order 2030 (44 FR 1032, January 3, 1979). The DOE procedures explain that regulations are "significant" unless they are not expected to effect important policy concerns or to engage much public interest. The amendments adopted today are technical in natue, and do not touch on important policy concerns. We do not expect their adoption to engage much public interest. We find, therefore, that these amendments to the posting requirements are not "significant" under DOE's implementing procedures, and do not invoke the 60 day advance public comment requirement of Executive Order 12044.

G. Written Comment Procedures

DOE will accept written comments on the final rule adopted today through December 11, 1979. DOE is permitting this comment period to allow interested parties to submit additional comments on appropriate changes or amendments to the rules once they are in effect. We are particularly interested in receiving comments regarding the appropriateness of continued imposition of the price information and posting rules in the future.

Comments should be identified on the outside envelope and on the document with the docket number and the designation: "Retailer Price Information and Posting Rules for Motor Gasoline." Ten copies should be submitted.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. We reserve the right to determine the confidential status of such information or data and to treat it according to our determination.

(Emergency Petroleum Allocation Act of 1973, 15 U.S.C. § 751 *et seq.*, Pub. L. 93–159, as amended, Pub. L. 93–511, Pub. L. 94–99, Pub. L. 94–133, Pub. L. 94–163, and Pub. L. 94–385; Federal Energy Administration Act of 1974, 15 U.S.C. 787 *et seq.*, Pub. L. 93–275, as amended, Pub. L. 94–332, Pub. L. 94–385, Pub. L. 95–70, and Pub. L. 95–91; Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*, Pub. L. 94–163, as amended, Pub. L. 94–385, and Pub. L. 95–70; Department of Energy Organization Act, 42 U.S.C. § 7101 *et seq.*, Pub. L. 95–91; E.O. 11790, 39 FR 23185; E.O. 12009, 42 FR 46267)

In consideration of the foregoing Part 212 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., October 18, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

1. Section 212.129 is amended in paragraph (b) to read as follows:

§ 212.129 Price information and posting.

* * * * *

(b) Each retail seller of gasoline shall comply with subparagraph (1) or, in the alternative, subparagraph (2), of this paragraph.

(1) Each retail seller of gasoline shall post and maintain in legible form the maximum lawful selling price of each type and grade of gasoline. The maximum lawful selling price shall be posted either: (i) On each pump used to dispense gasoline at retail outlets in numbers not less than one-half (½) inch high facing each direction from which the pumps are generally viewed by customers, or (ii) at a prominent location which is easily visible (in numbers not less than four (4) inches high) to a customer purchasing gasoline at the retail outlet. The posting of the actual selling price is not considered to be the posting of the maximum lawful selling price as required by this subparagraph. Whenever an adjustment is made to the maximum lawful selling price, each retail seller must post the new adjusted maximum lawful selling price, and remove the prior posted price.

(2) Each retail seller of gasoline shall post and maintain in legible form a certification that the maximum lawful selling price for a particular type or grade of gasoline has been calculated by the retail seller and that the actual selling price for that type or grade of gasoline is either equal to or less than its maximum lawful selling price. Such certification shall be placed either: (i) on each pump used to dispense gasoline at the seller's retail outlet in letters not less than one-half (½) inch high, facing each direction from which the pumps are generally viewed by customers, or (ii) at a prominent location which is easily visible (in letters not less than one and one-half (1½) inches high) to customers purchasing gasoline at the seller's retail outlet.

* * * * *

[FR Doc. 79-32812 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

Office of Conservation and Solar Energy

10 CFR Part 455

Technical Assistance and Energy Conservation Measures: Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Final rule; change in closing date of first grant program cycle.

SUMMARY: The closing date for the first grant program cycle, published in the Federal Register on April 17, 1979 (appearing at 44 FR 22940, column 1 and at 44 FR 22941, paragraph III.); is hereby changed from February 1, 1980 to March 15, 1980.

FOR FURTHER INFORMATION CONTACT: Ronald Milner, Institutional Buildings Grants Programs Division, Office of Conservation and Solar Energy, Department of Energy, Room 2H–043, 1000 Independence Avenue SW, Washington, D.C. 20585, (202) 252–2325.

Issued in Washington, D.C., October 19, 1979.

Maxine Savitz,

Acting Assistant Secretary Conservation and Solar Energy

[FR Doc. 79-32810 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R-0252]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the tornado and severe storms beginning on October 3, 1979, in Hartford County in the State of Connecticut.

EFFECTIVE DATE: October 4, 1979.

FOR FURTHER INFORMATION CONTACT: Daniel L. Rhoads, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3611).

SUPPLEMENTARY INFORMATION: On October 4, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 12148 of July 15, 1979, the President, acting through the Director of the Federal Emergency Management Agency, designated Hartford County, Connecticut, a major disaster area. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the tornado and severe storms. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to October 4, 1979, and will remain in effect until 12 midnight April 6, 1980.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in section 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within Hartford County in the State of Connecticut, which has been officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the tornado and severe storms in Hartford County, Connecticut, good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), October 16, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-32826 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

[1] Effective July 1, 1979, section 217.4(d) of Regulation Q provides that where a time deposit with an original maturity of one year or less, or any portion thereof, is paid before maturity, a depositor shall forfeit at least three months of interest on the amount withdrawn at the rate being paid on the deposit. Time deposits with original maturities of greater than one year require the forfeiture of at least six months' interest when paid prior to maturity. With respect to time deposits issued prior to July 1, 1979, where such deposits, or any portion thereof, are paid before maturity, a member bank may pay interest on the amount withdrawn at the rate not to exceed the current ceiling rate for a savings deposit under section 217.7 and the depositor shall forefeit three months of interest payable at such rate. Effective August 1, 1979, a member bank may apply the new, generally less restrictive, penalty to time deposits issued prior to July 1, 1979, with the consent of the depositor.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 742

Liquidity Reserve; Interpretative Ruling and Policy Statement

AGENCY: National Credit Union Administration.

ACTION: Interpretative ruling and policy statement.

SUMMARY: The purpose of this document is to (1) provide the Administration's position on certain provisions of 12 CFR Part 742 published August 31, 1979; (2) provide procedures for calculating and disclosing the liquidity reserve; and (3) publish extension request guidelines for additional time to meet the liquidity reserve.

EFFECTIVE DATE: October 24, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Thomas Straslicka, Chief, Examiniation Section, Office of Examination and Insurance, or Robert M. Fenner, Assistant General Counsel, at the above address. Telephone (202) 254-8760 (Mr. Straslicka); (202) 632-4870 (Mr. Fenner).

SUPPLEMENTARY INFORMATION: On August 31, 1979, the Administration published 12 CFR Part 742. Since that time, several questions have been raised about the meaning of certain terms and provisions of Part 742. Also, commenters have asked about the need to prepare a workpaper to document the calculation of the liquidity reserve. In addition, the Administration stated in the preamble to the final regulation that guidelines would be issued concerning the general standards it will apply for extension requests. This Interpretative Ruling will address these areas.

Interpretative Ruling No. 79-7

a. The following is the Administration's position on certain terms and phrases of Part 742.

(1) *"742.1(a)(1) have assets of $2,000,000 or more."*

The regulation would apply the first month-end a credit union's assets exceeds $2,000,000. However, if at a subsequent month-end the assets decrease below $2,000,000, the regulation would not apply for that following month.

(2) *"742.1(a)(2) operate share draft. . . ."*

The phrase means the regulation would apply the month-end of the month during which the credit union cleared one share draft. The regulation would continue to apply until the credit union terminated its share draft program.

(3) *"742.2(a) 'Liquid Assets' means the following unpledged assets."*

The word "unpledged" is interpreted to mean that for the purposes of this regulation assets designated as "generally pledged" assets are considered unpledged. Only assets, such as a credit union's shares or deposits in a central credit union, that are specifically pledged as collateral on a loan, are considered pledged assets.

(4) *"742.2(a)(1) cash on hand."*

Any negative book balance existing in cash accounts as of month-end will be added to the credit union's liability base. A negative book balance in a cash account is considered an unrecorded account payable for the purposes of this regulation.

(5) *"742.2(b) 'Central Credit Union' means a credit union operated primarily to serve other credit unions and in which the total dollar amount of shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans."*

Any credit union which includes share accounts in state central credit unions that are not agents of the Central Liquidity Facility as part of its liquidity reserve must provide documentation that the respective state central credit union satisfies the "50 percent" requirement.

Some central credit unions maintain separate records for their corporate and natural person divisions. For the purposes of this regulation, a loan from one division to the other is not considered a "loan to another credit union" because each division is not recognized as a separate legal entity.

(6) *"742.2(c)(2) notes payable with remaining maturities in excess of one year."*

Any demand note payable held by a credit union must be included in computation of the liability base, regardless of the amortization schedule, because the note can be called at any time.

(7) *"742.3(b) the liquidity reserve shall be determined on a monthly basis, not later than the tenth day of each month, and shall be based on the insured credit union's liability base as of the last day of business of the previous month."*

A credit union has up to 10 calendar days after month-end to calculate the liability base as of month-end and determine if liquid assets as of month-end are sufficient to equal or exceed 5 percent of the total dollar value of the credit union's liability base.

If the credit union does not meet the liquidity requirement at month-end, but meets it during the first 10 days of the following month, the credit union will be considered to be in compliance with the regulation.

(8) *"742.4(a) The liquidity reserve may be depleted below the level required by this Part only to meet outflows of shares and deposits."*

The Administration does not intend that a credit union cease operations when the only alternative is to utilize part of the liquidity reserve to pay operating expenses and accounts payable. Accordingly, the Administration does not intend to take action against a credit union that depletes its liquidity reserves to pay necessary operating expenses and accounts payable. The credit union must notify the appropriate supervisory authority when the reserve is depleted below 5 percent.

If a credit union determines as of October 31, 1979 (effective date of the regulation), that it has insufficient liquid assets to satisfy the 5 percent requirement, then it should notify its appropriate supervisory authority. During the next 60 days the credit union may continue normal operations. However, if the credit union cannot increase its liquid assets to 5 percent of its liability base within 60 days after notification, then the credit union must request an extension of time to replenish the liquidity reserve. At this time, the credit union's plan for replenishment of the liquidity reserve would control the type of business it could conduct.

The Administration does not intend that a credit union borrow funds solely to meet the 5 percent liquidity reserve requirement, especially if the borrowing would adversely impact the credit union's financial condition. Furthermore, repeated borrowing of funds on the last day of the month and repayment on the following day will be viewed by the Administration as a circumvention of the regulation's intent.

In the above circumstances, credit unions should notify the appropriate supervisory authority that their liquidity reserve has been depleted and after 60 days, submit plans regarding how the reserve will be replenished over a period of time. The Administration will be receptive to extension requests and will assist credit unions develop viable liquidity management programs.

(9) *"742.4(b)(1) a Federal credit union shall immediately notify the appropriate National Credit Union Administration Regional Director and shall replenish the reserve within 60 days unless an extension is approved by the Regional Director; 742.4(b)(2) a federally-insured state chartered credit union shall immediately notify its state supervisory authority and shall replenish the reserve within 60 days unless an extension is approved by the state supervisory authority."*

Both of these subsections require the credit union to notify the appropriate supervisory authority not later than the tenth calendar day after a month-end if the credit union does not have sufficient liquid assets to meet the liquidity reserve requirement. This notification should include the amount of the credit union's liability base and the amount of its current liquid assets as defined in Section 742.2(a).

Upon notification to the appropriate supervisory authority, the credit union has until the tenth calendar day following the second month-end after notification to bring the liquidity reserve up to the required level. For example if the credit union provided notification on November 10, it will have until January 10 to bring the reserve up to the required level. If on or before January 10 the credit union has projected that it cannot bring the reserve up to the required level, then it must apply to the appropriate supervisory authority for an extension. Extension guidelines will be discussed in Section c. of this Interpretative Ruling.

b. Procedures For Calculation of and Disclosure of the Liquidity Reserve.

Principles of sound internal control dictate that a credit union should prepare a workpaper to document the calculation of its liability base and liquid assets. The amount of the credit union's liquidity reserve must be footnoted on its monthly Statement of Financial Condition to provide "Full and Fair Disclosure."

The following format is suggested as one possibility for the preparation of the workpaper.

Liquidity Reserve Computation—*Nov. 30, 1979*

	Amount
Member accounts	$3,000,000
Notes payable	250,000
Total	3,250,000
Less: Share certificates and equivalent member accounts with remaining maturities in excess of one year (1)	300,000
Notes payable with remaining maturities in excess of one year (1)	50,000
Member accounts that have been provided in a specific amount as security on a loan, up to the amount of the loan balance (2)	100,000
Total	450,000
Liability base	2,800,000
Required liquidity reserve 5 pct × $2,800,000 equals	140,000
Liquid assets:	
Cash on hand	50,000
Shares and share certificates in central credit union (3)	100,000
Common trust investment (net of deferred loss)	50,000
Total	200,000

Credit union has sufficient liquid assets to satisfy liquidity reserve requirement.

(1) Credit union should support any deduction with an EDP report, hand-prepared workpaper or other document which identifies share certificates and notes payable with remaining maturities in excess of one year from the computation date.

(2) Shares must be specifically pledged (dollar amount identified) on a note to qualify for this deduction. The

statutory lien mentioned in many notes does not qualify as a specific pledge. Also, any deductions must be supported by documentation.

(3) The central credit union must satisfy the 50 percent test mentioned in Section 742.2(b). Any share certificates must have a remaining maturity of less than one year from the computation date.

c. Extension Guidelines For Replenishment of the Liquidity Reserve.

If a credit union cannot increase the level of its liquid assets to 5 percent of its liability base within 60 days after notification to the appropriate supervisory authority, it must request an extension of time for replenishment of the liquidity reserve. Any request for extension should include the following:

(1) Most recent Statement of Financial Condition.

(2) Workpaper outlining calculation of liquidity reserve requirement.

(3) Steps credit union plans to take to replenish the liquidity reserve. These steps must be specific regarding what action the credit union plans to take; i.e., reducing loan maturities to increase cash flow; decreasing the amount of funds available for loans; placing future inflows of cash into short-term investments that qualify as liquid assets, etc.

(4) Time period requested for extension. Extensions may be granted for a period up to one year.

Normally, an extension request will be approved if the credit union indicates it is taking steps to meet the liquidity reserve requirement within one year. Only in cases where it is obvious the credit union is illiquid, and not taking corrective action to remedy the situation, will a request for extension be disapproved. Additional extension requests beyond the initial extension period will normally not be granted unless the credit union is prevented from meeting the liquidity reserve requirement due to factors beyond its control.

An extension is considered approved when a credit union receives written notification of the approval from the appropriate supervisory authority. Federal credit unions will submit notifications of depletion below 5 percent and extension requests to the appropriate regional director. Federally-insured state chartered credit unions will submit notification and extension requests to their state supervisor, unless notified otherwise.

Rosemary Brady,

Secretary to the Board.

October 18, 1979.

[FR Doc. 79-32782 Filed 10-23-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Dockets Nos. RM79-14 and RM79-21]

Incremental Pricing; Change of Location of Question and Answer Session on Implementation of the Incremental Pricing Program

October 22, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Change of Location of Question and Answer Session on Implementation of the Incremental Pricing Program.

SUMMARY: On October 16, 1979 the Federal Energy Regulatory Commission (Commission) announced that an informal question and answer session would be held in Chicago, Illinois on October 31, 1979, beginning at 9:00 a.m. CST (44 FR 60084, October 18, 1979). It was announced in the October 16th Notice that the session would be held at the State of Illinois Building. However, public response has been so great the Commission has determined that a larger facility is needed and has changed the location. The new location of the informal question and answer session on incremental pricing is Center Theater, De Paul University, 25 East Jackson Boulevard, Chicago, Illinois 60604.

ADDRESS. Question and Answer Session: De Paul University, Center Theater, 25 East Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Room 8113, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8079.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32950 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

---

18 CFR Part 282

[Docket No. RM79-14]

Regulations Implementing the Incremental Pricing Provisions of the Natural Gas Policy Act of 1978; Technical Conference

October 19, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Technical Conference.

SUMMARY: The Federal Energy Regulatory Commission hereby gives notice that a technical conference with respect to the estimates and submetering requirements contained in the Commission's incremental pricing regulations will be held in Chicago, Illinois, on November 15, 1979.

DATES: Requests to participate by: November 9, 1979. Conference date: November 15, 1979.

ADDRESSES: Requests to participate to: Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 10426. Comments to: Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. Conference location: Preston Bradley Hall of the Chicago Public Library Cultural Center, 78 E. Washington Street, Chicago, Illinois 60602.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8847.

SUPPLEMENTARY INFORMATION:

I. Background

On September 28, 1979, the Federal Energy Regulatory Commission (Commission) issued final regulations to implement the first phase of the incremental pricing program under the Natural Gas Policy Act of 1978 (44 FR 57726, October 5, 1979).

These final regulations are set forth in two dockets, Dockets Nos. RM79-14 and RM79-21. The regulations in Docket No. RM79-14 contain the provisions for the calculation of the incremental pricing surcharge to be billed to each industrial facility covered by the regulations. One step necessary to calculate this surcharge is the determination of the volumes of natural gas used in a facility for uses which are subject to being incrementally priced.

In the preamble to the final rule in Docket No. RM79-14, the Commission stated that it had determined to require

the installation of submeters within each industrial facility so that the gas used for purposes not exempt from incremental pricing can be quantified. This requirement will become effective on November 1, 1980. In the interim period from January 1, 1980 (the date on which the incremental pricing program will be activated) to October 31st, the Commission determined to accept either certified estimates, or an agreement between a natural gas supplier and a customer, as to the volume of natural gas used in a facility for non-exempt purposes.

It was announced in the preamble to the final rule in Docket No. RM79-14 that a technical conference would be held in early November for the purpose of discussing further how the certified estimates to be utilized for the first ten months of the incremental pricing program could be standardized.

II. Date and Location for Technical Conference

It is hereby announced that the technical conference on estimates and submetering will be held in Chicago, Illinois on November 15, 1979, beginning at 9:30 a.m. CST, in the Preston Bradley Hall of the Chicago Public Library Cultural Center, located at 78 E. Washington Street, Chicago, Illinois 60602. The conference will be continued at 9:30 a.m. on the following day, if necessary.

III. Topics for Discussion

A. Certified Estimates for January 1, 1980, to October 31, 1980

Commission Staff believes that at least two situations exist where estimates will have to be made as to the volume of natural gas used for exempt purposes. First, of course, all volumes used for process or feedstock uses are not subject to Phase I of the incremental pricing program. Second, all natural gas used as a boiler fuel for exempt purposes (such as for agricultural, co-generation or hospital purposes) must be quantified. These estimates will have to be determined until such time as submeters are installed, or until such time as the incremental pricing program is expanded in the program's second phase.

As indicated in the preamble to the final rule in Docket No. RM79-14, it is our desire to standardize to the extent possible the estimating procedures to be utilized in situations where submeters are not yet installed. To this end, the parties who will be preparing such estimates are invited to describe their intended approach, and to furnish examples for analysis so that we may develop and issue suitable guidelines prior to January 1, 1980.

We particularly invite persons who previously prepared estimates of boiler fuel (and other) consumption, but who have since installed and used submeters to determine such usage, to share with us their experience in terms of how valid the estimates have proven to be. We also invite such persons to state their reasons for abandoning estimates in favor of meters.

We believe one especially problematical situation will be that where the steam raised or electricity generated by a boiler fueled by natural gas is used for both exempt and non-exempt purposes, such as the manufacture of both agricultural and non-agricultural products. A second situation which we believe will present a special problem is that where a mixed stream of gas—a stream of natural gas which has been commingled with a gas from another source (such as coke oven gas, or refinery by-product gas)—is used to fuel a boiler.

Commission Staff has identified several possible methods which could be utilized for preparing estimates in these two situations. These are as follows:

(1) In a mixed product situation, the total volume of natural gas consumed by a boiler could be determined by actual measurement, and the exempt and non-exempt portions of the total derived on the basis of the ratio of the exempt products produced as compared to the non-exempt products produced. For example, the gas needed to produce agricultural containers could be determined by multiplying the total volume of gas consumed by the boiler by a fraction representing the portion that the agricultural containers represent of the total containers produced.

(2) In the mixed gas situation, the total volume consumed by the boiler could be measured. The volume of natural gas consumed could be determined by measuring the volumes of natural and non-natural gas prior to mixing. Also, the volume of natural gas used could be determined by analysis of the resulting mixture in terms of:

(a) The molecular percentage of the constituent components;

(b) The resulting specific gravities (the gravities of the component gas streams are determinable); or

(c) The resultant heating value (the heating values of the component gas streams are determinable). Staff believes that safe and efficient utilization of any gaseous fuel requires that the heating value and specific gravity of the gas be held within fairly close tolerances, compatible with the burner design and adjustment.

Commission Staff solicits comments on the above methods, as well as other possible methodologies. To the extent possible, it is requested that recommendations on other methodologies be developed and described in detail.

Commission Staff also solicits comments on how estimates under various recommended methodologies could be verified and audited by Staff.

B. Submeters

As was discussed in the preamble to the final rule in Docket No. RM79-14, the technical conference is also being convened to discuss further the subject of submeters in general. Several discussions have been held on submetering and the advantages or disadvantages associated therewith, beginning with the informal conferences held in Docket No. RM79-14 in February of this year. However, the comments submitted on this topic and the discussions held thus far have been general in nature. Moreover, such comments have been offered primarily by natural gas suppliers. It is hoped that the technical conference will provide a forum for the discussion of this area of concern by those parties which will be most affected and who have the greatest technical knowledge with regard to the installation and maintenance of gas meters within an industrial plant.

Thus, the Commission specifically invites the participation of representatives of industrial end-users and meter manufacturing firms in this technical conference. Further, it is hoped that these representatives will be persons who are familiar with day-to-day plant operations and can thus offer comments based on actual in-plant operations. The Commission is, by separate letter, inviting as many industrial end-users and meter manufacturing firms as it has been able to identify to send representatives to the conference.

The Commission wishes to emphasize that all interested parties are invited to participate in the conference, whether or not they receive an individual invitation.

In the submetering portion of the conference, Commission Staff would like to discuss the following questions:

(1) Can submeters be installed in all affected industrial facilities to determine by measurement, either directly or indirectly, the volume of natural gas used in the facility for boiler fuel?

(2) Under the regulations, how many submeters not presently in place will have to be installed by November 1, 1980?

V 44 OC 24 79 UMI

(3) What period of time will be required for the manufacture of all submeters required by November 1, 1980?

(4) How long a time period will be needed to install all submeters required by November 1, 1980?

Commission staff would specifically like to discuss with representatives of meter manufacturing firms the following questions:

(1) What types of meters—such as orifice, diaphragm, rotary vane and turbine meters—are available?

(2) What application techniques are required to install the various types of meters?

(3) What is the availability of the types of meters, according to size?

(4) What are representative costs for the various types of meters, according to size?

(5) What are the representative costs for installing the various types of meters, according to size?

(6) What steps must be followed to maintain the accuracy of the meters, once installed?

(7) What methods and devices can be utilized to correct meter readings to standard pressures, volumes and temperatures; and what is the cost and benefit of each such method?

As stated in the preamble in the final rule in Docket No. RM79-14, if the Commission receives no more detailed information on the subject of submeters in the technical conference than it has received to date in this docket, the submetering requirement will be allowed to become fully effective on November 1, 1980 (to the extent it is not obviated by the Phase II incremental pricing regulations). If, however, the information acquired as a result of the technical conference should indicate that the regulations should be amended, the Commission will consider appropriate amendments.

IV. Format

Those who wish to make oral presentations at the technical conference will be provided the opportunity to do so. Commission Staff will chair a panel at the conference and, as time permits, conduct an informal discussion with those attending the conference who wish to participate in such a discussion.

V. Procedures

A. Technical Conference

Interested persons and groups who wish to make oral presentations at the technical conference are requested to notify Ms. Sandra Delude, Office of Pipeline and Producer Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8847, no later than November 9, 1979, and to indicate the amount of time desired for their oral presentations. A list of the participants in the conference will be available at the site of the conference. Time for presentations may be limited in order to allow all interested persons to participate. Parties who will make oral presentations are encouraged to bring copies of their presentations for distribution to those attending the conference. A transcript of the technical conference will be available through the Commission's Office of Public Information.

B. Written Comments

Written comments on the questions set forth above are also requested. Any written comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, and should reference Docket No. RM79-14.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79-32933 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 201

[Docket No. R-79-729]

Mortgage and Loan Insurance Programs Under the National Housing Act; Changes in Finance Charges

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in regulations increases the maximum allowable finance charge on Title I property improvement, mobile home loans, and combination and mobile home lot loans. The change is necessitated by the high interest rates prevalent for such loans. This action by HUD is designed to bring the maximum finance charge on these loans into line with other rates currently prevailing in the market.

EFFECTIVE DATE: October 15, 1979.

FOR FURTHER INFORMATION CONTACT: John L. Brady, Director, Title I Insured and 312 Loan Servicing Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410 (202)-755-6880.

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum finance charge which may be charged on loans insured by this Department. The maximum finance charge for property improvement loans has been increased from 12 percent to 13 percent. The maximum for the regular mobile home loan program has been increased from 12.50 percent to 13½ percent. Under the Combination and Mobile Home Lot loan program the maximum has been raised from 11.50 percent to 12 percent.

The Secretary has determined that such changes are immediately necessary to meet the needs of the market, and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public procedure are unnecessary and that good cause exists for making this amendment effective. A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD's environmental procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

Accordingly, Chapter II is amended as follows:

1. In § 201.4 paragraph (a) is amended to read as follows:

§ 201.4 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge exclusive of fees and charges as provided by paragraph (b) of this section which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed a 13 percent annual rate. No points or discounts of any kind may be assessed or collected in connection with the loan transaction. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

1. In § 201.540 paragraph (a) is amended to read as follows:

§ 201.540 Financing charges.

(a) *Maximum financing charges.* The maximum permissible financing charge which may be directly or indirectly paid to, or collected by, the insured in connection with the loan transaction, shall not exceed 13.50 percent simple interest per annum. No points or discounts of any kind may be assessed or collected in connection with the loan transaction, except that a one percent origination fee may be collected from the borrower. If assessed, this fee must be included in the finance charge. Finance charges for individual loans shall be made in accordance with tables of calculation issued by the Commissioner.

* * * * *

1. In § 201.1511 paragraph (a)(1) is amended to read as follows:

§ 201.1511 Financing charges.

(a) *Maximum financing charges.* * * *

(1) 12 percent per annum.

* * * * *

(Section 3(a), 82 Stat. 113; 12 USC 1709-1; Section 7 of the Department of Housing and Urban Development Act, 42 USC 3535(d))

Issued at Washington, D.C., October 19, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-32793 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

24 CFR Part 236

[Docket No. R-79-728]

Rental Assistance Payments; Noninsured Section 236 Projects; Interim Rule

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Interim rule.

SUMMARY: This rule amends the Rental Assistance Payments (RAP) regulations by making all previously ineligible, non-insured Section 236 projects eligible for RAP at the discretion of the sponsors, State or local agencies financing the projects and the Secretary.

DATES: Effective date: November 23, 1979; Comments due: December 26, 1979.

ADDRESS: Interested parties should file written comments on or before due date with the Rules Docket Clerk, Office of General Counsel, Room 5218, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT: Thomas White, Acting Director, Office of State Agencies and Bond Financed Programs, Department of Housing and Urban Development, Washington, D.C. 20410, (202) 426-0730 (not a toll free number).

SUPPLEMENTARY INFORMATION: On July 29, 1975, the Department published regulations for the Rental Assistance Payments (RAP) Program, 40 FR 31872. Section 236.701(c) provides that non-insured Section 236 projects which received the initial reservation of interest reduction contract authority on or before August 22, 1974 (the date of RAP legislation) can be converted to RAP only if such conversion occurs before the first interest reduction payment is made. As a result of this provision a large number of non-insured Section 236 projects became ineligible for RAP. Many low-income families and elderly persons who would have otherwise been eligible for subsidy are paying more than 25 percent of their incomes for rent and a number of projects have long term vacancies because families on the waiting lists cannot afford Section 236 basic rents.

Non-insured projects are at a disadvantage when compared to Section 236 projects with FHA mortgage insurance coverage. Non-insured projects will not receive the advantage of the new Flexible Subsidy Program until FY 1980 at the earliest nor has there been any special allocation of Section 8 Housing Assistance Payments funds for troubled non-insured projects. Unit increases not presently permissible under the Rent Supplement Program and dollar increases for existing unit allocations are normally made for only a one-year period. The proposed change would significantly reduce these inequities.

Funding of individual projects will be at the discretion of the project owner, the State or local agency financing the project and the Secretary. All funding is expected to be provided from outstanding Departmental allocations to State or local agencies; therefore no increase in total Section 236 obligations is required for implementation of these regulations.

The Department has determined that advance notice and public procedure would be contrary to the public interest since this amendment confers a benefit and delay in conferring that benefit would be undesirable.

Accordingly, these amendments are being published as an interim rule effective November 23, 1979. However, interested parties are invited to participate in the making of the final rule by providing written comments as described above. All comments received by the due date will be considered in the development of the final rule. Copies of the comments received will be available for inspection and copying at the above stated address.

A Finding of Inapplicability with respect to environmental impact has been prepared in accordance with HUD Procedures for Protection and Enhancement of Environmental Quality. This regulation has been evaluated and has been found not to have major economic consequences for the general economy or for individual industries, geographic regions, or levels of government. Copies of the Findings are available for inspection and copy in the Office of the Rules Docket Clerk at the above address.

Accordingly 24 CFR, Part 236, Subpart D, is amended by revising § 236.701(c) to read as follows:

§ 236.701 Scope of rental assistance.

* * * * *

(c) Had received a reservation of Section 236 contract authority (in the case of projects processed without HUD mortgage insurance and to be financed under a State or local government aided program pursuant to Section 236(b) of the National Housing Act) on or before August 22, 1974, but are reprocessed with rental assistance pursuant to an Agreement between the sponsor, the State or local agency providing additional aid to the project, and the Secretary. Projects in this category which are converted from Rent Supplement shall have Rental Assistance Contracts with terms which do not exceed the unexpired terms of the Rent Supplement Contracts. Projects in this category which have no Rent Supplement Contract shall have Rental Assistance Contracts with terms which do not exceed the unexpired terms of the Agreement for Interest Reduction Payments or equivalent documents or 40 years whichever is less; or

* * * * *

(Sec. 212, Housing and Community Development Act of 1974, Pub. L. 93-383, 88 Stat. 633, approved August 22, 1974, which amended sec. 236)

Issued at Washington, D.C., October 18, 1979.

Lawrence B. Simons,
Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 79-32754 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 579

Standards of Conduct for DA Personnel

AGENCY: Department of the Army, DoD.
ACTION: Final rule.

SUMMARY: The Department of the Army is deleting its regulation that prescribes standards of conduct required of all Army personnel. This action is being taken because the revision of AR 600–50, Standards of Conduct for DA Personnel, will cause 32 CFR 579 to duplicate information published in 32 CFR 40 (Source Document: DoD Directive 5500.7, Standards of Conduct). This deletion does not cancel or revoke the source document, AR 600–50.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel William E. Nolan, 202–697–6977 or write: HQDA (DAPE–HRL–L) WASH, DC 20310.

PART 579—[DELETED]

Accordingly, 32 CFR, Chapter V, is amended by deleting Part 579.

Authority: 10 U.S.C. 3012.

Source: AR 600–50.

By Authority of the Secretary of the Army:
Dated: October 15, 1979.

Lester F. Armstrong,
Lieutenant Colonel, U.S. Army, Acting Director, Administrative Management, TAGCEN.

[FR Doc. 79-32717 Filed 10-23-79; 8:45 am]
BILLING CODE 3710-08-M

VETERANS ADMINISTRATION

38 CFR Part 36

Loan Guaranty; Increase in Maximum Permissible Interest Rate on Mobile Home Loans

AGENCY: Veterans Administration.
ACTION: Final regulations.

SUMMARY: The VA (Veterans Administration) is increasing the maximum permissible interest rate on guaranteed mobile home loans. The interest rate is also increased on loans for the purpose of site preparation costing $2,500 or less on a lot owned by the veteran. The maximum interest rate is increased because the former interest rate was not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. The increase in the interest rate will attract funds for GI mobile home loans; thereby, allowing veterans to purchase mobile homes with the assistance of no downpayment VA loans.

EFFECTIVE DATE: October 22, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. George D. Moerman, Loan Guaranty Service (264), Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420, 202–389–3042.

SUPPLEMENTARY INFORMATION: The Administrator is required to establish a maximum interest rate for mobile home loans guaranteed by the Veterans Administration as he finds the capital markets demand. Recent market indicators, including the general increase in interest rates charged on conventional mobile home loans and the increase in the prime interest rate, have shown that the capital markets have become more restrictive. The maximum rate formerly in effect for VA guaranteed mobile home loans was not sufficiently competitive to induce private sector lenders to make VA guaranteed mobile home loans. To assure a continuing supply of funds for mobile home loans through the VA loan guaranty program, it has been determined that an increase in the maximum permissible rate is necessary. The increased return to the lender will make VA loans competitive with other available investments and assure a continuing supply of funds for guaranteed mobile home loans.

The increase in the interest rate applies to mobile home unit loans and site preparation loans of $2,500 or less on a lot owned by the veteran. At present no change is being made in the maximum interest rate applicable to the guaranteed or insured loan programs for conventional homes or condominiums. In addition, no change is being made in the interest rate for acquisition or improvement (over $2,500) of a mobile home lot. The lender's return on such loans appears competitive with other forms of mortgage financing. No change in rate is justified at this time.

The increase in the maximum interest rate is accomplished by amending § 36.4212(a) (1) and (3), Title 38, Code of Federal Regulations. Compliance with the procedure for publication of proposed regulations prior to final adoption is waived because compliance would create an acute shortage of loan funds pending the final date which would necessarily be more than 30 days after publication in proposed form.

Approved: October 18, 1979.

Max Cleland,
Administrator.

In § 36.4212, paragraph (a)(1) and (3) is revised as follows:

§ 36.4212 Interest rates and late charges.

(a) The interest rate charged the borrower on a loan guaranteed pursuant to 38 U.S.C. 1819 may not exceed the following maxima except on loans guaranteed or insured pursuant to guaranty or insurance commitments issued by the Veterans Administration prior to October 22, 1979.

(38 U.S.C. 1819(f))

(1) 13 percent simple interest per annum for that portion of the loan which finances the purchase of a mobile home unit.

* * * * *

(3) 10½ percent simple interest per annum on that portion of a loan which will finance the cost of the site preparation necessary to make a lot owned by the veteran acceptable as the site for the mobile home purchased with the proceeds of the loan except that a rate of not to exceed 13 percent may be charged if the portion of the loan to pay for the cost of such necessary site preparation does not exceed $2,500.

* * * * *

(38 U.S.C. 1819)

[FR Doc. 79-32824 Filed 10-23-79; 8:45 am]
BILLING CODE 8320-01-M

POSTAL SERVICE

39 CFR Part 320

Suspension of the Private Express Statutes; Extremely Urgent Letters

AGENCY: Postal Service.
ACTION: Final rule.

SUMMARY: This final rule amends the Postal Service's Private Express regulations so as to waive the statutory and regulatory restrictions on the conveyance of extremely urgent letters by private carriers under specified circumstances. The rule states the circumstances under which the extreme urgency of a letter is determined; specifies the obligations of shippers and carriers operating under the suspension; and provides examples of letters eligible for the suspension on the basis of their contents.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 245–4584.

SUPPLEMENTARY INFORMATION: On July 9, 1979, the Postal Service proposed to suspend the Private Express Statutes for letters that are "extremely urgent" in nature, namely, those whose value or usefulness would be greatly diminished if not delivered within the specified time limits. 44 FR 40076. As set out in the proposal, the limits were as follows:

For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours and delivery of those dispatched after noon must be completed by 10 A.M. of the addressee's next business day. For other letters, delivery must be completed within 12 hours or by 10 A.M. of the addressee's next business day.

The proposal also set out a conclusive presumption of urgency in the following terms:

It will be conclusively presumed that a letter is extremely urgent and is covered by the suspension if the amount paid for private carriage of the letter is more than three dollars or twice the applicable U.S. postage for First-Class Mail (including priority mail) whichever is the greater.

Other provisions in the proposal related to markings to identify letters which were being carried under the suspension; maintenance of carrier records to show that delivery of letters (other than those conclusively presumed to be extremely urgent) was accomplished within the required time periods; and the administrative revocation of the suspension as to a particular shipper or carrier for actions in violation of the suspension.

Over 150 comments were submitted from a wide range of business interests and other parties. Approximately one-third of the commenters expressed general support for the suspension and did not suggest any specific changes. Many other parties suggested that our proposal be modified in various ways. After a careful consideration of all of the comments, we have concluded that the suspension should be adopted, with certain modifications that are discussed below. In proposing the suspension, we noted that "if a suspension is granted, it should be tightly drawn and narrowly restricted in order to avoid a substantial erosion of the postal revenue base needed to continue a universal postal system serving all the people of the nation." We consider that the terms of the suspension which the Postal Service is adopting create a framework to accomplish this purpose. It remains essential, however, that the practice within this framework be faithful to its terms.

Voluntary compliance by shippers and carriers is necessary if the suspension is to be successful, and we anticipate that it will be forthcoming from the great majority of shippers and carriers. At the same time, affirmative enforcement efforts may be necessary to prevent the abuse of the suspension by a few. The Postal Service will undertake such measures, in the form of investigations, administrative proceedings, and litigation, as our experience dictates and the circumstances require.

In the proposal, we made provision for the revocation of the suspension for a period of time as a sanction against a shipper or carrier violating its terms. As is further discussed below, we are strengthening this measure by providing that a failure on the part of a shipper or carrier to cooperate with an investigation or audit will create a presumption of a violation and shift to that party the burden of establishing compliance.

We think it appropriate to stress the importance we place on compliance and enforcement in order to assure that our position is clear and to avoid any misunderstanding by shippers and carriers as to their obligation to comply with the Statutes and the consequences that will follow from non-compliance.

As noted above, many persons suggested changes in our proposal. Some of these, we concluded, had sufficient merit to warrant modification of our proposal in certain respects. Others we have not adopted. We have also made certain other changes to clarify or strengthen the terms of the suspension. The chief suggestions as to the wording of the suspension, and the changes we have made, are summarized below.

A. Delivery Time Limits

1. *Letters dispatched by noon for delivery within 50 miles.* A number of commenters took exception to the proposed six hour delivery time limit for letters dispatched by noon for carriage within 50 miles. Some suggested that the limit should be 5 P.M., and one suggested "late afternoon." Two retail store firms suggested that the time limit should be greater for retailers because of their extended business hours. The final rule specifies a delivery time limit of six hours or the close of the addressee's normal business hours that day.

2. *Letters dispatched after noon for delivery within 50 miles.* There was some objection to the requirement for delivery by 10 A.M. the next day for letters dispatched after noon for delivery within 50 miles. It was suggested that the limit be set at noon for reasons which included consistency with the existing suspension for the carriage of certain data processing materials when (among other things) delivery is completed within 12 hours or by noon of the addressee's next business day.

We believe, however, that the proposed 10 A.M. time limit should be retained. The appropriate issue is not, in our opinion, whether the limit comports with the suspension for data processing materials (which suspension is not tied-in to delivery within a given geographic area). Instead we must deal with the type of delivery that would be consistent with the purported extreme urgency of a letter to be delivered within a 50 mile distance. We believe that delivery by noon—roughly the middle of the next business day—is inconsistent with this degree of urgency. Delivery by the beginning of the next business day would be too stringent a requirement and would create an unnecessary variable inasmuch as all businesses do not open at the same time of day. Delivery by 10 A.M. of the day following dispatch is, in our view, an appropriate accommodation, and we are, therefore, retaining this time limit for letters dispatched after noon for delivery within 50 miles.

3. *Letters to be carried beyond 50 miles.* There were numerous objections to the 10 A.M. next-day delivery deadline (as an alternative to delivery within 12 hours) for letters sent beyond 50 miles. Some parties suggested a 3 P.M. time limit. The majority suggested noon. It was contended that the 10 A.M. limit was unrealistic for inter-city shipments sent by air because it did not provide enough time for shipments on morning incoming flights to be delivered to the addressees. It was also contended that the limit should conform to the delivery requirements which are presently in the suspension for data processing materials.

There was some support for adopting delivery time limits that did not vary with distance. Two parties suggested a uniform rule of 12 hours or 10 A.M. One suggested 12 hours or 3 P.M. Another suggested 3 P.M. of the next business day after pickup or the time by which the Postal Service obligates itself to deliver an Express Mail package to the addressee. It was also suggested that there should be no specific delivery standards but, instead, that anything that must arrive before the Postal Service can deliver it should be deemed to be extremely urgent.

The final rule for letters sent beyond 50 miles calls for delivery within 12 hours or by noon of the next business day. This limit appears to be acceptable to the bulk of the parties who commented on this point, and we believe it accords appropriate leeway to shippers and carriers.

B. Cost Factors for Conclusive Presumption of Urgency

Although most commenters expressed no opposition to the proposed minimum charge of $3.00, there was significant opposition to the proposition that the

V 4 4 0 C 2 4 7 9 UMI

courier must charge at least twice the applicable first-class or priority mail postage in order to give rise to a conclusive presumption of urgency. A number of parties suggested that the differential be set at 25 percent over the first-class or priority mail postage. In a memorandum prepared by Arthur Eden, an economic consultant, in behalf of one of the commenters it was contended that:

> The additional charge made by private carriers over first-class or priority mail is made up principally of the expedited handling charge these private carriers must receive in order to provide expedited service. This expedited handling charge covers the additional services provided by the private carrier in the customized pickup, forwarding and delivery required to ensure same-day or over night service. The relative significance of this expedited handling charge to the overall cost of the shipment naturally diminishes with the increase in weight and corresponding transportation cost of the shipment. (The relative significance of the expedited handling charge may also decrease somewhat in cases where more than one piece is being picked up by the private carrier at the same address.)
>
> I firmly believe that a test of 3 dollars or *1.25* times applicable first-class or priority mail postage, whichever is greater, would fully protect the Postal Service from diversions from first-class or priority mail. This minimum of a 25-percent premium over the cost of priority mail would be sufficient to deter shippers from diversion from the mails, while making the suspension available for those shipments it is intended to reach. (Emphasis in original.)

Several parties suggested differentials between 25 percent and 50 percent. Two suggested that any differential above applicable postage should be sufficient.

One commenter requested clarification to the effect that the proposed differential would not be computed on the basis of Express Mail rates. Two parties suggested that the differential should be computed on the basis of domestic first-class/priority rates even if the letters are sent to another nation.

We have decided to retain the proposed cost figure. We acknowledge that payment of any differential above the otherwise applicable postage may be evidence that the shipper attributes some greater degree of value to the letter. Nevertheless, the issue is not whether the payment of a premium constitutes *evidence* of the shipper's views but, rather, whether it justifies a *conclusive presumption* of urgency. We believe that a cost figure lower than we proposed simply does not justify such a presumption. If it is valid to assume that most letters sent by private courier for a cost in excess of postage are extremely urgent, their urgency should be demonstrable on the basis of the contents of the letters. Accordingly, retention of the proposed cost figures for the conclusive presumption should not be burdensome to shippers inasmuch as genuinely urgent letters will be eligible for carriage under the suspension without regard to the cost of private carriage.

We wish to make it clear that the upper limit of the cost test is twice the postage that would be paid for a letter carried by means of priority mail. When a letter which would require priority mail postage is sent to a point outside the United States, the cost test will be applied by treating the letter as though it were being sent to Zone 8 of the rate schedule for priority mail.

C. Commingling of Urgent and Non-Urgent Letters

There was some opposition to the requirement that for any part of a shipment of letters to qualify under the suspension, each of the letters must be extremely urgent. It was suggested that the suspension should apply when substantially all the letters—rather than each letter—in a shipment are extremely urgent. One trade association suggested that otherwise urgent letters should be permitted to contain some non-urgent information. The final regulation retains the proposed requirement. We believe that the problems of administration—by shippers and the Postal Service alike—will be significantly reduced by making it clear that the suspension is limited to extremely urgent letters. The loss of postage which may result should not be compounded by allowing non-urgent letters to travel without payment of postage. The inclusion of incidental non-urgent information in an otherwise extremely urgent letter, however, will not affect its eligibility for the suspension.

D. International Letters

In response to several comments regarding the special problems of shipping letters outside the 48 contiguous states, *e.g.*, the effect of time zones, and the time required for customs inspections, we have adopted a final rule which provides that:

1. Letters sent from a point within the 48 contiguous states to any outside point are deemed "delivered" when they are in the custody of the international or overseas carrier at its last scheduled point of departure from the 48 contiguous states;
2. Letters sent from any location outside the 48 contiguous states to a point within such states are deemed "dispatched" when they are in the custody of a carrier within the 48 contiguous states;
3. Letters sent between American locations outside the 48 contiguous states need not conform to the time limits but must, nevertheless, be extremely urgent on the basis of their contents or on the basis of the postage paid;
4. Letters sent from an American location outside the 48 contiguous states to a foreign location are deemed delivered when they are in the custody of the international or overseas carrier at its last point of departure at the American location;
5. Letters dispatched and delivered wholly within an American location outside the 48 contiguous states are subject to the applicable time limits.

E. Intracompany Letters

Some parties suggested that all intra-company letters, and letters sent between affiliated companies, should be deemed to be extremely urgent. We do not perceive that such letters are inherently urgent or that they should be entitled to any presumption of urgency. Stated simply, they should stand on their own feet, based upon their contents or upon the private courier's charge for their conveyance.

F. Alternative Tests of Urgency

It was suggested that the terms of the suspension should make it clear that the test of urgency based upon delivery standards and loss of value and the test based upon the courier's charge are alternative rather than cumulative. This was our intention and the final rule makes it clear that the tests are alternative to one another.

G. Effect of Time Zones

It was asserted that a problem arises from the existence of time zones within the United States because, although shipments from either coast to the other would be entitled to the proposed 12 hour delivery time period, the alternate test of delivery by 10 a.m. (noon in the final rule) would give an advantage to shipments to the west coast because it gets "earlier" as one goes from east to west. Nevertheless, we believe that the urgency of a letter is reasonably determined on the basis of when the recipient needs it, and this should be measured in terms of his local time. We have, therefore, retained the rule that the relevant time of delivery is that of the addressee.

H. Revocation of Suspension

In accordance with a number of comments, the final rule specifies that the duration of any revocation that may be imposed will vary in accordance with the severity of the violation, as determined by the amount of postage which should have been paid on the letters, and on the presence or absence of factors indicating a good-faith error.

As noted above, the final rule adds a provision giving rise to a presumption of a violation in the event of a failure on the part of a shipper or carrier to cooperate with an investigation or audit conducted by the Postal Inspection Service seeking to determine compliance with the terms of the suspension. This presumption, existing only for the purposes of administrative proceedings under subsection (e) of the rule, shifts the burden of establishing compliance with the terms of the suspension to the shipper or carrier.

In the operation of this suspension, the right to ship letters outside the mails will often depend on the nature and content of these items. This information, however, will be peculiarly within the knowledge of the shippers and, in some instances, the carriers of these items. We expect cooperation by these persons in the efforts of the Postal Service to ensure compliance with the limitations on the suspension. If cooperation is denied, it is reasonable to draw unfavorable inferences from that denial and to establish a rebuttable presumption which is consistent with those inferences.

In proposing and adopting this suspension to accommodate needs of the private sector, the Postal Service must assume that voluntary compliance with its terms will be the rule. This provision is intended to ensure that the uncooperative few will not be tempted or enabled to abuse the suspension, to the ultimate detriment of the public, in reliance on such delays and difficulties as enforcement may present.

I. Markings on Letters

In response to one comment, the final rule specifies that the markings used to identify extremely urgent letters need appear only on the covers or containers in which the affected letters are placed, and not upon each of the letters themselves or on any interior containers or covers. In addition, the rule, as proposed and adopted, does not require that any specific terminology be used, provided that the language is sufficient to indicate that the sender is asserting that the letters are being shipped pursuant to the suspension.

In view of the considerations discussed above, 39 CFR is amended as follows:

§ 320.6 [Redesignated as § 320.9]

§ 320.7 [Reserved]

§ 320.8 [Reserved]

§ 320.9 [Redesignated from § 320.6]

Section 320.6 is redesignated as § 320.9. Sections 320.7 and 320.8 are reserved. A new § 320.6 is added and reads as follows:

§ 320.6 Suspension for extremely urgent letters.

(a) The operation of 39 U.S.C. 601(a)(1) through (6) and § 310.2(b)(1) through (6) of this chapter is suspended on all post routes for extremely urgent letters if the conditions of either paragraph (b) or paragraph (c) of this section, and of the other paragraphs of this section, are met.

(b)(1) For letters dispatched within 50 miles of the intended destination, delivery of those dispatched by noon must be completed within 6 hours or by the close of the addressee's normal business hours that day, whichever is later, and delivery of those dispatched after noon and before midnight must be completed by 10 A.M. of the addressee's next business day. For other letters, delivery must be completed within 12 hours or by noon of the addressee's next business day. The suspension is available only if the value or usefulness of the letter would be lost or greatly diminished if it is not delivered within these time limits. For any part of a shipment of letters to qualify under this paragraph (b), each of the letters must be extremely urgent.

(2) Letters sent from the 48 contiguous states of the United States to other jurisdictions of the United States or to other nations are deemed "delivered" when they are in the custody of the international or overseas carrier at its last scheduled point of departure from the 48 contiguous states. Letters sent from other jurisdictions of the United States or from other nations into the 48 contiguous states are deemed "dispatched" when they are in the custody of the domestic carrier, having been passed by United States Customs, if applicable, at the letters' point of arrival in the 48 contiguous states.

(3) Except as provided in this paragraph (b)(3), the times and time limits specified in paragraph (b)(1) of this section are not applicable to any locations outside the 48 contiguous states. The times and time limits specified in paragraph (b)(1) are applicable to letters dispatched and delivered wholly within Alaska, Hawaii, Puerto Rico or a territory or possession of the United States. The regulations provided in paragraph (b)(2) relating to the delivery and dispatch of letters are applicable by analogy to letters shipped between these jurisdictions and other nations.

(c) It will be conclusively presumed that a letter is extremely urgent and is covered by the suspension if the amount paid for private carriage of the letter is at least three dollars or twice the applicable U.S. postage for First-Class Mail (including priority mail) whichever is the greater. If a single shipment consists of a number of letters that are picked up together at a single origin and delivered together to a single destination, the applicable U.S. postage may be computed for purposes of this paragraph as though the shipment constituted a single letter of the weight of the shipment. If not actually charged on a letter-by-letter or shipment-by-shipment basis, the amount paid may be computed for purposes of this paragraph on the basis of the carrier's actual charge divided by a *bona fide* estimate of the average number of letters or shipments during the period covered by the carrier's actual charge.

(d) The sender must prominently mark the outside covers or containers of letters carried under this suspension with the words "Extremely Urgent" or "Private Carriage Authorized by Postal Regulations (39 CFR 320.6)" or with a similar legend identifying the letters as carried pursuant to this suspension. In addition, each outside container or cover must show the name and address of the carrier, and the name and address of the addressee. Carrier records must be sufficient to show that the delivery of the letters was completed within the applicable time limitations, if carried under the authority of paragraph (b) of this section, and must be made available for inspection at the request of the Postal Service. The required records may be either in the form of notations on the containers or covers of any letters asserted to be carried under this suspension, or in the form of records kept by employees of the actual times they pick up and deliver such materials.

(e) Violation by a shipper or carrier of the terms of this suspension is grounds for administrative revocation of the suspension as to such shipper or carrier for a period of one year in a proceeding instituted by the General Counsel, following a hearing by the Judicial Officer Department in accordance with the rules of procedure set out in Part 959 of this chapter. The period of the revocation may be reduced or be extended for not to exceed one additional year by the Judicial Officer, depending on such mitigating or aggravating factors as the extent of the

V 4 4 0 C 2 4 7 9 UMI

postal revenue lost because of the violation and the presence or absence of good faith error or of previous violations. The failure of a shipper or carrier to cooperate with an authorized inspection or audit conducted by the Postal Inspection Service for the purpose of determining compliance with the terms of this suspension shall be deemed to create a presumption of a violation for the purpose of this paragraph (e) and shall shift to the shipper or carrier the burden of establishing the fact of compliance. Revocation of this suspension as to a shipper or carrier shall in no way limit other actions as to such shipper or carrier to enforce the Private Express Statutes by administrative proceedings for collection of postage (see § 310.5) or by civil or criminal proceedings.

(f) The following examples illustrate the application of this suspension.

Example (1). The headquarters of a city police department each night compiles a list of the license plate numbers and descriptions of automobiles reported stolen within the metropolitan area during the previous 24 hours. This list is delivered by 7 a.m. the following day to each of the local precinct offices located throughout the city. By 9 a.m. that day, the list is circulated for use by law enforcement units operating from each office. Effective police recovery of stolen vehicles depends upon having this information handed out in written form to all units on at least a daily basis. The private carriage of these lists would qualify under the test set in paragraph (b) above.

Example (2). The same police department headquarters also from time to time distributes memoranda advising the local precinct officers on departmental policy and vacation schedules, and responding to inquiries from the local precinct offices. Nothing substantial turns on whether these memoranda arrive by midnight or by 10 a.m. of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these memoranda would not qualify under the test set out in paragraph (b) above.

Example (3). A health maintenance organization (HMO) operating its own hospital, clinics, and medical laboratory daily sends test samples and specimens from the HMO's hospital and clinics to its medical laboratory in a different location for immediate analysis. In return, the HMO laboratory sends to the HMO's hospital and clinics the laboratory reports for these samples and specimens on the day the reports are completed. The reports are then promptly utilized by the hospital and clinics as part of regular diagnostic procedures. The private carriage of these reports would qualify under the loss-of-value test set out in paragraph (b) above.

Example (4). The same HMO's hospital and clinics send requisitions and invoices to the HMO's central office as the need arises for the ordering of and payment for goods and services, which are handled centrally. Every other Friday, the central office sends to the hospital and clinics reports and memoranda on expenditures for personnel, supplies, utilities, and other goods and services. Nothing substantial turns on whether these materials arrive the same day or by 10 a.m. of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (5). On Sunday, Tuesday, and Thursday evenings, the central office of a regional grocery store chain sends out to its various stores in the area inventory bulletins prepared over the previous 24 hours showing the current availability and prices of meat, produce, dairy products, breadstuffs, frozen foods and similar items. Early the following afternoon, each store must send these inventory bulletins back to the central office with a notation of the store's orders to assure that the central office can ship sufficient supplies of such items for sale by the store on its next business day. The private carriage of these bulletins would qualify under the test set out in paragraph (b) above.

Example (6). On Sunday, Tuesday, and Thursday evenings, the central office of a different regional grocery chain sends out to its various stores in the area inventory bulletins showing the current availability and prices of meat, produce, dairy products, breadstuffs, frozen foods and similar items. Early in the afternoon of the second day following receipt of the bulletins, each store sends the bulletins back to the central office so that supplies of such items may be shipped to the store four days later. Nothing substantial turns on whether these bulletins arrive within 12 hours or by noon of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (7). The headquarters office of a large bank each business day prepares and sends to its branch offices lists showing current foreign exchange rates and similar information that must be updated and distributed to the branches on a daily basis in order for the bank to avoid the risk of serious financial loss. Within three hours of their receipt by each branch office, these lists are circulated and utilized by officials of the branch office in conducting regular banking procedures involving the use of such lists. The private carriage of these lists would qualify under the test set out in paragraph (b) above.

Example (8). The field office of an insurance company daily sends the insurance applications it has taken in that day to the company's central office. The applications are bound (i.e., constitute evidence of insurance) for 30 days, but may be canceled by the company. Few if any policies have been canceled by the company within 48 hours of their receipt at the central office, though the company normally begins processing the applications soon after their receipt. Nothing substantial turns on whether these bound applications arrive within 12 hours or by noon of the next business day or whether their transmission takes a day or more longer to complete. The private carriage of these materials would not qualify under the test set out in paragraph (b) above.

Example (9). An organization of real estate brokers in a community issues periodic bulletins containing information about properties which have been listed for sale by the constituent brokers. Each broker is entitled to show the properties to prospective buyers. In order to provide each broker with substantially equal opportunity to secure a buyer, it is necessary that the bulletins be delivered on the same day and within the shortest time span within that day. The bulletins constitute the basic source of information for the brokers and delivery in the foregoing manner is a key element in the functioning of the brokers. The private carriage of the bulletins would therefore qualify under the test set out in paragraph (b) above.

Example (10). The same organization distributes memoranda regarding speakers at real estate seminars, sales figures for a given period, and other information of significance and interest to real estate brokers but which does not affect their competitive positions. A failure to make simultaneous or near simultaneous delivery to the brokers, or a failure to make delivery within a specified period of time, has no material bearing upon the day-to-day operations of the brokers and private carriage of these materials would not qualify under the test set out in paragraph (b) above.

(39 U.S.C. 401, 404, 601–606; 18 U.S.C. 1693–1699, 1724)

W. Allen Sanders,

Associate General Counsel, General Law and Administration.

[FR Doc. 79-32737 Filed 10-23-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[FRL 1342-1]

Approval of a Delayed Compliance Order Issued to the Federal Correctional Institution, Alderson, W.Va.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued to the Federal Correctional Institution. The Order requires the source to bring air emissions from its coal-fired boilers in Alderson, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order by the Federal Correctional Institution will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on October 24, 1979.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick McManus, U.S. EPA, Region III, 3EN12, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597–9893.

SUPPLEMENTARY INFORMATION: On May 31, 1979, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 44, No. 106, a notice proposing the issuance of a Delayed Compliance Order to the Federal Correctional Institution. The notice asked for public comments by July 2, 1979 on the EPA proposal. No public comments have been received by this Office.

The source had planned to install a baghouse system by June 30, 1979 to control particulate matter from its coal-fired boilers in order to comply with Regulation II, "To Prevent and Control Particulate Air Pollution from the Combustion of Fuel in Indirect Heat Exchangers."

To date, the company has complied with all terms of the Order. EPA has determined that its approval of the Order shall be effective, October 24, 1979 because of the need to immediately place The Federal Correctional Institution on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601.)

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

1. In consideration of the foregoing, Chapter I of Title 40 of the Code of Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § *65.530, Federal Delayed Compliance Orders issued to major stationary sources.*

The Federal Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

§ 65.530 Federal Delayed Compliance Orders issued to major stationary sources.

* * * * *

Source	Location	Order No.	Date of FR proposal	SIP regulation involved	Final compliance date
Federal Correctional Institution	Alderson, WV	III 78-1-DCO	5/31/79	Regulation II	6/30/79

[FR Doc. 79-32789 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

---

40 CFR Part 65

[FRL 1341-8]

Approval of a Delayed Compliance Order Issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co.

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Administrator of the Environmental Protection Agency hereby approves a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co. The Order requires the company to bring air emissions from its coal preparation plant in Harrison County, West Virginia into compliance with certain regulations contained in the Federally approved West Virginia State Implementation Plan (SIP). Because of the Administrator's approval, compliance with the Order by Consolidation Coal Co. will preclude suits under the Federal enforcement and citizen suit provisions of the Clean Air Act for violations of the SIP regulations covered by the Order during the period the Order is in effect.

DATES: This rule will take effect on October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Patrick McManus, U.S. EPA, Region III, 3EN12, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106, 215/597–9893.

ADDRESSES: A copy of the Delayed Compliance Order, any supporting material, and any comments received in response to a prior **Federal Register** notice proposing approval of the Order are available for public inspection and copying during normal business hours at: Air Enforcement Branch (3EN12), U.S. EPA, Region III, Curtis Building, Sixth and Walnut Streets, Philadelphia, Pennsylvania 19106.

SUPPLEMENTARY INFORMATION: On August 16, 1979, the Regional Administrator of the Environmental Protection Agency's Region III Office published in the **Federal Register**, Vol. 44, No. 160, a notice proposing approval of a Delayed Compliance Order issued by the West Virginia Air Pollution Control Commission to Consolidation Coal Co. The notice asked for public comments by September 17, 1979 on the EPA proposal.

No public comments have been received by this Office.

The order called for Consolidation Coal Co. to install a venturi scrubber and mist eliminator on its thermal dryers by June 30, 1979 in order to comply with Regulation V to "Prevent and Control Air Pollution from Operation of Coal Preparation Plants and Coal Handling Operations."

To date, the company has complied with all terms of the Order. EPA has determined that its approval of the Order shall be effective October 24, 1979, because of the need to immediately place Consolidation Coal Co. on a schedule which is effective under the Clean Air Act for compliance with the applicable requirements of the West Virginia State Implementation Plan.

(42 U.S.C. 7413(d), 7601)

Dated: October 16, 1979.

Douglas M. Costle,

Administrator.

In consideration of the foregoing, Chapter I of Title 40 of the Code of

Federal Regulations is amended as follows:

PART 65—DELAYED COMPLIANCE ORDERS

By adding the following entry to the table in § 65.531, *U.S. Approval of State Delayed Compliance Orders Issued to major stationary sources.*

The State Order identified below has been approved by the Administrator in accordance with Section 113(d)(2) of the Act and with this Part. With regard to this Order, the Administrator has made all the determinations and findings which are necessary for approval of the Order under Section 113(d) of the Act.

§ 65.531 U.S. Approval of State Delayed Compliance Orders, issued to major stationary sources.

* * * * *

Source	Location	Order No	Date of FR proposal	SIP regulation involved	Final compliance date
Consolidation Coal Co	Harrison County, WV.	None	6/16/79	Regulation V	6/30/79

[FR Doc. 79-32776 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1033

[Service Order No. 1084-A]

Chicago, Rock Island Pacific Railroad Co.; Car Service

AGENCY: Interstate Commerce Commission.

ACTION: Service Order No. 1084-A.

SUMMARY: Service Order No. 1084 authorized the Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, operating over the tracks of the Chicago and North Western Transportation Company, to serve industries located on that line. Since there are no longer shippers on that line requiring service, no emergency exists and Service Order No. 1084 is vacated.

EFFECTIVE DATE: October 16, 1979, at 11:59 p.m.

FOR FURTHER INFORMATION CONTACT: J. Kenneth Carter (202) 275-7840.

Decided: October 15, 1979.

In the matter of Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, Authorized to Operate Over Tracks of Chicago and North Western Transportation Company.

Upon further consideration of Service Order No. 1084 (36 F.R. 22063; 37 F.R. 12726, 28059; 38 F.R. 20840; 39 F.R. 3827, 27672; 40 F.R. 5162, 31939; 41 F.R. 4929, 31381; 42 F.R. 6371, 38572; 43 F.R. 4431, 34147; 44 F.R. 6731 and 42697), and good cause appearing therefor:

It is ordered,

§ 1033.1084 Chicago, Rock Island and Pacific Railroad Company, W. M. Gibbons, Trustee, authorized to operate over tracks of Chicago and North Western Transportation Company.

Service Order No. 1084 is vacated effective 11:59 p.m., October 16, 1979.

(49 U.S.C. (10304-10305 and 11121-11126).)

A copy of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association. Notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Robert S. Turkington not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32738 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 5718]

List of Communities Eligible for the Sale of Insurance Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain flood plain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The date listed in the fifth column of the table.

ADDRESSES: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 34294, Bethesda, Maryland 20034, Phone: (800) 638-6620.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, S.W., Washingfon, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State	County	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified
Iowa	Cherokee	Aurelia, city of	190549	Oct. 10, 1979, emergency.	Apr. 16, 1976 and Apr. 16, 1976.
Pennsylvania	Bradford	Le Raysville, borough of	422334	do	Jan. 24, 1975.
Missouri	Jackson	Grain Valley, city of	290737-A	Oct. 9, 1979, emergency, Oct. 12, 1979, regular.	July 16, 1976.
Maryland	Queen Anne	Queen Anne, town of	240059-A	Oct. 12, 1979, emergency.	Aug. 9, 1974.
Texas	Fort Bend	Stafford, city of	480233	Oct. 16, 1979, emergency.	
New Jersey	Camden	Gloucester, city of	3401328	Dec. 19, 1974, emergency, Sept. 14, 1979, regular, Sept. 28, 1979, suspended, Oct. 15, 1979, reinstated.	June 28, 1974 and June 4, 1976.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 15, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-32610 Filed 10-23-79; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5719]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program, (202) 755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

V 44 0C 24 79 UMI

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Madison	Huntsville, city of	010153-B	Mar. 8, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 Sept. 17, 1976	Nov. 1, 1979.
Do	Marion	Winfield, city of	010164-B	Jan. 23, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 10, 1974 May 28, 1976	Do.
Connecticut	Litchfield	Bridgewater, town of	090184-B	Nov. 11, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 6, 1974 Feb. 20, 1976	Do.
Do	Middlesex	East Haddam, town of	090063-B	Feb. 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 20, 1974 July 30, 1976	Do.
Do	New Haven	Waterbury, city of	090091-B	May 23, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 22, 1974 June 7, 1977	Do.
Georgia	Fulton and Cowetas	Palmetto, city of	130239-B	Sept. 26, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 14, 1974	Do.
Illinois	Jackson	Carbondale, city of	170298-B	Jan. 14, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 3, 1974 Mar. 4, 1977	Do.
Do	St Clair	East St. Louis, city of	170626-B	May 1, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 16, 1973	Do.
Do	Will	Frankfort, village of	170701-B	Apr. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 1, 1979	Do.
Do	Cook	Lyons, village of	170120-B	Sept. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 15, 1974 Feb. 20, 1976	Do.
Do	Peoria	Peoria Heights, village of	170537-B	Oct. 13, 1972, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 16, 1973	Do.
Indiana	Lake	St. John, town of	180141-B	Jan. 20, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 30, 1973 Apr. 9, 1976	Do.
Iowa	Polk	Clive, city of	190486-B	Aug. 25, 1977, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Oct.1, 1976 May 31, 1977	Do.
Do	do	West Des Moines, city of	190231-B	July 25, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Apr. 23, 1976	Do.
Kansas	Leavenworth	Easton, city of	200188-A	July 2, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	July 9, 1976	Do.
Do	Harvey	Hesston, city of	200132-A	Apr. 24, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974	Do.
Do	Riley	Riley, city of	200303-B	Dec. 26, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Feb. 15, 1974 Nov. 14, 1975	Do.
Do	Leavenworth	Tonganoxie, city of	200192-B	June 11, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 Apr. 30, 1976	Do.
Michigan	Genesee	Flint, township of	260395-B	Oct. 26, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 10, 1977	Do.
Do	Berrien	Lake, township of	260036-B	July 26, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Oct. 1, 1976	Do.
Do	Genesee	Swartz Creek, city of	260060-B	June 23, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 17, 1974 June 4, 1976	Do.
Minnesota	Wright	Clearwater, city of	270536-B	July 30, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 23, 1974	Do.
Do	Sibley	Henderon, city of	270440-B	Mar. 19, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 April 16, 1976	Do.
Do	Mille Lacs	Isle, city of	270288-B	May 16, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 July 16, 1976	Do.
Do	Le Sueur	Kasota, city of	270247-B	Apr. 28, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 7, 1974 June 25, 1976	Do.
Do	Wright	Monticello, city of	270541-B	Apr. 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 24, 1974 Mar. 26, 1976	Do.
Do	Anoka	Ramsey, city of	270681-B	July 8, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Apr. 21, 1978	Do.
Do	Hennepin	Rockford, city of	270182-B	Feb. 5, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 9, 1973	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Wright	St. Michael, city of	270543-B	June 16, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	May 17, 1974 Aug. 20, 1976	Do.
Do	Dakota	Vermillion, city of	270115-B	Oct. 6, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Aug. 9, 1974	Do.
Do	Hennepin	Wayzata, city of	270186-B	Nov. 25, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 21, 1974 Mar. 19, 1976	Do.
Mississippi	Leflore	Unincorporated areas	280101-B	Aug. 28, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 12, 1979	Do.
Missouri	Jackson	Lake Lotawana, city of	290697-A	Nov. 10, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 19, 1976	Do.
Nebraska	Dodge	Scribner, city of	310071-B	May 30, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Nov. 28, 1975	Do.
Do	Do	Snyder, village of	310319-A	Aug. 16, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 27, 1975 Mar. 19, 1976	Do.
North Carolina	Gaston	Belmont, city of	370320-A	Mar. 26, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 27, 1975	Do.
Do	Guilford	High Point, city of	370113-B	Sept. 5, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Sept. 10, 1976	Do.
Do	Davidson	Lexington, city of	370061-B	July 10, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 21, 1974 Aug. 27, 1976	Do.
Do	Rowan	Unincorporated areas	370351-A	Aug. 23, 1976, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	July 26, 1976	Do.
Oklahoma	Cherokee	Tahlequah, city of	400037-B	May 13, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 14, 1974 Apr. 16, 1976	Do.
Pennsylvania	Lehigh	Catasauqua, borough of	420586-B	Dec. 3, 1971, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 30, 1973	Do.
Do	Allegheny	Liberty, borough of	420048-B	Aug. 13, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 26, 1973 May 14, 1976	Do.
Do	Lackawanna	Moosic, borough of	420533-B	Nov. 17, 1972, emergency, Nov. 1. 1979, regular, Nov. 1, 1979, suspended.	Aug. 31, 1973 Dec. 31, 1976	Do.
Do	Washington	Peters, township of	422152-A	July 29, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 10, 1975	Do.
Do	Dauphin	Reed, township of	420093-B	Apr. 4, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Jan. 9, 1974 Dec. 3, 1976	Do.
Do	Clinton	Wayne, township of	420336-B	June 3, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Oct. 26, 1973 Dec. 24, 1976	Do.
Do	Montgomery	West Pottsgrove, township of	421133-B	Mar. 8, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Sept. 20, 1974 June 11, 1976	Do.
Do	Delaware	Yeadon, borough of	420442-B	Sept. 19, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Aug. 27, 1976	Do.
Texas	Dallas	Garland, city of	485471-B	Aug. 7, 1970, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Apr. 16, 1971	Do.
Virginia	Fauquier	Unincorporated areas	510055-A	Mar. 18, 1975, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Dec. 13, 1974	Do.
Do	Smyth	Marion, town of	510223-A	Oct. 24, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Nov. 1, 1979	Do.
Do	Scott	Unincorporated areas	510142-B	Feb. 11, 1974, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	Mar. 10, 1978	Do.
Wisconsin	Sawyer	Hayward, city of	550410-B	Oct. 4, 1973, emergency, Nov. 1, 1979, regular, Nov. 1, 1979, suspended.	June 28, 1974 Oct. 17, 1975	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963.)

Issued: October 15, 1979.

Gloria M. Jimenez,

Federal Insurance Admininstrator.

[FR Doc. 79-32611 Filed 10-23-79: 8:45 am]

BILLING CODE 6718-03-M

V 44 0C 247 9 UMI

Proposed Rules

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 796

Federal Loan Guarantees for Alternative Fuel Demonstration Facilities; Public Hearing and Public Comment

AGENCY: Department of Energy.

ACTION: Notice of public hearing and comment due date on proposed rulemaking.

SUMMARY: On June 28, 1979, DOE proposed regulations providing for the implementation of loan guarantees and other assistance for Alternative Fuel Demonstration Facilities Program (hereinafter referred to as AFDP) as authorized in Section 207 of Title II of the Department of Energy Act of 1978—Civilian Applications (Pub. L. 95–238) [44 FR 37790]. That notice of proposed rulemaking scheduled no public hearing and did not establish a termination date for public comment. This current notice schedules a public hearing and establishes a deadline date for the receipt of written comments.

DATES: (1) Public Hearing. DOE will hold a public hearing on the proposed regulations at 9:30 a.m. (local time) on November 28, 1979.

(2) Written Comments. DOE will consider written comments on the proposed regulations which are received no later than December 12, 1979.

(3) Requests to Speak. Each request to speak at the hearing should be postmarked no later than November 19, 1979.

ADDRESSES: (1) Public Hearing. DOE will hold a public hearing in Room 3000A, Federal Building, 12th & Pennsylvania Avenue, N.W., Washington, D.C.

(2) Written Comments. DOE will consider written comments mailed to: Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street, N.W., Washington, D.C. 20461.

(3) Requests to Speak. Requests to speak should be sent to: Presiding Officer, Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Department of Energy, Michael J. Perper (Office of Resource Applications), Room 3324, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461, 202–633–8377 or 633–8319.

Department of Energy, Leonard Rawicz (Office of General Counsel), Room 6F055, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202–252–6967.

Department of Energy, Verlette Gatlin (FOI-Public Reading Room), Forrestal Building, Room GA152, 1000 Independence Avenue, S.W., Washington, D.C. 20461, 202–252–5969.

Department of Energy, Mr. Robert Gillette (DOE Public Hearing Management), room 2313, 2000 M Street, N.W., Washington, D.C. 20461, 202–254–5201.

SUPPLEMENTARY INFORMATION: On June 28, 1979, DOE proposed regulations providing for the implementation of loan guarantees and other assistance for AFDP. See 44 FR 37790. That notice of proposed rulemaking scheduled no public hearing and did not establish a termination date for public comment. This current notice schedules a public hearing on November 28, 1979, and establishes a deadline date of December 12, 1979 for the receipt of written comments as indicated above.

The June 28, 1979, notice indicated that DOE would prepare and submit to Congress simplified legislation to streamline the loan guarantee authority for a broad range of energy technology demonstrations. DOE has not abandoned this legislative initiative. However, DOE considers it prudent to proceed with the statutory authority which currently exists (i.e., P.L. 95–238). Congress is considering appropriations and a limit on the total loan guarantees which may be issued under the existing statutory authority. Therefore, the hearing date and deadline date for public comments have been established.

I. Public Hearing: DOE will hold a public hearing on the proposed regulations at the time and place indicated above. Any person who wishes to speak at the hearing should send DOE a written request to that effect and state the name of the individual, organization (if any), address, telephone number, and length of the presentation. Any presentation which is expected to be longer than 20 minutes should also state why it need be longer. Each request to speak at the hearing should be postmarked no later than November 19, 1979, and be sent to:

Presiding Officer, Office of Public Hearings Management, Room 2313, Box WK, 2000 M Street, N.W., Washington, D.C. 20461.

DOE will develop a schedule for presentations based upon the requests it receives. Anyone who fails to submit a written request, but wishes nevertheless to speak at the hearing, should notify the presiding officer immediately before the hearing. The presiding officer will decide whether, when and for how long the person may speak. Each speaker should bring at least 10 extra copies of the presentation for the convenience of the hearing panel, the hearing reporter, the press and other participants. the hearing will be open to the public.

The hearing will be informal. The presiding officer will hear oral presentations. There will be no cross-examination and no requirement that any speaker be under oath. The presiding officer may seek clarification or amplification of any presentation. a transcript of the hearing will be made and be available for public review at the Department of Energy (FOI-Public Reading Room), Forrestal Building, Room GA–152, 1000 Independence Avenue, S.W., Washington, D.C.

II. Written Comments: DOE will consider written comments on the proposed regulations, which are received in a timely manner at the 2000 M Street address indicated above. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation, "Loan Guarantees for AFDP." Ten copies should be submitted.

Dated: October 18, 1979.

Stanley I. Weiss,

Acting Assistant Secretary for Resource Applications.

[FR Doc. 79–32835 Filed 10–23–79; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 220

[Regulation T; Docket No. R–0054]

Credit by Brokers and Dealers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rulemaking: extension of comment period.

SUMMARY: The Board of Governors has extended the period for receipt of public comment on its proposed amendment to the rule governing credit to exchange specialists (Docket No. R–0054) until October 30, 1979.

DATE: Comments must be received by October 30, 1979.

ADDRESS: Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All material submitted should include the Docket Number R–0054.

FOR FURTHER INFORMATION CONTACT: Laura Homer, Chief Attorney, or Theodore W. Prush, Senior Securities Regulations Analyst, Securities Regulation Section, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–2781).

SUPPLEMENTARY INFORMATION: On May 5, 1977 (42 FR 2284) the Board requested comment on a proposal to amend the rule governing credit to exchange specialists (Regulation T) to assist option specialists in performing their market-making function by permitting them, in certain circumstances, to purchase or sell short, on preferential credit terms, the securities underlying the options in which they specialize. On August 15, 1979, the Board published a revision of the proposed amendment [44 FR 47775] based upon comments received on that proposal and recommendations of the Securities and Exchange Commission Special Study of the Options Market. The comment period for this proposal was scheduled to expire on October 15, 1979. The Board has been requested to extend the comment period in order to provide interested parties with additional time in which to present their views. In light of the issues involved in the proposal and in order to encourage public participation in this matter, the comment period has been extended to October 30, 1979.

By order of the Board of Governors, acting through its Secretary under delegated authority, October 18, 1979.

Theodore E. Allison

Secretary of the Board.

[FR Doc. 79–32825 Filed 10–23–79; 8:45 am]

BILLING CODE 6210–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 708

Mergers of Credit Unions; Proposed Rulemaking

AGENCY: National Credit Union Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend Part 708 of the NCUA Rules and Regulations in two respects. First, it would provide for a more democratic process in approving a merger proposal by eliminating the requirement that at least 20 per centum of the total membership must participate in the voting in order to validate the merger. Instead, the will of the majority of members who vote would determine the merger question. Second, the proposed rule would permit the NCUA Board to approve a merger without requiring membership approval of the merger proposal in those cases where the Board has determined that the credit union is in danger of becoming insolvent and the merger is sought as an alternative to liquidation of the credit union.

DATE: Comments must be received on or before November 28, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: James J. Engel, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202)632–4870.

SUPPLEMENTARY INFORMATION: The merger regulation was prepared under the authority contained in section 120(a) of the Federal Credit Union Act (12 U.S.C. 1766(a)), which authorizes NCUA to prescribe rules and regulations for, among other things, the merger, consolidation or dissolution of Federal credit unions and section 205 of the Act (12 U.S.C. 1785), which provides that federally-insured credit unions cannot merge or consolidate without Board approval. Accordingly, 12 CFR Part 708 was promulgated, outlining in some detail the process that must be followed when a merger involving at least one federally-insured credit union is contemplated. The procedure essentially involves the preparation of a detailed merger plan that must be approved by the appropriate NCUA Regional Director and by the NCUA Board. Where at least one of the credit unions involved in the proposed merger has been chartered at the state level, any applicable state laws addressing mergers must also be followed. Where it is a Federal credit union that will be merging into the continuing credit union, the regulation provides that its members shall have the right to approve or disapprove the merger proposal. This provision is in general accord with recognized principles of corporate law and it is not the intent of these proposed amendments to abolish the members' right to accept or reject a merger in which their credit union will be losing its identity.

Nevertheless, it has been determined that the twenty per cent participation requirement contained in § 708.7(b) is not in the best interest of credit unions or their members. The provision was included originally in order to assure that a merger proposal would receive the attention of a representative sampling of the entire membership. It was felt that in this way a small but vocal and aggressive minority of the credit union members would be unable to bind the entire membership on a merger proposal.

As a practical matter, however, this concern has proven to be relatively unfounded. The provisions that are currently contained within subsection (a) of § 708.7 assure that all members will receive adequate notice of the proposal and that all are entitled to vote on it. It is thus considered unlikely that a minority faction within the credit union could successfully assert their will over the majority. An additional safeguard is present in the fact that a sample notice and ballot package must be submitted to NCUA for review and approval prior to its distribution to the membership. The Administration sees no reason why the question of whether or not to merge need be decided by any more than a simple majority of those who vote, provided that all members have been given reasonable notice of their opportunity to do so.

Another undesirable result of this requirement is that it transforms essentially neutral indifference into a negative vote. Because failure to receive 20 percent participation will preserve the status quo, a person who opposes a merger can advance his position further by simply not voting than he could by casting a negative vote. This can have the effect of thwarting the express desire of a majority of the members who do cast their vote.

The Administration's second proposed amendment addresses a different and relatively unique aspect of the merger situation. In some cases, a credit union that is on the verge of insolvency may make arrangements to merge with another, stronger credit

V 4 4 0 C 2 4 7 9 UMI

union as an alternative to undergoing a liquidation. In many instances the Administration would look favorably upon such an alternative, not only because it avoids the disruption, inconvenience, and hardship that a liquidation imposes upon the membership of a credit union, but also because it will reduce the risk of loss to the Share Insurance Fund. If a merger can be arranged that is consistent with longstanding NCUA policies regarding field of membership and common bond, the members will be benefitted by the relatively uninterrupted continuation of credit union services that results from a merger. Additionally, expenses to the Share Insurance Fund can be substantially reduced if a merger, as opposed to a liquidation can be consummated.

The Administration is also mindful of the merger alternatives used in the case of failing banks. While the ability of a bank to absorb another failing bank hinges on the financial strength of the absorbing bank, its location and the impact on competition, in the case of a credit union, it is a question of financial strength and compatibility of fields of membership. Although the authority of the Administration to prescribe rules governing mergers is somewhat broader than that provided other financial institution regulatory agencies, Congress did provide those agencies with a procedure to be used in emergency situations, i.e., in the case of a failing bank. The Administration, however, did not previously provide for a merger procedure in the case of a filing credit union. The proposed rule is designed to address this area.

Under current merger guidelines the requirement of obtaining the approval of the membership for the merger proposal may well frustrate a merger as a practical alternative to liquidation. The added costs of preparing and distributing the ballots and holding the special meeting of the members, coupled with the attendant time delays, may put the credit union into such an insolvent position that a merger cannot be completed or to the point that a merger is no longer a viable alternative. Moreover, the Administration views as academic the question of whether the members, when faced with liquidation as their alternative, would approve a merger as a viable way to continue operations. Members who are dissatisfied with the merger are free to close their accounts and thus have credit union services terminated; the same result as if the credit union were placed into liquidation. The second of the proposed rules, therefore, eliminates the requirement of membership approval for these limited classes of mergers.

In proposing these amendments, the Board relies on, in addition to section 120(a) and 205 of the Act, section 208 (12 U.S.C. 1788), which provides the Board with the authority to take certain actions in order to reduce the risk to the National Credit Union Share Insurance Fund and to facilitate a merger or consolidation of insured credit unions, and section 209 (12 U.S.C. 1789), the general relemaking authority for purposes of the provisions of Title II of the Act.

This proposed regulation provides for a 30-day comment period; comments must be received by November 26, 1979. A 60-day comment period is not provided because the proposal is not viewed as a significant change, it would relieve a previous restriction and the Administration finds it to be in the best interest of credit unions, their members and the National Credit Union Share Insurance Fund.

In addition, a regulatory analysis was not prepared for this proposed regulation because it was determined the proposal will not result in a significant impact on the national economy or cause a major increase in the costs or expenses of Federal credit unions. Also, certain other procedures provided for in NCUA's Report on Improving Government Regulations were not followed because the proposal is in response to an emergency and the process is unnecessary for the public interest. This determination was made by James J. Engel, Assistant General Counsel.

Accordingly, the National Credit Union Administration proposes to amend 12 CFR Part 708 to read as set forth below.

Rosemary Brady,

Secretary, NCUA Board.

October 18, 1979.

1. Part 708 is amended by deleting the term "Administrator" each time it appears therein and by inserting the term "Board" in lieu thereof.

§ 708.7 [Amended]

2. Paragraph (b) of 12 CFR 708.7 is amended by deleting the words "in a vote in which at least 20 per centum of the total membership of the credit union participates."

§ 708.6 [Amended]

3. Paragraph (a) of 12 CFR 708.6 is amended by deleting the period at the end of the subsection and inserting in lieu thereof the following: "; *Provided, however,* That in the event the Board determines that the merging credit union, if it is a Federal credit union, is in danger of insolvency, and that the proposed merger would reduce the risk or avoid a threatened loss to the National Credit Union Share Insurance Fund, the Board may permit the merger to become effective without an affirmative vote of the membership of the merging Federal credit union, not withstanding the provisions of § 708.7."

(Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789)).

[FR Doc. 79-32760 Filed 10-23-79; 8:45 am]

BILLING CODE 7535-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 292

[Docket No. RM79-55]

Small Power Production and Cogeneration—Rates and Exemptions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The proposed rules would implement section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The rules set forth rates for the sale of electric energy between qualifying small power production and cogeneration facilities and electric utilities, and provide for the exemption of qualifying facilities from certain State and Federal regulation. The proposed rules also provide guidelines for the interconnection arrangements between qualifying facilities and electric utilities.

DATE: Written comments by December 1, 1979. Dates of the public hearings will be announced at a later time.

ADDRESS: All responses to reference Docket No. RM79-55, and to be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Locations of the public hearings will be announced at a later time.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Executive Assistant to the Associate General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357-8171.

SUPPLEMENTARY INFORMATION:

Issued: October 18, 1979.

Section 210(a) of the Public Utility Regulatory Policies Act of 1978 (PURPA) requires that the Commission prescribe rules as it determines necessary to encourage cogeneration and small power production, requiring electric utilities to offer to:

(1) Sell electric energy to qualifying cogeneration facilities and qualifying small power production facilities, and

(2) Purchase electric energy from such facilities.

In addition, section 210(e) of PURPA requires the Commission to prescribe rules under which qualifying cogeneration and small power production facilities are exempted, in whole or in part, from the Federal Power Act, from the Public Utility Holding Company Act of 1935, and from State laws and regulations respecting the rates or respecting the financial or organizational regulation of electric utilities, if the Commission determines such exemption is necessary to encourage cogeneration and small power production.

On June 26, 1979, in Docket No. RM79-54, the Commission issued proposed rules regarding the determination of which cogeneration and small power production facilities are qualifying cogeneration facilities or qualifying small power production facilities. Such qualifying facilities are entitled to avail themselves of exemptions set forth in section 210 of PURPA, and are eligible for exemption from the incremental pricing provisions of section 206(c) of the Natural Gas Policy Act of 1978 (Order No. 49, § 282.203(e), issued September 28, 1979, 44 FR 57726).

On June 27, 1979, in Docket No. RM79-55, the Commission issued a Staff discussion paper regarding issues arising under section 210 of PURPA.[1] The Staff discussion paper set forth many legal and policy questions arising under section 210 of PURPA. In addition to those issues, comments received in response to the Staff discussion paper and in the public hearings held in San Francisco, Chicago, and Washington, D.C. in July, 1979 on this topic raised new questions regarding the Commission's responsibility to exercise its authority under section 210. The Commission has taken into consideration these questions and comments in developing this proposed rulemaking.

[1] The Staff discussion paper in Docket No. RM79-55 concerned subjects also addressed in this proposed rulemaking. Since interested persons may submit comments in response to this rulemaking, the deadline for the filing of comments on the Staff discussion paper was not extended beyond the original deadline of August 1, 1979.

Summary

The proposed rules provide that electric utilities must purchase electric energy and capacity made available by qualifying cogenerators and small power producers at a rate reflecting the cost that the purchasing utility can avoid as a result of obtaining energy and capacity from these sources, rather than generating an equivalent amount of energy itself or purchasing the energy from other suppliers. To enable potential cogenerators and small power producers to be able to estimate these avoided costs, the rules require electric utilities to furnish data with regard to present and future costs of energy and capacity on their systems.

These rules also provide that electric utilities must furnish electric energy to qualifying facilities on a non-discriminatory basis, at a rate that is just and reasonable and in the public interest, and must provide certain types of service which may be requested by qualifying facilities to supplement or back up those facilties' own generation.

The rule exempts all qualifying cogeneration facilities and certain qualifying small power production facilities from rate and certain other regulations under the Federal Power Act, from the provisions of the Public Utility Holding Company Act of 1935 related to electric utilities, and from State laws regulating electric utility rates and financial organization.

The implementation of these rules is reserved to the State regulatory authorities and nonregulated electric utilities. Within one year of the issuance of the Commission's rules, each State regulatory authority or nonregulated utility must implement these rules. That implementation may be accomplished by the issuance of regulations, on a case-by-case basis, or any other means reasonably designed to give effect to the Commission's rules.

The Commission observes that this rulemaking represents an effort to evolve concepts in a newly developing area within rigid statutory constraints. The Commission is attempting to afford broad discretion to the State regulatory authorities and nonregulated electric utilities in recognition of the variety of institutional, economic, and local circumstances which may be affected by this proposed rulemaking. In this regard, the Commission seeks the fullest range of comments on the legal authority of proposed Commission action, and on the technical and practical aspects of the proposals set forth in this rulemaking.

Section-by-Section Analysis

Subpart A—Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities under Section 210 of the Public Utilities Regulatory Policies Act of 1978.

§ 292.101 Scope.

Section 292.101(a) describes the scope of Subpart A of Part 292 of the Commission's rules. Subpart A applies to sales and purchases of electric energy and capacity between qualifying cogeneration and small power production facilities and electric utilities, and actions related to such sales and purchases. Section 292.101(b) provides that the authority of this subpart does not preclude negotiated agreements between qualifying cogenerators or small power producers and electric utilities which differ from rates or terms which would otherwise be required under this subpart. Paragraph (b)(1) reflects the Commission's view that the rate provisions of section 210 of PURPA apply only if a qualifying cogenerator or small power producer chooses to avail itself of the rights and protections set forth in that section. An agreement between an electric utility and a qualifying cogenerator or small power producer to conduct sales or purchases at rates higher or lower, or under terms or conditions different from those set forth in these rules, does not violate the Commission's rules under section 210 of PURPA. Nor would provisions of State law or regulations which provide different incentives for small power production and cogeneration (than are provided in the Commission's rules) be preempted. The Commission recognizes that the ability of a qualifying cogenerator or small power producer to negotiate with an electric utility is buttressed by the existence of the statutory rights and protections of these rules, and the right of State regulatory agencies and nonregulated electric utilities to provide further encouragement of these technologies.

If, prior to the existence of the rights and protections set forth in PURPA, a cogenerator or small power producer entered into a contractual agreement by which he received sufficient financial incentive to sell his electric output to a utility, the encouragement of cogeneration or small power production does not require that he be given additional incentives. Accordingly, paragraph (b)(2) provides that Subpart A will not affect the validity of any contract between a qualifying cogenerator of small power production

V 4 4 0 C 2 4 7 9 UMI

facility and an electric utility. At the expiration of the contract, a cogenerator or small power producer will be able to avail himself of these rules.

§ 292.102 Definitions.

This section contains definitions applicable to Subpart A.

Paragraph (a) provides that terms defined in PURPA have the same meaning as they have in PURPA, unless further defined in this part of the Commission's regulations.

Subparagraph (1) defines a qualifying facility as a cogeneration or small power production facility which is a qualifying facility under § 292.208 of the Commission's regulations. Those regulations implement section 201 of PURPA, and are the subject of Docket No. RM79–54.

Subparagraph (2) defines "purchase" as the purchase of electric energy or capacity from a qualifying facility by an electric utility.

Subparagraph (3) defines "sale" as the sale of electric energy or capacity by an electric utility to a qualifying facility.

Subparagraph (4) defines "system emergency" as a condition on a utility's system which is likely to result in disruption of service to a significant number of customers or is likely to endanger life or property.

Subparagraph (5) defines "rate" as any price, rate charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

Subparagraph (6) defines "avoided costs" as the costs to an electric utility of energy or capacity or both which, but for the purchase from a qualifying facility, the electric utility would generate or construct itself or purchase from another source. This definition is derived from the concept of "the incremental cost to the electric utility of alternative electric energy" set forth in section 210(d) of PURPA. It includes both the fixed and the running costs on an electric utility system which can be avoided by obtaining energy or capacity from qualifying facilities.

The costs which an electric utility can avoid by making such purchases generally can be classified as "energy" costs or "capacity" costs. Energy costs are the variable costs associated with the production of electric energy (kilowatt-hours). They represent the cost of fuel, and some operating and maintenance expenses. If, by purchasing electric energy from a qualifying facility, a utility can reduce its energy costs or can avoid purchasing energy from another utility, the rate for a purchase from a qualifying facility is to be based on those energy costs which the utility can thereby avoid.

Capacity costs are the costs associated with providing the capability to deliver energy; they consist primarily of the capital costs of facilities. If a qualifying facility offers energy of sufficient reliability and with sufficient legally enforceable guarantees of deliverability to permit the purchasing electric utility to avoid the need to construct a generating unit, to enable it to build a smaller, less expensive plant, or to purchase less firm power from another utility, then the rates for such a purchase will be based on the net avoided capacity and energy costs.[2]

There is considerable language in both the statute and the Conference Report, as well as the Federal Power Act, in support of the proposition that capacity payments are not only legally permitted to be required by the Commission, but also, at least in some circumstances, mandated.

The Conference Report addresses the calculation of the alternative cost standard at some length. The final paragraph of this section of the Report is the following:

> The conferees expect that the Commission, in judging whether the electric power supplied by the cogenerator or small power producer will replace future power which the utility would otherwise have to generate itself either through existing capacity or additions to capacity or purchase from other sources, will take into account the reliability of the power supplied by the cogenerator or small power producer by reason of any legally enforceable obligation of such cogenerator or small power producer to supply firm power to the utility.[3]

The references to "additions to capacity" and to obligations "to supply firm power" (the rates for which, in this Commission's experience, always include a capacity component) lead the Commission to the conclusion that, under Section 210, capacity payments to qualifying facilities can be required under certain circumstances; and that a utility's refusal to make payments based in part on avoided capacity payments could be discriminatory.

In addition, the Commission notes that the statutory language used in the Federal Power Act uses the term "electric energy" to describe the rates for sales or resale in interstate commerce. Demand or capacity rates are a traditional part of such rates. The term "electric energy" is used throughout the Act to refer both to electric energy and capacity. The Commission does not find any evidence that the term "electric energy" in section 210 of PURPA was intended to refer only to fuel and operating and maintenance expenses, instead of all of the costs associated with the provision of electric service.

To interpret this phrase to include only the energy would lead to the conclusion that the rates for sales to qualifying facilities only include the energy component of the rate. It is the Commission's belief that this was not the intended result, and thus provides an additional reason to interpret the phrase electric energy to include both energy and capacity.

§ 292.103 Availability of electric utility system cost data.

In order to be able to evaluate the financial viability of a cogeneration or small power production facility, an investor needs to be able to ascertain, before construction of a facility, the expected return on a potential investment. This return will be determined in part by the price at which the qualifying facility can sell its electric output. Under § 292.105 of these rules, the rate at which a utility must purchase

[2] "Net avoided costs" are the excess of the total costs of the system developed in accordance with the utility's optimum capacity expansion plan, excluding the qualifying facility, over the system's total costs (before payment to the qualifying facility) developed in accordance with the utility's optimum capacity expansion plan including the qualifying facility. This concept recognizes that the energy cost associated with a deferred or avoided unit may be different from the energy costs of the qualifying facility which permitted that deferral or avoidance. In determining an optimum capacity expansion plan, a utility must consider both capacity and energy costs in order to minimize the anticipated total system costs. In providing for payments for avoided capacity, the Commission uses the term "net avoided cost" in recognition of the fact that various types of capacity will not produce the same amount of energy, so that some change in the dispatch of generation may be necessary from the remaining plants after a planned unit is deferred and the qualifying facility's capacity is substituted along with other available capacity to produce the same amount of energy at the minimum cost. This is particularly true, for example, where the capacity factor for the qualifying facility is less than the planned capacity factor from a base load (high capacity cost—low energy cost) alternative facility which is deferred. In such a case, although adequate capacity may exist on the system due to the purchase from the qualifying facility in lieu of the deferred base load unit, additional energy costs may be incurred due to increased generation from intermediate plants to make up the difference between the planned generation from the base load plant and the lesser total energy produced by the qualifying facility. Such increased energy cost is appropriately recognized by providing for the payment to the qualifying facility of the *net* avoided costs. In this way, the ratepayers are assured of paying no more than the total costs that would have been incurred had the unit not been deferred.

[3] Conference Report on H.R. 4016, Public Utilities Regulatory Policies Act of 1978, H. Rep. No. 1750, 99, 95th Cong., 2d Sess. (1978).

that output is based on the utility's avoided costs.

In order to provide data to qualifying facilities which will assist them in determining the utility's avoided costs, § 292.103(b) of the rules requires electric utilities to make available to cogenerators and small power producers data concerning the present and anticipated future costs of energy and capacity on the utility's system. The data required to be provided to determine these avoided costs will have been prepared in compliance with the Commission's rules implementing section 133 of PURPA.[4] This section will thus, for the most part, require a table presenting data already developed.

Section 133 of PURPA applies to each electric utility whose total sales of electric energy for purposes other than resale exceeded 500 million kWh during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year. (The phrase "before the immediately preceding calendar year" refers to the year two years prior to the current year. For example, if an electric utility exceeded the 500 million kWh limit both during 1976 and 1979, it must comply with section 133 requirements in 1981.) Section 290.102(d) of the Commission's rules implementing section 133 of PURPA granted an extension until June 30, 1982,[5] to electric utilities covered by that section having total sales of energy for purposes other than resale of less than 1 billion kWh in each of the calendar years 1976, 1977, and 1978.

The proposed coverage under paragraph (a) of these regulations is the same as that provided pursuant to section 133 of PURPA and the Commission's rules implementing that section, with an exception provided in paragraph (c) as will be discussed.

Paragraph (b) provides that each regulated electric utility must furnish to the State regulatory authority, and maintain for public inspection, data related to the costs of energy and capacity of the electric utility's system. Each nonregulated electric utility must maintain such data for public inspection.

Subparagraph (1) requires each electric utility to provide the estimated avoided cost of energy on its system for various levels of purchases from qualifying facilities. The levels of purchases are to be stated in blocks of one hundered megawatts or less for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than ten percent of system peak demand for systems less than 1000 megawatts. This information is to be stated on a cents per kilowatt-hour basis, for daily and seasonal peak and off-peak periods, for the immediately preceding year, and on an estimated cents per kWh basis for the current calendar year and for each of the next five years.

Subparagraph (2) requires each electric utility to provide its schedule for the addition of capacity, planned purchases of firm energy and capacity, and planned capacity retirements for each of the next 10 years.

Subparagraph (3) requires each electric utility to provide the estimated costs at completion, on the basis of dollars per kilowatt, of planned capacity additions, including planned firm purchases.

Qualifying facilities may wish to sell energy or capacity to electric utilities which are not subject to the reporting requirements of paragraph (b). In that event, paragraph (c) provides that, upon request of a qualifying facility, an electric utility not otherwise covered by paragraph (b) must provide sufficient data to enable the cogenerator or small power producer to determine the utility's avoided costs. If such utility refuses to supply the requested data, the qualifying facility may apply to this Commission for an order requiring that the information be supplied. The Commission, in considering such applications, will take into account the burden on the utility.

A non-generating electric utility which does not own or plan to acquire generating capacity may incorporate the data provided by each of its supplying utilities in its compliance with the provisions of this section.

§ 292.104 Electric utility obligations under this subpart.

Section 210(a) of PURPA provides that the Commission shall prescribe rules requiring electric utilities to offer to purchase electric energy from qualifying facilities. The Commission interprets this provision to impose on electric utilities an obligation to purchase all electric energy and capacity made available from qualifying facilities, except during periods prescribed in § 292.105(e) and during system emergencies.

There are several circumstances in which a qualifying facility might desire that the electric utility with which it is interconnected not be the purchaser of the qualifying facility's energy and capacity, but would prefer instead that an electric utility with which the purchasing utility is interconnected make such a purchase. If, for example, the purchasing utility is a non-generating utility, its avoided costs will be the price of bulk purchased power ordinarily based on an average figure representing the average cost of energy and capacity on the supplying utility's system. As a result, the rate to the qualifying facility would be based on those average costs. If, however, the qualifying facility's output were purchased by the supplying utility, its output could replace energy supplied by specific peaking units, and its capacity might enable the supplying utility to avoid the addition of new capacity. The costs, and thus the avoided costs, of peaking energy and new capacity are generally greater than system average figures.

Under these proposed rules, certain small electric utilities are not required to provide system cost data, except upon request of a qualifying facility. If, with the consent of the qualifying facility, a small electric utility chooses to transmit energy from the qualifying facility to a second electric utility, the small utility can avoid the otherwise applicable requirements that it provide the system cost data for the qualifying facility and that it purchase the energy itself.

Accordingly, paragraph (d) provides that a utility which receives energy or capacity from a qualifying facility may, with the consent of the qualifying facility, transmit such energy to another electric utility. However, if the first utility does not transmit the purchased energy or capacity, it retains the purchase obligation. Any electric utility to which such energy or capacity is delivered must purchase this energy under the obligations set forth in these rules as if the purchase were made directly from the qualifying facility.[6]

The costs of transmission are not a part of the rate which an electric utility to which energy is transmitted is obligated to pay the qualifying facility.

[4] For example, § 290.303(h) of the Commission's rules implementing section 133 of PURPA requires such electric utilities to report marginal energy costs for each month of the reporting period and for each month of the next five years. Section 290.302(g) of these rules requires electric utilities to report the estimated cost, in dollars per kilowatt of generation, of generation units likely to be installed to meet increases in peak demand. Section 290.302(f) requires the reporting of estimates, for the next ten years of information regarding total system capacity, and capacity to be supplied by other utilities.

[5] Docket No. RM79–6, issued June 5, 1979, granted an extension until May 31, 1982, to electric utilities having total sales of electric energy for purposes other than resale of less than 1 billion kilowatt-hours in each of the calendar years 1976, 1977, and 1978. The Commission recently issued revised regulations in this docket which extended this date to June 30, 1982.

[6] The Commission notes that while a purchase from a qualifying facility may have value as energy and capacity, what is actually transmitted to the second utility is properly described as electric energy. The utility to which energy is transmitted, however, must pay rates based on energy and capacity value.

V 44 0C 2 4 7 9 UMI

These costs are part of the costs of interconnection, and are the responsibility of the qualifying facility under § 292.108 of these rules. However, pursuant to agreement between the qualifying facility and any electric utility which transmits electric energy on behalf of the qualifying facility, the transmitting utility may share the costs of transmission. The electric utility to which the electric energy is transmitted has the obligation to purchase the energy at a rate which reflects the costs that it can avoid as a result of making such a purchase.

Paragraph (b) sets forth the statutory requirement of section 210(a) of PURPA that electric utilities offer to sell electric energy to qualifying facilities. This section creates a Federal right for qualifying facilities to obtain electric service, in addition to any service the electric utility is obligated to provide under State laws.

The Staff discussion paper dealt with the issue of whether there is inherent in section 210 of PURPA the authority to order interconnections between electric utilities and qualifying facilities, or whether qualifying facilities must use the procedures set forth in the new sections 210 and 212 of the Federal Power Act to gain interconnection.[7] The Commission believes that the requirement to interconnect is within the legal authority of the Commission under section 210 of PURPA, particularly subsumed within the requirement to buy and sell. To hold otherwise would mean that Congress intended to have qualifying facilities go through an extended and expensive proceeding simply to gain interconnection, contrary to the entire thrust of sections 201 and 210 of PURPA.

These sections evince the clear Congressional intent to encourage development of these desirable forms of generation, and to have the commercial development of these facilities proceed expeditiously. In other words, Congress has already made the judgment that these kinds of facilities serve one of the purposes of the Act as set out in section 101, *viz*, "the optimization of the efficiency of use of facilities and resources by electric utilities", and it would be both redundant and unduly burdensome to have the sponsors of individual facilities show in an evidentiary hearing conducted under section 210 of the Federal Power Act that their project in particular would serve this end (or one of the other related goals established as criteria for an interconnection order in section 210(c)(2)). The purpose of an interconnection application, whether under section 202 or 210 of the FPA, is to secure service, whether emergency or otherwise; and section 210 of PURPA establishes the entitlement of a qualifying facility to service from the interconnected utility. In effect, the proponents of the view that a qualifying facility must apply under sections 210 and 212 of the FPA have the burden of showing that Congress intended interconnection and the entitlement to buy and sell be denied to a qualifying facility which is unable to make the showings required by those sections, especially in light of the fact that a previously interconnected customer installing qualifying facilities would not have to so apply.

This is not to say that all of the protections that Congress has given the target of an interconnection application in sections 210 and 212 of the FPA are necessarily absent from section 210 of PURPA. The Conference Report on section 210 states that customers of utilities are not to be compelled to subsidize qualifying facilities, and this principle would seem to bear on the question of who pays the costs of interconnection as well as on the per-unit price to be paid for energy. On the other hand, the Conference Report includes a proscription against "unreasonable rate structure impediments, such as unreasonable hook up charges." This provides another argument in favor of reading section 210 of PURPA as including interconnection authority, since the elaborate cost determination required under sections 210 and 212 of the FPA is redundant if the costs of interconnection are viewed simply as a feature of the rate structure with the charge therefor based on the cost of the utility. However, the Commission does view section 210 of the FPA as an alternate avenue for remedy available to any qualifying facility which wishes to apply under it.

The obligation to interconnect can be part of either an electric utility's option to purchase from or sell to a qualifying facility. With regard to the obligation to sell, State law ordinarily sets out the obligation of an electric utility to provide service to customers located within its service area. The Commission believes that State law will normally impose on an electric utility the obligation to interconnect and that the Commission's proposal will not, in most instances, impose any additional obligation on electric utilities.

As noted in the Staff discussion paper, by installing certain equipment, an electric utility can be protected from disruption of its operations caused by a qualifying facility. The Commission has not received comments which disagree with this understanding. Therefore, through the allocation of the costs associated with such equipment to the qualifying facilities, as provided in § 292.109, and through the imposition of standards for operating reliability under § 292.110, appropriate physical and financial protection for the electric utilities is provided in the Commission's proposed rules.

Several commentors urged that the Commission require electric utilities to offer to operate in parallel with a qualifying facility. By operating in parallel, a qualifying facility is enabled automatically to export any electric energy which is not consumed by its own load. Therefore, provided that the qualifying facility complies with the standards set forth in § 292.110 regarding operating reliability, the Commission proposes in paragraph (e) that electric utilities be required to offer to operate in parallel with a qualifying facility.

§ 292.105 Rates for purchases.

Section 210(b) of PURPA provides that in requiring any electric utility to purchase electric energy from a qualifying facility, the Commission must insure that the rates for such purchases be just and reasonable to the electric consumers of the purchasing utility, in the public interest, nondiscriminatory to qualifying facilities, and that they not exceed the incremental costs of alternative electric energy (the costs of energy, which, but for the purchase, the utility would generate from another source).

Types of Purchases

In impelementing this statutory standard, it is helpful to review industry practice respecting sales between utilities. Sales of electric power are ordinarily classified as either firm sales, where the seller provides power at the customer's request, or non-firm power sales, where the seller and not the buyer makes the decision whether or not power is to be available. Rates for firm power purchases include payments for the cost of fuel and operating expenses, and also for the fixed costs associated with the construction of generating units needed to provide power at the purchaser's discretion. The degree of certainty of deliverability required to constitute "firm power" can ordinarily be obtained only if a utility has several generating units and adequate reserve capacity. The capacity payment, or demand charge, will reflect the cost of the utility's generating units and the associated costs of assuring that firm power will be available on demand.

In contrast, the ability to provide electric power at the selling utility's discretion imposes no requirement for the construction of capacity on the seller. In order to provide power to customers at the seller's discretion, the selling utility needs only to provide for the cost of operating its generating units. These costs, called "energy" costs, ordinarily are the ones associated with non-firm sales of power.

Purchases of power from qualifying facilities will fall somewhere on the continuum between these two types of electric service. Thus, for example, wind machines that furnish power only when wind velocity exceeds twelve miles per hour may be so uncertain in availability of output as only to permit a utility to avoid generating an equivalent amount of energy. The utility must continue to provide capacity that is available to meet the needs of its customers. Rates for such sporadic purchases should thus be based on the utility system's avoided incremental cost of energy (system lambda), and not based on avoided capacity.

On the other hand, photovoltaic cells, although subject to some uncertainty in power output, have the general advantage of providing their maximum power coincident with the system peak when used on a summer peaking system. The value of such power is greater to the utility than power delivered during off-peak periods. Since the need for capacity is based on system peaks, the qualifying facility's coincidence with the system peak should be reflected in the allowance of some capacity value and an energy component that reflects the avoided energy costs at the time of the peak.

A facility burning municipal waste or biomass can operate more predictably and reliably than solar or wind systems. It can schedule its outages during times when demand on the utility's system is low. If such a unit demonstrates a degree of reliability that would permit the utility to defer or avoid construction of a generating unit or the purchase of firm power from another utility, then the rate for such a purchase should be based on the avoidance of both energy and the capacity costs.

In order to be able to defer or cancel the construction of new generating units, a utility must obtain a commitment, sufficiently ahead of the lead time for the construction of its own new capacity, that provides contractual or other legally enforceable assurances that capacity from alternative sources will be available. If a qualifying facility makes such a commitment, the Commission believes that, as a matter of both policy and interpretation of section 210, the qualifying facility is entitled to receive rates based on the utility's avoided costs resulting from the capacity the qualifying facility supplies. Moreover, if a cogenerator or small power producer were permitted to receive only the energy (fuel, and operating and maintenance) expenses which the purchasing utility can avoid—while the cogenerator or small power producer must himself invest in new, and often highly capital-intensive, machinery—these potential sources of energy may go undeveloped. In light of the Commission's statutory obligation to encourage cogeneration and small power production, the Commission believe that a proper interpretation of "the incremental costs of alternative electric energy" requires that, when purchases of energy can substitute for intermediate, or base-load, the rate to the cogenerator or small power producer include the net avoided capacity and energy costs.

If a qualifying facility opts to receive rates based on avoided energy costs, such rates should reflect the energy costs of the electric utility's units which otherwise would have been operated. The Commission believes that there are a variety of acceptable ways to carry out this policy at the State level. The general concept here is that rates for purchases from the qualifying facility would be based on the highest energy cost unit then operating. The qualifying facility would continue to be dispatched until the cost of energy from the utility's generating unit with the highest energy costs is lower than the price at which the qualifying facility wishes to sell.

The Commission neither expects nor requires that the determination of utilities' avoided costs will be so precise. By definition, these costs are based on estimates of costs which would be incurred if certain events were to take place. Electric rates are ordinarily calculated on the basis of averaging. So long as a rate for purchases reasonably accounts for the avoided costs, and does not fail to provide the required encouragement of cogeneration and small power production, it will be considered as implementing these rules.

Paragraph (a) therefore provides that the statutory requirements regarding rates for purchases of energy and capacity from a qualifying facility are satisfied if the rate reflects the avoided costs resulting from such a purchase as determined on the basis of the cost of energy and capacity set forth pursuant to § 292.103(b) or (c).

Method of Implementation

The Commission is required under section 210 of PURPA to prescribe rules requiring electric utilities to offer to sell electric energy to and purchase electric energy from qualifying facilities. Paragraphs (b) and (c) of section 210 set forth the standards regarding the rate at which such purchases and sales shall be made. The implementation of Commission rules promulgating these standards is reserved to the State regulatory authorities and non-regulated utilities, which are required under section 210(f) to implement the Commission's rules.

One major area of concern expressed in comments received from electric utilities, cogenerators and small power producers, and State regulatory authorities has been that the Commission's rules should state general principles sufficient to leave the states and non-regulated utilities flexibility.[8] The basis for this recommendation is the need for experimentation in a new technological area and in an area that is subject to a variety of State procedures, the diverse nature of cogeneration and small power production systems, and the differences in the costs of energy and capacity on individual electric systems. As a result, while we herein propose that, for example, capacity costs must be paid if a utility can actually avoid the construction or purchase of capacity, our rules will not dictate the method by which such a payment is to be determined. Rather the Commission proposes to leave the selection of a methodology to the States and nonregulated electric utilities, with the understanding that should a State or nonregulated utility not fulfill the intent and purposes of our rules and of section 210 of PURPA, the Commission and others have available the enforcement power set forth in section 210(h) of PURPA to assure compliance. Additionally, the Commission is authorized to revise these rules in the future to provide greater specificity to these rules if that is necessary.

Paragraph (b) requires electric utilities, on request of a qualifying facility, to promulgate a tariff or other method for establishing rates for purchases from qualifying facilities of ten kilowatts or less. In Docket No. RM79-54 the Commission proposed a minimum size limitation for qualifying facilities of ten kilowatts. However,

[7] Staff discussion paper, *supra*., at 10–14.

[8] Comments of American Electric Power, filed August 1, 1979, at 2–3; Comments of Electric Consumer Resource Council (ELCON), filed August 1, 1979, at 6; Comments of the National Association of Regulatory Utility Commissioners (NARUC), filed August 1, 1979, at 2–5.

V 44 OC 24 79 UMI

comments received in response to that proposed rulemaking indicate that such a limitation could hamper the development of auxiliary solar and wind power units. Without finally determining that question in this rulemaking, it appears to the Commission that the burden of interconnected operation on both utilities and qualifying facilities can be minimized if standard tariffs are used.

Some utilities already have such tariffs in effect. For units of ten kilowatts or less, it is likely that few changes in the utility's distribution system would be required. For example, an electric utility might offer to permit certain customers to reverse their electric meters, thus permitting consumption by the customer. While the Commission will deal more extensively with the matter of a size limitation for qualifying facilities in its final rule in Docket No. RM79-54, the Commission solicits comment here on the merits of requiring utilities to promulgate tariffs for qualifying facilities of ten kilowatts of less.

Paragraph (c) concerns a problem arising in the implementation of the concept of avoided costs. At the time that a qualifying facility delivers electric energy to an electric utility, that utility can determine its system lambda and thus calculate the costs it can avoid by making the purchase. Subparagraph (1) therefore provides rates for purchases made on an "as available" basis may be based on the purchasing utility's avoided energy costs.

In order to establish certainity of future revenue, a qualifying facility might seek to obtain a contract from a utility providing that the utility will pay a certain price for energy from a qualifying facility, under specified terms and conditions. Indeed, a qualifying facility desiring to obtain capacity credit must provide the purchasing utility with assurance that such capacity will continue to be available.

In the case of future purchases pursuant to a legally enforceable obligation, the utility's avoided energy or capacity costs may be based on the costs of production facilities which are not built and for which the only available cost data are estimates. When the qualifying facility actually supplies electricy, the utility's avoided costs may deviate from these estimated figures. The Commission believes that these potential deviations are a normal result of risk allocation resulting from contractual commitments or other legal obligations, and believes that they must be permitted if the Commission is to fulfill its mandate to encourage cogeneration and small power production. Accordingly, subparagraph (2) provides that rates for such purchases may be based on future estimated utility costs of energy or capacity regardless of whether these estimated costs actually track the actual costs that are incurred.

Paragraph (d) sets forth factors on the basis of which the State regulatory authority or nonregulated utility should determine a utility's avoided costs. These principles relate both to the quality of power available from the qualifying facility and its ability to displace or replace energy and capacity on the utility's system.

Subparagraph (1) deals with the availability of capacity from a qualifying facility during system daily and seasonal peak periods. If a qualifying facility can provide energy to a utility during peak periods when the electric utility is running its most expensive generating units, this energy has a higher value to the utility than energy supplied during offpeak periods during which only units with lower running costs are operating. Ideally, the rates for purchases would reflect the cost in the purchasing utility's system at the precise moment when such energy is supplied. The metering equipment that would be required to ascertain these times of delivery with the requisite specificity may be either unavailable or prohibitively expensive. To the extent that such metering equipment is available, however, the State or nonregulated utility should take into account the time at which the purchase from a qualifying facility is made.

Clauses (i), (ii), (iii), (iv), and (v) deal with the reliability of a qualifying facility. When an electric utility provides power from its own generating units or from those of another electric utility, it normally controls the production of such power from a central location. The ability to so control power production enhances a utility's ability to respond to changes in demand and thereby enhances the value of that power to the utility. A qualifying facility may be able to enter into an arrangement with the utility which gives the utility the advantage of dispatching the facility.[9]

Clause (ii) refers to a qualifying facility's ability and willingness to provide power and energy during system emergencies. Section 292.109 of these proposed regulations concerns the provision of electric services during system emergencies. It provides that, to the extent that a qualifying facility is willing to forego its own use of energy during system emergencies and provide power to a utility's system, the rate for purchases from the qualifying facility should reflect the value of that service. Small power production and cogeneration facilities could provide significant back-up capability to electric systems during emergencies. One benefit of the encouragement of interconnected cogeneration and small power production may be to increase overall system reliability during such emergency conditions. Any such benefit should be reflected in the rate for purchases from such qualifying facilities.

Clause (iii) deals with periods during which a qualifying facility is unable to provide power. Electric utilities schedule maintenance outages for their own generating units at periods during which demand is low. If a qualifying facility can similarly schedule its maintenance outages during periods of low demand, or during periods in which a utility's capacity will be adequate to handle existing demand, it will enable the utility to avoid the necessity to provide redundant capacity. With regard to forced or unscheduled outages, addressed in clause (iv), it is clear that a utility cannot avoid the construction or purchase of capacity if it is likely that the qualifying facility which would replace such capacity may go out of service during the period when the utility needs its power to meet demand. Based on estimated and demonstrated reliability of the qualifying facility, the rate for purchases from a qualifying facility should be adjusted to reflect its forced and scheduled outage rate.

Subclause (v) refers to the lenght of time during which the qualifying facility has contractually or otherwise guaranteed that it will supply energy or capacity to the electric utility. A utility-owned generating unit normally will supply power for the life of the plant, or until it is replaced by more efficient capacity. In contrast, a cogeneration or small power production unit might cease to produce power as a result of changes in the industry or in the industrial processes utilized. Accordingly, the value of service from the qualifying facility to the electric utility will be affected by the degree to which the qualifying facility contractually insures that it will continue to provide power. In order to provide capacity value to an electric utility a qualifying facility need not necessarily agree to provide power for the life of the plant. A utility's generation expansion plans normally include temporary purchases of firm power from other utilities in years preceeding the addition of a major

[9] See comments of Hawaiian Electric Company, filed July 27, 1979, at 2.

generation unit. If a qualifying facility contracts to deliver power, for example, for a one year period, it may enable the purchasing utility to avoid entering into a bulk power purchase arrangement with another utility. The rate for such a purchase should thus be based on the price that such power is purchased, or can be expected to be purchased, based upon bona fide offers from another utility.

Subparagraph (2) concerns the relationship of energy or capacity from a qualifying facility to the purchasing electric utility's need for such energy or capacity. If an electric utility has sufficient capacity to meet its demands and is not planning to add any new capacity to its system, then the availability of capacity from qualifying facilities will not immediately enable the utility to avoid any capacity costs.[10] This is not to say that electric utilities with systems which have excess capacity need not make purchases from qualifying facilities; qualifying facilities may obtain payment for the avoided energy costs on a purchasing utility's system. Utility systems with excess capacity normally have intermediate or peaking units which use fossil fuel. As a result, during peak hours the energy costs on the systems are high, and thus the rate to a qualifying utility from which the electric utility purchases energy should similarly be high. In addition, an electric utility system with excess capacity may nevertheless plan to add new, more efficient capacity to its system. If purchases from qualifying facilities enable a utility to defer or avoid these new planned capacity additions the rate for such purchases should reflect the avoided costs of these additions.

Clause (i) of subparagraph (2) refers to the aggregate capability of capacity from qualifying facilities to displace existing or planned utility capacity. In some instances, the small amounts of capacity provided from qualifying facilities taken individually might not enable a purchasing utility to defer or avoid scheduled capacity additions or purchases. The aggregate capability of such purchases, may, however, be sufficient to permit the deferral or avoidance of a capacity addition. Moreover, while an individual qualifying facility may not provide the equivalent of firm power to the electric utility, the diversity of these facilities may collectively reflect the equivalent of firm power. The States and nonregulated utilities should attempt to devise rate mechanisms which will appropriately compensate qualifying facilities whose aggregate capacity enables the purchasing utility to defer or avoid capacity additions.

Clause (ii) refers to the fact that the lead time associated with the addition of capacity from qualifying facilities may be less than the lead time that would have been required if the purchasing utility had constructed its own generating unit. Such reduced lead time might produce savings in the utility's total power production cost.

Subparagraph (3) addresses the cost of savings resulting from line losses. In determining an appropriate rate for purchases from a qualifying facility the rate should reflect the cost savings actually accruing to the electric utility. If energy produced from a qualifying facility undergoes line losses such that the delivered power is not equivalent to the source of power it replaces, then the qualifying facility should be reimbursed only for the equivalent amount. If the load served by the qualifying facility is closer to the qualifying facility than it is to the utility, it is possible that there may be net savings resulting from reduced line losses. In such cases, the rates should be adjusted upwards.

Subparagraph (4) provides that an electric utility will not be required to purchase energy and capacity from qualifying facilities during periods in which such purchases might result in net increased operating costs to the electric utility. Identification of these periods will be made by the State regulatory authority which has jurisdiction over the utility or by the nonregulated electric utilities. Comments received in response to the Staff discussion paper noted that if, for example, during low load periods, a utility were operating a nuclear plant as its most expensive unit, and were forced to cut back output from such a unit in order to accommodate a purchase from a qualifying facility, the utility would experience increased costs in increasing the output from the nuclear facility when the system demand increases.[11]

Thus, because the avoided cost is zero or actually involves expense to the utility, requiring the utility to purchase energy from a qualifying facility during such a period would not be just and reasonable to the consumers of the electric utility, because it would result in increased costs to the system's rate payers. Under the proposed § 292.104(a) an electric utility would not be required to make energy purchases during such a period.

[10] Such availability may, however, permit the utility to advance the retirement of its least effective units.

[11] Comments of Commonwealth Edison Company, filed August 1, 1979 at 4.

Tax Issues

The Statement of the Committee of Conference states that

> • • • the examination of the level of rates which should apply to the purchase by the utility of the cogenerator's or the small power producer's power should not be burdened by the same examination as are utility rate applications to determine what is the just and reasonable rate that they should receive for their electric power.

We note that section 301(b)(2) of the Energy Tax Act of 1978 [12] made eligible for increased business investment tax credit certain property that may be used by small power producers or cogenerators. However, section 301(b)(2)(B) excludes from such eligibility property "which is public utility property (within the meaning of section 46(f)(5) of the Internal Revenue Code of 1954)." [13] As a result, if a qualifying facility were to be classified as a public utility under section 46(f)(5) of the Internal Revenue Code, it would not be eligible for the increased investment tax credit otherwise available.

The Commission notes that a recent change [14] in Treasury Department regulations amended the definition of the exclusion "public utility property" for purposes of eligibility for the investment tax credit so as to exclude [from the definition] property used in the business of the furnishing or sale of electric energy if the rates are not subject to regulation that fixes a rate of return on investment. Prior to the change, any rate regulation made property subject thereto (and involved in the furnishing or sale of energy) public utility property.

The Commission observes that the rates for purchases set forth in this rulemaking for purchases of energy from qualifying facilities are *not* based on a rate of return on investment. As a result, the Commission believes that property owned by qualifying facilities should not be classified as public utility property under section 46(f)(5) of the Internal Revenue Code of 1954. If such property is not classified as public utility property, the qualifying facility will be eligible to receive the additional investment tax credit set out in section 301(b) of the Energy Tax Act of 1978. The Commission wishes to express its opinion on this matter in an effort to further encourage cogeneration and small power production by means of this rulemaking process.

[12] Pub. L. No. 95-618, 26 U.S.C. §§ 46, 48, November 9, 1978.

[13] 21 U.S.C. § 48(e)(3)(b).

[14] Treasury Reg. § 1.46-3(g)(2), T.D. 7602 (March 23, 1979).

V 44 0 C 2 4 7 9 UMI

§ *292.106 Rates for sales.*

Section 210(c) of PURPA provides that the rules requiring utilities to sell electric energy to qualifying facilities shall ensure that the rates for such sales are just and reasonable, in the public interest, and nondiscriminatory against qualifying cogenerators or small power producers. As noted in the Staff discussion paper,[15] this section contemplates rates formulated on the basis of traditional ratemaking (*i.e.*, cost of service) concepts.

Paragraph (a) provides that rates for sales from electric utilities to qualifying facilities shall not be discriminatory against such facilities in comparison to rates to other customers served by the electric utility. Paragraph (a) also states that such rates shall be just and reasonable and in the public interest.

A qualifying facility is entitled to purchase back-up or standby power at a rate which reflects the probability that the qualifying facility will or will not contribute to the need for utility capacity and the use of utility capacity.[16] Thus, when the utility must reserve capacity to provide service to a qualifying facility, the costs associated with that reservation are properly recoverable from the qualifying facility if the utility would assess these costs to non-generating customers.[17]

Paragraph (b) provides that electric utilities must provide to qualifying facilities any services which would be provided by the electric utility to a retail customer who does not have his own generation.

Normally the determination of an appropriate rate to a class of customers is based on an examination of load data relating to such customers. At this time, however, even those utilities which have good load data regarding existing customer classes do not have load data regarding usage by qualifying cogeneration and small power production facilities. Until such data is collected, the Commission believes that rates for sales to qualifying facilities should be at least as favorable as those available to utility customers having comparable load characteristics or falling under similar load classifications.

Paragraph (c) sets forth certain types of service which electric utilities are required to provide to qualifying facilities even if such types of service are not provided to other customers. These types of service are: supplementary power, back-up power, interruptible power, and maintenance power. The Commission believes that this requirement is necessary to encourage small power production and cogeneration.

Supplementary power is power used by a facility in addition to that which it ordinarily generates on its own. Thus, a cogeneration facility with a capacity of ten megawatts might require five more megawatts from a utility on a continuing basis to meet its electric load of fifteen megawatts. The five megawatts supplied by the electric utility would normally be provided as supplementary power.

Back-up power is power available to replace power generated by a facility's own generation equipment. In the example provided above, a cogeneration facility might contract with an electric utility for the utility to have available ten megawatts, should the cogenerator's units experience an outage.

Interruptible power is power supplied by a utility on an "as available" basis. Because interruptible power normally is sold at a lower rate, a qualifying facility may wish to cease operations when utility power is interrupted rather than pay the higher rate necessary to assure firm supplementary supplies.

Maintenance power is supplied during scheduled outages. By prearrangement, a utility can agree to provide such power during periods when the utility's other loads are low, thereby avoiding the imposition of large demands on the utility during peak periods.

Paragraphs (d)(1) and (d)(2) provide that rates for sales of back-up or maintenance power shall not be based on the assumption that forced outages or other reductions in output by each qualifying facility on an electric utility's system will occur simultaneously or on the assumption that they will occur during the system peak. Like other customers, qualifying facilities have intraclass diversity. In addition, because of the variations in size and load requirements among various types of qualifying facilities, such facilities will have interclass diversity.

The effect of such diversity is that an electric utility supplying back-up or maintenance power to qualifying facilities will not have to plan for reserve capacity to serve such facilities on the assumption that every facility will use power at the same moment. The Commission believes that probabilistic analysis of their demand will show that a utility need not reserve capacity on a one-to-one basis to meet back-up requirements. Paragraphs (d)(1) and (d)(2) prohibit utilities from basing rates on the unsupported assumption that qualifying facilities will impose demands simultaneously and at system peak.

Paragraph (d)(3) provides that rates for sales from an electric utility to a qualifying facility shall take into account the extent to which a qualifying facility has coordinated periods of scheduled maintenance with an electric utility. If a qualifying facility coordinates periods of outage with an electric utility the demand that the qualifying facility imposes on the utility's system will not create capacity requirements to the same extent that such a demand would create if the utility were required to provide such service without prior notice.

§ *292.107 Simultaneous purchase and sale.*

Section 292.107 deals with the situation referred to in the Staff discussion paper in which a cogenerator or small power producer desires to sell all of its output to a utility and purchase all of its needs from the utility simultaneously. As observed in the Staff discussion paper, and efficient use of society's resources requires that when there is a need for additional capacity, and a utility's customer can construct a new plant more cheaply than the utility can, he should be encouraged to do so.[18] A qualifying facility may have previously used a portion of its electric output to supply its own power needs. That it chose to generate its own electric power, rather than purchase such power from an electric utility, indicates that there were sufficient economic incentives to so act. To permit such a facility to sell that portion of its electric output to the utility at the utility's avoided costs and replace that electricity from the electric utility at non-incremental (and presumably lower) rates would increase the purchased power costs of the pruchasing utility and thus would increase the rates charged to the utility's other customers. The Commission believes that it is not necessary to the encouragement of cogeneration and small power production that a qualifying facility be permitted to obtain avoided cost-based rates for this portion of its electric output. Accordingly, the Commission proposes that for energy generated by a new facility or by capacity installed after the date of issuance of these rules, a qualifying facility be permitted to sell its output at rates established under the section 210(b) of PURPA pricing mechanism while simultaneously purchasing electric energy from a utility pursuant to its retail rate schedules.

[15] Staff discussion paper, *supra*, at 14–20.

[16] Comments of ELCON (Electricity Consumer Resource Council), filed August 1, 1979, at 5.

[17] Comments of Consumers Power Company, filed August 1, 1979, at 3.

[18] Staff discussion paper, *supra* at 24–25.

§ *292.108 Costs of interconnection.*

Paragraph (a) defines "interconnection costs" as the reasonable costs of connection, switching, metering, transmission, safety provisions and other costs to an electric utility resulting from interconnected operation between an electric utility and a qualifying facility.

Paragraph (b) states that each qualifying facility must reimburse any electric utility which purchases capacity or energy from the qualifying facility for any interconnection costs. These costs are limited to the net increased costs imposed on an electric utility compared to those it would have incurred had it generated the energy itself or purchased an equivalent amount of energy or capacity from another source.

If, with the consent of a qualifying facility, an electric utility elects to transmit energy from the qualifying facility to another electric utility, the costs of transmission constitute interconnection costs as defined in this paragraph. Under paragraph (b), these costs must be borne by the qualifying facility unless the transmitting utility agrees to share them.

The cost responsibility of the qualifying facility was well summarized in comments by The Southern Company:

> We believe that the interconnection costs which should be addressed in the rules are those incremental costs that go beyond the cost to the system for connecting a normal (i.e., no generation) customer. These costs will include the additional relaying, switching, metering, line, and protective equipment—inclusive of equipment changeout cost—required in the general vicinity of the facility because of the customer's generation. Recognition must be given to the fact that protection goes beyond the protection of equipment and personnel of the qualifying facility and utility. The rules also must provide for the protection of other customers of the utility that may be affected by the operation of the qualifying facility.[19]

Thus, it is only the additional costs which result from interconnected operation for which the qualifying facility is responsible; if the utility would have provided retail service to the customer, those expenses may not be assessed against the qualifying facility merely because the facility is also supplying power and energy. If, however, as a result of the qualifying facility's export of power, the utility is required to install additional switching, safety or other equipment, the qualifying facility is responsible for those expenses.

Paragraph (c) provides that a qualifying facility must reimburse an electric utility which sells capacity or energy to the qualifying facility for interconnection costs resulting from such sale. Ordinarily, the service obligation of an electric utility will contain standard procedures for the allocation of interconnection costs between a retail customer and the electric utility. Paragraph (c) also provides that interconnection costs to qualifying facilities shall not be discriminatory in relation to the practices of the electric utility with regard to other retail customers.

§ *292.109 System emergencies.*

Paragraph (a) provides that, except as provided under section 202(c) of the Federal Power Act or pursuant to a contract or agreement between a qualifying facility and an electric utility, no qualifying facility shall be compelled to provide energy or capacity to the electric utility during an emergency beyond the extent provided by agreement between the qualifying facility and the utility.

Many comments from cogenerators and small power producers expressed concern that, during a system emergency, they might be required to make available all of their generation to the utility. Such a requirement might interrupt industrial processes with resulting damage to equipment and manufactured goods. Many industries install their own generating equipment in order to insure that even during a system emergency, their supply of power is not interrupted. To put in jeopardy the availability of power because of the facility's ability to provide power to the system during non-emergency periods would result in the discouragement of interconnected operation and a resultant discouragement of cogeneration and small power production. The Commission therefore proposes that the qualifying utility's obligation to provide power be established through contract.

In order to receive full credit for capacity, a qualifying facility must offer power during system emergencies to the same extent that it has agreed to provide power at the purchasing utility's discretion. For example, a 30 megawatt cogenerator may require 20 megawatts for its own industrial purposes, and thus may contract to provide 10 megawatts of capacity to the purchasing utility. During an emergency, the cogenerator must provide the 10 megawatts contracted for to the utility; it need not disrupt its industrial processes by supplying its full capability of 30 megawatts. Of course, if it should so desire, a cogenerator could contractually agree to supply the full 30 megawatts during system emergencies. The availability of such additional back-up capacity should increase utility system reliability, and should be accounted for in the utility's rates for purchases from the cogenerator.

Paragraph (b) provides that an electric utility may discontinue purchases from a qualifying facility during a system emergency if such a purchase would contribute to the emergency. In addition, during system emergencies, a qualifying facility must be treated on a non-discriminatory basis—i.e., on the same basis that other customers of a similar class with similar load characteristics are treated with regard to interruption in service.

§ *292.110 Standards for operating reliability.*

Section 210(a) of PURPA states that the rules requiring electric utilities to buy from and sell to qualifying facilities shall include provisions respecting minimum reliability of qualifying facilities (including reliability of such facilities during emergencies) and rules respecting reliability of electric energy service to be available to such facilities from electric utilities during emergencies. Staff's analysis presented in the discussion paper regarding reliability of a particular qualifying facility concluded that every incidence of qualifying facility reliability can be accounted for through price; namely, the less reliable a qualifying facility might be, the less it should be entitled to receive for purchases of its power by the utility. The majority of comments received regarding this issue endorsed the Staff's recommendation. Accordingly, the Commission proposes that there be no specific standard relating to the reliability in the sense of ability to provide power for qualifying facilities.

Many commentors have proposed that the Commission's rules ensure that interconnection with qualifying facilities does not disrupt system reliability. One commentor proposed that qualifying facilities must automatically disconnect from utility lines upon interruption or interference with utility service, or upon the flow of excessive current between the utility system and the non-utility generator.[20]

It is the Commission's understanding that safety equipment exists which can ensure that qualifying facilities do not energize utility lines during utility outages. This section accordingly provides that any qualifying facility may be subject to reasonable standards to ensure system safety and rellability in

[19] Comments of The Southern Company, filed July 30, 1979, at 5.

[20] Comments of Illinois Power Company, filed August 14, 1979.

V 44 OC 24 79 UMI

interconnected operations. Each State regulatory authority and nonregulated electric utility is permitted to establish standards for interconnected operation between electric utilities and qualifying facilities. These standards may be recommended by a utility or any other person. The standards must be accompanied by a statement showing the need for the standard on the basis of system safety and operating requirements.

Subpart C

Summary of This Subpart

Rules proposed in this subpart are intended to carry out the responsibility of the Commission to encourage cogeneration and small power production by clarifying to all parties concerned the nature of the obligation to implement the Commission's rules under section 210.

In the Commission's view, section 210(f) affords the State regulatory authorities and nonregulated electric utilities great latitude in determining the manner of implementation of the Commission's rules so long as the manner chosen is reasonably designed to implement the requirements of Subpart A. The Commission recognizes that many States and individual nonregulated electric utilities have ongoing programs to encourage small power production and cogeneration. The Commission also recognizes that economic and regulatory circumstances vary from State to State and utility to utility. It is within this broad latitude, and with the recognition of the work already begun and of the variety of local conditions that the Commission proposes to promulgate its regulations requiring implementation of rules issued under section 210.

Because of the Commission's desire not to create unnecessary burdens at the State level, these proposed rules provide a procedure whereby a State regulatory authority or nonregulated electric utility may apply for a waiver if it can demonstrate that compliance with certain requirements of Subpart A is not necessary to encourage congeneration or small power production and is not otherwise required under section 210.

Implementation

Section 210(f) of PURPA requires that within one year after the date that this Commission prescribes its rules under subsection (a), and within one year of the date any of these rules is revised, each State regulatory authority and each nonregulated electric utility, after notice and opportunity for hearing, must implement the rules or revisions thereof, as the case may be.

The obligation to implement section 210 rules is a continuing obligation which begins within one year after promulgation of such rules. The requirements to implement may be fulfilled either through (1) the enactment of laws or regulations at the State level, (2) by application on a case-by-case basis by the State regulatory authority, or nonregulated utility, of the rules adopted by the Commission, or (3) by any other action reasonably designed to implement the Commission's rules. In the first case, implementation would consist of the issuance of rules after notice, and an opportunity for a hearing. In the second case, the State regulatory authority or nonregulated utility would be required to hold hearings regarding its proposed procedure for operating on a case-by-case basis, within the one-year statutory period.

Review and Enforcement

Section 210(g) of PURPA provides one of the means of obtaining judicial review of a proceeding conducted by a State regulatory authority or nonregulated utility for purposes of implementing the Commission's rules under section 210. Under subsection (g), review may be obtained pursuant to procedures set forth in section 123 of PURPA. This section contains provisions with regard to judicial review and enforcement of determinations made by State regulatory authorities and nonregulated utilities under Subtitle A, B, or C of Title I in the appropriate State court. These provisions also apply to review of any action taken to implement the rules under section 210. This means that persons can bring actions in State court to require the State regulatory authorities or nonregulated utilities to implement these regulations. Section 123(c)(2) of PURPA restates the requirements of section 123(c)(1) as they apply to Federal agencies. This distinction between Federal agencies and non-Federal agencies also applies to review and enforcement of the implementation of the rules under section 210.

Finally, the Commission believes that review and enforcement of implementation under section 210 of PURPA, can consist not only of review and enforcement as to whether the State regulatory authority or nonregulated electric utility has conducted the initial implementation properly—namely put into effect regulations implementing section 210 rules or procedures for that implementation, after notice and an opportunity for a hearing. It can also consist of review and enforcement with regard to the application by a State regulatory authority or nonregulated electric utility, on a case-by-case basis, of its regulations or any other provision it may have adopted to implement the Commission's rules under section 210.

Section 210(h)(2)(A) of PURPA states that the Commission may enforce regulations under section 210(f). The Congress has provided not only for private causes of action in State courts to obtain judicial review and enforcement of the implementation of the Commission's rules under section 210, but has also given to the Commission that authority.

Section-by-Section Analysis

§ 292.301 Implementation by State regulatory authorities and nonregulated utilities.

Paragraph (a) of § 292.301 sets forth the obligation of each State regulatory authority to commence implementation of Subpart A within one year of the date these rules take effect. In complying with this paragraph the State regulatory authorities are required to provide for notice and opportunity for public hearing. As described in the summary of this part, such implementation may consist of the adoption of the Commission's rules, an undertaking to resolve disputes between qualifying facilities and electric utilities arising under Subpart A, or any other action reasonably designed to implement Subpart A.

This section does not cover one provision of Subpart A which is not required to implemented by the State regulatory authority or nonregulated electric utility. This provision is § 292.103, the implementation of which is subject to § 292.302, which will be discussed below.

Subsection (b) sets forth the obligation of each nonregulated electric utility to commence, after notice and opportunity for public hearing, implementation of Subpart A. The nonregulated electric utilities, being both the regulator and the utility subject to the regulation, may satisfy the obligation to commence implementation of Subpart A through issuance of regulations, an undertaking to comply with Subpart A, or any other action reasonably designed to implement that subpart. Paragraph (c) sets forth a reporting requirement under which each State regulatory authority and nonregulated electric utility is to file with the Commission not later than one year after these rules take effect, a report describing the manner in which it is proceeding to implement Subpart A.

§ 292.302 Implementation of reporting objectives.

The obligation to comply with § 292.103 is imposed directly on electric utilities. This is different from the rest of Subpart A where the obligation to act is imposed on the State regulatory authority or nonregulated electric utility in its role as regulator. The Commission is exercising its authority under section 133 of PURPA to require this reporting.

Any electric utility which fails to comply with the requirements of § 292.103(b) is subject to the same penalties as it might receive as a result of a failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA. As stated earlier in this preamble, the data required by § 292.103 will form the basis for the rates for purchases; § 292.103 is thus a critical element in the program this Commission is providing. The Commission believes that, with regard to utilities subject to section 133 of PURPA, the Commission may exercise its authority under section 133 to require the data required by § 292.102(b) on the basis that the Commission finds such information necessary to allow determination of the costs associated with providing electric services. With regard to utilities not subject to section 133, if they fail to provide the data called for in § 292.103(c), the Commission may compel its production under the Federal Power Act and other statutes which give the Commission authority to require reporting of this data.

§ 292.303 Waivers.

Paragraph (a) provides for a procedure by which any State regulatory authority or nonregulated electric utility may apply for a waiver from the application of any of the requirements of Subpart A other than § 292.103. This provision is included in recognition of the need for the Commission to afford flexibility to the States and nonregulated utilities to implement the Commission's rules under section 210.

Paragraph (b) provides that any electric utility subject to the requirements of § 292.103(c) may apply to the Commission for a waiver from the application of such requirements. This provision is included to afford to the Commission flexibility to enforce the obligations of § 292.103(c) so that it may consider the burden which may be placed on the utility by application of this section.

Subpart D—Exemption of Qualifying Small Power Production and Cogeneration Facilities From Certain Federal and State Laws and Regulations

§ 292.401 Exemptions for qualifying facilities from the Federal Power Act.

Section 210(e) of PURPA states that the Commission shall prescribe rules under which qualifying facilities are exempt in part from the Federal Power Act, from the Public Utility Holding Company Act of 1935, from State laws and regulations respecting the rates, or respecting the financial or organizational regulation, of electric utilities, or from any combination of the foregoing, if the Commission determines such exemption is necessary to encourage cogeneration and small power production. As noted in the Staff discussion paper, the Congress intended the Commission to make liberal use of its exemption authority in order to remove the disincentive of utility-type regulation. The Commission believes that broad exemption is appropriate.

Section 210(e)(2) of PURPA provides that the Commission is not authorized to exempt small power production facilities of 30 to 80 megawatt capacity from any of these laws. An exception is made for small power production facilities using biomass. Such facilities between 30 and 80 megawatts may be exempted from the Public Utility Holding Company Act of 1935 and from State regulations but may not be exempted from the Federal Power Act.

Paragraph (a) sets forth those facilities eligible for exemption. Paragraph (b) provides that facilities described in paragraph (a) shall be exempted from all but certain specified sections of the Federal Power Act.

Section 210(e)(3)(C) of PURPA provides that no qualifying facility may be exempted from any license or permit requirement under Part I of the Federal Power Act. Accordingly, the Commission proposes not to exempt qualifying facilities from Part I of the Federal Power Act. The Commission recently issued simplified procedures for obtaining water power licenses for hydroelectric projects of 1.5 megawatts or less, and has issued proposed regulations to expedite licensing of existing facilities.[21]

As noted in the discussion paper, cogenerators and small power production facilities could be the subject of an order under section 202(c) of the Federal Power Act requiring them to provide energy if the Economic Regulatory Administration determines that an emergency situation exists. Because application of this section is limited to emergency situations and is not affected by the fact that a facility attains qualifying status or engages in interchanges with an electric utility, the Commission proposes that qualifying facilities not be exempted from section 202(c) of the Act.

Sections 203, 204, 205, 206, 208, 301, 302 and 304 of the Act reflect traditional rate regulation or regulation of securities of public utilities. The Commission proposes that qualifying facilities be exempted from these sections of the Federal Power Act.

Section 305(c) of the Act imposes certain reporting requirements on interlocking directorates. The Commission proposes that any person who otherwise is requred to file a report regarding interlocking positions not be exempted from such requirement because he or she is also a director or officer of a qualifying facility.

Finally, the enforcement provisions of Part III will continue to apply with respect to the sections of the Federal Power Act from which qualifying facilities are not exempt.

§ 292.402 Exemptions for qualifying facilities from the Public Utility Holding Company Act and Certain State Laws and Regulations.

Under section 210(e) of PURPA the Commission can exempt qualifying facilities from regulation under the Public Utility Holding Company Act of 1935 and State laws and regulations concerning rates or financial organizations. Only cogeneration facilities and small power production facilities of 30 megawatts or less may be exempted from both of these laws, with the exception that any qualifying small power production facility (i.e., up to 80 megawatts) using biomass as a primary energy source can be exempted from these laws.

The Staff discussion paper recommended that, where a qualifying facility is subjected to more stringent regulation than other companies solely by reason of the fact that it is engaged in the production of electric energy, these more stringent requirements should be eased through exemption of qualifying facilities. By excluding any qualifying facility from the definition of an "electric utility company" under section 79 (b)(3) of the Public Utility Holding Company Act of 1935, such facilities would be removed from Public Utility Holding Company Act regulation which is applied exclusively to electric utility companies. Moreover, by excluding

[21] *See* Order No. 11, Simplified Procedures for Certain Water Power Licenses, Docket No. RM79-9, issued September 5, 1978, and Application for License for Major Project—Existing Dam, Docket No. RM79-36, 44 F.R. 24095 (April 21, 1979).

V 4 4 0 C 2 4 7 9 UMI

qualifying facilities from this definition, parent companies of qualifying facilities would not be subject to additional regulation as a result of electric activities of their subsidiaries. The Commission therefore believes that in order to encourage cogeneration and small power production it is necessary to exempt cogenerators and small power producers from the provisions of the Public Utility Holding Company Act of 1935.

Accordingly, paragraph (b) states that no qualifying facility shall be considered to be an "electric utility company", as defined in section 79 (b)(3) of the Public Utility Holding Company Act of 1935.

Section 210(e) of PURPA states that qualifying facilities which may be exempted from the Public Utility Holding Company Act may also be exempted from State laws and regulations respecting the rates or respecting the financial or organization regulation of electric utilities. The Staff discussion paper sets forth two approaches to be taken to exemption from State law. One would be to analyze the laws of each State and apply the exemptions citing specific sections of State law and regulations. The second approach discussed would be to make a broad proscription from State laws and regulations which would conflict with the State's implementation of the Commission's rules under section 210.

All of the comments received recommended the broader approach. The Commission believes that such broad exemption is necessary to encourage cogeneration or small power production. Accordingly, subparagraph (c)(1) provides that any qualifying facility shall be exempt from State laws and regulations respecting rates for sales of electric energy to electric utilities, and from financial and organizational regulation of electric utilities.

Subparagraph (c)(2) provides that, upon request of a State regulatory authority a nonregulated electric utility, the Commission may limit the applicability of the broad exemption from the State laws. This provision is intended to add flexibility to the exemption.

The Commission perceives that there may be instances in which a qualifying facility would wish to have an interpretation of whether or not it is subject to a particular State law in order to remove any uncertainty. Under subparagraph (c)(2), the Commission may determine whether a qualifying facility is exempt from a particular State law or regulation.

Written Comments and Public Hearings

Interested persons are invited to submit written comments on the proposed regulation to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments should reference Docket No. RM 79–55 on the outside of the envelope and on all documents submitted to the Commission. In order that the Commission be able to take into account as many comments as possible, the Commission requests that persons submitting comments assist in three ways. First, persons should identify specfically the section or subpart they are addressing. Second, comments should clearly state whether they involve technical, policy or legal matters. Finally, where comments urge a different approach from one presented, specific alternative language should be proposed to the extent practicable.

In addition, the preliminary Environmental Assessment prepared by Commission Staff regarding the Commission's proposed rules implementing sections 201 and 210 of PURPA is available in the Commission's Office of Public Information. As stated in the Request for Further Comment on Proposed Rulemaking Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration issued today, the Commission is seeking comments on specific issues relating to the preliminary Environmental Assessment.

The Commission has also received many comments in response to the Staff discussion paper and the notice of proposed rulemaking in Docket No. RM79–54. All comments filed in response to those documents are being made part of the record and will be considered in the determination of the final rule in this proceeding.

Fifteen (15) copies should be submitted. All comments and related information received by the Commission by December 1, 1979, will be considered prior to the promulgation of final regulations.

In addition, the Commission will conduct public hearings in several cities at which interested persons will have the opportunity to present their views. Places, dates and times will be announced shortly.

(Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267)

In consideration of the foregoing, it is proposed to amend Chapter I of Title 18, Code of Federal Regulations, as set forth below.

By direction of the Commission.

Kenneth F. Plumb,
Secretary.

(1) Subchapter K is amended in the table of contents by deleting the title for Part 292 and substituting the following in lieu thereof:

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978.

(2) Subchapter K is further amended in the table of contents to Part 292 and in the text of the regulations by changing the title to Part 292 and by adding new Subparts A, C, and D to read as follows:

PART 292—REGULATION OF SMALL POWER PRODUCTION AND COGENERATION FACILITIES UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978

Subpart A—Rates for Sales Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities

Sec.

292.101 Scope.
292.102 Definitions.
292.103 Availability of Electric Utility System Cost Data.
292.104 Electric Utility Obligations Under This Subpart.
292.105 Rates for Purchases.
292.106 Rates for Sales.
292.107 Simultaneous Purchase and Sale.
292.108 Costs of Interconnection.
292.109 System Emergencies.
292.110 Standards for Operating Reliability.

* * * * *

Subpart C—Implementation

292.301 Implementation by State Regulatory Authorities and Nonregulated Electric Utilities.
292.302 Implementation of Reporting Objectives.
292.303 Waiver.

Subpart D—Exemption of Qualifying Small Power Production Facilities and Cogeneration Facilities From Certain Federal and State Laws and Regulations

292.401 Exemptions for Qualifying Facilities from the Federal Power Act.
292.402 Exemptions for Qualifying Facilities from the Public Utility Holding Company Act and Certain State Laws and Regulations.

Authority: This part issued under the Public Utility Regulatory Policies Act of 1978, Pub. L. 95–617, Energy Supply and Environmental Coordination Act, 15 U.S.C. 791 *et seq.*, Federal Power Act, as amended, 16 U.S.C. 792 *et seq.*, Department of Energy Organization Act, Pub. L. 95–91, E.O. 12009, 42 FR 46267.

Subpart A—Arrangements Between Electric Utilities and Qualifying Cogeneration and Small Power Production Facilities Under Section 210 of the Public Utility Regulatory Policies Act of 1978

§ 292.101 Scope.

(a) *Applicability.* This subpart applies to the regulation of sales and purchases of electric energy and capacity between qualifying cogeneration and small power production facilities and electric utilities.

(b) *Negotiated rates or terms.* Nothing in this subpart—

(1) Limits the authority of any electric utility or any qualifying facility to agree to a rate for purchases or sales, or terms or conditions relating to such sales, which differ from the rate or terms which would otherwise be required by this subpart, or

(2) Affects the validity of any contract entered into between a qualifying facility and an electric utility.

§ 292.102 Definitions.

(a) *General rule.* Terms defined in the Public Utility Regulatory Policies Act of 1978 (PURPA) shall have the same meaning for purposes of this part as they have under PURPA, unless further defined in this part.

(b) *Definitions:* For purposes of this part:

(1) "Qualifying facility" means a cogeneration facility or a small power production facility which is a qualifying facility under § 292.208 of the Commission's regulations;

(2) "Purchase" means the purchase of electric energy or capacity from a qualifying facility by an electric utility;

(3) "Sale" means the sale of electric energy or capacity by an electric utility to a qualifying facility;

(4) "System emergency" means a condition on a utility's system which is likely to result in disruption of service to a significant number of customers or is likely to endanger life or property;

(5) "Rate" means any price, rate, charge, or classification made, demanded, observed or received with respect to the sale or purchase of electric energy or capacity, or any rule, regulation, or practice respecting any such rate, charge, or classification, and any contract pertaining to the sale or purchase of electric energy or capacity.

(6) "Avoided costs" means the costs to the electric utility of electric energy or capacity or both which, but for the purchase from such cogenerator or small power producer, such utility would generate itself or purchase from another source.

§ 292.103 Availability of electric utility system cost data.

(a) *Applicability.* (1) Except as provided in subparagraph (2), paragraph (b) applies to each electric utility, in any calendar year, if the total sales of electric energy by such utility for purposes other than resale exceeded 500 million kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding calendar year.

(2) Each utility having total sales of electric energy for purposes other than resale of less than one billion kilowatt-hours during any calendar year beginning after December 31, 1975, and before the immediately preceding year, shall not be subject to the provisions of this section until June 30, 1982.

(b) *General Rule.* Not later than June 30, 1980, and every two years thereafter, each regulated electric utility to which this section applies shall provide to its State regulatory authority, and shall maintain for public inspection, and each nonregulated electric utility to which this section applies shall maintain for public inspection, the following data:

(1) The estimated avoided cost of energy on the electric utility's system for various levels of purchases from qualifying facilities. Such levels of purchases shall be stated in blocks of one hundred megawatts or less for systems with peak demand of 1000 megawatts or more, and in blocks equivalent to not more than ten percent of the system peak demand, for systems of less than 1000 megawatts. The avoided costs shall be stated on a cents per kilowatt-hour basis, during daily and seasonal peak and off-peak periods, by year, for the immediately preceding year, and on an estimated cents per kilowatt-hour basis for the current calendar year and each of the next 5 years;

(2) The electric utility's plan and schedule for the addition of capacity, for purchases of firm energy and capacity, and for capacity retirements for each of the next 10 years; and

(3) The estimated costs at completion, on the basis of dollars per kilowatt, of the planned capacity additions and planned firm purchases. These costs should be expressed in terms of individual generating units and by planned firm purchases.

(c) *Special Rule.* Each electric utility (other than any electric utility to which paragraph (b) applies) shall, upon request of a qualifying facility, provide sufficient data to enable such qualifying facility to determine the electric utility's avoided costs for any period described in paragraph (b). If any such electric utility fails to provide such information or request, the qualifying facility may apply to the Commission for an order requiring that the information be provided.

§ 292.104 Electric utility obligations under this subpart.

(a) *Obligation to Purchase from Qualifying Facilities.* Except during periods identified in § 292.105(e), each electric utility shall purchase in accordance with § 292.105 any capacity or energy which is made available either directly from the qualifying facility or which is transmitted to such utility from the qualifying facility through the facilities of another electric utility.

(b) *Obligation to Sell to Qualifying Facilities.* Each electric utility shall sell to any qualifying facility energy and capacity requested by such qualifying facility in accordance with § 292.106.

(c) *Obligation to Interconnect.* Any electric utility shall make all interconnections with any qualifying facility as may be necessary to accomplish purchases or sales under this subpart. The obligations for the cost of any such interconnection shall be determined in accordance with § 292.108.

(d) *Transmission of Purchases to Other Electric Utilities.* If a qualifying facility agrees, an electric utility which would otherwise be obligated to purchase capacity or energy from such qualifying facility may transmit the energy to any other electric utility. Any electric utility to which such energy is transmitted shall purchase such energy under this subpart as if such qualifying facility were supplying energy and capacity directly to such electric utility. The cost of transmission shall be assigned to the qualifying facility pursuant to § 292.108 of these rules. The rate for purchase by the electric utility to which such energy is transmitted shall be adjusted to reflect line losses pursuant to § 292.105(d)(3).

(e) *Parallel Operation.* Each electric utility shall offer to operate in parallel with a qualifying facility, provided that the qualifying facility complies with any relevant standards established pursuant to § 292.110.

§ 292.105 Rates for purchases.

(a) *Rates for Purchases.* Rates for purchases of energy and capacity from any qualifying facility:

(1) Shall be just and reasonable to the electric consumer of the electric utility and in the public interest;

V 44 O C 24 79 UMI

(2) Shall not discriminate against qualifying cogeneration and small power production facilities; and

(3) Shall not exceed the avoided costs of such a purchase. There is a rebuttable presumption that the rate for purchases meets the requirements of this paragraph if the rate reflects the avoided costs resulting from such purchase as determined on the basis of the cost of energy and capacity set forth pursuant to § 292.103(b) or (c).

(b) *Tariffs for Purchases From Facilities of Ten Kilowatts or Less.* Each electric utility, upon request of a qualifying facility, shall establish a tariff or other method for setting forth standard rates for purchases from qualifying facilities with a design capacity of 10 kilowatts or less.

(c) *Purchases "As Available" or Pursuant to a Legally Enforceable Obligation.* A qualifying facility shall have the option either to provide energy or capacity to an electric utility—

(1) As the qualifying facility determines such energy or capacity to be available for such purchases, in which case the rates for such purchases may be based on the purchasing utility's avoided energy costs, or

(2) Pursuant to a legally enforceable obligation for the delivery of energy or capacity at a future date, in which case the rates for purchases may be based on estimates of future avoided costs of energy or capacity.

(d) *Factors Affecting Rates For Purchases.* In implementing the provisions of this subpart, a State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or nonregulated electric utility shall consider with regard to rates for purchases the following factors:

(1) The availability of capacity from a qualifying facility during system daily and seasonal peak periods, including—

(i) The ability of the utility to dispatch the qualifying facility;

(ii) The qualifying facility's ability and willingness to provide energy or capacity during system emergencies;

(iii) The length, frequency, and scheduling flexibility of scheduled maintenance by the qualifying facility;

(iv) The expected or demonstrated reliability of the qualifying facility; and

(v) The length of any contract term between the electric utility and the qualifying facility and its termination notice requirements or the length of any legally enforceable obligation to provide energy or capacity undertaken by the qualifying facility;

(2) The relationship of energy or capacity from a qualifying facility to an electric utility's capacity and energy needs as expressed in § 292.103, including:

(i) The ability of the electric utility to reduce or avoid costs, including the deferral of capacity additions, as a result of the availability individually or in the aggregate from qualifying facilities; and

(ii) The smaller capacity increments and the shorter lead times available with additions of capacity from qualifying facilities; and

(3) The costs or savings resulting from variations in line losses from those that would have existed in the absence of purchases from a qualifying facility, if the purchasing electric utility generated or purchased an equivalent amount of electric energy.

(e) *Periods During Which Purchases Not Required.* An electric utility will not be required to purchase electric energy and capacity during any period identified by the State regulatory authority having jurisdiction over the rates of such utility, or the nonregulated electric utility, during which purchases from qualifying facilities might result in costs greater than those which the utility would incur if it did not make such purchases, but instead generated or purchased an equivalent amount of electric energy.

§ 292.106 Rates for sales.

(a) *General Rules.* (1) Rates for sales shall not discriminate against any qualifying facility in comparison to rates for sales to other customers served by the electric utility. Rates for sales shall be just and reasonable and in the public interest.

(b) Each electric utility shall provide electric energy and capacity and other services to any qualifying facility, at a rate at least as favorable as would be provided to a customer who does not have his own generation. The costs of interconnection shall be assigned pursuant to § 292.108 of this part.

(c) *Additional Services to be Provided by Qualifying Facilities.* Each electric utility shall provide to any qualifying facility the following types of service, even if such types of service are not provided to other retail customers:

(1) Supplementary power;

(2) Back-up power;

(3) Interruptible power; and

(4) Maintenance power.

(d) *Rates for Sales of Back-Up and Maintenance Power.* The rate for sales of back-up power or maintenance power—

(1) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously;

(2) Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities will occur during the system peak; and

(3) Shall take into account the extent to which a qualifying facility has coordinated periods of scheduled maintenance with such electric utility.

§ 292.107 Simultaneous purchase and sale.

A qualifying facility shall be permitted to receive rates established pursuant to § 292.105(a) for the electric energy and capacity generated by the facility, while simultaneously buying energy and capacity from such utility for use in the facility at rates established in accordance with § 292.106(a), to the extent that such purchases are produced by capacity the construction of which was commenced after the date of issuance of this part.

§ 292.108 Costs of interconnection.

(a) *Definition.* For purposes of this subpart, "interconnection costs" means the costs of connection, switching, metering, transmission, safety provisions and other costs incurred by the utility reasonably resulting from interconnected operation between an electric utility and a qualifying facility.

(b) *Reimbursement for Interconnection Costs for Purchases.* Each qualifying facility must reimburse any electric utility which purchases capacity or energy from such qualifying facility for any interconnection costs. These costs are limited to those costs which the purchasing utility would incur if it did not make such purchases but instead generated an equivalent amount of electric energy itself or purchased an equivalent amount of electric energy from other sources.

(c) *Reimbursement for Interconnection Costs for Sales.* Each qualifying facility must reimburse any electric utility which sells capacity or energy to such qualifying facility for any interconnection costs. The apportionment of interconnection costs between such qualifying facility and electric utility under this paragraph shall not discriminate against any qualifying facility in comparison to any other customers served by the electric utility.

§ 292.109 System emergencies.

(a) *Qualifying facility obligation to provide power during system emergencies.* A qualifying facility shall be required to provide energy or capacity to an electric utility during a system emergency only to the extent provided by agreement between such qualifying facility and electric utility or to the extent ordered under section 202(c) of the Federal Power Act.

(b) *Discontinuance of Purchases and Sales During System Emergencies.* During any system emergency, an electric utility may discontinue—

(1) Purchases from a qualifying facility if such purchases would contribute to such emergency; and

(2) Sales to a qualifying facility, provided that such discontinuance is on a nondiscriminatory basis.

§ 292.110 Standards for operating reliability.

Any qualifying facility may be subject to reasonable standards to ensure system safety and reliability in interconnected operations. Such standards may be recommended by any electric utility, or by any other person. Each State regulatory authority (with respect to any electric utility over which it has ratemaking authority) or any nonregulated electric utility may establish such standards as it determines necessary to carry out the purposes of this section. Such standards must be accompanied by a statement setting forth the need for such standards on the basis of system safety and reliability requirements.

* * * * *

Subpart C—Implementation

§ 292.301 Implementation by State regulatory authorities and nonregulated electric utilities.

(a) *State Regulatory Authorities.* Not later than one year after these rules take effect, each State regulatory authority shall, after notice and an opportunity for public hearing, commence implementation of Subpart A (other than § 292.103 thereof). Such implementation may consist of the issuance of regulations; an undertaking to resolve disputes between qualifying facilities and electric utilities arising under Subpart A, or any other action reasonably designed to implement such subpart (other than § 292.103 thereof).

(b) *Nonregulated Electric Utilities.* Not later than one year after these rules take effect, each nonregulated electric utility shall, after notice and an opportunity for public hearing, commence implementation of Subpart A (other than § 292.103 thereof). Such implementation may consist of the issuance of regulations, an undertaking to comply with Subpart A, or any other action reasonably designed to implement such subpart (other than § 292.103 thereof).

(c) *Reporting Requirement.* Not later than one year after these rules take effect, each State regulatory authority and nonregulated electric utility shall file with the Commission a report describing the manner in which it will implement Subpart A (other than § 292.103 thereof).

§ 292.302 Implementation of reporting objectives.

Any electric utility which fails to comply with the requirements of § 292.103(b) shall be subject to the same penalties to which it may be subjected for failure to comply with the requirements of the Commission's regulations issued under section 133 of PURPA.

§ 292.303 Waivers.

(a) *State regulatory authority and non-regulated utility waivers.* Any State regulatory authority or non-regulated electric utility may apply for a waiver from the application of any of the requirements of Subpart A (other than § 292.103 thereof).

(b) *Electric utility waiver.* Any electric utility may apply for a waiver from the application of any of the requirements of § 292.103(c).

(c) *Commission action.* The Commission will grant such a waiver only if an applicant under paragraph (a) or (b) demonstrates that compliance with the requirements of Subpart A or § 292.103, as the case may be, is not necessary to encourage cogeneration and small power production and is not otherwise required under section 210 of PURPA.

Subpart D—Exemption of Qualifying Small Power Production Facilities and Cogeneration Facilities From Certain Federal and State Laws and Regulations

§ 292.401 Exemptions for qualifying facilities from the Federal Power Act.

(a) *Applicability.* This section applies to:

(1) Qualifying cogeneration facilities, and

(2) Qualifying small power production facilities which have a power production capacity which does not exceed 30 megawatts.

(b) *General Rule.* Any qualifying facility described in paragraph (a) shall be exempt from all sections of the Federal Power Act, except—

(1) Sections 1–30;

(2) Section 202(c);

(3) Section 305(c); and

(4) Any necessary enforcement provisions of Part III with regard to the sections listed in (1), (2) and (3).

§ 292.402 Exemptions for qualifying facilities from the Public Utility Holding Company Act and certain State laws and regulations.

(a) *Applicability.* This section applies to any qualifying facility described in § 292.401(a), and to any qualifying small power production facility with a power production capacity over 30 megawatts if such facility produces electric energy solely by the use of biomass as a primary energy source.

(b) *Exemption from the Public Utility Holding Company Act of 1935.* Any qualifying facility described in paragraph (a) shall not be considered to be an "electric utility company" as defined in section 79(b)(3) of the Public Utility Holding Company Act of 1935.

(c) *Exemption from Certain State Laws and Regulations.*

(1) Any qualifying facility shall be exempted from State laws and regulations respecting:

(i) The rates for sales of electric energy by qualifying cogeneration and small power production facilities to electric utilities; and

(ii) The financial and organizational regulation of electric utilities.

(2) Upon request of a State regulatory authority or nonregulated electric utility, the Commission may consider any limitation of the application of subparagraph (1).

(3) Upon request of any person, the Commission may determine whether a qualifying facility is exempt from a particular State law or regulation.

[FR Doc. 79-32819 Filed 10-23-79; 8:45 am]
BILLING CODE 6450-01-M

18 CFR Part 292

[Docket No. RM79-54]

Small Power Production and Cogeneration—Qualifying Status; Request for Further Comments on Proposed Rulemaking

October 19, 1979.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Request for Further Comments on Proposed Rulemaking.

SUMMARY: The proposed rules set forth the procedure under which small power production facilities and cogeneration facilities may be certified as qualifying facilities pursuant to section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA). The rules are being renoticed so that the Commission may elicit comment on the preliminary Environmental Assessment of the combined environmental effects of these rules and its companion rulemaking.

V 44 O C 24 79 UMI

RM79–55, which implements section 210 of PURPA. The Commission also seeks comment on the interrelationship between these two rulemakings.

Public Hearings: Provision for oral comment on these issues will be made at the public hearings which will be held on the Notice of Proposed Rulemaking in RM79–55. Dates and locations will be announced.

DATE: Written comments by December 1, 1979.

ADDRESS: All responses to reference Docket No. RM79–54, and to be addressed to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Adam Wenner, Executive Assistant to the Associate General Counsel, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8171.

SUPPLEMENTARY INFORMATION:

The Commission is renoticing the proposed rulemaking[1] which establishes rules under which small power production facilities and cogeneration facilities may be certified as qualifying facilities under section 201 of the Public Utility Regulatory Policies Act of 1978 (PURPA). Contemporaneously, the Commission is issuing the Notice of Proposed Rulemaking Regarding the Implementation of Section 210 of the Public Utility Regulatory Policies Act of 1978, in Docket No. RM79–55.

Section 210 Requires the Commission to prescribe rules which the Commission determines necessary to encourage small power production and cogeneration, including rules regarding rates and exemptions for qualifying small power production and cogeneration facilities.

Background

The purpose of renoticing Docket No. RM79–54 at this time is twofold. First, the Commission wishes to provide interested persons the opportunity to comment on its findings with respect to the environmental impacts of the two proposed rules. Second, the Commission seeks comments on the interrelationship between the proposed rules issued pursuant to sections 201 and 210 of PURPA.

The implementation of section 201 as provided in Docket No. RM79–54 is one element in a two-part program to encourage small power production and cogeneration. That rulemaking sets forth procedures under which certain facilities could become eligible to receive the incentives which were to be provided in the second part of the program. Docket No. RM79–55 implements this second element.

In the Staff discussion paper regarding issues arising under section 210, issued as part of Docket No. RM79–55 for comment on June 26, 1979, the Commission staff set forth the opinion that any environmental effects attributable to the encouragement of cogeneration or small power production under sections 201 and 210 of PURPA would arise from the combined effect of the two rules. The Commission staff has prepared a preliminary Environmental Assessment (EA) describing the environmental effects of the two proposed rules.

Summary of Preliminary Environmental Assessment

Briefly, the preliminary EA concludes that with regard to most of the technologies affected, the impact of the proposed rules will not significantly affect the quality of the human environment. The EA notes that at certain levels of usage and under specified conditions, the encouragement of certain technologies provided by these rules may produce isolated instances of adverse environmental effects. With regard to the use of all technologies encouraged by the Commission's rules, their increased use will result in less need for utility generation of electric energy and utility construction of new plants than would otherwise be necessary. These reductions should result in decreased emissions associated with the production of electric energy at central station utility plants, and the removal of environmental effects associated with new utility plant construction. In addition, the use of certain technologies will cause beneficial environmental effects, such as reduced temperatures of emissions.

The preliminary EA concludes that, except with regard to biomass, centralized solar energy systems (thermal and photovoltaic), and diesel cogeneration, the issuance of the rules implementing sections 201 and 210 of PURPA will not constitute a major Federal action significantly affecting the quality of the human environment. The effects of these regulations on biomass, centralized solar energy systems, and diesel cogeneration technologies may significantly affect the human environment and thus may require the preparation of an Environmental Impact Statement (EIS).

Cogeneration

The preliminary Environmental Assessment notes that, by using fuel more efficiently, cogeneration systems use less fuel and produce less emissions than would be produced if the electric energy and thermal energy were produced separately. The more efficient use of energy will cause some reduction in utility emissions, as a result of reductions in demand for utility-supplied energy and capacity. In addition, by reducing the temperature of gaseous and water wastes, cogeneration can decrease adverse effects associated with the discharge of heat. Therefore, the preliminary EA concludes that, with the exception noted below, the impact of the Commission's rules on cogeneration will not produce significant environmental effects.

Diesel Cogeneration

In the analysis of the use of diesel cogeneration in institutional, residential or commercial systems, the preliminary EA noted that in high-density urban areas, the use of a large number of clustered sources could create significant environmental impacts. The Assessment notes that the price of diesel fuel may inhibit the growth of this technology. It concludes that the Commission's rules *may* cause significant environmental effects with regard to this technology, but that further study is necessary.

Small Power Production—Solar Energy Systems

The preliminary EA concludes that, except for the case of centralized solar energy systems, the impact of the Commission's rules on solar energy systems in general will not cause significant adverse environmental effects. However, the preliminary EA states that the issuance of these rules may provide incentives for small power production facilities utilizing centralized systems of solar energy. The majority of centralized systems will, due to generating capacity (greater than 80 MW), fall outside the purview of these rulemakings.

The preliminary EA finds that the proposed rulemakings could result in the use of centralized solar energy systems (thermal and electrical) in the upper ranges of generating capacity addressed by these rules. The preliminary EA recognizes that the possible impacts on land use, climate, soil, and ecosystems *may* be significant. Additional quantitative data are required to assess the severity of these impacts. The preliminary EA recommends further study on the effect of these rules on this technology.

Biomass

The issuance of these rules provides incentives for small power production facilities utilizing biomass as a fuel source. The preliminary EA concludes that the possible adverse impacts to land use, soil, ecosystems and water resulting from the encouragement of biomass technology may be significant. The EA recommends additional study concerning the impact of these rules on the growth of biomass technology.

Wind Energy Conversion Systems

With regard to Wind Energy Conversion Systems (WECS), the preliminary EA determined that interference with electromagnetic radiation, hazards from blade throw, and danger of bird collision may occur. The level of these effects is not considered to comprise a significant adverse environmental effect.

Geothermal Technology

The preliminary EA finds that geothermal technology may affect air and water quality. These impacts should not, however, be significant.

Small Hydro

The preliminary EA notes that qualification of hydroelectric facilities is limited to facilities at existing dams, or those facilities not requiring an impoundment. It points out that instances of significant environmental impact from facilities added at existing dams are rare. It further observes that almost all such facilities are subject to Commission licensing and that the Commission's licensing procedures will assure case-by-case review of any adverse effects associated with the construction or operation of these hydroelectric projects. The preliminary EA concludes that any adverse environmental effects of these rules with respect to hyroelectric facilities will not be significant.

Waste

The preliminary EA discusses the environmental effects of municipal, agricultural and industrial waste. The use of waste emissions. However, the use of wastes will reduce landfill requirements and municipal incinerator and recycling loads. Based on these positive environmental effects, the preliminary EA finds that the impact of the Commission's rules on these technologies will not significantly affect the environment.

Reduction of Utility Production of Energy and Construction of Capacity

By obtaining electric energy from cogeneration and small power production, utilities can reduce the burning of fuel and the construction of plants than would otherwise be required. These reductions will cause decreases in the adverse environmental effects associated with these activities. The preliminary EA thus concludes that in this respect the Commission's rules will have positive environmental effects.

Commission Findings

On the basis of the current record, the Commission has determined that, with certain exceptions, the proposed rules under sections 201 and 210 of PURPA will not constitute a major Federal action significantly affecting the quality of the human environment. The Commission recognizes that the existing record (including the preliminary Environmental Assessment) shows that the impact of the proposed rules on the use of biomass, centralized solar energy systems, and diesel cogeneration *may* significantly affect the environment.

The foregoing is not intended to indicate a final judgment that the proposed PURPA rules as applied to those technologies *will* significantly affect the environment. Rather, the Commission adopts the view that the proposed rules, if promulgated without modification, potentially could have significant effects as described in the preliminary Environmental Assessment.

The Commission invites public comment on (a) the finding that, except as specifically noted above, the proposed rules will not be a major Federal action significantly affecting the quality of the human environment; (b) the finding that under the conditions noted above there *may* be significant effects from the proposed rules; and (c) the possibility that any potentially significant adverse effects could be sufficiently mitigated or eliminated by modifying the proposed qualifying rules to reflect one or more of the alternatives discussed below.

Alternatives

The Commission believes that certain substantive or procedural modifications to the proposed rules might mitigate any potential adverse effects associated with the three technologies identified above. These modifications include:

(1) Setting a high minimum size cutoff for potentially environmentally harmful technologies;

(2) Setting restrictions on qualifying status for facilities using certain high emission fuels or failing to meet certain FERC established emission control criteria or standards;

(3) Case-by-case review of the environmental impact of each qualifying facility;

(4) Limiting qualifying status to certain locations where environmental conditions are not too severe or limiting the density of such facilities in any given area;

(5) Limiting qualifying status to certain areas where the Federal, State, or local agency has expressly applicable environmental permitting requirements, emission standards, or other control measures or otherwise consents to these facilities being qualified, either by rule or on a case-by-case basis;

(6) Altering or reducing the types or extent of benefits available under section 210 to the qualifying facilities; and

(7) Provision for mandatory periodic review and reassessment by the Commission of the environmental impact of the PURPA rules and of the significance of that impact—present and projected—and, if warranted, the suspension, restriction, or prospective denial of further qualifications by the Commission.

The Commission seeks public comment on the possible modifications of the proposed rules described above or any other approach which may be helpful in resolving any environmental questions relating to this program. In addition, the Commission seeks comment on the conclusions reached in the preliminary EA concerning the environmental impacts of the various technologies affected by the Commission's rules.[2]

Continuation of Environmental Assessment

In addition to solicitation of public comment, the Commission has instructed the Staff to undertake further efforts to quantify the potential extent of risk to the environment from the proposed rules. Additional data will be collected and additional analysis will be performed in keeping with the concerns identified in the preliminary EA. At the end of this process a final Environmental Assessment will be issued.

On the basis of the complete record, the Commission will then make its final determination as to whether its proposed rules will be a major Federal action significantly affecting the quality of the human environment. If the

[1] Proposed Rulemaking Establishing Requirements and Procedures for a Determination of Qualifying Status for Small Power Production and Cogeneration Facilities, Docket No. RM79–54, issued June 27, 1979 (44 F.R. 38873, July 3, 1979).

[2] The Environmental Assessment is available at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, N.E., Washington, D.C.

V 4 4 0 C 2 4 7 9 UMI

Commission finds that the rules will have no significant effect, than the Commission will proceed forward with these rulemakings in the usual fashion. If the Commission finds that, in some respects, the proposed rules are likely to have significant adverse environmental effects, it may take any of the following actions: (1) promulgate the proposed rules as final insofar as they pose no significant threat to the environment, but withhold promulgation of any part of the rules which would encourage the use of biomass, centralized solar energy systems, a diesel cogeneration, pending preparation of an EIS; (2) promulgate the proposed rules with such modifications as the Commission determines are necessary to assure that the final rules will not significantly affect the environment; or (3) withhold issuance of the final rules pending preparation of an environmental impact statement covering the entire scope of the proposed rules.

Comment Procedure

Any interested person may submit data, views and comments concerning these issues. Such comments should be addressed to the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should not be submitted later than December 1, 1979. An original and 14 conformed copies should be filed with the Commission, and should reference Docket No. RM79–55. Comments should indicate the name, title, mailing address, and telephone number of a person to whom communications concerning the proposal may be addressed. Written comments shall be placed in the Commission's public files and will be available for public inspection at the Commission's Office of Public Information, Room 1000, 825 North Capital Street, N.E., Washington, D.C., during regular business hours.

Comments received in response to the initial Notice of Proposed Rulemaking are part of the record in this proceeding and will be considered in the determination of the final rule.

In addition, the Commission will conduct public hearings in connection with the Notice of Proposed Rulemaking in Docket No. RM79–55 at which persons desiring to present views on these issues will have an opportunity to do so. The dates and location of these hearings will be announced in the near future.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32763 Filed 10–23–79; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 570

[N–79–730]

Community Development Block Grants; Transmittal of Interim Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of interim rule to Congress under Section 7(o) of the Deaprtment of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the Federal Register. This Notice lists and summarizes for public information an interim rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street S.W., Washington, D.C. 20410 (202) 755–6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing and Urban Affairs Committee and the House Banking, Finance and Urban Affairs Committee the following rulemaking document:

24 CFR PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

This interim rule would amend 24 CFR Part 570 to clarify § 570.910—Corrective and Remedial Actions, § 570.911—Reduction or Withdrawal of Grant, and § 570.913—Other Remedies. Clarifications are needed in order to enhance effective enforcement action by the Federal government under the regulations.

(Section 7(o) of the Department of HUD Act, 41 U.S.C. 3535(o); Section 324 of the Housing and Community Development Amendments of 1978)

Issued at Washington, D.C. October 19, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79–32742 Filed 10–23–79; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 233

San Carlos Indian Irrigation Project, Arizona; Proposed Power Rate Schedules

October 15, 1979.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Proposed rules.

SUMMARY: The Bureau of Indian Affairs proposes to revise three power rate schedules for the San Carlos Indian Irrigation Project, Arizona. A study by the Project indicates that a rate adjustment is necessary in order to assure sound management and operation of the power system. Power rates will be increased approximately 24 percent if the proposed rates are adopted. A provision is being proposed to cover rate adjustments due to purchased power cost changes. A change in language is proposed to clarify the requirements of facility construction financed by consumer.

DATES: Written comments from the public or other interested parties must be received on or before November 23, 1979.

ADDRESS: Send comments to: Phoenix Area Office, Bureau of Indian Affairs, P.O. Box 7007, Phoenix, Arizona 85011.

FOR FURTHER INFORMATION CONTACT: James L. McCabe, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone 602–723–5439.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of rulemaking authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8. A study performed by the San Carlos Indian Irrigation Project indicates that a rate adjustment is necessary in order to assure sound management and operation of the power system in accordance with policies of the Bureau of Indian Affairs. Approximately twenty-four (24) percent additional revenue is needed to offset expenses attributable to (1) increased cost of power purchased from the Project's power suppliers, (2) rapidly increasing cost of material, labor and equipment,

(3) development of a preventive maintenance program for safety purposes, and (4) proposed increase of the reserve fund established for making emergency repairs and/or replacements, and for other purposes to insure continuous operation of the power system.

The present method of increasing power rates involves the rulemaking process which is somewhat time consuming. Whenever one of the Project's power suppliers implements a rate increase, the Project must immediately review and analyze the effect of this action and, if necessary, initiate procedures through the Federal Register to increase its power rates accordingly. The time delays associated with the rulemaking process have in the past prevented the Project from adjusting its power rates in a timely manner, thus causing economic instability in the operation of the power system. A provision [§ 233.54) has been added which provides for the Area Director of the Phoenix Area Office, Bureau of Indian Affairs, to automatically adjust Project power rates through unilateral action in order to avoid delays associated with the rulemaking process. Rate adjustments due to increased costs of material, labor and equipment, and for other purposes in connection with the management and operation of the power system will continue to be implemented through the rulemaking process. Finally, the wording of § 233.7 has been revised. The change in wording clarifies the language concerned with payment for construction of installations and extensions financed by customers.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14. Principal author of this document is Ralph Esquerra, San Carlos Irrigation Project, P.O. Box 456, Coolidge, Arizona 85228, telephone 602–723–5439.

It is proposed to amend Part 233, Subchapter U, Chapter I of Title 25 of the Code of Federal Regulations by revising §§ 233.7, 233.51, 233.52 (b), (c), (d) and (g), 233.53 and by adding a new § 233.54, Rate adjustments due to purchased power cost changes.

PART 233—SAN CARLOS INDIAN IRRIGATION PROJECT

Sec.

* * * * *

233.54 Rate adjustments due to purchased power cost changes.

* * * * *

§ 233.7 Installation or extension financed by consumer.

If funds are not otherwise available for an installation or extension, or if an extension to a prospective consumer will require new construction beyond the distances specified in Section 233.6, the consumer or prospective consumer may, after executing an appropriate contract satisfactory to the Project Engineer, construct the needed installation or extension, or arrange to pay the Project to construct the needed installation or extension. Payment for construction by the Project shall be advanced prior to commendment of construction. Installations or extensions to be constructed by the consumer or prospective consumer shall be constructed in accordance with suitable plans and specifications approved by the Project Engineer. All installations or extensions when constructed shall be and remain the property of the United States.

§ 233.51 Rate Schedule No. 1—Residential rate.

(a) *Application of schedule.* This schedule is applicable to single-phase or three-phase service for residences and small, non-commercial users. Unless specifically permitted by the contract, use must be limited to the consumer's own premises and power supplied must not be resold. If more than one meter is required by the customer's installation or for the customer's convenience, bills will be independently calculated for each meter.

(b) *Monthly rate.* (1) $8.00, minimum which includes the first 50 kilowatt-hours;

(2) 8.0 cents per kilowatt-hour for the next 100 kilowatt-hours;

(3) 5.1 cents per kilowatt-hour for the next 350 kilowatt-hours;

(4) 4.4 cents per kilowatt-hour for all additional kilowatt-hours.

(c) *Minimum bill.* The minimum bill shall be $8.00 per month except when a higher minimum bill is stipulated in the contract.

(d) *Purchased power adjustment.* An adjustment shall be added to each kWh used equal to the estimated average pruchased power adjustment (rounded to the nearest $0.0001) paid by the Project to Project's power suppliers.

§ 233.52 Rate Schedule No. 2—General rate.

* * * * *

(b) *Monthly rate.* (1) $8.00 minimum which includes the first 50 kilowatt-hours;

(2) 9.6 cents per kilowatt-hour for the next 350 kilowatt-hours;

(3) 5.7 cents per kilowatt-hour for the next 600 kilowatt-hours;

(4) 3.1 cents per kilowatt-hour for the next 9,000 kilowatt-hours;

(5) When use is 10,000 kilowatt-hours or more: First 10,000 kilowatt-hours $354.80.

(6) Additional kilowatt-hours at 3.1 cents per kilowatt-hour, less a credit of .6 cents per kilowatt-hour for each kilowatt-hour above 200 times the billing demand (50 KW minimum).

(c) *Minimum bill.* The minimum bill shall be $1.75 per month per kilowatt of billing demand, except where the customer's requirements are of a distinctly recurring seasonal nature. Then the minimum monthly bill shall not be more than an amount sufficient to make the total charges for the twelve (12) months ending with current month, equal to twelve times the highest monthly minimum computed for the same twelve month period. However, no monthly billing shall be less than $8.00.

(d) *Contract demand.* Each contract for 15 KW or over shall state the number of kilowatts which the customer expects to require and desires to have reserved for his service. This quantity is called the contract demand.

* * * * *

(g) *Purchase power adjustment.* An adjustment shall be added for each kWh used equal to the estimated average purchased power adjustment (rounded to the nearest $0.0001) paid by the Project to the Project's power suppliers.

§ 233.53 Rate Schedule No. 3—Street and area lighting.

(a) *Application of schedule.* This rate schedule applies to service for yard lighting, lighting streets, alleys, thoroughfares, parks, schoolyards, industrial areas, parking lots, and similar areas where such dusk-to-dawn service is desired. The Project will own and operate lighting systems and provide normal lamp replacements.

(b) *Monthly rate.* (1) Lamps:

	Each		
	1	2 to 5	5 or more
200 W or less, incandescent (2,800 lm or less)	5.30	5.20	5.20
175 W mercury vapor (aproximately 6,500 lm)	8.50	7.60	6.80
250 W mercury vapor (approximately 10,000 lm)	10.30	9.40	8.50
400 W mercury vapor (approximately 18,000 lm)	13.70	12.00	10.30

The minimum term of a service contract will be 12 months, payable in advance. The advance payment may be waived in special cases by the Project Engineer. Installation charges, the cost of wood poles or special steel, aluminum, or

V 44 O C 24 79 UMI

other supports, special fixtures, and the cost of underground service will be charged as determined by the Project Engineer.

§ 233.54 Rate adjustments due to purchased power cost changes.

The rate schedules given in §§ 233.51, 233.52 and 233.53 shall be adjusted as necessary and appropriate to defray increases in costs of power and energy purchased from the power supplier(s) of the Project. Rate adjustments pursuant to this provision shall become effective upon unilateral action of the Area Director; however when a rate adjustment is determined to be necessary, the Area Director shall give sufficient notice to customers and other interested parties.

Rick Lavis,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 79-32781 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-02-M

VETERANS ADMINISTRATION

38 CFR Part 3

Veterans' Benefits; Definition of Child

AGENCY: Veterans Administration.

ACTION: Proposed Regulation Amendment.

SUMMARY: The Veterans Administration proposes to amend its regulation defining the term "child". This action is needed to implement one of the provisions of a new law called the Veterans' Health Care Amendments of 1979. This provision sets forth standards for recognition of a person adopted under foreign law as a child of a veteran.

DATES: Comments must be received on or before November 23, 1979. We propose to make this amendment effective June 13, 1979, the date of enactment of the new law designated as Pub. L. 96-22 (93 Stat. 47).

ADDRESSES: Send written comments to: Administrator of Veterans Affairs, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. Comments will be available for inspection at the address shown above during normal business hours until December 3, 1979.

FUR FURTHER INFORMATION CONTACT: T. H. Spindle (202-389-3005).

SUPPLEMENTARY INFORMATION: Pub. L. 96-22 requires that in order for Veterans Administration benefits to be paid to or on behalf of a child residing outside the United States, based on the adoption of such child by a veteran under the laws of a foreign country, that the adoptive child be under age 18 at the time of the adoption; be receiving one-half or more of such child's annual support from the veteran; be residing with the veteran, except in certain specified circumstances; and not be residing with the child's natural parent, unless the natural parent is the veteran's spouse; and that, after the veteran's death, such an adoption would be recognized for Veterans Administration benefits purposes only if the veteran was entitled to and did receive a dependent's allowance or similar benefit for the child at any time during the year before the veteran's death, or if the above requirements were met for a least 1 year prior to the veteran's death.

The Veterans Administration does not consider this to be a significant proposal since only a small segment of the veteran population is affected and no severe compliance burdens or costs are imposed.

Additional Comment Information

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans' Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until December 3, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: October 18, 1979.

By direction of the Administrator:

Rufus H. Wilson,

Deputy Administrator.

1. In § 3.57, the introductory portion of paragraph (c) preceding subparagraph (1) is revised and paragraph (e) is added so that the added and revised material reads as follows:

§ 3.57 Child.

* * * * *

(c) *Adopted child.* Except as provided in paragraph (e) of this section, the term means a child adopted pursuant to a final decree of adoption, a child adopted pursuant to an unrescinded interlocutory decree of adoption while remaining in the custody of the adopting parent (or parents) during the interlocutory period, and a child who has been placed for adoption under an agreement entered into by the adopting parent (or parents) with any agency authorized under law to so act, unless and until such agreement is terminated, while the child remains in the custody of the adopting parent (or parents) during the period of placement for adoption under such agreement. The term includes, as of the date of death of a veteran, such a child who

* * * * *

(e) *Child adopted under foreign law*—(1) *General.* The provisions of this paragraph are applicable to a person adopted under the laws of any jurisdiction other than a State. The term "State" is defined in 38 U.S.C. 101(20) and also includes the Commonwealth of the Northern Mariana Islands. The term "veteran" includes, for the purposes of this paragraph, a Commonwealth Army veteran or new Philippine Scout as defined in 38 U.S.C. 1766.

(2) *Adopted child of living veteran.* A person residing outside any of the States shall not be considered to be a legally adopted child of a veteran during the lifetime of the veteran unless all of the following conditions are met.

(i) The person was less than 18 years of age at the time of adoption.

(ii) The person is receiving one-half or more of the person's support from the veteran.

(iii) The person is not in the custody of the person's natural parent unless the natural parent is the veteran's spouse.

(iv) The person is residing with the veteran (or in the case of divorce following adoption, with the divorced spouse who is also a natural or adoptive parent) except for periods during which the person is residing apart from the veteran for purposes of full-time attendance at an educational institution or during which the person or the veteran is confined in a hospital, nursing home, other health-care facility, or other institution.

(3) *Adopted child of deceased veteran.* A person shall not be considered to have been a legally adopted child of a veteran as of the date of the veteran's death and thereafter unless one of the following conditions is met.

(i) The veteran was entitled to and was receiving a dependent's allowance or similar monetary benefit payable under title 38, United States Code at any time within the 1-year period immediately preceding the veteran's death; or

(ii) The person met the requirements of paragraph (e)(2) of this section for a period of at least 1 year prior to the veteran's death.

(4) *Verification.* In the case of an adopted child of a living veteran, the requirements of paragraph (e)(2)(ii), (iii) and (iv) of this section are for prospective application. That is, in addition to meeting all of the requirements of paragraph (e)(2) of this section at the time of initial adjudication, benefits are not payable thereafter for or to a child adopted under the laws of any jurisdiction other than a State unless the requirements of paragraph (e)(2)(ii), (iii) and (iv) of this section continue to be met. Consequently, whenever Veterans Administration benefits are payable to or for a child adopted under the laws of any jurisdiction other than a State, and the veteran who adopted the child is living, the beneficiary shall submit, upon Veterans Administration request, a report, or other evidence, to determine if the requirements of paragraph (e)(2)(ii), (iii), and (iv) of this section were met for any period for which payment was made for or to the child and whether such requirements will continue to be met for future entitlement periods. Failure to submit the requested report or evidence within a reasonable time from date of request may result in termination of benefits payable for or to the child.

(38 U.S.C. 101(4), 210(c))

[FR Doc. 79-32823 Filed 10-23-79; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL 1337-1]

Approval and Promulgation of Implementation Plans; Kansas

Correction

In FR Doc. 79-31561 appearing at page 58921 in the issue for Friday, October 12, 1979, in the **"SUMMARY"** paragraph, the last sentence should be corrected to read: "The period for submittal of comments will extend for 30 days after publication of the proposed rulemaking." the reference to "November 13, 1979" should be deleted.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 205 and 300

[Docket No. FEMA-PP-300]

Disaster Preparedness Assistance—Reorganization and Revision of Regulations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This document presents for general comment a proposed reorganization and revision of Subpart G, Disaster Preparedness Assistance, of the Federal Disaster Assistance Regulations, 44 CFR Part 205. The reorganization is intended to make the regulations easier to use, clarify existing requirements, and incorporate provisions which reflect new developments and changes in FEMA policy. It also transfers the regulations from Subchapter D to Subchapter E of Title 44, Appropriate response to public comments on this proposed rule will be incorporated in the final rule.

DATE: Comments should be submitted on or before December 24, 1979.

ADDRESS: Rules Docket Clerk, Office of General Counsel Federal Emergy Management Agency, Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: Donald J. Carbone, Preparedness Development Division, Plans and Preparedness, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 634-7845.

SUPPLEMENTAL INFORMATION: The notice issued in the **Federal Register** on May 2, 1979, establishing CFR Title and Chapter for FEMA regulations (Title 44, Federal Emergency Management and Assistance; Chapter I, Federal Emergency Management Agency, with Subchapters A-E), indicated that Disaster Assistance would be Subchapter D, Parts 200-299 and that Preparedness would be Subchapter E, Parts 300-399.

FEMA has published a Notice of Transfer and Redesignation effective September 28, 1979, that transferred the Federal Disaster Assistance regulations from 24 CFR Part 2205 to 44 CFR Part 205. Subpart G of those regulations concerns Disaster Preparedness Assistance.

The following proposed Part 300—Disaster Preparedness Assistance, of 44 CFR Chapter I, Subchapter E—Preparedness, is a revised and edited version of the current Subpart G—Disaster Preparedness Assistance, and reflects program responsibilities as assigned within the Federal Emergency Management Agency. With completion of the State disaster preparedness development grant program, portions of the current regulations are no longer applicable and have therefore been deleted. The changes include no new policies or procedures not already in effect, but do reflect new program emphases. The new subpart provides more detailed guidance on improvement grants.

Interested parties and government agencies are encouraged to submit written comments, suggestions, data, or arguments regarding this rulemaking to the Rules Docket Clerk, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472. All submissions received on or before December 24, 1979, will be evaluated. All comments will be available for inspection at the Office of the Rules Docket Clerk. FEMA will evaluate all such comments and experiences to date and will then prepare a Final Rule for publication in the **Federal Register.**

A Finding of Inapplicability of section 102(2)(c) of the National Environmental Policy Act of 1969 had been made for the Federal Disaster Assistance Regulations, including those on Disaster Preparedness Assistance, in accordance with "Procedures for Protection and Enhancement of Environmental Quality." Nothing in the revision of the Disaster Preparedness Assistance regulations would alter that finding. Interested parties may obtain and inspect copies of this Finding of Inapplicability at the Office of the Rules Docket Clerk of the Federal Emergency Management Agency in Washington, D.C. 20472.

Accordingly, it is proposed to delete 44 CFR Part 205, Subpart G, "Disaster Preparedness Assistance," §§ 205.75 to 205.79 and add a new Part 300 to Subchapter E of Chapter I of Title 44 as follows.

PART 205—FEDERAL DISASTER ASSISTANCE (PUBLIC LAW 93-288)

§§ 205.75-205.79 (Subpart G)—[Deleted]

SUBCHAPTER E—PREPAREDNESS

PART 300—DISASTER PREPAREDNESS ASSISTANCE

Sec.

300.1 General.
300.2 Definitions.
300.3 Federal Disaster Preparedness Program.
300.4 Technical assistance.
300.5 Financial assistance.

Authority: Sec. 201, Disaster Relief Act of 1974, as amended, Pub. L. 93-288; Reorganization Plan No. 3 of 1978 (43 FR 41943); and Executive Order 12148 (44 FR 43239).

§ 300.1 General.

(a) The purpose of this part is to prescribe the standards and procedures to be followed in implementing Pub. L. 93-288 Title II—Disaster Preparedness Assistance, section 201, Federal and State Disaster Preparedness Programs.

(b) The disaster preparedness program shall be carried out in accordance with the policies set forth in § 205.3 of this chapter and the following objectives:

(1) To prepare for the efficient and expeditious provision of disaster relief.

(2) To mitigate potential disaster effects on persons and property through warning, evacuation, and emergency protective measures.

(3) To reduce the effects of hazards through effective land use and construction practices, appropriate legislation and enforcement, dissemination of disaster-related information, and elimination or lessening of disaster-producing events.

§ 300.2 Definitions.

As used in this part:

(a) "The Act" means the Disaster Relief Act of 1974, as amended (Pub. L. 93-288).

(b) "Disaster preparedness plans" means those plans prepared by Federal, State, and local governments in advance of anticipated disasters for the purpose of assuring effective management and delivery of aid to disaster victims, and providing for disaster mitigation, warning, rehabilitation, and recovery.

(c) "State disaster preparedness coordinator" means the person designated by the Governor or by State law as responsible for overall disaster preparedness program coordination or management.

(d) "Vulnerable analysis" means a systematic investigation of potential disasters in terms of probability, frequency, magnitude, and location, in order to forecast their probable effects, in specific geographical areas, on the people, systems, facilities, resources, and institutions.

§ 300.3 Federal disaster preparedness program.

(a) The Director is authorized to establish a program of disaster preparedness that utilizes the services of all appropriate agencies and to provide overall management of that program by:

(1) Providing policy guidance to Federal agencies and conducting program reviews of Federal activities relating to disaster preparedness.

(2) Directing the preparation and review of Federal disaster preparedness plans.

(3) Determining goals and arranging for training of Federal and State personnel, and conducting exercises, critiques, and evaluations to enhance disaster preparedness programs.

(4) Sponsoring and monitoring disaster-related research and the application of science and technology to Federal, State, and local disaster preparedness plans and programs.

(5) Encouraging participation in disaster mitigation and recovery programs by Federal agencies, State and local governments, the practicing professions, research and academic institutions, voluntary agencies, the business community, civic and other organizations, and individuals.

(b) The Director has delegated this authority to the Director, Office of Plans and Preparedness primarily, to the Regional Directors with certain limitations, and to other officers of the Agency regarding specific program elements appropriate to their responsibilities.

(c) The Regional Director shall establish a regional program of disaster preparedness that is consistent with the overall national program and with the State programs within the region and shall manage that regional program by:

(1) Reviewing Federal agency, State, and local disaster preparedness and response activities and recommending improvements.

(2) Assisting the States in accordance with the Act and these regulations.

(3) Coordinating the disaster preparedness programs of Federal agencies within the region.

(4) Preparing plans and conducting training, exercises, critiques, and evaluations to enhance Federal agencies preparedness for disaster assistance; arranging for and carrying out such activities in conjunction with the States to ensure coordinated Federal, State, and local response to disasters.

§ 300.4 Technical assistance.

(a) The Regional Director shall, upon request, provide technical assistance to the States, in accordance with the objectives specified in § 300.1(b) of these regulations, for comprehensive plans and practicable programs for preparation against disasters, including hazard reduction, avoidance, and mitigation and for assistance to individuals, businesses, and State and local governments following such disasters.

(b) Particular emphasis shall be given to technical assistance in the following aspects of disaster preparedness:

(1) The drafting of disaster-related State legislation and executive authorities.

(2) Vulnerability analyses.

(3) Work plans and other documentation for disaster preparedness grants.

(4) State and local disaster preparedness programs and procedures.

(5) Staff training, workshops, and seminars.

(6) Disaster assistance exercises.

(7) Program evaluation.

(8) Public information and education programs.

(9) Application of technological information to the disaster preparedness program.

(c) The Regional Director shall also advise the States regarding complementary Federal programs that will enhance State and local disaster assistance and preparedness.

(d) Requests for technical assistance under section 201(b) of the Act shall be made by the Governor or the State disaster preparedness coordinator to the Regional Director.

(1) The request for technical assistance shall indicate as specifically as possible the objectives, nature, and duration of the requested assistance; the recipient agency or organization within the State; the State official responsible for utilizing such assistance; the manner in which such assistance is to be utilized; and any other information needed for a full understanding of the need for such requested assistance.

(2) The State shall provide assurance that technical assistance does not duplicate any State capability, any State or local effort funded by the Federal Government, or any Federal assistance provided under other authority.

(e) Nothing in this part shall be construed to prevent the States from obtaining appropriate technical assistance from other sources, including other Federal agencies under such agencies' own statutory or delegated authorities.

§ 300.5 Financial assistance.

(a) Each State (as defined in the Act) except the Canal Zone requested and received an initial development grant of up to $250,000 for the development of plans, programs, and capabilities for disaster preparedness and prevention. All of these grants have been completed.

(b) The Regional Director may provide to the States, in accordance with the objectives specified in § 300.1(b) of these regulations, upon written request by the Governor or an authorized representative, an annual improvement grant of up to $25,000 but not to exceed 50 percent of eligible costs. The nonfederal share may exceed the Federal share.

(c) "Annual" improvement grant means that the State may receive no more than $25,000 in actual reimbursements during any continuous 12-month period.

(1) Each grant, even though received annually, is a new grant, subject to all the requirements of a new grant. It is not a renewal of or an amendment to that of the preceding year.

(2) An improvement grant normally will have a one-year duration to be succeeded by a new grant without a break in time, in the interest of program and management continuity. A one-year length is not a requirement, however; nor is continuous funding. There can be a hiatus between grant periods, grants may be for more or less than a year, or grants can overlap, if the State can justify these procedures.

(d) The required nonfederal share for the improvement grant may be in cash or in kind.

(1) State or local revenue-sharing funds may be used for the nonfederal share, as may, within certain limits, funds of Federal-State Regional Commissions; these are exceptions to the prohibition against matching Federal funds with Federal funds. Any nonfederal funds may also be use for this share.

(2) The nonfederal share may be wholly or partially in kind. Forms of in-kind contribution may include, for example, salaries and expenses of State or local personnel, rentals, pro-rata cost of facilities and equipment, and services, provided these costs are not claimed for reimbursement and are not charged as indirect costs to the grant.

(3) Federal funds match the total State expenditure (up to the allowable maximum), not item-by-item costs. Reimbursements are made only for actual eligible expenditures, not for obligations incurred by the State.

(e) The following minimum requirements shall apply to each improvement grant, to the extent considered by the Regional Director as necessary to the State's disaster preparedness capability.

(1) The State shall maintain a current State emergency plan for implementation as required by Section 301(b) of the Act.

(2) The State shall take into account the kinds of disasters to which it is most vulnerable and the particular requirements therefrom for disaster response and mitigation.

(3) State guidance and assistance shall be provided to local jurisdictions in the development of their disaster preparedness plans, programs, and capabilities.

(4) The State emergency plan shall incorporate appropriate policies and procedures pertaining to environmental clearance to assure State and local compliance with applicable Federal, State, and local laws and regulations.

(f) The improvement grant may apply to such preparedness programs and capabilities as:

(1) Planning for disaster response in general, for specific disaster contingencies in special locales, for local and area mutual emergency support under State sponsorship, for long-range recovery, and for disaster mitigation and hazard reduction.

(2) Revision, as necessary, of State legislation, implementating orders, regulations, and other authorities and assignments relevant to disaster preparedness and assistance.

(3) Disaster-related mutual aid compacts and agreements.

(4) Conduct of vulnerability analyses not otherwise available but necessary for the development of State and local disaster preparedness plans and programs.

(5) Design of disaster-related emergency systems.

(6) Training and excercises.

(7) Program reviews and postdisaster critiques.

(8) Public information and education programs.

(g) The improvement grant shall be product-oriented; that is, it must produce something measurable in some way so as to determine specific results, to substantiate compliance with the grant work-plan objectives, and to evidence contribution to the State's disaster capability.

(h) The Regional Director shall approve all costs claimed for reimbursement on the basis of their reasonableness and necessity for the efficient administration of the grant program; however—

(1) Federal funds provided to the State, or through the State to local government, under the provisions of section 201 of the Act may not be used to procure or repair equipment, materials, or facilities except that required for administration of the grant;

(2) Out-of-State travel may not be charged to the grant without prior approval of the Regional Director; and

(3) Travel and other costs for participation in conferences, training and similar activities, whether or not provided for in the grant work plan, shall be eligible only if clearly beneficial to the grant program.

(i) All grants under section 201 of the Act are subject to the appropriate provisions of OMB Circular No. A-95 Revised, Evaluation, review and coordination of Federal and federally assisted programs and projects (January 2, 1976); GSA Federal Management Circular No. 74-4, Cost principles applicable to grants and contracts with State and local governments (issued July 18, 1974); and OMB Circular No. A-102 Revised, Uniform administrative requirements for grants-in-aid to State and local governments (August 24, 1977). In accordance with these requirements the following provisions shall also apply:

(1) Applications for improvement grants shall be processed through the State clearinghouse in compliance with Circular No. A-95 Revised before submittal to the Regional Director.

(2) The submitted application shall include, in an original and two copies:

(i) Standard Form 424, Application for Federal Assistance, indicating the amount requested and the nonfederal share, the grant starting date and duration, certification of A-95 clearance, and the designated agency to carry out or manage the improvement effort. This agency should be the one most appropriate for the work to be accomplished and need not be that designated previously for the development grant.

(ii) A budget estimate; the Budget Information form in Circular A-102 Revised, Attachment M, should be used.

(iii) A work plan setting forth those elements of the comprehensive and detailed program that are to be improved under this grant and any additional or subordinate plans or other products or activities to be developed for specific contingencies or disaster functions in accordance with the State's disaster preparedness program. Even though the grant is to cover only one year, the work plan may, to indicate continuity of intended effort, cover a multi-year period, especially if the work to be performed in that year is part of a longer-range project.

(iv) Assurances of compliance with applicable laws and regulations. Inclusion of a standard "assurances" sheet available from the Regional Director or adapted from A-102 Revised, Attachment M, is sufficient.

(v) Any pertinent comments received and provided by the State clearinghouse in the A-95 procedure.

(3) The Regional Director has been delegated full authority, within these regulations and other policy and procedural instructions as the Director,

V 44 O C 24 7 9 UMI

Federal Emergency Management Agency or the Director, Office of Plans and Preparedness may from time to time provide, to approve or reject improvement grant applications and to award or amend the grants. Unless otherwise extended, this delegation shall expire September 30, 1980, after which the authority shall be vested in the Director, Office of Plans and Preparedness.

(i) Upon approval, the Regional Director shall complete Section III of SF 424 and provide copies to the State for the designated agency, the State clearinghouse, and (if different) the State Central Information Reception Agency (SCIRA).

(ii) In approving a grant, the Regional Director may attach special conditions, if deemed necessary, to ensure compliance with the grant requirements. It shall be standard practice for the Regional Director to review these with the concerned State officials in advance of approval. Formal acceptance of these conditions is provided in the "assurances" sheet submitted as part of the application package.

(4) A grant application may be amended at any time prior to the scheduled completion of work under the grant if warranted on the basis of new requirements, changes in Federal or State statutes or other legal authorities, or other sufficient reason, provided such proposed modifications are mutually agreed upon by the Governor or an authorized representative and by the Regional Director. The addition of new work projects may require further A-95 clearance.

(5) At the request of the State through Standard Form 270, the Regional Director may approve an advance of funds not to exceed the Federal share of the first 90 days' estimated operational expenses.

(6) The State shall provide quarterly performance reports to the Regional Director. Reporting shall be by program quarter unless otherwise agreed to by the Regional Director.

(7) To the extent feasible, the State shall submit at least two copies of each grant product to the Regional Director. The Regional Director's acceptance of a grant product as fulfilling the terms of the grant should not be construed as approval of or concurrence with the content of the product as to its quality.

(8) In addition to reviews of specific products, the Regional Director shall review grant performance at least quarterly, in such manner as the Regional Director may determine. If review findings clearly indicate a failure to meet the terms of the grant, the Regional Director shall take appropriate action with the State to rectify the problem or, if necessary, shall suspend all or part of an amount claimed for payment or even the grant itself.

(9) The State shall submit to the Regional Director claims for reimbursement at least quarterly but not more often than monthly, on Standard Form 270, signed by the State disaster preparedness coordinator or other authorized representative. Payment shall be made within 30 days after receipt of a properly executed request for payment (except for final payment, which may be withheld pending audit).

(10) The State shall conduct a final audit of each grant to determine, as a minimum, the fiscal integrity of financial transactions and reports, and compliance with laws, regulations, and administrative requirements. The State shall schedule such audits with reasonable frequency, usually annually, but not less frequently than once every 2 years, considering the nature, size, and complexity of the activity. Federal audits shall be conducted only at the request of the Regional Director or the Director, Office of Plans and Preparedness.

(Sec. 201, Disaster Relief Act of 1974, as amended, Pub. L. 93-288; Reorganization Plan No. 3 of 1978 (43 FR 41943); and Executive Order 12148 (44 FR 43239))

Dated: October 17, 1978.

Clifford E. McLain,

Acting Director for Plans and Preparedness.

[FR Doc. 79-32755 Filed 10-23-79; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 21, 87 and 90

[General Docket No. 79-188; RM-3247]

Allocating Spectrum For, and To Establish Other Rules and Policies Pertaining To, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services; Correction

AGENCY: Federal Communications Commission.

ACTION: Erratum to adopted and released Notice of Proposed Rulemaking and Inquiry.

SUMMARY: This document corrects an inadvertent error made in the Table of Frequency Allocations in the Notice of Proposed Rulemaking and Inquiry released on August 29, 1979 and issued in response to the rulemaking petition filed by the Xerox Corporation. (44 FR 51257)

DATES: The filing dates for comments remain unchanged, i.e., November 15, 1979 for comments and December 14, 1979 for reply comments.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: J. Bertron Withers, Spectrum Allocation Division, Office of Science & Technology, 2025 M Street, NW, Washington, D.C. 20554. (202) 632-6350—Room 7310.

Released: October 16, 1979.

In the matter of amendment of Parts 2, 21, 87 and 90 of the Commission's rules to Allocate Spectrum for, and to Establish Other Rules and Policies Pertaining to, the Use of Radio in Digital Termination Systems for the Provision of Common Carrier Digital Telecommunications Services, General Docket No. 79-188, RM-3247.

In the Notice of Proposed Rulemaking and Inquiry, FCC number 79-464 (44 FR 51257, published August 31, 1979) in Docket 79-188, adopted August 1, 1979 and released August 29, 1979, concerning the above-captioned matter, the Table of Frequency Allocations in Appendix D is in error. For the frequency bands 10.55-10.57 GHz and 10.615-10.635 GHz, under column heading "Class of Station" delete "fixed" and substitute "land", so as to read "Operational land". No proposed change to the current allocation in these two bands is intended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-23740 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 43

[CC Docket No. 79-262; FCC 79-620]

Eliminating Semiannual Reports and To Provide for the Submission of Revised and Corrected Data in the Annual Reports of Overseas Telecommunications Traffic Data

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The FCC adopted a Notice of Inquiry and Proposed Rulemaking which proposes to: 1) eliminate the requirement to file semi-annual reports on overseas traffic data; 2) change the date on which annual reports for overseas traffic data are due; 3) provide for revised annual reports and certain data corrections; and 4) explore the desirability of changing some service categories in which the data are reported. Comments and information are requested on each proposal.

DATE: Comments to be submitted by November 16, 1979. Replies to be submitted by December 1, 1979.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kenneth B. Stanley, Room 526, (202) 653-7413.

[CC Docket No. 79-262; FCC 79-620]

Inquiry and Proposed Rule Making

Adopted: October 2, 1979.

Released: October 16, 1979.

In the Matter of amendment of Part 43.61 of the Rules so as to eliminate semi-annual reports and to provide for the submission of revised and corrected data in the annual reports of overseas telecommunications traffic data.

By the Commission.

1. In this Notice we are proposing certain revisions to Section 43.61, which deals with overseas traffic data. This proposal calls for the elimination of the semi-annual reports of such data, changes the due date for the annual reports, provides for the submission of revised annual reports and certain corrected data, and explores the need for changing the reporting classification service categories.

Background

2. Pursuant to § 43.61 of the Commission's Rules and Regulations, common carriers engaged in the provision of overseas telecommunications services are required to file reports containing information on overseas traffic. These reports are filed twice each year, the first report covering the period of January through June and the second covering the period of January through December. The information in these reports is subdivided into various service classifications. In the case of services provided by the international record carriers, for example, traffic statistics on message telegraph service and overseas teleprinter exchange service are reported separately. The information is further subdivided into outbound and inbound traffic, with traffic which transits the United States being reported separately from traffic which originates and terminates in the United States. Finally, information is submitted for each overseas point except Alaska, Canada, Saint Pierre-Miquelon, and Mexico.

Problem

3. It has come to our attention that some of the data may no longer be useful or as useful as they could be. Further, there may be errors in the data or revisions which are received by the carriers after the reports are submitted to the Commission. Finally, the service classifications in our rules may be outmoded due to new services that have been introduced by the international carriers since the classifications were established. Through this Rule Making Proceeding, we seek to remedy the problems discussed herein as well as other problems that may be brought to our attention.

Comments

4. First, we are soliciting comments concerning the possibility of eliminating the six month reports submitted by AT&T and the IRCs under Part 43.61. It is our understanding that considerable delays are frequently experienced by the carriers in receiving data from their foreign correspondents. In such cases, the carriers may find it necessary to estimate the traffic statistics in order to meet the deadlines specified in our reporting requirements. These estimates may be inaccurate, and if so, this circumstance limits the reliablity and usefulness of the data. It is also our understanding that the carriers periodically update their own data to reflect revisions they receive after they have submitted their reports to the Commission.

5. Before taking action on the six month reports, we would like the carriers to address the following issues and to submit their comments. First, we need information on the lag between the time a data item is received from the overseas correspondents and the month in which it originated. In addressing this issue, respondents should include a distribution which shows the number of countries involved in each of several specified lag intervals. The distribution should be set out as follows:

Months of lag	Number of countries
Under 1	
1 and under 2	
2 and under 3	
3 and under 4	
4 and under 5	
5 and under 6	
6 and over	

Second, the proportion of data associated with each of the monthly time lags should be indicated. Third, where it is necessary to estimate the data, there should be a clear explanation of the nature of the information and the methods that are used to derive the estimates. Fourth, the differences between the carriers' estimates and the actual data received from the foreign correspondents should be quantified and explained. Fifth, the average proportion of estimated data for each reported data category included in the six month reports should be calculated and submitted by each carrier.

6. The Commission is aware of the fact that frequently the annual data received from the carriers are not completely accurate. This situation may be caused by problems similar to those we discussed in connection with the semi-annual data. In order to be assured that our records contain the most up-to-date and accurate data which is available in a reasonable period of time, we are considering a change in the date on which the annual 43.61 data are due. Under the Commission's present Rules and Regulations, annual reports are due by May 15 for traffic data of the preceding calendar year. The new requirement would call for the report to be submitted by June 30 rather than May 15. For example, reports for 1979 are due by May 15, 1980. Under the new requirement, reports for 1979 would be submitted by June 30, 1980. We invite comments on this proposed revision of our Rules, including suggestions for other dates on which the annual data would be due. We also solicit responses to each of the issues listed in connection with the six month reports.

7. In a further attempt to assure the receipt of accurate data, we have under consideration a requirement for the submission of revised 43.61 reports. We recognize that it may be unduly burdensome to expect the carriers to file updates with the Commission each time a revision is received. In order to avoid this unnecessary burden, our proposal will require each international carrier to submit a revised 43.61 annual report by December 31 of each year. It will be a complete report of the latest available data, including all revisions to the report of June 30. We invite comments on this proposed change in our Rules.

8. On occasion substantial errors in the 43.61 data may be discovered by the carriers after the revised annual reports have been submitted to the Commission. We wish to be informed of these errors when they are discovered. We suspect that "substantial" would be defined differently depending on the particular service and country involved. It is, therefore, necessary to establish standards for this category of inaccurate data. The following standards have been suggested for telephone service.

1. For countries with more than 10 million minutes or $10 million in revenues (excluding

V 44 OC 24 79 UMI

foreign payouts) or more than 1 million calls, an error that exceeds 1% of the figure in any category would require a report for all data of the country.

2. For countries with more than 5 million but less than 10 million minutes or dollars of revenue (excluding foreign payouts) or more than 500,000 but less than 1 million calls, an error that exceeds 2% of the figure in any category would require a report for all data of the country.

3. For countries with more than 1 million but less than 5 million minutes or dollars of revenue (excluding foreign payouts) or more than 100,000 but less than 500,000 calls, an error that exceeds 3% of the figure in any category would require a report for all data of the country.

4. For countries with less than 1 million minutes of dollars of revenue (excluding foreign payouts) or less than 100,000 calls, an error that exceeds 4% of the figure in any category that would require a report for all data of the country.

We request comments on these standards and invite suggestions on alternative standards.

9. For overseas services other than message telephone, there has been little discussion on error updating or the magnitude of an error that would require submission of corrected data. Therefore, we request comments on the appropriate standards, including specific suggestions similar to those in paragraph 8, to apply to the various overseas services. In addition, we would like the carriers to comment on the possibility of submitting data revisions immediately after substantial changes in the data are discovered.

10. Since the 43.61 reporting rules were originally promulgated and the services required to be reported were first listed, the international carriers have initiated several new services. While some of these services have been offered for several years, they are not reported separately in the 43.61 submissions. Instead, some carriers combine usage data for these services with other services and other carriers exclude data for these new services altogether. In this proceeding, we intend to remedy this situation.

11. We seek comments from all interested parties on the following subjects. First, we would like each carrier to identify specifically those categories of actual or potential services which are not identified and reported separately in its 43.61 reports. AT&T should address itself to international dataphone and international WATS, describing the current status of each and in the case of WATS, its expected availability in the future. Second, for each service listed we request specific suggestions concerning the appropriate measurement units that the carriers should use to report the service (e.g., Message Telephone Service—messages, minutes, revenues). Third, we would like suggestions on whether the data should be reported by its tariff classification, or whether, as in the past, broad generic categories should be developed, into which the carriers fit the tariff categories. Fourth, we request comments on whether these services should be reported in a form suitable for the industry consolidation reports (i.e., computer readable format), or in handwritten form. Further, if only handwritten reports are thought to be necessary, the appropriate time to convert to a computer format should be discussed. Finally, we would like the carriers to comment on the availability of data, in explicit form, for these "new" services from the year they were initially offered to the present.

12. There have been informal discussions between AT&T and the Commission staff concerning the need to continue the reporting of 43.61 traffic data for offshore points involved in rate integration. By letter of January 30, 1979, AT&T informed the Commission that it is discontinuing the submission of this data. This discontinuance did not have Commission sanction. Our initial reaction is to require continued submission of these data from all parties that serve these points. Several facilities that serve international traffic points also serve the domestic overseas points that are being integrated into the domestic network (e.g., Transpac cables serve Hawaii, Caribbean cables serve the Virgin Islands). Thus, in determining the need for new facilities, it is important for the Commission to know the demands of intermediate points, such as Hawaii and the Virgin Islands, that will also be served by the facility. However, we want all parties to comment on the question of whether these data should be submitted and, therefore we will leave the question open.

13. It has come to our attention that AT&T's "transit switching" data are not reported in its 43.61 submission. This situation results in an incomplete measure of use of international facilities because traffic that does not terminate in or originate from the contiguous United States is excluded from the reports. We would, therefore, like AT&T to comment on a possible requirement calling for the reporting of the total revenues, messages, and minutes represented by its switched transit services. Also, we would like to know the company's expected trends for transit switching. Finally, we welcome comments on the need to include transit switching data in the 43.61 report and the appropriate format for its inclusion.

14. As a final matter, it is our understanding that data from AT&T on its Customer Dialed Operator Serviced calls are included in the dial category for the calls and apparently, this procedure explains the reporting classifications. However, the calls are functionally operator assisted calls. We request comments on the appropriate reporting classification of Customer Dialed Operator Serviced calls, including the relative magnitudes of their traffic volumes and revenues.

15. In response to the issues listed herein each common carrier engaged in providing overseas telecommunications services and any other interested party should submit Comments by November 16, 1979 and Replies by December 1, 1979. After a review and analysis of the Comments and Replies, we shall set forth in a Supplemental Notice of Proposed Rule Making the specific changes in the Rules which we consider to be appropriate.

16. Accordingly, it is ordered, pursuant to Section 4i, 4j, 220 of the Communications Act of 1934, as amended, That this Notice of Proposed Rulemaking concerning Part 43.61 of the Commission's Rules and Regulations is adopted.

17. It is further ordered, That comments on the matters set forth in paragraphs 4 through 14 above shall be filed no later than November 16, 1979, and Replies shall be filed no later than December 1, 1979. Each party responding to this notice shall file an original and (5) copies of its comments and replies with the Commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32738 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 61

[CC Docket No. 79-246; FCC 79-565]

American Telephone & Telegraph Co. Private Line Rate Structure and Volume Discount Practices

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry and Proposed Rulemaking.

SUMMARY: The Commission has initiated a proceeding that has as its objective clear and consistent use of rate structures, rate elements and tariff terminology by the American Telephone and Telegraph Company in its private line tariffs. AT&T leases facilities (private lines) to users to satisfy their telecommunications needs. The charges and practices which govern these offerings, contained in tariffs filed with the Commission, must be just, reasonable and not unduly discriminatory. The Commission tentatively concluded that the multiplicity, lack of uniformity, and inconsistency of use of rate elements and rate structures in these tariffs may be unreasonable and unduly discriminatory. It required AT&T to submit a proposal to restructure the private line tariff offering that would ensure consistency, uniformity, and simplicity. The Commission said this restructuring would bring to the surface any discounts being offered and asked how these discounts affect its statutory obligations and public interest concerns.

DATES: AT&T's proposal, and comments by parties, must be received on or before January 7, 1980. Responsive comments and counter proposals must be received on or before February 22, 1980. Reply comments must be filed on or before March 24, 1980.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: James Keegan or Tony Alessi, Tariff Division, Common Carrier Bureau (202-632-6387; 6312).

Inquiry and Proposed Rulemaking

Adopted: September 20, 1979.

Released: October 17, 1979.

In the Matter of American Telephone & Telegraph Company, private line rate structure and volume discount practices, CC Docket No. 79-246.

By the Commission: Chairman Ferris issuing a statement.

I. Introduction

1. In our landmark decision in *AT&T Private Line Services* (Docket 18128) [1], we examined the rates charged by the American Telephone and Telegraph Company and associated Bell System Companies [hereinafter AT&T or Bell] for its various service offerings. This investigation was conducted pursuant to our statutory responsibilities to ensure that rates charged by common carriers are just, reasonable, and not unduly discriminatory [2] and was prompted, in part, by a series of rate controversies suggesting that Bell may be using revenues from its basic telephone monopoly services—MTS and WATS [3]—to subsidize its more competitive private line services.[4] We also were concerned that it might be discriminating among users of these competitive services. In addition to being unjust and unreasonably discriminatory pricing, such discrimination would adversely affect competing carriers.

2. In our Docket 18128 decision we concluded that return levels for Bell's interstate private line services were deficient and subsidized by other services. We held that the rate levels of the major interstate service categories must be justified in relation to the cost of furnishing the particular service. Accordingly, Bell was directed to assign all existing facilities to its various services and to file rates for all its services based on a fully distributed cost method. Each tariffed service category's [5] rates were expected to yield a return equal to the carrier's authorized overall return. See 64 FCC 2d 971, 978. We also noted that unlawful discrimination is not limited to unreasonable price differentials between like services; we stated that "[v]arious other arbitrary and unreasonable actions and classifications on the part of carriers which do not necessarily involve rate level discrimination with respect to like services fall within the prescription of Section 202(a)." 61 FCC 2d 587 at 656.

3. Many of Bell's tariff filings made in response to Docket 18128 and, indeed, virtually all of its major filings since the introduction of substantial competition into interstate telecommunications, have fallen into a pattern. The filing invariably raises controversy and often is set for hearing. Ultimately the hearing results in a finding of unlawfulness in one respect or another.[6] Other tariff filings have been found to be clearly unlawful on their face and have been rejected.[7] In either case, we have attempted to detail the deficiencies that led to the determination of unlawfulness and have directed AT&T to refile the rates and/or terms and conditions for the service in question. However, when such tariffs have been refiled (usually following requested reconsideration or appeal), they generally have engendered as much controversy and raised as many questions as the tariffs they were intended to replace.

4. Attempting to address these tariff filings on an individual basis has proven to be time consuming, and, to this point, ineffectual. Many, if not most, issues raised by a particular service offering involve other service offerings. Our ability to make determinations regarding discrimination within services or between like services and to ensure that costs have been allocated properly frequently requires an examination of, and comparisons between, both the tariff under immediate review and others already on file. We have found the process of analysis and comparison of tariffs to be severely hampered by what we believe to be needless complexity, multiplicity and lack of uniformity of Bell's tariffs. We have found functionally identical services offered under a multitude of tariff classifications using a variety of different methods to determine the rate to be paid by the customer. The situation has been aggravated by the inconsistent, confusing and imprecise use of terms and definitions.

---

[1] 61 F.C.C. 2d 587 (1976), *recon.*, 64 F.C.C. 2d 971 (1977), *further recon.*, 67 F.C.C. 2d 1441 (1978), *appeal pending sub nom. Aeronautical Radio Inc.* v. *FCC*, Case Nos. 77-1333, 77-1521, 77-1544, 78-1368 (D.C. Cir.)

[2] Section 201(b) of the Communications Act of 1934, as amended, 47 U.S.C. § 201(b) [hereinafter the Act] provides, in pertinent part: All charges, practices, classifications and regulations for an in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.

Section 202(a) states that: "It shall be unlawful for any common carrier to make any unjust or unreasonable discrimination in charges, practices, classifications, regulations, facilities, or services for or in connection with like communication service, directly or indirectly, by any means or device, or to make or give any undue or unreasonable preference or advantage to any particular person, class of persons, of locality, or to subject any particular person, class of persons, or locality to any undue or unreasonable prejudice or disadvantage."

[3] MTS is "Message Telecommunications Service" or, more commonly, "long distance". WATS is a service which enables the subscriber to make large volumes of MTS or long distance calls on the basis of flat rates and metered use charges. Although we use the term "monopoly" to described these services, we recognize that there is a limited amount of competition involved. *See e.g. AT&T WATS Rejection*, 66 FCC 2d 9 (1977), *recon. denied*, 69 FCC 2d 1672 (1978), *appeal pending sub nom. MCI Telecommunicotions* v. *FCC*, Case No. 79-1119 (D.C. Cir. filed January 29, 1979).

[4] In a very general sense, private line services are telecommunications facilities offered for lease to customers for their dedicated use to serve points selected in advance. They are generally distinguished from the allocated—or common user services—on the basis that in the latter case the facilities are not leased and the users of the network are not identified in advance. *See* paras. 9-12 *infra*.

[5] As the principles enunciated in Docket 18128 were initially implemented, Bell was essentially free to designate the separate service categories along traditional lines, *e.g.*, WATS, MTS, TELPAK, etc. Since these categorical lines as established by Bell bore no necessary connection to underlying generic relationships, cost and rate differentials tended to become institutionalized.

[6] *See, e.g., Docket 19199, AT&T Hi-Lo*, 55 FCC 2d 224 (1975); *recon.*, 58 FCC 2d 352 (1976), *off'd sub nom. Commodity New Service, Inc.*, v. *FCC*, 561 F.2d 1021 (D.C. Cir. 1977); *Docket 20288, AT&T DDS*, 62 FCC 2d 774 (1977), *recon. denied*, 64 FCC 2d 994 (1977), *off'd sub nom. AT&T* v. *FCC*, Case No. 77-1742 (D.C. Cir. decided May 21, 1979).

[7] *AT&T Series 7000 Rejection*, 67 FCC 2d 1134 (1978), *recon. denied*, 70 FCC 2d 2031 (1979), *appeal pending sub nom., American Broadcasting Co.* v. *FCC*, Case No. 79-1261 (D.C. Cir. filed March 9, 1979); *AT&T DDS Rejection*, 67 FCC 2d 1195 (1978), *recon. denied*, 70 FCC 2d 616 (1979).

5. We believe these tariff problems may be related to the regrettable cycle of filing-rejection-refiling noted above. Indeed, they may be due in part to an intention to segment markets so as to offer users with high-elasticities of demand or having practical market alternatives lower prices, often in what amounts to volume or other discounts. To the extent such intentions exist it is obvious that market segmentation can be accomplished more easily by devising separate tariff offerings whereby essentially the same services and facilities offered under different rate structures and conditions can be disguised so that they cannot be easily recognized and compared.[8] Another possible contributing factor is a piece-meal approach to tariffing manifested by Bell's failure to revise tariff terminology and rate structures to conform to changing technology and changing regulatory requirements, and to be consistent with new tariff filings. Similarly, attempts to accord different, generally more preferential, treatment to customers using AT&T provided instrumentalities than that accorded to customers using equipment or facilities supplied by the customers themselves or by AT&T's competitors, and other administrative or operational reasons unrelated to the functional service requirements of customers, may have been contributing factors. We also recognize that the motivation in some instances may have been to encourage certain types and volumes of communications usage in order to make more rapid plant expansion and the introduction of new technology feasible. Regardless of the motivation, we believe our statutory responsibilities require that we establish better control over the structure and design of AT&T's tariffs. Our general objective here is to reduce the number and complexity of tariffs and rate structures and to ensure that rate related nomenclature is used consistently.

6. In the following paragraphs, we will examine more closely the specific problems relating to rate structures and rate elements in the various Bell private line tariffs. At this point we are inclined to believe that the problems are so severe that the only reasonable solution would be a complete restructuring of the private line tariff offerings of AT&T including, perhaps, any volume discount structure. Apart from simplifying our tasks of ensuring that undue discrimination is avoided and that Bell is accountable for its ratemaking practices,[9] we believe this proceeding will aid Bell in understanding the manner in which tariff complexity is to be eliminated and rate structures are made comparable. Thus, we believe it will give concrete guidance as to how the carrier can come into compliance without rules which require that tariffs be clear and easily understood.[10] It should also enable customers to compare more easily the costs of different services and determine which service will best satisfy their needs at the lowest cost.

II. Private Line Rate Structure

7. In this part we will address the AT&T private line rate structure. First we will discuss the nature of private line services in general, and provide an overview of AT&T's tariff offerings in this regard. We will then address the problems we have experienced with AT&T's tariffs, under the general headings of rate structure problems and rate element problems. Finally, we will propose guidelines which will be used to restructure these private line offerings.

8. We wish to emphasize at the outset that this proceeding is designed to address tariff and rate structures but not actual rates or rate levels. Although we may refer to different rate levels in making comparisons between various offerings, we are in no way attempting to pass judgment on whether any given rate is appropriate or whether any rate differential is justifiable. Such determinations can be made only in the context of a particular tariff filing and the support material submitted by the carrier. Our objective here is a simplified and consistent tariff and rate structure whereby we can make the proper analysis of the tariff to determine its lawfulness, and under which the customer can easily understand his options and make intelligent, informed decisions as to the most advantageous offering available in the marketplace. We believe the flow of accurate and intelligible information is important not only to the consumer but also to potential entrants who need to determine the feasibility of competitive entry. We also wish to emphasize that since our discussion of the nature of private line service is designed primarily to provide a frame of reference to assist comprehension, it should not be viewed as a Commission statement on the propriety of current of future market classifications.

1. Nature of Private Line Service

9. In its narrowest sense, private line service is a term used to denote a tariff classification; thus, only services contained in the tariff by that name, AT&T-Long Lines Department Tariff F.C.C. No. 260, "Private Line Service" would be so classified. In common use, however, the term private line (or occasionally the terms private wire or leased channel service) has come to mean the general category of common carrier services and facilities which can be characterized as dedicated to a subscriber's use as opposed to those which are allocated or available on a common-use basis. In the case of Bell's interstate services, all services other than Message Telecommunications Service (MTS) and Wide Area Telecommunications Service (WATS), therefore, are generally considered private line.[11]

10. In a descriptive sense, a feature which presently distinguishes private line service from common use service, and one which becomes increasingly useful as functional distinctions become clouded, is the manner in which service is billed by the telephone company. Private line billing reflects the leasing of facilities, usually on a full-time basis, by a single customer.[12] Charges for private line facilities are generally in the form of monthly recurring charges, but may include one-time or nonrecurring charges applying to such service functions as installations. Common use services, on the other hand, are charged in a manner which generally reflects individual message transactions either on a call by call or flat rate basis such as for local telephone exchange service.

11. In a functional sense, a private line is a transmission channel providing access between or among points specified by the customer on a permanent, or virtually permanent basis during a specified time period. These points may be located in separate cities or communities (in which case the channel is termed "intercity") or the points may be located in the same city or community (in which case the channel is termed "intracity"). The transmission channel must be suited in terms of carrying capacity or bandwidth to the customer's desired mode of use.[13] In a practical sense, however, the user's telecommunications requirement must be adapted to the available transmission plant of the carrier. The Bell plant has been designed primarily for voice transmission. However, the standard voice-grade channel, nominally 4 kHz in bandwidth,[14] is adaptable for use in the data, graphic, and pictorial modes in addition to the voice mode through the use of appropriate source terminals.[15] Thus, in brief, the nature of the carrier's transmission plant to some degree constrains the use which customers can make of it.

12. In order to obtain access to the carrier's plant, the customer must first designate the geographical points at which service is desired. The carrier then connects the designated customer stations to its nearest operating center, or central office, where transmission lines are terminated and interconnected with lines extending to other points within the carrier's backbone transmission network. This connection is made generally by means of a pair of wires called a local loop or local distribution channel. Then, having determined the nature of the transmission line required,[16] the carrier designates and sets aside a specific intercity transmission path between the appropriate central offices in each city for the exclusive use of the customer.[17] This transmission path normally is contained within a carrier system,[18] unlike the loop which generally is discrete. Thus, at the central office the carrier must interconnect the customer's loop to the appropriate intercity channel, and then effect whatever modulation, demodulation, signal processing, and control functions are necessary to insure proper carriage of the customer's signal. Bell's private line service is nominally a non-switched, point to point type of offering.[19] Switches, as well as other types of equipment, generally are offered separately under the tariffs and frequently have separate monthly recurring charges. Where a switch or a switching machine is involved, private lines are terminated at one side of the switch and new, or separate private lines originate on the other side of the switch, so that transmission lines retain their identity. A private line can, of course, terminate in a local exchange switch such as is the case in what is normally called foreign exchange (FX) service.

2. Bell System Tariff Offerings

13. The transmission channels offered under Bell's tariffs generally may be categorized as follows:

(a) telegraph-grade channels, operating at speeds of up to 150 bits per second (bps), principally used for teletypewriter and low speed data applications;

(b) voice grade channels, nominally providing a 4 kHz bandwidth for applications in the voice, data and facsimile areas constituting the principal channel offering of Bell;

(c) broadband analog channels, offering larger bandwidths for uses such as audio and video program services; and

(d) digital transmission channels, ranging from medium, (i.e., 2400 to 9600 bps) to high speed channels operating at 1.544 megabits per second.

14. The principal interstate Bell tariff under which these services are offered to the public is AT&T Long Lines Department Tariff F.C.C. No. 260, Private Line Service. Tariff 260 comprises some 750 pages, includes nine principal channel service classifications, known as Series,[20] with numerous subclassifications generally called Types. The bases for these classifications variously include intended customer use, underlying nature of the channel facility, how the facility is to be configured within a user's network, or, in the case of Series 5000 (TELPAK),[21] the type of pricing employed. Voice-grade channels, in one form or another, are available under six of the nine service classifications at rates which are determined under six different rate structures.

15. Other important AT&T tariffs which offer private line service include Tariff F.C.C. No. 266, Facilities for Other Common Carriers,[22] and F.C.C. Nos. 267 and 268, Dataphone Digital Service (DDS) for the general public and for other common carriers, respectively. Tariff 266 essentially duplicates the rates and rate structures contained in Tariff 260 with the main exception being the non-availability of TELPAK to the other carriers. In the same vein, Tariff 268 duplicates Tariff 267 in terms of channel offerings. There is another group, or series of tariffs offering

---

[8] To some extent the Commission itself heretofore may have contributed to this process by generally focusing on each tariff offering in response to specific petitions. This approach does not readily lend to comparing one tariff offering with the totality of similar offerings. The emergence of competition in the telecommunications industry, however, makes such comparisons increasingly important.

[9] Accountability incorporates a number of different regulatory policies. Included are the concepts that the carrier is responsible for its pricing and investment decisions, and that the Commission should be able to track costs as allocated among the various services and develop methods by which to evaluate whether rates charged are just and reasonable. *See* 61 FCC 2d at 610–612.

[10] Section 61.55 of the Commission's Rules and Regulations, 47 C.F.R. § 61.55 provides in pertinent part, that: Tariffs shall contain . . . the following: (f) *Clear and explicit explanatory statements.* Such explanatory statements in clear and explicit terms regarding the rates and regulations contained in the tariff as may be necessary to remove all doubt as to their proper application. (g) *General rules, regulations, exceptions, and conditions.* A clear and definite statement of the general rules, regulations, exceptions and conditions which govern the tariff. . . .

[11] This categorization generally reflects only what service the carrier has chosen to include in one category or another. To illustrate, in recent years the availability of low cost discounted private lines (c.f.: TELPAK service) has enabled the establishment of such networks as the Federal Telecommunications System (FTS), acquired from Bell as a private line service. In operational and functional regards, this network has all the essential capabilities of the common use telephone network, enabling federal, state, and local government personnel to make calls to essentially all points in the United States, but results in a much lower equivalent cost per call than for "plain old telephone service".

[12] A customer leasing private line service may share or resell that service but remains solely responsible for the payment of all leased charges.

[13] Voice, data, pictorial, graphic, written record, audio and video are examples of different modes of use.

[14] This voice channel generally has been used as a standard by other carriers in addition to Bell.

[15] Examples of source terminals include: telephoto or facsimile machines, or digital source devices coupled with modulators/demodulators (modems) which convert the source digital signal to a form suitable for carriage over analog facilities. The transmission method may be either analog, where continuous variations in frequency, amplitude or other electrical parameter carry information, or digital, where information is carried by patterns formed through the successive presence or absence of energy pulses. The source signal, where not compatible with the transmission medium, must be converted to one or the other forms either through the use of modems or sampling and coding devices.

[16] It should be noted that the same local distribution channel can generally be used regardless of the customer's requirement since the loop can transport, within limitations, a source signal in its baseband (i.e., as it is generated by the source terminal, such as the telephone handset, without modulation or multiplexing) directly to the central office.

[17] We are dealing here with the physical manner in which service is provided; where a pricing mechanism such as TELPAK exists in the tariff, no physical activity can necessary be imputed. Also, were packet switching technology to be employed, discrete lines between switches need not be set aside for any one customer since packets of data pertaining to a given source may individually traverse diverse routes and be reassembled as required.

[18] A carrier system represents a transmission method whereby many single channels are consolidated or multiplexed into a single electrical path.

[19] AT&T defines a private line in its tariff F.C.C. No. 260 as "the channels * * * channel arrangements and equipment furnished to a customer as a unit, that is, without intermediate equipment or arrangement such as channel switching * * * devices."

[20] Series include Series 1000, telegraph-grade channels for teletypewriter, telemetering and low speed data applications; Series 2000, voice-grade channels used primarily for voice; Series 3000, voice-grade channels used primarily for data; Series 4000, voice-grade channels used for telephoto or facsimile; Series 5000 (TELPAK) primarily offering Series 1000, 2000, 3000, and 4000 channels at bulk rates; Series 6000, audio program channels; Series 7000, television channels, Series 8000, wideband (48 kHz) channels for data or for use as equivalent numbers of voice-grade channels; and Series 10,000, entrance facilities.

[21] Although we refer to TELPAK throughout this Notice, we do recognize that Bell has attempted to withdraw this offering (see note 51 infra). Nonetheless, we believe that since TELPAK has been and continues to be of such major importance as part of AT&T's current private line offerings, we must deal with it accordingly.

[22] "Other common carrier" or "OCC" denotes all common carriers other than the Bell system and independent telephone companies.

V 44 0C 24 79 UMI

facilities to other common carriers filed by the Bell System Operating Companies (BSOC) [23] either individually or severally. Specifically, each associated Bell System Operating Company has on file a tariff which offers the OCCs private line channels within the respective states or service areas. These tariffs essentially replicated the equivalent private line offerings which were available to the general public under the respective State tariffs, except that certain of the rates have been discounted to reflect the terms of negotiations between Bell and the OCCs. Also, the Bell Operating Companies have jointly issued a number of private line tariffs, two of which, BSOC Nos. 3 and 4 covering certain facilities for patrons of other common carriers and for international carriers, respectively, are currently in effect.[24] Presently pending before the Commission is BSOC Tariff F.C.C. No. 6 (BSOC–6), which proposes to consolidate essentially all facility offerings to the other common carriers into a single tariff. As such, this tariff would replace some twenty-one Long Lines Department and associated Bell telephone company tariffs. In so doing, BSOC 6 would, if it were to become effective as scheduled on October 1, 1979, radically change the rate structures under which facilities are currently offered to the other common carriers. To complete the private line tariff picture, it must be noted that certain intrastate private lines which are jurisdictionally interstate [25] are offered to the public under the rates and regulations contained in the tariffs on file with the various States and the District of Columbia. This results principally from the fact that the major interstate private line tariff, F.C.C. No. 260, has not been specifically designed to accommodate short haul channel requirements.

3. Definitions

16. As a preliminary matter we will briefly and informally define certain key terms as we use them throughout our discussion.

(a) The term "rate structure" is used to indicate the manner in which rates are organized within a given tariff schedule. The pricing mechanisms employed to determine rates and charges as well as any interrelationships which exist among rate elements are part of rate structures. It should be noted, however, that the term rate structure is not inclusive of the rates or charges themselves, but only the formulation upon which such rates are expressed and the charges calculated.

(b) The basic building blocks of rate structures are called "rate elements", each of which represents one or more service functions for which a rate is applied.

(c) "Service function" denotes a discrete—though essential—operational part or subpart of service rendered by a carrier such as multiplexing (a channel dividing and combining process), switching, transmission, installation or the like.

(d) The term "comparable services" is used throughout to mean two or more services which, although not like services within the meaning of Section 202(a) of the Act, may be characterized as having a relatively high cross-elasticity of demand (i.e. representing reasonably close substitutes for one another).

(e) Finally, we use the term "local distribution channel" to refer to the line from the customer station to the telephone company central office where connection is made to an intercity transmission channel. Bell, in its tariffs, variously refers to this in whole or in part as a station terminal, service terminal, facility terminal, or facility link.

4. Rate Structure Problems

17. We have observed a general inconsistency and lack of uniformity in rate and tariff structures of AT&T's private line services. These problems exist both within service or rate classifications and between such classifications. They are characterized in general by a multiplicity of offerings for like or comparable services, each reflecting substantial differences in functions covered by rate elements, nomenclature, and pricing mechanisms and approaches. Although we will review the specific inconsistencies in the following paragraphs, we believe a brief examination of the proposed BSOC 6 tariff will provide an overall illustration of the types of problems we are addressing. In it Bell proposes to introduce totally new and different rate structures, comprehending five new rate elements not employed in any other tariffs and providing no ready means of correlation with any other tariff, regardless of how closly related in function. (See Chart 1 of Appendix I for list of key rate elements.) To further complicate matters, there is an apparent lack of internal rate structure consistency in the BSOC 6. Under the tariff two major subclassifications of facilities are proposed: intraexchange facilities and interexchange facilities, roughly equivalent to what we have termed intracity and intercity respectively. The two resultant rate structures have certain rate elements in common, and others which are unique to each structure. Even to the extent rate elements are used in common, they are poorly defined and non-comparable for all practical purposes. (See especially paras. 30–33 and para. 35, *infra.*) Also, the tariff introduces a great deal of new terminology and new pricing concepts. These comments on BSOC 6 are not intended, it must be emphasized, to condemn any of the basic concepts of the tariff but rather are intended to highlight the problems of rate structure inconsistency and lack of comparability we have observed. There is no intent here, for example, to criticize the subdivision of the tariff into intracity and intercity channels. If anything, we would view this as a positive step which if properly implemented in the other tariffs, may help to resolve a number of existing rate problems. Regardless of the merits of the underlying concepts, however, they do not serve to justify the extreme degree of complexity of BSOC 6 or the total lack of structural consistency with all other tariffs. In the following paragraphs we will review in greater detail the problems we have observed.

18. *Multiplicity of Offerings.* AT&T has a number of different tariff provisions under which the same or comparable services are offered under different rates, rate structures or terms and conditions.[26] This is, of course, perhaps the most striking and obvious inconsistency when viewing that carrier's private line offerings as a whole. In essence, the result of this practice is that two customers ordering exactly the same service, or its functional equivalent, can be subject to two different rate structures and perhaps different terms and conditions. More precisely, a customer desiring simple voice grade private line service could receive service under either Series 2000, 3000, 4000 (but see note 36, *infra*), 5000 or 8000 of the 260 Tariff or under the proposed BSOC 6 Tariff. A customer

[23] The term Bell System Operating Companies has been used in the tariffs as a collective term to include the Long Lines Department of AT&T as well as the associated Bell System telephone companies.

[24] It should be noted that BSOC No. 8, Exchange Network Facilities for Interstate Access (ENFIA), is not included in this proceeding as this offering to other common carriers engaged in MTS/WATS—type competition has the characteristics of common use, rather than private line, service.

[25] In brief, any physically intrastate private line which can be connected to other lines so as to enable use of the intrastate line for communications which extend to points in other states (or internationally) becomes jurisdictionally interstate and falls under the Commission's regulatory authority.

[26] *See* Appendix A for examples.

for telegraph grade service could receive it under Series 1000 or 5000 of the 260 Tariff and under the BSOC 6 Tariff.[27] A customer desiring a circuit for data transmission could receive it (albeit at perhaps different transmission bit rates) under Series 1000, 2000, 3000, 5000 or 8000 of the 260 Tariff, under the BSOC 6 Tariff or the 267 or 268 Tariffs (DDS). It should be noted, however, that the customer does not necessarily have complete freedom to select any of these offerings; they carry various restrictions involving volume of use and customer classification.[28]

19. *Rate elements.* In looking more closely at each of these offerings, it becomes obvious that one of the major differences between these like or comparable services is the result of the inconsistent use of rate elements. Even though each of these groups of services as mentioned in paragraph 13, *supra* (*i.e.*, voice, telegraph and data private lines and switched private line systems) involves essentially the same service functions—*e.g.*, local distribution channels and intercity channels—they are represented by different rate elements. Sometimes the rate elements are defined differently, are given different nomenclature, or represent different service functions or parts of service functions. This not only causes confusion and makes comparison difficult or impossible for the customer as well as the Commission, but almost invariably results in different charges or limitations on similarly situated customers. The problems generated by the inconsistent use of rate elements are discussed in more detail in paragraphs 26–37 below.

20. *Pricing Mechanisms and Approaches.* Another major source of inconsistency between and within these various private line offerings results from the multiplicity of pricing mechanisms and approaches employed by AT&T. There are so many instances of this that rather than try to list each case we believe it would be best to attempt to categorize the various practices and give some examples of each. In several instances the same example is used to illustrate more than one category of pricing practices.

21. The first category we note is the basis upon which price differentials or discounts are established. Generally speaking, the bases for these differentials tend to be usage related but a number of different measures are used. For example, in TELPAK (Series 5000) discounts are based on circuit cross section density, *i.e.*, a substantial discount is available if the customer subscribes to a minimum of 60 circuits which are specified as providing communications capability between two points.[29] A somewhat similar approach is used in Series 8000 where a customer can subscribe to a 48 kHz circuit and have it subdivided by the telephone company into twelve equivalent voice grade channels for which the customer pays different, generally lower rates than for the same twelve channels obtained under Series 2000/3000. Another discounting device might be said to reflect volume use of all customers in an area. In the MPL offering (Series 2000/3000) Bell has lower rates for those customers whose communications requirements lie along high density or capacity routes. No such pricing mechanism exists in any other comparable or like category.[30] In AT&T's most recent Series 7000 (television relay) tariff filing there was a usage based rate distinction, but the rate depended on whether the customer used a television channel on a full or part time basis.[31] Bell did have one example of a non-usage based price distinction which we could classify as a quality related differential. Curiously, however, the lower grade channel carried the higher price. In its initial DDS tariff (No. 267) Bell offered a reportedly higher quality data transmission channel at generally lower rates than for comparable data channels under its Series 2000/3000 offering where these latter channels were used exclusively for data.[32]

22. Another category reflects the different pricing of like or comparable rate elements in different offerings such as is the case with the local distribution channel. In most tariffs these channels are priced at a flat rate (which varies according to the service offering and the definition of the rate element). However, in its proposed BSOC 6 Tariff, Bell would base the price of these local distribution channels on a mileage basis plus a flat charge component. But unlike other instances where it applies mileage charges on an airline mile basis between the points served, BSOC 6 would price these channels in part on the airline mileage between "wire centers".[33] An example of inconsistent pricing of like or comparable rate elements may be found in the way Bell prices its intercity transmission channels (interexchange channels or IXCs) on a mileage basis. This is generally done on a mileage band basis as reflected in the Series 1000, 2000, 3000, 4000, 5000 extension channels and 8000 offerings. However, with one minor exception, the mileage bands in *every* one of these offerings is different.[34] Nonetheless, even this consistent inconsistency is not consistent. In its TELPAK offering, Bell sets the IXC (called "Base Capacity") charge at a flat rate per mile. This is not to say that technological or administrative justification may not exist for differences in mileage banding as well as other differences in pricing techniques. We recognize, first of all, that the very existence of mileage-based rate gradations may represent a reasonable attempt to spread high fixed terminal or multiplexing costs over distance. We are cognizant, furthermore, of the fact that digital systems, for example, have substantially different terminal versus mileage sensitive costs than do analog carrier systems. The fact remains, however, that the carrier should justify the differences in the mileage bands at issue here.

23. A third category might be termed pricing by classification. In this respect Bell apparently bases price differences on certain classification distinctions rather than on significant differences in services or on costs. Class of user is one classification scheme, the most obvious example of which is Bell's practice of applying different tariffs for services rendered to OCCs as compared to those

[27] Another option for a telegraph channel would be to subscribe to a wider band channel (*e.g.*, voice grade) and use channel derivation equipment to derive multiple telegraph grade channels.

[28] *See* Paragraph 37, *infra.*

[28] The circuits need not be contained in single or contiguous bandwidth segment nor must they have common terminal points. Also, the discounts are so substantial under TELPAK that it often pays the customer to subscribe to a higher number even if he has no use for that many circuits. For example, it would often save the customer money to subscribe to 60 circuits under TELPAK even if he had need for only 30 circuits. Since TELPAK is no more than a pricing mechanism, however, the customer does not actually receive the additional channels. TELPAK is discussed in greater detail in paras. 29 and 46, *infra.*

[30] MPL rates also apply to voice grade channels contained in TELPAK sections of 25 miles or less.

[31] We rejected this filing as unlawful for a number of reasons. Among them, the lack of justification for the substantial difference in rates between the full time and part time user classifications. *See AT&T Series 7000 Rejection* (recon.), note 7, *supra.*

[32] Following the hearing in Docket No. 20288 in which we found the DDS rates unlawful, Bell was ordered, as an interim measure, to revise these rates to be comparable to the Series 2000/3000 rates. *See DDS Rejection Order*, note 7, *supra.*

[33] The wire centers are telephone company offices or operating centers through which the transmission lines are routed and over which the customer has no control. Thus, they bear a closer relationship to Bell's routing than to the distance between customer service points. In no other tariff has AT&T used wire centers in its pricing. In its other interstate tariffs, notably Tariff 260, any costs necessitated by links between wire centers are averaged into the local distribution channel charge on the basis of nationwide averages. Aside from inconsistency, the use of wire centers in the BSOC 6 tariff has resulted in an exceedingly complex and cumbersome schedule of charges.

[34] See Appendix A, Chart II.

V 44 OC 2 4 7 9 UMI

rendered to other users. Although this usually results in significantly different rates for the OCCs,[35] under its 268 Tariff for DDS, AT&T applies the same channel rate schedules to OCCs as it does to other customers in its 267 Tariff. Sometimes classification is according to ownership of equipment. For example, an access line to a switch is priced differently depending on whether the switch is provided by Bell or the customer. Another type of classification is by service subscription. For example, one can obtain the same service components, such as an access line, under Common Control Switching Arrangements (CCSA) and Enhanced Private Switched Communications Service (EPSCS), or the identical service under Series 2000 and 5000, and be charged different rates. Classification by type of underlying transmission channels occurs when data transmission service is acquired under either the DDS Tariff or under Series 2000/3000. In some cases, classification is made according to end use by the customer even though there is no significant distinction in the services. An example of this is a Series 4000 channel used for telephoto transmission even though the underlying channel is the duplicate of the underlying channel offered under Series 2000/3000. This is not intended to imply that legitimate cost differences may not exist to support the differences in rates.[36] The diversity of rate structure and the resultant lack of comparability, however, require a justification by the carrier initiating the tariff containing them.

24. A final category that we mention involves pricing relationships, whereby a direct price relationship is sometimes established and used between two services but in other cases involving the same two services is ignored. This category of inconsistent pricing mechanisms is not so prevalent as some of the above categories but is perhaps more obvious where it is used. The best illustration of this is the pricing relationship between a telegraph grade circuit and a voice grade circuit. In the Series 5000 offering (TELPAK), telegraph grade circuits are priced at one half the rate for voice grade circuits, while the same telegraph grade circuits offered under Series 1000 bear no fixed relationship to the same voice grade circuits offered under Series 2000/3000.

5. Rate Element Problems

25. The following paragraphs discuss two related problems concerning the use of rate elements in private line tariffs. The first problem deals with the definitional complexity which is encountered in attempting to understand what is meant by the specific terms used to identify rate elements. The second problem is concerned with the inconsistent relationship which exists between rate elements and service functions and the practice of rate element selection.

26. *Rate element definitional complexity.* A major factor contributing to tariff complexity and rate structure inconsistency is the lack of clearly defined, uniform tariff terminology. We are primarily concerned here with rate element terminology that describes service functions for which a customer is charged a specified rate. It is essential to note that much of the language used to identify and describe rate elements is derived from and dependent upon underlying tariff terminology, such as the terms "exchange" and "rate center". In many instances these tariff terms are poorly defined within a tariff. Therefore, they contribute to the difficulty of understanding rate element terminology which, in and of itself, oftentimes lacks clarity and uniformity. This problem will become more evident in our discussion below.

27. To illustrate the kind of definitional complexity encountered in Bell System private line tariffs, we shall consider the rate element "interexchange channel" as contained in Series 2000 of Tariff 260. There an interexchange channel is generally described as a ". . . through channel which interconnects exchanges . . . ." (AT&T Long Lines—Tariff F.C.C. No. 260 Para. 2.5, 24th Revised Page 26.1). It is evident that the term "exchange" is crucial to understanding what is meant by interexchange channel. The definitional section of Tariff 260 indicates that the term "exchange" denotes a geographical unit established by the telephone company for the administration of communication service in a specified area. In addition, it states that "[w]hen an exchange . . . contains two or more rate centers, interstate private line service offered herein will be furnished as if each rate center were a separate exchange." (Tariff 260, Para. 2.5, 35th Revised Page 26). We now find it necessary to proceed in examining the term "rate center". We learn that a rate center is "a specified [by the telephone company] geographical location within an exchange area . . . from which mileage measurements are determined for the application of interexchange mileage rates". (Tariff 260, Para. 2.5, 17th Revised Page 28). We also learn that there are two different categories of rate centers, distinguished on the basis of relative amounts of transmission capacity (Category "A" Rate Centers and Category "B" Rate Centers), which determine the applicable rate schedule. From these definitions, a customer would not know where an exchange is in any particular geographical location nor whether a channel is an interexchange channel or not. Moreover, there is no consistent basis upon which exchange areas are designated nor any assurance that they will remain the same.

28. The above definitional scenario could be made far more complex with additional detail. However, it demonstrates that the definition of an interexchange channel, as well as the definitional section of Tariff 260, is of little help in truly understanding what is meant by the interexchange channel rate element in Series 2000. In fact, it should be noted that nowhere in the tariff are the service functions associated with the interexchange channel rate element of Series 2000 specified. It is obvious that the definition of an interexchange channel is inconsistent and meaningless with respect to ascertaining functional relationships. According to the tariff definition it is possible to have an interexchange channel within an exchange. Furthermore, only after laboring through this definitional maze can one tentatively conclude that the channels identified by the interexchange channel rate element in Series 2000 actually extend between rate centers, rather than exchanges, and are priced on that basis.

29. Another example of definitional complexity in Bell System private line tariffs can be shown with an examination of the Series 5000 (TELPAK) rate element "Base Capacity". This rate element is defined, in part, as ". . . the potential for communications channels and services which can be realized only with the use of service terminals . . . furnished in such manner as the Telephone Company may elect, whether by wire, radio or a combination thereof and whether or not by means of a single facility or route". (Tariff 260, Paragraph 3.2.5 (A)(1)). It should be noted that this definition is vague in the sense that it avoids specifying the kind or amount of plant this rate element represents. Only with a thorough knowledge of TELPAK is it possible to understand that base capacity essentially is a pricing mechanism and not a physical facility. As economics dictate, single channels obtained or available under Series 1000 through 4000 may be grouped together, for pricing purposes only, into TELPAK base capacity sections. These individual channels need not be contiguous in bandwidth; that is, they may be contained in separate transmission systems. Moreover, the TELPAK pricing mechanism is such that TELPAK pricing mileage may be substantially different from airline mileage between the service points which the actual interexchange channel connects. Thus base capacity is descriptive only of a discount pricing mechanism rather than a rate element comparable to rate elements in other tariffs having a distinguishable function.

30. As noted above, the recently filed BSOC–6 tariff provides still another illustrative example of the kind of definitional problems that contribute to the difficulties encountered by the public and the Commission in attempting to fully comprehend AT&T private line tariffs. We shall consider two intraexchange rate elements identified in the BSOC tariff. They are the "facility link" and the "facility loop." The facility link is defined as providing "for a transmission path between an OCC Operating Center and its serving wire centers." [37] The facility loop is defined a providing "for a transmission path between an OCC's terminal location or a patron's premises and its serving wire center".[38] In considering these two rate elements, it is relevant to begin by examining the basic tariff terminology used to describe these two rate elements.

31. The basic tariff terminology "OCC Operating Center", "OCC terminal location," "patron", "premises","wire center", and "serving wire center", are all defined in the general definitional section of the BSOC 6 tariff. We note first that the criteria used to distinguish between an OCC Operating Center and an OCC terminal location have little if any relevance in understanding the significance of the facility link and facility loop rate elements in the context of the tariff. What is relevant and not made clear in the definitions of these terms, or the tariff itself, is that both the OCC Operating Center and the OCC terminal location are termination points where OCC communication facilities are located, and equivalent in all regards to other customers' stations under other tariffs. Similarly, a patron's premises is distinguished from an OCC terminal location and an OCC operating center although each of these terms designates, in a general sense, a termination point on the customer's network. If we were to assume that the rate differentials associated with these different types of termination points are justifiable, then, in that context and that context only would such terms be required. In fact, however, these terms have been used to form a definitional framework wherein terms are used in the first instance to differentiate rate elements, thus embedding in the rate structure a presumption that there are inherent functional differences in rendering service to a patron's premises as opposed to an OCC premises. (See also para. 33, infra.)

32. We turn now to the terms "wire center" and "serving wire center", terms unique to the BSOC 6 tariff among tariffs filed with the Commission. In examining the definitions of these two terms, we find that a wire center is basically a telephone company central office or operating centers and a serving wire center is nothing more than a wire center which serves termination points, such as those described above, within a given geographical area. The point to note here is that wire center and serving wire center are two of a number of terms that are used in different contexts to describe a telephone company operating center. What becomes evident is that the use of numerous terms to describe a telephone company operating center lends little if anything to understanding private line services or tariffs. In fact, the practice confuses descriptions of rate elements, service functions, and associated rates.

33. In view of our examination of the basic tariff terminology it is evident that the intraexchange rate elements "facility link" and "facility loop" relate to the similar service function of customer terminations. Since the same types of plant and facilities are used to perform this service function of customer termination, there appears to be no logical basis for having two distinct rate elements differentiated on the artificial basis of where the termination occurs. Even if rate differentials were shown to be justified, there would still be no apparent basis for differences in terminology. This kind of rate element development only creates confusion and unnecessary complexity in a rate structure. Furthermore, it prevents comparability between rate structures in other tariffs, such as Tariff 260, where different rate elements are not distinguishable on the basis of whether the termination occurs at a customer-owned switch, an operating center, or other type of customer station.

b. Rate element service function inconsistency

34. Aside from definitional complexity and confusion, other problems include the failure to use rate element terminology that can consistently be identified with the same service functions throughout all rate structures and the failure to select rate elements representing service functions which reasonably reflect customer needs. We shall examine this problem area through the use of three categories of illustrative examples. The first category will show the inconsistency of use of rate element terminology. The second category will show how the same service functions are represented by different rate element terminology. The last category will deal with the inappropriate selection of rate elements, the most obvious problem of which is the combining or "bundling" of what would otherwise be discrete rate elements. Although the problems represented in all three categories overlap, we are using this approach to give different conceptional perspectives from which the overall problem can be viewed.

35. *Inconsistency of Rate Element Use.* The interexchange channel rate element provides us with an illustrative example of how, even where the same rate element terminology is used, the scope of that element in terms of service functions covered varies from one rate structure to another. Under Series 2000/3000, the overall MPL rate structure contains two key rate elements, the "station terminal" and "interexchange channel". Under Series 4000, we again find a two-element rate structure, this time comprised of an "interexchange channel" and a "service terminal." [39] Although the interexchange channel rate element is defined in the tariff the same in either case, we find that in fact this element covers different service functions. Under MPL, the interexchange channel essentially covers the intercity transmission lines and the intercity channel terminating arrangements at the telephone company central offices. Under Series 4000, this latter function is covered partly by the interexchange channel element and partly by the service terminal element. In addition, the Series 4000 interexchange channel

[35] Obviously, once a class of customers is segregated out of a general market, the costs for service reflect the use characteristics for that class alone. Since no other class is stratified into separate markets by line of business, the "discrimination" is an obvious one, the question being only whether it is lawful or not.

[36] It should be noted, however, that rate packaging is employed under Series 4000 in such a manner as to partially disguise the underlying similarity. Specifically, Series 400 combines channel conditioning with the interexchange channel rate element whereas under Series 2000/3000, channel conditioning is separate. *See* paragraph 37 below for a general discussion of this type of practice.

[37] Proposed Tariff BSOC 6, paragraph 3.1.4. (A).

[38] *Id.*

[39] The service terminal covers terminating arrangements at the telephone company central office as well as at the customer station whereas the station terminal covers only the latter.

V 44 OC 24 79 UMI

V 44 NO 207 UMI

covers the function of channel conditioning [40] which is required for the operation of certain types of facsimile machines. Another example of where the same rate element, common in both name and definition, is used inconsistently is the case of the "facility equipment package" (FEP) used in connection with the proposed BSOC–6. Both in the tariff and the supporting documentation which accompanies the tariff filing the FEP is defined as performing the identical functions with the same associated costs. Yet, upon inspection of the rate shown in the tariff schedule, we find the rate for an FEP used for intracity service radically differs—by as much as $34.55 per month—from an FEP used in connection with intercity channels. The explanation for this is that another rate element, the "facility section",[41] covers that major portion of the cost associated with the intracity FEP, thus, the intercity FEP becomes little more than a mathematical correction factor of $2.90 per month. The intercity FEP, then, bears no relationship either in terms of function, rate level or pricing mechanism (i.e., one is a flat monthly rate and the other varies by the type of FEP required) to the intracity FEP. Both of these examples make it clear that the same rate element terminolgy is used inconsistenly to describe different service functions.

36. *Some Service Function Represented by Different Rate Elements.* As difficult as it is to compare even commonly named rate elements such as the interexchange channel, the problem is compounded when we find totally different nomenclature used to designate similar or identical rate elements under other rate structures. As noted, under TELPAK the term "base capacity" is used to denote the intercity transmission line-haul function. Under BSOC 6, the identical function is called a "facility section" and under Series 1000–4000 an "interexchange channel." Both of these latter rate elements appear to represent the same service functions since the rates applicable to the facility section are obtained through cross reference to tariff 260 interexchange channel rates.

37. *Rate element bundling.* We turn to the problem of what we will generally term "rate bundling," [42] a term used to include the grouping of different rate elements into single packages as well as the tying together of rate elements or rate structures so that one is available only in conjunction with the other. Illustrations of the use of bundling include combining the access line (equivalent to an intracity or local channel) and switch access charge in the Enhanced Private Switched Communications Services (EPSCS) into a single rate element. This practice, for mechanical reasons alone, makes it extremely difficult to compare access lines as they appear under different rate structures and rate elements. A second example involves a companion service, Common Control Switching Arrangements (CCSA) Service, where the access line is shown separate and apart from the switch access charge but is available only to CCSA customers. This type of bundling in essence allows the use of a rate element only to select service customers. A similar bundling occurs with respect to the rates for TELPAK extension channels which are available only to TELPAK base capacity customers. Rates for these extension channels, it should be observed, are structured so as to result in generally lower charges for short-haul channels than for MPL, thus tracking more closely with typical TELPAK user requirements. A third example involves the combining of conditioning with the interexchange channel rate element under Series 4000. Under other schedules, notably Series 2000/3000, conditioning is available as a separate option. While some Series 4000 customers may need conditioning, others may not, depending on the type of facsimile terminal equipment used. The point is that the customer under Series 4000 must pay for this conditioning whether he needs it or not.[43] As another example, under Series 4000, 5000 and 8000, we find a service terminal used to include functions covered under Series 1000 by a combination of two rate elements, a "channel terminal" plus a "station terminal." In the past, prior to the introduction of MPL, the channel terminal plus station terminal was used under Series 2000 and 3000. Looking back over the tariff history, we have been able to discern no clear pattern or rationale for the use of the service terminal element versus the separate station terminal plus channel terminal, except to note that the bundling of these latter two elements into one mandates that the customer obtain the local distribution channel and the interexchange channel from the same supplier.

6. Corrective Action

38. We believe the above discussion demonstrates that Bell's private line services involve a maze of inconsistent and often conflicting offerings. The existing service classifications, subclassifications and associated rate structures, overall, bear little or no relevance to the underlying natural or generic market classifications being served. As a result, we have experienced increasing difficulty in analyzing tariffs to determine their lawfulness. Aside from our own difficulties in reviewing such a complex set of tariffs and rate structures, we cannot ignore the monumental problems the customer must have in attempting to analyze the various service options he has and attempting to make an intelligent selection. For example, in analyzing the proposed BSOC 6 tariff, we found we were unable to compare the rate structure and rate elements to existing Bell tariffs, including the OCC tariffs which BSOC 6 would replace. Because of this lack of comparability, it becomes exceedingly difficult to resolve questions of discrimination, preference or prejudice or to determine the impact of Bell's rate structure changes.

39. In the following paragraphs we are proposing general guidelines which are intended to assist AT&T in reevaluating its private line offerings. We will, of course, seek comment on these guidelines. However, the primary purpose of this proceeding is not the development of hard and fast rules but rather a restructuring of Bell's private line tariffs to facilitate effective regulatory scrutiny and to assist customers in making intelligent choices with full knowledge of alternatives. Thus, the guidelines are not an end in themselves but are to be used primarily as a guide to assist AT&T in making necessary rate structure reforms. Our concern over the difficulty in understanding tariffs is heightened by our policies regarding competitive entry into the telecommunications market. Availability of clear information regarding Bell's offerings is essential to informed decisionmaking by both existing and potential competitors as to

[40] Conditioning, or channel conditioning, involves the electrical modification of a standard voice-grade channel to enhance its suitability for carrying various types of non-voice signals.

[41] The rate for the facility section, in turn, is found by cross reference to the MPL rate schedule for Series 2000/3000 as contained in Tariff F.C.C. No. 260.

[42] The opposite of bundling may be termed "splintering" whereby an excessive number of rate elements are used, adding confusion and complexity to the rate structure. Although less prevalent than bundling, there are some examples of splintering such as the BSOC 6 tariff which proposes to use four different rate elements to represent a local or intracity circuit, in lieu of the single rate element normally employed in other tariffs. This, of course, when translated into actual rate levels, inherently causes differences in the manner in which rates are averaged.

[43] Notwithstanding this type of bundling, we recognize that most customers, if knowledgeable, may avoid the conditioning charge by taking service, for example, under Series 3000, the category under which voice-grade channels for data transmission are available. This does not, however, justify the practice.

the feasibility of adjusting existing, or introducing new, competitive services.

40. *The guidelines.* First, there would be an integrated rate structure for all like services. This means that multiple offerings, whether under different tariffs or different series, would be eliminated in favor of a single integrated rate structure. This rate structure could include multiple pricing (e.g., volume sensitive pricing) where justified, and different service options for different customer requirements. Such a structure would preclude would preclude the possibility of quoting different prices for the exact same service. Thus, all identical voice-grade private line services, for example, which currently constitute the whole or part of Series 2000, 3000, 4000, 5000, 8000 and the OCC tariffs, would have to employ a single, integrated rate structure within which any surviving rate differentials would have to be shown within a common frame of reference.

41. Second, comparable services would have to have consistent rate structures, and where like service functions are used they would have to be priced consistently unless some deviation were justified. Thus, if we assume that DDS and voice grade private line service are comparable, then the rate structures should be consistent to the degree to which the underlying functions are common. As examples of consistency in this case we would expect that both would generally have rate elements defining the same service functions (e.g., intercity tranmission and local distribution); however, one service may have a service function that is not reflected by equipment requirements of the other. Where rate elements between the two respresent the same service functions, we would normally expect the pricing mechanisms of those elements to be the same. Thus, wherever Bell employs rate averaging, based generally upon the averaging of selected underlying cost factors,[44] it would be expected to use identical methods of averaging for a given rate element wherever it appears in the tariffs.

42. Third, rate elements would have to be selected so as to reflect market requirements, i.e., either current or potential independent customer demand or to involve some separate pricing utility. Where there is a substantial market for any service function individually such as unequipped, unconditioned voice-grade channels, switching capacity or the like, we would expect Bell to offer such services in the form of separately priced rate elements. To the extent, furthermore, that a rate element is available separately under a given rate structure owing to market demand or other cause, all other rate structures under which equivalent service functions are offered must also show such elements separately for the sake of comparability. Under this guideline we would expect the selected rate elements to bear discrete correlation to underlying service functions and reflect the needs of the marketplace. In too many cases AT&T has unnecessarily "bundled" service functions together under one rate element, thus effectively denying customers the option of utilizing less than all of the service functions under that element. In other cases, it has unnecessarily "splintered" its rate elements, thus complicating the calculation of a customer's charges as well as creating difficulties in our attempts to determine underlying functional relationships. This guideline is intended to eliminate the extremes, to require that rate elements be reasonably related to market requirements. For example, in a practical sense an intercity private line service consists of two basic service functions, intercity transmission with its associated central office terminating arrangements and local distribution. From a customer demand point of view, there would appear no need to separate the transmission line from its associated central office terminating arrangements since there would not appear to be any independent demand for one without the other. As noted above, however, pricing utility may justify separation. Thus we recognize that a separation of the intercity transmission function into two elements may be reasonable.[45] The second function, local distribution, would seem to be another separate rate element [46] and would not include customer station equipment, as is currently the case under several Bell tariffs, since the customer should have the option of providing his own terminal equipment.

43. Fourth, rate elements would have to be consistently defined and employed. This would require that all rate elements that involve the same service functions carry the same name and be defined in the same way. Definitions of rate elements should clearly identify the discrete service functions or parts thereof covered by the rate element. Such definitional identity should be precise enough so as to make costs associated with a particular rate element more readily identifiable. This is not to say, however, that under this guideline a rate element must necessarily be priced to recover its costs. As noted before, questions relating to the reasonableness of a precise rate level for an element are not an object of this proceeding.[47] Our primary concern here is with consistency of pricing approaches. As a result of this guideline we would expect consistently defined and employed rate elements in all the private line services. For example, in comparing voice grade and telegraph grade services we would expect to find essentially the same rate elements employed in simple private line configurations, although some rate elements (e.g., the intercity element) would be priced differently in accordance with any cost differences.

44. Finally, in accordance with our Rules, we would require rate structures, and associated terms and conditions, to be designed with simplicity and ease of understanding in mind. Tariffs should be complete in themselves with the use of cross references only where required to avoid complexity and excessive length.[48]

III. Volume Discounts

1. Introduction and Background

45. It is our belief that a number of the problems noted in Bell's private line tariffs and rate structures may be attributable to an effort by it to provide volume-based discounts to certain users of its private line services. We also believe that restructure of Bell's private line tariffs in accordance with the principles we have proposed will serve to make such discounts, and any price

[44] *See*, for example, the MPL rate structure in Series 2000/3000 where rate avereging for interexchange channels is effected in three primary tiers based upon the facility density at the terminal points. This type of averaging is not employed for other services.

[45] For example, on a multipoint private line, the question arises as to whether it is reasonable to charge for the central office terminating arrangements as though they were the same as for two-point channels. Also, at international border crossing points such as with Canada, it may not be reasonable to charge the customer for a termination at the border which he does not require and which may or may not be needed.

[46] We do not imply by this that a single rate element necessarily involves only a single rate or pricing figure. While we emphasize simplicity as an overall objective, we recognize that the pricing factors may be diverse to reflect differences in cost characteristics (such as those that may be distance sensitive as compared to those that are not).

[47] We have, of course, strongly supported cost based rates in recent years. While we have generally not attempted to analyze a service's rates on an element by element basis, we are inclined to believe that rate element pricing designed to recover the costs of that element may yield a more reasonable and equitable pricing structure.

[48] In this regard we note Bell's practice of sometimes employing rates contained in intrastate tariffs in connection with local distribution lines and local channels. Where such lines are clearly part of an interstate service, the applicable rates should be contained in the appropriate interstate tariff.

discriminations among users, readily apparent. Moreover, integration of rate structures to the extent we envision would not be possible without uniform discount policies. Accordingly, we believe it appropriate to explore the matter of volume-based discounts as they affect AT&T's communications offerings. We intend to inquire into the nature of such discounts and whether they may be offered consistent with the objectives of the Communications Act, and, if so, in what form.

46. Before proceeding with an analysis, it would be helpful to review the manner in which we have handled volume discounts in the past. Bell's Series 5000, or TELPAK, offering has been noted as exemplifying many of the points we have made regarding the relationship bulk discounts have with nomenclature problems and rate structure inconsistency.[49] TELPAK originally was offered as a response to the Commission's decision in *Allocation of Frequencies in the Bands Above 890 Mc.*, 27 F.C.C. 359, *recon. denied*, 29 F.C.C. 825 (1960). That case announced a policy of licensing private point-to-point microwave communications systems.[50] Bell was concerned that the new microwave services would meet customers' bulk or multiple channel needs more satisfactorily than its own offerings and result in a diversion of customers. It constructed a rate schedule which attempted to simulate private microwave relay systems' contiguous, point-to-point transmission characteristics by employing a concept of "base capacity." The offering was divided into TELPAK A through D, available in 12, 24, 60 and 240 voice grade channel equivalencies respectively. Discounts ranged up to 81 percent of the comparable individual voice grade channel rates. As noted above, "base capacity" is not in fact a service function. TELPAK, as originally offered, was essentially no more than a grouping, for pricing purposes only, of the same channels provided under Series 1000, 2000, 3000, 4000 offered at a rate many times lower than an equivalent number of these channels.

47. TELPAK was investigated by the Commission in the Docket 18128 proceeding, note 1, supra. In finding it to be like various other private line services offered by Bell for purposes of Section 202(a), we addressed possible justifications for price level differentials between like services which raise Section 202(a) concerns. In the context of TELPAK, we stated that "a discrimination is not unjust or unreasonable if the like service which is priced to meet competition can satisfy the competitive necessity test, or is otherwise justified with relation to the cost of providing service, *or on the basis of other policy considerations.*" (*Emphasis* supplied) 61 F.C.C. 2d at 656. We concluded Bell had not demonstrated TELPAK C and D (60 and 240 channels, respectively) to be lawful and ordered it to terminate the offering or, alternatively, to file a lawful replacement.[51] On reconsideration, however, we stayed our Order and agreed to reexamine TELPAK's lawfulness. We also slightly modified the standard by which the offering would be judged:

> Thus in the private line context in order for a carrier which provides both monopoly and competitive services to justify a discount rate to volume users of a private line service which is "like" non-discounted private line services, the following must be proved:
>
> (1) The discriminatory bulk discount classification must be cost justified, i.e., it must be proved that there are material cost savings associated with provision of the service on a volume basis.
>
> (2) The discount rate must be an exact reflection of such cost savings and must also be targeted to recover full costs on an FDC [Fully Distributed Cost] Method 7 basis.
>
> (3) Absent proof of cost justification, or upon departure from FDC Method based rates which mirror actual cost savings, no discriminatory discount rates may be filed absent a waiver. Waivers may be granted upon proof that the rate differential is required by competitive necessity.

64 F.C.C. 2d 985, 986. We later noted, parenthetically, that we also would consider waiver from this standard on grounds other than competitive necessity although we did not identify what those grounds might be. 64 F.C.C. 2d 971 at 987.

48. In describing the cost justification standard indicated in (1) and (2) above, we stated that cost differentials must be real and documented, in proportion to actual cost savings, and targeted to yield the authorized rate of return. As to (3), the competitive necessity test has been held to consist of two elements: (a) Those benefiting from the discriminatory pricing must have an alternative source to which they will switch absent the discrimination and (b) the discrimination must benefit users being discriminated against such as, for example, where lower charges to them result due to economies of scale.[52] We set rather rigorous standards for any attempt to justify discrimination on the basis of competitive necessity. The carrier must show, among other things, the existence and extent of alternative supply sources on a route by route basis. The particular user's demand must be shown to be economically sufficient to justify the alternatives, and the showing must address concerns of size, variability, growth characteristics, route and length of haul, economic considerations, service quality, reliability and flexibility. The user's willingness to construct a private microwave system or to use specialized services from other common carriers must be demonstrated in light of the criteria. 64 F.C.C. 2d 971 at 987.

2. Discussion

49. As noted above, our experience with Bell's private line and other tariff filings has been a frustrating one. AT&T has continued to offer substantial bulk discounts which we have attempted to address either in terms of cost justification or on the basis of competitive necessity. Bell has not satisfied either criterion for justification, which has led in part to a pattern where there is a tariff filing by the carrier, a finding of unlawfulness by the Commission, and a carrier refiling.[53] Despite our findings of unlawfulness, the discounts survive through one device or another. In view of the continued presence of volume discounts, the fact that all such discounts will be more clearly identifiable as a result of a restructuring of AT&T's tariffs, and the need to break the repetitive tariff cycle described above, we seek comment on AT&T's discount policies and on the proper way to evaluate them. In particular, we are concerned that currently used cost-justification techniques applied by the Commission may be too narrow. For example, discounts could encourage greater use of facilities, thereby increasing the efficiency of existing plant and possibly

[49] *See, e.g.*, paras. 21, 22, 24 and 37, *supra*.

[50] These systems consist of discrete, point-to-point communications paths which may be employed for broadband services such as television, or subdivided into channels of lesser capacity such as for voice-band services.

[51] TELPAK A and B, corresponding to 12 and 24 channel units, were eliminated in 1961 pursuant to Commission Order. *See AT&T TELPAK*, 38 F.C.C. 370, 37 F.C.C. 1111 (1964), *aff'd sub nom., American Trucking Ass'ns, Inc.* v. *FCC*, 377 F.2d 121 (D.C. Cir. 1966) *cert. denied*, 386 U.S. 943 (1967). AT&T attempted to withdraw the TELPAK C and D offering remaining in response to our *Resale and Shared Use* decision, 60 F.C.C. 2d 261 (1976), *recon.*, 62 F.C.C. 2d 588 (1977), *aff'd sub nom., AT&T* v. *FCC*, 572 F. 2d 17 (2d Cir. 1978), *cert. denied*, 99 S. Ct. 213 (1978). This attempt was stayed by an order of the District of Columbia Court of Appeals (order of July 21, 1977). *See Termination of TELPAK SERVICE*, 64 F.C.C. 2d 959, *recon. denied*, 65 F.C.C. 2d 7 (1977), *appeal pending sub nom., ARINC* v. *FCC*, note 1, *supra*.

[52] We stated in our Docket 18128 decision that a third element may be used in evaluating non-TELPAK cases: whether the discriminatory rate is just sufficient to retain business which would otherwise be lost. 61 F.C.C. 2d 587 at 655.

[53] *See e.g., Series 7000 Rejection*, note 7, *supra*.

leading to lower costs per unit of service. Increased use of telecommunications services also may be associated with productivity and efficiency gains among users. We seek comment on whether this broader treatment of cost justification is what was meant in the Commission's reference to a third possible justification for discounts noted in the Docket 18128 decision, i.e., other possible public interest considerations. More specifically, we seek comment on whether volume discounts that are not cost justified on an individual basis or which do not satisfy the competitive necessity test may nonetheless be offered consistent with our regulatory concerns and the public interest, and, if so, in what manner.

50. We do not seek comment on other Docket 18128 requirements, such as the obligation of the carrier to allocate costs to all services on the basis of FDC–7 methodology—a matter which has given Bell difficulty in a number of proceedings (*See, e.g., DDS Rejection*, note 7, *supra*)—or to target the aggregate rates of each service to recover that service's costs and the authorized rate of return. Rather, we seek to focus on prior indications that there may be bases for justifying volume discounts other than "cost justified" or "competitive necessity"—as used heretofore. We seek to understand better the nature of such discounts both in general and as they operate in the telecommunications market. We seek comment on the ways in which they may affect our statutory and other public interest concerns, and ask whether they could be structured in a form that would be compatible with those concerns.

51. Primary among our concerns are those reflected as provisions of the Communications Act. Section 1, for example, 47 U.S.C., § 151, charges us with assuring that communications services are efficient, available at reasonable charges and supported by adequate facilities. Discounts could affect these concerns in a number of ways. We are open to identification of the benefits and deficiencies involved in allowing discounts based on this broader understanding of cost, or on concepts deviating more or less from costs altogether. We are hopeful that commenting parties will provide evidence concerning their experience with quantity discounts generally and among regulated industries specifically. Of particular interest is the actual experience parties have had with Bell System volume sensitive discounts such as TELPAK and the less obvious forms of volume sensitive pricing found within Bell's major service categories (e.g., Series 7000 and 8000). Case studies and other empirical evidence would be most helpful.

52. In this connection, we ask what the impact our decision in *Resale and Shared Use of Common Carrier Services*,[54] has had and is likely to have under a discount scheme.[55] In that proceeding, we ordered Bell to eliminate tariff restrictions against the resale and shared use of its non-monopoly services so that customers having smaller needs could aggregate those needs and take advantage of various volume discounts. Our judgment was that discount services would permit the brokerage and sharing of common carrier services and ultimately result in, among other things, a further trend toward cost-related pricing by underlying carriers and a reduction in the public resources devoted to enforcement of Sections 201(b) and 202(a). 60 F.C.C. 2d 261, at 302. We seek comment on the extent to which that decision otherwise may have generally affected carrier discounts. We also ask what effect our tariff reform proposals may have on resale and discounts. It is our preliminary belief that integrated rate structures, consistent use of rate elements, simplified tariffs and the like will enable consumers to choose more easily the least expensive satisfactory offering and enable competitors and resellers to ascertain market conditions in making entry decisions.

53. Attached to this Order as Appendix B are a number of questions to which we direct commenting parties. While we ask that comments submitted be structured, to the extent possible, as responses to those questions, we do not wish to constrain unduly contributions. Parties should feel free to contribute all comments and studies they feel germane.

IV. Conclusion

54. As seen from our analysis in Part II, supra, it is our tenative conclusion that AT&T's private line rate structures and tariff offerings are confusing, overly complex, and inconsistent, providing identical services and facilities in many instances under different terms, conditions and charges. As such, we believe they may be unreasonable and unduly discriminatory in violation of Sections 201(b) and 202(a), of the Act and that they violate Section 61.55(g) and (h) of the Commission's rules in many respects. These tariff offerings also make comparability between services very difficult, if not impossible; as such, they tend to thwart the Commission in the exercise of its regulatory responsibilities. Moreover, we believe they tend to thwart the operations of the competitive marketplace by making it difficult for customers to understand their options and intelligently choose the most advantageous. Thus, under Sections 4(i) and 4(j) of the Act, 47 U.S.C. §§ 154(i), (j), we believe we must take action to insure that we can adequately discharge our responsibilities.

55. We will, of course, allow AT&T an opportunity to rebut these tentative conclusions. If it does not convince us that its private line offerings are fully lawful in all the respects we have discussed herein, it is our objective in this proceeding to prescribe reasonable and non-discriminatory rate structures and tariff offerings (but not rates and rate levels) which will be consistent and clearly understandable. To this end we believe the proposed guidelines discussed in Part II above will be of significant assistance. Moreover, we believe that a review of our proposed policy concerning bulk discounts as set forth in Part III will not only more adequately address a troublesome area but will facilitate the consolidation of rates for all like services within a single rate structure.

56. We will provide for three rounds of comments concerning our tentative conclusions and proposals as set forth herein. In addition, we shall require AT&T to submit, with its comments, an outline of its proposal to restructure its private line offerings.[56] For purposes of submitting such a proposal it shall be assumed that the guidelines as set forth in Part II will be adopted by the Commission. However, if AT&T takes substantial issue with any part of the guidelines, it may also set forth an alternate form of restructured private line offerings. Such an alternate proposal shall set forth the recommended changes in the guidelines proposals upon which it is based. The proposal (and alternate proposal if submitted) shall be organized as follows:

(a) Each separate tariff offering, including each distinct service offering therein (e.g., voice grade, telegraph grade, television relay) where a separate rate structure is deemed necessary, shall be identified. The basis upon

[54] *See, e.g., Resale and Shared Use*, note 51, *supra*; *Customer Interconnection* (Docket 20003), 61 F.C.C. 2d 766 (1976).

[55] We recognize that court action in the case of TELPAK (see note 51) which in effect exempted TELPAK from resale, has limited the effect of our resale policies in this area; thus the full impact of resale has not been felt in the private line services.

[56] Other interested parties may also submit a proposal in this regard if they desire.

V 44 OC 24 79 UMI

which such selection was made shall be explained. An outline of the contents of each tariff shall be given.

(b) Each distinct service offering shall be broken down into the rate elements upon which charges would be made. The nomenclature and definition (including the identity of service functions involved) of each rate element shall be given, as well as the rationale for selection of such rate element.

(c) Rates for each rate element need not be given, but the reason for and method of applying or calculating charges shall be explained (e.g., flat rates, charge per mile).

(d) Where rate elements (both within and between services) have the same nomenclature, it shall be assumed that the identical rate will apply unless it is noted to the contrary. The nature and general reasons for any such differences shall be explained.[57]

(e) Where rate elements (both within or between services) represent the same service functions but are given different names or definitions, a full explanation and justification shall be given.

(f) Where volume discounts are to be reflected in the rate schedules, the nature of discounting shall be outlined and explained. The approximate quantities at which discounts will apply and the approximate discount below the base rate shall be identified. The basis for the discount shall be noted.[58]

(g) Where any service offering is to contain any significant restriction in use or by classification of customer, each such restriction shall be explained and justified.

(h) Information to indicate the type of tariff changes contemplated to simplify and clarify tariff offerings shall be included. Examples of efforts to simplify (e.g., in tariff organization, definitional improvement, and rate explanation) should be given.

57. One final matter concerns AT&T's BSOC 6 tariff filing. As can be seen from our observations herein on that tariff, it has many deficiencies. In some respects it epitomizes many of the problems outlined relative to Bell's private line rate structures in general. We, of course, have not undertaken to analyze that tariff here in light of the numerous petitions filed against it. However, to be consistent with the tentative conculsions reached herein we believe substantial revisions should be made in that tariff before it takes effect.[59] Therefore, we suggest that AT&T defer the effective date of that tariff pending our determinations following the receipt of comments in this proceeding.[60] At that time AT&T can make whatever revisions that may be necessary in light of our final findings there. Because of the importance of the issues involved and their inter-relationship with all of Bell's private line offerings, we intend to move as expeditiously as possible to complete this proceeding.

58. Since the matters involved herein largely concern questions of policy which are best resolved in a broad notice and comment context, we do not anticipate any need for evidentiary hearings, an Initial Decision by an Administrative Law Judge, or oral argument. However, should at any point during the comment process it becomes necessary to employ additional procedures to develop an adequate record we will act appropriately, either upon our own motion or upon that of a party. Parties are requested to address the proposals in the respective sections separately and should feel free to submit any independent or in-house studies on the matters discussed herein as appropriate. In addition to the comments we hope to receive from interested carriers and consumers, we are designating a separate trial staff of the Common Carrier Bureau to lend its expertise to resolution of the designated proposals and issues.[61] We believe that a knowledgeable trial staff can make a substantial contribution in critiquing Bell's proposal and perhaps making its own counterproposal. In order to give Bell a chance to respond to any counterproposals, we will provide for three comment rounds.

Ordering Clauses

59. Accordingly, it is ordered, That pursuant to the provisions of Sections 4(i), 4(j), 201, 202, 203, 204, 205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§154(i), (j), 201, 202, 203, 204, 205 and 403, and Section 553 of the Administrative Procedure Act, 5 U.S.C. §553, there is hereby instituted an inquiry and notice of proposed rulemaking and possible prescription involving the foregoing matters. Members of the public are put on notice that any such policies which may be established in this proceeding may be embodied in the Rules and Regulations of the Commission.

60. It is further ordered, That all interested persons MAY FILE comments on the matters discussed in Parts II and III of this Notice, the supporting analysis, and the Appendices on or before January 7, 1980. AT&T shall file its rate and tariff restructuring proposal(s) on the same date. Responsive comments and counterproposals shall be filed on or before February 22, 1980. Reply comments shall be filed on or before March 24, 1980. In reaching this decision, the Commission may take into consideration ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order. In accordance with the provisions of Section 1.419 of the Commission's Rules and Regulations, 47 C.F.R. § 1.419, and original and five (5) copies of all comments and proposals shall be furnished to the Commission.

61. It is further ordered, That a separated Trial Staff of the Common Carrier Bureau, as designated by the Bureau Chief, will participate in the above-captioned proceeding. Such Trial Staff will be separated in accordance with Section 1.1209 of the Commission's Rules, 47 C.F.R. § 1.1209.

62. It is further ordered, That AT&T shall promptly respond to requests for information by the Trial Staff.

63. It is further ordered, That the Chief, Common Carrier Bureau IS DELEGATED authority to require the submission of additional information, make further inquiries, and modify dates and procedures, if necessary, to provide for a fuller record and more efficient proceeding.

64. It is further ordered, That the Secretary will cause this Notice of Inquiry and Proposed Rulemaking to be published in the **Federal Register.**

Federal Communications Commission.[62]

William J. Tricarico,
Secretary.

[57] As indicated previously, it is not our purpose to evaluate the lawfulness of particular rates or rate levels. Thus, here we wish only to understand Bell's general rationale and need in a rate structure to apply different rates to the same rate element.

[58] We recognize that AT&T is under a judicial constraining order at the present time with respect to its TELPAK offering (see note 51 *supra*). However, we anticipate such judicial action will be resolved prior to the conclusion of this proceeding. Therefore, with respect to volume discounts, AT&T should make its restructure proposal under the assumption that no relevant court order will affect it.

[59] Aside from the deficiencies relating to rate structure discussed above, we also note that the cost allocation methodology employed in developing the BSOC-6 rates appears the same as we found unlawful in connection with AT&T's Multi-Schedule Private Line tariff. *See AT&T* (Docket 20814), FCC 79-564 (released October 4, 1979).

[60] If AT&T does not defer the tariff, we anticipate that the Chief of the Common Carrier Bureau, acting under delegated authority, will consider the BSOC-6 filing prior to its October 1 effective date.

[61] We are hopeful that we will benefit from the participation of private line users of all sizes, rather than just larger users as is usually the case. In an attempt to receive broader based input from the public, the Trial Staff and the Office of Consumer Affairs will attempt to coordinate the efforts in this regard.

[62] See attached Statement of Chairman Ferris.

Appendix A

The following charts are intended to illustrate, in as simplified a manner as possible, the structured diversity of Bell's rates for like and comparable services and facilities and the attendant difficulty of making inter-service rate comparisons. Selected rate levels are shown only for the purpose of illustrating the substantial differences which do exist in actual rates for like and comparable offerings, and thus to emphasize the need for a general restructing of Bell's private line tariffs.

Chart I.—*Key Rate Elements in Selected Private Line Channel Offerings*

Service	Rate elements
Series 1000 (Telegraph-grade Channels).	Station Terminal. Channel Terminal. Interexchange Channel.
Series 2000/3000 (Voice-grade Channels—MPL).	Station Terminal. Interexchange Channel.
Series 4000 (Voice-grade Channels).	Service Terminal. Interexchange Channel.
Series 5000 (Voice and telegraph grade—(TELPAK).	Station Terminal,[1] Service Terminal. Connecting Arrangements. Base Capacity. Interexchange Channel.[2]
Series 8000 (When used only for voice-grade Channels).	Service Terminal. Interexchange Channel. Terminal Control Arrangement.
BSOC 6 (proposed) (Voice and Telegraph-Grade).	Facility Link. Facility Loop. Facility Section. Facility Terminal. Facility Equipment Package.

[1] Applicable only in connection with TELPAK voice-grade channels of 25 miles or less.
[2] Applicable only in connection with TELPAK voice-grade channels of 25 miles or less and TELPAK Extension Channels.

Chart II.—*Interexchange Channel[1] Characteristics Under Various Telegraph and Voice-Grade Rate Structures*

Schedule	Mileage bands	Other pricing characteristics
Series 1000 (telegraph-grade)	1-100, 101-150, 151-250, 251-500, Over 500	Rate level variable by channel type.
Series 2000, 3000 (voice-grade) (MPL)	1, 2-15, 16-25, 26-40, 41-60, 61-80, 81-100, 101-1000, over 1000.	Rate level variable by rate center termination (Cf. Category "A" and "B" rate Centers). Charge for first mile comprised of a per mile rate component plus a $50 fixed charge which is reduced for channels terminating at international border crossing points as well as certain special construction cases.
Series 4000 (voice-grade)	Type 4001: 1-250, 251-500, 501-1000, 1001-1500, over 1500. Type 4002: 1-25, 26-100, 101-250, 251-500, over 500.	10% or 25% rate differential between half and full duplex. Rate variable by Channel Type.
Series 5000 Extension Channels (voice-grade)	1-25, 26-100, 101-250, 251-500, over 500	10% rate differential between half and full duplex.
Series 8000	1-250, 251-500, over 500	

[1] All interexchange channel rate elements shown here are characterized by a rate per mile which declines, in steps, with distance. These steps are in the form of mileage bands. Series 5000 (TELEPAK) "base capacity", equivalent in a structural sense to the interexchange channel rate element, is characterized by a fixed rate per mile which does not vary with distance except for channels of 25 miles or less.

Chart III.—*Illustrative Voice Grade Private Line Charges for 175 Mile Intercity Channel*

[Schedule and channel mileage charge]

Series 2000/3000 (MPL):	
Schedule I	$244.70
Schedule II	289.70
Schedule III	346.60
Series 4000 [1]	757.75
Series 5000 Base Capacity: [2]	
Telpak C	94.85
Telpak D	67.00
Series 5000 Extension Channels [3]	374.25

[1] Rate shown is for ½ duplex Type 4001 channel. Includes channel conditioning.
[2] Rate shown assumes 100% TELPAK fill, i.e., 60 and 240 voice grade channels for TELPAK C and D respectively.
[3] Rate shown is for ½ duplex.

Chart IV.—*Illustrative Terminating Arrangement Charges (including local loop) for Intercity Voice Grade Channels*

[Schedule]

Series 2000/3000 (MPL), Station Terminal	$25.00
Series 4000: [1]	
Service Terminal	32.50
Additional Service Terminal [2]	16.20
Series 5000 (Telpak), Service Terminal	43.40
Base Capacity, Additional Service Terminal	21.65
Series 5000 (Telpak), Service Terminal	16.20
Extension Channel, [3] Additional Service Terminal	10.80
Series 8000: [4]	
Service Terminal	13.55
Additional Service Terminal	8.15
BSOC-6: [5]	
Facility Terminal: Type I	.90
Type II, 6.00	
Facility Link: Up to ¼ mi.	.90
Up to ½ mi. 1.75	
Up to ¾ mi. 2.65	
Up to 1 mi. 3.55	
Over 1 mi. 4.70	
Facility Equipment Package	[6] 8.90

[1] Rate shown is for ½ duplex Type 4001 channel.
[2] Applies to additional service terminal on same service and in same exchange as Service Terminal.
[3] Rate shown is for ½ duplex.
[4] In addition to rate shown, a charge of $271 applies for a terminal control arrangement for use of voice-grade channels.
[5] Rates shown are for 2-wire voice facility.
[6] One such charge applies per intercity channel.

Appendix B

In order to develop a more complete record to enable us to fully evaluate the effect of volume discounts generally, and as they apply to communications common carriers particularly, we seek comment on the following matters. We invite comment from all knowledgeable parties. While we recognize that the questions below overlap to some extent, we would prefer that comments be structured as responses to the questions asked to facilitate analysis. We again stress that the comments which will be of greatest value are those that are specific and supported. In conjunction with our discussion above, we seek comment on the following:

1. Generally.

(a) What role do discounts play in the marketplace, both in theory and in practice?

(b) Are theoretical assumptions borne out by practice?

(c) How do these assumptions and practices apply to the common carrier industry generally and to Bell specifically?

(d) What has been the actual experience with various volume discount systems offered by Bell for private line service in the past?

(e) What has been the actual experience in industries where discounts are offered, particularly with regard to rate-regulated industries?

(f) What has been the experience in the air travel industry? Is that experience relevant to the telecommunications market?

(g) Should the Commission permit Bell to offer volume-based discounts which are not cost justified or do not satisfy the competitive necessity test for users of its competitive private line services?

(h) If a monopolist is permitted to offer a service below cost-based rates, on grounds of competitive necessity, should that fact affect its overall rate of return?

(i) Would continuous or graduated volume-based discounts within a particular category of like service where the service earns its rate of return serve the public interest?

(j) Are there other approaches which should be considered with respect to volume discounts? If so, what are they? How would they serve the public and our goal of administrative efficiency?

2. Section 1 concerns.

(a) To what extent, if any, are volume-based discounts consistent with or inconsistent with the purposes of the Commission as described in Section 1 of the Communications Act?

(b) Is the competitive communications private line market price-elastic? To what extent?

(c) Do volume-sensitive discounts attract marginal users?

(d) If so, is this likely to result in lower unit costs? Why?

V 44 O C 24 7 9 UMI

(e) Is the growth of the use of telecommunications facilities related to other general public welfare benefits?

(f) Do discounts significantly encourage this growth?

3. Section 202(a) concerns.

(a) Are any discounts consistent with Section 202(a) of the Communications Act? What restrictions are imposed on the Commission by the Act's proscription of unreasonable or unduly discriminatory discounts?

(b) What considerations should govern a Commission evaluation of whether volume discounts are consistent with the requirements of the Communications Act?

4. Accountability concerns.

(a) How would discounts affect the Commission's efforts to ensure that Bell's particular service categories earn their authorized rate of return?

(b) Could they be expected to assist AT&T's attempts to comply with the cost allocation principles of Docket 18128?

(c) What effects would such a discount scheme have on the requirement that rates be just and reasonable?

5. Competition concerns.

(a) What effect do discounts have on the competitive private line marketplace?

(b) Should the Commission permit discounts on any basis other than described herein (i.e., cost justified, competitive necessity) such as gradual declining steps or some other form?

(c) To what extent, if any, has the Commission's decision in *Resale and Shared Use of Common Carrier Services, supra*, affected various volume based discounts?

(d) Has this policy acted to prevent discrimination among users?

(e) Is it likely to do so?

(f) Assuming the continuing effectiveness of our Resale and Shared Use policies are Commission guidelines necessary to prevent discriminatory discounts?

(g) What would be the effect of applying the resale (shared use) policies to a graduated discount scheme, or any other discount plan submitted in the comments?

Additional Statement of Charles D. Ferris, Chairman

On the notice of inquiry and proposed rulemaking into the private line rate structure and volume discounts of the American Telephone and Telegraph Company.

Today's action instituting a Notice of Inquiry and Proposed Rulemaking into the private line rate structure of AT&T is designed first and fundamentally to aid consumers of telecommunications services. Consumers now face a complex, almost bewildering variety of AT&T private lines tariffs which cannot easily be compared.

For example, in different tariffs different terminology is used to describe the same service feature. Rates for the same communication's pipeline are calculated in different ways in different tariffs. In these circumstances it is extremely difficult for customers to make informed choices as to what private line services they want and need, whether offered by AT&T or its competitors.

In many different proceedings this Commission is attempting to foster competition in the telecommunications marketplace. As the marketplace becomes more competitive the role to be played by regulators can, and should, be significantly reduced. But consumer access to clear, simple, and straight forward information is critical for effective competition. This proceding is one step toward insuring such access for the American people.

[FR Doc. 79-32739 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

---

47 CFR Part 73

[Docket No. 21049; FCC 79-659]

Commerical Television Network Practices; Order Setting Comments and Reply Comments Dates on Preliminary Reports

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Preliminary Reports of the Network Inquiry Special Staff, conducting the inquiry into Commercial Telelvision Network Practices, have been released. Deadlines for comments have been established.

DATES: Comments on the Preliminary Reports issued thus far are due January 14, 1980; reply comments are due January 29, 1980.

Comments on subsequent Preliminary Reports are due 90 days after the issuance thereof; reply comments are due 15 days thereafter.

Comments on the topics described in Paragraphs 43–53 of the Further Notice of Inquiry (43 FR 50126) are due February 15, 1980.

ADDRESSES: Federal Communications Commission 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Stanley M. Besen, Thomas G. Krattenmaker, Co-Directors, Network Inquiry Special Staff, (202) 254–7030.

Adopted: October 16, 1979.

Released: October 18, 1979.

By the Commission: Chairman Ferris issuing a separate statement.

1. On October 26, 1978, we issued the *Further Notice of Inquiry* in this proceeding. (43 FR 50126; Dec. 1, 1978, 43 FR 56251). The *Further Notice* established certain procedures to be followed, including the issuance of preliminary reports with dates for filing comments and reply comments, and notification to interested parties of deadlines for filing comments on the second phase of the Inquiry (Paragraphs 43–53 of the *Further Notice:* Prospects for additional networks).

2. The first set of preliminary reports is being released at this time, and we are setting a period of 90 days for comments on these reports, with an additional 15 days for reply comments. All subsequent preliminary reports will likewise have 90 day comment periods from date of release and 15 day reply comment periods, with specific deadline dates set at the time of the release of those reports. We do not anticipate holding Commission meetings in conjunction with the release of all subsequent preliminary reports. In order to complete the Inquiry in a timely manner, it is essential that these deadlines be observed. Thus, we will view with disfavor any requests for extensions of time for filing comments in this proceeding.

3. In paragraph 64 of the *Further Notice of Inquiry* we said that at a later date we would set specific deadlines for comments on the second phase of the Inquiry, paragraphs 43–53 of the *Further Notice* (prospects for additional networks). We now establish February 15, 1980, as that deadline.

4. Accordingly, It is ordered, That comments on the Preliminary Reports of the Network Inquiry Special Staff released on October 18, 1979, must be filed by the close of business January 14, 1980; and reply comments on these reports must be filed by the close of business January 29, 1980.

It is further ordered, That Network Inquiry Staff is delegated authority to release any and all subsequent preliminary reports, and that comments on forthcoming Preliminary Reports of the Network Inquiry Special Staff must be filed within 90 days of the release of such reports, and reply comments must be filed within 15 days thereafter.

It is further ordered, That comments on the topics described in paragraphs 43–53 of the *Further Notice of Inquiry*, in this proceeding (October 26, 1978) must be filed by the close of business February 15, 1980, in order to be considered by the staff in preparing its preliminary reports on these topics.

5. In accordance with the provisions of Section 1.419 of the rules, an original and five copies of all comments, replies, pleadings, briefs and other documents shall be furnished to the Commission.

Material filed will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

Federal Communications Commission.[1]

William J. Tricarico,

Secretary.

October 16, 1979.

Separate Statement—Charles D. Ferris, Chairman

In the Matter of Commercial Television Network Practices (Docket No. 21049).

I applaud the fine efforts of the Network Inquiry Special Staff on this occasion of release of the first six preliminary reports of the Commission's inquiry into commercial television network practices. These reports constitute the first release of FCC studies of the television networks in this country undertaken since 1959. The more than two decades since that time have been a period of dramatic growth and change in U.S. television, and we need to reevaluate the provisions of our existing regulatory scheme for this medium.

The manner in which these reports are being released merits particular attention. These are not yet final reports to the Commissioners. A final report of the Inquiry staff will be released next year. Rather they are preliminary reports made public at this early stage by the Network Inquiry Special Staff to obtain wide public comment about their content. Before they are made final and submitted for formal consideration by the Commissioners, interested parties will have an opportunity to comment on their accuracy.

I believe that this procedure is novel to the FCC, and perhaps even to the administrative law field. This experiment should tell us whether this procedure should be adopted in other FCC proceedings and could assist other agencies with similar studies underway.

These preliminary reports are being issued directly by the independent office of the Network Inquiry Special Staff. While these reports were released at a Commission meeting, subsequent reports may be released during the next several months without such a meeting. I believe this procedure illustrates the independence with which the Special Staff has and will continue to acquit itself in analyzing the commercial television network practices and potential regulatory responses to them.

I also note that these reports reflect an unusual but welcome candidness about the Commission processes used in arriving at past policy decisions. I applaud the frankness and honesty with which the writers of these studies have approached their topic. Only a fresh, uninhibited approach to the study of the FCC's regulations regarding commercial television network practices can insure that the final report and subsequent Commission's action will be based on an accurate assessment of the impact of past regulatory efforts.

[FR Doc. 79-32775 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

[1] See attached Separate Statement of Chairman Charles D. Ferris.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 4

Procedures for the Identification and Protection of Archeological, Historic, and Scientific Properties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes policies and procedures to meet the Fish and Wildlife Service's responsibilities in the identification, protection, preservation, and management of archeological, historic, scientific, and other cultural resources. These regulations are intended to reflect the particular program needs of the Fish and Wildlife Service in fulfilling its requirements set forth in Executive Order 11593 and applicable historic preservation laws. The regulations were developed in consultation with the Advisory Council on Historic Preservation pursuant to section 1(3) of Executive Order 11593 and the President's Memorandum on Environmental Quality and Water Resources Management of July 12, 1978.

DATES: Comments must be received on or before November 23, 1979.

ADDRESSES: Comments should be submitted to the Director, U.S. Fish and Wildlife Service, Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. James W. Pulliam, Jr., Deputy Associate Director, National Wildlife Refuge System, Fish and Wildlife Service, Washington, D.C. 20240, (202)–343–5333.

SUPPLEMENTARY INFORMATION: The following persons participated in the writing of this rule: David Siegel, Archeologist, Fish and Wildlife Service, Albuquerque, New Mexico, telephone number: (505)–766–2036; James W. Pulliam, Jr., Deputy Associate Director, National Wildlife Refuge System, Washington, D.C., telephone number: (202)–343–5333.

The policy of the Department of the Interior is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding the proposed regulations.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Pursuant to the authority contained in the national Historic Preservation Act of 1966 and Executive Order 11593 of May 13, 1971, it is hereby proposed to establish a new Part 4 of Title 50 to read as follows:

SUBCHAPTER A—GENERAL PROVISIONS

* * * * *

PART 4—PROCEDURES FOR THE IDENTIFICATION AND PROTECTION OF ARCHEOLOGICAL AND HISTORIC PROPERTIES

* * * * *

Sec.

4.1 Purpose and authorities.
4.2 Responsibilities.
4.3 Definitions.
4.4 Program procedures.
4.5 Coordination with Service requirements under the National Environmental Policy Act.
4.6 Coordination with other agencies and entities.
4.7 Administration.
4.8 Records and reports.
4.9 Public information.

Authority: E.O. 11593 of May 13, 1971, "Protection and Enhancement of The Cultural Environment"; 16 U.S.C. 470, National Historic Preservation Act.

§ 4.1 Purpose and authorities.

This part provides guidance for the identification, preservation, and management of archeological, historic and scientific resources, pursuant to the following public laws, Federal rules, executive orders, and Departmental directives:

(a) Antiquities Act of 1906 (34 Stat. 225, 16 U.S.C. 431);

(b) Historic Sites Act of 1935 (49 Stat. 666, 16 U.S.C. 461–467);

(c) Reservoir Salvage Act of 1960 (74 Stat. 220, 16 U.S.C. 469) as amended by Pub. L. 93–291, the Archeological and Historic Preservation Act of 1974 (88 Stat. 174, 16 U.S.C. 469);

(d) National Historic Preservation Act of 1966 (80 Stat. 915, 16 U.S.C. 470) as amended in 1973 by P.L. 93–54 and in 1976 by the Land and Water Conservation Fund Act, P.L. 94–422;

(e) National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4332);

(f) Executive Order 11593, for "Protection and Enhancement of the Cultural Environment," May 13, 1971;

(g) Council on Environmental Quality National Environmental Policy Act Regulations (40 CFR Part 1500–1508);

(h) National Register of Historic Places (36 CFR Part 60);

(i) Procedures for the Protection of Historic and Cultural Properties (36 CFR Part 800);

(j) Determinations of Eligibility for Inclusion in the National Register of Historic Places (36 CFR Part 63);

(k) Executive Order 11514 (Protection and Enhancement of Environmental Quality);

(l) Executive Order 11990 (Protection of Wetlands);

(m) Executive Order 11988 (Floodplain Management);

(n) Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.);

(o) Presidential Memorandum on Environmental Quality and Water Resources Management, July 12, 1978.

§ 4.2 Responsibilities.

(a) Secretary of the Interior. The Secretary of the Interior is responsible for providing consultation and performing the functions necessary to execute the policies prescribed in Executive Order 11593 and other applicable historic preservation laws.

(b) Director, U.S. Fish and Wildlife Service. The Director is responsible for the identification and protection of historic, archeological, architectural, and scientific resources, hereinafter referred to as cultural resources, affected by Fish and Wildlife Service undertakings or on lands of Service jurisdictions. The Director will manage the cultural resources on Service lands in compliance with national policies in an effort to protect, preserve, rehabilitate, and maintain the properties, as appropriate. The Director is responsible for identifying and considering cultural resources on non-Federally owned areas which are or will be affected by Service undertakings including activities which are funded by or through the Service. The Director is responsible for identifying and considering cultural resources on activities licensed or authorized under permit by the Service. These responsibilities shall be fully considered in the earliest stages in project planning, construction, operation, and maintenance, and in the design and implementation of any proposed program, management direction, or other course of action. These responsibilities apply to all areas affected by a Service undertaking and on Service owned, withdrawn, or acquired lends or land in which the Service acquires or retains an interest. The Director is responsible for the Service's compliance with Executive Order 11593 and the applicable provisions of the laws and rules referenced in § 4.1.

(c) Regional directors. Each regional director is responsible for insuring that proposed and existing Service activities are executed according to the provisions of this Part 4. This responsibility cannot be delegated to individuals or organizations outside of the Service, except as is provided under the Archeological and Historic Preservation Act of 1974 (see § 4.1(c)).

(d) Service Historic Preservation Officer. The Service Historic Preservation Officer, provides advice to the Director and furnishes technical assistance to and coordinates with the regional directors in carrying out the Service's cultural resource management policy. The Service Historic Preservation Officer is the signatory official to the memorandum of agreement under § 4.4(d)(2)(ii).

(e) Advisory Council on Historic Preservation (Advisory Council). Under the provisions of section 106 of the National Historic Preservation Act and Executive Order 11593, the Advisory Council must be afforded an opportunity to comment on Federal, federally assisted, or federally licensed undertakings that may affect cultural resources. The procedures for consultation with the Advisory Council are contained in 36 CFR Part 800.

(f) State Historic Preservation Officer (SHPO). The SHPO is the State official, designated pursuant to 36 CFR Part 60, responsible for liaison with Federal agencies in their implementation of the National Historic Preservation Act of 1966 and Executive Order 11593, and for the coordination of the Statewide survey of historic properties and the development of a comprehensive State historic preservation plan.

§ 4.3 Definitions.

(a) "Advisory Council" means the Advisory Council on Historic Preservation, a twenty-nine member board which was created by the National Historic Preservation Act of 1966. To carry out its consultative role as described in § 4.2(c) the Advisory Council retains staffs for review and compliance in Denver, Colorado, and Washington, D.C.

(b) "Consultation" means the act of formally seeking advice or conferring with the Advisory Council on Historic Preservation and the appropriate State Historic Preservation Officer, as provided under 36 CFR Part 800.

(c) "Effect" is the extent of an undertaking's impact on a cultural resource as determined according to the Advisory Council's "Criteria of Effect" (36 CFR 800.3 and 800.4).

(d) "Federally licensed activity" refers to construction or development work carried out under service or other Federal agency licenses, leases, contracts, special use permits, and other permits or funding.

(e) "Mitigation" refers to those actions that will be taken to avoid, reduce, or ameliorate possible or probable adverse effect on a cultural resource. Mitigation can include data retrieval. Mitigation measures are accomplished within the formal consultation procedures of 36 CFR Part 800.

(f) "National Register" refers to the National Register of Historic Places which is maintained by the Secretary of the Interior under authority of Section 101(a)(1) of the National Historic Preservation Act of 1966. It is a register of districts, buildings, structures, and objects having national, State or local significance in American history, architecture, archeology, and culture.

(g) "National Register or eligible" means cultural resource properties which meet the criteria for eligibility for inclusion in the National Register. (See 36 CFR 60.6).

(h) "Service jurisdiction" means Fish and Wildlife Service administered lands, including withdrawn public lands, lands administered by cooperative agreement, and private lands which the Service has acquired in fee title or has a lesser interest in the form of a lease, easement, license, or permit.

(i) "Site" means the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical, cultural, or archeological value regardless of the value of any existing structures or site components. Examples are prehistoric cultural debris, battlefields, prehistoric or historic trails, historic farms and homesteads.

(j) "State Historic Preservation Officer (SHPO)" is the State official designated by 36 CFR Part 60, responsible for liaison with Federal agencies in implementing the National Historic Preservation Act of 1966 and Executive Order 11593.

(k) "Survey" refers to a study relevant to an area in order to locate and evaluate the cultural resources that are, or may be present. Survey involves field examination by a qualified professional to identify cultural remains.

(l) "Undertaking" is any Federal, federally assisted or federally licensed action, activity, or program or the approval, sanction, assistance, or support of any non-Federal action, activity, or program. This definition if further elaborated on under 36 CFR 800.2(c).

§ 4.4 Program procedures.

(a) *Policy.* The Service will identify and protect cultural resources affected by Service undertakings or on lands of Service jurisdiction. The Service will manage the cultural resources on lands of Service jurisdiction in compliance with national policies in an effort to protect, preserve, rehabilitate, and maintain the historic, archeological, architectural, and scientific values of those resources. In all matters related to cultural resources, the Service rules of this Part 4 and policy memorandums developed in further definition and implementation of these general rules govern the undertakings of the Service.

(b) *Undertakings requiring compliance with these rules.* An undertaking, as is used throughout these rules includes all classes of action taken by the Service which could effect cultural resources. They would include but are not limited to: construction projects initiated by the Service, permits for mineral entry including entry into mineral reserves which remain in private ownership, permits for rights-of-way, land sales or exchanges, alteration or removal of existing structures, funding of construction projects through various funding authorities and Federal aid programs, and management of a known cultural resource property. These types of undertakings will require cultural resource evaluations, as defined in § 4.4(c), which should be completed early in the planning stages of the undertaking. Land acquisitions will not require cultural resource evaluations, but the SHPO should be given an opportunity to comment on the acquisition, particularly if a property currently listed on the National Register is situated on the acreage which is to be acquired.

(c) *Cultural resource evaluations.* Cultural resource evaluations will involve, at a minimum, survey and inventory reports for all areas which may be affected by a Service undertaking or where Service undertakings are currently being planned. Undertakings which are purposely designed to alter the character of a known site or structure, such as building removal or demolition, will also undergo a cultural resource evaluation, to include at a minimum sufficient research to adequately document an initial determination of eligibility (36 CFR 800.4(a)(3)). The determination of eligibility in consultation with the State Historic Preservation Officer will be completed in both forms of cultural resource evaluation.

(1) Cultural resource evaluation for undertakings involving no known standing structures. Intensive surveys are to be carried out throughout the entire area of an undertaking's impact. Sampling or other partial inventories of the impact area will not be acceptable in lieu of a complete knowledge of the resources within the impact area. Surveys outside of the immediate impact area of an undertaking cannot be considered in lieu of resource information within the impact zone. Additional survey outside of the impact zone is acceptable as a supplemental source of cultural resource information, if appropriate or specifically warranted by the circumstances of the undertaking. Surveys consist of intensive on-the-ground examinations of all the areas affected by the Service undertaking. They are designed to locate and make a preliminary evaluation of all identified cultural resources. Surveys may require limited test excavation for the purpose of evaluating the cultural resources. All cultural resources identified in the impact area must undergo the initial determination of eligibility process under 36 CFR 800.4(a)(3).

(2) Cultural resource evaluation for undertakings involving modification to known standing structures. Assessments of a cultural resource property shall be made prior to any action which would alter, refurbish, stablize, relocate, demolish, or in any way change the character of any structure that is at least 50 years old. The assessment shall be completed as part of the initial determination of the eligibility process, under 36 CFR 800.4(a)(3). Information relevant to the age, occupational history, historical significance, or architectural uniqueness of a historic structure shall be included in the assessment. Plans for the stabilization or reconstruction of other prehistoric and historic ruins also require a cultural resource evaluation assessment, which is to include an initial determination of eligibility under 36 CFR 800.4(a)(3).

(d) *Determination of further action.* The Service must take additional action once the cultural resource evaluation process under § 4.4(c) has been completed.

(1) Acting when no cultural resources have been identified within the undertaking's area of environmental impact. When no cultural resources have been identified within the area of environmental impact of the undertaking, as determined by the cultural resource evaluation procedure outlined in § 4.4(c), the Service shall notify the State Historic Preservation Officer of this finding. If the SHPO does not respond within 30 days after receipt of this notification, the undertaking may proceed. The Service will maintain adequate documentation of having followed this procedure.

(2) Action to be taken when cultural resources are identified within the area of environmental impact. As part of the process outlined in § 4.4(c), the Service is to have completed a determination of eligibility in consultation with the SHPO under 36 CFR 800.4(a)(3) for all cultural resources identified within the scope or environmental impact area of the undertaking. This formal process will have established which cultural resources merit further consideration and which do not. If the resource does not merit further consideration, as provided under 36 CFR 800.4(a)(3), then the undertaking may proceed. The Service will retain adequate documentation of its completion of this process. If it is determined that the resource does merit further consideration, as provided under 36 CFR 800.4(a)(3), the Service must determine what effect the undertaking will have upon the resource. This determination must be made to ascertain whether or not the effect is adverse.

(i) Determination of no adverse effect. If the Service, in consultation with the SHPO, finds that the undertaking will have no adverse effect on the cultural resource, the Service shall forward adequate documentation of this determination, including written evidence of the views of the SHPO, to the Executive Director of the Advisory Council. Unless the Executive Director of the Advisory Council objects to the determination within 30 days after receipt of an adequately documented determination of no adverse effect, the Service will be considered to have satisfied the cultural resources requirements and may proceed with the undertaking. If after 30 days the SHPO has not responded to the Service's initial request for a determination of no adverse effect, the Service may send its documentation to the Executive Director of the Advisory Council along with evidence that contact with SHPO had been established. The Executive Director of the Advisory Council will either respond immediately, or, if the Executive Director does not respond within 30 days, the undertaking may proceed.

(ii) Determination of adverse effect. If the Service, the SHPO, or the Executive Director finds the effects of the undertaking on the cultural resource to be adverse, or if either the SHPO or the Executive Director do not accept the Service's determination that the

V 44 OC 24 79 UMI

undertaking will have no adverse effect, the Service must plan alternative courses of action to avoid the cultural resource or to mitigate the adverse impact of the undertaking on the resource. Avoidance of the cultural resource is the preferred alternative. In all cases, including avoidance, the Service, the SHPO, and the Executive Director of the Advisory Council shall be the consulting parties to consider feasible and prudent alternatives to the undertaking that could avoid, mitigate, or minimize adverse effects on the cultural resource. Specific provisions for this consultation process appear under 36 CFR 800.6. The execution of a memorandum of agreement among the Service, the SHPO, and the Advisory Council, will conclude the consultation requirements set forth in these regulations. Until completing its requirements under these regulations, the Service is precluded from taking or sanctioning any action or making any irreversible for irretrievable commitment that could result in an adverse effect on a cultural resource or that would foreclose the consideration of modifications or alternatives to the proposed undertaking that could avoid, mitigate, or minimize such adverse effects.

(e) *Cultural resources discovered during construction.* If the Service has previously met its responsibilities under these rules, and the Service finds or is notified after construction has started that an undertaking will impact a previously unidentified cultural resource, the Service must cease work that may further affect the property. Pursuant to the Archeological and Historic Preservation Act (16 U.S.C. 469(a)), the Service shall immediately notify the Secretary and provide such information as is available on the circumstances. If the Secretary advises the Service that the adverse effects on the property and the significance of the property require consultation with the Advisory Council to determine an appropriate course of action, or if the Service and the Secretary cannot agree on whether or how the effects should be mitigated, the Service shall request the comments of the Council in accordance with § 4.4(d)(2)(ii) of this Part 4.

(f) *Undertakings which may be exempt from the cultural resource evaluation requirement.* There will be many types of undertakings which, due to the magnitude of the environmental impacts involved or the low probability of encountering cultural resources in the area of impact, may be exempted from the cultural resource evaluation requirement. However, this determination can only be made in consultation with the State Historic Preservation Officer. When a question arises as to the need for a Cultural Resource Evaluation, the SHPO must be given an opportunity to comment on the undertaking. The Service must provide the SHPO with sufficient information regarding project design, environmental effects, and relevant environmental factors. The recommendations of SHPO shall be considered final. If the SHPO fails to respond to the notification within 30 days after receipt, the undertaking may proceed. The Service shall retain full documentation of having notified SHPO in the matter.

§ 4.5 Coordination with Service requirements under the National Environmental Policy Act.

The Service should coordinate the National Environmental Policy Act (NEPA) compliance with these procedures to ensure that historic and cultural properties are given proper consideration in the preparation of environmental assessments and environmental impact statements. The environmental assessment and environmental impact statement must contain evidence that the provisions set forth in these procedures have been met. A reference to an intent to follow this Part 4 at a later stage is not acceptable for the purposes of this section. Service obligations pursuant to the National Historic Preservation Act and Executive Order 11593, as established by this Part 4, must be complied with even when an environmental assessment or environmental impact statement are not required.

Preparation of an environmental assessment or an environmental impact statement may fulfill the requirements for reports and documentation under these regulations. Circulation for comment pursuant to section 102(2)(C) of NEPA shall constitute a request for SHPO and Advisory Council comments under Section 4.4 of this Part 4 if the Service so requests in cover letters circulated with environmental assessments and draft environmental impact statements. Cultural resource sections of final environmental impact statements must show evidence that the Service has completed all segments of the process prescribed by these procedures under § 4.4. The comments received from the SHPO and the Advisory Council should be included in the final environmental impact statement. Completion of the SHPO and Advisory Council commenting process in accordance with these procedures should precede issuance of the final environmental impact statement.

§ 4.6 Coordination with other agencies and entities.

If Federal lands administered by, or in cooperation with, another Federal agency will be affected by a Service undertaking or by an undertaking initiated by or through the other agency, coordination and consultation shall be required with that agency having primary responsibility for existing or potential cultural resources on such lands. If an undertaking on Service lands is a federally licensed activity which is planned, initiated, or permitted by another agency, it is the responsibility of the Service to insure that the agency or primary licensing authority has taken steps to comply with the regulations pursuant to the National Historic Preservation Act and Executive Order 11593, 36 CFR Part 800.

§ 4.7 Administration.

(a) *Program establishment.* The Service, through the regional directors, will insure that proposed and existing Service undertakings under their jurisdiction are executed according to the provisions of this Part 4. Coordination for this responsibility will be at the regional level in terms of the day to day implementation of this part.

(b) *Funding.* The Service must ensure that the identification and preservation of cultural resources are adequately considered and incorporated into the annual budgeting process. Construction projects will not be initiated unless funds have been identified for cultural resource evaluations and data recovery.

(c) *Contracts.* Contracting for consultant services, not available in the Service, may be either direct with a qualified firm or institution or through transfer of funds to other agencies with special expertise. Direct contracting, in accordance with existing procedures and procurement restrictions, will enable the Service to maintain more effective internal control over the contract. If determined appropriate by the contracting officer, all direct contracts, purchase orders, or transfers of funds for cultural resource work and the selection of contractors shall be reviewed by the Service Historic Preservation Officer. Copies of all actions taken by a regional director shall be provided to the Service Historic Preservation Officer.

§ 4.8 Records and reports.

(a) *Record of actions involving cultural resources.* A record shall be kept of all Service actions involving cultural resources. These records shall include, but are not limited to, contracts for work, contract completion reports, cultural resource evaluation survey and assessment reports, relevant correspondence, and all materials generated by compliance with these procedures. Records of site forms and building reports will be retained along with National Register nomination forms.

(b) *Technical reports.* Prior to the Service's acceptance of completed contractual obligations, all reports concerning cultural resource evaluations and/or mitigation studies shall be reviewed for technical accuracy, completeness, and adequacy by the Service Historic Preservation Officer and/or others he may designate. Copies of final accepted reports shall be furnished to:

(1) Service Historic Preservation Officer, for distribution to the Department of the Interior Library and the National Technical Information Service.

(2) State Historic Preservation Officer.

(3) Representatives of other Federal agencies whose lands may be affected.

(c) *Curation of collections.* Cultural resources and objects of antiquity that are located on or recovered from Service lands or have been gathered pursuant to these rules, remain the property of the United States. The Service may reassign curatorial services for materials recovered from cultural resources site explorations, cultural resource evaluations, or studies done under contract. Arrangements may be made with museums, universities, institutions, and/or other agencies to provide storage and curatorial services. These materials may be maintained by the holding institution, if not required by the Service for interpretive displays, research, or other compatible uses. All curatorial services will be arranged in consultation with the Service Historic Preservation Officer. Curatorial responsibility for palenontological and archeological materials recovered under the Antiquities Act of 1906 will be processed in accordance with the uniform rules and regulations set forth in 43 CFR Part 3.

§ 4.9 Public information.

All major actions taken under these guidelines which might generate significant public interest should be accompanied by an effort to inform the public of the nature and purpose of the action. News releases, public meetings, and letters to informed individuals are examples of appropriate means of establishing public contact.

Dated: October 15, 1979.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

[FR Doc. 79-32724 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-55-M

V 44 OC 24 79 UMI

Notices

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Judicial Review; Amended Meeting

In FR Doc. 79-31598 appearing on page 58933, Vol. 44, No. 199, Friday, October 12, 1979. Meeting has been changed from Seventh Floor conference room to Fourth Floor conference room of Covington & Burling, 888 16th Street, N.W.

Richard K. Berg,
Executive Secretary.
October 19, 1979.
[FR Doc. 79-3281d Filed 10-23-79; 8:45 am]
BILLING CODE 6110-01-M

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding the Urban Initiatives Program of the Urban Mass Transportation Administration

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the regulations for the "Protection of Historic and Cultural Resources" (36 CFR Part 800) with the Department of Transportation, Urban Mass Transportation Administration, and the National Conference of State Historic Preservation Officers concerning the Urban Inititatives program authorized by the Urban Mass Transportation Act of 1964 (49 U.S.C. 1601), as amended, Pub. L. 95-599.

COMMENTS DUE: November 23, 1979.

ADDRESS: Comments should be addressed to Executive Director, Advisory Council on Historic Preservation, 1522 K Street NW., Suite 536, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Smith, Chief, Division of Federal Program Review, 1522 K Street NW., Suite 536, Washington, D.C. 20005. Telephone: 202-254-3495; Mr. Peter Benjamin, Director, Office of Program Analysis, Urban Mass Transportation Administration, 400 7th Street SW., Washington, D.C. 20590. Telephone: 202-472-2435.

SUPPLEMENTARY INFORMATION: This notice of the proposed agreement invites comments from interested parties.

Copies of the proposed agreement are available from the Council. The agreement concerns the manner in which the Urban Mass Transportation Administration will meets its responsibilities under Section 106 of the National Historic Preservation Act and the Council's implementing regulations, 36 CFR Part 800. Section 106 requires that the head of any Federal agency having indirect or direct jurisdiction over a proposed Federal or federally assisted or licensed undertaking affecting properties in or eligible for the National Register of Historic Places shall afford the Council a reasonable opportunity for comment. The proposed agreement provides that the Urban Mass Transportation Administration will condition grant awards upon satisfactory completion of the Section 106 review process. Any rehabilitation work of National Register or eligible properties shall be carried out in accordance with the Secretary of the Interior's Standards for Historic Preservation Projects. The consultation process under the Council's regulations is to be initiated during project development.

Robert R. Garvey, Jr.,
Executive Director.
[FR Doc. 79-32788 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-10-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee; Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A-63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on November 8, 1979 from 10 a.m. to 6 p.m. and on November 9, 1979 from 8:30 a.m. to 12:30 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of October 17, 1979 made by the Director of the U.S. Arms Control and Disarmanent Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: October 18, 1979.
Charles R. Oleszycki,
Advisory Committee Monagement Office.
[FR Doc. 79-32746 Filed 10-23-79; 8:45 am]
BILLING CODE 6820-32-M

DEPARTMENT OF AGRICULTURE

Forest Service

Modoc National Forest Grazing Advisory Board; Meeting

The fall meeting of Modoc National Forest Grazing Advisory Board will be held at 0900, November 9, 1979, at the Ranger Station in Adin, California. This meeting will consist of a field tour to examine range improvement practices on the Big Valley Ranger District. The meeting will be open to the public. For additional information contact Jim Kaderabek, District Ranger, 916-299-3125 or Bill Britton, Range and Wildlife Officer, 916-233-3521.

G. Lynn Sprague,
Forest Supervisor,
October 15, 1979.
[FR Doc. 79-32767 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-11-M

Corrected Notice of Intent To Prepare Environmental Statements for Certain Areas of Idaho, Montana, and Washington

In the matter of: Nezperce National Forest Plan, Idaho County, Idaho; Clearwater National Forest Plan, Idaho, Lewis, Shoshone, and Clearwater Counties, Idaho; Idaho Panhandle National Forests Plan, Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, and Shoshone Counties, Idaho, Sanders and Lincoln Counties, Mont., and Pend Oreille County, Wash.

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare Environmental Statements for proposed Forest Land and Resource Management Plans for the Nezperce, Clearwater, and Idaho Panhandle National Forests. The management plan for each Forest will encompass the entire Forest of 2,242,572 acres (Nezperce National Forest), 1,838,549 acres (Clearwater National Forest) and 2,499,689 acres (Idaho Panhandle National Forests). The Idaho Panhandle National Forests include 2,352,428 acres in Idaho, 118,767 acres in Washington and 28,496 acres in Montana.

Preparation of the plans will follow direction outlined in the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, including the Secretary's Regulations provided therein.

The resulting plans will provide for multiple use and sustained yield of products and services from the Nezperce, Clearwater, and Idaho Panhandle National Forests. The plans will guide all natural resource management activities and establish management standards and guidelines. They will determine resource management practices, harvesting levels and procedures under the principles of multiple use and sustained yield, and the availability and suitability of lands for resource management.

Each Forest Plan will be selected from among representative alternatives which will include at least:

a. A no change in existing resource outputs alternative;

b. A range of alternatives that displays possible outputs of resources available at each of several expenditure levels; and

c. Alternatives designed to resolve the identified major public issues and management concerns.

Public participation will be an integral part of the planning process. "Scoping" meetings to identify issues to be addressed will be held early in the process. Times and places for these meetings will be announced by notices in area newspapers, news releases to news media, and brochures mailed to other agencies, organizations, and individuals known to have interest in management of the Nezperce, Clearwater, or Idaho Panhandle National Forests.

Tom Coston, Regional Forester, is the responsible official for these plans.

Further information about the planning and Environmental Impact Statement process; or comments on the Notice of Intent should be directed to:

Ed Laven, Forest Planning Staff Officer, Nezperce National Forest, 319 E. Main, Grangeville, ID 83530, Telephone (208) 983-1950.

John Underwood, Forest Planning Staff Officer, Clearwater National Forest, Route 4, Orofino, ID 83544, Telephone (208) 476-4541.

Gerry House, Forest Planning Team Leader, Idaho Panhandle National Forests, 1201 Ironwood Drive, Coeur d'Alene, ID 83814, Telephone (208) 667-2561.

The estimated dates for filing draft Environmental Impact Statements are: Nezperce, October 1980; Clearwater, April 1981; and Idaho Panhandle, April 1981; and for filing Final Environmental Statements: Nezperce, March 1981; Clearwater, October 1981; and Idaho Panhandle, January 1982.

Dated: October 12, 1979.
James E. Reid,
Acting Regionol Forester.
[FR Doc. 79-32770 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-11-M

Office of the Secretary

Structure of Agriculture; Public Meetings

Notice is hereby given that public meetings will be conducted by the Secretary of Agriculture as follows:

Time: 9:00 A.M. to 5:00 P.M.

Dates and Locations:

Montpelier, Vt., Nov. 27; Tavern Motor Inn, 100 State St.
Fayetteville, N.C., Nov. 28; Bordeaux Motor Inn, 1707 Owen Dr.
Huntsville, Ala., Nov. 29; Huntsville Hilton Inn, 401 Williams St.
South Sioux City, Nebr. (across the river from Sioux City, Iowa), Dec. 4; Marina Inn, 4th and B Streets.
Sedalia, Mo., Dec. 5; Liberty Park Convention Hall.
Wichita Falls, Texas, Dec. 6; Wichita Falls Activities Center, 10th and Indiana Streets.
Denver, Colo., Dec. 11; Regency Inn, 3900 Elati St.
Spokane, Wash., Dec. 12; Ridpath Motor Inn, 515 W. First St.
Fresno, Calif., Dec. 13; Sheraton Inn, I-99 at West Clinton.
Lafayette, Ind., Dec. 16; Howard Johnson's East, 4343 State Rd. 26 East.

Matters to be considered: The objectives of this Dialogue on the Structure of Agriculture are to collect and review information about the current structure of agriculture and the forces that affect it, and with the goal of establishing national policies and programs that will best promote the kind of agriculture and rural life Americans want for the future.

Broad areas of concern to be addressed include: Land ownership, control and tenancy; barriers to entering and leaving farming; production efficiency, size of farms and the role of technology; government programs; tax and credit policies; farm input supply system; farm product marketing system; present and future energy supplies; environmental concerns, including conservation and use of soil and water; returns to farmers; costs to consumers; and, quality of life in rural areas.

These meetings are part of USDA efforts to obtain as broad a record as possible of public comments and recommendations on these matters.

The meetings will be open to the public.

The agenda for each meeting will include statements by scheduled speakers, as well as time for impromptu comments or questions from the audience. Those interested in being scheduled to speak should contact USDA, giving their name, address, telephone number, and a brief description of the issue or issues they wish to address.

Requests to speak should be sent to: Project Coordinator, Structure of Agriculture, USDA, Washington, D.C. 20250. For further information about the scheduling of speakers, contact Elizabeth Webber (202) 447-2113. Scheduled Speakers will be notified of the time they will appear on the program approximately two weeks in advance of the hearing date. Persons unable to attend any of the meetings are encouraged to send their comments in writing to the Project Coordinator. All comments will be made part of the public record.

Contact person for more information: Richard W. Long, Assistant Project Coordinator, (202) 426-3964.

Susan Sechler,
Project Coordinator.
October 19, 1979.
[FR Doc. 79-32796 Filed 10-23-79; 8:45 am]
BILLING CODE 3410-01-M

V 44 0 C 2 4 7 9 UMI

CIVIL AERONAUTICS BOARD

[Order 79-10-101]

Agreements Adopted by the International Air Transport Association Regarding Conditions of Carriage; Cargo

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 17th day of October, 1979.

In the matter of order on petitions for reconsideration and stay: Order 79-10-101: Agreement CAB 2698, R-41; Agreement CAB 2699, R-49; Agreement CAB 2700, R-43; Agreement CAB 3119; Agreement CAB 7648, R-107; Agreement CAB 24475, R-4 and R-5, Docket 25280; Agreement CAB 25186, R-12, Docket 27573; Agreement CAB 25954, R-1, R-2, and R-3, Docket 27573; Agreement CAB 26701, R-9; Agreement CAB 27886, R-3.

On August 27, 1979, Swissair filed a petition for reconsideration, accompanied by a motion for stay, of Order 79-7-166, July 24, 1979, only insofar as the order dealt with Article (1)6 of the IATA conditions of cargo carriage.[1] On September 19, 1979, Swissair filed an amendment to its petition for reconsideration.

On August 15, 1979, Delta Air Lines filed a petition for reconsideration of the same order, respecting the substitute service provisions in Article (1)9 of these same IATA conditions of carriage.

By way of background, by Order 78-8-10, August 3, 1978, we approved (some conditionally) and disapproved provisions in IATA Resolutions 600b and 600j, restating the conditions of carriage to appear on the back and front of cargo air waybills. In response to Order 78-8-10, IATA submitted revisions to the conditions of carriage, including a revised Article (1)9. However, IATA failed to address Article (1)6 which deals with the question of the weight to be used in determining a carrier's monetary liability for loss, damage or delay of a shipment. In Order 78-8-10, we noted that Article (1)6, which provided that the actual weight should be used in the determination of a carrier's liability, appeared inequitable in the situation where transportation charges are based on an asumed weight which is greater than the actual weight.[2] We concluded that the shipper who pays transportation charges based on an assumed greater weight should be covered by such greater weight rather than the lesser actual weight.[3] Thus, we approved Article (1)6 on condition that the chargeable weight, as distinguished from the actual weight, be taken into account in the determination of a carrier's liability for loss, damage or delay. In Order 79-7-166, we found that the revised conditions of carriage corrected most of the deficiencies detailed in Order 78-8-10, but since IATA had failed to address Article (1)6, we prescribe the language for Article (1)6, providing in that the chargeable weight should be used.[4]

In its amended petition for reconsideration, Swissair proposes the following language for ordering clause 3 of Order 79-7-166 dealing with Article (1)6:

3. (a) We withdraw our conditional approval of Article (1)6 in Order 78-8-10 and Article (1)6 is approved only insofar as it applies to shipments not moving in foreign air transportation; and

(b) We order that insofar as shipments moving in foreign air transportation are concerned, Article (1)6 shall be stated in the following language:

> For air transportation as defined in the U.S. Federal Aviation Act, in case of loss or damage or delay of a shipment or part thereof, the weight to be used in determining the carrier's limit of liability shall be the weight which is used (or a pro rata share in the case of a part shipment, loss, damage or delay) to determine the transportation charge for such shipment.

We will grant Swissair's petition for reconsideration.

We will approve Article (1)6, as formulated by IATA, insofar as it applies to international shipments not moving in foreign air transportation, as defined by the Act. In transportation to/from the U.S., we will hold to the language prescribed in Order 79-7-166.

We recognize that foreign governments have a far greater interest than the United States in traffic that moves between points wholly outside the U.S. While we still believe that the fairest general rule would require "chargeable weight" to be used as the measure of a carrier's liability for loss, damage or delay claims, we do not believe that, as it applies to traffic between foreign points, the proposed clause 3(a) is so onerous that it should outweigh the greater interests of the foreign governments most directly affected. Accordingly, as a matter of comity, we have decided to grant, with slight modifications, the relief sought by Swissair. As stated in Order 79-8-194, August 30, 1978, in which we withdrew our tentative disapproval of the IATA rate conference arrangements insofar as they relate to transportation between non-U.S. points:

> Further consideration * * * has sharpened our recognition that the interests of foreign sovereign nations in the conditions governing air transportation between them greatly exceed any that we might have by reason of U.S. carrier participation or U.S. citizen travel. Accordingly, we believe that comity and deference to those nations in matters where their interests are much more intense than our own require that we henceforth confine the scope of this proceeding * * * to that area which most directly involves our national interest—namely, whether we should continue to approve and provide immunity for IATA rate and rate-related resolutions involving air transportation to or from the United States.

Turning to Delta's petition, it states that it is concerned with the substitution of truck service for air service in the domestic sectors of international freight routings. In Order 79-7-166, we found that Article (1)9, as revised and amended, corrected the prior deficiency. We remain of the same view. In any event, the matter of substitute service is before us in Docket 29525, and we will resolve it in that proceeding.

Accordingly, 1. We deny the petition for reconsideration of Order 79-7-166 filed by Delta;

2. We withdraw our conditional approval of Article (1)6 in Order 78-7-10;

3. We vacate ordering clause (3) of Order 79-7-166, and in lieu, clause (3) shall read as follows:[5]

> 3. (a) Article (1)6 of IATA Resolution 600b is approved only insofar as it applies to international transportation not involving foreign air transportation as defined in the Act.
>
> (b) For transportation to/from the United States, Article (1)6 shall be stated in the following language: Notwithstanding any other provision, for foreign air transportation as defined in the U.S. Federal Aviation Act, as amended, in case of loss or damage or delay of a shipment or part thereof, the weight to be used in determining the carrier's limit of liability shall be the weight which is used (or a *pro rata* share in the case of a part shipment loss, damage or delay) to determine the transportation charge for such shipment.

4. We exempt IATA, its member carriers, and any other person affected by this order from the operations of the antitrust laws, with respect to the subject matter of this order, as provided in section 414 of the Act;

5. We deny the motion for stay filed by Swissair;

6. We grant the petition for reconsideration filed by Swissair insofar as it is consistent with this order and otherwise deny it; and

7. In all other respects, Order 79-7-166 is to remain in full force and effect.

We shall publish this order in the **Federal Register.**

By the Civil Aeronautics Board.[6]

Phyllis T. Kaylor,

Secretary.

[FR Doc. 79-32792 Filed 10-23-79; 8:45 am]

BILLING CODE 6320-01-M

[1] Swissair filed a motion for leave to file its petition and motion for stay out of time. For good cause shown, we grant the motion. TWA filed a motion for leave to file late an answer supporting Swissair's petition. We grant its motion as well. Scandinavian Airline System filed an answer in support of Swissair's petition and motion for stay.

[2] In the case of light, but bulky articles, the transportation charges are based on an assumed higher weight to compensate for the space occupied.

[3] Under the Warsaw Convention, a carrier's monetary liability for loss, damage or delay is limited to the weight of the shipment. Warsaw itself contains no reference to the loss, damage, or delay of part of a shipment. The Hague Protocol fills this omission, but the Hague Protocol has not been ratified by the United States.

[4] At the same time, we withdrew the conditional approval of Article (1)6 in Order 78-8-10.

[5] We have altered the language suggested by Swissair to more accurately reflect its proposal.

[6] All members concurred.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 10-79]

Foreign-Trade Zone—Oakland, Calif.; Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the City of Oakland, a municipal corporation of the State of California, requesting authority to establish a general-purpose foreign-trade zone in the City, within the San Francisco/Oakland Customs port of entry.

The application was submitted to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81a-81u), and the Regulations of the Board (14 CFR Part 400). It was formally filed on October 12, 1979. The City, as applicant, is authorized to make this proposal under Chapter 4, Section 6302, of the California Government Code.

The proposal calls for the establishment of a foreign-trade zone on a 13-acre site being developed as an International Trade Center. The facility is situated near the City's port facilities on San Francisco Bay as well as the Oakland International Airport. It will be operated under agreement with the City by the Oakland International Trade Center, a private California corporation. An existing 126,000 square foot building on the site will be modified to serve as the zone's intial facility. Future plans call for a light manufacturing facility.

The application contains economic data and information concerning the need for providing zone services in the Oakland area, and the importance of this project to the City's economic development efforts. Several firms have indicated their intention to use the zone for storage, exhibition, and light manufacturing activities on a wide range of products including electrical welders, furniture, medical supplies, alcoholic beverages, photographic equipment, power generating machinery, and jewelry.

In accordance with the Board's regulations, an Examiners Committee has been appointed to investigate the application and report thereon to the Board. The Committee consists of: Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, 14th and E Streets, N.W., Washington, D.C. 20230; Dan W. Lane, Chief, Merchandise Control, U.S. Customs District San Francisco, 555 Battery Street, San Francisco, California 94126; and Colonel John M. Adsit, U.S. Army Engineer District San Francisco, 211 Main Street, San Francisco, California 94105.

As part of its investigation of the proposal, the Examiners Committee will hold a public hearing on November 28, 1979, beginning at 9:00 a.m., in Room 115 of the Oakland City Hall at 14th and Washington Streets in Oakland. The purpose of the hearing is to help inform interested persons about the proposals, to provide an opportunity for their expression of views, and to obtain information useful to the examiners.

Interested persons or their representatives are invited to present their views at the hearing. They should notify the Board's Executive Secretary by November 21 of their desire to be heard in writing at the address below or by phone (202) 377-2862. In lieu of an oral presentation, written statements may be submitted in accordance with the Board's regulations to the Examiners Committee, care of the Executive Secretary, at any time from the date of this notice through December 28, 1979. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing.

A copy of the application and accompanying exhibits will be available for public inspection during the comment period at each of the following locations:

Office of the District Director, U.S. Department of Commerce, Federal Building, Box 36013, 450 Golden Gate Avenue, San Francisco, Calif. 94102.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: October 15, 1979.

John J. Da Ponte,

Executive Secretary, Foreign-Trade Zones Board.

[FR Doc. 79-32716 Filed 10-23-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service.

SUMMARY: The Caribbean Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), will hold an additional "scoping meeting" under NEPA, to obtain comments and recommendations in relation to its intention to develop Environmental Impact Statements and fishery management plans for: (1) Deep-Water Reef Fishes and, (2) two species of mollusks: Conch (*Strombus gigas*) and Whelk (*Livonia pica*). A list of the species to be included in the Deep-Water Reef Fish Plan can be obtained directly from the Council.

DATE: The meeting will convene at 7:30 p.m. on Thursday, November 8, 1979. The meeting is open to the public.

ADDRESS: The meeting will take place at the Conference Room of the U.S. Virgin Islands' Legislature, Christiansted, St. Croix, U.S. Virgin Islands.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, Suite 1108, Banco de Ponce Building, Hato Rey, Puerto Rico 00918, Telephone: (809) 753-4926.

Dated: October 19, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32830 Filed 10-23-79; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Proposed Designated Self-Regulatory Organization

The Commodity Exchange Act, as amended, ("Act"), and the Commodity Futures Trading Commission's ("Commission") minimum financial and related requirements promulgated under the Act make each self-regulatory organization ("SRO") responsible for supervising compliance by their member futures commission merchants ("FCMs") with the organizations' financial

requirements.[1] When FCMs are members of more than one such organization, Section 1.52 of the regulations permits the establishment of a plan whereunder one of the organizations is made responsible for the necessary oversight. The principal purpose of such a plan is to alleviate what would otherwise be multiple reporting and related auditing burdens on the FCMs and SROs involved.

The Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee, Sugar & Cocoa Exchange, Inc.,[2] New York Cotton Exchange and New York Mercantile Exchange have submitted such a plan, which they have termed a "Joint Audit Plan", pursuant to Section 1.52(c) of the Commission's regulations, since several FCMs are members of more than one of these seven exchanges.

The Commission is, hereby, publishing a summary and description of the Joint Audit Plan and requesting public comment on the plan in accordance with regulation 1.52(g). Requests for a copy of the plan may be made to the Executive Secretariat. The parties submitting the plan have asked that certain portions thereof be given confidential treatment, and any requests for a copy will be considered under the Act, the Freedom of Information Act (5 U.S.C. 552), and the Commission's regulations promulgated thereunder. Any person interested in expressing views on the proposed Joint Audit Plan should send comments on or before November 23, 1979, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581. For further information, contact Daniel Driscoll, Chief Accountant, Division of Trading and Markets, at the same address, (202) 254-8955. Copies of all comments will be available for inspection at the Commission's Washington office.

SUPPLEMENTARY INFORMATION: On August 29, 1978, the Commission adopted regulation 1.52 as part of its minimum financial regulations. Section 1.52(a) requires each SRO to adopt and submit for Commission approval, rules prescribing minimum financial and related reporting requirements for all of its members who are registered FCMs. Section 1.52(b) requires each SRO to have in effect and enforce such minimum financial and related reporting requirements which have been approved by the Commission. Section 1.52(c) provides that any two or more SROs may file with the Commission a plan for delegating to a DSRO for any FCM which is a member of more than one such SRO, the responsibility of:

(1) Monitoring and auditing for compliance with the minimum financial and related reporting requirements adopted by such SROs pursuant to section 1.52(a); and
(2) Receiving the financial reports necessitated by such minimum financial and related reporting requirements.

Section 1.52(c) further provides that such a plan may also delegate the responsibility of examining the books and records kept by such FCM relating to its business of dealing in commodity futures and cash commodities, insofar as such business relates to its dealing on contract markets, as required by § 1.51(a)(3) of the Commission's regulations.

The following summary of the plan was filed by the participating SROs as part of their submission:

The Amex Commodities Exchange, Inc., Chicago Mercantile Exchange, Commodity Exchange, Inc., MidAmerica Commodity Exchange, New York Coffee and Sugar Exchange, Inc.,[3] New York Cotton Exchange and New York Mercantile Exchange have entered into a Joint Audit Plan pursuant to Regulation Section 1.52 of the Commodity Exchange Act, as amended. This section provides for the allocation of regulatory responsibilities to Designated Self Regulatory Organizations ("DSRO"). The contract markets participating in this plan believe that it will help those Futures Commission Merchants ("FCM") who are members of two or more participating contract markets in the following ways: (1) reduce the multiple monitoring and auditing for compliance with the minimum financial rules; and (2) reduce multiple reporting of the financial information necessitated by such minimum financial requirements.

This plan allows one contract market to be the DSRO for any FCM which is a member of two or more participating contract markets. It is intended that non-DSRO participating contract markets will not be required to visit a member firm to which it is not assigned, except for the purpose of conducting special reviews. This plan does not, however, preclude a non-DSRO participating contract market from visiting a member firm whenever and for whatever reason it deems necessary.

FCM's have been divided into two groups:

(1) *Members of at least one participating contract market and the New York Stock Exchange ("NYSE").* The participating contract markets have entered into an agreement with the NYSE whereby the NYSE will perform auditing and monitoring functions for dual members. As such, FCMs which are members of the NYSE need not file the 1-FR with any participating contract market. Filing with the NYSE will satisfy that requirement. (FCM's registered as broker/dealers may file the FOCUS Report together with a schedule of segregation requirements in lieu of the 1-FR.) The NYSE will perform annual financial audits and audits meeting the requirements of Regulation Section 1.51(a)(3) of the Commodity Exchange Act, prepare written reports setting forth results of these audits, provide access to all workpapers and information applicable to such audits, provide access to those employees of the NYSE who are responsible for the monitoring of the financial and operational condition of such dual members and furnish a monthly summary report of key financial data based on information contained in the FOCUS Reports as received by the NYSE.

A DSRO has been established for each FCM who is a dual member with the NYSE. The NYSE will disseminate all the above mentioned results and reports to that DSRO who will then in turn forward the applicable information to the other participating contract markets of which that FCM is a member.

(2) *Members of at least two participating contract markets.* DSRO's have been established for each dual member. The DSRO will be responsible for receiving the required financial reports, monitoring and auditing for compliance with the minimum financial and related reporting requirements and auditing for the requirements of Regulation Section 1.51(a)(3) of the Commodity Exchange Act.

A Joint Audit Committee, with one representative from each of the participating contract markets, has been established. The Joint Audit Committee has the responsibility for overseeing the implementation and functioning of all aspects of the Joint Audit Plan.

The Joint Audit Plan will become effective immediately upon [Commission] approval.

The DSROs under the proposed plan would be:

New York Mercantile Exchange

Ace American, Inc.
B & B Commodities
Beaver Brooks Commodities
Bushwick Commission Company, Inc.
Canada Packers Div. Wm. Davies Co., Inc.
Cleary Trading Co., Inc.
Delos Commodities, Inc.
Drexel, Burnham Lambert, Inc.*
Edelstein and Company, Inc.
Sam Fishberg & Company
Grappel Trading Company, Inc.
Helfer Commodities Corporation
King Commodities
Marc Commodities Corporation
MFX Commodities
MPG Commodities, Inc.
Manhattan Metals (non-ferrous) Ltd.
Meierfeld, S., Inc.
Paris Securities Corporation
Piper, Jaffray & Hopwood, Inc.*
RAM Commodities, Inc.
Reardon Commodities, Inc.
Rosenberg Commodities, Inc.
Sinclair & Company, Inc.
United Equities (Commodities) Company
U.S. Asahi, Inc.

New York Cotton Exchange

Dunavant Commodity Corporation
First Wall Street Settlement Corp.*
Klein & Company
Loeb Rhoades Hornblower, Inc.*
Weill Brothers & Butler

Commodity Exchange, Inc.

ACLI International Commodity Services, Inc.
J. Aron Commodities Corporation
Bache Halsey Stuart Shields, Inc.*
Balfour Maclaine, Inc.
Brandeis, Goldschmidt & Co. (Commodities), Inc.
Brody, White & Co., Inc.
Commodity International Co.
Cowen & Company*
Easton & Company
Eisen & Blum, Inc.
Fahnestock & Co.*
Gerald Commodities Service, Inc.
Goldman Sachs & Co.*
Interstate Securities Corp.*
Lehaman Bros. Kuhn Loeb, Inc.*
McCormick Commodity, Inc.
OCC Commodities, Inc.
Oppenheimer & Co.*
Primary Metal & Mineral Corporation
Redel Trading Company, Inc.
Republic Clearing Corp.
Thomsom McKinnon Securities, Inc.*
Truebner & Company, Inc.
Rudolf Wolff Commodity Brokers, Inc.

New York Coffee, Sugar & Cocoa Exchange, Inc.[3]

Amerop Division of Westway Trading Corporation
Anderson Clayton Trading Company, Inc.
Christman Clearing Co.
Czarnikow-Rionda Company, Inc.
Dyer & Co., B.W.
Espo Commodities, Inc.
Forward Clearing Corporation
Lonray (Sugar) Inc.
Macro International Group, Inc.
MGC Commodity Corp.
Montgomery & Company, D.W.
Pellas Co., Inc., S.F.
Richardson Commodities, Inc.
Scholtz & Company Inc.
Smith Barney, Harris, Upham & Co., Incorporated*
Volkart Brokerage Inc.
W.C.L. Commodities Inc.
Woodhouse, Drake & Carey, Inc.

AMEX Commodities Exchange, Inc.

Blyth Eastman Dillon & Co., Inc.*
Bruns, Nordeman, Rea & Co.*
Cohn Commodities
Ernst & Co.*
Goodman-Manaster & Co.
Granger & Co.*
Grayson, Burger & Co.*
Gruss, (Oscar) & Co.*
Herald & Co., Bernard, Inc.*
Illinois Co., Inc.*
MKI Securities Corp.*
Morgan Stanley & Co., Inc.*
Primary Commodity Resources, Inc.
Robinson-Humphrey Company, Inc.*
Delphi Commodities, Inc.
Wheat, First Securities, Inc.
Rauscher Pierce & Ressnes, Inc.

Midamerica Commodity Exchange

Archer Commodities, Inc.
Chicago Discount Commodity
Hogan-Orr, Inc.
Justin & Skydell, Inc.
A. J. Riffel & Company

Chicago Mercantile Exchange

Agra Trading Inc.
American TransEuro Corp.
Anspacher and Associates, Inc.
Barnes Brokerage Co., Inc.
Bear Stearns & Co.*
A.G. Becker, Incorporated*
A.G. Becker, Kipnis & Co.*
Cargill Investor Services, Inc.
Carl, Jack Associates
Clayton Brokerage Co., of St. Louis, Inc.
CSA, Inc.
Collins Commodities, Inc.
Conti-Commodity Services, Inc.
Dean Witter Reynolds, Inc.*
Dellsher Investment Co., Inc.
Discount Corp. of New York Futures
Donaldson, Lufkin & jenrette Securities, Corp.*
Dunavent Financial, Inc.
Edwards, A.G., & Sons, Inc.*
First Mid-America, Inc.*
Friedman, Ray E. & Co.
Freehling & Co.*
Geldermann & Co., Inc.
GNP Commodities, Inc.
Garvey Commodities Corp.
Heinold Commodities, Inc.
Hennessy & Associates
Hutton, E.F. & Co., Inc.*
K & S Commodities, Inc.
Keystone Trading Corp.
King & King, Inc.
Kohn & Co.
Lincoln-Staley Commodities, Inc.
Lincolnwood, Inc.
Lind-Waldock & Co.
Madda Trading Co.
Maduff & Sons, Inc.
McCarthy Commodities, Inc.
Merrill Lynch, Pierce, Fenner & Smith, Inc.*
Miller, G.H. & Company
Miller-Jesser, Inc.
O'Brien, R.J. Associates, Inc.
O'Connor Grain Co.
Packers Trading Company, Inc.
Paine, Webber, Jackson & Curtis, Inc.*
Peavey Company
Peters & Co.
Rich, Sol & Co., Inc.
Richardson Securities, Inc.*
Ritten, Louis N. & Co., Inc.
Rosenthal & Co.
Rufenacht, Bromagen & Hertz, Inc.
Shearson Hayden Stone, Inc.*
Siegel Trading Co., Inc., The
Stotler & Company
Stern, Lee B. & Company, Ltd.
Stone, Saul & Company
Tabor Grain Co.
Weinberg Brothers & Co.
Woodstock, Inc.

Issued in Washington, D.C. on October 19, 1979.

Jane K. Stuckey,
Secretary of the Commission.

[FR Doc 79-32725 Filed 10-23-79; 8:45 am]

BILLING CODE 6351-01-M

---

[1] Under the minimum financial regulations, such SRO's are referred to as designated self-regulatory organizations ("DSROs"). These regulations as well as the definitions of the terms referred to can be found at 43 FR 39956 (September 8, 1978).

[2] When the plan was submitted, one of the parties to the plan was the New York Coffee and Sugar Exchange, Inc., which has since merged with the former New York Cocoa Exchange, Inc., and the resulting entity is now known as the New York Coffee, Sugar & Cocoa Exchange, Inc.

[3] See note 2 above.

[3] See note 2 above.

*New York Exchange Member.

Publication of and Request for Comment on Proposed Rules Having Major Economic Significance; Amendments to Rules 1001, 1002 and 1010 of the Amex Commodities Exchange, Inc.

The Commodity Futures Trading Commission ("Commission"), in accordance with section 5a(12) of the Commodity Exchange Act ("Act"), 7 U.S.C. § 7a(12) (1976), as amended by the Futures Trading Act of 1978, Pub. L. No. 95-405, section 12, 92 Stat. 871 (1978), has determined that amendments to rules 1001, 1002 and 1010, submitted by the Amex Commodities Exchange, Inc., are of major economic significance. These amendments broaden the class of U.S. Treasury bills eligible for delivery against the Exchange 90-day U.S. Treasury bill contract to include any bill maturing within the third month following the delivery month.

The rules, as amended, are printed below showing deletions in brackets and addition underscored:

Rule 1001—Application of Regulation

Futures transactions in 90-day Treasury bills shall be subject to the general rules of the Exchange as far as applicable and shall also be subject to the regulations contained in this chapter which are exclusively applicable to trading in this instrument. The term "90 day Treasury bills" as used in these rules shall refer to *any* United States Government Treasury bills [maturing 90, 91, and 92 days after delivery *which mature during the third month following the delivery month.*

Rule 1002—Standards

(a) The contract grade for delivery on futures contracts made under these regulations shall be 90-day Treasury bills having a face value at maturity totalling $1,000,000. At seller's option a delivery unit may be composed of *any* Treasury bills [having a maturity of 90, 91, or 92 days] *Which mature during the third month following the delivery month.*

(b) (c) (d) no changes.

(e) [In the event that an auction of 90-day Treasury bills is not conducted for the week during which the delivery against futures contracts is scheduled to occur, or, i] *If* for any reason the potential supply of [90-day] Treasury bills available for delivery against the

contract appears to be inadequate, the Board or a duly appointed Committee of the Board shall have the authority to specify as deliverable on the contract such other deliverable Treasury securities as it deems substitutable, including any appropriate price adjustments.

Rule 1010—Last Day of Trading

[No trades in 90-day Treasury bill futures deliverable in the current month shall be made after the second day following the third Monday of that month. In the event that a 90-day Treasury bill auction is not conducted that week,] Trading in 90-day Treasury bill futures shall terminate on the Wednesday following the third Monday of the contract month, unless that day is a scheduled Exchange holiday. In such instance, trading shall terminate on the previous Exchange business day.

Any person interested in submitting written data, views, arguments on these rules should send his comments by December 24, 1979, to Ms. Jane Stuckey, Executive Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW, Washington, D.C. 20581.

Issued in Washington, D.C. on October 19, 1979.

Jane K. Stuckey,

Secretary of the Commission.

[FR Doc. 79-32736 Filed 10-23-79, 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Fort Sam Houston, Tex.; Filing of Environmental Impact Statement

The Army, on October 19, 1979, provided the Environmental Protection Agency a Draft Environmental Impact Statement (DEIS) concerning the on-going missions at Fort Sam Houston, Texas. The alternatives of maintaining, discontinuing, or changing missions at Fort Sam Houston are analyzed. Copies of the statement have been forwarded to concerned Federal, State, and local agencies. Interested organizations or individuals may obtain copies for the cost of reproduction from the Commander, Fort Sam Houston, ATTN: Directorate Facilities Engineering, Fort Sam Houston, TX 78234.

In the Washington area, copies may be seen during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, telephone: (202) 694-3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupations[Health OASA (IL&FM).

[FR Doc. 79-32790 Filed 10-23-79, 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Navy Resale Service and Support Activity Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I) notice is hereby given that the Navy Resale Services and Support Activity Advisory Committee will meet on November 12, 1979, at Savoy Room of the Plaza Hotel, 768 Fifth Avenue, New York, New York. The first session from 9:00 a.m. to 10:30 will be open to the public. The second session from 10:45 a.m. to 12:00 noon will be closed to the public.

The agenda will consist of discussions of operations, organizations, industrial relations, procurement, distribution, field support, and financial management.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting, which will involve discussion of information relating solely to either internal agency personnel rules and practices or trade secrets, or confidential or privileged commercial or financial information, be closed to the public. These matters fall within the exemptions listed in subsections 552b(c)(2) and (c)(4) of title 5, United States Code. The first session of the meeting which will involve other nonprivileged matter related to the Navy Exchange Resale Services and Support Activity, will be open to the public.

For further information concerning this meeting, contact: Commander J. R. Akers, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 801, Crystal Mall, Building No. 3, Arlington, VA 20376, telephone number (202) 695-5457.

Dated: October 17, 1979.

P. B. Walker,

Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Administrative Law).

[FR Doc. 79-32789 Filed 10-23-79, 8:45 am]

BILLING CODE 3810-71-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

PGP Gas Products, Inc.; Proposed Consent Order

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order and for potential claims against the refunds deposited in an escrow account established pursuant to the Consent Order.

DATE: Effective date: August 13, 1979.

COMMENTS BY: November 23, 1979.

ADDRESS: Send comments to: Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235 [Phone] 214/767-7745.

SUPPLEMENTARY INFORMATION: On August 13, 1979, the Office of Enforcement of the ERA executed a proposed Consent Order with PGP Gas Products, Inc. of Midland, Texas. Under 10 CFR 205.199J(b), a proposed Consent Order which involves a sum of $500,000 or more in the aggregate, excluding penalties and interest, becomes effective only after the DOE has received comments with respect to the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate an alternative Consent Order.

I. The Consent Order

PGP Gas Products, Inc. (PGP), with its home office located in Midland, Texas, is a firm engaged in the processing of natural gas and sale of natural gas liquids (NGLs) and plant condensate, and is subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR, Parts 210, 211, and 212. To resolve certain civil actions which could be brought by the Office of Enforcement of the Economic Regulatory Administration as a result of its audit of PGP, the Office of Enforcement, ERA, and PGP entered into a proposed Consent Order, the significant terms of which are as follows:

1. The period of the audit was from May 1974 through December 1976 and it included all sales of a mixed natural gas liquid stream to UPG, Inc. and sales of plant condensate to Scurlock Oil Company.

2. PGP improperly applied the provisions of 6 CFR Part 150, Subpart L, and 10 CFR Part 212, Subparts D, E, and K, when determining the prices to be charged for its natural gas liquids and plant condensate; and, as a consequence, charged prices in excess of the maximum lawful selling prices resulting in overcharges to its customers.

3. PGP voluntarily refunded $900,868 in overcharges on NGLs between August 1975 and February 1976. PGP agrees to refund an additional $459,800 to UPG, Inc., plus interest on all the overcharges, within 90 days of the effective date of this Consent Order.

4. Because sales of the plant condensate were not made to ultimate consumers, and they are not readily identifiable, the refund of $25,484 will be made through the DOE in accordance with 10 CFR Part 205, Subpart V as provided below.

5. The provisions of 10 CFR 205.199J, including the publication of this Notice, are applicable to the Consent Order.

II. Disposition of Refunded Overcharges

In this Consent Order, PGP agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the sales of NGLs, $459,800 plus interest within 90 days of the effective date of this Consent Order. Refunds of overcharges will be made directly to UPG, Inc.

PGP also agrees to refund, in full settlement of any civil liability with respect to actions which might be brought by the Office of Enforcement, ERA, arising out of the sales of plant condensate, $25,484 plus interest within 30 days of the effective date of the Consent Order. Refunded overcharges will be in the form of a certified check made payable to the United States Department of Energy and will be delivered to the Assistant Administrator for Enforcement, ERA. These funds will remain in a suitable account pending the determination of their proper disposition.

The DOE intends to distribute the refund amounts in a just and equitable manner in accordance with applicable laws and regulations. Accordingly, distribution of such refunded overcharges requires that only those "persons" (as defined at 10 CFR 205.2) who actually suffered a loss as a result of the transactions described in the Consent Order receive appropriate refunds. Because of the petroleum industry's complex marketing system, it is likely that overcharges have either been passed through as higher prices to subsequent purchasers or offset through devices such as the Old Oil Allocation (Entitlements) Program, 10 CFR 211.67. In fact, the adverse effects of the overcharges may have become so diffused that it is a practical impossibility to identify specific, adversely affected persons, in which case disposition of the refunds will be made in the general public interest by an appropriate means such as payment to the Treasury of the United States pursuant to 10 CFR 205.199I(a).

III. Submission of Written Comments

A. *Potential claimants:* Interested persons who believed that they have a claim to all or a portion of the refund amount should provide written notification of the claim to the ERA at this time. Proof of claims is not now being required. Written notification to the ERA at this time is requested primarily for the purpose of identifying valid potential claims to the refund amount. After potential claims are identified, procedures for the making of proof of claims may be established. Failure by a person to provide written notification of a potential claim within the comment period for this Notice may result in the DOE irrevocably disbursing the funds to other claimants or to the general public interest.

B. *Other comments:* The ERA invites interest persons to comment on the terms, conditions, or procedural aspects of this Consent Order.

You should send your comments or written notification of a claim to Wayne I. Tucker, District Manager of Enforcement, Southwest District Office. You may obtain a free copy of this Consent Order by writing to the same address or by calling 214/767-7745.

You should identify your comments or written notification of a claim on the outside of your envelope and on the documents you submit with the designation, "Comments on PGP Gas Products, Inc. Consent Order." We will consider all comments we receive by 4:30 p.m., local time, on November 23, 1979. You should identify any information or data which, in your opinion, is confidential and submit it in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 31st day of August, 1979.

Herbert F. Buchanan,

Deputy District Manager, Southwest District Enforcement Economic Regulatory Administration.

[FR Doc. 79-32727 Filed 10-23-79, 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-R-79-49]

Use of Natural Gas Authorities To Increase Coal and Other Nonpetroleum Fuel Usage and Heavy Oil Production

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Inquiry.

SUMMARY: The Economic Regulatory Administration (ERA) hereby gives notice of its consideration of the use of its natural gas authorities for the purpose of inducing increased coal and other non-petroleum fuel usage and the production of heavy oil. For purposes of this notice other non-petroleum fuels shall include all such fuels including synthetic fuels. ERA is seeking the best way of utilizing its natural gas authorities, in conjunction with its authorities under the Powerplant and Industrial Fuel Use Act, to increase coal and other non-petroleum fuel usage in existing facilities and to provide incentives for the building of new coal and non-petroleum fuel-capable facilities. ERA is also seeking comments on ways its natural gas authorities may be used to increase the production of heavy oil. Specifically, this notice seeks comments on proposals to accomplish these purposes and invites any alternate suggestions for achieving these goals through available natural gas authorities.

DATES: Written comments by December 21, 1979, 4:30 p.m.

ADDRESS: All comments should be sent to the Office of Public Hearings Management, Economic Regulatory Administration, Room 2213, Docket No. ERA-R-79-49, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Office of Public Hearing Management), Economic Regulatory Administration, 2000 M Street NW., Washington, D.C. 20461 (202) 254-5201.

William L. Webb (Office of Public Information), Economic Regulatory Administration, 2000 M Street NW., Room B-110, Washington, D.C. 20461 (202) 634-2170.

Paula Daigneault (Division of Natural Gas Regulations), Economic Regulatory Administration, 2000 M Street NW., Room 3308, Washington, D.C. 20461 (202) 632-4721.

V 44 0C 24 79 UMI

James G. Beste (Office of the General Counsel), Department of Energy, 12th and Pennsylvania Ave. NW., Room 7140, Washington, D.C. 20461 (202) 633–8788.

SUPPLEMENTARY INFORMATION:

I. Background
II. Options to Induce Increased Coal Usage and Heavy Oil Production
A. Curtailment Priority Rule
B. Direct Purchase Transportation Rule
III. Issues for Comment
IV. Comment Procedures

I. Background

A major purpose of the Powerplant and Industrial Fuel Use Act of 1978 (Pub. L. 95–620) (FUA) is to encourage and foster the greater use of coal and other non-petroleum fuels, in lieu of natural gas and petroleum, as a primary energy source. It does this by placing restrictions on the use of natural gas and petroleum in electric powerplants and major fuel burning installations (MFBI's). In addition, the President in his July 15, 1979, address to the Nation, and accompanying fact sheet of July 16, 1979, described a program to encourage greater use of coal and to make natural gas available for the production of heavy oils. The purpose of this notice is to seek comments on several possible changes to the existing Federal system of gas regulation which may provide incentives for the conversion of existing facilities to coal and other non-petroleum fuels, the building of new coal and other non-petroleum fuel capable facilities, and the increased production of heavy oil.

The Federal Energy Regulatory Commission (FERC) in its "Notice of Inquiry on Regulations Implementing the Second Stage Incremental Pricing Provisions of the Natural Gas Policy Act of 1978" (Docket No. RM79–56, June 28, 1979, page 8), suggested the option of ERA's providing electric powerplants high-priority status in the curtailment plans of interstate pipeline companies for the purpose of facilitating conversion to coal. Powerplants would be eligible to receive gas if they have been issued a proposed or final FUA order prohibiting the use of fuel oil or natural gas or have voluntarily provided sufficient evidence that they will convert to coal within a reasonable time, such as five years. Traditionally, powerplants have been the first to be curtailed in a natural gas shortage and many, because they have been continuously curtailed, have had to develop other, more costly sources of supply. The FERC notice suggests that priority access to the cheaper natural gas pipeline system supplies might represent both an incentive and, since it is cheaper, a means for acquiring new coal burning equipment or converting existing equipment to coal or other non-petroleum fuel.

It has been suggested that priority access to natural gas may also result in increased coal usage by facilitating the opportunity for powerplants to obtain a mixture exemption under FUA. Under sections 212(d) and 312(d) of FUA, powerplants may be granted authorization by ERA to burn natural gas and coal or another non-petroleum fuel either in combination or on an intermittent basis under the FUA mixture exemption. Use of natural gas along with coal in order to meet required environmental standards would result in more total coal usage in clean air non-attainment areas than would be possible with the use of coal alone. For example, a plant might use such gas during an air-temperature inversion during the summer. In addition, the use of natural gas in combination with synthetic fuels under the FUA mixture or synthetic fuel exemptions may facilitate the development of synthetic fuels, such as synthetic natural gas produced from coal by offsetting the costs of such development.

We have confined our proposals relating to incentives for increased coal and alternate fuel usage to the consideration of electric powerplants because their consumption of energy for boiler fuel use is quite large in comparison to MFBI's and the benefits of eliminating oil usage in a few plants would be substantial. Also, since electric powerplants are not subject to the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978 (Pub. L. 95–621) (NGPA), pipeline system supply gas sold to powerplants in many cases may be cheaper than that purchased by MFBI's. The possibility of access to less expensive gas by obtaining a high curtailment priority may create an incentive to increase coal usage. Although the incentive for MFBI's would not exist to the same degree since they are subject to incremental pricing, we ask for your comments on whether it would be in the public interest to include MFBI's as well as electric powerplants in any action to facilitate coal or other non-petroleum fuel use which we may later propose.

The second area of concern relates to heavy oil production. This is the recovery of highly viscous crude oil by thermal recovery methods, primarily in California. Petroleum fuels are now being use to generate steam injected into the wells to provide heat, thus reducing the viscosity of the heavy oils and facilitating recovery. Because of environmental problems, it may not be possible to continue or expand large scale use of petroleum fuels for that purpose. Also, additional petroleum fuels may not be available to permit increased production even if no environmental problem exists. Our intent is to explore whether the federal curtailment priority system or other natural gas authorities may be used to facilitate the use of natural gas to increase heavy oil production.

II. Options To Induce Increased Coal Usage and Heavy Oil Production

We are proposing for comment two alternative mechanisms to achieve these goals. The first is a natural gas curtailment priority rule which would be issued by ERA, pursuant to its responsibility to establish and review curtailment priorities under sections 301(b) and 402(a) of the Department of Energy Organization Act (Pub. L. 95–91) (DOE Act). The second is a direct purchase transportation rule which would facilitate the transportation by interstate pipeline companies of gas owned by powerplants scheduled either to begin burning coal or a non-petroleum fuel to increase their present fuel usage at some specified date. A direct purchase transportation rule can be proposed by ERA under Section 403 of the DOE Act to the FERC for their consideration and adoption.

We would like comments on the effectiveness and feasibility of both mechanisms, and whether one would be more appropriate than the other. In particular, we request comments on the advantages and disadvantages of each mechanism and identification of any other vehicles available under existing natural gas authority to achieve these public policy goals.

An example of an issue we wish discussed is whether the placement of electric powerplants, which have been prohibited by DOE from using petroleum or natural gas or which voluntarily have determined to convert to coal or another alternate fuel, in a relatively high position in an interstate pipeline company's curtailment plan would be an effective incentive to increase coal usage. While a curtailment priority rule could provide an inducement to increase coal or alternate fuel usage, it has been suggested that access to cheaper pipeline system gas might actually be an incentive for utilities to remain on gas and avoid going to an alternate fuel as long as possible. Also, because Federal curtailment jurisdiction has not been applied at the "burner tip," it has been suggested that such an incentive might be illusory without changes in state-approved curtailment priority plant assuring access by the powerplants in question to natural gas. Active participation by the states in determining whether particular facilities receive the gas may be necessary to implement this option effectively.

Following are more detailed descriptions of the various options which could be proposed by ERA:

A. Curtailment Priority Rule Option

ERA could propose a rule directing that interstate pipeline companies may not curtail deliveries to designated electric utilities or heavy oil producers unless necessary to meet the needs of those essential industrial process and feedstock uses, essential agricultural uses and high-priority users protected by Title IV of the NGPA and any ERA regulations implementing this title. The rule could contain the following provisions:

1. *Coal Incentives.* Any electric powerplant which has (1) received a temporary FUA exemption allowing it to burn natural gas while converting to coal or alternate fuel usage, (2) received a permanent FUA exemption to burn a mixture of natural gas and coal, or natural gas and some other non-petroleum fuel including a synthetic fuel, (3) received a proposed or final FUA prohibition order, (4) or indicated the intention to voluntarily convert within a reasonable time, and provided sufficient evidence of that intent, or (5) received a delayed compliance order pursuant to section 113(d)(5) of the Clean Air Act; would be placed in a curtailment plan priority just below essential industrial process and feedstock uses if, in compliance with the FUA exemption or a proposed or final prohibition order, the powerplant has filed a plan complying with the terms and conditions set by the Secretary of Energy or his delegate for increasing coal or other alternate fuel usage, including a synthetic fuel, converting to coal or another fuel, including a synthetic fuel, or building new coal or alternate fuel burning facilities.

- The priority would automatically terminate on the date of the powerplant's ERA approved compliance plan commits them to go exclusively to coal or other alternate fuel use.
- Adjustments would be made to the powerplant's requirements for gas to reflect individual schedules for phasing in coal or other fuel usage.
- The priority would cease at any point in time it was determined that the powerplant was not able to meet the terms and conditions specified in the compliance plan.
- Other powerplants would be placed in the same priority if they could certify that a specified amount of natural gas when used in combination with another fuel for environmental purposes would permit them to build new coal burning facilities or otherwise increase their coal usage. There would be no termination date for this latter use; the amount of gas specified as needed for this purpose would serve as their requirements for curtailment purposes.

2. *Heavy Oil Incentives.* Users of natural gas for heavy oil production through thermal recovery methods would be placed in the same priority with the designated coal users.

3. *Implementation.* The priority rule could be implemented either on a generic basis or a case-by-case approach. In the latter approach, the priority would only be given once the FERC had determined that a specific powerplant had filed the required compliance plans with DOE and was committed to phasing in an alternate fuel use. A priority would be given to specific heavy oil production sites when the determination was made that production by other methods was impractical.

B. Direct Purchase Transportation Rule

1. *Coal Incentives.* The ERA would propose under section 403 of the DOE Act that the FERC adopt a rule facilitating the granting of transportation certificates of public convenience and necessity under Section 7 of the Natural Gas Act to interstate pipeline companies permitting the transportation of user owned gas to the powerplants temporarily allowed to burn natural gas under a FUA exemption or prohibition order as outlined above in II.A. for the following purposes:

- To utilize natural gas until their existing facilities have been converted to coal or other non-petroleum fuels (including synthetic) as specified by the terms and conditions approved by the Secretary or his delegate;
- To utilize natural gas in existing facilities until a new coal-burning or alternate fuel facility is in place; or
- To utilize natural gas on an intermittent basis in a new coal burning facility to allow the facility to operate during temporary periods when clean air standards are being violated.
- The direct purchase rule could permit the transportation of any gas or be limited only to the first sale of high cost gas as defined by the FERC pursuant to Section 107 of the NGPA. The rule could also allow the FERC to condition the transportation approval to ensure that high-priority users will be served. An example of such condition would be to allow the interstate pipeline company transporting the gas to buy the user-owned gas, if necessary, to meet the needs of high-priority users.

2. *Heavy Oil Incentives.* Such a rule could also facilitate the interstate transportation of user-owned gas to oil producers who require the gas for heavy oil recovery, where the gas will serve to initiate or increase heavy oil production.

III. Issues for Comment

We would like to have specific comments on the effectiveness and appropriateness of these alternatives and particularly on the following issues:

1. Would the changes in the curtailment priority system provide an incentive or disincentive for both conversion of existing facilities to coal and the building of new coal or alternate fuel burning facilities? Would such a rule be effective in encouraging the burning of natural gas in combination with coal to meet environmental standards and result in increased total use of coal?

2. If giving a priority to electric powerplants is desirable, should it be done on a generic or case-by-case basis?

3. Would the direct purchase transportation option outlined in II.(B) induce greater coal usage than the curtailment option outlined in II.(A)?

4. In Option II. (B), should the transportation of only "high cost gas" be permitted or should it apply to all gas?

5. Even if coal usage could be increased through the use of one or more of these options, are there overriding reasons why any of these options should not be undertaken? Would there be any costs incurred which would be measurably greater than the benefits to be obtained with greater coal usage?

6. Are there any changes which could be made to these proposed options that would increase coal usage and mitigate against any potentially harmful effects on other gas users?

7. Would heavy oil production be increased if the changes outlined in II. (A) or (B) are made? For what reason, if any, would a direct purchase transportation rule be preferred? What other steps could be taken by ERA to encourage greater production of heavy oil deposits?

8. For what reasons, if any, should MFBI's be included in any of these options?

9. Give state direct control over who receives natural gas, how could such a rule (II.A and/or II.B) insure that a curtailment priority is given at the end-use level to those electric powerplants who will convert to or increase their usage of coal or other non-petroleum fuels?

10. Will natural gas supplies for the next decade be sufficient to warrant

V 44 OC 24 79 UMI

allowing powerplants (and perhaps MFBI's), which are in the process of converting to coal or alternate fuels or which can expand their coal usage, access to natural gas by either the curtailment priority or user-owned transportation mechanism? Even if supplies will not be adequate to serve all natural gas customers during this period, does the public interest inherent in facilitating the maximum use of coal, particularly where it is displacing fuel oil, warrant that ERA take any of the above described steps to facilitate the use of natural gas for this purpose by powerplants and, perhaps, MFBI's?

11. ERA is aware that the use of gas in combination with coal on an intermittent basis as proposed above is currently disfavored by the Clean Air Act and we invite comment on whether there would be an increase in coal usage if such an option were to be implemented and what further actions would be necessary to reach this goal.

IV. Comment Procedures

You are invited to participate in this inquiry by submitting written comments, data, views, or arguments with respect to the proposals set forth in this notice and any other relevant suggestions or proposals to: Public Hearing Management, Economic Regulatory Administration, Room 2313, Docket No. ERA-R-79-49, 2000 M Street NW., Washington, D.C. 20461. You may hand-deliver your comments to this room between 8:00 a.m. and 4:30 p.m., Monday through Friday; or you may mail your comments to the above address. You should submit fifteen copies and should include on the first page of each comment, and on any envelope, the docket number and the designation "Increased Coal Usage and Heavy Oil Production." We will consider all comments received by 4:30 p.m. on December 21, 1979, and all other relevant information. Please indicate the specific issue or issues you are addressing by number.

Any information you consider to be confidential must be so identified and submitted in one copy only. We reserve the right to determine the confidential status of the information and to treat it according to our determination.

Public hearings are not required at this preliminary stage. We will provide opportunities for hearings later once we have reviewed the written comments, prepared the required analyses, and published proposed rules, if any.

Issued in Washington, D.C., October 18, 1979.

Douglas G. Robinson,

Acting Administrator, Economic Regulatory Administration.

[FR Doc. 79-32809 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP78-123, et al.]

Northwest Alaskan Pipeline Co.; Procedure To Be Followed for the Adoption of Conditions Implementing Section 17 of the Alaska Natural Gas Transportation Act

Issued: October 18, 1979.

Section 17 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), 15 U.S.C. § 719, requires Federal agencies to take affirmative action to assure that no person will be excluded, on the grounds of race, creed, color, national origin, or sex, from participation in any activity connected with the construction and operation of the Alaska Natural Gas Transportation System (ANGTS). Condition 11 of the President's *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (Decision), contains a similar direction to the companies that are authorized to construct and operate the system, requiring the development of plans to ensure the participation of minority business enterprises in the construction and operation of ANGTS.

Seven Federal agencies must grant some authorizations to facilitate action to construct ANGTS: The Federal Energy Regulatory Commission, the Department of Interior, the Corps of Engineers, the Environmental Protection Agency, the Department of Transportation, the Department of Agriculture, and the Department of Energy. These are the agencies which have been working together to draft a uniform set of affirmative action requirements. Because of the Department of Interior's experience in formulating and implementing similar requirements under the Trans-Alaska Pipeline Act, it was chosen, within the framework of the Executive Policy Board, to act as the lead agency in this effort.

The Commission staff has been working in close concert with Interior's staff, in consultation with other agencies, and with the advice from the Federal Inspector, to formulate and draft a uniform set of requirements to implement Section 17 and Condition 11.

The Commission considered proposed affirmative action requirements, resulting from this process, at its meeting on August 9, 1979. At that time the Commission approved, in principle, the proposed requirements and authorized the Commission staff to continue to work with the other agencies involved to coordinate the final stages necessary to publish, and eventually adopt, a uniform set of affirmative action requirements.

The inter-agency consultative process is now essentially completed, and the Department of Interior, as lead agency, published the proposed affirmative action requirements on October 12, 1979 (44 FR 59096); and the public will be invited to comment upon the proposed requirements for a period of sixty (60) days after publication in the Federal Register. In addition, the Department of Interior has scheduled public hearings, in which this Commission will participate on the proposed requirements.

The Commission, by this order, implements its August 9, 1979 vote in principle. The Commission now proposes to adopt the affirmative action requirements published by the Department of Interior as conditions to be included in the temporary and permanent certificates of public convenience and necessary issued to the project sponsors of the Alaska Natural Gas Transportation System.

Interested parties are invited to review and comment upon the proposed affirmative action requirements published by the Department of Interior, on October 12, 1979, as proposed Department of Interior regulations to be located at 43 CFR Part 34. All comments should be addressed to the Department of Interior, as set forth below. The Commission will consider all comments filed with the Department of Interior, and will participate in the public hearings scheduled by the Department of Interior. Public hearings will be held in Chicago on November 5, 1979, in San Francisco on November 6th, in Seattle on November 7th, in Anchorage on November 13th, in Fairbanks on November 14th, in Barrow, Alaska, on November 15th, and in Washington, D.C. on November 27th.

The Commission Orders: (A) Notice is hereby given that the Commission proposes to adopt, as conditions to the conditional certificates of public convenience and necessity issued to the project sponsors by the order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the proposed affirmative action requirements published by the Department of Interior in the Federal Register, on October 12, 1979, to be located at 43 CFR Part 34.

(B) Members of the public desiring to comment upon the proposed requirements should file comments with the Department of Interior within sixty (60) days from the date of publication by the Department of Interior. Filing of such comments with the Department of the Interior shall constitute constructive filing of those comments with the Commission, which will review them before issuance of its final order. Specifically, comments should be addressed to: Mr. Edward E. Shelton, Director, Office of Equal Opportunity, Department of Interior, Washington, D.C. 20240 (202) 343-5693.

(C) The Commission waives section 1.8 of its Rules of Practice and Procedure to the extent necessary to permit the Commission to receive all comments described in ordering pararaph (B) above, and to make all such comments a part of the record upon which the Commission may rely in making its decision, regardless of whether the person submitting the comments has intervened as a party in this docket.

(D) Public hearings on the proposed affirmative action requirements will be held according to the following schedule:

November 5—Chicago, Illinois
November 6—San Francisco, California
November 7—Seattle, Washington
November 13—Anchorage, Alaska
November 14—Fairbanks, Alaska
November 15—Barrow, Alaska
November 27—Washington, D.C.

Parties intereted in scheduling time to speak at the hearings, or in obtaining additional information, should contact Mr. Edward E. Shelton of the Department of Interior at the address given above. Information can also be obtained from Mr. Leonard Crook, Federal Energy Regulatory Commission, Room 3311, 825 North Capitol Street, NE., Washington, D.C. 20426 (202) 357-8180.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32748 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

Availability of Federal Power Commission Reports; Volume No. 48

October 18, 1979.

Notice is hereby given that Volume # 48 of the *Federal Power Commission Reports* is on sale at the United States Government Printing Office Bookstore. Volume # 48 contains Federal Power Commission (Federal Energy Regulatory Commission's predecessor) opinions, orders, and precedential procedural orders for the period July 1 through December 31, 1972. Persons interested in purchasing this volume may remit $19.50 for GPO stock # 061-002-00023-5 to the following address: Superintendent of Documents, United States Government Printing Office, Washington, DC 20402.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32749 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. ECAO-CD-78-2; FRL 1345-3]

Air Quality Criteria Document for Oxides of Nitrogen; Extension of Comment Period for Second External Review Draft

The comment period for EPA's second external review draft of Air Quality Criteria for Oxides of Nitrogen (revised June, 1979) is hereby extended from September 30, 1979 (44 FR 50399) to November 30, 1979. The extension of the comment period is based on the following:

(a) The large number of requests for review copies of Air Quality Criteria for Oxides of Nitrogen,

(b) The early exhaustion of the document's first printing, delaying receipt by some requestors, and

(c) The need for thorough evaluation of several articles proposed as additional references for the document, some appearing as recently as late 1978 and early 1979.

Articles referred to in (c) and pertaining specifically to nitrogen oxides exposures are listed below, and full reference citations are given. Interested parties should obtain copies for review through the sources listed.

Evans, M. J. and G. Freeman. Morphologic and Pathologic Effects of NO_2 on the Rat Lung. Preceedings of the Symposium on Nitrogen Oxides, Honolulu, Hawaii, April 4-5, 1979.

Karlinsky, J. B., and G. L. Snider. Animal Models of Emphysema. American Review of Respiratory Disease. *117:* 1109-1133. 1978.

Kennedy, M. C. S. Nitrous Fumes and Coal-Miners with Emphysema. Ann. Occup. Hyg. *15:* 285-300. 1972.

Kerr, H. D., T. J. Kulle, M. L. McIlhany, and P. Swidersky. Effects of Nitrogen Dioxide on Pulmonary Function in Human Subjects: An Environmental Chamber Study. Env. Res *19:*392-404. 1972.

Kosmider, S. and A. Misiewicz. Experimental and Epidemiological investigation of the effects onf NO_2 on lipid metabolism. Int. Arch. Arbeitsmed. *31:*249-256. 1973.

Menzel, D. B. Pharmacological Mechanisms in the toxicity of NO_2 and its relations to Obstructive Respiratory Disease. Proceedings of the Symposium on Nitrogen Oxides, Honolulu, Hawaii, April 4-5, 1979.

Menzel, D. B., D. H. Donovan, end M. Sabransky. Effect of Vitamin E and Dietary Fat on Pulmonary Toxicity of Nitrogen Dioxide. *In:* Nitrogenous Air Pollutants: Chemical and Biological Implications. Grosjean, ed. Ann Arbor Science. Pub. p. 149-163. 1979.

Mittman, C. Antitrypsin Deficiency and Other Genetic Factors in Lung Disease. *In:* The Lung in the Transition between Health and Disease. P.T. MacKlem and S. Permutt, eds., Marcel Dekker, Inc., New York. pp. 245-269. 1979.

Posin, C., K. Clark, M. P. Jones, J. V. Patterson, R. D. Buckley, and J. D. Hackney. Nitrogen Dioxide Inhalation and Human Blood Biochemistry Archives of Environmental Health. Nov./Dec. 1978. pp. 318-324.

Direct comments to Mr. Michael A. Berry at the address given below. Address all written requests for copies of the criteria document to the Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. Telephone 919/541-3746, and a prerecorded message will provide instructions for placing a telephone request.

Dated: October 12, 1979.

David J. Graham,

Acting Assistant Administrator for Research and Development.

[FR Doc. 79-32753 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1344-8; PF-154]

Pesticide Programs; Filing of Pesticide Petition

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: E. I. du Pont de Nemours and Co., Wilmington, DE 19898, has submitted a pesticide petition (PP 9F2266) proposing that 40 CFR 180.303 be amended by establishing a tolerance for residues of the insecticide oxamyl (methyl *N'N'*-dimethyl-*N*-[methylcarbamoyl)oxy]-1-thiooxamimidate) in or on the raw agricultural commodity peppers at 3.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography with a sulfur sensitive flame photometric detector.

COMMENTS/INQUIRIES: Interested persons are invited to submit written comments on this petition. Comments may be submitted, and inquiries directed, to Product Manager (PM-12), Mr. Frank Sanders, Room E-337,

V 44 0C 24 7 9 UMI

Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/426-2635. Comments submitted should bear a notation indicating the petition number "PP 9F2266". Comments may be made at any time while the petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holdiays.

(Section 408(d)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a))

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32750 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL1345-2; PF-157]

Pesticide Programs; Filing of Pesticide and Feed Additive Petitions

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: EPA gives notice that Merck & Co., Inc., Box 2000, Rahway, NJ 07065, has submitted the following petitions to the Agency for consideration.

PP 9F2216. Proposes that 40 CFR 180.242 be amended by establishing tolerances for residues of the fungicide thiabendazole [2-(4-thiazolyl) benzimidazole] in or on the raw agricultural commodities rice at 2.5 parts per million (ppm) and rice straw at 10.0 ppm. The proposed analytical method for determining residues is spectrophotofluorometry.

FAP 9H5240. Proposes that 21 CFR 561.380 be amended by permitting residues of the above fungicide in or on the animal feed rice bran and polishing at 2.5 ppm and rice hulls at 8.0 ppm.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-21), Mr. Henry Jacoby, Room E-305, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/755-2562. Written comments should bear a notation indicating the petition number to which the comments pertain. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the Product Manager's office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Sections 408(d)(1) and 409(b)(5) [21 U.S.C. 346a and 348 respectively], Federal Food, Drug, and Cosmetic Act)

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Division.

[FR Doc. 79-32751 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-1; PF-156]

Pesticide Programs; Filing of Pesticide Petition

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA or the Agency).

ACTION: Notice of filing.

SUPPLEMENTARY INFORMATION: Mobay Chemical Corp., P.O. Box 4913, Kansas City, MO 64120, has submitted a pesticide petition (PP 9F2267) proposing that 40 CFR 180.320 be amended by establishing a tolerance for residues of the insecticide, 3,5-dimethyl-4-(methylthio)phenyl methylcarbamate and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity blueberries at 25.0 parts per million (ppm). The proposed analytical method for determining residues is gas chromatography utilizing a sulfur-sensitive flame photometric detector.

COMMENTS/INQUIRIES: Comments may be submitted, and inquiries directed, to Product Manager (PM-16), Mr. William Miller, Room E-343, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M St., SW, Washington, DC 20460, telephone number 202/7426-9458. Written comments should bear a notation indicating the petition number "PP 9F2267." Comments may be made at any time while a petition is pending before the Agency. Written comments filed in connection with this notice will be available for public inspection in the Product Manager's Office from 8:30 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

(Section 408(d)(1), Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a])

Dated: October 17, 1979.

Douglas D. Campt,

Director, Registration Divison

[FR Doc. 79-32752 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-5]

Science Advisory Board, Water Quality Criteria Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Water Quality Criteria Subcommittee of the Science Advisory Board will be held on October 31, 1979, beginning at 9:00 a.m., in Conference Room 2117, Waterside Mall, 401 M Street, SW., Washington, D.C.

This is the third meeting of the Water Quality Criteria Subcommittee. The Agenda includes consideration of the Subcommittee's draft report on the methodologies used in the development of water quality criteria to protect aquatic life and human health for the 27 specified pollutants listed in the **Federal Register**, Part V, pages 15926-15981, March 15, 1979, and for the 26 specified pollutants listed in the **Federal Register**, Part III, page 43660-43697, July 25, 1979, and on selected criteria documents.

The meeting is open to the public. Because of the limited seating capacity of the meeting room, all members of the public desiring to attend must preregister no later than October 24, 1979, and receive a confirmed reservation from Dr. J. Frances Allen, Staff Officer, Water Quality Criteria Subcommittee, or Ms. Anita Najera, (202) 472-9444.

Dated: October 4, 1979.

Richard M. Dowd,

Staff Director, Science Advisory Board.

[FR Doc. 79-32863 Filed 10-23-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM and TV Translator Applications Ready and Available For Processing

Adopted: October 15, 1979; Released: October 17, 1979.

By the Chief, Broadcast Facilities Division: Notice is hereby given pursuant to §§ 73.3572(c) and 73.3573(d) of the Commission's Rules, that on November 30, 1979, the TV and FM translator applications listed in the attached Appendix will be considered ready and available for processing. Pursuant to §§ 1.227(b)(1) and 73.3591(b) of the Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on November 29, 1979, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on November 29, 1979.

Any party in interest desiring to file pleadings concerning any pending TV or FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to § 73.3584(a) of the Rules, which specifies the time for filing and other requirements relating to such pleadings.

Federal Communications Commission.

William J. Tricarico,

Secretary.

UHF TV Translator Applications

BPTT-790301la (new), Toquerville & Leeds, Utah, Washington County Television Dept. Req: Channel 66, 782-788 MHz, 100 Watts. Primary: KBYU-TV, Provo, Utah.

BPTT-790305IJ (new), Spruce Pine, North Carolina, University of North Carolina. Req: Channel 59, 740-746 MHz, 100 watts. Primary: WUNE-TV Linville, North Carolina.

BPTT-790305IK (new), Marion, North Carolina, University of North Carolina. Req: Channel 65, 776-782 MHz, 100 watts. Primary: WUNE-TV, Linville, North Carolina.

BPTT-790305IL (new), Burnsville, North Carolina, University of North Carolina. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WUNE-TV, Linville, North Carolina.

BPTT-790312IH (K56AH), Windom, Minnesota, City of Windom. Req: Change primary TV Station to KMSP-TV. Channel 9, Minneapolis, Minnesota.

BPTT-790320IH (K66AZ), Prineville, Oregon, Ochoco Telecasters, Inc. Req: Add Redmond, Oregon to present principal community.

BPTT-790330IM (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 60, 746-752 MHz, 100 watts. Primary: KNXT-TV, Los Angeles, California.

BPTT-790330IN (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KNBC-TV, Los Angeles, California.

BPTT-790330IO (new), Victorville & Adjacent Communities, California, Victor Valley Public Translators, Inc. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KTLA-TV, Los Angeles, California.

BPTT-790420IB (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 56, 722-728 MHz, 1 watt. Primary: KTVK-TV, Phoenix, Arizona.

BPTT-790420IC (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 58, 734-740 MHz, 1 watt. Primary: KOOL-TV, Phoenix, Arizona.

BPTT-790420ID (new), Salt River Project Community Housing Area At Horse Mesa Dam, Arizona, Salt River Project Agricultural Improvement and Power District. Req: Channel 60, 746-752 MHz, 1 watt. Primary: KTAR-TV, Phoenix, Arizona.

BPTT-790423IH (new), Colstrip, Rural Forsyth, Ashland & Lame Deer Area, Montana, Colstrip Television District. Req: Channel 61, 752-758 MHz, 100 watts. Primary: KULR-TV, Billings, Montana.

BPTT-790430IJ (new), Clovis, New Mexico, Holsum, Incorporated. Req: Channel 65, 776-782 MHz, 1000 watts. Primary: KBIM-TV, Roswell, New Mexico.

BPTT-790430IK (new), Dora, New Mexico, Holsum, Incorporated. Req: Channel 69, 800-806 MHz, 1000 watts. Primary: KBIM-TV, Roswell, New Mexico.

BPTT-790501IB (K72BE), Walker, Minnesota, Leech Lake TV Corporation. Req: Change frequency to Channel 67, 788-794 MHz, specify primary TV Station as KDLH, Channel 3, Duluth, Minnesota.

BPTT-790501IC (K76BC), Walker, Minnesota, Leech Lake TV Corporation. Req: Change frequency to Channel 69, 800-806 MHz.

BPTT-790517IB (K83BL), Montoya & Newkirk, New Mexico, KOAT Television, Inc. Req: Change frequency to Channel 57, 728-734 MHz.

BPTT-790605IF (new), Willsboro, New York, Northeast New York Educational, Television Association. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WCFE-TV, Plattsburgh, New York.

BPTT-790605IG (new), Saranac Lake, Garbiels & Lake Clear Junction, New York, Northeast New York Educational Television Association. Req: Channel 67, 788-794 MHz, 100 watts. Primary: WCFE-TV, Plattsburgh, New York.

BPTT-790612IC (new), Max & Surrounding Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 60, 746-752 MHz, 100 watts. Primary: WIRT-TV, Hibbing, Minnesota.

BPTT-790612ID (new), Max, Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 62, 758-764 MHz, 100 watts. Primary: KDLH-TV, Duluth, Minnesota.

BPTT-790612IE (new), Big Fork, Marcell & Rural Areas, Minnesota EZ-TV, Inc. Req: Channel 67, 788-794 MHz, 100 watts. Primary: KDLH-TV, Duluth, Minnesota.

BPTT-790612IF (new), Big Fork, Marcell & Rural Area, Minnesota EZ-TV, Inc. Req: Channel 69, 800-806 MHz, 100 watts. Primary: KBJR-TV, Duluth, Minnesota.

BPTT-790718IA (new), Grays River & Lebam, Washington, Tacoma School District #10. Req: Channel 65, 776-782 MHz, 100 watts. Primary: KTPS-TV, Tacoma, Washington.

BPTT-790809IA (new), Hartwell & Royston, Georgia, State Board of Education of the State of Georgie. Req: Channel 22, 518-524 MHz, 1000 watts. Primary: WCES-TV, Wrens, Georgia.

BPTTV-790307IM (new), Atwood, Kansas, City of Atwood, Kansas. Req: Channel 13, 210-216 MHz, 1 watt. Primary: KLNE-TV, Lexington, Nebraska.

BPTTV-790309IK (new), Haines, Alaska, Lynn Canal Broadcasting. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KTVA-TV, KENI-TV, KIMO-TV, KAKM-TV, Anchorage, Alaska, KTOO-TV, Juneau, Alaska.

BPTTV-790316ID (new), Cody, Nebraska, Village of Cody. Req: Channel 2, 54-60 MHz, 10 watts. Primary: KPLO-TV, Reliance, South Dakota.

BPTTV-790326IT (new), South of Ozona 7 Miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 9, 186-192 MHz, 10 watts. Primary: KACB-TV, San Angelo, Texas.

BPTTV-790326IU (new), South of Ozona 7 miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 11, 198-204 MHz, 10 watts. Primary: WFAA-TV, Dallas, Texas.

BPTTV-790326IV (new), South of Ozona 7 miles Serving Area 20 X 20 Miles, Texas. Crockett Translators, Inc. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KCTV-TV, San Angelo, Texas.

BPTTV-790329IJ (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 3, 60-66 MHz, 10 watts. Primary: KIVI-TV, Nampa, Idaho.

BPTTV-790329IK (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 5, 76-82 MHz, 10 watts. Primary: KTVB-TV, Boise, Idaho.

BPTTV-790329IL (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 9, 186-192 MHz, 5 watts. Primary: KAID-TV, Boise, Idaho.

BPTTV-790329IM (new), Fairfield, Idaho. Camas County TV Translator Association. Req: Channel 13, 210-216 MHz, 10 watts. Primary: KBCI-TV, Boise, Idaho.

BPTTV-790402IN (K13MI), Squaw Valley, Oregon, Community Television Association, Inc., Req: Add Wedderburn, Oregon to present principal community and change primary TV Station to KIEM-TV, Channel 3, Eureka, California.

BPTTV-790412IE (new), Ft. Jones, Etna, Greenview & Callahan, California, Scott Valley Chamber of Commerce. Req: Channel 6, 82-88 MHz, 5 watts. Primary: KTVL-TV, Medford, Oregon.

BPTTV-790423II (K06IR), Colstrip, Montana, Colstrip TV Club. Req: Change frequency to Channel 9, 186-192 MHz, increase output power to 10 watts.

BPTTV-790517IA (K12GA), May, Fort Supply, Fargo & Gage, Oklahoma Gage Translator System. Req: Change frequency to Channel 13, 210-216 MHz, specify primary TV Station as KTVY, Channel 4, Oklahoma City, Oklahoma.

BPTTV-790516IC (new), Lake Wenatchee & Plain Area, Washington, Lake Wenatchee TV, Inc. Req: Channel 12, 204-210 MHz, 1 watts. Primary: KREM-TV, Spokane, Washington.

BPTTV-790806IA (K12HF), Gold Hill, Oregon, Sierra Cascade Communications, Inc. Req: Change frequency to Channel 4, 66-72 MHz, specify primary TV Station as KTVL, Channel 10, Medford, Oregon.

BMPTTV-790112IE (K12LE), McDermitt, Nevada, Quinn River Television Maintenance District. Req: Change primary TV Station to KIVI, Channel 6, Nampa, Idaho, increase output power to 5 watts.

FM Translator Applications

BPFT-790606IA (new), Portland, Maine, University of Maine. Req: Channel 283, 104.5 MHz, 1 watt. Primary: WMEA-FM, Portland, Maine.

BPFT-790618IF (new), Lincoln, Pinchurst & Residents of the Walker Creek Valley (Unincorporated Area), (Oregon) & Hornbrook, California, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790618IG (new), Coos Bay & North Bend, Oregon, State of Oregon Acting by & Through the State Board of Higher

V 44 OC 24 79 UMI

Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IH (new), Camas Valley & Twelve Mile, Oregon, State of Oregon Acting by & Through the State Board Of Higher Education. Req: Channel 207, 89.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616II (new), Port Oreford, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 207, 89.3MHz, 1 watt. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IJ (new), Crescent City & Gasquet, California, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IL (new), Lakeview, Oregon, State Of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IM (new), Coquille Valley (Unincorporated) & Coquille, Oregon. State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 211, 90.1 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IN (new), Gold Beach & Port Orford, Oregon. State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 21, 90.1MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IO (new), Riddle, Oregon. State of Oregon Acting by & Through the State Board Of Higher Education. Req: Channel 217, 91.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IP (new), Chiloquin & Modoc Point, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 217, 91.3 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IQ (new), Bandon, Coos Bay, Coquille Valley (Unincorporated) & Coquille, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 220, 91.9 MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IR (new), Beaver Marsh, Chemault & Chinchalo, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Channel 220, 91.9MHz, 10 watts. Primary: KSOR-FM, Ashland, Oregon.

BPFT-790616IK (K217AC), Klamath Falls, Oregon, State of Oregon Acting by & Through the State Board of Higher Education. Req: Change frequency to Channel 211, 90.1 MHz.

[FR Doc. 79-32722 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

[FCC 79-605, BC Docket No. 79-253, File No. BP-21, 160]

KBMR Radio, Inc.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 27, 1979.

Released: October 18, 1979.

By the Commission: Commissioner Lee absent.

In re Application of KBMR RADIO, INC., Lincoln, North Dakota, has: 1130 kHz, 10 kW, D (Bismarck, North Dakota), Req: 1130 kHz, 10kW, 50 kW-LS, DA-2, U (Lincoln, North Dakota), for Construction Permit, BC Docket No. 79-253, File No. BP-21,160.

1. The Commission has before it for consideration the above-captioned application of KBMR Radio, Inc. (hereinafter "KBMR"), licensee of AM Station KBMR, Bismarck, North Dakota, for a construction permit to increase daytime power, add nighttime operation, and change the community of license; (ii) a petition to deny filed by Bismarck-Mandan Communications, Inc. (hereinafter "KBOM"), licensee of AM station KBOM, Bismarck, North Dakota; and (iii) responsive pleadings.

2. Since Bismarck will receive a city grade signal from the proposed facility, KBMR's operation will be in competition with KBOM for audience and advertising revenues, Therefore, we find that the petitioner has standing as a party in interest within the meaning of Section 309(d) of the Communications Act of 1934, as amended. *Sanders Brothers Radio Station* v. *FCC*, 309 U.S. 470 (1940).

3. KBOM contends that KBMR's application should be viewed as one to serve Bismarck and, therefore, that the application should be designated for hearing on a suburban community issue.[1] In support of its request for specification of a suburban community issue, KBOM points to: (i) the excessive power proposed; (ii) KBMR's intention to continue programming primarily for Bismarck; (iii) KBMR's failure to establish a main studio in Lincoln; (iv) KBMR's failure to adequately interview Lincoln community leaders; and (v) the fact that Lincoln is not a separate town, city, or developing suburban population center but merely a suburban extension of Bismarck.

[1] *Policy Statement of Section 307(b) Considerations for Standard Broadcast Facilities Involving Suburban Communities*, 2 FCC 2d 190, 6 RR 2d 1901 (1965); *recon. den.*, 2 FCC 2d 868, 8 RR 2d 1908 (1966).

4. In opposition, KBMR maintains that the reassignment of its AM station from Bismarck to the developing suburban community of Lincoln would be consistent with the Commission's 1975 assignment standards as well as with Section 307(b) of the Communications Act of 1934, as amended. In addition, the applicant claims that it is not proposing a substandard central market station because it will provide adequate coverage to Bismarck. Furthermore, KBMR claims Bismarck's 1970 population of 34,703 is significantly less than the 50,000 population necessary to raise the suburban communities presumption. Finally, the applicant contends its ascertainment survey reflects an intention to serve the needs and interests of Lincoln, and that Lincoln is a growing new community entitled to its own local transmission service.

5. Formerly, when an AM applicant's proposed 5 mV/m daytime contour penetrated the geographic boundaries of a community with a population of over 50,000 persons and having at least twice the population of the applicant's specified community, a rebuttable presumption was raised that the applicant realistically intended to serve the larger community. *Policy Statement, supra.* Subsequently, in *AM Station Assignment Standards*, 54 FCC 2d 1, 34 RR 2d 603 (1975), *recon. den.*, 56 FCC 2d 6, 35 RR 2d 151 (1975), we restricted applicability of the suburban community presumption to competing applications in a hearing context. However, in doing so, we reaffirmed our intention to preserve the fundamental principles which the aforementioned presumption was designed to protect believing that any attempted abuses by uncontested applicants could readily be detected during standard review procedures.[2]

[2] The Commission's Rules permit assignments of AM frequencies as are necessary to provide each community with two independent local aural transmission services. One of the functions of the Commission's suburban communities policy is to ensure that this objective is accomplished by determining whether the applicant's proposal is, in fact, designed to provide a realistic local transmission service for the "suburban" community applied for. A grant of a proposal for a suburban community which realistically intends to provide only an additional nighttime transmission service to the much larger urban community may frustrate accomplishment of the AM assignment policy due to the preclusionary effect created by a grant. For example, a grant of the KBMR proposal could preclude the establishment of a first or second local nighttime transmission service in a community as far away from Bismarck as 500 miles. At the same time, a grant would not serve our assignment objectives if it is determined the applicant proposes

Footnotes continued on next page

6. Contrary to the applicant's belief, the 5 mV/m-50,000 population test has never been treated as an inflexible standard. There have been a number of occasions where the Commission has designated applications for hearing on suburban community issues even through the larger community did not have 50,000 persons. E.g., *V.W.B., Inc.*, 8 FCC 2d 744, 10 RR 2d 563 (1967); *Babcom, Inc.*, 12 FCC 2d 306, 12 RR 2d 998 (Rev. Bd. 1968). Thus, the fact that Bismarck has a population of less than 50,000 is not dispositive. Moreover, the Commission does not dispute KBMR's claim that an aural facility licensed to Lincoln may be consistent with our assignment standards and with Section 307(b) of the Communications Act. Nor does the Commission dispute the applicant's assertion that it is not proposing a substantard central market station. However, both these arguments beg the real issue in this proceeding. The *Policy Statement, supra*, was adopted primarily to insure that all proposals for suburban communities provide a realistic local transmission service for the specified community. Thus, the real question is whether the applicant intends to provide a realistic transmission service to Lincoln or whether it intends to remain a Bismarck, North Dakota Station. *AM Station Assignment Standards, supra.*

7. Daytime AM Station KBMR has been licensed to serve the needs and interests of Bismarck, North Dakota since 1958. KBMR has now applied to increase its authorized daytime power from 10 kW to 50 kW and change its community of license to Lincoln, North Dakota in order to add nighttime operation.[3] Lincoln, North Dakota, incorporated on July 15, 1977, has an estimated population of 677. On the other hand, Bismarck had a 1970 population of 34,703. If the application were granted, KBRM would encompass the entire community of Bismarck with a daytime signal well in excess of 25 mV/m. We believe the applicant's daytime power is greatly in excess of that needed to provide adequate coverage to Lincoln and evinces an intent to serve primarily Bismarck. The applicant has failed to explain why 50 kW of daytime power is necessary to adequately serve Lincoln. Moreover other factors evidence KBMR's intent to serve Bismarck rather than Lincoln. There appears to be some degree of social, political and economic dependence upon Bismarck by Lincoln. By its own admission, the applicant indicates Lincoln does not yet have its own school system, churches, shopping center, police department, of fire department. The applicant's ascertainment survey indicates the only two business establishments operating in Lincoln are those of two building contractors. Thus, it is clear that Lincoln could provide little advertising revenue to support the proposed station and that KBMR would be dependent upon Bismarck for advertising revenues. It is not even clear from KBMR's application that its main studio would be located in Lincoln. Finally, it is also significant to note that the applicant owns an FM station licensed to Bismarck, North Dakota and apparently will continue to duplicate 2.8 percent of its AM station's programming on the FM station.

8. Based upon the information contained in the pleadings and in KBMR's application, it appears that Lincoln, North Dakota is the type of community which could be classified as a "new town." Although consisting initially of little more than newly constructed housing units, its plans include annexation of contiguous residential areas, commerical development, schools and local government. While its present population is less than 700, material submitted by KBMR indicates a projected population of 10,000. We do not quarrel with KBMR assertion that Lincoln is indeed a newly developing suburban community entitled to a local radio station. However, that entitlement does not negate the inference raised by the totality of circumstances discussed in the preceding paragraphs that the applicant's realistic intent is to serve the presently much larger community of Bismarck. Hence, this application will be designated for hearing on a suburban community issue.

9. In Section V-A of KBMR's original application to increase the daytime power of its Bismarck station from 10 kW to 50 kW, KBMR stated that it proposed to locate its main studio in Bismarck, North Dakota. In the amendment to the application which requests authority to change the city of license to Lincoln, North Dakota and to add nighttime operation, KBMR has merely indicated its main studio will be located at a site to be determined. Section 73.30(a) of the Commission's Rules requires that an AM broadcast station's main studio be located in its community of license unless it is located at the transmitter site. From the information provided, we cannot determine that the proposal is in compliance with Section 73.30(a) and we believe that an issue is warranted.

10. Except as indicated by the issues specified below, the applicant is qualified to construct and operate as proposed. However, in view of the foregoing, the Commission is unable to make a statutory finding that a grant of the subject application would serve the public interest, convenience and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below.

11. Accordingly, It is ordered, That pursuant to Section 309(e) of the Communication Act of 1934, as amended, the application of KBMR Radio, Inc. is designated for hearing at a time and place to be specified in a subsequent Order upon the following issues:

(1) To determine whether the proposal of KBMR Radio, Inc. will realistically provide a local transmission facility for its specified station location or for another larger community, in light of all the relevant evidence, including, but not necessarily limited to a showing with respect to:

(a) The extent to which the specified station location has been ascertained by the applicant to have separate and distinct programming needs;

(b) The extent to which the needs of the specified station location are being met by existing aural broadcast stations;

(c) The extent to which the applicant's program proposal will meet the specified unsatisfied programming needs of its specified station location; and

(d) The extent to which the projected sources of the applicant's advertising revenues within its specified station location are adequate to support its proposal, as compared with its projected sources from all other areas.

(2) To determine, in the event that it is concluded pursuant to the foregoing issue that the proposal will not realistically provide a local transmission service for its specified station location, whether such proposal meets all the technical provisions of the rules for AM broadcast stations assigned to the most populous community for which it is determined that the proposal will realistically provide a local transmission

Footnotes continued from last page

to provide a local transmission service to Bismarck rather than Lincoln since Bismarck currently has four nighttime local transmission services.

[3] Section 73.37(e)(2) of our Rules lists several alternative criteria, at least one of which must be met, in order for a daytime AM station to be authorized to operate fulltime. One of these criteria, Section 73.37(e)(2)(ii), states as follows:

That the proposed station would provide the community designated in the application with a first or second authorized nighttime aural transmission service, and that no FM channel is available for use in that community . . .

Since KBMR would not qualify for nighttime operation under either Section 73.37(e)(2)(i) or 73.37(e)(2)(iii), it has proposed to change its station location to Lincoln in order to qualify for nighttime operation as the first or second service under Section 73.37(e)(2)(ii) (Bismarck already has more than two).

V 44 NO 207 OCT 24 1979 UMI

service, namely, Bismarck, North Dakota.

(3) To determine whether the proposal of KBMR Radio, Inc. complies with Section 73.30 of the Commission's Rules with respect to location of the main studio and, if not, whether circumstances exist which warrant a waiver.

(4) to determine, in light of the evidence adduced pursuant to the foregoing issues, whether a grant of the application would serve the public interest, convenience and necessity.

12. It is further ordered, That the petition to deny filed by Bismarck-Mandan Communications, Inc. Is granted and that Bismarck-Mandan Communications, Inc. Is made a party to this proceeding.

13. It is further ordered, That to avail itself of the opportunity to be heard, the applicant and party respondent herein shall, pursuant to Section 1.221(c) of the Commission's Rules, in person or by attorney, within twenty days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

14. It is further ordered, That the applicant herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 1.594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by Section 1.594(g) of the Rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32721 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

[FCC 79-593, CC Docket No. 79-250, File No. 21870-CD-P-(4)-75; CC Docket No. 79-251, File No. 20437-CD-P-(13)-75]

South Central Bell Telephone Co.; Memorandum Opinion and Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: September 27, 1979.

Released: October 22, 1979.

By the Commission: Commissioner Lee absent.

In re Applications of South Central Bell Telephone Company, for construction permit for modification of DPLMRS station KKI454 at Houma, Louisiana, to replace equipment, add channels, and to furnish Improved Mobile Telephone Service, and For construction permit for modification of DPLMRS station KKD292 at New Orleans, Louisiana, to add channels and to furnish Improved Mobile Telephone Service. CC Docket 79-250. File No. 21870-CD-P-(4)-75. CC Docket No. 79-251. File No. 20437-CD-P-(13)-75.

1. Presently before the Commission are the above-captioned applications filed by South Central Bell Telephone Company (SCB) to improve its mobile telephone facilities at Houma, Louisiana, and at New Orleans, Louisiana. Petitions to deny the two applications were filed by James D. and Lawrence D. Garvey d/b/a Radiofone (petitioner or Radiofone). Also before the Commission is SCB's "Motion to Strike" Radiofone's supplement to its petitions to deny. On September 11, 1974, SCB applied for a construction permit to modify Domestic Public Land Mobile Radio Service (DPLMRS) station KKD 292 at New Orleans, Louisiana (the New Orleans application), to add channels and to convert from manual to a fully automated Improved Mobile Telephone Service (IMTS).[1] A petition to deny the application was filed by Radiofone, and responsive pleadings have been filed thereto.

2. On June 18, 1975, SCB applied for a construction permit to modify DPLMRS station KKI454 at Houma, Louisiana (the Houma application), to replace equipment, add channels, change power, and to furnish IMTS. Radiofone filed a petition to deny the application, and responsive pleadings have been filed thereto.

3. Radiofone later filed supplements to the petitions to deny on October 11, 1977, and December 12, 1977. Responsive pleadings were filed thereto.

4. The following issues are raised for our consideration:

(a) whether SCB has demonstrated a public need for the proposed IMTS facilities;

(b) whether the proposed IMTS rates filed by SCB are compensatory and reasonable;

(c) whether the Communications Act requires that the Commission examine the allegations of anticompetitive practices and other matters raised by Radiofone (the jurisdiction issue); and

(d) whether SCB has engaged in anticompetitive practices.

[1] Improved Mobile Telephone Service (IMTS) automatically scans the channels available to a radio telephone caller and selects an unoccupied channel for immediate placement of the call.

5. *The need issue.* Radiofone questions the validity of one of the exhibits in the New Orleans application wherein SCB states there are 364 held applications for service. Radiofone alleges that these orders are for the manual service currently provided by SCB and do not demonstrate a need for IMTS, since the proposed rates for IMTS are approximately three times the current rate for manual service. SCB acknowledges that the 364 applications are not for IMTS service but argues that they demonstrate a need for additional channels.

6. We agree with Radiofone. The 364 held applications were for manual service, and there is no reason to conclude that the applications demonstrate a desire for or need of IMTS. SCB acknowledged, in testimony before the Louisiana Public Service Commission (PSC), that IMTS rates were not quoted to prospective users.[2] Nor did SCB provide information as to the identity or occupation of those persons making service inquiries. SCB has not made a sufficient showing under the standards set forth in *New York Telephone Co.*, 47 FCC 2d 488 (1974), *recon. denied*, 49 FCC 2d 264, *aff'd sub nom. Pocket Phone Broadcast Service, Inc.*, 538 F. 2d 447 (D.C. CIR. 1976); *Long Island Paging*, 30 FCC 2d 405 (Rev. Bd., 1971). We will therefore designate an issue to determine whether SCB has demonstrated a public need for the proposed New Orleans facilities. In the Houma application (Exhibit 18) SCB states it has 9 held orders for the Houma area. SCB does not indicate whether costs were quoted to the 9 potential subscribers or whether the held orders were for manual service or IMTS. Additionally, no information was submitted on the identity and occupation of persons, if any, who made service inquiries. The application also refers to expanding business enterprises in Houma, citing the oil industry, the fishing industry, and shipbuilding. No demographics or statistical evidence was submitted showing the nature and numbers of such businesses and industries. We conclude that the Houma application fails to demonstrate public need for the proposed facilities under the standards set forth in *New York Telephone, supra.*[2a] We will therefore

[2] Radiofone "Reply to Opposition to Petition to Deny," footnote, p. 7.

[2a] The applications submitted no evidence on the two other criteria listed in *New York Telephone, supra*, or any other evidence to demonstrate public need.

designate a need issue concerning the proposed Houma facilities. Since the information related to the need issue (for both the New Orleans facilities and the Houma facilities) is exclusively within the possession of the applicant we will place on SCB the burdens of proof and introduction of evidence. In addition, we are unable to conclude from the traffic load study submitted (Exhibit 18) that two additional channels are needed. We will therefore examine, as part of the need issue, whether the Houma application complies with the requirements of Rules Section 21.516.[3]

7. *The Proposed IMTS Rates.* Radiofone contends that SCB has omitted filing a tariff, required in Item 41 of the New Orleans application, for the charges for the proposed service.[4] Radiofone also contends that SCB has structured its charges for the proposed service so as to undercut Radiofone's charges for automatic dial service. In the proceeding before the Louisiana Public Service Commission, SCB refused to answer rate-related interrogatories on what Radiofone contends were highly questionable grounds (proprietary and confidential information). Radiofone charges that SCB has for years maintained the same rate for its manual service by subsidizing that service from the earnings of its local exchange and message toll services. Radiofone argues that SCB has proposed to charge lower IMTS rates than Radiofone, which will seriously affect the viability of Radiofone's business and undermine Radiofone's ability to compete with SCB. In addition Radiofone charges that the alleged cross-subsidization by SCB will frustrate the Commission's decision in Docket No. 8650 (the General Land Mobile Proceeding),[5] one purpose of which was to foster the development of competitive communications common carrier systems.

8. SCB counters that the proposed IMTS service is intrastate in nature, so the proposed rates are beyond the Commission's jurisdiction. SCB contends that, although the Commission may have authority to examine certain rates questions in the context of a rulemaking, this is an application proceeding, not a rulemaking proceeding, so it is not appropriate for the Commission to inquire into rates or anticompetitive practices. SCB argues that the IMTS rate issues raised by Radiofone were properly brought before the Louisiana Public Service Commission (Louisiana PSC), in Docket No. U-12620, that the IMTS rates have been approved, after hearing, by the Louisiana PSC, and the Commission is not presented with any lawful basis for disturbing the decision of the State Commission. SCB argues that Radiofone has not presented the cost factors involved to support its charges that the IMTS rates are noncompensatory.

9. The IMTS rates issue discussed above it integrally related to the jurisdiction issue. Before reaching a determination on the rates issue, we present immediately below the arguments which the parties have made concerning the jurisdiction issue. We will then dispose of both issues together.

10. *The Jurisdiction Issue.* The service proposed by SCB is primarily a local service, the rates of which are not normally subject to the Commission's jurisdiction.[6] Radiofone acknowledges this jurisdictional limit and nevertheless argues that Sections 308(b)[7] and 309(a)[8] of the Communications Act authorize and require the Commission to examine this matter since Radiofone has alleged to the Commission that the proposed rate will result in serious economic harm to Radiofone. The Commission, Radiofone urges, is also required by Section 309 of the Communications Act to investigate evidence of a reasonable *possibility* that anticompetitive activity may result. . . ."[9] Radiofone contends that Section 313[10] of the

[3] Section 21.516 specifies the additional showing required with an application for assignment of additional channels.

[4] SCB has subsequently submitted a schedule of proposed IMTS charges in its reply to the petition to deny.

[5] In Docket No. 8650, the Commission made its initial allocation of frequencies to both wireline common carriers and to radio common carriers for providing Domestic Public Land Mobile Radio Service.

[6] Section 2(b) of the Communications Act provides:

(b) Subject to the provisions of section 301, nothing in this Act shall be construed to apply or to give the Commission jurisdiction with respect to (1) charges, classifications, practices, services, facilities, or regulations for or in connection with intrastate communication service by wire or radio of any carrier, or (2) any carrier engaged in interstate or foreign communication solely through physical connection with the facilities of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (3) any carrier engaged in interstate or foreign communication solely through connection by radio, or by wire and radio, with facilities, located in an adjoining State or in Canada or Mexico (where they adjoin the State in which the carrier is doing business), of another carrier not directly or indirectly controlling or controlled by, or under direct or indirect common control with such carrier, or (4) any carrier to which clause (2) or clause (3) would be applicable except for furnishing interstate mobile radio communication service or radio communication service to mobile stations on land vehicles in Canada or Mexico, except that sections 201 through 205 of this Act, both inclusive, shall, except as otherwise provided therein, apply to carriers described in clauses (2), (3), and (4).

Section 221(b) of the Communications Act provides:

(b) Subject to the provisions of section 301, nothing in this Act shall be construed to apply, or to give the Commission jurisdiction, with respect to charges, classifications, practices, services, facilities, or regulations for or in connection with wire, mobile, or point-to-point radio telephone exchange service, or any combination thereof, even though a portion of such exchange service constitutes interstate or foreign communication, in any case where such matters are subject to regulation by a State commission or by local governmental authority.

[7] Section 308(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 308(b)), provides:

All applications for station licenses, or modifications or renewals thereof, shall set forth such facts as the Commission by regulations may prescribed as to the citizenship, character, and financial, technical, and other qualifications of the applicant to operate the station; the ownership and location of the proposed station and of the stations, if any, with which it is proposed to communicate; the frequencies and the power desired to be used; the hours of the day or other periods of time during which it is proposed to operate the station; the purposes for which the station is to be used; and such other information as it may require. The Commission, at any time after the filing of such original application and during the term of such such license, may require from an applicant or licensee further written statements of fact to enable it to determine whether such original application should be granted or denied or such license revoked. Such application and/or such statement of fact shall be signed by the applicant and/or licensee.

[8] Section 309(a) of the Communicatuons Act of 1934, as amended (47 U.S.C. Section 309(a)), provides:

Subject to the provisions of this section, the Commission shall determine, in the case of each application filed with it to which section 308 applies, whether the public interest, convenience, and necessity will be served by the granting of such application, and, if the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience, and necessity would be served by the granting thereof, it shall grant such application.

[9] P. 6, Supplement to Petition to Deny Application.

[10] Section 313 of the Communications Act of 1934, as amended (47 U.S.C. Section 309(a)), provides:

Application of Antitrust Laws; Refusal of Licenses and Permits in Certain Cases

Sec. 313(a) All laws of the United States relating to unlawful restraints and monopolies and to combinations, contracts, or agreements in restraint of trade are hereby declared to be applicable to the manufacture and sale of and to trade in radio apparatus and devices entering into or affecting interstate or foreign commerce and to interstate or foreign radio communications. Whenever, in any suit, action, or proceeding, civil or criminal, brought under the provisions of any of said laws or in any proceedings brought to enforce or to review findings and orders of the Federal Trade Commission or other governmental agency in respect of any matters as to which said Commission or other governmental agency is by law authorized to act, any licensee shall be found guilty of the violation of the provisions of such laws or any of them, the court, in addition to the penalties imposed by said laws, may adjudge, order, and/or decree that the license of such licensee shall, as of the date the decree or judgment becomes finally effective or as of such other date as the said decree shall fix, be

Footnotes continued on next page

V 44 O C 24 7 9 UMI

Communications Act shows that Congress intended serious weight to be given to antitrust considerations and that regulatory agencies have a broad obligation to given high priority to antitrust matters. Radiofone concludes that the Commission must examine this matter, since Radiofone has charged that SCB's proposed rates are noncompensatory and thus anticompetitive in effect as well as a conspiracy in restraint of trade. SCB argues, on the other hand, that Radiofone's mere allegations of anticompetitive practices do not invoke the Commission's jurisdiction. Concerning Radiofone's claim of serious economic harm, SCB responds that Radiofone's business is thriving, so its economic viability has in no way been affected by the SCB rates, whether compensatory or not.

11. While the Commission has stated that it has "an obligation to consider allegations of anticompetitive practices under the broad public interest standard of the Communications Act," [11] the Commission has also required that the petitioner present specific data to make out a threshold showing that the rates in question are anticompetitive as a predicate to FCC review. *United Telephone Company of Ohio*, 26 FCC 2d 417 (1970). *Bonduel Telephone Company*.[12]

12. In the instant case, Radiofone's listing of rates—which it charges are anticompetitively low—is unsupported by any cost analysis. Radiofone contends that the SCB rates for manual service have been noncompensatory for years. Similarly, Radiofone alleges that the SCB IMTS rates in Baton Rouge are not compensatory. In neither of these two complaints does Radiofone submit any cost factors to support its conclusion that the rates are noncompensatory. Finally, Radiofone challenges the IMTS rates which SCB proposes in New Orleans. Again, the complaint lists only rates and does not furnish any cost factors involved to support Radiofone's conclusion that the rates are noncompensatory.[13] We fine that Radiofone has failed to allege sufficient data, as required by *United Telephone of Ohio*, 26 FCC 2d 417 (1970), to present a *prima facie* case of anticompetitive rates.

13. Absent such a showing of unfair competition or unreasonable discimination, the Commission has normally left the question of rates for intrastate services to state jurisdiction. Morrison Radio Relay Corp., 31 FCC 2d 612, 616 (1971). Since the proposed IMTS service is intrastate, we believe the Louisiana PSC is the proper forum for Radiofone's allegations (and calculations of cost factors) related to whether the proposed rates are compensatory. In its April 7, 1975, Order No. U-12620, denying Radiofone's Motion to Compel Answers, the Louisiana PSC stated that, "The (PSC) staff is available to any consumer against whom the rates apply to investigate the reasonableness thereof, or whether there is some arbitrary or discriminatory feature contained in a tariff." The PSC has accepted the proposed rates for filing. It has held itself out, however, to hear complaints from consumers once the IMTS has been implemented and actual rates can then be presented for consideration by the PSC. Radiofone has failed to demonstate why the Commission should at this point disturb the State Commission's disposition of the IMTS rates issue. Thus, we believe, given the evidence before us now, that Radiofone's charges are not an appropriate subject for our review. Radiofone has made additional allegations of anticompetitive practices, which are discussed below.[14]

14. *Anticompetitive Practices of SCB.* Radiofone alleges that SCB twice refused to furnish Radiofone selector level interconnection, falsely claiming that it was unavailable.[15] To support this allegation, Radiofone submits two letters from SCB to Radiofone. In the first letter dated November 12, 1970, SCB informed Radiofone:

> In reference to our previous conversation on I.M.T.S. * * * for Radiofone * * * the Telephone Company does not now provide, nor anticipate providing interconnection arrangements for outpulsing type I.M.T.S. * * *.[16]

On June 26, 1972, SCB informed Radiofone:

> With respect to IMTS, "Improved Mobile Telephone Service" is not available on an outpulsing basis to Miscellaneous Common Carriers.* * * This information was transmitted to you in a letter dated July 23, 1970, signed by Mr. R. E. Nelson, District Sales Manager.

On May 15, 1974, SCB informed the Louisiana PSC:

> In 1971, the Bell System and South Central Bell set an objective to convert all manual and flat rate dial mobile systems to the newer type mobile service referrred to as Improved Mobile Telephone Service (IMTS), * * *. Our progress toward implementation of Improved Mobile Telephone Service for Louisiana has been delayed in past years by our earnings situation, inadequate monthly rates for mobile service and our inability to devote capital to anything other than the provision of basic telephone service. *We are now, however, preparing to proceed with a statewide IMTS program beginning in 1975 and completing in 1977* * * *. Shown below is the rating structure contained in the enclosed tariff. (Emphasis supplied.)

15. In a letter dated July 27, 1978, the Commission's Mobile Services Division staff asked Radiofone if it had offered to pay the costs of central office modifications and other charges involved in furnishing the requested selector level interconnection. Radiofone responded that no such overt offer had been made but that such an implied offer may be inferred from the financial considerations involved. Radiofone states that the installation of selector level interconnection would have permitted Radiofone a savings of $113,010.17 in service charges to its subscribers.[17] Radiofone also alleged that, faced with the complete refusal by SCB to furnish selector level interconnection, Radiofone never had the opportunity to discuss the details of its proposal, including its willingness to pay for central office installation charges. Radiofone further points out that it has had contracts with SCB, for extensive amounts of equipment on a continuing basis since 1960 and has consistently honored all charges made by SCB. Under the circumstances, Radiofone argues, its order for selector level IMTS service was tacitly and legally an agreement to pay the applicable charges.

16. Radiofone also submitted a letter dated November 4, 1974, from SCB to the Louisiana PSC, in which SCB filed a tariff to provide IMTS and thus add selector level interconnection to its own facilities. Radiofone argues that only when SCB had made the decision to improve its own system did it then abandon its previous policy of refusing such interconnection to its competitor, Radiofone.

17. In response,[18] SCB expresses its confidence that Radiofone would have paid for any reasonable and necessary central office modifications. SCB acknowledges that such matters were not discussed by the two parties because, according to SCB, Radiofone did not propose to use a control terminal designed for two-way mobile radio service. When in 1976 Radiofone submitted such a proposal, SCB states, the requested selector level interconnection was supplied. SCB asserts that Radiofone's contentions are premised on the erroneous belief by Radiofone that it could have used the same type of control terminals for two-way mobile radio communications that Radiofone was using in 1970 for paging. Radiofone, on the other hand, argues that when SCB supplied selector level interconnection in 1976, there was no central office conversion cost, merely standard trunk and tie-line charges amounting to less than $500.00 (which Radiofone would have been satisfied to pay); moreover, SCB informed Radiofone at that point that these trunks were suitable for use with both paging and mobile communications. In Radiofone's view, these facts contradict SCB's earlier claim that selector level interconnection was not available.

18. The 1970 letter from SCB (paragraph 10 above), in response to Radiofone's request, did not elaborate beyond the merely conclusory statement that selector level interconnection was "not available." In its October 11, 1978, response to the Bureau staff's inquiry, SCB provides no specifics as to how Radiofone's 1970 proposal was technically unacceptable;[19] moreover, when SCB provided selector level interconnection to Radiofone in 1976, SCB informed Radiofone that both paging and two-way mobile communications could be provided. This statement appears to contradict the SCB contention that Radiofone's earlier request was defective for failure to propose two-way mobile radio service. These matters raise substantial questions as to whether SCB wrongfully refused to furnish Radiofone selector level interconnection either (1) by misrepresenting facts to Radiofone as to the availability of selector level interconnection or (2) by refusing to discuss the details of Radiofone's proposal, thereby precluding the possibility of arriving at a mutually acceptable arrangement. We will therefore add a Section 201 issue to determine whether SCB can justify its past failure to provide selector level interconnection to Radiofone.[20] If SCB cannot provide such justification, the Commission can then determine whether the evidence presented also demonstrates any anticompetitive practices on the part of SCB. Accordingly, we will add an anticompetitive practices issue (separate from a Section 201 issue). Similar allegations have been made in protests against other SCB applications. (File Nos. 20089-CD-P-(4)-79 and 20309-CD-P-(2)-79)). We will condition any action taken with respect to these applications on our findings in this proceeding.

19. *Anticompetitive Practices of the Bell Telephone System.* Radiofone brings to our attention two cases wherein it claims the rates for paging service provided by Bell System affiliates were found to be noncompensatory.[21] It claims that these cases demonstrate a course of conduct of anticompetitive activity on the part of American Telephone and Telegraph Company (AT&T) and its subsidiaries. We find that two instances of noncompensatory rates on the part of two AT&T operating companies [22] do not warrant an issue of anticompetitive conduct on the part of SCB. Two instances of noncompensatory rates do not, in our view, warrant the inference that there might exist a pattern of anticompetitive conduct attributable to SCB. Accordingly, we see no reason for including in the hearing a general issue of anticompetitive practices of the Bell Telephone System. However, we have determined to investigate the specific alleged anticompetitive interconnection practices of SCB, as discussed in paragraph 18 above.

20. Except as otherwise noted above, we find SCB to be legally, technically, financially, and otherwise qualified to construct the proposed facilities. In view of the foregoing, It is ordered, That the petitions to deny and supplements filed thereto by James D. and Lawrence D. Garvey d/b/a Radiofone are granted in part and denied in part as set forth above.

21. It is further ordered, That, pursuant to Sections 202 and 309 of the Communications Act of 1934, as amended, the above-captioned applications of South Central Bell Telephone Company, File Nos. 21780-CD-P-(4)-75 and 20437-CD-P-(13)-75, are designated for hearing in a consolidated proceeding upon the following issues:

(a) To determine whether SCB has demonstrated public need for the proposed New Orleans facilities in Houma and in New Orleans and has complied with Rules Section 21.516;

Footnotes continued from last page

revoked and that all rights under such license shall thereupon cease: Provided, however, that such licensee shall have the same right of appeal or review, as is provided by law in respect of other decrees and judgments of said court.

(b) The Commission is hereby directed to refuse a station license and/or the permit hereinafter required for the construction of a station to any person (or to any person directly or indirectly controlled by such person) whose license has been revoked by a court under this section.

[11] Commonwealth Telephone Company, 61 FCC 2d 246 (1976).

[12] Memorandum Opinion and Order, FCC 78-247, 68 FCC 2d 497, released April 25, 1978.

[13] Petition to Deny Application, filed October 30, 1974; Reply to Opposition to Supplement to Petition to Deny, filed December 12, 1977. While we recognize that most of the information required to support such charges is largely in the possession of SCB, we nevertheless require something more from a petitioner than unsupported accusations. Even employing the liberal standard established under *United Telephone of Ohio, supra*, the petitioner's showing is insufficient.

[14] Radiofone's reliance on the General Land Mobile Proceeding, Docket No. 8658, is misplaced. Radiofone argues that "no RCC can effectively compete with a telephone company which customarily undercuts its rates and which never has to prove to this Commission the justness and reasonableness of such lower rates." Docket No. 8658, however, was not intended to modify or restrict the jurisdiction of the Louisiana PSC over questions of intrastate rates in Louisiana. As discussed above, Radiofone's allegations do not establish a *primo facie* case of anticompetitive practices such that the public interest requires that the Commission examine the "justness" of SCB's IMTS rates.

[15] Selector level interconnection is a trunking arrangement whereby a group of telephone lines or channels are shared to handle calls for a large number of mobile units. (The selector level equipment processes a call at the stage between the telephone company's control office and the DPLMRS licensee's control terminal.) The alternative approach, using line-per-station equipment, dedicates a single line or channel for each mobile unit, which is billed separately for its assigned line. The latter approach is more expensive and involves a less efficient use of telephone lines. The furnishing by SCB of selector level interconnection was an integral part of Radiofone's plans to furnish IMTS. Without selector level interconnection, Radiofone claims, it became necessary to go the more costly route of installing line-per-station equipment, which forced Radiofone to charge substantially higher IMTS rates. In the "Supplement of Petition to Deny," Radiofone further alleges that it charges of anticompetitive practices are substantiated in Baton Rouge, Louisiana, where SCB has alleged used the same tactics against Radiofone's affiliate, Mobilefone. As a result, Radiofone contends, SCB has made "* * * substantial progress in the destruction of Mobilfone's IMTS service * * *" because, without selector level interconnection, Mobilfone has found it necessary to increase its investment and charge higher rates. This experience, Radiofone argues, proves that the practices of SCB (directed toward both Mobilfone and Radiofone) are destructive of competition and a restraint of trade.

[16] "Outpulsing" is a term used in connection with selector level interconnection. The two terms are loosely used in an interchangeable manner.

[17] Radiofone submitted a cost analysis for each month during the period July 1972 to August 1978, showing charges actually made to subscribers compared to charges which would have been made if selector level interconnection had been installed. The total in additional charges, without interconnection, was $113,010.17. SCB does not dispute or specifically address this cost analysis.

[18] Letter dated October 11, 1978, from SCB to the Bureau staff.

[19] SCB claims that, given the state of the art in 1970, when Radiofone originally requested interconnection, it was the belief of SCB that selector level interconnection was possible for a two-way mobile radio system but not for one-way communications. SCB further contends that Radiofone presented no detailed proposal in 1970 which might have demonstrated that, contrary to the impression of SCB, it was in fact technically feasible to provide the interconnection desired. Radiofone contends that, given the complete refusal by SCB, Radiofone never had the opportunity to discuss details.

[20] Radiofone's allegations concerning Mobilefone in Baton Rouge are unsupported by cost factors, correspondence between parties involved, or other evidence of anticompetitive practices.

[21] California PUC Decision No. 85358, January 20, 1976; Massachusetts DPU No. 18090, May 13, 1977.

[22] New England Telephone and Telegraph Company and Pacific Telephone and Telegraph Company. The two State Commissions concluded that the rates in question were noncompensatory but made no findings of anticompetitive practices.

V 44 O C 2 4 7 9 UMI

(b) To determine whether SCB has violated Section 201(a) or (b) of the Communications Act by wrongfully refusing to provide selector level interconnection to Radiofone;

(c) To determine whether the evidence adduced at the hearing pursuant to issue (b) demonstrates anticompetitive practices by SCB; and

(d) To determine, in light of the evidence adduced at the hearing pursuant to the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of the above-captioned applications, with or without additional conditions.

22. It is further ordered, That the burden of introduction of evidence and the burden of proof on issue (a) and (d) are on SCB; and the burden of introduction of evidence and the burden of proof on issues (b) and (c) are on Radiofone.

23. It is further ordered, That SCB, Radiofone, and the Commission's Common Carrier Bureau are made parties to this proceeding.

24. It is further ordered, That the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent order.

25. It is further ordered, That parties may avail themselves of the opportunity to be heard by filing with the Commission pursuant to Section 1.221 of the Rules within 20 days of the release date hereof, a written notice stating an intention to appear.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32723 Filed 10-23-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Banco Union, C.A.; Acquisition of Bank

Banco Union, C.A., Caracas, Venezuela, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 15 per cent of the voting shares of Union Chelsea National Bank, New York, New York. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32803 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than Noverber 19, 1979.

A. *Federal Reserve Bank of Boston*, 30 Pearl Street, Boston, Massachusetts 02106:

Old Stone Corporation, Providence, Rhode Island, (mortgage banking and insurance activities; Georgia) to engage through its indirect subsidiary, DAC Corporation of Georgia, in the origination, sale and servicing of first and second mortgage loans; and in connection with extensions of credit, making available to borrowers credit life and credit accident and health insurance. These activities will be conducted from an office in Savannah, Georgia, serving the immediate metropolitan area of Savannah and Chatham County, Georgia.

B. *Federal Reserve Bank of San Francisco*, 400 Sansome Street, San Francisco, California 94120:

1. Security Pacific Corporation, Los Angels, California (credit-related insurance activities; Arizona, California, Colorado, Georgia, Kansas, Nevada, New Mexico, South Carolina, Texas, Utah, Washington, Wyoming): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in acting as agent or broker for the sale of credit-related life and credit-related accident and health insurance. These activities would be conducted from offices of Security Pacific Mortgage Corporation in Denver, Colorado, serving the States of Arizona, California, Colorado, Georgia, Kansas, Nevada, New Mexico, South Carolina, Texas, Utah, Washington and Wyoming.

2. Security Pacific Corporation, Los Angeles, California, (mortgage banking activities; Colorado): to engage, through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multi-family and commercial properties for Security Pacific Mortage Corporation's own account or for sale to others and the servicing of such loans for others. These activities would be conducted from an office in Greeley, Colorado, serving the State of Colorado.

C. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, October 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32798 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Caddo Holding Co., Inc.; Formation of Bank Holding Company

Caddo Holding Company, Incorporated, Glenwood, Arkansas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 54 per cent or more of the voting shares of Caddo State Bank, Glenwood, Arkansas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32806 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Eagle Bancshares, Inc.; Formation of Bank Holding Company

Eagle Bancshares, Inc., Shallowater, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First State Bank of Shallowater, Shallowater, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32802 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Financial Services Corp. of the Midwest; Proposed activity; Issuance and Sale of Money Orders

Financial Services Corporation of the Midwest, Rock Island, Illinois, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage in the issuance and sale of money orders through its bank subsidiary and offices of its consumer finance subsidiaries. These activities would be performed from offices of Applicant's bank subsidiary in Illinois and its nonbanking subsidiaries in Iowa, Minnesota, North Dakota and Wisconsin, and the geographic areas to be served are the areas served by Applicant's banking subsidiary and those areas served by Applicant's nonbanking subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 16, 1979.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32804 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Maitland Bancshares, Inc.; Formation of Bank Holding Company

Maitland Bancshares, Inc., Maitland, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Maitland Farmers Bank, Maitland, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Govenors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32800 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Moore Bancshares Corp.; Formation of Bank Holding Company

Moore Bancshares, Corporation, Dumas, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares (less directors' qualifying shares) of First State Bank, Dumas, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32801 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Quad County Bancshares, Inc.; Formation of Bank Holding Company

Quad County Bancshares, Inc., Viburnum, Missouri, has applied for the Board's approval under section 3(a)(1) of

V 4 4 0 C 2 4 7 9 UMI

the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Quad County State Bank, Viburnum, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 16, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 16, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32709 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Steelville Community Banc-Shares, Inc.; Formation of Bank Holding Company

Steelville Community Banc-shares, Inc., Steelville, Missouri, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80.5 per cent or more of the voting shares (less directors' qualifying shares) of Community Bank, Steelville, Missouri. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Steelville Community Banc-shares, Inc., Steelville, Missouri, has also applied, pursaunt to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to engage as agent or broker in the sale of credit life insurance and credit accident and health insurance directly related to credit made or acquired by Community Bank, Steelville, Missouri. This activity would be performed from offices of Community Bank, Steelville, Missouri, and the geographic areas to be served are all of Crawford County and the western half of Iron County, Missouri. Such activities, have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consumation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 19, 1979.

Board of Governors of the Federal Reserve System, October 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32797 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

Texas Security Bancshares, Inc.; Formation of Bank Holding Company

Texas Security Bancshares, Inc., Fort Worth, Texas, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80–100 per cent of the voting shares of each of two banks—Central Bank and Trust, Fort Worth, Texas, and North Fort Worth Bank, Fort Worth, Texas. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 15, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 15, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32805 Filed 10-23-79; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Regional Public Advisory Panel on Architectural and Engineering Services; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 8, on November 14, 1979, from 8 a.m. to 4 p.m., in the Wyoming Conference Room, Second Floor of Building 41 at the Denver Federal Center in Denver, Colorado. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for Renovation and Space Conversion at Building 20, Denver Federal Center in Denver, Colorado. The meeting will be open to the public."

Dennis A. Jensen,

Regional Administrator.

[FR Doc. 79-32784 Filed 10-23-79; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

Locations for National Diffusion Network Program; Application Preparation Workshops

AGENCY: Office of Education, HEW.

ACTION: Notice of Locations for National Diffusion Network Program, Application Preparation Workshops.

SUMMARY: Application Preparation Workshops will be held throughout the United States to aid prospective applicants in developing applications for the National Diffusion Network Program (See 44 FR 37178, June 25, 1979).

DATES: Application Preparation Workshops will be conducted on the following dates:

November 2, 1979—Anaheim, California
November 5–6, 1979—Charlotte, North Carolina
November 8–9, 1979—Elizabeth, New Jersey
November 13–14, 1979—Detroit, Michigan
November 15–16, 1979—Oklahoma City, Oklahoma

ADDRESSES: Application Preparation Workshops will be conducted at the following locations:

Anaheim, CA—Disneyland Hotel, November 3, 1979—8:00 am to 5:00 pm.
Charlotte, NC—Sheraton Center Inn, 555 South McDowell Street, November 5, 1979—1:00 pm to 4:00 pm. November 6, 1979—9:00 am to 5:00 pm.
Elizabeth, NJ—Holiday Inn Jetport, 1000–1020 Spring Street, November 8, 1979—9:00 am to 5:00 pm. November 9, 1979—9:00 am to 12:00 pm.
Detroit, MI—Sheraton—Southfield/Detroit, 17017 W. Nine Mile Rd. (at Interstate 696), November 13, 1979—9:00 am to 5:00 pm. November 14, 1979—9:00 am to 12:00 pm.
Oklahoma City, OK—Hilton Inn, Executive Conference Center, West and Interstate 40, Meridian Avenue, November 15, 1979—9:00 am to 5:00 pm. November 16, 1979—9:00 am to 12:00 pm.

FOR FURTHER INFORMATION CONTACT: Drew Lebby, Division of Educational Replication, Room 3621, ROB-3, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: Representatives of the USOE Division of Educational Replication and the USOE Grant and Procurement Management Division will conduct five (5) three part workshops in five cities. The workshops will include a review of the requirements for filing grant applications under the National Diffusion Network program regulations.

The first portion of the workshop will consist of a discussion of the suggested application development guides and general requirements and procedures applicable to the National Diffusion Network program.

The second portion will cover the specific requirements for the National Diffusion Network program. A question and answer session will include the three part workshop.

(Catalog of Federal Domestic Assistance (CFDA) Number 13.553, National Diffusion Network program, by authority of Title III, section 303, Elementary and Secondary Education Act (ESEA) as amended)

Dated: October 19, 1979.

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-32791 Filed 10-23-79; 8:45 am]

BILLING CODE 4110-02-M

National Demonstration Projects, Upward Bound, and Special Services for Disadvantaged Students; Closing Date for Transmittal of Applications for National Demonstration Projects for Fiscal Year 1980

Applications are invited for National Demonstration projects under the Upward Bound and Special Services for Disadvantaged Students (Special Services) programs.

Authority for these programs is contained in section 417B of the Higher Education Act of 1965, as amended. (20 U.S.C. 1070d-1).

Under the Special Services program, institutions of higher education and combinations of such institutions are eligible to receive awards. Similarly, under the Upward Bound program, institutions of higher education, combinations of institutions of higher education, public and private agencies and organizations (including professional and scholarly associations), and, in exceptional cases, secondary schools and secondary vocational schools are eligible to receive awards.

The Upward Bound National Demonstration projects will differ from the traditional Upward Bound projects in that the participants will be low-income high school youths who have an exceptional potential or demonstrated aptitude to pursue careers requiring a proficiency in natural and applied sciences.

The Special Services National Demonstration projects will differ from the traditional Special Services projects in that projects will institutionalize the supportive services provided to participants by utilizing faculty members as mentors to provide academic, career, and personal guidance and counseling. The primary focus will be to prepare and assist disadvantaged students to enter graduate and professional schools.

The Commissioner strongly encourages the submission of applications for Upward Bound National Demonstration projects that (1) provide an 8-week summer residential program with a special emphasis in a particular academic discipline in which disadvantaged persons are underrepresented and (2) prepare qualified youths from low-income families for programs of postsecondary education in those disciplines.

The Commissioner also strongly encourages the submission of applications for Special Services National Demonstration projects that provide encouragement to and preparation of freshmen, sophomores, and juniors to enable them to enter graduate and professional schools to pursue and complete programs of study in those areas in which disadvantaged persons, particularly minorities, are underrepresented.

The programs of study in which minorities and women are underrepresented include but are not limited to:

Architecture; Biological Sciences; Computer Science; Dentistry; Engineering; Law; Mathematics; Medicine; Optometry; Osteopathic Medicine; Pharmacy; Physical Sciences; Podiatry; Veterinary Medicine.

Closing date for transmittal of applications: Applications for new awards must be mailed or hand-delivered by March 14, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.482 N.D. (for Special Services for Disadvantaged Students) or 13.492 N.D. (for Upward Bound), Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly U.S. Postal Service dated postmark;

(2) A legible mail receipt with the date of mailing stamped by the U.S Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Street S.W., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

V 4 4 0 C 2 4 7 9 UMI

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: All applications for fiscal year 1980 funds will be treated as new applications. Successful applications will receive up to two (2) year project period grants.

The Office of Education may not fund an applicant for a period of time longer than is requested by the applicant in the application. Applicants requesting two years of funding must submit a detailed work program and budget for the first year and an outline of the work program and a budget summary for the second year.

The Commissioner approves requests for the second year if:

1. The need continues to exist for the services provided by the project;
2. Satisfactory progress has been made in implementing the approved work plan and in achieving the project's goals and objectives;
3. The project continues to offer promise of success;
4. All required reports have been received and accepted by the Commissioner; and
5. Funds are available to continue the project.

An Application Preparation Workshop will be conducted in Washington, D.C. in early February. For the time and location of the workshop, contact the Program Development Branch (see address in section on FURTHER INFORMATION).

Available funds: It is expected that approximately $130,000,000 will be available for the Special Programs for Students from Disadvantaged Backgrounds in fiscal year 1980. It is estimated that $5,000,000 will be available for National Demonstration Upward Bound, to fund approximately 25 grants averaging $200,000 and $5,000,000 for National Demonstration Special Services, to fund approximately 34 grants averaging $147,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Application forms: Application materials and concept papers will be mailed upon request. Application forms, program information packages, and concept papers are expected to be ready for mailing by January 7, 1980. They may be obtained by writing to the Division of Student Services and Veterans Programs, Information Systems and Program Support Branch, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed fifty (50) pages in length. The Commissioner further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to these programs include the following:

(a) Regulations governing the Upward Bound Program (45 CFR Part 155) and the Special Services for Disadvantaged Students Program (45 CFR Part 157); and

(b) General Provisions Regulations for Office Education Programs (45 CFR Parts 100 and 100a).

Note.—The proposed Education Division General Administrative Regulations (EDGAR) were published in the Federal Register on May 4, 1979 (44 FR 26298). When EDGAR becomes effective, it will supersede the General Provisions Regulations for Office of Education Programs.

If EDGAR takes effect before grants are made under these programs, those grants will be subject to the following provisions of EDGAR: Subpart A (General); Subpart E (What Conditions Must Be Met by a Grantee?); Subpart F (What Are the Administrative Responsibilities of a Grantee?); and Subpart G (What Procedures Does the Education Division Use to Get Compliance?).

FURTHER INFORMATION: For further information, contact the Program Development Branch, Division of Student Services and Veterans Programs, U.S. Office of Education (Room 3514, Regional Office Building 3), 400 Maryland Avenue SW., Washington, D.C. 20202, Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1)

Dated: September 27, 1979.

(Catalog of Federal Domestic Assistance Numbers 13.482; Special Services for Disadvantaged Students, and 13.492 Upward Bound Program)

John Ellis,

Executive Deputy Commissioner for Educational Programs.

[FR Doc. 79-32778 Filed 10-23-79; 8:45 am]

BILLING CODE 4110-02-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. NI-3]

Intended Environmental Impact Statements; Texas

The Department of Housing and Urban Development gives notice that an Environmental Impact Statement (EIS) is intended to be prepared for each of certain projects under various HUD programs as described in the appendix to this Notice. This Notice is required by the Council on Environmental Quality under its rules (40 CFR 1500).

Interested individuals, governmental agencies, and private organizations are invited to submit information and comments concerning a particular project to the specific person or address indicated in the appropriate part of the appendix.

Particularly solicited is information that reports other environmental studies planned or completed in the project area; issues and data which the EIS should consider; recommended mitigating measures and alternatives if one identifies a major issue associated with the proposed project. Federal agencies having jurisdiction by law, special expertise or other special interests should report their interests and indicate their readiness to aid the EIS effort as a "cooperating agency."

Issued at Washington, D.C. October 19, 1979.

Richard H. Broun,

Director, Office of Environmental Quality.

Appendix

1. EIS on Hickory Creek, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a subdivision to be known as Hickory Creek located in Fort Bend County, Texas. The purpose of this notice is to solicit from all interested persons, local, state and Federal agencies recommendations regarding the issues to be addressed in depth in the environmental impact statement.

Description. The Elden Corporation of Houston proposes to develop a site of 1,292 acres which is located approximately four miles south of the Town of Katy and on the north side of Texas Farm to Market Road 1093. The developer proposes a residential housing development which will consist of approximately 3,640 single family homes, 450 apartment units, 130 townhouses and 90 duplex dwelling units. when fully developed, it is anticipated the development will accommodate a population of approximately 15,000 persons.

Need. Due to the size and scope of this project, this office has determined that an environmental impact statement will be prepared pursuant to Pub. L. 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development which will be given consideration are: (1) Accept the project as submitted, (2) accept the project with modification, or (3) reject the project.

Comments. Comments should be sent within 21 days of publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

2. EIS on Wheatstone, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a subdivision to be known as the Wheatstone located in Harris County, Texas and solicits from all interested persons, local, state and Federal agencies recommendations regarding the issues to be addressed in depth in the environmental impact statement.

Description. The firm of Carma Developers (Texas), Inc., proposes to develop within a ten year period a site of 1,200 acres which is located in the western section of Harris County, Texas, approximately 7 miles north of the Daty Freeway (Interstate Highway 10), one Mile west of Texas Highway 6, and 1.5 miles south of Hemstead Highway (U.S. Highway 290). When fully developed, the Wheatstone subdivision will contain 4,260 single family residences and will accommodate a population of approximately 14,910 persons.

Need. Due to size and scope an EIS will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be sent within 21 days following publication of this notice in the Federal Register to the Environmental Office, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

3. EIS on Southwyck, Texas

The Dallas Area Office intends to prepare an environmental impact statement for a development tract of 1,863 acres to be known as Southwyck in Brazoria County, Texas and solicits information and comments for consideration in the EIS.

Description. The proposal calls for development within a ten year period of a site of 1,863 acres which is located in the northern portion of Brazoria County, Texas. The Southwyck tract is located within the extra-territorial jurisdiction of the City of Pearland and is approximately 13 miles south of the Central Business District of the City of Houston. When fully developed, the Southwyck subdivision will provide 6,074 dwelling units consisting of 4,891 single family homes and 1,183 apartment units. The total subdivision will accommodate approximately 21,000 persons when completed.

Need. Due to the size and scope of the proposed project, this office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) Accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be forwarded within 21 days after publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

4. EIS FOR Creekside and River Hills, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for subdivisions to be known as Creekside Village and River Hills Village located in Montgomery County, Texas, and solicits comments and recommendations regarding the issues to be addressed in-depth in the environmental impact statement.

Description. The proposal calls for the development of two tracts of land comprising 431.5 acres of land into two subdivisions. These tracts are located 1.5 to 2.0 miles northwest from the center of the City of Conroe, Texas, which is the County Seat of Montgomery County. The sites are approximately 38 miles north of the central business district of the City of Houston. When fully developed, the two subdivisions will contain about 1,693 single family housing units which will accommodate approximately 5,918 persons.

Need. Due to the size and scope of the proposed projects, this Office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives to the Department are: (1) accept the projects as submitted, (2) accept the projects with modifications, or (3) reject the projects.

Comments. Comments should be forwarded within 21 days after publication of this notice in the Federal Register to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

5. EIS for Rosewood, Texas

The Dallas Area Office of the Department of Housing and Urban Development intends to prepare an environmental impact statement for a development to be known as Rosewood Subdivision, Dallas County, Texas, and solicits comments and recommendations from all interested persons, local, state and Federal agencies regarding the issues to be discussed in depth in the environmental impact statement.

Description. The firm of Hunt Properties, Incorporated, proposes to develop within a ten year period a site of 1,030 acres. The Rosewood subdivision is to be located within the corporate limits of the City of Cedar Hill, Texas, south of Danieldale Road, east and west of Clark Road and adjacent to the ecologically sensitive White Rock Escarpment. When fully developed, the Rosewood subdivision will contain a total of 2,500 single family homes accommodating a population of approximately 7,250 persons.

Need. Due to the size and the environmentally sensitive issues involved, this office has determined that an environmental impact statement will be prepared pursuant to Public Law 91-190, the National Environmental Policy Act of 1969.

Alternatives perceived. The alternatives available to the Department of Housing and Urban Development are: (1) Accept the project as submitted, (2) accept the project with modifications, or (3) reject the project.

Comments. Comments should be forwarded to the Environmental Officer, Dallas Area Office, Department of Housing and Urban Development, 2001 Bryan Tower, Dallas, Texas 75201.

[FR Doc 79-32774 Filed 10-23-79; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Meeting of the Bureau of Indian Affairs Advisory Committee for Exceptional Children; Examine and Discuss Unmet Needs of Exceptional Indian Children

October 24, 1979.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary of Indian Affairs by 209 DM 8.

In accordance with section 612(7) of Pub. L. 91-230 as amended by section 5(a) of Pub. L. 94-142, Education of the Handicapped Act, the Bureau of Indian Affairs' Advisory Committee will meet October 26 and 27, 1979, at the Los Olivos Hotel, 202 E. McDowell Rd., Phoenix, Arizona, 9:00 A.M. to 4:00 P.m.

This is a regular meeting of the Advisory Committee during which the primary purpose will be to examine and discuss the unmet needs of exceptional Indian children.

The meeting is open to the public. Any member of the public can file a written statement concerning the matters discussed.

Additional information about the meeting can be obtained from Goodwin K. Cobb, III, Bureau of Indian Affairs, Main Interior, room 3525, phone (202) 343-5519.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-32772 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Receipt of Coral Application

Notice is hereby given that the following application for a permit has

V 4 4 0 C 2 4 7 9 UMI

been received under 43 CFR 6224. Viable Coral Communities located on the Outer Continental Shelf.

Applicant

Knox College, Department of Geology, Galesbury, Illinois 61401 (309) 343–0112.

Description of Proposed Operations

It is the purpose of this proposed educational program to collect minimal coral samples in order to provide a representative collection of common coral species for use in college courses. Coral will be removed carefully and selectively by divers using hand tools such as rock hammers. During the permit period the total amount of coral collected will not exceed 10 kilograms dry weight.

The proposed area of operations will be on the OCS offshore Key Largo, Florida, in the Key Largo Coral Reef Marine Sanctuary.

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the New Orleans Outer Continental Shelf Office, 500 Camp Street, Suite 841, New Orleans, Louisiana 70130. Any such information designated by applicant as proprietary, and not subject to public inspection may be excluded.

Interested persons may comment on this application by submitting written data, views or arguments to the Manager, New Orleans OCS Office at the above address. All relevant comments received within 30 days of the date of this publication will be considered.

John L. Rankin,
Manager, New Orleans Outer Continental Shelf Office.

October 16, 1979.

[FR Doc 79-32773 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-84-M

Winnemucca District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Winnemucca District Grazing Board will be held on December 6, 1979. The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 705 East Fourth Street, Winnemucca, Nevada.

The agenda for the meeting will include: (1) Election of chairman and vice chairman; (2) Briefing on planning schedules and relation to AMPs; (3) Discuss procedures of range compilation; (4) Discussion of allotments where wild horse and burro problems exist; (5) Report on wild horse and burro gatherings; (6) Reading of letters and public comment period; (7) Arrangement for next meeting and discussion of agenda items.

The meeting is open to the public. Interested persons may make oral statements to the Board between 1:00 and 2:00 p.m. on December 6, 1979 or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, 705 East Fourth Street, Winnemucca, Nevada 89445, by November 5, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meeting will be maintained in the District Office and be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: October 16, 1979.

Vaden G. Stickley,
Acting District Manager.

[FR Doc. 79-32768 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-84-M

[OR 11159]

Oregon; Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

Correction

In FR Doc. 79–29994, appearing on page 55669 in the issue of Thursday, September 27, 1979, the following changes should be made:

1. The seventh and eighth lines of the last land description in column one should read:

"S½SW¼, and NW¼SE¼:
Sec. 21, NW¼NW¼"

2. The twenty-first line of the second land description for the Bachelor Butte Recreation Area should read:

"NW¼, NE¼NW¼; NE¼NW¼SW¼"

BILLING CODE 1505-01-M

[AA-6983-A, AA-6983-B, and AA-6983-D]

Alaska Native Claims Selection

On June 11, 1974, Kavilco Incorporated, for the Native village of Kasaan, filed selection application AA–6983–A, later amended, on December 12, 1974, filed selection application AA–6983–B, later amended, and on December 17, 1974, filed selection application AA–6983–D, later amended, under the provisions of Sec. 16(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 706; 43 U.S.C. 1601, 1615(b) (1976)) (ANCSA), for the surface estate of certain lands in the vicinity of the Native village of Kasaan.

As to the lands described below, the applications, as amended, are properly filed and meet the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 16(b) of ANCSA, aggregating approximately 23,052.885 acres, is considered proper for acquisition by Kavilco Incorporated and is hereby approved for convenance pursuant to Sec. 14(b) of ANCSA.

Mineral Survey 726, known as Stevenstown Nos. 3 and 4, Lode Claims, in Ketchikan Mining District, Alaska.
Containing 32.625 acres.

U.S. Survey 181, Tract A, situated on Lyman Anchorage, Alaska.
Containing 36.16 acres.

U.S. Survey 2131, situated about one-half mile west of the village of Kasaan, Alaska.
Containing 2.62 acres.

U.S. Survey 2174, Tract C, situated at Lyman Point, Clarence Strait, Alaska.
Containing 2.86 acres.

Cooper River Meridian, Alaska

T. 73 S., R. 85 E. (Partially Surveyed)
Sec. 6, lots 1 to 5, inclusive;
Sec. 7, lots 1, 2 and 3, NW¼NE¼;
Sec. 8, lots 1 to 6, inclusive;
Sec. 13, lots 1 to 4, inclusive, NE¼NE¼.
Containing 546 acres.

T. 73 S., R. 86 E. (Surveyed)
Sec. 2, lot 1;
Sec. 3, lots 1 to 4, inclusive, W½NW¼, SE¼NW¼, SW¼, W½SE¼, SE¼SE¼;
Secs. 4 and 5, all;
Sec. 6, lots 1 to 4, inclusive, E½, E½W½;
Sec. 7, lots 1 to 4, inclusive, E½, E½W½;
Secs. 8, 9 and 10, all;
Sec. 11, lots 1 to 5, inclusive, SW¼NW¼, W½SW¼;
Sec. 13, lots 1 to 8, inclusive, SW¼SE¼;
Sec. 14, lots 1 to 6, inclusive, SE¼NW¼, W½W½;
Secs 15 and 16, all;
Sec. 17, lots 1, 2 and 3, E½, E½W½, NW¼NW¼;
Sec. 18, lots 1 to 6, inclusive, lot 7 excluding Alaska Native Claims Settlement Act Sec. 3(e) application AA-26432 for a lighthouse, N½NE¼, SE¼NE¼, NE¼NW¼;
Sec. 20, lots 1 to 5, inclusive;
Sec. 21, lots 1 to 5, inclusive, NE¼, N½NW¼, SE¼NW¼, NE¼SE¼;
Sec. 22, all;
Sec. 23, lots 1 to 11, inclusive, S½NE¼, W½NW¼, NW¼SW¼, NW¼SE¼;
Sec. 24, lots 1 to 5, inclusive, E½, E½NW¼, SW¼NW¼;
Sec. 25, lots 1 to 6, inclusive, E½, SE¼NW¼, E½SW¼;
Sec. 26, lots 1 to 14, inclusive;
Sec. 27, lots 1 to 6, inclusive;
Sec. 28, lots 1 to 5, inclusive;

Sec. 29, lots 1 to 4, inclusive;
Sec. 30, lots 1 to 4, inclusive;
Sec. 31, lots 1 to 5, inclusive;
Sec. 32, lots 1 to 6, inclusive;
Sec. 33, lots 1 to 13, inclusive, SW¼NE¼, E½NW¼, NW¼NW¼;
Sec. 34, lots 1 to 7, inclusive;
Sec 35, lot 1;
Sec. 36, lots 1 to 5, inclusive, N½NE¼.
Containing approximately 12,467.64 acres.

T. 74 S., R. 85 E. (Partially Surveyed)
Sec. 13, SE¼SW¼, S½SE¼;
Sec. 22, SE¼NW¼, E½SW¼, SE¼;
Sec. 23, S½NW¼, SW¼, S½SE¼;
Sec. 24, lots 1 to 2 and 3, N½, SW¼, N½SE¼;
Sec. 25, lots 1 to 24, inclusive;
Sec. 26, lots 1 to 12, inclusive, N½NW¼;
Sec. 27, lots 1, 2 and 3, NW¼NE¼, E½NW¼;
Sec. 35, lots 1 to 7, inclusive, E½;
Sec. 36, lots 1, 2 and 3, E½NE¼, SW¼NE¼, W¼, W¼SE¼.
Containing 3,126.25 acres.

T. 74 S., R. 86 E. (Partially Surveyed)
Sec. 3, lots 1 to 7, inclusive;
Sec. 4, lots 1 to 6, inclusive;
Sec. 5, lots 1 to 20, inclusive;
Sec. 6, lots 1, 4, 5, 6, 7, 10 and 11, E½W½;
Sec. 7, lots 1, 2, 4, 5, and 6, S½NE¼, E½W½, SE¼;
Sec. 8, lots 1, 2, and 3, S½N½, NE¼NW¼, S½;
Sec. 9, lots 1 to 7, inclusive, NW¼NW¼, S½NW¼, SW¼, NW¼SE¼, S½SE¼;
Sec. 10, lots 1 to 11, inclusive, SE¼NW¼, NE¼SW¼, NW¼SE¼, S½S½;
Sec. 11, lots 1 to 6, inclusive;
Sec. 14, lot 1, NW¼NW¼, S½NW¼;
Sec. 15, lots 1 to 12, inclusive, E½E½, NW¼NE¼, NE¼NW¼, W½NW¼;
Sec. 16, lots 1 to 41, inclusive, N½NE¼, SE¼NE¼, NW¼NW¼, NE¼SE¼;
Sec. 17, lots 1, 2 and 3, N½, SW¼, W½SE¼;
Sec. 18, lot 4, E½, E½W½;
Sec. 19, lots 1 to 10, inclusive, NE¼, E½,NW¼, NE¼SW¼;
Sec. 20, lots 1 to 13, inclusive, W½NE¼, NW¼, N½SW¼, NW¼SE¼;
Sec. 21, lots 1 to 19, inclusive;
Sec. 22, lots 1 to 12, inclusive;
Sec. 28, lots 1 to 4, inclusive;
Sec. 29, lots 1 to 5, inclusive;
Sec. 30, lots 1 to 9, inclusive;
Sec. 31, lots 1 to 12, inclusive, SE¼NW¼.
Containing 6,838.73 acres.
Aggregating approximately 23,052.885 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (1976)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (1976)), the following public easements, referenced by easement identification number (EIN) on the easement map attached to this document, a copy of which will be found in casefile AA–6983–EE, are reserved to the United States. All easements are subject to applicable Federal, State, or municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

Allowable Uses

25 Foot Trail—The uses allowed on a twenty-five (25) foot wide trail easement are: travel by foot, dogsleds, animals, snowmobiles, two and three-wheel vehicles, and small all-terrain vehicles (less than 3,000 lbs. Gross Vehicle Weight (GVW)).

One Acre Site—The uses allowed for a site easement are: vehicle parking (e.g., aircraft, boats, ATV's, snowmobiles, cars, trucks), temporary camping, and loading or unloading. Temporary camping, loading or unloading shall be limited to 24 hours.

Easements To Be Reserved

a. (EIN 1a C5, D9) An easement for an existing access trail twenty-five (25) feet in width from Polk Inlet in Sec. 27, T. 74 S., R. 85 E., Copper River Meridian, Northwesterly along Old Franks Creek to public lands. The uses allowed are those listed above for twenty-five (25) foot wide trail easement.

b. (EIN 2b D9) A one (1) acre site easement upland of the mean high tide line in Sec. 27, T. 74 S., R. 85 E., Copper River Meridian, on the north shore of Polk Inlet at the beginning of trail EIN 1a C5, D9. The uses allowed are those listed above for a one (1) acre site easement.

The grant of the above-described lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the unsurveyed lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1976))), contract, permit, right-of-way, or easement, and the right of the lessee contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b)(2) (1976)) (ANCSA), any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

3. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (1976)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section;

4. The following third-party interests, if valid, created and identified by the U.S. Forest Service, as provided by Sec. 14(g) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(g) (1976)):

A. right-of-way issued to RCA Alaska Communications, Inc., on February 2, 1971, pursuant to the provisions of the Act of November 14, 1967, the Alaska Communication Disposal Act (81 Stat. 491), for a telephone and telegraph line right-of-way, 50 feet in width (25 feet on either side of the centerline) located in Sec. 11, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

B. Timber Sale Agreement, contract Number A10fs–1042, Ketchikan Pulp and Paper Company, Tps. 73 S., Rs. 85 and 86 E., Copper River Meridian, Alaska.

C. Special Use Permits Issued To:

(1) Ketchikan Pulp Company for three (3) ⅛ acre plots centering at points SU 1, SU 2 and SU 3 for the purpose of cables, boom logs and stiff leg logs secured to the upland to aid in holding log raft storage facilities in place at Linne Bay and Lyman Anchorage, located in Secs. 14 and 23, T. 73 S., R. 86 E., and in Sec. 9, T. 74 S., R. 86 E., Copper River Meridian, Alaska.

(2) Residences

a. Mark Buettner, for a log house (16' x 32'), a frame privy (4' x 4') and a woodshed (10' x 16'), lot 7 of the Happy Harbor Residence Group, containing approximately 1.4 acres, located in Secs. 33 and 34, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

b. H. G. Hamar, for a frame residence and a frame woodshed 16' x 18', lot 8, of the Happy Harbor Residence Group, containing approximately 2 acres, located in Secs. 33 and 34, T. 73 S., R. 86 E., Copper River Meridian, Alaska.

c. Keith Elden Heib, for a residence (16' x 20' and a toilet (4' x 4'), lot 2 of the Happy Harbor Residence Group containing 1.10 acres located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

d. Ivalee Heib, for a 2-story A-frame residence (16' x 40'), an A-frame woodshed (16' x 20') and an outdoor chemical toilet (8' x 6'), lot 4 of the Happy Harbor Residence Group containing approximately 0.4 acres located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

e. Alton G. McAllister, Jr. and Stella McAllister for a log cabin (20' x 30'), a woodshed (15' x 20') and a toilet (4' x 4'), lot 1 of the Happy Harbor Residence Group, containing approximately 0.9 acres, located in Sec. 34, T. 73 S., R. 86 E., Copper River, Meridian, Alaska.

5. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (1976)), that, until December 18, 1983, the portion of the above-described lands located within the boundaries of a national forest shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands.

Kavilco Incorporated is entitled to conveyance of 23,040 acres of land selected pursuant to Sec. 16(b) of ANCSA. The total acreage herein approved for conveyance is approximately 23,052.885 acres. This acreage was computed using the rule of approximation as set forth in Sec. 14(d) of ANCSA. Action on the balance of the lands in the selection will be taken at a later date.

Pursuant to Sec. 14(f) of ANCSA, conveyance of the subsurface estate of the lands described above shall be granted to Sealaska Corporation when conveyance is granted to Kavilco Incorporated for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the above described lands.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the Federal Register and once a week, for four (4) consecutive weeks, in the Ketchikan Daily News. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510 with a copy served upon both the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

2. Any unknown parties, any parties

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Kavilco Incorporated, Kasaan, Alaska 99950.
Sealaska Corporation, One Sealaska Plaza, Suite 400, Juneau, Alaska 99801.

Sue A. Wolf,
Chief, Branch of Adjudication.

[FR Doc. 79-32762 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-84-M

Outer Continental Shelf; List of Restricted Joint Bidders

Correction

In FR Doc. 79-32201 appearing on page 60416 in the issue of Friday, October 19, 1979, in the list of companies, "Mobil Oil Corporation & Producing Southeast Inc." should have read "Mobil Oil Exploration & Producing Southeast Inc."

BILLING CODE 1505-01-M

Bureau of Reclamation

Apple Creek Unit, Pick-Sloan Missouri Basin Program, North Dakota; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare an Environmental Impact Statement on Apple Creek Unit, Southern Burleigh County, North Dakota. The proposed statement will address the impacts of construction and operation of the Apple Creek Unit.

The proposed project is a multipurpose water resource project. Missouri River water would be diverted to provide water for irrigation, conservation and development of fish and wildlife resources and enhancement of outdoor recreational opportunities.

The project would provide water to systems with three smaller pumping plants, a drainage system, wildlife development areas and recreational areas.

Alternative water sources such as ground water and water from the McCluskey Canal will also be addressed.

A scoping meeting was held March 9, 1979, in Bismarck, North Dakota.

Interested public entities and individuals may obtain information on the project and provide input to the draft environmental impact statement, which is expected to be completed in late 1980, by contacting:

Richard McCabe, Biology Branch, Bureau of Reclamation, Missouri-Souris Projects Office, P.O. Box 1017, Bismarck, North Dakota 58501, Telephone: FTS 783-4720—Commercial (701) 255-4011, extension 720.

Dated: October 16, 1979.
Clifford I. Barrett,
Assistant Commissioner.

[FR Doc. 79-32640 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-09-M

Contract Negotiations With the Department of the Army, Yuma Proving Grounds, Arizona; Intent To Begin Negotiations of a Water Service Contract

The Department of the Interior, through the Bureau of Reclamation, intends to negotiate a water service contract with the Department of the Army to provide for the annual delivery of not to exceed 975 acre-feet of Colorado River water. The water will be used to meet the needs of the Yuma Proving Ground located near Yuma, Arizona. The proposed contract will be written pursuant to the Boulder Canyon Act of December 2, 1928 (45 Stat. 1057), as amended and supplemented.

Existing agreements between the Department of the Interior and the Department of the Army provide for annual diversions of not to exceed 55 acre-feet of Colorado River water. The proposed contract will allow the Army to divert an additional 920 acre-feet annually. Also, the proposed contract will change the point of diversion to the vicinity of Imperial Dam.

On August 5, 1977, the Arizona Water Commission endorsed the execution of a contract and other appropriate agreement between the Department of the Interior and the Department of the Army to provide for the annual diversion of 975 acre-feet of Colorado

the proposed water service contract shall be open to the general public as observers. Advance notice of any meeting shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to the meeting. The public is invited to submit written comments on the form of the proposed contract not later than 30 days after the completion of contract negotiations. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

For further information about scheduled meetings and copies of the proposed contract, please contact Mr. LeGrand Neilson, Contracts and Repayment Branch, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005, telephone (702) 293-8651.

Dated: October 16, 1979.
Clifford I. Barrett,
Assistant Commissioner of Reclamation.

[FR Doc. 79-32641 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-09-M

Contract Negotiations With the Georgetown Divide Public Utility District; Intent To Negotiate a Rehabilitation and Betterment Loan Repayment Contract

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Bureau of Reclamation intends to initiate negotiations with Georgetown Divide Public Utility District, Georgetown, California, for repayment of a loan covering the cost of a rehabilitation and betterment (R&B) program to be performed on the Stumpy Meadows Project. The Stumpy Meadows Project is a Small Reclamation Project constructed in 1962 under Pub. L. 84-984.

Georgetown Divide Public Utility District presently provides water for irrigation of 2,500 acres and supplies water for fire protection, domestic, municipal, and industrial use to approximately 3,500 residents in western El Dorado County. The Stumpy Meadows Reservoir is the district's primary source of water supply, and the El Dorado Conduit is a vital link in the high potential for slides and embankment failure. The ever-increasing number of failures and washouts along the conduit and the lack of substantial regulating storage between the unreliable El Dorado Conduit and the service area necessitates corrective measures be taken to assure the dependability of the district's water supply.

The proposed R&B work program will primarily rehabilitate the El Dorado Conduit by placement of approximately 30,000 lineal feet of pipeline and canal lining. The estimate cost of the R&B program is $4,175,000. The district has applied for a $4,000,000 Federal loan pursuant to the Rehabilitation and Betterment Act of 1949 (63 Stat. 724), as amended. The district will repay all loan funds to the United States. The terms and conditions of the proposed contract are ultimately dependent upon the Commissioner of Reclamation's approval of the basis for the loan, the Secretary of the Interior's approval of the form of the proposed contract, and a maximum 60-day congressional review period of the terms of repayment.

All meetings scheduled by the Bureau of Reclamation with the district for the purpose of discussing terms and conditions of the proposed rehabilitation and betterment contract shall be open to the general public as observers. Advance notice of meetings shall be furnished only to those parties having previously furnished a written request for such notice to the office identified below at least 1 week prior to any meetings. All written correspondence concerning the proposed contract shall be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

The public is invited to submit written comments on the form of the proposed contract not later than 15 days after the completed contract draft is available to the public. Unless significant public interest in the proposed contract is demonstrated in response to this notice, the availability of the negotiated draft contract will not be publicized. Interested parties may obtain copies of the proposed contract by contacting the person below. The Commissioner of Reclamation will review comments submitted and based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

2800 Cottage Way, Sacramento, California 95825, telephone number (916) 484-4620.

Dated: October 19, 1979.
Clifford I. Barrett,
Assistant Commissioner of Reclamation.

[FR Doc. 79-32817 Filed 10-23-79; 8:45 am]
BILLING CODE 4310-09-M

Heritage Conservation and Recreation Service

[INT FES 79-54]

Patapsco Valley State Park, Md.; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Department has prepared a final environmental statement for a proposed acquisition and future development of Patapsco Valley State Park located in Anne Arundel, Baltimore, Carroll, and Howard Counties, Maryland. Land totaling 4,800 acres of inholdings is proposed for acquisition with a Federal grant from the Land and Water Conservation Fund, to be matched with an equal share of State money. The proposed acquisition will eventually be developed for picnic, day use, and interpretive areas. It consists of nearly 400 individual parcels and will result in a total park acreage of 14,400 acres at Patapsco Valley State Park.

Copies are available for review at the following locations:

Office of Public Affairs, Office of the Secretary, Department of the Interior, Washington, D.C. 20240.
Office of Public Affairs, Heritage Conservation and Recreation Service, Room 220, Pension Building, 440 G Street, N.W., Washington, D.C. 20243.
Heritage Conservation and Recreation Service, Northeast Region, Federal Office Building, 600 Arch Street, Philadelphia, PA 19106.
A-95 Clearinghouse, Dept. of State Planning, 301 W. Preston Street, Baltimore, Maryland 21201.
Baltimore Regional Planning Council, 701 Saint Paul Street, Baltimore, MD 21202.
Patapsco Valley State Park, 110 Hilton Avenue, Baltimore, MD 21220.
Department of Natural Resources, C-3 Tawes State Office Building, Annapolis, MD 21401.

A limited number of single copies are

Dated: October 18, 1979.

James Rathlesberger,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-32771 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-03-M

National Park Service

[INT FES 79-53]

Designation of the Owyhee River as a Unit in the National Wild and Scenic Rivers System; Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a final environmental statement for a proposal to designate a 192-mile portion of the Owyhee River in Idaho and Oregon as a National Wild and Scenic River.

Copies are available for inspection at the following locations:

Director, National Park Service, Main Interior Building, Washington, D.C. 20240, Telephone: (202) 343-5213.

Regional Director, Pacific Northwest Region, National Park Service, Fourth & Pike Building, Seattle, Washington 98101, Telephone: (206) 442-5962.

A limited number of single copies are available and may be obtained by writing the above offices.

This document is a combined study report and final environmental statement. The final environmental statement is now available for a 30-day review. Following review of the final environmental statement and subsequent Secretarial approval of the study report, the decision document will be submitted to the President.

Dated: October 18, 1979.

Larry E. Meieroto,

Assistant Secretary of the Interior.

[FR Doc. 79-32765 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-07-M

[INT FES 79-52]

Gunnison Wild and Scenic River Study; Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for the Gunnison Wild and Scenic River Study.

The Gunnison Wild and Scenic River Study recommends inclusion of a 26-mile segment of the Gunnison River, Colorado, and 12,900 acres of adjacent land to be classified as wild in the National Wild and Scenic Rivers System under the administration of the National Park Service and the Bureau of Land Management, U.S.D.I. This river segment extends from the upstream boundary of the Black Canyon of the Gunnison National Monument to approximately 1 mile below the confluence with the Smith Fork.

Inclusion of 26 miles of the Gunnison River and 12,900 acres comprising its immediate environment in the national system will have an overall effect of preserving the existing outstanding scenic, geologic, recreation, wildlife, and water quality values of the river, in addition to preserving other associated historic and cultural values within this area. Adjacent land uses would remain relatively unchanged. Proposed water resource development projects within the area will be prohibited. Minor soil, vegetation, and wildlife disturbance will occur as a result of this proposal.

In addition to the proposed action, other alternatives considered were (1) no action, and (2) classification options.

Copies of the final environmental statement are available from or for inspection at the following locations:

Rocky Mountain Regional Office, National Park Service, 655 Parket Street, Post Office Box 25287, Denver, Colorado 80225.

Superintendent, Black Canyon of the Gunnison National Monument, Post Office Box 1648, Montrose, Colorado 81401.

Dated: October 18, 1979.

James Rathlesberger,

Acting Assistant Secretary of the Interior.

[FR Doc. 79-32766 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-70-M

Upper Delaware Citizens Advisory Council Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Upper Delaware Citizens Advisory Council will be held at 7:00 PM, November 23, 1979, at the Tusten Town Hall, Narrowsburg, New York. The Advisory Council was established by Public Law 95-625, Section 704(f) to encourage maximum public involvement in the development and implementation of plans and programs authorized by the Act and section noted above. The Council is to meet and report to the Delaware River Basin Commission, to the Secretary of the Interior and to the Governors of New York and Pennsylvania on the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region.

The matters to be discussed at this meeting include: 1. Implementation of Section 704 of the National Parks and Recreation Act of 1978. 2. New business.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited, and persons will be accommodated on a first-come, first served basis. Any member of the public may file with the Council a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting, or who wish to submit written statements, may contact David A. Kimball, Chief Planner, Mid-Atlantic Region, National Park Service, 143 South Third Street, Philadelphia, Pennsylvania 19106, area code 215-597-9655.

Minutes of the meeting will be available for inspection four weeks after the meeting at the Mid-Atlantic Regional Office.

Dated: October 15, 1979.

Richard L. Stanton,

Regional Director, Mid-Atlantic Region.

[FR Doc. 79-32764 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Determination of Completeness for Permanent Program Submission From the State of Wyoming

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM) U.S. Department of the Interior.

ACTION: Notice of Determination of Completeness of Submission.

SUMMARY: On August 15, 1979, the state of Wyoming submitted to OSM its proposed permanent regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). This notice announces the Regional Director's determination as to whether the Wyoming program submission contains each required element specified in the permanent regulatory program regulations. The Regional Director has concluded his review and has determined the Wyoming program submission is complete.

ADDRESSES: Written comments on the Wyoming program and a summary of the public meeting are available for public review, 8:00 a.m.-4:00 p.m., Monday through Friday, excluding holidays at: Office of Surface Mining Reclamation and Enforcement, Region V, Post Office Building, Room 225, 1823 South Street, Denver, Colorado 80202.

Copies of the full text of the proposed Wyoming program are available for review during regular business hours at the OSM Regional Office above and at the following offices of the State regulatory authority: Wyoming Department of Environmental Quality, Land Quality Division, Hathaway Building, Cheyenne, Wyoming 82002.

District Offices:

Land Quality Division, 30 East Grinnell Street, Sheridan, Wyoming 82801.

Land Quality Division, 933 Main Street, Lander, Wyoming 82520.

FOR FURTHER INFORMATION CONTACT: Sylvia Sullivan, Public Information Officer, Office of Surface Mining Reclamation and Enforcement, Post Office Building, Room 270, 1823 Stout Street, Denver, Colorado 80202.

SUPPLEMENTARY INFORMATION: On August 15, 1979, OSM received a proposed permanent regulatory program from the State of Wyoming. Pursuant to the provisions of 30 CFR Part 732, "Procedures and Criteria for Approval or Disapproval of State Program Submissions" (44 F.R. 15326-15328, March 13, 1979), the Regional Director, Region V, published notification of receipt of the program submission in the **Federal Register** of August 22, 1979, (44 F.R. 49313-49314) and in the following newspapers of general circulation within Wyoming:

Casper Star-Tribune
Cheyenne Wyoming Eagle
Gilette News-Record
Laramie Boomerang
Rawlins Times
Riverton Ranger
Rock Springs Rocket-Miner
Sheridan Press
Northern Wyoming News

The August 22, 1979, notice set forth information concerning public participation pursuant to 30 CFR 732.11. This information included a summary of the program submission, announcement of a public review meeting on September 20, 1979, in Cheyenne, Wyoming to discuss the submission and its completeness, and announcement of a public comment period until September 20, 1979, for members of the public to submit written comments relating to the program and its completeness. Further information may be found in the permanent regulatory program regulations and **Federal Register** notice referenced above.

This notice is published pursuant to 30 CFR 732.11(b) and constitutes the Regional Director's decision on the completeness of the Wyoming program. Having considered public comments, testimony presented at the public review meeting and all other relevant information, the Regional Director has determined that the Wyoming submission does fulfill the content requirements for program submission under 30 CFR 731.14 and is therefore complete.

No later than November 27, 1979, the Regional Director will publish a notice in the **Federal Register** and in the following newspapers of general circulation in Wyoming initiating substantive review of the program submission:

Casper Star-Tribune
Cheyenne Wyoming Eagle
Gilette News-Record
Laramie Boomerang
Rawlins Times
Riverton Ranger
Rock Springs Rocket-Miner
Sheridan Press
Northern Wyoming News

The review will include an informal public hearing and written comment period. Procedures will be detailed in that notice. Further information concerning how that substantive review will be conducted may be found in 30 CFR 732.12.

The Office of Surface Mining is not preparing an environmental impact statement with respect to the Wyoming regulatory program, in accordance with Section 702(d) of SMCRA (30 USC § 1292(d)), which states that approval of State programs shall not constitute a major action within the meaning of Section 102(2)(C) of the National Environmental Policy Act.

Dated: October 18, 1979.

Donald A. Crane,

Regional Director.

[FR Doc. 79-32827 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-05-M

Office of the Secretary

Truckee and Carson River Basins of California and Nevada; Operating Criteria and Procedures for Coordinated Operation and Control of the Truckee and Carson Rivers for Service to Newlands Project

The water supply diversions to the Truckee-Carson Irrigation District from both the Truckee and Carson Rivers shall be limited to the amount needed for agricultural purposes, not exceeding 288,129 acre-feet, if available, for the 12 months ending October 31, 1980. The water supply diversion shall be measured at the gaging station below Lahontan Dam and at diversion points along the Truckee Canal. All use of water for power generation shall be incidental to either agricultural use or precautionary drawdown or spill. In satisfying the diversion for agricultural purposes, maximum use will be made of Carson River water and diversions through the Truckee Canal will be minimized.

Stampede Reservoir shall be operated by the United States to provide flood control, fish and wildlife and recreation benefits, and to store water for possible agricultural use by the Truckee-Carson Irrigation District. The operation of Stampede Reservoir will be coordinated with the operation of Lake Tahoe, Prosser Creek Reservoir, and Boca Reservoir to avoid infringing upon the Floristan Rates or water rights established by existing decree and agreements.

In all of the operations, Truckee Canal will be operated to the maximum extent practical with the objectives of maintaining minimum terminal flow to Lahontan Reservoir or Carson River during all periods except when criteria herein specifically permit such deliveries. In order to minimize the rates of fluctuation in the Truckee River below Derby Dam, the change of flow in Truckee Canal within any 24-hour period shall not exceed 50 cubic feet per second or 20 percent of the flow in the Truckee River below Derby Dam, whichever is greater.

During periods of spill or precautionary drawdown of Lahontan Reservoir, the district will be charged only with the predetermined schedule of irrigation releases to be passed at the gaging station below Lahontan Reservoir plus measured diversions from the Truckee Canal and Rock Dam Ditch.

The operation of Stampede Reservoir, Derby Diversion Dam, Truckee Canal, and Lahontan Reservoir will be conducted in accordance with the following criteria in order to minimize diversions from the Truckee River through the Truckee Canal.

Section A—Truckee Diversion Criteria

Subject to conditions specified in section B (Storage Credit at Stampede), the diversions of water from the Truckee River into and through the Truckee Canal will be governed by the following criteria:

(1) If available, sufficient water will be diverted into Truckee Canal to meet direct agricultural requirements along the Truckee Canal.

(2) Diversions through the Truckee Canal into Lahontan Reservoir will be made in accordance with the following tabulation:

Operating month	If accumulated precipitation from October 1 to date at Tahoe City, Calif., is:	Continue Truckee canal diversion to Lahontan Reservoir if storage is less than upper limit			
		Lower limit[1]		Upper limit	
February-March	Inches	Elevation	Acre/feet	Elevation	Acre/feet
February	Less than 16.60	4,145.8	160,000	4,146.3	163,000
	Between 16.80 and 22.10	4,138.5	120,000	4,139.1	123,000
	Greater than 22.10	4,129.3	80,000	4,130.1	83,000
March 1	Less than 22.10	4,151.8	200,000	4,152.2	203,000
	Between 22.10 and 26.10	4,144.1	150,000	4,144.6	153,000
	Greater than 26.10	4,134.2	100,000	4,134.9	103,000
April-October	If forecasted runoff plus existing storage on April 1 is: Acre/feet	Elevation	Acre/feet	Elevation	Acre/feet
April 1	Greater than 350,000	No diversion to Lahontan through October.			
	Between 250,000 and 350,000	4,154.3	220,000	4,154.7	223,000
	Less than 250,000	4,159.8	270,000	4,160.1	273,000
May 1	Between 250,000 and 350,000	4,151.8	200,000	4,152.2	203,000
	Less than 250,000	4,162.4	300,000	4,162.6	303,000
June 1	Between 250,000 and 350,000	4,144.1	150,000	4,144.6	153,000
	Less than 250,000	4,157.7	250,000	4,158.1	253,000
July 1	Between 250,000 and 350,000	4,134.2	100,000	4,134.9	103,000
	Less than 250,000	4,145.8	160,000	4,146.3	163,000
August 1	Between 250,000 and 350,000	4,129.3	80,000	4,130.1	83,000
	Less than 250,000	4,131.8	90,000	4,132.6	93,000
September 1	Less than 350,000	4,119.5	50,000	4,120.8	53,000
October 1	Less than 350,000	4,115.4	40,000	4,116.8	43,000

[1] Truckee Canal diversion to Lahontan Reservoir should be started only when storage recedes below lower limit.

Section B—Storage Credit at Stampede

As a means of minimizing the diversions of Truckee River water for use on the Carson Division of the Truckee-Carson Irrigation District or for storage in Lahontan Reservoir and at the same time ensuring that the district will receive exactly the same total amount of water for its beneficial use as otherwise, the following modifications shall be applied to the criteria in section A (Truckee Diversion Criteria):

(1) The storage levels in Lahontan Reservoir specified as limits for starting and stopping diversions of water for storage in Lahontan or use on the Carson Division shall be converted to acre-feet and applied to the sum of water in storage at Lahontan Reservoir and water in Stampede Reservoir credited to the Truckee-Carson Irrigation District using the most up-to-date area-capacity curve for each reservoir.

(2) The combined storage facilities on the upper Truckee River will be operated in a manner consistent with the applicable decrees and so as to maintain the Floristan Rates with the objective of maximizing the accumulation of storage in Stampede Reservoir.

(3) Whenever there is uncommitted water in Stampede Reservoir, the Truckee-Carson Irrigation District shall forego the diversion of water into the Truckee Canal for storage in Lahontan Reservoir or for use on the Carson Division and shall accept credit in Stampede Reservoir for the amount of water it otherwise would have diverted.

(4) The sum of the amount of water stored in Lahontan Reservoir plus the amount of water stored in Stampede Reservoir and credited to the Truckee-Carson Irrigation District shall not be allowed to exceed the storage capacity of Lahontan (317,300 acre-feet), and this limit shall be preserved, if necessary, by the reduction of credit in Stampede Reservoir. When the amount of water credited to the Truckee-Carson Irrigation District is so reduced, the amount of that reduction shall be credited for the purpose of maintaining the minimum rates of flow below Derby Dam provided in section B(6) of these Operating Criteria and Procedures.

(5) Whenever the water surface elevation of Lahontan Reservoir is at or below elevation 4,129.28 feet (80,000 acre-feet) above mean sea level during the irrigation season, water will be released from Stampeded Reservoir to be diverted into and through the Truckee Canal for agricultural use by the Truckee-Carson Divisions. The total amount of the release shall be limited to the lesser of the amount credited to the Truckee-Carson Irrigation District of the amount needed to supplement the 80,000 acre-feet of water in Lahontan Reservoir to meet the remaining seasonal agricultural requirements of the Truckee-Carson Irrigation District.

(6) Insofar as possible consistent with existing decrees and with maintaining the Floristan Rates and with Operating Criteria and Procedures Section B(1) through B(5), Stampede Reservoir (as well as the other storage facilities on the upper Truckee River) shall be operated with the objective of maintaining optimum rates of flow for fish, wildlife, and recreational purposes in the Truckee River below Derby Dam as determined by the Bureau of Reclamation in consultation with the Fish and Wildlife Service and the Pyramid Lake Paiute Tribe of Indians.

(7) At the conclusion of the water year, October 31, 1980, the Secretary of the Interior, in consultation with the Pyramid Lake Paiute Tribe of Indians and the Fish and Wildlife Service with respect to the requirements of the Pyramid Lake fishery, will determine: (a) the portion of the remaining storage in Stampede Lake allocated for releases to Pyramide Lake, and (b) the portion of the remaining storage in Stampede Reservoir to be allocated to the district as additional carryover storage credit for the 1981 water year.

(8) Nothing in sections B(1) through B(7) of these Operating Criteria and Procedures shall in any way infringe on or interfere with the flood control function of Stampede Reservoir.

Section C

As a means of ensuring that the amount of water diverted is limited to that prescribed for beneficial agricultural use, the Truckee-Carson Irrigation District shall:

(1) Deliver water only to lands for which the district has in advance established to the satisfaction of the Secretary, or his designee, that a current valid water right exists.

(2) Establish a single water operations center which will coordinate all orders for delivery of water to individual turnouts, and which then will dispatch flows in the distribution systems to meet the water orders with minimum spill from the distribution system.

(3) Permit only authorized district employees to open and close individual turnouts and operate the distribution system facilities.

(4) Establish and operate sufficient stations for the measurement of all surface waters flowing out of the Truckee, North Carson, and South Carson Divisions.

(5) Initiate immediately a program for improving the measurement of the amount of water delivered to individual turnouts. The program shall include the installation of measuring devices on at least 10 percent of the total turnouts in 1973; the program shall concentrate first on the combinations of large users and currently poor measurements; and the intalled devices must be approved by the Geological Survey and the Bureau of Reclamation.

(6) Submit to the Project Office of the Bureau of Reclamation a monthly report by the 15th of the following month for each of the three divisions, showing the total water delivery in acre-feet and the maximum, minimum, and mean daily outflow in cubic feet per second. Reports showing the amount of water in acre-feet delivered to each farm each month during the water year shall be made at least twice during the calendar year. These reports shall be circulated to the tribe and the members of the Truckee-Carson Operating Criteria and Procedures Committee.

(7) Establish a system for charging water users for the quantity of water delivered to their turnouts. The system shall be designed: (a) To provide a reasonable financial incentive for economical and efficient use of water; and (b) to produce revenue against the district's operation and maintenance expenses and to assist the discharge of its debt to the United States.

Section D

(1) Article 32 of the December 18, 1926, contract between the United States and the district will be invoked by the Secretary for substantial violations of these Operating Criteria and Procedures, and the Secretary reserves all other rights and options to enforce these criteria.

(2) If the Secretary determines that waste has occurred through negligence or inattention, after written notice the amount of such waste shall be deducted from the district's allowable maximum total diversion.

(3) The district shall not deliver water to users who do not comply with all of the terms and provisions of these Operating Criteria and Procedures. Such deliveries shall not resume without the prior approval of the Secretary or his designee.

(4) The Secretary shall not approve any applications for transfers of water rights within the Newlands Project pursuant to 43 U.S.C. 389 unless he finds that the district is in compliance with all of the terms and provisions of these Operating Criteria and Procedures, and that the applicants for such transfers are in compliance with these Operating Criteria and Procedures and with the applicable decrees. Transfers of water rights shall be restricted to the extent that there shall be no enlarged consumptive use of water within the lands of the Newlands Project.

(5) All of the water delivery operations of the Truckee-Carson Irrigation District shall be monitored closely by the Bureau of Reclamation. Any and all violations of the terms and provisions of these Operating Criteria and Procedures shall be reported immediately by the district to the Project Office of the Bureau of Reclamation.

Dated: October 17, 1979.

Cecil D. Andrus,

Secretary of the Interior.

[FR Doc. 79-32816 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-09-M

INTERNATIONAL COMMUNICATION AGENCY

U.S. Advisory Commission on Public Diplomacy (Formerly, U.S. Advisory Commission on International Communication, Cultural and Educational Affairs)

"Federal Register" Citation of Previous Announcement: Vol. 44, #201, October 16, 1979. Addition to the agenda—The Advisory Commission will also meet with Michael Glass, General Counsel, to discuss availability of Agency products.

Jane S. Grymes,

Management Analyst, Management Analysis/Regulation Staff, Associate Directorate for Management, International Communication Agency.

[FR Doc. 79-32815 Filed 10-23-79; 8:45 am]

BILLING CODE 8230-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-69]

Certain Air Tight Cast-Iron Stoves; Addition of One Respondent

On October 15, 1979, the United States International Trade Commission ordered the addition of the You Well Co., Ltd. of Taipei, Taiwan as a respondent in the above-captioned case. A copy of the Commission's order and opinion is available at the Office of the Secretary, U.S. International Trade Commission, 701 E St. NW., Washington, D.C. 20436.

Issued: October 16, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32021 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-201-40]

Leather Wearing Apparel; Time and Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin in New York, N.Y., on Tuesday, November 6, 1979, will commence at 10 a.m., e.s.t., at the U.S. Mission to the United Nations, 799 U.N. Plaza, New York, N.Y. Interested parties are requested to use the entrance to the U.S. Mission at 45th Street and U.N. Plaza. Requests for appearances should be filed with the Secretary of the United States International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Thursday, November 1, 1979.

A prehearing conference in connection with this investigation will be held in Washington, D.C. at 10 a.m., e.s.t., on Friday, November 2, 1979, in room 117, U.S. International Trade Commission Building, 701 E Street, NW.

Notice of the investigation and hearing was published in the **Federal Register** of August 9, 1979 (44 FR 46955).

Issued: October 19, 1979.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32822 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[TA-406-5]

Anhydrous Ammonia From the U.S.S.R.; Report to the President

October 11, 1979.

To the President:

In accordance with section 406(a)(3) of the Trade Act of 1974, the United States International Trade Commission herein reports the results of an investigation relating to anhydrous ammonia (ammonia) from the U.S.S.R. The investigation (No. TA-406-5) was undertaken to determine with respect to imports of ammonia provided for in items 417.22 and 480.65 of the Tariff Schedules of the United States (TSUS), which are the product of the U.S.S.R. whether market disruption exists with respect to an article produced by a domestic industry.

The Commission instituted the investigation, under the authority of section 406(a) of the Trade Act, on July 18, 1979, following the receipt of a petition under section 406 of the Trade Act for relief from ammonia imported from the U.S.S.R. filed on behalf of 12 U.S. producers and 1 U.S. distributor of ammonia. The Commission held a public hearing on this matter in Washington, D.C. on August 29-31, 1979. Notice of the institution of the investigation and of the public hearing was published in the **Federal Register** of July 25, 1979 (44 FR 43536).

The information in this report was obtained from fieldwork and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's questionnaires, from information presented at the public hearing, from

briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of the briefs submitted by interested parties in connection with this investigation are attached.[1]

Determination, Findings and Recommendations of the Commission

Determination

On the basis of the investigation, the Commission (Vice Chairman Alberger and Commissioner Stern dissenting) determines, with respect to imports of anhydrous ammonia the product of the U.S.S.R., provided for in items 417.22 and 480.65 of the TSUS, that market disruption exists with respect to an article produced by a domestic industry.

Findings and Recommendations

Chairman Parker and Commissioners Bedell and Moore find and recommend that, in order to remedy such market disruption, it is necessary to impose a quota of 3 years duration on U.S. imports of anhydrous ammonia the product of the U.S.S.R., provided for in items 417.22 and 480.65 of the TSUS, as specified below.

The quotas for the 3-year period beginning with calendar year 1980 would be as follows—

Year	Quantity of imports to be allowed entry (short tons)
1st year (1980)	1,000,000
2nd year (1981)	1,100,000
3rd year (1982)	1,300,000

Vice Chairman Alberger and Commissioner Stern recommend that there be no remedy in this investigation.

By order of the Commission.

Issued: October 11, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32828 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-61]

Certain Compact Cyclotrons With a Preseptum; Opportunity for Public Comment on Proposed Consent Order Agreement

Notice is hereby given that the presiding officer in the above-captioned investigation has certified to the Commission for appropriate action a joint motion to terminate the investigation signed by all the parties to the investigation along with a consent order agreement signed by the major parties in interest. The investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). The motion was docketed as Motion 61-3. Provision is made for the filing of such motions and agreements in § 210.51(a) of the Commission's Rules of Practice and Procedure (19 CFR 210.51(a)).

On December 22, 1978, the Commission issued a Notice of Investigation to determine whether there is an unfair method of competition or unfair act violating section 337 in the unauthorized importation of certain compact cyclotrons with a pre-septum or components of said cyclotrons into the United States, or in their sale, by reason of the alleged coverage of such compact cyclotrons with a pre-septum by the claims of U.S. Letters Patent 3,725,709, (the " '709 patent") the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant, The Cyclotron Corporation, manufactures cyclotrons in the United States under the '709 patent. Instrument AB Scanditronix, the principal respondent, is a Swedish corporation which manufactures cyclotrons. The second respondent, Nucletronix, Inc., a New York corporation affiliated with Scanditronix, is the sales agent for Scanditronix in the United States. The third respondent, Medi-Physics, Inc., is a Delaware corporation which purchased an MC-40 cyclotron from Scanditronix in 1977. Nucletronix was not involved in the sale to Medi-Physics.

On June 19, 1979, all the parties filed a joint motion to terminate this investigation. Attached to the joint motion is an agreement signed only by the complainant and Instrument AB Scanditronix. The agreement, non-confidential portions of which are summarized below, incorporates a proposed consent order, which is set out in full below.

Under the agreement, Scanditronix will stop importing "old cyclotrons" into the United States. An "old cyclotron" is a cyclotron like the one imported into the United States by Scanditronix and sold to Medi-Physics, Inc., which was the subject of this investigation. Scanditronix has changed the design of its cyclotron, and will import only the newly designed cyclotrons ("new cyclotrons") into the United States in the future. Complainant and Scanditronix agree that the new cyclotron does not infringe the '709 patent. Neither party to the agreement makes any admission as to the issues of validity, enforceability, or infringement of the '709 patent by the old cyclotron, or any result injury to the domestic industry. The parties agree that the importation of the new cyclotron does not constitute an unfair act under section 337. A non-infringing extraction system will be installed in the cyclotron already purchased by Medi-Physics. The parties also agree that the MC-40 cyclotron sold to Medi-Physics was imported into the United States prior to the issuance of the Notice of Investigation in this case.

The agreement indicates that if Scanditronix desires to import the old cyclotron, the complainant will grant a non-exclusive license to Scanditronix to import under the '709 patent for a designated license fee, but Scanditronix has no intention of importing the old cyclotron.

Although the agreement was not signed by Medi-Physics or Nucletronix, the joint motion was signed by all the parties. Medi-Physics has stated that it has no present intention of importing any cyclotrons in the future. Nucletronix is sales agent for Scanditronix, and would not import cyclotrons unless Scanditronix did.

The agreement incorporates a proposed consent order. This consent order contains a provision whereby Scanditronix agrees not to import or cause to be imported "old" cyclotrons into the United States. The parties have waived any challenge to the validity of this order, but the order would continue in effect only until April 3, 1990, or until a court of competent jurisdiction finds that the old cyclotron does not infringe the '709 patent or that the '709 patent is invalid or not enforceable.

The agreement provides that respondent instrument AB Scanditronix and complainant The Cyclotron Corporation waive (1) further procedural requirements and therefore waive the requirement that the Commission make a determination under 19 U.S.C. 337(c), (2) the requirement that the Commission's decision contain a statement of findings of fact and conclusions of law, and (3) any other challenge or contest to the validity of the consent order. The agreement also provides that violation of the order may result in proceedings before the Commission to determine what, if any, sanction pursuant to 19 U.S.C. 1337 should be applied.

A copy of the proposed consent order is set forth below. Any interested member of the public is invited to submit written comments regarding this matter. Such comments should be addressed to the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and should be received not later than November 23, 1979.

No public hearing before the Commission regarding this motion and agreement is contemplated at this time. The Commission will give consideration to requests for such a hearing if such requests are received not later than 10 days after publication of this notice in the **Federal Register**.

Notice of institution of the investigation was published in the **Federal Register** of December 28, 1978 (43 FR 60674).

By order of the Commission.

Issued: October 16, 1979.

Proposed Consent Order: The Parties

1. Complainant The Cyclotron Corporation (hereinafter "TCC") is a California corporation having principal offices at 950 Gilman Street, Berkeley, California.

2. Respondent Instrument AB Scanditronix (hereinafter "Scanditronix") is a corporation of Sweden having a principal place of business at Eskadervagen 12-16, 183 Taby in Sweden.

3. Respondent Nucletronix, Inc. (hereinafter "Nucletronix") is a corporation of New York, having a principal place of business at Birch Road, Middleton, Massachusetts.

4. Respondent Medi-Physics, Inc. (hereinafter "MPI") is a corporation of Delaware having a principal place of business at Emeryville, California.

5. Wilhelm A. Zeitler, Esquire is the investigative attorney for the International Trade Commission appointed in the Notice of Investigation issued December 22, 1978.

The Issues

6. This investigation was initiated on December 22, 1978, in response to a Complaint filed by TCC. The Complaint alleged that the Respondents Scanditronix, Nucletronix and MPI were importing cyclotrons that incorporated a structure that was covered by TCC's U.S. Letters Patent 3,725,709 and that the importation of a cyclotron covered by this patent was in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). For purposes of this Consent Order, that cyclotron is designated as an "old cyclotron" and is depicted in Scanditronix drawing C30-4019 (Exhibit I to a copy of an agreement between TCC and Scanditronix to which this Consent Order is attached as Exhibit IV and which is submitted subject to the Protective Order dated February 5, 1979).

7. Respondents Scanditronix and Nucletronix currently have no orders which require the importation of any "old cyclotrons" into the United States.

8. Respondent MPI currently has no order pending with Respondents Nucletronix or Scanditronix or anyone else that would require the importation of an "old cyclotron" into the United States.

9. Respondent Scanditronix has developed a "new cyclotron" having a construction which has been examined by Complainant TCC; the structure is depicted in Exhibit II to the foregoing agreement to which a copy of this Consent Order is attached as Exhibit IV and which is submitted subject to the Protective Order of February 5, 1979.

10. TCC agrees that the "new cyclotrons" do not infringe any of the claims of U.S. Letters Patent 3,725,709 and that the importation of "new cyclotrons" would not constitute an unfair act under the provisions of section 337.

11. Respondents Scanditronix and Nucletronix now intend to import only "new cyclotrons" in the future.

12. For the purpose of this Consent Order and the enforcement hereof, Scanditronix and TCC, having appeared voluntarily and submitted to the personal jurisdiction of the Commission by agreeing to this Consent Order, admit that the Commission has jurisdiction over the subject matter included in the December 22, 1978, Notice of Investigation. This Consent Order is for settlement purposes only and does not constitute a finding by the Commission or an admission by Scanditronix or TCC that section 337 or any other statute or regulation, has or has not been violated.

13. The parties waive (1) further procedural requirments, including the requirement that the Commission make a determination under section 337(c) of the Tariff Act of 1930, (2) judicial review of this Consent Order, (3) the requirement that the Commission's decision contain a statment of findings of fact and conclusions of law, and (4) any other challenge or contest to the validity of this Consent Order.

14. Any violation of this Consent Order may result in proceedings before the Commission to determine what, if any, sanction should be applied to such violation, including an order of exclusion from entry pursuant to section 337(d).

15. The parties agree that, if this Consent Order is accepted by the Commission, the Commission may, without further notice to the parties, issue its decision containing this Consent Order and make public any information which is not subject to the protective order of January 5, 1979.

16. Respondent Scanditronix agrees, until the expiration of U.S. Letters Patent 3,725,709 on April 3, 1990, or until "old cyclotrons" or extraction systems for them are licensed under said patent or until a court of competent jurisdiction finds that "old cyclotrons" do not infringe the claims of said patent or that said patent is invalid or not enforceable, not to import or cause to be imported "old cyclotrons" into the United States.

By Order of the Commission.

Issued: October 16, 1979.

To: Wilhelm A. Zeitler, Commission Investigative Attorney, U.S. International Trade Commission, Washington, D.C. 20436.

Order to File Statement

You are hereby ordered to file with the Commission during the period for public comment on the proposed consent order in the above-captioned investigation a statement why the proposed consent order is in the public interest under 5 U.S.C. 554(c).

By order of the Commission.

Issued: October 16, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32829 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-72]

Certain Turning Machines and Components Thereof; Investigation

Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on September 13, 1979, under section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), on behalf of the Warner and Swasey Company, 11000 Cedar Avenue, Cleveland, Ohio 44106, alleging that unfair methods of competition and unfair acts exist in the importation into the United States of certain turning machines and components thereof, or in their sale, because such turning machines are allegedly covered by claims 1, 2, 3, 8, 10, 14, 18, 19, 20, and 22 of U.S. Letters Patent No. RE 29,612 and the components thereof allegedly contribute to and induce infringement of said claims.

The complaint alleges that the effect or tendency of the unfair methods of competition and unfair acts is to substantially injure an industry, efficiently and economically operated, in the United States. Complainant requests permanent exclusion from entry into the United States of the imports in question after a full investigation.

Having considered the complaint, the Commission, on October 9, 1979, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), an investigation be instituted to determine whether there is a violation of subsection (a) of this section, in the unlawful importation of certain turning machines and components thereof into the United States, or in their sale, because such turning machines are allegedly covered by claims 1, 2, 3, 8, 10, 14, 18, 19, 20, and 22 of U.S. Letters Patent No. RE 29,612 and the components thereof allegedly contribute to and induce infringement of said claims, the effect or tendency of which is to substantially injure an industry, efficiently and economically operated, in the United States;

[1] Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

V 44 OC 24 79 UMI

(2) For the purpose of this investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: The Warner and Swasey Company, 11000 Cedar Avenue, Cleveland, Ohio 44106.

(b) The respondents are the following companies alleged to be involved in the unauthorized importation of certain turning machines and components thereof into the United States, or in their sale, and are parties upon which the complaint shall be served:

Yamazaki Machinery Works, Ltd., 1 Norifune, Oguchi-Cho, Niwa Gun, Aichi-Pref, Japan.
Yamazaki Machinery Corporation, 8025 Production Drive, Florence, Kentucky 41041.

(c) Robert M. M. Seto, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, is hereby named Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Chief Administrative Law Judge Donald K. Duvall, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to sections 201.16(d) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good and sufficient cause is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both a recommended determination and a final determination containing such findings.

The complaint, except for the confidential information contained therein, is available for inspection by interested persons at the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, and in the Commission's New York Office, 6 World Trade Center, New York, N.Y. 10048.

By order of the Commission.

Issued: October 16, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32808 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

[AA1921-211]

Sodium Acetate From Canada; Investigation and Hearing

Having received advice from the Department of the Treasury on October 1, 1979, that sodium acetate from Canada is being, or is likely to be, sold at less than fair value, the United States International Trade Commission, on October 12, 1979, instituted investigation No. AA1921-211 under section 201(a) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(a)), to determine whether an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States. For purposes of the Treasury Department's determination, "sodium acetate" means sodium acetate classified under item 426.86 of the Tariff Schedules of the United States.

Hearing. A public hearing in connection with the investigation will be held on Tuesday, November 27, 1979, in the Commission's Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10 a.m., e.s.t. Requests to appear at the public hearing should be filed with the Secretary to the Commission, in writing, not later than noon, Wednesday, November 21, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statments should be submitted. Requests for confidential treatment should be directed to the attention of the Secretary. Any business information which a submitter wishes the Commission to treat as confidential should be clearly marked "Confidential Business Data." Submitters seeking confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Should a request for confidential treatment be denied, the submission will be returned to the submitting party.

All written submissions, except for confidential business data, will be made available for inspection by interested persons. To assure that such statements are given due consideration by the Commission, such statements should be received not later than the close of business, Friday, November 23, 1979.

Conduct of the investigation under the Trade Agreements Act of 1979. Under the Antidumping Act, 1921, the Commission is required to notify the Treasury Department of its determination in this investigation not later than January 2, 1980 (19 CFR 201.14(a)). The Commission has determined, however, to make its determination in this investigation not later than the close of business, December 21, 1979, for the reason that if the investigation were not concluded until January 2, 1980, then under section 102 of the Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 144, July 26, 1979), the Commission would be required to terminate this investigation and initiate an investigation under subtitle B of title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979. The investigation would have to be completed within 75 days after January 1, 1980. (The Commission is aware that under section 107 of the Trade Agreements Act, if the provisions of section 2(a) of that statute are not fulfilled before January 1, 1980, then the provisions of title VII would not take effect. However, this possibility, if it occurs, will not substantially change the reasons for completing this investigation on or before December 21, 1979). It would be inconsistent with the objective of expeditious proceedings in the Antidumping Act, 1921, and place unnecessary burdens upon the parties, to continue this investigation under the new law under the circumstances of this case. The Commission is not hereby making a determination of how to treat with any other cases affected by section 102 of the Trade Agreements Act.

By order of the Commission.

Issued: October 15, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32807 Filed 10-23-79; 8:45 am]

BILLING CODE 7020-02-M

NATIONAL ALCOHOL FUELS COMMISSION

Open Meeting

October 19, 1979.

Name: National Alcohol Fuels Commission.
Date: November 10, 1979.
Time: 9:00 a.m.—5:00 p.m.
Place: Salina Area Vocational Technical School, 2562 Scanlan Avenue, Salina, Kansas 67401.
Type of Meeting: Open.
Contact Person: Dr. Edward J. Bentz, Jr. Executive Director (202) 254-7453.

Submission of Written Statements: No later than November 5, 1979 to Dr. Edward J. Bentz, Jr. Executive Director, National Alcohol Fuels Commission, 2000 M St., N.W., Suite 3000 Washington, D.C. 20036 (Interim Address).
Purpose of Commission: The National Alcohol Fuels Commission was established under Section 170 of the Surface Transportation Assistance Act of 1978 (PL 95-599) to make a full and complete investigation and study of the long- and short-term potential for alcohol fuels from biomass (including municipal and industrial waste, sewage sludge and oceanic and terrestrial crops) and coal to contribute to meeting the nation's energy needs. Based on such study it shall recommend those policies and their attendant costs and benefits most likely to minimize our dependence on petroleum.
Purpose of Hearing: Soliciting information on current and emerging developments relating to alcohol fuels in Kansas and surrounding areas.
Tentative Agenda: 9:00 a.m. November 10—Business Meeting; 9:30 a.m. November 10—Opening Hearing.

Dated: October 18, 1979.

Edward J. Bentz Jr.,

Executive Director.

[FR Doc. 79-32777 Filed 10-23-79; 8:45 am]

BILLING CODE 6820-AN-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Waste Management; Meeting

The October 31, 1979 meeting of the ACRS Subcommittee on Waste Management, announced October 16, 1979 (44 FR 59685) will be closed to public attendance.

As noted in cited **Federal Register** notice, the Subcommittee will be considering portions of the budget and program of the Office of Nuclear Regulatory Research and of Divisions within that Office. Since the NRC budget proposals are now part of the President's budget—not yet submitted to Congress—public disclosure of budgetary information is not permitted. See OMB Circular No. A-10. The ACRS, however, is required by Section 5 of the 1978 NRC Authorization Act to review the NRC research program and budget and report the results of its review to Congress. In order to perform this review, the ACRS must be able to engage in frank discussion with members of the NRC staff. For the reason just stated, a discussion would not be possible if held in public session.

I have determined, therefore, that it is necessary to close this meeting to prevent frustration of this aspect of the ACRS' statutory responsibilities, in accordance with Exemption 9(B) to the Government in the Sunshine Act (552b(c)(9)(B)).

Dated: Ocotber 18, 1979.

John C. Hoyle,

Advisory Committee Management Officer.

FR Doc. 79-32682 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-309]

Maine Yankee Atomic Power Co.; Proposed Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-36, issued to Maine Yankee Atomic Power Company (the licensee), for operation of the Maine Yankee Atomic Power Station (the facility), located in Lincoln County, Maine. In accordance with the licensee's application for amendment dated September 18, 1979, the amendment would revise the provisions in the Technical Specifications to permit the expansion of the facility's spent fuel storage capacity from 953 to 1545 spent fuel assemblies through a modified spent fuel pin storage concept involving the disassembly of spent fuel assemblies and reassembly into consolidated fuel bundles designed to provide a more compact fuel pin array within the existing spent fuel racks. Accordingly, the amendment would not involve an increase in storage locations.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By November 23, 1979, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or

V 44 0C 24 79 UMI

representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (In Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); date petition was mailed); (Maine Yankee); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to John A. Ritsher, Esquire, Ropes & Gray, 225 Franklin Street, Boston, Massachusetts 02110, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a) (i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for amendment dated September 18, 1979, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Wiscasset Public Library Association, High Street, Wiscasset, Maine.

Dated at Bethesda, Maryland, this 16th day of October 1979.

For the Nuclear Regulatory Commission

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors

[FR Doc. 79-32696 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. PRM 71-7]

Nondestructive Testing Management Association; Denial of Petition for Rulemaking

By letter dated May 10, 1978, Mr. Walter P. Peeples, Jr. on behalf of the Non Destructive Testing Management Association, seven undesignated radiographic camera manufacturers and six undesignated source manufacturers, filed with the Nuclear Regulatory Commission a petition for rulemaking (PRM 71–7).

The Petition

The petitioner requested the Commission to: (1) remove Appendix E—Quality Assurance Criteria for Shipping Packages for Radioactive Material—from 10 CFR Part 71, and (2) delay, "the effective date of implementation of Part 71 Appendix E until a proper hearing can be conducted and possibly total removal of the requirement."

Basis for Request

As the basis for the request, the petitioner stated: " . . . the rule was forced on the industry and not discussed nor did the Commission attempt to notify two-thirds of the manufacturers in this specific area of its attempt to create an almost insurmountable and expensive paperwork program." The petitioner further noted that the lack of uniformity in quality assurance (QA) requirements between Agreement State licensees and NRC licensees is prejudicial and effects an unfair competitive position for manufacturers in Agreement States.

Request for Comments on Petition

A notice of filing of the petition, Docket No. PRM 71–7, was published in the Federal Register on June 14, 1978 (43 FR 25749). Interested persons were invited to submit written comments or suggestions concerning the petition by August 14, 1978. Thirty-nine comments were submitted, including one from the Air Transport Association of America attaching separate comment letters from six airline companies, and including one from Gulf Nuclear Incorporated as a protest under which the description of their quality assurance program was being filed.

Of the thirty-nine comments, thirty-two either indicated support for the petitioners request for removal of appendix E or separately asked for its removal; twenty-eight thought that there was a lack of justification for Appendix E or that the requirements in Appendix E duplicated other requirements; twenty-seven cited large costs and expensive paperwork with these QA requirements; and fifteen believed the requirements had been forced on the industry without consultation.

Six of the commenters were well-logging licensees who normally ship type A quantities of radioactive material and, thus, are not subject to the QA requirements of 10 CFR Part 71. One of these persons suggested that, " . . . this requirement could, on occasion, delay the transportation, handling and manufacture of such sources to final end users . . . ". The Commission is not aware of any delays that could occur unless they were due to safety-related aspects of the transportation and, as such, the QA program would be functioning as intended.

The rest of the commenters (33) were involved in industrial radiography. Responses to most of the comments are given in the discussion of grounds for denial below.

NRC Rulemaking Action

Appendix E, "Quality Assurance Criteria for Shipping Packages for Radioactive Material," was part of revised quality assurance (QA) requirements for 10 CFR Part 71 that were published in the Federal Register as proposed regulations on December 28, 1973 (38 FR 35490). At that time, comments were received from ten persons who manufacture or use shipping packages and from one State regulatory agency. As a result of these comments, a number of specific provisions in the proposed regulations were deleted. No broad objections to the Appendix E criteria were raised.

The QA requirements, including Appendix E, were published in the Federal Register on August 4, 1977 (42 FR 39364) to be effective October 18, 1977 but allowing almost 11 months (until July 1, 1978) before QA program descriptions had to be filed with NRC. This Federal Register Notice again invited public comments. Two draft regulatory guides were sent to users of NRC-approved package designs in May 1978 which provided specific guidance on development of QA programs for packagings.

In response to several requests, including the petition, the Commission extended the date by which licensees had to file descriptions of their QA programs from July 1, 1978 to January 1, 1979.

Discussion of Grounds for Denial

1. The QA requirements were published in the Federal Register as a proposed rule and as an effective rule with both inviting public comments, and the Commission did attempt to notify affected persons.

As indicated above, the proposed rule was published in the Federal Register in 1973, ten persons submitted comments, and the rule was revised in response to those comments. At that time, noticing a proposed rule in the Federal Register was considered adequate notification of affected persons, although, in this case, the Commission also issued a public annoucement. More recently the NRC has adopted a policy that in addition to the Federal Register notice, proposed rules are to be distributed directly to

affected licensees and other known interested persons.

The effective rule was published in the Federal Register in August 1977, and no public comments were received at that time. The effective rule was discussed in a public meeting in April 1978 (43 FR 12718, March 27, 1978, "Advance Notice of Proposed Rulemaking on Design of Radiographic Exposure Devices"). Specific guidance on the content of the description of the QA program* submitted to NRC to satisfy the provisions in the rule were distributed to users of NRC approved packages, including some Agreement State licensees, in May 1978. In addition, a paper that described the QA regulations of 1977 in detail was presented in May 1978 at the Fifth International Symposum on Packaging and Transportation of Radioactive Materials.

2. The Commission has determined that application of an effective QA program is important to safety in the packaging and transportation of fissile material and type B and large quantities of other radioactive materials.

The purpose of the revised QA requirements issued in 1977 was to upgrade existing requirements of QA in packaging and transportation to assure a continued high degree of safety in view of the ever expanding operational and shipping activities involving radioactive materials, to improve the assure of compliance with the regulations in those activities and to make the QA requirements more explicit and more nearly uniform for licensees. These requirements apply to persons who are subject to 10 CFR Part 71; thus they apply to shippers of fissile material, type B and large quantities of other radioactive material, and generally do not apply to shippers of type A quantities (i.e., smaller quantities) of radioactive material. The categories of type A, type B and large quantities of radioactive material, as defined in 10 CFR Part 71, provide distinctions in the significance to health and safety for the wide range of quantities of radioactive material in transportation. Quantities of radioactive material in transport up to type A quantity limits present a limited potential hazard but greater than type A quantities may present significant potential hazards.

Inspection surveys show a sizable percentage of packages in transport are not in full compliance with DOT requirements. Errors in packaging, faults in packaging designs, and some items of noncompliance have contributed to the radiation exposure in a few of the incidents that have occurred in transport. An effective QA program will identify and allow correction to be made of such conditions where they affect safety.

3. The Commission has considered costs, both to industry and to the Commission staff, of implementing these QA requirements. Also, consideration of more than 300 descriptions of QA programs already submitted to NRC to satisfy the requirements by a variety of licensees, including industrial radiographers, indicates that the paperwork is not overly expensive or insurmountable.

QA programs, based on criteria similar to Appendix E, have been required for shippers of fissil material, high level waste, and plutonium packages since 1972 and, therefore, no additional costs were encountered by these licensees when the QA regulations were promulgated in 1977. Shippers of type A quantities of radioactive material are usually exempt from the requirements of 10 CFR Part 71 amd, therefore, encounter no costs due to the QA requirements. Type A quantities include small quantities of radioactive material for medical uses, for calibration of instruments, and for other purposes. The QA requirements apply to fissile and type B or greater quantities of other radioactive material. This covers a large range of quantities of radioactive material. In recognition of the varying complexity of QA programs for different types of activities, the Commission encourages the use of a graded approach in establishing QA programs; i.e., the applicable criteria of Appendix E should be applied to an extent consistent with their importance to safety. This factor was overlooked initially by some affected persons who estimated high program costs due to the QA requirements.

Athough many radiography shipments involve type B quantities of radioactive material, they are limited quantities, much smaller than many other shipments, and they are always in special form (encapsulated solid material form). Therefore, the QA programs required for industrial radiography are correspondingly less complex than those required for many other packaging and transportation activities; for example, those required for irradiated fuel, high level waste, plutonium, or the larger type B quantities of normal form materials. A two-page description of the QA program for industrial radiographers has been shown to be acceptable to the NRC, in most cases, and the specific provisions of the program are limited in number. Many industrial organizations already have established specific procedures with respect to quality-related controls for their packaging and transportation activities and, in these cases, the Part 71 QA program requires only a little, if any, increase in effort for recordkeeping and audit procedures. The Commission has found no evidence of large costs or expensive paperwork for the QA programs that are required for industrial radiographers.

In any case, following the "graded approach" discussed above, the required QA program for fissile materials or type B or large quantities of other radioactive materials are dependent on the complexity of the package *and* the health and safety significance of the quantity, type and form of radioactive material shipped in the packaging.

4. The petitioner also noted that there was a lack of uniformity in QA requirements between Agreement State licensees and NRC licensees. The reciprocity provisions of 10 CFR Part 150, "Exemptions and Continued Regulatory Authority in Agreement States under Section 274," permit State licensees to conduct the same activity in non-Agreement States pursuant to a general license granted by the NRC. The QA requirements of Part 71 apply directly to NRC licensees and, under the reciprocity provisions of Part 150 (§ 150.20), to Agreement State licensees when such licensees carry on licensed activities in non-Agreement States. The reciprocity provisions subject any Agreement State licensee who is operating in a non-Agreement State to a number of specified NRC regulations, one of which is Part 71.

Agreement State licensees are generally subject to DOT regulations for the shipment of radioactive materials. Under DOT rules, Agreement State licensees may use DOT specification or NRC-approved packaging, or may apply to NRC for approval of package designs for shipping fissile materials and type B and large quantities of other radioactive materials. In issuing those approvals, NRC imposes the QA program requirements of Part 71. Therefore, Agreement State licensees using one of the small number of DOT specification containers, and those who use designs approved before the QA requirements were adopted, may not have QA

*Draft Regulatory Guide 7.XX, Content of the Description of a Quality Assurance Program for the Use, Maintenance and Repair of Shipping Packages for Certain Special Form Radioactive Material, (applicable to industrial radiography sources) May 1, 1978 and Draft Regulatory Guide 7.XX, Establishment of a Quality Assurance Program for Shipping Packages for Irradicated Fuel, High Level Waste and Plutonium, May 15, 1978. Single copies are available from the Transportation Branch, Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, Washington, D.C. 20555.

V 44 NO 207 OCT 24 1979 UMI

programs similar to those required by Part 71. The NRC staff has met with DOT officials to discuss quality assurance requirements and the NRC is formally requesting DOT to upgrade its quality assurance requirements for radioactive material packages to apply to shippers subject to DOT rules. This will lend a greater degree of uniformity to the QA requirements, especially as they apply to Agreement State licensees.

Summary of Grounds for Denial

The Commission has given careful consideration to the petitioner's arguments in PRM 71-7 and the comments received on the petition and has decided to deny the petition on the following grounds:

1. The record shows that both the proposed rule and the effective rule were published in the Federal Register inviting public comments, and the Commission did attempt to notify affected persons.

2. Requiring that licensees have an effective QA program for packaging and transportation will improve safety.

3. The paperwork associated with the QA requirements for packaging and transportation is not overly expensive or insurmountable.

4. Although there is some nonuniformity in the QA requirements for packaging and transportation imposed on NRC and Agreement State Licensees, the differences are not large and are being eliminated by requesting DOT to upgrade its quality assurance requirements.

Further, the Commission does not find it necessary or advisably to hold a hearing on the QA requirements at this time.

Copies of the petition for rulemaking, the comments thereon, a value impact statement on the denial, and the NRC's letter of denial are available for public inspection and copying in the NRC's public Document Room at 1717 H Street, N.W., Washington, D.C.

Dated at Bethesda, Md. this 2nd day of Oct., 1979.

For the Nuclear Regulatory Commission.

Lee V. Gossick,

Executive Director for Operations

[FR Doc. 79-32760 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

Petition for Rulemaking; Issuance of Quarterly Report

The Nuclear Regulatory Commission has issued the September 30, 1979, quarterly report on petitions for rulemaking. This report is issued in accordance with 10 CFR 2.802 and is a quarterly summary of petitions for rulemaking that are pending final action.

A copy of the report, designated NRC Petitions for Rulemaking Pending Final Action as of Sepetember 30, 1979, is available for inspection and copying at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

Requests for single copies of this report, or request to be placed on an automatic distribution list for single copies of future reports, should be made in writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555

Dated at Bethesda, Maryland this 18th day of October, 1979.

For the Nuclear Regulatory Commission.

Joseph M. Felton,

Director, Division of Rules and Records Office of Administration.

[FR Doc. 79-32759 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued a revision to a guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.137, Revision 1: "Fuel-Oil Systems for Standby Diesel Generators," describes a method acceptable to the NRC staff for complying with the Commission's regulations regarding fuel-oil systems for diesel generators and the assurance of adequate fuel-oil quality. This guide endorses ANSI standard N195-1976. "Fuel Oil Systems for Standby Diesel-Generators." The guide was revised as a result of public comment and additional staff review.

Comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time. Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of active guides may be purchased at the current Government Printing Office (GPO) price. A subscription service for future guides in specific divisions is available through the Government Printing Office. Information on subscription service and current GPO prices may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Publications Sales Manager.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 17th day of October 1979.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director Office of Standards Development.

[FR Doc. 79-32761 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit 2); Order for Modification of License

I.

Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (the licensee) are the holders of Facility Operating License No. DPR-73, which had authorized operation of the Three Mile Island Nuclear Station, Unit 2 (TMI-2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor used for the commercial generation of electricity.

II.

On October 16, 1979, the Commission issued a Memorandum and Order directing the licensee to operate an EPICOR-II filtration and ion exchange decontamination system to decontaminate intermediate-level radioactive waste water now held in tanks in the TMI-2 auxiliary building. The factual bases underlying this directive are set forth fully in the Memorandum and Order and will not be restated herein. Additionally, the Commission recognized that operation of EPICOR-II will add several gaseous effluent discharge paths to those previously listed in the TMI-2 operating license. The Commission further observed that its regulations in 10 CFR Part 50, Appendix A, General Design Criteria for Nuclear Power Plants (GDC 64) require that the new discharge paths be monitored. Though the Commission deemed it not necessary as a legal matter to amend the TMI-2 operating license technical specifications to assure that monitoring will be conducted, it expressed the belief that the Commission's inspection and enforcement program would be simplified if the requirements for discharge path monitoring and those provisions set forth in paragraphs 1, 2, and 3 of its Order are spelled out in the operating license that can be readily referenced by the licensee and Commission inspectors. The Commission instructed the Director, Office of Nuclear Reactor Regulation (NRR) to promptly issue an order for modification of the TMI-2 operating license to (a) add EPICOR-II discharge paths to those presently listed in the Technical Specifications as requiring monitoring under GDC 64, and (b) include the provisions of paragraphs 1, 2 and 3 of its Order, and to provide that, within 20 days of the date of its Order, a hearing may be requested.

III.

Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and the Commission Memorandum and Order of October 16, 1979, it is ordered that:

Facility Operating License No. DPR-73 for the Three Mile Island Nuclear Station, Unit 2, be amended, in the manner hereinafter provided, to include the following conditions:

(i) The technical specifications requiring monitoring under GDC 64 are hereby amended as reflected in the appendix hereto in order to add EPICOR-II discharge paths.

(ii) The licensee shall promptly begin the process of decontaminating the intermediate-level waste water from TMI-2 by operating EPICOR-II. Prior to operation, the licensee shall consult the Director of NRR for approval of the final operating procedures and design and construction details. In order to reduce the inherent risk from the contaminated water most expeditiously and prudently, the licensee should to the extent possible process all the water once through the EPICOR-II system.

(iii) The licensee shall maintain suitable tankage at TMI-1 that could be used to store waste water from TMI-2 at an appropriate state of readiness, should additional storage become necessary.

(iv) The licensee shall not ship spent resins offsite unless they have been solidified, and only then with the prior approval of the Director of NRR, provided however, that the licensee may ship non-solidified but dewatered spent resins offsite if it determines, and the Director of NRR concurs, that such shipment is required to assure continued operation of EPICOR-II or otherwise required to protect public health and safety. The licensee shall expeditiously construct a facility for solidification of the spent resins and shall use such facilities for resin solidification upon receiving the Director of NRR's concurrence with the design and operating procedures.

IV.

The licensee or any person whose interest may be affected may, on or before November 5, 1979, request a hearing on the proposed amendment pursuant to 10 C.F.R. § 2.714 to be held prior to the adoption of the formal license amendment. This amendment will become effective on the expiration of the period during which the licensee or other person may request a hearing, or in the event a hearing is requested, on the date specified in an order made following the hearing.

In the event a hearing is requested, the issues to be considered at such hearing shall be whether the actions taken under this order (a) are necessary and sufficient to protect health and safety or to minimize danger to life and property, and (b) would significantly affect the quality of the human environment.

A request for a hearing by the licensee or another person must be filed with the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Section, by the above date. A copy of the request for a hearing should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555 and to Mr. George F. Trowbridge, Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW, Washington, DC 20036, attorney for the licensee. Any questions regarding the contents of this Order should be directed to the Chief Hearing Counsel, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

For further details with respect to this action, see the Commission's Memorandum and Order, dated October 16, 1979, and the documentary references cited therein. This information is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Commission's Local Public Document Room at the State Library of Pennsylvania, Government Publications Section, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Dated at Bethesda, Maryland, this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

Appendix—Instrumentation

Radioactive Gaseous Effluent Monitoring Instrumentation

Limiting Condition for Operation: 3.3.3.10 The radioactive gaseous effluent monitoring instrumentation channels shown in Table 3.3-13 shall be Operable.

Applicability: As shown in Table 3.3-13.

Action: With less than the minimum number of radioactive gaseous effluent monitoring instrumentation channels Operable, take the Action shown in Table 3.3-13.

Surveillance Requirements: 4.3.3.10 Each radioactive gaseous effluent monitoring instrumentation channel shall be demonstrated OPERABLE by performance of the CHANNEL CHECK, SOURCE CHECK, CHANNEL CALIBRATION and CHANNEL FUNCTIONAL TEST operations at the frequencies shown in Table 4.3-13 (per occupational exposure considerations and detector sensitivity in ambient radiation areas).

Table 3.3-13.—*Radioactive Gaseous Effluent Monitoring Instrumentation*

Instrument	Minimum channels operable	Applicability	Action
10. EPICOR-II Ventilation system:			
a. Noble gas activity monitor	1	*	37
b. Iodine sampler	1	*	41
c. Particulate sampler	1	*	41
d. Flow rate monitor	1	*	36
e. Sampler flow rate monitor	1	*	36

Table Notation

* At all times.

Action 36— With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via this pathway may continue for up to 30 days provided the flow rate is estimated at least once per 4 hours.

Action 37— With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via This pathway may continue for up to 30 days provided grab samples are taken at least once per 8 hours and these samples are analyzed for gross activity within 24 hours.

Action 41— With number of channels OPERABLE less than required by the Minimum Channels OPERABLE requirement, effluent releases via the affected pathway may continue for up to 30 days provided samples are continuously collected with auxiliary sampling equipment as required in Table 4.11-2.

Table 4.13.—*Radioactive Gaseous Effluent Monitoring Instrumentation Surveillance Requirements*

Instrument	Channel check	Source	Channel calibration	Channel functional test
10. EPICOR-II Ventilation system:				
a. Noble Gas Activity Monitor	D	M	R(3)	Q(2)
b. Iodine Sampler	W	N.A.	N.A.	N.A.
c. Particulate Sampler	W	N.A.	N.A.	N.A.
d. Flow Rate Monitor	D	N.A.	SA	SA
e. Sampler Flow Rate Monitor	D	N.A.	SA	SA

Table Notation

(2) Channel Functional Test shall also demonstrate that control room alarm annunciation occurs if any of the following condition exist:

1. Instrument indicates measured levels above the alarm setpoint.
2. Circuit failure (alarm function only).
3. Instrument indicates a downside failure (alarm function only).
4. Instrument controls not set in operate mode or the switch position administratively monitored and controlled.

(3) The initial Channel Calibration shall be performed using one or more of the reference standards certified by the National Bureau of Standards or using standards that have been obtained from suppliers that participate in measurement assurance activities with NBS. These standards shall permit calibrating the system over its intended range of energy and measurement range. For subsequent Channel Calibration sources that have been related to the initial calibration shall be used.

Appendix B—Technical Specifications

Gaseous Effluents: 2.1.2.0 The release rate of radioactive materials, other than noble gases, in gaseous effluents shall be determined to be within the limits calculated in accordance with this specification by obtaining representative samples and performing analyses in accordance with the sampling and analysis program, specified in Table 4.11–2.

Table 2.1-1.—*Radioactive Gaseous Waste Sampling and Analysis Program*

Gaseous release type	Sampling frequency	Minimum analysis frequency	Type of activity analysis	Lower limit of detection (LLD) (μCi/ml)[a]
C. Epicore II ventilation	M[e]	M	Principal Gamma Emitters[g]	1×10^{-4}
	Grab Sample		H-3	1×10^{-6}

Table Notation

a. The LLD is the smallest concentration of radioactive material in a sample that will be detected with 95% probability with 5% probability of falsely concuding that a blank observation represents a "real" signal.

For a particular measurement system (which may include radiochemical separation):

$$LLD = \frac{4.66\ s_b}{E \cdot V \cdot 2.22 \cdot Y \cdot \exp(-\lambda \Delta t)}$$

Where

LLD is the lower limit of detection as defined above (as picocurie per unit mass or volume),
s_b is the standard deviation of the background counting rate of of the counting rate of a blank sample as appropriate (as counts per minute),
E is the counting efficiency (as counts per transformation),
V is the sample size (in units of mass or volume),
2.22 is the number of transformations per minute per picocurie,
Y is the fractional radiochemical yield (when applicable),
λ is the radioactive decay constant for the particular radionuclide, and
Δt is the elapsed time between midpoint of sample collection and time of counting (for plant effluents, not environmental samples).

The value of s_b used in the calucalation of the LLD for a detection system shall be based on the actual observed variance of the background counting rate or of the counting rate of the blank samples (as appropriate) rather than on an unverified theoretically predicted variance. In calculating the LLD for a radionuclide determined by gamma-ray spectrometry, the background shall include the typical contributions of other radionuclides normally present in the samples. Typical values of E, V, Y, and Δt shall be used in the calculation. The background count rate is calculated from the background counts that are determined to be with ± one FWHM (Full-Width-at-Half-Maximum) energy band about the energy of the gamma ray peak used for the quantitative analysis for that radionuclide.

e. Tritium grab samples shall be taken at least once per 7 days from the ventilation exhaust from the spent fuel pool area.

g. The principal gamma emitters for which the LLD specification applies exclusively are the following radionuclides: Kr-87, Kr-88, Xe-133, Xe-133m, Xe-135, and Xe-138 for gaseous emissions and Mn-54, Fe-59, Co-58, Co-60, Zn-65, Mo-99, Cs-134, Cs-137, Ce-141 and Ce-144 for particulate emissions. This list does not mean that only these nuclides are to be detected and reported. Other peaks which are measurable and indentifiable, together with the above nuclides, shall also be identified and reported. Nuclides which are below the LLD for the analyses shall be reported as "less than" the nuclide's LLD and shall not be reported as being present at the LLD level for that nuclide. The "less than" values shall not be used in the required dose calculations.

Bases

3/4.3.3.10 Radioactive Gaseous Effluent Instrumentation

The radioactive gaseous effluent instrumentation is provided to monitor an control, as applicable, the releases of radioactive materials in gaseous effluents during actual or potential releases of gaseous effluents. The OPERABILITY and use of this instrumentation is consistent with the requirements of General Design Criterion 64 of Appendix A to 10 CFR Part 50.

2.1.2. Gaseous Effluents

This specification is provided to ensure that the dose at any time at the site boundary from gaseous effluents from all units on the site will be within the annual dose limits of 10 CFR Part 20 for unrestricted areas. The annual dose limits are the doses associated with the concentrations of 10 CFR Part 20, Appendix B, Table II, Column 1. These limits provide reasonable assurance that radioactive material discharged in gaseous effluents will not result in the exposure of an individual in an unrestricted area, either within or outside the site boundary, to annual average concentrations exceeding the limits specified in Appendix B, Table II of 10 CFR Part 20 (10 CFR Part 20.106(b)). For individuals who may at times be within the site boundary, the occupancy of the individual will be sufficiently low to compensate for any increase in the atmospheric diffusion factor above that for the site boundary. The specified release rate limits restrict, at all times, the corresponding gamma and beta dose rates above background to an individual at or beyond the site boundary to less than or equal to 500 mrem/yr to the total body or to less than or equal to 3000 mrem/yr to the sking. These release rate limits also restrict, at all times, the corresponding thyroid dose rate above background to an infant via the cow-milk-infant pathway to less than or equal to 1500 mrem/yr for the nearest cow to the plant.

[FR Doc. 79-32883 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-320]

Negative Declaration Regarding Use of Epicor-II System for Decontamination of Intermediate Level Radioactive Waste Water at Three Mile Island Nuclear Station, Unit No. 2

The U.S. Nuclear Regulatory Commission has been considering the use of an EPICOR–II ion exchange decontamination system to decontaminate the intermediate level radioactive waste water which has been held in tanks at Three Mile Island since the accident at the facility on March 28, 1979.

The Commission's Office of Nuclear Reactor Regulation (NRR) prepared an Environmental Assessment, "Use of EPICOR–II at Three Mile Island, Unit 2," NUREG–0591, which concluded that the use of this system will not significantly affect the quality of the human environment, and therefore an Environmental Impact Statement need not be prepared. This assessment was issued for public comment on August 20, 1979 (44 FR 48829). Comments were received, analyzed and presented to the Commission. Based on the Commission's review of the facts and analysis in NRR's Environmental Assessment and written and oral discussion of the comments, the Commission has determined in its Memorandum and Order, dated October 16, 1979, that the operation of EPICOR–II and the attendant solidification and handling of EPICOR–II resins will not have a significant effect on the environment. Thus, in accordance with the foregoing finding of the Commission, no Environmental Impact Statement for the proposed action will be prepared.

The Environmental Assessment (NUREG–0591) and the Commission's Memorandum and Order issued October 16, 1979, are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Three Mile Island Unit No. 2 Local Public Document Room in the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania. Copies may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Richard Vollmer, Director, TMI–2 Support, NRR.

Dated at Bethesda, Maryland, this 18th day of October, 1979.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 79-32884 Filed 10-23-79; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

U.S. Customs Service

Certain Valves and Parts Thereof From Italy; Preliminary Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Preliminary Countervailing Duty Determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a preliminary determination that the Government of Italy has given benefits that may constitute bounties or grants on the manufacture or exportation of valves and parts thereof. A final determination will be made no later than March 17, 1980, as provided by the Trade Agreements Act of 1979, effective January 1, 1980. Interested persons are invited to comment on this action.

EFFECTIVE DATE: October 24, 1979.

FOR FURTHER INFORMATION CONTACT: Richard Rimlinger, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; telephone (202) 566–5492.

SUPPLEMENTARY INFORMATION: On July 3, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the **Federal Register** (44 FR 39055). The notice stated that a petition had been received alleging that payments or bestowals conferred by the Government of Italy upon the manufacture, production or exportation of certain valves and parts thereof constitute the payment or bestowal of a bounty or grant, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

For purposes of this notice, "certain valves and parts thereof" means taps, cocks, valves, and similar devices, however operated, and parts thereof, used to control the flow of liquids, gases or solids, provided for in item numbers 680.2010 through 680.2080, 680.2205 through 680.2270, 680.2500, and 680.2720 through 680.2740 of the Tariff Schedules of the United States Annotated (TSUSA).

On the basis of an investigation conducted pursuant to § 159.47(c) of the Customs Regulations (19 CFR 159.47(c)), it has been preliminarily determined that certain programs of the Government of Italy may provide benefits to manufacturers and/or exporters of the subject merchandise which may constitute bounties or grants within the

meaning of section 303 of the Act. These benefits may have been conferred under the following programs:

(1) Tax rebates to exporters of iron and steel products under Italian Law 639. In prior determinations, Treasury has countervailed portions of the Law 639 rebate. As set forth in the "Notice of Revised Method for Calculation of Bounty or Grant with Regard to Certain Indirect Taxes," published in the Federal Register on January 17, 1979 (44 FR 4378), Treasury does not consider the non-excessive rebate of indirect taxes on inputs which are physically incorporated into the exported product to be bounties or grants within the meaning of section 303 of the Act.

In the instant case, exporters of iron and steel valves and parts thereof receive a rebate under Law 639 of 20 lire per kilogram. Of this rebate, 5.77 lire appears to attributable to the rebate of border fees on inputs physically incorporated into the valves. It has not been established that the imported items are, in fact, incorporated into the exported valves. If this is affirmatively determined, the subsidy received under Law 639 would be reduced by 5.77 lire per kilogram.

(2) Special benefits such as tax forgiveness, cash grants, and low interest loans available to firms located in the developing region known as the Mezzogiorno. It is the policy of the Treasury to view the benefits flowing from a domestic program as bounties or grants within the meaning of section 303 of the Act if either a preponderance of the merchandise receiving benefits from the program is exported or the *ad valorem* amount of the benefit is large.

Approximately 95 percent of Italian valve manufacturers are located outside of the Mezzogiorno. In the absence of company specific data it is not possible to determine the value of the benefits received by the remaining 5 percent and the proportion of their output which is exported. Information is being sought in order to determine whether these valve manufacturers are receiving benefits which constitute bounties or grants within the meaning of section 303 of the Act.

(3) Substantial exemptions from local and national corporate taxes for firms locating in designated regions. In the absence of company specific data, it is not possible to determine whether Italian valve manufacturers are benefiting from these programs. Additional information is being sought in order to determine whether valve manufacturers are receiving benefits under these programs and whether such benefits constitute "bounties or grants" within the meaning of the Act.

The following programs were alleged to be benefiting valve manufacturers and exporters in Italy but have been preliminarily determined not to be bounties or grants bestowed upon the investigated industry:

(1) Certain cash grants, low interest loans and other fiscal incentives available to firms meeting certain provisions of Italian Law 675. Italian Law 675 has not yet come into effect. Therefore it has bestowed no bounties or grants upon manufacturers of valves. Should a countervailing duty order be issued in this case, periodic determinations will be made pursuant to the Trade Agreements Act of 1979 whether this law has become operable and whether it provides benefits constituting bounties or grants to valve manufacturers or exporters.

(2) Low interest loans for exporters through the government supported facility known as Mediocredito Centrale. Manufacturers and exporters of valves and parts thereof are not eligible for loans under this program.

(3) Subsidized export credit insurance available through Sezione Speciale per Assicurazione del Credito all' Esportazione (SACE), a government agency formerly known as Istituto Nazionale delle Assicurazione (INA). No manufacturers or exporters of valves and parts thereof have received insurance coverage from this organization for their exports to the United States.

Accordingly, it is preliminarily determined that bounties or grants, within the meaning of section 303 of the Act, are being paid or bestowed, directly or indirectly, upon the manufacture, production, or exportation of valves and parts thereof from Italy made of iron or steel and may be so paid or bestowed on additional types. If the final determination in this case is not made by December 31, 1979, then in accordance with section 102(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), a final determination will be made no later than March 17, 1980.

Before a final determination is made, consideration will be given to any relevant data, views, or arguments submitted in writing with respect to this preliminary decision. Submissions should be addressed to the Commissioner of Customs, 1301 Constitution Avenue N.W., Washington, D.C. 20229, in time to be received by the Commissioner's office no later than November 23, 1979. Any request to present oral views should accompany such submission and a copy of all submissions should be delivered to counsel that has heretofore represented any party to these proceedings.

This preliminary determination is published pursuant to section 303(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order No. 101-5, May 16, 1979, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47 of the Customs Regulations (19 CFR 159.47), insofar as they pertain to the issuance of a preliminary countervailing duty determination by the Commissioner of Customs, are hereby waived.

David R. Brennan,

Acting General Counsel of the Treasury.

October 18, 1979.

[FR Doc. 79-32783 Filed 10-23-79; 8:45 am]

BILLING CODE 4810-22-M

[521464]

Receipt of an American Manufacturer's Petition Requesting the Reclassification of Laser Glass

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of receipt of American manufacturer's petition.

SUMMARY: Customs has received a petition from an American manufacturer of laser glass requesting that imported laser glass be reclassified as optical glass. Importations of laser glass are currently classified by Customs as non-optical glass articles.

DATES: Interested parties may comment on this petition. Comments (preferably in triplicate) must be received on or before December 24, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Research Division, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:
Larry L. Burton, Classification and Value Division, United States Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516 of the Tariff Act of 1930, as amended (19 U.S.C. 1516), by an American manufacturer of laser glass. The petitioner contends that laser glass, imported in rod and disc configurations, should be classified under the provision for other optical glass in item 540.67, Tariff Schedules of the United States (TSUS). Laser glass of this kind is currently classified by Customs under the provision for glass articles not specially provided for in item 548.05, TSUS. Customs administrative rulings to this effect are based upon a decision of the United States Customs Court reported in C.D. 4269 (1971), in which the term "optical" as used in the tariff schedules was interpreted to refer to the phenomena of light and vision. Customs rulings, therefore, have precluded from classification as "optical" glass laser glass which does not aid or have application to vision.

In support of its petition, the petitioner contends that laser glass qualifies as "optical" inasmuch as it is a light-manipulating element, constituting the primary optical element of a laser apparatus. Furthermore, the petitioner notes that the Commodity Control List, administered by the Export Administration of the United States Department of Commerce, refers to laser glass rods as optical elements.

Comments

Pursuant to § 175.21(a) of the Customs Regulations (19 CFR 175.21(a)), the Customs Service invites written comments on this petition from all interested parties.

The American manufacturer's petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with §§ 103.8(b) and 175.21(b), Customs Regulations (19 CFR 103.8(b), 175.21(b)), during regular business hours at the Regulations and Research Division, Headquarters, U.S. Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C. 20229.

Authority

This notice is published in accordance with section 175.21(a) of the Customs Regulations (19 CFR 175.21(a)).

Donald W. Lewis,

Director, Office of Regulations and Rulings.

September 4, 1979.

[FR Doc. 79-32785 Filed 10-23-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Notice No. 141]

Assignment of Hearings

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on October 31, 1979 (3 days), at Tallahassee, FL will be held in Room No. 122, Fletcher Building, 101 East Gaines Street.

MC 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on November 5, 1979 (2 days), at Albany, GA will be held in Room No. 212, Courthouse Building, 225 Pine Street.

MC 1515 (Sub-258F), Greyhound Lines, Inc. now assigned for hearing on November 8, 1979 (2 days), at Columbus, GA will be held at the Probate Court—6th Floor, Government Center.

MC-C-10314, Frank M. Herbert, Inc., Edgemere Terminals, Inc., Pioneer Transport, Inc., And L.G. Truck Leasing, Inc.—Investigation And Revocation of Certificate, now assigned for hearing on October 30, 1979 (2 days), at Boston, MA will be held at the Judiciary Committee, Hearing Room 136, State House Annex.

MC 120364 (Sub-19F), A & B Freight Lines, Inc., now being assigned for hearing on January 23, 1980 (3 Days), at Chicago, IL in a hearing room to be designated later.

MC 85934 (Sub-97F), Michigan Transportation Company, now being assigned for hearing on January 28, 1980 (1 Day), at Chicago, IL in a hearing room to be designated later.

MC 128030 (Sub-121F), the Stout Trucking Co., Inc., now being assigned for hearing on January 29, 1980 (1 Day), at Chicago, IL in a hearing room to be designated later.

MC 145601 (Sub-1F), Morgan County Trucking, Inc., now being assigned for hearing on January 30, 1980 (3 Days), at Chicago, IL in a hearing room to be designated later.

MC 107403 (Sub-1152F), Matlack, Inc., now being assigned for hearing on January 9, 1980 (3 Days), at Houston TX in a hearing room to be designated later.

MC 124892 (Sub-257F), Sammons Trucking, a corporation, now being assigned for hearing on January 14, 1980 (2 Days), at Houston, TX in a hearing room to be designated later.

MC 145154 (Sub-2F), Young's Transportation Company, now being assigned for hearing on January 16, 1980 (3 Days), at Houston, TX in a hearing room to be designated later.

MC-C-10341, Catawese Coach Lines, Inc. Coach Lines, Inc. v. B.K.W. now being assigned for hearing on January 7, 1980 (2 Days), at Philadelphia, PA in a hearing room to be designated later.

MC 144398 (Sub-2F), Wayne Transport, Inc., now being assigned for hearing on January 17, 1980 (2 Days), at St. Paul, MN in a hearing room to be designated later.

MC 146314 (Sub-1F), G & T Trucking Company, now being assigned for hearing on January 21, 1980 (1 Week), at St. Paul, MN a hearing room to be designated later.

MC 52460 (Sub-232F), Ellex Transportation, Inc., now being assigned for hearing on January 8, 1980 (1 Day), at Dallas, Texas in a hearing room to be designated later.

MC 107064 (Sub-131F), Steele Tank Lines, Inc., now being assigned for hearing on January 16, 1980 (3 Days), at Dallas, Texas in a hearing room to be later designated.

MC 118130 (Sub-96F), South Eastern Xpress, Inc., now being assigned for hearing on January 9, 1980 (1 Day), at Dallas, Texas in a hearing room to be later designated.

MC 133095 (Sub-202F), Texas Continental Express, Inc., now being assigned for hearing on January 10, 1980 (2 Days), at Dallas, Texas in a hearing room to be later designated.

MC 142130 (Sub-4F), Cresent Industries, Inc., now being assigned for hearing on January 14, 1980 (2 Days), at Dallas, Texas in a hearing room to be later designated.

MC 124070 (Sub-34F), Chemical Haulers, Inc., now being assigned for hearing on January 22, 1980 (1 Day), at Chicago, IL in a hearing room to be later designated.

MC 145939 (Sub-1F), Atlantic Carriers, Inc., now being assigned for hearing on December 4, 1979 (1 day), at Omaha, NE in a hearing room to be designated later.

MC 138627 (Sub-49F), Smithway Motor Xpress, Inc., now being assigned for hearing on December 5, 1979 (1 day), at Omaha, NE in a hearing room to be designated later.

MC 90870 (Sub-19F), Riechmann Enterprises, Inc., now being assigned for hearing on December 6, 1979 (2 days), at Omaha, NE in a hearing room to be designated later.

MC 124211 (Sub-356F), Hilt Truck Line, Inc., now being assigned for hearing on December 10, 1979 (2 days), at Omaha, NE in a hearing room to be designated later.

MC 127042 (Sub-232F), Hagen, Inc., now assigned for continued hearing on

December 12, 1979 (3 days), at Omaha, NE in a hearing room to be designated later.
FD 29089, Petition of City of St. Louis, MO for order requiring grant of trackage rights and authorizing related changes in terminal operations, now being assigned for hearing on November 27, 1979 (4 days), at St. Louis, MO in a hearing room to be designated later.
MC 135674 (Sub-144F), LTL Perishables, Inc. now being assigned for hearing on January 15, 1960 (2 days), at St. Paul, MN in a hearing room to be designated later.
MC 108119 (Sub-124F), E. L. Murphy Trucking Company, now assigned for hearing on October 30, 1979 (1 day), at Chicago, IL. will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.
MC-F-13826F, H & W Motor Express Company Purchase (Portion) the Rock Island Motor Transit Co., now assigned for hearing on October 31, 1979 (3 days), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.
MC 112893 (Sub-55F), Bulk Transport Company, now assigned for hearing on November 5, 1979 (1 day), at Chicago, IL. will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.
MC 119741 (Sub-143F), Green Field Transport Company, Inc., now assigned for hearing on November 6, 1979 (2 days), at Chicago, IL, will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.
MC 146110F, Small Shipment Express of Illinois, Inc., now assigned for hearing on November 8, 1979 (2 days), at Chicago, IL. will be held at the De Paul College, the Lewis Center, 25 East Jackson Street.
MC 129537 (Sub-24F), Reeves Transportation Co., now assigned for hearing on October 15, 1979 (5 days), at Montgomery, AL, is canceled.
MC 145297F, Vern Breazeale Freight Service, DBA Denver-Lander-Riverton Freight Service, now assigned for hearing on October 29, 1979 at Lander, WY, is canceled.
MC 1405 (Sub-590F), Dealers Transit, Inc. transfered to Modified Procedure.
MC 145638 (Sub-1F), Ohio Container Service Inc., transfered to Modified Procedure
MC 113158 (Sub-33F), Todd Transport Company, Inc., transferred to Modified Procedure.
MC 11603 (Sub-8F), Basse Truck Line, Inc., now assigned for MC 11603 (Sub-8F), Basse Truck Line, Inc., now assigned for continued Prehearing Conference on October 9, 1979 at Washington, DC, is canceled and application dismissed.
MC 124211 (Sub-262MIF), Hilt Truck Line, Inc. now assigned for hearing on January 14, 1979 (1 week), at New York, NY in a hearing room to be later designated.
MC 172 (Sub-9F), Robert E. Wade, transferred to Modified Procedure.
MC 145864F, Paragon Transportation Co., Inc., now assigned for hearing on November 1, 1979 (2 days), at Boston, MA will be held at the Judiciary Committee Hearing Room 136, State House Annex.
MC 97457 (Sub-8F), Warner & Sons Trucking Company, now being assigned for hearing on December 10, 1979 (2 days), at Lansing, MI, location of hearing room to be later designated.
MC 135082 (Sub-76F), Roadrunner Trucking, Inc., now being assigned for hearing on January 15, 1979 (9 days), at Albuquerque, New Mexico, location of hearing room to be later designated.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32734 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-68F)]

Burlington Northern, Inc., Abandonment Near Foxhome and Breckenridge, in Wilkin County, Minn.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 2, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Burlington Northern, Inc., of a line of railroad known as the Foxhome to Breckenridge Line extending from railroad milepost 61.45 near Foxhome, MN, to railroad milepost 73.28 near Breckenridge, MN, a distance of 11.83 miles, in Wilkin County, MN. A certificate of public convenience and necessity permitting abandonment was issued to the Burlington Northern, Inc. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of final assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32733 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

Fourth Section Application for Relief

October 18, 1979.

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before November 8, 1979. FSA No. 43758. Southwestern Freight Bureau, Agent No. B-32, vermiculite, broken, crushed, or ground, in carloads, from Kearney and Travelers Rest, SC to stations in Southwestern Territory, in its Tariff ICC SWFB 3001-G and three other schedules, effective November 13, 1979. Grounds for relief—need for increased revenue.

By the Commission.
Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32732 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-59F)]

Illinois Central Gulf Railroad Co., Abandonment Near Cayce and Columbus, in Fulton and Hickman Counties, Ky.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided October 2, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Company of a line of railroad known as the Union City District (portion) extending from railroad milepost 457.0 north of Cayce, KY (excluding Cayce) to milepost 470.0 south of Columbus, KY, a distance of 13.00 miles, in Fulton and Hickman Counties, KY. A certificate of public convenience and necessity permitting abandonment was issued to the Illinois Central Gulf Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32733 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-37 (Sub-9F)]

Oregon-Washington Railroad & Navigation Co.—Abandonment and Union Pacific Railroad Co.—Discontinuance of Service—Near Riparia and LaCrosse, in Whitman County, Wash.; Notice of Findings

Notice is hereby given pursuant to 49 U.S.C. 10903 that by a Certificate and Decision decided September 27, 1979, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in AB-36 (Sub-No. 2), *Oregon Short Line R. Co.—Abandonment Goshen*, 360 I.C.C. 91 (1979), and for public use as set forth in said decision, the present and future public convenience and necessity permit the physical abandonment by the Oregon-Washington Railroad & Navigation Comnpany and discontinuance of service by the Union Pacific Railroad Company over a portion of a line railroad known as the Tekoa Branch extending from railroad milepost 17.63 near Riparia to milepost 40.86 near LaCrosse, a distance of 23.23 miles in Whitman County, WA. A certificate of public convenience and necessity permitting abandonment and dicontinuance of service was issued to the Oregon-Washington Railroad & Navigation Company and the Union Pacific Railroad Company. Since no investigation was instituted, the requirement of Section 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the **Federal Register** be made only after such a decision becomes administratively final was waved.

Upon reciept by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibits I (Section 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be files and served no later than 15 days after publication of this Notice. The offer, as filed, shall contain information required pursuant to Section 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective 45 days from the date of this publication.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32735 Filed 10-23-79; 8:45 am]
BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Supplemental Order No. 6

Decided: October 17, 1979.

On September 26, 1979, we directed Kansas City Terminal Railway Company (KCT) to provide service as a directed rail carrier (DRC) under 49 U.S.C. 11125 over the lines of the Chicago, Rock Island & Pacific Railroad Company, Debtor (Willam M. Gibbons, Trustee) ("RI"). *See* Directed Service Order No. 1398 (decided and served September 26, 1979; published in the **Federal Register** on October 1, 1979 at 44 FR 56343).

In Supplemental Order No. 2 (decided and served October 3, 1979), (44 FR 58581, Oct. 10, 1979) we directed KCT to assume the responsibilities for security and maintenance—including the making of lease payments—for all RI properties, including locomotives and freight cars, from the date of its entry upon RI properties "until it is determined that specific properties cannot be used in directed service." *See* Supplemental Order No. 2 at page 1 (44 FR 58583, first column).

On October 10, 1979, KCT filed "DRC Report No. 1," which identified a total of 3,913 RI freight cars and 88 RI locomotives as being either wrecked or in "heavy bad order" (HBO) and thus unfit for use in directed-service operations pursuant to Supplemental Order No. 2.[1] KCT also indicated that additional lists of HBO cars and locomotives would be forwarded as soon as such equipment could be identified. In accordance with Supplmental Order No. 2, KCT requested that all wrecked and HBO cars and locomotives of RI—whether owned, under lease, privately owned, or foreign—including the lading in any wrecked cars, revert to the RI Trustee as of 12:01 a.m., Thursday October 18, 1979.[2] *See* DRC Report No. 1 at page 2. After such reversion, the Trustee would assume full responsibility for security and maintenance of the rejected RI property, except that the DRC would continue to assume responsibility for lease payments on leased equipment which reverts to the Trustee, pursuant to the setoff provisions of the second paragraph of page 2 (44 FR 58582, last paragraph, 1st column) of supplemental Order No. 2. *See* DRC Report No. 1 at pages 2-3.

The RI Trustee, in a letter dated October 10, 1979, objected to the proposed reversion and petitioned the Commission for relief. Specifically, the RI Trustee objected to the proposed reversion on three grounds: (1) Indivisibility of car fleet and power values; (2) An unconstitutional taking resulting from the Trustee's lack of control over the work force and shops ordinarily used to maintain and move such equipment; and (3) jeopardy to the FRA program for repairing HBO equipment.

For the reasons stated below, we shall deny the relief requested by the Trustee and permit KCT to let the identified inoperable equipment revert to the Trustee.

Indivisibility of Assets

The Trustee's first basis for opposing reversion is the argument that RI's car fleet and locomotives constitute an "indivisible asset" which cannot be segregated for directed service purposes. We disagree.

[1] HBO repairs require 20 man-hours of work or more. Based on recent figures available to the Commission, HBO cars averaged $6,000 each to repair.

[2] Actually, KCT requested the reversion to be effective as of 12:01 a.m. Wednesday October 17, 1979. However, this requested effective date was one day short of the effective date permitted by Supplemental Order No. 2. Under Supplemental Order No. 2, the reversion's effective date may not be less than 5 working days from the filing date of the DRC's report. Since DRC Report No. 1 was filed Wednesday October 10, 1979, and the fifth working day was not until Wednesday October 17, 1979, the reversion's effective date could not be before 12:01 a.m. Thursday October 18, 1979.

V 44 OC 24 79 UMI

The Trustee's position is that a directed carrier under 49 U.S.C. 11125 cannot determine which of the impaired carrier's equipment is unsuitable for directed-service purposes and decline to accept responsibility for security, maintenance and the like as to such equipment. Nothing could be further from the statutory intent of 49 U.S.C. 11125.

The purpose of directed service is simply to ensure the temporary continuation of essential rail services over the lines of an impaired carrier, pending the development of long-range solutions and transportation alternatives. There is no Congressional intent that the directed carrier become the alter ego of the impaired carrier, assuming responsibility for all the impaired carrier's obligations, assets, and property. Rather, section 11125 merely instructs the Commission to "direct the handling, routing, and movement of the traffic available to the [impaired] carrier and its distribution over the railroad lines of that carrier by another carrier." *See* 49 U.S.C. 11125(a). The overriding legislative concern is continuation of rail services essential to the public interest and interstate commerce, not the provision of wholesale economic relief to the impaired carrier at taxpayer expense.

To adopt the Trustee's "indivisibility of assets" argument would frustrate the purpose and intent of the directed service statute. Under such an approach, a directed carrier would be required to assume responsibility for all the "indivisible assets" of the impaired carrier even those unnecessary to directed service. Not only would this needlessly increase the cost to the taxpayer of directed service, but it could very well interfere with the directed carrier's primary mission of providing "essential" rail services by occupying the DRC's time and resources with the burden of caring for defective, inoperable and otherwise unnecessary assets of the impaired carrier.

Moreover, even if we were to adopt the Trustee's "indivisibility of assets" approach to directed service, the Trustee has not shown why operable and inoperable cars and locomotives constitute a single indivisible asset. On the contrary, the distinction between these types of equipment is clear on its face. Certainly, it it not great task to discern which equipment functions, which equipment does not, and the relative magnitude of the needed repairs. This distinction in the nature of assets is so elementary as to refute the Trustee's allegations of indivisibility here

Taking of Property

The Trustee's second argument against reversion is that he lacks control over the work force and shops ordinarily used to maintain and move defective RI equipment, such employees and shops now being under the control of KCT. Lacking control over such employees and facilities, the Trustee contends that it would be ruinous for the RI estate to accept responsibility for defective cars scattered throughout the RI rail system. Thus, the Trustee argues that the proposed reversion "would be a gross taking of values from the estate," in violation of the Fifth Amendment and the directed service order. *See* Trustee's letter at page 2. We cannot agree.

Far from "taking" the estate's property without due process, we are permitting certain RI property unnecessary to the provision of directed-service operations to revert to the estate. Further, the proposed reversion will not result in any undue diminution in the value of such property. Rather than causing any further deterioration in the value of the wrecked and HBO cars and locomotives, our action will simply preserve the status quo as to such equipment. Nor will the reversion impose a "ruinous" drain on the estate, since we are not requiring the Trustee to retrieve and rehabilitate the defective equipment, even though FRA funds are available for such rehabilitation. Moreover, even assuming arguendo that the reversion entailed a taking of property or diminution in value, there has been no showing that due process of law has not been afforded. Our action in authorizing the reversion has complied strictly with the letter and spirit of the directed-service statute. We thus reject the Trustee's arguments on this score.

Jeopardy to FRA Program

The Trustee's final argument against the proposed reversion is that such reversion would jeopardize "Rock Island's FRA program to rehabilitate almost 3,000 cars and locomotives." *See* Trustee's letter at page 2. Rather, the Trustee urges that KCT be required to retain control of the inoperable RI equipment and rehabilitate such equipment at its own expense, funding the rehabilitation through earnings on the directed-service lines and presumably through governmental reimbursement under 49 U.S.C. 11125(b)(5). We cannot accept this argument.

We fail to see precisely how the proposed reversion would in any way jeopardize RI's existing FRA rehabilitation program, although such action would seem to enhance the value of the estate. Nor are we requiring the Trustee to advance FRA funds for the rehabilitation of this equipment. Indeed, the Trustee—not the DRC—controls these funds and has thus far refused to release any of these funds to the DRC. Thus, the proposed reversion would pose not threat to the FRA rehabilitation program.

In addition, as noted previously, we are charged by statute to ensure the temporary continuation of essential rail services at the least governmental cost. Accordingly, we are not persuaded by the Trustee's arguments that the DRC should be required to retain and rehabilitate, at ultimate taxpayer expense, a large quantity of equipment already identified as unnecessary to the provision of directed service. The Trustee's letter-petition will accordingly be denied.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources. *See* 49 CFR Parts 1106, 1108 (1978).

It is ordered:

(1) The RI Trustee's letter of October 10, 1979, requesting relief from the proposed reversion of equipment is denied.

(2) KCT is authorized to effectuate the reversion to the RI Trustee of the equipment identified in DRC Report No. 1, pursuant to the terms of Supplemental Order No. 2.

(3) This decision shall be effective on its service date.

By the Commission, Chairman O'Neal, Vice Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham dissented in part and Vice Chairman Stafford did not participate.

Commissioner Gresham, dissenting in part: The majority approves the continuation of lease payments for equipment reverting to the Trustee. I object to the use of public funds for this purpose. This should not be considered a compensable cost of directed service under section 11125.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32728 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

[Directed Service Order No. 1398]

Kansas City Terminal Railway Co.—Directed To Operate Over—Chicago, Rock Island & Pacific Railroad Co., Debtor (William M. Gibbons, Trustee); Supplemental Order No. 5

Decided: October 17, 1979.

On September 26, 1979, we directed the Kansas City Terminal Railway Company (KCT), to operate over the Chicago, Rock Island and Pacific Railroad Company, Debtor (William M. Gibbons, Trustee) ("RI") because RI's cash position made continued operations impossible [44 FR 56343, Oct. 1, 1979] *See* 49 U.S.C. 11125(a)(1).

In that decision, we indicated that public hearings would be held during the initial 60-day period of directed service to "assess the transportation needs of the localities served by—and the economic potential for—the RI lines over which directed-service has initially been ordered. This assessment will, in turn, assist us in planning for the period following the expiration of this 60-day directed-service order." *See* Directed Service Order No. 1398 at pages 7 and 8 [44 FR 56344, 2nd and 3rd columns].

We issued a release on October 11, 1979 announcing dates and locations for public hearings to consider the need for directed service over RI beyond the initial 60-day period, which ends on December 3, 1979. The hearings are in 17 cities, commencing from October 22 until November 1, 1979.

The Office of Rail Public Counsel (RPC) filed a petition entitled "Motion to defer hearing dates and for other relief" on October 15, 1979. Specifically, RPC requests that: (1) The Commission defer the public hearings for a period of at least one week; (2) The record be kept open for written submissions until one week following the close of hearings; and (3) RPC attorneys be permitted to ask clarifying questions at the hearing. RPC's first request will be denied, its second modified, and its third clarified.

Hearing Postponements

RPC argues for postponement because it believes notice of 11 days in a release is too short, and may prejudice parties since they will not be able to develop complex economic data. We disagree. Parties (including RPC) were notified that public hearings would be held by our first decision on September 26, 1979, nearly four weeks prior to the commencement of hearings. Our October 11, 1979 release merely designated hearing locations, dates, and times. The release was not the first time the hearings were mentioned. Directed service is only ordered in an emergency situation. It is our duty to determine the need for continuing directed service after the initial 60-day period. The notice given before public hearings would commence was 26 days, nearly one-half of the initial 60-day period. In this emergency situation, the notice given was adequate to develop information on the transportation needs of the localities served by—and the economic potential for—the RI lines.

RPC also argues that 11 days is inadequate time for parties to prepare information to present us, leaving us with an inadequate record. Again, parties have had 26 days, not 11. Although this may be a short time, it is sufficient for enough information to be developed to provide us with a sufficiently complete record upon which to base a decision.

Another argument advanced by RPC is that we need not determine the extent of directed service during the initial 60-day period, but may modify directed service during the subsequent 180-day period. This argument ignores the realities of directed service over RI. Directed service is supported by Federal funds. *See* 49 U.S.C. 11125(b)(5). It is also, at best, a stop-gap measure until some permanent solution can be reached, not a restructuring. Additionally, RI is a major grain-carrying railroad. The initial 60-day period expires after the peak of the harvest. If, at the end of the initial 60-day period, we can conserve public funds by directing operations to provide only essential services, we will be promoting service in the interest of the public and commence. *See* 49 U.S.C. 11125(a).

RPC believes our credibility and fairness are open to question because of the "11-day notice." Again, the 26-day notice of hearings and emergency situation indicate that our action is fair under—and required by—the situation.

Finally, RPC indicates that the "11-day notice" does not permit it sufficient time to affectuate a complete outreach program (*see* RPC's motion, at page 3, footnote 1) or fulfill its statutory function effectively (*n.b.* RPC's statutory function is contained in 49 U.S.C. 10382; *see* RPC's motion at page 4, footnote 1).

RPC's outreach program and statutory duty could have been performed within the actual 26-day notice period. Furthermore, our concern in this proceeding is not simply for RPC, but for the public interest and interstate commerce. *See* 49 USC 11125(a). This entails the conservation of public funds and the retention of essential service. RPC's function is to assist this process, not hinder or delay it. *See* 49 U.S.C. 10382(a)(5).

Receipt of Written Statements After Hearing

RPC requests that we keep the record open for one week after the close of hearings to receive additional evidence in the form of written statements. We will permit anyone to file written comments for consideration in DSO No. 1398 no later than November 8, 1979.

We request that the original and 20 copies be filed. We will also limit the length of these comments to 10 pages of text and 10 pages of appendicies.

RPC Questioning of Witnesses

RPC requests that the release be modified so that its attorneys, as well as the presiding officers, may question witnesses. RPC believes this will enable them to help witnesses present clearer testimony.

Our release contemplated this role for RPC. We stated in the release, that one function of RPC would be to assure "the development of a full public interest record." We would remind RPC that cross-examination of witnesses will not be permitted, that witnesses and not RPC are testifying, and that RPC's questions should not repeat those asked by the presiding officers.

This decision will not significantly affect either the quality of the human environment or the conservation of energy.

It is ordered: 1. The commencement of the hearings announced in our October 11, 1979 release is not deferred.

2. Any person shall be permitted to file written comments with this Commission until November 8, 1979. Those comments shall comply with the requirements in this decision.

RPC shall be allowed to participate in these proceedings as specified in this decision.

4. RPC's petition is denied, except to the extent granted in this decision.

5. This decision shall be effective on the date of service.

By the Commission, Chairman O'Neal, Vice-Chairman Stafford, Commissioners Gresham, Clapp, Christian, Trantum, Gaskins, and Alexis. Commissioner Gresham concurring, and Vice Chairman Stafford not participating.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32730 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

Important Notice

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One

V 44 O C 24 79 UMI

V 44 OC 24 79 UMI

copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Notice No. 185

October 10, 1979.

MC 9859 (Sub-7TA), filed August 28, 1979. Applicant: KANE TRANSFER CO., 4661 Hollins Ferry Rd., Baltimore, MD 21227. Representative: James W. Lawson, 1511 K Street NW., Washington, DC 20005. *General commodities, except livestock, Classes A and B explosives, commodities in bulk, those of unusual value and those requiring special equipment* between Baltimore, MD, Washington, DC and points in their commerical zones on the one hand, and, on the other, points and places in DE, MD, and VA, East of the Chesapeake Bay and South of the Chesapeake and Delaware Canal for 180 days. Applicant intends to tack authority sought herein with authority held under docket number MC 9859. Applicant will also be interling in Baltimore, MD and Washington, DC and their commerical zones. Supporting shipper(s): Smith & Solomon Trucking Co., 8130 Norris Lane, Baltimore, MD 21222; Springmeier Shipping Co., Inc., 209 W. Camden St., Baltimore, MD 21230; Boss Linco Lines, Inc., 3200 James St., Baltimore, MD 21230. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 22509 (Sub-23TA), filed August 22, 1979. Applicant: MISSOURI–NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, MO 64505. Representative: E. Wayne Farmer, 12th and Baltimore, P.O. Box 26010, Kansas City, MO 64196. *Paper and paper products,* from the plant site of Union Camp Corporation at or near Normal, IL to points and places in the states of MO, KS, IA and NE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Union Camp Corporation, 1600 Valley Road, Wayne, NJ 07470. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 36448 (Sub-8TA), filed Sept. 13, 1979. Applicant: MURFREESBORO FREIGHT LINES, CO., P.O. Box 1113, Murfreesboro, TN 37130. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. *Common carrier:* regular routes: *General commodities, except Class A & B explosives, commodities in bulk and those requiring special equipment,* between Louisville, KY and Memphis, TN, and points in their respective commercial zones. From Memphis over Interstate Hwy. 40 to Junction Interstate Hwy. 65, then over Interstate Hwy. 65 to Louisville and return over the same route, serving no intermediate points. NOTE: Applicant proposes to interline with other carriers at Louisville, KY and Memphis, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): "There are (11) shippers. Their statements may be examined at the office listed below and Headquarters." Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House 801 Broadway, Nashville, TN 37203.

MC 44538 (Sub-3TA), filed September 17, 1979. Applicant: NEW BREED MOVING CORP., 24 Lucon Drive, Deer Park, NY 11729. Representative: Piken & Piken, 95–25 Queens Boulevard, Rego Park, NY 11374. *Flight simulators and parts thereof,* between all points in the United States, including AK, excluding HI; for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Redifon Simulation International Inc., 2201 Arlington Downs Road, Arlington, TX 76011. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

MC 48958 (Sub-197TA), filed 8/30/79. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 E. 51st Avenue, Denver, CO 80216. Representative: Lee E. Lucero, same address. *Meats, Meat Products, and Meat By-Products, and articles distributed by Meat Packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk),* from the facilities of Swift and Co., at or near Clovis, NM to points in the State of Texas, for 180 days. An underlying ETA for 90 days has been filed. Supporting shipper(s): Swift and Co., 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: District Supervisor Roger L. Buchanan, 492 U.S. Customs House, 721 19th Street, Denver, CO 80202.

MC 48958 (Sub-200TA), filed Sept. 6, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Ave., Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses,* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Dubuque Packing Company, at or near Denison, IA, to points in AZ, CA, CO, NV, NM and UT, for 180 days. Supporting shipper(s): Dubuque Packing Company, P.O. Box 610, Denison, IA 51442. Send protests to: R. Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 56679 (Sub-138TA), filed August 8, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *Foodstuffs (except in bulk),* from the facilities of Doric Foods, Findlay, OH, to points in the US on and east of the MS River, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doric Foods Corporation, P.O. Box 986, Mount Dora, FL 32757. Send protests to: Sara K. Davis, TA, ICC, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 56679 (Sub-139TA), filed August 8, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same as applicant). *General commodities (with usual exceptions) in containers,* between Tampa and Ft. Lauderdale, FL, on the one hand, and, on the other, points in FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Seatrain Lines, Inc., Port Seatrain, Weehawken, NJ 07087. Send protests to: Sara K. Davis, TA, ICC, 1252 West Peachtree St., N.W., Atlanta, GA 30309.

MC 56679 (Sub-140TA), filed August 27, 1979. Applicant: BROWN TRANSPORT CORP., 352 University Ave., S.W., Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). *Such merchandise as is dealt in or used by wholesale, retail and chain grocery and food business houses; and equipment, materials, and supplies used in the conduct of such business,* from the facilities of the Kroger Co. at or near Columbus and Cincinnati, OH to points in VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Kroger Co., 1014 Vine St., Cincinnati, OH 45201. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 78228 (Sub-140TA), filed July 5, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., Esq., 2310 Grant Bldg., Pittsburgh, PA 15219. *Aluminum and aluminum articles* from the facilities of Kaiser Aluminum & Chemical Corporation, at or near Ravenswood, WV to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, LA, KY, ME, MD, MA, MI, MN, MS, MO, NJ, NH, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI and DC, for 180 days. Supporting shipper(s): Kaiser Aluminum & Chemical Corp., P.O. Box 98, Ravenswood, WV 26164. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 99149 (Sub-13TA), filed August 30, 1979. Applicant: MIDWAY MOTOR FREIGHT LINES, INC., 8400 New Benton Hwy., Little Rock, AR 72219. Representative: Thomas B. Staley, 1550 Tower Bldg., Little Rock, AR 72201. *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission; commodities in bulk and those requiring special equipment), serving Hot Springs Village, AR as an off-route point in connection with the carrier's otherwise authorized regular-route authority, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Approximately 6 supporting shippers. Send protests to: William H. Land, DS, 3106 Federal Bldg., Little Rock, AR 72201.

MC 106398 (Sub-960TA), filed August 30, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Gayle Gibson (same address as applicant). *Glass and accessories,* from the facilities of Pittsburgh Corning Corporation located at Port Alleganey, PA, to points in AL, CT, DE, FL, IL, KY, OH, NC, NY, MA, ME, MD, RI, SC, TN, VA, and VT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Pittsburgh Corning Corporation, 800 Presque Isle Drive, Pittsburgh, PA 15239. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd Oklahoma City, OK 73102.

MC 110988 (Sub-401TA), filed September 14, 1979. Applicant: SCHNEIDER TANK LINES, INC., 4321 W. College Ave., Appleton, WI 54911. Representative: Neil DuJardin, P.O. Box 2298, Green Bay, WI 54306. *Vegetable oil and vegetable oil products and vegetable oil shortening* between Columbus, OH on the one hand, and, on the other, points in WI, IL, IN, and MN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Capital City Products Co., Div. of Stokely Van Camp, Inc., 525 W. First Ave., Columbus, OH 43216. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 112989 (Sub-110TA), filed September 10, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR 97405. IRON AND STEEL ARTICLES from the facilities of United States Steel Corporation located at or near Orem, Utah to Washoe County, Nevada, and Kern County, California for 180 days. Supporting shipper(s): CalCut Companies, Inc., dba Nevada Tank & Casing 9000 No. Virginia Street, P.O. Box 2999, Reno, NV 89509. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon.

MC 113678 (Sub-835TA), filed September 13, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs* (except in bulk) from the facilities of Knott's Berry Farm near Buena Park, CA, to Chicago, IL, and points in its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knott's Berry Farm, 8039 Beach Blvd., Buena Park, CA 90620. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.,

MC 113678 (Sub-837TA), filed August 31, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as above). *Foodstuffs (except in bulk),* from (1) Pueblo, CO to points in the United States (except AK, CO, HI, DE, ID, NJ, NY, OR, PA, UT and WA), and (2) from Colorado Springs, CO. to points in the United States (except AK, CO, AR, HI, IA, KS, MN, MO, MI, NE, ND, and SD), for 180 days. An underlying 90 day ETA seeks identical authority. Supporting shipper(s): La Tolteca Foods, Inc., P.O. Box 1430, Pueblo, CO 81002 and Johnson Food Company, P.O. Box 7099, Colorado Springs, CO 80933. Send protests to: H. Ruoff, 492 U.S. Customs House, Denver, CO 80202.

MC 114569 (Sub-343TA), filed August 23, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same as applicant). *Printed matter* from the facilities utilized by Ingram Book Co. at or near Nashville, TN; Jessup, Westminster, Baltimore, MD; Bristol, Scranton, PA; Berryville, VA; City of Industry, Los Angeles, CA; Seattle, WA and their commercial zones to points in the U.S. (except AK and HI) restricted to traffic originating at the facilities utilized by Ingram Book Company, for 180 days. Supporting shipper(s): Ingram Book Company, 347 Reedwood Dr., Nashville, TN 37167. Send protests to: I.C.C., Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 114948 (Sub-22TA), filed Aug. 27, 1979. Applicant: KENTUCKY WESTERN TRUCK LINES, INC., P.O. Box 623, Hopkinsville, KY 42240. Representative: Richard Gleaves, Atty., 631 Stahlman Bldg., Nashville, TN 37201. Authority sought to operate as a contract carrier, over irregular routes, to transport Milk Cartons, in truckload lots, from Sikeston, MO, to New Orleans, LA, including the commercial zones of each city, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): A. C. Centanni, Gold Seal Creamery, Inc., 520 S. Alexander St., New Orleans, LA 70119. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 115669 (Sub-193TA), filed September 11, 1979. Applicant: DAHLSTEN TRUCK LINE, INC., 101 West Edgar Street, P.O. Box 95, Clay Center, NE 68933. Representative: Wilbur G. Hoyt (same address as applicant). *(1) Salt and salt products and (2) Materials and supplies used in agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, when shipped in mixed loads with commodities named in (1) above* from the facilities of Lake Crystal Salt Co., a subsidiary of Process Minerals, Inc., at or near Saline and Ogden, UT to Phoenix, AZ; Denver and Hudson, CO; Boise and Pocatello, ID; Ft. Dodge, IA; Fremont, Grand Island, Lincoln, McCook, Norfolk, North Platte and Omaha, NE; Rapid City, SD and Riverton, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lake Crystal Salt

Co., Processed Minerals Inc., P.O. Box 459, Hutchinson, KS 67501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 117119 (Sub-772TA), filed August 29, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). *Such merchandise* as is dealt in by automotive supply stores (except commodities in bulk) from points in CA, IA, IL, IN, MI, OH, OK and TX to facilities of Henderson Wheel and Supply, Inc. at Salt Lake City, UT and Boise, ID, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Henderson Wheel and Supply, Inc., 112 West 34th Street, Boise, ID 83703. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-773TA), filed September 10, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Confectionery* (except in bulk), in vehicles equipped with mechanical refrigeration, from W. Reading and Wyomissing, PA to Omaha, NE; Kansas City, KS; St. Louis, MO; Memphis, TN; Chicago, IL; and Minneapolis, MN, and their respective commercial zones, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): R. M. Palmer Company, 77 2nd Ave., W. Reading, PA 19611. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 117119 (Sub-774TA), filed September 11, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: Martin M. Geffon, P.O. Box 156, Mt. Laurel, NJ 08054. *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Winchester, VA to Logansport, IN, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Rich Products Corporation, 1145 Niagara St., Buffalo, NY 14213. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 119399 (Sub-106TA), filed August 30, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. *(1) Animal and poultry feed and ingredients and (2) materials and supplies used in the manufacture thereof,* (1) from Rolla, MO to points in the United States (except AK and HI) and (2) from points in the United States (except AK and HI) to Rolla, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Bow Wow Co., Inc., P.O. Box 936, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-107TA), filed August 22, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Malt beverages in containers,* from Omaha, NE to Springfield, MO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Queen City Beer Wholesalers, Inc., 666 N. Nettleton, Springfield, MO. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-108TA), filed August 27, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Return empty drums used in the transporting of petroleum products,* from points in AL, IL, IN, IA, KY, KS, MI, MN, MS, MO, NE, ND, AR, OK, OH, SD, TN, and WI, to Evans Drum Company on Highway 90 approximately 4 miles west of Dayton, TX; and Houston, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Texaco, Inc., Box 52332, Houston, TX 77052. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119399 (Sub-109TA), filed September 6, 1979. Applicant: CONTRACT FREIGHTERS, INC., 2900 Davis Boulevard, Joplin, MO 64801. Representative: Don D. Lacy (same as applicant). *Livestock feeders, except plastic containers, or commodities in bulk,* from the facilities of Poli-Tron, Inc., Crawford County, KS, to points in the U.S. (except Alaska and Hawaii) and materials and supplies used or useful in manufacturing the above described commodity from points in the U.S. to the facilities of Poli-Tron, Inc., Crawford County, KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Poli-Tron, Inc., P.O. Box 581, Pittsburg, KS 66762. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 119789 (Sub-626TA), filed September 4, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. *Refined sugar,* in packages, from Mathews, LA to points in TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The South Coast Corporation, P.O. Box 8036, Houma, LA 70360. Send protests to: Opel M. Jones, TA, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 119988 (Sub-211TA), filed September 5, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103-East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). *Leonardite,* (except in bulk) from Brewster County, TX to points in CO, NM, AR, TN, AL, MS, GA, FL, NC, and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Valley Land & Cattle, Ltd., P.O. Box 63, Terlingua, TX 79852. Send protests to: John F. Mensing, DS, ICC, 515 Rusk #8610, Houston, TX 77002.

MC 119988 (Sub-212TA), filed September 13, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). (1) Foodstuffs and pet foods (2) such commodities that are used in the processing, milling, packaging, manufacturing or sale of foodstuff and pet foods (except commodities in bulk, in tank vehicles) between the facilities of Carnation Company at or near Elwood, KS; St. Joseph, MO; and Garland, TX and points in the states of AR, LA, NM, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Carnation Company, 5045 Wilshire Blvd., Los Angeles, CA 90036. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 119988 (Sub-213TA), filed September 13, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, TX 75901. Representative: Mike Cox (same as applicant). Such commodities as are dealt in by wholesale, retail and chain grocery and food business houses (except commodities and commodities in bulk) from the facilities of The Clorox Company, at or near Houston, TX and destined to statewide points in AR, LA, OK and NW, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Clorox Company, 1221 Broadway St., Oakland, CA 94612. Send protests to: John F. Mensing, DS, ICC, 515 Rusk Ave. #8610, Houston, TX 77002.

MC 121658 (Sub-25TA), filed September 10, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Paper and paper products and plastic bags,* from facilities of Continental Can Co. at or near Hodge, LA to facilities of Great Plains Bag Co. at or near Jacksonsville, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Forest Industries, Office Park II, Greenwich, CT 06830. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 121658 (Sub-26TA), filed August 27, 1979. Applicant: STEVE D. THOMPSON TRUCKING, INC., P.O. Drawer 149, Winnsboro, LA 71295. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Plastic containers* from facilities of Sewell Plastics, Inc. at Jackson, MS to Eunice, LA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Sewell Plastics, 595 Industrial Dr. Hawkins Field, Jackson, MS. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 124408 (Sub-15TA), filed August 29, 1979. Applicant: THOMPSON BROS. INC., 3604 Hovland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. *Such commodities as are dealt in by hardware stores, drug stores, discount stores, department stores, and supermarkets (except in bulk, in tank vehicles)* from the facilities of Action Industries, Inc., at or near Cheswick, PA to points in AR, AL, AZ, CA, CO, ID, IL, IA, KS, KY, LA, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, WI and WY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Action Industries, Inc., 460 Nixon Road, Cheswick, PA 15024. Send protests to: J. L. Hammond, DS, ICC, Room 455, Federal Bldg., Pierre, SD 57501.

MC 124679 (Sub-104TA), filed August 30, 1979. Applicant: C. R. ENGLAND & SONS, INC., 975 West 21st, South, Salt Lake City, UT 84119. Representative: Daniel E. England (same address as applicant). *Ice cream mix* in mechanically refrigerated equipment, from the facilities of McWilly's Enterprises, Inc., at Salt Lake City, UT to Las Vagas, NV and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McWilly's Enterprises, Inc., 715 East 3ith South, Salt Lake City, UT 84117. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84136.

MC 125368 (Sub-91TA), filed September 4, 1979. Applicant: CONTINENTAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same as applicant). *Meat, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A, B, and C of Appendix I to the Report in Descriptions in Motor Carriers Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk)* between the facilities of Northern State Beef Co., at or near Omaha, NE, on the one hand, and, on the other, points in CA, CT, IL, IA, KS, LA, MD, MA, MN, MO, NH, NJ, NY, OK, OH, PA, TX, VA, WA, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Northern States Beef Inc., 3435 Gomez, Omaha, NE 68107. Send protests to: Sheila Reece, 800 Briar Creek Rd., Rm. CC516, Charlotte, NC 28205.

MC 127579 (Sub-27TA), filed August 17, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 N. Macon St., Baltimore, MD 21205. Representative: Glenn M. Heagerty (same as applicant). *Such merchandise as is dealt in by Retail Stores* between MD, NJ, PA, and VA, on the one hand, and, on the other, CA, FL, and TX. Restricted to traffic originating at or destined to facilities utilized by Best Products Co., Inc. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Best Products Co., Inc., P.O. Box 26303, Richmond, VA 23260. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 127848 (Sub-8TA), filed August 22, 1979. Applicant: WAYNE W. SELL CORPORATION, 236 Winfield Road, Sarver, PA 16055. Representative: Jerome Solomon, Esquire, 3131 United States Steel Building, Pittsburgh, PA 15219. Gypsum in bulk, in dump vehicles, from the facilities of United States Gypsum Company in Oakfield, NY to the facilities of Penn-Dixie Cement Company at West Winfield, PA for 180 days. An underlying ETA for 90 days has been sought. Supporting shipper(s): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 128638 (Sub-21TA), filed Aug. 29, 1979. Applicant: CENTRAL GRAIN HAULERS, INC., Route 7, Van Meter Road, Winchester, KY 40391. Representative: Wm. L. Willis, Atty., 708 McClure Bldg., Frankfort, KY 40601. Dog and cat food, except in bulk, from St. Mary's, OH, to points in KY, MD, VA, and WV. (Transportation will be from the facilities of Country Food Division, Agway Incorporated, at St. Mary's, OH) for 180 days. An underlying seeks 90 days authority. Supporting shipper(s): Rodney K. Williams, Southern States Cooperative, Inc., P.O. Box 26234, Richmond, VA 23260. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 128878 (Sub-45TA), Filed August 24, 1979. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 3904, Shreveport, LA 71103. Representative: C. Wade Shemwell (same address as applicant). Contract, irregular routes, *Lumber, plywood and forest products* from the facilities of Crown Zellerback Corporation at Joyce, LA to points in AL, MS, and TX, for 180 days. Applicant has filed an underlying ETA seeking 90 days. Supporting shipper(s): Crown Zellerback Corporation, P.O. Box 1060, Bogalusa, LA 70427. Send protests to: Robert J. Kirspel, DS, ICC, T-9038 Federal Bldg., 701 Loyola Ave., New Orleans, LA 70113.

MC 129219 (Sub-22TA), Filed September 14, 1979. Applicant: CMD TRANSPORTATION, INC., 12340 S. E. Dumolt Road, Clackamas OR 97015. Representative: Philip G. Skofstad, 1525 N. E. Weidler Street, Portland, Oregon 97232, 503-288-8441. Contract, Irregular (1) *Electric storage batteries and components of electric storage batteries;* between Los Angeles and San Jose, CA and Denver, CO, on the one hand, and, on the other, Phoenix and Tucson, AZ, Albuquerque, NM and Dallas, TX. (2) *Scrap electric storage batteries* from Phoenix and Tucson, AZ, Albuquerque, NM and Dallas, TX, to Los Angeles, CA and from Denver, CO, to Dallas, TX, for 180 days. Supporting shipper(s): ESB, INC. AUTOMOTIVE DIVISION, P.O. Box 6266, Cleveland, OH 44101. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 129908 (Sub-8TA), Filed September 7, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 S. W. 15th Street, Oklahoma City, OK 73107. Representative: Wm L. Peterson, Jr., Century Center, Suite 250, 100 W. Main, Oklahoma City, OK 73102. *Fiberglass reinforcments (rovings, woven rovings, chopped strand and mat) and equipment, materials and supplies used in the manufacturing of fiberglass reinforcements,* between facilities of CertainTeed Corporation at Wichita Falls, TX, on the one hand, and, on the other, points in AZ, CA, GA, IA, IL, IN, NY, OH, OR, TN, UT, & WA, for 180 days. Supporting shipper(s): CertainTeed Corporation, 4515 Allendale Road, Wichita Falls, TX 76310. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

V 44 OC 24 79 UMI

MC 129908 (Sub-9TA), Filed September 7, 1979. Applicant: AMERICAN FARM LINES, INC., 8125 Southwest 15th Street, Oklahoma City, OK 73107. Representative: T. J. Blaylock (same address as applicant). *Wooden furniture, in packages*, from all points in the state of VA, to Oklahoma City, OK, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mathis Bros. Furniture, Inc., 3434 W. Reno, Oklahoma City, OK 73108. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 134349 (Sub-31TA), Filed September 13, 1979. Applicant: B.L.T. CORPORATION, 405 Third Avenue, Brooklyn, NY 11215. Representative: Eugene M. Malkin and Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, N.Y. 10048. *Contract carrier*, irregular routes: *Such commodities as are dealt in or used by discount department stores, and equipment, materials and supplies used in the conduct of such business (except commodities in bulk and foodstuffs)*, between New York, NY and Secaucus, NJ, on the one hand, and, on the other, points in MI, IL, WI and MN, under a continuing contract with Jubilee Shops, Inc., of Secaucus, NJ, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Jubilee Shops, Inc., 80 Enterprise Ave., Secaucus, NJ 07094. Send protests to: Maria B. Kejss, TA. ICC, 26 Federal Plaza, New York, N.Y. 10007.

MC 134599 (Sub-174TA), filed September 6, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORPORATION, 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. *Contract Carrier:* Irregular Routes: *Such commodities as are used, manufactured and dealt in by producers of rubber and rubber products* (except commodities in bulk and those which because of size or weight require special handling or equipment), for the account of The Armstrong Rubber Company, (1) from Laurel Hill, NC and Baton Rouge, LA, to the facilities of The Armstrong Rubber Company at West Haven, CT, Madison, TN, Clinton, TN, Natchez, MS, and Hanford, CA. (2) From Baton Rouge, LA to the facilities of The Armstrong Rubber Company at Des Moines, IA. (3) From the facilities of The Armstrong Rubber Company at Madison, TN, Natchez, MS, and West Haven, CT, to points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (4) From the facilities of The Armstrong Rubber Company at West Haven, CT, to Jacksonville, FL. (5) From the facilites of The Armstrong Rubber Company at Des Moines, IA, to points in MN, WI, IL, IN, OH, TX, OK, AL, FL, GA, NC, SC, MA, and VA. (6) From the facilities of The Armstrong Rubber Company at Knoxville, TN, to points in NC, SC, GA, FL and TX. (7) From the facilities of The Armstrong Rubber Company at Hanford, CA, Des Moines, IA, and Natchez, MS to Memphis, TN. (8) From Borger, TX, to the facilities of The Armstrong Rubber Company at West Haven, CT, Natchez, MS, Madison, TN, and Hanford, CA. (9) From the facilities of The Armstrong Rubber Company at West Allis, WI, to points in IA and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Armstrong Rubber Company, 500 Sargent Drive, New Haven, CT 06507. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 136408 (Sub-48TA), filed September 14, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Contract carrier; irregular routes: *Chemicals (except in bulk, in tank vehicles)* from Worcester, MA to IL, IN, IA, KS, MI, MN, MO, NE, OH and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Monsanto Company, John J. Powell, Transportation Manager, 800 N. Lindbergh Blvd., St Louis, MO 63166. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 138329 (Sub-5TA), filed September 4, 1979. Applicant: HICKMAN BROTHERS TRUCKING, INC., Rt. 2, Box 330, Monroe, NC 28110. Representative: George W. Clapp, P.O. Box 836, Taylors, SC 29687. *Hot Mix asphalt, in bulk, in dump vehicles*, from the facilities of Blythe Industries, Inc. at or near Pineville, NC to points in York County, SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blythe Industries, Inc., P.O. Box 989, Charlotte, NC 28231. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd—Rm CC516, Charlotte, NC 28205.

MC 138438 (Sub-67TA), filed August 31, 1979. Applicant: D. M. BOWMAN, INC., Route 2, Box 43A1, Williamsport, MD 21795. Representative: Edward N. Button, 329 Pennsylvania Ave., Hagerstown, MD 21795. *Acoustical tile, panels, noise control products, accessories, materials, equipment, and supplies used in the manufacture and distribution thereof*, between Hagerstown, MD and its commercial zone on the one hand, and, on the other, points in NY, PA, WV, IN, GA, NC, SC, FL, OH, DE, NJ, VA, CT, RI, MD, VT, ME, IL, NH, MA, and DC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Acoustiflex Corp., 811 Center St., Plainfield, IL 60544. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 139809 (Sub-10TA), filed September 11, 1979. Applicant: FORBES REFRIGERATED TRANSPORT, INC., P.O. Box 7098, Wilson, NC 27893. Representative: William P. Jackson, Jr., PO Box 1240, Arlington, VA 22210. *(1) Foodstuffs (except in bulk)*, from Millsboro and Seaford, DE to points in CT, MA, NJ, NY, PA and RI and *(2) materials, equipment and supplies used in the manufacture and distribution of foodstuffs (except in bulk)* from points in CT, MA, NJ, NY, PA and RI to Millsboro and Seaford, DE, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Vlassic Foods, Inc., 33200 W. 14 Mile Rd., W. Bloomfield, MI 48033. Send protests to: Sheila Reece, T/A, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 140159 (Sub-12TA), filed August 29, 1979. Applicant: C. L. FEATHER, INC., P.O. Box 1190, Altoona, PA 16601 Representativs: Thomas M. Mulroy, Esquire, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Stone, except in bulk, from the facilities of Stone Tile, Inc., Youngstown, OH to points in PA, for 180 days. An underlying ETA has been sought for 90 days. Supporting shipper(s): Coronado Stone Company, P.O. Box 382, Duncansville, PA 16635; Stone Tile, Inc., 730 Bey Rd., Youngstown, OH 44512. Send protests to: J. J. England, D/S, ICC, 2111 Federal Building, Pittsburgh, PA 15222.

MC 140389 (Sub-74TA), filed September 4, 1979. Applicant: OSBORN TRANSPORTATION, INC., P.O. Box 1830, Highway 77, Gadsdeen, AL 35902. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Building, Birmingham, AL 35203. *Vegetable oils and vegetable oil shortening*. From the facilities of S.C.M. Durkee at Louisville, KY, to TN, MD, NJ, MA, RI, CT, OR, UT, TX, NV, WA, DE, NH, SC, NC, CA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S.C.M. Durkee Foods Co., Inc., 900 Union Commerce Building, Cleveland, OH. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 140709 (Sub-11TA), filed September 7, 1979. Applicant: FANKHAUSER BROS., INC., 139 Hillside, El Dorado, KS 67042. Representative: Clyde N. Christey, Suite 110L, 1010 Tyler, Topeka, KS 66612. Liquid feed and Liquid feed ingredients, between Brainerd, KS and points in CO, IA, MO, NE, OK and TX; for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Golden Glo, Inc., P.O. Box 825, Pratt, KS 67124; Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 141119 (Sub-4TA), filed August 30, 1979. Applicant: MERCHANTS 5 STAR, INC., P.O. Box 541, Marietta, OH 45750. Representative: John L. Alden, 1396 W. 5th Ave., Columbus, OH 43212. *Contract carrier:* irregular routes: *Plastic film, sheeting, and plastic plate rigid, and materials, equipment and supplies used in their installation*, from the facilities of The B. F. Goodrich Company at or near Marietta, OH to Muscatine, IA, Tuscon, Yuma, Wilcox, and Wintersburg, AZ, Tallahassee and Fort Walton Beach, FL, Newport, Pinewood and Rock Hill, SC, Gulfport, MS, Limerick, PA, Casper, WY, and Harrisburg, AR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The B. F. Goodrich Company, 500 S. Main St., Akron, OH 44318. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila, PA 19106.

MC 141728 (Sub-6TA), filed August 24, 1979. Applicant: WILMINGTON CORP., 24 Industrial Way, Wilmington, MA 01887. Representative: Stanley A. Twargo, Esq., Mintz, Levin, Cohn, Glovsky and Popeo, One Center Plaza, Boston, MA 02108. *Contract carrier:* irregular route: *such commodities as are sold or used in retail stores (except commodities in bulk, commodities requiring the use of special equipment, malt beverages, frozen foods, and food stuffs)* between the facilities of Edison Brothers Stores, Inc. located at points in CA, CO, FL, GA, MA, MO, NJ, NY, NV, PA, UT and TX under a continuing contract with Edison Brothers Stores, Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edison Brothers Stores, Inc., 420 Locust St., St. Louis, MO 63102. Send protests to: John B. Thomas, 150 Causeway Street, Boston, MA 02114.

MC 141729 (Sub-2TA), filed April 13, 1979. Applicant: AUTREY BUS LINES, INC., 726 Sevier Ave, Knoxville, TN 37920. Representative: John K. Harber, P.O. Box 1270, 707 Gay St., Knoxville, TN 37920. *Common carrier:* regular routes: *Passengers and their baggage in the same vehicle, package express, and charter rights interstate*, (1) between Sevierville, TN and Newport, TN: from Sevierville over Tennessee Hwy 35 or U.S. Highway 411 to Newport, and return over same route, serving all intermediate points; (2) between Knoxville, TN and Elkmont, TN: from Knoxville over Tennessee Highway 71 or U.S. Highway 441 to Elkmont, and return over same route, serving all intermediate points; (3) between Sevierville and the Knox-Sevier County Line: from Sevierville over Tennessee Highway 35 or U.S. Highway 411 to Knox-Sevier County Line, and return over same route, serving all intermediate points; (4) between Sevierville, TN, and Junction Tennessee Highway 71 or U.S. Highway 441, with unnumbered highway: from Sevierville over Tennessee Highway 71 or U.S. Highway 441 to junction unnumbered highway known as Old Knoxville-Sevierville Highway, thence over Old Knoxville-Sevierville Highway to Shooks Gap, and return over the same route, serving all intermediate points; and (5) between Newport, TN and Greeneville, TN: from Newport over U.S. Highway 411 to Greeneville, and return over the same route, for 180 days. An underlying ETA seeks 90 days. *Common carrier:* irregular routes: *Passengers and their baggage in the same vehicle with passengers, in charter operations, in round-trip sightseeing*, beginning and ending at Knoxville, Gatlinburg, Sevierville, Pigeon Forge, Greeneville, Newport, and Chestnut Hill, TN and extending to points in the United States (except Alaska and Hawaii), through points on the International Boundry Line between the United States and Canada, located at points in the United States, for 180 days.

Note.—Applicant proposes to interline at Knoxville, TN. An underlying ETA seeks 90 days authority. There are 9 supporting shippers. Their statements may be examined at the office listed below and headquarters. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 141759 (Sub-13TA), filed September 4, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 S. High St., Columbus, OH 43207. Representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Rd., Fort Worth, TX 76112. *Contract carrier:* Irregular routes: *Advertising matter, magazines, periodicals, and equipment, materials and supplies used in the printing and publishing business*, from Dayton, OH to pts in AZ, CA, CO, ID, MT, NV, NM, OR, TX, WA, and WY, for 180 days. Supporting shipper(s): Dayton Press, Inc., 2219 McCall St., Dayton, OH 45401. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 142508 (Sub-114TA), filed September 12, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Foodstuffs (except in bulk)* from the facilities of Kaukauna Dairy Products in Little Chute, WI to points in the United States (except AK and HI) for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kaukauna Klub Products, P.O. Box 229, Kaukauna, WI 54130. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th Street, Omaha, NE 68102.

MC 142508 (Sub-115TA), filed September 6, 1979. Applicant: NATIONAL TRANSPORTATION, INC., 10810 South 144th Street, P.O. Box 37465, Omaha, NE 68137. Representative: Lanny N. Fauss, P.O. Box 37096, Omaha, NE 68137. *Antifreeze (except in bulk)* from the facilities of Citco at St. Louis, MO to points in NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Allied Oil & Supply, 2209 South 24th St., Omaha, NE 68108. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 143059 (Sub-104TA), filed September 12, 1979. Applicant: MERCER TRANSPORTATION COMPANY, P.O. Box 35610, Louisville, KY 40232. Representative: Edw. G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. and 13th St. NW., Washington, DC 20004, and Clayte Binion, III, 1108 Continental Life Bldg., Ft. Worth, TX 76102. *Pipe, pipe fittings and pipe accessories* (except as described in Mercer, Extension—Oilfield Commodities, 74 M.C.C. 459), between points in the US (except AK and HI), for 180 days. Supporting shipper(s): 26 supporting shippers. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 143499 (Sub-8TA), filed September 14, 1979. Applicant: DOUBLE NICKEL TRANSPORT LDT., 50 South Main St., Pearl River, NY 10965. Representative: John L. Alfano, Esq. & Roy A. Jacobs, Esq., Alfano & Alfano, P.C., 550 Mamaroneck Avenue, New York, N.Y. 10528. *Contract carrier*, irregular routes: *Plastic raw materials (except in bulk)*, from Orangeburg, NY to Denver, CO, Richmond, VA, and points in CA; for 180 days; an underlying ETA seeks 90 days authority. Supporting shipper(s): Mini Grip, Inc., Route 303, Orangeburg, NY. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, NY 10007.

V 44 OC 24 79 UMI

MC 143688 (Sub-2TA), filed August 30, 1979. Applicant: PEARL CONTRACT CARRIERS, INC., 4001 N.W. 3rd St., Room 101A, Oklahoma City, OK 73107. Representative: C. L. Phillips, 1411 N. Classen, Room 248, Classen Terrace Bldg., Oklahoma City, OK 73106. *Contract carrier,* irregular routes: *Alcoholic beverages,* in containers, between points and places in CA, FL, IL, KY, MA, MI, MN, NY, SD, WA, and Oklahoma City, OK, for 180 days. Supporting shipper(s): Central Liquor Company, 4001 N.W. 3rd St., Room 100, Oklahoma City, OK 73107. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 143739 (Sub-31TA), filed September 14, 1979. Applicant: SHURSON TRUCKING COMPANY, INC., P.O. Box 147, New Richland, MN 56072. Representative: Michael L. Carter (same as applicant). *Such commodities as are dealt in by wholesale, retail, and chain grocery and food business houses (except commodities in bulk),* from points in AZ, CA, CO, IL, IN, KS, MN, OH, TX, WA, WV, and WI, to points in UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gibson's Product Company, Warehouse Manager, 5955 South Main Street, Murray, UT 84107. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 143988 (Sub-9TA), filed August 13, 1979. Applicant: JAMES W. TATE d.b.a., JAMAR TRUCKING, 2995 Sandbrook, P.O. Box 18970, Memphis, TN 38118. Representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, TN 38317. *General commodities,* (except Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and articles which require special handling because of size or weight), from the facilities of the Memphis Defense Depot, at Memphis, TN to Fort Hood, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): USALSA, Room 422 Nassif Building, 5611 Columbia Pike, Falls Church, VA 22041. Send protests to: Floyd A. Johnson, Interstate Commerce Commission, 100 North Main Street, Suite 2006, Memphis, TN 38103.

MC 144688 (Sub-34TA), filed August 6, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Place, Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE. *Household cleaning products, water purifying compounds and dry acids (except in bulk),* from the facilities of Purex Corp, at or near Atlanta, GA, to points in the states of AL, FL, and TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 144688 (Sub-35TA), filed August 7, 1979. Applicant: READY TRUCKING, INC., 4722 Lake Mirror Pl., Forest Park, GA 30050. Representative: Lavern R. Holdeman, 521 S. 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. *Scrap plastics,* from points in AL and FL (except Birmingham, AL and Miami, FL) to the facilities of ABC Polymers, Inc., at or near Atlanta, GA. Supporting shipper(s): ABC Polymers, Inc., 2561 Ponte Vedra Blvd., Ponte Vedra Beach, FL 32082. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 144858 (Sub-21TA), filed September 7, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Shampoo, toilet preparations and accessories* for the foregoing items (except commodities in bulk, in tank vehicles), from facilities of Cosmair, Inc. at South Brunswick, NJ, to Chicago, IL; Detroit, MI; and points in AZ, CA, CO, NV, NM, and UT, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Cosmair, Inc., 222 Terminal Ave., Clark, NJ 07066. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-22TA), filed August 23, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Foodstuffs,* (except commodities in bulk, in tank vehicles), from points in Tarrant, Dallas and Harris Counties, TX, to points in the U.S. (except AK and HI), for 180 days. Supporting shipper(s): Uncle Ben's Foods, a division of Uncle Ben's, Inc., P.O. Box 1752, Houston, TX 77001. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-23TA), filed August 27, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. *Meats, meat products, meat by-products and articles distributed by meat packinghouses,* as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between Britt and Mason City, IA, on the one hand, and on the other, points in the U.S. (except NM, WY, MT, AK and HI), restricted to shipments originating at or destined to facilities used by Lauridson Foods, Inc., at Britt, IA, and Armour & Co. at Mason City, IA, for 180 days. Supporting shipper(s): Armour & Co., Greyhound Tower, Phoenix, AZ 85077. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144858 (Sub-24TA), filed September 4, 1979. Applicant: DENVER SOUTHWEST EXPRESS, INC., P.O. Box 9799, Little Rock, AR 72209. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. *Decorative boxes,* knocked down, from facilities of Bendix Forest Products at Stockton, CA, to Grand Rapids, MI, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Bendix Forest Products, P.O. Box 8368, Stockton, CA 95208. Send protests to: William H. Land, DS, 3108 Federal Bldg., Little Rock, AR 72201.

MC 144888 (Sub-15TA), filed August 28, 1979. Applicant: BIL-RIC TRANSPORT SYSTEMS, INC., 130 Somerset Street, Somerville, NJ 08876. Representative: Joel J. Nagel, 19 Back Drive, Edison, NJ 08817. Contract carrier, irregular routes for 180 days. Office equipment, supplies and plastic articles and materials used in their manufacture from St. Petersburg, FL to Parkridge, NJ and Rochester, NY with a stop off at Bardstown, KY. To from and in between points and places in Bardstown, KY, Parkridge, NJ and Rochester, NY. An underlying ETA seeks 90 days authority. Supporting shipper(s): Burroughs Corporation, 76 Park Avenue, Park Ridge, NJ 07656. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 144989 (Sub-9TA), filed August 1, 1979. Applicant: BLUE RIDGE MOUNTAIN CONTRACT CARRIER, INC., P.O. Box 1965, Dalton, GA 30720. Representative: S. H. Rich, 1600 Cromwell Court, Charlotte, NC 28205. *Contract carrier:* irregular routes: *Bedspreads, carpets, carpeting, rugs and materials used in the manufacture of bedspreads, carpet, carpeting and rugs,* between the facilities of Lawtex Industries, Inc. at Calhoun and Dalton, GA and Piedmont, AL, on the one hand, and, on the other, Indianapolis, IN and its commercial zone, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Lawtex Industries, Inc., P.O. Box 1328, Dalton, GA 30720. Send protests to: Sara K. Davis, TA, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 145738 (Sub-12TA), filed September 4, 1979. Applicant: EAST-WEST MOTOR FREIGHT, INC., P.O. Box 525, Selmer, TN 38375. Representative: Richard M. Tettlebaum, SERBY & MITCHELL, P. C., Fifth Floor, Lenox Tower South, 3390 Peachtree Road, NE, Atlanta, GA 30326. (1) *Candles, cleaners, light bulbs, cards and shampoo,* from the facilities of Henco, Inc., at or near Selmer, TN to Las Vegas, NV; (2) *Glass,* from Connellsville, PA and Salem, NJ to the facilities of Henco, Inc. at or near Selmer, TN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Henco, Inc., P.O. Box 547, Selmer, TN 38375. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main Building, Memphis, TN 38103.

MC 145888 (Sub-2TA), filed September 6, 1979. Applicant: GRAHAM BELL, d.b.a. B&W TRUCKING, 392 Essex Avenue, Gloucester, MA 01930. Representative: Robert G. Parks, 20 Walnut Street, Suite 101, Wellesley Hills, MA 02181. *Cheese, in vehicles equipped with mechanical refrigeration,* from Gloucester, MA to points in the New York, NY commercial zone and to Neptune, NJ. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): N. Dorman & Company, 125 Michael Drive, Syosset, NY 11791. Send protests to: John B. Thomas, 150 Causeway Street, Boston, MA 02114

MC 146949 (Sub-7TA), filed September 5, 1979. Applicant: McINVALE TRUCK LINES, INC., 5965 Hwy. 18 W., Jackson, MS 39209. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *New furniture* from the facilities of Madison Furniture Industries, Inc. at or near Canton, MS to points in AZ, CA, CO, NV, OR and WA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Madison Furniture Industries, Inc., P.O. Box 111, Canton, MS 39046. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

MC 146949 (Sub-8TA), filed September 6, 1979. Applicant: McINVALE TRUCK LINES, INC., 5965 Hwy. 18 W., Jackson, MS 39209. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Sleeping bags* from Jackson and Pelahatchie, MS to Los Angeles, CA and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Continental Leisure Products, Inc., Flowood Dr., Flowood, MS 39208. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 West Capitol St., Jackson, MS 39201.

MC 147199 (Sub-1TA), filed July 30, 1979. Applicant: MWM TRUCKING, INC., P.O. Box 736, 424 W. Madison St., Ottawa, IL 61350. Representative: Edward McNamara, 907 S. 4th St., Springfield, IL 62703. *Salt in bulk,* from LaSalle County, IL to points in the states of IN, MI, IA, KY, MO, and WI for 180 days. An underlying ETA seeks 30 days authority. Supporting shipper(s): Domtar Industries, Inc.—Sifto Salt Div., 9950 W. Lawrence Ave., Shiller Park, IL 60176; Diamond Crystal Salt Co., 916 S. Riverside Ave., St. Clair, MI 48079. Send protests to: Cheryl Livington, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 147438 (Sub-1TA), filed August 28, 1979. Applicant: SULLIVAN TRUCKING CO., INC., P.O. Box 235, Warsaw, KY 41095. Representative: Herbert D. Liebman, P.O. Box 235, Frankfort, KY 40602. Authority sought to operate as a Contract Carrier, over irregular routes, transporting Foundary Facing (also known as pre-mix), and Seacoal Facing (also known as ground bituminous coal), from Cincinnati, OH, to Jefferson and Boyle Counties, KY, for the account of The Hill & Griffith Co., Cincinnati, OH, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Tom Wise, Traffic Mgr., Hill & Griffith Co., 1262 State Ave., Cincinnati, OH 45204. Send protests to: Ms. Clara L. Eyl, T/A, ICC, 426 Post Office Bldg., Louisville, KY 40202.

MC 147539 (Sub-2TA), filed September 6, 1979. Applicant: SOMAVRAC, INC., 2420 Boulevard des Recollects, Centre Industriel, Three Rivers, PQ, Canada. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Sodium sulfate (salt cake), in bulk, from ports of entry on the United States-Canada Boundary Line in ME, NH and VT to points in ME and MH for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Canadian Industries Ltd., 45 Sheppard East, Willowdale, Ontario, Canada M2N 2C9. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 147939 (Sub-1TA), filed August 31, 1979. Applicant: CHARLOTTE VAN & STORAGE COMPANY, INC., P.O. Box 3544, Charlotte, NC 28203. Representative: Frank E. Watson, P.O. Box 3544, Charlotte, NC 28203. *New uncrated and uncartoned furniture and furnishings* from Charlotte and Statesville, NC to points in AL, CT, DE, FL, GA, KY, ME, MD, MA, MS, NH, NY, RI, TN, VT and SC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Blackwelder Furniture Company, Hwy, 21 North, Statesville, NC 28677. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 147948 (Sub-3TA), filed September 11, 1979. Applicant: A. J. ROSS ENTERPRISES, INC., 225 Smith Street, Keasbey NJ 08832. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Structural steel from Ambridge and Pittsburgh, PA to Keasbey, NJ and New York, NY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Levinson Steel Co., P.O. Box 1617, Pittsburgh, PA 15230. Send protests to: Irwin Rosen, TS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148179 (Sub-1TA), filed September 12, 1979. Applicant: V. S. ENTERPRISES, INC., 1717 N. Broadway, St. Louis, MO 63107. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. (1) *Glass containers* and *container accessories* from the facilities of Kerr Glass Manufacturing Corp. located at Dunkirk, IN to points in the St. Louis, MO–E. St. Louis, IL commercial zone, and (2) *empty containers* and *supplies* used in the manufacture of glass containers on return, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Kerr Glass Manufacturing Corp., P.O. Box 97, Sand Springs, OK 74063. Send protests to: P. E. Binder, TS, ICC, Rm. 1465, 210 N. 12th St., St. Louis, MO 63101.

MC 144678 (Sub-11TA), filed August 30, 1979. Applicant: AMERICAN FREIGHT SYSTEM, INC., 9393 W. 110th Street, Suite 500, Overland Park, KS 66210. Representative: Harold H. Clokey (same address as applicant). *General Commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment),* Route 1: Between Atlanta, GA and Ft. Worth, TX, serving all intermediate points, and serving the off-route point of Tyler, TX. From Atlanta, GA over I–20 to Ft. Worth, TX and return over the same route; also from Atlanta, GA over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to junction U.S. Hwy 80 then over U.S. Hwy 80 to Ft. Worth, TX and return over the same route. Route 2: Between Atlanta, GA and Dallas, TX, serving all intermediate points. From Atlanta, GA over U.S. Hwy 78 to Birmingham, AL, then over U.S. Hwy 11 to Tuscaloosa, AL, then over U.S. Hwy 82 to Texarkana, TX, then

V 44 0C 24 79 UMI

over U.S. Hwy 67 to Dallas, TX and return over the same route; also, from Texarkana, TX over I-30 to Dallas, TX, and return over the same route. Route 3: Between Atlanta, GA and Mobile, AL, serving all intermediate points. From Atlanta, GA over I-85 to Montgomery, AL then over I-65 to Mobile, AL and return over the same route; also, from Atlanta, GA over U.S. Hwy 29 to Tuskegee, AL, then over U.S. Hwy 80 to Montgomery, AL, then over U.S. Hwy 31 to Mobile, and return over the same route. Route 4: Between Birmingham, AL and Lake City, FL serving all intermediate points. From Birmingham, AL over U.S. Hwy 31 to Montgomery, AL, then over U.S. Hwy 231 to Dothan, AL, then over U.S. Hwy 84 to Bainbridge, GA, then over U.S. Hwy 27 to Tallahassee, FL, then over U.S. Hwy 90 to Lake City, FL and return over the same route; also, from Birmingham, AL over I-65 to Montgomery, AL and return over the same route. Route 5: Between Tuscaloosa, AL and New Orleans, LA, serving all intermediate points. From Tuscaloosa, AL, over U.S. Hwy 11 to New Orleans, LA, and return over the same route; also, from Tuscaloosa, AL over I-59 to junction I-10, then over I-10 to New Orleans, LA and return over the same route. Route 6: Between Lake City, FL and Dallas, TX serving all intermediate points and the off-route points of Galveston, Baytown, Texas City and Port Arthur, TX. From Lake City, FL over U.S. Hwy 90 to Houston, TX, then over U.S. Hwy 75 to Dallas and return over the same route; also from Lake City, FL over U.S. Hwy 41 to junction I-10, then over I-10 to junction I-12, the over I-12 to Baton Rouge, LA, then over I-10 to Houston, TX, then over I-45 to Dallas, TX and return over the same route. Route 7: Between Ft. Worth, TX and Denver, CO, serving all intermediate points. From Ft. Worth, TX over U.S. Hwy 287 to Amarillo, TX, then over U.S. Hwy 87 to Denver, CO, and return over the same route; also from Raton, NM over I-25 to Denver, CO, and return over the same route. Route 8: Between St. Louis, MO and New Orleans, LA serving all intermediate points. From St. Louis, MO over U.S. Hwy 61 to Memphis, TN, then over U.S. Hwy 51 to junction U.S. Hwy 61, then over U.S. Hwy 61 to New Orleans, LA and return over the same route; also, from St. Louis, MO over I-55 to junction I-10 then over I-10 to New Orleans, LA and return over the same route. Route 9: Between Kansas City, MO and New Orleans, LA, serving all intermediate points. From Kansas City, MO over U.S. Hwy 50 to Sedalia, MO, then over U.S. Hwy 65 to Natches, MS, then over U.S. Hwy 61 to New Orleans, LA and return over the same route. Supporting shipper(s): There are 2,189 shipper support appendix forms attached to this application. These can be viewed at Commission offices in Washington, DC or the field office at Kansas City. Send protests to: Vernon V. Coble, DS, ICC, 600 Federal Bldg., 911 Walnut Street, Kansas City, MO 64106.

MC 147009 (Sub-1TA), filed May 11, 1979. Applicant: DEAN HUGHS, P.O. Box 98, New Berlin, IL 62670. Representative: Douglas G. Brown, INB Center-Suite 555, Springfield, IL 62701. *Common, Irregular: Paper and paper products* from Terre Haute, IN to points within the following IL counties: Adams, Bond, Brown, Calhoun, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cumberland, DeWitt, Douglas, Effingham, Fayette, Ford, Fulton, Green, Hancock, Jasper, Jersey, Knox, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McLean, Mernard, Montgomery, Morgan, Moultrie, Peoria, Piatt, Pike, St. Clair, Sangamon, Schuyler, Scott, Shelby, Tazewell, Warren, Woodford for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Weston Paper & Manufacturing Co., P.O. Box 539, Terre Haute, IN 47808. Send protests to: D/S Charles D. Little, Room 414 Leland Office Bldg., 527 East Capitol Avenue, Springfield, IL 62701.

Notice No. 186

October 11, 1979.

MC 200 (Sub-397TA), filed August 17, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis, 903 Grand Avenue, Kansas City, MO 64106: *Mineral wool, fiber glass products, insulation materials, and insulated air ducts,* from the facilities of Knauf Fiber Class at Shelbyville, IN to points in the states of CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, and WV. Restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Knauf Fiber Glass, Elizabeth St., Shelbyville, IN 46176. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-398TA), filed August 21, 1979. Applicant: RISS INTERNATIONAL CORPORATION, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis 903 Grand Avenue, Kansas City, MO 64106. *Plastic film or sheeting and wrapping paper,* service Edinburg, IN as an intermediate point in connection with applicant's regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rexham Corpn., P.O. Box 188, Edinburg, IN 46124. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-400TA), filed September 14, 1979. Applicant: RISS INTERNATIONAL, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Machined brake drums and assembly, wheel hubs, and brake drums,* serving Longview, TX and Siloam Springs, AR as off-route points in connection with applicant's regular route service, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Webb Division Marmon Industries, Inc., 510 Indianapolis Avenue, Lebanon, IN 46052. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 200 (Sub-401TA), filed September 14, 1979. Applicant: RISS INTERNATIONAL, 903 Grand Avenue, Kansas City, MO 64106. Representative: H. Lynn Davis (same as applicant). *Glass bottles and containers,* between Indianapolis, IN and Millsboro, DE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Glass Containers Corp., 1301 South Keystone Avenue, Indianapolis, IN 46203. Send protests to: Vernon V. Coble, DS, I.C.C. 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 4941 (Sub-69TA), filed September 13, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same address as applicant). *Bakery goods, foodstuffs and nuts* from the facilities of Nabisco, Inc. at or near Richmond, VA to points in CT, ME, MA, NH, RI, and VT. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: John B. Thomas, DS, ICC, 150 Causeway Street, Boston, MA 02114.

MC 15511 (Sub-29TA), filed July 13, 1979. Applicant: CARSTENSEN FREIGHT LINES, INC., Highway 30 West, Clinton, IA 52732. Representative: Paul J. Maton, Suite 1620, 10 S. LaSalle St. Chicago, IL 60603. Common—Regular Routes: *General commodities (except household goods, class A or B explosives, commodities in bulk, articles of unusual value, and commodities requiring special equipment* between Davenport, IA, and Muscatine, IA, over U.S. Highway 61, serving all intermediate points; between Muscatine, IA, and the junction of U.S Highway 30, over IA Highway 38, serving all intermediate points; and between Rock Island, IL, and Muscatine, IA, over IL Highway 92, serving all intermediate points, for 180 days. Applicant presently is authorized to serve points in Rock Island County, IL. Applicant intends to tack with authority presently held in MC-15511 and interline at Davenport, IA, and its commercial zone; Cedar Rapids, IA; and the Chicago commercial zone. Supporting shipper(s): There are 12 shippers. Their statements may be examined at the office listed below and Headquarters. Send protests to: Herbert W. Allen, DS, ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 48221 (Sub-26TA), filed August 9, 1979. Applicant: W. N. MOREHOUSE TRUCK LINE, INC., 4010 Dahlman Avenue, Omaha, NE 68107. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Malt beverages and advertising material and premiums* from (1) Minneapolis, St. Paul, MN; and LaCrosse, WI to Omaha, NE and Council Bluffs, IA and from (2) St. Paul, MN; LaCrosse and Milwaukee, WI to Beatrice, NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): (1) Joe & Jerry's Distributing Co., 1501 So. Main, Council Bluffs, IA 51501; (2) Stanek Distributing Company, Inc., 301 S. 8th St., Omaha, NE 68102; (3) Martz Distributing, Inc., 801 Dorsey, Beatrice, NE 68310. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 52460 (Sub-259TA), filed September 5, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, 1420 W. 35th Street, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. *Meat, meat products and meat by-products,* from the facilities of Iowa Beef Processors, Inc., at or near Emporia, KS, to points in AL, AR, LA, MS, MO, OK, & TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Iowa Beef Processors, Inc., Dakota City, NE 68731. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 77061 (Sub-22TA), filed August 24, 1979. Applicant: SHERMAN BROS., INC., 29534 Airport Road, Eugene, OR 97402. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. *Roofing Materials,* from Contra Costa and Santa Clara Counties, CA to Douglas, Lane, Penton, Marion and Linn Counties, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Zellerback Paper Company, 345 Lincoln Street, Eugene, OR 97401. Send protests to: A. E. Odoms, DS, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 82101 (Sub-19TA), filed August 22, 1979. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. Representative: John P. Tynan, P.O. Box 777, 201 Juno Street, Jupiter, FL 33458. *Contract carrier:* irregular routes: *Kitchen or bathroom cabinets, cabinet doors, mouldings, boards, panels and brass, bronze or copper hardwear* from Nashua, NH to points in Berlin, Madison, South Windsor, CT, Lewistown, Newport, Old Town, Winthrop, ME, Sparrows Point, White Plains, MD, Boston, Braintree, Chicopee, Dennis, Lawrence, Methuen, Southwick, MA, Lansing, MI, Auburn, NE, Lakewood, Paterson, West Orange, NJ, Depew, De Witt, Niagara Falls, Oriskany, NY, Cleves, Empire, Loveland, Massillon, North Lima, Painesville, Pataskala, Springdale, OH, Carbondale, Luzerne, Mars, PA and Providence, RI for 180 days for the account of Triangle Pacific Corp. An underlying ETA seeks 90 days authority. Supporting shipper(s): Triangle Pacific Corp., 25 Crown Street, Nashua, NH 03060. Send protests to: John B. Thomas, D/S, ICC, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 105120 (Sub-21TA), filed September 10, 1979. Applicant: FREIGHTWAYS EXPRESS, INC., 2700 Sterick Building, Memphis, TN 38103. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Items used or dealt in by manufacturers of organs,* between Sikeston, MO, on the one hand, and, on the other, Franklin Park and Chicago, IL, for 180 days. Underlying ETA seeks 90 days authority. Supporting shipper(s): Sikeston Woodworking Co., #10 Industrial Dr., Sikeston, MO 63801. Send protests to: Floyd A. Johnson, Suite 2006, 100 N. Main St., Memphis, TN 38103.

MC 106400 (Sub-117TA), filed August 28, 1979. Applicant: KAW TRANSPORT COMPANY, P.O. Box 8510, Sugar Creek, MO 64054. Representative: Harold D. Holwick, P.O. Box 8510, Sugar Creek, MO 64054. *Liquid chemicals, in bulk, in tank vehicles,* from Kansas City, KS-Kansas City, MO commercial zone to Galveston and Houston, TX and the states of FL, NJ, NY, PA and WV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Reichhold Chemicals, Inc., 3150 Fiberglass Road, Kansas City, KS 66015. Send protests to: Vernon V. Coble, DDS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, MO 64106.

MC 108651 (Sub-26TA), filed August 27, 1979. Applicant: ROY B. MOORE, INC., Wilcox Drive, P.O. Box 628, Kingsport, TN 37662. Representative: Daniel H. Moore (same address as applicant). *Such commodities as are manufactured and/or distributed by the Eastman Kodak Company* between the facilities of Eastman Kodak in Rochester NY, and the facilities of Eastman Kodak Company at Chamblee, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eastman Kodak Company, 2400 Mount Read Blvd., Rochester, NY 14650. Send protests to: Glenda Kuss, TA, ICC, Suite A-422, U.S. Court House, 801 Broadway, Nashville, TN 37203.

MC 111401 (Sub-589TA), filed August 20, 1979. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). *Liquefied petroleum gas,* in bulk, in tank vehicles, from Warren Petroleum Company facilities, (1) Terry County plant at Terry County, TX; (2) Wright Plant at Dawson County, TX; and (3) Glass Plant at Martin County, TX, to Warren Petroleum Company's Saunders Plant, 22 miles northwest of Lovington, in Lea County, NM, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Warren Petroleum Company, P.O. Box 1589, Tulsa OK 74102. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 112851 (Sub-7TA), filed June 26, 1979. Applicant: GEORGE B. REYNOLDS d.b.a. REYNOLDS TRUCKING CO., RR 1, Crawsfordsville, IN 47933. Representative: Logan Clay Products, Brazil IN 47834. *Clay products* from Brazil, IN to all points in the states of IL, MI, and KY for 180 days. Supporting shipper(s): The Logan Clay Products Co., P.O. Box 196, Brazil, IN 47834. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 113271 (Sub-64TA), filed August 23, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. *Sulfuric acid, in bulk,* from points in Shoshone County, ID to the facilities of Western Nuclear, Inc. located at or near Wellpinit, WA, for 180 days. An underlying ETA seeks 90 days authority.

V 44 0C 24 79 UMI

Supporting shipper(s): Phelps Dodge Corporation, 300 Park Avenue, New York, NY 10022. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 113651 (Sub-312TA), filed July 17, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). *Meat, meat products, meat by-products, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, (except commodities in bulk), from Oklahoma City, OK to Elizabeth, NJ, for 180 days. Supporting shipper: Cornett Packing Company, P.O. Box 26947, Oklahoma City, OK 73126. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 113651 (Sub-314TA), filed July 16, 1979. Applicant: INDIANA REFRIGERATOR LINES, INC., P.O. Box 552, Muncie, IN 47305. Representative: Glen L. Gissing (same address as applicant). *Frozen foodstuffs*, from Milton, PA to points in MI, WI, MN, IA, MO, KS and NE, for 180 days. Supporting shipper: American Home Foods Division, American Home Products Corp., 685 Third Avenue, New York, NY 10017. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 114290 (Sub-90TA), filed September 12, 1979. Applicant: EXLEY EXPRESS, INC., 2610 S E Eighth, Portland, OR 97202. Representative: Nick I. Goyak, One S. W. Columbia, Suite 555, Portland, OR 97258. *Bakery products, except frozen bakery products* from Portland, OR to Tucson, and Phoenix, AZ, for 180 days. Supporting shipper(s): Nabisco, Inc., East Hanover, NJ 07936. Send protests to: R. V. Dubay, ICC, 114 Pioneer Courthouse, Portland, OR 97204.

MC 115841 (Sub-735TA), filed August 16, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Paint, Varnish, solvents, paint brushes, rollers, pans, and advertising material related to the above*, from Chicago and Wheeling, IL to Greensboro, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): The Enterprise Paint Co., 1191 S. Wheeling Rd., Wheeling, IL 60090. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Court House, Nashville, TN 37203.

MC 115841 (Sub-736TA), filed September 5, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Bldg. 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). *Chemicals, toilet preparations, personal care items, liquid soap, cleaning compounds, buffing and polishing compounds, floor varnish, mop heads and mop handles, scrubbing and buffing pods, plastic bags, plastic articles, and foodstuffs*, from Chicago, IL and its commerical zone to Atlanta, GA; Sparks, NV; Dallas and Houston, TX; Raleigh, Greensboro, Charlotte and Henderson, NC; and Lakeland, Orlando, Miami and Tampa, FL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alberto Culver, 2525 Armitage Ave., Melrose Park, IL 60160. Send protests to: Glenda Kuss, TA, ICC, Suite A–422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 118130 (Sub-115TA), filed September 4, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76115. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Meats, meat products, meat byproducts and articles distributed by meat packing houses* as described in Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766. From the facilities of Swift & Company at Cactus, Texas to points in FL, GA, NC, SC and TN, for 180 days. Underlying ETA for 90 days filed. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL 60604. Send protests to: Opal Jones, TCS, Rm. 9A27 Federal Bldg., ICC, 819 Taylor St., Fort Worth, TX 76102.

MC 119641 (Sub-174TA), filed August 20, 1979. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. *Glass*, from the plantsite and storage facilities of LOF Glass, Inc. at or near Laurinburg, NC to points in IL, IN, IA, MO, MN, ND, SD, KS, NE and WI, for 180 days. Supporting shipper: Libby-Owens-Ford Company, 811 Madison Avenue, Toledo, OH 43695. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204.

MC 119700 (Sub-64TA), filed August 17, 1979. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Ave., Kansas City, MO 64105. *Plastic pipe and fittings*, from the plantsite of Robinstech, Inc. at Rolla, MO, to points in the States of AR, IL, IN, IA, KY, MI, MN, MS, LA, OH, OK, TX, and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Robintech, Inc., P.O. Box 1235, Rolla, MO 65401. Send protests to: Vernon V. Coble, DS, ICC, 600 Fed. Bldg., 911 Walnut St., Kansas City, Mo 64106.

MC 123061 (Sub-131TA), filed August 20, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16028 Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 East South Temple #501, Salt Lake City, Ut 84102. *Salt and salt products* from the facilities of Morton Salt at Newark, CA to American Falls, Blackfoot, Burley, Caldwell, Idaho Falls, Nampa and Twin Falls, ID, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Morton Salt Division of Morton-Norwich Products, Inc., 110 N. Wacker Drive, Chicago, IL 60606. Send protests to: L. D. Felfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 124841 (Sub-9TA), filed June 21, 1979. Applicant: D. D. JACOBS, INC., 903 Irene, Walla Walla, WA 99362. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Contract carrier:* irregular routes: *Frozen fruits, berries and vegetables*, between Milton-Freewater, OR and Walla Walla, WA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. F. Frozen Foods, Inc., P.O. Box F, Milton-Freewater, OR 97862. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 125951 (Sub-51TA), filed August 8, 1979. Applicant: SILVEY REFRIGERATED CARRIERS, INC., 7000 West Center Road, Suite 325, Omaha, NE 68106. Representative: Robert M. Cimino (same address as applicant). *Malt beverages* from St. Louis, MO; Peoria, IL; and Milwaukee, WI to the facilities of Doll Distributing at or near Council Bluffs, IA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Doll Distributing, Inc., 3022 Second Avenue, Council Bluffs, IA 51501. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 127840 (Sub-134TA), filed September 11, 1979. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, Lansing, IL 60438. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL. *Tallow*, in bulk, in tank vehicles, from Pueblo, CO to Points in AR, AZ, CA, IA, ID, KS, LA, MN, MO, MT, NE, ND, NM, NV, OK, SD, TX, UT, WA, and WY for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Alpha Beta, P.O. Box 916, 303 Santa Fe Drive, Pueblo, CO 81002. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 127910 (Sub-2TA), filed August 16, 1979. Applicant: C. B. W. TRANSPORT SERVICE, INC., P.O. Box 48, Wood River, IL 62095. Representative: Ernest A. Brooks, II, 1301 Ambassador Bldg., St. Louis, MO 63101. *Contract carrier:* irregular routes: *Petroleum products and lubricating oils*, in bulk (except petrochemicals) from the facilities of Mobil Oil Corp. at or near St. Louis, MO to points in MS, for the account of Mobil Oil Corporation, for 180 days. Supporting shipper(s): Mobil Oil Corporation, 8350 N. Central Expressway, Suite 522, Campbell Centre, Dallas, TX 75206. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 129301 (Sub-13TA), filed August 6, 1979. Applicant: ENGLISH AND SONS CORPORATION, 412 Kingshighway, Thorofare, NJ 08086. Representative: James H. Sweeney, 468 Kentucky Avenue, RD 5, Williamstown, NJ 08094. Contact, Irregular. (1) *Foodstuffs, canned, preserved or prepared, beverages, non-alcoholic.* (2) *Display racks*, (1) from points in DE, PA and NJ to Jessup, Elkridge, Columbia, Landover and Silver Spring, MD (2) from Cherry Hill, NJ to points in MD and VA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Giant Food Inc., P.O. Box 1804, Washington, DC 20013. Send protests to: Robert E. Johnson, D/S, ICC, 744 Broad St., Room 522. Newark, NJ 07102.

MC 129480 (Sub-44TA), filed September 13, 1979. Applicant: TRI-LINE EXPRESSWAYS, LTD., 550–71st Avenue S.E., Calgary, AB, Canada T2H 0S6. Representative: Richard S. Mandelson, 1600 Lincoln Center Bldg., 1660 Lincoln St., Denver, CO 80264. *Ground clay, in bags*, from Christmas Valley, OR to the International Boundary line between the U.S. and Canada located at ports of entry in WA, ID and MT, for 180 days. Any underlying ETA seeks 90 days authority. Supporting shipper(s): Oil-Dri West, 520 North Michigan Ave., Chicago, IL 60611. Send protests to: Paul J. Labane, DS, ICC, 2602 First Avenue North, Billings, MT 59101.

MC 129631 (Sub-70TA), filed August 22, 1979. Applicant: PACK TRANSPORT, INC., 3975 South 300 West, Salt Lake City, UT 84107. Representative: G. D. Davidson (same address as applicant). *Sand and dolomite* from Platte County, WY to Salt Lake County, UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Intermountain Spec. Construction, 4646 Riverside, Salt Lake City, UT. Send protests to: L. D. Helfer, DS, ICC, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 129841 (Sub-2TA), filed August 29, 1979. Applicant: WHITFIELD BUS LINES, INC., 400 South Compress, Las Cruces, NM 88001. Representative: Robert E. Crews (same address as applicant). *Contract carrier:* irregular routes: *Detained aliens and guards and their baggage in the same vehicle*, between points in KS, NE, and WY, under a continuing contract with U.S Department of Justice, Immigration and Naturalization Service, for 180 days. An underlying ETA seeks 90 days authority. NOTE: Applicant proposes to Tack the authority sought here with authority held in MC 129841 Sub 1. Supporting shipper(s): U.S. Department of Justice, Immigration and Naturalization Service, 1787 Federal Office Building, Denver, CO 80202. Send protests to: DS/ICC, 1106 Federal Office Building, 517 Gold Avenue SW, Albuquerque, NM 87101.

MC 129951 (Sub-5TA), filed September 19, 1979. Applicant: HARLEY I. KEETER, JR., 6379 Valmont Drive, Boulder, CO 80301. Representative: Harley I. Keeter, Jr., (same address as applicant). Ore and ore concentrates from Boulder, County, CO to East Helena, MT, for 180 days. Underlying ETA filed seeking 90 days authority. Supporting shipper(s): Hendricks Mining Company, Inc., 3000 North 63rd, Boulder, CO 80301. Send protests to: Roger Buchanan, 492 U.S. Customs House, Denver, CO 80202.

MC 134300 (Sub-40TA), filed September 13, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Records and tapes, sound recording*, from the facilities used by K-Tel International, Inc., at Ronkonkoma, NY, to the facilities used by K-Tel International, Inc., at Indianapolis, IN, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): K-Tel International, Inc., National Director of Transportation, 11311 K-Tel Drive, Minnetonka, MN 55343. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 134300 (Sub-41TA), filed September 13, 1979. Applicant: TRIPLE R EXPRESS, INC., 498 First Street Northwest, New Brighton, MN 55112. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. *Plastic and iron pipe fittings and tubing; also adhesive cement*, from the facilities of U-Brand Corporation at or near Shelby, OH, to points in IL and MN for 180 days. Supporting shipper(s): U-Brand Corporation, Traffic Manager, 816 Clark Street, Ashland, OH 44805. Send protests to: Judith L. Olson, TA, ICC, 414 Federal Building, 110 South 4th Street, Minneapolis, MN 55401.

MC 135070 (Sub-106TA), filed August 28, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, 720 N. Grand, Amarillo, TX 79120. Representative: Gailyn Larsen, 137 N.W. 17th, P.O. Box 82816, Lincoln, NE 68501. *Weed killing compounds and materials and supplies used in the manufacture and distribution thereof* from Ennis and Liberty, TX to Minot, ND, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Eli Lilly and Company, P.O. Box 618, Indianapolis, IN 46206. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 135070 (Sub-107TA), filed September 10, 1979. Applicant: JAY LINES, INC., 720 N. Grand, P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn Larsen, P.O. Box 82816, Lincoln, NE. *Return empty drums used in the transportation of petroleum products* from CA and CO, to Houston, TX and Evans Drum Company, approximately 4 miles west of Dayton, TX on Highway 90 for 180 days. Underlying ETA seeks 90 days filed. Supporting shipper(s): Texaco Inc., P.O. Box 52332, Houston, TX 77052. Send protests to: Martha A. Powell, I.C.C., Rm. 9A27 Federal Bldg., Fort Worth, TX 76102.

MC 135410 (Sub-90TA), filed August 27, 1979. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Daniel Hands, Suite 200, 205 W. Touhy Ave., Park Ridge, IL 60068. *Toilet preparations*, from the plantsite of Peterson Puritan in Danville and Momence, IL to the plantsite of John H. Breck at Ft. Madison, IA for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): American Cyanamid Company, Berdan Avenue, Wayne, NJ 07470. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm. 1386, Chicago, IL 60604.

MC 135811 (Sub-15TA), filed July 18, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Theodore Polydoroff, 1307 Dolley Madison Blvd., McLean, VA 22101. *Contract carrier,*

V 44 OC 24 79 UMI

irregular routes; *welders, welding products and parts, materials, equipment, and supplies used in connection therewith; alloys, chemical compounds, gaseous compounds; and materials and supplies used in the manufacture of welding products,* (1) Between La Porte, TX and Stockertown, PA, on the one hand, and, on the other, points in the United States, under contract with PPG Industries, Inc. of Pittsburgh, PA, (2) Between Holland, MI and Huntington, WV, on the one hand, and, on the other, points in the United States, under contract with BSAF Wyandotte Corporation of Holland, MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): BASF Wyandotte Corporation, 491 Columbia Avenue, Holland, MI 49423. Send protests to: E. E. Strotheid, D/S, ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 136161 (Sub-22TA), filed August 13, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry W. Welbers, P.O. Box 163, Spring Valley, IL 61362. *Chemicals and chemical compounds, and materials and supplies used in the manufacture and packaging thereof* (other than bulk), between the facilities of B. F. Goodrich Chemical Division at/Near Henry, IL and points in MN, IA, MO, WI, KY, TN, IN, OH, WV, and MI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): B. F. Goodrich Chemical Division, P.O. Box 15, Henry, IL 61537. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 136161 (Sub-23TA), filed September 4, 1979. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry Welbers (same address as applicant). *Agricultural chemicals and materials and supplies used in the manufacture and packaging thereof (other than bulk),* between the facilities of American Cyanamid Co. at or near Atlanta, Mendota, and Rockford, IL and points in IN, MI, OH, KY, TN, WV, WI, IA, MO, & MN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. Send protests to: Cheryl Livingston, TA ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 136161 (Sub-24TA), filed 9/7/79. Applicant: ORBIT TRANSPORT, INC., P.O. Box 163, Spring Valley, IL 61362. Representative: Barry W. Welbers, P.O. Box 163, Spring Valley, IL 61362. *Canned Goods* between the facilities of SCM Corporation at or near Brooklyn, NY and points in IL and WI for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Durkee Foods, division of SCM Corporation, 1001 8th Avenue, Bethlehem, PA 18018. Send protests to: Annie Booker, TA, Room 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 136220 (Sub-86TA), filed September 5, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. *Ferroalloys,* (in bulk, in dump vehicles), from the Port of Catoosa, OK, to Pueblo and Minnequa, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Autlan Metals International Co., 4710 Bellaire Blvd., Bellaire, TX 77401. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd, Oklahoma City, OK 73102.

MC 138000 (Sub-54TA), filed September 4, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Ave, P.O. Box 1417, Hagerstown, MD 21740. *Automobile parts, and materials, supplies (except in bulk) equipment and related articles used in the manufacture and production of motor vehicles* from Indianapolis, IN, and its commercial zone to Detroit, MI and its commercial zone for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Motors Corp., Logistics Operations, 30007 Van Dyke, Warren, MI 48090. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 138741 (Sub-88TA), filed August 14, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. *Roofing and building materials,* from the facilities of GAF Corporation at/near Kansas City, MO to points and places in KS, NE and OK for 180 days. Supporting shipper(s): GAF Corporation, 1361 Alps Rd., Wayne, NJ 07470. Send protests to: Annie Booker, TA, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

MC 138741 (Sub-89TA), filed August 27, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Metal and metal articles,* from the facilities of S–G Metals Industries in Kansas City, KS to points in TN and NE for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): S–G Metals Industries, Inc., 2nd & Riverview, Kansas City, KS 66110. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 138741 (Sub-90TA), filed August 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Iron and steel articles,* from the facilities of Norfolk Iron and Metal Co. at or near Norfolk, NE to points and places in AR, KS, KY, MO OK, and TN for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Norfolk Iron & Metal Co., Inc., 300 Braasch Ave., Box 1129, Norfolk, NE 68701. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 138741 (Sub-91TA), filed August 29, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 N. Broadway, Joliet, IL 64035. Representative: Tom Kretsinger, 20 E. Franklin, Liberty, MO 64068. *Iron and steel articles,* from the facilities of Nucor Steel at or near Norfolk, NE to points and places in AR, KS, KY, MO, OK, and TN for 180 days. An underlying ETA was granted for 90 days authority. Supporting shipper(s): Nucor Steel, P.O. Box 309, Norfolk, NE 68701. Send protests to: Cheryl Livingston, TA, ICC, 219 S. Dearborn, Rm 1386, Chicago, IL 60604.

MC 139340 (Sub-7TA), filed August 31, 1979. Applicant: YELVINGTON TRANSPORT, INC., 800 Big Tree Road, Daytona Beach, FL 32015. Representative: Ralph B. Matthews, P.O. Box 56387, Atlanta, GA 30343. *Contract carrier,* irregular routes, transporting clay and clay products and jointing materials and attendant equipment, materials and supplies (except in bulk) used in the installation thereof, including compounds which are manufactured and distributed by the manufacturers of clay products, from the facilities of Dickey Company at or near Bradenton, FL to Bessemer, AL and from the facilities of Dickey Company at Bessemer, AL to points in FL on return, for 180 days. Under a continuing contract or contracts with Dickey Company. Supporting shipper(s): Dickey Company, P.O. Box 6, Pittsburgh, KS 66762. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 139401 (Sub-2TA), filed September 11, 1979. Applicant: EARL W. NORRIS, 3654 Gertrude Street, Omaha, NE 68147. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. *Iron and steel* from the facilities of Jones & Laughlin Steel Company at or near Hennepin, IL to the facilities of Nebraska Engineering Company at Omaha, NE for 180 days. Supporting shipper(s): Nebraska Engineering Company, 9364 North 45th St., Omaha, NE 68112. Send protests to: D/S Carroll Russell, ICC, Suite 620, 110 North 14th St., Omaha, NE 68102.

MC 141131 (Sub-3TA), filed September 13, 1979. Applicant: THE BIRGE COMPANY, INC., 421 East 16th Street, Paterson NJ 07514. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Contract, irregular. *Artists materials and supplies,* between Brunswick, ME; Cranbury, NJ; and New York, NY. Under a continuing contract or contracts with M. Grumbacher, Inc., of New York, NY, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): M. Grumbacher, Inc., Englehart Drive, Cranbury, NJ 08512. Send protests to: Joel Morrows, D/S, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 142181 (Sub-10TA), filed August 15, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Bldg., Nashville, TN 37217. *Contract carrier:* irregular routes; *Unfrozen foodstuffs,* from Atlanta, GA to points in AL, FL, NC, and SC and from Rochester, NY to Atlanta, GA, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): RAGU' FOODS, INC., 33 Benedict Place, Greenwich, CT 06830. Send protests to: Glenda Kuss, TA, ICC, 801 Broadway, Suite A–422, U.S Courthouse, Nashville, TN 37203.

MC 142181 (Sub-11TA), filed August 15, 1979. Applicant: LIBERTY CONTRACT CARRIER, INC., P.O. Box 1104, 214 Hermitage Ave., Nashville, TN 37202. Representative: Robert L. Baker, 618 United American Bank Building, Nashville, TN 37219. *Contract Carrier:* irregular routes; (1) *Such commodities as are sold or dealt in by a manufacturer of metal products* and (2) *equipment materials, and supplies used in the conduct of such business,* between Nashville, TN, on the one hand, and points in AL, AR, FL, GA, IL, IN, KA, KY, LA, MS, MO, NE, OH, OK, SC, TN, TX, and VA, on the other, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Cincinnati Sheet Metal and Roofing Co., 130 Nester St., Nashville, TN 37210. Send protests to: Glenda Kuss, TA, ICC, Suite A–422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 142601 (Sub-5TA), filed July 9, 1979. Applicant: CECO TRANSPORT, INC., 5601 W. 26th St., Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 S. LaSalle, St., Chicago, IL 60603. *Contract carrier:* irregular routes: *Glass containers and closures for glass containers,* from the facilities of the Ball Corporation, in Lake and Cook Counties, IL to points in AR, KS, OK and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ball corporation, 345 S. High St., Muncie, IN 47302. Send protests to: David Hunt, TA, Rm. 1386, 219 S. Dearborn St., Chicago, IL 60604.

MC 143061 (Sub-5TA), filed August 17, 1979. Applicant: ELECTRIC TRANSPORT, INC., P.O. Box 338, Eden, NC 27288. Representative: K. Edward Wolcott, 1200 Gas Light Tower, 235 Peachtree St. NE., Atlanta, GA 30303. *Contract carrier:* Irregular routes: *Such commodities as are dealt in or used by a manufacturer of electrical products (except commodities which because of size or weight require special equipment and commodities in bulk) for the account of General Electric Co.* between Mebane, NC, on the one hand, and on the other, points in the U.S. in and west of LA, AR, MO, IA and WI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): General Electric Company, I–85 Buckhorn Rd., Exit, Mebane, NC 27302. Send protests to: Sheila Reece, Transportation Assistant, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143540 (Sub-19TA), filed September 4, 1979. Applicant: MARINE TRANSPORT COMPANY, 330 Shipyard Blvd., Wilmington, NC 28402. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. *Contract carrier:* Irregular routes; *Soybean flour, in marine containers* from Minneapolis, MN to Wilmington, NC, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Co., Checkerboard Square, St. Louis, MO 63188. Send protests to: Sheila Reece, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 143890 (Sub-2TA), filed September 11, 1979. Applicant: C. H. EURE TRUCKING, INC., Rt. 1, Box 363, Hobbsville, NC 27946. Representative: C. H. Eure (same address as above). *Lumber and fencing materials* (1) from Hertford, Bertie, Gates, Chowan, Perquimans, Pasquotank, Camden and Currituck Counties, NC to points in VA, MD, DE, and NJ and (2) from points in NJ, DE, MD and VA to points in NC and VA, for 180 days. An underlying ETA seeks 90 days authority. Applicant intends to tack this authority with MC–143890. Supporting shipper(s): Gates Custom Milling, P.O. Box 409, Suffolk, VA 23434, MacMillan Bloedel Building Materials, 6540 Powers Ferry Rd., Suite 200, Atlanta, GA 30339. J. W. Jones Lumber Co., Inc., Rt. 3, Box 410, Elizabeth City, NC. Rodney-Foreman Company, Suite 11 Habit Bldg., Elizabeth City, NC. Send protests to: Sheila Reece, TA, 800 Briar Creek Rd-Rm CC516, Charlotte, NC 28205.

MC 144030 (Sub-6TA), filed July 10, 1979. Applicant: DRUE CHRISMAN, INC., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN 46025. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. *Non-alcoholic beverages,* in containers, and *materials, supplies and equipment* (except commodities in bulk) used in the manufacture, production and distribution of beverages, between Sunman, IN, on the one hand, and, on the other, points in IL, KY, MI, OH and PA, for 180 days. Supporting shipper(s): Domont Beverages, Inc., 1 Indiana Square, Suite 3155, Indianapolis, IN 46204. Send protest to : Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144030 (Sub-7TA), filed July 13, 1979. Applicant: DRUE CHRISMAN , INC., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN 47025. Representative: Robert W. Loser II, 1101 Chamber of Commerce Building, Indianapolis, IN 46204. *Barrel staves and heading,* from points in AR, IL, IN, MO, OH, PA, TN, and WV to Louisville, KY for 180 days. Supporting shipper(s): Louisville Cooperage Company, P.O. Box 8275, Louisville, KY 40208. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144281 (Sub-2TA), filed September 17, 1979. Applicant: NEW ENGLAND TRANSPORT, INC., LTD., P.O. Box 27, Chester Depot, VT 05144. Representative: Brian S. Stern, 2425 Wilson Boulevard, Suite 327, Arlington, VA 22201. Contract carrier, irregular routes: *Building materials (except brick, refractory products, and materials, equipment and supplies used in the installation thereof, and except commodities in bulk),* between ports of entry on the International Boundary Line between the United States and Canada located in ME, NH, VT and NY on the one hand, and, on the other, points in ME, NH, NY, VT, MA, CT, RI, PA, and NJ, for 180 days. Supporting shipper(s): IKO Industries, Ltd., 71 Orenda Road, Brampton, Ontario,

V 44 0C 24 79 UMI

Canada L6W 1V7. Send protests to: Carol A. Perry, TA, ICC, P.O. Box 548, Montpelier, VT 05602.

MC 144630 (Sub-31TA), filed July 26, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, 9000 Keystone Crossing, Suite 945, Indianapolis, IN 46240. *Automobile parts and materials, equipment and related articles used in the manufacture, production and assembly and transportation of motor vehicles, off-highway vehicles and component parts thereof,* between Anderson, IN, Monroe, LA, Jackson and Clinton, MS, on the one hand, and, on the other, points in IN, IL, MI, OH and KY, for 180 days. Supporting shipper: Guide Division General Motors Corporation, 2915 Pendleton Ave., Anderson, IN 46011. Send protests to: B. J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144630 (Sub-32TA), filed July 30, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, Suite 945–9000 Keystone Crossing, Indianapolis, IN 46240. Contract Carrier: Irregular route: (1) *Electric furnaces, air compressors, heat pumps, and electrical components* from Dallas, TX to Seattle, WA and (2) *Space heaters, outlet boxes, and electrical components* from Orting, WA to Dallas, TX for 180 days. Restriction: Restricted to service to be performed under a contract or continuing contract with Square D Company. Supporting shipper: Square D Company, 7575 Empire Drive, Florence, KY 41042. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204.

MC 144630 (Sub-34TA), filed September 20, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46015. Representative: Donald W. Smith, Suite 945, 9000 Keyston Crossing, Indianapolis, IN 46240. *Brake drums, wheels, and rough castings* (1) Between the facilities of Webb Division, Marmon Industries at Lebanon, IN and Siloam Springs, AR on the one hand, and on the other, Clearfield, UT, Chattanooga, TN, East Jordan, MI, and Springfield, MO; (2) Between the facilities of Webb Division, Marmon Industries at Siloam Springs, AR, and Lebanon, IN; (3) Between East Jordan, MI, and Springfield, MO; (4) From Longview, TX to Siloam Springs, AR; and (5) Between Siloam Springs, AR, and Rockford, IL; (6) From Chattanooga, TN to Springfield, MO for 180 days. Supporting shipper: Webb Division, Marmon Industries, 510 Indianapolis Ave., Lebanon, IN 46052. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 429 Federal Bldg., 46 E. Ohio St., Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144630 (Sub-35TA), filed August 30, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46011. Representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. *Paper and paper products, equipment, materials and supplies used in the manufacture and distribution thereof,* (1) from Philadelphia, PA and points in the Commercial Zone of Philadelphia, PA to points in IL, IN and OH, (2) from Columbus, OH to points in IL, IN and KY, (3) from Jacksonville, FL to points in AL, GA and LA, (4) from Mobile, AL to points in IL, IN, OH and LA, for 180 days. Supporting shipper(s): Scott Paper Company, Scott Plaza I, Philadelphia, PA 19113. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 144981 (Sub-2TA), filed September 7, 1979. Applicant: ARNOLD HOSELTON, d.b.a. JOHN DAY-PORTLAND AUTO FREIGHT, P.O. Box 5, John Day, Oregon 97845. Representative: Lawrence V. Smart, Jr., 419 N. W. 23rd Avenue, Portland, Oregon 97210. *Lumber,* from the facilities of Edward Hines Lumber Co. at Seneca, Hines, and John Day, OR, to Kamas, Salt Lake City, Ogden and Provo, UT, and to Lafayette and Denver, CO, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Edward Hines Lumber Co., P.O. Box 280, John Day, Oregon 97845. Send protests to: R. V. Dubay, DS, ICC, 114 Pioneer Courthouse, Portland, Oregon 97204.

MC 145170 (Sub-12TA), filed September 13, 1979. Applicant: BRELAR, INC., P.O. Box 796, Greenville, MS 38701. Representative: K. Larry Stivers, 1553 Sunridge Cove, Greenville, MS 38701. (1) *Such merchandise as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed houses, soy products, paste flour products, dairy based products and* (2) *materials, ingredients and equipment and supplies used in development, manufacture, distribution and sale of items in (1) above,* except commodities in bulk, between the facilities used by Ralston-Purina Company, at or near Oklahoma City, OK, and points in AR, LA, MS, TN, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Ralston Purina Company, 13700 N. Lincoln Blvd., Edmond, OK 73034. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 145341 (Sub-6TA), filed August 16, 1979. Applicant: NORTH CENTRAL DISTRIBUTING CO., 2001 North University Drive, Fargo, ND 58102. Representative: William J. Gambucci, 414 Gate City Building, P.O. Box 1680, Fargo, ND 58107. *Lumber, lumber mill products, millwork and wood products,* from the facilities of Quality Wood Treating Company, Inc., located at or near Prairie du Chien and Janesville, WI to points in IA, MN, NE, ND, and SD, restricted to the transportation of traffic originating at the named origins and destined to the named states, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Quality Wood Treating Co., Inc., 1520 South Sixteenth Street, P.O. Box 367, Prairie du Chien, WI 53821. Send protests to: H. E. Farsdale, DS, ICC, Room 268 Fed. Bldg. & U.S. Post Office, 657 2nd Avenue North, Fargo, ND 58102.

MC 145360 (Sub-6TA), filed September 12, 1979. Applicant: THOM'S TRANSPORT COMPANY, INC., Box 405, Blackshear, GA 31516. Representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, FL 32202. *Wood residuals, dry, restricted against tank vehicles,* from Blackshear, Dudley and Fitzgerald, GA to point in FL for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Gilman Paper Company, P.O. Box 520, St. Marys, GA 31558. Send protests to: Jean King, TA, ICC, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

MC 145481 (Sub-11TA), filed August 22, 1979. Applicant: COYOTE TRUCK LINE, INC., 501 Sam Ralston Road, Lebanon, IN 46052. Representative: John T. Wirth, 717 17th Street, Suite 2600, Denver, CO 80202. *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk and those requiring special equipment),* between Los Angeles, CA on the one hand, and, on the other, points in and east of MN, NE, KS, OK and TX for 180 days. RESTRICTION: Restricted to traffic which is at the time moving on bills of lading of a non-profit shipper association. Supporting shipper: MSA–LAMDA, Inc., 4430 East Sheila Street, Los Angeles, CA 90023. Send protests to: Beverly J. Williams, Transportation Assistant, ICC, 46 E. Ohio St., Rm. 429, Indianapolis, IN 46204. An underlying ETA seeks 90 days authority.

MC 145760 (Sub-9TA), filed September 13, 1979. Applicant: JOHNSON TRANSPORTATION CO., 1327 Hwy. 13 N., Columbia, MS 39439. Representative: Fred W. Johnson, Jr., P.O. Box 22628, Jackson, MS 39205. *Plastic pipe with accessories and fittings used in the installation thereof from Geneva County, AL,* to points in AR, LA, MS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Samson Plastic Conduit & Pipe Corporation, P.O. Box 325, Samson, AL 36477. Send protests to: Alan Tarrant, D/S, ICC, Suite 1441, 100 W. Capital St., Jackson, MS 39201.

MC 145950 (Sub-48TA), filed August 16, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Route 6, Waco, TX 76706. Representative: E. Stephen Heisley, 666 Eleventh St., NW, Washington, DC 20001. *Meats, meat products, meat by-products, dairy products, and articles distributed by packinghouses,* as described in Sections A, B, and C of Appendix I to the report in Description of M.C.C. 61 MCC 209 and 766 (except hides and commodities in bulk) from the facilities of Swift & Co., located at or near Cactus and Fort Worth, TX to points in MA, NJ, DE, TN, VA, NC, SC, GA, AL, IN, and IL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Company, 115 West Jackson Blvd., Chicago, IL. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 145950 (Sub-49TA), filed August 16, 1979. Applicant: BAYWOOD TRANSPORT, INC., Route 6, Box 2611, Waco, TX 76706. Representative: Steve Heisley, 805 McLachlen Bank Bldg., 666 Eleventh N.W., Washington, DC 20001. *Chain saws, materials, parts and supplies used in their manufacture* from the facilities of McCulloch Corporation, at or near Lake Havasu City, AZ and Los Angeles, CA to Boise, ID; Columbus, OH; Southfield, MI; Elmhurst, IL; St. Louis, MO; Kansas City, MO; St. Paul, MN; Plover, WI; Laurence, PA; Hamburg, NY; Charleston, WV; Larchmont, NY; Hatfield, PA; Lorton, VA; Reading, MA; Jacksonville, FL; Shelly, NC; Decatur, GA; Marshall, TX; Baton Rouge, LA; Memphis, TN; Birmingham, AL; Seattle, WA, and Portland, OR, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): McCulloch Corporation, 6151 W. 98th St., Los Angeles, CA 90009. Send protests to: Opal M. Jones, TCS, Room 9A27, Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 146071 (Sub-18TA), filed August 27, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Fresh and boxed meat* from facilities of MBPXL Corp., at or near Plainview, TX to points in MI, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): MBPXL Corp., 2901 N. Mead, Wichita, KS 67201. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146071 (Sub-19TA), filed August 8, 1979. Applicant: DEETZ TRUCKING INC., P.O. Box 2, Strum, WI 54770. Representative: Charles Kimball, 350 Capitol Life Center, 1600 Sherman St., Denver, CO 80203. *Cheese and butter* from facilities of Swift & Co. at Green Bay, WI and facilities of Level Valley at West Bend, WI to points in IA, NE & KS, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Swift & Co., 115 W. Jackson Blvd., Chicago, IL 60604. Send protests to: Gail Daugherty, TA, ICC, 517 E. Wisconsin Ave., Rm. 619, Milwaukee, WI 53202.

MC 146360 (Sub-14TA), filed September 12, 1979. Applicant: FLOYD SMITH, JR. TRUCKING, INC., P.O. Box 816, Meridian, ID 83642. Representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. *Calcium carbonate (crushed limestone) in bags,* from ports of entry on the international boundary line between the U.S. and Canada located in ID and WA; from the facilities of Chemical Distributors at or near Seattle, WA and Portland, OR to points in ID, OR and WA, for 180 days. Supporting shipper(s): Chemical Distributors, P.O. Box 10763, Portland, OR 97210. Send protests to: Barney L. Hardin, D/S, ICC, Suite 110, 1471 Shoreline Dr., Boise, ID 83702.

MC 146670 (Sub-2TA), filed April 30, 1979. Applicant: McCLOUD, INC., 2151 N. 900 W. (P.O. Box 16027), Salt Lake City, UT 84116. Representative: Paul D. McCloud (same address as applicant). Contract carrier, irregular routes, *Household and commercial appliances and parts* for same, from Newton, IA and its commercial zone to Salt Lake City, UT, Los Angeles and San Diego, CA, and to Phoenix, AZ and their respective commercial zones, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Mountain States Laundry Equipment Co., 2151 No. 900 W. (P.O. Box 16027), Salt Lake City, UT 84116; Coin & Professional Equipment Co., Inc., 4111 N. 18th Pl., Phoenix, AZ 65016; The Maytag Company, 403 W. 4th St. N. Newton, IA 50208; Stanton Sales Corporation, 4801 West 147th Street, Hawthorne, CA 90250. Send protests to: L. D. Helfer, DS, 5301 Federal Bldg., Salt Lake City, UT 84138.

MC 147131 (Sub-2TA), filed August 20, 1979. Applicant: KENNAMER BROS. INC., Route 2, Box 866, Grant, AL 35747. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. *Meats, meat products, meat by products, and articles* distributed by meat packinghouse (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the Report in *Descriptions in Motor Carrier Certificate,* 61 MCC 209 and 766. From the facilities of Wilson Foods Corporation, or facilities used by or shipped from Wilson Foods Corporation located at Albert Lea, MN; and Cherokee and Cedar Rapids, IA; to points in AL, GA, and TN. Note: Applicant requests authority to interline with other carriers at Birmingham, AL, Atlanta, GA, Memphis and Nashville, TN, and other points from whence carriers are available, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Wilson Foods Corporation, 4545 Lincoln Blvd., Oklahoma City, OK 73105. Send protests to: Mabel E. Holston, T/A, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 147261 (Sub-1TA), filed August 14, 1979. Applicant: GRAINLINER, INC., Box 174, Iuka, KS 67066. Representative: Paul V. Dugan, 2707 West Douglas, Wichita, KS 67213. *Potash, ammonium nitrate, urea, 18–46–0 (DAP), Mixed Fertilizer and crushed rock, Potash:* From Lea Co. and Eddy Co., NM to points in OK, KS, AR, MO & LA; *Ammonium Nitrate:* From Pryor, OK and 10 miles thereof, Military, KS and 10 miles thereof, and Beaumont, TX, to points in OK, KS, AR, MO & LA. *Urea:* From Port of Catoosa, OK, Tulsa, OK and Plainview, TX to points in OK, KS, MO, AR & LA. *18–46–0 (DAP) Fertilizer:* From Port of Catoosa, OK, Tulsa, OK, Houston, TX and Planview, TX to points in OK, KS, AR, MO & LA; *Mixed Fertilizer:* From Kerns, TX to points in OK, KS, AR, MO & LA; *Crushed rock:* From points in OK to points in KS, for 180 days, common, irregular. Supporting shippers: Bunnett/Smallwood & Co., 6809 Poppy Rd., Little Rock, AR 72209 and Penalosa Cooperative Exchange Penalos, KS. Send protests to: M. E. Taylor, DS, ICC, 101 Litwin Bldg., Wichita, KS 67202.

MC 147501 (Sub-1TA), filed July 31, 1979. Applicant: WILLIAM BENSON, JR., d.b.a. BENSON TRUCKING, Rural Delivery No. 1, Punxsutawney, PA 15767. Representative: J. Kipp Lukehart,

V 44 OC 24 79 UMI

Professional Bldg., Punxsutawney, PA 15767. *Contract: irregular; coal* from the Village of Markton, Oliver Twp, Jefferson County, PA to Ft. Belvior, VA. for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Champion Coal Co., Inc., Suite 210, 105 W. Mahoning St., Punxsutawney, PA 15767. Send protests to: ICC, Fed. Res. Bank Bldg., 101 N. 7th St., Rm. 620, Phila., PA 19106.

MC 147671 (Sub-1TA), filed July 9, 1979. Applicant: RICHARD T. KASSUHN, d.b.a. R & R TRUCKING, 2211 East 72nd St., Tacoma, WA 98404. Representative: Hugh D. Neyman (same as above). *Contract carrier:* irregular routes: *Lumber, lumber products and traffic signs,* from points in WA to OR CA, ID, MT, CO, NV, AZ, and UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brady International Hardwoods Co., 1244 Alexander Ave., Tacoma, WA 98421; Coastcraft Inc., 1002 East "F" St., Tacoma, WA 98421; Exchange Lumber Co., P.O. Box 2565 T.A., Spokane, WA 99220; Traffic Control Signs Co., 6709 S. Adams, Tacoma, WA 98409; Woodlam, Inc., 1476 Thorne Rd., Tacoma, WA 98421. Send protests to: Shirley M. Holmes, T/A, ICC, 858 Federal Building, Seattle, WA 98174.

MC 147961 (Sub-1TA), filed August 7, 1979. Applicant: WESTERN ALFALFA TRANSPORTATION SYSTEMS, INC., P.O. Box 69, Shawnee Mission, KS 66201. Representative: Clyde N. Christey, KS Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. *Alfalfa products* between points in KS, CO, MO and NE; also from points in KS, CO, MO and NE on the one hand to points in the Continental United States, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Western Alfalfa Corporation, P.O. Box 69, Shawnee Mission, KS 66201. Send protests to: Vernon V. Coble, DS, ICC 600 Federal Bldg., 911 Walnut, Kansas City, MO 64106.

MC 147970 (Sub-1TA), filed August 28, 1979. Applicant: AAW DUMP TRUCKS, LTD., 2818 Palomino Dr., Columbus, GA 31907. Representative: C. E. Walker, P.O. Box 1085, No. 8 11th St., Columbis, GA 31902. *Sand, gravel, crushed stone, rock asphalt, lime, and road building materials, in bulk in dump trucks,* between Troup and Muscogee counties, GA, on the one hand, and on the other, Russell and Lee counties, AL, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Brady Williamson Contractors, Inc., 520 Andrews Rd., Columbus, GA 31907. Send protests to: Sara K. Davis, ICC, 1252 W. Peachtree St., N.W., Atlanta, GA 30309.

MC 147941 (Sub-1TA), filed August 16, 1979. Applicant: WAYNE MOLES TRUCKING COMPANY, 1313 Southwest 3rd Street, Oklahoma City, OK 73108. Representative: Wayne Moles (same address as applicant). *Contract carrier: irregular route: tanks, iron or steel, not heavier than 14 gauge, and accessories used in the installation thereof,* from the facilities of W. H. Stewart, at or near Oklahoma City, OK, to points in AZ, NM, MT, CA, ID, NV, OR, WA, & UT, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): W. H. STEWART Company, 500 E. Sheridan, Oklahoma City, OK 73104. Send protests to: Connie Stanley, ICC, Rm. 240, 215 N.W. 3rd Street Oklahoma City, 73102.

MC 148001 (Sub-1TA), filed August 20, 1979. Applicant: M. G. BROADDUS, III, Route 1, Box 113 H, Bowling Green, VA 22427. Representative: Calvin, F. Major, 200 W. Grace St., Richmond, VA 23220. Contract—irregular (1) *Kiln dried lumber and bedframes (2) lumber for use in the manufacture of picture frames and moldings.* (1) from the plantsite of C. C. Beck & Sons near Fredericksburg, VA to the states of CT, MA, NY, OH, WV, NJ, MD, PA, MI, DE, NC, SC, GA and KY and (2) from above mentioned states to plant site of Foreign and Domestic Woods, Inc., near Bowling Green, VA for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): C. C. Beck & Son, Fredericksburg, VA 22401. Foreign & Domestic Woods, Inc., Bowling Green, VA 22427. Send protests to: Interstate Commerce Commission, Federal Reserve Bank Building, 101 North 7th Street, Room 620, Philadelphia, PA 19106.

MC 148030 (Sub-1TA), filed August 27, 1979. Applicant: RAYMOND LUMBER AND SUPPLY COMPANY, INC., P.O. Box 325, Raymond, MS 39154. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. *Contract carrier:* irregular routes: (1) *Kitchen cabinets, picture and mirror frames and mouldings* from North Carrollton, MS to points in AL, AR, FL, GA, KS, KY, LA, MO, NC, OK, SC, TN and TX and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), in the reverse direction, for the account of Carrollton Manufacturing Co., Inc., for 180 days. An underlying ETA seeks 90 days authority. Supporting Shipper(s): Carrollton Manufacturing Co., Inc., P.O. Box 7, North Carrollton, MS 38947. Send protests to: Alan Tarrant, D/S, ICC, Federal Bldg., Suite 1441, 100 W. Capitol St., Jackson, MS 39201.

MC 148041 (Sub-1TA), filed August 28, 1979. Applicant: MYRON ANDREWS DBA A&A SERVICES, 2314 No. Beach St., Fort Worth, TX 76111. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier,* irregular routes: (1) *Plastic parts,* and (2) *raw plastic materials* (1) from Fort Worth, TX to Reserve, LA, and (2) from Lake Charles, LA to Fort Worth, TX, for the account of Denton Plastics, Inc., Fort Worth, TX, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Denton Plastics, Inc., 2721 Ludelle, Fort Worth, TX 76105. Send protests to: Opal M. Jones, TCS, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, TX 76102.

MC 148141 (Sub-1TA), filed August 27, 1979. Applicant: H. GOODMAN & SONS, INC., 969 Newark Turnpike, Kearney, NJ 07032. Representative: Thomas F. Kilroy, Suite 406 Executive Bldg., 6901 Old Keene Mill Road, Springfield, VA 22150. *Contract carrier,* irregular routes for 180 days. *Copper crystals,* in containers, from Esperanza and/or Seirrita Mine Site at or near Sahuarita, AZ to Carrollton, GA. Supporting shipper(s): Duval Sales Corporation, Pennzoil Place, P.O. Box 2967, Houston, TX 77001. Send protests to: Robert E. Johnston, DS, ICC, 744 Broad Street, Room 522, Newark, NJ 07102.

MC 148171 (Sub-1TA), filed August 31, 1979. Applicant: Daniel Prater, d.b.a. D & C TRANSIT, 11050 Erie Road, Parma, MI 49269. Representatives: Daniel Prater, 11050 Erie Road, Parma, MI 49269. *Contract carrier:* Irregular routes: *Passengers: ConRail employees and their personal baggage* will be transported. No special or charter operations are proposed; between Jackson, MI and Elkhart, IN. For 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Consolidated Rail Corporation, 501 E. Michigan Avenue, Jackson, MI. Send protests to: C. R. Flemming, D/S, ICC, 225 Federal Building, Lansing MI 48933.

MC 148181 (Sub-TA), filed September 4, 1979. Applicant: SALEM TRUCKING CO., Rd. No. 1, Franklin, ME 04634. Representative: Alan Kahn, Two Penn Center Plaza, Philadelphia, PA 19102. Contract: Irregular: *Lumber and lumber products* (1) from Ellsworth, ME, and ports of entry on the International border between the U.S. and Canada in NJ, VT, NH, and ME to points in DE, MD, NJ, PA, WV and District of Columbia; (2) from ports of entry on the International border between the U.S. and Canada in NY, VT, NH and ME to

Ellsworth, ME. An underlying ETA seeks 90 days authority. Supporting shipper(s): Salem Forest Products Ltd., P.O. Box 34, Abington, PA 19001. Send protests to: Donald G. Weiler, District Supervisor, ICC, 76 Pearl St., Rm., 303, Portland, ME 04101.

MC 148210 (Sub-TA), filed September 11, 1979. Applicant: MINERAL TRANSPORT, P.O. Box 566, Tonopah, Nevada 89049. Representative: Reese Taylor, Jr., 402 North Division Street, Carson City, Nevada 89701. *Ore and ore concentrates in dump truck equipment,* between mine sites, mills, and rail heads located in Eureka, Nye, Mineral, and Elko Counties, NV, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Petro Chem, P.O. Box 23, Crescent Valley, NV 89821; Chromalloy American-Mining & Milling Division, P.O. Box 1003, Elko, NV 89801; Lander Barite, Inc., P.O. Box 157, Battle Mountain, NV 89020. Send protests to: W. J. Huetig, DS, ICC, 705 N. Plaza Street, Carson City, NV 89701.

MC 148241 (Sub-TA), filed August 21, 1979. Applicant: W. D. HODGE, d.b.a. INDEPENDENT TRANSFER, Rt. 1, Box 183, Sumter, SC 29150. Representative: John C. Land, III, P.O. Box G, Manning SC 29102 *Electric and diesel powered motors and equipment,* between Sumter, SC, on the one hand, and, on the other, points in the United States except HI and AK, for 180 days. Supporting shipper(s): Sumter Electric & Rewinding Co., Inc., P.O. Box 308, Sumter, SC 29150; Allsbrook Elec. & Equipment Co., Rt. 4, Box 2442, Sumter, SC 29150. Send protests to: E. E. Strotheid, D/S ICC, Rm. 302, 1400 Bldg., 1400 Pickens St., Columbia, SC 29201.

MC 148310 (Sub-1TA), filed September 18, 1979. Applicant: CACTUS TRANSPORT, INC., P.O. Box 2059, Wickenburg Industrial Airpark, Wickenburg, AZ 85358. Representative: Keenan O. Holte (same address as applicant). Contract, Irregular Routes, *Asphalt products, granulated rubber and other ingredients, mixtures thereof, in connection with construction and maintenance of streets, roads, highways, airports, parking lots, etc., as directed by Sahuaro Petroleum & Asphalt Co. Restricted to service provided on a continuing contract with Sahuaro Petroleum & Asphalt Co.,* between all points in the United States (including AK and HI), for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Sahuaro Petroleum & Asphalt Co., P.O. Box 6536, Phoenix, AZ 85005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Sahuaro Petroleum & Asphalt Co., P.O. Box 6536, Phoenix, AZ 85005. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

MC 148311 (Sub-1TA), filed September 14, 1979. Applicant: DELIVERY SERVICES, INC., 2044 S. Don Carlos, Mesa, AZ 85202. Representative: A. Michael Bernstein, 1441 E. Thomas Rd., Phoenix, AZ 85014. *Such merchandise, equipment and supplies as ore sold, used or distributed by manufacturer of cosmetics,* having a prior or subsequent movement in intrastate commerce, between points in AZ, restricted to transportation for Avon Products, Inc., only for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper: Avon Products, Inc., 2949 E. Foothill Blvd., Pasedena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025. Supporting shipper(s): Avon Products, Inc., 2949 E. Foothill Blvd., Pasedena, CA 91121. Send protests to: Ronald R. Mau, District Supervisor, 2020 Federal Bldg., 230 N. 1st Ave., Phoenix, AZ 85025.

By the Commission.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 79-32729 Filed 10-23-79; 8:45 am]

BILLING CODE 7035-01-M

V 44 O C 24 7 9 UMI

Sunshine Act Meetings

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1
Federal Energy Regulatory Commission	2
Federal Home Loan Bank Board	3
Federal Maritime Commission	4
Nuclear Regulatory Commission	5
Parole Commission	6
Securities and Exchange Commission	7

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:00 a.m., Friday, November 2, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 8th floor conference room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2074-79 Filed 10-22-79; 10:07 am]

BILLING CODE 6351-01-M

2

October 19, 1979.

FEDERAL ENERGY REGULATORY COMMISSION:

TIME AND DATE: 9:00 a.m., October 22, 1979.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED: Docket No. CP78-391, Great Plains Gasification Associates, successor to ANR Gasification Properties Company and PGC Coal Gasification Company. Docket No. CP75-278, Columbia Gas Transmission Corporation. Docket No. CP77-556, Michigan Wisconsin Pipe Line Company, Natural Gas Pipeline Company of America, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., and Transcontinental Gas Pipe Line Corporation. Docket No. CP75-283, Great Lakes Gas Transmission Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357-8500.

[S-2072-79 Filed 10-19-79; 4:45 pm]

BILLING CODE 6450-01-M

3

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 25, 1979.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202-377-6677).

MATTERS TO BE CONSIDERED:

Application for Limited Facility—Mercer Federal Savings & Loan Association, Harrodsburg, Kentucky.
Regulation on Amendments Relating to Supervisory Authority.
Regulation on Amendments Concerning Outside Borrowing.
Applications for Bank Membership and Insurance of Accounts—Treasure-Land Savings & Loan Association, Ontario, Oregon.

Note.—Announcement is being made at the earliers practicable time.

No. 283, October 22, 1979.

[S-2077-79 Filed 10-22-79; 2:55 pm]

BILLING CODE 6720-01-M

4

FEDERAL MARITIME COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: October 17, 1979, 44 FR 60001.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 9:30 a.m., October 22, 1979.

CHANGE IN THE MEETING: Addition of the following items to the open session:

5. ICC Assertion of Exclusive Jurisdiction Over Motor/Water Rates in Puerto Rico Trade.
6. Agreement No. 10346—Space charter agreement between Sea-Land Service and Hanjin Container Line.

[S-2073-79 Filed 10-22-79; 10:07 am]

BILLING CODE 6730-01-M

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 19 and 22, 1979 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Friday, October 19; 2:00 p.m.

1. The "Briefing on 10 CFR Part 21, Analysis of Comment Letters" was cancelled.

Friday, October 19; 3:00 p.m.

1. Affirmation of Philippine Order (approximately 5 minutes, public meeting) additional item.

Monday, October 22; 10:30 a.m.

The Discussion of Hearing Board Report in Clearance Rule Proceeding was cancelled.

ADDITIONAL INFORMATION: By a vote of 3-0 (Commissioners Gilinsky and Bradford not present) on October 19, the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Affirmation of Philippine Order, held that day, be held on less than one week's notice to the public.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202-634-1410.

Roger M. Tweed,
Office of the Secretary.
October 19, 1979.

[S-2076-79 Filed 10-22-79; 2:55 pm]

BILLING CODE 7590-01-M

6

PAROLE COMMISSION: National Commissioners (the Commissioners presently maintaining offices at Washington, D.C. Headquarters).

TIME AND DATE: Thursday, October 18, 1979, at 10:00 a.m.

PLACE: Room 828, 320 First Street, N.W., Washington, D.C. 20537.

STATUS: Closed pursuant to a vote to be taken at beginning of the meeting.

CHANGES IN THE MEETING: On October 17, 1979, the Commission determined that the date and time for the above meeting be changed to Tuesday, October 23, 1979, at 10:00 a.m.; and that the above change be announced at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: A. Ronald Peterson, Analyst, (202) 724-3094.

[S-2075-79 Filed 10-22-79; 11:47 am]

BILLING CODE 4410-01-M

7

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 29, 1979, in Room 825, 500 North Capitol Street, Washington, D.C.

An open meeting will be held on Thursday, November 1, 1979, at 10:00 a.m. A closed meeting will be held on Thursday, November 1, 1979, immediately following the 10:00 a.m. open meeting.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A), and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, November 1, 1979, at 10:00 a.m., will be:

1. Consideration of whether to grant an application of Boston Hambro Corp., which intends to register as an investment adviser under the Investment Advisers Act of 1940, to permit a performance fee arrangement. For further information, please contact H. R. Hallock, Jr., at (202) 272-3030 or Suzanne Brannan at (202) 272-3039.
2. Consideration of whether to grant an application of Oppenheimer Management Corporation ("Applicant") for an order, pursuant to Section 26(a)(2)(C) of the Investment Company Act of 1940, prescribing as reasonable fees to be paid to an affiliate of Applicant for services to certain unit investment trusts sponsored by Applicant. For further information, please contact H. R. Hallock, Jr., at (202) 272-3030.
3. Consideration of whether to grant an application of Hartford Variable Annuity Life Insurance Company and Hartford Equity Sales Company, Inc. pursuant to Section 9(c) of the Investment Company Act of 1940 for permanent exemption from the provisions of Section 9(a) of the Act. For further information, please contact Gary Sundick at (202) 272-2344.

The subject matter of the closed meeting scheduled for Thursday, November 1, 1979, immediately following the 10:00 a.m. open meeting, will be:

Formal orders of investigation.
Regulatory matter regarding financial institution.
Litigation matters.
Subpoena enforcement actions.
Freedom of Information Act appeal.
Access to investigative files by Federal, State, or Self-Regulatory Authorities.
Chapter X proceeding.
Order compelling testimony.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive action.
Opinion.

At times changes in Commission priorities require alterations in the scheduling of meeting times. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Mike Rogan at (202) 272-2091.

October 22, 1979.

[S-2078-79 Filed 10-22-79; 3:17 pm]

BILLING CODE 8010-01-M

V 44 OC 24 79 UMI

V 44 OC 24 79 UMI

federal register

Wednesday
October 24, 1979

Part II

Department of Defense

Corps of Engineers

Water Resources Policies and Authorities; Establishment of Wetlands

DEPARTMENT OF DEFENSE

Corps of Engineers

33 CFR Part 232

[ER 1165-2-27]

Water Resources Policies and Authorities; Establishment of Wetlands

AGENCY: U.S. Army Corps of Engineers.

ACTION: Proposed rule.

SUMMARY: This proposed regulation provides policies to guide the establishment of wetland areas as part of water resources development projects. The proposed policies will apply to all Civil Works programs of the U.S. Army Corps of Engineers except regulatory. This regulation is consistent with the substantive planning requirements of the U.S. Water Resources Council (WRC) Principles and Standards.

DATE: Comments on the proposed policies are due on or before December 31, 1979.

ADDRESS: Comments should be addressed to HQDA(DAEN-CWR-P), WASH DC 20314.

FOR FURTHER INFORMATION CONTACT: Robert L. Fulton, Office of Policy, Director of Civil Works, HQDA(DAEN-CWR-P), WASH DC 20314 (202) 272-0120.

SUPPLEMENTARY INFORMATION: Section 150 of the Water Resources Development Act of 1976 established a policy to plan and establish wetland areas as part of an authorized water resources project under the jurisdiction of the Secretary of the Army. The wetlands may be established under certain conditions in connection with the dredging required for such a water resources project. To be eligible, the environmental, economic and social benefits of the wetland area must justify the increased costs above the cost required for alternative methods of disposing of dredged material for the project. The increased costs, which will be borne by the United States Government, shall not exceed $400,000. In addition there must be reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man made cause.

Dated: October 18, 1979.

Forrest T. Gay III,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

It is proposed to add Part 232 to Title 33 to read as follows:

PART 232—WATER RESOURCES POLICIES AND AUTHORITIES; ESTABLISHMENT OF WETLANDS

Sec.

232.1 Purpose.
232.2 Applicability.
232.3 References.
232.4 Legislative provisions.
232.5 General.
232.6 Procedures.
232.7 Funding.
232.8 Limitations in countinuing authority programs.
232.9 Mitigation.

Authority: Section 150, Water Resources Development Act of 1976.

§ 232.1 Purpose.

This regulation provides guidance for the establishment of wetland areas in connection with dredging required as part of water resources development projects.

§ 232.2 Applicability.

This regulation is applicable to all field operating agencies having Civil Works responsibilities.

§ 232.3 References.

(a) Section 150, Water Resources Development Act of 1976 (Pub. L. 94-587).

(b) "Principles and Standards for Planning Water and Related Land Resources," September 1973, United States Water Resources Council.

(c) ER 200-2-2.

(d) ER 1105-2-200.

(e) EM 1110-2-5000.

(f) Dredged Material Research Information Exchange Bulletin, Vol. D-77-1, January 1977.

§ 232.4 Legislative provisions.

(a) Section 150 of Pub. L. 94-587 authorizes the Chief of Engineers to plan and establish wetland areas as part of water resources development projects. Establishment of any wetland area in connection with the dredging required for such water resources development projects may be undertaken where the Chief of Engineers finds that:

(1) Environmental, economic and social benefits of the wetland area justify the increased cost thereof above the cost required for alternative methods of disposing of dredged material for such project.

(2) The increased cost of such wetland area will not exceed $400,000. Appraisal of "increased costs" will consist of all separable costs associated with the wetland area, including but not limited to, the costs required for necessary interests in lands, designing the site, preparing and planting the site, maintenance of the wetland area until established and stabilized, and dredging and transporting the dredged material to the wetland area, in comparison with the costs that would be required for the most feasible alternative plan for disposal.

(3) There is reasonable evidence that the wetland area to be established will not be substantially altered or destroyed by natural or man-made causes.

(b) The benefits of establishing these wetland areas are deemed to be a least equal to the increased cost of establishing such areas. Increased costs will be financial but will not be included in the economic analysis for developing the benefit—cost ratio.

(c) The additional costs (including costs for additional lands) of establishing these wetland areas shall be borne by the United States. Normally, the wetland areas will be established on lands already in public ownership or subject to navigational servitude.

(d) Section 150(b) instructs the Corps to include in the planning process, where appropriate, consideration of the establishment of wetland areas in water resource development reports submitted to Congress. Consequently, in Survey, Legislative Phase I General Design Memorandum (GDM), and Special and Continuing Authority Studies involving dredging, creation of wetlands will be addressed throughout the planning process in accordance with Principles and Standards (P&S) and ER 1105-2-200. If during Stage 3 of planning, the district engineer judges the environmental, economic, and social benefits of creating wetlands from dredged material as part of a proposed water resources development plan outweighs the costs, then the dollar benefits of the wetland can be considered equal to the increased cost (up to but not exceeding $400,000). All of these increased costs will be borne by the Federal government. Wetlands whose increased costs exceed $400,000 must be justified in accordance with ER 1105-2-200 and non-Federal sponsors must provide for their share of the costs that exceed $400,000 and any necessary lands including retaining dikes, bulkheads and embankments. Survey Reports, Legislative Phase I GDM, and Detailed Project Reports (DPR) shall reflect the consideration given to wetlands establishment.

§ 232.5 General.

(a) Established wetlands must be primarily the result of dredged material placement.

(b) For any given project, the Federal cost of establishing wetlands under Section 150 authority is limited to $400,000 during project construction and $400,000 per maintenance dredging cycle. In the case of comprehensive systems of projects in a basin or on a river, the $400,000 limitation shall apply to the individual projects or segments of the system where such projects or segments have been assigned separate CWIS numbers and have been issued separate work allowances during their construction or maintenance except when the CWIS number is used by more than one district. In this case the cost limitation shall apply to that portion of the project within each district.

(c) The Environmental Effects Laboratory (Waterways Experiment Station) has reviewed the entire Dredged Material Research Program (DMRP) to identify all completed or active studies that are relevant to this authorization. Considerable data are currently available, but many of them are not in final or synthesized form. Reference (f) in § 232.3, presents a key to existing and expected DMRP information along with a logic diagram or decision matrix that should be applied to any given project.

§ 232.6 Procedures.

The widespread interest in the development of wetlands and implementation of Section 150 requires that the Chief of Engineers be aware of activities in this area. For this reason the following procedures will be implemented:

(a) Division engineers will advise The Water Resources Support Center, WRSC-D, Ft. Belvoir, VA 22060, of the initiation of any Operation and Maintenance (O&M) and environmental studies relative to the establishement of wetlands in connection with completed portions of any authorized water resources projects.

(b) Upon completion of the O&M and environmental studies on completed projects, district engineers shall forward a letter report to division engineers which specifically addresses the requirements of § 232.4(a) (1), (2), and (3) and shows the proposed plan of improvement. An environmental assessment together with a finding of no significant impact, an environmental impact statement (EIS) or an EIS supplement, as determined by the district engineer, will also accompany the letter report. The National Environmental Policy Act (NEPA) process shall be completed before the proposed plan is approved. Approval for the establishment of wetlands under the authority of Section 150 on completed projects shall be made by division engineers. Two copies of approved reports should be forwarded to The Water Resources Support Center, Ft. Belvoir, VA 22060, for information. Reports unfavorable to establishment of a wetland should also be submitted, so that OCE can be aware of the problems being encountered by field operating units.

(c) For projects under design or construction (Construction General Funds), reports should be included in the General Design Memorandum or a supplemental GDM together with the necessary EIS documents as discussed in ER 200-2-2.

(d) No special reporting procedures are required for Survey, Legislative Phase I GDM, and Special Continuing Authority Studies. OCE monitoring will be handled through intensive management and standard report procedures.

§ 232.7 Funding.

(a) Costs incurred in the O&M studies and establishment of wetlands on completed water resources projects will be charged against Operation and Maintenance, General accounts, and funding will be obtained through normal budgeting procedures.

(b) Costs incurred on projects under design or construction will be charged to Construction, General accounts, and must be accomplished within existing monetary authority limitations.

(c) Costs incurred in considering wetlands as part of Survey, Special and Legislative Phase I GDM Studies should be part of the General Investigation study budget.

(d) Costs to be incurred in considering wetlands as part of Continuing Authority Studies should be included in preliminary cost estimates.

§ 232.8 Limitations in continuing authority programs.

Consideration and construction of wetlands in Continuing Authority Programs must be accomplished within existing authority cost limitations.

§ 232.9 Mitigation.

The Section 150 criteria and limitations are not applicable to proposals to mitigate project impacts on fish and wildlife.

[FR Doc. 79-32419 Filed 10-23-79, 8:45 am]

BILLING CODE 3710-92-M

V 44 O C 2 4 7 9 UMI

V 44 OC 24 79 UMI

federal register

Wednesday
October 24, 1979

Part III

Department of the Interior

Office of Surface Mining

Backfilling and Grading To Achieve Approximate Original Contour; Proposed Rulemaking

V 4 4 0 C 2 4 7 9 UMI

DEPARTMENT OF THE INTERIOR

Office of Surface Mining

30 CFR Part 716

Backfilling and Grading To Achieve Approximate Original Contour; Proposed Rulemaking

AGENCY: Office of Surface Mining, United States Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining is seeking comments on these proposed rules which provide for interim program variances from the requirement to return mined land in steep slope areas to the approximate original contour. The variances are now available only in the permanent program.

DATES: Comments must be received by 5 p.m., November 23, 1979. A public hearing will be held at 9:30 a.m., November 16, 1979.

ADDRESSES: Written comments must be mailed to: Office of Surface Mining, U.S. Department of the Interior, P.O. Box 7267, Benjamin Franklin Station, Washington, D.C. 20044. Alternatively, comments may be hand delivered to: Office of Surface Mining, Room 135, U.S. Department of the Interior, South Building, 1951 Constitution Avenue, N.W., Washington, D.C. 20240 where all comments will be available.

The public hearing will be held at the Department of the Interior, Room 8070, 18th and C Streets, N.W., Washington, D.C. 20240.

Persons wishing to testify at the public hearing on the proposed rule should contact Alan Palisoul, Enforcement Specialist, Office of Surface Mining, Department of the Interior, Washington, D.C. 20240, 202–343–8061.

FOR FURTHER INFORMATION CONTACT: Alan Palisoul, 202–343–8061.

SUPPLEMENTARY INFORMATION: These regulations are proposed to amend OSM's initial program regulations published at 42 FR 62639 *et seq.* (December 13, 1977). The proposal would add as section to the initial program regulations which would implement § 515(e) of the Act by providing for a limited variance on steep slopes from the requirements of § 515(d)(2) of the Act to return land mined on steep slopes to approximately original contour.

Section 515(e) was not implemented in the interim program regulations because of OSM's interpretation of the subsection. The subsection starts:

> Each State program may and each Federal program shall include a procedure. . .

The phrase "Federal program" is defined in section 701(5) and the phrase "State program" is defined in section 701(25) of the Act to refer only to permanent regulatory programs. OSM at first believed that the use of those defined phrases established Congressional intent that section 515(e) not apply in the interim program.

Further analysis leads OSM to believe it should re-examine this conclusion. Congress clearly intended to phase in the applicability of the environmental performance standards. It is unlikely that Congress intended to require compliance with standards that are more rigorous during the interim program than during the permanent program. Moreover, the primary author of section 515(e) was Senator Jennings Randolph (D-W.Va.). He said he derived the amendment from analogous provision in West Virginia's surface mining statute. 23 *Cong. Rec.* 58101–8103 (May 20, 1977). It is unlikely Senator Randolph intended that West Virginia's State law provision be rendered inapplicable during the interim program.

Congress used other words in the Act in ways inconsistent with their defined meaning. The word "permit" is defined in section 701(15) of the Act as a permit issued pursuant to a State program or a Federal program.

This definition on its face does not include permits issued during the interim program by a State. Yet section 502(a), (b), and (c) use the term "permit" with reference to permits issued by a State during the interim program. This example is especially instructive because it shows Congress sometimes intended words to be applicable in the interim program that on their face are applicable only during the permanent program. For these reasons, OSM has tentatively concluded that Congressional intent was not definitely established by the use of the phrases "State program" and "Federal program" and is more forcefully demonstrated by the central theme of the Act that the interim program be no more stringent than the permanent program.

OSM has tentatively concluded that the use of the phrases "State program" and "Federal program" in section 515(e) may have been unwitting and does not necessarily indicate an intent to limit that subsection to the permanent program. This conclusion is bolstered by the facts that section 515(e) originated as an amendment on the Senate floor and therefore did not receive the careful Congressional and staff scrutiny of Committee consideration. There is nothing in the floor debate or conference committee report that shows an awareness of the possible result of the use of these defined phrases.

OSM solicits comment on this central interpretive issue with citation to legislative history or other useful authority, if possible.

The proposed regulations are based on section 515(e) of the Act which provides as follows:

> (e)(1) Each State program may and each Federal program shall include procedures pursuant to which the regulatory authority may permit variances for the purposes set forth in paragraph (3) of this subsection, provided that the watershed control of the area is improved; and further provided complete backfilling with spoil material shall be required to cover completely the highwall which material will maintain stability following mining and reclamation.
>
> (2) Where an applicant meets the requirements of paragraphs (3) and (4) of this subsection a variance from the requirement, to restore to approximate original contour set forth in subsection 515(d)(2) of this section may be granted for the surface mining of coal where the owner of the surface knowingly requests in writing, as a part of the permit application that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities) in accord with the further provisions of (3) and (4) of this subsection.
>
> (3)(A) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land is deemed to constitute an equal or better economic or public use;
>
> (B) is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and
>
> (C) after approval of the appropriate state environmental agencies, the watershed of the affected land is deemed to be improved.
>
> (4) In granting a variance pursuant to this subsection the regulatory authority shall require that only such amount of spoil will be placed off the mine bench as is necessary to achieve the planned post-mining land use, insure stability of the spoil retained on the bench, meet all other requirements of this Act, and all spoil placement off the mine bench must comply with subsection 515(b)(22).
>
> (5) The regulatory authority shall promulgate specific regulations to govern the granting of variances in accord with the provisions of this subsection, and may impose such additional requirements as he deems to be necessary.
>
> (6) All exceptions granted under the provisions of this subsection shall be reviewed not more than three years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

This subsection states several constraints on the variance which must be kept in mind when the reader analyzes and comments on the proposed regulations. Several points deserve special attention.

First, the subsection makes watershed improvement a condition of any variance. How that is to be implemented is one of the important issues of the proposed regulations and is discussed in more detail below.

Second, the subsection makes the backfilling of all highwalls a condition of any variance. This will limit the usefulness of the variance in very steep slopes. This issue is also discussed in more detail below.

Third, the subsection limits the variance

> so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use (including recreational facilities * * *.

OSM presently interprets that language to be functionally the same as the requirement in section 515(c) of the Act that allows a variance for mountaintop mining when certain post-mining land use is proposed. The precise relationship between the granting of the variance and the degree of likelihood of the land use actually occurring is an important issue. In addition, the list of land uses justifying the variance does not include agriculture. This issue is discussed in more detail below.

In addition, OSM draws attention to the proposed § 716.2(e)(3)(iv)(A). This section as drafted establishes the condition of the area prior to mining as the reference point when determining watershed control improvement. Another alternative would be to use as the reference point the conditions of the area if it were minded and restored to the approximate original contour. OSM invites comments on this latter approach, specifically as to whether it more accurately represents the intent of Congress and whether the use of this hypothetical benchmark would be feasible. OSM solicits comments on its proposed regulation and on the principal alternative. Of course, it also seeks other alternatives and comments.

Section 515(e)(2) states that the owner of the surface must knowingly request that the variance be granted so that the land is suitable for industrial, commercial, residential, or public use. It makes no reference to agricultural use (compare section 515(c)(3)). In addition, the legislative history seems to indicate clearly an intent to exclude this type of use. OSM seeks comments on this issue also. Section 716.2(e)(3)(i) requires that the regulatory authority find that the proposed use is likely to occur. OSM realizes that as a practical matter, it is impossible for an agency to predict with certainty that something will happen. However, it is OSM's present opinion that before a variance may be granted the Act requires that the postmining land use be appropriate and the conditions exist, including the operator's or another's commitment, to insure that the land use will actually occur. Thus, the proposed regulations are an attempt to provide a standard to insure that the land-use will occur while at the same time allowing for change that may sometimes occur even given good intentions. OSM requests comments on the proper phrasing of this test. Finally, proposed § 716.2(e)(4)(i) would require that the highwall be completely backfilled with spoil to achieve a static safety factor of at least 1.3. This two-pronged requirement is drawn from section 515(e)(1) of the Act which OSM reads to say that even where a variance is granted, complete backfilling and achieving stability are mandatory. OSM realizes that this may make the variance of little use in certain instances. OSM seeks comments and suggestions on alternatives available under section 515(e), if any exist.

The variance which is being proposed differs from the variance provision in the permanent program (30 CFR 785.16 and 826.15) somewhat. OSM will be considering amending the permanent program regulations to conform to any adopted regulations.

Proposed regulation § 716.2(e)(2)(ii) uses the phrase "Allow the land to be used for * * *" where the permanent program regulations, § 785.16(b)(2), uses "Makes the land * * * suitable for * * *". This is not intended to present a different meaning. It is believed that this is a better way to state the agency's meaning.

Proposed regulation § 716.2(e)(3) uses the phrase "* * * on the basis of a showing by the permittee, * * *" while the permanent program regulation § 785.16(c) uses "* * * on the basis of a complete application, * * *". This also is merely a clarification that the burden is on the applicant when applying for the variance.

Proposed regulation § 716.2(e)(3)(i) adds the phrase "* * * and that the proposed use is likely to occur." This does not appear in the permanent program regulations. This, again, is believed to be a clearer way of stating the meaning intended by the permanent program regulations, specifically § 785.16(c) (1), (2), and (3). In addition, this specific issue is addressed above in this preamble.

Proposed regulation § 716.2(e)(5) states that the regulatory authority shall review each variance "* * * not more than three years from the date of issuance * * *", while the permanent program regulation § 785.16(e)(1), (2), and (3) require evaluation "within the sixth month preceding the third year * * *", "Before each permit renewal", and "Not later than the middle of each permit term." OSM does not intend to change the requirements which will apply in the permanent program. Since the permanent program will be in effect before any of these evaluation times could possibly arise, OSM believes it would be useless surplusage and therefore proposes to merely state the general statutory requirement.

For reference to the preamble for the permanent program regulations, see **Federal Register,** Volume 44, No. 50, March 13, 1979, pages 15083–15084. In addition, the Preamble to the draft permanent regulatory program in the **Federal Register** Volume 43, No. 181, September 18, 1978, pages 41713–41715 is instructive.

For all comments on these and other provisions and issues, OSM requests that commenters include citations to the act and the legislative history wherever possible.

The Department of the Interior has determined that this document is not a significant rule and does not require a Regulatory Analysis Under Executive Order 12044 and 43 CFR Part 14.

Section 501(a) of the Surface Mining and Reclamation Act of 1977 exempts this action from the Environmental Impact Statement requirement of the National Environmental Policy Act.

Regulation Drafters. The proposed modifications to the interim regulations have been drafted principally by Richard M. Hall, Assistant Director, Inspection and Enforcement.

Dated: October 15, 1979.

Joan M. Davenport,

Assistant Secretary, Energy and Minerals.

Accordingly, it is proposed to amend § 716.2 of 30 CFR by adding a new paragraph (e) to read as follows:

§ 716.2 Steep-slope mining.

* * * * * *

(e) Variances from approximate original contour restoration requirements.

(1) This Section applies to non-mountaintop removal steep slope surface coal mining and reclamation operations where the operation is not to be reclaimed to achieve the approximate original contour.

(2) The objective of this subsection is to allow for a variance from

approximate original contour restoration requirements on steep slopes for surface mines to—

(i) Improve watershed control of lands within the permit area and on adjacent lands; and

(ii) Allow the land to be used for an industrial, commercial, residential, or public use, including recreational facilities.

(3) The regulatory authority may grant a variance from the requirement for restoration of the affected lands to their approximate original contour only if it first finds, in writing, on the basis of a showing by the permittee, that all of the following requirements are met:

(i) The permittee has demonstrated that the purpose of the variance is to make the lands to be affected within the permit area suitable for an industrial, commercial, residential, or public use postmining land use and that the proposed industrial, commercial, residential, or public use is likely to occur.

(ii) The proposed use, after consultation with the appropriate land-use planning agencies, if any, constitutes an equal or better economic or public use.

(iii) The permittee has demonstrated compliance with the requirements for acceptable alternative postmining industrial, commercial, residential or public land uses of 30 CFR 715.13.

(iv) The permittee has demonstrated that the watershed of lands within the proposed permit area and adjacent areas will be improved by the operations. The watershed will be deemed improved if—

(A) There will be a reduction in the amount of total suspended solids or other pollutants discharged to ground or surface waters from the permit area as compared to such discharges prior to mining, so as to improve public or private uses or the ecology of such waters; or, there will be reduced flood hazards or more even flow within the watershed containing the permit area due to reduction of the peak flow discharges from precipitation events or thaws. If only flow or pollutant load is improved, the other must not deteriorate.

(B) The total volume of flows from the proposed permit area, during every season of the year, will not vary in a way that adversely affects the ecology of any surface water or any existing or planned use of surface or ground water, and

(C) The approprate State environmental agency approves the plan.

(v) The permittee has demonstrated that the owner of the surface of the lands within the permit area has knowingly requested, in writing, as a part of the application, that a variance be granted. The request shall be made separately from any surface owner consent given for the operation and shall show an understanding that the variance could not be granted without the surface owner's request.

(vi) The proposal is designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site.

(vii) All other requirements of the Act and these regulations will be met by the proposed operations.

(4) Every permittee who obtains a variance under this subsection shall:

(i) Backfill completely the highwall with spoil material, in a manner which results in a static factor of safety of at least 1.3 using standard geotechnical analyses.

(ii) Improve the watershed control of the area within which the mining occurs by reducing the peak flow from precipation or thaw or reducing the total suspended solids or other pollutants in the surface water discharge during precipitation or thaw, while maintaining the variable not reduced at the pre-mining level.

The total volume of flow during every season of the year shall not vary in a way that adversely affects the ecology of any surface or ground water.

(iii) Disturb land above the highwall only to the extent that the regulatory authority deems approrpriate and approves as necessary to facilitate compliance with the provisions of this section, if the regulatory authority finds that the disturbance is necessary to—

(A) Blend the solid highwall and the backfilled material;

(B) Control surface runoff; or

(C) Provide access to the area above the highwall.

(iv) Place off the mine bench no more than the amount of spoil necessary to achieve the postmining land use, ensure the stability of spoil retained on the bench, and meet all other requirements of the Act and Parts 710 through 725 of this Chapter. All spoil not retained on the bench shall be placed in accordance with 30 CFR 715.15.

(5) The regulatory authority shall review every variance granted pursuant to this section not more than three years from the date of issuance of the permit to ensure that the proposed alternative post-mining use is proceeding in accordance with the terms of the approved plan.

[FR Doc. 79-32613 Filed 10-23-79; 8:45 am]

BILLING CODE 4310-05-M

V 44 OC 24 7 9 UMI

federal register

Wednesday
October 24, 1979

Part IV

Department of Energy

Office of Conservation and Solar Energy

Grant Programs for Schools and Hospitals and Buildings Owned by Units of Local Government and Public Care Institutions; Technical and Editorial Corrections

V 4 4 0 C 2 4 7 9 UMI

DEPARTMENT OF ENERGY

Office of Conservation and Solar Energy

10 CFR Parts 450 and 455

Grant Programs for Schools and Hospitals, and Buildings Owned by Units of Local Government and Public Care Institutions

AGENCY: Department of Energy.

ACTION: Final rule; technical and editorial corrections.

SUMMARY: In the April 2, 1979 edition of the **Federal Register** (44 FR 19340) the Department of Energy published a final rulemaking covering preliminary energy audits and energy audits. This was followed by the April 17, 1979 edition of the **Federal Register** (44 FR 22940), in which the Department of Energy published the final rulemaking for technical assistance and energy conservation measures grants. There were a number of errors in these final rules. The corrections are set forth below, and shall be effective October 24, 1975.

FOR FURTHER INFORMATION CONTACT: Ronald Milner, Institutional Buildings Grants Programs Division, Office of Conservation and Solar Energy, Department of Energy, Room 2H–043, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2325.

Issued in Washington, D.C., October 19, 1979.

Maxine Savitz,

Acting Assistant Secretary, Conservation and Solar Energy.

§ 450.21 [Amended]

1. Paragraph (b)(5) of 10 CFR 450.21 is revised to read as follows:

. . . . . .

(b) . . .

(5) For the purposes of paragraph (b)(4) of this section, the conversion factors set forth in paragraph (a)(11) of § 450.42 shall be used.

§ 450.43 [Amended]

2. Paragraph (c) of 10 CFR 450.43 is revised to read as follows:

. . . . . .

(c) Based on information gathered under paragraphs (a) and (b) of § 450.42, and paragraphs (a) (1) and (3) of this section, an energy audit shall indicate the need, if any, for the acquistion and installation of energy conservation measures and shall include an evaluation of the need and potential for retrofit based on consideration of one or more of the following—

. . . . . .

§ 455.15 [Amended]

3. Paragraph (b)(2) of 10 CFR 455.15 is revised to read as follows:

. . . . . .

(b) . . .

(2) A description of materials to be developed and adopted, or an identification of existing materials to be used, to meet the requirements for conducting preliminary energy audits and energy audits set forth in Subpart E of 10 CFR Part 450, including provision of data concerning heating degree days, cooling degree days, insolation, and wind speed for regions within the State;

. . . . . .

§ 455.16 [Amended]

4. Paragraph (e) of 10 CFR 455.16 is revised to read as follows:

. . . . . .

(e) At least 75 percent of the financial assistance provided under this part shall be used in conducting energy audits of buildings, including costs of personnel attending training sessions conducted by the State preparatory to performing energy audits.

§ 455.17 [Amended]

5. Paragraph (b)(2)(A) of 10 CFR 455.17 is revised as follows:

(b) . . .

(2) . . .

(A) An estimate of the savings anticipated from energy conservation operation and maintenance procedure changes identified; and

. . . . . .

§ 455.60 [Amended]

6. Paragraph (a) of 10 CFR 455.60 is revised as follows:

(a) Each eligible applicant desiring to receive financial assistance shall file an application in accordance with the provisions of this subpart and the approved State Plan of the State in which such building is located. The application, which may be amended in accordance with applicable State procedures at any time prior to the State's final determination thereon, shall be filed with the State energy agency designated in the State Plan.

. . . . . .

§ 455.82 [Amended]

7. Paragraph (f) of CFR 455.82 is revised as follows:

(f) Applicant expenditures for a technical assistance program for one or more energy conservation measures commenced after November 8, 1978 for a building may be wholly or partically classified in the discretion of the Secretary as matching non-federal funds for the purposes of matching grants awarded for energy conservation measures.

§ 455.90 [Amended]

7. Paragraph (f) of 10 CFR 455.90 is revised as follows:

(f) The procedures that the State will follow to insure that funds will be allocated equitably among eligible applicants within the State, including procedures to insure that funds will not be allocated on the basis of size or types of institution but rather on the basis of relative need taking into account such factors as cost, energy consumption and energy savings, in accordance with § 455.71:

. . . . . .

[FR Doc. 79-32811 Filed 10-23-79; 8:45 am]

BILLING CODE 6450-01-M

V 4 4 O C 2 4 7 9 UMI

Reader Aids

Federal Register
Vol. 44, No. 207
Wednesday, October 24, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662 1
56663-56918 2
56919-57064 3
57065-57378 4
57379-57906 5
57907-58492 9
58493-58670 10
58671-58888 11
58889-59194 12
59195-59488 15
59489-59894 16
59895-60068 17
60069-60250 18
60251-60700 19
60701-60970 22
60971-61156 23
61157-61318 24

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) 56673
10900 (Amended by EO 12163) 56673
10973 (Revoked by EO 12163) 56673
11223 (Amended by EO 12163) 56673
11269 (Amended by EO 12164) 56681
11579 (Amended by EO 12163) 56673
11846 (Amended by EO 12163) 56673
11958 (Amended by EO 12163) 56673
12065 (Amended by EO 12163) 56673
12087 (Superseded by EO 12165 58671
12092 (Amended by EO 12161) 56663
12140 (Amended by EO 12162) 56665
12161 56663
12162 56665
12163 56673
12164 56681
12165 58671
12166 60971
12167 61167

Proclamations:
4693 56669
4694 56671
4695 58493
4696 61161
4697 61161

Administrative Orders:

Memorandums:
October 16, 1961 (Amended by EO 12163) 56673
October 19, 1979 61157

Presidential Determination:
No. 79-17 of September 28, 1979 56667

5 CFR

Ch. III 60251
Ch. XIV 60069, 60701
213 60973-60975
315 60975
340 57379
353 56683
451 58889
890 57379

Proposed Rules:
581 60301

6 CFR

705 ..... 56900, 58891, 60251
706 ..... 56910, 58891, 60251
707 60676

Proposed Rules:
702 59166
703 59166
704 59166

7 CFR

2 ..... 57907, 58495, 58679 60251
6 58893
15a 57907
16 ..... 56919, 60069
29 57907
246 59489
282 59052
354 60255
401 ..... 60701, 60709
421 58893
427 ..... 60701, 60709
429 60709
722 60255
905 59195
906 57909
908 ..... 57065, 58680, 60070
910 ..... 57383, 58893, 60256
929 ..... 56683, 60976
932 58495
944 59195
948 60977
966 ..... 58894, 59197
979 56684
982 57065
984 60975
989 60070
1139 57066
1421 ..... 56305, 57383
1464 ..... 57909, 58894
1822 ..... 56919, 59198
1861 56920
1864 59895
1901 59198
1941 58895
1942 ..... 56684, 59895
1944 59198
1951 ..... 56306, 59895
1955 59895
1980 ..... 58920, 58896
2851 60979

Proposed Rules:
6 56943
20 57931
27 57932
272 57414
273 ..... 57414, 58915
318 57415
725 57932
729 57416
730 61047
981 57417

966.....60105
1065.....57103
1079.....59913
1701.....61048
2853.....58916, 59548
2858.....58916

8 CFR

100.....56311

Proposed Rules:

103.....56368

9 CFR

75.....60257
78.....57384
91.....59498
92.....58896
97.....60261
113.....58897, 60262
201.....61169
307.....60979
309.....59498
350.....60979
351.....60979
354.....60979
355.....60979
362.....60979
381.....60979

Proposed Rules:

92.....58918
94.....61048
113.....60306

10 CFR

2.....60715
50.....57911, 57912, 60715
51.....56312
205.....60264, 60638
211.....56888, 57067, 60638
212.....57069, 60638, 61169
320.....58900
436.....60664
450.....61317
455.....61171, 61317
476.....57370
515.....60690
570.....56921

Proposed Rules:

71.....60743
73.....60743
211.....56369, 59240, 59551 60307
212.....59914, 60744
214.....57103
220.....56369
375.....56953
376.....56953
796.....61188

11 CFR

Proposed Rules:

100.....59162
110.....59162
114.....59162

12 CFR

Ch. VII.....56691
201.....57385, 60716
202.....57070
204.....60071
205.....59474
207.....56922
217.....60076, 61171
220.....56922
221.....56922
224.....56922
226.....56312
263.....56685
265.....56313, 59227
329.....60273
346.....57385
525.....60717
531.....60717
545.....57386
563.....59895
600.....60076
601.....60076
602.....60076
611.....60076
704.....58496
742.....57071, 61172

Proposed Rules:

Ch. II.....58744
Ch. V.....57419
205.....59464
220.....61188
528.....60310
545.....58744
618.....60745
708.....61189

13 CFR

101.....59499
121.....58744, 59504
124.....60273
125.....60273
126.....60273
127.....60273
131.....60718

Proposed Rules:

107.....60745
111.....58745
117.....60032
121.....60746

14 CFR

39.....56315-56322, 57072, 57073, 58680-58684, 60079, 60719-60722
71.....56322, 56323, 57075-57080, 57083, 57084, 57915-57917, 58684-58686, 60079, 60723
73.....57080-57082
75.....57082-57084
97.....57918, 60723
207.....58499
208.....58499
212.....57386, 58500
214.....57387, 58500
221a.....57085
241.....58500, 59505
287.....57085
1214.....56923

Proposed Rules:

Ch. I.....56369, 60107, 60746
Ch. V.....56377
1.....60747
11.....56370, 59242
21.....56370, 59242
27.....60747
29.....60747
33.....60747
37.....56370, 59242
39.....57105
43.....60747
45.....60747
61.....60747
71.....56373-56376, 57106, 57934-57938, 60107, 60748-60752
73.....58746
91.....60747, 60752
93.....56376
121.....60747
127.....60747
133.....60747
135.....60747
233.....59242
270.....59242
302.....59242

15 CFR

30.....58686
370.....59227
371.....59227
374.....59227
377.....59227
377.....59227
388.....59897

Proposed Rules:

302.....61049
377.....60753

16 CFR

13.....56323, 56923, 57920, 58901-58906, 60080, 60725, 60726
1700.....57920

Proposed Rules:

Ch. I.....59552
Ch. II.....57352, 60057
13.....58516, 58518, 58747, 61050
1201.....59914
1404.....59557
1615.....60755
1616.....60755

17 CFR

210.....57030, 57037
211.....57038
231.....56924
240.....57387, 60281
241.....56924
249.....57374, 57387
270.....58502, 58907

Proposed Rules:

240.....56953
270.....58521

18 CFR

1.....60282
2.....56926, 60080
3.....60282
154.....57726, 60083, 60284
201.....57726
204.....57726
270.....60284
271.....56926
273.....59230, 60285
274.....59230
282.....57726, 57754, 57778, 60084, 61174
290.....58687

Proposed Rules:

35.....60108
282.....57783, 57786, 57788 58749
292.....57107, 61190, 61205

19 CFR

4.....57086, 57087
101.....57088

Proposed Rules:

134.....58527
153.....59741, 59762
155.....57044, 59762
159.....57044, 59762
177.....56715
201.....59392
207.....59392

20 CFR

404.....56691
675.....56866
680.....56866

Proposed Rules:

615.....56715
665.....59889

21 CFR

10.....59174
12.....59174
13.....59174
14.....59174
15.....59174
16.....59174
109.....57389
177.....59505
178.....59506
193.....59231
510.....57389, 59507
520.....59507, 59508
558.....57389
561.....59903
740.....59509
1316.....56324

Proposed Rules:

136.....60313
137.....60313
145.....60314
148.....60315
150.....61053
166.....57422
168.....60315
182.....61053
184.....61053
203.....58918
310.....58919, 60316
312.....58919
314.....58919
320.....60320
331.....60328
444.....60331
640.....60332
680.....60333
890.....57939, 57940, 58919
1020.....57423

22 CFR

515.....58708

Proposed Rules:

216.....56378

23 CFR

140.....59232

Proposed Rules:

771.....59438

24 CFR

Ch. XIII.....58507
42.....56324
201.....61176
203.....57089
205.....57090
207.....57090
213.....56927, 57089, 57090

220.....57090
221.....57090
232.....57090
234.....57089
235.....57090
236.....57090, 61177
240.....58503
241.....57090
242.....57090
244.....57090
250.....57090
290.....56608
403.....58503
510.....58506
570.....56325
803.....59112
841.....57922
880.....59408
888.....57925, 59112
891.....60085, 60285
3610.....60834

Proposed Rules:

200.....60108
203.....58527
208.....60109
570.....61208
881.....59246
888.....58528

25 CFR

31a.....58096
31b.....58101

Proposed Rules:

233.....61208
252.....59559
700.....59560

26 CFR

1.....57925, 59523, 60085
7.....57390
31.....59524

Proposed Rules:

Ch. I.....56502
1.....57423, 57427
31.....57940
301.....56715

27 CFR

9.....56692
201.....56326

28 CFR

0.....57926, 58908
2.....58507, 59527, 59528
16.....59904
50.....57926
301.....59904

Proposed Rules:

2.....58528
16.....58920, 58921

29 CFR

14.....57397
1604.....58073
1910.....60980
2610.....58908
2703.....57348

Proposed Rules:

1616.....59914
1904.....59560
1910.....60333
1926.....59561

30 CFR

Ch. VII.....57927
701.....58783
731.....60869
741.....58783
872.....60285
877.....60285
879.....60285
882.....60285
884.....60285
886.....60285

Proposed Rules:

Ch. VII.....60226, 60228
250.....60109
716.....61312
732.....60233

31 CFR

Proposed Rules:

Ch. II.....59246

32 CFR

51.....56328
199.....58709
231.....56328
579.....61178
706.....56929, 57400
853.....60090
901.....56930

Proposed Rules:

56.....58750

33 CFR

110.....60091
117.....59233
127.....57092, 57927
147.....57927
165.....57928, 57929

Proposed Rules:

232.....61308

34 CFR

Ch. I.....60286

35 CFR

133.....56916
253.....56693

Proposed Rules:

133.....57941

36 CFR

50.....56934
1228.....58088

Proposed Rules:

Ch. IX.....56954, 58528

37 CFR

302.....60726

38 CFR

1.....59905
3.....58709
36.....61178

Proposed Rules:

3.....58758, 61210
36.....56329, 58508,

39 CFR

111.....58509, 60727
320.....61178

Proposed Rules:

3001.....60757

40 CFR

52.....56694, 57401
65.....56696, 59528, 61182, 61183
81.....57929
117.....58711, 58909
180.....59907
231.....58076
257.....58910
413.....56330
600.....57358, 60286

Proposed Rules:

35.....60335
40.....56955
50.....56730
51.....56957, 57107
52.....56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60389, 60758, 61055, 61211
55.....56721, 58759
60...57792, 58602, 60759, 60761
61.....58642, 58661
62.....57118, 57948
65.....60109, 60110
81.....57942, 58758, 58922, 60341
120.....57428, 59565
122.....56957
162.....57429
250.....56724, 58923
600.....57362
707.....56856, 60763
710.....60763
713.....59106
720.....59764
763.....60061

41 CFR

Ch. 1.....60995
Ch. 101...56699, 59192, 59529, 60740
8-4.....59529
101-11.....60740
101-20.....60995
101-29.....58910

Proposed Rules:

Ch. 25.....56387
9-7.....57119
101-40.....59247
109-1.....57121
109-60.....57121

42 CFR

57.....56937
71.....58911
405.....60287
456.....56333

Proposed Rules:

74.....58923, 61059
121.....60342
405.....58923, 61059

43 CFR

221.....56339
1821.....59530
2880.....58126
3400.....56339
3410.....56339
3420.....56339
3422.....56339
3430.....56339
3440.....56339
3450.....56339
3460.....56339
3470.....56339
3500.....56339
3501.....56339
3502.....56339
3503.....56339
3504.....56339
3507.....56339
3511.....56339
3520.....56339
3521.....56339
3524.....56339
3525.....56339
3526.....56339
3550.....56339
3564.....56339
3565.....56339
3566.....56339
3568.....56339

Proposed Rules:

4.....57948
34.....59096
1780.....56622
2800.....58106
3110.....58638
9230.....60764

44 CFR

64.....56354, 57092, 57093, 60999, 61000, 61184, 61185
65.....57094, 61003, 61005
67.....56366, 56701

Proposed Rules:

67.....56957, 57429-57432 60342, 61059, 61073
205.....61211
300.....61211

45 CFR

Ch. I.....56938
20.....58912
55.....58912
61.....58912
80.....58509, 59908
82.....58912
116.....59152
116a.....59152
161.....60022
161a.....60022
304.....56939
531.....59908
1010.....56548
1012.....56548
1050.....56548
1060.....56548
1061.....56548, 58876
1062.....56548
1063.....56548
1064.....56548
1067.....56548
1068.....56548
1069.....56548
1070.....56548
1075.....56548
1076.....56548
1624.....58712

Proposed Rules:

Ch. VI.....56387
Ch. X.....60764
Ch. XI.....56389
234.....56389
236.....56389
617.....57127
1152.....56725
1172.....57130
1205.....60110

V44 OCT 24 1979 UMI

46 CFR

154.....59234
154a.....59234
502.....60996
503.....57411

Proposed Rules:

66.....57137
283.....58928
355.....58928

47 CFR

0.....57096, 60291
1.....60291
2.....58712, 59530
15.....59530
18.....56699
21.....60532
22.....60532
61.....57096
73.....57097, 58718-58729, 58912, 60091, 60097, 60740
74.....58729
83.....58712, 58735, 60741
87.....59546
90.....57098, 58737, 59234
97.....58742

Proposed Rules:

0.....57636
1.....59568
2.....61214
15.....59570, 60112
21.....58929, 61214
43.....61214
61.....61216
63.....59578
73.....57138, 57636, 58762-58764, 59568, 58579, 59580, 61230
76.....58766
81.....59581
87.....61214
90.....61214

49 CFR

Ch. X.....60296
192.....57100
213.....56342
301.....59239
571.....57100
172.....60097
173.....60097
174.....60097
177.....60097
178.....60097
801.....56340, 57930
1011.....58511, 60295
1013.....59908
1033.....56343, 56939, 58913, 58914, 60999, 61184
1100.....58511
1307.....57413
1310.....57413
1322.....57930

Proposed Rules:

Ch. X.....57139
29.....60946
110-189.....58767
127.....60771
171.....60771
172.....58767, 60771
173.....58767, 60112, 60771
174.....60771
175.....60771
176.....60771
177.....60771
178.....60112
195.....57952
571.....60113, 60120, 60771
575.....56389
622.....59438
1036.....59581
1063.....60122
1090.....61074
1300.....60122
1303.....60122
1304.....60122
1306.....60122
1307.....60122
1308.....60122
1309.....60122
1310.....60122
1312.....60122

50 CFR

13.....59080
17.....56862, 58866, 58868, 59080, 60103, 60862
32.....56940, 56941, 59910
33.....59910
216.....57100
230.....59911
611.....57101
652.....56941, 60103
653.....56700, 56701
810.....59086

Proposed Rules:

4.....61231
17.....56618
285.....57140
611.....59257, 59582
652.....60129

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

54307 9-19-79 / Milk in Southwestern Idaho-Eastern Oregon marketing area; recommended decision; comments by 10-31-79

50847 8-30-79 / Rate proceedings; rules of practice applicable; comments by 10-29-79

Animal and Plant Health Inspection Service—

56351 8-28-79 / Importation of animals from Mexico; comments by 10-29-79

Office of the Secretary—

56943 10-3-79 / Section 22 Import Quotas; comments by 11-2-79

BLIND AND OTHER SEVERELY HANDICAPPED, COMMITTEE FOR PURCHASE FROM

55920 9-28-79 / Proposed Addition to Procurement List, comments by 10-31-79

CIVIL AERONAUTICS BOARD

50607 8-29-79 / Removal of limitations on cargo charters; comments by 10-29-79

COMMERCE DEPARTMENT

Maritime Administration—

52002 9-6-79 / Operating-differential subsidy for dry bulk cargo vessels; comments by 10-29-79

National Oceanic and Atmospheric Administration—

57140 10-4-79 / Atlantic bluefin tuna regulations; intent to prepare environmental impact statement; comments by 11-2-79

CONSUMER PRODUCT SAFETY COMMISSION

51223 8-31-79 / Acetaminophen preparations; exemptions from child-resistant packaging requirements; comments by 10-30-79

ENERGY DEPARTMENT

50801 8-29-79 / Inquiry to identify any Federal regulations which might prevent or impede development of renewable energy resources; comments by 10-29-79

Economic Regulatory Administration—

57103 10-4-79 / Canadian Allocation Program; comments by 11-2-79

ENVIRONMENTAL PROTECTION AGENCY

51225 8-31-79 / Asphalt concrete; review of standards; comments by 10-29-79

55602 9-27-79 / California; air quality planning; attainment status designations; comments by 10-29-79

56967 10-3-79 / Draft application forms for national pollutant discharge elimination system permits; comments by 10-29-79

57429 10-5-79 / Pesticide Use Restrictions; extension of comments period through 10-31-79

[Originally published at 44 FR 45218, August 1, 1979 and corrected at 44 FR 46303, August 7, 1979]

56721 10-2-79 / Proposed delayed compliance order for Virginia Electric & Power Co.'s Portsmouth Generating Station; comments by 11-1-79

59247 10-15-79 / Proposed revision to Ohio's Implementation Plan; comments by 10-30-79

56955 10-3-79 / Review and award of research grants and cooperative agreements; comments by 11-2-79

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

50541 8-28-79 / Interim regulations for processing appealable actions, alleging prohibited discrimination, pending on or before 1-10-79; comments by 10-29-79

V 44 OCT 24 1979 UMI

FEDERAL COMMUNICATIONS COMMISSION

55610 9–27–79 / Certification on expired ship station license to be considered as valid attachment to renewed station license for short period of time; comments by 10–29–79

50876 8–30–79 / Designating frequencies for slow growth, land mobile radio systems of utilities and public safety agencies; comments by 11–1–79

39550 7–6–79 / Inquiry concerning 9 kHz channel spacings for AM broadcasting; reply comments by 11–1–79

50866 8–30–79 / MTS and WATS market structure; comments by 10–31–79

54734 9–21–79 / One-way radio paging in the special emergency radio service; reply comments extended to 10–31–79
[Originally published at 44 FR 49704, August 24, 1979]

FEDERAL ELECTION COMMISSION

55594 9–27–79 / Presidential Election Campaign Fund and Presidential Primary Matching Fund; comments by 10–29–79

FEDERAL LABOR RELATIONS AUTHORITY AND FEDERAL SERVICE IMPASSES PANEL

44740 7–30–79 / Processing of cases; comments by 10–31–79

FEDERAL TRADE COMMISSION

50353 8–28–79 / Montgomery Ward and Co., Inc.; consent agreement with analysis; comments by 10–29–78

GENERAL SERVICES ADMINISTRATION

50838 8–30–79 / Listening-in and recording of telephone conversations; comments by 10–29–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

50360 8–28–79 / Listing of color additives subject to certification; D&C Orange No. 4; comments by 10–29–79

58919 10–12–79 / New drug regulations; comments by 10–31–79

50458–50537 8–28–79 / Physical medical devices; general and individual classification rules; comments by 10–29–79 (83 documents)

INTERIOR DEPARTMENT

Fish and Wildlife Service—

51144 8–30–79 / Critical habitat for the Virginia Big-eared Bat; comments by 11–1–79

44916 7–31–79 / Endangered and treatened wildlife and plants; review of the status of jatropha costaricensis; comments by 10–29–79

Land Management Bureau—

56622 10–1–79 / Cooperative relation; advisory committees; comments by 10–31–79

National Park Service—

56934 10–3–79 / Sale and distribution of printed matter; comments by 11–2–79

Surface Mining Reclamation and Enforcement Office—

56272 9–28–79 / Surface coal mining and reclamation operations permanent regulatory program; comments by 10–29–79

INTERNATIONAL BROADCASTING BOARD

55910 9–28–79 / Security information provisions; comments by 10–29–79

INTERSTATE COMMERCE COMMISSION

53092 9–12–79 / Intercity motor common carrier passenger; modification of regulations; comments by 10–29–79

JUSTICE DEPARTMENT

Immigration and Naturalization Service—

50604 8–29–79 / Proposed requirements that nonimmigrant professional nurses pass screening examination; comments by 10–29–79

LABOR DEPARTMENT

Office of the Assistant Secretary for Labor-Management Relations—

50558 8–29–79 / Labor organizations in the Federal sector; standards of conduct; comments by 10–29–79

Pension and Welfare Benefit Programs—

50363 8–28–79 / Fiduciary responsibility; definition of plan assets and establishment of trust; comments by 10–29–79

50367 8–28–79 / Fiduciary responsibility; statutory exemption for certain acquisitions, sales, or leases of property; comments by 10–29–79

MERIT SYSTEMS PROTECTION BOARD

50540 8–28–79 / Interim regulations for processing appealable actions, alleging prohibited discrimination, pending before 1–11–79; comments by 10–29–79

49956 8–24–79 / Prohibited personnel practices and activities; investigation procedures; comments by 10–30–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

50858 8–30–79 / Space Transportation system; procurement of spinning solid upper stages; comments by 10–29–79

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

58528 10–10–79 / Facilitate successful relocation of businesses and residents within the area; comments by 10–31–79

PERSONNEL MANAGEMENT OFFICE

55147 9–25–79 / Post employment conflict of interest; comments by 10–30–79

SECURITIES AND EXCHANGE COMMISSION

52820 9–10–79 / Statistical disclosure by bank holding companies; comments by 10–30–79

STATE DEPARTMENT

Agency for International Development—

56378 10–1–79 / Pesticide and other environmental procedures; comments by 11–1–79

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration—

53187 9–13–79 / Transportation of liquids by pipelines; Value spacing on pipelines carrying high volatile liquids; comments by 10–30–79

TREASURY DEPARTMENT

Internal Revenue Service—

50361 8–28–79 / Bingo games; income tax treatment of proceeds; comments by 10–29–79

51235 8–31–79 / Transitional rules for acts of self-dealing involving private foundations; comments by 10–30–79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

59260 10–15–79 / Agency Organization and Personnel Committee, Washington, D.C. (open), 11–2–79

58933 10–12–79 / Committee on Judicial Review, Washington, D.C. (open), 10–31–79

AGRICULTURE DEPARTMENT

Forest Service—

55615 9–27–79 / Modoc National Forest Grazing Advisory Board, Adin, Calif. (open), 10–30–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

57540 10–5–79 / Federal-State Partnership Panel (State Programs Section) Wash., D.C. (open), 10–31 and 11–1–79

National Endowment for the Arts—

56996 10–3–79 / Music Panel, Washington, D.C. (partially open), 10–30 through 11–1–79

CIVIL RIGHTS COMMISSION

58772 10–11–79 / Alabama Advisory Committee, Montgomery, Ala. (open), 10–31–79

54530 9–20–79 / Colorado Advisory Committee, Denver, Colo. (open), 11–3–79

58772 10–11–79 / Nebraska Advisory Committee, Scotsbluff, Nebr. (open), 10–30–79

58772 10–11–79 / Wisconsin Advisory Committee, Madison, Wis. (open), 10–30–79

COMMERCE DEPARTMENT

Census Bureau—

56976 10–3–79 / Census Advisory Committee, of the American Marketing Association, Suitland, Md. (open), 10–30–79

58772 10–11–79 / Census Advisory Committee, on Housing for the 1980 Census, Suitland, Md. (open), 11–1–79

National Oceanic and Atmospheric Administration—

57140 10–4–79 / Atlantic bluefin tuna regulations; intent to prepare environmental impact statement, Washington, D.C. (open), 10–31–79

59261 10–15–79 / Scientific and Statistical Committee, Kenner, Louisiana (open), 11–1–79

DEFENSE DEPARTMENT

Air Force Department—

54084 9–18–79 / Scientific Advisory Board, Washington, D.C. (closed), 10–29 and 10–30–79

Army Department—

58873 10–11–79 / Army Medical Research and Development Advisory Panel, Ad Hoc Study Group on Special Infectious Disease Problems, Ft. Detrick, Md. (partially open), 11–1 and 11–2–79

58774 10–11–79 / Shoreline Erosion Advisory Panel, New Orleans, La. (open), 11–1 and 11–2–79

Office of the Secretary—

55413 9–26–79 / DOD Advisory Group on Electron Devices, New York, N.Y. (open), 10–30–79

49009 8–21–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 10–30–79

ENERGY DEPARTMENT

53287 9–13–79 / National Petroleum Council, Task Group of the Committee on Unconventional Gas Sources, Littleton, Colo. (open), 10–29 and 10–30–79

Economic Regulatory Administration—

58583 10–10–79 / Fuel Oil Marketing Advisory Committee, Forum on Refiner Credit Practices, Federal Plaza, N.Y. (open), 10–29–79

Energy Research Office—

59642 10–16–79 / Energy Research Advisory Board, Washington, D.C. (open), 11–1 and 11–2–79

ENVIRONMENTAL PROTECTION AGENCY

57200 10–4–79 / Energy emergencies and clean air regulations, Washington, D.C. (open), 10–29 and 10–31–79

58953 10–12–79 / Science Advisory Board Ecology Committee, Washington, D.C. (open), 10–29 and 10–30–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse and Mental Health Administration—

54124 9–18–79 / Life Course Review Committee, Washington, D.C. (open and closed), 10–31 through 11–2

54124 9–18–79 / Psychopathology and Clinical Biology Research Review Committee, Rockville, Md. (open and closed), 10–29 through 10–31–79

Assistant Secretary for Health Office—

55067 9–24–79 / Health Care Technology Study Section, Washington, D.C. (open), 10–29 and 10–30–79

Education Office—

54360 9–19–79 / Accreditation and Institutional Eligibility Advisory Committee, Washington, D.C. (open), 10–31 and 11–1–79

Food and Drug Administration—

58967 10–12–79 / Circulatory System Devices Panel, Washington, D.C. (open), 11–2–79

58026 9–28–79 / Consumer Participation, Cincinnati, Ohio (open), 10–29–79

51335 8–31–79 / Immunoglobulin Workshop, Bethesda, Md. (open), 10–30 and 10–31–79

Health Services Administration—

53313 9–13–79 / Interagency Committee on Emergency Medical Services, Rockville, Md. (open), 10–31–79

National Institutes of Health—

57501 10–5–79 / Animal Resources Review Committee, Davis, Calif. (open), 10–30–79

52038 9–6–79 / Board of Scientific Counselors, Division of Cancer Treatment, Bethesda, Md. (open), 10–29 and 10–30–79

53108 9–12–79 / Cancer Control Grant Review Committee, Bethesda, Md. (partially open), 10–28 through 10–30–79

57501 10–5–79 / Clinical Applications and Prevention Advisory Committee, Bethesda, Md. (open), 11–2–79

59652 10–16–79 / Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee), Chicago, Ill. (partially open), 10–31–79

53107 9–12–79 / Neurological Disorders Program, Project Review B Committee, Atlanta, Ga. (partially open), 10–31 through 11–2–79

53800 9–17–79 / Research grant study sections (partially open):

Bethesda, Chevy Chase and Silver Spring, Md., 10–29 through 11–3–79

Atlanta, Ga., 10–29 through 11–1–79

San Francisco, Calif., 10–31 through 11–2–79

53106 9–12–79 / Scientific Counselors Board, National Institute of Neurological and Communicative Disorders and Stroke, Bethesda, Md. (partially open), 11–1 and 11–2–79

50659 8–29–79 / Sickle Cell Disease Advisory Committee, San Francisco, Calif. (open), 10–31–79

55421 9–26–79 / Transplantation Biology and Immunology Committee, Bethesda, Md. (partially open), 11–2–79

Office of the Secretary—

55119 9–24–79 / Consideration of age discrimination provisions, Portland Oreg. (open), 10–30–79

Social Security Administration—

54128 9–18–79 / Social Security For Your Future, Fort Worth, Tex., 10–31–79

54128 9–18–79 / Social Security For Your Future, New York, N.Y., 10–29–79

INTERAGENCY REGULATORY LIAISON GROUP

49015 8–21–79 / Testing Standards and Guidelines Work Group, Washington, D.C. (open), 10–30–79

INTERIOR DEPARTMENT

Land Management Bureau—

57999 10–9–79 / Coal Resource Minimum Acceptable Bids, Denver, Colo. (open), 11–1–79

55230 9–25–79 / Intergovernmental Planning, Gulf of Mexico and South Atlantic Regional Technical Working Groups, New Orleans, La. (open), 10–30–79

54361 9–19–79 / Kingman Resource Area (Phoenix, Ariz. District) Advisory Board, Kingman, Ariz. (open), 11–1–79

55663 9–27–79 / Pacific States Regional Technical Working Group of the National Outer Continental Shelf Advisory Board, Los Angeles, Calif. (open), 10–30 and 10–31–79

INTERNATIONAL COMMUNICATION AGENCY

59676 10–16–79 / U.S. Advisory Commission on Public Diplomacy, Washington, D.C. (open), 11–1 and 11–2–79

LABOR DEPARTMENT

Occupational Safety and Health Administration—

59676 10–16–79 / Occupational Safety and Health National Advisory Committee, Washington, D.C. (open), 11–1 and 11–2–79

Office of the Secretary—

59011 10–12–79 / Steel Tripartite Committee, Working Group on Labor and Community Adjustment Assistance, Washington, D.C. (open), 11–1–79

V 44 0C 24 7 9 UMI

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

58007 10-9-79 / NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC), Moffett Field, Calif. (open), 10-31 and 11-1-79

59021 10-12-79 / NASA Advisory Council, Space Systems and Technology Advisory Committee, Washington, D.C. (open), 11-1-79

59021 10-12-79 / NASA Advisory Council, Space Systems and Technology Advisory Committee, Hampton, Va. (open), 10-31 and 11-1-79

NATIONAL SCIENCE FOUNDATION

59021 10-12-79 / Advisory Committee for Chemistry, Washington, D.C. (open) 11-2-79

[Rescheduled at 44 FR 59301, October 15, 1979]

59022 10-12-79 / Advisory Committee for Materials Research, Subcommittee for Condensed Matter Sciences, Washington, D.C. (open), 10-30 and 10-31-79

59023 10-12-79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Washington, D.C. (closed), 11-1 through 11-3-79

59023 10-12-79 / Advisory Committee for Physiology, Cellular and Molecular Biology, Subcommittee on Molecular Biology, Washington, D.C. (closed), 10-29 and 10-30-79

59021 10-12-79 / Advisory Committee on Special Research Equipment (2- and 4-year Colleges), Washington, D.C. (closed), 11-1 and 11-2-79

59022 10-12-79 / Advisory Council, Washington, D.C. (open), 11-1 and 11-2-79

59022 10-12-79 / Advisory Subcommittee for Materials Research Laboratories, Washington, D.C. (open and closed), 11-1 and 11-2-79

NUCLEAR REGULATORY COMMISSION

59301 10-15-79 / Advisory Committee on Reactor Safeguards, Washington, D.C. (open), 10-30-79

59023 10-12-79 / Advisory Committee on Reactor Safeguards, Subcommittee on the La Crosse Boiling Water Reactor, Washington, D.C. (open and closed), 10-26-79

STATE DEPARTMENT

58574 10-10-79 / U.S. Organization for the International Telegraph and Telephone Consultative Committee, Washington, D.C. (open), 10-31-79

Agency for International Development—

52913 9-11-79 / Research Advisory Committee, Washington, D.C. (open), 10-29 and 10-30-79

Office of the Secretary—

58015 10-9-79 / Advisory Committee to the U.S. National Section of the International Commission for the Conservation of Atlantic Tuna, Washington, D.C. (open), 10-30-79

TRANSPORTATION DEPARTMENT

Federal Aviation Administration—

56419 10-1-79 / Air Traffic Procedures Advisory Committee, Washington, D.C. (open), 10-30 through 11-2-79

59242 10-15-79 / Radio Technical Commission for Aeronautics Executive Committee, Arlington Va. (open), 11-2-79

National Highway Traffic Administration—

15823, 34235 3-15-79 and 6-14-79 / International Conference on automotive fuel economy research, Arlington, Va. (open), 10-31 to 11-2-79

TREASURY DEPARTMENT

Office of the Secretary—

58827 10-11-79 / Treasury Small Business Advisory Committee, Washington, D.C. (open), 10-29 and 10-30-79

VETERANS ADMINISTRATION

53602 9-14-79 / Advisory Committee on Structural Safety of Veterans Administration Facilities, Washington, D.C. (open), 10-29-79

55082 9-24-79 / Career Development Committee, Washington, D.C. (open), 10-29 and 10-30-79

59033 10-12-79 / Station Committee on Educational Allowances, Nashville, Tenn. (open), 10-31-79

53602 9-14-79 / Wage Committee, Washington, D.C. (closed), 11-1-79

Next Week's Public Hearings:

CIVIL AERONAUTICS BOARD

55917 9-28-79 / Texas-Alberta-Alaska Case; prehearing conference, Washington, D.C. 10-30-79

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

58937 10-12-79 / Louisiana Coastal Resources Program, hearing on draft environmental impact statement, New Orleans, Homa, and Abbeville, La. 10-30 through 11-1-79

ENERGY DEPARTMENT

57902 10-5-79 / Enforcement of Oil Import Quota, San Francisco, Calif., 10-29-79; Dallas Tex., 10-31-79 and Chicago, Ill., 11-2-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

56027 9-28-79 / Peptides Subcommittee on the Drug Abuse Advisory Committee, Rockville, Md., 10-29-79 and 10-30-79

LABOR DEPARTMENT

Mine Safety and Health Administration—

53540 9-14-79 / Independent Contractors, Washington, D.C., 10-30-79

SOCIAL SECURITY NATIONAL COMMISSION

35324 6-19-79 / Social Security, Boston, Mass., 11-2-79

TREASURY DEPARTMENT

57902 10-5-79 / Enforcement of oil import quota, San Francisco, Calif., 10-29-79; Dallas, Tex., 10-31-79; and Chicago, Ill., 11-2-79

Internal Revenue Service—

50064 8-27-79 / Investment in U.S. property by controlled foreign corporations, Washington, D.C., 10-30-79

54315 9-19-79 / Tax treatment of certain short-term corporate obligations and certificates of deposit and similar deposit arrangements, Washington, D.C., 11-1-79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing October 23, 1979

Documents Relating to Federal Grant Programs

This is a list of documents relating to Federal grant programs which were published in the **Federal Register** during the previous week.

RULES GOING INTO EFFECT

59489 10-16-79 / USDA/FNS—Special supplemental food programs for women, infants, and children; final program (food) funding formula; effective 10-16-79

APPLICATIONS DEADLINES

59884 10-16-79 / ACTION—proposed implementation of the joint ACTION/LEAA urban crime prevention program (UCPP) for Fiscal Year 1980; apply by 4-1-80

60167 10-18-79 / HEW/HDSO—Availability of Basic Educational Skills Research Grant Program funds; apply by 12-18-79

59963 10-17-79 / HEW/OE—Strengthening developing institutions program; fiscal year 1980; noncompeting continuation projects; apply by 12-10-79

59963 10-17-79 / HEW/OE—Strengthening developing institutions program; fiscal year 1980; new projects; apply by 12-10-79

60415 10-19-79 / HEW/PHS—Dental Team Practice Grants; apply by 11-15-79

60634 10-19-79 / HEW/Sec'y—Telecommunications Demonstration Program; mail applications by 12-17-79

59884 10-16-79 / Justice-LEAA—Proposed implementation of the joint ACTION/LEAA urban crime prevention program (UCPP) for fiscal year 1980; apply by 4-1-80

MEETINGS

59961 10-17-79 / HEW/ADAMHA—Alcohol Abuse Prevention, Review Committee, Silver Spring, Md (partially open), 11-1 and 11-2-79

59962 10-17-79 / HEW/ADAMHA—Cognition, Emotion, and Personality Research Committee, Washington, D.C. (open and closed), 11-16 and 11-17-79

59961 10-17-79 / HEW/ADAMHA—Mental Health Research Education Review Committee, Silver Spring, Md. (open and closed), 11-15 through 11-17-79

59962 10-17-79 / HEW/ADAMHA—Research Scientist Development Review Committee (open and closed), 11-19 through 11-21-79

59961 10-17-79 / HEW/ADAMHA—Treatment Development and Assessment Research Review Committee, Washington, D.C. (open and closed), 11-2-79

59961 10-17-79 / HEW/ADAMHA—Basic Sociocultural Research Review Committee, Washington, D.C. (open and closed), 11-1-79

59962 10-17-79 / HEW/ADAMHA—Mental Health Small Grant Review Committee, Washington, D.C. (partially closed), 11-29, 11-30, and 12-1-79

59652 10-16-79 / HEW/HSA—Maternal and Child Health Research Grants Review Committee, Rockville, Md. (partially open), 11-14 and 11-15-79

59652 10-16-79 / HEW/NIH—Cancer Clinical Investigation Review Committee, Bethesda, Md. (partially open), 11-5 and 11-6-79

59652 10-16-79 / HEW/NIH—Cause and Prevention Scientific Review Committee, Bethesda, Md. (partially open), 12-14-79

59652 10-16-79 / HEW/NIH—Clinical Cancer Program Project & Cancer Center Support Review Committee (Cancer Center Support Review Subcommittee), Bethesda, Md. (partially open), 11-15 and 11-16-79

59652 10-16-79 / HEW/NIH—Clinical Cancer Program Project & Cancer Center Support Review Committee (Clinical Cancer Program Project Review Subcommittee), Bethesda, Md. (partially open), 12-10 and 12-11-79

59652 10-16-79 / HEW/NIH—Large Bowel and Pancreatic Cancer Review Committee (Pancreatic Subcommittee), Chicago, Ill. (partially open), 10-31-79

59970 10-17-79 / Interior/GS—Earthquake Studies Advisory Panel, La Jolla, California (open), 11-1 and 11-2-79

60177 10-18-79 / NFAH—Media Arts Panel (programing in the arts), Washington, D.C. (closed), 11-5-79

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2½ hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between Federal Register and the Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them, as part of the General Services Administration's efforts to encourage public participation in Government actions. There will be no discussion of specific agency regulations.

WASHINGTON, D.C.

WHEN: Nov. 2, 16,* and 30; Dec. 14; at 9 a.m. (identical sessions)

WHERE: Office of the Federal Register, Room 9409, 1100 L Street N.W., Washington, D.C.

RESERVATIONS: Call Mike Smith, Workshop Coordinator, 202-523-5235 or Gwendolyn Henderson, Assistant Coordinator, 202-523-5234.

*Note: The November 16 briefing will feature an interpreter for hearing impaired persons. The TTY number at the Office of the Federal Register is 202-523-5239.

V 44 OC 24 79 UMI

V
4
4

0
C

2
4

7
9
UMI

Slip Laws

Subscriptions Now Being Accepted

96th Congress, 1st Session, 1979

Separate prints of Public Laws, published immediately after enactment, with marginal annotations, legislative history references, and future Statutes volume page numbers.

Subscription Price: **$130.00 per session**

(Individual laws also may be purchased from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Prices vary. See Reminder Section of the Federal Register for announcements of newly enacted laws and prices).

SUBSCRIPTION ORDER FORM

ENTER MY SUBSCRIPTION TO: PUBLIC LAWS. [PULA-File Code 1L]

☐ $130.00 Domestic; ☐ $162.50 Foreign.

PLEASE PRINT OR TYPE

NAME—FIRST, LAST

COMPANY NAME OR ADDITIONAL ADDRESS LINE

STREET ADDRESS

CITY | STATE | ZIP CODE

(or) COUNTRY

MAIL ORDER FORM TO:
Superintendent of Documents
Government Printing Office
Washington, D.C. 20402

☐ Remittance Enclosed (Make checks payable to Superintendent of Documents)

☐ Charge to my Deposit Account No.....

V 44 OC 24 79 UMI

10-25-79
Vol. 44 No. 208
Pages 61319-61558

Federal Register

Thursday
October 25, 1979

Highlights

61546 **Fishing Vessels** Commerce/NOAA promulgates rule which establishes fund to pay for damage, loss, or destruction; effective 11-24-79 (Part III of this issue)

61372 **Nuclear Waste** NRC conducts generic proceeding on storage and disposal; comments by 11-26-79

61346 **Economic Opportunity** CSA files final rule specifying the quantifiable data required on Project Progress Review (PPR) Reports required by grantees under the Act; effective 11-26-79

61348 **Program Account Codes** CSA makes amendment to its rule to reflect activities eligible for funding as described by program policy statements; effective 11-26-79

61322 **Banking** FHLBB issues final rule on calculation of earnings on savings accounts; effective 10-25-79

61384 **Mail** PS proposes rule on pickup of express mail addressed to post office box addresses; comments by 11-24-79

61383 **Mail** PS proposes rule regarding handling of unpaid articles; comments by 11-24-79

CONTINUED INSIDE

V 4 4 O C 2 5 7 9 UMI

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers, free of postage, for $5.00 per month or $50 per year, payable in advance. The charge for individual copies of 75 cents for each issue, or 75 cents for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register**.

Area Code **202–523–5240**

Highlights

61396 **Procurement** VA proposes to amend its rules by revising two contract clauses; comments by 11–26–79

61485 **Federal-Aid Highways** DOT/FHWA request comments by 12–24–79 on the development of a policy for accelerating safety upgrading

61327 **Commodity Exchange** CFTC amends rules of practice to incorporate administrative procedures which concern settings of hearings

61352, 61359, 61366 **Tobacco** USDA/FCIC proposes procedures for insuring crops under the dollar, quota and guaranteed production plans; comments by 11–26–79 (3 documents)

61402 **Import Fees** USDA/Sec'y is required to decrease amount on raw and refined sugar; effective 10–24–79

61378 **Watches** Commerce/Sec'y and Interior/Sec'y propose changes to quota regulations; comments by 12–24–79

61338 **Natural Gas** DOE/FERC corrects allocation formula, expands right to protect to the Data Verification Committee to any interested person and extends scope of complaint procedure; effective 11–21–79

61328 **Federal Power** DOE/FERC amends rules governing preliminary permits and licenses under the Act; effective 11–26–79

61542 **Source Performance Standards** EPA deletes the requirement that a Claus sulfur recovery plant of 20 long tons per day (LTD) or less must be associated with a "small petroleum refinery"; effective 10–25–79 (Part II of this issue)

61492 **Spun Acrylic Yarn From Japan** Treasury issues determination of sales at less than fair value

61345 **Rangeland Improvements** USDA/FS issues final rule pertaining to grazing and livestock use on the National Forest System; effective 10–25–79

61513 **Sunshine Act Meetings**

Separate Parts of This Issue

61542 **Part II, EPA**
61546 **Part III, Commerce/NOAA**
61554 **Part IV, Interior/FWS**

Contents

Federal Register
Vol. 44, No. 208
Thursday, October 25, 1979

Executive Agencies

Administration Office, Executive Office of the President
NOTICES
Meetings:
61480 Information Network Structure and Functions Advisory Committee

Administrative Conference of United States
NOTICES
61398 Remedial order procedures of DOE; tentative recommendations; extension of time

Agriculture Department
See also Federal Crop Insurance Corporation; Forest Service.
NOTICES
Import quotas and fees:
61402 Sugar; adjustment

Commerce Department
See also Industry and Trade Administration; National Oceanic and Atmospheric Administration.
PROPOSED RULES
61378 Watch quotas
NOTICES
Committees; establishment, renewals, terminations, etc.:
61403 Senior Executive Service; Performance Review Board

Commodity Futures Trading Commission
RULES
Practice rules:
61327 Hearing dates, setting, in certain cases
NOTICES
61513 Meetings; Sunshine Act (2 documents)

Community Services Administration
RULES
Grantees, funding:
61348 Program account codes
Uniform standards:
61346 Program performance monitoring and reporting

Customs Service
NOTICES
Trade name recordation applications:
61491 Ohaus Scale Corp.

Defense Department
See also Engineers Corps.
RULES
61345 Civilian health and medical program of uniformed services (CHAMPUS); certified nurse midwife; correction
NOTICES
Meetings:
61408 Science Board task forces

Drug Enforcement Administration
NOTICES
Registration applications, etc.; controlled substances:
61466 Burks, Charles J., M.D.
61468 Hurd, Chester J., M.D.

Economic Regulatory Administration
NOTICES
Consent orders:
61408 Jone's Exxon et al.
61409 Western Illinois Oil-Imperial et al.
Public Utility Regulatory Policies Act of 1978:
61413 Solar energy and renewable resources; voluntary guidelines; inquiry and hearings; correction
Public Utility Regulatory Policies Act of 1978 and National Energy Conservation Policy Act of 1978:
61413 Gas and electric utilities covered in 1980; list and request for additions; correction
Remedial orders:
61411 Beltway Gulf
61411 Capitol Tire Co.
61412 Frankel City Exxon
61412 M. E. Goldsby Exxon
61412 McGrath Mobil Station
61412 Stefanakis, George
61411 Thoreau Chevron

Energy Department
See also Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
61408 Prudhoe Bay Unit Waterflood Project, North Slope Borough, Ala.

Environmental Protection Agency
RULES
Air pollution; standards of performance for new stationary sources:
61542 Petroleum refinery Claus sulfur recovery plants; definition of small refinery
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States, etc.:
61384 Missouri
NOTICES
Air pollution control, new motor vehicles and engines:
61452 Light duty vehicles; carbon monoxide emissions, 1981 and 1982 model years; waiver; hearing
Air quality implemention plans; approval and promulgation:
61455 Jefferson County, Mo.; new beverage can manufacturing facility
Meetings:
61452 Municipal Construction Division Management Advisory Group

61455 Review of preliminary draft criteria for particulate matter and sulfur oxides
61455 Science Advisory Board
Pesticides; emergency exemption applications:
61454 Paraquat
Water pollution; discharge of pollutants:
61452 Alabama

Federal Aviation Administration
RULES
61323 Airworthiness, aircraft equipment, and operating rules; operations review program
Airworthiness directives:
61325 Bellanca
61326 Piper
PROPOSED RULES
61377 Control zone and transition area
Noise standards
61376 Helicopters; extension of time
61378 Restricted areas; correction
61376 Rulemaking petitions; summary and disposition
61378 Transition areas
NOTICES
61484 Exemption petitions; summary and disposition
61483 Security agreement recordation; cancellation; civil aircraft N36565

Federal Communications Commission
NOTICES
Hearings, etc.:
61456 Appalachian Regional Commission

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance, various commodities:
61352, 61359, 61366 Tobacco (3 documents)

Federal Deposit Insurance Corporation
NOTICES
61513, 61514 Meetings; Sunshine Act (4 documents)

Federal Energy Regulatory Commission
RULES
Electric utilities:
61328 Preliminary permits and licenses; technical filing requirements and evaluation procedures
Natural Gas Policy Act of 1978:
61338 Curtailment rules, permanent
61327, Production related costs recovery; Prudhoe Bay Unit, Alaska; effective date stayed and rehearing
NOTICES
Hearings, etc.:
61446 El Paso Natural Gas Co.
61446 Georgia Power Co.
61447 Texas Eastern Transmission Corp. (2 documents)
61448
61448 Texas Power & Light Co.
61451 United Gas Pipe Line Co.
Natural gas companies:
61412 Small producer certificates, applications
Natural Gas Policy Act of 1978:
61413-61436 Jurisdictional agency determinations (3 documents)
61514 Meetings; Sunshine Act

Federal Highway Administration
NOTICES
61485 Highway safety policy; inquiry

Federal Home Loan Bank Board
RULES
Federal home loan bank system, etc.:
61322 Savings accounts; calculation of earnings

Federal Railroad Administration
NOTICES
Petitions for exemptions, etc.:
61486 Almanor Railroad Co.
61487 Howard Terminal Railway, et al.
61486 Johnstown & Stony Creek Railroad Co.

Federal Reserve System
NOTICES
Applications, etc.:
61457 Beggs Bancshares, Inc.
61457 First Cicero Banc Corporation
61457 First National Elgin Bancorp, Inc.
61457 Heritage Racine Corp.
61458 Northwest Bancorporation
61459 Strasburg Bancorporation, Inc.
61457 National security information program; implementation

Fish and Wildlife Service
RULES
Endangered and threatened species:
61554 Coryphantha sneedii var. leei (Lee pincushion cactus)
61556 Echinocereus triglochidiatus var. arizonicus (Arizona hedgehog cactus)
61351 Sarracenia oreophila (green pitcher plant); extension of effective date

Forest Service
RULES
Grazing:
61345 Livestock on National Forest System lands; range improvements; allotment management plans
NOTICES
Environmental statements; availability, etc.:
61400 Angeles National Forest, land and resources management plan, Calif.
61399 Colville National Forest, land and resources management plan, Wash.
61401 Mendocino National Forest, land and resources management plan, Calif.
61400 Mt. Hood National Forest; land and resources management plan, Oreg.
61401 Shasta-Trinity National Forest, Calif.

General Services Administration
See National Archives and Records Service.

Health, Education, and Welfare Department
See National Institutes of Health.

Hearings and Appeals Office, Energy Department
NOTICES
Remedial orders:
61451 Objections filed

Housing and Urban Development Department
PROPOSED RULES
Mortgage and loan insurance programs:
61382 Multi-family housing projects, tenant participation; transmittal to Congress

Immigration and Naturalization Service
RULES
Exchange programs for American institutions of research:
61320 University of Illinois at Urbana-Champaign, Austria-Illinois Exchange Program
61319 Service records applications and petitions; fee increase

Industry and Trade Administration
NOTICES
Meetings:
61405-61407 Computer Systems Technical Advisory Committee (3 documents)
61403 Watch quotas

Interior Department
See also Fish and Wildlife Service; Land Management Bureau.
PROPOSED RULES
61378 Watch quotas
NOTICES
61464 Privacy Act; system of records
61403 Watch quotas

International Trade Commission
NOTICES
Import investigations:
61466 Coke from West Germany; inquiry and hearing
61514 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Motor carriers:
61493 Permanent authority applications
Rail carriers:
61512 Kansas City Terminal Railway Co.; need for continued directed service over Rock Island Railroad; hearings

Justice Department
See also Drug Enforcement Administration; Immigration and Naturalization Service; Prisons Bureau.
RULES
61346 Procurement; nomenclature changes
NOTICES
Pollution control; consent judgments:
61468 Bacardi Corp.
61472 New York, N.Y.
61468 WSC Corp.

Land Management Bureau
RULES
Public land orders:
61346 California
NOTICES
Applications, etc.:
61462 Arizona
61463 Colorado
61463 New Mexico
Environmental concern, critical areas:
61464 Beaverhead County, Mont.; interim designation
Meetings
61463 Casper District Grazing Advisory Board
61463 Ely District Grazing Advisory Board
Sale of public lands:
61464 Nevada
Wilderness areas; characteristics, inventories, etc.:
61464 Montana

Management and Budget Office
NOTICES
61481 Agency forms under review

National Aeronautics and Space Administration
NOTICES
Meetings:
61472 Aeronautics Advisory Committee
61473 Space Science Advisory Committee

National Archives and Records Service
NOTICES
Records management:
61459 Automatic declassification after 20 years

National Institutes of Health
NOTICES
Meetings:
61459 Aging Review Committee
61460 Cellular and Molecular Basis of Disease Review Committee
61460 Clinical Cancer Education Committee; location change
61460 Clinical Trials Review Committee
61460 General Research Support Review Committee
61462 Heart, Lung, and Blood National Advisory Council
61461 Heart, Lung, and Blood Research Review Committee A
61461 Heart, Lung, and Blood Research Review Committee B
61461 High Blood Pressure Working Group
61461 Mental Retardation Research Committee
61462 Mineral samples for biological testing; criteria for selection, preparation and characterization; workshop
61462 NIDR Special Grants Review Committee; location change
61462 Population Research Committee; date change
61459 Scientific Counselors Board

National Oceanic and Atmospheric Administration
RULES
Financial aid to fisheries:
61546 Fishing vessel or gear damage in U.S. fishery; compensation
NOTICES
Meetings:
61407 New England Fishery Management Council

National Science Foundation
NOTICES
Meetings:
61473 Policy Research and Analysis and Science Resources Studies Advisory Committee; postponement

V 44 OC 25 79 UMI

National Transportation Safety Board
NOTICES
61476 Accident reports, safety recommendations and responses, etc.; availability
61514 Meetings; Sunshine Act

Nuclear Regulatory Commission
RULES
Practice rules:
61320 Domestic licensing proceedings; rulemaking petitions; filing and processing
PROPOSED RULES
Environmental protection; licensing and regulatory policy and procedures:
61372 Radioactive waste from nuclear facilities; storage and disposal
NOTICES
Applications, etc.:
61473 Puget Sound Power and Light Co. et al.
61473 Rensselaer Polytechnic Institute
61474 Texas A & M University
61475 Westinghouse Electric Corp.
61515 Meetings; Sunshine Act

Pennsylvania Avenue Development Corporation
NOTICES
61483 Privacy Act; systems of records; annual publication

Postal Service
PROPOSED RULES
Domestic Mail Manual:
61384 Express mail pickup addressed to post office box addresses
61383 Unpaid articles placed in private mail receptacles or in mail by private delivery companies; handling

Prisons Bureau
NOTICES
Meetings:
61466 Corrections Advisory Board National Institute

Railroad Retirement Board
NOTICES
61515 Meetings; Sunshine Act

Research and Special Programs Administration, Transportation Department
NOTICES
Hazardous materials:
61488 Applications; exemptions, renewals, etc.

Science and Technology Policy Office
NOTICES
Meetings:
61482 Intergovernmental Science, Engineering, and Technology Advisory Panel

Susquehanna River Basin Commission
NOTICES
61483 Comprehensive plan for management and development of water resources; hearing

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; Federal Railroad Administration; Research and Special Programs Administration, Transportation Department.
PROPOSED RULES
Nondiscrimination:
61396 Age discrimination prohibiton in federally-assisted programs; correction

Treasury Department
See also Customs Service.
NOTICES
Antidumping:
61492 Spun acrylic yarn from Japan

Veterans Administration
PROPOSED RULES
Procurement:
61396 Contract clauses

World Hunger, Presidential Commission On
NOTICES
61483 Meetings:

MEETINGS ANNOUNCED IN THIS ISSUE

COMMERCE DEPARTMENT
Industry and Trade Administration—
61406 Computer Systems Technical Advisory Committee and Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee, Foreign Availability Subcommittees, 11–13–79
61405 Computer Systems Technical Advisory Committee, Hardware Subcommittee, 11–14–79
61407 Computer Systems Technical Advisory Committees, Licensing Procedures Subcommittee, 11–13–79
National Oceanic and Atmospheric Administration—
61407 New England Management Council, 11–14–79

DEFENSE DEPARTMENT
Office of the Secretary—
61408 Defense Science Board Task Force on ECM, 11–20 and 11–21–79

ENVIRONMENTAL PROTECTION AGENCY
61452 Management Advisory Group (MAG) to the Municipal Construction Division, 11–6 and 11–7–79
61455 Science Advisory Board, Energy-Related Health Effects Research Subcommittee, 11–13 and 11–14–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
National Institutes of Health—
61459 Aging Review Committee, 12–3 and 12–4–79
61459 Board of Scientific Counselors, (DCCP) Division of Cancer Cause and Prevention, 11–15 and 11–16–79
61460 Cellular and Molecular Basis of Disease Review Committee, 11–12–79
61460 Clinical Trials Review Committee, 11–16–79
61460 General Research Support Review Committee, 12–3, 12–4 and 12–5–79
61461 Heart, Lung and Blood Research Review Committee A, 11–30 and 12–1–79
61461 Heart, Lung and Blood Research Review Committee B, 11–30–79
61461 High Blood Pressure Working Group, 1–14–80

61461 Mental Retardation Research Committee, 12–4 and 12–5–79
61462 National Heart, Lung, and Blood Advisory Council, 11–29 and 11–30–79
61462 National Institute of Dental Research, 11–6 and 11–7–79
61462 Workshop on Criteria for Selection, Preparation and Characterization of Mineral Samples for Biological Testing, 12–6 and 12–7–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
61472 NASA Advisory Council (NAC) Aeronautics Advisory Committee (AAC), 11–15–79
61473 NASA Advisory Council (NAC) Space Science Advisory Committee, 11–13 and 11–14–79

OFFICE OF ADMINISTRATION, EXECUTIVE OFFICE OF THE PRESIDENT
61480 Information Network Structure and Functions Advisory Committee, 11–9–79

OFFICE OF SCIENCE AND TECHNOLOGY POLICY
61482 Intergovernmental Science, Engineering, and Technology Advisory Panel, Science and Technology Transfer Task Force, 11–9 and 11–10–79

INTERIOR DEPARTMENT
Bureau of Land Management—
61463 Casper District Grazing Advisory Board, 11–29–79
61463 Ely District—Nevada Grazing Advisory Board, 11–30–79

CANCELLED MEETING

NATIONAL SCIENCE FOUNDATION
61473 Advisory Committee for Policy Research and Analysis and Science Resources Studies, 11–8 and 11–9–79

CHANGED MEETING

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
National Institutes of Health—
61460 Clinical Cancer Education Committee, 11–7 and 11–8–79

RESCHEDULED MEETINGS

HEALTH, EDUCATION, AND WELFARE DEPARTMENT
National Institutes of Health—
61462 Population Research Committees rescheduled from 11–4 through 11–16–79 to 11–15 and 11–16–79

PRESIDENTIAL COMMISSION ON WORLD HUNGER
61483 Meeting, rescheduled from 11–3 to 11–5–79

HEARINGS

ENVIRONMENTAL PROTECTION AGENCY
61452 Motor Vehicle Pollution Control; Waiver of Carbon Monoxide Emission Standards; 11–5 and possibly 11–6–79

INTERNATIONAL TRADE COMMISSION
61466 Coke from West Germany, 10–30–79

SUSQUEHANNA RIVER BASIN COMMISSION
61483 Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin, 11–8–79

V 44 OC 25 79 UMI

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR
Proposed Rules:
434 61352
435 61359
436 61366

8 CFR
103 61319
316a 61320

10 CFR
2 61320
Proposed Rules:
50 61372
51 61372

12 CFR
526 61322

14 CFR
25 61323
39 (2 documents) 61325, 61326
127 61323
137 61323
Proposed Rules:
Ch. I 61376
21 61376
36 61376
71 (2 documents) 61376, 61377
73 61378

15 CFR
Proposed Rules:
303 61378

17 CFR
10 61327

18 CFR
2 61327
4 61328
16 61328
131 61328
271 61327
281 61338

24 CFR
Proposed Rules:
402 61382

32 CFR
199 61345

36 CFR
222 61345

39 CFR
Proposed Rules:
111 (2 documents) 61383, 61384

40 CFR
60 61542
Proposed Rules:
52 61384
81 61384

41 CFR
28 61346
Proposed Rules:
8-7 61396

43 CFR
Public Land Orders:
5684 61346

45 CFR
1050 61346
1067 61348

49 CFR
Proposed Rules:
29 61396

50 CFR
17 (3 documents) 61351, 61554, 61556
258 61546

V 4 4 O C 2 5 7 9 UMI

Rules and Regulations

Federal Register
Vol. 44, No. 208
Thursday, October 25, 1979

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records; Fees

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rulemaking order amends the fee schedule of the Immigration and Naturalization Service to increase the fees for certain applications and petitions and add new fees for others.

The fee descriptions and increases are set forth in the rulemaking portion of this document. The reason the new fees and fee increases are required is because recent studies have indicated that the cost of processing certain Service applications and petitions has increased. By law, those increases in cost must be reflected in the Service fee structure because any benefit or service provided to or for any person by a Federal Agency is required to be self-sustaining to the fullest extent possible.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Washington, D.C. 20536. Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: On July 5, 1979, at 44 FR 39183, the Service published a Notice of Proposed Rulemaking in which new fees were proposed for certain applications and certain fees on others were proposed to be increased.

We received three comments from the public in response to the notice.

The first comment suggested that a time period should be set for the processing of applications, in the regulations. This commenter also suggested that a surcharge be provided in the fee schedule, to be applied for the expedited processing of a petition or application.

We do not agree that the regulations should include rigid time limitations for the adjudication of applications and petitions. Many factors determine the time of adjudication such as number of employees on duty, number and type of applications or petitions received, complexity of the issues presented and other priorities of work generally. The Service makes every effort to adjudicate applications and petitions quickly and efficiently, with appropriate regard for work priorities and the particulars of the individual application. Placement of a rigid timetable for completion of applications and petitions in the regulations would not allow us the necessary flexibility in manpower or resource allocation to respond to other priorities which might arise. We realize that delays in processing of Forms I-90 may present a problem. However, this is a temporary situation which should resolve itself, as our ADIT card production facility reaches greater capacities.

We are opposed to adoption of a surcharge policy as a vehicle to expedite applications. It is Service policy to process applications and petitions in the chronological order in which they are received. Adoption of a surcharge system would violate this policy and would create a preference for those who could afford to pay the surcharge in establishing the order in which their application or petition would be considered. This would be unfair to those who could not afford the surcharge.

The second representation suggested that fees should be lowered or eliminated for such things as applications for certificates of citizenship, and raised for petitions to classify aliens as sixth preference immigrants under section 203(a)(6) of the Act, on Form I-140.

We are unable to adopt either suggestion. The statute under which these increases are proposed, 31 U.S.C. 483a, requires that fees be fair and equitable and reflect as nearly as possible the cost of providing the service to the applicant. Adoption of this writer's suggestion would be contrary to this mandate.

Finally, one commenter objected to the frequency with which the Service has made revisions to its fee schedule on the ground that the frequency of change made it difficult for immigration law practitioners and Service officers and employees to know what the current fees were. This commenter stated that this situation may have resulted in the submission of motions which were untimely because they had the wrong fee.

The Service is required by law and regulation to review its fee schedule every year, and provide for increases or decreases, as appropriate. Substantial changes in the fee schedule were last made in 1978. In 1978, certain of those fees were required to be reduced as the result of a stipulated court order.

The amendments which have been made have been made in accordance with applicable statutory requirements. Every effort will be made to inform all concerned persons, including applicants, attorneys and representatives, and Service personnel of these amendments to the Service fee schedule.

Accordingly, the proposed new, and increased fees as set forth in our Notice of Proposed Rulemaking at 44 FR 39183, July 5, 1979, will be adopted.

The following amendments are hereby made to the Service fee schedule appearing in Chapter I of Title 8 of the Code of Federal Regulations:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

In § 103.7(b)(1), fee description 1 is amended; fee description 23 is revised, and fee descriptions 24, 25 and 26 are deleted; two new fee descriptions are added in between existing fee descriptions 32 and 33; and fee descriptions 34, 35 and 36 are amended. The amendments to § 103.7(b)(1) read as follows:

§ 103.7 Fees.

* * * * *

(b) *Amounts of fees*—(1) The following fees and charges are prescribed:

For filing application for Alien Registration Receipt Card (Form I-551) in lieu of an obsolete card or in lieu of one lost, mutilated or destroyed, or in a changed name..... $15.00

* * * * *

For filing application on Form I-485 for permanent residence status or for

creation of a record of lawful permanent residence	30.00
* * * * *	
For filing application for a waiver of the 30-day wait prescribed by section 336(c) of the Act	5.00
For filing motion for amendment of petition for naturalization when motion is for the convenience of the petitioner	5.00
* * * * *	
For filing application for a certificate of naturalization or declaration of intention in lieu of a certificate or declaration alleged to have been lost, mutilated or destroyed; or for a certificate of citizenship in a changed name under section 343(b) or (d) of the Act	10.00
For filing application for certificate of citizenship on Form N-600 under section 309(c) or section 341 of the Act	15.00
For filing application for certificate of citizenship on Form N-400 by a parent, and the issuance thereof, under section 341 of the Act	15.00
* * * * *	

(Sec. 103; 8 U.S.C. 1103, and 31 U.S.C. 483a and OMB Circular No. A-25)

Effective date: The amendments contained in this order become effective on November 26, 1979.

Dated: October 22, 1979.

David Crosland,

Acting Commissioner of Immigration and Naturalization.

[FR Doc. 79-32865 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-10-M

---

8 CFR Part 316a

Addition of Organization to Listing of American Institutions of Research Recognized by the Attorney General

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This is an amendment of the regulations of the Immigration and Naturalization Service to add the University of Illinois at Urbana-Champaign, Austria-Illinois Exchange Program to the list of American institutions of research recognized by the Attorney General for the purpose of preserving residence in the United States for naturalization. The amendment is necessary because such recognized institutions are published in the Service's regulations and on September 4, 1979, it was determined and ordered that the University of Illinois at Urbana-Champaign, Austria-Illinois Exchange Program be recognized as an American institution of research recognized by the Attorney General.

EFFECTIVE DATE: September 4, 1979.

FOR FURTHER INFORMATION CONTACT: James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: This amendment to 8 CFR 316a.2 is published pursuant to section 552 of Title 5 of the United States Code (80 Stat. 383), as amended by Pub. L. 93-502 (88 Stat. 1561), and the authority contained in section 103 of the Immigration and Nationality Act (8 U.S.C. 1103), 28 CFR 0.105(b), and 8 CFR 2.1. Compliance with the provisions of section 553 of Title 5 of the United States Code as to notice of proposed rule making and delayed effective date is unnecessary in this instance because the amendment contained in this order adds an American institution of research to the listing and is editorial in nature.

The following amendment is hereby prescribed to Chapter I of Title 8 of the Code of Federal Regulations:

PART 316a—RESIDENCE, PHYSICAL PRESENCE AND ABSENCE

§ 316a.2 [Amended]

In § 316a.2 *American institutions of research,* the listing of research institutions is amended by adding thereto in alphabetical sequence the following institution: "University of Illinois at Urbana-Champaign, Austria-Illinois Exchange Program".

* * * * *

(Sec. 103 and 316(b), 8 U.S.C. 1103 and 1427(b))

Effective date: This amendment became effective on September 4, 1979.

Dated: October 22, 1979.

David Crosland,

Acting Commissioner, Immigration and Naturalization.

[FR Doc. 79-32864 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Rules of Practice for Domestic Licensing Proceedings; Petitions for Rule Making

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is issuing amendments to its "Rules of Practice" regarding the filing and processing of petitions for rule making. The amendments require the petitioner to include a statement in support of the petition setting forth the specific issues involved, the petitioner's views regarding those issues, and relevant technical, scientific, or other data involved which is reasonably available to the petitioner. The amendments will facilitate the processing of petitions for rule making.

EFFECTIVE DATE: These amendments become effective on November 26, 1979.

FOR FURTHER INFORMATION CONTACT: J. M. Felton, Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Tel: (301) 492-7211.

SUPPLEMENTARY INFORMATION: The Nuclear Regulatory Commission published a notice of proposed rule making in the **Federal Register** on April 28, 1978 (43 FR 18195) to amend 10 CFR Part 2.

The proposed amendment of § 2.802 set out in the April 28, 1978, notice would require a person filing a petition for rule making to state clearly and concisely the petitioner's grounds or interest in the action requested and to include a statement in support of the petition setting forth the specific issues involved, the petitioner's views or arguments with respect to those issues, relevant technical, scientific, or other data involved which is reasonably available to the petitioner, and such information as the petitioner deems necessary to support the action sought.

It was proposed also to add language stating (a) that a prospective petitioner is encouraged to confer with the staff prior to the filing of a petition for rule making, and (b) that questions regarding applicable NRC regulations sought to be amended, procedures for filing a petition for rule making, or requests for a meeting with the appropriate NRC staff to discuss a petition for rule making should be addressed to the Division of Rules and Records, Office of Administration.

Four letters of comment were received on the proposed rule. Three letters supported the proposed amendments. The fourth letter suggested a number of changes.

The Power Authority of the State of New York stated that the proposed amendments would be beneficial to all parties affected by a petition for rule making in that the issues involved would be clearly delineated and the consequent greater understanding of the concerns of the petitioner would lead to a more efficient and expeditious resolution of those concerns.

Consumers Power Company stated that the proposed amendments would help streamline the process through early resolution of misunderstandings and procedural problems, and would result in a more workable and equitable process.

Dow Chemical, U.S.A., favored the proposed rule, but recommended that the following statement, or its equivalent, be added to the proposed § 2.802(c)(3):

> The petitioner must submit information showing why current regulations and licensing practices are not adequate and how a new rule would alleviate this situation.

It is the Commission's view that the language set out in the proposed rule adequately covers the type of information to be submitted in support of a petition. Further, a petitioner may describe an inadequacy, but be unable to show specifically how to alleviate the situation. Accordingly, this suggestion has not been adopted.

A fourth letter of comment by Public Citizen Litigation Group (Public Citizen), made the following general statement:

> Public Citizen is concerned that the proposed amendment to 10 CFR 2.802, governing petitions for rule making to the Nuclear Regulatory Commission (NRC) may result in staff rejection of valuable and important citizens' petitions. Furthermore, because of the vagueness of the standards in the proposed regulations, there is danger of staff abuse of its discretion. The hurdle represented by these newly imposed requirements enforced by staff rejection of "deficient" petitions may deter citizens from petitioning the NRC . . .
>
> Public Citizen agrees with the premise of the proposed rule, that petitions to the NRC are more useful and likely to be adopted if they are well supported an well presented . . .

Public Citizen offered several specific comments as follows:

> Section 2.802(b) encourages consultation with the NRC staff on a prospective petition. Section (f) permits rejection of a petition by the staff, after one opportunity for revision, for failure to meet the standards of section (c). Consultation with the NRC staff could make available to a petitioner a valuable resource, resulting in greater efficiency and quality for all concerned. The officially encouraged consultation has the potential drawback of having a citizen's concerns steered in ways the NRC staff considers more desirable and "realistic." When the consultation is combined with the power to reject the petition as inadequately presented, the danger of manipulation and deterrence becomes great, especially for unsophisticated petitioners.
>
> It is the intent of the Commission that its staff be available to assist petitioners in filing a petition if the petitioner requests such assistance. Consultation with the NRC staff is not required. The Commission intends that such consultation, if requested, will be of assistance to the petitioner and will be rendered in an objective manner. The NRC staff will not require modifications of the substance of a petition. This should result in petitions which satisfy the procedural requirements of § 2.802 and are in a proper form for consideration on the merits. Further, the decision to return a petition to the petitioner will be made by the Executive Director for Operations (EDO), and the Commission will be informed of this action. It should also be noted that, in these situations, the EDO is not rejecting the petition, but rather returning it to the petitioner without prejudice for failure to meet the procedural requirements of § 2.802. There is also no intent that the petitioner have just "one opportunity" to clarify the petition.
>
> The Commission considers that it is appropriate for the EDO to make the determination as to whether a petition meets the procedural requirements of § 2.802. In this regard, the EDO already has the authority, pursuant to 10 CFR 1.40(o), to deny a petition for rulemaking of a minor or nonpolicy nature where the grounds for denial do not substantially modify existing precedent. Moreover, the Commission always retains its inherent supervisory authority over staff actions.

Public Citizen states further that:

> The trouble with requiring presentation of the desired product of the proposed rulemaking is that some problems are too complex or unexplored for a petitioner to propose a definite solution. For example, the PIRG decommissioning petition proposed imposition of financial guarantees of eventual decommissioning. However, the petitioners, who are reasonably well informed, could not say what would be a realistic estimate of the needed funds or what financial guarantee arrangements would be available. The situation is similar with respect to the analogous petition of the Natural Resources Defense Council (NRDC) on financial guarantees of safe windup of uranium mills. . . . It should suffice for a petition to document the existence of a problem, suggest the direction of a solution, without detailed provisions or numerical standards, and to ask the NRC to apply its expert knowledge to study and solve the problem.

The Commission agrees with the comment that a petitioner should not be expected to furnish detailed provisions or numerical standards or a precise rule, designed to solve the problem which the petitioner has documented. The Commission's staff will evaluate the merits of a petition, and develop an appropriate solution to such problems, including the preparation of proposed amendments of NRC regulations as may be indicated. Although a petitioner may highlight the existence of a problem and suggest the general direction of a possible solution, the Commission's staff will be responsible for the development of a proposed rule if the staff study indicates a need for amendment of NRC regulations. To clarify the Commission's intent, paragraph (c)(1) has been modified to provide that the petitioner may set forth a general solution to the problem identified rather than the specific text of a proposed amendment.

Public Citizen questions the proposed provision § 2.802(c)(2) that each petition shall state clearly and concisely the petitioner's grounds or interest in the action requested. Public Citizen states that:

> Statement of petitioner's "interest" in the matter smacks of a standing requirement. Public Citizen would be dismayed if the NRC intended to impose judicial standards of standing to filing a petition for rulemaking as it has chosen to do for intervention in nuclear export license proceedings. . . . Public Citizen does not suppose that a standing requirement is intended, but this should be clarified, along with clarification of what is intended and why.

Pursuant to the Administrative Procedure Act, as amended, the right to petition must be accorded to any "interested persons". The Commission has always construed these terms broadly in accepting petitions for rulemaking and has no intention of rejecting a petition for rulemaking solely on the ground that a petitioner has not alleged an injury in fact of the same character that would be necessary for standing in a licensing proceeding.

Public Citizen proposes a number of procedural steps for the processing of petitions, including time limitations for the determination of petitions. The Commission has concluded that it is impracticable to incorporate such procedures into the text of § 2.802. In many respects the proposed procedures would be administratively inefficient and wasteful of the Commission's time. Internal procedures have been established whereby the staff initially reviews petitions, establishes priorities in processing petitions, and initiates necessary studies. The Commission and the public are informed on a quarterly basis of the status of each petition. Many petitions are complex from a technical or legal view and it is more efficient for the staff to make the initial evaluation and to recommend a course of action rather than for the Commission to process petitions initially and direct the staff with respect to disposition of the petition.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code

V 44 OC 25 79 UMI

of Federal Regulations, Part 2, are published as a document subject to codification.

1. Section 2.802 of 10 CFR Part 2 is revised to read as follows:

§ 2.802 Petition for rulemaking

(a) Any interested person may petition the Commission to issue, amend or rescind any regulation. The petition should be addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Docketing and Service Branch.

(b) A prospective petitioner is encouraged to confer with the staff prior to the filing of a petition for rulemaking. Questions regarding applicable NRC regulations sought to be amended, the procedures for filing a petition for rulemaking, or requests for a meeting with the appropriate NRC staff to discuss a petition should be addressed to the Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Rules and Procedures Branch. A prospective petitioner may also telephone the Division of Rules and Records on (301) 492-7086 to obtain assistance.

(c) Each petition filed under this section shall:

(1) Set forth a general solution to the problem or the substance or text of any proposed regulation or amendment, or specify the regulation which is to be revoked or amended;

(2) State clearly and concisely the petitioner's grounds for and interest in the action requested;

(3) Include a statement in support of the petition which shall set forth the specific issues involved, the petitioner's views or arguments with respect to those issues, relevant technical, scientific or other data involved which is reasonably available to the petitioner, and such other pertinent information as the petitioner deems necessary to support the action sought. In support of its petition, petitioner should note any specific cases of which petitioner is aware where the current rule is unduly burdensome, deficient, or needs to be strengthened.

(d) The petitioner may request the Commission to suspend all or any part of any licensing proceeding to which the petitioner is a party pending disposition of the petition for rule making.

(e) If it is determined that the petition includes the information required by paragraph (c) of this section and is complete, the Director, Division of Rules and Records, or his designee, will assign a docket number to the petition, will cause the petition to be formally docketed, will deposit a copy of the docketed petition in the Commission's Public Document Room, and cause a notice of the docketing of the petition to be published in the **Federal Register**, inviting public comment thereon. Publication will be limited by the requirements of section 181 of the Atomic Energy Act of 1954, as amended, and may be limited by order of the Commission.

(f) If it is determined by the Executive Director for Operations that the petition does not include the information required by paragraph (c) of this section and is incomplete, the petitioner will be notified of that determination and the respects in which the petition is deficient and will be accorded an opportunity to submit additional data. Ordinarily this determination will be made within 30 days from the date of receipt of the petition by the Office of the Secretary of the Commission. If the petitioner does not submit additional data to correct the deficiency within 90 days from the date of notification to the petitioner that the petition is incomplete, the petition may be returned to the petitioner without prejudice to the right of the petitioner to file a new petition.

(g) The Director, Division of Rules and Records, Office of Administration, or his designee, will prepare on a quarterly basis a summary of petitions for rule making pending before the Commission, including the status thereof. A copy of the report will be available for public inspection and copying in the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555.

(Secs. 161 and 181, Pub. L. 83-703, 68 Stat. 948 and 953 (42 U.S.C. 2201 and 2231); Sec. 201, as amended, Pub. L. 93-438, 88 Stat. 1243, Pub. L. 94-79, 89 Stat. 413 (42 U.S.C. 5841).)

Dated at Washington, DC, this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 79-32756 Filed 10-24-79; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 526

[79-527]

Calculation of Earnings on Savings Accounts

Dated: October 18, 1979.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Bank Board amends its regulations to allow savings and loan associations that are members of the Federal Home Loan Bank System to calculate interest on savings accounts by using a 365/360 time factor. This permits members to more effectively compete with other financial institutions by increasing the yield which may be paid on savings accounts.

EFFECTIVE DATE: October 25, 1979.

FOR FURTHER INFORMATION, PLEASE CONTACT: Walter B. Mason, Jr., Department of Supervision, Office of the District Banks (202-377-6556); or Patricia C. Trask, Office of the General Counsel (202-377-6442); Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Under present 12 CFR 526.2(g), a Federal Home Loan Bank System member is authorized to use a 365/360 time factor to calculate interest on savings accounts only after a determination by the Supervisory Agent that the member would otherwise be at a competitive disadvantage relative to other types of financial institutions in its service area. By eliminating this requirement, the Bank Board is authorizing use of the 365/360 time factor nationwide. This conforms to the manner in which banks are permitted to calculate interest and provides management with greater latitude in deciding how best to compete for savings funds.

Because the amendment relieves restriction and allows a higher rate of return for savers, the Board finds that notice and public procedure under 5 U.S.C. 553(b) and 12 CFR 508.11 are unnecessary, and delay in effective date following publication, pursuant to 5 U.S.C. 553(d) and 12 CFR 508.14, is unnecessary for the same reasons.

Accordingly, the Board amends paragraph (g) of § 526.2 of the Regulations for the Federal Home Loan Bank System (12 CFR 526.2), to read as follows:

§ 526.2 Maximum rate of return.

* * * * *

(g) *Calculation of earnings.* The time factor used to calculate earnings on a savings account shall be a fraction having as numerator the actual number of days funds in the account earn a return and as denominator 365 or, in leap year, 366. If an account matures in multiples of one month, the numerator may be the corresponding multiple of 30 days. A time factor of 360/360 or 365/360 may also be used.

(Sec. 4, 80 Stat. 824 (12 U.S.C. 1425b); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., 1071)

By the Federal Home Loan Bank Board.

J. J. Finn,

Secretary.

[FR Doc. 79-32959 Filed 10-24-79; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 127, 137

[Docket No. 18247; Amdt. Nos. 25-47; 127-37; and 137-10]

Operations Review Program: Amendment No. 10; Airworthiness, Equipment, and Operating Rules

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The purpose of these amendments is to update and improve certain requirements applicable to airworthiness, aircraft equipment, and operations. These amendments are part of the Operations Review Program and are based on a compilation of proposals prepared for the Operations Review Conference.

EFFECTIVE DATE: December 24, 1979. Compliance dates for certain provisions are different than the effective date.

FOR FURTHER INFORMATION CONTACT: Mr. Norman C. Miller, Safety Regulations Staff, Regulatory Review Branch, AVS-22, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-755-8715.

SUPPLEMENTARY INFORMATION:

History

These amendments are the tenth in a series of amendments to be issued as part of the Operations Review Program. The following amendments of the series have previously been issued as part of the Operations Review Program:

Amendment No.	Title	Federal Register (FR) citation
1	Clarifying and Editorial Changes.	(41 FR 47227; Oct. 28, 1976)
2	Rotorcraft External-Load Operations.	(42 FR 24196, May 12, 1977, amended by 42 FR 32531; June 27, 1977.)
2A	Special Federal Aviation Regulation No. 36, Development of Major Repair Data.	(43 FR 3084; Jan. 23, 1978.)
3	Airspace, Air Traffic, and General Operating Rules.	(44 FR 15654; Mar. 15, 1979.)
4	Miscellaneous Amendments.	(43 FR 22636; May 25, 1978.)
5	Certification and Operations: Domestic, Flag, and Supplemental Air Carriers and Commercial Operators of Large Aircraft.	(43 FR 22643; May 25, 1978, amended by 43 FR 28403; June 29, 1978.)
6	General Operating and Flight Rules and Related Airworthiness Standards and Crewmember Training.	(43 FR 46230; Oct. 5, 1978.)

These amendments are based on a notice of proposed rule-making (Notice 78-12) published in the **Federal Register** on August 24, 1978 (43 FR 37958). All interested persons have been given an opportunity to participate in the making of these amendments and due consideration has been given to all matters presented. A number of substantive changes and changes of an editorial and clarifying nature have been made to the proposed rules based upon relevant comments received and upon further review by the FAA. Except for minor editorial and clarifying changes and the substantive changes discussed below these amendments and reasons for their adoption are the same as those contained in Notice 78-12.

Discussion of comments

The following discussions are keyed to the like-numbered proposals contained in Notice 78-12.

Proposal 10-1. Several commenters objected to proposed § 25.772(a) stating that: (1) The possibility of door jamming is remote due to aircraft design; (2) Cockpit crash axes offer an equivalent method; (3) Maintenance and cockpit security would be adversely affected; and (4) A conflict exists between this proposal and §§ 25.772 and 25.809(b).

Some airplanes are designed to preclude floor deformation and subsequent door jamming; however, this proposal provides for any door jamming condition which could occur regardless of aircraft design. The use of a crash axe does not provide the same degree of access to the passenger compartment from the cockpit. Under certain conditions, the crash axe may not provide access until a considerable period of time has elapsed. Cockpit security would not be compromised since the requirement applies to new designs and allows sufficient design flexibility.

There is no conflict between this proposal and §§ 25.772 and 25.809(b) as stated by the commenter. Current § 25.772 requires that crewmembers have access to emergency exits without using cockpit doors, while this proposal provides for access to the cabin area if the cockpit door becomes jammed. Section 25.809(b) concerns the deformation of emergency exits and not cockpit doors.

One commenter objected to the use of the word "means" since the word implies a special device and suggested wording of a more general nature. The word "means" is not restrictive and its use in the regulation provides the necessary flexibility. One commenter believed the proposed requirement would not be appropriate for cargo or cargo/passenger configurations. With respect to a cargo only configuration, there are no passengers to assist, and it is unnecessary for the crew to have access to the passenger compartment. With respect to the passenger/cargo configuration, the FAA has determined that the means for access to the passenger compartment must be available and proposed § 25.772 is revised by providing this access.

Proposal 10-2. One commenter objected to proposed § 25.809(f)(1)(iii) stating that redesigning all slides to be equally effective with the aircraft in various positions would be difficult and recommended that the proposal be withheld until a different design concept is developed. Present provisions in § 25.809(h) require that slides be self-supporting after collapse of one or more legs of the landing gear. After further review, it appears desirable to retain these provisions and add to them, as provided in the notice, the provision that the slide provide safe evacuation of the occupants to the ground. It is not anticipated that this provision would require a different design concept than currently employed.

Another commenter recommended revisions to the proposal that would provide exception from the requirement if the slide is fitted on an exit that is not suitable for use after a minor crash landing. Exit suitability is not solely predicated upon minor crash landings and therefore does not represent a design condition which could be satisfied under this comment. Accordingly, proposed § 25.809(f)(1)(iii) is adopted as noted.

Proposal 10-3. The Society of Automotive Engineers, Inc., objected to proposed § 25.812 stating that the problem in the two cases cited in the National Transportation Safety Board report (NTSB-AAS-74-3), referred to in the notice, was due to crew training and not the failure of the lighting system. In both cases, poor crew coordination and not the failure of the lighting system resulted in improper activation of the emergency lighting systems during evacuation. They also stated that in

some aircraft which utilize fuselage-mounted floodlights for escape device illumination, valuable illumination of the area surrounding the escape device permits safe movement of evacuees away from the crash site. These floodlights also assist rescue teams in rapidly locating the portion of the wreckage containing survivors in times of darkness. Modification to reconnect these floodlights to an escape-device-lighting-system instead of the cabin emergency lighting system would create a less reliable system, considering the additional switches (or erection sensing devices) and wiring harness which would be necessary to connect the escape device to the floodlights on the fuselage. The SAE Committee considered the proposed rules concerning emergency lighting of exterior escape devices and the time compliance limitations to be unnecessary, economically unjustified and not necessarily in the best interest of safety. After review of these comments and in conjunction with studies conducted by the agency regarding the current lighting requirements, the FAA has determined that safety would not be improved as a result of this proposal and accordingly proposed § 25.812 is withdrawn.

Proposal 10–4. Six commenters objected to proposed § 121.310(h)(1)(iii) stating the cost of retrofitting all airline aircraft would be prohibitive and unwarranted. For example, three major airlines estimated that the cost of such a retrofit would be approximately $971,000, $608,399, and $870,000 respectively per fleet, and believe the proposal should be withdrawn. The FAA has analyzed these figures and determined they accurately reflect the retrofit cost burden that would be imposed on these airlines. In light of this determination and the fact that proposed § 25.812 (Proposal 10–3) has been withdrawn and in accordance with Executive Order 12044, and the Department of Transportation Regulatory Policies and Procedures which are intended to reduce the unnecessary burden on the public, the FAA concludes that this proposal would impose financial burdens on the public not commensurate with an increase in safety. Accordingly, proposed § 121.310(h)(1)(iii) is withdrawn.

Proposal 10–5. Several commenters objected to proposed § 121.313(f) contending that the proposal should be withdrawn because it is economically unjustified, and limits the designer's options in its applicability to existing airplanes, with possible compromise in cockpit security. They believe that to design, test, fabricate, install, and certificate such a type of egress to meet the intent of this proposal would have a cost impact of more than $100,000 per aircraft. The FAA acknowledges that there is merit to these contentions since retrofit of existing aircraft would be difficult and expensive. Accordingly, proposed § 121.313(f) is withdrawn.

Proposal 10–6. No unfavorable comments were received on the proposed revision to § 127.103(b). However, this proposal will require the replacement of many existing altimeters. Additionally, the FAA has determined that a one-year period should be allowed for manufacture, transportation, and installation of this equipment. Accordingly, this proposal will not become effective until one year after the effective date of these amendments.

Proposal 10–7. One commenter stated that the proposed requirement for a passenger's name and home address has no effect on flight safety and increases paperwork, time, and cost. Another commenter objected because the proposal would create an economical and operational burden. The commenter stated that it is difficult to obtain the additional information from passengers during flights having short time periods between connecting flights, or on international flights where passengers do not speak English. The commenter also stated that fixed-wing air carriers are not required to obtain this information. This statement is partially correct. Current Part 121 requires supplemental air carriers and commercial operators to include passenger names, but not addresses, on the load manifest. The FAA proposed in Notice No. 78–7 (43 FR 20448; May 11, 1978), to extend this requirement to domestic and flag air carriers.

In view of the comments received and after further review, proposed § 127.305 is revised by deleting "home addresses" and by inserting the word "persons" in place of "passengers".

Proposal 10–8. No unfavorable comments were received on the proposed revision to § 127.307(a). Accordingly, the proposal is adopted without substantive change.

Proposal 10–9. The majority of the commenters objected to the proposal to limit the duration of the Part 137 operator certificate to twenty-four months stating that the proposal is unnecessary, serves no useful purpose, and would not enhance safety. They stated that this proposal would: (1) Impose an unnecessary burden on the legitimate operator; (2) Require additional paperwork; (3) Possibly cause administrative problems during renewal certification; (4) Not improve the availability of the transient type operators to the FAA; and (5) Create a financial hardship to the agricultural aircraft operator if a delay in the renewal process causes that operator's certificate to expire during the busy season.

As stated in the notice, the FAA has difficulty in adequately monitoring the activities of these certificate holders to assure compliance with and understanding of applicable rules. However, as stated by one commenter, this regulation would probably not improve the availability of transient-type operators since many would change their place of business after renewal. For this reason, and in accordance with Executive Order 12044 and the Department of Transportation Regulatory Policies and Procedures which are intended to reduce the unnecessary burden on the public, the FAA concludes that this proposal would impose administrative burdens on the FAA and the public not commensurate with an increase in safety. Accordingly, proposed § 137.15 and related revisons to §§ 137.19 and 137.21 are withdrawn.

Proposal 10–10. See Proposal 10–9 for a discussion of comments related to the proposed amendment to § 137.19 and for the withdrawal of that proposal.

Proposal 10–11. See Proposal 10–9 for a discussion of comments related to the proposed revision to § 137.21 and for the withdrawal of that proposal.

Proposal 10–12. Two commenters stated the proposed shoulder harness requirement was already covered in § 91.7(b). The FAA does not agree. Current § 91.7(b) provides only for the fastening of shoulder harnesses during takeoff and landings and not during the entire flight operation. Many of the commenters concurred with the use of seat belts and shoulder harnesses but objected to a mandatory requirement because it would curtail the pilots discretion in using them.

Other commenters contend that the use of shoulder harnesses could restrict the pilot's movement in performing required duties during certain operations.

In view of these comments and after further review the FAA agrees that under certain operations shoulder harnesses could interfere with pilot duties. Accordingly, proposed § 137.42 is revised to except the use of shoulder harnesses if the pilot is unable to perform required pilot duties with the shoulder harness fastened.

Adoption of the Amendments

Accordingly, Parts 25, 127, and 137 of the Federal Aviation Regulations (14 CFR Parts 25, 127, and 137) are amended as follows, effective December 24, 1979.

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

1. By amending § 25.772(a) by adding a new sentence to read as follows:

§ 25.772 Pilot compartment doors.

(a) * * * However, for passenger configuration, means must be provided to enable flight crewmembers to directly enter the passenger compartment from the pilot compartment if the cockpit door becomes jammed.

* * * * *

2. By revising § 25.809(f)(1)(iii) to read as follows:

§ 25.809 Emergency exit arrangement.

* * * * *

(f) * * *

(1) * * *

(iii) It must be of such length after full deployment that the lower end is self-supporting on the ground and provides safe evacuation of occupants to the ground after collapse of one or more legs of the landing gear.

* * * * *

PART 127—CERTIFICATION AND OPERATIONS OF SCHEDULED AIR CARRIERS WITH HELICOPTERS

3. By revising § 127.103(b) to read as follows:

§ 127.103 Flight and navigational equipment.

* * * * *

(b) A sensitive altimeter; however, after December 24, 1980, an altimeter that meets the performance and environmental standards of § 37.20 of this chapter, or equivalent.

* * * * *

4. By amending § 127.305 by adding a new paragraph (a)(6) to read as follows:

§ 127.305 Load manifest.

(a) * * *

(6) Names of persons unless the certificate holder maintains that information by other means.

* * * * *

5. By revising § 127.307(a) to read as follows:

§ 127.307 Disposition of load manifest and flight release.

(a) The pilot in command of a helicopter shall carry in the helicoper to its destination, a copy of the completed load manifest (or information from it except with respect to cargo, passenger distribution, and the passenger list) and the flight release.

* * * * *

PART 137—AGRICULTURAL AIRCRAFT OPERATIONS

6. By adding a new § 137.42 to read as follows:

§ 137.42 Fastening of safety belts and shoulder harnesses.

No person may operate an aircraft in operations required to be conducted under Part 137 without a safety belt and shoulder harness properly secured about that person except that the shoulder harness need not be fastened if that person would be unable to perform required duties with the shoulder harness fastened.

(Secs. 313, 314, and 601 through 610, Federal Aviation Act of 1958 (49 U.S.C. 1354, 1355, and 1421 through 1430) and section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)))

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to the person and address listed under "For Further Information Contact".

Issued in Washington, D.C., on October 17, 1979.

Langhorne Bond,

Administrotor.

[FR Doc. 79–32712 Filed 10–24–79; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 79–GL–16–AD; Amdt. 39–3596]

Airworthiness Directives; Bellanca Model 7ECA, 8KCAB, and 8GCBC Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), which requires an inspection and alignment of the exhaust system on certain Bellanca Model 7ECA, 8KCAB, and 8GCBC aircraft. The AD is prompted by several reports of exhaust system tubing breakage which could result in an unsafe condition.

DATES: Effective—October 29, 1979.

Compliance required within the next 30 days or 10 hours of aircraft time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: Bellanca Service Letter Number C–138 may be obtained from Bellanca Aircraft Corporation, P.O. Box 614, Alexandria, Minnesota 56308.

A copy of Bellanca Service Letter Number C–138 is contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: C. Biemond, Service Difficulty Section, AGL–217, Engineering and Manufacturing Branch, Flight Standards Division, FAA, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone 312 694–4500, extension 359.

SUPPLEMENTARY INFORMATION: There have been reports of tubing breaks on the exhaust systems of certain Bellanca Model 7ECA, 8KCAB, and 8GCBC aircraft. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires the inspection and alignment of the exhaust system on certain Bellanca Model 7ECA, 8KCAB, and 8GCBC aircraft.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

Bellanca: Compliance is required within the next 30 days or 10 hours of aircraft time in service, whichever occurs first, after the effective date of this AD, unless already accomplished. To prevent exhaust system cracking, accomplish the following on Bellanca Model 7ECA (S/N 985–74 thru 1319–79), 8KCAB (S/N 120–74 thru 550–79 equipped with Lycoming AEIO–360 series engine), and 8GCBC (S/N 1–74 thru 323–79) aircraft:

1. Remove the upper and lower engine cowling.

2. Inspect exhaust system with particular attention to the welded area between the riser tube and the exhaust flange, for cracks, fractures or evidence of exhaust leakage. Remove the heater shroud and inspect the muffler body for cracks, fractures or evidence of exhaust

V 44 O C 25 7 9 UMI

leakage. If any exhaust system component is cracked or otherwise damaged, remove the exhaust system and repair/replace damaged parts in accordance with FAA Advisory Circular 43.13-1A.

3. Loosen exhaust port stud nuts several turns; check bead clamps for tightness such that the clamps cannot rotate on the exhaust system with hand pressure. The riser flanges (1) must have equal spacing to the exhaust port pad at both studs (a small amount of flange bow is acceptable), (2) must be free to move up and down on the exhaust port studs without binding and (3) must all contact the exhaust port pads together.

4. If any of the alignment checks are unsatisfactory, determine the cause for the misalignment and repair or replace the part as required.

5. Assemble exhaust system and install on engine with loose exhaust port stud nuts and bead clamp bolts. Torque exhaust port stud nuts to the correct value. Tighten bead clamp bolts until clamps secure risers to exhaust system but allow clamps to rotate with hand pressure; the bead clamps *should not be rigidly clamped to the tubes* but should be able to rotate on the tubes with moderate hand pressure on the clamp assembly.

Note.—Torque all exhaust port stud nuts evenly and tighten bead clamp bolts evenly to insure uniform loads within the exhaust system parts; torquing bolts individually can cause very large stresses.

6. Inspect exhaust system for proper clearance between ducts, wiring, controls, etc. before reinstallation of the cowling. Install lower cowling and inspect for proper clearance between exhaust outlet and cowl.

7. Reinstall the lower and upper engine cowling.

Bellanca Service Letter Number C-138 covers this same subject.

Any equivalent method of compliance with this AD must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Great Lakes Region.

This amendment becomes effective October 29, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89)

Note.—The Federal Aviation Administration has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

A copy of the final evaluation prepared for this document is contained in the docket. A copy of it may be obtained by writing to C. Biemond, Engineering and Manufacturing Branch, AGL-217, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

Issued in Des Plaines, Illinois on October 12, 1979.

Wayne J. Barlow,

Director.

[FR Doc. 79-32713 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 79-SO-60; Amdt. No. 39-3595]

Airworthiness Directives; Piper Model PA-28 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) which requires the modification of the fuel tank vents and the replacement of the fuel tank vent connector hoses on certain Piper Model PA-28 series airplanes. The AD is prompted by reports of broken fuel tank vent hoses which has resulted in fuel leakage and the presence of fuel vapors in the cabin causing a possible fire hazard.

DATE: Effective October 26, 1979. Compliance required within the next 50 hours' time in service after the effective date of this AD unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from Piper Aircraft Corporation, 820 East Bald Eagle Street, Lock Haven, Pennsylvania 17745.

A copy of the Service Bulletin is also contained in Room 275, Engineering and Manufacturing Branch, FAA, Southern Region, 3400 Whipple Street, East Point, Georgia.

FOR FURTHER INFORMATION CONTACT: Gil Carter, ASO-214, Engineering and Manufacturing Branch, FAA, Southern Region, P.O. Box 20636, Atlanta, Georgia 30320, telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: There have been reports of broken fuel vent connector hoses which resulted in fuel leaking in the wing and draining to the wing root on certain Piper Model PA-28 series airplanes. This condition causes fuel fumes in the cabin and results in a potential fire hazard. Since this condition is likely to exist or develop in other airplanes of the same type design, an Airworthiness Directive is being issued which requires the modification of the fuel tank vent line and the replacement of the fuel vent connector hoses with an improved hose on certain Piper Model PA-28 series airplanes.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive (AD):

Piper Aircraft Corporation: Applies to Model PA-28-161, serial numbers 28-7816024 through 28-7916475; Model PA-28-181, serial numbers 28-7890023 through 28-7990493, Model PA-28-201T, serial numbers 28-7921001 through 28-7921068; Model PA-28R-201, serial numbers 28R-7737135 through 28R-7837317; Model PA-28RT-201, serial numbers 28R-7918001 through 28R-7918172; Model PA-28R-201T, serial numbers 28R-7703309 through 28R-7803373; Model PA-28RT-201T, serial numbers 28R-7931001 through 28R-7931222; Model PA-28-235, serial numbers 28-7710079 through 28-7710089; and Model PA-28-236, serial numbers 28-7911001 through 28-7911204 airplanes certificated in all categories.

Compliance required within the next 50 hours' time in service after the effective date of this AD unless already accomplished.

To prevent possible fuel leakage and potential fire hazard, accomplish the following:

a. De-fuel the aircraft in accordance with the Piper Service or Maintenance Manual, for the appropriate model aircraft.

b. Remove the right hand and left hand fuel tanks in accordance with the Piper Service or Maintenance Manual for the appropriate model aircraft.

c. Modify the fuel tank vent system in accordance with the instructions listed in the "Fuel Tank Vent Modification and Vent Hose Replacement" Kit, Piper part number 763 934V.

d. Reinstall the fuel tanks in accordance with instruction in the appropriate Piper Service or Maintenance Manual.

Coution

Do not allow lines or hoses to rotate during installation and tightening when attaching the fuel lines to the tank fittings to prevent fuel flow obstruction due to hose twisting.

e. Refuel the aircraft and check for leaks and fuel quantity gauge function.

f. Make an appropriate maintenance record entry.

g. An equivalent method of compliance may be approved by the Chief, Engineering and Manufacturing Branch, Federal Aviation Administration, Southern Region.

Note.—Piper Service Bulletin 646 pertains to this subject. This amendment is effective October 26, 1979.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

Issued in East Point, Georgia, on October 12, 1979.

George R. LaCaille,

Acting Director, Southern Region.

[FR Doc. 79-32876 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 10

Setting of Hearing Date In Certain Cases

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rule.

SUMMARY: The Commodity Futures Trading Commission has amended Rule 10.3 of its Rules of Practice to incorporate those provisions of section 6(b) of the Commodity Exchange Act, as amended, 7 U.S.C. 9 (1976), which concern the setting of a hearing in administrative proceedings. In a proceeding instituted pursuant to section 6(b), the Commission may require a person to show cause why an order should not be entered against such person at a hearing held not less than three days after the service of the Commission's notice of hearing.

EFFECTIVE DATE: October 25, 1979.

ADDRESS: Commodity Futures Trading Commission, 2033 K St., NW., Washington, D.C. 20581.

FOR FURTHER INFORMATION CONTACT: Joan Loizeaux, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254-5543.

SUPPLEMENTARY INFORMATION: Section 6(b) of the Act provides that, if the Commission has reason to believe that any person is violating or has violated any provision of the Act or the rules or regulations thereunder, the Commission "may serve upon such person a complaint stating its charges in that respect, which complaint shall have attached or shall contain therein a notice of hearing, specifying a day and place not less than three days after the service thereof," requiring such person to show cause why sanctions should not be imposed.[1]

In order that the Commission's procedural rules will reflect this provision of the Act and thereby be more complete, the Commission has determined to amend its Rules of Practice in order to incorporate expressly the hearing provisions of section 6(b). The Commission wishes to make clear that this amendment does not affect its general power to expedite proceedings under Rule 10.3(b). Rule 10.3(b) will continue to set forth the standards under which the commission may adopt expedited procedures in an adjudicatory proceeding commenced under the Act.[2]

Because this amendment codifies existing law and deals with rules of internal agency practice, the Commission is satisfied that the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553(d) do not apply to this amendment.

This notice of amendment is issued under the authority of sections 2(a), 6(b) and 8(a) of the Commodity Exchange Act, 7 U.S.C. 4a, 9 and 12a (1976).

Based upon the foregoing, the Commission hereby amends Rule 10.3 of Part 10 of Chapter I of Title 17 of the Code of Federal Regulations by adding a new paragraph (d) to read as follows:

§ 10.3 Suspension, amendment, revocation and waiver of rules.

* * * * *

(d) Notwithstanding any provision of this part, the Commission may in any proceeding commenced pursuant to section 6(b) of the Act require a respondent to show cause why an order should not be entered against the respondent and may specify a day and place for the hearing not less than three days after service upon the respondent of the Commission's complaint and notice of hearing in such proceeding.

(Secs. 2(a), 6(b) and 8a, 42 Stat. 1001, as amended, 49 Stat. 1498, 1499, as amended 88 Stat.; 49 Stat. 1500, as amended, 88 Stat. 1392; 88 Stat. 1389, 1391; 7 U.S.C. 4a, 9 and 12a.)

Issued in Washington, D.C. on October 22, 1979.

By the Commission,

Jane Stuckey,

Secretary,

Commodity Futures Trading Commission.

[FR Doc. 79-32960 Filed 10-24-79; 8:45 am]

BILLING CODE 6351-01-M

[1] Pursuant to section 6(b), the Commission has the authority to suspend up to six months or revoke the registration of a futures commission merchant, floor broker, associated person, commodity trading advisor or commodity pool operator. In addition, the Commission may issue an order prohibiting a person from trading on or subject to the rules of any contract market and requiring all contract markets to refuse any person all trading privileges for a period specified in the order and may assess civil penalties of not more than $100,000 for each violation which the Commission finds occurred.

[2] Rule 10.3(b) currently provides that the Commission may order the adoption of expedited procedures and waive any rule contained in the Rules of Practice upon a determination that "no party will be prejudiced and that the ends of justice will be served."

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2 and 271

[Dockets Nos. RM79-19 and RM79-12; Orders Nos. 45 and 31-A)

Treatment of Certain Production-Related Costs for Natural Gas To Be Sold and Transported Through the Alaska Natural Gas Transportation System; Statement of Policy; Order Granting Rehearing for the Purpose of Further Consideration and Order Staying Effective Dates

October 19, 1979.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order staying effective dates.

SUMMARY: On August 24, 1979 the Commission issued two orders, both to be effective on October 23, 1979. The first, Order No. 45 (issued under Docket No. RM79-19) (44 FR 51554, September 4, 1979) amended Commission regulations under the Natural Gas Policy Act and provided a policy statement under the Natural Gas Act. Both regulations and policy statement addressed the issue of producer responsibility for production-related costs incurred in first sales of natural gas produced at Prudhoe Bay, Alaska for transport through the Alaska Natural Gas Transportation System. The second, Order No. 31-A (issued under Docket No. RM79-12) (44 FR 41681, September 4, 1979) implemented the policy of Order No. 45. Petitions to rehear both orders have been received. In addition, the Secretary of Energy has requested rehearing to permit certain actions by the Department of Energy which will relate to Order No. 45. For these reasons, the effective date of both orders is stayed.

DATE: Effective dates of Order No. 45 and Order No. 31-A stayed until December 5, 1979.

FOR FURTHER INFORMATION CONTACT: John Conway, Office of the General Counsel, Federal Energy Regulatory Commission, Room 8100K, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8150.

SUPPLEMENTARY INFORMATION:

Treatment of certain production-related costs for natural gas to be sold

V 44 0C 25 79 UMI

and transported through the Alaska Natural Gas Transportation system, Docket No. RM79–19; Determination of incentive rate of return, tariff and related issues, Docket No. R78–12.

On September 21, 1979, the Altantic Richfield Company, the Sohio Natural Resources Company, and the Phillips Petroleum Company filed separate applications for rehearing of Order No. 45, issued on August 24, 1979, under Docket No. RM79–19 and Order No. 31–A issued on August 24, 1979 under Docket No. RM78–12. On September 24, 1979, the State of Alaska and the Exxon Corporation also filed separate applications for rehearing of Order No. 45 and Order No. 31–A. The applications for rehearing raise various issues regarding the lawfulness and appropriateness of the actions taken by the Commission in Order No. 45 and Order No. 31–A.

On October 15, 1979, The Commission was informed by letter from the Secretary of Energy, that the Secretary is holding discussions with North Slope producers for the purpose of involving them in the financing of the Alaska Natural Gas Transportation System (ANGTS). That letter stated that a formal filing by the Department of Energy reflecting the impact of producer financing commitments on Order No. 45 will be made in Docket No. RM79–19 and requested rehearing to reconsider Order No. 45.

In response to the request of the Secretary of Energy and to conclude deliberations of the issues raised in the applications for rehearing, the Commission finds good cause to grant rehearing of Orders 45 and 31–A for the purpose of further consideration. Given the statutory directive of section 9(a) of the Alaska Natural Gas Transportation Act, 15 U.S.C. 719g(a), that actions necessary or related to the construction and initial operation of the ANGTS must be accomplished at the earliest practicable date, the Commission further finds it appropriate to stay the effective date of Ordering Paragraph (1) of Order No. 45 and the effective date of Ordering Paragraph (B) of Order No. 31–A until a fixed date, December 5, 1979.[1]

The Commission orders: (A) The applications for rehearing filed by Atlantic Richfield Company, Sohio Natural Resources Company, Phillips Petroleum Company, the State of Alaska, and Exxon Corporation are hereby granted for the limited purpose of further consideration. As provided by Section 1.34(d) of the Commissions's Regulations, no answer to the applications will be entertained by the Commission since this order does not grant rehearing on any substantive issues.

(B) Ordering Paragraph (1) of Order No. 45, issued August 24, 1979, under Docket No. RM79–19 and Ordering Paragraph (B) of Order No. 31–A, issued on August 24, 1979, under Docket No. RM78–12 are stayed until December 5, 1979.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–33069 Filed 10–24–79; 8:45 am]

BILLING CODE 6450–01–M

[1] This order does not apply to Orders 31 and 31–B, issued under Docket No. RM78–12. Orders 31 and 31–B are final orders not in effect.

---

18 CFR Parts 4, 16, and 131

[Docket No. RM79–23; Order No. 54]

Water Power Projects; Final Regulations Prescribing General Provisions for Preliminary Permit and License Applications and Final Regulations Governing Applications for, Amendments to, and Cancellation of Preliminary Permits

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending parts of its regulations governing preliminary permits and licenses under Part I of the Federal Power Act. The regulations amended in this docket prescribe technical filing requirements and evaluation procedures applicable to both preliminary permits and license applications for water power projects. The amendments also affect regulations pertaining to the content of preliminary permits, amendments to preliminary permits, and cancellation of preliminary permits. This rulemaking is part of the Commission's reform of water power project licensing and extends the benefit of section 405 of the Public Utility Regulatory Policies Act of 1978, requiring simple and expeditious licensing procedures for small (15 MW of installed capacity or less) hydroelectric power projects, to all such projects within the Commission's jurisdiction.

The amended regulations reorganize and clarify the permit and license application procedures and thereby help to ease the burden of compliance. The changes will therefore facilitate hydroelectric development.

EFFECTIVE DATE: November 26, 1979.

FOR FURTHER INFORMATION CONTACT: James Hoecker, Office of Regulatory Development, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, (202) 357–8161.

SUPPLEMENTARY INFORMATION: Regulations Prescribing General Provisions for Preliminary Permit and License Applications; Regulations Governing Applications for, Amendments to, and Cancellation of Preliminary Permits; Final Rule.

Issued: October 22, 1979.

Notice is hereby given that the Federal Energy Regulatory Commission (Commission) is amending certain of its regulations concerning preliminary permits and licenses for water power projects under Part I of the Federal Power Act (Act). The amended regulations prescribe technical filing requirements and evaluation procedures applicable to both preliminary permit and license applications. The amendments also affect the regulations pertaining specifically to the content of preliminary permit applications, amendments to preliminary permits, and cancellation of preliminary permits.

I. Background

Seeking to respond and lend encouragement to the recent heightened interest in hydroelectric development, Congress provided in Title IV of the Public Utility Regulatory Policies Act (PURPA) component of the National Energy Act for a program whereby the Secretary of Energy will grant loans for feasibility studies and for construction of small hydroelectric projects (installed capacity of 15 MW or less) located at existing dams. The Commission is charged under section 405 of PURPA with establishing simple and expeditious licensing procedures for projects eligible under the PURPA provisions.

In the interest of acting more promptly on all license applications, and in anticipation of the enactment of PURPA, the Commission determined in 1978 to carry out a thorough reform of its requirements and procedures for license applications. The first phase of this reform was instituted in September 1978, with issuance of a rulemaking on the so-called "short-form" license procedures applicable to all "minor" projects (installed capacity of 1.5 MW or less). [See Order No. 11, Docket No. RM78–3, 43 FR 40215 (September 11, 1978).]

The second phase of the reform covers all "major" projects (installed capacity greater than 1.5 MW) where at least a dam and reservoir are in existence at the time of the application. The Commission issued a Notice of Proposed Rulemaking on this phase on April 19, 1979 [44 FR 24095, April 25, 1979]. A third and final phase will cover all major projects which include new dams and reservoirs.

The revisions contemplated in this three-stage reform pertain primarily to the content of license applications. Maximum efficiency cannot be attained, however, unless the uncertainty regarding such technical and procedural matters as form, subscription and verification, service, number of copies, correction of deficiencies, and evaluation of competing applications is eliminated. Therefore, the Commission issued a Notice of Proposed Rulemaking in this docket to clarify and streamline the general provisions governing these requirements and procedures for all preliminary permit and license applications. [44 FR 12432, March 7, 1979.]

These regulations make the Commission's technical filing requirements and procedures easier to identify and comprehend. The regulations also make clear that diligence is expected of initial applicants and those who would file competing applications, as well.

A well-rounded program of licensing reform must also reach the specific requirements governing preliminary permits. As enunciated in sections 4(f) and 5 of the Act, 16 U.S.C. 797(f) and 798, the purpose of a preliminary permit is to secure for the permittee priority of application for a license for a project while the permittee obtains the data and performs the acts required to determine the feasibility of the project and support an application for a license. A preliminary permit is not a prerequisite to a license, and therefore is sought on a voluntary basis. The protections afforded by permits result in frequent permit applications, however. In view of the relationship between preliminary permits and licenses, this docket also covers revised regulations concerning the substance of preliminary permit applications, amendments to preliminary permits, and cancellation of preliminary permits.

The revised regulations require sufficient information to enable the Commission to carry out its responsibilities under the Act. The regulations also make clear the purpose of a permit and the consequences of failure to carry out that purpose. These changes should further facilitate ultimate licensing of small hydroelectric projects at existing dams, in accordance with section 405 of PURPA.

II. Comment Analysis

This rulemaking was commented on by five agencies of Federal, State, or local government, two environmental organizations, five utilities or trade associations, and one supplier of hydroelectric equipment. The commenters expressed overall support for the simplified procedures for applying for preliminary permits and licenses. Comments and suggestions regarding specific provisions and the Commission's treatment of the comments are as follows:

"Minor part" licenses that were issued in the past had been based upon an erroneous conclusion of law concerning Commission jurisdiction, which the Commission had repudiated. [*See, e.g., Pacific Gas and Electric Co.*, Project No. 2310, 29 F.P.C. 1265 (1963).] To the extent that an application is now filed for only a part of a whole project, of "complete unit of development," (*e.g.*, a power plant to be added to a Corps of Engineers' dam), it would be filed according to its category under our application regulations. Since the application regulations depend on the installed capacity of the facilities proposed to be licensed and on whether any new dam or significantly larger impoundment would be created—not on whether only a part of the whole project need be licensed—references to "minor part" licenses in the application requirements are unnecessary. Therefore, "minor part" language will not be added to § 4.31(a)(2) as requested in the comment of the Power Authority of the State of New York (PASNY).

It was suggested that § 4.31(c)(4) of the proposed regulation, which describes one of the steps to be taken by the Commission upon receipt of an acceptable application for preliminary permit of license, be made more specific in terms of notification and effective date requirements for reserving Federal lands. The Commission believes that greater detail in explaining procedures which are essentially matters of internal agency management, such as details on notification of withdrawal of Federal land or inclusion of processing flowcharts in the rule, would only serve to lengthen and complicate the regulation with no significant benefit to applicants, intervenors, or the public.[1] Related comments state that since the regulations impose filing deadlines for deficient and competing applications, the Commission should likewise impose deadlines on its staff to assure that an applicant does not lose a priority status or a chance to compete for a project license because of staff inaction. Since these are regulations primarily informing applicants of their rights and responsibilities, those kinds of directions to the Commission staff are beyond their scope. The Commission has adopted, and will continue to seek to develop, internal procedures for more expeditious handling of applications. In any event, it is important to remember that time constraints imposed on applicants, such as that in § 4.31(d), do not run until the applicant is notified of deficiencies in an application. The time expended in reviewing an application for deficiencies will not, therefore, adversely affect the applicant's time to cure deficiencies. If deficiencies are cured within the prescribed time, § 4.31 provides that the application will be deemed accepted for filing as of the original date the application was submitted.

Some commenters suggested that applicants could be prejudiced by greater use of "summary rejection" by the Commission's delegate, without an explanation of the reason for rejection. The regulations were not intended to call for greater use of summary rejection than before. Moreover, when an application is rejected, an applicant is always provided with the reasons for such action, as suggested. The proposed regulation has been revised to make these points clear. In addition, an applicant may request extensions of time under § 1.13(d) of the regulations or appeal actions of the staff to the Commission under § 1.7(d). These procedural safeguards help assure that the burden on the applicant is no greater than necessary for a thorough disposition of each case.

Section 4.31(d) provides a 90-day period for correcting deficiencies in license applications (45 days for permit applications). Many commenters thought that this period should be extendable for good cause. We point to § 1.13(d) as providing this flexibility. In answer to other comments, pending applications that meet the requirements of our prior regulations, but not those of the new rule, will not be rejected. The new regulatory scheme anticipates requests for added information and provides procedures in § 4.31(f) for securing remaining data required for such pending applications. American Electric Power Service Corporation expressed a desire that the regulations more clearly spell out the criteria for an acceptable application. We think that the regulations as presented provide sufficient guidance and information for the applicant in terms of content, format,

[1] Any person who desires information on the nature of the Commission review processes may consult the critical Projects Status Reports ("Orange Books") available at the Commission's Office of Public Information which show, among other things, typical processing flowcharts for license applications. Copies of these Reports may also be purchased from the Government Printing Office.

V 44 OC 25 79 UMI

and submittal requirements. Where a prospective applicant has questions, it may seek guidance from the staff under § 4.31(g).

The proposed § 4.31(f) provided that the Commission may request additional information deemed "necessary or desirable to process the application." This provision had no subject matter limit. Commenters found fault with the provision because it was too vague or because mere desirability appeared to be too broad a standard. Although it cannot be indicated with any specificity what the additional information might consist of in any single instance, the language has been changed to clarify that the Commission may require additional information considered "relevant for an informed decision on the application."

Minnesota Mining and Manufacturing Company proposed various technical changes in § 4.32, regarding specifications for maps and drawings. Three proposals were adopted in the final rule. In § 4.32, originals of maps and drawings must be prints on silver "or gelatin" 35mm microfilm mounted on Type D aperture cards, the measurements of which are corrected to 3¼ inches x 7⅜ inches. The commenter suggested a different range of sizes for full-sized prints and the incorporation of other specifications according to certain documents of the American National Standards Institute. The Commission will retain the sizes expressed in the proposed rule because they have become standard for applicants and consultants. However, waiver may be obtained pursuant to § 1.7(b) of the regulations in appropriate circumstances. Other suggested specifications may prove to be too technical for small developers. In § 4.32(d), the reduction standard to 10.5 inch prints is changed to 11 inches, as suggested.

PASNY suggested that the § 4.32 map scale of 1 inch equals 1,000 feet is unrealistic and should be at least 1":2000'. Experience shows that maps of project works require varying degrees of detail, depending on the facilities being described. Paragraph (b) is revised to provide that maps of transmission lines, roads, or other linear features may be drawn on a scale not smaller than 1 inch equals one-half mile. This enables the applicant to use, without enlargement, Forest Service or Bureau of Land Management maps, as well as United States Geological Survey maps, for the less detailed features of a project. Maps covering the other project features, however, must be no smaller than 1 inch equals 1,000 feet. A smaller scale would not be sufficiently detailed for proper evaluation of the non-linear features. In instances where maps at these scales do not show sufficient detail, larger scale maps may be required as an additional submission. Section 4.81(e) provides that maps for preliminary permits need not adhere to the scale required by § 4.32(b) if they are legible at a smaller scale.

The Rural Electrification Administration (USDA) proposed that § 4.33(a) specify that notices of an application state the time allowed for filing competing applications. Such notices will include such information, but it is not necessary that § 4.33(a) so state. The suggestion that rural electric cooperatives and appropriate non-profit organizations be given the same preferential status as that accorded municipalities or states in § 4.33(f) must be left for Congressional action, because the state/municipal preference is embodied in section 7 of the Act. Similarly, the proposal by Allis-Chalmers corporation that the Commission not accept an application by a U.S. corporation if a majority of the stock is foreign-owned would narrow section 4(e) of the Act and must be left for Congressional action.

Pacific Gas and Electric Company (PG&E) advocates changing the "reasonable period of time" that would be provided under § 4.33(f)(4) for a state or municipality to make its plans as well adapted as a non-preference applicant's plans. Instead, PG&E proposes a specific maximum of 90 days plus one extension for good cause. Although the PG&E proposal has some merit, a suitable period for adapting plans may vary from case to case, and even less than 90 days may be reasonable in many instances. Accordingly, the Commission believes it preferable to retain the case-by-case approach reflected in the proposed regulation.

In accordance with the comments of the American Electric Power Service Corporation (AEP) and Santa Clara, California, § 4.33(c) has been altered to provide more time (120 days) for the filing of competing license applications. This recognizes the greater complexity of license, as opposed to preliminary permit, applications and the difference in time required for suitable preparation as a consequence.

Both the Sierra Club and the American Electric Power Service Corporation believe that § 4.34 permits too much Commission discretion in ordering hearings on preliminary permits. The former suggests that the rules specify that hearings be held anytime there is a substantial environmental controversy, while the latter views competing applications as the only valid ground for hearing. The Act does not require hearings on preliminary permit applications, and the purpose of an evidentiary hearing would be to explore material issues of fact that might arise in a proceeding. Since there is no way to delimit in advance the material issues of fact that might arise with respect to any particular permit application, the Commission will retain the provision as stated in the proposed rule.

Several environmental concerns were expressed by the Sierra Club and the National Wildlife Federation (NWF). Sierra Club recommends that this rule be integrated with the Commission's regulations under the National Environmental Policy Act because of the close relationship between processing of preliminary permits and licenses and the environmental review process. The Commission's proposed regulations implementing NEPA were issued in Docket No. RM79-69 on August 20, 1979. That rulemaking was drafted with specific attention to this rulemaking and related water power project licensing reforms. In carrying out the objectives of NEPA, the Commission has taken steps to assure that relevant environmental considerations are reviewed during the appropriate stages of the permitting and licensing processes. However, environmental issues are only a portion of the concerns addressed in these processes. The proposed NEPA regulations apply so broadly to Commission functions and activities of regulated entities that incorporation of related substantive provisions would result in an unnecessarily complicated package. Therefore, the regulations are being promulgated separately.

NWF expressed the opinion that the issuance of a permit commits an applicant to the chosen site and creates an inexorable momentum toward licensing that will undermine environmentally preferable options. We do not believe that the grant of a permit and the financing of feasibility studies commits an applicant—and certainly not the Commission—to a specific site, to the exclusion of alternative sites. Moreover, the investments and studies made by a permittee could be made even without a permit. (However, the Commission agrees that examination of possible alternative project sites must begin early in the overall processes, while the permit is in effect, as discussed below.) The permit mechanism allows early monitoring of applicants' activities, which would not be possible if a prospective license applicant did not seek a permit. Review of alternatives is more properly part of

the licensing process, after a permittee has determined whether it will even pursue a specific project.[2]

The comments of the Sierra Club reflect a view similar to that of NWF, that permit applications should contain an explication of alternatives, including discussion of environmental costs and conservation alternatives. While the studies conducted under a permit and reported under § 4.81 would be used to support any license application, it is the license application itself that must supply the substantive economic and environmental information upon which the Commission decides to approve or disapprove a project. Section 4.81 does not, therefore, require the kind of detailed presentation of alternatives which the commenter desires. Under § 4.81, an applicant is required to describe the studies it proposes and, where new dam construction is involved, a work plan and schedule. The permits themselves contain standard conditions which require permittees to assess the impact of each project and feasible alternatives and to prescribe the types of studies to be conducted under the permit. The conditions imposed on permittees may vary, but the following Article 7 has essentially become standard in preliminary permits, in addition to the Articles in Form P-1 (revised October 1975):

Article 7. Permittee, in the interest of protecting and developing the natural resources and other environmental values of the project area, shall consult with the appropriate federal, state, and local agencies in their fields of responsibility and expertise, shall conduct its project investigations in a manner which protects the environmental integrity of the area, *and shall fully explore all feasible alternatives to the project, and alternative project designs, taking into account impacts on natural resources and other environmental values.* These resources and values include, but are not limited to: forests; land management and treatment; fish; wildlife; recreation and public use; water and air quality (including water supply, ground water, waste treatment and disposal); public health and safety; archeology; historic and cultural sites; threatened or endangered species of flora and fauna; potential wild, scenic, or recreational river designation; and scenic and aesthetic values. The permittee shall initiate and conduct or have conducted such studies as may be necessary to determine the impact of the construction and operation of the proposed project on these natural resources and values and measures needed to protect and develop them or to provide for their mitigation or replacement, including alternative designs and operational measures, and shall utilize the results of such studies in the preparation of Exhibits, H, R, S, V, and W to accompany any application for a license to construct and operate the project. In connection with studies pertaining to archeological, historic, and cultural sites, the permittee shall consult with the State Historic Preservation Officer and the Heritage Conservation and Recreation Service of the U.S. Department of the Interior. (Emphasis added)

The Sierra Club advocates promulgation of such conditions in this rulemaking. This rulemaking, however, encompasses application requirements and processing of preliminary permits, not the proper standard permit conditions. However, the standard conditions in Form P-1 are a matter of public record, as are other conditions typically included in permits. Compliance with the permit conditions enables the permittee to supply more detailed environmental information to the Commission when applying for a license. Foresighted permittees would, of course, assess alternatives as early as possible, even before applying for a permit. But it would go far beyond the purpose and usefulness of preliminary permits to require examination or specification of a specified number of alternatives before the permit is filed or granted.[3] The permit stage is not intended to serve as a forum for resolving all questions relating to the appropriateness of a project. Indeed, such requirements could simply induce developers to avoid seeking permits.

Although we believe that environmental reporting requirements should not become unrealistically burdensome at the preliminary permit stage, particularly for developers of small hydroelectric projects, the concern expressed by the Sierra Club that certain information be elicited regarding the potential environmental impacts of activities conducted under the permit is well-founded. Exhibit 2 (§ 4.81(c)) has been revised to distinguish between those projects or developments within projects that would invove dam construction that will necessitate such geological exploration as test pits or boring and those that will not. Applicants for projects that would require new dam construction must file, in addition to a study plan, a work plan and schedule of proposed field studies, and measures to be taken to minimize any environmental disturbances or to restore altered or disturbed areas. This requirement may be waived under specified circumstances.

The extent of the information required of permit applicants—descriptions of the projects, study plans, work plans, and work schedules—should always be commensurate with the scope of any proposed new development. The Commission also retains discretion under § 4.31(f) to require additional necessary information relevant to the activities to be undertaken under the permit, including the environmental impact. Information on the environmental impact of actually constructing and operating a project is premature at the preliminary permit stage and belongs in the license application, assuming that the permittee decides to seek a license.

At the suggestion of NWF, Exhibit 4 has been revised to require application maps to show areas being included or studied for inclusion in the National Wild and Scenic Rivers System and the National Wilderness Preservation System.

Edison Electric Institute indicated that the regulations fail to specify when preliminary site investigation ends and construction begins. Construction may not occur during the permit period, and may not begin until the actual license is issued. The ban on construction prior to the issuance of a license is mandated by section 23(b) of the Act.

AEP, citing the *Pacific Northwest Company* case, 31 F.P.C. 247, 265, points out that the developer's conception of a project may change during the permit period as studies proceed. AEP appears to believe that the proposed rule would narrow the scope of the permit and affect the resulting priority. Moreover, AEP and some other commenters believe that the proposed rule requires applicants to provide too much detailed information that is unavailable at the time one applies for a permit. These regulations, however, affect the content of a permit application and not the scope of the permit. Preliminary permit applications should be prepared broadly enough to accommodate some variations in the original concept of the project. If necessary, the permittee may seek an amendment of the permit under § 4.82. In any event, there are two basic principles for providing information in applications: the permit applicant must inform the Commission of project details "to the extent possible" and commensurate with the scope of the project. While applicants are hopefully not dissuaded from availing themselves of new ideas developed during the permit period, they should also be encouraged to refine their ideas before applying for a permit. The maximum

[2] Studies under permits have often found projects infeasible for environmental, technical, or economic reasons. *E.g.*, Marble Valley Project No. 2679, Stony Creek Project No. 2719, and Canaan Mountain Project No. 2708.

[3] An applicant that knows of a reasonable alternate site before filing for a preliminary permit and seeks no permit for the alternative site runs the risk of having no priority for what may prove to be the better site.

V 44 O C 25 79 UMI

three-year term of a permit should not be viewed as a time for random experimentation.[4] The exhibits in § 4.81 therefore require an applicant to file sufficient information to demonstrate the credibility of its proposal before a priority status is granted.

The information on proposed power sales required at the permit stage in § 4.81(d)(3) [Exhibit 3] was alternately called too general or unnecessary. A general idea of the available market for the new power is basic even to the preliminary consideration of a project and should be available by the time a permit application is filed. On the other hand, it would be premature to provide, and unreasonable to expect, such information in great detail this early in the consideration of a project.

Southern California Edison Company contends that the provisions of § 4.33(f)(4), giving states and municipalities an opportunity to make their plans as well adapted as the plans of a non-public applicant, contravenes section 7 of the Act. On the contrary, section 7(a) itself requires that the Commission fix a reasonable time for a state or municipal applicant to make its plans "equally well adapted" as those in an application filed for the same site by a non-public applicant. We do not believe that a state or municipal applicant can have a realistic opportunity to render its plans "equally well adapted" until the Commission has first found that those plans are not as well adapted and has stated why.

The provision in existing § 4.31(a) allowing incorporation of Exhibit A by reference under certain circumstances was not included in the proposed rule. At the suggestion of PASNY, that provision is being retained for major unconstructed projects, and appears in § 4.41.[5]

III. Section-by-Section Analysis

§ 4.30 Who may file.

Section 4.30 specifies who may file an application for a preliminary permit or a license, paraphrasing, in somewhat streamlined form, the provisions of section 4(e) of the Act, 16 U.S.C. 797(e), that specify who may obtain a license. Paragraph (b) of § 4.30 has been revised to provide additional guidance, specifying that the Commission will not accept an application for a preliminary permit for project works that are already licensed or are authorized for Federal development or that would conflict with a project for which a preliminary permit is outstanding or for which there is an accepted license application. Nor will the Commission entertain an application for a license for project works that are already licensed or are authorized for Federal development or that would conflict with a project for which there is an unexpired preliminary permit, until the permittee submits an application for a license.

§ 4.31 Acceptance for filing or rejection.

Section 4.31 governs acceptance and rejection of preliminary permit and license applications. Section 4.31(a) provides references to the specific minimum requirements which an application must meet. Besides incorporating certain provisions of the Commission's rules of practice and procedure by reference, the section requires conformance with specific subsequent provisions governing the substance of an application, according to its type.

Section 4.31(b) requires that an original and eleven copies of the application be filed with the Secretary. The treatment of maps and drawings included in license applications is also prescribed.

Section 4.31(c) prescribes the actions which the Commission or its delegate will take upon receipt of a conforming application, including issuance of public notice and, in the event that lands of the United States are affected, notification of the appropriate Federal office under section 24 of the Act, 16 U.S.C. § 818.

Under § 4.31(d), a patently deficient application may be rejected outright. Any applicant may be afforded additional time, not to exceed 45 days in the case of a preliminary permit application or 90 days in the case of a license application, to correct application deficiencies, if the deficiencies are not corrected within the time provided, then the application will be rejected. Moreover, § 4.31(e) provides that an application will be deemed "accepted for filing" as of the time of the initial submittal, but only if it is corrected within the time prescribed by the Commission or its delegate. Rejections based on deficiencies would be without prejudice to refiling.

Section 4.31(f) provides that an applicant may be required to provide any additional information or documents which are relevant to an informed decision on the application. These materials would go beyond the threshold requirements for a conforming application, and their absence from the initial application would therefore not prevent acceptance of the application for filing. Failure to provide the information requested, however, would be sufficient ground for holding the proceeding in abeyance, dismissing the application, or taking other appropriate action. In certain instances, an applicant may also be requested to provide copies of the complete application to specified persons or agencies.

Finally, § 4.31(g) provides that a prospective applicant may submit preliminary copies of its application to the Director, Division of Licensed Projects, for the purpose of obtaining staff advice concerning the sufficiency of the application. Conferences between applicants and the staff regarding deficiencies or other application-related matters are also permitted.

§ 4.32 Specifications for maps and drawings.

Section 4.32 provides the specifications which must be followed in preparing all maps and drawings filed with applications, except as otherwise prescribed. This section supplants the existing § 4.42. All references to § 4.42 elsewhere in the regulations are therefore being amended to refer to § 4.32. A parenthetical explanation of the use of public land surveys is added to the mapping requirements in § 4.32(b)(3). This was done to facilitate more accurate withdrawal of public lands and reservations under section 24 of the Act.

§ 4.33 Disposition of conflicting applications.

Section 4.33 governs conflicting applications for preliminary permits and licenses. Section 4.33(a) permits the filing of a competing application, but requires that the application, or a notice of intent to file such an application, be submitted prior to the end of the period prescribed in the public notice of the initial application for preliminary permit or license for filing of protests and petitions to intervene. Section 4.33(b) prescribes the content of a notice of intent to file a competing application. Under § 4.33(c), if a timely notice of intent is submitted, the prospective applicant will be afforded an additional 60 days beyond the end of the public notice period to submit a competing application for a preliminary permit, or 120 days to submit a competing application for a license.

Section 4.33(d) has been revised to require a competing applicant to provide an analysis of how its plans are equally

[4] In the interest of more expeditious licensing procedures for water power projects, the Commission will consider a proposed rulemaking or statement of policy that will limit the term of preliminary permit for certain projects, based on the size of the project or the kind of construction involved. The Commission has descretion to issue permits less than three years in duration, under section 5 of the Act.

[5] Reformed application requirements proposed for major projects at existing dams in Docket No. RM79-36 will obviate this provision except for major unconstructed projects.

well (if a municipality or a state) or better adapted to conserve and utilize the water resources of the region in the public interest. Section 4.33(e) provides the initial applicant an opportunity to rebut statements made pursuant to § 4.33(d).

Under § 4.33(f), if an accepted application for a preliminary permit conflicts with an accepted application for a license, and the applicant for a license has demonstrated its ability to carry out its plans, the Commission will favor the applicant for a license. This situation would arise where the Commission has accepted a permit application and, before issuance of permit, a license application is filed and accepted.

Section 4.33(g) sets forth the bases for selection among competing applicants when there are two or more applications for a preliminary permit, or two or more applications for a license by applicants who did not hold an outstanding preliminary permit at the time the license application is filed. These provisions reflect the provisions of section 7(a) of the Act, 16 U.S.C. § 800(a), including the concept of state or municipal preference and the concept that, where the preference does not apply, the applicant whose plan is "best adapted" will prevail. The regulation injects the additional concept that, all other things being equal, the principle "first in time, first in right" will apply. (Whether the state or municipal preference under section 7(a) applies in a relicensing proceeding under section 15(a) of the Act, 16 U.S.C. § 800(a), is the subject of a pending proceeding on a petition for a declaratory order, Docket No. EL78-43.)

Finally, § 4.33(b) provides the bases for selection among competing applicants when there are two or more applications for a license, and one of the applications was filed by a permittee holding an outstanding preliminary permit. The latter applicant is entitled to priority status, all other things being equal, and an opportunity to make its plans as well adapted as any competing applicant's.

§ 4.34 Hearings on applications.

Section 4.34 provides that the Commission may order a hearing on an application on its own motion or the motion of any party in interest. Hearings are to be limited to the issues prescribed by order of the Commission.

§ 4.80 Applicability and purpose.

This section states that §§ 4.80 through 4.83 pertain to preliminary permits under Part I of the Act. This section also enunciates the purpose of a preliminary permit, as provided in section 5 of the Act.

§ 4.81 Contents of application.

Section 4.81 prescribes the information and documents which must be included in an application for a preliminary permit. Section 4.81(a) calls for an initial statement providing the identity and nature of the applicant, the name and location of the proposed project, and the proposed term of the permit.

The remainder of the information is to be provided in four numbered exhibits. Exhibit 1 (§ 4.81(b)) must include a description of the proposed project, including its principal structures and features and any lands of the United States that are affected. While the information need only be provided "to the extent possible," the degree of specificity and completeness of the description could have a bearing on the Commission's assessment of the applicant's ability to complete its studies and license application during the term of the permit, and on a comparison by the Commission of competing applications.

Exhibit 2 (§ 4.81(c)) must consist of a study plan and identification of any related new roads for any proposed project and a detailed work plan and schedule for any project development which would involve new dam construction, meaning that the projects are of such magnitude as to require feasibility studies which include test pits, borings or other geological exploration. The study plan must specify and describe the studies, tests, and plans that have already been carried out or prepared, as well as those projected for completion during the term of the proposed permit. For projects or developments involving new dam construction, a timetable for the projected activities must be submitted. For projects or developments involving new dam construction, Exhibit 2 must also contain information about how environmental disturbances from studies and related activities, including any impact on floodplains or wetlands,[6] will be minimized and the means by which disturbed areas will be restroed. Early consideration of these issues can prevent delay in processing. The study plan and the work plan and schedule will help the Commission monitor the progress of its permittees and hold them accountable, and could also be relevant in assessing competing applications. A new waiver provision pertaining only to the more detailed reporting requirements for developments involving new dam construction is included in Exhibit 2.

Exhibit 3 (§ 4.81(d)) must contain a statement of costs and financing. An applicant would have to estimate the costs of carrying out or preparing the studies, tests, and plans identified in Exhibit 2, and state the expected sources and extent of financing for those activities. The exhibit also calls for an applicant to provide, to the extent possible, a description of the proposed market for the power generated at the project, including any available information concerning the revenues to be derived from sale of the power.

Exhibit 4 (§ 4.81(e)) must include a map or series of maps showing the location of the proposed project, the physical interrelationships of its principal features, a proposed project boundary, any lands of the United States that would be affected by the project, and any areas in the project vicinity included, or designated for study for inclusion, in the National Wild and Scenic Rivers System or National Wilderness Preservation System. The maps must be based on U.S.G.S. topographic quadrangle sheets or similar topographic maps of a state agency, if available. Section 4.81(e)(3)(ii) is revised to include information on public lands required in clause (iii) of the proposed rule. Mapping of those project lands included in such lands must be accurate to the smallest subdivision of a public land survey, if available, in order to facilitate proper withdrawal of public lands and reservations under section 24 of the Act.

§ 4.82 Amendments.

Section 4.82 allows permittees to file applications for amendment of their permits. Amendments may include any extension of the term of the permit that does not cause the total term to exceed three years. If an application for an amendment requests a material change in the project, public notice of the application will be given.

§ 4.83 Cancellation and loss of priority.

Section 4.83 makes clear that a permit may be cancelled for failure of the permittee to comply with the specific terms and conditions of the permit or for "other good cause shown, after notice and opportunity for hearing." Such cancellation, or expiration of the permit before a license application is filed, will result in loss of the permittee's priority of application for a license for the project.

[6] This information on floodplains and wetlands reflects the policy enunciated in the Notice of Proposed Rulemaking in Docket No. RM79-70, issued August 20, 1979, 44 *Fed. Reg.* 49466.

V 44 OC 25 79 UMI

Besides revising, consolidating, and adding to the pertinent existing regulations, this rulemaking would eliminate certain of the regulations altogether. Sections 4.33 and 4.85 governing "issuance and acknowledgment of acceptance" of licenses and preliminary permits, respectively, have been deleted.

Section 4.86, which purported to allow some construction work on a proposed project during the term of the preliminary permit, has also been eliminated. Section 131.10, which prescribes a format for preliminary permit applications, has been deleted as superfluous.

Finally, the incorporation by reference of a certain exhibit has been retained and transferred to § 4.41, pending a rewriting of the licensing procedures for major unconstructed projects.

Effective Date

These amendments to Part 4 of the Commission's regulations become effective November 26, 1979 after publication in the Federal Register.

(Federal Power Act, as amended, 16 U.S.C. §§ 792–828c; Department of Energy Organization Act, 42 U.S.C. § 7101–7352; Executive Order No. 12009, 42 *Fed. Reg.* 46267; Public Utility Regulatory Policies Act of 1978, 16 U.S.C. §§ 2601–2645)

In consideration of the foregoing, the Commission amends Parts 4 and 16 of Subchapter B and Part 131 of Subchapter D, Chapter I, Title 13 of the Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,
Secretary.

PART 4—LICENSES, PERMITS, AND DETERMINATION OF PROJECT COSTS

1. Part 4, Subchapter B of Chapter 1, Title 18 of the Code of Federal Regulations is amended in the Table of Contents to read as follows:

Subpart A—Determination of Cost of Projects Constructed Under License

* * * * *

Subpart B—Determination of Fair Value of Constructed Projects, Under Section 23(a) of the Act

* * * * *

Subpart C—Determination of Cost of Constructed Projects Not Subject to Section 23(a) of the Act

* * * * *

Subpart D—Application for Preliminary Permit or License: General Provisions

Sec.
4.30 Who may file.
4.31 Acceptance for filing or rejection.
4.32 Specifications for maps and drawings.
4.33 Filing and disposition of conflicting applications.
4.34 Hearings on applications.

Subpart E—Application for License for Proposed Unconstructed Major Project

* * * * *

Subpart F—Application for License for Major Project—Existing Dam

* * * * *

Subpart G—Application for License for Minor Project

* * * * *

Subpart H—Application for License for Transmission Line Only

* * * * *

Subpart I—Application for Preliminary Permit; Amendment and Cancellation of Preliminary Permit

Sec.
4.80 Applicability and purpose.
4.81 Contents of application.
4.82 Amendments.
4.83 Cancellation and loss of priority.

2. Subpart D (§§ 4.30 through 4.33) is amended by deleting the subpart in its entirety and substituting the following in lieu thereof:

Subpart D—Application for Preliminary Permit or License: General Provisions

§ 4.30 Who may file.

(a) Any citizen, association of citizens, domestic corporation, municipality, or state may apply for a preliminary permit or a license for a water power project under Part I of the Federal Power Act.

(b) The Commission will not accept an application for a preliminary permit for project works that:

(1) Are licensed at the time of the application or are authorized by law for Federal development; or

(2) Would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved and utilized by a project for which there is either an unexpired preliminary permit or an accepted application for license.

(c) The Commission will not accept an application for a license for project works that:

(1) Are licensed at the time of the application or are authorized by law for Federal development; or

(2) Would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved, and utilized by a project for which there is an unexpired preliminary permit, unless the permittee has submitted an application for license or has notified the Commission that it has determined not to seek a license.

§ 4.31 Acceptance for filing or rejection.

(a) Each application for a preliminary permit or a license must:

(1) Conform to the requirements of §§ 1.5, 1.14, 1.15, 1.16, and 1.17 of this chapter, except as otherwise prescribed in this part; and

(2) Contain the information and documents prescribed in the following sections of this chapter, according to the type of application:

(i) Preliminary permit: § 4.81;

(ii) License for a minor project: § 4.60;

(iii) License for a proposed unconstructed major project: §§ 4.40 and 4.41;

(iv) License for a major project-existing dam: §§ 4.50 and 4.51;

(v) License for a transmission line only: §§ 4.70 and 4.71

(vi) New license for a licensed project: § 16.6; or

(vii) Nonpower license for a licensed project: § 16.7.

(b) Each applicant for a preliminary permit or a license must submit to the Secretary for filing an original and eleven copies of the application, each accompanied by full-sized prints of all required maps and drawings. The application may also include reduced prints of maps and drawings conforming to § 4.32(d). The originals (microfilm) of maps and drawings included in a license application under § 4.32(a) are not to be filed initially, but will be requested pursuant to paragraph (c) of this section.

(c) When an application for a preliminary permit or a license is found to conform to the requirements of paragraphs (a) and (b) of this section, the Commission or its delegate will:

(1) Notify the applicant that the application has been accepted for filing, specifying the project number assigned and the date upon which the application was accepted for filing, and for a license application, direct the filing of the originals (microfilm) of required maps and drawings;

(2) Issue public notice of the application as required in the Federal Power Act; and

(3) If the project affects lands of the United States, notify the appropriate Federal office of the application and the specific lands affected, pursuant to section 24 of the Federal Power Act.

(d) Any application for a preliminary permit or a license that patently fails to conform to the requirements of paragraphs (a) and (b) of this section may be rejected, with a specification of deficiencies. An applicant submitting an application that fails in any respect to conform to the requirements of paragraphs (a) and (b) of this section may be afforded additional time to correct the deficiencies, not to exceed 45 days from the date of the notification in the case of an application for a preliminary permit, or 90 days from the date of the notification in the case of an application for a license. The deficiencies to be corrected will be specified. Deficiencies must be corrected by submitting an original and eleven copies of the specified materials to the Secretary for filing within the additional time provided. If the application is then found to conform to the requirements of paragraphs (a) and (b) of this section, action will be taken in accordance with paragraph (c) of this section. If the application is found not to conform, it will be rejected.

(e) Any application for a preliminary permit or a license will be considered "accepted for filing" as of the time of the initial submittal to the Secretary if the Secretary receives all of the information and documents necessary to conform to the requirements of paragraphs (a) and (b) of this section within the time prescribed by the Commission or its delegate under paragraph (d) of this section.

(f) An applicant for a preliminary permit or a license may be required to submit any additional information or documents that the Commission or its delegate considers relevant for an informed decision on the application. The information or documents must take the form, and must be submitted within the time, that the Commission or its delegate prescribes. An applicant may also be required to provide additional copies of the complete application, or any of the additional information or documents that are filed, to the Commission or any person, agency, or other entity that the Commission or its delegate specifies. If an applicant fails to provide additional information or documents or copies of submitted materials, as required, the Commission or its delegate may dismiss the application, hold it in abeyance, or take other appropriate action under this chapter or the Federal Power Act.

(g) A prospective applicant for a preliminary permit or a license may, prior to submitting its application for filing, seek advice from the Commission staff regarding the sufficiency of the application. For this purpose, five copies of the draft application should be submitted to the Director, Division of Licensed Projects. An applicant or prospective applicant may confer with the Commission staff at any time regarding deficiencies or other matters related to its application. All conferences are subject to the requirements of § 1.4(d) of this chapter governing *ex parte* communications. The opinions or advise of the staff will not bind the Commission or any person delegated authority to act on its behalf.

§ 4.32 Specifications for maps and drawings.

All required maps and drawings must conform to the following specifications, except as otherwise prescribed in this chapter:

(a) Each original map or drawing must consist of a print on silver or gelatin 35mm microfilm mounted on Type D (3¼" by 7⅜") aperture cards. Two duplicates must be made of each original. Full-sized prints of maps and drawings must be on sheets no smaller than 24 by 36 inches and no larger than 28 by 40 inches. A space five inches high by seven inches wide must be provided in the lower right corner of each sheet. The upper half of this space must bear the title, numerical and graphical scale, and other pertinent information concerning the map or drawing. The lower half of the space must be left clear. If the drawing size specified in this paragraph limits the scale of drawings described in paragraph (c) of this section, a smaller scale may be used for those drawings.

(b) Each map must have a scale in full-sized prints no smaller than one inch equals 0.5 miles for transmission lines, roads, and similar linear features and no smaller than one inch equals 1,000 feet for other project features. Where maps at these scales do not show sufficient detail, larger scale maps may be required under § 4.31(f). Each map must show:

(1) True and magnetic meridians;

(2) State, county, and town lines; and

(3) Boundaries of public lands and reservations of the United States [see 16 U.S.C. 796 (1) and (2)], if any. If a public land survey is available, the maps must show all lines of that survey crossing the project area and all official subdivisions of sections for the public lands and reservations, including lots and irregular tracts, as designated on the official plats of survey that may be obtained from the Bureau of Land Management, Washington, D.C., or examined in the local land survey office; to the extent that a public land survey is not available for public lands and reservations of the United States, the maps must show the protractions of townships and section lines, which, if possible, must be those recognized by the Federal agency administering those lands.

(c) Drawings depicting details of project structures must have a scale in full-sized prints no smaller than:

(1) One inch equals 50 feet for plans, elevations, and profiles; and

(2) One inch equals 10 feet for sections.

(d) Each map or drawing must be drawn and lettered to be legible when it is reduced to a print that is 11 inches on its shorter side. Following notification to the applicant that the application has been accepted for filing [see § 4.31(c)], prints reduced to that size must be bound in each copy of the application which is required to be submitted to the Commission or provided to any person, agency, or other entity.

§ 4.33 Filing and disposition of conflicting applications.

(a) Any citizen, association of citizens, domestic corporation, municipality, or state may submit for filing an application for a preliminary permit or a license for project works which would develop, conserve, and utilize, in whole or in part, the same water resources that would be developed, conserved, and utilized by project works, for which a preliminary permit or license application has already been accepted ("initial application"). Such an application ("competing application"), or a notice of intent to submit an application, must be submitted for filing on or before the last date for the filing of protests or petitions to intervene prescribed in the public notice issued under § 4.31(c)(3) of this chapter for the initial application.

(b) Any notice of intent to submit a competing application for a preliminary permit or a license that is filed under paragraph (a) of this section must conform to the requirements of §§ 1.14, 1.15, 1.16, and 1.17 of this chapter, and must include:

(1) The exact name and business address of the prospective applicant; and

(2) An unequivocal statement of intent to submit an application for a preliminary permit or a license, as appropriate.

(c) Any prospective applicant who has filed a notice of intent which conforms to the requirements of paragraphs (a) and (b) of this section may submit for filing a competing application for a preliminary permit, not later than 60 days, or a competing application for a license, not later than 120 days, beyond the last date for the filing of protests or petitions to intervene prescribed in the public notice of the initial application.

(d) Any competing application must:

(1) Be self-contained and conform to the requirements of paragraphs (a) and (b) of § 4.31;

(2) Include a detailed and complete statement of how the plans reflected in the competing application are as well adapted as or better adapted than the

V 44 OC 25 79 UMI

plans reflected in the initial application to develop, conserve, and utilize in the public interest the water resources of the region; and

(3) Include proof of service of a copy of the competing application on the person designated in the public notice of the initial application for service of pleadings, documents, or communications concerning the initial application.

(e) No later than 30 days from the date of service of a copy of a competing application, the applicant that filed the initial application for the site in question may file a response that:

(1) Rebuts the competing applicant's statement that it has equally well adapted or better adapted plans; and

(2) Provides a detailed and complete counter-statement of how the plans reflected in the initial application are equally well adapted or better adapted to develop, conserve, and utilize in the public interest the water resources of the region.

(f) If an accepted application for a preliminary permit and an accepted application for a license propose projects works which would develop, conserve, and utilize, in whole or in part, the same water resources, and the applicant for a license has demonstrated its ability to carry out its plans, the Commission will favor the applicant for a license.

(g) If two or more applications for preliminary permits, or two or more applications for licenses (not including applications for a new license under section 15 of the Federal Power Act) by applicants none of whom was a preliminary permittee whose application for license was accepted for filing within the permit period, are filed for project works which would develop, conserve, and utilize, in whole or in part, the same water resources, the Commission will select between or among the applicants on the following bases:

(1) If both of two applicants are either a municipality or a state, or neither of them is a municipality or a state, the Commission will favor the applicant whose plans are better adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans;

(2) If both of two applicants are either a municipality or a state, or neither of them is a municipality or a state, and the plans of the applicants are equally well adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will favor the applicant whose application was first accepted for filing [*see* § 4.31(e)];

(3) If one of two applicants is a municipality or a state, and the other is not, and the plans of the municipality or state are at least as well adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the commission will favor the municipality or state; or

(4) if one of two applicants is a municipality or a state, and the other is not, and the plans of the applicant who is not a municipality or a state are better adapted to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will inform the municipality or state of the specific reasons why its plans are not as well adapted and afford a reasonable period of time for the municipality or state to render its plans at least as well adapted as the other plans. If the plans of the municipality or state are rendered at least as well adapted within the time allowed, the Commission will favor the municipality or state.

(h) If two or more applications for licenses are filed for project works which would develop, conserve, and utilize, in whole or in part, the same water resources, and one of the applicants was a preliminary permittee whose application was accepted for filing within the permit period ("priority applicant"), the Commission will select between or among the applicants on the following bases:

(1) If the plans of the priority applicant are at least as will adapted as the plans of each other applicant to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the Commission will favor the priority applicant;

(2) If the plans of an applicant who is not a priority applicant are better adapted than the plans of the priority applicant to develop, conserve, and utilize in the public interest the water resources of the region, taking into consideration the ability of each applicant to carry out its plans, the commission will inform the priority applicant of the specific reasons why its plans are not as well adapted and afford a reasonable period of time for the priority applicant to render its plans at least as well adapted as the other plans. If the plans of the priority applicant are rendered at least as well adapted within the time allowed, then the Commission will favor the priority applicant.

(3) The criteria specified in paragraph (g) of this section will govern selection among applicants other than the priority applicant.

§ 4.34 Hearings on applications.

The Commission may order a hearing on an application for a preliminary permit or a license, upon either its own motion or the motion of any party in interest. Any hearings will be limited to the issues prescribed by order of the Commission.

§ 4.41 [Amended]

3. In § 4.41, the initial unnumbered paragraph is revised to read to follows:

The following exhibits must be filed as part of the application for a license. Any exhibit not incorporated as a part of the application shall be certified in conformity with § 131.4 of this chapter. Exhibit A may be incorporated in an application by reference where an applicant files applications for several projects one of which already contains an Exhibit A or, in any case, where an applicant has filed an Exhibit A within 10 years preceding the filing of the application. * * *

§ 4.42 [Revoked]

4. Section 4.42 is revoked.

§§ 4.41 and 4.51 [Amended]

5. In § 4.41, Exhibit J, Exhibit K, and Exhibit R, and in § 4.51, the phrase "§ 4.42" is deleted and the phrase "§ 4.32" is inserted in lieu thereof.

§§ 4.50 and 4.71 [Amended]

6. In § 4.50, the initial unnumbered paragraph and cross reference, and in § 4.71, Exhibits A, B, C, and D, Exhibits J and K, and Exhibit V, the phrase "§§ 4.40 to 4.42, inclusive" is deleted and the phrase "§§ 4.32, 4.40, and 4.41" is inserted in lieu thereof.

7. Subpart I (§§ 4.80 through 4.86) is amended by deleting the subpart in its entirety and substituting the following in lieu thereof:

Subpart I—Application for Preliminary Permit; Amendment and Cancellation of Preliminary Permit

§ 4.80 Applicability and purpose.

Sections 4.80 through 4.83 pertain to preliminary permits under Part I of the Federal Power Act. The sole purpose of a preliminary permit is to secure priority of application for a license for a water power project under Part I of the Federal Power Act while the permittee obtains the data and performs the acts required to determine the feasibility of the project and to support an application for a license.

§ 4.81 Contents of application.

Each application for a preliminary permit must include the following initial statement and numbered exhibits containing the information and documents specified:

(a) *Initial statement:*

Before the Federal Energy Regulatory Commission; Application for Preliminary Permit

(1) [Name of applicant] applies to the Federal Energy Regulatory Commission for a preliminary permit for the proposed [name of project] water power project, as described in the attached exhibits. This application is made in order that the applicant may secure and maintain priority of application for a license for the project under Part I of the Federal Power Act while obtaining the data and performing the acts required to determine the feasibility of the project and to support an application for a license.

(2) The location of the proposed project is:

State or territory: _____
County: _____
Township or nearby town: _____
Stream or other body of water: _____

(3) The exact name and business address of each applicant are:

_____

_____

_____

The exact name and business address of each person authorized to act as agent for the applicant in this application are:

_____

_____

_____

(4) [Name of applicant] is a [citizen, association of citizens, domestic corportation, municipality, or state, as appropriate].

(5) The proposed term of the requested permit is [period not to exceed 36 months].

(b) *Exhibit 1* must contain a description of the proposed project, specifying and including, *to the extent possible:*

(1) The number, physical composition, dimensions, general configuration and, where applicable, age and condition, of any dams, spillways, penstocks, powerhouses, tailraces, or other structures, whether existing or proposed, that would be part of the project;

(2) The estimated number, surface area, storage capacity, and normal maximum surface elevation (mean sea level) of any reservoirs, whether existing or proposed, that would be part of the project;

(3) The estimated number, length, voltage, interconnections, and, where applicable, age and condition, of any primary transmission lines whether existing or proposed, that would be part of the project [*see* 16 U.S.C. § 796(11)];

(4) The total estimated average annual energy production and the estimated number, rated capacity, and, where applicable, age and condition, of any turbines or generators, whether existing or proposed, that would be part of the project;

(5) All lands of the United States that are enclosed within the proposed project boundary described under paragraph (e)(3) of this section, identified and tabulated on a separate sheet by legal subdivisions of a public land survey of the affected area, if available; and

(6) Any other information demonstrating in what manner the proposed project would develop, conserve, and utilize in the public interest the water resources of the region.

(c) *Exhibit 2* is a description of studies conducted or to be conducted with respect to the proposed project, including field studies. Exhibit 2 must supply the following information:

(1) *General requirement.* For any proposed project, a study plan containing a description of:

(i) Any studies, investigations, tests, or surveys that are proposed to be carried out, and any that have already taken place, for the purposes of determining the technical, economic, and financial feasibility of the proposed project, taking into consideration its environmental impacts, and of preparing an application for a license for the project; and

(ii) The approximate locations and nature of any new roads that would be built for the purpose of conducting the studies; and

(2) *Work plan for new dam construction.* For any development within the project that would entail new dam construction, a work plan and schedule containing:

(i) A description, including the approximate location, of any field study, test, or other activity that may alter or disturb lands or waters in the vicinity of the proposed project, including floodplains and wetlands; measures that would be taken to minimize any such disturbance; and measures that would be taken to restore the altered or disturbed areas; and

(ii) A proposed schedule (a chart or graph may be used), the total duration of which does not exceed the proposed term of the permit, showing the intervals at which the studies, investigations, tests, and surveys, identified under this paragraph are proposed to be completed.

(iii) For purposes of this paragraph, "new dam construction" means any dam construction the studies for which would require test pits, borings, or other foundation exploration in the field.

(3) *Waiver.* The Commission may waive the requirements of paragraph (c)(2) pursuant to § 1.14(a)(2) of this chapter, upon a showing by the applicant that the field studies, tests, and other activities to be conducted under the permit would not adversely affect cultural resources or endangered species and would cause only minor alterations or disturbances of lands and waters, and that any land altered or disturbed would be adequately restored.

(d) *Exhibit 3* must contain a statement of costs and financing, specifying and including, *to the extent possible:*

(1) The estimated costs of carrying out or preparing the studies, investigations, tests, surveys, maps, plans or specifications identified under paragraph (c) of this section;

(2) The expected sources and extent of financing available to the applicant to carry out or prepare the studies, investigations, tests, surveys, maps, plans, or specifications identified under paragraph (c) of this section; and

(3) A description of the proposed market for the power generated at the project, including the identity of the proposed purchaser or purchasers of the power, and any information that is available concerning the revenues to be derived from sale of the power.

(e) *Exhibit 4* must include a map or series of maps, to be prepared on United States Geological Survey topographic quadrangle sheets or similar topographic maps of a State agency, if available. *The maps need not conform to the precise specifications of § 4.32 (a) and (b).* If the scale of any base map is not sufficient to show clearly and legibly all of the information required by this paragraph, the maps submitted must be enlarged to a scale that is adequate for that purpose. (If Exhibit 4 comprises a series of maps, it must also include an index sheet showing, by outline, the parts of the entire project covered by each map of the series.) The maps must show:

(1) The location of the project as a whole with reference to the affected stream or other body of water and, if possible, to a nearby town or any permanent monuments or objects that can be noted on the maps and recognized in the field;

(2) The relative locations and physical interrelationships of the principal project features identified under paragraph (b) of this section;

V 44 0 C 2 5 7 9 UMI

(3) A proposed boundary for the project, enclosing:

(i) All of the principal project features identified under paragraph (b) of this section;

(ii) Any non-Federal lands and any public lands or reservations of the United States [*see* 16 U.S.C. § 796 (1) and (2)] necessary for the purposes of the project. To the extent that those public lands or reservations are covered by a public land survey, the project boundary must enclose each of and only the smallest legal subdivisions (quarter-quarter section, lots, or other subdivisions, identified on the map by subdivision) that may be occupied in whole or in part by the project.

(4) Areas within or in the vicinity of the proposed project boundary which are included in or have been designated for study for inclusion in the National Wild and Scenic Rivers System; and

(5) Areas within the project boundary that, under the provisions of the Wilderness Act, have been:

(i) Designated as wilderness area;

(ii) Recommended for designation as wilderness area; or

(iii) Designated as wilderness study area.

§ 4.82 Amendments.

(a) Any permittee may file an application for amendment of its permit, including any extension of the term of the permit that would not cause the total term to exceed three years. (Transfer of a permit is prohibited by section 5 of the Federal Power Act.) Each application for amendment of a permit must conform to § 4.31(a)(1) and any relevant requirements of § 4.81 (b), (c), (d), and (e).

(b) If an application for amendment of a preliminary permit requests any material change in the proposed project, public notice of the application will be issued as required in § 4.31(c)(2).

§ 4.83 Cancellation and loss of priority.

(a) The Commission may cancel a preliminary permit if the permittee fails to comply with the specific terms and conditions of the permit. The Commission may also cancel a permit for other good cause shown, after notice and opportunity for hearing. Cancellation of a permit will result in loss of the permittee's priority of application for a license for the proposed project.

(b) Failure of a permittee to file an application for a license before the permit expires will result in loss of the permittee's priority of application for a license for the proposed project.

PART 16—PROCEDURES RELATING TO TAKEOVER AND RELICENSING OF LICENSED PROJECTS

§ 16.6 [Amended]

8. In § 16.6(a), the phrase "§§ 4.40 through 4.42 of this chapter, inclusive, and in § 4.51 of this chapter" is deleted and the phrase "§§ 4.32, 4.40, 4.41, and 4.51 of this chapter" is inserted in lieu thereof.

PART 131—FORMS

§ 131.2 [Amended]

9. In § 131.2, the phrase "§§ 4.30 through 4.42 of this chapter" is deleted and the phase "§§ 4.30 through 4.41 of this chapter" is inserted in lieu thereof.

§ 131.4 [Amended]

10. In § 131.4, the cross-reference is revised to read "(*see* §§ 4.30 through 4.71 of this chapter)".

§ 131.10 [Revoked]

11. Section 131.10 is revoked.

§ 131.13 [Amended]

12. In § 131.13, the cross-reference is revised to read "(*see* § 4.41, Exhibit A)".

[FR Doc. 79-32971 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

---

18 CFR Part 281

[Docket No. RM 79-15; order 29-C]

Natural Gas Curtailment; Order Amending Regulation, Granting in Part and Denying in Part Petitions for Rehearing and Motions for Clarification, Denying Motion for Oral Argument, and Denying Motions To Waive Regulations and Accept Late-Filed Petitions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rules.

SUMMARY: On May 2, 1979, the Federal Energy Regulatory Commission issued Order No. 29, the permanent curtailment rule in Docket No. RM79-15, implementing section 401 of the Natural Gas Policy Act of 1978. The Commission hereby amends its regulations relating to the permanent curtailment rule, grants in part and denies in part petitions for rehearing and motions for clarification, denies motions for oral argument, and denies motions to waive regulations and accept late-filed petitions, under Order No. 29-A. This order corrects arithmetic errors in the allocation formula of the attribution rule, expands right to protest to the Data Verification Committee to any interested person and extends the scope of the complaint procedure to allow any interested person to file a complaint. It also grandfathers a small customer or small distributor exemption into the curtailment plans and redesignates alternate fuel as alternative fuel and redefines that term to be compatible with the alternate fuel rules in Subpart C.

EFFECTIVE DATE: November 21, 1979

FOR FURTHER INFORMATION CONTACT: MaryJane Reynolds, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, N.E., Room 8000, Washington, D.C. 20426 (202) 357-8455.

SUPPLEMENTARY INFORMATION:

Final Regulation for the Implementation of section 401 of the Natural Gas Policy Act

Issued October 22, 1979.

On May 2, 1979, the Commission issued Order No. 29, the permanent curtailment rule in Docket No. RM79-15. That order implements section 401 of the Natural Gas Policy Act of 1978 (NGPA).

Timely petitions for rehearing have been filed by Air Products and Chemicals, Inc., Stauffer Chemical Company, and Williamette Industries, Inc., (Air Products), Allied Chemical Corporation (Allied), American Bakers Association (ABA), American Gas Association (AGA), Atlanta Gas Light Company (Atlanta Gas), Brooklyn Union Gas Company (Brooklyn Union), Columbia Gas Transmission Company (Columbia Gas), Columbia Nitrogen Corporation and Nipro, Inc. (Columbia Nitrogen), Consolidated Edision Company of New York (Con Ed), Consolidated Gas Supply Corporation (Consolidated Gas), Eli Lilly and Co. (Eli Lilly), Entex, Inc. and Louisiana Gas Service Company (Entex), Farmland Industries, Inc., and Terra Chemicals International, Inc. (Farmland), The Fertilizer Institute (TFI), Gas Consumers Group (Gas Consumers),[1] General Service Customer Group (GSCG), Natural Gas Pipeline Company of America (Natural), Northern Illinois Gas Company (NI-GAS), Process Gas, Consumers Group and Georgia Industrial Group (PGC), Southern California Gas Company (SoCal), State of Louisiana, Tennessee Gas Pipeline Company (Tennessee),[2] Texas Eastern Transmission Corporation (TETCO), Transcontinental Gas Pipe Line Corporation (Transco),[3] United Municipal Distributors Group (Municipals), and United States Brewers Association, Inc. (Brewers).

Late petitions for rehearing were filed by United Gas Pipe Line Company (United) and Consolidated Gas Supply Corporation (Consolidated Gas). Consolidated and United filed motions asking the Commission to waive its regulations and accept their late-filed petitions for rehearing. In the alternative, each asks that its petitions be treated as a petition for reconsideration.

Both United and Consolidated Gas aver that their employees left their respective offices on June 21, 1979, in what should have been ample time to file an application for rehearing before the 5:00 p.m. deadline, but they arrived after 5:00 p.m. and the Secretary's office refused to accept the filings.

In effect, petitioners allege nothing to justify their late filings other than that they were late. Under the Commission's Rules of Practice and Procedure, petitioners had a full 30 days within which to file applications for rehearing. That they chose to wait until the last possible minute to file was a decision made at their peril.

Good cause for waiving the regulations pertaining to the filing of applications for rehearing has not been shown. We will, however, treat the petitions filed by United and Consolidated Gas as petitions for reconsideration and will address the merits of the arguments contained therein.[4]

On June 22, 1979, the Commission issued an Order granting rehearing of Order No. 29 solely for purpose of further consideration. We will now discuss the merits of the numerous issues raised by the petitions for rehearing.

Requests for Extension

The filing deadlines established in Order No. 29 were amended by Order Nos. 29-A (44 FR 37499, June 27, 1979) and 29-B (44 FR 45922, August 6, 1979). These subsequent orders render moot requests for reconsideration or extension of the deadlines by Eli Lilly, UGI Corporation, Pacific Gas and Electric Company, So Cal, Texas Eastern, and NI-Gas.

Oral argument

In addition to its petition for reconsideration, State of Louisiana also filed a motion for oral argument on the issue of whether the NGPA has superseded the nondiscrimination requirements of Section 4(b) of the Natural Gas Act, as interpreted in *State of North Carolina* v. *FERC*.[5]

This issue is thoroughly discussed in the comments and petitions of numerous parties to this proceeding. We do not believe that oral argument would add significantly to the record already compiled. State of Louisiana's motion is therefore denied.

Coordination With Rules Implementing Sections 401(b) and 402 of the NGPA

Several parties seek reconsideration on the grounds that the rule implementing section 401(a) is not coordinated with the implementation of sections 401(b) (alternative fuel) and 402 (essential industrial process and feedstock).

GSCG accuses the Commission of creating "moving targets" and argues that the issues of section 401(b) must be addressed before any gas is reclassified in Priority 2. Likewise, Consolidated Gas states that the date for filing data on agricultural uses should be postponed until after rules are issued under section 401(b), because only agricultural users without alternative fuel capability are intended to be protected by the new agricultural priority.

PGC states that the Commission has erred by implementing section 401(b) without regard to the impact on the implementation of section 402.

AGA argues that it will unnecessarily disrupt existing curtailment plans if a rule is issued under section 401(a) before section 401(b) is implemented.

United states that no rule under 401(a) should issue until the "consequences of such action can be considered" together with rules under section 402. United argues that to do otherwise will cause multiple and duplicative collections of data.

It is the Commission's view that its obligations under the NGPA do not permit any further delay in the final implementation of section 401(a). That section is subject to a statutory deadline. Sections 401(b) and 402 are not. Congress clearly intended that implementation of section 401(a) should be given precedence if similarly expeditious implementation of sections 401(b) and 402 was not possible. Given the different data required for implementing those sections and the need to coordinate rulemaking among the Department of Agriculture (USDA), the Economic Regulatory Administration (ERA), and the Commission, the simultaneous implementation of all sections of Title IV would be impossible without substantial delay of a final rule under section 401(a).

In this connection, the Commission observes that section 401 does not preclude reclassifying agricultural uses prior to a determination of alternative fuel availability under section 401(b). On the contrary, the curtailment priorities of section 401(a) must apply unless the Commission determines under section 401(b) that alternative fuel is reasonably available and economically practicable.[6] The absence of a time limit corresponding to the 120 day limit of section 401(a) also supports this interpretation.

Texas Eastern asks that the definition of alternative fuel in section 281.203(a)(16) be changed to include alternative fuel used in facilities other than boilers. Since no rule implementing section 401(b) has yet been implemented, the definition of alternative fuel in Order No. 29 has no present effect.[7] A rule implementing the alternative fuel provision of section 401(b) is under consideration in Docket No. RM79-40. The rule issued in that proceeding will contain a substantive definition of alternative fuel.[8] Nevertheless, to avoid confusion, § 281.203(16) will be amended to define alternate fuel "as it is defined in Subpart C," and to redesignate "alternate fuel" as "alternative fuel."

United and AGA point out that Order No. 29 appears to adopt the final USDA rule, even though only the USDA interim final rule was in effect when Order No. 29 was issued. AGA says that this confusion will make it difficult to comply with the filing requirements of Order No. 29. Both United and AGA urge this as an additional reason for postponement.

In Order No. 29-A, which was issued on June 15, 1979, in this docket,[9] the Commission made it clear that it was adopting the final, not the interim, USDA rule. Order 29-A was issued more

---

[1] Gas Consumers seeks clarification concerning the effect of Order No. 29 on the small customer exemption provisions of curtailment plans. In the alternative it seeks rehearing of Order No. 29.

[2] Tennessee's petition includes a request for clarification.

[3] Transco's petition will not be addressed here, since it was conditionally exempted from the requirements of Order No. 29 by an Order issued on August 2, 1979, in Docket No. RM79-15.

[4] In ruling on these filings the Commission does not waive its right to assert that United and Consolidated Gas are not entitled to seek judicial review of the Commission's order in this proceeding because they failed to apply timely for rehearing of Order 29. See *Boston Gas Co.* v. *FERC*, 575 F.2d 9751 (1st Cir. 1978).

[5] 584 F.2d 1003 (1978).

[6] In this regard, section 401(b) differs from section 402(b), which applies the curtailment protection of 402(a) to essential industrial process and feedstock uses "*only if* the Commission determines" that alternative fuel is not. (Emphasis added.)

[7] *See* Notice Concerning June 15, 1979 Filing Deadline, Docket Nos. RM79-15 and RM79-40, June 8, 1979.

[8] *See* Notice of Proposed Rulemaking, Docket No. RM79-40, August 29, 1979.

[9] 44 FR 37499, June 27, 1979.

V 44 OC 25 79 UMI

than a month before the deadline for agricultural users to file requests for reclassification of essential agricultural uses. There has therefore been ample time for compliance with the requirements of Order No. 29.

The Establishment of New Curtailment Priorities

Columbia Gas argues that the NGPA does not require or intend that interstate pipelines reprioritize their existing curtailment plans. Instead, Columbia urges adoption of a final rule based on exemption procedures similar to the interim rule. In support of its arguments Columbia states that (1) requiring pipelines to reprioritize their end-use priorities is inconsistent with Congress' intention to minimize disruption of existing curtailment plans, (2) the Natural Gas Act, as interpreted in *State of Louisiana* v. *FPC*,[10] requires the Commission to tailor any curtailment plan to the particular circumstances existing on that pipeline,[11] and (3) section 5 of the Natural Gas Act, and cases interpreting that section, require the Commission to determine whether an existing curtailment plan is just and reasonable before ordering that plan to be reprioritized.

Columbia's arguments do not support rehearing. In the first place, NGPA does contemplate that interstate pipelines may be required to reprioritize their existing curtailment plans to the extent necessary to comply with Title IV. The Conference Report specifically states:

> For purposes of implementing this section, the Commission is instructed to reopen curtailment plans only to the extent necessary to adjust those plans to bring them into conformity with the new curtailment *priority* schedule.[12]

Furthermore, the ERA rule implementing section 401 provides that the relative order of priorities in existing curtailment plans will remain unchanged only if those priorities do not conflict with the required protection of high priority and essential agricultural uses.[13] Although a rule establishing exemption procedures may be one way of resolving such a conflict, it is not the only way. We understand the ERA rule as providing that, in cases of conflict, the priorities of existing curtailment plans may be changed. This interpretation is consistent with the Conference Report, which assures the Commission that it "has the necessary flexibility in implementing any changes."[14]

The relevance of the Natural Gas Act is discussed in more detail at pages 10–11 *infra*. At this point, it is sufficient to say that the Natural Gas Act and the court cases thereunder do not require rehearing of Order No. 29. For purposes of implementing section 401, the hearing procedures of section 5 of the Natural Gas Act are the kind of "lengthy proceedings which might throw existing curtailment plans into disarray."[15] And if any pipeline does have "particular circumstances" making the rule unsuitable to it, the adjustment procedures of section 502(c) are available.[16]

The interim rule established procedures whereby agricultural users could request adjustments from their suppliers in case of supply deficiencies. This ad hoc approach provides adequate protection during the summer season. When gas supplies were sufficient so that agricultural users did not have to seek relief on a large scale. If curtailments deepen during the winter, however, numerous requests for adjustment could be expected on most pipeline systems. Under such circumstance, the interim rule could be an awkward device, creating much uncertainty in the implementation of curtailments. The Commission believes that the rule of Order No. 29 is more appropriate on a permanent basis. It establishes priorities in advance of curtailment, and allows the pipelines and their customers to plan accordingly.[17]

The need to tailor curtailment plans to individual pipelines

United, Columbia Gas, and State of Louisiana criticize the establishment of a single "inflexible" rule applicable to 37 different pipelines.

State of Louisiana argues that the rule is especially inappropriate for United's system, because it would require United to serve the historical base period requirements of its pipeline customers for agricultural and high priority use.[18] According to State of Louisiana, this method of curtailment has never been used on United's system and could result in the curtailment of high priority and essential agricultural uses in United's direct market.

In a related argument, Municipal Distributors also criticize the rule for failing to distinguish between direct and pipeline customers on United's system. Municipal Distributors asks that (1) United be deleted from the list of pipelines included in the rule and (2) United be required to file tariff provisions protecting high priority and essential agricultural customers in United's direct market only.

Citing *State of Louisiana* v. *FPC*,[19] and *Consolidated Edison Co. of New York, Inc.*, v. *FPC*,[20] Columbia Gas asserts that the rule fails to meet the requirement that the Commission tailor any curtailment plan for an individual pipeline to the particular circumstances existing on that pipeline system.

In applying Order No. 29, the Commission has not been inflexible. Where the rule was obviously unsuited to the system of a particular pipeline, it has not been applied.[21] The Commission has also evinced flexibility in molding curtailment plans in the settlement context.[22]

If petitioners believe the rule unsuited to individual pipeline curtailment plans, the appropriate avenue for relief is a 502(c) adjustment or offer of settlement, not rehearing of the rule.[23]

The cases cited by Columbia are inapposite. Besides being decided prior to enactment of the NGPA, those cases applied to the establishment of entire curtailment plans,[24] rather than the limited reopening of established plans to implement a discrete change.

[10] 503 F.2d 844 (5th Cir. 1974). The significance of *State of Louisiana* v. *FPC* is discussed at pages 9–10 *infra*.

[11] Columbia Gas mentions no "special circumstances" existing on its system to which the rule should be tailored. Furthermore, Columbia Gas projects no curtailments on its system through 1987.

[12] Emphasis added. H.R. Report No. 95–1752, 95th Cong., 2d Sess. 113 (October 10, 1978) (hereinafter cited as Conference Report).

[13] 10 CFR 580.03(c), 44 FR 15642, March 15, 1979.

[14] Conference Report at 113.

[15] *Id.*

[16] *Cf.* Natural Gas Pipeline Company of America and Inland Gas Company, Inc., Docket Nos. TC79–128, et al. (May 2, 1979). The Commission found that the permanent rule was not suited to the curtailment systems of Inland Gas Co., Inc. and Natural Gas Pipe Line Co. Instead, the companies were ordered to file tariffs conforming to the essential character of the rule.

[17] This does not mean that the Commission would not approve a plan similar to the interim plan in lieu of an Order 29 plan for a particular pipeline in the context of an adjustment or adjustment/settlement proceeding. In such cases, sufficient focus is placed on the particular situation of the pipeline and on the viability of an interim type plan on a long-term basis. See e.g., *Transcontinental Gas* Pipeline Company, Docket No. RP72–99, *Order Denying Rehearing*, issued August 2, 1979.

[18] State of Louisiana does not describe the rule's effect quite accurately. At least as applied to essential agricultural requirements, the rule would not limit entitlements to base period requirements, but would require that 100 percent of current requirements be served.

[19] 503 F.2d 844, 872 (5th Cir. 1974).

[20] 511 F.2d 372, 381 (D. C. Cir. 1974).

[21] See Note 16 *supra*.

[22] *See* Columbia Gas Transmission Corporation, Docket No. TC79–127, Order Approving Settlement, September 27, 1979.

[23] *See* United Gas Pipeline Company, Dockets Nos. RP71–29, *et al.*, Order Granting Motion to Establish Procedures and Denying Petition for Waiver of Rules, September 28, 1979.

[24] Existing curtailment plans have already been tailored to the needs of individual pipelines in accordance with the above mentioned cases and the requirements of the Natural Gas Act.

Furthermore, the rule here, unlike the curtailment plans criticized in the cases cited,[25] is related to the record evidence in this particular case.

The Natural Gas Act

Numerous petitioners challenge the rule on the grounds that it is inconsistent with various provisions of the Natural Gas Act and court decisions thereunder.

PGC asserts that failure of the Commission to determine whether its order meets the standards of the Natural Gas Act constitutes error. Columbia Gas and State of Louisiana both argue that the Commission lacks authority to prevent pipelines from filing, under section 4 of the Natural Gas Act, a plan that does not comply with Order No. 29, but adequately protects high priority and essential agricultural uses. State of Louisiana and United challenge the Commission's authority to establish new priorities for any pipeline without complying with the requirements of Section 5 of the Natural Gas Act.

The NGPA did not repeal the Natural Gas Act (NGA). Nevertheless, it did modify the NGA to require a higher level of protection for essential agricultural uses than for industrial uses.

Order 29 was promulgated to implement the requirements of Section 401. The order satisfies the statutory requirements of Section 401 as well as the requirements of section 4 of the NGA as modified by the NGPA.

Order 29 is a rule and it requires 37 named interstate pipelines to implement Section 401 in a particular and detailed manner. Interstate pipelines may file plans under section 4 of the Natural Gas Act that deviate from Order 29. But such a filing by itself would not waive the requirement to file in accordance with Order 29 *unless* the pipeline has received an adjustment under Section 502(c). A deviant plan filed under section 4 of the NGA cannot go into effect until the requirements of Order 29 have been waived.

Section 401 of the NGPA required an expeditious change in pipeline curtailment plans. The Commission has determined that the only feasible way to meet its obligations in such a short time period was to issue rules requiring all pipelines to amend their curtailment plans. A section 5 proceeding under the Natural Gas Act would be a wholly inappropriate vehicle for implementation of Section 401 in light of the time limits imposed by Congress.[26]

State of North Carolina v. FERC

Many petitioners seek rehearing on the grounds that Order No. 29 fails to meet the requirements of *State of North Carolina* v. *FERC*.[27] For the reason indicated in the preamble to Order No. 29, the Commission does not believe that *North Carolina* controls this rulemaking.[28] Even if that case were applicable, however, Order No. 29 would not be inconsistent with its requirements.

Since the NGPA does not require reopening the base periods of the existing curtailment plans, the issue of stale base period data does not arise under Order No. 29. Moreover, because the Secretary of Agriculture has established essential agricultural requirements on a current basis, such uses will be updated annually and the question of stale data is thereby mooted for these uses.

State of Louisiana, United, Columbia Gas, and Entex all criticize the Commission for failing to assess the rule's "impact on actual end-use." To the extent they argue that the Commission cannot implement section 401 without first collecting voluminous end-use data for each pipeline affected, we reject the argument. Such an effort is not within the bounds of "the maximum extent practicable" and would unduly delay implementation of the rule, perhaps for years. Moreover, to the extent that Order 29 causes a particular hardship, inequity, or undue burden, an adjustment to the rule may be granted.

Contract limitations

Allied, ABA, Columbia Nitrogen, TFI and Brewers argue that contract and certificate limitations should not limit the amount of gas that essential agricultural customers may receive. These parties say that the Commission lacks authority to reduce the amount of gas essential agricultural users may receive below the level of requirements certified by the USDA. Thus, it is argued § 281.204(c)(2) of the Rule must be deleted.

This same argument was raised by Brewers in its petition for rehearing of the interim rule in Docket No. RM79–13. In the order denying rehearing in that proceeding, the Commission noted that Order No. 29 did not change the volumes certified by the Secretary of Agriculture. The relevant issue was whether or not the pipelines were obliged to meet those requirements regardless of contract or certificate limitations. On this issue the Commission stated that section 401 does not create new contract or certificate obligations. Rehearing on this issue is denied here for the same reasons it was denied in Docket No. RM79–13.[29]

The Commission does not believe that Section 401 creates new contract or certificate obligations for interstate pipelines. Section 401 requires only an amendment to curtailment plans of interstate pipelines. Curtailment plans are a method of allocation of contract demand of natual gas. *FPC* v. *Transcontinental Gas Pipeline Corp.*, 423 U.S. 326, 327–28 (1976).

The attribution formula

Various complaints are raised concerning the attribution rule which apportions high priority and essential agricultural requirements. Entex states that the attribution formula contained in section 281.209 is unworkable and could overstate the agricultural requirements of partial requirements customers. Entex is correct: the rule was intended to attribute exactly 100 percent of essential agricultural requirements by essential agricultural users. The attribution formula as applied by distribution companies and interstate pipelines was intended to allow attribution in the same manner as was done in the underlying curtailment plans of interstate pipelines. Rehearing is granted for the limited purpose of correcting the attribution formula of § 281.209 to reflect Commission intent.

Only interstate pipelines are required to attribute their priority 1 requirements. Distributors are not. Entex says this favors distributors served by more than one supplier. The rule does not require attribution by a distributor because the total base period entitlements of each distributor have already been established by operation of its suppliers' currently effective curtailment plan. The distributor merely determines what volume in its base period entitlements from each supplier reflected end uses now defined under Order 29 as high priority uses. Those volumes are now placed in the new Priority 1 and there is no need for attribution.

[25] In Consolidated Edison Co. of New York v. FPC, the court criticized the Commission's rejection of a settlement filed by Transco. The court said that the Commission's belief that curtailment on the bases of the priorities of Order No. 467–B would be better "appears to be premised on the Commission's general policy statement [467–B] rather than an examination of evidence pertaining to the Transco system." 511 F.2d at 381.

Order No. 29 is a rule, not a policy statement, and was based on a record developed in accordance with rulemaking procedures.

[26] Because of the delay involved, the Supreme Court has indicated that a section 5 proceeding is unsuitable for evaluating curtailment plans. *FPC* v. *Louisiana P & L.* 406 U.S. 621, 643 (1972).

[27] 584 F.2d 1008 (D.C. Cir. 1978). See petitions for rehearing by Air Products, Atlanta Gas, Columbia Gas, Entex, PGC, State of Louisiana, and United.

[28] Order No. 29 at 5–6.

[29] Order Denying Rehearing of Interim Curtailment Rule, Docket No. RM79–13, June 20, 1979 at 5–7.

V 44 O C 25 79 UMI

Tennessee, on the other hand, argues that it is inconsistent to require even pipelines to attribute high priority requirements, since the rule does not provide for updating high priority requirements and attribution could result in an entitlement different than that currently contained in the base period. To the extent that Priority 1 volumes of interstate pipelines increase (which is purely speculative) it will be caused by the new definition of high priority uses incorporated form the ERA.

NI-Gas and Brewers argue that non pipeline supplies should not be included in the attribution formula. According to NI-Gas, this penalizes distributors that have engaged in self help and may be an unconstitutional taking without just compensation. NI-Gas alleges that by recognizing the status quo of pipeline curtailments, the provision including non pipeline supplies amounts to granting an abandonment without complying with the provisons of the Natural Gas Act.

Brewers adds that gas from other sources is likely to be more expensive, and that by including it in the attribution formula, the rule precludes access to lower priced pipeline gas. According to Brewers, this contradicts the purpose of preventing unnecessary increases in the cost of food.

The NGPA does not require that pipelines deliver more gas than is actually necessary to meet the requirements certified by the USDA. On the contrary, the Commission is directed to open existing curtailment plans "only to the extent necessary" to bring them into conformity with the new priority schedule.[30] Therefore, to the extent that essential agricultural requirements are being met by non-pipeline sources, they will not be reclassified in the pipeline's curtailment plan. Otherwise, the rule would extend Priority 2 protection to agricultural users, whose needs are being met from other sources at the expense of lower priority users, including industrial process and feedstock users.

The inclusion of non-pipeline sources in the attribution formula deprives no one of gas. It only prevents users from receiving additional gas to serve requirements being met from another source.

The Base Period

AGA, GSCG, Natural, United, PGC, Brooklyn Union, and ConEd all challenge the use of an updated or rolling base period for calculating agricultural requirements. These petitioners maintain that it is improper to extend Priority 2 protection to new or expanded agricultural uses not included in existing curtailment plans.

In a related argument, PGC, Natural, United, Brooklyn Union, and GSCG say that it was error for the Commission to adopt completely the USDA certification of 100 percent of current agricultural requirements.

These arguments were raised in petitions for rehearing in Docket No. RM79-13 and were rejected. They are rejected here for the same reasons.[31] Furthermore, when Order No. 29 was promulgated, the Commission fully explained the basis for its decision to expand the requirements above base period volumes.[32]

PGC argues that because the USDA certification is incorporated into the ERA rule, the Commission has authority under sections 403 and 404 of the DOE Act to review that certification. USDA's authority to certify agricultural requirements is independent of any authority the NGPA grants to ERA or the Commission. This authority therefore cannot be diluted or made subject to our review simply because it is recognized by the ERA rule.

Brooklyn Union further challenges adoption of agricultural entitlements equal to 100 percent of current requirements because there has been no showing that expanded service is "necessary" for "full food and fiber production" or that adherence to existing base periods would impair operations of essential agricultural users.

No such showing is required, or even relevant, in this proceeding. Determinations of what is necessary for full food and fiber production are the province of the USDA, not the Commission. Likewise, whether or not adherence to existing base periods would impair essential agricultural uses is not the issue. The issue is whether or not adherence to existing base periods would fulfill the Commission's duty to implement the USDA certification of 100 percent of current requirements. For reasons already mentioned we find that it would not.

Capacity Limitations

Farmland and TFI seek rehearing on the grounds that the protection afforded by section 401 and Order 29 should apply to curtailments resulting from capacity limitations as well as from supply shortages. Farmland urges that § 281.203(a)(6) (definition of end-use curtailment) be modified accordingly. The NGPA does not define the term "curtailment plan." In large part, curtailment has been a method of dealing with natural gas shortages vis-a-vis contract obligation to deliver natural gas. For example, Order 467-B established end-use priorities for deliveries of natural gas in the face of a supply shortage. If TFI and Farmland face supply problems in the absence of curtailment, they may avail themselves of their Natural Gas Act remedies. Accordingly, rehearing on this issue is denied.

Burner Tip Curtailment

Allied, ABA, Columbia Nitrogen, and TFI assert that Order No. 29 is in error because is does not require local distributors to deliver gas to the end-users to whom agricultural uses are attributable.

The Commission's authority to establish curtailment plans for interstate pipelines is founded in its transportation jurisdiction under section 1(b) of the Natural Gas Act.[33] Section 1(b) of that act, however, specifically prohibits the exercise of Commission jurisdiction over "the local distribution of natural gas." Consequently, it has not been Commission policy to attach end-use conditions to pipeline curtailment plans.[34]

Nothing in section 401 indicates an intention to expand the Commission's jurisdiction to include local distributors. On the contrary, the House bill would have applied the curtailment prohibitions of section 401 to local distribution companies, but this provision was deleted from the final act.[35]

There are sound policy reasons that weigh against extending the Commission's curtailment jurisdiction to include local distributors. Such an extension of curtailment jurisdiction would create inevitable conflict with local regulatory agencies. Moreover, it would not be feasible for this agency to administer workable curtailment plans for the thousands of local distributors throughout the country. State agencies, on the other hand, are in a position to know the practices and requirements of local distributors and their customers.

In addition, if conditions requiring the flow through of gas were imposed, the Commission would face the dilemma of applying those conditions only for high priority and essential agricultural uses, or reopening every curtailment plan to provide flow-through to all priorities.

For these reasons, rehearing in this issue is denied.

GSCG asks that the rule be amended to indicate that it does not require "State commissions to order local distribution companies to add new customers, increase deliveries or execute new or modified contracts or service agreements." The rule is so clarified. A specific amendment is unnecessary.

"Necessary adjustments" to current requirements.

ABA, TFI, Farmland and PGC all question the meaning of the rule's definition of current requirements (Section 281.208(b)(1)(ii). Farmland argues that it is improper to impose an historical base period restriction on agricultural requirements. ABA and TFI urge that the phrase "with necessary adjustments" be interpreted to permit calculation of actual protected current requirements rather than limit agricultural users to the amount of gas used in a prior time period.

PGC, on the other hand, says that it is error to include "energy consumption" within the definition rather than "natural gas consumption."

The definition of current requirements is intended to implement fully the USDA certification of 100 percent of current requirements. This certification would not be fully recognized if essential agricultural users who used alternative fuel as a result of past curtailment are limited to whatever amount of gas they were able to obtain or use during that period. Consequently, current requirements are defined to include total energy requirements rather than natural gas only.

The phrase "with necessary adjustments" is intended to provide for users who have significantly expanded their capacity since the most recent 12 month period for which data is available or who may have been operating at less than full capacity during that period and are now at full capacity. The rule uses the most recent 12 month period for which data is available as the most practicable method for making an objective determination of current requirements. If this period would not accurately reflect the current requirements of particular agricultural users because of significant changes in capacity, however, these changes may be reflected in a "necessary adjustment" to the collected data.

The rule does not limit agricultural users to an historical base period. Essential agricultural users may submit requests to change their Priority 2 entitlements under § 281.211(b)(4).

Storage Gas

Order 29 retains the status quo of storage gas. For those pipelines which sprinkle, storage volumes will be spread over all priorities, including the new high-priority and essential agricultural uses. For those pipelines which treat storage as an end use and place the volumes in old Priority 2 the curtailment plan under Order 29 will result in putting these volumes in a lower priority.

Nobody protests the results of those pipelines which sprinkle storage volumes. AGA, Brooklyn Union, Columbia Gas, GSCG, Natural, Consolidated Gas and NI-Gas object to the downgrading of storage gas for those pipelines which have previously placed storage in Priority 2.

By maintaining the status quo, the Commission believes it can best implement the Congressional intent of avoiding protracted litigation and extensive reopening of curtailment plans. Nonetheless, if the status quo for any of those few pipelines which do not use storage sprinkling will lead to "an undue preference or advantage" or the maintenance of "unreasonable difference in . . . Service . . . either as between localities or between classes of services, the pipelines may make an appropriate filing to modify its treatment of storage volumes.

Certain petitioners assert that Order 29 violates the ERA rule:

> "Nothing in this rule shall prohibit the injection of natural gas into storage by interstate pipelines or deliveries to its customers for their injection into storage unless it is demonstrated to the Federal Energy Regulatory Commission that these injections or deliveries are not reasonably necessary to meet the requirements of high-priority or essential agricultural users. 10 CFR 580.03(d)

Stripped of its negatives, the rule is intended to allow the Commission flexibility in treatment of storage volumes.[36] And in the absence of a showing that storage is used exclusively to serve high-priority and essential agricultural requirements or that failure to fill storage may result in insufficient supplies to serve those requirements in the winter, we will not adopt the suggestions that storage injection be included as a high-priority use.

Small Distributors Exemptions

Gas Consumers asks clarification to indicate that the rule was not intended to effect the exemption of small distributors from curtailment, as provided in many pipeline curtailment plans. Gas Consumers advances many policy and factual arguments in support of retaining the small distributor exemptions.

We agree with the arguments advanced by Gas Consumers. The Commission has previously found the small distributor exemptions to be in the public interest. Order No. 29 was not intended to disturb these exemptions. The rule is so clarified.

Payback Obligations

Section 281.214(b) of the rule provides for payback in dollars or in kind as a remedy for violations of the rule. GSCG urges that payback be prescribed for any gas that is misclassified. According to GSCG, this deterrent is necessary to assure that only the minimum amounts of gas are upgraded, especially since alternative fuel determinations have not yet been implemented.

GSCG states that in its Notice of Proposed Rulemaking the Commission indicated that it would require payback if gas is misclassified by the data verification committee. This is inaccurate. The notice said that "the Commission will grant relief prospectively" when high priority and essential agricultural uses are misclassified and that "the Commission reserves the right to order payback of excess volumes in appropriate cases." Section 281.208(c)(4) of the proposed rule provided that "[t]he Commission *in its discretion may* direct the payback to excess volumes taken while the end-user was temporarily misclassified." (Emphasis added.)

The final rule is consistent with, albeit not identical to, the provisions of the notice and the proposed rule. We would not extend the rule to require payback in cases of simple error. It would not be consistent with the purpose of protecting high priority and essential agricultural uses to put this risk on those who make good faith requests for classification under Order No. 29.

Requests for classification of essential agricultural requirements are required to be under oath (section 281.211(b)(iii)). We believe that this requirement, along with the remedies established in 281.214(b), provides sufficient deterrent to misclassification.

---

[30] Conference Report at 113.

[31] Order Denying Rehearing of Interim Curtailment Rule, Docket No. RM79-13, June 20, 1979, at 8-11.

[32] Order No. 29 at 12-13 (44 FR 26855, 26857).

[33] *FPC* v. *Louisiana Power & Light Co.*, 406 U.S. 621, 636-41 (1972).

[34] Opinion No. 754, Panhandle Eastern Pipe Line Co., Docket No. RP71-119, February 27, 1976, at 31-33.

[35] Allied argues that because the Senate passed legislation was designed to deregulate natural gas within the framework of the Natural Gas Act, it cannot be concluded that the Senate intended to reject the Houses's inclusion of local distribution companies. This argument is not persuasive, especially if the intention was to deregulate within the frame work of the Natural Gas Act. As has been shown, the Natural Gas Act specifically excludes local distribution from Commission jurisdiction.

[36] See 44 FR 15642, 15645, March 15, 1979.

V 44 OC 25 79 UMI

Schools and Hospitals

GSCG asks that the rule be amended to clarify the definitions of schools and hospitals. GSCG says that it is unclear whether "dormitories, administration buildings, and laboratories" would come within the definition of school. To the extent such buildings are an integral part of "a facility, the primary function of which is to deliver instruction to regularly enrolled students in attendance at such facility," they would come within the definition.

GSCG asks that the sentence excluding "outpatient clinics or doctors offices" from the definition of hospital be stricken, since such buildings are part of the hospital complex in some instances.

It would not be administratively feasible to distinguish for separate curtailment treatment outpatient clinics and doctors offices that are physically connected to the rest of the hospital or its heating plant. Such uses should be considered part of the "facility" and included within the definition. Otherwise they are excluded.

Clarification of these issues obviates the need for further amendment.

Consultations With USDA

PGC suggests that the Commission's consultations with USDA may have violated *ex parte* regulations because section 401(b) only authorizes consultations concerning alternative fuel determinations. We do not give section 401 such a limited reading. As numerous petitioners for rehearing, including PGC,[37] remind us, our responsibilities under sections 401(a) and 401(b) are closely related. In any event, memoranda submitted to the Commission by the USDA pursuant to its consultations are in the public record of this proceeding.[38]

The Data Verification Committees (DVCs)

PGC urges that a representative of an industrial process or feedstock user should be included on all DVCs. Section 281.213 was never intended to preclude representation on the DVCs by representatives of other industries.

Protests and Complaints

PGC criticizes § 281.213(c), which limits protests to customers of the interstate pipeline. Section 281.214(a), limiting complaints to aggrieved direct customers and distribution companies, is similarly criticized. PGC would extend standing under these sections to "all interested parties." We agree. This policy is appropriate in light of the new policy of end product curtailment embodied in the NGPA. Order 29 will be modified to allow full participation by all interested persons.

Filing Requirements

Section 281.204(a) requires pipelines subject to the rule to file tariff sheets "including an index of entitlements." Tennessee submits that because its index of entitlements is so voluminous, this requirement is unnecessary and unduly burdensome. Tennessee notes that its present index of entitlements totals 132 pages and that base period data used by most pipelines has not been included in company tariffs in the past.

As an alternative, Tennessee suggests that it file its complete index of entitlements with the Commission and serve copies on its customers and affected state commissions.

Tennessee was the only party to raise this issue. If Tennessee should find the filing of an index of requirements unduly burdensome, it may seek an adjustment.

Rate Adjustments

Tennessee states that any significant change in its base period data in conformance with Order No. 29 could affect the sales volume estimates underlying its rates and cause a loss of necessary revenues. Tennessee concern appears to be speculative and beyond the scope of Order 29.

The Commission orders: For the reasons set forth above, the Commission orders:

A. The petitions for rehearing and clarification are granted to the extent indicated in the body of this order. Otherwise they are denied.

B. The motions by United and Consolidated Gas for acceptance of late filed petitions for rehearing and waiver of the Commission's Rules of Practice and Procedure are denied.

C. Petitions for extension of filing deadlines by Eli Lilly, Pacific Gas, UGI Corporation, So Cal, Texas Eastern, and NI-Gas are dismissed as moot.

D. The motion for oral argument filed by State of Louisiana is denied.

E. Subpart B, Part 281, Subchapter I, Chapter I of Title 18, Code of Federal Regulations, is amended as set forth below, effective November 21, 1979.

(Natural Gas Act, 15 U.S.C. 717–717w; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267.)

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 281—NATURAL GAS CURTAILMENT

1. Section 281.203(a) is revised by deleting subparagraph (16) and substituting the following in lieu thereof:

§ 281.203 Definitions and cross references.

(a) *Definitions.* * * *

(16) "Alternative fuel" means alternative fuel as it is defined in Subpart C of this Part.

* * * * *

2. Section 281.205(b) is amended in subparagraph (1) by adding a new sentence at the end of that subparagraph to read as follows:

§ 281.205 General rules.

* * * * *

(b) *Method of curtailment.* * * *

(1) * * * Nothing in this paragraph is intended to alter the operation of any "small customer" or "small distributor" exemption or waiver (as defined in an interstate pipeline's currently effective curtailment plan).

* * * * *

3. Section 281.209 is revised in by deleting paragraphs (d)(1), (d)(3), (e) and (f) and substituting the following in lieu thereof:

§ 281.209 Attribution.

* * * * *

(d) *Essential agricultural user.* (1) An essential agricultural user shall calculate its attributable essential agricultural requirements attributable to a particular direct supplier by multiplying its total essential agricultural requirements by the Annual Quantity Entitlements from such direct supplier and dividing the product (numerator) by the sum of all Annual Quantity Entitlements and all volumes received from sources not providing an Annual Quantity Entitlement to such user (denominator).

* * * * *

(3) If an essential agricultural user does not have Annual Quantity Entitlements with respect to more than one of its direct suppliers, the attributable essential agricultural requirements attributable to a particular direct supplier shall be calculated by multiplying its total essential agricultural requirements by the total volume of natural gas received from such supplier in 1972 and dividing the product (numerator) by the total supplies of natural gas received from all sources in 1972 (denominator).

(e) *Local distribution company.* A local distribution company shall calculate its attributable indirect essential agricultural requirements among its direct suppliers in the same manner as it attributed its supplies to its direct suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct supplier.

(f) *Interstate pipelines.* An interstate pipeline shall attribute Priority 1 and 2 entitlements respectively among its direct pipeline supplies in the same manner as it attributed its supplies to its direct pipeline suppliers for purposes of establishing entitlements in the currently effective curtailment plans of such direct suppliers.

4. Section 281.213 is revised by deleting paragraph (c) and substituting the following in lieu thereof:

§ 281.213 Data Verification Committee.

* * * * *

(c) Any interested person may file a written protest concerning the index of entitlements. Such protests shall be filed with the Data Verification Committee no later than September 21, 1979. For years after 1979, protests shall be filed not later than 30 days after a draft index of entitlements is served in accordance with section 281.212(d) of this part.

* * * * *

5. Section 281.214 is revised by deleting paragraph (a) and substituting the following in lieu thereof:

§ 281.214 Notice, complaint and remedy.

(a) *Complaint.* Any interested person may file a complaint concerning an alleged violation of this subpart under § 1.6 of this chapter.

* * * * *

[FR Doc. 79-32970 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DOD Regulation 6010-8-R]

Implementation of the Civilian Health and Medical Program of the Uniformed Services; Amendment No. 2

Correction

In FR Doc. 79-31420, appearing on page 58709 in the issue of Thursday, October 11, 1979, amendatory paragraph 1.b. in the second column should read: "b. By deleting old paragraph (b)(107)."

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 222

Grazing and Livestock Use on the National Forest System

AGENCY: Forest Service, USDA.

ACTION: Final rule.

SUMMARY: The Forest Service issues final rule incorporating amendments to the Federal Land Policy and Management Act of 1976 made by the Public Rangelands Improvement Act of 1978. These amendments substitute the word "sixteen" for "eleven" in front of ". . . contiguous western States," expand the definition of "Range Improvements," and broaden the scope of consultation and cooperation in the development of allotment management plans. The amendments do not represent policy additions or major changes in policies which have applied to the administration of grazing permits on the National Forest System beyond that prescribed by law.

EFFECTIVE DATE: October 25, 1979.

ADDRESS: Chief R. Max Peterson (2200), Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Robert M. Williamson, Assistant Director, Range Management Staff, Forest Service, P.O. Box 2417, Room 610 RP-E, Washington, D.C. 20013, Telephone (703) 235-8139.

SUPPLEMENTARY INFORMATION: This amendment makes minor changes in the regulations so it conforms with the Rangelands Improvement Act. These regulations were substantially changed on November 28, 1977, to implement provisions of the Federal Land Policy and Management Act of 1976 (Pub. L. 94-579) (**Federal Register**, Vol. 42, No. 208, Friday, October 28, 1977, pages 56430-56737). This Act was subsequently amended by the Public Rangelands Improvement Act of 1978. Minor changes in this amendment are to: (1) Substitute the word "sixteen" in place of "eleven" in front of ". . . contiguous western States"; (2) Expand the definition of "Range Improvements"; and (3) Broaden the scope of consultation and cooperation in the development of allotment management plans. It has been determined that publication of these amendments in accordance with the Proposed Rulemaking Procedures Act, 5 U.S.C. 533, is unnecessary. The amendments do not represent policy additions or major changes in policies which have applied to the administration of grazing permits on the National Forest System beyond that prescribed by law (Rangelands Improvement Act of 1978).

The minor changes being made by this amendment are explained as follows:

(1) Authority is expanded to include the Public Rangelands Improvement Act of 1978.

(2) Previously in § 222.1(b)(7), § 222.1(b)(20), § 222.3(c)(1), § 222.6(a), § 222.10(a), and § 222.11 (a) and (b), it referred to ". . . 11 contiguous western States." These are changed to read ". . . 16 contiguous western States."

(3) § 222.1(b)(7) is being expanded to add five additional States—North Dakota, South Dakota, Kansas, Nebraska, and Oklahoma (States are listed in alphabetical order).

(4) § 222.1(b)(21) expands the definition of "Range Improvement" to include ". . . activity or program designed to improve production of forage and includes facilities or treatments . . .".

(5) § 222.2(b) is broadened to include consultation and cooperation with landowners, States, and grazing advisory boards.

Dated: October 19, 1979.

David G. Unger,

Deputy Assistant Secretary for Natural Resources and Environment.

PART 222—RANGE MANAGEMENT

Title 36, Part 222 is amended as follows:

1. The authority citation in Subpart A is revised to read as follows:

Authority: 92 Stat. 1803, as amended (43 U.S.C. 1901), 85 Stat. 649, as amended (16 U.S.C. 1331-1340); Sec. 1, 30 Stat. 35, as amended (18 U.S.C. 551); Sec. 32, 50 Stat. 522, as amended (7 U.S.C. 1011).

2. § 222.1(b)(20), § 222.3(c)(1), § 222.6(a), § 222.10(a), and § 222.11(a) and (b) are amended by changing the words "11 contiguous western States" to "16 contiguous western States" wherever they appear.

3. Paragraphs (b)(7) and (21) of § 222.1 are amended to read as follows:

§ 222.1 Authority and definitions.

* * * * *

(b) * * *

(7) "Lands within National Forest in the 16 contiguous western States" means lands designated as National Forest within the boundaries of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming (National Grasslands are excluded).

* * * * *

[37] See PGC petition at 9.

[38] Notice of Proposed Rulemaking, Docket No. RM79-15, January 18, 1976, at 8 n. 2.

V 44 O C 25 7 9 UMI

(21) "Range Improvement" means any activity or program designed to improve production of forage and includes facilities or treatments constructed or installed for the purpose of improving the range resource or the management of livestock and includes the following types:

(i) * * *

* * * * *

4. Paragraph (b) of § 222.2 is amended to read as follows:

§ 222.2 Management of the range environment.

* * * * *

(b) Each allotment will be analyzed and with careful and considered consultation and cooperation with the affected permittees, landowners, and grazing advisory boards involved, as well as the State having land within the area covered, and an allotment management plan developed. The plan will then be approved and implemented. The analysis and plan will be updated as needed.

* * * * *

(Sec. 1, 30 Stat. 35, as amended (16 U.S.C. 551); sec. 1, 33 Stat. 628 (16 U.S.C. 472); sec. 32, 50 Stat. 525, as amended (7 U.S.C. 1011); sec. 19, 64 Stat. 88 (16 U.S.C. 5801); Title IV, Pub. L. 94, 90 Stat. 2771 (43 U.S.C. 1751, et seq.); 92 Stat. 1803 (43 U.S.C. 190))

[FR Doc. 79-32966 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF JUSTICE

41 CFR Part 28

[Order No. 859-79]

Amendment to the Designation of Office

AGENCY: Department of Justice.

ACTION: Final rule: Editorial Amendment to Chapter 28.

SUMMARY: Pursuant to a reorganization within the Department of Justice, the Office of Management and Finance has been abolished and replaced by the Justice Management Division. In addition, the Operations Support Staff, the subdivision of the Office of Management and Finance that was authorized to perform procurement functions, has been abolished and replaced by the Property Management and Procurement Staff. These organizational changes have necessitated editorial amendments to Chapter 28.

EFFECTIVE DATE: October 1, 1979.

FOR FURTHER INFORMATION CONTACT: William J. Snider, Administrative Counsel, Justice Management Division, Department of Justice, Washington, D.C. 20530 (202-633-4165).

By virtue of the authority vested in me by 28 U.S.C. § 509 and § 510, Chapter 28 of Title 41 is hereby amended as follows:

1. By substituting "Justice Management Division, Property Management and Procurement Staff" for "Office of Management and Finance, Operations Support Staff" in § 28-1.205(a)(1) of Subpart 28-1.2 of Part 28-1.

2. By substituting "Director, Property Management and Procurement Staff, Justice Management Division" for "Director, Operations Support Staff, Office of Management and Finance" in § 28-1.404.50(a)(1) of Subpart 28-1.4 of Part 28-1.

3. By substituting "Justice Management Division" for "Office of Management and Finance" in § 28-1.404.51(c) of Subpart 28-1.4 of Part 28-1.

4. By substituting "Justice Management Division" in Section 28-1.405 of Subpart 28-1.4 of Part 28-1.

Dated: October 10, 1979.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 79-32969 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Ch. II

[R-4583; Public Land Order 5684]

California; Withdrawal for the Boulder Gulch Recreation Area

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws approximately 18.82 acres of public land for expansion of an existing recreation area.

EFFECTIVE DATE: October 25, 1979.

FOR FURTHER INFORMATION CONTACT: Evelyn Tauber, 202-343-6486.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751, 43 U.S.C. 1714), it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, or entry, under the general land laws, including the mining laws, 30 U.S.C., Ch. 2, in aid of programs of the Corps of Engineers, Department of the Army:

Mount Diablo Meridian

A parcel of land situated within the SE¼SE¼, Sec. 7,
T. 26 S., R. 33 E., described as follows:

Beginning at the section corner common to Secs. 7, 8, 17, and 18, said township and range, marked by a found 3-inch x 3-inch redwood hub in a rock mound; thence westerly along section line common to Secs. 7 and 18, 749.32 feet to the easterly right-of-way line of State Highway No. 155 as recorded with the Bureau of Land Management as Parcel 63628 to Department of Public Works, State of California; thence, along said easterly right-of-way line N. 10°18'E., 465.99 feet; thence, N. 13°52'35"E., 400.78 feet; thence, N. 07°17'53"E., 477.39 feet to the intersection of said easterly line and the northerly line of the SE¼SE¼ of said Sec. 7; thence, leaving said easterly right-of-way, east along said northerly line of said SE¼SE¼ 508.43 feet to the northeast corner of said SE¼SE¼; thence, S. 00°02'07" E. along the section line common to said Secs. 7 and 8, 1,321.08 feet to the point of beginning, containing 18.82 acres, more or less, in Kern County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal shall remain in effect for a period of 20 years from the date of this order.

Guy R. Martin,

Assistance Secretary of the Interior.

October 12, 1979.

[FR Doc. 79-32968 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-84-M

COMMUNITY SERVICES ADMINISTRATION

45 CFR Part 1050

Monitoring and Reporting Program Performance

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: CSA is filing a final rule specifying the quantifiable data required on Project Progress Review (PPR) Reports required by grantees funded under Section 222(a) of the Economic Opportunity Act. These data will assure that information provided on these programs is uniform.

DATES: This rule is effective November 26, 1979.

Implementation date: Information as required in this rule will be provided by grantees beginning with the first PPR due after the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Penland, Telephone: (202) 254-6110, Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: Part 1050, Subpart I (CSA Instruction 6800-9) requires the submission of Project Progress Review reports (CSA Form 440) by all CSA-funded grantees. It also states that each PPR report must provide an analysis of accomplishments in relation to each goal on the grantees currently approved work program. The Form 440 breaks these down into measurable and non-quantifiable accomplishments.

In order to assure that the quantifiable data being reported for programs funded under section 222(a) of the Economic Opportunity Act are uniform, CSA requires that section 1.A. (measurable accomplishments) on the Form 440 includes all relevant data i.e., data resulting from activities undertaken as part of the work program, as indicated under the appropriate Program Account in Attachment B to this subpart.

This is not an additional reporting requirement being imposed on grantees. Rather, it is an effort to assure that the data which grantees are reporting are provided in a consistent and uniform manner. Therefore, CSA does not consider this a significant rule. In addition, since the format in which the data are presented will serve CSA's administrative needs only, CSA is not including a period for public comment.

The categories found in Attachment B reflect major activities which CSA indicated it would support in its previously published Program Policy Statements. As a result of this analysis of these data, future Program Policy Statements will be further refined or changed to meet local needs reflected in grantee reports.

Authority: Sec. 602, 78 Stat. 530; 42 U.S.C. 2942.

Graciela (Grace) Olivarez,

Director.

45 CFR 1050.80-3(c)(1) is amended to add the following subparagraph:

§ 1050.80-3 CSA implementing policies and procedures

* * * * *

(c) * * *

(1) * * *

(iii) In order to assure that the quantifiable data being reported for programs funded under section 222(a) of the Economic Opportunity Act are uniform, CSA requires that Section 1.A. (measurable accomplishements) on the Form 440 includes all relevant data i.e., data resulting from activities undertaken as part of the work program, as indicated under the appropriate Program Account in Attachment B to this subpart.

* * * * *

In addition, Part 1050, Subpart I, is amended by adding Attachment B to Subpart I.

Subpart I—Monitoring and Reporting Program Performance

Attachment B—Data Required in PPR Reports for Projects Funded Under Section (222) (a) of the E.O.A.

No. *and Program Account*

06. *Senior Opportunities and Services—Independent Living 222(a)(2).*
Total Number of Beneficiaries
Number Beneficiaries of Housing Services
Number Beneficiaries of Nutrition Services
Number Beneficiaries of Home Care Services
Number Beneficiaries of Health Services
Number Beneficiaries Elderly Day Care Services
Number Beneficiaries other Services (*e.g.* counseling, safety, education, etc.)
Total Number Elderly Community Centers
Total Number Beneficiaries of Community Centers

07. *Senior Opportunities and Services—Access 222(a)(2).*
Total Number Elderly Transported to Services
Total Number New Beneficiaries
Number New Beneficiaries SSI
Number New Beneficiaries Food Stamp
Total Number Elderly Provided Training
Total Number Elderly Provided Jobs

12. *Nutrition—Access (222)(a)(1).*
Total Number New Beneficiaries
Number New Beneficiaries Food Stamp
Number New Beneficiaries of WIC
Number New Beneficiaries of School Breakfast
Number New Beneficiaries of School Lunch
Number New Beneficiaries of Elderly Feeding
Number New Beneficiaries Summer Feeding
Total Non-CSA Dollars Mobilized
Number New Beneficiaries of Day Care Feeding
Number New Beneficiaries of other (Identify)

13. *Nutrition—Self-Help (222)(a)(1).*
Total Number Beneficiaries
Number Beneficiaries from Buying Clubs
Number Beneficiaries from Community Cannery
Number Beneficiaries from Food Gleaning
Number Beneficiaries from Food Raising
Total [1] Estimated dollar value of Above Self-Help Efforts

15. *Nutrition—Consumer Education (222)(a)(1).*
Total Number Beneficiaries

16. *Nutrition—Crisis Relief (222)(a)(1).*
Total Number Beneficiaries

21. *Energy—Weatherization (222)(a)(5).*
Total Number Beneficiaries
Total Number Units Weatherized
Number Rental Units Weatherized
Number Elderly Head of Household Units Weatherized
Total Number Persons Employed in Weatherization
Number Persons Employed using CETA Funds
Number Persons Employed using CSA Funds
Number Persons Employed using Other (Identify) Funds
Total Non-CSA Dollar Resources Mobilized

22. *Energy—Crisis Intervention (222)(a)(5).*
Total Number Beneficiaries
Number People Benefiting from Payment of Fuel Bills
Number People Benefiting from Emergency Energy Related Home Repairs
Total Dollar Payment Other than Home Heating Payments
Total Number Households Assisted
Number Elderly Head of Households Assisted
Number Rental Households Assisted

23. *Energy—Consumer Information, Education and Legal Assistance (222)(a)(5).*
Total Number Beneficiaries
Number Beneficiaries 18 years and under
Number Beneficiaries 55 years and over

25. *Energy—Alternative Technologies (222)(a)(5).*
Total Number Beneficiaries
Number Beneficiaries of Solar Space Heating
Number Beneficiaries of Solar Domestic Water Heating
Number Beneficiaries of Wind Technology
Number Beneficiaries of Methane/Alcohol
Number Beneficiaries of Wood/Coal Stove
Number Beneficiaries of other (Describe)
Total Number Persons Employed
Number Employed with CETA Funds
Number Employed with CSA Funds
Number Employed with Other Funds

31. *Rural Housing—Housing Production (222)(a)(4).*
Total Number Housing Units
Number Units Constructed
Number Units Repaired and Rehabilitated
Total Non-CSA Dollars Mobilized

32. *Rural Housing—Access to Federal Home Loan Service (222)(a)(4).*
Total Number Loans and Grants
Number Loans and/or Grants Submitted
Number Loans and Grants Approved
Total Dollar Amount Approved Loans and/or Grants
Total Number Persons Trained
Number Trained with CETA Funds
Number Trained with CSA Funds
Number Trained with Green Thumb Funds
Total Non-CSA Dollars Mobilized
Number Trained with Other Funds (Identify)

33. *Rural Housing Training and Technical Assistance (222)(a)(4).*
Total Number of Beneficiaries Trained and/or Provided Technical Assistance

34. *Rural Housing—Small Town Community Development (222)(2)(4).*
Total Number of Public Officials Trained and/or Provided Technical Assistance

35. *Rural Housing—Housing Consumer Assistance (222)(a)(4).*
Total Number of Beneficiaries

36. *Rural Housing—Management Services (222)(a)(4).*
Total Number Beneficiaries Counselled
Total Number Housing Units Managed

80. *Energy—Emergency Energy Assistance (222)(a)(5).*
Total Number Beneficiaries

[1] Explain the Basis for Estimation.

V 44 O C 25 79 UMI

Total Number Households Assisted
Number Elderly Head of Households
Number Rental Households Assisted
Total Dollar Payment Heating Fuel Bills
Dollar Payment Oil Heating Fuel Bills
Dollar Payment Gas Heating Fuel Bills
Dollar Payment Electricity Fuel Bills
Dollar Payment Other Fuel Bills

[FR Doc. 79-32614 Filed 10-24-79; 8:45 am]

BILLING CODE 6315-01-M

45 CFR Part 1067

[CSA Instruction 6100-1c]

Subpart 1067.41—Program Account Structure

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: CSA is filing a final rule amending certain Section 222 program account codes to reflect activities eligible for funding as described in CSA's program policy statements. These amended program account codes will enable CSA to collect project performance information in the same categories as those specified in the program policy statements.

DATES: This rule is effective November 26, 1979.

IMPLEMENTATION DATE: The program accounts in this rule will be used by grantees beginning with their initial FY 80 funding of Section 222 programs which occurs after the effective date of this rule.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis Penland, Telephone: (202) 254-6110, Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: CSA requires that program accounts be used on all funding documents (CSA Form 314), work programs (CSA Form 419) and the Project Progress Review Reports (CSA Form 440). These amended program account codes will enable CSA to collect project performance information in the same categories as those specified in the Program Policy Statements. They will also assure the quantifiable data being reported on the CSA Form 440 are uniform.

This is not an additional reporting requirement being imposed on grantees. Rather it is an effort to assure that the Section 222 program accounts adequately reflect the Program Policy Statements. Therefore, CSA does not consider this a significant rule. In addition, since these amended program accounts will serve CSA's administrative needs only, CSA is not including a period for public comment.

The amended program accounts in appendices A and B reflect major activities which CSA indicated it would support in its Program Policy Statements. The changes occur in Program Accounts 06, 07, 22, 31, 32, 33, 36, and 80. In addition, two program accounts have been added, *i.e.*, Program Accounts 34 and 35, and three have been eliminated, *i.e.*, 24, 37, and 38. The revised appendices A and B published in this rule reflect these changes.

Authority: Section 602, 78 Stat. 530; 42 U.S.C. 2942.

Graciela (Grace) Olivarez,
Director.

1. 45 CFR 1067.41 is amended by revising § 1067.41-1 and 1067.41-2, including the caption for § 1067.41-2 to read as follows:

1067.41-1 Applicability.
1067.41-2 Policy.

§ 1067.41-1 Applicability.

This rule applies to grants funded under Titles I, II, IV, VII and IX of the Economic Opportunity Act of 1964, as amended, when the funds are administered by CSA.

§ 1067.41-2 Policy.

(a) CSA Program Accounts are the units within the financial and programmatic systems of the Agency which record the expenditure of funds and describe the activities that may be conducted under each account.

(b) CSA requires that program accounts listed in Appendices A and B be used on all funding documents (CSA Form 314), work programs (CSA Form 419) and the Project Progress Review Reports (CSA Form 440).

2. Appendix A to Subpart—Program Account Structure is revised to read:

Appendix A—Program Account Codes

Program Account Codes

Program account No.	Subject	Description
01	Local Initiative/CAA Administration.	
05	Local Initiative Program.	
02	Youth Sports	Summer Personnel.
03	Youth Sports	Other.
04	Youth Sports	Winter Program.
60	Summer Recreation	Personnel.
10	Summer Recreation	Other.
06	SOS	Independent Living.
07	SOS	Access.
08	SEOO	Training.
09	SEOO	Other.
12	Nutrition	Access.
13	Nutrition	Self-Help.
15	Nutrition	Consumer Education.
16	Nutrition	Crisis Relief.
29	Nutrition	Research.
39	Nutrition	Demonstrations.
42	Nutrition	T&TA—Seminars.
43	Nutrition	T&TA—On-Site Assistance.
44	Nutrition	T&TA—Other.
48	Nutrition	Evaluation.
18	Migrants and Seasonal Farmworkers.	

Program Account Codes—Continued

Program account No.	Subject	Description
21	Energy	Weatherization.
22	Energy	Crisis Intervention.
23	Energy	Consumer Information, Education, Legal Assistance.
25	Energy	Alternate Energy Sources.
80	Energy	Emergency Energy Assistance.
50	Energy	Research.
53	Energy	Demonstration.
54	Energy	T&TA—Seminars.
56	Energy	T&TA—On-Site Assistance.
57	Energy	T&TA—Other.
58	Energy	Evaluation.
19	Technical Assistance.	Grantee Administration.
27	Technical Assistance.	Grantee Program.
28	Technical Assistance.	Other.
31	Rural Housing	Housing Production.
32	Rural Housing	Access to Federal Home Loan Services.
33	Rural Housing	Training and Technical Assistance.
34	Rural Housing	Small Town Community Development.
35	Rural Housing	Housing Consumer Assistance.
36	Rural Housing	Management Services.
64	Special Assistance	
63	Economic Development.	Special Impact.
49	Economic Development.	Rural Programs.
51	Economic Development.	Rural Development Finance.
52	Economic Development.	Community Development Finance.
61	Economic Development.	Training and Technical Assistance.
66	Economic Development.	Demonstration.
67	Economic Development.	Research.
68	Economic Development.	Evaluation.
69	Economic Development.	Planning Grants.
71	Evaluation	Type I.
73	Evaluation	Type II.
75	Evaluation	Type III.
78	Evaluation	Other.
82	Research	
84	Demonstration	
98	Program Administration.	

3. Appendix B to Subpart Program Account Structure is revised as follows:

Appendix B—Definitions of Activities Which May Be Conducted, Singly or in Combination Under Each Program Account

01. Local Initiative/CAA Administration (221)

Includes support for general administration and management of central staff, facilities, and equipment of the community action agency. Coordination, mobilization of resources, general management, information collection and use, as well as planning, program development, and evaluation activities undertaken by CAAs as part of their overall administrative and management responsibilities are included in this account. Support of the CAA board's functioning should also be included. Administrative overhead costs for delegate agencies or general support functions performed by the CAA for such delegate agencies where these costs are not related to specific programs may be included as appropriate. However, this activity does *not* include administration or managment directly linked to specific program activities such as community nutrition activities, etc. Such administrative overhead should be reported under the account designated for that program.

02. Youth Sports—Summer Personnel (227)

Includes the personnel costs to operate the national youth sports program during the summer months, June through late August or mid-September. This program provides disadvantaged youths the opportunity for sports skills instruction, sports competition, learning good health practices, and career and educational opportunities. Stipends should not be included in this account.

03. Youth Sports—Summer Other (227)

Includes the non-personnel costs to operate the national youth sports program during the summer months, June through late August or mid-September.

04. Youth Sports—Winter Program (227)

Includes all costs, both personnel and non-personnel to operate the national youth sports program during the winter months, September through May.

05. Local Initiative Program (221)

The basic purpose of community action programs as stated in the Economic Opportunity Act is "to stimulate a better focusing of all available local, State, private, and Federal resources upon the goal of enabling low-income families, and low-income individuals of all ages, in rural and urban areas, to attain the skills, knowledge, and motivations and secure the opportunities needed for them to become fully self-sufficient." This purpose may be accomplished by programs designed and/or selected at the local level to meet specific community needs. They may deal with particular concerns in such areas as housing, manpower, education, health, day care, consumer affairs, economic development, general social services, etc. They may focus on particular target groups such as youth. They may employ some type of neighborhood center(s) as a means of reaching persons and delivering services.

06. Senior Opportunity and Services—Independent Living (222(a)(2))

Includes the personnel costs and non-personnel costs to help maintain independent living style of the Older Poor including the following: Housing Services, Nutrition Services, Home Care Services, Health Services, Elderly Day Care Services, and other services such as Counseling, and Safety Education. Also includes cost of providing jobs to elderly poor, and elderly Community Centers.

07. Senior Opportunity and Services—Access (222(a)(2))

Includes the personnel costs and non-personnel costs to identify and meet the needs of older poor in participation of other Federal, State, and local programs. Specifically includes costs associated with Access/Advocacy Activities for Supplementary Security Income Program and Food Stamp Program. Also includes costs of providing jobs and training to older poor, and transportation to services.

08. SEOO—Training (231)

Includes all costs directly associated with providing training and technical assistance by the SEOOs to communities, state and local agencies and to community action agencies in carrying out the programs under the Economic Opportunity Act.

09. SEOO—Other (231)

Includes other costs incurred by the SEOOs not included as training and technical assistance under account 08.

10. Summer Recreation—Other (222(a)(6))

Includes non-personnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Personnel costs associated with this program are shown under Program Account 60.)

12. Nutrition—Access (222(a)(1))

Includes operating program costs associated with improving the opportunities for low-income people to gain access to, and participation in Federal and non-Federal food and nutrition programs.

13. Nutrition—Self-Help (222(a)(1))

Includes operating program costs associated with projects designed to foster self-sufficiency through the mobilization of financial and community resources. Examples include buying clubs, community gardens, food raising co-ops, community canneries, farmer-to-consumer sales and greenhouse food production.

15. Nutrition—Consumer Education (222(a)(1))

Includes operating program costs associated with improving the ability of low-income individuals and families to understand the connection between diet and health, to obtain at the lowest prices nutritionally superior food and to prepare and preserve these foods in ways that minimize the loss of nutrients.

16. Nutrition—Crisis Relief (222(a)(1))

Includes operating program costs associated with the provision of food vouchers, foodstuffs or funds to purchase food stamps on a temporary or crisis basis. (For additional Program accounts dealing with nutrition see numbers 29, 39, 42, 43, 44 and 48.)

18. Migrant and Seasonal Farmworkers (Title IV)

Includes costs associated with the provision of services to migrant and seasonal farmworkers such as weatherization, transportation, housing, training, technical assistance, etc.

19. Training and Technical Assistance—Grantee Administration (230)

Includes costs associated with providing training and technical assistance to improve and maintain the administrative and managerial capacity of CSA-funded grantees, such as accounting, personnel, property or Board training.

(For additional program accounts dealing with technical assistance see numbers 27 & 28.)

21. Energy—Weatherization (222(a)(5))

Includes costs associated with home repairs and energy saving improvements to minimize heat transfer and improve thermal efficiency of dwellings.

22. Energy Crisis Intervention (222(a)(5))

Includes costs associated with intervention to prevent hardship or danger to health, especially the older poor. Includes cost for payment of fuel bills, emergency energy-related repairs, and payments other than home heating payments.

23. Energy—Consumer Information, Education and Legal Assistance—(222(a)(5))

Includes costs associated with the dissemination of energy conservation information, conduct of energy conservation educational activities, and the representation of the interests of the poor in public proceedings, for example, energy policy and utility rate structure.

24. Energy—Transportation (222(a)(5))

Includes costs associated with efforts to offset the increased costs to the poor of transportation needed for access to essential services and employment.

25. Energy—Alternate Energy Sources (222(a)(5))

Includes costs associated with the development and application to energy needs of the poor those technologies that capitalize on non-fossil fuels and renewable energy resources, or make conventional fuels available to the poor at substantially decreased costs and/or at increased energy efficiency. (For additional program accounts dealing with Energy, see numbers 50, 53, 54, 56, 57 and 58.)

27. Training and Technical Assistance—Grantee Program (230)

Includes costs associated with the provision of training and technical assistance in specific program areas such as housing, mobilization of resources, etc.

28. Training and Technical Assistance—Other (230)

Includes costs associated with training and technical assistance which does not relate specifically to grantee administration or grantee program areas.

29. Nutrition—Research (222(a)(1))

Includes costs associated with the development of new knowledge about hunger and malnutrition among the poor and/or ways to deal with their problems approved under the authority of Section 222(a)(1) of the EOA.

V 44 NO 208 OCT 25 79 UMI

31. Rural Housing—Housing Production (222(a)(4)) and (232)

Includes costs associated with the repair and rehabilitation of housing for poor families, and development of housing factory delivery systems for building low cost housing. Also includes costs associated with removing architectural barriers from the homes of low-income disabled individuals.

32. Rural Housing Access to Federal Home Loan Services (222(a)(4)) and (232)

Includes costs associated with developing methods for full participation of the poor in Federal Home Loan, grant and subsidies programs.

33. Rural Housing Training and Technical Assistance (222(a)(4)) and (232)

Includes costs associated with area and State wide housing development corporations and other housing grantees in providing training and technical assistance, to CAAs and single purpose housing grantees.

34. Rural Housing—Small Town Community Development (222(a)(4)) and (232)

Includes costs associated with providing training and technical assistance to assist officials in small towns, with large percentage of poor, to implement Community Development Programs that improve housing conditions of the poor.

35. Rural Housing—Housing Consumer Assistance (222(a)(4)) and (232)

Includes costs associated with providing assistance for activities such as tenant organizing, fair housing assistance to poor families and groups, home ownership and default counseling, homesteading as well as advocacy and legal services for individuals and families.

36. Rural Housing—Management Services (222(a)(4)) and (232)

Includes costs associated with providing management services to assist grantees in the acquisition and maintenance of Default Housing.

39. Nutrition—Demonstrations (222(a)(1))

Includes costs associated with experimental, pilot or demonstration projects which test new or improved approaches to combating the problems of hunger and malnutrition.

42. Nutrition—T&TA Seminars (222(a)(1))

Includes costs associated with holding nutrition related T&TA seminars for persons from two or more agencies. Such seminars should help grantees plan, conduct and/or evaluate nutrition programs.

43. Nutrition—T&TA On Site Assistance (222(a)(1))

Includes the cost of providing nutrition related T&TA services to specific grantee personnel at the grantee's location. Such services should help a specific grantee plan, conduct and/or evaluate nutrition programs.

44. Nutrition—T&TA Other (222(a)(1))

Includes any costs of a T&TA activity related to nutrition which is not classified as seminar or on-site assistance in program accounts 42 and 43.

48. Nutrition—Evaluation (222(a)(1))

Includes costs associated with evaluation of nutrition projects approved under the authority of Section 222(a)(1) of the EOA. Does not include costs for grantee's self-evaluation.

49. Economic Development—Rural Programs (Title VII)

Includes costs associated with meeting the special economic needs of rural communities and areas pursuant to Title VII, Part B of the EOA.

50. Energy—Research (222)(a)(5))

Includes costs of research related to energy type projects approved under the authority of Section 222(a)(5) of the EOA.

51. Economic Development—Rural Development Finance (Title VII, Part C)

Includes costs associated with the development, testing and operation of rural financial support mechanisms in conjunction with loans from the Rural Development Loan Fund.

52. Economic Development—Community Development Finance (Title VII, Part C)

Includes costs associated with the development, testing and operation of community financial support mechanisms in conjunction with loans from the Community Development Loan Fund.

53. Energy—Demonstrations (222(a)(5))

Includes costs associated with experimental, pilot or demonstration projects which test new or approved approaches to solving the energy problems of the poor.

54. Energy—T&TA Seminars (222(a)(5))

Includes costs associated with holding energy related T&TA seminars for persons from two or more grantees. Such seminars should help grantees plan, conduct and/or evaluate energy programs.

56. Energy—T&TA On Site Assistance (222(a)(5))

Includes the costs of providing energy-related T&TA services to specific grantee personnel at the grantee's location. Such services should help a specific grantee plan, conduct and/or access energy projects.

57. Energy—T&TA Other (222(a)(5))

Includes any costs of a T&TA nature related to energy which is not classified as services or on-site assistance in program accounts 54 and 56.

58. Energy—Evaluation (222(a)(5))

Includes costs associated with evaluation of energy projects approved under the authority of Section 222(a)(5) of the EOA.

60. Summer Recreation—Personnel (222(a)(6))

Includes all personnel costs associated with the summer recreation program which is aimed at expanding and improving recreational services and activities for the economically disadvantaged youths. (Non-personnel costs associated with this program are shown under Program Account 10.)

61. Economic Development—Training and Technical Assistance (Title VII, Part D)

Includes training and technical assistance costs related to economic development projects approved under the authority of Title VII, Part D of the EOA.

63. Economic Development—Special Impact (Title VII, Part A)

Includes costs associated with community development corporation projects approved under the authority of Title VII, Part A of the EOA.

64. Special Assistance (234)

Includes costs associated with projects serving groups of low income individuals who are not being effectively served by other Title II programs.

66. Economic Development—Demonstration (Title VII, Part D)

Includes costs associated with pilot and demonstration activities approved under the authority of Title VII, Part D of the EOA.

67. Economic Development—Research (Title VII, Part D)

Includes costs associated with research activities approved under the authority of Title VII, Part D of the EOA.

68. Economic Development—Evaluation (Title VII, Part D)

Includes costs associated with evaluation activities approved under the authority of Title VII, Part D of the EOA.

69. Economic Development—Planning Grants (Title VII, Part D)

Includes costs associated with economic development planning grants approved under the authority of Title VII, Part D of the EOA.

71. Evaluation—Type I (Title IX)

Includes costs associated with national impact evaluation strategies approved under the authority of Title IX.

73. Evaluation—Type II (Title IX)

Includes costs associated with determining the relative effects of different program strategies, intervention techniques and administrative processes employed to implement a national program approved under the authority of Title IX.

75. Evaluation—Type III (Title IX)

Includes costs associated with assessing the effectiveness and efficiency of individual grantees and projects.

78. Evaluation—Other (Title IX)

Includes costs associated with assessment projects not included under program accounts 71, 73, and 75. Examples might include short-term studies that respond to policy-related questions.

80. Energy—Emergency Energy Assistance (222(a)(5))

Includes costs associated with a special program to provide assistance to low-income households facing a crisis as a result of the rising cost of energy and severe weather conditions by paying fuel/utility bills, providing lines of credit, or providing services such as blankets, clothing, etc.

82. Research (Title I) and (232)

Includes costs associated with basic research and related evaluation conducted to provide meaningful information for formulating new programs and policies affecting the poverty population in program areas not included elsewhere. Specifically excluded are nutrition (29, 39, 48) energy (50, 53, 58) rural housing (31, 32, 33, 34, 35, 36) economic development (67, 68) and Title IX (71, 73, 75, 78).

84. Demonstration (232)

Includes costs associated with pilot or demonstration projects designed to test or assist in the development of new approaches or methods which will aid CSA's poverty population.

98. Program Administration

Includes costs incurred by Federal employees for the overall direction, management, coordination and support of all CSA programs and related anti-poverty programs of other Federal, State and local agencies. This is not a grantee activity.

[FR Doc. 79-32613 Filed 10-24-79; 8:45 am]

BILLING CODE 6315-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Extension of the Effective Date of the Rule Designating Sarracenia oreophila as an Endangered Species

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Extension of the effective date for the rule designating *Sarracenia oreophila* as an Endangered Species.

SUMMARY: On September 21, 1979, the Fish and Wildlife Service published in the **Federal Register** a final rule indicating its determination that *Sarracenia oreophila* (green pitcher plant) is an Endangered Species under the Endangered Species Act of 1973, as amended. The final rule indicated that the prohibitions and restrictions applicable to Endangered Species would take effect for *Sarracenia oreophila* on October 21, 1979. The Service has determined, in response to several requests, that the effective date of the final rule should be extended to allow an opportunity for a public meeting in the area in which this species occurs to better inform the people in that area about this matter.

DATES: The final rule designating *Sarracenia oreophila* as an Endangered Species will become effective February 22, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Harold J. O'Connor, Acting Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

Notice of the meeting date(s) and location will be published in a subsequent issue of the **Federal Register**.

Lynn A. Greenwalt,

Director, Fish and Wildlife Service.

October 19, 1979.

[FR Doc. 79-32643 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 44, No. 208
Thursday, October 25, 1979

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 434

Proposed Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring tobacco crops under the "Dollar Plan" effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than November 26, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 434 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 434, Tobacco (Dollar Plan) Crop Insurance.

This part prescribes procedures for insuring tobacco crops effective with the 1980 crop year.

All previous regulations applicable to insuring tobacco crops under the "Dollar Plan" as found 7 CFR 401.101–401.111, and 401.141, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Dollar Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 434 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent permium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the cancellation date be changed to December 31 in all tobacco insurance counties under this plan to coincide with all other spring crops in these tobacco areas, and (7) For an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 434.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Tobacco (Dollar Plan) Crop Insurance regulations provide a December 31 cancellation date for all tobacco producing counties under this plan. These regulations and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.141, but this provision shall remain in effect for FCIC tobacco insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 434 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of tobacco insured under the "Dollar Plan" which shall remain in effect until amended or superseded, to read as follows:

PART 434—DOLLAR PLAN OF TOBACCO CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

434.1 Availability of the Dollar Plan of Tobacco Insurance.
434.2 Premium rates, amounts of insurance, and coverage levels.
434.3 Public notice of indemnities paid.
434.4 Creditors.
434.5 Good faith reliance on misrepresentation.
434.6 The contract.
434.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 434.1 Availability of the Dollar Plan of Tobacco Insurance

Insurance shall be offered under the provisions of this subpart on tobacco in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which the dollar plan of tobacco insurance will be offered.

§ 434.2 Premium rates, amounts of insurance, and coverage levels.

(a) The Manager shall establish premium rates, amounts of insurance, and coverage levels for tobacco which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level from among those levels shown on the actuarial table for the crop year.

§ 434.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 434.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 434.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the dollar plan of tobacco insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advise by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 434.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and applicable dates. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 434.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Dollar Plan of Tobacco Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Dollar Plan of Tobacco Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application For 19— and Succeeding Crop Years

Dollor Plan of Tobacco; Crop Insurance Contract

Contract Number———
Identification Number ———
Name and Address———
Zip Code ———
County ———
State ———
Type of Entity ———
Applicant is over 18 Yes—— No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level. The premuim rates and amounts of insurance shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
Level Election ———

Example: For the 19— Crop Year Only (100% Share)

Location/ farm No.	Amount of insurance per acre*	Premium per $100**	Practice
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

*Your guarantee will be based on the unit (acres x dollar amount x share).
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the Corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following dollar plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and aplicable dates shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Code No./Witness To Signature ———

Signature of Applicant ———
(Date) , 19——
Address of Office for County: ———

Phone ———
Location of Farm Headquarters: ———

Phone———

V 44 OC 25 79 UMI

Dollar Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with causes of loss that are shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be tobacco of the type shown as insurable on the actuarial table and which is grown on insured acreage and for which the actuarial table shows an amount of insurance and premium rate.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) on which the tabacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (3) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (4) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (5) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (6) planted to a type or variety of tobacco not established as adapted to the area or shown as noninsurable on the actuarial table, or (7) planted for experimental purposes.

3. *Responsibility of Insured To Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of insurable types of tobacco planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Amounts of Insurance and Coverage Levels.* (a) For each crop year of the contract, the dollar amounts of insurance and coverage levels shall be those shown on the actuarial table.

(b) In addition to the provisions contained in section 10 of the appendix, if for any crop year the support price per pound is reduced 10 percent or more below the support price per pound for the previous crop year, the dollar amounts of insurance per acre for the current crop year shall be adjusted by multiplying the support price per pound (rounded to the nearest cent, less warehouse charges as determined by the Corporation) for the current crop year by the amount in pounds per acre shown on the actuarial table for this purpose: *Provided, however,* That where a tobacco price support program is not in effect for the kind of tobacco which includes the insured type for any crop year, the amounts in pounds per acre shown on the actuarial table will be multiplied by the market price for that crop year to determine the amount of insurance per acre for such crop year.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the dollar amount of insurance per acre, times the applicable premium rate, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/														
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

V 44 O C 25 7 9 UMI

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *However,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing in at the tobacco warehouse, (c) removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (d) total destruction of the insured tobacco crop, (e) the applicable date set forth below, according to type of tobacco, immediately following the normal harvest period:

Type of tobacco:	
11	Dec. 31.
12	Nov. 30.
13	Oct. 31.
14	Sept 30.
31, 35 and 36	Feb. 28.
All other types	Mar. 31.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant tobacco. Notice shall also be given when such acreage has been put to another use.

(c) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(d) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow the Corporation sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(e) For any unit of tobacco of type 11, 12, 13 or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed before such notice would otherwise be required under the contract, notice of loss shall be given the Corporation upon completion of harvest. The tobacco stalks shall not be destroyed until consent is given by the Corporation.

(f) In addition to the notices required in subsections (b), (c), (d), and (e) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(g) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed, shall be left intact until inspected by the Corporation.

(h) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the corporation.

(b) indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of tobacco on the unit by the applicable amount of insurance per acre, which product shall be the amount of insurance for the unit, (2) subtracting therefrom the value of the total production to be counted for the unit as provided further in this section, and (3) multiplying the remainder by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The value of the total production to be counted for a unit shall be determined by the corporation and shall include the value of all harvested and appraised production.

(1) The value of appraised production to be counted shall include: (i) the value of any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) not less than the applicable amount of insurance for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause and (iii) not less than 35 percent of the amount of insurance for all other unharvested acreage.

(2) Production to count shall be valued as follows: (i) The gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor, (ii) The fair market value, as determined by the Corporation, of the tobacco sold other than on the warehouse floor, (iii) The fair market value, as determined by the Corporation, of the tobacco harvested and not sold, (iv) The fair market value, as determined by the Corporation, of any unharvested tobacco as if such tobacco were harvested and cured, and (v) The current year's support price per pound (less warehouse charges as determined by the Corporation) for appraisals made by the Corporation for poor farming practices or uninsured causes of loss: *Provided, however,* That if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(d) To enable the Corporation to determine the fair market value of tobacco not sold through auction warehouses, the Corporation shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of by the insured and, if the best offer received by the insured for any such tobacco is considered by the Corporation to be inadequate, to obtain additional offers therefor on behalf of the insured.

(e) The stalks on any insured acreage of tobacco types 11, 12, 13, or 14 shall not be destroyed until consent is given by the Corporation. For any such acreage on which the stalks have been destroyed prior to such consent, the Corporation reserves the right to make an appraisal on such acreage of not less than the amount of insurance per acre.

(f) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of indemnity under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire.* If the insured has other insurance, whether valid or not, against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of either (a) the amount of indemnity determined pursuant to this contract without regard to any other insurance, or (b) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation date	Termination date for indebtedness
All States	Dec. 31	Mar. 31.

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additonal Terms and Conditions

1. *Meaning of Terms.* For the purposes of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the corporation which are on file for public inspection in the office for the county, and which show the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and related information regarding tobacco insurance in the county.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(c) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(d) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(e) "Harvest" mean cutting or priming of at least 20 percent of the amount of tobacco in pounds per acre shown on the actuarial table for such purpose.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Market price," for a crop year in the case of tobacco (1) types 11, 12, 13, 14, 21, 22, 23, 31, 32, 35, and 36, means the average auction price less warehouse charges) for the applicable type in the belt or area as determined by the Corporation, and (2) types 41, 54, and 55, means the average price for the applicable type in the belt or area as determined by the corporation. The market price when determined by the corporation shall be filed in the office for the county with the actuarial table.

(i) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(j) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(k) "Planting" means transplanting the tobacco plant from the bed to the field.

(l) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(m) "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program: *Provided, however,* That for any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

(n) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(o) "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single farm acreage allotment and/or a single poundage marketing quota for the insurable

V 44 OC 25 79 UMI

type of tobacco is established and in which at the time of planting (1) the insured has a 100 percent share, or (2) is owned by one entity and operated by another entity on a share basis: *Provided, however,* That where a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single farm acreage allotment and/or a single poundage marketing quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the corporatin, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution: *however,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level.* (a) If the insured has not elected on the application a coverage level from among those shown on the actuarial table, the coverage level which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

This proposal has not been classified "significant" and is being published under emergency procedures, as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by James D. Deal, Manager, Federal Crop Insurance Corporation, that an emergency situation exists which warrants less than a full 60-day comment period on this proposal because the final regulations and policies covering tobacco must be published and be available in the FCIC county offices not later than December 15, 1979, to afford the farmers an opportunity to examine them before the cancellation date of December 31, 1979. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A–40.

Approved by the Board of Directors on September 8, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79–32963 Filed 10–24–79; 8:45 am]

BILLING CODE 3410–08–M

7 CFR Part 435

Proposed Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring tobacco crops under the "Quota Plan" effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than November 26, 1979.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 435 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 435, Tobacco (Quota Plan) Crop Insurance.

This part prescribes procedures for insuring tobacco crops effective with the 1980 crop year.

All previous regulations applicable to insuring tobacco crops under the "Quota Plan" as found 7 CFR 401.101–401.111, and 401.148 and 150, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Quota Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 435 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the cancellation date be changed to December 31 to coincide with all other spring crops in the tobacco area, (7) For an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 435.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief, and (8) That the warehouse charges shall be 6 cents for burley and 4 cents for all other types, which more nearly relects current warehouse charges.

The proposed Tobacco (Quota Plan) Crop Insurance regulations provide a December 31 cancellation date for all tobacco producing counties under this plan. These regulations and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.148 and 150, but these provisions shall remain in effect for FCIC tobacco insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 435 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of tobacco insured under the "Quota Plan" which shall remain in effect until amended or superseded, to read as follows:

PART 435—QUOTA PLAN OF TOBACCO CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

435.1 Availability of the Quota Plan of Tobacco Insurance.
435.2 Premium rates, amounts of insurance, and coverage levels.
435.3 Public notice of indemnities paid.
435.4 Creditors.
435.5 Good faith reliance on misrepresentation.
435.6 The contract.
435.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 435.1 Availability of the Quota Plan of Tobacco Insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which the quota plan of tobacco insurance will be offered.

§ 435.2 Premium rates, amounts of insurance, and coverage levels.

(a) The Manager shall establish premium rates and coverage levels for tobacco which shall be shown on the county actuarial table on file in the office for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level from among those levels shown on the actuarial table for the crop year.

§ 435.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 435.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 435.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the quota plan of tobacco insurance contract, whenever (a) an insured

V 4 4 0 C 2 5 7 9 UMI

person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 435.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 435.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Quota Plan of Tobacco Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Quota Plan of Tobacco Insurance Policy are as follows:

U.S. Department of Agriculture

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years

Quota Plan of Tobacco; Crop Insurance Contract

(Contract) _____
(Identification Number) _____
Name and Address _____
Zip Code _____
County _____
State _____
Type of Entity _____
Applicant is over 18 Yes——No——

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco plant on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant elects from the actuarial table the coverage level. The premium rates and coverage levels shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.
Level Election _____

Example: For the 19— Crop Year Only

Location farm No.	Insured pound-age quota*	Pounds of quota insured	Amount of insur-ance	Premium per $100**	Practice
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....

*Subject to the limitations provided in subsection 2(c)(2) of the policy.
**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following quota plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the coverage levels, premium rates, and any uninsurable acreage, shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.
Code No./Witness To Signature _____

Signature of Applicant _____
Date_____, 19—
Address of Office for County: _____

Phone _____
Location of Farm Headquarters: _____

Phone_____

Quota Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's tenants or employees, any member of the insured's household, the tenants or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop, Acreage and Insured Poundage Quota.* (a) The crop insured shall be tobacco of the type shown as insurable on the actuarial table and which is grown on insured acreage.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type in the county and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (2) on which the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (3) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (4) which is designated as noninsurable on the actuarial table, (5) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (6) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (7) planted to a type or variety of tobacco not established as adapted to the area or shown as noninsurable on the actuarial table, or (8) planted for experimental purposes.

(c) The insured poundage quota shall be the effective poundage marketing quota applicable to the unit for the current crop year as provided under ASCS Tobacco Marketing Quota Regulations including any additional quota the insured intends to obtain later for the unit for the current crop year, as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided, however,* That (1) such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit when such poundage reduction is clearly specified by the insured in filing the acreage and quota report, (2) the insured poundage quota shall never exceed the pounds obtained by multiplying the insured acreage by the applicable farm yield per acre, and (3) unless otherwise provided on the actuarial table, for any crop year in which tobacco poundage marketing quota regulations are not in effect, the insured poundage quota shall be the pounds obtained by multiplying the applicable farm yield per acre times the lower of the reported or insured acreage on the unit.

3. *Responsibility of Insured To Report Acreage, Share and Poundage Quota.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of insurable types of tobacco planted in the county (including as designation of any acreage to which insurance does not attach) in which the insured has a share, (b) the insured's share therein at the time of planting, and (c) the effective poundage marketing quota applicable to the unit for the current crop year as provided under ASCS Tobacco Marketing Quota Regulations including any additional quota the insured intends to obtain later for the unit for the current crop year. Such poundage marketing quota may be reduced for any carryover tobacco to be marketed under the poundage quota applicable to the unit provided such poundage reduction is clearly specified in filing the acreage and quota report. The quota so reported shall not be subject to change by the insured. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Amounts of Insurance and Coverage Levels.* (a) For each crop year of the contract, the coverage levels shall be as provided on the actuarial table.

(b) The amount of insurance for a unit shall be the dollar amount determined by multiplying the insured poundage quota for the unit by the percentage guarantee for the applicable coverage level shown on the actuarial table for this purpose and multiplying this result (1) by the current year's support price for type 31 (rounded to the nearest cent) less six cents per pound for warehouse charges, or (2) by the previous year's support price for all other types (rounded to the nearest cent) less four cents per pound for warehouse charges.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the dollar amount of insurance for the unit times the applicable premium rate, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

V 44 0C 25 79 UMI

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

V 44 OC 25 79 UMI

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided*, When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *However*, if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing-in at the tobacco warehouse, (c) removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (d) total destruction of the insured tobacco crop, or (e) the applicable date set forth below, according to type of tobacco, immediately following the normal harvest period:

Type of tobacco:	
13	Oct. 31.
14	Sept. 30.
31	Feb. 28.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to tobacco. Notice shall also be given when such acreage has been put to another use.

(c) Notice shall be given immediately if any tobacco is destroyed or damaged by fire during the insurance period.

(d) Where tobacco is not to be sold through auction warehouses and an indemnity is to be claimed, notice shall be given to allow the Corporation sufficient time to inspect the cured tobacco prior to its sale or other disposition.

(e) For any unit of tobacco of type 13 or 14 on which an indemnity is to be claimed and the tobacco stalks are to be destroyed before such notice would otherwise be required under the contract, notice of loss shall be given the Corporation upon completion of harvest. The tobacco stalks shall not be destroyed until inspected by the Corporation.

(f) In addition to the notices required in subsections (b), (c), (d), and (e) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(g) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed shall be left intact until inspected by the Corporation.

(h) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by subtracting from the amount of insurance for the unit the value of the total production to be counted for the unit and multiplying the remainder by the insured share.

(c) The value of the total production to be counted for a unit shall be determined by the Corporation and shall include the value of all harvested and appraised production.

(1) The value of appraised production to be counted shall include: (i) The value of any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) Not less than the average amount of insurance per insured acre for the unit for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) Not less than 35 percent of the average amount of insurance per insured acre for the unit for all other unharvested acreage. However, if the Corporation determines that the insured harvested tobacco with a value in excess of the amount of insurance from a unit, and such production is subsequently destroyed or damaged before the end of the insurance period by an insured cause, no appraisals for unharvested production shall be charged as production to count unless the Corporation determines that such production could have been harvested after the loss occurrence.

(2) Production to count shall be valued as follows: (i) The gross returns (less actual warehouse charges) from tobacco sold on the warehouse floor, (ii) The fair market value, as determined by the Corporation, of the tobacco sold other than on the warehouse floor, (iii) The fair market value, as determined by the Corporation, of the tobacco harvested and not sold, (iv) The fair market value, as determined by the Corporation, of any unharvested tobacco as if such tobacco were harvested and cured, and (v) The current year's support price per pound less warehouse charges as provided in section 4(b) for appraisals made by the Corporation for poor farming practices or uninsured causes of loss: *Provided, however,* That if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year.

(d) To enable the Corporation to determine the fair market value of tobacco not sold through auction warehouses, the Corporation shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of by the insured and, if the best offer received by the insured for any such tobacco is considered by the Corporation to be

inadequate, to obtain additional offers therefor on behalf of the insured.

(e) The stalks on any insured acreage of tobacco types 13 or 14 shall not be destroyed until consent is given by the Corporation. For any such acreage on which the stalks have been destroyed prior to such consent, the Corporation reserves the right to make an appraisal on such acreage of not less than the average amount of insurance per insured acre for the unit.

(f) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However*, if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire.* If the insured has other insurance, whether valid or not, against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of either (a) the amount of indemnity determined pursuant to this contract without regard to any other insurance, or (b) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before the fire and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided*, That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

States	Cancellation date	Termination date for indebtedness
All states	Dec. 31	Mar. 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—Additional Terms and Conditions

1. *Meaning of Terms.* For the purposes of the quota plan of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the coverage levels, premium rates, and any uninsurable acreage, and related information regarding tobacco insurance in the county.

(b) "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

(c) "Carryover tobacco" means any tobacco on hand from a previous year's production.

(d) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(e) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(f) "Farm yield" means the yield per acre used by ASCS in establishing the basic farm marketing poundage quota for the tobacco farm, unless the Corporation has established a yield for the farm on the county actuarial table.

(g) "Harvest" means cutting or priming of at least 20 percent of the amount of tobacco in pounds per acre obtained by multiplying the applicable insured poundage quota for the unit by the applicable percentage of guarantee shown on the actuarial table for such acreage and dividing this result by the insured acres in the unit.

(h) "Insurable acreage" means that acreage planted to an insurable type of tobacco excluding any acreage designated as noninsurable on the actuarial table.

(i) "Insured" means the person who submitted the application accepted by the Corporation.

(j) "Market price," for a crop year in the case of tobacco (1) types 13, 14 and 31, means the average auction price for the applicable type (less actual warehouse charges) in the belt or area, as determined by the Corporation. The market price when determined by the Corporation shall be filed in the office for the county with the actuarial table.

(k) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be determined by the Corporation.

(l) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(m) "Planting" means transplanting the tobacco plant from the bed to the field.

(n) "Effective farm marketing quota" means the farm marketing quota as established and recorded by ASCS.

(o) "Rounded" means rounding up for ½ and above and rounding down for less than ½.

(p) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided*, That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(q) "Support price per pound" means the average price support level per pound for the insured type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program: *Provided, however*, That for any crop year in which a price support for the insured type is not in effect, the market price for that crop year shall be used in lieu thereof.

(r) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(s) "Unit" means all insurable acreage in the county of an insurable type of tobacco planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established and at the time of planting (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis: *Provided, however*, That where a tobacco price support program is not in effect for the insurable type of tobacco for any crop year, the above words "planted on a farm or farms for which a single poundage marketing quota for the insurable type of tobacco is established" shall be disregarded. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Poundage quotas leased and combined with other quotas under a leasing arrangement providing compensation to the lessor on some other basis than a specified share in the production from a unit shall be considered to be the 100 percent interest of the lessee. Land which would otherwise be one unit may be divided by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage Insured.* (a) The Corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* (a) If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *However*, any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(d) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided*, That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However*, in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially delcared incompentent,or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level.* (a) if the insured has not elected on the application a coverage level from among those shown on the actuarial table, the coverage level which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

This proposal has not been classified "significant" and is being published under emergency procedures, as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by James D. Deal, Manager, Federal Crop Insurance Corporation, that an emergency situation exists which warrants less than a full 60-day comment period on this proposal because the final regulations and policies covering tobacco must be published and be available in the FCIC county offices not

V 44 OC 25 79 UMI

later than December 15, 1979, to afford the farmers an opportunity to examine them before the cancellation date of December 31, 1979. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A40.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-32964 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-08-M

---

7 CFR Part 436

Proposed Tobacco (Guaranteed Production) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed rule prescribes procedures for insuring tobacco crops under the "Guaranteed Production" plan effective with the 1980 crop year. This rule combines provisions from previous regulations for insuring tobacco in a shorter, clearer, and more simplified document which will make the program more effective administratively. This rule is promulgated under the authority contained in the Federal Crop Insurance Act, as amended.

DATE: Written comments, data, and opinions must be submitted not later than November 26, 1979, to be assured of consideration.

ADDRESS: Written comments on this proposed rule should be sent to James D. Deal, Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, 202–447–3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), it is proposed that there be established a new Part 436 of Chapter IV in Title 7 of the Code of Federal Regulations to be known as 7 CFR Part 436, Tobacco (Guaranteed Production) Crop Insurance.

This part prescribes procedures for insuring tobacco crops effective with the 1980 crop year.

All previous regulations applicable to insuring tobacco crops under the "Guaranteed Production Plan" as found 7 CFR 401.101–401.111, and 401.145, will not be applicable to 1980 and succeeding tobacco crops but will remain in effect for Federal Crop Insurance Corporation (FCIC) tobacco insurance policies issued under the "Guaranteed Production Plan" for the crop years prior to 1980.

It has been determined that combining all previous regulations for insuring tobacco crops into one shortened, simplified, and clearer regulation would be more effective administratively.

In addition, proposed 7 CFR Part 436 provides: (1) For a Premium Adjustment Table which replaces the current premium discount provisions and includes a maximum 50 percent premium reduction for good insurance experience, as well as premium increases for unfavorable experience, on an individual contract basis, (2) That any premium not paid by the termination date will be increased by a 9 percent service fee with a 9 percent simple interest charge applying to any unpaid balances at the end of each subsequent 12-month period thereafter, (3) That the time period for submitting a notice of loss be extended from 15 days to 30 days, (4) That the 60-day time period for filing a claim be eliminated, (5) That three coverage level options be offered in each county, (6) That the insurance will be offered as a guaranteed production with a poundage guarantee per acre and a price election per pound, (7) That adjustments for quality will be made when the price received is less than the market price, (8) That the cancellation date shall be December 31 to coincide with all other spring crops in the tobacco areas, and (9) For an increase in the limitation from $5,000 to $20,000 in those cases involving good faith reliance on misrepresentation, as found in 7 CFR Part 436.5 of these proposed regulations, wherein the Manager of the Corporation is authorized to take action to grant relief.

The proposed Tobacco (Guaranteed Production) Crop Insurance regulations provide a December 31 cancellation date for all tobacco producing counties under this plan. These regulations and any amendments thereto, must be placed on file in the Corporation's office for the county in which the insurance is available not later than 15 days prior to the cancellation date, in order to afford farmers an opportunity to examine them before the cancellation date of December 31, 1979, before they become effective for the 1980 crop year.

All written submissions made pursuant to this notice will be available for public inspection in the office of the Manager during regular business hours, 8:15 a.m. to 4:45 p.m., Monday through Friday.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to delete and reserve 7 CFR 401.145, but these provisions shall remain in effect for FCIC tobacco insurance policies issued for crop years prior to 1980. The Corporation also proposes to issue a new Part 436 in Chapter IV of Title 7 of the Code of Federal Regulations effective with the 1980 and subsequent crops of tobacco insured under the "Guaranteed Production Plan", which shall remain in effect until amended or superseded, to read as follows:

PART 436—GUARANTEED PRODUCTION PLAN OF TOBACCO CROP INSURANCE

Subpart—Regulations for the 1980 and Succeeding Crop Years

Sec.

436.1 Availability of Guaranteed Production Plan of Tobacco Insurance.
436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
436.3 Public notice of indemnities paid.
436.4 Creditors.
436.5 Good faith reliance on misrepresentation.
436.6 The contract.
436.7 The application and policy.

Authority: Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended (7 U.S.C. 1506, 1516)

§ 436.1 Availability of Guaranteed Production Plan of Tobacco Insurance.

Insurance shall be offered under the provisions of this subpart on tobacco in counties within limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this chapter the names of the counties in which the guaranteed production plan of tobacco insurance will be offered.

§ 436.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for tobacco which shall be shown on the county actuarial table on file for the county and may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities shall be computed from among those levels and prices shown on the actuarial table for the crop year.

§ 436.3 Public notice of indemnities paid.

The Corporation shall provide for posting annually in each county at each county courthouse a listing of the indemnities paid in the county.

§ 436.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided in the policy.

§ 436.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the guaranteed production plan of tobacco insurance contract, whenever (a) an insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation, (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $20,000, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied theron in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 436.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. Such acceptance shall be effective upon the date the notice of acceptance is mailed to the applicant. The contract shall cover the tobacco crop as provided in the policy. The contract shall consist of the application, the policy, the attached appendix, and the provisions of the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the office for the county.

§ 436.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's insurable share in the tobacco crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the office for the county on or before the applicable closing date on file in the office for the county.

(b) The Corporation reserves the right to discontinue the acceptance of applications in any county upon its determination that the insurance risk involved is excessive, and also, for the same reason, to reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension: *Provided, however,* That if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1969 and succeeding crop years, a contract in the form provided for under this subpart will come into effect as a continuation of a tobacco contract issued under such prior regulations, without the filing of a new application.

(d) The provisions of the application and the Guaranteed Production Plan of Tobacco Crop Insurance Policy for the 1980 and succeeding crop years, and the Appendix to the Guaranteed Production Plan of Tobacco Insurance Policy are as follows:

U.S. DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Application for 19— and Succeeding Crop Years; Guaranteed Production Plan of Tobacco Crop Insurance Contract

(Contract Number) _____
Identification Number) _____
(Name and Address) _____
ZIP Code) _____
(County) _____
(State) _____
Type of Entity———Applicant Is Over 18 Yes—No—

A. The applicant, subject to the provisions of the regulations of the Federal Crop Insurance Corporation (herein called "Corporation"), hereby applies to the Corporation for insurance on the applicant's share in the tobacco planted on insurable acreage as shown on the county actuarial table for the above-stated county. The applicant effects from the actuarial table the coverage level and price at which indemnities shall be computed. The premium rates and production guarantees shall be those shown on the applicable county actuarial table filed in the office for the county for each crop year.

Level Election———.
Price Election———.
Example: For the 19— crop year only (100% share).

Location/ farm No.	Guarantee per acre*	Premium per acre**	Practice

*Your guarantee will be on a unit basis (acres x per acre guarantee x share).

**Your premium is subject to adjustment in accordance with section 5(c) of the policy.

B. When notice of acceptance of this application is mailed to the applicant by the Corporation, the contract shall be in effect for the crop year specified above, unless the time for submitting applications has passed at the time this application is filed, and shall continue for each succeeding crop year until canceled or terminated as provided in the contract. This accepted application, the following guaranteed production plan of tobacco insurance policy, the attached appendix, and the provisions of the county actuarial table showing the production guarantees, coverage levels, premium rates, prices for computing indemnities, and insurable and uninsurable acreage shall constitute the contract. Additional information regarding contract provisions can be found in the county regulations folder on file in the office for the county. No term or condition of the contract shall be waived or changed except in writing by the Corporation.

(Code No./Witness to Signature)

(Signature of Applicant)
———, 19—
(Date)
Address of office for county:

Phone _____
Location of Farm Headquarters:

Phone _____

Guaranteed Production Plan of Tobacco Crop Insurance Policy

Terms and Conditions

Subject to the provisions in the attached appendix:

1. *Causes of Loss.* (a) Causes of loss insured against. The insurance provided is against unavoidable loss of production resulting from adverse weather conditions, insects, plant disease, wildlife, earthquake or fire occurring within the insurance period, subject to any exceptions, exclusions or limitations with respect to causes of loss shown on the actuarial table.

(b) Causes of loss not insured against. The contract shall not cover any loss of production, as determined by the Corporation, due to (1) the neglect or malfeasance of the insured, any member of the insured's household, the insured's tenants, or employees, (2) failure to follow recognized good farming practices, (3) damage resulting from the backing up of water by any governmental or public utilities dam or reservoir project, or (4) any cause not specified as an insured cause in this policy as limited by the actuarial table.

2. *Crop and Acreage Insured.* (a) The crop insured shall be a tobacco type which is grown on insured acreage and for which the actuarial table shows a guarantee and premium rate per acre.

(b) The acreage insured for each crop year shall be that acreage planted to an insurable tobacco type on insurable acreage as shown on the actuarial table, and the insured's share therein as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect: *Provided,* That insurance shall not attach or be considered to have attached, as determined by the Corporation, to any acreage (1) on which it is determined by the Corporation that the tobacco was destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture, (2) planted to tobacco of a discount variety under the provisions of the tobacco price support program, (3) where premium rates are established by farming practices on the actuarial table, and the farming practices carried out on any acreage are not among those for which a premium rate has been established, (4) which is destroyed and after such destruction it was practical to replant to tobacco and such acreage was not replanted, (5) initially planted after the date on file in the office for the county which has been established by the Corporation as being too late to initially plant and expect a normal crop to be produced, (6) planted to a type or variety of tobacco not established as adapted to the area, shown as noninsurable on the actuarial table, or (7) of tobacco grown for experimental purposes.

3. *Responsibility of Insured To Report Acreage and Share.* The insured shall submit to the Corporation on a form prescribed by the Corporation, a report showing (a) all acreage of tobacco planted in the county (including a designation of any acreage to which insurance does not attach) in which the insured has a share and (b) the insured's share therein at the time of planting. Such report shall be submitted each year not later than the acreage reporting date on file in the office for the county.

4. *Production Guarantees, Coverage Levels, and Prices for Computing Indemnities.* (a) For each crop year of the contract, the production guarantees, coverage levels, and prices at which indemnities shall be computed shall be those shown on the actuarial table.

(b) The production guarantee per acre shall be reduced by 35 percent for any unharvested acreage.

5. *Annual Premium.* (a) The annual premium is earned and payable at the time of planting and the amount thereof shall be determined by multiplying the insured acreage times the applicable premium per acre, times the insured's share at the time of planting, times the applicable premium adjustment percentage in subsection (c) of this section.

(b) For premium adjustment purposes, only the years during which premiums were earned shall be considered.

(c) The premium shall be adjusted as shown in the following table:

BILLING CODE 3410-08-M

% ADJUSTMENTS FOR FAVORABLE CONTINUOUS INSURANCE EXPERIENCE

	Numbers of Years Continuous Experience Through Previous Year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
.00 – .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 – .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 – .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 – .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 – 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

% ADJUSTMENTS FOR UNFAVORABLE INSURANCE EXPERIENCE

	Number of Loss Years Through Previous Year 2/															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
Loss Ratio 1/ Through Previous Crop Year	Percentage Adjustment Factor For Current Crop Year															
1.10 – 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 – 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 – 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 – 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 – 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 – 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 – 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 – 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 – 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 – Up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

1/ Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.

2/ Only the most recent 15 crop years will be used to determine the number of "Loss Years" (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year).

BILLING CODE 3410-08-C

V 44 NO 208 10 25 79 UMI

(d) Any amount of premium for an insured crop which is unpaid on the day following the termination date for indebtedness for such crop shall be increased by a 9 percent service fee, which increased amount shall be the premium balance, and thereafter, at the end of each 12-month period, 9 percent simple interest shall attach to any amount of the premium balance which is unpaid: *Provided,* When notice of loss has been timely filed by the insured as provided in section 7 of this policy, the service fee will not be charged and the contract will remain in force if the premium is paid in full within 30 days after the date of approval or denial of the claim for indemnity; *However,* if any premium remains unpaid after such date, the contract will terminate and the amount of premium outstanding shall be increased by a 9 percent service fee, which increased amount shall be the premium balance. If such premium balance is not paid within 12 months immediately following the termination date, 9 percent simple interest shall apply from the termination date and each year thereafter to any unpaid premium balance.

(e) Any unpaid amount due the Corporation may be deducted from any indemnity payable to the insured by the Corporation or from any loan or payment to the insured under any Act of Congress or program administered by the U.S. Department of Agriculture, when not prohibited by law.

6. *Insurance Period.* Insurance on insured acreage shall attach at the time the tobacco is planted and shall cease upon the earliest of (a) final adjustment of a loss, (b) weighing-in at the tobacco warehouse or removal of the tobacco from the unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), (c) March 31 immediately following the normal harvest period, or (d) total destruction of the insured tobacco crop.

7. *Notice of Damage or Loss.* (a) Any notice of damage or loss shall be given promptly in writing by the insured to the Corporation at the office for the county.

(b) Notice shall be given promptly if, during the period before harvest, the tobacco on any unit is damaged to the extent that the insured does not expect to further care for the crop or harvest any part of it, or if the insured wants the consent of the Corporation to put the acreage to another use. No insured acreage shall be put to another use until the Corporation has made an appraisal of the potential production of such acreage and consents in writing to such other use. Such consent shall not be given until it is too late or impractical to replant to tobacco. Notice shall also be given when such acreage has been put to another use.

(c) Notice shall be given immediately if any insured tobacco is destroyed or damaged by fire during the insurance period.

(d) In addition to the notices required in subsections (b) and (c) of this section, if an indemnity is to be claimed on any unit, the insured shall give written notice thereof to the Corporation at the office for the county not later than *30 days* after the earliest of (1) the date marketing or other disposal of the insured tobacco is completed on the unit, (2) the calendar date for the end of the insurance period, or (3) the date of the entire tobacco crop on the unit is destroyed, as determined by the Corporation. The Corporation reserves the right to provide additional time if it determines there are extenuating circumstances.

(e) Any insured acreage which is not to be harvested and upon which an indemnity is to be claimed, shall be left intact until inspected by the Corporation.

(f) The Corporation may reject any claim for indemnity if any of the requirements of this section are not met.

8. *Claim for Indemnity.* (a) It shall be a condition precedent to the payment of any indemnity that the insured (1) establish the total production of tobacco on the unit and that any loss of production was directly caused by one or more of the insured causes during the insurance period for the crop year for which the indemnity is claimed and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(b) Indemnities shall be determined separately for each unit. The amount of indemnity for any unit shall be determined by (1) multiplying the insured acreage of tobacco on the unit by the applicable production guarantee per acre, which product shall be the production guarantee for the unit, (2) subtracting therefrom the total production of tobacco to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the insured acreage and share is more than the premium computed on the reported acreage and share, the amount of indemnity shall be computed on the insured acreage and share and then reduced proportionately.

(c) The total production to be counted for a unit shall be determined by the Corporation and shall include all harvested and appraised production.

(1) Any production which, due to insurable causes occurring during the insurance period, has a value of less than the market price for tobacco of the same type shall be adjusted by (i) dividing the value per pound of such damaged tobacco by the market price and (ii) multiplying the result by the number of pounds of such damaged tobacco.

(2) Appraised production to be counted shall include: (i) Any appraisals by the Corporation for potential production on harvested acreage and for uninsured causes and poor farming practices, (ii) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without prior written consent of the Corporation or damaged solely by an uninsured cause, and (iii) Only the appraisal in excess of 35 percent of the production guarantee for all other unharvested acreage.

(d) The appraised potential production for acreage for which consent has been given to be put to another use shall be counted as production in determining the amount of loss under the contract. *However,* if consent is given to put acreage to another use and the Corporation determines that any such acreage (1) is not put to another use before harvest of tobacco becomes general in the county, (2) is harvested, or (3) is further damaged by an insured cause before the acreage is put to another use, the indemnity for the unit shall be determined without regard to such appraisal and consent.

9. *Other Insurance Against Fire.* (a) If the insured has other insurance against damage by fire during the insurance period, the Corporation shall be liable for loss due to fire only for the smaller of (1) the amount of indemnity determined pursuant to this contract without regard to any other insurance or (2) the amount as determined by the Corporation by which the loss from fire exceeds the indemnity paid or payable under such other insurance.

(b) For purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit involved before and after the fire, as determined by the Corporation from appraisals made by the Corporation of the production and fair market value.

10. *Misrepresentation and Fraud.* The Corporation may void the contract without affecting the insured's liability for premiums or waiving any right, including the right to collect any unpaid premiums if, at any time, the insured has concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of Insured Share.* If the insured transfers any part of the insured share during the crop year, protection will continue to be provided according to the provisions of the contract to the transferee for such crop year on the transferred share, and the transferee shall have the same rights and responsibilities under the contract as the original insured for the current crop year. Any transfer shall be made on an approved form.

12. *Records and Access to Farm.* The insured shall keep or cause to be kept for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all tobacco produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by the Corporation shall have access to such records and the farm for purposes related to the contract.

13. *Life of Contract: Cancellation and Termination.* (a) The contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, either party may cancel the insurance for any crop year by giving a signed notice to the other on or before the cancellation date preceding such crop year.

(b) Except as provided in section 5(d) of this policy, the contract will terminate as to any crop year if any amount due the Corporation under this contract is not paid on or before the termination date for indebtedness preceding such crop year: *Provided,* That the date of payment for premium (1) if deducted from an indemnity claim shall be the date the insured signs such claim or (2) if deducted from payment under another program administered by the U.S. Department of Agriculture shall be the date such payment was approved.

(c) Following are the cancellation and termination dates:

State	Cancellation date	Termination date for indebtedness
All states	Dec. 31	March 31

(d) In the absence of a notice from the insured to cancel, and subject to the provisions of subsections (a), (b), and (c) of this section, and section 7 of the Appendix, the contract shall continue in force for each succeeding crop year.

Appendix—(Additional Terms and Conditions)

1. *Meaning of Terms.* For the purposes of tobacco crop insurance:

(a) "Actuarial table" means the forms and related material for the crop year approved by the Corporation which are on file for public inspection in the office for the county, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, market price, and related information regarding tobacco insurance in the county.

(b) "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown on the actuarial table.

(c) "Crop year" means the period within which the tobacco crop is normally grown and shall be designated by the calendar year in which the tobacco crop is normally harvested.

(d) "Market price" means the average price for the applicable type as determined by the Corporation.

(e) "Harvest" means cutting or priming of at least 20 percent of the production guarantee per acre shown on the actuarial table.

(f) "Insurable acreage" means the land classified as insurable by the Corporation and shown as such on the county actuarial table.

(g) "Insured" means the person who submitted the application accepted by the Corporation.

(h) "Office for the county" means the Corporation's office serving the county shown on the application for insurance or such office as may be designated by the Corporation.

(i) "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

(j) "Planting" means transplanting the tobacco plant from the bed to the field.

(k) "Share" means the interest of the insured as landlord, owner-operator, or tenant in the insured tobacco crop at the time of planting as reported by the insured or as determined by the Corporation, whichever the Corporation shall elect, and no other share shall be deemed to be insured: *Provided,* That for the purpose of determining the amount of indemnity, the insured share shall not exceed the insured's share at the earliest of (1) the date of beginning of harvest on the unit, (2) the calendar date for the end of the insurance period, or (3) the date the entire crop on the unit is destroyed, as determined by the Corporation.

(l) "Tenant" means a person who rents land from another person for a share of the tobacco crop or proceeds therefrom.

(m) "Unit" means all insurable acreage of an insurable type of tobacco in the county on the date of planting for the crop year (1) in which the insured has a 100 percent share, or (2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the tobacco crop on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in the office for the county or by written agreement between the Corporation and the insured. The Corporation shall determine units as herein defined when adjusting a loss, notwithstanding what is shown on the acreage report, and has the right to consider any acreage and share reported by or for the insured's spouse or child or any member of the insured's household to be the bona fide share of the insured or any other person having the bona fide share.

2. *Acreage insured.* (a) The Corporation reserves the right to limit the insured acreage of tobacco to any acreage limitations established under any Act of Congress, provided the insured is so notified in writing prior to the planting of tobacco.

(b) If the insured does not submit an acreage report on or before the acreage reporting date on file in the office for the county, the Corporation may elect to determine by units the insured acreage and share or declare the insured acreage on any unit(s) to be "zero". If the insured does not have a share in any insured acreage in the county for any year, the insured shall submit a report so indicating. Any acreage report submitted by the insured may be revised only upon approval of the Corporation.

3. *Irrigated Acreage.* (a) Where the actuarial table provides for insurance on an irrigated practice, the insured shall report as irrigated only the acreage for which the insured has adequate facilities and water to carry out a good irrigation practice at the time of planting.

(b) Where irrigated acreage is insurable on an irrigated basis, any loss of production caused by failure to carry out a good irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of seeding, as determined by the Corporation, shall be considered as due to an uninsured cause. The failure

V 44 OC 25 79 UMI

or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

(c) Insurance shall not attach on an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

4. *Annual Premium.* If there is no break in the continuity of participation, any premium adjustment applicable under section 5 of the policy shall be transferred to (1) the contract of the insured's estate or surviving spouse in case of death of the insured, (2) the contract of the person who succeeds the insured if such person had previously participated in the farming operation, or (3) the contract of the same insured who stops farming in one county and starts farming in another county.

(b) If there is a break in the continuity of participation, any reduction in premium earned under section 5 of the policy shall not thereafter apply; *however,* any previous unfavorable insurance experience shall be considered in premium computation following a break in continuity.

5. *Claim for and Payment of Indemnity.* (a) Any claim for indemnity on a unit shall be submitted to the Corporation on a form prescribed by the Corporation.

(b) In determining the total production to be counted for each unit, production from units on which the production has been commingled will be allocated to such units in proportion to the liability on each unit.

(c) There shall be no abandonment to the Corporation of any insured tobacco acreage.

(b) In the event that any claim for indemnity under the provisions of the contract is denied by the Corporation, an action on such claim may be brought against the Corporation under the provisions of 7 U.S.C. 1508(c): *Provided,* That the same is brought within one year after the date notice of denial of the claim is mailed to and received by the insured.

(e) Any indemnity will be payable within 30 days after a claim for indemnity is approved by the Corporation. *However,* in no event shall the Corporation be liable for interest or damages in connection with any claim for indemnity whether such claim be approved or disapproved by the Corporation.

(f) If the insured is an individual who dies, disappears, or is judicially declared incompetent, or the insured is an entity other than an individual and such entity is dissolved after the tobacco is planted for any crop year, any indemnity will be paid to the person(s) the Corporation determines to be beneficially entitled thereto.

(g) The Corporation reserves the right to reject any claim for indemnity if any of the requirements of this section or section 8 of the policy are not met and the Corporation determines that the amount of loss cannot be satisfactorily determined.

6. *Subrogation.* The insured (including any assignee or transferee) assigns to the Corporation all rights of recovery against any person for loss or damage to the extent that payment hereunder is made by the Corporation. The Corporation thereafter shall execute all papers required and take appropriate action as may be necessary to secure such rights.

7. *Termination of the Contract.* (a) The contract shall terminate if no premium is earned for five consecutive years.

(b) If the insured is an individual who dies or is judicially declared incompetent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution; *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through such crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

8. *Coverage Level and Price Election.* (a) If the insured has not elected on the application a coverage level and price at which indemnities shall be computed from among those shown on the actuarial table, the coverage level and price election which shall be applicable under the contract, and which the insured shall be deemed to have elected, shall be as provided on the actuarial table for such purposes.

(b) The insured may, with the consent of the Corporation, change the coverage level and/or price election for any crop year on or before the closing date for submitting applications for that crop year.

9. *Assignment of Indemnity.* Upon approval of a form prescribed by the Corporation, the insured may assign to another party the right to an indemnity for the crop year and such assignee shall have the right to submit the loss notices and forms as required by the contract.

10. *Contract Changes.* The Corporation reserves the right to change any terms and provisions of the contract from year to year. Any changes shall be mailed to the insured or placed on file and made available for public inspection in the office for the county at least 15 days prior to the cancellation date preceding the crop year for which the changes are to become effective, and such mailing or filing shall constitute notice to the insured. Acceptance of any changes will be conclusively presumed in the absence of any notice from the insured to cancel the contract as provided in section 13 of the policy.

This proposal has not been classified "significant" and is being published under emergency procedures, as authorized by Executive Order 12044 and Secretary's Memorandum No. 1955, without a full 60-day comment period. It has been determined by James D. Deal, Manager, Federal Crop Insurance Corporation, that an emergency situation exists which warrants less than a full 60-day comment period on this proposal because the final regulations and policies covering tobacco must be published and be available in the FCIC county offices not later than December 15, 1979, to afford the farmers an opportunity to examine them before the cancellation date of December 31, 1979. A Draft Impact Analysis has been prepared and is available from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Room 4088, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942 and OMB Circular A40.

Approved by the Board of Directors on September 6, 1979.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

[FR Doc. 79-32965 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-08-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 51

Storage and Disposal of Nuclear Waste

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The United States Nuclear Regulatory Commission is conducting a generic proceeding to reassess its degree of confidence that radioactive wastes produced by nuclear facilities will be safely disposed of, to determine when any such disposal will be available, and whether such wastes can be safely stored until they are safely disposed of. This rulemaking has been initiated in response to the decision of the United States Court of Appeals for the District of Columbia Circuit in *State of Minnesota* v. *NRC,* Nos. 78-1269 and 78-2032 (May 23, 1979), but it also is a continuation of previous proceedings conducted by the Commission in this area. 42 FR 34391 (July 5, 1977).

This notice describes the procedures the Commission will employ to conduct that proceeding and how members of the public can participate. If the Commission finds from this proceeding reasonable assurance that radioactive wastes from nuclear facilities will be safely stored or disposed of off-site prior to the expiration of the license for the facility, it will promulgate a rule providing that the safety and environmental implications of radioactive waste remaining on site after the anticipated expiration of the facility licenses involved need not be considered in individual facility licensing proceedings. In the event the Commission determines that on-site storage after license expiration may be necessary or appropriate, it will issue a proposed rule providing how that question will be addressed.

DATES: Notices of intent to participate must be filed by November 26, 1979. Other deadlines are described below.

ADDRESS: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. All filings will be available for public inspection in the Commission's Public Document Room at 1717 H. Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Stephen S. Ostrach, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. (202) 634-3224.

SUPPLEMENTARY INFORMATION:

Background

On May 23, 1979 the United States Court of Appeals for the District of Columbia Circuit remanded two licensing actions to the Commission to consider whether an off-site storage solution for nuclear wastes will be available by the years 2007-09, the expiration dates of the licenses of the Vermont Yankee and Prairie Island nuclear plants to which the Commission had granted permits to increase the on-site waste storage facilities, and, if not, whether that waste can be stored at the sites past those dates and until an off-site solution is available. In response to the D.C. Circuit's decision the Commission has decided to undertake a generic reconsideration of the radioactive waste question so that it can: (1) reassess its confidence that safe off-site disposal of radioactive waste from licensed facilities will be available; (2) determine when any such disposal or off-site storage will be available; and (3) if disposal or off-site storage will not be available until after the expiration of the licenses of certain nuclear facilities, determine whether the wastes generated by those facilities can be safely stored on-site until such disposal is available. Previously, in connection with a petition for rulemaking filed by the Natural Resources Defense Council the Commission considered the related question of the likelihood that waste disposal will be accomplished safely, and at that time it found reasonable assurance that methods of safe permanent disposal of high-level waste would be available when they were needed. 42 FR 34391, 34393 (July 5, 1977), *pet. for rev. dismissed sub nom. NRDC* v. *NRC,* 582 F.2d 166 (2nd Cir. 1978). However, in denying the NRDC petition, the Commission announced its intent to reassess this finding periodically. This new proceeding will offer an opportunity for the Commission to reassess its earlier finding, to obtain wider public participation in its decision and also to take account of new data and recent developments in the federal waste management plan, most notably the Report to the President by the Interagency Review Group on Waste Management. TID-29442 (March, 1979) (the "IRG Report").

Purpose of Proceeding

The purpose of this proceeding is solely to assess generically the degree of assurance now available that radioactive waste can be safely disposed of, to determine when such disposal or off-site storage will be available, and to determine whether radioactive wastes can be safely stored on-site past the expiration of existing facility licenses until off-site disposal or storage is available. In addition to information submitted by public participants and government agencies, this proceeding will draw upon the record compiled in the Commission's recently concluded rulemaking on the environmental impacts of the nuclear fuel cycle (44 FR 45362-74 (August 2, 1979)), and the record complied herein will be available for use in the general fuel cycle rule update discussed in that rulemaking. However, this proceeding is not designed to reach quantitative conclusions about waste repository impacts or performance. The Commission will consider economic issues in this proceeding in the same fashion such issues were considered in the recent fuel cycle rulemaking: namely, a waste disposal model will not be considered realistically available if it would be prohibitively expensive to build and operate such a proposed facility. *Cf.* 44 FR at 45367.

During this proceeding the safety implications and environmental impacts of radioactive waste storage on-site for the duration of a license will continue to be subjects for adjudication in individual facility licensing proceedings. The Commission has decided, however, that during this proceeding the issues being considered in the rulemaking should not be addressed in individual licensing proceedings. These issues are most appropriately addressed in a generic proceeding of the character here envisaged. Furthermore, the court in the *State of Minnesota* case by remanding this matter to the Commission but not vacating or revoking the facility licenses involved, has supported the Commission's conclusion that licensing practices need not be altered during this proceeding. However, all licensing proceedings now underway will be subject to whatever final determinations are reached in this proceeding.

If the Commission finds reasonable assurance that safe, off-site disposal for radioactive wastes from licensed facilitites will be available prior to expiration of the facilities' licenses, it will promulgate a final rule providing that the environmental and safety implications of continued on-site storage after the termination of licenses need not be considered in individual licensing proceedings. In the event the Commission determines that on-site storage after license expiration may be necessary or appropriate, it will issue a proposed rule providing how that question will be addressed.

Procedures

The Commission has chosen to employ hybrid rulemaking procedures for conducting this proceeding. Within thirty days after publication of this notice members of the public may file a notice of intent to participate as a "full participant" in the further stages of the proceeding discussed below. The notice of intent should set forth the person's or group's identity, technical or other qualifications to participate, tentative positions on the issues to be considered, and a discussion of any special matters or concerns sought to be raised. Furthermore, at that time those members of the public who do not wish to be full

participants but who wish to file comments on the issues addressed in this rulemaking should file their comments.

The individuals or groups who have chosen to participate as full participants shall be supervised by a "presiding officer" to be named by the Commission at a later date. That officer's principal responsibility will be to monitor the early stages of the proceeding for the Commission, and to assist the Commission in conducting the later portions. To those ends he or she will have authority to order consolidation of individuals or groups in the same fashion provided in 10 CFR 2.715a. The presiding officer may take appropriate action to avoid delay, including, if necessary, holding pre-hearing conferences or certifying matters to the Commission.

The Commission's staff will compile a full bibliography on the subjects relevant to the proceeding which will be made available to the public at an early stage of this proceeding. In addition to that bibliography the Commission will maintain a publicly available data bank which will include relevant information on waste storage and disposal. The data bank will include the IRG Report, the background material the IRG collected in preparing the report, the Generic Environmental Impact Statement on Waste Management being prepared by the Department of Energy, and a collection of other principal works that the Commission staff will compile on the subject of radioactive waste storage and disposal. Furthermore, the Commission will solicit the views of a number of federal agencies on the questions involved in this proceeding and on the conclusions of the IRG Report and make the responses of those agencies available in the data bank so that the participants can address them in their papers. The Commission expects that full participants will voluntarily make relevant documents in their possession available to other full participants to the extent practical and will reference and produce on request the documents on which they rely.

The Commission is considering whether additional procedures should be employed. One proposal is to strictly control inter-participant discovery and to provide that requests for interrogatories, depositions or other formal discovery will not be entertained unless the Commission finds compelling justification therefor. If this proposal were adopted, the Commission expects that there would be at most only a few exceptional circumstances in which such justification could be demonstrated. An alternative proposal which is also under consideration would be to apply to this proceeding the discovery procedures set forth in 10 CFR Part 2 and to have any discovery supervised by the presiding officer. Participants or other members of the public who wish to express views on this matter should file those views with their notices of intent or comments which are due November 26, 1979. In particular participants should discuss whether imposition of the discovery provisions of Part 2 or their absence would be likely to alter their willingness to participate in this rulemaking or to affect the quality of their contribution to the record. The presiding officer will then summarize the views expressed and present his or her recommendations to the Commission. The Commission will issue a prompt decision on this matter so that the participants' preparation of their statements will not be adversely affected by uncertainty as to the extent of data that may be available to them.

Approximately 30 days after the notices of intent are filed, the officer will issue a prehearing order resolving all preliminary issues including consolidation. Following the prehearing order the participants will have approximately 60 additional days (the exact time to be set in the prehearing order) to prepare and file their statements of position. The statements will be the participants' principal contribution to the waste confidence proceeding, and participants should focus their preparation on them. The statements should set forth the participants' views on the issues discussed above, and on the underlying assumptions and scenarios, both technical and institutional, upon which those views are based. After the statements are filed, the participants will be given approximately 60 days (to be set by the order) to prepare cross-statements discussing statements filed by other participants. The cross-statements should be limited to material discussed in the statements and should not be used to introduce new material.

After the statements and cross-statements have been received, the Commission with the assistance of the presiding officer will issue a second prehearing order. This order will set out the procedures to be followed for the remainder of the hearing and may provide for further written submissions from the full participants, or for the scheduling of an oral hearing. If the Commission desires oral presentations, the participants may be further consolidated to ensure that the oral presentations will be efficient and useful. Unless different procedures are set out in the second prehearing order, the hearing will begin with delivery of prepared statements from the representatives, both technical and legal, of the groups into which the participants have been consolidated. These statements should succintly summarize the participants' views previously set forth in their statements and cross-statements. Participants should ensure that their representatives will be able to address the merits of the legal, technical and institutional issues that have been raised in this proceeding. After the prepared remarks the speakers will be questioned by the members of the Commission. Furthermore, other participants will be given the opportunity to submit written questions to the Commission for it, in its discretion, to ask of participants.

The Commission reserves the option of providing a final stage at which representatives of the participants may be cross-examined by other participants. The Commission will defer deciding whether to permit any cross-examination until after the hearing is over. To obtain cross-examination a participant will be required to identify the issue or issues as to which cross-examination is sought, and the representative or participant involved, and to demonstrate that cross-examination is necessary to prepare a record adequate for a sound decision.

Based on the material received in this proceeding and on any other relevant information properly available to it, the Commission will publish a proposed or final rule in the **Federal Register.** Any such final rule will be effective thirty days after publication.

Comments, notices of intent to participate and any other documents filed in this proceeding should be filed by serving a copy on the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C., 20555, Attention: Docketing and Service Branch. All filings will be available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated: October 18, 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

BILLING CODE 7590-01-M

COMPARISON OF ESTIMATED SCHEDULE FOR RULEMAKING TO ASSESS COMMISSION CONFIDENCE WITH SCHEDULE FOR S-3 AND ACCESS RULE PROCEEDING

	FEDERAL REGISTER NOTICE										
WASTE CONFIDENCE PROCEEDING	Public Comments and Notices of Intent		First Pre-hearing Conference Order		Statements of Position		Cross Statements	Second Prehearing Order and Preparation for Hearing	Hearing	Review Record and Write Rule	Rule Effectiveness
	30 days		30 days		60 days		60 days	90 days	10 days	180 days	30-60 days
S-3	Prehearing Activities	Prepare Testimony	Written Questions	Responses Questions			Hearing	Cross-ex requests Completion of record	Review of record Preparation of decision		
	83 days	48 days	31 days	76 days			74 days (10 actual hearing days)	86 days	120 days		
CLEARANCE ACCESS RULE	Prehearing Activities	Prepare Testimony, Questions, Responses			Hearing	Cross-ex Requests Completion of Record		Review of Record - Preparation of Decision			
	120 days	74 days		2 days			70 days	160 days			

[FR Doc. 79-32958 Filed 10-24-79; 8:45 am]

BILLING CODE 7590-01-C

V 44 O C 25 79 UMI

V 4 4 O C 2 5 7 9 UMI

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Summary Notice No. PR-79-12]

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for rulemaking and of dispositions of petitions denied.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect to FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before December 24, 1979.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. , 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 19, 1979.

Edward P. Faberman,

Acting Assistant Chief Counsel Regulations and Enforcement Division.

Petitions for Rulemaking

Docket No.	Petitioner	Description of the rule requested
19652	Department of Defense	To allow military personnel to carry weapons aboard civil aircraft operating under contract (full planeloads) for the U.S. Army or other operating elements of DOD.

[FR Doc. 79-32869 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 21 and 36

[Docket No. 13410; Notice No. 79-13A]

Civil Helicopter Noise Type Certification, Airworthiness Certification, and Acoustical Change Approvals; Proposed Noise Standards for Helicopters in the Normal, Transport, and Restricted Categories

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of extension of comment period.

SUMMARY: On July 19, 1979, the FAA published Notice No. 79-13 containing its proposed noise regulations governing type certification, airworthiness certification, and acoustical change approvals for helicopters in the normal, transport, and restricted categories (44 FR 42410). The notice provided that comments on the proposal must be received on or before November 19, 1979. Subsequently, the FAA was requested to extend the comment period 60 days until January 19, 1980. This notice grants that request in the public interest.

DATES: Comments must be received on or before January 19, 1980.

ADDRESSES: Comments on the proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 13410, 800 Independence Avenue, SW, Washington, DC 20591, or delivered in duplicate to: Room 916, Ninth Floor, 800 Independence Avenue, NW., Washington, DC 20591. Comments must be marked "Docket No. 13410," Comments may be examined in Room 916 between 8:30 a.m. and 5:00 p.m., daily.

FOR FURTHER INFORMATION CONTACT: Richard N. Tedrick, Noise Policy and Regulations Branch (AEE-110), Noise Abatement Division, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, Washington, DC 20591; telephone (202) 755-9027.

SUPPLEMENTARY INFORMATION:

Background

Notice No. 79-13 (44 FR 42410; July 19, 1979) proposes noise standards for helicopters certificated in the normal, transport, and restricted categories. For purposes of the proposal, "helicopters" include other aircraft for which lift is furnished, in whole or in part, by an engine-driven rotor during takeoff, hover, or landing. The proposal covers noise levels and test procedures for the issuance of new type certificates and of original standard airworthiness certificates and restricted category airworthiness certificates for newly produced helicopters of older design types. It also would prohibit certain changes in type designs of helicopters that might increase their noise levels beyond prescribed limits. The original comment period for Notice No. 79-13 closes on November 19, 1979.

By letter, dated September 7, 1979, the Helicopter Association of America, on behalf of its members, petitioned for a 60-day extension of the comment period for Notice No. 79-13. The petitioner stated that because of the extensive and technical nature of the proposal and the need to evalute it and other materials that it believes may be significant to its response, additional time is needed to submit comments. The FAA notes that, while the notice originally provided a comment period in excess of 120 days, the proposal is complex both technically and in the nature of its potential environmental and regulatory impacts. To ensure that there is an adequate opportunity to evaluate the proposal and develop responsive and meaningful comments, the FAA concludes that an extension of the original comment period would be in the public interest and that an additional 60 days is adequate but would not unduly delay achieving the environmental benefits contemplated from the proposal.

Extension of the Comment Period

Accordingly, pursuant to the authority delegated to me by the Administrator, the comment period for Notice No. 79-13 (44 FR 42410; July 19, 1979) is hereby extended to January 19, 1980.

(Secs. 313(a), 601(a), 603, and 611(b), Federal Aviation Act of 1958, as amended (49 U.S.C. Sections 1354(a), 1421(a), 1423, and 1431(b)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environmental Policy Act of 1969 (49 U.S.C. Section 4321 et seq.); Executive Order 11514, March 5, 1970; and 14 CFR 11.45.)

Note.—The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). A copy of the draft evaluation prepared for that action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified above under the caption "FOR FURTHER INFORMATION CONTACT • • •".

Issued in Washington, D.C., on October 17, 1979.

J. E. Wesler,

Director, Office of Environment and Energy.

[FR Doc. 79-32714 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 79-CE-30]

Control Zone and Transition Area, North Platte, Nebr.; Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rule Making (NPRM).

SUMMARY: This notice proposes to alter the control zone and the 700-foot transition area at North Platte, Nebraska, to provide additional controlled airspace for aircraft executing and instrument approach procedure to new Runway 29 at Lee Bird Field, North Platte, Nebraska, utilizing the Lee Bird Non-directional Radio Beacon (NDB) as a navigational aid.

DATES: Comments must be received on or before December 1, 1979.

ADDRESSES: Sent comments on the proposal to: Federal Aviation Administration, Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-530, 601 East 12th Street, Kansas City, Missouri. 64106, Telepohone (816) 374-3408.

The official docket may be examined at the Office of the Regional Counsel, Central Region, Federal Aviation Administration, Room 1558, 601 East 12th Street, Kansas City, Missouri.

An informal docket may be examined at the Office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Benny J. Kirk, Airspace Specialist, Operations, Procedures, and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, 601 East 12th Street, Kansas City, Missouri. 64108, Telepohone (816) 374-3408.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number, and be submitted in duplicate to the Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri. 64106. All communications received on or before December 1, 1979 will be considered before action is taken on the proposed amendment. The proposal contained in this Notice may be changed in light of the comments received. All comments received will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons.

Availability of NPRM

Any person may obtain an copy of this NPRM by submitting a request to the Federal Aviation Administration, Operations, Procedures and Airspace Branch, 601 East 12th Street, Kansas City, Missouri 64106 or by calling (816) 374-3408. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering amendments to Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) and Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) by altering the control zone and 700-foot transition area at North Platte, Nebraska. To enhance airport usage, an instrument approach procedure is being established for new Runway 29 at Lee Bird Field, North Platte, Nebraska, utilizing the Lee Bird NDB as a navigational aid. The establishment of this instrument approach procedure entails alteration of the control zone and transition area at North Platte, Nebraska, at and above 700 feet above ground level (AGL) within which aircraft are provided additional air traffic control service. The intended effect of this action is to ensure segregation of aircraft using this approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR).

Accordingly, the Federal Aviation Administration proposes to amend Subpart F, § 71.171 of the Federal Aviation Regulations (14 CFR 71.171) as republished on January 2, 1979 (44 FR 353), by altering the following control zone:

North Platte, Nebr.

Within a 6 mile radius of Lee Bird Field (latitude 41°07'42"N, longitude 100°41'49"W); within 2 miles each side of the 186° bearing from the Big Nell RBN, extending from the 6 mile radius zone to 8 miles south of the RBN; and within 3 miles each side of the 125° bearing from the Lee Bird RBN, extending from the 6 mile radius zone to 10 miles southeast of the RBN.

Additionally, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 2, 1979 (44 FR 442), by altering the following transition area:

North Platte, Nebr.

That airspace extending upward from 700 feet above the surface within a 10 mile radius of Lee Bird Field (latitude 41°07'42"N, longitude 100°41'49"W); and within 2 miles each side of the North Platte VOR 209° radial, extending from the 10 mile radius area to 8 miles southwest of the VOR; and within 5 miles each side of the 301° bearing from Lee Bird RBN, extending from the 10 mile radius area to 13 miles northwest of the RBN; and within 3 miles each side of the 125° bearing from Lee Bird RBN extending from the 10 mile radius to 14 miles southeast of the RBN.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 1169 of the Federal Aviation Regulations (14 CFR 11.69).)

The FAA has determined that this document involves a proposed regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, the anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Kansas City, Missouri, on October 12, 1979.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 79-32715 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

V 4 4 0 C 2 5 7 9 UMI

14 CFR Part 71

[Airspace Docket No. 79-AL-20]

Designation of Transition Area, St. Marys, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This notice proposes to designate a transition area at St. Marys, Alaska, to provide controlled airspace for aircraft executing an instrument approach procedure to the St. Marys airport using approach procedures based on the St. Marys NDB and ILS. This action would lower the base of controlled airspace from 1,200 feet AGL to 700 feet AGL in that area directly beneath B-27 and V-506 and would also designate controlled airspace extending upward from 700 feet above the surface in that portion of the proposed transition area that is west of B-27. The need for a transition area was created when IFR approach procedures were establsihed at St. Marys. However, until recently the lack of a capability to communicate with aircraft on approach made the establishment of a transition area impractical.

DATE: Comments must be received on or before November 26, 1979.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Alaskan Region, Attn: Chief, Air Traffic Division, Docket No. 79-AL-20, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

The official docket may be examined at the following location: Office of the Regional Counsel, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513.

An informal docket may be examined at the office of the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Jerry Wylie, Operations, Procedures, and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, telephone (907) 271-5903.

SUPPLEMENTARY INFORMATION: Subpart 71.181 (44 FR 442) of the FAR Part 71, last published on January 2, 1979, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting IFR activity. Designation of a transition area at St. Marys, Alaska, will necessitate an amendment to this subpart.

Comments Invited

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Alaskan Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513. All communications received on or before November 26, 1979, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Operations, Procedures and Airspace Branch, Air Traffic Division, Alaskan Region, Federal Aviation Administration, Box 14, 701 C Street, Anchorage, Alaska 99513, or by calling (907) 271-5903. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2, which describes application procedures.

The Proposal

The FAA is considering an amendment to Subpart F of Part 71 of the Federal Aviation Administration (14 CFR Part 71) to designate a transition area at St. Marys, Alaska. This proposal would provide protected controlled airspace for aircraft conducting prescribed instrument approach and departure procedures at the St. Marys airport while operating above 700 feet above the surface.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.171 of the Federal Aviation Regulations (14 CFR Part 71) as republished (44 FR 442) to designate the St. Marys, Alaska, transition area as follows:

St. Marys, Alaska

That airspace extending upward from 700 feet above the surface within 4.5 miles east and 9.5 miles west of the 198° True (180°M) bearing from the St. Marys NDB, extending from the NDB to 18.5 miles south of the NDB and within 9.5 miles west of the 351° True (333°M) bearing from the St. Marys NDB, and 9.5 miles east of the 002° True (344°M) bearing from the St. Marys NDB, extending from the NDB to 21 miles north of the NDB.

(Sec. 307(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(a));
Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

Note.—The FAA has determined that this document involves a regulation which is not significant under Executive Order 12044, as implemented by DOT Regulatory Policies and Procedures (44 FR 1134, February 26, 1979). Since this regulatory action involves an established body of technical requirements for which frequent and routine amendments are necessary to keep them operationally current and promote safe flight operations, and anticipated impact is so minimal that this action does not warrant preparation of a regulatory evaluation.

Issued in Anchorage, Alaska, on October 12, 1979.

Robert L. Faith,
Director, Alaskan Region.

[FR Doc. 79-32871 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 79-WE-14]

Establishment of Temporary Restricted Area

Correction

In Federal Register Doc. 79-31416 appearing at page 58746 in the issue for Thursday, October 11, 1979; on page 59747, in the first column, make the following changes:

(a) Under **The Proposed Amendment**, sixteenth line from the top, the latitude now reading "Lat. 32°01'00" N." should read "Lat. 33°02'00" N."; and in the eighteenth line from the top, the longitude now reading "113°37'20" W." should have read "113°39'04" W.".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

DEPARTMENT OF THE INTERIOR

Office of the Secretary

15 CFR Part 303

Watches and Watch Movements; Proposed Amendment of Codified Rules

AGENCY: Industry and Trade Administration, Department of Commerce; Office of Territorial Affairs, Department of the Interior.

ACTION: Proposed amendment of codified rules.

SUMMARY: It is proposed to make a number of substantive and technical changes in the watch quota regulations (15 CFR Part 303). The proposed changes are prompted by new entry procedures recently adopted by the U.S. Customs Service; by developments in the regulated industry which suggests the need for new or clarified regulatory guidelines; and by the Departments' review of the adequacy of the codified watch quota provisions since December 1977, when they first were issued. The intended effect of the proposals is to conform the codified provisions to new procedures, practices and circumstances affecting the industry as a whole. The proposed changes are listed and discussed in Supplementary Information below.

DATES: Comments are due by December 24, 1979.

ADDRESS: Send comments to: Statutory Import Programs Staff, Bureau of Trade Regulation, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Richard M. Seppa, (202) 724-3526.

SUPPLEMENTARY INFORMATION: On December 14, 1977, the Departments of Commerce and the Interior published codified rules (42 FR 62907 (1977)) incorporating provisions of the watch quota rules having general applicability and future effect which had been previously published yearly, as well as provisions which had previously been promulgated in Title 15, Part 13 of the Code of Federal Regulations. The purpose of the codification was to bring together in a single part all watch quota provisions expected to remain applicable beyond any given quota year term, and also provide for the issuance of annual rules within a defined scope (See § 303.3).

The changes proposed here in reflect developments which have occurred since the rules were originally codified in a single Part and the Departments' internal review of the adequacy of these provisions during the intervening period.

If adopted in final form, the proposed changes would have no effect on the 1979 annual rules, which will remain in effect through December 31, 1979 (43 FR 60313 (1978)). Proposed annual rules for calendar year 1980 are being published separately in this issue of the **Federal Register** in accordance with the codified provisions.

The proposed changes are as follows:

(1) In the definition of the reallocation process, it is proposed to add language clarifying that maximization of a territory's use of its quota is one among several of the quota statute's purposes, and that reallocations must be consistent with congressional intent to avoid funnel-through operations.

Reasons: During the rulemaking process leading to publication of the 1979 annual rules, it was argued by some producers that the Departments were obligated to reallocate available quota to any producer requesting it regardless of the degree of that producer's contribution to the territorial economy. This change will remove all possibility of an interpretation of the Departments' regulations which is incompatible with one of the central purposes of the underlying statute i.e., avoiding funnel-through operations (*See* S. Rep. No. 1679, 89th Cong., 2nd Sess. (1966)).

(2) It is proposed to change the time for publication of annual rules in proposed form (now between November 1 and December 15) to any time prior to December 15.

Reasons: The existing provision is unnecessarily restrictive and inconsistent with an executive order, issued subsequently to the existing provision, recommending at least 60 days for public comments.

(3) It is proposed to add to the list of records which must be made available for the Departments' review in verifying the annual data submitted by producers any other records maintained by the parent or affiliated companies located outside the insular possession pertaining to any aspect of the producer's headnote 3(a) watch assembly operation.

Reasons: Some producers employ centralized accounting systems in the United States and most or all rely in varying degrees on personnel or agents located outside the territory for Customs entry, components purchases, payments for purchases, marketing/sales and other directly related operations. The absence of such records necessary to the verification of certain data on the annual application form (ITA-334P) has unnecessarily complicated the annual verification process and in some instances forced delays in the issuance of annual allocations to other producers.

This change will provide additional clarity for all producers on the question of what records must be made available in the territory for examination by the Departments' representatives.

(4) It is proposed that, in those cases where a company cannot satisfactorily substantiate the data presented in its application prior to the time allocations must be calculated, the Departments would be authorized to stipulate, on the basis of the best available information, the data to be used in calculating the quotas.

Reasons: Any delay in making the annual allocations can create serious problems for all producers in setting their annual production schedules, ordering parts and taking customer orders. The failure of one or more producers to maintain or produce the records required for verification of the data on which the final annual allocations must be based can, and has in the past, resulted in such delays. This change will enable the Departments to avoid protracted verification efforts and will provide an additional incentive for all producers to ensure timely production of complete and accurate records in the verification process.

(5) It is proposed to authorize the Departments to allocate an initial quota to a producer in an amount smaller than the quota it would receive under the formula for calculating initial quotas if, in the Departments' judgment, the producer might otherwise receive an initial quota in an amount greater than the producer's probable annual quota.

Reasons: If a producer ships all or most of its production prior to August 31 and if its relative economic contributions to the territory are significantly lower than the industry average (or if it is ineligible to receive a portion of the overall quota to be allocated under any applicable incentive provisions of the annual rules), there is the likelihood of its receiving an allocation under this paragraph greater than the amount of its annual allocation. This change will give the Secretaries the discretion to avoid this problem on a case-by-case basis. An alternative solution (lowering the ratio of shipments prior to August 31) was rejected as an undesirable new constriction on the entire industry's ability to sustain full operations pending allocation of the annual quotas.

(6) The Departments propose to modify language in existing provisions referring to Customs entry procedures in order to make the watch quota provisions consistent with recent changes in Customs procedures.

Reason: The codified rules must take into account new Customs entry procedures established during 1979 which restricted the use of immediate delivery procedures and which established the time of entry as, among others, the time Customs authorizes the release of the merchandise covered by the entry documentation.

(7) It is proposed to permit producers to modify their requests for annual quota after March 31, subject to the

discretion of the Secretaries in determining whether modifications later than that date can be accepted without unduly affecting the timing of the annual allocation.

Reasons: The proposed change would afford producers additional flexibility in determining their final annual needs based on the most recent conditions. The specific date shown in the existing provision is retained as a useful target deadline in most cases, and discretion would be reserved to the Secretaries to balance the needs of any producer revising its request after that date against the best interests of the entire industry and the territorial economy.

(8) It is proposed to authorize the making of a special allocation to any firm which, due to unusual circumstances, was unable to maintain its duty-free shipments at a level comparable with its past record. The proposed change would require the Secretaries to determine that the amount of quota so allocated would not be likely significantly to affect the amounts of quota allocated to other producers, and that making the allocation would be beneficial to the economy of the territory.

Reasons: The Departments have traditionally treated requests for so-called "hardship relief" under § 303.11 (or it predecessor provisions) relating to appeals. Under those provisions, the presumption has been that the decision, action or rule (whether or not directly related to an allocation action by the Secretaries) shall remain in force in the absence of compelling reasons to the contrary, and the burden of presenting those reasons has been on the petitioner.

The proposed change would establish a more expeditious mechanism. It would afford individual producers greater flexibility in requesting allocations when special circumstances seem to warrant and when the central questions at issue are the availability of the quota and the probable impact on the territorial economy.

(9) It is proposed to authorize the use of more than one shipment permit (Form ITA-340) to cover a single shipment or consignment if commercial hardship might otherwise result.

Reasons: There have been instances in the past where strict observance of the existing provision could have caused commercial hardship to the producer. The proposed change would enable producers to use their best judgment as to when exceptions to the general rule should be made. In view of the latitude proposed for producers, the Governors and their delegates should not be burdened by a requirement to evaluate the producer's reasons for making exceptions and that part of the existing provision would be deleted. If the change is adopted, the Departments intend to maintain the usefulness of the general rule by scrutinizing the reasons offered for the exceptions. Routine or repetitive use of multiple permits for single shipments would not be acceptable because of problems associated with verifying with the U.S. Customs Service multiple permits covered by a single entry.

(10) See (6), above, for the reasons for the change proposed in § 303.7(d).

(11) It is proposed to amend the criteria governing the maintenance of quota entitlements. The main changes proposed are: (a) To eliminate the requirement that producers utilize at least 25 percent of their initial quota by April 1; (b) To change the prospective utilization standard for the entire year from 90 percent to 80 percent; and (c) To provide for the issuance of show-cause orders when specified operational discontinuities or minimal employment thresholds occur or when producers fail to comply with commitments made to the Departments upon which receipt of quota was predicated.

Reasons: The existing provision for issuance of a show-cause order to producers that fail to use 25 percent of their initial quotas prior to April 1 is considered unnecessary in view of the provisions for making supplemental initial allocations (§ 303.5(a)(3)) to firms that have the ability to use additional quota and of the fact that the total amount of available quota is known by April 1. Producers' requirements for additional quota during the first part of the year can accordingly be accommodated without seeking the relinquishment of quota by other producers whose production and marketing plans might still be tentative. Only once since 1967 have the Secretaries exercised their discretion under this provision or its predecessor. Historically, most producers have cooperated by voluntarily relinquishing quota which evidently would be excess to their annual needs. In view of the growing uncertainty in the marketing of watches caused by rapidly changing technologies and consumer preferences, it has become increasingly difficult for producers to estimate their quota needs within 10 percent. In view of current market conditions the Secretaries consider that an 80 percent criterion for triggering a show-cause order is more realistic than the present 90 percent standard. At the same time the Secretaries would preserve their administrative discretion to recover and reallocate quota in the interests of the territory in the event producers elected not to relinquish quota evidently excess to their needs.

The proposed changes with respect to factory closings and maintenance of minimal work forces are also intended to create additional incentives for producers to reduce the seasonal and part-time character of much of the employment provided by the industry. The Departments recognize that such employment frequently suits the personal needs and preferences of part of the local labor force and have no intention to prescribe rules which would entirely eliminate producers' flexibility in this respect. The Departments are concerned, however, that in 1977 and 1978 fully 15 percent and 17 percent, respectively, of all persons who received headnote 3(a) watch assembly wages received less than $500 and 43 percent and 45 percent, respectively, received less than $3,000, a wage level which, with existing minimum wages, clearly denotes a part-time employee. Due to the wide differences in individual company data in this regard, the Departments believe that the relatively highly seasonality of the overall data reflects management preferences as much as worker preferences, and that the portion of such seasonal employment can be partly and beneficially reduced through better planning.

Firms may receive quota from the Departments' based upon written representations made to the Departments with respect to proposed operating or assembly practices. To ensure compliance with such representations, the new show-cause provision is proposed.

(12) The Departments propose to establish a procedure for seeking the Departments' prior approval of the sale of a quota firm when such sale is an indirect and relatively insignificant part of a larger transaction; and to set forth guidelines for subcontracting arrangements between quota firms.

Reasons: There have been instances in which ownership and control of a quota firm has been transferred indirectly as a result of the sale of stock transfer of a corporate entity, neither of which entities (buyer or seller) was located in the insular possession. In some instances, these transfers have reflected less the acquiring firm's desire to obtain a duty-free watch quota than to obtain the parent and related companies. In those instances the assets of the territorial firm have represented a very small financial portion of the entire transfer. The proposed new paragraph (c) would establish a more flexible

review process for such transactions and, without unnecessarily injecting the Departments into potentially delicate private business negotiations, still assure satisfaction of the Departments' direct concerns that the quota itself not be treated as a capital asset in the transaction; that no undue concentration of quota entitlements result from it; and that the transaction not result in operational changes detrimental to the territorial economy.

The proposed new paragraph (d), relating to subcontracting arrangements, sets forth ground rules for a practice employed on a limited and occasional basis by various producers over the existence of the program but which has not been subject to specific regulatory guidelines. In order that the practice be uniformly applied and to ensure that it not be used to undermine the incentive provisions in the allocation rules, specific guidelines are proposed.

(13) The Departments propose to authorize the setting aside of a portion of the annual quota sufficient to protect the interests of a petitioner pursuant to § 303.11 if their consideration of a petition overlaps the normal timing of an annual allocation.

Reasons: Because annual allocations made by the Secretaries are final by law, allocating the total amount of available quota before a final decision had been made on a petition before the Secretaries might achieve inconsistent results. Delaying the allocation, however, could cause substantial injury to other producers. The proposed rule would establish a mechanism to protect both the petitioner's and the remainder of the industry's interests during any appeal proceedings which might coincide with the ordinary timing of allocation decisions.

(14) In addition to the proposed substantive changes described above, a number of technical changes are proposed in §§ 303.2(b)(2), 303.5(a)(3), 303.5(b)(4), 303.6(e), and 303.8(b).

Accordingly, Part 303 of Title 15 of the Code of Federal Regulations is proposed to be amended as set forth below. New or changed material is indicated by brackets.

Issued at Washington, D.C. on October 19, 1979.

Robin B. Schwartzman,

Acting Deputy Assistont Secretory, Trade Regulotion, U.S. Department of Commerce.

Ruth G. Van Cleve,

Director, Office of Territoriol Affairs, U.S. Department of the Interior.

Section 303.2 (a) and (b) are proposed to be amended as follows:

§ 303.3 Definitions and forms.

(a) Unless the context otherwise indicates:

* * * * *

(14) A "reallocation" is a process whereby quota held by one or more producers, or quota set aside for new entrants, is placed with one or more other producers. Such will generally involve reduced allocations and supplemental allocations. Reallocations generally are made for the purpose of facilitating maximum utilization of a territory's calendar year quota and of promoting the greatest possible economic contribution to the territory, [consistent with Congressional intent to avoid funnel-through operations in general headnote 3(a) businesses.]

(b) * * *

[2] ITA-333, * * * It is also used to record the balance of a producer's quota [remaining] * * *

2. Section 303.3 is proposed to be amended as follows:

§ 303.3 Publication of annual rules.

[Prior to] December 15 each calendar year * * *

3. Section 303.4(b) is proposed to be amended as follows:

§ 303.4 Application for quotas.

* * * * *

(b) * * *

[(7) Any other records in the possession of the parent or affiliated companies outside the insular possession pertaining to any aspect of the producer's headnote 3(a) watch assembly operation.]

The verification of data shall be performed * * * the end of March. [In the event a company cannot satisfactorily substantiate the data presented in its application prior to the time allocations must be calculated, the Secretaries shall determine, on the basis of the best available information, the data which will be used in calculating the quotas.]

4. Section 303.5(a) and (b) are proposed to be amended as follows:

§ 303.5 Allocation and reallocation of quotas.

(a) *Allocation of quotas*—(1) *Initial allocations.* As soon as practicable * * * * or any lesser amount requested in writing by such producer. [The Secretaries may also issue a lesser amount if, in their judgment, the producer might otherwise receive an initial allocation in an amount greater than the producer's probable annual allocation.] In calculating the initial allocations, the Director shall count only duty-free watches and watch movements verified by the U.S. Customs Service on Form ITA-340 as having been *entered* on or before August 31.

(2) *Annual allocations.* As soon as practicable * * * A producer's request may be modified by written communication received by the Secretaries on or by March 31, [or, at the discretion of the Secretaries, a later date prior to the making of the annual allocations.] A notice of allocations * * *

(3) *Supplemental allocations.* * * * Before making such supplemental allocations, the Secretaries shall take into account the requesting producer's estimated annual allocation to ensure that the sum of its initial and supplemental allocations does not constitute a disproportionate amount of the [producer's estimated] annual allocation. * * *

(4) * * *

[(5) Special Allocations. If in their judgment it would be beneficial to the economy of the territory, the Secretaries may make a special allocation to any firm which, due to unusual circumstances, was unable to maintain its duty-free shipments at a level comparable with its past record provided, however, that the Secretaries determine that the amount of quota so allocated is not likely significantly to affect the amounts of quota allocated to other producers pursuant to § 303.5(a), above. In evaluating requests for such special allocations, the Secretaries shall take into account the firm's proposed assembly operations and its record in contributing to the territorial economy, as well as its intentions and capacity to make meaningful contributions in the event a special allocation is made.]

(b) * * *

(4) Whether the addition of new [entrants] offers the best prospect * * *

5. Section 303.6(e) is proposed to be amended as follows:

§ 303.6 Issuance of licenses.

* * * * *

(e) * * * of each calendar year. [No] unused quota may be carried over into the subsequent calendar year.

6. Section 303.7(c) and (d) are proposed to be amended as follows:

§ 303.7 Issuance of shipment permits.

* * * * *

[(c) Except when commercial hardship may result, producers shall request only one shipment permit for each separate shipment or consignment.]

(d) Shipment permits shall be valid for only the calendar year in which issued. In order to accomplish duty-free entry, the importer of record or his broker must, [prior to midnight, December 31, of the year in which the shipment permit is

V 44 OC 25 79 UMI

issued, present the merchandise together with the original of the related form ITA-340 and other documents required by the U.S. Customs Service to the District Director of Customs at the port of entry.]

7. Section 303.8(b) is proposed to be amended to follows:

§ 303.8 Quarterly reporting requirements.

(a) * * *

(b) * * *which have occurred during the reporting period [(see also § 303.10 regarding restrictions on the transfer of duty-free quotas).]

8. Section 303.9(a) is proposed to be amended as follows, and present paragraph 303.9(a)(3) is redesignated paragraph (5):

§ 303.9 Maintenance of quota entitlements.

(a) The Secretaries may issue a show-cause order requiring a producer to show cause, within 30 days of receipt of the order, why the duty-free quota to which it would otherwise be entitled should not be [cancelled, in whole or in part, if:]

[(1) At any time after June 30 of the calendar year a producer's assembly and shipment record provides a reasonable basis to conclude that the producer will by the end of the calendar year utilize less than 80 percent of its total quota, and if the producer does not voluntarily relinquish, at the Secretaries' request, that portion of its quota which will not be utilized;]

[(2) A producer fails to satisfy or fulfill any term, condition, or representation, whether undertaken by itself or prescribed by the Departments, upon which receipt of quota has been predicated;]

[(3) A producer discontinues its assembly operations for a period exceeding four consecutive weeks (excluding regularly scheduled holidays or vacations) at any time during the calendar year prior to November 30, and if the producer fails to provide written notice to the Secretaries, within two weeks following the beginning of the discontinuance, of the reasons therefor and of the date if expects to resume operations; provided that, notwithstanding such notice, the Secretaries may cancel the producer's quota, if any interruption of its operations exceeds six consecutive weeks or if repeated interruptions cumulatively exceed twelve weeks;

[(4) A producer's headnote 3(a) assembly operations result in the employment of fewer than five fulltime watch and watch movement assembly workers or watchmakers for longer than two months (whether or not consecutively) during any calendar year; or]

[(5)] A producer * * *

9. Section 303.10 is proposed to be amended by adding two new paragraphs (c) and (d) and by redesignating present paragraph (c) as paragraph (e) as follows:

§ 303.10 Restrictions on transfer of duty-free quotas.

(a) * * *

(b) * * *

[(c) The sale or transfer of a business which owns or has controlling interest in a producer may also be permitted with the prior approval of the Secretaries. Prior approval may be sought by submitting a written request to the Secretaries setting forth the facts regarding the proposed sale or transfer, including: a current financial statement for the producer; a complete description of the relationship of the proposed purchaser with any other watch quota producer and any other firm(s) engaged in the production or sale of watches, watch movements and modules, or watch parts; evidence regarding the value placed on the producer in the proposed sales agreement; and a detailed statement of the producer's proposed assembly operations subsequent to the sale or transfer.

[(d) Subcontracting of Assembly of Watches and Watch Movements to Other Territorial Producers: A producer may subcontract to another producer in the same insular possession the assembly of a portion of the first producer's total quota for any calendar year period. In such instances, the producer which issues the subcontract shall receive credit for quota allocation purposes for wages generated in the assembly of the subcontracted units and for the shipment of the units. Sufficient records must be maintained by both producers to permit the Departments to verfiy the wage and shipment information regarding the subcontracted production. No producer may subcontract production of more than 40 percent of its annual quota. Firms desiring to enter into an agreement under the terms of this provision must secure in advance the written approval of the Departments.]

10. It is proposed to amend § 303.11 by adding a new paragraph (e) as follows:

§ 303.11 Appeals.

* * * * *

[(e) If the outcome of any petition may materially affect the amount of the petitioner's quota and if the Secretaries' consideration of the petition continues during such time as the interests of other producers would be affected by delaying decisions of the Secretaries, the Secretaries shall set aside a portion of the quota to be allocated in an amount which, in their judgment, protects the petitioner's interest and shall allocate the remainder among the other producers.]

(Pub. L. 89-805, 80 Stat. 1521, 19 U.S.C. 1202)

[FR Doc. 79-32934 Filed 10-24-79; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Part 402

[R-79-731]

Tenant Participation in Multifamily Housing Projects; Transmittal of Proposed Rule to Congress

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of transmittal of proposed rule to Congress under section 7(o) of the Department of HUD Act.

SUMMARY: Recently enacted legislation authorizes Congress to review certain HUD rules for fifteen (15) calendar days of continuous session of Congress prior to each such rule's publication in the **Federal Register.** This Notice lists and summarizes for public information a proposed rule which the Secretary is submitting to Congress for such review.

FOR FURTHER INFORMATION CONTACT: Burton Bloomberg, Director, Office of Regulations, Office of General Counsel, 451 7th Street, SW., Washington, D.C. 20410, (202) 755-6207.

SUPPLEMENTARY INFORMATION: Concurrently with issuance of this Notice, the Secretary is forwarding to the Chairmen and Ranking Minority Members of both the Senate Banking, Housing, and Urban Affairs Committee and the House Banking, Finance, and Urban Affairs Committee the following rulemaking document:

24 CFR PART 402—TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

This proposed rule would implement the requirement of Section 202(b)(1) of the Housing and Community Development Amendments of 1978 for tenant participation in multi-family housing projects. The rule requires that mortgagors of specified insured multi-family housing projects give tenants notice of and an opportunity to comment upon major actions on which mortgagors are required to request HUD's review and approval.

[Section 7(o) of the Department of HUD Act, 42 U.S.C. 3535(o), Section 324 of the Housing and Community Development Amendments of 1978]

Issued at Washington, D.C., October 20, 1979.

Moon Landrieu,

Secretary, Department of Housing and Urban Development.

[FR Doc. 79-32858 Filed 10-24-79; 8:45 am]

BILLING CODE 4210-01-M

POSTAL SERVICE

39 CFR Part 111

Handling of Unpaid Articles Placed in Private Mail Receptacles or in the Mail by Private Delivery Companies

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: Existing postal regulations do not clearly distinguish between the procedures to be followed when a selective distribution of unpaid mailable matter intended for handling by a private delivery company is found in or on private mail receptacles and when a general distribution of identical pieces of such matter is found. This has resulted in certain interpretative problems and corresponding differences in practice in different locations. The proposed rule is intended to solve these problems by prescribing, for selective piece distributions, a uniform procedure, to be followed by all offices, for retrieval of the pieces, computation of postage, notification of the firm or individual responsible for delivery, and possible return of the item to the publisher or manufacturer.

The proposed rule also specifies that unpaid mail matter intended for delivery by private delivery companies but found in the mail includes parcels, newspapers and magazines, books and records. Address correction or forwarding service will not be provided for such mail matter.

DATE: Comments must be received on or before November 24, 1979.

ADDRESS: Written comments should be mailed or delivered to the Director, Office of Mail Classification, Rates and Classification Department, Room 1610, 475 L'Enfant Plaza West, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, at the above location.

FOR FURTHER INFORMATION CONTACT: Robert K. Bickham, (202) 245-4017.

SUPPLEMENTARY INFORMATION: Of late there has been an increasing amount of unpaid mailable matter, principally magazines, delivered by or intended for delivery by private delivery companies, but found in or on private mail receptacles, in collection boxes, or otherwise in the mail. Because existing postal regulations do not clearly deal with the handling of this material, postal carriers have reacted in various ways, to the sometimes dismay of publishers or senders. This proposed regulation is intended to clearly define a uniform procedure for handling such unpaid materials. It is intended to safeguard postal revenues and deal fairly and equitably with the publishers and senders of such material.

Although exempt from the requirements of the Administrative Procedure Act [5 U.S.C. 553(b), (c)] regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comments on the following proposed amendments of the Domestic Mail Manual:

Part 146—Prepayment and Postage Due

1. In 146.12 revise .123 to read as follows:

146.12 Unpaid Matter Found in the Mail.

* * * * *

.123 Unpaid mail matter (including parcels, newspapers and magazines, books, and records) intended for handling by a private delivery company but found in collection boxes or otherwise in the mail will be returned to sender postage due rather than to the addressee or private delivery company. Address correction service or forwarding service will not be provided. Postage due should be rated according to 146.221c and will be assessed by computing postage due from the point at which the unpaid mail matter entered the mail to the sender's location. However, when the entry point of the unpaid mail matter is unknown, postage due will be computed from the point where it was first found in the mail to the sender's location. See 159 if sender cannot be identified or mail matter is refused by sender.

2. In 146.2 revise .22 to read as follows:

146.2 Mailable Matter not Bearing Postage Found in or on Private Mail Receptacles.

* * * * *

.22 Collection of Postage

Except as permitted in 156.58, any mailable matter not bearing postage found in, or upon, or attached to, or supported by, or hung from, the private mail receptacles described in 151.1, is subject to the payment of the same postage as would be paid if carried by mail. For unpaid matter found in the mail, see 146.12.

.221 Selective Piece Distribution

When there is selective distribution of pieces on a route (distribution to pre-determined addresses on a route rather than all stops on the route), they will be handled as follows:

a. Each piece will be retrieved and brought to the delivery unit.

b. The date and approximate time of retrieval will be recorded on the piece. If the address where the piece is retrieved is different from the address on the label, the address where retrieved will be recorded, as well as the approximate time and date.

c. Postage on the piece retrieved will be computed as follows:

(1) Second Class Publications. The transient rate in 411.42 will be applied.

(2) Controlled Circulation Publications. The applicable single piece third-class or fourth-class rate in 611.11 or 711 will be applied.

(3) Fourth Class Books, Records, and Merchandise. If the piece weighs less than 16 ounces, either the single piece third-class rate must be paid, or the fourth-class rate, whichever is lower. See 611.12. If the piece weighs 16 ounces or more, the applicable fourth-class rate must be paid.

d. If the private delivery firm or individual responsible for delivery is known, and is within the delivery area of the post office, the firm or individual will be notified concerning the number of pieces and the amount of postage due. If the pieces are found *in* receptacles, the firm or individual will be notified that the practice is a violation of the law, 18 U.S.C. 1725. If the firm or individual agrees to pay the postage due, payment will be accepted and the articles will be delivered to the addressees. If the firm or individual desires to see the pieces that have been retrieved, or chooses to redeliver the pieces themselves rather than have the Postal Service deliver them, the pieces will be held for review or redelivery by them after proper postage has been paid. While the Postal Service will not compile a list of addresses on the pieces, the firm or individual may do so.

e. If the firm or individual is not known or refuses to pay postage due, the pieces will be returned to the publisher or manufacturer, postage due, with each piece endorsed to show that the articles were retrieved from the addressees' mailboxes without postage. If a publisher or manufacturer provides the name and telephone number of a person to contact about pieces retrieved from mailboxes and verbally or in writing guarantees payment of postage, the pieces will not be returned. The articles will be redelivered promptly to the addressees.

.222 General Distribution

a. If general distribution of identical pieces has been made on a route, only two copies, each dated, initialed, and marked with the address where found, will be taken to the office along with a written notation of the total number of identical pieces observed on the route. The postmaster must prepare a memorandum showing the details to support the claim of postage.

b. If the person or firm or distributor responsible for, or who assists in, the impermissible use of the private mail receptacles is known, and is within the delivery area of the post office, the local postmaster will make demand for the total postage chargeable on all pieces. The demand will cite the pertinent provisions of this Manual. If the pieces are found *in* the receptacles, the postmaster will also inform the person or firm or distributor that the practice is a violation of the law, 18 U.S.C. 1725. An equivalent amount of postage due

stamps affixed to a sheet of paper and properly canceled as a receipt for money collected will be given the person or firm. If payment is in the form of uncanceled stamps or meter stamps, they will be affixed to a sheet, canceled and returned as a receipt for payment. No other receipt will be issued.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401(2), 404(a)(2))

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 79-32962 Filed 10-24-79; 8:45 am]

BILLING CODE 7710-12-M

39 CFR Part 111

Pickup of Express Mail Addressed to Post Office Box Addresses

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to Parts 223 and 224 of the Domestic Mail Manual, the Postal Service picks up shipments of Express Mail from addresses within designated areas. Certain regulations, such as those governing delivery of registered mail and preparation of Express Mail shipments, place conditions upon, or limit the usefulness of, pickup service from post office box addresses. This proposal would amend postal regulations to establish conditions for service agreements that govern pickup service from post office box addresses, and to alter Express Mail preparation requirements in order to make such pickup service more useful to all Express Mail customers.

DATE: Comments must be received on or before November 24, 1979.

ADDRESS: Written comments should be sent or delivered to the General Manager, Expedited Mail Services Division, Customer Services Department, Room 5986, 475 L'Enfant Plaza, SW, Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9:00 AM and 4:00 PM, Monday through Friday, at the above location.

FOR FURTHER INFORMATION CONTACT: William Purson, (202) 245-5624.

SUPPLEMENTARY INFORMATION: Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Domestic Mail Manual:

Part 223—Express Mail Custom Designed Service

1. In 223.2 add new .24 reading as follows:

.24 Pickup from Post Office Box Addresses.

The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by special permit and instructions are given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement.

Part 224—Express Mail Next Day Service

2. Revise 224.3 to read as follows:

224.3 *Service Agreement.*

Pickup service is available for Next Day Service only on a scheduled basis pursuant to a service agreement (Form 5631) between the Postal Service and the mailer. The service agreement must specify the time, place, day or date, and frequency of such service. The Postal Service will pick up Express Mail shipments made up of mail addressed to post office box addresses provided that postage and fees are paid by postage trust account and instructions are given to redirect registered, certified, numbered insured, and C.O.D. mail. (See Handbook M-68, *Express Mail Service*, for procedures.) Business reply and shortpaid mail will be handled in accordance with the provisions of the service agreement. Service under a service agreement must not be offered in a manner that makes any undue or unreasonable preference to any such user. Commencement and termination of service agreements are subject to the provisions of 223.22 and 223.23.

Subchapter 260—Preparation Requirements

3. Revise 262 to read as follows:

262 *Express Mail Custom Designed Service.*

Except as provided in 261.2 and 223.24, all Custom Designed Service mail must be tendered in sealed Express Mail pouches with the required receipt forms and labels combined and attached. See 261.2 for outside pieces and 223.24 for pickup from post office box addresses.

4. Revise 263.2 to read as follows:

263.2 For Next Day Service pickup (see 224.3) other than pickup from post office box addresses, the customer must complete Form 5625-B, *Mailing Statement for Next Day and Same Day Airport Express Mail Service*, for each pickup. Volume mailers must tender the mail in containers provided or approved by the Postal Service.

An appropriate amendment of 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 401, 403)

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 79-32961 Filed 10-24-79; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[FRL 1345-6]

Missouri Proposed Revision to Air Quality Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rulemaking.

SUMMARY: Provisions of the Clean Air Act, as amended in 1977, require States to revise their State Implementation Plans (SIP) for all areas that have not attained the National Ambient Air Quality Standards (NAAQS). The Act requires that states submit the necessary plan revisions to the EPA by January 1, 1979, and that the EPA publish a final determination of approvability in the Federal Register by June 10, 1979. The requirements for an approvable SIP are described in a general preamble published April 4, 1979, Federal Register (44 FR 20372), supplemented on July 2, 1979 (44 FR 38583), August 28, 1979 (44 FR 20372), and September 17, 1979 (44 FR 43761). The discussion of requirements will not be repeated in this notice.

The Missouri Air Conservation Commission adopted attainment plans on June 20, 1979, after notice and public hearings, for the Kansas City and St. Louis nonattainment areas. These plans were submitted to the EPA on July 2, 1979. The revised Missouri plans are part of the total Missouri State Implementation Plan and contain new regulations and revised control strategies designed to attain the appropriate national Ambient Air Quality Standard as expeditiously as practicable, but in the case of total suspended particulate matter and sulfur dioxide no later than December 31, 1982.

The EPA proposes to conditionally approve the revised state air pollution control strategy as part of the Missouri State Implementation Plan. This revised strategy consists in part of revised air pollution control emission regulations and in part of commitments to adopt other necessary control measures in the future. The purpose of this revision is to provide sufficient control for the attainment of NAAQS in areas where the standards are not now being met. These control strategy revisions were submitted to comply with Part D of the Clean Air Act Amendments of 1977. This proposal is published to advise the public of this plan revision and to invite comments on EPA's proposal to conditionally approve the plan and on

appropriate deadlines for correction of deficiencies.

On October 25, 1978, the Missouri Air Conservation Commission adopted recommendations for redesignating certain areas of the state from nonattainment to attainment. Additional recommendations were adopted on August 23, 1978, and June 20, 1979. The EPA proposes to act on these recommendations. The submittal does not include plans for areas which the Commission recommends as attainment. No plan was submitted for the St. Joseph nonattainment area.

DATES: Comments must be received by November 26, 1979.

ADDRESS: Comments should be sent to Mr. Robert J. Chanslor, Environmental Protection Agency, Region VII, 324 East 11th Street, Kansas City, Missouri 64106. Copies of the state submission and the EPA prepared plan evaluation document are available at the above address. They are also available at the following locations: Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460; Missouri Department of Natural Resources, 615 East 13th Street, Room 483, Kansas City, Missouri 64106; Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65102; and the Missouri Department of Natural Resources, 6460 Watson Road, St. Louis, Missouri 63229.

FOR FURTHER INFORMATION: Contact Robert J. Chanslor at 816-374-3791 (FTS 758-3791).

SUPPLEMENTARY INFORMATION:

A. General Discussion

The Clean Air Act as amended in 1977 contains several requirements which must be addressed in a SIP submission. The general requirements for all SIP revisions are found in Section 110(a). Section 121 requires the state to consult with local governments on certain matters. Section 123 limits the availability of dispersion techniques for certain sources. Section 126 relates to interstate abatement. Section 127 requires public notification of violations of health related standards. Section 128 imposes requirements on state boards. Sections 161 through 169 require each plan to contain measures for the prevention of significant deterioration (PSD) of air quality. Part D (Sections 171 through 178) and related sections in the Act contain requirements for nonattainment plans. The latter requirements were discussed in the April 4 issue of the Federal Register (44 FR 20372). A supplement to the April 4 notice was published on July 2, 1979 (44 FR 38583) involving, among other things, conditional approval.

The EPA proposes to fully approve portions of the plan and conditionally approve where there are minor deficiencies. The EPA proposes to conditionally approve portions where the state provides assurances that it will submit corrections by specified deadlines. This notice solicits comment on what items should be conditionally approved, and on what deadlines should apply for meeting the conditions. A conditional approval will mean that the restrictions on new major source construction will not apply unless the state fails to submit the necessary SIP revisions by the scheduled dates, or unless the revisions are not approved by EPA.

The Missouri SIP was considered at a public hearing in St. Louis on May 23, 1979, and in Kansas City on May 24, 1979. The plan was formally adopted by the Missouri Air Conservation Commission (MACC) on June 20, 1979, and submitted to comply with the new Clean Air Act requirements on July 2, 1979.

B. Area Designations

At 40 CFR Part 81, Subpart C, eleven areas of the state are identified as nonattainment for one or more pollutants.

The Clean Air Act established criteria which each state used to prepare a list of areas which had attained the national ambient air quality standards, had not attained standard, or had insufficient data to determine whether an area could be classified (Section 107(d)). An attainment area is one in which measured air quality does not exceed the ambient air quality standards. A nonattainment area is one in which the air quality is worse than the standards. An unclassified area is one for which there is insufficient data to determine whether the area is attainment or nonattainment. The EPA allowed rural areas which experienced violations of the total suspended particulate matter standard which could be attributed to fugitive dust to be designated attainment, if such areas have: (1) A lack of major industrial development or an absence of significant industrial particulate emissions, and (2) low urbanized population (44 FR 20378, April 4, 1979).

The State of Missouri provided a list of areas with recommendations for designations. The EPA promulgated this list adding Columbia as a secondary TSP nonattainment area. The designated nonattainment areas published in the Federal Register on March 3, 1978, are as follows:

Nonattainment

Designated area	Pollutant			
	TSP	SO2	Ozone	CO
St. Louis	1, 2		1	1
St. Louis "hotspot"	1, 2	1, 2	1	1
St. Louis County	2		1	1
Herculaneum	2			
Kansas City	1, 2		1	
St. Joseph	1, 2			
Kirksville	1, 2			
Mexico	1, 2			
Columbia	2			
New Madrid	1, 2			
Bixby		1, 2		

Note.—1 denotes primary nonattainment. 2 denotes secondary nonattainment.

The remaining areas of the State of Missouri were designated attainment or unclassifiable. In order to designate an area as attainment, the state was required to examine at least two years of valid air quality data. If the most current year data showed that standards were not exceeded, the state examined the data for the previous year. If there were two consecutive years showing the long and short-term standards were not exceeded, the area could be classified attainment based upon air quality data. However, certain rural or nonurban areas could also be designated attainment if the criteria for fugitive dust were met.

A number of comments were received from the public on the March 3, 1978, EPA promulgation of the list of nonattainment areas in Missouri. Commenters on the Mexico designation stated that the data used for the designation were not valid and the area could be designated attainment using the EPA's fugitive dust policy. One commentor suggested that the Mexico area be restudied. On April 23, 1979, the Missouri Department of Natural Resources (MDNR) submitted information which shows that the entire Mexico area should not be classified nonattainment. The only existing monitor site appears unduly influenced by emissions from the building on which the monitor is located. The monitor location is such that the data validity is in doubt. The EPA believes that the fugitive dust policy is not applicable to Mexico, since there are two major industrial TSP emission sources located in or near Mexico. The MDNR and the City of Mexico will conduct a study to determine whether the area is attainment or nonattainment, and if it is nonattainment, how large an area is affected. The EPA recommended the area be unclassified until valid air quality data are available.

One commenter disagreed that the primary TSP standard was violated in St. Joseph, but acknowledged that the

V 44 OC 25 79 UMI

secondary standard was being violated and suggested that the nonattainment boundary be changed. The MACC found that there were three years of valid air quality data showing St. Joseph to be a TSP nonattainment area and found the original designated area to be correct. The EPA agrees with this finding of the MACC.

A commenter expressed the belief that the Kirksville nonattaiment area designation was an error and that the EPA fugitive dust policy should be used to designate the area attainment. The EPA believes the fugitive dust policy is applicable due to the low population and absence of significant industrial sources of particulate emissions or major industrial development.

Comments on the Columbia designation suggested the violations are due to fugitive dust and that air quality data should be reevaluated. Columbia does not meet the fugitive dust policy criteria, and the state and EPA believe the air quality data are valid. One commenter objected to the inclusion of Platte County, Missouri in the Kansas City ozone nonattainment area because air quality measurements showed no violations of the ozone standard. The EPA believes Platte County should remain in the nonattainment area because part of the Kansas City urbanized area is included in the county. This is consistent with EPA's ozone designation policy. Further, Kansas City International Airport is located in the Kansas City urbanized portion of Platte County and may be a significant contributor to ozone levels found in the city.

One commenter stated that New Madrid should have been designated attainment using EPA's fugitive dust policy. The New Madrid designation is currently in litigation and an action will be proposed in the near future.

C. Redesignation Requests

In order for EPA to redesignate an area from non-attainment to attainment, there must be at least eight consecutive quarters of valid air quality data showing the air quality does not exceed the applicable standard. If there is an applicable emission control strategy which demonstrates that legally enforceable emissions reductions have contributed to improved air quality, less than eight consecutive quarters of air quality data may be used for redesignating an area attainment.

The Missouri Air Conservation Commission during their October 25, 1978, meeting adopted recommendations that EPA redesignate certain areas of the state. These recommendations were submitted to the EPA on December 5, 1978. The recommendations submitted are as follows:

1. Total Suspended Particulate Matter

(a) *Kansas City.* The primary nonattainment area boundry and the secondary nonattainment area are changed. The state used monitoring data in conjunction with an EPA approved model to project a more accurate primary nonattainment boundary and secondary nonattainment boundary. This new boundary would make portions of Clay, Jackson and Platte Counties which were designated secondary nonattainment in the March 3, 1978, **Federal Register** (40 FR 8963) become attainment. Likewise, portions of the Kansas City primary nonattainment area would retain the secondary nonattainment designation.

Proposed Action: The EPA proposes to accept the MACC recommendation for the boundary changes for Kansas City, Missouri.

(b) *Herculaneum.* The MACC found that three and one-half years of air quality data show an improvement trend in air quality with no violations of the TSP standard within the past eight quarters and recommends an attainment designation.

Proposed Action: The EPA proposes to accept the MACC recommendation that Herculaneum be redesignated attainment for TSP.

(c) *Kirksville.* The MACC found that Kirksville meets the EPA criteria for an attainment classification since there are no major industrial sources of particulate emissions or major industrial development and a low population.

Proposed Action: the EPA proposes to accept the findings of the MACC and redesignate Kirksville attainment for TSP.

(d) *Mexico.* The MACC recommended that Mexico be designated attainment for TSP because the monitor was source specific and not representative of the area. On December 29, 1978, the EPA informed the state that because Mexico had historically reported violations of the primary TSP standard and there is at least one major source in Mexico that an attainment classification is unacceptable. The state was further advised that the nonattainment area could be reduced in size as monitoring in other locations in the city had found no TSP violations. Further information provided by the State of Missouri suggests that the monitor upon which the nonattainment designation was bsed may be unduly biased by emissions from the building upon which the monitor is located, and the data may not be valid. On June 20, 1979, the MACC recommended an unclassified designation until sufficient valid data are available so that the attainment or nonattainment classification is clear and if nonattainment, a realistic boundary can be determined.

Proposed Action: The EPA proposes to accept the MACC recommendation that Mexico be redesignated unclassified for TSP.

2. Sulfur Dioxide—Bixby

The Bixby designation (for SO_2) will be discussed in a separate **Federal Register** action in the near future.

D. Nonattainment Plan Submittal

This section discusses the plan and portions thereof as they relate to Part D of the Act. Section E discusses requirements for SIPs contained elsewhere in the Act. Section F discusses the approvability of the plan submittal and contains conditions for portions of the plan where there are minor deficiencies. Section F also discusses each issue as it relates to the applicable Part D requirement. Each discussion is followed by a proposed EPA action. Section G summarizes major issues which have been raised over the plan submitted.

The MDNR submitted on behalf of the MACC plans to attain total suspended particulate matter and ozone standards in the Kansas City area; total suspended particulate matter, ozone, and carbon monoxide in the St. Louis area; and total suspended particulate matter and sulfur dioxde in the St. Louis "hot spot." The St. Louis "hot spot" is an area within a radius of approximately one mile at the confluence of River Des Peres and the Mississippi River. This area includes a portion of south St. Louis City and an adjoining portion of St. Louis County.

No plan has been submitted for either St. Joseph or New Madrid. A plan is being developed for St. Joseph and will be submitted at a later date. No plan is being developed for New Madrid.

1. Legislation

The Missouri 80th General Assembly adopted legislation to enable the MACC to promugate regulations required to carry out provisions in the Clean Air Act Amendments of 1977, Part D.

Amended Sections 307.360, 307.361, and 307.365 of the Missouri Revised Statutes authorize and direct the MACC and the Missouri State Highway Patrol (MSHP) to jointly develop a pilot program, for inspection/maintenance (I/M) as needed in the appropriate nonattainment areas. The MACC and the MSHP are to report the results of the pilot program to the legislature upon completion. Public participation in the pilot program will be voluntary. The MACC and the MSHP are to develop a program which will be adequate to implement mandatory I/M by December 31, 1982.

Amended Chapter 536 of the Missouri Revised Statutes, which primarily relates to provisions of the Missouri Air Conservation Law (Chapter 203), gives the MACC enabling authority to promulgate regulations to enable the state to comply with the Clean Air Act Amendments of 1977.

2. Regulatory Revisions

The MACC adopted the following volatile organic compound (VOC) controls which were submitted with the SIP revision: Rule 10 CSR 10–2.210, Control of Emissions from Solvent Metal Cleaning; Rule 10 CSR 10–2.240, Restriction of Emissions of Volatile Organic Compounds from Petroleum Refinery Sources; Rule 10 CSR 10–2.250, Control of Volatile Leaks from Petroleum Refinery Equipment; Rule 10 CSR 10–2.260, Control of Petroleum Liquid Storage, Loading, and Transfer; Rule 10 CSR 10–2.220, Liquified Cutback Asphalt Paving Restricted; and Rule 10 CSR 10–2.230, Control of Emissions from Industrial Surface Coating Operations. These VOC regulations apply to the 11 categories covered by the Reasonably Available Control Technology (RACT) VOC guideline documents published by the EPA. These regulations are applicable in the Kansas City area, which includes Jackson, Clay, and Platte Counties. The following VOC regulations are applicable in the St. Louis area which includes the City of St. Louis, St. Charles, St. Louis, Jefferson, and Franklin Counties: Rule 10 CSR 10–5.300, Control of Emissions from Solvent Metal Cleaning; Rule 10 CSR 10–5.310, Liquified Cutback Asphalt Paving Restricted; Rule 10 CSR 10–5.330, Control of Emissions from Industrial Surface Coating Operations and, Rule 10 CSR 10–5.220, Control of Petroleum Liquid Storage, Loading and Transfer. The State of Missouri has certified that there are no petroleum refineries in St. Louis; thus, VOC regulations for refineries are not needed in St. Louis.

The SIP includes a provision which exempts methyl chloroform (1,1,1 trichloroethane) and methylene chloride. These VOCs, while not appreciably affecting ambient ozone levels, are potentially harmful. Both methyl chloroform and methylene chloride have been identified as mutagenic in bacterial and mammalian cell test systems, a circumstance which raises the possibility of human mutagenicity and/or carcinogenicity.

Furthermore, methyl chloroform is considered one of the slower reacting VOCs which eventually migrates to the stratosphere where it is suspected of contributing to the depletion of the ozone layer. Since stratosphere ozone is the principal of ultraviolet light (UV), the depletion could lead to an increase of UV penetration resulting in a worldwide increase in skin cancer.

With the exemption of these compounds, some sources, particularly existing degreasers, will be encouraged to utilize methyl chloroform in place of other more photochemically reactive degreasing solvents. Such substitution has already resulted in the use of methyl chloroform in amounts far exceeding that of other solvents. Endorsing the use of methyl chloroform by exempting it in the SIP can only further aggravate the problem by increasing the emissions produced by existing primary degreasers and other sources.

The agency is concerned that the state has chosen this course of action without full consideration of the total environmental and health implications. The agency does not intend to disapprove the state SIP submittal, if the state chooses to maintain these exemptions. However, we are concerned that this policy not be interpreted as encouraging the increased use of these compounds nor compliance by substitution. The agency does not endorse such approaches. Furthermore, state officials and sources are advised that there is a strong possibility of future regulatory action to control these compounds. Sources which choose to comply by substitution may well be required to install control systems as a consequence of these future regulatory actions.

(a) *VOC Regulations and the CTGs.* The Control Techniques Guidelines (CTGs) provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. The following is a discussion of the Missouri VOC regulations and the deviations from the CTG recommendations.

(1) Rule 10 CSR 10–2.210 and Rule CSR 10–5.300 are solvent metal cleaning regulations for the Kansas City and St. Louis nonattainment areas.

(A) The CTG recommends that the distance from the surface of the degreasing solvent to the top of the container be higher than that required by the Missouri regulations.

(B) The MACC believes the third safety switch suggested in the CTG is unnecessary and unreliable. The state believes that the thermostatic switch required by the regulations and a manual reset will serve the same purpose as the CTG recommendation.

(C) The Missouri regulations substitute an entry rate restriction for the load size in the CTG. This restriction is as enforceable as the CTG recommendation.

(2) Rule 10 CSR 10–2.220 and Rule 10 CSR 10–5.310 Liquified Cutback Asphalt Paving Restricted are applicable to the Kansas City and St. Louis nonattainment areas.

(A) Missouri defines emulsified asphalt as a liquified asphalt containing less than seven percent diluent. The CTG recommends that emulsified asphalt be used with no petroleum solvent.

(B) Missouri exempts pothole filling and emergency repairs. The CTG makes no recommendation regarding exemptions.

(3) Rule 10 CSR 10–2.260 and Rule 10 CSR 10–5.220 Control of Petroleum Liquid Storage, Loading and Transfer.

(A) These regulations require floating roof tanks for storage of VOC with a vapor pressure of 1.8 pounds per square inch or greater at 70 degrees Fahrenheit. The CTG recommends a 1.5 pounds per inch absolute (psia). The vapor pressure adopted by the state is based upon petroleum industry standards.

(B) The CTG recommends a 0.30 gram per gallon emission limit for gasoline loading. The regulation for St. Louis and Kansas City specifies 0.50 gram per gallon. The control equipment specified in the Missouri regulations is consistent with the CTG recommendation and will meet 0.30 gram per gallon.

(C) A vapor balance system is required for gasoline transfer at bulk plants with a storage capacity greater than 2,000 gallons. Storage containers of 240 to 2,000 gallons are required to be equipped with a submerged fill pipe.

(b) *Other regulations.* (1) Rule 10 CSR 10–5.030 Maximum Allowable Emission of Particulate Matter from Fuel Burning Equipment Used for Indirect Heating is applicable in St. Louis. This revised rule includes emissions control for existing and new fuel burning installations. Existing sources of less than 10 million BTU heat imput are limited to 0.60 pounds per million BTU; sources equal to or greater than 10 million BTU, but less than or equal to 5,000 million BTU shall determine th allowable emission rate by the equation $E=1.09(Q)^{-0.259}$ where E equals the allowable emission rate and Q is the heat input in millions of BTUs. New sources not controlled by the New Source Performance Standards are subject to the following limitations:

(A) Less than 10 million BTU heat input shall not exceed 0.40 pounds per million BTU Heat input;

(B) Sources equal to or greater than 10 million BTU, but less than or equal to

V 44 0C 25 79 9 UMI

1,000 million BTU shall use the equation $E = 0.80(Q)^{-0.301}$ to determine allowable emissions. E is the allowable emission rate and Q is the heat input in millions of BTU; and

(C) Sources with heat input greater than 1,000 million BTU are limited to 0.10 pounds per million BTU.

(2) Rule 10 CSR 10–5.090 Restriction of Emission of Visible Air Contaminants is revised to change the allowable visible emission from existing sources in the St. Louis Air Quality Control Region from 40 percent opacity to 20 percent opacity.

(3) Rule 10 CSR 10–5.290, More Restrictive Emission Limitations for Sulfur Dioxide and Particulate Matter in the South St. Louis area establishes emission limits for two specific sources of these air contaminants which are located in an area defined as the St. Louis "hot spot." In addition to emission limits, the regulation establishes a time schedule for compliance. The regulation requires all sources to be in compliance by October 1, 1980. This regulation is considered RACT for the St. Louis "hot spot."

(4) Rule 10 CSR 10–2.040, Maximum Allowable Emission of Particulate Matter from Fuel Burning equipment Used for Indirect Heating is applicable in the Kansas City AQCR. This revised rule includes emissions control for existing and new fuel burning installations. Existing sources of less than 10 million BTU heat input are limited to 0.60 pounds per million BTU; sources equal to or greater than 10 million BTU, but less than or equal to 5,000 million BTU shall determine the allowable emission rate by the equation $E = 1.09(Q)^{-0.259}$ where E equals the allowable emission rate and Q is the heat input in millions of BTUs. New sources not controlled by the New Source Performance Standards are subject to the following limitations:

(A) Less than 10 million BTU heat input shall not exceed 0.40 pounds per million BTU heat input;

(B) Sources equal to or greater than 10 million BTU, but less than or equal to 1,000 million BTU shall use the equation $E = 0.80(Q)^{-0.301}$ to determine allowable emissions. E is the allowable emission rate and Q is the heat input in millions of BTU; and

(C) Sources with heat input greater than 1,000 million BTU are limited to 0.10 pounds per million BTU.

(c) The remaining Missouri regulations for the St. Louis and outstate areas were recodified, reviewed by EPA and generally proposed to be approved on September 6, 1979, at 44 FR 52001. On July 1, 1976, the State of Missouri revised the numbering system for all air pollution control regulations. The state air regulations are now contained in Title 10, Division 10 of the Code of State Regulations designated as 10 CSR 10. Neither the title nor content of the regulations were changed by this renumbering.

The above Code of State Regulations contains a new "Chapter 6—Air Quality Standards, Definitions, and Reference Methods for the State of Missouri." This chapter contains the state air quality standards, all definitions, and source and air monitoring methods. The source testing methods specify the EPA Reference Methods at 40 CFR Part 60, Appendix A for Methods 1 through 11. The methods adopted for ambient air quality monitoring use the EPA Reference Methods found at 40 CFR Part 50, Appendices A through F. The MACC revised the state ambient air quality standard for SO_2 to be consistent with the National Ambient Air Quality Standard. Other new regulations include: process weight regulations for cotton gins, rock quarries and grain handling operations; the New Source Performance Standards found at 40 CFR Part 60 as of January 18, 1975; and continuous monitoring of opacity at certain power plants, cement kilns and fluid bed catalytic cracking units catalyst regenerators at petroleum refineries. The continuous monitoring regulations fulfill the requirements of 40 CFR 51.19(e), except that there are no federal requirements for continuous monitoring at portland cement plants.

3. Nonattainment Plan Provisions

Section 172 of the Act contains the requirements for nonattainment plan provisions. The following is a listing of the requirements of Section 172 and a discussion of how the Missouri plan addresses each issue. The approvability of the Missouri plan is discussed in Section F "Approvability." In the discussion below in this section, parenthetical cross references to Section F refer the reader to specific paragraphs in which proposed EPA action on a particular issue can be found.

(a) *Demonstration of Attainment.* Section 172(a)(1) requires the plan to provide for attainment of NAAQS as expeditiously as practicable. The primary standards for total suspended particulate matter (TSP) and SO_2 will be attained by December 31, 1982 in the Kansas City and St. Louis nonattainment areas (Section F, paragraph 1).

(b) *Attainment Date Extensions.* Section 172(a)(2) authorizes extension of the attainment date to not later than December 31, 1987, for CO and O_3 if the state demonstrates the standards cannot be attained by December 31, 1982 despite implementation of reasonable control measures.

The State submittal regarding extensions will be discussed in paragraphs (e)(4), (e)(5), (e)(6), and (m) below.

(c) *Public Participation.* Section 172(b)(1) requires the plan to be adopted after reasonable notice and public hearing.

The public hearings for the nonattainment plans were announced in several newspapers in the State of Missouri as attested to by affidavits of publication. Public hearings were held in St. Louis on May 23, 1979, and in Kansas City on May 24, 1979. The plans were formally adopted on June 20, 1979 (Section F, paragraph 5).

(d) *Reasonably Available Control Measures.* Section 172(b(2) requires implementation of all reasonably available control measures as expeditiously as practicable.

For a discussion of reasonable control measures including RACT, see paragraph (e), Reasonable Further Progress, below (Section F, paragraph 3).

(e) *Reasonable Further Progress (RFP).* Section 172(b)(3) requires the state to demonstrate that it will make reasonable further progress toward attaining the standard by specified dates, including emission reductions which can be achieved by application of RACT (Section F, paragraph 6).

The Control Techniques Guidelines (CTGs) for control of VOC provide information on available air pollution control techniques, and contain recommendations of what EPA calls the "presumptive norm" for RACT. RACT determinations for TSP and SO_2 are based upon engineering judgement regarding the degree of control that is readily available for stationary sources, and the cost effectiveness of the available control technology.

The Missouri SIP revision contains graphs showing incremental emissions reductions anticipated through application of RACT measures at existing sources in the designated nonattainment areas. The SIP calls for meeting the primary NAAQS for TSP in all nonattainment areas by December 31, 1982, by using nontraditional source controls in addition to RACT. The state has committed to completing nontraditional source control studies within 180 days of the fial rulemaking. The state has requested an extension to July 1, 1980, to submit plans to meet the secondary TSP standard.

The nonattainment analysis for the Kansas City area evaluates current emissions controls used at major stationary sources and found that existing controls represent RACT. A similar analysis is contained in the plan for St. Louis showing that existing controls represent RACT. Rule 10 CSR 10–5.290 specifies RACT controls in the St. Louis "hot spot" and is designed to meet the primary TSP and SO_2 standard. The demonstration of attainment is verified by dispersion modeling.

The Missouri SIP shows attainment of the oxidant standard in Kansas City by December 31, 1982, but that an extension to 1987 will be necessary to show attainment in St. Louis. Each area is discussed below:

(1) St. Louis (TSP)—The state has shown that RACT has been applied to all major stationary sources and that existing regulations require RACT. The City of St. Louis plans to conduct studies to determine the impact of reentrained road dust and dust from unpaved parking lots on nonatteinment monitoring sites and implement corrective measures on an area-wide basis. These studies consist of paving unpaved parking lots and street cleaning, and are to be completed within 180 days of the final rulemaking. The studies proposed are a feasible approach to achieving RFP. The state has requested an extension to July 1, 1980, for submission of the plan to attain secondary standards (Section F, paragraph 6(c)).

(2) Kansas City (TSP)—The Kansas City plan demonstrates that existing major stationary sources are required to install RACT controls and that such sources have RACT controls or are on schedules to comply with RACT regulations. The plan demonstrates that such controls alone are inadequate to attain the primary standard by December 31, 1982; thus, the state proposes to conduct a study of the amount of improved air quality which results from an intensive street cleaning program. The state has requested an extension to July 1, 1980, for submission of the plan to attain the secondary standard (Section F, paragraph 6(d)).

(3) St. Louis "hot spot" (TSP and SO_2)—The St. Louis "hot spot" is an area within a radius of approximately one mile at the confluence of River Des Peres and the Mississippi River. This area includes a portion of south St. Louis City and an adjoining portion of St. Louis County.

The state has demonstrated that RACT regulations (Rule 10 CSR 10–5.290) have been adopted for existing sources in the "hot spot" area and that such sources are on schedules which will provide sufficient emissions reductions to meet the primary TSP standard by December 31, 1980. The plan projects that stationary source controls will provide an 80 percent reduction of particulate matter emissions. The control strategy projects that the primary SO_2 standard will be met by December 31, 1982.

(4) St. Louis (ozone)—Using the Empirical Kinetic Modeling Analysis (EKMA), the state has determined that a 50 percent reduction of VOC emissions are necessary in order to meet the ozone standard. Application of RACT to stationary sources and the Federal Motor Vehicle Emission Control Program (FMVECP) is not adequate to provide attainment of the ozone standard by December 31, 1982. The state has requested an extension until December 31, 1987 to meet the ozone standard. Attainment of the standard depends upon implementation of transportation related controls, and a mandatory inspection/maintenance (I/M) program by December 31, 1982.

The overall St. Louis ozone plan projects attainment of the standard by December 31, 1987. The East-West Gateway Coordinating Council (EWGCC) is the designated lead planning agency for the St. Louis metropolitan area and has the required legal authority to develop transportation plans (Section F, paragraph 6(b)).

(5) St. Louis (Carbon Monoxide)—The estimated emissions reduction needed to meet the standard is 35 percent. Application of RACT regulations and the FMVECP is not adequate to meet the CO standard by December 31, 1982. The state has requested an extension until December 31, 1987 to meet the CO standard.

The St. Louis CO plan relies upon transportation control measures and instigation of I/M in 1982 to attain the standard by December 31, 1987. The plan shows that inclusion of I/M and transportation measures will reduce emissions by 62.7 percent by December 31, 1987 (Section F, paragraph 6(f)).

(6) Kansas City (ozone)—An 11 percent reduction of VOC emissions is necessary to attain the ozone standard. Application of the adopted VOC emission control regulations and the FMVECP is projected to provide a 28 percent emissions reduction. The Kansas City plan for ozone projects attainment of the standard by December 31; 1982; thus, no extension to December 31, 1987, is necessary. The requirements of Section 172(b)(11) are not applicable to the Kansas City ozone plan. The requirements of Section 172(b)(11) are discussed in paragraph (m) below (Section F, paragraph 6(e)).

(7) Columbia (TSP)—Columbia is nonattainment for the secondary TSP standard and the state requests an extension to July 1, 1980, to submit a plan to attain the secondary TSP standard.

(f) *Emission Inventory.* Section 172(b)(4) requires the plan to include a comprehensive, accurate, and current inventory of all sources of each pollutant for which an area is nonattainment. It also requires the inventory to be updated as frequnetly as necessary to assure that RFP is being made and to assure that the standard will be attained.

Appropriate emissions inventories for TSP, VOC, SO_2, and CO have been submitted. Plans for future reporting to update emissions inventories have been included (Section F, paragraph 7).

(g) *Emission Growth.* Section 172(b)(5) requires the plan to expressly identify and quantify the emissions, if any, which will be allowed to result from the construction and operation of major new or modified stationary sources in a nonattainment area.

The plan for the St. Louis ozone nonattainment area identified an annual amount of growth for the applicable pollutant. For growth beyond that amount, the state has committed to require offsetting emissions required under Section 173 of the CAAA. The TSP plans for St. Louis County and Kansas City do not identify or quantify emissions growth from new or modified stationary sources, but the state provided assurances that offsetting emissions would be used to assure attainment and maintenance of the applicable standard. The mechanism for tracking new or modified sources is the permit system provided for under State Rules 10 CSR 10–2.110 and 10 CSR 10–5.190 (Section F, paragraph 8).

(h) *Permit Requirements.* Section 172(b)(6) requires plans to have a permit program for the construction and operation of new or modified stationary sources in accordance with the permit requirements of Section 173.

To comply with Section 173, the permit program must assure that when a new source commences operation, there will be sufficient emissions to offset the increased emissions from the new source and to assure reasonable further progress or that the new source will not cause or contribute to an exceedance of any margin for growth identified in the plan; the permit program must require compliance with the lowest achievable emission rate; all sources in the state owned or operated by the permit applicant must be in compliance with all applicable state and federal emission limits; and the applicable implementation plan must be carried out in the nonattainment area in which the source is to be constructed.

V 44 OC 25 79 UMI

The State of Missouri requires permits for the construction of new sources under Rule 10 CSR 10–2.110 and 10 CSR 10–5.190. The state may have adequate enabling authority for operating permits under amended Chapter 536 or Section 203.075 of the Missouri Revised Statutes. The state has not submitted regulations specifically implementing operating permit requirements; however, the state has authority to impose operating conditions on construction permits.

The state has committed to using offsets as required by Section 173 where the growth allowance has been consumed and where no growth allowance has been provided. The state has committed to applying more stringent emission limits where necessary to attain and maintain the ambient air quality standards. The state has committed to carrying out the applicable implementation plan in all affected areas of the State of Missouri. However, the state has not submitted regulations implementing the permit requirements of Sections 172(b)(6) and 173 (Section F, paragraph 9).

(i) *Resources.* Section 172(b)(7) requires the state to identify and commit the financial and manpower resources necessary to carry out the plan provisions.

Each portion of the Missouri SIP revision identifies and commits resources necessary to carry out the plan (Section F, paragraph 10).

(j) *Schedules.* Section 172(b)(8) requires emission limitations, schedules of compliance and other measures as may be necessary to meet the requirements of Section 172.

The plan contains emission limitations to meet the requirements of Section 172. Except for the St. Louis "hot spot" area, the submission contains no compliance schedules for TSP. However, the state maintains that all TSP sources in the nonattainment areas are in compliance with RACT regulations or are on schedules for compliance. The Kansas City and St. Louis TSP plans contain analyses which show the degree of control installed and operating at each major source. The state has demonstrated the existing RACT source controls will not achieve attainment of the primary and secondary standards.

The state is relying on nontraditional source controls such as street cleaning and parking lot paving to show attainment of the primary TSP standard. The Kansas City and St. Louis plans contain schedules for nontraditional source controls to be completed within 180 days of the final rulemaking (Section F, paragraph 11).

(k) *Public, Local Government and Legislative Involvement.* Section 172(b)(9) requires evidence of involvement and consultation of the public, local government and state legislature in the planning process. The section also requires an identification and analysis of various effects of the plan and a summary of public comments on the analysis.

Consultation with the public local governments and the state legislature is evidenced by copies of testimony during the public hearings, copies of the hearing transcript, letters from local government officials regarding the plan and the area designations, and copies of the legislation adopted. In addition, the state met with legislators and legislative committees regarding requirements of the Clean Air Act.

In accordance with Section 174 of the Act, the Mid-America Regional Council (MARC) was designated lead planning agency for the Kansas City area and East-West Gateway Coordinating Council (EWGCC) was designated lead planning agency for the St. Louis area. MARC and EWGCC are primarily responsible for transportation planning, but are active in other SIP elements. MARC is providing funds to support a portion of the nontraditional source control study in Kansas City. These planning agencies represent the local governments in these interstate areas and provide input to the SIP revisions (Section F, paragraph 12).

The SIP submission contained analyses addressing effects required to be analyzed by Section 172(b)(9) and a summary of public comments on the proposal.

(l) *Commitments.* Section 172(b)(10) requires written evidence that all necessary measures have been adopted as legally enforceable requirements, and that agencies responsible are committed to their implementation and enforcement. For some types of measures, EPA interprets the Act as allowing approval of plans containing schedules for adoption and submittal of these measures.

The Missouri Department of Natural Resources has statutory authority to carry out regulations and orders of the MACC. The City of St. Louis, St. Louis County, and Kansas City have ordinances which are part of the existing Missouri SIP. The plan contains adopted regulations and commitments to implement and enforce such regulations, as well as commitments to adopt additional requirements. The plan also contains schedules for study and implementaion of certain measures such as control of nontraditional sources of particulate matter (Section F, paragraph 13).

(m) *Delayed Attainment Dates.* Section 172(b)(11) requires plans with post 1982 attainment dates for ozone and carbon monoxide to have a permit program requiring consideration of alternatives, the establishment of a motor vehicle inspection and maintenance program, and identification of other measures to provide attainment not later than December 31, 1987.

The ozone plan for St. Louis does not clearly demonstrate that alternative site analysis, cost benefit analysis, et cetera, are provided for at either the state or local level as required by Section 172(b)(11).

The St. Louis ozone and carbon monoxide plans contain transportation control measures in addition to inspection and maintenance to assist in attainment of those standards (Section F, paragraph 14).

(n) *1982 Plan Submission.* Section 172(c) requires plans with attainment dates after December 31, 1982, to submit a State Implementation Plan revision by July 1, 1982, containing enforceable measures to assure attainment of the standards not later than December 31, 1987.

The Missouri plan demonstrates that attainment of the ozone and carbon monoxide standards by December 31, 1982 in the St. Louis metropolitan area is not possible. The plan demonstrates that using I/M and other transportation control related measures will achieve attainment of standards by December 31, 1987. Therefore, Section 172(c) will be applicable as a SIP requirement for St. Louis.

E. Other Provisions

This section discusses each requirement, other than those of Part D, that a State Implementation Plan must meet in order to be fully approvable under the Clean Air Act, as amended in 1977.

(1) Interstate Air Pollution

Section 110(a)(E)(i) requires the plan for a state to contain provisions prohibiting stationary sources within that state from causing violations of standards, interfering with measures relating to prevention of significant deterioration of air quality, or interfering with measures to protect visibility in another state. It also requires the plan to contain provisions insuring the compliance with the requirements of Section 126 relating to interstate pollution abatement. The Missouri submission does not expressely address this requirement.

(2) State Boards

Section 128 requires that any board or body which approves permits or enforcement orders shall have at least a majority of members who represent the public interest and do not derive any significant portion of their income from persons subject to permit or enforcement orders, and requires procedures ensuring that financial interests are adequately disclosed.

The Missouri plan revision does not expressly address this requirement.

(3) Permit Fees

Section 110(a)(2)(K) requires a permit fee in connection with any permit required under the Act. This is not expressly addressed in the Missouri SIP revision.

(4) Consultation

Section 121 of the Act requires that the State provide a satisfactory process of consultation with general purpose local governments, designated organizations of elected officials and any federal land manager having authority over land to which the state plan applies.

Although development of the nonattainment revision included consultation with various public officials, the submission did not expressly address the requirements of Section 121 by providing a continuous consulting process.

(5) Stack Heights

Section 123 of the Act requires that the degree of emission limitation required for control of any air pollution source shall not be affected by so much of a stack height exceeding good engineering practice or any other dispersion technique.

This requirement was not expressly addressed in the Missouri SIP revision.

(6) Public Notification

Section 127 requires that each state plan shall contain measures to notify the public of instances in which health-related standards were exceeded.

This requirement is not expressly addressed in the Missouri SIP revision.

(7) Prevention of Significant Deterioration (PSD)

Section 161 requires each implementation plan to contain emission limitations and other measures to prevent significant deterioration of air quality in each region which is designated attainment or unclassified under Section 107 of the Act.

This requirement is not expressly addressed in the Missouri SIP revision.

F. Approvability

This section contains a discussion of issues identified by the EPA which could affect approval of the Missouri SIP. The discussion includes a general description of the deficiency and describes possible actions. This section sets forth alternative approaches to final rulemaking with respect to these issues. Portions of the plan which are discussed below are proposed to be approved.

(1) Demonstration of Primary TSP Standard Attainment

The Missouri submission projects attainment of the primary standard for TSP in the Kansas City and St. Louis nonattainment areas. The control strategy demonstration shows that reasonable further progress will be made and projects incremental reductions to attain the primary standard. The plan shows that reasonably available control technology applied to stationary sources is not adequate to attain the standard. The state submitted schedules to conduct studies of nontraditional source controls in St. Louis and Kansas City which are to be completed within 180 days of the final rulemaking. The anticipated reductions from nontraditional source controls project that the primary TSP standard will be met by December 31, 1982. The EPA believes the Missouri attainment demonstration is adequate to show attainment of the primary TSP standard by December 31, 1982.

Proposed Action: The EPA proposes to approve the attainment demonstration.

(2) Attainment of the Secondary TSP Standard

The State of Missouri has demonstrated that RACT measures will not achieve attainment of the secondary standard for TSP in the secondary nonattainment areas. The state has requested an extension until July 1, 1980 to submit plans to attain the secondary TSP standard in the St. Louis metropolitan area, Kansas City, and Columbia; except that July 1, 1981 was requested for the St. Louis "hot spot." The state has verified that the extension date in the "hot spot" request is a typographical error, and that an extension until July 1, 1980, was intended. The EPA believes that an extension until July 1, 1980 for submission of the plans to attain the secondary TSP standard is approvable.

Proposed Action: The EPA proposes to approve the extension required for submission of plans to attain the secondary ambient air quality standard until July 1, 1980. This proposed extension would apply to the secondary TSP plans required for Kansas City, Columbia, St. Louis, and the St. Louis "hot spot."

(3) Reasonably Available Control Technology

The Missouri Air Conservation Commission adopted rules for the eleven so-called Group I VOC sources to represent RACT. These rules apply only to the St. Louis and Kansas City ozone nonattainment areas. The Control Technique Guidelines (CTGs) provide information on available air pollution control techniques and provide recommendations of what EPA calls the "presumptive norm" for RACT. Based on the information in the CTGs, EPA believes that the submitted regulations are consistent with the RACT guidelines, except as noted below. Where the state requirement deviates from the information contained in the CTGs, and such deviation is adequately justified, EPA proposes approval. RACT is required on major (i.e., greater than 100 tons) and nonmajor sources in St. Louis, but only on major sources in Kansas City.

(A) Rule 10 CSR 10–2.210, Control of Emissions from Solvent Metal Cleaning, applies to the Kansas City ozone nonattainment area and Rule 10–5.300, Control of Emissions from Solvent Metal Cleaning, applies to the St. Louis ozone nonattainment area. The CTGs recommend that all open-top vapor degreasers have a freeboard ratio of 0.75. These rules differ from the CTG recommendation in that existing open-top vapor degreasers are required to have a freeboard ratio of 0.5. New open-top vapor degreasers are required to have the CTG recommended free broad ratio of 0.75. The MACC found that the existing degreasers were designed to meet the OSHA standard of 0.5 and that the cost of retrofitting existing sources would be an unnecessary expense for the small amount of additional control that may be expected. The MACC also found that conversion of existing open-top vapor degreasers to agree with the CTG would only control an estimated additional four to 18 tons per year of VOC. This is less than five percent of the VOC emissions from this source category and represents RACT in the St. Louis area.

The MACC believes the third safety switch recommended in the CTG is unnecessary and not as reliable as the thermostatic cut-off switch and manual reset required by the Missouri regulations. The state believes this requirement will serve the same purpose as the CTG third switch recommendation.

V 44 OC 25 79 UMI

The Missouri regulations substitute an entry rate restriction in lieu of the load size recommended in the CTG.

Proposed Action: The EPA believes the deviations from the CTGs will not significantly affect the allowable VOC emissions from open-top vapor degreasers. The EPA proposes to approve Rule 10 CSR 10.2.210 and 10 CSR 10–5.300 as representing RACT.

(B) Rule 10 CSR 10–2.220, Liquid Cutback Asphalt Paving Restricted, is applicable in the Kansas City ozone nonattainment area and Rule 10 CSR 10–5.310, Liquid Cutback Asphalt Paving Restricted, is applicable in the St. Louis ozone nonattainment area. These regulations are the same. The Missouri regulations define cutback asphalt as containing seven percent diluent. Emulsified asphalt conversely is defined as containing less than seven percent diluent. The CTG recommends that emulsified asphalt may contain no petroleum distillate and that the diluent may be 98 percent water plus two percent non-volatile organic emulsifier. The CTG notes that the State of New York as requiring the use of 100 percent emulsified asphalt; however, New York allows 15 percent petroleum diluent in emulsified asphalt. It appears the Missouri regulation may be at least as stringent as the example in the CTG.

Proposed Action: The EPA believes the Missouri asphalt regulation is approvable as RACT. The EPA proposes to approve Rule 10 CSR 10–1.110 and Rule 10 CSR 5.310 as representing RACT.

(C) Rule 10 CSR 10–2.260, Control of Petroleum Liquid Storage, Loading and Transfer, is applicable in the Kansas City ozone nonattainment area; Rule 10 CSR 10–5.220, Control of Petroleum Liquid Storage, Loading and Transfer, is applicable in the St. Louis ozone nonattainment area. These regulations have the same requirements for each area.

(1) These regulations require floating roof tanks for storage of VOC with a vapor pressure of 1.8 pounds per square inch or greater at 70 degrees Farenheit. The CTG recommendation is 1.5 pounds per square inch absolute (psia) as stored.

The state plan does not adequately discuss the rationale for using 1.8 pounds per square inch at 70 degrees Farenheit in lieu of the CTG recommended value. There must be a demonstration that the Missouri rule will provide controls which will control emissions within five percent of the allowable emissions of the CTG recommendation, or that the rule represents RACT for the specific sources being controlled.

Proposed Action:

The EPA proposes to conditionally approve Rule 10 CSR 10–5.220 and Rule 10 CSR 10–2.260 as representing RACT in the respective nonattainment areas, if within six months of the final rulemaking, the state can show that this rule is within five percent of the control recommended by the CTG, or that the rule represents RACT for the specific sources being controlled.

(2) Rule 10 CSR 10–2.260 and Rule 10 CSR 10–5.220 allows an emission of 0.50 gram per gallon of VOC emission limit for gasoline loading. The CTG recommends 0.30 gram per gallon. The methods of control specified in the state rules are consistent with the controls recommended in the CTG such that installed equipment can meet the CTG recommended emission rate. The rationale for adopting the 0.50 gram per gallon emission rate is that it was adopted previously for St. Louis as part of a revision of the current SIP. The state believes it is simpler to adopt an identical regulation (Rule 10 CSR 10–2.260) for Kansas City and be consistent with the regulation for St. Louis. The state also reasons that revising the emission limit for St. Louis would require an additional public hearing on an existing regulation.

Proposed Action: The EPA proposes to conditionally approve Rule 10 CSR 10–5.220 and Rule 10 CSR 10–2.260 as representing RACT in the respective nonattainment areas, provided that within six months of the final rulemaking, the state demonstrates that the allowable emission limit will not cause emissions to exceed five percent of that of the CTG recommendation, or that the rule represents RACT for the specific sources being controlled.

(D) Rule 10 CSR 10–2.230, Control of Emissions from Industrial Surface Coating Operations, and Rule 10 CSR 10–5.330, Control of Emissions from Industrial Surface Coating Operations, are applicable in the Kansas City and St. Louis ozone nonattainment areas, respectively. These rules exempt sources emitting less than 50 tons per year. The CTG recommends a 25-ton per year cut-off. The MACC finds that only one additional source would be added and that such additional control amounts to less than one percent of the VOC emissions which are allowed by the CTG recommendation from surface coating operations.

The rules submitted express the allowable VOC emissions in terms of pounds per gallon of coating, minus water. The CTG recommends a control efficiency specification because of the difficulty and questionable emission testing procedures. However, in order to determine an efficiency of control equipment, there must be a source test, otherwise the state must assume a collection efficiency. The CTG does provide the alternative mass emission rate used in the Missouri rules for surface coating operations.

Each of these rules specify an emission limit for each of the painting operations of each automobile company with assembly plants in the nonattainment areas. Each painting or coating operation has a specified date for compliance and the regulations require that the owner or operator submit plans to comply with the emission limits for approval by the Director of the Missouri Department of Natural Resources.

The emission limits submitted by the state generally follow the CTG recommendations with two significant deviations. Limits for certain operations at Ford Motor Company plants in St. Louis and Kansas City are less stringent than the CTG recommendations. It has been demonstrated to the EPA that these less stringent limits represent RACT for these Ford plants. Slight additional reductions could be obtained at great additional cost. As an example, using the CTG recommendation an additional 120 tons of VOC could be controlled at one assembly line at an added cost of $20,000 per ton of VOC controlled. The emissions allowed by the Missouri regulation could cost $1,400, per ton of VOC controlled.

The MACC adopted a less stringent emission limit on the General Motors Corvette assembly line, without adequate justification. The General Motors Corporation has committed to meeting the CTG recommended limit on this line.

The state adopted a delayed effective date for surface coating of certain types of cans. No explanation was provided by the state for the delayed date.

These regulations require source owners or operators to maintain records regarding the amounts of emission, solvent content of each coating used (minus water), and capture and control efficiencies. These records are to be maintained for a minimum of two years and shall be available to the Director, Missouri Department of Natural Resources upon request.

Proposed Action: The EPA proposes to approve Rule 10 CSR 10–2.230 and 10 CSR 10–5.330 as representing RACT subject to the condition that within six months of the final rulemaking, the state shall: (1) amend the emission limit for the Corvette assembly line, and (2) demonstrate that the delayed effective dates for can coating represent

compliance as expeditiously as practicable, or amend the dates.

(5) Public Participation

The Missouri submission contained evidence that the plan was adopted after reasonable notice and public hearing.

Proposed Action: The EPA proposes to approve the Missouri plan with respect to Section 172(b)(1).

(6) Reasonable Further Progress

(a) The Missouri submission contains graphs and timetables showing incremental reductions of air pollutants which project attainment of the applicable standards by December 31, 1982, except for ozone attainment in the St. Louis nonattainment area. The St. Louis ozone nonattainment plan approvability will be discussed below at paragraph (14).

Proposed Action: The EPA proposes to approve the Missouri plan with respect to the reasonable further progress demonstration required by Section 172(b)(3).

(b) St. Louis TSP—The state has shown that the primary standard for TSP cannot be attained using only RACT controls at existing stationary sources by December 31, 1982. The state has submitted a schedule to study control of nontraditional sources in St. Louis which is to be completed within 180 days of the final rulemaking. Anticipated results of the study project attainment of the primary TSP standard.

Proposed Action: The EPA proposes to approve the St. Louis TSP nonattainment plan as showing reasonable further progress as required by Section 172(b)(3) of the Act.

(c) Kansas City (TSP)—The state has shown that RACT controls applied to existing stationary sources will not allow the primary ambient air quality standard for TSP to be attained by December 31, 1982. The state submitted a plan for a study of nontraditional source control which will be completed within 180 days of the final rulemaking. The anticipated results of the study project attainment of the primary TSP standard by December 31, 1982.

Proposed Action: The EPA proposes to approve the Kansas City TSP plan as showing reasonable further progress as required by Section 172(b)(3) of the Act.

(d) Kansas City (ozone)—The state has shown that application of the adopted VOC regulations and the Federal Motor Vehicle Pollution Control Program project attainment of the ozone standard by December 31, 1982.

Proposed Action: The EPA proposes to approve the Kansas City ozone plan since it demonstrates attainment of standards as expeditiously as practicable as required by Section 172(a)(1) of the Act and reasonable further progress required by Section 172(b)(3).

(e) St. Louis (CO and ozone)—The state submittal for attainment of the carbon monoxide and ozone standard in St. Louis depends upon transportation control measures and instigation of I/M measures in 1982 to attain the standard by December 31, 1987. Deficiencies in the transportation control measures are discussed in paragraph (14) below. The Missouri Legislature adopted enabling legislation to conduct I/M in the ozone and carbon monoxide nonattainment areas. The MACC and the Missouri State Highway Patrol are to develop a pilot program leading to mandatory I/M program by December 31, 1982. Citizen participation in the I/M program may not be mandatory prior to the 180th day following the convening of the 81st General Assembly First Session without specific legislative authorization and until the governor certified that Illinois and/or Kansas have instigated an equally effective mandatory I/M program or that EPA is applying effective and sufficient sanctions for failure of these states to have such a mandatory program in the appropriate areas. Under EPA's interpretation of the Clean Air Act, the imposition of any of the following actions would be effective and sufficient sanctions:

(1) Denial of clean air grants;

(2) Denial of grants under title 23, U.S. Code;

(3) Denial of permits for the construction and operation of new or modified stationary sources; or

(4) Federal enforcement action.

The Governor of Missouri must 1) determine that the imposition of any of the above actions is effective and sufficient, and 2) reasonably determine whether Illinois and/or Kansas has implemented an equally effective program, in order to avoid the possible imposition of Clean Air Act sanctions in Missouri.

This legislation is approvable as providing the necessary legal authority for the state to conduct I/M in the ozone and carbon monoxide nonattainment areas. Mandatory I/M is to begin no later than December 31, 1982. Analysis of I/M measures projects at least a 25 percent reduction in mobile source carbon monoxide and VOC emissions by December 31, 1987. The SIP does not contain an implementation schedule with milestones indicating activities necessary to instigate a mandatory I/M program.

The attainment demonstration for carbon monoxide uses a simple roll back calculation. However, the plan commits the EWGCC to using a mathematical diffusion model to redefine the required emission reductions and to analyze the impacts of the selected control measures.

Proposed Action: The EPA proposes to conditionally approve the CO and ozone plan revision for St. Louis. The state must correct the deficiences discussed in paragraph (14) below. The state must develop a schedule which will be followed to instigate a mandatory I/M program. The schedule must contain the major milestones (starting and completion dates) the MDNR and/or EWGCC will follow to begin and continue the I/M program and must include actions to implement alternative I/M programs considered, for which air quality benefit credits have been taken. The state must develop or revise the reasonable further progress demonstration, when the final stringency factor and vehicle test mix is selected within six months of the final rulemaking. In addition, EWGCC must implement the carbon monoxide dispersion model in accordance with the schedule contained in the plan. The schedule begins July 1, 1979, and will be complete by June 30, 1980.

(7) Emission Inventory

The Missouri plan submission contains emissions inventories as required by Section 172(b)(4) of the Act.

Proposed Action: The EPA proposes to approve the plan as meeting the requirements of Section 172(b)(4) of the Act.

(8) Emission Growth

The state submittal contains identified emissions growth allowances for certain areas as required by Section 172(b)(5). The plan commits to orderly growth or the application of offsets required under Section 173 of the Act. Missouri used EPA guidance which recommended 1975 through 1977 air quality data as a basis for a strategy design, but permitted use of 1978 data where available. Utilizing 1977 air quality data, a 50 percent reducion in VOC emissions will be required to attain the ozone standard.

The Missouri plan provides for a total annual growth for VOC emissions of approximately 1,700 tons per year from 1980 through 1987 for a total of 10,000 tons for stationary sources during this period. This annual growth includes new and existing sources. The state will track this growth using the existing permit system. Should the tracking system project an exceedance of the annual increment, new or modified sources would be required to employ offsetting emissions.

V 44 OC 25 79 UMI

The state projects approximately 6,000 tons total for new sources only and approximately 4,000 tons for expansion of existing sources in the 1980–1987 time period. The VOC growth allowances will be consumed on a first come, first served basis. Where disputes arise over permitted growth, the state will make the final determination.

The St. Louis AQCR includes three counties in Illinois. The plan for the Illinois portion of the St. Louis metropolitan area differs from Missouri's approach. Illinois used 1978 ozone air quality data as the basis for the estimated reductions needed to meet the ozone standard. The Illinois EKMA analysis utilizing 1978 ozone data projects the need for a reduction of 54 to 60 percent in VOC emissions to attain the ozone standard. Illinois accounted for increases in emissions from existing sources by including the projections of emission changes into their emission inventory and their attainment demonstration. Consequently, the Illinois plan would require major new sources to seek emission offsets. The Missouri submittal included consideration of the Illinois VOC emission reductions.

The EPA solicits comments on the growth allowed by the Missouri submittal for attainment of the ozone standard and on the differences in the approach taken by Missouri and Illinois in the St. Louis Air Quality Control Region.

Proposed Action: The EPA proposes to approve the Missouri plan with respect to the requirements of Section 172(b)(5).

(9) Permit Requirements

The state submittal demonstrates that the MACC has authority to issue permits to construct and commits to requiring the lowest achievable emission rate where necessary. Legislation was adopted granting the MACC the necessary legal authority to comply with the requirements of the Clean Air Act. However, regulations have not been promulgated which would meet the requirements of Section 173. The EPA is considering several options concerning action on the Missouri plan with respect to the new source permit requirements of Sections 172(b)(6) and 173. The EPA is seeking comments on the options discussed below, as well as any other alternatives.

Option A. Disapprove the plan with respect to the requirements of Section 172(b)(6) and Section 173.

Discussion: Under this option new source construction would be prohibited under Section 110(a)(2)(I) of the Act. The growth restriction is explained in detail in the Federal Register of July 2, 1979 (44 FR 38471). The growth restriction went into effect automatically on July 1, 1979, and remains in effect until the SIP is approved or conditionally approved.

Option B. Conditional approval of the plan with respect to the permit requirements. Discussion: If the EPA conditionally approves any portion of a state plan prepared pursuant to Part D of the Act, growth restrictions imposed by the Act are removed during the time between the conditional approval and the deadline for meeting the condition. If the condition is satisfied within the deadline, no further growth restriction is imposed. If the condition is *not* satisfied, the growth restriction is again applicable.

The state has made firm commitments to adopt regulations to comply with the requirements of Section 173. The state has also made a commitment to deny permits not in accordance with Section 173. Commitments include requiring alternate site analysis, lowest achievable emission rate, and assurance that all sources owned or operated by the same entity are in compliance with the applicable plan.

It is unclear that the State of Missouri would be legally able to prevent construction or modification (in a nonattainment area) of sources not in compliance with the requirements of Section 173, without regulations expressly requiring such compliance. Therefore, EPA could approve with the condition that the state submit regulations required by Sections 172(b)(6) and 173 within six months of final rulemaking, *only* if the state provides a certification demonstrated to be legally enforceable that it will not issue permits to sources which do not meet the requirements of Sections 172(b)(6) and 173.

Option C. Delay approval until the appropriate regulations are adopted and submitted to EPA for approval.

Discussion: This option is to take no action on this portion of the plan until the deficiency is corrected. The net result of this option is that restrictions imposed by the Act after July 1, 1979, will remain in effect until the state has adopted and EPA has approved regulations which satisfy the requirements of Section 173.

Option D. Under Section 110(c), promulgate plan provisions for Missouri tracking the language of Section 173. Since the language in the statute is mandatory, EPA would have no discretion and there would be no need for further public hearing.

Proposed Action: EPA does not make a specific proposal on the permit requirements of Sections 172(b)(6) and 173. EPA requests comments on the issue, and will take final action based on comments received and on a detailed evaluation of the situation.

(10) Resources

The Missouri submittal identifies and commits resources needed to carry out the plan as required by Section 172(b)(7) of the Act.

Proposed Action: The EPA proposes to approve the Missouri plan with respect to Section 172(b)(7).

(11) Schedules

The state submission includes compliance schedules for sources subject to the regulations adopted for the nonattainment areas.

Proposed Action: The EPA believes the Missouri plan satisfies the requirements of Section 172(b)(8) and proposes to approve the plan regarding schedules.

(12) Public, Local Government, and Legislative Involvement

The Missouri submission demonstrates involvement of the public and local government by inclusion of hearing transcripts and letters from local governments commenting on the Missouri plan. The plan clearly shows public and local government involvement and consultation in accordance with Section 174; however, the only evidence of legislative involvement are copies of the adopted enabling legislation. Additional information is needed to show consultation with the legislature on the plan contents. This is a minor deficiency and should be easily corrected. The plan includes a brief analysis of air quality, health, welfare, economic, energy, and social effects of the nonattainment plan provisions and alternatives considered by the state, and a summary of public comment on the plan.

Proposed Action: The EPA proposes to approve the plan as complying with Section 172(b)(9). The state should submit additional information which discusses consultation with the legislature regarding the plan.

(13) Commitments

The Missouri submittal contains written evidence of adopted requirements, assurances and commitments that the plan will be implemented and enforced. When additional requirements are adopted to comply with any conditional approvals which may be promulgated, the state will be required to submit additional commitments for implementation and enforcement.

Proposed Action: The EPA proposes to approve the plan as complying with the requirements of Section 172(b)(10) for those measures adopted in the plan.

(14) Attainment Dates and Extensions

The requirements of Section 172(b)(11) are applicable only to the St. Louis plans for ozone and carbon monoxide because an extension until December 31, 1987, has been requested to attain those standards. The ozone and carbon monoxide plans for St. Louis do not clearly demonstrate that alternate site analysis, cost benefit analysis, and other requirements of Section 172(b)(11)(A) have been included.

The St. Louis ozone plan projects attainment of the standard by December 31, 1987; however, there are deficiencies with respect to the requirements of Sections 172(b)(11)(B) and (C) which must be corrected. Deficiencies and approvability of the St. Louis CO submittal were discussed in paragraph 6(e) above. Included in this discussion is the I/M program which is applicable to ozone and carbon monoxide.

(a) The state must require that the East-West Gateway Coordinating Council (EWGCC) provide a list of currently programmed transportation measures having air quality benefits and include the associated implementation schedules. The state and local agencies responsible for implementing those measures must approve and make a a commitment to carry out these projects in accordance with these schedules.

(b) The list of Transportation Improvement Program (TIP) elements must include only those projects having demonstrable air quality benefits. The list submitted with the plan includes "stand-by" projects from the TIP. Such projects must demonstrate their air quality benefits and have commitments for implementation by the responsible agencies or be deleted.

(c) The EWGCC must submit a work program acceptable to EPA for an urban air planning grant under Section 175 of the Act. EWGCC is the designated lead agency for transportation air quality planning. The current grant to EWGCC includes funds for design of a work program leading to a subsequent grant. The work program must provide a schedule for the analysis of alternative transportation strategies and include a commitment by EWGCC to seek commitments to specific transportation measures after the analysis. This work program must also commit EWGCC to assess the health, air quality, economic, energy, and social impacts of the transportation strategies. The effect assessment provided in the SIP must be expanded to adequately address the transportation measures to be submitted in the December 31, 1982, SIP submittal.

(d) The SIP must include a description of the procedures used by EWGCC for determining conformity of transportation plans and programs to the SIP in order to meet the requirements of Section 176(c) of the CAAA. EWGCC must also include in the SIP the description of the process to be used in assessing the air quality impact of transportation system management type projects.

(e) EWGCC must provide explicit commitments in the Section 175 work program to monitor the goals identified in the SIP for emissions reductions by way of five classes of transportation measures. These five classes are: improved mass transportation, increased car pooling, increased van pooling, increasing average vehicle speed, and traffic flow improvements. The SIP revision establishes annual goals through 1982 for achieving emissions reductions using TCMs. These TCMs provide for an estimated 6.45 percent reduction in emissions by December 31, 1982; however, the SIP does not establish specific strategies for achieving this reduction. The Transit Development Plan is cited as a means of increasing ridership by 50 percent, but there is no indication that the plan will be implemented. There are no commitments to other transportation strategies.

(f) In addition to the commitments outlined above, EWGCC must provide a commitment to justify any decision not to adopt difficult control measures.

PROPOSED ACTION: The state has a transportation planning mechanism in process thus, the EPA proposes to conditionally approve the transportation control measures contained in the St. Louis ozone and carbon monoxide plans provided that the deficiencies described in (a) are corrected in three months, and (b) through (f) are corrected within six months of the final rulemaking. The EPA also proposes to conditionally approve the Missouri request for an extension of the attainment date for ozone and carbon monoxide to no later than December 31, 1987. The state must develop within six months of the final rulemaking a program which complies with Section 172(b)(11)(A) of the Act. Such program must include an analysis of alternate sites, sizes, production processes, and environmental control techniques for any new or modified source prior to issuance of a permit for such source to be located in the nonattainment area. Prior to any conditional approval, the state must provide a certification that it will not issue any permits for construction or modification prior to performance of the analysis required by Section 172(b)(11)(A).

G. Summary of Major Issues

1. No attainment plan has been submitted for St. Joseph and New Madrid.

2. Regulations which subject proposed new or modified sources to the requirements of Section 173 of the Act have not been developed. These regulations would require in part emission offsets and the lowest achievable emission rates for new sources locating in a nonattainment area and for modification of existing sources.

H. Conclusion

The measures proposed today will be in addition to and not in lieu of existing SIP regulations. The present emission control regulations for any source will remain applicable and enforceable to prevent a source from operating without control, or under less stringent controls, while it is moving toward compliance with the new regulation. Failure of a source to meet applicable preexisting regulations will result in appropriate enforcement action, including assessment of noncompliance penalties. Further, if there is any instance of delay or lapse in the applicability or enforceability of the new regulations because of a court order or for any other reason, the preexisting regulations will be applicable and enforceable.

The only exceptions to this rule are cases where there are conflicts between the requirements of the new regulations and the requirements of the existing regulations such that it is impossible for sources to comply with the regulations. In these situations, the state may exempt sources from compliance with the preexisting regulations. Any exemption granted will be reviewed and acted on by the EPA either as part of these proposed regulations or as a future SIP revision.

The public is invited to submit comments on whether the proposed amendment to the Missouri air polution regulations and the revised SIP should be approved as a revision to the Missouri State Implementation Plan.

A notice of availability was published in the Federal Register on July 25, 1979, (44 FR 43490) at which time the public was invited to review the revised Missouri SIP. With the publication of the notice of availability and the 30-day comment period allowed on this proposed rulemaking, sixty days will have been allowed for public inspection and comment on the Missouri SIP revision.

V 4 4 0 C 2 5 7 9 UMI

The Administrator's decision to approve or disapprove will be based on comments received and on a determination of whether the amendments meet the requirements of Part D and Section 110(a)(2) of the Clean Air Act and 40 CFR Part 51, Requirements for Preparation, Adoption and Submittal of Implementation Plans.

Under Executive Order 12044, EPA is required to judge whether a regulation is "significant" and, therefore, subject to the procedural requirements of the Order, or whether it may follow other specialized development procedures. EPA labels these other regulations "specialized."

I have reviewed this regulation and determined that it is a specialized regulation not subject to the procedural requirements of Executive Order 12044.

This notice of proposed rulemaking is issued under the authority of Section 110 of the Clean Air Act as amended.

Dated: September 19, 1979.

Kathleen Camin,

Regional Administrator.

[FR Doc. 79-32866 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

VETERANS ADMINISTRATION

41 CFR Part 8-7

Contract Clauses

AGENCY: Veterans Administration.

ACTION: Proposed rule.

SUMMARY: The Veterans Administration is proposing to amend its procurement regulations by revising two contract clauses. A supply contract clause is to be revised to increase the amount charged to contractors for remarking improperly marked containers so as to reflect current costs. The other clause is to be revised to clarify the allowable calculation of profit in changes to construction contracts.

DATES: Comments must be received on or before November 26, 1979. It is proposed to make this change effective 30 days after final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until December 6, 1979.

FOR FURTHER INFORMATION CONTACT: A. G. Vetter (202-389-2334).

Additional Comment Information

Interested persons are invited to submit written comments, suggestions or objections regarding these documents to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until December 6, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the above address and room number.

Approved: October 17, 1979.

By direction of the Administrator.

John J. Leffler,

Associate Deputy Administrator.

1. In § 8-7.150-23, the clause is revised to read as follows:

§ 8-7.150-23 Noncompliance with packaging, packing, and/or marking requirements.

* * * * *

Noncompliance With Packaging, Packing, and/or Marking Requirements

Failure to comply with the packaging, packing, and marking requirements indicated herein, or incorporated herein by reference, may result in rejection of the merchandise and request for replacement, or repackaging, repacking, and/or marking. The Government reserves the right without obtaining authority from the Contractor to perform the required repackaging, repacking, and/or marking services and charge the Contractor therefor at a rate of $16 per man-hour for the first or fractional hour and $10 for any succeeding or fractional hour, or have the required repackaging, repacking, and/or marking services performed commercially under Government orders and charge the Contractor therefor at the above rates. In connection with any discount offered, time will be computed from the date of completion of such repackaging, repacking, and/or marking services.

2. In § 8-7.650-21, paragraph (d) is revised to read as follows:

§ 8-7.650-21 Contract changes.

Clause 3, Changes, and Clause 4, Differing Site Conditions, of General Provisions, SF 23A, are supplemented as follows:

* * * * *

(d) Allowances not to exceed 10 percent each for overhead and profit for the party performing the work will be based on the value of labor material, and use of construction equipment required to accomplish the change. As the value of the change increases, a declining scale will be used in negotiating the percentage of overhead and profit. Allowable percentages on changes will not exceed the following: 10 percent overhead and 10 percent profit on first $20,000; 7½ percent overhead and 7½ percent profit on next $30,000; 5 percent overhead and 5 percent profit on balance over $50,000. Profit shall be computed by multiplying the profit percentage by the sum of the direct costs and computed overhead costs.

* * * * *

(38 U.S.C. 210(c); 40 U.S.C. 486(c))

[FR Doc. 79-32868 Filed 10-24-79; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 29

[OST Docket No. 65; Notice No. 79-21]

Nondiscrimination on the Basis of Age In Programs and Activities Receiving or Benefitting From Federal Financial Assistance

Correction

In FR Doc. 79-32482, appearing at page 60946, in the issue for Monday, October 22, 1979, § 29.85(e) was inadvertently omitted. The present paragraph (e) should be redesignated as paragraph (f) and the omitted paragraph (e) should be added to read as follows:

§ 29.85 Hearings.

* * * * *

(e) *Procedures, evidence and record.* (1) The hearing, decision, and any administrative review thereof are conducted in conformity with Sections 554 through 557 of Title 5 of the United States Code, and in accordance with such rules of procedure as are proper (and not inconsistent with this section) relating to the conduct of the hearing, giving notice subsequent to those provided for in paragraph (a) of this section, taking testimony, exhibits, arguments and briefs, requests for findings, and other related matters. The responsible Departmental official and the applicant or recipient are entitled to introduce all relevant evidence on the issues as stated in the notice for hearing or as determined by the officer conducting the hearing. Any person (other than a government employee considered to be on official business) who, having been invited or requested to appear and testify as a witness on the government's behalf, attends at a time and place scheduled for a hearing provided for by these regulations may be reimbursed for his/her travel and actual expenses in an amount not to exceed the amount payable under the standardized travel regulations applicable to a government employee traveling on official business.

(2) Technical rules of evidence do not apply to hearings conducted pursuant to these regulations, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to cross examination are applied where reasonably necessary by the administrative law judge conducting the hearing. The administrative law judge may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record are open to examination by the parties and opportunity is given to refute facts and arguments advanced by either side. A transcript is made of the oral evidence except to the extent the substance thereof is stipulated for the record. All decisions are based on the hearing record and written findings shall be made.

* * * * *

BILLING CODE 1505-01-M

V 4 4 0 C 2 5 7 9 UMI

Notices

Federal Register
Vol. 44, No. 208
Thursday, October 25, 1979

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Remedial Order Procedures of the Department of Energy; Tentative Recommendations

AGENCY: Administrative Conference of the United States; Committee on Ratemaking and Economic Regulation.

ACTION: Extension of comment deadline.

SUMMARY: The Administrative Conference Committee on Ratemaking and Economic Regulation has reached agreement in principle on tentative recommendations relating to remedial order procedures of the Department of Energy. The tentative recommendations propose that the Department of Energy Organization Act be amended so as to (1) abolish review by the Federal Energy Regulatory Commission of remedial orders issued by the Office of Hearings and Appeals, (2) establish by statute a set of procedures to be followed by the Office of Hearings and Appeals in deciding remedial orders cases, and (3) abolish district court review of final remedial orders and provide for judicial review directly in the Temporary Emergency Court of Appeals. The Committee has decided to allow additional time for comments on its tentative recommendations.

COMMENT DEADLINE: November 19, 1979.

SEND COMMENTS TO: William C. Bush, Administrative Conference of the United States, 2120 L Street NW, Suite 500, Washington, DC 20037.

All comments received will be available for public inspection at the above address from 9:00 a.m. to 5:30 p.m., Monday through Friday, excluding holidays.

DOCUMENTS AVAILABLE: Copies of the consultant's draft report are available on request to the contact person. Ask for: Aman, "Institutionalizing the Energy Crisis: Some Structural and Procedural Lessons" (draft of July 18, 1979).

FOR FURTHER INFORMATION CONTACT: William C. Bush, Administrative Conference of the United States, 2120 L Street NW, Suite 500, Washington, DC 20037. Telephone (202) 254–7065.

SUPPLEMENTARY INFORMATION: On September 19, 1979, the Administrative Conference Committee on Ratemaking and Economic Regulation met to consider a draft report and proposed recommendations, submitted by Conference consultant Professor Alfred C. Aman, Jr. of Cornell Law School, on remedial order procedures of the Department of Energy.

The Committee agreed with the consultant that both the administrative and the judicial procedures for handling remedial orders include unnecessary duplication of decision making actions. The Committee agreed in principle on tentative recommendations proposing that review of remedial orders by the Federal Energy Regulatory Commission and by district courts be abolished. The Committee also agreed that the procedural standards for handling remedial orders by the Office of Hearings and Appeals should be specified by statute, and that these standards should be similar to the present requirements of section 503 of the Department of Energy Organization Act.

By Federal Register notice of October 3, 1979 (44 FR 56972) the Committee requested comments on its tentative recommendations. The Committee has decided to extend the comment deadline to November 19, 1979. Following receipt of comments, the Committee will hold a public hearing on or about November 28, 1979. Notice of the date, time, place, and procedure for this hearing will be published separately in the Federal Register.

TENTATIVE RECOMMENDATIONS:

1. **Agency for administrative review.** Review by the Federal Energy Regulatory Commission of remedial orders issued by the Secretary under section 503 of the Department of Energy Organization Act is unnecessarily duplicative of the present procedures of the Office of Hearings and Appeals, and should be abolished. Congress should amend section 503 to provide that final administrative review of the Secretary's remedial orders occur in the Office of Hearings and Appeals. In order to assure the separation of prosecutorial and judicial functions within the Department regarding remedial order actions, Congress should amend the Department of Energy Organization Act so as to guarantee the continuation, in enforcement proceedings, of the present organizational independence of the Office of Hearings and Appeals.

2. **Administrative procedures.** Although remedial order cases need not be fully subject to the adjudicatory provisions of the Administrative Procedure Act, Congress should, by statute, specify minimum procedural standards to be used by the Office of Hearings and Appeals. In particular, the procedures applicable at present to the Federal Energy Regulatory Commission under section 503(c) of the Department of Energy Organization Act should be made applicable to the Office of Hearings and Appeals.

3. **Judicial review.** At present, final remedial orders of the Department of Energy are appealable to the United States district courts and, following district court review, to the Temporary Emergency Court of Appeals. Appellate review of administrative action by the district courts is inappropriate in any case, is unnecessarily duplicative of review by the Temporary Emergency Court of Appeals, and results in prolonged delays in arriving at authoritative judicial determinations of legal issues arising in connection with remedial order cases. Congress should amend the Department of Energy Organization Act to provide that final remedial orders of the Office of Hearings and Appeals be appealable directly to the Temporary Emergency Court of Appeals (and thereafter by writ of certiorari to the Supreme Court).

RELATED ISSUES FOR COMMENT: Although the Committee has tentatively agreed to limit its recommendations to the above proposals, the Committee invites additional comments addressing the following related issues.

1. Should the presiding officer in a remedial order proceeding at the Department of Energy be an administrative law judge? If so, and if review by the Federal Energy Regulatory Commission be abolished, what should be the form of final agency action on a remedial order? For example, should the administrative law judge's decision be reviewable by the Office of Hearings and Appeals, by the Economic Regulatory Administration, by the Secretary of Energy, or by some other entity?

2. Should remedial order proceedings be subject to the full adjudicatory procedural requirements of the Administrative Procedure Act, rather than to the somewhat different requirements of the Department of Energy Organization Act (as incorporated in tentative recommendation No. 2 above)?

3. Should judicial review of remedial orders take place in the circuit courts of appeals, rather than in the Temporary Emergency Court of Appeals? If so, what should be the rules of venue?

4. Should judicial review of final remedial orders (whether in the Temporary Emergency Court of Appeals or in the circuit courts of appeals) be subject to the provisions of section 706(2) of the Administrative Procedure Act, rather than to the more limited provisions of section 211(d)(1) of the Economic Stabilization Act of 1970?

5. Under section 504 of the Department of Energy Organization Act, decisions of the Secretary (at present, delegated to the Office of Hearings and Appeals) denying requests for adjustments are appealable to the Federal Energy Regulatory Commission and then to federal district courts and then to the Temporary Emergency Court of Appeals. Are these multiple layers of review either unnecessary to achieve decisional fairness, or unnecessarily burdensome to applicants for adjustments, so that section 504 should be amended to provide that adjustment decisions of the Office of Hearings and Appeals constitute final agency actions which are directly appealable to the Temporary Emergency Court of Appeals (or to a circuit court of appeals)? If so, what additional procedural requirements should be specified by statute so as to assure the fair and efficient handling of requests for adjustments by the Office of Hearings and Appeals and the courts? (Recommendations related to the policy-making aspects of the adjustments program will be considered by the Committee at a later time as part of an on-going project to study Department of Energy procedures. However, since the adjustment and remedial orders programs are subject to very similar basic procedures for agency action and judicial review, the Committee may wish at this time to propose recommendations in this area.)

Richard K. Berg,
Executive Secretary.
October 16, 1979.
[FR Doc. 79-32967 Filed 10-24-79; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forest Service

Forest Land and Resource Management Plan, Colville National Forest, Ferry, Pend Oreille, and Stevens Counties, Wash.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an Environmental Impact Statement for a Forest Land and Resource Management Plan.

Planning efforts will be centered around the 1,095,857 acres of National Forest land administered by the Colville National Forest, as well as its northeastern Washington area of influence which includes Ferry, Pend Oreille, and Stevens Counties and the Spokane area. Involvement and coordination with State, local and other Federal governmental bodies representing these areas, and other self-determining bodies such as the Colville and Kalispel Indian Tribes will be a key element in the planning effort.

The basis for this planning effort is contained in Section 6 of the National Forest Management Act of 1976, which calls for incorporating the standards and guidelines of Section 6 into plans for each National Forest. The Act further states "Form one integrated plan for each unit of the National Forest System, incorporating into one document or set of documents, available to the public at convenient locations, all of the features required by this section" (Section 6(f)(1)).

The proposed action is to prepare a Forest Land and Resource Management Plan. Selection of a plan for implementation will be made from a range of alternatives developed in the environmental analysis, and displayed in the Environmental Impact Statement. These alternatives must meet the following criteria: (1) each alternative will be capable of being achieved; (2) a no action alternative will be formulated, that is the most likely condition expected to exist in the future if current management direction would continue unchanged; (3) each alternative will provide for the orderly elimination of backlogs of needed treatment for the restoration of renewable resources as necessary to achieve the multiple use objectives of the alternative; (4) each identified major public issue and management concern will be addressed in one or more alternatives; (5) each alternative will represent the most cost effective combination of management practices examined that can meet the objectives established in the alternative.

Tentative issues and concerns are being identified from past public input to RARE II, unit plans and other activities in addition to internal issues and concerns developed by Forest employees and the Forest Interdisciplinary Team. These are scheduled for presentation to the public in November, 1979. Oral and written responses will be requested. Public meetings will be held at several locations in the Colville National Forest area of influence, to facilitate public participation. Meetings with local, state and other Federal agencies will be held during the issue identification phase of the plan, to further determine the scope of the plan. Public review opportunities are planned for the identification of planning criteria, formulation of alternatives and evaluation of alternatives planning process steps.

R. E. Worthington, Regional Forester, is the responsible official, and Stephen A. Kelley, Colville National Forest Planning, Programming, and Budgeting Staff Officer, will be the Interdisciplinary Team Leader for preparing the environmental analysis and impact statement.

It is anticipated that the environmental analysis will require about 3½ years. The Draft Environmental Impact Statement is expected to be available for public review by approximately December, 1982. The Final Environmental Impact Statement is scheduled for completion in December, 1983.

Comments on this Notice of Intent or on the Colville National Forest Plan should be sent to Stephen A. Kelley, Planning, Programming, and Budgeting Staff Officer, Colville National Forest, Colville, Washington, 99114.

Dated: October 18, 1979.

Frank J. Kopecky,
Acting Regional Forester.
[FR Doc. 79-32896 Filed 10-24-79; 8:45 am]
BILLING CODE 3410-11-M

V 44 O C 25 79 UMI

V 44 OC 25 79 UMI

Forest Land and Resource Management Plan, Mount Hood National Forest, Multnomah, Clackamas, Hood River, Wasco, Marion, and Jefferson Counties, Oreg.; Intent To Prepare an Environmental Impact Statement

Pursuant to the National Environmental Policy Act of 1969, the Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the Mt. Hood National Forest Land and Resource Management Plan.

The Forest Plan will be developed in accordance with the direction for land and resource planning developed pursuant to the National Forest Management Act of 1976. The Forest Plan will contain the following:

1. A brief description of the major public issues and management concerns which are pertinent to the Forest, indicating the disposition of each issue or concern.

2. A summary of the analysis of the management situation, including a brief description of existing management situations. Demand and supply conditions for resource commodities and services, production potentials, and use and development opportunities.

3. Long-range policies, goals, and objectives, and the specific objectives of the plan.

4. Proposed vicinity, timing, standards and guidelines for proposed and probable management practices, and

5. Monitoring and evaluation requirements which are pertinent at the forest level.

Tentative issues, concerns, and opportunities have been identified from past public input to Land Management Planning programs on the Mt. Hood National Forest. These will be presented to the public in October 1979. Oral and written responses will be requested. Informational meetings will be held in Gresham, Hood River and Mill City. From the input received and that provided by Forest Service officials and interested representatives of State, county and local governments, a final set of issues, concerns and opportunities will emerge which will guide the planning process.

Based on analysis of the final issues and concerns, a coordinated resource date base will be created using existing data. A range of alternatives for resource allocation and management will be developed, with the assistance of the public and other Governmental agencies, which will address the issues and management concerns.

It is anticipated that the analysis will take about two years. The Draft Environmental Impact Statement for the Mt. Hood National Forest Land and Resource Management Plan is expected to be available for public review by December 1980. The Final Environmental Impact Statement is scheduled to be completed in 1981.

Comments or questions on this Notice of Intent or the planning process should be addressed to: Myron Blank, Land Management Planning, Mt. Hood National Forest, 19559 S.E. Division, Gresham, Oregon 97030 (Phone 503/667-0511).

Dated: October 16, 1979.

Frank J. Kopecky,

Acting Regional Forester.

[FR Doc. 79-32901 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, Angeles National Forest, Los Angeles and San Bernardino Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the forest plan for the Angeles National Forest.

This forest plan is one of eighteen currently being developed in Pacific Southwest Region. The development of these several forest Plans and the regional plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) briefly describe the major public issues and management concerns,

(b) briefly describe the lands and resources of the Angeles National Forest,

(c) identify the goals and objectives of management,

(d) describe the expected types and amounts of goods, services, or uses—by decades,

(e) identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) identify monitoring and evaluation criteria,

(g) refer to information used in plan development, and

(h) identify the persons who participated in the development of the plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this plan include but are not limited to:

(a) the kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest System lands,

(b) the public costs of providing these goods and services, and

(c) the physical, biological, economic and social effects, associated with the production of goods and services.

The forest plan will be selected from a range of alternatives which will include at least:

(a) a "no action" alternative which represents continuation of the present management direction,

(b) one or more alternatives formulated to respond to major public issues and management concerns.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) identification of the issues to be addressed,

(b) identification of those issues to be analyzed in depth, and

(c) elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this, public meetings will be held in Claremont, Azusa, Pasadena, Valencia and Palmdale.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the draft environmental impact statement is September 1982. Following a three-month public review period, a final environmental impact statement will be prepared and distributed in approximately June 1983.

For further information about the planning project, or the availability of the environmental impact statement, or other documents relevant to the planning process, contact: Forest Planner, Angeles National Forest, 150 S. Los Robles, Pasadena, CA 91101, (213) 577-0050.

Dated: October 18, 1979.

Thomas L. Price,

Acting Regional Forester.

[FR Doc. 79-32900 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, Mendocino National Forest, Glenn, Lake, Colusa, Tehama, Mendocino, and Trinity Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the Forest Plan for the Mendocino National Forest.

This Forest Plan is one of eighteen currently being developed in the Pacific Southwest Region. The development of these several Forest Plans and the Regional Plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a Regional Plan.

This Forest Plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Mendocino National Forest,

(c) identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Idenfity the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Idenfity monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the Plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this Plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the uses to be permitted on the National Forest System lands,

(b) The public costs of providing these goods and services, and

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest Plan will be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns,

(c) One or more alternatives formulated to investigate various levels of achievement of RPA targets.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Identification of those issues to be analyzed in depth, and

(c) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest Plan.

To accomplish this, public meetings will be held:

November 19, 1979

Jay E. Partridge Elementary School, 290 East Avenue, Chico, CA; 7:30 p.m.–9:30 p.m.

December 3, 1979

Veterans Memorial Building, 1351 Maple Avenue, Santa Rosa, CA; 1:30 p.m.–4:00 p.m., and 7:30 p.m.–9:30 p.m.

December 3, 1979

City Council Chambers, Corning City Hall, 3rd and Solano Streets, Corning, CA; 7:30 p.m.–9:30 p.m.

December 3, 1979

Stonyford Town Hall, Stonyford, CA; 7:30 p.m.–9:30 p.m.

December 3, 1979

Nice Community Club House, Carson Way, Nice, CA; 7:30 p.m.–9:30 p.m.

December 3, 1979

Masonic Hall, Covelo, CA; 7:30 p.m.–9:30 p.m.

December 5, 1979

Civil Defense Hall, Highway 299, Weaverville, CA; 7:30 p.m.–9:30 p.m.

Written comments and suggestions about these items are encouraged. To be most useful, they should be received by the Forest Supervisor before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the meetings listed above.

The estimated date for distribution of the Draft Environmental Impact Statement is September 1982. Following a three-month public review period, a final Environmental Impact Statement will be prepared and distributed in approximately May 1983.

For further information about the planning project, or the availability of the Environmental Impact Statements, or other documents relevant to the planning process, contact: Dick English, Mendocino National Forest, 420 E. Laurel Street, Willows, CA 95988, 916-934-3316.

Dated: October 18, 1979.

Thomas L. Price,

Acting Regional Forester.

[FR Doc. 79-32899 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-11-M

Land and Resource Management Plan, Shasta-Trinity National Forest, Shasta, Siskiyou, Tehama, and Trinity Counties, Calif.; Intent To Prepare an Environmental Impact Statement

The USDA-Forest Service will prepare an environmental impact statement for the forest plan for the Shasta-Trinity National Forest.

This forest plan is one of eighteen currently being developed in the Pacific Southwest Region. The development of these several forest plans and the regional plan is starting simultaneously in order to facilitate the identification of issues to be addressed. Forest planning will be completed after adoption of a regional plan.

This forest plan will provide policy and program direction for all National Forest System lands under the administration of the Forest Supervisor.

The Forest Plan will:

(a) Briefly describe the major public issues and management concerns,

(b) Briefly describe the lands and resources of the Shasta-Trinity National Forest,

(c) Identify the goals and objectives of management,

(d) Describe the expected types and amounts of goods, services, or uses—by decades,

(e) Identify the proposed vicinity, timing, standards, and guidelines for proposed and probable management activities,

(f) Identify monitoring and evaluation criteria,

(g) Refer to information used in plan development, and

(h) Identify the persons who participated in the development of the plan, including a summary of their qualifications.

The issues expected to be discussed in the development of this plan include but are not limited to:

(a) The kinds and amounts of goods, the services to be produced, and the

uses to be permitted on the National Forest System lands.

(b) The public costs of providing these goods and services, and,

(c) The physical, biological, economic and social effects associated with the production of goods and services.

The Forest plan wil be selected from a range of alternatives which will include at least:

(a) A "no action" alternative which represents continuation of the present management direction,

(b) One or more alternatives formulated to respond to major public issues and management concerns,

(c) One or more alternatives formulated to investigate opportunities for departure from even-flow non-declining timber yield,

(d) One or more alternatives formulated to respond to the Resource Planning Act.

(e) One or more alternatives which will analyze a wilderness option for RARE II Further Planning areas.

As an early step in the planning, Federal, State, and local agencies, organizations, and individuals who may be interested in, or affected by, the adopted plan, will be invited to participate in:

(a) Identification of the issues to be addressed,

(b) Elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review, or are not within the scope of this Forest plan.

(c) Identification of resource use and development opportunities.

To accomplish this, scoping workshops will be held at:

Burney, California—November 29, 1979, 7:30 to 9:30 P.M., Veteran's Hall.
Mt. Shasta, California—December 4, 1979, 7:30 to 9:30 P.M., Mt. Shasta High School.
Weaverville, California—December 5, 1979, 7:30 to 9:30 P.M., Civil Defense Hall.

Written comments and suggestions about issues, concerns and opportunities are encouraged. To be most useful, they should be received by the Forest Supervisor, 2400 Washington Avenue, Redding, CA. 96001, before January 7, 1980. The kind of additional public participation opportunities has not yet been determined. It will vary as the planning progresses and will be responsive to issues and concerns identified during the scoping workshops listed above.

The estimated date for distribution of the draft environmental impact statement is March 1981. Following a three month public review period, a final environmental impact statement will be prepared and distributed in approximately October 1981.

For further information about the planning project, or the availability of the environmental impact statements, or other documents relevant to the planning process, contact: Gary Adams, Forest Planner, Shasta-Trinity National Forest, 2400 Washington Avenue, Redding, CA 96001, (916) 246-5407.

Dated: October 16, 1979.

Robert W. Cermak,

Acting Regional Forester, Pacific Southwest Region.

[FR Doc. 79-32897 Filed 10-24-79; 8:45 am]

BILLING CODE 3410-11-M

Office of the Secretary

Import Fees; Adjustment of Import Fees on Sugar

AGENCY: Office of the Secretary.

ACTION: Notice.

SUMMARY: Headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) requires the Secretary of Agriculture to decrease by one cent the amount of the fees which shall be imposed on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15) under the authority of Section 22 of the Agricultural Adjustment Act of 1933, as amended, whenever the average of the daily spot price quotations for raw sugar for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, exceeds 16.0 cents. This notice announces such adjustment.

EFFECTIVE DATE: 12:01 a.m. (local time at point of entry) October 24, 1979. (See supplementary information.)

FOR FUTHER INFORMATION CONTACT: William F. Doering, Foreign Agricultural Service, Department of Agriculture, Washington, DC 20250, (202-447-6723).

SUPPLEMENTARY INFORMATION: By Presidential Proclamation No. 4631, dated December 28, 1978, headnote 4 of Part 3 of the Appendix to the TSUS was amended to provide for quarterly adjusted fees on imports of raw and refined sugar (TSUS items 956.05, 956.15, and 957.15). Paragraph (c)(ii) of headnote 4 provides that the quarterly adjusted fee for item 956.15 shall be the amount by which the average of the daily spot (world) price quotations for raw sugar for the 20 consecutive market days immediately preceding the 20th day of the month preceding the calendar quarter during which the fee shall be applicable (as reported by the New York Coffee and Sugar Exchange or, if such quotations are not being reported, by the International Sugar Organization), expressed in United States cents per pound, Caribbean ports, in bulk, adjusted to a United States delivered basis by adding the applicable duty and 0.90 cents per pound to cover attributed costs for freight, insurance, stevedoring, financing, weighing and sampling, is less that 15.0 cents per pound. However, whenever the average of the daily spot price quotations for 10 consecutive market days within any calendar quarter, adjusted to a United States delivered basis, plus the fee then in effect, (1) exceeds 16.0 cents, the fee then in effect shall be decreased by one cent, or (2) is less than 14.0 cents, the fee then in effect shall be increased by one cent. However, the fee may not be greater than 50 per centum of the average of such daily spot price quotations. Paragraph (c)(i) further provides that the quarterly adjusted fee for items 956.05 and 957.15 shall be the amount of the fee for item 956.15 plus 0.52 cents per pound.

The average of the daily spot price quotations for raw sugar (item 956.15) for the 10 consecutive market day period October 8–October 19, inclusive, within the fourth calendar quarter of 1979, adjusted as provided in headnote 4(c) to a United States delivered basis, plus the fee of 0.76 cents per pound now in effect for item 956.15[15.67 + 0.76=16.43] exceeds 16 cents per pound. Accordingly, the fee of 0.76 cents per pound for item 956.15 is required to be decreased by one cent, resulting in a fee for item 956.15 of 0.00 cents per pound and a fee for items 956.05 and 957.15 of 0.52 cents per pound.

Headnote 4(c) requires the Secretary of Agriculture to determine and announce any adjustment in the fees made within a calendar quarter, certify such adjusted fees to the Secretary of the Treasury and file notice thereof with the **Federal Register** within 3 market days of such determination. This notice is therefore being issued in order to comply with the requirements of headnote 4(c).

Effective Date

In accordance with headnote 4(c)(v) of part 3 of the Appendix to the Tariff Schedules of the United States, the adjustment in fee made herein shall not apply to the entry or withdrawal from warehouse for consumption of sugar exported (as defined in § 152.1 of the Customs Regulations) on a through bill of lading to the United States from the country of origin before the effective date of the adjustment.

Notice

Notice is hereby given that, in accordance with the requirements of headnote 4(c) of Part 3 of the Appendix to the Tariff Schedules of the United States, it is determined that the fees for raw and refined sugar (TSUS items

956.05, 956.15, and 957.15) for the remainder of the fourth calendar quarter of 1979, unless subsequently adjusted pursuant to headnote 4(c), shall be as follows:

Item	Fee
956.05	0.52 cents per lb.
956.15	0.00 cents per lb.
957.15	0.52 cents per lb.

The amounts of such fees have been certified to the Secretary of the Treasury in accordance with paragraph (c)(iii) of headnote 4.

Signed at Washington, D.C. on October 22, 1979.

Bob Bergland,

Secretary of Agriculture.

[FR Doc. 79-32956 Filed 10-23-79; 9:29 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Performance Review Board; Eligibility List

Below is a listing of individuals who are eligible to serve on the Performance Review Board in accordance with the Senior Executive Service Management and Administration Performance Appraisal System:

Farnum K. Alston
Herbert S. Becker
Hugh L. Brennan
Calvin Brooks
Joseph C. Brown
Kenneth Brown
Joseph Caponio
Guy W. Chamberlin
Eleanor Clark
William Cox
Melvin S. Day
Michael Doyle
Orcutt P. Drury
Joseph W. Duncan
David L. Edgell, Sr.
Robert B. Ellert
Lucy A. Falcone
David Farber
Howard I. Forman
Sidney R. Galler
Daniel Garbern
John M. Golden
John V. Graziano
Paul L. Guidry
Lawrence O. Houstoun
Cecil M. Hunt
Isabel E. Hyde
Sidney R. Jeffers
David A. Jewell
Frederick T. Knickerbocker
Christos N. Kyriazi
Samuel A. Lawrence
A. Jane Lewis
Ernest A. Lotito
Alfred Meisner
Robert T. Miki
Martha A. Mitchell
Homer E. Moyer, Jr.
David S. Nathan
Clifford J. Parker
William H. Randolph
Lucille K. Reifman
Henry G. Riegner
Theordore Schell
Frederick A. Schenck
James Sexton, Jr.
Joseph A. Sickon
William V. Skidmore
Courtenay M. Slater
Mento A. Soponis
Anthony R. Stadeker
Allan A. Stephenson
Gael M. Sullivan
John R. Szpanka
Charles F. Treat
Jeanne R. Westphal
John D. Whisman
John C. Williams
Francis W. Wolek
Gaylord E. Worden
Robert L. Wright

JoAnn Sondey,

Executive Secretary Management and Administration Performance Appraisal System.

[FR Doc. 79-32859 Filed 10-24-79; 8:45 am]

BILLING CODE 3510-19-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial Affairs

Proposed Rules for the Allocation of Watch Quotas for Calendar Year 1980 Among Producers Located in the Virgin Islands, Guam and American Samoa

AGENCY: Bureau of Trade Regulations, Industry and Trade Administration, Department of Commerce; Office of Territorial Affairs, Department of the Interior.

ACTION: Proposed annual rules.

SUMMARY: Pursuant to Section 3 of the Departments' codified Watch Quota regulations (15 CFR Part 303), annual rules for calendar year 1980 are being proposed. The proposed rules are substantially like the 1979 rules, but would raise the ceiling on wages creditable for allocation purposes and invite applications from new firms in the Virgin Islands.

DATE: Comments must be received on or before December 26, 1979.

FOR ADDITIONAL INFORMATION CONTACT: Mr. Richard M. Seppa, who can be reached by telephone on 202-724-3526.

SUPPLEMENTARY INFORMATION: The Departments propose to raise the maximum of wages per person which shall be credited in the allocation of quota from $14,000 to $16,000. This change would continue the Departments' policy of emphasizing wages paid to locally trained assembly line workers and discouraging excessive payments to technical and managerial personnel who are not recruited locally. The dollar ceiling proposed, however, takes into account inflationary erosion of the ceiling over the past five years and increases in the territorial wage rates (Virgin Islands in particular) which have raised the annual wages of some local skilled assemblers and technicians above the 1979 ceiling.

Except as noted above, the Departments are proposing no changes from the 1979 provisions with respect to:

(1) The weights assigned to the allocation formula weights, or the allocation factors;

(2) The Virgin Islands and Guam ratios for Section 1 allocations; or

(3) The eligibility requirements for Section 3 incentive allocations.

While recent changes in the Virgin Islands industrial incentive programs have reduced the significance of income tax payments as a contributing factor to the territorial economy, carryover liabilities and variability in the timing of individual producer payments and refunds justify the retention of the income tax factor in the 1980 allocation formula. It is believed that the elimination of the income tax factor in 1980 would have the effect of penalizing those producers who made substantial payments during 1979 applicable to prior tax years. The 1979 rules provided a Guam ratio for Section 1 allocations lower than the Virgin Islands ratio due to the concentration of low-labor producers in Guam and the consequent need to reinforce the Section 3 incentives. There has been no change in the circumstances which directly supported this provision, and the Departments therefore propose to continue this feature in the 1980 rules.

In the preamble to the 1979 annual allocation rules the Departments indicated that they would carefully monitor the effect of the 1979 rules on individual companies. In the Virgin Islands, two firms which relied almost exclusively on low-labor movements in prior years have diversified their sources of parts, have engaged in more in-depth assembly on a portion of their production and have transferred certain stateside quality control operations to the territory. These changes have had the effect of increasing those firms' average wage input per unit assembled from less than $.50 in 1978 to levels which satisfy the wage criteria applicable to Section 3 allocations in the 1979 allocation rules.

The total 1979 shipments of each of these producers are expected to exceed 1978 levels when the firms concentrated their production on the low-labor units. Changes in the ownership and control of a third low-labor producer accompanied by significant changes in the firm's headnote 3(a) mode of operation have made it impossible to assess the implications of the 1979 allocation rules on this firm.

Overall shipments from the Virgin Islands through June 30 declined some 300,000 units from 1978 levels (2.2 million units to 1.9 million units). However, wages generated in the first half of 1979 rose by nearly $300,000 when compared with 1978 wages ($2 million to $2.3 million) for the same period.

V 4 4 0 C
2 5 7 9
UMI

Shipments of Guam headnote 3(a) producers for the first six months of 1979 are about 20% below the 1978 rate and a further decline from 1978 levels is expected for the second half of the year. While the Departments lack wage data on the Guam producers' 1979 operations, a major contributing factor for the expected decline in shipments appears to be the inability of these producers to secure from their parts supplier watch movements in the sizes most in demand in the U.S. market (6 by 8 ligne movements or smaller).

Major technological changes and shifts in consumer preferences are occurring in the U.S. market for watches and watch movements. In general, the demand for conventional watch movements of the variety produced in the headnote 3(a) industry is falling appreciably, commensurate with the growing popularity and consumer acceptance of quartz analog watches and LCD solid state watches.

For example, in 1977 duty-paid imports of conventional watches and watch movements (with balance wheel and hairspring) constituted 61% of the total watch and watch movement imports. By 1978 this percentage had dropped to 52% of the total duty-paid imports, and through July, 1979, only 44% of 1979 duty-paid imports of watches and watch movements were of the conventional variety. This trend is expected to continue in 1980 and beyond based on buyer interests evidenced recently at major trade shows.

Preliminary data on 1979 insular shipments show that every price level of the 17-jewel, insular product (from the least expensive, low-labor movements to the moderate-priced European movements) have suffered from the major shift toward nonconventional watches. Although the Departments expect that the headnote 3(a) watch and watch movement shipments may decline from 15% to 20% in 1979, due to the above cited factors in the U.S. market, and general economic conditions, they have no evidence to suggest that either the territorial economies or individual companies have suffered from the incentive features adopted in the 1979 allocation rules. Moreover, the conflicting opinions expressed during the 1979 rulemaking process, namely, that the rules would permit a gradual

Contributing factors may have been the uncertainty of potential new entrants regarding the outcome of litigation involving the 1979 allocation rules and of the multilateral trade negotiations concluded relatively late in 1979. In any event, these provisions are proposed to be continued in the 1980 rules. It is proposed to raise the amount of the Guam set-aside to 250,000 units because of the expected decline in shipments this year. Also, in view of the projected shortfall in utilization of the Virgin Islands quota, a provision setting aside 300,000 units is proposed for new firms in that territory.

For the above reasons, the Departments propose calendar year 1980 watch quota rules as follows:

Section 1. (a) A portion of the 1980 Virgin Islands quota determined in accordance with subsection 2(a) below and a portion of the 1980 Guam quota determined in accordance with Subsection 2(b) below will be allocated on the basis of (1) the dollar amount of wages, up to a maximum of $16,000 per person, paid by each producer during calendar year 1979 to residents of the territory and attributable to each producer's headnote 3(a) watch and watch movement assembly operations, (2) the dollar amount of income taxes paid by each producer during calendar year 1979 attributable to its headnote 3(a) watch and watch movement assembly operations (excluding penalty payments and income tax refunds and subsidies paid by the territorial governments during calendar year 1979), and (3) the number of units of watches and watch movements assembled in the territory and entered by each producer duty-free into the customs territory of the United States during calendar year 1979. (b) In making allocations under this formula, a weight of 60 percent will be assigned to the wage factor, a weight of 20 percent will be assigned to the income tax factor, and a weight of 20 percent will be assigned to the shipment factor.

Section 2. (a) An amount representing that portion of the 1980 Virgin Islands quota equal to the ratio of general headnote 3(a) shipments of watches and watch movements from the territory during 1979 to the total 1979 Virgin Islands quota will be allocated among the producers in the Virgin Islands, in accordance with the allocation factors

Guam, in accordance with the allocation factors and weights specified in Section 1.

Section 3. The portions of the Virgin Islands and Guam quotas not allocated pursuant to subsections 2(a) and 2(b) respectively, except as specified in Section 4, will be allocated among firms meeting the requirements of subsections (a) and (b) of this section. Eligible firms will be allocated quota in accordance with the factors and weights specified in Section 1. Allocation of the portions of the Virgin Islands and Guam quotas under this Section will be made to firms which:

(a) Assembled all watch movements shipped during 1979 from unassembled movements having at least 26 discrete components and all watches (that is, cased movements) during 1979 from at least 29 discrete components, including at least 26 movement components and at least 3 case components; or

(b) Made wage payments during 1979 in the territory averaging not less than $.75 per watch movement and $.95 per watch assembled and shipped into the customs territory of the United States.

Section 4. Quota set aside for new firms in the Virgin Islands and Guam under subsection 5(b) shall be subtracted from the quota amount allocable under Section 3, before allocations are made pursuant to that subsection.

Section 5. (a) Applications from new firms are invited for the calendar year 1980 American Samoa quota, because the sole recipient in the territory discontinued operations in calendar year 1977, and a new entrant was not selected under the 1978 or 1979 new entrant provisions (43 FR 4274; 43 FR 10718; 43 FR 60313 (1978)). Due to the limited size of the American Samoa quota, the Departments will allocate that quota to the single firm which offers the best prospect of making a meaningful long-term contribution to the economy of the territory.

(b) Applications from new firms are invited for 250,000 units of the calendar year 1980 Guam quota, and for 300,000 units of the calendar year 1980 Virgin Islands quota.

(c) Applicants for new-entrant quotas must complete applicable sections of Form ITA–334P, copies of which may be obtained from the Statutory Import Programs Staff, U.S. Department of

that they are able and willing to meet the minimum assembly or wage contribution criteria established in Section 3. Following the Secretaries' determination that a qualifying application has been received, an announcement will be published in the Federal Register establishing a closing date for further applications. The closing date shall be 30 days from the date of such notice.

In the event no qualifying application for quota set aside by subsection (b) above is received prior to September 1, 1980, that quota may be reallocated among eligible producers pursuant to § 303.5(b) of Title 15 of the Code of Federal Regulations.

Section 6. Reallocation of calendar year 1980 quota that becomes available will be restricted to those firms satisfying the criteria established in subsections 3(a) or 3(b) and to any new entrant firms selected pursuant to Section 5, above.

Section 7. As used in Section 3 of these rules,

(a) "Wages" means all wages up to $16,000 per person paid to residents of the territories employed in a firm's headnote 3(a) watch and watch movement assembly operations. Excluded, however, are wages paid to (i) accountants, lawyers or other professional personnel who may render special services to the firm, (ii) persons assembling nonheadnote 3(a) watches and watch movements, (iii) persons engaged in the repair of nonheadnote 3(a) watches and watch movements, and (iv) persons engaged in the strapping and packaging of watches. Wages paid to persons engaged in both headnote 3(a) and nonheadnote 3(a) assembly and repair activities shall be credited proportionately for their headnote 3(a) activities, provided the firm maintains production and payroll records adequate for the Departments' verification of the headnote 3(a) portion.

(b) "Discrete movement components" means screws, parts, components and subassemblies not assembled together with another part, component or subassembly at the time of importation into the territory. (A mainplate containing set jewels or shock devices, together with other parts, would be considered a single discrete component, as would a barrel bridge subassembly.) Excluded are dials, dial washers, dial

Departments that they will not alter assembly operations during calendar year 1980 in a manner which would result in their failure to satisfy the respective criteria.

(b) If the Departments have reason to believe that a producer has not complied with or is not complying with the certification required by subsection (a) of this Section, they may issue an order requiring the producer to show cause within 30 days of receipt of the order, why the duty-free quota to which it would otherwise be entitled should not be cancelled or reduced by the Departments.

(Pub. L. 89–805, 80 Stat. 1521 (19 U.S.C. 1202) as amended; 15 CFR 303)

Issued at Washington, D.C. on October 19, 1979.

Robin B. Schwartzman,

Acting Deputy Assistant Secretary for Trade Regulation, U.S. Department of Commerce.

Ruth G. Van Cleve,

Director, Office of Territorial Affairs, U.S. Department of the Interior.

[FR Doc. 79–32935 Filed 10–24–79; 8:45 am]
BILLING CODE 4310–10–M
BILLING CODE 3510–25–M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Hardware Subcommittee of Computer Systems Technical Advisory Committee will be held on Wednesday, November 14, 1979, at 9:30 a.m. in Room 3708, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory

Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Hardware Subcommittee was formed to continue the work of the Performance Characteristics and Performance Measurements Subcommittee, pertaining to (1) maintenance of the processor performance tables and further investigation of total systems performance; and (2) investigation of array processors in terms of establishing the significance of these devices and determining the differences in characteristics of various types of these devices.

The Subcommittee meeting agenda has four parts:

General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion of improved method of submitting supporting information for export license applications and development of methods of reporting performance values.

Executive Session

4. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public; a limited number of seats will be available. To the extent time permits members of the public may present oral statement to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the

94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearance.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

Copies of the minutes of the General Session can be obtained by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, DC 20230, phone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: October 19, 1979.

Kent N. Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79–32841 Filed 10–24–79; 8:45 am]

BILLING CODE 3510–25–M

Joint Meeting: Foreign Availability Subcommittees of the Computer Systems Technical Advisory Committee and Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Partially Closed Meeting

Purusant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Foreign Availability Subcommittees of the Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee will be held on Tuesday, November 13, 1979, at 1:00 p.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, DC.

The Computer Systems Technical Advisory Committee and the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee were initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committees, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Foreign Availability Subcommittee of the Computer Systems Technical Advisory Committee was established on July 8, 1975. On October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee. The Foreign Availability Subcommittee of the Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee was established on December 21, 1978, by the Assistant Secretary for Industry and Trade pursuant to the charter of the Committee.

The Committees, where they have expertise in such matters, advise the Office of Export Administration, Bureau of Trade Regulation, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export controls applicable to computer systems, peripherals, components and related test equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls. The Foreign Availability Subcommittees were formed to ascertain if certain kinds of equipment are available in non-COCOM and Communist countries, and if such equipment is available, then to ascertain if it is technically the same or similar to that available elsewhere.

The joint Subcommittee meeting agenda has five parts:

General Session

1. Opening remarks by the Subcommittee Chairmen.

2. Presentation of papers or comments by the public.

3. Discussion of the foreign availability implications of the Export Administration Act.

4. New business.

Executive Session

5. Discussion of matters properly classified under Executive Order 11652 or 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittees. Written statements may be presented at any time before or after the meeting.

The Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, has formally determined, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94–409, that the matters to be discussed by each of the aforementioned Subcommittees in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy. All materials to be reviewed and discussed by the Subcommittees during the Executive Session of the joint meeting have been properly classified under Executive Order 11652 or 12065. All Subcommittee members have appropriate security clearances.

Copies of the minutes of the General Session will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, DC 20230, phone 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Following are the dates of approval of the Notices of Determination to close portions of the series of meetings of the Technical Advisory Committees involved in this joint meeting, and of any subcommittees thereof, the dates the full texts of the Notices of Determination were published in the Federal Register, and the Federal Register citations:

	Date approved	Date published
Computer systems technical advisory committee.	Sept. 6, 1978.	Sept. 14, 1978 (43 FR 41073).
Computer peripherals, components and related test equipment technical advisory committee.	Sept. 6, 1978.	Sept. 14, 1978 (43 FR 41071).

Dated: October 19, 1979.

Kent N. Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79–32842 Filed 10–24–79; 8:45 am]

BILLING CODE 3510–25–M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C App. (1976), notice is hereby given that a meeting of the Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Tuesday, November 13, 1979, at 9:30 a.m. in Room 3817, Main Commerce Building, 14th Street and Constitution Avenue, NW, Washington, DC.

The Computer Systems Technical Advisory Committee was initially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1), of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedureal aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has five parts:

(1) Opening remarks by the Subcommittee Chairman.

(2) Presentation of papers or comments by the public.

(3) Discussion of pending items of business.

(4) Discussion of qualified general/product license.

(5) Discussion of improved method of submitting supporting information for export license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: A/C 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: October 18, 1979.

Kent Knowles,

Director, Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

[FR Doc. 79–32840 Filed 10–24–79; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

New England Fishery Management Council; Scoping Meeting

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of Public Meeting and Intent to Prepare an Environmental Impact Statement.

SUMMARY: The New England Fishery Management Council announces a Scoping Meeting to discuss the preparation of a new Fishery Management Plan for Atlantic Groundfish (cod, haddock, and yellowtail flounder). This Scoping Meeting is part of the Council's process for determining the scope of issues to be addressed in its Environmental Impact statement and for identifying the significant issues related to the development and implementation of a new Atlantic groundfish management plan. The purposes of the scoping process are discussed in 40 CFR 1501.7; the Council on Environmental Quality's regulations implementing the National Environmental Policy Act (43 FR 55978). This notice is intended to satisfy the requirement for a Notice of Intent to Prepare an Environmental Impact Statement.

DATE: November 14, 1979, from 10 a.m. to about 5 p.m.

ADDRESS: Holiday Inn, Routes 1 and 128, Peabody, Massachusetts 01960.

FOR FURTHER INFORMATION CONTACT: Douglas G. Marshall, Executive Director, New England Fishery Management Council, One Newbury Street, Peabody Office Building, Peabody, Massachusetts 01960, Phone: (617) 535–5450.

SUPPLEMENTARY INFORMATION: At its meeting on September 6, 1979, in Bar Harbor, Maine, the New England Fishery Management Council adopted the following motion:

"That the Council implement a new groundfish plan as soon as possible to replace the present plan. The new plan shall remain in effect until the Atlantic Demersal Finfish (ADF) plan is implemented. The new plan shall include in its objectives:

1. Enhancement of spawning activities (by means of appropriate spawning closed areas).

2. Reduction of the risk of recruitment overfishing of cod, haddock, and yellowtail flounder (by means of appropriate mesh sizes).

3. Acquisition of reliable data, in support of the development of the ADF plan, on normal fishing patterns of the industry and the biological attributes of the stocks as may be determined by commercial activities.

The plan shall make provisions for all appropriate and enforceable regulations which lead to the stated objectives."

The present Fishery Management Plan for Atlantic Groundfish was prepared by the New England Fishery Management Council under the Fishery Conservation and Management Act of 1976 and approved by the Secretary of Commerce in March 1977. Since its implementation, the plan has been extended and amended numerous times. The amendments were necessary because of changes in the abundance of the cod, haddock, and yellowtail flounder stocks and the increased amount of fishing effort applied to those stocks.

V 44 OC 25 79 UMI

Regulations implementing the present plan can be found at 50 CFR Part 651, 44 FR 55885, September 28, 1979. Further information on the present Atlantic Groundfish Fishery Mangement Plan can be obtained from the Council's Executive Director at the above address.

The new groundfish management plan is intended to replace the current plan and its implementing regulations. The Council intends to prepare a Draft Environmental Impact Statement (DEIS) on the new Groundfish Plan and will conduct public hearings on the DEIS before preparation of the Final Environmental Impact Statement and final plan. The availability of the DEIS and dates and addresses of the public hearings will be announced in the Federal Register.

The Council invites the participation of all interested Federal, State, and local agencies, fishing industry organizations, fishermen, fish processors, consumers of fishery products, environmental organizations, and any other interested persons in the development of the new plan. Public participation in the development of the DEIS for the new plan will begin with the Scoping Meeting on November 14, 1979. Alternative actions to implement the management objectives adopted on September 6, 1979, as well as methods for analyzing the environmental and economic impacts of these alternatives will be discussed at the Scoping Meeting.

Dated: October 22, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-32952 Filed 10-24-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Regulatory Permit Action, Prudhoe Bay, Alaska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent To Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: 1. The proposed action constitutes issuance of permits to the SOHIO Petroleum Company and the Atlantic Richfield Company for the Prudhoe Bay Unit Waterflood Project loacted in the North Slope Borough, Alaska. The project is related to society's need for energy and is proposed to increase oil recovery from the Prudhoe Bay Oil Pool by selective injection of water into the subsurface reservoir. The proposed project includes:

a. Construction of a buried seawater pipeline and intake structure extending into the Beaufort Sea (Arctic Ocean) 8,500 feet beyond an existing dockhead.

b. Construction of a seawater treatment plant.

c. Construction of two injection plants.

d. Construction of roads, distribution pipelines, one injection pad, and expansion of drill pads..

2. Alternatives include no action; meeting society's energy need by other means; issuing permits with certain conditions; use of alternative freshwater sources or seawater source locations; alternative plan variations relating to roads, pipelines, structures, dredging and other construction techniques, intake/discharge structures, treatment plant process, and air pollution control techniques.

3. The scope of the draft environmental impact statement will be determined by encouraging and seeking the involvement of individuals; organized groups; the Inupiat Eskimos; expert opinion; and local, state, and Federal agencies. These and other interested parties are invited to actively participate in the scoping process by expressing ideas and concerns related to the proposed action.

Issues to be analyzed in-depth include effects on wetland values, biological resources of aquatic systems, water quality, wildlife, air quality, human dependence and use of affected resources, and the conservation of oil reserves. Possible cooperating agencies (as defined by current Federal guidelines) include the U.S. Environmental Protection Agency (EPA), the U.S. Fish and Wildlife Service, and other agencies of the Department of the Interior. In addition to the environmental impact statement and the Corps of Engineers permit process, the project will require permits from EPA and various local and state bodies.

4. Various scoping meetings will be held to provide an opportunity for public involvement. Meeting times have not yet been established. Written comments regarding the scope of the Draft Environmental Impact Statement are welcomed.

5. The Draft EIS is currently estimated to be available for public review in April 1980.

ADDRESS: Questions about the proposed action and the DEIS can be answered by: William D. Lloyd, Chief, Environmental Section, Alaska District, Corps of Engineers, P.O. Box 7002, Anchorage, Alaska 99510.

Dated: Oct. 17, 1979.

Lee R. Nunn,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 79-32902 Filed 10-24-79; 8:45 am]

BILLING CODE 3710-NL-M

Office of the Secretary

Defense Science Board Task Force on ECM; Meeting

The Defense Science Board Task Force on ECM will meet in closed session 20-21 November 1979 at the Pentagon, Washington, D.C.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

The Task Force will discuss potential technical solutions to several current problems in electronic counter-measures.

In accordance with 5 U.S.C. App. I. section 10(d)(1976), it has been determined that this Defense Science Board Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1976), and that accordingly, this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Woshington Headquarters Services, Department of Defense.

October 22, 1979.

[FR Doc. 79-32912 Filed 10-24-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of September 1979. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Allocation and Price Regulations and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions:

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price;

2. Post the maximum lawful selling price for each grade of gasoline on the face of each pump in numbers and letters not less than one-half inch in height; and

3. Properly maintain records required under the aforementioned regulations.

For further information regarding these Consent Orders, please contact Wayne I. Tucker, District Manager of Enforcement, Southwest District Office, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, telephone number 214/767-7745.

Firm's Nome, Address, and Dote of Consent Order

Jone's Exxon, 4705 E. Lancaster, Ft. Worth, Tx 76103—Sept. 5, 1979

Hal Spry, d.b.a., Spray's Exxon Service, 4121 South 1st, Abilene, Tx—Aug. 22, 1979

H. P. Enterprises (Hurst, Tx), 811 Dallas St., Suite 621, Houston, TX 77002—Sept. 14, 1979

Sammie C. Simonton, d.b.a., Jewella Texaco and Foster Road Texaco, Rt. 5, Box 505, Haughton, La. 71037—Sept. 26, 1979

Issued in Dallas, Texas, this 17th day of October, 1979.

Wayne I. Tucker,

District Manager, Southwest Enforcement District.

[FR Doc. 79-32944 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of action taken on consent orders.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that Consent Orders were entered into between the Office of Enforcement, ERA, and the firms listed below during the month of September. These Consent Orders concern prices charged by retail motor gasoline dealers allegedly in excess of the maximum lawful selling price for motor gasoline. The purpose and effect of these Consent Orders is to bring the consenting firms into present compliance with the Mandatory Petroleum Price Regulations and the General Allocation and Price Regulations, and they do not address or limit any liability with respect to the consenting firms' prior compliance or possible violation of the aforementioned regulations. Pursuant to the Consent Orders, the consenting firms agree to the following actions.

1. Reduce prices for each grade of gasoline to no more than the maximum lawful selling price:

2. Post the maximum lawful selling price, or a certification that the current selling price is equal to or less than the maximum allowed, for each grade of gasline on the face of each pump in numbers and letters not less than one-half inch in height, or in a prominent place elsewhere at the retail outlet in numbers or letters not less than four inches high;

3. Properly maintain records required under the aforementioned regulations; and

4. Cease and desist from employing any discriminatory and/or unlawful business practices prohibited by the aforementioned regulations.

For further information regarding these Consent Orders, please contact William D. Miller, District Manager for Enforcement, 324 East 11th Street, Kansas City, Missouri 64106, telephone number (816) 374-5936.

Issued in Kansas City, Missouri on the 18th day of October, 1979.

William D. Miller,

District Manager of Enforcement.

Firm Nome, Firm Address, and Audit Date

Western Illinois Oil-Imperial, 700 Vandalia, Collinsville, Il. 62234—09-04-79

Meramec Marina, Inc., 13156 Gravois, St. Louis, Mo. 63127—09-05-79

Ron's Standard, 375 N. Hwy. 67, Florissant, Mo. 63031—09-05-79

W & K Service-Charbonier Shell, 520 Shackelford, Florissant, Mo. 63033—09-05-79

Pacific Shell, Hwy. 66 West, Pacific, Mo. 63069—09-06-79

Eureka Sunoco, 21 E. 5th Street, Eureka, Mo. 63025—09-06-79

Interstate 66 Service, I-44 Hwy. 100, E Gray Summit, Mo. 63039—09-06-79

Interstate Sunoco, Hwy. 100 & 66, Gray Summit, Mo. 63039—09-06-79

Eureka Shell, I-44 & Woods Avenue, Eureka, Mo. 63095—09-06-79

Berger Standard, I-55 & Hwy. 61, Festus, Mo. 63028—09-10-79

Charlie Smith Texaco, I-55 & Hwy. 32, Ste. Genevieve, Mo. 63670—09-10-79

Jerry's Standard Service, 206 Manchester, Ballwin, Mo. 63011—09-10-79

Jack's Service-Sunoco, 810 S. 7th Street, St. Louis, Mo. 63101—09-11-79

Carrollton Shell, 12401 Natural Bridge Road, Bridgeton, Mo. 63042—09-13-79

Suburban Service-Sunoco, 9309 Bellefontaine, St. Louis, Mo. 63137—09-14-79

Barker's Standard, 2100 S. Jefferson, St. Louis, Mo. 63104—09-14-79

Beesley Tire & Automotive, 1155 East Kearney, Springfield, Missouri 65803—09-13-79

Fisher's Standard, 5th & Elm, Washington, Mo. 63090—09-14-79

Taylor's Standard, Hwy. 55 & 84, Hayti, Mo. 63851—09-17-79

Faron Brothers Shell, 105 N. Lindbergh, St. Louis, Mo. 63141—09-17-79

Harold Sullivan Texaco, 8100 Clayton Road, Richmond Heights, Mo. 63117—09-17-79

Wayne's Distributing-Standard, RFD 2, Box 60, Waterloo, Il. 62298—09-17-79

D & J Mobile Service, 1965 Madison Avenue, Granit City, Il. 62040—09-18-79

Sunset Shell, I-270 & 157, Glen Carbon, Il. 62034—09-18-79

Bill & Joe's Shell Service, Hwy. 3, E. Alton, Il. 62024—09-19-79

Hemann Chevrolet-Standard, 501 W. Hanover, New Baden, Il. 62265—09-20-79

Haines Standard Service, I-44 and Martin Springs Dr., Rolla, Mo. 65401—09-21-79

Manchester Standard, 929 Manchester Road, Manchester, Mo. 63011—09-25-79

Beyer Standard, 1691 Woodson Road, Overland, Mo. 63114—09-26-79

Woodside Standard Service, Hwy. 157 & Forest Drive, Caseyville, Il. 62232—09-26-79

Tommy's Sunoco, Elm & Big Bend, Webster Groves, Mo. 63119—09-28-79

Ed's Standard Service, Hwy. 111 & I-270, Mitchell, Il. 62040—09-28-79

Taylor and Page Amoco, 1302 N. Taylor, St. Louis, Mo. 63113—09-28-79

Hency Oil Company-Standard, 309 E. Malone, Sikeston, Mo. 63801—09-24-79

Dempster/Greenwood Shell, 1201 W. Dempster, Park Ridge, IL—60068—9-17-79

Watts Service Center Inc., 1625 Waukegan Road, Glenview, IL. 60025—9-17-79

North & Praten Shell, 70E North Avenue, Northlake, IL. 60164—9-12-79

Ranch Manor Standard, 11040 Crawford, Oak Lawn, IL. 60453—9-12-79

Bob's Texaco, 1538 Roselle Road, Roselee, IL. 60172—9-18-79

Bud's Arco, 191 Deerpath Road, Lake Forest, IL. 60045—9-26-79

Anundson Super Clark 100, 14800 S. LaGrange Road, Orland Park, IL. 60462—9-6-79

Farris Shell, 8659 S. Jeffery Blvd., Chicago, IL. 60617—9-6-79

Gorman's Shell, 151 S. Harlem, Orland Park, IL 60462—9-13-79

Gorman's Shell, 115th Western, Chicago, IL. 60612—9-13-79

Herb's Union 76, 1618 Sheridan Road, Wilmette, IL 60091—9-10-79

Wilmette Texaco, 803 Greenbay Road, Wilmette, IL. 60091—9-19-79

Jim's Bloomingdale Clark, 118 W. Lake Street, Bloomingdale, IL. 60108—9-17-79

Zephyr Gas & Oil, 319 Everett Street, Dixon, IL. 61021—9-21-79

Cochran's Texaco, 1704 N. Cunningham, Urbana, IL. 61801—9-20-79

Darwish Shell, 15500 Plymouth, Detroit, MI 48227—9-4-79

Dewey Johnson, Six-Southfield Mobil, 1812 McNichols, Detroit, MI—9-4-79

Gerald Safiedine, Safiedine's Mobile Ser., 15510 Fenkell, Detroit, MI 48227—9-5-79

C.L. LaGrand-Roots Sunoco, 12721 Fenkell, Detroit, MI—9-5-79

Edward Johnson Mobile Station, 15300 Livernois, Detroit, MI—9–5–79
Alter Bubben, Gr. River/Southfield Shell, 17776 Gr. River, Detroit, MI 48227—9–6–79
Roke Juncevse/Roko Shell Trumbull/Warren Shell, 5001 Trumbull, Detroit, MI—9–6–79
Lynn's Oakland Auto Service-Standard, 9881 Oakland, Detroit, MI 48211—9–4–79
Harvey Schlesinger Sunoco Ser. Center, 8005 E. Jefferson, Detroit, MI 48214—9–5–79
Krausmann's Gulf Service, 16820 Kercheval, Grosse Pte., MI 48230—9–6–79
Rick Auto Service, Lake & Church Sts., Bridgeman, MI 49106—9–4–79
Jo Jo Car Wash, 16240 Telegraph, Detroit, MI 48219—9–6–79
Hadley STD Service, I–94 & Red Arrow Hwy., Bridgeman, MI 49106—9–4–79
Tackett's Service, 22850 Allen Rd., Woodhaven, Michigan 48172—9–5–79
Camilli Service, 19900 West & Allen, Woodhaven, MI 48172—9–5–79
Ahmad O. Chebib, Mobile, 3575 West Rd., Trenton, MI 48183—9–6–79
James R. Chasca King & Fort Shell, 20990 Fort, Riverview, MI 48197—9–5–79
Fort & Sibley Shell, 18799 Fort St., Riverview, MI 48192—9–6–79
Yezbick Mobil, 22500 Woodward, Ferndale, MI—9–6–79
Smith Bros. Service, 29011 Gratiot, Roseville, MI 48066—9–5–79
South Park Service, 22785 Gratiot, East Detroit, MI 48021—9–4–79
Schoenherr–9 Mile Sunoco, 23012 Schoenherr, Warren, MI 48089—9–4–79
MD Service, 23011 Hoover, Warren, MI 48089—9–4–79
Pat's Auto Service, 29100 Little Mack, Roseville, MI 48066—9–5–79
Cornish Sunoco, 27630 Little Mack, St. Clair Shores, MI—9–5–79
10 Mile & Little Mack Shell, 20725 E. 10 Mile Rd., St. Clair Shores, MI—9–5–79
10 Mile & Kelly Service, 18700 E. 10 Mile, East Detroit, MI 48021—9–6–79
Jesse Edwards-Livernois/Fenkell Shell, 15230 Livernois, Detroit, MI—9–7–79
Charles Riley-Riley's Shell, 9711 Livernois, Detroit, MI—9–7–79
Samir Bishay Lodge Sunoco, 15464 Livernois, Detroit, MI—9–11–79
Dan Weber's Texaco, 636 E. Front St., Traverse City, MI—9–11–79
Tony's Service, 616 Cayusa, Bellaire, MI 49615—9–11–79
Boyne Petro, M–32 & 131, West Elmira, MI 49730—9–11–79
Cy Marine, State Street, Walnut Lake, MI—9–11–79
Bill's Union, 14394 LaPlaissance Rd., Monroe, MI—9–7–79
Devco Automotive, 2763 28th Street, Grand Rapids, MI—9–10–79
Glenwood Standard Service, 1560 Lake Drive, Grand Rapids, MI—9–11–79
Seaway Shell, 275 W. Muskegon, Muskegon, MI—9–12–79
Van's Mobil Service, 1087 W. Laketon, Muskegon, MI—9–12–79
M & F Union-76, 3205 W. Leonard, Grand Rapids, MI—9–13–79
Kerr's Service, 1300 Alpine, Grand Rapids, MI—9–13–79
Alpine Sportsman, 4366 Alpine, N.W., Comstock Park, MI—9–13–79
Zinner's Marina-Gulf, 32895 S. River Rd., Mt. Clemens, MI 48045—9–14–79
Jerry's Marina-Standard, 32715 S. River Rd., Mt. Clemens, MI 48045—9–12–79
Morsal's Mobil-M. Feder, 32825 S. River Rd., Mt. Clemens, MI 48045—9–12–79
Shore's Service, 23709 Harper, St. Clair Shores, MI—9–11–79
Automotive Service Engineers, 28500 Harper, St. Clair Shores, MI—9–11–79
Eastland Marathon, 21000 Kelly, East Detroit, MI 48021—9–11–79
Bay Harbor Marina, 5309 E. Wilder Rd., Bay City, MI 48706—9–13–79
Liberty Oil Company, 6304 E. Jefferson, Detroit, MI 48207—9–13–79
Willie Davis-Shell Station, 9645 Jefferson, Detroit, MI 48214—9–13–79
Willie Davis-Shell Station, 12441 Jefferson St., Detroit, MI 48215—9–13–79
Joe's Standard, Hwy. 2–41, Bark River, MI 49807—9–14–79
Gerry's Mobil, Stephenson & 5B, Iron Mountain, MI 49801—9–14–79
Ted's Texaco, North U.S. 2, Iron Mountain, MI—9–14–79
Carlson Service Station, 641 River Avenue, Iron Mountain, MI—9–14–79
South Side Shell, South Stephenson, Iron Mountain, MI—9–14–79
Koski Corner's Standard, U.S. 41 & M–95, Champion, MI 49814—9–14–79
Nez Marathon, 1000 S. Front, Marquette, MI 49885—9–14–79
Jim's 41 Shell Ser., Highway 41, Ispheming, MI 49849—9–15–79
Uhl Standard, U.S. 41 & Third, Ispheming, MI 49849—9–15–79
Shell Service Center, 1219 S. Front St., Marquette, MI 49855—9–17–79
J. C. Bullock Oil Co.-Self Serve, 729 W. Washington, Marquette, MI 49855—9–17–79
Marquette Quick Mart, 339 Washington, Marquette, MI 49855—9–17–79
Fred's Service, Main Street & M–96, Chatham, MI 49816—9–17–79
Nelson Shell Service, 203 Munising Avenue, Munising, MI 49862—9–17–79
Jesse Edwards-Schoolcraft & Southfield Mobil, 17721 Schoolcraft, Detroit, MI 48227—9–17–79
John Kustra-Otis/Livernois Standard, 3278 Livernois, Detroit, MI 48204—9–17–79
Amos Walls-Walls Shell, 9600 Livernois, Detroit, MI 48204—9–17–79
A. M. A. Gulf Service & Hapel Service, 21435 W. 8 Mile Rd., Detroit, MI—9–18–79
Herman Bailey-Bailey's Shell, 18331 W. 8 Mile Rd., Detroit, MI 48219—9–18–79
Henry Parker Clark Super 100, 19901 Livernois, Detroit, MI 48204—9–18–79
Elaven G. Sweis Standard, 19854 Woodward, Detroit, MI 48203—9–20–79
Chung Hwan West Side Sunoco, 820 W. McNichols, Detroit, MI—9–20–79
Peter Herman 6–Burchess Sunoco, 3720 W. McNichols, Detroit, MI—9–20–79
Gordie Service, 712 Ashmund, Sault Ste. Marie, MI—9–18–79
Soo Oil Service Ctr., 100 Ashmun, Sault Ste. Marie, MI—9–18–79
Selden Service, 709 N. State, St. Ignace, MI 49781—9–18–79
M–59 & Tull Sunoco, 7660 Highland, Pontiac, MI 48054—9–10–79
23 & Shelby Shell Ser., 4840 23 Mile Rd., Shelby Twp., MI 48087—9–21–79
Johnson's Texaco, Box 207, Rock, MI 49880—9–19–79
Brown's Store, Box 315, Little Lake, MI 49833—9–19–79
Dionne General Store, Box 380, Skandia, MI 49885—9–19–79
Hill Top 76, Marlot Rd. & 270, Waters, MI 49797—9–20–79
Forward's Plaza, I–75 & Cook Road, West Branch, MI 48661—9–20–79
C & D Service, M–65 & 103 State, Twining, MI 48776—9–21–79
Dick's Mobil, 129 & Main, Pickford, MI 49774—9–21–79
Shute Oil Company, Main & Mackinac-Box 301, Rudyard, MI 49780—9–21–79
Trout Lake IGA, Box 158, Trout Lake, MI 49793—9–21–79
Clark Super 100, 24722 Southfield Rd., Southfield, MI 48075—9–26–79
Dennis Dockery 10–Lahser Mobil, 22020 W. Mile Rd., Southfield, MI 48034—9–26–79
Jacque Adud Mid 9 Gulf, 29450 West 9 Mile Rd., Farmington, MI 48024—9–26–79
Edward Borg-Borg's Standard, 21880 Potomac Dr., Southfield, MI 48076—9–26–79
Pete Reib's Shell, 22412 Middlebelt Rd., Farmington, MI—9–26–79
John Daki's Mid-Grand River Shell, 29319 Grand River, Farmington, MI—9–26–79
Ray Gay Sunoco, 26680 W. 7 Mile Rd., Redford Twp., MI 48240—9–26–79
Silvester Harper Livernois London Sunoco, 18200 Livernois, Detroit, MI—9–27–79
Partin's Shell Service Shell, 36950 Dequindre, Sterling Heights, MI—9–26–79
Risk's Shell Center, 2970 E. Long Lake Rd., Troy, MI 48098—9–26–79
Hudson's Shell Service Center, 51015 VanDyke, Utica, MI—9–27–79
Hart's Shell Service, 6 E. Auburn Rd., Troy, MI 48084—9–27–79
John Haky-Ralph Flore Shell, 15460 9 Mile Rd., Oak Park, MI 48237—9–25–79
Clark-Gregory Zabramski, 27001 Greenfield, Southfield, MI 48076—9–25–79
Marathon-Mohamad Sadek, 16100 Greenfield, Detroit, MI 48235—9–26–79
Mobil-Mike Safiedine, 15444 W. 7 Mile Rd., Detroit, MI 48235—9–26–79
Bill Guiden Service, 15439 Schoolcraft, Detroit, MI 49227—9–25–79
Ray's Mobil, 7954 Greenfield, Dearborn, MI 48228—9–25–79
Tony's Auto Service, 7000 Greenfield, Dearborn, MI 48126—9–25–79
Arco Main, 1377 Livernois, Clawson, MI 48017—9–19–79
Wild Willie's Clark, 420 S. Saginaw, Pontiac, MI 48053—9–26–79
Don's Service, 2624 Bay, Saginaw, MI 48603—9–13–79
Kruckeberg Shell, 2415 Woodward, Bloomfield Hills, MI—9–26–79
Orchard Lake Car Care Center, 4093 Orchard Lake Rd., Orchard Lake, MI 48033—9–27–79
South Shell, 4016 Telegraph, Bloomfield Hills, MI—9–27–79
Lisk Standard, 4009 Telegraph, Bloomfield Hills, MI—9–27–79
M&R Oil Corp., Exit Route 51 & I–74, Knoxville, IL 61448—9–17–79
Seara Shell, 6346 N. Clark, Chicago, IL 60660—9–20–79
Jong's Arco, Route 53 & 20, Addison, IL 60101—9–6–79

B & C Mobil, 600 East Hennepin Ave., Minneapolis, Minnesota 55414—9–24–79
Dick's Sunoco, 42986 Mound, Sterling Heights, Mich.—9–28–79
Sunoco Service, 725 Ann Arbor Road, Plymouth, Mich.—9–27–79
Burley's Standard, 11955 Pacific, Omaha, NE 68144—9–25–79
D & M Texaco, 9930 Maple, Omaha, NE 68134—9–25–79
W. Center Skelly, 8829 W. Center Road, Omaha, NE 68124—9–26–79
Tank's Standard, 8985 L Street, Omaha, NE 68127—9–27–79
Long's Standard, 72nd & Harrison, Omaha, NE 68157—9–28–79
Ted's Standard, 4525 Center, Omaha, NE 68106—9–28–79
Grogan's Standard, 4120 Leavenworth, Omaha, NE 68105—9–28–79
Young Mobil, 4423 North 30th, Omaha, NE 68111—9–28–79
McMullen Skelly, 2103 W. Broadway, Council Bluffs, IA 51501—9–04–79
O'Malley's Auto Center, 501 E. Broadway, Council Bluffs, IA 51501—9–04–79
Morris Standard, 2427 W. Broadway, Council Bluffs, IA 51501—9–04–79
Don's Texaco, 2039 W. Broadway, Council Bluffs, IA 51501—9–04–79
Ed's Conoco, 208 E. Broadway, Council Bluffs, IA 51501—9–05–79
Tucker Amoco, 4523 Morningside Ave., Sioux City, IA 51106—9–06–79
Keegan's Texaco, 4218 Morningside Ave., Sioux City, IA 51106—9–06–79
Rich Conoco, 2040 Lakeport S., Sioux City, IA 51106—9–06–79
Walt's Standard Serv., 2701 Pierce, Sioux City, IA 51104—9–06–79
Sorensen Standard, 2620 Dakota, S. Sioux City, NE 68776—9–06–79
Meier's Plaza DX, 301 W. 28, Sioux City, IA 51104—9–06–79
Dewitt's Skelly, 4712 Morningside Ave., Sioux City, IA 51106—9–07–79
Palmer House Standard, 3400 Gordon, Sioux City, IA 51106—9–07–79
Offutt Service, 1501 Ft. Crook Rd., Bellevue, NE 68005—9–11–79
Brink Oil, 1302 3rd Ave., Plattsmouth, NE 68048—9–11–79
Nazionale's Gulf, 236 Trenton Ave., Uhrichsville, Ohio 44683—9–04–79
Pete's Sohio, 552 East 152 Street, Cleveland, Ohio 44110—9–05–79
Zelinsky's Union 76, 17202 St. Clair Ave., Cleveland, Ohio 44110—9–05–79
Manny's Gulf, 511 East 140 Street, Cleveland, Ohio 44110—9–06–79
Northwest Shell Service, 451 Coliseum Blvd., W., Fort Wayne, Indiana 46805—9–14–79
Mid-America Energy Corp., 3919 Mobile Ave., Fort Wayne, Indiana 46805—9–13–79
Maplewood Service, 6303 Stellhorn Road, Fort Wayne, Indiana 46805—9–13–79
Earl's Phillips 66, 1207 W. Lusher, Elkhart, Indiana 46514—9–11–79
R & R Sunoco, 1117 W. Lusher, Elkhart, Indiana 46514—9–11–79
Knox Service Center, 2702 S. Clinton Ave., Fort Wayne, Indiana 46803—9–12–79
Oasis Service Center, P.O. Box 765, Westville, Indiana 46391—8–30–70
Sam's Sunoco, 1200 N. Water Street, Uhrichsville, Ohio 44683—9–14–79
Wright's Sohio, 10809 Cedar Ave., Cleveland, Ohio 44105—9–10–79
Orange Nelson, Jr., 10504 Wade Park, Cleveland, Ohio 44106—9–13–79
St. Clair & Shaw Auto Wash, 12604 St. Clair, Cleveland, Ohio 44108—9–12–79
Wilson Road Shell, 845 North Wilson, Columbus, Ohio 43204—9–10–79
Lane's Sohio, 6409 Clark Ave., Cleveland, Ohio 44103—9–17–79
Dave's Sohio, 15510 Lakeshore Blvd., Cleveland, Ohio 44110—9–05–79
Fox's Auto Care Service, 12945 Lorain Ave., Cleveland, Ohio 44111—9–19–79
3 R's Sunoco, 1103 North Water St., Uhrichsville, Ohio 44683—9–17–79
Cy's Texaco, 1980 W. Market St., Akron, Ohio 44313—9–18–79
Henry J's Sohio, 3735 Fulton Rd., Cleveland, Ohio 44109—9–10–79
Nick's Sunoco, 1238 East 152 Street, Cleveland, Ohio 44110—9–18–79
C & R Sohio, 11625 Superior Ave., Cleveland, Ohio 44106—9–18–79
Nu Plaza Yacht Club, Old Henderson Rd., Evansville, Indiana 44712—8–14–79
Turnpike Shell, 905 Lorain Blvd., Elyria, Ohio 44035—9–26–79
Myles & Son Union 76, 14330 St. Clair Ave., Cleveland, Ohio 44110—9–26–79
Holiday Inn 76, 26100 Chagrin Blvd., Beachwood, Ohio 44122—9–21–79
George's Marathon, 4455 Lewis Ave., Toledo, Ohio 43612—9–26–79
Davis Shell, 5300 Superior Ave., Cleveland, Ohio 44103—9–25–79
Surf Side Shell, 36241 Lakeshore/Portage, Eastlake, Ohio 44094—9–18–79
McGath's Marathon Service, 7013 East 56 Street, Indianapolis, Indiana 46408—9–25–79
Al's Mobil Service, 3832 East 38 Street, Indianapolis, Indiana 46409—9–26–79

[FR Doc. 79–32945 Filed 10–24–79; 8:45 am]
BILLING CODE 6450–01–M

Beltway Gulf; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Larry Shirey, d.b.a. Beltway Gulf, 9198 Bellaire, Houston, Texas 77036. This Proposed Remedial Order charges Beltway Gulf with charging prices for motor gasoline in excess of the maximum lawful selling price.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745. On or before November 9, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street, N.W., Washington, D.C. 20461, in accordance with 10 CFR § 105.193.

Issued in Dallas, Texas on the 18th day of October 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79–32941 Filed 10–24–79; 8:45 am]
BILLING CODE 6450–01–M

Capitol Tire Co.; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Vincent Rosseli, dba Capitol Tire Company, P.O. Box 324, Peralta, New Mexico 87042. This Proposed Remedial Order charges Capitol Tire Company with failure to properly post the maximum lawful selling price or certification.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745. On or before November 9, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR § 105.193.

Issued in Dallas, Texas on the 18th day of October 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79–32939 Filed 10–24–79; 8:45 am]
BILLING CODE 6450–01–M

Thoreau Chevron; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Carl Lytle, dba Thoreau Chevron, P.O. Box 718, Thoreau, New Mexico 87323. This Proposed Remedial Order charges Thoreau Chevron with charging prices for motor gasoline in excess of the maximum lawful selling price and failure to properly post the maximum lawful selling price or certification.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767–7745. Within 15 days of publication of this

V 44 OC 25 79 UMI

Notice, any aggrieved person may file a Notice of Objection with the office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 105.193.

Issued in Dallas, Texas on the 18th day of October, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administrotion.

[FR Doc. 79-32942 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Frankel City Exxon; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to James C. Jacobson, dba Grankel City Exxon, General Delivery, Frankel City, Texas 79714. This Proposed Remedial Order charges Frankel City Exxon with charging prices for motor gasoline in excess of the maximum lawful selling price and failure to properly post the maximum lawful selling price or certification.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before November 9, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR § 105.193.

Issued in Dallas, Texas on the 18th day of October 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-32938 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

M. E. Goldsby Exxon; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to M. E. Goldsby Exxon, 9201 Katy Freeway, Houston, Texas 77024. This Proposed Remedial Order charges M. E. Goldsby Exxon with charging prices for motor gasoline in excess of the maximum lawful selling price.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before November 9, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 105.193.

Issued in Dallas, Texas on the 18th day of October, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-32940 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

McGrath Mobil Station; Proposed Remedial Order

Pursuant to 10 CFR § 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Charles F. McGrath, dba, McGrath Mobil Station, 1111 Lamesa Highway, Big Springs, Texas 79720. This Proposed Remedial Order charges McGrath Mobile Station with charging prices for motor gasoline in excess of the maximum lawful selling price and failure to properly post the maximum lawful selling price or certification.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. On or before November 9, 1979, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR Section 105.193.

Issued in Dallas, Texas on the 18th day of October, 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-32937 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

George Stefanakis; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to George Stefanakis. This Proposed Remedial Order charges Stefanakis with charging prices for motor gasoline in excess of the maximum lawful selling price.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Wayne I. Tucker, District Manager of Enforcement, P.O. Box 35228, Dallas, Texas 75235, phone 214/767-7745. Within 15 days of publication of this Notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, 2000 M Street N.W., Washington, D.C. 20461, in accordance with 10 CFR 105.193.

Issued in Dallas, Texas on the 18th day of October 1979.

Wayne I. Tucker,

District Manager, Southwest District Enforcement, Economic Regulatory Administration.

[FR Doc. 79-32943 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Dockets Nos. CS71-636, et al.]

Applications for "Small Producer" Certificate [1]

October 18, 1979.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene it timely filed, or where the Commission in its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71-636	3/25/75[1]	Occidental Petroleum Corporations, *et al.*, 5000 Stockdale Highway, Bakersfield, California 93309.
CS79-545	9/11/79	Arkoma Gas Company, 221 Meadows Building, Dallas, Texas 75206.
CS79-546	8/27/79	Alpha Twenty-One Production Company, 2100 First National Bank Building, Midland, Texas 79701.
CS79-547	8/27/79	Alpha Twenty-One Corporation, 2100 First National Bank Building, Midland, Texas 79701.
CS79-548	8/16/79	New Petroleum Corporation, 16633 Ventura Blvd.—Suite 700, Encino, California 91436.
CS79-549	9/14/79	Lee Brothers Oil Company, 4550 Post Oak Pl. Dr.—Suite 123, Houston, Texas 77027.
CS79-550	9/17/79	W. N. Jacobs, 3752 East 83rd, Tulsa, Oklahoma 74136.
CS79-551	9/18/79	Arthur D. Leidesdorf, 2200 South Post Oak Road—Suite 700, Houston, Texas 77056.
CS79-552	9/18/79	M. B. Corbin (also known as Mary Burnett Corbin), P.O. Box 9158, Amarillo, Texas 79105.
CS79-553	9/18/79	Ann Corbin Fatheree, P.O. Box 9158, Amarillo, Texas 79105.
CS79-554	9/18/79	James Roy Corbin, P.O. Box 9158, Amarillo, Texas 79105.
CS79-555	9/18/79	Mary Jo Corbin Layne Trust, P.O. Box 9158, Amarillo, Texas 79105.
CS79-556	9/17/79	Birchall Petroleum, Inc., 5310 East 31st Street, Tulsa, Oklahoma 74135.
CS79-557	9/25/79	Amtex Oil and Gas, Inc., 573 Citizens Savings Bldg., Canton, Ohio 44702.
CS79-558	9/21/79	Joseph J. Wendling, P.O. Box 207, Olpe, Kansas 66865.
CS80-1	10/1/79	Stockton Oil/Gas Co., 2418 West 26th Avenue, Stillwater, Oklahoma 74074.
CS80-2	10/1/79	Sinclair Development Corporation, P.O. Box 763, Hobbs, New Mexico 88240.
CS80-3	10/9/79	Douglas L. Cone, P.O. Box 6217, Lubbock, Texas 79413.
CS80-4	10/9/79	Earl C. Bevins, 1648 Buena Vista Drive, Huntington, W. Va. 25704.
CS80-6	10/9/79	B & G Oil & Gas Company, 830 Glendale Road, Marietta, Ohio 45750.
CS80-7	10/9/79	Davis Gas Processing, Inc.—Agent, 229 Western United Life Bldg., Midland, Texas 79701.
CS80-8	10/5/79	Toltec Oil & Gas, Inc., Suite 266, Meadows Building, Dallas, Texas 75206.
CS80-9	9/26/79	L. Edward Innerarity, Jr., 2205 Shell, Midland, Texas 79701.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[1] Amendment to reflect that due to a corporate reorganization Occidental Petroleum Corporation is transferring most of its U.S. natural gas properties to Oxy Petroleum Inc., a new, wholly owned subsidiary, effective July 1, 1974.

[FR Doc. 79-32931 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-R-79-46]

Voluntary Guideline for Solar Energy and Renewable Resources Respecting the Federal Standards Under the Public Utility Regulatory Policies Act of 1978; Proposed Guideline and Public Hearings

Correction

In FR Doc. 79-32233, appearing at page 60236 in the issue of Thursday, October 18, 1979, the following changes should be made:

1. On page 60238, second column, the sixth line of the second complete paragraph should read, "systems. In such instances, master".

2. On page 60238, third column, the eighth line of the first complete paragraph should read, "December 10, 1979, to address".

3. On page 60240, first column, the third line of the last (incomplete) paragraph should read, "PURPA objectives of efficient use of".

BILLING CODE 1505-01-M

[Docket No. ERA-R-79-43]

Gas and Electric Utilities Covered in 1980 by Titles I and III of the Public Utility Regulatory Policies Act of 1978 and Title II of the National Energy Conservation Policy Act of 1978 and Requirement for State Regulatory Authorities to Notify the Department of Energy

Correction

In FR Doc. 79-30272, published on page 56602, on Monday, October 1, 1979, on page 56603, in the third column, between "Pennsylvania Power & Light Company" and "Philadelphia Electric Company" should be added "Pennsylvania Power Company".

BILLING CODE 1505-01-M

Federal Energy Regulatory Commission

[No. 98]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 18, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

New Mexico Department of Energy and Minerals, Oil Conservation Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22291
2. 30-015-22552
3. 102
4. Black River Corporation
5. Miller Com #1
6. Cass Draw Wolfcamp Gas Pool
7. Eddy, NM
8. 237.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company

1. 79-22292
2. 30-045-23440
3. 103
4. El Paso Natural Gas Company
5. San Juan 32-9 Unit #98
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 160.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company

1. 79-22293
2. 30-005-00000
3. 103
4. Stevens Oil Company
5. Citgo A State No. 7
6. Twin Lakes San Andres Assoc

7. Chaves, NM
8. 14.0 million cubic feet
9. September 28, 1979
10. Transwestern Pipeline Co. Stevens Oil Company
1. 79-22294
2. 30-025-26231
3. 108
4. Phillips Petroleum Company
5. East Vacuum GB/SA TR 3308 No. 003
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 56.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company

Oklahoma Corporation Commission

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Esttmated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-00162/00450
2. 35-153-20417-0015
3. 108
4. El Paso Natural Gas Company
5. Selman #2
6. Quinlan NW Chester
7. Woodward, OK
8. 4.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00163/00449
2. 35-153-20371-0015
3. 108
4. El Paso Natural Gas Company
5. McFeeters #3
6. Quinlan NW Chester
7. Woodward, OK
8. 4.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00164/00448
2. 35-153-20321-0015
3. 108
4. El Paso Natural Gas Company
5. LEHR #1
6. Quinlan NW Chester
7. Woodward, OK
8. 4.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00165/00446
2. 35-153-20369-0015
3. 108
4. El Paso Natural Gas Company
5. McFeeters #1
6. Quinlan NW Chester
7. Woodward, OK
8. 6.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00166/00445
2. 35-153-20368-0015
3. 108
4. El Paso Natural Gas Company
5. McFeeters #2
6. Quinlan NW Chester
7. Woodward, OK
8. 15.7 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00167/00443
2. 35-153-20420-0015
3. 108
4. El Paso Natural Gas Company
5. Stout #1
6. Quinlan NW Chester
7. Woodward, OK
8. 16.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00168/00444
2. 35-153-20367-0015
3. 108
4. El Paso Natural Gas Company
5. Brankel #1
6. Quinlan NW Chester
7. Woodward, OK
8. 9.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company
1. 80-00169/00542
2. 35-139-00000
3. 108
4. Getty Oil Company
5. Bergner A No. 1
6. Guymon Hugoton
7. Texas, OK
8. 3.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00170/00545
2. 35-139-00000
3. 108
4. Getty Oil Company
5. A D Lewter No. 1
6. Guymon Hugoton
7. Texas, OK
8. 16.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00171/0544
2. 35-139-00000
3. 108
4. Getty Oil Company
5. Leon Allen No. 1
6. Guymon Hugoton
7. Texas, OK
8. 15.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00172/00543
2. 35-139-00000
3. 108
4. Getty Oil Company
5. Martin B No. 2
6. South Guymon
7. Texas, OK
8. 12.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00173/00547
2. 35-139-00000
3. 108
4. Getty Oil Company
5. Goss Unit No. 2
6. South Guymon
7. Texas, OK
8. 7.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00174/00546
2. 35-139-00000
3. 108
4. Getty Oil Company
5. Lancaster Unit No.
6. South Guymon
7. Texas, OK
8. 7.0 million cubic feet
9. October 1, 1979
10. Cities Service Gas Company
1. 80-00175/00526
2. 35-007-20927
3. 108
4. Joseph I ONeill Jr
5. Breen #1
6. Greenough
7. Beaver, OK
8. 7.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00176/00525
2. 35-007-21016
3. 108
4. Joseph I ONeill Jr
5. Phelps #1
6. Mocane-Laverne
7. Beaver, OK
8. 4.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00177/00523
2. 35-007-20993
3. 108
4. Joseph I ONeill Jr
5. Wilmoth #1
6. Mocane-Laverne
7. Beaver, OK
8. 5.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00178/00524
2. 35-007-21033
3. 108
4. Joseph I ONeill Jr
5. Cole #1
6. Mocane-Laverne
7. Beaver, OK
8. 10.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00179/00492
2. 35-043-00000
3. 108
4. Anadarko Production Co
5. Stidham A No. 1
6. Taloga South
7. Dewey, OK
8. 12.0 million cubic feet
9. October 1, 1979
10. Natural Gas Pipe Line Co of America

Texas Railroad Commission, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-00147/00003
2. 42-419-30175
3. 103
4. Grace Petroleum Corporation
5. Arco #1
6. Stockman (Travis Peak)
7. Shelby, TX
8. 182.5 million cubic feet
9. October 1, 1979
10. Arkansas Louisiana Gas Company
1. 80-00148/00009
2. 42-215-30445
3. 103
4. Energy Reserves Group Inc.
5. Rio Farms B #2
6. Hargill
7. Hidalgo, TX
8. 138.0 million cubic feet
9. October 1, 1979
10. Tennessee Gas Pipeline Co.
1. 80-00149/00156
2. 42-235-00000
3. 103
4. NRM Petroleum Corporation
5. Rocker B-B #8 (RRC 07533)
6. Spraberry (Trend) area
7. Irion, TX
8. 10.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00150/00324
2. 42-357-30785
3. 103
4. Horizon Oil & Gas Co. of Texas
5. Tarbox A 1-106 04246
6. Horizon Cleveland
7. Ochiltree, TX
8. 12.0 million cubic feet
9. October 1, 1979
10. Diamond Shamrock Corporation
1. 80-00151/00325
2. 42-357-30816
3. 103
4. Horizon Oil & Gas Co. of Texas
5. Swink 2-119 04186
6. Horizon Cleveland
7. Ochiltree, TX
8. 8.0 million cubic feet
9. October 1, 1979
10. Diamond Shamrock Corporation
1. 80-00152/00326
2. 42-357-30780
3. 103
4. Horizon Oil & Gas Co. of Texas
5. Tarbox 1-106 04237
6. Horizon Cleveland
7. Ochiltree, TX
8. 12.0 million cubic feet
9. October 1, 1979
10. Diamond Shamrock Corporation
1. 80-00153/00482
2. 42-203-01869
3. 103
4. The Maurice L Brown Company
5. Baldwin Gas Unit #1
6. Bethany-Pettit
7. Panola County, TX
8. 7.0 million cubic feet
9. October 1, 1979
10. United Gas Pipe Line Company
1. 80-00154/02208
2. 42-317-31955
3. 103
4. Adobe Oil & Gas Corporation
5. Oaks #4 61775
6. Ackerly (Dean Sand)
7. Martin, TX
8. 2.5 million cubic feet
9. October 1, 1979
10. Adobe Oil & Gas Corporation
1. 80-00155/02209
2. 42-317-31634
3. 103
4. Adobe Oil & Gas Corporation
5. Oak #3 61775
6. Ackerly (Dean Sand)
7. Martin, TX
8. 7.0 million cubic feet
9. October 1, 1979
10. Adobe Oil & Gas Corporation
1. 80-00156/02874
2. 42-167-30615
3. 103
4. Sun Oil Company (Delaware)
5. Cade-State Unit Well No. 1
6. Caplen (FB-1 2-B)
7. Galveston, TX
8. 18.0 million cubic feet
9. October 1, 1979
10. Texas Gas Pipeline Corporation
1. 80-00157/02950
2. 42-105-00000
3. 108
4. D. L. Bishop
5. Weger Unit No 1104
6. Weger (San Andres)
7. Crockett. TX
8. 0.1 million cubic feet
9. October 1, 1979
10. Big Lake Gas Corporation
1. 80-00158/03575
2. 42-413-00000
3. 108
4. Walsh and Watts Inc
5. Speck #2 36562
6. Henry-Speck (Canyon)
7. Schleicher, TX
8. 166.0 million cubic feet
9. October 1, 1979
10. Northern Natural Gas Company
1. 80-00159/03609
2. 42-071-30812
3. 103
4. Sun Oil Company (Delaware)
5. State Track 288 Well 13-U
6. Red Fish Reef SW (F-8)
7. Chambers, TX
8. 84.0 million cubic feet
9. October 1, 1979
10. United Texas Transmission Co
1. 80-00160/08010
2. 42-219-32565
3. 103
4. Amoco Production Company
5. East RKM Unit No. 55
6. Slaughter
7. Hockley, TX
8. 8.0 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company Co
1. 80-00161/08011
2. 42-219-32559
3. 103
4. Amoco Production Company
5. East RKM Unit No. 50
6. Slaughter
7. Hockley, TX
8. 11.3 million cubic feet
9. October 1, 1979
10. El Paso Natural Gas Company Co.

Utah Division of Oil, Gas, and Mining

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 80-00001/K 111-2(2)
2. 43-047-30272
3. 103
4. Belco Development Corporation
5. Natural Buttes Unit 5-36B 30272
6. Natural Buttes Unit
7. Uintah, UT
8. 250.0 million cubic feet
9. October 1, 1979
10. Colorado Interstate Gas Company Co.
1. 80-00002/K 111-6
2. 43-047-30267
3. 103
4. Belco Development Corporation
5. Natural Buttes Unit 3-2B 30267
6. Natural Buttes Unit
7. Uintah, UT
8. 260.0 million cubic feet
9. October 1, 1979
10. Colorado Interstate Gas Company Co.

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22328
2. 47-041-00426
3. 108
4. Consolidated Gas Supply Corporation
5. May McWhorter 10253
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 million cubic feet
9. September 20, 1979
10. General System Purchasers
1. 79-22329
2. 47-001-00291
3. 108
4. Consolidated Gas Supply Corporation
5. Dora M Boehm 10790
6. West Virginia Other A-85772
7. Barbour WV
8. 1.0 million cubic feet
9. September 19, 1979
10. General System Purchasers
1. 80-00003
2. 47-097-00603
3. 108
4. Consolidated Gas Supply Corporation
5. Virginia M White 10262
6. West Virginia Other A-85772
7. Upshur WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00004
2. 47-033-00292-D
3. 108
4. Consolidated Gas Supply Corporation

V 44 O C 25 79 UMI

5. Bessie P Allen 11041
6. West Virginia Other A–85772
7. Harrison WV
8. .5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00005
2. 47–021–02094
3. 108
4. Consolidated Gas Supply Corporation
5. Okey Stalmaker 11284
6. West Virginia Other A–85772
7. Gilmer WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00006
2. 47–045–00311
3. 108
4. Consolidated Gas Supply Corporation
5. Boone Co Coal Corp 9754
6. West Virginia Other A–85772
7. Logan WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00007
2. 47–043–00839
3. 108
4. Consolidated Gas Supply Corporation
5. Robert F Ferrell 9226
6. West Virginia Other A–85772
7. Lincoln WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00008
2. 47–043–00808
3. 108
4. Consolidated Gas Supply Corporation
5. Emma Chapman 9185
6. West Virginia Other A–85772
7. Lincoln WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00009
2. 47–041–01855
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 11446
6. West Virginia Other A–85772
7. Lewis WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00010
2. 47–041–01806
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 11339
6. West Virginia Other A–85772
7. Lewis WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00011
2. 47–041–01348
3. 108
4. Consolidated Gas Supply Corporation
5. H D Monemar 10664
6. West Virginia Other A–85772
7. Lewis WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00012
2. 47–021–00924
3. 108
4. Consolidated Gas Supply Corporation
5. Mellie Springston 9748
6. West Virginia Other A–85772
7. Gilmer WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00013
2. 47–021–01301
3. 108
4. Consolidated Gas Supply Corporation
5. Hannah L Gainer 10332
6. West Virginia Other A–85772
7. Gilmer WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00014
2. 47–019–00097
3. 108
4. Consolidated Gas Supply Corporation
5. Vanetta Land Co 9916
6. West Virginia Other A–85772
7. Fayette WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00015
2. 47–013–01438
3. 108
4. Consolidated Gas Supply Corporation
5. Bennett-Marsh 9979
6. West Virginia Other A–85772
7. Calhoun WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00016
2. 47–013–01948
3. 108
4. Consolidated Gas Supply Corporation
5. Lou Ball 10385
6. West Virginia Other A–85772
7. Calhoun WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00017
2. 47–013–01992
3. 108
4. Consolidated Gas Supply Corporation
5. Plough 10462
6. West Virginia Other A–85772
7. Calhoun WV
8. 11.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00018
2. 47–017–01318
3. 108
4. Consolidated Gas Supply Corporation
5. R Barnes 10760
6. West Virginia Other A–85772
7. Doddridge WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00019
2. 47–013–00980
3. 108
4. Consolidated Gas Supply Corporation
5. McClelland Barr 5931
6. West Virginia Other A–85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00020
2. 47–013–01004
3. 108
4. Consolidated Gas Supply Corporation
5. Hunter M Bennett 9297
6. West Virginia Other A–85772
7. Calhoun WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00021
2. 47–013–00050
3. 108
4. Consolidated Gas Supply Corporation
5. C A Collins 6159
6. West Virginia Other A–85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00022
2. 47–005–00932
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co 10373
6. West Virginia Other A–85772
7. Boone WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00023
2. 47–001–00119
3. 108
4. Consolidated Gas Supply Corporation
5. I Ward 10416
6. West Virginia Other A–85772
7. Barbour WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00024
2. 47–001–00215
3. 108
4. Consolidated Gas Supply Corporation
5. M M McDaniels 10715
6. West Virginia Other A–85772
7. Barbour WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00025
2. 47–001–00269
3. 108
4. Consolidated Gas Supply Corporation
5. L Cool 10764
6. West Virginia Other A–85772
7. Barbour WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00026
2. 47–001–00257
3. 108
4. Consolidated Gas Supply Corporation
5. Alderson-Broaddus College 10757
6. West Virginia Other A–85772
7. Barbour WV
8. 2.0 million cubic feet

9. October 9, 1979
10. General System Purchasers
1. 80–00027
2. 47–001–00289
3. 108
4. Consolidated Gas Supply Corporation
5. Herbert E Maxon 10782
6. West Virginia Other A–85772
7. Barbour WV
8. 14.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00028
2. 47–013–01830
3. 108
4. Pennzoil Company
5. S A Hayes #4
6. Sherman District
7. Calhoun WV
8. 1.7 million cubic feet
9. October 1, 1979
10. Consolidated Gas Supply Corporation
1. 80–00029
2. 47–001–00412
3. 108
4. Consolidated Gas Supply Corporation
5. Orpha Hudkins 11021
6. West Virginia Other A–85772
7. Barbour WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00030
2. 47–097–00522
3. 108
4. Consolidated Gas Supply Corporation
5. Ward-Mayo 11117
6. West Virginia other A–85772
7. Upshur WV
8. 8.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00031
2. 47–005–00587
3. 108
4. Consolidated Gas Supply Corporation
5. Dora E Hopkins 8647
6. West Virginia other A–85772
7. Boone WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00032
2. 47–005–00511
3. 108
4. Consolidated Gas Supply Corporation
5. A C Canterbury 8580
6. West Virginia other A–85772
7. Boone WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00033
2. 47–005–00536
3. 108
4. Consolidated Gas Supply Corporation
5. Noah T Bias 8609
6. West Virginia other A–85772
7. Boone WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00034
2. 47–005–00437
3. 108
4. Consolidated Gas Supply Corporation
5. Dora E Hopkins 7911
6. West Virginia other A–85772
7. Boone WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00035
2. 47–001–00003
3. 108
4. Consolidated Gas Supply Corporation
5. Annette Riley 7840
6. West Virginia other A–85772
7. Barbour WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00036
2. 47–001–00608
3. 108
4. Consolidated Gas Supply Corporation
5. A Jones–11512
6. West Virginia other A–85772
7. Barbour WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00037
2. 47–001–00139
3. 108
4. Consolidated Gas Supply Corporation
5. C Ward–10484
6. West Virginia other A–85772
7. Barbour WV
8. 11.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00038
2. 47–001–00006
3. 108
4. Consolidated Gas Supply Corporation
5. IRA D Benson 8794
6. West Virginia other A–85772
7. Barbour WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00039
2. 47–033–00096
3. 108
4. Consolidated Gas Supply Corporation
5. A J Reynolds 8630
6. West Virginia other A–85772
7. Harrison WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00040
2. 47–033–00161
3. 108
4. Consolidated Gas Supply Corporation
5. R C McDonald 4474
6. West Virginia other A–85772
7. Harrison WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00041
2. 47–097–00879
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Ethel Wilson 10727
6. West Virginia other A–85772
7. Upshur WV
8. 21.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00042
2. 47–033–00624
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. J Thrash 11468
6. West Virginia other A–85772
7. Harrison WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00043
2. 47–033–00613
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Lewis C Swisher 11440
6. West Virginia other A–85772
7. Harrison WV
8. 18.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00044
2. 47–033–00586
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. R Reed 11408
6. West Virginia other A–85772
7. Harrison WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00045
2. 47–041–01739
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Israel Simmons 11219
6. West Virginia other A–85772
7. Lewis WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00046
2. 47–041–02113–DD
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. T Ellis 3587
6. West Virginia other A–85772
7. Lewis WV
8. 11.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00047
2. 47–033–00463
3. 108
4. Consolidated Gas Supply Corporation
5. T P Reynolds 11079
6. West Virginia other A–85772
7. Harrison WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00048
2. 47–033–00433
3. 108
4. Consolidated Gas Supply Corporation
5. T Smith-10860
6. West Virginia other A–85772
7. Harrison WV
8. 11.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00049

V 44 OC 25 79 UMI

2. 47–033–00244
3. 108
4. Consolidated Gas Supply Corporation
5. Jackson Arnold 10345
6. West Virginia other A–85772
7. Harrison WV
8. 17.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00050
2. 47–041–00057
3. 108
4. Consolidated Gas Supply Corporation
5. J B Lovett 8610
6. West Virginia other A–85772
7. Lewis WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00051
2. 47–097–00709
3. 108
4. Consolidated Gas Supply Corporation
5. B W & F M Teter 10408
6. West Virginia other A–85772
7. Upshur WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00052
2. 47–041–01768
3. 108
4. Consolidated Gas Supply Corporation
5. F Howell-11292
6. West Virginia other A–85772
7. Lewis WV
8. 8.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00053
2. 47–041–00141
3. 108
4. Consolidated Gas Supply Corporation
5. Leland L Gould 9170
6. West Virginia other A–85772
7. Lewis WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00054
2. 47–041–00636
3. 108
4. Consolidated Gas Supply Corporation
5. O M Hardman 10299
6. West Virginia other A–85772
7. Lewis WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00055
2. 47–041–01051
3. 108
4. Consolidated Gas Supply Corporation
5. Earl Smith 10430
6. West Virginia other A–85772
7. Lewis WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00056
2. 47–041–01111
3. 108
4. Consolidated Gas Supply Corporation
5. D C Martin 10438
6. West Virginia other A–85772
7. Lewis WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00057
2. 47–085–00959
3. 108
4. Consolidated Gas Supply Corporation
5. J A Haddox 5604
6. West Virginia other A–85772
7. Ritchie WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00058
2. 47–085–00032
3. 108
4. Consolidated Gas Supply Corporation
5. Martin Nash 1696
6. West Virginia other A–85772
7. Ritchie WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00059
2. 47–045–00603
3. 108
4. Consolidated Gas Supply Corporation
5. Boone County Coal Corp 10043
6. West Virginia other A–85772
7. Logan WV
8. 9.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00060
2. 47–041–00728
3. 108
4. Consolidated Gas Supply Corporation
5. 8122 J Post
6. West Virginia other A–85772
7. Lewis, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00061
2. 47–041–00014
3. 108
4. Consolidated Gas Supply Corporation
5. Israel Simmons 8301
6. West Virginia other A–85772
7. Lewis, WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00062
2. 47–035–00800
3. 108
4. Consolidated Gas Supply Corporation
5. H H Stone 9645
6. West Virginia other A–85772
7. Jackson, WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00063
2. 47–097–00537
3. 108
4. Consolidated Gas Supply Corporation
5. J C Reed 10140
6. West Virginia other A–85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00064
2. 47–097–00506
3. 108
4. Consolidated Gas Supply Corporation
5. C H Talbott 10037
6. West Virginia other A–85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00065
2. 47–097–00306
3. 108
4. Consolidated Gas Supply Corporation
5. Alice Bailey 9048
6. West Virginia other A–85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00066
2. 47–097–00068
3. 108
4. Consolidated Gas Supply Corporation
5. Hazen Phillips 7813
6. West Virginia other A–85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00067
2. 47–085–03139
3. 108
4. Consolidated Gas Supply Corporation
5. Alex Prunty 10845
6. West Virginia other A–85772
7. Ritchie, WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00068
2. 47–085–00818
3. 108
4. Consolidated Gas Supply Corporation
5. Elijah Smith 3830
6. West Virginia other A–85772
7. Ritchie, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00069
2. 47–085–00023
3. 108
4. Consolidated Gas Supply Corporation
5. First National Bank 6587
6. West Virginia other A–85772
7. Ritchie, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00070
2. 47–045–00059
3. 108
4. Consolidated Gas Supply Corporation
5. J A Albright 7842
6. West Virginia other A–85772
7. Logan, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00071
2. 47–033–00031
3. 108
4. Consolidated Gas Supply Corporation
5. A S Harbert 1557
6. West Virginia other A–85772

7. Harrison, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00072
2. 47–021–01977
3. 108
4. Consolidated Gas Supply Corporation
5. 11038 L Bennett
6. West Virginia other A–85772
7. Gilmer, WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00073
2. 47–097–00609
3. 108
4. Consolidated Gas Supply Corporation
5. Everett J Hall 10285
6. West Virginia other A–85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00074
2. 47–013–00615
3. 108
4. Consolidated Gas Supply Corporation
5. Sarah Morris 8565
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00075
2. 47–013–00616
3. 108
4. Consolidated Gas Supply Corporation
5. McClellano Barr 8566
6. West Virginia other A–85772
7. Calhoun, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00076
2. 47–035–00747
3. 108
4. Consolidated Gas Supply Corporation
5. Sallie J Rhodes 9459
6. West Virginia other A–85772
7. Jackson, WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00077
2. 47–033–00896–DD
3. 108
4. Consolidated Gas Supply Corporation
5. Samuel Adams 8032
6. West Virginia other A–85772
7. Harrison, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00078
2. 47–033–00780–DD
3. 108
4. Consolidated Gas Supply Corporation
5. J T Williams 8091
6. West Virginia other A–85772
7. Harrison, WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00079
2. 47–033–00543
3. 108
4. Consolidated Gas Supply Corporation
5. H E Dawson 5216
6. West Virginia other A–85772
7. Harrison, WV
8. 14.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00080
2. 47–041–01877
3. 108
4. Consolidated Gas Supply Corporation
5. Nicholas P Alkire 11521
6. West Virginia other A–85772
7. Lewis, WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00081
2. 47–041–01861
3. 108
4. Consolidated Gas Supply Corporation
5. A P White 11465
6. West Virginia other A–85772
7. Lewis, WV
8. 18.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00082
2. 47–013–00934
3. 108
4. Consolidated Gas Supply Corporation
5. Alice Bennett 9100
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00083
2. 47–013–00983
3. 108
4. Consolidated Gas Supply Corporation
5. M T Motz 9222
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00084
2. 47–013–00706
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 8626
6. West Virginia other A–85772
7. Calhoun, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00085
2. 47–013–00748
3. 108
4. Consolidated Gas Supply Corporation
5. G W Hardman 8642
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00086
2. 47–013–00585
3. 108
4. Consolidated Gas Supply Corporation
5. Loe Gainer 8538
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00087
2. 47–013–00663
3. 108
4. Consolidated Gas Supply Corporation
5. J B Huffman 8592
6. West Virginia other A–85772
7. Calhoun, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00088
2. 47–013–00358
3. 108
4. Consolidated Gas Supply Corporation
5. R M Marshall 7748
6. West Virginia other A–85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00089
2. 47–021–00904
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9705
6. West Virginia other A–85772
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00090
2. 47–021–00899
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9706
6. West Virginia other A–85772
7. Gilmer, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00091
2. 47–021–00738
3. 108
4. Consolidated Gas Supply Corporation
5. 9104–G Riddle
6. West Virginia other A–85772
7. Gilmer, WV
8. 14.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00092
2. 47–021–00663
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 8906
6. West Virginia other A–85772
7. Gilmer, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00093
2. 47–021–00636
3. 108
4. Consolidated Gas Supply Corporation
5. Porter Maxwell 8849
6. West Virginia other A–85772
7. Gilmer, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80–00094

V 44 OC 25 79 UMI

2. 47-021-00517
3. 108
4. Consolidated Gas Supply Corporation
5. Fred Gainer 8578
6. West Virginia other A-85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00095
2. 47-001-00163
3. 108
4. Consolidated Gas Supply Corporation
5. Anna Murphy 10612
6. West Virginia other A-85772
7. Barbour, WV
8. 8.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00096
2. 47-021-00486
3. 108
4. Consolidated Gas Supply Corporation
5. Stump & Boggs 8543
6. West Virginia other A-85772
7. Gilmer, WV
8. 9.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00097
2. 47-019-00081
3. 108
4. Consolidated Gas Supply Corporation
5. C Brown 9661
6. West Virginia other A-85772
7. Fayette, WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00098
2. 47-001-00173
3. 108
4. Consolidated Gas Supply Corporation
5. Chesser-Nutter 10647
6. West Virginia other A-85772
7. Barbour, WV
8. 14.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00099
2. 47-001-00059
3. 108
4. Consolidated Gas Supply Corporation
5. Cora M Pock 9172
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00100
2. 47-001-00161
3. 108
4. Consolidated Gas Supply Corporation
5. H S Haller 10608
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00101
2. 47-007-01008
3. 108
4. Consolidated Gas Supply Corporation
5. L N Brown 11449
6. West Virginia other A-85772
7. Braxton, WV
8. 9.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00102
2. 47-005-00734
3. 108
4. Consolidated Gas Supply Corporation
5. M F Moore 9045
6. West Virginia other A-85772
7. Boone, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00103
2. 47-001-00048
3. 108
4. Consolidated Gas Supply Corporation
5. Dewitt C Hudkins 9067
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00104
2. 47-001-00016
3. 108
4. Consolidated Gas Supply Corporation
5. J R Dickinson 8899
6. West Virginia other A-85772
7. Barbour, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00105
2. 47-001-00024
3. 108
4. Consolidated Gas Supply Corporation
5. French Trimble 8957
6. West Virginia other A-85772
7. Barbour, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00106
2. 47-013-01938
3. 108
4. Consolidated Gas Supply Corporation
5. Brannon-Parsons 10378
6. West Virginia other A-85772
7. Calhoun, WV
8. 8.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00107
2. 47-017-02484
3. 108
4. Consolidated Gas Supply Corporation
5. Grant Roberts 11325
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00108
2. 47-013-01462
3. 108
4. Consolidated Gas Supply Corporation
5. C L Stalnaker 9996
6. West Virginia other A-85772
7. Calhoun, WV
8. 7.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00109
2. 47-013-01189
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9827
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00110
2. 47-013-01485
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 10010
6. West Virginia other A-85772
7. Calhoun, WV
8. 7.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00111
2. 47-013-00804
3. 108
4. Consolidated Gas Supply Corporation
5. Mary E Harris 8895
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00112
2. 47-013-00551
3. 108
4. Consolidated Gas Supply Corporation
5. Allen Hardman 8513
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00113
2. 47-005-01003
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co 10900
6. West Virginia other A-85772
7. Boone, WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00114
2. 47-007-00934
3. 108
4. Consolidated Gas Supply Corporation
5. I N Brown 11245
6. West Virginia other A-85772
7. Braxton, WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00115
2. 47-005-00755
3. 108
4. Consolidated Gas Supply Corporation
5. C T Miteshew 9086
6. West Virginia other A-85772
7. Boone, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00116
2. 47-005-00910
3. 108
4. Consolidated Gas Supply Corporation
5. Albert H Cole 10270
6. West Virginia other A-85772

7. Boone, WV
8. 20.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00117
2. 47-005-00967
3. 108
4. Consolidated Gas Supply Corporation
5. Federal Coal Co 10640
6. West Virginia other A-85772
7. Boone, WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00118
2. 47-001-00365
3. 108
4. Consolidated Gas Supply Corporation
5. Stemple & Hudkins 10943
6. West Virginia other A-85772
7. Barbour, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00119
2. 47-005-00419
3. 108
4. Consolidated Gas Supply Corporation
5. H Nunnenkamp 7726
6. West Virginia other A-85772
7. Boone, WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00120
2. 47-001-00356
3. 108
4. Consolidated Gas Supply Corporation
5. Burton A Roy 10920
6. West Virginia Other A-85772
7. Barbour, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00121
2. 47-001-00206
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Herman M Reed 10710
6. West Virginia Other A-85772
7. Barbour, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00122
2. 47-001-00363
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Nutter-Poling 10930
6. West Virginia Other A-85772
7. Barbour, WV
8. 16.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00123
2. 47-001-00451
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. F. L. Phillips 11170
6. West Virginia Other A-85772
7. Barbour, WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00124
2. 47-017-01477
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Charles G. Schutte 10904
6. West Virginia Other A-85772
7. Doddridge, WV
8. 13.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00125
2. 47-041-00020
3. 108
4. Consolidated Gas Supply Corporation
5. John A. Sutton 7773
6. West Virginia Other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00126
2. 47-097-00568
3. 108
4. Consolidated Gas Supply Corporation
5. Pecks Run Coal Co. 10191
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00127
2. 47-097-00500
3. 108
4. Consolidated Gas Supply Corporation
5. S. E. Marple 10035
6. West Virginia Other A-85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00128
2. 47-097-00332
3. 108
4. Consolidated Gas Supply Corporation
5. J. C. Reed 9151
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00129
2. 47-097-00313
3. 108
4. Consolidated Gas Supply Corporation
5. Alice Bailey 9071
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00130
2. 47-045-00806
3. 108
4. Consolidated Gas Supply Corporation
5. Dingess Run Coal Co. 10044
6. West Virginia Other A-85772
7. Logan, WV
8. 7.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00131
2. 47-045-00294
3. 108
4. Consolidated Gas Supply Corporation
5. Boone County Coal Corp. 9720
6. West Virginia Other A-85772
7. Logan, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00132
2. 47-041-01803
3. 108
4. Consolidated Gas Supply Corporation
5. J. P. Hull 11358
6. West Virginia Other A-85772
7. Lewis, WV
8. 9.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00133
2. 47-041-01653-DD
3. 108
4. Consolidated Gas Supply Corporation
5. A. W. Woodford 8500
6. West Virginia Other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00134
2. 47-041-01224
3. 108
4. Consolidated Gas Supply Corporation
5. Eldon J. McCue 10512
6. West Virginia Other A-85772
7. Lewis, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00135
2. 47-035-00676
3. 108
4. Consolidated Gas Supply Corporation
5. B. F. Cox 9390
6. West Virginia Other A-85772
7. Jackson, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00136
2. 47-017-01501
3. 108
4. Consolidated Gas Supply Corporation
5. J. L. Freeman 10939
6. West Virginia Other A-85772
7. Doddridge, WV
8. 12.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00137
2. 47-041-01274
3. 108
4. Consolidated Gas Supply Corporation
5. Creed S. Simmons 10535
6. West Virginia Other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00138
2. 47-041-00831
3. 108
4. Consolidated Gas Supply Corporation
5. A. W. Gum 103337
6. West Virginia Other A-85772
7. Lewis, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers
1. 80-00139

V 44 OC 25 79 UMI

2. 47-041-00376
3. 108
4. Consolidated Gas Supply Corporation
5. Catherine A. See 10206
6. West Virginia Other A-85772
7. Lewis, WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00140
2. 47-097-01287
3. 108
4. Consolidated Gas Supply Corporation
5. Virginia Mae Meier 11216
6. West Virginia Other A-85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00141
2. 47-097-00889
3. 108
4. Consolidated Gas Supply Corporation
5. John Grill 10735
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00142
2. 47-097-00890
3. 108
4. Consolidated Gas Supply Corporation
5. French Shomo 10636
6. West Virginia Other A-85772
7. Upshur, WV
8. 2.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00143
2. 47-097-00602
3. 108
4. Consolidated Gas Supply Corporation
5. R. Teeter 10267
6. West Virginia Other A-85772
7. Upshur, WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00144
2. 47-097-00587
3. 108
4. Consolidated Gas Supply Corporation
5. H. N. Hull 10233
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00145
2. 47-097-00586
3. 108
4. Consolidated Gas Supply Corporation
5. Wade Radabaugh 10208
6. West Virginia Other A-85772
7. Upshur, WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00146
2. 47-097-00844
3. 108 Denied
4. Consolidated Gas Supply Corporation
5. Nell Radabaugh 10635
6. West Virginia Other A-85772
7. Upshur, WV
8. .0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00180
2. 47-021-00787
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9307
6. West Virginia Other A-85772
7. Gilmer, WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00181
2. 47-021-00077
3. 108
4. Consolidated Gas Supply Corporation
5. Mary A. Stump 8827
6. West Virginia Other A-85772
7. Gilmer, WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00182
2. 47-021-00950
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett Hrs 9784
6. West Virginia Other A-85772
7. Gilmer, WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00183
2. 47-021-00955
3. 108
4. Consolidated Gas Supply Corporation
5. Ella R Despard 9809
6. West Virginia Other A-85772
7. Gilmer WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00184
2. 47-021-01332
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 10348
6. West Virginia Other A-85772
7. Gilmer WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00185
2. 47-035-00778
3. 108
4. Consolidated Gas Supply Corporation
5. Maggie Baier 9480
6. West Virginia Other A-85772
7. Jackson WV
8. .4 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00186
2. 47-021-00961
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Louis Bennett 9830
6. West Virginia Other A-85772
7. Gilmer WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00187
2. 47-017-01736-DD
3. 108 denied
4. Consolidated Gas Supply Corporation
5. J R Dennison 3489
6. West Virginia Other A-85772
7. Dodridge WV
8. .4 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00188
2. 47-041-01426-DD
3. 108 denied
4. Consolidated Gas Supply Corporation
5. D H Bennett 10055
6. West Virginia Other A-85772
7. Lewis WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-00189
2. 47-033-00101-D
3. 108 denied
4. Consolidated Gas Supply Corporation
5. J A Gawthrop 7925
6. West Virginia Other A-85772
7. Harrison WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000190
2. 47-033-00462
3. 108 denied
4. Consolidated Gas Supply Corporation
5. John W Eib 10946
6. West Virginia Other A-85772
7. Harrison WV
8. .7 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000191
2. 47-077-00077
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Virginia Severe 10173
6. West Virginia Other A-85772
7. Preston WV
8. 1.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000192
2. 47-041-01332
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Lydia Starcher 10652
6. West Virginia Other A-85772
7. Lewis WV
8. 6.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000193
2. 47-033-0054
3. 108 denied
4. Consolidated Gas Supply Corporation
5. A W Rhodes 11293
6. West Virginia Other A-85772
7. Harrison WV
8. 21.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000194
2. 47-033-00525
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Caroline Dubois 11188
6. West Virginia Other A-85772

7. Harrison WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000195
2. 47-035-00984
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Tennie Bever 10163
6. West Virginia Other A-85772
7. Jackson WV
8. 5.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000196
2. 47-013-00557
3. 108
4. Consolidated Gas Supply Corporation
5. Pruda E Smith 8518
6. West Virginia Other A-85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000197
2. 47-013-00435
3. 108
4. Consolidated Gas Supply Corporation
5. W L Sellers 7786
6. West Virginia Other A-85772
7. Calhoun WV
8. 10.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000198
2. 47-013-00379
3. 108
4. Consolidated Gas Supply Corporation
5. Richard White 7767
6. West Virginia Other A-85772
7. Calhoun WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000199
2. 47-017-01594
3. 108
4. Consolidated Gas Supply Corporation
5. F M Gray 11285
6. West Virginia Other A-85772
7. Dodridge WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000200
2. 47-021-00625
3. 108
4. Consolidated Gas Supply Corporation
5. Flossie Snodgrass 6837
6. West Virginia Other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000201
2. 47-021-00693
3. 108
4. Consolidated Gas Supply Corporation
5. Hunter Bennett 8964
6. West Virginia Other A-85772
7. Gilmer WV
8. 4.0 million cubic feet
9. October 1, 1979
10. General System Purchasers

1. 80-0000202
2. 47-021-00706-D
3. 108
4. Consolidated Gas Supply Corporation
5. A B Ayers 3130
6. West Virginia Other A-85772
7. Gilmer WV
8. 1.5 million cubic feet
9. October 1, 1979
10. General System Purchasers

U.S. Geological Survey, Metairie, La.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22333/G9-847
2. 17-708-40299-0000-0
3. 102
4. Shell Oil Company
5. A-13
6. South Marsh Island
7. 149
8. 1063.0 million cubic feet
9. September 28, 1979
10. Florida Gas Transmission Company
United Gas Pipeline Co Southern Natural Gas Co

1. 79-22334/G9-576
2. 17-705-40196-01D2-0
3. 102
4. Felmont Oil Corporation
5. OCS-0172 Well No. 10-D
6. Vermilion
7. 86
8. 1600.0 million cubic feet
9. September 28, 1979
10. Transcontinental Gas Pipe Line Corp

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control Number (F.E.R.C./State)
2. API Well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated Annual Volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22330/NM-2473-79
2. 30-045-21684-0000-0
3. 108
4. Universal Resources Corporation
5. Grigsby Federal #4-8
6. Basin Dakota
7. San Juan NM
8. 2.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp

1. 79-22332/NM 1827-79
2. 30-045-08864-0000-0
3. 108
4. Ladd Petroleum Corporation
5. Farmington #1-4
6. Basin Dakota
7. San Juan NM
8. 14.0 million cubic feet
9. September 28, 1979
10. Southern Union Gathering Co

U.S. Geological Survey, Casper, Wyo.

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22295/CC652-9
2. 05-103-08055-0000-0
3. 103
4. Twin Arrow Inc
5. C & K 1-13X
6. Cathedral
7. Rio Blanco
8. .0 million cubic feet
9. September 28, 1979
10. IGC Production Company

1. 79-22297/CC902-9
2. 05-103-08017-0000-0
3. 102
4. Fuel Resources Development Co
5. No 21-1 Federal
6. Cathedral
7. Rio Blanco Co
8. 28.0 million cubic feet
9. September 28, 1979
10. Western Slope Gas Co

1. 79-22298/CC657-9
2. 05-103-08090-0000-0
3. 108
4. Twin Arrow Inc
5. Continental 4-8
6. Cathedral
7. Rio Blanco Co
8. 10.0 million cubic feet
9. September 28, 1979
10. IGC Production Company

1. 79-22299/CC648-9
2. 05-103-07923-0000-0
3. 108
4. Twin Arrow Inc
5. Universal 2-19
6. Cathedral
7. Rio Blanco Co
8. 8.7 million cubic feet
9. September 28, 1979
10. IGC Production Company

1. 79-22311/CC771-9
2. 05-103-07904-0000-0
3. 108
4. Continental Oil Company
5. Dragon Trail Unit #10
6. Douglas Creek NESE 3-T3S-R102W
7. Rio Blanco Co
8. 16.4 million cubic feet
9. September 28, 1979
10. Western Slope Gas Company (4900)

1. 79-22313/CC770-9
2. 05-103-08015-0000-0
3. 102
4. Continental Oil Company
5. Missouri Creek 27 #1
6. Texas Mountain NW 27-T3S-R103W
7. Rio Blanco Co
8. .0 million cubic feet
9. September 28, 1979
10.

1. 79-22321/CC656-9
2. 05-103-07882-0000-0

V 44 0C 25 79 UMI

3. 108
4. Twin Arrow Inc
5. C & K 1–12
6. Cathedral
7. Rio Blanco Co
8. 18.2 million cubic feet
9. September 28, 1979
10. IGC Prodction Company
1. 79–22327/CC823–9
2. 05–103–08044–0000–0
3. 108
4. Tipperary Oil and Gas Corp
5. USA 3–31–B
6. Cathedral
7. Rio Blanco Co
8. 13.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22309/M660–9
2. 25–071–21088–0000–0
3. 108
4. Midlands Gas Corporation
5. 2512 Federal 626–25 #1
6. Bowdoin
7. Phillips MT
8. 11.0 million cubic feet
9. September 28, 1979
10. Kansas-Nebraska Natural Gas Co Inc
1. 79–22300/UC730–9
2. 43–047–30313–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 234
6. Red Wash
7. Uintah UT
8. 36.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22301/UC7216–9
2. 43–047–30388–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 247
6. Red Wash
7. Uintah UT
8. 18.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22303/UC725–9
2. 43–047–30389–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 248
6. Red Wash
7. Uintah UT
8. 100.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22308/UC658–9
2. 43–019–15482–0000–0
3. 108
4. Burton W Hancock
5. Federal Government No 1
6. West Bar–X
7. Grand County UT
8. 20.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22310/UC731–9
2. 43–047–30340–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 236
6. Red Wash
7. Uintah UT
8. 180.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22315/UC745–9
2. 43–047–30348–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 244
6. Red Wash
7. Uintah UT
8. 220.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22316/UC750–9
2. 43–047–30342–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 238
6. Red Wash
7. Uintah UT
8. 18.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22317/UC735–9
2. 43–047–30310–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 231
6. Red Wash
7. Uintah UT
8. 47.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22318/UC734–9
2. 43–047–30257–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 227
6. Red Wash
7. Uintah UT
8. 100.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22319/UC733–9
2. 43–047–30312–0000–0
3. 103
4. Chevron USA Inc
5. Red Wash Unit 233
6. Red Wash
7. Uintah UT
8. 50.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79–22320/UC744–9
2. 43–047–30344–0000–0
3. 103
4. Chevron USA, Inc.
5. Red Wash Unit 240
6. Red Wash
7. Uintah, UT
8. 18.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp.
1. 79–22322/UC732–9
2. 43–047–30347–0000–0
3. 103
4. Chevron USA, Inc.
5. Red Wash Unit 243
6. Red Wash
7. Uintah, UT
8. 183.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp.
1. 79–22324/UC743–9
2. 43–047–30258–0000–0
3. 103
4. Chevron USA, Inc.
5. Red Wash Unit 228
6. Red Wash
7. Uintah, UT
8. 18.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp.
1. 79–22325/UC742–9
2. 43–047–30309–0000–0
3. 103
4. Chevron USA, Inc.
5. Red Wash Unit 230
6. Red Wash
7. Uintah, UT
8. 18.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp.
1. 79–22326/UC741–9
2. 43–047–30311–0000–0
3. 103
4. Chevron USA, Inc.
5. Red Wash Unit 232
6. Red Wash
7. Uintah, UT
8. 55.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp.
1. 79–22331/UC105–9
2. 43–019–30411–0000–0
3. 102 denied
4. Bowers Oil & Gas Exploration Inc.
5. Bowers Federal #1–6
6. Cedar Mountain
7. Grand, UT
8. .0 million cubic feet
9. September 28, 1979
10.
1. 79–22296/W662–9
2. 49–013–00000–0000–0
3. 103
4. Hadson Ohio Oil Company
5. Tribal-Trigg #1–7
6. East Riverton Field
7. Fremont, WY
8. 274.0 million cubic feet
9. September 28, 1979
10. Montana-Dakota Utilities Co.
1. 79–22302/W695–9
2. 49–037–21194–0000–0
3. 102
4. Smokey Oil Company Inc.
5. Bluewater Federal 4–32
6. Wildcat
7. Sweetwater, WY
8. 128.0 million cubic feet
9. September 28, 1979
10. Colorado Interstate Gas Company
1. 79–22304/W661–9
2. 49–023–20123–0000–0
3. 108
4. Rainbow Resources Inc.
5. Federal 1–14
6. Craven Creek
7. Lincoln, WY
8. 20.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corporation
1. 79–22305/W948–9
2. 49–037–21155–0000–0
3. 103
4. Elf Aquitaine Inc.
5. Ntichie Gulch Mesa # 13–34
6. Nitchie Gulch
7. Sweetwater, WY
8. 73.0 million cubic feet
9. September 28, 1979
10. Stauffer Chemical Company of Wyoming
1. 79–22306/W672–9
2. 49–007–20021—0000–0
3. 108
4. El Paso Products Company
5. Monell Unit No. 84
6. Patrick Draw
7. Sweetwater, WY
8. 2.0 million cubic feet
9. September 28, 1979
10. Colorado Interstate Gas
1. 79–22307/W671–9
2. 49–007–20120—0000–0
3. 108
4. El Paso Products Company
5. Monell Unit No. 173
6. Patrick Draw
7. Sweetwater, WY
8. .7 million cubic feet
9. September 28, 1979
10. Colorado Interstate Gas
1. 79–22312/W890–9
2. 49–035–04365–0000–0
3. 108
4. Belco Petroleum Corporation
5. CBU 4 04365
6. Big Piney-Labarge
7. Sublette, WY
8. 14.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corporation
1. 79–22314/W852–9
2. 49–035–07918–0000–0
3. 108
4. Belco Petroleum Corporation
5. LIU 3–24 0798
6. Big Piney
7. Sublette, WY
8. 14.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corporation
1. 79–22323/W764–9
2. 49–009–21384–0000–0
3. 103
4. Champlin Petroleum Company
5. #3 Federal 43–14
6. Dry Fork Area
7. Converse, WY
8. 19.0 million cubic feet
9. September 28, 1979
10. McCulloch Interstate Gas Corp.

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the Federal Register.

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,
Secretary.

[FR Doc. 79–32925 Filed 10–24–79; 8:45 am]
BILLING CODE 6450–01–M

[No. 97]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 18, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

Arkansas Oil and Gas Commission

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–22069
2. 03–027–10684
3. 103
4. Mike A Davis
5. Hollensworth-1
6. Spotsville
7. Columbia AR
8. 270.0 million cubic feet
9. September 27, 1979
10.
1. 79–22070
2. 03–027–10523
3. 103
4. W C Partee
5. B Dickson #1
6. Mt Vernon Field
7. Columbia AR
8. 6.5 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22071
2. 03–027–10510
3. 103
4. Cardell-Tlapek Company
5. Fincher-Clark #1
6. Mt Vernon Field
7. Columbia AR
8. 9.9 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22072
2. 03–027–10510
3. 103
4. Cardell-Tlapek Company
5. Fincher-Clark #1
6. Mt Vernon Field
7. Columbia AR
8. 9.9 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22073
2. 03–027–10558
3. 103
4. Cardell-Tlapek Company
5. W E Dickson Est #1
6. Mt Vernon Field
7. Columbia AR
8. 31.8 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22074
2. 03–027–10518
3. 103
4. Cardell-Tlapek Company
5. Dickson #1
6. Mt Vernon Field
7. Columbia AR
8. .0 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22075
2. 03–073–10358
3. 103
4. Cardell-Tlapek Company
5. Bodcaw Bank #1
6. Mt Vernon Field
7. Columbia AR
8. 14.0 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22076
2. 03–027–10539
3. 103
4. Cardell-Tlapek Company
5. Browning-Danielson #1
6. Mt Vernon Field
7. Columbia AR
8. 7.2 million cubic feet
9. September 27, 1979
10. J–W Operating Company
1. 79–22077
2. 03–027–10502
3. 103
4. Cardell-Tlapek Company
5. Eddy-Horton #1
6. Mt Vernon Field
7. Columbia AR
8. 26.5 million cubic feet
9. September 27, 1979
10. J–W Operating Company

Lousiana Office of Conservation

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79–22126/79–2365
2. 17–119–20216
3. 102
4. Cities Service Company
5. SMK C RA SU A Matthews C #1
6. North Shongaloo-Red Rock
7. Webster LA
8. 180.0 million cubic feet
9. September 28, 1979
10.
1. 79–22127/79–2364
2. 17–117–20216

3. 102
4. Cities Service Company
5. SMK C RC SU K Matthews C #1D
6. North Shongaloo-Red Rock
7. Webster LA
8. 360.0 million cubic feet
9. September 28, 1979
10.

Michigan Department of Natural Resources

1. Control number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22117
2. 21-045-32458
3. 102
4. Consumers Power Company
5. CPCO Lawrence-Tomlin 1-15
6. Hamlin 15
7. Eaton County MI
8. 255.0 million cubic feet
9. September 27, 1979
10. Consumers Power Company

Montana Board of Oil and Gas Conservation

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22121/8-79-245
2. 25-083-21174
3. 103
4. Shell Oil Company
5. Bn 33X-25
6. Mondak West
7. Richland, MT
8. 5.5 million cubic feet
9. September 27, 1979
10. Montana Dakota Utilities Company

1. 79-22122/8-79-246
2. 25-083-21175
3. 103
4. Shell Oil Company
5. Carleton 13X-5
6. Mondak West
7. Richland, MT
8. 60.5 million cubic feet
9. September 27, 1979
10. Montana Dakota Utilities Company

1. 79-22123/8-79-244
2. 25-083-21201
3. 103
4. Shell Oil Company
5. Moore 23-24
6. Mondak West
7. Richland, MT
8. 60.0 million cubic feet
9. September 27, 1979
10. Montana Dakota Utilities Company

1. 79-22124/8-79-250
2. 25-005-21967
3. 103
4. Tricentrol United States Inc
5. Moore #13-3-T27N-R18E
6. Sawtooth Mountain
7. Baline, MT
8. 70.0 million cubic feet
9. September 27, 1979
10. Northern Natural Gas Company

1. 79-22125/8-79-247
2. 25-041-21060
3. 108
4. Tricentrol United States Inc
5. Erhard 27-6-T32N-R15E MPM
6. Tiger Ridge Field Bullhook Unit
7. Hill, MT
8. 18.0 million cubic feet
9. September 27, 1979
10. Northern Natural Gas Company

New Mexico Department of Energy and Minerals Oil Conservation Division

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Fielf or OCS area name
7. County, State or Block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22078
2. 30-015-22700
3. 102
4. Delta Drilling Company
5. South Culebra Bluff #3
6. Wildcat
7. Eddy County, NM
8. .0 million cubic feet
9. September 27, 1979
10. El Paso Natural Gas Company

1. 79-22079
2. 30-045-23471
3. 103
4. Tenneco Oil Company
5. State Com K #12
6. Blanco Pictured Cliffs
7. San Juan, NM
8. 110.0 million cubic feet
9. September 27, 1979
10. El Paso Natural Gas Company

1. 79-22080
2. 30-025-26232
3. 103
4. Phillips Petroleum Company
5. E. Vacuum GB/SA TR 3333 #004
6. Vacuum Grayburg/San Andres
7. Lea, NM
8. 1.5 million cubic feet
9. September 27, 1979
10. El Paso Natural Gas Company

1. 79-22081
2. 30-039-21988
3. 103
4. Palmer Oil & Gas Company
5. Davis No. 1
6. Blanco Mesa Verde Ext
7. Rio Arriba, NM
8. 140.0 million cubic feet
9. September 27, 1979
10. Northwest Pipeline Corporation

1. 79-22082
2. 30-045-23196-0000-1
3. 103
4. Palmer Oil & Gas Company
5. Montoya #25-1 (Dakota)
6. Basin Dakota
7. San Juan, NM
8. 78.0 million cubic feet
9. September 27, 1979
10. Southwest Gas Corporation

1. 79-22083
2. 30-045-23196-0000-2
3. 103
4. Palmer Oil & Gas Company
5. Montoya #25-1 (Mesaverde)
6. Blanco Mesaverde
7. San Juan, NM
8. 91.0 million cubic feet
9. September 27, 1979
10. Southwest Gas Corporation

1. 79-22254
2. 30-025-26110
3. 103
4. Amoco Production Company
5. State C TR 11 #8
6. Hardy Blinebry
7. Lea, NM
8. 75.0 million cubic feet
9. September 28, 1979
10. Getty Oil Company

1. 79-22255
2. 30-045-21147
3. 1083
4. Amoco Production Company
5. Candelaria Gas Com #1
6. Aztec Pictured Cliffs
7. San Juan, NM
8. 21.5 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company

1. 79-22256
2. 30-039-00000
3. 108
4. Caulkins Oil Company
5. Breech F. 25
6. South Blanco Pictured Cliffs
7. Rio Arriba, NM
8. 13.9 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico

1. 79-22257
2. 30-015-00000
3. 103
4. Maddox Energy Corporation
5. Malaga Com No 1
6. Malaga Atoka
7. Eddy, NM
8. 5.5 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company

New York Department of Environmental Conservation, Bureau of Mineral Resources

1. Control Number (F.E.R.C./State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date Received at FERC
10. Purchaser(s)

1. 79-22118/740
2. 31-013-13792
3. 103
4. Oilmark & Co Inc
5. Feinen Bros #2
6. Lakeshore
7. Chautauqua, NY

8. 210.0 million cubic feet
9. September 27, 1979
10. National Fuel Gas

1. 79-22119/738
2. 31-013-12331
3. 103
4. Oilmark & Co Inc
5. Roman #1
6. Lakeshore
7. Chautauqua, NY
8. 200.0 million cubic feet
9. September 27, 1979
10. National Fuel Gas

1. 79-22120/739
2. 31-013-13793
3. 103
4. Oilmark & Co Inc
5. Kryzstofik #1
6. Lakeshore
7. Chautauqua, NY
8. 200.0 million cubic feet
9. September 27, 1979
10. National Fuel Gas

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-22084
2. 47-085-02788
3. 108
4. Pennzoil Company
5. Sarah J Lemon #16
6. Murphy District
7. Ritchie WV
8. 9.3 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22085
2. 47-085-00901
3. 108
4. Pennzoil Company
5. S A Goff No 4
6. Union
7. Ritchie WV
8. 6.0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22086
2. 47-085-03892
3. 108
4. Pennzoil Company
5. C L Zickafoose #3
6. Murphy District
7. Ritchie WV
8. .8 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22087
2. 47-087-00062
3. 108
4. Pennzoil Company
5. W S Craig #15
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22088
2. 47-085-04098
3. 108
4. Pennzoil Company
5. S A Goff No 1
6. Union
7. Ritchie WV
8. 3.8 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22089
2. 47-085-04097
3. 108
4. Pennzoil Company
5. C F Beall #4
6. Murphy District
7. Ritchie WV
8. 1.3 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22090
2. 47-085-03961
3. 108
4. Pennzoil Company
5. C L Zickafoose #2
6. Murphy District
7. Ritchie WV
8. .8 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22091
2. 47-087-01124
3. 108
4. Pennzoil Company
5. Mary Pool #W-1
6. Spencer
7. Roane WV
8. .4 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22092
2. 47-087-01109
3. 108
4. Pennzoil Company
5. L S Goff #W-18
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22093
2. 47-087-01125
3. 108
4. Pennzoil Company
5. Mary Pool W-2
6. Spencer
7. Roane WV
8. .4 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-220094
2. 47-087-02453
3. 108
4. Pennzoil Company
5. W S Craig #11
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22095
2. 47-087-02453
3. 108
4. Pennzoil Company
5. W S Craig #11
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22096
2. 47-087-02452
3. 108
4. Pennzoil Company
5. W S Craig #9
6. Spencer
7. Roane WV
8. .6 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22097
2. 47-087-02451
3. 108 denied
4. Pennzoil Company
5. W S Craig #3
6. Spencer
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22098
2. 47-087-02454
3. 108 denied
4. Pennzoil Company
5. W S Craig #13
6. Spencer
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22099
2. 47-087.02743
3. 108 denied
4. Pennzoil Company
5. David Simmons #2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22100
2. 47-087-02714
3. 108 denied
4. Pennzoil Company
5. Elkhanah Smith #1
6. Smithfield District
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22101
2. 47-087-02706
3. 108 denied
4. Pennzoil Company
5. A P Sinnett #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22102
2. 47-087-02581
3. 108 denied
4. Pennzoil Company
5. S B Kincaid #8
6. Smithfield
7. Roane WV
8. .0 million cubic feet

V 44 OC 25 79 UMI

9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22103
2. 47-087-02580
3. 108 denied
4. Pennzoil Company
5. S B Kincaid #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22104
2. 47-087-02579
3. 108 denied
4. Pennzoil Company
5. S B Kincaid #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22105
2. 47-087-02577
3. 108 denied
4. Pennzoil Company
5. S B Kincaid #2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22106
2. 47-087-02537
3. 108 denied
4. Pennzoil Company
5. E S Fisher #14
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22107
2. 47-087-02435
3. 108 denied
4. Pennzoil Company
5. E S Fisher #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22108
2. 47-087-02533
3. 108 denied
4. Pennzoil Company
5. E S Fisher #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22109
2. 47-087-02744
3. 108 denied
4. Pennzoil Company
5. David Simmons #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22110
2. 47-087-02083
3. 108 denied
4. Pennzoil Company
5. C B Chambers #6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22111
2. 47-087-02437
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #16
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22112
2. 47-087-02436
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22113
2. 47-087-02508
3. 108 denied
4. Pennzoil Company
5. A W Edgell #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22114
2. 47-087-02438
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #17
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22115
2. 47-087-02526
3. 108 denied
4. Pennzoil Company
5. C B Ferrell #5
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22116
2. 47-087-02524
3. 108 denied
4. Pennzoil Company
5. C B Ferrell #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 27, 1979
10. Consolidated Gas Supply Corp

1. 79-22128
2. 47-087-00018
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #6
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22129
2. 47-087-00017
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #15
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22130
2. 47-087-00070
3. 108 denied
4. Pennzoil Company
5. David Simmons #17
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22131
2. 47-087-00078
3. 108 denied
4. Pennzoil Company
5. David Simmons #14
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22132
2. 47-087-00077
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22133
2. 47-087-00074
3. 108 denied
4. Pennzoil Company
5. Chambers Hrs #12
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22134
2. 47-087-00091
3. 108 denied
4. Pennzoil Company
5. A P Sinnett #2
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22135
2. 47-087-00101
3. 108 denied
4. Pennzoil Company
5. A P Sinnett #6
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22136
2. 47-087-00110
3. 108 denied
4. Pennzoil Company
5. E S Fisher #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22137
2. 47-087-00041
3. 108
4. Pennzoil Company
5. S B Kincaid #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22138
2. 47-087-00039
3. 108
4. Pennzoil Company
5. Lucy J Webb #8
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22139
2. 47-087-00033
3. 108
4. Pennzoil Company
5. J G Greathouse #1
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22140
2. 47-087-00027
3. 108
4. Pennzoil Company
5. Asbury Lewis #2
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22141
2. 47-087-00021
3. 108
4. Pennzoil Company
5. C C Short #2
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22142
2. 47-087-00003
3. 108
4. Pennzoil Company
5. Lucy J Webb #9
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22143
2. 47-087-00010
3. 108 denied
4. Pennzoil Company
5. David Simmons #24
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22144
2. 47-087-00969
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22145
2. 47-087-00965
3. 108
4. Pennzoil Company
5. S J Chambers #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22146
2. 47-087-00970
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-2
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22147
2. 47-087-00971
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22148
2. 47-087-00978
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-4
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22149
2. 47-087-00913
3. 108
4. Pennzoil Company
5. Chambers Hrs #21
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22150
2. 47-087-00963
3. 108
4. Pennzoil Company
5. Wm Kaufman #7
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22151
2. 47-087-00894
3. 108
4. Pennzoil Company
5. Wm Kaufman #5
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22152
2. 47-087-01068
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-20
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22153
2. 47-087-01075
3. 108
4. Pennzoil Company
5. Chambers Hrs #22
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22154
2. 47-087-01076
3. 108
4. Pennzoil Company
5. Chambers Hrs #23
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22155
2. 47-087-01872
3. 108
4. Pennzoil Company
5. J A Harris #16
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22156
2. 47-087-01744
3. 108
4. Pennzoil Company
5. Lucy J Webb #10
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22157
2. 47-087-01094
3. 108
4. Pennzoil Company
5. S J Chambers #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22158
2. 47-087-01095
3. 108
4. Pennzoil Company
5. Asbury Lewis #6
6. Smithfield

V 44 OC 25 79 UMI

7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22159
2. 47-087-01096
3. 108
4. Pennzoil Company
5. Asbury Lewis #7
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22160
2. 47-087-00909
3. 108
4. Pennzoil Company
5. Wm Kaufman #6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22161
2. 47-087-00881
3. 108
4. Pennzoil Company
5. Asbury Lewis #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22162
2. 47-087-00204
3. 108
4. Pennzoil Company
5. E S Fisher #15
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22163
2. 47-087-00119
3. 108
4. Pennzoil Company
5. C B Ferrell #2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22164
2. 47-087-00889
3. 108 denied
4. Pennzoil Company
5. David Simmons #26
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22165
2. 47-087-00198
3. 108 denied
4. Pennzoil Company
5. A P Sinnett #3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22166
2. 47-087-00197
3. 108 denied
4. Pennzoil Company
5. E S Fisher #2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22167
2. 47-087-00109
3. 108 denied
4. Pennzoil Company
5. A P Sinnett #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22168
2. 47-087-00108
3. 108
4. Pennzoil Company
5. S B Kincaid #6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 29, 1979
10. Consolidated Gas Supply Corp

1. 79-22169
2. 47-087-00092
3. 108
4. Pennzoil Company
5. Lucy J Webb #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22170
2. 47-087-00114
3. 108
4. Pennzoil Company
5. Jackson Long #2
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22171
2. 47-087-00093
3. 108
4. Pennzoil Company
5. C B Chambers #1
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22172
2. 47-087-00103
3. 108
4. Pennzoil Company
5. Cynthia Douglas #4
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22173
2. 47-087-00106
3. 108
4. Pennzoil Company
5. P A Bays #6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22174
2. 47-087-00850
3. 108
4. Pennzoil Company
5. C B Chambers #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22175
2. 47-087-01055
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-16
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22176
2. 47-087-00993
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-11
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22177
2. 47-087-00992
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-10
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22178
2. 47-087-00991
3. 108
4. Pennzoil Company
5. Wm Kaufman #9
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22179
2. 47-087-01026
3. 108
4. Pennzoil Company
5. Asbury Lewis #5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22180
2. 47-087-00988
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-8
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22181

2. 47-087-00987
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-6
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22182
2. 47-087-00984
3. 108
4. Pennzoil Company
5. Wm Kaufman #W-5
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22183
2. 47-087-00004
3. 108
4. Pennzoil Company
5. Cynthia Douglas #3
6. Smithfield
7. Roane WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp

1. 79-22184
2. 47-087-00089
3. 108
4. Pennzoil Company
5. Smith-Chambers #1
6. Smithfield District
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22185
2. 47-087-00071
3. 108
4. Pennzoil Company
5. A. W. Edgell #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22186
2. 47-039-01174
3. 108
4. Ray Resources Div of FDOC
5. H. G. Young #1 (159)
6. Big Sandy
7. Kanawha, WV
8. .0 million cubic feet
9. September 28, 1979
10. Pennzoil United

1. 79-22187
2. 47-087-00011
3. 108
4. Pennzoil Company
5. J. A. Harris #6
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22188
2. 47-087-00019
3. 108
4. Pennzoil Company
5. J. A. Harris #14
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22189
2. 47-087-00220
3. 108
4. Pennzoil Company
5. E. S. Fisher #6
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22190
2. 47-087-00046
3. 108
4. Pennzoil Company
5. J. H. Bays #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22191
2. 47-087-00045
3. 108
4. Pennzoil Company
5. Carr Nichols #1
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22192
2. 47-087-00049
3. 108
4. Pennzoil Company
5. O. V. McKnown #2
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22193
2. 47-087-00050
3. 108
4. Pennzoil Company
5. C. C. Short #4
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22194
2. 47-087-00051
3. 108
4. Pennzoil Company
5. J. G. Greathouse #4
6. Spencer
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22195
2. 47-087-00052
3. 108
4. Pennzoil Company
5. J. H. Starr #5
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22196
2. 47-087-00063
3. 108
4. Pennzoil Company
5. C. H. McGraw #3
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22197
2. 47-087-01077
3. 108 denied
4. Pennzoil Company
5. David Simmons #28
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22198
2. 47-087-01120
3. 108 denied
4. Pennzoil Company
5. S. J. Chambers 5#
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22199
2. 47-087-01056
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-19
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22200
2. 47-087-01004
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-15
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22201
2. 47-087-00996
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-14
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22202
2. 47-087-00994
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-12
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

1. 79-22203
2. 47-087-01053
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-17
6. Smithfield

7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.
1. 79-22204
2. 47-087-01032
3. 108
4. Pennzoil Company
5. Wm. Kaufman #W-16
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.
1. 79-22205
2. 47-087-01087
3. 108 denied
4. Pennzoil Company
5. David Simmons #29
6. Smithfield
7. Roane, WV
8. .0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

U.S. Geological Survey, Metairie, La.

1. Control Number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)
1. 79-22253/G 8-13
2. 42-711-40215-01S1-0
3. 102 denied
4. CNG producing company
5. A-10
6. West Cameron
7. 633
8. 3793.0 million cubic feet
9. September 28, 1979
10. Consolidated Gas Supply Corp.

U.S. Geological Survey, Albuquerque, N. Mex.

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated Annual Volume
9. Date Received at FERC
10. Purchaser(s)
1. 79-22206/COA-2680-79
2. 05-067-05351-0000-0
3. 108
4. National Coop Refinery Assoc
5. Southern UTE (504) #1-21
6. Ignacio-Blanco
7. LaPlata CO
8. 14.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Co
1. 79-22235/COA-2679-79
2. 05-067-05352-0000-0
3. 108
4. National Coop Refinery Association
5. Southern UTE (504) 2-21X
6. Ignacio-Blanco
7. La Plata CO
8. 3.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22252/COA-2678-79
2. 05-067-05571-0000-0
3. 108
4. National Coop Refinery Assoc
5. Southern UTE (503) #1-35
6. Ignacio-Blanco
7. LaPlata CO
8. 12.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Co
1. 79-22207/NM 2682-79-79
2. 30-015-22085-0000-0
3. 103
4. HNG Oil Company
5. Grynberg Fed Com 11 #1
6. White City Penn
7. Eddy NM
8. 388.0 million cubic feet
9. September 28, 1979
10. Natural Gas Pipeline Co of America
1. 79-22208/NM-2683-79
2. 30-039-21723-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No. 44-A
6. Blanco Mesaverde P-4-30N-7W
7. Rio Arriba NM
8. 300.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22209/NM-2684-79
2. 30-039-21725-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No. 101-A
6. Blanco Mesaverde J-10-30N-7W
7. Rio Arriba County NM
8. 250.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22210/NM-2685-79
2. 30-039-21736-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No. 102-A
6. Blanco Mesaverde F-3-30N-7W
7. Rio Arriba NM
8. 250.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22211/NM-2686-79
2. 30-039-21695-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No. 17-A
6. Blanco Mesaverde 9-30N-7W
7. Rio Arriba NM
8. 300.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22212/NM-2687-79
2. 30-039-21697-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No. 24-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 250.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22213/NM-2689-79
2. 30-045-22031-0000-0
3. 103
4. Union Oil Company of Calif
5. Navajo #4X-L19
6. Basin Dakota
7. San Juan NM
8. 240.0 million cubic feet
9. September 28, 1979
10. Northwest Pipeline Corp
1. 79-22214/NM 2714-79
2. 30-045-23019-0000-0
3. 103
4. Dietrich Exploration Company Inc
5. Federal 27-6
6. Waw pictured cliffs
7. San Juan NM
8. 65.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22215/NM-2716-79
2. 30-045-23012-0000-0
3. 103
4. Dietrich Exploration Company Inc
5. Federal 27-7
6. Waw pictured cliffs
7. San Juan County NM
8. 66.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22216/NM-2546-79
2. 30-005-60491-0000-0
3. 103
4. Comanche Oil & Gas Company
5. Federal 14 No. 1—NM 16099
6. Sams Ranch Area
7. Chaves NM
8. 65.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79-22217/NM-2645-79
2. 30-145-22477-0000-0
3. 103
4. Dome Petroleum Corp
5. Frew Federal #2
6. Nipp pictured cliffs
7. San Juan NM
8. 23.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas, Natural Gas Pipeline Co of Amer
1. 79-22218/NM-2646-79
2. 30-045-22476-0000-0
3. 103
4. Dome Petroleum Corp
5. Frew Federal #5
6. Nipp pictured cliffs
7. San Juan NM
8. 37.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas, Natural Gas Pipeline Co of Amer
1. 79-22219/NM-2647-79
2. 30-045-22478-0000-0
3. 103
4. Dome Petroleum Corp
5. Frew Federal #3
6. Nipp pictured cliffs
7. San Juan NM
8. 50.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas, Natural Gas Pipeline Co of Amer
1. 79-22220/NM-2648-79-1
2. 30-025-25666-0000-0

3. 103
4. Martindale Petroleum Corporation
5. Deck Federal #2
6. Drinkard
7. Lea NM
8. 92.3 million cubic feet
9. September 28, 1979
10. Getty Oil Company
1. 79-22221/NM-2648-79-2
2. 30-025-25665-0000-0
3. 103
4. Martindale Petroleum Corporation
5. Deck Federal #1
6. Drinkard
7. Lea NM
8. 39.6 million cubic feet
9. September 28, 1979
10. Getty Oil Company
1. 79-22222/NM-2648-79-3
2. 30-025-25505-0000-0
3. 103
4. Martindale Petroleum Corporation
5. Pancana Federal #2
6. Drinkard
7. Lea NM
8. 15.4 million cubic feet
9. September 28, 1979
10. Getty Oil Company
1. 79-22223/NM 2649-79
2. 30-039-00000-0000-0
3. 108
4. Adobe Oil & Gas Corp
5. Scott Federal A-1
6. South Blanco PC
7. Rio Arriba NM
8. 12.9 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22224/NM 2650-79
2. 30-039-00000-0000-0
3. 108
4. Adobe Oil & Gas Corp
5. Scott Federal B-1
6. South Blanco PC
7. Rio Arriba NM
8. 12.3 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22225/NM 2651-79
2. 30-039-00000-0000-0
3. 108
4. Adobe Oil & Gas Corp
5. Scott Federal C-1
6. South Blanco PC
7. Rio Arriba NM
8. 17.7 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22226/NM 2652-79
2. 30-039-00000-0000-0
3. 108
4. Adobe Oil & Gas Corp
5. Scott Federal D-1
6. South Blanco PC
7. Rio Arriba NM
8. 16.5 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22227/NM-2653-79-A
2. 30-039-21515-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla E No. 12
6. Tapacito PC Blanco MV
7. Rio Arriba NM
8. 90.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22228/NM-2654-79
2. 30-039-21547-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla E No. 14
6. Tapacito pictured cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22229/NM-2655-79-79
2. 30-039-21773-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla E No. 15
6. Basin Dakota
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22230/NM-2657-79
2. 30-039-21509-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla K No. 19
6. South Blanco pictured cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22231/NM-2658-79
2. 30-039-21520-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla G No. 2-R
6. Tapacito pictured cliffs
7. Rio Arriba, NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22232/NM 2659-79
2. 30-039-21519-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla B No. 10
6. Tapacito pictured cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22233/NM-2660-79
2. 30-039-21779-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla G No 10-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22234/NM-2661-79
2. 30-039-21778-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla G No 4-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22236/NM-2662-79
2. 30-039-21780-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla J No 15
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22237/NM-2663-79
2. 30-039-21771-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla D No 11-A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22239/NM-2665-79
2. 30-039-21772-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla A No 21
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22240/NM-2666-79-A
2. 30-039-21514-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla H No 9
6. Tapacito PC & Blanco MV
7. Rio Arriba NM
8. 90.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22241/NM-2667-79
2. 30-039-21776-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla A No 20
6. Tapacito Pictured Cliffs
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22242/NM-2668-79-A
2. 30-039-21516-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla B No 8
6. Tapacito PC & Blanco MV
7. Rio Arriba NM
8. 90.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22243/NM-2669-79
2. 30-039-21517-0000-0
3. 103
4. Supron Energy Corporation
5. Jicarilla B No 9
6. Blanco Mesaverde
7. Rio Arriba NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79-22244/NM-2670-79
2. 30-039-21696-0000-0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 27-A
6. Blanco Mesaverde

V 44 OC 25 79 UMI

7. Rio Arriba NM
8. 500.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22245/NM–2671–79–A
2. 30–039–21722–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 16–A
6. Blanco Mesaverde
7. Rio Arriba NM
8. 300.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22246/NM–2672–79
2. 30–039–21696–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 18–A
6. Blanco Mesaverde E–9–30N–7W
7. Rio Arriba NM
8. 300.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22247/NM–2673–79
2. 30–045–23090–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 43–A
6. Blanco Mesaverde C–11–31N–7W
7. San Juan NM
8. 250.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22248/NM–2674–79
2. 30–045–22891–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 103–A
6. Blanco Mesaverde E–24–30N–8W
7. San Juan NM
8. 175.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22249/NM–2675–79
2. 30–045–23089–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit No 64
6. Blanco Mesaverde M–10–31N–7W
7. San Juan NM
8. 300.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22250/NM–2676–79
2. 30–045–22887–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 23–A
6. Blanco Mesaverde
7. San Juan NM
8. 250.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22251/NM–2677–79
2. 30–045–22892–0000–0
3. 103
4. Blackwood & Nichols Co Ltd
5. Northeast Blanco Unit 66–A
6. Blanco Mesaverde
7. San Juan NM
8. 350.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22258/NM–2754–79
2. 30–039–06800–0000–0
3. 108
4. Caulkins Oil Company
5. Breech F 25
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 13.9 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22259/NM–2746–79
2. 30–039–00000–0000–0
3. 108
4. Caulkins Oil Company
5. Breech A 182
6. Blanco Mesa Verde
7. Rio Arriba NM
8. 15.1 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22260/NM–2745–79
2. 30–039–06577–0000–0
3. 108
4. Caulkins Oil Company
5. Breech A 183
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 9.5 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22261/NM–2750–79
2. 30–039–06586–0000–0
3. 108
4. Caulkins Oil Company
5. Breech C 189
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 10.9 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22262/NM–2749–79
2. 30–039–06563–0000–0
3. 108
4. Caulkins Oil Company
5. Breech A 173
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 18.5 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22263/NM–2743–79
2. 30–039–06590–0000–0
3. 108
4. Caulkins Oil Company
5. Breech A 157
6. Undesignated Gallup
7. Rio Arriba NM
8. 4.4 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22264/NM–2741–79
2. 30–039–60060–0000–0
3. 108
4. Caulkins Oil Company
5. Breech A 133
6. South Blanco Pictured Cliffs
7. Rio Arriba NM
8. 6.9 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22265/NM–2733–79
2. 30–045–06832–0000–0
3. 108
4. Depco Inc
5. Hancock No 9
6. West Kutz (Picture Cliffs)
7. San Juan NM
8. 9.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22266/NM–2731–79
2. 30–045–06833–0000–0
3. 108
4. Depco Inc
5. Hancock No 3
6. West Kutz (Picture Cliffs)
7. San Juan NM
8. 10.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22267/NM–2730–79
2. 30–039–06688–0000–0
3. 108
4. Depco Inc
5. Mkl No 17
6. South Blanco (Mesa Verde)
7. Rio Arriba NM
8. 1.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22268/NM–2729–79
2. 30–045–06740–0000–0
3. 108
4. Depco Inc
5. Mudge A No 10
6. West Kutz (Picture Cliffs)
7. San Juan NM
8. 1.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22269/NM–2728–79
2. 30–039–06759–0000–0
3. 108
4. Depco Inc
5. Miles Federal 1–5
6. South Blanco (Dakota)
7. Rio Arriba NM
8. 9.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22270/NM–2726–79
2. 30–025–24974–0000–0
3. 108
4. Phillips Petroleum Company
5. Lusk Deep U–A13 Com
6. Lusk Morrow
7. Lea NM
8. 5.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22271/NM–2725–79
2. 30–015–22209–0000–0
3. 103
4. Phillips Petroleum Company
5. Shug–A No 1
6. Shugart (Y–SR–Q–G)
7. Eddy, NM
8. 5.4 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22272/NM–2724–79
2. 30–015–22221–0000–0
3. 103
4. Phillips Petroleum Company
5. Shug–A No 2
6. Shugart (Y–SR–Q–G)
7. Eddy, NM
8. 3.1 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22273/NM–2723–79

2. 30–025–06164–0000–0
3. 108
4. Phillips Petroleum Company
5. Mexico No 2
6. Eunice Monument Grayburg-San Andres
7. Lea, NM
8. 11.9 million cubic feet
9. September 28, 1979
10. Warren Petroleum Company
1. 79–22274/NM–2721–79
2. 30–025–02458–0000–0
3. 108
4. Phillips Petroleum Company
5. Cruces No 2
6. Lynch Yates Seven Rivers
7. Lea, NM
8. 1.9 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22275/NM–2727–79
2. 30–045–06650–0000–0
3. 108
4. Depco Inc
5. Mudge A No 3
6. West Kutz (Picture Cliffs)
7. San Juan, NM
8. 1.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico
1. 79–22276/NM–2718–79
2. 30–045–23013–0000–0
3. 103
4. Dietrich Exploration Company Inc
5. Federal #34–1
6. Waw Pictured Cliffs
7. San Juan County, NM
8. 47.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22277/NM–2581–79
2. 30–039–21441–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV KD No 3
6. Chacon Dakota
7. Rio Arriba, NM
8. 143.4 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22278/NM–2580–79
2. 30–039–21705–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV PC 102
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 43.3 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22279/NM–2579–79
2. 30–039–21710–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV PC 101
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 27.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22280/NM–2578–79
2. 30–039–21660–0000–0
3. 103
4. Odessa Natural Corporation
5. Arco Little Federal No 29–2
6. Chacon Dakota
7. Rio Arriba, NM
8. 198.9 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22281/NM–2577–79
2. 30–043–20300–0000–0
3. 103
4. Odessa Natural Corporation
5. Chacon Jicarilla D–10
6. Chacon Dakota
7. Sandoval County, NM
8. 233.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22282/NM–2576–79
2. 30–039–21535–0000–0
3. 103
4. Odessa Natural Corporation
5. Little Federal No 29–1
6. Chacon Dakota
7. Rio Arriba, NM
8. 219.0 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22283/NM–2575–79
2. 30–043–20236–0000–0
3. 103
4. Odessa Natural Corporation
5. Chacon Jicarilla No D–7
6. Chacon Dakota
7. Sandoval, NM
8. 90.2 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22284/NM–2574–79
2. 30–039–21458–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV KD No 5
6. Chacon Dakota
7. Rio Arriba, NM
8. 98.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22285/NM–2573–79
2. 30–034–21706–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV PC 108
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 58.9 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22286/NM–2572–79
2. 30–039–21457–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV KD No 4
6. Chacon Dakota
7. Rio Arriba, NM
8. 363.9 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22287/NM–2571–79
2. 30–043–20312–0000–0
3. 103
4. Odessa Natural Corporation
5. Chacon Jicarilla D–12
6. Chacon Dakota
7. Sandoval, NM
8. 116.8 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22288/NM–2570–79
2. 30–039–21443–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV KD No 2
6. Chacon Dakota
7. Rio Arriba, NM
8. 268.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22289/NM–2569–79
2. 30–039–21536–0000–0
3. 103
4. Odessa Natural Corporation
5. Arco Little Federal No 32–1
6. Chacon Dakota
7. Rio Arriba, NM
8. 302.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22290/NM–2564–79
2. 30–039–00000–0000–0
3. 103
4. Odessa Natural Corporation
5. Jicarilla JV PC 104
6. Ballard Pictured Cliffs
7. Rio Arriba, NM
8. 102.6 million cubic feet
9. September 28, 1979
10. El Paso Natural Gas Company
1. 79–22238/NM–2664–79
2. 30–039–21546–0000–0
3. 103
4. Supron Energy Corporation
5. Jicarilla C No 5
6. Tapacito Pictured Cliffs
7. Rio Arriba, NM
8. 70.0 million cubic feet
9. September 28, 1979
10. Gas Company of New Mexico

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register.**

Please reference the FERC control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79–32922 Filed 10–24–79; 8:45 am]

BILLING CODE 6450–01–M

V 44 OC 25 79 UMI

[No. 95]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

October 15, 1979.

The Federal Energy Regulatory Commission received notices from the jurisdictional agencies listed below of determinations pursuant to 18 CFR 274.104 and applicable to the indicated wells pursuant to the Natural Gas Policy Act of 1978.

West Virginia Department of Mines, Oil and Gas Division

1. Control number (FERC/State)
2. API well number
3. Section of NGPA
4. Operator
5. Well name
6. Field or OCS area name
7. County, State or block No.
8. Estimated annual volume
9. Date received at FERC
10. Purchaser(s)

1. 79-21452
2. 47-039-02653
3. 108
4. Ray Resources Div of Flying Diamond
5. Reamer & Brown #463
6. Big Sandy Dist
7. Kanawha WV
8. 8.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21453
2. 47-039-02657
3. 108
4. Ray Resources Div of Flying Diamond
5. Sam Littlepage #454
6. Big Sandy Dist
7. Kanawha WV
8. 12.1 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21454
2. 47-039-02659
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #455
6. Elk
7. Kanawha WV
8. 7.3 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21455
2. 47-039-02677
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #444
6. Big Sandy
7. Kanawha WV
8. 8.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21456
2. 47-039-02686
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #494
6. Elk
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21457
2. 47-039-02684
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #456
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21458
2. 47-039-02678
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #447
6. Big Sandy
7. Kanawha WV
8. 8.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21459
2. 47-039-02545
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #370
6. Elk Dist
7. Kanawha WV
8. 3.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21460
2. 47-039-02579
3. 108
4. Ray Resources Div of Flying Diamond
5. C C Lewis #406
6. Big Sandy
7. Kanawha WV
8. 12.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21461
2. 47-039-02577
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #407
6. Big Sandy Dist
7. Kanawha WV
8. 8.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21462
2. 47-039-02561
3. 108
4. Ray Resources Div of Flying Diamond
5. James Brown #382
6. Big Sandy Dist
7. Kanawha WV
8. 10.4 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21463
2. 47-039-02550
3. 108
4. Ray Resources Div of Flying Diamond
5. Sam Littlepage #379
6. Big Sandy Dist
7. Kanawha WV
8. 7.3 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21464
2. 47-105-00743
3. 103
4. Ray Resources Div of Flying Diamond
5. Ray McVey #794
6. Reedy
7. Wirt WV
8. 3.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21465
2. 47-105-00751
3. 103
4. Ray Resources Div of Flying Diamond
5. McConaughey-Roberts #808
6. Burning Springs
7. Wirt WV
8. 15.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21466
2. 47-105-00750
3. 103
4. Ray Resources Div of Flying Diamond
5. Harry Belt Unit #814
6. Burning Springs
7. Wirt WV
8. 4.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21467
2. 47-039-01233
3. 108
4. Ray Resources Div of Flying Diamond
5. Falling Rock #157-[117]
6. Big Sandy
7. Kanawha WV
8. 3.5 million cubic feet
9. September 21, 1979
10. Penzoil United Inc

1. 79-21468
2. 47-015-00982
3. 108
4. Ray Resources Div of Flying Diamond
5. Frank Mathenry #465
6. Otter Dist
7. Clay WV
8. 1.1 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21469
2. 47-015-00846
3. 108
4. Ray Resources Div of Flying Diamond
5. Nettie Starcher #1 (154)
6. Otter
7. Clay WV
8. 3.9 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21470
2. 47-015-00908
3. 108
4. Ray Resources Div of Flying Diamond
5. Dice Boggs #311
6. Otter Dist
7. Clay WV
8. .2 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21471
2. 47-015-00912
3. 108
4. Ray Resources Div of Flying Diamond
5. B C Eakle #321
6. Otter Dist
7. Clay WV
8. .2 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21472
2. 47-015-00973
3. 108
4. Ray Resources Div of Flying Diamond
5. C A Boggs #432
6. Otter Dist
7. Clay WV
8. 4.2 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21473
2. 47-039-02548
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #371
6. Elk Dist
7. Kanawha WV
8. 3.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21474
2. 47-039-02651
3. 108
4. Ray Resources Div of Flying Diamond
5. Reamer & Brown #461
6. Big Sandy Dist
7. Kanawha WV
8. 8.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21475
2. 47-021-00306
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 7809
6. West Virginia Other A-85772
7. Gilmer WV
8. 7.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21476
2. 47-017-01099
3. 108
4. Consolidated Gas Supply Corporation
5. W L Davis 10541
6. West Virginia Other A-85772
7. Doddridge WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21477
2. 47-017-00226
3. 108
4. Consolidated Gas Supply Corporation
5. W B Maxwell 10079
6. West Virginia other A-85772
7. Doddridge, WV
8. 8.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21478
2. 47-017-00033
3. 108
4. Consolidated Gas Supply Corporation
5. Perry Tate 1043
6. West Virginia other A-85772
7. Doddridge, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21479
2. 47-013-01526
3. 108
4. Consolidated Gas Supply Corporation
5. Joseph Knotts 10021
6. West Virginia other A-85772
7. Calhoun, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21480
2. 47-013-01118
3. 108
4. Consolidated Gas Supply Corporation
5. Howard Stump 9663
6. West Virginia other A-85772
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21481
2. 47-013-00962
3. 108
4. Consolidated Gas Supply Corporation
5. Clay McDonald 9169
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21482
2. 47-013-00931
3. 108
4. Consolidated Gas Supply Corporation
5. C L Strother 9105
6. West Virginia other A-85772
7. Calhoun, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21483
2. 47-013-00877
3. 108
4. Consolidated Gas Supply Corporation
5. R W White 9013
6. West Virginia other A-85772
7. Calhoun, WV
8. 7.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21484
2. 47-013-00760
3. 108
4. Consolidated Gas Supply Corporation
5. G W Hardman 8662
6. West Virginia other A-85772
7. Calhoun, WV
8. 4.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21485
2. 47-013-00014
3. 108
4. Consolidated Gas Supply Corporation
5. Sylvester Stump 5610
6. West Virginia other A-85772
7. Calhoun, WV
8. 8.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21486
2. 47-005-00460
3. 108
4. Consolidated Gas Supply Corporation
5. F B Nelson 8507
6. West Virginia other A-85772
7. Boone, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21487
2. 47-001-00169
3. 108
4. Consolidated Gas Supply Corporation
5. C B Tenney 10634
6. West Virginia other A-85772
7. Barbour, WV
8. 6.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21488
2. 47-001-00136
3. 108
4. Consolidated Gas Supply Corporation
5. I S Ward 10483
6. West Virginia other A-85772
7. Barbour, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21489
2. 47-001-00068
3. 108
4. Consolidated Gas Supply Corporation
5. Stanley Stewart 9298
6. West Virginia other A-85772
7. Barbour, WV
8. 7.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21490
2. 47-033-00021
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Davis Heirs 11051
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21491
2. 47-005-00918
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Albert H Cole 10314
6. West Virginia other A-85772
7. Boone, WV
8. 2.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21492
2. 47-001-00150
3. 108 denied
4. Consolidated Gas Supply Corporation
5. Virginia B Poling 10410
6. West Virginia other A-85772
7. Barbour, WV
8. 1.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21493
2. 47-107-00666
3. 108
4. Ray Resources Div of Flying Diamond
5. Wilbur Pringle #479
6. Walker Dist
7. Wood, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21494

V 44 0C 25 79 UMI

2. 47-105-00703
3. 108
4. Ray Resources Div of Flying Diamond
5. A S Rowand #724
6. Ready
7. Wirt, WV
8. 3.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21495
2. 47-105-00710
3. 108
4. Ray Resources Div of Flying Diamond
5. A S Rowand #745
6. Reedy
7. Wirt, WV
8. 7.2 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21496
2. 47-105-00753
3. 108
4. Ray Resources Div of Flying Diamond
5. McConaughey-Roberts #817
6. Burning Springs
7. Wirt, WV
8. 15.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21497
2. 47-105-00759
3. 108
4. Ray Resources Div of Flying Diamond
5. Summers-Lee #816
6. Burning Springs
7. Wirt, WV
8. 5.3 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21498
2. 47-107-00673
3. 108
4. Ray Resources Div of Flying Diamond
5. Wilbur Pringle #482
6. Walker Dist
7. Wood, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21499
2. 47-105-00702
3. 108
4. Ray Resources Div of Flying Diamond
5. Billy Full #723
6. Reedy
7. Wirt, WV
8. 1.1 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21500
2. 47-105-00673
3. 108
4. Ray Resources Div of Flying Diamond
5. Hall-Roberts #546
6. Burning Springs
7. Wirt, WV
8. 15.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21501
2. 47-039-02730
3. 108
4. Ray Resources Div of Flying Diamond
5. Elizabeth Mickley
6. Elk Dist
7. Kanawha, WV
8. 1.3 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21502
2. 47-039-02745
3. 108
4. Ray Resources Div of Flying Diamond
5. Sam Littlepage #536
6. Big Sandy
7. Kanawha, WV
8. 1.7 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21503
2. 47-043-01550
3. 108
4. Ray Resources Div of Flying Diamond
5. James Nunn #477
6. Duval Dist
7. Lincoln, WV
8. 5.8 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21504
2. 47-021-00623
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 8838
6. West Virginia other A-85772
7. Gilmer, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21505
2. 47-033-00142
3. 108
4. Consolidated Gas Supply Corporation
5. M W Smith 8016
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21506
2. 47-033-00317
3. 108
4. Consolidated Gas Supply Corporation
5. Porter Maxwell 10530
6. West Virginia other A-85772
7. Harrison, WV
8. 4.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21507
2. 47-033-00511
3. 108
4. Consolidated Gas Supply Corporation
5. John Dolan 7940
6. West Virginia other A-85772
7. Harrison WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21508
2. 47-017-01653
3. 108
4. Consolidated Gas Supply Corporation
5. W B Maxwell 11390
6. West Virginia other A-85772
7. Doddridge WV
8. 8.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21509
2. 47-021-00434
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 8509
6. West Virginia other A-85772
7. Gilmer WV
8. 1.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21510
2. 47-021-00490
3. 108
4. Consolidated Gas Supply Corporation
5. W G Bennett 8542
6. West Virginia other A-85772
7. Gilmer WV
8. 1.5 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21511
2. 47-021-00491
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 8553
6. West Virginia other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21512
2. 47-021-00544
3. 108
4. Consolidated Gas Supply Corporation
5. F R Beall 8617
6. West Virginia other A-85772
7. Gilmer WV
8. 4.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21513
2. 47-013-00584
3. 108
4. Consolidated Gas Supply Corporation
5. Lottie McEndree 8536
6. West Virginia other A-85772
7. Calhoun WV
8. 4.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21514
2. 47-033-00077
3. 108
4. Consolidated Gas Supply Corporation
5. Tilman Boggess 3224
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21515
2. 47-021-01984
3. 108
4. Consolidated Gas Supply Corporation
5. William C Bush 6871
6. West Virginia other A-85772
7. Gilmer WV
8. 1.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21516
2. 47-021-00960
3. 108
4. Consolidated Gas Supply Corporation
5. Groves-McKinley 9812
6. West Virginia other A-85772

7. Gilmer WV
8. 13.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21517
2. 47-021-01246
3. 108
4. Consolidated Gas Supply Corporation
5. Louis Bennett 10305
6. West Virginia other A-85772
7. Gilmer WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21518
2. 47-021-00863
3. 108
4. Consolidated Gas Supply Corporation
5. W G Bennett 9641
6. West Virginia other A-85772
7. Gilmer WV
8. 6.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21519
2. 47-021-00750
3. 108
4. Consolidated Gas Supply Corporation
5. I F Dobbins 9149
6. West Virginia other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21520
2. 47-021-00659
3. 108
4. Consolidated Gas Supply Corporation
5. A B Meadows 6676
6. West Virginia other A-85772
7. Gilmer WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21521
2. 47-021-00599
3. 108
4. Consolidated Gas Supply Corporation
5. F Snodgrass 8800
6. West Virginia other A-85772
7. Gilmer WV
8. 7.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21522
2. 47-067-00024
3. 108
4. Cities Service Company
5. Dickinson B #3
6. Gauley
7. Nicholas WV
8. 17.5 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21523
2. 47-067-00023
3. 108
4. Cities Service Company
5. Dickinson B #2
6. Gauley
7. Nicholas WV
8. 7.6 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21524
2. 47-019-00084
3. 108
4. Cities Service Company
5. Elliot A #1
6. Gauley
7. Fayette WV
8. 11.1 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21525
2. 47-019-00073
3. 108
4. Cities Service Company
5. Gauley Mountain Coal Co A #17
6. Gauley
7. Fayette WV
8. 8.6 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21526
2. 47-067-00030
3. 108
4. Cities Service Company
5. Dickinson B #8
6. Gauley
7. Nicholas WV
8. 6.0 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21527
2. 47-067-00028
3. 108
4. Cities Service Company
5. Dickinson B #7
6. Gauley
7. Nicholas WV
8. 10.7 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21528
2. 47-067-00027
3. 108
4. Cities Service Company
5. Dickinson B-6
6. Gauley
7. Nicholas WV
8. 7.1 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21529
2. 47-067-00026
3. 108
4. Cities Service Company
5. Dickinson B #5
6. Gauley
7. Nicholas WV
8. 12.0 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21530
2. 47-067-00057
3. 108
4. Cities Service Company
5. Bennett A #2
6. Gauley
7. Nicholas WV
8. 13.7 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-79-21531
2. 47-067-00056
3. 108
4. Cities Service Company
5. Flynn Coal & Lumb A #2
6. Gauley
7. Nicholas WV
8. 5.3 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21532
2. 47-067-00047
3. 108
4. Cities Service Company
5. Bennett A #1
6. Gauley
7. Nicholas WV
8. 12.7 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21533
2. 47-067-00033
3. 108
4. Cities Service Company
5. Dickinson B #11
6. Gauley
7. Nicholas WV
8. 13.1 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21534
2. 47-067-00078
3. 108
4. Cities Service Company
5. Dickinson B #13
6. Gauley
7. Nicholas WV
8. 13.6 million cubic feet
9. September 21, 1979
10. Equitable Gas Company

1. 79-21535
2. 47-047-00769
3. 103
4. Ray Resources Div of Flying Diamond
5. G P Smith #807
6. Adkin Dist
7. McDowell WV
8. 26.2 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21536
2. 47-047-00781
3. 103
4. Ray Resources Div of Flying Diamond
5. Poco Land #812
6. Elkhorn Dist
7. McDowell WV
8. 19.4 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21537
2. 47-047-00780
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #810
6. Adkin Dist
7. McDowell, WV
8. 35.4 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21538
2. 47-047-00784
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #811
6. Adkin Dist
7. McDowell, WV
8. 17.7 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21539

V 44 0C 25 79 UMI

2. 47-047-00786
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #819
6. Elkhorn Dist
7. McDowell, WV
8. 12.6 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21540
2. 47-105-00747
3. 103
4. Ray Resources Div of Flying Diamond
5. Harry Belt Unit #684
6. Bruning Springs
7. Wirt, WV
8. 4.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21541
2. 47-105-00752
3. 102
4. Ray Resources Div of Flying Diamond
5. Hunter #813
6. Tucker
7. Wirt, WV
8. 180.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Tran

1. 79-21542
2. 47-035-01419
3. 103
4. Ray Resources Div of Flying Diamond
5. Hutchison Hrs #796
6. Ravenswood
7. Jackson, WV
8. 1.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Tran

1. 79-21543
2. 47-047-00787
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #818
6. Elkhorn Dist
7. McDowell, WV
8. 47.5 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21544
2. 47-047-00761
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #802
6. Elkhorn Dist
7. McDowell, WV
8. 50.0 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21545
2. 47-047-00768
3. 103
4. Ray Resources Div of Flying Diamond
5. Poca Land #805
6. Adkin Dist
7. McDowell, WV
8. 36.5 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21546
2. 47-047-00767
3. 103
4. Ray Resources Div of Flying Diamond
5. G P Smith #806
6. Adkin Dist
7. McDowell, WV
8. 15.0 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply

1. 79-21547
2. 47-043-01586
3. 108 Denied
4. Ray Resources Div of Flying Diamond
5. D J Craddock #485
6. Washington Dist
7. Lincoln, WV
8. .6 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21548
2. 47-039-02729
3. 108
4. Ray Resources Div of Flying Diamond
5. Blue CK Coal #562
6. Elk Dist
7. Kanawha, WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21549
2. 47-043-01611
3. 108
4. Ray Resources Div of Flying Diamond
5. James Berry #523
6. Duval Dist
7. Lincoln, WV
8. .2 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21550
2. 47-039-02710
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #522
6. Elk Dist
7. Kanawha, WV
8. 2.4 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21551
2. 47-039-02713
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #521
6. Elk Dist
7. Kanawha, WV
8. 1.9 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21552
2. 47-039-02716
3. 108
4. Ray Resources Div of Flying Diamond
5. Lousia Updiscraft #535
6. Elk Dist
7. Kanawha, WV
8. 1.0 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21553
2. 47-039-02714
3. 108
4. Ray Resources Div of Flying Diamond
5. Louisa Updegraft #529
6. Big Sandy
7. Kanawha, WV
8. .9 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21554
2. 47-039-02724
3. 108
4. Ray Resources Div of Flying Diamond
5. Lovell Carnes #555
6. Elk Dist
7. Kanawha, WV
8. 2.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21555
2. 47-039-02702
3. 108
4. Ray Resources Div of Flying Diamond
5. Reamer & Brown #517
6. Big Sandy Dist
7. Kanawha, WV
8. 1.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21556
2. 47-039-02701
3. 108
4. Ray Resources Div of Flying Diamond
5. Reamer & Brown #516
6. Big Sandy Dist
7. Kanawha, WV
8. 1.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21557
2. 47-041-00796
3. 108
4. Consolidated Gas Supply Corp
5. G L White 10337
6. West Virginia other A-85772
7. Lewis, WV
8. 6.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21558
2. 47-041-01108
3. 108
4. Consolidated Gas Supply Corp
5. Brannon Hardman 10434
6. West Virginia other A-85772
7. Lewis, WV
8. 4.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21559
2. 47-033-00578
3. 108 Denied
4. Consolidated Gas Supply Corp
5. Minerva F Yerkey 1146
6. West Virginia other A-85772
7. Harrison, WV
8. 14.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21560
2. 47-033-00655
3. 108
4. Consolidated Gas Supply Corp
5. L F Hickman 8094
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21561
2. 47-033-00696
3. 108
4. Consolidated Gas Supply Corp
5. Enoch Post 8065
6. West Virginia other A-85772

7. Harrison, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21562
2. 47-033-00745
3. 108
4. Consolidated Gas Supply Corp
5. G W Washburn 8117
6. West Virginia other A-85772
7. Harrison, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21563
2. 47-033-00707
3. 108
4. Consolidated Gas Supply Corp
5. G P McConkey 8143
6. West Virginia other A-85772
7. Harrison, WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21564
2. 47-033-00745
3. 108
4. Consolidated Gas Supply Corp
5. G W Washburn 8117
6. West Virginia other A-85772
7. Harrison, WV
8. 3.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21565
2. 47-021-00686
3. 108
4. Consolidated Gas Supply Corp
5. C M Bennett 8956
6. West Virginia other A-85772
7. Gilmer, WV
8. 8.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21566
2. 47-021-01111
3. 108
4. Consolidated Gas Supply Corp
5. W G Bennett 10205
6. West Virginia other A-85772
7. Gilmer, WV
8. 6.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21567
2. 47-021-01999
3. 108
4. Consolidated Gas Supply Corp
5. C O Rafferty 11113
6. West Virginia other A-85772
7. Gilmer WV
8. 6.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21568
2. 47-033-00139
3. 108 denied
4. Consolidated Gas Supply Corp
5. J J Strother 6149
6. West Virginia other A-85772
7. Harrison WV
8. 5.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21569
2. 47-033-00219
3. 108 denied
4. Consolidated Gas Supply Corp
5. Henrietta Ward 8105
6. West Virginia other A-85772
7. Harrison WV
8. 18.0 million cubic feet
9. September 21, 1979
10. General System Purchasers

1. 79-21570
2. 47-005-00249
3. 108
4. Cities Service Company
5. Wood A #7
6. Seth
7. Boone WV
8. 5.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21571
2. 47-005-00222
3. 108
4. Cities Service Company
5. Wood A #5
6. Seth
7. Boone WV
8. 2.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21572
2. 47-005-00409
3. 108
4. Cities Service Company
5. Wood A #3
6. Seth
7. Boone WV
8. 3.5 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21573
2. 47-005-00410
3. 108
4. Cities Service Company
5. Wood A #4
6. Seth
7. Boone WV
8. 3.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21574
2. 47-017-00079
3. 108
4. Cities Service Company
5. Maxwell A #41
6. Smithburg
7. Doddridge WV
8. 3.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21575
2. 47-017-00070
3. 108
4. Cities Service Company
5. Bland B #1
6. Smithburg
7. Doddridge WV
8. 8.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21576
2. 47-017-00069
3. 108
4. Cities Service Company
5. Maxwell A #33
6. Smithburg
7. Doddridge WV
8. .7 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21577
2. 47-017-00044
3. 108
4. Cities Service Company
5. Maxwell B #19
6. Smithburg
7. Doddridge WV
8. 17.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21578
2. 47-017-00036
3. 108
4. Cities Service Company
5. Maxwell A #61
6. Smithburg
7. Doddridge WV
8. 8.2 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21579
2. 47-005-00873
3. 108
4. Cities Service Company
5. Wood A #1
6. Seth
7. Boone WV
8. 2.7 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21580
2. 47-017-00720
3. 108
4. Cities Service Company
5. Maxwell C #15
6. Smithburg
7. Doddridge WV
8. 13.7 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21581
2. 47-017-00321
3. 108
4. Cities Service Company
5. Maxwell C #14
6. Smithburg
7. Doddridge WV
8. 3.2 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21582
2. 47-017-00088
3. 108
4. Cities Service Company
5. Maxwell A #55
6. Smithburg
7. Doddridge WV
8. 2.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21583
2. 47-017-00085
3. 108
4. Cities Service Company
5. Maxwell A #43
6. Smithburg
7. Doddridge WV
8. 1.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21584

2. 47-017-00060
3. 108
4. Cities Service Company
5. Maxwell A #42
6. Smithburg
7. Doddridge WV
8. 4.2 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co

1. 79-21585
2. 47-039-02700
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #508
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21586
2. 47-105-00672
3. 108
4. Ray Resources Div of Flying Diamond
5. West Aco-Wilson
6. Burning Springs
7. Wirt WV
8. 1.3 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21587
2. 47-043-01631
3. 108
4. Ray Resources Div of Flying Diamond
5. Opal Gilley #554
6. Washington Dist
7. Lincoln WV
8. .3 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21588
2. 47-039-02699
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #507
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21589
2. 47-039-02691
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #500
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21590
2. 47-039-02693
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #501
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21591
2. 47-039-02694
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #503
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21592
2. 47-039-02698
3. 108
4. Ray Resources Div of Flying Diamond
5. Union Carbide #512
6. Elk Dist
7. Kanawha WV
8. 14.5 million cubic feet
9. September 21, 1979
10. Columbia Gas Trans

1. 79-21593
2. 47-039-02725
3. 108
4. Ray Resources Div of Flying Diamond
5. Lester Cecil #557
6. Jefferson Dist
7. Kanawha WV
8. .3 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21594
2. 47-043-01680
3. 108
4. Ray Resources Div of Flying Diamond
5. J V Alford #708
6. Duval Dist
7. Lincoln WV
8. 2.0 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21595
2. 47-043-01663
3. 108
4. Ray Resources Div of Flying Diamond
5. J V Alford
6. Duval Dist
7. Lincoln WV
8. 2.0 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21596
2. 47-043-01653
3. 108
4. Ray Resources Div of Flying Diamond
5. James Berry #558
6. Duval Dist
7. Lincoln WV
8. .2 million cubic feet
9. September 21, 1979
10. Industrial Gas

1. 79-21597
2. 47-109-00627
3. 108
4. Cities Service Company
5. Cub Creek Coal Co. A-5
6. Bradshaw
7. Wyoming WV
8. 3.6 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21598
2. 47-109-00626
3. 108
4. Cities Service Company
5. Cub Creek Coal Co. A-4
6. Bradshaw
7. Wyoming WV
8. 9.2 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21599
2. 47-109-00618
3. 108
4. Cities Service Company
5. Cub Creek Coal Co. A-3
6. Bradshaw
7. Wyoming WV
8. 13.4 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21600
2. 47-109-00617
3. 108
4. Cities Service Company
5. Cub Creek Coal Co. A-2
6. Bradshaw
7. Wyoming WV
8. 15.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21601
2. 47-109-00638
3. 108
4. Cities Service Company
5. Cub Creek Coal Co. A-6
6. Bradshaw
7. Wyoming WV
8. 8.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21602
2. 47-109-00637
3. 108
4. Cities Service Company
5. Ramsay Coal Co. A-3
6. Bradshaw
7. Wyoming WV
8. 7.8 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21603
2. 47-109-00635
3. 108
4. Cities Service Company
5. Bailey A-2
6. Bradshaw
7. Wyoming WV
8. 17.4 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21604
2. 47-109-00629
3. 108
4. Cities Service Company
5. Ramsay Coal Co. A-2
6. Bradshaw
7. Wyoming WV
8. 13.9 million cubic feet
9. September 21, 1979
10. Columbia Gas Transmission Corp

1. 79-21605
2. 47-039-00201
3. 108
4. Cities Service Company
5. Copenhaver Heirs A #4
6. Colbon 6
7. Kanawha WV
8. 5.1 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21606
2. 47-039-00202
3. 108
4. Cities Service Company
5. Copenhaver Heirs A #3
6. Colbon 6
7. Jackson WV
8. 11.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

7. Kanawha WV
8. 4.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21617
2. 47-017-01231
3. 108
4. Cities Service Company
5. Maxwell B #24
6. Smithburg
7. Doddridge WV
8. 7.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21618
2. 47-017-01127
3. 108
4. Cities Service Company
5. Maxwell C #18
6. Smithburg
7. Doddridge WV
8. 4.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21619
2. 47-017-01159
3. 108
4. Cities Service Company
5. Maxwell B #23
6. Smithburg
7. Doddridge WV
8. 7.2 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21620
2. 47-017-01105
3. 108
4. Cities Service Company
5. Maxwell D #24
6. Smithburg
7. Doddridge WV
8. 14.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21621
2. 47-017-01011
3. 108
4. Cities Service Company
5. Maxwell C #17
6. Smithburg
7. Doddridge WV
8. 7.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21622
2. 47-017-00988
3. 108
4. Cities Service Company
5. Maxwell D #21
6. Smithburg
7. Doddridge WV
8. 12.1 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21623
2. 47-017-00940
3. 108
4. Cities Service Company
5. Maxwell B #22
6. Smithburg
7. Doddridge WV
8. 10.7 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21624
2. 47-017-00829
3. 108
4. Cities Service Company
5. Maxwell B #21
6. Smithburg
7. Doddridge WV
8. 11.9 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21625
2. 47-017-00721
3. 108
4. Cities Service Company
5. Maxwell C #16
6. Smithburg
7. Doddridge WV
8. 8.0 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21626
2. 47-039-00334
3. 108
4. Cities Service Company
5. Wolfe A #1
6. Colbon 6
7. Kanawha WV
8. 6.1 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21607
2. 47-039-00273
3. 108
4. Cities Service Company
5. Minsker A #1
6. Colbon 6
7. Kanawha WV
8. 3.5 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21608
2. 47-017-02124
3. 108
4. Cities Service Company
5. Longacre A #2
6. Smithburg
7. Doddridge WV
8. 6.6 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21609
2. 47-017-02156
3. 108
4. Cities Service Company
5. Maxwell D #11
6. Smithburg
7. Doddridge WV
8. 4.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21610
2. 47-035-00058
3. 108
4. Cities Service Company
5. Putnam Co A #1
6. Colbon 6
7. Jackson WV
8. 4.5 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21611
2. 47-035-00147
3. 108
4. Cities Service Company
5. Putnam Co A #8
6. Colbon 6
7. Jackson WV
8. 11.3 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21612
2. 47-017-01793
3. 108
4. Cities Service Company
5. Sherwood A-3
6. Smithburg
7. Doddridge WV
8. 8.4 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21613
2. 47-017-02120
3. 108
4. Cities Service Company
5. Bland B #3
6. Smithburg
7. Doddridge WV
8. 4.9 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21614
2. 47-017-01234
3. 108
4. Cities Service Company
5. Chapman A #4
6. Smithburg
7. Doddridge WV
8. 11.8 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21615
2. 47-017-01398
3. 108
4. Cities Service Company
5. Maxwell B #25
6. Smithburg
7. Doddridge WV
8. 3.6 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21616
2. 47-017-01230
3. 108
4. Cities Service Company
5. Maxwell C #20
6. Smithburg
7. Doddridge WV
8. 4.4 million cubic feet
9. September 21, 1979
10. Consolidated Gas Supply Co.

1. 79-21627
2. 47-039-00348
3. 108
4. Cities Service Co.
5. Jones B #1
6. Colbon 6
7. Kanawha, WV
8. 6.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21628
2. 47-039-00384
3. 108
4. Cities Service Co.
5. Young Heirs A #1
6. Colbon 6
7. Kanawha, WV
8. 5.1 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21629

2. 47-017-00845
3. 108 Denied
4. Cities Service Co.
5. Sherwood A-4
6. Smithburg
7. Doddridge, WV
8. 8.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21630
2. 47-017-00949
3. 108 Denied
4. Cities Service Co.
5. Maxwell D #20
6. Smithburg
7. Doddridge, WV
8. 16.8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21631
2. 47-017-01104
3. 108 Denied
4. Cities Service Co.
5. Maxwell D #4
6. Smithburg
7. Doddridge, WV
8. 20.1 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21632
2. 47-017-01062
3. 108 Denied
4. Cities Service Co.
5. Maxwell D #22
6. Smithburg
7. Doddridge, WV
8. 14.2 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21633
2. 47-035-00132
3. 108 Denied
4. Cities Service Co.
5. Fisher A #1
6. Colbon 6
7. Kanawha, WV
8. 11.9 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21634
2. 47-039-02408
3. 108 Denied
4. Cities Service Co.
5. Hanna D-1
6. Kaput
7. Kanawha, WV
8. 14.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21635
2. 47-013-00002
3. 108
4. Pennzoil Co.
5. J B Bennett #2
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21636
2. 47-021-03340
3. 108 Denied
4. Pennzoil Co.
5. Pinkard Brannon #6
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21637
2. 47-013-00042
3. 108
4. Pennzoil Co
5. L G Garrett #2
6. Lee
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21638
2. 47-013-00036
3. 108
4. Pennzoil Co.
5. Creed Yoak #1
6. Lee
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21639
2. 47-013-00017
3. 108
4. Pennzoil Co.
5. W T Rafferty #9
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21640
2. 47-013-00006
3. 108
4. Pennzoil Co.
5. W T Rafferty #4
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21641
2. 47-013-00005
3. 108
4. Pennzoil Co.
5. W T Rafferty #3
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21642
2. 47-039-00302
3. 108
4. Cities Service Co.
5. Hughart A #1
6. Colbon 6
7. Kanawha, WV
8. 6.3 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21643
2. 47-039-00537
3. 108
4. Cities Service Co.
5. Vickers A#12
6. Colbon 6
7. Kanawha, WV
8. 4.4 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21644
2. 47-039-00555
3. 108
4. Cities Service Co.
5. Hanna A #1
6. Colbon 6
7. Kanawha, WV
8. 9.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21645
2. 47-039-00773
3. 108
4. Cities Service Co.
5. Robinson A#1
6. Colbon 6
7. Kanawha, WV
8. 7.3 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21646
2. 47-039-00785
3. 108
4. Cities Service Co.
5. Jones H #1
6. Colbon 6
7. Kanawha, WV
8. 7.3 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21647
2. 47-039-00406
3. 108
4. Cities Service Co.
5. Fogarty A #1
6. Colbon 6
7. Kanawha, WV
8. 4.8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21648
2. 47-039-00475
3. 108
4. Cities Service Co.
5. Cavender A #1
6. Colbon 6
7. Kanawha, WV
8. 4.8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21649
2. 47-039-00532
3. 108
4. Cities Service Co.
5. Johnson Gibson A #1
6. Colbon 6
7. Kanawha, WV
8. 10.9 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21650
2. 47-013-01860
3. 108
4. Pennzoil Co.
5. Hagan-Barr #2
6. Sherman District
7. Calhoun, WV
8. 1.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21651
2. 47-013-01812
3. 108
4. Pennzoil Co.
5. A & N Hardman #3
6. Lee & Sherman Districts
7. Calhoun, WV
8. .8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21652
2. 47-013-01922
3. 108
4. Pennzoil Co.
5. Hagan-Barr #1
6. Sherman District
7. Calhoun, WV
8. 1.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21653
2. 47-013-01768
3. 108
4. Pennzoil Co.
5. M W Shaffer #2
6. Lee
7. Calhoun, WV
8. 1.8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21654
2. 47-013-01607
3. 108
4. Pennzoil Co.
5. Laura V Ash #6 (PZL)
6. Sherman District
7. Calhoun, WV
8. 2.3 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Co.

1. 79-21655
2. 47-067-00095
3. 108
4. Cities Service Co.
5. Federal Coal Co A #1
6. Gauley
7. Nicholas, WV
8. 10.6 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21656
2. 47-067-00077
3. 108
4. Cities Service Co.
5. Summers B#1
6. Gauley
7. Nicholas, WV
8. 7.2 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21657
2. 47-067-00070
3. 108
4. Cities Service Company
5. Gross A No. 1
6. Gauley
7. Nicholas, WV
8. 8.4 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21658
2. 47-067-00066
3. 108
4. Cities Service Company
5. Flynn Coal & Lumber A No. 3
6. Gauley
7. Nicholas, WV
8. 10.4 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21659
2. 47-067-00092
3. 108
4. Cities Service Company
5. Payne A No. 3
6. Gauley
7. Nicholas, WV
8. 9.9 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21660
2. 47-067-00085
3. 108
4. Cities Service Company
5. Frank A-1
6. Gauley
7. Nicholas, WV
8. 2.5 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21661
2. 47-021-03179
3. 108 Denied
4. Pennzoil Company
5. A L Rymer No. 7
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21662
2. 47-021-03182
3. 108 Denied
4. Pennzoil Company
5. W W Rymer No. 4
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21663
2. 47-021-01755
3. 108
4. Pennzoil Company
5. Helmick-Moore No. 1
6. Glenville
7. Gilmer, WV
8. .0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21664
2. 47-013-00538
3. 108
4. Pennzoil Company
5. L G Garrett No. 3
6. Lee
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21665
2. 47-013-00055
3. 108
4. Pennzoil Company
5. W T Rafferty No. 7
6. Sherman District
7. Calhoun, WV
8. 1.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21666
2. 47-021-03341
3. 108 Deined
4. Pennzoil Company
5. Pinkard Brannon No. 9
6. Troy
7. Gilmer, WV
8. .0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

1. 79-21667
2. 47-067-00083
3. 108
4. Cities Service Company
5. Payne A No. 2
6. Gauley
7. Nicholas, WV
8. 2.6 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21668
2. 47-067-00081
3. 108
4. Cities Service Company
5. Payne A No. 1
6. Gauley
7. Nicholas, WV
8. 4.5 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21669
2. 47-047-00518
3. 108
4. Cities Service Company
5. Carter Land Co A No. 5
6. Bradshaw
7. McDowell, WV
8. 15.6 million cubic feet
9. September 24, 1979
10. Columbia Gas Transmission Corp

1. 79-21670
2. 47-067-00242
3. 108
4. Cities Service Company
5. Dickinson B-22
6. Gauley
7. Nicholas, WV
8. 11.3 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21671
2. 47-067-00241
3. 108
4. Cities Service Company
5. Dickinson B-21
6. Gauley
7. Nicholas, WV
8. 9.4 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21672
2. 47-067-00236
3. 108
4. Cities Service Company
5. Dickinson B-18
6. Gauley
7. Nicholas, WV
8. 4.2 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21673
2. 47-067-00235
3. 108
4. Cities Service Company
5. Dickinson B-17
6. Gauley
7. Nicholas, WV
8. 10.7 million cubic feet
9. September 24, 1979
10. Equitable Gas Company

1. 79-21674

V 44 0 C 2 5 7 9 UMI

2. 47-067-00222
3. 108
4. Cities Service Company
5. Dickinson B No. 15
6. Gauley
7. Nicholas, WV
8. 10.1 million cubic feet
9. September 24, 1979
10. Equitable Gas Company
1. 79-21675
2. 47-067-00107
3. 108
4. Cities Service Company
5. Johnson B No. 2
6. Gauley
7. Nicholas, WV
8. 10.2 million cubic feet
9. September 24, 1979
10. Equitable Gas Company
1. 79-21676
2. 47-067-00032
3. 108 Denied
4. Cities Service Company
5. Dickinson B No. 10
6. Gauley
7. Nicholas, WV
8. 20.7 million cubic feet
9. September 24, 1979
10. Equitable Gas Company
1. 79-21677
2. 47-067-00067
3. 108 Denied
4. Cities Service Company
5. Flynn Coal & Lumb A No. 4
6. Gauley
7. Nicholas, WV
8. 17.1 million cubic feet
9. September 24, 1979
10. Equitable Gas Company
1. 79-21678
2. 47-067-00125
3. 108
4. Cities Service Company
5. Federal Coal Co A No. 5
6. Gauley
7. Nicholas, WV
8. 5.6 million cubic feet
9. September 24, 1979
10. Equitable Gas Company
1. 79-21679
2. 47-013-01557
3. 108
4. Pennzoil Company
5. Laura V Ash No. 5 (PZL)
6. Sherman District
7. Calhoun, WV
8. 2.3 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp
1. 79-21680
2. 47-013-01537
3. 108
4. Pennzoil Company
5. Creed Yoak No. 3
6. Lee
7. Calhoun, WV
8. 2.0 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp
1. 79-21681
2. 47-013-00826
3. 108
4. Pennzoil Company
5. A & N Hardman No. 2
6. Lee & Sherman Districts
7. Calhoun, WV
8. .8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp
1. 79-21682
2. 47-013-00794
3. 108
4. Pennzoil Company
5. A & N Hardman No. 1
6. Lee & Sherman Districts
7. Calhoun, WV
8. .8 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp
1. 79-21683
2. 47-013-00540
3. 108
4. Pennzoil Company
5. Henry Grogg No. 1
6. Sheridan District
7. Calhoun, WV
8. 4.5 million cubic feet
9. September 24, 1979
10. Consolidated Gas Supply Corp

The applications for determination in these proceedings together with a copy or description of other materials in the record on which such determinations were made are available for inspection, except to the extent such material is treated as confidential under 18 CFR 275.206, at the Commission's Office of Public Information, Room 1000, 825 North Capital Street, NE., Washington, D.C. 20426.

Persons objecting to any of these final determinations may, in accordance with 18 CFR 275.203 and 18 CFR 275.204, file a protest with the Commission within fifteen (15) days of the date of publication of this notice in the **Federal Register**.

Please reference the FERC Control number in all correspondence related to these determinations.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32930 Filed 10-24-79; 8:45]

BILLING CODE 6450-01-M

[Docket No. TC80-1 and RP72-6

El Paso Natural Gas Co.; Amendment to Tariff Filing Pursuant to Order No. 29 of the Commission's Regulations

October 18, 1979.

Take notice that on October 9, 1979, El Paso Natural Gas Company (El Paso) tendered for filing with the Federal Energy Regulatory Commission (Commission) certain revised schedules to be substituted for those filed on October 1, 1979, as part of the tariff sheets submitted in compliance with certain Commission orders. Those tariff sheets were filed pursuant to §§ 281.201 to 21.215 (Order No. 29) of the Commission's regulations and Ordering Paragraph (E) of the Federal Power Commission's order issued July 29, 1977, at Docket No. RP72-6.

El Paso states that, as a result of a computational error in the said schedules, certain data respecting Southern California Gas Company (SoCal) are not correct. These schedules quantify the impact of adjustments to end use profiles attributable to the orders referred to above. The adjustment to SoCal's Priority 5 category should have reflected a reduction as a result of upward adjustments to Priorities 1 and 2 attributable to the 49 days growth allowed under the Commission's order, issued July 29, 1977, at Docket No. RP72-6.

For classification purposes, El Paso states that it is submitting a revised Schedule 1 under Tab 1, a revised Schedule 2A under Tab 2, and revised Schedules under Tab 5. Copies of this filing are on file with the Commission and are available for public inspection.

Any person desiring to be heard or to make a protest with reference to said tariff should, on or before October 26, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). Protests filed with this Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32923 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-575]

Georgia Power Co.; Order Accepting for Filing and Suspending Proposed Interchange Contract Rates, Waiving Notice Requirement and Establishing Procedures

October 5, 1979.

On August 7, 1979, Georgia Power Company (Georgia Power) tendered for filing a proposed change in its interchange contract with Savannah Electric and Power Company (Savannah) for the exchange of emergency, short term and economy services.[1] Georgia Power also requested a waiver of the Commission's notice provisions to permit the interchange

[1] See Attachment A for designations.

contract to become effective as of August 1, 1979.

Emergency interchange service is to be furnished for periods not to exceed 72 hours. The energy will be deemed to have been delivered from the supplying party's highest-cost unit operating at the time of the sale. Georgia Power's proposed emergency energy charge for service during 1979 will be 3 mills/kWh plus fuel cost, compensation for transmission losses and variable production O&M costs. Savannah's proposed energy charge for 1979 is 2.6 mills/kWh plus fuel cost, compensation for transmission losses and variable production O&M costs.

Short term interchange service is defined as surplus, non-firm capacity and energy provided for periods not to exceed 90 days. The capacity charge is computed monthly to recover estimated fossil production and transmission O&M expense, A&C expense, depreciation, payroll and property taxes, income taxes and returns of 10.96% for Savannah and 9.87% for Georgia. The energy charge will be the sum of replacement fuel cost, variable production O&M costs and compensation for transmission losses. If purchased from a third party, a wheeling charge is to be added ($0.20/kW/week for Georgia and $0.29/kW/week for Savannah). During 1979 the rate formula results in a weekly capacity charge for short-term service from Georgia Power varying from $1.11/kW/week to $1.15/kW/week, and varying from $1.46/kW/week to $1.52/kW/week [2] for short-term power from Savannah.

Economy energy is to be exchanged on a split-the-savings basis.

Public notice of the filing was issued on August 14, 1979, with protests and petitions to intervene due on or before August 31, 1979. No timely responses were received. On September 4, 1979, Savannah filed a certificate of concurrence.

Our review of Georgia Power's filing with respect to the rates for energy interchange service, short term interchange service and economy interchange service under the proposed interchange contract between Georgia Power and Savannah indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, or otherwise unlawful. Therefore, we shall accept these proposed rates for filing and suspend them for one day, to become effective August 2, 1979, subject to refund, pending the outcome of a hearing and decision. Georgia Power and Savannah are directed to file the supporting testimony and exhibits required by § 35.13 of the Commission's Regulations, within thirty days of the issuance of this order.

The Commission orders:

(A) The Commission hereby waives the notice requirements of § 35.3 of the Regulations.

(B) Georgia Power's proposed rates for emergency, short term, and economy interchange services under its interchange contract with Savannah are hereby accepted for filing and suspended for one day, to become effective as of August 2, 1979, subject to refund.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, and pursuant to the Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR Ch. I), a public hearing shall be held concerning the justness and reasonableness of the rate schedules proposed by Georgia Power in this docket.

(D) Georgia Power and Savannah are hereby directed to file supporting testimony and exhibits required by Section 35.13 of the Regulations within 30 days of the issuance of this order.

(E) The Staff shall prepare and serve top sheets on all parties for settlement purposes within 90 days after compliance with Ordering Paragraph (D) by Georgia Power and Savannah.

(F) A presiding administrative law judge to be designated by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held within ten (10) days after the serving of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The judge is authorized to establish procedural dates and to rule upon all motions (except motions to consolidate and sever, and motions to dismiss) as provided for in the Commission's Rules of Practice and Procedure.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

[2] Charges are computed monthly.

Attachment A

Georgia Power Co.

Filed: August 6, 1979.
Other Party: Savannah Electric & Power Company.
Dated: August 1, 1979.
Effective: August 2, 1979, subject to refund.

Designation, Description

1. Rate Schedule FERC No. 798 (Supersedes R. S. FPC No. 790 as supplemental), Interchange Agreement.
2. Supplement No. 1 to Rate Schedule FERC No. 798, Emergency Service.
3. Supplement No. 2 to Rate Schedule FERC No. 798, Short Term Capacity Service.
4. Supplement No. 3 to Rate Schedule FERC No. 798, Economy Service.
5. Supplement No. 1 to Supplement No. 2 to Rate Schedule FERC No. 798, Proposed Rates for Short Term Service.

Savannah Electric & Power Company

(Concurs with Georgia R. S. FERC No. 798 as noted above)

1. Rate Schedule FERC No. 4 (Supersedes R. S. FPC No. 3 as supplemental), Certificate of Concurrence.

[FR Doc. 79-32924 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-6]

Texas Eastern Transmission Corp.; Motion for Interim Relief

October 18, 1979.

Take Notice that on October 11, 1979, Texas Eastern Transmission Corporation (Texas Eastern) filed a motion pursuant to § 1.41(m) of the Commission's rules of practice and procedure requesting interim relief relieving it of its obligations under Order No. 529, *et seq.* to file revised tariff sheets on November 1, 1979, pending a ruling by the Commission on its proposed settlement and request for adjustment filed by Texas Eastern in Docket No. TC79-139.

On September 10, 1979, Texas Eastern filed with the Commission a proposed settlement which, if approved, would resolve for the near term all issues arising from Order No. 29 *et seq.* In addition, Texas Eastern requested that pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 and § 1.41 of the Commission's rules of practice and procedure, the Commission grant an adjustment to § 281.204 of the Commission's regulations under the Natural Gas Policy Act and waive the requirements of Order No. 29, *et seq.* to the extent necessary to effect the proposed settlement.

On September 28, 1979, the Commission noticed Texas Eastern's filing and indicated that it would process the proposed settlement under the procedures prescribed in § 1.18 of

the Commission's rules of practice and procedure, as revised by Order No. 32 issued June 13, 1979 in Docket No. RM79-16. Comments on the proposed settlement are therefore due on October 20, 1979, with reply comments due on October 30, 1979.

On October 1, 1979, Texas Eastern exercised its right to elect under § 281.204(a)(2) of the Commission's regulations to file the tariff sheets contemplated by Order No. 29, *et seq.* on November 1, 1979, to be effective December 1, 1979, and to keep § 12.7 of the General Terms and Conditions of its current tariff in effect until December 1, 1979. Texas Eastern will soon file a revised tariff sheet reflecting the extension to December 1, 1979, of its current relief provisions for high-priority and essential agricultural uses.

Texas Eastern is now required by Order No. 29, *et seq.* to file draft tariff sheets on November 1, 1979. However, it seems likely that since reply comments on the proposed settlement are not due until October 30, 1979, the Commission will be unable to act on the proposed settlement and Texas Eastern's request for waiver of the filing requirements under Order No. 29, *et seq.* until after November 1, 1979.

Therefore, Texas Eastern requests interim relief from the November 1, 1979, filing date, pending a ruling on the proposed settlement and request for adjustment.

Any person desiring to comment with respect to said motion should file such comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 on or before October 26, 1979

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32926 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. SA80-6]

Texas Eastern Transmission Corp.; Request for Adjustment

October 18, 1979.

Take notice that on October 11, 1979, Texas Eastern Transmission Corporation (Tetco) filed in Docket No. SA80-6 an application pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 and § 1.41 of the Federal Energy Regulatory Commission's (Commission) rules of practice and procedure (18 CFR 1.41), requesting an order extending by one month the time in which Tetco must comply with § 281.204 of the Commission's Regulations. Tetco also seeks to avoid filing draft tariff sheets until such time as it rules on the propriety of the Settlement proposed herein.

Section 281.204 of said regulations requires interstate pipelines to file no later than October 1, 1979, tariff sheets containing a curtailment plan and incorporating therein as index of the high-priority and essential agricultural use entitlements of each of their customers. Tetco states that although it is diligently seeking to comply with the Commission Regulation, it requires until December, 1979, to effect the proposed settlement before complying with the applicable provisions of § 281.204.

On October 1, 1979, Tetco states that is exercised its right to elect under § 281.204(a)(2) of the Commission's regulations to file the tariff sheets it felt necessary under Order Nos. 29, *et seq.* on November 1, 1979, to be effective December 1, 1979, and to keep § 12.7 of the General Terms and Conditions of its current tariff in effect until December 1, 1979. Tetco states that it will soon file a revised tariff sheet reflecting the extension to December 1, 1979 of its current relief provisions for high-priority and essential agricultural uses.

As noted above, following its use of the election procedure, Tetco believes that it is now required by Order Nos. 29, *et seq.* to file draft tariff sheets on November 1, 1979. However, if reply comments on the proposed settlement are not due until October 30, 1979, Tetco believes Commission wil be unable to act on the proposed settlement and Tetco's request for waiver of the filing requirements under Order Nos. 29, *et seq.* until after November 1, 1979.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 9, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32927 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. E-9578 (Phase I)]

Texas Power & Light Co.; Order Affirming and Modifying Initial Decision, and Denying Petition for Rehearing

October 12, 1979.

The Commission[1] has before it exceptions to an initial decision[2] which decides questions of law relating to the issue of whether rates for certain electric power sales by the Texas Power and Light Company (Texas Power)[3] are subject to the jurisdiction of the Commission.[4]

In this decision we affirm and modify four of the six rulings of the presiding administrative law judge (judge) in the initial decision. We decline to pass on the final two rulings. We also deny a petition for rehearing[5] action on which had been deferred[6] pending resolution of the factual issues presented in the initial decision.

I. Background

The Texas-Louisiana Electric Cooperative, Inc. (Tex-La) filed on December 22, 1976, a petition to institute an investigation whether wholesale rates for electric power sales by Texas Power are subject to the jurisdiction of the Commission. In its petition, Tex-La alleged that:

(A) Tex-La purchases power from Texas Power;

(B) Texas Power obtains power from Denison Dam, a hydroelectric project operated by the Corps of Engineers;

(C) Denison Dam is located in Oklahoma and Texas;

(D) The power Texas Power receives from Denison Dam is transmitted across state lines; or,

(E) The power Texas Power receives from Denison Dam is commingled with power generated in Oklahoma.

Texas Power's answer asserted that: The Commission has "recognized generally" the non-jurisdictional status of Texas Power, particularly in relation to the purchase of power from Denison

[1] This proceeding was commenced before the Federal Power Commission (FPC). By the joint regulation of October 1, 1977 (10 CFR 100.1), it was transferred to the FERC. The term "Commission", when used in the context of action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

[2] Decision on Phase I issues, dated February 1, 1979.

[3] Texas Power renders electric service to a population of approximately 2,264,000 in north central and east Texas. Its assets are approximately $2 billion.

[4] Following issuance of this opinion and order, the presiding judge will commence evidentiary hearings to resolve all remaining issues.

[5] Petition for rehearing of the Commission's order of October 31, 1977. The petition for rehearing was filed November 30, 1977.

[6] Commission Order, issued November 15, 1978.

Dam, in a series of orders over many years.[7]

Subsequent filings in the record[8] indicate that there are two generators at Denison Dam, and that the location of the generators, that is, whether one or both are in the state of Texas or Oklahoma, is in dispute.[9]

By order dated October 31, 1977, the Commission instituted an investigation, set the matter for hearing, and granted two petitions to intervene.[10] At a prehearing conference,[11] agreement was reached that if certain legal questions were answered, the evidentiary hearings might be expedited. Subsequently the Commission ordered[12] that upon briefing of the questions of law by the parties, the judge certify the questions to the Commission with his recommended initial decision.

II. Initial Decision

The initial decision contained a brief introductory statement of facts, as follows:

> Tex-La Electric Cooperative, Inc. (Tex-La) purchases electricity for the use of its 14 member cooperative from Texas Power & Light Company (TP&L). TP&L, in turn, purchases electric power generated at the Denison Dam pursuant to an April 4, 1947 contract with the Southwestern Power Administration (SPA), an organizational unit of the Department of Energy. The Dam is owned and operated by the SPA. It spans the Red River, an interstate boundary between Texas and Oklahoma, and forms the eastern end of Lake Texoma. At present, TP&L's sales to Tex-La are subject to the jurisdiction of the Texas Public Utility Commission.
>
> The Denison Dam was authorized by the Flood Control Act of 1938, ch. 795, 52 Stat. 1219. Downstream from the Dam, the Corps of Engineers constructed hydroelectric power facilities including two generating units owned and operated by the SPA. The contract between SPA and TP&L expressly provides that their systems will be operated in such a manner that power and energy will not flow from TP&L's system to points outside Texas or from points outside Texas into TP&L's system. [Footnotes omitted.]

The legal issues and rulings made by the initial decision were as follows:

1. *Where does interstate commerce, if any, commence with respect to the electrical energy sold by Texas Power & Light Company to Tex-La Electric Cooperative?*

Ruling: The genertor, on completion of the generation process, is the source of any flow of electrical energy in interstate commerce. In this case, the points at which any interstate flow would commence are the generating units, not the dam structure itself.

2. *To what extent, if any, does the sale become subject to FERC jurisdiction because it "affects" interstate commerce without a showing that there has been interstate movement of the energy that is subject to the sale?*

Ruling: A showing that a sale affects interstate commerce is insufficient for jurisdiction to attach under Section 201 of the Federal Power Act; there must be proof of interstate movement of energy.

3. *Assuming a "Federal Enclave" exists, under what statutory authority can the FERC assume jurisdiction over the sale in question?*

Ruling: The FERC has no statutory basis for assertion of jurisdiction over TP&L sales to Tex-La solely on the grounds that the electrical energy is generated and/or transmitted from a "federal enclave."[1] Jurisdiction over the sale or transmission of electrical energy from TP&L to Tex-La exists only if there is a showing that power moved from one state to any point outside the state; for purposes of that showing, a "federal enclave" is not to be given the same status as a state.

4. *Whether the division or alteration of the Red River between Texas and Oklahoma by the Corps of Engineers during the construction of the Denison Dam changes, as a matter of law, the boundary line between Texas and Oklahoma?*

Ruling: A diversion or alteration of the Red River, as a matter of law, could have changed the Texas-Oklahoma boundary even though caused by the construction of the Denison Dam. Whether there has been a boundary change depends on resolution of the factual question as to whether the diversion or alteration was gradual and imperceptible.

5. *Whether electrical energy from a single Denison Dam generator which is transmitted simultaneously to Texas and Oklahoma is, as a matter of law, electrical energy generated in interstate commerce?*

6. *Whether electrical energy from the north and south units at Denison Dam which is being transmitted simultaneously to Texas and Oklahoma is, as a matter of law, electrical energy generated in interstate commerce?*

Ruling: Electrical energy from Denison Dam generator(s), which is transmitted simultaneously to Texas and Oklahoma, does not as a matter of law, constitute electrical energy generated in interstate commerce.

Jurisdiction will attach, however, on the basis of interstate transmission if there is a showing that electrical energy to the Texas and Oklahoma systems flowed into a bus between the two systems and then left the bus for an out-of-state destination as part of a channel of constant flow.

In addition, the judge made a ruling concerning the Flood Control Act of 1944. Tex-La maintained in its briefs on questions of law that the act should be the basis for voiding a provision of the contract between Texas Power and the Southwest Power Administration. The contract provision[13] forbade the Southwest Power Administration from making any interconnections which would allow power from outside Texas to flow into the Texas Power system, or the reverse. The judge concluded that "consideration of matters arising out of Section 5 of the Flood Control Act of 1944 has been vested by statute in the Secretary of Energy,"[14] and that he was without authority to rule on the claim.

III. Discussion

A. Rulings No. 1-3

Texas Power, Tex-La, the Commission staff (staff), and intervenors Central and South West Companies (Central)[15] filed exceptions.

[7] Citing: *Texas Power & Light Co.*, 4 F.P.C. 615 (1944); *U.S. Dept. of Interior, Southwestern Power Administration*, 39 F.P.C. 928 (1968); *Central Power & Light Co.* Docket No. E-9558, order dated July 21, 1976, order denying rehearing, dated September 17, 1976.

[8] See Initial Comments of Tex-La, filed March 4, 1977, and Answer of Texas Power, filed March 29, 1977.

[9] The Denison Dam lies on the Red River, whose south bank is the border between Texas and Oklahoma. Only one of the cases cited by Texas Power as recognizing its non-jurisdictional status (see footnote 7, *supra*) mentioned Denison Dam, *i.e.*, the Commission's 1968 decision. Implicit in that decision is the *assumption* that at least the south generator of Denison Dam is in Texas. However, the question whether both Denison Dam generators may be in Oklahoma has not been raised before as grounds for assertion of Commission jurisdiction over Texas Power.

[10] One petition was filed by the Central and South West Companies. The other petition was filed by the Cities of Altus, *et al.*

[11] On July 31, 1978.

[12] Order dated November 15, 1978.

[1] While it is outside the scope of this Initial Decision to determine whether Denison Dam is a "federal enclave," it should be noted that the Constitution provides that a federal enclave will exist when Congress exercises federal sovereignty over land obtained from a state for purposes of erecting "Forts, Magazines, Arsenals, dock-yards, and other needful Buildings." U.S. CONST. art. 1, § 8, c. 17.

[13] Section 32 of April 4, 1947, contract.

[14] This function was later delegated first to the Administrator of the Economic Regulatory Administration, and then to the Assistant Secretary of Resource Applications in the Department of Energy. [Secretary of Energy delegation orders No. 0204-4, of October 1, 1977, and No. 0204-33 of December 21, 1978, respectively.]

[15] Central and South West Corporation is a registered holding company which controls West Texas Utilities Company, Central Power & Light Company, Public Service Company of Oklahoma, and Southwestern Electric Power Company. The estimated population served is 3.5 million, roughly

Footnotes continued on next page

V 44 0C 25 79 UMI

Tex-La and Central except to the first three rulings. However, the exceptions to these rulings do not raise issues which were not adequately discussed and disposed of in the initial decision. We therefore affirm and adopt the rulings of the judge as to these issues.

B. Ruling No. 4

No party excepts to the conclusion of the judge as to the fourth question, i.e., that resolution of the boundary issue depends on determination of a factual question. However, the staff and Central[16] suggest that the judge's statement of the question should be modified.

The initial decision states that the factual question to be resolved is whether the diversion of alteration of the Red River during construction of the Denison Dam "was gradual and imperceptible."

As the staff points out[17], the Supreme Court set forth the applicable guidelines for a determination of the boundary at the Red River, as follows[18]:

> The boundary as it was in 1821, when the treaty became effective, is the boundary of today, subject to the right application of the doctrines of erosion and accretion and of avulsion to any intervening changes of those doctrines this Court recently said:
>
> "It is settled beyond the possibility of dispute that where running streams are the boundaries between States, the same rule applies as between private proprietors, namely, that when the bed and channel are changed by the natural and gradual processes known as erosion and accretion, the boundary follows the varying course of the stream; while if the stream from any cause, natural or artificial, suddenly leaves its old bed and forms a new one, by the process known as an avulsion, the resulting change of channel works no change of boundary, which remains in the middle of the old channel." *Arkansas* v. *Tennessee*, 246 U.S. 158, 1973.

Thus, the proper statement of the second sentence of the ruling of the initial decision as to the fourth question of law is as follows: "Whether there has been a boundary change depends on resolution of the factual question as to whether the diversion or alteration was as a result of erosion and accretion, or as a result of an avulsion." We affirm and adopt the ruling as modified.

Texas Power did not dispute the judge's conclusion that whether the boundary changed was a factual question. However, Texas Power did file an exception as to this issue. Texas Power claims that "the facts already available show" that the diversion in the river was an avulsion. Texas Power implies that a hearing is therefore unnecessary.

What the facts show is a question to be decided on the basis of the ensuing evidentiary hearing in this docket. The Texas Power exception is therefore denied.

C. Rulings No. 5 and 6

Questions 5 and 6 raise difficult issues. All parties excepted to some portion of the judge's ruling or discussion as to these questions.[19] The judge's discussion centers on complex issues concerning application of the Supreme Court's Florida Power & Light decision [20] to the facts in this case. *The Florida Power & Light* case dealt with Commission jurisdiction over transmission of electric energy in interstate commerce pursuant to section 201 of the Federal Power Act, as amended.[21]

Upon review of this portion of the initial decision, we conclude that consideration of these issues prior to determinations of fact requires ruling on several hypothetical alternatives, and is not appropriate. For example, the answers to both questions may vary, depending on whether either or both of the Denison Dam generators are in Oklahoma or Texas. Responding to question 6 also may vary depending on whether or how the two generators are interconnected. There are neither findings not stipulations as to these factual questions.

The appropriate procedure, at this point, is for the judge to proceed with evidentiary hearings, and then to deal with the specific legal questions which are raised in the context of his determinations of fact. We therefore decline to pass on the rulings in the initial decision as to questions 5 and 6.

D. Flood Control Act

Central filed a cursory exception to the judge's conclusion that the Commission is without authority to rule on issues arising under the provisions of the Flood Control Act of 1944. However, Central provided no substantiation for its contention. The judge's conclusion is properly substantiated, and we therefore reject Central's exception to it.[22]

IV. Petition for Rehearing

Tex-La filed a petition for rehearing of the Commission's order which initiated these proceedings.[23] The petition contended that the Commission's order erred in concluding that an engineering and scientific test is the proper means of determining Commission jurisdiction under section 201 of the Federal Power Act. The chief argument made in support of its contention was that under section 201 a showing that a sale of electric energy affects interstate commerce is sufficient to establish jurisdiction.

The judge's ruling and discussion of question 2 disposes of this argument.[24]

We find nothing in Tex-La's remaining arguments for rehearing which warrants modification of our order of October 31, 1977. We will therefore deny Tex-La's petition for rehearing.

The Commission Orders: (A) The initial decision of February 1, 1979, in this docket is affirmed, except as modified in this order, and all exceptions thereto not granted by this order are denied.

(B) The Secretary shall cause this order to be published in the **Federal Register** to give all interested persons notice that the location of the boundary between Texas and Oklahoma in the vicinity of Denison Dam has been brought into issue, and to give any persons interested in the outcome of that issue an opportunity to participate in the proceeding as intervenors.

(C) The Texas-Louisiana Electric Cooperative, Inc., Motion for Rehearing, in this docket, filed November 30, 1977, is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32928 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Footnotes continued from last page

half of which is in Texas, while the remainder is in Oklahoma, Arkansas and Louisiana. The Texas population is mostly in the west central and southern portions of the state, with some in east Texas. Total assets are approximately $2.6 billion.

[16] See Central's Brief Opposing Exceptions, p. 5.

[17] Staff Initial Brief, p. 12.

[18] *Oklahoma* v. *Texas*, 260 U.S. 606, 636 (1923).

[19] The discussion extended beyond explanation of the rational for the ruling as to questions 5 and 6, and in effect dealt with two additional issues. The first of these was whether, once service commences which could be considered jurisdictional, passage of time affects subsequent assertion of regulatory authority. The other issue concerned whether an interstate flow of electric energy was required to be part of a "channel of constant flow" in order for jurisdiction to attach.

[20] *F.P.C.* v. *Florida Power & Light Co.*, 404 U.S. 453 (1972).

[21] 16 U.S.C. § 824.

[22] The judge, in passing, recommended that the Commission refer this matter to the Department of Energy for such action as might be deemed appropriate. The parties are free to raise the issue before the Assistant Secretary of Resource Applications in the Department of Energy (see footnote 14 supra) if they desire, and are the appropriate agents for such an initiative.

[23] See footnote 5, supra.

[24] Action on the petition for rehearing was deferred specifically because this argument was under consideration by the judge in the phase I proceeding herein.

[Docket No. SA80-4]

United Gas Pipe Line Co.; Application for Adjustment

October 18, 1979.

Take notice that on October 9, 1979, United Gas Pipe Line Company (United) filed in Docket No. SA80-4 an application for an adjustment pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) and § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41), requesting that the deadlines applicable to United under § 281.204 of the Commission's regulations under the NGPA be extended until such time as the Commission has considered and taken action on United's proposed curtailment settlement plan filed on August 31, 1979, in United's curtailment proceeding in Docket Nos. RP71-29 and RP71-120 (Phase II). United also requests interim relief pursuant to § 1.41(m) of the Commission's rules of practice and procedure (18 CFR 1.41(m)) deferring the same dates pending final determination of this application.

Section 281.204 of the Commission's regulations requires the filing of tariff sheets regarding curtailment plans, the filing of indices of entitlements regarding high-priority and essential agricultural users and the establishment of a Data Verification Committee. United states that it is currently operating under a curtailment plan which it was directed to use by the United States Court of Appeals for the Fifth Circuit, *Southern Natural Gos Co.* v. *FPC*, 543 F.2d 530 (5th Cir. 1976). United states that on August 31, 1979, it filed with the Commission a proposed curtailment plan which is supported by the majority of its customers and is designed, inter alia, to protect high-priority and essential agricultural users consistent with Section 401 of the NGPA. United also states that if the requested relief is granted, high-priority users and essential agricultural users would be fully protected by the curtailment tariff currently in effect on United's system during the Commission's consideration of the proposed settlement and that no opponents of the proposed settlement would be disadvantaged by the requested relief.

United states that meeting the time limits set in § 281.204 would work a substantial hardship on United and an inequity on United and its customers. United alleges that it has not yet received the materials from a number of its customers necessary for compilation of the filings required under such regulation, that the analysis of the submissions received to date is extremely difficult and time-consuming and that the construction of an index of entitlements based on the data which have been received would seriously interfere with, or make entirely impossible, United's compliance with the schedule set for consideration of the proposed settlement.

Any person desiring to participate in this adjustment proceeding shall file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a petition to intervene in accordance with the provisions of § 1.41 of the Commission's rules of practice and procedure (18 CFR 1.41). All petitions to intervene must be filed on or before November 9, 1979.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-32829 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

Notices of Objection To Proposed Remedial Orders Filed With the Office of Hearings and Appeals; Week of September 17 Through September 21, 1979

Notice is hereby given that during the week of September 17 through September 21, 1979, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before November 14, 1979, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before November 26, 1979, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C., October 19, 1979.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Dunlap, E., Jr., Ardmore, Okla.; DRO-0383, crude oil

On September 18, 1979, E. Dunlap, Jr., (Dunlap) P.O. Box 1888, Ardmore, Oklahoma 73401, filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District of Enforcement issued to Dunlap on August 21, 1979. In the Proposed Remedial Order, the Southwest District of Enforcement found that during the time period from September 1, 1973 through December 31, 1975 Dunlap committed pricing violations in the State of Oklahoma in connection with the production and sale of crude oil. According to the Proposed Remedial Order, Dunlap's violations resulted in overcharges to its customers of $57,000.

Getty Oil Co., Los Angeles, Calif.; DRO-0382, crude oil

On September 17, 1979, Getty Oil Company, (Getty) 3810 Wilshire Boulevard, Los Angeles, California 90010, filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Special Counsel issued to Getty on July 23, 1979. In the Proposed Remedial Order, the Office of Special Counsel found that after March 31, 1979 Getty illegally terminated a May 4, 1971 supplier/purchaser relationship with Phillips Petroleum Company (Phillips) which in turn supplied Tosco Corporation. According to the Proposed Remedial Order, Getty must recommence supplying crude oil to Phillips pursuant to the terms of their supplier/purchaser relationship.

Getty Oil Co., Los Angeles, Calif.; DRO-0382, crude oil

On September 17, 1979, Tosco Corporation (Tosco), 10100 Santa Monica Boulevard, Los Angeles, California 90067, filed a Notice of Objection to a Proposed Remedial Order which the DOE Pacific District Office of Special Counsel isued to Getty Oil Company (Getty) on July 23, 1979. In that Proposed Remedial Order, the Office of Special Counsel found that after March 31, 1979 Getty illegally terminated a May 4, 1971 supplier/purchaser relationship with Phillips Petroleum Company (Phillips) which in turn supplied Tosco. According to the Proposed Remedial Order, Getty must recommence supplying crude oil to Phillips pursuant to the terms of their supplier/purchaser relationship.

Poweram Oil Co., Inc., Waco, Tex.; DRO-0388, motor gasoline

On September 19, 1979, Poweram Oil Company, Inc., P.O. Box 7508, Waco, Texas 76710 filed a Notice of Objection to an Interim Remedial Order for Immediate Compliance which the DOE Southwest District Office of Enforcement issued to the firm on August 31, 1979. In the IROIC the Southwest District found that during May 8, 1979 to August 31, 1979, Poweram Oil Company, Inc. has failed to maintain its historic credit terms with respect to Jay-Cee's Food Stores in violation of 10 CFR 210.62.

[FR Doc. 79-32834 Filed 10-24-79; 8:45 am]

BILLING CODE 6450-01-M

V 44 O C 25 7 9 UMI

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1346-2]

Approval of Alabama's NPDES Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of approval of the State of Alabama's application to participate in the National Pollutant Discharge Elimination System (NPDES) program.

SUMMARY: On October 19, 1979, the Administrator of the Environmental Protection Agency (EPA) approved the State of Alabama's request to administer the National Pollutant Discharge Elimination System (NPDES) program within the State.

FOR FURTHER INFORMATION CONTACT: Joel Blumstein, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C. 20460, 202-426-9434.

SUPPLEMENTARY INFORMATION: The Clean Water Act (33 U.S.C. 1251, et seq.) established the National Pollutant Discharge Elimination System (NPDES) under which permits are issued for the discharge of pollutants from point sources into the waters of the United States. Initially, the Environmental Protection Agency (EPA) issues these permits. States may be authorized to administer the NPDES program for discharges into navigable waters within their jurisdiction if the Administrator of EPA determines that the State program satisfies the requirements of section 402(b) of the Clean Water Act. With the passage of the 1977 amendments to the Clean Water Act, State NPDES programs must include a pretreatment program and the authority to regulate Federal facilities.

On July 23, 1979, Governor James of Alabama formally requested that the Administrator of EPA approve the State's NPDES program. A public hearing was held in Montgomery, Alabama on September 12, 1979 to solicit comments on the proposed authorization of the Alabama program. No objections were voiced at this hearing and the Agency has not received any adverse written comments.

Today's **Federal Register** notice is to announce the approval of the State of Alabama's NPDES program, including its pretreatment program and Federal facilities authority.

Also included in this notice is a list of approved NPDES States indicating which have been granted Federal facilities and pretreatment authority.

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved pre-treatment program
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	
Colorado	03/27/75		
Connecticut	09/26/73		
Delaware	04/01/74		
Georgia	06/28/74		
Hawaii	11/26/74	06/01/79	
Illinois [1]	10/23/77	09/20/79	
Indiana	01/01/75	12/09/78	
Iowa	08/10/78	08/10/78	
Kansas	06/28/74		
Maryland	09/05/74		
Michigan	10/17/73	12/09/78	
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74		
Missouri	10/30/74	06/26/79	
Montana	06/10/74		
Nebraska	06/12/74		
Nevada	09/19/75	08/31/78	
New York	10/28/75		
North Carolina	10/19/75		
North Dakota	06/13/75		
Ohio	03/11/74		
Oregon	09/26/73	03/02/79	
Pennsylvania	06/30/78	06/30/78	
South Carolina	06/10/75		
Tennessee	12/28/77		
Vermont	03/11/74		
Virgin Islands	06/30/78		
Virginia	03/31/75		
Washington [2]	11/14/73		
Wisconsin	02/04/74		

[1] On January 26, 1979, the United States Court of Appeals for the Seventh Circuit invalidated the Agency's approval of the Illinois NPDES program in *Citizens for a Better Environment v Environmental Protection Agency* (No. 78-1042, Petition for rehearing denied May 16, 1979). However, on May 30, 1979, the Court stayed the enforcement of its order until February 23, 1980, in order to provide EPA an opportunity to revise its regulations governing public participation in enforcement. In the interim, the State of Illinois is operating an approved program.

[2] On August 15, 1979, EPA approved a modification to Washington's NPDES program to allow the State Energy Facility Site Evaluation Council to issue and enforce permits.

For further information on the *Citizens for a Better Environment* case and the Agency's response thereto, see the public participation in enforcement regulations that were recently promulgated in the **Federal Register** (44 FR 49275, August 22, 1979).

Dated: October 19, 1979.

Barbara Blum,

Acting Administrator.

[FR Doc. 79-32877 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1346-5]

Management Advisory Group to the Municipal Construction Division; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Management Advisory Group (MAG) to the Municipal Construction Division will be held at Hospitality House, 2000 Jefferson Davis Highway, Arlington, Virginia, on November 6-7, 1979. The Meeting will begin at 9:00 a.m. on November 6.

The purpose of the meeting is to discuss and review the following: National Municipal Policy and Strategy, Advanced Waste Treatment, Alternative and Innovative Technology, New Directions for the Construction Grants Program and Presentations of the Views and Recommendations of Participant Groups on the Program.

The meeting will be open to the public. The Committee Chairperson, if it is deemed appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting. For further information, please contact the Executive Secretary, Mr. Harold P. Cahill, Jr., Director, Municipal Construction Division, EPA, Washington, D.C. 20460, telephone (202) 426-8986.

This meeting is announced in less than the 15 days required for notice of a meeting due to the need to discuss the new National Municipal Policy and Strategy as soon as possible.

James N. Smith,

Acting Assistance Administrator for Water and Waste Management.

October 23, 1979.

[FR Doc. 79-33084 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1346-3]

Motor Vehicle Pollution Control; Waiver of Carbon Monoxide Emission Standards; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public hearing to consider applications for waiver of 1981 and 1982 model year light-duty vehicle emission standard for carbon monoxide (CO).

SUMMARY: On September 28, 1979, Toyota Motor Company Ltd. (Toyota) reapplied under section 202(b)(5) of the Clean Air Act, as amended, to EPA's Administrator for a waiver of the effective date of the 1981 and 1982 CO emission standard for one of its engine families. In his Consolidated Decision published September 13, 1979, the Administrator denied Toyota's original request for a waiver covering this engine family because Toyota had provided insufficient information to establish that the engine family in question was not capable of meeting a 3.4 grams per mile (gpm) CO standard in the 1981 model year, considering costs, driveability, and fuel economy.

DATES: This notice announces that EPA will hold a public hearing in Washington, D.C. beginning on November 5, 1979, and continuing through November 6, 1979, if necessary, to consider Toyota's waiver application and any other manufacturer's applications received by October 29, 1979. Interested parties also may submit written comments to the public docket on these waiver applications until November 16, 1979.

ADDRESS: All public portions of the CO waiver applications and other relevant information are available for public inspection between 8 a.m. and 4 p.m., Monday through Friday, at: U.S. Environmental Protection Agency, Central Docket Section (A-130), Room 2903B Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Docket Number EN-79-19).

FOR FURTHER INFORMATION CONTACT: Mr. Glenn Unterberger, Manufacturers Operations Division, (EN-340), U.S.C Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 472-9417.

SUPPLEMENTARY INFORMATION: Under section 202(b)(5)(A) of the Clean Air Act, as amended, 42 U.S.C. 7521(b)(5)(A) (1977) ("Act"), at any time after August 31, 1978, any manufacturer may file with the Administrator an application requesting the waiver of the effective date of the carbon monoxide (CO) emission standard applicable to any model of light-duty motor vehicles and engines manufactured by the applicant during model years 1981 and 1982. Section 202(b)(5)(C) requires the Administrator to issue a decision granting or denying such waiver within 60 days after receipt of the application and after public hearing. Guidelines for the submission of such waiver requests have been previously published in the **Federal Register**, 43 FR 47272, October 13, 1978.

Section 202(b)(1)(A) requires that emissions of CO from 1981 and later model year light-duty motor vehicles be reduced by 90% from 1970 CO emission standards. A CO emission standard of 3.4 grams per vehicle mile, determined to achieve such reduction and made applicable by regulation to 1981 and later year light-duty vehicles, has been published in the **Federal Register**, 43 FR 37972, August 24, 1978. If the Administrator determines that a waiver from the CO standard of 3.4 grams per vehicle mile (gpm) should be granted, he must simultaneously with such determination prescribed by regulation CO emission standards to apply to those model vehicles or engines to which the waiver applies. Under section 202(b)(5)(B), the maximum CO level for which a waiver may be granted is 7.0 gpm.

Under section 202(b)(5)(C), the Administrator may grant such a waiver only if he finds that protection of the public health does not require attainment of the statutory CO standard of 3.4 gpm for those model years and vehicles for which the waiver is sought. In addition, a waiver may be granted only if the Administrator determines that (1) such waiver is essential to the public interest or the public health and welfare of the United States, (2) all good faith efforts have been made to meet the established standards, (3) the applicant has established that effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy, and (4) studies and investigations of the National Academy of Sciences and other information available to him have not indicated that technology, processes, or other alternatives are available to meet such standards.

In order for a waiver to be granted, the Administrator must determine that the applicant has provided information sufficient to satisfy each of the waiver criteria set out above. However, the Administrator is not required to make his determination solely on the record of the public hearing, and may consider any additional information as well. All information considered by the Administrator will be included in the public docket.

EPA held four days of public hearings during the week of July 9, 1979, to consider CO waiver applications submitted by General Motors, Chrysler, American Motors, Volkswagen, Toyota, and BL cars. In addition to testimony provided by each waiver applicant, testimony was given by other automobile manufacturers, and by several emission control system part suppliers. The Administrator's consolidated decision on those waiver applications was published on September 13, 1979. 44 FR 53376. Information considered for the decisions on these applications is contained in Public Docket EN-79-4.

EPA also conducted public hearings on September 12, 1979, to consider CO waiver applications from Toyo Kogyo, Nissan, Fuji Heavy Industries, and Renault. The Agency has obtained the consent of Toyo Kogyo and Nissan for the Administrator to announce his decision no later than October 25, 1979. The Clean Air Act requires the Administrator to decide on the application from Fuji and Renault by November 5, 1979. In deciding on the waiver applications from those four manufacturers, the Administrator is considering information contained in Public Docket EN-79-17, which incorporates Public Docket EN-79-4 by reference. Both of these dockets will be incorporated into Public Docket EN-79-19 for consideration in deciding on the CO waiver applications at issue in this third set of proceedings.

In his September 13, 1979 consolidated decision, the Administrator denied Toyota's CO waiver request for its 108 CID engine family because Toyota had not supplied sufficient information to establish that the engine family was not capable of meeting the 3.4 gpm CO standard in the 1981 model year, considering costs, driveability, and fuel economy. On September 28, 1979, Toyota submitted additional information which had not been available at the time of Toyota's original waiver application in support of a waiver for its 108 CID engine family. The sixty-day decision period specified in the Act requires the Administrator to decide on Toyota's new application on or before November 27, 1979.

EPA will hold a public hearing on Toyota's new waiver application and on applications received from any other motor vehicle manufacturers on or before October 29, 1979, in the U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Room M2117, commencing at 9 a.m. on November 5, 1979. EPA encourages all manufacturers still planning to request a CO waiver to file their applications by the October 29 deadline. This will facilitate review of as many outstanding waiver applications as possible in one consolidated proceeding. Submitting applications at a reasonable time before the scheduled proceedings will greatly facilitate the Administrator in making a timely decision.

PROCEDURES: The public hearing is intended to provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the action requested of the Administrator by the applicant. Any person desiring to make an oral statement at the hearing should file a notice of such intention and 10 copies of the proposed testimony and other relevant material in the Central Docket Section at the address listed above not late than October 29, 1979. If feasible at least 75 copies of such statement or material for the hearing record and for general circulation should

V 44 O 2 5 7 9 UMI

be submitted to the Presiding Officer at the time of the hearing. In addition, any person may submit written questions at any time during the hearing to be propounded to the witnesses by the hearing panel to the extent practicable. Relevant statements and information not specifically required by the hearing panel may be filed in the public docket until November 16, 1979.

Where appropriate, representatives of the applicants will be required under the subpoena authority of section 307(a)(1) of the Act to attend the hearing and respond to questions propounded by the hearing panel. Moreover, other parties may also be subpoenaed to produce relevant information and provide testimony before the hearing panel. Section 307(a)(1) also authorizes the administration of oaths to testifying parties.

The Presiding Officer will have the responsibility for maintaining order, excluding irrelevant or repetitious material, scheduling presentations directing that corroborative material be submitted in writing and, to the extent possible, notifying participants of the time at which they may appear.

As was the case in the previous two CO waiver public hearings, presentations by the participants in this hearing should be addressed exclusively to the following considerations:

1. Whether protection of the public health requires attainment of the established CO standard of 3.4 gpm for the model years to which the waiver would apply.

2. Whether the requested waiver is essential to the public interest or public health and welfare of the United States.

3. Whether the applicants have made all good faith efforts to meet the CO standard for those model years and vehicles for which the waiver is sought.

4. Whether effective control technology, processes, operating methods, or other alternatives are not available or have not been available with respect to the the model in question for a sufficient period of time to achieve compliance prior to the effective date of such standards, taking into consideration costs, driveability, and fuel economy.

5. Whether studies and investigations of the National Academy of Sciences and other information indicate that alternatives are available to meet such standards.

6. The level of CO emissions, not to exceed 7.0 gpm, which could be met in each of the model years for which a waiver is requested and which would reflect the greatest degree of emission control achievable by use of available technology, giving appropriate consideration to the cost of applying such technology within the available time period.

A verbatim record of the proceedings will be available for public inspection. A copy of the transcript may be requested from the reporter during the hearing and will be made at the expense of the person so requesting. Copies of other documents in the public record also may be obtained in 40 CFR Part 2.

Dated: October 19, 1979.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 79-32878 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-8; OPP-180373]

New York State Department of Environmental Conservation; Issuance of Specific Exemption To Use Paraquat as a Desiccant for Dry Beans

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Issuance of specific exemption.

SUMMARY: EPA has granted a specific exemption to the New York State Department of Environmental Conservation (hereafter referred to as the "Applicant") to use paraquat as a desiccant on 20,000 acres of solid planted dry beans in New York. The specific exemption expires on October 15, 1979.

FOR FURTHER INFORMATION CONTACT: Emergency Response Section, Registration Division (TS-767), Office of Pesticide Programs, EPA, 401 M Street, S.W., Room: E-124, Washington, D.C. 20460, Telephone: 202/426-0223. It is suggested that interested persons telephone before visiting EPA Headquarters, so that the appropriate files may be made conveniently available for review purposes.

SUPPLEMENTARY INFORMATION: According to the Applicant, fall rains, high humididty, and green plants interfere with dry bean harvest. The Applicant states that cool summer nights during this growing season have delayed plant maturity, promising to make the dry bean harvest late this fall and the usual fall rains more hazardous than normal. Green beans make the operation of harvest machinery difficult and the leaves slow the drying of soil enough to prevent the machinery from passing through the fields if heavy rains occur. In some cases, cool wet weather causes the regrowth of the plants. Weather-damaged, moldy, and sun-darkened or discolored beans are a major problem under such conditions, the Applicant reports.

In more arid dry bean-growing regions of the United States, green plants are pulled, windrowed and allowed to dry before threshing. According to the Applicant, windrowed beans in New York, even under more favorable conditions, often become wet and the beans mold, rot, or sprout. No desiccant is presently registered for use on dry beans. Paraquat CL is currently registered as a harvest aid of soybeans and potatoes. Aerial application of paraquat is currently approved for desiccation of soybeans. The Applicant estimates that the loss of New York dry bean producers could reach as high as $5 million without the use of a desiccant.

The Applicant proposed a single application of a maximum of 10,000 pounds of paraquat to be made by either ground or air equipment. A 7-day pre-harvest interval will be observed.

EPA has determined that residues of paraquat in or on dry beans should not exceed 0.4 part per million (ppm) from the proposed use. This residue level has been judged adequate to protect the public health. EPA has also determined that the proposed use should pose no unreasonable threat to the environment.

After reviewing the application and other available information, EPA has determined that (a) an emergency situation exists in New York; (b) there is no dessiccant currently registered and available to dessiccate dry beans in New York; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the dry beans are not desiccated; and (e) the time available to mitigate the problems posed is insufficient for a desiccant to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the desiccant noted above until October 15, 1979, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The product Paraquat CL, EPA Reg. No. 239-2186-AA, manufactured by Chevron Chemical Company, is authorized. If an unregistered label is used, it must contain the identical applicable precautions and restrictions which appear on the registered label;

2. A single application of paraquat at the rate of 0.25 to 0.5 pound active ingredient per acre will be made;

3. Application will be made in 20 to 40 gallons of water per acre by ground equipment or in 5 gallons of water per acre by air equipment;

4. A maximum of 20,000 acres may be treated;

5. A maximum of 10,000 pounds active ingredient may be applied;

6. All applications will be made by State-certified commercial or private applicators or persons under their direct supervision;

7. A pre-harvest interval of 7 days will be observed. Treated fields are not to be grazed and treated foliage is not to be fed to livestock;

8. Applications should not be made when weather conditions favor drift from the application site;

9. All applicable directions, precautions, and restrictions on the EPA-registered product label must be followed;

10. Dry beans with residues of paraquat not exceeding 0.4 ppm may enter interstate commerce. The Food and Drug Administration, U.S. Department of Health, Education, and Welfare, has been advised of this action;

11. A full report summarizing the results of this program must be submitted to EPA by April 15, 1980;

12. The EPA shall be immediately informed of any adverse effects resulting from the use of paraquat in connection with this exemption; and

13. The Applicant is responsible for assuring that all of the provisions of this specific exemption are met.

(Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972, 1975, and 1978 (92 Stat. 819; 7 U.S.C. 136))

Dated: October 18, 1979.

Edwin L. Johnson,

Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 79-32874 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1345-7]

Region VII, Approval of PSD Permit to Metal Container Corporation

Notice is hereby given that on September 28, 1979, the Environmental Protection Agency (EPA) issued a Prevention of Significant Deterioration (PSD) permit to Metal Container Corporation, a subsidiary of Anheuser-Busch, Incorporated, for approval to construct a new beverage can manufacturing facility in Arnold, Jefferson County, Missouri. This permit has been issued under EPA's Prevention of Significant Air Quality Deterioration regulations (40 CFR 52.21) applicable to the new facility subject to certain conditions, including that emissions of volatile organic compounds from the Lianco Container Corporation plant in St. Louis County, Missouri must be reduced by an amount equal to emissions from the new facility.

The PSD permit is reviewable under Section 307(b)(1) of the Clean Air Act only in the Eighth Circuit Court of Appeals. A petition for review must be filed on or before December 24, 1979.

Copies of the permit are available for public inspection upon request at the following locations:

Missouri Department of Natural Resources, St. Louis Regional Office, 8460 Watson Road, St. Louis, Missouri 63119.

Missouri Department of Natural Resources, 2010 Missouri Boulevard, Jefferson City, Missouri 65101.

U.S. Environmental Protection Agency, Air and Hazardous Materials Division, 324 East 11th Street, Kansas City, Missouri 64106.

Date: October 11, 1979.

Kathleen Q. Camin,

Regional Administrator, Region VII.

[FR Doc. 79-32875 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1346-1]

Science Advisory Board, Subcommittee on Energy-Related Health Effects Research; Open Meetings

Under Public Law 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Energy-Related Health Effects Research of the Science Advisory Board will be held on November 13 and 14, 1979 in Conference Room 1137, North Building, Department of Health, Education, and Welfare, 330 Independence Avenue, S.W., Washington, D.C. The meeting will start at 9:00 a.m. on November 13, 1979.

A second two-day meeting of the Subcommittee is scheduled for December 18 and 19, 1979 in Conference Room 3906-08, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. This meeting will start at 9:00 a.m. on December 18, 1979.

The purpose of these meetings will be to provide advice and consultation to the U.S. Environmental Protection Agency (EPA), and particularly to the Office of Research and Development (ORD), in its efforts to redirect certain portions of the Energy-Related Health Effects Research Program in order to make the program more responsive to specified needs and objectives of EPA's Office of Air Quality Planning and Standards (OAQPS). The purpose of the meeting on November 13 and 14, 1979 will be (1) to provide the Subcommittee with appropriate background briefings, and (2) to begin a discussion of Agency plans for redirecting certain portions of the program. The purpose of the meeting on December 18 and 19, 1979 will be to review and comment on the Agency's tentative plans for redirecting certain portions of the program.

These meetings will be open to the public. Any members of the public wishing to attend or submit a paper, or wishing further information should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460 by c.o.b. November 8, 1979 regarding the meeting on November 13 and 14, 1979, and by c.o.b. December 13, 1979 regarding the meeting on December 18 and 19, 1979. Please ask for Mr. Kenneth B. Goggin. The telephone number is (202) 472-9444.

Ernst Linde,

Acting Staff Director, Science Advisory Board.

October 18, 1979.

[FR Doc. 79-32876 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1346-7; Docket No. ECAO-CD-79-1]

Review of Preliminary Draft Criteria for Particulate Matter and Sulfur Oxides

AGENCY: Environmental Protection Agency.

ACTION: Notice of Public Meeting.

SUMMARY: A public meeting will be held at the Environmental Research Center Annex (Beaunit Building), Research Triangle Park, North Carolina, beginning at 8:00 a.m. on Thursday, November 15, 1979, to facilitate scientific and technical review and revision of preliminary working draft chapters prepared for EPA for inclusion in a revised Criteria Document for Particulate Matter and Sulfur Oxides. A general introductory session will be followed by concurrent informal working sessions at which prospective draft portions of the document will be critically discussed.

While the meeting is open to the public, advance registration is required because of space limitations and the need to preserve the working session format. EPA particularly encourages the attendance of authorities in the various subjects to be addressed in the particulate matter and sulfur oxides criteria document, such as (1) atmospheric chemistry; (2) health effects; and (3) welfare effects. The purpose of the meeting is to expedite production of an external review draft of the criteria document which the Agency anticipates will be made available for public review and comment later this year.

FOR FURTHER INFORMATION CONTACT: Dr. Lester D. Grant, (Director) or Dr. J. H. B. Garner (Project Chairman),

Environmental Criteria and Assessment Office (MD–52), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–2266.

SUPPLEMENTARY INFORMATION: As set forth in a **Federal Register** notice of October 2, 1979 (44 FR 58730), the Agency anticipates the availability of an external review draft of the revised Air Quality Criteria for Particulate Matter and Sulfur Oxides later this year. The availability of such a draft will be noticed in the **Federal Register**, made available for public comment, and be reviewed by an independent scientific advisory committee of the Science Advisory Board. The revision of criteria for particulate matter and sulfur oxides and the review and possible revision of the corresponding national ambient air quality standards is to occur by December 31, 1980

In order to facilitate production of the best possible draft document for external review, preliminary working draft portions of the document will be critically reviewed and revised at a meeting to be convened on Thursday, November 15, 1979, as noted above. The meeting is expected to continue through Saturday, November 17, 1979.

A general session or sessions will be held to brief attendees on the purpose and structure of the criteria document. However, the critical review and revision of specific document portions will occur primarily in informal work sessions. The specific times and locations of which will be announced at the general sessions. To maximize the utility of these sessions to the authors of the various draft chapters, the Agency particularly encourages the attendance of persons technically qualified academically or professionally in the areas addressed in the document. These areas, as they relate to particulate matter and/or sulfur oxides, include atmospheric chemistry and analytical methods; sources and emissions; transport and environmental transformation; environmental concentrations and exposure; effects on natural ecosystems, vegetation and microorganisms; acidic precipitation; visibility and climate; materials and soiling; absorption, deposition and clearance; effects on animals; and effects on humans (clinical studies and epidemiology).

Minutes will be kept of the proceedings at the general sessions, and detailed notes will be made of key points or issues discussed and suggestions for text revisions made in the ensuing work sessions. The minutes of the general sessions, summaries of the work session discussions, and any written comments which are submitted at the meeting, will be included in a public criteria revision docket which will be announced in the **Federal Register** concurrently with the availability of an external review draft.

Because of space limitations, and the need to preserve the working session format, attendance at the November 15–17, 1979, meeting will be by advance registration only. Individuals wishing to attend the meeting should contact either Dr. Lester Grant or Dr. J. H. B. Garner by November 12, 1979, at the address or phone number referenced above for further information. In order to provide for and assure participation by diverse groups and interests, it will also be necessary to limit the number of attendees affiliated with any single organization or group.

Dated: October 23, 1979.

Stephen J. Gage,

Assistant Administrator for Research and Development.

[FR Doc. 79-33073 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 79-658]

Grants Special Temporary Authority to the Appalachian Regional Commission for a Microwave Link To Operate on Frequency 12.450 GHz

October 15, 1979.

The Federal Communications Commission announced today that it is granting special temporary authority to the Appalachian Regional Commission (ARC) to operate a microwave link on 12.450 GHz to transmit video programming from ARC's studio at the University of Kentucky to its satellite uplink facility located 3.8 miles away. This microwave link is a necessary part of ARC's satellite network which provides educational, health and other instructional programming to local communities in the Appalachian Region for development of their community and human resources. ARC previously operated this network on an experimental basis under Part 5 of the Commission's Rules using NASA's ATS–6 satellite. This satellite, however, has become inoperative and ARC has filed applications with the Commission requesting authority to construct and operate a private domestic satellite earth station network for the purpose of distributing its educational and instructional programming.

In granting authority to ARC to operate, the Commission has had to waive the eligibility requirements of Part 94 of its rules contained in Section 94.5 since ARC is not qualified to be licensed in either Part 81, 87 or 90. Eligibility in Part 94 is limited only to persons qualified to be a licenses in those services. The Commission has also waived the permissible use requirement contained in Section 94.9(b)(3) which prohibits the transmission of program material to cable television systems. The network will connect to the headends of CATV to distribute the program material within the local communities.

The Commission granted ARC special temporary authority to operate the microwave link from October 15, 1979, to November 1, 1979, since the public notice period for their application has not expired and ARC wants to begin operations on October 15, 1979. This commencement date is critical to the 50 or more schools and universities participating in the ARC network to allow them to complete their fall course offerings by the December 1979 school break. The Commission will take final action on ARC's application upon termination of the Public Notice period. The Commission also waived for the same period the transmitter and antenna standards of Sections 94.81 and 94.75 to allow ARC to operate the link with equipment which they previously used in their experimental network licensed under Part 5.

The Commission noted that other applications have been filed under Part 94 for microwave links to transmit video programming. None of these applications have been granted because of the pendency of the inquiry and rule making proceeding in Docket No. 19671, 39 FCC 2d 527 (1973). The Commission decided, however, that the microwave link requested by ARC is necessary in order to allow ARC to continue providing the educational and health information programming which it has been providing using the ATA–6 satellite. The ARC is a Federal intergovernmental regional commission created by the Appalachian Regional Development Act of 1965, as amended, (40 App. USC Sec. 1 et seq). It is responsible for the planning and promotion of economic development in the Appalachian Region including community and human resources. In line with this purpose, the ARC has undertaken to establish a network system to provide educational, informational and instructional programming to communities in the Appalachian Region whose "people

have not shared properly in the Nation's prosperity."

Action by the Commission October 12, 1979. Commissioners Ferris (Chairman), Quello, Washburn and Fogarty, with Commissioner Brown concurring in the result, and Commissioners Lee and Jones not participating.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-32896 Filed 10-24-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Beggs Bancshares, Inc.; Formation of Bank Holding Company

Beggs Bancshares, Inc., Beggs, Oklahoma, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of The Bank of Beggs, Beggs, Oklahoma. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 17, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32890 Filed 10-24-79; 8:45 am]

BILLING CODE 6210-01-M

First Cicero Banc Corp.; Formation of Bank Holding Company

First Cicero Banc Corporation, Chicago, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of First National Bank of Cicero, Cicero, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32891 Filed 10-24-79; 8:45 am]

BILLING CODE 6210-01-M

First National Elgin Bancorp, Inc.; Formation of Bank Holding Company

First National Elgin Bancorp, Inc., Elgin, Illinois, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1) to become a bank holding company by acquiring 80 percent or more of the voting shares of the Elgin National Bank, Elgin, Illinois. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32892 Filed 10-24-79; 8:45 am]

BILLING CODE 6210-01-M

Heritage Racine Corp.; Formation of Bank Holding Company

Heritage Racine Corporation, Racine, Wisconsin, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Heritage Bank and Trust, Racine, Wisconsin; Heritage National Bank of Racine, Racine, Wisconsin; Heritage Bank-Mt. Pleasant, Racine, Wisconsin; and Racine County National Bank, Franksville, Wisconsin. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79-32892 Filed 10-24-79; 8:45 am]

BILLING CODE 6210-01-M

National Security Information; Policy Statement

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Statement of policy.

SUMMARY: This policy statement, implementing Executive Order 12065, 43 FR 28949, June 28, 1978, and the Information Security Oversight Office Directive, 43 FR 46280, October 5, 1978, relates to the classification, downgrading, declassification and safeguarding of national security information. Effective date: September 1, 1979.

FURTHER INFORMATION CONTACT: Mr. John M. Demkler, Staff Director, Office of Staff Director for Management, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452–3764.

Statement of Policy Regarding National Security Information

I. Policy

The national security information policy of the Board of Governors of the Federal Reserve System shall operate consistent with Executive Order 12065.

II. Program

The Associate Director for Building Services in the Division of Support Services is designated as the Board's

V 44 NO 208 OCT 25 1979 UMI

official responsible for the implementation and oversight of its information security program. Questions, suggestions, and complaints regarding all elements of this program will be directed to this individual who will be solely responsible for changes to the program and for assuring that it is at all times consistent with Executive Order 12065.

The Associate Director serves as the Board's official contact for requests for declassification of materials in accordance with the provisions of Executive Order 12065, regardless of the point of origin of such requests. The position has general responsibility for assuring (in coordination with the Deputy Secretary of the Board) that requests submitted under the Freedom of Information Act are handled in accordance with that Act and the declassification request submitted under the provisions of Executive Order 12065 are acted upon within 60 days of receipt.

III. Procedures

A. *Mandatory Review*

A mandatory review procedure has been established to handle requests by a member of the public, by a government employee, or by an agency, to declassify and release information.

In coordination with the Deputy Secretary of the Board, all requests for mandatory review shall be handled by the Associate Director for Building Services or a designee. Under no circumstances shall the Associate Director and/or the Deputy Secretary of the Board refuse to confirm the existence or nonexistence of a document requested under the Freedom of Information Act or the mandatory review provisions of Executive Order 12065, unless the fact of its existence or nonexistence would itself be classified under Executive Order 12065.

B. *Handling*

Documents bearing the classifications "TOP SECRET," "SECRET," and "CONFIDENTIAL" should be delivered to the International Information Center (IIC), B–1127. The staff of the IIC shall expeditiously deliver such documents to the authorized persons whose official duties require knowledge or possession of the particular material. In the event an authorized person or designee is not available to receive such documents, they shall be retained by the IIC and stored in an appropriate fashion until the authorized person or designee is available.

The Associate Director for Building Services and other senior officials of the Board are authorized to receive certain classified national security information in accordance with their official responsibilities. All classified documents shall be made available only to those persons or their designees whose official duties justify knowledge or possession of such material. In the event an authorized person or designee is not available to receive such documents, they shall be turned over to the IIC or to the office of the Associate Director for Building Services for storage, unopened, until the authorized person is available. Under no circumstances shall classified materials that are delivered to an authorized person be stored other than in designated containers in IIC or in the Division of Support Services.

C. *Reproduction*

Classified materials may be reproduced only in accordance with Executive Order 12065, Section 4–4, and any limitation imposed by the originator. Should copies be made, they are subject to the same controls as the original document. Records showing the number and distribution of copies shall be maintained by the handling office and the logs stored with the original documents. These measures shall not restrict reproduction for the purposes of mandatory review.

D. *Storage*

All classified documents relating to national security information shall be stored in a combination safe located in the Information Center located in the Division of International Finance, B–1127, or in other containers authorized by Executive Order 12065. Combination locks shall be changed as required by IS00 Directive #1, Section IVF5A. The combination of the safe shall be known only to authorized staff of the IIC and appropriate Board security officials.

E. *Employee Education*

All employees who have been granted a security clearance and who have occasion to handle classified material shall be advised of detailed handling, reproduction and storage procedures, and shall be required to review Executive Order 12065 and appropriate IS00 directives.

F. *Agency Terminology*

The Board does not have the authority to classify national security information. Material used at the Federal Reserve Board shall not bear the classification "TOP SECRET," "SECRET," or "CONFIDENTIAL" except in relation to information contained within the material that has been classified for national security purposes by a duly authorized agency. The authority to classify this type of information has been reserved to other agencies and departments of the Federal Government.

G. *Derivative Classification*

When information is derived from classified documents, the derived information will be given the same classification as the original document from which the information was dervied, after verifying the current level of the original document classification. The markings will be in accordance with Executive Order No. 12065. Dates or events for declassification or review shall be carried forward from the source material; further, if the classification is derived from more than one source, the latest date for declassification or review applicable to the various source materials shall be applied.

Board of Governors of the Federal Reserve System, October 18, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79–32895 Filed 10–24–79; 8:45 am]

BILLING CODE 6210–01–M

Northwest Bancorporation; Acquisition of Bank

Northwest Bancorporation, Minneapolis, Minnesota, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 80 per cent or more of the voting shares of Atlantic State Bank, Atlantic, Iowa. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79–32894 Filed 10–24–79; 8:45 am]

BILLING CODE 6210–01–M

Strasburg Bancorporation, Inc.; Formation of Bank Holding Company

Strasburg Bancorporation, Inc., Strasburg, North Dakota, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 83.1 per cent of the voting shares of Strasburg State Bank, Strasburg, North Dakota. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 19, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, October 18, 1979.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 79–32889 Filed 10–24–79; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Declassification of Records; Automatic Declassification of Records After 20 Years

1. *Authorization.* In accordance with the provisions of section 3–402 of Executive Order 12065, the agencies listed below have authorized the Archivist of the United States to automatically declassify information originated by them and under their exclusive and final declassification jurisdiction at the end of 20 years from the date of original classification. This authorization applies only to information that has been transferred to the General Services Administration and accessioned into the National Archives of the United States.

Department of Agriculture
Civil Aeronautics Board
Council of Economic Advisors
Federal Communications Commission
Federal Maritime Commission
Federal Reserve System
Department of Housing and Urban Development
Department of Interior
Interstate Commerce Commission
Department of Labor
National Advisory Council on International Monetary and Financial Policies
Office of Personnel Management
Securities and Exchange Commission
Selective Service System
Small Business Administration
Tennessee Valley Authority
Department of Transportation

2. *Deferral to another agency's jurisdiction.* The following agencies have notified the Archivist of the United States that since the classified information in records and documents ostensibly originated by them was derived from national security information that originated in another agency, NARS should apply the other agency's systematic review guidelines and defer final declassification determination to that other agency:

Foreign Claims Settlement, Commission of the United States (Department of State).
National Science Foundation (Office of Science and Technology Policy, Department of Defense, etc.).
United States International Trade Commission (Departments of State and Defense).

3. *Agency assistance to the National Archives.* Personnel from the agencies listed above will assist the National Archives staff when necessary in identifying the agency with jurisdiction over the classified information contained in their records or documents.

4. *Other systematic review guidelines.* Section 5–402 of Executive Order 12065 requires agencies to publish their guidelines for systematic declassification review in the Federal Register. Guidelines covering information originated by agencies not listed in this notice will be published separately.

Dated: October 17, 1979.

James E. O'Neill,

Acting Archivist of the United States.

[FR Doc. 79–32882 Filed 10–24–79; 8:45 am]

BILLING CODE 6820–26–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

Aging Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Aging Review Committee, National Institute on Aging, on December 3–4, 1979, in Building 31C, Conference Room 8, National Institutes of Health, Bethesda, Md.

The meeting will be open to the public from 9:00 to 10:00 a.m. on December 3, for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on December 3, from 10:00 a.m. to adjournment on December 4, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 5C–05 National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–5345 will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, National Institutes)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc 79–32853 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

Board of Scientific Counselors, Division of Cancer Cause and Prevention; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCCP, National Cancer Institute, November 15 and 16, Building 31, 1st Floor, "A" Wing, Conference Room 4, National Institutes of Health. This meeting will be open to the public on November 16, 1979, from 9:00 a.m. to 5:00 p.m. to discuss aspects of the research and resources activities of the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on November 15, 1979, from 9:00 a.m. to adjournment, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the

disclosure of which would constitute a clearly unwarranted invasion of privacy.

Dr. David McB. Howell, Executive Secretary, Board of Scientific Counselors, Division of Cancer Cause and Prevention, Building 31, Room 11A04, National Institutes of Health, Bethesda, Maryland 20205 (301) 496-6927 will furnish summary minutes, roster of committee members, and substantive program information.

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32848 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Cellular and Molecular Basis of Disease Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, on November 12, 1979, at the National Institutes of Health, Westwood Building, Conference Room 428, Bethesda, Maryland.

This meeting will be open to the public on November 12, 1979, from 8:30 a.m. until 9:30 a.m. for background information and discussion of issues relevant to the National Institute of General Medical Sciences and its National Research Service Award training activities and research programs. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 12, 1979, from 9:00 a.m. until adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Paul Deming, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Room 9A10, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496-7301) will provide a summary of the meeting and a roster of committee members.

Dr. Lee Van Lenten, Executive Secretary, Cellular and Molecular Basis of Disease Review Committee, NIGMS, National Institutes of Health, Room 950, Westwood Building, Bethesda, Maryland 20205 (Telephone: 301/496-7125) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13-863, General Medical Sciences)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32846 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Clinical Cancer Education Committee; Change in Meeting Place

Notice is hereby given of a change in meeting place of the Clinical Cancer Education Committee, National Cancer Institute, November 7-8, 1979, which was published in the **Federal Register** on September 12, 1979 (44 FR 53108).

The meeting will be held in Conference Room B, Room 101, Uniformed Services University of the Health Sciences, National Naval Medical Center, Bethesda, Maryland. The meeting will be open to the public on November 7, from 8:30 a.m.-9:30 a.m. Attendance will be limited to space available. The meeting will be closed on November 7, from 9:30 a.m. through adjournment on November 8 for the review of research grant applications, as stated in the original notice.

For further information, please contact Dr. Margaret H. Edwards, Westwood Building, Room 10A18, National Cancer Institute, Bethesda, Maryland 20205 (301/496-7761).

Dated: October 16, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32845 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, on November 16, 1979, at the Inn at the Park, 1855 South Harbor Boulevard, Anaheim, California.

This meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on November 16, 1979, to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 16, 1979, from 9:30 a.m. to adjournment; for the review, discussion and evaluation of an individual grant application. This application and the discussion could reveal personal information concerning individuals associated with the application, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 4A-21, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Fred P. Heydrick, Chief, Research Contracts Review Section, Division of Extramural Affairs, NHLBI, Westwood Building, Room 548B, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, National Institutes of Health)

Dated: October 15, 1979

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32849 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Research Support Review Committee, Division of Research Resources, December 3, 4, and 5, 1979. The meeting will be held on December 3, in the New Jersey Room at the Holiday Inn, 8130 Wisconsin Ave., Bethesda, Maryland, 20014, and on December 4 and 5, 1979, in Conference Room 6, Bldg. 31-C, National Institutes of Health, Bethesda, Maryland 20205.

The meeting will be open to the public on December 3, 1979, from 8:00 p.m. to 10:00 p.m., to discuss administrative matters relating to the Biomedical Research Support Program.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 4, 1979, from 9:00 a.m. to recess and on December 5, from 9:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm. 5B-13, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5545 will provide summaries of the meeting and rosters of the Committee members. Dr. Michael A. Oxman, Executive Secretary of the General Research Support Review Committee, Bldg. 31, Rm. 5B-23, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-6743, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.337, National Institutes of Health)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32854 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, November 30-December 1, 1979, Conference Room 7, Building 31, Wing C, NIH Campus, Bethesda, Maryland.

This meeting will be open to the public on November 30, 1979 from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 30, 1979, from 9:30 a.m. until adjourment on November 30, or possibly December 1, for the review, discussion and evaluation of an individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur Merrik, Executive Secretary, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7363, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32852 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, November 30, 1979, Conference Room 8, Building 31, C Wing, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on November 30, 1979, from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S.C. and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 30, 1979, from 9:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Maryland 20205, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Arthur W. Merrick, NHLBI, NIH, Room 552, Westwood Building, Bethesda, Maryland 20205, phone (301) 496-7917, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, 13.838, 13.839, National Institutes of Health)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32851 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

High Blood Pressure Working Group; Meeting

Notice is hereby given of the meeting of the High Blood Pressure Working Group sponsored by the National Heart, Lung, and Blood Institute, January 14, 1980, National Institutes of Health, Building 31, C Wing, Conference Room 10, Bethesda, Maryland 20205.

This meeting will be open to the public from 9:00 a.m. to 5:00 p.m. The Working Group is meeting to define the priorities, activities, and needs of the participating groups in the National High Blood Pressure Education Program. Attendance by the public will be limited to space available.

Mr. Graham W. Ward, Chief, Health Education Branch, National High Blood Pressure Education Program, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A24, 9000 Rockville Pike, Bethesda, Maryland 20205 (301/496-1051) will provide additional information.

For the list of participants and meeting summary contact: Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, NIH, Building 31, Room 4A21, 9000 Rockville Pike, Bethesda, Maryland 20205 (301/496-4236).

Dated: October 18, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79-32857 Filed 10-24-79; 8:45 am]

BILLING CODE 4110-08-M

Mental Retardation Research Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on December 4-5, 1979, in the Landow Building, Room A 1st floor, 7910 Woodmont Avenue, Bethesda, Maryland.

This meeting will be open to the public on December 4 from 9:00 a.m. to 11:00 a.m. to discuss items relative to the Committee's activities including announcements by the Director, Deputy Director, Associate Director for Review and the Chief of the Mental Retardation and Developmental disabilities Branch and the Executive Secretary of the Committee.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title. 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 4 from 11:00 a.m. to adjournment on December 5 for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with

V 44 OCT 25 1979 UMI

the applications, disclusure which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A–04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1848, will provide a summary of the meeting and roster of committee members. Dr. Stanley L. Slater, Executive Secretary, Mental Retardation Research Committee, MICHD, Landow Building, Room 7C16, National Institutes of Health, Bethesda, Maryland, Area Code 301, 796–1696, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–32855 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

National Heart, Lung, and Blood Advisory Council; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, November 29–30, 1979, from 9:00 a.m. to 5:00 p.m. at the National Institutes of Health, Building 31, Conference Room 10, Bethesda, Maryland.

This meeting will be open to the public on November 29 from 9:00 a.m. to 5:00 p.m. and on November 30 from 9:00 a.m. to approximately 3:00 p.m. for the discussion of program policies and issues. Attendance by the public is limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Council will be closed to the public on November 30 from approximately 3:00 p.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets of commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4238, will provide summaries of the meeting and roster of the Council members.

Dr. Jerome G. Green, Director of Extramural Affairs, NHLBI, Westwood Building, Room 7A–17, (301) 496–7416, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, 13.838, and 13.839, National Institutes of Health)

Dated: October 15, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–32850 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

NIDR Special Grants Review Committee; Amended Notice of Meeting

Notice is hereby given of the change in the meeting place of the NIDR Special Grants Review Committee, National Institute of Dental Research, on November 6–7, 1979, which was published in the **Federal Register** on October 5, 1979 (44 FR 57503).

The Committee was to have met in Conference Room 8, Building 31–C, but has been changed to meet in Conference Room 117, Building 30, National Institutes of Health, Bethesda, Maryland.

(Catalog of Federal Domestic Assistance Programs Nos. 13–840 through 13–845, and 13–878, National Institutes of Health)

Dated: October 18, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–32844 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

Population Research Committee; Amended Notice of Meeting

Notice is hereby given of a change in the November 14–16, 1979, meeting of the Population Research Committee, National Institute of Child Health and Human Development, which was published in the **Federal Register** on August 22, 1979, 44 FR 49310.

This committee was to have convened at 9:00 a.m. on November 14, but has been changed to 9:00 a.m. on November 15.

The meeting will be open to the public from 9:00 a.m. to 10:30 a.m. on November 15.

Dated: October 18, 1979.

Suzanne L. Fremeau,

Committee Management Officer, NIH.

[FR Doc. 79–32847 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

Workshop on Criteria for Selection, Preparation, and Characterization of Mineral Samples for Biological Testing

A workshop sponsored by the HEW Committee to Coordinate Environmental and Related Programs' Subcommittee to Coordinate Asbestos/"Asbestiform" Research Within the Public Health Service will be held to summarize and discuss some of the presently available information on those criteria of importance to the biological researcher in choosing mineral fibers for their investigations. Emphasis will be placed on establishing principles for selection, preparation and characterization of mineral samples in order to allow for better comparison of research results among the various investigators.

This open meeting will be held on Thursday, December 6, from 8:30 a.m. to 5:15 p.m., and will continue Friday, December 7, from 8:30 a.m. to 1 p.m. in Wilson Hall, Building 1, National institutes of Health, Bethesda, Maryland. Attendance by the public will be limited to space available. Individuals wishing to attend should give advance notice to: Ms. Ronda Rice, National Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone: (919) 541–3506 or FTS 629–3506.

A copy of the agenda and any additional information regarding the meeting will be provided by Ms. Rice on request.

Dated: October 12, 1979.

David P. Rall, M.D., Ph.D.,

Chairman, DHEW Committee To Coordinate Environmental and Related Programs.

[FR Doc. 79–32856 Filed 10–24–79; 8:45 am]

BILLING CODE 4110–08–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. A–12454]

Arizona; Application

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978, filed an application for a right-of-way to construct a cathodic protection station, consisting of a rectifier pole, low voltage underground cable, and a deep anode bed, adjacent to their existing gas pipeline rights-of-way on the following described public lands:

GSR Mer., Arizona

T. 18 N., R. 17 W.,
Sec. 8, SE¼NE¼.

The cathodic protection station is necessary to the preservation and reliability of service of the natural gas pipelines.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their view on this matter should do so promptly. Persons submitting comments should include their name and address, and send them to the Phoenix District Manager, Bureau of Land Management, 2929 West Clarendon, Phoenix, Arizona 85017.

Dated: October 16, 1979.

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79–32904 Filed 10–24–79; 8:45 am]

BILLING CODE 4310–84–M

Casper District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Casper District Grazing Advisory Board will be held on November 29, 1979.

The meeting will begin at 10:00 a.m. in the conference room of the Bureau of Land Management Office at 951 Union Boulevard, Casper, Wyoming.

The agenda for the meeting will include: (1) Policy and guidelines for review of old unauthorized range improvements; (2) criteria for evaluating and modifying range betterment projects that do not meet current bureau standards; (3) priorities for expenditure of range betterment funds; (4) maintenance responsibility for range betterment projects.

The meeting is open to the public. Interested persons may make oral statements to the board between 3:30 and 4:30 p.m. on November 29, 1979, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyoming by November 26, 1979. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection within 30 days following the meeting.

Robert E. Wilber,

District Manager.

[FR Doc. 79–32916 Filed 10–24–79; 8:45 am]

BILLING CODE 4310–84–M

[24128]

Colorado; R/W Application for Pipeline Northwest Pipeline Corp.

October 18, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corporation, P.O. Box 1526, Salt Lake City, Utah 84110, has applied for a right-or-way, #79023, for a 4½" o.d. natural gas pipeline for the Philadelphia Creek Gathering System well hookup approximately .640 miles long, across the following Public Lands:

Sixth Principal Meridian, Rio Blanco County, Colo.

T. 2 S., R. 101 W.,
Sec. 3: W½SE¼, SE¼SW¼;
Sec. 10: NE¼NW¼.

The above-named gathering system will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the applications should be approved and if approved, under what terms and conditions; (2) to give all interested parties the opportunity to comment on the application; (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on *Northwest Pipeline Corporation.* Any comment, claim or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202, as promptly as possible after publication of this notice.

John R. Bernick,

Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 79–32905 Filed 10–24–79; 8:45 am]

BILLING CODE 6210–84–M

Ely District—Nevada Grazing Advisory Board Meeting

Notice is hereby given, in accordance with Pub. L. 94–579 that a meeting of the Ely District Grazing Advisory Board will be held November 30, 1979.

The meeting will be called to order in the Conference Room at the White Pine County Library in Ely, Nevada at 10:00 a.m. (PST).

The meeting Agenda will include: (1) an update on resource inventories in progress and livestock grazing Environmental Statement schedules, (2) discussion on wild horses, (3) progress on range improvement project maintenance, (4) Moorman Ranch AMP, (5) Board Charter resolutions report, (6) public comment period.

The meeting will be open to the public. Interested persons may make oral statements to the Board at 2:00 p.m. (PDT) on November 30, 1979 or file written statements for the consideration of the Board.

Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, Star Route 5, Box 1, Ely, Nevada 89301 by November 28, 1979.

A summary of minutes of the Board meeting will be on file at the Ely District Office and will be available for public inspection and reproduction during regular business hours for 30 days following the meeting.

George W. Cropper,

Acting District Manager.

October 16, 1979.

[FR Doc. 79–32915 Filed 10–24–79; 8:45 am]

BILLING CODE 4310–84–M

[NM 38381 and 38423]

New Mexico; Applications

October 15, 1979.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4-inch natural gas pipeline rights-of-way across the following lands:

New Mexico Principal Meridian, New Mexico

T. 19 S., R. 25 E.,
Sec. 11, SW¼NW¼ and N½SW¼.
T. 18 S., R. 30 E.,
Sec. 26, SE¼SW¼, NE¼SE¼ and S½SE¼;
Sec. 33, NE¼SE¼ and S½SE¼;
Sec. 34, NE¼NE¼, S½NE¼, SE¼NW¼ and N½SW¼;
Sec. 35, N½NW¼.

These pipelines will convey natural gas across 3.218 miles of public lands in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P. O. Box 1397, Roswell, New Mexico 88201.

Stella V. Gonzales,

Chief, Lands Section.

[FR Doc. 79-32913 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Interim Designation for Areas of Critical Environmental Concern

October 15, 1979.

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of interim designation under Areas of Critical Environmental Concern Authority.

SUMMARY: Notice is hereby given that the following described land in Beaverhead County, Montana, contain resources that are of critical environmental concern and will be managed and protected through authorities in Public Law 94-579, dated October 21, 1976. These lands will be formally designated through the procedures published as Proposed Guidelines in Federal Register, Volume 44, No. 110, dated June 6, 1979, when such policy and guidelines are finalized:

T. 14 S., R. 1 E.,
Sec. 8, SE¼SE¼.
Containing 40 acres.

ADDRESS: Supporting data may be obtained by writing the Bureau of Land Management, P.O. Box 308, Butte, Montana 59701.

Michael J. Penfold,

State Director.

[FR Doc. 79-32906 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-84-M

Montana; Accelerated Wilderness Inventory of Area Proposed To Be Crossed by Northern Border Leg, Alaska Natural Gas Transportation System

October 15, 1979.

Background

Notice is hereby given that the Montana Bureau of Land Management has completed the intensive wilderness inventory of Inventory Unit MT-064-356, Bitter Creek, which is proposed to be crossed by the Alaska Natural Gas Transportation System. A 60-day public comment period, resulting in a final wilderness study area decision for this area, will be conducted in advance of the statewide inventory. This inventory is being conducted in accordance with the provisions of Section 603 of the Federal Land Policy and Management Act of 1976 and Section 2(c) of the 1964 Wilderness Act.

The Bitter Creek Unit is located in North Valley County, Lewistown District, and contains 60,680 acres. This Unit originally contained 53,640 acres. However it was found during the intensive inventory that a road which was believed to exist, which segregated some of the public lands from the roadless area, does not exist.

Decision

The Bitter Creek Unit was found to have wilderness characteristics as defined in Section 2(c) of the Wilderness Act and is proposed to become a wilderness study area. The 60-day public comment period will begin October 22, 1979, and end December 20, 1979. A public meeting to review inventory findings and solicit public comment has been scheduled for December 4, 1979, at 7 p.m. M.S.T. at the Valley County Courthouse, Glasgow, Montana. Upon completion of the comment period, a final decision will be made by the Montana State Director and announced in Montana media sources and the Federal Register. A ½-inch/mile scale map and intensive inventory wilderness narrative description is available upon request from the following Bureau of Land Management offices:

Lewistown District Office, Airport Road, P.O. Drawer 1160, Lewistown, Montana 59457, Telephone: (406) 538-7461.
Valley Resource Area, 626 Third Avenue North, Glasgow, Montana 59230, Telephone: (406) 228-4316.

Kannon Richards,

Acting State Director.

[FR Doc. 79-32907 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-84-M

Realty Action Sale; Public Lands in Washoe and Lyon Counties; Nev.

The following described public lands have been determined to be suitable for disposal by public auction under the Authority of Section 203, Pub. L. 94-579 entitled the Federal Land Policy and Management Act, (43 U.S.C. 1713).

Mount Diablo Base and Meridian

Township 20 North, Range 24 East,
Sec. 2, S½S½.
Containing 160 Acres, More or Less.

The parcel will not be sold for less than fair market value. This value will be determined at a later date by government appraisers. Information to be provided will include the appraised value, date, time and place where the sale is to be held. The information will also include instructions for the bidding procedures required for the public land sale.

The purpose of the public auction land sale is to provide public lands for industrial expansion, private enterprise. The parcel is located within the broad band of checkerboard railroad grant lands that involve a considerable portion of the Winnemucca District. The sale is consistent with the Bureau's planning system for the lands involved. Public interest will be well served by making these lands available for public sale.

Patent restrictions are to include ditches and canals.

No preference rights will be granted to adjoining landowners. Detailed information concerning the sale, including the environmental assessment, lands field report are available for review at the Winnemucca District Office, Bureau of Land Management, 705 East Fourth Street, Winnemucca, Nevada 89445.

On or before December 24, 1979, all interested parties may submit comments to the Secretary of Interior, LLM-320, Washington, D.C. 20240. Any adverse comments will be evaluated by the Secretary, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the Secretary, this realty action will become the final determination of the department.

Chet Conard,

Acting State Director.

October 18, 1979.

[FR Doc. 79-32914 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-84-M

Office of the Secretary

Privacy Act of 1974; New System Notice

Notice is hereby given that the Bureau of Indian Affairs of the Department of the Interior has adopted a new personal record system known as the "Integrated Records Management System—Interior, BIA-25." This automated system is designed to maintain and report information on land leasing, use, ownership, income and water resources

rights of individual Indians and of Indian tribes. This system is established under the authority found in: 25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163. The personal record system is set out below.

Comments on the proposed system should be submitted to the Departmental Privacy Act Officer, U.S. Department of the Interior, Washington, D.C. 20240. Copies of any comments received may be inspected in Room 5316 of the Interior Department. All comments received on or before November 16, 1979, will be considered.

Dated: October 15, 1979.

William L. Kendig,

Assistant Secretary of the Interior.

SYSTEM NAME:

Integrated Records Management System—Interior BIA-25.

SYSTEM LOCATION:

(1) All Area and Agency Offices Listed Below:

Agency, Location, and Contact

Billings Area Office Computer, Area Director.
Billings Area Office, Billings, MT, Area Director.
Flathead Agency, Ronan MT, Superintendent.
Flathead IRR Project, St. Ignatius, MT, Project Engineer.
Northern Cheyenne Agency, Lame Deer, MT, Superintendent.
Crow Agency, Crow Agency, MT, Superintendent.
Blackfeet Agency, Browning, MT, Superintendent.
Fort Belknap Agency, Harlem, MT, Superintendent.
Fort Peck Agency, Poplar, MT, Superintendent.
Rocky Boy Agency, Box Elder, MT, Superintendent.
Wind River Agency, Fort Washakie, WY, Superintendent.

Aberdeen Area Office

Ft. Berthold Agency, New Town, ND, Superintendent.
Turtle Mountain Agency, Rolla, ND (Belcourt), Superintendent.
Lower Brule Agency, Lower Brule, SD, Superintendent.

Portland Area Office

Yakima Agency, Toppenish, WA, Superintendent.
Northern Idaho Agency, Lapwai, ID, Superintendent.
Wapato IRR Project, Wapato, WA, Project Engineer.
Denver—Bureau of Mines—Computer, ADP Manager.
Aberdeen, Lower Brule Agency, Reliance, SD, Superintendent.
Albuquerque, Southern Pueblos Agency, Albuquerque, NM, Superintendent.
Anadarko, Anadarko Agency, Anandarko, OK, Superintendent.
Muskogee, Tahlequah Agency, Tahlequah, OK, Superintendent.
Phoenix, Pima Agency, Sacaton, AZ, Superintendent.
Window Rock, Eastern Navajo Agency, Crownpoint, NM, Superintendent.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individual Indian and Indian Tribal groups that are owners of real property held in trust by the Government, individuals or groups that are potential or actual lessees of that property, individuals who have been assigned interests of any in Indian Tribes, Pueblos or corporations, and individual Indians who have money accounts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Land description, current ownership, dower and life estate interest, information on all types of leases or other land uses including grazing, farming, minerals mining, timber and business etc. Information on individuals including name, address, aliases, sex, date of birth, tribal membership and blood quantums, etc. General ledgers showing deposits and withdrawals from Indian accounts.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

25 U.S.C. 151, 25 U.S.C. 392, 25 U.S.C. 415, and 25 U.S.C. 163.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES.

The primary uses of the records are: (a) To control individual Indians money accounts and disclose to them the status of those accounts. (b) Identification of individual Indians and Indian Tribal groups with interest in lands held in trust. (c) Control of leases on Indian trust lands and real property, and collection and distribution of lease income. (d) Bill individual owners or lessees for irrigation. (e) Determination of eligibility of individuals to participate in or enjoy benefits from an interest in a tribal group. (f) Lists of approved enrollees used to distribute funds or income, or as a base to gather census or ownership data for planning purposes. Disclosures outside the Department of the Interior may be made. (1) To the Tribe, band, Pueblo or corporation of which the individual to whom a record pertains is a member or a stockholder. (2) To a Federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit. (3) To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter. (4) To the U.S. Department of Justice in the event of litigation or potential litigation involving the records or the subject matter of the records. (5) Transfer, in the event there is indicated a violation or a potential violation of a statute, regulation, rule, order or license whether civil, criminal or regulatory in nature, to the appropriate agency or agencies, whether federal, state, local or foreign, charged with the responsibility of enforcing or implementing the statute, rule, regulation, order or license violated or potentially violated.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Manual: letter files, computer readable media, input forms and computer printouts. Computer: mag tape and disk piles.

RETRIEVABILITY:

(a) Indexed by name, identification numbers, family numbers, lease numbers, tract numbers, etc. (b) Retrieved by manual search or computer inquiry.

SAFEGUARDS:

In accordance with 43 CFR 2.51.

RETENTION AND DISPOSAL:

Permanent records are retrieved. Closed or inactive records are transferred to GSA storage. Prior information on mag tape erased as updated information is added to the system.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Real Property Management, 316 N. 26th St., Billings, MT 59101.

NOTIFICATION PROCEDURE:

System Manager or, with respect to records maintained in the office for which he is responsible, an Agency Superintendent or an Area or Field Office Director. A written and signed request stating that the requester seeks information concerning records pertaining to him is required. See 43 CFR 2.60.

RECORD ACCESS PROCEDURES:

A request for access may be addressed the same as for Notification.

V 44 O C 25 79 UMI

The request must be in writing and be signed by the requester, and must meet the content requirements of 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

A petition for amendment shall be addressed to the System Manager and must meet the requirements of 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Enrollees or claimants. Birth, marriage and death certificates, and family and tribal histories. Owners and lessees. Titles, deeds probates, all types of land and water rights and usages documents. Individual Indians, depositors in the accounts and claimants against the accounts.

[FR Doc. 79-32975 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-10-M

INTERNATIONAL TRADE COMMISSION

[AA1921-Inq.-29]

Coke From West Germany; Inquiry and Hearing

The United States International Trade Commission (Commission) received advice from the Department of the Treasury (Treasury) on October 17, 1979, that during the course of determining, in accordance with section 201(c) of the Antidumping Act, 1921, as amended (19 U.S.C. 160(c)) whether to institute an investigation with respect to coke from West Germany, Treasury has concluded from the information available to it that there is substantial doubt that an industry in the United States is being or is likely to be injured by reason of the importation of this merchandise into the United States. For purposes of this inquiry, coke is defined as "coke classifiable under TSUS item 521.31." Therefore, the Commission on October 22, 1979, instituted inquiry No. AA1921-Inq.-29, under section 201(c)(2) of the act, to determine whether there is no reasonable indication that an industry in the United States is being or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States.

Hearing. A public hearing in connection with the inquiry will be held in Washington, D.C., at 10:00 a.m., e.s.t., on Tuesday, October 30, 1979, in the Hearing Room, U.S. International Trade Commission Building, 701 E Street, NW. All parties will be given an opportunity to be present, to produce information and to be heard at such hearing. Requests to appear at the public hearing should be received in writing in the office of the Secretary to the Commission not later than 5:00 p.m., Friday, October 26, 1979.

Written statements. Interested parties may submit statements in writing in lieu of, or in addition to, appearing at the public hearing. A signed original and nineteen true copies of such statements should be submitted. To be assured of their being given due consideration by the Commission, such statements should be received no later than Wednesday November 7, 1979.

Possible applicablility of new antidumping law. Should be Commission not determine that there is no reasonable indication that an industry int the United States is being injured, or is likely to be injured, or is prevented from being established, by reason of the importation of such merchandise into the United States, it is possible that in accordance with section 102 of the Trade Agreements Act of 1979, investigation into imports of coke from West Germany will proceed after January 1, 1980, pursuant to subtitle B of title VII of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979. Accordingly, information submitted to or gathered by the Commission in conjunction with this proceeding under section 201(c)(2) of the Antidumping Act may be subject, after January 1, 1980, to the new antidumping provisions set forth in title VII of the Tariff Act of 1930, inlcuding the record retention and disclosure provisions of section 777 thereof.

By order of the Commission.

Issued: October 22, 1979.

Kenneth R. Mason,

Secretary.

[FR Doc. 79-32957 Filed 10-24-79; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF JUSTICE

Bureau of Prisons

National Institute of Corrections Advisory Board; Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Sunday, November 11, 1979, starting at 9:00 a.m., at the Colonial Williamsburg Motor House, South England Street, Williamsburg, Virginia 23185.

At this meeting (one of the regularly scheduled triannual meetings of the Advisory Board), the Board will receive its subcommittees' reports and recommendations as to future thrusts of the Institute.

Allen F. Breed,

Director.

[FR Doc. 79-32917 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-05-M

Drug Enforcement Administration

[Docket No. 79-4]

Charles J. Burks, M.D.; Revocation of Registration

On January 8, 1979, the Administrator of the Drug Enforcement Administration (DEA) directed to Charles J. Burks, M.D., the Respondent herein, an Order to Show Cause as to why the Respondent's DEA Certificates of Registration (AB1694606) and (AB8205937) should not be revoked for reason that on June 26, 1978, Respondent was convicted in the Allegheny County Court of Common Pleas, Pittsburgh, Pennsylvania, on seven (7) counts of prescribing controlled substances outside the treatment principles of the profession, in violation of 35 Pennsylvania Statutes 780-113(a)(14). The convictions are controlled substances-related felonies. Through counsel, Respondent requested a hearing on the Order to Show Cause. After preliminary procedures, including a Prehearing Conference conducted by telephone in which the Administrative Law Judge and Counsel for the Government and Respondent participated, the Honorable Francis L. Young, Administrative Law Judge, conducted a hearing in Washington, D.C., on March 23, 1979.

On August 3, 1979, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65, the record of the proceedings in this matter, together with his recommended findings of fact and conclusions of law, and a recommended decision. Pursuant to 21 CFR 1316.66, the Administrator hereby publishes his Final Order in this proceeding, based upon the findings of fact and conclusions of law set forth below.

The Administrative Law Judge found that Respondent Burks was convicted in the Alleghency County Court of Common Pleas, Criminal Division, Pittsburgh, Pennsylvania, of seven of eight felony counts of an indictment charging him with illegally dispensing controlled substances not in good faith, i.e., not for a legitimate medical purpose. Respondent was also convicted of seven of eight misdemeanor counts in the same indictment, charging him with prescribing controlled substances to drug dependent persons.

Judge Young found that the leading factual witness for the Commonwealth of Pennsylvania was a man addicted to Morphine Sulphate. He was a co-defendant of Respondent who pled guilty and cooperated with the Commonwealth, which agreed to inform the trial and sentencing judge of this individual's cooperation, and make no recommendation concerning his sentence. He testified that he first visited Respondent in April, 1975, after speaking with another co-defendant to learn where to find a new source of Morphine Sulphate. The co-defendant was obtaining prescriptions from Respondent for one-hundred Morphine Sulphate tablets about every two days. At his first visit, the witness and co-defendant went to Respondent's office where the witness told Respondent that he had been in an automobile accident and had hurt his neck. The Administrative Law Judge found that this was to provide a colorable entitlement, medically, for Morphine Sulphate, since the witness had no actual problem with his neck. At this first visit, Respondent sold the witness three prescriptions, each for one-hundred, one-half grain Morphine Sulphate tablets, for $30 per prescription.

Judge Young found that the medical history and examination taken from the witness by Dr. Burks were merely a sham. Respondent performed none of the standard procedures of a medical examination on the witness. The Respondent did not advise the witness of any of the common treatments for arthritis nor prescribe a less addictive analgesic than Morphine Sulphate. At no time during the witness' numerous visits with Respondent between March, 1975 and March, 1976 did Respondent perform any of the commonly accepted tests for arthritis or refer the witness to a specialist or hospital for treatment. Respondent ascertained that the witness was addicted, but did not attempt to enroll him in a detoxification program. The witness would use about half the Morphine Sulphate and sell the rest.

Judge Young further found that the witness continued to return to Respondent for Morphine Sulphate prescriptions. Respondent would write the witness fifteen (15) prescriptions at a time for a total of 1500 tablets. Each prescription was for 100 one-half grain tablets of Morphine Sulphate, or a total of 50 grains. Respondent was writing prescriptions for equal amounts of Morphine Sulphate for the co-defendant. The witness paid $30 per prescription, or $450 per visit, in cash. Respondent would date the prescriptions for every other day in a month, for example, all the even numbered days. The witness was selling about half the Morphine Sulphate he obtained from Respondent by prescription and ingested the rest himself, carrying on with the co-defendant a brisk illegal discount business in the drug.

Judge Young found further that Respondent indicated on the witness' prescriptions that he was suffering from cervical arthritis, and on the co-defendant's prescriptions that he was suffering from colitis. An expert in toxicology and pharmacology testified for the Commonwealth at Respondent's trial that even 50 one-half grain tablets of Morphine Sulphate per day over a period of a year exceeds the minimum lethal dose quantities. Another expert witness testified for the Commonwealth on the symptoms and treatment of cervical arthritis. He testified that the witness had quite mild cervical arthritis, and in his opinion, the prescription of 100 one-half grain tablets of Morphine everyday for a year was not standard or ethical practice. Another expert witness testified for the Commonwealth on colitis. His opinion was that such large amounts of Morphine Sulphate are wrong and improper.

The Administrative Law Judge found that Respondent admitted to prescribing large quantities of Morphine Sulphate to certain persons. Respondent testified that he prescribed under a Pennsylvania law permitting doctors to prescribe Morphine Sulphate to addicts to maintain their addiction after approval from State authorities was obtained. Judge Young found that a 1917 Pennsylvania law, repealed in 1961, permitted physicians to prescribe opium or its derivative to cure a person's drug habit, and not merely to satisfy a craving for the drug. Morphine Sulphate is a substance extracted and purified from the opium poppy. Respondent testified that he obtained permission to treat the witness and co-defendant from a state drug control officer who had subsequently died. In any event, the 1917 law was repealed in 1961. Judge Young found that the law of Pennsylvania in effect in 1975 and 1976 was that quoted by the trial judge in his instruction to the jury. The trial judge instructed the jury that if the practitioner knows or has reason to know that the patient is a drug dependent person, then the practitioner is not allowed to prescribe a controlled substance unless it is done for the cure or treatment of some malady other than the drug dependency. Respondent was convicted of unlawfully prescribing Morphine Sulphate. Judge Young concluded that there are lawful grounds for the revocation of Respondent's DEA registration pursuant to 21 U.S.C. 824(a)(2) and recommended that said registration be revoked. The Administrator hereby adopts the Administrative Law Judge's findings, conclusion and recommended decision as set forth above.

Judge Young found further that Respondent is 60 years old. Dr. Burks had practiced medicine in the North Side of Pittsburgh from 1948 to December, 1976, the time of his trial. Since that time, he has been on the emergency room staff of a Pittsburgh hospital. Judge Young found that Respondent was the first black to graduate from the University of Pittsburgh Medical School and the first black ever to gain admission to the staff of a hospital in Pittsburgh area. Respondent was active in community work, and was responsible for opening up the first methadone maintenance clinic in the Pittsburgh. Respondent also holds a Masters degree in public health. Judge Young found, from Respondent's testimony, that a private medical practice is no longer a viable option for him, and that he prescribes controlled substances very infrequently in his emergency room work.

The Administrator finds, after a thorough review of the record of this proceeding, including exceptions filed on behalf of Respondent, that the public interest will be served if the Respondent is permitted to administer or order the administration of controlled substances in the course of his professional practice as an emergency room physician. The Administrator further finds that there is no legal or regulatory impediment to his doing so, so long as he remains licensed to practice medicine in the Commonwealth of Pennsylvania and confines his practice to a hospital properly registered under the Controlled Substances Act. However, 21 CFR 1301.76(a) provides that a "registrant shall not employ as an agent or employee who has access to controlled substances any person who has had * * * his registration revoked, at any time." In order that this Respondent may be employed or practice in a registered hospital, the Administrator hereby waives the prohibition of 21 CFR 1301.76(a) with respect to the employment or practice of Charles J. Burks, M.D., as an emergency room physician.

Having reviewed the record of this proceeding in its entirety, including exceptions filed on behalf of Respondent, and having concluded that the subject registration should be revoked for reason that Respondent has been convicted of a felony relating to

V 44 0C 25 79 UMI

controlled substances, it is the decision of the Administrator that said registration be revoked. Accordingly, pursuant to the authority vested in the Attorney General by Section 824 of Title 21, United States Code, and redelegated to the Administrator of the Drug Enforcement Administation, the Administrator hereby orders that the Certificates of Registration AB1694606 and AB8205937 previously issued to Charles J. Burks, M.D., be, and are hereby, revoked, effective November 26, 1979.

Dated: October 22, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-32392 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 79-7]

Chester J. Hurd, M.D.; Revocation of Registration

On December 22, 1978, the Administrator of the Drug Enforcement Administration [DEA] directed to Chester J. Hurd, M.D. [Respondent] an Order to Show Cause proposing to revoke the Respondent's DEA Certificate of Registration and to deny his then-pending application for registration. On January 18, 1979, the Respondent, through counsel, responded to the Order to Show Cause and this matter was placed on the docket of the Administrative Law Judge.

Prior to any formal proceedings in this matter, counsel for the Government and counsel for the Respondent entered into a Stipulation and Joint Motion for Continuance of the Proceedings. In addition to containing a stipulation with respect to the Respondent's conviction, this document incorporated the Respondent's agreement with California authorities, wherein the Respondent agreed that he would not practice medicine pending the outcome of the appeal of his criminal conviction. The Stipulation also provided that in the event that the conviction was upheld, and the Respondent ordered to serve his sentence of imprisonment, he would not further contest the Order to Show Cause in this matter and that the Administrator might enter his Final Order revoking the Respondent's registration and denying his pending application without further proceedings in this matter.

On October 5, 1979, Counsel for the Respondent advised Counsel for the Government that the Court of Appeals had affirmed the Respondent's conviction and that the Respondent had commenced serving his sentence. The Administrator takes notice that on July 3, 1979, the United States Court of Appeals for the Ninth Circuit, without published opinion, did in fact affirm the judgment of the United States District Court for the Northern District of California; see 603 F.2d 226.

On October 10, 1979, upon motion of the Government, the Administrative Law Judge terminated the proceedings pending before him and transmitted the record of these proceedings to the Administrator.

The Administrator finds that on August 18, 1978, in Docket No. Cr-77-504-SW-SJ, United States District Court for the Northern District of California, the Respondent, Chester J. Hurd, M.D., was convicted in seventeen counts of violating 21 U.S.C. 841(a)(1) and 846, felony offenses under the Controlled Substances Act. The Administrator finds and concludes that there is a lawful basis, under 21 U.S.C. 824(a)(2), for the revocation of the Respondent's DEA registration and for the denial of his pending application for registration. The Administrator further finds, in light of the Stipulation filed herein and in consideration of the recommendation of the Administrative Law Judge, that such remedies are indeed warranted in this case.

In consideration of the terms of paragraph eight of the aforementioned Stipulation, the Administrator further concludes that it is unnecessary to provide either the Government or the Respondent with an opportunity to file exceptions in this matter. See 21 CFR § 1316.66 (44 F.R. 55332).

Accordingly, pursuant to the authority vested in the Attorney General by the Controlled Substances Act, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that DEA Certificate of Registration AH5792913, previously issued to Chester J. Hurd, M.D., be, and it hereby is, revoked. The Administrator further orders that the pending application for registration, executed by the Respondent on October 23, 1978, be, and it hereby is, denied. Such actions to be effective immediately.

Dated: October 19, 1979.

Peter B. Bensinger,

Administrator, Drug Enforcement Administration.

[FR Doc. 79-32879 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-09-M

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Air Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 1902, notice is hereby given that a proposed consent decree in *United States of America* v. *Bacardi Corporation*, Civil Action No. 79-2324, has been lodged with the United States District Court for District of Puerto Rico. The proposed decree would require Bacardi Corporation to construct, by December 1, 1983, and to operate treatment facilities in order to achieve compliance with a new NPDES permit to be issued to it.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *Bacardi Corporation*, D. J. Ref. 90-5-1-1-1261.

The proposed consent decree may be examined at the office of the United States Attorney, U.S. Post Office and Courthouse Building, Receipto Sur, Old San Juan, Puerto Rico 00904; at the Region II office of the Environmental Protection Agency, Enforcement Division, 26 Federal Plaza, New York, New York 10007; and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Room 2625, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-32918 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enjoin Discharge of Air and Water Pollutants by WSC Corp. at its Chicago Plant

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on October 3, 1979, a proposed consent decree in *United States* v. *WSC Corporation* (N.D. Ill., Civ. No. 79C 4130), was lodged with the United States District Court for the Northern District of Illinois. The proposed consent decree covers three blast furnaces, a sinter plant, a boiler, a coke battery, and a basic oxygen furnace shop, and it requires the Corporation to bring its Chicago plant into compliance with requirements of the Clean Air Act and the Federal Water Pollution Control Act by November 30, 1982.

The proposed consent decree may be examined at the office of the United States Attorney, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1500 South, Chicago, Illinois 60604, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2633, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C 20530, and should refer to *United States* v. *WSC Corporation* (N.D. Ill., Civ. No. 79C 4130), D.J. Ref. 90-5-2-1-266.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

In the U.S. District Court for the Northern District of Illinois, Eastern Division

United States of America, Plaintiff, vs. *W S C Corporation, Defendant; People of the State of Illinois, Plaintiff,* vs. *Wisconsin Steel Company, Corp., et al, Defendants.*

Case No. 79C 3396; Judge Marovitz; Consent Order

Plaintiff, People of the State of Illinois, having filed its Complaint herein on August 16, 1979, and Plaintiff, United States of America, having filed the Complaint herein on ———, 1979;

And plaintiffs and defendant W S C Corp. (WSC) having moved the Court to enter this Consent Order;

And the Court in open hearing having been fully advised of the premises;

Now, Therefore, before the taking of any testimony, and without any admission or denial of the violations alleged in the Complaints, it is hereby Ordered, Adjudged and Decreed as follows:

I

This Court has jurisdiction of the subject matter herein and of the parties consenting hereto for the purpose of entering this Consent Order. The Complaints state claims upon which relief can be granted against the Defendant.

II

The provisions of this Consent Order shall apply to and be binding upon the parties to this action, their officers, directors, agents, servants, employees, and successors; in addition, the provisions of this Consent Order shall apply to all persons, firms and corporations having notice of this Order and who are acting in concert and privity with Defendant or its officers, directors, agents, servants, employees and successors, including but not limited to a trustee or receiver in bankruptcy. WSC shall notify any successor in interest prior to the transfer of ownership, and simultaneously notify Region V, U.S. EPA, and Illinois EPA that notice has been given.

III

In consideration of the foregoing and the representations made in open Court by parties hereto, and in consideration of the U.S. EPA's clearance to the Economic Development Administration (EDA) of the Department of Commerce required to obtain fixed asset and working capital financing guaranteed, in part, by the EDA, WSC Hereby Consents and Therefore, it is Hereby Ordered that WSC complete the following specified adts with respect toits facility located at 2800 E. 106th Street, Chicago, Illinois, in accordance with the terms set forth below:

A. WSC shall control particulate emissions from its coke battery No. 4 as follows:

1. *Charging:*

a. WSC shall install a new larry car on its coke battery No. 4, which shall include technology to effect stage charging on each oven and double drafting of the charging emissions into the collector main during the entire charging operation. Said larry car shall be installed in accordance with the following schedule:

i. May 1, 1979—Solicit proposals for new larry car.

ii. August 15, 1979—Award contract for fabrication of new larry car and make contract available for inspection.

iii. May 1, 1981—Complete installation of new larry car and commence stage charging.

iv. June 1, 1981—Achieve and demonstrate compliance with Paragraph III A(1)(c) of this Decree.

b. For purposes of this Decree, the charging operation is defined as the introduction of coal into a coke oven, beginning when the larry car slide gate(s) open or mechanical feeder(s) start the flow of coal into the oven and ending when the last charging port lid is replaced.

c. There shall be no visible particulate emissions from any coke oven charging port, except for a period or periods aggregating 15 seconds during any one coke oven charging operation, provided however, such emission does not exceed 30% opacity at any time.

d. For purposes of subparagraph c above, compliance shall be determined as follows. Observations of charging emissions shall be made from any point or points on the topside of a coke oven battery at a sufficient distance from which an observer can obtain an unobstructed view of the charging operation. The observer will determine and record the total number of seconds that charging emissions are visible during the charging of coal to the coke oven. The observer shall time the visible charging emissions with a stopwatch while observing the charging operation. Simultaneous emissions from more than one emission point shall be timed and recorded as one emission and shall not be added individually to the total time. Charging emissions shall not include any emissions observed after all the charging port covers have been firmly seated. The number of seconds of visible emissions observed, clock time for the initiation and completion of the charging operation battery identification and oven number for each charge shall be recorded by the observer. In the event that observations of emissions from a charge are interrupted due to events beyond the control of the observer, the data from that charge shall be invalidated and the observer shall note on his observation sheet the reason for invalidating the data.

In order to determine whether such visible emissions exhibit greater than 30% opacity, the data reduction procedures of Section 2.5, 40 CFR Part 60, EPA Method 9, shall not apply in that averaging is inapplicable.

2. *Doors Areas:*

a. WSC shall adjust, repair, or replace the coke oven door areas on coke battery No. 4 and achieve and demonstrate compliance with the emission limitations set forth in Illinois Rule 203(d) and subparagraph (c) below on or before October 1, 1979.

b. For purposes of this Decree, door area is defined as the vertical face of a coke oven between the bench and the top of the battery and between two adjacent buckstays, including, but not limited to the door, chuck door, door seal, jamb, and refractory.

c. There shall be no visible emissions from more than 10% of all coke oven doors at any time. For purposes of this Decree, compliance shall be determined as follows. Compliance shall be determined from ground level by a one pass observation of all coke oven doors. Each door area shall be observed in sequence for only that period necessary to determine whether or not, at the time, there are visible emissions from any point on the door areas while the observer walks along the side of the battery. If the observer's view of a door area is more than momentarily obstructed, as, for example by door machinery, pushing machinery, coke guide, luter truck, or opaque steam plumes, he shall record the door area obstructed and the nature of the obstruction and continue the observations with the next door area in sequence which is not obstructed. The observer shall continue this procedure along the entire length of the battery recording the battery identification, battery side, and ove door identification number of each door area exhibiting visible emissions. Before completing the traverse or immediately thereafter he shall attempt to reobserve the obstructed doors. Compliance with this section shall be calculated by application of the following formula, which excludes obstructed door areas from the denominator:

$$\frac{\text{(No. of door areas with visible emission)}}{\text{(No. of door areas on operating ovens)} - \text{(No. of door areas obstructed from view)}} \times 100\% = 10\% \text{ or less.}$$

3. *Coke Oven Ports:*

a. On or before April 1, 1980, WSC shall not cause or allow visible emission from more than 5% of all coke oven ports at any time.

b. For purposes of this Decree, compliance with subparagraph a above shall be determined as follows. Observations of any visible emissions from coke oven topside, other than charging or pushing emissions, shall be made and recorded during the time an observer walks the topside of a battery from one end to the other. Each oven shall be observed in sequence. The observer shall record the battery identification, the points of topside emissions from each oven and the oven number, and the number of operating ovens and charging ports open to the atmosphere. Compliance with this subparagraph shall be determined by application of the following formula:

$$\frac{\text{(No. of charging ports with visible emissions)} - \text{(No. of open charging ports—not to exceed those on three ovens)}}{\text{(No. of charging ports on operating ovens)}} \times 100\% = 5\% \text{ or less.}$$

4. *Coke Oven Offtake Piping:*

a. On or before April 1, 1980, WSC shall not cause or allow visible emissions from more than 10% of all coke oven offtake piping at any time.

b. For purposes of determining compliance with subparagraph a above, observation of any visible emissions from the offtake piping shall be made by a one pass observation of all offtake piping. During the traverse, the observer may walk as close as possible to the offtake piping to determine whether an observed emission is emanating from the offtake piping or from some other point.

Each oven shall be observed in sequence. The observer shall record the battery identification, the number of operating ovens, the points of offtake piping emissions from any oven and the oven number, and all offtake lids open to the atmosphere. Compliance shall be determined by application of the following formula:

$$\frac{\text{(No. of offtake piping with visible emissions)} - \text{(No. of open offtake piping—not to exceed those on three ovens)}}{\text{(No. of offtake piping on operating ovens)}} \times 100\% = 10\% \text{ or less.}$$

B. *Blast Furnaces Nos. 1, 2, and 3:*

WSC shall comply with the emission limitations set forth in Illinois Regulations 202 and 203 for control of particulate emissions from its blast furnace cast houses Nos. 1, 2, and 3 as follows:

1. WSC shall capture, at a minimum, particulate matter emanating from the iron-notch and trough during the casting operation, by installing either (1) local hooding over the iron trough, extending from the tap hole to at least the dam or (2) a whole building evacuation system. Particulate matter captured shall be cleaned by a baghouse.

2. The equipment as specified above for cast houses Nos. 1, 2, and 3 shall be installed in accordance with the following schedule and shall achieve the standards set forth in subparagraphs 3 and 4 below:

a. April 1, 1979—Commence development of specifications for iron trough hooding, fans, and baghouse for cast houses Nos. 1, 2, and 3.

b. July 1, 1980—Solicit proposals for fabrication of fans and baghouse for cast houses Nos. 1, 2, and 3.

c. October 1, 1980—Complete installation of iron trough hooding in cast house No. 3.

d. December 1, 1980—Award contracts for fabrication of fans and baghouse for cast houses Nos. 1, 2, and 3 and make contracts available for inspection.

e. October 1, 1982—Complete installation of fans, baghouses, and ductwork for cast houses Nos. 1, 2, and 3 and hooding in cast houses Nos. 1 and 2.

f. November 30, 1982—Achieve compliance with Illinois Regulation 203 and paragraph III B(3) of this Decree at cast houses Nos. 1, 2, and 3 and demonstrate compliance with paragraph III B(3) of this Decree.

3. The outlet concentration of particulate matter from the baghouse installed pursuant to paragraph III B(1) shall not exceed 0.020 gr/dscf as measured in accordance with EPA Methods 1–5 as given in 40 CFR Part 60, Appendix A. If a positive pressure baghouse is used, WSC shall install stack(s) to ventilate outlet emissions therefrom to the atmosphere. Such stack(s) shall permit the testing of the baghouse emissions by EPA Methods 1–5. Construction of the stacks may be waived by the Administrator if prior to the date for testing, EPA has certified to WSC a suitable alternative to EPA Methods 1–5.

4. Visible emissions from each cast house shall not exceed 30% opacity except for a period aggregating not more than 8 minutes (32 individual readings) in any 60 minute period. At no time shall the opacity of the casthouse emissions exceed 60%. Opacity is to be measured by EPA Method 9 except for the averaging provisions of Section 2.5 therein. Each monitoring observation shall be deemed to represent the opacity for a 15-second period.

C. *Sinter Plant:*

WSC shall not commence operation of its sinter plant, which is currently shut down, until such time as it is equipped with air pollution control equipment that meets all new source review requirements including LAER or BACT, if applicable, and can operate in compliance with the requirements of the Illinois State Implementation Plan.

D. *BOF Shop:*

1. WSC shall control particulate emissions from its basic oxygen furnace (BOF) shop according to the following schedule to achieve the emission limitations set forth in subparagraphs 2 and 3 below.

2. Visible emissions from the BOF shop precipitators and its roof monitors shall not exceed 30% opacity except for a period or periods aggregating more than 8 minutes in any 60 minute period and shall not exceed 60% opacity at any time.

Opacity is to be measured by EPA Method 9 except for the averaging provisions of Section 2.5 therein. Each monitoring observation shall represent a 15-second period.

3. The aggregate of mass emissions from the main gas cleaning stack and uncaptured fugitive emissions due to charging, oxygen blow, tapping, turndown, and slagging shall not exceed that allowable emission rate determined by Rule 203.

4. WSC shall rehabilitate the BOF electrostatic precipitator (ESP), one chamber at a time, keeping the remaining chambers in operation, in accordance with the following schedule:

a. July 1, 1979—Award contract for rehabilitation and make copy available for inspection.

b. April 1, 1980—Commence tear-out and rehabilitation of one chamber of ESP (first chamber).

c. August 1, 1980—Complete rehabilitation of first chamber and place in service.

d. December 1, 1980—Complete rehabilitation of second chamber and place in service.

e. April 1, 1981—Complete rehabilitation of third chamber and place in service.

f. August 1, 1981—Complete rehabilitation of fourth chamber and place in service.

g. October 1, 1981—Achieve and demonstrate compliance.

5. WSC shall fabricate and install a lance hole cover on each BOF vessel on or before September 1, 1979.

6. WSC shall install new hood panels on three sides of that section of the primary collection hood directly above each vessel, including that side containing the lance hole, on or before September 1, 1979. The above hood panels shall be of the water cooled, tubular steel type.

7. On or before September 1, 1979, WSC shall achieve and demonstrate compliance with the emission limitations set forth in paragraph III (d)(2) for emission exclusively from its BOF roof monitors.

8. On or before October 1, 1981, WSC shall achieve and demonstrate it has achieved compliance with the emission limitations set forth in paragraph III (D)(2) and (3) above at the entire BOF shop.

E. *Boiler No. 4:*

WSC shall demonstrate to the U.S. EPA, on or before July 1, 1979, that particulate emissions from its boiler No. 4 do not exceed the standard as determined by the following formula:

$$E = SsHs + 0.10H_1$$

Where:

E = allowable particulate emission rate in pounds per hour,

SS = 0.1 pounds per million btu of the actual heat input,

Hs = actual heat input from solid fuel in million btu per hour, and

H_1 = actual heat imput from liquid fuel in million btu per hour.

F. WSC shall design and construct recycle systems for its Blast Furnace and Mill water systems in accordance with the following schedule:

1. September 11, 1978—Commence project.

2. November 11, 1978—Award of engineering contract.

3. July 11, 1979—Completion of long delivery equipment specifications.

4. November 11, 1979—Completion of all specifications.

5. February 11, 1980—Completion of piling and foundation construction.

6. March 11, 1981—Completion of building construction.

7. July 11, 1981—Completion of equipment installation, piping, and electrical.

8. November 11, 1981—Completion of start-up phase and commence discharge into the Metropolitan Sanitary District.

The purpose of the above-scheduled constructlon is to bring the facility into compliance with its NPDES permit No. 0001660, the requirements of the Clean Water Act of 1977, and the requirements of the State of Illinois Chapter 3 Effluent Limitations.

G. To the extent that the construction schedule listed in "F" above conflicts with any construction schedule ordered by Judge Prentice Marshall in any decision of the case *United States v. International Harvester et al.* No. 75 C 4284, the schedule ordered by Judge Marshall shall be controlling and shall be incorporated as part of this Consent Decree for all purposes.

H. From the date of entry of this Decree and until WSC commences discharge into the MSD, WSC shall not exceed the following effluent limitations and monitoring requirements:

Effluent characteristic	Discharge limitations (ppm) Daily average	Daily maximum	Monitoring
Ammonia	.....	5	Weekly, 24 hour composite.
Iron (total)	7	17.5	Weekly, 24 hour composite.
Lead	0.25	0.625	Weekly, 24 hour composite.
Fats, oil and grease	.....	15	At least 1 grab sample weekly.
Phenols	.....	0.3	Weekly, 24 hour composite.
Zinc	.....	1	Weekly, 24 hour composite.
Total cyanide	1.5	3.75	Weekly, 24 hour composite.
Total suspended solids	30	75	Weekly, 24 hour composite.
pH—shall not exceed 9.0 or be lower than 6.0	.....	.....	At least 1 grab sample weekly.

Monitoring of the wastewater treatment facility discharge shall occur at a point prior to mixing with fresh river intake water. Discharge monitoring reports shall be submitted to IEPA by the 15th day of the succeeding month.

I. Notwithstanding any of the other requirements of this Order with respect to the BOF shop, WSC shall continue to implement the short term rehabilitation program on the BOF shop electrostatic precipitators (ESP's) which it begin on August 1, 1979. Said program includes completion of the following acts as follows:

1. By not later than October 1, 1979, WSC shall seal all leaks in the hopper and conveyor area and by September 10, 1979, install a "double dump" valve on No. 9 screw conveyor. WSC shall heat and insulate one hopper and evaluate its effect in reducing emissions. WSC shall heat and insulate all hoppers by not later than December 1, 1979.

2. WSC has ordered automatic voltage control equipment which shall be installed as soon as received.

3. WSE shall increase the air pressure to the rappers and repair or replace malfunctioning rappers by not later than October 1, 1979.

4. WSC shall perform an evaluation of the precipitators which shall include at a minimum the following:

a. Measure and equalize pressure drops across each chamber.

b. Measure and balance the gas distribution in each chamber.

c. Measure moisture content of the gas throughout the heat at the ESP inlet.

d. Measure CO, CO_2, and O_2 throughout the heat at the ESP inlet.

e. Observe patterns of electrical readings during a heat.

f. Measure gas temperature at ESP inlet throughout the heat.

Said tests shall be commenced by not later than August 30, 1979 and results evaluated by not later than October 1, 1979.

5. Based upon the results of the tests required pursuant to subparagraph "d" above, WSC shall shut down each chamber of the electrostatic precipitators for a period of 10 to 14 days to make the modifications indicated by said test results. In addition to those modifications, WSC shall replace missing and damaged wires, repair collection plates, and correct deviant clearances between wires and plates. These modfications shall be completed by not later than November 30, 1979.

6. WSC shall continue its program of BOF shut downs twice per week for hopper cleaning. If the hoppers cannot be cleaned sufficiently in 2 hours, the shut down shall be extended until the cleaning can be completed.

7. WSC shall also continue the program of BOF shut downs once per week for general maintenance, removal of broken wires and elimination of short circuits, in addition to hopper cleaning.

8. In addition to the requirements above, WSC shall insure that it has on hand adequate staff to implement the necessary maintenance and operating practices and operating logs of ESP operating data to ensure effective ESP operation during the period of this Order.

9. Until December 31, 1979, WSC shall continue submission of weekly progress reports to Illinois EPA.

J. WSC shall develop and comply with a preventative maintenance program to ensure effective operation of the air pollution control equipment covered by this Consent Order. Included in said program shall be a commitment to employ and train adequate personnel to implement the program and to maintain adequate maintenance records. For existing equipment, WSC shall submit its program by December 31, 1979. For future equipment, WSC shall submit its program at the time it applies for its operating permit for such equipment.

IV

Every three months from date of entry of this Decree and until achievement of final compliance with the terms of this Order, WSC shall submit to the U.S. EPA (c/o Compliance Section, Enforcement Division, U.S. EPA, 230 S. Dearborn, Chicago, IL 60604), and the Illinois Environmental Protection Agency, a report describing the progress of WSC in meeting each of the then incomplete requirements of this Order.

V

WSC shall provide the U.S. EPA and IEPA with written notice at least twenty (20) days prior to conducting any performance tests required by this Order. A written report of the results of each of said performance tests shall be submitted to the U.S. EPA and the Illinois EPA promptly, within thirty (30) days of completion of each of said tests.

VI

Notwithstanding any other provisions of this Order, WSC shall have the right at any time to cease operating any facility, or portion thereof, subject to this Order, or in any manner to discontinue operation of any such facility or portion thereof at any time and for any reason, provided WSC's action does not result in a delay in the completion of the actions scheduled herein with respect to the other facilities. WSC shall notify U.S. EPA and IEPA in writing of any decision to terminate or discontinue operation of any facility subject to this Order within thirty (30) days after such decision is made.

VII

If any event occurs which causes or may cause delays in the achievement of the compliance schedules at the Defendant's integrated steel-making facilities called for in this Consent Order, the Defendant shall notify this Court, the Regional Administrator, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604; and the IEPA immediately in writing of the delay or anticipated delay, as appropriate, describing in detail the anticipated length of the delay, the precise cause or causes of the delay, the measures taken and to be taken by the Defendant to prevent or minimize the delay, and the timetable by which those measures will be implemented. The Defendant will adopt all reasonable measures to avoid or minimize any such delay.

If U.S. EPA and WSC agree that the delay or anticipated delay has been or will be caused by circumstances beyond the control of WSC, the parties shall request that the Court extend the time for performance hereunder for a period equal to the delay resulting from such circumstances. In the event the parties cannot agree, then any party may submit the matter to this Court for

V 4 4 0 C 2 5 7 9 UMI

resolution. The burden of proving that any delay is caused by circumstances beyond the control of WSC shall rest with WSC.

VIII

This Consent Order shall terminate as to each of the sources covered herein six months after initial demonstration of compliance with the terms and conditions of this Order pertaining thereto. Provisions of this Decree are enforceable by each of the parties independently and are not intended to limit remedies available for violations at sources not covered herein.

IX

Whereas the Plaintiff has determined (Defendant does not agree with said determination) that the Defendant has gained an economic benefit as a result of its delayed compliance with the Clean Air Act, as amended, 42 U.S.C. Section 7401, et seq.; and

Whereas an affiliate of Defendant is in the process of applying for an Economic Development Administration Guarantee of 90 percent of the principal amount of $75,000,000 in fixed asset borrowings which will be used in part to finance certain water pollution control projects identified herein; and

Whereas Defendant is in the process of applying for a $10,000,000 loan through the UDAG program of the Department of Housing and Urban Development in order to fund a substantial portion of the estimated costs of air pollution control equipment required hereby, and

Whereas certain financial assistance, including standby lines of credit, will be made available by International Harvester and other parties in order to permit the completion of the proposed Rehabilitation and Modernization Program and the air pollution control facilities contemplated herein, and

Whereas Defendants' financial projections submitted to the Economic Development Administration indicate that its operations may be profitable in the future upon completion of the Rehabilitation and Modernization Program;

Whereas it having been determined by U.S. EPA that imposition of any civil penalty would prevent the Defendant from being able to finance the pollution control measures required by this Decree and would be so severely disproportionate to the resources of the Defendant that its imposition would cause the Defendant very serious economic hardship, EPA therefore agrees to forgive the otherwise appropriate penalty.

X

WSC acknowledges that it has been notified that it may be subject to penalties under Section 120 of the Clean Air Act, 42 U.S.C. Section 7420, but reserves the right to contest the assessment and attempted collection of noncompliance penalties under the section.

XI

Any failure to complete installation of the pollution control equipment by the dates for each facility specified in Paragraphs III. A. through E of this Order shall constitute civil contempt and will subject the noncomplying party to a penalty of $7,500 for each day such failure continues. This provision is not intended to limit other remedies available for violations of this Decree.

XII

In the event that any revision to the Illinois State Implementation Plan (SIP) or part thereof, is approved by U.S. EPA such that any of the facilities covered by Section III hereof comply with the SIP, as revised and approved, this Order shall terminate as to such facility upon a demonstration satisfactory to the Administrator of U.S. EPA and Director of the IEPA that such facility is in compliance with the final emission limitations of the SIP as revised and approved, notwithstanding that such facility may not be in compliance with Section III of this Order. SIP includes any regulation adopted by the State and approved by the U.S. EPA.

XIII

WSC shall apply for and make all reasonable efforts to obtain all necessary construction and operation permits required by the IEPA for the purpose of complying with this Decree.

Judge, United States District Court.

We hereby consent to the entry of the foregoing Consent Decree.

United States of America, Plaintiff.

By: _____

James W. Moorman.

U.S. Attorney.

State of Illinois.

By: _____

Illinois Environmental Protection Agency.

By: _____

IWSC Corp., Defendant.

By: _____

[FR Doc. 79-32919 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-01-M

Proposed Amendment to Final Judgment in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed amendment to the final judgment in *United States* v. *The City of New York*, 77 Civ. 76 (RLC), was lodged with the United States District Court for the Southern District of New York on October 17, 1979. The proposed amendment provides that the City of New York obtain permitted operational levels at the Red Hook water pollution control facility by September 1, 1987, and at the North River water pollution control facility by March 1, 1988; a special master is to be appointed to monitor compliance with the decree and assist the Court with its enforcement; compensation of the special master is to be borne by the defendants; a schedule of penalties for any future violation of the decree is established.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the proposed amendment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to *United States* v. *The City of New York*, D. J. Ref. No. 90-5-1-1-683.

The proposed amendment to the final judgment may be examined at the Office of the United States Attorney for the Southern District of New York, 1 St. Andrews Plaza, New York, New York 10007 (contact Peter R. Paden (212) 791-1976) and at the Pollution Control Section, Land and Natural Resources Division, Department of Justice (Room 2644), Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed amendment may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division, Department of Justice, Washingtoin, D.C. 20530.

James W. Moorman,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 79-32920 Filed 10-24-79; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79-87]

NASA Advisory Council (NAC), Aeronautics Advisory Committee (AAC); Meeting

A meeting of the Informal Executive Subcommittee of the NAC Aeronautics Advisory Committee will be held November 15, 1979, from 9:00 a.m. to 2:00 p.m. in room 625, NASA Headquarters, 600 Independence Avenue, S.W., Washington, D.C. 20546. The meeting will be open to the public up to the seating capacity of the room (about 45 persons including committee members and participants).

The Aeronautics Advisory Committee was established to advise NASA senior management through the NASA Advisory Council in the area of aeronautical research and technology. The purpose of the Executive Subcommittee meeting is to discuss current and future activities of the AAC. The Chairperson is Dr. Robert G. Loewy. There are six members on the Subcommittee.

For further information, contact C. Robert Nysmith, Executive Secretary, (202) 755-3252, NASA Headquarters, Code RP, Washington, D.C. 20546.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October 17, 1979.

[FR Doc. 79-32881 Filed 10-24-79; 8:45 am]

BILLING CODE 7510-01-M

[Notice 79-86]

NASA Advisory Council (NAC), Space Science Advisory Committee; Meeting

The NAC Space Science Advisory Committee (SSAC) will meet at the National Aeronautics and Space Administration Headquarters on November 13-14, 1979. The meeting will be open to the public up to the seating capacity of the room (approximately 60 persons including the Committee members and participants). The meeting will take place from 9:00 a.m. to 5:30 p.m. on November 13 and 9:00 a.m. to 5:00 p.m. on November 14, 1979, in Room 5026 of Federal Office Building 6, 400 Maryland Avenue, SW, Washington, DC 20546.

The NAC Space Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Science programs. Topics under discussion at this meeting will include a status report and overview of the Space Science programs. Also included will be reports on the newly defined slar physics flight program, and the innovators activity, and a session on the research and analysis and suborbital Space Science programs. Two additional areas under review will be the Spacelab program and the follow on Mars activity.

November 13, 1979

9:00 a.m. Introductory Comments
9:30 a.m. Program Status and Overview Galileo, Solar Maximum Mission (SSM), International Solar Polar Mission (ISPM), Spacelab Division, AO Status)
10:30 Solar Programs Status
1:00 p.m. "Level of Effort" Program Sessions Overview Supporting Research and Technology (SR&T) Zero Based Budget (ZBB) Philosophy
3:00 p.m. Suborbital Programs
3:30 p.m. Explorers
4:00p.m. Innovators Report
5:00 p.m. Discussion
5:30 p.m. Adjourn

November 14, 1979

9:00 a.m. Spacelab Utilization Status
10:15 a.m. New Spacelab Instrument Selection
11:45 a.m. Space Platform Status

Mars Session

1:30 p.m. Recent Viking Results
2:30 p.m. Sample Return Science
3:30 p.m. Planetary Program 10-year Plan (Mars Program Emphasis)
4:30 p.m. Discussion
5:00 p.m. Adjourn

For further information regarding this meeting, please contact Dr. Adrienne F. Timothy, Executive secretary, at Area Code 202/755-3653, National Aeronautics and Space Administration, Washington, DC 20546.

Russell Ritchie,

Deputy Associate Administrator for External Relations.

October 1979.

[FR Doc. 79-32880 Filed 10-24-79; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Policy Research and Analysis and Science Resources Studies; Meeting Postponed

The November 8 and 9, 1979 meeting of the Advisory Committee for Policy Research and Analysis and Science Resources Studies is being postponed. The meeting is to be rescheduled, probably early in 1980.

The notice for this meeting appeared in the **Federal Register** on Monday, October 22, 1979.

M. Rebecca Winkler,

Committee Management Coordinator.

October 22, 1979.

[FR Doc. 79-32936 Filed 10-24-79; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Dockets Nos. 50-522 and 50-523]

Puget Sound Power & Light Co., et al., Skagit Nuclear Power Project Units 1 and 2; Reschedule of Hearings

1. Telephone conferences among representatives of the parties and the Board chairman were held October 17 and 18, 1979. At these conferences, attention was given to Intervenor SCANP's Motion for Rescheduling Evidentiary Hearings and to news from counsel for the NRC Staff that he had just learned that the United States Geological Survey had just disclosed certain new data on geology and seismology to the NRC Staff bearing upon the Skagit project.

2. At the time of the telephone conferences, counsel for the NRC Staff was in no position to evaluate how these new data might affect the NRC Staff's position on geology and seismology with reference to the Skagit project. He promised that the NRC Staff would pursue its study of the new data promptly, and recommended that the present schedule for hearings on geology and seismology be cancelled and that a new schedule for hearings on those subjects be set up after the NRC Staff has had the opportunity to analyze the new material.

3. In view of the foregoing, and with agreement of the conferees, It is hereby ordered that—

(a) The Board's Schedule of Hearings dated October 1, 1979 is canceled;

(b) Hearings are scheduled for Thursday, Friday and Saturday, October 25-27, 1979, on the following two subjects: (1) Site Suitability for Development of Evacuation Plans and (2) Alternate Sources: Coal vs. Nuclear (health effects, excluding Radon)—Gotchy testimony.

(c) The hearings are scheduled to begin at 9 o'clock in the morning, Thursday, October 25, 1979, and to take place at the North Auditorium (4th floor), New Federal Building, 915 Second Avenue, Seattle, Washington.

4. The Board has remaining on its agenda the following subjects for later hearings: Geology and Seismology; Floodplain Management; Radon; and Quality Assurance.

Done at Washington, D.C., this 19th day of October 1979.

Atomic Safety and Licensing Board.

Valentine B. Deale,

Chairman.

[FR Doc. 79-32885 Filed 10-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-225]

Rensselaer Polytechnic Institute; Proposed Renewal of Amended Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) is considering renewal of Amended Facility Operating License No. CX-22, issued to Rensselaer Polytechnic Institute (the licensee), for operation of the critical experiment facility located in Schenectady, New York.

The renewal would extend the expiration date of Amended Facility Operating License No. CX-22 to March 1, 2004, in accordance with the licensee's timely application for renewal dated May 14, 1979, as supplemented September 12, 1979.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 26, 1979, the licensee may file a request for a hearing with

respect to renewal of the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Rensselaer Critical Experiment); and (publication date and page number of this Federal Register notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a later position and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a)(i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated May 14, 1979, as supplemented September 12, 1979, and as may be further supplemented by future submittals, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Peter B. Erickson,

Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-32757 Filed 10-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-128]

Texas A. & M. University; Proposed Renewal of Amended Facility License

The U.S. Nuclear Regulatory Commission (the Commission) is considering renewal of Amended Facility License No. R-83, issued to Texas A&M University (the licensee), for operation of the TRIGA research reactor located in the licensee's Nuclear Science Center near College Station, Texas.

The renewal would extend the expiration date of Amended Facility License No. R-83 to August 4, 1999, in accordance with the licensee's timely application for renewal dated July 2, 1979.

Prior to renewal of the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By November 26, 1979, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR § 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Robert Reid: (petitioner's name and telephone number); (date petition was mailed); (Texas A&M); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR § 2.714(a) (i)–(v) and § 2.714(d).

For further details with respect to this action, see the application for renewal dated July 2, 1979, as may be supplemented by future submittals, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C.

Dated at Bethesda, Maryland, this 18th day of October 1979.

For the Nuclear Regulatory Commission.

Eben L. Conner,

Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 79-32758 Filed 10-24-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 110-0495 Application Nos. XR0120 and Application No. XCOM-0013]

Westinghouse Electric Corp. (Exports to the Philippines); Order

On April 19, 1978, the Nuclear Regulatory Commission received a Petition for leave to intervene and for a hearing concerning a license application by Westinghouse Electric Corporation covering the export of slightly enriched uranium to the Philippines, and to consolidate consideration of that license with two other nuclear license applications pending for the Philippines.[1] The material would be used to fuel a nuclear power reactor being constructed by the Philippine National Power Corporation at Napot Point on the island of Luzon.

The Westinghouse Electric Corporation submitted an application to export a nuclear facility (XR-120) to the Philippines on November 18, 1976. The Commission did not receive final Executive Branch views on that application until September 28, 1979.[2] Because action had not been taken on the reactor application, on August 3, 1978 Westinghouse submitted an application (XCOM-0013) requesting authorization to export components to the Philippines which would permit construction activities related to the facility to continue while the U.S. Government reviewed the reactor application. On November 3, 1978, the Executive Branch recommended that NRC issue the component license. The Commission has deferred action on the component license application pending receipt of the Executive Branch views on the facility application.

The Petitioners—The Center for Development Policy (CDP), Jesus Nicanor P. Perlas, III, and the Philippine Movement for Environmental Protection (PMEP)—specifically requested a hearing on seven issues: (1) the nature and magnitude of seismic and geological risks posed by the reactor site; (2) the adequacy of the reactor's seismic design; (3) the environmental impact of the proposed reactor and disposition of its spent fuel; (4) dangers to the health and safety of Philippine citizens posed by the reactor; (5) dangers to the health and safety of U.S. citizens residing in the Philippines; (6) risks to the effective operation of U.S. military installations in the Philippines; and (7) generic safety questions posed by nuclear power plants, and by Westinghouse reactors in particular.

On June 26, 1979, another group, the concerned citizens Reactor Export Review Board, also requested an opportunity to submit information on the Philippine export applications.

On September 28, 1979, the Executive Branch submitted its views recommending issuance of XR-120. On October 10, 1979, the Commission discussed the pending intervention and hearing requests at a public Commission meeting. After thoroughly considering the submissions already received from Petitioners, the Applicant (Westinghouse Electric Corporation), and the Nuclear Regulatory Commission staff, the Commission has decided that it would be appropriate to order further public proceedings in this matter. The Commission believes that such proceedings would assist it in making the statutory determinations required by the Atomic Energy Act and would be in the public interest. *See* 10 C.F.R. 110.84(a)(1) and (2) and Section 304(b) of the Nuclear Nonproliferation Act of 1978, 42 U.S.C. 2155a.

[1] The Commission had published a notice of receipt of this license application (XSNM-1471) in the Federal Register on March 20, 1979, 44 Fed. Reg. 16987.

[2] Under Section 126a(a) of the Atomic Energy Act the Commission may not issue a reactor export license until it "has been notified by the Secretary of State that it is the judgment of the Executive Branch that the proposed export * * * will not be inimical to the common defense and security * * *"

V 44 OC 25 79 UMI

The issues which have been raised in the present matter fall into two general categories. First, there are those issues which pertain to the proper scope of the Commission's jurisdiction to examine health, safety and environmental questions arising from the construction and operation of exported nuclear facilities, and what procedural framework would be appropriate for considering such issues, if they are found to lie within NRC authority. The second category of issues are particular health, safety and environmental aspects of the Napot Point facility (for example, the reactor's seismic design) which the Commission has been asked to examine in the context of its export licensing review. The Commission believes it would be useful, before ordering any proceedings on this second group of issues, to receive submissions from the participants and any other interested individuals or groups concerning the precise scope of the Commission's foreign health, safety and environmental jurisdiction and what procedures the Commission should adopt to govern further proceedings (if any) regarding the Philippine export license applications and other applications of this type. Therefore, the Commission requests that participants and any other interested persons file with the Commission a statement of views on the procedural and jurisdictional issues outlined below on or before November 14, 1979. The identification in this order of certain issues which the Commission believes particularly relevant for reviewing the jurisdictional and procedural aspects of the matter is intended as guidance for those who may wish to participate in these proceedings. If commenters believe that there are other matters pertaining to the procedural and jurisdictional issues which should be considered by the Commission, their submissions should address those matters. Also, the Commission recognizes that consideration of specific facts associated with the Philippine Export Applications may be instrumental in resolving these general jurisdictional and procedural issues. Therefore, it is expected that the written submissions will discuss the factual circumstances of the pending Westinghouse license applications, to the extent relevant to the legal and policy questions under consideration.

In this first phase of its proceedings, the Commission specifically requests that the following issues be addressed:

1. Whether (and if so, to what extent) the Commission possesses the legal authority or a legal obligation to examine the health, safety and environmental impacts of an exported nuclear facility in reaching its licensing determination (specifically, which of the seven issues raised by Petitioners are appropriate for Commission review)?

2. Is the Commission's health, safety or environmental review of export license applications limited to the connection of these issues with the U.S. common defense and security or are there other legal principles which permit or require the Commission to examine these matters as part of its licensing review?

3. What issues arising from the application to export a nuclear facility to the Philippines should the Commission examine in any future public proceeding?

4. What procedural format should the Commission adopt to examine any foreign health, safety and environmental issues falling within its jurisdiction?

5. If health, safety and environmental aspects of a U.S.-supplied nuclear facility are to be evaluated in the NRC export licensing process, in what specific manner should this review be conducted differently from the Commission's domestic reactor licensing proceedings? Should the scope of review be different, and if so, in what precise way?

6. Are there any factual or legal considerations which would justify a different NRC health, safety or environmental review for some export license applications than for others? Specifically, are such considerations applicable to the present matter?

After receiving submissions on the jurisdictional and procedural issues, the Commission will expeditiously review any new filings, as well as materials already submitted, and announce its decision on these issues. At that time the Commission will also issue a further order defining the nature and scope of further proceedings (if any) to be conducted on specific issues within the Commission's licensing jurisdiction arising from the pending Westinghouse facility and component export license applications.

With regard to Petitioners' consolidation requests, the Commission notes that its rules provide [in 10 C.F.R. 110.84(d)] that a hearing request will not be granted "prior to receipt and evaluation of Executive Branch views on the license application." Since Executive Branch views have not been received on the fuel license application (XSNM—1437), consolidation of that license with the facility and component license applications would not be appropriate at this time. Therefore, the Commission is consolidating its consideration only of applications XR–120 and XCOM–0013 for purposes of the present proceeding. However, it should be noted that issues raised by all three license applications are substantially the same, and that the Commission would expect to consider all relevant matters pertaining to the Philippine exports in the scope of the proceeding commenced by this order.

The Commission does not reach a decision on whether any of the Petitioners is entitled to a hearing under Section 189a of the Atomic Energy Act. Since the Commission has decided to authorize a hearing pursuant to Section 304(b) of the Nuclear Nonproliferation Act, that issue is moot.

It is ordered.

Dated at Washington, DC, this 19th day of October 1979.

For the Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc 79–32886 Filed 10–24–79; 8:45 am]

BILLING CODE 7590–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

[N–AR 79–43]

Accident Reports, Safety Recommendation Letters and Responses; Availability

Speical Investigation Report

Onscene Coordination Among Agencies at Hazardous Materials Accidents.— Observations of emergency response activities following a March 31, 1977, railroad accident near Rockingham, N.C., prompted the National Transportation Safety Board to inititate a special investigation of emergency response plans for handling railroad accidents in which hazardous materials, including those classified as radioactive, are involved. The Safety Board's formal report, No. NTSB–HZM–79–3, concerning this special investigation was released to the public on October 11.

The Safety Board notes that while the movement of hazardous materials through normal transportation channels is of concern to Federal, State, and local Government agencies and to the public, the transportation of radioactive materials is of special concern. For this reason, special plans designed to cope with emergencies involving radioactive materials have been developed at various levels of Government and by private industry. Those plans are the most comprehensive yet formulated for handling hazardous materials emergencies, and they have served as models for many nonradiological contingency plans. With the probable increase in the transportation of radioactive and other hazardous materials by rail, the Safety Board believes that all existing emergency response plans need to be critically reviewed to determine their adequacy.

While investigating the Rockingham accident and the Louisville & Nashville Railroad Company freight train derailment and puncture of hazardous materials cars near Crestview, Fla., last April 18 and while preparing the subject special investigation report, the Safety Board issued nine recommendations to the U.S. Department of Transportation seeking improved handling of hazardous materials transportation emergencies by both local and national officials. The complete text of these safety recommendations, Nos. I–77–2 and 3 and I–79–5 through 11, is provided in the special investigation report and was published at 44 FR 588820, October 11, 1979.

Marine Accident Report

R/V "Don J. Miller II" Collision With the F/V "Welcome" in Admiralty Inlet, Puget Sound, October 25, 1978.—Also on October 11 the Safety Board made available copies of its formal report on the investigation of this accident. The accident was investigated by the U.S. Coast Guard at the request of the Safety Board under provisions set forth in the Independent Safety Board Act of 1974. The report, No. NTSB–MAR–79–14, is based on factual information and testimony provided by the Coast Guard and additional informaton developed by the Safety Board.

Investigation showed that the research vessel *Miller* was inbound to Seattle, Wash., when it collided with the fishing vessel in Admiralty Inlet. Shortly thereafter, the *Welcome* sank. There were no deaths or serious injuries and damage to the *Miller* was negligible; the *Welcome* was a total loss, estimated at $300,000.

The Safety Board determined that the probable cause of this accident was the *Miller's* master leaving the control of his vessel unattended while the *Miller* was still the burdened vessel in an overtaking situation. (The Board stated that it is not to be understood as countenancing the abandonment of the navigation watch under any circumstances.) Contributing to the accident were the failure of the *Welcome* to ascertain the whereabouts of the *Miller* before changing course and the failure of both the *Miller* and the *Welcome* to maintain proper lookouts.

The Board noted that a U.S. Geological Survey vessel is not required to be inspected by the U.S. Coast Guard, but as a result of its investigation, the Safety Board recommended on October 4 that the Geological Survey arrange with the Coast Guard for an examination of the *Miller* to determine whether it conforms to the minimum manning and other regulations required for privately-vessels of the same type and size engaged in similar oceanographic operations and, if necessary, consider taking action to bring the vessel into reasonable conformance with the standards prescribed by regulations for privately operated research vessels (recommendation M–79–100). The Board also recommended that the Geological Survey enter into an agreement with the Coast Guard to have vessels operated by the Geological Survey regularly examined by the Coast Guard to determine if they meet the standards prescribed by regulations for privately operated research vessels of similar type and service and intiate a program to bring the vessels into reasonable conformance with these standards (M–79–101). See also 44 FR 60182, October 18, 1979.) The Safety Board's recommendations were made independently of any recommendations proposed by the Coast Guard.

Safety Recommendation Letter

A–79–80 and 81.—In a letter forwarded on October 17 to the Federal Aviation Administration, the Safety Board notes that the air taxi industry, particularly the commuter air carrier segment, has enjoyed tremendous growth in recent years. U.S. commuter airlines have gained an average of 10 percent more passengers and 30 percent more freight each year since 1970. Commuter air carrier revenue passenger miles have increased from 750,048,000 in 1975 to 1,145,000,000 in 1978. FAA has forecast a 116 percent increase in commuter passenger enplanements between fiscal 1978 and 1989, a forecast growth which has prompted aircraft manufacturers to produce new and larger aircraft. The Board also notes that this expansion has been accompanied by a corresponding rise in commuter air carrier accident fatalities. For example, in the first 7 months of 1975 there were 27 commuter air carrier accidents which included 9 fatal accidents and 24 fatalities. During the first 7 months of 1979 there have been 27 commuter air carrier accidents including 10 fatal accidents and 48 fatalities.

In the past 2 years the Safety Board has investigated numerous commuter accidents in which the aircraft was at or above its maximum certificated gross weight or at or beyond its center of gravity (c.g.) envelope, or both. The Board's recommendation letter cites as examples these accidents: Rocky Mountain Airways, DHC–6, Cheyenne, Wyo., February 27, 1979; Columbia Pacific Airlines, Beech 99, Richland, Wash., February 10, 1979; and Antilles Air Boats, G–21A, St. Thomas, V.I., April 5, 1978. In all of these accidents pilots were confronted with the two-fold problem of unfavorable weight and balance and mechanical malfunction. Safety Board investigation of these accidents also revealed that the pilots had received no flight or ground training on the performance capabilities and handling qualities of the aircraft when loaded to its maximum certificated gross weight or at the limits of its c.g. envelope.

A further accident cited by the Board in its recommendation letter was the crash of a Beech Model 70 Excalibur conversion, a commuter air carrier flight, during takeoff at the Gulfport-Biloxi (Miss.) Regional Airport, March 1, 1979. The investigation revealed that the aircraft was over its maximum certificated gross weight, and out of its c.g. envelope. It also revealed uncorrected maintenance discrepancies, that the ADF and wing flaps were inoperative, and that the starter interrupt system had been bypassed. Further, aircraft dispatch operations were hurried and data for weight and balance computations were carelessly compiled. The pilot had received no training on the performance capabilities and handling qualities of the aircraft under high gross weight conditions. The accident illustrates a typical result of poor operational pracitices and incomplete training. The Board noted that the pilot had flown the aircraft earlier that day at its maximum weight for the first time even though it was on a regularly scheduled, unsupervised passenger flight.

The Safety Board is aware that FAA is currently evaluating comments on NPRM 78–3, "Flight Crewmember Flight and Duty Time Limitations and Rest Requirements," as they apply to 14 CFR Part 121 operations. However, recent commuter air carrier accidents have given added urgency to the need to revise the crew duty time, flight time, and rest period regulations contained in 14 CFR Part 135. The recent accidents cited are: Universal Airways, Beech 70, Gulfport, Miss., March 1, 1979; and Columbia Pacific Arilines, Beech 99, Richland, Wash., February 10, 1978.

In view of the above, the Safety Board recommends that FAA:

Require that pilots involved in 14 CFR Part 135 operations be thoroughly trained on the performance capabilities and handling qualities of aircraft when loaded to their

V 4 4 0 C 2 5 7 9 UMI

maximum certificated gross weight or to the limits of their c.g. envelope, or both. (A–79–80)

Expedite rulemaking which would make the flight time and duty time limitations, and rest requirements for commuter air carriers the same as those specified for domestic air carrier crewmembers under 14 CFR Part 121. (A–79–81)

Both of these recommendations are designated "Class II, Priority Action."

Comments on Proposed Rulemaking

A review of Federal Highway Administration's notice of proposed rulemaking, Docket No. 778–43, Notice 2, "Interstate Maintenance Guidelines" (44 FR 46882, August 9, 1979) prompted the Safety Board on October 9 to urge FHWA to write clearcut guidelines for State maintenance of interstate highways which are based, wherever possible, on accident experience or research. The Board's letter commenting on the proposal notes that data already exists for such maintenance areas as skid resistance and pavement dropoff, permitting maintenance guidelines which are stated clearly in terms of performance or conformance to design standards. States thus would not need to resort to subjective decisions for maintenance in these areas.

Noting State fears that specific maintenance guidelines could be used against them in liability lawsuits, the Board observed that there is no way in which the States can escape liability for improper maintenance. Motorist safety relies on the State's having this responsibility, the Board stated.

The Board also asked to be informed of FHWA plans for research in other maintenance areas where specific guidelines appear practical and strongly supported the maintenance concept of making repairs according to new, higher safety standards whenever outdated safety features such as older median barriers are destroyed or damaged. The Board called for FHWA to establish a maintenance task force which would be available to examine segments of interstate highways periodically to evaluate State programs and make relevant conclusions and recommendations. Additionally, the Board urged that State maintenance programs include a description of training for maintenance personnel in conditions which constitute hazards on highways.

Responses to Safety Recommendations

Aviation

A–79–58 and 59.—The Federal Aviation Administration on October 12 responded to recommendations issued July 19 as a result of investigation of the incident which occurred last March 3 at Stapleton International Airport, Denver, Colo., when Rocky Mountain Airways Flight 725, a DeHavilland DASH 7, landed with the nose landing gear retracted. (See 44 FR 43824, July 26, 1979.)

Recommendation A–79–58 asked FAA to issue an airworthiness directive to require that sequencing nose gear doors are installed on all DASH 7 aircraft and to require that the sequencing nose gear door systems be operational for all flights during which ice or snow could accumulate in the nosewheel well. In response, FAA reports that it has been advised by Transport Canada that the owners of two DHC–7 airplanes, not U.S.-registered and not based on this continent, have not responded concerning the retrofit of nosewheel door automatic sequencing. Accordingly, Transport Canada plans to issue an AD. To preclude the possibility of an unmodified airplane coming into the U.S. registry, FAA will issue an AD requiring the modification. FAA notes that the airplanes presently registered in the U.S. have been modified and procedures requiring the sequencing nose gear doors to be operational have been adopted.

With reference to recommendation A–79–59, which called for review and revision as necessary of the aircraft emergency procedures section of the DASH 7 flight manual to include information on use of the emergency cabin pressurization outflow valve to divert warm cockpit air to the nose gear wheel when icing is suspected, FAA says it has been advised by transport Canada that this recommendation requires further study by DeHavilland FAA notes that the adequacy of the warm air to melt accumulated ice is dependent on may factors and that data upon which a determination could be made are not available at this time.

A–79–60.—Also on October 12 FAA responded to a recommendation issued July 17 following investigation of the crash last December 4 of Rocky Mountain Airways Flight 217, a DeHavilland DHC–6, near Steamboat Springs, Colo. (See 44 FR 43824, July 26, 1979.) The recommendation called on FAA to issue an operations bulletin directing all operations inspectors who are responsible for the surveillance of 14 CFR part 135 operators to assure that 14 CFR 135.159 (new 14 CFR 135.165) is complied with uniformly in accordance with the official legal interpretation of this regulation by the FAA.

In response FAA contends that this recommendation implies that FAA inspectors are not uniformly enforcing 14 CFR 135.159 (new 14 CFR 135.165). FAA states, "We wish to advise that inspectors assigned to Rocky Mountain Airways, Inc., and Alaska Aeronautical Industries, Inc., were aware of the FAA legal interpretation and had discussed the navigation equipment requirements with those operators. The operators either had properly equipped aircraft or provisions in their operations manuals for cancellation of flights if the navigation facility which provided signals to one of the two navigation receivers became inoperative."

FAA believes that it has adequately emphasized the navigation equipment requirements in the past. FAA recently forwarded its interpretation of 14 CFR 135.159(a)(5) to all Regional Flight Standards Divisions for redistribution to FAA field offices. This interpretation is contained in a letter to the Safey Board's Senior Hearing Officer, dated November 4, 1977. Also, FAA says that Order 8430.1A, "Operations Inspection and Surveillance Procedures—Air Taxi Operators and Commercial Operators of Small Aircraft," is being rewritten to provide guidance on the revised 14 CFR Part 135. A discussion of the navigation equipment requirements will be included in this handbook, FAA advises.

Highway

H–79–36 through 39.—With specific reference to recommendation H–79–37, the California Department of Transportation (Caltrans) responded to the Safety Board's letter of September 5 which commented on Caltrans' initial response of August 6 (44 FR 50936, August 30, 1979). The recommendations were developed as a result of the Board's investigation of the penetration of a bridge rail by a station wagon near Alhambra, Calif., November 11, 1978.

The action recommended in H–79–37 called for a program to replace crash damaged substandard bridge railing with railing meeting current safety design criteria. The Board noted in its September 5 letter that Caltrans had reported that crash-damaged rail is replaced immediately on a temporary basis and that repairs cannot wait for preparation of plans and contract development for upgrading the accident location. The Board has observed during accident investigations that temporary repairs have a tendency to remain in place and in fact become final until a general upgrading or reconstruction is undertaken. The Board believes that an open end contract for replacement of crash-damaged bridge rail would be effective and efficient, would meet the need for immediate repair without the problem of interim or temporary substandard repair work, and would avoid the duplicative cost of repairing the same bridge rail twice.

The Safety Board noted that as a result of an earlier, similar Board recommendation (H–77–1), the Federal Highway Administration issued FHWA Notice N7560.4, November 1, 1977, setting guidelines for use of Federal Highway funds for upgrading highway appurtenances. Section 2.d of that notice sets Federal policy for upgrading of highway appurtenances damaged by vehicle accidents. Section 3.b.1. states that Federal funds may be used for replacing damaged guardrails to meet latest safety standards. The Board provided Caltrans with copies of recommendation H–77–1 and the FHWA notice.

Caltrans reported on October 11 that it is looking into the feasibility of entering into an open-end contract for replacement of damaged bridge rail, but there are problems which may make it impractical. Conditions vary so much from site to site that it will be difficult for contractors to consider all the variables such as location, traffic handling, and the availability of crews. Caltrans said its policy is to upgrade damaged guardrail to current safety standards as called for in FHWA Notice N7560.4.

Caltrans notes that the safety improvement project for the area of the subject accident site is scheduled for advertising November 5, 1979, with bids to be opened December 6, 1979. Caltrans provided a copy of its Special Safety Improvement Program evaluation report which summarizes the expenditure of funds for safety improvements for FY 1978–79. The program included bridge rail upgrading, bridge widening, and narrow bridge signing and delineation. Caltrans reports that last year $1.3 million was spent on 11 projects, and, since 1977, $1.8 million was spent on bridge rail upgrading from traffic safety funds and $1.5 million from other funds.

With reference to recommendation H–79–36, the Safety Board informed Caltrans that it was pleased that the slippery when wet and speed advisory signs had been placed, as recommended, and that H–79–36 had been classified as "closed—acceptable action." Also as of September 5, recommendations H–77–38 and 39 were being held in open status pending notification of the contract award date for the safety improvement project for the area of the site and receipt of a copy of Caltrans latest highway safety program projects highlighting bridge railing upgrading and a listing of all bridge rail replacement projects for FY 1977–79 with project dollar amounts obligated.

Marine

M–78–12.—Letter of September 25 from the U.S. Coast Guard responds to the Safety Board's July 3 comments on Coast Guard's previous response of May 2 (44 FR 28899, May 17, 1979) with reference to a recommendation issued following investigation into the sinking of the SS *Edmund Fitzgerald* in Lake Superior, Whitefish Bay, November 10, 1975.

The Safety Board's July 3 letter expressed agreement that the issue involved is that of accident prevention by detecting and correcting non-weathertight hatch covers and not the detention of Great Lakes bulk cargo vessels. However, the Board noted, vessels with weathertight hatch covers which are not effective when battened down void both the vessel's Load Line Certificate and the vessel's Certificate of Inspection. As stated in the Commandant's Action on the *Fitzgerald* Marine Board of Investigation and Coast Guard's letter of January 29, 1979, Coast Guard will prevent the sailing of any ship found to lack sufficient weathertight integrity.

The Board noted that Coast Guard's May 2 letter stated that all certificated Great Lakes bulk carriers inspected at the 1977 spring "fit-out" inspections were in full compliance with weathertight standards. However, when Safety Board representatives rode two Great Lakes bulk carriers during September and October 1977, hatch covers on both vessels were found deficient in weathertightness. The Board found it difficult to understand why these two vessels were in such substandard condition related to hatch weathertightness if, indeed, they were hose tested at the spring "fit-out" and met the weathertight standard. The Board said the purpose of the recommendation was not to cause vessels to be detained but to obtain data in order to assess the problem of maintaining weathertight standards. This data would be valuable for reassessment of the Great Lake bulk carrier minimum freeboard requirements. Doubts have been raised that the weathertight standards which justified the revised freeboard allowance can be maintained during normal ship operations. The Board believes that quantitative data is needed to determine whether or not Great Lakes bulk cargo vessels are able to routinely maintain weathertight closures.

Also in its July 3 letter, the Board states that while the report requested in the recommendation was one method of tabulating this information, since the Coast Guard believes that weathertightness on Great Lakes bulk carriers can be achieved without detaining vessels, other data such as the following would provide the necessary information on which to base an analysis of the effectiveness of weathertight closures: How many Great Lakes bulk carriers were operating during 1977 and 1978? How many were inspected during the spring "fit-out"? How many required repair and clamp adjustments before passing the host test? How many were inspected during "pre-November" riding inspections? How many required repairs before passing "pre-November" inspections? How many were found to have nonweathertight hatches at other boardings by Coast Guard inspectors? How many vessels were detained because of nonweathertight hatch covers? How many vessels have a history of weathertight deficiencies.

In response, Coast Guard reports that all of approximately 130 Great Lakes bulk carriers operating during both the 1977 and 1978 shipping seasons underwent a "fit-out" inspection prior to yearly certification. Coast Guard says there are no records to show the exact number of clamps which required adjustment or repair prior to passing the hose test each year. An inspector's report may reflect only that all defective clamps are to be made serviceable without noting a number.

Coast Guard reports that the pre-November riding inspections examined 55 vessels in 1977 and 73 in 1978. Of the examinations in 1978, 61 vessels had satisfactory weathertightness; 9 required minimal repair; and 3 required extensive repairs. All vessels were ultimately placed in weathertight condition to the satisfaction of the Officer in Charge, Marine Inspection prior to certification. The only retrievable records for inspections of weathertight hatches are related to the spring "fit-out" and "pre-November" inspections. Coast Guard does not keep a list of poorly maintained vessels. The inspector reviews inspection history prior to an inspection to aid in setting scope and depth of an inspection. The fact that less than 3 percent of the vessels required any attention to repair has convinced Coast Guard that there is industry awareness of problems associated with poor weathertightness and that Coast Guard inspections with increased emphasis on the weathertightness problem have markedly improved the fleet.

Railroad

R–77–1.—Letter of September 28 from the Federal Railroad Administration is in response to the Safety Board's August

V 44 0C 25 79 UMI

27 request for a summary of the Chessie System Tests as related to this recommendation, resulting from investigation of the derailment of an Amtrak train at New Castle, Ala., January 16, 1977. The Safety Board's August 27 letter also commented on FRA's July 17 followup response to this recommendation (44 FR 45501, August 2, 1979). The Board noted that the recommendation has two objectives: To determine what causes SDP–40F locomotives to widen the track gage and to take appropriate action to eliminate the causes. The Board's review of the proposed revision of the locomotive safety standards does not disclose evidence that the new regulations will fulfill the objectives.

To enable the Safety Board to properly evaluate FRA's remedial action, FRA enclosed with its September 28 response a copy of Report No. FRA–OR&D–79/19, "Tests of the Amtrak SDP–40F Train Consist Conducted on Chessie System Track." The report describes tests of an SDP–40F train consist conducted on Chessie System track during June 1977. The tests consisted of the operation of two typical AMTRAK passenger consists, one powered by two SDP–40F's and the other by two E–8's, over a variety of track conditions. Test objectives were to compare dynamic performance of the SDP–40F locomotive with the E–8, and to determine the sensitivity of the SDP–40F response to track geometry variations, operational parameters and truck configuration changes.

Further, FRA reports that the proposed revisions to the Track Safety Standards were issued as a notice of proposed rulemaking in the **Federal Register** of September 6, 1979. The proposed revision to 49 CFR Part 213.57(b)(1) reduces the limit of superelevation unbalance in curves from 3 inches to 1.5 inches for equipment having trucks with more than two axles. This revision is based on test results of SDP–40F locomotives.

R–79–62 and 63.—Letter of October 5 from the Urban Mass Transportation Administration, U.S. Department of Transportation, is in response to recommendations issued September 19 as a result of investigation of the accident last January 19 involving Bay Area Rapid Transit District Train 117 which caught fire inside the Transbay Tube, San Francisco Bay. The recommendations asked UMTA to require those rapid transit systems that depend on uncoupling damage cars from trains for the evacuation of passengers to redesign and modify car uncoupling circuitry to provide train operators with a positive means of uncoupling from within the cars in the event of an electrical short or other malfunction in the control circuit (R–79–62), and to require those rapid transit systems that depend on uncoupling damaged cars from trains for the evacuation of passengers to establish training programs in emergency procedures for train operators and crewmembers to insure that they thoroughly understand the method used to uncouple cars (R–79–63). (See also 44 FR 55674, September 27, 1979.)

In response, UMTA reports that it will request all U.S rail transit properties to furnish a description of their methods, practices, and/or procedures for uncoupling transit vehicles in the event of emergencies. Also, UMTA is requesting information regarding training operators in carrying out such operations where used. From this information, UMTA expects to establish what improvements are needed by those properties that employ such practices in emergencies. The affected properties will be requested to make appropriate improvements.

UMTA further notes that training programs in uncoupling procedures will also be reviewed for adequacy. Where deficiencies are found, the properties will be requested to make the necessary improvements in training for this type of emergency action.

Note.—Single copies of the Safety Board's accident reports are available without charge, as long as limited supplies last. Copies of recommedations letters issued by the Board, response letters and related correspondence are also available free of charge. All requests for copies must be in writing, identified by report or recommendation number. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of accident reports may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

(49 U.S.C. 1903(a)(2), 1906)

Dated: October 22, 1979.

Margaret L. Fisher,

Federal Register Liaison Officer.

[FR Doc. 79–32955 Filed 10–24–79; 8:45 am]

BILLING CODE 4910–58–M

OFFICE OF ADMINISTRATION, EXECUTIVE OFFICE OF THE PRESIDENT

Advisory Committee on Information Network Structure and Functions; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the Office of Administration announces the following meeting:

Name: Advisory Committee on Information Network Structure and Functions.
Date: Friday, November 9, 1979.
Time: 9 a.m. to 3:30 p.m.
Place: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue, N.W., Washington, D.C.
Type of Meeting: Open, subject to space limitations. Those wishing to attend must call the contact person below at least 48 hours in advance of the meeting.
Contact Person: Frank Brignoli, Advisory Committee Executive Secretary, Office of Administration, Executive Office of the President, Washington, D.C. 20500, Telephone 202–395–4784.
Purpose of Advisory Committee: The Committee will advise the Director, Office of Administration ("OA"), on matters pertinent to OA's plans for the establishment of a communications network to serve the Executive Office of the President ("EOP"). The Committee will outline a structural and functional plan for the EOP network. This plan will be developed on the basis of current and expected technological developments and will strive for immediate implementation and a minimum useful life of ten years. The plan will address such issues as network hardware and protocol structure, expected structure of servers, gateways and other connections to the network, expected feasible functions, and privacy and authentication mechanisms.
A final report containing the plan is contemplated, and it should provide answers to three questions:
1. What kind of a network should the EOP have?
2. What is it likely to cost?
3. How long is it likely to take to implement?

Agenda

9:00 a.m.—Presentation of TCP: Dr. Vinton G. Cerf (DARPA/IPTO).
9:30 a.m.—Terminal Types: Henry McDonald (Bell Laboratories).
9:45 a.m.—Networking Capabilities: Telenet.
10:00 a.m.—Networking Capabilities: Tymnet.
10:15 a.m.—Coffee Break.
10:30 a.m.—Discussion: Information Network Structure and Functions.
12:00 p.m.—Luncheon Break.
1:00 p.m.—Resume.
3:30 p.m.—Adjourn.

William Pollak,

General Counsel.

[FR Doc. 79–32946 Filed 10–24–79; 8:45 am]

BILLING CODE 3115–01–M

OFFICE OF MANAGEMENT AND BUDGET

Agency Forms Under Review

Background

October 22, 1979.

When executive departments and agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Federal Reports Act (44 USC, Chapter 35). Departments and agencies use a number of techniques including public hearings to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibility under the Act also considers comments on the forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

Every Monday and Thursday OMB publishes a list of the agency forms received for review since the last list was published. The list has all the entries for one agency together and grouped into new forms, revisions, extensions, or reinstatements. Each entry contains the following information:

The name and telephone number of the agency clearance officer;

The office of the agency issuing this form;

The title of the form;

The agency form number, if applicable;

How often the form must be filled out;

Who will be required or asked to report;

An estimate of the number of forms that will be filled out;

An estimate of the total number of hours needed to fill out the form; and

The name and telephone number of the person or office responsible for OMB review.

Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. In addition, most repetitive reporting requirements or forms that require one half hour or less to complete and a total of 20,000 hours or less annually will be approved ten business days after this notice is published unless specific issues are raised; such forms are identified in the list by an asterisk(*).

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained from the agency clearance officer whose name and telephone number appear under the agency name. Comments and questions about the items on this list should be directed to the OMB reviewer or office listed at the end of each entry.

If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer of your intent as early as possible.

The timing and format of this notice have been changed to make the publication of the notice predictable and to give a clearer explanation of this process to the public. If you have comments and suggestions for further improvements to this notice, please send them to Stanley E. Morris, Deputy Associate Director for Regulatory Policy and Reports Management, Office of Management and Budget, 726 Jackson Place, Northwest, Washington, D.C. 20503.

DEPARTMENT OF AGRICULTURE

Agency Clearance Officer—Richard J. Schrimper—447–6201

New Forms

Food Safety and Quality Service
Investigative Interviews on Food Grading
Single time
Household food purchase; 110 responses; 245 hours
Charles A. Ellett, 395–5080

Reinstatements

Agricultural Stabilization and Conservation Service
Allotment and Marketing Quota Regulations—Peanuts
MQ–96
On occasion
Peanut producers and buyers; 225 responses; 38 hours
Charles A. Ellett, 395–5080

DEPARTMENT OF COMMERCE

Agency Clearance Office—Edward Michals—377–3627

New Forms

Bureau of the Census
1980 Census Location Report for American Flag Vessels
D–3091
Single time
Ships' Masters of U.S. flag vessels in merchant marine; 750 responses; 63 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Bureau of the Census Residence Designation for Members of Congress
D–72
Single time
Members of Congress; 530 responses; 18 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Economic Development Administration
Survey Instruments for Revolving Loan Funds Assessment
ED–4500
Single time
RLF grantees and their clients; 300 responses; 150 hours
Richard Sheppard, 395–3211

Industry and Trade Administration
Liquid Immersed Distribution Transformers 500 KVA and Smaller
ITA–9033
Single time
Prod. of liq. immersed distri. transformers 500 KVA and smaller; 29 responses; 20 hours
Richard Sheppard, 395–3211

Revisions

Bureau of Economic Analysis
International Transactions in Royalties, Licensing Fees, Film Rentals, Management Fees, etc. With Unaffiliated Foreign Residents
BE–93
Annually
Manufacturing, publishing, etc.; 750 responses; 1,125 hours
Off. of Federal Statistical Policy & Standard, 673–7974

Burea of the Census
Questionnaire for Building Permit Official
SOC–903
On occasion
Building permit officials; 850 responses; 212 hours
Off. of Federal Statistical Policy & Standard, 673–7974.

Bureau of the Census
Selected Industrial Air Pollution Control Equipment
MA–35J
Annually
Manufacturing establishments; 12 responses; 121 hours
Off. of Federal Statistical Policy & Standard, 673–7974.

Bureau of the Census
Fats and Oils (Renderers)
M–20I
Monthly
Producers of edible and inedible animal fats; 6,000 responses; 3,000 hours
Off. of Federal Statistical Policy & Standard, 673–7974.

Industry and Trade Administration
Exhibitor's Report and Follow-Up
ITA–4075p; DIE–458P
On occasion
U.S. firms: Trade shoe participants; 7,000 responses; 1,750 hours
Richard Sheppard, 395–3211.

Extensions

Bureau of Economic Analysis

Foreign Personal Remittances (Bank Report)
All remittances
BE-579
Monthly
Financial institutions; 128 responses; 880 hours
Off. of Federal Statistical Policy & Standard, 673-7974.

Bureau of the Census
Brassieres, Corsets, and Allied Garments
MA-23J
Annually
Manufacturers of brassieres and corsets; 200 hours
Off. of Federal Statistical Policy & Standard, 673-7974.

DEPARTMENT OF DEFENSE

Agency Clearance Officer—John V. Wenderoth—697-1195

Revisions

Department of the Air force
ASD Form 39, Coordination of Requirement for Data Processing Services
ASD-39
On occasion
Computer industry; 500 responses; 1,500 hours
Richard Sheppard, 395-3211.

DEPARTMENT OF ENERGY

Agency Clearance Officer—John Gross—633-8558

Revisions

Survey of Clients and Comparison Non-Clients of Energy
Extension Service Programs
CS-190A-M
Single time
Clients and non-clients of FFS program; 4,177 responses; 1,607 hours
Jefferson B. Hill, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Agency Clearance Officer—William Riley—245-7488

New Forms

Social Security Administration
1979 Recipient Characteristics Study Accuracy Check Schedule
SAA-4683
Single time
State Pub. Assis. Agen. Qual. control staff & reg. staff; 1,000 responses; 334 hours
Barbara F. Young, 395-6132.

Revisions

Health Care Financing Administration (Departmental)
End-Stage Renal Disease Medical Information System
HCFA-2742, through 46
On occasion
Facilities certified to provide ESRD services; 411,340 responses; 26,137 hours
Richard Eisinger, 395-3214.

Social Security Administration
Marriage Certification
SAA-3
On occasion
Insured individual's spouses benefits; 300,000 reponses; 25,000 hours
Barbara F. Young, 395-6132.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Agency Clearance Officer—Robert G. Masarsky—755-5184.

New Forms

Policy Development and Research
Condominium/Cooperative Verification Follow-Up
AHS-394(CC)
Single time
Condominium/cooperative hsehlds & managers in AHS; 4,400 responses; 500 hours
Arnold Strasser, 395-5080.

Revisions

Community Planning and Development
Model Cities Transitions Procedures—Certificate of Program Completion
HUD-4006
Other (See SF-83)
Remaining model city grantee agencies; 10 responses; 20 hours
Arnold Strasser, 395-5080.

Community planning and development
Final Local Evaluation Report on Model Cities
HUD-3128
On occasion
Remaining model city grantees at close-out; 10 responses; 800 hours
Arnold Strasser, 395-5080.

DEPARTMENT OF TRANSPORTATION

Agency Clearance Officer—Bruce H. Allen—426-1887

New Forms

Federal Railroad Administration
Study of Trucking Service to Small Communities [1]
Single time
Shippers/receivers in small rural communities; 180 responses; 90 hours
Steed, Diane K., 395-3176.

VETERANS ADMINISTRATION

Agency Clearance Officer—R. C. Whitt—389-2282

Revisions

Schedule of Costs
On occasion
Contractors; 170 responses; 2,720 hours
Richard Eisinger, 395-3214.

Stanley E. Morris,
Deputy Associate Director for Regulatory Policy and Reports Management.

[FR Doc. 79-32951 Filed 10-24-79; 8:45 am]
BILLING CODE 3110-01-M

[1] On October 2, 1979, Secretary Goldschmidt made a commitment to the Chairman of the Senate Committee on Commerce, Science and Transportation that the Department would conduct a survey of a total of six small communities, two communities in each of the States of Nevada, Kentucky, and New Mexico. The Committee has requested that the study be completed by the end of November, with the Nevada surveys to be completed by the end of October. Given the severe time constraint within which this study must be completed and the sensitive nature of this study, the questionnaire has been cleared.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Intergovernmental Science, Engineering, and Technology Advisory Panel; Meeting, Amendment

The following is an amendment to the notice of meeting that was printed in the **Federal Register** on October 22, 1979, Vol. 44 FR 60832.

Name: Intergovernmental Science, Engineering, and Technology Advisory Panel—Science and Technology Transfer Task Force.
Place: Dulles Marriott, Chantilly, VA (703) 471-9500.
Date: Friday, November 9, 9:00 a.m.—5:00 p.m. Saturday, November 10, 9:00 a.m.—12:00 noon
Contact Person: Mr. Robert Goldman, Office of Science and Technology Policy, Executive Office of the President; telephone: 202/395-4596. Anyone who plans to attend should contact Mr. Goldman by November 7, 1979.

The purpose of the meeting is to set priorities for Task Force efforts and to consider what further steps are needed to foster the appropriate application of science and technology by State and local governments.

Minutes of the meeting: Summary minutes of the meeting will be available from Mr. Goldman.

Tentative Agenda

Friday, November 9, 1979
I. New Task Force Responsibilities
—The Future of the Problem Indentification Process
—NSF's Intergovernmental Programs
II. An Action Program to Strengthen Intergovernmental Scientific and Technological Cooperation
—Key Propositions
—Types of Scientific Information and Technology of Concern
—The Federal Interest
—Functions and Institutions

Saturday, November 10, 1979
Task Force Recommendations.

William J. Montgomery,
Executive Officer, Science and Technology Policy.

[FR Doc. 79-33096 Filed 10-23-79; 3:17 pm]
BILLING CODE 7555-01-M

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Privacy Act of 1974; Annual Notice of the Existence and Character of Systems of Records

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Annual Notice of the Existence and Character of Systems of Records.

SUMMARY: As required by the Privacy Act of 1974 (5 U.S.C. 552a(e)(4)), the Pennsylvania Avenue Development Corporation is giving annual notice of the existence and character of its systems of records.

FOR FURTHER INFORMATION CONTACT: Barbara S. Austin, Administrative Officer, Pennsylvania Avenue Development Corporation, Suite 1148, 425 13th Street, NW., Washington, D.C. 20004, (202) 566-1218.

NOTICE: The Pennsylvania Avenue Development Corporation hereby gives annual notice that its systems of records, as published in the **Federal Register** at 42 FR 48782 (September 23, 1977), continues in effect without changes.

The full text of this agency's systems of records also appears in Volume IV of the "Privacy Act Issuances—1978 Compilation", page 572. This volume may be ordered through the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The cost of the volume is $10.50.

Dated: October 18, 1979.

Peter T. Meszoly,
Acting Executive Director.

[FR Doc. 79-32976 Filed 10-24-79; 8:45 am]
BILLING CODE 7630-01-M

PRESIDENTIAL COMMISSION ON WORLD HUNGER

Rescheduled Meeting

Notice is hereby given of a change in date for the ninth meeting of the Presidential Commission on World Hunger. The meeting was to have been held on Saturday, November 3, 1979, but will be held instead on Monday, November 5, 1979, at 9:30 a.m. in Conference Room C of the Pan American Health Organization, 525 23rd Street, N.W., Washington, D.C. The meeting will begin at 9:30 a.m. and conclude at approximately 4:30 p.m.

The agenda for the meeting will include discussion of draft portions of the Commission's Report.

The meeting will be open to observation by the public to the extent space is available. Reservations are required and requests should be addressed to the Presidential Commission on World Hunger, 734 Jackson Place, NW., Washington, D.C. 20006. Reservations will be honored on the basis of the earliest postmarks of requests.

Donald B. Harper,
Administrative Officer, Presidential Commission on World Hunger.

[FR Doc 79-32831 Filed 10-24-79; 8:45 am]
BILLING CODE 6820-97-M

SUSQUEHANNA RIVER BASIN COMMISSION

Public Hearing on Proposed Comprehensive Plan Amendment

The Susquehanna River Basin Commission will hold a public hearing to receive comments from citizens, government agencies, and others on a proposed amendment to its *Comprehensive Plan for Management and Development of the Water Resources of the Susquehanna River Basin.* The hearing has been scheduled for November 8, 1979, at the Penn Harris Motor Inn, Camp Hill, Pa., beginning at 1:00 p.m.

The Susquehanna River Basin Compact (Pub. L. 91-575), (84 Stat. 15909 et seq.) requires the Commission to maintain a Comprehensive Plan for the immediate and long-range use, management and development of the water and related resources of the basin. Initially adopted in December 1973, the Plan provides a basinwide strategy to guide the Commission and others in the management, use and conservation of the basin's resources. The Plan is also used to evaluate proposed water resource developments that the Commission must, by law, approve.

The proposed amendment to the Comprehensive Plan recognizes that growing residential, commercial, industrial and agricultural demands for water are placing an additional demand on available water supplies and that, as a result of this additional demand, it is desirable for the Commission to investigate, identify, and possibly utilize potential and existing water supply storage to enhance water supply needs in the future. Accordingly, the amendment would set a goal establishing a policy concerning the purchase and management of water supply storage available from commercial and governmental water storage projects, including the assumption of financial obligations, as necessary.

The November 8th hearing will be informal in nature. Interested parties are invited to attend the hearing and to participate by making oral or written statements presenting their data, views and comments on the proposed amendment. Those wishing to personally appear to present their views are urged to notify the Commission in advance that they desire to do so. However, any person who wishes to be heard will be given opportunity to be heard, whether or not they have given such notice. After the hearing, the Commission will evaluate all relevant material and decide whether to adopt as proposed, modify, or not adopt the amendment.

The Commission has a background report available upon request discussing the need for and in support of the proposed amendment. For a copy of the proposed amendment or additional information, contact the Secretary, Richard A. Cairo, Susquehanna River Basin Commission, 1721 North Front Street, Harrisburg, Pennsylvania 17102, (717) 238-0423.

Dated: October 18, 1979.

Robert J. Bielo,
Executive Director.

[FR Doc. 79-32921 Filed 10-24-79; 8:45 am]
BILLING CODE 7040-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Mike Monroney Aeronautical Center; Order of Cancellation

In the matter of the recordation of a security agreement relating to Civil Aircraft N36565.

On July 19, 1979, an Order to Show Cause was issued by the Federal Aviation Administration to all concerned parties giving them until August 10, 1979, to submit any objections to the issuance of an order cancelling the recordation of a security agreement, dated January 23, 1979, relating to N36565, retroactively as of the date of recordation. Notice of the issuance of that order was published in the **Federal Register** on July 30, 1979 (44 FR 44637). The basis for the action was that, according to the records on file with the Federal Aviation Administation, the person who executed

the security agreement was not the owner of N36565 on January 23, 1979. Therefore, pursuant to § 49.17(e) of the Federal Aviation Regulations, the security agreement was not eligible for recordation.

Comments were received from Mr. Robert L. Van Buskirk basically confirming what the documents on file reflected. An affidavit, dated August 1, 1979, was received from American National Bank & Trust of New Jersey which did not dispute the accuracy of the dates on the recorded instruments, but rather spoke to the substantive rights of the parties. Subsequently, a release, dated August 8, 1979, of the subject security agreement was received from the American National Bank & Trust of New Jersey on August 13, 1979. The receipt of the release does not affect the finding that the security agreement was not eligible for recordation.

On the basis of the documents on file with the Federal Aviation Administration and since no objections to the cancellation of the recordation have been presented it has been determined that the recordation of the security agreement, dated January 23, 1979, was in error and is of no legal effect.

Now Therefore, it is Ordered:

1. That the recordaton of the Security Agreement, dated January 23, 1979, relating to Civil Aircraft N36565, a Piper PA-28-201T, Serial Number 28R-7803329, designated as Conveyance Number 106233 be canceled and declared of no legal effect retroactivley to the date of recordation, February 1, 1979.

2. That this Order shall be filed in the aircraft file of Civil Aircraft N36565, and posted at the FAA Aircraft Registry, and that a notice of the issuance of this Order shall be published in the Federal Register.

Dated in Oklahoma City, Oklahoma, this 11th day of October, 1979.

Benjamin Demps, Jr.,

Director, Aeronautical Center.

Certificate of Service

I hereby certify that I have this day served the foregoing Order of Cancellation by certified mail, return receipt requested, on the following persons at their addresses or record, namely:

American National Bank & Trust of New Jersey, P.O. Box 2125, Morristown, New Jersey 07690.

American Aviation Ground Services, Inc., 14592 S.W. 129th Street, Miami, Florida 33186.

Robert L. Van Buskirk, P.O. Box 95, Bahama, North Carolina 27503.

Dated at Oklahoma City, Oklahoma, this 11th day of October, 1979.

Joseph T. Brennan,

Aeronautical Center Counsel.

[FR Doc. 79-32616 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-79-26]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemptions received and of dispositions of petitions issued.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I) and of dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Publication of this notice and any information it contains or omits is not intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before: November 14, 1979.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-24), Room 916, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW, Washington, D.C. 20591; telephone (202) 426-3655.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on October 19, 1979.

Edward P. Faberman,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought
19345	Thermonetics, Inc	14 CFR Parts 135 and 91, Subpart D.	To allow the petitioner an exemption from operating a Super King 200 Beechcraft small aircraft (less than 12,500 pounds) in accordance with Part 135 of the Federal Aviation Regulations. The aircraft instead would be operated under Subpart D of Part 91. The petitioner intends to dry-lease the aircraft for use in transporting its own employees and guests as well as those associated with its subsidiaries, which are separate corporate entities, and charging those subsidiaries for their use of the aircraft.
19638	Swift Aire Lines	14 CFR § 121.703(d)	To extend the required delivery time frame of mechanical reliability reports from 24 hours to 72 hours after each 24-hour period.
19647	Eli Lilly International Corp	14 CFR § 61.58(c)	To allow the petitioner's pilots to perform all the required maneuvers for a 24-month check in an FAA approved BAC-111 Visual Flight Simulator.
19648	Anthony Lindner	14 CFR § 61.65(e)(1)	To permit the petitioner to apply for an additional category instrument rating (airplane) without obtaining the required cross country experience in the category of aircraft for which the instrument rating is sought.
19649	Robert Serafini	14 CFR §§ 65.91 (c)(1) and (c)(2)	To allow the petitioner to become eligible for an inspection authorization without meeting the time requirements of Sections 65.91 (c)(1) and (c)(2) of the 14 CFR Federal Aviation Regulations.
19650	North States Aviation, Inc	14 CFR § 91.33(d)(3)	To permit the petitioner to install an R. C. Allen electric bank and pitch indicator with inclinometer to replace the standard turn coordinator in a Piper Aerostar 601P airplane.
19651	Gates Learjet Corp	14 CFR § 21.197	To permit the petitioner to ferry aircraft from Wichita, Kansas, to Phoenix, Arizona, for purposes of completion and certification.

Dispositions of Petitions for Exemptions

Docket No.	Petitioner	Regulations affected	Description of relief sought—disposition
19332	Soaring Society of America	14 CFR § 91.42(a)(1)	To allow petitioner to operate aircraft that have an experimental certificate, for other than the purpose for which the certificate was issued. *Granted 10/16/79.*
19427	Kal Aero, Inc.	14 CFR § 135.1499(c)	To permit petitioner to operate its Cessna Citation without a third attitude gyroscopic indicator for a period of 180 days. *Granted 10/11/79.*
19395	Air France, Air Jamaica, Ltd., Carib West Airways, and Concord International Airlines.	14 CFR Parts 21, 43, 91, and 121	To permit Concord International Airlines (CIAX) to operate DC-8 aircraft N8243U without exclusive use of that aircraft, to perform maintenance, and to use the minimum equipment list while the aircraft is operated by Air France, Air Jamaica, or Carib West Airways. *Granted 10/11/79.*
19492	Transasian Airlines	14 CFR §§ 43.3 and 65.81	To allow petitioner to permit foreign certificated airmen to conduct maintenance on U.S.-registered aircraft outside the United States. *Granted 10/15/79.*

[FR Doc. 79-32860 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

[FHWA Docket No. 79-33]

Highway Safety Policy; Request for Public Comments

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Highway Administration (FHWA) is issuing this notice to request comments on the development of a policy for accelerating safety upgrading on Federal-aid highways.

DATES: Comments must be received on or before December 24, 1979.

ADDRESS: Comments should be sent, preferably in triplicate, to FHWA Docket No. 79-33, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street SE., Washington, D.C. 20590. All responses to this notice will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. et, Monday through Friday. Those desiring notification of receipt of comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. James L. Rummel, Office of Highway Safety, 202-426-2131; or Mr. Stanley H. Abramson, Office of the Chief Counsel, 202/426-0761, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. et, Monday through Friday.

SUPPLEMENTARY INFORMATION: It is essential that FHWA provide national leadership in ensuring that the latest safety principles are incorporated in the design and construction of major Federal-aid highways. These principles are set forth in the publication "Highway Design and Operational Practices Relating to Highway Safety" (frequently referred to as the "Yellow Book").

In late 1977, FHWA initiated a national review of recently completed Federal-aid highway projects. The purpose of the review was to determine, as objectively as possible, if the States were incorporating the latest safety principles and concepts on new projects. Safety upgrading efforts on older Federal-aid projects were also reviewed to determine their timeliness and impact on safety. It was expected that an unbiased, factual evaluation of compliance with the "Yellow Book" principles would provide FHWA with vital information which could be used by the agency in the promotion of an effective safety upgrading program on major Federal-aid system highways.

The reviews were performed in all 50 States during 1978. Review teams, consisting of representatives from FHWA Region and Division Offices, accompanied by State personnel, were responsible for conducting the review in each State. A four-man task force representing FHWA's Washington Headquarters and the National Transportation Safety Board acted as a steering committee for the review. This task force developed the review guidelines, participated in the reviews in 22 States, and prepared the final report.

The safety review report, issued in December 1978, is more than a reflection of good and bad practices related to safety; it attempts to reflect national trends, identifies safety problem areas, and recommends measures to strengthen safety efforts. The report concludes that, generally, the States are following the recommendations contained in the "Yellow Book" on recently constructed projects.

However, the report further points to the fact that the general safety upgrading of all highways, especially those not on the Interstate System, has been severely limited either by the lack of financial resources or by funding priorities. In general, only the Interstate System has received attention with regard to safety upgrading. In some States, even this has been minimal because available funds have been allocated to new Interstate construction which was considered to have the greatest impact on accident reduction. However, review findings indicate there are numerous hazards needing correction on non-Interstate Federal-aid highways. A major portion of these roads are carrying traffic volumes higher than those found on some Interstate routes.

The design standards for non-Interstate roads are generally lower than those used for the Interstate System and the accident rates are higher, yet both systems are posted with a 55 m.p.h. maximum speed limit. In the majority of States, there are no plans to safety upgrade these non-Interstate routes until a major reconstruction is undertaken.

The report concluded that the issue of safety upgrading on non-Interstate routes must be addressed. Non-Interstate routes are the site of 90 percent of the fatal accidents on the entire Federal-aid system. Because it will be virtually impossible to provide the resources to upgrade the entire system, some rational approach must be developed to establish a safety

V 4 4 0 C 2 5 7 9 UMI

upgrading program for the Federal-aid system. To address this issue, the safety review report made the following recommendation:

FHWA must take the initiative in accelerating the safety upgrading of all Federal-aid systems on a rational basis using performance reviews and accident data. It is recommended that FHWA define the minimum requirements necessary to constitute a highway safety upgrading program, initiate a safety needs study based on these minimum requirements, review funding alternatives, and establish national goals for accomplishing upgrading of high priority sections.

Shortly after issuance of the Highway Safety Review Report, a Safety Review Implemention Task Force, composed of seven top FHWA officials, was appointed to ensure follow-up action on the findings and recommendations of the safety review. In considering the above-stated recommendation, the Implemention Task Force determined that FHWA had insufficient information on which to establish a policy for accelerating safety upgrading of all Federal-aid highways. To assist the agency in gathering the necessary information, this notice solicits public comments and advice needed to develop a policy for accelerating a safety upgrading program. Comments on the following specific questions are desired:

1. Should FHWA identify the features and devices to be included in a highway safety upgrading program?
2. If such features and devices are identified, would a safety needs study based on these requirements be useful?
3. Are there funding alternatives that would accelerate the upgrading process?
4. Should FHWA establish national goals for upgrading of high priority sections?
5. How best can performance reviews and accident data be used to upgrade safety?
6. What criteria should be used in selecting high priority sections?

Any additional suggestions concerning the development of a safety upgrading policy are welcome.

Limited numbers of the reports "Highway Safety Review—Report of the Safety Review Task Force to the Federal Highway Administrator" and "Report of the Safety Review Implementation Task Force" are available and may be obtained through the Federal Highway Administration, Office of Highway Safety, 400 Seventh Street, SW., Washington, D.C. 20590.

Copies of this notice are being sent directly to the following organizations: the American Association of State Highway and Transportation Officials, the National Association of Counties, the National League of Cities, the United States Conference of Mayors, the National Association of Governors' Highway Safety Representatives, the National Safety Council, the Institute of Transportation Engineers, the Center for Auto Safety, the Insurance Institute for Highway Safety, the American Automobile Association, the Highway Users Federation for Safety and Mobility, and the American Road and Transportation Builders Association.

Issued on October 17, 1979.

John S. Hassell, Jr.,

Deputy Administrator.

[FR Doc. 79-32911 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[FRA Waiver Petition Docket HS-79-16]

Almanor Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 49 CFR Section 211.41 and Section 211.9, notice is hereby given that the Almanor Railroad (AL) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)). That petition requests that the AL be granted authority to permit certain employees to continuously remain on duty in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The AL seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicated that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-16, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before November 30, 1979, will be considered by the FRA before a final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

(Sec. 5, Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C. on October 10, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc 79-32744 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-06-M

[FRA Waiver Petition Docket HS-79-15]

Johnstown & Stony Creek Railroad Co.; Petition for Exemption From the Hours of Service Act

In accordance with 46 CFR 211.41 and 211.9, notice is hereby given that the Johnstown and Stony Creek (JSC) has petitioned the Federal Railroad Administration (FRA) for an exemption from the Hours of Service Act (83 Stat. 464, Pub. L. 91-165, 45 U.S.C. 64a(e)). That petition requests that the JSC be granted authority to permit certain employees to continuously remain on duty for in excess of twelve hours.

The Hours of Service Act currently makes it unlawful for a railroad to require or permit specified employees to continuously remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad, which employs no more than fifteen employees who are subject to the statute, to seek an exemption from this twelve hour limitation.

The JSC seeks this exemption so that it can permit certain employees to remain continuously on duty for periods not to exceed sixteen hours. The petitioner indicates that granting this exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs no more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in this proceeding by submitting written views or comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning this proceeding should identify the Docket Number, Docket Number HS-79-15, and must be submitted in triplicate to the Docket Clerk, Office of the Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Communications received before November 23, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments, during regular business hours in Room 8211, Department of Transportation (Nassif Building), 400 Seventh Street, SW., Washington, D.C. 20590.

(Section 5 of the Hours of Service Act of 1969 (45 U.S.C. 64a), 1.49(d) of the regulations of the Office of the Secretary, 49 CFR 1.49(d).)

Issued in Washington, D.C., on October 9, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-32743 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-06-M

[Waiver Petition Docket Nos. SA-79-1 Through SA-79-24]

Petitions for Waiver of Compliance With Railroad Safety Appliance Standards

Notice is hereby given that twenty-four petitioners have submitted requests for permanent waivers of compliance with certain requirements of the Railroad Safety Appliance Standards (49 CFR Part 231). Each of the waiver requests involve the provisions of the Railroad Safety Appliance Standards that are applicable to locomotives used in road or switching service.

The Federal Railroad Administration (FRA) published a final rule on September 8, 1976 (41 FR 37782) that prescribed configurations for the handholds and uncoupling mechanisms of locomotives with corner stairway that are used in road service (49 CFRS 231.29) and also prescribed configurations for the handholds, uncoupling mechanisms and stairways of locomotives used in switching service (49 CFRS 231.30). These regulations are applicable to both existing locomotives and locomotives that will be constructed in the future. Full compliance for the entire locomotive fleet was scheduled for October 1, 1979.

The petitioners are mostly common carriers by railroad. They are seeking waivers of compliance for certain existing locomotives since the original design of these units precludes their effective modification to bring them into compliance. A brief description identifying the petitioner and the types of locomotive involved is provided below.

Interested persons are invited to participate in these proceedings by submitting written data, views or comments. FRA does not anticipate scheduling an opportunity for oral comment on these petitions since the facts do not appear to warrant it. All communications concerning these petitions must identify the appropriate Docket Number (e.g., FRA Waiver Petition Docket Number SA-79-2) and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Communications received before November 30, 1979, will be considered by the FRA before final action is taken. Comments received after that date will be considered to the extent practicable. All comments received will be available for examination during regular business hours, before and after the closing date for comments, in Room 5101, Nassif Building at the above addresss.

Waiver Petition Docket Number SA-79-1

This proceeding involves the waiver request submitted by the Howard Terminal Railway which operates a single diesel electric locomotive within the confines of the Port of Oakland in the State of California. The locomotive was built by Whitcomb Locomotive Works in 1948 and is occasionally used to perform switching service.

Waiver Petition Docket Number SA-79-2

This proceeding involves the waiver request submitted by Pittsburg, Allegheny and McKees Rocks Railroad which operates a single diesel electric locomotive. The unit is a 50 ton locomotive built by General Electric that is used to perform switching service.

Waiver Petition Docket Number SA-79-3

This proceeding involves the waiver request submitted by the Amstar Corporation which operates one diesel electric locomotive that does not comply with the regulation. This unit is a 25 ton locomotive built by General Electric in 1940. The unit principally operates within a plant area; however, it occasionally performs switching service on the tracks of a common carrier in the State of California.

Waiver Petition Docket Number SA-79-4

This proceeding involves the waiver request sumittted by C. P. Rail which operates 131 diesel electric locomotives in international service between the United States and Canada. These locomotives were built by the Montreal Locomotive Works since 1969 and are used in road service.

Waiver Petition Docket Number SA-79-5

This proceeding involves the waiver request submitted by the Laona and Northern Railway which operates two diesel electric locomotives in the State of Wisconsin. One locomotive was built by General Electric in 1942 and the other locomotive was built by Vulcan Locomotive Works in 1941. Both units are used in switching service.

Waiver Petition Docket Number SA-79-7

This proceeding involved the waiver request submitted by the Camino Placerville and Lake Tahoe Railroad which operates a single diesel electric locomotive. The unit is a 44 ton locomotive built by General Electric that is used to perform switching service.

Waiver Petition Docket Number SA-79-8

This proceeding involves the waiver request submitted by the S. M. Pensly Company which operates three diesel electric locomotives. One unit provides service on the Montpelier and Barre Railroad and the other two units serve on the Claremont and Concord Railway. These units are 44 ton locomotives built by General Electric that are used to perform switching service.

Waiver Petition Docket Number SA-79-9

This proceeding involves the waiver request submitted by the New York State Electric and Gas Corporation which operates a single diesel electric locomotive. The unit is a 44 ton locomotive built by General Electric that is used in switching service on the tracks of a common carrier.

Waiver Petition Docket Number SA-79-10

This proceeding involves the waiver request submitted by the Parr Terminal which operates two diesel locomotives in the State of California. The units were

V 44 OC 25 79 UMI

built by the Plymouth Locomotive Works in 1943 and are used in switching service.

Waiver Petition Docket Number SA-79-11

This proceeding involves the waiver request submitted by the Louisiana and North West Railroad which operates six diesel electric locomotives. The units were built by the Electro Motive Division of General Motors Company and are designated as EMD F-7 model locomotives. The units are used in both switching and road service.

Waiver Petition Docket Number SA-79-12

This proceeding involves the waiver request submitted by the White Pass and Yukon Railroad which operates ten diesel electric locomotives in the State of Alaska. The units were built by General Electric for service on a narrow guage railroad approximately twenty years ago. The locomotives are used in both switching and road service.

Waiver Petition Docket Number SA-79-13

This proceeding involves the waiver request submitted by the New York Dock Railway which operates four diesel electric locomotives. The units are 44 ton locomotives built by General Electric that are used in switching service.

Waiver Petition Docket Number SA-79-15

This proceeding involves the waiver request submitted by the Green Bay and Western Railroad which operates five diesel electric locomotives that do not comply with the regulation. These units were built by the American Locomotive Works are designated as ALCO 424 and ALCO 430 model locomotives. The units are used in both switching and road service.

Waiver Petition Docket Number SA-79-16

This proceeding involves the waiver request submitted by the North Stratford Railroad which operates a single diesel electric locomotive in the State of Vermont The unit is a 44 ton locomotive built by General Electric that is used in switching service.

Waiver Petition Docket Number SA-79-17

This proceeding involves the waiver request submitted by the Dansville and Mount Morris Railroad which operates a single diesel electric locomotive in the State of New York. The unit is a 44 ton locomotive built by General Electric that is used in switching service.

Waiver Petition Docket Number SA-79-19

This proceeding involves the waiver request submitted by the Department of the Navy which operates two diesel electric locomotives in conjunction with the shipyard at Portsmouth, New Hampshire. These units were built by H. K. Porter and principally to perform service within the shipyard. The units occasionally perform switching service on the tracks of a common carrier.

Waiver Petition Docket Number SA-79-20

This proceeding involves the waiver request submitted by the American Bridge Division of the United States Steel Corporation for a single diesel electric locomotive operated in the State of New York. The unit is used principally to perform service within the plant area. However, the unit occasionally performs switching service on the tracks of a common carrier.

Waiver Petition Docket Number SA-79-21

This proceeding involves the waiver request submitted by the Klamath Northern Railway which operates two diesel electric locomotives in the State of Oregon. One unit is a 70 ton locomotive built by General Electric and the other is a 30 ton locomotive built by Baldwin Locomotive Works. Both units are used in switching service.

Waiver Petition Docket Number SA-79-22

This proceeding involves the waiver request submitted by Dresser Industries which operates a single diesel electric locomotive in the State of New York. The unit is a 45 ton locomotive built by General Electric and is used principally to perform service within the plant area. The unit occasionally performs switching service on the tracks of a common carrier.

Waiver Petition Docket Number SA-79-23

This proceeding involves the waiver request submitted by the Nezperce Railroad which operates three diesel electric locomotives in the State of Idaho. The units are 44 ton locomotives built by General Electric that are used in switching service.

Waiver Petition Docket Number SA-79-24

This proceeding involves the waiver request submitted by the Alexander Railroad which operates one diesel electric locomotive in the State of North Carolina that does not comply with the regulation. This unit is a 44 ton locomotive built by General Electric that is used to perform switching service.

This notice is issued under the authority of sections 4, 6, and 12, 27 Stat. 531, as amended, section (6)e and (f), 80 Stat. 939; 45 U.S.C. 4, 6, 12, 49 U.S.C. 1655 and section 1.49(c) of the regulations of the Secretary of Transportation 49 CFR 1.49(c).

Issued in Washington, D.C., on October 11, 1979.

J. W. Walsh,

Chairman, Railroad Safety Board.

[FR Doc. 79-32745 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-06-M

Research and Special Programs Administration

Grants and Denial of Applications for Exemptions

AGENCY: Materials Transportation Bureau, DOT.

ACTION: Notice of Grants and Denial of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in August 1979. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the following table: 1—Motor Vehicle; 2—Rail freight; 3—Cargo vessel; 4—Cargo-only aircraft; 5—Passenger-carrying aircraft.

Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals		
2675-X	DOT-E 2675	Orb Industries, Inc., Upland, Pa	49 CFR 173.304(a)(1), 173.305(c)	To ship certain noh-flammable gases in non-DOT specification seamless aluminum cylinders. (Modes 1, 2.)
3109-X	DOT-E 3109	Raytheon Co., Lowell, Mass.; U.S. Dept. of Defense, Washington, D.C.	49 CFR 173.302(a)(1), 175.3	To ship a nonflammable nonliquefied compressed gases in a non-DOT cylinder. (Modes 1, 2, 3, 4.)
3367-X	DOT-E 3367	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.316, 173.315(a)	To ship a certain flammable gas in non-DOT specification vacuum insulated cargo tank, designed and constructed in accordance with Section VIII of the ASME Code. (Mode 1.)
4262-X	DOT-E 4262	Schlumberger Well Services, Houston, Tex.	49 CFR 172.101, 173.53(u), 173.60.	To ship charged oil well jet perforating guns with initiators attached in specially constructed motor vehicles. (Mode 1.)
4354-X	DOT-E 4354	PPG Industries, Pittsburgh, Pa	49 CFR 173.119(m), 173.245, 173.266 (d), (e).	To ship certain corrosive liquids and flammable liquids in DOT Specification 6D or 37M cylindrical steel overpack with an inside DOT Specification 2S, 2SL or 3T polyethylene container. (Modes 1, 2, 3.)
4400-X	DOT-E 4400	Airco Industrial Gases, Murray Hill, N.J.	49 CFR 172.101, 173.315(a)	To ship a flammable gas and non-flammable gases in a non-DOT specification insulated cargo tank designed and constructed in accordance with Section VIII of the ASME Code. (Modes 1, 3.)
4719-X	DOT-E 4719	Dow Chemical, U.S.A., Freeport, Tex.; Allied Chemical Corp., Morristown, N.J.	49 CFR 173.314(c), 173.315(a)(1)	To ship certain flammable and non-flammable gases in DOT Specification MC-330 and MC-331 cargo tank or 105A300W, 112A340W, 114A340W, 106A500, 106A500X and 110A500W tank car tanks or tank car tanks complying with Specification 120A300W. (Modes 1, 2.)
5022-X	DOT-E 5022	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 174.86, 174.101(L), 174.104(d), 174.112(a), 177.83(L)(1).	To ship certain Class A and Class B explosives in temperature controlled equipment. (Modes 1, 2.)
5062-X	DOT-E 5062	Dow Chemical Co., Midland, Mich	49 CFR 173.315(a), 172.101	To ship a nonflammable compressed gas in a DOT Specification MC-330 or MC-331 cargo tank. (Mode 1.)
5520-X	DOT-E 5520	Amchem Products, Inc., Ambler, Pa.	49 CFR 173.245(a), 173.256(a)	To ship certain corrosive liquids in DOT Specification 57 portable tanks. (Modes 1, 2, 3.)
5662-X	DOT-E 5662	Dow Chemical Co., Midland, Mich.; Great Lakes Chemical Corp., El Dorado, Ark.	49 CFR 173.353(a), 173.353e	To ship Class B poisonous liquids in a DOT Specification 51 portable tank. (Modes 1, 2, 3.)
5716-X	DOT-E 5716	Virginia Chemicals, Inc., Portsmouth, Va.	49 CFR 173.314, 179.3, 179.300-18(e)(1), 179.300-19(d).	To ship a certain non-flammable gas in non-specification tank car tanks. (Modes 1, 2.)
5767-X	DOT-E 5767	DuBois Chemicals, Cincinnati, Ohio.	49 CFR 173.264, 173.245, 173.263, 173.272, 173.256.	To ship certain corrosive materials in a non-DOT specification steel portable tank. (Modes 1, 2.)
5776-X	DOT-E 5778	Lif-O-Gen American Life Support Corp., Cambridge, Md.	49 CFR 173.302(a)(4), 173.304(a)(1)(i).	To ship certain flammable gases in DOT Specification 39 steel cylinders. (Modes 1, 2.)
6007-X	DOT-E 6007	National Warehouse, Inc., Minneapolis, Minn.	49 CFR 173.391(b)(5)	To ship certain radioactive devices as required by 49 CFR 173.391. (Modes 1, 2, 3, 4, 5.)
6092-X	DOT-E 6092	MC/B Chemical Co., Cincinnati, Ohio; Fisher Scientific Co., Fair Lawn, N.J.	49 CFR 173.25(b)	To ship certain corrosive liquids in glass bottles in DOT Specification 33A polystyrene cases. (Modes 1, 2.)
6234-X	DOT-E 6234	Pennwalt Corp., Philadelphia, Pa	49 CFR 173.154(e), 173.217	To ship certain oxidizing materials in DOT specification containers. (Modes 1, 2.)
6253-X	DOT-E 6253	Charente Steamship Co., Ltd., Liverpool, England.	49 CFR Part 173	To ship certain hazardous materials in non-DOT specification intermodal portable tanks. (Modes 1, 2, 3.)
6267-X	DOT-E 6267	Bio-Lab, Inc., Decatur, Ga	49 CFR 173.217(a)	To ship certain oxidizing materials in non-DOT specification fiberboard boxes. (Modes 1, 2, 3.)
6296-X	DOT-E 6296	Olin Chemicals Group, Stamford, Conn.	49 CFR 173.377(g)	To ship certain Class B poisons in DOT Specification 44D multiwall paper bag. (Modes 1, 2.)
6349-X	DOT-E 6349	Kansas Refined Helium Co., Inc., Otis, Kans.	49 CFR 172.101, 173.315(a)	To ship certain flammable and nonflammable gases in non-DOT specification insulated, containerized portable tanks. (Modes 1, 2, 3.)
6416-X	DOT-E 6416	Allied Chemical Corp., Morristown, N.J.	49 CFR 179.101-1(a)	To ship a nonflammable gas in DOT Specification 105A300W tank cars. (Mode 2.)
6418-X	DOT-E 6418	Great Lakes Chemical Corp., Irvine, Calif.	49 CFR 173.357(b)	To ship Class B poisonous liquids in DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 cargo tanks. (Mode 1.)
6477-X	DOT-E 6477	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.66(c)	To ship a Class A explosive in non-DOT specification packagings. (Modes 1, 2.)
6657-X	DOT-E 6657	Chemetron Corp., Chicago, Ill	49 CFR 173.34(e)(15)(i), 175.3	To ship certain nonliquefied compressed gases in DOT Specification 3A or 3AA cylinders and cylinders marked ICC-3, 3A or 3AA. (Modes 1, 2, 3, 4, 5.)
6658-X	DOT-E 6658	U.S. Department of Energy, Washington, D.C.	49 CFR 173.21(b), 173.64(a)	To ship a certain Class A explosive in non-DOT specification steel drums. (Mode 1.)
6686-X	DOT-E 6686	Chilton Metal Products Division, Chilton, Wis.	49 CFR 173.304, 178.65	To ship a certain flammable gas in DOT Specification 39 steel cylinder. (Modes 1, 2.)
6769-X	DOT-E 6769	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.314, 173.315	To ship a liquefied compressed gas in DOT specification MC-331 tank motor vehicles. (Modes 1, 2.)
6773-X	DOT-E 6773	E. I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.314(c)	To ship a flammable compressed gas in a DOT Specification 105A600W tank car. (Mode 2.)

V 44 OC 25 79 UMI

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		Renewals—Continued		
680-P	DOT-E 6820	Georgia Pacific Corp., Montebellow, Calif.	49 CFR 173.217(a)	To become a party to Exemption 6820. (See Application No. 6820-P.) (Mode 1.)
6864-X	DOT-E 6864	Bacardi International Ltd. Hamilton, Bermuda; Bacardi and Company Ltd., Nassau, Bahamas.	49 CFR 173.119(b), 173.125	To ship certain hazardous materials in a non-DOT specification portable tank. (Modes 1, 2, 3.)
6874-X	DOT-E 6874	ICI Americas Inc., Wilmington, Del..	49 CFR 173.370(a)(13), 172.101	To ship certain Class B poisons in non-DOT specification wooden boxes. (Modes 1, 3.)
6919-P	DOT-E 6919	Minnegasco, Minneapolis, Minn	49 CFR 172.101, 173.315(a)	To become a party to Exemption 6919. (See Application No. 6919-P.) (Mode 1.)
6984-P	DOT-E 6984	Kentucky ANFO, Inc., Madisonville, Ky.	49 CFR 173.66(g), 173.103(a), 177.835(g)(2)(i).	To become a party to Exemption 6984. (See Application No. 6984.) (Mode 1.)
7082-X	DOT-E 7082	Igloo Corp., Houston, Tex	49 CFR 173; 178.19	To manufacture, mark and sell non-DOT specification polyethylene containers for shipment of certain corrosive liquids, flammable liquids and oxidizers. (Modes 1, 2, 3.)
7097-X	DOT-E 7097	Plant Products Corp., Vero Beach, Fla.	49 CFR 173.377(f)	To ship certain Class B poisonous solids in non-DOT specification packagings. (Mode 1.)
7192-X	DOT-E 7192	Air Products and Chemicals, Inc., Allentown, Pa.	49 CFR 173.316(a), 173.315(a)	To ship a flammable gas in non-DOT specification cargo tanks. (Mode 1.)
7208-X	DOT-E 7208	The National Aeronautics and Space Administration, Washington, D.C.	49 CFR 172.101, 175.3, 175.30(a)(1).	To ship Class B explosive in quantities exceeding present limitations with certain exceptions. (Mode 4.)
7235-X	DOT-E 7235	Luxfer U.S.A. Limited, Riverside, Calif.	49 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT Specification seamless aluminum cylinders for shipment of certain nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
7252-X	DOT-E 7252	E.I. du Pont de Nemours and Co., Inc., Wilmington, Del.	49 CFR 173.93	To ship certain Class B explosives in DOT Specification 17H metal drums. (Mode 3.)
7282-X	DOT-E 7282	M-R Plastics and Coatings, Inc., Maryland Heights, Mo.	49 CFR 173.315(a)(1)	To ship certain mixtures of non-poisonous, nonflammable compressed gases in non-DOT specification steel portable tanks. (Mode 1.)
7413-X	DOT-E 7413	Chilton Metal Products Division, Chilton, Wis.	49 CFR 173.304(a)(1), 175.3, 178.42.	To manufacture, mark and sell non-DOT specification brazed steel cylinders for shipment of compressed gases. (Modes 1, 2, 4.)
7423-X	DOT-E 7423	Armco Steel Corp., Middletown, Ohio.	49 CFR 173.154, 173.220(b)(2), 176.76(g)(5).	To ship certain flammable solids in DOT Specification 56 portable tanks. (Modes 1, 2, 3.)
7503-P	DOT-E 7503	Transcontainer Leasing S.A., Geneva, Switzerland.	49 CFR 90.05-35; 49 CFR 172.101, 173.119, 173.141, 173.245(a), 173.295(a), 173.346(a).	To become a party to Exemption 7503. (See Application No. 7503.) (Modes 1, 3.)
7666-X	DOT-E 7666	Delta Steamship Lines, Inc., New Orleans, La.	49 CFR 176.83(d)(3)	To transport freight containers containing hazardous materials by cargo vessel. (Mode 3.)
7685-X	DOT-E 7685	Cordova Chemical Co., Sacramento, Calif.	49 CFR 173.65(b)	To ship a certain Class A explosive in DOT Specification 21C fiber drum, overpacked in a DOT Specification 21C250 fiber drum. (Mode 1.)
7701-X	DOT-E 7701	Orval-Manutention, Paris, France..	49 CFR 173.119(b), 173.125	To ship certain flammable liquids in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7769-X	DOT-E 7769	Brunswick Corp., Lincoln, Nebr	43 CFR 173.302(a)(1), 175.3	To manufacture, mark and sell non-DOT specification filament-wound reinforced plastic aluminum lined cylinder. (Modes 1, 2, 3, 4, 5.)
7820-X	DOT-E 7820	Compagnie des Container Reservoirs, Neuilly S/Seine, France.	46 CFR 90.05-35; 49 CFR Parts 173.	To ship certain corrosive liquids, flammable liquids, poison B liquids, and combustible liquids in a non-DOT specification portable tank. (Modes 1, 2, 3.)
7820-P	DOT-E 7820	CATU Containers, S.A., Geneva, Switzerland; T.I.C., S.A., Paris, France.	46 CFR 90.05-35; 49 CFR Parts 173.	To become a party to Exemption 7820. (See Application No. 7820-P.) (Modes 1, 2, 3.)
8173-X	DOT-E 7624	Champion Chemicals, Inc., Houston, Tex.	49 CFR 173.119; 173.245	To become a party to Exemption 7624. (See Application No. 8173-N.) (Modes 1, 3.)
7835-P	DOT-E 7835	Scientific Gas Products Inc., South Plainfield, N.J.	49 CFR 177.848; Part 107; Appendix B(1).	To become a party to Exemption 7835. (See Application No. 7835-P.) (Mode 1.)
7893-P	DOT-E 7893	Trancontainer Leasing S.A., Geneva, Switzerland.	49 CFR 173.266	To become a party to Exemption 7893. (See Application No. 7893-P.) (Modes 1, 2, 3.)
7897-P	DOT-E 7897	CATU Containers S.A., Geneva, Switzerland.	46 CFR 90.05-35; 49 Parts 173....	To become a party to Exemption 7897. (See Application No. 7897-P.) (Modes 1, 2, 3.)
7910-X	DOT-E 7910	Union Carbide Corp., Bound Brook, N.J.	49 CFR 173.306, 173.1200, 178.33, 178.33a.	To manufacture, mark and sell non-DOT specification containers for shipment of compressed gases (Modes 1, 2, 3.)
7911-X	DOT-E 7911	Lox Equipment Co., Livermore, Calif	49 CFR 172.101, 173.315(a)	To manufacture, mark and sell non-DOT specification cargo tanks for shipment of flammable gases. (Mode 1.)
7938-X	DOT-E 7938	Bignier Schmidt-Laurent, Paris, France,	49 CFR Parts 173	To ship certain flammable, corrosive, Class B poisonous and combustible liquids and ORM-A materials in non-DOT specification portable tanks. (Modes 1, 2, 3.)
7983-P	DOT-E 7983	Mallory Battery Co., Tarrytown, N.Y.	49 CFR Part 107, Appendix B; Parts 171-178.	To become a party to Exemption 7983. (See application No. 7983-P.) (Modes 1, 2, 3, 4, 5.)
8005-X	DOT-E 8005	Intsel Corp., New York, N.Y	49 CFR 173.266	To ship hydrogen peroxide in a non-DOT specification portable tank. (Modes 1, 2, 3.)
8012-X	DOT-E 8012	Bignier Schmid-Laurent, Paris, France; Transcontainer Leasing, S.A., Geneva, Switzerland; Compagnie Des Containers Reservoirs, Neuilly-Sur-Seine, France.	49 CFR 173.266	To ship hydrogen peroxide in non-DOT specification portable tanks. (Modes 1, 2, 3.)

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
		New Exemptions—Continued		
8123-N	DOT-E 8123	Texas Instruments, Inc., Dallas, Tex.	49 CFR Parts 173; 178.210-10	To ship various hazardous materials in a non-DOT specification plastic overpack containing multiple DOT-2E polyethylene bottles. (Mode 1.)
8145-N	DOT-E 8145	American Box Co., Fernwood, Miss.	49 CFR 173.366	To ship a certain Class B poisonous solid in a non-DOT specification wirebound wood/corrugated fiberboard/polyethylene film pallet box. (Modes 1, 2.)
8152-N	DOT-E 8152	Allied Chemical Corp., Morristown, N.J.	49 CFR 178.343-2; 177.824(b)	To ship a hydrofluoric acid, solution in an unlined DOT Specification MC-312 cargo tank. (Mode 1.)
8165-N	DOT-E 8165	Pressure-Pak Container Co., East Hampton, Conn.	49 CFR 173.302(a)(1), 175.3, 178.42.	To manufacture, mark and sell non-DOT specification steel cylinder for shipment of nonflammable gases. (Modes 1, 2, 3, 4, 5.)
8167-N	DOT-E 8167	Manostat Corp., New York, N.Y	49 CFR 173.267, 175.3	To ship a certain corroive liquid overpacked in a DOT specification 12A corrugated fiberboard box. (Modes 1, 2, 3, 4.)
8175-N	DOT-E 8175	The Norac Co., Inc., Azusa, Calif..	49 CFR 173.157(a)(4), 178.224	To ship a certain organic peroxide in DOT Specification 21C400 fiber drums. (Mode 1.)
8178-N	DOT-E 8178	National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.302(a), 173.34(d)	To ship a compressed nonliquefied gas in a non-DOT specification filament wound reinforced plastic aluminum lined cylinder. (Modes 1, 4.)
8179-N	DOT-E 8179	Monsanto Co., St. Louis, Mo	49 CFR 173.265	To ship a poison B solid in a non-DOT specification storage tank. (Mode 1.)
8181-N	DOT-E 8181	Labelmaster, Chicago, Ill	49 CFR Part 173, Subpart F; 178.150, 175.3.	To manufacture, mark and sell DOT Specification 33A polystyrene cases for shipment of certain corroive liquids. (Modes 1, 2, 3, 4.)
8183-N	DOT-E 8183	Coral Chemical Co., Waukegan, Ill.	49 CFR 173.249a(d)(3)	To ship liquid cleaning compounds in non-DOT specification modified tight-head fiber drums. (Mode 1.)
8185-N	DOT-E 8185	Liqui-Box Corp., Worthington, Ohio.	49 CFR Parts 173; 178.24, 178.211.	To manufacture, mark and sell DOT Specification corrugated fiberboard boxes for shipment of corroive, flammable and Class B poisonous liquids. (Modes 1, 2, 3.)
8188-N	DOT-E 8188	Owens-Illinois, Toledo, Ohio	49 CFR 173.128(a), 178.19	To manufacture, mark and sell DOT Specification 34 reusable polyethylene container for shipment of liquid paint. (Mode 1.)
8190-N	DOT-E 8190	Ethyl Corp., Baton Rouge, La	49 CFR 173.245	To ship a corroive material in DOT Specification 105A300W tank cars for shipment of a corrosive material. (Mode 2.)
8192-N	DOT-E 8192	Greif Brothers Corp., Union, N.J	49 CFR 173.346, 173.348	To ship Class B poisonous liquids in DOT Specification 34 container. (Mode 1.)
8197-N	DOT-E 8197	Container Corporation of America, Wilmington, Del.	49 CFR Part 173, Subparts D, E, F.	To manufacture, mark and sell non-DOT specification polyethylene containers for shipment of certain corrosive liquids, flammable liquids, poison B liquids and liquid organic peroxides. (Modes 1, 2, 3.)
8205-N	DOT-E 8205	Roy E. Hanson, Jr., Manufacturing, Los Angeles, Calif.	49 CFR 178.343-3	To manufacture, mark and sell DOT Specification MC-312 cargo tanks for shipment of certain hazardous materials. (Mode 1.)
8233-N	DOT-E 8233	The National Aeronautics and Space Administration, Washington, D.C.	49 CFR 173.304	To ship a flammable compressed gas in a non-DOT specification welded aluminum cylinder. (Mode 1.)
6712-X	DOT-E 8241	Suburban Welders Supply Co., Inc., Ashland, Mass.	49 CFR 173.34(e)(15)(i)	To ship certain flammable and nonflammable gases in a DOT Specification 3A or 3AA or ICC-3, 3A or 3AA cylinders. (Modes 1, 2, 3, 4, 5.)

Withdrawal

8191-N—Request by Kay-Fries, Inc., Stony Point, N.Y.—To return partially filled tank car containing anhydrous hydrogen chloride, withdrawn August 30, 1979.

NOTE.—Inadvertently omitted from the 44 F.R. 174 publication of Exemptions issued during July 1979 is the following:

Denial

7060-P—Request by New England Nuclear, Boston, Mass.—To become a party Exemption 7060 for shipment of radioactive materials in small aircrafts with certain exceptions, denied July 6, 1979.

H. J. Sonnenberg,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 79-32814 Filed 10-24-79; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Customs Service

[TMK-2-R:E:E]

Ohaus Scale Corp.; Application for Recordation of Trade Name

Application has been filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name OHAUS SCALE CORPORATION used by Ohaus Scale Corporation organized under the laws of the State of New Jersey, located at 29 Hanover Road, Florham Park, New Jersey 07932. The applicant states that the trade name is applied to weighing apparatus, including balances, scales, weights and containers and accessories for same, manufactured in the United States.

The applicant states further that no foreign company, parent or subsidiary company is authorized to use the trade name sought to be recorded. Appropriate accompanying papers were submitted with the application.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Any such submission should be addressed to the Commissioner of Customs, Washington, D.C. 20229, in time to be received not later than 30 days from the date of publication of this notice in the **Federal Register.**

V 44 O C 25 79 UMI

Notice of the action taken on the application for recordation of the trade name will be published in the Federal Register.

Dated: October 22, 1979.

Donald W. Lewis,

Director, Office of Regulations and Rulings.

[FR Doc. 79-32887 Filed 10-24-79; 8:45 am]

BILLING CODE 4810-22-M

Antidumping; Spun Acrylic Yarn From Japan; Determination of Sales at Less Than Fair Value

AGENCY: U.S. Treasury Department.

ACTION: Determination of Sales at Less Than Fair Value.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a determination that spun acrylic yarn from Japan is being sold at less than fair value within the meaning of the Antidumping Act, 1921. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. The case is being referred to the United States International Trade Commission for a determination concerning possible injury to an industry in the United States.

EFFECTIVE DATE: October 25, 1979.

FOR FURTHER INFORMATION CONTACT: Steve Garment, Trade Analysis Division, U.S. Customs Service, 1301 Constitution Avenue, N.W., Washington, D.C. 20229; (202) 566-5492.

SUPPLEMENTARY INFORMATION: On November 22, 1978, a petition was received in proper form pursuant to §§ 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the American Yarn Spinners Association, Gastonia, North Carolina, alleging that spun acrylic yarn from Japan is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 *et seq.*) ("the Act"). An "Antidumping Proceeding Notice," indicating that there was evidence on record concerning injury, or likelihood of injury, to an industry in the United States was published in the Federal Register of January 4, 1979 (44 FR 1238-9). A "Withholding of Appraisement Notice" was published in the Federal Register of July 13, 1979 (44 FR 41004-5).

Spun acrylic yarn is used predominately in machine knitting applications, such as in the production os sweaters, gloves, scarves, and headwear. It is manufactured from fine to medium denier acrylic fiber, which in turn is made from acrylonitrile monomer.

For purposes of this notice, the term "spun acrylic yarn" means spun yarn of acrylic provided for in item 310.50, Tariff Schedules of the United States.

Determination of Sales at Less Than Fair Value

On the basis of the information developed in this investigation and for the reasons noted below, I hereby determine that spun acrylic yarn from Japan is being, or is likely to be, sold at less than fair value within the meaning of section 201(a) of the Act (19 U.S.C. 160(a)).

Statement of Reasons on Which This Determination Is Based

a. *Scope of the Investigation.* Approximately 83 percent of the imports of the subject merchandise from Japan sold for export to the United States during the investigatory period (January 1, 1978, through December 31, 1978) was sold by Diafibers Company, Ltd. (Diafibers), a joint selling company for Japan Exlan Company, Ltd., and Mitsubishi Rayon Co., Ltd., and by Asahi Chemical Industry Co., Ltd. (or its related selling company, Nippon Synthetic Fibers Co., Ltd.). The investigation therefore was limited to sales by these companies.

b. *Basis of Comparison.* For the purposes of this determination, the proper basis of comparison is between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since the great preponderance of sales for export to the United States were made to non-related customers.

Home market price, as defined in § 153.2, Customs Regualtions (19 CFR 153.2), was used since such or similar merchandise was sold in the home market in sufficient quantities, at prices equal to or above the cost of production, to provide an adequate basis of comparison for fair value purposes.

In accordance with § 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was gathered concerning sales to the United States, sales to countries other than the United States and home market sales during the period January 1, 1978, through December 31, 1978.

c. *Purchase Price.* For purposes of this determination, purchase price has been calculated on the basis of the f.o.b. price to United States customers or the price to unrelated trading companies for export to the United States. Deductions have been made for inland freight and shipping expenses, where applicable.

d. *Home Market Price.* For purposes of this determination, the home market price has been calculated on the basis of the delivered price in the home market to unrelated purchasers. Adjustments have been made for differences in inland freight, packing and interest expenses between home market sales and export sales. Deductions have been made, where applicable, for certain sales promotion expenses incurred by the manufacturers on behalf of their home market customers. An adjustment to home market price has been made for the difference in spinning cost incurred with respect to export and home market merchandise, in accordance with § 153.11, Customs Regulations (19 CFR 153.11).

A claim for an adjustment for differences in advertising expenses has not been allowed because the manufacturers did not substantiate their allocation of advertising expenditures between home market and export sales. A claim for a price differential between raw material consumed in merchandise exported to the United States and that consumed in merchandise produced for domestic sale was not allowed because there is no difference in the raw material. Furthermore, a requested non-confidential summary describing this claim has not been submitted; therefore, the entire submission on this issue may be disregarded.

Claims for adjustments for warehousing costs incurred on home market sales and for financing interest expenses have not been allowed because such expenses are general in nature and not tied to particular sales. A claim for an adjustment for differences in laboratory costs between home market and exported merchandise has not been allowed because it has not been demonstrated that these costs are other than general research and development expenses unrelated to the sales under investigation. Claims for administrative expenses of sales departments have not been allowed because such expenses have not been properly documented and have not been shown to be directly related to the sales investigated. Expenses of these sorts are not considered to be the bases for adjustments because they do not constitute circumstances of any particular sale, as required by § 153.10, Customs Regulations (19 CFR 153.10).

A claim was made for an adjustment based on § 153.52(b) of the Customs Regulations (19 CFR 153.52(b)), due to the decline of the yen-dollar exchange rate in the latter half of 1978. Even if this section were applicable, it would not result, as requested by respondents, in excluding sales during that period from the fair value comparisons. However, this claim has been disallowed because no conversion of currencies took place given that both home market and purchase prices were originally stated in yen.

Respondents made no claim for an adjustment based on different levels of trade under § 153.15, Customs Regulations (19 CFR 153.15), although it seems that such an adjustment may be appropriate. In the absence of any information regarding this matter, no adjustment of this kind has been made. However, if respondents supply satisfactory information to support such an adjustment, it could be made at the point when dumping duties are assessed, should that occur following the injury investigation of the U.S. International Trade Commission.

e. *Cost to Produce.* Counsel for petitioner has alleged that sales of this merchandise for home consumption or to third countries have been made in substantial quantities over an extended period of time at prices which are less than the cost of production and which do not permit recovery of all costs within a reasonable period of time in the normal course of trade, within the meaning of section 205(b) of the Act (19 U.S.C. 164(b)). Information submitted with the petition indicated that petitioner's claim might be well founded. Therefore, it was determined that an investigation of respondents' costs of production was warranted.

The respondents in this case declined to provide information concerning their costs of production. Hence, pursuant to § 153.31(a), Customs Regulations (19 CFR 153.31(a)), the best evidence of cost of production was utilized in an effort to determine whether section 205(b) of the Act was applicable. It has been determined that the best information available is that information which has been submitted by the manufacturers themselves in support of the various claims made for adjustments to their home market prices, information gathered during verification by Customs Service representatives, and information in publicly available documentation. Using such information it has been determined that at least 22 percent of each manufacturer's sales were made at less than the cost to produce in the home market.

Accordingly, those sales were disregarded in establishing fair value. The remaining home market sales made at above the cost to produce, which constituted over 50 percent of the home market sales for each manufacturer, have been determined to be adequate as a basis for the determination of fair value.

In a related allegation, counsel for the petitioner asserted that fiber, a major component of acrylic yarn, was sold to the yarn producers at an artificially low price by related companies, and that the cost of producing the fiber should have been determined and used. However, this was not done because it has been determined that the prices for fiber between related companies used in the cost calculations reflect the market value of the fiber in question and were approximately equivalent to prices for fiber from unrelated sources.

f. *Results of Fair Value Comparisons.* Using theabove criteria, purchase price was found to be lower than the home market price of such or similar merchandise. Comparisons were made on 82.6 percent of sales to the United States market during the investigatory period. Weighted-average margins over the total sales compared for each firm were 29.05 percent for Asahi Kasei, 18.33 percent for Japan Exlan and 20.26 percent for Mitsubishi Rayon, with an overall eighted-average margin of 23.19 percent for all manufacturers combined. The range of margins was from 6.13 to 58.21 percent in the case of Asahi Kasei, from 0.5 to 41.13 percent in the case of Japan Exlan, and from 5.01 to 49.63 percent in the case of Mitsubishi Rayon. Margins were found on 100 percent of the sales compared for each manufacturer.

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to § 153.40, Customs Regulations (19 CFR 153.40). However, the parties declined to request an oral hearing and none was held.

The United States International Trade Commission is being advised of this determination.

This determination and statement of reasons therefor are being published pursuant to section 201(d)(2) of the Act (19 U.S.C. 160(d)(2)).

David R. Brennan,

Acting General Counsel of the Treasury.

October 19, 1979.

[FR Doc. 79-32910 Filed 10-24-79; 8:45 am]

BILLING CODE 4810-22-M

INTERSTATE COMMERCE COMMISSION

[Permanent Authority Decisions Volumes No. 188, 189, 191, 193, and 195]

Permanent Authority Decisions; Decision

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247).

These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the Federal Register. Protests (such as were allowed to filings prior to March 1, 1979) *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend to

timely prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administrative acceptable restrictive amendments to the service proposed below. Some of the applications mey have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings: With the exception of those applications involving duly noted problems (e.g.s., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act.]

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operated as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 188

Decided: October 5, 1979.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

MC 531 (Sub-407F), filed May 16, 1979. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *dry polyvinyl chloride*, in bulk, in tank vehicles, from the facilities of Georgia Pacific Corp., at or near Plaquemine, LA, to points in the United States (except AK and HI). (Hearing site: New Orleans, LA, or Houston, TX.)

MC 19201 (Sub-133F), filed May 16, 1979. Applicant: PENNSYLVANIA TRUCK LINES, INC., 49th Street and Parkside Avenue, Philadelphia, PA 19131. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring the use of special equipment), between Cincinnati, OH, on the one hand, and, on the other, points in IN and KY, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 41951 (Sub-38F), filed February 23, 1979, and published in **Federal Register** issue of June 8, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen peppers*, from Kansas City, KS, to the facilities of RJR Foods Warehouses, Inc., at (a) Cambridge, MD, and (b) Jackson, OH. (Hearing site: Washington, DC, or Cambridge, MD.)

Note.—This republication clarifies the territorial description.

MC 90870 (Sub-25F), filed May 17, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Buildings, Des Moines, IA 50309. Transporting *plastic pipe and plastic pipe fittings*, from Fairfield, IA, to those points in MI and WI on and south of U.S. Hwy 10, and points in IL and MO. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 93840 (Sub-46F), filed May 16, 1979. Applicant: GLESS BROS., INC., P.O. Box 219, Blue Grass, IA 52726. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *grain oils*, from points in IA, to Chicago and Joliet, IL. (Hearing site: Chicago, IL.)

MC 111231 (Sub-268F), filed May 5, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Ave., Springdale, AR 71764. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood Ave, Fort Smith, AR 72902. Transporting *electrolytic chlorination cells*, from Russellville, AR, to points in TX, LA, and MI. (Hearing sites: Little Rock, AR, or Washington, DC.)

MC 111401 (Sub-565F), filed May 18, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). Transporting (1) *lubricating oil*, in bulk, in tank vehicles, from Coffeyville, KS, to Memphis, TN, (2) *petroleum naphtha*, in bulk, in tank vehicles, from Cyril, OK, to points in IL, and (3) *petroleum products*, in bulk, in tank vehicles, from Oklahoma City, OK, to points in IL and MI. (Hearing site: Dallas, TX, or Washington, DC.)

MC 112801 (Sub-234F), filed May 17, 1979. Applicant: TRANSPORT SERVICE, CO., a corporation, 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of PPG Industries, Inc., at or near Lake Charles, LA, to points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA.)

MC 112901 (Sub-235F), filed May 17, 1979. Applicant: TRANSPORT SERVICE, CO., a corporation, 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of PPG Industries, Inc., in Jefferson County, TX, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 114211 (Sub-408F), filed May 18, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *wire, wire products, and fencing*, between the facilities of Bekaert Steel Wire Corporation, at Van Buren, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Fort Smith or Little Rock, AR.)

MC 114211 (Sub-409F), filed May 18, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *such commodities* as are dealt in or used by agricultural equipment dealers and agricultural equipment manufacturers, from Carrington, ND, to points in the United States (excluding AK and HI). (Hearing site: Grand Forks or Fargo, ND.)

MC 115331 (Sub-486F), filed February 9, 1979, and previously noticed in FR issue of June 6, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 230 St. Clair Ave., East St. Louis, IL 62201. Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Ralston Purina Co., at or near (a) Clinton and Davenport, IA, (b) Battle Creek, MI, (c) Louisville, KY, and (d) Sharonville and Lancaster, OH, on the one hand, and, on the other, points in IN, MI, OH, MO, and WI. (Hearing site: St. Louis, MO.)

Note.—This republication clarifies the territorial description.

MC 123300 (Sub-2F), filed May 18, 1979. Applicant: HARRIS TRANSPORTATION CO., a Corporation, 14880 Love's Ln., P.O. Box 1100, Victorville, CA 92392. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *crude talc*, in bulk, from points in Inyo County, CA, to points in the Los Angeles, CA. (Hearing site: Los Angeles, CA.)

MC 124211 (Sub-362F), filed May 18, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting (1) *such commodities* as are dealt in by grocery and food business houses, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), (a) between points in Muskogee County, OK, on the one hand, and, on the other, points in AL, AR, CO, IL, IN, IA, KS, KY, LA, MN, MS, MO, NM, TN, and TX, and (b) between points in Adair County, OK, and Hidalgo County, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Tulsa or Oklahoma City, OK.)

MC 126930 (Sub-22F), filed May 18, 1979. Applicant: BRAZOS TRANSPORT CO., a Corporation, 339 East 34th St., Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *gypsum rock*, in bulk, from Fort Dodge, IA, to points in NE and IL. (Hearing site: Lubbock or Dallas, TX.)

MC 126930 (Sub-23F), filed May 18, 1979. Applicant: BRAZOS TRANSPORT CO., a Corporaton, 339 East 34th St., Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting (1) *building materials, gypsum, and gypsum products*, from the facilities of National Gypsum Co., at Westwego, LA, to points in AR, OK, and TX, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: New Orleans, LA, or Dallas, TX.)

MC 135410 (Sub-63F), filed May 16, 1976. Applicant: COURTNEY J. MUNSON, d.b.a. MUNSON TRUCKING, P.O. Box 266, Monmouth, IL 61462. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *such commodities* as are dealt in by grocery and drug stores (except commodities in bulk), between the facilities used by Proctor & Gamble, at or near Cincinnati, OH, on the one hand, and, on the other, points in IL and MO. (Hearing Site: Cincinnati, OH, or Washington, DC.)

MC 135811 (Sub-12F), filed May 15, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Myles J. Ambrose, 888 17th Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint and paint products*, (1) from Oak Creek, WI, to points in AZ, CA, OR, PA, UT, and TX, (2) from Dover, DE, to points in CA, GA, TX, and WI, (3) from East Point, GA, to points in DE, NC, and TN, and (4) from Memphis, TN, to points in GA, IL, KS, NY, and OH, under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA. (Hearing Site: Washington, DC.)

Note.—Dual operations may be involved.

MC 135811 (Sub-13F), filed May 18, 1979. Applicant: GARDNER TRUCKING CO., INC., Drawer 493, Walterboro, SC 29488. Representative: Myles J. Ambrose, 888 17th Street, NW., Washington, DC 20006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials, equipment, and supplies* used in the manufacture of welders and welding products, (except commodities in bulk), from points in CT, IL, IN, IA, KY, MD, MA, MI, MN, MO, NH, NJ, NY, OH, PA, RI, and VA, to the facilities of Miller Electric Manufacturing Co., at or near Appleton, WI, under continuing contract(s) with Miller Electric Manufacturing Co. (Hearing Site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142941 (Sub-46F), filed May 14, 1979. Applicant: SCARBOROUGH TRUCK LINES, INC., 1313 North 25th Avenue, Phoenix, AZ 85009. Representative: Lewis P. Ames, 111 West Monroe, 10th Floor, Phoenix, AZ 85003. Transporting *paper and paper products*, between Kaukauna, WI, on the one hand, and, on the other, points in the United States (except AK, HI, and WI). (Hearing Site: Milwaukee, WI, or Phoenix, AZ.)

MC 143140 (Sub-3F), filed April 2, 1979, and previously noticed in FR issue of August 28, 1979. Applicant: SEYMOUR BUS LINES, INC., Route #3, Maynardville, TN 37807. Representative: Lewis S. Witherspoon, 88 East Broad St., Columbus, OH 43215. Transporting *passengers and their baggage*, in the same vehicle with passengers, in special round-trip operations, beginning and ending at points in Anderson, Blount, Campbell, Claiborne Jefferson, Knox, and Union Counties, TN, and extending to points in the United States (including AK, but excluding HI). (Hearing Site: Knoxville, TN.)

Note.—Applicant has introduced the issue of rates in support of its application. This

V 44 NO 208 OCT 25 1979 UMI

republication shows TN as a origin or destination State in lieu of TX.

MC 143540 (Sub-15F), filed May 15, 1979. Applicant: MARINE TRANSPORT COMPANY, a corporation, 330 Shipyard Boulevard, Post Office Box 2142, Wilmington, NC 28402. Representative: Ralph McDonald, Post Office Box 2246, Raleigh, NC 27602. To operate as a *contract carrier*, by mnotor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat, meat products, meat byproducts, and packinghouse products*, between Denver, CO, Cherokee, Cedar Rapids, Des Moines, Denison, Iowa Falls, and Tama, IA, Monmouth, IL, Logansport, IN, Albert Lea, MN, Marshall, MO, Omaha and Crete, NE, Oklahoma City, OK, and Cudahy, WI, on the one hand, and, on the other, Savannah, GA, Wilmington, NC, Charleston, SC, and Norfolk, VA, restricted to the transportation of traffic having a prior or subsequent movement by water, under continuing contract(s) with Macwood Import, Inc., of New York, NY. (Hearing Site: Wilmington, NC.)

MC 144140 (Sub-34F), filed May 8, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting (1) *bananas*, and (2) *commodities* the transportation of which is otherwise exempt from economic regulations under 49 U.S.C. 10526(a)(6) [formerly section 203(b)(6) of the Interstate Commerce Act], when transported in mixed loads with bananas, from Baltimore, MD, Albany, and New York City, NY, Norfolk, VA, Philadelphia, PA, and Wilmington, DE, to points in IN, MI, NY, NC, OH, PA, SC, VA, and WV. (Hearing site: Washington, DC, or Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 146071 (Sub-10F), filed May 18, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting *cheese*, from the facilities of Swift & Company, at or near Green Bay, WI, to points in AR, MO, TX, OK, and LA. (Hearing site: Chicago, IL.)

MC 147330 (Sub-1F), filed May 14, 1979. Applicant: SUNCO TRUCKING CO., a corporation, P.O. Box 443, Farmington, NM 87401. Representative: Robert G. Shepherd, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting (1) *equipment, materials, and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and (2) *equipment, materials, and supplies* used in, or in connection with, the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up of pipe, between points in San Juan, Los Alamos, Sandoval, Rio Arriba, McKinley, Santa Fe, and Bernalillo Counties, NM, and Dolores, Montezuma, La Plata, and Archuleta Counties, CO, on the one hand, and, on the other, those points in AZ, UT, NV, CO, WY, ND, SD, MT, and NE. (Hearing site: Denver, CO.)

Volume No. 189

Decided: October 2, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 63417 (Sub-204F), filed May 10, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting (1) *glass bulbs, glass rods, glass tubing, glassware, metal racks, cullet, electric lamps, batteries, battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, lamp ballast wire, metals, displays, paints, lamp bases, compressed gasses (in cylinders), electric cord sets, and lamp outfits*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities named in (1), between Lexington and Somerset, KY, on the one hand, and, on the other, points in AL, CT, DE, GA, KY, MA, MD, MS, NC, NJ, NY, OH, PA, RI, SC, TN, VA, and WV, restricted (a) against the transportation of commodities in bulk and (b) to the transportation of traffic originating at or destined to the facilities of General Electric Company. 5 year limitation for dangerous commodities. (Hearing site: Roanoke, VA, or Cleveland, OH.)

MC 63417 (Sub-209F), filed May 17, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). Transporting (1) *new furniture and furniture parts*, from the facilities of Burlington Furniture Industries, at or near Robbinsville, NC, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture of new furniture (except commodities in bulk), in the reverse direction. (Hearing site: Roanoke, VA.)

MC 66746 (Sub-23F), filed May 10, 1979. Applicant: SHIPPERS EXPRESS, INC., 1651 Kerr Dr., P.O. Box 8308, Jackson, MS 39204. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, commodities in bulk, commodities requiring special equipment, and household goods as defined by the Commission), (1) between Memphis, TN, and the MS–LA State line, over U.S. Hwy 61, (2) between Jackson, MS, and Memphis, TN, over U.S. Hwy 51 (also Interstate Hwy 55, (3) between Memphis, TN, and the MS–AL State line, over U.S. Hwy 45 (also Alt. U.S. Hwy 45), (4) between Memphis, TN, and the MS–AL State line, over U.S. Hwy 72, (5) between the MS–AR State line and the MS–AL State line, over U.S. Hwy 82, (6) between Tupelo, MS, and Memphis, TN, over U.S. Hwy 78, (7) between Clarksdale, MS, and Tupelo, MS, over MS Hwy 6, (8) between the MS–LA State line and the MS–AL State line over U.S. Hwy 80 (also Interstate Hwy 20), (9) between Clarksdale, MS, and Gulfport, MS, over U.S. Hwy 49 (also U.S. 49E and U.S. 49W), (10) between Tchula, MS, and Okolona, MS, from Tchula, over MS Hwy 12 to Ackerman, MS, then over MS Hwy 15 to junction with MS Hwy 32, then over MS Hwy 32 to Okolona, and return over the same route, (11) between Lexington, MS, and the junction of MS Hwy 17 and U.S. Hwy 51 (also Interstate Hwy 55), over MS Hwy 17 (also Interstate Hwy 55), (12) between Canton, MS, and Philadelphia, over MS Hwy 16, (13) between the MS–AL State line and New Orleans, LA, over U.S. Hwy 11 (also Interstate Hwy 59 and 10), (14) between Magee, MS, and Laurel, MS, over MS Hwy 28, (15) between Fayette, MS, and Hazlehurst, MS, over MS Hwy 28, (16) between Washington, MS, and Summit, MS, over U.S. Hwy 98, (17) between New Orleans, LA, and MS–AL State line, over U.S. Hwy 90 (also Interstate Hwy 10), (18) between Clarksdale, MS, and Greenville, MS, over MS Hwy 1, (19) between Cleveland, MS, and Rosedale, MS, over MS Hwy 8, (20) between Clarksdale, MS, and Dundee, MS, from Clarksdale over MS Hwy 6 to Friars Point, MS, then over unnumbered road through Powell, MS, to Dundee, and return over the same route, (21) between junction U.S. Hwy 61 and MS Hwy 6 and West Helena, AR, from junction U.S. Hwy 61 and MS Hwy 6 over MS Hwy 6 to the MS–AR State line, then over AR Hwy 6 to West Helena, and return over the same route, (22) between Greenville, MS, and El Dorado, AR, over U.S. Hwy 82, (23) between El Dorado, AK, and Smackover, AR, over AR Hwy 7, (24) between Fordyce, AR, and junction U.S. Hwy 65 and U.S. Hwy 165 near Dermott, AR, from Fordyce over AR Hwy 8 to Warren, AR, then over AR Hwy 4 to Monticello, AR, then over U.S. Hwy 165 to junction U.S. Hwy 65, and return over the same route, (25) between Hamburg, AR, and Lake Village, AR; from Hamburg over AR Hwy 81 to Star City, AR, then over AR Hwy 114 to Gould, AR, then over U.S. Hwy 65 to Lake Village, and return over the same route, (26) between West Helena, AR, and Dumas, AR; from West Helena over U.S. Hwy 49 to junction AR Hwy 1, then over AR Hwy to the Arkansas River, then over AR Hwy 54 to Dumas, and return over the same route, and (27) between Memphis, TN, and Helena, AR; from Memphis over Hwy 79 to Marianna, AR, then over AR Hwy 1 to Barton, AR, then over U.S. Hwy 59 to Helena, and return over the same route, serving all intermediate points in MS on routes (1) through (21) above, and all other points in MS as off-route points, serving all intermediate points in AR on routes (22) through (27) above, and the off-route points of Marvelle, Shuler, Eudora, and Hampton, AR, and the facilities of Michigan Chemical Company near El Dorado, AR. Note.—Applicant intends to join the requested routes with existing regular routes at Jackson, Hazelhurst, Summit, Gulfport, Fayette and Roxie, MS, to conduct operations to and from points in MS and New Orleans, LA. (Hearing site: Memphis, TN, or Jackson, MS.)

MC 70557 (Sub-11F), filed May 9, 1979. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *paper and paper products, furniture, wood pulp, electric lighting fixtures* and (2) *equipment, materials and supplies* used in the manufacture of the commodities in (1) above (except commodities in bulk), between the facilities of Scott Paper Company, in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and TX. (Hearing site: Miami, FL.)

Note.—Dual operations may be involved.

MC 70557 (Sub-12F), filed May 17, 1979. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer St., Chicago, IL 60639. Representative: Carl L. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *non-alcoholic carbonated beverages*, and (2) *equipment, materials, and supplies* used in the manufacture of non-alcoholic carbonated beverages, between the facilities of Shasta Beverage Co., at Houston, TX, on the one hand, and, on the other, points in LA, restricted to the transportation of traffic originating at and destined to the named points. (Hearing site: Houston, TX.)

Note.—Dual operations may be involved.

MC 100666 (Sub-474F), filed May 14, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615—East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *composition board and lumber*, between the facilities of Champion International Corporation, at or near Catawba, Charleston, Orangeburg, and Silverstreet, SC, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Dallas, TX.)

MC 102616 (Sub-995F), filed May 8, 1979. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., Akron, OH 44313. Representative: David F. McAllister (same address as applicant). Transporting *commodities*, in bulk, in tank vehicles, between the facilities of the Henderson County Riverport Authority, in Henderson County, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KY, MI, MO, MS, OH, TN, VA, WI, and WV. (Hearing site: Louisville, KY, and Evansville, IN.)

MC 105656 (Sub-13F), filed May 9, 1979. Applicant: TOM PASQUALE d.b.a. PASQUALE TRUCKING, P.O. Box 295, Logansport, IN 46947. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Ave., Park Ridge, IL 60068. Transporting *frozen foods*, from the facilities of Stouffer Corporation, at Cleveland and Solon, OH, to points in IN, IL, IA, KS, KY, MI, MN, MO, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 107496 (Sub-1215F), filed May 17, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting *petrochemicals*, in bulk, from St. Louis, MO, to points in IA, IL, KS, KY, MI, MN, MO, MS, OH, OK, TN, and TX. (Hearing site: Des Moines, IA, or St. Louis, MO.)

MC 109376 (Sub-14F), filed May 9, 1979. Applicant: SKINNER TRANSFER CORP., P.O. Box 264, Reedsburg, WI 53959. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting (1) *rough iron and steel castings*, from the facilities of Grede Foundries, In., at or near (a) Reedsburg, Waukesha, and Milwaukee, WI, and (b) Hutchinson and Wichita, KS, to points in IA, IL, MI, MN, IN, OH, PA, WI, NY, MO, and KS and (2) *foundry materials and supplies*, in the reverse direction. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 109537 (Sub-5F), filed May 14, 1979. Applicant: HERRON TRANSFER CO., a corporation, 1026 Franklin St., Salem, OH 44460. Representative: Paul F. Berry, 275 E. State St., Columbus, OH 43215. Transporting (a) *machinery, earthenware, chinaware, plumbing fixtures and fittings*, and (b) *equipment, materials, and supplies* used in the manufacture and distribution of the commodities in (a) above, (1) between points in Columbiana County, OH, on the one hand, and, on the other, points in OH, KY, VA, and DC, (2) between Ford City, PA, on the one hand, and, on the other, points in IL, IN, MI, WV, VA, KY, MD, DE, NJ, NY, ME, NH, CT, VT, RI, MA, and DC, and (3) between Newburgh, NY, on the one hand, and, on the other, points in PA, NJ, OH, WV, KY, IN, IL, MI, DE, MD, VA, CT, MA, VT, NH, ME, RI, and DC. (Hearing site: Columbus, OH.)

MC 109736 (Sub-47F), filed May 10, 1979. Applicant: CAPITOL BUS COMPANY, d.b.a. CAPITOL TRAILWAYS, 1061 South Cameron Street, Harrisburg, PA 17104. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, transporting *passengers and their baggage*, and *express* and *newspapers*, in the same vehicle with passengers, serving the Washington Metropolitan Area Transit Authority New Carrollton Terminal, New Carrollton, MD, and the Washington National Airport, Arlington County, VA, as off-route points in connection with applicant's otherwise authorized regular route operations. (Hearing site: Harrisburg or York, PA.)

MC 112617 (Sub-433F), filed May 14, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). Transporting *chemicals*, in bulk, in tank vehicles, from the facilities of Monsanto Company, at or near Chocolate Bayou, Texas City, and Houston, TX, to those points in the United States in and east of

LA, AR, MO, IA, and MN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 114457 (Sub-513F), filed May 9, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James H. Wills (same address as applicant). Transporting *glass containers*, from Dunkirk, IN, to La Crosse, WI. (Hearing site: LaCrosse, WI, or St. Paul.)

MC 114897 (Sub-131F), filed May 17, 1979. Applicant: WHITFIELD TANK LINES, INC., 124 West Thomas (P.O. Box 7676), Phoenix, AZ 85011. Representative: B. Seth Green (same address as applicant). Transporting *petroleum and petroleum products*, in bulk, in tank vehicles, from points in OK, El Paso and Lubbock, TX, and points in AZ, and NM. (Hearing site: El Paso, TX, or Santa Fe, NM.)

MC 115826 (Sub-477F), filed May 17, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *such commodities* as are dealt in by retail department stores (except commodities in bulk in tank vehicles), from Ft. Worth and Dallas, TX, and Kansas City, MO, to Denver, CO, restricted to the transportation of traffic originating at or destined to the facilities of Montgomery Ward & Co. (Hearing site: Denver, CO.)

MC 115826 (Sub-478F), filed May 17, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *such commodities* as are dealt in by wholesale, retail, chain grocery and food business houses (except commodities in bulk), from points in the United States (except AK and HI), to points in CO. (Hearing site: Denver, CO.)

MC 117676 (Sub-10F), filed May 9, 1979. Applicant: HERMS TRUCKING, INC., 620 Pear St., Trenton, NJ 08468. Representative: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, PA 19102. Transporting (1) *charcoal briquets, fireplace logs*, and *hickory chips* (except in bulk), from the facilities of The Kingsford Company, at (1) Dothan, AL, (b) Burnside, KY, and (c) Ridgely and Parsons, WV, to points in the United States (except AK and HI), and (2) *materials and supplies* used in the manufacture of the commodities in (a) above, in the reverse direction. (Hearing site: Washington, DC, or Philadelphia, PA.)

MC 118457 (Sub-34F), filed May 14, 1979. Applicant: ROBBINS DISTRIBUTING COMPANY, INC., 11104 West Becher St., West Allis, WI 53227. Representative: David V. Purcell, 111 East Wisconsin Ave., Milwaukee, WI 53202. Transporting *pork products*, in vehicles equipped with mechanical refrigeration, from Bloomington, IL, and Dayton and Washington Court House, OH, to Green Bay and Plymouth, WI, and Frontenac, KS, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 121336 (Sub-6F), filed May 14, 1979. Applicant: SUPERIOR FAST DRAYAGE, a corporation, d.b.a. SUPERIOR EXPRESS, 611 North Mission Rd., Los Angeles, CA 90033. Representative: David M. Westurn, P.O. Box 60100, Terminal Annex, Los Angeles, CA 90060. Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring special equipment), moving on bills of lading of freight forwarders as defined by 49 U.S.C. § 10102(8) (formerly Section 402(a)(5)) of the Interstate Commerce Act, between points in San Francisco, Marin, San Mateo, Santa Clara, Alameda, Contra Costa, and Santa Cruz Counties, CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 124117 (Sub-36F), filed May 14, 1979. Applicant: EARL FREEMAN AND MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. Transporting (1) *paper and paper products*, and *woodpulp* (except commodities in bulk), from the facilities of Bowater Southern Paper Corporation, at or near Calhoun, TN to (a) points in KY, IL, IN, MO, MN, OK, WI, and those in MI, on and south of MI Hwy 21, (2) *materials, equipment and supplies* used in the manufacture of the commodities described in (1) above (except commodities in bulk), in the reverse direction of (a), and (3) *paper and paper products, and woodpulp* (except commodities in bulk), from the facilities of Bowater Southern Paper Corporation, at St. Louis, MO, to points in IL and MO. (Hearing site: Nashville, TN.)

MC 125777 (Sub-246F), filed May 17, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gray, IN 46403. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting (1) *silicon carbide scrap*, from those points in the United States in and east of TX, AR, MO, IA, and MN, to points in AL, and (2) *sand*, from points in GA and FL, to points in AL. (Hearing site: Chicago, IL.)

MC 136246 (Sub-25F), filed May 17, 1979. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting (1) *anhydrous ammonia and* (2) *liquid fertilizer* (except anhydrous ammonia), in bulk, from the facilities of Phillips Petroleum Company, at or near Aurora and Hoag, NE, to points in CO, KS, IA, MN, NE, OK, SD, and WY. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 136246 (Sub-26F), filed May 17, 1979. Applicant: GEORGE BROS., INC., P.O. Box 492, Sutton, NE 68979. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *liquid fertilizer*, in bulk, in tank vehicles, from Perry, NE, to points in CO and KS. (Hearing site: Houston, TX, or Omaha, NE.)

Note.—Dual operations may be involved.

MC 138157 (Sub-149F), filed May 9, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). Transporting (1)(a) *adhesives, adhesive cement, metal articles, building materials, polyurethane*, and *plastic articles*, and (b) *materials, equipment*, and *supplies* used in the manufacture, distribution, and installation of the commodities named in (1)(a) above, (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Kinkead Industries, Inc., at or near Pittsburg, KS, on the one hand, and, on the other, points in the United States (except AK and HI), and (2)(a) *polyurethane, plastic* and *fiberglass articles*, and (except commodities in bulk), (b) *materials, equipment*, and *supplies* used in the distribution and installation of the commodities named in (2)(a) above, from Odessa, MO, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138157 (Sub-154F), filed May 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). Transporting *hospital supplies*, (except commodities in bulk) from McGaw Park, IL, Edison, NJ, Obetz, OH, Norcross, GA, and Grand Prairie, TX, to points in CA, WA, and OR, or restricted to the transportation of traffic originating at the facilities of American Hospital Supply Division of American Hospital Supply Corp., and destined to the indicated destinations. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138157 (Sub-159F), filed May 14, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market St., Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *nutritional food supplements, personal care products, household products* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except in bulk), between Atlanta, GA, Dallas, TX, Norman, OK, Hayward, CA, Chicago, IL, and Lyndhurst, NJ, on the one hand, and, on the other, points in the United States (except AK & HI), restricted to the transportation of traffic originating at or destined to the facilities of Shaklee Corp. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 138206 (Sub-21F), filed May 14, 1979. Applicant: TRULINE CORPORATION, 4455 South Cameron Ave., Las Vegas, NV 89103. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. Transporting (1) *gypsum products*, from points in Clark County, NV, to points in UT, and (2) *gypsum board paper*, from Commerce, CO, to points in Clark County, NV. (Hearing site: Las Vegas, NV.)

MC 138257 (Sub-2F), filed May 14, 1979. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, 1730 M St., NW, Suite 501, Washington, DC 20036. Transporting *bottles*, between Baltimore and Havre De Grace, MD, and Keyser, WV, on the one hand, and, on the other, points in CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, VA, and DC. (Hearing site: Washington, DC.)

MC 138257 (Sub-3F), filed May 14, 1979. Applicant: BESTWAY TRANSPORT, INC., 4900 Holabird Ave., Baltimore, MD 21224. Representative: Robert L. Cope, 1730 M St., NW, Suite 501, Washington, DC 20036. Transporting *building materials, equipment, and supplies*, between Baltimore on the one hand, and, on the other, points in CT, DE, GA, MA, MD, NJ, NY, OH, PA, WV, VA, and DC. (Hearing site: Washington, DC.)

MC 138627 (Sub-73F), filed May 14, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *precast concrete products and accessories*, from Oshkosh, WI, to points in AR, IL, IN, IA, KS, KY, MI, MN, MO, NE, ND, OH, OK, SD, and TN. (Hearing site: Chicago, IL, and Omaha, NE.)

MC 138736 (Sub-13F), filed May 14, 1979. Applicant: FBM TRUCKING, INC., P.O. Box 513, Fayetteville, GA 30214. Representative: Dorothy Meatows, Hwy 54 East, Fayetteville, GA 30214. Transporting (1) unfinished synthetic *fabric or piece goods*, (2) *synthetic fiber*, (3) unfinished *woven cotton fabric*, from points in AL, GA, NC, SC, TN, and VA to the facilities of Pacific Upholstery Supply Corp., at Gardena, CA. (Hearing site: Atlanta, GA.)

MC 139857 (Sub-2F), filed April 2, 1979. Applicant: T. W. TRANSPORT, INC., P.O. Box 3347, Spokane, WA 99220. Representative: George H. Hart, 1100 IBM Building, Seattle, WA 98101. Transporting *wine and malt beverages*, from points in Los Angeles, Orange, San Mateo, Santa Clara, Fresno, Madera, Alameda, Stanislaus, Solano, Napa, and San Francisco Counties, CA, to those points in WA in and east of Okanogan, Chelan, Kittitas, Yakima, and Klickitat Counties, WA, and points in Benewah, Kootenai, Boundary, Shoshone, Clearwater, and Idaho Counties, ID. Conditions: (1) The person or persons who it appears may be engaged in common control must either file an application under 49 U.S.C. § 11343 formerly section 5(2) of the Interstate Commerce Act or submit an affidavit indicating why no such approval is necessary, and (2) issuance of a certificate is conditioned upon coincidental cancellation at applicant's written request et Permit MC-136992 Sub 1. (Hearing site: Seattle or Spokane, WA.)

MC 145617 (Sub-1F), filed May 11, 1979. Applicant: MID-NORTHERN TRANSFER CO., Box 141, Grand Ridge, IL 61325. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, between the facilities of Thatcher Glass Manufacturing Company, Div. of Dart Industries, Inc., at Streator, IL, on the one hand, and, on the other, Chicago, Kankakee, and Peoria, IL, restricted to the transportation of traffic having a prior or subsequent movement by rail, under continuing contract(s) with Thatcher Glass Manufacturing Company, Div. of Dart Industries, Inc., of Elmira, NY. (Hearing site: Chicago, IL.)

MC 145636 (Sub-3F), filed May 9, 1979. Applicant: BOB BRINK, INC., 165 Stueben St., Winona, MN 55987. Representative: Samuel Rubenstein, 301 North Fifth St., Minneapolis, MN 55403. Transporting (1) *plastic articles* (except expanded), and (2) *commodities* which are otherwise exempt from economic regulation under 49 U.S.C. § 10526 (a)(6) formerly Section 203 (b)(6) of the Interstate Commerce Act, when moving in mixed loads with commodities named in (1) above, from the facilities of Fiberite Corp., at Winona, MN, to Phoenix and Scottsdale, AZ, Denver, CO, Jefferson City, MO, Carson City, NV, Tulsa, OK, Ogden and Salt Lake City, UT, Seattle, WA, and points in CA and TX. (Hearing site: Minneapolis or St. Paul, MN.)

MC 145657 (Sub-1F), filed May 14, 1979. Applicant: RAY A. LEWIS, d.b.a. H and W TRANSPORT COMPANY, S. Main St., Cedartown, GA 30125. Representative: Frank W. Quinn, Redmond Rd., P.O. Box 162, Rome, GA 30161. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpeting* and (2) *materials* used in the manufacture of carpeting (except in bulk, or tank vehicles), between the facilities of the Seaboard Coastline Railroad, at Cedartown, GA, on the one hand, and, on the other, the facilities of WWG Industries, at Rome and Plainville, GA, under a continuing contract(s) with W.W.G. Industries of Rome, GA. (Hearing site: Rome or Atlanta, GA.)

MC 147176, filed May 14, 1979. Applicant: BOBBY STEVENS HAULING CONTRACTORS, INC., P.O. Box 207, Fortson, GA 31808. Representative: R. Napier Murphy, 700 Home Federal Bldg., P.O. Box 4987, Macon, GA 31208. Transporting *road building materials and aggregates*, from points in GA to points in Autauga, Barbour, Bullock, Butler, Calhoun, Chambers, Chilton, Clay, Cleburne, Coffee, Coosa, Crenshaw, Dale, Elmore, Geneva, Henry, Houston, Lee, Lowndes, Macon, Montgomery, Pike, Randolph, Russell, Talladega, and Tallapoosa Counties, AL. (Hearing site: Macon, GA.)

Note.—Dual operations may be involved.

MC 147917F, filed April 24, 1979. Applicant: MELNI BUS SERVICE, INC., 822 Anacapa Street, P.O. Box 838, Santa Barbara, CA 93102. Representative:

William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *passengers and their baggage*, in the same vehicle with passengers, in round-trip charter and special operations, beginning and ending at points in San Luis Obispo, Santa Barbara, Fresno, and Ventura Counties, CA, and extending to points in the Unites States (except AK and HI). (Hearing site: Los Angeles, CA.)

Volume No. 191

Decided: October 12, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 730 (Sub-440F), filed May 16, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 No. Via Monte, Walnut Creek, CA 94596. Representative: E. E. Reddick (same address as applicant). Transporting *malt beverages, empty paperboard or pulpboard shipping pallets, glass bottles and advertising material*, between the facilities of Anheuser Busch, Inc., at or near Newark, NJ; St. Louis, MO; Columbus, OH; Williamsburg, VA; Tampa, FL; Jacksonville, FL, and Merrimack, NH, on the one hand, and, on ther other, points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, ME, MD, MA, MI, MN, MO, MS, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, and WI. (Hearing site: St. Louis, MO, or San Francisco, CA.)

MC 2900 (Sub-373F), filed May 18, 1979. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). Transporting *foodstuffs*, from Kansas City, KS, and Independence, MO, to points in the United States (except AK and HI). (Hearing site: Kansas City, MO.)

MC 2900 (Sub-383F), filed May 25, 1979. Applicant: RYDER TRUCK LINES, INC., Ranger Division, 2050 Kings Road, P.O. Box 2408–R, Jacksonville, FL 32203. Representative: John Carter (same address as applicant). Transporting *automobile gear frames*, from Reading, PA, to Janesville, WI, restricted to the transportation of traffic originating at the named origin and destined to the named designation. (Hearing site: Philadelphia, PA.)

MC 8771 (Sub-54F), filed May 24, 1979. Applicant: SAW MILL SUPPLY, INC., 3599 Old Gettysburg Road, Camp Hill, PA 17011. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., N.W., Washington, DC 20004. Transporting *iron and steel articles*, from the facilities of Northwestern Steel & Wire Co., at or near Sterling and Rock Falls, IL, to points in OH, MI, VA, MD, DE, PA, NJ, NY, CT, RI, MA, VT, NH, ME, and DC. (Hearing site: Washington, DC.)

MC 22311 (Sub-14F), filed May 14, 1979. Applicant: A LINE INC., 8135 Monroe St., Munster, IN 46321. Representative: Anthony E. Young, 29 S. LaSalle St., Suite 350, Chicago, IL 60603. Transporting (1) *iron, steel, zinc, lead, and products* of iron, steel, zinc and lead (except commodities in bulk), *construction materials, supplies, and equipment (except commodities in bulk)*, from the facilities of or utilized by Penn-Dixie Steel Corporation, Inc., at or near Blue Island and Joliet, IL, Fort Wayne and Kokomo, IN, Lansing and Grand Rapids, MI, Columbus and Toledo, OH, and Centerville, IA, to those points in the United States in and east of MN, IA, MO, AR, and LA; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Chicago, IL.)

MC 35320 (Sub-317F), filed May 11, 1979. Applicant: T.I.M.E.–DC, INC., 2598 74th Street, P.O. Box No. 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *hazardous materials*, serving the facilities of the Atlantic Research Corporation, at or near Yorktown, VA, Seal Beach, CA, Bremerton, WA, Charleston, SC, and Camden, AR, as off-route points in connection with carrier's otherwise authorized regular-route operation. (Hearing site: Washington, DC, or Richmond, VA.)

Note.—Insofar as this authority allows the transportation of dangerous commodities it is limited to expire in 5 years.

MC 35320 (Sub-328F), filed May 24, 1979. Applicant: T.I.M.E.–DC, INC., P.O. Box 2550, Lubbock, TX 79408. Representative: Kenneth G. Thomas (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, ammunition, and parts of ammunition), serving the facilities of General Color & Chemical Co., Inc., at or near Minerva, OH, as an off-route point in connection with applicant's otherwise authorized regular-route operations. (Hearing site: Akron, OH, or Washington, DC.)

MC 47171 (Sub-127F), filed May 17, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as applicant). Transporting *toilet preparations, swabs, and raw materials* used in the manufacture of toilet preparations and swabs between Royston and Savannah, GA, on the one hand, and, on the other, points in MA, NJ, NY, and PA. (Hearing site: Washington, DC.)

MC 41951 (Sub-43F), filed May 25, 1979. Applicant: WHEATLEY TRUCKING, INC., P.O. Box 458, Cambridge, MD 21613. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *foodstuffs* (except commodities in bulk), from Hallwood, VA, to points in CT, DE, MA, MD, NC, NJ, NY, PA, RI, and VA. (Hearing site: Washington, DC, or Cambridge, MD.)

MC 52750 (Sub-23F), filed November 24, 1979. Applicant: BLUE LINE TRANSPORTATION CO., INC., P.O. Box 11125, Portland, OR 97211. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Ave., Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *feed and feed ingredients*, between points in OR, WA, and ID, on the one hand, and, on the other, points in CA. (Hearing site: Portland, OR.)

MC 59150 (Sub-156F), filed May 18, 1979. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, FL 32206. Representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, FL 32207. Transporting (1) *adhesives, building materials, composition boards, mineral fiber products, paper, wood fiber products, gypsum and gypsum products, lime* (except liquid in bulk), and (2) *such materials and supplies* as are used in the manufacture, installation, and distribution of the commodities named in (1) above, (except in bulk), between the facilities of the United States Gypsum Company, at points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, TX, VA, and WV. (Hearing site: Chicago, IL, or Atlanta, GA.)

MC 61231 (Sub-146F), filed May 18, 1979. Applicant: EASTER ENTERPRISES, INC., d.b.a. ACE LINES, INC., P.O. Box 1351, Des Moines, IA 50305. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *tires, tire tubes, wheels, wheel weights, and tire valves*, from Des Moines, IA, to points in AZ, CO, IL, IN, KS, MI, MO, MT, ND, NE, OK, SD, TN, TX, and WI. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 61440 (Sub-170F), filed May 18, 1979. Applicant: LEE WAY MOTOR FREIGHT, INC., 3401 N. W. 63rd Street, Oklahoma City, OK 73157. Representative: Richard H. Champlin, P.O. Box 12750, Oklahoma City, OK 73157. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *generol commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Monroe, The Calculator Company, at or near Lexington, SC, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Oklahoma City, OK.)

MC 65660 (Sub-13F), filed May 16, 1979. Applicant: WARNER & SMITH MOTOR FREIGHT, INC., 66 Third Street, Masury, OH 44438. Representative: C. R. Johnson (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Medina, OH, as an off-route point in connection with the carrier's otherwise authorized regular-route operations. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 67450 (Sub-87F), filed May 16, 1979. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 S. Ewing Avenue, Chicago, IL 60617. Representative: Joseph Winter, 29 South LaSalle St., Chicago, IL 60603. Transporting *prepared and preserved foodstuffs* (except frozen), *cooking oils, shortening, and matches*, from Toledo, OH, to Buffalo, NY. (Hearing site: Chicago, IL.)

MC 75320 (Sub-214F), filed May 15, 1979. Applicant: CAMPBELL SIXTY–SIX EXPRESS, INC., P.O. Box 807, Springfield, MO 65801. Representative: Phineas Stevens, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, comodities in bulk, and those requiring special equipment), serving junctions U.S. Hwy 82 and U.S. Hwy 75, at or near Sherman, TX for purpose of joinder only. (Hearing site: Jackson, MS, or Springfield, MO.)

MC 90870 (Sub-26F), filed May 21, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2—Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Transporting *zinc, zinc dross, zinc residue, and skimmings*, between the facilities of St. Joe Zinc Co., at Beaver County, PA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Chicago, IL, or Washington, DC.)

MC 104421 (Sub-30F), filed May 17, 1979. Applicant: ECONOLINES, INC., P.O. Box 623, D.T.S., Omaha, NE 68101. Representative: Roger W. Norris (same address as applicant). Transporting *such commodities* as are dealt in and used by manufacturers and distributors of plumbing and electrical fixtures, supplies, and equipment (except commodities which, because of their size or weight, require the use of special equipment, and except commodities in bulk), between points in Dodge and Washington Counties, NE, on the one hand, and, on the other, points in AZ, AR, FL, ID, KY, LA, MS, MT, NV, NM, ND, OK, OR, SD, TN, TX, UT, WA, and WY. (Hearing site: Omaha, NE.)

MC 106401 (Sub-64F), filed April 9, 1979. Applicant: JOHNSON MOTOR LINES, INC. P.O. Box 31577, Charlotte, NC 28231. Representative: Donald B. Sweeney, Jr., 603 Frank Nelson Bldg., Birmingham, AL 35203. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Charlotte, NC, and Parkersburg, WV, over Interstate Hwy 77, (2) between Statesville, NC, and Bluefield, WV, over U.S. Hwy 21, (3) between Winston-Salem, NC, and Huntington, WV, over U.S. Hwy 52, (4) between Bluefield, WV, and Erie, PA, over U.S. Hwy 19, (5) between Huntington, WV, and Erie, PA, from Huntington over Interstate Hwy 64 to junction Interstate Hwy 79, at Charleston, WV, then over Interstate Hwy 79 to Erie, PA, and return over the same route, (6) Between Huntington, WV, and junction Interstate Hwy 70 and U.S. Hwy 19, from Huntington over WV Hwy 2 to junction Interstate Hwy 70, then over Interstate Hwy 70 to junction of Interstate Hwy 70 and U.S. Hwy 19, and return over the same route, and (7) between Parkersburg and Clarksburg, WV, over U.S. Hwy 50, restricted in (1) through (6) above to the transportation of traffic moving from, to, or through points in NC. (Hearing site: Charlotte, NC or Charleston, WV.)

Note.—Service is authorized hereinabove as follows: (a) at intermediate points on the designated routes in NC, (b) at points in WV as intermediate or off-route points, and (c) at points in PA, on and west of U.S. Hwy 219, as intermediate or off-route points.

MC 108341 (Sub-152F), filed May 17, 1979. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 26125, Charlotte, NC 28213. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New Nork, NY 10048. Transporting (1) *new construction, road building, earth moving, excavating, loading, maintenance, logging, mining, pipelaying, and industrial equipment*, (2) *tractors* (except truck tractors), (3) *generators and engines*, and (4) *attachments, assessories, parts*, and *supplies* for the commodities in (1), (2), and (3) above (except commodities in bulk), between Portsmouth, VA, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Washington, DC.)

MC 111401 (Sub-564F), filed May 16, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, 2510 Rock Island Blvd., Enid, OK 73701. Representative: Victor R. Comstock (same address as applicant). Transporting *chlorinated camphene* (toxaphene), in bulk, in tank vehicles, from Waco, TX, to Altus, OK. (Hearing site: Dallas, TX, or Atlanta, GA.)

MC 115831 (Sub-15F), filed May 21, 1979. Applicant: TIDEWATER TRANSIT CO., INC., P.O. Box 189, Kinston, NC 28501. Representative: Ralph McDonald, P.O. Box 2246, Raleigh, NC 27602. Transporting *sulfate black liquor* (soap skimmings), from points in NC to points in SC. (Hearing site: Raleigh, NC.)

MC 115841 (Sub-715F), filed May 21, 1979, Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same address as applicant). Transporting *foodstuffs* (except commodities in bulk), from points in TN, to points in AR, IA, KS, MN, MO, NC, NE, OK, TX, VA, and WV. (Hearing site: Nashville, TN, or Washington, DC.)

MC 117730 (Sub-57F), filed May 21, 1979. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, IL 60142. Representative: Stephen H. Loeb, Suite 200, 205 West Touhy Avenue, Park

Ridge, IL 60068. Transporting (1) *foodstuffs* and *food seasonings* (except in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) when moving in mixed loads with the commodities in (1) above, (a) from the facilities of Oscar Mayer & Co., Inc., at Madison and Jefferson, WI, to the facilities of Oscar Mayer & Co., Inc., at Goodlettsville, TN, and (b) from the facilities of Oscar Mayer & Co., Inc., and its subsidiaries, Claussen Pickle Co. and Quality Control Spice Co., at points in IA, IL, and WI, to Kansas City, MO, and points in TX on and east of Interstate Hwy 35, restricted in (a) and (b) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Madison, WI, or Chicago, IL.)

MC 117940 (Sub-335F), filed May 8, 1979. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Representative: Allan L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. Transporting *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring the use of special equipment, and foodstuffs), (1) from the facilities of Queen City Shippers Association, Inc., at points in NJ, to points in OH, (2) from the facilities of Ohio Valley Cooperative Association, and (3) from the facilities of or used by Nationwide Cooperative Association, at points in OH, to points in AZ, CA, CO, FL, GA, ID, MA, MN, MD, MO, NV, NJ, NY, OR, PA, TX, UT, and WA, restricted in (1), (2), and (3) above to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cincinnati, OH.)

MC 119741 (Sub-185F), filed May 24, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses,* as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Spencer Foods, Inc., at Schuyler and Fremont, NE, to points in MI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 119741 (Sub-186F), filed May 24, 1979. Applicant: GREEN FIELD TRANSPORT COMPANY, INC., 1515 Third Ave., N.W., P.O. Box 1235, Fort Dodge, IA 50501. Representative: D. L. Robson (same address as applicant). Transporting *rubber and rubber products,* from the facilities of Denman Rubber Manufacturing Co., at or near Leavittsburg, OH, to points in IL, KS, MO, and NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Cleveland, OH.)

MC 119991 (Sub-29F), filed May 18, 1979. Applicant: YOUNG TRANSPORT, INC., P.O. Box 3, Logansport, IN 46947. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Transporting (1) *iron, steel, zinc, lead, and articles or products of the named commodities* (except in bulk), *springs, and construction materials, supplies, and equipment* (except in bulk), from the facilities of Penn-Dixie Steel Corp., at or near Kokomo, IN, Toledo and Columbus, OH, Lansing and Grand Rapids, MI, Denver, CO, Albuquerque, NM, Jackson, MS, Blue Island and Joliet, IL, Centerville, IA, and Newton, KS, to those points in the United States in and east of MN, SD, NE, CO, and NM; and (2) *materials, supplies, and equipment* used in the manufacture and distribution of commodities named in (1) above (except in bulk), in the reverse direction, restricted in (1) and (2) above to the transportation of traffic originating at the named origins and destined to the indicated destinations (except traffic moving in foreign commerce). (Hearing site: Indianapolis, IN, or Washington, DC.)

MC 121470 (Sub-24F), filed May 16, 1979. Applicant: TANKSLEY TRANSFER CONPANY, a corporation, 801 Cowan Street, Nashville, TN 37207. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. Transporting (1) *such commodities* as are manufactured or dealt in by manufacturers of containers and accessories (except commodities in bulk); and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk), between the facilities of Werthan Industries, at or near Nashville, TN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Nashville, TN.)

MC 123061 (Sub-127F), filed May 21, 1979. Applicant: LEATHAM BROTHERS, INC., 46 Orange Street, P.O. Box 16026, Salt Lake City, UT 84116. Representative: Harry D. Pugsley, 1283 E. South Temple, #501, Salt Lake City, UT 84102. Transporting *hides,* between points in NV, NM, CO, WY, MT, ID, UT, CA, OR, and WA. (Hearing site: Salt Lake City, UT, or Boise, ID.)

MC 124211 (Sub-361F), filed May 23, 1979. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicant). Transporting (1) *cutlery, plastic and wooden articles, straws, and bar and restaurant supplies* (except foodstuffs and commodities in bulk), from Los Angeles, CA, Jacksonville, FL, Houston, TX, Lewistown, UT, and Appleton, WI, to points in the United States (except AK and HI), and (2) *materials, equipment, and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Los Angeles, CA.)

MC 124711 (Sub-91F), filed May 21, 1979. Applicant: BECKER CORPORATION, P.O. Box 1050, El Dorado, KS 67042. Representative: Norman A. Cooper (same address as applicant). Transporting *petroleum products,* in bulk, in tank vehicles, from the facilities of Mobil Oil Corporation, at or near Augusta, KS, to points in AR. (Hearing site: Dallas, TX, or Wichita, KS.)

MC 124821 (Sub-47F), filed May 16, 1979. Applicant: GILCHRIST TRUCKING, INC., 105 North Keyser Avenue, Old Forge, PA 18518. Representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, PA 17011. Transporting *paper and paper products,* and *materials* and *supplies* used in the manufacture and distribution of paper and paper products, between the facilities of International Paper Company, at or near Jay, ME, on the one hand, and, on the other, those points in NY on and east of Interstate Hwy 81, and those points in PA on and east of a line beginning at the NY–PA State line and extending along Interstate Hwy 81 to Harrisburg, PA, then along Interstate Hwy 83 to the PA–MD State line, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Harrisburg, PA.)

MC 128021 (Sub-43F), filed April 25, 1979. Applicant: DIVERSIFIED TRUCKING CORP., 309 Williamson Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen AL 36401. Transporting (1) *charcoal, charcoal briquets, vermiculite, active carbon, and hickory chips,* and (2) *charcoal lighter fluid, charcoal grills, and accessories* for charcoal grills, between points in the United States (except AK and HI), restricted to the transportation of traffic originating at and destined to the facilities of Husky Industries, Inc. (Hearing site: Atlanta, GA, or Montgomery, AL.)

Note.—Dual operations may involved.

MC 128741 (Sub-10F), filed May 8, 1979. Applicant: AMERICAN TRANS–CONTINENTAL VAN LINES, INC., 4108 Progressive Ave., Ste. 1, Lincoln, NE 68504. Representative: Scott T. Robertson, 521 South 14th St., P.O. Box 81849, Lincoln, NE 68501. Transporting (1)(a) *golf carts,* and (b) *parts, attachments, and accessories* for golf carts, and (2)(a) *industrial vehicles,* and (b) *parts, attachments, accessories,* and *trailers* for industrial vehicles, between Anaheim, CA, on the one hand, and, on the other, points in the United States (except AK and HI).

MC 129480 (Sub-40F), filed May 17, 1979. Applicant: TRI–LINE EXPRESSWAYS LTD., 550, 71st Avenue, S.E., Calgary, Alberta, Canada T2H 0S6. Representative: Richard S. Mandelson, 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Transporting *glass,* from the facilities of Libbery-Owens-Ford Co., at Lathrop, CA, to ports of entry on the international boundary line between the United States and Canada. (Hearing site: Denver, CO.)

MC 135070 (Sub-65F), filed May 24, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs and restaurant equipment, materials, and supplies* (except commodities in bulk), from the facilities of Sambo's Restaurants, Inc., at or near Carpenteria and San Francisco, CA, to Florence, KY. (Hearing site: Los Angeles, CA, or Dallas, TX.)

Note. Dual operations may be involved.

MC 135070 (Sub-66F), filed May 24, 1979. Applicant: JAY LINES, INC., P.O. Box 30180, Amarillo, TX 79120. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *frozen foods,* from the facilities of Pet Incorporated, Frozen Foods Division, at or near Chickasha and Tulsa, OK, to points in AR, LA, MI, and TX. (Hearing site: St. Louis, MO, or Amarillo, TX.)

Note.—Dual operations may be involved.

MC 135231 (Sub-33F), filed May 14, 1979. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lead shot,* from Dayton, NV, and ports of entry on the international boundary line between the United States and Canada at NY and VT, to Anoka, MN. (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 135231 (Sub-34F), filed May 14, 1979. Applicant: NORTH STAR TRANSPORT, INC., Rt. 1, Highway 1 and 59 West, Thief River Falls, MN 56701. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting *ammunition, small arms, and materials, supplies, and equipment* used in the manufacture and distribution of ammunition and steel junction boxes (except commodities in bulk), from Anoka, MN, to points in the United States (except AK and HI). (Hearing site: St. Paul, MN.)

Note.—Dual operations may be involved.

MC 135861 (Sub-51F), filed May 21, 1979. Applicant: LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *toilet preparations and soap,* from Burbank, CA, to points in TX, under continuing contract(s) with Andrew Jergens Company, of Burbank, CA. (Hearing site: Dallas, TX, or Los Angeles, CA.)

MC 136301 (Sub-8F), filed May 14, 1979. Applicant: MER–LOU TRANSPORTATION, INC., P.O. Box 1506, Ft. Myers, FL 33902. Representative: John P. Bond, 2766 Douglas Road, Miami, FL 33133. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* (1) between the facilities of Vlasic Foods, Inc., at or near Bridgeport, Imlay City, and Memphis, MI, Millsboro, DE, and Greenville, MS, and (2) from the facilities of Vlasic Foods, Inc., at or near Millsboro, DE, to those points in the United States in and east of MI, WI, IL, KY, TN, MS, and LA, under continuing contract(s) with Vlasic Foods, Inc., of Detroit, MI. (Hearing site: Washington, DC, or Detroit, MI.)

MC 138741 (Sub-79F), filed May 21, 1979. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, IL 60435. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting (1) *roofing, siding, building and construction materials, accoustical and sound control materials, asbestos products, and insulating materials* (except commodities in bulk), and (2) *equipment, machinery, materials and supplies* used in the manufacture, packaging, storage, distribution, and installation of the commodities named in (1) above, (except commodities in bulk), between Mobile, AL, Denver, CO, Savannah, GA, Joliet, IL, Mt. Vernon, IN, Minneapolis, MN, Annapolis, Kansas City, and St. Louis, MO, Erie, PA, Dallas, TX, and Kremlin and Pembine, WI, on the one hand, and, on the other, points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, OH, OK, PA, TN, TX, and WI, restricted to the transportation of traffic originating at or destined to the facilities and supplies of the GAF Corporation. (Hearing site: Washington, DC.)

MC 143621 (Sub-2F), filed May 21, 1979. Applicant: TENNESSEE STEEL HAULERS, INC., 901 5th Avenue North, P.O. Box 5748, Nashville, TN 37208. Representative: Sidney T. Stanley (same address as applicant). Transporting *zinc, zinc alloy, and zinc products,* from the facilities of Jersey Miniere Zinc Company, in Montgomery County, TN, to points in the United States (except AK and HI). (Hearing Site: Nashville, TN.)

MC 143701 (Sub-13F), filed May 16, 1979. Applicant: HODGES FREIGHT LINES, INC., P.O. Box 73–I, Metairie, LA 70033. Representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, KS 67202. Transporting (1) *roofing;* and (2) *materials and supplies* used in the manufacture of roofing, from the facilities of Delta Roofing Mills, Inc., a division of Republic Gypsum, Inc., at or near Slidell, LA, to points in AL, AR, FL, GA, MS, and TX. (Hearing Site: New Orleans, LA, or Washington, DC.)

MC 144140 (Sub-36F), filed May 18, 1979. Applicant: SOUTHERN FREIGHTWAYS, INC., P.O. Box 374, Eustis, FL 32726. Representative: John L. Dickerson (same address as applicant). Transporting *such commodities* as are dealt in or used by manufacturers, converters and distributors of (1) *paper and paper products,* (2) *cellulose or synthetic materials and products,* and (3) *consumer, service and specialty products* (except commodities in bulk), between the facilities of Kimberly-Clark Corporation, at Corinth, MS, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to facilities of Kimberly-Clark Corporation, at or near Corinth, MS. (Hearing Site: Tampa, FL, or Washington, DC.)

Note.—Dual operations may be involved.

V 44 0C 25 79 UMI

V 44 0C 25 79 UMI

MC 145070 (Sub-3F), filed May 18, 1979. Applicant: PROGRESSIVE PRODUCE CO., d.b.a. PATHFINDER TRUCKING, 1206 E. Sixth Street, Los Angeles, CA 90021. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Transporting *bananas and agricultural commodities* exempt from regulation under Title 49, Section 10526(a)(6) of the US Code when transported in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in AZ, ID, OR, UT, and WA, restricted to the transportation of traffic having a prior movement by water. (Hearing Site: Los Angeles, CA.)

MC 145321 (Sub-1F), filed April 2, 1979. Applicant: RAY L. and CHERYLE RICHTER, d.b.a. WOOD-PLY MATERIALS TRADING AND TRANSPORT CO., 3110 SW Iowa, Portland, OR 97201. Representative: Nick I. Goyak, 555 Benjamin Franklin Plaza, One Southwest Columbia, Portland, OR 97258. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, plywood, veneer, and shakes*, from points in Baker, Benton, Clackamas, Clastop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler, and Yamhill Counties, OR, and Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Franklin, Grays Harbor, Island, Jefferson, King Kitsap, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom and Yakima Counties, WA, to points in Baker, Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Douglas, Gilliam, Grant, Harney, Hood River, Jackson, Jefferson, Josephine, Klamath, Lane, Lincoln, Linn, Marion, Morrow, Multnomah, Polk, Sherman, Tillamook, Umatilla, Union, Wallowa, Wasco, Washington, Wheeler and Yamhill Counties, OR and Benton, Chelan, Clallam, Clark, Columbia, Cowlitz, Franklin, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Klickitat, Lewis, Mason, Okanogan, Pacific, Pend Oreille, Pierce, San Juan, Skamania, Snohomish, Spokane, Stevens, Thurston, Wahkiakum, Walla Walla, Whatcom and Yakima Counties, WA, under continuing contract(s) with (1) Alpine Veneers, Inc., (2) Jim Evans Forest Products, (3) Northern Yards, Inc., and (4) Sunrise Forest Products Co., all of Portland, OR, and (5) Exterior Wood, of Washougal, WA. (Hearing Site: Portland, OR, or Seattle, WA.)

MC 145781 (Sub-2F), filed May 21, 1979. Applicant: L & L TRANSPORTATION, INC., Grand View Village, 1700 Swanson Drive, No. 80, Rock Springs, WY 82901. Representative: Vincent J. Horn, Jr., 200 City Center Building, Casper, WY 82601. Transporting *machinery, equipment, and supplies* used in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission and distribution of natural gas and petroleum and their products, and byproducts; and *machinery, materials, equipment, and supplies* used in or in connection with the construction, operation, repair, servicing, maintenance and dismantling of pipelines, including the stringing and picking up thereof, between points in WY, CO, MT, ID, NV, SD, ND, and UT, restricted against the transportation of complete oil drilling rigs. (Hearing site: Casper, WY, or Salt Lake City, UT.)

MC 145950 (Sub-22F), filed April 27, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Hesiley, 805 McLachlen, Bank Bldg., 666 Eleventh St. NW., Washington, DC 20001. Transporting (1) *such commodities* as are dealt in by (a) grocery and food business houses, (b) soy products, (c) paste and flour products, and (d) dairy based products, and (2) *materials, supplies, and ingredients* used in the manufacture, distribution, and sale of the commodities in (1) above, between the facilities of Ralston Purina Company, at or near (i) San Diego, CA, (ii) Sparks, NV, (iii) Denver, CO, (iv) Flagstaff, AZ, and (v) Oklahoma City, OK, on the one hand, and, on the other, points in the United State (except AK and HI). (Hearing site: St. Louis, MO.)

Note.—Dual operations may be involved.

MC 146071 (Sub-11F), filed May 18, 1979. Applicant: DEETZ TRUCKING, INC., P.O. Box 2, Strum, WI 54770. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Transporting (1) *tractor exhaust pipes, exhaust pots, mufflers* and *materials, equipment*, and *supplies* used in the manufacture or distribution of the commodities named above, from the facilities of Nelson Muffler Co., Division of Nelson Industries, at or near Arcadia, Black River Falls, Mineral Point, Neilsville, Viroque, and Wautoma, WI, to points in the United States (except AK and HI); and (2) *materials, supplies*, and *equipment* used in the manufacture of the commodities named in (1) above, in the reverse direction. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 146501 (Sub-2F), filed May 18, 1979. Applicant: SPEEDWAY CARRIERS, INC., 923 North Roosevelt, Aberdeen, SD 57401. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cabinets*, from ports of entry on the international boundary line between the United States and Canada in MT and ND to points in the United States (except AK and HI), under continuing contract(s) with H. T. H. Cabinets, Ltd., of Calgary, Alberta, Canada. (Hearing site: Billings, MT, or Bismarck, ND.)

MC 146571 (Sub-2F), filed May 24, 1979. Applicant: DONALD A. BENSON, d.b.a. BENSON TRUCKING, R.D. 1, Box 44, Mansfield, PA 16933. Representative: S. Berne Smith, P.O. Box 1166, 100 Pine St., Harrisburg, PA 17108. Transporting *malt beverages, from Rochester and Syracuse, NY, to points in PA and OH. (Hearing site: Harrisburg, PA, or Washington, DC.)*

MC 146601 (Sub-4F), filed March 7, 1979. Applicant: POTEAT MOTOR LINES, INC., 522 12th Ave., S.W., Hickory, NC 28601. Representative: Robert D. Hoagland, 1204 Cameron Brown Bldg., 301 S. McDowell St., Charlotte, NC 28204. Transporting (1) *textiles and textile products*, from points in Caldwell, Catawba, Cabarrus, Cleveland, Burke, Gaston, Iredell, Lincoln, McDowell, Rowan, Mecklenburg, and Rutherford Counties, NC, and Cherokee, Greenville, Spartanburg, Union, and York Counties, SC, to points in Union and Snyder Counties, PA, and those points in PA on the east of a line beginning at the MD–PA State line and extending along U.S. Hwy 11 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NY–PA State line, including points on the highways specified, and points in Albany, Bronx, Columbia, Dutchess, Fulton, Greene, Herkimer, Kings, Montgomery, Nassau, New York, Orange, Putnam, Queens, Renesselaer, Rockland, Richmond, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, and Westchester Counties, NY, and points in NJ, CT, RI, MA, and the Town of Manchester, NH, (2) *fabrics or cloth*, from points in CT, RI, MA, NJ, and Union and Snyder Counties, PA, and those points in PA on and east of a line beginning at the MD–PA State line and

extending along U.S. Hwy 11 to junction U.S. Hwy 15, then along U.S. Hwy 15 to the NY–PA State line, including points on the highways specified, and points in Albany, Bronx, Columbia, Dutchess, Fulton, Greene, Herkimer, Kings, Montgomery, Nassau, New York, Orange Putnam, Queens, Rensselaer, Rockland, Richmond, Saratoga, Schenectady, Schoharie, Suffolk, Sullivan, Ulster, Warren, and Westchester Counties, NY, and the Town of Manchester, NH, to points in Catawba County, NC, (3) *chemicals* used in the manufacture of textiles and textile products, from Philadelphia, PA, to those points in NC on and west of U.S. Hwy 1, (4) *iron and steel articles*, from Baltimore, MD, and Philadelphia, PA, to points in Catawba and Yancey Counties, NC, and (5) *pulpboard and fibreboard*, from Baltimore, MD, to those points in NC on and west of U.S. Hwy 1. (Hearing site: Charlotte, NC.)

MC 146821 (Sub-2F), filed May 24, 1979. Applicant: RON BESTEMAN PRODUCE CORP., 2240 Byron Center Road, Wyoming, MI 49509. Representative: Ron Besteman (same address as applicant). Transporting *frozen potato products*, from the facilities of Mid-America Potato Co., at or near Grand Rapids, Lake Odessa and Martin, MI, to points in IL, IA, IN, OH, PA, KY, MO, WI, NY, NJ, VA, and WV. (Hearing site: Grand Rapids or Lansing, MI.)

MC 147320F, filed May 10, 1979. Applicant: B.F.F. TRUCKING, 1037 Downey Road, P.O. Box 596, La Conner, WA 98257. Representative: Susan W. Carlson, 1215 Norton Bldg., Seattle, WA 98104. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *frozen foods*, (a) from Bellingham, WA, to Los Angeles, CA, and (b) from Los Angeles, Patterson, Oxnard, and Salineas, CA, and Portland, Salem, Woodburn, and Albany, OR, to Bellingham, WA; and (2) *wine* (except in bulk), from Madera, Fresno, Lodi, Elk Grove, San Jose, Modesto, and Oakland, CA, to Mt. Vernon, WA, under continuing contract(s) with (1) Bellingham Frozen Foods, Inc., of Bellingham, WA, and (2) Van Gasken Distributors, Inc., of MT. Vernon, WA. (Hearing site: Bellingham or Seattle, WA.)

MC 147431F, filed May 16, 1979. Applicant: M.L.D. AND SONS INDUSTRIES, Route 20 East, P.O. Box 217, Bellevue, OH 44811. Representative: Marion L. Dougherty (same address as applicant). Transporting *iron and steel articles and rolling mill parts*, between points in OH and MI. (Hearing site: Cleveland or Columbus, OH.)

MC 147440F, filed May 11, 1979. Applicant: NATHAN R. BEHNE, d.b.a. BEHNE TRUCK LINE, P.O. Box 307, Sherburn, MN 56171. Representative: Bruce A. Rasmussen, 2116 Second Avenue South, Minneapolis, MN 55404. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *snow blowers, wood furnaces, wood splitters, trailers, and agricultural machinery*, from the facilities of Schweiss Incorporated, at or near Sherburn, MN, to points in CO, ID, IL, IN, IA, KS, KY, MD, MI, MO, MT, NE, NY, OH, PA, SD, WI, and WY, under continuing contract(s) with Schweiss Incorporated, of Sherburn, MN. (Hearing site: Minneapolis, MN.)

MC 123481 (Sub-5F), filed May 11, 1979. Applicant: BROWN LINE, INC., 22 First Street West, Kalispell, MT 59901. Representative: Charles A. Webb, Suite 800 South, 1800 M Street NW., Washington, D.C. 20036. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage and express and newspapers* in the same vehicle with passengers, (1) Between Kalispell, MT, and Shelby, MT: From Kalispell, MT over U.S. Hwy 93 to Whitefish, MT, then over U.S. Hwy 93 to junction MT Hwy 40, then over MT Hwy 40 to junction U.S. Hwy 2, then over U.S. Hwy 2 to Shelby, MT, and return over the same route, serving all intermediate points, and (2)(a) Between Kalispell, MT, and Sandpoint, ID: From Kalispell, MT over U.S. Hwy 2 to Troy, MT, then over MT Hwy 56 to junction MT Hwy 200, then over MT Hwy 200 and ID Hwy 200 to Sandpoint, ID, and return over the same route, serving all intermediate points, and (b) between Kalispell, MT, and Sandpoint, ID: From Kalispell, MT over U.S. Hwy 93 to junction MT Hwy 28, then over MT Hwy 28 to Plains, MT, then over MT Hwy 200 and ID Hwy 200 to Sandpoint, ID, and return over the same route, serving all intermediate points and the off-route points of Elmo, Lonepine, and Hot Springs, MT. (Hearing site: Kalispell, MT.)

MC 147441F, filed May 18, 1979. Applicant: SCENIC MINNESOTA LINES, INC., P.O. Box 1, St. Cloud, MN 56301. Representative: Andrew R. Clark, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express, newspapers and mail* in the same vehicles as passengers, between Mora, MN, and Minneapolis, MN over MN Hwy 65, serving all intermediate points. (Hearing site: Minneapolis, MN.)

Volume No. 193

Decided: October 15, 1979.

By the Commission, Review Board Number 1, Members Carleton, Joyce, and Jones.

MC 25869 (Sub-154F), filed May 21, 1979. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, Omaha, NE. Representative: Donald L. Stern, Suite 610 Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting *ingredients* used in the manufacture of pet foods (except commodities in bulk, in tank vehicles), from points in CO, NE, and IA to Rockford, IL. (Hearing site: Chicago, IL, or Omaha, NE.)

MC 52709 (Sub-364F), filed May 16, 1979. Applicant: RINGSBY TRUCK LINES, INC., 3980 Quebec St., P.O. Box 7240, Denver, CO 80207. Representative: Rick Barker (Same address as applicant). Transporting *truck parts, truck accessories, and materials* used in the manufacture of trucks, (a) between the facilities of White Motor Corp., at Ogden, UT, on the one hand, and, on the other, points in CA, IL, IN, IA, KY, MI, NY, OH, OR, PA, and VA, and (b) between the port of entry on the international boundary line between the United States and Canada at or near Oroville, WA, on the one hand, and, on the other, points in AZ, CA, CO, IL, IN, IA, KY, MI, OH, OR, NY, PA, UT, and VA, restricted in (b) above to the transportation of traffic moving in foreign commerce. (Hearing site: Cleveland, OH, or Denver, CO.)

Note.—The person, or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a), formerly Section 5(2) of the Interstate Commerce Act, or submit an affidavit indicating why such approval is unnecessary.

MC 64808 (Sub-42F), filed May 16, 1979. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, WV 26554. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting *aluminum articles, and materials, equipment, and supplies* used in the manufacture, distribution, and sale of aluminum articles (except commodities in bulk, in tank and dump vehicles), between the facilities of Alcan Aluminum Corporation, at or near Fairmont, WV, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Washington, DC, or Pittsburgh, PA.)

V 44 N 0 C 2 5 7 9 UMI

MC 97658 (Sub-2F), filed May 14, 1979. Applicant: NORTHAMPTON & BOSTON EXPRESS SERVICE, INC., Deerfield Industrial Park, South Deerfield, MA 01373. Representative: James M. Burns, Johnson's Bookstore Building, 1383 Main Street, Suite 413, Springfield, MA 01103. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Bennington and Windham Counties, VT, Cheshire County, NH, Providence County, RI, MA, and CT. (Hearing site: Springfield or Boston, MA.) Condition.—Applicant seeks, in part, by this application, to convert its Certificate of Registration No. MC–97658 (Sub-No. 1) to a Certificate of Public Convenience and Necessity. Issuance of a certificate is conditional upon applicant's written request for coincidental cancellation of its Certificate of Registration in No. MC–97658 (Sub-No. 1).

MC 103498 (Sub-63F), filed May 21, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. Transporting *wallboard and insulation board*, from the facilities of National Gypsum Company, at Mobile, AL, to points in AR, KS, MO, OK, LA, and TX. (Hearing site: Mobile, AL, or Dallas, TX.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 103798 (Sub-41F), filed May 21, 1979. Applicant: MARTEN TRANSPORT, LTD, Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank, Minneapolis, MN 55402. Transporting *foodstuffs* (except in bulk), from the facilities of The Creamette Company, at Minneapolis and New Hope, MN, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY. (Hearing site: Minneapolis, MN.)

Note.—Dual operations may be involved.

MC 106398 (Sub-908F), filed May 16, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *building materials and building components*, from Stockton CA, to points in the United States (except AK and HI). (Hearing site: Sacramento, CA.)

MC 106398 (Sub-910F), filed May 16, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *building materials and building components*, from St. Louis, MO, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 106398 (Sub-912F), filed May 15, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *trailers and clod feed conveyors*, from Oregon, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 108119 (Sub-156F), filed May 18, 1979. Applicant: E.L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 63010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *tractors* (except truck tractors), from the facilities of Ford Motor Company, at or near Romeo, MI, to points in CT, DE, IL, IN, IA, KY, ME, MD, MA, MN, MO, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations, except that the restriction shall not apply to traffic moving in foreign commerce. (Hearing site: Detroit, MI.)

MC 118959 (Sub-223F), filed May 16, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Kimberly-Clark Corporation, at Corinth, MS on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

MC 118959 (Sub-224F), filed May 18, 1979. Applicant: JERRY LIPPS, INC., 130 So. Frederick St., Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 So. LaSalle St., Chicago, IL 60603. Transporting *household appliances*, from the facilities of Norge Company, Division of Magic Chef, at Herrin, IL, to Cape Girardeau, MO, restricted to the transportation of traffic having a subsequent movement by rail. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 124159 (Sub-12F), filed May 17, 1979. Applicant: DAGGETT TRUCK LINE, INC., Frazee, MN 56544. Representative: Gene P. Johnson, P.O. Box 2471, Fargo, ND 58108. Transporting (1) *prepared food products* from the facilities of Barrel O'Fun, Inc., at or near Perham, MN, to points in IL, IA, MT, ND, SD, WI, and WY, and (2) *prepared food products and materials and supplies* used in the manufacture and distribution of prepared food products, from points in the United States (except AK and HI) to the facilities of Barrel O'Fun, Inc., at or near Perham, MN. (Hearing site: Fargo, ND.)

Note.—Dual operations may be involved.

MC 125708 (Sub-172F), filed May 18, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd St., East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madision Blvd., McLean, VA 22101. Transporting *metal articles* (1) from points in OH, PA, NJ, IL, MD, KY, IA, IN, NY, and WV, to Norcross, GA, Birmingham, AL, Greenville and Greensboro, NC, and Richmond, VA, and (2) from Norcross, GA, to points in FL, SC, NC, MS, TN, LA, AR, and VA. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 128988 (Sub-102F), filed May 18, 1979. Applicant: JO/KEL, INC., 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith, 15580 South 169 Highway, Olathe, KS 66061. To operate as a *contract carrier* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *outdoor recreational equipment, and heating and air conditioning apparatus*, and (2) *parts* for commodities in (1) above, from the facilities of The Coleman Company, Inc., at or near New Braunfels, TX, to points in the United States (except AK and HI); and (3) *materials and supplies* used in the manufacture of commodities in (1) above, in the reverse direction, under continuing contract(s) with The Coleman Company, Inc., of Wichita, KS. (Hearing site: Kansas City, MO.)

MC 134498 (Sub-5F), filed May 16, 1979. Applicant: FREEWAY TRANSPORT, INC., 635 S.E. 11th Avenue, Portland, OR 97214. Representative: Jack H. Blanshan, Suite 200, 205 West Touhy Avenue, Park Ridge, IL 60068. Transporting *bananas and agriculture commodities* otherwise exempt from regulation under 49 U.S.C. 10526(a)(6), when moving in mixed loads with bananas, from the facilities of Del Monte Banana Co., at Port Hueneme, CA, to points in OR and WA, restricted to the transportation of traffic having a prior movement by water. (Hearing site: Los Angeles, CA.)

MC 138308 (Sub-73F), filed May 18, 1979. Applicant: KLM INC., Old Highway 49 So., P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. Transporting *new furniture parts* (a) from Pontotoc, MS, to San Bernardino, CA, Kankakee, IL, Charlotte, NC, Binghamton, NY, and Dallas, TX, and (b) from Meridian, MS, to Kankakee, IL, Charlotte, NC, and Dallas, TX, restricted in (a) and (b) above to the tranportation of traffic originating at and destined to the facilities used by Kroehler Manufacturing Co. (Hearing site: Jackson, MS, or Washington, DC.)

MC 139349 (Sub-13F), filed May 18, 1979. Applicant: E Z FREIGHT LINES, a corporation, Gould Street & E. 46th Street, Bayonne, NJ 07002. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *bakery goods, bread crumbs, edible flour, edible grain, beverage preparations, and syrups* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between Evansville, IN, on the one hand, and, on the other, those points in the United States in and east of WI, IL, KY, TN, and MS, under continuing contract(s) with Modern Maid Foods Products, of Garden City, NY. (Hearing site: Newark, NJ.)

MC 143179 (Sub-15F), filed May 21, 1979. Applicant: CNM CONTRACT CARRIERS, INC., P.O. Box 1017, Omaha, NE 68101. Representative: Foster L. Kent (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bonded synthetic fiber*, from St. Louis, MO, to points in IL, MN, and WI, under continuing contract(s) with Mid America Fiber Co., Inc., of St. Louis, MO. (Hearing site: Omaha, NE.)

MC 143708 (Sub-2F), filed May 18, 1979. Applicant: DUNES BULK TERMINAL COMPANY, INC., 3965 North Meridian St., Indianapolis, IN 46208. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *corn products*, in bulk, in tank vehicles, (1) from Indianapolis, IN, to points in MO, and (2) from Cedar Rapids, IA, to Indianapolis, IN, (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 145338 (Sub-4F), filed May 16, 1979. Applicant: MEDICAL EMERGENCY TRANSPORTATION CORP., d.b.a. METCOR, P.O. Box 386, Califon, NJ 07830. Representative: Michael R. Werner, 167 Fairfield Road, P.O. Box 1409, Fairfield, NJ 07006. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *radiopharmaceuticals, radiochemicals, diagnostic test kits*, and *medical devices*, and (2) *accessories* for the commodities in (1) above, from Newark International Airport, at Newark, NJ, LaGuardia Airport and John F. Kennedy International Airport, at New York, NY, and Philadelphia International Airport, at Philadelphia, PA, to New York, NY, points in New Castle, DE, Suffolk, Westchester, Rockland, Orange, Ulster, Sullivan, Putnam, and Dutchness Counties, NY, Philadelphia, Delaware, Montgomery, Bucks, Lehigh, and Northhampton Counties, PA, and points in NJ and CT, restricted to the transportation of traffic having a prior movement by air and further restricted to shipments not exceeding 300 pounds from one consignor to one consignee on any one day, under continuing contract(s) with Amersham Corporation, of Arlington Heights, IL. (Hearing site: New York, NY.)

MC 146479 (Sub-3F), filed May 16, 1979. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Transporting (1) *sporting goods and sports apparel*, and (2) *materials and supplies* used in the manufacture, distribution, and sale of the commodities in (1) above (except commodities in bulk), between points in CO, NJ, NY, and MA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities used by Raichle Molitor, Inc. (Hearing site: Albany, NY, or Washington, DC.)

Note.—Dual operations may be involved. The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 146479 (Sub-5F), filed April 27, 1979. Applicant: HARRISON CARRIERS, INC., P.O. Box 367, Harrison, NY 10528. Representative: David M. Marshall, 101 State Street, Suite, 304, Springfield, MA 01103 Transporting (1) *fruit, fruit products, and condiments*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (2) above (except commodities in bulk), between Yuba City, CA, Markham, WA, Bordentown, NJ, North East, PA, Kenosha, WI, and points in MA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Ocean Spray Cranberries, Inc. (Hearing site: Boston, MA, or Washington, DC.)

Note.—Dual operations may be involved. The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343 (a) or submit an affidavit indicating why such approval is unnecessary.

MC 146568 (Sub-2F), filed May 2, 1979. Applicant: PHOENIX BIRD, INC., Suite 118, 1 Neshaminy Plaza, Street Road and Bristol Pike, Cornwells Heights, PA 19020. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *drugs, toilet preparations, and health care items*, from Ft. Washington, PA, Lewes and Millsboro, DE, Durlington and Pennsauken, NJ, and Washington, DC, to points in CA, CO, FL, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, NE, NC, OH, OK, SC, TN, and TX, under continuing contract(s) with Wm. H. Rorer, Inc., of Ft. Washington, PA. (Hearing site: Washington, DC.)

MC 146889 (Sub-2F), filed May 16, 1979. Applicant: JAY K. REYNOLDS, Rte. 7, Box 225, Rogersville, TN 37857. Representative: William E. Phillips, Citizens Union Bank Bldg., Rogersville, TN 37857. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *animal and poultry feed and feed ingredients*, from the facilities of Hubbard Milling Company, at Louisville, KY, to those points in TN in and east of Robertson, Davidson, Williamson, Maury, Marshall, and Lincoln Counties, TN, under continuing contract(s) with Hubbard Milling Company, of Louisville, KY. (Hearing site: Knoxville or Kingsport, TN.)

MC 147138F, filed May 3, 1979. Applicant: FLORIDA CITRUS GROVES CORPORATION, Route 2, 197 Box 104, Clermont, FL 32711. Representative: K. Edward Wolcott, P.O. Box 872, Atlanta, GA 30301. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *metal containers and*

container ends, from Lima, OH, to Kokomo, IN, under continuing contract(s) with Libby, McNeill & Libby, of Chicago, IL. (Hearing site: Orlando, FL.)

Note.—Applicant shall conduct separately its for-hire carriage and other business operations. It shall maintain separate accounts and records for each operation. And it shall not transport property as both a private and for-hire carrier in the same vehicle at the same time.

MC 147428F, filed May 16, 1979. Applicant: ABRAHAM WOIDISLAWSKY AND MALCOLM SKALETSKY, a partnership, dba LIMELIGHT LIMOUSINE, 456 Woodhaven Plaza, Philadelphia, PA 19116. Representative: Robert F. Fortin, 10th Floor, 3 Penn Center Plaza, 15th & Market Streets, Philadelphia, PA 19102. Transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, limited to the transportation of not more than 14 passengers (not including the driver) in one vehicle at one time, in non-scheduled door-to-door service between Philadelphia, PA, on the one hand, and on the other, Atlantic City, NJ, and New York, NY. (Hearing site: Washington, DC.)

Volume No. 195

Decided: October 3, 1979.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 1334 [Sub-25F], filed May 18, 1979. Applicant: RITEWAY TRANSPORT, INC., 2131 W. Roosevelt, Phoenix, AZ 85005. Representative: William H. Shawn, Suite 501, 1730 M St., NW, Washington, DC 20036. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, household goods as defined by the Commission, and commodities in bulk), between Moenkopi, AZ, and the AZ–NM State line, over AZ Hwy 264, serving all intermediate points, and serving Ft. Definance, Bermuda City, Chinle, and Many Farms, AZ, as off-route points. (Hearing site: Phoenix or Window Rock, AZ.)

Note.—To the extent the certificate granted in this proceeding authorizes the transportation of classes A and B explosives it will expire 5 years from the date of issuance.

MC 4405 (Sub-605F), filed May 15, 1979. Applicant: DEALERS TRANSIT, INC., P.O. Box 236, Tulsa, OK 74101. Representative: Alan Foss, 502 First National Bank Bldg., Fargo, ND 58126. Transporting (1) *trailers and trailer chassis,* (except those designed to be drawn by passenger automobiles) in initial movements, in truckaway service, and (2) *steel articles, truck bodies and frames,* and (3) *troiler parts and attachments* used for the commodities in (1) above, from Albuquerque, NM, to points in the United States (except AK and HI). (Hearing site: Albuquerque, NM.)

MC 10345 (Sub-101F), filed May 18, 1979. Applicant: C & J COMMERCIAL DRIVEAWAY, INC., 2400 West St. Joseph St., P.O. Box 13006, Lansing, MI 48901. Representative: Albert F. Beasley, 311 Investment Bldg., 1511 K St., NW, Washington, DC 20005. Transporting *automobiles,* in secondary movements, in truckaway service, between the facilities of Oldsmobile Division of General Motors Corporation, in Lansing, MI, on the one hand, and, on the other, points in AL, AZ, CA, CO, DE, FL, GA, ID, LA, ME, MN, MS, MT, NV, NM, NC, OR, SC, UT, WA, WY, and those in TX on, south, and west of a line beginning at El Paso, TX, and extending along U.S. Hwy 80 to junction US. Hwy 81, then along U.S. Hwy 81 to Laredo, TX. (Hearing site: Washington, DC.)

MC 58035 (Sub-20F), filed May 17, 1979. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Avenue, Denver, CO 80216. Representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Transporting *photographic equipment, materials, supplies and products,* (1) From the facilities of Eastman Kodak Company, at or near Rochester NY, to the facilities of Eastman Kodak Company, at or near San Ramon, Palo Alto, Whittier and Hollywood, CA; Dallas, TX; and Oak Brook, IL; (2) from the facilities of Eastman Kodak Company, at or near Windsor, CO, to the facilities of Eastman Kodak Company, at or near Palo Alto, CA; Dallas, TX; Dayton, NJ; and Oak Brook, Il; (3) between the facilities of Eastman Kodak Company, at or near Windsor, CO, and San Ramon and Whittier, CA; (4) between the facilities of Eastman Kodak Company, at or near Windsor, CO, and Rochester, NY, and (5) from the facilities of Eastman Kodak Company, at or near Dallas, TX, to Denver, CO, and to the facilities of Eastman Kodak Company, at or near Windsor, CO. (Hearing site: Denver, CO.)

MC 59655 (Sub-25F), filed May 18, 1979. Applicant: SHEEHAM CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *malt beveroges* and *materials, equipment and supplies* used in the manufacture and sale of malt beverages, between Rochester, NY, on the one hand, and, on the other, Torrington, CT, and Danvers and Westfield, MA. (Hearing site: Albany, NY, or Washington, DC.)

MC 73165 (Sub-480F), filed May 16, 1979. Applicant: EAGLE MOTOR LINES, INC., 830 33rd St., North, Birmingham, AL 35202. Representative: R. Cameron Rollins, P.O. Box 11086, Birmingham, AL 35202. Transporting *iron and steel wire,* and *iron and steel cable,* from the facilities of Florida Wire and Cable Company, at or near Jacksonville and Sanderson, FL, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: Tampa or Jacksonville, FL.)

MC 80265 (Sub-4F), filed March 23, 1979, previously published in the Federal Register of August 14, 1979. Applicant: FRED L YORK, 4888 Hamilton-Trenton Rd., Hamilton, OH 45011. Representative: Paul F. Beery, 275 East State St., Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paper and paper articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of paper and paper articles (except commodities in bulk), between St. Louis, MO, and points in IL, IN, MI, OH, WI, and IA, under a continuing contract(s) with Champion International Corporation, at Hamilton, OH. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—This republication corrects the commodity.

MC 105045 (Sub-108F), filed May 18, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3977, Evansville, IN 47701. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting (1) *material-handling equipment, winches, compaction equipment, road making equipment, rollers, mobile cranes, and highway freight trailers,* and (2) *parts, attachments and accessories* for the commodities named in (1) above, between the facilities of the Hyster Company, at or near Danville, Kewanee, and Peoria, IL, Berea, KY, and Crawfordsville, IN, on the one hand, and on the other, points in NJ and DE. (Hearing site: Washington, DC.)

MC 106674 (Sub-392F), filed May 18, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *particleboard, fiberboard, and built-up woods,* from Stuart and Waverly, VA, and Spring Hope, NC, to those points in and east of MN, IA, MO, AR, and LA. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-396F), filed May 17, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *canned goods* and *non-alcoholic beverages,* from Byhalia, MS, to those points in the United States in and east of TX, OK, KS, NE, SD, and ND. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 111375 (Sub-111F), filed May 18, 1979. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Representative: Elaine M. Conway, 10 South LaSalle Street, Suite #1600, Chicago, IL 60603. Transporting *such commodities* as are dealt in by chain grocery and food business houses, (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AR, AZ, IA, ID, IL, IN, KS, MI, MN, MO, MT, ND, NE, OH, SD, TX, UT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)

MC 111545 (Sub-284F), filed May 18, 1979. Applicant: HOME TRANSPORTATION COMPANY, INC., P.O. Box 6426, Station A, Marietta, GA 30065. Representative: Robert E. Born (same address as applicant). Transporting *(1) contractors equipment, industrial equipment, mining machinery, and self-propelled articles, and (2) materials, and supplies used in the distribution and manufacture of commodities described in (1) and (2) above (except commodities in bulk),* between the facilities of Joy Manufacturing Company, at Franklin, PA, Birmingham, AL, Claremont, NH, Buffalo, NY, Michigan City, IN, Wilson, NC, New Philadelphia, OH, Colorado Springs, CO, Denver, CO, and Wheeling, WV, on the one hand, and on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the above-named facilities. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 112184 (Sub-67F), filed May 18, 1979. Applicant: THE MANFREDI MOTOR TRANSIT CO., a corporation, 11250 Kinsman Road, Newbury, OH 44065. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paint and paint products,* in bulk, in tank vehicles, from Mount Clemens, MI to Cleveland, OH, under continuing contract(s) with PPG Industries, Inc., of Pittsburgh, PA. (Hearing site: Columbus, OH.)

Note.—Dual operations are involved.

MC 116544 (Sub-175F), filed May 18, 1979. Applicant: ALTRUK FREIGHT SYSTEMS, INC., 1703 Embarcadero Rd., Palo Alto, CA 94303. Representative: Richard G. Lougee, P.O. Box 10061, Palo Alto, CA 94303. Transporting *such commodities as are dealt in by grocery and food business houses (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, between points in AL, AZ, AR, FL, GA, IA, ID, IL, IN, KS, KY, MA, MI, MN, MO, MS, MT, NC, ND, NE, NY, OH, PA, SC, SD, TN, TX, UT, VA, VT, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kraft, Inc. (Hearing site: Washington, DC, or Chicago, IL.)*

MC 117574 (Sub-335F), filed May 20, 1979. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, PA 17013. Representative: E. S. Moore, Jr. (same address as applicant). Transporting (1) *lumber, particleboard, and built-up woods,* from points in Patrick County, VA, to points in AL, AR, CT, DE, FL, GA, IL, IN, IA, KY, LA, ME, MD, MA, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC; and (2) *material, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) (except commodities in bulk), in the reverse direction. (Hearing site: New Orleans, LA, or Washington, DC.)

MC 117765 (Sub-254F), filed March 14, 1979. Applicant: HAHN TRUCK LINE, INC., 1100 S. Mac Arthur, P.O. Box 75218, Oklahoma City, OK 73147. Representative: R. E. Hagan (same address as applicant). Transporting *malt beverages,* in containers, from Peoria, IL, and St. Louis, MO, to Dodge City, KS. (Hearing site: OKlahoma City, OK.)

MC 118535 (Sub-140F), filed May 17, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Bulter, MO 64730. Representative: Wilburn L. Williamson, The Oil Center, Suite 615E, 2601 N.W. Expressway, Oklahoma City, OK 73112. Transporting (1) *chemicals and chemical compounds* (except in bulk), (a) from Ringwood, IL, to points in LA and TX; (b) from Weeks Island, LA, to Ringwood and Elk Grove, IL; (2) *containers,* from Weeks Island, LA, to Ringwood, IL, and (3) *salt and salt products* and *materials and supplies* used in the agricultural, water treatment, food processing, grocery and institutional supply industries in mixed loads with salt products, from Weeks Island, LA, to points in AR, MS, OK, TN, and TX. (Hearing site: Kansas City, MO.)

MC 119765 (Sub-77F), filed April 13, 1979. Applicant: EIGHT WAY XPRESS, INC., 5402 South 27th Street, Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. Transporting *such commodities as are dealt in or used by grocery, hardware, and department stores* (except foodstuffs), from the facilities of Boyle-Midway, Division of American Home Products Corporation, at Chicago, IL, to points in AR, IA, KS, MN, MO, NE, and OK. (Hearing site: Chicago, IL, or Omaha, NE.)

Note.—Dual operations are involved.

MC 119894 (Sub-14F), filed May 21, 1979. Applicant: BOWARD TRUCK LINE, INC., 104 Azar Bldg., Glen Burnie, MD 21061. Representative: G. F. Morgan, Jr. (same address as applicant). Transporting *paper, pulpboard, and fibreboard,* from Big Island, VA, to points in NC and SC. (Hearing site: Lynchburg, VA.)

MC 123054 (Sub-28F), filed May 17, 1979. Applicant: R & H CORPORATION, 295 Grand Avenue, Box 469, Clarion, PA 16214. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. Transporting (1) *glass containers* and *closures for glass containers,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of glass containers (except commodities in bulk in tank vehicles, and those which because of size and weight require the use of special equipment), between those points in the United States in and east of MI, IN, KY, TN, and MS (except FL), restricted to the transportation of traffic originating at or destined to the facilities of Glass Containers Corporation. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 124774 (Sub-113F), filed May 17, 1979. Applicant: MIDWEST REFRIGERATED EXPRESS, INC., 4440 Buckingham Ave., Omaha, NE 68107. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Rd., Omaha, NE 68106. Transporting *iron and steel articles,* from points in CT, FL, GA, IL, IN, KS, KY, LA, MD, MA, MI, MO, NJ, NY, NC, OH, OK, PA, SC, TN, TX, WI, and DC, to the facilities of Phillips Manufacturing Co., Inc., at Omaha, NE. (Hearing site: Omaha, NE.)

MC 126244 (Sub-6F), filed May 17, 1979. Applicant: ADAMS CARAGE COMPANY, INC., P.O. Box 3043, Macon, GA 31205. Representative: Archie B.

V 44 OC 25 79 UMI

V 44 OC 25 79 UMI

Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building board, wall board, and insulation board*, and (2) *materials and supplies* used in the manufacture, installation and distribution of the commodities in (1) above, (except commodities in bulk), between Pensacola, FL, on the one hand, and, on the other, points in AL, GA, NC, SC, and TN, under continuing contract(s) with Armstrong Cork Company, of Lancaster, PA; and (3) *building board, wall board* and *insulation board, carpeting, mats, matting, rugs*, and *hard surface floor covering*, and (4) *materials equipment, and supplies* used in the manufacture, installation and distribution of the commodities in (3) above, (except commodities in bulk), from points in AL, FL, NC, SC, and TN, to Macon, GA, under continuing contract(s) with Armstrong Cork Company, of Lancaster, PA. (Hearing site: Atlanta, GA.)

MC 129124 (Sub-24F), filed May 17, 1979. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, PA 16881. Representative: Herbert R. Nurick, P.O. Box 1166, (100 Pine Street), Harrisburg, PA 17108. Transporting (1) *clay and refractory products*, and (2) *materials used in the manufacture of refractory products*, in bulk, in dump vehicles, between points in Armstrong, Clearfield and Somerset Counties, PA, on the one hand, and on the other, points in MD. (Hearing site: Pittsburgh, PA or Harrisburg, PA.)

MC 133095 (Sub-255F), filed May 18, 1979. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kim G. Meyer, P.O. Box 56387, Atlanta, GA 30343. Transporting *plastic containers*, and *materials, equipment and supplies* used in the manufacture and distribution of plastic containers, (except commodities in bulk) between points in Passaic and Morris Counties, NJ, Grand Rapids and Kentwood, MI, Olive Branch, MS, and Memphis, TN, on the one hand, and on the other, those points in the United States in and east of MN, IA, NE, CO, and NM. (Hearing site: New York, NY.)

MC 13684 (Sub-30F), filed May 18, 1979. Applicant: GORDON FAST FREIGHT, INC., 2205 Pacific Highway East, Tacoma, WA 98422. Representative: Michael D. Duppenthaler, 211 South Washington St., Seattle, WA 98104. Transporting *charcoal, charcoal briquettes, lighter fluid, hickory chips, fuel wood logs, and barbecue supplies*, from White City and Grants Pass, OR, to points in AZ, CA, CO, ID, MT, NV, NM, UT, WA, and WY. (Hearing site: Medford, OR, or Seattle, WA.)

MC 135924 (Sub-13F), filed May 18, 1979. Applicant: SIMONS TRUCKING CO., INC., 3851 River Road, Grand Rapids, MN 55744. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *tires and tire products*, from Byron and Akron, OH, to Hibbing, MN. (Hearing site: Minneapolis, MN.)

MC 138875 (Sub-194F), filed May 18, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *doors, door hardware*, and *accessories* for doors, (except commodities in bulk), from points in OR and WA, to points in UT, restricted to the transportation of traffic originating at the indicated origins and destined to the indicated destinations. (Hearing site: Portland, OR, or Boise, ID.)

MC 138875 (Sub-195F), filed May 18, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *metal storage cabinets* and *steel shelving*, from points in IL, PA, TN, and TX to points in UT. (Hearing site: Salt Lake City, UT, or Boise, ID.)

MC 138875 (Sub-196F), filed May 18, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Road, Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *asphalt*, in rolls, from points in WY, to points in ID and OR. (Hearing site: Boise, ID, or Washington, DC.)

MC 138875 (Sub-197F), filed May 18, 1979. Applicant: SHOEMAKER TRUCKING COMPANY, a corporation, 11900 Franklin Rd., Boise, ID 83705. Representative: F. L. Sigloh (same address as applicant). Transporting *frozen bakery products*, from the facilities used by Ore-Ida Foods, Inc., at Lake City, PA, and Massillon, OH, to points in AZ, CA, ID, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Boise, ID, or Washington, DC.)

MC 139495 (Sub-452F), filed May 17, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th St., P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *such commodities* as are dealt in or used by food and drug stores (except commodities in bulk), from the facilities of The Procter & Gamble Distributing Co., at or near Cape Girardeau and St. Louis, MO, Chicago, IL, and Green Bay, WI, to those points in the United States in and west of MN, WI, IA, MO, AR, and LA, (except AK and HI). (Hearing site: Washington, DC.)

MC 139495 (Sub-453F), filed May 18, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *floor coverings* and *materials, equipment, and supplies* used in the installation and maintenance of floor coverings (except commodities in bulk, in tank vehicles), from points in Los Angeles and Yolo Counties, CA, to points in AZ, CO, ID, MT, NV, MN, OR, TX, UT, and WA. (Hearing site: DC.)

MC 140024 (Sub-151F), filed May 17, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Ave., Commerce City, CO 80022. Representative: Don Bryce (same address as applicant). Transporting *alcoholic beverages* (except in bulk), in vehicles equipped with mechanical refrigeration, from Lawrenceburg, IN, Clermont, KY, Detroit, MI, and points in CA and IL, to Pueblo, CO, restricted to the transportation of traffic originating at the named origins and destined to the named destination. (Hearing site: Denver or Pueblo, CO.)

MC 140665 (Sub-54F), filed May 11, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. Transporting *such commodities* as are dealt in or used by department, hardware, drug, and food stores (except commodities in bulk), from points in WA to those points in the United States in and east of ND, SD, NE, CO, OK, and TX. (Hearing site: Seattle, WA, or Washington, DC.)

MC 141205 (Sub-19F), filed May 17, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, a corporation, 600 South Cherry St., Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crude oil, scrubber oil* and *condensates*, from Clay Basin, in Daggett County, UT, to the North Baxter Pipeline station, at or near Rock Springs, WY, under continuing contract(s) with Husky Oil Company, of Denver, CO. (Hearing site: Denver, CO.)

MC 141774 (Sub-24F), filed April 25, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Ave., Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *charcoal, charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fluid, and charcoal grills*, between points in MS, KY, AL, FL, TN, GA, NC, SC, and MO, restricted to the transportation of traffic originating at or destined to the facilities of Husky Industries, Inc. (Hearing site: Washington, DC, or Atlanta, GA.)

Note.—Dual operations may be involved.

MC 141804 (Sub-221F), filed May 18, 1979. Applicant: Western Express, Division of Interstate Rental, Inc., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, defined by the Commission, commodities in bulk, and commodities requiring special equipment), from those points in the United States in and east of ND, SD, NE, KS, OK, and TX, to points in CA. (Hearing site: Los Angeles or San Francisco, CA.)

MC 141804 (Sub-223F), filed May 18, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant.) Transporting *motor vehicle parts* and *motor vehicle accessories*, between points in CA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles or San Francisco, CA.)

Note.—The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 30 days from the date of publication.

MC 141804 (Sub-231F), filed May 18, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 917861. Representative: Frederick J. Coffman, P.O. Box 3488, Ontario, CA 91761. Transporting *general commodities* (except those of unusual value, classes A and B explosives, households goods, defined by the Commission, commodities in bulk, and commodities requiring special equipment), from points in CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX.

MC 145875 (Sub-3F), filed May 17, 1979. Applicant: SWAIN AND SONS TRANSPORTS, INC., 208 Poplar Ave., Memphis, TN 38103. Representative: William R. Swain, Jr. (same address as applicant). Transporting *crude synthetic rubber*, from the facilities of Exxon Chemical Company, at Baton Rouge, LA, to the facilities of Mohawk Rubber Company, at Helena, AR, and Uniroyal Chemical Company, at Geismar, LA. (Hearing site: Memphis, TN.)

MC 146214 (Sub-2F), filed April 27, 1979. Applicant: JAKE BAUMAN, JAKE BAUMAN TRUCKING, R.R. No. 1, Congerville, IL 61729. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *farm equipment*, (2) *wood burning systems*, and (3) *truck bumper cushions*, from Goodfield, IL, to points in the United States (except AK and HI), and (4) *materials and supplies* used in the manufacture of the commodities in (1), (2) and (3) above, from Des Moines, Fairfield, Perry, and Davenport, IA, to Goodfield, IL, under continuing contract(s) with DMI, Inc., of Goodfield, IL. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 146335 (Sub-2F), filed May 8, 1979. Applicant: JACK ELLIOTT PROCTOR, d.b.a. PROCTOR TRUCKING CO., 4717 Bethany Dr., Garland, TX 75040. Representative: William D. White, Jr., 4200 Republic National Bank Tower, Dallas, TX 75201. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *prefabricated sheet metal*, (2) *woodburning fireplaces*, and (3) *flue pipe* used in the installation of fireplaces, from the facilities of National Fireplace Corporation, at Richardson, TX, to points in LA, MS, MO, OK, TX, AL, and AR, under continuing contract(s) with National Fireplace Corporation, of Richardson, TX. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 146484 (Sub-1F), filed May 18, 1979. Applicant: F. J. CRIKOS TRUCKING, INC., 141 Helman Lane, Cotati, CA 94928. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting: *wine*, in containers, from the facilities of Geyser Peak Winery, at Geyserville, CA, to points in WA, under continuing contract(s) with Geyser Peak Winery, of Geyserville, CA. (Hearing site: San Francisco, CA, or Spokane, WA.)

MC 146534 (Sub-2F), filed May 17, 1979. Applicant: DEAN HUGHS, P.O. Box 98, New Berlin, IL 62670. Representative: Douglas G. Brown, The INB Center—Suite 555, One North Old State Capitol Plaza, Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting (1) *coffee makers*, and (2) *parts and accessories* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Bunn-O-Matic Corporation at or near (a) Springfield, IL, and (b) Creston, IA, under continuing contract(s) with Bunn-O-Matic, of Springfield, IL. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 147144F, filed May 10, 1979. Applicant: INTERNATIONAL CARRIERS, INC., 4300 N.W. 37th Ave., Miami, FL 33142. Representative: Ronald N. Cobert, 1730 M St. NW—Suite 501, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities by Piggy Back Shippers Association of Florida, Inc., at or near Jersey City, NJ, Chicago, IL, and Boston, MA, to points in FL. (Hearing site: Miami, FL, or Washington, DC.)

MC 147204F, filed May 8, 1979. Applicant: JACK'S TRUCK RENTAL, INC., Route 3, Box 61, Holts Summit, MO 65043. Representative: Chester Surface (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Cedar City, Moberly, and Jefferson City, MO, on the one hand, and, on the other, points in Audrain, Boone, Callaway, Cole, Cooper, Chariton, Camden, Benton, Maries, Monroe, Moniteau, Miller, Morgan, Montgomery, Osage, Pettis, and Randolph Counties, MO restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Kansas City, or St. Louis, MO.)

MC 147325F, filed May 21, Applicant: ALBERT L. LYNCH, d.b.a. LYNCH TRUCK SERVICE, 2624 Arrowhead Dr., Springfield, IL 62702. Representative: (same as applicant). Transporting *general commodities* (except commodities of unusual value, classes A and B explosives, household goods as

defined by the Commission, furniture, cement, limestone, mineral filler, and commodities in bulk), between Chicago, Oakbrook, Joliet, and Springfield, IL, and St. Louis, MO. (Hearing site: Washington, DC.)

Passengers

MC 144885 (Sub-1F), filed May 17, 1979. Applicant: CARLOS M. LOPEZ AND JAIRO A. LOPEZ, d.b.a. TRICENTENNIAL TOURS AND TRANSPORTS, 162 Temple St.,.New Haven, CT 06502. Representative: Thomas W. Murrett, 342 North Main St., West Harford, CT 06117. Transporting *passengers and their baggage,* in special and charter operations, (1) between points in New Haven and Fairfield Counties, CT, on the one hand, and, on the other, New York, NY, and Newark Airport, Newark, NJ, and (2) beginning and ending at points in New Haven and Fairfield Counties, CT, and extending to points in NY (except New York, NY, and its commercial zone), NJ (except Newark Airport, Newark, NJ), MA, and RI, restricted to the transportation of not more than (15) passengers in any one vehicle, not including the driver. (Hearing site: New Haven or Hartford, CT.)

Passenger Authority

MC 147024 (Sub-2F), filed May 17, 1979. Applicant: CHERRY LAND EXPRESS, INC., 16141 Center Rd., Traverse City, MI 49684. Representative: George R. Thompson, 402 E. Front St., Traverse City, MI 49684. Transporting *passengers and their baggage,* beginning and ending at Cherry Capital Airport, at Traverse City, MI, and extending to points in Mason, Leelanau, Benzie, Manistee, Wexford, Lake, Osceola, Missaukee, Grand Traverse, Kalkaska, Antrim, Crawford, Charlevoix and Otsego Counties, MI, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Lansing, MI.)

[FR Doc. 79-32862 Filed 10-24-79; 8:45 am]
BILLING CODE 7035-01-M

Rock Island Railroad; Public Hearing

October 22, 1979.

On October 11, 1979, the Interstate Commerce Commission announced dates and sites for 17 public hearings to consider the need for continued directed service over the Rock Island Railroad. These hearings are to gather public input concerning the September 26, 1979 order of the Commission directing the Kansas City Terminal Railway Company to operate the Rock Island services.

One of the hearings is being held in Little Rock, Arkansas on October 22, 1979. The Commission has decided to conduct an additional hearing in Little Rock on October 31, 1979. The site will be the same: Sheraton Motor Inn, 6th and Ferry—Room B, Little Rock, Arkansas. The hearing will begin at 9:00 a.m.; an evening session will be held at 7:30 p.m.

Persons who wish to testify at the hearings should call the ICC's Section of Rail Services Planning toll free number—800-424-5204—between 7:30 a.m. and 5:00 p.m. (Central-Time) to arrange a convenient time to testify. Information about the hearings also may be obtained from the Section of Rail Services Planning at (202-275-0831).

Agatha L. Mergenovich,
Secretary.

[FR Doc. 79-32861 Filed 10-24-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 208
Thursday, October 25, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

	Items
Commodity Futures Trading Commission	1, 2
Federal Deposit Insurance Corporation	3-6
Federal Energy Regulatory Commission	7
International Trade Commission	8
National Transportation Safety Board	9
Nuclear Regulatory Commission	10
Railroad Retirement Board	11

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 30, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Proposed Dealer Option Regulations.
Discussion of Position Limits in Precious Metals.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2086-79 Filed 10-23-79; 2:54 am]
BILLING CODE 6351-01-M

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 2:00 p.m., October 30, 1979.

PLACE: 2033 K Street, N.W., Washington, D.C., 5th floor hearing room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:
Enforcement matters/proposed administrative disciplinary proceeding; offer of settlement.

CONTACT PERSON FOR MORE INFORMATION: Jane Stuckey, 254-6314.

[S-2087-79 Filed 10-23-79; 2:54 pm]
BILLING CODE 6351-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, October 22, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation with respect to payment for legal services rendered and expenses incurred by Casey, Lane & Mittendorf, New York, New York in connection with the liquidation of Franklin National Bank, New York, New York.

Recommendations with respect to an appeal from a denial of a request for records under the Freedom of Information Act.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: October 22, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson
Executive Secretary

[S-2084-79 Filed 10-23-79; 2:54 pm]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, October 22, 1979, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Recommendation with respect to an appeal from a denial of a request for records under the Freedom of Information Act.

Recommendations regarding the liquidation of assets acquired by the Corporation from United States National Bank, San Diego, California (Case Nos. 44,095-NR, 44,096-NR, and 44,097-NR).

Legal Division memorandum re: liquidation of Franklin National Bank, New York, New York.

Recommendation with respect to lodging for 1980 Training Center students.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(7), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(7), (c)(9)(B), and (c)(10)).

Dated: October 22, 1979.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.

[S-2085-79 Filed 10-23-79; 2:54 pm]
BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 4:00 p.m., October 29, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Town & Country Bank, a proposed new bank, to be located at 12535 Seal Beach Boulevard, Seal Beach, California, for Federal deposit insurance.

Bank of Westminster, a proposed new bank, to be located at 8251 Westminster Avenue, Westminster, California, for Federal deposit insurance.

Central Bank of West Greeley, a proposed new bank, to be located at 3640 W. 10th Street, Greeley, Colorado, for Federal deposit insurance.

Horizon Mutual Savings Bank, Bellingham, Washington, a proposed new bank, for Federal deposit insurance coincident with conversion of a Federal savings and loan association into a mutual savings bank.

Applications for consent to establish branches:

Delaware Trust Company, Wilmington, Delaware, for consent to establish a branch at 3920 Kennett Pike, Greenville, Delaware.

Harmonia Savings Bank, Elizabeth, New Jersey, for consent to establish branches at

V 4 4 O C 2 5 7 9 UMI

Springfield and Snyder Avenues, Berkeley Heights, New Jersey and at the Fairway Plaza Shopping Center, U.S Route 9, Old Bridge Township, New Jersey.

Applications for consent to merge and establish branches:

Peoples Bank of Hancock, Hancock, Maryland, an insured State nonmember bank, for consent to merge with Antietam Bank Company, Hagerstown, Maryland, an insured State nonmember bank, under the charter and title of Peoples Bank of Hancock, and to establish the sole office of Antietam Bank Company as a branch of the resultant bank.

First State Bank of Oregon, Milwaukie, Oregon, an insured State nonmember bank, for consent to merge, under its charter and title, with The Community Bank, Lake Oswego, Oregon and with First State Interim Bank of Oregon, Milwaukie, Oregon, and to establish the two offices of The Community Bank as branches of the resultant bank.

First-Citizens Bank and Trust Company of South Carolina, Columbia, South Carolina, an insured State nonmember bank, for consent to merge, under its charter and title, with The Bank of Trenton, Trenton, South Carolina, and to establish the sole office of The Bank of Trenton as a branch of First-Citizens Bank and Trust Company of South Carolina.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No 44,077-L—The Hamilton Bank & Trust Co., Atlanta, Georgia.

Case No. 44,087-L—Franklin National Bank, New York, New York.

Case No. 44,093-NR—United States National Bank, San Diego, California.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Memorandum and Resolution re: Delinquent Bank Reports.

Memorandum re: Summary Audit dated June 15, 1979.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine -Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S–2082–79 Filed 10–23–79; 10:49 am]

BILLING CODE 6714–01–M

6

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 3:00 p.m., October 29, 1979.

PLACE: Board Room, 6th Floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed purchase and assumption transaction or consolidation:

American National Bank & Trust Company of Chicago, Chicago, Illinois, and Mercantile National Bank of Chicago, Chicago, Illinois.

The First National Bank & Trust Company of Hamilton, Hamilton, Ohio and First National Bank of Middletown, Monroe, Ohio.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S–2081–79 Filed 10–23–79; 10:48 am]

BILLING CODE 6714–01–M

7

October 22, 1979.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 2:00 p.m. October 29, 1979.

PLACE: 825 North Capitol Street N.E., Washington, D.C. 20426, Room 9306.

STATUS: Open.

MATTERS TO BE CONSIDERED:

(1) Docket No. TC80–10, Alabama-Tennessee Natural Gas Company.

(2) Docket Nos. TC80–1 and RP72–6, El Paso Natural Gas Company.

(3) Docket No. TC80–7, Michigan-Wisconsin Pipe Line Company.

(4) Docket Nos. TC80–3 and TC80–4, Midwestern Gas Transmission Company.

(5) Docket No. TC80–14, Mississippi River Transmission Corporation.

(6) Docket No. RP76–52, Northern Natural Gas Company.

(7) Docket No. TC80–26, Southern Natural Gas Company.

(8) Docket No. TC80–2, Tennessee Gas Pipeline Company, a Division of Tenneco, Inc.

(9) Docket No. TC80–25, National Fuel Gas Supply Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

[S–2080–79 Filed 10–23–79; 8:45 am]

BILLING CODE 6450–01–M

8

[USITC SE–79–38B and –39A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 44 FR 58600 (10/10/79) and 44 FR 59739 (10/16/79).

PREVIOUSLY ANNOUNCED TIMES AND DATES OF THE MEETING: 10:00 a.m., Tuesday, October 23, 1979, and 10:00 a.m., Friday, October 26, 1979.

CHANGE IN THE MEETING: Amendments to notices as follows:

To delete item No. 4—Petitions and complaints, if necessary:

(a) Powered tire changers (Docket No. 598) from the agenda for the meeting of Tuesday, October 23, 1979, and

Add item No. 2—Petitions and complaints, if necessary:

(a) Powered tire changers (Docket No. 598) to the agenda for the meeting of Friday, October 26, 1979.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–2079–79 Filed 10–22–79; 5:04 pm]

BILLING CODE 7020–02–M

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9 a.m., Thursday, November 1, 1979. [NM–79–39]

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, S.W., Washington, D.C. 20594.

STATUS: The first item of the agenda will be open to the public; the second item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Recommendations* to the Federal Aviation Administration regarding the American Airlines DC–10 accident at Chicago, Illinois, on May 25, 1979.

2. *Opinion and Order*—Petition of McHenry, Dkt. SM–2310; disposition of respondent's appeal.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

October 23, 1979.

[S–2088–79 Filed 10–23–79; 3:28 pm]

BILLING CODE 4910–58–M

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: October 22, 1979 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street, N.W., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Monday, October 22 (changes); 1:00 p.m.

1. Briefing on Proposed Enforcement Action re TMI (approximately 2 hours, closed—exemption 10).

2. Discussion of Extension of Pat Down Search (approximately 1 hour, public meeting). (Meeting at approximately 3:00 p.m.)

ADDITIONAL INFORMATION: By a vote of 5–0 on October 22 the Commission determined pursuant to 5 U.S.C. 552b(e)(1) and § 9.107(a) of the Commission's Rules that Commission business required that the Briefing on Proposed Enforcement Action re TMI, scheduled that day, be held on less than one week's notice to the public. The Discussion of Personnel Matter, announced for 10/22, was cancelled.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Walter Magee,

Office of the Secretary.

[S–2083–79 Filed 10–23–79; 12:33 pm]

BILLING CODE 7590–01–M

11

RAILROAD RETIREMENT BOARD.

TIME AND DATE: 9:00 a.m., November 1, 1979.

PLACE: Board's meeting room on the 8th floor of its headquarters building at 844 Rush Street, Chicago, Illinois, 60611.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

(1) National and field service meeting expenses, 1978–1979.

(2) Questionnaire on employer status of railroad contractors.

Portion Closed to the Public

(3) Appeal of denial of period of disability and of earlier annuity beginning date, Charles W. Broughton.

CONTACT PERSON FOR MORE INFORMATION: R. F. Butler, Secretary of the Board. COM No. 312–751–4920. FTS No. 387–4920.

[S–2089–79 Filed 10–23–79; 3:52 pm]

BILLING CODE 7905–01–M

V 44 OCT 25 79 UMI

federal register

Thursday
October 25, 1979

Part II

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Petroleum Refinery Claus Sulfur Recovery Plants

V 4 4 0 C 2 5 7 9 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[FRL 1331-5]

Standards of Performance for New Stationary Sources; Petroleum Refinery Claus Sulfur Recovery Plants; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action deletes the requirement that a Claus sulfur recovery plant of 20 long tons per day (LTD) or less must be associated with a "small petroleum refinery" in order to be exempt from the new source performance standards for petroleum refinery Claus sulfur recovery plants. This action will result in only negligible changes in the environmental, energy, and economic impacts of the standards.

EFFECTIVE DATE: October 25, 1979.

ADDRESS: All comments received on the proposal are available for public inspection and copying at the EPA Central Docket Section (A-130), Room 2903B, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460. The docket number is OAQPS-79-10.

FOR FURTHER INFORMATION CONTACT: Don R. Goodwin, Director, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-5271.

SUPPLEMENTARY INFORMATION:

Background

On March 15, 1978, EPA promulgated new source performance standards for petroleum refinery Claus sulfur recovery plants. These standards did not apply to Claus sulfur recovery plants of 20 LTD or less associated with a small petroleum refinery, 40 CFR 60.100 (1978). "Small petroleum refinery" was defined as a "petroleum refinery which has a crude oil processing capacity of 50,000 barrels per stream day or less, and which is owned or controlled by a refiner with a total combined crude oil processing capacity of 137,500 barrels per stream day or less," 40 CFR 60.101(m) (1978).

On May 12, 1978, two oil companies filed a Petition for Review of these new source performance standards. One issue was whether the definition of "small petroleum refinery" was unduly restrictive.

On March 20, 1979, EPA proposed to amend the definition of "small petroleum refinery" by deleting the requirement that it be "owned or controlled by a refiner with a total combined crude oil processing capacity of 137,500 barrels per stream day (BSD) or less," 44 FR 17120. This proposal would have had a negligible effect on sulfur dioxide (SO_2) emissions, costs, and energy consumption. The oil company petitioners agreed to dismiss their entire Petition for Review if the final regulation did not differ substantively from this proposal.

EPA provided a 60 day period for comment on the proposal and the opportunity for interested persons to request a hearing. The comment period closed May 21, 1979. EPA received six written comments and no requests for a hearing.

Summary of Amendment

The promulgated amendment deletes the requirement that a Claus sulfur recovery plant of 20 LTD or less must be associated with a "small petroleum refinery" in order to be exempt from the new source performance standards for such plants. Thus, the final standard will apply to any petroleum refinery Claus sulfur recovery plant of more than 20 LTD processing capacity. This amendment will apply, like the standards themselves, to affected facilities, the construction or modification of which commenced after October 4, 1976, the date the standards of performance for petroleum refinery Claus sulfur recovery plants were proposed.

Environmental, Energy, and Ecomonic Impacts

The promulgated amendment will result in a negligible increase in nationwide sulfur dioxide emissions compared to the proposed amendment and the existing standard. The promulgated amendment will also have essentially no impact on other aspects of environmental quality, such as solid waste disposal, water pollution, or noise. Finally, the promulgated amendment will have essentially no impact on nationwide energy consumption or refinery product prices.

Summary of Comments and Rationale

All six comments received were from the petroleum refinery industry. Two commenters expressed agreement with the proposal. The other four also were not opposed to the proposal, but felt the definition of "small petroleum refinery" was still too restrictive, as explained below.

Two of the four argued for deletion of the 50,000 BSD refinery size cutoff and also that sulfur recovery plant size was not only a function of refinery size (as they felt EPA had apparently assumed in establishing the refinery size cutoff), but depended on such factors as the crude oil sulfur content and actual crude oil throughput.

The other two commenters, each planning to construct small Claus sulfur recovery plants, objected that the environmental benefits of subjecting small Claus sulfur recovery plants to the standards was not substantial even when a Claus sulfur recovery plant was associated with a petroleum refinery of more that 50,000 BSD capacity. EPA agrees. Accordingly, EPA believes it is appropriate under the circumstances to delete the refinery size requirement.

Thus, the promulgated standard would exempt from coverage by the standards any Claus sulfur recovery plant of 20 LTD or less. Alternatively, the standards of performance for petroleum refinery Claus sulfur recovery plants would apply to all plants of more than 20 LTD processing capacity.

Deletion of the refinery size requirement from the standards will not result in a significant increase in the emissions of SO_2 from petroleum refinery Claus sulfur recovery plants. This is due to the small number of small Claus sulfur recovery plants (i.e., 20 LTD or less capacity) that are likely to be built at refineries of more than 50,000 BSD and the fact that most of these exempted plants will still be required by State regulations to achieve 99.0 percent control of SO_2 (compared to the 99.9 percent control required for large Claus sulfur recovery plants). In many cases the exempted Claus sulfur recovery plants would be required to achieve greater than 99.0 percent control of SO_2 due to prevention of significant deterioration (PSD) requirements. This change will also result in a negligible decrease in costs and essentially no impact on energy and economic impacts, compared to the proposed amendment.

Docket

Docket No. OAQPS-79-10, containing all supporting information used by EPA, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, Room 2903B (see ADDRESS Section of this preamble).

The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the promulgated rule and EPA responses to comments, the contents of the dockets will serve as the record in case of judicial review [Section 307(d)(a)].

Miscellaneous

The effective date of this regulation is October 25, 1979. Section 111(b)(1)(B) of the Clean Air Act provides that standards of performance become effective upon promulgation and apply to affected facilities, construction or modification of which was commenced after the date of proposal on October 4, 1976 (41 FR 43866).

EPA will review this regulation four years from the date of promulgation. This review will include an assessment of such factors as the need for integration with other programs the existence of alternative methods, enforceability, and improvements in emission control technology.

It should be noted that standards of performance for new stationary sources established under Section 111 of the Clean Air Act reflect: "* * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any non-air quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated." [Section 111(a)(1)]

Although there may be emission control technology available that can reduce emissions below those levels required to comply with standards of performance, this technology might not be selected as the basis of standards of performance due to costs associated with its use. Accordingly, standards of performance should not be viewed as the ultimate inachievable emission control. In fact, the Act requires (or has potential for requiring) the imposition of a more stringent emission standard in several situations.

For example, applicable costs do not play as prominent a role in determining the "lowest achievable emission rate" for new or modified sources locating in nonattainment areas, i.e., those areas where statutorily mandated health and welfare standards are being violated. In this respect, Section 173 of the Act requires that a new or modified source constructed in an area which exceeds the National Ambient Air Quality Standard (NAAQS) must reduce emissions to the level which reflects the "lowest achievable emission rate" (LAER), as defined in Section 171(3), for such category of source. The statute defines LAER as that rate of emissions based on the following, whichever is more stringent:

(A) the most stringent emission limitation which is contained in the implementation plan of any State for such class or category of source, unless the owner or operator of the proposed source demonstrates that such limitations are not achievable, or

(B) the most stringent emission limitation which is achieved in practice by such class or category of source. In no event can the emission rate exceed any applicable new source performance standard [Section 171(3)].

A similar situation may arise under the prevention of significant deterioration of air quality provisions of the Act (part C). These provisions require that certain sources [referred to in Section 169(1)] employ "best available control technology" [as defined in Section 169(3)] for all pollutants regulated under the Act. Best available control technology (BACT) must be determined on a case-by-case basis, taking energy, environmental, and economic impacts and costs into account. In no event may the application of BACT result in emissions of any pollutants which will exceed the emissions allowed by any applicable standard established pursuant to Section 111 (or 112) of the Act.

In all events, State implementation plans (SIP's) approved or promulgated under Section 110 of the Act must provide for the attainment and maintenance of NAAQS designed to protect public health and welfare. For this purpose, SIP's must in some cases require greater emission reductions than those required by standards of performance for new sources.

Finally, States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111 or those necessary to attain or maintain the NAAQS under Section 110. Accordingly, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under Section 111; and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

Section 317 of the Clean Air Act requires the Administrator to, among other things, prepare an economic assessment for revisions to new source performance standards determined to be substantial. Executive Order 12044 requires certain analyses of significant regulations. Since this amendment lacks the economic impact and significance to require additional analyses, it is not subject to the above requirements.

Dated: October 16, 1979.

Douglas M. Costle,
Administrator.

Part 60 of chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

1. § 60.100 is amended by revising paragraph (a), as follows:

§ 60.100 Applicability and designation of affected facility.

(a) The provisions of this subpart are applicable to the following affected facilities in petroleum refineries: fluid catalytic cracking unit catalyst regenerators, fuel gas combustion devices, and all Claus sulfur recovery plants except Claus plants of 20 long tons per day (LTD) or less. The Claus sulfur recovery plant need not be physically located within the boundaries of a petroleum refinery to be an affected facility, provided it processes gases produced within a petroleum refinery.

(b) * * *

2. § 60.101 is amended by revoking and reserving paragraph (m), as follows:

§ 60.101 Definitions

* * * * *

(m) [Reserved]

(Sec. 111, 301(a), Clean Air Act as amended [42 U.S.C. 7411, 7601(a)].)

[FR Doc. 79-32778 Filed 10-24-79; 8:45 am]

BILLING CODE 6560-01-M

V 44 OC 25 79 UMI

federal register

Thursday
October 25, 1979

Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Fishermen's Protective Act; Implementation

V 4 4 0 C 2 5 7 9 UMI

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 258

Fishermen's Protective Act

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration.

ACTION: Final Rule.

SUMMARY: These final regulations implement Section 10 ("Section 10") of the Fishermen's Protective Act of 1967, as amended by Pub. L. 95–376 (the "Act"). Section 10 establishes the Fishing Vessel and Gear Damage Compensation Fund (the "Fund") to pay for damage, loss, or destruction of fishing vessels and gear of United States fishermen occurring in any fishery subject to the exclusive management authority of the United States. Fishing vessel damage, loss, or destruction is compensable under Section 10 only if it is attributable to foreign fishing vessels, while fishing gear damage, loss, or destruction is compensable if it is attributable to foreign vessels, U.S. domestic vessels, or acts of God.

Although Section 10 makes certain fishing vessel loss, damage, or destruction eligible for Fund compensation, these regulations largely exclude fishing vessel compensation under the theory that marine casualty insurance is commercially available for fishing vessel casualties. The Fund receives its capital largely from a surcharge on fees paid by foreign fishermen operating in the U.S. Fishery Conservation Zone (the "FCZ"). Only casualties occurring in fisheries subject to the exclusive management authority of the United States are eligible for Fund compensation. Since many casualties to fixed U.S. fishing gear will be unobserved by the applicant or the applicant's crew, these final regulations establish several presumptions under which unobserved casualties to fixed U.S. fishing gear will be compensated as casualties attributable to foreign vessels or acts of God. No presumptions are established for casualties attributable to domestic vessels. An act of God has been very narrowly defined in these final regulations. Only weather and sea conditions greater than one standard deviation above the historical mean for the place and season of the casualty are regarded as conditions severe enough to be compensable as acts of God. Since one standard deviation above the historical mean will eliminate 83⅓% of all conditions, only the most severe 16⅔% of all conditions are considered acts of God. Casualties caused by human action or inaction (regardless of the severity of weather and sea conditions) are not considered acts of God. Willfully false or misleading statements or representations in a claim are criminal offenses punishable by a fine of up to $25,000, imprisonment for up to one year, or both.

EFFECTIVE DATE: These regulations are effective November 24, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Michael L. Grable or Ms. Kathryn E. Hensley, Financial Services Division, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, D.C. 20235, Telephone (202) 634–4688.

SUPPLEMENTARY INFORMATION:

Introduction

The previous Section 10 program allowed the Secretary of Commerce (the "Secretary") to make loans to domestic fishermen whose vessels or gear were damaged by foreign fishing vessel operations in the FCZ. These loans were cancellable if it was determined that the applicant was not at fault in causing the casualty for which the loan had been made. Rules governing the administration of the previous Section 10 program are published as Subpart B of 50 CFR Part 258.

Pub. L. 95–376 amended Section 10 to broaden the type of casualties eligible for compensation, change the method of compensation, and provide a new source of program funding. Since Pub. L. 95–376 substantially amended the existing Section 10 program, the National Marine Fisheries Service (the "NMFS") on February 12, 1979, proposed a new Subpart C to 50 CFR Part 258 to implement the required changes (see 44 FR 8905). Public comment on Subpart C has been analyzed and these regulations represent final adoption of the new Subpart C.

Regulatory Analysis

The Assistant Administrator for Fisheries made an initial determination that these regulations are not significant under Executive Order 12044. The Assistant Administrator has also determined that these regulations do not require the preparation of an environmental impact statement under the National Environmental Policy Act.

Response to Public Comments

We received 15 comments in response to the Notice of Proposed Rulemaking. Some comments, while approving of the proposed rulemaking, raised questions or made suggestions that resulted in a number of changes in the final regulations. The comments and the resulting modifications will be discussed below.

Section 258.21 Definitions.

(e) The Coast Guard suggested that the definition of "Commercial shipping lane" be more specifically defined as "vessel tractlines shown on pilot charts published by the U.S. Defense Mapping Agency Hydrographic Center or vessel traffic separation lanes as depicted on U.S. National Ocean Survey nautical charts." The definition has been changed as suggested.

Section 258.22 Eligibility.

(c), (d) *Area of operation of vessels eligible for compensation of losses.* Several comments requested inclusion of compensation for gear casualties within the territorial sea. Section 10 specifically limits compensation to those casualties occurring in a fishery subject to the exclusive fishery management authority of the United States. Under certain conditions, the Secretary of Commerce may preempt state regulations of fisheries in the territorial sea. Under no circumstances, however, may the United States exert exclusive fishery management authority over a fishery which is located completely within the territorial sea. These regulations, therefore, have been drafted to include compensation for all casualties occurring in fisheries subject to the exclusive management authority of the United States and exclude all casualties occurring within the territorial sea when the United States does not exert exclusive management authority over the fishery in which the casualty occurred.

(d) *Casualty to fishing gear.* Reports submitted to us have indicated that gear damage has been caused by discarded fishing gear. This section has, therefore, been expanded to include compensation for fishing gear casualties caused by discarded fishing gear.

(e) *Reporting requirement.* Several comments expressed concern over the number of reports which would be necessitated if fixed gear were required to be reported to the Coast Guard as a prerequisite to submitting a claim. It was also pointed out that the reporting to the Coast Guard of fixed gear locations was not customary practice in some areas. This section was, therefore, modified to require reporting only if a Fishery Management Plan or other Federal regulation requires it. There are voluntary reporting programs sponsored by NMFS and the Coast Guard and fishermen are encouraged to use those programs since the number of gear conflicts tends to be minimized if the location of such gear conflicts tends to be minimized if the location of such gear has been reported to the Coast Guard for broadcast to other vessels in the area. The existence of a gear deployment report also provides documentation of measures taken by a prudent person to avoid gear conflicts. Such a record may be important in the pursuit of United States subrogation rights against parties alleged to have caused damages or losses.

Section 258.23 Applications.

(e) *Affidavit of vessel master.*

(3) Loran C coordinates were added as an optional method to report the location of casualties. Many of the claims received to date have used Loran C coordinates and NMFS is able to transpose them into longitude-latitude coordinates.

(f) *Affidavit of owner.*

(2) In many cases purchase invoices for lost, damaged or destroyed gear are not available. If invoices are not available, receipts, tax returns, or other proof of ownership may be accepted.

(g) *Estimates.* The number of estimates has been reduced from three to two because of the difficulties experienced by some fishermen in obtaining three estimates.

(i) *Efforts to retrieve gear.* Since the intent of the Fund is to provide compensation only to the extent that losses cannot otherwise be avoided, this requirement has been added to encourage fishermen to continue their efforts to retrieve lost gear under those circumstances where it is reasonable to assume the gear may be recovered.

Section 258.24 Burden of proof and presumptions.

(b)(1)(ii) *Acts of God.* Several comments raised questions concerning the severity of weather and sea conditions which would qualify as acts of God. Provisions relating to acts of God have been changed in response to these comments. Only weather and sea conditions greater than one standard deviation above the historical mean for the place and season of a casualty will be considered an act of God. Anything less than one standard deviation above the historical mean will be considered a normal operating contingency. The Office of Oceanic and Atmospheric Services of the National Oceanic and Atmospheric Administration will, for each claim which may have been attributable to an act of God, establish the historical mean at the place and season of the casualty, evaluate actual weather and sea conditions at the place and season of the casualty, and decide whether the actual weather and sea conditions were more severe than one standard deviation above the historical mean.

Section 258.25 Amount of compensation.

This section has been changed to provide that the lower of the two required estimates indicating current replacement cost for the lost, damaged, or destroyed fishing gear will be used as the basis for determining depreciated replacement cost.

The final regulations did not incorporate comments on the following issues.

(1) *Simplification of the complex application process.* Several comments requested simplification of the application process. Section 10 is quite comprehensive in the criteria which must be met in order to qualify for compensation. In order to protect the Fund against fraudulent and other ineligible claims, all pertinent information concerning an incident for which a claim is made must be submitted. This requirement is no more burdensome than those of other compensation programs. Consequently, the application process remains extensive.

(2) *Administration of claims received.* Several comments stated that the claims could be handled more expeditiously and by more knowledgeable persons if the claims were submitted to regional offices of the NMFS. The best use of very limited personnel resources requires central administration at the present time.

(3) *Presumptions for unobserved fishing gear casualties.* Some comments stated that the conditions upon which the presumptions for unobserved fishing gear casualties were based were too stringent, while others stated they were not stringent enough. Since many casualties to fixed fishing gear will not be observed by the applicant or his crew, the choice was either to (1) exclude such unobserved fixed fishing gear casualties from the possibility of compensation or (2) apply presumptions which would allow deserving, but unobserved, fixed fishing gear casualties to be compensated. The presumptions chosen represent a reasonable balance between the two options. While it is recognized that the chosen presumptions may, in some cases, prevent compensation of claims which should have been compensated and may, in other cases, allow compensation of claims which should not have been compensated, they represent a fair compromise of a difficult evidentiary problem.

The conditions upon which the presumptions are based are fairly stringent. The presumption for acts of God comes into play only for unusually severe weather and sea conditions. The stringency involved in the presumption for acts of God is necessary to limit compensation for casualties based upon the presumption for acts of God to those consistent with demonstrable probabilities. An act of God may still be established by direct evidence in the event the claimant cannot gain the aid of the presumption. The presumption for casualties attributable to foreign vessels is less stringent. Nevertheless, it is possible for fixed U.S. fishing gear, while unobserved, to be damaged or destroyed by foreign vessels and still not meet the presumption since the Federal Government does not always know the position or activities of all foreign vessels in the FCZ. Since there is no objective way for NMFS to determine whether or not it might be reasonable to believe that an unobserved casualty to fixed U.S. fishing gear was attributable to domestic vessels, no presumption has been established for attributing casualties to the activities of domestic vessels. Thus, all casualties based upon the actions of domestic vessels must be specifically proven.

(4) *Inventory of gear.* Another issue was whether an annual gear inventory should be filed with NMFS as a condition precedent to compensation. This was considered but not adopted because of its potential to produce exorbitant amounts of paperwork for both the program user group and NMFS. It was, instead, determined that an inventory current as of a date immediately preceding the casualty could be submitted along with a claim for compensation.

Accordingly, with the indicated changes, the previously proposed regulations are adopted as set forth hereafter.

Dated: October 22, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

50 CFR Part 258 is amended by adding the following:

Subpart C—Compensation for Fishing Vessel or Fishing Gear Damage in a U.S. Fishery Attributable to Other Vessels or Acts of God

Sec.

258.20 Purpose and scope.
258.21 Definitions.
258.22 Eligibility.
258.23 Applications.

Sec.
258.24 Burden of proof and presumptions.
258.25 Amount of compensation.
258.26 Initial determination.
258.27 Final determination.
258.28 Subrogation.
258.29 Payment.
258.30 Penalties.

Authority: Pub. L. 95-376. 92 Stat. 715 (22 U.S.C. 1980). Subpart C—Compensation for Fishing Vessel or Fishing Gear Damage in a U.S. Fishery Attributable to Other Vessels or Acts of God.

§ 258.20 Purpose and scope.

(a) This subpart contains the regulations for compensating the owners or operators of United States fishing vessels or fishing gear for casualties occurring after January 1, 1979. Eligible vessel casualties are those which are attributable to any foreign vessel (or its crew or fishing gear). Eligible fishing gear casualties are those which are attributable to acts of God or any other vessel (or its crew or fishing gear), whether or not such vessel is a vessel of the United States.

(b) For regulations governing casualties occurring before January 1, 1979 see Subpart B.

§ 285.21 Definitions.

Unless the context otherwise requires, in this subpart:

(a) "Act of God" means any act, event, or circumstance:

(1) Which is occasioned exclusively by natural causes; and

(2) Whose effect could not reasonably have been prevented, avoided, or ameliorated by human care, skill, or foresight (either before or after the act, event, or circumstance) of a type, degree, and timeliness which would normally be expected from an ordinarily prudent person in the same situation and under the prevailing circumstances.

(b) "Assistant Administrator" means the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration.

(c) "Casualty(ies)" means loss, damage, or destruction of fishing vessels which is attributable to foreign vessels (or their crew or fishing gear) or loss, damage, or destruction of fishing gear which is attributable to any other vessels (or their crew or fishing gear) or acts of God.

(d) "Chief, FSD" means Chief, Financial Services Division, National Marine Fisheries Service.

(e) "Commercial shipping lane" means any area designated for commercial shipping traffic by vessel tracklines shown on pilot charts published by the U.S. Defense Mapping Agency Hydrographic Center or vessel traffic separation lanes as depicted on U.S. National Ocean Survey nautical charts.

(f) "Fishery" means:

(1) One or more stocks of fish which can be treated as a unit for purposes of conservation, management, and utilization and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(2) Any fishing for such stocks.

(g) "Fishery conservation zone" means the fishery conservation zone established by section 101 of the Fishery Conservation and Management Act of 1976, as amended.

(h) "Fishing" means:

(1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking, or harvesting of fish;

(3) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(4) Any operations at sea in support of, or in preparation for, any activity described in paragraphs (h) (1) through (3) of this section. Fishing does not include any scientific research activity conducted by a scientific research vessel.

(i) "Fishing gear" means any equipment or appurtenance which is:

(1) Used for, or of a type which is normally used for, fishing by a fishing vessel, whether or not attached to the vessel; and

(2) Not considered a part of the fishing vessel for the purpose of recovery under a commercial policy of full hull and machinery and protection and indemnity insurance.

(j) "Fishing vessel" means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(1) Fishing; or

(2) Aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(k) "Foreign vessel" means a vessel other than a vessel of the United States, regardless of such vessel's trade or use.

(l) "United States fishery" means any fishery subject to the exclusive fishery management authority of the United States under the Fishery Conservation and Management Act of 1976, as amended.

(m) "United States fishing vessel" means any fishing vessel which is a vessel of the United States.

(n) "Unobserved fishing gear casualty" means a fishing gear casualty which was not observed by the applicant or any agent or employee of the applicant.

(o) "Vessel of the United States" means any vessel documented under the laws of the United States or registered under the laws of any State, regardless of such vessel's trade or use.

§ 258.22 Eligibility.

(a) *Applicants.* Only the owner or operator of a United States fishing vessel or fishing gear is eligibile for compensation under this subpart.

(b) *Dates.* Casualties occurring after January 1, 1979, are eligible for compensation under this subpart. See Subpart B of this part for regulations governing casualties occurring before January 1, 1979.

(c) *Casualty to fishing vessels.* A casualty to a United States fishing vessel is eligible for compensation under this subpart if it occurred in a United States fishery and is attributable to any foreign vessel.

(d) *Casualty to fishing gear.* A casualty to fishing gear is eligible for compensation under this subpart if it occurred in a United States fishery and is attributable to an act of God or any other vessel (or its crew or fishing gear, even if such gear was not attached to the vessel), whether or not such vessel is a foreign vessel.

(e) *Reporting requirement.* A casualty to fixed fishing gear attributable to any other vessel is not eligible for compensation unless the claimant has met all mandatory reporting requirements regarding gear deployment set forth in any applicable Fishery Management Plan or other Federal regulation. Fishermen are encouraged to participate in voluntary gear reporting programs. A record of gear deployment broadcast to other vessels may be considered evidence of prudent care on the part of a fisherman to notify other vessels in a particular area of the presence of that fisherman's gear.

(f) *Insurance.* Compensation under this Subpart will not be made for any part of a casualty which would have been recoverable under a commercial policy of full hull and machinery and protection and indemnity insurance, regardless of whether or not such insurance was in effect. The Fund will, however, compensate for United States fishing vessel casualties caused by foreign vessels (or their crew or fishing gear) to the extent of a reasonable deductible under full hull and machinery and protection and indemnity insurances (even if such insurances were not in effect).

(g) *Commercial shipping lanes.* No casualty occurring in a commercial shipping lane is eligible for compensation under this subpart unless it is clear that the cause of the casualty was an act of God.

§ 258.23 Applications.

(a) *Who may apply.* Applications under this subpart shall be submitted by the owner or operator whose United States fishing vessel or fishing gear suffered the casualty for which compensation is sought.

(b) *Where to apply.* Applications shall be submitted to the Financial Services Division, National Marine Fisheries Service, Washington, D.C. 20235.

(c) *Time requirement.* Applications must be submitted to the Financial Services Division within 60 calendar days of the date the owner or operator became aware of the casualty. Applications sent by mail must be postmarked during that 60 day period. Applications made later than 60 days are not eligible.

(d) *Contents.*

(1) Applications may be submitted on forms provided by the Financial Services Division when such forms are available. Until such forms are available, applications shall include the information required by paragraphs (d) through (k) of this section.

(2) Each application shall be signed by the applicant and shall state the applicant is the owner or operator of the United States fishing vessel or fishing gear involved in the casualty.

(3) Each application shall include as attachments the affidavits and estimates required by this section. For the purposes of this section, an affidavit is a written statement sworn to or affirmed before a notary public or other official empowered to administer oaths.

(e) *Affidavit of vessel master.* Each application shall include an affidavit of the master of the United States fishing vessel which suffered, or whose fishing gear suffered, the casualty for which compensation is sought. If more than one master was involved at any material time before, during, or after the casualty, the application shall include an affidavit from each master. The affidavit shall set forth a full statement of all facts and circumstances before, during, and after the incident resulting in the casualty for which compensation is sought, including:

(1) A full description of the nature of the fishing operations resulting in the casualty. The description of casualties to fixed fishing gear shall ordinarily include a diagram and accompanying explanation showing the various components of the gear involved in the casualty and how they were arranged while operating.

Example. The description for a casualty to fixed fishing gear should describe:

(i) how the gear was fixed, anchored, or otherwise prevented from drifting and with what size, weight, type, construction material, and number of anchors or other means of fixation;

(ii) how many pots, traps, or other units of gear of what size, weight, type, and construction material were fixed to the gear; how they were fixed; and at what intervals;

(iii) how the gear was buoyed with what size, shape, type, and construction material buoys, and how many buoys were used at what intervals on the gear set;

(iv) what size, weight, type, grade, and construction material lines, ropes, or cables were used;

(v) what provisions were made to ensure the gear could be seen by other vessels;

(vi) what provisions were made to ensure the gear could be located and retrieved;

(vii) at what depth the gear operated, its length, and what area it covered;

(viii) what weather or sea conditions the gear was designed to withstand; and

(ix) any other relevant details of the casualty.

(2) A full description of the nature and extent of loss, damage, or destruction involved in the casualty, including photographs of the damage where possible.

(3) The time, date, and location (in latitude and longitude coordinates or Loran C readings) of the incident resulting in the casualty.

(4) If the casualty were not observed at the time it happened, include:

(i) the time, date, and location when the gear was first deployed;

(ii) the time, date, and location when the gear was last observed to be in a sound state (if different from the time and date of its deployment);

(iii) the time, date, and location when knowledge of the casualty first became known; and

(iv) a full statement (to the best of applicant's knowledge) of the weather and sea conditions (or any other conditions which could be construed as an act of God) which existed during the period after deployment and before first knowledge of the casualty.

(5) If the casualty were observed at the time it happened, a full description of the act of God or vessel which caused the casualty (for instance, unusual weather conditions if the cause were an act of God; or the other vessel's size, type, flag, name, number, color of house or hull, and other identifying characteristics if the cause were the action of another vessel, and a full description of such vessel's, and/or its crew's, actions before, during, and after the casualty).

(6) A full description of the actions of the applicant's United States fishing vessel and its crew before, during, and after the casualty, including all circumstances involving deployment of any fishing gear involved in the casualty and locating and retrieving it or all attempts at locating and retrieving it.

(7) A full statement of the reasons for belief that the casualty was caused by another vessel or by an act of God rather than by natural conditions constituting less than an act of God ("act of God" as defined in Section 258.21) or by other ineligible causes (for example, defective deployment, defective retrieval, or other circumstances which constitute normal operating contingencies).

(8) A full inventory of all property involved in the casualty, including: the number of all components lost, damaged, or destroyed; their size, type, grade and construction material; their age; their useful economic life; whether the damage was total or repairable (and, if a combination of both, what components were totally damaged or lost and what components were retrieved in what condition, etc.).

(f) *Affidavit of the owner.* Each application shall also include an affidavit of the owner of the United States fishing vessel or fishing gear involved in the casualty. A single affidavit of the vessel master and owner may be submitted if the vessel master is also the owner of the property concerned. Each affidavit shall include:

(1) A complete inventory of all fishing gear owned by the applicant of a type similar to any fishing gear involved in the casualty for which a claim for compensation is being made. The inventory shall be current as of a date immediately preceding the casualty (the lost, damaged, or destroyed fishing gear must be included in the inventory). The age and remaining useful economic life of each unit of fishing gear in the inventory shall be specified.

(2) The date, place, and cost of acquisition of all fishing gear and components lost, damaged, or destroyed in the casualty. Purchase invoices or other acceptable proof of ownership for such gear shall be submitted.

(g) *Estimates.* Each application shall include two estimates, from commercial sources, acceptable to the Chief, FSD, of the property lost, damaged, or destroyed and its repair cost if it is repairable.

(h) *Witnesses.* Each application shall include:

V 44 O C 25 79 UMI

(1) The name, address, and telephone number of each known witness to the casualty; and

(2) An affidavit from any material witness to the casualty setting forth any material information possessed by such witness.

(i) *Efforts to retrieve fishing gear.* A full description of the actions taken to retrieve the fishing gear involved in the casualty must accompany the claim. The applicant is responsible for reporting any fishing gear retrieved to the Chief, FSD, whether before or after a decision is made on a claim.

(j) *Other evidence.* The Chief, FSD, may require an applicant to submit affidavits, information, explanations, or estimates in addition to those specified in this section.

(k) *Filing fee.* Each application shall include a check or money order made payable to the National Marine Fisheries Service for the filing fee. The filing fee is one percent (1%) of the replacement and/or repair (whichever is applicable) cost of the property lost, damaged, or destroyed (but in no event shall the filing fee exceed $1,000). The replacement and/or repair cost used to calculate the filing fee is the lower of the two estimates required by § 258.23(g) to be included in the application. The filing fee is non-refundable.

(l) *Incomplete and abandoned applications.* As soon as practicable after receipt of an incomplete or improperly completed application, the Chief, FSD, shall notify the applicant. The 60-day processing time, within which an Initial Determination shall be made under § 258.26, does not begin to run until an application is determined by the Chief, FSD, to be both proper and complete in all respects. If the applicant without good cause fails to correct a deficiency within 60 calendar days following the date of notification of the deficiency, the application shall be considered abandoned.

(1) *Amendment of applications.* An application may be amended any time after submission, but prior to the Initial Determination specified in § 258.26. The Chief, FSD, shall make an Initial Determination on the application, as amended, within 60 days from the receipt of the amendment.

§ 258.24 Burden of proof and presumptions.

(a) *Burden of proof.* The applicant has the burden to prove the cause of the casualty by a preponderance of the evidence. An applicant seeking compensation for a casualty to fishing gear has the burden to prove that the gear was deployed, and attempts to retrieve it were in conformance with customary usage and practice and otherwise constituted the actions of an ordinarily prudent person.

(b) *Presumptions.*

(1) Unobserved fishing gear casualties.

(i) *Attributable to foreign vessels.*

(A) Upon the filing of an application for compensation for an unobserved fishing gear casualty, the Chief, FSD, shall compile available data concerning foreign vessel activity in the vicinity of the casualty between the date when the deployed gear was last seen in a sound state and the date upon which knowledge of the casualty was first gained.

(B) There is a presumption that an unobserved fishing gear casualty was attributable to a foreign vessel if the Chief, FSD, determines that the data compiled under paragraph (A) show that foreign vessel was in close proximity to the fishing gear, or a sufficient number of foreign vessels were in the general vicinity of the fishing gear, between the date when the deployed gear was last seen in a sound state and the date of its retrieval or attempted retrieval to enable a determination that it is reasonable to believe that the casualty could have been attributable to foreign vessels.

(ii) *Attributable to acts of God.*

(A) The following procedure will be used in determining whether or not there is a presumption that an observed fishing gear casualty was attributable to an act of God:

(*1*) The Office of Oceanic and Atmospheric Services of the National Oceanic and Atmospheric Administration will compute the historical mean of weather and sea conditions for the general location, and during the season, of the casualty.

(*2*) The same office will determine the actual weather and sea conditions at the general location, and at the time, of the casualty.

(*3*) The same office will compare the actual weather and sea conditions with the historical mean.

(*4*) If the actual weather and sea conditions were in excess of one standard deviation above the historical mean for the area on the date of the casualty, there is a presumption that the casualty was attributable to an act of God.

(*5*) The Office of Oceanic and Atmospheric Services will also make a determination about the availability of weather and sea conditions forecasts, which may be a relevant factor in the amount of compensation pursuant to the provisions of § 258.25(e) for otherwise qualified acts of God.

(c) *Non-qualifying casualties.*

(1) Unobserved fishing gear casualties which do not qualify for the presumptions of § 258.24(b) shall be judged upon the evidence made available by the claimant. If the presumptions in § 258.24(b) are not met because of the inability of the Chief, FSD, to collect the necessary information, the Chief, FSD, shall make a determination based upon the evidence made available by the claimant.

(d) *Unobserved fishing gear casualty attributable to domestic vessels.* There is no presumption for unobserved fishing gear casualties attributable to vessels of the United States.

(e) *Observed casualties.* The presumptions for unobserved fishing gear casualties shall not apply to observed fishing vessel or fishing gear casualties.

§ 258.25 Amount of compensation.

(a) *General.* The amount of compensation under this subpart is the amount of casualty under paragraph (b) of this section minus the sum of any deduction for the negligence of the applicant under (e) of this section and any insurance proceeds under paragraph (f) of this section.

(b) *Amount of compensation.* If the property concerned is determined by the Chief, FSD, to be repairable at a cost less than its depreciated replacement cost, the amount of the casualty is the repair cost. The amount of the casualty for property which is totally (actually or constructively) lost or destroyed is its depreciated replacement cost.

(c) *Depreciated replacement cost.* For purposes of this section the depreciated replacement cost is the present replacement cost of the property (at the time the claim is submitted) involved in the casualty, depreciated (on a straightline basis over the property's economically useful life) so as to exclude that portion of the replacement cost which represents the property's already used economically useful life. The present replacement cost is the lower of the two submitted estimates required to be submitted under § 258.23(g).

(d) *Economically useful life remaining.*

(1) If the age, condition, and value of individual units of fishing gear involved in the casualty cannot be established to the satisfaction of the Chief, FSD, the Chief, FSD, shall use the average remaining economically useful life for all units identified in the inventory required by § 258.23 in calculating the depreciated replacement cost.

(2) If the average remaining economically useful life of fishing gear involved in the casualty is less than the average remaining economically useful life of all the property in the inventory required by § 258.23, the average remaining economically useful life of the fishing gear in the casualty will be used as the basis for calculating the depreciated replacement cost.

Example No. 1

(i) Applicant claims to have lost 100 crab pots with various remaining economically useful lives averaging 2.5 years. The applicant's fishing gear inventory shows that the applicant owns 500 crab pots (including the 100 involved in the casualty) with various remaining economically useful lives averaging 3.5 years.

(ii) The replacement cost of the 100 pots involved in the casualty will be depreciated as if they each had a remaining economically useful life of 2.5 years.

(iii) If the present replacement cost of the pots is $500 each and they have an economically useful life when new of 5 years, the depreciated replacement cost of each pot will be $250 (or 50% of the replacement cost), since 2.5 years (or 50% of their new economically useful life) was regarded as remaining at the time of the casualty.

(iv) Thus, the compensation would be 100 pots at a depreciated replacement cost of $250 each, for a total of $25,000.

(3) If the average remaining economically useful life of the fishing gear involved in the casualty is more than the average remaining economically useful life of all the fishing gear in the inventory required by Section 258.23, the average remaining economically useful life of all the fishing gear in the inventory will be used as the basis for calculating the depreciated replacement cost.

Example No. 2

If the 100 lost crab pots described in example No. 1 under (2) above had an average remaining economically useful life of 4 years (instead of 2.5 years), then the 3.5-year average remaining economically useful life of all the fishing gear in the inventory would be used as the basis for depreciating the cost of the replacement pots. Since 3.5 years is 70% of the new economically useful life (5 years) of the pots, the compensation would be $35,000 (70% of $500 equals $350 times 100 pots equals $35,000).

(e) *Comparative negligence.* In calculating the amount of compensation under this subpart, the amount of casualty under paragraph (b) of this section will be reduced proportionally to the extent that any negligence of the applicant (or the applicant's agents) contributed to the cause or extent of the casualty.

Example: If the applicant's total damages were $25,000 and 10 percent (10%) of the damages were the result of the applicant's negligence, the applicant would receive $22,500 in compensation. If the negligence of the applicant had caused 90% of the loss, $2,500 in compensation would be received.

(f) *Insurance proceeds.* For purposes of calculating the amount of compensation under this subsection, the amount of compensation under paragraph (b) of this section will be reduced by the amount the applicant has, or reasonably would have, received from a commercial policy of full hull and machinery and protection and indemnity insurance, whether or not such insurance was in effect at the time the casualty occurred. Recovery will be allowed for a reasonable deductible as set forth in section 258.22(f).

§ 258.26 Initial determination.

(a) *Time.* Within 60 days of the receipt of a properly completed application, the Chief, FSD, shall make an initial determination of the amount of any compensation to be paid the applicant.

(b) *Contents.* An initial determination shall state:

(1) If the application is disapproved, the reasons therefor; or

(2) If the application is approved, the amount of compensation and the basis upon which the amount was determined.

(c) *Notice.* The initial determination, along with the subrogation agreement (where applicable) provided for in § 258.28, shall be mailed to the applicant.

§ 258.27 Final determination.

(a) *Final determination.* Unless appealed under subsection (b), the initial determination of the Chief, FSD, shall become final 30 days after its issuance under section 258.26.

(b) *Appeal.* Any applicant may, within 30 days after the date of issuance of an initial determination under section 258.26, file with the Assistant Administrator at 3300 Whitehaven Street, Washington, D.C. 20235 a written request for review of the initial determination.

(c) *Additional evidence.* The applicant may submit to the Assistant Administrator written data relating to the initial determination no later than 30 calendar days after the filing of a petition under paragraph (b) of this section.

(d) *Appellote determination.* The Assistant Administrator shall issue a final determination on an appealed application within 60 days of the submission of any written data by the applicant under paragraph (c) of this section. A copy of the final determination shall be mailed to the applicant.

§ 258.28 Subrogation.

(a) After approval of an applicant's claim, but before compensation is disbursed, the applicant shall (when applicable to the cause to which the causalty was attributed) execute a subrogation agreement in a form satisfactory to the Chief, FSD, which:

(1) Assigns to the United States all rights which the applicant may have to proceed against any party who may be liable for damages with respect to any part of a casualty for which compensation is being made hereunder, and;

(2) Gives, as a condition of continuing to retain the compensation, the applicant's undertaking to assist the Chief, FSD, in any reasonable way to pursue collection of the subrogated rights.

§ 258.29 Payments.

(a) *Amount.* The Chief, FSD, shall compensate the applicant in the amount calculated under § 258.25 minus the approval fee as determined according to paragraph (b) of this section. Payment shall be made to the applicant upon receipt (where required) of a properly executed subrogation agreement under § 258.28.

(b) *Approval fee.* The approval fee is 4 percent (4%) of the amount of compensation calculated under 258.25, but in no case shall the sum of the approval fee and the filing fee under § 258.23(k) exceed $1,000.

§ 258.30 Penalties.

Persons who willfully make any false or misleading statement or representation for the purpose of obtaining compensation under this subpart are subject to criminal prosecution pursuant to the provisions of 22 U.S.C. 1980(g), which provides penalties, upon conviction, of a fine of not more than $25,000, or imprisonment for not more than one year, or both. Any evidence of false or misleading statements or representations will be promptly forwarded to the U.S. Department of Justice for action.

[FR Doc. 79-32982 Filed 10-24-79; 8:45 am]

BILLING CODE 3510-22-M

V 4 4 0 C 2 5 7 9 UMI

V 44 OC 25 79 UMI

federal register

Thursday
October 25, 1979

Part IV

Department of the Interior

Fish and Wildlife Service

Endangered Species Determinations; Coryphantha sneedii var. leei (Lee Pincushion Cactus) and Echinocereus triglochidiatus var. arizonicus (Arizona Hedgehog Cactus)

V 4 4 0 C 2 5 7 9 UMI

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Determination That Coryphantha sneedii var. leei Is a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Coryphantha sneedii* var. *leei* (Lee pincushion cactus), a native plant of New Mexico, to be a Threatened species. The plants are in demand by cactus collectors, and removal by commercial suppliers and private collectors has caused a decline in the natural populations. A population has also been damaged by road construction. This determination will extend to this cactus the protection provided by the Endangered Species Act of 1973, as amended.

DATE: This rulemaking becomes effective on November 26, 1979.

FOR FURTHER INFORMATION CONTACT:
Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 703/235-2771.

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant taxa to Congress on January 9, 1975. This report, designated as House Document No. 94–51, contained lists of over 3,100 U.S. vascular plant taxa considered by the Smithsonian Institution to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within, as well as any habitat which might be determined to be critical.

On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant taxa to be Endangered species pursuant to Section 4 of the Act. This list of 1,700 plants was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the above mentioned **Federal Register** publication.

Coryphantha sneedii var. *leei* was included in both the July 1, 1975, notice of review and the June 16, 1976, proposal. A public hearing on this proposal was held on July 22, 1976, in El Segundo, California. A second public hearing was held on July 12, 1979, in Albuquerque, New Mexico for five New Mexico cacti proposed as Endangered species, including this *Coryphantha*. In the June 24, 1977, **Federal Register**, the Service published a final rule (42 FR 32373–32381, codified at 50 CFR Part 17) detailing the permit regulations to protect Endangered and Threatened plant species. The rule established prohibitions and permit procedures to grant exceptions to the prohibitions under certain circumstances.

The Department has determined that this listing does not meet the criteria for significance in the Department regulations implementing Executive Order 12044 (43 CFR Part 14) or require the preparation of a regulatory analysis.

In keeping with the general intent of Section 4(b)(1)(C) of the Act, a summary of all comments and recommendations received is published in the **Federal Register** prior to adding any plant species to the List of Endangered and Threatened Wildlife and Plants.

Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, **Federal Register** publication which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909–17916). Some of these comments had addressed the general problems of conservation of cacti.

Additionally, many comments on the cactus trade were received in response to the June 7, 1976, proposed rule (41 FR 22915) on prohibitions and permit provisions for plants under Sections 9(a)(2) and 10 of the Act. These comments are summarized in the June 24, 1977, **Federal Register** final rule (42 FR 32373–32381) on plant trade prohibitions and permit provisions. Several persons at the recent public hearing in New Mexico indicated lack of familiarity with these prohibitions and permit provisions. Requests for copies of these final trade regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, 703/235–1903.

With the July 2, 1979, **Federal Register** notice (44 FR 38611) for the second public hearing on certain proposed southwestern cacti comments on the taxon were again solicited, with an official comment period of July 2 through July 23, 1979. The Governor of New Mexico was notified of the proposal to list *Coryphantha sneedii* var. *leei* as an Endangered species. Although the Governor himself submitted no comment on the proposed action, the New Mexico Natural Resources Department recommends the species be listed as Endangered, without Critical Habitat, indicating that collectors are the most serious threat. The New Mexico Department of Agriculture briefly reported on the survival status of the cactus and also indicated specific areas for the taxon should not be designated. It indicated that before listing the taxon as Endangered, the possible inadequacy of the laws and their implementation should be considered, and that listing might increase threats to the cactus. The Service is aware that listing under the Act might be harmful; however, in balance, it considers that providing the provisions of the Act to this taxon is more likely to prove beneficial than allowing continued inadequate management for the cactus.

Six other written comments were received concerning this variety. The U.S. Forest Service, Region 3, recommended the taxon be listed as Endangered. The Southwest Region Office of the Bureau of Reclamation indicated concern that there was a lack of supporting data for the listing, and a lack of detailed information on Critical Habitat for the cactus. Extensive information on the cactus is on file and available in the Service's Albuquerque Regional Office and Washington Office of Endangered Species; it is not prudent to determine Critical Habitat for the cactus because it would increase threats to it, as explained further below. A professional botanist has written in concurrence with contracted status information received by the Service, which also recommended Endangered status. A private citizen, in a statement endorsed by the Conservation Committee of the Cactus and Succulent Society of America, recommended the variety be listed as Endangered because only a few hundred plants were known in the wild. A former nurseryman and current editor of the *Cactus and Succulent Journal* (U.S.) commented on the need to encourage trade and commerce in cultivated cacti, citing *Coryphantha sneedii* var. *leei* as an example of a cactus extensively propagated from a few legally obtained wild specimens; he hoped the permit system would not impede activities which are not harmful to wild populations.

The Service has determined that this taxon should be listed as Threatened rather than Endangered because it is in a National Park where land use and taking are subject to strict control, because known collecting has been limited, and because more individual plants have been located through recent field work, although the total numbers known are still small. As a consequence of this designation, the somewhat less strict prohibitions and permit system for Threatened plant species should facilitate legitimate commerce and trade in cultivated plants, while still fully protecting those in the wild.

At the July 12, 1979, public hearing in Albuquerque, New Mexico, three persons knowledgeable on New Mexico cacti expressed support for listing this cactus as Threatened rather than Endangered; none opposed the listing. Two of those commenting recommended a different scientific name for the cactus. The Service has decided generally to use names from work resulting in the most comprehensive scientific treatment on the cactus family for the United States: L. Benson, *The Cacti of the United States and Canada*, Stanford University Press, *in press*. This choice is made to facilitate communication among those concerned with the conservation of cacti; it does not preclude other scientific opinions. The provisions of the Act apply to specimens of this cactus in the taxonomic circumscription represented by *Coryphantha sneedii* var. *leei*, or to specimens under any other name with that same circumscription. Known, but not necessarily all synonyms of this cactus, are indicated below.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Coryphantha sneedii* (Britton et Rose) Berger var. *leei* (Rose ex Bödeker) L. Benson (Lee pincushion cactus; synonyms: *Escobaria leei*, *Mammillaria leei*) is in danger of becoming extinct in the foreseeable future throughout its limited range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Coryphantha sneedii* var. *leei* are as follows:

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This cactus is known only from a few populations within Carlsbad Caverns National Park, Eddy County, New Mexico. A road has been graded through one population.

(2) *Overutilization for commercial, sporting, scientific or educational purposes.* The potential for severe damage to the taxon by collectors is great, because of its few limited populations. Some are adjacent to trails and the road. The degree of past collecting damage to the taxon is unknown, but it has been offered for sale recently from collections perhaps obtained in the wild.

(3) *Disease or predation* (including grazing). Not applicable to this taxon.

(4) *The inadequacy of existing regulatory mechanisms.* Although collecting of plants is prohibited within National Parks, the prohibition is difficult to enforce. The Endangered Species Act offers additional protection for the taxon as indicated in part below, which will reinforce the National Park Service regulations (36 CFR 2.20). New Mexico State Law, Chapter 76, Article 5, Section 21, requires an application to sell collected wild plants and designation of the wild source area; section 76–8–2 also requires landowner consent before removal of protected cacti near highways. All native cacti are on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, this Convention only regulates export of the taxon, and therefore does not regulate internal trade in the cactus or habitat destruction.

(5) *Other natural or man-made factors affecting its continued existence.* This cactus appears to be restricted to soil from a particular rock type in the area. In cultivation, the plant is readily propagated from offsets, and therefore readily available; there is no sound reason for cactus hobbyists to seek wild plants.

Effects of the Rulemaking

Section 7(a) of the Act, as amended, provides: The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to Section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, ensure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for Interagency Cooperation were published on January 4, 1978, in the **Federal Register** (43 FR 870–876) and codified at 50 CFR Part 402. These regulations are intended to assist Federal agencies in complying with Section 7 of the Act. This rule requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this taxon. New rules implementing the 1978 Amendments to Section 7 of the Act are being prepared now by the Service.

Endangered and Threatened species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all such species. The principal regulations which pertain to Threatened plant species are found at §§ 17.71 and 17.72 (42 FR 32380–32381) and are summarized below.

All provisions of Section 9(a)(2) of the Act, as implemented by Section 17.71 would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, or to deliver, receive, carry, transport or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale this taxon in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies.

Section 10 of the Act and regulations published in the **Federal Register** of June 24, 1977 (42 FR 32373–32381, codified in 50 CFR Part 17), provide for the issuance of permits, under certain circumstances, to carry out otherwise prohibited activities involving Threatened plants, such as trade in specimens of cultivated origin.

Effect Internationally

In addition to the protection provided by the Act, all native cacti are on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, which requires a permit for export. The Service will review *Coryphantha sneedii* var. *leei* to determine whether it should be considered under the Convention on

Nature Protection and Wildlife Preservation in the Western Hemisphere or other appropriate international agreements.

National Environmental Policy Act

An Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

At the time any such regulation [to determine a species to be an Endangered or Threatened species] is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Coryphantha sneedii var. *leei* has already been reduced in numbers and is threatened by taking. Publication of Critical Habitat maps would make this taxon more vulnerable to further taking and increase the enforcement burden of the Park Service. Therefore it would not be prudent to determine Critical Habitat.

Coryphantha sneedii var. *leei* was proposed on June 16, 1976 (41 FR 24570). The Service is proceeding at this time with a final rule to determine this species to be Threatened pursuant to the Endangered Species Act of 1973, as amended. This rule is issued under the authority contained in the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; 87 Stat. 884).

The primary author of this rule is Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, (703/235–1975).

Regulation Promulgation

Accordingly, §17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Add in alphabetical order by family, genus, species, the following plant:

§ 17.12 Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion of range endangered			
Cactaceae—Cactus family:						
Coryphantha sneedii var. *leei*..	Lee pincushion cactus	U.S.A. (New Mexico)	Entire	T	60	NA

Dated: October 15, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-32948 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Determination That Echinocereus triglochidiatus var. arizonicus Is an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Echinocereus triglochidiatus* var. *arizonicus* (Arizona hedgehog cactus), a native plant of Arizona, to be an Endangered species. The taking of plants for collections and landscaping and the potential loss of habitat through mining activities are threats to the continued existence of this taxon in its native habitat. This action will provide protection under the Endangered Species Act of 1973, as amended (hereinafter referred to as the Act).

DATE: This rulemaking becomes effective on November 26, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202/343–4646).

SUPPLEMENTARY INFORMATION:

Background

The Secretary of the Smithsonian Institution, in response to Section 12 of the Endangered Species Act, presented his report on plant taxa to Congress on January 9, 1975. This report, designated as House Document No. 94–51, contained lists of over 3,100 U.S. vascular plant taxa considered by the Smithsonian Institute to be endangered, threatened, or extinct. On July 1, 1975, the Director published a notice in the **Federal Register** (40 FR 27823–27924) of his acceptance of the report of the Smithsonian Institution as a petition within the context of Section 4(c)(2) of the Act, and of his intention thereby to review the status of the plant taxa named within, as well as any habitat which might be determined to be critical. On June 16, 1976, the Service published a proposed rulemaking in the **Federal Register** (41 FR 24523–24572) to determine approximately 1,700 vascular plant species to be Endangered Species pursuant to Section 4 of the Act. This list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the above mentioned **Federal Register** publication.

Echinocereus triglochidiatus var. *arizonicus* was included in both the July 1, 1975, notice of review and the June 16, 1976 proposal. A public hearing on this proposal was held on July 22, 1976, in El Segundo, California. A second public hearing was held on July 11, 1979, in Phoenix, Arizona, for five Arizona cacti proposed as Endangered species, including this *Echinocereus*. In the June 24, 1977, **Federal Register**, the Service published a final rulemaking (42 FR 32373–32381, codified at 50 CFR) detailing the permit regulations to protect Endangered and Threatened plant species. The rulemaking established prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstance. The Department has determined that this is not a significant rule and does not require preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Summary of Comments and Recommendations

In keeping with the general intent of Section 4(b)(1)(C) of the Act, a summary of all comments and recommendations received is published in the **Federal Register** prior to adding any plant species to the List of Endangered and Threatened Wildlife and Plants. Hundreds of comments on the general proposal of June 16, 1976, were received from individuals, conservation organizations, botanical groups, and business and professional organizations. Few of these comments were specific in nature in that they did not address individual plant species. Most comments addressed the program or the concept of Endangered and Threatened plants and their protection and regulation. These comments are summarized in the April 26, 1978, **Federal Register** publication, which also determined 13 plant species to be Endangered or Threatened species (43 FR 17909–17916). Some of these comments had addressed the general problems of conservation of cacti.

Additionally, many comments on the cactus trade were received in response to the June 7, 1976, proposed rule (41 FR 2915) on prohibitions and permit provisions for plants under Section 9(a)(2) and 10(a) of the Act. These comments are summarized in the June 24, 1977, **Federal Register** final rule (43 FR 32373–32381) on plant trade prohibitions and permit provisions.

With the July 2, 1979, **Federal Register** notice (44 FR 38611) for the second public hearing on certain proposed southwestern cacti, comments were again solicited, with an official comment period of July 2 through July 23, 1979. The Governor of Arizona was notified of the proposal to list *Echinocereus triglochidiatus* var. *arizonicus* as an Endangered species. Although the Governor himself submitted no comment on the proposed action, the Arizona Commission of Agriculture and Horticulture concurred that *Echinocereus triglochidiatus* var. *arizonicus* be listed as an Endangered species.

Four written comments specific to this taxon were received in the 1979 comment period. The Southwest Regional Office of the Bureau of Reclamation indicated concern that there is a lack of supporting data for the listing, and a lack of detailed information on Critical Habitat for the cactus. Extensive information on the cactus is on file and available in the Service's Albuquerque Regional Office and Washington Office of Endangered Species; it is not prudent to determine Critical Habitat for the cactus because it would increase threats to it as explained in the rulemaking. The Arizona State Office of the Bureau of Land Management commented that a new population of *Echinocereus triglochidiatus* var. *arizonicus* was recently found in the Mescal Mountains and that this population does not appear to meet the criteria of an Endangered or Threatened species because "there is no present or threatened destruction or modification of its habitat". Upon further Service inquiry to the BLM, doubts were raised as to the identification of the population in the Mescal Mountains. That population is not consistently distinctive enough for positive identification as variety *arizonicus*. Different varieties within the species *Echinocereus triglochidiatus* intergrade extensively with one another. Mixed populations showing extensive variation but with some affinities toward var. *arizonicus* are not to be considered classical var. *arizonicus* and therefore will not be subject to the protection and restrictions of the Endangered Species Act. Two letters from professional botanists were received, both strongly supported listing this variety as an Endangered species. In addition, the Service has received a detailed contracted status report from the Museum of Northern Arizona with their recommendation that this cactus be listed as Endangered. A provisional U.S. Forest Service status report has been received; it points out the variability of populations with var. *arizonicus* affinities and the resultant difficulty of practical identification in regards to management applications. Again, until further data is available (chromosome counts, etc.) only known populations of this variety will be subject to the Endangered Species Act.

At the July 11, 1979, public hearing in Phoenix, Arizona, Dr. Arthur Phillips recommended that *Echinocereus triglochidiatus* var. *arizonicus* be finally listed as Endangered based on its limited geographical distribution and threats from collecting and habitat destruction. Kent Newlin of the Central Arizona Cactus and Succulent Society and the Boyce-Thompson Arboretum in Superior, Arizona, also recommended listing this varity as Endangered due to collecting pressure and expansion of the Pinto Valley mining area, which could destroy a sizeable portion of this species' habitat. Elinor Lehto, an Arizona State botanist, also recommended listing this taxon as Endangered.

Conclusion

After a thorough review and consideration of all the information available, the Director has determined that *Echinocereus triglochidiatus* Engelm. var. *arizonicus* (Rose ex Orcutt) L. Benson (Arizona hedgehog cactus; synonym: *Echinocereus arizonicus*) is in danger of becoming extinct throughout all or a significant portion of its range due to one or more of the factors described in Section 4(a) of the Act.

These factors and their application to *Echinocereus triglochidiatus* var. *arizonicus* are as follows:

(1) *The present or threatened destruction, modification, or curtailment of its habitat or range.* This cactus is known from only a few locations near the boundary between Gila and Pinal counties, Arizona. The potential for habitat destruction through mining activities here is a possible threat to this taxon as there are active copper mines found throughout this district.

(2) *Overutilization for commercial, sporting, scientific, or educational purposes.* This taxon is in demand by collectors, and taking is the main threat to its survival. Its bright red flowers are attractive, and, especially during the flowering period, plants are collected by private individuals and commercial suppliers for landscaping and cacti collections. Newland (1979) reports a recent attempt to relocate a specific plant; all he found was a hole where the plant had been dug up.

(3) *Disease or predation* (including grazing). Significant insect damage has been noted by several people, Phillips (1979) and Fletcher (1979).

(4) *The inadequacy of existing regulatory mechanisms.* All members of the Cactaceae (cactus family) are protected under Arizona law, A.R.S. Chapter 7, Sec. 3–901 et seq., which prohibits their collection without a permit. All native cacti are on Appendix II of the Convention on International Trade in Endangered Species of Wild Fauna and Flora. However, this convention only regulates export of cacti, and therefore does not regulate internal trade in cacti, or habitat destruction. Forest Service regulations prohibit the taking of endangered plants on Forest Service lands, 36 CFR 261.9(b), and that Service's Region III is beginning to implement a permit system, pursuant to 36 CFR 261.1a, for collecting rare plants. The Endangered Species Act will afford additional and broader protection.

(5) *Other natural or man-made factors affecting its continued existence.* None.

V 44 0C 25 79 UMI

Effects of the Rulemaking

Section 7(a) of the Act, as amended, provides:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall, in consultation with and with the assistance of the Secretary, ensure that any action authorized, funded, or carried out by such agency (hereinafter in this section referred to as an "agency action") does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical, unless such agency has been granted an exemption for such action by the Committee pursuant to subsection (h) of this section.

Provisions for Interagency Cooperation were published on January 4, 1978, in the **Federal Register** (43 FR 870–876) and codified at 50 CFR Part 402 to assist Federal agencies in complying with Section 7(a) of the Act. This rulemaking requires Federal agencies to satisfy these statutory and regulatory obligations with respect to this taxon. Rules implementing the 1978 amendments to Section 7 of the Act are now being prepared by the Service. Endangered and Threatened species regulations in Title 50 of the Code of Federal Regulations set forth a series of general prohibitions and exceptions which apply to all such species. The principal regulations which pertain to Endangered plant species are found at Sections 17.61–17.63 and are summarized below.

All provisions of Section 9(a)(2) of the Act, as implemented by § 17.61 (42 FR 32373–32381), would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import, or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this cactus in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies.

Section 10 of the Act and regulations published in the **Federal Register** of June 24, 1977, (42 FR 32373–32381) codified in 50 CFR Part 17, provide for the issuance of permits under certain circumstances to carry out otherwise prohibited activities involving Endangered plants, such as trade in specimens of cultivated origin. Under U.S. Forest Service rules in 36 CFR 261.9, this listing also makes it illegal to remove, destroy, or damage individual plants of this taxon occurring on U.S. Forest Service lands.

Effect Internationally

In addition to the protection provided by the Act, all native cacti are on Appendix II of the Convention of International Trade in Endangered Species of Wild Fauna and Flora, which requires a permit for export. The Service will review *Echinocereus triglochidiatus* var. *arizonicus* to determine whether it should be considered under the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere or other appropriate international agreements.

National Environmental Policy Act

An Environmental Assessment has been prepared and is on file in the Service's Washington Office of Endangered Species. The assessment is the basis for a decision that this determination is not a major Federal action which would significantly affect the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969.

Critical Habitat

The Endangered Species Act Amendments of 1978 added the following provision to subsection 4(a)(1) of the Endangered Species Act of 1973:

> At the time any such regulation [to determine a species to be an endangered or threatened species] is proposed, the Secretary shall also by regulation, to the maximum extent prudent, specify any habitat of such species which is then considered to be critical habitat.

Echinocereus triglochidiatus var. *arizonicus* has already been reduced in numbers and is threatened by taking, an activity not prohibited by the Endangered Species Act of 1973. Publication of Critical Habitat maps would make this taxon more vulnerable to further taking and, therefore, the Service determines that it would not be prudent to determine Critical Habitat.

Echinocereus triglochidiatus var. *arizonicus* was proposed on June 16, 1976 (41 FR 24536).

The Service is proceeding at this time with a final rulemaking to determine this species to be Endangered pursuant to the Endangered Species Act of 1973, as amended. This rule is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884).

The primary author of this rule is Ms. Rosemary Carey, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1975).

Dr. A. M. Phillips, III, Dr. Barbara G. Phillips, Mr. L. T. Green, III, Ms. Jill Mazzoni, and Ms. Elaine Peterson compiled the Status Report and other provisional documents for this taxon.

Regulation Promulgation

Accordingly, § 17.12 of Part 17 of Chapter I of Title 50 of the U.S. Code of Federal Regulations is amended as follows:

1. Add, in alphabetical order by family, genus, and species, the following plant:

§ 17.12. Endangered and threatened plants.

Species		Range		Status	When listed	Special rules
Scientific name	Common name	Known distribution	Portion of range endangered			
Cactaceae—Cactus family:						
Echinocereus triglochidiatus var. *arizonicus*	Arizona hedgehog cactus	U.S.A. (Arizona)	Entire	E	59	NA

Dated: October 15, 1979.

Robert S. Cook,

Deputy Director, Fish and Wildlife Service.

[FR Doc. 79-32947 Filed 10-24-79; 8:45 am]

BILLING CODE 4310-55-M

Reader Aids

Federal Register

Vol. 44, No. 208

Thursday, October 25, 1979

INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

Federal Register, Daily Issue:

202-783-3238	Subscription orders (GPO)
202-275-3054	Subscription problems (GPO)
	"Dial-a-Reg" (recorded summary of highlighted documents appearing in next day's issue):
202-523-5022	Washington, D.C.
312-663-0884	Chicago, Ill.
213-688-6694	Los Angeles, Calif.
202-523-3187	Scheduling of documents for publication
523-5240	Photo copies of documents appearing in the Federal Register
523-5237	Corrections
523-5215	Public Inspection Desk
523-5227	Finding Aids
523-5235	Public Briefings: "How To Use the Federal Register."

Code of Federal Regulations (CFR):

523-3419	
523-3517	
523-5227	Finding Aids

Presidential Documents:

523-5233	Executive Orders and Proclamations
523-5235	Public Papers of the Presidents, and Weekly Compilation of Presidential Documents

Public Laws:

523-5266	Public Law Numbers and Dates, Slip Laws, U.S.
-5282	Statutes at Large, and Index
275-3030	Slip Law Orders (GPO)

Other Publications and Services:

523-5239	TTY for the Deaf
523-5230	U.S. Government Manual
523-3408	Automation
523-4534	Special Projects
523-3517	Privacy Act Compilation

FEDERAL REGISTER PAGES AND DATES, OCTOBER

56305-56662 1
56663-56918 2
56919-57064 3
57065-57378 4
57379-57906 5
57907-58492 9
58493-58670 10
58671-58888 11
58889-59194 12
59195-59488 15
59489-59894 16
59895-60068 17
60069-60250 18
60251-60700 19
60701-60970 22
60971-61156 23
61157-61318 24
61319-61558 25

CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
10893 (Revoked by EO 12163) 56673
10900 (Amended by EO 12163) 56673
10973 (Revoked by EO 12163) 56673
11223 (Amended by EO 12163) 56673
11269 (Amended by EO 12164) 56681
11579 (Amended by EO 12163) 56673
11848 (Amended by EO 12163) 56673
11958 (Amended by EO 12163) 56673
12065 (Amended by EO 12163) 56673
12087 (Superseded by EO 12165) 58671
12092 (Amended by EO 12161) 56663
12140 (Amended by EO 12162) 56665
12161 56663
12162 56665
12163 56673
12164 56681
12165 58671
12166 60971
12167 61167

Proclamations:
4693 56669
4694 56671
4695 58493
4696 61159
4697 61161

Administrative Orders:

Memorandums:
October 18, 1961 (Amended by EO 12163) 56673
October 19, 1979 61157

Presidential Determination:
No. 79-17 of September 28, 1979 56667

5 CFR

Ch. III 60251
Ch. XIV 60069, 60701
213 60973-60975
315 60975
340 57379
353 56683
451 58889
890 57379

Proposed Rules:
581 60301

6 CFR

705 ..... 56900, 58891, 60251
706 ..... 56910, 58891, 60251
707 60676

Proposed Rules:
702 59166
703 59166
704 59166

7 CFR

257907, 58495, 58679 60251
6 58893
15a 57907
16 ..... 56919, 60069
29 57907
246 59489
282 59052
354 60255
401 ..... 60701, 60709
421 58893
427 ..... 60701, 60709
429 60709
722 60255
905 59195
906 57909
908 ..... 57065, 58680, 60070
910 ..... 57383, 58893, 60258
929 ..... 56683, 60976
932 58495
944 59195
948 60977
968 ..... 58894, 59197
979 56684
982 57065
984 60975
989 60070
1139 57066
1421 ..... 56305, 57383
1464 ..... 57909, 58894
1822 ..... 56919, 59198
1861 56920
1864 59895
1901 59198
1941 58895
1942 ..... 56684, 59895
1944 59198
1951 ..... 56306, 59895
1955 59895
1980 ..... 56920, 58896
2851 60979

Proposed Rules:
6 56943
20 57931
27 57932
272 57414
273 ..... 57414, 58915
318 57415
434 61352
435 61359
436 61366
725 57932

729.....57416
730.....61047
981.....57417
966.....60105
1065.....57103
1079.....59913
1701.....61048
2853.....58916, 59548
2858.....58916

8 CFR

100.....56311
103.....61319
316a.....61320

Proposed Rules:

103.....56368

9 CFR

75.....60257
78.....57384
91.....59498
92.....58896
97.....60261
113.....58897, 60262
201.....61169
307.....60979
309.....59498
350.....60979
351.....60979
354.....60979
355.....60979
362.....60979
381.....60979

Proposed Rules:

92.....58918
94.....61048
113.....60306

10 CFR

2.....60715, 61320
50.....57911, 57912, 60715
51.....56312
205.....60264, 60638
211.....56888, 57067, 60638
212.....57069, 60638, 61169
320.....58900
436.....60664
450.....61317
455.....61171, 61317
476.....57370
515.....60690
570.....56921

Proposed Rules:

50.....61372
51.....61372
71.....60743
73.....60743
211.....56369, 59240, 59551, 60307
212.....59914, 60744
214.....57103
220.....56369
375.....56953
376.....56953
796.....61188

11 CFR

Proposed Rules:

100.....59162
110.....59162
114.....59162

12 CFR

Ch. VII.....56691
201.....57385, 60716
202.....57070
204.....60071
205.....59474
207.....56922
217.....60076, 61171
220.....56922
221.....56922
224.....56922
226.....56312
263.....56685
265.....56313, 59227
329.....60273
346.....57385
525.....60717
526.....61322
531.....60717
545.....57386
563.....59895
600.....60076
601.....60076
602.....60076
611.....60076
704.....58496
742.....57071, 61172

Proposed Rules:

Ch. II.....58744
Ch. V.....57419
205.....59464
220.....61188
528.....60310
545.....58744
618.....60745
708.....61189

13 CFR

101.....59499
121.....58744, 59504
124.....60273
125.....60273
126.....60273
127.....60273
131.....60718

Proposed Rules:

107.....60745
111.....58745
117.....60032
121.....60746

14 CFR

25.....61323
39.....56315–56322, 57072, 57073, 58680–58684, 60079, 60719–60722, 61325, 61326
71.....56322, 56323, 57075–57080, 57083, 57084, 57915–57917, 58684–58686, 60079, 60723
73.....57080–57082
75.....57082–57084
97.....57918, 60723
127.....61323
137.....61323
207.....58499
208.....58499
212.....57386, 58500
214.....57387, 58500
221a.....57085
241.....58500, 59505
287.....57085
1214.....56923

Proposed Rules:

Ch. I.....56369, 60107, 60746, 61376
Ch. V.....56377
1.....60747
11.....56370, 59242
21.....56370, 59242, 61376
27.....60747
29.....60747
33.....60747
36.....61376
37.....56370, 59242
39.....57105
43.....60747
45.....60747
61.....60747
71.....56373–56376, 57106, 57934–57938, 60107, 60748–60752, 61376, 61377
73.....58746, 61378
91.....60747, 60752
93.....56376
121.....60747
127.....60747
133.....60747
135.....60747
233.....59242
270.....59242
302.....59242

15 CFR

30.....58686
370.....59227
371.....59227
374.....59227
377.....59227
377.....59227
388.....59897

Proposed Rules:

302.....61049
303.....61378
377.....60753

16 CFR

13.....56323, 56923, 57920, 58901–58906, 60080, 60725, 60726
1700.....57920

Proposed Rules:

Ch. I.....59552
Ch. II.....57352, 60057
13.....58516, 58518, 58747, 61050
1201.....59914
1404.....59557
1615.....60755
1616.....60755

17 CFR

10.....61327
210.....57030, 57037
211.....57038
231.....56924
240.....57387, 60281
241.....56924
249.....57374, 57387
270.....58502, 58907

Proposed Rules:

240.....56953
270.....58521

18 CFR

1.....60282
2.....56926, 60080, 61327
3.....60282
4.....61328
16.....61328
131.....61328
154.....57726, 60083, 60284
201.....57726
204.....57726
270.....60284
271.....56926, 61327
273.....59230, 60285
274.....59230
281.....61338
282.....57726, 57754, 57778, 60084, 61174
290.....58687

Proposed Rules:

35.....60108
282.....57783, 57786, 57788 58749
292.....57107, 61190, 61205

19 CFR

4.....57086, 57087
101.....57088

Proposed Rules:

134.....58527
153.....59741, 59762
155.....57044, 59762
159.....57044, 59762
177.....56715
201.....59392
207.....59392

20 CFR

404.....56691
675.....56866
680.....56866

Proposed Rules:

615.....56715
665.....59889

21 CFR

10.....59174
12.....59174
13.....59174
14.....59174
15.....59174
16.....59174
109.....57389
177.....59505
178.....59506
193.....59231
510.....57389, 59507
520.....59507, 59508
558.....57389
561.....59903
740.....59509
1316.....56324

Proposed Rules:

136.....60313
137.....60313
145.....60314
148.....60315
150.....61053
166.....57422
168.....60315
182.....61053
184.....61053
203.....58918
310.....58919, 60316
312.....58919
314.....58919
320.....60320
331.....60328
444.....60331
640.....60332
680.....60333
890.....57939, 57940, 58919
1020.....57423

22 CFR

515.....58708

Proposed Rules:

216.....56378

23 CFR

140.....59232

Proposed Rules:

771.....59438

24 CFR

Ch. XIII.....58507
42.....56324
201.....61176
203.....57089
205.....57090
207.....57090
213.....56927, 57089, 57090
220.....57090
221.....57090
232.....57090
234.....57089
235.....57090
236.....57090, 61177
240.....58503
241.....57090
242.....57090
244.....57090
250.....57090
290.....56608
403.....58503
510.....58506
570.....56325
803.....59112
841.....57922
880.....59408
888.....57925, 59112
891.....60085, 60285
3610.....60834

Proposed Rules:

200.....60108
203.....58527
208.....60109
402.....61382
570.....61208
881.....59246
888.....58528

25 CFR

31a.....58096
31b.....58101

Proposed Rules:

233.....61208
252.....59559
700.....59560

26 CFR

1.....57925, 59523, 60085
7.....57390
31.....59524

Proposed Rules:

Ch. I.....56502
1.....57423, 57427
31.....57940
301.....56715

27 CFR

9.....56692
201.....56326

28 CFR

0.....57926, 58908
2.....58507, 59527, 59528
16.....59904
50.....57926
301.....59904

Proposed Rules:

2.....58528
16.....58920, 58921

29 CFR

14.....57397
1604.....58073
1910.....60980
2610.....58908
2703.....57348

Proposed Rules:

1616.....59914
1904.....59560
1910.....60333
1926.....59561

30 CFR

Ch. VII.....57927
701.....58783
731.....60869
741.....58783
872.....60285
877.....60285
879.....60285
882.....60285
884.....60285
886.....60285

Proposed Rules:

Ch. VII.....60226, 60228
250.....60109
716.....61312
732.....60233

31 CFR

Proposed Rules:

Ch. II.....59246

32 CFR

51.....56328
199.....58709, 61345
231.....56328
579.....61178
706.....56929, 57400
853.....60090
901.....56930

Proposed Rules:

56.....58750

33 CFR

110.....60091
117.....59233
127.....57092, 57927
147.....57927
165.....57928, 57929

Proposed Rules:

232.....61308

34 CFR

Ch. I.....60286

35 CFR

133.....56916
253.....56693

Proposed Rules:

133.....57941

36 CFR

50.....56934
222.....61345
1228.....58088

Proposed Rules:

Ch. IX.....56954, 58528

37 CFR

302.....60726

38 CFR

1.....59905
3.....58709
36.....61178

Proposed Rules:

3.....58758, 61210
36.....56329, 58506,

39 CFR

111.....58509, 60727
320.....61178

Proposed Rules:

111.....61383, 61384
3001.....60757

40 CFR

52.....56694, 57401
60.....61542
65.....56696, 59528, 61182, 61183
81.....57929
117.....58711, 58909
180.....59907
231.....58076
257.....58910
413.....56330
600.....57358, 60286

Proposed Rules:

35.....60335
40.....56955
50.....56730
51.....56957, 57107
52.....56716, 56717, 56721, 56957, 57107, 57109, 57117, 57118, 57427, 57942, 58758, 58921, 59247, 59561, 59564, 60389, 60758, 61055, 61211, 61384
55.....56721, 58759
60.....57792, 58602, 60759, 60761
61.....58642, 58661
62.....57118, 57948
65.....60109, 60110
81.....57942, 58758, 58922, 60341, 61384
120.....57428, 59565
122.....56957
162.....57429
250.....56724, 58923
600.....57362
707.....56856, 60763
710.....60763
713.....59106
720.....59764
763.....60061

41 CFR

Ch. 1.....60995
Ch. 101...56699, 59192, 59529, 60740
8-4.....59529
28.....61348
101-11.....60740
101-20.....60995
101-29.....58910

Proposed Rules:

Ch. 25.....56387
8-7.....61396
9-7.....57119
101-40.....59247
109-1.....57121
109-60.....57121

42 CFR

57.....56937
71.....58911
405.....60287
456.....56333

Proposed Rules:

74.....58923, 61059
121.....60342
405.....58923, 61059

43 CFR

221.....56339
1821.....59530
2880.....58128
3400.....56339
3410.....56339
3420.....56339
3422.....56339
3430.....56339
3440.....56339
3450.....56339
3460.....56339
3470.....56339
3500.....56339
3501.....56339
3502.....56339
3503.....56339
3504.....56339
3507.....56339
3511.....56339
3520.....56339
3521.....56339
3524.....56339
3525.....56339
3526.....56339
3550.....56339
3564.....56339
3565.....56339
3566.....56339
3568.....56339

Proposed Rules:

4.....57948
34.....59096
1780.....56622
2800.....58106
3110.....58638
9230.....60764

Public Land Orders:

5684.....61346

44 CFR

64.....56354, 57092, 57093, 60999, 61000, 61184, 61185
65.....57094, 61003, 61005
67.....56366, 56701

Proposed Rules:

67.....56957, 57429–57432 60342, 61059, 61073
205.....61211
300.....61211

45 CFR

Ch. I.....56938
20.....58912
55.....58912
61.....58912
80.....58509, 59908
82.....58912
116.....59152
116a.....59152
161.....60022
161a.....60022

V 44 OC 25 79 UMI

304 56939
531 59908
1010 56548
1012 56548
1050 ..... 56548, 61346
1060 56548
1061 ..... 56548, 58876
1062 56548
1063 56548
1064 56548
1067 ..... 56548, 61348
1068 56548
1069 56548
1070 56548
1075 56548
1076 56548
1624 58712

Proposed Rules:

Ch. VI 56387
Ch. X 60764
Ch. XI 56389
234 56389
236 56389
617 57127
1152 56725
1172 57130
1205 60110

46 CFR

154 59234
154a 59234
502 60996
503 57411

Proposed Rules:

66 57137
283 58928
355 58928

47 CFR

0 ..... 57096, 60291
1 60291
2 ..... 58712, 59530
15 59530
18 56699
21 60532
22 60532
61 57096
73 ..... 57097, 58718–58729, 58912, 60091, 60097, 60740
74 58729
83 ..... 58712, 58735, 60741
87 59546
90 ..... 57098, 58737, 59234
97 58742

Proposed Rules:

0 57636
1 59568
2 61214
15 ..... 59570, 60112
21 ..... 58929, 61214
43 61214
61 61216
63 59578
73 ..... 57138, 57636, 58762–58764, 59568, 58579, 59580, 61230
76 58766
81 59581
87 61214
90 61214

49 CFR

Ch. X 60296
192 57100
213 56342
301 59239
571 57100
172 60097
173 60097
174 60097
177 60097
178 60097
801 ..... 56340, 57930
1011 ..... 58511, 60295
1013 59908
1033 ..... 56343, 56939, 58913, 58914, 60999, 61184
1100 58511
1307 57413
1310 57413
1322 57930

Proposed Rules:

Ch. X 57139
29 ..... 60946, 61396
110–189 58767
127 60771
171 60771
172 ..... 58767, 60771
173 ..... 58767, 60112, 60771
174 60771
175 60771
176 60771
177 60771
178 60112
195 57952
571 ..... 60113, 60120, 60771
575 56389
622 59438
1036 59581
1063 60122
1090 61074
1300 60122
1303 60122
1304 60122
1306 60122
1307 60122
1308 60122
1309 60122
1310 60122
1312 60122

50 CFR

13 59080
17 ..... 56862, 58866, 58868, 59080, 60103, 60862, 61351, 61554, 61556
32 ..... 56940, 56941, 59910
33 59910
216 57100
230 59911
258 61546
611 57101
652 ..... 56941, 60103
653 ..... 56700, 56701
810 59086

Proposed Rules:

4 61231
17 56618
285 57140
611 ..... 59257, 59582
652 60129

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY*	USDA/ASCS		DOT/SECRETARY*	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/FHWA	USDA/FSQS		DOT/FHWA	USDA/FSQS
DOT/FRA	USDA/REA		DOT/FRA	USDA/REA
DOT/NHTSA	MSPB/OPM		DOT/NHTSA	MSPB/OPM
DOT/RSPA	LABOR		DOT/RSPA	LABOR
DOT/SLSDC	HEW/FDA		DOT/SLSDC	HEW/FDA
DOT/UMTA			DOT/UMTA	
CSA			CSA	

Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of July 2, 1979, all agencies in the Department of Transportation, will publish on the Monday/Thursday schedule.**

REMINDERS

The items in this list were editorially compiled as an aid to **Federal Register** users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Assistant Secretary for Housing—Federal Housing Commissioner—

55002 9–24–79 / Mortgage insurance on loans for fee title purchase; mortgager eligibility to pay a discount

[Corrected at 40 FR 58503, October 10, 1979]

LEGAL SERVICES CORPORATION

55175 9–25–79 / Prohibition against discrimination on basis of handicap

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing October 23, 1979

V 44 O C 25 79 UMI

V 4 4 0 C 2 5 7 9
UMI

V 4 4 O C 2 5 7 9 UMI



would you like to know

if any changes have been made in certain titles of the CODE OF FEDERAL REGULATIONS without reading the Federal Register every day? If so, you may wish to subscribe to the LSA (List of CFR Sections Affected), the "Federal Register Index," or both.

LSA (List of CFR Sections Affected)
$10.00
per year

The LSA (List of CFR Sections Affected) is designed to lead users of the Code of Federal Regulations to amendatory actions published in the Federal Register, and is issued monthly in cumulative form. Entries indicate the nature of the changes.

Federal Register Index $8.00
per year

Indexes covering the contents of the daily Federal Register are issued monthly, quarterly, and annually. Entries are carried primarily under the names of the issuing agencies. Significant subjects are carried as cross-references.

A finding aid is included in each publication which lists Federal Register page numbers with the date of publication in the Federal Register.

Note to FR Subscribers: FR Indexes and the LSA (List of CFR Sections Affected) will continue to be mailed free of charge to regular FR subscribers.

Mail order form to:
Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

There is enclosed $_____ for _____ subscription(s) to the publications checked below:

..... LSA (LIST OF CFR SECTIONS AFFECTED) ($10.00 a year domestic; $12.50 foreign)

..... FEDERAL REGISTER INDEX ($8.00 a year domestic; $10.00 foreign)

Name _____

Street Address _____

City _____ State _____ ZIP _____

Make check payable to the Superintendent of Documents